

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Pickens County
Eugene C. Griffith, Jr., Circuit Court Judge

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S.C. Supreme Court

RANDY BLYTHE, JR.,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000375

APPENDIX

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF PICKENS	)	Case No(s): 10-GS-39-0352,
	)	10-GS-39-0353
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
Randy Blythe, Jr.,	)	
	)	
Defendant:	)	

January 24-25, 2011
Pickens, South Carolina

B E F O R E:

HONORABLE G. EDWARD WELMAKER, Judge.

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

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Assistant Solicitor

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Certified Verbatim Reporter
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Greenville, S.C. 29602

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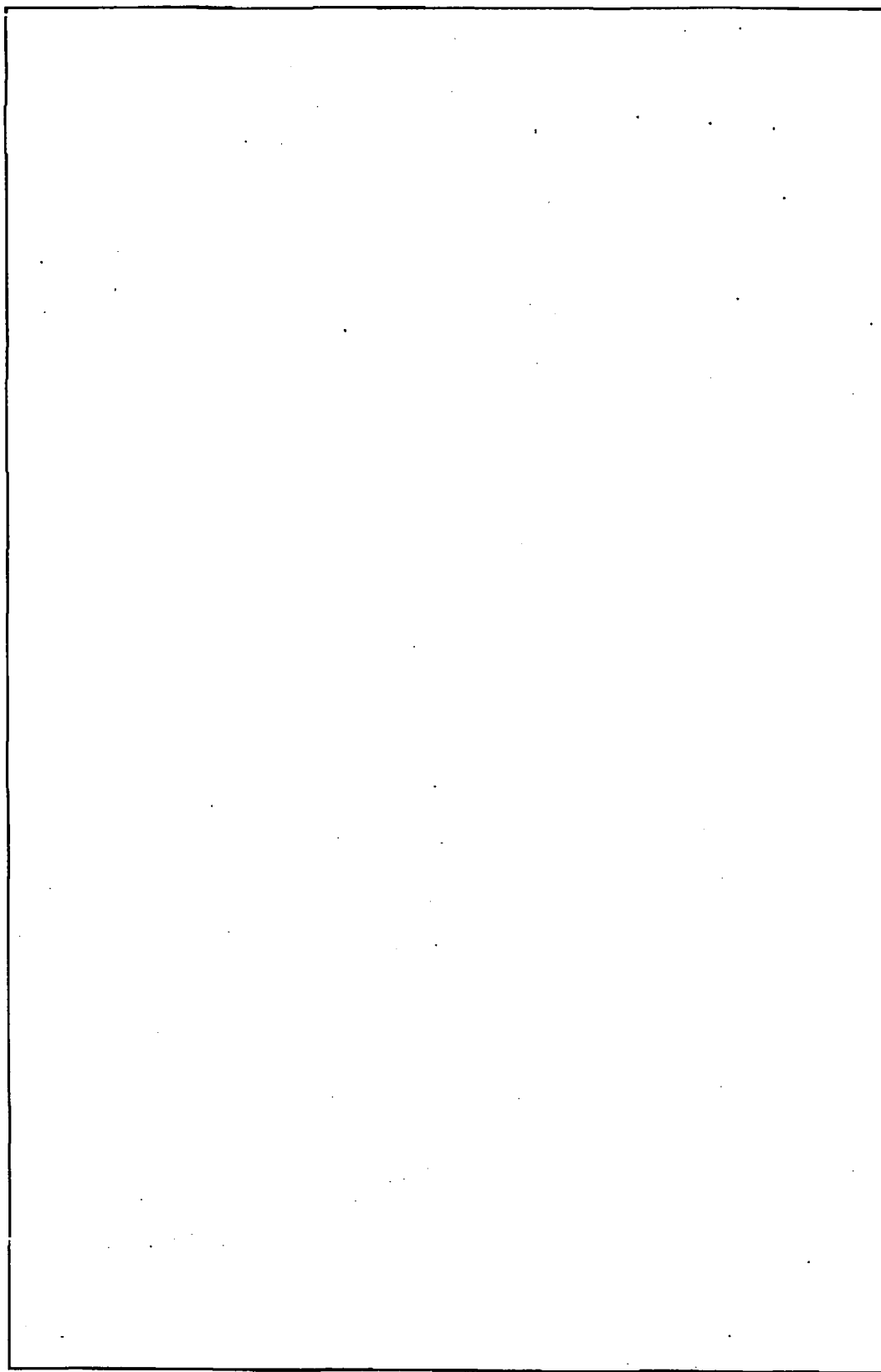
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1 P R O C E E D I N G S

2 (WHEREUPON, the proceedings begin on the 24th day
3 of January, 2010 at approximately 10:44 a.m.)

4 **THE COURT:** Ladies and Gentlemen, we are now
5 ready to proceed with the selection of the jury
6 in the trial of the first case we have on the
7 docket for this week. I have before me two
8 indictments that have been issued by the Pickens
9 County Grand Jury. One states that here in our
10 county on or about December the 10th, 2008, that
11 an individual named Randy Blythe, Jr.
12 distributed or delivered or aided or abetted some
13 other delivery of a quantity of crack cocaine,
14 that being unauthorized by law. He's been
15 charged with distribution of that crack cocaine.

16 There's a companion indictment with it that
17 says on or about that same date of December 10,
18 2008 that he made a, uh, distribution of a
19 quantity of crack cocaine within one-half mile of
20 a school or park, that being Hagood Park here in
21 Pickens county.

22 Now, these indictments are merely the papers
23 by which the case is brought to court, this
24 court. There's certainly no proof of guilt.
25 There's no proof of the offense being committed.

1 Mr. Blythe has entered a plea of not guilty to
2 both of these charges. By entering that plea,
3 the State of South Carolina has the burden of
4 proof beyond a reasonable doubt. Every
5 individual accused of a crime is presumed
6 innocent until the State has met that burden of
7 proof to establish guilt to a jury beyond a
8 reasonable doubt.

9 We need to select 12 fair and impartial
10 jurors to hear this case, decide what the facts
11 are. I'm the judge of the law. Those 12 will
12 judge the facts of the case. You are qualified
13 to serve. I need to see if you are qualified to
14 serve as a juror on this particular case.

15 Is there any member of the jury panel have
16 any prior knowledge about this particular
17 incident about which I just read to you? Either
18 that you happened upon the scene, you read
19 something in the newspaper, you talked about it
20 at the coffee shop. If you have any direct or
21 indirect information about this, would you please
22 stand. (No response.)

23 Thank you. There is no response.

24 Is there any member of the jury panel related
25 by blood or marriage to Mr. Randy Blythe, Jr.?

Jury Qualification

9

1 If so, would you please stand. (No response.)

2 Is there any member of the jury panel who has
3 a close business, social or personal relationship
4 with Mr. Blythe? If so, would you please stand.
5 (No response.)

6 Thank you. There is no response.

7 Several witnesses may be called upon to
8 testify in this case. If you will listen
9 carefully as I read these potential names: Pete
10 Bigby; from Greenville county, James Armstrong,
11 Kara Bennick, Tabitha Fricks; from the Pickens
12 County Sheriff's Department, Chad Brooks, Brett
13 Barwick, Tommy Blankenship; from the Easley
14 Police Department, Jeremy Mills, Brian Cowan,
15 Jason Lovell. Is there any member of the jury
16 panel related by blood or marriage to any of
17 these potential witnesses? If so, would you
18 please stand. (No response.)

19 Does any member of the jury panel have a
20 close business, social, or personal relationship
21 with any of these potential witnesses? If so,
22 would you please stand. (No response.)

23 Thank you. There is no response.

24 At this time, I'll ask the attorneys, if you
25 would, please stand and introduce yourselves to

1 the jury, Mr. Them.

2 MR. THEM: Peter Them. I work at the
3 Solicitor's office.

4 THE COURT: Ms. Manigault.

5 MS. MANIGAULT: I am Dorothy Manigault. I
6 am defending my client today, Randy Blythe.

7 THE COURT: Is there any member of the jury
8 panel related by blood or marriage to any of
9 these attorneys? If so, would you please stand.

10 (No response.)

11 Is there any member of the jury panel who has
12 a close business, social or personal relationship
13 with either of these attorneys? If so, would you
14 please stand. (No response.)

15 Is there any member of the jury panel ever
16 been involved in any litigation of any kind in
17 which either of these attorneys either
18 represented you or represented the opposing side?
19 If so, would you please stand. (No response.)

20 Thank you. There is no response.

21 Has any member of the jury panel expressed or
22 formed an opinion in any way about the facts in
23 this case? If so, would you please stand. (No
24 response.)

25 Any member of the jury panel aware of any

1 bias or prejudice that would interfere with your
2 ability to be a fair juror in this case? If so,
3 would you please stand. (No response.)

4 Any member of the jury panel a contributing
5 member of any organization whose primary concern
6 is the promotion of law enforcement or victims'
7 rights such as MADD or SADD, CAV, PAR, any such
8 organization as that? If you are a contributing
9 member of any sheriff's association, any of those
10 organizations, if you contribute money, would you
11 please stand. (No response.)

12 Thank you. There is no response.

13 The State of South Carolina and the Defendant
14 in this case, Mr. Blythe, both desire to have
15 fair and impartial jurors to hear this case.
16 They deserve to have fair and impartial jurors to
17 hear this case. Is there any member of the jury
18 panel aware of any reason whatsoever that you
19 could not be fair to both the State of South
20 Carolina or to the Defendant in this case and
21 render a verdict that would speak the truth based
22 upon the law and the evidence and that alone? If
23 for any reason you believe you could not be a
24 fair juror, would you please stand. (No
25 response.)

1 Thank you. There is no response.

2 Any other questions from the State?

3 MR. THEM: Nothing on behalf of the State,
4 Your Honor.

5 THE COURT: From the defense?

6 MS. MANIGAULT: None from the defense, Your
7 Honor.

8 THE COURT: All right. Ladies and
9 Gentlemen, we are going to select a jury now.
10 Mr. Welborn will be calling your names in just a
11 moment. What -- some of you probably have served
12 as jurors before in the past. You may recall
13 there was a canister here that would spin around
14 and a little tube, would pull out a name and they
15 would read that name out. We now have a computer
16 to mix those names up. That computer is going to
17 be doing that in just a minute or two. We're
18 going to have a random list of jurors, potential
19 jurors.

20 After that list is prepared, -- it won't take
21 just a moment or two -- Mr. Welborn then will
22 call your name. I'm going to ask, if you would,
23 just stand in place. Rather -- we have long pews
24 here. Rather than having to go all the way
25 through your neighbors, if you would, just stand

1 in place, and then Mr. Welborn -- you will see
2 the process. Each side has an opportunity to,
3 uh, make strikes as far as jurors. We will then
4 have 12 people to sit in the box here to be the
5 jurors. We also select an alternate, a 13th
6 juror, in case an emergency, were to take place
7 in the life of one of the first 12 of you.

8 After we select this jury, the rest of you
9 will be free to go for the day with the notation
10 about the call back that you will need to do. At
11 the appropriate time, I'll tell you that time.

12 (WHEREUPON, there is a pause.)

13 THE COURT: All right. Mr. Clerk, you may
14 select a jury.

15 THE CLERK: Juror Number 1, Kathy S. Ables.
16 If you would, please stand.

17 What says the State?

18 MR. THEM: Please excuse this juror.

19 THE CLERK: If you would, have a seat, ma'am.
20 Juror Number 104, Lawrence A. Simmons.

21 What says the State?

22 MR. THEM: Present the juror.

23 THE CLERK: And the defense?

24 MS. MANIGAULT: Swear the juror.

25 THE CLERK: If you would, come forward please,

1 sir, and have a seat in the jury box.
2 Juror Number 114, Kay H. Stokes.
3 What says the State?
4 MR. THEM: Present the juror.
5 THE CLERK: And the defense?
6 MS. MANIGAULT: Excuse Ms. Stokes. Excuse
7 Ms. Stokes.
8 THE CLERK: If you would, have a seat please,
9 ma'am.
10 Juror Number 6, Frederic K. Benson.
11 What says the State?
12 MR. THEM: Please excuse this juror.
13 THE CLERK: If you would, have a seat please,
14 sir.
15 Juror Number 58, Thomas C. Jenkins.
16 What says the State?
17 MR. THEM: Present the juror.
18 THE CLERK: And the defense?
19 MS. MANIGAULT: Please excuse Mr. Jenkins
20 from this case.
21 THE CLERK: Juror Number 20, Quentin D.
22 Collins.
23 What says the State?
24 MR. THEM: Present the juror.
25 THE CLERK: And the defense?

Jury Selection

15

1 MS. MANIGAULT: Please swear Mr. Collins.
2 THE CLERK: If you would, come forward please.
3 Juror Number 91, Peter Ramlogan.
4 What says the State?
5 MR. THEM: Present the juror.
6 THE CLERK: And the defense?
7 MS. MANIGAULT: Please excuse the juror.
8 THE CLERK: Juror Number 60, Micah R.
9 Johnson.
10 What says the State?
11 MR. THEM: Present the juror.
12 THE CLERK: And the defense?
13 MS. MANIGAULT: Please swear Mr. Johnson.
14 THE CLERK: If you would, come forward please,
15 sir.
16 Juror Number 82, Katrina C. Morris.
17 What says the State?
18 MR. THEM: Present the juror.
19 THE CLERK: And the defense?
20 MS. MANIGAULT: Please excuse Ms. Morris.
21 THE CLERK: Juror Number 70, Charles V.
22 Martin.
23 What says the State?
24 MR. THEM: Present the juror.
25 THE CLERK: And the defense?

1 MS. MANIGAULT: Please swear the juror.
2 THE CLERK: If you would, come forward please.
3 Juror Number 69, Michael R. Marchbanks.
4 What says the State?
5 MR. THEM: Present the juror.
6 THE CLERK: And the defense?
7 MS. MANIGAULT: Please swear Mr. Marchbanks.
8 THE CLERK: If you would, come forward please.
9 Juror Number 16, Kathie L. Cannon.
10 What says the State?
11 MR. THEM: Present the juror.
12 THE CLERK: And the defense?
13 MS. MANIGAULT: Please swear Ms. Cannon.
14 THE CLERK: If you would, come forward please,
15 ma'am.
16 Juror Number 127, Victoria E. Whitwell.
17 What says the State?
18 MR. THEM: Present the juror.
19 THE CLERK: And the defense?
20 MS. MANIGAULT: Please swear Ms. Whitwell.
21 THE CLERK: If you would, come forward please,
22 ma'am.
23 Juror Number 106, Natasha Q. Smith.
24 What says the State?
25 MR. THEM: Present the juror.

1. THE CLERK: And the defense?
2. MS. MANIGAULT: Please swear Mr. Smith.
3. THE CLERK: If you would, come forward please,
4. ma'am.
5. Juror Number 107, Richard B. Smith, Jr.
6. What says the State?
7. MR. THEM: Present the juror.
8. THE CLERK: And the defense?
9. MS. MANIGAULT: Please swear Mr. Smith.
10. THE CLERK: If you would, come forward please,
11. sir.
12. Juror Number 12, Gary E. Bryson.
13. What says the State?
14. MR. THEM: Present the juror.
15. THE CLERK: And the defense?
16. MS. MANIGAULT: Please swear Mr. Bryson.
17. THE CLERK: If you would, come forward please,
18. sir.
19. Juror Number 108, Jeremy T. Spence.
20. What says the State?
21. MR. THEM: Present the juror.
22. THE CLERK: And the defense?
23. MS. MANIGAULT: Please swear Mr. Spence.
24. THE CLERK: If you would, come forward please,
25. sir.

1 Juror Number 32, Steven E. Duncan.
2 What says the State?
3 MR. THEM: Present the juror.
4 THE CLERK: And the defense?
5 MS. MANIGAULT: Please excuse the juror
6 from this case.
7 THE CLERK: If you would, have a seat please,
8 sir.
9 Juror Number 9, David J. Boone.
10 What says the State?
11 MR. THEM: Present the juror.
12 THE CLERK: And the defense?
13 MS. MANIGAULT: Please swear Mr. Boone.
14 THE CLERK: If you would, come forward please,
15 sir.
16 This will be for the alternate. Juror Number
17 81, Rusty A. Morgan.
18 What says the State?
19 MR. THEM: Present the juror.
20 THE CLERK: And the defense?
21 MS. MANIGAULT: Please swear Mr. Morgan.
22 THE CLERK: If you would, come forward please,
23 sir.
24 THE COURT: Any legal matters from either
25 attorney as far as the selection of the jury in

Court Remarks

19

1 this trial?

2 MR. THEM: Nothing on behalf of the State,
3 Your Honor.

4 MS. MANIGAULT: Nothing on behalf of the
5 defense, Your Honor.

6 THE COURT: Ladies and Gentlemen who were
7 not selected, uh, I can excuse you for the rest
8 of the day. Please remember to call back tonight
9 after six o'clock. There will be a message on
10 the answering machine for you as to either when
11 you need to report back or when you need to come
12 back.

13 Let me remind you that you can go about your
14 activities for the rest of the day and you will
15 know tonight whether you need to come back
16 tomorrow or whether or not you need to call back
17 tomorrow and when you need to call back. Thank
18 you very much for, uh, your attendance today.
19 You are excused at this time.

20 Everyone else will please remain seated while
21 the jury is excused.

22 (WHEREUPON, the jury exits at approximately
23 11:09 a.m.)

24 THE COURT: Ladies and Gentlemen, you've
25 seen the process by which you were selected by

1 each of these attorneys. They've expressed
2 confidence in you to be fair and impartial jurors
3 that I mentioned that we needed. I'm honored to
4 have a chance to be working with you. We're
5 going to be judges, you and I.

6 I'm confident some of you have a real
7 apprehension about sitting where you are now in
8 the jury box. Perhaps you've never even been to
9 our courthouse, certainly not in the courtroom.
10 And now, all of a sudden, you are seated there in
11 your seats ready to, uh, be a juror. In spite of
12 the apprehension you may have or nervousness you
13 may have, I assure you, you have every skill
14 you're going to need to be a judge of the facts
15 in this case because you're going to utilize the
16 good commonsense with which you have been
17 blessed, the everyday experiences you enjoy in
18 the workplace and home, social activities or
19 organizations you belong to. All of that is
20 going to serve you well in being a factfinder in
21 this case.

22 You are making a sacrifice to be here. I'm
23 well aware of that. I'm going to do everything I
24 can to keep the trial moving in a prompt manner.
25 Normally, as I've stated earlier, we'll take

1 testimony for an hour or an hour and half at a
2 time. Then, we'll take breaks. Normally, we'll,
3 uh, start at nine o'clock, 9:30 in the morning
4 depending on what other matters I might have to
5 take care of before we actually start the trial.
6 Normally, we'll stop 5:00, 5:30 in the afternoon
7 depending on the witness who's testifying and
8 whether we need to continue with that witness or
9 get that cleared up before we break.

10 Sometimes you may need a break and I haven't
11 called on a break. Part of my job is to decide
12 when we take breaks. If any time you feel like
13 you need a break and I haven't called for one,
14 please get the attention of one of these bailiffs
15 around you. Perhaps had a chance already to meet
16 them, Mr. Smith to your right at the door, Mr.
17 Evans here closer to me, Mr. Teal is one of the
18 other bailiffs that will be around helping you.
19 They may switch stations. I don't know that.
20 You can certainly get their attention.

21 Uh, the young lady seated directly in front
22 of me is Ms. Teresa Johnson. She's the court
23 reporter. She's taking down everything that's
24 said during the course of these proceedings.
25 She's a valuable asset. She'll be marking, if

1 there's any exhibits someone wants to offer, and
2 making sure that we keep everything in order from
3 her standpoint.

4 You've met, uh, your clerk and his fine
5 assistant already. Certainly, they, or whoever
6 is here, will certainly be of assistance to you
7 as well.

8 Seated behind me is Lindsay Builder, a recent
9 law school graduate. He's my law clerk. You've
10 already seen us whispering about things and
11 taking care of some other matters in our office
12 that we need to take care of. So you may see him
13 coming and going during the course of the trial
14 so that you will know who he is as well.

15 Another job I have during the course of the
16 trial, in addition to presiding, is ruling on the
17 admissibility of evidence. These lawyers will be
18 presenting evidence to you either by examination
19 or cross-examination of witnesses to, uh, give
20 you an insight into the case. Oftentimes, when a
21 witness is called to testify, uh, there may be,
22 uh, an objection made. There may be an objection
23 made as to the question, as to the exhibit. Part
24 of my job is to rule on those objections that are
25 made.

1 Often, I can do that, as far as a question
2 from the bench here, just saying "sustained" or
3 "overruled" and we move to the next question.
4 Sometimes, it may be that -- that, uh, we'll have
5 a bench conference, as you perhaps saw us
6 earlier, where we can whisper and try to get it
7 resolved. Sometimes, it may necessitate you
8 leaving the courtroom going back to your jury
9 room while we work out that legal matter.

10 As the judge of the law, I want to make the
11 very best decision I possibly can to fulfill the
12 requirements of the law. Sometimes in order for
13 me to do that, I may have to hear some testimony
14 that wouldn't be properly presented before you.
15 I may have to, uh, with my law clerk, research
16 some law. I may have to hear some motions and
17 other matters that would be of no concern to you.

18 As judge of the law, I've got to make those
19 decisions. As judge of the facts, which is your
20 role, you'll be deciding what the facts are based
21 upon all the evidence you have heard. Even
22 though we are both judges, you are the judge of
23 the facts and I'm the judge of the law, we have
24 different roles to fulfill. And while you're
25 back in your jury room deciding what the facts

1 are, I won't be back there with you even though
2 I'm a judge as you are because that's not my
3 role. That's not my responsibility. That's
4 yours and yours alone to decide what the facts
5 are.

6 In addition to the evidence that's presented,
7 uh, I told you earlier the State has the full
8 burden of proof in this case to prove guilt
9 beyond a reasonable doubt. I will explain to you
10 later, as I have already, the Defendant doesn't
11 have any obligation to present any kind of proof
12 whatsoever. The burden is always on the state of
13 South Carolina to prove that guilt beyond a
14 reasonable doubt.

15 The attorneys will have a chance to make
16 opening statements to you and closing statements.
17 These are not evidence for you to consider. I
18 certainly would urge you to listen as they
19 address you at those times.

20 As we come and go for lunch and otherwise in
21 the courthouse, you may get on the elevator with
22 one of these attorneys or see them in the
23 hallway. If either of them seem to be, uh, a
24 little, uh, unfriendly towards you or distanced
25 or high hat you in any way, please don't hold

1 that against the attorneys, that's their
2 training. They want to make sure there's no
3 appearance of any impropriety.

4 If someone were to see them talking with a
5 juror, you may be talking about a sporting event
6 that took place yesterday or the weather,
7 possible snow or anything else. But someone else
8 making that observation, they may say, well, that
9 lawyer's talking to a juror and that doesn't
10 appear right. And for many reasons, it doesn't.
11 So if they seem to avoid you, it's not their
12 nature to be unfriendly. It's just the fact that
13 they want to make sure that there's no indication
14 whatsoever of any improper communications going
15 on.

16 That applies to your communication with other
17 people. When we take breaks, you shouldn't be
18 discussing the case with anyone and shouldn't be
19 letting anyone discuss the case with you. It
20 applies to the lawyers. It applies to your
21 fellow jurors, to friends, family members,
22 anybody else. So bear that in mind. If anyone
23 were to want to talk to you about the case, just
24 tell them you are serving as a juror and you
25 can't be talking about it.

1 Even as you are back in your room in a few
2 minutes, you should not be discussing or
3 speculating upon the case in any way one to
4 another. It's when all the evidence is in that
5 you can discuss the case and, even then, after
6 I've instructed you on the law.

7 Remember, you have made a commitment to
8 fairness and impartiality to both sides of this
9 case and to seek the truth, you need to remind
10 yourself that you are going to perform justice
11 for both the state of South Carolina and for the
12 Defendant in this case. Makes them proud that
13 you have accepted that responsibility and
14 committed your fairness and impartiality to both
15 the State and to the Defendant.

16 We have a legal matter already that I have
17 been informed by the attorneys that I need to
18 take care of outside of your presence. I
19 understand it won't take very long. If we were
20 going to take a long time, I would just let you
21 go on to lunch. But we won't be very long.
22 We'll have an opportunity to get that resolved.
23 Hopefully that will help us expedite the trial.
24 Exhibits that are marked and agreed upon, I'll
25 see what we can do with those matters as well.

Court Remarks

27

1 I have a job for you when you are back in the
2 jury room after you get time to get to know each
3 other. I'm going to ask you to select a foreman,
4 foreperson to serve as a liaison to the court.
5 What the foreperson does doesn't mean that he or
6 she has any more votes than anyone else, but
7 sometimes when you are back in your jury room,
8 you may have a question, question of law for me
9 in your deliberations or a question for the
10 clerk's office or have a need.

11 The foreperson would be the communicator with
12 the full panel, with the Court or the clerk's
13 office. That foreperson will write out whatever
14 need. Somebody may need to call about picking up
15 a child or whatever it may be. The foreperson
16 would write that out, give it to one of the
17 bailiffs and the appropriate person will try to
18 take care of that or whatever needs you may have
19 while you're back there. There might be exhibits
20 offered by either party into evidence. If that
21 were to be the case, often if they are admissible
22 into evidence, the one offering it will have it
23 passed to the foreperson and moved around to the
24 others.

25 Ultimately, what the foreperson will do is be

1 the juror in charge of making sure everyone has a
2 full discussion of the facts and the law that I
3 give you when the case is over to facilitate
4 those discussions and, on behalf of the fellow
5 jurors, write out the verdict for, uh, -- based
6 upon the facts of the law that you have heard.
7 That person will have that role.

8 The foreperson will have a seat and occupy
9 it. The alternate, the last juror selected, he's
10 going to occupy that seat. He's every bit a part
11 of the jury as anyone else. He'll be available
12 to step in the shoes of any of you if an
13 emergency were to happen in your home or
14 otherwise, if you were to get sick before this
15 case is concluded, then we wouldn't have to start
16 it all over again with a new jury. That
17 alternate would be available to step in. If you
18 will, occupy that seat.

19 The foreperson will occupy the front row, the
20 seat closest to the witness chair here. The rest
21 of you can come and go as you like as far as
22 front row seats or back row seats or one end or
23 the other. You can decide where you would like
24 to sit. I will ask you if, once you've selected
25 that foreperson from among the first twelve of

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1 you, just write that name on a piece of paper and
2 give it to the bailiffs or the deputy when you
3 come back out and we'll have the appropriate
4 seats.

5 I'll remind you again not to discuss the case
6 while you're back taking a short break. We'll
7 get this legal matter resolved. We'll be ready
8 to start back in just a few moments. If you
9 will, retire back to your jury room with Mr.
10 Evans at this time.

11 (WHEREUPON, the jury exits at approximately
12 11:24 a.m.)

13 THE BAILIFF: The door is closed, Your Honor.

14 THE COURT: All right. Let's take about a
15 five-minute break and then we'll begin our
16 hearing.

17 (WHEREUPON, a short recess is taken from
18 approximately 11:25 a.m. to 11:39 a.m.)

19 THE COURT: All right. I understand this is
20 a hearing under Jackson v. Deno, is that correct?

21 MR. THEM: Yes, sir.

22 THE COURT: All right. Swear the witness.

23 JASON LOVELL

24 having first been sworn, testifies as follows:

25 THE CLERK: If you would, state your name for

1 the record.

2 THE WITNESS: Jason Lovell.

3 DIRECT EXAMINATION

4 BY MR. THEM:

5 Q You are a lieutenant over the narcotics
6 division at the Easley Police Department, correct?

7 A That's correct.

8 Q How long have you been there?

9 A The police department, 16 years.

10 Q Okay. With reference to the operation of Dee
11 the 10th, 2008 involving the Defendant Randy Blythe,
12 were you in charge of that operation?

13 A Yes, sir.

14 Q Okay. Prior to getting into the statement
15 that was made, did this operation involve audiotape
16 recordings and video recordings of actual transactions
17 taken place?

18 A Yes, sir.

19 Q Were there other outstanding warrants on the
20 Defendant, irrespective of what happened that day?

21 A Yes, sir.

22 Q After the transaction that happened that day,
23 did you give the order to stop him and arrest him on
24 one of the other warrants?

25 A Yes, sir.

- 1 Q All right. He was taken into custody at that
2 point in time?
- 3 A That's correct.
- 4 Q Now, do you have any reason to believe that
5 the officer at the scene where he was arrested advised
6 Mr. Blythe of his constitutional rights?
- 7 A No, sir.
- 8 Q As a matter of fact, do you have a reason not
9 to believe that he did?
- 10 A That's correct.
- 11 Q Has he told you he doesn't think that he did?
- 12 A That's correct.
- 13 Q He can't tell you he did, but he says he
14 doesn't think that he did, correct?
- 15 A That's correct.
- 16 Q Now, when Mr. Blythe was arrested, where was
17 he taken?
- 18 A To the Easley Police Department booking.
- 19 Q Okay. Had you had previous conversations at
20 other times with Mr. Blythe?
- 21 A Myself, no, sir.
- 22 Q Did Mr. Blythe know who you were?
- 23 A He may have knowed me by name.
- 24 Q Did he know what your responsibilities are?
- 25 A Yes, sir.

1. Q Okay. At the jail, after he was arrested for
2 the transaction on December the 10th, did you question
3 Mr. Blythe?

4 A No, sir.

5 Q Did you have the occasion to speak with Mr.
6 Blythe at the jail?

7 A Yes, sir.

8 Q All right. Now slow down and tell us how
9 that came about.

10 A After the initial arrest of Mr. Blythe, I
11 returned to my office to place the drugs into my safe.
12 After completing the paperwork and placing them into
13 the safe, Officer Mills called me on my cell phone and
14 told me that Mr. Blythe wished to talk to me to see if
15 there was anything that he could do to help himself in
16 that situation.

17 Q All right. Let me stop you. Who was Officer
18 Mills?

19 A He was the arresting officer of Mr. Blythe.

20 Q Out on the road that brought him in?

21 A Correct.

22 Q That did not advise him of his rights?

23 A That's correct.

24 Q Okay. So Officer Mills called you and said
25 that Mr. Blythe wanted to know was there anything that

1 he could do to help himself. What did you do?

2 A I got the paper that had the documentation of
3 the money on it and walked back to booking and told
4 Mr. Blythe that the arresting officer had called me
5 and said that he wished to speak with me. He said yes
6 he did. At that time, the money that had been taken
7 from him during the arrest was laying on the booking
8 table. I took out my documentation and matched the
9 numbers.

10 Q Okay. Tell us what you mean here by matching
11 the numbers.

12 A Before the transaction, I documented the
13 serial numbers of the money that was used ---

14 Q Okay.

15 A --- in the buy that we done that day.

16 Q Okay.

17 A Uh, I matched those numbers to the money that
18 was taken from, uh, Mr. Blythe's car during the
19 arrest.

20 Q Did they match?

21 A Yes, sir.

22 Q Okay. What did Mr. Blythe do after that?

23 A Like I said, he had, uh, just told me that he
24 wanted to talk to me to see if there was anything he
25 could do to help himself. I told him I really wasn't

1 interested in it, but I would listen to what he had to
2 say.

3 Q Why were you not interested in talking to
4 him?

5 A I had a good case on him. It's one that
6 didn't need to be pled down.

7 Q Okay. All right. Then what happened?

8 A Me and Officer Mills went to an interview
9 room with Mr. Blythe.

10 Q At who's request?

11 A Mr. Blythe's.

12 Q Okay.

13 A Anybody can come and go in booking and it's
14 kind of open to where prisoners can see. I was giving
15 him the respect of not talking in front of anybody
16 else that was around. That's why we went to the
17 interview room. The interview room is when he started
18 talking about people that he could deal with that was
19 all out of Greenville. He was kind of rambling. I
20 guess he was kind of nervous and just blabbing on.

21 Q Are you questioning him or is he just
22 blabbing on?

23 A No, sir. He's just talking.

24 Q Okay.

25 A It come down to one point where he said that

1 he just had sold a certain amount of crack to a black
2 male known as Pete Bigby to him.

3 Q And did you know Pete Bigby?

4 A Yes, sir..

5 Q Was Pete Bigby in fact the undercover
6 informant that bought drugs from the Defendant earlier
7 that day?

8 A That's correct.

9 Q Okay. And he told you that he had sold drugs
10 to Pete Bigby that day?

11 A Yes, he said he had messed up. He said he
12 just had sold, he got stopped leaving after he had
13 sold a certain quantity of crack to Pete Bigby.

14 Q Did he use the words "a certain quantity" or
15 are those words...

16 A No, sir. I just, without looking back at my
17 notes to see what the dollar amount was. He told me
18 the dollar amount at that time.

19 Q Look.

20 A \$50 worth.

21 Q Okay. Now, how long have you been in the
22 drug business?

23 A I been in narcotics about seven or eight
24 years.

25 Q After Pete Bigby bought the drugs from Mr.

1 Blythe, what did he do with them?

2 A He brought them back to my location where I
3 furnished him with an evidence bag. He placed the
4 drugs in the evidence bag and handed it back to me.

5 Q Okay. Did you see the drugs that went in the
6 bag?

7 A Yes, sir.

8 Q Based on your experience and your training in
9 the number of transactions you've probably been
10 involved in, did \$50 appear to be compatible with the
11 street price for the amount of drugs that had been
12 purchased by Mr. Blythe?

13 A Yes, sir.

14 Q Okay. During the time that the Defendant is
15 babbling on, did you ever stop him to advise him of
16 his rights?

17 A No, sir.

18 Q Did you ever ask him questions while he was
19 babbling on?

20 A No, sir.

21 Q Okay. And the person that you had that
22 conversation with, is he in the courtroom today?

23 A Yes, sir.

24 Q Would you point him out please?

25 A Sitting over there in the stripped shirt.

1 **MR. THEM:** Let the record reflect that the
2 witness is pointing at the Defendant, Your Honor.
3 I have no further questions.

4 **THE COURT:** You may cross-examine the
5 witness, Ms. Manigault.

6 **CROSS-EXAMINATION**

7 **BY MS. MANIGAULT:**

8 **Q** Mr. Lovell, who -- Officer Lovell, you said
9 that there were just two of you in the room, Mills and
10 -- Officer Mills and yourself?

11 **A** That's correct.

12 **Q** So Chad Brooks wasn't in the room?

13 **A** Not in the room.

14 **Q** And John Hamby wasn't in the room?

15 **A** No, John Hamby wasn't even there that day.

16 **Q** And it is your testimony that the Defendant
17 volunteered all this information, that you didn't ask
18 him any questions at all?

19 **A** That's correct.

20 **Q** And did Mr. Mills ask him in any questions?

21 **A** In my presence, no.

22 **Q** In fact, he was under arrest, is that
23 correct?

24 **A** That's correct.

25 **Q** And you are talking about the December 10th

1 date?

2 A Yes.

3 Q And was he ever advised of his rights by you
4 or Officer Mills or anybody else?

5 A I did not advise him of his rights.

6 Q Did Officer Mills advise him of his rights
7 while you were present in the room?

8 A No, ma'am.

9 Q You said you laid monies out on the table?

10 A Yes.

11 Q On the booking table, that you took from your
12 office?

13 A No, I brought serials numbers that -- a piece
14 of paper that had serial numbers on it out of my
15 office.

16 Q Okay.

17 A The money come from Mr. Blythe's vehicle
18 during the car stop.

19 Q All right. So all you brought in was a piece
20 of paper with serial numbers?

21 A Correct.

22 Q And the money was taken from Mr. Blythe?

23 A I believe the money was in his vehicle, yes.

24 Q And it was laid on the table?

25 A Yes, with the rest of his property.

1 Q All right. With the rest of his property.

2 Did you go through that money at that point?

3 A Yes.

4 Q And what did you tell Mr. Blythe, if
5 anything, about that money?

6 A I actually didn't tell Mr. Blythe nothing. I
7 turned and told Officer Mills it did match.

8 Q It did match?

9 A Yes.

10 Q All right. And did you give Mr. Blythe some
11 money back at that point?

12 A He wouldn't have gotten anything back at that
13 point.

14 Q All right. Did he get money back from that
15 money that was laid on the table?

16 A I don't recall.

17 Q Do you recall whether anybody gave him any
18 money in your presence from that table?

19 A He wouldn't have gotten anything back that
20 night. It would have been the next day. I don't
21 know.

22 Q All right. So when you got to see Mr.
23 Blythe, he was in the booking room, he was not in a
24 cell?

25 A That's correct. He was in booking.

1 Q So booking does not have a cell area?

2 A Our booking room is a separate room that you
3 go through a door back to cells.

4 Q But he was not in the back to the cells?

5 A That's correct. He was not.

6 Q So you didn't pull him out?

7 A No.

8 Q So if he was in the cells, he was pulled out
9 before you got there?

10 A He just had been transported to the police
11 department, so he was in the booking process.

12 Q Okay. At the point you say he was blabbing
13 on, did you ever stop to tell him his Miranda rights?

14 A No, ma'am.

15 Q How long did he stay in that -- did you stay
16 in that room talking to him?

17 A In booking, maybe 15 minutes.

18 Q And you just sat there and let him babble and
19 y'all didn't ask him any questions at all?

20 A That's correct.

21 Q Who was booking Mr. Blythe in? Was it
22 Officer Mills?

23 A Yes, ma'am.

24 Q It was Officer Mills by himself?

25 A No, I believe Sergeant Cowan was in booking

1 at that time.

2 Q And you are saying that John Hamby was not
3 there at all?

4 A He was off work during that time.

5 Q He was what?

6 A He was out of work during that time.

7 Q Okay. All right. I believe you testified
8 that when Officer Mills called you from your office,
9 you said that Blythe wanted to speak with you?

10 A Yes.

11 Q And when you got to Blythe, Blythe said is
12 there anything I can do to help myself?

13 A That's correct.

14 Q And what was your response to him?

15 A That I wasn't inclined to let him help
16 himself. If he wanted to talk about it, I would
17 listen.

18 Q Okay. You told him that you were not
19 inclined to let him help himself and that if he wanted
20 to talk, you would listen?

21 A Correct.

22 Q And that's when you escorted him to the next
23 -- to another room?

24 A A couple of minutes later, yes.

25 Q When you said that to him, what did Mr.

1 Blythe say, if anything?

2 A He said he wanted to talk to me.

3 Q And you telling the court that he said to you
4 that he had just sold \$50 worth of crack to Pete
5 Bigby?

6 A That was one of the things he said.

7 Q One of the things he said, but he did say
8 that he had just sold drugs ---

9 A Yes, he did.

10 Q --- to Pete Bigby?

11 A Yes.

12 Q And you are telling the Court that Pete Bigby
13 was this informant?

14 A Yes.

15 Q From the, uh, surveillance?

16 A Correct.

17 Q All right. And you said that was one of the
18 things he told you about Pete Bigby, what else did he
19 say?

20 A He named off two or three crack dealers out
21 of Greenville that he could buy crack from.

22 Q All right. And when you were finished with
23 him, you put him in the cell and turned him over to
24 Officer Mills.

25 A Turned him back over to Officer Mills.

1 Q All right. Thank you.

2 REDIRECT EXAMINATION

3 BY MR. THEM:

4 Q Was his -- let me back up. When the
5 Defendant was in the booking room and you went in
6 there to talk to him and you had the brief
7 conversation with Officer Mills about money matching,
8 did the Defendant appear to you to be frightened at
9 that point in time?

10 A He wasn't frightened. He was upset. Not to
11 the point of crying, but just upset.

12 Q Okay. And from your point of view, all the
13 information that he was babbling out to you, was he
14 trying to offer you something in return to go easy on
15 him for what had happened earlier that day?

16 A Yes.

17 Q Now, he was not under arrest for the sale to
18 Pete Bigby that day, was he?

19 A No, sir.

20 Q The arrest warrant that was served on him was
21 a preexisting arrest warrant from an entirely
22 different set of circumstances, correct?

23 A That's correct.

24 Q Thank you very much. I have no further
25 questions.

1 THE COURT: Any other cross-examination?

2 MS. MANIGAULT: Nothing, Your Honor.

3 THE COURT: Thank you, Officer Lovell. You
4 may step down.

5 MR. THEM: I have no further witnesses at
6 this time, Your Honor. The officer -- other
7 officer worked all night. He'll be here this
8 afternoon.

9 THE COURT: Any, uh, testimony or other
10 evidence from the defense for the purpose of the
11 hearing?

12 MS. MANIGAULT: For the purpose of the
13 hearing, Your Honor, the Defendant would like to
14 testify.

15 THE COURT: All right. Come around, Mr.
16 Blythe.

17 RANDY BLYTHE

18 having first been sworn, testifies as follows:

19 THE CLERK: Thank you, sir. Have a seat.
20 State your name for the record.

21 THE WITNESS: Randy Blythe, Jr.

22 DIRECT EXAMINATION

23 BY MS. MANIGAULT:

24 Q Mr. Blythe, talking about December 10th when
25 you were arrested by Officer Mills, you remember that

1 date?

2 A Yes, ma'am. I remember.

3 Q When you got to booking in Easley, were you
4 ever placed in a cell?

5 A Yes, ma'am. I was placed in a cell. I
6 stayed there overnight. The next morning, Mr. Jason
7 Lovell, Chad Brooks, John Hamby and one or two other
8 officers pulled me out of my cell. It was someone
9 else that was arrested that night. They was my
10 roommate. They pulled me out of my cell that morning.
11 They questioned me about different deals, telling me
12 they got a warrant for me, that I done messed up and
13 asked me if I want to help myself. Then, Easley them
14 was asking me questions about different dealers,
15 asking me do I want to work to help myself. So I
16 agreed. I was like okay.

17 Jason Lovell, he had -- he agreed to give me
18 some of my money back. They had took some money from
19 out my pocket because my car had got impounded. I got
20 the receipts for where my car was impounded. It was
21 like \$120 to get the car out of pound. He gave me
22 some of the money back and gave me a cell phone number
23 and told me to get in contact with him.

24 Q With Officer Lovell?

25 A Jason Lovell.

1 Q Officer Lovell is the person who gave you the
2 money?

3 A He gave me some of the money back.

4 Q Some of the money.

5 A And there was another officer present when he
6 did it.

7 Q When you got arrested on December the 10th,
8 when you were booked, did Officer Lovell or any other
9 officer come in and show you a piece of paper with
10 serial numbers on it?

11 A No, ma'am. Jason Lovell wasn't there when I
12 got locked up. I'm not sure what's the name of the
13 officer. I was driving and I got pulled over. He
14 asked my license and registration. He said we got
15 warrants -- we got a warrant for you.

16 Q Don't tell me what he said. He pulls you
17 over and you were arrested?

18 A Yes, ma'am.

19 Q And that officer took you to Easley Police
20 Department?

21 A Easley Police Department cause I asked him
22 what I had a warrant for. He said you will be
23 notified when you get to the station. Jason Lovell or
24 any other officers, they weren't there at the time.

25 Q All right. So when you got to the station,

1 what happened to you? What did they do with you?

2 A They booked me in. And then, uh, a few more
3 officers, a few of the other state officers came.
4 They helped book me in and then they took me to the
5 cell.

6 Q Okay. And when they took you to the cell
7 right after you got to the Easley Police Department,
8 did you remain in the cell overnight or did they pull
9 you back out?

10 A Yes, ma'am. I stayed there overnight. I
11 didn't get a copy of the warrant until the next
12 morning.

13 Q Okay. So you remained in the cell overnight.
14 And you are testifying to the court today that --

15 MR. THEM: Objection, leading.

16 THE COURT: Overruled.

17 BY MS. MANIGAULT:

18 Q Your earlier testimony was that you were
19 pulled out by some officers from the cell the next
20 morning?

21 A Yes, ma'am.

22 Q And those officers were who?

23 A They was Chad Brooks, Jason Lovell, John
24 Hamby, like one or two other ones.

25 Q Were you advised of your rights?

1 A No, ma'am. They didn't read my rights. They
2 just told me -- talking about my record and that they
3 could give me a lot of time if I don't help myself.

4 MR. THEM: Your Honor, I'm going to object
5 on the grounds of relevance. He's talking about
6 a different occasion that's not relevant to what
7 we're talking about on this day at the Easley
8 Police Department.

9 THE COURT: Being the next day, is that what
10 you're talking about?

11 MR. THEM: I don't know, Your Honor. He's
12 got so many arrests in this file. It's hard to
13 keep them straight as far as what he's trying to
14 say.

15 THE COURT: I'll give you a chance to cross-
16 examine him ---

17 MR. THEM: Okay.

18 THE COURT: --- on this issue, Mr. Them.

19 BY MS. MANIGAULT:

20 Q All right. Mr. Blythe, we are dealing with
21 the December 10th arrest date, is that correct?

22 A Yes, ma'am. This happened in December. In
23 February --

24 Q Yes or no.

25 A Yes, ma'am.

1 Q Okay. Thank you. You're saying that the
2 officers did not advise you of your rights but did ask
3 you questions?

4 A Yes, ma'am.

5 Q And did you volunteer -- did you send for
6 anybody to try to help yourself?

7 A No, ma'am. They pulled me out of the cell.
8 My cell, uh, -- the person that was in the cell with
9 me, I don't know his real name. They call him --

10 THE COURT: I think they are back. (Pause.)

11 They have elected a foreperson. Go ahead,
12 Ms. Manigault.

13 MS. MANIGAULT: Thank you, Judge.

14 BY MS. MANIGAULT:

15 Q Now, you were pulled by yourself?.

16 A Yes, ma'am.

17 Q With the officers that were there?

18 A Yes, ma'am.

19 Q Where did they take you?

20 A To like a conference room or somewhere.

21 Q All right. And did you sit there
22 volunteering information without questioning?

23 A No, ma'am. They was asking me questions
24 about, just different dealers, asking do I know them,
25 asking me about a few people that smoke, do I know

1 them. I was just answering questions.

2 Q All right. Did you tell Officer Bigby that
3 you had just sold drugs on December 10th to Pete
4 Bigby?

5 A No, ma'am. That's what they was telling me
6 that they had charges for. And I was like --

7 Q They told you that they had charges for you
8 for selling drugs to Pete Bigby?

9 A Yes, ma'am, and asked me if I wanted to help
10 myself. With my record, they could give me a lot of
11 time.

12 MS. MANIGAULT: All right. Thank you.

13 THE COURT: Before you cross-examine, Mr.
14 Them, uh, I'm trying to think about our jury.
15 Y'all probably don't want to open before --

16 MR. THEM: No, sir.

17 THE COURT: Mr. Blythe, if you would, just
18 step back down to your table.

19 I think I'm going to release the jury now for
20 an extended lunch and then we'll finish this up.
21 Would you have any other witnesses, you believe?

22 MS. MANIGAULT: No, sir.

23 THE COURT: All right. We can have them
24 come back at 2:00. You'll be ready at 2:00?

25 MR. THEM: With the jury?

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1 **THE COURT:** Yeah, with the jury. We'll
2 finish that now.

3 **MR. THEM:** Yes, sir. That's correct. I
4 think two o'clock will be fine.

5 **THE COURT:** All right. Do they have a
6 foreman?

7 **THE BAILIFF:** They were wanting to know when
8 they were going to be called back in here. They
9 were getting hungry. And that's the foreperson.

10 **THE COURT:** Have them come back out right
11 now if they are ready.

12 (WHEREUPON, the jury enters at approximately
13 12:07 p.m.)

14 **THE COURT:** Mr. Foreman, Ladies and
15 Gentlemen, I apologize for keeping you waiting.
16 The legal matter that we are working on now is
17 taking longer than I anticipated. I still need
18 to work through some of those matters as far as
19 -- hopefully that will expedite the trial when we
20 start actual testimony. Rather than keeping you
21 waiting and getting toward lunchtime, I think I
22 will just let you take an early break now.
23 Normally, we break about one o'clock. We will
24 probably break then and let you have a little
25 extended lunch hour rather than staying back in

1 your jury room. If you will, be back at two
2 o'clock. We'll be ready to proceed at that time,
3 Mr. Foreman and Ladies and Gentlemen.

4 Let me remind you again, you have not heard.
5 anything about this case. It would be improper
6 for you to be discussing it with anyone or let
7 anyone discuss it with you. I don't know whether
8 you will decide to have lunch with your fellow
9 jurors or might meet with family or friends or
10 anyone else. Your family associates are
11 obviously going to be curious. They know you
12 have jury service. I suppose your employers are
13 going to know that. They are going to want to
14 know did you get picked, what's the case about
15 and things of that nature.

16 Obviously, you can let the jury, your family
17 and friends know that you have been selected to
18 serve on this jury. Beyond telling them that it
19 involves a drug case, you should not be
20 discussing anything about the case. You don't
21 know anything about to discuss now. But even
22 this evening, you should not be discussing it
23 with anyone. There will be opportunities when
24 this case is concluded for you to share your
25 experiences with family and friends and loved

1 ones, but while the case is going on is not the
2 time to do that. You've made a high commitment to
3 both parties to decide the case on the law and
4 the evidence and that alone and not any
5 extraneous matters.

6 I mentioned to you earlier, or before, that I
7 would not expect anything like this to happen.
8 But if someone were to approach you while you
9 were out at lunch and wanted to share information
10 with you or ask you questions about this
11 particular case, you let them know that you can't
12 talk about the case. You've been instructed not
13 to talk about the case even with them.

14 If an individual were to persist in wanting
15 to share information and inquire of you, then
16 please excuse yourself as soon as you can and if
17 possible get the name of that individual and
18 report it back to me. I will certainly take care
19 of that matter. I would not anticipate anything
20 like that happening. But I want you to be
21 conscious while you are out and about of the
22 process that we are now involved in with the
23 trial of this case. You should not have anyone
24 express any influence to you by any means
25 whatsoever.

1 Our Chief Justice in Columbia has issued an
2 order which we are instructed to give to all the
3 jurors, not only what I've just stated to you
4 about discussing the case, but I want you to know
5 how improper it would be for you to do any kind
6 of independent research. Sometimes we're curious
7 by nature and we are in a highly technological
8 age now where you may want to go to the library
9 or check something out or get on the internet and
10 examine something, as the trial progresses, words
11 or whatever, that would be highly improper and
12 against my instructions to you and it would be
13 against the order of the Chief Justice.

14 Once you are selected as a juror, you are not
15 to do any kind of independent research whatsoever
16 about this matter or anything related to the
17 matter. Again, don't do that on your own. Don't
18 let anyone do it for you. And don't let anyone
19 discuss the case with you.

20 With that in mind, we'll see you back at two
21 o'clock. We'll be ready at that time for the
22 opening statements of the attorneys. You are
23 dismissed at this time, Ladies and Gentlemen.

24 (WHEREUPON, the jury exits at approximately
25 12:12 p.m.)

1 **THE BAILIFF:** The door is closed.

2 **THE COURT:** All right, Mr. Blythe. If you
3 would, come back around and resume the witness
4 chair please. I'll remind you you are still
5 under oath.

6 Mr. Them, you may -- you have any other
7 questions you want to ask?

8 **MS. MANIGAULT:** No, sir.

9 **THE COURT:** Okay. You may cross-examine the
10 witness, Mr. Them.

11 **MR. THEM:** I've got somebody running
12 downstairs to get the other files I have on him,
13 Your Honor. I can get started but I got -- I may
14 run out of questions before those files get here.

15 **THE COURT:** Go ahead and get started.

16 **MR. THEM:** Okay.

17 **CROSS-EXAMINATION**

18 **BY MR. THEM:**

19 **Q** Now, you been arrested a bunch of times by
20 the Easley Police Department and the Sheriff's Office,
21 haven't you?

22 **A** Four times.

23 **Q** Four times. You got four active cases out
24 there right now, don't you? Four active warrants
25 floating around that --

1 **MS. MANIGAULT:** Your Honor, I'm going to
2 object to relevance.

3 **THE COURT:** What's the relevance of this?

4 **MR. THEM:** The relevancy, Your Honor, is he
5 is mixing and matching all of these cases and
6 trying to put them into this one. And I'm just
7 trying to get him to confirm that they are out
8 there, then I will pick them one at a time about
9 who was involved in them and who wasn't involved
10 in them.

11 **THE COURT:** All right, sir. Briefly, I will
12 allow you.

13 **BY MR. THEM:**

14 **Q** Is that correct?

15 **A** Uh, we have one who you indicted me on some
16 other charge. We got the one where I was riding in
17 the car and they found some marked money in somebody
18 else's car.

19 **Q** You have the trafficking charge, don't you?

20 **A** Uh, yes, but it wasn't my vehicle.

21 **Q** I'm not asking you that. You have a
22 trafficking charge?

23 **A** Yes, sir. But it wasn't --

24 **Q** Was with the Sheriff's Department, wasn't it?

25 **A** No, sir.

1 Q Yes or no.

2 A No, sir. That's, uh, in Easley when I was
3 riding with somebody. Wasn't no drugs found in the
4 car but they found some money in Easley, Jason Lovell.

5 Q Who made the trafficking charge against you?

6 A Uh, Jason Lovell.

7 Q Okay. You talked about --

8 A That was August.

9 Q What?

10 A August of last year.

11 Q You got to speak up.

12 A That was August of last year.

13 Q That was what?

14 THE COURT: August of last year.

15 BY MR. THEM:

16 Q Oh, okay. Now, I'm not sure I understand
17 what you're saying about Jason Lovell gave you some
18 money back.

19 A Oh, yes, sir.

20 Q When did he give you the money back? Was it
21 in this case or one of those others?

22 A No, this particular case.

23 Q Okay. He gave it to you when?

24 A The next morning when they let me go. He
25 gave me some money. He said go get your car out the

1 impound.

2 Q Okay.

3 A Because on this particular arrest, they just
4 -- when they pulled me in the room, they were telling
5 me about my record, asking me if I wanted to help
6 myself, asking me about different dealings. And I
7 agreed. I said okay, I'll --

8 Q Sir, you are not responding to my questions.
9 You are going way out there far.

10 A They just --

11 Q How about just try to answer what I ask you
12 would you please?

13 A Yes, sir. They gave me some money back, let
14 me get my car and let me go.

15 Q What day did they give you the money back in
16 relation to when you were arrested on December the
17 10th?

18 A December the 11th.

19 Q December the 11th. Okay. How much money did
20 they give you?

21 A Uh, like 200-and-something dollars.

22 Q Did they ask you to sign for it?

23 A I can't -- I don't think. He just gave it to
24 me. I didn't sign no paperwork or nothing.

25 Q Was this the money they seized from you when

1 they arrested you?

2 A It's the money they took out of my pockets.

3 Q Okay. But they kept the money they took out
4 of the visor, didn't they?

5 A I don't remember.

6 Q They kept some of the money, didn't they?

7 A I don't know how much money I had. They just
8 gave me 200-and-something --

9 Q I'm not asking for how much. Simple
10 question. Did they not keep some of the money that
11 they took from you or your car?

12 A I'm not sure because I don't know how much
13 money I had.

14 THE COURT: Hang on just a minute, Mr.
15 Blythe. The Court Reporter can't record two
16 people talking at one time. So let him finish
17 his question and you answer it. I'm going to
18 make sure you get to give your answer before he
19 starts asking another question. Okay?

20 THE WITNESS: Yes, sir.

21 THE COURT: She can't pick up both voices.

22 THE WITNESS: Yes, sir.

23 THE COURT: That makes it hard for the Court
24 Reporter. Just make sure he finishes his
25 question before you answer.

1 **THE WITNESS:** Yes, sir.

2 **THE COURT:** I'll tell him the same thing.

3 **BY MR. THEM:**

4 **Q** You saw the money spread out on the counter
5 on December the 10th when you were arrested, didn't
6 you?

7 **A** By the officer that pulled me over, he took
8 my money.

9 **Q** Sir, I'm not asking you that. Please answer
10 the question I ask. Simple yes or no. Then you can
11 explain. Did you see the money on the counter when
12 you were being booked?

13 **A** When Jason Lovell was present? No.

14 **Q** When you were being booked, did you see the
15 money on the counter?

16 **A** No, sir.

17 **Q** What about the money you say they took from
18 you, where was that money?

19 **A** When I got pulled over in the car, the
20 officer that pulled me over, I'm not sure who he was,
21 he took, uh, my money and stuff from me.

22 **Q** And you don't have any idea how much money
23 you had?

24 **A** No, sir.

25 **Q** Can you estimate how much money? Did you

1 have like 50 bucks or 100 bucks or 250, \$10? Any idea
2 how much you had?

3 A Uh, it probably was -- I don't know.

4 Q Probably was I don't know?

5 A I mean, I can't remember.

6 Q Okay. Now, were there other monies that they
7 had that they showed you? The drug money? The sale
8 from the drug money to Pete Bigby? Did they show you
9 that money?

10 A No, sir. They didn't show me.

11 Q You remember the conversation with Jason
12 Lovell and the other police officer about the money
13 matches or the numbers match? Do you remember that?

14 A No, sir.

15 Q Okay. Now, this conference room -- let me
16 back up. You say they arrested you. They kept you in
17 jail overnight. Chad Brooks and J.C. Hamby and other
18 people came and got you out of a jail cell and took
19 you downstairs to some conference room, right?

20 A We didn't go downstairs or nothing. It was
21 all a one level floor.

22 Q Okay.

23 A We just went in the office or something.

24 Q Is this the conference room up by the front
25 door that you are talking about?

1 A I know you go through the magistrate's
2 office.

3 Q Do what?

4 A You go through the magistrate's office.

5 Q This is the magistrate's office over at the
6 LEC you are talking about, right?

7 A Easley Detention Center.

8 Q Huh?

9 A Easley police station.

10 Q How big was this conference room you are
11 talking about?

12 A It was a pretty big one.

13 Q Well, describe it in terms of this big or was
14 it as big as from the bar back, the whole room?

15 A About the width of the jury stand from that
16 wall to the door and about from that wall to about
17 right there.

18 Q I realize you are not guaranteeing this, but
19 would you say that's probably the better part of 20
20 feet there on the back side against the wall where the
21 jury is? About 20 feet?

22 A Yes, sir.

23 Q And would you say over here is probably 16 to
24 18 feet?

25 A Well --

1 Q I'm not asking you to exactly say it, but is
2 it about 16 by 18?

3 A Yes, sir.

4 Q Where is this in relation to the jail cell
5 that you say you were in?

6 A I don't know. The jail cell was way in the
7 back.

8 Q You sure know the Easley Police Department
9 inside and out as many times as you been in there,
10 don't you?

11 A No, sir. Actually, I only been in there
12 twice.

13 Q Twice?

14 A Yes.

15 Q And you say Chad Brooks was there when they
16 got you out of the cell and took you and then talked
17 to you?

18 A Yes, sir.

19 Q You're absolutely positive?

20 A I'm positive.

21 Q That's the only time you ever talked to Jason
22 Lovell, is that correct?

23 A Yes, sir.

24 Q So who else did you say was in there, J.C.
25 Hamby?

1 A Yes, ma'am. Yes, sir.

2 Q Was this the day where they took \$248 from
3 you in forfeiture and a Cadillac on forfeiture?

4 A Yes, sir.

5 Q Speak up please.

6 A Yes, sir.

7 Q So the day that they came down and got you
8 out of the jail cell and brought you down there and
9 talked to you was the same day that they got you to
10 consent to give up your Cadillac and give up that
11 money, is that right? That's what you just said, is
12 that correct?

13 A No, it was two different dates.

14 Q Okay.

15 A About my Cadillac.

16 Q Okay. How many times did you give up your
17 Cadillac to the state or city or whatever?

18 A They said forensics had it. In December, it
19 just got towed to the impound.

20 Q Uh-huh. But the day you say that Jason
21 Lovell talked to you ---

22 A Yes, sir.

23 Q --- was the same day that you had to give up
24 the Cadillac and the money, right? Is that correct?
25 You just said it was. Are you changing that now?

1 A No, I didn't say that.

2 Q Would you like for me to get the Court
3 Reporter to play back what you said?

4 MS. MANIGAULT: Your Honor, we object.

5 THE COURT: I sustain the objection. Ask a
6 question.

7 BY MR. THEM:

8 Q The day you gave up your Cadillac and signed
9 the papers, the day you gave up your \$248, you gave up
10 that money, was that the day that you say was the only
11 time you ever spoke to Jason Lovell?

12 A The day Jason Lovell gave me the money back
13 is the only -- December the 11th is the only time I
14 ever talked to Jason Lovell.

15 Q Okay. So did you talk to anybody else that
16 day?

17 A Uh, just the people that was in there, Chad
18 Brooks, John Hamby, Jason Lovell, and once again, one
19 or two others.

20 Q Okay.

21 A There's no record of me being bonded out on
22 December 11th. I went through no bondsman. They just
23 let me go free. My mom came to the jail and picked me
24 up.

25 Q Just one second please. (Pause.)

1 What you're saying is that the magistrate let
2 you out on a personal recognizance bond, right?

3 A Uh, I'm not sure. I know I didn't have to
4 pay no money. They just let me out.

5 Q That's your signature, sir?

6 A Yes, sir.

7 Q Is that the judge's signature down there?

8 A Yes, sir.

9 Q The magistrate, she let you out on a personal
10 recognizance bond, didn't she?

11 A Oh, okay. Yes, sir.

12 Q Huh?

13 A Yes, sir.

14 Q Okay. And this would have been on the 11th,
15 correct?

16 A Yes, sir.

17 Q Is that right?

18 A Yes, sir.

19 Q Okay. You say that's the day that Chad
20 Brooks and everybody was talking to you down there?

21 A Yes, sir.

22 Q Okay. You sure of that?

23 A Yes, sir. That's when they gave me the money
24 to get my car back.

25 Q Okay. All right. Now, 1996, do you remember

1 that?

2 A Yes, sir.

3 Q You remember going over to Greenville
4 appearing in front of Judge Eppes? I'm sorry. It was
5 over here.

6 A It was in Pickens.

7 Q Huh?

8 A In Pickens.

9 Q Is when you pled guilty to all those drug
10 cases?

11 A Yes, sir.

12 **MS. MANIGAULT:** Your Honor, I object to
13 relevance here.

14 **MR. THEM:** I'm entitled to attack his
15 credibility by a record. I'm in the process of
16 doing it. I have certified copies in my hand.

17 **THE COURT:** Briefly.

18 **MR. THEM:** Okay.

19 **BY MR. THEM:**

20 Q In 1996, you pled guilty to four or five
21 counts of selling drugs and two or three counts of
22 proximity, correct?

23 A Yes, sir.

24 Q And you were given five years probation,
25 correct?

1 A No, sir. 15 years.

2 Q Did you actually serve the time?

3 A Yes, sir.

4 Q How much of it did you serve?

5 A All of it.

6 Q All 15?

7 A No, ma'am. Uh, eight years.

8 Q Eight years. So that would be '96 plus eight
9 would be 2006 you got out of prison, right?

10 A Yes, sir. I came home November.

11 Q Okay. So these charges arose four years
12 later, correct?

13 A Yes, sir.

14 Q Okay.

15 MR. THEM: Your Honor, I'm waiting on Chad
16 Brooks. He's on the way, Your Honor. I can -- I
17 have no further questions of this witness at this
18 time, Your Honor.

19 THE COURT: Any redirect?

20 MS. MANIGAULT: No redirect, Your Honor.
21 We'll just call one other witness.

22 THE COURT: All right. You may step down.

23 MS. MANIGAULT: For the purpose of this
24 hearing.

25 THE COURT: Yeah, for this hearing only.

1 MS. MANIGAULT: We call Ms. Ann Blythe.

2 ANN BLYTHE

3 having first been sworn, testifies as follows:

4 THE CLERK: Thank you, ma'am. If you would,
5 have a seat and state your name for the record
6 please.

7 THE WITNESS: My name is Ann Blythe.

8 DIRECT EXAMINATION

9 BY MS. MANIGAULT:

10 Q And your address, Ms. Blythe.

11 A My address?

12 Q Yes, ma'am.

13 A [REDACTED] Drive, Pickens, South Carolina.

14 Q Are you related to Randy Blythe?

15 A Yes, I'm his mother.

16 Q Referring to December 10th and December 11th
17 of 2008, were you aware of Randy's arrests?

18 A Yes, I received a telephone call from someone
19 who -- I think he called his brother and they called
20 me to let me know.

21 Q All right. And did you try to find him at
22 the Easley Police Department?

23 A Yes, we did.

24 Q Were you able to locate him on December 10th?

25 A We found where he was at. I called to find

1 out what the charges was and what he was arrested for.
2 At that time, nobody knew anything. So my husband, he
3 even attempted to. We couldn't get any information.
4 Then, finally, later on that night, someone told me
5 one thing. Then the next morning when I called, it
6 was something else. Then a third person say they had
7 no idea what it was. And before I knew anything, he
8 was calling me to pick him up.

9 Q This was December 11th?

10 A Yes, ma'am.

11 Q Did you have to pay a bondsman? Did you
12 arrange for a bondsman?

13 A He didn't need one. That was the question I
14 asked. I said how did you get out. He said, momma,
15 they let me out.

16 Q And, uh, did he have his car?

17 A Yes, we had went and picked it up.

18 Q Did he have to pay money to get his car?

19 A Yeah, we had to get it out of the, uh, --

20 Q The impound?

21 A They had impounded it.

22 Q Thank you.

23 CROSS-EXAMINATION

24 BY MR. THEM:

25 Q How much did you have to pay to get the car

1 out?

2 A It was \$125. That's what I put.

3 MR. THEM: I have no questions of this
4 witness, Your Honor.

5 THE COURT: Thank you. You may step down,
6 Ms. Blythe.

7 Any other defense witnesses?

8 MS. MANIGAULT: None, Your Honor. Sorry.

9 THE COURT: Anything in reply?

10 MR. THEM: Yes, sir.

11 Have a seat up there.

12 JONATHAN HAMBY

13 having first been sworn, testifies as follows:

14 THE CLERK: Thank you, sir. If you would,
15 have a seat and state your name for the record.

16 THE WITNESS: Jonathan Hamby.

17 DIRECT EXAMINATION

18 BY MR. THEM:

19 Q Where are you employed?

20 A Easley Police Department.

21 Q The narcotics section?

22 A I am.

23 Q How long have you been doing narcotics?

24 A Narcotics, a little over three, three and a
25 half years now.

1 Q Okay. Were you doing that in December 10th
2 of 2008?

3 A In December of '08, I was assigned to that
4 unit. However, I was out on medical leave at that
5 time.

6 Q What did you have done that caused you to be
7 out on medical leave?

8 A I had back surgery done.

9 Q Okay. Did you work at all in the month of
10 December?

11 A No, I was out from September until January.

12 Q Okay. Did you have any involvement
13 whatsoever in the sting operation of December 8th of
14 2000 -- wait. Let me get my date -- December 10th of
15 2008?

16 A No.

17 Q You didn't go down to the station or anything
18 during that time, did you?

19 A No, I didn't return to work until the first
20 full week of 2009.

21 Q Okay. All right. At some later point in
22 time, were you involved in another arrest of the
23 Defendant?

24 A I was involved in a deal we set up involving
25 SLED at a later date.

1 Q Okay. All right. And was Chad Brooks of the
2 Sheriff's Department involved?

3 A To be honest with you, I'm not sure who was
4 involved at that time.

5 Q Okay. Did you participate -- let me back up.
6 Other than that situation with SLED you just told us
7 about, have you ever been involved in any other
8 arrests with Mr. Blythe?

9 A No.

10 Q Did you have any part in the interrogating of
11 Mr. Blythe after that arrest you just told us about
12 involving SLED?

13 A No.

14 Q Have you ever interrogated Mr. Blythe?

15 A No.

16 MR. THEM: Thank you very much. I have no
17 further questions.

18 MS. MANIGAULT: I have no questions, Your
19 Honor.

20 THE COURT: Thank you. Officer Hamby, you
21 may step down.

22 MR. THEM: Call Detective Lovell back to the
23 stand, Your Honor.

24 THE COURT: You are still under oath.

25 JASON LOVELL

1 having previously been sworn, testifies as
2 follows:

3 **DIRECT EXAMINATION**

4 **BY MR. THEM:**

5 Q The Defendant testified that on the morning
6 of the 11th after he was arrested on the 10th, he was
7 released and that you gave him a bunch of money. Did
8 you?

9 A Not a bunch of money. I did give him some
10 money.

11 Q How much money did you give him?

12 A A 20-dollar bill.

13 Q What was that for?

14 A It was to help cover some of his tow bill.
15 Some of his family didn't have quite enough money to
16 cover the tow bill.

17 Q Did he lead you to believe that with that 20-
18 dollar bill he could pay for the tow?

19 A Yes.

20 Q Okay. So you paid the last \$20?

21 A Yes.

22 Q No more than 20?

23 A No more than 20. That's documented in my
24 report.

25 Q And it's written in your report and that

1 report is signed by you and dated when?

2 A December 10th, 2008.

3 Q So he was allowed to -- did the police seize
4 the car or was it just towed because it was abandoned
5 after he was arrested?

6 A It was just towed because he was arrested.

7 Q The police had nothing to do with the, quote,
8 seizure of the car?

9 A No, sir.

10 Q Okay. And did you ever participate in a
11 questioning session with the Defendant on the 10th or
12 11th of December of that year or thereabouts that
13 involved Chad Brooks and John Hamby and a whole bunch
14 of people like that?

15 A No, sir. Not on this date.

16 Q Okay. At some other point in time, did you
17 participate in that?

18 A Yes.

19 Q And when was that?

20 A It was at a later date when he was arrested
21 by SLED investigation.

22 Q And when was that approximately?

23 A It was after the beginning of the year.

24 Q Okay.

25 MR. THEM: Excuse me, Your Honor. I'm

1 getting them to check to see if Chad Brooks is
2 here. We've spoken to him. He's en route.

3 BY MR. THEM:

4 Q Having heard the Defendant's description of
5 being let out of the jail cell and taken into a big
6 conference room roughly the size of the jury box,
7 which would be 20 wide by about 16 feet deep, do you
8 have any idea where he's talking about at the Easley
9 Police Department?

10 A No, sir. Our interview rooms are maybe eight
11 by eight at the largest.

12 Q Okay. Y'all do have a monstrous kind of
13 classroom sort of place, don't you?

14 A Correct.

15 Q And how would that room equate to the
16 approximate size of this entire courtroom?

17 A It's close to the size of this courtroom.

18 Q Okay. You can't think of any --
19 approximately any 16 by 20 conference room or
20 interview room or anything at the -- make it an
21 interview room at the police station?

22 A No, sir.

23 Q There is some sense of a big conference room
24 up front where the --

25 A Where Administration uses.

1 Q Okay. Y'all ever use that to interview
2 prisoners?

3 A We have.

4 Q Did you use it to interview this prisoner?

5 A No, sir.

6 Q Okay.

7 MR. THEM: Just one second please, Your
8 Honor. (Pause.) I have no further questions of
9 this witness, Your Honor.

10 THE COURT: Any cross-examination?

11 CROSS-EXAMINATION

12 BY MS. MANIGAULT:

13 Q The, uh, -- is there any room at the Easley
14 Police Department that is the size that he described?
15 I think he said 16 by 20.

16 A There is an administrative conference room at
17 the Police Department near the major's office.

18 Q Is there anyone with a big conference table
19 in there?

20 A That room has a big conference table. That's
21 the room that we let in to listen to the tapes.

22 Q All right. You earlier testified that you
23 didn't give Randy any money, but you now say you gave
24 him some money? \$20.

25 A No, ma'am. I said the night of his arrest he

1 wouldn't have been given anything back. If anything
2 would have been given back, it would have been the
3 next day at his release.

4 Q That's your testimony at this point that it
5 was given to him as he was released?

6 A Yes. Looking back in my report, he signed
7 over \$248, I believe. I've got a document in my
8 report that \$198 were to be turned over to Major
9 Thomason and \$20 were turned back over to Mr. Blythe
10 to help with his tow bill. That would have been on
11 the 11th.

12 Q So the consent for forfeiture that states
13 \$248 was taken, was turned over by Mr. Blythe is
14 correct?

15 A Correct.

16 Q And the \$198 -- the 190--

17 A Hundred and -- \$198 was turned over to
18 Thomason.

19 Q Yeah.

20 A The documented money that I had was placed
21 back into my safe, the buy money that was recovered
22 from Mr. Blythe.

23 Q On the court papers, the consent for
24 forfeiture, does it show the \$20 was given to him?

25 A On that, he signed the whole amount over.

1 Q Okay.

2 A I'm not sure. It's not going to break it
3 down separate on the report, consent forfeiture. He
4 signed it all over. He was given the \$20.

5 Q Is there any documentation that shows Mr.
6 Blythe signed for the \$20?

7 A That he signed for it? No, ma'am.

8 Q There's no documentation that he signed for
9 any monies given back by the Police Department,
10 correct?

11 A Given?

12 Q Back.

13 A I have called and requested a booking report.
14 We've not got that in yet. I'm not sure about that.

15 Q Okay. All right. Did you have any, uh, --
16 did you arrange for Mr. Blythe to be released on
17 personal recognizance bond on December the 11th of
18 2008?

19 A No, that would have been up to a judge.

20 THE COURT: Any more questions from the
21 State?

22 MR. THEM: Nothing further.

23 THE COURT: All right. Thank you, Officer
24 Lovell, you may step down.

25 MR. THEM: Your Honor, I'm informed that Mr.

1 Brooks didn't feel he was suitably -- Lieutenant
2 Brooks didn't feel he was suitably attired when
3 he got the call to come here. He didn't
4 understand that he was testifying in an in camera
5 hearing so he ran home to change. He lives right
6 by the golf course and hopefully he is en route
7 here now.

8 THE COURT: Let's take a lunch break and we
9 will start back at a quarter til. I will hear
10 his brief testimony at that time.

11 MR. THEM: All he's going to testify to is
12 whether or not he was at the meeting as the
13 Defendant said.

14 THE COURT: All right. We'll be at ease
15 until, uh, 1:45. We'll be ready to start back.

16 (WHEREUPON, a lunch recess is taken from
17 approximately 12:46 p.m. to 1:50 p.m.)

18 CHAD BROOKS

19 having first been sworn, testifies as follows:

20 THE CLERK: Thank you, sir. If you would, be
21 seated and state your name.

22 THE WITNESS: Marchum Chad Brooks.

23 DIRECT EXAMINATION

24 BY MR. THEM:

25 Q Lieutenant Brooks, you're employed by the

1 Pickens County Sheriff's Department?

2 A Yes, I am.

3 Q And you are in charge of the Special
4 Operations Division?

5 A Yes, sir. That's correct.

6 Q Does that also include narcotics?

7 A Yes, sir. It does.

8 Q Okay. Let me call your attention to December
9 the 8th of 2008. Were you involved tangentially in an
10 operation with the Easley Police Department involving
11 one Randy Blythe?

12 A Yes, sir. I was. I think that -- was it the
13 8th or the 10th?

14 Q December 10th, 2008.

15 A Yes, sir.

16 Q Okay. Very briefly, what part did you play
17 in that or your agency for that matter?

18 A Basically, we were just assisting Easley P.D.
19 as additional surveillance.

20 Q Were you in the van that was handling the
21 taping, videotaping of the transaction?

22 A Yes, sir. I was.

23 Q Okay. And after the transaction was
24 completed and the informant had returned back to the
25 van, what, if any, role did you play that day?

1 A Uh, nothing further than that.

2 Q Did you have the occasion to interview the
3 Defendant the next day or so?

4 A No, sir.

5 Q Did you know the Defendant?

6 A Yes, sir.

7 Q Okay. At some later point in time, well, let
8 me back up. On December the 10th, were you aware that
9 after that transaction took place, he was going to be
10 arrested on a different warrant for a pre-existing
11 problem?

12 A Yes, I was.

13 Q Okay. At some later point in time, was the
14 December the 10th event the subject of a warrant?

15 A Yes, sir, it was.

16 Q Let me show you the two warrants in this case
17 and ask if you would tell me what day the warrants
18 were issued by the magistrate?

19 A They were issued on January the 16th of 2009.

20 Q And do they show what day the Defendant was
21 arrested?

22 A Yes, sir. They do.

23 Q And what date is that?

24 A The arrest date was February the 10th of
25 2009.

1 Q Okay. From December the 10th of 2008 until
2 February the 10th of 2009, did you ever interview the
3 Defendant?

4 A No, sir.

5 Q Prior to -- did you interview him some time
6 shortly after he was arrested on 2/10/09?

7 A Yes, sir. I did.

8 Q Prior to that time, had you ever interviewed
9 the Defendant?

10 A I don't recall specifically. It's possible
11 that I could have because I was involved with some
12 cases where he was investigated and arrested in the
13 early '90s.

14 Q Okay.

15 A Early 1990s. I could have interviewed him at
16 that point in time. But in the past three, four, five
17 years, I had not talked to him until after his arrest
18 in February of '09.

19 Q Okay. Now, when you interviewed him, where
20 did you interview him?

21 A At the Easley Police Department.

22 Q Where at the Easley Police Department?

23 A In their main conference room.

24 Q Okay. That room where the interview took
25 place has generally been described as roughly the size

1 of the jury box extending out to about right here, the
2 edge of the desk where the Court Reporter sits. Is
3 that the approximate or the general size of that room?

4 A That's fairly close.

5 Q Okay. And who was in that room when you
6 interviewed the Defendant?

7 A I remember myself and agent Tommy
8 Blankenship, but I don't recall anybody else.

9 Q Okay. Did you mirandize the Defendant?

10 A Myself or Agent Blankenship, one did.

11 Q Okay.

12 A I remember him being mirandized.

13 Q All right. And did the Defendant make any
14 statement to you at that point in time?

15 A We talked briefly but nothing of any
16 importance, no, sir.

17 Q Did the Defendant ever say anything about
18 Pete Bigby at that meeting?

19 A No, sir.

20 Q Okay. Was Jason Lovell at that meeting?

21 A I don't recall him being there, no, sir.

22 Q Okay. So are you absolutely certain you
23 didn't interview him around December the 10th?

24 A Yes, sir.

25 Q Okay. Thank you very much. I have no

1 further questions.

2 A Yes, sir.

3 THE COURT: Ms. Manigault, you may cross-
4 examine the witness.

5 MS. MANIGAULT: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MS. MANIGAULT:

8 Q Officer Brooks, uh, did you go to the Easley
9 Police Department on December the 10th or 11th after
10 Randy Blythe was arrested?

11 A Uh, if I did, it was just to pick my vehicle
12 up and go. I didn't enter the building after that
13 deal because we had some other things going on I had
14 to leave for.

15 Q Okay. So after you left the van and went to
16 the Easley Police Department parking lot, you left?

17 A That's correct.

18 Q So you had no dealings or talking with the
19 Defendant on the 10th or the 11th of December, 2008?

20 A No, ma'am. I did not.

21 Q All right. Now, the conversation you
22 described in the main conference room, what day was
23 that?

24 A That was on February, it was either the 10th
25 or 11th of 2009.

1 Q Okay.

2 A He was arrested on, I believe, February the
3 10th of 2009. I'm not sure if I talked to him that
4 afternoon or the next morning. But he was still in
5 custody at the Easley Police Department.

6 MS. MANIGAULT: Beg the Court's indulgence.

7 (Pause.)

8 BY MS. MANIGAULT:

9 Q I believe you testified, uh, that the
10 warrants were signed by the magistrate on February
11 10th for December 10th, 2008.

12 A I think it was January 16th of '09 that they
13 were signed for the February, for the December 10th
14 transaction.

15 Q Okay. Do you know when they were served on
16 the Defendant?

17 A February 10th of 2009.

18 Q Are you aware or do you have any knowledge of
19 the December 10th date, whether the warrants were
20 served on him at that time for the December 10th date?

21 A Uh, I'm -- No, ma'am, because the December 10
22 warrant wasn't even signed until January of '09.

23 Q Thank you.

24 A Yes, ma'am.

25 MR. THEM: Nothing further from this

Remarks

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1 witness, Your Honor.

2 THE COURT: For my clarification of this
3 hearing, what was the arrest warrant served on
4 December the 10th, what was the date of that
5 offense and what was that offense? Was it a
6 traffic stop? What was going on on December the
7 10th?

8 MR. THEM: It was part of an operation, Your
9 Honor. They already had a warrant on the drug
10 charge.

11 THE COURT: Drug charge. Okay. Prior drug
12 charge?

13 MR. THEM: Prior drug charge.

14 THE COURT: How long prior? I can totally
15 understand the confusion here. A lot's happened
16 in December, January and February. Okay. That
17 year? It wasn't five years old.

18 All right. Thank you, officer. You may step
19 down.

20 THE WITNESS: Yes, sir.

21 MR. THEM: Your Honor, I need to recall
22 Lieutenant. Uh, he testified to something that
23 upon further study he is now satisfied was
24 incorrect and we would like to clean up that
25 problem. Lieutenant Lovell. It will be very

1 brief.

2 **THE COURT:** All right. Brief. You are
3 under oath still, Mr. Lovell.

4 **JASON LOVELL**

5 having previously been sworn, testifies as
6 follows:

7 **DIRECT EXAMINATION**

8 **BY MR. THEM:**

9 **Q** When you testified earlier this morning, you
10 were looking at a report, is that correct?

11 **A** That's correct.

12 **Q** And from that report, did you make a decision
13 about some numbers and what you meant in that report?

14 **A** Yes, sir.

15 **Q** Would you read to me exactly the seven or
16 eight words that led you to believe that you gave the
17 Defendant back \$20 the day he got out of jail.

18 **A** Yes, the sentences -- Mr. Blythe was allowed
19 to keep one \$20 to cover his tow bill.

20 **Q** And that's an exact quote?

21 **A** Yes, sir.

22 **Q** Okay. Put that down if you would. Now, have
23 you had the opportunity to get faxed to you a copy of
24 the inmate property report involved in this particular
25 arrest on December the 10th for the preexisting

1 warrant?

2 A Yes, sir.

3 Q And does that indicate how much money was
4 taken from the Defendant?

5 A Yes, \$368.

6 Q And when you look at the consent forfeiture
7 dated 1/15/09, does that indicate how much money was
8 taken from the Defendant in that consent forfeiture?

9 A Yes, sir, \$248.

10 Q And the difference between the two of them
11 was?

12 A \$120.

13 Q Upon further reflection, would you like to
14 change or amend what you said this morning about
15 whether or not he was given \$120 or \$20?

16 A Yes, it's obvious, looking at all the
17 paperwork, that I allowed him to keep \$120.

18 Q Were you aware that was going to be an issue
19 this morning?

20 A No, sir.

21 Q Did you kind of just give that testimony on
22 the fly from looking at the documents quickly?

23 A That's correct.

24 Q Okay.

25 MR. THEM: Your Honor, I would like to make

1 the two documents he was just talking about part
2 of the record as Court's exhibits. We'll ask.
3 that both of these be marked as Court's exhibits,
4 Your Honor. On the consent forfeiture document,
5 I believe counsel has no objection to that, is
6 that correct?

7 **MS. MANIGAULT:** That's correct.

8 **MR. THEM:** I believe she does have an
9 objection to the inmate property report.

10 **THE COURT:** For the purpose of his hearing,
11 you object to that as well?

12 **MS. MANIGAULT:** Yes, sir.

13 **THE COURT:** All right. What is your
14 objection?

15 **MS. MANIGAULT:** Your Honor, it says Inmate
16 Property Report and some other writing on the
17 bottom of it that has nothing to do with what has
18 been testified to. I don't know who wrote the
19 368, when it was written. I don't know that it
20 is an official record with the additions and
21 handwritten notes.

22 **THE COURT:** All right. Is your offer of
23 this Exhibit only for the purpose of this
24 hearing?

25 **MR. THEM:** Oh, yes, sir.

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1 **THE COURT:** All right. I'll allow it for
2 the purpose of this hearing only.

3 **MS. MANIGAULT:** Thank you, Your Honor.

4 (WHEREUPON, Court's Exhibits 1 and 2 are marked
5 for identification purposes.)

6 **MR. THEM:** With that, I have no further
7 questions of this witness.

8 **THE COURT:** Any cross-examination of this
9 witness, Ms. Manigault?

10 **MS. MANIGAULT:** None, Your Honor.

11 **THE COURT:** All right. You may step down,
12 Officer Lovell.

13 **THE WITNESS:** Thank you.

14 **MR. THEM:** You want any argument; Your
15 Honor?

16 **THE COURT:** Briefly.

17 **MR. THEM:** Your Honor --

18 **THE COURT:** Well, what's the basis of the --
19 let me make sure what we're arguing now. The
20 State's wanting to get into evidence the
21 statement from the Defendant that he, uh, made a
22 sale to Pete Bigby?

23 **MR. THEM:** Yes, sir. That's all I'm looking
24 for out of this whole deal.

25 **THE COURT:** Ms. Manigault, why do you feel

1 that's not a voluntary statement?

2 **MS. MANIGAULT:** Your Honor, in light of the
3 Defendant's testimony, it's different from the
4 officer's testimony. The officer testified they
5 talked to him on the 10th, that he sent for them.
6 The Defendant testified that he talked to the
7 officers on December the 11th of 2008 and they
8 pulled him out of the cell. There were several
9 officers asking questions about -- in random
10 order. That is the basis of my objection.

11 **THE COURT:** Three or four of them?

12 **MS. MANIGAULT:** Yes, sir.

13 **THE COURT:** So really, we have a factual
14 dispute as to what happened on the 10th or the
15 11th?

16 **MS. MANIGAULT:** Yes, sir.

17 **THE COURT:** Clearly, if they were
18 interrogating him, it would not be admissible.
19 You'd agree to that, Solicitor?

20 **MR. THEM:** Agreed.

21 **THE COURT:** All right.

22 **MR. THEM:** Your Honor, we take the position
23 that he initiated this conversation. That's why
24 it was not mirandized. He wasn't being
25 interrogated. He's trying to cut a deal because

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1 he knows he's in trouble. He's just blathering
2 out all kinds of stuff. The only part that's
3 relevant to what we're doing now was he wanted to
4 turn in Pete Bigby that he had just sold some
5 crack to that the marked money had come from.

6 Now, his testimony about all these officers
7 coming and getting him in there and all this sort
8 of stuff is just simply incredible given his
9 record for truth and honesty as opposed to his
10 criminal record. These officers, these officers
11 have tried to reconstruct things that weren't
12 really important at the time as far as who was
13 present and who was doing what because it was
14 just a chance encounter. The Defendant said I
15 want to talk to you about this. I want to do a
16 deal and la-da-da-da-da.

17 He is not telling -- the Defendant is not
18 telling the truth according to these officers
19 about who was present. Chad Brooks said he
20 wasn't there and didn't talk to him until a month
21 or so later. The other person that he said was
22 there, John Hamby, was out on medical leave. The
23 Defendant either intentionally or accidentally
24 has mixed up four or five different drug arrests
25 into one thing to try to present a cohesive

1 package to stop this purely voluntary statement
2 about what he had just done.

3 **THE COURT:** Yes, ma'am.

4 **MS. MANIGAULT:** Please the Court, Your
5 Honor. Just as the State's witnesses have made a
6 mistake about information that they presented to
7 the Court today and corrected it, my client may
8 be mistaken about which officers were present.
9 But he stands on the testimony that there were
10 more than two officers present, that he was
11 interrogated. There was no testimony from either
12 officer what the traffic stop arrest was, what
13 warrant was served on him on December the 10th,
14 if any. He stayed in jail until the 11th and was
15 released on a personal recognizance bond on
16 allegedly a Distribution third offense which the
17 officer had nothing to do with.

18 So I would ask the Court to, even in light of
19 his criminal history, to weigh, factor him being
20 released on a PR bond, him staying in jail, no
21 testimony about when the previous warrant was
22 served on him or what the date of that warrant
23 was or what it was for. There was no testimony
24 to that.

25 **MR. THEM:** Your Honor, I don't know that

1 that's germane to the issue. He was under
2 arrest. What he was arrested for or anything is
3 just not relevant. We say he was under arrest.
4 We have to assume for the sake of this argument
5 it was a valid arrest. She's not contesting that
6 arrest. What we're doing is talking about
7 whether or not he voluntarily tried to cut a deal
8 with these officers or did they interrogate him
9 and get that information from him. They say no.
10 He says yes. It's purely a credibility matter.

11 **THE COURT:** Well, at this stage, of course,
12 I've got to decide whether the, uh, -- first of
13 all, whether it was custodial interrogation. I
14 think there's no doubt that -- both sides agree
15 it is custodial occurrence. Whether or not there
16 was interrogation, of course, the Defendant says
17 there was, the State says there was not. In
18 light of all the evidence and the totality of
19 circumstances that I see, I think by the
20 preponderance of the evidence there was a
21 voluntariness to the statement. I'm going to
22 allow it in, just that limited statement.

23 Obviously, it would be up to the jury to
24 whether or not they would find. I would
25 certainly give them a charge on their ability to

1 evaluate the statement themselves and determine
2 whether or not the State has met its burden of
3 proof beyond a reasonable doubt as to the
4 voluntariness of the statement.

5 At this stage, I think has been sufficient
6 evidence presented by a preponderance standard to
7 allow the statement in. I will allow it.

8 Anything else we need to take care of before
9 the jury comes in?

10 **MR. THEM:** Nothing further on behalf of the
11 State, Your Honor.

12 **MS. MANIGAULT:** Your Honor, we take
13 exception to your ruling on the record.

14 **THE COURT:** Yes, ma'am.

15 **MS. MANIGAULT:** The other thing I would like
16 to clarify is that the State would be prohibited
17 from testifying to warrants that were served,
18 prior arrest records or anything else.

19 **THE COURT:** Yeah, we need to be very
20 careful. We've had a lot of testimony on the
21 Jackson Deno hearing. I know sometimes folks
22 might think, you know, now it's in, it's in for
23 everybody. We've got a jury coming in now.

24 Mr. Them, I understand you'll understand the
25 parameters of your questions. I just want to

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1 make sure your witnesses understand them as well.

2 MR. THEM: Your Honor, let me tell the court
3 the way I plan to handle it now. Maybe we can
4 resolve that issue. When Lieutenant Lovell
5 testifies, I'm going to ask him was there a prior
6 unrelated warrant outstanding on this Defendant.
7 He's going to say yes and nothing else. Was that
8 warrant used to arrest him after he left the
9 scene of where the alleged transaction took
10 place.

11 Then when the actual officer that did the
12 arrest is present, did you have what you thought
13 -- excuse me. Did you have a valid warrant for
14 the Defendant's arrest on a completely unrelated
15 matter. His answer will be yes. Did you arrest
16 him on that warrant? Yes. We're not getting
17 into what the charges were or anything like that.
18 And if I can lead a little bit, I can be sure we
19 don't have a problem.

20 MS. MANIGAULT: I would object to those
21 questions.

22 THE COURT: All right.

23 MS. MANIGAULT: Your Honor --

24 THE COURT: In other words, the jury is
25 going to --

1 **MS. MANIGAULT:** -- the thing is the prior
2 warrant. It's already prejudicial whether it's
3 related to this case or not. I'm asking the
4 court to limit them to was he properly in custody
5 or whatever, but not any prior arrest warrants.

6 **MR. THEM:** Your Honor, I've got to present
7 something to this jury to justify stopping this
8 man on the side of the road and putting him in
9 handcuffs and taking him off. I mean, he's got
10 to be under arrest. We've got to give some
11 brief, glossy quick thing about he was under
12 arrest for a completely unrelated matter.

13 **THE COURT:** Why would he just not be in
14 custody? He's in custody. I have not been
15 involved in that. I got a call from Mills. He
16 wanted to talk to me. We don't know whether the
17 jury is going to be speculating that he's doing a
18 year down there in jail or they might think he
19 just got picked up that night. I mean, is there
20 any reason on your case-in-chief that -- all you
21 need about that is that he was in custody. He
22 asked Officer Mills to contact Officer Lovell.
23 He wanted to say something to him. He came down.

24 **MR. THEM:** I'm not presenting my argument
25 well. Let me try again, Your Honor. Lieutenant

Remarks

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1 Lovell is not going to talk anything about
2 warrants when we get to the subject of the
3 conversation with the Defendant. When he is
4 testifying earlier, he's going to testify that he
5 gave the execute order to the uniform deputy to
6 arrest him on a prior warrant that had nothing to
7 do with this particular case. The officer will
8 testify he got that phone call from the
9 lieutenant. He did arrest him. Nobody's going
10 to talk about what the charges were. He took him
11 into custody and then started an inventory
12 search.

13 THE COURT: For the purposes of just this
14 statement coming in --

15 MR. THEM: Yes, sir.

16 THE COURT: -- why is all of that important?

17 MR. THEM: Number one, I've got to arrest
18 him, take him out of the car to put him in the
19 back of the other car to conduct an inventory
20 search.

21 THE COURT: If he's in -- you're going to be
22 using the inventory in your case-in-chief?

23 MR. THEM: Yes, sir. The inventory is where
24 they found the marked money. It was hidden up in
25 the, kind of, you know, that overhead glove box

1 you see on nice cars. That's where the marked
2 money from the transaction was found. That's
3 probably the key piece of evidence in the trial
4 that ties it all together is the marked money
5 being found on the Defendant that was given to
6 him by Lieutenant Lovell.

7 **MS. MANIGAULT:** May I offer to the Court
8 that the -- the officers testified that they
9 ordered a traffic stop. So for a traffic stop,
10 without bringing in prior warrants to prejudice
11 my client, I would offer the court to consider
12 that and allow him to testify to a traffic stop.

13 **THE COURT:** Then wouldn't the jury wonder
14 why a traffic stop -- why they are inventorying
15 this car on a traffic stop? They could create
16 prejudice in another way.

17 **MR. THEM:** It looks as though we are
18 treating the Defendant abnormally rough for
19 little of nothing. There's people on that jury
20 could read a lot of stuff into that, Your Honor.
21 I don't know of a more innocuous way of doing it
22 than with just that little bit of leading.

23 **THE COURT:** Is the basis of getting the
24 marked money in an inventory search?

25 **MR. THEM:** Yes, sir.

Remarks

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1 **THE COURT:** Well, I think the -- and I don't
2 know if you remember all the questions you asked,
3 but I don't think you need to get into that some
4 officer called him and told him to effectuate the
5 arrest. It was just that he was arrested for an
6 unrelated matter. And that as part of the
7 inventory of the car, Officer Lovell had some of
8 the --

9 **MR. THEM:** Okay. So I wouldn't -- under
10 that proposal, Lieutenant Lovell would not
11 testify that he gave the order to go ahead and
12 arrest him?

13 **THE COURT:** Correct.

14 **MR. THEM:** The officer would then testify
15 that he arrested him on an unrelated matter and
16 inventory searched the car.

17 **THE COURT:** After the inventory search of
18 the car, they contacted Officer Lovell.

19 **MR. THEM:** Yes, sir.

20 **THE COURT:** I'll allow that. I don't know
21 any other way around that.

22 **MS. MANIGAULT:** I'll enter my objection at
23 the proper time.

24 **THE COURT:** Yes, ma'am.

25 All right. Let's have our jury come in.

1 Just ask them to remain standing when they come
2 in. I'll let the clerk swear them in.

3 (WHEREUPON, the jury enters at approximately
4 2:18 p.m.)

5 THE COURT: Mr. Foreman, Ladies and
6 Gentlemen, I'm going to now have the clerk
7 administer the oath to you. I hope you will
8 listen carefully as the oath is presented. It's
9 a time honored oath. It has important words for
10 you to consider.

11 THE CLERK: Again, after the oath is
12 administered, answer by saying "I will". Raise
13 your right hand. You shall well and truly try
14 the issue joined in this case of the State versus
15 Randy Blythe, Jr. and a true verdict render
16 according to law and evidence so help you God.
17 (WHEREUPON, each juror responds.)

18 THE CLERK: Thank you.

19 THE COURT: Solicitor, you may make your
20 opening statement to the jury.

21 MR. THEM: Thank you. May it please the
22 Court, Ms. Manigault.

23 The Defendant in this case is charged with
24 two separate crimes. They are interconnected,
25 but they are separate. First one is selling or

Opening statement by Mr. Them

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1 distributing crack cocaine. The second crime is
2 doing that crime within one-half mile of a
3 school, park or playground. In this case, it was
4 a playground. Hagood Park down in Easley.

5 Let me briefly tell you a little bit about
6 the case so you will see where it's going. Very
7 shortly, you are going to meet a man that you may
8 or may not like. He's a paid informant of the
9 Easley Police Department. He gets money to buy
10 drugs from people so the police can arrest them.
11 He's not the most savory character in the world.
12 He's got a criminal record. I think he'll tell
13 you at one point in time, he had a very serious
14 drug problem.

15 He contacted Easley Police Department and
16 told them that he could do a deal with Mr.
17 Blythe, the Defendant in this case. They decided
18 to do the deal. They tape recorded every step of
19 the transaction with the police there and Mr.
20 Bigby on the telephone with the Defendant. They
21 set up a meeting, Mr. Bigby, Mr. Blythe and the
22 police were already there with a video camera.
23 They recorded the whole thing. Plus they got
24 sound recording because the Defendant wore --
25 excuse me -- the informant wore what's known as a

1 wire. It's a remote control microphone that
2 picks up and broadcasts.

3 The transaction took place. It was recorded.
4 The Defendant left the scene. He got a couple of
5 blocks away when he was stopped by Easley police
6 officers and arrested.

7 Prior to taking -- prior to having the
8 Defendant's car towed away, the officer was under
9 an obligation to conduct an inventory search.
10 When you take somebody's ability to protect their
11 stuff away from them, you have to protect it
12 yourself. So they search the car for valuables
13 or things of that nature. What they found in the
14 visor, compartment up there between the visor, is
15 what we call marked money. The money that had
16 been given to the informant to buy the drugs had
17 serial numbers recorded by Lieutenant Lovell.
18 The money that was fished out of the car matched
19 those serial numbers.

20 The Defendant was taken to jail. And while
21 he was in jail, he initiated conversation with
22 the police about that transaction. You will hear
23 that during the trial. So that's where we're
24 going. You're going to see good law enforcement
25 in action from start to finish. You're not going

1 to have to take everything the informant says at
2 face value because almost everything he's going
3 to testify to is either tape recorded or
4 videotaped or witnessed by someone else. He is
5 the entree or the conduit or something to get the
6 police into Mr. Blythe's world.

7 Let me tell you now in a very loud and clear
8 voice, at the conclusion of this case, if you're
9 not satisfied that the Defendant did sell drugs
10 and do it within a half mile of a park or
11 playground, if you're not satisfied beyond a
12 reasonable doubt or as we say in the law, if
13 you're not firmly convinced of that, vote him not
14 guilty. Turn him loose. On the other hand, if
15 the evidence leaves you firmly convinced after
16 you've looked at it very carefully, if you are
17 satisfied that he is guilty, you should vote him
18 guilty.

19 One other little part of the case I need to
20 tell you about is called chain of custody. We're
21 going to prove to you that the evidence that was
22 passed from the Defendant to the informant, we're
23 going to trace it to everybody that had it.
24 We're going to trace it over to the Greenville
25 Crime Lab where a certified chemist over there

1 tested it and then we're going to bring it back
2 and put it in evidence. They are going to
3 testify, the people from the Greenville Crime Lab
4 as to what this substance was. Thank y'all very
5 much.

6 **THE COURT:** Ms. Manigault, ---

7 **MS. MANIGAULT:** Please the Court.

8 **THE COURT:** -- you may address the jury in
9 your opening statements.

10 **MS. MANIGAULT:** Thank you, Your Honor. Mr.
11 Them.

12 Ladies and Gentlemen, again, my name is
13 Dorothy Manigault. I am representing Randy
14 Blythe here today. I want to bring three
15 premises of law to you that the Court will
16 instruct you on at the end of the case. Your
17 Honor has already told you that you are the
18 triers or the judges of the facts of this case to
19 be presented and that he is the judge of the law.
20 Whatever the facts are in this case, you are to
21 take from the witnesses on the witness stand.
22 Not what Mr. Them says the facts are, not what I
23 say the facts are, it's what the testimony and
24 evidence presents to you for your consideration.

25 The first premise of law that I want you to

1 consider is presumption of innocence. Each
2 citizen is presumed innocent. It is -- a second
3 premise is burden of proof. That means that the
4 State of South Carolina, the Pickens County
5 Solicitor's Office presented today by Mr. Peter
6 Them, it is their responsibility to present to
7 you evidence that convinces you beyond a
8 reasonable doubt that what they say happened did
9 in fact happen. The burden of proof, that is the
10 State's responsibility.

11 The last premise I want you to consider is
12 when you have considered all the evidence, when
13 you hear all the testimony, if there is any doubt
14 -- Mr. Them used the word if you are not firmly
15 convinced -- if there is any doubt, then Your
16 Honor will instruct you that it must be weighed
17 in favor of Randy Blythe. I ask you to hold the
18 State to a strict burden. I ask that you listen
19 very carefully to the testimony that is
20 presented. Thank you.

21 **THE COURT:** Solicitor, you may call your
22 first witness.

23 **MR. THEM:** Thank you.

24 **PETE BIGBY**

25 having first been sworn, testifies as follows:

1 THE CLERK: If you would, have a seat and
2 state your name for the record. You'll have to
3 speak up for the Court Reporter.

4 THE WITNESS: Pete Bigby.

5 DIRECT EXAMINATION

6 BY MR. THEM:

7 Q You okay?

8 A Yeah.

9 Q Mr. Bigby, where do you live?

10 A Easley.

11 Q Okay. And how old are you, sir?

12 A 32.

13 Q What kind of work do you do?

14 A Unemployment.

15 Q Okay. Let's talk a little bit about your
16 past. This is not the first time you've been in the
17 courtroom like this, is it?

18 A No, sir.

19 Q As a matter of fact, you were in a courtroom
20 just like this and pled guilty in March of 2003 to
21 Possession of Crack Cocaine. Isn't that correct?

22 A Yes, sir.

23 Q At that point in time, did you have a serious
24 problem with crack cocaine?

25 A Yes, I did.

1 Q Would the word addict be correct?

2 A Yes, sir.

3 Q All right. Have you since kicked that habit?

4 A I don't do it.

5 Q Okay. Now, have you ever worked for law
6 enforcement making undercover drug buys?

7 A Yes, I have.

8 Q You ever worked for the Easley Police
9 Department?

10 A Yes, sir.

11 Q You ever worked for Lieutenant Lovell?

12 A Yes, sir.

13 Q Did you contact Lieutenant Lovell some time
14 in December of 2008 about possibly making a drug buy?

15 A Yes, sir.

16 Q Did you tell him who you thought you could
17 buy drugs from?

18 A Yes, sir.

19 Q You got to speak up a little bit now, Peter.
20 I know you are soft-spoken. Can you slide forward a
21 little bit. Maybe we can get you closer to the mic.
22 Okay. Did you give them a name as to who you could
23 buy drugs from?

24 A Yes, sir.

25 Q What name did you give them?

1 A Capone.

2 Q Capone?

3 A Yes, sir.

4 Q Did you know -- is Capone a real name or a
5 street name or nickname?

6 A Street name.

7 Q Okay. Do you know the real name of the
8 person named Capone?

9 A Randy Blythe.

10 Q Randy Blythe. Okay. Do you see that person
11 in the courtroom today?

12 A Yes, sir.

13 Q Would you point him out to me please.

14 A (Pointing.)

15 Q Let the record reflect that the witness is
16 pointing at the Defendant, Randy Blythe. Are you
17 aware that sometimes people do undercover work to work
18 off charges?

19 A Yes, sir.

20 Q Where they have charges against them and they
21 try to trade off those charges in return for giving
22 information on people?

23 A Yes, sir.

24 Q In this particular transaction, were you
25 working off charges or were you working for a payment?

1 A It was payment.

2 Q What was the payment to be?

3 A \$50.

4 Q Huh?

5 A A hundred bucks.

6 Q A hundred bucks. Okay. Now, when you talked
7 to Lieutenant Lovell about this, was he interested?

8 A Yes, sir.

9 Q Did you make any telephone contact with Mr.
10 Blythe?

11 A Yes, I did.

12 Q Okay. Just one second. When you made that
13 phone call, was it recorded?

14 A Yes, sir.

15 Q Who recorded it?

16 A Jason Lovell.

17 Q Okay. And who did you call?

18 A Randy Blythe.

19 (WHEREUPON, State's Exhibit 1 is marked for
20 identification purposes.

21 BY MR. THEM:

22 Q I'm going to hand you a CD that's been marked
23 as State's Exhibit number 1. I'm going to ask you if
24 you ever seen it before.

25 A Yes, sir.

1 Q How do you know you've seen that particular
2 CD before?

3 A I initialed it.

4 Q Your initials up here in red?

5 A Yes.

6 Q P.B.?

7 A Yes, sir.

8 Q Have you listened to this CD?

9 A Yes, sir.

10 Q Is this CD a fair and accurate reflection and
11 recording of a telephone conversation you had with Mr.
12 Blythe?

13 A Yes, it is.

14 Q Now, when people buy drugs, is there a lot of
15 haggling or is there just little short blurbs?

16 A Short blurbs.

17 Q Okay.

18 MR. THEM: Your Honor, at this point in
19 time, I'd move to admit this into evidence and
20 play it for the jury.

21 THE COURT: Any objection?

22 MS. MANIGAULT: No objection, Your Honor.

23 THE COURT: Without objection.

24 (WHEREUPON, State's Exhibit 1 is admitted into the
25 record.)

1 BY MR. THEM:

2 Q Now, I want you to listen to this and when it
3 is over, I want you to highlight the part of the
4 conversation where you talked about possibly buying
5 drugs, okay? I want you to repeat as best you can
6 word-for-word what it is and talk slowly and clearly
7 for me. All right.

8 A I'll do my best.

9 Q Okay.

10 (WHEREUPON, State's Exhibit 1 is played for the
11 jury at approximately 2:35 p.m.)

12 BY MR. THEM:

13 Q Who's voice is that?

14 A Jason Lovell.

15 Q Did y'all call right back?

16 A Yes.

17 (WHEREUPON, State's Exhibit 1 is concluded at
18 approximately 2:37 p.m.)

19 BY MR. THEM:

20 Q What did y'all get accomplished in the first
21 phone call?

22 A Trying to get a ride.

23 Q Speak up now.

24 A Trying to get a ride.

25 Q You trying to get a ride?

1 A Yes, sir.

2 Q Did you talk to him about buying anything in
3 that first conversation?

4 A Not the first.

5 Q Okay. At anytime in that first conversation,
6 did you talk about buying anything?

7 A No, sir.

8 Q Okay. In the second conversation, did you
9 talk about buying something?

10 A Yes, sir.

11 Q What did you talk about buying?

12 A A 50 of crack cocaine.

13 Q A what?

14 A \$50 worth of crack cocaine.

15 Q How did you describe it on the tape? You
16 said you wanted to buy a what?

17 A A 50.

18 Q A 50?

19 A Yes, sir.

20 Q And that means?

21 A Crack cocaine.

22 Q How much crack cocaine?

23 A Like four, three rocks.

24 Q How much?

25 A Like four or three rocks.

1 Q Okay. And what would the cost have been, the
2 price?

3 A \$50.

4 Q Okay. So when you say you want to buy a 50,
5 you telling somebody you want to buy \$50 worth of
6 something?

7 A Yes, sir.

8 Q Okay. All right. Did y'all agree to any
9 sort of meeting place where y'all can do this
10 transaction?

11 A The only place we met at was my house.

12 Q And did you go to the meeting place?

13 A Yes, sir.

14 Q How did you get there?

15 A Jason Lovell.

16 Q Okay. That's Lieutenant Lovell behind me?

17 A Yes, sir.

18 Q Okay. And what kind of vehicle were y'all
19 in?

20 A A white van.

21 Q Were there some other police officers in the
22 van?

23 A Yes, sir.

24 Q Was the van video equipped? In other words,
25 could it video tape things?

1 A Yes, sir.

2 Q Okay. If I used the expression w"earing a
3 wire", do you know what I'm talking about?

4 A Yes, sir.

5 Q What is wearing a wire?

6 A Wired up to a microphone.

7 Q Okay. And where do they put it?

8 A Under my shirt.

9 Q Okay. Did you wear a wire to the
10 transaction?

11 A Yes, sir.

12 Q Okay. Now prior to going to the transaction,
13 were you searched?

14 A Yes, sir.

15 Q How thoroughly were you searched?

16 A Head to toe.

17 Q Head -- did they put their hands inside of
18 your clothes when they search you?

19 A Yes.

20 Q Socks?

21 A Yes, sir.

22 Q Who did the searching?

23 A Lieutenant Lovell.

24 Q Okay. And after he searched you, is that
25 when they fitted you with the wire?

1 A Yes, sir.

2 Q Okay. From the time you were searched til
3 the time you were fitted with the wire, were you
4 constantly with Lieutenant Lovell?

5 A Yes, sir.

6 Q Okay. After you were fitted with the wire,
7 what happened?

8 A Well, I walked into the meeting place.

9 Q Hold on a second. Anything else happen like
10 money?

11 A Oh, they gave me \$50 cash.

12 Q Okay. And did you see them do anything with
13 the money before they handed it to you?

14 A The wrote the serial number down.

15 Q Okay. And they gave you the money?

16 A Yes, sir.

17 Q Now up until the point in time they gave you
18 the money, had you ever left Lieutenant Lovell's
19 eyesight and closeness before you left with the money?

20 A No, sir.

21 Q Now, when you left with the money, were you
22 constantly under surveillance from the vehicle?

23 A Yes, sir.

24 Q Was the vehicle parked and situated where it
25 could see everything?

- 1 A Yes, sir.
- 2 Q And what did you do?
- 3 A Got out the van and went to meet at the
- 4 meeting place.
- 5 Q Okay. And did he show up?
- 6 A Yes, sir.
- 7 Q What kind of car did he drive?
- 8 A Like a brown Cadillac.
- 9 Q Okay. And tell me how the transaction went
- 10 down. Tell me what happened.
- 11 A Well, he pulled up and went down the road. I
- 12 made the transaction and then I came back and met with
- 13 Lieutenant Lovell.
- 14 Q Did you give him the money?
- 15 A Yes, sir.
- 16 Q Did he take the money?
- 17 A Yes, sir.
- 18 Q Did he give you anything in return?
- 19 A A couple of rocks of cocaine.
- 20 Q Okay. And were you wearing a wire during
- 21 this transaction?
- 22 A Yes, sir.
- 23 Q Did y'all talk any during the transaction?
- 24 A Not really.
- 25 Q Okay. Then what happened?

1 A I left and met Lieutenant Lovell. They
2 searched me again. I placed the crack cocaine in the
3 evidence bag.

4 Q Okay. Who was holding the evidence bag when
5 you put it in there?

6 A Lieutenant Lovell.

7 Q Was it sealed in your presence?

8 A Yes, sir.

9 Q Then what happened to you?

10 A They searched me again and took the wire off.

11 Q Okay. And then did they take you someplace?

12 A Dropped me off.

13 Q Okay. All right.

14 MR. THEM: Let's mark this next in order for
15 identification only.

16 (WHEREUPON, State's Exhibit 2 is marked for
17 identification purposes.)

18 BY MR. THEM:

19 Q I'm going to hand you a cassette tape marked
20 State's Exhibit number 2 for identification and ask
21 you had you ever seen this before?

22 A Yes, sir.

23 Q Have you listened to it?

24 A Yes, sir.

25 Q What is it?

- 1 A A recorded tape.
- 2 Q Of what?
- 3 A Me and Capone deal.
- 4 Q You and Capone what?
- 5 A Deal.
- 6 Q Okay. Is this the one you just described to
- 7 us?
- 8 A Yes, sir.
- 9 Q On tape?
- 10 A Yes, sir.
- 11 Q Have you listened to this recently?
- 12 A Yes, sir.
- 13 Q How do you know it's the same one you
- 14 listened to?
- 15 A I don't.
- 16 Q Does it have any initials on there?
- 17 A That's my initials.
- 18 Q Right there?
- 19 A Yes, sir.
- 20 Q You sure those are yours?
- 21 A Yes, sir.
- 22 Q Have you ever initialed one of these before
- 23 like this or is this the only one you've ever done?
- 24 A I did it before.
- 25 Q And when you listened to this, is it a true

1 and correct copy of the conversation between you and
2 Capone that day when you say he sold you drugs?

3 A Yes, sir.

4 Q Okay.

5 MR. THEM: Your Honor, I'd move this into
6 evidence at this time.

7 THE COURT: Any objection?

8 MS. MANIGAULT: None, Your Honor.

9 THE COURT: Without objection, State's
10 Exhibit 2 is into evidence.

11 (WHEREUPON, State's Exhibit 2 is admitted into the
12 record.)

13 (WHEREUPON, State's Exhibit 2 is played for the
14 jury at approximately 2:44 p.m.)

15 BY MR. THEM:

16 Q When you got down to where this takes place,
17 did you have to wait a little bit?

18 A Yes, sir.

19 Q Is that what this is?

20 A Yes, sir.

21 Q Why does it get quiet and get loud?

22 A I have no idea.

23 Q Who's that talking?

24 A That's me.

25 Q Is this time that you're just out there

1 waiting on him to show up?

2 A Yes, sir.

3 Q Can you talk to the police over this wire
4 where they can hear you?

5 A They can hear me but I can't hear them.

6 Q They can't talk back to you?

7 A Huh-uh. (Pause.) That's the house phone.

8 Q Who are you calling?

9 A I can't remember.

10 MS. MANIGAULT: Your Honor, I can't hear the
11 questions or the answers.

12 MR. THEM: I asked him who is he calling.

13 THE COURT: Okay.

14 BY MR. THEM:

15 Q Who were you just calling?

16 A That was the house phone.

17 Q Okay. (Pause.) What is all that?

18 A That's family. That's the house phone.

19 Q What was said there?

20 A He was about to pull up.

21 Q He what?

22 A He was about to pull up.

23 Q Okay. About to pull up.

24 (WHEREUPON, State's Exhibit 2 is concluded at
25 approximately 2:58 p.m.)

1 (WHEREUPON, State's Exhibit 3 is marked for
2 identification purposes.)

3 BY MR. THEM:

4 Q All right. Tell me about the exchange
5 between you and Capone when he drove up. What was
6 said by whom?

7 A Really not much. He asked what I want. I
8 gave him \$50 and he gave me crack cocaine and that was
9 it.

10 Q Not a lot of chit chat?

11 A No, sir.

12 Q Okay. All right. Now, you testified earlier
13 that after you brought the crack cocaine, you came
14 back to the van where Jason Lovell was and you took
15 the crack that you had bought or what was identified
16 to you as crack and put it in a plastic bag. You
17 remember that?

18 A Yes, sir.

19 Q Now, I want you to look at this. This is
20 State's Exhibit number 3. Ignore the big bag on the
21 outside, but focus on the bag on the inside with the
22 red stripe. Is that the kind of bag that you put the
23 crack in that you brought?

24 A Yes, sir.

25 Q Is that the kind of bag that Lieutenant

1 Lovell sealed?

2 A Yes, sir.

3 Q Did you see him write on the seal after he
4 signed it, after he sealed it?

5 A No, sir.

6 Q Yes or no? .

7 A No, sir.

8 Q No, sir. Okay. All right. I realize they
9 may have broken up or changed or anything, but is that
10 the approximate quantity of crack that you bought that
11 day for \$50?

12 A Yes, sir.

13 Q Okay. Thank you very much. I have no
14 further questions at this time.

15 THE COURT: You may cross-examine the
16 witness, Ms. Manigault.

17 MS. MANIGAULT: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MS. MANIGAULT:

20 Q Your name is Petri?

21 A Yes, sir. Yes, ma'am.

22 Q What is the date that these tapes were made?

23 A I don't know.

24 Q You don't know?

25 A No.

1 Q All right. You testified earlier that you
2 called Lieutenant Lovell, is that correct?

3 A Yes, sir. I mean, yes, ma'am. Sorry.

4 Q And you asked him if he could set somebody
5 up?

6 A Yes, ma'am.

7 Q And then the person you would set up you told
8 him would be Randy Blythe?

9 A Yeah, Capone.

10 Q Capone. Did you ever give another name
11 besides Capone?

12 A I can't remember.

13 Q You can't remember. And you know that you
14 would get \$100 for setting somebody up?

15 A Yes, sir. Yes, ma'am.

16 Q What time of day or night was this supposed
17 to have occurred?

18 A It was daytime.

19 Q Daytime. What time of day? Do you recall?

20 A I can't recall.

21 Q How many phone calls were you supposed to
22 have made to Capone?

23 A What you mean how many phone calls?

24 Q You testified that you made some phone calls.

25 A Yes, I made a couple of phone calls.

1 Q How many phone calls did you make?

2 A I know I called him about two or three times.

3 Q Two or three times. Were you in the presence
4 of the officers or were you by yourself?

5 A I was in the presence of the officers.

6 Q Where were you supposed to have met Capone?

7 A Right by my house.

8 Q How far were you from your house?

9 A How far? Right in front of it.

10 Q You were right in front of your house?

11 A Right beside the house, yes.

12 Q So that explains all the family members
13 voices on the house phone?

14 A Yes, sir. Yes, ma'am.

15 Q So you were inside the house when --

16 A No, I was outside.

17 Q Okay. And you had the house phone outside
18 with you?

19 A No.

20 Q So how do you explain that we heard the
21 family?

22 A Because my granddaddy brought the phone to
23 me. I was outside.

24 Q Okay. He brought the phone to you?

25 A Yes, ma'am.

1 Q How long did you keep the house phone outside
2 with you?

3 A I can't recall. I don't remember. It wasn't
4 that long. I told people I'd call them back and I
5 gave the phone back to my granddaddy.

6 Q Okay. You gave the phone back. So when you
7 said right by your house, what do you mean? You were
8 sitting on your front steps?

9 A No, on the side.

10 Q You were standing on the side of your house?

11 A Yes.

12 Q How long have you lived there?

13 A My whole life.

14 Q And how old you said?

15 A 32.

16 Q 32. And when you were sitting on the side of
17 your house, you had already been wired by the police?

18 A Yes, ma'am.

19 Q You already been searched?

20 A Yes, ma'am.

21 Q Did the police search your house?

22 A No, ma'am.

23 Q They search the area where you were sitting?

24 A No.

25 Q Were you with them?

1 A Was I with them?

2 Q With police officers, Lieutenant Lovell?

3 A Yes, when I got in the van.

4 Q All right. So when you got out the van, you
5 went to the area by your house, is that correct?

6 A Yes.

7 Q All right. Did they search the area by your
8 house?

9 A No, ma'am.

10 Q Did they search the area where you were
11 standing?

12 A No, ma'am.

13 Q You said you lived there all your life, is
14 that correct?

15 A Yes.

16 Q You also testified that you had a bad drug
17 habit?

18 A Yes, I did.

19 Q You were addicted?

20 A I was addicted.

21 Q Excuse me?

22 A Yeah, I was on crack, yes.

23 Q You were on crack. So you used crack?

24 A Yes, I did.

25 Q Were you using crack during that time during

1 the months of December, November 2008, October 2008?

2 A No, ma'am. No.

3 Q When did you stop using crack?

4 A I can't recall. I don't remember.

5 Q So if you were tested today, you would test
6 negative for drugs.

7 A Not crack. You won't find no crack in my
8 system.

9 Q What would I find?

10 A Weed.

11 Q Marijuana?

12 A Yes.

13 Q You made one call, you said, to Capone and
14 told him that you wanted something.

15 A Yes, ma'am.

16 Q That was the first call or second call.

17 A That's the second call.

18 Q What did you say on the first call?

19 A I asked him was he around.

20 Q And?

21 A He said no, not right now. He said not right
22 now.

23 Q And you hung up? Was that the end of the
24 conversation?

25 A I think so.

1 Q Then the second call, you asked for what?

2 A A 50.

3 Q What else did you talk about?

4 A I can't recall. It's been so long. I can't
5 remember.

6 Q Okay. How long did you sit on the side of
7 your house?

8 A At least 30 minutes or more.

9 Q At least 30 minutes. Was anybody sitting out
10 there with you?

11 A Just my family, some of my family members.

12 Q All right. Now, this second tape that was
13 kind of long and vacate and silent, when we got to the
14 end of the tape, you told Mr. Them that the
15 transaction already occurred. Did you hear any voices
16 on there about the transaction? Did you hear your
17 voice?

18 A Yeah, I heard my voice.

19 Q You heard your voice?

20 A Yes.

21 Q Did you hear anybody else voice?

22 A I don't know. I ain't really -- I couldn't
23 hardly hear it.

24 Q Me either. All right. So you not sure who
25 you heard besides yourself if you heard anybody?

1 A I guess.

2 Q All right. You were listening to this tape;
3 is that correct?

4 A Yes.

5 Q Mr. Them told you to raise your hand when you
6 heard your voice.

7 A And I did.

8 Q How many times did you hear your voice on
9 this tape?

10 A The whole time.

11 Q You heard your voice the entire time?

12 A Every time I started talking, yes.

13 Q Okay. So what did you say?

14 A I said a lot of things.

15 Q For instance?

16 A I said a lot of things.

17 Q What did you say? When you handed the phone
18 back to your grandfather, was that on there?

19 A Yes.

20 Q I think I heard some people laughing or
21 talking?

22 A That was me laughing.

23 Q That was you laughing. Was there other
24 people outside with you at that point?

25 A Yes.

1 Q How long did they stay outside with you?
2 A Not that long. They was about to leave.
3 Q Did they go back in the house or did they
4 leave?
5 A I can't remember.
6 Q What else did you hear on the tape?
7 A I was calling Capone from my cell phone.
8 Q From your cell phone?
9 A Yes.
10 Q So that was on the tape?
11 A Yes, it was.
12 Q Was there an answer?
13 A Yeah. He answered every time I called.
14 Q Was his voice on this tape?
15 A Yes, it was.
16 Q Did you hear the voice?
17 A I could hear it, yes, but not -- I can't hear
18 it, but I heard it.
19 Q You can't hear it, but you heard it. What
20 does that mean?
21 A You can't hardly hear it.
22 Q You are saying that Capone's voice was on
23 this tape?
24 A Yes, it was.
25 Q You are identifying Capone as Randy Blythe,

1 is that correct?

2 A Yes.

3 Q How long have you used crack?

4 A Probably like 10 years.

5 Q 10 years?

6 A Yeah.

7 Q And you can't recall when you quit?

8 A Nope.

9 Q Did you quit in 2008, 2009?

10 A I can't recall.

11 Q How often did you use crack?

12 A Like once a week.

13 MR. THEM: Objection to relevancy unless
14 it's tied to the time of this transaction, Your
15 Honor.

16 THE COURT: Overruled.

17 BY MS. MANIGAULT:

18 Q How often do you use crack?

19 A Twice a week.

20 Q Twice a week? How much money would you say
21 you spent on crack the twice a week you used it?

22 A Probably about 100.

23 Q About 100?

24 A Yep.

25 Q So 100 twice a week or for the entire week?

1 **A** For the entire week.

2 **MS. MANIGAULT:** No further questions, Your
3 Honor.

4 **THE COURT:** Anything in redirect?

5 **MR. THEM:** Thank you very much. I have no
6 further questions.

7 **THE COURT:** Thank you, sir. You may step
8 down.

9 **MR. THEM:** I call Jason Lovell.

10 **JASON LOVELL**

11 having first been sworn, testifies as follows:

12 **THE CLERK:** If you would, have a seat and
13 state your name for the record.

14 **THE WITNESS:** My name is Jason Lovell.

15 **DIRECT EXAMINATION**

16 **BY MR. THEM:**

17 **Q** Where are you employed?

18 **A** The City of Easley Police Department.

19 **Q** In what capacity?

20 **A** I'm a Lieutenant in narcotics.

21 **Q** How long have you been a police officer, sir?

22 **A** 16 years.

23 **Q** Okay. Have you worked anyplace else besides
24 Easley?

25 **A** As a police officer, no, sir.

1 Q Okay. And were you in charge of the
2 operation on December the 10th of 2008 that we are
3 here about today?

4 A Yes, sir. I was.

5 Q Okay. Did Mr. Bigby contact you about doing
6 a deal with Capone?

7 A He did.

8 Q And were you interested?

9 A Yes, I was.

10 Q Okay. What did you do to put the operation
11 into effect?

12 A I called up several officers to assist in the
13 transaction, got the equipment I needed and the money
14 to document to use in the deal.

15 Q Informants, they are a pretty rough lot,
16 aren't they?

17 A Yes, sir.

18 Q Is it easy to find real clean like chairmen
19 of the board, deacons, or Chamber of Commerce
20 informants or what kind of people do you have to use
21 as informants?

22 A You have to use people that are in that
23 environment and know these people to be able to deal
24 with.

25 Q Okay. Do you trust them?

1 A No.

2 Q How do you use them if you don't trust them?

3 A Certain steps you have to take to control the
4 situations to be able to verify what they are saying
5 is true.

6 Q Uh-huh. Were you present when those phone
7 calls were made?

8 A Yes.

9 Q You tape recorded them?

10 A Yes, I did.

11 Q Why is that?

12 A For evidentiary purposes.

13 Q And when the informant had put the deals
14 together, did you take him over to his house?

15 A Yes.

16 Q The neighborhood where he lived?

17 A At a later point, yes.

18 Q What did you do before then?

19 A Met with the other officers and the CI at a
20 meeting location where I done a complete search of the
21 CI.

22 Q Okay. Let's stop right there and talk about
23 a complete search. Tell me how complete you mean when
24 you say complete.

25 A Actually, you check their underwear and

1 socks.

2 Q In his underwear?

3 A Yes. Make him bend over and a search like to
4 get into a prison.

5 Q Make them spread their buttocks cheeks?

6 A Yes, sir.

7 Q You put their hands under their arms and
8 armpits?

9 A I make them raise them.

10 Q Huh?

11 A I made them raise their arms.

12 Q Okay. You check their shoes and socks?

13 A Yes.

14 Q Linings of their coat and their double
15 stitching and stuff?

16 A Yes.

17 Q How long does it take to search somebody like
18 that? Say a fellow is dressed in tennis shoes, socks,
19 jeans, shirt, maybe jacket, how long does it take to
20 search somebody like that?

21 A Seven or eight minutes.

22 Q Is it a pretty thorough search?

23 A Yes, sir.

24 Q Now, after you searched Pete, did you keep
25 him under eyeball surveillance until you turned him

1 loose at the end of the operation?

2 A Yes.

3 Q Why?

4 A That way I could sit here and testify in
5 court that he didn't leave my sight and I know he
6 didn't have that crack on him when he left me to go
7 meet with Mr. Blythe.

8 Q You didn't find any crack on him when you
9 searched him, did you?

10 A No, sir. That's correct.

11 Q Now, you had a television camera or recording
12 camera, video camera in the van?

13 A Yes, sir. Video camera.

14 Q And did you record everything from the time
15 Pete, the informant, left the van until he came back?

16 A Recorded the time as he was walking down the
17 road to his house and walking back to meet us.

18 Q Okay. Now, how much drugs was he supposed to
19 buy according to the setup on the phone?

20 A \$50 worth.

21 Q Where did he get the \$50?

22 A I furnished it to him.

23 Q Did you do anything to be able to identify
24 that money in the future?

25 A Yes, I wrote all the serial numbers down on

1 the form.

2 Q Okay. And do you have that form with you?

3 A It is in my case file.

4 Q Step down here and look for it.

5 A It's going to be with the other papers.

6 Q Okay. Let me see that document.

7 MR. THEM: Can you mark this up here next in
8 order for identification?

9 (WHEREUPON, State's Exhibit 4 is marked for
10 identification purposes.)

11 BY MR. THEM:

12 Q I'm going to show you a document that's
13 marked State's Exhibit number 4 for identification.
14 Can you tell me what this document is.

15 A Yes, it's an Easley Police Department
16 Narcotics Division Narcotics slash Vice Notes Form.

17 Q And what are these things up here?

18 A This is the serial numbers on the two 20s and
19 the 10 that I furnished Pete with.

20 Q And below that is what?

21 A It's just notes as the deal took place.

22 Q Times, et cetera?

23 A Yes.

24 MS. MANIGAULT: Your Honor, can we approach?

25 THE COURT: Yes.

1 (WHEREUPON, a bench conference is held off the
2 record from approximately 3:18 p.m. to 3:19 p.m.)

3 BY MR. THEM:

4 Q Lieutenant Lovell, would you step down to
5 this easel for me. And would you carefully in a good
6 sized script write down these three numbers. What are
7 these three numbers again?

8 A That's denomination of the 20-dollar bill and
9 the serial number and the 20-dollar bill and the
10 serial number.

11 Q Would you take this and post it on the board
12 for me? Do it carefully and take your time.

13 A (Writing.)

14 Q Okay. You finished?

15 A Yes.

16 Q Okay. Would you step back up to the witness
17 stand and read those numbers from your note here so we
18 can all check them very carefully. Read the numbers
19 slowly.

20 A The first one is a 20-dollar bill. It is I-
21 E-6-8-2-4-8-0-5-8-A. The second is a 20-dollar bill,
22 G-E-0-5-6-3-8-3-7-8-D. The third is a 10-dollar bill.
23 It is G-E-6-1-5-9-7-9-7-8-A.

24 Q And those are the serial numbers of the money
25 that you gave to Pete Bigby to buy drugs with?

1 A Yes.

2 Q Okay. Now, when you gave the money to Pete,
3 what did he do with it?

4 A Put it in his pocket.

5 Q Okay. And did he then leave you?

6 A After the search and I wired him up and gave
7 him the money, after we done made the phone calls, we
8 got in the van together. We drove to the side of
9 Pete's house. Once we parked, he got out and walked
10 down to where he was supposed to meet.

11 Q Okay. Did you have a video camera set up in
12 the van?

13 A Yes, sir. Filming out the back.

14 Q Where do you -- sir?

15 A Filming out the back of the van.

16 Q And were you able to video Pete from the time
17 he left the van until he came back?

18 A Yes.

19 Q And do you have a copy of that video with you
20 today?

21 A Yes.

22 Q Would you step down here and get it and put
23 it in the machine please.

24 (WHEREUPON, State's Exhibit 5 is marked for
25 identification purposes.)

1 BY MR. THEM:

2 Q I want to hand you a copy of State's Exhibit
3 number 5 for identification only and ask you if you
4 ever seen this before?

5 A Yes.

6 Q What is it?

7 A It is a DVD of the transaction -- it's a DVD
8 of the transaction with Pete Bigby and Randy Blythe.

9 Q Okay. And have you viewed that?

10 A Yes, I have.

11 Q Is that a true and correct copy of what you
12 saw looking at it while it was being videotaped?

13 A Yes, it is.

14 MR. THEM: Your Honor, we'd move to admit
15 this into evidence.

16 THE COURT: Any objection?

17 MS. MANIGAULT: None, Your Honor.

18 THE COURT: Without objection, Exhibit 5 is
19 admitted into evidence and you may publish it to
20 the jury whenever.

21 (WHEREUPON, State's Exhibit 5 is admitted into the
22 record.)

23 BY MR. THEM:

24 Q Now, does this have sound on it?

25 A Yes.

1 Q Oh, okay. How long is this DVD?

2 A It's not very long. Ten minutes.

3 Q How much of that ten minutes involved
4 interaction between the informant?

5 A A few seconds.

6 Q Why do you play the whole thing?

7 A (inaudible)

8 Q Start to finish?

9 A Yes.

10 Q Thank you.

11 MS. MANIGAULT: Your Honor, before it is
12 published, I'm not able to see and neither is my
13 client. Can we walk around?

14 THE COURT: By the door? Make sure that she
15 can see it.

16 (WHEREUPON, State's Exhibit 5 is played for the
17 jury at approximately 3:28 p.m.)

18 BY MR. THEM:

19 Q Who is that?

20 A (inaudible)

21 THE COURT: You are going to need to speak
22 up, Officer Lovell. The Court Reporter is going
23 to have to hear what you have to say.

24 BY MR. THEM:

25 Q Is that the Cadillac?

1 A Yes, sir.

2 (WHEREUPON, State's Exhibit is concluded at
3 approximately 3:30 p.m.)

4 BY MR. THEM:

5 Q Have you ever seen that Cadillac before?

6 A Yes, sir.

7 Q Where?

8 A In Easley.

9 Q You know who it belonged to?

10 A Yes, sir. Randy Blythe.

11 Q You seen him driving it?

12 A Yes, sir.

13 Q Now, after the transaction, did you actually
14 see any of the transaction or did the trees hide it?

15 A The trees hid it.

16 Q Okay. Do we have any audio of it?

17 A The audio is what we played earlier.

18 Q Let me show you what's been marked as State's
19 Exhibit number 3 and ask you have you ever seen this
20 before.

21 A Yes.

22 Q What is that?

23 A That's the crack that he bought from Randy
24 Blythe on this date.

25 Q Okay. This appears to be at least an

1 envelope inside of an envelope.

2 A Correct.

3 Q The outside envelope is heat-sealed. Is that
4 your work or someone else's?

5 A No, sir. Mine is the smaller bag inside
6 containing the crack that was sealed. And when it's
7 sent to SLED or Greenville County, they cut it open to
8 test it. They reseal it in their bag.

9 Q Whose handwriting is on this piece of paper
10 here?

11 A This up top is my handwriting and this is
12 Pete Bigby's handwriting.

13 Q Okay. So did you have Pete initial it when
14 he put it in the bag?

15 A Yes, had him to, uh, -- his name, date and
16 time.

17 Q Okay. Did you seal it in the bag yourself?

18 A Yes, sir.

19 Q Did you initial it and mark it?

20 A Yes, I did.

21 Q Now, from the time you got it from Pete, what
22 did you do with this exhibit here?

23 A I kept that in my possession until I returned
24 to the police department and I locked it in my safe,
25 in my office until I turned it in to evidence control

1 where Sergeant Cowan would take it to Greenville
2 County for the analysis.

3 Q Okay. Now how many people have access to
4 this safe where you keep stuff?

5 A Only me.

6 Q Only me. And you said until you could give
7 it to Sergeant Cowan, is this Sergeant Cowan right
8 here, sir?

9 A It is. And also on the -- you asked about
10 the tape recording of the deal.

11 Q Yes, sir..

12 A I can pick out Pete and Mr. Blythe's voices
13 on that tape. After you do so many of the deals, you
14 know what to listen for. If need be, I can go back
15 and stop it where you hear the voices on the tape.

16 Q The voices that Pete identified was his,
17 whose voices were they in your mind?

18 A Pete's.

19 Q The voices that he identified as Capone's,
20 whose voices were those?

21 A Capone's.

22 Q You've spoken to Capone before?

23 A Yes.

24 Q Okay. Now, --

25 A Capone being Randy Blythe.

1 Q Okay. And you turned this stuff over to
2 Sergeant Cowan?

3 A Yes.

4 Q Did you physically hand it to him or did you
5 put it in some sort of evidence locker box?

6 A I put it in his evidence locker box.

7 Q Okay. Tell me about that evidence locker
8 box. Tell me how that works.

9 A It's a set of steel boxes that are keyed.
10 Once you place something in a single box and lock it,
11 he recovers it from the inside, which he only has
12 access to.

13 Q If you put something in there and you
14 accidentally close the door, can you get it back?

15 A If you go to Sergeant Cowan and ask him to
16 get it out, he can, but not yourself.

17 Q Once you close the door, it's gone forever
18 from your side of the wall?

19 A That's correct.

20 Q Okay. Now, let's fast forward if we can. At
21 some later point in time that day, shortly thereafter,
22 was the Defendant taken into custody? Capone, was he
23 taken into custody?

24 A He was.

25 Q And did he get carried to the Easley Police

1 Department?

2 A He did.

3 Q And was any money recovered from the
4 Defendant's possessions?

5 A Yes, the officer that took Mr. Blythe to the
6 police department had found the money in his car.

7 Q Where was the money when you next saw it?

8 A It was on the booking table at the police
9 department.

10 Q Was this the money that you had given Pete,
11 the informant?

12 A These three documented bills with some other
13 money of his, yes.

14 Q Okay. Did you ever record the bills at the
15 police station after the transaction?

16 A After I matched the three bills with the
17 three bills that come from his car, yes, I took them
18 to the photocopier and copied the --

19 Q Do you have a copy of them? Step down if you
20 need to.

21 (WHEREUPON, State's Exhibit 6 is marked for
22 identification purposes.)

23 BY MR. THEM:

24 Q I'm going to hand you State's Exhibit number
25 6 and ask you if you've ever seen that before.

1 A Yes, sir.

2 Q What is that?

3 A This is the documented money that was
4 recovered from Mr. Blythe's vehicle.

5 Q Did you photocopy it?

6 A Yes.

7 Q Okay.

8 MS. MANIGAULT: Your Honor, may we approach?

9 (WHEREUPON, a bench conference is held off the
10 record from approximately 3:37 p.m. to 3:38 p.m.)

11 MR. THEM: Subject to the Court's
12 instruction, I move this into evidence, Your
13 Honor.

14 THE COURT: Without objection. The Exhibit
15 will be introduced --

16 MR. THEM: Will you step down here again,
17 sir.

18 (WHEREUPON, State's Exhibit 6 is admitted into the
19 record.)

20 BY MR. THEM:

21 Q Stand over here to one side. Would you
22 slowly and carefully read the serial numbers. As you
23 start a serial number, point which one you think
24 you're going to read out loud. Read them slowly and
25 carefully.

1 **A** The first one --

2 **THE COURT:** Again, Mr. Lovell, I'll remind
3 you, you got your back to the Court Reporter. Be
4 sure and project your voice so that she can pick
5 up what you have to say.

6 **THE WITNESS:** The first one is a 20-dollar
7 bill. The serial number that's on the photocopy
8 is I-E-6-8-2-8-0-5-8-A. The second is a 20-
9 dollar bill. The serial number on the photocopy
10 is G-E-0-5-6-3-8-3-7-8-D. The third bill is a
11 10-dollar bill. Serial number is G-E-6-1-5-9-7-
12 9-7-8-A.

13 **BY MR. THEM:**

14 **Q** If you would, have a seat up on there. This
15 was from money recovered from Mr. Blythe's stuff,
16 correct?

17 **A** That's correct.

18 **Q** Same numbers, serial numbers as the money you
19 gave Pete, the informant?

20 **A** Correct.

21 **Q** Now, where is the original to this money now?

22 **A** It's been put back into circulation.

23 **Q** If you had to save all this money in evidence
24 for sometimes two or three years it takes for a case
25 to come up, how much money would you have tied up in

1 this with this kind of business?

2 A A lot of money.

3 Q Okay. Now, did you go to the scene where the
4 Defendant was taken into custody?

5 A No, sir.

6 Q When he was brought back into the Easley
7 Police Department, did you seek him out to interview
8 him?

9 A No, sir.

10 Q And at some point in time, did something
11 happen to cause you to go talk to him?

12 A Yes, Officer Mills called me on my cell phone
13 and stated that --

14 Q Officer Mills, now who is he?

15 A Officer in uniform.

16 Q Stand up if you would. Okay. That's Officer
17 Mills. What role did he play in this thing?

18 A He was the officer that stopped Mr. Blythe.

19 Q Okay. Now, he contacted you. You can't tell
20 me what he told you. I'll get that from him. As a
21 result of what he told you, what did you do?

22 A I went to booking.

23 Q To booking, where is that?

24 A The booking area where when people are
25 arrested go to to be booked in to gather all their

1 information.

2 Q Fingerprinting, photographing, that sort of
3 thing.

4 A Correct.

5 Q And what did you find when you got there?

6 A Officer Mills was booking Mr. Blythe.

7 Q Okay. And is that where you got these bills
8 out of his personal effects?

9 A Yes, they was laying on the counter with some
10 of his other property.

11 Q And did you compare these bills with your
12 notes that you had written down on the bills that you
13 gave to Pete?

14 A Yes, I did.

15 Q Did you say anything to the police officer
16 that had brought Mr. Capone to the place, I mean, to
17 the police department?

18 A Yes, sir. I informed Officer Mills that they
19 matched.

20 Q What if anything did the Defendant do when
21 you said that to the other officer?

22 A As a result of saying they matched, he didn't
23 do anything.

24 Q Okay. Did he ask you anything?

25 A He told me he would like to talk to me.

1 MS. MANIGAULT: Your Honor, I would impose
2 my objection at this time, renew my objection.

3 THE COURT: Objection is noted. Overruled.

4 MS. MANIGAULT: Thank you.

5 BY MR. THEM:

6 Q Told you he wanted to talk to you. Did you
7 allow him to talk to you?

8 A Yes. I told him I would listen to what he
9 had to say.

10 Q And where did y'all have that one-way
11 conversation?

12 A Officer Mills and myself and Mr. Blythe went
13 to a small interview room at the police department.

14 Q Why didn't you talk to him right there?

15 A Our booking area -- in booking, you have two
16 doors that come in from the back side. One leads into
17 the male cell. One leads into the female cells. If
18 there's anybody in those cells, they can hear what's
19 going on. To give him some privacy, we took him into
20 the interview room.

21 Q Is it also for his safety?

22 A Yes.

23 Q Uh, so you took him to one of these little
24 interview rooms. Roughly, how big are these interview
25 rooms. Could you give us an idea with something in

1 here?

2 A It's probably about -- it's about half the
3 size of this actual box here.

4 Q You included the stair part or just the
5 wooden part?

6 A No, just the wooden part. It's about eight
7 by eight.

8 Q So roughly here to end of this wall?

9 A Square, yes.

10 Q Okay. What's in there?

11 A A desk, telephone and two to three chairs.

12 Q Did you advise the Defendant of his
13 constitutional rights, his Miranda rights, the thing
14 about the right to remain silent, all that sort of
15 stuff?

16 A No, sir.

17 Q Why didn't you?

18 A I wasn't interested in asking any questions.
19 I really wasn't inclined to talk to him at all. I was
20 just following through with the request that he wanted
21 to speak to me.

22 Q In your mind, at least, did you feel like you
23 needed to interview him to gather additional evidence?

24 A No, I had all the evidence I needed.

25 Q Okay. Did you actually ask questions of him

1 or how did it go?

2 A We went in there and sit down and I made it
3 pretty clear that I wasn't interested in trying to
4 help Mr. Blythe in this situation.

5 Q Did he want you to?

6 A He was wanting -- yes. He was wanting to
7 furnish me with information in hopes of helping
8 himself..

9 Q What kind of information?

10 A Information on other drug dealers and users.

11 Q Okay. And was there anything remarkable in
12 one of the drug users that he offered to provide
13 information on?

14 A Yes, it was kind of interesting at the time.
15 As he was naming off some of these larger dealers in
16 Greenville, he kind of just blurted out that he messed
17 up on that particular date. He just sold \$50 worth
18 crack to a black male known as Pete Bigby.

19 Q The same Pete Bigby that was your informant?

20 A Yes.

21 Q So he's admitting to you that he sold to your
22 informant?

23 A Yes, he didn't know we just set that deal up.

24 Q Did he tell you that in response to a
25 question or was he just blurting out whatever he

1 could?

2 A He was trying to furnish us information to
3 get me interested in trying to allow him to help
4 himself.

5 Q Help himself with the charges?

6 A Correct.

7 Q Now, he was not arrested that day on the
8 particular charges, was he?

9 A No, sir.

10 Q He was arrested for some other reason?

11 A Correct.

12 Q Okay. Now, was it a matter of a month to six
13 weeks before a warrant was actually issued for this
14 particular transaction that took place on December the
15 10th?

16 A That's correct.

17 Q Okay. Just one second please. (Pause.)

18 The person that you had that conversation
19 with at the jail, the person whose voice you
20 recognized on the tapes, you see that person in the
21 courtroom today?

22 A Yes, I do.

23 Q Would you point him out please?

24 A Yes. Sitting over there in the striped shirt
25 by Ms. Manigault.

1 Q Let the record reflect that the witness is
2 pointing at the Defendant, Mr. Blythe. Now the place
3 where this transaction took place, was it in Pickens
4 County?

5 A Yes.

6 Q Okay. Thank you, sir. No further questions.

7 THE COURT: Mr. Foreman, Ladies and
8 Gentlemen, I believe this would be a good time
9 for us to take a break before we start into the
10 further testimony of this witness by way of
11 cross-examination. I'll ask you to go back into
12 your jury room. Let me remind you again not to
13 discuss the case in any way. We'll take about a
14 10-minute break.

15 (WHEREUPON, the jury exits at approximately
16 3:48 p.m.)

17 THE COURT: The State has a position on the
18 custody of the Defendant?

19 MR. THEM: Yes, sir.

20 THE COURT: All right.

21 MR. THEM: I take the position that he has
22 seen the majority of our case and the strength of
23 our case is more than enough to frighten him.
24 Under the rules, I think I'm entitled to have him
25 taken into custody, Your Honor.

1 **THE COURT:** Ms. Manigault, I'll be glad to
2 hear from you. I understand the law. Once the
3 jury is sworn, he's in custody unless we got
4 something by way of a bondsman who is willing to
5 stay on his bond. He'll be in custody during the
6 break. It will certainly give you time to talk
7 with him.

8 **MS. MANIGAULT:** Yes, sir.

9 **THE COURT:** All right. Let's take a short
10 break.

11 **(WHEREUPON, a short recess is taken from**
12 **approximately 3:50 p.m. to 4:10 p.m.)**

13 **THE COURT:** All right. The jury is ready.
14 You can have them come in, Mr. Teal.

15 **(WHEREUPON, the jury enters at approximately**
16 **4:11 p.m.)**

17 **THE COURT:** Ms. Manigault, you may cross-
18 examine the witness.

19 **MS. MANIGAULT:** Thank you, Your Honor.

20 **CROSS-EXAMINATION**

21 **BY MS. MANIGAULT:**

22 **Q** Is it lieutenant?

23 **A** Yes, ma'am.

24 **Q** Lieutenant Lovell, you testified that Pete
25 Bigby, your informant, that you met him at his house

1 or somewhere else?

2 A I picked him up near his house and took him
3 somewhere else for briefing.

4 Q Okay. Picked him up near his house?

5 A Yes.

6 Q And you took him to another area for
7 searching, briefing?.

8 A Correct. Yes, ma'am.

9 Q And when you finished that, where did you
10 drop him? Where did you bring him back to?

11 A Back to the same place I picked him up.

12 Q Which was near his house?

13 A Yes, ma'am.

14 Q Would it be more than a couple of city blocks
15 or less than one city block?

16 A It was less. A couple of hundred feet.

17 Q When you picked him up, what officer was with
18 you?

19 A It would have been, uh, Lieutenant Brooks,
20 uh, Brett Barwick, Tommy Blankenship. Those agents
21 are from Pickens County.

22 Q What color was the van that you were in?

23 A White.

24 Q Where did you park the van? Where was the
25 van parked?

1 A On Francis Street at the stop sign straight
2 across. It was pulled into a yard looking out the
3 back straight down Francis Street.

4 Q Was it a residential yard or business yard?

5 A Residential yard.

6 Q And the van was pointed down the street?

7 A Yes, ma'am.

8 Q What street did you drop --

9 A Right there.

10 Q On Francis Street?

11 A Yes.

12 Q All right. I believe you testified to a
13 police search of your confidential informant?

14 A Yes, ma'am.

15 Q Before you gave him the money?

16 A Correct.

17 Q And before you (inaudible)

18 A Correct.

19 Q And when he came back to you with drugs, what
20 did you do at that point?

21 A I handed the little, uh, small envelope
22 that's in that bag back to him. He placed the crack
23 into the bag. I sealed it and kept the crack in my
24 possession. Then we drove back to the original
25 meeting location.

1 Q And what did you do at that location?

2 A That location, I took the wire back from his
3 person. Did a complete search of him again and took a
4 voluntary statement from him.

5 Q All right. From the point where you
6 originally picked him up to his house and at his
7 house, did you do a search of those areas?

8 A No.

9 Q All right. When you took the drugs from Mr.
10 Bigby, did he have any money on him left?

11 A At that time, no, ma'am.

12 Q How much money did you testify that you gave
13 Mr. Bigby for the transaction?

14 A To make the transaction with was \$50.

15 Q When did you testify that you first recorded
16 the serial numbers?

17 A I recorded those at the meeting location when
18 we found out the amount that Mr. Blythe would bring.

19 Q I believe you testified that Mr. Blythe was
20 not arrested on December 10th for the charge.

21 A For this incident, you are correct.

22 Q And did you also testify that it was maybe a
23 month later when he was arrested for this charge?

24 A That's correct.

25 Q Your testimony is you did talk with Mr.

1 Blythe at the Easley Police Department?

2 A That's correct.

3 Q And your testimony is you talked with Mr.
4 Blythe on the 10th?

5 A That's correct.

6 Q December 10th?

7 A Yes, ma'am.

8 Q 2008?

9 A Correct.

10 Q You recall talking to them on December the
11 11th, 2008?

12 A Yes.

13 Q And your testimony is that you asked him no
14 questions at all?

15 A That's correct.

16 Q You did not give him his Miranda warnings?

17 A That's correct.

18 Q And your testimony is that he just sat there
19 and told you things about other people?

20 A That's correct.

21 Q And told you information about Mr. Bigby?

22 A Yes.

23 Q And other names that he gave you?

24 A Yes.

25 Q Including people from Greenville?

1 A Yes, all of them was from Greenville except
2 for Mr. Bigby.

3 Q All right. Your testimony is that you did
4 not initiate contact with Mr. Blythe, is that correct?

5 A That is correct.

6 Q Mr. Blythe called for you or sent for you
7 through another officer?

8 A That's correct.

9 Q And you told him from the very beginning that
10 he was not interested in anything he had to say?

11 A I told him that I was not included to let him
12 do anything to help himself.

13 Q All right. But you talked to him for a
14 period of how long?

15 A Over all? Maybe 15 minutes.

16 Q 15 minutes on December 10th?

17 A Correct.

18 Q You talked to him at all on December 11th?

19 A It was very short on December 11th. It was
20 just to, uh, let him sign a forfeiture form over on
21 some money he had on his person.

22 Q All right. When you talked to him on
23 December 11th, uh, was he still in custody?

24 A Yes.

25 Q And Mr. Blythe was released from custody on

1 December 11th, 2008, is that correct?

2 A To my knowledge --

3 Q You testi--

4 A To my knowledge because I was not the
5 releasing officer.

6 Q You testified earlier under oath that he may
7 have been released on December 11th by a magistrate?

8 A No, ma'am. I said a judge would handle his
9 bond.

10 Q Okay. All right. And just to make it clear,
11 you said you told Mr. Blythe that you would only
12 listen to what he had to say, you had nothing else to
13 say to him, you asked him no questions?

14 A That's correct.

15 Q All right. Thank you.

16 THE COURT: Redirect.

17 REDIRECT EXAMINATION

18 BY MR. THEM:

19 Q Officer Mills, that was at the booking
20 station, that had brought Mr. Blythe to jail, did he
21 know anything about the transaction that was going on?
22 Did he know it was going on?

23 A Yes.

24 Q Did he know the approximate location?

25 A Yes.

1 Q The address on Francis Street?

2 A Yes.

3 Q Okay. Now, why didn't you photocopy the
4 money that you were going to give to Pete to give to
5 Capone before you did it where you just handwrote it.
6 Why is that?

7 A We was out in the field. I didn't have a
8 copier out at our meeting location.

9 Q Did you know how much the deal was going to
10 be?

11 A No.

12 Q Oh, okay. Thank you very much, sir. I have
13 no further questions.

14 THE COURT: All right. Thank you, Officer
15 Lovell. You may step down.

16 The State may call its next witness.

17 MR. THEM: Officer Mills.

18 JEREMY MILLS

19 having first been sworn, testifies as follows:

20 THE CLERK: Thank you, sir. If you would,
21 have a seat and state your name for the record.

22 THE WITNESS: Jeremy Mills.

23 DIRECT EXAMINATION

24 BY MR. THEM:

25 Q I see by your uniform you are an Easley

1 police officer.

2 A Yes, sir.

3 Q How long have you been an Easley police
4 officer, sir?

5 A About four and a half, five years.

6 Q And you are a graduate of the Criminal
7 Justice Academy?

8 A That's correct.

9 Q And let's go back, if we could, to a point in
10 time to December the 10th of 2008. Were you employed
11 at Easley then?

12 A Yes, sir.

13 Q What were your duties then generally?

14 A Road patrol, basically enforce criminal laws,
15 traffic laws.

16 Q Okay.

17 A In the city of Easley.

18 Q Were you contacted by Lieutenant Lovell about
19 getting involved in an operation that he had going?

20 A Yes, sir.

21 Q Okay. Were you actually at the scene of the
22 operation or someplace else?

23 A No, I was someplace else.

24 Q Do you know where the actual operation took
25 place on Francis Street?

1 A Yeah, I'm familiar with that area.

2 Q Okay. And how far is Francis Street from
3 Hagood Park?

4 A Probably about a quarter of a mile, maybe a
5 third of a mile or something like that.

6 Q Is it definitely within a half mile?

7 A Yes, sir.

8 Q Okay. Now, did you have --
9 May I approach, Your Honor?

10 THE COURT: You may.

11 (WHEREUPON, a bench conference is held off the
12 record from approximately 4:23 p.m. to 4:24 p.m.)

13 BY MR. THEM:

14 Q Did you receive word from Lieutenant Lovell
15 that Mr. Blythe was leaving the area?

16 A Yes, sir. I did.

17 Q And did you have a legal reason to apprehend
18 him?

19 A I did.

20 Q Did you take him into custody?

21 A Yes, sir.

22 Q Put handcuffs on him?

23 A Yes, sir.

24 Q Put him back in your cruiser?

25 A That's correct.

1 Q Did you conduct an inventory search of his
2 car?

3 A I did.

4 Q Was he still there when you did?

5 A Yes, sir. He was in my patrol car at the
6 time.

7 Q What's the purpose of doing an inventory
8 search?

9 A To protect -- the individual that we've taken
10 into custody, to protect their belongings. We'll look
11 through the vehicle to see if there is anything of any
12 type of value. It protects them and their belongings
13 as well as protects the police department.

14 Q Protects the police department from getting
15 sued, doesn't it?

16 A Correct.

17 Q When you take a man into custody, he can't
18 protect his stuff anymore?

19 A Right.

20 Q How thorough a search of the car did you do?

21 A Pretty thorough.

22 Q Okay.

23 A Pretty thorough.

24 Q All right. Up over the rearview mirror, were
25 there compartments in this Cadillac automobile?

1 A Yes, sir. There was.

2 Q Was anything of interest found in one of
3 those compartments?

4 A There was \$50 cash found in the compartment.

5 Q Okay. And did you seize that money?

6 A I did.

7 Q Did you find any other money hidden in the
8 car?

9 A Not that I remember, no, sir.

10 Q Okay. Now, did you take Mr. Blythe back to
11 the Easley jail for booking?

12 A Yes, sir.

13 Q And while you were there booking Mr. Blythe,
14 did you happen to have a conversation with Lieutenant
15 Lovell about some of the money that was laying on the
16 counter that you had either found at the car or on the
17 Defendant's person?

18 A Yes, sir, at one point during the booking
19 process.

20 Q What was that conversation briefly?

21 A Just out laid out the money and Lieutenant
22 Lovell came back and looked at the serial numbers and
23 advised me that there were two twenties and one ten.
24 that matched the money they had given him during the
25 transaction.

1 Q Okay. All right. Now, where was this
2 conversation taken place?

3 A At the booking counter.

4 Q Is the booking counter something like this
5 where people stand on one side and y'all stand on the
6 other? It's about this big or anything.

7 A It's kind of an island in the middle of the
8 room. You can stand on either side.

9 Q Okay. What do you do at the booking center?

10 A Uh, there's a computer at another desk where
11 we input all their information. There's health
12 questions we have to ask them.

13 Q You fingerprint them?

14 A Yes, sir.

15 Q Photograph them?

16 A Yes, sir.

17 Q And when you took Mr. Blythe into custody out
18 on the street, did you advise him of his Miranda
19 warnings, his "you have the right to remain silent,
20 anything you say can be used against you", did you
21 give him that advice?

22 A No, sir.

23 Q Why not?

24 A I wasn't asking him any questions. I was
25 stating to him that he was under arrest.

1 Q Okay. And did you ever give him those
2 constitutional warnings on December the 10th or 11th
3 of 2008?

4 A Not that I recall.

5 Q Okay. Did you ever question Mr. Blythe?

6 A No, sir.

7 Q Did you ever see Lieutenant Lovell question
8 Mr. Blythe?

9 A No, sir.

10 Q Did Lieutenant Lovell and Mr. Blythe and you
11 have any kind of conversation?

12 A Yes, sir. Lieutenant Lovell and Mr. Blythe
13 did. I was in the room at the time.

14 Q Okay. You were in the room?

15 A Yes, sir.

16 Q Did you participate in the conversation or
17 you just happened to be there when it was happening?

18 A I was just there when it happened.

19 Q Okay. Who started the conversation?

20 A Mr. Blythe did.

21 Q What was he talking about?

22 A Just random stuff. Like I said, I wasn't
23 really a part of the conversation. So I really didn't
24 pay that close attention to it. I know that he had
25 asked about helping himself.

1 Q Helping us. What do you mean by that?

2 A Help them with the charges.

3 Q Okay. He wanted to go work for you?

4 A Correct.

5 Q Okay. Did he mention anything about anything

6 that he had done very recently?

7 A I don't recall. Like I said, I really wasn't.

8 part of the conversation.

9 Q Okay. All right. Did Lieutenant Lovell

10 question him?

11 A No, sir.

12 Q Who did all the talking?

13 A Mr. Blythe did.

14 Q Okay. The person that was in that room

15 talking to Lovell when you were there and the person

16 that you took into custody on the side of the road, is

17 that person in the courtroom today?

18 A Yes, sir.

19 Q Would you point him out please?

20 A Sitting right over there. (Pointing.)

21 Q Okay. Thank you very much. Just one second

22 please. (Pause.)

23 I have no further questions of this witness,

24 Your Honor.

25 THE COURT: You may cross-examine.

1 MS. MANIGAULT: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. MANIGAULT:

4 Q Officer Mills, was anybody with you when you
5 did inventory of the brown Cadillac or goldish
6 Cadillac on December 10th of 2008?

7 A Uh, nobody participated in the inventory of
8 the vehicle. My sergeant was on scene but he was back
9 at the patrol cars. He was not at the Cadillac with
10 me. That would be Sergeant Cowans.

11 Q All right. And you testified you were
12 present in the room where the conversation was
13 supposed to have taken place between Lieutenant Lovell
14 and Randy Blythe?

15 A Yes, ma'am.

16 Q So it's your testimony that Lieutenant
17 Lovell, to your recollection, say anything?

18 A Uh, he had told Mr. Blythe that he didn't
19 really care to work with him on the charges.

20 Q That's the only thing you recall him saying?

21 A Yes, ma'am.

22 Q How long were you in the room with them?

23 A Uh, start to finish.

24 Q And would you give me an estimate of time
25 from start to finish?

1 A Maybe 10 to 15 minutes.

2 Q Okay. So for 15 minutes, you are telling the
3 court that Randy Blythe just sat there talking?

4 A Yes, ma'am.

5 Q And nobody asked him a question in response
6 to anything he said?

7 A No, ma'am.

8 Q And you certainly did not participate in any
9 of that?

10 A No, ma'am.

11 MS. MANIGAULT: Thank you.

12 REDIRECT EXAMINATION

13 BY MR. THEM:

14 Q Did he appear to be excited?

15 A As in nervous?

16 Q Yeah.

17 A Yes.

18 MR. THEM: Thank you very much.

19 I have no further questions of this witness,
20 Your Honor.

21 THE COURT: Thank you, sir. You may step
22 down.

23 MR. THEM: I call Forensic Services Officer
24 Sergeant Cowan.

25 BRIAN COWAN

1 having first been sworn, testifies as follows:

2 **THE CLERK:** Thank you, sir. If you would,
3 have a seat and state your name for the record.

4 **THE WITNESS:** Sergeant Robert Brian Cowan.

5 **DIRECT EXAMINATION**

6 **BY MR. THEM:**

7 **Q** Sergeant Cowan, I know everybody in your
8 profession hates this when I ask this question, but
9 are you what we sometimes call a CSI like we see on
10 TV?

11 **A** I would be Easley's CSI.

12 **Q** Okay. That's what a forensic service officer
13 is?

14 **A** Yes, it is.

15 **Q** In addition to being the forensic service
16 officer, are you also the evidence custodian?

17 **A** I am.

18 **Q** Suppose some officer made a case out on the
19 street right now and you are up here in court and he's
20 got some evidence he's seized, this blue thing and he
21 doesn't want to carry it around. He wants to put it
22 someplace safe where he can get it to you. Do y'all
23 have a mechanism for doing that at the Easley Police
24 Department?

25 **A** Yes, we do.

1 Q Tell me about it if you would.

2 A The best way I can describe it is it's like
3 Post Office boxes. The officers will put their -- in
4 this case evidence, they would put their evidence in
5 one side, turn the knob, push the button and it locks.
6 The only way that that box could then be unlocked is
7 from the inside which is in my office and if you go in
8 my office door, which you have to have a key for, and
9 then you come to another door, which you have to have
10 a key for that door to get into the backside.

11 Q Separate from the first key?

12 A Separate from the first key to get into the
13 back side of those locks. Once you open that door,
14 then you have access to the backside of the locks.

15 Q Okay. Now, let me call your attention to
16 some time around December the 10th of 2008 and ask you
17 if you ever saw the contents of this package, I'm
18 talking about when you first saw them, if you did.
19 I'm not talking about the outer package. I'm talking
20 about the package on the inside that has little white
21 things in it.

22 A Yes, I do.

23 Q Where did you see that first?

24 A Uh, on December the 17th of 2008.

25 Q Okay. That document you are looking at, what

1 is that?

2 A That's the Easley Police Department Property
3 Report.

4 Q Okay. Is that where you walk this stuff
5 around where everybody knows where it is all the time
6 and who's got it?

7 A Yes, sir. That's correct.

8 Q Okay. So when you got it, did you get it out
9 of that drop box situation that we're talking about?

10 A Yes, I did.

11 Q Okay. What did you do with it?

12 A When I first get it, I verify that I have all
13 the paperwork, correct documentation and the evidence.
14 If it's a drug evidence, I make sure the evidence is
15 sealed before I get it. If the evidence is not
16 sealed, then I make contact with that officer and
17 advise him that he failed to seal the evidence and to
18 come to me. In this case, the evidence was sealed, so
19 therefore, I did not have to make contact with the
20 officer.

21 Q And who had sealed it?

22 A The, uh, -- it has the signature of Jason
23 Lovell.

24 Q Okay. All right.

25 A At that time, I documented that I had it in.

1 I then placed it in the storage area, which is in a
2 locked area on the other side of my office which you
3 have to have a separate key to get into.

4 Q Separate from the other two keys you were
5 talking about? We are now going into a third key?

6 A Yes.

7 Q Okay.

8 A It stays in that area. At which time, I
9 transport it over to the Greenville Property and
10 Evidence section where I drop it off for them to
11 document that they take it in.

12 Q Okay. Let me slow you down just a second.
13 When you verified it's all signed and everybody sealed
14 it and you take it to that third locked room, how is
15 it packaged if you had used this as an example?

16 A The inside, this outer package is a heat
17 sealed package. This inner package is just kind of
18 like a ziplock bag.

19 Q Okay.

20 A And this little red seal right here is a
21 tamper resistant seal. It was actually in this little
22 ziplock bag with a tamper resistant seal on it.

23 Q Okay. You say you wait until you have enough
24 of these or you have one that's very important and you
25 take them over to Greenville?

1 A Yes.

2 Q Why do you take them to Greenville?

3 A We do not have the equipment to test items of
4 this nature. Also it's a third party testing
5 facility.

6 Q Okay. They have chemists and people like
7 that over there?

8 A That's correct.

9 Q All right. Now, when you take it over there,
10 what does it look like when -- how do you carry it
11 over there? Just in that bag?

12 A Uh, we carry it over in this bag. Uh, then
13 it gets documented with another lab number.

14 Q Whose lab number is that?

15 A That would be Greenville's lab.

16 Q Okay. It's documented with Greenville's lab
17 number and I sign it over to the evidence custodians
18 of the Greenville property section. They fill out a
19 manilla envelope which has a Greenville lab number on
20 it. They fill it out. Then, I observe them. They
21 verify that it's sealed. Then they place it into the
22 manilla envelope. At which time, they place it into
23 another storage area in their area.

24 Q Now, in this particular case, did you watch
25 the, uh, Greenville laboratory people do everything

1 you just described?

2 A Yes, I did.

3 Q And is that this manilla envelope here, is
4 this the envelope that they put this material in?

5 A Yes, it is.

6 Q So in effect, would this go like this?

7 A Yes.

8 Q Okay. So when you got it, you had the red
9 stripe?

10 A Yes.

11 Q And that -- when you took it over there, they
12 would have filled this manilla envelope up, put it in
13 here and sealed it up?

14 A Yes.

15 Q And then they put it in their closed and safe
16 confinement area?

17 A Yes.

18 Q Now, at some point in time later in the
19 future, you received word that the chemical testing
20 had been complete?

21 A Yes, I did.

22 Q And did you in this case receive that work?

23 A Yes, I did. I was dropping more evidence
24 off.

25 Q Okay.

1 A At this time, I was notified that I had.
2 evidence ready to be picked up.

3 Q Okay. And when was that?

4 A When was it that I dropped it off or when was
5 it that I picked it up?

6 Q Let's talk about dropping it off first, then
7 tell us when you picked it up.

8 A Okay. I dropped it off on January the 13th
9 of 2009 and picked it back up February the 27th of
10 2009.

11 Q Okay. Now, when you picked it up, did it
12 look any different than the way it did when you took
13 it over there?

14 A Yes, it did.

15 Q When you picked it up, was it in that manilla
16 folder?

17 A It was in the manilla folder.

18 Q What had changed on the inside?

19 A The heat sealed package itself. The evidence
20 that I had dropped off had been opened by the chemist
21 and then placed into this heat sealed envelope and
22 then sealed back up.

23 Q Are you familiar with those initials on there
24 of the chemist?

25 A Yes, I am.

1 Q Whose initials are those?

2 A Those are James -- excuse me -- James
3 Armstrong.

4 Q Does he do almost all of y'all's work?

5 A I would say 99.9 percent of our evidence is
6 done by James Armstrong.

7 Q So you picked it up. Now, to get it out of
8 there, what did you have to do?

9 A I had to sign for it. The standard procedure
10 is I will go in and drop stuff off. They will check
11 to see if I have anything ready to be picked up. If I
12 do, they'll bring it up to me. I then go through and
13 verify that I have evidence in the envelope, that the
14 case numbers match the evidence, then I sign for it
15 back and then bring it back to the Easley Police
16 Department.

17 Q All right. Do you also verify that that's
18 something that you took over there some time in the
19 past?

20 A Yes, I do.

21 Q Okay. Now, you sign for it and they turn it
22 over to you?

23 A Yes.

24 Q What do you do with it then?

25 A I hold it until it needs to be brought to

1 court.

2 Q All right. Where do you hold it?

3 A In the -- as I stated before, where I put the
4 evidence -- after I -- okay. I go in my office. I
5 get the evidence out of the evidence locker. Then the
6 actual, the third door that I go through --

7 Q The third lock?

8 A The third lock.

9 Q Okay.

10 A That actually has a storage area in it.

11 Q Okay.

12 A In this case, it was brought back and placed
13 into that storage area for what I call Greenville
14 Returns.

15 Q To get through the third lock, you've got to
16 get through the first lock on the door?

17 A That's correct.

18 Q To get to the second area, you've got to get
19 through another lock there?

20 A Yes.

21 Q And to get through the secured storage area,
22 here number three, you've got to have a third lock?

23 A No. You have the first door which is the
24 door that leads into my office.

25 Q Uh-huh.

1 A Then you have the door which leads into the
2 evidence room.

3 Q Okay.

4 A So it's you have the first door and then the
5 second door which are two separate keys.

6 Q Where did the third door and third lock come
7 in?

8 A The third door and third lock we are speaking
9 of is the door that's actually on the back side of the
10 evidence lockers.

11 Q Oh, okay. Now, has this evidence here been
12 in your custody during the time period you talked
13 about and, most particularly, from when you picked it
14 up in Greenville until this afternoon?

15 A Yes, it has.

16 Q You brought this up here?

17 A Yes, I did.

18 Q You don't give this to somebody else to bring
19 up here?

20 A No, I do not.

21 Q You hand carry it?

22 A Yes, I do.

23 MR. THEM: Your Honor, I wonder if we could
24 mark this outer envelope. The inner envelope is
25 State's Exhibit number 3 for identification.

1 Could we mark this 3(a) for identification since
2 they are part and parcel?

3 **THE COURT:** Any objection to the outer one
4 being marked?

5 **BY MR. THEM:**

6 **Q** Just one second. Can you tell me what that
7 one word is?

8 **A** Marking.

9 **Q** Marking. Okay.

10 **MS. MANIGAULT:** May we approach, Your Honor?

11 (WHEREUPON, a bench conference is held off the
12 record from approximately 4:43 p.m. to 4:44 p.m.)

13 **THE COURT:** Subject to your objection.

14 **MS. MANIGAULT:** Thank you, Your Honor

15 **THE COURT:** The Exhibit will be admitted.
16 You can mark that one as Exhibit 3(b) and mark
17 the other one 3(a).

18 **MR. THEM:** Okay. That will be fine, Your
19 Honor.

20 This becomes 3(a).

21 (WHEREUPON, State's Exhibit 3 is remarked as
22 State's Exhibit 3(a) and admitted into the record.)

23 (WHEREUPON, State's Exhibit 3(b) is marked for
24 identification purposes and admitted into the record.)

25 **THE COURT:** 3(b). 3(a) has already been

1 identified but not into evidence. 3(b), the
2 evidence is admitted into evidence.

3 BY MR. THEM:

4 Q Now, just for explanation, I see some
5 handwriting here. Is that your handwriting?

6 A Yes, it is.

7 Q It says 1-24-2011, 14:58, Peter Them for
8 marking. 1/24/11, that's today's date?

9 A That's correct.

10 Q What happened that -- excuse me. What is
11 14:58?

12 A That's military time for 2:58.

13 Q And what is to Peter Them for marking?

14 A That is the time that you asked for it from
15 me to have the court mark.

16 Q So I'm Peter Them. You just noting on there
17 that I kind of got into this thing now?

18 A Yes.

19 MR. THEM: Just one second. (Pause.)

20 I have no further questions of this witness,
21 Your Honor.

22 THE COURT: Any questions from the defense?

23 MS. MANIGAULT: Just a couple, Your Honor.

24 CROSS-EXAMINATION

25 BY MS. MANIGAULT:

1 Q Sergeant Cowan, the evidence that you dropped
2 off on January 13th, 2009 was the incident date
3 December 10th, 2008?

4 A Yes, ma'am.

5 Q Okay. So you dropped it off approximately a
6 month later?

7 A I received it on December the 17th. So yeah,
8 there would be approximately a little less than a
9 month later is when I dropped it off to Greenville.

10 Q Received on December the 17th?

11 A Yes, ma'am.

12 MS. MANIGAULT: Thank you.

13 THE COURT: Any redirect?

14 MR. THEM: Just one quick question, Your
15 Honor.

16 REDIRECT EXAMINATION

17 BY MR. THEM:

18 Q You said this is your evidence control sheet?

19 A Yes, sir.

20 MR. THEM: Your Honor, I'd move to admit
21 this into evidence. It has all those dates and
22 names and all that on it.

23 Would you mark this next in order for
24 identification only?

25 (WHEREUPON, State's Exhibit 7 is marked for

1 identification purposes.)

2 BY MR. THEM:

3 Q Okay. This is your official record here?

4 A That is my original.

5 Q Do you need this back by way of a copy or
6 anything after the case?

7 A I would appreciate it.

8 Q Okay. Thank you very much. I have no
9 further questions of this witness.

10 THE COURT: Thank you, Officer Cowan. You
11 may step down.

12 Call your next witness.

13 MR. THEM: I'm down to my Greenville
14 laboratory people, Your Honor. They'll be here
15 first thing in the morning.

16 THE COURT: All right. We'll just break for
17 the evening, end a little earlier. Ladies and
18 Gentlemen, I'll remind you again not to discuss
19 the case. It would be improper for you to do
20 that. You made a high commitment to the State of
21 South Carolina and the Defendant in this case to
22 make a decision on what you hear here in this
23 courtroom and that alone. I remind you again not
24 to do any kind of independent research, ride by
25 places or do anything like that. You'll get

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1 everything that you need from these fine
2 attorneys to make a good, valid decision as to
3 the facts of the case.

4 With that in mind, have a good evening. I
5 have some matters I need to take care of here at
6 nine o'clock in the morning. I'll just ask you
7 to come in at 9:30. I think we'll be through
8 with the other matters in the other case before
9 that. If you will, be in at 9:30 in the morning.
10 Have a good evening. I don't know what the
11 weather reports are now. I know we sometimes
12 have an issue with that, but there will be a call
13 in number for you.

14 Right, Mr. Wilkins? There will be a message
15 on the machine?

16 **THE CLERK:** Yes.

17 **THE COURT:** If there were to be inclement
18 weather, there'll be a message on the machine for
19 you. So just listen to that carefully. I don't
20 anticipate any bad weather.

21 **THE CLERK:** It will also be on the TV.

22 **THE COURT:** Of course. Yeah, the news media
23 also has that. Whatever the county of Pickens
24 does or recognizes, that will be what we will go
25 by as well. Hope we will have good weather

1 tomorrow. Have a good evening, Ladies and
2 Gentlemen. I'll see you back at 9:30.
3 (WHEREUPON, the jury exits at approximately
4 4:49 p.m.)

5 THE BAILIFF: The door is closed, Your Honor.

6 THE COURT: Yes, ma'am.

7 MS. MANIGAULT: Your Honor, my client was,
8 is asking, called Mr. Comby up to say that he can
9 stay on bond. His mother has talked to him
10 twice. He's at the LEC bonding someone else out.

11 UNIDENTIFIED SPEAKER: Yeah, he said he was
12 going to call.

13 THE COURT: I think I saw him here earlier
14 today.

15 MS. MANIGAULT: Yes, sir. He's asking the
16 Court to reconsider to allow him to.

17 THE COURT: Well, if Mr. Comby's here and
18 says he'll stay on his bond for the full amount
19 and make sure his appearance is here.

20 MR. THEM: He's on a PR bond now, Your
21 Honor, on this charge.

22 THE COURT: Right. But the bondsman is
23 going to come in and -- oh, he's on a PR?

24 MR. THEM: Yes, sir.

25 THE COURT: What does Mr. Comby have to do

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1 with it?

2 MS. MANIGAULT: He has electronic monitoring

3 on.

4 THE COURT: For this charge?

5 MS. MANIGAULT: For bond charge, other

6 charges.

7 THE COURT: Other charges.

8 MS. MANIGAULT: Right.

9 THE COURT: That wouldn't affect this bond.

10 If he's on a PR bond --

11 MS. MANIGAULT: Your Honor, he's shown up

12 for court every time.

13 THE COURT: Well, once the jury is sworn, I,

14 uh, -- I'm compelled to follow the rule and have

15 him, uh, stay incarcerated.

16 MS. MANIGAULT: Thank you, Your Honor.

17 THE COURT: Certainly, I will allow you

18 access to him in any and all ways. All right.

19 We'll be back on this case at 9:30 in the

20 morning. We'll report at nine o'clock for pleas

21 as I understand.

22 MS. MANIGAULT: Thank you, Your Honor.

23 (WHEREUPON, the Court recesses for the day at

24 approximately 4:55 p.m.)

P R O C E E D I N G S

1
2 (WHEREUPON, the Court resumes on the 25th day of
3 January, 2011 at approximately 9:36 a.m.)

4 MR. THEM: Yes, sir. If I could, I would
5 like to clear up an evidence problem from
6 yesterday plus I have a problem this morning that
7 I'm going to present to the court in the form of
8 a motion in limine and get some guidance. I
9 didn't find out about this problem until a
10 quarter til 9:00.

11 Yesterday, on State's Exhibit number 6, the
12 money, there was an objection to this writing
13 down here. It was agreed that I would remove
14 that writing. I've done so. I've given a copy
15 of it to counsel. I would ask counsel does the
16 changes made to the copy of the document I gave
17 you satisfy your concern?

18 MS. MANIGAULT: Yes, Your Honor.

19 MR. THEM: So we would substitute this
20 document and can we assign it some sort of
21 sequential number where it would preserve the 6
22 and indicate on the record. Like 6(a) and 6(b)
23 or something like that so the record would be
24 clear as to what the original exhibit was and
25 then what the redacted one was.

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1 **THE COURT:** Teresa, will it mess you up if
2 we made that original 6 a Court Exhibit for any
3 appellate purpose?

4 **(WHEREUPON, State's Exhibit 6 is remarked as**
5 **Court's Exhibit 3.)**

6 **(WHEREUPON, the redacted copy is marked as State's**
7 **Exhibit 6.)**

8 **MR. THEM:** It would have the 6 number on it.

9 **THE COURT:** Technically, that was 6 from the
10 get-go. We agree that --

11 **MR. THEM:** Yes.

12 **THE COURT:** That that was going to be 6.
13 I'll just make that a Court's Exhibit. Number 6
14 is Court's Exhibit number 3 then. That would be
15 Court Exhibit 3. And just place with the
16 redactions as Court's Exhibit 6.

17 **MR. THEM:** All right, Your Honor. To my
18 problem this morning, I'm going to hand up to you
19 a copy of State's Exhibit number 7 for
20 identification only, which is the property report
21 from the Easley Police Department showing the
22 signatures. I'm going to hand that up that
23 that's a document that has the concern.

24 By way of background, I served subpoenas on
25 Tabitha Fricks who is the second to last person

1 in the chain of custody. She works for
2 Greenville Department of Public Safety. I tried
3 to serve on Renee Pruitt, but she is retired now
4 and no longer work there. So I served one on Ms.
5 Kara Bennick who is the supervisor.

6 We have already established, I believe, in
7 the chain of custody, Jason Lovell, the first
8 one, Brian Cowan, number two, and then Brian
9 Cowan testified that he took it over to
10 Greenville. It was marked by someone. What I
11 propose to do under the Hatcher case -- a copy of
12 which I've given up to your clerk as well as a
13 copy I've given to counsel. I believe under
14 Hatcher that, uh, Ms. Bennick, the supervisor,
15 can testify as to the signature of Ms. Pruitt
16 that this is the normal way it was done and the
17 paperwork would reflect that it was done
18 according to policy and the procedure that is
19 done which would tie in with what Mr. Cowan
20 testified yesterday that he saw happened.

21 So assuming that to be the case, just for the
22 sake of argument, that would get it into
23 Greenville. And then at some later point in
24 time, Mr. Armstrong who did the testing would
25 testify about he picked it up, tested it, et

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1 cetera. When he finished testing it, if you
2 remember, we made a big deal yesterday out of he
3 put it in a separate heat-sealed bag. The
4 integrity of that bag is preserved today. He
5 will be able to look at it and testify that the
6 integrity has been preserved. When he finished
7 with it, he sent it back downstairs to be
8 refined.

9 When Officer Cowan went over there to take
10 some other stuff, you will remember he testified
11 that he was told that some of the earlier stuff
12 was ready. The person that he was talking to was
13 Ms. Tabitha Fricks who is on duty at Greenville
14 Property and Evidence right now. She handed it
15 over to him. It was signed for appropriately.
16 He brought it back, put it in storage and brought
17 it to court.

18 The problem that I have, Your Honor, is they
19 have four people working in Property and Evidence
20 over in Greenville. Two of those people are in
21 training and are simply not available today.
22 They are not witnesses, but they would cover the
23 people that are witnesses. I have brought the
24 supervisor who is not on the list, but she would
25 be a Hatcher witness, talking about the Hatcher

1 case, to get over the problem of Ms. Pruitt not
2 being here that Hatcher specifically allows for.
3 The problem I have is I couldn't bring her and
4 Ms. Fricks here. I would have to shut down the
5 Greenville Property and Evidence room for a
6 Pickens County case. And they just can't do
7 that.

8 So I have a couple of options available. If
9 the Court is of a mind, I'd like to present those
10 options to you in the form of some sort of motion
11 in limine as to the way I would hope to handle
12 it.

13 THE COURT: You are wanting Ms. Bennick to
14 testify on behalf of the chain for Pruitt and
15 Fricks?

16 MR. THEM: Yes, sir.

17 THE COURT: What's the, uh, defense position
18 on that under the Hatcher law -- Hatcher case?

19 MS. MANIGAULT: Your Honor, we're going to
20 object to that. I plan to read the case.

21 THE COURT: I'll give you a moment to do
22 that.

23 MS. MANIGAULT: Thank you.

24 (WHEREUPON, there is a pause.)

25 THE COURT: The defense still object to the

Remarks

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1 offer of evidence?

2 **MS. MANIGAULT:** Yes, Your Honor. We object.

3 According to the State information that was given
4 to the court, that would not provide a true chain
5 of custody. On the property report that has been
6 provided to the Court as State's Exhibit number 7
7 for identification has signatures on it. The
8 third signature is an R. Pruitt who allegedly
9 received the package from Cowan. She was the
10 person that signed on this sheet and properly the
11 person responsible for what she received. We
12 believe that testimony is important because the
13 next signature on this sheet would be the
14 chemist. And she would, at that point, be very
15 important. We believe that Ms. Pruitt would be a
16 vital witness in the chain of custody.

17 **THE COURT:** All right. Mr. Them.

18 **MR. THEM:** Your Honor, I would remind the
19 court about the testimony of Mr. Cowan yesterday.
20 We went into great detail with him about what
21 happened to the evidence when he first took it
22 over there because I knew Ms. Pruitt was not
23 going to be available because she is retired. I
24 knew I would be calling on the supervisor. He
25 clearly went through everything that was done in

1 his presence about how it was put in this manilla
2 envelope that was prepared by Ms. Pruitt at the
3 time. As a matter of fact, I moved that envelope
4 into evidence.

5 This is specifically the situation as it
6 relates to Ms. Pruitt only. I'll talk about Ms.
7 Fricks later. This is the specific situation
8 that Hatcher talks about, a supervisor come and
9 talk about the procedure, authenticating
10 signatures saying, uh, testifying about whether
11 or not it was done with the policy according to
12 this, looking at the documents --

13 THE COURT: Where in Hatcher are you
14 referring to?

15 MR. THEM: Your Honor, on the bottom of page
16 3 as is indicated on the copy I handed up, page 3
17 of 7, paragraph entitled "Chain of Custody", the
18 second paragraph, about halfway through, the line
19 starts out Rogers versus Commonwealth and gives a
20 cite. Then it says, "however, each person".
21 That's where I'm going to talk about. If you
22 want, I'll read that into the record, Your Honor.

23 THE COURT: That's fine. I've got it.

24 MR. THEM: Okay.

25 (WHEREUPON, there is a pause.)

Remarks

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1 **THE COURT:** Mr. Them, uh, is one witness
2 going to be testifying to the chain as far as
3 Pruitt involvement and the Fricks involvement?

4 **MR. THEM:** Yes, sir. We're in the process
5 of trying to get an affidavit from Ms. Fricks as
6 is mentioned in this case in the body of the
7 opinion in the form of a footnote. Again, we
8 just found out about this problem this morning
9 with those staff people, so we don't have it yet.
10 But I anticipate we will have it.

11 **THE COURT:** But you knew that Pruitt was not
12 available?

13 **MR. THEM:** Yes, sir. I would also point
14 out, Your Honor, uh, are you looking at my
15 printout or the actual case itself?

16 **THE COURT:** No, I'm looking at another --
17 I'm looking at your printout.

18 **MR. THEM:** Okay. On my printout, on page 4
19 of 7 -- 1, 2, 3, 4, 5 -- in the sixth paragraph
20 that starts out, while the chain of custody is
21 only required, I would carry you down to the
22 second set of bold handwriting in the bottom
23 third of that paragraph. The line starts out
24 with a citation of South Carolina 18-27-28. Then
25 parenthetically, talking about a Court of Appeals

1 decision, it says, holding the chain of custody
2 was established when the identity of each
3 custodian was established through documentary
4 evidence and testimony, although the evidence
5 custodian was unavailable to testify at trial or
6 via the affidavit.

7 **THE COURT:** Let me have a proffer of your
8 evidence that you're going to present. Is your
9 witness here?

10 **MR. THEM:** Yes, sir. I'll be happy to put
11 her up.

12 **THE COURT:** Put her up and hear what she's
13 going to testify to.

14 **KARA BENNICK**

15 having first been sworn, testifies as follows:

16 **THE CLERK:** Have a seat and state your name.

17 **THE WITNESS:** My name is --

18 **MR. THEM:** Your Honor, did I pass up the
19 evidence copy of this?

20 **THE COURT:** Yes.

21 **DIRECT EXAMINATION**

22 **BY MR. THEM:**

23 **Q** Okay. Your name please, ma'am?

24 **A** Kara Bennick.

25 **Q** And where are you employed?

1 A Greenville County Department of Public
2 Safety, the Property and Evidence section.

3 Q And what do you do there?

4 A I'm the supervisor of the section.

5 Q And how long have you worked there?

6 A I've worked for the Department of Public
7 Safety for 13 years. I been in the property room for
8 eight.

9 Q Okay. And how long have you been
10 supervising?

11 A Eight.

12 Q Eight?

13 A Yes.

14 Q And were you so employed on or -- in late
15 2008 and early 2009?

16 A Yes, sir.

17 Q Okay. Was Renee Pruitt employed there at
18 that time?

19 A Yes, sir. She was.

20 Q What did Ms. Pruitt do?

21 A Renee was a Property and Evidence technician.

22 Q Can you tell me generally what her duties
23 were? Let's just say that someone was bringing in
24 some stuff they wanted to turn in to be tested, what
25 would her duties be?

1 A Her responsibilities were to sign for the
2 evidence, take custody of it and place it in a secured
3 storage area.

4 Q Okay. Would she also rebag it into something
5 like State's Exhibit 3(b)? Would she do it like
6 State's Exhibit 3(b)?

7 A Yes, sir. She would put it in an envelope
8 and indicate the case number that's being assigned by
9 Greenville.

10 Q Are you generally familiar with her
11 handwriting based on the years you worked with her?

12 A Yes, sir.

13 Q Does that appear to be her handwriting on
14 State's Exhibit 3(b)?

15 A It does.

16 Q In the black magic marker?

17 A Yes, sir.

18 Q Okay. I'm going to hand you State's Exhibit
19 number 7 which is, I believe, for identification only
20 at this point in time. Would you look at that
21 signature that I'm holding my thumb that appears to be
22 the initials R-P-R-U-I-T. Do you recognize that
23 signature?

24 A I do, sir.

25 Q Whose signature is that?

1 A That's Renee Pruitt's signature.

2 Q How many times do you think you have seen
3 Renee Pruitt's signature?

4 A Thousands.

5 Q Okay. All right. Now, after it is placed in
6 this bag that Ms. Pruitt would have filled out, what
7 happens to it?

8 A It's then placed in a secured storage
9 location pending transfer to the lab.

10 Q Okay. And how is it transferred to the lab?

11 A A lab technician will come down, request
12 their box of pending items. We will take it to the
13 counter and they will remove them and sign for them.

14 Q Okay. In this case, we have it right here
15 according to this document at least accepted by Ms.
16 Pruitt and extensively put into storage. Who came
17 down and picked it up according to that document?

18 A James Armstrong.

19 Q Okay. And he's the chemist?

20 A Yes, he is.

21 Q And the document you are talking about is
22 still State's Exhibit number 7?

23 A Yes, sir.

24 Q Okay. Now, would Ms. Pruitt have handled
25 that transaction?

1 A That's not necessarily the case. Any one of
2 us that's in the property room could have brought him
3 the box.

4 Q Okay. Now, talk to me about the security in
5 this property room if you would.

6 A The only four people who have limited or
7 unlimited access to the property room are the evidence
8 technicians. It is kept in a secured vault area which
9 only we can access. We go in. It's kept in a pending
10 area in the vault and brought out to the technician to
11 the counter.

12 Q Now, when somebody brings you something that
13 is alleged to be narcotics and it's sealed in one of
14 these packets like you see inside of State's Exhibit
15 number 3(a), not the outside one, the inside one.

16 A Yes, sir.

17 Q If I brought it to you to be tested, would
18 you in any way violate the integrity of that envelope
19 that I brought you or would you merely place it in the
20 manilla envelope like State's Exhibit 3(b)?

21 A We would not violate the integrity of it. As
22 a matter of fact, we would not accept it if it was not
23 sealed because we do not lay hands on --

24 Q Okay. Now, from looking at the documentation
25 for State's Exhibit 3(b) and State's Exhibit 7, does

1 it appear to you that the evidence in this case was
2 handled in accordance with the policy that you just
3 testified to?

4 **A** Yes, sir.

5 **Q** Do you see anything in there that would
6 indicate any deviation from that policy?

7 **A** No, sir.

8 **Q** Okay. And the evidence we're talking about
9 is the evidence in the Randy Blythe case?

10 **A** To the best of my knowledge, yes, sir.

11 **Q** Okay. All right. Thank you, ma'am.

12 **THE COURT:** Mr. Them, is this witness also
13 going to testify in behalf of Fricks?

14 **MR. THEM:** Yes, sir.

15 **THE COURT:** Would you go through that too?

16 **MR. THEM:** I will.

17 **BY MR. THEM:**

18 **Q** Now, does a lady named Tabitha Fricks work
19 with you?

20 **A** She does.

21 **Q** What does she do?

22 **A** She's also a property and evidence
23 technician.

24 **Q** Does she do essentially the same duties as
25 Ms. Pruitt would have done?

1 A Yes.

2 Q Okay. Now, looking at State's Exhibit number
3 7, are you generally familiar or for that matter, are
4 you familiar with the signature of James Armstrong,
5 the chemist, with your agency?

6 A Yes, sir.

7 Q Would you look at that document then and tell
8 me whether or not that appears to be Mr. Armstrong's
9 signature to your right up above Tabitha Fricks? The
10 signature Tabitha Fricks, is that where she signed for
11 it where she got it back from Mr. Armstrong?

12 A Yes, she received it back to the counter from
13 Mr. Armstrong.

14 Q Is that the normal way it be done according
15 to your policy?

16 A It is.

17 Q What would she then do with it?

18 A Tabitha would complete signature on the
19 sheet, verify that the evidence is all accounted for
20 and she would then return it to a box assigned to the
21 Police Department awaiting transport.

22 Q Okay. And then at some point in time, when
23 Officer Cowan came in to pick it up, he would have to
24 sign for it?

25 A Yes, sir.

1 Q In looking at this sheet, do you see anything
2 on this sheet that would indicate in any way, shape or
3 form, particularly in this signature block area from
4 the time of Ms. Pruitt signing for it that would
5 indicate that anything was done different other than
6 the policy you just testified to?

7 A No, sir.

8 Q As a matter of fact, does that sheet of paper
9 completely support what your testimony was as far as
10 policy?

11 A It does.

12 Q You can authenticate the signatures you
13 talked about?

14 A Yes, sir.

15 Q Now, for the record, where is Ms. Fricks
16 today?

17 A She is back operating the property room in
18 Greenville.

19 Q Y'all have four people working in the
20 property room?

21 A We do.

22 Q I understand two of them are in training?

23 A Yes, two of them are within three months of
24 employment.

25 Q Okay. And you can't get them out of training

1 to come in today?

2 A They can't operate the property room on their
3 own at this point in time with the volume of work that
4 there is. They are not trained.

5 Q Okay. So that leaves you and Ms. Fricks?

6 A Yes.

7 Q If you were both over here to testify, what
8 would happen to the property room?

9 A We would have to simply close the property
10 room.

11 Q For all of Greenville County Sheriff's
12 Office?

13 A Yes.

14 Q And everybody else that y'all do work for?

15 A Yes, sir.

16 Q Okay. Thank you very much.

17 THE COURT: You may cross-examine the
18 witness if you choose to, Ms. Manigault.

19 MS. MANIGAULT: I don't choose to.

20 THE COURT: Thank you, ma'am. You can step
21 down.

22 Yes, ma'am. You want to be heard?

23 MS. MANIGAULT: Yes, sir.

24 THE COURT: I'll be glad to hear from you.

25 MS. MANIGAULT: Thank you, Your Honor.

Remarks

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1 Please the Court. We're dealing with more than a
2 custodian signature of the property and the
3 evidence placed in the evidence room. The
4 testimony that was just offered by the
5 supervisor, she can only testify to what the
6 procedure should have been. She was not present,
7 there was no testimony offered that she was
8 present when Ms. Pruitt's signature was placed on
9 the document.

10 Also, Your Honor, we are dealing with the
11 storage of the package received or the evidence
12 placed there, the drugs in this case. So we are
13 dealing -- the Hatcher case also deals with
14 storage. It's not just -- it talks about a
15 complete chain but it deals with storage. It is
16 not merely of somebody signing off.

17 The testimony that was just offered, I do not
18 object. However, if offered during the trial,
19 I'll object to her saying what Ms. Pruitt did, if
20 the court does not agree with our objection, what
21 Ms. Pruitt did. Uh, she could testify to what
22 she should have done. She doesn't know whether
23 Ms. Pruitt placed the evidence as properly placed
24 according to their procedures and policies.

25 So, Your Honor, I believe that this case is

1 on point with the Hatcher case. The court in
2 there said that, you know, the storage of the
3 evidence was important. The storage of the
4 evidence was important. The placement of the
5 evidence was important. And the person there
6 should have been allowed to testify or offered
7 for testimony.

8 The other thing, Your Honor, is this, in the
9 chain of custody, you have it going from Lovell
10 to Cowan without a problem. Then Cowan says in
11 State's Exhibit 3(b), which I objected to
12 yesterday when it was offered and it was accepted
13 by the Court and my objection was overruled. So
14 the State knew according to Mr. Them's statement
15 this morning, that Ms. Pruitt was not available.
16 The Hatcher case does provide for affidavit. So
17 for the custodian that was there, the State could
18 have provided an affidavit.

19 The fact that Ms. Fricks is not available is
20 not a concern for the Defendant. He's entitled
21 to his day in court. We're asking the Court to
22 not allow this evidence in because of the lack of
23 the testimony from Ms. Pruitt is very essential
24 to this chain of custody.

25 THE COURT: Yes, sir.

Remarks

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1 MR. THEM: Your Honor, I believe we have
2 obviously two separate issues and perhaps two
3 separate standards might be applied. With
4 reference to Ms. Fricks, all she did was take the
5 evidence after it had been tested. Obviously,
6 the integrity of that evidence up to the point in
7 time it's tested is absolutely critical, but it
8 loses some of its criticality after it's been
9 tested as far as Mr. Armstrong being able to
10 testify as to what the subject was. All this lady
11 did was a ministerial task of accepting from Mr.
12 Armstrong and placing into evidence and then, at
13 some later point in time, potentially giving it
14 over to Officer Cowan.

15 Now, based on counsel's argument just a
16 moment ago -- I'm going to ask you to correct me
17 if I say something wrong and I'll give you the
18 opportunity. Okay. I believe she said if the
19 evidence that was presented yesterday was
20 believed, that the chain of custody has been
21 established from the informant to Lieutenant
22 Lovell to Sergeant Cowan to Ms. Pruitt.

23 Is that correct, if the testimony is to be
24 believed? I'm asking you do you agree with that
25 statement.

1 MS. MANIGAULT: Go ahead.

2 THE COURT: You can just argue to me.

3 MR. THEM: Okay. I thought it would be
4 easier.

5 THE COURT: Well, I'll be glad to listen to
6 you.

7 MR. THEM: I believe that's what she said.
8 So now, all we're concerned about was what
9 happened after Ms. Pruitt got it. The law
10 doesn't require me to go get an affidavit. This
11 case specifically says, and I quote, page 4 of 7,
12 the paragraph I just read to you where I talked
13 about the sixth paragraph two-thirds of the way
14 down. Holding -- citing a case, quote, holding
15 the chain of custody was established when the
16 identity of each custodian was established
17 through documentary evidence and testimony
18 although the evidence custodian was unavailable
19 to testify at trial or via affidavit.

20 I don't think I have to take care of both of
21 those. I think I can do either one of those.
22 She's not available to testify at trial. She's
23 retired. We've satisfied all the other
24 requirements for that chain of custody to be
25 established. That's all I have.

Remarks

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1 THE COURT: All right. Obviously, Ms.
2 Manigault, in a trial with testimony before a
3 jury, I certainly could appreciate the fact that
4 you did object to if the witness said that what
5 Ms. Pruitt did, she didn't see what Ms. Pruitt
6 did, but of course that would just be a -- that
7 would be subject to objection. The hearsay
8 would, uh, not be there. I believe she can
9 adequately testify to procedures.

10 I think the facts in this case are much more
11 aligned with the State v. Taylor case that arose
12 out of Greenville county itself and the case in
13 Marlboro county. I always try to let the
14 appellate courts know my reasoning so that they
15 can, uh, more clearly identify my errors if I
16 make them. I hope I don't make them. But if I
17 do, at least they will be able to more easily
18 perhaps signify the method that was, uh, that I
19 took.

20 But the Taylor case is practically on all
21 four points here with the missing custodian, I
22 think the distinguishing facts of Hatcher are
23 much more egregious than what happened in the
24 Taylor case. Also note that the Hatcher case,
25 certiorari has been granted by the Supreme Court

1 to review the decision in that case, the ultimate
2 decision. I'm going rely upon the Taylor case
3 and I'm going to allow the testimony that has
4 been proffered as far as the procedures that are
5 followed to identify the two, discover the two
6 missing witnesses who were unavailable either by
7 way of retirement or by way of the only person
8 available in the business.

9 Yes, sir, Mr. Them.

10 **MR. THEM:** Excuse me, Your Honor. I was
11 just handed a copy of the affidavit that Ms.
12 Fricks has executed. I have copies that are
13 made. I can tender one to counsel and I'll get
14 one to counsel. I would like that made part of
15 the record as it relates to Ms. Fricks'
16 testimony.

17 (WHEREUPON, there is a pause.)

18 **THE COURT:** Here's your copy of the
19 affidavit. You can make it part of the record.
20 I will not allow it before the jury. That's a
21 copy. Is that correct?

22 **MR. THEM:** Yes, sir. It was faxed to us.

23 **THE COURT:** But you don't have the original.
24 I will not allow it in. You can have the
25 testimony. I've already ruled on that.

1 **MR. THEM:** Okay.

2 **THE COURT:** But the affidavit does not go
3 in. You can certainly make it part of the record
4 for appellate purposes but I'm not allowing that
5 before the jury.

6 **MR. THEM:** For appellate purposes in the
7 event that becomes an issue. I realize you're
8 not going to allow it before the jury and I'm not
9 arguing that point. But does reading that
10 affidavit, does that increase the strength of
11 your opinion about admissibility or not?

12 **THE COURT:** I've already made my ruling
13 before you gave me the affidavit.

14 **MR. THEM:** Okay.

15 **THE COURT:** I've ruled in your favor, Mr.
16 Them.

17 **MR. THEM:** I understand.

18 **THE COURT:** All right. You ready to proceed
19 now?

20 **MR. THEM:** Yes, sir.

21 **THE COURT:** Your objection is noted for the,
22 uh, testimony as to the specifics about
23 testifying that you mentioned earlier, Ms.
24 Manigault, about testifying to what Ms. Pruitt
25 did. You certainly protected yourself but your

1 objection to the testimony as to the chain is
2 noted for the record. All right.

3 If the jury is ready, you can have them come
4 in.

5 (WHEREUPON, the jury enters at approximately
6 10:29 a.m.)

7 THE COURT: Mr. Foreman, Ladies and
8 Gentlemen, I told you yesterday my job as the
9 trial judge is to manage our time. I apologize
10 for keeping you waiting. Sometimes legal matters
11 come up that I'm not aware are going to come up
12 and don't anticipate. So I apologize we kept you
13 waiting. We're now ready to proceed with next
14 witness however. You may call your witness,
15 Solicitor.

16 MR. THEM: Kara Bennick, Your Honor.

17 THE COURT: Come around and be sworn please,
18 ma'am.

19 KARA BENNICK
20 having first been sworn, testifies as follows:

21 THE CLERK: Thank you, ma'am. If you would,
22 have a seat and state your name for the record.

23 THE WITNESS: My name is Kara Bennick.

24 DIRECT EXAMINATION

25 BY MR. THEM:

1 Q Where are you employed, Ms. Bennick?

2 A The Greenville County Department of Public
3 Safety, Property and Evidence section.

4 Q And what do you do there?

5 A I'm a supervisor at the section.

6 Q Okay. And how long have you worked in the
7 Property and Evidence section?

8 A Eight years.

9 Q And how long have you been supervising?

10 A Eight years.

11 Q What does the Property and Evidence division
12 do? Or section?

13 A We are responsible for the care, custody and
14 control of all incoming property and evidence.

15 Q Okay. Now, if a person -- let me back up
16 just a second. I'm going hand you a document that's
17 been marked State's Exhibit number 7 for
18 identification and ask you if you would look at that
19 third signature there. Do you recognize that
20 signature?

21 A Yes, I do.

22 Q Whose signature is that?

23 A That's Renee Pruitt's.

24 Q Okay. Didn't Ms. Pruitt work with you in
25 December of '08 and January of '09?

1 A Yes, sir. She did.

2 Q Does she work with you now?

3 A She does not.

4 Q Why not?

5 A She's retired.

6 Q And are you familiar with this form?

7 A I am.

8 Q What is this form?

9 A That's a Property and Evidence report that
10 accompanies all incoming property or evidence.

11 Q Okay. Say, for example, I brought you some
12 evidence that I wanted to turn in for testing, would
13 you tell me what the procedure would be.

14 A Uh, for this agency in particular, they would
15 bring it to our counter. One of our evidence
16 technicians would sign for the property, would review
17 it and make sure it match the description on this
18 sheet. And we accept custody of it.

19 Q Okay. Now, I want you to look at State's
20 Exhibit number 3(a) and, in particular, I want you to
21 look at the bag with the red stripe that has the
22 little white pills and the handwriting that is inside
23 of the heat-sealed bag. Have you ever seen a bag like
24 that before the one on the inside?

25 A Yes, sir. I have.

1 Q Where have you seen those?

2 A That would be a bag that would come in from
3 the agency.

4 Q Okay. And when a bag like that that's
5 brought in from the agency with a request to be
6 tested, how would that bag be processed?

7 A It would -- we would first match it up to the
8 description on the Property and Evidence sheet. We
9 would make sure it's sealed because we do not accept
10 items not sealed. And we would process it through if
11 everything matched up.

12 Q Did it match up with the Property and
13 Evidence sheet?

14 A Yes, sir.

15 Q Does it match up with the Property and
16 Evidence sheet?

17 A Yes.

18 Q I realize you didn't see the bag.

19 A Yeah, looking at this bag and comparing it to
20 the sheet.

21 Q Under your policy, if Ms. Pruitt was
22 following that policy, would she have accepted that
23 bag if it had been tampered with in any way?

24 A No, sir.

25 Q Okay. You ever seen an envelope like State's

1 Exhibit 3(b)?

2 A Yes, sir.

3 Q Where have you seen an envelope like this?

4 A Those are the envelopes we generate with our
5 Greenville County case number.

6 Q Okay. If I brought you that to be tested,
7 would it be put in an envelope like this?

8 A Yes, sir.

9 Q Are you familiar with the black magic marker
10 handwriting at the top?

11 A Yes, sir.

12 Q Whose handwriting is that?

13 A That was Renee's, indicating what the package
14 was, what department it came from and the case number.

15 Q The same Renee as Renee Pruitt?

16 A Yes, sir.

17 Q And is this in accordance with your policy?

18 A It is.

19 Q Now, assuming Renee Pruitt followed your
20 policy, she would have put it in this envelope?

21 A Yes, sir.

22 Q Sealed with one of these bend down things?

23 A Yes, sir.

24 Q Is it licked or scotch taped or anything?

25 A Just sealed.

1 Q What happens to this envelope according to
2 y'all's policy?

3 A It then goes to an area in a secured vault
4 pending transfer to the lab for testing.

5 Q Okay. Are you familiar with the signature
6 under Ms. Pruitt's?

7 A I am.

8 Q Whose signature is that?

9 A That's James Armstrong.

10 Q Okay. Stand up, James.
11 Is that Mr. Armstrong there?

12 A It is.

13 Q Is that his signature?

14 A Yes, sir. It is.

15 Q How many times have you seen Mr. Armstrong's
16 signature?

17 A Thousands.

18 Q Thousands. Okay. Now, what would that
19 signature represent as far as your section is
20 concerned?

21 A That indicates that Mr. Armstrong came down
22 to -- from the lab on that day to the counter at
23 Property and Evidence and acquired that property to
24 test it.

25 Q Mr. Armstrong personally or a representative?

1 A No, he personally did it because he signed
2 for it.

3 Q Okay. At some later point in time after
4 whatever happened upstairs when Mr. Armstrong was
5 done, was this package returned to your safekeeping?

6 A Yes.

7 Q When was it returned?

8 A It was returned on January 20th, 2009.

9 Q Okay. And when was it picked up by Mr.
10 Armstrong?

11 A January 15th, 2009.

12 Q Okay. And when was it turned in to you by
13 Sergeant Cowan?

14 A Sergeant Cowan brought it down on January
15 13th, 2009.

16 Q Okay. Now, does this form indicate who would
17 have accepted this package back from Mr. Armstrong?

18 A It does.

19 Q Who does it indicate?

20 A Tabitha Fricks signed it back into Property
21 and Evidence.

22 Q Okay. Let's talk about Ms. Fricks for a
23 second. How many people work in your section?

24 A Currently four.

25 Q Okay. Are two of them out today?

1 A Two of them are in training today.

2 Q Okay. And is this mandatory training?

3 A Yes, sir.

4 Q What about Ms. Fricks, is she working today?

5 A She is.

6 Q Is she here today?

7 A No, sir.

8 Q Why not?

9 A She's manning the Property and Evidence room

10 while I'm here.

11 Q These two people that are in training, are

12 they in training in a different location than where

13 you would normally work?

14 A They are not. They are new employees.

15 Q Huh?

16 A They are new employees.

17 Q Okay. Uh, are they qualified at this point

18 in time to handle the Property and Evidence section if

19 you and Ms. Fricks left?

20 A They are not.

21 Q Okay. Now, so Ms. Fricks is minding the

22 store while you're over here in effect?

23 A Yes, sir.

24 Q Okay. And does that appear to be her

25 signature down there?

1 A Yes, sir.

2 Q Was she accepting it from Mr. Armstrong?

3 A Yes, sir.

4 Q Does this form indicate what she did with it
5 after she got it back?

6 A Our procedure in Property and Evidence would
7 say that Tabitha would sign for the evidence and again
8 verify what she was taking and she would place it in
9 the pending box to return to the agency.

10 Q Now, talk to me a little bit about the
11 security in the Property and Evidence room. Can I
12 walk in there?

13 A No.

14 Q I work at the Solicitor's office.

15 A No, it's a secure location. Only the four of
16 us have access to.

17 Q Lieutenant Lovell with the Easley Police
18 Department, can he walk in there?

19 A No, sir.

20 Q So nobody off the street could walk in there?

21 A No, sir.

22 Q How closely is the entrance and egress to
23 that control?

24 A Very closely. Everything is monitored by
25 cameras as well as swipe cards and keys. Nothing can

1 be accessed without both the swipe card and a key.

2 Q Everything locked up?

3 A Yes, sir.

4 Q Okay. Now, from looking at this package,
5 State's Exhibit 3(a), I want to talk about the outside
6 plastic envelope that's heat sealed. Is that
7 generally the way you would receive it back from Mr.
8 Armstrong?

9 A Yes, sir.

10 Q How many packages do you think you personally
11 have received back from Mr. Armstrong that were
12 handled like that?

13 A Several hundreds.

14 Q Okay. Is that consistent with those several
15 hundred you have received?

16 A It is. This is the lab's packaging.

17 Q Could you examine that outside envelope and
18 tell me whether or not there's any evidence of
19 tampering, is it in substantially the same condition
20 that you would expect it to be if it was delivered by
21 Mr. Armstrong?

22 A The same condition. You have manufactured
23 seals and then you have James Armstrong's seal with
24 his signature.

25 Q Okay. Do you recognize his signature?

1 **A** I do.

2 **Q** Okay. Now, at some point in time, did
3 Sergeant Cowan from the Easley Police Department come
4 over to Greenville to retrieve this?

5 **A** He did.

6 **Q** When was that?

7 **A** Sergeant Cowan signed for it on February 27th
8 of 2009.

9 **Q** Okay. So every time somebody takes this or
10 moves it, they got to sign for it?

11 **A** Yes, sir.

12 **MR. THEM:** Okay. Your Honor, at this point
13 in time, I would move into evidence State's
14 Exhibit 7 for identification. All signatures
15 have been properly authenticated.

16 **THE COURT:** Objection?

17 **MS. MANIGAULT:** Yes, sir.

18 **THE COURT:** Your objection is noted.

19 **MS. MANIGAULT:** Thank you.

20 **THE COURT:** I'll allow the Exhibit in.

21 **MR. THEM:** Thank you. I have no further
22 questions, ma'am. Thank you very much.

23 **(WHEREUPON, State's Exhibit 7 is admitted into the**
24 **record.)**

25 **THE COURT:** You may cross-examine the

1 witness.

2 CROSS-EXAMINATION

3 BY MS. MANIGAULT:

4 Q Ms. Bennick, on your property report which is
5 State's Exhibit --

6 A 7?

7 Q Oh, 7. State's Exhibit number 7 that was
8 just admitted?

9 A Yes, ma'am.

10 Q All the dates you read, uh, were you present
11 when those dates were written on the report? Were you
12 present when the person wrote these dates on the
13 report?

14 A Yes, ma'am.

15 Q You were present --

16 A I was working that day. Whether I was
17 present next to them, I couldn't --

18 Q The question is were you present when these
19 persons wrote these dates on the report?

20 A No, ma'am. I was not.

21 Q You were not?

22 A No, ma'am.

23 Q So you were testifying about what your
24 procedure should be if your employees followed the
25 procedure?

1 A Yes, ma'am.

2 Q Thank you.

3 **REDIRECT EXAMINATION**

4 **BY MR. THEM:**

5 Q How many transactions a day, on average,
6 would go through where people would sign for stuff?

7 A Uh, we could do anywhere between 20 to 110 a
8 day.

9 Q Are you able to witness every one of those?

10 A No, sir.

11 Q Thank you, ma'am. No further questions.

12 **THE COURT:** Thank you, ma'am. You may step
13 down.

14 **MR. THEM:** We move to excuse this witness,
15 Your Honor, so she can go back?

16 **MS. MANIGAULT:** No objection.

17 **THE COURT:** Without objection, the witness
18 may be excused. You may call your next witness.

19 **MR. THEM:** Mr. Armstrong.

20 **JAMES ARMSTRONG**

21 having first been sworn, testifies as follows:

22 **THE CLERK:** Sir, if you would, have a seat and
23 state your name for the record.

24 **THE WITNESS:** James William Armstrong.

25 **DIRECT EXAMINATION**

1 BY MR. THEM:

2 Q Just one second. (Pause.) Where are you
3 employed, sir?

4 A Employed at the Greenville County Department
5 of Public Safety Forensic Division Crime Laboratory.

6 Q What do you do there?

7 A I have a dual responsibility as a forensic
8 chemist and a firearm examiner.

9 Q Okay. Would you tell me something about your
10 educational background from your college degree
11 forward?

12 A Yes, sir.

13 Q Strictly education at this point.

14 A I have a Bachelors degree in Chemistry from
15 Erskine College. I have trained in the area of drug
16 identification for approximately one year under the
17 direction of our lab supervisor. I've attended
18 numerous instrumental analysis schools concerning the
19 instruments I use in my analysis and I've testified in
20 federal, state and local courts 136 times as an expert
21 in the area of drug identification.

22 Q Okay. And you've been doing this how long?

23 A Be 15 years come March.

24 Q Okay. Let me call your attention, if I
25 might, to State's Exhibit 3(b) and State's Exhibit

1 3(a) and ask you have you ever seen them before.

2 A Yes, sir. I have.

3 Q Where?

4 A I retrieved it from the Property and Evidence
5 room and analyzed it in my office.

6 Q Okay. And where did you get them?

7 A From the Property and Evidence room at the
8 basement of the Law Enforcement Center.

9 Q Okay. Have you ever seen this document,
10 State's Exhibit number 7?

11 A Yes, sir. I have.

12 Q How do you know you've seen it before?

13 A I have my printed name and signature and
14 reason for obtaining the evidence.

15 Q And on what day did you print your name and
16 sign your name?

17 A I received the items on January 15th, 2009 at
18 8:45 a.m.

19 Q And for what purpose did you receive them?

20 A For lab is what I put down. Doing laboratory
21 analysis.

22 Q Okay. And when you got the package, was item
23 3(a) inside of item 3(b)?

24 A Yes, sir. It was.

25 Q Okay. You opened it up?

1 A Yes, sir.

2 Q Tell me what you found when you opened the
3 manilla envelope. What was in the plastic envelope?

4 A The inner bag that has the white with some
5 black handwriting on it with the red, uh, evidence
6 piece of -- evidence tape across the top, that's what
7 was inside the package. When I received it, it was
8 sealed with that evidence tape. When I go to my
9 office, I actually inventory it by cutting that
10 package open.

11 Q Let me stop you just a second. Prior to you
12 cutting it open, did you see any evidence whatsoever
13 that the inner bag had been tampered with after it was
14 sealed?

15 A No, sir. I did not.

16 Q Is that something you would look for?

17 A Yes, sir. It is.

18 Q Okay. I'm sorry. I cut you off. Please go
19 forward.

20 A Once I received the items in the office, I
21 cut the package open verifying that it was sealed at
22 the time that I received it. The area which I cut, I
23 then initial and I put the date that I actually opened
24 the bag. I also put the case number that was assigned
25 by the Greenville County property section on that bag

1 as well so I can reference it to my report in the
2 future. Then I perform my analysis by weighing and
3 then doing the analysis report and generate a report,
4 seal the evidence and take it back to our property --

5 Q In layman's language, tell me what you did to
6 test this substance. Layman's language.

7 A I understand. When I received the item, I
8 first do what we call a presumptive test. I do a
9 chemical spot test which gives me an idea of what I
10 may or may not have. I then, from that chemical spot
11 test, I ran what we call -- I ran an instrumental
12 analysis test to confirm the presence or the absence
13 of the controlled substance.

14 Q Okay. And you used some rather exotic
15 machinery to do that?

16 A It's -- uses light to give a fingerprint of
17 the compound, yes, sir.

18 Q Okay. And what were the results of that
19 test?

20 A I found what I considered as item 1, which
21 is --

22 MR. THEM: Excuse me, Your Honor. I'm
23 sorry. I'm going to move to qualify this witness
24 as an expert in the field of chemistry. I think
25 I forgot to do that.

1 **THE COURT:** Any voir dire or any objections?

2 **MS. MANIGAULT:** No objections, Your Honor.

3 **THE COURT:** All right. Without objections,
4 the witness will be ---

5 **MR. THEM:** Excuse me. What was --

6 **THE COURT:** --- presented as an expert.
7 Ladies and Gentlemen of the jury, let me explain
8 briefly about an expert witness. Normally, a
9 person can't give an opinion when they are
10 testifying. They can testify to what they saw or
11 heard or sensed by some manner. There is an
12 exception, however, when a person is qualified
13 because of education and experience in certain
14 fields. They are allowed to give an opinion and
15 give a basis for that opinion. The fact that a
16 witness is qualified as an expert in chemical
17 analysis doesn't mean that you must accept that
18 opinion. It is evidence for you to consider as
19 all other evidence to use in any way that you see
20 fit. All right.

21 Mr. Them, you may continue your examination.

22 **BY MR. THEM:**

23 **Q** Would you tell me what the results of that
24 testing indicated to you?

25 **A** Yes, sir. On my report as item 1 which is

1 State's Exhibit 3(a), I found to be rock substance. I
2 found that rock substance to contain cocaine base with
3 a weight of .0.27 grams.

4 Q Is there a slang name for cocaine base?

5 A Yes, sir.

6 Q What is that?

7 A Crack cocaine.

8 Q Okay. Let me show you this document and ask
9 you is that a true and correct copy of the document
10 you were just reading from?

11 A Yes, sir. This is a copy of my report for
12 this case.

13 (WHEREUPON, State's Exhibit 8 is marked for
14 identification purposes.)

15 MR. THEM: Your Honor, I'd move State's
16 Exhibit number 8 for identification into evidence
17 at this point in time.

18 THE COURT: Any objection?

19 MS. MANIGAULT: Your Honor, I'm going to
20 object. The best evidence is the testimony of
21 the chemist.

22 THE COURT: Overruled. I'll allow Exhibit 8
23 into evidence.

24 MS. MANIGAULT: Thank you.

25 (WHEREUPON, State's Exhibit 8 is admitted into the

1 record.)

2 BY MR. THEM:

3 Q When you finished testing this stuff, what
4 did you do with it, in this particular case?

5 A In this particular case, when I completed my
6 analysis, I double heat sealed with my initials. I
7 then transported the evidence back to our Property and
8 Evidence room for storage.

9 Q Do you also make any marks or any
10 identification on the heat sealed bag so that you can
11 later determine whether or not the bag has in any way
12 been tampered with?

13 A Yes, I do.

14 Q Did you do that in this case?

15 A Yes, sir. I did.

16 Q Show us those marks.

17 A The outside bag has my initials and the date
18 between a double heat seal.

19 Q And would you carefully examine the bag and
20 tell me whether or not you seen any evidence of
21 tampering?

22 A There is no evidence of tampering.

23 Q Is that bag in exactly the same condition
24 absent fair wear and tear of handling as it was the
25 day you heat sealed it and put it back in Property and

1 Evidence?

2 **A** The only thing I see different is a State's
3 Exhibit sticker.

4 **Q** Okay. And you say you sent it back
5 downstairs to Property and Evidence?

6 **A** Yes, sir. I did.

7 **Q** Who signed for it when you took it down
8 there?

9 **A** I gave this to Ms. Tabitha Fricks.

10 **Q** Okay. After that, did you have any
11 involvement with this?

12 **A** No, sir. I did not.

13 **Q** Okay. Thank you very much. I have no
14 further questions.

15 **THE COURT:** You may cross-examine.

16 **MS. MANIGAULT:** No questions, Your Honor.

17 **THE COURT:** Thank you. Mr. Armstrong, you
18 may step down.

19 **THE WITNESS:** Thank you.

20 **THE COURT:** Any objection to this witness
21 being excused?

22 **MS. MANIGAULT:** None, Your Honor.

23 **THE COURT:** You may be excused.

24 **MR. THEM:** May we approach, Your Honor?

25 **THE COURT:** Yes, sir.

Remarks

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1 (WHEREUPON, a bench conference is held off the
2 record from approximately 10:49 a.m. to 10:50 a.m.)

3 THE COURT: Mr. Foreman, Ladies and
4 Gentlemen, we've reached the stage of the trial
5 where I need to take care of some legal matters.
6 I ask you, if you would, go back to your jury
7 room. Don't discuss the case. We'll call you
8 back in just a few moments.

9 (WHEREUPON, the jury exits at approximately
10 10:50 a.m.)

11 THE COURT: Let's take about a ten-minute
12 break, then we'll get back on the record.

13 (WHEREUPON, a recess is taken from approximately
14 10:51 a.m. to 11:15 a.m.)

15 (WHEREUPON, State's Exhibit 9 is marked for
16 identification purposes.)

17 THE COURT: You have additional evidence to
18 put in?

19 MR. THEM: Yes, sir. We do. At this point
20 in time, when the jury gets back, I'm going to
21 move the drugs into evidence but prior to the
22 jury getting back, I'm going to ask the Court to
23 reconsider whether or not they would allow me to
24 submit into evidence the printed serial numbers
25 of the marked money. These would be the numbers

1 that were written down by Lieutenant Lovell prior
2 to being given over to Mr. Bigby. The ones that
3 were recovered or the photo copy of them, those
4 images are in evidence. That list has been
5 published to the jury. That Exhibit, and I don't
6 mean in evidence exhibit, stood up here on the
7 platform for a long time. That's going to be one
8 of the lynchpins of my closing argument, that
9 marked money.

10 The jury is going to be in the situation they
11 won't have the ability to come out and review
12 that evidence if they don't get that evidence.
13 So I would move that chart into evidence.

14 **THE COURT:** All right. The numbers
15 originally were on a form that was going to be
16 cut the bottom off and then have that, but then
17 there was other writing on the back of that form.

18 **MR. THEM:** Yes, sir.

19 **THE COURT:** That's the reason I objected to
20 that. Is there an objection to the exhibit
21 showing the numbers as written down by the
22 witness, Ms. Manigault?

23 **MS. MANIGAULT:** Yes, sir.

24 **THE COURT:** What is your objection to that?

25 **MS. MANIGAULT:** We have a continuing

Remarks

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1 objection, Your Honor, that -- that, uh, the.
2 numbers -- I can't recall if there was any
3 testimony about when the numbers were written
4 down.

5 THE COURT: They were written down
6 yesterday. I'm going to allow the document into
7 evidence.

8 MS. MANIGAULT: All right.

9 THE COURT: The sheet that you had, I did
10 not allow because there was writing on the back
11 of it. You were going to cut the bottom part off
12 but it still had writing on the back.

13 MR. THEM: Yes, sir. At such point in time
14 as I move these two items into evidence, I will
15 rest at that point in time, Your Honor.

16 THE COURT: All right. You're going to do
17 that before the jury and then you are going to
18 rest?

19 MR. THEM: Yes, sir.

20 THE COURT: Ms. Manigault, let me, uh, have
21 a chance to talk to your client. If you would,
22 come forward. I'd like to explain to him certain
23 rights.

24 If you would please, sir, come forward with
25 your attorney. If you would, please raise your

1 right hand.

2 (WHEREUPON, the Defendant is duly sworn.)

3 THE COURT: Mr. Blythe, we've about reached
4 the stage -- you can put your hand down now.
5 We've about reached the stage, once the jury
6 comes back and the state offers those two
7 exhibits before the jury, they are going to rest.
8 That means we are at the stage in the trial now
9 where you can put up a defense. I need to
10 explain certain rights that you enjoy under our
11 constitution. I'm competent your attorney has
12 gone over this with you already, but I need to
13 make sure in my own mind that you understand
14 these rights.

15 Under the Constitution of South Carolina and
16 the Constitution of the United States, no person
17 who is accused of any criminal offense can be
18 compelled to be a witness. That means you can't
19 be required to testify in this case. You have a
20 right to testify if you choose to but nobody can
21 make you testify. It's a personal right that you
22 enjoy. You can waive it and testify or you can
23 claim it and choose not to testify. If you were
24 to decide to testify, you would be subject to the
25 same rules that govern any other witness who

1 testified. You could be examined and cross-
2 examined on any relevant issue that's pertinent
3 to the case.

4 In addition, if you have prior convictions
5 that involve dishonesty or false statements or a
6 crime that has been punishable by imprisonment
7 for more than one year and the court determines
8 that the probative value of admitting that
9 evidence outweighs its prejudicial effect, then
10 the Solicitor would be able to attack your
11 credibility by introducing your record.

12 Now, if you decide to testify, Mr. Blythe,
13 that decision on your part must be freely made by
14 you and intelligently made and voluntarily made
15 by you with the knowledge that you have
16 protections under our Constitution. Also, with
17 the knowledge of the consequences of your
18 decision to testify. You may choose not to
19 testify. If you choose not to testify, I will
20 instruct the jury that they can't give the fact
21 that you chose not to testify any consideration
22 whatsoever in their deliberations. There would
23 be no prejudice towards you because you chose to
24 exercise that right not to testify.

25 Whether to testify or not testify is a

1 decision left entirely up to you. You can talk
2 with friends and family, your attorney and
3 others, but ultimately, that's the decision that
4 you and you alone will have to make. You
5 understand what I've explained to you?

6 MR. BLYTHE: Yes, sir.

7 THE COURT: Okay. Do you have any questions
8 of me about what I've explained to you?

9 MR. BLYTHE: No, sir.

10 THE COURT: Have you talked with your
11 attorney about this?

12 MR. BLYTHE: Yes, sir.

13 THE COURT: Do you need any more time to
14 talk with your attorney about this?

15 MR. BLYTHE: No, sir.

16 THE COURT: Thank you. You may return to
17 your seat.

18 Ms. Manigault, I understand the State has
19 not technically rested yet, but they are about
20 to. Do you anticipate putting up any defense?

21 MS. MANIGAULT: No, sir.

22 THE COURT: All right. All right. Rather
23 than having the jury come back out for two
24 offers, I'll be glad to -- the State has rested.
25 From the legal side of the case, not from the

1 factual side, I'll be glad to hear any motions
2 you have, Ms. Manigault, at this time. The
3 record certainly is protected for you when he
4 puts those evidence, those two pieces of evidence
5 in later.

6 **MS. MANIGAULT:** Please the Court, Your
7 Honor, the defense would move that the charges be
8 dismissed against my client Randy Blythe and that
9 the State has failed to prove all the elements of
10 the crime as charged.

11 **THE COURT:** Anything from the State on the
12 motion?

13 **MR. THEM:** Nothing, Your Honor. I think
14 we've dotted the I's and crossed the T's.

15 **THE COURT:** Obviously, at this stage in the
16 trial, Ms. Manigault, I've got to review all the
17 evidence in the light most favorable to the
18 nonmoving party. I find there is substantial
19 circumstantial evidence and direct evidence that
20 can logically and fairly be deducted by a jury to
21 find his guilt. There's no failure of competent
22 evidence on the part of the State. I'm compelled
23 at this time to respectfully deny your motion for
24 directed verdict. Again, I'll make a note of
25 that on the record when the jury is back.

1 What I propose to do is let the clerk now,
2 uh, go back and get a lunch order for the jury so
3 that they can go on and be ordering that. While
4 he's doing that, I'll let you look over the
5 verdict forms that I have to verify they are in
6 proper shape and spelled right. We will then
7 have the State rest its case. Then you can rest
8 on the record as well.

9 **MS. MANIGAULT:** Yes, sir.

10 **THE COURT:** Then we will be ready to go into
11 the closing arguments. My charge will pretty
12 much be what you both are accustomed to with my
13 charge. I will certainly talk about burden of
14 proof and presumption of innocence, standard
15 beyond a reasonable doubt, talk about criminal
16 intent that's required, credibility of witnesses,
17 expert witness. I'll charge them on the two
18 offenses that are specified in the indictment. I
19 will also be charging on their view of the
20 statement that has been admitted into evidence
21 over objection of the Defendant. Again, I'll
22 briefly explain about expert witnesses as I
23 already have. See if there's any corrections we
24 need to make on that. If you need a few moments
25 to get your thoughts together on the closing.

1 statements, I'll give you that as well.

2 (WHEREUPON, there is a pause.)

3 MS. MANIGAULT: It's fine, Your Honor.

4 MR. THEM: The State has reviewed it. We
5 agree.

6 THE COURT: All right. Do y'all need a
7 little time to get your arguments together?

8 MS. MANIGAULT: Yes, sir.

9 THE COURT: I'll be glad to give you a
10 short --

11 MR. THEM: I'm ready to go, Your Honor.

12 THE COURT: So when the jury comes back, you
13 can offer your exhibits. You will rest on the
14 record. I will note that motions are noted for
15 the record and let the defense rest. Then I will
16 tell the jury we are ready for closing
17 statements.

18 MR. THEM: One housekeeping matter, Your
19 Honor. We've got some long boring video and
20 audio that I felt I had to show for reasons that
21 I will talk about. I wonder if counsel would
22 consent and the Court would consider allowing the
23 jury to take the TV because the disks and
24 everything are in evidence. They can come out
25 here and view them. We can use a lot of time

1 that way. But a lot of these tapes have 15 or 20
2 minutes worth of stuff but about 5 or 10 seconds
3 worth of stuff. It would greatly facilitate time
4 and use of resources if the jury could take the
5 TV and the recorder back there so they could
6 fast-forward and get to the point they want.

7 **THE COURT:** Well, I'll be glad to let y'all
8 talk about that. You and Ms. Manigault can. If
9 the jury wants to see -- the tapes are going back
10 into evidence.

11 **MR. THEM:** Yes, sir.

12 **THE COURT:** The TV is not in evidence or the
13 monitor is not. If they ask to see it before the
14 fact or after the fact and both parties are in
15 agreement, I will certainly allow the information
16 to go back. I think it is helpful for a jury.
17 If either one of you disagree with that, then
18 we'll have a jury come out and view it out here.
19 We can just wait and see if the jury wants to see
20 it at the time. Maybe y'all will have a chance
21 to talk about that.

22 **MS. MANIGAULT:** Your Honor, one thing, I
23 didn't hear the Court say anything about the
24 charge on no testimony by the Defendant.

25 **THE COURT:** Yeah. I'm going to charge that.

Remarks

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1 MS. MANIGAULT: Okay.

2 THE COURT: Are y'all about ready?

3 MS. MANIGAULT: Yes, sir.

4 MR. THEM: Yes, sir.

5 (WHEREUPON, the jury enters at approximately
6 11:30 a.m.)

7 THE COURT: All right. Solicitor, you may
8 call your next witness.

9 MR. THEM: We have no more witnesses to
10 call, Your Honor. At this point in time, I would
11 move into evidence State's Exhibit number 3(a)
12 for identification, that being the alleged drugs.
13 I would also move into evidence State's Exhibit
14 number 9 which is a copy -- which is the top
15 portion of the sheet that we read the numbers to
16 the jury of the alleged marked bills given by the
17 police to the informant prior to the sale. That
18 would be State's Exhibit number 9. I would move
19 both of these into evidence, Your Honor.

20 THE COURT: All right. Over the objections
21 previously made, State's Exhibit 3(a) and 9 are
22 admitted into evidence.

23 (WHEREUPON, State's Exhibits 3(a) and 9 are
24 admitted into the record.)

25 MR. THEM: With that, Your Honor, the State

1 of South Carolina rests.

2 THE COURT: All right. Any witnesses for
3 the defense?

4 MS. MANIGAULT: No witnesses for the
5 defense, Your Honor. The defense rests.

6 THE COURT: Okay. Mr. Foreman, Ladies and
7 Gentlemen, you've heard all the testimony in this
8 case now. We're at the stage of the trial where
9 the attorneys will have an opportunity to make a
10 closing statement to you. I will then have an
11 opportunity to address you on the law.

12 I told you before that what the lawyers have
13 to say to you by way of their opening or their
14 closing is not evidence. Nevertheless, I urge
15 you to listen carefully as these attorneys
16 address you. I'm confident that each of them can
17 give you some valuable insights to assist you as
18 you start your deliberations in just a little
19 while after I give you the legal instructions.

20 Mr. Them, you may address the jury.

21 MR. THEM: Thank you very much, Your Honor.

22 I told you in the beginning -- I'll get that
23 for you. I told you in the beginning the
24 Defendant is charged with two separate crimes.
25 When you begin your deliberations, you can find

1 him not guilty of both, guilty of both, guilty of
2 one but not guilty of the other. You consider
3 the charges separately. Okay. The first charge
4 is that the Defendant, Mr. Blythe, did distribute
5 to Pete Bigby, the informant. And for the rest
6 of the argument, I want to call Mr. Bigby "Pete",
7 okay? Did distribute to Pete a quantity of crack
8 cocaine. He sold him some crack cocaine.

9 The second charge is that he not only sold
10 him crack cocaine but he sold it to him in a
11 prohibited zone of one-half mile around any park,
12 playground or school, with Hagood Park being the
13 park involved.

14 Now, counsel told you about some extremely
15 sacred constitutional freedoms, burden of proof,
16 reasonable doubt and presumption of innocence. I
17 wouldn't have it any other way. The reason we
18 are a country is because those concepts were so
19 important to us and were denied us by England
20 when we were English colonies. We went to war
21 and good men and women died to get those rights.

22 The burden of proof says that if you will
23 imagine this row right here as this being not
24 guilty and this being guilty, it's up to the
25 State to move the evidence down there to get to

1 the guilty side. The Defendant doesn't have that
2 obligation. Now, how guilty does it have to be?
3 You must be firmly convinced or as sometimes said
4 you must be convinced beyond a reasonable doubt
5 of guilt. Not beyond any doubt, but beyond
6 reasonable doubt. That's a doubt for which a
7 person honestly seeking the truth would have a
8 reason to hesitate, to pause or to not go
9 forward.

10 Presumption of innocence. Everybody that
11 walked into this courtroom is presumed to be
12 innocent. Some of the countries in this world,
13 you walk in and you are presumed guilty. If you
14 don't prove yourself innocent, they take you out
15 and shoot you. We don't do that.

16 Because of the way we were created as a
17 country and our dissatisfaction with the way we
18 were treated as colonists, we put strong
19 protections in our constitution about a
20 presumption of innocence. That doesn't mean that
21 that presumption can not be overcome. If it can
22 not be overcome, there would be no need to ever
23 have a trial. Everybody would be innocent all
24 the time regardless of what happened or what
25 didn't.

1 All right. Now, let's switch subjects a
2 little bit and talk about the facts in this case.
3 I'm not going to read them to you or anything
4 like that. But the hardest job that law
5 enforcement has in solving crimes or preventing
6 crimes is getting the name or some identification
7 of the person who committed the crime or who is
8 about to commit a crime or who will commit a
9 crime.

10 It is -- I won't say easy -- but it's
11 relatively easy to determine whether or not that
12 man right there broke into my house. But if we
13 don't have his name, there's 500 million people
14 in the United States, a billion people. That's
15 too big a suspect pool. You got to get it down
16 to one person or a couple of people that you can
17 look at.

18 How do you do that? You get information from
19 people. You get information from the little old
20 lady who's standing on the street corner that saw
21 the green car go rushing by. You get it from the
22 business owner that testified that a man came in
23 looking like that and robbed me. You get it from
24 paid informants like Pete that got \$100 in this
25 deal. You get it from people like the Defendant

1 who when he got caught tried to trade away his
2 problems by telling the police office stuff he
3 could do for them. Little did he know that when
4 he tried to implicate Pete as somebody he just
5 sold drugs to, he was, in effect, confessing.

6 Now, Pete Bigby. He's a necessary evil. If
7 I gave each of you four or five hundred dollars
8 and asked you to go buy some crack cocaine and to
9 be back in two hours, I doubt very seriously if
10 any of you could do it. People that are involved
11 in this business don't sell it to people they
12 don't know or don't have --

13 **MS. MANIGAULT:** Your Honor, I want to lodge
14 an objection.

15 **THE COURT:** Your objection?

16 **MS. MANIGAULT:** "If I gave each of you \$500
17 and told you to go buy crack." That's putting
18 the jury in a scenario.

19 **THE COURT:** All right. Just, uh, stick to
20 the facts of the case ---

21 **MR. THEM:** Okay.

22 **THE COURT:** --- if you would, Mr. Them.

23 **MR. THEM:** People just can't go out and buy
24 this. There has to be some comfort level between
25 the person selling it and the person buying it.

1 If you noticed in listening to the tapes, it's
2 not a long drawn out negotiation. It's bang,
3 bang, bang, bang. Call up somebody and tell them
4 you want a 50 or a 100 or a 20. Everybody knows
5 what that means. They show up at some agreed
6 upon meeting place. They show you what they got.
7 It's not like we need to talk about it. You're
8 not buying a bottle of fine wine or a diamond or
9 something like that. You look at it and if the
10 quantity is right, yes. You give them the money,
11 you take the dope and you're gone. That's why
12 there's not a lot of chitchat on these tapes.

13 Now, let me apologize to y'all about those
14 tapes but I had to do it. They were absolutely
15 boring to me and Lord knows they must have been
16 to you. But that was important that you see them
17 because it show that while the Easley Police
18 Department had some trust in Pete, enough to hire
19 him to do something, they didn't just turn him
20 loose. They didn't complete trust him. They
21 trusted him as far as they could see him and
22 monitor him and they closely and carefully
23 monitored him.

24 From the time this happened or started with
25 the phone calls, he was in the custody of

1 Lieutenant Lovell. All of those phone calls were
2 taped. It wasn't a matter of who said what. The
3 tape quality is not going to win any academy
4 awards. But if you listen to it carefully, you
5 could pick out the important points.

6 It might be five seconds of a five-minute
7 phone conversation, but we wanted to present the
8 whole thing to you so there could be no argument
9 that we withheld anything or what was said before
10 that or what was said after that. We wanted you
11 to hear the whole thing, all of the evidence.
12 That's our job to present all of the credible
13 evidence that we have to you so you could make a
14 good decision. The same thing with the video.

15 He leaves the van. He goes out there. He's
16 under video surveillance the whole time except
17 for when the Defendant pulls his Cadillac behind
18 some bushes when the deal actually happens. The
19 State had no control over that. The Easley
20 Police had no control and Pete had no control as
21 to where the Defendant parked, did this deal.
22 The car was clearly the Defendant's. The police
23 testified they knew it and recognized it.
24 Lieutenant Lovell testified that he recognized
25 Pete's voice and he also recognized the

1 Defendant's voice over the telephone.

2 Prior to the Defendant -- I'm sorry. Prior
3 to the informant going outside, did you notice
4 the absolutely careful preparation done by the
5 police to absolutely minimize, if not eliminate
6 any possibility that Pete could be running some
7 sort of hoodoo. He was searched about as
8 thoroughly as you can be to include very personal
9 searches that were described. Now, some question
10 was made, well, did you search the area where he
11 was waiting outside there? Well, no, they
12 didn't. If you searched the city block, they
13 would want to know why you didn't search two city
14 blocks. He was under surveillance. Did you see
15 any movement where he reached down to get
16 anything or anything like that? No.

17 Then we get to the absolute lynchpin of the
18 State's case, the one piece of evidence that is
19 the strongest and should carry, the money, the
20 marked money. Lieutenant Lovell testified that
21 he didn't know how much money they were going to
22 need to buy the drugs from Mr. Blythe. So they
23 had money with them. When it turned out to be a
24 \$50 deal, he wrote down the serial numbers on
25 another piece of paper that had a bunch of other

1 stuff on it. That other stuff had nothing to do
2 with this case so we transposed it to here. This
3 is in evidence now. This is a copy of the
4 numbers that Lieutenant Lovell wrote down when he
5 gave the money to Pete Bigby.

6 Pete Bigby leaves, goes outside, comes back
7 and presents Lieutenant Lovell with what appears
8 to be rocks of crack cocaine or cocaine base as
9 it is sometimes called in the law. Where did the
10 cocaine base come from? Did it just appear? No.
11 The Defendant almost certainly couldn't -- I'm
12 sorry, the informant almost certainly couldn't
13 have had it because he was searched so
14 thoroughly. He didn't pick it up outside. The
15 only time he was outside of view is when he is
16 behind the bush with the Defendant giving the
17 crack cocaine.

18 He comes back and puts it in the bag. A
19 couple of blocks away, the Defendant was stopped
20 in this very distinctive Cadillac and was
21 arrested. Because he is taken into custody and
22 can no longer protect his property, the car is
23 inventoried. When you sit in the driver's seat,
24 some of these older luxury cars have all sorts of
25 compartments. There is a compartment up here

1 right up above the rear view mirror for
2 sunglasses and whatever stuff like that. They
3 open it up and they find \$50 in wadded up money.

4 They bring that wadded up money to the Easley
5 Police Department when they are booking the
6 Defendant and this money is laying on the
7 counter. Lieutenant Lovell walks in, looks at
8 this money, looks at his sheet of paper and
9 bingo. No more calls please. We have a winner
10 or a loser.

11 This clearly shows that the Defendant got
12 that \$50 from Pete. What did he get the \$50 for?
13 For the crack cocaine. Now, when Pete finishes
14 the deal and comes back to meet with Lieutenant
15 Lovell, he puts dope in this red plastic bag
16 inside of this.

17 I know it's boring to talk about chain of
18 custody, what did you do with it, where did you
19 get it, was it in substantially -- just on and on
20 and on. But we have to prove to you, to remove
21 any concerns you have that the dope that was
22 tested by Mr. Armstrong was in fact the dope that
23 this Defendant sold Pete Bigby. We go through an
24 elaborate chain of custody where we show how
25 carefully and how securely all of this is handled

1 so when it's taken over to Greenville to be
2 tested, we can reasonably assure you and you can
3 feel comfortable in the integrity of the evidence
4 that this is, in fact, crack cocaine.

5 The final clincher. I asked Lieutenant
6 Lovell did you interview Mr. Blythe. He said no.
7 Why not? We didn't feel we need to. I don't
8 think he said it but I think he was trying to get
9 across to you he decided not to interview him.
10 When he's back there, he says something to
11 Officer Mills that they match or something to
12 that effect and Mr. Blythe realized he was hammer
13 dead in trouble at that point in time. What's
14 his first reaction? He wants to give up a bunch
15 of people in Greenville. He wants to give any
16 kind of information. He wants to work with
17 police. Then he tells him about Pete Bigby, in
18 effect, confessing that he had just sold him the
19 drugs that Pete Bigby put in the plastic bag for
20 this \$50.

21 This is the kind of law enforcement that
22 taxpayers are entitled to. There are certain
23 factors that are beyond the police's control like
24 how much dope was going to be brought so they
25 could photocopy the money, where it was actually

1 going to take place, either in front of the tree
2 or behind the tree, but there is no logical
3 explanation of any sort whatsoever to explain how
4 the \$50 that went from Lieutenant Lovell to Pete
5 Bigby to the Defendant to the counter in the
6 booking room where it was -- after it was
7 retrieved by Officer Mills in the car. There's
8 no logical explanation whatsoever to explain how
9 the Defendant ended up with the \$50 other than
10 Pete Bigby's story that I sold him, excuse me, I
11 bought from him \$50 worth of dope and I gave him
12 the money that Lieutenant Lovell gave me.

13 In conclusion, you don't have to satisfy
14 anybody with your verdict. You don't have to
15 make me happy. You don't have to make Ms.
16 Manigault happy. You just have to do the right
17 thing because you promised to well and truly try
18 this case according to the evidence. The only
19 person you got to satisfy that you did the right
20 thing is that person that looks at you in the
21 mirror tomorrow morning when you are either
22 putting on your makeup or shaving or combing your
23 hair. Do the right thing. Thank you very much.

24 **THE COURT:** Ms. Manigault, you may address
25 the jury.

1 **MS. MANIGAULT:** Please the Court. Thank
2 you, Your Honor.

3 Ladies and Gentlemen, we appreciate your
4 attention and patience in this case. As
5 yesterday in our opening statement, I presented
6 to you three principles or premises of law:
7 presumption of innocence, burden of proof and
8 reasonable doubt. Your Honor, has instructed you
9 that he will give you the charge of the law
10 itself.

11 You, again, are the triers of the facts. You
12 listen to the testimony that has been presented.
13 You decide and figure out what happened according
14 to what you've been presented or what didn't
15 happen. You decide whether the State has met its
16 burden of proof to your satisfaction beyond a
17 reasonable doubt. You decide whether you are
18 firmly convinced that the evidence is sufficient
19 enough that the State has presented. So the
20 decision on the facts of the case is yours. Your
21 Honor gives you the law and you decide based on
22 the facts presented.

23 Now, the premise of law about the presumption
24 of innocence, we will explain and Your Honor will
25 tell you again presumption of innocence carries

1 all the way through to the end of the trial into
2 deliberation until the jury reaches a conclusion
3 of what is going to happen in this case with the
4 evidence that was presented.

5 As far as being convinced, firmly convinced
6 about everything, if you have a reasonable doubt
7 about anything, if you are not firmly convinced
8 about anything regarding the information
9 presented, if there is a reasonable doubt, you
10 have to resolve that doubt in favor of the
11 Defendant. Now, the statement that Mr. Them made
12 -- let me say this before I get there, the facts
13 of the case is as you remember them from the
14 testimony, not what I say, not what Mr. Them
15 says. The facts of the case is as you recall
16 them.

17 Mr. Them presented to you the fact of the
18 careful search of Pete Bigby, the confidential
19 informant, the police snitch, the paid
20 confidential informant. He even asked him about
21 a cabin search and a body spread. He asked Pete
22 about that. However, even giving the fact that
23 the search may have been thorough, the officer
24 testified that he dropped the paid, confidential,
25 not trustworthy informant off by his own house on

1 Francis Street. The paid snitch testified that
2 he sat there 30 minutes on his own property.
3 This is his home, where he is familiar with all
4 the areas of his home, where he has opportunity
5 with people -- the families that he said was
6 laughing on the tape and somebody handed him a
7 phone, somebody handed him the phone to talk to
8 somebody else. He had substantial opportunity to
9 do anything he wanted to do.

10 The State would have you believe that he was
11 always in view of the van. If you recall the
12 testimony, I ask you to recall what you recall
13 the testimony was about that. But 30 minutes
14 waiting there in an area where he lives. All
15 right. He lives at that house. Sitting on the
16 steps. When you see the DVD and you see the paid
17 informant, the snitch gives -- comes, goes out of
18 view, out of view of the DVD, of the camera.

19 Now, the informant knew where the van was
20 parked. He knew that they were videoing. He
21 knew all of that, but he gets up and goes out of
22 view behind some bushes, still the area where he
23 lives. All right. Still the area where he
24 lives.

25 Lieutenant Lovell testified himself and this

1 was in response to a question that Mr. Them asked
2 him. Do you trust him? No. Don't trust him,
3 except in controlled situations. Well, this
4 situation was not as controlled as the State
5 would lead you to believe. Sitting alone, 30
6 minutes in an area that was not searched. The
7 informant himself testified he's been a crack
8 addict for more than 10 years, more than 10
9 years. Spending -- and I would suggest for your
10 consideration that he gave you a minimum amount
11 of crack that he used. He said twice a week,
12 maybe \$100 a week he used for over 10 years. Do
13 you think he would know where to place his crack
14 for use or to hide crack? Do you think he would
15 lie on somebody to get money, to buy more crack?

16 The tapes and the CD. The tapes are -- the
17 CDs are in evidence, the DVDs are in evidence.
18 There was testimony that the officer had seen my
19 client drive the Cadillac before. There was no
20 testimony as to presented documents as to title
21 or ownership. There was testimony to present to
22 you that before this occurrence that the State is
23 saying happened on December the 10th, 2008, my
24 client was not arrested that day. The testimony
25 was he was arrested in January, excuse me, that

1 the warrant was issued in January.

2 You heard the questions regarding Miranda
3 warnings, was the Defendant ever given Miranda
4 warning. He was taken into custody on December
5 the 10th. The testimony says it was for an
6 unrelated matter. The State would have you
7 believe he just started babbling for 15 minutes.
8 The argument there is if you ask questions, the
9 police ask you questions, they have to inform you
10 of his Miranda rights. If the police did not ask
11 questions and you consider or accept the fact
12 that the State has said the police let the
13 Defendant Randy Blythe sit there for 15 plus
14 minutes babbling, rambling, doing all of that,
15 they just sat and listened, that's the issue.
16 The principles of law, that's the issue.

17 If the police officer says I am not
18 interested in anything you have to say, I already
19 have a good case, okay, so why are you going to
20 let him sit there for 15 minutes and not ask him
21 anything? He's just going to throw out all this
22 information to you. I ask you to consider that
23 that is not what happened. No questions, just
24 listening.

25 Mr. Them said that I asked a question about

1 searching the area where Pete Bigby, the
2 confidential informant, this is a State informant
3 for the city. He offered to you that I would
4 have argued that if you searched one city block,
5 you need to search two. Well, it wasn't a city
6 block. It was a man's home. It's not an
7 unreasonable request. If you are so careful to
8 control the environment of where this paid
9 informant is, that you do not trust, that is a
10 drug addict. He testified under oath yesterday
11 that he was using marijuana. That's all he could
12 admit to. I offer for your consideration that he
13 was probably still using crack cocaine.

14 The State tells you this, you can't get the
15 gentleman from church, you have to use what you
16 have. I submit for your consideration, if you
17 are going to use what you have, that it be
18 effective, legal and sufficient for the case.

19 I offer to you today that the presumption of
20 innocence is like the cloak of righteousness.
21 It's like a trench coat. It's like a robe of
22 righteousness. When a person comes into court,
23 that robe of righteousness, that trench coat is
24 placed on that person. It is buttoned down. It
25 is a protection. It's a protection. It is the

1 State's responsibility to remove that robe of
2 righteousness, that trench coat, that cloak. Not
3 to unbutton a couple of buttons and let it hang
4 loose. To remove it.

5 I submit to you today that in your
6 consideration and deliberation that you should
7 return a verdict that speaks the truth. That's
8 what the word verdict means, veredicto, to speak
9 the truth. The verdict in this case that speaks
10 the truth is not guilty.

11 **THE COURT:** Mr. Foreman, Ladies and
12 Gentlemen, it's now my responsibility to instruct
13 you on the law in this case. I remind you that
14 the fact that the Defendant has been arrested and
15 has been charged, has been indicted in the
16 matter, that's not evidence. It can not be
17 considered by you as evidence of guilt. It
18 doesn't create any presumption or inference of
19 guilt.

20 The indictment that I read to you yesterday
21 that's before me now, that's merely the document
22 that brings the case before this court and before
23 you and the jury so that disposition can be made
24 of the case. These indictments charge the
25 Defendant with, uh, Distribution of Cocaine base

1 or crack cocaine and also the separate offense,
2 Distribution of Cocaine within a half mile of a
3 School or Park.

4 Now, Ladies and Gentlemen, the Defendant has
5 entered a plea of not guilty to both of these
6 charges. That places the burden on the State to
7 prove the Defendant guilty. A person charged
8 with committing a criminal offense in South
9 Carolina is never required to prove himself
10 innocent. That's an important rule of law that
11 in a criminal trial, no matter how serious the
12 charge may be, a Defendant will always be
13 presumed to be innocent of the crime for which
14 that indictment was issued unless guilt has been
15 established beyond a reasonable doubt.

16 Presumption of innocence doesn't end when you
17 begin your deliberations, but it accompanies the
18 Defendant throughout the trial until you've
19 reached a verdict of guilt based upon evidence
20 satisfying you of that guilt beyond a reasonable
21 doubt. Presumption of innocence isn't a mere
22 legal theory. It's just not a legal phrase
23 that's tossed about. Presumption of innocence is
24 the substantial right to which every defendant is
25 entitled unless you, the jury, are satisfied from

1 the evidence of the Defendant's guilt beyond a
2 reasonable doubt.

3 I've used the phrase beyond a reasonable
4 doubt. You may ask what is a reasonable doubt in
5 the law. A reasonable doubt is the kind of doubt
6 that would cause a reasonable person to hesitate
7 to act. By the State having the burden of proof
8 in this particular matter with that being beyond
9 a reasonable doubt -- you may have had an
10 opportunity to serve as a juror in past trials in
11 whatever court and you were told by a judge that
12 it was only necessary to prove that a fact was
13 more likely true than not true by what was called
14 a preponderance of the evidence or a greater
15 weight of the evidence.

16 In criminal cases, the State's proof is more
17 powerful than that and it must be beyond a
18 reasonable doubt. That would be proof that
19 leaves you firmly convinced of the Defendant's
20 guilt. There are very few things in this world
21 that we know with absolute certainty. In
22 criminal cases, the law doesn't require proof
23 that overcomes every possible doubt.

24 If, based upon your consideration of the
25 evidence, you are firmly convinced of the

1 Defendant's guilt of the crimes charged, then you
2 must find the Defendant guilty. If, on the other
3 hand, you think there is a real possibility that
4 the Defendant is not guilty, you must give the
5 Defendant the benefit of that doubt and find him
6 not guilty.

7 You and I have had certain duties to perform
8 during the trial. As the judge, it's been my
9 responsibility to preside over the case, to rule
10 on the admissibility of evidence offered during
11 the trial. Of course, you are to consider only
12 the competent evidence that is before you. You
13 are to consider the testimony that's been
14 presented from the witness stand, the exhibits
15 that have been made a part of the record.

16 My job also is to instruct you on the
17 applicable law in the case. As the presiding
18 judge, I am the sole judge of the law. It's your
19 duty as jurors to accept the law and apply the
20 law exactly as I state it to you. Some of you
21 may already have an idea of what the law is or
22 even a notion of what the law ought to be in a
23 case such as this. If you have such an idea
24 that's in conflict with what I now tell you the
25 law is, then you must abandon such an idea.

1 Under oath, you have sworn to accept the law and
2 apply the law exactly as I've stated it to you.

3 Every case that's tried in this courtroom
4 before a jury, that jury becomes the sole and
5 exclusive judges of the facts in the case. A
6 trial judge can not intimate or state or comment
7 on or make any statements whatsoever to a trial
8 jury about the facts in a case. Since you, the
9 jury, are the sole judges of the facts, you are
10 not to infer from what I've said during the
11 progress of the trial or any rulings I've made on
12 the admissibility of evidence or otherwise,
13 anything I say to you now in the course of this
14 instruction to you that I have an opinion about
15 the facts of the case. I don't have an opinion.

16 Our Constitution in South Carolina prohibits
17 a trial judge from expressing or having any
18 opinion about the facts. That's a matter solely
19 for you, Ladies and Gentlemen, to determine. As
20 jurors, you are to determine the effect, the
21 value, the weight and the truth of the evidence
22 presented during this trial.

23 Normally, in a trial, there's two types of
24 evidence that are presented. There is direct
25 evidence and there's circumstantial evidence.

1 Direct evidence is testimony of a person who
2 claims to have actual knowledge of a fact such as
3 an eyewitness. It's evidence which immediately
4 establishes the main fact to be proved.
5 Circumstantial evidence is proof of a chain of
6 facts and circumstances that indicate the
7 existence of a fact. It's evidence which
8 immediately establishes collateral facts from
9 which the main fact may be inferred. In other
10 words, circumstantial evidence is based on
11 inference and not upon personal knowledge or
12 observation.

13 The law makes absolutely no distinction
14 between the weight or the value to be given
15 either to direct evidence or circumstantial
16 evidence. Nor is a greater degree of certainty
17 required of circumstantial evidence than of
18 direct evidence. You should weigh all the
19 evidence in the case. And after weighing that
20 evidence, if you are not convinced of the guilt
21 of the Defendant beyond a reasonable doubt, then
22 you must find the Defendant not guilty.

23 Necessarily, you must determine the
24 credibility of witnesses who have testified in
25 the case. Credibility simply means

1 believability. It becomes your duty as jurors to
2 analyze and evaluate the evidence and determine
3 which evidence convinces you of its truth. In
4 determining the believability of witnesses who
5 have testified in the case, you can believe one
6 witness over several witnesses, you can believe
7 several witnesses over one witness.

8 In your discretion, Ladies and Gentlemen, you
9 can believe part of the testimony of a witness
10 and you can reject the remaining part of the
11 testimony of that very same witness. In your
12 discretion, you can believe the testimony of a
13 witness in its entirety or you can reject the
14 testimony of a witness in its entirety. You can
15 consider whether any witness had any interest or
16 bias or prejudice or other motive in the case.
17 You can note the appearance of the witness, the
18 manner in which that witness testified on the
19 stand, the demeanor of the witness. You and you
20 alone make that determination as to the
21 credibility of the witnesses who have testified.

22 I explained to you briefly that during the
23 course of the trial that rules of evidence would
24 not permit a witness to give an opinion or a
25 conclusion, but there was an exception to what we

1 call expert witnesses. A witness, who by
2 education, experience, uh, has become an expert
3 in some art or science or profession or calling
4 may state an opinion on any relevant and material
5 matter in which that witness thinks to be an
6 expert and can also state the reasons for that
7 opinion.

8 You should consider any expert opinion
9 received into evidence in the case and, like any
10 other evidence, give it the weight that you think
11 it deserves. If you decide in your discretion
12 that the opinion of the expert was not based upon
13 sufficient education and experience or that the
14 reasons given in support of that opinion were not
15 sound or the opinion was outweighed by other
16 evidence, you can disregard that opinion
17 entirely. An expert opinion testimony is to be
18 given no greater weight simply because that
19 person is an expert. Further, you are not
20 required to accept an expert's opinion even
21 though it may be uncontradicted.

22 In order to establish criminal liability,
23 criminal intent is required and must be proven by
24 the state beyond a reasonable doubt. Criminal
25 intent is always a matter that must be determined

1 by a jury from the circumstances surrounding the
2 situation. There is no way to prove intent to a
3 mathematical certainty.

4 Criminal intent may be inferred from the
5 circumstances shown to have existed. It's not
6 necessary to establish that intent by direct and
7 positive evidence but by inference in the same
8 way as any other fact taken in to consider the
9 acts of the parties and all the facts and
10 circumstances of the case. Criminal intent is a
11 mental state. It's a conscious wrongdoing. It's
12 up to you to determine what the Defendant
13 intended to do based upon the circumstances shown
14 to have existed.

15 I instruct you, Ladies and Gentlemen, and
16 emphasize to you the fact that the Defendant did
17 not testify is not a factor to be considered by
18 you in this case in any manner whatsoever in your
19 deliberations, in that consideration of the
20 question of the guilt or the innocence of the
21 Defendant. It's not to be considered by you in
22 any manner whatsoever.

23 A Defendant has the constitutional right to
24 remain silent and the assertion of that right
25 must not be considered by you in your

1 deliberations. I repeat, under your oath, you
2 are to draw no conclusions whatsoever from the --
3 excuse me -- from the fact that the Defendant did
4 not testify. The choice that he made not to
5 testify should not even be discussed by you in
6 the jury room. The burden of proof, as I've
7 stated, is on the state, remains on the state.
8 The Defendant is not required to prove his
9 innocence. The State has that burden of proof of
10 guilt beyond a reasonable doubt.

11 A statement alleged to have been made by the
12 Defendant has been admitted into evidence in this
13 case. And while the court has determined the
14 statement is admissible, I instruct you that you
15 make the ultimate decision of whether or not the
16 Defendant made the statement. If the Defendant
17 did make the statement, you must determine
18 whether the statement was made by the Defendant
19 voluntarily and of his own free will. This means
20 the statement was not caused by pressure, by
21 force, fear or threats or coercion or
22 intimidation or by hope or promise of leniency or
23 reward of any kind.

24 In determining whether the statement was
25 voluntarily made, you should consider both the

1 characteristics of the Defendant and the details
2 of the discussions. You can consider the age of
3 the Defendant, the education or lack of
4 education. You can consider the background, the
5 environment, the place and the length of the
6 detention, the nature of the questioning if there
7 was any.

8 And if there was questioning, you can
9 consider the advice or lack thereof of the
10 Defendant's constitutional rights including, but
11 not limited to, the right to remain silent and
12 any statement can be used against him in a court
13 of law. A right to have a lawyer present. If
14 you could not afford a lawyer, a lawyer could be
15 appointed to represent him without any cost. You
16 could stop making a statement at any time. You
17 must consider carefully all the surrounding
18 circumstances before you give any weight to an
19 alleged statement.

20 The State has the burden of proving beyond a
21 reasonable doubt that the alleged statement was
22 voluntary. If you determine it was, you may give
23 the statement any further considerations that you
24 deem proper. You must decide what weight, if
25 any, should be given to the alleged statement.

1 If you determine the alleged statement is not the
2 free and voluntary statement of the Defendant,
3 then, of course, you should not consider that
4 statement at all.

5 In this case, Ladies and Gentlemen, the
6 Defendant is charged with Distribution of Crack
7 Cocaine. The State must prove beyond a
8 reasonable doubt that the Defendant distributed
9 this drug. Distribute means to deliver or to
10 actively, constructively or attempt to transfer a
11 drug other than by administering or dispensing
12 that drug. Delivering means to actually,
13 constructively or attempt to transfer a drug. A
14 transfer could involve an exchange for money or
15 gift. There does not have to be anything given
16 in exchange for the drugs for a transfer to
17 constitute distribution.

18 The Defendant is also charged with the
19 distribution of cocaine, crack cocaine within
20 proximity of a school or park. The State must
21 prove to you beyond a reasonable doubt that the
22 Defendant distributed, sold, purchased,
23 manufactured or unlawfully possessed with the
24 intent to distribute the crack cocaine while in,
25 on or within a half mile of the grounds of a

1 public or private elementary, middle or secondary
2 school, a public playground or park, public
3 vocational or trade school or technical education
4 center or a public or private college or
5 university.

6 Ladies and Gentlemen, I've prepared a verdict
7 form for your consideration. I believe, Mr.
8 Foreman, it will be self-explanatory to you.
9 There are two possible verdicts on these charges,
10 either guilty or not guilty. There is no
11 significance whatsoever in which is listed first.
12 One has to be listed before the other. But after
13 you have made your deliberations, if you would
14 merely check the appropriate block on each of the
15 charges and sign your name as foreperson. Date
16 it. And on behalf of your fellow jurors, let the
17 bailiff know that you have reached the verdict.

18 I remind you that your verdict must be a
19 unanimous one. All twelve of you must agree upon
20 that verdict. Your verdict can't be based upon
21 sympathy or passion or prejudice or emotion or
22 any other consideration not in evidence in the
23 case. I remind you also, Ladies and Gentlemen,
24 that, uh, you are free to ask me any questions
25 concerning the law in this case. But remember

1 its impermissible for me to answer any questions
2 that you have regarding the facts of the case.
3 That's your job as the sole factfinders to
4 determine just what the facts are.

5 At this time, Ladies and Gentlemen, I'm going
6 to ask you, if you would, go back to the jury
7 room. Don't start your discussions just yet.
8 There's one final matter of law I need to take
9 care of with the attorneys. After we've resolved
10 that, hopefully, we'll have the exhibits back for
11 you, the verdict form for you to review with the
12 instructions that you can, at that time, begin
13 your deliberations. If you would, retire to your
14 jury room now. Don't discuss the case. We'll
15 call you back and send the information back
16 promptly.

17 (WHEREUPON, the jury exits at approximately
18 12:18 p.m.)

19 THE BAILIFF: Door is closed.

20 THE COURT: Any exceptions to the charge
21 from the State?

22 MR. THEM: None, Your Honor.

23 THE COURT: From the defense?

24 MS. MANIGAULT: None, Your Honor.

25 THE COURT: All right. If y'all will make

1 sure all the exhibits are in order and they are
2 properly marked and identified, then we'll have
3 the information sent back to the jury with the
4 instructions they can begin their deliberations
5 after the alternate comes out.

6 (WHEREUPON, jury deliberation begins at
7 approximately 12:21 p.m.)

8 (WHEREUPON, the alternate juror enters the
9 courtroom at approximately 12:21 p.m.)

10 **THE COURT:** Mr. Morgan, thank you very much
11 for your participation. Your fellow jurors
12 survived. We won't need you to work with us.
13 You are welcome to stay. If you would like, you
14 can stay.

15 **THE JUROR:** Okay.

16 **THE COURT:** Thank you for your service
17 though. The rest of the panel is going to be
18 coming in tomorrow. I'll excuse you.

19 **THE JUROR:** The whole week?

20 **THE COURT:** The week. The jury coming back
21 tomorrow is selected for a trial that's going to
22 take the rest of the week. You are free for the
23 week. Thank you very much. If you need a
24 statement for your employer or anything in the
25 clerk's office --

1 THE JUROR: No, I own my own business.

2 THE COURT: Okay.

3 (WHEREUPON, the alternate juror exits the
4 courtroom at approximately 12:22 p.m.).

5 (WHEREUPON, a recess is taken from 12:22 p.m. to
6 1:18 p.m.)

7 THE COURT: Inquiry from the jury. They
8 want to hear the CD and phone calls. So, uh,
9 based upon our previous bar conference with the
10 attorneys, we'll have the jury come back in. You
11 might want to get your staff ready to play that.
12 I guess what we need to do is get the CD from
13 them. They have it back there?

14 THE BAILIFF: Yes, sir.

15 THE COURT: If you could, just ask them for
16 the CD now and we'll get it set up.

17 THE BAILIFF: Okay.

18 THE COURT: We will call them out later.

19 (WHEREUPON, there is a pause.)

20 (WHEREUPON, the jury enters at approximately
21 1:23 p.m.)

22 THE COURT: Mr. Foreman, I understand that
23 the jury would like to listen to the phone calls
24 CD. We've got it set up now to play. You can
25 let us know if we need to adjust the volume or if

1 we need to play it again. You just let us know
2 how many times you want to hear it and when
3 you've heard enough. Either way.

4 If you are ready to play it, make sure it's
5 loud enough for them to hear.

6 (WHEREUPON, State's Exhibit 1 is played from
7 approximately 1:26 p.m. to 1:28 p.m.)

8 THE COURT: Okay. Go back and continue your
9 deliberations.

10 (WHEREUPON, the jury exits at approximately
11 1:28 p.m.)

12 THE BAILIFF: The door is closed, Your Honor.

13 THE COURT: All right. This will be the
14 next Court's exhibit, a note from the jury.

15 MS. MANIGAULT: Yes, sir.

16 THE COURT: We'll be at ease until we hear
17 from the jury.

18 (WHEREUPON, Court's Exhibit 5 is marked for
19 identification purposes.)

20 (WHEREUPON, a recess is taken from approximately
21 1:29 p.m. to 1:41 p.m.)

22 THE COURT: The jury has reached a verdict
23 in the case. Is there anything we need to take
24 care of, for me to decide before we receive the
25 verdict?

Verdict

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1 **MR. THEM:** Nothing on behalf of the State,
2 Your Honor.

3 **MS. MANIGAULT:** Nothing from the defense,
4 Your Honor.

5 **THE COURT:** All right. If the jury is
6 ready, Mr. Evans, you can have them come in.

7 (WHEREUPON, the jury enters at approximately
8 1:42 p.m.)

9 **THE COURT:** Mr. Foreman, I understand the
10 jury has reached a verdict. Is that correct, Mr.
11 Foreman?

12 **THE JUROR:** Yes, sir.

13 **THE COURT:** Is it a unanimous verdict as to
14 both charges?

15 **THE JUROR:** Yes, it is.

16 **THE COURT:** If you would, please hand the
17 verdict forms to the bailiff.

18 (WHEREUPON, the verdict form is passed up.)

19 **THE COURT:** Mr. Clerk, you may publish the
20 verdict.

21 **THE CLERK:** State of South Carolina versus
22 Randy Blythe, Jr., case number 2010-GS-39-352 and
23 353, we, the jury, by unanimous consent find the
24 Defendant, Randy Blythe, Jr., as to the charge of
25 Distribution of Cocaine base, Crack Cocaine,

1 guilty and we, the jury, unanimously consent and
2 find the Defendant, Randy Blythe, Jr., as to the
3 charge of Distribution of Cocaine base within a
4 half mile of a school or park, guilty. Is this
5 your verdict and still your verdict so say you
6 all by raising your right hand?

7 (WHEREUPON, each juror responds.)

8 THE CLERK: Thank you very much.

9 THE COURT: Any matters, uh, that we need to
10 take care of before the jury is discharged in
11 this case? Anything from the State?

12 MR. THEM: Nothing on behalf of the State,
13 Your Honor.

14 THE COURT: From the defense?

15 MS. MANIGAULT: Nothing from the defense,
16 Your Honor.

17 THE COURT: Ladies and Gentlemen, thank you
18 very much for your service on this trial. You've
19 been a conscientious group to work with. I
20 appreciate the honor that you've given me to work
21 with you. Thank you for your service. We have
22 another trial that's going to start in the
23 morning. I think from the full panel we have
24 enough jurors to handle that trial. I understand
25 that will be the last trial we have the rest of

1 the week. We'll have other matters to do once
2 that trial is concluded.

3 So without you having to call in today, I'll
4 excuse you for the week. We have enough of the
5 rest of the panel to select a juror, so that will
6 fulfill your services for this week. You are
7 welcome to come back tomorrow and observe if
8 you'd like to. We'd love to have you here. Your
9 duty as jurors is concluded with this trial based
10 upon the full panel we had otherwise.

11 Some of you may need a statement for your
12 employer that you've been on jury service. If
13 that's the case, please stop by the clerk's
14 office. He will provide that for you. Thank you
15 very much for your participation. Thank you for
16 the conscientious effort that you've rendered in
17 this particular case. You've fulfilled a
18 valuable service to your community and to your,
19 uh, state.

20 Hopefully, it's been an educational
21 experience for you and an enjoyable experience as
22 best it can be when you're sitting in the jury
23 box. I'm confident that, uh, -- hope it doesn't
24 happen, but one day, if and when you are sitting
25 at one of those tables with either a charge

1 against you or a civil suit, contract dispute or
2 automobile accident or whatever it may be, that
3 you will have good conscientious, willing to
4 serve jurors finding the facts, the truth of the
5 facts in your case as well.

6 Thank you for your service this week. You
7 are excused for the rest of the week. I enjoyed
8 working with you. You can go with Mr. Evans now.

9 Mr. Foreman, I do need you, if you would wait
10 in the hall, there's one more piece of paper I
11 need for you to sign. Thank you, sir. The clerk
12 will have it for you.

13 (WHEREUPON, the jury exits at approximately
14 1:47 p.m.)

15 **THE COURT:** Yes, ma'am, Ms. Manigault.

16 **MS. MANIGAULT:** Thank you, Your Honor.
17 Please the court. On behalf of the Defendant,
18 Randy Blythe, we make a motion to have the
19 verdict set aside and motion for a new trial in
20 that we do not believe that the verdict is
21 sustained by the evidence presented.

22 **THE COURT:** Certainly there was conflicts in
23 the evidence, but I believe the jury's verdict
24 was substantiated by the evidence that was
25 presented to them for their evaluation. I

1 respectfully deny your motion.

2 MS. MANIGAULT: Thank you, Your Honor.

3 THE COURT: Anything else we need to take
4 care of before sentencing?

5 MR. THEM: Nothing on behalf of the State,
6 Your Honor.

7 THE COURT: All right. Uh, Solicitor, you
8 got a sheet ready?

9 Ms. Manigault, you can come forward with
10 your client.

11 Is there anything from the State? I'll need
12 the prior record and certainly be glad to hear
13 from you, Mr. Them, before sentencing is imposed.
14 I'll certainly be glad to hear from the defense.

15 MR. THEM: With reference to the
16 distribution, this is his sixth conviction. He
17 had four convictions in '96 and one conviction in
18 2001. Four of those convictions in '96 also
19 carry with them proximity charges. One of the
20 other charges did not carry a proximity, the
21 single one in 2001. This is sixth offense sale
22 and fifth offense proximity. The statute only
23 goes up to third offense or more, Your Honor.

24 He's doubled the maximum the statute talks about.

25 I would urge the Court to look at that record

1 and start at the 30-year maximum penalty and
2 determine what, if anything, the Defendant should
3 be entitled to to reduce that. He is absolutely
4 incorrigible. As soon as he gets out of prison,
5 he's going to go back to the same thing, Your
6 Honor. I urge you to consider a maximum
7 sentence.

8 THE COURT: You said four distributions in
9 '96 and two in 2001?

10 MR. THEM: No, sir. Four in '96 and one in
11 2001, Your Honor.

12 THE COURT: Okay. This is the sixth.

13 MR. THEM: This is number 6.

14 THE COURT: Okay. Ms. Manigault?

15 MR. THEM: I think Lovell would like to be
16 heard at the appropriate time.

17 THE COURT: All right. I'll listen to him
18 now.

19 MR. THEM: Okay. I'm sorry.

20 THE COURT: Officer Lovell, be glad to hear
21 from you.

22 OFFICER LOVELL: Thank you, Your Honor. Mr.
23 Blythe, uh, was a pretty big target for us. We
24 received numerous complaints on him dealing drugs
25 in the city. It was from numerous people,

1 neighbors of places he was going selling the
2 drugs. Uh, it was about midmorning when I
3 received the call from Pete Bigby stating he
4 could buy from Mr. Blythe. I dropped what I was
5 doing just to go do this buy. That's why I had
6 to call the sheriff's office. We had to act
7 pretty quick because he was the first one that
8 had offered to do the deal. It was a pretty big
9 deal for the city due to the amount of drugs that
10 we were getting complaints on.

11 As far as only buying \$50 from him, that's
12 the standard thing that we do. We don't have a
13 big fund. We only purchase small quantities of
14 drugs from the dealers.

15 **THE COURT:** What roads, streets are near
16 Francis Street?

17 **OFFICER LOVELL:** Francis Street, you've got --
18 if you come down West Sackage, you come onto
19 Liberty Drive. But that's not the only area we
20 got the complaints from. I know we got them from
21 there. We got them on the other side of town
22 back behind, kind of across the road from Home
23 Depot and all this. There were apartments back
24 there where we were getting numerous complaints
25 on him. Going back over to the side of town

1 where this occurred, a little further over on the
2 mill -- hill, there was a house there. We were
3 getting complaints on delivering.

4 **THE COURT:** Francis runs close to Jones
5 Avenue?

6 **OFFICER LOVELL:** Yes, sir. It comes down --
7 if you come off Francis down, uh, West Sackage,
8 come down near Morgan's Radiator Shop and that
9 little stretch right there at Hagood Park.

10 **THE COURT:** You heard the testimony was in a
11 proximity within a half mile, it was almost rock
12 throwing distance.

13 **OFFICER LOVELL:** Yes, sir. You could sit at
14 the park and see the trailer where this took
15 place.

16 **THE COURT:** All right. Anything else from
17 the State?

18 **MR. THEM:** Nothing further, Your Honor.

19 **THE COURT:** Ms. Manigault, I'll be glad to
20 hear from you and your client and anyone else
21 that would like to address before sentence is
22 imposed.

23 **MS. MANIGAULT:** Thank you, Your Honor.
24 Although I understand it is in response to a
25 question, the case that was tried today against

1 Mr. Blythe was for the incident on Francis Street
2 and we would ask the Court just to consider that
3 and not the, uh, testimony of other buys and
4 deliveries that have not been charged or
5 convicted. My client is 34 years old. He is a
6 graduate of Pickens County High School.

7 He's worked in painting and construction.
8 His last employment was in landscaping for the
9 year of 2010. He was enrolled at Voc Rehab, uh,
10 in 2010 with a counselor, had attended some
11 sessions about trying to actively find a job.

12 He has five children, Your Honor, ages 14,
13 11, 8, a year and a half and two months. He's on
14 child support for three of those children through
15 the Family Court and currently has two actions
16 pending for child support.

17 Your Honor, he lived with his mother at 113
18 Medlin here in Pickens County. He is a lifelong
19 resident of the county. He had enrolled to try
20 to get his real estate license in 2008 and 2009
21 but did not complete that course.

22 We have no dispute regarding the amount of
23 the convictions that's on record. In 1996, he
24 went to court and I think it was -- it totals to
25 two court appearances. In '96, there were

1 multiple cases that he entered a guilty plea to
2 and then in 2001, he entered a plea to one
3 charge. We do not dispute the amount of
4 convictions.

5 We would ask the Court, if you would,
6 consider leniency and mercy in this case in light
7 of the family that he has. His mother and
8 friends have been with him all week in court.
9 Beg the Court's indulgence.

10 THE COURT: Yes, ma'am.

11 (WHEREUPON, there is a pause.)

12 MS. MANIGAULT: Your Honor, at the
13 appropriate time, his mother would like to speak
14 on his behalf.

15 THE COURT: Mr. Blythe, anything you want to
16 tell me?

17 MR. BLYTHE: Uh, yeah. In 1996, that was
18 only one conviction on March the 21st and then
19 another conviction in 2001, I think. Those are
20 the only two convictions I have.

21 MS. MANIGAULT: They were multiple
22 indictments, Your Honor, but one court date.

23 THE COURT: Okay. How much time did you do?

24 MR. BLYTHE: Sir?

25 THE COURT: How much time did you say you

1 did?

2 MR. BLYTHE: Uh, a total of eight. I did
3 three years at, uh, -- I forgot where, but a
4 total of eight years.

5 THE COURT: You did three years on the '96
6 charge and then some more time on the '01?

7 MR. BLYTHE: Yes, sir.

8 THE COURT: When did you get out of jail?

9 MR. BLYTHE: 1999, I think April of '99.

10 MS. MANIGAULT: When did you get out?

11 THE COURT: When did you get out the last
12 time?

13 MR. BLYTHE: November the 1st, 2006.

14 MR. THEM: Your Honor, there was a
15 revocation, I believe, on the first batch of
16 sentences I believe because of the second
17 conviction or some other event. I believe he
18 testified in the Jackson v. Deno that he served
19 seven years on those convictions or maxed out. I
20 don't remember how he said it exactly.

21 THE COURT: You used drugs?

22 MR. BLYTHE: Yes, sir. I did.

23 THE COURT: How old were you when you first
24 started using drugs?

25 MR. BLYTHE: About 16.

1 THE COURT: High school?

2 MR. BLYTHE: Yes, sir.

3 THE COURT: You have friends or family?

4 MR. BLYTHE: No, sir. Just friends.

5 THE COURT: At school or in the
6 neighborhood?

7 MR. BLYTHE: Sometime.

8 THE COURT: You lived in the city of Pickens
9 or outside of Pickens?

10 MR. BLYTHE: In the city. Sometimes both.
11 Sometimes at school, sometimes at home when we
12 was out of school.

13 THE COURT: You ever stopped using drugs or
14 you pretty much used them all the time?

15 MR. BLYTHE: Pretty much -- up until I
16 started, uh, getting help with the Voc Rehab, I
17 was using drugs pretty heavy.

18 THE COURT: Crack is what you used?

19 MR. BLYTHE: Yes, sir.

20 THE COURT: Bad drug.

21 MR. BLYTHE: Yes, sir. I know.

22 THE COURT: I'll be glad to hear from his
23 mother.

24 MS. MANIGAULT: If you would, just state
25 your name.

1 **THE COURT:** Ms. Blythe, if you would state
2 your name again for the record.

3 **SPEAKER:** My name is Ann Blythe. I'm
4 Randy's mother.

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

6 **SPEAKER:** It's not like he wasn't raised
7 right. We raised him right. And everything is
8 just who you choose to hang with. Once you're
9 labeled, it's like you're followed for life. I
10 said I could vouch for the fact that since he had
11 been home this last time, we have had so many
12 run-ins with the police. If he's taking the
13 babies to the doctor or something, he gets pulled
14 over. They say speeding tickets, a light out.
15 When one of us get there, they done pulled the
16 dogs out and everything and just -- he would just
17 get depressed because of all the harassment.

18 My husband went to the police department,
19 talked to different ones and I went too. I said,
20 you know, there's no excuse in doing wrong or
21 whatever but he would start employment at places.
22 And, you know, the way the economy is, that would
23 end. When you're pressured to pay child support,
24 either way you go, you're going to jail. You
25 know, that don't justify it but been ruled in

1 more times that I can count. It doesn't justify.

2 But the bottom line is, and I've said it and
3 I'll say it again at city council meetings and
4 everything, if something is not put in place to
5 help these young, just not my child, all of them,
6 they either find jobs or give them some kind of
7 training, some kind of program, it's a cycle.
8 There's no end to it. There's no end. Either
9 way, the odds are not in their favor any kind of
10 way. Like I say, it don't justify what's going
11 on now, but they need help.

12 **THE COURT:** Thank you, ma'am. Appreciate
13 your comment.

14 **SPEAKER:** Your Honor, excuse me.

15 **THE COURT:** Yes, ma'am.

16 **SPEAKER:** I ask you, I can't speak for
17 nobody else, but I can speak for me. My child, I
18 raised him. I know him better than anybody in
19 here. I would like some kind of way that he can
20 get some help. He suffers with depression and I
21 know him. He's throwing up sick a lot because he
22 grew up with bad nerves and things. But I would
23 ask you please, have mercy, but also to please,
24 help him get the help he needs. He really needs
25 some help.

1 **THE COURT:** I hope they can provide it
2 through the Department. (Pause.)

3 Any other prior record?

4 **MR. THEM:** Sir?

5 **THE COURT:** Any other prior record other
6 than the drugs?

7 **MR. THEM:** Nothing that would be significant
8 as to the charges you are here on, Your Honor.

9 (WHEREUPON, there is a pause.)

10 **THE COURT:** Well, I certainly hope, Mr.
11 Blythe, that you can somehow get your life
12 straightened out with the drug problem you have
13 and the drug problem you created for other
14 people. Your mother is right. Until you get
15 those out of the way, you're not going to get a
16 chance to do the best to take care of your family
17 and other needs.

18 This is case 2010-39-352. The sentence of
19 the Court is the Defendant be committed to the
20 State Department of Corrections for a period of
21 22 years. Recommend ATU program while
22 incarcerated. 2010-353, the sentence is 10 years
23 to be concurrent. Credit for time served. Wish
24 you the best.

25 **MS. MANIGAULT:** Thank you, Your Honor.

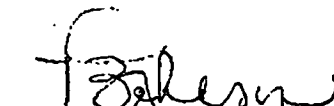
1 **THE COURT:** All right. Let's take a short
2 break.
3 (WHEREUPON, the proceedings conclude at
4 approximately 2:11 p.m.)

CERTIFICATE

299

1 I, the undersigned, Teresa B. Johnson, Official
2 Court Reporter for the Thirteenth Judicial Circuit of
3 the State of South Carolina, do hereby certify that
4 the foregoing is a true, accurate and complete
5 Transcript of Record of all the proceedings had and
6 evidence introduced in the trial of the captioned
7 case, relative to appeal, in the Court of General
8 Sessions for Pickens, South Carolina, on this 24th day
9 of May, 2011.

10 I do further certify that I am neither of kin,
11 counsel nor interest to any party hereto.

12
13
14
15 

16 Teresa B. Johnson

17 Official Court Reporter
18
19
20
21
22
23
24

FORM 5

2013-CP-39-914

STATE OF SOUTH CAROLINA

COUNTY OF Pickens

IN THE COURT OF COMMON PLEAS

Randy Blythe Jr. #233219
 Full name and prison number (if any) of Applicant
 CLERK OF COURT
 PICKENS COUNTY
 SOUTH CAROLINA

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Pickens Law Enforcement Center
2. Name and location of Court which imposed sentence Pickens County Court, Pickens, S.C. 29671
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 10 - GS - 39 - 0352
 - (b) 10 - GS - 39 - 0353
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) January 25, 2011 was sentenced to 22 years (Non-violent) 85%
 - (b) _____

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of the appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. denied (Affirmed)
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. Feb. 5, 2013 (Heard) and Filed March 13, 2013
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Counsel (6th Amend. violation)
 (b) Miranda Right Violation (4th Amend. violation)
 (c) Chain of custody violation s.c. Rule 6 Form (A) (B) (C) SLED
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Failed to investigate, Failed to adequately argue miranda violation
 (b) Agent Jason Lovell and officer mills fail to mirandize me during questioning
 (c) A link in the chain was broken
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
 (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
 ii. _____
 iii. _____
 iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
 ii. _____
 iii. _____
 iv. _____
- (c) the disposition thereof:
- i. _____
 ii. _____
 iii. _____

- iv. _____
- (d) the date of each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
- yes
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. Miranda Rights violation (4th Amend. violation)
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. South Carolina Court of Appeals
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) Could not raise ineffective Assistance of counsel on Appeal
- (b) Could not raise chain of custody on Appeal because Mr. Stevens chose not to.
- (c) _____
17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? _____
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Mrs. Dorothy Manigault, P.O. Box 392, Greenville, S.C. 29602
- ii. Mr. Breen Richard Stevens, P.O. Box 11589, Columbia, S.C. 29211-1589
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. jury Trial in Pickens County, Mrs. Dorothy Manigault
- ii. South Carolina Court of Appeals, Mr. Breen Richard Stevens
- iii. _____
19. State clearly the relief you seek in filing this application:
vacate sentence, New trial, or sentence under any/all new ^{drug laws}
20. Are you now under sentence from any other court that you have not challenged?
NO

2013-CP-399 305
914

STATE OF SOUTH CAROLINA)

County of Pickens

2013 JUL 23 AM 11 50

VERIFICATION

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA
I, _____, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Randy Blythe Jr.

SWORN to and subscribed before me this 15
day of July, 2013.

Debra Sings (L.S.)
Notary Public

My Commission Expires: 11-4-2015

APPLICATION TO PROCEED WITHOUT PAYMENT
 2013 JUL 23 AM 11:50 COSTS AND AFFIDAVIT
 IN SUPPORT THEREOF

CLERK OF COURT

I, Randy Blythen Jr., hereby ~~proven~~ sworn to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Randy Blythen Jr.
 Applicant

SWORN or affirmed to and subscribed before me this
15 day of July, 2013.

Diana Blythen
 Notary Public

My Commission Expires: 11-4-2015

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2013-CP-39-914
COUNTY OF PICKENS	)	
	)	
Randy Blythe, Jr.,	)	
S.C.D.C. No. 233219,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed July 23, 2013, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Pickens County Clerk of Court's orders of commitment. The Pickens County Grand Jury indicted the Applicant at the March 2010 term of General Sessions for distribution of cocaine base (2010-GS-39-0352) and distribution of cocaine base within proximity of a school (2010-GS-39-0353). Dorothy A. Manigault, Esquire represented the Applicant.

After the State brought the case to trial, the Applicant was found guilty. On January 25, 2011, the Honorable G. Edward Welmaker sentenced the Applicant to concurrent terms of twenty-two years for distribution of cocaine base, third offense and ten years for distribution of cocaine base within proximity of a school.

A notice of appeal was filed at the South Carolina Court of Appeals. Breen R. Stevens, Esquire of the South Carolina Commission on Indigent Defense, Division of Appellate Defense perfected the appeal. The Court of Appeals affirmed the Applicant's convictions and sentences.

State v. Blythe, Op. No. 2013-UP-098 (S.C. Ct. App. filed March 13, 2013). The Remittitur was sent on April 3, 2013.

Attached herewith and incorporated herein by reference are the records of the Pickens County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the trial transcript, and the appellate records.

II.

In his application for post-conviction relief, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel:
 - a. Failed to investigate.
 - b. Failed to adequately argue Miranda violation.
2. Miranda right violation:
 - a. "Agent Jason Lovell and Officer Mills fail to Mirandize me during questioning."
3. Chain of custody violation:
 - a. "A link in the chain was broken."

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation

within the range of competence required in criminal cases. The courts presume counsel “rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under prevailing professional norms.” Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel’s deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Respondent denies each allegation not expressly admitted, qualified or explained.

V.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

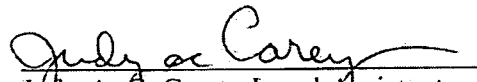
April 9, 2014

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS	)	
	)	
	)	2013-CP-39-0914
	)	
RANDY BLYTHE, JR., 233219	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Randy Blythe, Jr., 233219
Perry Correctional Institution
430 Oaklawn Road
Pelzer SC 29669**

DATED this 9th day of April, 2014.


Judy A. Carey, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

COURT OF COMMON PLEAS

2013-CP-39-00914

RANDY BLYTHE, JR,
APPLICANT,)

vs.)

TRANSCRIPT OF RECORD

STATE OF SOUTH CAROLINA,
RESPONDENT.)

ORIGINAL

December 15, 2014
Pickens, South Carolina

B E F O R E:

THE HONORABLE EUGENE C. GRIFFITH, JR., JUDGE.

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

R. MILLS ARIAIL, JR., ESQ.
Attorney for the Applicant

KAREN C. RATIGAN, ESQ.
Attorney for the Respondent

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(AW) - Denotes Applicant's Witness
(RW) - Denotes Respondent's Witness

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(RW) <u>DOROTHY A. MANIGAULT:</u>	
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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
	(Court's Exhibits)		
C-1	Documents.....	15.....	15

All Exhibits were retained by the Clerk of Court for Pickens County.

P R O C E E D I N G S

THE COURT: What do we have, Ms. Ratigan?

MS. RATIGAN: Thank you, Your Honor.

May it please the Court.

This is the case of Randy Blythe v. the State of South Carolina. The docket number is 2013-CP-39-914.

Mr. Blythe was indicted for distribution of cocaine base, and distribution of cocaine base within proximity of a school. He was represented on these charges by Ms. Manigault. After the case was brought to trial, he was found guilty. On January 25th of 2011, Judge Welmaker sentenced him to concurrent terms of 22 years for distribution third, and 10 years for the proximity charge.

He did file an appeal. His convictions and sentences were affirmed in March of 2013.

This application was timely filed. And the State is ready to proceed.

THE COURT: All right. Mr. Ariail, are you ready --

MR. ARIAIL: Yes, Your Honor.

We're ready to proceed.

I call Mr. Blythe to the stand.

THE COURT: All right.

THE CLERK: Just lay your stuff right there.

Place your left hand on the Bible and raise your right hand, please.

1 WHEREUPON,

2 RANDY BLYTHE, JR.,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: State your full name for the record.

5 THE WITNESS: Randy Blythe, Jr.

6 THE CLERK: Please be seated.

7 DIRECT EXAMINATION

8 BY MR. ARIAIL:

9 Q Mr. Blythe, how are you doing today?

10 A Fine.

11 How about yourself?

12 Q I'm doing fine.

13 I'm going to give the Judge a little background in
14 regards to your case. This was a case, and it was a
15 distribution of cocaine base and distribution of cocaine
16 base within proximity of a school; is that correct?

17 A Yes, sir.

18 Q Those are the two charges you had?

19 A Yes, sir.

20 Q Ms. Manigault represented you on those charges?

21 A Yes, sir.

22 Q You took those to trial; is that correct?

23 A Yes, sir.

24 Q Okay. And what happened when you went to trial?

25 A As far as the procedure that took place?

1 Q You were convicted; correct?

2 A Oh, yes, sir. I was convicted.

3 Q You got 25 -- 22 years?

4 A 22 years.

5 Q And then 10 years for the distribution within
6 proximity of a school; correct?

7 A Yes, sir.

8 Q Are those concurrent or consecutive?

9 A Concurrent.

10 Q Now -- and that was in front of Judge Welmaker?

11 A Yes, sir.

12 Q Okay. Now, we've discussed this in depth. And I
13 know an appeal was filed on your behalf in regards to some
14 of the issues. What are the items you want the Court to
15 be aware of in regards to your representation by
16 Ms. Manigault?

17 A The issue about the Miranda rights, chain of custody,
18 the money -- the handling of the marked money, and my --

19 Q Okay.

20 A -- and credit for time served.

21 Q And let's break those down a little bit. The Miranda
22 issue deals with statements you made after you were
23 arrested; is that correct?

24 A Yes, sir.

25 Q Okay. And so tell -- give a little background about

1 when you were interrogated. It was after you were at the,
2 I guess, LEC; correct?

3 A The Easley Police Department. There was
4 discrepancies between what happened. I said the
5 police come to my cell and asked me questions. They
6 denied the allegations and said that I had requested to
7 speak with them. And Justin Logan [phonetic] said he
8 wasn't interested in what I had to say, but he took me
9 into an interview room for my privacy. And he didn't ask
10 me any questions. And that was the -- raised -- the issue
11 that was raised on my appeal.

12 Ms. Dorothy Manigault, she objected and said that the
13 police expressly interrogated me. But the objection --
14 she said they expressly interrogated me. But instead of
15 raising the issue as far as -- the police said that they
16 didn't question me and they took me into the interview
17 room and that it was the equivalent that anytime the
18 officers did anything outside of regular police
19 procedures. And that was the issue that was raised on my
20 appeal.

21 Q Okay. But my question is, did she object to that
22 during your trial?

23 A Yes, sir.

24 Q Okay. And that I'm getting -- I mean, did she object
25 to you saying she did it in the wrong way or --

1 A Oh, yes, sir.

2 Q -- did something that she shouldn't --

3 A Yes, sir.

4 Q Tell me -- explain that to the Court.

5 A It was denied on my direct appeal. They said that
6 she had -- my claims had no merit because she failed to
7 properly object on my -- during my trial.

8 Q Okay. And, specifically, what did it say about what
9 she didn't do, or what she should have done?

10 A Let's see. I've got my response brief right here.
11 It says, Appellate's trial counsel failed to properly
12 preserve the Miranda issue. And then it says, In regards
13 to the police never interrogated Appellant, therefore, the
14 police were not required to advise the Appellant of his
15 Miranda rights -- error to admit the statement -- any
16 error was harm due to the overwhelming evidence of guilt.

17 But that was the -- in the response brief and the
18 issues that was used to say that my -- to deny my appeal.

19 Q Okay. And that's in regards to the Miranda. I think
20 you brought up another issue about money. Were there --
21 what was the issue with the money and the marked funds in
22 this case?

23 A Yeah. The issue about the money is just the whole
24 handling of the money used for the controlled buy. There
25 was no records of the money ever used that was alleged to

1 be marked money. Like Officer Lovell, he says that the
2 money that they found in my car hidden was the money that
3 he gave the informant. And that when he was at the police
4 station, he got his equipment and left. He didn't know
5 how much the buy was going to be.

6 So he wrote the serial numbers down on a piece of
7 paper. And Ms. Dorothy Manigault, she asked him why
8 didn't you photocopy the money before the buy? He said he
9 wasn't aware how much it was going to be. And he wrote
10 the serial numbers on a piece of paper, and put it in his
11 pocket. And based -- that's what I was going to go with,
12 the issue I wanted to raise. The money that was used, it
13 was never checked out of any county funds, or any records,
14 or documents during my trial. It never was established
15 where the money came from.

16 Q Okay. But did she cross-examine or try to impeach
17 the officer in regards to that somehow?

18 A No.

19 Q You don't remember any of that?

20 A No, sir, she didn't.

21 Q Okay. You go through -- I think there were a couple
22 other issues you mentioned in your initial -- right here?

23 A Chain of custody --

24 Q Yeah.

25 A -- dealing with the weight, the weight of the --

1 after the police said that the informant had gave them the
2 drugs, the amount of weight was never established to the
3 drugs -- the police -- Officer Lovell said he put the --
4 he sealed up the drugs and put them in the drop box. The
5 amount of weight that was -- the drugs weighed prior to
6 being tested or put in the drop box was never established.
7 It's not in any of the chain of custody. And the amount
8 of weight was never in any of my indictments either.
9 That's one of the other issues I wanted to raise.

10 Q So you're saying she failed to object to the
11 indictment, based on them not having the weight included
12 in there?

13 A Yes, sir -- well, me being put on -- the indictment
14 is dealing with me being put on proper notice.

15 Q Okay. You were put on notice of your charges;
16 correct? I mean, did she -- did y'all discuss those?

17 A Yeah. I was put on notice. But as far as the weight
18 that was alleged to have been sold, the weight of the
19 drugs, but the indictments didn't have none of the
20 elements dealing with any of the drugs.

21 Q Okay. Chain of custody, the weight, indictments.
22 Any other items that you discussed with her that she
23 failed to address during your trial?

24 A On my sentencing sheet, it's about the time served,
25 too. I was -- the Judge had given me credit for the time

1 served. But the amount of time wasn't -- it was never
2 established. He checked it on the sentencing sheet. And
3 I got the paperwork from that, too.

4 Q Okay. I'm looking on your sentencing sheet right
5 now. I don't -- do you have a copy of what you're saying
6 is credit for time served?

7 A Yes.

8 Q Which --

9 A When it's checked, it says, The Defendant is to be
10 given credit for time served. It's the box right there
11 where he checked. But they wasn't able to give me time
12 credit because --

13 Q Have you -- I'm sorry.

14 A -- it wasn't written on there. I had wrote
15 Mr. Welborn a letter, too.

16 Q The one I had was cut off. It's dealing with the
17 indictment. It looks like it's the one for distribution
18 third; is that right?

19 A Yes, sir.

20 Q Credit for time served, but it doesn't list the
21 number; is that right?

22 A Yes, sir.

23 Q Have you talked with the Department of Corrections
24 about that?

25 A Yes, sir. And I had wrote Mr. Welmaker. But I got a

1 letter back and he said that since 10 days had elapsed, he
2 no longer had jurisdiction over the case.

3 Q Just for this proceeding, what is the amount of time
4 that you believe for credit for time served you should be
5 awarded?

6 A It was 17 months and 21 days.

7 Q Okay. So if you're looking at your SCDC printout
8 right now, what -- are you getting credit on that for that
9 17 --

10 A No, sir. I haven't been given any credit for it.
11 Because it wasn't never written on my sentencing sheets.

12 Q Okay. Are there any other issues you want to raise
13 about her representation, and questions you had about it?

14 A No, sir. That's it dealing with Ms. Dorothy
15 Manigault. And then I've got the -- one other issue
16 dealing with my appeal counsel.

17 Q Okay.

18 A And my response brief.

19 Q And what is that issue?

20 A My appeal counsel being ineffective for not
21 challenging the response brief. Because a couple of the
22 things that Ms. Kinney [phonetic] said in her response
23 brief, they didn't exist. She was -- and that's what the
24 issues that the Judge had reviewed during her brief denied
25 my appeal pleadings when she was saying that the trial

1 counsel failed to preserve my Miranda issue because she
2 objected to it wrong.

3 Q Okay.

4 A But even if the -- basically, she was saying that the
5 error was harmless due to the amount of overwhelming
6 evidence. And she said that they had a video of the drug
7 transaction. And they had a video of me pulling up at
8 Pete's house and attempting -- me trying to hide behind a
9 tree to sell drugs.

10 And then, again, I mean, as soon as I left Pete
11 Bigsby's [phonetic] house that Pete took the police the
12 drugs. But none of that is ever true. It's not in any of
13 the videos. It was never established.

14 Q Maybe I'm missing it. How is appellate counsel --
15 what's your --

16 A I'm saying he -- I feel like if he would have put in
17 for a rehearing and tried to address the issue about the
18 picture that Ms. Kinney she painted for the Judge the --
19 once he read my brief, it was, basically, just painting a
20 picture that they had overwhelming evidence, that they had
21 a video of me selling drugs, which I was never seen
22 selling drugs. I was never caught with any drugs. They
23 never had a video of me anywhere on the videotape. So the
24 evidence was -- it really wasn't overwhelming.

25 MR. ARIAIL: Your Honor, I have no further questions.

1 Answer any questions Ms. Ratigan has for you.

2 MS. RATIGAN: I have no questions for Mr. Blythe,
3 Your Honor.

4 THE COURT: All right. You may step down.

5 MR. ARIAIL: Your Honor, that is our case.

6 (Pause.)

7 THE COURT: Do you have something else?

8 MR. ARIAIL: Well, I think he wants to submit --
9 My understanding is you want to submit a letter you
10 sent to me? Is that --

11 MR. RANDY BLYTHE, JR.: No. It's -- these are my
12 paper -- I wasn't aware. I thought I was going to be able
13 to read my issues. But this is the property sheet from
14 the --

15 MR. ARIAIL: Right.

16 MR. RANDY BLYTHE, JR.: It's not a real chain of
17 custody sheet from the officers. But that's the chain of
18 custody sheet they sent and used dealing with the drugs.
19 It's none of my -- it has 14 colored rock substances on
20 it. But --

21 MR. ARIAIL: I'm going to submit this as evidence for
22 you. Okay.

23 MR. RANDY BLYTHE, JR.: Yeah.

24 MR. ARIAIL: Do you have anything else you want to
25 submit to the Judge, or for him to review?

1 MR. RANDY BLYTHE, JR.: Yeah. My indictments.

2 MR. ARIAIL: We've got those as part of the --

3 MR. RANDY BLYTHE, JR.: There was the response brief.

4 MR. ARIAIL: We've got the response brief. That's
5 part of the --

6 Karen --

7 MS. RATIGAN: Yes --

8 MR. ARIAIL: -- the response brief and all that is
9 part of the record?

10 MS. RATIGAN: Yes.

11 MR. ARIAIL: It's part of the record.

12 MR. RANDY BLYTHE, JR.: I wanted -- the video that
13 was used in my trial and the evidence, Exhibit No. 2 and
14 Exhibit No. 5 were used at my trial.

15 MS. RATIGAN: That's all part of the record.

16 MR. ARIAIL: Huh?

17 MS. RATIGAN: That's all part of the record.

18 MR. ARIAIL: It's all part of the record. He's got a
19 transcript of the record, and all that.

20 MR. RANDY BLYTHE, JR.: That's what -- I want to put
21 this in.

22 MR. ARIAIL: You want to put that in?

23 MR. RANDY BLYTHE, JR.: Yes.

24 MR. ARIAIL: I'm just going to submit all of this.

25 Karen, if you want to take a look at these that I'm

1 going to submit.

2 MS. RATIGAN: I assume this is all just stuff from
3 discovery.

4 Yes. If it's all stuff from discovery, I don't have
5 any objection.

6 MR. ARIAIL: Your Honor, if I can just submit this on
7 his behalf as part of his exhibits.

8 THE COURT: You can submit it as one exhibit.

9 (WHEREUPON, Court's Exhibit No. 1 was marked for
10 identification and admitted into evidence.)

11 THE COURT: All right. Ms. Ratigan.

12 MS. RATIGAN: Thank you, Your Honor.

13 We call Ms. Manigault.

14 THE CLERK: Place your left hand on the Bible and
15 raise your right hand, please.

16 WHEREUPON,

17 DOROTHY A. MANIGAULT,

18 after first having been duly affirmed, testified as follows:

19 THE CLERK: State your full name, please.

20 THE WITNESS: Dorothy A. Manigault.

21 THE COURT: Good morning.

22 DIRECT EXAMINATION

23 BY MS. RATIGAN:

24 Q Ms. Manigault, were you appointed in this case, or
25 were you retained?

1 A Retained.

2 Q Okay. And did you file the usual Brady and Rule 5
3 discovery motions?

4 A Yes, I did.

5 Q Did you receive discovery materials from the State?

6 A Yes, I did.

7 Q To the best of your knowledge, did you receive full
8 discovery from the State?

9 A Yes.

10 Q Did you review those materials with Mr. Blythe?

11 A I did.

12 Q Did you review with him the charges that he was
13 facing?

14 A Yes.

15 Q How about the elements of those charges?

16 A Yes.

17 Q And the sentencing ranges?

18 A Yes.

19 Q Did he tell you his version of events, so to speak?

20 A Yes.

21 Q After reviewing the evidence and speaking to
22 Mr. Blythe, were you able to come up with a defense in
23 this case?

24 A His defense was, as he relayed to me, there was no
25 way that the police or anybody could see him driving the

1 car because the tinted windows were too dark. He never
2 denied that he was driving. He never denied that he went
3 to sell the drugs. He just said that they could not see
4 him in the car.

5 Q And was this a case that was always going to trial?

6 A We negotiated a lot on the charges. We were offered,
7 at one point, 10 years on both charges. That offer stayed
8 out for a while. Mr. Blythe denied it -- rejected the
9 offer several times.

10 Then he got other charges with another attorney. I
11 think it was Steven Alexander. And the offer went up to
12 25 years, I believe. I'm not sure. But he rejected all
13 offers on my cases -- on my charges.

14 Q Okay. Was there an issue in your mind with the
15 Miranda rights in this case?

16 A No.

17 Q Okay.

18 A As he admitted, he sent for the officers. So he
19 initiated the contact.

20 Q And did you explain to him, basically, that him
21 initiating the contact kind of mitigated any Miranda
22 argument you had?

23 A Yes.

24 Q Okay. But you did object along those lines at trial;
25 is that correct?

1 A Yes.

2 Q Did you perceive there to be any issues in terms of
3 the chain of custody of the money in this case?

4 A Not really. I was trying to check my notes to see
5 whether he brought that up to me back then.

6 No. Because the officer testified that the money was
7 taken from his person, and it was the money that he had
8 given the CI. So I didn't perceive a problem.

9 Q And did the officers -- had they made a list of the
10 serial numbers of the funds?

11 A Yeah. It was just like he said, on a piece of paper.

12 Q And were the documented funds recovered in your
13 client's possession?

14 A Yes.

15 Q Okay. Now, in terms of the weight. Mr. Blythe has
16 argued that you should have raised the issue that the
17 drugs were not weighed prior to being submitted to
18 property and evidence. Is that something you would
19 normally argue?

20 A That was not an issue. We were dealing with the
21 sale. So the weight was not important. It was the sale
22 of a couple of rocks.

23 Q Is that a concern that he had at the time?

24 A No.

25 Q Okay. But if he had brought it up, you would have

1 told him it's unimportant because of the facts in this
2 particular case?

3 A Yes.

4 Q Okay. Did Mr. Blythe ever make bond, or was he
5 always at the jail?

6 A He made bond, and he was out of jail for a while. He
7 ended up back in jail. I can't remember why, whether it
8 was new charges or what. But he ended up back in jail.

9 Q Okay. I believe you stated that he had picked up
10 some other charges that another attorney had represented
11 him on. Was that something he would have picked up while
12 he was out on bond? Do you remember?

13 A Yeah. His attorney for the other charges was Steven
14 Alexander.

15 Q Okay.

16 A I cannot remember the sequence, whether I was first
17 or he was first.

18 Q Do you recall whether those charges were disposed of
19 prior to these charges, or you just don't remember?

20 A They were not.

21 Q Okay.

22 A They went with my charges first.

23 Q Okay. So it's possible he was at the jail for two
24 different sets of charges at the same time?

25 A Yes. He came into my office -- I opened the file on

1 April the 3rd, 2009. And the offenses I was representing
2 him on were from 2008.

3 Q Okay.

4 A So he stayed out. So I think the other charges may
5 have come afterwards.

6 Q Okay. And do you recall the Judge ordering time
7 served credit?

8 A Generally, he does, yeah.

9 Q Okay. Would Mr. Blythe serving jail time on another
10 charge impact his amount of credit? Is that something you
11 would know?

12 A He cannot get credit for time that was not served on
13 these warrants or indictments. He can only be credited
14 for the time that he was in on these warrants.

15 MS. RATIGAN: I beg the Court's indulgence.

16 (Pause.)

17 MS. RATIGAN: Those are all the questions I have,
18 Your Honor.

19 THE COURT: Mr. Ariail.

20 CROSS-EXAMINATION

21 BY MR. ARIAIL:

22 Q Ms. Manigault, just a few questions. The time
23 served, do you know how long he was in before he posted
24 bond?

25 A No, I do not. As I said, he came into my office on

1 April the 3rd of 2009.

2 Q Okay.

3 A And the charges he wanted me to represent him on were
4 from 2008.

5 Q Okay.

6 A November and December. So he was already out on
7 bond. So I don't know how long he was -- he stayed in
8 jail on those charges.

9 Q Okay. So he'd, at least, be credited for time served
10 that he was in there for that bond -- or until he posted
11 bond?

12 A For those warrants, yes.

13 Q Okay. And then he was picked up at a later date, and
14 you don't know when that was?

15 A I don't know -- I -- it's in my file somewhere. But
16 it was not on these charges. It was on something else.

17 Q Okay. He was given a 10-year offer at one time. Did
18 you discuss that with him?

19 A Yes, I did. On March 16th, 2010, I think it was one
20 of the last times we discussed it. We were here at the
21 Pickens County Courthouse. We had discussed it in my
22 office prior to that. And the offer was 10 years on my
23 cases. And he refused. He rejected it. And I had him to
24 sign to say that he rejected the 10-year offer.

25 Q And that's the best offer you got on it, I guess?

1 A Yes.

2 Q Okay. And then it was taken -- I guess they withdrew
3 it one more time or --

4 A Yes.

5 Q -- some other time. Okay. The issue in -- the
6 Miranda issue. And I'm trying to figure -- you objected
7 to that at trial. And then there was some -- I guess it's
8 your view that that was not going to be a success. It
9 wasn't a successful argument at trial.

10 A Right.

11 Q Was there any reason you didn't preserve it for
12 appeal, or any issue with that?

13 A No.

14 Q Okay. Chain of custody. And I'm trying to
15 understand exactly. I think the chain of custody -- we've
16 seen the property and evidence sheet that he's entered.
17 Was there an issue that you saw with the chain of custody
18 that needed to be raised? Or do you remember?

19 A I think we had an issue with the chain of custody. I
20 don't know whether it was this particular thing that he's
21 talking about.

22 Q Right.

23 A But as far as the money is concerned, no.

24 Q Okay.

25 A I didn't raise it.

1 Q So the documented funds were found in his possession?

2 A Correct.

3 Q Okay.

4 A Right after the sale.

5 MR. ARIAIL: Your Honor, I have no further questions.

6 THE COURT: Anything else, Ms. Ratigan?

7 MS. RATIGAN: Nothing, Your Honor.

8 And the State would rest at this time.

9 THE COURT: All right. Ms. Manigault, you may step
10 down.

11 THE WITNESS: Thank you.

12 THE COURT: Mr. Ariail, anything in reply?

13 MR. ARIAIL: No, Your Honor. Nothing in reply.

14 THE COURT: All right. I'd like to review what y'all
15 have submitted, study what's been presented, and let you
16 know my ruling as promptly as I can.

17 *****END OF TRANSCRIPT OF RECORD*****
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CERTIFICATE OF REPORTER

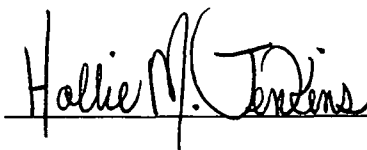
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Pickens County, South Carolina, on the 15th day of December, 2014.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

April 7, 2015

A handwritten signature in cursive script, reading "Hollie M. Jenkins", is written over a horizontal line.

Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)
Randy Blythe, Jr.,)
S.C.D.C. No. 233219,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS

C.A. No. 2013-CP-39-914K OF COURT
PICKENS COUNTY
SOUTH CAROLINA

2015 FEB -2 A 10:30

ORDER OF DISMISSAL

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed July 23, 2013. The Respondent made its return on April 9, 2014. An evidentiary hearing into the matter was held on December 15, 2014 at the Pickens County Courthouse. The Applicant was present and represented by R. Mills Ariail, Jr., Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's trial counsel, Dorothy A. Manigault, Esquire. The Court had before it the trial transcript, the Pickens County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, the return, the appellate records, and Applicant's Exhibit 1.

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Pickens County Clerk of Court. The Applicant was indicted at the March 2010 term of the Pickens County Grand Jury for distribution of cocaine base (2010-GS-39-0352) and distribution of cocaine base within proximity of a school (2010-GS-39-0353).

¹
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He was represented by Dorothy A. Manigault, Esquire.

After the State brought the case to trial, the Applicant was found guilty. On January 25, 2011, the Honorable G. Edward Welmaker sentenced the Applicant to concurrent terms of 22 years for distribution of cocaine base, third offense and 10 years for distribution of cocaine base within proximity of a school.

A notice of appeal was filed at the South Carolina Court of Appeals. Breen R. Stevens, Esquire of the South Carolina Commission on Indigent Defense, Division of Appellate Defense perfected the appeal. The Court of Appeals affirmed the Applicant's convictions and sentences. State v. Blythe, Op. No. 2013-UP-098 (S.C. Ct. App. filed March 13, 2013). The Remittitur was sent on April 3, 2013.

ALLEGATIONS

In his application, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel:
 - a. Failed to investigate.
 - b. Failed to adequately argue Miranda violation.
2. Miranda right violation:
 - a. "Agent Jason Lovell and Officer Mills fail to Mirandize me during questioning."
3. Chain of custody violation:
 - a. "A link in the chain was broken."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

2 *SCB*

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). In order to prove prejudice, an applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052).

The Applicant stated that, while trial counsel objected and raised a Miranda issue at trial, she did not argue he was subjected to "the functional equivalent" of an interrogation. The Applicant stated trial counsel did not ask about the lack of records used for the chain of custody of the money used in this case. The Applicant stated trial counsel should have challenged the chain of custody of the drugs because the weight (1) was not established before it was placed in the drop box and (2) was not listed in his indictments.

Trial counsel testified she was retained in this case and filed discovery motions. Trial

3
SCA

counsel testified she received discovery materials and reviewed them with the Applicant. Trial counsel testified she also reviewed the charges, elements, and sentence ranges and that the Applicant relayed his version of events. Trial counsel testified the defense in this case was that the officers could not have seen the Applicant because the tint on the window was too dark. Trial counsel testified the Applicant never denied driving the car or selling drugs. Trial counsel testified she negotiated a lot on these charges and the Applicant rejected the State's ten-year offer several times. Trial counsel testified she explained to the Applicant that there was no Miranda issue in this case, as he sent for the officers and initiated the conversation. Trial counsel testified there were no issues with the chain of custody of the money used in this case. Trial counsel testified the weight of the drugs were not important because they were dealing with a sale.

This Court finds the Applicant failed to meet his burden of proving trial counsel should have made a different Miranda challenge in this case. A Jackson v. Denno hearing was held before trial began. Trial counsel argued the Applicant's statement to police officers was not voluntary when he was interrogated. (Trial transcript, p.92; p.94). The trial judge ruled the statement was voluntarily made. (Trial transcript, p.95). This Court finds trial counsel properly made a Miranda challenge in this case. Regardless, while the Applicant argues trial counsel should have specifically argued he was subjected to the "functional equivalent" of an interrogation, the Court of Appeals addressed this issue on direct appeal and concluded it was without merit. State v. Blythe, Op. No. 2013-UP-098 (S.C. Ct. App. filed March 13, 2013).

This Court finds the Applicant failed to meet his burden of proving trial counsel did not properly challenge the chain of custody of either the money or the drugs. Trial counsel testified (1) she did not believe there were issues with the chain of custody of the money and (2) the

weight of the drugs were unimportant. As to both allegations, this Court finds the Applicant has merely speculated that his case would have benefited from challenges to the chain of custody but has not provided any compelling evidence or testimony in support of this theory. As such, the Applicant has failed to meet his burden of proof. See, e.g., Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (holding applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial). Regardless, the Applicant cannot demonstrate any prejudice in this regard, as the State presented overwhelming evidence of his guilt. See Geter v. State, 305 S.C. 365, 367, 409 S.E.2d 344, 346 (1991) (concluding reasonable probability of a different result does not exist when there is overwhelming evidence of guilt).

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that trial counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that trial counsel committed either errors or omissions in her representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by trial counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

Sentence Credit

The Applicant stated he did not receive the proper amount of time-served credit.

Trial counsel testified the Applicant made bond and was released, but accrued new charges and was sent back to jail. Trial counsel testified the Applicant had other charges pending when he went to trial. Trial counsel testified he could not receive time-served credit on

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these charges.

Regardless, this Court notes that, aside from two matters specifically mentioned in the statute, post-conviction relief is a proper avenue of relief only when the Applicant mounts a collateral attack challenging the validity of his conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 367, 527 S.E.2d 742, 749 (2000). A credit-related claim or challenge to other conditions of confinement are administrative matters and, thus, cannot be raised in a post-conviction relief proceeding. Id. at 369, 527 S.E.2d at 750. Here, the Applicant complains his sentence has not been properly calculated. The statutory right to sentence related credits is a protected "liberty" interest under the Fourteenth Amendment, entitling an inmate to minimal due process to ensure the state-created right was not arbitrarily abrogated. See Wolff v. McDonnell, 418 U.S. 539, 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974). Because the South Carolina Department of Corrections' disciplinary and grievance procedures are consistent with the standards delineated in Wolff, inmates may seek review of such claims under the Administrative Procedures Act. Al-Shabazz, 338 S.C. at 369, 527 S.E.2d at 750. This issue is dismissed.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient and the Applicant was not prejudiced by counsel's

representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 29th day of January, 2015.



Eugene C. Griffith, Jr.
Presiding Judge
Thirteenth Judicial Circuit

Newberry, South Carolina.

1416

DOCKET NO. 2010-GS-39-0353
PT

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

MAR 09 2010 TERM 2010

THE STATE

vs.

RANDY BLYTHE JR

Indictment for

0108

DISTRIBUTION OF COCAINE BASE WITHIN 1/2
MILE OF A SCHOOL

VIOLATION § 44-53-0445(B)(2)

WITNESSES

Jason Lovell

Easley Police Department

2/10/2009

ARREST WARRANT NUMBER

K361139

TRUE BILL ACTION OF GRAND JURY

Date 1-25-11

M. J. Blythe Jr
Foreperson of Grand Jury

VERDICT

D. O. Blythe 1-25-11
Foreperson of Petit Jury Date:

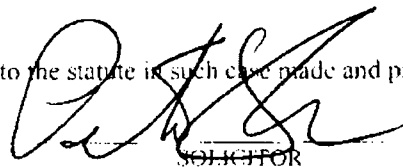
STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
DISTRIBUTION OF COCAINE BASE WITHIN 1/2 MILE OF A
SCHOOL

At a Court of General Sessions, convened on **MAR 09 2010** the Grand Jurors of Pickens
County present upon their oath:

That RANDY BLYTHE JR did in Pickens County, on or about the 10th day of December, 2008, distribute a
quantity of Cocaine Base (Crack Cocaine), a controlled substance, while being within one-half (1/2) mile
proximity of Hagood Park. This is in violation of §44-53-445 of the South Carolina Code of Laws (1976) as
amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

V116

DOCKET NO. 2010-GS-39-0352
PT
The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

MAR 09 2010 TERM 2010

THE STATE

vs.

RANDY BLYTHE JR

Indictment for

3039

DISTRIBUTION OF COCAINE BASE (CRACK
COCAINE)

VIOLATION § 44-53-0375(B)

WITNESSES

Jason Lovell

Easley Police Department

2/10/2009

ARREST WARRANT NUMBER

K361138

TRUE BILL ACTION OF GRAND JURY

Date MAR 9 2010

[Signature]
Foreperson of Grand Jury

VERDICT

[Signature] 1-25-11
Foreperson of Petit Jury Date:

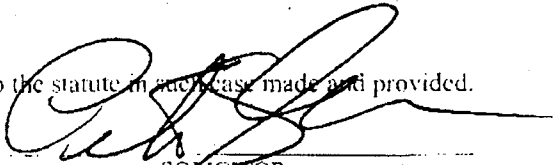
STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
DISTRIBUTION OF COCAINE BASE (CRACK COCAINE)

At a Court of General Sessions, convened on **MAR 09 2010** the Grand Jurors of Pickens
County present upon their oath:

That RANDY BLYTHE JR did in Pickens County, on or about the 10th day of December, 2008, distribute, dispense, deliver, or aid, abet, or conspire to distribute, dispense or deliver to an undercover operative a quantity of Cocaine Base (Crack Cocaine), a controlled substance, such distribution not having been authorized by law. This is in violation of §44-53-375 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR