

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY

DeAndrea G. Benjamin, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

PHILLIP HELMS,

APPELLANT

APPELLATE CASE NO. 2014-000758

RECORD ON APPEAL

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1 State of South Carolina) In the Court
2 County of Aiken) Of General Sessions

3
4 Indictment No.: 2014-GS-32-00535

5
6 State of South Carolina,)
Plaintiff.)

7
8 vs.)

Transcript of Record

9
10 Phillip Helms,)
Defendant.)

11
12 March 31 - April 2, 2014
13 Lexington, South Carolina

14
15 B E F O R E:

16 The Honorable DeAndrea Benjamin, Judge and a jury.

17
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1 MONDAY, MARCH 31, 2014

2 JURY VOIR DIRE

3 THE COURT: All right. Ladies and gentlemen of the
4 jury, I have more questions for you. So we'll -- there's
5 another series of questions that I need to ask of you, but
6 we're about to pick a jury in a case -- or begin a trial in
7 the case to have State of South Carolina against Phillip
8 Earl Helms.

9 Mr. Helms is charged with manufacturing of
10 methamphetamine. Once -- ladies and gentlemen of the jury,
11 I'll go ahead and tell you that this is an indictment that
12 I have in my hand; that these are the allegations that are
13 brought by the State against Mr. Helms; that the State has
14 the burden of proving the defendant guilty beyond a
15 reasonable doubt to twelve jurors that will be selected
16 shortly. Once again, ladies and gentlemen, this is an
17 indictment. These are the allegations against Mr. Helms.

18 The indictment reads, Indictment No.
19 2014-GS-32-535, reads that Mr. Phillip Earl Helms did, in
20 Lexington County, South Carolina, on about June 11, 2013,
21 knowingly, intentionally, willfully, and unlawfully
22 manufacture or otherwise aid, abet, or attempt to conspire
23 to manufacture a quantity of methamphetamine, a controlled
24 substance under the provisions of South Carolina Code of
25 Laws, Section 44-53-110.

1 Ladies and gentlemen of the jury, I will ask Mr.
2 Helms to stand and turn around and face the jury.

3 (WHEREUPON the defendant complied.)

4 THE COURT: All right. Is there any member of the
5 jury panel related by blood or marriage to Mr. Phillip Earl
6 Helms? If so, please stand.

7 (WHEREUPON a juror stood.)

8 THE COURT: All right. Yes, ma'am, your juror
9 number?

10 THE JUROR: I'm Juror No. 91. And this is my
11 step-father's brother --

12 THE COURT: Your step-father's --

13 THE JUROR: -- who is now deceased.

14 THE COURT: Well -- all right, ma'am. The fact
15 that you are related to Mr. Helms, would that affect your
16 ability to fair and impartial in this trial?

17 THE JUROR: Yes, ma'am.

18 THE COURT: All right, ma'am. You can have a --
19 where do you want her to sit?

20 THE CLERK: We just have them sit out there where
21 they are.

22 THE COURT: All right. Ma'am, you may have a seat.

23 All right. Is there any member of the jury panel
24 who has a close personal or social or business relationship
25 with Mr. Helms? If so, please stand.

1 (WHEREUPON there was no response.)

2 THE COURT: All right. The following is a list of
3 possible witnesses in this case. I will state the names of
4 the witnesses. If any of these witnesses are present in
5 this courtroom, I will ask them to stand so that the jury
6 can see -- see you.

7 If you think that you may know one of the witnesses
8 from one of the -- from the names, we can probably give you
9 a little bit more information. We just need to make sure
10 that everyone knows who the witnesses are and if there's a
11 reason why you could not be fair and impartial in this
12 trial, we just need to know that.

13 So if there's a name that I call and you think you
14 may know the person, stand up anyway and we'll try to go
15 down the list and see if it is the exact person that you
16 think you may know.

17 The first person is Agent Paige Barnes, with the
18 Lexington County Sheriff's Department.

19 Agent Michael Merckle, with the Lexington County
20 Sheriff's Department.

21 Agent Scott Morris, with the Lexington County
22 Sheriff's Department.

23 Agent Thomas Hodges, with the Lexington County
24 Sheriff's Department.

25 Investigator Investigator Terry Govan, with the

1 Lexington County Sheriff's Department.

2 (WHEREUPON a juror stood.)

3 THE COURT: All right. And, ma'am, your juror
4 number?

5 THE JUROR: 85.

6 THE COURT: And you know Investigator Terry Govan.

7 THE JUROR: Yes, ma'am.

8 THE COURT: And how do you know him.

9 THE JUROR: We were co-workers during -- when I
10 retired from the Lexington County Sheriff's Department.

11 THE COURT: All right. You're retired from
12 Lexington County Sheriff's Department. And you worked with
13 him. And when did you retire?

14 THE JUROR: March of '06.

15 THE COURT: All right. And ma'am, the fact that
16 you -- well, actually two questions, the fact that you
17 worked at Lexington County Sheriff's Department, would that
18 affect your ability to be fair and impartial in this trial?

19 THE JUROR: Not at all.

20 THE COURT: All right. And then the fact that you
21 know Investigator Terry Govan, would that affect your
22 ability to be fair and impartial in this trial?

23 THE JUROR: Not at all.

24 THE COURT: All right. Thank you, ma'am. And that
25 is Juror No. 85.

1 All right. Candy Kyzer, with the Lexington County
2 Sheriff's Department.

3 Beth Holloman, with the Lexington County Sheriff's
4 Department.

5 (WHEREUPON a juror stood.)

6 THE COURT: Yes, ma'am, your juror number?

7 THE JUROR: 39.

8 THE COURT: All right. Yes, ma'am?

9 THE JUROR: She's my mother's co-worker and a very
10 close personal friend of the family.

11 THE COURT: All right. And it's Ms. Holloman?

12 THE JUROR: Yes, ma'am.

13 THE COURT: All right. And the fact that she's a
14 close personal friend and works with your mom, would that
15 affect your ability to be fair and impartial in this trial?

16 THE JUROR: Yes, ma'am.

17 THE COURT: All right. And that's juror No. --

18 THE CLERK: 39.

19 THE COURT: 39. All right. Thank you, ma'am, you
20 may have a seat.

21 And the --

22 (WHEREUPON another juror stood.)

23 THE COURT: Yes, ma'am?

24 THE JUROR: I think I graduated with a Beth
25 Holloman, but I'm not sure if that would be the same one or

1 even --

2 THE COURT: All right. And where did you graduate
3 from?

4 THE JUROR: Lexington High School in 2000.

5 THE COURT: In 2000, Lexington High School.

6 MR. BELL: Your Honor, her maiden name is Hardin if
7 that clears it up a bit.

8 THE JUROR: Oh, forget it.

9 THE COURT: Okay. (Laughter.)

10 The next name on the list is Emily Homer. Emily
11 Homer with the Lexington County Sheriff's Department.

12 And the other witnesses Brandon Slice -- Slice and
13 Cetre Investigations.

14 MR. BELL: I believe it's Cetre Investigations.

15 THE COURT: Cetre. Okay. All right. And I'll ask
16 the question again, is there any member of the jury panel
17 related by blood or marriage to any of the people I have
18 just listed, or does anyone have a close personal or social
19 relationship with any of these people? If so, please
20 stand, other than the folks that have already stood up.

21 (WHEREUPON there was no response.)

22 THE COURT: All right. The attorneys in this case
23 on behalf of the State of South Carolina is -- in the
24 Lexington County Solicitor's Office is Mr. Gill Bell and
25 Mr. Mike Ross. And on behalf of the defendants, Mr. Brad

1 Kirkland. I'll ask him to stand.

2 Thank you.

3 Has any member of the jury panel ever been
4 represented by any of the attorneys involved in this case
5 or by their law firms or if there's anyone who's had any
6 dealings with the Lexington County Solicitor's Office,
7 please stand.

8 (WHEREUPON there was no response.)

9 THE COURT: Is there anyone who is related by blood
10 or marriage to or has a close personal, social, or business
11 relationship with any of the attorneys involved, please
12 stand.

13 (WHEREUPON there was no response.)

14 THE COURT: Has any member of the jury panel formed
15 or expressed an opinion about any issue or matter involved
16 in this case?

17 (WHEREUPON there was no response.)

18 THE COURT: Is any member of the jury panel aware
19 of any bias or prejudice towards either the State or the
20 defendant in this case?

21 (WHEREUPON there was no response.)

22 THE COURT: The Court will instruct you on the law.
23 Of these legal instructions, there are several instructions
24 regarding criminal trials I would like to discuss with you.
25 The defendant is presumed to be innocent. Is there anyone

1 on the panel who cannot presume the defendant, as he sits
2 here, to be innocent of all of a charges against him? If
3 so, please stand.

4 (WHEREUPON there was no response.)

5 THE COURT: Once again, the indictment that is
6 brought before you is an indictment. It is a charge -- it
7 is allegations, it is not evidence of the defendant's
8 guilt. Is there anyone on the panel that believes that
9 because the defendant has been charged that he or she --
10 that he must have done something wrong or it is likely that
11 he has done something wrong? If so, please stand.

12 (WHEREUPON a juror stood.)

13 THE COURT: All right. And your juror number --

14 THE JUROR: 39.

15 THE COURT: All right. Thank you. You can have a
16 seat.

17 All right. Ladies and gentlemen of the jury, the
18 State must prove each element of the charges as alleging in
19 the indictment beyond a reasonable doubt. Is there anyone
20 who has a problem of following that instruction?

21 (WHEREUPON there was no response.)

22 THE COURT: Is there anyone who would require
23 anything less of the State than meeting the standard of
24 proof beyond a reasonable doubt?

25 (WHEREUPON there was no response.)

1 THE COURT: Is there any member of the jury panel
2 who has any disagreement with the idea that the defendant
3 has no burden of proof whatsoever? The sole burden of
4 proving his or her -- proving his guilt is the State's and
5 if the State fails you must find him not guilty. Does
6 anyone have a problem with that charge of the law?

7 (WHEREUPON there was no response.)

8 THE COURT: Is there anyone on the panel who would
9 hesitate to vote not guilty if the government fails to
10 prove its case beyond a reasonable doubt?

11 (WHEREUPON there was no response.)

12 THE COURT: Is there any member of the jury panel
13 that's served as a juror in any State, federal, or local
14 courts before? If so, please stand.

15 If you've been a juror --

16 (WHEREUPON several jurors stood.)

17 THE COURT: All right. We'll start on the first
18 row.

19 Yes, ma'am?

20 THE JUROR: I'm juror No. 7. It's been probably 15
21 to 18 years ago.

22 THE COURT: All right. And what kind of case was
23 it?

24 THE JUROR: It was a civil case.

25 THE COURT: All right. And do you recall --

1 THE JUROR: It settled.

2 THE COURT: Was there a verdict in that case?

3 THE JUROR: No, ma'am, they settled.

4 THE COURT: All right. And, ma'am, the fact that
5 you have served previously on a jury, would that affect
6 your ability to be fair and impartial in this trial?

7 THE JUROR: No, ma'am.

8 THE COURT: All right. Thank you.

9 All right. Yes, ma'am?

10 THE JUROR: I'm juror No. 91, I've never been
11 struck or served --

12 THE COURT: Oh, you're dismissed, ma'am, you may
13 have a seat.

14 Yes, ma'am?

15 THE JUROR: My number is 149 and I was on two. One
16 was on assault and one was assault and burglary, something
17 like that, but it was a long time ago, like 2004 or 2005,
18 in Lexington County.

19 THE COURT: Okay. And, ma'am, so you were -- it
20 was about 2004, 2005 you were involved and they were both
21 criminal cases and you served as a juror. Do you recall
22 whether you all were able to reach a verdict?

23 THE JUROR: Yes.

24 THE COURT: All right. Do you remember what the
25 verdict was?

1 THE JUROR: For one of them was guilty and the
2 other one was not guilty.

3 THE COURT: All right. And, ma'am, did you serve
4 as a forelady on either one of those juries?

5 THE JUROR: No.

6 THE COURT: All right. And, ma'am, is there
7 anything in that jury service that would affect your
8 ability to be fair and impartial in this trial?

9 THE JUROR: No.

10 THE COURT: All right. Thank you.

11 Yes, sir?

12 THE JUROR: Juror No. 89.

13 THE COURT: Yes, sir.

14 THE JUROR: And I served on a civil case about 30
15 years ago.

16 THE COURT: All right.

17 THE JUROR: And the person was found guilty.

18 THE COURT: So there was a verdict for the
19 plaintiff or the defendant?

20 THE JUROR: It was for the plaintiff.

21 THE COURT: All right. And, sir, did you act as a
22 foreperson on that case?

23 THE JUROR: No, ma'am.

24 THE COURT: All right. Is there anything about
25 that case that would affect your ability to be -- your

1 prior service that would affect your ability to be fair and
2 impartial in this trial?

3 THE JUROR: No, ma'am.

4 THE COURT: All right. Thank you, sir.

5 Yes, ma'am?

6 THE JUROR: Juror 99, it was a malpractice against
7 a physician.

8 THE COURT: All right. And when was that, ma'am?

9 THE JUROR: It was about 10 years ago.

10 THE COURT: All right. And did you all reach a
11 verdict?

12 THE JUROR: We did, not guilty.

13 THE COURT: All right. And so it was a verdict for
14 the defendant?

15 THE JUROR: Yes, Your Honor.

16 THE COURT: And, ma'am, is there -- did you serve
17 as a forelady?

18 THE JUROR: No, ma'am.

19 THE COURT: And is there anything that happened in
20 your experience as a juror that would affect your ability
21 to be fair and impartial in this trial?

22 THE JUROR: No, ma'am.

23 THE COURT: All right thank you.

24 Yes, sir?

25 THE JUROR: Juror No. 170.

1 THE COURT: Yes, sir?

2 THE JUROR: I was on a jury about 10 years ago.

3 THE COURT: All right. Was it criminal or civil.

4 THE JUROR: It was criminal.

5 THE COURT: All right. And did you all reach a
6 verdict?

7 THE JUROR: Yes, ma'am.

8 THE COURT: And do you remember what that was, sir?

9 THE JUROR: Guilty.

10 THE COURT: All right. And, sir, were you the
11 foreman?

12 THE JUROR: Ma'am?

13 THE COURT: Were you the foreman on that jury?

14 THE JUROR: No, ma'am.

15 THE COURT: All right. And sir, the fact that you
16 have served on a jury in the past, a criminal jury in the
17 past, would that affect your ability to be fair and
18 impartial in this trial?

19 THE JUROR: No, ma'am.

20 THE COURT: All right. Thank you.
21 Yes, sir?

22 THE JUROR: 189.

23 THE COURT: Was it civil or criminal.

24 THE JUROR: Criminal, ma'am.

25 THE COURT: And when was that?

1 THE JUROR: Seven, eight years ago.

2 THE COURT: Seven or eight years ago?

3 THE JUROR: Yes, ma'am.

4 THE COURT: All right. And do you remember what
5 type of case it was?

6 THE JUROR: It was a criminal case, two charges.
7 The State got one of the charges -- one of the charges was
8 dropped.

9 THE COURT: Okay.

10 THE JUROR: Lack of evidence on reaching that
11 one -- not enough burden of proof, you know. Hand of one
12 and all that. And I was the foreman on the jury.

13 THE COURT: All right. You were the foreman?

14 THE JUROR: Yes, ma'am.

15 THE COURT: All right. And, sir, that was seven
16 years ago and you were the foreman and you said on one
17 charge it was a guilty and one charge was a not guilty?

18 THE JUROR: Yes, ma'am.

19 THE COURT: All right. And, sir, the fact that you
20 previously served on a jury, would that affect your ability
21 to be fair and impartial in this trial?

22 THE JUROR: Not at all.

23 THE COURT: All right. Thank you.

24 THE JUROR: Juror 121.

25 THE COURT: Yes, ma'am?

1 THE JUROR: I was on a jury for child pornography
2 case in criminal court and he was found guilty.

3 THE COURT: And it was what, ma'am?

4 THE JUROR: Guilty.

5 THE COURT: And your juror number again?

6 THE JUROR: 121.

7 THE COURT: All right. And were you the
8 foreperson, ma'am?

9 THE JUROR: No, I wasn't.

10 THE COURT: All right. And, ma'am, the fact that
11 you served on a criminal case in the past, would that
12 affect -- as a juror, would that affect your ability to be
13 a fair and impartial in this trial?

14 THE JUROR: No, ma'am.

15 THE COURT: All right. Thank you.

16 THE JUROR: Juror 158, 2009, I served on the civil
17 court in this courtroom.

18 THE COURT: All right. And, sir -- hold on --

19 THE CLERK: Give us your name, please, sir?

20 THE JUROR: Myron Samuels.

21 THE CLERK: 159.

22 THE JUROR: All right.

23 THE COURT: 159. All right. And, sir, the fact
24 that you have served on a -- you said a civil jury?

25 THE JUROR: Yes.

1 THE COURT: Do you remember what the verdict was?

2 THE JUROR: Not guilty.

3 THE COURT: All right. So it was a plaintiff or a
4 defense verdict.

5 THE JUROR: Defense.

6 THE COURT: All right. And, sir, the fact that you
7 previously served on a jury, a civil jury, would that
8 affect your ability to be fair and impartial in this trial?

9 THE JUROR: No, ma'am.

10 THE COURT: All right. Thank you.

11 THE JUROR: No. 28.

12 THE COURT: Yes, sir?

13 THE JUROR: I served on a civil court here against
14 DOT and they found --

15 THE COURT: And how long ago was this?

16 THE JUROR: Eight, ten years ago.

17 THE COURT: You said eight or nine?

18 THE JUROR: Eight.

19 THE COURT: Okay. And, sir, do you remember what
20 the verdict was?

21 THE JUROR: I believe it was the defense.

22 THE COURT: Defense. And so were you the foreman?

23 THE JUROR: Yes.

24 THE COURT: All right. And, sir, would that affect
25 your ability, the fact that you were foreman and you

1 previously served on a civil jury, would that affect your
2 ability to be fair and impartial in this trial?

3 THE JUROR: No, ma'am.

4 THE COURT: All right. Thank you.

5 THE CLERK: We have another one, Your Honor.

6 THE COURT: Yes, sir?

7 THE JUROR: I believe it was a civil case. It had
8 to do with a driving accident.

9 THE COURT: Let me get your juror number real
10 quick.

11 THE JUROR: 11.

12 THE COURT: 11. All right. And, sir, when was
13 that?

14 THE JUROR: About 20 plus years ago.

15 THE COURT: All right. And, sir, do you remember
16 what the verdict was in that case.

17 THE JUROR: Guilty.

18 THE COURT: And it was a civil case?

19 THE JUROR: Yes.

20 THE COURT: And it was for the plaintiff or the
21 defendant?

22 THE JUROR: For the defendant.

23 THE COURT: All right. And sir, the fact that you
24 previously served on a jury, would that affect your ability
25 to be fair and impartial in this trial?

1 THE JUROR: No, ma'am.

2 THE COURT: All right. Thank you.

3 All right. Is there any member of the jury panel
4 who has served on a grand jury either State or federal
5 court? If so, please stand.

6 THE CLERK: We have one.

7 THE COURT: All right. Yes, ma'am?

8 THE JUROR: I'm Juror 197.

9 THE COURT: Yes, ma'am.

10 THE JUROR: Valerie Thompson.

11 THE COURT: Yes, ma'am.

12 THE JUROR: It was probably 30 years ago when I
13 served on a grand jury in Georgia.

14 THE COURT: All right. And, ma'am, was that a
15 State or a federal grand jury?

16 THE JUROR: Oh, State.

17 THE COURT: All right. And, ma'am, the fact that
18 you served on a grand jury in the past, would that affect
19 your ability to be fair and impartial in this trial?

20 THE JUROR: No, Your Honor.

21 THE COURT: All right. And you said that was 30
22 years ago.

23 All right. Thank you.

24 Is there any member of the jury panel had any
25 formal or informal legal training. This would include, but

1 not limit it to law school, business law courses, paralegal
2 training, law enforcement training, and training in the
3 course of employment. If so, please stand. Any legal
4 training.

5 All right. Yes, sir, in the green?

6 THE JUROR: No. 94.

7 THE COURT: Yes, sir.

8 THE JUROR: I had real estate law courses.

9 THE COURT: All right, sir. And the fact that
10 you've taken real estate law courses, would that affect
11 your ability to be fair and impartial in this trial?

12 THE JUROR: No, ma'am.

13 THE COURT: All right. Thank you.

14 Yes, sir?

15 THE JUROR: 189. I just finished law enforcement
16 training, Lackland Air Force Base, San Antonio, Texas, and
17 a minor in criminal justice.

18 THE COURT: All right. And when did you -- when
19 did you participate in that law enforcement training?

20 THE JUROR: Mid 90's.

21 THE COURT: All right. And sir, do you have
22 knowledge or experience in criminal law?

23 THE JUROR: Just what little training I've done and
24 what classes I've taken.

25 THE COURT: All right. Now -- and have you had any

1 experience with narcotics investigations?

2 THE JUROR: Investigations? Just what little bit
3 we had in school back then.

4 THE COURT: All right. And sir, the fact that you
5 have had some training, formal training in law enforcement,
6 would that affect your ability to be fair and impartial in
7 this trial?

8 THE JUROR: No, ma'am.

9 THE COURT: All right. Thank you.

10 Yes, ma'am?

11 THE JUROR: Juror 85.

12 THE COURT: And you worked -- juror what, now?

13 THE JUROR: 85.

14 THE COURT: And you worked at Lexington County
15 Sheriff's Department; is that correct?

16 THE JUROR: Yes.

17 THE COURT: And what did you do there?

18 THE JUROR: I was a deputy on patrol.

19 THE COURT: All right. And so you have been
20 through the criminal justice academy; is that correct?

21 THE JUROR: Yes, ma'am.

22 THE COURT: And what years did you work for them.

23 THE COURT: From '04 to '06, when I retired and
24 prior to that I worked for the Orangeburg County Sheriff's
25 Department.

1 THE COURT: All right. And ma'am, did you have any
2 experience with narcotics investigations?

3 THE JUROR: I did nothing in that unit. However,
4 when we are on patrol, we did have to confiscate narcotics
5 if found on calls.

6 THE COURT: All right. And ma'am, the fact that
7 you have worked at Lexington County Sheriff's Department
8 and Orangeburg County Sheriff's Department in the past,
9 would that affect your ability to be fair and impartial in
10 this trial?

11 THE JUROR: No, ma'am, I would be able to look at
12 it in a fair light. I think I could consider myself as
13 fair.

14 THE COURT: All right. Thank you.

15 THE JUROR: Thank you.

16 THE COURT: Yes, sir?

17 THE JUROR: Juror 82. I took business law and
18 business law courses.

19 THE COURT: All right. So you have any knowledge
20 or experience in criminal law?

21 THE JUROR: No, ma'am.

22 THE COURT: And, sir, the fact that you've taken a
23 business law course, would that affect your ability to be
24 fair and impartial in this trial?

25 THE JUROR: No, it wouldn't.

1 THE COURT: Thank you.

2 Yes, sir? With the black sweater on.

3 THE JUROR: Juror No. 202.

4 THE COURT: Yes, sir.

5 THE JUROR: I've also had business law courses.

6 THE COURT: All right. And would that affect
7 ability to be fair and impartial in this trial?

8 THE JUROR: No, ma'am.

9 THE COURT: All right. Thank you.

10 Yes, sir?

11 THE JUROR: Juror 159. I have had business law
12 courses.

13 THE COURT: All right. And so would that affect
14 your ability to be fair and impartial in this trial?

15 THE JUROR: No, ma'am.

16 THE COURT: All right. Thank you.

17 Yes, ma'am?

18 THE JUROR: I'm Juror 115. I taught law
19 enforcement students and paralegal students about 20 years
20 and a specialty course in forensic psychology.

21 THE COURT: All right. And, ma'am, are you still
22 teaching that course?

23 THE JUROR: I'm retired.

24 THE COURT: All right. And ma'am, the fact that
25 you previously taught the law classes, the forensic

1 psychology? Is that correct?

2 THE JUROR: Yes.

3 THE COURT: Would that affect your ability be fair
4 and impartial in this trial?

5 THE JUROR: I believe it would.

6 THE COURT: All right. Thank you, ma'am. And your
7 number again, is?

8 THE JUROR: 115.

9 THE COURT: 115. Thank you.

10 Yes, ma'am?

11 THE JUROR: 224.

12 THE COURT: Yes, ma'am?

13 THE JUROR: In my -- I work at the law school.

14 I've been trained to do a lot of research on case histories
15 and property, education law and employment law.

16 THE COURT: All right. And your position at the
17 law school is?

18 THE JUROR: I'm the faculty scholarship assistant.

19 THE COURT: Okay.

20 THE JUROR: And editor of their work and
21 researcher.

22 THE COURT: All right. And ma'am, the fact you
23 have worked at the law school, would that affect your
24 ability be -- you're on faculty at the law school. Would
25 that affect your ability to be fair and impartial in this

1 trial?

2 THE JUROR: No.

3 THE COURT: All right. Thank you.

4 Has any member the jury panel or your family,
5 immediate family, had any -- or family had any dealings
6 with state, federal or local law enforcement agencies? If
7 so, please stand.

8 All right. Yes, sir?

9 THE JUROR: Can you repeat the question, please?

10 THE COURT: Is there any member of the jury panel
11 who you or your family has ever had dealings with state,
12 federal, or local law enforcement agencies.

13 THE JUROR: My father -- I'm No. 189 and my father
14 works for the City of Columbia Police Department and I've
15 had some run-ins with the law myself.

16 THE COURT: Okay. All right. And, sir, would that
17 affect -- would those two things -- would that affect your
18 ability to be fair and impartial in this trial?

19 THE JUROR: No, it wouldn't.

20 THE COURT: All right. Thank you.

21 Yes, ma'am, with the blue shirt on.

22 THE JUROR: Juror 197. I used to be a press court
23 reporter.

24 THE COURT: Used to be a --

25 THE JUROR: A press reporter or newspaper reporter.

1 THE COURT: Okay. And ma'am, would that affect
2 your ability to be fair and impartial in this trial?

3 THE JUROR: No, it would not.

4 THE COURT: Okay. Thank you.

5 Yes, ma'am?

6 THE JUROR: I'm juror 108. I had to file charges
7 against my ex-husband, his wife and his -- my ex-husband's
8 stepchildren for assaulting my children -- sexual assault
9 of my daughter and physical assault of my son in Dorchester
10 County.

11 THE COURT: All right. And ma'am, would that
12 affect your ability to be fair and impartial in this trial?

13 THE JUROR: I don't think so.

14 THE COURT: All right. And there's no wrong
15 answer, I just need a yes or a no.

16 THE JUROR: No.

17 THE COURT: All right.

18 MR. KIRKLAND: Do you mind reminding them that they
19 can come up if they want to talk to you about some of these
20 things?

21 THE COURT: Yeah. I'll tell them at the end --

22 MR. KIRKLAND: Its just these issues --

23 THE COURT: I understand.

24 Yes, ma'am?

25 THE JUROR: Juror 39. I'm on the Lexington

1 County's Sheriff's Department --

2 THE COURT: Oh, yeah, you told us that earlier.

3 THE JUROR: For years I know I'm very familiar --
4 I'm very partial.

5 THE COURT: All right. Ma'am, thank you, you can
6 have a seat.

7 All right. Yes, ma'am?

8 THE JUROR: I'm number 185 and my son is a DOT
9 Transport Police Officer.

10 THE COURT: All right. And ma'am, would that
11 affect your ability to be fair and impartial in this trial?

12 THE JUROR: I don't think -- no, ma'am. No, ma'am.

13 THE COURT: You said no?

14 THE JUROR: Yes.

15 THE COURT: Okay. Thank you.

16 All right. Yes, ma'am, in the grey sweater.

17 THE JUROR: I'm Juror No. 183. And my husband
18 works with Portlin (phonetic) Service and there's a lot of
19 dealing with law enforcement.

20 THE COURT: All right. And ma'am, would that
21 affect your ability to be fair and impartial in this trial?

22 THE JUROR: No, it won't.

23 THE COURT: All right. Thank you.

24 Yes, ma'am?

25 THE JUROR: Juror No. 117, and my father used to

1 work with the Department of Probation and Parole.

2 THE COURT: All right. And would that affect your
3 ability to be fair and impartial in this trial?

4 THE JUROR: No, ma'am.

5 THE COURT: All right. Thank you.

6 Yes, ma'am?

7 THE JUROR: I'm juror 203. Could you repeat your
8 question again? I found it confusing.

9 THE COURT: All right. Have you or any member of
10 your family ever had any dealings with state, federal or
11 local law enforcement agencies?

12 THE JUROR: Yes, I had a niece killed in an
13 accident. Would that -- will that be --

14 THE COURT: And, ma'am what agency was it that you
15 had to deal with?

16 THE JUROR: It was -- I remember coming to the
17 courthouse near Lexington.

18 THE COURT: Lexington County?

19 THE JUROR: Yes.

20 THE COURT: And, ma'am, would that interaction
21 affect your ability to be fair and impartial in this trial?

22 THE JUROR: No, ma'am.

23 THE COURT: All right. Thank you.

24 All right. And ladies and gentlemen of the jury, I
25 think I said this earlier, but if there's any questions

1 that you do not wish to answer in front of the entire
2 panel, you can, of course, come up and speak with me
3 privately as we did earlier.

4 All right. Is there any member of the jury panel
5 who has ever been a witness in a criminal case? If so,
6 please stand. If you were a witness in a criminal case.

7 All right. Ma'am -- with the pink shirt on, it was
8 through your -- you were -- you testified for your job?

9 THE JUROR: No. It was a death of a five-year-old.

10 THE COURT: Okay. All right. And, ma'am would
11 that affect your ability to be fair and impartial in this
12 trial? The fact that you've been a witness?

13 THE JUROR: No.

14 THE COURT: All right. Thank you.

15 Yes, ma'am?

16 THE JUROR: It was through my job, Juror 85. And,
17 no, it would not affect by ability to be fair in this
18 trial.

19 THE COURT: All right. Thank you.

20 Yes, sir?

21 THE JUROR: Juror 143. May I approach, ma'am?

22 THE COURT: Yes, sir. Well, let's do this. We'll
23 get through all the questions and then I'll have everyone
24 come up at the end.

25 THE JUROR: Okay. Thank you ma'am.

1 THE COURT: Same for you, ma'am?

2 THE JUROR: Yes, ma'am.

3 THE COURT: Okay. Thank you.

4 One or more police officers and federal agents may
5 testify in this case. Do you -- do you members of the jury
6 panel understand that the testimony of law enforcement
7 officer is not to be given anymore credit or believability
8 than any other officer, including -- any other witness,
9 including the defendant, simply because he or she is a law
10 enforcement officer?

11 (WHEREUPON there was no response.)

12 THE COURT: All right. Have you ever commented on
13 an online news article that was related to a crime?

14 All right.

15 THE CLERK: We've got one, Your Honor.

16 THE COURT: All right. Yes, ma'am?

17 THE JUROR: All the time.

18 THE COURT: What's your juror number?

19 THE JUROR: I'm juror 208.

20 THE COURT: And, ma'am -- so you've commented
21 online, I guess on newspaper or TV --

22 THE JUROR: Facebook.

23 THE COURT: Facebook.

24 THE JUROR: Stories, posts.

25 THE COURT: All right. And, ma'am, would that

1 affect your ability to be fair and impartial in this trial?

2 THE JUROR: No.

3 THE COURT: Okay. Thank you.

4 Well, the next question, ma'am, is have any of you
5 liked on Facebook and/or followed on Twitter any law
6 enforcement agency or anyone affiliated with law
7 enforcement? If so, please stand.

8 (WHEREUPON several jurors stood.)

9 THE COURT: Yes, sir, your juror number.

10 THE JUROR: 189.

11 THE COURT: Yes, sir.

12 THE JUROR: I'm linked To the Lexington County
13 Sheriff's Department.

14 THE COURT: All right. And have you through
15 Twitter or Facebook, or linked in or...

16 THE JUROR: Facebook, ma'am.

17 THE COURT: Facebook. So you're linked with the
18 Lexington County Sheriff's Department page?

19 THE JUROR: Yes, ma'am.

20 THE COURT: All right. And sir, does that affect
21 your ability to be fair and impartial in this trial?

22 THE JUROR: Not at all.

23 THE COURT: All right. Thank you.

24 Yes, ma'am?

25 THE JUROR: Juror 85. I'm linked to numerous law

1 enforcement agencies via the internet.

2 THE COURT: Okay. And, ma'am, would that affect
3 your ability to be fair and impartial in this trial?

4 THE JUROR: No.

5 THE COURT: All right. Thank you.

6 THE CLERK: One more.

7 THE COURT: Yes, sir?

8 THE JUROR: 202, I have several friends through
9 Facebook that are involved with various law enforcement
10 agencies throughout the Midlands.

11 THE COURT: All right. And, sir, the fact you have
12 friends that are -- and you have social networking with
13 those that are in law enforcement, would that affect your
14 ability to be fair and impartial in this trial?

15 THE JUROR: No, ma'am.

16 THE COURT: All right. Thank you.

17 All right. The assistant solicitor and the defense
18 counsel attorneys are equal. Both are lawyers and thus
19 equal in the eyes of the law.

20 Is there any member of the jury panel who would
21 give any more weight to the arguments of the prosecutor
22 than to the defense counsel merely because the prosecutor
23 represents the government or the State or because the
24 prosecutor's title of assistant solicitor? If so, please
25 stand.

1 (WHEREUPON there was no response.)

2 THE COURT: Do any of you have the opinion that
3 since the defendant was arrested and charged with a crime
4 that he is probably guilty?

5 (WHEREUPON there was no response.)

6 THE COURT: Would any of you have any difficulty
7 deeming him innocent and requiring the State to prove its
8 case beyond a reasonable doubt as the law requires?

9 (WHEREUPON there was no response.)

10 THE COURT: Is there any of -- is there any member
11 of the jury panel who donates money to or receives any
12 assistance from any community, law enforcement, or victim
13 advocate's group? These groups include, but are not
14 limited to, Mother's Against Drunk Driving, South Carolina
15 Law Enforcement Officers Association, Alanon, Partnership
16 for a Drug Free America, Sister Care, State Office of
17 Victim Assistance, South Carolina Victim Assistance Network
18 and neighborhood watch group, or any similar organizations.

19 If so, please stand.

20 (WHEREUPON several jurors stood.)

21 All right. Yes, ma'am, in the green.

22 THE JUROR: I'm juror No. 108. I receive
23 assistance for my daughter's legal fees.

24 THE COURT: All right. And ma'am, the fact that
25 you receive assistance from SOVA, would that affect your

1 ability to be fair and impartial in this trial?

2 THE JUROR: No.

3 THE COURT: Thank you. All right. Yes, ma'am?

4 THE JUROR: Was it giving money the question?

5 THE COURT: Yes, ma'am. Donate.

6 THE JUROR: I'm sure I've donated money. I'm 135.

7 THE COURT: All right. And ma'am, the fact that
8 you've donated money to one of these agencies or one of
9 these groups, would that affect your ability to be fair and
10 impartial in this trial?

11 THE JUROR: No, ma'am.

12 THE COURT: All right. Thank you.

13 Yes, ma'am, in the red?

14 THE JUROR: Juror No. 31. I've donated to Mother's
15 Against Drunk Drivers.

16 THE COURT: All right. One more time, your juror
17 number?

18 THE JUROR: 31.

19 THE COURT: Juror No. 31. And you've donated to
20 Mother's Against Drunk Driving.

21 THE JUROR: Right.

22 THE COURT: And would that affect your ability to
23 be fair and impartial in this trial?

24 THE JUROR: No.

25 THE COURT: All right. Thank you.

1 Yes, ma'am?

2 THE JUROR: 203.

3 THE COURT: Yes, ma'am?

4 THE JUROR: Received victim's assistance, whatever
5 that program is at the State level --

6 THE COURT: Yes, ma'am, SOVA.

7 THE JUROR: And --

8 THE COURT: Okay. And would that affect your
9 ability to be fair and impartial in this trial?

10 THE JUROR: No, ma'am.

11 THE COURT: All right. Thank you.

12 Do any of you believe that just because the
13 defendant is with someone else who may be guilty of a crime
14 that the defendant is automatically guilty because of his
15 association with that person?

16 (WHEREUPON there was no response.)

17 THE COURT: Do any of you believe that just because
18 the defendant is present when a crime may have been
19 committed that he is automatically guilty because he was
20 there?

21 (WHEREUPON there was no response.)

22 THE COURT: As you've heard, many of the witnesses
23 that will be called by the State are law enforcement
24 officers. Is there any member of the panel who would
25 automatically believe all of the police officers' testimony

1 solely because he or she is a law enforcement officer
2 without applying the same set of factors that you would
3 apply to other witnesses?

4 I think I've asked that one already.

5 Will any of you judge the credibility of a witness
6 who was a law enforcement officer or government employee
7 differently from other witnesses solely because of his or
8 her official position?

9 (WHEREUPON there was no response.)

10 THE COURT: Is there any member of the jury panel
11 or your relatives or any close friends ever belonged to any
12 group that is concerned in any way with marijuana, alcohol,
13 or other drugs, either for or against them? If so, please
14 stand.

15 THE JUROR: Can you repeat that one more time?

16 THE COURT: Is there any member of the jury panel
17 or your relatives or close friends who belong to any group
18 that is concerned in any way with marijuana, alcohol, or
19 other drugs, either for or against them? If so -- if
20 there's any group that you belong to or a family member or
21 a close friend.

22 Yes, ma'am?

23 THE JUROR: 166.

24 THE COURT: Yes, ma'am.

25 THE JUROR: I work in a treatment facility.

1 THE COURT: All right. And ma'am, would that
2 affect your ability to be fair and impartial in this trial?

3 THE JUROR: No.

4 THE COURT: Okay. Thank you.

5 THE CLERK: One more, Your Honor.

6 THE COURT: Yes, sir?

7 THE JUROR: No. 102. My wife and daughter
8 participate in Alanon.

9 THE COURT: Okay. And, sir, the fact that your
10 wife and your daughter participate in Alanon, would that
11 affect your ability to be fair and impartial in this trial?

12 THE JUROR: No.

13 THE COURT: All right. Thank you.

14 This case involves allegations concerning the
15 manufacture of methamphetamine. Does anyone have strong
16 beliefs concerning methamphetamine, users of
17 methamphetamine, or the affects of methamphetamine on
18 individuals or the community, that it would have an impact
19 on your ability to be fair -- to view the evidence in this
20 case fair and impartial?

21 Yes, sir what's your number?

22 THE JUROR: 87.

23 THE COURT: Yes, sir?

24 All right. And you -- the question is do you have
25 a strong belief concerning methamphetamine, users of

1 methamphetamine, the affects of methamphetamine on
2 individuals and the community. And, sir, can you -- do
3 those strong believes prevent you from viewing the evidence
4 fairly and impartially?

5 THE JUROR: That would.

6 THE COURT: All right. Thank you, sir. What's
7 your --

8 THE JUROR: 87.

9 THE COURT: All right. Thank you.

10 THE JUROR: Juror 56. Due to the fact that I work
11 with folks that abuse that in some families. I do think I
12 could not be impartial.

13 THE COURT: All right. Thank you. What's your
14 juror number?

15 THE JUROR: 166.

16 THE BAILIFF: You have one more, Your Honor.

17 THE COURT: Yes, ma'am?

18 THE JUROR: 208. I had a gentleman approach me in
19 a parking lot at CVS trying to get me to go in and buy him
20 Pseudoephedrine and I don't even know -- buying things for
21 myself and I -- I remember reporting him to CVS.

22 THE COURT: All right. And, ma'am, would that
23 affect your ability to be fair and impartial in this trial?
24 That incident?

25 THE JUROR: It may.

1 THE COURT: All right. And what's your juror
2 number?

3 THE JUROR: 208.

4 THE COURT: All right. Does anyone in the jury
5 panel have an opinion regarding drug laws in our country
6 and the enforcement of laws whether they're too harsh or
7 too lenient. If so, please stand.

8 (WHEREUPON there was no response.)

9 THE COURT: Does any -- do you or anyone in your
10 family or close friends, work in the health-related field
11 which treats or counsel's people who have problems related
12 to alcohol or other drugs.

13 And you don't have to stand back up.

14 All right. Yes, sir?

15 THE JUROR: Juror No. 10, Grey Bailey. My sister
16 is a psychologist at Charter Rivers.

17 THE COURT: All right. And, sir, the fact that
18 your sister is a psychologist at Charter River, would that
19 affect your ability to be fair and impartial in this trial?

20 THE JUROR: No.

21 THE COURT: All right. Thank you.

22 Yes, ma'am?

23 THE JUROR: Juror 125.

24 THE COURT: Yes, ma'am.

25 THE JUROR: I work with the South Carolina Youth

1 Advocate Program and some of the children we work with have
2 problems with these issues.

3 THE COURT: Would that affect your ability to be
4 fair and impartial in this are trial?

5 THE JUROR: No.

6 THE COURT: All right. Thank you.

7 All right. The next question, if you don't want to
8 answer in front of the entire panel, you can come up
9 afterwards.

10 Have you or anyone in your family, relatives or
11 close friends ever needed, sought, or obtained any sort of
12 counseling or treatment for a problem related to alcohol or
13 any other drug? If so, please stand or come up at the end.

14 (WHEREUPON there was no response.)

15 THE COURT: Have you or any of your relatives or
16 close friends ever been accused of or convicted of any
17 criminal offense or any civil offense involving drugs or
18 alcohol? If so, please stand, or come up at the end.

19 (WHEREUPON there was no response.)

20 THE COURT: Do any of you by virtue of past
21 dealings with the State of South Carolina or for any reason
22 have any bias for or against the State in a criminal case?
23 If so, please stand.

24 (WHEREUPON there was no response.)

25 THE COURT: Have you or any of your relatives or

1 close friends ever worked for the local county, state, or
2 federal government? If so, please stand.

3 Yes, ma'am?

4 THE JUROR: 135. I don't know if this counts, but
5 I work for DHEC.

6 THE COURT: All right. Ma'am, the fact that you
7 work for DHEC, would that affect your ability to be fair
8 and impartial in this trial?

9 THE JUROR: No.

10 THE COURT: All right. Thank you.

11 Yes, ma'am.

12 THE JUROR: 197. I work for the University of
13 South Carolina.

14 THE COURT: All right. And, ma'am, would that
15 affect your ability to be fair and impartial in this trial?

16 THE JUROR: No.

17 THE COURT: All right. Thank you.

18 Yes, ma'am?

19 THE JUROR: 85. I work for Lexington County and,
20 no it would not affect my ability to be fair and impartial
21 in this trial.

22 THE COURT: Thank you.

23 Yes, ma'am, in the grey sweater.

24 THE JUROR: Juror 28. I work for the U.S. Postal
25 Service and no, it would not affect my ability.

1 THE COURT: Thank you.

2 Yes, sir?

3 THE JUROR: 142, I'm a federal employee and it
4 won't affect my --

5 THE COURT: Where do you work?

6 THE JUROR: Federal Aviation.

7 THE COURT: All right. Thank you.

8 Yes, sir?

9 THE JUROR: I'm juror No. 147. My mother works for
10 Florence County.

11 THE COURT: Florence County?

12 THE JUROR: Yes, ma'am.

13 THE COURT: Where?

14 THE JUROR: In Florence County, South Carolina.

15 THE COURT: I know Florence, but what department
16 does she work in?

17 THE JUROR: TIS Department.

18 THE COURT: Okay. And would that affect your
19 ability to be fair and impartial in this trial?

20 THE JUROR: No.

21 THE COURT: All right. Thank you.

22 All right. Yes?

23 THE JUROR: My husband was in the Marine Corp.

24 THE COURT: All right. And would that affect your
25 ability to be fair and impartial in this trial?

1 THE JUROR: No, ma'am it would not.

2 THE COURT: All right. Yes, sir?

3 THE JUROR: University of South Carolina. I'm
4 Juror No. 2.

5 THE COURT: All right. And would that affect your
6 ability -- what do you do for USC?

7 THE JUROR: I work for their media center.

8 THE COURT: And would that affect your ability to
9 be fair and impartial in this trial?

10 THE JUROR: No.

11 THE COURT: All right. Thank you.

12 Yes, sir?

13 THE JUROR: No. 9. I work with the Army National
14 Guard.

15 THE COURT: All right. And, sir, would that affect
16 your ability to be fair and impartial in this trial?

17 THE JUROR: No.

18 THE COURT: All right. Yes, ma'am?

19 THE JUROR: 203. I work for DHEC and it wouldn't
20 affect me in this.

21 THE COURT: All right. Thank you.

22 THE JUROR: 224. I work for the University of
23 South Carolina. My son is a federal employee for the
24 Veteran's Administration.

25 THE COURT: All right. And would that --

1 THE JUROR: That would not affect my ability to be
2 fair and impartial.

3 THE COURT: All right.

4 MR. KIRKLAND: May I suggest we skip 27?

5 THE COURT: Yeah. I think it's --

6 Have any of you, your relatives or close friends
7 ever been the victim of any crime? If so, please stand.
8 And if you don't want to discuss this in front of the
9 entire panel, you can come up privately and speak with me.

10 All right. Yes, ma'am, we'll start with you.

11 THE JUROR: 203 and again, my niece was killed in
12 an accident.

13 THE COURT: All right.

14 THE JUROR: And it was a criminal case.

15 THE COURT: All right. And, ma'am, would that
16 affect your ability to be fair and impartial in this trial?

17 THE JUROR: No.

18 THE COURT: Thank you.

19 Yes, sir?

20 THE JUROR: Juror No. 67. I was a victim of a
21 robbery in college.

22 THE COURT: All right. And sir, would that affect
23 your ability to be fair and impartial in this trial?

24 THE JUROR: No, ma'am.

25 THE COURT: All right. Yes, ma'am?

1 THE JUROR: 224. My sister was a victim of a
2 violent crime.

3 THE COURT: All right. And would that affect your
4 ability to be fair and impartial in this trial?

5 THE JUROR: No.

6 THE COURT: All right. Thank you.

7 All right. Yes, sir, in the black sweater.

8 THE JUROR: Juror 82. I was beat unconscious.

9 THE COURT: And, sir, would that affect your
10 ability to be fair and impartial in this trial?

11 THE JUROR: No, it wouldn't.

12 THE COURT: All right. Yes, sir?

13 THE JUROR: Juror 159. My apartment was broken
14 into about 20 years ago.

15 THE COURT: All right. And, sir, would that affect
16 your ability to be fair and impartial in this trial?

17 THE JUROR: No, it wouldn't.

18 MR. KIRKLAND: What was that number, Your Honor?

19 THE CLERK: 159.

20 MR. KIRKLAND: Thank you.

21 THE COURT: Thank you.

22 Yes, sir, in the burgundy.

23 THE JUROR: Juror 147. My car was robbed.

24 THE COURT: All right. And would that affect your
25 ability to be fair and impartial?

1 THE JUROR: No.

2 THE COURT: All right. Thank you.

3 And, yes, sir?

4 THE JUROR: 15. I was a victim of an armed
5 robbery.

6 THE COURT: All right. And, sir, would that affect
7 your ability to be fair and impartial in this trial?

8 THE JUROR: No.

9 THE COURT: Thank you.

10 MR. KIRKLAND: I suggest we also skip 29, Your
11 Honor.

12 THE CLERK: We have one more standing.

13 MR. KIRKLAND: Oh, I'm sorry.

14 THE COURT: Okay. Yes, sir in --

15 THE JUROR: I was a victim of a burglary.

16 THE COURT: All right. And, sir, would that affect
17 your ability to be fair and impartial in this trial?

18 THE JUROR: No, it would not.

19 THE CLERK: What was your jury number, please, sir?

20 THE JUROR: 111.

21 THE CLERK: Thank you.

22 THE COURT: All right. Do you know of any reason
23 whatsoever either suggested by these questions or otherwise
24 why you could not sit as a trial juror with absolute
25 impartiality to all the parties in this case? If so,

1 please stand.

2 (WHEREUPON there was no response.)

3 THE COURT: Does any member of the jury panel know
4 of any reason whatsoever why he or she should not serve as
5 a juror in this case, with particular emphasis being placed
6 on your ability to be fair and impartial to both the State
7 and the defendant? If so, please stand.

8 All right. For those of you who have asked to come
9 up and want to speak with me privately, I'll have you come
10 up at this time. And it's semi-private because the
11 attorneys will be listening.

12 THE BAILIFF: Juror No. 27, Your Honor.

13 THE COURT: Thank you.

14 THE JUROR: Your Honor, I'm not sure if I -- I -- I
15 don't know this fellow, but over the course of 35 years,
16 there is Hammonds in their family. It's not going to
17 affect me in any way.

18 THE COURT: So he is in your family?

19 THE JUROR: Right. /-P.

20 THE COURT: Would that affect your ability to be
21 fair and impartial in this trial?

22 THE JUROR: No. And the other thing is, I just
23 realized and I forgot all about it. I was at a funeral of
24 a friend who died with guns. That was so long ago, I
25 forgot all about it.

1 THE COURT: Would is that affect your ability to be
2 fair and impartial in this trial?

3 THE JUROR: No.

4 THE COURT: Okay. Thank you, ma'am.

5 THE BAILIFF: Juror No. 206, Your Honor.

6 THE COURT: Hi there.

7 THE JUROR: My cousin is recovering right now. And
8 he did serve time for a drug conviction.

9 THE COURT: All right. And would that affect your
10 ability to be fair and impartial in this trial.

11 THE JUROR: I don't think so.

12 THE COURT: All right. It's yes or no, but...

13 THE JUROR: No, it will not affect it.

14 THE COURT: Would that affect your ability to be
15 fair and impartial in this case?

16 THE JUROR: No.

17 THE COURT: All right.

18 THE BAILIFF: No. 143, Your Honor.

19 THE JUROR: I have two friends that were involved
20 with drug charges. They were back in the 90's. I had
21 bench warrants for grand jury and for a federal court
22 charge.

23 THE COURT: Okay. And, sir, would that affect your
24 ability to be fair and impartial in this trial?

25 THE JUROR: No, it would not.

1 THE COURT: No. Thank you.

2 THE JUROR: Thank you, ma'am.

3 THE BAILIFF: No. 78, Your Honor.

4 THE JUROR: I don't think I could be fair. My
5 brother was on drugs. And I grew up hating drug dealers.
6 I hate and -- and the fact that I have a baby. I have that
7 thought present in my mind.

8 THE COURT: Okay. And what's your number?

9 THE JUROR: 78.

10 THE COURT: All right. Thank you.

11 THE BAILIFF: Juror No. 270, Your Honor.

12 THE COURT: Yes, ma'am?

13 THE JUROR: My brother-in-law was murdered in a
14 case in Richland County that you were the judge of.

15 THE COURT: All right. And the fact that your
16 brother-in-law was murdered in Richland County, would that
17 affect your ability to be fair and impartial in this trial?

18 THE JUROR: No.

19 THE COURT: All right. Thank you. When was that,
20 sir?

21 THE JUROR: About three years ago.

22 THE BAILIFF: Juror No. 138, Your Honor.

23 THE JUROR: My daughter was arrested with
24 possession of drugs back in the 90's.

25 THE COURT: What kind of drugs?

1 THE JUROR: Marijuana. She actually spent the
2 night in jail and she's not guilty. Obviously, it's still
3 on her record.

4 THE COURT: Okay. And would this affect your
5 ability to be fair and impartial in this case?

6 THE JUROR: I believe it would.

7 THE COURT: Okay. Thank you. What's your juror
8 number?

9 THE JUROR: 138.

10 THE COURT: Okay. Thank you.

11 THE BAILIFF: Juror 127, Your Honor.

12 THE JUROR: Hello.

13 THE COURT: Hi there.

14 THE JUROR: I've got two of them. I've got a
15 brother who was a retired police chief and I also have a
16 brother who was arrested and did time for possession of
17 cocaine.

18 THE COURT: Okay. And would that -- either one of
19 those affect your ability to be fair and impartial in this
20 trial?

21 THE JUROR: No.

22 THE COURT: No?

23 THE JUROR: No.

24 THE COURT: Okay. Thank you.

25 THE BAILIFF: Juror No. 11, Your Honor.

1 THE JUROR: I'm currently in a program for alcohol,
2 but that won't affect my judgment.

3 THE COURT: All right. You can be fair and
4 impartial?

5 THE JUROR: Yeah.

6 THE COURT: Which program are you in?

7 THE JUROR: His Hope Ministry.

8 THE COURT: Okay. All right. Thank you, sir.

9 THE BAILIFF: Juror No. 10, Your Honor.

10 THE JUROR: I was treated for depression and drug
11 abuse about 10 years ago. I just wanted you to know. I
12 believe -- it was done in Atlanta.

13 THE COURT: All right. And would that affect your
14 ability to be fair and impartial in this trial?

15 THE JUROR: No.

16 THE COURT: Okay. Thank you.

17 THE BAILIFF: Juror No. 98, Your Honor.

18 THE JUROR: Hi. I actually received treatment for
19 substance abuse. I was an alcoholic. But it would not
20 affect me.

21 THE COURT: Okay. Thank you.

22 THE JUROR: Zero tolerance, Your Honor.

23 THE COURT: Thank you.

24 (WHEREUPON all the bench conferences with jurors
25 was concluded.)

1 THE COURT: All right. Is there any matter not
2 covered by any of the questions that I asked here today
3 that would -- that you believe may inhibit your ability to
4 sit fairly and impartially as a juror in this case and to
5 base your verdict on the evidence and the law as the
6 judge -- as the Court gives it you to?

7 Is there any reason why you -- if there's anyone
8 that cannot be fair and impartial in this trial, now is the
9 time to stand up to do so. And there is no right answer or
10 wrong answer, but if you cannot be fair and impartial, we
11 would ask that you stand at this time.

12 (WHEREUPON a juror stood.)

13 THE COURT: All right. Thank you. You've already
14 talked to me. And you're juror number one more time?

15 THE JUROR: 78.

16 THE COURT: Thank you. All right.

17 Ladies and gentlemen of the jury, I'm going to
18 allow you -- because we've been in here for a little while.
19 I'm going to allow you to take a five anyone bathroom break
20 and then we'll have you back in here for the selection of
21 the jury and then we'll release you to go to lunch.

22 All right. Thank you.

23 (WHEREUPON a brief recess was observed.)

24 THE COURT: All right. Just real quick if I could
25 have all the jurors out of the courtroom.

1 (WHEREUPON the jury venire left the courtroom.)

2 THE COURT: I wanted to go over the strikes since
3 there's so many strikes for cause, just to make sure we
4 have all of them covered.

5 All right. I have No. 91, 39, 115, 87, 166, 208,
6 788, 138 and 98, a total of nine. Is that what you all
7 have?

8 THE CLERK: Yes, ma'am.

9 THE COURT: Did I miss anyone?

10 MR. BELL: Did you say nine, Your Honor?

11 THE CLERK: Nine total.

12 THE COURT: Nine total, I'm sorry. All right.
13 We'll take a short break and bring them back in and select.

14 (WHEREUPON a brief recess was observed.)

15 THE COURT: All right. Just real quickly on the
16 record, any objections or exceptions to any of the
17 questions, voir dire. And there was one that I did not ask
18 because I thought it was a comment. We were pushing on the
19 comment on a lot of them -- it was the one about the --

20 MR. KIRKLAND: I have no objection.

21 THE COURT: -- the dangerous person, or something
22 like that.

23 MR. KIRKLAND: I remember, Your Honor, and I have
24 no objections.

25 MR. BELL: Nothing from the State.

1 THE COURT: All right. Are we ready to bring them
2 back in?

3 MR. BELL: Yes, ma'am.

4 THE COURT: All right. The strikes will be five
5 and five and we'll pick two alternates is my understanding.

6 MR. KIRKLAND: Are y'all doing the plea first, Your
7 Honor, or are you going to do the jury first?

8 THE COURT: No, I'm going to pick the jury first.
9 I'm going to do the plea right after.

10 MR. KIRKLAND: Okay.

11 THE COURT: And then we'll have this jury come back
12 at three and then the remaining panel call in. And then
13 I'm going to release some of them.

14 THE CLERK: Yes, ma'am.

15 (WHEREUPON the jury venire entered the courtroom.)

16 THE COURT: All right. Ladies and gentlemen, at
17 this time, we will select a jury in this case. I am going
18 to -- when your name is called -- well, first of all, when
19 your name is called, you come up, you will face the
20 audience. It's always fun for the first person.

21 You'll face the audience and then the clerk will
22 proceed with the strikes with the attorneys. She will
23 first ask the State what their desire is, and they will
24 either say, Seat the juror; or Strike the juror. If they
25 say strike, you will go back into the audience.

1 The bailiff will assist you. If they say, Seat,
2 you will stand there and wait to hear from the defense
3 attorney, Mr. Kirkland. And he will either say, Seat the
4 juror; or Strike the juror. If he says seat, you will have
5 a seat in the jury box. If he says, Strike the juror, you
6 will go back into the audience.

7 Please bring your belongings with you.

8 And I will turn it over to our clerk. Yes, ma'am?

9 THE CLERK: Proceed, Your Honor?

10 THE COURT: Yes, ma'am.

11 **JURY SELECTION**

12 THE CLERK: No. 197, Valerie Thompson.

13 What say for the State?

14 MR. BELL: Please excuse the juror.

15 THE CLERK: Return to your seat, please, ma'am.

16 121, Sandra Marshall.

17 What say for the State?

18 MR. BELL: Please present the juror.

19 THE CLERK: What say for the defense?

20 MR. KIRKLAND: Please seat the juror.

21 THE CLERK: Have a seat in the jury box, please,
22 ma'am.

23 No. 68, Christopher Fowler.

24 What say for the State?

25 MR. BELL: Please excuse the juror.

1 THE CLERK: Return to your seat, please, sir.
2 101, Brenda Jones.
3 What say for the State?
4 MR. BELL: Please present the juror.
5 THE CLERK: What say for the defense?
6 MR. KIRKLAND: Please present the juror.
7 THE CLERK: Have a seat in the jury box, ma'am.
8 217 Harriet Wilson.
9 What say for the State?
10 MR. BELL: Please present the juror.
11 THE CLERK: What say for the defense?
12 MR. KIRKLAND: Please excuse the juror.
13 THE CLERK: Return to your seat, please, ma'am.
14 94 Steven Ivy.
15 What say for the State?
16 MR. BELL: Please present the juror.
17 THE CLERK: What say for the defense?
18 MR. KIRKLAND: Please seat the juror.
19 THE CLERK: Have a seat in the jury box, sir.
20 113 Jill Leclair-Lincoln.
21 What say for the State?
22 MR. BELL: Please present the juror.
23 THE CLERK: What say for the defense?
24 MR. KIRKLAND: Please present the juror.
25 THE CLERK: Have a seat in the jury box, ma'am.

1 No. 2, Andres Abo1e.
2 What say for the State?
3 MR. BELL: Please present the juror.
4 THE CLERK: What say for the defense?
5 MR. KIRKLAND: Please seat the juror.
6 THE CLERK: Have a seat in the jury box, sir.
7 193, Dana Tharp.
8 What say for the State?
9 MR. BELL: Please present the juror.
10 THE CLERK: What say for the defense?
11 MR. KIRKLAND: Please excuse the juror.
12 THE CLERK: Return to your seat, please, ma'am.
13 Is 147, Brian Rathburn.
14 What say for the State?
15 MR. BELL: Please present the juror.
16 THE CLERK: What say for the defense?
17 MR. KIRKLAND: Please seat the juror.
18 THE CLERK: Have a seat in the jury box, please,
19 sir.
20 209 Amy Weaver.
21 What say for the State?
22 MR. BELL: Please present the juror.
23 THE CLERK: What say for the defense?
24 MR. KIRKLAND: Please seat the juror.
25 THE CLERK: Have a seat in the jury box, ma'am.

1 No. 9, Layne Anderson.

2 What say for the State?

3 MR. BELL: Please present the juror.

4 THE CLERK: What say for the defense?

5 MR. KIRKLAND: Please excuse the juror.

6 THE CLERK: Return to your seat, please, sir.

7 No. 17 Marlina Smith Betters.

8 What say for the State?

9 MR. BELL: Please present the juror.

10 THE CLERK: What say for the defense?

11 MR. KIRKLAND: Please seat the juror.

12 THE CLERK: Have a seat in the jury box, please,

13 ma'am.

14 No. 60, Jenna Dowd.

15 What say for the State?

16 MR. BELL: Please present the juror.

17 THE CLERK: What say for the defense?

18 MR. KIRKLAND: Please seat the juror.

19 THE CLERK: Have a seat in the jury box, ma'am.

20 No. 7, Lynne Amick.

21 What say for the State?

22 MR. BELL: Please present the juror.

23 THE CLERK: What say for the defense?

24 MR. KIRKLAND: Please excuse the juror.

25 THE CLERK: Return to your seat, please, ma'am.

1 49 Joseph Cullum.
2 What say for the State?
3 MR. BELL: Please excuse the juror.
4 THE CLERK: Return to your seat, please, sir.
5 82, David Hebda.
6 What say for the State?
7 MR. BELL: Please present the juror.
8 THE CLERK: What say for the defense?
9 MR. KIRKLAND: Please excuse the juror.
10 THE CLERK: Return to your seat, please, sir.
11 67, John Felkel.
12 What say for the State?
13 MR. BELL: Please present the juror.
14 THE CLERK: What say for the defense?
15 MR. KIRKLAND: Please seat the juror.
16 THE CLERK: Have a seat in the jury box, please,
17 sir.
18 No. 15, Jeffrey Bell.
19 What say for the State?
20 MR. BELL: Please excuse the juror.
21 THE CLERK: Return to your seat, please, sir.
22 135 Jennifer Mitchell.
23 What say for the State?
24 MR. BELL: Please present the juror.
25 THE CLERK: What say for the defense?

1 MR. KIRKLAND: Please seat the juror.

2 THE CLERK: Have a seat in the jury box, ma'am.

3 207, Gail Watson.

4 What say for the State?

5 MR. BELL: Please present the juror.

6 THE CLERK: What say for the defense?

7 MR. KIRKLAND: Please seat the injury.

8 THE CLERK: Have a seat in the jury box, ma'am.

9 Proceed with alternates, Your Honor?

10 THE COURT: Yes, ma'am.

11 THE CLERK: No. 10, Joel Bailey.

12 MR. KIRKLAND: I assume it's one and one?

13 THE CLERK: Was it one and one or one and two, Your
14 Honor?

15 Strikes, one and two or one and one?

16 MR. KIRKLAND: The State seems to think it's one
17 and two.

18 THE CLERK: I thought so too.

19 THE COURT: Yes, that's correct.

20 THE CLERK: One and two.

21 What say for the State?

22 MR. BELL: Please excuse the juror.

23 THE CLERK: Return to your seat, please, sir.

24 222 Richard Wright.

25 What say for the State?

1 MR. BELL: Please present the juror.

2 THE CLERK: What say for the defense?

3 MR. KIRKLAND: Please seat the juror.

4 THE CLERK: Have a seat in the jury box, sir.

5 That's alternate No. 1.

6 170, Charles Shaw.

7 What say for the State?

8 MR. BELL: Please present the juror.

9 THE CLERK: What say for the defense?

10 MR. KIRKLAND: Please seat the juror.

11 THE CLERK: Have a seat in the jury box. That
12 would be alternate No. 2, Your Honor.

13 THE COURT: All right. Madame Clerk, do you have
14 parting instructions for the remaining members of the
15 panel?

16 THE CLERK: We are fixing to drawing 40 jurors that
17 will be placed on standby. I'll call your names out in
18 just a moment.

19 (WHEREUPON another jury panel was drawn.)

20 THE COURT: All right. To the remaining members of
21 the jury panel that's seated in the audience, I want to
22 thank you all for your service this -- being here today. I
23 know it's been a long morning, but we have -- well, we've
24 collected a panel, I guess, for our next trial, so you were
25 not selected, so therefore, you will be released for the

1 week. I do thank you all for your service. I know that
2 it's been a long morning and we appreciate your cooperation
3 on behalf of everyone here at the Lexington County
4 Courthouse, the attorneys, the Clerk of Court and her
5 staff, and the Court. Thank you all and have a wonderful
6 day.

7 Do they need to get any paperwork --

8 If you need an excuse for work or school --

9 THE CLERK: They can get them downstairs.

10 THE COURT: You can go downstairs, they will assist
11 you with that.

12 THE CLERK: There will be one with your check.
13 Which will be mailed within seven to ten days. There will
14 be a work excuse in with your check.

15 (WHEREUPON the remaining jury venire left the
16 courtroom.)

17 MR. BELL: Your Honor, may the defense counsel and
18 I approach briefly?

19 THE COURT: Yes.

20 (WHEREUPON, there was a bench conference out of the
21 hearing of the jury and the Court Reporter.)

22 THE COURT: All right. For those of you who were
23 selected to serve on the jury, there's a couple of things
24 I'd like to go over with you before I release you. You
25 will -- those little red buttons that you have on, you will

1 keep those on any time that you're at the courthouse or in
2 the vicinity of the courthouse, you will wear those. If
3 anyone tries to speak with you regarding this case or any
4 case that -- or anything that's going on here at the
5 courthouse, please tell them that you're on a jury and that
6 you cannot discuss this case. If they insist, then please
7 report that immediately to the bailiffs and they will
8 report the person to me and we will handle it from there.

9 You're not to discuss this case with anyone. You
10 don't -- other than what I read in the allegations and an
11 indictment, you don't know much about it. You're not to
12 discuss it with anyone. It's also improper for you to
13 discuss it with your fellow jurors. You're not to do any
14 independent research during the course of your service here
15 on the jury. You're not to do any -- well, you're not to
16 Tweet or Facebook regarding your service here. You can get
17 on Facebook, you can get -- you can Instagram, LinkedIn.
18 You can do all of those things, but not regarding your
19 service here at the Lexington County Courthouse. Anything
20 that happens here, we will not discuss until after the
21 trial.

22 All right. What we're going to do is -- I'm not
23 going to swear you all in, I'm going to do that in the
24 morning. I am going to appoint, Ms. LeClair-Lincoln --
25 LeClair or Lincoln LeClair?

1 THE JUROR: LeClair-Lincoln.

2 THE COURT: LeClair-Lincoln to be our foreperson,
3 and the bailiffs will instruct you as to where you are to
4 sit.

5 Everyone else may sit where they like except for
6 the two alternates, Mr. Wright and Mr. Shaw.

7 All right. You have assigned seats and I think our
8 bailiff already has you in your assigned seats. For the
9 rest of you, you may sit wherever you choose to sit. Those
10 are the only three designated seats. The bailiffs will
11 show you the jury room and will give you instructions as to
12 where you are to report tomorrow morning at 9:30. There
13 are some pretrial matters that I need to take up with the
14 lawyers and instead of you all sitting back in the jury
15 room waiting on us, I'm going to go ahead and release you
16 for the afternoon and have you back here at 9:30. Please
17 be back here promptly at 9:30 in the morning.

18 If you have a -- and the reason I do this is
19 because sometimes things come up and the quickest way to
20 catch people is on their cell phone and not their home
21 phone. So if you can give that to the bailiff, we will
22 not -- it will remain in the custody of the clerk's office
23 and we will not -- no one else will have access to that.
24 So if you would like to give your cell phone numbers so if
25 we need to get in touch with you for some reason, please do

1 that.

2 And also, do they have a number to call other than
3 the recording -- recorded number?

4 THE CLERK: The main clerk of court's office
5 number, also the jury clerk line, the number was provided
6 to them with their jury summons.

7 THE COURT: All right. And do you all have that?
8 So if you have an emergency or something that comes up,
9 please let us know.

10 All right. We'll start back at 9:30 in the
11 morning, we'll take a lunch break -- we'll take brakes
12 throughout the day. All right. Thank you. Have a great
13 evening.

14 (WHEREUPON the jury left the courtroom at 12:35
15 p.m.)

16 THE COURT: All right. We'll go to lunch, I guess
17 and come back in about an hour, maybe about a quarter till
18 two and we'll start with pretrials at that time.

19 MR. BELL: That works for the State, Your Honor.

20 MR. KIRKLAND: Yes, ma'am.

21 THE COURT: All right. Thank you. I do have --
22 today I have to leave about five because I have to pick up
23 my children today, I think. But hopefully we'll be able to
24 get through them before that time. And then tomorrow it
25 won't be an issue.

1 All right. So I'll see you all back at quarter to
2 two.

3 (WHEREUPON a recess for lunch was observed.)

4 PRETRIAL MOTIONS

5 THE COURT: All right. We're ready?

6 MR. KIRKLAND: All right. Your Honor, these are
7 all my motions. There's two motions that we can take up
8 without any testimony, at least I believe we can take them
9 up without any testimony.

10 The first one is that when law enforcement arrived
11 at the scene of my client's house, my client's Phil Helms.
12 They approached Phil Helms and they said to him, We are
13 here because -- and I am paraphrasing -- We have received
14 complaints of manufacturing meth on this property. Do you
15 mind if we look around.

16 I think that's all you need to know for purposes of
17 this motion. My objection would be -- and my motion would
18 be to exclude any reference to a complaints of
19 manufacturing meth, initially on the basis that it is
20 hearsay. I don't think that it's admissible and I think
21 even if it were not somehow hearsay, it would certainly be
22 more prejudicial than probative on any of the issues
23 because that particular piece of evidence was not used -- I
24 don't think it's going to be used in the prosecution of
25 this case.

1 So those are the two reasons why I believe it's
2 excluded. Primarily it's hearsay.

3 THE COURT: So your motion is to exclude the
4 testimony that -- not the testimony that they appeared
5 there, but the testimony regarding --

6 MR. KIRKLAND: The anonymous tip, let's say. Let's
7 call it the anonymous tip --

8 Is that fair, Mr. Bell?

9 MR. BELL: Your Honor, it's our intention to
10 proceed -- we did plan on mentioning that it's an anonymous
11 tip and that's the reason they were dispatched. We were
12 going to make no reference to it being for criminal
13 activity or for the manufacturing of methamphetamine. We
14 were simply going to label it as an anonymous tip.

15 MR. KIRKLAND: See, I think even -- that's still
16 hearsay, establishing that there was an anonymous tip is
17 clearly going to cause the jury to wonder what was the
18 anonymous tip. The anonymous tip in and of itself is not
19 evidence and should not be considered by the jury. That
20 should not be, I don't think, logically -- because it's --
21 well, first of all, because it's hearsay, it shouldn't be
22 admissible at all. But all -- it's prejudicial and the
23 jury shouldn't be allowed to consider it in determining
24 whether he's guilty or not; because whether he's guilty or
25 not is based on the investigation that occurred at the

1 scene of the property itself. There's plenty of evidence
2 that it occurred at the property.

3 THE COURT: Yes, sir?

4 MR. BELL: Your Honor, the State believes it goes
5 towards the effect of the listener and why those particular
6 agents showed up on the scene on that day at all. We do
7 think it would be an exception to the hearsay rule and we'd
8 be happy to give you a few of them for case law if you did
9 wish to hear them.

10 THE COURT: Yes, sir.

11 MR. BELL: Your Honor, State v. Thompson was a case
12 involving a sexual assault. They had a police officer who
13 testified that a bystander who didn't wish to be ID'd
14 pointed to a house where he could find the suspect driving
15 a particular vehicle. That court held that it was not
16 hearsay because it was offered to explain why the police
17 approached the house in the first place, where that suspect
18 and defendant was ultimately found. An additional case,
19 Your Honor, is State v. Kirby where a police officer
20 testified that he received a message over his dispatch that
21 a car with a particular license plate would be traveling
22 with several individuals with a large amount of narcotics
23 and weapons.

24 The Court in that case found that it was
25 permissible because it was offered to explain the

1 initiation of the police surveillance and not for the truth
2 of the matter asserted.

3 Your Honor, I'd be happy to provide the cites to
4 those cases if you require them.

5 THE COURT: Do you have a copy of them or do you
6 have the cite? If you have a cite, I can --

7 MR. BELL: I do have the cite, Your Honor.

8 With regards to State versus Thompson, it's 575
9 Southeastern 2nd 77.

10 THE COURT: 77 you said?

11 MR. BELL: Yes, ma'am, and that is a Court of
12 Appeals 2003 case.

13 In reference to State v. Kirby, it's 485
14 Southeastern 2nd 150 and that was a 1996 Court of Appeals
15 case.

16 THE COURT: All right. And Mr. Kirkland, do you
17 have a case law to support your theory?

18 MR. KIRKLAND: No, ma'am. Our position is that
19 it's hearsay and that if it's allowed in, it's more
20 prejudicial than probative on any of the issues in the
21 case.

22 THE COURT: So even -- your position is the, him
23 saying they had an anonymous tip is hearsay?

24 MR. KIRKLAND: Yes. I believe it is.

25 THE COURT: Okay.

1 MR. KIRKLAND: And even if it were not hearsay, it
2 is more prejudicial than probative on any of the issues.
3 It does not make a fact more or less likely that's at issue
4 in this case.

5 THE COURT: All right. Well, I'm going to take a
6 look at the cases real quick.

7 You can go onto the next motion.

8 MR. KIRKLAND: Yes, ma'am. Because that one
9 doesn't actually have to be decided until tomorrow morning
10 before the testimony begins.

11 THE COURT: Okay.

12 MR. KIRKLAND: So if you want to just go ahead --

13 THE COURT: I'll take a look at it.

14 MR. KIRKLAND: Now, the next three motions that I
15 have, I think we can handle them in a consolidated manner.
16 One of them is we'd like to have a Jackson v Denno hearing.
17 The second motion is that -- and I won't get into a lot of
18 detail because you're going to see some testimony on this,
19 but a car -- a red Mustang drove up to the scene of the
20 investigation subsequent to law enforcement obtaining a
21 search warrant to search the residence and the vehicles on
22 the property.

23 So we're making a motion to suppress the search of
24 that vehicle and the contents that were in that vehicle. I
25 have several theories as to why it should not be

1 admissible.

2 One of them is that it arrived after the search
3 warrant. Another one is that they can't prove any nexus
4 between the knowledge of Phillips as to what was in that
5 car. And, of course, during argument, I'll go into some of
6 this a little bit -- in a little bit more detail.

7 And then finally, I have suppression which can be
8 handled at the same time the suppression motion, to
9 suppress items that were found inside of the pockets of
10 some of the people that were on the property. And it is a
11 similar, general reasoning why I think those should be
12 suppressed. I do not believe that they will be able to
13 provide any information whatsoever that a reasonable person
14 would have known what was in their pocket or that Phillip
15 did, in fact, know what was in their pockets.

16 Of course, in that situation, I believe that that
17 evidence would be irrelevant as to whether Phillip was
18 manufacturing marijuana or even in the conspiracy to
19 manufacture marijuana or aiding --

20 THE COURT: Methamphetamine.

21 MR. KIRKLAND: Or methamphetamine -- or aiding and
22 abetting methamphetamine.

23 So we'll probably need to take testimony in all of
24 those and then argue them afterwards.

25 THE COURT: All right. I'll be glad to hear it.

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 It's your motion so --

2 MR. KIRKLAND: I don't have any witnesses to call.
3 I move to suppress them. I think they have the burden to
4 prove that they're admissible.

5 THE COURT: Now, is there -- are we going to do
6 that now?

7 MR. BELL: Your Honor, we can consolidate all of
8 those into our testimony with these officers. We can do it
9 all at the same time.

10 THE COURT: All right.

11 MR. BELL: State calls Agent Paige Barnes to the
12 stand.

13 PAIGE BARNES,
14 having been duly sworn, testified as follows:

15 THE CLERK: Have a seat, please, ma'am. Once
16 you're seated, state your full name, spelling your last for
17 the record, please.

18 THE WITNESS: Paige Barnes, B-a-r-n-e-s.

19 DIRECT EXAMINATION - IN CAMERA

20 BY MR. BELL:

21 Q Thank you, Agent Barnes, how are you this morning?

22 A Good. How are you?

23 Q Good. You were employed with the Lexington County
24 Sheriff's Department on June 11, 2013?

25 A Yes, sir.

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 Q Did you have reason to arrive at [REDACTED]

2 [REDACTED]

3 A Yes, sir.

4 Q Who assisted you at arriving at that location?

5 A Agent Merckle and Agent Morris.

6 Q And they were with you on scene?

7 A Yes.

8 Q Now, when you first arrived on the property, what
9 happened?

10 A We pulled into the driveway and we exit it had
11 vehicle. We were all in the same car. Agent Merckle,
12 Agent Morris and myself got out of the car and we observed
13 Phillip in his motorized wheelchair driving across the
14 backyard.

15 I identified who we were and explained why we were
16 there and he motioned for us to come on in and said that we
17 were free to look around.

18 Q Okay. I'm going to take a step back with you.
19 When you first arrived on scene, you said you parked your
20 vehicle. Where did you park your vehicle?

21 A Beside a black truck.

22 Q Was it on the exterior of his property?

23 A It was in the driveway before you cross over the
24 fence.

25 Q And it was apparent that it was a driveway?

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 A Yes, sir.

2 Q Now, when you first saw Phillip Helms, where was he
3 located on the property?

4 A Inside the fence heading in the direction toward a
5 shed.

6 Q And what side of the fence were you on in
7 comparison to what side of the fence Mr. Helms on?

8 A The opposite side. He was inside the fence, I was
9 outside the fence.

10 Q Okay. What part of his property would you say you
11 are on?

12 A The driveway.

13 Q The driveway. Is that in the front yard or the
14 backyard or --

15 A The front yard.

16 Q Okay. Any reason to think that you weren't welcome
17 to be there in his front yard?

18 A No, sir.

19 Q Okay. Now, after you made eye contact with the
20 defendant in the backyard, what did you do at that point?

21 A Identified myself along with Agent Merckle and
22 Agent Morris and explained to them -- explained to him why
23 we were there for -- we had received an anonymous complaint
24 of manufacturing meth at his house.

25 Q Okay. And how did he respond to that?

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 A I asked him if we could look around and he said
2 sure. You're free to look anywhere. Then he motioned. He
3 gave a hand gesture for us to come onto the property.

4 Q And you took -- how did you take that hand gesture
5 from him. What did that mean to you?

6 A Come here.

7 Q And at that point, how did you respond to that
8 gesture and that verbal comment?

9 A I walked into his backyard and again spoke to him
10 closer.

11 Q Do you have any reason whatsoever to believe that
12 he was not indicating to you to enter onto the other side
13 of his fence?

14 A Absolutely not.

15 Q Did he in any way limit your movement on his
16 property when he allowed you or motioned for you to come
17 into the fence?

18 A No.

19 Q So not only -- let's see -- you're saying that he
20 told you verbally what?

21 A That we were free to look around.

22 Q And he also --

23 A Motioned --

24 Q Motioned -- what motion did he make to you?

25 A A hand motion for us to come onto the property.

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 Q Okay. At that point in time, you said you crossed
2 the fence and you actually went up and began talking to
3 him. What did you say to him when you first made contact
4 after crossing the fence?

5 A I again explained who we were and the purpose of us
6 being there with the anonymous complaint of manufacturing
7 meth at his house.

8 Q And how did he respond to that?

9 A He said we could look around. I heard some noise
10 in the house and I asked him who else was in the house.

11 Q Did he at any point in time say that you couldn't
12 look in a particular location?

13 A No, sir.

14 Q Did he limit what he considered to be his yard?

15 A No, sir.

16 Q After he said that you were free to look around,
17 what did you do?

18 A I walked into the shed where he was carrying a five
19 gallon bucket to see what was inside the bucket. I walked
20 inside the shed, didn't see anything out of the ordinary in
21 the shed and I walked toward a smoking burn pile.

22 Q Okay. Now, after you examined the burn pile and
23 examined the shed and looked -- otherwise looked around in
24 the backyard area, what happened?

25 A I asked him if we could come inside of the house

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 and take a look around.

2 Q So did you independently request permission to
3 enter the house?

4 A (Witness nodded head.)

5 Q So not only did you ask to enter the fence, you
6 also asked to enter the house?

7 A Correct.

8 Q Okay. And how did he respond to that request?

9 A Sure come on in and he actually led the way.

10 Q Okay. At any point in time did you threaten to
11 detain him?

12 A No, sir.

13 Q Did you threaten to arrest him?

14 A No, sir.

15 Q Did you use any sort of overt sign of force?

16 A No, sir.

17 Q Didn't have your hand on your firearm?

18 A It -- I wasn't carrying it.

19 Q Okay. On your taser?

20 A Don't have one.

21 Q Okay. So at no point in time did you threaten him?

22 A No.

23 Q Okay. And who did you say led the way into the
24 house?

25 A Phillip.

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 Q Okay. One more quick question. While you were in
2 the backyard, did you see any vehicles parked in the
3 backyard?

4 A Yes, sir.

5 Q And what kind of vehicle did you see?

6 A A Dodge Durango.

7 Q Do you remember the color?

8 A Navy blue.

9 Q Okay. Now after entering the house itself, led by
10 Mr. Helms, at any point in time did you search, seize or
11 manipulate anything on his property during that period of
12 time?

13 A No, sir.

14 Q What did you do?

15 A When we went inside, I observed a glass smoking
16 device with marijuana residue inside of it. I also asked
17 who else -- there was a blanket hanging in the hallway and
18 I asked who was back there and he said, Oh, I forgot,
19 Renee's friend's here. And it was Jimmy Johnson and so --
20 I'm sorry.

21 Q Did you touch that marijuana pipe?

22 A No.

23 Q Didn't move it at all?

24 A No.

25 Q So you just looked at it?

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 A I just looked at it.

2 Q During this period of time with regards to anything
3 else that you might have seen while you were on the
4 premises, did you touch or manipulate it?

5 A No, sir.

6 Q You -- so you only looked at it?

7 A I only looked at everything that was in plain view.

8 Q Okay. Now, at any point in time while you were
9 walking around on his property or in his house, did you
10 exceed the scope of the permission that he gave you?

11 A No, sir.

12 Q So you never exceeded any limitation that he set on
13 you?

14 A He never set any.

15 Q Okay. At what point did you decide that you needed
16 to get a search warrant?

17 A Agent Morris had walked back outside and looked at
18 the burn barrel again and he came back in, got me and asked
19 me to come outside and take a look at the burn barrel.
20 Once I got outside and looked at the burn barrel, I
21 observed numerous cans of starter fluid with punctures in
22 the bottom of them, acid generators, battery casings, and a
23 large amount of aluminum foil.

24 So at that time, I stopped everything, brought
25 everybody out of the house for security and safety purposes

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 and secured a search warrant.

2 Q After viewing those items in the burn pile as well
3 as other items that you found during your walk around the
4 house, what indication did you have -- what did you believe
5 was going on on that property?

6 A They were manufacturing methamphetamine.

7 Q Now, which individuals were inside of the house
8 prior to you entering with Mr. Helms?

9 A Olivia Mason, Nancy Renee Krantz, I think she goes
10 by Renee, and Jimmy Johnson.

11 Q Now, was anything found on those individuals during
12 the execution -- later during the execution of the search
13 warrant on those individuals?

14 A Jimmy Johnson had two Walgreen receipts where he
15 had purchased Pseudoephedrine earlier that day in his right
16 pocket.

17 Q And why did you find those relevant?

18 A Because he had purchased Pseudoephedrine.

19 Q And what is the purpose of Pseudoephedrine?

20 A It's one of the main components to manufacture
21 methamphetamine.

22 Q What else was relevant about those receipts that
23 you found many his pocket? What was the date on those
24 receipts?

25 A It was the exact same day, June 11.

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 Q Of 2013?

2 A Yes, sir.

3 Q And that was the same day -- was that the same day
4 that you arrived on scene?

5 A Yes, sir.

6 Q Is there any other chemical aside from
7 Pseudoephedrine that can be used for the production of
8 methamphetamine?

9 A Ephedrine.

10 Q Ephedrine? Is that also an illegal substance?

11 A Yes.

12 Q In your experience as a narcotics agent, which
13 chemical is more commonly found at manufacturing scenes.

14 A Pseudoephedrine because Ephedrine is a
15 prescription.

16 Q Okay. And that means that it is --

17 A From a physician.

18 Q Okay. Is that easier or harder to obtain?

19 A It's harder.

20 Q Now, after you decided that you had seen enough,
21 that you needed to get a search warrant, who did you
22 contact?

23 A Terry Govan.

24 Q Okay. And who is that?

25 A He was a net officer at the time.

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 Q Okay. Was he on scene?

2 A No.

3 Q So how did you inform him as to what was going on?

4 A I had advised him prior to us going out to his
5 house that we were going out to his house and we were
6 probably going to end up needing a search warrant.

7 Q What else did you tell him about the search
8 warrant?

9 A I don't understand.

10 Q Did you tell him anything specific that you wanted
11 him to include?

12 A To be searched?

13 Q That's correct.

14 A All house -- all houses, sheds, out buildings,
15 vehicles, above and below ground.

16 Q So you said vehicles. That included any vehicle on
17 the property?

18 A Yes.

19 Q Is that something that you commonly include in a
20 search warrant?

21 A That's what we always include in a search warrant.

22 Q And about how long did it take for you to obtain
23 that search warrant after calling Agent Govan?

24 A Approximately 45 minutes to an hour.

25 Q Okay. To your knowledge was that search warrant

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 signed by a neutral, detached magistrate?

2 A Yes, sir.

3 Q Okay. And did you eventually execute that search
4 warrant?

5 A I did.

6 Q Okay. During your time on that property, are you
7 aware of a vehicle arriving?

8 A Yes, sir.

9 Q And what kind of vehicle arrived on scene?

10 A A red Mustang.

11 Q And was that Mustang there when you began your
12 search?

13 A No, sir.

14 Q Do you recall where that Mustang pulled up to on
15 the property?

16 A To the backyard.

17 Q Did it appear that it was firmly on the property?

18 A Absolutely.

19 Q Was it within the fenced-in area of the property?

20 A Yes, sir.

21 Q Are you aware of how many occupants were in that
22 Mustang?

23 A Two.

24 Q Okay. Is it typical to stop a vehicle that arrives
25 on scene while you're executing a search warrant?

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 A Yes, sir.

2 Q Do you have any reason as to why that is?

3 A There's various reasons. One of them being that
4 they've just entered onto what we consider a crime scene.
5 They just drove up in the middle of my crime scene. Number
6 two, we have no idea -- at that moment we have no idea
7 who's in the car and it's a potential threat to the
8 officers that are on scene as well as the suspects. They
9 could have been coming to blow up Phillip, so for
10 protection reasons, we go to investigate the vehicle.

11 Q Okay. Now, in this particular case, did you
12 recognize this vehicle?

13 A I did not recognize it per se.

14 Q Okay. But as far as the agency you were with, you
15 understood that somebody recognized that vehicle?

16 A Agent Morris had --

17 MR. KIRKLAND: Objection if this is going to be
18 hearsay, Your Honor.

19 MR. BELL: Your Honor, we can continue and I'll put
20 him up here momentarily.

21 THE COURT: All right. Objection sustained.

22 BY MR. BELL:

23 Q So it is typical to stop a vehicle?

24 A Yes.

25 Q And do you have any idea who owned that vehicle?

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 A Christopher Huggins.

2 Q And how did you discover that?

3 A The license plate.

4 Q Okay. Is there any indication that Phillip had any
5 ownership interest in that vehicle?

6 A No.

7 Q Okay. So he had no reason to believe that he
8 should have any expectation of privacy in that vehicle?

9 A No.

10 Q Agent Barnes, I'm going to take a step back, and
11 when you first came onto the property and made contact with
12 the defendant, Phillip Helms, what tone of voice were you
13 using?

14 A Very calm, very lacksidated. Just --

15 Q Was it similar to how your speaking to me now?

16 A Actually, it was nicer.

17 Q Okay. And you testified earlier that you weren't
18 using any sort of overt threats or threats of force?

19 A No, sir.

20 Q Okay. You said that you examined the burn pile
21 that was in the backyard and that you saw items that you
22 found suspicious and you mentioned a couple of the
23 individual items that you found in that burn pile. Would
24 you mind reminding us what those items were?

25 A Punctured cans of starter fluid, battery casings

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 from lithium batteries, a large amount of aluminum foil and
2 an acid generator.

3 Q And what is the relevance of those items that you
4 found?

5 A Well the battery casings is what they use to remove
6 the lithium from inside of it to make a one pot. The
7 starter fluid is what they use to put inside of the one pot
8 to start the chemical reaction or combine all the
9 components together. The large amount of aluminum foil is
10 typically what methamphetamine users smoke their meth with.
11 They use it as a chalet. And the acid generator is what
12 actually converts the meth from a liquid to a solid.

13 Q Okay. Later on, you testified you decided to get a
14 search warrant and you called Terry Govan?

15 A Correct.

16 Q Did you provide him a full briefing over the
17 telephone as to everything that happened?

18 A Yes.

19 Q And that included what your suspicion was?

20 A Correct.

21 Q Is that how he knew how to fill in the affidavit
22 for the search warrant?

23 A Yes, sir.

24 Q And that was based on the things that you told --

25 MR. KIRKLAND: Your Honor, that calls for

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 speculation on her part. I believe Mr. Govan is going to
2 testify as to how he knew.

3 THE COURT: All right. Objection is sustained.

4 You can ask the other --

5 BY MR. BELL:

6 Q Finally to clarify you did provide a full briefing
7 to Terry Govan?

8 A I provided Terry Govan with a description of the
9 residence, my probable cause and what drug we were looking
10 for.

11 MR. BELL: Beg the Court's indulgence.

12 (WHEREUPON State's Exhibit No. 1 was marked for
13 identification.)

14 MR. BELL: Your Honor, I believe the defense has
15 had an opportunity to see this, it is marked as State's 1
16 for identification.

17 BY MR. BELL:

18 Q Once again, this is marked as State's No. 1 for
19 identification. Agent Barnes, do you have a view of this?

20 A Yes, sir.

21 Q What is this a picture of?

22 A It's an aerial photo of Phillip's properties.

23 Q Does this fairly and accurately represent the
24 property as you saw it that day?

25 A Yes, sir.

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 Q To clarify, is this a picture of the exact day in
2 question?

3 A No, sir.

4 Q Okay. Now, what is this structure in the center of
5 this picture?

6 A His trailer.

7 Q Whose trailer?

8 A Phillip's house.

9 Q Okay. And when you entered the property --

10 MR. BELL: Your Honor, may I ask the witness to
11 step down?

12 THE COURT: Yes.

13 BY MR. BELL:

14 Q Ms. Barnes if you would please join me down here.
15 Please make sure you speak so that the court reporter can
16 hear you.

17 When you first arrived on the property, where did
18 you park your vehicle?

19 A Right here beside the black truck.

20 Q And you testified that the property was fenced in?

21 A Correct.

22 Q Would you please point out an outline of where that
23 fence is located?

24 A (Complying.)

25 Q When you first made visual contact with the

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 defendant, where was he located on the property?

2 A He was about right there. He was headed toward
3 this storage building right here.

4 Q And where did you move up to in order to speak to
5 him?

6 A The fence line -- the gate was open, but the fence
7 line right here, I did not -- I walked right up to the
8 gate.

9 Q Did you stay on the roadside of the fence?

10 A Yes. I did not make any contact -- I did not cross
11 over the fence until he gave me permission to come on
12 anyway for me to come onto the property the.

13 Q Okay. So after he waves you in, you cross the
14 fence and speak to him and you spoke to him roughly, where?

15 A Approximately right there.

16 Q Okay. And you testified that he said you were free
17 to look around. Where exactly is the burn pile located
18 that you examined?

19 A Right here.

20 Q Okay. Would you mind just drawing a circle around
21 it with your finger?

22 A Okay.

23 Q What is this structure here?

24 A That's the dog pin.

25 Q Okay. Now, you also testified earlier that there

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 was a navy blue Dodge Durango in the backyard. Would you
2 mind pointing out where that was located?

3 A Right beside the additional storage shed right
4 there.

5 Q So almost in dead center of his property?

6 A Correct.

7 Q And you testified that a red Mustang arrived on the
8 property during the execution of your search warrant?

9 A Yes.

10 Q And where did that Mustang end up parking?

11 A Right here. It was cinder blocks right here that
12 had like railroad ties through it and it parked right here.
13 It was like an additional parking spot.

14 Q If you took a close look at this picture, running
15 along down this line, it looks like that might be a fence.
16 What exactly are these posts?

17 A That's the cinder blocks and the railroad ties.

18 Q And to clarify, those are on his property?

19 A Yes.

20 Q That is not two separate lots?

21 A No.

22 Q Okay. Okay, Agent Barnes, if you'd please take a
23 seat again.

24 So after you examined this burn pile and you said
25 you saw a few things and then you went and what happened at

Paige Barnes - Direct Examination - In Camera by Mr. Bell

1 that point?

2 A I went inside and spoke to the individuals inside.

3 Q Okay. And that was inside this building right
4 here?

5 A Yes.

6 Q Okay. To refresh my memory, in case I didn't ask
7 you, Agent Barnes, when you first arrived and he gave you
8 consent to come onto his property and cross the fence, did
9 he make any other comments to you?

10 A If I could refer to my notes?

11 Q If at -- at any point in time, did you question him
12 about this burn pile?

13 A Yes. I asked him what he was burning and he told
14 me plastic limbs.

15 Q Okay. Did he make any other statements in
16 reference to this?

17 A Not that I can recall.

18 Q Okay. So one more time, what did he tell you?

19 A It was plastic limbs.

20 Q And --

21 THE COURT: I'm sorry, you said plastic what.

22 THE WITNESS: Limbs. Like tree limbs. Plastic
23 tree limbs.

24 THE COURT: Okay.

25 BY MR. BELL:

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 Q And in your examination of that burn pile, did you
2 actually see any plastic limbs?

3 A No, it was actually limbs, like real tree limbs.

4 Q When you arrived on scene and he gave you consent
5 to cross his fence and you spoke to him. Did he say to
6 you, I'm just out here burning stuff?

7 A Yes.

8 MR. KIRKLAND: Objection, Your Honor. That is a
9 leading question.

10 THE COURT: Sustained. Please rephrase the
11 question.

12 BY MR. BELL:

13 Q What did he say when you first arrived on the
14 property?

15 A I'm just out here burning stuff.

16 MR. BELL: I believe that's all Agent Barnes.

17 THE COURT: All right. Please answer any questions
18 that Mr. Kirkland may have.

19 MR. KIRKLAND: I don't think I have that many
20 questions for you.

21 CROSS-EXAMINATION - IN CAMERA

22 BY MR. KIRKLAND:

23 Q You indicated, I think, that when you went out
24 there that your demeanor with him was very polite; is that
25 correct?

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 A Yes, yes.

2 Q But you had already -- if I understood correctly --
3 and please correct me if I did not understand you
4 correctly -- that on your way out there, you had already
5 contacted Investigator Govan that you might need a search
6 warrant?

7 A No.

8 Q All right.

9 A I spoke with Govan before I even left my office and
10 advised him where I was heading. And I was probably going
11 to need a search warrant.

12 Q Right. So when you pulled up there, you already
13 had it in your mind that you wanted to get this guy to give
14 you permission to search his property because you didn't
15 have any way to search his property at that point in time.

16 A No, he gave me permission to search his property.

17 Q Here's what I'm asking: Is your intention when you
18 get out there to the property -- your intention was to get
19 him to give you permission to search that property?

20 MR. BELL: Objection, to relevance, Your Honor.

21 MR. KIRKLAND: She's talking about how she behaved,
22 her demeanor towards Phillip Helms, and that it was a very
23 non-confrontational, polite encounter, and I'm suggesting
24 that it may not have been. It may have been -- she may
25 have been using techniques to try to get him to give

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 permission that may have overcome his free will or rendered
2 his consent to search involuntary.

3 I'm allowed to ask this, I believe.

4 THE COURT: All right. I'm going to -- the
5 objection will be overruled. I'll let you ask it -- let
6 you ask your question.

7 BY MR. KIRKLAND:

8 Q So when you went out there, you already had an
9 intention to search the property?

10 A Due to my previous history of Phillip and how
11 common -- how familiar I was with him --

12 Q You're the one asking --

13 A -- how familiar I am with him manufacturing meth --

14 Q None of that is actually going to be admissible,
15 his prior conduct.

16 Here's what I'm asking you is, at the time that you
17 received the complaint, or whatever it was, the anonymous
18 compliant, you contacted Govan --

19 A No. I spoke with Govan before I even left my
20 office. I'm trying to answer you.

21 Q I understand. So when did you receive the
22 complaint?

23 A That afternoon -- earlier that afternoon.

24 Q So did you leave your office after you received the
25 complaint or before you received the complaint?

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 A After.

2 Q And so when I say that before you left your office,
3 you had already talked to Govan and said that you need a
4 search warrant?

5 A I said, I'm probably going to need a search
6 warrant.

7 Q Right. You're probably going to need a search
8 warrant.

9 So when you went out there, your intent was to get
10 Phil to give you permission to search this property? That
11 was your goal?

12 A My intent was to come on the property and see if he
13 had -- if he was cooking meth.

14 Q Exactly. But you didn't have a search warrant at
15 that time, correct?

16 A I didn't need one, he gave me permission.

17 Q Okay. I'm trying to make this easy. When you
18 pulled up into the driveway, did you have a warrant to
19 search that property?

20 A No.

21 Q So did you need permission to search that property?

22 A Yes. Which was granted. By Phillip.

23 Q I understand. My point is that at the time that
24 you spoke to Phillip, your goal was -- because you didn't
25 have a search warrant -- was to get him to give you consent

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 to search that property?

2 A Yes.

3 Q So the language that you used and the things that
4 you said to him were designed specifically to get
5 permission to search that property?

6 A I didn't have anything scripted, no.

7 Q You just said a moment ago that your intent was to
8 go and try to search that property, to try to look around
9 that property, correct?

10 A Yes.

11 Q So what I'm asking you is, your intention -- I
12 don't know why this is so hard -- was to interact with Phil
13 in a way that he would ultimately give you permission to
14 search the property, correct?

15 A I did not have a script. I spoke with him --

16 Q I'm asking about your intention, not a script. Not
17 what you said. I'm asking, that's your intention to behave
18 in a way, to act in a way, to ask questions to gain
19 entrance to that property; is that correct?

20 A Yes.

21 Q Okay. Now, the red Mustang that we were talking
22 about -- well, let's talk about the Durango first.

23 Now, that Dodge Durango did not belong to Phillip,
24 did it?

25 A No, it did not.

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 Q It belonged to -- I mix them up, Robin or Renee?

2 A Robin.

3 Q Okay. And you searched that vehicle based on the
4 search warrant; is that correct?

5 A Correct.

6 Q There wasn't -- I'm saying there wasn't independent
7 probable cause to search that vehicle. You looked in it
8 once you got the search warrant?

9 A I looked in the window, one side before I even got
10 the search warrant with a consent and I noticed two cans of
11 Coalman fuel in the driver's-side floorboard.

12 Q I guess what I'm asking is I'm trying to identify,
13 you know, what the authority was to search -- was the
14 authority to search it that you believed that you had
15 probable cause at this point in time --

16 A I didn't search the vehicle.

17 Q Okay. That's what I'm saying. So you did search
18 the vehicle subsequent to receiving the search warrant?

19 A Correct.

20 Q All right. Now, inside of that vehicle, you found
21 two cans of Coalman fuel, I believe?

22 A Yes, sir.

23 Q And the Coalman fuel, if I'm not mistaken, was sort
24 of wedged up under the driver's side where the gas pedal
25 and the break pedal are underneath the car?

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 A It wasn't wedged, it was just sitting in the
2 driver's-side floorboard.

3 Q Well, let me look -- let me let you look at this --
4 let me -- I want to see if I can refresh your recollection.

5 In looking at this, doesn't it appear that they
6 were pushed up so far against the -- the inside there up
7 against the gas pedal, it's actually tilting back, so it's
8 wedged in that regard. It's pushed as far up under there
9 as it can get?

10 A No, sir, it's not.

11 Q So you don't agree that when you looked at this --
12 that when you --

13 THE COURT: Hold on one second. Can you identify
14 what you're showing.

15 MR. KIRKLAND: Yeah, I can identify it for you,
16 Your Honor.

17 THE COURT: Is it marked?

18 MR. KIRKLAND: It's not marked -- I'm asking her
19 her recollection at this point in time. But I'll show you
20 the picture so you'll know what we are looking at.

21 THE COURT: I think you need to mark it for
22 identification purposes --

23 MR. KIRKLAND: We can mark it for identification
24 purposes.

25 THE COURT: -- so the court reporter will have a

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 good record.

2 (WHEREUPON Defendant's Exhibit No. 1 was marked for
3 identification.)

4 BY MR. KIRKLAND:

5 Q All right. I'm showing you what's now Defendant's
6 Exhibit 1 for purpose of this hearing. In looking at that
7 picture, are you disagreeing with me that this is pushed so
8 far up under the console -- I don't know what that's
9 called, the dashboard -- that it is actually tilting the
10 can backwards so that the can is not even on the ground in
11 the front.

12 A Yes, I am disagreeing with you.

13 Q Okay. All right. So, let me ask you this another
14 way. So the cans that were -- that were in the Durango,
15 they were underneath the steering wheel. Can you agree
16 with that?

17 They were in that part of the car that they were
18 underneath the steering wheel?

19 A They were on the floorboard of the driver's side.

20 Q Okay. So when you saw that these -- these cans in
21 there were you looking at them from the passenger's side
22 window or the driver's side window? Do you remember?

23 A I actually looked through both windows.

24 Q Okay. When you were walking out to the burn pile,
25 you would not have been able to see those cans inside that

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 car, would you?

2 A No, sir.

3 Q So you kind of -- when you -- you kind of walked
4 passed the car, you peered into the car and that's when you
5 saw it?

6 A Yes.

7 Q Okay. I think I asked this, but I'm going to ask
8 it again. Who was it that owned that car?

9 A Robin Krantz.

10 Q Now, that car appeared to be -- you processed that
11 car?

12 A Uh-huh, yes.

13 Q So, then you remember that it was full of Robin
14 Krantz's, or at least female clothing?

15 A It had male clothing too.

16 Q Do you have any pictures that you know of of any
17 male clothing being in that car?

18 A I don't know offhand.

19 Q Do you have any way of knowing -- I'm just going to
20 hand you these to let you attempt to refresh your
21 recollection.

22 These are the pictures that I was provided, the
23 only ones that I know of that I was provided -- it's the
24 only ones I was provided. Flip through those pictures and
25 see if that refreshes your recollection as to what you saw

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 in that vehicle.

2 A (Looking.) Yes, sir.

3 Q And there is -- it is primarily jam full of female
4 clothing, it appears; is that correct?

5 A Well, that right there is male's jeans. That shirt
6 right there is a male shirt.

7 Q Okay.

8 A That's a female's pair of jeans, that's a female's
9 bag.

10 Q Okay.

11 A That's female shorts. So it's male and female.

12 Q Okay. And do you know whose male clothing that is?

13 A I have no idea.

14 Q Now, this was also a -- I believe there was also a
15 cell phone case down in there, a Samsung Galaxy III cell
16 phone case?

17 A It was empty.

18 Q Did you recover a phone from anybody that was a
19 Samsung Galaxy IIIs, Galaxy sIII?

20 A I'd have to look at my notes.

21 Q Did you recover a Samsung Galaxy s III from Phil?

22 A I can't say exactly without looking at my notes.

23 Q So as to the Durango itself, there's no physical
24 evidence as to that Durango, nothing physical that was
25 located inside that car that would give you any indication

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 that Phil knew what was in that car, or had been in that
2 car?

3 A Actually his walker was resting up against the side
4 of the car.

5 Q I understand. Was it -- is there anything in that
6 car to indicate that it was -- that Phil -- any of his
7 personal items that you know of, anything inside that car
8 that gave you an indication that he'd been inside that car?
9 Any physical evidence?

10 A The doors were unlocked, it was on his property. I
11 don't know whose clothes those were.

12 Q I'm not asking you to speculate as to whether he
13 was in there. I'm asking you specifically if in that car
14 was a piece of physical evidence that you can hold up that
15 you can say that shows that Phillip has been in this car or
16 knows what's in this car?

17 A No.

18 Q Okay. All right. Now, you also talked about
19 finding some Walgreen receipts in the pocket of Jimmy
20 Johnson?

21 A Correct.

22 Q All right. And there was also some testimony, and
23 I didn't understand it because I'm not an expert in this
24 field, but there was some discussion -- the difference
25 between Pseudoephedrine and some other chemical and which

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 one is more -- one is prescribed and one is
2 over-the-counter?

3 A Pseudoephedrine.

4 Q Right. Pseudoephedrine.

5 A And Ephedrine.

6 Q And Ephedrine. So what were these again?

7 A Pseudoephedrine.

8 Q Okay. So that's the common one. All right.

9 Now, these were found inside his pocket, correct?

10 A Correct.

11 Q And when you approached the property, Phil was
12 outside, correct?

13 A Right.

14 Q What kind of clothing did Jimmy Johnson have on?
15 Just jeans, I guess?

16 A I believe he had on Khaki shorts and a white tank
17 top.

18 Q But they weren't -- they weren't shorts that, as
19 bizarre as it sounds, they weren't shorts that you could
20 see through as to what was in somebody's pocket?

21 A No.

22 Q No. Thank God.

23 Now, was there any physical piece of evidence
24 inside of those -- inside of that clothing or inside of his
25 pocket -- I'm talking about a physical piece of evidence

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 that would give my rise to some belief that Phillip would
2 know what is inside of Jimmy Johnson's pocket? Did you
3 recover anything out of his pocket or anything about his
4 clothing that would give rise to you understanding that
5 Phil knew what was inside of his pants?

6 A Well, Jimmy Johnson stated to me whenever I found
7 the receipts --

8 Q Well, I'm going to object to any hearsay because I
9 specifically asked you about the physical evidence that you
10 recovered -- did you recover this receipt out of his
11 pocket?

12 A Yes.

13 Q Okay. Was there anything about the clothing -- did
14 you recover the clothing itself?

15 A No.

16 Q All you did was pat him down and search his
17 pockets?

18 A Yes.

19 Q And then you pulled out of his pockets whatever it
20 was you found in his pockets?

21 A The two receipts from Walgreens.

22 Q Okay. Now, was there anything about the receipt
23 itself or anything about what you found in his pockets, any
24 physical piece of evidence that gave -- or anything about
25 the appearance of his pants that would lead you to believe

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 that Phillip would have any knowledge of what is inside of
2 his pockets?

3 A Jimmy Johnson told me --

4 Q I'm asking you what the physical evidence is -- I'm
5 not asking you for hearsay. I'm asking you -- the question
6 was very specific. Did you find anything -- you know what
7 the question is?

8 A I understand, but I'm trying to answer it.

9 Q You can't answer it by not answering it. You have
10 to answer the question, yes or no, did you find anything
11 physical in his pockets or something concerning his pants
12 that would give you reason to know that Phillip knew what
13 was in his pockets?

14 A He found the receipts on the ground of Phillip's
15 property.

16 Q That is -- I'm not asking you that. That is
17 hearsay.

18 I'm asking you non-hearsay because that's going to
19 be objected to and you -- you understand the rule is, you
20 can't say what other people said. That's a nonresponsive
21 answer. So I want you to answer the question that I'm
22 asking you, okay?

23 Did you find anything -- we'll do this all day.

24 Did you find anything in his pants that would give
25 rise to indicate that Phil knew what was in his pants? Any

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 physical items in his pants?

2 A That he knew was in his pants, no.

3 Q Okay. No. All right. This is going to be a long
4 trial.

5 Now, let's talk about the -- well, let me ask you
6 this first. Was there anything else that you processed,
7 found in the clothing of other people that you intend to
8 introduce as evidence that you would intend to, at the
9 trial, introduce as evidence? That you can remember.

10 A That I'm going to introduce?

11 Q Well, through your testimony then it would be. The
12 solicitor is ultimately going to introduce it, but is there
13 anything else that you pulled out of somebody's pants that
14 you believe could be evidence in this case?

15 A Well --

16 Q Or in their pocketbooks or whatever?

17 A Are you asking me if I found any other illegal
18 drugs on somebody else on the property?

19 Q Yes. Did you find any illegal drugs -- I had
20 forgotten about that, that's why I'm asking you. Did you
21 find any illegal drugs on anybody on the property?

22 A I did.

23 Q Okay. Who did you find those on?

24 A Marijuana and I believe methamphetamine was found
25 on Christopher Huggins.

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 Q All right. Now, let's stop right there for one
2 second. Christopher Huggins was where?

3 A In the red Mustang.

4 Q Okay. That's in the red Mustang. Okay.
5 Anything else illegal that was on somebody's
6 person?

7 A Robin Krantz had methamphetamine in her pocket.

8 Q Now, where was she?

9 A She came from the Mustang.

10 Q The red Mustang. Okay. I'm just making sure that
11 there's nobody else in this house that had anything illegal
12 inside of their clothing.

13 A There were -- the people or inside the house?

14 Q Inside -- right now I'm talking about inside. The
15 clothing of the people. That you remember. Honestly, it
16 was confrontational a minute ago. I'm just asking because
17 I can't remember immediately. Do you remember anybody else
18 having something illegal in their pocket in the house?

19 Okay --

20 A Not that I can recall.

21 Q Okay. That's fine, that's fine.

22 Now, let's talk about the Mustang then. Now, the
23 Mustang, tell me about the circumstances surrounding the
24 Mustang. When did the Mustang -- how soon after you
25 received -- and I guess this is how it works -- tell me how

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 it works. You can start searching, if I'm not mistaken,
2 the moment that you get word that the search warrant is
3 signed?

4 A Correct.

5 Q Okay. So I assume you received confirmation that
6 the search warrant was in effect, correct?

7 A Terry Govan called me and told me and said the
8 search warrant had been signed.

9 Q Right. And that has independent legal significance
10 as to why that's not hearsay. So at that point in time,
11 you knew that you could begin the search, correct?

12 A Yes, sir.

13 Q Then subsequent to that, how long was it before the
14 Mustang drove up? And you can just guess. I know you're
15 not going to know the exact time.

16 A Roughly 30 minutes.

17 Q Okay. That's fine.

18 A We really haven't even begun the search yet.

19 Q Okay. So you said that the Mustang pulled into the
20 backyard. If you want to, you can get down, but did it --
21 I'm trying to make it easier. Did it pull into the
22 backyard from over on this side or over on this side?

23 A Over on this side.

24 Q This side. So there's a gate right here? Or at
25 least an access, a little road there?

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 A Yes.

2 Q So it pulled through here and then where did it go?

3 You can come down.

4 MR. KIRKLAND: Is that okay, Your Honor?

5 THE COURT: That's fine.

6 THE WITNESS: It pulled up right here.

7 BY MR. KIRKLAND:

8 Q Okay. That's the point where you said there were
9 sort of those parking spaces.

10 A It's sort -- it's cinder blocks with -- I don't
11 think they're railroad ties, but they're like a four by
12 four wooden --

13 Q Right. But it looked like -- I think you said that
14 it looked like they were set up for additional parking or
15 something?

16 A Uh-huh.

17 Q Okay. So it came along -- I assume this road --
18 pulled into here and then stopped right here?

19 A Right.

20 Q And then the Durango was right over here?

21 A Yes, it was right beside there.

22 Q Okay. You can sit back down.

23 Now, once that red Mustang arrived, who was it that
24 approached the vehicle? Do you remember?

25 A Agent Morris and Agent Merckle.

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 Q Now, where were you at this time?

2 A I had walked out of the house to see what was going
3 on.

4 Q All right. Now, ultimately, they were detained as
5 you said, as a part of the warrant and whatnot. And then I
6 assume that a search of the car occurred; is that correct?

7 A Correct.

8 Q Now, who was that it performed the search of that
9 vehicle?

10 A Agent Merckle and Agent Morris.

11 Q Okay. So you didn't have anything to do with the
12 search itself?

13 A No, sir.

14 Q Did you handle the processing of the items in the
15 sense that you took the pictures or anything like that?

16 A I took some photos.

17 Q Okay. Do you know which ones you took? I can show
18 you all the photos and you can just let me know which ones
19 so I'll know. There's no other way for me to know unless I
20 ask you.

21 A I'm sorry, I don't believe I took any photos in
22 regards to the Mustang.

23 Q Okay. You want to flip through them and just make
24 absolutely certain.

25 Now, it's fine if you haven't?

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 A I don't think I did. (Looking.)

2 I did not.

3 Q Okay.

4 A Because the Mustang was too high for me to get a
5 photo with all these ingredients on top. I --

6 Q Okay. You're shorter?

7 A Yes.

8 Q Oh. All right. So there's not any testimony that
9 you can give really as to the contents of the Mustang and
10 what was found in there, you don't really personally know
11 any of that?

12 A No. I took possession of it.

13 Q Right. But you weren't part of the search. But I
14 guess if you took possession of it, do you remember what
15 you took possession of?

16 A I'd have to refer back to my notes.

17 Q But it -- we can summarize it, can't we, as being a
18 lot of stuff to make meth; correct?

19 A Basically everything.

20 Q Yeah, an entire -- from the beginning to the end;
21 correct?

22 Now, was there anything physical that you recovered
23 from the inside of that car? And we're going to go
24 through -- we're going down the same road again. Is there
25 anything that you recovered physically --

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 A I did not recover anything --

2 Q Anything that you saw that came into your
3 possession to log into evidence --

4 A Yes.

5 Q -- that would tend to indicate that Phil Helms had
6 anything to do with items in that car; anything with his
7 name on it --

8 A No.

9 Q -- any mail? Any identification?

10 A No.

11 Q Any fingerprints, I know you didn't recover it, but
12 nothing?

13 A Nothing.

14 Q And the owner of that car was Hudgins or Huggins?

15 A Huggins.

16 Q Huggins. Now, when you looked at the burn pile,
17 tell me what it was that you found in that burn pile or
18 that you ultimately saw in the burn pile.

19 A When I first looked at it or when I went back to
20 re-inspect it?

21 Q I mean the whole, just ultimately what did you find
22 in the burn pile; use both experiences to tell me
23 everything.

24 A Burned lithium battery casings.

25 Q Okay.

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 A A large amount of aluminum foil.

2 Q Okay.

3 A Punctured starter can.

4 Q Right.

5 A Several of those. There was also some previously
6 burned ones that were older.

7 Q Okay.

8 A There was an acid generator that had burned out.

9 Q Okay. Now when you say a acid generator, you mean
10 one acid generator?

11 A Yes.

12 Q Okay.

13 A And there was a bottle containing a white, sludgy
14 material that was consistent with a previous one pot cook.

15 Q Now, if I'm not mistaken, in your incident report,
16 you identified three acid generators; is that correct?

17 And in fact, what was checked into evidence was,
18 not checked into evidence because they were destroyed, but
19 what was listed in evidence was three acid generators; is
20 that correct?

21 So today you're saying there was one acid generator
22 and then what else?

23 A No, I said a couple of acid generators, but they
24 had burned.

25 Q Okay. A couple. And then what else; what was the

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 other item that you were talking about?

2 A It was the left-over sludge from a one pot cook.

3 Q All right. Now, we talked about the couple items
4 that were in the purse. I know we talked about the
5 Mustang, but there was some item -- what was the item in
6 the purse of Robin or Robin Krantz, the woman in the
7 Mustang?

8 A We didn't talk about that.

9 Q We didn't talk about it?

10 A No.

11 Q What was in her purse; there was something
12 recovered from her purse; do you know what that was; did
13 you ever process that? I knew you processed it there, but
14 did you ever collect it into evidence?

15 A I did.

16 Q Okay. What was that?

17 A I'd have to refer back to my notes so I can be
18 accurate on it.

19 Q But it was probably something illegal, I would
20 guess, if you took it, right?

21 A (The witness nodded.)

22 Q Okay. Was there anything in her purse -- was there
23 anything that was in that purse that indicated any
24 connection, physically, any connection to Phil Helms that
25 was in the purse?

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 A I didn't go through the purse.

2 Q Okay. Was there anything in the pocket; I think we
3 did -- you did say that there was some marijuana found in
4 the pocket of Hudgins or Huggins; was there anything in his
5 pocket that would give you rise to a believe that, I'm
6 talking about physical evidence in his pocket that would
7 give rise to a belief that Phil Helms had any idea of what
8 was in his pockets, Huggins or Hudgins, pockets?

9 A No.

10 Q Okay.

11 MR. KIRKLAND: If you could give me one moment,
12 Your Honor.

13 THE COURT: Uh-huh.

14 BY MR. KIRKLAND:

15 Q Now, you mentioned that the receipts, I believe,
16 were the receipts that they, for the Walphed receipts for
17 the same day?

18 A That was found on Jimmy Johnson?

19 Q Yes.

20 A Yes.

21 Q Now when you went through this house the first
22 time, the second time or anything, you didn't smell
23 anything, at least you reported in your -- you indicated in
24 your report, you didn't smell anything that gave you an
25 indication that there had currently been a meth cook in the

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 house?

2 A No.

3 Q And in fact, I think you said that some of the
4 items that were in the burn pile appeared to be old and
5 even if the ones weren't, you couldn't tell the age by
6 looking at them of when they had been used.

7 A The one with the sludge material had just recently
8 been used.

9 Q Now, what do you mean recently?

10 A It had to be within the last twelve hours.

11 Q Now -- but there was no smell whatsoever in the
12 house that would give you an indication that meth had been
13 cooked very recently in the house?

14 A No.

15 Q And meth produces -- from my understanding, I've
16 never smelled it -- an absolutely horrendous odor?

17 A Not so much anymore.

18 Q It does not anymore?

19 A They've learned how to cover up the odor so it
20 doesn't -- it's not as strong.

21 Q How do they do that?

22 A By using fans and -- to ventilate the air.

23 Q Okay. Did you find any indication inside the house
24 of these ventilation systems that you're referring to?

25 A There were fans in the house, but there were also a

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 lot of odors in his house.

2 Q Was there, my understanding is that the odor of
3 methamphetamine, even if you're using fans, because if you
4 were just vented outside, that would be the difference,
5 correct?

6 A I'm sorry?

7 Q If you were using the fans, the fans would be used
8 to vent it outside?

9 A Yes.

10 Q So the smell would still exist, it would, you
11 know --

12 A If it was cooked inside the house; it could have
13 been cooked anywhere on the property.

14 Q It could have been cooked -- you have no idea where
15 it was cooked, do you?

16 A No.

17 Q Absolutely not. And there's nothing about the
18 physical evidence that can give you an indication of where
19 it was -- it was actually cooked, is there?

20 A The sludgy bottle that was in the trash, I can only
21 say that it was cooked on there; I don't believe that
22 somebody would come there and just --

23 Q I'm not asking about your belief, let's talk about
24 actual facts, okay?

25 A Yes.

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 Q Is there any physical evidence off that sludgy
2 bottle that would give you an indication of where it was
3 cooked?

4 A No.

5 Q Because you say it could have been as much as
6 twelve hours old. So twelve hours ago, who knows where
7 that bottle was, right? You can't testify that you know?

8 A No --

9 Q Okay.

10 A -- I was not there.

11 Q Okay. Is it common when you're driving around
12 areas, particularly areas that are known for meth
13 production, that people often discard, you know, these meth
14 bottles, these reaction vessels, these acid generators, all
15 of this stuff, wherever they can discard it; you sometimes
16 find -- find it on the side of the road, you find it on
17 other people's property; it's not uncommon to find meth --
18 meth trash, is it?

19 A It's not uncommon to find meth trash on the side of
20 the road. It is very uncommon to find somebody else's
21 trash in the middle of Phil Helm's backyard.

22 Q Now --

23 A The likelihood of that happening --

24 Q Well, explain that to me. What is it -- what is it
25 that you know other than pure speculation? What is it that

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 gives you an indication that it would be unlikely for
2 somebody to dump it in Phil Helm's house? And what I mean
3 is there's a driveway over here somebody could come in and
4 presumably that looks like sixty, seventy feet from the
5 house, and dump anything on there, so you don't -- you
6 can't say other than to speculate, you can't say that
7 nobody else could have dumped it on Phil Helm's house -- I
8 mean on his burn pile.

9 A He lives on a very --

10 Q I'm just asking without speculation can you say
11 that nobody else could have dumped this on the property?

12 A It's very unlikely.

13 Q Based on what; I mean tell me what -- what -- what
14 is this, what fact that you have that you're aware of that
15 would make it very unlikely other than just pure
16 speculation?

17 A Because no other case I've ever found that it
18 belonged -- the trash belonged to somebody else where it
19 was behind their house, approximately 60 feet behind their
20 house on a rural road with a fence around it.

21 Q All right. How about this, isn't it also true that
22 you have never worked a case in your career -- I'm just
23 betting on this -- in which you found meth trash in the
24 yard and you didn't find one precursor, not one single
25 thing used to make meth inside that house; no blister

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 packs, no reagents, no oxidizers, not plastic bottles,
2 nothing; nothing in the house; is that common; is that
3 something you've ever seen before?

4 A Yes.

5 Q You often see, regularly see, people with meth
6 trash in their yard and you find no evidence whatsoever
7 inside the house?

8 MR. BELL: Objection to relevance, Your Honor. The
9 State's curious how this actually ties into the issue of
10 the search warrant.

11 MR. KIRKLAND: It does tie into the issue of the
12 search warrant, Your Honor. They're trying to, they're
13 trying to suggest that because, because it's a search
14 warrant that includes the vehicle and the stuff that's in
15 people's pockets. They're trying to suggest that because
16 of the things that are on the property, that Phil Helms
17 knows what's inside this car that drove up and they want to
18 introduce it. They're going to try to introduce what's in
19 the pockets of others and they're suggesting -- she's tried
20 to speculate that because she sees this trash in there and
21 it's pure speculation, that it almost certainly came from
22 Phil Helms.

23 What I'm trying to suggest is that this is entirely
24 speculation. There's nothing to indicate it in any of the
25 evidence.

Paige Barnes - Cross-Examination In Camera by Mr. Kirkland

1 THE COURT: All right. And what's your question
2 again?

3 BY MR. KIRKLAND:

4 Q My question was -- that is -- you've said that it
5 is uncommon for whatever reason to find -- that you believe
6 that it is unlikely that this trash in Phil Helms' yard
7 came from somewhere other than his house, correct?

8 A Yes.

9 Q But you have no evidence -- that's purely
10 speculation on your part. There is no facts that you can
11 present to this Judge that would indicate that that is true
12 or not true?

13 A Well, Phil Helms had just left the burn pile -- per
14 him.

15 Q I understand.

16 A Which was in plain view, the acid generator and the
17 white, sludgy bottle --

18 Q Right.

19 A -- if that were found in my backyard, I'd call the
20 police.

21 Q Well, I'm not asking what you would -- because
22 you're a narcotics officer. What I'm asking you is --
23 because you said that these things were old and Phil, so
24 Phil Helms being there, you said they could be at least
25 twelve hours old and some of them had already been burned

Paige Barnes - Redirect Examination In Camera by Mr. Bell

1 up?

2 A I couldn't --

3 Q So there was nothing active, nothing recent, very
4 recently used inside that burn pile?

5 A That sludgy material could have been reactivated.

6 Q Here's all I'm saying: You have nothing that you
7 can present to this Judge other than pure speculation that
8 you just believe that those must have come from Phil Helms'
9 house; you don't have a piece of factual evidence that
10 shows where they came from or how long exactly they had
11 been there; do you agree with that?

12 A Yeah.

13 Q Okay.

14 MR. KIRKLAND: That's all I have, Your Honor.

15 THE COURT: All right. Anything else on...

16 MR. BELL: Yes, Your Honor.

17 **REDIRECT EXAMINATION - IN CAMERA**

18 BY MR. BELL:

19 Q Agent Barnes, did you go through the Criminal
20 Justice Academy?

21 A I did.

22 Q Okay. When it comes to search warrants, if you do
23 not have a search warrant on hand when you arrive at
24 someone's property, what is the only other way to get on
25 their property?

Paige Barnes - Redirect Examination In Camera by Mr. Bell

1 A Consent.

2 Q Did you receive consent in this case?

3 A I did.

4 Q Did he give you verbal consent?

5 A He did.

6 Q Did he give you gestural consent?

7 A He did.

8 Q Now, regarding the Durango in the backyard, are you
9 taught at the Criminal Justice Academy that you absolutely
10 have to have a search warrant to look in the windows of a
11 vehicle?

12 A No.

13 Q Now, were there trails through the grass that would
14 indicate that that vehicle had been there for any period of
15 time?

16 MR. KIRKLAND: Your Honor, that's a leading
17 question.

18 THE WITNESS: There were trails through the --

19 MR. KIRKLAND: He can ask her how long it was there
20 based on her knowledge.

21 BY MR. BELL:

22 Q Was there any indication -- thank you.

23 Was there any indication that that vehicle had just
24 arrived on the property?

25 A No.

Paige Barnes - Redirect Examination In Camera by Mr. Bell

1 Q Okay. Now, referring to Defense Exhibit 1 for
2 identification, Defense showed you this picture in
3 reference to the Coleman fuel cans.

4 A Yes.

5 Q What is this reflective substance on that
6 floorboard?

7 A Water.

8 Q Okay. Is it just a few drops of water?

9 A It's a puddle.

10 Q Okay. What does that indicate to you?

11 A The Durango had a busted windshield and rain had
12 come in through the Durango and it was not used. The
13 Durango was not used.

14 Q Okay. Now typically when you eventually obtain a
15 search warrant or searching the vehicle for any other
16 reason and you find bags of clothing, is it typical for you
17 to itemize every single piece of clothing that you find in
18 a vehicle?

19 A No, we never itemize clothing.

20 Q Do you go through and check boxes that say male or
21 female item of clothing?

22 A No.

23 Q When you initially requested a search warrant, did
24 it contain language to the effect that you could search any
25 vehicle on the property?

Paige Barnes - Redirect Examination In Camera by Mr. Bell

1 A Yes.

2 Q Now, you also testified that you found two receipts
3 for Pseudoephedrine products on Jimmy Johnson located
4 inside of Phil Helms' house?

5 A Correct. He was living there.

6 Q Was Jimmy Johnson eventually arrested on this same
7 day?

8 A Yes, sir.

9 Q Why was he arrested?

10 A He was arrested for manufacturing methamphetamine
11 and he also wanted by Lexington P.D. -- I want to say
12 disregarding a Court Order.

13 MR. KIRKLAND: I think this is irrelevant to the
14 issues at hand.

15 MR. BELL: Your Honor --

16 THE COURT: What was the question?

17 MR. BELL: My follow up question, Your Honor, would
18 be:

19 BY MR. BELL:

20 Q Do you typically search someone after you've
21 arrested them?

22 A Absolutely.

23 Q Is it likely that you would have found those
24 receipts on him after you arrested him?

25 A Yes.

Paige Barnes - Redirect Examination In Camera by Mr. Bell

1 MR. BELL: That's all I have, Your Honor.

2 THE COURT: All right.

3 MR. KIRKLAND: I don't have any followup, Your
4 Honor.

5 MR. BELL: Your Honor, may I continue questioning,
6 that was all on his objection.

7 MR. KIRKLAND: I apologize.

8 THE COURT: I -- his objection. I think he
9 rephrased it so --

10 MR. KIRKLAND: I'm sorry.

11 THE COURT: -- the objection is overruled?

12 BY MR. BELL:

13 Q In regards to the acid generator that you testified
14 that you found in the burn pile, Defense asked you if there
15 was any way to say where it was cooked. Is Phillip Helms'
16 property fenced in?

17 A Yes.

18 Q Is it openly accessible outside of the fence?

19 A No.

20 Q I'm going to refer to State's Exhibit 1 for
21 identification purposes. What is this road right here?

22 A Blackville Court.

23 Q Okay. Is this a primary road?

24 A No.

25 Q Is there another primary road around the residence?

Paige Barnes - Redirect Examination In Camera by Mr. Bell

1 A Blackville Road, not around that residence, no, I'm
2 sorry.

3 Q Are there, are there any other roads that encircle
4 the property that the common public frequents?

5 A No.

6 Q Is the burn -- now you testified earlier there was
7 an access road that the Mustang entered the premises,
8 through. Is that burn pile -- where was that burn pile
9 located in reference to that access road?

10 A I don't --

11 Q Is the burn pile close to this big road --

12 A No.

13 Q -- that lines the front of his house?

14 A No.

15 Q Is it at the front of the access road that runs off
16 of the primary road --

17 A No.

18 Q -- or off of the road in front of his house. You
19 also testified earlier that when you arrived onto the
20 property and you made contact with the defendant, Phillip
21 Helms, that he told you that he was burning plastic limbs?

22 A Correct.

23 Q Does that --

24 MR. BELL: No further questions at this time, Your
25 Honor.

Michael Merckle - Direct Examination In Camera by Mr. Bell

1 THE COURT: All right. Thank you.

2 MR. KIRKLAND: Nothing more, Your Honor.

3 THE COURT: All right, ma'am, you may step down.

4 Call your next witness.

5 MR. BELL: The State calls Agent Mike Merckle to
6 the stand.

7 Michael S. MERCKLE,
8 after being duly sworn, testified as follows:

9 THE CLERK: Have a seat. Once you're seated, state
10 your full name; spell your last for the record, please,
11 sir.

12 THE WITNESS: I am Michael Merckle or Michael
13 Samuel Merkle.

14 THE CLERK: I'm sorry. Spell your last name.

15 THE WITNESS: M-E-R-C-K-L-E. And I'm a narcotics
16 agent with the Lexington County Sheriff's Department.

17 **DIRECT EXAMINATION IN CAMERA**

18 **BY MR. BELL:**

19 Q Agent, you answered my first question. Did you
20 also have reason to respond to [REDACTED]

21 A Yes, sir.

22 Q Do you remember what date that was?

23 A I do not recall the exact date.

24 Q Does June 11th, 2013 sound right to you?

25 A Yes, sir.

Michael Merckle - Direct Examination In Camera by Mr. Bell

1 Q Now, who did you arrive on that location with?

2 A It was myself, Agent Morris and Agent Paige Barnes.

3 Q When you initially arrived on the scene, did you
4 accompany Agent Barnes to the fence?

5 A I did.

6 Q And did you make contact with Phillip Helms at that
7 point in time?

8 A Yes, sir.

9 Q How did he respond to your presence?

10 A He didn't seem to have a problem with it. We
11 identified ourselves. Agent Barnes was the one who was
12 actually speaking with him. We were standing there; we had
13 our badges out since we don't look like normal police
14 officers because of what we do. And he just said come on
15 in, not nervous or anything.

16 Q Did you see him make any gestures to you?

17 A Yes, he waved us through with his hand to come on
18 through his fence.

19 Q Is there anything else that that gesture possible
20 could have meant?

21 A No, sir.

22 Q After he waved you in, what did you do?

23 A We walked closer to him. He was on his, his
24 motorized wheelchair coming across the yard and again we
25 explained to him why we were there.

Michael Merckle - Direct Examination In Camera by Mr. Bell

1 Q Were you with Agent Barnes when permission to look
2 around the property was given?

3 A Yes, sir, I was.

4 Q And did he in any way limit that permission?

5 A No, sir.

6 Q Did he tell you that you couldn't search the shed?

7 A No, sir.

8 Q Did he tell you to stay away from his burn pile?

9 A No, sir.

10 Q Did he make any other statements to you while you
11 were on the property?

12 A Other than initially when we approached and
13 explained to him what we were -- what we were there for and
14 he was giving us permission to actually search and go
15 anywhere we wanted to on the property; he was happy to take
16 us around. He was -- he had been burning some stuff in the
17 pile, the burn pile. Everybody initially saw it burning,
18 like smoldering, you know.

19 Q With regards to your last statement, do you
20 remember more accurately what exactly he said in regards to
21 burning something?

22 A I don't think I was standing close enough. I -- I
23 just know that he had made conversation with Agent Barnes
24 about burning stuff in the burn pile.

25 Q After y'all looked around the exterior of the

Michael Merckle - Direct Examination In Camera by Mr. Bell

1 property, what happened then?

2 A Agent Barnes heard somebody inside. In fact, she
3 asked him who else was inside and he said he had some
4 friends in there. And he was -- he would take us inside to
5 look around.

6 Q Did you enter the premises at that time?

7 A Yes, sir, I did. I was following behind Mr. Helms
8 on his motorized chair.

9 Q Did you assist in the walk around the interior of
10 the premises?

11 A Yes, sir, I did.

12 Q Did you see anything in plain view that was
13 suspicious to you?

14 A When we initially came in, there was a marijuana
15 pipe that was sitting where the picture shows it was
16 sitting and none of us touched it; we just saw it sitting
17 there, a little glass pipe.

18 Q Now, to your knowledge, was a search warrant
19 eventually obtained?

20 A Yes, sir.

21 Q Okay. And did any vehicles arrive on the property
22 during the execution of that search warrant?

23 A Yes, sir.

24 Q What kind of vehicle was that?

25 A It was a red Mustang.

Michael Merckle - Direct Examination In Camera by Mr. Bell

1 Q Okay. How did you react to the presence of that
2 vehicle?

3 A Myself and Agent Morris went outside to inspect or
4 I guess talk to the people who had arrived in the middle of
5 the search warrant. We didn't know who they were.

6 Q Okay. Did you recognize that vehicle when it
7 pulled up on the property?

8 A I did not.

9 Q Okay. Do you know how many occupants were in the
10 vehicle?

11 A Two.

12 Q Okay. Now what are some typical reasons you might
13 stop a vehicle that pulls up on one of your crime scenes?

14 A Well the -- the first reason as to why we would
15 approach any vehicle that comes on to our crime scene is
16 for security purposes or our safety as well as the safety
17 of the people that we have in custody. Of course, if
18 they're in custody, they can't do anything to defend
19 themselves, they're relying on us.

20 So we had no idea what these people's intentions
21 are as to why they're coming onto the property. So first
22 and foremost is for security purposes and then to detain --
23 or not detain them -- but just to find out what they're
24 actually doing there. If that leads to a detention and
25 what not then so be it, but typically in situations with

Michael Merckle - Direct Examination In Camera by Mr. Bell

1 what we work when people show up to houses like this, it's
2 a greater sense of security, I guess, you would need.

3 Q In your experience as a law enforcement officer,
4 are firearms typically involved in drug scenes as well?

5 A Yes, sir.

6 Q Are firearms typically something that would alarm
7 you as an officer?

8 A Yes, sir.

9 Q Now, in approaching the vehicle, were you able to
10 see inside of the windows of that vehicle?

11 A Yes, sir, I was.

12 Q Okay. Was there anything that you could see that
13 sort of alarmed you or was suspicious to you?

14 A Yes, sir.

15 Q Would you please tell the Court a bit about that?

16 A Sure. As we approached the vehicle, my partner who
17 was with me, Agent Morris, had conversation and spoke with
18 the driver. I was on the passenger side of the vehicle.
19 The passenger, I asked her to exit the vehicle. Upon her
20 exiting, I could see into the back seat where there was
21 some grocery bags and there was some cold packs and I
22 believe a black and red bottle that was like drain cleaner,
23 common components. Also there was some batteries, a whole
24 bunch of batteries that were sitting in the center console
25 that were right there in plain view, very common components

Michael Merckle - Direct Examination In Camera by Mr. Bell

1 to manufacturing meth.

2 Q So my next question was going to be why exactly are
3 those relevant, but you just testified that those are
4 components that are typically involved in manufacturing
5 methamphetamine?

6 A Yes, sir.

7 Q When you see all those items grouped together in
8 one or two bags sitting beside each other, what does that
9 typically indicate to you?

10 A Well, it indicates that there's potential for a
11 methamphetamine cook or the ingredients are being gathered
12 to do a methamphetamine cook.

13 Q So to clarify, was that bag, was your view
14 obstructed from that bag in any way?

15 A No, sir.

16 Q It was sitting out, was it sitting out in the open?

17 A Yes. Yes, sir, it was behind the driver's seat
18 sitting on the back seat.

19 Q Do you know who owned that vehicle?

20 A I found later out that the gentleman who was
21 driving, I think Mr. Huggins, owned the vehicle. I didn't
22 know at the time, but I did find that out.

23 Q Okay. Who was the passenger in the vehicle?

24 A I believe Renee Krantz.

25 Q Now, I think Agent Barnes testified that Renee

Michael Merckle - Direct Examination In Camera by Mr. Bell

1 Krantz was inside?

2 A Okay. Then it was Robin. I'm sorry, I'm not good
3 with names.

4 Q Do you know if there's any relation to Robin who
5 was in the car and Renee who was inside of the house?

6 A I don't have any knowledge of that.

7 Q Okay. Do you have any indication from your time
8 spent with that red Mustang that it belonged to Phillip
9 Helms?

10 A No, sir.

11 Q Any reason to believe that he had ownership
12 interest in it at all?

13 A No, sir.

14 Q Are you aware of a search warrant being obtained in
15 this case?

16 A Yes, sir.

17 Q To your knowledge, did that search warrant include
18 the vehicles on the property?

19 A Yes, sir.

20 Q Please answer any questions Defense may have for
21 you.

22 A Yes, sir.

23 MR. KIRKLAND: No questions, Your Honor.

24 THE COURT: All right, sir, you may step down.

25 THE WITNESS: Thank you.

G. Scott Morris - Direct Examination In Camera by Mr. Bell

1 THE COURT: Call your next witness.

2 MR. BELL: Your Honor, State calls Agent Scott
3 Morris.

4 SCOTT MORRIS,
5 after having been duly sworn, testified as follows:

6 THE CLERK: Have a seat please, sir. Once you're
7 seated, state your full name and spell your last for the
8 record please, sir.

9 THE WITNESS: My name is Gregory Scott Morris.
10 M-O-R-R-I-S.

11 **DIRECT EXAMINATION IN CAMERA**

12 BY MR. BELL:

13 Q Thank you, Agent. Were you working with the
14 Lexington County Sheriff's Department on June 11th of 2013?

15 A I was.

16 Q Did you have reason to respond to [REDACTED]

17 [REDACTED] on that day?

18 A Yes, sir.

19 Q Okay. When did you arrive on scene?

20 A It was late afternoon. I'm not sure of the exact
21 time.

22 Q Did you accompany anybody?

23 A I did.

24 Q And who was that?

25 A Agent Merckle and Agent Barnes.

G. Scott Morris - Direct Examination In Camera by Mr. Bell

1 Q Were you present for the interactions that you've
2 heard testified to in court today?

3 A I was.

4 Q Did you assist in the walk around of the exterior
5 property?

6 A I did.

7 Q Did you also see the burn pile?

8 A Yes, sir.

9 Q Did you also hear Mr. Helms say that he was burning
10 stuff?

11 A I did.

12 Q Did you hear him gesture you onto the property? Or
13 excuse me, did you hear him say come on into the property?

14 A Yes, sir.

15 Q Did you also see him make a gesture that you could
16 come onto the property?

17 A Yes, sir.

18 Q Did you hear him give consent to enter his house?

19 A I did.

20 Q Did you also assist with the walk around of the
21 interior of his house?

22 A No, sir.

23 Q Where were you?

24 A We -- we entered the residence together and I stood
25 basically in the doorway. It was a confined space so I

G. Scott Morris - Direct Examination In Camera by Mr. Bell

1 remained stationary inside, but as far as the looking
2 around the inside or the search, I didn't participate.

3 Q Are you aware of a vehicle arriving on scene during
4 the execution of the search warrant?

5 A Yes, sir.

6 Q And what kind of vehicle was that?

7 A The red Mustang.

8 Q How were you able to see that vehicle?

9 A I was outside when the vehicle arrived. I saw it
10 pull around what would be the left -- I would say the left
11 side of the house into the back yard.

12 Q And how did you respond to that?

13 A I notified, I motioned for Agent Merckle; and he
14 and I approached the vehicle.

15 Q Did you recognize that vehicle when it arrived on
16 the property?

17 A Yes, sir, I did.

18 Q And how many occupants -- do you know how many
19 occupants were in the vehicle?

20 A There were two.

21 Q Okay. And why did you recognize that vehicle?

22 A I had a previous encounter with that vehicle and
23 the driver in a previous case.

24 Q And what kind of case was the previous case?

25 MR. KIRKLAND: Your Honor, I'd object to this being

G. Scott Morris - Direct Examination In Camera by Mr. Bell

1 not relevant.

2 MR. BELL: Your Honor --

3 MR. KIRKLAND: It sounds as if it's a character
4 evidence and I don't see how it's relevant to whether or
5 not this search warrant was valid.

6 THE COURT: All right. Yes, sir, I'll be glad to
7 hear as to relevance.

8 MR. BELL: Your Honor, the case that Agent Morris
9 is referring to is a case of the same nature as what they
10 arrived on the property for and it certainly goes to the
11 fact of being relevance -- relevant to any conspiracy as to
12 the manufacture of methamphetamine.

13 MR. KIRKLAND: Your Honor, that is purely a
14 character evidence. The fact that he knows -- that is
15 exactly why character evidence is not admitted because you
16 can't say because this person has been in trouble in the
17 past that then they must have been doing it now. That's
18 the whole point behind that prohibition. He is not allowed
19 to have made -- if that car was driving down the road and
20 he would have seen him and said well I know that guy cooks
21 meth; he can't pull him, he can't search his car, he has to
22 have independent facts based on his observations on that
23 day and it is not relevant.

24 And even if it had some form of relevance, it is
25 character evidence and it is not admissible.

G. Scott Morris - Direct Examination In Camera by Mr. Bell

1 THE COURT: All right.

2 MR. BELL: Your Honor, may I respond?

3 THE COURT: Yes.

4 MR. BELL: I believe we've already got in, gotten
5 into independent reasons for stopping that vehicle;
6 however, with regards to this specific case, what we are
7 attempting to get to is why the search warrants stands as
8 being valid.

9 THE COURT: Is he --

10 MR. KIRKLAND: The first warrant occurred prior to
11 that car ever entering the property. This has nothing to
12 do with whether that search warrant is valid or not.

13 THE COURT: All right. The question is not going
14 to be admissible as to prior interactions with the
15 defendant. So I will sustain the objection, but you can
16 rephrase it and -- or go on to the next question. I think
17 that he's off that day --

18 BY MR. BELL:

19 Q Agent Morris, in your experience as a law
20 enforcement agent, do you typically find that firearms are
21 linked to narcotics?

22 A Yes, sir.

23 Q Do you typically find further that firearms can be
24 a link to methamphetamine?

25 A Yes, sir.

G. Scott Morris - Cross-Examination In Camera by Mr. Kirkland

1 Q And when you are executing a search warrant
2 involving methamphetamine, what is a reason that you would
3 stop a vehicle that arrives on the premises?

4 A That arrives on the premises -- mainly for officer
5 safety issues and the safety of those who are on the scene.

6 Q Please answer any questions for the Defense.

7 A Okay.

8 THE COURT: Yes, sir?

9 **CROSS-EXAMINATION IN CAMERA**

10 BY MR. KIRKLAND:

11 Q Do you happen to know who processed that vehicle
12 and who took the pictures that are in the discovery
13 materials?

14 A I believe Agent Merckle and I did the precursory
15 search. I'm not -- as far as the photos, I'm not sure; I
16 didn't take the photos.

17 Q Okay. That's all I have.

18 THE COURT: Anything else?

19 MR. BELL: Nothing further from this witness, Your
20 Honor.

21 THE COURT: All right. You may step down.

22 THE WITNESS: Thank you.

23 MR. BELL: The State calls Investigator Govan to
24 the stand.

25 ///

Terry Govan - Direct Examination In Camera by Mr. Bell

1 TERRY GOVAN,

2 after being duly sworn, testified as follows:

3 THE CLERK: Have a seat please, sir. Once you're
4 seated, state your full name, spelling your last for the
5 record, sir.

6 THE WITNESS: Terry Govan. Last name, G-O-V-A-N.

7 DIRECT EXAMINATION IN CAMERA.

8 BY MR. BELL:

9 Q Thank you, Investigator. Were you an agent with
10 the Lexington County Sheriff's Department on June 11th,
11 2013?

12 A Yes, sir.

13 Q Did you have reason to respond to [REDACTED]

14 [REDACTED]

15 A Yes, I did.

16 Q And what county is that address located in?

17 A Lexington County.

18 Q Are you still with the Lexington County Sheriff's
19 Department?

20 A Yes, I am.

21 Q What is your current rank and title?

22 A Investigator, Community Crimes.

23 Q Agent Govan, how exactly did you become involved in
24 this incident?

25 A While I was at the office there was a claim by

Terry Govan - Direct Examination In Camera by Mr. Bell

1 Agent Barnes that she was going out to that address at [REDACTED]
2 [REDACTED] in reference to a complaint and if I would
3 standby just in case they would need a search warrant if
4 they found anything.

5 MR. BELL: I beg the Court's indulgence for one
6 moment.

7 THE COURT: Yes, sir.

8 BY MR. BELL:

9 Q Were you initially on the scene?

10 A No, sir.

11 Q Who did you receive a phone call from in reference
12 to this case?

13 A Agent Barnes.

14 Q And why did she contact you again?

15 A Because she found some evidence of a possible
16 methamphetamine lab.

17 Q And what was she wanting you to do?

18 A To obtain a search warrant.

19 Q How were you able to form a basis of knowledge with
20 regards to the case that they were working if you weren't
21 there?

22 A She -- she called me on the phone and she basically
23 gave me all the information that I needed in order to place
24 into the search warrant.

25 Q Did you feel like you were fully briefed?

Terry Govan - Direct Examination In Camera by Mr. Bell

1 A Yes, sir, I was.

2 MR. BELL: I beg the Court's indulgence one moment.

3 BY MR. BELL:

4 Q Investigator, I'm handing you what is marked for
5 identification, State's 40. What is that stack of paper in
6 your hand?

7 A A search warrant.

8 Q And what all does a typical search warrant include?

9 A It contains any premises to search outbuildings,
10 the residence, vehicles, anything on the property.

11 Q What are the different documents that make up a
12 search warrant?

13 A A search warrant is just a search warrant. You got
14 to have a consent to search search warrant or the search
15 warrant itself.

16 Q Okay. Is there an affidavit that's typically
17 included with a search warrant?

18 A Yes, sir, it's right here.

19 Q Is there also a return?

20 A Yes, there is.

21 Q And those are all included in what I handed to you?

22 A Yes, sir.

23 Q What county is that search warrant made out to?

24 A Lexington County.

25 Q What address?

Terry Govan - Direct Examination In Camera by Mr. Bell

1 A [REDACTED] County of Lexington.

2 Q And do you know what that address references? Or
3 who that is referenced to?

4 A Phil Helms' residence.

5 Q What is the primary purpose of that search warrant?

6 A Methamphetamine.

7 Q Is there a signature on the search warrant?

8 A Yes, sir.

9 Q Whose signature is that?

10 A Judge Whittle.

11 Q Okay. Is he a neutral undetached Magistrate?

12 A Yes, sir.

13 Q What is the date on that signature?

14 A June the 11th, 2013.

15 Q And is that the same date that you were contacted
16 by Agent Barnes?

17 A That is correct.

18 Q Now, in reference to the affidavit included with
19 that search warrant, who is it that appeared in front of
20 Judge Whittle?

21 A Me, Agent Govan.

22 Q And whose signature is on the affiant line at the
23 bottom?

24 A Judge Whittle.

25 Q And what is the signature, date of the signature on

Terry Govan - Direct Examination In Camera by Mr. Bell

1 that?

2 A June the 11th, 2013.

3 Q And very briefly, what are some of the things
4 contained in the affidavit as to what was to be searched?

5 A Things to be searched: Garage, storage room,
6 outbuilding of any kind above and below the ground; search
7 to include vehicle or vehicles on the property.

8 Q There's also a return included in that packet I
9 gave you?

10 A Yes, sir.

11 Q And the date on that?

12 A Yes, sir.

13 Q Okay. Is there a signature on that return?

14 A Yes, there is.

15 Q Do you recognize that signature?

16 A Yes, I do.

17 Q Whose signature is that?

18 A Agent Paige Barnes.

19 Q Okay. How long did you work with Agent Barnes?

20 A About two-and-a-half years.

21 Q Did you have reasons to come across her signature?

22 A Yes, I did.

23 Q So once again, to wrap it up, what address is that
24 search warrant listed for?

25 A [REDACTED] Gaffney in Lexington County.

Terry Govan - Direct Examination In Camera by Mr. Bell

1 Q For what date?

2 A June the 11th, 2013.

3 Q And what is the primary purpose?

4 A A search warrant for methamphetamines.

5 Q Does it include the vehicles on the property?

6 A It does.

7 Q Did you have any further involvement in this case
8 after obtaining the search warrant?

9 A No, sir, I obtained the search warrant and I
10 brought the search warrant down to the scene. And I
11 assisted very briefly with the search, but obtained
12 nothing.

13 Q Did you handle any evidence in the case?

14 A No, I didn't.

15 Q Never manipulated anything when you were on the
16 scene?

17 A No, sir.

18 Q Never packaged anything up to be sent for testing?

19 A I did not.

20 Q No further involvement in the case whatsoever?

21 A No, sir.

22 Q Investigator Govan, did you type up the search
23 warrant in this case?

24 A Yes, I did.

25 Q Were you placed under oath in front of Judge

Terry Govan - Cross-Examination In Camera by Mr. Kirkland

1 Whittle?

2 A Yes, sir.

3 Q And by being placed under oath, you were agreeing
4 to tell the truth in regards to that search warrant?

5 A That's correct.

6 Q By signing, putting your signature on the affidavit
7 itself, you were swearing under oath to the truthfulness of
8 it?

9 A Yes, sir.

10 MR. BELL: No further questions for this witness.

11 MR. KIRKLAND: I have a couple of questions.

12 CROSS-EXAMINATION IN CAMERA

13 BY MR. KIRKLAND:

14 Q About the process of obtaining a search warrant.
15 So you received the information from Paige Barnes; is that
16 correct?

17 A Yes, I did.

18 Q And then once you received that information, I
19 suppose you sat down at a form and typed this into your
20 form, correct?

21 A Yes, sir.

22 Q And then once you typed this into your form and you
23 have all the documents in order; then you walk over to the
24 Magistrate's Office, correct?

25 A Two people walk over at that time about an hour or

Terry Govan - Cross-Examination In Camera by Mr. Kirkland

1 so, I drove to his residence.

2 Q Okay. So you gave him call to let him know you
3 were on the way. Now he places you under oath?

4 A Yes, he did.

5 Q And tell me how it works, because I don't know how
6 it works; do you read him the search warrant or do you --
7 how does it work, when you get there and you get put under
8 oath, what's the next thing that happens?

9 A Well the next step -- on that particular day, I
10 called Judge Whittle and advised him what we had. I only
11 have to give him the probable cause of what Agent Barnes
12 gave me --

13 Q Correct.

14 A -- and the reason why the officer was there in the
15 beginning.

16 So he say, You swear to that under oath?

17 And I say, Yes.

18 And then I go to his residence; he signed it and he
19 say you swear you, so he raised it; he said, You swear?

20 I swear again and then he signed it.

21 Q So did I understand you to say that you -- you gave
22 him the information and then he asked you subsequently if
23 you swore that was the truth?

24 A Yes.

25 Q Okay. And then he looked at this and he said do

1 you swear this is the truth?

2 A Yes.

3 MR. KIRKLAND: That's all the questions I have.

4 THE COURT: All right. Anything further from the
5 State?

6 MR. BELL: Nothing further from the State, Your
7 Honor.

8 THE COURT: Sir, you can return to your seat.

9 THE WITNESS: Thank you.

10 MR. BELL: Your Honor?

11 THE COURT: Yes, sir?

12 MR. BELL: The State requests the Court's
13 permission to change what was previously identified as
14 State's Number 40 to just a Court's Exhibit and that is in
15 reference to the search warrant that Investigator Govan
16 testified to.

17 THE COURT: Any objection?

18 MR. KIRKLAND: No, ma'am.

19 THE COURT: Place into evidence Court Exhibit No --
20 is that 1.

21 THE COURT REPORTER: One, yes, ma'am.

22 THE COURT: One.

23 (WHEREUPON Court's Exhibit No. 1 was entered into
24 evidence.)

25 MR. KIRKLAND: I do have a question, Your

1 Honor. Does that make mine Defendant's Exhibit 1? I move
2 Defendant's 1. I just needed to know.

3 THE COURT: For the purposes of the -- and it's
4 only, it's not entered, for identification purposes.

5 MR. KIRKLAND: Yes, ma'am.

6 THE COURT: So that the Court Reporter will have a
7 good record of what transpired.

8 MR. KIRKLAND: Yes, ma'am. I just didn't, I
9 honestly just didn't know the difference between a Court's
10 Exhibit and Defense or Prosecution Exhibit; is there a
11 difference; I don't know what that is?

12 THE COURT REPORTER: They don't go back to the
13 jury.

14 MR. KIRKLAND: I understand all that.

15 THE COURT: Yeah, typically the Court Exhibit does
16 not go back. For purposes of this they'll all come up to
17 the Court.

18 MR. KIRKLAND: Yes, ma'am.

19 THE COURT: All right. You have any other
20 witnesses?

21 MR. BELL: Not for purposes of this pre-trial.

22 THE COURT: All right. Any witnesses from the
23 Defense?

24 MR. KIRKLAND: No, ma'am, Your Honor. I can get
25 right into it if you're ready?

1 THE COURT: I'm ready.

2 MR. KIRKLAND: All right. I'm going to start
3 with -- I guess I'll start with first the items that were
4 found inside of people's pockets. I'm not going to, you've
5 heard the evidence and you know what was just stated so I'm
6 not going to go back through it in great detail. But the
7 bottom line is, they're trying to draw some connection
8 between Phil Helms and the things that were in these
9 people's pockets.

10 The issue that I have is that: Number one, and
11 there's some case law on this that a search warrant does
12 not necessarily allow you to search every single person
13 that is on the property. Now, I think they did say that
14 they found out that Hudgins had a, had a previous warrant
15 and so he was searched for that reason and I -- and I --
16 excuse me, Johnson had a previous warrant and I don't
17 remember specifically what they said about Hudgins and
18 Robin, but nonetheless, if the searches were -- you know,
19 our position is that the search warrant did not necessarily
20 cover the individuals and so for that reason, we would ask
21 that those be suppressed.

22 Additionally, we would ask that they be suppressed
23 on an evidentiary issue. They cannot establish, I mean
24 specifically really cannot establish that Phil Helms had
25 any idea what was in these people's pockets and yet,

1 they're trying to hold him responsible for the things that
2 were in the pockets. In fact, I believe if it wasn't
3 stated at the hearing then please disregard it, Your Honor,
4 but I think that at some point it was mentioned that
5 Hudgins was arrested and had -- for the marijuana in his
6 pocket. Well, of course he was. Phil Helms can't be
7 arrested for something that's in somebody else's pocket.
8 There's absolutely no indication whatsoever that he would
9 have any idea what is in somebody else's pocket. The same
10 goes for Robin's purse when it was searched. There's no
11 indication that he can possibly have any idea what is in
12 that purse and therefore there's a relevancy issue.

13 Now, when I refer to a relevancy issue, what I'm
14 saying is they do have to show some minimum standard that
15 Phil Helms should either know or have some reason to know
16 what these items are in order to hold him responsible for
17 these items. Because they're saying that this is an
18 indication that Phil Helms was engaged in a conspiracy, I
19 take it, with these individuals; but simply saying that he
20 was involved in a conspiracy and there was some other
21 evidence that he may have cooked meth doesn't provide
22 enough of a nexus between what they found and what they
23 know that he knew, which is they have no idea whether he
24 knew what was inside these people's pockets.

25 They didn't produce any phone records, they didn't

1 produce any items that came out of the car, no physical
2 evidence whatsoever. The fact that Phil Helms had any idea
3 what was in the pockets of these people is purely
4 speculative. It is extremely prejudicial and -- which is
5 an additional argument that is extremely prejudicial -- and
6 it's minimally probative. This doesn't -- because they
7 can't show that he knew anything about it. So the
8 probative value is minimal at best. Even if it is
9 relevant.

10 And the prejudicial value is heavy because it goes
11 to that question that we asked that jury, Your Honor, you
12 know, would you believe that somebody was guilty simply
13 because they're around people that may have committed a
14 crime. I mean the reality is we've all been taught since
15 we were children and I have no doubt -- regardless of what
16 instruction you give the jury -- that they're going to hold
17 Phil Helms responsible for the items that are held in, that
18 are in other people's pockets; they're going to assume that
19 because he was with criminals that he must be a criminal
20 and that's inappropriate, as you well know. That's an
21 inappropriate inference for the jury to make and we think
22 that on that basis, everything in the pockets should be,
23 should be suppressed.

24 So there's three arguments. We don't believe that
25 they, that the warrant necessarily covered the search of

1 individuals. We don't believe that the items are relevant.
2 And even if the items were in some way minimally relevant;
3 their prejudicial value far outweighs the probative value
4 of these items.

5 Now the argument for the Mustang is really
6 identical and so I won't go into great detail about that.
7 It's really that three prong argument that I just made
8 again. That -- that vehicle drove up into Phil Helms'
9 backyard. There is, I mean I really I went into detail as
10 much as I could for the benefit of Your Honor as to any
11 possible way that they could show other than pure
12 speculation that Phil Helms knew what was in that vehicle.

13 To say that he did know what was in that vehicle is
14 completely speculation. In fact, what the evidence would
15 tend to indicate is that absolutely nothing was found in
16 his house, nothing to indicate that he was involved in the
17 manufacture of meth. There was not one piece of evidence
18 that was placed into the record to indicate that he -- that
19 manufacturing meth occurred inside of his house. And so
20 it's reasonable to assume, if anything is assumed, that
21 these other people may be involved in the manufacture of
22 meth, but Phil Helms doesn't have anything to do with it.
23 And they can't provide that critical nexus between them
24 possessing the items and him having deposited any sort of
25 knowledge whatsoever.

1 So on that basis, Your Honor, we would say that it
2 cannot be relevant in this trial because they can't show
3 any nexus between what he knew and what was in the car;
4 that even if they can show a minimal nexus that is relevant
5 in some way, shape, or form, he's basically being blamed
6 for the bad behavior of others. I mean there's no doubt
7 there was an entire cook in that car. And -- and I have no
8 doubt that if that car comes in, that is going to swing
9 this trial significantly against Phil Helms' favor and he
10 basically -- it -- but it's going to occur on improper
11 inference, that because these other people are doing
12 something bad, because these other people have items in
13 their car, that, therefore, Phil must be doing something
14 bad. And Your Honor, that in -- this Court cannot allow
15 jurors to possibly make that inference.

16 So once again, the three reasons are the same
17 reasons that I discussed for the pockets. It's not
18 relevant because they can't show the nexus between his
19 knowledge and what's in that car; even if they were able to
20 show that, it is minimal probative value because they once
21 again cannot show that he had any idea; no phone records,
22 no items that he owned in the car, nothing to show that he
23 had any interest in this car whatsoever.

24 In fact, we're abandoning any argument that Phil
25 Helms would have a privacy interest in this car. We're

1 abandoning any argument that Phil Helms would have a
2 privacy interest in the pocket of another person and -- but
3 that goes directly to our argument. He has no privacy
4 interest because he doesn't know what's in there.

5 So we believe three arguments, not relevant; more
6 prejudicial than probative; and we don't believe
7 necessarily that the search -- oh the final, I didn't cover
8 this. And the final one is that this -- this -- this
9 particular, the Mustang may not have been subjective to the
10 search warrant for Phil's property anyway. But once again,
11 I say we're abandoning any privacy interest that he had in
12 the car.

13 The Durango, same thing goes for the Durango, Your
14 Honor. The Durango, there's a picture. You can look at
15 the picture yourself; it's in evidence for the purposes of
16 this hearing. They were not able to show that Phil Helms
17 had any knowledge of what was in that car either. They did
18 establish that the car had been on the property for a
19 period for time; however, he does not own that car. I'm
20 actually prepared to concede that that car would be subject
21 to the search warrant itself, and so my argument is going
22 to be, Your Honor, that there's no evidence that he would
23 have any knowledge of what's in that car. That car
24 belonged to either Robin or Renee Krantz, one of the -- one
25 of the Krantz's. The, you can look at the picture

1 yourself. The items are jammed up underneath the -- the
2 driver's side of the car that Paige Barnes testified that
3 when she walked around that she could not easily see and
4 she had to actually walk up and looked inside the car.

5 So we don't believe that there's -- that there's --
6 that it's relevant. I do believe that the search of the
7 vehicle is proper pursuant to the warrant, but we don't
8 believe that it's relevant in the sense that they can't
9 show that Phil Helms had any knowledge of what was in the
10 vehicle. And we don't believe that they could -- that even
11 if they could show some minimum relevance, it would
12 still -- the prejudicial value would out, outweigh any
13 probative value it has.

14 Now, you will notice, that I'm really trying not to
15 be completely childish and just move to suppress
16 everything. The burn pile was out in the open. He had
17 said to them that he was burning stuff. I'm not going to
18 sit here and try to tell you that they can't show a nexus
19 between what's in the burn pile and his knowledge. I think
20 the burn pile is going to be admissible because they can
21 show that nexus. They can show that he went out there and
22 he might have seen it; that there's reason to believe that
23 he saw it, or that a reasonable person would have saw it.
24 But they can't show this with any of the other evidence,
25 Your Honor, and I believe that all of it should be

1 suppressed.

2 And I think that's all I have unless I forgot an
3 issue that I raised.

4 THE COURT: All right.

5 Yes, sir?

6 MR. BELL: Thank you, Your Honor. Beginning with
7 the items found in people's pockets, this is a case where
8 the search warrant was not to search an individual person;
9 it was to search this place and the reason that this place
10 was to be searched was because of circumstantial evidence
11 that amounted to the manufacture of methamphetamine.

12 As Your Honor knows, conspiracy is not proven by
13 any contract. With that said, any actual knowledge of
14 Phillip Helms about manufacturing methamphetamine truly
15 isn't -- isn't relevant here to getting a search warrant.
16 All that is relevant to them obtaining a search warrant to
17 search Phillip Helms' property is finding what amounts to
18 probable cause that methamphetamine is being manufactured
19 there.

20 With that said, Your Honor, as far as items found
21 in people's pockets, specifically with, in reference to the
22 Pseudoephedrine receipts found on Jimmy Johnson, he was
23 arrested that very same day in relation to the incident
24 that they responded there in the case that they were
25 building that day. And any arrest is going to be followed

1 with a search incident to arrest. Those items would have
2 inevitably been discovered regardless of whether or not
3 they may have had probable cause to seize those items from
4 him earlier on.

5 As far as the red Mustang goes, as Your Honor once
6 again knows, vehicles -- you don't have to have a search
7 warrant to search them. You just need independent probable
8 cause that's defined by the Carol Doctrine. In this case,
9 we have a vehicle that arrived on a crime scene where they
10 were doing an investigation of manufacturing
11 methamphetamine. Case law establishes that there is
12 typically a nexus between firearms and narcotics activity.
13 And in this case, in an abundance of caution, the officers
14 stopped that vehicle to protect officer safety.

15 Additionally, Agent Merckle testified on the stand
16 that upon approaching that vehicle, he was able to see
17 through the window and in plain view saw a grocery bag of
18 some sort that had a multitude of different items that can
19 be used for the manufacture of methamphetamine; and that
20 typically when those items are seen together or in close
21 proximity, his experience as a law enforcement officer,
22 they indicate that methamphetamine is potentially being
23 manufactured.

24 We believe these things amount to a probable cause
25 search of that vehicle. And further, both based on the

1 inevitable discovery doctrine and based on the probable
2 cause to search the vehicle, that the items found on those
3 individuals are also admissible.

4 Once again, Your Honor, the statute for
5 manufacturing methamphetamine clearly lays out that it's
6 not just the individual act of manufacturing
7 methamphetamine, but also any attempt to aid, abet, or
8 assist in a conspiracy to manufacture methamphetamine and
9 our case is built around a conspiracy to manufacture
10 methamphetamine. It's not any one piece of evidence, it's
11 not finding the defendant, Phil Helms, with methamphetamine
12 or a one pot cook in his hand that we're building this case
13 off of. It's the fact that they responded to a tip to the
14 house. When they went in, the defendant tells them he's
15 out there burning stuff.

16 When they investigate the burn pile of things that
17 are being burned, they find multiple items which are
18 typically associated with the manufacture of
19 methamphetamine, including a bottle with a tube stuck out
20 of it, noticed an acid generator; the further search of the
21 house, which revealed once again receipts in one of the
22 individuals' pockets for the purchase of Pseudoephedrine
23 that very same day, as well as a vehicle which arrives on
24 scene which contains an individual already related to
25 somebody on the premises and with a bag full of what you

1 need to continue the manufacture of methamphetamine.

2 Additionally in that same vehicle was a center
3 console full of lithium batteries also used for the
4 manufacture of methamphetamine.

5 Your Honor, all of these things amount to a
6 conspiracy to manufacture methamphetamine, and certainly we
7 would find all of these items relevant to our case that
8 builds around conspiracy to manufacture methamphetamine.

9 THE COURT: Yes, sir?

10 MR. KIRKLAND: Your Honor, I -- you know, a lot of
11 the items that they found in the house and that they're
12 going to introduce into evidence such as we didn't talk
13 about it at this hearing, but they're going to introduce
14 something called a chalet, I don't know if you've ever
15 heard that term before, but it's a piece of tinfoil that
16 they found in the house that they think somebody smoked
17 meth off of. They didn't test it, but they're going to
18 introduce that item. They're going to introduce -- I think
19 there were two of those.

20 They may introduce -- they're going to introduce
21 the pictures of the burn pile; they're going to, you know,
22 they're going to introduce the stuff they pulled out of the
23 house. I haven't made any objection to any of that stuff
24 because there is some -- if they can show that it's
25 possible that Phil knew about those things, that they can

1 show that, you know, that they're somehow connected to him.
2 But they're trying to show that things are connected to him
3 that are in the pockets of other people. They're trying to
4 show that somethings connected to him, this car that drove
5 up during the search warrant, but they can't ever, they
6 can't show that critical little part that he either knew or
7 had reason to know. I mean if they could just -- I do a
8 lot of federal work and if they could just show phone
9 records that he was in contact with these people
10 immediately before; they don't have any information that
11 they've introduced to you that he even knows these people.

12 There's no information that he even has any clue
13 who they are. If anybody should be charged with a
14 conspiracy, they have shown a relationship between the two
15 Krantz's. They haven't shown a relationship between
16 Phillip Helms and any -- the people in that Mustang or
17 anything that's in that Mustang.

18 THE COURT: Quick question. Didn't she testify
19 that someone lived there. Wasn't there evidence -- I
20 thought there was some testimony --

21 MR. KIRKLAND: Yes, there's a Renee Krantz that
22 lives there. That's the --

23 THE COURT: I thought the gentlemen was staying in
24 the house, so --

25 MR. KIRKLAND: Jimmy Johnson. And they found

1 something in Jimmy Johnson's pocket; Renee Krantz and Jimmy
2 Johnson. But what I'm saying is, they're missing the
3 critical element of that you've got to get over the first
4 step because a conspiracy is, they have to show that there
5 is an explicit or tacit agreement between two or more
6 people. They cannot put even any evidence concerning this,
7 that Mustang that Phil Helms even knows who these people
8 are. There's not one piece of evidence that he has any
9 clue that he's ever interacted with them, that he knowed
10 what was in the car or anything.

11 But they've got to have that little piece, that
12 little piece that connects it and creates a permissible
13 inference that he was in a conspiracy or had some kind of
14 agreement. Just the fact that somebody drove up into the
15 yard is not sufficient, Your Honor. And that Mustang above
16 all else should be suppressed in this case. I have not
17 been fighting about the stuff they found in the burn pile;
18 I've not been fighting about the stuff that they found in
19 the house; and that is their case; that burn pile and the
20 house.

21 What's in somebody's pocket when they can't show
22 that a person would have any reason to know what's in their
23 pockets, I think that should be inadmissible and I think
24 that that car is clearly inadmissible because they haven't
25 put the piece, that middle piece, that piece between what's

1 in the car, some criminal activity in the car and in some
2 way that Phil Helms is involved in that criminal activity
3 of that car. They don't have the piece.

4 They could've, you know, they could've tried to
5 recover it. They received -- they searched everybody's
6 cell phone. They could have at least had Phil calling them
7 or something. Every single cell phone in this case was,
8 was seized, but they have nothing, nothing that ties him to
9 the car other than it drove into his house.

10 MR. BELL: Your Honor, if I may very briefly
11 respond?

12 THE COURT: Yes, sir.

13 MR. BELL: Your Honor, I just want to say the
14 actions of the co-conspirator is always admissible as to a
15 defendant. The defendant was on the property while on
16 these things that we're alleging are part of the conspiracy
17 took place. Additionally, the defendant, by his own
18 admission, said when asked who was in the house, he said
19 just some friends. He was referring to include Jimmy
20 Johnson and Renee Krantz, who said they were living there.
21 Robin Krantz was in the vehicle that arrived on his
22 property. That is Renee Krantz's sister.

23 And, Your Honor, all these things create a nexus
24 which by definition is an inter connective web of events or
25 ideas or things that took place and all those things do

1 create a nexus in this case.

2 MR. KIRKLAND: And I think that maybe Mr. Bell did
3 not misrepresent something, but I think because you're
4 hearing all these names for the first time, you may get a
5 little mixed up. So I want to make sure we understand who
6 everybody is.

7 We have Renee Krantz in the house. We have Jimmy
8 Johnson in the house. There's also Olivia Mason, but she
9 hasn't come up in any of these hearings.

10 Now Renee Krantz is the sister of Robin Krantz.
11 Robin Krantz is in the Mustang. This Hudgins, Hudgins or
12 Huggins was in the Mustang. And they can establish
13 potentially a nexus between Robin and Renee since they are
14 sisters. There is nothing that establishes a nexus just
15 because Phil knows Renee, they can't possibly say that it
16 is reasonable to believe that he must know Robin. And so I
17 still think they're missing the critical element.

18 THE COURT: But for purposes of the suppression
19 hearing, I understand you may make that argument after we
20 hear all the evidence on a DV motion, but for purposes of
21 the suppression hearing, I just want to make sure I'm clear
22 on the two issues you're asking the Court to suppress the
23 belongings that were found in the pockets --

24 MR. KIRKLAND: Correct.

25 THE COURT: -- of the other people on the scene.

1 MR. KIRKLAND: Correct.

2 THE COURT: And the items that was found in the red
3 Mustang; is that correct?

4 MR. KIRKLAND: And the -- and the Durango.

5 THE COURT: And the Durango?

6 MR. KIRKLAND: Yes. And I'll walk back through it
7 just to organize it so it'll be easier.

8 THE COURT: I got it. And your -- and I understand
9 the arguments on the red Mustang. I'll start with that.

10 When I looked at the case law, well actually I'm
11 going to start with the belongings on other people and
12 you've already stated this, but the case law is pretty
13 clear and overwhelming that, I mean, that a defendant
14 cannot assert the Fourth Amendment rights of others and
15 there's a case Alderman v. United States that says that
16 discretion of the product of a Fourth Amendment violation
17 can be successful only by those whose rights are violated
18 by the search itself, not by those who are agrieved solely
19 by the introduction of damaging evidence.

20 MR. KIRKLAND: Yes, ma'am, I abandoned that issue.
21 If you'll recall, I said I didn't believe that Phil Helms
22 had a privacy interest in that vehicle. So during my
23 arguments and my --

24 THE COURT: I understand. I guess is what I'm
25 trying to figure out is what --

1 MR. KIRKLAND: Okay.

2 THE COURT: --- is the Fourth Amendment violation
3 that would lead to the suppression of the items found in
4 other people's pockets and I know you can't -- I'm trying
5 to figure out what the violation is.

6 MR. KIRKLAND: Right. I'm abandoning the Fourth
7 Amendment violations.

8 THE COURT: Okay.

9 MR. KIRKLAND: I had said so much, I know it got
10 confusing. I do that all the time.

11 THE COURT: Okay.

12 MR. KIRKLAND: I'm abandoning because in order for,
13 for Phil Helms to assert a Fourth Amendment violation, he
14 must prove he has a privacy interest.

15 THE COURT: I understand.

16 MR. KIRKLAND: And so I'm telling you he has no
17 privacy interest in that Mustang, no privacy interest in
18 their pockets. However, what I am maintaining is that
19 these should be suppressed on the basis of it's a violation
20 of the Rules of Evidence that these are items are not
21 relevant because they cannot show the nexus between Phil
22 Helms' knowledge and -- they're trying to prove a
23 conspiracy and what's in these -- and what's in the car.

24 Additionally, even if they were to show some
25 minimal form of relevance, that the evidence is far more

1 prejudicial than probative for the same reason, that they
2 cannot -- they don't have the critical step in the middle
3 is what I'm saying.

4 THE COURT: So your argument is that the -- the --
5 your argument is relevance and even if it's relevant that
6 under the, that the prejudicial effect outweighs the
7 probative value.

8 MR. KIRKLAND: Right. And the relevance is
9 founded -- and the relevance argument is founded on the
10 fact that they are unable to show a nexus between what's in
11 the vehicle and any knowledge that Phil Helms has of what's
12 in the vehicle and without that nexus, they cannot simply
13 introduce it. You know, we're going into territory then of
14 the jury's going to be able to draw an inference that just
15 because bad people drove up in his yard that he must have
16 been up to something bad. And that's an improper
17 inference.

18 In order for them to establish a conspiracy, they
19 to show that there was some agreement, either tacit or
20 explicit. They only show that the car drove up. There's
21 nothing in the physical evidence in the car to indicate any
22 sort of agreement. There's no indication that he even
23 knows these people. There's nothing put into the record
24 that he has even spoken to them ever in his life and that
25 we believe that the red Mustang for evidentiary reasons is

1 not relevant and even if it is, it's more prejudicial than
2 probative on the issues.

3 The items in the burn pile, the items in the house
4 are admissible; we're conceding that. The items in
5 people's pockets, we're making the same relevance issue
6 that they can't -- they can't show that Phil Helms had any
7 idea what was in there. And even if they establish some
8 minimal connection of relevance, they can't; it's more
9 prejudicial than probative because, like I said, I -- I
10 don't even know what the connection would be other than he
11 was standing near it potentially at some point in time.

12 THE COURT: All right. So your -- I guess your
13 motion is a motion to exclude based on relevance.

14 MR. KIRKLAND: Relevance and 403.

15 THE COURT: Yes.

16 MR. KIRKLAND: Is the --

17 THE COURT: All right.

18 MR. KIRKLAND: And it's found in the course in the
19 fact that they're trying to show aiding and abetting for
20 conspiracy and the nexus doesn't exist between what they
21 found and what they can show he knew or even knew about.

22 THE COURT: All right. Any response?

23 MR. BELL: Would you like a response specifically
24 on those two grounds?

25 THE COURT: Yes.

1 MR. BELL: Your Honor, with regards to relevance,
2 just once again this is a manufacture of methamphetamine
3 case which consists of conspiracy to manufacture
4 methamphetamine. In the vehicle was a bag full of items
5 used or typically used for the manufacture of
6 methamphetamine. They are certainly relevant to this case.
7 As far as whether or not it's probative or prejudicial, if
8 we have, every time, items used to manufacture
9 methamphetamine are suppressed because it's prejudicial, we
10 could never make a case against manufacturing
11 methamphetamine.

12 These items are found together, once again, and
13 typically used to manufacture methamphetamine. We believe
14 that is probative of this case and not overtly prejudicial
15 as Defense would certainly argue. Those items standing
16 alone could be used for an innocuous or innocent use.

17 MR. KIRKLAND: And the difference that we have in
18 our understanding, Your Honor, is very simple. You know,
19 he's maintained that simply because the -- the items showed
20 up on the property, then therefore, they're automatically
21 relevant and I'm saying that in order to make them
22 relevant, they have to show a connection between something
23 that Phil knew and what's in those cars; and if they can't
24 make at least some minimal connection, they can't introduce
25 it against him. Because it -- it's -- if they would show

1 he has any reason to know, nothing, what was in that car.
2 I mean it's relevant in a meth -- don't get me wrong, what
3 they're arguing is that in a manufacture of meth case,
4 these things are relevant. Yes, they are relevant and
5 they're relevant against Hudgins and Krantz, who were in
6 that car; they're very relevant. But are they relevant
7 against Phil Helms, who had no idea and nobody told you
8 from the stand that he had any way to know any idea
9 against -- about what was in the car.

10 I mean that's sort of the disconnect between my
11 argument and their argument is they can't, they're saying
12 it's relevant in a meth case; sure it is, just not Phil
13 Helms' meth case, because Phil Helms -- they had to
14 establish the, the nexus, the causal, the connection
15 between these things that they're trying to introduce
16 against him.

17 I think that clears up exactly what the difference
18 is between all of our arguments.

19 MR. BELL: Your Honor, the State believes you can
20 address this as an approach.

21 THE COURT: All right.

22 MR. BELL: Nothing further.

23 THE COURT: All right. Well, based on the elements
24 of -- well first of all, as to the suppression part, I'll
25 address that and -- I think I've already addressed the

1 belongings of other people. Alderman v. United States --
2 and I understand that the Defense is not -- is conceding
3 that argument, but for purposes of the suppression hearing
4 and any violation of -- any violation of the amendments I'm
5 just going to make a ruling on that that -- that the -- the
6 belongings of the other people, of course, the defendant
7 does not have any standing to assert any Fourth Amendment
8 violation.

9 As to the automobile exception, my understanding is
10 the reason for the suppression motion -- I'm going to get
11 to the relevancy after we discuss the suppression part.
12 But I'll hold that exception under the -- as to the
13 automobile, the red Mustang and the Durango, I find that
14 the search warrant would have covered the cars on the
15 scene. I believe the Defense's position regarding the red
16 Mustang was that it was not there at the time that the --
17 at the time that the search warrant was issued; it arrived
18 somewhere in between, but not when the call was made
19 regarding the -- regarding the issuance of the search
20 warrant to Investigator Govan.

21 I do find that the search warrant would have
22 covered the car on the scene, meaning the red Mustang. The
23 Durango was there. I further find that even if the search
24 warrant would not have covered the red Mustang, that the
25 automobile exception would apply to the search of the car

1 on the scene.

2 As to the issue of relevancy, in reviewing the
3 indictment and the allegations and elements, it -- I mean
4 the elements is that knowingly, intentionally, willfully,
5 and unlawfully manufacturing or otherwise aiding or
6 abetting, attempting, or conspiring to manufacture a
7 quantity of methamphetamine. Because the State -- the
8 State has put forth -- well the elements require -- the
9 elements of the statute is conspiring and aiding and
10 abetting, I do find that the -- that the items found in the
11 car and on the other people is relevant to this case. The
12 probative value of whether or not the defendant was aiding,
13 abetting or attempting to conspire to manufacture a
14 quantity of methamphetamine is probative.

15 I further find that the prejudicial effect -- that
16 the probative value outweighs any prejudicial -- any
17 prejudicial effect that has been presented thus far.

18 Of course, the Defense will have an opportunity
19 once we get into the testimony to make his motion again, I
20 guess at the point of directed verdict, if there is no link
21 between -- if the State's not able to show any link between
22 his intent to -- based on this being a suppression hearing
23 and the violation of the Fourth -- the Fourth Amendment
24 violation, I do find that the items found in the vehicle,
25 both vehicles, and on the persons at the scene is

1 admissible. Your Motion to Suppress should be denied for
2 that purpose.

3 Now, Mr. Kirkland, you can make -- if they're not
4 able to link it after they put up their case in chief in
5 full, then you'll be able to make that motion again
6 regarding whether not there's any evidence that shows that
7 he intentionally or knew anything about it.

8 All right. Any other motions?

9 Oh, as to your motion earlier, I did, I was able to
10 review the case law in State v. Thompson and State v.
11 Curvey and it says that an out-of-court statement is not
12 hearsay if it is offered for the limited purpose of
13 explaining why a government investigation was undertaken
14 and that's -- and also that case is U.S. v. Love 767 F 2nd
15 1052 and State v. Brown which is 451 S.E. 2d 838, which is
16 a Supreme Court case.

17 So as to -- I believe the testimony that the State
18 was wishing to get in was that there was an anonymous tip.

19 MR. BELL: That's accurate, Your Honor.

20 THE COURT: All right. And so that, that statement
21 will be admissible based on the rulings in those two cases.

22 MR. KIRKLAND: The last issue that we have, Your
23 Honor, I'm going to withdraw the Jackson v. Denno issue,
24 but there's no evidence of custody so I'm not going to
25 pursue it.

1 THE COURT: All right. Anything else before we
2 recess for the evening?

3 MR. BELL: Nothing from the State, Your Honor.

4 MR. KIRKLAND: Let me look at my list real quick
5 just to make sure, Judge.

6 I'm sure that you did, but I just want to make sure
7 that I put on the record, my understanding is that you
8 ruled on both the Fourth Amendment violation, the relevance
9 issue, and the prejudicial versus probative issue for each
10 of the items that I --

11 THE COURT: Yes, sir.

12 MR. KIRKLAND: -- and you denied all of those?

13 THE COURT: Yes, sir.

14 MR. KIRKLAND: Thank you.

15 THE COURT: All right. With leave to, of course,
16 after they put up their case, with leave to make that
17 argument for purposes of the record.

18 MR. KIRKLAND: Yes, ma'am.

19 THE COURT: Or any other objection you may have.

20 MR. KIRKLAND: Yes, ma'am.

21 THE COURT: All right. I'll see you all at --
22 we'll be ready for opening statements at 9:30 tomorrow
23 morning. All right. Thank you.

24 MR. BELL: Thank you, Judge.

25 (WHEREUPON court was in recess until the following

1 day.)

2 TUESDAY, APRIL 1, 2014

3 THE COURT: All right. We ready to get started?

4 MR. BELL: Yes, ma'am.

5 MR. KIRKLAND: Yes, ma'am.

6 THE COURT: Mr. Bell, you will be doing opening
7 statements on behalf of the State?

8 MR. BELL: Co-counsel, Michael Ross, will.

9 THE COURT: Okay. All right. And of course, Mr.
10 Kirkland, you will be?

11 MR. KIRKLAND? Yes, ma'am.

12 THE COURT: All right. And any issues we need to
13 take up before we get started?

14 MR. BELL: None from the State, Your Honor.

15 MR. KIRKLAND: None, Your Honor.

16 THE COURT: All right. You can bring the jurors
17 in.

18 (WHEREUPON the jury entered the courtroom at 9:49
19 a.m.)

20 **OPENING REMARKS BY THE COURT**

21 THE COURT: Good morning, ladies and gentlemen of
22 the jury, I hope that you all had a restful evening. At
23 this time, we are about to begin the trial and the case of
24 the State of South Carolina versus Phillip Earl Helms.

25 Before we begin, I am going to ask the -- I'm going

1 to ask the Clerk to -- we'll go ahead and swear them in.

2 (WHEREUPON the jury was sworn at 9:50 a.m.)

3 THE COURT: All right, ladies and gentlemen of the
4 jury, what I will now say is intended to serve as an
5 introduction to the trial of this case. These remarks are
6 not a charge of the law in this case. I will instruct you
7 on the law applicable to this case at the end of the trial
8 before you retire to consider your verdict. This is merely
9 an explanation of the procedure that we will follow in the
10 trial of this case so that you may better understand what
11 may be happening. You are not to take any notes during
12 this trial.

13 The defendant in this case is charged by the
14 indictment filed in this Court with the crime of
15 manufacturing of methamphetamine, the elements of which
16 will be explained to you later.

17 The indictment is simply the charge by which the
18 case is brought into Court and is not in any sense evidence
19 of any of the allegations it contains. The defendant has
20 pled not guilty to this indictment. The State, therefore,
21 has the burden of proof -- the burden proving each of the
22 elements of the indictment beyond a reasonable doubt. And
23 it will be your duty, ladies and gentlemen, to decide
24 whether the State has met, met that burden.

25 Your purpose as the jurors is to find and determine

1 the facts. You're the sole judges of the facts. I cannot
2 at any time make any comment regarding the facts. You
3 must -- and if I do make any comment, you must disregard
4 it. You determine -- you are to determine the facts from
5 the testimony you hear and the other evidence introduced in
6 court. It is up to you to determine the inferences which
7 you feel may properly be drawn from the evidence. It is
8 especially important that you perform your duty to
9 determine the facts diligently and conscientiously because
10 ordinarily, there is no way to correct an erroneous
11 determination of the facts by a jury.

12 On the other hand and with equal emphasis, the same
13 law that makes you the judges of the facts, makes me the
14 judge of the law. The law as given by the Court is the
15 only law you may consider. You must accept and follow it
16 even though you may disagree with it. I cannot tell you
17 what the facts are and you cannot disagree with me about
18 what the law is or what the law should be.

19 Your job is to take the law as I give it to you and
20 apply it to the facts as you find them from the testimony
21 of the witnesses and any other evidence that is introduced.
22 After doing that, you will render your verdict, a true and
23 just verdict, under the solemn oath that you just took as
24 jurors.

25 Until I advise you to begin your deliberations, you

1 must not discuss this case with anyone, including your
2 fellow jurors, friends, family members, and anyone involved
3 in the case. This includes discussions face-to-face and
4 those by telephone, e-mail, text, blogs, or any other
5 method of communication. After the case is submitted to
6 you, you must discuss it only in the jury room with your
7 fellow jurors.

8 The attorneys and the parties in this case have
9 been advised that they are not to talk to you at all. So
10 if you see anyone involved in the case and they do not even
11 say hello, they're not being rude or unfriendly, they're
12 just following my instructions. During the trial, do not
13 read, listen to, or watch, any news reports about this
14 case. This includes anything that may be or may have been
15 in a newspaper or on the internet, radio or television.
16 You must not consider anything you may have heard or read
17 about this case outside the courtroom whether before or
18 during the trial.

19 It is important that you keep an open mind and not
20 decide any issue in the case until all the evidence has
21 been presented, the parties have made their closing
22 arguments, and I have instructed you on the law in this
23 case. It is your solemn responsibility to determine the
24 guilt or innocence of the defendant and your verdict must
25 be based solely on the evidence as it is presented to you

1 in this trial and on the law as I instruct you during and
2 at the close of the trial.

3 In just a moment, the Solicitor will make what is
4 called an opening statement in which the Solicitor will
5 explain to you the issues in this case or at least what the
6 Solicitor thinks the issues are in the case. The attorney
7 for the defendant, Mr. Kirkland, may also make an opening
8 statement, although he is not required to do so.

9 What the attorneys tell you during the opening
10 statements is not evidence in this case. It is only their
11 contention as to what the issues are. The evidence in this
12 case will be presented to you by the testimony of sworn
13 witnesses from the witness stand and/or by exhibits that
14 may be introduced into evidence.

15 From time to time in the trial, you may hear one of
16 the lawyers say something like, Your Honor -- Your Honor, I
17 believe we have a question of law, or a matter of law to
18 discuss with you; or, Your Honor, I may we approach the
19 Bench or sometimes I, myself, might find it necessary to
20 excuse you from the courtroom for a short while so the
21 attorneys and I can discuss a matter of law.

22 The reason for this is because you are the judges
23 of the facts in this case and sometimes when I am
24 discussing matters of law with the attorneys, it may be
25 necessary for me to make some comment as to the facts in

1 connection with ruling whether or not a particular law
2 applies. I'm not supposed to tell you what I think the
3 facts are, so I will excuse you from the courtroom while
4 these discussions take place so that in no way will you be
5 influenced by anything that I may say or do in connection
6 with the facts.

7 In determining what the true facts are in this
8 case, you must decide whether or not the testimony of the
9 witness is believable. It is my responsibility to rule as
10 a matter of law as to whether certain testimony is
11 admissible at all or not, but once the testimony is
12 admitted, whether or not you believe it is solely for you
13 to determine. In deciding whether to believe a witness,
14 you have the right to consider the interest of any witness,
15 the bias of any witness, the prejudice of any witness, the
16 opportunity for the witness to have seen the matters and
17 the things about which the witness may testify, and the way
18 the witness acts on the witness stand.

19 You have the right to consider anything that is in
20 the record that will help you evaluate the testimony of the
21 witnesses. That means that it is your duty to pay close
22 attention to these witnesses, to observe the witnesses, to
23 listen to the witnesses and to pay close attention to the
24 attorneys and the Court. Do not let your thoughts wander,
25 but give strict attention to the testimony in this case so

1 that at the end of all of the testimony, after the
2 arguments of counsel and the charge on the law by the
3 Court, you will be in a position to determine what the true
4 facts are and to apply the law to those facts and thus
5 render a true and just verdict.

6 Madame forelady, it is your added duty to preside
7 in the jury room and be the juror's spokesperson here in
8 court. It will also be your duty to write the verdict, but
9 I will give you further instructions about that at the
10 conclusion of this case.

11 If there is any questions or any issues that you
12 have, the Court knows there's some notebooks in the jury
13 room; report those to the forelady.

14 And Madame Forelady, you will write the question or
15 concern and then sign your name as the foreperson on the
16 bottom and forward that to the bailiffs.

17 All right. In order to preserve everyone's rights,
18 I will give the parties an opportunity to object to
19 anything that I've said.

20 Any objections or exceptions on behalf of the
21 State.

22 MR. BELL: None from the State, Your Honor.

23 THE COURT: Any on behalf of the Defense?

24 MR. KIRKLAND: No, ma'am, Your Honor, I would
25 appreciate it if you could instruct the jury on Mr. Helms'

1 condition, that we may need to take breaks; has your law
2 clerk discussed that with you?

3 THE COURT: I'll allow you, since you are more
4 familiar with his condition, to discuss that.

5 MR. KIRKLAND: Is that okay, Mr. Bell?

6 We've agreed on what to say, Your Honor, and so
7 what I'll say to the jury is because of Mr. Helms' physical
8 condition, you know the physical condition that requires
9 him to on occasion need bathroom breaks, he does not
10 receive the sort of warning that we all do leading up to
11 needing to go to the bathroom. So there may be a point in
12 time during this trial that I jump up and say we need a
13 break right now.

14 It is not to interrupt Mr. Bell or even myself for
15 that matter. It may be Mr. Slice that jumps up and tells
16 the Judge that he only has three to five minutes to get to
17 the bathroom. So I just wanted to make you aware of that.

18 THE COURT: All right. Thank you. All right. We
19 are ready for opening statements. You will hear first from
20 Mr. Ross on behalf of the State. And then you will hear
21 from Mr. Kirkland on behalf of the defendant.

22 **OPENING STATEMENTS**

23 MR. ROSS: May it please the Court, Your Honor?

24 THE COURT: Yes, sir.

25 MR. ROSS: It takes two to tango. I love that

1 expression. I love it because when I say it takes two to
2 tango, you know I ain't talking about dancing. I could be
3 talking about just about anything in life. Because most
4 things we do in life require two, three, four, or even more
5 people to get done. A crime is no different. Most crime
6 involves more than one person and when two or more people
7 agree to commit a crime, we call that a conspiracy.

8 Phil Helms, this fellow over here, is charged with
9 being at the center of a conspiracy to manufacture of
10 methamphetamine. Now, today is his day in Court, but
11 during the course of this trial, you're going to hear about
12 all of his co-conspirators too; all of his buddies that
13 were coming over to his trailer for meth.

14 Now the facts that you're going to hear are going
15 to be very simple. On June 11th, 2013, narcotics officers
16 received a tip about [REDACTED] This is a
17 single-wide trailer out in the country near Gaston. That's
18 where Phillip Helms lays his head at night; what he calls
19 home.

20 Three officers arrived there at about 4:45 in the
21 afternoon and they saw Mr. Helms in his backyard by a burn
22 barrel. They explained why they were there and Mr. Helms
23 says, I'm just out here burning stuff. He give them
24 permission to look around and that is exactly what they
25 did. And it didn't take them long to find in that burn

1 barrel, in broad daylight, the remnants of a meth lab.
2 Those officers also found three of Mr. Helms' buddies in
3 that trailer too. They found his girlfriend, a girl named
4 Olivia Mason. Found another girl named Renee Krantz.
5 Then they found a fellow named Jimmy Johnson. All those
6 folks were inside the trailer when the cops arrived. But
7 based on the meth lab in the burn barrel, those officers
8 got a search warrant.

9 When they had that search warrant, obviously they
10 began searching. And one of the first things they found,
11 were two gallons of Coleman camp fuel in a Dodge Durango in
12 that backyard. They also found receipts for Sudafed in
13 Jimmy Johnson's pockets. That was the guy that was in the
14 trailer when the cops got there. So as the officers
15 continued to search, after they'd been there awhile, two
16 more of Mr. Helms' buddies pull up on the scene, pull into
17 his backyard in a red Mustang. Another Krantz, a girl
18 named Robin Krantz was in that car with her friend, Phillip
19 Huggins -- or Charles Huggins. Inside of that car, they
20 also had Sudafed, drain opener, coffee filters, lithium
21 battery strips, all the ingredients you would need to make
22 more meth.

23 Ladies and gentlemen, during the course of this
24 trial, you're going to learn more about meth and meth labs
25 than you probably ever wanted to know. You're going to get

1 so deep into the leads of how to cook meth that you're
2 going to think you're in an episode of Breaking Bad.

3 But ladies and gentlemen, this is not TV. This is
4 real life, Lexington County, South Carolina. And the folks
5 that are going to teach you about how to cook meth are the
6 same officers that deal with it every day. The same
7 officers that arrived on the scene on June 11th, 2013, and
8 those officers are going to explain to you that nowadays
9 you don't need a degree in Chemistry, you don't need fancy
10 equipment to cook meth. All you need is Sudafed, a few
11 household chemical products, and A Coke bottle.

12 Sudafed is an over the counter medication that I'm
13 sure each and every one of you have taken for a cold at
14 some point in your life. The scientific name for Sudafed
15 is Pseudoephedrine. You've got to show your ID these days
16 to buy Sudafed and the reason you get carded is because it
17 is the primary ingredient that is converted to
18 methamphetamine.

19 You take your Sudafed pills and you crush them up
20 and you put them in this Coke bottle. And from there you
21 add drain opener; you add Coleman camp fuel; you add
22 lithium battery strips; and you add ammonium nitrate.
23 Ammonium nitrate you can get from a cold pack that you
24 would put on a sports injury.

25 You put all these ingredients in this Coke bottle

1 and then you start shaking it up. And the energy that's
2 produced from shaking causes chemical reactions to go on
3 inside this Coke bottle that will convert the Sudafed into
4 methamphetamine. Ladies and gentlemen, it's as simple as
5 that. This Coke bottle essentially becomes your meth lab.

6 So I told you about most of the facts you're going
7 to hear in this case. Let me tell you about the law that
8 is going to apply. And at the end of the trial, Judge
9 Benjamin is going to charge you on the law. And listen
10 carefully to what she says because the law in this State
11 makes it illegal to not only to manufacture
12 methamphetamine, but also to aid, abet, attempt, or
13 conspire to manufacture of methamphetamine. Remember those
14 words, aid, abet, attempt, or conspire to manufacture of
15 methamphetamine.

16 So under the law, it doesn't make any difference if
17 you're the one shaking that bottle or if you're aiding,
18 abetting, or conspiring with whoever is shaking that
19 bottle. The law treats you both the same. And that's
20 important in this case because Mr. Helms was not alone in
21 this meth conspiracy. You're going to hear about all his
22 co-conspirators too. But after you hear all the evidence
23 in this case, your common sense will lead you to one
24 conclusion, that Mr. Helms was using his trailer as a meth
25 den.

1 The State will have proven number one, that they
2 had just cooked meth when the cops got there; and number
3 two, more individuals were on their way with more
4 ingredients to make more meth after the cops had arrived.
5 It's going to be as simple as that.

6 So, ladies and gentlemen, if you just rely on your
7 common sense, at the end of this trial, you will be firmly
8 convinced that Mr. Helms is in the center of a conspiracy
9 to manufacture methamphetamine. Firmly convinced, remember
10 those words, because that's the standard of proof the State
11 is held to in any criminal case. Firmly convinced, that's
12 what beyond a reasonable doubt means. After you hear all
13 the evidence in this case, the evidence will show and you
14 will be firmly convinced of Mr. Helms' guilt. That's why
15 at the end of this trial, we're going to ask that you find
16 him guilty as charged.

17 THE COURT: Thank you.

18 MR. KIRKLAND: Thank you, Your Honor, may it please
19 the Court?

20 THE COURT: Yes, sir.

21 MR. KIRKLAND: I -- I do take some exception with
22 the opening statement of the prosecution in this case. The
23 reality is that as Phil Helms sits over there at that
24 table, the Judge told you that he's presumed to be
25 innocent. But in reality, as you're going to discover as

1 you watch this trial, he is, in fact, innocent. He doesn't
2 have anything to do with all the things that you just heard
3 about that occurred on or around his property and they
4 can't show that he does. They cannot show any connection
5 between Phil Helms and these things that they found.

6 Now, being charged with a criminal offense such as
7 manufacture of methamphetamine, as you can imagine, it's
8 really serious. This is not like shoplifting. He's facing
9 serious deprivation of his liberty. There's a high
10 consequence of being convicted, but nonetheless, we are not
11 particularly worried and there's a reason why we're not
12 particularly worried. And the reason why is because we
13 don't live in North Korea; we don't live in Iran; we
14 don't -- we live in the United States and we have a
15 constitution.

16 We don't live in an area that just because you're
17 arrested for a crime, it means you did it. In fact, a part
18 of the questioning that the Judge went over with you
19 earlier on, you said that you recognized that fact. The
20 fact that somebody was arrested has no bearing on whether
21 they committed a criminal offense or not. And to be
22 charged with a criminal offense and not be guilty is not a
23 foreign concept in America. In fact, in the 1780's, from
24 like 1787 to 1789 when the founding fathers were writing
25 the constitution, they envisioned the exact scenario that

1 you are witnessing today. That an innocent man would be
2 charged with something that did not do it.

3 And because of that -- well, I can go back even a
4 little bit farther. The founding fathers obviously, as you
5 remember from school, they had -- they were suspect of
6 government power in general, and so they developed various
7 ways to limit government power. The way that you were
8 taught about in school, the most obvious way is the
9 separation of powers. You hear about the Legislative,
10 Judicial, and Executive Branch; the government in that
11 situation was supposed to look over itself. Of course we
12 see now in 2014 that that did not work out extremely well,
13 but I think they knew that that wasn't going to work out
14 extremely well even back in the 1780's because they didn't
15 develop that same sort of system, that same sort of check
16 and balances for people that are accused of a criminal
17 offense.

18 People that are accused of a criminal offense, they
19 take it out of the government. They don't let the
20 government decide whether or not the person did it; they
21 let the citizens decide.

22 Today as you sit in the jury box, you're not just a
23 typical citizen. You're not just some person watching the
24 news. I mean we've all been naturally conditioned to have
25 great confidence in police officers and -- well, all public

1 servants: Teachers, nurses, you know, EMT's, people that
2 are public servants. But as you sit here today, everyone
3 in this room, every witness, every person, we are all
4 equals. And you have to treat the testimony of them just
5 as you would any other witness. And so what you have to do
6 is as a judge -- and I -- it just comes to mind all of a
7 sudden that I -- I had -- I had a client this week that
8 called me and he was telling me that he sort of understood
9 this criminal process. He said, I'm a pretty smart guy and
10 I kind of know how it works and I know a little bit about
11 the law, he said because he watches Judge Judy.

12 But if any of you do happen to watch Judge Judy,
13 that is not why you're here today. You're not that kind of
14 Judge. First of all, that's not even a -- a -- a -- real
15 law; it's not a real courtroom; that's a television show.
16 Second of all, what you've probably been exposed to more in
17 your life than anything else is you've been exposed to
18 civil law.

19 Now in civil law, witnesses get up and, you know,
20 I'm going to use Judge Judy as an example. You know, Judge
21 Judy talks to one person and then says tell me your story
22 and then she asks the other person to tell me your story
23 and then she listens to both stories and she picks the one
24 that she believes is most truthful. That isn't how the
25 founding fathers designed it in the constitutional system

1 for criminal defendants.

2 In this situation, as the Judge as instructed you,
3 the Defense doesn't have any burden of proof whatsoever.
4 In fact, it sounds overly dramatic, but Phil and I, me and
5 Brandon and Phil, we could literally go to sleep at the
6 beginning of this trial, sleep throughout the entire trial
7 and you guys could just wake us up at the end and tell us
8 what happened and it wouldn't change your duty as a juror
9 in the slightest.

10 Your duty as a juror was constitutionally mandated
11 back in the 1780's and it's much more than simply deciding
12 between two parties. You are an active participant in this
13 trial. And the reason why you're an active participant is
14 that only you can hold the government to their burden of
15 proof. I can't do it. I can ask them questions, I can
16 talk about some evidence. And I can try to ask questions
17 that I think that you guys would ask, but I don't know all
18 the questions that all of you would ask. You have to
19 actively engage yourself in the witnesses when you see them
20 take that stand. You have to think to yourself when you're
21 watching these witnesses: Do these witnesses -- are they
22 biased in any way; are these witnesses combative on the
23 stand; are these witnesses, will they just not answer
24 simple questions and why not.

25 When you look at what they're saying, ask yourself,

1 is what they're saying, is that an opinion that they're
2 giving me or is that fact that they are giving me. Because
3 there's going to be a big difference during this trial
4 between opinions and facts and they're going to be used.
5 They're going to try to give you a lot of their opinions
6 and they're going to -- instead of using the word opinion,
7 they're going to use this term called training and
8 experience.

9 Let me tell you what that really means. Training
10 and experience means opinion, it means speculation. Facts
11 are something that they can bring here, hand to you, let
12 you look at it and you determine what it is and if it is
13 what they say it is. That is what a fact is.

14 So they talk about this burn pile that was in the
15 back and they held up this Coke bottle and said, you know,
16 We find these items in the burn pile; these items, these
17 were meth labs. Well, I'm going to tell you, all they're
18 going to be able to show you is that based on their
19 training and experience, in their opinion, they think it
20 was a meth lab.

21 What's even more interesting about this training
22 and experience is, experience is on the day that they
23 identified the items, they found that there was something
24 called acid generators. I'm not going too deep into that
25 right now, but they thought that they were acid generators.

1 They wrote it their report it was an acid generator. They
2 wrote it twice in their report that they were acid
3 generators. They wrote it in their evidence log that it
4 was an acid generator. They swore to a judge when they,
5 when they turned in their evidence that it was an acid
6 generator. I think based on what I've heard so far, that
7 they're going to get up there and say, Well, it wasn't an
8 acid generator; we think it was something else. So you
9 understand then that even on the scene looking at it, their
10 opinions change. Their opinions are not facts. They don't
11 know what these things are.

12 Now, there's ways that they could have determined
13 what these things are and I'm going to talk to you about
14 various tests that could have been performed on these items
15 and then they could have brought these tests into you and
16 they could have said we know what these items are, but
17 there are no tests.

18 They took a picture; they threw it away. They go
19 into the house, after they've been outside and they take
20 pictures of various evidence. And they take a picture of
21 an item that they're going to say is used to smoke meth, a
22 piece of tin foil. They even talk about these pieces of
23 tin foil that were out on this burn pile and they're going
24 to tell you based on their training and experience, or
25 their opinion these things were used to smoke meth. They

1 didn't collect them; they didn't test them. They don't
2 know what they are. They're just going to give you their
3 opinion.

4 This Mustang that drove up.

5 Oh, wait, I do want to mention one other thing
6 about that, the house. They said that these people that
7 were in the house or one person at least was in the house.
8 I think he had something in his pocket that was used to --
9 that tested positive for methamphetamine. I want to remind
10 you, this is the only thing that tested positive for
11 methamphetamine, and this thing was not in Phillip Helms'
12 pocket. This was in somebody else's pocket. I will be
13 able to establish when they are on the stand that they have
14 no proof whatsoever that Phil Helms had any clue at all as
15 to what is in somebody else's pocket.

16 They talk about this Mustang that drove up. This
17 Mustang that drove up, as far as I know, there's no
18 testimony whatsoever that's going to come into this trial
19 that's going to establish any connection between this
20 Mustang and Phil Helms. They actually got a search warrant
21 and they got a search warrant for all the things that were
22 on the property. And while they were conducting the search
23 warrant, this Mustang drives up. It doesn't even drive up
24 in the front where everybody else drives up, for some
25 strange reason, drives up around this burn pile in the back

1 and it's full, admittedly, of stuff. I mean we're not
2 going to deny that, it's full of stuff that people use to
3 make meth; jammed full. But did they find anything that
4 was used to make meth in the house; nothing, absolutely
5 nothing. Everything that could possibly be used to make
6 meth is found in this vehicle that drives up after they are
7 already searching Phillip Helms' house. And what they want
8 you to believe -- I don't know if they're going to say
9 based on their training and experience or how they're going
10 to establish this -- is that Phil either knew or had reason
11 to know what was inside of this car. The reality is
12 they're not going to bring one single fact. They're not
13 going to hand you one piece of evidence -- there's going to
14 be some evidence and you know, it's going to be in little
15 bags and you guys are going to, they're going to be able to
16 hand you these bags and they're going to let you look at
17 them. Not one of these pieces of evidence tested positive
18 for meth that Phil Helms could have known about. All the
19 other items, they're going to just say based on their
20 speculation or their key word, training and experience,
21 that they believe that they were used in the manufacture of
22 meth. But that's not how this works. That is that.

23 They needed to collect this evidence. I'm going to
24 show you how they could have collected this evidence. It's
25 going to be very surprising to you, I think, as you watch

1 this, that they just for whatever reason chose to engage in
2 a system in which they didn't think, I don't guess, that
3 they were going to have to actually show you guys that they
4 don't get to decide whether somebody's guilty or not; they
5 have to convince you and it's their responsibility to give
6 you the evidence because they pretty much didn't collect
7 anything.

8 And so at the end of this trial, I'm going to tell
9 you; I'm going to be back up here talking to you. I'm
10 going to explain to you all of the things they didn't do.
11 You will see all of the evidence they didn't collect. I'm
12 going to reiterate that the only thing they put into
13 evidence is their opinions, which they will couch in terms
14 of, of training and expertise; and there's no facts
15 whatsoever that ties Phil Helms to manufacturing mari --
16 excuse me, methamphetamine; to aiding or abetting; or to
17 even having any, any involvement with it at all.

18 At the end of the trial, I'll be back up here and
19 I'm going to ask you to return a verdict of not guilty and
20 I think it's going to be your constitutional duty to do so
21 because they just can't put any evidence into the record.
22 Thank you.

23 THE COURT: Thank you. I ask the State to call its
24 first witness.

25 MR. BELL: Thank you, Your Honor. The State would

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1 call Agent Paige Barnes to the stand.

2 PAIGE BARNES,

3 after being duly sworn testified as follows:

4 THE CLERK: Have a seat please, ma'am. Once you're
5 seated speak loud and clear, state your full name spelling
6 your last please.

7 THE WITNESS: Paige Barnes, B-A-R-N-E-S.

8 **DIRECT EXAMINATION**

9 BY MR. BELL:

10 Q Good morning, Ms. Barnes.

11 A Good morning.

12 Q Agent Barnes, were you an agent with Lexington
13 County Sheriff's Department on June 11th of 2013?

14 A I was.

15 Q And did you have reason to respond to [REDACTED]

16 [REDACTED]

17 A I did.

18 Q And what county is that located in?

19 A Lexington County.

20 Q Now, how long have you been in law enforcement?

21 A Fourteen years.

22 Q Okay. And what part of law enforcement are you in?

23 A I'm an agent with the Narcotics Division of the
24 Sheriff's Department.

25 Q Would you briefly talk about what that involves?

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1 A It involves anything from doing undercover, going
2 out buying drugs, investigating drug traffickers, human
3 traffickers, vice stings, prostitution, doing controlled
4 purchases of illegal drugs, various things.

5 Q Does it also include the manufacturing of
6 narcotics?

7 A Yes, sir.

8 Q Have you ever had to deal with the manufacturing of
9 methamphetamine?

10 A Yes, sir.

11 Q Now in order to deal with manufacturing meth cases,
12 did you have to receive training?

13 A Yes, sir.

14 Q Would you tell the Court a little bit about your
15 qualifications as far as it references methamphetamine.

16 A In November of 2008 is when I was promoted to the
17 Narcotics Division. In 2009 I went to an 80-hour course in
18 Basic Narcotics. In 2010 I went to a clandestine lab
19 class. A clandestine lab is also considered a
20 methamphetamine lab. I then went to a one week course of
21 clandestine lab where I actually go in and had to remove
22 the lab from the house and break it down. I've been
23 through hazardous waste management in confined space,
24 incident command; approximately 376 hours of training.

25 Q So that includes methamphetamine and the

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1 manufacture of methamphetamine?

2 A Correct.

3 Q Now, did they also train you on the handling of
4 methamphetamine?

5 A Yes, sir.

6 Q Did they train you on the handling of
7 methamphetamine labs?

8 A Yes, sir.

9 Q Do they train you on how to properly dispose of
10 methamphetamine labs?

11 A Yes, sir.

12 Q And over time after you took your initial training,
13 are you required to maintain continuing education as
14 relates to methamphetamine and manufacture of
15 methamphetamine?

16 A Yes, sir.

17 Q After you've done this training, are you required
18 to take a test?

19 A Yes.

20 Q And who is that test provided by?

21 A The Federal Government.

22 Q And is it part of particular training academy?

23 A Yes, sir, it's the Regional Counter drug and
24 Terrorist Academy.

25 Q And are the principals and training procedures that

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1 you learned at that academy studied nationally?

2 A Yes, sir.

3 Q Are those methods considered normal across the
4 nation?

5 A Yes, sir.

6 Q Now in your time as a Narcotics Enforcement Agent,
7 could you estimate how many different methamphetamine cases
8 you've dealt with?

9 A Each 2 liter bottle is considered a meth lab. So
10 roughly in the five -- six years that I've a Narcotics
11 Investigator I have dismantled approximately 300 meth
12 labs and I've also cleaned approximately 300 dump sites.

13 Q So to clarify, you're testifying that you have
14 studied roughly 375 hours as it relates to methamphetamine?

15 A Yes, sir.

16 Q And that you have passed national certification
17 exams as it relates to manufacturing methamphetamine?

18 A Yes, sir.

19 Q Now you just, you also testified that what you
20 learned at the academy are procedures and protocols that
21 are accepted nationally. Are those same procedures and
22 protocols also considered reliable by national law
23 enforcement or law enforcements across the country?

24 A Yes, sir.

25 Q Do multiple law enforcement agencies accept those

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1 standards and use them?

2 A Yes, sir.

3 Q Your Honor, we would request the Court to qualify
4 Agent Barnes as an expert in the manufacture of
5 methamphetamine?

6 THE COURT: All right. Any objection or voir dire
7 on behalf of the defendant?

8 MR. KIRKLAND: May I have a moment, Your Honor?

9 THE COURT: Sure.

10 MR. KIRKLAND: No objection, Your Honor.

11 THE COURT: All right. Ladies and gentlemen of the
12 jury, normally a person cannot give opinion testimony.
13 Normally when a person testifies, they must testify as to
14 what they either saw, heard, or sense by smell or something
15 of that nature; however, there is an exception when someone
16 is qualified because of education or experience. They are
17 permitted to give their opinion in certain areas if the
18 Court qualifies them that way. This witness will be
19 qualified in the area of -- what is her expertise again?

20 MR. BELL: Your Honor, we'd request she be
21 qualified as an expert in methamphetamine and ultimately
22 the manufacture of methamphetamine?

23 THE COURT: All right. This witness will be
24 qualified in the area of manufacture of methamphetamine and
25 the drug methamphetamine to give opinion testimony in that

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1 area. That does not mean that you must accept that
2 opinion, but it is evidence for you to use in any way you
3 see fit and give the weight and credibility you believe is
4 appropriate.

5 All right. Yes, sir, you may continue.

6 MR. BELL: Thank you, Your Honor.

7 BY MR. BELL:

8 Q Agent Barnes, prior to this trial, did you have an
9 opportunity to assist with the preparation of a
10 presentation as it relates to the manufacture of
11 methamphetamine?

12 A I did.

13 MR. BELL: Your Honor, if I may beg the Court's
14 indulgence for a moment?

15 THE COURT: Yes, sir.

16 MR. BELL: Your Honor, I just had a moment to show
17 the Defense what is marked as Court's Exhibit No. 2 for the
18 State and I believe there no objections to this exhibit?

19 MR. KIRKLAND: No objection.

20 THE COURT: All right. Just lay the foundation
21 when you show it to her.

22 MR. BELL: Certainly.

23 BY MR. BELL:

24 Q To clarify, Agent Barnes, once again you said you
25 did assist with the preparation of a presentation of

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1 manufacturing of methamphetamine?

2 A Yes, sir.

3 Q If you would take a moment to look at what is
4 marked as Court's Exhibit No. 2 for the State?

5 A Yes, sir.

6 Q Have you had sufficient opportunity to review it?

7 A Yes, sir.

8 Q Is that the same presentation that you assisted
9 with the preparation of?

10 A Yes, sir.

11 Q Does it fairly and accurately represent the
12 presentation as of the last time you saw it?

13 A Yes, sir.

14 MR. BELL: Your Honor, we would request permission
15 to publish to the jury Exhibit No -- Court's Exhibit No. 2
16 for the State?

17 THE COURT: All right. State's No. 2 will be
18 entered without objection; is that correct, no objection?

19 MR. KIRKLAND: There's no objection. My
20 understanding is, Your Honor, that this is the
21 demonstrative evidence and that don't intend to ultimately
22 send this back to the jury?

23 MR. BELL: This will strictly be used as a Court's
24 Exhibit, Your Honor.

25 THE COURT: All right.

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1 THE COURT REPORTER: It's Court's Exhibit 2, Your
2 Honor.

3 THE COURT: Without objection.

4 MR. KIRKLAND: No objection.

5 THE COURT: All right. Thank you. Without
6 objection.

7 MR. KIRKLAND: Yes, ma'am.

8 (WHEREUPON Court's Exhibit No. 2 was entered into
9 evidence as a demonstrative tool.)

10 MR. BELL: Thank you, Your Honor.

11 BY MR. BELL:

12 Q Agent Barnes, are you able to read that okay?

13 A Yes, sir.

14 Q Okay. Now, clearly you can see this is titled
15 Manufacturing Methamphetamine.

16 Below that you see in quotations "The Shake and
17 Bake Method"?

18 A Yes, sir.

19 Q Could you explain what that means briefly?

20 A The actual shake and bake method is when you take
21 lithium batteries, ammonium nitrate, Coleman fuel, lye,
22 water and Pseudoephedrine and put it into one bottle and
23 you add a little bit of water to it and it automatically
24 starts the rolling process inside the bottle, which is
25 actually cooking inside of the bottle.

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1 Q What is the shake portion refer to?

2 A Inside the bottle it will start rolling and
3 sometimes it's actually seen to where the fire is shooting
4 up inside the bottle because none of the chemicals like
5 each other. The shake is, the people sit there and
6 actually shake the bottle in their hand. The bottle will
7 actually form a lot of pressure and they'll actually have
8 to burp the bottle, which will allow some oxygen into the
9 bottle, but there's ammonia gas that is being created
10 inside the one pot.

11 Q On the street, what is this process called?

12 A Shake and Bake.

13 Q Okay. And what is that generally referring to;
14 what are they doing?

15 A Manufacturing methamphetamine.

16 Q Now, why would they use the shake and bake method
17 versus some other method?

18 A It's a lot quicker. It takes approximately two
19 hours to actually do the shake and bake method. They can
20 do it their car; they can do it in the trailer; they can do
21 it in the backyard; they can do it in a hotel; they can --
22 it's easy and it's fast.

23 Q Is it a mobile method?

24 A Correct, yes.

25 Q After they've initiated the process and put the

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1 ingredients into the bottle, can they move the pot?

2 A Yes.

3 Q Agent Barnes, you briefly talked about the
4 different ingredients that you put into one of these
5 bottles to initiate the process. I'd like to break it down
6 a little bit further and talk about what is the primary
7 ingredient that goes into a shake and bake?

8 A Pseudoephedrine.

9 Q And what is Pseudoephedrine?

10 A It's the pills that you buy over-the-counter like
11 Claritin D or the Mucinex D that you have to show your ID
12 for and sign your name; that contains Pseudoephedrine.

13 Q Okay. And you listed some other ingredients.
14 Would you give us a few examples of those other
15 ingredients?

16 A Lithium that you take from lithium batteries.
17 Coleman fuel, which is Coleman camp fuel used. It's an
18 organic solvent. Ammonium nitrate, which is found in the
19 instant cold packs.

20 Q And where can you buy those additional items that
21 you just spoke of?

22 A You can buy everything at Walmart.

23 Q Do they require a permission slip of some sort?

24 A No, sir.

25 Q They don't require a prescription?

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1 A No, sir.

2 Q Does Pseudoephedrine require a prescription?

3 A No, sir.

4 Q Where can you buy that at?

5 A Any pharmacy.

6 Q Now, you've already mentioned that you have to take
7 all these different ingredients and place them into the
8 bottle, and we briefly spoke about Pseudoephedrine.

9 Let's actually talk about -- excuse me, let's talk
10 about how most people see Pseudoephedrine. What does this
11 picture depict on the left side of this slide?

12 A It's Sudafed. It's a 12-hour Pseudoephedrine.

13 Q And what is that typically used for?

14 A People who have colds.

15 Q Okay.

16 A Allergies.

17 Q And you testified that you can get that from
18 anywhere?

19 A Any pharmacy.

20 Q What is this strange looking device on the right
21 side?

22 A That's a coffee grinder.

23 Q And what is that typically used for?

24 A It's typically used to crush up the Pseudoephedrine
25 pills because they dissolve faster inside of the solvent

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1 when it's not necessary.

2 Q Now, this particular picture depicts Sudafed, but
3 does Pseudoephedrine come in different brands?

4 A Yes, it comes in Walfed -- off brands that you see
5 at Walmart where you can get 96 pills of Walfed or any CVS
6 brands, anything like that.

7 Q But regardless of the over-the-counter name or off
8 brand name, do they contain Pseudoephedrine?

9 A Yes.

10 Q This word you see at the top beside the number 2,
11 what is that word?

12 A Ether.

13 Q Okay. And how does that word -- how does that word
14 relate to this picture that's directly below it?

15 A Starter fluid is a ether and typically what we find
16 whenever we have meth labs is they'll puncture the bottoms
17 of the starter fluid cans out to get the liquid inside the
18 2 liter bottle. The Coleman fuel also is an organic
19 solvent that can also be used to dissolve the
20 Pseudoephedrine.

21 Q Now, this picture, this particular picture depicts
22 2 cans of starter fuel?

23 A Yes, sir.

24 Q Are two cans required?

25 A No, sir.

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1 Q How many cans does it take to manufacture
2 methamphetamine?

3 A That's a hard question but it's depending on how
4 much Pseudoephedrine or how much meth they actually want
5 to -- to make.

6 Q So no one recipe is the same?

7 A No, sir.

8 Q Ammonium nitrate, what is that used for?

9 A The ammonium nitrate, if you ever opened up a cold
10 pack, it has a little plastic bag containing, inside of it,
11 containing water. Inside of the bag is also prills, which
12 is ammonium nitrate. Once you, those come in contact with
13 water, it instantly causes a chemical reaction and it makes
14 the cold pack cold. So inside of that instant cold pack is
15 ammonium nitrate and water.

16 Q Now these cold packs, it was said earlier -- it was
17 said earlier during opening that it could be like for a
18 sports injury. What else would you typically use those for
19 not in relation to manufacturing methamphetamine?

20 A I don't know of any other thing.

21 Q Are they used to cool lunches?

22 A I guess they could be.

23 Q But where can you get these?

24 A At any CVS, Walmart, Walgreens, anywhere; I think
25 there are actually some in gas stations now.

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1 Q You testified earlier also that there's no set
2 recipe as to how much of a certain item is involved in the
3 manufacture of methamphetamine. Is that also true for
4 instant cold packs?

5 A Yes, sir.

6 Q Would you pronounce this word for me?

7 A Sodium Hydroxide.

8 Q Okay. And what exactly does that relate to?

9 A That's the, the drain opener, they lye that is also
10 placed inside of the one pot shake and bake to assist with
11 the chemical reaction.

12 Q Where can you get household drain opener?

13 A Basically anywhere; warehouses.

14 Q Could you name a couple of particular stores that
15 you might be able to get it from?

16 A Walmart, Walgreens, CVS.

17 Q Do bargain stores carry it?

18 A Yes.

19 Q Now, I'm sure you recognize these. What is that a
20 picture of?

21 A Lithium battery, Energizer lithium batteries.

22 Q Okay. And is how that relevant to manufacturing
23 methamphetamine?

24 A They need the lithium inside of the battery in
25 order to cause the chemical reaction to actually begin.

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1 They cut open the batteries using pliers, wire cutters or,
2 or a knife, however they see fit to get into the batteries.
3 Lithium is a D metal. So whenever you open it up, it
4 becomes, it's gray on the inside and when you open it up
5 and it hits air it turns black. They use that to put
6 inside of it because lithium is extremely volatile and
7 highly combustible and once it comes in contact with water
8 then it ignites.

9 Q Is there any certain amount of lithium strips that
10 you have to use to manufacture methamphetamine?

11 A No, sir.

12 Q Is there any one recipe as it relates to how much
13 lithium strips you need to use?

14 A No, sir.

15 Q Now you testified to several different products
16 that go into the process of manufacturing methamphetamine.
17 Once you have all of these items in one location, what
18 happens at that point?

19 A As I explained to you earlier, it's a shake and
20 bake. All the chemicals start rolling around inside of the
21 bottle. You'll see bubbles coming up, which is the gas
22 that's being produced. The bottle will continue and what
23 you have to do is burp the bottle to allow some oxygen
24 inside to keep the reaction going. Once all the -- the
25 lithium has turned blue or the copper beads have formed on

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1 the top of the one pot shake and bake, then the cooking
2 process is considered done.

3 Q Now, just to clarify, when you say burping, what
4 exactly did that refer to?

5 A When you lift the lid on the cap -- you know when
6 you drop a Coke bottle and you feel the pressure on it and
7 you open it really slowly, that's, that's burping.

8 Q Okay. In this particular picture, can you describe
9 what we're seeing in this bottle that's on the screen?

10 A The top layer is lithium, the black that you can
11 see in there and the top layer; the middle layer is the
12 Coleman fuel or the starter fluid; the bottom portion of
13 it, the white portion is the -- what we call the cake. In
14 it is the ammonium nitrate and the Pseudoephedrine and
15 water.

16 Q Now, this white cake as you refer to it, is it ever
17 a different color?

18 A No, generally it's, it may have a hint of a
19 greenish blue color, but generally it's a white.

20 Q When you come across one of these bottles, do you
21 ever see anything else in the white portion of it?

22 A You'll see black speckles inside, which are strips
23 of the lithium batteries that's, you know, where they broke
24 it off inside of it and they have fallen to the bottom.

25 Q And the bottle that we see in this picture, what

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1 does that appear to be to you, what kind of bottle?

2 A A 2 liter bottle.

3 Q Okay. Is a 2 liter bottle what is necessary to
4 manufacturing of methamphetamine?

5 A No, actually it doesn't require a 2 liter bottle.
6 I've seen them as small as a 16 ounce Coke bottle all the
7 way up to a 5 gallon pickle bucket.

8 Q Does it have to be a plastic bottle?

9 A No.

10 Q Once you have your manufacturing methamphetamine to
11 this stage, where you have meth oil, what happens then?

12 A What they do is they strain the liquid into,
13 generally they use coffee filters and they strain the
14 liquid into another container. Once that is done, I'm
15 sorry, I'm jumping ahead of the, do you want me to
16 continue?

17 Q We'll jump up with you for a second. What's going
18 on in this step?

19 A You take the liquid fire, which is a sulfuric acid
20 and you mix it with salt into a smaller bottle, which is
21 generally a Mountain Dew bottle, which is what we typically
22 see because they consider the Mountain Dew bottles to be,
23 the plastic is thicker. They'll actually cut a hole in the
24 top of the lid of the Mountain Dew bottle and have a tubing
25 coming out of it. When you mix the liquid fire and the

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1 salt together, it forms a gas. What the gas does is it
2 creates bubbles and you put it into the liquid that you
3 have poured off from the coffee filters before and it forms
4 meth from a solid to -- I mean from a liquid to a solid.

5 Q This item on the left side where it says sulfuric
6 acid, what is that item?

7 A That's the liquid fire.

8 Q Okay. And what's a different name for that? How
9 about the second picture right beside it?

10 A It could be -- it could be drain opener, the liquid
11 form of drain opener.

12 Q And those two items, where can you get those at?

13 A Any store.

14 Q Is there a restriction on them in any way?

15 A No, sir.

16 Q The second picture I think speaks for itself. I
17 think we've all boiled peanuts once or twice. How about
18 this last picture; could you break that down for us a
19 little bit more?

20 A That's actually the acid generator. When you mix
21 the liquid fire and the salt it forms hydrochloric acid
22 which hydrochloric acid can start producing gas at 85
23 degrees in temperature. So it starts producing a gas. The
24 tube is placed inside of the liquid that you had poured off
25 and it starts to bubble and the meth turns from a liquid to

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1 a solid, which makes a snowing affect.

2 Q Okay. We'll get to there in just a moment, but
3 once again, on this last picture, what kind of bottle does
4 that appear to be?

5 A It's a 16-ounce-plastic bottle.

6 Q As we move up, we see some long thing hanging off
7 it, kind of wrapping around on the ground; what is that
8 thing?

9 A That's the tubing.

10 Q Okay. And what did you call this device again?

11 A An acid generator.

12 Q Now, you briefly touched on this. Let's talk about
13 it one more time. After you've got your acid generator
14 ready to go, what do you do?

15 A You place the -- the tubing again inside of the,
16 the liquid that you had poured off from the one pile and
17 you actually start seeing the meth form into a solid. It
18 looks like if you've seen a snow globe before and you shook
19 it up and all the white particles come down, that's
20 actually, that will actually be a solid form of
21 methamphetamine.

22 Q After you've got this snowy effect, what is the
23 final step?

24 A They pour the rest of the liquid off into a coffee
25 filter and the solid meth will stay into the coffee filter

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1 and they'll let it dry and your methamphetamine is produced
2 at that time.

3 Q So this picture in the middle, what is that a
4 picture of?

5 A Coffee filters.

6 Q Okay. And on the far right, it looks like a pile
7 of dirt almost. What is that a picture of?

8 A Methamphetamine.

9 Q Okay. Now in your training as it relates to
10 manufacturing methamphetamine, what could be a typical
11 yield from a meth cook?

12 A I've seen the yields as low as 2 grams up to 14.7
13 grams.

14 Q And also in your time with the Narcotics
15 Enforcement Team, have you come across individuals that
16 have had methamphetamine on them?

17 A Yes, sir.

18 Q Typically, how much do they have on them
19 individually?

20 A Usually about a gram.

21 Q Now, there is something else that is often used in
22 reference to methamphetamine and manufacture of
23 methamphetamine; it's a term called smurfing. Would you
24 please tell the jury a little bit about what that means?

25 A What -- what smurfing is considered is you

Paige Barnes - Direct Examination by Mr. Bell

1 generally have a cook and the cook will have friends that
2 will go out and purchase the Pseudoephedrine. One person
3 cannot purchase more than 9 grams of Pseudoephedrine in 30
4 days. One person cannot go out and purchase more than 3
5 grams of Pseudoephedrine in a 24-hour-time span. So they
6 need a lot of people to go out and purchase the
7 Pseudoephedrine. A lot of times we'll find them with
8 multiple ID's on them because they are trying to get more
9 Pseudoephedrine than what they're allowed to have by
10 Federal Law.

11 So typically what we see is that they'll be
12 numerous people in a vehicle; they'll drive to Walmart and
13 they'll get out and once they get inside Walmart, one will
14 go pick up one thing and one will go pick up another thing
15 and one will go pick up another thing. Most of the time
16 they steal too, also the batteries because they're
17 expensive, but typically there's a lot of people and they
18 call them smurfs because it's a group of people that go out
19 and purchase all the necessary components to manufacture.

20 Q Thank you, Agent Barnes. And if you would give me
21 just one moment, I'd appreciate it.

22 MR. BELL: Excuse me one moment, Your Honor.

23 BY MR. BELL:

24 Q Agent Barnes, I think you've had plenty of fun as
25 it relates to manufacturing of methamphetamine, but I'd

Paige Barnes - Direct Examination by Mr. Bell

1 I like to actually talk about the incident itself that we're
2 here for today.

3 You testified earlier that you had reason to
4 respond to [REDACTED] is that correct?

5 A Yes, sir.

6 Q And that -- what County is that in again?

7 A Lexington.

8 Q And why exactly did you respond to that address
9 that day?

10 A We received an anonymous tip.

11 Q Did you have reason to check whose address that
12 belonged to?

13 A Yes, sir.

14 Q And whose address did that belong to?

15 A Phillip Helms.

16 Q Now, was there anybody else registered as an owner
17 of that property?

18 A Not that I can recall.

19 Q Is there anyone else who's ever claimed ownership
20 of that property?

21 A No, sir.

22 Q Who accompanied you there on that day?

23 A Agent Michael Merckle and Agent Scott Morris.

24 Q When you first arrived on the property, where did
25 you pull your vehicle up to?

Paige Barnes - Direct Examination by Mr. Bell

1 A To the driveway.

2 Q And after you pulled up and parked, what did you
3 do?

4 A Got out the vehicle, I observed Phil Helms to be in
5 his motorized chair driving across the backyard.

6 Q And you say he was in a motorized chair?

7 A Yes, sir.

8 Q That's what you used the term driving?

9 A Yes, sir.

10 Q Okay. If you had to identify what part of his
11 property he was in, what would you call it?

12 A The backyard.

13 Q Okay. And you pulled up into what part of his
14 yard?

15 A The front yard.

16 Q Okay. Is there any sort of boundary that outlines
17 his property?

18 A He has a fence around his property.

19 Q And when you first saw him, what side of that fence
20 were you on?

21 A I was outside of the fence; he was inside of the
22 fence.

23 Q Okay. What happened at that point?

24 A I approached the fence area, spoke to Mr. Helms and
25 advised him who I was and what division I was with and

Paige Barnes - Direct Examination by Mr. Bell

1 asked if I could come in. And he said that I was -- I
2 could come in and he did an arm gesture at me and waved me
3 inside the backyard.

4 Q And were the other two agents that you were riding
5 with with you during all of this as well?

6 A Yes, sir.

7 Q Okay. After he gave you that gesture to come on in
8 and said come on in, did you cross into his backyard?

9 A I did.

10 Q Okay. What happened then?

11 A I then, as I got closer to Mr. Helms, I explained
12 who I was and that I was with the Narcotics Division and we
13 had a complaint of manufacturing methamphetamine at his
14 house and we were there to investigate.

15 Q Now, how did he respond to you after you identified
16 yourself and told him why you were there?

17 A He said that we were free to look around.

18 Q Okay. Did he make any other comments in the time
19 that you arrived?

20 A He explained that he was out there burning some
21 plastic limbs.

22 Q Okay. Now, after he gave you permission and said
23 you're free to look around, did you take a look around?

24 A I did.

25 Q And where all did you look?

Paige Barnes - Direct Examination by Mr. Bell

1 A I looked in -- on his property to the right of his
2 property if you're facing his trailer. There's a shed
3 right there, but he had just put a 5 gallon bucket in and I
4 stepped in the shed and took a look around, didn't see
5 anything out of the ordinary. I walked toward the -- the
6 burn pile there; he has a swimming pool in the backyard as
7 well and I walked toward the burn pile. I also observed a
8 navy blue Dodge Durango that was sitting beside an
9 additional shed and I walked toward the burn pile and
10 that's where I observed methamphetamine waste.

11 Q Now, when you say you observed methamphetamine
12 waste, what exactly are you referring to?

13 A He had two acid generators and a one pot with just
14 the sludgy material in the bottom or actually it was
15 throughout the whole bottom.

16 Q Okay. Did you see any other items that sort of
17 raised a little alarm?

18 A There were two cans of Coleman fuel inside the
19 Dodge Durango.

20 Q I'm sorry to interrupt you, but I'm just referring
21 to what you found in the burn pile.

22 A I'm sorry. There were numerous battery casings,
23 lithium battery casings. It was a large amount of
24 aluminium foil, starter fluid with punctured cans, the
25 puncture -- they were punctured on the bottom.

Paige Barnes - Direct Examination by Mr. Bell

1 Q After you sort of saw some of these things that
2 raised some suspicion, did you go back and talk to Mr?
3 Helms again?

4 A I asked him, I heard some noise inside the house
5 and due to the safety of officers on site, I asked who was
6 inside the house.

7 Q Backing up a second, you testified earlier that he
8 told you that he was out there burning what?

9 A Plastic limbs.

10 Q Were there plastic limbs in that burn pile?

11 A No, sir.

12 Q Was there an old fake Christmas tree in that burn
13 pile?

14 A No, sir.

15 Q Now, after you went up and talked to Mr. Helms
16 again, you said you heard somebody inside?

17 A Yes, sir.

18 Q Okay. And how did you react at that point?

19 A I asked Mr. Helms who was inside the house and he
20 explained that it was his friends, Renee and Olivia were
21 inside.

22 Q Okay. After you hard the sounds inside and he said
23 they were just some of his friends, what did you then ask
24 him?

25 A If we could take a look around inside the house.

Paige Barnes - Direct Examination by Mr. Bell

1 Q And how did he respond?

2 A Sure, yes.

3 Q Did you enter the house at that point?

4 A I followed Mr. Helms inside.

5 Q Did he take the lead?

6 A Yes, sir.

7 Q When you got inside, what did you see?

8 A Olivia Mason was sitting in a recliner by the front
9 door. Beside her was a glass smoking device, which is
10 typically used when you smoke marijuana. I heard voices in
11 the back down the hallway. There was a blanket covering
12 one of the hallways. I asked who was back there and he
13 said, Oh, I forgot, my friend Renee's boyfriend was here;
14 it's Jimmy Johnson back there.

15 Q Did you make contact with the individuals that were
16 back there, Ms. Renee Krantz and Mr. Jimmy Johnson?

17 A I did.

18 Q Okay. And how did that go?

19 A I asked them what they were doing there and they
20 said they were just there to help Phil.

21 MR. KIRKLAND: Objection, Your Honor. Hearsay.

22 BY MR. BELL:

23 Q Agent Barnes, if you would please refrain --

24 THE COURT: Objection sustained.

25 ///

Paige Barnes - Direct Examination by Mr. Bell

1 BY MR. BELL:

2 Q If you would please refrain from mentioning
3 anything someone else said.

4 A I'm sorry.

5 Q When you made contact with those individuals, what
6 did you do with them?

7 A I brought them to the front of the living room.

8 Q Okay. And why did you do that?

9 A Just to keep them in -- contained in one area.

10 Q Did you have an opportunity to just do a sort of
11 plain-view look around in the room that they came from?

12 A With Renee's permission, yes.

13 Q Okay. Was there a bed in that room?

14 A No.

15 Q Okay. Any other indication that someone had been
16 living there for a period of time?

17 A No, sir.

18 Q After you bring them out to the living room, who
19 else is in the living room with you?

20 A Agent Morris, Mr. Helms, Olivia Mason, Jimmy
21 Johnson, Renee Krantz and Agent Morris was in there, but he
22 had stepped outside because it was cramped.

23 Q Now, did everyone realize why they were being
24 gathered into that living room?

25 A I explained to them why we were there.

Paige Barnes - Direct Examination by Mr. Bell

1 Q Okay. And were they reacting at that point?

2 A Very anxious, nervous, began sweating, clinching
3 their fists, clinching their jaws.

4 Q What do those kind of reactions indicate to you?

5 A Nervousness.

6 MR. KIRKLAND: Your Honor, I would object to that.
7 That would be a medical opinion.

8 MR. BELL: I'm not asking for a physiological
9 definition, Your Honor, just what in her experience as an
10 officer when she sees people reacting on the street, what
11 her instincts are.

12 MR. KIRKLAND: If she's going to give any opinion
13 about something physiological, I would object to it.

14 THE COURT: All right. The objection is sustained.
15 She can say what she saw and how they were acting.

16 MR. BELL: Thank you, Your Honor.

17 BY MR. BELL:

18 Q So were they acting defensive?

19 A Yes.

20 Q Anyone in particular?

21 A Jimmy Johnson.

22 Q Now, after you spent some time with them in the
23 living room, what happened next?

24 A Agent Morris came back inside the house and advised
25 me that I needed to come out and take a look around at the

Paige Barnes - Direct Examination by Mr. Bell

1 burn pile a little closer.

2 Q Okay. And did you?

3 A I did.

4 Q So when you went back outside to the burn pile,
5 what did you see?

6 A I found two acid generators, a bottle containing a
7 white sludgy material, which is consistent with a
8 methamphetamine lab, lithium battery casings, a large
9 amount of aluminum foil and punctured ether cans or starter
10 fluid cans.

11 Q Now, did you take a closer look at the burn pile
12 the second time you went back out there?

13 A I did.

14 Q And did you notice any additional items or anything
15 that you didn't see the first time?

16 A No, sir.

17 Q You said, you did testify that you saw starter
18 fluid cans?

19 A I did.

20 Q What sort of condition were they in?

21 A There were some that were extremely old and you
22 could tell that they had been burned, they were rusted and
23 you couldn't actually read the label on them, but I could
24 still -- still see the punctured bottom. There were also
25 very new starter can fluids that were in there that also

Paige Barnes - Direct Examination by Mr. Bell

1 had the punctured bottom.

2 Q Now, during your time in the backyard both before
3 you went into the house and after you came back out to look
4 at the burn pile, did you ever have a chance to examine
5 that Durango that was in the backyard?

6 A Yes, I walked past it and looked in the window.

7 Q Did you ever, did you try to open the vehicle?

8 A No.

9 Q You just looked?

10 A Yes, sir.

11 Q And what did you see?

12 A Two 1-gallon cans of Coleman fuel.

13 Q And why is that relative to you?

14 A It's necessary -- it's one of the components to
15 manufacture methamphetamine.

16 Q Is that one of the pictures that we saw in that
17 little presentation given earlier?

18 A Yes, sir.

19 Q Now, after having a chance to walk around the
20 backyard, seeing the burn pile, seeing the different items
21 in the burn pile, seeing the Durango with Coleman fuel
22 inside, and speaking to Mr. Helms, who said he was out
23 there burning stuff, what did you do with that information?

24 A I made contact with Agent Terry Govan and advised
25 him that I would need a search warrant at that time.

Paige Barnes - Direct Examination by Mr. Bell

1 Q Okay. And why did you request a search warrant?

2 A With a consent to search, they can stop my search
3 at any time. I had enough probable cause then to obtain a
4 search warrant; so therefore, they cannot stop my search at
5 any time.

6 Q And what were you basing your reason to get a
7 search warrant on or what were you basing your reason to
8 get a search warrant on?

9 A The starter fluid cans, the Coleman fuel, the
10 lithium battery casings and the aluminum foil and the acid
11 generator.

12 Q And you mentioned that you contacted Terry Govan?

13 A Correct.

14 Q Who is he?

15 A He was an agent with the Narcotics Team at that
16 time.

17 Q Okay. Is he still with the Lexington County
18 Sheriff's Department?

19 A He is. He's in major crimes.

20 Q And what did you tell Mr. Govan on the phone?

21 A I gave him the description of the house, the
22 residence, the color. I also explained that there was two
23 sheds in the back, along with the dog pen and swimming pool
24 and I further explained what I had located inside the burn
25 pile.

Paige Barnes - Direct Examination by Mr. Bell

1 Q Did you instruct him as to what you wanted to be
2 contained in the search warrant?

3 A Yes, sir.

4 Q Could you give a few examples of what that
5 included?

6 A The search warrant -- the items to be searched were
7 to include persons, outbuildings, storage units, vehicles,
8 above ground and below ground items on the property.

9 Q Thank you.

10 Now, at this point, all of the suspects that were
11 inside, what was occurring with them?

12 A They were moved outside due to the fact of officer
13 safety and if anything was inside the house and did not
14 want it to be destroyed as far as the evidence was
15 concerned. They were moved outside to the ramp area and
16 were sitting on the ramp.

17 Q Were they under arrest at that point?

18 A No.

19 Q Okay. What would you consider it?

20 A They were detained.

21 Q Okay. Were you showing any force or threat to
22 them?

23 A No, sir.

24 Q Okay. Were they handcuffed?

25 A No, sir.

Paige Barnes - Direct Examination by Mr. Bell

1 Q Did you have drawn -- a weapon drawn?

2 A No, sir.

3 Q Okay. Now, after you called in to Terry Govan and
4 requested the search warrant, approximately how long did it
5 take to get it?

6 A Signed by the judge, approximately 45 minutes to an
7 hour.

8 Q Okay. And did you then begin the search based on
9 that search warrant?

10 A Yes, sir.

11 Q Okay. Now did you have any further interaction
12 with Jimmy Johnson on the property?

13 A I did.

14 Q And how did that go?

15 A I conducted a search of his pockets and located in
16 his pockets were two Walgreens receipts from where he had
17 purchased Pseudoephedrine earlier that day.

18 Q Now, when you say earlier that day, what date was
19 on those receipts?

20 A June the 11th.

21 MR. KIRKLAND: Your Honor, I object to that.
22 That's hearsay and that's not in evidence right now.
23 That's a statement made by Walgreens or...

24 THE COURT: All right. Let me see it.

25 (WHEREUPON State's Exhibit No. 39 was marked for

Paige Barnes - Direct Examination by Mr. Bell

1 identification.)

2 BY MR. BELL:

3 Q Agent Barnes, you testified that you found receipts
4 on Jimmy Johnson, in his pockets?

5 A Yes, sir.

6 Q Okay. What I'm handing you is currently marked as
7 State's No. 39 for identification. Would you take a moment
8 to review that?

9 A Yes, sir.

10 Q What does that appear to be?

11 Okay. What does the front page indicate to you?

12 A It's two Walgreen's receipts.

13 Q And what is the date -- excuse me. Is that -- what
14 you have in your hand, appear exactly as you found it on
15 that day?

16 A Yes, sir.

17 Q Now is that a copy of the actual receipts?

18 A Yes, sir.

19 Q But it is a copy?

20 A Yes, sir.

21 Q A photocopy?

22 A Yes, sir.

23 Q Okay. And that accurately and fairly portrays the
24 receipt as y'all saw it on that day?

25 A Yes, sir.

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1 Q Okay.

2 MR. BELL: Your Honor, at this time, we'd move
3 State's Exhibit No. 39 into evidence with your permission.

4 MR. KIRKLAND: No objection.

5 THE COURT: In admission. All right, that's 39?

6 MR. BELL: 39?

7 (WHEREUPON State's Exhibit No. 39 was entered into
8 evidence.)

9 THE COURT: It will be entered into evidence.

10 BY MR. BELL:

11 Q Agent Barnes, I'm going to hand this back to you.
12 Once again, this is State's No. 39. What is the date on
13 that receipt?

14 A It's June the 11th, 2013.

15 Q Is that the same date as the incident that you
16 responded to?

17 A Yes, sir.

18 Q And what is the item that was purchased on there?

19 A On one -- on one receipt it was Walfed D tablets,
20 96 count, 30 milligrams of Pseudoephedrine and the other
21 receipt --

22 Q Is that, are both of those from Jimmy Johnson?

23 A Yes, sir.

24 Q Okay. Please read the other receipt.

25 A It's Walfed D 12 hour caplets, 20 count, 120

Paige Barnes - Direct Examination by Mr. Bell

1 milligrams and they were purchased 3 minutes apart.

2 Q From the same location?

3 A Correct.

4 Q And those products that you listed, what were their
5 names again?

6 A One was Walfed D the 96 count and one was Walfed D
7 the 12 hour.

8 Q And what is the primary ingredient in those
9 products?

10 A Pseudoephedrine.

11 Q After you found these receipts, how did you react?

12 A How did I react?

13 Q Yes, ma'am. How did you react to finding those
14 receipts?

15 A I opened them up and looked at them and asked him
16 what he was doing with the receipts.

17 MR. KIRKLAND: Now, objection if we're heading into
18 hearsay.

19 MR. BELL: We are not, Your Honor.

20 THE COURT: All right.

21 BY MR. BELL:

22 Q As a qualified expert in the manufacture of
23 methamphetamine, what did you believe that you were dealing
24 with when you pulled those receipts out?

25 A A methamphetamine lab.

Paige Barnes - Direct Examination by Mr. Bell

1 Q Now, we talked about a term earlier when we were
2 using the presentation; do you remember what that term was?

3 A Smurfs.

4 Q That's correct and why is that relevant to you?

5 A That's just showing a pattern how it's just like,
6 it's just like with Jimmy Johnson purchasing two different
7 sets of Pseudoephedrine. When he made his first purchase,
8 he did not reach his limit because like I said, it was 30
9 milligrams of Pseudoephedrine so he could go back and get
10 more. So he went back to get more Pseudoephedrine. That's
11 why he met his limit that day of how much he could
12 purchase. That's just showing that one person is doing one
13 thing; one person is to do another.

14 Q Okay. Now after you searched Jimmy Johnson, did
15 anything unusual happen during the execution of the search
16 warrant?

17 A A red Mustang pulled into the backyard.

18 Q Okay. And you said it pulled into the backyard;
19 how would somebody get into the backyard?

20 A There was an alternate access road that would lead
21 directly into his backyard.

22 Q Were you able to see that vehicle?

23 A Once it got into the backyard, yes.

24 Q Was it within the fenced in portion of Phillip
25 Helms' property?

Paige Barnes - Direct Examination by Mr. Bell

1 A Yes, it was.

2 Q Was it parked near the exterior of the perimeter of
3 the property?

4 A It was in the middle of the property.

5 Q Was it in plain sight?

6 A Yes, sir.

7 Q Did it appear that the red Mustang was trying to
8 park in a concealed location?

9 A No, sir.

10 Q Now, did you have any further interaction with that
11 red Mustang?

12 A Not at that moment, no, sir.

13 Q And why -- why not?

14 A I was with the other individuals and we had only
15 two other officers there at that time.

16 Q Okay. Did anybody respond to the red Mustang?

17 A Agent Morris and Agent Merckle.

18 Q Okay. Now, while they went to go take care of the
19 red Mustang, what did, what did you continue to do at that
20 point?

21 A Basically I kind of stood by with the individuals
22 until we got a road deputy there to transport.

23 Q Did you have an opportunity at any point to go
24 through the house and look for anything else that you would
25 deem suspicious?

Paige Barnes - Direct Examination by Mr. Bell

1 A I did.

2 Q And would you talk a little bit about some of the
3 things that you found?

4 A In the living room I found -- to further explain
5 it, when you have sandwich bag and you cut the end of the
6 sandwich bag off and it forms a little triangle, that's
7 typically how drug dealers package their drugs. There were
8 two of those bags found in the living room with a white
9 powdery substance. There was a chalet, which is -- meth
10 can be smoked. It can be ingested numerous different ways.
11 However, the most common form of way of smoking
12 methamphetamine is on aluminum foil.

13 And what they do is they cut off a piece of
14 aluminum foil approximately that long and put the meth on
15 it. They fold it up and hold it in one hand and then take
16 a straw and, and light the aluminum foil and they suck the
17 smoke up inside the straw to get it inside of their body.
18 There were chalet's found throughout the house.

19 Q Do you remember roughly how many were found; was it
20 more than one?

21 A Yes, sir.

22 Q Now, could other drugs be smoked using a chalet?

23 A Not that way. I have never seen anybody smoke any
24 other drug in that way that I described. Crack, whenever
25 people smoke crack, they have to use a coil inside the --

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1 the device they put inside their mouth so they don't ingest
2 the whole crack rock into their throat and possibly choke.

3 Q But it is possible that you could smoke other drugs
4 on these implements?

5 A It's possible.

6 Q But in your extensive experience and training as a
7 narcotics officer, chalets are typically used for what kind
8 of narcotic?

9 A Methamphetamine.

10 Q Did you find anything else during your walk around
11 that house or your search of that house that was suspicious
12 to you?

13 A There was a glass pipe also located in the living
14 room. There was also a glass pipe that was located in an
15 additional room.

16 Q And when you say glass pipe, could you elaborate on
17 that?

18 A The glass pipe that was located in the living room,
19 it -- it was a colorful pipe, you've probably seen them at
20 like the flea market or whatever. It's what people
21 typically use to smoke marijuana in and they put it down
22 inside the little hole and the light it on fire and they
23 ingest the smoke through the pipe. There was also an
24 additional glass pipe, which was round at the bottom and a
25 hole in the top and it was long. Typically they put the

Paige Barnes - Direct Examination by Mr. Bell

1 meth down inside of the little bulb of the glass pipe,
2 light it to heat it up and then they smoke the meth through
3 the actual stem of -- of the pipe.

4 MR. BELL: I beg the Court's indulgence.

5 (WHEREUPON there was a pause in the proceedings.)

6 BY MR. BELL:

7 Q Now, the items that you just mentioned to the jury,
8 those are just the items that you personally found during
9 the search?

10 A Yes, sir.

11 Q Ultimately when dealing with a search warrant, does
12 one person gather everything up?

13 A No, sir, we have -- generally we take a room; like
14 one person will take one room, collect all the evidence
15 inside of that, and they'll label it where it was located,
16 who found it. And then they'll bring it to one designated
17 person, who is actually executing the search warrant.

18 Q And who was that designated person in this
19 particular incident?

20 A Myself.

21 Q Okay. Is there a certain title that they call that
22 when you're the person that logs everything?

23 A A scribe.

24 Q Okay. So you were the scribe on this incident?

25 A Yes, sir.

Paige Barnes - Direct Examination by Mr. Bell

1 (WHEREUPON State's Exhibits 30 through 37 were
2 marked for identification.)

3 BY MR. BELL:

4 Q All right. Agent Barnes, I'm going to hand you a
5 stack of photos. If you would take a minute to review
6 those. I'm handing you what is marked for identification
7 as State's 30 through 37; please take a look at those.

8 (WHEREUPON there was a pause in the proceedings.)

9 BY MR. BELL:

10 Q Have you had time to review those photos?

11 A Yes, sir.

12 Q And what are those pictures of, generally?

13 A Evidence that was collected at the scene.

14 Q Did you take those pictures?

15 A Not all of them.

16 Q But do they clearly and accurately represent
17 everything as it appeared on that day?

18 A Yes, sir.

19 MR. BELL: Your Honor, at this time, I would move
20 State's 30, 31, 32, 33, 34, 35, 36, and 37 into evidence
21 with the Court's permission?

22 THE COURT: All right. Did you let Mr. Kirkland
23 take a look at those?

24 MR. KIRKLAND: I've already looked at them. I'm
25 just double checking that I remember this.

Paige Barnes - Direct Examination by Mr. Bell

1 Yes, ma'am, they can come into evidence.

2 THE COURT: All right. Any objection.

3 MR. KIRKLAND: No objection.

4 THE COURT: All right. State's 30 through 37 will
5 be entered without objection.

6 MR. BELL: Thank you, Your Honor.

7 (WHEREUPON State's Exhibits 30 through 37 were
8 entered into evidence.)

9 BY MR. BELL:

10 Q What you are reviewing here is what is marked --
11 marked as State's 32. If I can figure out how to operate
12 this.

13 What does this appear to be a picture of?

14 A It's a Ziplock bag containing two additional
15 triangular bags.

16 Q I know it's hard to see here. You said there are
17 two other plastic bags within this larger bag?

18 A Yes, sir.

19 Q And what is this black writing up top?

20 A It was found in the living room.

21 Q So you said this writing on the top, who put that
22 there?

23 A I did.

24 Q And the little numbers that you see right here, who
25 put those there?

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1 A Emily, our chemist.

2 Q Okay. What do those numbers refer to?

3 A It's her lab numbers.

4 Q Okay. So you took the two plastic bags that were
5 found and put them into a bigger bag, correct?

6 A Yes, sir.

7 Q What you are viewing now is what is marked as
8 State's 33; it may be hard to read this, but what is this a
9 picture of?

10 A It's a spoon and tin foil in a box in room one by
11 Hodges.

12 Q Okay. Who does Hodges refer to?

13 A Agent Hodges, Tom Hodges.

14 Q And those numbers below that, are those this date?

15 A That's the date it was found, yes, sir.

16 Q Okay. And once again, you said that this metallic
17 item right here, what is that?

18 A That's aluminum foil.

19 Q Okay. How about the longer object behind that sort
20 of?

21 A It's a spoon.

22 Q Okay. Was there anything on that spoon when you
23 examined it that was suspicious to you?

24 A Some burnt marks.

25 Q Once again, you took that item that was brought to

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1 you and packaged it in a different bag?

2 A I did.

3 Q Okay. We'll get there in just a moment. This is
4 State's 30; what is this a picture of?

5 A It's a Tupperware container that was found, I
6 believe in Robin's purse.

7 Q Those numbers that are on top of that pack; what
8 are those once again?

9 A That's Emily's initials and the lab number.

10 Q Did you also take this item and place it into a
11 bag?

12 A I did.

13 Q State's 31; what is this a picture of?

14 A Methamphetamine in a bag inside the larger bag.

15 Q Okay. Now once again, it's hard to see because of
16 all this plastic, but what is this referring to? The item
17 inside the larger bag?

18 A The methamphetamine.

19 Q Okay. And that's packaged in what?

20 A A little triangle bag where they have cut off
21 the -- the edge of a sandwich bag and it's placed in a
22 larger bag so we won't have cross contamination.

23 Q Okay. And what is this text that you see on the
24 back?

25 A Found on Robin in right pocket.

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1 Q Did you write that?

2 A I did.

3 Q Did you also take that little baggy that you said
4 was methamphetamine and place it into a larger bag?

5 A I did.

6 Q Okay. State's No. 34; I apologize for the
7 difficulty to read. What does the text say on here?

8 A Bag of green leafy substance, two coffee filters
9 with residue on Huggins by Morris.

10 Q Morris refers to who?

11 A Agent Morris.

12 Q Okay. Once again the numbers with the little
13 circle and initials?

14 A That's the lab number and Emily's initials.

15 Q Okay. What kind of number?

16 A The lab number.

17 Q Now, you've said multiple times that you took these
18 different items that were gathered up for you because you
19 were the scribe on this incident and you took them and you
20 put them in a bigger bag. What is that bag called?

21 A A BEST Kit.

22 Q Okay. This is State's No. 35. What does this
23 picture show?

24 A A BEST Kit.

25 Q Okay. Is this the BEST Kit that was used on this

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1 date?

2 A Yes, sir.

3 Q Okay. And what is the purpose of a BEST Kit?

4 A The purpose of a BEST Kit is to place all the items
5 that need to be tested by the chemist into one bag and so
6 when she comes over and picks up the items, all she has to
7 do is grab that one kit, take it over, and she can test the
8 items inside of it.

9 Q Okay. This green stripe at the top; what is that?

10 A It's a -- it's showing that the, the bag, if the
11 bag is tampered with once it's placed into the evidence
12 room, it'll have a big stretchy thing in it; it's a
13 tamperproof bag.

14 Q What would you call that very generally?

15 A Tape.

16 Q Okay. Does it actually seal the bag closed?

17 A Yes.

18 Q And after you placed the evidence from this case
19 into this bag, did you use that seal?

20 A I did.

21 Q Okay. Now, at the top, we see where it says
22 control number and then there's a number beside that. What
23 exactly is that?

24 A Every -- every BEST Kit has a different number;
25 it's a unique number. There's not one BEST Kit that has

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1 the exact same number. So that just identifies the BEST
2 Kit as the control number that I used.

3 Q Now, is there ever a BEST Kit that has the same
4 control number as any other BEST Kit?

5 A No, sir.

6 Q At the top right, there's a little circle with a
7 couple of letters in it; what is that?

8 A That's Emily's initials.

9 Q Okay. And in this portion right here, there's some
10 blue writing; whose writing is that?

11 A That's mine.

12 Q And what does that writing indicate?

13 A The agency is the Lexington County Multi-Agency
14 Narcotics Enforcement Team. The date it was sealed was
15 June --

16 Q Does that say 12? I apologize.

17 A June the 12th, 2013, has the control number, or the
18 case number, and it has my printed name and then it has my
19 signature.

20 Q Okay. And you said the date sealed on there says
21 June 12th, 2013.

22 Now, the incident date was June 11th, 2013; why was
23 this not sealed until the following date?

24 A Actually it was sealed. The case continued on
25 until, we got out there around five o'clock in the

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1 afternoon and it takes a -- several hours to process a
2 house. So when, the evidence was actually being placed
3 into that bag, it had turned; it was after midnight.
4 Therefore, it was the following day.

5 Q Did you take a break while you were on the scene
6 and come back later to bag all this up?

7 A I did not.

8 Q So you were on the scene from the time that it was
9 June 11th until it rolled over to the 12th?

10 A Yes, sir.

11 Q Now, below your writing is some black writing;
12 whose writing is that?

13 A Emily's.

14 Q Okay. Now you testified earlier that you sealed
15 this BEST Kit and that if anybody was to tamper with that
16 seal, it would be evident because it stretches out, right?

17 A Yes, sir.

18 Q Okay. After you placed all of these items into
19 this BEST Kit, at any point in time, did it leave your sole
20 care and custody and control?

21 A Not until I placed it in evidence.

22 Q Okay. You had it on you or right near you the
23 entire time?

24 A Yes.

25 Q At any point in time, did anybody else have access

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1 to it?

2 A No, sir.

3 Q Now, we went through these items and there were
4 several different things. Some of which you said that you
5 found yourself; others that were found by other agents you
6 were working with?

7 A Yes, sir.

8 Q To clarify on State's 34, these are the coffee
9 filters and bag of green leafy substance; who initially
10 seized those items from the scene?

11 A Agent Morris.

12 Q And where did Agent Morris take those items to?

13 A To me.

14 Q Okay. And then what did you do with them?

15 A I placed them in the BEST Kit.

16 Q Okay. And State's 33, this was the spoon and tin
17 foil; who seized this item from the scene?

18 A Agent Tom Hodges.

19 Q And what did he do with those items when he seized
20 them?

21 A He brought them to me.

22 Q And what did you do with those items?

23 A I placed them in the BEST Kit.

24 Q Okay. Did you manipulate or modify them in any way
25 from the time they brought them to you to the time you put

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1 them in the BEST Kit?

2 A No, sir.

3 Q This is State's 30, which you identified as being a
4 Tupperware container. Who seized this item from the scene?

5 A Agent Merkle.

6 Q And what did Agent Merkle do with it when he seized
7 it?

8 A He brought it to me.

9 Q And then what did you do with that item?

10 A I placed it in the BEST Kit.

11 Q Once again, did you modify that item in any way
12 from the time that you received to the time you put it in
13 the BEST Kit?

14 A No, sir.

15 Q Okay. State's 31, who seized that from the scene?

16 A I did.

17 Q What did you do with it?

18 A Placed it in the BEST Kit.

19 Q State's 32; who seized that item?

20 A I did.

21 Q And what did you do with that item?

22 A Placed it in the BEST Kit.

23 MR. BELL: I beg the Court's indulgence one more
24 moment.

25 THE COURT: Yes, sir.

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1 BY MR. BELL:

2 Q Agent Barnes, this is what is marked as State's 36.
3 What is this a picture of?

4 A It's a picture of a brown paper bag where I had
5 placed the receipts that were found on Jimmy Johnson.

6 Q Whose writing is on this bag?

7 A Mine.

8 Q And what does Bag No. 9 refer to?

9 A What bag it is in evidence.

10 Q Okay. At the top, there is a bar code; did you put
11 that bar code there?

12 A I did not.

13 Q Who places that bar code on the bag?

14 A The evidence custodians.

15 Q Where do you get this brown paper bag from?

16 A The evidence room.

17 Q Okay. And after you place the items inside, what
18 do you do with the bag?

19 A I seal the bag and I initial it.

20 Q You said these, what is in this bag are two
21 receipts that were found on Jimmy Johnson?

22 A Yes, sir.

23 Q When you took those items from Mr. Johnson, what
24 did you do with them?

25 A Placed them in an additional bag and then put them

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1 in a brown paper bag.

2 BY MR. BELL:

3 Q Okay. This is State's 37. What is this a picture
4 of?

5 A It's the brown paper bag of receipts that were
6 found in the Mustang.

7 Q Who initially seized those receipts?

8 A Agent Merckle, I believe.

9 Q And what did he do with those receipts?

10 A He brought them to me.

11 Q And then what did you do with those receipts?

12 A I placed them in the brown paper bag, labeled the
13 bag and put them into evidence, sealed it and initialed and
14 dated it.

15 Q Once again that bar code, who puts that there?

16 A The evidence custodian.

17 (WHEREUPON State's Exhibit No. 38 was marked for
18 identification.)

19 BY MR. BELL:

20 Q Agent Barnes, I'm handing you what is marked as
21 State's 38 for identification. Would you please take a
22 look at that.

23 A Yes, sir.

24 Q Have you had sufficient time to review it?

25 A Yes, sir.

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1 Q And what is that a picture of?

2 A It's two Walmart receipts.

3 Q And do you know who those Walmart receipts were
4 seized off of or seized from?

5 A They were in the Mustang that pulled up later
6 during the execution of the search warrant.

7 Q Okay. Are the -- is that picture that you're
8 holding in your hand, does it fairly and accurately
9 represent the receipts as you received them on that day?

10 A Yes, sir.

11 MR. BELL: Your Honor, at this time, we would like
12 to move State's 38 into evidence?

13 MR. KIRKLAND: I think I've seen it, Your Honor,
14 but I will check.

15 MR. BELL: It's the one I handed you a moment ago.

16 MR. KIRKLAND: Oh, yeah, that's fine. No
17 objection.

18 THE COURT: All right. No. 38, State's Exhibit No.
19 38 will be entered without objection.

20 (WHEREUPON State's Exhibit No. 38 was entered into
21 evidence.)

22 BY MR. BELL:

23 Q Briefly, Agent Barnes, once again it's hard to
24 read. This is what is marked as State's 38. Is this the
25 same document that I handed you a few moments ago?

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- 1 A Yes, sir.
- 2 Q And one more time, what is this a picture of?
- 3 A Two receipts.
- 4 Q And what items were purchased according to this
- 5 receipt?
- 6 A One receipt, the one that spent the \$5 --
- 7 Q Just the receipt that we have up here?
- 8 A That, it's two different receipts.
- 9 Q Okay.
- 10 A You can't read what's at the top of the other one.
- 11 Q Okay.
- 12 A I can read it on my paper.
- 13 Q What is on that receipt right there?
- 14 A The Walmart, where you see the Walmart?
- 15 Q That's correct?
- 16 A Claritin D.
- 17 Q Okay. And what exactly is Claritin D?
- 18 A It's a cold medicine that contains Pseudoephedrine.
- 19 Q Okay.
- 20 MR. BELL: Your Honor, one moment?
- 21 THE COURT: Sure.
- 22 (WHEREUPON there was a pause in the proceedings.)
- 23 MR. BELL: Your Honor, in the interest of time, I
- 24 believe Defense wishes to make a comment to the Court.
- 25 MR. KIRKLAND: A lot of this is --

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1 THE COURT: Come up here.

2 (WHEREUPON there was a bench conference out of the
3 hearing of the jury and the court reporter.)

4 THE COURT: Okay. Ladies and gentlemen of the
5 jury, I think I have promised you all a break about every
6 hour and a half to two hours and I think we're almost at
7 two. So we're close to two hours, so we'll take about a 10
8 minute break.

9 MR. BELL: Your Honor, if I could request that the
10 Court address the issue that we just discussed prior to
11 taking a break. I think that would put us on a more even
12 footing when we start back after the break.

13 THE COURT: All right. Yes, sir.

14 MR. KIRKLAND: Part of the requirement when
15 introducing things into evidence is that they need to
16 establish a chain of custody. So technically they would
17 need to call the other witnesses that actually seized these
18 items initially and then handed them to Paige Barnes. I
19 don't think that that's necessary.

20 So I'm going to stipulate as to all the items that
21 are in evidence right now that the chain; I'm going to
22 waive any challenges to the chain of custody and allow
23 these items into evidence.

24 THE COURT: All right. Ladies and gentlemen of the
25 jury, there have been some various -- there is a

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1 stipulations that's been entered into this case. A
2 stipulation is an agreement as to a fact. Once a fact is
3 stipulated to, that fact becomes established for purposes
4 of the case, it cannot be questioned or contradicted. In
5 this case, the parties have stipulated as to the chain of
6 custody; only as to the chain of custody in this case. All
7 right.

8 All right. We'll go ahead and take our 10 minute
9 break and we will see you all back shortly.

10 MR. BELL: Thank you, Your Honor.

11 (WHEREUPON the jury left the courtroom at 11:42
12 a.m.)

13 (WHEREUPON a brief recess was observed.)

14 THE COURT: Are we ready?

15 MR. KIRKLAND: I think we're ready. I think the
16 agreement is right now that as they put each individual
17 item in, I'm going to stipulate to the chain of custody as
18 to each item. And I don't think that there's anything --
19 they're not notifying me of anything they tend to put in
20 that I'm going to object to the chain of custody.

21 However, if there is something that we have not
22 talked about, of course, then I'll have to talk about it,
23 but there's nothing that I know of right now.

24 THE COURT: Okay.

25 MR. KIRKLAND: So I think the safest way to do it

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1 is just have them push their evidence in through whatever
2 witness. I will not object to it coming, which then waives
3 the chain of custody anyway and add it to the stipulation.

4 THE COURT: All right.

5 MR. KIRKLAND: Is that what you guys want to do?

6 (WHEREUPON the attorneys were conferring.)

7 MR. KIRKLAND: And they would like, if I do at some
8 point in time in the trial object to something, they want
9 to reserve the right to recall the witness, which I'm fine
10 with because it's going to get resolved one way or the
11 other on the stand anyway.

12 THE COURT: All right. So you wish to reserve the
13 right to re-call the witness?

14 MR. BELL: That's correct, Your Honor. If does
15 have an individual objection, we'll lay the foundation for
16 that particular item.

17 THE COURT: All right. All right. Let's bring
18 them in.

19 I'm thinking we'll probably work until about one
20 and then take a break.

21 MR. BELL: Thank you, Your Honor.

22 THE COURT: At that point, we'll see if we finish
23 with the -- Agent Barnes.

24 THE COURT REPORTER: Does that mean they're all in?

25 THE COURT: Ma'am?

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1 THE COURT REPORTER: All of them I've got marked
2 are in or they're going to have to enter them?

3 THE COURT: All right. Are we marking -- are they
4 all in? Are they all marked?

5 Mr. Kirkland?

6 MR. KIRKLAND: Oh, I'm sorry; I apologize.

7 THE COURT: So instead, are we -- are you agreeing
8 to go ahead and mark all of them and enter them now?

9 MR. KIRKLAND: What I thought we would do is just
10 one by one put them in, lay the foundation that they fairly
11 and accurately represent whatever was on the scene and then
12 I won't require them to lay -- provide a chain in addition
13 to establishing that they fairly and accurately represent
14 the evidence that she received.

15 THE COURT: Okay.

16 MR. BELL: Your Honor, the chain was essentially
17 done anyway. All that remains at this point is a stack of
18 photographs. I'm just going to hand to her once, if she
19 took them or at least supervised the taking of them, make
20 sure she recognizes them and that will be the rest of my
21 exhibits.

22 THE COURT: All right.

23 MR. KIRKLAND: Okay.

24 THE COURT: And you can just say stipulates to
25 them.

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1 MR. KIRKLAND: Well, the photographs want have
2 chain, but yes. Yes, we'll stipulate to that.

3 THE COURT REPORTER: Thank you.

4 THE COURT: All right. You can bring them in.

5 (WHEREUPON the jury entered the courtroom at 12
6 o'clock p.m.)

7 THE COURT: All right. Ladies and gentlemen of the
8 jury, we'll continue with the direct examination of the
9 State's witness, Agent Barnes.

10 Yes, sir.

11 MR. BELL: Thank you, Your Honor.

12 BY MR. BELL:

13 Q Agent Barnes, we should be a little bit speedier
14 now that we've got that taken care of. I'm going to hand
15 you a stack of pictures. These are marked as 3 through 29,
16 as State's 3 through 29 for identification.

17 MR. KIRKLAND: As to 3 through 29, we have no
18 objection to them being entered into evidence right now.

19 THE COURT: Okay.

20 MR. BELL: Your Honor, do you still wish me to lay
21 a foundation?

22 THE COURT: Go ahead.

23 MR. BELL: Thank you.

24 (WHEREUPON State's Exhibits No. 3 through 29 were
25 entered into evidence.)

Paige Barnes - Direct Examination by Mr. Bell

1 BY MR. BELL:

2 Q All right. Agent Barnes, we'll get right into it
3 then. Now you testified on June 11th, 2013, you arrived at

4 [REDACTED]

5 A Yes, sir.

6 Q Whose residence once again is that?

7 A Phillip Helms.

8 Q Okay. After crossing into his backyard, one of the
9 items that you said that you saw was a Dodge Durango?

10 A Yes, sir.

11 Q Referring to State's No. 3, what is the picture of?

12 A A navy blue Dodge Durango.

13 Q Is that the Dodge Durango that was in his backyard?

14 A Yes, sir.

15 Q Okay. What is that object that is on the rear
16 quarter panel?

17 A It's Mr. Helms' walker.

18 Q Was there anybody else on the property that day
19 that had any sort of physical impairment?

20 A No, sir.

21 Q Was there anybody else that you saw that required
22 the use of a walker?

23 A No, sir.

24 Q Okay. Referring State's No. 4, what is this a
25 picture of?

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1 A It's the driver's side of the Dodge Durango
2 containing two, 1-gallon containers of the Coleman camp
3 fuel.

4 Q Okay. And these items down here?

5 A That's the two, 1-gallon containers of Coleman camp
6 fuel.

7 Q Okay. This is State's 5. What is the picture of?

8 A It's just a closer picture of the two, 1-gallon
9 containers of Coleman camp fuel.

10 Q Okay. Now, do you have any idea who this vehicle
11 is registered to?

12 A Robin Krantz.

13 Q Okay. Was she anywhere on the property?

14 A Not at that moment.

15 Q Okay. Was she eventually on the property?

16 A Yes, sir.

17 Q And how did she arrive?

18 A In the red Mustang.

19 Q What is this reflective substance there below those
20 Coleman fuel cans?

21 A It's a puddle of water.

22 Q Does that have any indication to you?

23 A The vehicle was not usable; the windshield was
24 cracked.

25 Q Were there any indications that vehicle had just

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1 arrived?

2 A No, sir.

3 Q So it appears that it had been there for some time?

4 A It had been there for some time. It didn't have
5 any tags on it. I identified it through the VIN number off
6 of the vehicle.

7 Q Now why is Coleman camp fuel relevant?

8 A That's the organic solvent that is used to --
9 whenever you make the one pot shake and bake.

10 Q Okay. And once again, we talked about it earlier,
11 that's one of the images that was actually in that
12 presentation, right?

13 A Yes, sir.

14 Q This is State's 6, what do you see there?

15 MR. KIRKLAND: Your Honor, before we continue, I
16 think we need to make one thing clear on the record because
17 when I introduced all of those items into evidence, some of
18 them contained pictures of the Mustang and I just want to
19 make sure that I have preserved that objection that I'm
20 allowing them in subject to my earlier objections
21 concerning the Mustang and my earlier objections concerning
22 the things found in other people's pockets?

23 THE COURT: Right. That objection is preserved for
24 the record.

25 MR. KIRKLAND: Thank you.

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1 BY MR. BELL:

2 Q Once again, I'm referencing State's No. 6, what is
3 this a picture of?

4 A It's coffee filters that were purchased from Dollar
5 General.

6 Q Okay. And where were they located?

7 A In the Dodge Durango.

8 Q Okay. Is this the same Dodge Durango that you
9 found the Coleman fuel in?

10 A Yes, sir.

11 Q And what store did you say they were bought from?

12 A Dollar General.

13 Q Okay. Why are coffee filters relevant?

14 A That's what is used in the filtering process when
15 you're taking the liquid from the one pot and filtering it
16 over to make the ammonia gas and then also it's used to dry
17 out the methamphetamine.

18 MR. KIRKLAND: And I think also, Your Honor, I had
19 made an objection pursuant to the Durango. Of course I
20 want to preserve that objection as well.

21 THE COURT: All right. It's preserved for the
22 record.

23 MR. KIRKLAND: From yesterday.

24 BY MR. BELL:

25 Q Agent Barnes, this is State's No. 7, what is this a

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1 picture of?

2 A It's of the burn pile that was located in Phillip
3 Helms' backyard. It's two actual separate burn -- burn
4 places.

5 Q Okay. So what is this stuff over here?

6 A There's a TV in there, looks like household
7 garbage.

8 Q Okay. And then this right here?

9 A That's a burn barrel.

10 Q How about this little depression area right below
11 that burn barrel?

12 A That's where items had been thrown over there to,
13 to burn down.

14 Q So there were two separate areas where things were
15 burning or could have been burned?

16 A Yes, sir.

17 Q One was this container?

18 A Yes, sir.

19 Q And then the second one was this depression?

20 A Yes, sir.

21 Q State's No. 8, generally what is the picture of?

22 A It's part of the burn barrel, but it shows the
23 starter fluid cans right on the top.

24 Q Now the third pile, was this -- were these items
25 inside of the burn barrel?

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- 1 A They're beside it.
- 2 Q Okay. Is there anything relevant in this picture?
- 3 A The starter fluid cans.
- 4 Q Okay. And these two items are what?
- 5 A They're used in the manufacture of methamphetamine.
- 6 Q What are those two items there?
- 7 A Starter fluid, punctured starter fluid cans.
- 8 Q Anything else in that picture?
- 9 A There's a battery casing to the left of the starter
- 10 fluid cans.
- 11 Q Here?
- 12 A Yes, sir.
- 13 Q And why would it be a battery casing?
- 14 A That's the battery casings that they removed the
- 15 lithium from.
- 16 Q Reference to State's No. 9, what is this picture
- 17 of?
- 18 A That is starter fluid cans. At the bottom of the
- 19 photo that's a burnt starter fluid can that shows that they
- 20 had burned the starter fluid cans previously.
- 21 Q You're referring to this can right here?
- 22 A Yes, sir.
- 23 Q What -- what condition does it appear to be in?
- 24 A It's old; it's been burnt several times.
- 25 Q And now all of these items in this grouping, where

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1 were they recovered from?

2 A The burn barrel.

3 Q Okay. What else sticks out to you in this picture?

4 A There's an acid generator, the green bottle up at
5 the top.

6 Q You're referring to this?

7 A Yes, sir.

8 Q Okay. Anything else?

9 A The -- the -- the bottle in the middle is --

10 Q This bottle?

11 A Yes -- it's actually the remnants of a one pipe;
12 it's got the sludgy cake material inside of it.

13 Q Okay. We'll get to that closer in a moment; what
14 else?

15 A There's a starter fluid can below that.

16 Q You're referring to this?

17 A Yes.

18 Q And is that a separate starter fluid can from the
19 two that we identified in an earlier picture?

20 A Yes. And beside that is the blue, it's filters
21 they use, commonly use when handling methamphetamine.

22 Q What kind of filters?

23 A Those weren't coffee filters; they were like the
24 heavy duty paper towel things that you use when you're
25 cleaning stuff.

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1 Q Okay. State's No. 10, what is this a picture of,
2 Agent Barnes?

3 A That's an acid generator.

4 Q Is this the same grouping of items that you saw in
5 the previous photo?

6 A Yes, sir.

7 Q And what is the first thing that you mentioned?

8 A The two acid generators.

9 Q Okay. Would you point those out; which items are
10 they?

11 A They're green items. That one.

12 Q Here?

13 A Yes, sir.

14 Q And here?

15 A Yes, sir.

16 Q Okay. Which one sticks out to you?

17 A The one pot, which is the fruit tropical fruit, I
18 think it says.

19 Q This bottle right here?

20 A Yes, sir.

21 Q Okay. Now, what indicates to you that these
22 containers are what you call an acid generator?

23 A An acid generator, as I said, is a -- a
24 hydrochloric acid. So what it does is it burns out the
25 bottom of the bottle. As you're putting stuff in, you put

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1 the acid inside of the plastic and it burns; it'll burn it
2 off. So -- and also in of the bottles, which you clearly
3 can't see from where you are, it -- there's a small piece
4 of tubing that's in the top of one of the bottles, which
5 shows that it was used as an acid generator.

6 Q Agent Barnes, when you say there's small piece of
7 tubing sticking up; I agree, it is hard to see here from
8 afar, but are you speaking of right here?

9 A Yes, sir.

10 Q Okay. State's 11, what is this a picture of?

11 A That's the two acid generators at a closer view.
12 If you can the, the top of the cap, you can see a little
13 plastic thing that's coming off the top of it. That's
14 the --

15 Q Referring here?

16 A Yes, sir, that's the tubing and you see how the,
17 the bottom of the Mountain Dew bottle is burnt out and
18 that's because of the acid.

19 Q When you say burnt out, are you referring to right
20 here?

21 A Yes, sir.

22 Q Is that typical of acid generators that you find?

23 A Absolutely.

24 Q And then this item right here, what is that?

25 A That's an acid generator as well. It just hasn't

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1 burned out as fast.

2 Q And to clarify, what kind of containers are these?

3 A Plastic.

4 Q Okay. Do you they appear to be of a name brand of
5 something that you can identify?

6 A Mountain Dew.

7 Q Okay. And which one are you referring to?

8 A The top one is a Mountain Dew bottle.

9 Q Okay. You know roughly the volume of those?

10 A 16 ounces, fluid ounces.

11 Q This is State's 12, what is this a picture of,
12 Agent Barnes?

13 A That's a plastic bottle that had been previously --
14 previously used as a one pot. It contains the sludgy
15 material from the ammonium nitrate, the lye, the
16 Pseudoephedrine, the lithium.

17 Q What color is that substance there?

18 A It's white, whitish color.

19 Q And what is that indicative of?

20 A A cake, a meth cake.

21 Q Is that what you were referring to in your earlier
22 presentation when you mentioned meth cake?

23 A Yes, sir.

24 Q Is there anything else that you can see in this
25 visible area that sticks out to you?

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- 1 A In parts of that bottle, there were little pieces
2 of lithium inside of it and the bottle was completely dried
3 out. Therefore, I couldn't test anything inside of the
4 bottle. And once the lithium strips are, hit any water,
5 they can start reacting again, which is potentially
6 hazardous to the person who is dealing with the one pot; it
7 will explode.
- 8 Q Are there lithium specks or residue visible in this
9 picture?
- 10 A Yes, sir.
- 11 Q If I handed you this laser pointer, would you be
12 able to more accurately point them out?
- 13 A Yes, sir. You want me to get down?
- 14 Q If you think that you can accurately hit it from
15 here, you can stay there?
- 16 A Right there.
- 17 Q What are you pointing to, Agent Barnes?
- 18 A The lithium that's inside of the bottle right
19 there. That right there is just where they had tried to --
20 to clean out the bottle by using a plastic spoon or a
21 stirrer. It's not uncommon for them to try and use more
22 than -- the cake more than once.
- 23 Q So why would they attempt to clean the bottle out
24 with a spoon?
- 25 A To get the residue out with the Pseudoephedrine.

Paige Barnes - Direct Examination by Mr. Bell

1 The remaining left over Pseudoephedrine that may not have
2 cooked off.

3 Q And you just said a moment ago, they can do what
4 with that after scooping it out?

5 A They typically reuse the cake that's inside the
6 bottle. It's called a double drop where they'll, they'll
7 drop it twice and they'll pull what's, the remaining
8 Pseudoephedrine that is converted into methamphetamine.
9 They don't yield near as much profit -- yield near as much
10 product from that.

11 Q State's No. 13, what is that a picture of, please.

12 A That's got some battery casings inside of that and
13 a large amount of aluminum foil.

14 Q If I handed you this laser pointer again, would you
15 be able to point out the battery casings?

16 A Yes, sir.

17 Q Please point out the battery casing for the jury?

18 A If you look right here between these two pieces or
19 these three pieces of aluminum foil, there's a battery
20 casing down in there and also right over here; that's the
21 opening of a battery casing right there.

22 Q Are there, is there anything else in that picture
23 that you feel is relevant?

24 A The large amount of aluminum foil.

25 Q And why is that relevant?

Paige Barnes - Direct Examination by Mr. Bell

1 A Because that's basically what they use to smoke
2 methamphetamine.

3 Q In State's 14, is there anything relevant in this
4 picture?

5 A Just a large amount of aluminum foil again.

6 Q Now is aluminum foil necessarily illegal?

7 A No, sir.

8 Q However, in your training, what does this aluminum
9 foil in a burn pile indicate?

10 A Methamphetamine cook.

11 Q And those items, where were they located once
12 again?

13 A In the burn pile.

14 Q Okay. Now this burn pile, I want to take a little
15 bit of time to talk about that.

16 MR. BELL: I beg the Court's indulgence.

17 (WHEREUPON there was a pause in the proceedings.)

18 BY MR. BELL:

19 Q Agent Barnes, what I'm showing you is what is
20 currently marked as State's No. 1 for identification. What
21 is that a picture of?

22 A It's an aerial view of Phil Helms' property.

23 Q Does it fairly and accurately portray the property
24 as you saw it that day?

25 A Yes, sir.

Paige Barnes - Direct Examination by Mr. Bell

1 Q For clarification purposes, is this a picture of
2 the exact day in question?

3 A No, sir.

4 MR. BELL: Your Honor, at this time, we request to
5 move into evidence State's No. 1 and consequently ask to
6 publish this to the jury?

7 MR. KIRKLAND: No objection.

8 THE COURT: State's 1 would be entered into
9 evidence without objection and yes, you may publish it.

10 MR. BELL: Thank you, Your Honor.

11 (WHEREUPON State's Exhibit No. 1 was entered into
12 evidence.)

13 BY MR. BELL:

14 Q Agent Barnes, I'm going to ask that you step down
15 if that's okay with Your Honor?

16 THE COURT: Yes, sir.

17 BY MR. BELL:

18 Q Agent Barnes, if you would please remember to try
19 to project so the court reporter can hear you.

20 A Yes, sir.

21 Q Once again for the jury, what is this a picture of?

22 A It's an aerial photo view of Phil Helms' property.

23 Q And would you please point out Phillip Helms'
24 house?

25 A It's this white house right here, white trailer.

Paige Barnes - Direct Examination by Mr. Bell

1 Q Okay. Now, when you initially pulled up onto the
2 property, where did you pull your vehicle?

3 A I pulled it onto this front road right here, which
4 is considered the driveway. And I pulled up beside another
5 vehicle that was in the yard.

6 Q And where did you first make visual contact with
7 Phillip Helms?

8 A Mr. Helms was approximately right here in the yard.

9 Q And when you gained consent to enter his premises
10 and walked up to speak to, where did you actually speak to
11 him at?

12 A The first time?

13 Q When you actually walked up to him to speak to him?

14 A In that general area right there.

15 Q Now, does this image appear to be slightly skewed
16 in size?

17 A Yes, sir.

18 Q And that is because it's a satellite image?

19 A Yes, sir.

20 Q What is this structure; what is that?

21 A That's a fence.

22 Q And what is that outlining?

23 A His property.

24 Q And would you please outline that for the jury one
25 more time?

Paige Barnes - Direct Examination by Mr. Bell

1 A (Witness complied.)

2 Q Now, you said there was a Dodge Durango in the
3 backyard that we spoke about earlier; where was that
4 located?

5 A It was located beside this shed right here.

6 Q And when you said that you saw a burn pile, which
7 is what we just talked about, some items that you found.
8 Where is that burn pile located?

9 A It's located right here.

10 Q And would you circle the entirety of the area being
11 used.

12 A (Witness complied.)

13 Q Is that on Phillip Helms' property?

14 A Very much so.

15 Q Is it within the fence of his property?

16 A It is.

17 Q You testified earlier that during the execution of
18 the search warrant a red Mustang pulled up on the property.
19 Would you please point out for future reference, where that
20 Mustang pulled up to?

21 A It pulled up in this area right here.

22 Q And where is that in reference to his property;
23 what part of the yard is that?

24 A I'm not very good at distance, but I would say
25 that's like right in the middle of his property.

Paige Barnes - Direct Examination by Mr. Bell

1 Q Okay. Where did the Mustang approach from?

2 A There's an additional access right down in here.
3 It drove the past the main driveway and went through an
4 additional access road that generally no one would have
5 knowledge that was there unless they frequent the
6 residence.

7 MR. KIRKLAND: Your Honor, I would object to that;
8 that's purely speculation. That's absolutely speculation.

9 THE COURT: Sustained.

10 MR. KIRKLAND: I'd ask that be struck from the
11 record.

12 THE COURT: All right. Ladies and gentlemen of the
13 jury, please disregard that last comment.

14 BY MR. BELL:

15 Q So you testified the Mustang parked, essentially in
16 the center of the backyard?

17 A Yes, sir.

18 Q And what is this building down here?

19 A It's a dog pen.

20 Q Whose property is that on?

21 A Phil Helms.

22 Q Now, after you examined the burn pile, you went
23 back and spoke to Phillip Helms, and at that point, he told
24 you he had some friends inside. At that point, you
25 testified that you went into the house; is that true?

Paige Barnes - Direct Examination by Mr. Bell

1 A Yes, sir.

2 Q And this is the house you're referring to?

3 A Yes, sir.

4 Q Agent Barnes, you can take a seat.

5 Upon entering the house, you first made contact
6 with who?

7 A Olivia Mason.

8 Q In State's Exhibit 15, what is this a picture of?

9 A There's a white cell phone on the end table that's
10 in the living room. That cell phone belongs to Phil Helms
11 and there's a glass smoking device on top of it. As I
12 spoke of, the color's the same --

13 MR. KIRKLAND: Your Honor, I'm going to object to
14 identifying that as a phone if it's a -- I'm basically
15 saying it's hearsay, Your Honor. I don't think that there
16 could be physical evidence that she's aware of that's --

17 THE COURT: All right. Lay your foundation as to
18 how she knows, if she knows.

19 BY MR. BELL:

20 Q Agent Barnes, what makes you say that's Phillip
21 Helms' phone?

22 A I collected it as evidence and he said it was his.

23 Q Where was it seized from?

24 A His residence.

25 Q Where in his residence?

Paige Barnes - Direct Examination by Mr. Bell

1 A On his person.

2 Q Whose seized it?

3 A I did.

4 Q And did you just testify that he said it was his?

5 A Yes, sir.

6 Q Do you still have your laser pointer up there with
7 you?

8 A Yes, sir.

9 Q Would you please point out more specifically the
10 item that we're talking about.

11 A Sitting on top of the white cell phone is glass
12 smoking device, which is typically used to smoke marijuana.

13 Q Was that night stand or side table or whatever that
14 piece of furniture is, was it concealed in a corner of the
15 room?

16 A No, sir, it was beside the recliner in the living
17 room.

18 Q Was there any intent to hide it from plain view?

19 A No, sir.

20 Q Now, you testified earlier that while you were in
21 the residence, you went back into a room where you found
22 Jimmy Johnson and Nancy Krantz or Renee Krantz; is that
23 correct?

24 A Renee Krantz, yes.

25 Q In State's 17, what is this a picture of?

Paige Barnes - Direct Examination by Mr. Bell

1 A This right here is what is considered a chalet. If
2 you -- when you see a set of picture or you see the picture
3 closer, you can notice that there's burn marks inside of
4 the aluminum foil. And as I -- and then sitting right
5 beside it is an emptied out pen. So it's just the plastic
6 that covers over a pen. The methamphetamine is placed
7 inside of this chalet right here, It's lit on fire by a
8 lighter underneath to heat up the methamphetamine, which
9 produces a smoke and they take the -- the straw or pen and
10 they suck the smoke up that is burning off the
11 methamphetamine.

12 Q Now, in all fairness, was this item found in the
13 open where it's located right now?

14 A No, sir.

15 Q Where was it located?

16 A In a drawer.

17 Q And how did you come across that item?

18 A Through the search warrant. I opened the drawer.

19 Q In State's 16, what is this a picture of? Excuse
20 me.

21 A This right here is an additional chalet that was
22 located throughout the house. Again, it -- it's got a
23 burned area right there in the center where methamphetamine
24 had been smoked out of it and this right here is typically
25 what we see; it's coffee filters.

Paige Barnes - Direct Examination by Mr. Bell

1 Q Now, it's a little bit shadowed out due to the
2 projector, but you said there's some charring on that
3 aluminum foil; you remember that metallic materials?

4 A Yes, it's where something had been burned on top of
5 it.

6 Q And what does that typically indicate?

7 A Smoking the methamphetamine.

8 Q State's No. 18, what is significant in this
9 picture?

10 A If you look up here at the top, there's a glass
11 pipe that has the bowl at the bottom and then it has a long
12 pipe in here. If you look at the picture extremely close,
13 you will notice that it doesn't have anything blocking --
14 like if you were to drop a crack rock inside of it, it
15 would have the coil in between it. They just drop the
16 methamphetamine and smoke, the smoke that is coming out of
17 the pipe right here.

18 Q So technically this device could be used to smoke
19 something other than methamphetamine?

20 A Typically, but I've never seen it.

21 Q Okay. And what is missing from that picture if you
22 were to smoke something other than methamphetamine?

23 A Coil.

24 Q So in the state that you found this item, what is
25 the most likely narcotic that it was being used for?

Paige Barnes - Direct Examination by Mr. Bell

1 A Methamphetamine.

2 Q And where was this item located?

3 A Renee Krantz's room.

4 Q State's No. 19, what is the picture here?

5 A That's a picture of the end table that is sitting
6 right beside the recliner in the living room.

7 Q Okay. Is there anything significant in this
8 picture generally?

9 A No, the box that is right there.

10 Q And is State's 20 a close up of that box?

11 A Yes, sir, that contains the aluminum foil right
12 there and also a spoon right there.

13 Q Would you point out the spoon one more time?

14 A It's right there.

15 Q Okay. You know, is this metallic sheet, what did
16 you call that again?

17 A The aluminum foil.

18 Q Aluminum foil, okay. Is that aluminum foil and
19 that spoon, are those the same items that we looked at that
20 were in evidence earlier?

21 A Yes, sir.

22 Q Okay. Anything unusual about that spoon?

23 A Had some burn marks on it.

24 Q Okay. Once again, what does that typically
25 indicate?

Paige Barnes - Direct Examination by Mr. Bell

1 A That's when they're melting down the
2 methamphetamine to inject it.

3 Q Agent Barnes, are those batteries in this picture?

4 A Yes, sir.

5 Q Why are those relevant?

6 A The lithium batteries, they were all throughout the
7 box. There's batteries there. There's batteries there.
8 There were batteries -- a battery up there and there were
9 batteries on the floor.

10 Q And what kind of batteries did you say they were?

11 A Lithium batteries.

12 MR. BELL: I beg the Court's indulgence.

13 MR. KIRKLAND: Your Honor, they're about to go into
14 some of the pictures of the red Mustang that pulled up.
15 Just once again, I -- I have no objection to them coming in
16 other than the objections that I raised earlier.

17 THE COURT: So you --

18 MR. KIRKLAND: Yesterday we had a hearing.

19 THE COURT: I understand. What's the numbers of
20 the --

21 MR. BELL: Your Honor, the items as they relate to
22 the red Mustang and the occupants of the red Mustang are
23 State's Exhibits 21 through 29.

24 THE COURT: All right. So State's 21 through 29
25 are entered over the objection of the, I understand --

Paige Barnes - Direct Examination by Mr. Bell

1 MR. KIRKLAND: I have no objection to them coming
2 in today based on earlier rulings. Does that make sense?

3 THE COURT: Yes, in order to preserve your
4 objections, they have to be entered over the objection of
5 the Defense.

6 MR. KIRKLAND: That's fine.

7 THE COURT: All right.

8 MR. KIRKLAND: Thank you.

9 THE COURT: All right. They'll be entered over the
10 objection of the Defense based on the Court's ruling on
11 yesterday.

12 MR. BELL: If Your Honor wishes, to save time, the
13 State would be willing to also stipulate that his motions
14 are preserved so he doesn't have to continue to object.

15 MR. KIRKLAND: And what we're talking about is if
16 you recall that I had an objection to -- to the Durango,
17 the items in people's pockets and the red Mustang.

18 THE COURT: Yes, sir.

19 MR. KIRKLAND: And so I am contemporaneously
20 objecting to those now to preserve them. And I think
21 they're stipulating that even earlier evidence is preserved
22 for the record.

23 THE COURT: All right.

24 MR. KIRKLAND: Thank you.

25 THE COURT: Yes, sir.

Paige Barnes - Direct Examination by Mr. Bell

1 MR. BELL: May I continue, Your Honor?

2 THE COURT: Yes, sir.

3 MR. BELL: Thank you, ma'am.

4 BY MR. BELL:

5 Q Agent Barnes, you testified that while you were
6 executing the search warrant, a vehicle showed up. What
7 kind of vehicle was that?

8 A It was a red Mustang.

9 Q Okay. Now you also testified you didn't search it;
10 is that correct?

11 A That's correct.

12 Q Who searched it?

13 A Agent Morris and Agent Merckle.

14 Q But did you have reason to take pictures of what
15 was located in that vehicle?

16 A I believe Agent Merckle did.

17 Q Okay. Have you reviewed those pictures?

18 A I have.

19 Q This is State's 21; what is that a picture of?

20 A The front of the red Mustang.

21 Q And State's 22?

22 A That's the tail end of the red Mustang.

23 Q Did -- was that tag run?

24 A It was.

25 Q Who does that tag belong to?

Paige Barnes - Direct Examination by Mr. Bell

- 1 A Christopher Huggins.
- 2 Q Was he an occupant of the vehicle that night?
- 3 A He was the driver.
- 4 Q Okay. Who else was in that vehicle?
- 5 A Renee Krantz.
- 6 Q Okay.
- 7 A I'm sorry, Robin Krantz.
- 8 Q And we testified or you testified earlier that
- 9 there was an individual inside of the house named Nancy
- 10 Renee Krantz?
- 11 A Correct.
- 12 Q Is there any relation between those individuals?
- 13 A They're sisters.
- 14 Q This is State's 23; does anything stick out to you
- 15 in that picture?
- 16 A The lithium batteries that are located in the
- 17 console and also right here is a MSM, which is a cutting
- 18 agent.
- 19 Q Now when you say cutting agent, what exactly are
- 20 you referring to?
- 21 A A cutting agent is considered -- it's like a -- it
- 22 adds weight to the product. Instead of you getting 90
- 23 percent pure methamphetamine, you'll get 50 percent pure
- 24 methamphetamine because they've added MSM to it so they can
- 25 make a profit off of the, the money that they distribute

Paige Barnes - Direct Examination by Mr. Bell

1 it -- the drugs that they have distributed.

2 Q Now, is MSM on its own illegal?

3 A No, sir.

4 Q Do you know what it's over-the-counter use is for?

5 A Honestly, I don't.

6 Q Okay. But when you see MSM with other items such
7 as lithium batteries, what does that indicate to you?

8 A Well, MSM is used for as a cutting agent for any
9 drug, crack cocaine, cocaine, methamphetamine.

10 Q Are lithium batteries used in the manufacturing of
11 any other narcotic?

12 A No, sir.

13 Q So just one?

14 A Just methamphetamine.

15 Q And once again, where this picture, what is the
16 location of that picture?

17 A It's the center console of the red Mustang.

18 Q Agent Barnes, this is State's 24; what is this a
19 picture of?

20 A That's a Dollar General bag containing an ice
21 compress, coffee filters, crystal drain opener, Coke
22 bottle -- a 2 liter Coke bottle.

23 Q Agent Barnes, in general why are these products
24 relevant?

25 A Those are all the items necessary to manufacture

Paige Barnes - Direct Examination by Mr. Bell

1 methamphetamine.

2 Q And once again, where are they located?

3 A In the back seat of the red Mustang.

4 Q What is this item?

5 A It's an ice compress; it's an instant cold pack.

6 Q Okay. And what is it that those are used for?

7 A It has the ammonium nitrate.

8 Q What about this package right here?

9 A Coffee filters.

10 Q And we'll get a better picture in a moment, but
11 black bottle with the red cap; is that recognizable to you?

12 A Yes, sir, that's crystal drain opener.

13 Q Would you know what that bottle is without actually
14 seeing the label?

15 A I would.

16 Q And why is that?

17 A Because I'm familiar with crystal drain opener --
18 all the cases.

19 Q And did the agents on scene package all these items
20 in that bag together?

21 A No, sir, that's how they were found.

22 Q Is State's 25 just a different angle?

23 A Yes, sir.

24 Q And what is the picture here?

25 A That's Claritin D at the top, crystal drain opener

Paige Barnes - Direct Examination by Mr. Bell

1 to the right of that.

2 Q Right here?

3 A Yes, sir.

4 Q Okay. Is this the same black bottle with that red
5 cap?

6 A Yes, sir.

7 Q Okay. What about this?

8 A That's coffee filters.

9 Q Okay. And then once again, these are the cold
10 packs?

11 A Yes, sir.

12 Q Okay. Kind of buried up under there, what is that
13 with that red label?

14 A A 2 liter Coke bottle.

15 Q Okay. Why is that relevant to the package with the
16 rest of these items?

17 A That is the necessary items to manufacture
18 methamphetamine.

19 Q Now, stepping back a little bit, this box right
20 here, can you identify that one more time?

21 A It's Claritin D.

22 Q Okay. And what is the primary ingredient in
23 Claritin D?

24 A Pseudoephedrine.

25 Q And Pseudoephedrine is used for what?

Paige Barnes - Direct Examination by Mr. Bell

1 A Manufacturing methamphetamine.

2 Q This is State's 26. Is this also a picture of
3 those items in the car?

4 A Yes, sir.

5 Q Okay. The only difference is they're lined up?

6 A Yes, sir.

7 Q Starting from my left to right, what are these?

8 A Lithium batteries.

9 Q What is this up here?

10 A It's a Walmart receipt. Coffee filters.

11 Q And we've already discussed, these two items are
12 what?

13 A The cold compress anti-cold packs containing
14 ammonium nitrate.

15 Q You said these two are the Claritin D which
16 contains Pseudoephedrine?

17 A Yes, sir.

18 Q This is the crystal drain opener?

19 A Yes, sir.

20 Q And you said this was just an ordinary 2 liter Coke
21 bottle?

22 A Yes, sir.

23 Q And all of those items, how were they packaged in
24 the vehicle?

25 A They were all together.

Paige Barnes - Direct Examination by Mr. Bell

1 Q And what store were they purchased from?

2 A Walmart.

3 Q Okay. What about the bag that was seen in the
4 earlier picture, the yellow bag; were you able to identify
5 where that bag was from?

6 A Dollar General.

7 Q State's 27, is this a close up of a couple of
8 particular items in that group?

9 A Yes, sir.

10 Q Specifically here once again, what is that a
11 picture of? The white piece of paper?

12 A It's a Walmart receipt.

13 Q Okay. Now, I know it's tough on this projector,
14 but are you able to read that text?

15 A Not from here.

16 Q Okay.

17 MR. BELL: Your Honor, permission to approach the
18 witness?

19 THE COURT: Yes, sir.

20 BY MR. BELL:

21 Q What I'm handing you is what is marked as State's
22 27; are you able to read the text in that picture?

23 A Yes, sir.

24 Q Can you please tell the jury what is on that
25 receipt?

Paige Barnes - Direct Examination by Mr. Bell

1 A Claritin D.

2 Q Is there a date that you can see?

3 A June the 11th, 2013.

4 Q And why is that date relevant?

5 A That's the date in question.

6 Q The date that you responded to [REDACTED]

7 [REDACTED]

8 A Yes, sir.

9 Q The -- was that the same date that was on the
10 earlier receipts?

11 A Yes, sir.

12 Q And what were those receipts for? I think you
13 found earlier?

14 A Walfed, Pseudoephedrine.

15 Q And what is the primary ingredient in both Walfed
16 and Claritin D?

17 A Pseudoephedrine.

18 Q Now, there were, you testified there were two
19 occupants in the red Mustang?

20 A That's correct.

21 Q Once again, what was their names?

22 A The driver's name was Christopher Huggins; the
23 passenger -- the passenger's name was Renee Krantz.

24 Q Okay. State's 29; what is the picture here?

25 A To the left is two coffee filters. In the center

Paige Barnes - Direct Examination by Mr. Bell

1 is a -- an emptied out pen -- just the plastic of the
2 pen -- and beside that is a bag of marijuana.

3 Q Referring to this?

4 A Yes, sir.

5 Q Who were these items seized from?

6 A Christopher Huggins.

7 Q And was his position in the car?

8 A He was the driver.

9 Q Okay. What is the significance of this purple
10 object back here?

11 A Again, that typically whenever people smoke
12 methamphetamine, they put the methamphetamine on the
13 aluminum foil and use the ink pen or a straw or a round
14 object to put in their mouth to easily soak up, ingest the
15 smoke that they are burning off of the methamphetamine.

16 Q Is an emptied-out can used to smoke marijuana?

17 A No, sir.

18 Q In your wildest imagination, could it be used to
19 smoke marijuana?

20 A I'm sure it could, but --

21 Q In your experience as a law enforcement officer, is
22 that something that you typically see?

23 A No.

24 Q What do you typically see it used for?

25 A Ingesting methamphetamine.

Paige Barnes - Direct Examination by Mr. Bell

1 Q Now, were these coffee filters examined any closer?

2 A Yes, sir.

3 Q Was there anything unusual about them?

4 A They had a white-powdery substance inside of them.

5 Q What did that indicate to you typically?

6 A It indicated two possible things; it could have
7 been the crush up of Pseudoephedrine pills or it could have
8 methamphetamine.

9 Q This last picture, this is State's 28; what does
10 this picture show?

11 A That's a red Tupperware container that you showed
12 me earlier.

13 Q Are you referring to this right here?

14 A Yes, sir.

15 Q Is this the top to it?

16 A Yes, sir.

17 Q Okay. What is beside of that Tupperware container?

18 A Methamphetamine.

19 Q Okay. Anything else noted in that container?

20 A No, sir.

21 Q Okay. What is this metallic object over here?

22 A Digital scales.

23 Q Why is that relevant to you?

24 A Because drug dealers and consumers of illegal drugs
25 typically like to weigh out their -- their narcotics so

Paige Barnes - Direct Examination by Mr. Bell

1 they're getting the biggest bang for their buck.

2 Q Now, Agent Barnes, we've had a chance to review
3 quite a few pictures taken from this location. As an
4 expert in the manufacturing of methamphetamine, are all of
5 these different things you've seen something that typical
6 experts would rely on to make determinations?

7 A Absolutely.

8 Q And in viewing all of this evidence, what is the
9 primary indication to you?

10 MR. KIRKLAND: Your Honor, I would object to it if
11 she is about to testify to the ultimate issue in the case
12 concerning Phil Helms and his involvement.

13 THE COURT: All right.

14 MR. BELL: I will rephrase the question, Your
15 Honor.

16 THE COURT: All right. Thank you.

17 BY MR. BELL:

18 Q If all of this evidence was placed into one
19 location, what is the indication?

20 A They're manufacturing methamphetamine.

21 Q Now, stepping back to the bottles that you found in
22 the burn pile?

23 A Yes.

24 Q What indications stand out to you about those
25 bottles?

Paige Barnes - Direct Examination by Mr. Bell

1 A The two acid generators, one of them has a tube
2 coming out the top of it and it's burned out at the bottom,
3 which shows it had an acid in it. And as I explained to
4 you earlier -- before, the tubing -- which creates a
5 hydrochloric gas and bubbles -- I'm sorry. It doesn't
6 create hydrochloric gas, ammonium gas.

7 Q Okay. We're all a little nervous here so go ahead
8 and correct yourself.

9 A Yes, it creates the gas that bubbles off which
10 changes the methamphetamine from a liquid to a solid.

11 Q Okay. Now, referring to State's 10 from earlier,
12 to clarify. When you say acid generators, you're talking
13 about this bottle here and this bottle here?

14 A Yes, sir.

15 Q And then one more time, what is this?

16 A That's the remnants of the sludge of a one pot.

17 Q Okay. Now, are you able to make any sort of
18 determination as to when these items were utilized, when
19 they were used for the manufacture of methamphetamine?

20 A I can make an estimated judgment on the one pot and
21 the reason for that is, of course, it was June and it was
22 hot and it was humid and the methamphetamine would have --
23 the bottle with the lithium in it would have formed a
24 condensation and it would have spontaneously combusted.
25 Methamphetamine, lithium is highly combustible. If water

Paige Barnes - Direct Examination by Mr. Bell

1 would have reacted with the lithium strips that were inside
2 of that bottle, the bottle would have burned.

3 Q Now, within a reasonable degree of professional
4 certainty, do you believe that these items were used for
5 the manufacture of methamphetamine?

6 A Yes, sir.

7 Q What else did you see on scene that brings you to
8 that conclusion: Were there any other items you found --
9 the burn pile or anywhere else -- that would have indicated
10 such?

11 A The items that were located in the burn pile and
12 the large amount of aluminum foil, as I explained how you
13 used it to smoke methamphetamine; the starter fluid with
14 the punctured cans; they were old ones as well as new ones.
15 The old ones had been burned several times and the acid had
16 also eat them out. Also the battery casings, the lithium
17 battery casings that had been sliced open and put into the
18 trash can. The red Mustang that arrived on scene, that had
19 every single component necessary to manufacture meth.

20 Q Agent Barnes, you had a chance to also review
21 pictures from that red Mustang that arrived on scene?
22 After reviewing the contents of that red Mustang and the
23 way that they were packaged together, within a reasonable
24 degree of professional certainty, what conclusion can you
25 make about those items?

Paige Barnes - Direct Examination by Mr. Bell

1 A They were there to manufacture methamphetamine.

2 There was no other purpose.

3 Q Now, are you referring to State's 26, the items in
4 that picture?

5 A Yes, sir.

6 Q Can you give me a few reasons as to why you come to
7 the conclusion that they intended to continue to
8 manufacture methamphetamine?

9 A The lithium batteries which the lithium strips come
10 out of; the coffee filters, which is used to drain off the
11 initial fluid after the one pot, the copper beads have
12 formed on the top of the lithium has turned blue inside the
13 bottle, after the cook is completed; the ammonium nitrate,
14 which is the ice compress, the instant cold packs; they're
15 used with the ammonium, they have the ammonium nitrate,
16 which is necessary in the production of methamphetamine;
17 the two boxes of Claritin D, which contains
18 Pseudoephedrine, which is potentially, which is converted
19 over to methamphetamine when all these ingredients are
20 added together; and the crystal drain opener, which is your
21 sodium hydroxide that -- your lye that is necessary to
22 manufacture methamphetamine.

23 Q Now, you as well as the jury, has had the
24 opportunity to sit through the painful process of looking
25 at each item that's put into evidence. Let's talk about

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1 some of the items that are not in evidence. We've seen
2 lots of pictures of bottles that are burned with tubes
3 sticking out of them. A picture with white gunk that had
4 lithium specks in it; starter fluid cans with puncture
5 holes. Would you please explain a bit about why those
6 items aren't here with us today?

7 A Those items aren't here because they're extremely
8 volatile. As I explained, lithium reacts to sunlight, it
9 reacts to heat, it reacts to anything. And being in South
10 Carolina on a humid day, y'all now how much you sweat. So
11 just -- just the lithium alone is extremely volatile and
12 will spontaneously combust.

13 The acid generators, they contain an acid.
14 Therefore, we will not put them inside of our -- our
15 evidence room for contamination purposes. And also it has
16 a strong odor of acid and will burn the inside of your nose
17 if you're not wearing the proper equipment.

18 The -- the ammonium nitrate, it contains the ether
19 or the starter fluid so we will not take any of that. The
20 only way that we would take any of that is if we dry it out
21 for an extended period of time and we actually pick
22 through -- pick the lithium out of the ammonium nitrate,
23 which is ultimately the cake that's inside of the bottle.

24 The drain opener, it's not needed to put into
25 evidence. The coffee filters, they're not needed to put

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1 into evidence because everyone knows what a coffee
2 filter --

3 MR. KIRKLAND: Your Honor, I would object to her
4 classifying it as not needed to putting it into evidence.
5 She can say --

6 THE COURT: Sustained. She just needs to answer
7 the question as to what's not here.

8 BY MR. BELL:

9 Q Are some coffee filters included in evidence, Agent
10 Barnes?

11 A Yes, sir.

12 Q Now, I don't mean to embarrass you and I don't want
13 you to jump over that rail and come after me, but did you
14 have an accident with a disposable of a lab one time in
15 your vehicle?

16 A I've actually had three accidents.

17 Q Would you talk a little bit about that, how that's
18 relevant here?

19 A The first one was I was on call and I was called
20 out to a dump site where they had taken eleven one pot
21 cooks and dumped them on the side of the road. As I was
22 ventilating one of them, it was extremely under pressure.
23 I sat it aside -- I took off the cap, set it aside to let
24 it vent out a little longer while I handled the additional
25 ten. When I got back to that one bottle and I was pouring

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1 it into the vermiculite, the lithium touched the water,
2 which is heavier, so it's at the bottom. So when I tilted
3 the bottle, the water touched the lithium and it was a
4 flash ignite and it blew up in my face.

5 The second incident that occurred, is I had a meth
6 lab on the side of the road involving an individual. I was
7 trying to dry out the cake and I was pouring the lithium
8 out of the cake. I had -- once I had done all that and
9 dried it all out, I had sat it inside of my car. It was in
10 July, my air condition was on in my car. However, once the
11 cake was inside of the bag, the -- the sun had hit the
12 lithium strips, because I didn't get them all out -- hit
13 the lithium strips exactly in the right way and it
14 spontaneously combusted in my car. Therefore, it blew up
15 my car seat in my car. And just recently I had a house
16 burn down.

17 Q Was that also in reference to a methamphetamine
18 lab?

19 A Yes.

20 Q And what do these examples demonstrate?

21 A How volatile and dangerous that these chemicals are
22 when you mix and put them together.

23 Q And -- and the 370 some-odd hours of your training
24 as a narcotics agent as it relates to methamphetamine, do
25 they train you to seize those bottles of lithium and things

Paige Barnes - Direct Examination by Mr. Bell

1 like that for evidence?

2 A No, they don't.

3 Q Agent Barnes, I'm just about done with you.

4 You had an opportunity on that day to speak to the
5 defendant, Phillip Helms?

6 A Yes, sir.

7 Q Did you have a chance to take a good look at him?

8 A Yes, sir.

9 Q You know what he looks like?

10 A Yes, sir.

11 Q Is he here in this courtroom today?

12 A Yes, sir.

13 Q Would you please point out the defendant, Phillip
14 Helms?

15 A The gentleman wearing the green jacket with brown
16 hair.

17 Q Is he in a wheelchair here?

18 A Yes, sir.

19 Q My very last question, Agent Barnes. Within a
20 reasonable degree of professional certainty, what had taken
21 place at this house and what was continuing to take place
22 at this house?

23 MR. KIRKLAND: Your Honor, this characterization of
24 what was taking place at the house is pure speculation.

25 THE COURT: Well, let me see you all please.

Paige Barnes - Direct Examination by Mr. Bell

1 (WHEREUPON there was a bench conference out of the
2 hearing of the jury and the court reporter.)

3 MR. BELL: May I continue, Your Honor?

4 THE COURT: Yes, sir.

5 MR. BELL: Thank you.

6 BY MR. BELL:

7 Q Agent Barnes, within a reasonable degree of
8 professional certainty, the items that you found in that
9 burn pile, what were they used for?

10 A The production of methamphetamine.

11 Q Where was that burn pile located?

12 A Phil Helms' yard.

13 Q Now, within a reasonable degree of professional
14 certainty, what do you believe the items in that red
15 Mustang would have been used for?

16 A Manufacturing methamphetamine.

17 Q And where did that red Mustang arrive the night of
18 June 11th, 2013?

19 A Phil Helms' house.

20 Q Please answer any questions you may have -- or the
21 Defense may have for you.

22 THE COURT: All right. Let me see you all one
23 second.

24 (WHEREUPON there was a bench conference out of the
25 hearing of the jury and the court reporter.)

1 THE COURT: All right. Ladies and gentlemen of the
2 jury, I think this would be an appropriate time to take a
3 break before Mr. Kirkland cross-examines the witness, Agent
4 Barnes. We'll go ahead and take our lunch break and I'll
5 have you back at 2:15. Remember that you all are not to
6 discuss the case with anyone, not even your fellow jurors.

7 If you keep those badges on, especially if you go
8 to lunch in this area, there's a possibility that you may
9 see the lawyers, court staff or maybe even me at lunch. So
10 keep those badges on so that everyone will know that you're
11 on the jury and not have discussions about the case in
12 front of you. We'll see you all back at 2:15 in the jury
13 room. Have a good lunch.

14 (WHEREUPON the jury left the courtroom at 1:03
15 p.m.)

16 MR. KIRKLAND: There's one issue concerning --

17 THE COURT: Hold on one second.

18 And of course you cannot discuss your testimony
19 with anyone until you finish this.

20 THE WITNESS: Yes, ma'am.

21 MR. KIRKLAND: One other issue concerning that --
22 and she can go ahead and start stepping down. I don't want
23 her to be sequestered, you know, I want her to go and eat
24 lunch and hang out with her friends, but I also don't want
25 anyone in her presence talking about the case because that

1 is the equivalent of -- of her being exposed to new
2 information that she shouldn't be exposed to. So all I'm
3 asking is that she not discuss the case with others or
4 others discuss the case in front of her, but they can lunch
5 and talk about anything else they want to.

6 THE COURT: All right.

7 MR. KIRKLAND: But I trust they'll do that.

8 THE COURT: Yes, they'll do that.

9 MR. BELL: Thank you, Your Honor.

10 THE COURT: Thank you. I'll see you all back at
11 2:15.

12 (WHEREUPON a lunch break was observed.)

13 THE COURT: All right. Y'all go ahead and have a
14 seat. Juror Number -- we're back on the record. Juror No.
15 1 sent me, which is one of our alternates, Alternate No. 2,
16 apparently just got a call that he had a death in his
17 wife's family. He's fine staying, but he just wanted to
18 let us know that he may have a funeral tomorrow or
19 Thursday. But he's an alternate, so we'll just let him
20 hang around and if he needs to leave tomorrow we'll let him
21 go.

22 MR. BELL: Yes, ma'am.

23 THE COURT: All right. Y'all ready to get started?

24 MR. BELL: We're, ready to go.

25 THE COURT: Mr. Kirkland, is -- is your client out

1 on a bond?

2 MR. KIRKLAND: Yes.

3 THE COURT: I mean is the bonding company securing
4 the bond or is it somebody's --

5 MR. KIRKLAND: You have a bonding company, Phil.

6 MR. HELMS: Uh-huh (affirmative response).

7 MR. KIRKLAND: Yes, ma'am.

8 THE COURT: All right. When we take our afternoon
9 break, can you -- what I normally do -- if I don't --
10 because they're going to ask me again this afternoon,
11 because technically he's not supposed to be on his bond.
12 If you can get -- a lot of bonding companies will give you
13 a letter or something saying that they will stay on the
14 bond to secure his presence through the trial. If you can
15 try to get me something faxed or faxed to you.

16 MR. KIRKLAND: If you'll give me one minute and let
17 me get his family working on that.

18 THE COURT: Okay.

19 THE CLERK: It's Brad's Bonding.

20 THE COURT: I should have told you that before
21 lunch, I just...

22 MR. KIRKLAND: All right. They're working on it,
23 Judge.

24 THE COURT: All right. Thank you.

25 All right. We ready to bring them in?

1 MR. BELL: The State's ready, Your Honor.
2 THE COURT: The Defense ready?
3 MR. KIRKLAND: Yes, ma'am.
4 THE COURT: Bring them in.
5 (WHEREUPON the jury entered the courtroom at 2:28
6 p.m.)
7 THE COURT: All right. Ladies and gentlemen of the
8 jury, I hope that you had a good lunch.
9 And Juror No. 170, it's my understanding that you
10 had a death in the family.
11 THE JUROR: Yes, ma'am.
12 THE COURT: I'm sorry to hear that, sir, but you
13 are fine to stay until -- there's a possibility you may not
14 be able to be here tomorrow or Thursday?
15 THE JUROR: I'm going to say probably Thursday,
16 because the passing was this morning at 7:15, 7:30, and
17 so --
18 THE COURT: Okay. All right. And we'll see how
19 this trial goes and -- you know, we may be finished by
20 Thursday. There's a possibility.
21 THE JUROR: Okay.
22 THE COURT: All right. Well, just let us know or
23 just let the bailiffs know.
24 THE JUROR: Yes, ma'am.
25 THE COURT: And we will accommodate your needs.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 All right. Thank you.

2 All right. Ladies and gentlemen of the jury, we
3 will now continue with the cross-examination of Agent --

4 MR. KIRKLAND: Barnes.

5 THE COURT: -- Barnes. Agent Barnes by Mr.
6 Kirkland.

7 MR. KIRKLAND: Thank you, Your Honor, may it please
8 the Court?

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. KIRKLAND:

12 Q Hello, Agent Barnes.

13 A Hello.

14 Q My understanding was from your, your direct
15 examination, was it that your training has consisted of
16 approximately four years since 2010 or so specifically?

17 A 2006.

18 Q 2006?

19 A Well, I started on the narcotics team in 2008,
20 November of 2008. I went to the first Drug Investigation
21 Class in 2009. So five years of training.

22 Q So that was, and that was related to the meth, the
23 2009 training?

24 A That was Basic Narcotics.

25 Q When did you start training for meth?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A 2010.

2 Q Okay. So that's about four years training in meth?

3 A Yes, sir.

4 Q Okay. We've covered this, but I want to run back
5 through it really quickly. The way that I refer to the two
6 items that we've been talking about is a reaction vessel,
7 which you refer to a one-pot cook?

8 A Correct.

9 Q And is a reaction vessel another name for it?

10 A Yes, sir.

11 Q Okay. So if I say reaction vessel, you'll know
12 what I'm talking about?

13 A Yes, sir.

14 Q Okay. Now the -- because that's the way I've
15 learned it. In the reaction vessel, we have several
16 components. We, of course, have the plastic bottle,
17 correct?

18 A Yes, sir.

19 Q And then we have a solvent, such as Coleman fuel or
20 ether, correct?

21 A Yes, sir.

22 Q Then you have the sodium hydroxide, which is
23 commonly known as lye?

24 A Yes, sir.

25 Q Ground up pills, which is Pseudoephedrine or

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1 ephedrine?

2 A Pseudoephedrine.

3 Q Pseudoephedrine. I've been saying that wrong the
4 whole time. And then lithium, usually from batteries?

5 A Yes, sir.

6 Q And then they typically take -- before they mix it,
7 a bottle cap of water and they dump it in there to assist
8 with the reaction with the lithium, correct?

9 A Correct.

10 Q All right. Now while they're doing this process --
11 while they're shaking it -- this is the shake-and-bake part
12 of it, correct?

13 A (The witness nodded her head.)

14 Q And they have to burp this bottle as you described
15 by slightly unscrewing the cap, correct?

16 A Correct.

17 Q Now, this chemical reaction is not only danger as
18 you've indicated, but it also produces a tremendously
19 terrible smell; in fact, a smell that many meth agents have
20 described as one of the worst smells they have ever smelled
21 in their entire life; is that correct?

22 A That's correct.

23 Q And this smell is so bad that during your
24 investigations in the past, when pulling up to a scene that
25 is manufacturing meth, you can sometimes smell it a block

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1 or two away, if not even a quarter mile away, if they're
2 trying to vent their house; I mean it's a bad smell?

3 A I've never made a case from a block away or --

4 Q What I'm saying is if you're driving in an area, if
5 people are cooking meth, in your car even, you can smell it
6 in the air it is so bad?

7 Let me ask it another way to make it easier. Have
8 you been driving in your car down the road and smelled the
9 smell that you know is meth?

10 A I've smelled the smell that is commonly associated
11 with meth.

12 Q Right, well that's what I mean. So -- so it's a
13 bad smell?

14 A Yes.

15 Q Okay. And the same thing really goes with the acid
16 generator only has two chemicals in it, the sulfuric acid
17 and the salt or muriatic acid with tin foil; that's another
18 way to do it?

19 A Yes, sir, just muriatic acid.

20 Q Just muriatic acid. But that reaction apparently
21 with the salt is another one of those smells that is one of
22 those take your breath away, one of the worse smells you've
23 ever smelled, awful, very toxic smelling substance,
24 correct?

25 A Once you unscrew the cap, if the bottom hasn't

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1 burned out.

2 Q I'm talking about during the reaction, when it's
3 releasing the chemical in the air?

4 A Yes, if it's in a confined space, yes.

5 Q And it creates even sort of this white, weird white
6 haze that I've heard about reading incident reports that
7 sometimes -- I've heard about officers walking into rooms
8 and they see this white haze in the room about chest high;
9 you know what I'm talking about?

10 A Yes, sir.

11 Q And is that related to the -- to the -- to the --
12 to this acid generator?

13 A It's related to both the whole process.

14 Q So there's a notice, in addition to this smell,
15 there's also sometimes on occasion this white heavy --
16 heavier than air sort of haze that floats, you know, chest
17 high or down sometimes?

18 A That's during the process, yes.

19 Q Okay. Now, I want to talk to you for a minute
20 about the sort of tools that are at your disposal when you
21 are investigating meth crime scenes. You're on the NET
22 Team; am I correct?

23 A Yes, sir.

24 Q And that stands for, I'm just guessing, the
25 Narcotics Enforcement Team?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A Yes, sir.

2 Q Now is the NET Team what is primarily responsible
3 for these meth investigations?

4 A We have other jurisdictions --

5 Q Right?

6 A -- like municipalities --

7 Q Right.

8 A -- that are have NET technicians.

9 Q Right. And I -- I'm asking this because I
10 genuinely don't know. Are the sort of specialists that
11 deal with meth mostly or always within the NET -- the NET
12 Team?

13 A Most of them, yes.

14 Q Okay. Now these people that do these, that
15 regularly handle -- and I assume that you're one of the
16 people that regularly is called out for meth investigation.
17 If they find a lab, you might be one of the people they
18 call out because of your -- your expertise, correct?

19 A One of the six.

20 Q Okay. One of the six. Okay. So you're one of six
21 experts in this area.

22 Now my understanding is that each of the people
23 that are in your position, you're supplied with some items,
24 protection items and other items, to help breakdown and
25 investigate these scenes; is that correct?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A That's correct.

2 Q Okay. Now some of these items are something that's
3 called an SCBA or a Self Contained Breathing Apparatus,
4 correct?

5 A Yes, sir.

6 Q And so that was in your car; is that always in your
7 car?

8 A No, sir.

9 Q Was that in your car on this day?

10 A No, sir.

11 Q How about Tyvek suits?

12 A Yes, sir.

13 Q Did you have one of those?

14 A Yes, sir.

15 Q Do you have various types of gloves like nitrile,
16 latex, and other types of gloves?

17 A Yes, sir.

18 Q Sample bottles, which my understanding is, sample
19 bottles are like a tiny glass vial that you can collect a
20 sample in and then you put it into a plastic bottle so that
21 it's safe when somebody opens it back up to test it; is
22 that --

23 A Yes, sir, so it doesn't spill out.

24 Q Got you.

25 A So the liquid doesn't spill out.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q Right. So the plastic bottle is the safety part;
2 the glass vial is the collection part?

3 A Correct.

4 Q And you have those in your car?

5 A I do.

6 Q Okay. Now, you also have something that's referred
7 to a pipette and I'll describe this for the jury. My
8 understanding is it's a little tube with a little squeeze
9 end like would be -- I don't know, an iodine dropper or
10 something and so you kind of squeeze it, and you put it in
11 a liquid and let it go and it sucks up some fluid?

12 A Yes, sir.

13 Q Okay. You carry around things like PH paper?

14 A Yes, sir.

15 Q And PH paper is to test for acid and it turns red
16 if acid is present?

17 A It's to test for unknowns.

18 Q But isn't PH -- we're referring to the PH scale and
19 it determines on the PH scale whether something is basic or
20 acidic?

21 A Uh-huh (affirmative response).

22 Q Right? So --

23 A Yes.

24 Q So if we're talking about acid, it would turn pink
25 or red it would indicate it was an acid?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A Correct.

2 Q All right. You also carry around on occasion a
3 standard respirator, which I assume is different than the
4 self-contained breathing apparatus?

5 A Yes, sir, it's a full face mask.

6 Q Okay. Now, did you have one of those on this day?

7 A Yes.

8 Q Okay. And you, you carry around typically various,
9 you know, sanitary napkins and other things that might
10 assist in collecting evidence; that you could rub on a
11 surface or rub on something that you believe is meth or
12 liquid meth on and stick it in a bag?

13 A A drug test kit?

14 Q No, I'm not saying a drug test kit, I'm just saying
15 some kind of -- just some kind of -- I'm not saying a shop
16 cloth or something, just some kind of absorbent material
17 that you could then collect something, stick it a bag, seal
18 it up, and send it off for testing?

19 A No, sir.

20 Q You don't carry those?

21 A No, sir.

22 Q Okay. Now, you arrived at the residence at about
23 four o'clock; is that my understanding?

24 A Yes, sir.

25 Q Now, when you arrived at the office -- not the

Paige Barnes - Cross-Examination by Mr. Kirkland

1 office. When you arrived at the residence, my
2 understanding is that from the driveway area that you were
3 in, you didn't see anything out of the ordinary initially,
4 correct?

5 A No, sir.

6 Q And you yelled through the fence -- Phil was on the
7 other side of the fence, I take it?

8 A Yes, sir.

9 Q And you could see him, I think we have a, let me
10 think of the best way to do this.

11 MR. BELL: Your Honor, let me double-check that
12 very quickly to see what he wants.

13 THE COURT: Yes.

14 BY MR. KIRKLAND:

15 Q I'm just going to hold it up. Can everybody sort
16 of -- can all of you sort of see this?

17 So you pulled up over here to this part over here?

18 A Yes, sir.

19 Q Okay. And it was behind the little fence where the
20 driveway was, right?

21 A Yes, sir.

22 Q Okay. So you didn't go through that fence at that
23 time?

24 A Not at that moment.

25 Q So you called through to Phil Helms; did you tell

Paige Barnes - Cross-Examination by Mr. Kirkland

1 him at that point in time who, who you were; did you
2 identify yourself?

3 A Yes, sir.

4 Q And my understanding was from an earlier hearing
5 that we had is he motioned you to come on in?

6 A Yes, sir.

7 Q And so there was no hesitation on his part
8 whatsoever, come on in?

9 A No, sir.

10 Q And when you walked in there, you asked him if you
11 could look around his property a little bit, correct?

12 A I explained to him that we had an anonymous tip
13 and --

14 Q -- and you would like to look around the property?

15 A -- that I would like to look around the property;
16 did he mind if I looked around?

17 Q Right. And he said absolutely?

18 A He said he didn't care.

19 Q Okay.

20 A Sure.

21 Q So you started -- he was near a shed, which was on
22 the -- the shed was sort of, from what I understand -- can
23 you see that a little bit? The shed was over here?

24 A Correct.

25 Q That was the shed, so you come through here and I

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1 think he was around here at the time?

2 A He was at the top of the tree line.

3 Q Right there?

4 A Other tree.

5 Q This tree?

6 A Yes, sir.

7 Q So he was in between the pool and the, you point to
8 it and then I'll point to it for them?

9 THE COURT: Or she can step down if she needs.

10 BY MR. KIRKLAND:

11 Q Okay. I'll point for them and then you can see it.

12 So -- so he was right here?

13 A Yes, sir, approximately.

14 Q Okay. I mean so he was sort of near that shed
15 that's over there to the right?

16 A Yes, sir.

17 Q Okay. Now -- and you asked if you could look
18 around and he said that's fine. You looked around in the
19 shed. You didn't see anything in the shed. And then
20 according to your report, you started walking through the
21 yard -- I think there was another shed sort of in the
22 middle. You walked past that shed and you noticed that
23 there was a Durango, right?

24 A Yes, sir.

25 Q And then you saw -- according to your report, you

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1 saw a burn pile at that point in time?

2 A It was smoking. I could see it from the other side
3 of the property.

4 Q Okay. So you could see that. Now, my
5 understanding, according to your report, was that you -- at
6 that point in time, you heard some people in the house?

7 A Yes, sir.

8 Q You asked Phil who was in the house and he
9 identified one or two people?

10 A Yes, sir.

11 Q And then you asked him then, Can I go inside the
12 house and can I have a look around; correct?

13 A Agent Merckle and Agent Morris went inside the
14 house followed by Phil Helms. I walked to the burn pile.

15 Q Well, I'm not going to make a huge deal out of
16 this, but that isn't what you wrote in your report, is it?
17 Do you have a copy of your report?

18 It says, I began walking around the backyard and I
19 did observe a Dodge Durango with a damaged windshield and a
20 large burn pile was currently smoking. I heard a noise
21 from inside of the house and asked Helms who was inside and
22 he told me some friends. I asked him if we could take a
23 look inside the house and he said sure. And he let us in
24 the house?

25 A Yes, sir.

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1 Q So you didn't go out to the burn pile initially,
2 you went into the house first?

3 A No, sir, I went to the burn pile initially.

4 Q Okay. Well, and that's when you say that you
5 noticed these items in the burn pile?

6 A Yes, sir, I didn't stay very long. I went inside
7 the house. That's when Agent Morris went outside.

8 Q But you immediately recognized these things that I
9 think you said on direct, when you first went out there as
10 acid generators?

11 A Yes, sir.

12 Q Okay. Then there's later on in your report, when
13 at the time the agent -- look at the bottom of the report
14 on page, I don't know how they do these pages. I'll let
15 you look at the page I'm looking at. It looks like the
16 first page of your narrative. I'm talking about the part
17 where you said, At that time. There it is.

18 Well -- so -- okay. Your report looks a little bit
19 different than mine. You say at the time that Agent Morris
20 came in from outside and requested to speak with me
21 outside, I walked outside with him and he told me that he
22 had located an acid generator and starter fluid in the burn
23 pile, correct?

24 A Yes, sir.

25 Q But you already knew there was a -- is what you're

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1 saying, you already knew that there was an acid generator
2 in the -- in the burn pile at that point in time?

3 A Yes, sir.

4 Q Okay. Now this report is as accurately -- you
5 know, it was written a day or two after or maybe on the
6 same day -- so this is your best recollection of what
7 occurred on that date; is that correct?

8 A In that time, but I'm not -- I mean it's not
9 perfect, by any means.

10 Q Well, what I'm saying is you wrote this what we
11 call contemporaneously. You wrote this right after it
12 happened?

13 A No, sir.

14 Q Within a day or two after it happened?

15 A Yes, sir.

16 Q And today is how far after it occurred?

17 What I'm asking is do you think your memory was
18 better writing this or do you think your memory is better
19 sitting on the stand today?

20 A It was better then.

21 Q Okay. That's all -- that's all -- that's the only
22 question I was asking you about it.

23 Now, when you went out -- or ultimately when you
24 went there to look at the burn pile, you say that you saw,
25 according to your report, two plastic containers that

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1 appeared consistent with an acid generator, correct?

2 Actually if you keep reading from the part that I just
3 showed you -- and it says, and 2 plastic containers,
4 bottles with burnt holes containing a white sludgy
5 substance consistent with an acid generator.

6 A Yes, sir.

7 Q So you saw these white -- these burnt -- these
8 bottles with a white sludgy substance, and that sludgy
9 substance, in your opinion, was consistent with an acid
10 generator?

11 A No, sir, that was a mistake on my part in my
12 report.

13 Q Okay. We'll talk about that a little bit more.
14 And you said that you saw two of them?

15 A There were two acid generators and 1 one-pot.

16 Q Well, I'm talking about right here on this portion
17 of the report.

18 A Okay.

19 Q You said that you saw two acid generators, bottles
20 with a burnt hole containing a white sludgy substance
21 consistent with an acid generator, correct?

22 A If that's what the report says, yes, sir.

23 Q Okay. And you picked up the bottle and looked
24 closer and you could smell the strong odor of ether coming
25 from inside the bottle, correct?

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1 A Yes, sir.

2 Q Now, later on in your report, you have a list of
3 items that were recovered, correct? You know that 1
4 through 24?

5 A Yes, sir.

6 Q What does No. 14 say?

7 A Three acid generators found in the burn pile.

8 Q That was another mistake?

9 A Yes, sir.

10 Q All right. Now later on, you signed a return to a
11 search warrant; is that correct?

12 A Yes, sir.

13 Q Now in the return to the search warrant, the
14 requirement of a return to the search warrant is that you
15 basically have to swear to tell the truth, swear under oath
16 what it is that you found and return it back into a judge,
17 correct?

18 A Yes, sir.

19 Q Now in that, in your sworn statement, you said that
20 you found three acid generators found in trash pile,
21 correct?

22 A Yes, sir, that was written the same night.

23 Q Okay. And your memory at this time was better
24 than -- your memory at the time that you wrote this than
25 your memory is today, correct; you just admitted that a few

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1 minutes ago?

2 A And I was trying to answer; yes, sir.

3 Q Okay. Now you also say that you found crumbled
4 pieces of tin foil, correct?

5 A I found a large amount of aluminum foil, yes.

6 Q In the burn pile?

7 A Yes.

8 Q All this is going to be about the burn pile. You
9 found some cut open battery cases, correct?

10 A Yes, sir.

11 Q And then once you had seen all of this, that's when
12 you called in the search warrant?

13 A Yes, sir.

14 Q Okay. Now, at a earlier hearing, you testified
15 that at this point in time, you got all of the residents --
16 I don't know if they were residents -- but people that were
17 in the house and you removed them from the house for their
18 safety, correct?

19 A Yes, sir.

20 Q Because you suspected at this point in time, there
21 may be hazardous chemicals that were associated with the
22 manufacture of meth inside of that house?

23 A Weapons, evidence, hazardous chemicals, yes, sir.

24 Q Correct. Yes, any of that stuff?

25 A Yes, sir.

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1 Q Now, I want to talk to you about processing the
2 burn pile for a minute. And we've already went over this.
3 I'll just mention it again because I have this in my
4 notes -- but in the -- in -- in the stuff that you turned
5 in, it was all three acid generators basically, correct?

6 A No, sir, it was two acid generators and --

7 Q No three acid generators. On what document did you
8 write three acid generators and one pot?

9 A I didn't. I made a mistake.

10 Q Okay.

11 A In writing.

12 Q Okay. Three times?

13 A Yes, sir.

14 Q After picking it up and holding it right in front
15 of your face and smelling it, you made a mistake three
16 times in your paperwork?

17 A I didn't hold it up in front of my face and smell
18 it.

19 Q Okay. Let's look at your report. I also picked up
20 the bottle to look closer and I could smell a strong odor
21 of ether coming from inside the bottle?

22 A Yes, sir.

23 Q And you nonetheless, three separate times and even
24 under sworn testimony made the mistake three separate
25 times?

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1 MR. BELL: Objection, Your Honor, asked and
2 answered.

3 THE COURT: All right. I'll let her answer the
4 question, but let's move on.

5 BY MR. KIRKLAND:

6 Q Is that correct?

7 A Yes, sir.

8 Q Okay. Now, your training and expertise, I assume
9 at this point in time, is similar to your training and
10 expertise now. I mean you have a little more, I guess, but
11 you were, you were well qualified to, to process a
12 methamphetamine scene at the time, correct?

13 A Yes, sir.

14 Q Okay. So you admit now though that you did hold
15 something up to your face and smell it?

16 A I didn't hold it up to my face. I would never put
17 it up to my face because they have ignited on me numerous
18 times. So I'm extra careful when it comes to putting
19 something in my face.

20 Q Okay. Then just tell me what you mean when you say
21 you picked it up. The language was, that you picked up a
22 bottle to look closer and I could smell the strong odor of
23 ether?

24 A I picked it up with arms distance.

25 Q Okay. So arms distance --

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1 A Not in my face.

2 Q -- so arms distance -- all I'm saying is at arms
3 distance you were looking at this item?

4 A Yes, sir.

5 Q So that's like what, 2 feet away from you; 3 feet
6 away from you; however long your arms are, correct?

7 A Yes, sir.

8 Q So it's very easy to tell at this point what this
9 items is, correct?

10 A Yes, sir.

11 Q Especially with your amount of training and
12 experience, right?

13 A Yes, sir.

14 Q Okay. Now, we talked about it before, but I'm
15 going to go back through it real quick. The acid
16 generators contain sulfuric acid and then salt -- or some
17 acid and salt, right?

18 A Yes, sir.

19 Q And then the reaction vessels contain ether,
20 correct? Sodium Hydroxide, correct? Commonly known as
21 lye, correct?

22 A Yes, sir.

23 Q You have to -- because she can't; you have to say
24 it out loud because she can't type it.

25 A I know she looks at me.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q Lithium and then water, right?

2 A And Ammonium Nitrate; instead of ether you can use
3 Coleman fuel, which is an organic solvent.

4 Q Right. Any solvent, ether, Coleman fuel, whatever.

5 So at the time that you picked this up, I mean
6 there was no doubt, according to your training, if you
7 smelled ether, it was impossible that this thing could be
8 an acid generator; it's impossible, because it doesn't, an
9 acid generator doesn't contain ether, correct?

10 A An acid generator contains Hydrochloric Acid.

11 Q Correct. But you smelled ether when you held this
12 thing up and you -- you looked at it and you smelled ether?

13 A Various people smell various different things. One
14 of the common things that I smell whenever I'm around a
15 meth lab is ether. One of my coworkers, he smells ammonia.
16 So it's just -- it's just what I initially smell when I am
17 around a meth lab.

18 Q You specific -- you specifically said you held this
19 bottle up, you looked at it more closely and you smelled
20 ether on the bottle?

21 A Yes, sir.

22 Q What I'm asking you is at that point in time, you
23 would have known immediately that was not an acid generator
24 because they don't contain ether, correct?

25 A An acid generator does not contain ether.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q So it was not an acid generator?

2 A No, it was not.

3 Q Okay. So I mean you said that this is a clerical
4 error, but you made the clerical three times -- the
5 clerical error three times and you made it under oath. But
6 what it sounds more like is, this is some sort of failure
7 in your training and experience because all the evidence
8 was there for you to properly identify this and you failed
9 to do so; isn't that correct?

10 A No, sir.

11 Q You did not fail to properly identify it?

12 A No, sir, I made a mistake in my writing.

13 Q Three times?

14 A Yes, sir.

15 Q When did you realize that you had made the mistake
16 in your writing?

17 A I can't give you a specific date on that.

18 Q When you realized you did it, did you do a
19 supplemental report saying that you had made a mistake?

20 A No, sir, I did not.

21 Q So the first time anybody's hearing about this
22 mistake is today?

23 A No, sir.

24 Q The first time -- this -- when did you tell
25 somebody you'd made a mistake?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A Within the last eight months.

2 Q You didn't bother to correct any of the paperwork
3 that was being sent over as part of discovery materials?

4 A No, sir.

5 Q You do understand that this paperwork and this
6 sworn statement is a critical report, is it not?

7 A Yes, sir.

8 Q And especially a sworn statement. I would think
9 you would want to correct a sworn statement, but you
10 didn't?

11 A No, I didn't.

12 Q Do you think that's an appropriate thing to do, not
13 to correct a sworn statement?

14 A It's inappropriate, yes.

15 Q Now just tell me, if you don't mind, what you did
16 with the acid generators; I don't remember you saying
17 specifically what you did with them. I know you spotted
18 them, but then what else did you do?

19 A I mitigated them and then I placed them in
20 vermiculite in a DHEC safe bucket where if it were to
21 ignite or explode inside the bucket it would not blow up in
22 my car.

23 Q Okay. Now let's go back a little bit because you
24 said some stuff that I -- I have no idea what those words
25 were. You -- what was the first thing you did?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A Mitigated it.

2 Q Mitigated it. I know what the word mitigated
3 means, but what does it mean in reference to an acid
4 generator?

5 A I changed it into a household grade material.

6 Q How did you do that?

7 A By adding motor oil.

8 Q Okay. You added motor oil. Now, the acid
9 generator as it sat on the ground was not extremely
10 dangerous, correct? I mean not to anybody around it
11 necessarily. It wasn't like on the precipice of exploding?

12 A Not the acid generator, no, sir.

13 Q Right. And in fact, we have some pictures that we
14 looked at of somebody, you know, getting, you know, 3 feet
15 away from it taking a picture or so, right?

16 A Yes, sir.

17 Q I won't bother you pulling it out, but -- so
18 considering that it wasn't instantly dangerous and you
19 indicated that you do have PH strips in your car, you could
20 have reached down and just touched the edge of this and if
21 there had been residue of acid whatsoever, it would have
22 turned red or pink or something, correct?

23 A That's not a typical practice that we do. We
24 identify unknowns with the PH paper and it's typically a
25 liquid. It's -- to add PH paper to test an acid generator

Paige Barnes - Cross-Examination by Mr. Kirkland

1 with PH paper, you have to have a liquid present. If I
2 were to introduce a liquid to that acid generator, it could
3 have possibly exploded.

4 Q So you're telling me honestly, under oath --

5 A Yes, sir.

6 Q -- that you never, not one time, in the four years
7 that you've been doing it, not with other officers, not
8 with Brandon Slice, you have never with an acid generator,
9 rubbed the inside of it just barely, just to see if you can
10 get a hit, just to see if -- so you'd have something to
11 show the jury?

12 A In the last four years, I've probably done it less
13 than ten times. It's not a common practice that I do.

14 Q But you would agree that the goal when you're out
15 there collecting evidence is to ultimately present this
16 case to a jury, correct?

17 A An acid generator is not brought into evidence.

18 Q That's not the question I asked you. We can do
19 that in a minute, but would you agree that your goal as an
20 investigator is to collect as much evidence as you possibly
21 can to prove to this jury that these things are what you
22 say they are?

23 A Yes, sir.

24 Q And so attempting to see if it would have tested
25 positive, at least you could tell a jury you did it and it

Paige Barnes - Cross-Examination by Mr. Kirkland

1 either did or it didn't, correct?

2 A I didn't need to test it. I knew what it was.

3 Q So this is what I talked about in opening argument.

4 Just you're saying trust me, the jury doesn't need
5 to see any evidence, just believe me; I'm a police officer;
6 this is what I say it is and nothing else needs to be done;
7 that's what you're telling me?

8 A No, sir.

9 Q That's what you just said. What are you -- why are
10 you saying you didn't collect any other evidence?

11 A I did. I can't collect an acid generator.

12 Q I understand. Why couldn't you have just touched
13 it with the PH paper, just to see if it possibly tested
14 positive so you'd have something physically that you could
15 bring here because you have nothing physical to bring here
16 concerning this item, do you?

17 A As I explained to you earlier --

18 Q Well first -- first answer you have nothing
19 physical to bring here concerning this acid generator,
20 nothing?

21 A I cannot bring an acid generator into evidence.

22 Q You're asking -- you keep answering -- I'm not
23 trying to be hard on you, but you need to answer the
24 question that I asked you. This is how this process works.
25 They get to ask questions of you; I get to ask questions of

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1 you.

2 Did you or have -- is there anything physical
3 concerning this acid generator that you can bring to this
4 jury to confirm your speculation that it was an acid
5 generator; is there anything you can bring in here,
6 anything that you can show them?

7 A I could have cut off part of the tubing at the top,
8 the little bit that was left at the top, but I did not do
9 that.

10 Q Okay. There we go.

11 Now, let's talk about the top of the tubing for a
12 minute. The top of the tubing is where -- and you're just
13 going to have to help me because I'm not going to look at
14 my notes. The salt and the acid mixed together and then
15 that material flows through the tube, correct?

16 A Yes, sir.

17 Q And then you have the meth oil and we'll get into
18 this in more detail later, the tube goes down into the meth
19 oil and you know, you see the bubbles because the -- the
20 gas is going in there and that's when it creates the meth.
21 The meth snows out of the meth oil, correct?

22 A Yes, sir.

23 Q So if you cut the tube off, it's possible that it
24 could test positive, it could test positive for acid or if
25 it had actually touched the meth oil, it could test

Paige Barnes - Cross-Examination by Mr. Kirkland

1 positive for meth, correct?

2 A That part of the tubing could not have touched the
3 meth oil.

4 Q Well, that's speculation on your part. You don't
5 know what the -- it was burned up. You have no idea how
6 they did it?

7 A The tubing was about that long.

8 Q I understand.

9 A They could not put that into the liquid.

10 Q I understand what you're saying, but that's
11 speculation on your part.

12 What I'm asking you is without speculating, it is
13 possible that it could have tested positive for something
14 that would have corroborated your story that this is what
15 you say it is, correct?

16 A Yes.

17 Q Okay. But you didn't do that?

18 A No, sir.

19 Q And it's common to cut off the tops of these?

20 A The long tops, yes.

21 Q Not the short tops?

22 A Yes.

23 Q Are you making these things up as we go along here,
24 I mean is this uncommon or is it common?

25 MR. BELL: Objection, Your Honor, badgering the

Paige Barnes - Cross-Examination by Mr. Kirkland

1 witness.

2 THE COURT: Sustained. Ladies and gentlemen of the
3 jury, please disregard that comment.

4 Mr. Kirkland please stick to asking questions.

5 MR. KIRKLAND: I will.

6 THE COURT: All right. Thank you.

7 BY MR. KIRKLAND:

8 Q That was a question, just an improper question.
9 Acid, these acid generators, they're a mixture of -- of the
10 acid and the -- and salt, right?

11 A Liquid fire and salt.

12 Q Is liquid fire an acid?

13 A Yes, sir.

14 Q Okay.

15 A I was using the proper terminology.

16 Q Well, it could be -- it could be -- that's a brand
17 name of an acid. That's just sulfuric acid, right?

18 A Yes, sir.

19 Q So it's not really the proper terminology; it's
20 just sulfuric acid?

21 A Yes, sir.

22 Q Okay. That's, all right. And there's other brands
23 of sulfuric acid, correct?

24 A Yes, sir.

25 Q Now, it leaves behind a very, very clear sort of

Paige Barnes - Cross-Examination by Mr. Kirkland

1 not common looking sort of soft crystalizing structure, like
2 the salt gets crystalized and sort of square looking. It's
3 very obvious when you see a acid generator that has burned
4 off or whatever you call it; you see that salt in the
5 bottom that is highly crystalized; it doesn't look like
6 table salt, it looks all clumped together in a crystalized
7 way, correct?

8 A Yes, sir.

9 Q Now, is there any pictures that you took that
10 indicate that you could see that crystalized structure?

11 A No, sir.

12 Q Okay.

13 A Because that burned.

14 Q And you didn't indicate in your -- and there were 2
15 of them, right?

16 A Yes, sir.

17 Q And one of them hadn't burned?

18 A Correct.

19 Q And you didn't see anything -- and you didn't note
20 in your report or take any pictures that you could see that
21 salt crystal structure in the bottom of it, correct?

22 A No, sir.

23 Q Okay. All right. So now your testimony is here
24 today that there were two -- two acid generators and one
25 reaction vessel or pot; is that correct?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A Yes, sir.

2 Q Okay. Now you say that the material was wet and
3 the material was no longer, or it appeared to be no longer
4 reacting, correct? Nothing, no fumes coming off it, it
5 wasn't bubbling or anything like that?

6 A It wasn't wet; it was dry.

7 Q Didn't you testify yesterday that it was a sludgy
8 wet material?

9 A No, sir, it was a sludgy material. It was a sludgy
10 material, but it was dry.

11 Q Are you absolutely certain that that's what you
12 testified to yesterday?

13 A Yes, sir.

14 MR. KIRKLAND: There may be a time we need to take
15 a break, Your Honor, but not right now.

16 BY MR. KIRKLAND:

17 Q But clearly the material was no longer reacting,
18 correct?

19 A Not at that moment. If I would have added some
20 water, it could have started reacting again.

21 Q Right. And of course -- and so you wouldn't do
22 that, correct?

23 A Correct.

24 Q All right. Now, you didn't take any samples from
25 this either, did you?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A No, sir, I did not.

2 Q Okay. I'll just hand it to you and then we'll talk
3 about it because I want you to look at it. I want you to
4 see it clearly. All right.

5 Now this material up around the top of the bottle,
6 that's part of the white sludgy material, correct?

7 A Correct.

8 Q And it was dry?

9 A Yes.

10 Q And you say that down here near the top of the
11 tropical fantasy logo, that's where you see some specs of
12 lithium?

13 A There's also some at the top too. And there's also
14 some down at the bottom.

15 Q Okay. All right. And that's the stuff that you're
16 saying is very dangerous?

17 A That's the lithium, correct.

18 Q When it comes in contact with water?

19 A Yes, sir.

20 Q All right. Now you have been -- I'll put it up
21 here so people can see what we were talking about and just
22 correct me, if I'm not mistaken. When I let you look
23 closely at it, you have implied that that could be lithium
24 up there near the top. These two items could be lithium
25 and this down here could be lithium, right?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A I said they were lithium.

2 Q Right. Okay. They were lithium. Now, is that --
3 you know that they are lithium, through training and
4 experience?

5 A I identified them as lithium.

6 Q Through -- tell me the test that you did to
7 identify them as lithium?

8 A Visually.

9 Q Okay. So through training and experience?

10 A Yes, sir.

11 Q Just believe me, it's lithium; I mean that, that's
12 your testimony, believe me, it's lithium; I have no
13 chemical test; I have no physical evidence, just believe
14 me; it's lithium, correct?

15 A The lithium cooks off, it turns into a
16 greenish-bluish type color and that's what that was inside
17 the bottle. As I -- as I explained, lithium is a gray
18 metal. When it hits air it turns into black and once it
19 cooks off, it turns into a greenish, bluish material.

20 Q Okay. And so your opinion is that that's lithium?

21 A That's not my opinion; that's a fact.

22 Q Do you have -- I have to make sure you understand
23 the difference between opinion and fact. You know lithium
24 is a chemical compound; you understand that?

25 A Yes, sir.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q And has a molecular structure?

2 A Yes, sir.

3 Q And so you cannot say -- and I know we're arguing
4 over very common points here, but I just want to make sure
5 you get the difference between opinion and fact.

6 You can say that this is consistent with what you
7 have seen to be lithium in the past, but you cannot say it
8 is a fact it is lithium because you don't know the chemical
9 structure of this little piece of item?

10 A It is consistent with lithium.

11 Q Okay. That is, I understand. So that's your
12 opinion based on your training and experience that it's
13 consistent with lithium?

14 A Yes, sir.

15 Q Okay. Now, up here at the top, there is some of
16 this sludge, correct?

17 A Yes, sir.

18 Q Now, you're maintaining that this is a one cook
19 pot, correct?

20 A It's the leftover.

21 Q Right. Right. Right.

22 A It's not an actual -- there's -- it's missing parts
23 and pieces.

24 Q Of course -- but I understand that -- but this is
25 the remnants of a one cook pot?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A Yes, sir.

2 Q Now, over on this very edge here, there is areas
3 that you could have with a pipette or something, scraped
4 out a minute amount of the cake -- because a lot of this is
5 the cake; lithium is only sporadically in this bottle,
6 correct?

7 A Correct.

8 Q So it would have been possible with a pipette or
9 pen or something to scrape out a tiny bit of this cake so
10 that you could have tested it?

11 A I would not have done that.

12 Q Is that impossible to do?

13 A It's not impossible to do, but I would not have
14 done that.

15 Q Have you not been on investigations before with
16 other officers in which these sorts of items were actually
17 taken to a flat area, such as a plate or a piece of
18 concrete or a flat piece of metal and if there was no
19 moisture anywhere and it was all dry, they'd bang them out;
20 they'd take the lithium out and they'd take a small sample
21 of the cake because the cake is going to test positive in
22 part for methamphetamine; isn't that correct?

23 A Well --

24 Q Have you ever seen that done in your entire career?

25 A Okay. That's a two part question --

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q Right.

2 A -- and so I have to give a two part answer. That
3 has never -- I have never tested anything like that, dumped
4 it out, cut it open.

5 Q Okay.

6 A I've never spread anything of that consistency out
7 on anything to dry out.

8 Q Okay.

9 A Now the one pot that still contains the ammonium
10 nitrate, the Pseudoephedrine, the Coleman fuel, that kind
11 of stuff, yes, I have cut the top off the bottle that
12 spread it out onto something and, and dried it out.

13 Q But this was already dried out?

14 A Yes, sir, but there was nothing for me to spread
15 out. It was all stuck to the, the plastic.

16 Q Right. So what I'm saying is, you have never been
17 with an officer, that took this right here and took a
18 pipette and either scraped it or kinda banged it on a flat
19 service, just let a little bit fall out and then put it in
20 your little sample jar and send it off; you've never been
21 with an officer that ever did that?

22 A I can't say that I have and if they did it that
23 way, it was improper.

24 Q So are you saying you don't remember or the answer
25 is no?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A It's four years -- I mean I -- I can't say that
2 I've never been with an officer that's done that.

3 Q You can say for certain that you've never been with
4 an officer that's done that; you've never been with Brandon
5 Slice when he did that?

6 A If he did that, it was improper.

7 Q Well, here's what I'm asking. Have you ever been
8 with him or anybody else when they did that?

9 A Probably, yes.

10 Q Okay. Now, the danger that you're talking about is
11 that it would come in contact with water, correct? Because
12 that's what causes the problems with the lithium, correct?

13 A Come in contact with any type of sweat, humid, it
14 being humid outside, rain, anything like that.

15 Q So you've dumped it out when it was a little bit
16 sludgy with none of those concerns, because didn't you say
17 that you sometimes you would cut the top off and dump these
18 out if it was in a, in a more liquidy form?

19 A No, sir, I did not say that. I said in a one pot,
20 where it contains all the ingredients, then yes, I would
21 dump it out and I would pick the lithium through and I
22 would burn the lithium off.

23 Q When you say it has all the ingredients; what do
24 you mean?

25 A It has the lye, it has the Coleman fuel, it has the

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1 lithium batteries, it has the Pseudoephedrine, it has the
2 ammonium nitrate.

3 Q Okay. So what does this contain?

4 A That's just a sludgy material. It contains where
5 they've tried to scrape it out of the bottle, all the
6 residue, like they do if they're going to do a drop of it.

7 Q So you're saying though that others in your
8 presence have collected evidence from this sort of thing by
9 knocking some of it out and collecting it, correct? I mean
10 you just said that a few minutes ago.

11 A That's no longer employed.

12 Q I mean have you seen -- have you seen others do
13 that as a part of -- have you seen other people do that as
14 a part of their investigation?

15 A Yes, but it's improper.

16 Q Okay. Now, what we're dealing with here is that
17 other than your opinion, there's nothing that you've been
18 able to bring to this Court, no PH paper, no lab test
19 results, absolutely nothing to indicate that these items
20 are what you say they are. You are basically saying it is
21 my opinion these items are and I didn't bother to collect
22 any further evidence to prove to a jury that they could put
23 in their hand as to what they are; is that correct?

24 A As I stated, there was no evidence for me to
25 collect there.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q You're answering a different question. I'm asking
2 you is, is it, are you telling this jury here today that
3 they just need to rely on your opinion and there's nothing
4 else that you have brought them?

5 A There was nothing else for me to collect.

6 Q There's a yes or a no at the beginning of this.
7 Are you telling this jury that you, that all of this is
8 based on your opinion and there is no physical evidence
9 that you have brought them for them to view; that's either
10 yes or no?

11 A I cannot bring an acid generator --

12 Q Either yes or not, I don't understand why is this
13 so hard; it's either yes or no. Yes, you either --

14 A No, I did not bring an acid generator or a one pot.

15 Q Or any other evidence, PH paper or anything?

16 A PH paper would have been no good anyway right now.

17 Q See -- you're not answering the question that I'm
18 asking you. The question's pretty simple. You didn't
19 bring any physical evidence in here period, is that
20 correct, concerning the things we're talking about?

21 A Yes, sir.

22 Q Okay. All right. Now let's talk about the starter
23 fluid. Starter fluid is ether, correct? Starter fluid is
24 ether?

25 A It's an organic solvent.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q I mean is it ether or is it not ether; what is
2 starter fluid?

3 A It's a solvent.

4 Q I understand that it's classified as a solvent, but
5 is it -- is ether what is contained in starter fluid?

6 A Yes.

7 Q Is there a reason why you didn't answer that when I
8 asked a moment ago; I'm trying to figure out what's going
9 on; is there a reason why you didn't answer that if the
10 answer was yes?

11 A No, sir.

12 Q Okay. Now ether, as you have indicated, it's a
13 fairly dangerous material, correct?

14 A Yes, sir.

15 Q And the reason why it is fairly dangerous is
16 because ether has a super low ignition point, around a 170
17 or 180 degrees, correct?

18 A Yes, sir.

19 Q Okay. Now you've also testified that -- you didn't
20 testify to all of this, but what I gathered from your
21 testimony is the way that people use ether in these cooks
22 is that -- well, you said that there were holes in the
23 bottom of the bottles, correct?

24 A There were puncture holes.

25 Q Puncture holes, okay. And so what they do instead

Paige Barnes - Cross-Examination by Mr. Kirkland

1 of just sitting there and spraying and spraying and
2 spraying the ether out, they dump it upside down, release
3 the propellant first and then once the propellant has been
4 released, they punch a hole in the bottom of it?

5 A Yes, sir.

6 Q Okay. Now some of these either bottles that were
7 in the pile -- or excuse me, starter fluid bottles -- they
8 had holes in them, correct?

9 A Yes, sir.

10 Q And they also been exposed to a fire, correct?

11 A Yes, sir.

12 Q So knowing that the ignition temperature is around
13 170, 180 degrees and fire burns at probably 1500 degrees,
14 there was no reason to believe that there was any ether
15 actually left in any of these cans, correct?

16 A Correct.

17 Q So these cans could have been safely collected?

18 A No, sir.

19 Q And the reason why is not -- and the reason why is
20 what?

21 A Why I didn't collect ether cans, punctured ether
22 cans and put into our evidence room, due to the smell of
23 the ether and contamination.

24 Q Now what do you mean contamination?

25 A Contamination from the fire, the soot from the

Paige Barnes - Cross-Examination by Mr. Kirkland

1 fire, stuff like that.

2 Q Right, but you had these BEST Kits, these evidence
3 bags that get all sealed up; you could have stuck one in
4 there, sealed it up and you could have brought it here and
5 you could have shown them this is what we're talking about;
6 here's the hole on the bottom; here's how it all works.
7 And you could put something in their hand that they would
8 have been able to look at, correct?

9 A It's not a common practice for us to collect
10 punctured, used ether cans.

11 Q Now you say that. According to your testimony and
12 I'm just going to hand you the whole stack, that there were
13 puncture holes in the bottom of these cans. Now that's
14 critical to identifying them as being used in meth
15 production, correct?

16 A Yes, sir.

17 Q And if there's another picture let me know, but
18 would you mind showing me the picture that you have of a
19 puncture hole in the bottom of one of those cans? And
20 here's one picture I've left out, but it's --

21 A I can't show you the one with the puncture hole in
22 it.

23 Q But you've said that that's -- you just said two
24 seconds ago that that's the proof as to what these were
25 being used for, correct?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A Yes.

2 Q But you didn't bother to collect one and you didn't
3 bother to even roll one around and take a picture of the
4 puncture hole, did you?

5 A No, sir.

6 Q So that's another piece of physical evidence that
7 for whatever reason this jury is never going to get to see,
8 correct?

9 A Correct.

10 Q So once again, we just need to take your word for
11 it, correct?

12 A Correct.

13 Q Now, you're going to have to help me a little bit
14 on this one. You also said that you saw some battery
15 casings and you did point them out, but I didn't write down
16 the number. So do you mind looking through these and
17 telling me which of these contain the battery casings and
18 you can pull them out if you want and get them out of
19 order; it won't bother me.

20 A Right there's a battery casing.

21 Q All right. Let me -- while you're doing that, let
22 me -- let me hold it up on the projector and we'll talk
23 about it. Do you have your little thing?

24 A I don't know what --

25 Q You don't have a little thing for her to use; do

Paige Barnes - Cross-Examination by Mr. Kirkland

1 you want to use this or had you rather walk up here?

2 A Whatever you want me to do.

3 Q No, it's up to you whatever you feel more
4 comfortable doing.

5 A I'll sit here.

6 Q Okay. And you already know how to use that; I have
7 no idea how to use it.

8 All right. Does that look right side up to you?

9 A Yes, sir.

10 Q Point if you can where the battery casing is.

11 A Right there.

12 Q That's a battery casing?

13 A Yes, sir.

14 Q All right. Now, these battery casings, from what
15 you're telling me -- and is there any other picture in
16 there -- you can go ahead and flip through those.

17 Oh, you have one, I'm sorry, I wasn't looking at
18 you; I thought you'd say something.

19 I'll put it on there and you can point at it.

20 All right. Is that right side up?

21 All right. Where -- where -- do you see it from
22 there?

23 A I'm going to have to step down so I can see it.

24 Q If you need to step down, just walk -- don't wait
25 for me to ask you, just come on down.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Now, I'll give you a pen if you want so you can
2 point at it. You can get over here if it's easier?

3 A No, I'm fine. Right there is a battery casing and
4 you can just see just a tad bit of it.

5 Q Okay.

6 A And right there is a battery casing.

7 Q Okay. Is there any other picture that you saw or
8 did we get through them?

9 A If you'll give me one second.

10 Q We should have done them all at once?

11 A No, sir.

12 Q Okay. Now, I think you would agree that to the
13 untrained eye, not being a meth expert, it's impossible to
14 tell what those are from these pictures, would you agree
15 with that.

16 A It's not impossible.

17 Q Do you think that someone would have difficulty
18 understanding if you just handed them this picture and said
19 what -- what is everything in here, do you think that it
20 would be easy for somebody to say, Oh, that's a battery?

21 A Someone without prior knowledge, yes.

22 Q Would have a tough time?

23 A Yes.

24 Q Yeah. Now, knowing that and these are the pictures
25 that you took to bring into evidence, and knowing that

Paige Barnes - Cross-Examination by Mr. Kirkland

1 these batteries -- I assume you're saying that they've been
2 stripped of lithium?

3 A It's the battery casing.

4 Q Right, so there's no lithium inside of those?

5 A Correct.

6 Q So understanding that these pictures is very
7 difficult for someone without your expertise and
8 understanding that the jury is the one that decides whether
9 somebody is guilty or innocent, wouldn't it have been
10 prudent to collect these because they don't have lithium in
11 them, correct?

12 A We don't typically collect stuff that's in the
13 trash; it's considered meth waste.

14 Q Is there any reason not to do it?

15 A It goes along with the smell because of everything
16 that's been burning in the burn pile.

17 Q So in your career, because you did other stuff
18 other than just narcotics, right?

19 A Yes, sir.

20 Q So in collecting evidence, if something had been
21 exposed to fire at any point in time, it was not collected
22 because it would smell like fire?

23 A I've never collected anything from a fire.

24 Q So they don't collect those things like in arson
25 cases or anything?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A I can't testify to that.

2 Q Okay. So the lab -- I mean the evidence room won't
3 accept those items; they just reject them and say take them
4 back to the burn pile or --

5 A I can't answer that.

6 Q No, I'm asking you, I'm trying to get down to the
7 reason why. What is the reason, you're saying --

8 A We do not collect meth waste. That's what the
9 battery casing is; it's considered meth waste.

10 Q But it's not dangerous?

11 A We do not collect meth waste.

12 Q It's not dangerous, correct?

13 A Sir, I've answered your question.

14 Q I'm saying it's not dangerous, correct?

15 And so there's no reason you couldn't collect it,
16 correct?

17 A I do not typically collect --

18 Q Wait, wait, wait. I'm just saying there's no
19 reason, no physical reason that that item could not be put
20 into an evidence bag, sealed up and brought here for these
21 folks to look at; that's all I'm asking? I'm not asking
22 you what your custom -- your practice; I'm asking you if
23 there is a physical reason that this piece of evidence
24 could not be collected; you don't need to look at them;
25 look at me; let's talk.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A I was. I was trying to process what you said.

2 Q Is there a physical reason other than some kind of
3 custom or practice that you're talking about, is there a
4 physical reason not to collect a battery casing?

5 A No, sir.

6 Q Okay. So once again we're at a point where even
7 though it's not apparent to the layman as to what that is,
8 we're just going to have to take your word for it again,
9 correct, because we don't have any physical evidence here?

10 A The picture.

11 Q That you've already indicated that it's not --

12 A It's difficult, but it's not impossible.

13 Q Okay. Well, they'll have it back there and they
14 can look at it.

15 Now, you also saw some tin foil. Well, let me ask
16 you something else. I want to go -- I want to go back to
17 the beginning of your training, you know, back to the very
18 beginning when you went through the police academy and what
19 not -- I mean all of your training, every bit of it from
20 the beginning all the way up till today; all the training
21 you've ever had. Isn't it common in police training to
22 collect -- don't they encourage you to collect anything
23 that could be evidence, that could be tested, that could be
24 shown to a jury, that could be probative on the issue of
25 guilt of a person; isn't that, isn't that commonly what

Paige Barnes - Cross-Examination by Mr. Kirkland

1 your training is?

2 A To collect evidence?

3 Q To collect as much evidence as you possibly can so
4 these folks can see it; isn't that the general purpose
5 behind what you do for a living?

6 A Yes.

7 Q Okay. All right. I'm going to talk about the tin
8 foil now.

9 Now, I do think it's clear from the pictures that
10 there was tin foil, so I'm not going to argue with you
11 about that. The tin foil, what you were saying is that the
12 tin foil it's not used in a cook, correct?

13 A It can be.

14 Q Okay. Now tell me, because I don't know, how is it
15 used in a cook?

16 A It makes the acid generator. If you combine
17 muriatic acid and aluminum foil, it will produce the
18 hydrochloric acid.

19 Q I'm going to frustrate you when I say this, but I
20 asked you a few minutes ago, about twenty or thirty minutes
21 ago if muriatic acid and tin foil was a replacement for
22 sulfuric acid and you told me no, just muriatic acid?

23 A I told you, yes, and also just muriatic acid.

24 Q Oh, so either one?

25 A There's three.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q Okay. Now this tin foil, let's say that is -- was
2 used in an acid generator, then it would have residue
3 presumably salt or acid or something, correct?

4 A The aluminum foil?

5 Q Yeah, if it was used in an acid generator, it would
6 have some kind of residue on it?

7 A Yes, sir.

8 Q And there was nothing -- there's no reason that you
9 could not have collected that tin foil and seen -- just
10 taken it to the lab and see if they could find any acid or
11 salt or anything on it that would confirm it was used in a
12 acid generator, correct?

13 A No, sir, I would not collect anything that
14 contained acid.

15 Q Would you collect anything like a chalet that had
16 been smoked off of?

17 A Yes, I would.

18 Q Oh, you would definitely collect that, right?
19 Okay, good.

20 Now was -- were any of these items -- so, was
21 there -- I think you testified that tin foil was commonly
22 used to smoke; was there -- was there any items in there
23 that you can identify as commonly used, that may have been
24 a chalet -- that appeared to be, you know -- that didn't
25 appear to be used with muriatic acid in an acid generator?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A No, I can't answer that because it was crumpled up.

2 Q Okay. Fair enough. However, if you would have
3 been able to tell that it was a chalet and definitely not
4 used as an acid -- in an acid generator, you would have
5 definitely collected that because those burn spots on it
6 would be residue of methamphetamine and you could test
7 them?

8 A Not necessarily.

9 Q I thought you said just a minute ago you would
10 collect chalets if you found them?

11 A I could collect them, yes.

12 Q Did you not say that you would collect them?

13 A Most of the time that I would or I'd just take a
14 picture of them.

15 Q So when you take a picture of them, the -- you have
16 no idea what they were used for at that point of time, I
17 mean not factually. You don't know if they were used to,
18 to smoke heroin, meth, cocaine, ground-up pills; chalets
19 are used for various things, aren't they?

20 A Not those types.

21 Q Not those types. So it is only that type. So
22 what -- what's the difference between the ones that are --
23 that are used to smoke heroin and pills and things like
24 that?

25 A Heroin is not generally smoked. It is injected.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q Not generally smoked. But there are people that
2 smoke it off of chalets. Methamphetamine is not the only
3 thing -- I don't know why you keep looking over there; you
4 can look at me.

5 THE COURT: Mr. Kirkland --

6 MR. KIRKLAND: I'm just making sure that she's not
7 trying to get some sign from --

8 THE COURT: Mr. Kirkland, ask her, ask the
9 questions, all right.

10 BY MR. KIRKLAND:

11 Q Chalets other drugs can be used -- can be smoked
12 off of chalets; that is a fact?

13 A I have never seen --

14 Q I'm not asking you if it's a fact that other drugs
15 can be smoked --

16 A I can't answer that.

17 Q All right. As far as the meth lab, I think -- not
18 the meth lab, the burn pile -- the only thing that you have
19 is the pictures and nothing else?

20 A Yes, sir.

21 Q Okay. All right. Let's talk about the search
22 warrant and the processing of the house now.

23 MR. KIRKLAND: I don't know how long we've been
24 going, Judge, so just let me know if you want to take a
25 break. I just have no clue. I don't remember when we

Paige Barnes - Cross-Examination by Mr. Kirkland

1 started.

2 THE COURT: We're good.

3 BY MR. KIRKLAND:

4 Q The processing of the house. You mentioned
5 yesterday that you had moved -- you had removed everyone
6 for safety because of -- and you actually said earlier
7 today and that there were several reasons; one, chemicals
8 that could be in there used to manufacture meth; firearms,
9 things like that, correct?

10 A And destruction of evidence, yes.

11 Q Ah, of course, and destruction of evidence. But
12 you -- you had used -- but was -- was I to understand you
13 that the reason that you removed them for safety was in
14 part because meth chemicals could be present in the house?
15 I mean that was one of the three possible things that could
16 be in the house?

17 A Yes.

18 Q Okay. So -- and I want to talk about the protocol
19 for -- for going through for processing like what you
20 suspect to be a meth house. If there is a reason to
21 suspect that there are dangerous chemicals in this house --
22 and I assume that there was a reason to suspect that
23 because of what you say you found in the burn pile,
24 correct?

25 A Yes.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q Okay. If there is a reason to believe that there
2 are potentially hazardous chemicals in the house, there's a
3 protocol for that and that protocol is to don respirators,
4 maybe a Tyvek suit, something -- somebody to evaluate the
5 interior of the house to make sure there's nothing
6 dangerous before evidence collection begins; isn't that
7 true?

8 A I am a HAZMAT certified.

9 Q Right. But you just said though that there could
10 have been hazardous materials in there. Did you don -- or
11 put on to say it another way -- a respirator or any, a
12 Tyvek suit or anything like that before you went in -- when
13 you went in there to evaluate what was in there during the
14 first walk through, the search of the house after you
15 obtained the warrant?

16 A No, sir, I did not.

17 Q Okay. Now, if you had truly believed that there
18 was meth chemicals in there or something dangerous in
19 there, you would have done that, correct? You don't want
20 to get harmed?

21 A No, I don't want to be harmed.

22 Q So if you thought something was in there, that
23 would have been the protocol and you would have done that?

24 A But there's three things that the possibility of
25 weapons inside the house and also the destruction of

Paige Barnes - Cross-Examination by Mr. Kirkland

1 evidence and evidence can include anything from a chalet to
2 methamphetamine to anything like that. It doesn't have to
3 be one pot that is sitting there rolling in the living room
4 floor.

5 Q Right. But just a minute ago, I asked you if one
6 of the possibilities was that there was dangerous chemicals
7 associated with the manufacture of meth in the house and
8 you said yes, that was a possibility, correct?

9 A Yes.

10 Q And so if you believe that there is a possibility
11 and the protocol is to don safety gear and at least do an
12 initial evaluation to ensure there is nothing that can harm
13 someone in that house, correct?

14 A I went in the house with Phillip Helms on a consent
15 to search. I didn't have a search warrant at that moment.

16 Q But I'm talking about the second time, once you
17 found the stuff outside?

18 A I found the stuff outside before the search warrant
19 was obtained. I had been inside the house. Nothing -- I
20 could smell nothing inside of the house at that very moment
21 that could tell me that a one pot was actively cooking
22 inside of that house.

23 Q Or that there were dangerous chemicals in there?

24 A Not in plain view. I did not search the residence.

25 Q So based on what you're, just making sure I

Paige Barnes - Cross-Examination by Mr. Kirkland

1 understand you is that you had no reason to believe that
2 there was any dangerous chemicals in the house that would
3 require you to put on safety gear to rummaging through
4 drawers and make certain of that?

5 A I'm sorry, can you repeat the question?

6 Q You were going to do a full, you did a walk through
7 of the house and you didn't smell anything related to meth,
8 correct? You didn't see anything related to meth, correct?
9 Correct?

10 A No, sir.

11 Q Now, when you get the search warrant, you're going
12 to start pulling open drawers, right?

13 A Correct.

14 Q You start opening closets?

15 A Uh-huh (affirmative response).

16 Q You're going to start pulling down, you know, cups
17 and bottles or whatever it is that you find in there,
18 correct? Now you found, well you have to say yes first?

19 A Yes.

20 Q Okay. I'm just -- because I know she's going to
21 have to type it.

22 So what you're telling me though is that if these
23 dangerous chemicals could be in there, you've admitted that
24 you're supposed to don protective gear, but you did not don
25 protective gear; I'm just asking, is that true?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A Which part?

2 Q That if you believe that there are dangerous
3 chemicals in there that you are supposed to put -- if you
4 have reason to believe there are dangerous chemicals in
5 there, then you're supposed to put on protective gear?

6 A I didn't need to put on protective gear because --

7 Q First say yes or no; is that statement I said true
8 or false?

9 A It's a trick question.

10 Q It's not a trick question. If you believe that
11 there is potentially something dangerous in the house,
12 before you start pulling open drawers, opening cabinets,
13 that the protocol is that you should don protective gear so
14 you don't like open a cabinet or something and have
15 something spill on you or whatever; that's the protocol;
16 that's the correct protocol; that's what I'm asking, is
17 that true?

18 A No.

19 Q No. So when you go into houses, you do not
20 particularly ever don protective gear?

21 A Depending on circumstances.

22 Q Okay. You didn't this time?

23 A No.

24 Q Okay. Now if you had believed there was something
25 in there, you would have though?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A If I would have found something in there, then I
2 would have evacuated everybody out of the house including
3 myself and provided myself with my protective gear and I
4 would have went back inside after the house had been
5 ventilated by the fire department.

6 Q All right. I'm going to talk to you about the
7 processing of the house; that's what we were on.

8 All right. Now, the first area that you -- that
9 you walked into is like a living room, den type of area,
10 correct?

11 A Yes, sir.

12 Q Do you mind if I get these?

13 A No, sir.

14 Q I think that I pulled all of those photos out, but
15 I'll let you flip through them and make sure if you don't
16 mind.

17 These are the 3 that I pulled out, 1, 2, 3. Do you
18 remember another one being in evidence concerning the
19 living room, den area?

20 A I believe that's it.

21 Q Okay. So in this picture right here, this was the
22 picture, I believe, of the cell phone and the marijuana
23 pipe that was the critical reason that this picture was
24 taken?

25 A Yes, sir.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q Is there any meth items in this picture that you
2 can see?

3 A Not in that picture, no, sir.

4 Q Okay. And that's a marijuana pipe; that's not
5 evidence of methamphetamine?

6 A Correct.

7 Q Okay. Now, we also have this picture. And in this
8 picture, I think you said you could see some lithium
9 batteries; is that correct?

10 A Yes, sir.

11 Q Now are you able to read the word lithium on any of
12 these batteries?

13 A If you'll give me one second.

14 Q Have you got them there in front of you?

15 A Yes, sir.

16 Q Okay.

17 A There's lithium batteries on the ground by the
18 table.

19 Q Do you have your little pointer thing that you can
20 help them?

21 A That's a lithium battery right there.

22 Q Can you read lithium on that picture, the picture
23 you're even holding right -- I mean it's the same picture,
24 right, that you're looking at?

25 A Yes, sir.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q Can you read on that picture that it's lithium?

2 A No, sir.

3 Q Okay. Tell me -- tell me what else -- is that one
4 that looks like a -- is it -- is it -- this right, this
5 thing right here?

6 A Yes, sir.

7 Q Okay.

8 A There's a battery right here that actually has the
9 blue coloring on it at the top, which is distinguishing as
10 a lithium battery.

11 Q Okay. This one on the bottom here has a black top,
12 correct?

13 A It has a red and black.

14 Q Okay. What about the, do you see anything else in
15 there that's relevant?

16 A This right here is a blue knife type object that is
17 typically used in slicing batteries, cutting the batteries
18 open.

19 Q Well, so -- just so I understand. That particular
20 brand of knife you're saying is used or just knives in
21 general are used?

22 A I'm just saying that this right here is -- is
23 what's commonly used along with pliers and wire cutters.

24 Q So what you're saying is that knives are used?

25 A Yes, sir.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q So it is 100 percent speculation to say that that
2 knife was used for that?

3 A It's consistent with --

4 Q The only thing you can say is it's a knife and
5 knives are used to cut open batteries, correct?

6 A Yes, sir.

7 Q Okay. Is there anything else that you can see in
8 this picture?

9 A Give me one second, please.

10 Q And that's okay if you can't. And if I'm looking
11 at the thing, say it a little bit louder because I'm -- I
12 didn't hear you.

13 And I think this is the last one. All right.

14 Now, this one contains -- now this one -- I think I
15 know what a few of these things are. This is the piece of
16 tin foil that you say has burn marks on it?

17 A I -- I don't know if that one had burn marks inside
18 of it.

19 Q Okay.

20 A The spoon did.

21 Q Okay. The spoon had burn marks on it. Let me talk
22 to you about that spoon. This -- this -- this pipe here is
23 a glass looking pipe?

24 A Yes, sir.

25 Q Now those are typically used to smoke marijuana,

Paige Barnes - Cross-Examination by Mr. Kirkland

1 right; am I correct?

2 A You're correct.

3 Q Now, we see some other batteries here. We see
4 these black top, another black battery looking there,
5 another black top battery there; is that accurate?

6 A There's numerous miscellaneous batteries in there.

7 Q Okay. Well, I'm just looking like here this one
8 over here you can see pretty well and that's a silver with
9 this black top on it, correct?

10 A Yes, sir.

11 Q And that looks like the same one right there?

12 A Yes, sir.

13 Q And that looks like the same one and that's the
14 same one; I mean not the same exact battery, but the same
15 type of battery?

16 A Yes, sir.

17 Q Now, let me ask you something else first.

18 Now on any of those batteries, can you read the
19 word lithium on any of them?

20 A No, sir, none of those batteries were collected.

21 Q Can -- can -- so from this picture, can -- can the
22 jury read -- can they see lithium on them?

23 A No, sir, and those weren't collected.

24 Q Okay. Which batteries were collected?

25 A The batteries in the red Mustang.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q Ah, in the red Mustang. So none of these batteries
2 inside of here, none of those were collected?

3 A No, sir.

4 Q All right. So there's no way to tell from these
5 pictures what types of batteries these are, not from the
6 pictures?

7 A They're alkaline batteries.

8 Q Oh, these are alkaline?

9 A Yes, sir, just like the one that was on the floor.

10 Q Oh, so none of those are lithium?

11 A There was a lithium battery beside the box, yes,
12 but I can't say with 100 percent certainty that there's not
13 additional lithium batteries inside of this box that we
14 just can't see through the photo.

15 Q Well, I mean, you had a search warrant, right?

16 A Yes.

17 Q So you could have searched through the box to see
18 if there were other lithium batteries?

19 A Yes, I could.

20 Q But you did not; that's either yes or no?

21 A I was trying to be respectful because Mr. Helms was
22 still in the house while we were searching.

23 Q I see. Okay. Respectful.

24 Now this spoon, what did you say that that was used
25 for in your training and experience?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A The spoon can be used to heat up a pill, to heat up
2 heroin, to liquify, to turn anything into a liquid, pain
3 pills, anything like that.

4 Q And they would inject it?

5 A Typically.

6 Q Okay. So in your training and experience, people
7 that inject whatever, heroin, meth, whatever it is that
8 they inject, you would typically find things such as cotton
9 balls, hypodermic needles, tourniquets, bloody napkins or
10 rags in addition to finding the spoon, wouldn't you?

11 A Every case is different.

12 Q But it's typical when you find a junky that's using
13 a spoon, that you would find these other items in your
14 training and experience?

15 A I've found some without and I've found some with.
16 I mean it's -- every case is different.

17 Q It would not be uncommon to find those items if
18 somebody was using it for that purpose?

19 A No, sir.

20 Q You did not find any of those items, correct?

21 A No, sir.

22 Q Now -- now this -- the tin foil and the spoon that
23 was collected, now that was never, that was never tested,
24 correct?

25 A I don't believe so. I'd have to look at the --

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q No, no, don't worry about it. If you don't know
2 just say you don't know; that's fine.

3 A I can't answer that.

4 Q That's fine because you don't know, definitely
5 don't testify to that because you're not the person that
6 does the testing, correct?

7 A No, sir.

8 Q Right. So in the house, if I'm not mistaken, you
9 only saw one battery that could have possibly been a -- a
10 lithium battery; is that correct?

11 A One battery that was seen in the photos.

12 Q Right, well -- no, that's not the only battery you
13 saw is it? Correct? I mean if you would have seen another
14 lithium battery, would you have taken a picture of it?

15 A I didn't take those photos.

16 Q Well, if you had seen one yourself -- you're the
17 lead investigator, correct?

18 A I was also the scribe.

19 Q But you were the expert on the scene, right?

20 A With additional meth technicians.

21 Q But you, well let me put it like this. You're the
22 lead agent on this case?

23 A Yes, sir, I wrote the warrants for Phillip Helms.

24 Q So if there had been other lithium batteries, you
25 would have wanted pictures taken of them, correct? The

Paige Barnes - Cross-Examination by Mr. Kirkland

1 bottom line is there's no other pictures, right?

2 A No, sir.

3 Q Now, there were also, do you remember, when you
4 were walking through the house, do you remember seeing like
5 that Phil had Direct TV and the remote control devices were
6 scattered on the couch; do you remember seeing that?

7 A Yes, sir.

8 Q And those items, did you check to see if those
9 items took double A, I think those were double A batteries;
10 did you check and see what batteries those took?

11 A No, sir.

12 Q Okay. So not knowing what they were used for, they
13 could have just as been -- just as easily been used for the
14 purposes of powering his remote controls and whatnot in his
15 house. It's only speculation that they could have been,
16 that they were used in anything involving meth, correct?

17 A Yes, sir.

18 Q Now you've indicated that lithium, particularly
19 lithium batteries in conjunction with other items, you know
20 it helps build a case. It helps build a complete picture
21 of what was going on, correct?

22 A Yes, sir.

23 Q And you did find at least one that you know of,
24 lithium battery inside the house, correct? Or what you say
25 is a lithium battery, correct?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A Yes, sir.

2 Q But it wasn't collected?

3 A No, sir.

4 Q Is there a policy about not collecting batteries?

5 A No, sir.

6 Q Okay. Oh, now the -- you commented earlier about
7 some plastic bags that you had found in this -- in this --
8 you have your three; I'll show them to you.

9 You said that you had found some plastic bags like
10 the corners were cut out inside of this box I believe?

11 A In the living room.

12 Q Oh, in the living room?

13 A Yes, sir.

14 Q Okay. Where were those in the living room?

15 A I can't recall exactly where they were.

16 Q Do you have a picture of where they were?

17 A No, sir.

18 Q And you don't have, you don't remember at all where
19 they were?

20 A All I remember was they were in the living room.
21 There was a lot going on.

22 Q Well, I understand that. I mean -- but isn't it
23 sort of part of the process to get things organized because
24 you got to come here one day and you've got to explain this
25 stuff to the jury. So there's a lot going on. But your

Paige Barnes - Cross-Examination by Mr. Kirkland

1 job is to get everybody organized, you know, make sure this
2 evidence is directed, collect -- collected correctly and so
3 it can be presented to the jury; that's part of your job,
4 correct?

5 A Yes, sir.

6 Q Okay. But that doesn't, but that wasn't occurring
7 as things had got out of control is what you're testifying
8 to?

9 A No, I did not testify to that.

10 Q Okay. Now, I want to talk about the kitchen. This
11 is already in evidence, but I want you to look at it for a
12 moment and tell me, do you remember any other pictures from
13 the kitchen. I just looked through them and I didn't see
14 any; do you remember any others?

15 A That wasn't from the kitchen.

16 Q Oh, where was this from?

17 A In Renee's room.

18 Q Okay. So this was in Renee's room?

19 A Yes, sir.

20 Q So Exhibit -- State's Exhibit No. 16 was found in
21 Renee's room. Well, let me, let me talk to you about
22 Renee's room. When you first went into the house, you had
23 asked Phil for permission to search the house and he said
24 fine, correct?

25 A Yes, sir.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q And then when you got in there, you found out from
2 Renee that she was sleeping in -- she says, overnight
3 sleeping in one of the rooms in the back, correct?

4 A That's not exactly what she said.

5 Q Did she indicate that she had been staying there
6 for approximately two weeks and, and sleeping overnight
7 there?

8 MR. BELL: Objection, Your Honor, hearsay as to
9 what Ms. Krantz --

10 MR. KIRKLAND: This isn't hearsay. We need to
11 approach, Your Honor.

12 THE COURT: All right. Ladies and gentlemen of the
13 jury, at this time, I am going to let you all take a break.
14 We'll take about a 15 minute break and then we'll have you
15 back in.

16 All right. Thank you.

17 (WHEREUPON the jury left the courtroom at 3:57
18 p.m.)

19 MR. KIRKLAND: If you'd give me one second, Your
20 Honor, I need to look for something in the report real
21 quick.

22 All right. Here's what my argument is, Your Honor?

23 THE COURT: Well, let me hear what the issue is.
24 What's the question again?

25 MR. KIRKLAND: The question was that when we --

Paige Barnes - Cross-Examination by Mr. Kirkland

1 I'll stand over here so I'm not crowding you.

2 The issue is, Your Honor, that the back bedroom is
3 Renee Krantz's bedroom, and that when officers went into
4 the house, they asked Phil Helms if he could -- if they
5 could search the house and Phil Helms said yes. However,
6 when they got into the house, the officer could hear voices
7 in the back and had them come up front and that's already
8 been testified to.

9 It was, I asked her the name of the female; she
10 told us her name was Renee and the male was Jimmy. I
11 advised them why we were there and asked if they lived
12 there. Renee stated that she had been staying there for
13 about two weeks, but did not live there. I asked Renee if
14 she slept there and she said yes. At that point, I asked
15 her which room was hers and she took me back to the far
16 bedroom and said, This is mine and boyfriend's.

17 And this is the critical sentence. I asked her if
18 she would mind if I took a look around and she told me no,
19 she did not mind. Claiming that room as hers, it was
20 clearly, in my opinion, Paige Barnes' or Investigator
21 Barnes' intention to make absolutely certain that she had
22 permission to search somebody else's room that it may not
23 be within Phillip Helms ability to allow search of the
24 house.

25 So consequently, her saying it's her room and her

Paige Barnes - Cross-Examination by Mr. Kirkland

1 giving permission to search it has independently little
2 significance and is not hearsay. It's -- it has a legal,
3 it's a legal claiming and legal permission.

4 THE COURT: What's the legal significance?

5 MR. KIRKLAND: The legal significance is that she's
6 giving permission for a search to something that she has
7 expressed a privacy interest in.

8 THE COURT: I understand that for legal arguments
9 purposes, but for purposes of being before the jury, I'm --
10 to me it has hearsay.

11 MR. KIRKLAND: It's, it's --

12 THE COURT: I mean I understand that that's the
13 argument you made yesterday.

14 MR. KIRKLAND: The statements that have independent
15 legal significance are not hearsay; that is an exception to
16 hearsay.

17 THE COURT: And where is that, which exception?

18 MR. KIRKLAND: I didn't expect this to come up so I
19 can't point to it immediately. It has to do with things
20 like contract terms and things like that and none of that
21 is hearsay.

22 THE COURT: I understand in contract terms and
23 public policy documents, but --

24 MR. KIRKLAND: Well contract terms --

25 THE COURT: This isn't -- legal significance is not

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1 hearsay. I'm just trying to figure out what rule -- what
2 --

3 MR. KIRKLAND: Yeah, and I don't know it off the
4 top of my head because I didn't expect that.

5 THE COURT: All right. And I understand for
6 purposes of -- if this was -- for your pretrial hearing
7 yesterday I can understand, but I'm trying to understand
8 what purpose is not hearsay before the jury today.

9 MR. KIRKLAND: The reason why I'm saying it's not
10 hearsay is because she told Barnes it's my room; she
11 claimed a privacy interest in the room, which is a legal --
12 which has independent legal significance and then gave
13 permission to search her room. Without that permission,
14 the search of the room may have been invalid because if she
15 had a privacy, that's what she did. She was proclaiming a
16 privacy interest in the room.

17 THE COURT: I understand that, but that's not an
18 issue for the jury to decide whether or not it was valid or
19 not.

20 MR. KIRKLAND: The point I'm saying is this. It's
21 Renee Krantz's room. I mean she's already indicated -- I
22 mean the only reason I was bringing it up, she's already
23 said when I asked her where did you find these; she said in
24 Renee Krantz's room. So I guess it's already in there. We
25 can just drop the issue and move on because she's already

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1 identified the room as Renee Krantz's room.

2 THE COURT: All right. I'll be glad to hear from
3 you, Mr. Bell.

4 MR. KIRKLAND: I don't even think it matters at
5 this point.

6 MR. BELL: Your Honor, I would just stand by the
7 fact that this is an out-of-court statement offered for the
8 truth of the matter asserted. Aside from that, this isn't
9 a lessor/lessee situation where Renee Krantz is paying rent
10 to stay in this room and has this enhanced privacy interest
11 in this room. It's Phillip Helms' house. She says she's
12 living there. There's not even a bed in that room
13 according to the testimony from the officer. And we have
14 no additional proof that she's actually living there or had
15 a different expectation of privacy.

16 Aside from that, that's a legal argument all on its
17 own; it's not appropriate for a jury to consider anyway. I
18 certainly don't believe this has independent legal
19 significance for a jury to hear.

20 THE COURT: All right. Well I'll just ask you to,
21 we'll just move on. We'll just move on. I think if it was
22 in pretrial, I understand what you're saying.

23 MR. KIRKLAND: I will ask her, though, to reiterate
24 where she found this item because she said that she found
25 item no. 16 in Renee Krantz's room. That's already in

Paige Barnes - Cross-Examination by Mr. Kirkland

1 evidence.

2 THE COURT: All right. So -- all right. So we'll
3 take a break. Are we good?

4 MR. KIRKLAND: Yes, we're fine.

5 THE COURT: You're going to ask her the question
6 where did she find it and she's going to say in Renee
7 Krantz's room.

8 MR. KIRKLAND: I've already asked her; I'll just
9 reiterate it.

10 THE COURT: All right.

11 MR. BELL: We're good to ask her that question,
12 Your Honor.

13 THE COURT: All right. Your objection will be
14 asked and answered?

15 MR. BELL: Yes, ma'am.

16 (WHEREUPON a brief recess was observed.)

17 THE COURT: All right. We ready to bring them back
18 in?

19 MR. KIRKLAND: Yes, ma'am.

20 (WHEREUPON the jury entered the courtroom at 4:23
21 p.m.)

22 THE COURT: All right. Ladies and gentlemen of the
23 jury, we will continue the cross-examination of Agent
24 Barnes by Mr. Kirkland.

25 Let me ask this real quick before we get started,

Paige Barnes - Cross-Examination by Mr. Kirkland

1 I'm thinking we'll probably work until maybe about 5:30.

2 Does anyone need to leave before that time? We're all
3 good?

4 All right. Thank you.

5 MR. KIRKLAND: Go ahead, Your Honor?

6 THE COURT: Yes, sir.

7 BY MR. KIRKLAND:

8 Q I showed you this picture a minute ago and you
9 identified this as coming out of Renee Krantz's room; is
10 that correct?

11 A Yes.

12 Q Now what did -- what is this right here?

13 A It's a chalet.

14 Q Okay. That's a chalet and that's what you've been
15 alleging people use to smoke methamphetamine, correct?

16 A Yes, sir.

17 Q Now, was this item recovered?

18 A Was it placed into evidence?

19 Q Correct.

20 A No, sir.

21 Q Do you know what happened to it?

22 A It was disposed of.

23 Q I mean it doesn't say in your report at all, if
24 anything. So you listed 25 items and this isn't even
25 listed, I don't think, as being disposed of. Do you

Paige Barnes - Cross-Examination by Mr. Kirkland

1 remember what happened to it?

2 A It was disposed of.

3 Q How do you dispose of those things out of
4 curiosity?

5 A Put them in a trash bag.

6 Q And then just throw them away somewhere?

7 A No, sir. We have a special place at the landfill
8 after we mitigate stuff into household grade material.

9 Q Now this item, if this item had been used to smoke
10 methamphetamine, this could have been sent to the lab and
11 tested and it would have likely tested positive, correct?

12 A Yes, sir, probably -- actually probably no, it
13 wouldn't.

14 Q It would not have?

15 A No, sir.

16 Q Despite the fact that it appears that a lot, all
17 this black stuff is where they've been smoking
18 methamphetamine?

19 A That's where they burned it, yes.

20 Q Do you -- so there would be -- they only need trace
21 amounts, correct? To test?

22 A I can't answer that.

23 Q But you sent in bags -- you do this; you know
24 sending bags before with merely residue on the bags and you
25 know, just a white haze on the bags and those bags have

Paige Barnes - Cross-Examination by Mr. Kirkland

1 come back testing positive, correct?

2 A Yes, sir.

3 Q Okay. So they can test very minute amounts,
4 correct?

5 A I can't testify to what she can test and what she
6 cannot.

7 Q Bottom line is it could have been sent it, could
8 have seen it was methamphetamine as you're claiming, but
9 you didn't, correct?

10 A No, sir.

11 Q Now what is this right here?

12 A It's coffee filters and a solvent.

13 Q Okay. Now when you say a solvent, like ether or
14 Coleman fuel?

15 A Yes, sir.

16 Q Now it is your -- somebody looking at this -- other
17 than you, I'm talking about the jury -- it's not possible
18 to immediately tell that that's a coffee filter, is it; it
19 just looks like wadded up paper, doesn't it?

20 A Correct.

21 Q Now, this is the only picture you have of this; you
22 don't even have a picture in which you've taken this item
23 out to show this coffee filter, correct?

24 A Correct.

25 Q And if this -- I suppose your theory is -- had been

Paige Barnes - Cross-Examination by Mr. Kirkland

1 used in the manufacture of meth at some point in time?

2 A Yes, sir.

3 Q And this was never taken into evidence and sent off
4 for testing, correct?

5 A No, sir, we don't put Coleman fuel in evidence.

6 Q So we can't even tell -- we don't know what it is
7 except based on your testimony that it's a coffee filter
8 and it's Coleman fuel, there's nothing else that could have
9 been done?

10 A That's correct.

11 Q So there's no test at all on Planet Earth, nothing
12 that you guys could have done to bring to this jury to show
13 what that was and what you say is in that container?

14 A That's right, not the Planet Earth, in Lexington
15 County.

16 Q And that -- and that was in Renee Krantz's room,
17 right?

18 A Correct.

19 Q All right. Now you also searched Phil Helms' room,
20 which was the room directly off to the right when you walk
21 in?

22 A I did not personally search it, no.

23 Q Did anybody search that room?

24 A Yes.

25 Q Do you know of anything that was turned into

Paige Barnes - Cross-Examination by Mr. Kirkland

1 evidence out of Phil Helms' room?

2 A No, sir.

3 Q Okay. Now, there was another chalet that was found
4 as well; is that correct?

5 A Yes, sir.

6 Q Now this chalet sitting next to a -- the -- the
7 straw-like thing?

8 A Yes, sir.

9 Q Now this chalet appears to also have burnt material
10 on it?

11 A Yes, sir.

12 Q Was this chalet collected as evidence?

13 A No, sir.

14 Q Was it, was the straw collected as evidence?

15 A No, sir.

16 Q Presumably the straw, people would have been
17 sucking methamphetamine smoke up through that straw,
18 correct?

19 A Yes, sir.

20 Q So you neither recovered the chalet, nor the straw
21 in an attempt to prove that this is what you believe that
22 it is; you never collected it and sent it off for testing?

23 A No, sir.

24 Q Okay. Here it is. All right. That's hard to see,
25 but you've already testified that this is a glass pipe?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A Correct.

2 Q And just to assist the jury, they'll get to look at
3 them in the jury room, but it sort of has the bulbous end
4 over here?

5 A Yes, sir.

6 Q And then it looks like had two bulbous parts and
7 then a straw-like part; is that correct; you can look at
8 it; I'll show it to you.

9 A I don't need to look at it. I can explain it
10 without looking at it.

11 Q Okay.

12 A It has a bulb on the bottom and it has a little
13 tiny hole on the top of it and then it has a glass tube;
14 they're all connected. And actually if you see the roses
15 inside gas stations whenever you go into a gas station,
16 you'll see the rose, that's what is holding that rose up.

17 Q Now, these pipes -- now you made -- you testified
18 that this pipe is commonly used to smoke methamphetamine,
19 correct?

20 A That's correct.

21 Q But it is also very commonly used to smoke crack
22 cocaine, is it not?

23 A Not in the form that it was in.

24 Q Okay. What do you mean the form that it was in?

25 A As I explained about in my earlier testimony that

Paige Barnes - Cross-Examination by Mr. Kirkland

1 to smoke crack cocaine, they will put like a, a Brillo
2 pad --

3 Q Okay.

4 A -- a coil inside of it so they won't ingest the
5 whole crack rock at the same, at one time and they won't
6 choke on it.

7 Q Well, isn't -- isn't meth a powder?

8 A Yes, but you're not actually sucking; you're
9 sucking the smoke coming out of it.

10 Q Well, when you just smoke, I mean I'm just asking,
11 wouldn't you smoke the smoke coming off a crack rock as
12 well?

13 A But when you ingest it, the crack rock has a
14 tendency, it's light; it's really light.

15 Q Like in a powder?

16 A Yes, it's light.

17 Q Okay. Regardless --

18 A It's a filter.

19 Q -- regardless, this was never collected as evidence
20 and it was never tested?

21 A No, it was destroyed.

22 Q So we will never know as a fact what it was used
23 for, correct?

24 A No, sir.

25 Q All right. Now we talked about the search of Jimmy

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Johnson. Now Jimmy Johnson was found inside the living
2 room?

3 A Actually he was back in the far bedroom.

4 Q And then that's when you called him and Renee
5 Krantz to come up front?

6 A That's correct. I actually met them in the
7 hallway.

8 Q Now, ultimately -- ultimately he was searched at
9 some point in time and you found two Walfed receipts in his
10 pocket, correct?

11 A No, sir, I found two Walgreens?

12 Q Walgreens receipts in his pocket; okay. And -- and
13 when did you say that those were purchased?

14 A The Pseudoephedrine?

15 Q Well, whatever it was that, is that, are these the
16 receipts right here?

17 A Yes, sir.

18 Q So when -- when and what time did he purchase
19 those?

20 A The Walfed D tablet, 96 count, 30 milligram was
21 purchased on June the 11th, 2013 at 11:35 a.m.

22 Q Okay.

23 A And the Walfed D 12 hour, 20 caps, 120 milligrams,
24 was purchased on June the 11th, 2013 at 11:38 a.m.

25 Q So those are receipts for Walfed?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A Yes, sir, but they're Walgreens.

2 Q I understand, but that's what I mean -- that --
3 that's the items that you talked to me about.

4 Now, these receipts that were in his pocket -- well
5 let me ask you that question. Were these receipts in his
6 pocket?

7 A Yes, sir.

8 Q Okay. Was there anything else that was pulled out
9 of his pocket? I'm not talking about any physical evidence
10 that you took out of his pocket; any physical evidence that
11 you found on him that gave you any indication that Phillip
12 Helms knew what was in his pocket?

13 To put it more simply, was there, is there any
14 physical evidence whatsoever that you can give this jury
15 that would show them that Phil Helms would have known this
16 was in Jimmy Johnson's pocket?

17 A No, sir.

18 Q Okay. Now, you searched Phil Helms and you didn't
19 find anything on Phil Helms?

20 A I did not search Phil Helms.

21 Q Was anything found on Phil Helms?

22 A I don't believe so.

23 MR. KIRKLAND: Somebody is blowing my phone up,
24 Judge, they're blowing up to a degree, I apologize there
25 might be something wrong.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 BY MR. KIRKLAND:

2 Q So let's talk about the search of the house and
3 what you found. You didn't find any packs of coffee
4 filters, which you said are commonly used. You found them
5 in the car. For example; you didn't find a pack of coffee
6 filters, did you?

7 A Not inside the house, no.

8 Q Right. And so you didn't find, you didn't find any
9 blister packs which are what that Walfed and all that stuff
10 come in, of pills, correct?

11 A No, sir.

12 Q But despite finding that receipt, you didn't locate
13 any pills in the house, correct?

14 A Not in the house, no, sir.

15 Q Yeah, I'm just talking about the house right now.
16 I don't even think there were any, were there -- there's
17 not empty plastic bottles in the house were there?

18 A No, sir.

19 Q There was no lye in the house?

20 A No, sir.

21 Q There was no ether in the house?

22 A No, sir.

23 Q There was no Coleman fuel in the house?

24 A No, sir.

25 Q No furic acid -- sulfuric acid in the house?

Paige Barnes - Cross-Examination by Mr. Kirkland

1 A No, sir.

2 Q No muriatic acid in the house?

3 A No, sir.

4 Q I don't think you -- if I remember correctly, I
5 don't even think you found a roll of aluminum foil, did
6 you?

7 A Like the whole container?

8 Q Yeah, like a container with aluminum foil?

9 A I -- I can't recall.

10 Q Did you -- did you, do you remember recovering one
11 or taking a picture of one?

12 A No, I do not.

13 Q Okay. Now, my understanding is that the smell of
14 meth -- and we talked about this earlier, that it is an
15 extremely powerful, powerful smell and it's the sort of
16 smell that can seep into, you know, draperies, fabrics,
17 carpet. Although there was very little in Phil's house,
18 you know -- any -- any fabric type material that you can
19 smell for sometimes days after a cook, that terrible smell
20 of methamphetamine; has that been your experience?

21 A Not with the one pots.

22 Q Not with the one pots?

23 A No, sir.

24 Q Now, you had earlier said that both the one pot
25 and -- which I call it the reaction vessel -- and the --

Paige Barnes - Cross-Examination by Mr. Kirkland

1 the acid generator is one of the most horrendous smells,
2 you know, or that anybody else has ever smelled. It's a
3 really bad -- very, very particular smell, correct?

4 A Correct.

5 Q And yet while you were in this house, there was
6 absolutely no smell whatsoever that you could associate
7 with cooking of meth, correct?

8 A There were a lot of smells in that house.

9 Q But here's -- here's the question, was there a
10 smell in the house that you could identify as being
11 associated with the cooking, the manufacture of meth?

12 A No, sir.

13 Q Now, I'm going to talk about the Durango for a
14 minute and let me find these pictures.

15 All right. This picture -- whoa, this -- this is a
16 picture of the Durango, correct?

17 A Yes, sir.

18 Q And this is Exhibit No. 4. And at the bottom here,
19 underneath the steering wheel, you can see the cans that
20 are Coleman fuel, correct?

21 A Yes, sir.

22 Q This is a closer up shot of it, correct?

23 A Yes, sir.

24 Q Now, I think you testified at an earlier hearing
25 today, just simply walking around the Durango, you wouldn't

Paige Barnes - Cross-Examination by Mr. Kirkland

1 necessarily see that there was Coleman fuel in the Durango,
2 correct?

3 A If you looked in the window.

4 Q Right, so you would have to walk up and then look
5 in the window to see down underneath the -- the steering
6 wheel?

7 A Yeah.

8 Q But casually walking through the yard, you wouldn't
9 see it if the door was shut?

10 A If I was close to the Durango, I will see it
11 through the window.

12 Q Okay. That's fine. They have the pictures.
13 This -- these pictures -- the door is open in these
14 pictures; you opened the door, correct?

15 A After the search warrant was obtained.

16 Q Right. So the door wasn't open when you arrived at
17 the property?

18 A No, sir.

19 Q Now, there was a shed on Phil's property, the one
20 that was sort of near where you walked in and met with him;
21 did you find anything in that shed?

22 A No, sir.

23 Q All right. Let me talk to you quick about the
24 Mustang. We're getting close to the end.

25 When the Mustang pulled up, two officers approached

Paige Barnes - Cross-Examination by Mr. Kirkland

1 the Mustang, correct?

2 A Yes, sir.

3 Q And then they, you know, they did their thing; they
4 pulled them out of the car, detained them I presume for
5 safety and that kind of thing?

6 A I can't say what they did.

7 Q Okay. You -- well let's just talk about the
8 pictures then. You logged in all the evidence that came
9 out of this Mustang?

10 A Yes, sir.

11 Q Okay. And you also testified -- I don't think
12 anybody else has testified today -- that the -- where the
13 Mustang drove in; it drove in on that, this side road not
14 in the -- not in the front here, but on this side road and
15 drove around to the side or kind of in the middle of the
16 backyard, correct?

17 A To an alternate access road, yes.

18 Q All right. Now, how did you know that happened?

19 A Because I went outside after I heard the car and
20 heard the ruckus outside.

21 Q So -- so you didn't see it drive in?

22 A No, sir.

23 Q Okay.

24 A I don't think it fell out of the sky.

25 Q Well, I understand, you were just telling me that

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1 you couldn't testify to what the other officers did. I'm
2 just trying to figure out what you saw and what you did not
3 see?

4 A They had already got to the car and did what they
5 were doing before I got out there.

6 Q Okay. Now, I think you testified -- well let's
7 talk about -- this Robin first -- Robin Krantz was in the
8 car, correct?

9 A Yes, sir.

10 Q Now, Robin Krantz, I believe she had in her
11 purse -- and correct me if I'm wrong -- a Tupperware
12 container that contained what appeared to be a small bag of
13 meth, correct?

14 A Correct.

15 Q And she also -- was it -- were -- were the digital
16 scales also in her purse?

17 A Yes, sir.

18 Q All right.

19 A I believe so.

20 Q All right. And Huggins had a, had marijuana in his
21 pocket; is that correct?

22 A Yes, sir.

23 Q Now, you testified that the Mustang had absolutely
24 everything that was necessary to make meth; am I not
25 mistaken?

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1 A Except -- except for any of that stuff to make an
2 acid generator; he didn't have the salt or the sulfuric
3 acid.

4 Q Okay.

5 A But to actually make meth, yes. The liquid form,
6 you --

7 Q But you couldn't make, you couldn't manufacture
8 with the items he had; you couldn't make a -- a complete
9 cook?

10 A Yes, you could.

11 Q Without making an acid generator?

12 A Yes.

13 Q Well, you can tell me how that works because I
14 don't know. How -- do you use -- how do you do it without
15 a acid. I thought there were the two parts, the reaction
16 vessel and the acid generator?

17 A All the reaction vessel does is make the liquid
18 meth into a solid.

19 Q Right, but it's not usable or smokable; that has to
20 be -- you take -- it -- it -- it puts the -- if I'm not
21 mistaken, it creates the meth oil which then you run the
22 acid generator into it and it creates that snow, part of
23 the slide show that you --

24 A It changes meth into a -- from a liquid to a solid.
25 There's meth oil on the top and there's also been cases

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1 where I've seen where people have used the cake.

2 Q What do you mean used the cake?

3 A To get high.

4 Q Well, isn't the cake that really terrible dangerous
5 stuff that you said if you touched it would blow up because
6 it has lithium in it?

7 A Yes, sir.

8 Q Okay. So realistically, that's now how people are
9 smoking meth or using meth?

10 A They have used it that way before.

11 Q So you think that was their plan in this situation
12 to a -- to just make the reaction vessel and then use the
13 meth from there?

14 A Are you asking me to speculate?

15 Q Well, I mean you had already speculated earlier
16 today that this, it had everything in it that could be used
17 to make meth. I mean, based on your training and
18 experience, was that the sort of cook that this appeared to
19 be?

20 A Everything that was, everything that was in the car
21 was used to manufacture of methamphetamine. An acid
22 generator is not necessary. However, they commonly use
23 that. They could have ran to the store and got the -- the
24 liquid fire from anywhere; the salt was in the kitchen. I
25 mean it's just a matter of missing what item.

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1 Q When you say there's salt in the kitchen -- I don't
2 recall. I won't get into that, but I don't recall any
3 pictures of that. But nonetheless, they didn't have the
4 ingredients necessary to make an acid generator, correct?

5 A Not an acid generator, correct.

6 Q Now, of all the items that were recovered out of
7 that Mustang, were any of them taken into evidence?

8 A No, sir, they were all destroyed.

9 Q Now, coffee filters, those aren't dangerous.
10 There's no reason you can't take them into evidence,
11 correct?

12 A Yes, I could have taken them -- taken them into
13 evidence, but the pictures will suffice.

14 Q Well, we'll see what the jury thinks, if they'll
15 suffice.

16 The ice compresses, you know, all their items,
17 crystal drain opener, nothing was taken into evidence,
18 correct?

19 A That's correct.

20 Q None of the lithium batteries were taken into
21 evidence?

22 A No, sir.

23 Q It looks like there's a picture of -- is that a
24 glass pipe; I can't tell what that is.

25 A That's digital scales and a Tupperware container

Paige Barnes - Cross-Examination by Mr. Kirkland

1 containing meth.

2 Q Oh, that's a bag inside of there, or what, what is
3 that; I don't know what that is.

4 A Can you point?

5 Q Yeah.

6 A That's methamphetamine.

7 Q Like -- like it's in that tied up bag or what --
8 what is it in?

9 A As I explained earlier, they'll take a sandwich bag
10 and cut the edges of it off into like a triangle. They'll
11 put approximately, meth users typically don't carry
12 anything more than a gram of methamphetamine on them.
13 They'll tie it up and keep it in their pocket or in another
14 container.

15 Q Now that was, I believe that you said -- I know you
16 didn't test it yourself, but I believe that was submitted
17 for testing; is that correct?

18 A I believe so, yes, sir.

19 Q Now there was also, I think, a couple of phones
20 that were seized or retrieved out of the car; is that
21 correct?

22 A Yes, sir.

23 Q Were these phones -- you know there's software
24 called, like Cell Bright for example, that you can dump the
25 information off your phones; are you familiar with that?

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1 A I am.

2 Q Were these phones ever dumped; do you have any
3 information off of their phones?

4 A No, sir, they were not.

5 Q Was there any physical evidence in the car that
6 would have implicated that Phil Helms knew what was in the
7 car or should have known what was in the car? Anything
8 that you pulled out of the car? I'm talking about things
9 like any personal items of his, anything with his name on
10 it, anything like that?

11 A No, sir.

12 Q I looked at the witness list that you guys
13 submitted; have you seen the witness list --

14 A No, sir.

15 Q -- that they put together? Other than, so I mean
16 at this point in time, what you're saying is that there's
17 nothing than the car driving up into the yard, that's it
18 that ties it to Phil; there's nothing else physically that
19 you can show this jury that Phil knew what was in the car
20 or should have known what was the car; I'm talking about
21 any physical evidence out of that car?

22 A No, sir.

23 Q Okay. Now are you familiar with a -- a National
24 Clandestine Laboratory Seizure Report?

25 A I am.

Paige Barnes - Cross-Examination by Mr. Kirkland

1 Q Now these reports, I guess the Government requires
2 that they're filled out whenever meth labs are seized?

3 A The DEA does.

4 Q The DEA. Now, as part of the report, as part of
5 the report, Phil Helms was identified as other addict
6 flophouse; is that correct?

7 A I'd have to look at my report.

8 Q I can let you look at it if you want to; do you
9 have it?

10 A I have it.

11 Q Okay.

12 A What would you like for me to answer about it.

13 Q I'm asking you initially that you identified Phil
14 Helms as addict flophouse?

15 A That's correct.

16 MR. KIRKLAND: And if you can give me one moment,
17 Your Honor?

18 THE COURT: Yes, sir.

19 BY MR. KIRKLAND:

20 Q Now, as part of these reports -- well let me go
21 ahead and ask you about the other people. There's two
22 other people listed in this report, correct?

23 A That's correct.

24 Q They're in the -- well let's first go over how you
25 could have classified Phil Helms. The various choices are

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1 cook/chemist, distributor, enforcer, financier, smuggler,
2 broker, chemical courier, criminal associate or other;
3 those are the various categories that you can check,
4 correct? Is that correct?

5 A Yes, sir.

6 Q And you checked other?

7 A Yes, sir.

8 Q And then you put addict flophouse, correct?

9 A Yes, sir.

10 Q Now, and I apologize, it's just everything is so
11 cramped up on here it's hard for me to find it.

12 Now there's -- also you list Robin Krantz, correct?

13 A Yes, sir.

14 Q Now, Robin Krantz was in that correct -- the
15 Mustang?

16 A Yes, sir.

17 Q The Mustang?

18 A Yes, sir.

19 Q And she was with Huggins?

20 A Christopher Huggins.

21 Q Okay. Now, obviously you had the same choices to
22 check for her and you checked two, correct?

23 A Yes, sir.

24 Q You checked cook and you checked chemist,
25 cook/chemist, correct?

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1 A Yes, sir.

2 Q And you checked distributor, correct?

3 A Correct.

4 Q And then you also have Nancy, which I think is
5 Nancy Renee Krantz?

6 A That's correct.

7 Q And you checked on hers, oh man --

8 A Distributor.

9 Q Okay. Thanks. These forms are really small.

10 Now, on the front of the form, and obviously you
11 had the same, you had the same options with all of them I
12 read to you. On the second page of the report, you're
13 supposed to list all of the catalyst, solvents and reagents
14 that you -- that you recovered, correct?

15 A Yes, sir.

16 Q And you listed, even though you didn't check it --
17 am I correct in assuming that you meant to check aluminum
18 .5 pounds, because it has --

19 A Yes, it does have an x there.

20 Q Yeah. And you checked Ammonium Nitrate, correct?

21 A Yes, sir.

22 Q 16 ounces or so. Coleman; is that correct?

23 A Yes, sir.

24 Q Coleman fuel, camping fuel, you've got 2 gallons
25 there, correct?

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1 A Yes, sir.

2 Q You don't have any mention of ether at all,
3 correct?

4 A There wasn't any ether recovered.

5 Q Right.

6 A Because it had all been used in the acid generator.

7 Q Correct, which was, goes back to what I was saying,
8 you could have recovered those cans; they were no longer
9 dangerous?

10 A There wasn't any ether in them.

11 Q Right, which was the dangerous part of what's in an
12 ether can, correct; is that correct?

13 A Sure.

14 Q Well, I mean it either is correct or isn't correct,
15 I'm not trying to give you a hard time.

16 A Yes, you are.

17 Q You've tried to suggest, you suggested those things
18 are not recovered because they're potentially dangerous,
19 correct?

20 A Correct.

21 Q But they didn't have the dangerous chemical inside
22 of them, did they?

23 A The ether had been removed, but it -- there was
24 still residue inside of them.

25 Q That's quite the fact that we talked about. Well

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1 then wouldn't you put ether immeasurable amount or
2 something you would have checked that?

3 A It was not a measurable amount.

4 Q Okay. You also noted that there was no lithium
5 that you recovered, correct?

6 A That's correct.

7 Q So you would have normally put, I think, wouldn't
8 you, even if you would have found it inside of the, the
9 vessels, you would have noted that it existed to put on
10 this report because didn't you say that lithium was present
11 at the scene?

12 A Yes, sir.

13 Q So wouldn't you have checked this little box and
14 said that there was some lithium?

15 A I did not take the lithium, I mitigated it and made
16 it into a household grade material and disposed of it.

17 Q So you only put things on here that you actually
18 recover?

19 A Lithium as a whole, no, I did not recover any
20 lithium because I mitigated it.

21 Q I'm asking about the form. I'm asking about the
22 form. The form simply says at the top catalysts, solvents,
23 reagents; and it has a list of everything?

24 A Yes, sir.

25 Q Now, it does not say on this form that you only

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1 mention the things that you actually recover. I mean I was
2 under the impression just looking at the plain language of
3 the form that you check off everything that was present at
4 the -- at the scene; is that correct?

5 A Yes, sir.

6 Q Okay. But you didn't check lithium?

7 A Correct.

8 Q Which was at the scene?

9 A Yes, a very small amount.

10 Q Okay. And you didn't check it.

11 Now what's sort of interesting about that is that
12 we had already talked about when you got to the scene that
13 you identified in your report these bottles as being acid
14 generators, correct?

15 A Yes, sir.

16 Q So they wouldn't have contained lithium, correct?

17 A That's correct.

18 Q And you listed it twice in your incident report
19 that we've already talked about, correct?

20 A Correct.

21 Q And you also told, I think Agent Govan, as part of
22 his probable cause, so you told him over the phone that
23 agents found two acid generators. So that's what you told
24 Govan, correct?

25 A That's what it says in the search warrant that I

Paige Barnes - Cross-Examination by Mr. Kirkland

1 didn't come up with.

2 Q I can let you look at it and I'll show you the
3 part; it's right there?

4 A Agents also found two acid generators and Coleman
5 camp fuel.

6 Q So -- so this wasn't just merely a clerical error.
7 When you picked up the phone and you called Agent Govan and
8 told him what to put in this, this search warrant, that's
9 what you told him to put in the search warrant, correct?

10 A Correct.

11 Q And then I assume then that although you didn't do
12 the actual -- the actual arrest warrant, you informed the
13 person that did fill out the arrest warrant of what should
14 be in the arrest warrants?

15 A I did.

16 Q And in the arrest warrant, you told them that
17 agents found in plain view, three acid generators, correct?

18 A If that's what it says.

19 Q And so it makes sense, if you thought all of these
20 things were acid generators that -- that you wouldn't have
21 found any lithium because lithium is not inside of an acid
22 generator, correct?

23 A Correct, but I found two acid generators and the
24 sludge of a one pot.

25 Q Every single written record that exists in this

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1 case says all you found was acid generators?

2 A Except for the search warrant, it says two acid
3 generators.

4 Q Well, I just mean acid generators period?

5 A This says two acid generators.

6 Q I may not have, we may be misunderstanding each
7 other. You're saying now that you found these one -- this
8 one pot cook, right?

9 A I'm not saying now. It's not something I've
10 dreamed up.

11 Q You're saying today that you found a one cook, one
12 pot cook, correct?

13 A Yes.

14 Q And every single --

15 A I seen though it wasn't a one pot cook; it was the
16 sludge of a one pot cook.

17 Q Okay. But every single piece of paper, every phone
18 call to Terry Govan, when Govan went in front of Judge
19 Whittle and gave probable cause -- every single piece of
20 paper, every single record, including the thing you sent
21 off to a -- the DEA, indicates that you found acid
22 generators and no lithium. There's no written record of
23 you finding a -- the remnants of a one pot cook, correct?

24 A Correct.

25 Q And what you're saying is that all of these

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1 repeated failures were a clerical error that occurred over
2 and over and over and over on the phone at one point in
3 time?

4 A I am.

5 Q Could it be -- is it possible that these were not
6 clerical errors, that your training and expertise, that you
7 made a mistake, that you were wrong when you told them what
8 this was?

9 A No, sir.

10 Q Six or seven times on six or seven documents; it
11 was -- it was -- it was just a clerical error each and
12 every time?

13 A Yes, sir.

14 Q Okay.

15 MR. KIRKLAND: If I may have one moment, Your
16 Honor?

17 THE COURT: Yes, sir.

18 MR. KIRKLAND: We may be close here, Your Honor.

19 (WHEREUPON there was a pause in the proceedings.)

20 MR. KIRKLAND: That's all I have, Your Honor.

21 THE COURT: All right. Yes, sir?

22 MR. BELL: Thank you, Judge.

23 **REDIRECT EXAMINATION**

24 BY MR. BELL:

25 Q Agent Barnes, it's been a long day. I know you've

Paige Barnes - Redirect Examination by Mr. Bell

1 been there, but I ask you to bear with me a little bit
2 longer.

3 A Yes, sir.

4 Q We've heard it harped on over and over again, but
5 please restate for me roughly how many hours of training
6 have you received as it relates to methamphetamine?

7 A Approximately 376.

8 Q Who pays for that training?

9 A The Federal Government.

10 Q What is their intention by paying for you to
11 receive that training; what is the purpose of receiving
12 training as it relates to methamphetamine?

13 A So I can dismantle meth labs, do meth lab
14 investigations.

15 Q Would you be able to identify items that are
16 related to methamphetamine without the proper training?

17 A No, sir.

18 Q Now, it was mentioned earlier that as it relates to
19 a reaction vessel, sometimes there is a intense smell
20 associated with the process; is that true in all
21 methamphetamine lab cases?

22 A Absolutely not.

23 Q Can you give a reason as to why?

24 A Ventilation. The one part is also the burping of
25 it, it only lets a small amount of the air inside the

Paige Barnes - Redirect Examination by Mr. Bell

1 bottle out into the -- the air outside. So it's hard to
2 detect, that's why it's called an on the go.

3 Q Is there also an older method of manufacturing
4 methamphetamine that used a different substance?

5 A They used Anhydrous Ammonia.

6 Q Is that a pleasant smelling substance?

7 A No, sir, it's not.

8 Q Is that stuff since used in the shake and bake
9 method of manufacturing methamphetamine?

10 A Not in its original form.

11 Q It was also mentioned that there is typically a
12 haze associated with manufacturing methamphetamine. Are
13 there multiple ways to cook methamphetamine?

14 A Yes, sir.

15 Q Do they all result in a haze settling over a
16 property --

17 A No, sir.

18 Q -- or the house?

19 A No, sir.

20 Q Is there typically an intense haze of shake and
21 bake cases?

22 A During the gassing off period, yes, it typically is
23 a larger haze, but not during the actual cooking process.

24 Q And you briefly mentioned earlier, how would they
25 mitigate that haze?

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1 A By ventilation.

2 Q And just to break that down a little bit further,
3 what do you mean by ventilation?

4 A Fans, opening doors, opening windows, the bathroom
5 vent fan.

6 Q Now, some point was also made about your incident
7 report that you wrote in this case?

8 A Yes, sir.

9 Q And there was some questions as to chronology as to
10 when you looked at what and looked at another item. Now is
11 the, what is the general purpose of an incident report that
12 you draft?

13 A Just to give a -- a general idea of the incident
14 that occurred.

15 Q Are they supposed to reflect minute-to-minute,
16 second-to-second, exactly what happened while you were
17 there?

18 A That's impossible to do.

19 Q Do you do a lot of paperwork with your job?

20 A I do.

21 Q Does a mistake occasionally happen?

22 A It happens more than what I would like.

23 Q Now, there was also mention that there was a error
24 as to how many acid generators were located in several
25 different documents that go along with this paperwork. In

Paige Barnes - Redirect Examination by Mr. Bell

1 particular it was mentioned that in the return of the
2 search warrant, that it was mentioned that there were three
3 acid generators.

4 Now, at what point in the case is that return
5 drafted?

6 A On the scene.

7 Q Is that fairly close to the time that you initially
8 arrive on the scene?

9 A No, sir.

10 Q Is it typically within the same work day as you
11 were on the scene?

12 A Yes, sir.

13 Q Now, after all of the items or relevant items, were
14 gathered up and brought to you as a scribe, what do you
15 typically do with those items?

16 A Like the acid generator?

17 Q Sure.

18 A The acid generator was mitigated; it wasn't brought
19 inside to me. It was mitigated outside by another meth
20 technician and told to me what it was.

21 Q Now, after the point where everything has been
22 gathered and you go through and you do what you're calling
23 mitigating, at that point, do you have clearer picture of
24 what you actually have versus what you thought you had to
25 start with?

Paige Barnes - Redirect Examination by Mr. Bell

1 A Yes, sir.

2 Q And at that point, you testified you'd already
3 drafted the return?

4 A Yes, sir.

5 Q Now, is it typical to go back and submit another
6 document correcting that return?

7 A No, sir. I mean, I don't think I understood the
8 question, I'm sorry.

9 Q Oh, it's no problem.

10 Is it typical that you, the Defense asked whether
11 or not you submitted a supplemental that corrected your
12 mistake in the return of the affidavit or the search
13 warrant affidavit. Is it typical to do that? And if it
14 is, that's absolutely fine.

15 A No, sir.

16 Q Okay. Regardless of that, in the pictures that we
17 went through today and the jury had an opportunity to see,
18 at any point, did you misrepresent to the jury that there
19 were three acid generators in a picture?

20 A I did not.

21 Q We also went through why you didn't use, I think
22 they were called PH strips and why you didn't use those to
23 test the reaction vessel and once again, what is the reason
24 for that?

25 A I only use PH paper to test unknowns. The acid

Paige Barnes - Redirect Examination by Mr. Bell

1 generator was a known to me; I knew what it was.

2 Q Okay.

3 A Therefore, I didn't need to test it.

4 Q And a reason that you wouldn't have seized that
5 item -- how about this Agent Barnes, why didn't you seize
6 that item?

7 A As I stated, the item was considered
8 methamphetamine waste. We do not collect methamphetamine
9 waste and put it in our evidence locker. We do not collect
10 any waste and put into the evidence room at the Sheriff's
11 Department.

12 Q Who sets that standard or that protocol?

13 A The Sheriff's Department Policy Manual and
14 Procedure.

15 Q Is that also a part of any of the training that you
16 received?

17 A Yes, sir.

18 Q And you testified earlier that that training is
19 something that is considered reliable and accepted across
20 the nation?

21 A Yes, sir.

22 Q So does the rest of the nation as far as law
23 enforcement is concerned, agree with that typical protocol
24 that you would not collect that item?

25 A Yes, sir.

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1 Q And the substances in that bottle, if a human was
2 exposed to them without proper protective gear, such as in
3 a courtroom, what kind of reaction might a human have to
4 it; I'm not asking specific physiological response, but how
5 would a human react to that chemical?

6 A It would be an irritation of the --

7 Q I don't need specific examples. Would it be an
8 adverse reaction?

9 A Yes, sir.

10 Q Human's shouldn't be exposed to that stuff?

11 A Correct.

12 Q Now, with regards to the acid generator, they asked
13 questions about whether or not you cut the tubing and
14 tested the tubing that was hanging out and you testified
15 that no because it was a short tubing and they went on;
16 we'll stop right there.

17 As far as that Mountain Dew bottle with the stub of
18 a tube hanging out of the top, have you ever come across a
19 container with a tube hanging out of the top in your
20 day-to-day life; now as a law enforcement agent, have you
21 ever come across a bottle with a tube hanging out of the
22 top used for anything other than manufacturing
23 methamphetamine?

24 A That's a two part question. In my day-to-day life,
25 yes, I come in contact with it because I have a tendency to

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1 clean up meth trash and deal with meth labs on a day-to-day
2 basis. If, as a normal individual outside of work, at
3 Walmart for example, just shopping for personal items, if I
4 saw a tube with a bottle, yes, I would know that that was
5 abnormal and it was meth related.

6 Q Thank you.

7 I'm just going to clarify, have you ever seen a
8 bottle with a tube hanging out for any legitimate purpose?

9 A No, sir.

10 Q Now there was also a little bit of disagreement as
11 to what you consider fact or what is consistent with
12 something; all of that aside, are you trained as part of
13 that eight, essentially eight, continuous weeks of
14 education; are you trained to recognize lithium specks in a
15 bottle?

16 A Yes, sir.

17 Q Is that part the standard curriculum as far as
18 identifying methamphetamine labs?

19 A Yes, sir.

20 Q So while -- while you didn't take a test of it,
21 within a reasonable degree of professional certainty,
22 according to all that training that you received, you can
23 say that those specks were lithium?

24 A Yes, sir.

25 Q It was harped on over and over again that you

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1 didn't collect batteries, didn't collect starter fluid
2 cans, didn't collect aluminum foil. Now as far as physical
3 evidence goes, you testified earlier every time I showed
4 you a picture, sometimes to excruciating lengths, that they
5 would fairly and accurately representation of what you saw
6 on that day?

7 A Yes, sir.

8 Q Are those pictures of the starter fluid cans as you
9 saw them on that day?

10 A Yes, sir.

11 Q And are the batteries the same as you saw them on
12 that day?

13 A Yes, sir.

14 Q Was there anything that having them in your hand
15 would display that a picture wouldn't?

16 A No, sir.

17 Q There was a point made about the puncture in the
18 starter fluid can as well; that that wasn't viewable in the
19 picture. Now certainly that would assist the case, but
20 even if you had, you didn't have a puncture mark in a
21 starter fluid can, would a -- would numerous starter fluid
22 cans, especially next to an acid generator, raise suspicion
23 to you?

24 A Absolutely.

25 Q Are there other ways aside from puncturing a

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1 starter fluid can to extract ether from those bottles or
2 cans?

3 A Yes, sir.

4 Q Is there anything that having lithium battery
5 casings here in a bag to hold up would show that the
6 pictures didn't?

7 A No, sir.

8 Q They might be a little bit clearer though?

9 A Yes, sir.

10 Q Agent Barnes, exactly how long does the process of
11 a shake and bake take?

12 A Approximately two hours.

13 Q Is there a range or is two hours pretty dead on?

14 A It's pretty dead on.

15 Q Okay. And do you remember earlier when you
16 testified as to the time that the Pseudoephedrine was
17 purchased on some of those receipts?

18 A Yes, sir.

19 Q Roughly what time was that?

20 A One was purchased at 11:35, one was purchased at
21 11:38 a.m.

22 Q Okay. And you testified earlier that you arrived
23 on the scene sometime between 4 and 5?

24 A Yes, sir.

25 Q And that's roughly how many hours between 11:30ish

Paige Barnes - Redirect Examination by Mr. Bell

1 and 4?

2 A Five hours.

3 Q Would that be sufficient time to consume the
4 Pseudoephedrine --

5 A Yeah.

6 Q -- within a shake and bake?

7 A Yes, sir.

8 Q Now the red Mustang that arrived on the scene. I
9 even asked you whether or not there was anything indicating
10 Phillip Helms had any interest in it. Who were the
11 passengers in that vehicle?

12 A Robin Krantz.

13 Q And?

14 A Christopher Huggins was the driver.

15 Q Now Robin Krantz is a familiar name why?

16 A Her sister, Renee Krantz, was in the house.

17 Q And did Renee Krantz -- was there indication that
18 Renee Krantz had been residing in that house?

19 A There were some of her other items in the back
20 bedroom, yes.

21 Q And once again, their relationship between Robin
22 Krantz and Nancy Krantz?

23 A They're sisters.

24 Q Now, it was mentioned on a form called an Epic Form
25 that you marked other and typed in addict/flophouse, I

Paige Barnes - Redirect Examination by Mr. Bell

1 believe?

2 A Yes, sir.

3 Q And that on another individual that was not Phil
4 Helms, you actually marked cook?

5 A Yes, sir.

6 Q What did you ultimately charge Phil Helms with?

7 A Manufacturing methamphetamine and improper disposal
8 of meth waste.

9 MR. BELL: I beg the Court's indulgence one moment?

10 THE COURT: Yes, sir?

11 MR. KIRKLAND: Your Honor, I think I'm going to
12 object to what he was originally charged with and to strike
13 that for, from the record. He is not on trial for that and
14 I think that's improper for the jury to even consider what
15 he was originally charged with.

16 MR. BELL: Your Honor, Agent Barnes drew the
17 warrant for Manufacturing methamphetamine.

18 THE COURT: Hold on one second. Y'all come up
19 here.

20 (WHEREUPON there was a bench conference out of the
21 hearing of the jury.)

22 THE COURT: All right. Ladies and gentlemen of the
23 jury, I am going to ask you, the objection is sustained and
24 I'm going to ask you to disregard the last portion of the
25 answer by Ms. Barnes regarding the defendant being charged

Paige Barnes - Redirect Examination by Mr. Bell

1 with improper disposal of methamphetamine waste. That is
2 not an indictment that is before the Court today. You're
3 only to consider the evidence that is before the Court. So
4 please disregard that last portion of the answer.

5 MR. KIRKLAND: Thank you, Your Honor.

6 THE COURT: Mr. Bell, you may continue.

7 MR. BELL: Thank you, Judge.

8 BY MR. BELL:

9 Q Agent Barnes, referring to State's 12, you've seen
10 this picture more than a few times now?

11 A Yes, sir.

12 Q What is this white substance in that bottle?

13 A It's sludgy substance that's left over from a one
14 pot shake and bake. It contains the Ammonium Nitrate, the
15 sludgy type of the Ammonium Nitrate and lithium.

16 Q Is that substance hazardous?

17 A Absolutely.

18 Q Is that substance a danger to you and other agents
19 if collected?

20 A Yes, sir.

21 Q Would it be a danger to other individuals if they
22 were exposed to it?

23 A Yes, sir.

24 Q Please answer any further questions the Defense may
25 have for you.

Paige Barnes - Redirect Examination by Mr. Bell

1 THE COURT: Anything else?

2 MR. KIRKLAND: One moment, Your Honor.

3 I don't have any further questions, Your Honor.

4 THE COURT: All right. Thank you. You may step
5 down. Thank you.

6 All right. Ladies and gentlemen of the jury, I
7 think this is a good time to stop, 5:25. Five minutes
8 earlier than I expected, but this is a good time to take a
9 break. It's been a long day and we will start back
10 tomorrow morning at 9:30.

11 I must remind you that you're not to discuss this
12 case with anyone, not even your fellow jurors. It would
13 also improper for you to form an opinion as to the
14 innocence or guilt of the defendant at this time because
15 you did not receive all of the evidence in this case. I am
16 going to -- we will start back at 9:30 in the morning. You
17 are to report to the jury room. I hope that you have a
18 wonderful evening. Thank you.

19 MR. BELL: Your Honor, before you release them, I
20 spoke to Defense Counsel and if Your Honor sees fit, we
21 would like to release Alternate No. 2 so that he can
22 properly deal with family issues. The Defense and I both
23 agree that would be acceptable for us.

24 THE COURT: All right. And that's fine if he
25 wishes to be released; that's up to him.

1 THE JUROR: I agree.

2 THE COURT: All right. Thank you. All right. And
3 so he will be Juror No --

4 MR. BELL: 170, Your Honor.

5 THE COURT: 170. Thank you.

6 (WHEREUPON the jury left the courtroom at 5:25
7 p.m.)

8 THE COURT: All right. Yes. Mr. Kirkland, was
9 this family able to get something from the bond company?

10 MR. KIRKLAND: One moment.

11 They faxed it to me, Your Honor. I can forward it
12 because I use my fax. Let me see if they faxed it to me?
13 I'll tell you what this says.

14 Brad's Bail Bonding faxed an affidavit to Fax No.
15 785-8255; is that fax number inside this courthouse?

16 THE CLERK: It ain't mine. I don't know where the
17 8255 is.

18 MR. KIRKLAND: Let me see if I can --

19 THE CLERK: Sure.

20 MR. KIRKLAND: Let me see if I can call right now
21 and just get it done.

22 THE COURT: Thank you. All right. You can just
23 come grab me back there in Chambers.

24 MR. KIRKLAND: If you don't mind, Judge, I have to
25 stand in the hallway to get a signal. Can I just stand

1 into the hall?

2 THE CLERK: Mr. Kirkland, you can use the phone
3 over here and I got Brad's number.

4 MR. KIRKLAND: I've got it right here.

5 THE CLERK: And they can fax it my fax downstairs.

6 MR. KIRKLAND: Write that number on here.

7 THE COURT: And he can speak with the Clerk and
8 just verify that that's on the bond.

9 MR. KIRKLAND: Okay.

10 THE COURT: And he also needs to send them
11 something in writing.

12 MR. BELL: Your Honor, I request the defendant at
13 least be told that if he does not show back up tomorrow, we
14 will continue in his absence.

15 THE COURT: All right. And you understand that,
16 Mr. Helms, that if you do not show up, the trial will
17 continue in your absence; you understand that?

18 THE defendant: Yes.

19 THE COURT: All right.

20 MR. BELL: Thank you, Judge.

21 MR. KIRKLAND: And for the record, Your Honor, we
22 will -- I will consent tomorrow if he doesn't show up in
23 continuing the trial; I want put up a fight.

24 THE COURT: All right. Well, we're going to --
25 I've already put him on notice, so that -- regardless --

1 (WHEREUPON court was in recess until the following
2 day.)

3 WEDNESDAY, APRIL 2, 2014

4 THE COURT: All right. We ready to get started?

5 MR. BELL: The State's ready, Your Honor.

6 THE COURT: All right.

7 MR. KIRKLAND: The Defense is ready.

8 THE COURT: Let's bring the jurors in.

9 (WHEREUPON the jury entered the courtroom at 9:56
10 a.m.)

11 THE COURT: All right. Good morning, ladies and
12 gentlemen of the jury, I hope that you had restful evening.

13 We will continue with the State's case at this
14 time.

15 I am going to ask Mr. Bell to call his next
16 witness.

17 MR. BELL: Thank you, Your Honor.

18 The State calls Agent Mike Merckle to the stand.

19 MICHAEL SAMUEL MERKLE,

20 having been duly sworn, testified as follows:

21 THE CLERK: Have a seat, sir. Once you're seated,
22 state your full name spelling your last for the record.

23 THE WITNESS: My name is Michael Samuel Merkle.
24 M-E-R-C-K-L-E.

25 ///

Michael S. Merkle - Direct Examination by Mr. Bell

1 DIRECT EXAMINATION

2 BY MR. BELL:

3 Q Good morning, Agent.

4 A Good morning.

5 Q Were you with the Lexington County Sheriff's
6 Department on June 11th of 2013?

7 A Yes, sir, I was.

8 Q Did you have reason to respond to [REDACTED]

9 [REDACTED]

10 A Yes, sir, I did.

11 Q And what county is that located in?

12 A It's in Lexington County.

13 Q Are you aware of whose address that is registered
14 to?

15 A Yes, sir.

16 Q And who is that?

17 A Mr. Phil Helms.

18 Q Would you tell the jury a little bit about your
19 experience in law enforcement?20 A Sure. I started law enforcement in approximately
21 July of 1999, went to the Criminal Justice Academy. Since
22 then, I guess almost 15 years, July will be 15 years in law
23 enforcement. I came to work for the Sheriff's Department
24 approximately 10 years ago. I was a regular call, road
25 answering deputy. Got out of the uniform, of course, I

Michael S. Merkle - Direct Examination by Mr. Bell

1 didn't look like this because I didn't work narcotics at
2 the time. Then I went to the Gang Unit. I worked
3 specifically biker gangs where we did a lot of narcotics
4 work with them as well and then came into the actual
5 narcotics division almost two years ago.

6 Q Now, when you say you don't typically look like
7 this, what are you referring to?

8 A Well, normally clean shaven and I don't look quite
9 as, as handsome as I do now with this lovely beard of mine.
10 It's part of what we do. From time to time we do go
11 undercover and such and do things like that.

12 Q Okay. Now we've heard some testimony about meth
13 techs and what they are. Have you had any training with
14 methamphetamine or the manufacturing of methamphetamine?

15 A Yes, sir, I have.

16 Q Would you tell the jury a little bit about that.

17 A Sure. When I came to the narcotics division, I
18 actually got to sit down with other agents and start
19 learning the process of how to deal with meth labs and then
20 I was sent to Quantico, Virginia, to the DEA and FBI
21 Academy and was certified as a Clandestine Lab Tech for how
22 to break them down and deal with the -- handle them and
23 actually dispose of them properly.

24 Q And what does DEA stand for?

25 A Department of the Drug Enforcement Agency, I'm

Michael S. Merkle - Direct Examination by Mr. Bell

1 sorry.

2 Q That's no problem. I know you're a little nervous.

3 So one more time, what does DEA stand for?

4 A Drug Enforcement Agency.

5 Q Okay. And who are they organized under?

6 A The Federal Government.

7 Q Are the policies and procedures and the classes
8 that they teach there accepted nationally?

9 A Yes, sir, they are.

10 Q Are they considered reliable across the country?

11 A Absolutely.

12 Q And once again, do you remember the date that you
13 took your certifications at the DEA?

14 A I believe it was August of 2013.

15 Q Would you consider that to be fairly recent?

16 A Yes, sir.

17 Q Are you one of the most recent certified meth techs
18 on the meth team currently?

19 A I am.

20 Q Are you required to maintain continuing education
21 as part of your certification?

22 A Yes, sir, absolutely.

23 Q And are you up to date?

24 A I am.

25 Q Now you mentioned on June 11th, 2013, you had to

Michael S. Merkle - Direct Examination by Mr. Bell

1 respond to Phillip Helms' residence. Why did you respond
2 there, very generally?

3 A Generally we had received a complaint there was
4 possible narcotic activity going on at the residence.

5 Q And who accompanied you there to that property?

6 A It was myself, I was driving my county vehicle, my
7 work vehicle. I had Agent Paige Barnes with me as well
8 Agent Scott Morris.

9 Q Okay. When you arrived and you got out of the
10 vehicle, did you approach the fence?

11 A Yes, sir, I did.

12 Q And did you -- did you make contact with Phillip
13 Helms?

14 A Yes, sir.

15 Q And how did that go?

16 A As we approached, we were in the driveway; the
17 fence separated us. Mr. Helms was coming across the
18 backyard going towards -- I guess a barn area or a shop
19 that he had back there. Agent Barnes called out to him,
20 explained who we were and you know, law enforcement from
21 Lexington County; Can we speak to you for a minute. And he
22 waved us in and said, Sure, come on in.

23 Q Did he give you consent to enter the property?

24 A Oh, yes, sir, absolutely.

25 Q Did he say anything else to you?

Michael S. Merkle - Direct Examination by Mr. Bell

1 A Not specifically to me. He spoke with Agent
2 Barnes, but we were there with her and showed him our
3 credentials, our badges and -- and such.

4 Q Did you -- did you hear him say anything else at
5 all?

6 A I did.

7 Q And were those --

8 A I heard him say, you know, feel free to look
9 around; you know, it wasn't a problem. Just very
10 cooperative and he said that he had been -- I heard him say
11 he had been burning some things in the burn pile when asked
12 by Agent Barnes what exactly he was -- he was doing back
13 there right then.

14 Q Now, after he gave permission to enter his
15 property, did you have a chance to look around that
16 backyard area?

17 A Yes, sir, I did.

18 Q What all did you see that stuck out to you?

19 A There was a burn pile. The main thing, I guess,
20 because it was smoking and it was unattended and that's
21 what first caught my eye. You'd don't want to leave
22 unattended things burning and such; so the burn pile that
23 was back there was probably the most notable.

24 Q And I don't mean to be elementary, but if you see a
25 burn pile with still the smoke coming up, what does that

Michael S. Merkle - Direct Examination by Mr. Bell

1 indicate to you?

2 A That the stuff is burning inside of it.

3 Q Did you have a chance to walk up and actually
4 examine that burn pile?

5 A I did.

6 Q Did you see anything of note to you, as someone who
7 has passed DEA certifications in methamphetamine?

8 A Yes, sir. There were several components of a meth
9 lab, or manufacture of methamphetamine to include acid
10 generators. There was a one pot bottle cook, which
11 appeared to be a one pot bottle cook. There were ether
12 cans or starter fluid cans that had punctures in the bottom
13 of them. And one of the -- like it showed in one of the
14 pictures had the tubing coming out of one of the bottles
15 and some batteries -- casings and such and the inside of
16 the batteries where the lithium is -- is contained.

17 Q Thank you. We'll have a chance to look at those
18 pictures here in a moment.

19 Was there anything else in the backyard that stuck
20 out to you?

21 A The -- there was a vehicle back there, the Dodge
22 Vehicle.

23 Q What kind of vehicle?

24 A It was Dodge Durango, I believe, blue.

25 Q Now, we were just -- and eventually gave consent to

Michael S. Merkle - Direct Examination by Mr. Bell

1 enter the property. Did you also into the house after he
2 gave consent?

3 A Yes, sir, I did.

4 Q And were you also present when a search warrant was
5 obtained and executed?

6 A Yes, sir, I was.

7 Q Did you have an opportunity to look around the
8 house for any items that you would deem suspicious or
9 relevant to methamphetamine activity?

10 A Yes, sir.

11 Q And could you just name a few items that you saw
12 when you were walking through that house?

13 A There were what they call chalets, the little
14 pieces of foil that were burned in the centers, a common
15 way of ingesting methamphetamine, pretty fairly typical.
16 That's the only thing I've ever seen in my career as it's
17 being used for. So it indicated to me that there was at
18 least meth being smoked or ingested inside the residence.

19 Q Now, during the execution of the search warrant, it
20 was testified to that a red Mustang arrived on the
21 property. Were you there when that occurred?

22 A Yes, sir, I was.

23 Q And where did that Mustang park itself?

24 A Right in the backyard fairly close to Dodge Durango
25 that was back there.

Michael S. Merkle - Direct Examination by Mr. Bell

1 Q And roughly what part of the backyard was that?

2 A About the middle of the yard, just past the burn
3 pile.

4 Q Was that location concealed behind a tree or
5 anything like that?

6 A No, sir, it was out in the open.

7 Q How did you respond when that red Mustang pulled on
8 the property?

9 A I approached the vehicle along with Agent Morris,
10 who was with me, to see who was pulling onto the property;
11 and kind of investigated as to what was going on since we
12 were in the middle of a search warrant. We had people in
13 custody, that type of thing.

14 Q Did you approach the red Mustang?

15 A Oh, yes, sir, I did.

16 Q And what side of the vehicle did you approach?

17 A On the passenger side.

18 Q Okay. How many occupants were in the vehicle?

19 A Two people in the vehicle.

20 Q How did you interact with those in the vehicle?

21 A I actually spoke with the passenger because that's
22 the side that I went to. My partner, Agent Morris, went to
23 the driver's side to speak with the driver. The passenger,
24 she opened her door. And I told her who I was and what we
25 were doing there and she needed to step out of the vehicle.

Michael S. Merkle - Direct Examination by Mr. Bell

1 Q Now, while you were speaking with her, were you
2 able to see inside of the vehicle?

3 A Yes, sir.

4 Q Did anything stick out to you?

5 A Absolutely.

6 Q Could you talk about that?

7 A Sure. In the back seat there was some bags,
8 grocery type bags, I think from Dollar General, Walmart and
9 when they were sitting in the back seat, kind of behind the
10 driver's seat, I could see from the angle where I was
11 standing beside the car that the bags contained cold packs,
12 which are commonly used for manufacturing of meth, the
13 black and red bottle of the crystalized Drano. There was
14 also some coffee filters that I could see and there were
15 some lithium batteries in the front console area of the
16 vehicle. It was, you know, in plain view. I didn't have
17 to reach in the vehicle or anything to see it.

18 Q Now, once again, as part of your training with the
19 DEA, are those items that you are trained to identify?

20 A Yes, sir.

21 Q And why are they relevant to the DEA?

22 A They're common components. They're components you
23 need to actually manufacture meth.

24 Q Did you eventually identify those two individuals
25 in the vehicle?

Michael S. Merkle - Direct Examination by Mr. Bell

1 A Yes, sir.

2 Q Do you remember their names?

3 A The driver, I believe, was Christopher Huggins and
4 the passenger was Robin Krantz.

5 Q And you testified that you had opportunity to walk
6 through the house earlier and there were individuals in
7 there. Is there any relation of either of those two
8 individuals to anybody inside of the house?

9 A Yes, sir, I believe Robin Krantz is related to
10 Renee Krantz, the other Krantz in the vehicle. And the
11 female that was inside the residence are sisters.

12 MR. KIRKLAND: Your Honor, he doesn't know if he's
13 going to say believed; that would be speculation and I
14 would ask that that be struck. Does he know that for a
15 fact?

16 THE COURT: What is your objection?

17 MR. KIRKLAND: My objection is he is speculating;
18 that's not proper.

19 THE COURT: It's objection to speculation?

20 MR. KIRKLAND: Correct.

21 THE COURT: All right. Sustained.

22 BY MR. BELL:

23 Q Agent Merckle, when you said believed, was that
24 just a figure of speech; did you have any way to confirm
25 their identities?

Michael S. Merkle - Direct Examination by Mr. Bell

1 A Yes, sir, I'm sorry. It was, they were sisters.

2 Q Okay. How were you able to identify that?

3 A That's what they told me.

4 MR. KIRKLAND: Your Honor, that's hearsay; it's not
5 admissible.

6 THE COURT: Sustained.

7 MR. BELL: Thank you, Your Honor.

8 BY MR. BELL:

9 Q Without saying what anybody else said to you, did
10 they -- did you ever ask for identification from them?

11 A Yes, sir.

12 Q Are you able to use that identification to run
13 through your computer system?

14 A Yes, sir.

15 Q Would that information come back to you as being
16 able to tell you any sort of relationship?

17 A Yes, sir, absolutely.

18 MR. KIRKLAND: Your Honor, whatever he saw on a
19 computer system is also hearsay. Unless he knows from
20 personal knowledge whether they were sisters, he can't
21 testify to hearsay. What he reads on a computer system is
22 hearsay.

23 MR. BELL: I'll move on with the questioning, Your
24 Honor.

25 THE COURT: All right. The objection is sustained.

Michael S. Merkle - Direct Examination by Mr. Bell

1 Unless you're going to lay the foundation as to the
2 computer system and why he was using it.

3 MR. BELL: I'll withdraw and move on with the
4 questions, Your Honor.

5 THE COURT: All right.

6 BY MR. BELL:

7 Q Now you testified that you found multiple items in
8 a grocery bag. Did you also search the individuals
9 eventually?

10 A Yes, sir, I did.

11 Q Are you aware of any items that were located on
12 this individual?

13 A Yes, sir.

14 Q Can you name those items?

15 A Sure. I was searching Ms. Robin Krantz, actually
16 her belongings, and physically searching her purse. I had
17 our female officer, Agent Barnes, do that, but her purse --
18 her belongings, I found a digital -- a set of digital
19 scales, as well as plastic bag consistent with
20 methamphetamine or a white narcotic powder inside of a
21 Tupperware container, which was all -- all of these items
22 located in her purse.

23 Q Were those items turned into evidence?

24 A Yes, sir, they were.

25 Q Anything else in there?

Michael S. Merkle - Direct Examination by Mr. Bell

1 A Other than the items that were in the vehicle, no,
2 sir.

3 Q Okay.

4 MR. BELL: I beg the Court's indulgence one moment.
5 (WHEREUPON there was a pause in the proceedings.)

6 BY MR. BELL:

7 Q Agent Merkle, I'm handing you a set of pictures.
8 Would you take a look at these for me?

9 A Okay.

10 Q Have you had a chance to review those photos?

11 A Yes, sir.

12 Q Did you have a chance to see the items depicted in
13 those photographs on the day of the incident?

14 A Yes, sir.

15 Q And are those photos a fair and accurate
16 representation of what you saw that day?

17 A Yes, sir.

18 MR. BELL: Your Honor, these pictures have already
19 been entered into evidence. I would request permission to
20 publish them once again to the jury?

21 THE COURT: All right.

22 MR. KIRKLAND: I can't object to that, Your Honor,
23 so no objection.

24 THE COURT: No, I'm not asking if you object. Are
25 the ones that y'all -- have you double checked to make sure

Michael S. Merkle - Direct Examination by Mr. Bell

1 those were --

2 MR. BELL: I showed them to him earlier, but if
3 he'd like to review them one more time.

4 MR. KIRKLAND: Yes, ma'am, it looks like -- this
5 looks like the ones in evidence.

6 THE COURT: Okay. All right. You may publish them
7 to the jury.

8 MR. BELL: Thank you, Your Honor.

9 BY MR. BELL:

10 Q Now, you mentioned that in walking around the
11 backyard, something stuck out to you as a burn pile. In
12 State's 7, what is pictured here?

13 A It's the same burn pile that I saw in the backyard.

14 Q Okay. Anything of note in this picture besides of
15 the fact that it's the burn pile?

16 A No, sir.

17 Q Now, this is State's 13, once again, something that
18 we saw yesterday. I'm going to hand you this laser pointer
19 and I'd like you to point out to the jury anything that you
20 deem of note and if -- if Your Honor permits, if you'd like
21 to step down to get a better angle.

22 THE COURT: That's fine.

23 BY MR. BELL:

24 Q Agent Merckle, could you stand back a little --

25 A Sure.

Michael S. Merkle - Direct Examination by Mr. Bell

1 Q -- we want to move over by the court reporter so
2 you're not blocking her view?

3 A Okay. What I can see in here -- I'm the one who
4 actually took the pictures. Right in this area right here
5 is a white -- what is the inside of a lithium battery when
6 you roll it out. The lithium is actually contained on that
7 paper. It's kind of a waxy kind of paper and it unrolls
8 like that; that's what that item is right there. Also you
9 can see a fair amount of foil, which is also used in the
10 process either to smoke it or actually in acid generator
11 process at the very end, which would indicate to me that
12 that's what is happening.

13 This is a potential area where methamphetamine is
14 being processed. And then right here between these two --
15 it's very hard to see, but that is a burned battery casing
16 where it appears either the top or the bottom -- I don't
17 know which way it's oriented -- has been cut open and the
18 insides have been taken out.

19 Q Now, are items that you pointed to the jury things
20 that the DEA trained you to identify?

21 A Yes, sir.

22 Q And once again, why would they deem that relevant
23 for you to identify?

24 A Because those are the components that's used to
25 manufacture meth.

Michael S. Merkle - Direct Examination by Mr. Bell

1 Q State's 8, would you also point anything of note to
2 the jury?

3 A Yes, sir, here we have some starting fluid cans,
4 typical when you're manufacturing methamphetamine at your
5 residence or anywhere else. You punch a hole in the bottom
6 to get the ether out of it; it's used as your organic
7 solvent much like Coleman camp fuel is. You can
8 interchange them. So that's what the cans would be. Then
9 right down in here -- again, it's really hard to see -- is
10 what I believe to be another -- or what is another battery
11 casing that's been cut open and burned. It's hard to tell
12 it's what it is unless you're physically holding it or
13 looking really close to it.

14 Q Now, we heard some testimony about puncture marks
15 in these starter fluid cans. Are you able to see those
16 puncture marks in these pictures?

17 A No, sir.

18 Q Did you see them on the day that you were there?

19 A Yes, sir, I did.

20 Q Are there other ways aside from puncturing these
21 cans to extract the ether out of them?

22 A Oh, absolutely.

23 Q State's 9, what is this sort of copper, orange,
24 brown, black looking item in the bottom right in the
25 picture?

Michael S. Merkle - Direct Examination by Mr. Bell

1 A Right here?

2 Q Yes, sir.

3 A That is a burned can of starting fluid or ether;
4 it's been burned.

5 Q What does the burn indicate to you, Agent, Merckle?

6 A That it'd been in the fire probably multiple times.
7 It appears to be older than the rest that are -- that you
8 can see are hanging out there that are laying there on the
9 ground.

10 Q Did this appear to have been burned on the same
11 day?

12 A No, sir.

13 Q What is part of a separate burn?

14 A It appears it was part of a separate burn, yes,
15 sir.

16 Q Now, would you just briefly point out other items
17 of note in this picture?

18 A Sure. Here's another can of starting fluid and in
19 this bottom right here, this is going to be your one pot,
20 what they call shake-and-bake method of manufacturing
21 methamphetamine. You can use any kind of bottle you want.
22 Specifically this bottle was some type of juice bottle that
23 was used. It contains the white sludge that would be
24 consistent of what's left over when you finish
25 manufacturing meth.

Michael S. Merkle - Direct Examination by Mr. Bell

1 Q How about the green bottles toward the top --

2 A Oh yeah.

3 Q -- that kind of blend in?

4 A Right, it's kind of hard to see. There's one right
5 there that's burnt fairly bad, melted pretty bad, that
6 would be an acid generator, as well as this bottle here is
7 another acid generator. Both of them are plastic drink
8 bottles -- very common when we come across people making
9 acid generators, in the final process of manufacturing
10 meth.

11 Q Did you have a chance to examine the contents of
12 that blue bag sitting by the starter fluid can?

13 A This right here?

14 Q Yes, sir.

15 A I did examine it. It was kind of like what I would
16 say was used as a filter. It was like thick shop towels.
17 People use anything they have on hand if they don't have
18 enough coffee filters, use paper towels -- anything that'll
19 hold a liquid and let the liquid pass through and hold
20 solids on top without breaking apart basically.

21 Q What is the most common kind of filter used?

22 A Coffee filters are commonly or most common used.

23 Q And where were all these items in this picture
24 extracted from?

25 A The burn pile right there in that whole burnt area

Michael S. Merkle - Direct Examination by Mr. Bell

1 back there where the burn barrel was and all.

2 Q And whose property was that located on?

3 A This is on Mr. Phil Helms' property.

4 Q This is State's 10. Is this just a picture, a
5 closer up of those same items?

6 A It is. It's a close up picture of the acid
7 generators there and the one bottle shake and bake and
8 your -- you have your -- your bottle of ether, canned ether
9 over there.

10 Q Now, the bottles of starter fluid or cans of
11 starter fluid depicted in the last, in this picture and the
12 last picture, were they separate from the two that were
13 identified earlier in the bucket?

14 A Yes, sir.

15 Q So we have at least four starter fluid cans at this
16 point?

17 A Yes, sir.

18 Q This is State's 11, can you point out anything of
19 interest in this picture?

20 A Sure. Again this is a much closer picture of what
21 would be your acid generator and this file in particular
22 is -- depicts the very tiny little tip right here that's
23 the hose that's coming out; it's either been cut away or
24 something happened to it after it was put into the fire,
25 but that's where the gas is produced from. Putting your

Michael S. Merkle - Direct Examination by Mr. Bell

1 ingredients inside that bottle would come out to help you
2 manufacture the meth.

3 Q In your time with the Narcotics Enforcement Team
4 and through your training at the DEA, have you ever come
5 across a bottle with a tube hanging outside the top of it?

6 A Yes.

7 Q Was it used for a legitimate purpose?

8 A Oh no, absolutely not.

9 Q Typically when you come across a bottle that has
10 that tube sticking out the top, what is it being used for?

11 A It's used to manufacture meth.

12 Q State's 12, another picture that we've spent some
13 time with. Would you point out to the jury what we're
14 looking at here?

15 A Sure, this is a Tropical Fantasy plastic bottle.
16 It's a bottle that was there that evening when we showed
17 up. It does have the white sludge, which would be the
18 remnants of the one bottle shake and bake minus the liquid.
19 There's no liquid left; it's all dried in there, but you
20 can see the specs, the flecks of lithium that are contained
21 within, which we regard as very dangerous. You know any
22 contact with moisture, even the oils on your skin can set
23 that stuff off.

24 Q Now, you skimmed over it. I'd like to slow down
25 for just a second. In this bottle sort of throughout the

Michael S. Merkle - Direct Examination by Mr. Bell

1 white cake in the bottle, we see little specs?

2 A Sure.

3 Q What are those specs?

4 A These little specs here that I'm pointing at with
5 the pointer would be your lithium that is, it is what is
6 stripped out of the lithium batteries and they put it into
7 the -- the mixture to help produce the meth.

8 Q Is that something that you are trained to identify
9 by DEA?

10 A Yes, sir.

11 Q Now the bigger hole on the right side of the
12 bottle, is that also lithium?

13 A No, sir, that is just a clear spot on the plastic.
14 You can't, if there's nothing dumped up on there you could
15 see right through.

16 Q Agent Merckle, do we have these items that you've
17 identified here in Court with us today?

18 A No, sir.

19 Q Have you examined these pictures I showed you a
20 moment ago?

21 A Yes. Yes, sir.

22 Q Have you testified that they do fairly and
23 accurately represent what you saw that day?

24 A Yes, sir.

25 Q In your training and through your police work, do

Michael S. Merkle - Direct Examination by Mr. Bell

1 you consider pictures physical evidence?

2 A Yes, sir.

3 Q And what is the benefit of taking a picture to
4 bring to court versus bringing the actual items?

5 A First and foremost, the benefit is safety for
6 everybody in the room. So I certainly would not want to
7 bring this particular bottle into this room and put
8 everybody in -- in danger of something happening with it.
9 So what we do is, we would rather take a picture of it to
10 depict what it was and explain through our training and
11 experience what exactly is it y'all are looking for.

12 And then the other reason is, multiple hands would
13 have to touch and deal with this once we did take it in.
14 I'm a certified meth tech; Agent Barnes is a certified meth
15 tech, which means we are certified to handle and deal with
16 this stuff, but other people in the process of evidence
17 collection and all the way to our, our chemist would not be
18 trained to handle this stuff properly and potential -- the
19 potential danger or injury could occur from that.

20 Q Do you have enough room in your police vehicles to
21 fit every item that you would typically find in a
22 methamphetamine lab scene?

23 A No, sir.

24 Q Is taking pictures another way to cut down on the
25 space taken up by evidence?

Michael S. Merkle - Direct Examination by Mr. Bell

1 A Absolutely. Space is gold when it comes to
2 evidence collection.

3 Q But there's nothing -- is there anything that could
4 be gained by physically holding these items versus viewing
5 them in these pictures?

6 A No, sir, absolutely not.

7 Q Now, you talked about you're trained to handle
8 these different items by the DEA or by different
9 organizations and you talked about they would be hazardous
10 to other people that would handle them if handled them
11 improperly. Could you talk a little bit about the hazards
12 of handling something like what's displayed in this
13 picture?

14 A Sure. In this picture, of course, we have your
15 remnants, your left over one bottle cook. The concern for
16 us or for anybody handling that would be the spontaneous
17 ignition of the lithium itself. Any kind of moisture that
18 comes across -- and we've seen this time and time again
19 when -- when folks go out to clean up their neighborhood
20 and up and down major roads by Medfield Road, I've been
21 called out there. The people are going to pick up bottles
22 such as this, the remnants of meth lab and they catch fire
23 in their bag which they have placed in their car. So then
24 we get called out to come out there and deal with it
25 because they didn't -- they had no idea what they were

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1 actually dealing with. Just picking that bottle up and
2 moving it can change what's going on inside of that bottle
3 and the next thing you know, moisture and condensation,
4 anything that's built up in there, causes it to flash open.

5 MR. KIRKLAND: Your Honor, we have to take a quick
6 break. I'm sorry.

7 THE COURT: All right. Ladies and gentlemen of the
8 jury, there is a matter of, well --

9 MR. KIRKLAND: It's a medical issue.

10 THE COURT: All right. We're gone take a bathroom
11 break right now. You all will have to go quick, all right.

12 (WHEREUPON the jury left the courtroom at 10:24
13 a.m.)

14 MR. KIRKLAND: Thank you, Your Honor.

15 THE COURT: All right. We'll take about five
16 minutes.

17 (WHEREUPON a brief recess was observed.)

18 THE COURT: All right. Are y'all ready?

19 MR. KIRKLAND: Yes, ma'am.

20 MR. BELL: The State's ready, Your Honor.

21 THE COURT: All right. Bring them in.

22 (WHEREUPON the jury entered the courtroom at 10:36
23 a.m.)

24 THE COURT: All right. We'll continue with the
25 direct examination by Mr. Bell.

Michael S. Merkle - Direct Examination by Mr. Bell

1 MR. BELL: Thank you, Your Honor.

2 Your Honor, may the witness please step back down?

3 THE COURT: Oh, yes.

4 BY MR. BELL:

5 Q Agent Merckle, I just want to briefly finish our
6 thought prior to the break.

7 This item, very briefly, why was it not collected?

8 A Because of the dangers involved in handling it and
9 processing it.

10 Q Even with proper training and certifications, are
11 these things still dangerous to handle?

12 A Absolutely.

13 Q Agent Merckle, you testified that you went and
14 stopped the red Mustang that pulled up into the yard. Did
15 you have an opportunity to search the items or the contents
16 of that vehicle?

17 A I did.

18 Q This is State's 23, would you point items of
19 relevance in this picture?

20 A Sure. Very obvious right here in the center
21 console, you got your lithium batteries inside this in a
22 cup. You also have this MSM, which is used as a cutting
23 agent. You can buy it pretty much anywhere. Basically
24 it's a white powder that you add to the narcotic that you
25 have produced because narcotics are sold by weight. The

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1 more weight you have, the more money you make. So that's
2 how they offset it.

3 Q You testified that you saw a bag behind the
4 driver's side seat. Is this the bag you're referring to?

5 A Yes, sir, it is.

6 Q Would you point out the items of note to you?

7 A Sure. In this bag -- we'll start up here at the
8 top -- this red and black, red top black container, your
9 crystalized drain cleaner. You got your -- what's called
10 your ice compression packs, your instant cold packs, which
11 contain the Ammonium Nitrate; it's the one that gets cold
12 when you squeeze it and the water turns it cold. And you
13 have some coffee filters that are in here as well. All of
14 these items indicate manufacturing of meth.

15 Q Are these items that you were trained to identify?

16 A Yes, sir.

17 Q And each item on their own, are they illegal?

18 A No, sir.

19 Q Where can you purchase them?

20 A You can purchase them pretty much anywhere. You
21 know, Walmart, Home Depot, any of those places.

22 Q And where do these items appear to have been
23 purchased from?

24 A From the Dollar General, which would be this, this
25 yellow bag; and then the white bag up here would be

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1 Walmart.

2 Q Now, in your time in law enforcement, as well as
3 your training, would you be able to identify that black
4 bottle with the red top?

5 A Yes, sir.

6 Q State's 25 is another angle to those items. Would
7 you point out some of the additional items in this
8 photograph?

9 A Sure. Up here in this white bag, you have your
10 Claritin D, your Claritin D, which contains your
11 Pseudoephedrine inside of those, inside of that pill,
12 they've gone and purchased this. This has been purchased
13 at Walmart. Right beside it, you have your crystalized
14 drano in this red and black bottle; a little bit easier to
15 see the package of coffee filters here used in the
16 filtration process when you manufacture methamphetamine.
17 Again, you've got your ice cold, your ice packs, your
18 instant cold packs and you have your 2 liter bottle down
19 here; it's a Coca Cola bottle that has not been emptied out
20 yet.

21 Q And what is the primary ingredient of Claritin D?

22 A It's Pseudoephedrine.

23 Q And that's relevant why?

24 A Because the Pseudoephedrine is what you absolutely
25 have to have to make methamphetamine. It's one of the, one

Michael S. Merkle - Direct Examination by Mr. Bell

1 of the items that is necessary to actually turn into meth.

2 That's what's turned into the meth product.

3 Q State's 26, you testified that these are the same
4 items, but just lined up; is that accurate?

5 A Yes, sir, it is. I lined those up.

6 Q Would you just very briefly go across the top
7 looking at it?

8 A Sure. Right here you've got your lithium
9 batteries, a little bit hard to see, but these are all your
10 batteries right here on top. We have our two receipts; one
11 receipt was from Walmart, the other receipt was from Dollar
12 General. Underneath is your little packet of coffee
13 filters, your ice compresses, which are instant cold packs.
14 And here you have your Claritin D, which contains your
15 Pseudoephedrine, which that's the drug that we need to
16 transform into meth. And then your crystalized drain
17 cleaner is also your lye that you add into to help the
18 process and then your two bottle, your 2 liter bottle of
19 Coca Cola.

20 Q Now, why is the two liter bottle of Coca Cola
21 relevant?

22 A Well, the only reason it's relevant is because that
23 would be the vessel itself. That would be the container
24 that they would put all the ingredients in. They would use
25 that type of container. They would use a plastic container

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1 or plastic bottle; it doesn't really matter if it's Coca
2 Cola or, or Seagrams or whatever, whatever kind of bottle
3 you want to get. It could be, the bottle that we saw
4 earlier, the fruit juice bottle. It just so happens that
5 this happens to be a Coca Cola bottle is what they chose.

6 Q And what other items was that Coca Cola bottle
7 packaged with when you found it?

8 A It was packaged with the lye, the crystalized drain
9 cleaner, as well as the -- the two instant cold packs and
10 your coffee filters.

11 Q On the day of the incident when these photographs
12 were taken, did you have a -- an opportunity to examine the
13 batteries closely?

14 A I did yes, sir.

15 Q And you testified that they were lithium batteries?

16 A Yes, sir.

17 Q How were you able to know that?

18 A It's stamped onto the side of it. Also the color
19 of the battery is different than your average alkaline
20 batteries. So it makes it more noticeable.

21 Q Is there any doubt to you from reviewing those
22 batteries that day that they were lithium batteries?

23 A Absolutely no doubt.

24 Q State's 27, what is this a picture of and why is it
25 relevant?

Michael S. Merkle - Direct Examination by Mr. Bell

1 A This is again a close up picture of the left side
2 of the picture that we just previously saw. It's got your
3 lithium batteries. Here you can see them a little more
4 clearly, the color indicating just from the color that
5 tells me that they are lithium batteries. We have our
6 receipts, our two receipts, our coffee filters underneath
7 and then a little bit closer picture of your instant cold
8 pack as well as your Claritin. You can see right there,
9 you can tell the Dollar General brand cold pack.

10 Q Agent Merckle, you may sit back down at this time.

11 Now on State's 27, it's sort of hard to see on the
12 projector, so I'm going to hand you this picture that you
13 just reviewed on the projector and I'd like you to take a
14 closer look at the receipt that is pictured there. Tell me
15 when you have a second to look at it?

16 A Okay. I've looked at it, yes, sir, I see it.

17 Q Are you able to make out the text that is on that
18 receipt?

19 A Yes, sir, I can.

20 Q Would you please read me anything that you find
21 relevant on those receipts?

22 A Specifically where this receipt is from, which is
23 Walmart. Down at the bottom it has a date and a time stamp
24 on it so that would tell me when these items were purchased
25 and the date is showing 6/11/2013, which is the very day

Michael S. Merkle - Direct Examination by Mr. Bell

1 that we were over at Mr. Helms' house. It shows the time
2 as being approximately 7:30. I believe it's 19:30 hours
3 military time and the item sold is showing two items, which
4 would be your Claritin D and the other item was the -- it's
5 the other product, the Claritin, the other Claritin D
6 product that's showing the same price, just a different sku
7 number when they scanned it.

8 Q And I apologize, did you have an opportunity to
9 mention the date on that receipt?

10 A Yes, sir, I did.

11 Q Okay. And once again, what was that date?

12 A The date was 6/11/2013, the very day that we were
13 there.

14 MR. BELL: I beg the Court's indulgence.

15 (WHEREUPON there was a pause in the proceedings.)

16 BY MR. BELL:

17 Q Agent Merckle, you testified earlier that you
18 attended a DEA Training Program or certification program in
19 Quantico, Virginia. What was the date that you attended
20 that again, roughly?

21 A Roughly August 2013.

22 Q In August of 2013 when you attended that program to
23 be certified by the DEA, did you discuss taking samples
24 from a reaction vessel that has that cake in it and the
25 lithium specks in it?

Michael S. Merkle - Direct Examination by Mr. Bell

1 A Absolutely.

2 Q And what did they teach you?

3 A They teach us that it is not a good idea to take
4 samples of the cake, the actual leftover that has the
5 lithium in it because of the dangers and the hazards
6 involved with it unless it is 100 percent absolutely
7 necessary. What they teach us is you take all the
8 necessary items that could show that this is a
9 methamphetamine cook or it's being produced there without
10 having to use the hazardous chemicals that people would
11 have, that other people would have to come in contact with
12 so our people are not versed or trained in how to deal with
13 these different items.

14 Q Now, prior to 2013 when you attended this course,
15 had you taken samples of reaction vessels with the white
16 cake and the lithium specks?

17 A Yes, sir.

18 Q Okay. And why would you have done it then, but not
19 after taking that course?

20 A Well it -- it's -- it's a case-by-case basis.
21 Before I took the course, what I did was, I would be with
22 the other agents who were certified. I wasn't allowed,
23 none of us are allowed to actually deal with or handle the
24 methamphetamine cooks or anything else unless we're with a
25 certified tech. That certified tech walks us through step

Michael S. Merkle - Direct Examination by Mr. Bell

1 by step so that we do it safely and they're teaching us at
2 the same time prior to going to the school. Once we go to
3 the school and then we're certified, we actually know how
4 to do that type of stuff.

5 Q As of now, have you kept up your continuing
6 education?

7 A Yes, sir, I have.

8 Q And what is the current standard for testing those
9 items?

10 A The current item for testing the actual one pot
11 cooks would be taking a sample of the liquid when the
12 liquid is there and there's a formula that is used to
13 actually calculate the amount of meth that can be produced
14 from that liquid. The liquid is then sent to our chemist
15 to be tested.

16 Q And were those parameters present with this
17 particular reaction vessel?

18 A No, there was no liquid present.

19 Q Would it have been safe to take a sample?

20 A No, sir.

21 Q Did you have an opportunity to actually see the
22 defendant, Phillip Helms, close up on the day in question?

23 A Yes, sir, I was.

24 Q Would you know what he looks like?

25 A Absolutely.

Michael S. Merkle - Cross-Examination by Mr. Kirkland

1 Q Is he here in court with us today?

2 A He is.

3 Q Would you please point to the general direction?

4 A The gentlemen at the end of the table to the left
5 in the wheelchair and has a green and purple jacket on.

6 Q Thank you, Agent Merckle. Would you please answer
7 any questions the Defense may have for you.

8 A Sure.

9 MR. KIRKLAND: Thank you, Your Honor, may it please
10 the Court?

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. KIRKLAND:

14 Q All right. You were here yesterday, were you not?
15 When Agent Barnes was testifying?

16 A Yes, sir.

17 Q And you saw all of her testimony, correct?

18 A Yes, sir.

19 Q Now, in this case, did you take -- did you make,
20 create, an independent report yourself?

21 A I did not, no, sir.

22 Q So all of your testimony that you're giving here
23 today is based on your recollection, correct?

24 A Yes, sir.

25 Q And this case was almost a year old?

Michael S. Merkle - Cross-Examination by Mr. Kirkland

1 A Yes, sir.

2 Q And so this is completely from your own memory?

3 A Well, reviewing -- you know reviewing the paperwork
4 involved in this prior to, prior to Court.

5 Q So you reviewed Paige Barnes' paperwork?

6 A I reviewed the -- well, yes, sir. I mean she wrote
7 the report, yes, sir.

8 Q Right. So you don't have anything that you
9 contemporaneously created at the time of your observations?

10 A Oh, no, sir, I didn't write a report.

11 Q So you're depending on the observations that were
12 written down -- of another person to supplement your
13 memory?

14 A Sure.

15 Q Okay. Now, you looked at that burn pile you said
16 and you saw several objects in it that gave you reason to
17 believe they might be used in the manufacture of meth; is
18 that correct?

19 A Yes, sir.

20 Q Now, I would presume then that you discussed this
21 discovery with Agent Barnes, who was on the scene?

22 A Yes, sir.

23 Q And so you clearly identified those items as being
24 what you believed to be a reaction vessel and, I think, two
25 acid generators?

Michael S. Merkle - Cross-Examination by Mr. Kirkland

1 A Yes, sir.

2 Q And you discussed this with her?

3 A Sure.

4 Q Okay. And you noticed in the report that they were
5 identified as three acid generators?

6 A Yes, sir.

7 Q So did you review the report back when the report
8 was originally written?

9 A I didn't. No, I didn't. Not that night. It takes
10 a couple of days to actually write the report, but --

11 Q So a couple of days later you reviewed it?

12 A Prior to trial. I mean, I don't remember when -- I
13 actually a copy of the report, probably a couple of months
14 ago.

15 Q A couple of months ago?

16 A Yes, sir.

17 Q Did you note the mistake then?

18 A I did not, no, sir.

19 Q So you didn't realize that it been misidentified by
20 the items that were in the --

21 A No, I didn't realize it until you actually brought
22 it up.

23 Q Now, you also searched, I think, Robin Krantz, that
24 was in the car?

25 A Her -- her belongings, yes, sir.

Michael S. Merkle - Cross-Examination by Mr. Kirkland

1 Q You pretty much searched the whole car and
2 everybody in the car?

3 A Yes, sir.

4 Q Okay. Now, you commented, I'm going to jump back
5 for a minute. You commented that the tin foil that was in
6 the burn pile was consistent potentially with tin foil out
7 of muriatic acid, acid generator or possibly used to smoke,
8 correct?

9 A Yes, sir.

10 Q Now, have you observed a muriatic acid generator in
11 your career?

12 A Yes, sir, I have.

13 Q And what does the tin foil -- my understanding is
14 that the tin foil dissolves in one of those generators,
15 that it's no longer tin foil; it becomes part of the sludge
16 on the bottom?

17 A It does break down depending on how long it's been
18 in there, but each case is different. It depends on how
19 much foil is actually put in there. Some people think more
20 is better; some people think less is better. So there's,
21 there's a range how much people actually put in there. So
22 that's what, I guess that's what I was trying to say.

23 Q I'll use a non-technical term.

24 A Sure.

25 Q So it reacts with it in a way that it dissolves

Michael S. Merkle - Cross-Examination by Mr. Kirkland

1 itself in a -- sort of like melting it; I don't know what
2 to say. Melting it sort of?

3 A Yes, sir.

4 Q So when you see aluminum foil, tin foil, whatever
5 people call it, that has been in a muriatic acid generator,
6 it would appear to be deformed in some way that would be
7 recognizable?

8 A Sure, yes, sir.

9 Q Okay. So when you looked in the burn pile, you
10 would have been able to identify some of these items may
11 have been in a muriatic acid generator and others just
12 looked like crumbled up aluminum foil with the really sharp
13 points; you know how it does when you --

14 A Yes, sir.

15 Q So you can tell a difference presumably based on
16 what you just testified between the two?

17 A Well, I mean -- the -- I guess what I was trying to
18 say was the amount of foil that was there would lead me,
19 along with the other precursors that we saw in there, we
20 believed that it could be one or the other.

21 Q Okay.

22 A I wasn't saying it was specifically just from an
23 acid generator.

24 Q Oh, I understand that.

25 A It could be.

Michael S. Merkle - Cross-Examination by Mr. Kirkland

1 Q So the ones, what I'm saying though is the ones
2 that were used for other aspects, such as smoking let's
3 say?

4 A Yes, sir.

5 Q Those could have been recovered safely and sent off
6 for testing?

7 A Yes, sir.

8 Q But they were not?

9 A No, sir.

10 Q Okay. Do you remember -- because I'm telling you,
11 I just forgotten all of a sudden. Can you remember what
12 the date of the incident was; was it June 2013, June 11th,
13 2013?

14 A Yes, sir.

15 Q All right. And if I am not mistaken, did you say
16 that you had attended, I think you said you went to
17 Quantico?

18 A Yes, sir.

19 Q In August of 2013?

20 A Yes, sir.

21 Q Is that correct?

22 A Yes, sir.

23 Q So prior to August of 2013, the standard was, as
24 you understood it, to collect samples from these reaction
25 vessels, that's the way that you were taught up until

Michael S. Merkle - Cross-Examination by Mr. Kirkland

1 August of 2013 when you were told there's a new standard,
2 correct?

3 A No, sir. I never was told that there was a new
4 standard. Basically what I was told when -- basically what
5 I was told, we don't collect the cake unless absolutely,
6 the stuff that's in the bottom of a -- of a one pot, we
7 don't collect that unless it's something that's absolutely
8 necessary and when we do have to collect that, we have to
9 let it dry out; we have to lay it out, let it dry out
10 sometimes for a few hours and then hand pick the lithium
11 out, which again, is very dangerous, and then remediate
12 that through water solution and then package the rest of
13 what we have left over and then we package it up and we
14 send it to the lab in which we have to meet our chemist
15 right at -- at the office and have her put it under the
16 hood and all that kind of stuff.

17 Q So -- but here's what -- but there was questioning
18 to you specifically --

19 A Okay.

20 Q That in August, you pretty much were told to stop
21 that practice altogether, correct.

22 A No, sir, I was told that that was not something
23 that was recommended when I went to the class.

24 Q When you went to the class?

25 A Right. I had been to --

Michael S. Merkle - Cross-Examination by Mr. Kirkland

1 Q You hadn't been to that class prior to --

2 A I hadn't been to the certification until August.

3 Q Prior to that -- my understanding was though that
4 you had gone on scenes and you had actually collected these
5 materials?

6 A Not me, no, sir. It had been collected by other
7 agents --

8 Q And you watched --

9 A -- who I as with.

10 Q Right. And -- and -- you know, I talked to -- you
11 saw the testimony yesterday?

12 A Yes, sir.

13 Q And I talked to Paige Barnes, excuse me, Agent
14 Barnes, about this issue and they either cut the bottle
15 open, they bang it out as long as it's dry and there's
16 nothing that's going to react to it, you can pick the
17 lithium out and you can collect the whitish stuff out of
18 there, correct?

19 A You can. You can pick the lithium out. You can
20 never get it all out.

21 Q Yes, sir.

22 A Which is why it's so dangerous to do that part of
23 it; that's why we try not to.

24 Q But as it stands right now, there's nothing other
25 than your opinion as to what these vessels are, correct, no

Michael S. Merkle - Cross-Examination by Mr. Kirkland

1 physical evidence as to what these vessels are?

2 A Sure, absolutely. Just from my training and
3 experience.

4 Q Which is an opinion?

5 A If that's the way you like to choose to call it,
6 yes, sir, absolutely.

7 Q Well, I do want to -- this is an issue that has
8 come up and I don't want to --

9 A Okay.

10 Q -- make a big deal of it, but your training and
11 experience can only lead you to form an opinion about
12 something?

13 A Okay. Sure. That's right. Absolutely.

14 Q You can't say with any certainty that you know
15 what's in these bottles; you're saying, based on things
16 I've seen before, that's what it looks like to me?

17 A Sure.

18 Q Okay. If you had taken the time to pull out some
19 of that material, then we could -- we would know for sure
20 because it would probably -- it would test positive for
21 methamphetamine, correct?

22 A I can't -- I don't know what the chemist would say,
23 I'm not a chemist so --

24 Q Have you ever in any of those other cases that cake
25 material that you sent back, has it come back testing

Michael S. Merkle - Cross-Examination by Mr. Kirkland

1 positive for methamphetamine?

2 A I've been told that it has, but I have no personal
3 experience.

4 Q Okay. If you don't know, yeah, right, don't talk
5 about it?

6 A Right. Okay. I'm sorry.

7 Q No, no, I'm not getting on to you, I just don't
8 want elicit stuff that violates the rules.

9 A Okay.

10 Q Now, this was completely dry, correct?

11 A Yes, sir.

12 Q How long does it to take for it to dry, do you know
13 that?

14 A It really just depends on a lot of different
15 factors: The atmosphere, the weather, all that kind of
16 stuff. I really couldn't give you a time.

17 Q Now, you also identified in the picture -- and I'm
18 not going to put it back up because I think it's somewhat
19 memorable. It was a bluish looking something that you said
20 looks sort of like a shop towel?

21 A Yes, sir.

22 Q And you identified that as potentially something
23 that could be used in the manufacture of meth?

24 A Sure.

25 Q Now, what did you do with that shop towel to

Michael S. Merkle - Cross-Examination by Mr. Kirkland

1 confirm or deny your suspicion?

2 A We didn't have it tested if that's what you're
3 asking?

4 Q Did you do anything with it?

5 A Just it was meth trash and we remediated it and
6 bagged it up and -- and disposed of it.

7 Q So -- so other than you just presume -- you
8 presumed it was meth trash, remediated it and just got rid
9 of it?

10 A Yes, sir.

11 Q Okay. Now we -- I went through this with Agent
12 Barnes, so I'm not going to spend much time on it. There
13 was no physical evidence in that car that was recovered?
14 Well, let me start at the beginning. The car didn't belong
15 to Phil Helms, correct?

16 A No, sir, it did not.

17 Q And the car drove up at around, what was it around
18 seven, you said it just a minute ago on direct, 7:30 or
19 something like that?

20 A Well, that was what the receipt time said.

21 Q It was after that; we know it was after that?

22 A Correct.

23 Q So it was eight or nine or whatever?

24 A Yes.

25 Q It was after that?

Michael S. Merkle - Cross-Examination by Mr. Kirkland

1 A It was after that, yes, sir. It was after we had
2 begun our search and gotten our search warrant..

3 Q Got you. Was it dark already?

4 A It was.

5 Q Okay. And that was in the summer?

6 A Yes, sir.

7 Q So it probably gets dark around 8:30 or so,
8 something like that?

9 A If you say so.

10 Q Well, I mean from your --

11 A I don't remember right off.

12 Q -- I mean just human experience, does that sound
13 about right?

14 A I guess it sounds about right.

15 Q Now, there were phones recovered from the car,
16 correct?

17 A Yes, sir.

18 Q None of those were tested?

19 A No, sir.

20 Q So there was no calls to or from Phillip Helms that
21 were recovered?

22 A No, sir.

23 Q There was no physical evidence within that car that
24 linked Phillip Helms to that car?

25 A No, sir.

Michael S. Merkle - Redirect Examination by Mr. Bell

1 Q Give me one second.

2 MR. KIRKLAND: One second, Your Honor?

3 THE COURT: Yes, sir.

4 (WHEREUPON there was a pause in the proceedings.)

5 MR. KIRKLAND: No more questions, Your Honor?

6 THE COURT: Thank you. Yes, sir, Mr. Bell?

7 MR. BELL: One moment, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. BELL:

10 Q Agent Merckle, I had a few moments -- boy you
11 probably enjoyed to go through a bunch of pictures on this
12 projector with you. Does that projector truly and
13 accurately depict what you see in the pictures; is it, are
14 some of the pictures slightly fuzzy?

15 A Yes, sir, they are.

16 Q And are they fuzzy when you look at them in person?

17 A Some of them are a little bit out of focus.

18 Q Are you able to identify objects in those pictures
19 easier by looking at the actual picture versus seeing them
20 on a projector?

21 A Yes, sir.

22 MR. KIRKLAND: And, Your Honor, I just want to make
23 sure we're not going beyond the scope of cross here because
24 I don't, I don't know where we're headed.

25 THE COURT: Yes, sir.

Michael S. Merkle - Redirect Examination by Mr. Bell

1 MR. BELL: Would you like us to approach.

2 THE COURT: Yes, sir.

3 (WHEREUPON there was a bench conference out of the
4 hearing of the jury.)

5 THE COURT: All right. Let's go.

6 MR. BELL: Thank you, Your Honor.

7 MR. KIRKLAND: Your Honor, if I may have just a
8 moment for Phil.

9 (WHEREUPON there was a pause in the proceedings.)

10 THE COURT: Yes, sir.

11 MR. KIRKLAND: All right. We're ready to go.

12 Thank you, Your Honor.

13 THE COURT: All right.

14 MR. BELL: Thank you, Your Honor.

15 BY MR. BELL:

16 Q Agent Merckle, there was some testimony once again
17 regarding the fact that it's mentioned in some of the
18 paperwork that there were three acid generators. Did you
19 write that report?

20 A No, sir, I did not.

21 Q Now, have you seen clerical errors in cases before?

22 A Absolutely, yes, sir.

23 Q Have you gone to Court with any of those cases?

24 A Yes, sir, I have.

25 Q In this case today, at any point in time, did you

Michael S. Merkle - Redirect Examination by Mr. Bell

1 testify that there were three acid generators?

2 A No, sir.

3 Q At any point in time, have you implied that there
4 were three acid generators?

5 A No, sir.

6 Q Have you been misrepresented in any way that there
7 were three acid generators?

8 A No, sir, not at all.

9 Q When the red Mustang arrived on the property that
10 evening, was it dark out?

11 A Yes, sir.

12 Q Did the red Mustang have its headlights on?

13 A Yes.

14 Q Did it appear that there was any attempt by that
15 red Mustang to conceal its presence as it arrived?

16 A No, sir.

17 Q Once again, where did it park?

18 A In the middle of Phil Helms' yard -- backyard.

19 Q Was it in plain view?

20 A And it was absolutely in plain view.

21 MR. BELL: No further questions, Your Honor.

22 MR. KIRKLAND: No more questions, Your Honor.

23 THE COURT: All right, sir, you can step down.

24 All right. Next witness.

25 MR. BELL: Thank you, Your Honor, the State would

Scott Morris - Direct Examination by Mr. Bell

1 call Agent Scott Morris to the stand.

2 SCOTT MORRIS,

3 having been duly sworn, testified as follows:

4 THE CLERK: Have a seat, sir. Once you're seated,
5 state your full name spelling your last for the record
6 please.

7 THE WITNESS: My name is Gregory Scott Morris.
8 M-O-R-R-I-S.

9 DIRECT EXAMINATION

10 BY MR. BELL:

11 Q Good morning, Agent.

12 A Good morning.

13 Q Were you with the Lexington County Sheriff's
14 Department on June 11th, 2013?

15 A I was.

16 Q Did you also respond to [REDACTED]

17 A I did.

18 Q And what county is that in?

19 A Lexington County.

20 Q Would you briefly tell the jury about your
21 experience in law enforcement?

22 A Approximately four years in law enforcement. I
23 spent three of those years as a call responding deputy in a
24 uniform. I spent the last year in the narcotics division.

25 Q And you just testified you had reason to respond to

Scott Morris - Direct Examination by Mr. Bell

1 this address. Do you know who this address belonged to?

2 A The defendant, Mr. Helms.

3 Q And were you aware why you responded there that
4 day?

5 A We had received an anonymous complaint of
6 narcotics --

7 Q You don't have to say anything further.

8 MR. KIRKLAND: And, Your Honor, he started to
9 say -- I would ask that that be struck and rephrased.

10 THE COURT: All right. Sir, I meant, ladies and
11 gentlemen of the jury, I want to ask that you disregard, I
12 don't think he got it all out, but disregard what he just
13 stated, the last response.

14 And I'll ask that you rephrase the question.

15 MR. BELL: Thank you, Your Honor.

16 BY MR. BELL:

17 Q Without giving any subject matter, why did you
18 respond to that property?

19 A My apology. Responding to a complaint.

20 Q And who did you arrive on that property with?

21 A Agent Barnes and Agent Merckle.

22 Q On arrival did you get out of the vehicle with
23 those agents?

24 A I did.

25 Q Did you approach the fence with those agents?

Scott Morris - Direct Examination by Mr. Bell

1 A Yes, sir.

2 Q At what point did you make visual eye contact with
3 the defendant, Phillip Helms?

4 A As we approached the fence,

5 Q Did you hear him say anything to you?

6 A When we first approached, Agent Barnes made
7 contact, introduced us and explained why we were there. He
8 then told us to come on in and waved us on.

9 Q So he waved you in?

10 A Yes, sir.

11 Q Is there any doubt that he waved you in?

12 A No, sir.

13 Q When you approached him, did you have any further
14 conversation with him?

15 A I did not. Agent Barnes kind of explained --

16 Q Did you have the opportunity to hear --

17 A I did.

18 Q -- further conversation with him?

19 A I did.

20 Q Okay. And what were some of the things that Mr.
21 Helms said?

22 A He had explained to Agent Barnes that he had been
23 burning some trash or burning some stuff I think is how he
24 phrased it.

25 Q While you were in the backyard, did you have the

Scott Morris - Direct Examination by Mr. Bell

1 opportunity to walk around?

2 A I did.

3 Q Was that with Mr. Helms permission?

4 A Yes, sir.

5 Q Did you see anything in the backyard that stuck out
6 to you?

7 A I did.

8 Q Will you talk about that?

9 A Probably the most notable thing would be the actual
10 burn pile itself. It was smoking. I noticed a swimming
11 pool along with a SUV, I believe it was a Dodge Durango
12 that was parked behind the house.

13 Q Without going into too much detail, did you see
14 anything in the burn pile that raised suspicion?

15 A Yes.

16 Q Did you tell anybody about that?

17 A I did.

18 Q Who did you tell?

19 A I spoke with Agent Barnes about it.

20 Q Okay. Did you have an opportunity to walk through
21 the house at all?

22 A No, sir.

23 Q Okay. There's testimony that a red Mustang pulled
24 up onto the property; did you see that red Mustang?

25 A Yes, sir.

Scott Morris - Direct Examination by Mr. Bell

- 1 Q How did you react to seeing that red Mustang?
- 2 A Agent Merckle and I approached the vehicle.
- 3 Q What did you do then?
- 4 A I made contact with the driver, Mr. Huggins.
- 5 Q Are you aware who the second occupant was?
- 6 A Yes, sir.
- 7 Q And what was her name?
- 8 A Robin Krantz.
- 9 Q Are you aware of any other individuals that were
- 10 inside of the house?
- 11 A Yes, sir.
- 12 Q Would you name those individuals?
- 13 A I believe Olivia Mason was inside of the house,
- 14 Renee Krantz or Nancy Renee Krantz and Jimmy Johnson were
- 15 inside the house.
- 16 Q Now, when that red Mustang arrived, where did it
- 17 pull onto his property?
- 18 A Into the backyard.
- 19 Q How did it get to its destination in the backyard?
- 20 A To the left of the house is a alternate driveway or
- 21 access that leads to behind the house.
- 22 Q Is that alternate driveway obscured from view?
- 23 A No.
- 24 Q Is it under a canopy of any sort?
- 25 A No, sir.

Scott Morris - Direct Examination by Mr. Bell

1 Q Did the red Mustang have its headlights on when you
2 saw it?

3 A Yes, sir, it did.

4 Q Did the Mustang park in any way that appeared to be
5 trying to conceal itself?

6 A No, sir.

7 Q Did you have an opportunity to collect any evidence
8 in this case?

9 A Yes, sir.

10 Q Would you tell us what items you collected?

11 A When we made contact with the occupants of the
12 vehicle, and a search was conducted of those occupants, I
13 located a bag of marijuana in the pocket of the driver, Mr.
14 Huggins. Also in another pocket he had two coffee filters
15 with a white powder residue, which I collected.

16 Q Once again, whose property was this?

17 A Mr. Helms.

18 Q Did Mr. Helms appear that he was trying to keep
19 those people off his property in any way?

20 A No, sir.

21 Q Please answer any questions the Defense may have
22 for you?

23 MR. KIRKLAND: No questions, Your Honor.

24 THE COURT: All right, sir, you may step down.

25 THE WITNESS: Thank you, Your Honor.

Thomas Hodges -Direct Examination by Mr. Bell

1 THE COURT: All right. Call your next witness.

2 MR. BELL: Your Honor, at this time, the State
3 would call Agent Thomas Hodges to the stand.

4 THOMAS Q. HODGES,
5 having been duly sworn, testified as follows:

6 THE CLERK: Have a seat please, sir. Once you're
7 seated, state your full name spelling your last name for
8 the record?

9 THE WITNESS: My name is Thomas Quinn Hodges.
10 H-O-D-G-E-S.

11 **DIRECT EXAMINATION**

12 **BY MR. BELL:**

13 Q Agent Hodges, were you with the Lexington County
14 Sheriff's Department June 11th of 2013?

15 A I was.

16 Q Did you respond to [REDACTED]

17 A I did.

18 Q And what county is that located in?

19 A Lexington County.

20 Q Are you aware of who that address belongs to?

21 A Phillip Helms.

22 Q Now, how did you become involved in this incident?

23 A I actually became involved when Agent Govan
24 received a phone call from Agent Barnes about obtaining a
25 search warrant. I happened to be there with Agent Govan

Thomas Hodges -Direct Examination by Mr. Bell

1 when he received the phone call. It was my understanding
2 that there were multiple people on the scene and --

3 MR. KIRKLAND: Your Honor, that's all hearsay. I
4 would object to that.

5 THE COURT: All right. Please rephrase the
6 question. Objection sustained.

7 MR. BELL: Thank you, Your Honor.

8 BY MR. BELL:

9 Q Agent Hodges, after you became aware that there was
10 a search warrant to be executed, what did you do?

11 A Went to [REDACTED]

12 Q And who did you accompany?

13 A Agent Govan.

14 Q I apologize, Agent Hodges. Did, did you accompany
15 Terry Govan to the address in question?

16 A Yes, I did.

17 Q When you arrived on scene, what was your
18 involvement?

19 A When I first got there, I watched -- I watched the
20 people that were detained until they were transported.

21 Q Do you know the names of those people?

22 A I don't remember every single name off the top of
23 my head.

24 Q Okay. Were you there when a red Mustang came on
25 the property?

Thomas Hodges -Direct Examination by Mr. Bell

1 A It had -- it had arrived before I -- I arrived.

2 Q Did you see a red Mustang on the property while you
3 were there?

4 A I remember seeing one, yes.

5 Q Do you remember roughly where it was parked?

6 A I do not.

7 Q Okay. Did you have much involvement with this case
8 aside from assisting in the execution of the search
9 warrant?

10 A No, sir.

11 Q Now, did you gather any evidence in the case?

12 A I did.

13 Q Do you remember what item that was?

14 A It was a piece of tin foil and it was a spoon.

15 Q And why did you gather those items?

16 A Excuse me. I thought they were relevant to the
17 case because of what type of case it was and the fact that
18 they were inside of the house.

19 Q What stuck out to you about a spoon?

20 A It appeared to have burn marks on it.

21 Q Why is that unusual?

22 A Normally spoons don't have burn marks on them.
23 However, spoons can be used to burn certain types of drugs.

24 Q Okay. Now did you do anything else while you were
25 on the property?

Thomas Hodges -Direct Examination by Mr. Bell

1 A Just watched the people and then searched and found
2 those two items.

3 Q Did you touch anything else?

4 A No, sir.

5 Q Manipulate anything else?

6 A No, sir.

7 Q Please answer any questions the Defense may have.

8 MR. KIRKLAND: Your Honor, I have to look through
9 some pictures so it may take me one moment here.

10 THE COURT: Take your time.

11 (WHEREUPON there was a pause in the proceedings.)

12 MR. KIRKLAND: No questions, Your Honor.

13 THE COURT: All right, sir, you may step down.

14 THE WITNESS: Thank you, Your Honor.

15 THE COURT: All right. Call your next witness.

16 MR. BELL: Thank you, Your Honor. The State calls
17 Emily Homer to the stand.

18 EMILY HOMER,

19 having been duly sworn, testified as follows:

20 THE CLERK: Have a seat here please, ma'am. Once
21 you're seated, state your full name on the record spelling
22 your last name, please?

23 THE WITNESS: Emily Homer Conrad,

24 H-O-M-E-R, C-O-N-R-A-D.

25 ///

Emily Homer - Direct Examination by Mr. Ross

DIRECT EXAMINATION

BY MR. ROSS:

Q Good morning, Ms. Homer, how are you?

A Fine, how are you?

Q You are the chemist at the Sheriff's Department; is that correct?

A Yes.

Q And you tested the drugs in this case; is that correct?

A Yes.

Q Before you talk about the tests that you perform, could you please tell the jury about your qualifications in drug analysis.

A Well, I got my under graduate degree in Chemistry from the University of South Carolina. I also received my graduate Master's in Organic Chemistry from the University of South Carolina. I worked as a police officer in Charleston. And I also attended training at SLED and the DEA in Forensic Drug Analysis.

Q How long have you been the chemist with the Sheriff's Department?

A Eight years now.

Q Okay. And have you been qualified as an expert in Circuit Court before?

A Yes, I have.

Emily Homer - Direct Examination by Mr. Ross

1 MR. ROSS: Your Honor, at this time the state would
2 offer as an expert in drug analysis.

3 MR. KIRKLAND: No objection.

4 THE COURT: All right. Ladies and gentlemen of the
5 jury, I explained to you earlier that regarding experts and
6 expert testimony, Chemist Emily Homer, has been qualified
7 an expert in drug analysis.

8 Is that what you said?

9 MR. ROSS: Yes, Your Honor.

10 THE COURT: Drug analysis to give opinion testimony
11 in that area.

12 You may continue.

13 BY MR. ROSS:

14 Q Ms. Homer, what did you receive to test in this
15 case?

16 A I received a BEST Kit, C020286.

17 Q And what is a BEST Kit?

18 A BEST stand for the -- B-E-S-T, BEST Evidence
19 Sampling Technique. This enables the officers to take a
20 wide variety of evidence from a crime scene and then it's
21 up to my discretion to then at that moment take the best
22 evidence that I can find within that, kind of like a black
23 box within that envelope for the possible charge. And the
24 BEST Kit itself is really like a plastic bag. The outside
25 of it is not tamper proof, but it's somewhat tamper evident

Emily Homer - Direct Examination by Mr. Ross

1 so that I can tell before analyzing it if the seals on it
2 have been tampered with.

3 Q Now, was the seal in this case intact when you
4 received it?

5 A Yes.

6 Q Now, if you were asked to test a BEST Kit, the
7 contents of a BEST Kit and the seal is not intact, would
8 you move forward on that case without raising red flags to
9 you?

10 A It would raise red flags and I would mark on my
11 worksheets -- on the worksheets what I dictate under the
12 information -- I analyze a lot of cases so every little
13 thing I do in the lab I notate; and then I immediately
14 notify the Solicitor's Office as to what they will receive.

15 Q Was that done in this case?

16 A No.

17 Q Was the seal intact in this case?

18 A Yes.

19 Q Okay. What did you find inside that BEST Kit?

20 A You want me to name each item?

21 Q Well, how many items were inside the BEST Kit?

22 A Six.

23 Q And when you receive a BEST Kit and there's more
24 than one item inside of the BEST Kit, do you designate or
25 give those items item numbers?

Emily Homer - Direct Examination by Mr. Ross

1 A I do.

2 Q And do you have a lab number for the case as well?

3 A Yes, I generate a new lab number within the lab
4 itself just to a -- a bookkeeping measure to keep track of
5 every BEST Kit, I generate a new lab number for.

6 Q And what was the lab number in this case?

7 A LL13-0184.

8 Q Okay. So for each item in that BEST Kit, would
9 you -- would you mark on the item itself the lab number and
10 the item number?

11 A Yes, sir.

12 Q Okay. And specifically --

13 A Well -- and it depends on how much room I have.
14 Sometimes I have just enough room to write maybe just the
15 item number, but the lab number itself is over the whole
16 thing.

17 Q Okay. And how many items were in this bag?

18 A Six.

19 Q Okay. And what tests did you run on the items?

20 A Each -- every single item, I'll use, if I do
21 analyze it, there's always a presumptive screening and a
22 confirmatory test. Some items have two confirmatory tests;
23 some had one.

24 Q Okay. Did you run tests on each item?

25 A The Item 4, I did not analyze.

Emily Homer - Direct Examination by Mr. Ross

1 Q Okay. We'll get to that in a minute. After you
2 performed your tests, did you bag up the contents that were
3 in the BEST Kit and return it to the evidence room?

4 A Yes.

5 Q And did you generate a report in this case?

6 A Yes, I did.

7 Q Is it customary business practice to generate a
8 report?

9 A Yes, it is.

10 Q Did you bring a copy with you to Court today?

11 A Uh-huh (affirmative response).

12 Q May I see it please?

13 Ms. Homer, I'm showing you State's No. 41.

14 (WHEREUPON State's Exhibit No. 41 was marked for
15 identification.)

16 BY MR. ROSS:

17 Q Is this the report you generated in this case?

18 A Yes, it is.

19 MR. ROSS: Your Honor, at this time, we would offer
20 State's 41 into evidence.

21 MR. KIRKLAND: No objection, Your Honor.

22 THE COURT: All right. State's 41 will be entered
23 without objection.

24 (WHEREUPON State's Exhibit No. 41 was entered into
25 evidence.)

Emily Homer - Direct Examination by Mr. Ross

1 MR. ROSS: And permission to publish to the jury.

2 THE COURT: Yes, sir.

3 BY MR. ROSS:

4 Q Ms. Homer, I'm pointing at Item No. 1 here on your
5 report we talked about.

6 (WHEREUPON there was a disturbance of a phone
7 ringing in the courtroom.)

8 BY MR. ROSS:

9 Q Is that your phone?

10 A I'm sorry.

11 Q I'll cut it off.

12 A You want me to get it; it's a bottomless pit in my
13 purse. I'm sorry. I have kids and I know that certain
14 things have to be done, but --

15 THE COURT: All right. You may continue.

16 BY MR. ROSS:

17 Q Ms. Homer, I'm pointing at Item No. 1 here that you
18 got marked. Can you tell me what that item was and what
19 tests you ran on that?

20 A I had a plastic bag inside a plastic bag and a
21 powdered substance that was, I didn't find a controlled
22 substance present in Item 1.

23 Q Okay. Now Item 1, what is this word here?

24 A A plastic container.

25 Q So the container that you tested was Item No. 1?

Emily Homer - Direct Examination by Mr. Ross

1 A Well, no, the powder substance I tested.

2 Q Okay.

3 A The container contained a plastic bag that
4 contained a powder substance.

5 Q Now, what do you test for? When you receive an
6 item like this, what were you testing for?

7 A I don't actually any of the tests looking for
8 anything. But I do, first step, presumptive screening,
9 just to give a color change with certain agents to give me
10 a general idea if there's anything present, but then I
11 don't always, I never stop there and I'll do confirmatory
12 tests which are a very broad range that can show if there's
13 any controlled substance present.

14 Q So you're looking for controlled substances and I
15 think that's not controlled, right?

16 A Right. I don't -- there is -- there is millions
17 and billions of compounds present. There is only a certain
18 number of controlled substances Schedule I through V and
19 the -- so I do criminal analysis. I really only look for
20 those that are controlled that could possibly lead to a
21 criminal charge.

22 Q Would you run a test to confirm whether or not the
23 substance was an additive that could be added to drugs to
24 be sold on the street; is that your job duties?

25 A No. I mean sometimes, I might have a -- an

Emily Homer - Direct Examination by Mr. Ross

1 hypothesis that this could be an additive, but I want take
2 the extra steps to identify it as additives because it's
3 not a controlled substance.

4 Q Moving on to Item No. 2, tell me what tests you ran
5 on this one.

6 A This one, there was residue, so I just had to swab
7 and this one just had a confirmatory test, which proved
8 that it was methamphetamine.

9 Q And that's what tier?

10 A For Item 2, a Ziplock bag labeled found on --

11 Q Does that say Robin?

12 A Yes, containing a tied plastic bag containing
13 residue.

14 Q Okay. And Item No. 3, tell me about the tests run
15 on this one?

16 A The Ziplock back labeled in living room containing
17 two plastic bags that contained residue. I swabbed the
18 plastic bags in this and I -- sometimes there is or isn't
19 enough residue for me to identify it for unknown substance
20 or -- but there was no controlled substance that I found.

21 Q Item No. 4, tell me what was, tell me what Item No.
22 4 is?

23 A It was a Ziplock bag that contained a metal spoon
24 and aluminum foil.

25 Q And did you run any tests on those?

Emily Homer - Direct Examination by Mr. Ross

1 A No, I did not.

2 Q And why didn't you run any tests?

3 A Because I don't always analyze everything within a
4 BEST Kit, especially things that don't have any -- for
5 instance an amount seen on that item.

6 Q Okay. Did you see an amount to test on this item?

7 A I -- I guess not, since I did see an amount on Item
8 2, but nothing to -- if I've already identified meth
9 residue, if it's not going to add to the weight. If
10 there's a hundred items of residue, it's still just going
11 to be residue. It doesn't matter if there's -- so I don't
12 analyze every single piece of evidence that comes into a
13 case if I've already got enough meth present on items.

14 Q How about Item No. 5?

15 A The two pieces of paper; two used pieces of paper;
16 it could have been filter paper.

17 Q Okay. And what were the results of your tests?

18 A I found -- I cut off samples from -- extracted from
19 the paper and I found methamphetamine on the paper.

20 Q Okay. Finally, Item No. 6 tested positive for
21 marijuana; is that correct?

22 A Yes.

23 Q That's all the questions I have for you. Please
24 answer any Mr. Kirkland has.

25 A Can I hold the report too or you want me to put it

Emily Homer - Cross-Examination by Mr. Kirkland

1 back up there?

2 MR. KIRKLAND: You can hold it.

3 THE WITNESS: Okay.

4 (WHEREUPON there was a pause in the proceedings.)

5 MR. KIRKLAND: Your Honor, I apologize, there's a
6 picture I'm looking for and I can't locate it.

7 THE COURT: Take your time.

8 MR. KIRKLAND: I realize this is tedious, Your
9 Honor, and I really apologize. There's just one picture
10 that I can't find.

11 THE COURT: Take your time.

12 MR. KIRKLAND: I see what the issue is. That one
13 didn't ever make it into evidence. So I'm good.

14 CROSS-EXAMINATION

15 BY MR. KIRKLAND:

16 Q Here we go. I'm showing you a photograph. It
17 seems to have a number that suggests the case number and
18 then a dash 1 beside it?

19 A Yes.

20 Q Okay. So that's your Item No. 1 on your report,
21 correct?

22 A Yes.

23 Q Now, that item, no control substance was found on
24 that?

25 A Correct.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

ORIGINAL

Appeal from Charleston County

William Jeffrey Young, Circuit Court Judge

RECEIVED

JUN 01 2015

SC Court of Appeals
RESPONDENT

THE STATE,

V.

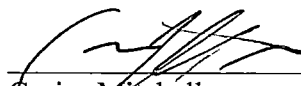
DAMIAN D. ANDERSON,

APPELLANT

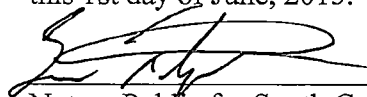
APPELLATE CASE NO 2014-001779

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Christina J. Bigelow, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 1st day of June, 2015.


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 1st day of June, 2015.


(L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.