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STATE OF SOUTH CAROLINA

In The Court of Appeals

ORIGINAL

APPEAL FROM BERKELEY COUNTY

Kristi Lea Harrington, Circuit Court Judge

RECEIVED

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SC Court of Appeals

THE STATE,

V.

BARRY JERROD STANLEY,

APPELLANT

APPELLATE CASE NO. 2014-000767

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF BERKELEY)

The State of South Carolina) Case Number:
) 2014-GS-08-00027
 Plaintiff,) 2014-GS-08-00028
)
 vs.) TRANSCRIPT OF RECORD
)
 Barry Jerrod Stanley,)
)
 Defendant,)
)

 ORIGINAL

April 7 - 9, 2014
 Moncks Corner, South Carolina

BEFORE:

The Honorable Kristi Harrington

APPEARANCES:

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 Charles Condon, Assistant Solicitor
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 Chad Shelton, Esquire
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Melissa Singletary
 Official Court Reporter

Reba C. Hayes, CVR
 Certified Verbatim Court Reporter

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EXHIBITS

<u>STATE'S EXHIBIT</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>ADM</u>
1	Car Photo		78
2	Car Photo		78
3	Car Photo		78
4	Car Photo		78
5	Drug Photo		141
6	Stanley Photo		106
7	Video of Car Chase		132
8	Neighborhood Map	137	
10	Porch View Photo		140
11	Porch View Photo		140
14	Fingerprint 3.1		200
15	Fingerprint 2.2		200
16	10-Print Card Stanley		256
17	Greg Rider Photo ID		102
20	Photo of Porch		140
21	Drug Evidence		225
22	Side of Street Photo		171
23	Fingerprint analysis notes		259

1 THE COURT: Is the State ready to proceed?

2 MR. PATTERSON: The State is ready to proceed.

3 THE CLERK: Ladies and gentlemen of the jury, as I
4 call your name please come forth and bring your
5 personal belongings with you. If I say seat the juror
6 please have a seat in the jury box. If I say excuse
7 the juror, please return to your original seating and
8 please follow the instructions of the bailiffs. Juror
9 109, Steven Matthews. What says the State?

10 MR. PATTERSON: Your Honor, may we approach?

11 THE COURT: You may. Mr. Matthews, this has
12 nothing to do with you. You just stand right there. I
13 know it's kind of tough being the first one.

14 (Whereupon, a bench conference was held off the
15 record in the presence of the jury panel, but out of
16 the hearing of the jury panel.)

17 THE COURT: Mr. Matthews, would you approach
18 please?

19 (Whereupon, the bench conference continued off the
20 record in the presence of the jury panel, but out of
21 the hearing of the jury panel.)

22 THE COURT: Thank you.

23 THE CLERK: Juror Number 13, Jonathan Borgmann.
24 What says the State?

25 MR. PATTERSON: Please seat the juror.

1 THE CLERK: What says the Defendant?

2 MR. SCHWACKE: Please seat the juror.

3 THE CLERK: Seat the juror. Juror 66, Davielle
4 Grover. What says the State?

5 MR. PATTERSON: Please excuse the juror.

6 THE CLERK: Excuse the juror. Juror 17, Travis
7 Brown. What says the State?

8 MR. PATTERSON: Please seat the juror.

9 THE CLERK: What says the Defendant?

10 MR. SCHWACKE: Please seat the juror.

11 THE CLERK: Seat the juror please. Juror 18,
12 Michael Brubaker. What says the State?

13 MR. PATTERSON: Please seat the juror.

14 THE CLERK: What says the Defendant?

15 MR. SCHWACKE: Please seat the juror.

16 THE CLERK: Seat the juror. Juror 178, Teresa
17 Woodfield. What says the State?

18 MR. PATTERSON: Court's indulgence.

19 THE COURT: Take your time.

20 MR. PATTERSON: Please seat the juror.

21 THE CLERK: What says the Defendant?

22 MR. SCHWACKE: Please seat the juror.

23 THE CLERK: Seat the juror. Juror 23, Kelly
24 Cochran. What says the State?

25 MR. PATTERSON: Please seat the juror.

1 THE CLERK: What says the Defendant?

2 MR. SCHWACKE: Please seat the juror.

3 THE CLERK: Seat the juror. Juror 72, Theresa
4 Harris. What says the State?

5 MR. PATTERSON: Please seat the juror.

6 THE CLERK: What says the Defendant?

7 MR. SCHWACKE: Please seat the juror.

8 THE CLERK: Seat the juror. Juror 139, Luke
9 Ryker. What says the State?

10 MR. PATTERSON: Please seat the juror.

11 THE CLERK: What says the Defendant.

12 MR. SCHWACKE: Please excuse the juror in the
13 trial of this case.

14 THE CLERK: Excuse the juror. Juror 166, Naomi
15 Wages. What says the State?

16 MR. PATTERSON: Please seat the juror.

17 THE CLERK: What says the Defendant?

18 MR. SCHWACKE: Please seat the juror.

19 THE CLERK: Seat the juror. Juror 63, Patrick
20 Goodwin. What says the State?

21 MR. PATTERSON: Please seat the juror.

22 THE CLERK: What says the Defendant?

23 MR. SCHWACKE: Please seat the juror.

24 THE CLERK: Seat the juror. Juror 35, Robert
25 Davis. What says the State?

1 MR. PATTERSON: Please seat the juror.

2 THE CLERK: What says the Defendant?

3 MR. SCHWACKE: Please excuse the juror in the
4 trial of this case.

5 THE CLERK: Excuse the juror. Juror 43, Teresa
6 Doty. What says the State?

7 MR. PATTERSON: Please seat the juror.

8 THE CLERK: What says the Defendant?

9 MR. SCHWACKE: Please excuse her in the trial of
10 this case.

11 THE CLERK: Excuse the juror. Juror 91, Katherine
12 Jones. What says the State?

13 MR. PATTERSON: Please seat the juror.

14 THE CLERK: What says the Defendant?

15 MR. SCHWACKE: Please seat the juror.

16 THE CLERK: Seat the juror. Juror number 10,
17 Frances Bellamy. What says the State?

18 MR. PATTERSON: Please seat the juror.

19 THE CLERK: What says the Defendant?

20 MR. SCHWACKE: Please seat the juror.

21 THE CLERK: Seat the juror. Juror 88, Deborah
22 Johnson. What says the State?

23 MR. PATTERSON: Please seat the juror.

24 THE CLERK: What says the Defendant?

25 MR. SCHWACKE: Please seat the juror.

1 THE CLERK: Seat the juror. Juror 145, Kay
2 Shenese. What says the State?

3 MR. PATTERSON: Please seat the juror.

4 THE CLERK: What says the Defendant?

5 MR. SCHWACKE: Please seat the juror.

6 THE CLERK: Seat the juror. Juror 111, Ryan
7 McMakin. What says the State?

8 MR. PATTERSON: Please seat the juror.

9 THE CLERK: What says the Defendant?

10 MR. SCHWACKE: Please seat the juror.

11 THE CLERK: Seat the juror.

12 THE COURT: Any motions or matters pertaining to
13 the jury as selected from the State?

14 MR. PATTERSON: Nothing from the State, Your
15 Honor.

16 MR. SCHWACKE: Nothing from the defense.

17 THE COURT: All right. Ladies and gentlemen, you
18 were selected as the jury to try this case. We are
19 going to be selecting another jury so I'm going to go
20 ahead and let you go to lunch. Please report back and
21 Ms. Evelyn is going to tell you how to do that. Be
22 back at 2:30 and we're going to begin. So please be
23 back at 2:30. Thank you, Ms. Evelyn. You may take the
24 jurors back.

25 (Whereupon, the jury exited the courtroom at 11:42

1 a.m.)

2 (Off the record from 11:42 a.m. until 2:30 p.m.)

3 MR. PATTERSON: The State just had some 609/403
4 motions regarding our witness convictions, just in an
5 effort to determine ---

6 THE COURT: Which witness?

7 MR. PATTERSON: Evette Nelson, William Loflin,
8 Chris Rowland, Tanya Deane, Greg Rider and Deangelo
9 Watson.

10 THE COURT: And you're wanting to approve them all
11 right now?

12 MR. PATTERSON: We can proceed with the Biggers if
13 you prefer to do that first.

14 THE COURT: Anything else?

15 MR. SCHWACKE: The only other matters, there's a -
16 - we've been informed by the State that they expect to
17 attempt to elicit testimony from two of their witnesses
18 concerning some matters that we would have objection
19 to. We don't need to address that now because I'm not
20 specifically sure they're even calling them. They're
21 still modifying that but there will be -- as those
22 witnesses are called by the State, we may wish to
23 approach the bench and talk to you.

24 THE COURT: All right. Let me hear from you on
25 Biggers.

(TANYA DEANE-PROFFERED DIRECT BY MR. PATTERSON)

1 MR. PATTERSON: Do you want us to call our first
2 witness or ---

3 THE COURT: What's -- Mr. Schwacke, what's the
4 nature of your challenge? As I understand it is a six-
5 pack?

6 MR. SCHWACKE: It's a six-photo array, Your Honor,
7 that was presented to three witnesses and that would
8 include Ms. Tanya Deane, Mr. Greg Rider and to Preston
9 Kornahrens. It was a six-pack photograph array that
10 was prepared by someone at the Charleston County
11 Detention Center and then provided to -- shown by
12 Officer Nelson to those three witnesses. There are
13 matters concerning the presentation as well as the
14 array itself.

15 THE COURT: Thank you. Call your first witness.

16 MR. PATTERSON: The State calls Tanya Deane. Your
17 Honor, I made these exhibits as State's Exhibits.
18 Should I also mark them as Court's Exhibits for the
19 purposes of this hearing or can I leave it ---

20 THE COURT: Just mark them once.

21 MR. PATTERSON: Okay.

22 (Witness sworn)

23 THE CLERK: Please be seated, state your full name
24 and spell your last name for the record.

25 THE WITNESS: Tanya Adriana Deane -- D-E-A-N-E.

(TANYA DEANE-PROFFERED DIRECT BY MR. PATTERSON)

1 TANYA DEANE, after being duly sworn, testified as
2 follows:

3 PROFFERED DIRECT EXAMINATION

4 BY MR. PATTERSON:

5 Q. Good afternoon, Ms. Deane. Where do you live?

6 A. 6240 Old Point Road, Unit A2, in Hanahan, South
7 Carolina.

8 Q. And what is your relation to Greg Rider and
9 Preston Kornahrens?

10 A. That is my husband and our son.

11 Q. And do you know Evette Nelson?

12 A. Yes.

13 Q. How do you know her?

14 A. She was our neighbor at -- in Unit A8 right there.
15 We're all in the same building.

16 Q. And do you know the Defendant Barry Stanley?

17 A. Yes.

18 Q. And how do you know him?

19 A. I was introduced to him by Evette.

20 Q. And about how many times have you seen him around
21 the apartment complex?

22 A. Lots of times, eight, nine, 10 times.

23 Q. Is it fair to say that you knew his face and could
24 recognize him?

25 A. Yes.

1 Q. And where was Evette Nelson's apartment and Barry
2 Stanley's in relation to yours?

3 A. The exact same position but just at the other end
4 of the building.

5 Q. And did you see the Defendant Barry Stanley in the
6 apartment complex prior to the incident that morning?

7 A. Yes.

8 Q. And where did you see him?

9 A. I mean, I saw him -- seen him on the property.
10 You mean that same day?

11 Q. That same day.

12 A. No, sir.

13 Q. You didn't see him that same day?

14 A. No.

15 Q. And did you witness an incident involving the
16 Defendant Barry Stanley on March 11, 2013?

17 A. No.

18 Q. In regards to Evette Nelson?

19 A. Oh, did I witness him?

20 Q. Can you just explain the incident that you
21 witnessed that day?

22 A. Oh, yeah. I'm sorry.

23 Q. That's okay.

24 A. My husband came to the door and told me to call
25 911, that Evette Nelson had come running out to the

(TANYA DEANE-PROFFERED DIRECT BY MR. PATTERSON)

1 basketball court where my husband and our son were
2 playing basketball with a neighbor, and told me to
3 immediately call 911, that Evette was in trouble, that
4 Jay -- there was an incident with she and Jay and
5 please let her in. And so I called 911 and she came
6 running into the condo, slammed the door and said that
7 he was going to kill her -- that Jay was going to kill
8 her. So while I was on the phone with the police they
9 told me to stay inside with Evette, and I asked her
10 where the children were and she said they were still
11 down at the condo and then my husband ran into the
12 condo, got Evette and took her out to the police that
13 were waiting outside.

14 Q. And based on -- Barry Stanley, does he also go by
15 Jay, to your knowledge?

16 A. Yes.

17 Q. And so based on the statements made by Evette to
18 you, is that how you knew that he was involved?

19 A. Yes.

20 Q. And so after you called the police, what happened?

21 A. After I -- well, I was still on the phone with the
22 police when my husband ran in the door. Evette was
23 still in there with me. She was very shaken up, very
24 distraught, panicked, and that's when Greg came to the
25 door. I believe the officer -- the officer was

(TANYA DEANE-PROFFERED DIRECT BY MR. PATTERSON)

1 standing right outside of our door and they took Evette
2 outside, I guess, to question her and to -- to handle
3 it outside the door.

4 Q. And did the police come back a couple of days
5 later?

6 A. Yes.

7 Q. Do you know what day that was?

8 A. I think it was a couple of days later, the 13th,
9 14th?

10 Q. 14th maybe?

11 A. I'm not sure of the exact date. The 14th.

12 Q. And what happened at that point?

13 A. The officer -- I believe it was Officer Nelson
14 came to our house and she asked if I would look at some
15 photos and I told her sure, so she opened up the book,
16 asked if I recognized anyone on there and I pointed out
17 my neighbor Jay.

18 Q. Did she show you two photo lineups?

19 A. Yes.

20 Q. I'm going to show you what's been marked as
21 State's Exhibit 18 and 19. Do you recognize these
22 lineups?

23 A. Yes, sir.

24 Q. And how do you recognize those lineups?

25 A. These are the ones that were shown to me.

(TANYA DEANE-PROFFERED DIRECT BY MR. PATTERSON)

1 Q. And did the officer at any time suggest to you who
2 you should select?

3 A. No, sir.

4 Q. Did she point at anybody?

5 A. No, sir.

6 Q. Were you shown these separately from Greg Rider?

7 A. Yes, sir.

8 Q. And who did you select?

9 A. Jay.

10 Q. And what number is that?

11 A. That would be number one.

12 Q. And how certain were you about the selection?

13 A. One hundred percent.

14 Q. And in the second lineup up there, I believe it's
15 State's Exhibit 19, did you recognize anyone in that
16 lineup?

17 A. No, sir.

18 Q. Do you recognize the person in the courtroom today
19 that you identified?

20 A. Yes, sir.

21 Q. Can you point him out?

22 A. (Witness does as requested.)

23 Q. Can you say his name please?

24 A. Barry -- Jay.

25 Q. Stanley?

(TANYA DEANE-PROFFERED CROSS BY MR. SCHWACKE)

1 MR. PATTERSON: I just ask that the exhibits be
2 admitted for purposes of this hearing only.

3 THE COURT: Admitted.

4 PROFFERED CROSS-EXAMINATION

5 BY MR. SCHWACKE:

6 Q. Ms. Deane, when you were shown the photographic
7 array that's been marked as State's Exhibit Number 18,
8 what, if anything, were you told about that?

9 A. The photos were just put in front of me and all I
10 was asked was to point out if I recognized anyone.

11 Q. And you obviously recognized number one because
12 that's the one you circled and initialed?

13 A. Yes, sir.

14 Q. And that has a date on it?

15 A. Yes, the 14th of March.

16 Q. Okay. And the incident that you just testified to
17 that involved Evette where she came into your house,
18 that had actually happened three days earlier on the
19 11th?

20 A. Yes, sir.

21 Q. And you're the one who called 911?

22 A. Yes, sir.

23 Q. And did you ever go outside of your apartment
24 unit?

25 A. Not until after everything was settled down.

(TANYA DEANE-PROFFERED CROSS BY MR. SCHWACKE)

1 Q. So would it be fair to call you an ear witness to
2 what happened that day, because you didn't see -- you
3 never went outside and saw an individual that day;
4 correct?

5 A. Do you mean concerning ---

6 Q. This incident.

7 A. No, I -- no, sir.

8 Q. The only person that you actually saw to tell you
9 about it was Evette.

10 A. Right.

11 Q. Plus your husband ---

12 A. Yes.

13 Q. --- and your son? So that day you didn't see ---

14 A. No, sir.

15 Q. --- Mr. Stanley?

16 A. No.

17 Q. And this is the photo array that you were shown?

18 A. Yes, sir.

19 Q. And you were also shown Number 19 as well?

20 A. Yes, sir.

21 Q. But on that particular day, on the 11th when this
22 happened ---

23 A. Uh-huh.

24 Q. --- you didn't see any -- you didn't see the
25 person at all who you were being told was involved?

(TANYA DEANE-PROFFERED CROSS BY MR. SCHWACKE)

1 A. No, sir.

2 MR. SCHWACKE: One moment, Your Honor.

3 Q. How long have you lived in that apartment complex?

4 A. Eight years.

5 Q. And how long has Evette lived there?

6 A. Just months, I would say. I'm not even sure of
7 the exact date, but months.

8 Q. Is she still there now?

9 A. No, sir.

10 Q. Did she move out shortly after this?

11 A. Yes, sir.

12 Q. So is it months? Is it weeks? Do you know
13 exactly how long they had lived there?

14 A. Not weeks. I would say months, two months,
15 somewhere around there. Sorry. We weren't real close
16 neighbors. I don't know exactly.

17 MR. SCHWACKE: That's fine. Thank you. No
18 further questions.

19 MR. PATTERSON: No redirect, Your Honor.

20 THE COURT: You may step down. Call your next
21 witness.

22 MR. PATTERSON: The State calls Greg Rider.

23 THE COURT: Mr. Rider, please come forward to be
24 sworn.

25 (Witness sworn)

(GREG RIDER-PROFFERED DIRECT BY MR. PATTERSON)

1 THE CLERK: Please be seated, state your full name
2 and spell your last name for the record.

3 THE WITNESS: My name is Greg Rider -- R-I-D-E-R.

4 GREG RIDER, after having been duly sworn,
5 testified as follows:

6 PROFFERED DIRECT EXAMINATION

7 BY MR. PATTERSON:

8 Q. Good afternoon, Greg. Where do you live?

9 A. 6240 Old Point Road, Apartment A2.

10 Q. Do you know Evette Nelson?

11 A. Yes, Evette Nelson, she -- her and her two sons
12 and another gentleman, we met some time ago.

13 Q. Is the other gentleman, is that Barry Stanley?

14 A. Yes, sir.

15 Q. And did you have a chance to meet him?

16 A. I introduced myself when they were moving in and,
17 you know, hey, how are you doing.

18 Q. So you shook his hand and you got to meet him?

19 A. Pretty much, yes.

20 Q. Are you pretty familiar with him? If you saw him
21 would you recognize him?

22 A. Yes, sir. I saw him every day for a month or two.

23 Q. So it's fair to say that you knew him and his
24 face?

25 A. Excuse me?

(GREG RIDER-PROFFERED DIRECT BY MR. PATTERSON)

1 Q. Is it fair to say that you knew him and his face?

2 A. Yes, sir.

3 Q. Okay. And did you witness an incident involving
4 the Defendant Barry Stanley on March 11, 2013?

5 A. Yes, sir.

6 Q. And can you, kind of, describe for the Judge what
7 happened on that day?

8 A. Well, my son and myself and a friend of ours who
9 lives in the same complex, we were out shooting baskets
10 late in the afternoon and then as I said, I knew Evette
11 because she was friendly and; you know, she was always
12 running around chasing after her two-year-old
13 basically. Plus we live right next to the laundry, so
14 she was there doing laundry, so we knew Evette and we
15 were out playing basketball and then she came running
16 up to us, screaming frantically, saying Paul, please
17 call the police, he's going to hurt me, he's going to
18 kill me, call the police.

19 You know, I calmed her down and I said okay. My
20 son and I were there. I said who's going to call -
21 who's going to hurt you. She said he's going to hurt
22 me, he's going to hurt me, Barry's going to hurt me.
23 And then right about that time he drove his vehicle
24 right through the basketball court real slow and she
25 started running to the other unit. I said hang on,

(GREG RIDER-PROFFERED DIRECT BY MR. PATTERSON)

1 Evette. He's not going to do anything while we have
2 three men here and then he ran off. Okay.

3 So then at that point I took Evette to my house,
4 which is in the same building, and at that time I said
5 to my wife, Tanya, call the police and I went outside
6 at that time just to make sure that he didn't come
7 back. She was very frantic, very afraid. So then all
8 of a sudden I saw him come back into the complex and he
9 stopped his vehicle in front of his unit. He left the
10 car running, the door was open, he went into his unit
11 and then came right back out and I was afraid he was
12 going to take the children. All right.

13 So after he got back in the car he drove right up
14 to my condo where I could see him, you know, from
15 almost me to you, and he just looked at me. At that
16 point I was a little -- I got a little hesitant, you
17 know, because I didn't know what was going to happen.
18 I didn't know this gentleman and I held up my phone. I
19 had two women in my house that were frightened and I
20 said they're coming -- all right -- meaning the police.
21 He knew what I meant by that and he sped on out of
22 there and less than -- I would say less than 10 seconds
23 after he left our complex, the police came right in at
24 that time and I said you just missed him. You had to -
25 - you had to see him, you know, driving away. And at

(GREG RIDER-PROFFERED DIRECT BY MR. PATTERSON)

1 that time I heard sirens everywhere, so that's what I
2 saw.

3 Q. So on the day of the incident, did you get a clear
4 look at the person who was involved?

5 A. Yes, I saw him numerous times for -- that day --
6 the day we -- like I said, we were up this close, me to
7 you, and I saw him clearly. He was in his dark blue
8 vehicle, you know, the car he always drove.

9 Q. And was it raining that day? What was the weather
10 like outside?

11 A. Well, we were out shooting baskets so ---

12 Q. So it was clear?

13 A. It was very clear.

14 Q. And it was still light?

15 A. Yes, it was probably about four or five o'clock, I
16 guess, after school. My son was home after school so.

17 Q. About how long did you get a chance to view the
18 suspect during the incident?

19 A. I would say everything took seconds, you know,
20 realistically, but it seems like forever when you're in
21 that kind of situation. Things get a little surreal
22 but I would have to say we looked at each other
23 probably about 10 seconds until I held up my phone, and
24 at that point he got out of there quickly.

25 Q. So after that day did you ever have a chance --

(GREG RIDER-PROFFERED DIRECT BY MR. PATTERSON)

1 did a police officer come by at any time?

2 A. Yes, a police officer -- I think Officer Nelson
3 came by.

4 Q. Was that a few days later on March 14th?

5 A. I don't know the date but it was a few days later.

6 Q. I'm going to show you what's been marked as
7 State's Exhibit 17. Do you recognize that document?

8 A. I recognize this one, yes.

9 Q. How do you recognize that?

10 A. It has my initials on there.

11 Q. And was that photo lineup provided to you on that
12 day?

13 A. Yes, sir.

14 Q. What instructions were given to you when you were
15 shown the photo lineup?

16 A. Officer Nelson just placed this down and said do
17 you recognize the gentleman -- I don't know how she put
18 it, but I think she said Barry and I said that's him
19 right there and I circled it.

20 Q. Did she ask you who was involved in the incident
21 or did she ---

22 A. Well, I never saw it. Evette was saying that he
23 was beating her and everything else, you know. I never
24 witnessed anything like that but I witnessed her
25 running away from him frantically.

(GREG RIDER-PROFFERED DIRECT BY MR. PATTERSON)

1 Q. And who did you select on that lineup?

2 A. Number one.

3 Q. And you weren't instructed to pick anybody, were
4 you?

5 A. No, sir.

6 Q. Did she point out anyone to pick?

7 A. No, she did not. She just placed this sheet right
8 in front of me, asked -- asked me if I recognized the
9 gentleman.

10 Q. And how certain are you of your selection?

11 A. I saw him every day for a month or two, so that's
12 him.

13 Q. Is he present in the courtroom today?

14 A. Yes, he's sitting right there.

15 Q. Do you have any doubt about your identification?

16 A. No, sir.

17 Q. Was anyone else present when you made it? I mean,
18 did you see your wife make her selection? Was that
19 made in front of you or did y'all do it separately?

20 A. I don't recall. Officer Nelson only came one time
21 to do this so I think we all did it at the same time
22 basically.

23 Q. But you were in separate locations; correct?

24 A. Well, our house is pretty small, but yeah. She
25 was focusing on me when she was talking to me and then

(GREG RIDER-PROFFERED CROSS BY MR. SCHWACKE)

1 she was focusing on Tanya when she was talking to
2 Tanya.

3 Q. You don't recall the exact details of how ---

4 A. No, sir.

5 Q. Just one more question. The officer arrived early
6 and you were still at work that day; right? Do you
7 recall?

8 A. Repeat the question?

9 Q. If I showed you your statement, would that help
10 you refresh your recollection of the events on that
11 day? Like, when you arrived back on that day, March
12 14th, when Officer Nelson was there, you came there
13 later; correct?

14 A. Yeah, probably was there later. Yeah, so she
15 might have already dealt with Tanya.

16 MR. PATTERSON: No further questions.

17 THE COURT: Mr. Schwacke?

18 MR. SHWACKE: Thank you, Your Honor.

19 PROFFERED CROSS-EXAMINATION

20 BY MR. SCHWACKE:

21 Q. Mr. Rider, you did a voluntary statement to the
22 Hanahan Police Department?

23 A. Yes, sir.

24 Q. But you had your wife write that for you?

25 A. Yes, sir.

(GREG RIDER-PROFFERED CROSS BY MR. SCHWACKE)

1 Q. Is there a reason?

2 A. I think you wanted to read it; right?

3 Q. Are we talking about handwriting legibility?

4 A. Yeah, probably, you know, I'm not a very good
5 speller.

6 Q. Well, I just want to make sure you had the
7 opportunity to review it before it got turned in?

8 A. No, actually I scribbled it down and then I said
9 here, honey, correct it as far as the spelling, and
10 she's got beautiful handwriting so.

11 Q. How long have y'all lived in that apartment
12 complex?

13 A. Seven years maybe.

14 Q. And ---

15 A. We know everybody in the complex.

16 Q. How many black families are in there?

17 A. Half dozen maybe.

18 Q. And how long had Evette lived in the complex?

19 A. I would say a month, maybe a month and a half ---

20 Q. Because ---

21 A. --- not long.

22 Q. --- in the statement you refer to her as your new
23 neighbor.

24 A. Yes.

25 Q. So at the time you were shown the lineup, the

(GREG RIDER-PROFFERED CROSS BY MR. SCHWACKE)

1 photo lineup -- and this is what was presented to you;
2 correct?

3 A. Yes, sir.

4 Q. Those are your initials and you dated this on the
5 14th?

6 A. Yes, sir.

7 Q. When Officer Nelson presented that to you, what
8 did she -- what did she ask you?

9 A. She asked if I could identify the gentleman who
10 everyone was talking about in this -- this complaint.

11 Q. Well, did she use the name Barry?

12 A. Possible.

13 Q. Because I thought when you testified earlier you
14 said can you identify the gentleman Barry?

15 A. Exactly. And this is a year later.

16 Q. Right. I understand.

17 A. There was no mistake who the gentleman was. We
18 were all talking about the same gentleman and it was
19 the gentleman who lived with Evette.

20 MR. SHWACKE: One moment, Your Honor. Thank you.
21 That's all the questions I have.

22 THE COURT: Any redirect?

23 MR. PATTERSON: No redirect, Your Honor.

24 THE COURT: Please step down. Thank you, sir.
25 Call your next witness.

(PAM NELSON-PROFFERED DIRECT BY MR. CONDON)

1 MR. CONDON: The State calls Pam Nelson.

2 (Witness sworn)

3 THE CLERK: Please be seated, state your full name
4 and spell your last name for the record.

5 THE WITNESS: Pam Nelson -- N-E-L-S-O-N.

6 PAM NELSON, after being duly sworn, testified as
7 follows:

8 PROFFERED DIRECT EXAMINATION

9 BY MR. CONDON:

10 Q. Good afternoon, Officer Nelson. Who do you work
11 for?

12 A. Hanahan Police Department.

13 Q. And what's your title and some of your job duties?

14 A. Sergeant right now. At the time that this
15 incident happened, I was a detective. Do you want job
16 duties now or back then?

17 Q. Just back then as a detective.

18 A. Back then I investigated crimes against the
19 person, child abuse, sexual -- all sexual assaults,
20 domestic violence, elder abuse, murder, assault and
21 batteries.

22 Q. All kind of stuff?

23 A. Uh-huh.

24 Q. And what was your involvement on the investigation
25 of the Barry Stanley case?

(PAM NELSON-PROFFERED DIRECT BY MR. CONDON)

1 A. The involvement -- I presented a photo lineup to
2 three individuals to see if they could identify Mr.
3 Stanley.

4 Q. And when was that done?

5 A. That was done on March 14th, 2013.

6 Q. Can you explain how that -- how the procedure
7 worked?

8 A. As far as how the photo lineup was obtained?

9 Q. That's correct.

10 A. The photo lineup was -- Detective Durant had sent
11 a message to Charleston County Detention Center. They
12 prepared the photo lineups and it was emailed back to
13 him, and then he handed them to me and I took them over
14 to the residence.

15 Q. Is that standard procedure to have the detention
16 center prepare the photo lineups like that?

17 A. Yes.

18 Q. And can you describe when you met with the
19 different witnesses at the home and how -- what
20 instructions you gave to them?

21 A. On March 14th I first met with Ms. Tanya Deane and
22 asked her if she could identify this person that had
23 came over that was -- had caused the disturbance on the
24 previous date, on March 11th. So she was shown the
25 photo lineup of two different individuals, two

(PAM NELSON-PROFFERED DIRECT BY MR. CONDON)

- 1 different photo lineups, one with Mr. Stanley in it and
2 one with Mr. Watson in it. And then whenever her son
3 came home I asked him the same. I took him into --
4 they have a little kitchen area that was away from
5 where Ms. Deane was located and I asked him, and then
6 whenever Mr. Rider came home I also had him in the
7 kitchen away from the son and Ms. Deane and asked him
8 away from those other individuals.
- 9 Q. At any time did you suggest to any of them who to
10 select?
- 11 A. No.
- 12 Q. Did you point anybody out?
- 13 A. No, handed them the paper.
- 14 Q. Did you reference the Defendant by his name?
- 15 A. No.
- 16 Q. I'm going to show you what's marked as State's
17 Exhibit 17 and 19 -- excuse me -- State's Exhibit 18
18 and 19. Are these the lineups that you showed to Tanya
19 Deane?
- 20 A. Yes.
- 21 Q. And who did she select on those lineups?
- 22 A. She selected number one on the State's Exhibit 18.
- 23 Q. And who is that?
- 24 A. That's Barry Stanley.
- 25 Q. And how certain was she of that selection?

(PAM NELSON-PROFFERED DIRECT BY MR. CONDON)

1 A. She said she's positive.

2 Q. I'm going to also get you to look at State's
3 Exhibit 17.

4 A. Yes.

5 Q. And did you show that photo lineup to Greg Rider?

6 A. I did.

7 Q. And who did he select?

8 A. Number one, Mr. Barry Stanley.

9 Q. And how certain was he?

10 A. Positive.

11 Q. And did you show the other lineup as well with
12 Deangelo Watson to Mr. Rider?

13 A. I don't recall showing that one to Mr. Rider.

14 Q. And how certain was he with the selection?

15 A. Positive.

16 Q. Did they indicate any doubt about who they
17 selected to you?

18 A. No.

19 Q. Did they indicate that they knew him prior to the
20 incident?

21 A. Yes.

22 Q. And the lineup you showed to Preston Kornahrens,
23 who did he select on that?

24 A. He selected number one. He said that he couldn't
25 be 100 percent positive but he was 99 percent positive.

(PAM NELSON-PROFFERED DIRECT BY MR. CONDON)

1 Due to that I didn't have him circle it. I told him he
2 needed to be absolutely positive.

3 MR. CONDON: No further questions.

4 THE COURT: Mr. Condon, maybe I missed it. What's
5 the significance of having Deangelo Watson in the
6 lineup?

7 MR. CONDON: Well, as you'll hear one of the
8 witnesses, Evette Nelson, she later came to the police
9 station ---

10 THE COURT: Are we going to get into that in just
11 a moment?

12 MR. CONDON: Not in this hearing. I can quickly
13 tell you.

14 THE COURT: Yes, please.

15 MR. CONDON: So her involvement was Evette Nelson
16 who is the girlfriend of the Defendant, she came in and
17 gave a second statement at his request -- that's our
18 position -- changing the person she identified to
19 Deangelo Watson, so that was his involvement.

20 THE COURT: I believe that's significant to know.
21 Is he in -- Mr. Watson in those lineups?

22 THE WITNESS: Not in these because they didn't
23 circle those.

24 MR. CONDON: There's two lineups, Your Honor.

25 MR. PATTERSON: He's in a separate six-array

(PAM NELSON-PROFFERED CROSS BY MR. SCHWACKE)

1 photo. There's no identification ---

2 THE COURT: Did you do them at the same time?

3 THE WITNESS: Yes, ma'am.

4 THE COURT: Okay.

5 MR. CONDON: Nothing further.

6 THE COURT: Thank you.

7 PROFFERED CROSS-EXAMINATION

8 BY MR. SCHWACKE:

9 Q. So the photo arrays were provided to you by
10 detective?

11 A. Durant.

12 Q. Durant. The lineups are -- we're talking about
13 State's Exhibit Number 17 which was presented to Mr.
14 Rider and State's Exhibit Number 18 which was presented
15 to Ms. Deane; correct?

16 A. Yes.

17 Q. And the exact same photographs in the exact same
18 order appear on both of those lineups.

19 A. Yes.

20 Q. And that would be true of the lineups shown to
21 their -- to Ms. Deane's son as well?

22 A. Yes, we just made photocopies of it.

23 Q. And that was provided to your department?

24 A. Yes, from the Charleston County Detention Center.

25 Q. So in looking at those photographs, would you

(PAM NELSON-PROFFERED CROSS BY MR. SCHWACKE)

1 agree with me that the photos in position number one
2 and number six on both State's Exhibits 17 and 18 have
3 the darker background?

4 A. Yeah, the background is different on several of
5 these.

6 Q. Okay. And would you agree with me that the
7 complexion of the skin of persons shown in positions
8 two, three, four and five are lighter than positions
9 one and six?

10 A. Yeah. Number two is a little bit darker than
11 three, four and five, but they all basically have the
12 same features. They've all gotten short, cropped hair,
13 that kind of thing.

14 Q. When you showed the array to Ms. Deane -- we're
15 talking about 18 -- what exactly did you ask her?

16 A. I believe my words just would have been can you
17 identify the person that was causing the disturbance on
18 March 11th. I don't remember the exact wording.

19 Q. Even though she never saw the individual doing
20 that on the 11th?

21 A. Right. I handed her ---

22 Q. Right?

23 A. I handed her the two lineups.

24 Q. To Ms. Deane?

25 A. Correct.

(PAM NELSON-PROFFERED REDIRECT BY MR. CONDON)

1 Q. And Ms. Deane never saw the perpetrator of what
2 was being phoned in to the police.

3 A. Right. Ms. Deane, I believe, was the caller who
4 was calling the police and Evette then came over to the
5 residence. They stayed inside the residence.

6 Q. She saw Evette. She saw her husband. She saw her
7 son. But she never saw the individual that the police
8 were being reported to come and deal with?

9 A. Correct.

10 Q. So my question again is what did you ask her to do
11 in identifying -- who was she supposed to be picking
12 out and why?

13 A. I could look back at my notes on my report, but I
14 believe it was who was causing the disturbance, who was
15 outside at the time.

16 Q. And so all she knows is what she would have heard
17 from somebody else in terms of that?

18 A. I believe so, yes.

19 MR. SCHWACKE: That's all the questions I have.

20 THE COURT: Mr. Condon?

21 MR. CONDON: Just one quick question.

22 PROFFERED REDIRECT EXAMINATION

23 BY MR. CONDON:

24 Q. What's the race of all the individuals in the
25 photo lineup?

(FRED DURANT-PROFFERED DIRECT BY MR. CONDON)

1 A. They're all black males.

2 THE COURT: Mr. Schwacke?

3 MR. SHWACKE: I think that's obvious, Your Honor,
4 so no further questions.

5 THE COURT: All right. You may step down. Call
6 your next witness.

7 MR. CONDON: One second, Your Honor. Just briefly
8 the State calls Detective Durant.

9 (Witness sworn)

10 THE CLERK: Please be seated, state your full name
11 and spell your last name for the record.

12 THE WITNESS: My name is Frederick Joseph Durant.
13 My last name is spelled D-U-R-A-N-T.

14 FRED DURANT, after being duly sworn, testified as
15 follows:

16 PROFFERED DIRECT EXAMINATION

17 BY MR. CONDON:

18 Q. Good afternoon, detective. In regards to the
19 Barry Stanley case, did you request a photo lineup?

20 A. I did.

21 Q. Who did you request it from?

22 A. Charleston County. Charleston County.

23 Q. And is the person you requested it from, are they
24 trained and qualified in the preparation of a photo
25 lineup?

(FRED DURANT-PROFFERED DIRECT BY MR. CONDON)

1 A. They are.

2 Q. And once you got the photo lineup, what did you do
3 with it?

4 A. I gave it to Sergeant Nelson.

5 Q. And just briefly look at the State's Exhibits up
6 here. Does that look like an accurate reflection of
7 the photo lineups that you provided to Officer Nelson?

8 A. It does.

9 MR. CONDON: Nothing further.

10 THE COURT: Mr. Schwacke?

11 MR. SHWACKE: No questions.

12 THE COURT: Thank you. You may step down.

13 MR. CONDON: That's it, Your Honor.

14 MR. SCHWACKE: Your Honor, we don't have any
15 testimony to provide at this time. However I would
16 make a motion that the -- I'm kind of in an odd
17 position here because I believe the State may have been
18 able to show why the witnesses could identify him for
19 reasons apart from the lineup, but at this time based
20 upon the presentation of the lineup, what they were
21 told, how it was identified, I don't believe that the
22 State should be allowed at trial to introduce any
23 testimony regarding actual lineup and its presentation
24 finding although I still believe that they've
25 established the basis by which the witnesses could in
26

1 Court make an identification, so it's an odd request
2 and I am not trying to try their case for them but I
3 would ---

4 THE COURT: I'm perplexed as to why y'all need a
5 lineup. What -- evidently I'm missing a piece of the
6 facts that -- if they can identify him why use the
7 lineup?

8 MR. CONDON: I think it just confirms specifically
9 to Greg Rider that Mr. Stanley was the person that he
10 saw in the vehicle that day.

11 MR. PATTERSON: And I think he still gets to that
12 point based upon his knowledge ---

13 THE COURT: Maybe again because y'all have known
14 these facts for a while. Is there a time or is there a
15 question that Mr. -- that he's not going to be in the
16 vehicle?

17 MR. PATTERSON: At the end of the pursuit --
18 there's a vehicle pursuit -- Mr. Stanley flees from his
19 vehicle and they do not capture him that day and Evette
20 Nelson gives one statement -- her very first statement
21 naming this Defendant and then our position would be
22 that she was intimidated to give a second statement.

23 THE COURT: Yes, there's a time that he's not in
24 the vehicle when he's apprehended.

25 MR. PATTERSON: That's correct.

1 THE COURT: All right. Let me hear from you, Mr.
2 Patterson. I'm sorry. Mr. Condon?

3 MR. CONDON: Your Honor, I think identification is
4 a key issue in this case and therefore the photo
5 lineups are relevant to establish that. And also I
6 don't think the photo lineups are unduly suggestive and
7 based on the testimony provided in light of the facts
8 that they did know him and they're absolutely certainly
9 it was him.

10 THE COURT: Mr. Schwacke, anything further?

11 MR. SHWACKE: Your Honor, just again, regarding
12 Mr. Rider, he's in a boat by himself because Ms. Deane
13 is identifying, I guess, by her memory as to who this
14 man is, but not based upon seeing him at all that day
15 of the domestic violence call, chase, none of those
16 items. She never saw who that individual is so clearly
17 if she wants to say she knows him that's one thing, but
18 to say he was the one involved in it, that's just not
19 possible because she admitted she didn't see him.

20 Mr. Rider has given ample reasons to say why he
21 can recognize him but we believe that the photo lineup
22 that he was shown, under the circumstances, is an
23 improper lineup based upon a number of factors
24 including the darkness of background, complexion of
25 skin, and the fact that she -- and he testified to this

1 -- can you identify the gentleman and then Stanley. I
2 mean, that was his testimony so we're trying to exclude
3 any of the evidence of the actual photo array
4 identifications. I think this thing still has a way
5 through Mr. Rider for him to make identification based
6 on their view of the case.

7 THE COURT: Clearly both witnesses testified that
8 they knew him independently of this -- of this lineup,
9 so then we're, kind of, almost reading it in reverse.
10 But you are asking me, first of all, to exclude all the
11 lineup -- the two lineups, 18 and 19, from Ms. Deane
12 because she was not a witness to anything. She was, as
13 you termed it, an ear witness.

14 MR. SCHWACKE: Ear witness and she never saw
15 anybody to identify. She couldn't identify somebody --
16 I mean, she could identify somebody that she's been
17 told has been involved in something, but that day she
18 didn't witness anything to be able to make an
19 identification from. So that's with regard to her
20 testimony. They still have surviving the testimony of
21 Mr. Rider and his son based upon their independent
22 knowledge, their having met him, seen him in the
23 apartment complex for the past -- he indicated -- month
24 and a half.

25 THE COURT: The questions I've heard that I

1 remember are her statement that she was asked on 18, do
2 you recognize anyone. Not that there was anyone who
3 was involved in the incident, which is different, I
4 think, and a distinction that is of importance. I'll
5 be happy to hear from you.

6 MR. SCHWACKE: I believe she did say that, Your
7 Honor, that she was asked to identify the person in the
8 incident. And the only way she could do that is
9 through hearsay, what she was told by other people, so
10 ---

11 THE COURT: So you're really asking me to put it
12 in on different grounds other than whether or not it
13 was unduly suggestive or ---

14 MR. SCHWACKE: I'm still saying that as well, Your
15 Honor. It's a multitask approach here but we feel like
16 with regard to Mr. Rider any testimony dealing with the
17 photo lineup identification would be improperly
18 bolstering what he's already able to testify to without
19 the lineup, that the lineup is tainted, that there
20 again are issues of complexion and background and those
21 things. It doesn't prevent the State from getting
22 their identification in. It does eliminate what we
23 feel is an improper photo array.

24 THE COURT: Mr. Condon, I just want to hear from
25 you as to the identification as to the ear witness. Do

1 you understand what I mean by that?

2 MR. CONDON: Yes, Your Honor. The State's
3 position is that, you know, obviously excited
4 utterances by the victim and she knew the background of
5 the victim who lived with the Defendant, so we believe
6 that's relevant because she -- you know, based on that
7 it was fair for her to conclude that was the person
8 involved, because while it was ongoing she came into
9 the home and stated that, and we believe that Mr.
10 Schwacke's points are a great cross-examination for
11 their side but we believe that the photo lineup should
12 come in.

13 THE COURT: But what did she pick him out for of
14 the lineup? That's the question. She didn't pick him
15 out as the perpetrator. She picked him out as the
16 person that she was told was the perpetrator.

17 MR. CONDON: That's correct.

18 THE COURT: And is that not a distinction that I
19 need to make?

20 MR. CONDON: Your Honor, the State believes that,
21 you know, it still comes in as an identification but
22 it's obviously not as strong as other identification,
23 but we still believe it's identification.

24 THE COURT: Anything further, Mr. Schwacke?

25 MR. SHWACKE: No, Your Honor.

1 THE COURT: Okay. I'm going to address -- because
2 I think Mr. Rider is the easy one. It follows the
3 traditional analysis. I do not find that there was --
4 that the lineup was unduly suggestive as to Detective
5 Nelson and Mr. Schwacke brought up the fact that the
6 dark background or the light background.

7 It does appear that there are two that are lighter
8 than the other four, but I do not find that that in and
9 of itself makes the picking of the Defendant unduly
10 suggestive. I must decide whether the out of Court
11 identification was so reliable that there is
12 substantial likelihood that misidentification existed.
13 The witness testified that he had the ability to view
14 Mr. Stanley at the time of the incident. He also
15 indicated that at the time of the incident in question
16 he was very close, saw him in the car, saw him numerous
17 times, it was light outside and he indicated that he
18 was very certain that it was the person that he knew to
19 be living with Evette in the car and that is the person
20 that he initialed as number one on State's 17.

21 As to Ms. Deane, she did testify that she knew the
22 Defendant, had seen him multiple times. She herself
23 has lived in the apartment complex over -- about eight
24 years and had known Evette and was able to recognize
25 the Defendant Mr. Stanley as the individual who was in

1 number one in State's 18. She initialed it on 3/14/13
2 for the purposes of this hearing. I don't -- do not
3 find that the identification process was unduly
4 suggestive. I find that she does have the -- there is
5 -- was no substantial likelihood of irreparable
6 misidentification, but I do not find that she -- there
7 was anything -- she did not have an opportunity to view
8 the perpetrator at the time of the crime, so the
9 State's 18 and 19 which is the lineup will be -- I'm
10 granting your request to exclude the lineup.

11 She is able to testify as to her - that she knows
12 Mr. Stanley, how she knows Mr. Stanley, but the purpose
13 in my view is her opportunity to view the perpetrator,
14 I think, may be confusing to the jury and made your
15 exception to my previous ruling, grant your motion as
16 to Ms. Deane's identification. Anything else? We've
17 gone a little bit over.

18 MR. PATTERSON: The only thing, again, I have this
19 conviction, clarifying which convictions are going to
20 come in.

21 THE COURT: Can we do this quickly? Can y'all
22 work on those? Who are your first three witnesses?
23 Let's do it that way.

24 MR. PATTERSON: Our first three are going to be
25 Evette Nelson, Greg Rider and Tanya Deane.

1 THE COURT: Okay. So as to Ms. Nelson, what does
2 she have?

3 MR. PATTERSON: She has a 2011 shoplifting and
4 then in relation to this charge, she has an unlawful
5 conduct to a child and also an obstruction of justice.

6 THE COURT: Conviction?

7 MR. PATTERSON: Yes.

8 THE COURT: And the State's position?

9 MR. PATTERSON: The State's position is that the
10 shoplifting and the obstruction would come in, but that
11 the unlawful conduct would be more prejudicial than
12 probative.

13 THE COURT: What does the unlawful conduct carry?

14 MR. PATTERSON: Zero to 10.

15 THE COURT: Mr. Schwacke?

16 MR. SHWACKE: Your Honor, I would argue that the
17 shoplifting together with the unlawful and obstruction
18 of justice all apply. Obviously it carries more than a
19 year so it passes that test.

20 THE COURT: I agree. All three will come in.

21 MR. PATTERSON: Your Honor, in reference to the
22 unlawful conduct, will we be able to elicit testimony
23 as to the incident stemming from the unlawful conduct?

24 THE COURT: What is the incident stemming?

25 MR. PATTERSON: There is this one, basically there

1 is -- there's crack cocaine tested -- field tested in
2 the microwave and it would be our position that this
3 Defendant was the person cooking that crack cocaine in
4 the microwave.

5 THE COURT: Mr. Schwacke?

6 MR. SHWACKE: Your Honor, we're going to have to
7 get to that because I first don't believe they can
8 prove that there was cocaine in the microwave and that
9 would be a matter that we have to address when we reach
10 it. The obstruction of justice charge is going to put
11 them in the same boat because it's her giving the false
12 statement in this case, so ---

13 THE COURT: But the unlawful conduct, I haven't
14 heard all the facts, but it's going to be the same
15 crack cocaine that is the trafficking quantity?

16 MR. SCHWACKE: No, Your Honor. The allegation
17 that they make is that Mr. Stanley has cooked crack in
18 that microwave and then she in turn cooked food for the
19 kids and that's how they end up testing positive hair
20 follicle ---

21 THE COURT: But it would be the same drugs that
22 are the drugs here today; right?

23 MR. SCHWACKE: The same type of drug.

24 THE COURT: I'm sorry.

25 MR. SHWACKE: It's not the same.

1 MR. PATTERSON: Same type of drugs.

2 THE COURT: That is what I meant.

3 MR. CONDON: The children did test positive for
4 cocaine.

5 THE COURT: She pled guilty?

6 MR. CONDON: She did but if that comes in, we just
7 feel like she should be allowed to explain her -- you
8 know, her side of the story to that.

9 MR. SCHWACKE: I'm not aware of any rule that
10 allows you to explain what your prior convictions are
11 because anyone that would ever testify being faced with
12 the option of being impeached by them would come up
13 with explanations that they want to testify about.
14 That's not the rule so I would object.

15 THE COURT: All right. Do you have -- is there
16 some rule that will allow her to explain?

17 MR. CONDON: I think there's no rule that prevents
18 it.

19 THE COURT: What about Mr. Rider?

20 MR. CONDON: I don't believe that Mr. Rider has
21 any convictions that are more -- one, I don't think he
22 has any convictions. Let me check his -- he has -- I
23 don't think he has a record. Yes.

24 THE COURT: I thought you said he did?

25 MR. CONDON: No, he does not.

1 MR. SCHWACKE: He doesn't.

2 MR. CONDON: Sorry. He had a non-conviction for
3 a fraud check.

4 THE COURT: And then so who's your next one?

5 MR. CONDON: Tanya Deane and she has a DUI from
6 1989 which I think is excluded because it's less than a
7 year and also outside the 10-year time frame.

8 MR. SHWACKE: I agree.

9 THE COURT: Who else?

10 MR. CONDON: Mr. Loflin, he has a 2002 forgery but
11 the forgery carried, I believe, a three-year probation
12 which I think puts that within the 10-year time frame.

13 THE COURT: Who is this? I'm sorry?

14 MR. CONDON: William Loflin.

15 THE COURT: All right. And who is he to this?
16 What is he going to testify about?

17 MR. CONDON: He is the witness to the vehicle
18 pursuit and he observed the Defendant throw the drugs
19 out of his car window.

20 MR. SHWACKE: Allegedly.

21 MR. CONDON: Okay. Allegedly.

22 THE COURT: That's what he's going to testify to?

23 MR. CONDON: That's what he would testify to. So
24 I think based ---

25 MR. SHWACKE: He also has a petit larceny in 2007

1 MR. CONDON: And the 2009 shoplifting and he ---

2 THE COURT: Petit larceny and shoplifting will
3 come in.

4 MR. CONDON: And he has a 2007 forgery and a 2007
5 possession of crack; however again our position on the
6 possession of crack charge will be that it's more
7 prejudicial than probative.

8 THE COURT: Well, it's a felony; correct?

9 MR. CONDON: It -- well, it's a misdemeanor, zero
10 to three.

11 THE COURT: So the drug is not evidence of
12 truthfulness, so the drug won't come in, then so the
13 only issue is the 2002 forgery.

14 MR. CONDON: That's correct, Your Honor.

15 MR. SHWACKE: Five years suspended upon three
16 years balance suspended probation two years. There's
17 53 counts.

18 THE COURT: Sixty-three counts?

19 MR. SHWACKE: Fifty-three counts.

20 THE COURT: What did he plead to?

21 MR. SHWACKE: (Inaudible)

22 MR. CONDON: The rap sheet makes it look like
23 that. He told me that he only pled to one. They
24 dismissed the others but on his rap sheet there's, like
25 - there's a ton of, you know, there's probably -- like

1 Mr. Schwacke said, 53 that say conviction but the way
2 he describes it is that it was just one.

3 MR. SCHWACKE: So he's still operating under the
4 sentence within a 10-year period. This incident
5 happened approximately a year ago.

6 THE COURT: Under the rule it comes in. Tell me
7 why it shouldn't or are you just asking for
8 clarification?

9 MR. CONDON: I was just asking for clarification.

10 THE COURT: Under the rule it comes in.

11 MR. CONDON: Okay.

12 THE COURT: So the drug is the only thing that
13 does not.

14 MR. CONDON: And in terms of discussing the
15 multiple count forgery, do we have to ask him if it was
16 multiple counts or can he say he was convicted of
17 forgery?

18 THE COURT: What does the rap sheet say? He's
19 going to say it's one count; right?

20 MR. CONDON: That's his description of it.

21 THE COURT: I mean, to him -- I mean, that's where
22 you get -- it gets, kind of, tricky.

23 MR. CONDON: Right.

24 THE COURT: Maybe to him that's the truth so, Mr.
25 Schwacke, if he says I was convicted, assuming Mr.

1 Patterson's going to do something along the lines of
2 you were convicted of forgery in 2002, is that
3 sufficient or do you --- he may not ---

4 MR. SHWACKE: I believe -- Your Honor wants to
5 limit it to multiple accounts. I understand that but I
6 certainly don't want the jury to think he's just got
7 one forgery conviction.

8 THE COURT: What does the record show?

9 MR. CONDON: The record shows multiple counts and
10 I would agree that it would be a fair resolution to ask
11 him if he had multiple counts of forgery convictions in
12 2002.

13 THE COURT: Is that sufficient for you? I mean,
14 if you have the certified convictions we'll count them
15 all. But I think we're getting far afield of what
16 we're intending to do. Clearly by the time we go
17 through his rap sheet and his convictions it's clear
18 that he has evidence of other crimes.

19 MR. SHWACKE: The only thing that I would want to
20 make certain -- you've asked me if I could live with
21 that. I can live with multiple counts in 2002 but then
22 he has some additional forgeries ---

23 THE COURT: I think we're clear -- I'm hoping
24 we're clear. It's just there seems to be -- there's --
25 he says -- he says that in 2002 it was one count. I

1 just want to make sure that whatever -- that y'all have
2 some understanding of what it is in case he says it's
3 one count.

4 MR. SHWACKE: I'm going to ask about the multiple
5 counts.

6 THE COURT: I just want you to have -- so if we --
7 the point is ---

8 MR. CONDON: I think his understanding -- the way
9 he explained it was yes, I pled to forgery but they
10 told me they were dismissing the others and that may
11 not have been what actually happened.

12 THE COURT: He needs to be aware if he was
13 convicted of 53 counts or whatever it is ---

14 MR. CONDON: Right.

15 THE COURT: --- that Mr. Schwacke is going to say
16 you were actually convicted of 53 counts of forgery or
17 you're just going to go ahead and put it out there.

18 MR. CONDON: Right. I would be fine saying
19 multiple convictions.

20 THE COURT: My point is we don't need to be
21 spending a whole lot of time, and it is -- it's more
22 than one. It can either be multiple or it can be 53
23 counts but y'all need to make sure that there's
24 documentation.

25 MR. CONDON: With the rule of sequestration can I

1 discuss -- can I make him aware of what he's -- what
2 convictions we're going to be asking him about?

3 THE COURT: I think I's appropriate, Mr. Schwacke.
4 It's appropriate to say we had a pretrial conference
5 and the Judge is allowing me -- allowing it to be
6 inquired about your past convictions and it includes
7 this, this and this.

8 MR. SHWACKE: Your Honor, my understanding of
9 sequestration is really to avoid people trying to
10 duplicate testimony by hearing and coming in and
11 adopting this testimony.

12 THE COURT: So the answer is yes, you may talk to
13 him.

14 MR. CONDON: Just briefly while we're on the
15 subject, can I instruct Ms. Deane not to testify about
16 the photo lineup as well?

17 THE COURT: Yes.

18 MR. CONDON: Thank you.

19 THE COURT: All right.

20 MR. PATTERSON: Mr. Rowland, Christopher Rowland,
21 has a 2003 -- on the rap sheet it says marijuana, but
22 he was given credit for three days time served and I
23 believe that falls outside of the 10-year window and it
24 would be more prejudicial than probative even if it
25 didn't.

1 THE COURT: Mr. Schwacke?

2 MR. SHWACKE: It shows the date of the arrest on
3 that particular offense as December 23rd, 2003 which
4 with the court date as being March 15th, 2004, so the
5 offense date of this falling in between those two dates
6 nudges it within the 10-year period, depending on what
7 date you look at, whether it's the date of arrest or
8 the date of the court date. And I don't know. It
9 looks like there might be some out-of-states too.

10 MR. PATTERSON: He has some charges from 2000 in
11 Georgia, but the only conviction appears to be a
12 criminal trespass which is from April of 2000 and it's
13 not -- it's outside of the 10-year window since it
14 happened 14 years ago. He also has a DUI from 2000 but
15 again it's outside of the 10-year window.

16 THE COURT: Okay. So when was his release date?

17 MR. PATTERSON: For which charge?

18 THE COURT: The one in question.

19 MR. PATTERSON: It -- his court date is March
20 15th, 2004, but he was given credit for three days time
21 served so it would be our position that three days
22 would still be March 18th which puts it just outside of
23 the 10-year window.

24 MR. SHWACKE: But not for the --- March the 11th,
25 2013.

1 THE COURT: So at that point it would be nine
2 years.

3 MR. SHWACKE: Yes, ma'am.

4 MR. PATTERSON: That is correct. Marijuana.

5 THE COURT: Here in Berkeley or Charleston?

6 MR. PATTERSON: Dorchester.

7 THE COURT: And who is he?

8 MR. PATTERSON: He was the gentleman living with
9 William Loflin who observes the Defendant throwing the
10 drugs out of the car and Mr. Loflin says hey, Chris,
11 you've got to come out here. I just saw this guy toss
12 something out. Will you go see what it is? And Mr.
13 Rowland says okay. He goes and picks it up.

14 THE COURT: Mr. Schwacke?

15 MR. SHWACKE: Your Honor, I --

16 THE COURT: The question that he will be asked is
17 you were convicted of an offense carrying more than one
18 year.

19 MR. SHWACKE: That's fine.

20 THE COURT: In 2000-whatever it was. 2004.

21 MR. SHWACKE: Yes, ma'am. Thank you.

22 THE COURT: Have you found anything to allow her
23 to discuss the ---

24 MR. PATTERSON: I have not. Not her. We have one
25 more individual, Deangelo Watson.

1 THE COURT: Okay.

2 MR. PATTERSON: He has a possession of a
3 controlled substance from 2009 and while that is -- it
4 carries six months to a year. Or no, it carries up to
5 six months so we believe that falls outside -- it's not
6 a conviction with a year or more but it does fall
7 within the 10-year time frame, but we believe that it
8 would be more prejudicial than probative. It's
9 something he pled to in transfer court.

10 THE COURT: I don't think it's -- it's outside the
11 rule. Thank you.

12 MR. PATTERSON: And in reference to Ms. Nelson, I
13 don't have anything that specifically says she's
14 allowed to elaborate.

15 THE COURT: I'll give you over the lunch 45
16 minutes to find that for me.

17 MR. SHWACKE: And, Your Honor, just to cover my
18 bases regarding Deangelo Watson, we asked the State to
19 verify disposition of the case. He was charged with
20 possession and intent to distribute approximately two
21 weeks after this incident. It's my understanding that
22 three individuals pled guilty to it and everyone else's
23 charges, including Mr. Watson, were dismissed because
24 the other individuals pled guilty and admitted the
25 drugs and that I've been assured that there was no

1 consideration regards to his testimony in this case for
2 that to happen.

3 THE COURT: Is that correct?

4 MR. PATTERSON: That's correct and until Mr.
5 Schwacke brought it to our attention I didn't realize
6 that he had been arrested on that charge and that that
7 charge had been nolle prossed, so there were no
8 conversations between the State and Mr. Watson about
9 that issue.

10 THE COURT: All right. Anything further?

11 MR. PATTERSON: Nothing further from the State,
12 Your Honor.

13 MR. SHWACKE: Nothing that needs to be addressed
14 at this time. As witnesses come up we may need to.

15 THE COURT: All right. 2:30.

16 (Off the record for lunch.)

17 THE COURT: Anything before we bring in the jury?

18 MR. PATTERSON: Nothing from the State, Your
19 Honor.

20 MR. SCHWACKE: No, Your Honor.

21 THE COURT: Do you have any case law for me?

22 MR. PATTERSON: I do but I think we've made it --
23 I think we've made a determination just to go with what
24 was originally decided in reference to this.

25 THE COURT: Thank you. Let's bring in the jury.

1 (Whereupon, the jury came into open Court at
2 approximately 2:38 p.m.)

3 THE COURT: Thank you. Please be seated. Ladies
4 and gentlemen, I hope everyone had a wonderful lunch.
5 Ms. Shenese, you have been selected as the Foreperson
6 in this case, which means you are the jury's
7 spokesperson here in Court, so if at any time any of
8 you need any additional breaks or have any questions or
9 concerns, please let your Foreperson know. She will
10 alert the bailiff and we'll handle the matter
11 immediately.

12 Ladies and gentlemen, you've also been given
13 notepads which means you may take notes throughout the
14 progress of this trial. Please remember some of us are
15 much better note-takers than others. One juror's notes
16 are no more correct or accurate than another juror's
17 notes. You will have those notes to go back with you
18 during your deliberation. During the evening hour and
19 during the lunch breaks we will collect your notepads
20 and lock them up.

21 You may also have noticed when you came in this
22 time that members of the audience and the attorneys and
23 the parties involved were standing. This is out of
24 respect for your new position as judges of the facts,
25 so please come in, take your seat and they will all

1 remain standing until all 13 of you are seated. We
2 must now administer an oath to try this case. Madam
3 Clerk?

4 THE CLERK: Ladies and gentlemen of the jury,
5 please stand and raise your right hands to be sworn.

6 (The oath was administered to the jury by the
7 Clerk.)

8 THE CLERK: Please take your seats.

9 THE COURT: Was there any member of the jury panel
10 who did not take that oath? If so please stand. Thank
11 you. All 13 members were sworn.

12 Ladies and gentlemen, the case that we are about
13 to try is the case of the State versus Barry Jerrod
14 Stanley. Mr. Stanley is charged with an indictment
15 filed in this Court for the crime of trafficking
16 cocaine base, 28 grams or more, though less than 100
17 grams, and failure to stop for a blue light. I will
18 explain the elements of those charges to you later.

19 What I say now is intended to serve as an
20 introduction to the trial of this case. These remarks
21 are not a charge on the law in this case. I will
22 instruct you on the law after the commencement of this
23 case, throughout the trial and at the end of the trial
24 before you retire to reach your verdict. This is
25 simply an explanation of the procedure that we have to

1 follow so that you will be better able to understand
2 what is happening before you.

3 Your purpose is to find and determine the facts.
4 You are the sole judges of the facts in this case and
5 if at any time I make any comment regarding the facts,
6 you must disregard it. You are to determine the facts
7 from the testimony you hear as well as the other
8 evidence that is introduced in Court. It is up to you
9 to determine the inferences that you feel may be
10 properly drawn from the evidence. It is important that
11 you perform your duty and determine the facts
12 diligently and conscientiously because ordinarily there
13 is no way to correct an erroneous determination of the
14 facts by a jury.

15 On the other hand the same law that makes you the
16 judges of the facts makes me the judge of the law. The
17 law as given by this Court is the only law that you may
18 consider. You must accept it and follow it even though
19 you may disagree with it. I cannot tell you what I
20 think the facts are and you cannot disagree with me
21 about what the law is or what the law ought to be.
22 Your job is to take the law as I give it to you and
23 apply it to the facts that you find in the testimony of
24 the witnesses from the witness stand as well as the
25 other evidence that is introduced.

1 After doing that you will render your verdict, a
2 true and solemn verdict under the oath that you just
3 took. Until I tell you that you may begin to
4 deliberate, you may not discuss this case with anyone.
5 That includes your fellow jurors, your friends, your
6 family members or anyone else. Ladies and gentlemen,
7 that includes face-to-face discussions, of course, but
8 it also includes any texting, blogging, emailing,
9 anything of that nature concerning this case. Simply
10 put you may not discuss this case in any form with
11 anyone until I tell you to do so.

12 You must decide this case based solely on the
13 evidence that is presented to you in this courtroom.
14 This means that during the trial you may not conduct
15 any independent research regarding this case, the facts
16 of the case, the evidence that is presented or any of
17 the people or organizations involved in this case.

18 You do not read, watch, listen to any news
19 accounts regarding this case, should there be any. Do
20 not try to find out any information from any source
21 outside of the courtroom. Ladies and gentlemen, again
22 if you become aware of another juror's violation of
23 these instructions you must inform the Court
24 immediately.

25 It is important that you keep an open mind and not

1 decide any issue in this case until all of the evidence
2 has been presented, the parties have made their closing
3 arguments, and I have instructed you on the law
4 applicable to this case. It is your solemn
5 responsibility to determine the guilt or innocence of
6 the Defendant and your verdict must be based solely on
7 the evidence as it is presented to you in this
8 courtroom.

9 In just a moment the Solicitor will make what's
10 called an opening statement in which the Solicitor will
11 explain to you the issues of this case. The attorney
12 for the Defendant may also make an opening statement
13 although he is not required to do so at this time.
14 Please remember what the attorneys tell you in their
15 opening statements as well as the closing arguments is
16 not evidence in this case. It is merely their
17 contention as to what the evidence has shown. The
18 evidence in this case will be presented to you by the
19 testimony of sworn witnesses from the witness stand as
20 well as any exhibits that may be introduced into
21 evidence.

22 From time to time you may hear one of the
23 attorneys ask to approach the bench or I may find it
24 necessary to excuse you from the courtroom for a short
25 while. If I have the attorneys approach the bench,

1 please do not try to read our lips or overhear us. Do
2 not think if I excuse you from the courtroom we're
3 trying to hide anything from you. The reason for this
4 is sometimes it is necessary for me to make a comment
5 regarding the facts in order to issue a ruling on the
6 law and as I just explained to you, the law does not
7 allow me to have an opinion about the facts of this
8 case, so I will excuse you for a short while so that in
9 no way anything that I say or do throughout the
10 progress of this trial will influence you on your
11 opinion of the facts.

12 In determining what the true facts are in this
13 case you must decide whether or not the testimony you
14 hear is believable. It is my responsibility to
15 determine whether certain testimony is admissible, but
16 once the testimony is admitted whether or not you
17 believe it is solely for you to determine. In deciding
18 whether to believe a witness you have the right to
19 consider the interest of the witness, the bias of the
20 witness, the prejudice of the witness, the opportunity
21 for the witness to have seen and heard the things about
22 which the witness testifies, as well as the way the
23 witness acts on the witness stand.

24 You have a right to consider anything you feel
25 will help you evaluate the testimony of the witnesses.

1 That means it's your duty to pay close attention. Do
2 not let your thoughts wander but give strict attention
3 so that at the end of the testimony after you have
4 heard the arguments of counsel and I have instructed
5 you on the law applicable to this case, you will be in
6 a position to determine what the true facts are, apply
7 the law to those facts and render a true and just
8 verdict. Please give your strict attention ---

9 MR. PATTERSON: Thank you, Your Honor.

10 THE COURT: --- to Mr. Patterson.

11 OPENING STATEMENT ON BEHALF OF THE STATE:

12 MR. PATTERSON: A reckless disregard for the law -
13 - a reckless disregard for the law, that's what the
14 Defendant showed on March 11th, 2013, when he got into
15 a fight with his girlfriend and he fled from police.
16 He fled from police in a vehicle and in that vehicle he
17 took police on a 12-mile chase from Hanahan all the way
18 into downtown Charleston. During that police pursuit
19 the Defendant threw a bag out of his window and that
20 bag contained a little over 28 grams of cocaine base,
21 otherwise known as crack cocaine.

22 Now, the police didn't catch him that day but
23 you're going to hear a lot of testimony during this
24 trial and I want you to pay close attention, because
25 you're going to hear from the girlfriend, Evette

1 Nelson. She's going to tell you her story. She's
2 going to tell you why she called 911. You're going to
3 hear from neighbors who knew the Defendant. You're
4 going to hear from one of the neighbors who saw the
5 Defendant in that vehicle leaving that apartment
6 complex.

7 You're going to hear testimony from an eyewitness
8 who saw the drugs get thrown out of the car in the
9 neighborhood. You're going to hear from law
10 enforcement. Law enforcement is going to tell you all
11 about the investigation. You're going to hear from law
12 enforcement about fingerprinting the vehicle. You're
13 going to hear from a fingerprint expert and how there
14 were fingerprints of the Defendant found in that
15 vehicle. You're going to hear from law enforcement
16 about the fingerprinting of the bag.

17 There's going to be a lot of testimony and I want
18 you to pay close attention, because at the end of this
19 trial the State is going to ask you to find this
20 Defendant, Barry Stanley, guilty of trafficking cocaine
21 base and guilty of failing to stop for a blue light or
22 siren.

23 Now, briefly I'm going to just describe what
24 trafficking in cocaine base is and what failing to stop
25 for a blue light is. Trafficking sounds very

1 complicated but in reality it's very simple. If
2 anything I say conflicts with what the Judge might say,
3 in reality to find the Defendant guilty of trafficking
4 all the State has to prove is that he was in possession
5 of those drugs, that the drugs were a controlled
6 substance in this state, that they were cocaine base,
7 and that those drugs weighed more than 28 grams or less
8 than 100 grams, and that's it.

9 For failing to stop for a blue light, we have to
10 prove that this Defendant, while being signaled by blue
11 lights and sirens, did not stop and that there was no
12 good reason for him not to stop, otherwise there were
13 no mitigating circumstances as to why he didn't stop.
14 So while you're going to hear a lot of testimony and
15 there's going to be a lot of detail and that detail is
16 important, when it boils right down to it, it's very
17 simple and at the end the State is going to ask you to
18 find this Defendant guilty of trafficking cocaine base
19 and failing to stop for a blue light. Thank you.

20 THE COURT: Mr. Schwacke.

21 MR. SHWACKE: Thank you, Your Honor.

22 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

23 MR. SHWACKE: We get to go last and the Judge has
24 already told you in her opening comments to you that
25 what we say as attorneys isn't evidence, so I'm not

(EVETTE NELSON-DIRECT BY MR. PATTERSON)

1 going to stand in the way of getting testimony
2 underway. Suffice to say the State has told you what
3 they need to prove. We're going to dispute that at the
4 end of the trial whether they have, so it's important
5 that you pay attention during your time as jurors, not
6 only to what is said from the witness stand but what
7 you don't hear and unfortunately that might not be
8 something that becomes clear until the very end of the
9 trial. So I ask for your attention, that you pay
10 attention not only to the testimony or the existence
11 but you start to ask yourself, hey, there's something
12 missing here. I'm convinced at the end of the trial
13 you'll find that factor that's missing.

14 THE COURT: Call your first witness.

15 MR. PATTERSON: Thank you, Your Honor. The State
16 calls Evette Nelson.

17 (Witness sworn)

18 THE CLERK: Please be seated and state your full
19 name and spell your last name for the record.

20 THE WITNESS: Evette -- N-E-L-S-O-N.

21 EVETTE NELSON, after being duly sworn, testified
22 as follows:

23 DIRECT EXAMINATION

24 BY MR. PATTERSON:

25 Q. Evette, how are you doing today?

(EVETTE NELSON-DIRECT BY MR. PATTERSON)

1 A. Okay.

2 Q. Are you working currently?

3 A. Yes.

4 Q. And how long have you been working?

5 A. (Inaudible)

6 Q. I'm sorry?

7 A. At the job I have now?

8 Q. Uh-huh.

9 A. For five months.

10 Q. Five months? And what type of work is it?

11 A. I'm a cashier.

12 Q. And Evette, you have some criminal convictions;
13 right?

14 A. Uh-huh.

15 THE COURT: Is that a yes? I'm going to need you
16 to answer yes or no. She's got to write down
17 everything that you say. She can't put uh-huh and so
18 it has to be yes or no.

19 THE WITNESS: Okay.

20 THE COURT: Thank you.

21 THE WITNESS: You're welcome.

22 Q. Do you have a conviction for shoplifting in 2011?

23 A. Yes, sir.

24 Q. And a conviction for obstruction of justice in
25 2013?

(EVETTE NELSON-DIRECT BY MR. PATTERSON)

1 A. Yes, sir.

2 Q. And also a conviction for unlawful conduct to a
3 child in 2013?

4 A. Yes, sir.

5 Q. Where were you living on -- well, before we get to
6 that, are you here to tell the truth today?

7 A. Yes.

8 Q. Where were you living on March 11, 2013? Do you
9 remember the address?

10 A. 6420.

11 Q. Would it help if I show you your statement to
12 refresh your recollection?

13 MR. PATTERSON: Your Honor, may I approach?

14 THE COURT: You may.

15 Q. What is that address?

16 A. 6240 Old Point Road, Apartment 8A, Hanahan, South
17 Carolina.

18 Q. Are you a little bit nervous today?

19 MR. SHWACKE: Your Honor, may I see the ---

20 THE COURT: Yes.

21 MR. PATTERSON: I apologize.

22 Q. Do you remember what happened that day?

23 A. Uh-huh.

24 Q. Is that a yes?

25 A. Yeah.

(EVETTE NELSON-DIRECT BY MR. PATTERSON)

1 Q. Where were you coming from when you got home that
2 day?
3 A. I was picking my kids up from daycare.
4 Q. And did you notice any type of smell when you were
5 walking into your apartment?
6 A. It was a strong smell outside.
7 Q. And was that unusual?
8 A. Not -- I mean, no, not really.
9 Q. What did the Defendant tell you that smell was?
10 A. That he was smoking.
11 Q. What was he smoking?
12 A. (Inaudible)
13 Q. And were you happy about that?
14 A. No.
15 Q. What did the kitchen look like?
16 A. Dirty.
17 Q. And did you notice anything about the microwave?
18 A. (Inaudible)
19 Q. What did it look like?
20 A. Like a person just don't know how to clean the
21 kitchen.
22 Q. What would you describe the microwave as looking
23 like?
24 A. A grits festival.
25 Q. Say that again?

(EVETTE NELSON-DIRECT BY MR. PATTERSON)

- 1 A. A grits festival.
- 2 Q. So was it messy?
- 3 A. Yeah, he say he just got through ---
- 4 Q. Did you see any ---
- 5 A. --- eating some grits.
- 6 Q. Did you see any -- a box of grits?
- 7 A. I didn't. I don't eat boxed grits.
- 8 Q. Did -- were you angry about that, the way it
- 9 looked?
- 10 A. Yeah, because I wish he would just clean up the
- 11 mess.
- 12 Q. Have you ever seen him with drugs in your house?
- 13 A. No.
- 14 Q. Did he have drugs in the house that day?
- 15 A. No.
- 16 MR. PATTERSON: Your Honor, may I approach?
- 17 THE COURT: You may.
- 18 MR. SHWACKE: Your Honor, just for the record
- 19 could we put on the time or the date of this particular
- 20 item she's refreshing her memory with?
- 21 Q. Evette, when did you write this statement?
- 22 A. March 11, 2013.
- 23 Q. So that was the day this incident occurred?
- 24 A. Yes.
- 25 Q. And what does that say you were mad at the

(EVETTE NELSON-DIRECT BY MR. PATTERSON)

1 Defendant about?

2 A. When I got home he told me -- he told me what he
3 did. I can't read it.

4 Q. Just read that section.

5 A. Might as well because I wouldn't allow him to keep
6 drugs in my house.

7 Q. So what made you think he had drugs in the house
8 that day?

9 A. Because he said he was smoking.

10 Q. Did you see him placing anything in a bag?

11 A. (No response)

12 MR. PATTERSON: Your Honor, may I approach?

13 THE COURT: You may.

14 Q. This is another statement you wrote. When did you
15 write this statement?

16 A. March 14th, 2013.

17 Q. If you could read this last portion down here onto
18 the second page.

19 A. And then I saw -- and then I saw the crack.

20 Q. And on the next page?

21 A. Put in a bag.

22 Q. Now, did you get into an argument that day with
23 the Defendant?

24 A. Yes.

25 Q. And what happened as a result of that argument?

(EVETTE NELSON-DIRECT BY MR. PATTERSON)

1 A. We ended up fighting.

2 Q. And did you escape from the apartment?

3 A. Yes.

4 Q. And was that because you were afraid for your
5 safety?

6 A. Yes.

7 Q. And what did you do when you ran outside?

8 A. Looked for anyone who would be able to help me.

9 Q. And who did you find?

10 A. The neighbors that was outside.

11 Q. And who called the police?

12 A. At that time I wasn't sure who actually did it. I
13 didn't know if it was the wife or the husband, but I
14 know one of them did it.

15 Q. And did the Defendant take your car that day?

16 A. I was inside the neighbor's house when that was
17 going on.

18 Q. Was your car there when you got back?

19 A. No.

20 Q. Who do you think took it?

21 A. Mr. Stanley.

22 Q. Evette, I'm going to show you what's been marked
23 for identification as State's Exhibits 1, 2, 3 and 4.

24 MR. PATTERSON: Your Honor, may I approach?

25 THE COURT: You may.

(EVETTE NELSON-DIRECT BY MR. PATTERSON)

1 Q. Evette, take a look at these exhibits. Do you
2 recognize those?

3 A. (No response)

4 Q. Do you recognize that vehicle?

5 A. (Inaudible)

6 Q. Is that a yes?

7 A. Uh-huh. Yes.

8 Q. How are you able to recognize that vehicle?

9 A. That's my car.

10 Q. Is that a fair and accurate representation of the
11 way it looked?

12 A. Uh-huh.

13 Q. Is that a yes?

14 A. Yes.

15 MR. PATTERSON: Your Honor, at this time I'd like
16 to -- the State would ask that State's 1, 2, 3 and 4 be
17 admitted into evidence.

18 MR. SHWACKE: No objection.

19 THE COURT: State's 1, 2, 3 and 4 into evidence
20 without objection.

21 MR. PATTERSON: Permission to publish?

22 THE COURT: You may.

23 Q. Is this the vehicle the Defendant left the
24 apartment complex in?

25 A. (Inaudible)

(EVETTE NELSON-DIRECT BY MR. PATTERSON)

1 Q. I'm sorry?

2 A. Yes.

3 Q. And did officers respond to talk with you?

4 A. Yeah, the officers was talking to me.

5 Q. And did you tell them who took your car?

6 A. Yes.

7 Q. And who did you tell them took it?

8 A. Barry Stanley.

9 Q. And he is in the courtroom today?

10 A. Yes.

11 Q. Can you point him out for me?

12 A. Uh-huh.

13 Q. What's he wearing?

14 A. A button-up.

15 Q. And did you tell the officers who met with you the
16 Defendant had anything in the car with him?

17 A. I don't remember talking to them.

18 MR. PATTERSON: Your Honor, may I treat my witness
19 as hostile? May I start asking leading questions?

20 MR. SHWACKE: May we approach?

21 THE COURT: Yes.

22 (Whereupon, a bench conference was held off the
23 record in the presence of the jury, but out of the
24 hearing of the jury.)

25 Q. Evette, did you tell officers that there might

(EVETTE NELSON-DIRECT BY MR. PATTERSON)

1 have been drugs and guns in the car ---

2 A. Huh-uh.

3 Q. --- when they met with you? Do you not remember
4 or is that a no?

5 A. (Inaudible)

6 Q. While officers were at your house, did you have
7 any contact with the Defendant on the phone?

8 A. Only thing I remember is the officer, she was
9 asking me questions and taking pictures.

10 Q. When the pursuit ended did he tell you where he
11 was?

12 A. Not that I can recall because the officer at the
13 time, she was asking me were we in the house and she
14 was asking me where -- when I was fighting, where, you
15 know, I got hit and everything and she just wanted to
16 take pictures.

17 Q. So she took pictures of you for getting hit?

18 A. Uh-huh.

19 Q. Did you provide a written statement that day to
20 police?

21 A. Yes.

22 Q. And in that statement who did you identify as the
23 person that you got into a fight with?

24 A. That day actually?

25 Q. Uh-huh.

(EVETTE NELSON-DIRECT BY MR. PATTERSON)

1 A. Barry Stanley.

2 Q. Did you make another statement to police?

3 A. Yes.

4 Q. When did you make that statement?

5 A. I'm not sure of the day. Probably the day of the
6 12th.

7 MR. PATTERSON: Your Honor, may I approach?

8 THE COURT: You may.

9 Q. Can you tell me the date of that?

10 A. March 12th.

11 Q. Was that the very next day?

12 A. Yes.

13 Q. What did you tell them in that statement?

14 A. When?

15 Q. No, what did you tell them?

16 A. On March 11, 2013 I made a false statement that
17 Barry Stanley was mad and took my vehicle. I was just
18 mad at him because we just not too long broke up and he
19 gave me a STD and I was very hurt by that. Deangelo
20 Watson is the guy who really put his hands on me and
21 slapped me in the face, punching me in the face and
22 kicking me to make sure that I wasn't the only ---

23 Q. Did ---

24 A. --- but I ---

25 Q. I'm sorry. I didn't mean to cut you off. Keep

(EVETTE NELSON-DIRECT BY MR. PATTERSON)

1 going.

2 A. --- but I was able to get away and we called the
3 police and that's when -- that's when he pursued the
4 police.

5 Q. Is Deangelo Watson actually the person who did
6 those things?

7 A. (No audible response)

8 Q. Is that a no?

9 A. I mean, it seems like he was there. So when I ran
10 out of the house I left my kids in the house and ran to
11 the neighbors.

12 MR. PATTERSON: Your Honor, may I approach?

13 THE COURT: You may.

14 Q. Please read this last statement for me. When did
15 that statement take place?

16 A. March 14, 2013. On March 11 ---

17 Q. So that was two days after your second statement?

18 A. Yes, this was when the DA came and got me.

19 Q. What does that statement say?

20 A. The last one?

21 Q. Uh-huh.

22 A. On March 11 the statement that I told about Barry
23 was true on the 11th of March. I went to my class and
24 dropped off the kids at the Sunshine Home and then all
25 of that. He called me around my lunch hour and was mad

(EVETTE NELSON-DIRECT BY MR. PATTERSON)

1 because I didn't call him in time. Anyway when I got
2 home around 3:30 or 4 o'clock I walked into my front
3 door and I smelled an unusual smell and asked him what
4 is that smell and he said oh, I was just smoking a
5 cabbie, so when I went to look at the kids -- to -- I
6 guess that's look -- the kids -- no, cook the kids some
7 noodles I saw the white tiny spots in the microwave and
8 he told me that he was cooking himself some grits and
9 sausage.

10 Q. What does the end say after cooking grits and
11 sausage?

12 A. And that's when I saw -- and that's when I saw the
13 crack. I can't tell what that says.

14 Q. That's okay. Just read the second page.

15 A. That's when I saw the crack that he was putting in
16 a bag.

17 Q. Thank you.

18 MR. PATTERSON: Court's indulgence.

19 THE COURT: Take your time.

20 Q. Evette, when you changed your story is that
21 because you were afraid of the Defendant?

22 A. I was more worried about my kids than anything.

23 Q. Did you tell police you changed your story because
24 you felt intimidated?

25 A. All I know is I just was more -- (inaudible).

(EVETTE NELSON-CROSS BY MR. SCHWACKE)

1 Q. Did you tell police while they were on scene that
2 he called you from Maple Street? He was hiding under a
3 house? You don't remember that conversation?

4 A. Only thing I kept telling the police that day that
5 I needed to go get my kids at the time from the
6 neighbors and that's it because the neighbors had my
7 kids and I was just -- I'm a single parent. All I did
8 was just worried about my kids.

9 MR. PATTERSON: Court's indulgence.

10 Q. Did you plead guilty to the obstruction of justice
11 for lying about your second statement?

12 A. They didn't tell me why I was getting obstruction
13 of justice. They just told me that I was being charged
14 for obstruction of justice and two counts of unlawful
15 conduct towards a child.

16 MR. PATTERSON: Nothing further.

17 THE COURT: Mr. Schwacke?

18 CROSS-EXAMINATION

19 BY MR. SCHWACKE:

20 Q. Evette, you have two children?

21 A. Yes, sir.

22 Q. What are their ages?

23 A. Three and two.

24 Q. And you used to have a relationship with Mr.
25 Stanley?

(EVETTE NELSON-CROSS BY MR. SCHWACKE)

- 1 A. Yes.
- 2 Q. How long have y'all known each other?
- 3 A. Two.
- 4 Q. Sorry?
- 5 A. I believe about two years.
- 6 Q. Two years. And you mentioned another person named
- 7 Deangelo Watson?
- 8 A. Yes, sir.
- 9 Q. Do you know him?
- 10 A. Yes.
- 11 Q. The State has shown you three different
- 12 statements.
- 13 A. Yes, sir.
- 14 Q. There was one that's dated the 11th of March.
- 15 A. Uh-huh.
- 16 Q. One that's dated the 12th of March.
- 17 A. Uh-huh.
- 18 Q. And one that's dated the 14th of March.
- 19 A. Uh-huh.
- 20 Q. And each one of those was to a separate police
- 21 officer; is that right?
- 22 A. Uh-huh.
- 23 Q. So the first one was to an Officer Ellwood, or do
- 24 you remember?
- 25 A. I ---

(EVETTE NELSON-CROSS BY MR. SCHWACKE)

1 Q. Don't remember? The second one was to Officer
2 Beaudoin? Don't remember? Officer Waddell?

3 A. I remember him.

4 Q. And was he the last one?

5 A. He was -- yeah, I believe he was the last one
6 because he -- I remember him. I remember him, like, he
7 was the big scary guy.

8 Q. Big scary guy? What do you mean?

9 A. Because I remember him saying that he would take
10 my kids from me if I didn't tell them where Mr. Stanley
11 was, and I told him I didn't know where Mr. Stanley was
12 at the time and he was, like, I can help you as much as
13 I can if you'll tell me where Mr. Stanley is, and I
14 told him I don't know where Mr. Stanley is. I have no
15 contact with Mr. Stanley. So when he came to my house
16 on the 14th that was when he was supposed to be looking
17 for a cell phone. He said do you know where the cell
18 phone device is. They took my cell phone.

19 Q. They found two cell phones in your apartment;
20 right?

21 A. I don't know nothing about no second cell phone.
22 All I know is that I was about to leave the apartment
23 because I went back to the apartment to go get some
24 clothing for me and my kids and some food and when I
25 was about to leave, waiting on my stepmom to come, Ms.

(EVETTE NELSON-CROSS BY MR. SCHWACKE)

1 Mary Ann Cookson, they snatched the door open and I had
2 the cell phone in my hand to talk to my mom and that's
3 when he threw me in handcuffs and he was, like, if you
4 won't tell us where Stanley is at I promise you I'm
5 going to call DSS and I'm going to get your kids taken
6 away from you.

7 And I really thought he was, like, BSing and I
8 was, like, yeah, whatever. And when he actually got on
9 the phone and started calling DSS, I went berserk so I
10 -- why are you calling DSS on my kids? I didn't do
11 anything wrong.

12 Q. So did you have stored phone numbers in your
13 telephone -- cell phone?

14 A. Stored numbers? Yeah.

15 Q. Do you know who the name Angelo in your phone?

16 A. Yeah.

17 Q. Who's that?

18 A. That's Deangelo.

19 Q. Deangelo who?

20 A. Watson.

21 Q. So you knew each other?

22 A. Oh, yes.

23 Q. How long have you known him?

24 A. I've known Angelo for, like, years, like, a couple
25 of years.

(EVETTE NELSON-CROSS BY MR. SCHWACKE)

1 Q. You and I have never met.

2 A. No, sir.

3 Q. I've never talked to you before.

4 A. No, sir.

5 Q. And again, you've already admitted to the State
6 you've pled guilty to unlawful conduct towards a child
7 and ---

8 A. And you want the truth? That was the deal that
9 was given to me. It was either that or 30 years in
10 jail, as I was told by my lawyer, so I took my
11 probation because I was more -- like I say, I'm more
12 worried about my kids than I worry about anything else
13 in life.

14 Q. When is the last time you've seen your statements?

15 A. I saw my statements today isn't a week. Today is
16 Monday so I saw my statements, like, about three or
17 four days ago.

18 Q. Where was that?

19 A. In my house.

20 Q. Somebody from the Solicitor's Office?

21 MR. SHWACKE: One moment, Judge.

22 Q. When the State was asking questions, you made a
23 comment about Deangelo being there. What do you mean
24 by that?

25 A. He was over at the apartment.

(EVETTE NELSON-REDIRECT BY MR. PATTERSON)

1 Q. I'm sorry?

2 A. He was over at the apartment so he would have been
3 there.

4 Q. Now, the Crown Vic, is that your car?

5 A. Yeah.

6 Q. You actually own it?

7 A. Yes, sir.

8 Q. And you indicated you and Mr. Stanley have known
9 each other for a while.

10 A. Yes, sir.

11 Q. Does he have permission to use your car?

12 A. At all times.

13 Q. So he's used it before?

14 A. Yeah.

15 MR. SHWACKE: That's all the questions I have.

16 THE COURT: Mr. Patterson:

17 MR. PATTERSON: Just briefly, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. PATTERSON:

20 Q. Evette, who was in your house that day when ---

21 A. My kids, Angelo, Mr. Stanley, my sister. Oh, are
22 you talking about when this all happened?

23 Q. Yes.

24 A. Angelo was there, Stanley was there, I was there,
25 my kids was there and I want to say my sister, she left

(EVETTE NELSON-RECROSS BY MR. SCHWACKE)

1 before all this went down because she came by. She
2 wanted some pills.

3 Q. Did the officer see Angelo there?

4 A. At the time there wasn't nobody there but just my
5 kids in the house, when the officers came in. One of
6 my sons was outside with the neighbor and my 11-month-
7 old at the time, I believe I left him inside.

8 Q. Who did you say assaulted you to your neighbors?

9 A. My boyfriend.

10 Q. Who is that?

11 A. Stanley.

12 MR. PATTERSON: Nothing further at this time, Your
13 Honor.

14 THE COURT: Mr. Schwacke?

15 RECROSS-EXAMINATION

16 BY MR. SCHWACKE:

17 Q. And you were the victim in that assault case?

18 A. Sir?

19 Q. You would be the victim in the assault case?

20 A. Yes, sir.

21 Q. Has that ever gone to Court?

22 A. No, sir.

23 MR. SHWACKE: That's all the questions I have.

24 THE COURT: Thank you. You may step down. Call
25 your next witness.

(TANYA DEANE-DIRECT BY MR. PATTERSON)

1 MR. PATTERSON: Your Honor, may we approach?

2 (Whereupon, a bench conference was held off the
3 record in the presence of the jury, but out of the
4 hearing of the jury.)

5 MR. PATTERSON: The State calls Tanya Deane.

6 THE COURT: Ma'am, please come forward and be
7 sworn.

8 (Witness sworn)

9 THE CLERK: Please be seated, state your full name
10 and spell your last name for the record.

11 THE WITNESS: Tanya Adriana Deane, and the last
12 name is D-E-A-N-E.

13 TANYA DEANE, after being duly sworn, testified as
14 follows:

15 DIRECT EXAMINATION

16 BY MR. PATTERSON:

17 Q. Good afternoon, Ms. Deane. Where do you live?

18 A. 6240 Old Point Road, Unit A2, Hanahan, South
19 Carolina.

20 Q. And what is your relation to Greg Rider and
21 Preston Kornahrens?

22 A. Greg is my husband and Preston is our son.

23 Q. And do you know Evette Nelson?

24 A. Yes, sir.

25 Q. And how do you know her?

(TANYA DEANE-DIRECT BY MR. PATTERSON)

- 1 A. She was a neighbor.
- 2 Q. At the apartment complex?
- 3 A. Yes, sir.
- 4 Q. And how did you first meet her?
- 5 A. Met her on property I believe when she was doing
- 6 laundry in the laundry room right across from where we
- 7 live.
- 8 Q. And did you meet the Defendant Barry Stanley?
- 9 A. Yes.
- 10 Q. And when did you meet him?
- 11 A. She had introduced me to him, again, when she was
- 12 doing laundry.
- 13 Q. And are you able to easily recognize both of them?
- 14 A. Yes, sir.
- 15 Q. So you've met them numerous times. Where is their
- 16 apartment in relation to your apartment?
- 17 A. Theirs is -- ours is right across from the laundry
- 18 room in the back corner and theirs is in the exact same
- 19 spot but yet at the other side of the same building, so
- 20 we're in the same building.
- 21 Q. And were you involved in an incident involving
- 22 Evette Nelson and Barry Stanley on March 11, 2013?
- 23 A. Yes, sir.
- 24 Q. And what happened on that day?
- 25 A. That afternoon my husband and our son were out

(TANYA DEANE-DIRECT BY MR. PATTERSON)

1 playing basketball, I was in the house cleaning, and
2 all of the sudden Greg came to the door and asked me to
3 call 911. Evette was in trouble. And he told me to
4 let her in when she came down and to take care of her
5 and call the police.

6 So he went out and the next thing Evette came to
7 my door, ran inside, slammed the door and she was just
8 hysterical saying that Barry was going to kill her, he
9 was after her and would I please help her, please help
10 her. And I was on the phone with the police calling
11 911.

12 Q. And did she mention any third party, a Deangelo
13 Watson?

14 A. No.

15 Q. It was just -- the only thing she talked about was
16 Barry Stanley?

17 A. Right. Yes, sir.

18 Q. And did she appear fearful of him?

19 A. Absolutely.

20 Q. And what happened to her children during the
21 incident?

22 A. The children were -- when I asked her where the
23 children were, if they were okay, she said that they
24 were down in her condo, so at that point we were just
25 staying inside, as the police told me on the phone to

(TANYA DEANE-DIRECT BY MR. PATTERSON)

1 stay inside until they got there.

2 Q. And did you call the police?

3 A. Yes, sir.

4 Q. And why did you call them?

5 A. Well, my husband told me what all was going on and
6 when Evette came in and told me that she was afraid for
7 her life and for the children, I immediately had
8 already called them to try and help her.

9 Q. And did you give a statement in this case?

10 A. I did.

11 Q. Did you ever see the Defendant Barry Stanley
12 driving a vehicle?

13 A. Yes.

14 Q. What vehicle did you normally see him driving?

15 A. It was a -- well, it was only one vehicle I ever
16 saw him in, was a dark Crown Victoria type older car,
17 two-door or four-door. But it was a dark, dark blue
18 color. He was the only one I ever saw drive it and
19 work on it out in the parking lot.

20 Q. Do you know whose vehicle that actually is?

21 A. I believe Evette told me it was hers.

22 Q. Approximately how many times did you see the
23 Defendant Barry Stanley driving that vehicle?

24 A. Probably around seven times while they were there.

25 MR. PATTERSON: No further questions.

(TANYA DEANE-CROSS BY MR. SCHWACKE)

1 THE COURT: Mr. Schwacke?

2 MR. SHWACKE: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. SCHWACKE:

5 Q. Ms. Deane, the day of this incident ---

6 A. Yes, sir.

7 Q. --- the only person that you saw with regard to
8 the incident was Evette.

9 A. Evette and her children.

10 Q. Correct. You didn't see any -- you didn't see Mr.
11 Stanley at all?

12 A. No, sir.

13 Q. You were inside your house.

14 A. Taking care of Evette.

15 Q. And the only things you saw were the people that
16 came into your house?

17 A. Yes, sir.

18 Q. Which would have included your husband and Evette.

19 A. Yes, sir.

20 Q. And how long had you known Evette?

21 A. I believe that they lived there, I want to say,
22 like, three or four months, somewhere -- it wasn't a
23 very long period of time.

24 Q. Did you notice any injuries on Evette?

25 A. No, sir.

(GREG RIDER-DIRECT BY MR. CONDON)

1 MR. SHWACKE: That's all I have.

2 MR. PATTERSON: No more questions, Your Honor.

3 THE COURT: You may step down. Call your next
4 witness.

5 MR. CONDON: The State calls Greg Rider.

6 (Witness sworn)

7 THE CLERK: Please be seated, state your full name
8 and spell your last name for the record.

9 THE WITNESS: Greg Rider -- R-I-D-E-R.

10 GREG RIDER, after being duly sworn, testified as
11 follows:

12 DIRECT EXAMINATION

13 BY MR. CONDON:

14 Q. Where do you live?

15 A. 6240 Old Point Road, Apartment A2.

16 Q. And who do you live there with?

17 A. Tanya -- Tanya Deane.

18 Q. And who else?

19 A. And Preston also.

20 Q. Where do you work?

21 A. I'm self-employed.

22 Q. And do you know Evette Nelson?

23 A. Yes, we do.

24 Q. And how do you know her?

25 A. She moved into our building and we've been there

(GREG RIDER-DIRECT BY MR. CONDON)

1 for seven years, so we kind of know everybody in the
2 neighborhood. We try to watch out for everybody, so we
3 kind of befriended her the day that she moved in and we
4 saw her -- you know, I saw her probably every other
5 day.

6 Q. And do you know the Defendant Barry Stanley?

7 A. Yes, he was -- he lived there with her along with
8 the two boys and him.

9 Q. And did you have a chance to meet him?

10 A. I introduced myself and told him that if he needs
11 anything, you know, just come on by if he has any
12 questions or anything, stuff like that.

13 Q. So you know him by face and name?

14 A. Yes, sir.

15 Q. So you would easily be able to recognize him if
16 you saw him?

17 A. Yes, sir.

18 Q. And did you witness an incident involving the
19 Defendant Barry Stanley on March 11, 2013?

20 A. Yeah, myself, my son and a friend of ours who
21 lives in the complex as well, we were playing
22 basketball right in the little parking lot there and
23 Evette came running out of her unit, frantic, telling
24 us call the police, call the police, he's beating me,
25 he's going to kill me and, you know, she ran right to

(GREG RIDER-DIRECT BY MR. CONDON)

1 us. And we calmed her down and I said okay, Evette.
2 None of us had phones on because we were shooting
3 hoops. Anyway, so right about that time he came out of
4 -- out of his unit, got in his car and ---

5 Q. Who is he? Let me stop you.

6 A. Barry. He got in his car and drove right through
7 the basketball court there, real slow. Evette backed
8 up all the way to the other building. I said honey,
9 she's -- he's not going to hurt you. There's three men
10 here. He went on out of the gate and at that point I
11 took Evette and I brought her to my unit and I told my
12 wife to call the police, there's something going on
13 here. All right.

14 And I had my son go into my -- my unit as well so
15 he'd be with Tanya and Evette, and I went outside just
16 to make sure that he, you know, didn't come back
17 because she was still frantic, afraid that he was going
18 to bust the door down, you know, so I -- I don't know
19 this man. I don't want to risk anything. So I took my
20 phone with me and I went out waiting for the police and
21 at that point I saw him drive back in the complex.

22 He stopped in front of his unit. He got out of
23 his car. The car was running. He left the door open
24 to his car, went into his unit and at that point I was
25 thinking oh, God, is he going to take the kids. You

(GREG RIDER-DIRECT BY MR. CONDON)

1 know, I got a little frightened for their sake, you
2 know, but he came right back out and got in his car and
3 he drove all the way up to where I was and stopped his
4 vehicle and we, you know, kind of, looked at each other
5 and I held up my phone and I said they're coming, you
6 know, meaning the police are coming. At that point he
7 left the complex and not more than probably 15 seconds
8 later the police arrived.

9 Q. And on that date did you see another black male
10 with him?

11 A. No, I didn't see anyone.

12 Q. Did you see another black male in the car besides
13 him?

14 A. No, he was alone.

15 Q. No doubt in your mind about that?

16 A. He was alone.

17 Q. And what was Evette's demeanor when she came down?

18 A. She was frantic. She was scared.

19 Q. And can you describe the car that you saw flee the
20 scene?

21 A. It's dark blue, all wheels. It's got huge wheels
22 on it, huge silver rims. Looked like an older model,
23 painted real nice, real dark blue color, like an old
24 police car.

25 Q. And have you ever seen the Defendant Barry Stanley

(GREG RIDER-DIRECT BY MR. CONDON)

1 driving that vehicle?

2 A. I have only seen him drive that vehicle. I've
3 never seen Evette driving that vehicle.

4 Q. Do you know whose car it is?

5 A. Evette told me it was her car.

6 Q. So on that day you got a pretty clear look at the
7 person who was ---

8 A. Twice. He drove through the basketball court, you
9 know, right next to us and drove right up to my unit
10 and then stopped for, you know, like five seconds.

11 Q. And is the person that you saw driving in that
12 Crown Victoria -- or excuse me -- the car that you
13 described -- is he present in the courtroom today?

14 A. Yes, sir, he's sitting right there.

15 Q. Could you point him out and describe him?

16 A. He's wearing a tan shirt. This black gentleman
17 right here next to the ---

18 Q. And what's his name?

19 A. Two things. I thought -- I thought he was
20 introduced to me as Barry and then my wife called him
21 Jay, so I don't know.

22 Q. That's his nickname maybe? Jay? So is that Barry
23 Stanley?

24 A. That looks like Barry Stanley.

25 Q. And that's the person you saw driving the car that

(GREG RIDER-DIRECT BY MR. CONDON)

1 day?

2 A. He was driving Evette's car.

3 Q. Any doubt in your mind?

4 A. No, sir.

5 MR. CONDON: Please let the record reflect that

6 the witness has identified the Defendant.

7 THE COURT: Any objection, Mr. Schwacke?

8 MR. SHWACKE: No objection.

9 Q. And at any point in time did officers come back by
10 a couple of days later?

11 A. Yes, Officer Nelson came back by and showed me a
12 picture of six or so people and asked me if I
13 recognized anybody. You know, before she could even
14 speak I pointed it out to her.

15 Q. I'm going to show you what's been identified as
16 State's Exhibit Number 17. Do you recognize that
17 document?

18 A. That's my scribble.

19 Q. And what is that?

20 A. I circled this picture and dated it and put my
21 initials.

22 Q. Is that a true version of the photo lineup you
23 were provided that day?

24 A. Sure is.

25 MR. CONDON: The State asks that State's Exhibit

(GREG RIDER-CROSS BY MR. SCHWACKE)

1 17 be moved into evidence.

2 MR. SHWACKE: No objection.

3 THE COURT: State's 17 into evidence without
4 objection.

5 MR. CONDON: And permission to publish?

6 THE COURT: You may.

7 Q. And when you were shown that lineup who did you
8 identify on there?

9 A. Number one looks like him.

10 Q. And who is that?

11 A. That's Barry.

12 Q. Was there any doubt in your mind?

13 A. No, sir.

14 MR. CONDON: No further questions.

15 THE COURT: Mr. Schwacke?

16 CROSS-EXAMINATION

17 BY MR. SCHWACKE:

18 Q. You went inside your apartment at some point when
19 this first happened?

20 A. We -- just to get Evette inside, you know, and
21 explain to my wife what was happening.

22 Q. So if there had been another black male there who
23 left, you wouldn't have known it during that time
24 frame?

25 A. If there was another black male where?

(GREG RIDER-REDIRECT BY MR. CONDON)

1 Q. At the apartment, Evette's apartment.

2 A. Well, there was no strange vehicle there.

3 Q. I'm just saying is there a period of time that you
4 would not have been able to see anyone come or go from
5 Evette's apartment.

6 A. Yes, probably 15 seconds.

7 Q. Did you see any injuries to Evette

8 A. No, I asked her but, you know ---

9 Q. You didn't see?

10 A. --- I didn't see her bleeding or anything like
11 that, no, but she was scared. That's for sure.

12 MR. SHWACKE: That's all the questions I have.

13 MR. CONDON: One quick question to clarify.

14 REDIRECT EXAMINATION

15 BY MR. CONDON:

16 Q. So what was the time frame where you did not have
17 a view of the parking lot, who was coming out of the
18 apartment?

19 A. Ten or 15 seconds, if that.

20 MR. CONDON: No further questions.

21 THE COURT: Mr. Schwacke?

22 MR. SHWACKE: No further questions.

23 THE COURT: You may step down. Thank you. Call
24 your next witness.

25 MR. CONDON: The State calls Detective Camp.

(AMANDA CAMP-DIRECT BY MR. CONDON)

1 THE COURT: Please come forward and be sworn
2 (Witness sworn)

3 THE CLERK: Please be seated, state your full name
4 and spell your last name for the record.

5 THE WITNESS: My name is Detective Amanda Camp --
6 C-A-M-P.

7 AMANDA CAMP, after being duly sworn, testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MR CONDON:

11 Q. Good afternoon, Detective Camp. Who are you
12 employed by?

13 A. City of Hanahan.

14 Q. And what is your job title?

15 A. I'm a detective.

16 Q. Now, can you describe for the jury some of your
17 duties as a detective?

18 A. As a detective I investigate crimes against
19 persons, property crimes.

20 Q. Do you handle a lot of domestic violence cases?

21 A. I do handle them.

22 Q. And did you respond to an incident involving the
23 Defendant Barry Stanley on March 11, 2013?

24 A. I did.

25 Q. And what was the nature of the call?

(AMANDA CAMP-DIRECT BY MR. CONDON)

1 A. It was a domestic dispute in progress.

2 Q. And when you arrived on scene, what information
3 did you receive about what was going on?

4 A. I received -- a bystander waved me down and
5 informed me that the suspect had left in a Crown Vic.

6 Q. And did you relay that information?

7 A. I did.

8 Q. Who did you relay that to?

9 A. I relayed it to control and it went out to
10 everyone on the radio.

11 Q. At any time did you meet with the -- with Evette
12 Nelson?

13 A. I did.

14 Q. And what was her demeanor like?

15 A. She was very upset. She was breathing heavy and
16 talking very quickly.

17 Q. Did she appear to be fearful?

18 A. Yes.

19 Q. And who did she tell you was involved

20 A. Barry Stanley.

21 Q. Did she mention a Deangelo Watson at that time?

22 A. No, sir.

23 Q. Did she mention anybody else involved?

24 A. No, sir.

25 Q. And, in fact, did she provide you a picture of the

(AMANDA CAMP-DIRECT BY MR. CONDON)

1 person who was involved?

2 A. She did.

3 Q. Let me show you what's been previously marked for
4 ID purposes as State's Exhibit 6. Do you recognize
5 that picture?

6 A. I do.

7 Q. And how do you recognize that picture?

8 A. That's the picture I took off of her cell phone.

9 Q. Is that a true and accurate copy of the picture?

10 A. It is.

11 MR. CONDON: The State asks that Exhibit 6 be
12 admitted into evidence.

13 MR. SHWACKE: Without objection.

14 THE COURT: State's 6 admitted without objection.

15 MR. CONDON: And permission to publish?

16 THE COURT: Yes.

17 Q. And can you just describe what that is?

18 A. It's a picture that she stated was of Barry
19 Stanley.

20 Q. The gentleman that attacked her?

21 A. Yes.

22 Q. And that fled the scene?

23 A. Yes.

24 Q. And what did you do with this picture? Did you
25 relay it to anybody?

(AMANDA CAMP-DIRECT BY MR. CONDON)

1 A. I did. I relayed it to the units that were
2 pursuing him.

3 Q. Did Evette Nelson at the time appear to be fearful
4 of Barry Stanley?

5 A. She did.

6 Q. Did she inform you what the argument was over that
7 day?

8 A. She did.

9 Q. What was that?

10 A. She stated that they were arguing because she
11 didn't want him keeping drugs in the house with her two
12 small children.

13 Q. While you were on scene was any additional
14 information relayed by Ms. Nelson about the whereabouts
15 of the Defendant Barry Stanley?

16 A. Yes.

17 Q. What did she tell you?

18 A. She stated -- she stated that he was hiding under
19 a house.

20 Q. Do you know where?

21 A. She did not know where.

22 Q. And did you take a statement from Evette Nelson at
23 that time?

24 A. I did.

25 MR. CONDON: No further questions.

(AMANDA CAMP-CROSS BY MR. SCHWACKE)

1 THE COURT: Mr. Schwacke?

2 MR. SHWACKE: Thank you.

3 CROSS-EXAMINATION

4 BY MR SCHWACKE:

5 Q. How did you distribute this picture?

6 A. (Inaudible)

7 Q. So is there some widespread system at the Hanahan
8 Police Department that you can automatically send that
9 to all units?

10 A. I sent it via text message to the units whose
11 phone numbers I had and they sent it out to others.

12 Q. And that picture was taken from a cell phone;
13 correct?

14 A. Yes.

15 Q. It's a cell phone picture taken of a cell phone
16 picture?

17 A. Yes

18 Q. And did any officers make any identification from
19 that? Are you aware of that?

20 A. I'm not aware.

21 Q. Specifically Officer Dodd? You're not aware of
22 that?

23 A. (Inaudible)

24 Q. And do you know who the bystander was that you
25 first came in contact with?

(AMANDA CAMP-CROSS BY MR. SCHWACKE)

1 A. I do not.

2 Q. You do not? Was it someone you may have seen
3 today waiting to come in and testify?

4 A. No.

5 Q. So you were doing the investigation as a criminal
6 domestic violence charge?

7 A. Yes.

8 Q. And you noted in your report that you did not
9 observe any major injuries to Evette.

10 A. There was a small cut.

11 Q. On her left shin? But then she showed you marks
12 on her chest but you determined that those were not
13 recent and she -- she mentioned something to you when
14 you first arrived, didn't she, about I don't bruise
15 easily?

16 A. Yes.

17 Q. That was a comment she made to you?

18 A. Yes.

19 Q. You mentioned in the report that you did not
20 observe any bruising or redness on her face where she
21 claimed to have been punched.

22 A. Yes.

23 Q. And then she also claimed that Mr. Stanley had had
24 her by the throat?

25 A. I'd have to look it up.

(AMANDA CAMP-REDIRECT BY MR. CONDON)

1 Q. But there was no marks there. She didn't require
2 any medical care?

3 A. No.

4 Q. And the only signs of disturbance you noted in
5 your report were that there were two picture frames
6 which had been knocked askance on a table but not off
7 the table.

8 A. Yes.

9 Q. And that's your total involvement in the case?

10 A. Yes.

11 Q. So you took the one statement?

12 A. Yes, I took the statement and the photo.

13 MR. SHWACKE: Thank you. That's all the questions
14 I have.

15 MR. CONDON: Just briefly.

16 REDIRECT EXAMINATION

17 BY MR. CONDON:

18 Q. Who did Evette Nelson tell you was involved in the
19 CDV incident?

20 A. Barry Stanley.

21 Q. And who did she tell you fled the scene in the
22 car?

23 A. Barry Stanley.

24 Q. And did she make any mention of Deangelo?

25 A. No.

(TRAVIS DODD-DIRECT BY MR. CONDON)

1 MR. SHWACKE: Your Honor, I think he's asked those
2 questions on his original direct.

3 THE COURT: Overruled. Mr. Schwacke, any recross?

4 MR. SHWACKE: No, Your Honor.

5 THE COURT: You may step down. Thank you. Call
6 your next witness.

7 MR. CONDON: Officer Dodd.

8 (Witness sworn)

9 THE CLERK: Please be seated, state your full name
10 and spell your last name for the record.

11 THE WITNESS: Officer Travis Dodd -- D-O-D-D.

12 TRAVIS DODD, after being duly sworn, testified as
13 follows:

14 DIRECT EXAMINATION

15 BY MR. CONDON:

16 Q. Good afternoon, Officer Dodd.

17 A. Afternoon.

18 Q. Who are you employed by?

19 A. The City of Hanahan.

20 Q. And what is your job title

21 A. Currently I'm the school resource officer at
22 Hanahan High School.

23 Q. And did you respond to an incident involving the
24 Defendant Barry Stanley?

25 A. Yes, sir, I did.

(TRAVIS DODD-DIRECT BY MR. CONDON)

1 Q. And can you describe exactly what happened?

2 A. On that day I was using my vehicle for personal
3 use and I heard a lot of radio traffic and I asked
4 Corporal Lanphere if I could help with anything, at
5 which time he described that they were responding to a
6 domestic assault at the apartment complex nearby.

7 Q. And what description were you given of the
8 suspect.

9 A. I was told that a black male driving a dark-
10 colored Crown Vic had left the area.

11 Q. At any time did you witness someone matching that
12 description?

13 A. Yes, sir, I did.

14 Q. And where were you when you witnessed that?

15 A. On Fort Drive.

16 Q. And can you explain to the jury what happened with
17 that?

18 A. Yeah, I observed the vehicle. Fort Drive kind of
19 has a small -- small incline as you're coming down
20 towards the back of the neighborhood and at the time I
21 was coming in the opposite direction going back towards
22 the area they were, and I observed the vehicle coming
23 up through that -- through that street at a high rate
24 of speed and I activated my blue lights to try to get
25 that traffic stop.

(TRAVIS DODD-DIRECT BY MR. CONDON)

1 Q. And did the Defendant stop at that point?

2 A. No, sir, he did not.

3 Q. And what happened?

4 A. At the time I activated my blue lights I'd already
5 slowed down in my lane of travel and, like I said,
6 attempted to make a traffic stop. The Defendant
7 swerved his vehicle towards my vehicle, nearly striking
8 the front end of my patrol car.

9 Q. Did you get a look at the person driving the car?

10 A. I -- yes, sir, I got a brief look.

11 Q. And what did he look like?

12 A. He was a -- he matched the description of a black
13 male driving a dark Crown Vic.

14 Q. And so what happened after he swerved and tried to
15 hit you?

16 A. I was able to avoid the collision by swerving out
17 of the way into a neighbor's yard, at which time I
18 turned my vehicle around, activated my siren and began
19 to pursue; notified dispatch that I was in pursuit of
20 the vehicle.

21 Q. And where did you pursue him through, what area?

22 A. Through that neighborhood, down Fort Drive to
23 Redeemer Road and then Redeemer Road back out to Fort
24 Drive.

25 Q. And what is that neighborhood called?

(TRAVIS DODD-DIRECT BY MR. CONDON)

- 1 A. That's Berkeley Hills four and five.
- 2 Q. And what observations did you make of his driving
- 3 at that time?
- 4 A. During the time the driver was driving erratically
- 5 throughout the neighborhood at a high rate of speed.
- 6 Q. And how long were you in lead pursuit?
- 7 A. Just the time in that neighborhood, maybe just a
- 8 matter of minutes.
- 9 Q. And so who assumed lead pursuit after that?
- 10 A. Corporal Lanphere did.
- 11 Q. And did you stop the pursuit at any time?
- 12 A. Yes, sir.
- 13 Q. And what happened after you stopped the pursuit?
- 14 A. After I ended the pursuit I notified Corporal
- 15 Lanphere who arrived at around the middle of the
- 16 pursuit and I returned back to the City to assist if
- 17 they had any other calls pending for service.
- 18 Q. Did you receive any calls about narcotics being
- 19 thrown out of the Defendant's vehicle?
- 20 A. Yes, I did.
- 21 Q. And where did you respond to?
- 22 A. [REDACTED]
- 23 Q. And were any drugs recovered at that address?
- 24 A. Yes, sir, there was.
- 25 Q. And what county is that in?

(TRAVIS DODD-DIRECT BY MR. CONDON)

1 A. That's in Berkeley County.

2 Q. And who had called police?

3 A. Mr. Loflin.

4 Q. And what did you learn when you arrived there?

5 A. When I showed up on scene Corporal -- excuse me --
6 Officer Ellwood was already there and we were all
7 speaking with Mr. Loflin. He said that ---

8 MR. SHWACKE: Objection, hearsay.

9 THE COURT: Any exception?

10 MR. CONDON: Yes, Your Honor. We're offering it
11 for effect on the officer's investigation.

12 THE COURT: Overruled. You may continue.

13 Q. You can continue.

14 A. I was on the scene. Mr. Loflin had stated that as
15 the pursuit had passed by Spring Hill Road ---

16 MR. SHWACKE: Your Honor, again, I have to object.

17 THE COURT: Rephrase your question, Mr. Condon.

18 Q. Officer Dodd, what did you learn during your
19 investigation?

20 A. I learned that as the pursuit passed by Spring
21 Hill Road, that an amount of narcotics was seen coming
22 out of the vehicle that was located at the intersection
23 of Spring Hill Road and Fort Drive.

24 Q. And what vehicle?

25 A. The Defendant's vehicle, the dark-colored Crown

(TRAVIS DODD-DIRECT BY MR. CONDON)

1 Vic.

2 Q. And did you get out on the scene and look for any
3 other drugs around?

4 A. Yes, sir, I did.

5 Q. Did you find any?

6 A. No, sir, nothing else was found.

7 Q. And was a statement taken from the eyewitness,
8 Loflin?

9 A. Yes, sir, it was.

10 Q. And can you describe to the jury the area where
11 the crack was located? Was there a sidewalk there?
12 Can you kind of describe the area?

13 A. No, the neighborhood is ---

14 MR. SHWACKE: Your Honor, I'm --

15 (Whereupon, a bench conference was held off the
16 record in the presence of the jury, but out of the
17 hearing of the jury.)

18 Q. Did the call come with the location of where the
19 drug was found? Was that along the route that you had
20 chased the Defendant?

21 A. Yes, sir, it was.

22 Q. And did you ever see the Defendant throw anything
23 out of his vehicle?

24 A. No, sir, I did not.

25 Q. And the approximate area where the drugs were

(TRAVIS DODD-DIRECT BY MR. CONDON)

1 recovered, did you lose sight of the Defendant?

2 A. I did.

3 Q. And why is that?

4 A. The neighborhood has some sharp turns in it and
5 I'm very familiar with that neighborhood, and because I
6 know the fact that there's children playing in the
7 neighborhood I decreased my speed just to avoid anybody
8 else being involved, me striking somebody or anybody
9 running out in the road, causing an issue. I backed
10 off and I lost him. I lost the view of the driver's
11 window.

12 Q. So there was a sharp turn?

13 A. Correct.

14 Q. And do you actually live in that neighborhood?

15 A. I do.

16 Q. So you know it pretty well?

17 A. Yes, sir.

18 MR. CONDON: Your Honor, may I get the easel?

19 THE COURT: You may.

20 MR. CONDON: Prop this up here. Is it okay if the
21 witness steps down?

22 THE COURT: You may. Just speak loudly.

23 Q. Let me show you what's been marked as State's
24 Exhibit 8. Do you recognize that?

25 A. Yes, sir.

(TRAVIS DODD-DIRECT BY MR. CONDON)

1 Q. Did the chase go along any of these roads here?

2 A. Yes, this was the main road. Fort Drive is this
3 area.

4 Q. Can you, kind of, trace, so the jury can
5 understand ---

6 A. Yeah.

7 Q. --- where all this occurred?

8 A. Chase actually started a little bit off the map,
9 and we came down Fort Drive, came around here, past
10 this intersection, which is Spring Hill Road, and then
11 he came around. Fort Drive continues around until it
12 comes a little bit past this intersection, this area
13 here, to where it becomes Redeemer Road and then comes
14 back around this way and Redeemer circles back around
15 to Fort Drive.

16 Q. Where is the area where the drugs were located?

17 A. Right here in this area here.

18 Q. Is this the sharp turn you referenced?

19 A. Yes, this is the turn.

20 Q. And you chased the Defendant through this area?

21 A. Yes.

22 Q. Did you have a camera in your car at the time?

23 A. No, sir, I did not.

24 Q. Is that because you're a school resource officer?

25 A. Yes, sir.

(TRAVIS DODD-CROSS BY MR. SCHWACKE)

1 Q. What was the time frame that the call about the
2 drugs came in, in reference -- in regards to you were
3 pursuing the Defendant?

4 A. It was shortly after we passed the intersection.
5 I couldn't give you the approximate time because the
6 radio traffic had been closed for emergency
7 transmissions only, so I'm not sure exactly.

8 Q. So fairly shortly after you had passed ---

9 A. Yes, sir.

10 Q. --- that location you got a call coming in about
11 the drugs?

12 A. Yes, sir.

13 MR. CONDON: No further questions.

14 THE COURT: Mr. Schwacke?

15 CROSS-EXAMINATION

16 BY MR. SCHWACKE:

17 Q. You actually live on Fort Road; right?

18 A. Yes, sir, Fort Drive.

19 Q. Fort Drive. And you're, kind of, around somewhere
20 up here?

21 A. No, sir, the -- where I live is actually more
22 (inaudible).

23 Q. Up here?

24 A. Yes, sir.

25 Q. And so yours starts, sort of, a downward slope

(TRAVIS DODD-CROSS BY MR. SCHWACKE)

1 towards the intersection where the Redeemer Church is?
2 A. Yes and no. The -- the downward slope starts a
3 little bit further down, but ---
4 Q. But you're at the top of the hill there?
5 A. Correct.
6 Q. And you drive what kind of vehicle?
7 A. A Crown Vic.
8 Q. What kind of markings does it have on it?
9 A. It's marked Hanahan Police.
10 Q. So it's black and white?
11 A. No, sir, it's all white.
12 Q. All white. And has school resource officer on it?
13 A. Yes, sir, it does underneath the Hanahan Police --
14 underneath the Hanahan Police lettering.
15 Q. So you have to, at some point, turn around on the
16 vehicle?
17 A. Yes, sir.
18 Q. And at what speed is that Crown Vic that you're
19 pursuing -- how fast is it going?
20 A. At the time I turned around or when I first saw
21 him?
22 Q. Well, over the course -- let's say when you first
23 saw him.
24 A. When I first saw him probably between 40 and 45
25 miles an hour.

(TRAVIS DODD-CROSS BY MR. SCHWACKE)

1 Q. Forty to forty-five miles an hour?

2 A. Yes, sir.

3 Q. And then when you turned on your blue lights and
4 siren?

5 A. When I turned on the siren and began pursuit,
6 speeds increased throughout the neighborhood, I would
7 say, probably between 50 and 60 miles an hour.

8 Q. And what kind of -- how close were you able to get
9 up on the Crown Vic?

10 A. When I -- after I turned around I stayed a good
11 bit behind him.

12 Q. What is a good bit?

13 A. Probably about two or three houses.

14 Q. What about -- what kind of distance are we talking
15 about there?

16 A. I'm not sure. I can't estimate without measuring.
17 Two or three yards.

18 Q. Those houses don't have necessarily big yards?

19 A. No, sir, they're common yards.

20 Q. And you didn't see anything thrown from the
21 vehicle?

22 A. No, sir.

23 Q. Were you ever shown a picture that you were asked
24 to identify?

25 A. Yes, sir, I was.

(TRAVIS DODD-CROSS BY MR. SCHWACKE)

1 Q. Is it that one that's sitting right there next to
2 you?
3 A. Yes, sir, that is.
4 Q. So that would be State's Exhibit Number 6?
5 A. Yes, sir, that's correct
6 Q. And when were you asked to look at that?
7 A. It was shortly after the pursuit. I'm not exactly
8 sure how long.
9 Q. So on March 11?
10 A. Yes, sir.
11 Q. Who showed you the picture?
12 A. I don't remember.
13 Q. Did you receive it by your cell phone or did you -
14 - did someone ask you to see it?
15 A. I don't remember.
16 Q. And you made an identification based upon that
17 picture?
18 A. Yes, sir.
19 Q. And that is the person you say was driving?
20 A. Yes, sir.
21 Q. That's the person you witnessed?
22 A. Yes, sir.
23 Q. And you did not participate in the chase once it
24 gets taken up by two other -- or essentially three
25 other units, did you?

(TRAVIS DODD-CROSS BY MR. SCHWACKE)

- 1 A. No, sir, I did not.
- 2 Q. You went out later to look for the drugs?
- 3 A. Yes, sir.
- 4 Q. And who else was out there with you?
- 5 A. Officer Ellwood.
- 6 Q. Who got there first?
- 7 A. Officer Ellwood.
- 8 Q. And who did y'all talk to?
- 9 A. Mr. Loflin.
- 10 Q. Anybody else?
- 11 A. Not that I identified, no, sir.
- 12 Q. See anybody?
- 13 A. Not that I remember. There was people out there
- 14 but I don't remember. I didn't speak to anybody else,
- 15 no, sir.
- 16 Q. Again could you come down here?
- 17 A. Sure.
- 18 Q. Here we have Fort Drive.
- 19 A. Yes, sir.
- 20 Q. You live right there.
- 21 A. Correct.
- 22 Q. This would lead us down to Redeemer Road.
- 23 A. Correct.
- 24 Q. And that ultimately will loop back around.
- 25 A. Yes, sir.

(TRAVIS DODD-REDIRECT BY MR. CONDON)

1 Q. The place where y'all were searching for
2 additional drugs was in this area?

3 A. Yes, sir, right here, right around the stop sign.

4 Q. Here?

5 A. Correct.

6 Q. And you're sure it's up here by the stop sign?

7 A. Yes, sir, it was right -- right here around this
8 intersection is where we were looking.

9 Q. And that's your understanding of where the drugs
10 were found?

11 A. Yes, sir.

12 Q. In this area right here?

13 A. Correct.

14 MR. SHWACKE: Thank you. That's all the questions
15 I have.

16 REDIRECT EXAMINATION

17 BY MR. CONDON:

18 Q. Officer Dodd, just to clarify real quickly, you've
19 got State's Exhibit 6 up there.

20 A. Yes, sir.

21 Q. Is that the person you saw driving the car?

22 A. Yes, sir, I -- yes, sir, it was.

23 MR. CONDON: Permission to publish to the jury.

24 THE COURT: You may.

25 MR. CONDON: No further questions.

(TRAVIS DODD-REDIRECT BY MR. CONDON)

1 MR. SHWACKE: No other questions.

2 THE COURT: You may step down. You may stay with
3 us or you can leave. Thank you. Call your next
4 witness or do y'all need a break? We're going to take
5 a short break. If anyone cannot stay until six p.m.,
6 if you'll let the bailiff know, but I anticipate we'll
7 stay until six p.m. Do not begin your deliberations.
8 Do not discuss this case amongst yourselves. Please
9 leave your notepads in the chair. Please rise.

10 (Whereupon, the jury exited the courtroom at 4:10
11 p.m.)

12 (Off the record)

13 (Whereupon, the jury came into open court.).

14 THE COURT: Thank you. Be seated. Call your next
15 witness.

16 MR. CONDON: The State calls Sergeant Travis
17 Lanphere.

18 (Witness sworn)

19 THE CLERK: Please be seated, state your full name
20 and spell your last name for the record.

21 THE WITNESS: Travis Lanphere -- spelled L-A-N-P-
22 H-E-R-E.

23 TRAVIS LANPHERE, after being duly sworn, testified
24 as follows:

25 ~~~~~

(TRAVIS LANPHERE-DIRECT BY MR. PATTERSON)

DIRECT EXAMINATION

1
2 BY MR. PATTERSON:

3 Q. Sergeant Lanphere, how are you doing today?

4 A. Doing well. How are you?

5 Q. Very well. Sergeant Lanphere, where do you
6 currently work?

7 A. I work for the City of Hanahan Police Department.

8 Q. And how long have you been employed by Hanahan?

9 A. Since June 1st of 2006.

10 Q. And did you work anywhere else in law enforcement
11 prior to working for Hanahan?

12 A. I did.

13 Q. And where did you work?

14 A. I worked for the Charleston County Detention
15 Center.

16 Q. How long was that?

17 A. Six months, and then I worked for Madison County
18 Sheriff's Office in Madison County, Georgia, for a year
19 and a half.

20 Q. What is your current rank at the Hanahan Police
21 Department?

22 A. My rank is Sergeant.

23 Q. And what was your rank on March 11th, 2013?

24 A. At that time I was a Corporal.

25 Q. And what were your duties back then on March 11,

(TRAVIS LANPHERE-DIRECT BY MR. PATTERSON)

1 2013?

2 A. As well as being assistant supervisor on night
3 shift, I was also at the time the city's only canine
4 handler.

5 Q. And do you remember the events of March 11, 2013?

6 A. Yes, I do.

7 Q. Tell me what happened.

8 A. Shortly after five p.m. in the afternoon, I was
9 observing traffic. Heard a call come out for a
10 criminal domestic violence with an active assault.
11 Started heading in the direction of where the call --
12 where we were sent to as advised by -- heard over the
13 radio by Officer Camp that the male suspect had left in
14 a blue Ford Crown Victoria. Shortly after that Officer
15 Dodd came across the radio, wanted to know what we were
16 looking for. I explained it to him just as briefly as
17 I could. I gave him as much information as needed.

18 Shortly after that he informed us over the radio
19 that he was in vehicle pursuit with the suspect, at
20 which time I came into the area which was a -- a one-
21 way-in, one-way-out kind of road. There were multiple
22 streets but the main streets are the only way to get in
23 and get out, and I set up my vehicle near Redeemer in
24 that area. Suspect vehicle came down Redeemer where I
25 observed it and that's when I took over pursuit.

(TRAVIS LANPHERE-DIRECT BY MR. PATTERSON)

1 Q. Would it be helpful to use the map?

2 A. Yes, sir.

3 Q. Sergeant Lanphere, I'm going to show you what has
4 been marked as State's Exhibit 9 for demonstrative
5 purposes.

6 MR. PATTERSON: Your Honor, may I approach?

7 THE COURT: You may.

8 MR. PATTERSON: May he step down?

9 THE COURT: He may.

10 Q. If you could describe, using this map, exactly
11 where you were and where you joined the pursuit.

12 A. Can I use this ruler?

13 Q. Yeah, of course.

14 A. That way my arm is not blocking it. This is
15 before it starts. This is going to be there, where I
16 was saying it's one way in and one way out. Here's
17 where I was sitting, right in this area. Pursuit
18 started over here with PFC Dodd, came all the way
19 through the back of the neighborhood. I set up right
20 here at this intersection on Fort and Redeemer.
21 Suspect vehicle came off of Redeemer which is coming
22 down the hill. I saw the suspect vehicle make a right-
23 hand turn onto Fort, where I intercepted and took over.
24 We came out of Fort, took a left onto Murray and Murray
25 Drive sweeps around. It's a gradual left-hand turn.

(TRAVIS LANPHERE-DIRECT BY MR. PATTERSON)

1 We continued at speeds anywhere from, like, 40 to
2 50 miles an hour. Crossed over the railroad tracks
3 that separate the City of Hanahan and North Charleston,
4 Hanahan Road. From Hanahan Road we came up to Rivers
5 Avenue. At Rivers Avenue there was heavy traffic.
6 Suspect vehicle went off the side of the road. I guess
7 it's -- it's a center divide but when it comes to a
8 traffic light there's going to be a grassy little area
9 beside the roadway. Drove over that. I drove over
10 that. We took a left on Rivers Avenue. Came down
11 Rivers heading towards Remount and there was -- I don't
12 remember the name of the road, but at one of the
13 intersections right on Rivers Avenue suspect vehicle
14 struck a vehicle that was waiting at the intersection
15 for a red light.

16 Cleared that intersection, came up to Remount
17 Road. At Remount Road he took a right. Came back up
18 towards the loop to get onto I26 heading eastbound. We
19 got on I26 eastbound. That's where speeds increased up
20 to about 90 miles an hour. Went all the way down I26
21 eastbound through -- weaving in and out of traffic,
22 past multiple cars, all the way down to Rutledge Avenue
23 going into downtown.

24 When we got off on Rutledge I was advised over the
25 radio to back off from pursuit and to allow North

(TRAVIS LANPHERE-DIRECT BY MR. PATTERSON)

1 Charleston units who had caught up to us to take over
2 as lead. They took over lead pursuit. They took a
3 left onto Maple Street. Maybe -- maybe a tenth of a
4 mile down Maple Street suspect stops, exits the vehicle
5 and is on foot. By the time that had happened I was
6 rounding the corner. Came to a stop. I'd asked
7 officers if they had the suspect apprehended. They did
8 not, so at that time I deployed. My partner at the
9 time was named Shadow and we began to do our canine
10 work.

11 Q. Thank you, Sergeant Lanphere. Sergeant Lanphere,
12 was the patrol vehicle you were driving, was that a
13 marked patrol vehicle?

14 A. Yes, it was. It was a fully marked Chevy Tahoe.

15 Q. And was it equipped with blue lights and a siren?

16 A. Yes, sir, it was.

17 Q. Were those operational at the time you were in the
18 pursuit?

19 A. They were.

20 Q. And were you signaling him to stop?

21 A. I was.

22 Q. Sergeant Lanphere, I'm going to show you what has
23 already been admitted as State's 1, 2, 3 and 4. Please
24 take a look at those. Do you recognize those?

25 A. I do.

(TRAVIS LANPHERE-DIRECT BY MR. PATTERSON)

1 Q. How do you recognize them?

2 A. Recognize them because that's the suspect
3 (inaudible) while I was chasing him.

4 Q. Is there any damage to that vehicle?

5 A. There is.

6 Q. What does that indicate to you?

7 A. To the front passenger side on the quarter panel
8 and the headlight area, appears there's some sort of
9 collision that took place with that vehicle.

10 Q. Did that collision take place while you were
11 pursuing him?

12 A. It did.

13 Q. What did he strike?

14 A. Struck a van. It was a van.

15 Q. Did you put that out on the radio?

16 A. I did.

17 Q. Did another officer get out to handle that?

18 A. I believe it was Corporal Beaudoin.

19 Q. Did you apprehend the Defendant at the end of that
20 pursuit?

21 A. I did not.

22 Q. Sergeant Lanphere, I'm going to show you what has
23 been marked as State's Exhibit 7 for identification.

24 MR. PATTERSON: Your Honor, may I approach?

25 THE COURT: You may.

(TRAVIS LANPHERE-DIRECT BY MR. PATTERSON)

1 Q. Do you recognize this?

2 A. I do.

3 Q. How do you recognize it?

4 A. It's a copy from the dash-cam video from my
5 pursuit from my vehicle.

6 Q. And have you viewed this video?

7 A. I have.

8 Q. Are those your initials on the CD?

9 A. They are.

10 Q. Has anything been altered, modified or deleted?

11 A. No.

12 Q. Is that a fair and accurate representation of the
13 vehicle pursuit you were a part of?

14 A. It is.

15 MR. PATTERSON: Your Honor, at this time the State
16 would ask that State's 7 be admitted into evidence.

17 MR. SHWACKE: No objection.

18 THE COURT: State's 7 admitted without objection.

19 MR. PATTERSON: Permission to publish?

20 THE COURT: You may.

21 (Whereupon, the video was played in open court.)

22 Q. Sergeant Lanphere, at that point where we ended
23 that video, is that when you lost contact with the
24 driver of that vehicle?

25 A. That is correct.

(TRAVIS LANPHERE-DIRECT BY MR. PATTERSON)

1 Q. Did you observe how many people were in that
2 vehicle?

3 A. Only one.

4 Q. And did you observe him touch anything in the car?

5 A. Yeah, when we were getting onto I26 subject
6 reached up and touched the center mirror with his right
7 hand and then put a Bluetooth -- Bluetooth device in
8 the mirror.

9 Q. Are you familiar with any connections the
10 Defendant might have to downtown?

11 A. Not that I recall.

12 Q. Is there any reason -- throughout the
13 investigation did you figure out any reason why he
14 might have bailed out at 56 Maple Street?

15 MR. SHWACKE: Objection, Your Honor. May we
16 approach?

17 THE COURT: You may.

18 (Whereupon, a bench conference was held off the
19 record in the presence of the jury, but out of the
20 hearing of the jury.)

21 THE COURT: Sustained.

22 MR. PATTERSON: Thank you, Sergeant Lanphere.
23 Nothing further, Your Honor.

24 MR. SHWACKE: I don't have any questions.

25 THE COURT: You may step down. You're free to

(WILLIAM LOFLIN-DIRECT BY MR. PATTERSON)

1 stay with us. You're also free to go. Call your next
2 witness.

3 MR. PATTERSON: Your Honor, the State calls
4 William Loflin.

5 (Witness sworn)

6 THE CLERK: Please be seated, state your full name
7 and spell your last name for the record.

8 THE WITNESS: William Kenneth Loflin -- L-O-F-L-I-
9 N.

10 WILLIAM LOFLIN, after being duly sworn, testified
11 as follows:

12 DIRECT EXAMINATION

13 BY MR. PATTERSON:

14 Q. Mr. Loflin, how are you doing today?

15 A. I'm doing all right.

16 Q. Mr. Loflin, where do you currently work?

17 A. Right now I'm unemployed but I'm an electrician.

18 Q. Do you do contract work?

19 A. I do. I'm doing a house now.

20 Q. And what type of electrician are you?

21 A. I'm a journeyman.

22 Q. And is that a skill that you have to achieve? How
23 does that work?

24 A. Yeah, you have to go to school, technical college.

25 Q. What's the rank? Like journeyman, master?

(WILLIAM LOFLIN-DIRECT BY MR. PATTERSON)

1 A. Probably second from -- or third from master
2 electrician.

3 Q. And how long have you been doing that type of
4 work?

5 A. About nine years.

6 Q. Mr. Loflin, you have some criminal convictions; is
7 that correct?

8 A. Yes, I do.

9 Q. You have -- in 2002 you have multiple convictions
10 for forgery?

11 A. Correct.

12 Q. And in 2007 you also have a conviction for
13 forgery?

14 A. Yeah.

15 Q. And in 2007 you have a conviction for petit
16 larceny?

17 A. Yeah.

18 Q. And in 2009 you have a conviction for shoplifting?

19 A. Yeah.

20 Q. But today are you going to tell the truth today?

21 A. Yes, I will.

22 Q. Were you subpoenaed here by our office?

23 A. Yes, I was.

24 Q. And do you know the Defendant?

25 A. No.

(WILLIAM LOFLIN-DIRECT BY MR. PATTERSON)

1 Q. Do you have any grudges against the Defendant?

2 A. (Inaudible)

3 Q. Where do you currently live?

4 A. I live in Great Falls, South Carolina.

5 Q. And how long have you lived in Great Falls?

6 A. Thirty-five years.

7 Q. But you weren't living there on March 11, 2013?

8 A. No, I had a job to do in Charleston off George
9 Street.

10 Q. So where were you living in March of 2011 -- or --
11 excuse me -- March 11, 2013?

12 A. At [REDACTED] Drive.

13 Q. And that was in Hanahan?

14 A. Right.

15 Q. And who were you staying with?

16 A. Chris Rowland. He's an electrician too.

17 Q. Do you remember what happened that day?

18 A. That day we got off early, about 2:30, three
19 o'clock, and I'm a smoker and we don't smoke in the
20 house, so I went on the back porch to smoke a cigarette
21 and our neighborhood is one way in, one way out, and I
22 hear sirens through the neighborhood. You know, a
23 quiet neighborhood, kids riding bicycles, no commotion
24 whatsoever.

25 I was sitting there. I hear sirens so I stood up,

(WILLIAM LOFLIN-DIRECT BY MR. PATTERSON)

1 kind of walked into the backyard a little bit to see
2 what's going on. It's on the back street. Tried to
3 catch a glimpse. I see a Crown Vic come flying by, cut
4 the corner, the siren is behind him. Cut the corner
5 and he's looking over his shoulder the whole time.

6 I seen him throw something out. Don't know what
7 it was at the time. He takes off and the officer cuts
8 the corner after him, trying to catch up with him but
9 they didn't see him throw out the bag.

10 MR. PATTERSON: Your Honor, may I approach?

11 THE COURT: You May.

12 Q. Mr. Loflin, I'm going to show you what's been
13 marked as State's Exhibit 8 for demonstrative purposes.

14 MR. PATTERSON: Is it all right if he steps down?

15 THE COURT: He is very soft spoken. You're going
16 to have to speak loudly. Can you do that for me?

17 THE WITNESS: Yeah, I can.

18 THE COURT: Okay.

19 Q. Step down if you would and give us a visual of
20 where you were and what you saw.

21 A. I was standing here at this residence here. Well,
22 I started to hear sirens come down through here. As he
23 cuts this corner he's looking over his shoulder the
24 whole time, throws out a bag in this area right here
25 which I see directly across here. About the time he

(WILLIAM LOFLIN-DIRECT BY MR. PATTERSON)

1 gets here the officer's cutting the corner. I don't
2 know which way he went from there. I don't know which
3 way they turned but then, like I said, he threw
4 something out and that's when I hollered at my
5 roommate, Chris ---

6 Q. Before we go any further what did you do when you
7 saw him throw the bag out?

8 A. Well, I noticed it wasn't a piece of trash because
9 it, kind of, went up too quick and come down too quick.
10 Since I was, you know, renting a room from my roommate
11 Chris, and he knows everybody in the neighborhood, I
12 got him to go retrieve the bag, or whatever it was. It
13 looked like a Pepsi bottle to me.

14 I'm not going -- I watch TV. I said not going to
15 go. I said Chris, come here. What is it? I said walk
16 through there and grab that clear-looking thing. What
17 is it? I said I don't know. Just grab it. Some guy
18 threw it out of the car running from the law. So he
19 walked around the front, comes back holding it, looking
20 at it. Asked me what it is. Asked me was it sugar
21 cookies. I said no, that's not sugar cookies. It was
22 crack cocaine.

23 Q. And did you call the police?

24 A. Yes, right then. I told him to go ahead and call
25 the police right then. That's when the neighbor walked

(WILLIAM LOFLIN-DIRECT BY MR. PATTERSON)

1 up across the street at the same time, so we had him as
2 a witness that it all happened. So they heard sirens
3 come through the neighborhood too.

4 Q. Mr. Rowland (sic), I'm going to show you what has
5 been pre-marked as State's 10, 11 and 20 for
6 identification.

7 MR. SHWACKE: No objection.

8 MR. PATTERSON: Your Honor, may I approach?

9 THE COURT: You may.

10 Q. Will you take a look at these?

11 A. Yeah.

12 Q. Do you recognize those?

13 A. I sure do.

14 Q. How do you recognize them?

15 A. Backyard of Mr. Rowland.

16 Q. And is that a fair and accurate representation of
17 the way it looked on March 11?

18 A. It is but this one picture. Like I said I heard
19 sirens and I stepped down the walkway to walk into the
20 backyard to catch a glimpse of what was going on, so
21 that's what I was looking at at the time.

22 Q. Have there been any additions, deletions or
23 modifications to those as you remember it?

24 A. No, because, like I said, it was just angles. If
25 you're standing on the back porch that's what you see

(WILLIAM LOFLIN-DIRECT BY MR. PATTERSON)

1 and I stepped off the back porch and that's what I
2 seen.

3 MR. PATTERSON: Your Honor, at this time the State
4 would ask that State's 10, 11 and 20 be admitted into
5 evidence.

6 MR. SHWACKE: No objection.

7 THE COURT: State's 10, 11 and 20 into evidence
8 without objection.

9 MR. PATTERSON: Permission to publish?

10 THE COURT: You may.

11 Q. So is this the view you would have had ---

12 A. Yes.

13 Q. --- when you were watching the vehicle pursuit?

14 A. Yeah.

15 Q. And were you able to see the vehicle?

16 A. I actually seen the vehicle on the back street
17 coming around speeding. Then right about here I seen
18 the police officer.

19 Q. What did the vehicle look like, if you remember?

20 A. A blue Crown Vic (inaudible).

21 MR. PATTERSON: Your Honor, the Court's
22 indulgence?

23 THE COURT: Take your time.

24 Q. Mr. Loflin, I'm going to show you what has been
25 premarked for identification as State's Exhibit 5.

(WILLIAM LOFLIN-DIRECT BY MR. PATTERSON)

1 Please take a look at that. Do you recognize that?

2 A. That's what we found.

3 Q. How do you recognize that?

4 A. The shape of an actual cookie. It looks like a
5 bottle or a beer can.

6 Q. Is that a fair and accurate representation of the
7 bag that Mr. Rowland handed to you that day?

8 A. Yes, sir.

9 MR. PATTERSON: Your Honor, at this time the State
10 would ask that State's 5 be admitted into evidence.

11 THE COURT: Any objection?

12 MR. SHWACKE: No objection.

13 THE COURT: State's 5 into evidence without
14 objection.

15 Q. Mr. Loflin, I'm going to show you what's been
16 marked as State's Exhibit 21 for identification. I
17 know there's a lot of markings on there but try and
18 take a good look at that. Do you recognize that?

19 A. It's kind of hard to tell with the plastic but
20 yeah.

21 Q. How do you recognize it?

22 A. The sandwich bag it was in.

23 Q. Is that a fair and accurate representation of the
24 bag that would have been handed to you by Mr. Rowland?

25 A. Yes, sir. Looks like it's been handled a lot.

(WILLIAM LOFLIN-CROSS BY MR. SCHWACKE)

1 That's how (inaudible).

2 MR. PATTERSON: Nothing further at this time, Your
3 Honor.

4 THE COURT: Mr. Schwacke?

5 MR. SHWACKE:

6 CROSS-EXAMINATION

7 BY MR. SCHWACKE:

8 Q. Mr. Loflin, who called the police?

9 A. Chris Rowland.

10 Q. You didn't?

11 A. No, sir, because my area code -- I wouldn't dial
12 911 because my area is Great Falls.

13 Q. And you indicated y'all had been at work that day?

14 A. Work too?

15 Q. Pardon?

16 A.. Work. Yeah.

17 Q. And you'd gotten off what time?

18 A. 2:30, three o'clock. Got off early that day.

19 Q. Where was the job that you were working on?

20 A. On George Street. (Inaudible)

21 Q. Did you have anything to drink after work?

22 A. No, sir.

23 Q. So you were living at the residence of Mr.
24 Rowland?

25 A. Rowland. Yes, I was renting a room from him just

(WILLIAM LOFLIN-CROSS BY MR. SCHWACKE)

1 for this job.

2 Q. I was, kind of, tucked away in that corner so I
3 couldn't really see where you were pointing at. If you
4 could, kind of, come back down here just for a second?

5 A. This is Mr. George's house. This is Mr. Rowland's
6 house. This is his back porch. There's a small step
7 down, not steps but, like, a ramp. Like I said, I
8 heard a car coming through. I walked into the middle
9 of the yard right about here and seen -- you could see
10 -- standing in the backyard you could see a section
11 through here and a section through here and that's when
12 I seen the car. And as he got around right here he was
13 looking over his shoulder -- over his shoulder.

14 Q. You could still see that from where you were
15 pointing?

16 A. Right here? Yes.

17 Q. You're here.

18 A. Right.

19 Q. And you're looking through this house?

20 A. No, through the backyard of the house.

21 Q. Okay. So he's already made the corner?

22 A. Right. He was looking over his shoulder for the
23 officer.

24 Q. Again, where is he looking over his shoulder?

25 A. Right through here in this curve.

1 Q. Okay. And in this curve this house is blocking
2 your view; isn't that correct?

3 A. Right. Right here. And then he throws it out
4 right here.

5 Q. So your view at this point is restricted by this
6 house ---

7 A. Right.

8 Q. --- and this house and these trees?

9 A. Right.

10 Q. Okay. So ---

11 A. I wouldn't say these trees because of this photo
12 that he has.

13 Q. You can have a seat. So at this point ---

14 A. He tossed the bag out..

15 Q. --- you have a house here and you have the start
16 of a house; correct?

17 A. The house is actually a little bit further back
18 there over here.

19 Q. Okay.

20 A. You can see the house.

21 Q. Now, you do electrical work; right?

22 A. Yes, sir.

23 Q. And part of that is you've got to know your
24 measurements and your distances; correct?

25 A. Right..

(WILLIAM LOFLIN-CROSS BY MR. SCHWACKE)

1 Q. So this exhibit comes with a distance scale;
2 correct? Do you want to come down here? All right.
3 So we have 20 feet, 40 feet, then 80 feet and 120.

4 A. Right. For every inch you've got 20 feet

5 Q. Well, actually a little bit more -- right --
6 because it looks like 120 is four; right? It looks
7 like every inch is 30 by this scale; right?

8 A. Right.

9 Q. All right. So at four inches on this scale, or
10 120 feet, we know the distance between this house and
11 this house, which is the one you're looking through, is
12 less than 120 feet; correct?

13 A. This shot here ---

14 Q. The opening that is unobstructed to you ---

15 A. Right.

16 Q. --- is less than 120 feet; isn't that right?

17 A. Can I look at it?

18 Q. Sure.

19 A. Right.

20 Q. I mean, it's, like, half of that; right?

21 A. Right.

22 Q. So we're talking about 60 feet.

23 A. But what I'm saying, the whole time that I seen
24 him from here, he was steadily looking over his
25 shoulder at the officer that was chasing him.

(WILLIAM LOFLIN-CROSS BY MR. SCHWACKE)

1 Q. At the point that you say you see a bag get thrown
2 from the car, was in this limited area right here;
3 correct?

4 A. Right here is where that bag landed.

5 Q. So 60 feet.

6 A. In between ---

7 Q. Based on your own check and measure; right?

8 A. Right.

9 Q. Okay.

10 A. But like I said, that's where I seen it landed and
11 Mr. Rowland will tell you exactly where he picked it
12 up, because he's lived there his whole life. He should
13 be able to mark.

14 Q. So show me again where you say you saw it land.

15 A. In between these two houses.

16 Q. Okay. And again, that's a 60-foot distance.

17 A. Right.

18 Q. You can have a seat. So on State's Exhibit Number
19 20 you can see someone in the picture?

20 A. Right.

21 Q. Who is that?

22 A. That's Inez.

23 Q. Inez who?

24 A. (Inaudible) There's the ramp I was talking about.
25 So if I walked down that's going to change all that

(WILLIAM LOFLIN-CROSS BY MR. SCHWACKE)

1 measuring.

2 Q. Not across from house to house. You're going to
3 see the same distance between the two houses because
4 you didn't move the houses.

5 A. No, but if you move the center of the triangle
6 it's going to move. If you're going to move the point
7 of the triangle it's going to move all that.

8 Q. And we're going to move it five feet so now we're
9 talking six -- seven?

10 A. Give or take.

11 Q. So who touches the bag first?

12 A. Mr. Rowland.

13 Q. And he's the one who goes outside and does what?

14 A. Walks out down his driveway, across the -- down
15 the road to the stop sign. Do you want me to show you
16 on that?

17 Q. Well, I guess this house on the corner is, I
18 guess, the house that sort of blocks everything; right?

19 A. Right.

20 Q. Because he's one in from that?

21 A. Right. He comes straight down his driveway into
22 the road.

23 Q. And walks down here.

24 A. And walks through it and it was beside the bench
25 right there.

(WILLIAM LOFLIN-CROSS BY MR. SCHWACKE)

- 1 Q. And you didn't see him actually pick up the bag.
- 2 A. What's that?
- 3 Q. You didn't see him pick up an item.
- 4 A. I seen him pick up the bag.
- 5 Q. You went out there with him?
- 6 A. No.
- 7 Q. Well, where were you?
- 8 A. I was on the back porch watching him pick up the
- 9 bag.
- 10 Q. Again, the back porch of this house watching him
- 11 pick up a bag ---
- 12 A. Let me rephrase that; in the backyard.
- 13 Q. Sorry?
- 14 A. The backyard.
- 15 Q. You weren't on the porch?
- 16 A. I wasn't ---
- 17 Q. Now you're in the yard?
- 18 A. I wasn't on the deck. I was in the grass. Then
- 19 he picks it up. I walked through the garage and meets
- 20 him at the front driveway.
- 21 Q. Had the police already been called at that point?
- 22 A. No, because he didn't know what it was. He
- 23 thought it was sugar cookies so you can imagine if a
- 24 kid found that.
- 25 Q. Sugar cookies.

(WILLIAM LOFLIN-CROSS BY MR. SCHWACKE)

- 1 A. Yeah.
- 2 Q. So let me ask you about that because when you were
- 3 asked to identify that bag you indicated that you were
- 4 able to do that because of the cookie.
- 5 A. Yeah, I watch Cops.
- 6 Q. What does that mean?
- 7 A. I mean, they show it a lot on Cops.
- 8 Q. They show a lot about Cops too.
- 9 A. (Inaudible) I mean, I didn't know what it was
- 10 until after the officer tested it on the back of the
- 11 car.
- 12 Q. Well, I want to know how you knew it wasn't sugar
- 13 cookies.
- 14 A. I mean, it looked like the bottom of a beer can.
- 15 Q. You've seen crack before?
- 16 A. I have.
- 17 Q. You knew that was crack.
- 18 A. Yeah.
- 19 Q. How fast were the cars going?
- 20 A. Which one?
- 21 Q. You saw two?
- 22 A. Yeah.
- 23 Q. Okay. Let's start ---
- 24 A. The Crown Vic ---
- 25 Q. --- with the first one.

1 A. The Crown Vic, I'd say when he cut the corner,
2 about 30 and then he picked it up and gunned it.

3 Q. At the point you see him go between those two
4 houses, how fast was he going?

5 A. About 30 at the most and then he disappeared and
6 the officer come around about the same speed and he
7 disappeared. Then I just hear sirens through the
8 neighborhood.

9 Q. How far behind was the officer from the Crown Vic?

10 A. Probably, I'd say -- when? Before the curve?
11 Because I caught a glimpse of it on the back street.
12 All I seen was the Crown Vic. He cut the corner.

13 Q. Do you mean the curve there?

14 A. Right.

15 Q. Okay. And how did he cut it? He went up in the
16 yard?

17 A. No, turning.

18 Q. He just turned?

19 A. Fast.

20 Q. So he made the turn?

21 A. Yeah, fast.

22 Q. And how ---

23 A. Well, I mean, cut it, he was center line.

24 Q. And again, the speed you have is what?

25 A. I would estimate between 30 and 40 at the most.

(WILLIAM LOFLIN-CROSS BY MR. SCHWACKE)

- 1 Q. And at that ---
- 2 A. It's a sharp curve.
- 3 Q. At that point how far behind is the ---
- 4 A. Officer?
- 5 Q. --- officer.
- 6 A. Maybe four car lengths. That one house obstructed
- 7 the view. That's when he threw out the bag.
- 8 Q. So he's four car lengths behind on the curve?
- 9 A. Right.
- 10 Q. And at the point they passed by where you say the
- 11 bag comes out, how far behind?
- 12 A. What's that again?
- 13 Q. How far are they behind at that point?
- 14 A. After he threw the bag out? About four car
- 15 lengths.
- 16 Q. Still four car lengths?
- 17 A. He's -- he's done made the curve into the
- 18 straightaway.
- 19 Q. So four car lengths would be 60 feet?
- 20 A. Give or take.
- 21 Q. So again on the map, we're dealing with this and
- 22 four inches is 120 feet.
- 23 A. Right.
- 24 Q. And we're talking 60 so half of that so we'll go
- 25 in two. At this point ---

1 A. (Inaudible)

2 Q. I'm asking you -- I'm asking you what the car
3 length difference was. That's what I'm asking you.

4 A. See, the way I was thinking earlier (inaudible)
5 officer up here. I don't know if he tried to stop him
6 and maybe -- I don't know what happened up here but I
7 was thinking that maybe he tried to stop the guy in the
8 Crown Vic and (inaudible) in the other car. I'm not
9 sure.

10 Q. We got kind of lucky here because there's a car
11 right here on the map.

12 A. All right.

13 Q. So how far are we talking? Use that as one.

14 A. About like this.

15 Q. So ---

16 A. He was right here.

17 Q. This is where you say you saw the bag, so at that
18 point again, that's before.

19 A. (Inaudible)

20 Q. So that would be the Crown Vic here.

21 A. Correct.

22 Q. Police car right here?

23 A. No, police car is here. (Inaudible)

24 Q. Are you saying now it's more than four car lengths
25 behind?

(WILLIAM LOFLIN-CROSS BY MR. SCHWACKE)

1 A. Yes.

2 Q. That's what you're saying now?

3 A. Yeah.

4 Q. Because you're seeing ---

5 A. Because I usually don't look at an aerial
6 photograph.

7 Q. But you do measurements every day and you know
8 your distances.

9 A. Right.

10 Q. And ---

11 A. It's just a wire, not chasing cars.

12 Q. And you know your crack cocaine.

13 A. Not really. I know not to throw it out the
14 window.

15 Q. Pardon? So again, you were not -- you were where
16 you could see from ---

17 A. I was outside smoking a cigarette.

18 Q. Well, let me finish the question I'm asking. I'm
19 asking you at the time that Mr. Rowland is collecting
20 what ---

21 A. Retrieving the bag.

22 Q. --- where is that because you said you could see
23 it.

24 A. Yeah, when he picked it up he started walking
25 back.

(WILLIAM LOFLIN-CROSS BY MR. SCHWACKE)

1 Q. Where is it that he picked it up?

2 A. Where I just showed you on that map.

3 Q. The area between the two houses.

4 A. Right.

5 Q. And again, that would be up here.

6 A. And also ---

7 Q. That would be up here?

8 A. (Inaudible)

9 Q. So not in this area here? Not in this area?

10 A. No, not -- not (inaudible).

11 Q. What time was all that?

12 A. It was after three.

13 Q. Pardon?

14 A. It was after three, I would say.

15 Q. After three?

16 A. Yeah, I was off work early.

17 MR. SHWACKE: Okay. I think that's all the
18 questions I have.

19 MR. PATTERSON: Nothing further from the State,
20 Your Honor.

21 THE COURT: You may step down. Thank you. Call
22 your next witness.

23 MR. PATTERSON: The State calls Corporal Ellwood.
24 (Witness sworn)

25 THE CLERK: Please be seated, state your full name

(JON ELLWOOD-DIRECT BY MR. PATTERSON)

1 and spell your last name for the record.

2 THE WITNESS: My name is Officer Jon Ellwood. My
3 last name is spelled E-L-L-W-O-O-D.

4 JON ELLWOOD, after being duly sworn, testified as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. PATTERSON:

8 Q. Corporal Ellwood, how are you doing today?

9 A. I'm well, sir.

10 Q. Where are you currently working?

11 A. I work for the City of Hanahan Police Department.

12 Q. And how long have you been employed by Hanahan
13 Police Department?

14 A. It'll be three years.

15 Q. Did you work anywhere in law enforcement prior to
16 that?

17 A. I did.

18 Q. Where was that?

19 A. I worked at the jail for the Berkeley County
20 Sheriff's Department for about two, two and a half
21 years.

22 Q. And what is your current rank?

23 A. My current rank is Corporal.

24 Q. And back on March 11, 2013, what was your rank?

25 A. I was a patrolman. I'm not sure if I was a PFC or

(JON ELLWOOD-DIRECT BY MR. PATTERSON)

1 a (inaudible). I don't remember exactly.

2 Q. What were your general duties back then on March
3 11, 2013?

4 A. Back when I was a basic patrolman. I would
5 respond to calls for service, patrol the area, provide
6 a police presence to try to deter crime. Really
7 respond to calls for service.

8 Q. And do you remember what happened on the evening
9 of March 11, 2013?

10 A. I do.

11 Q. Tell me what happened.

12 A. I was getting dressed for work or getting ready
13 for it. I was already dressed. I was actually in the
14 parking lot getting ready to start my shift. I work
15 the night shift. I heard a call come out for a
16 possible assault in progress. As it happened the
17 address where it was reported taking place was right
18 around the corner from my house so I advised
19 (inaudible) I would assist.

20 Q. And how quickly did you arrive?

21 A. I would certainly say less than a minute.

22 Q. About what time was this?

23 A. A little bit after five, I believe.

24 Q. And who did you meet when you got there?

25 A. When I arrived on the scene, the location was 6240

(JON ELLWOOD-DIRECT BY MR. PATTERSON)

1 Old Point Road, I made contact with Ms. Evette Nelson.

2 Q. And how did she appear to you?

3 A. Ms. Nelson appeared to be upset. She was visibly
4 shaking. She was speaking so erratically, yelling, a
5 little angry and very emotional, I think might be the
6 best way to describe it.

7 Q. And did she tell you anything?

8 A. She did.

9 Q. What did she tell you?

10 A. When I first made contact with her I was
11 attempting to ascertain if she needed emergency medical
12 services or anything like that. She initially stated
13 he took off with my car and within seconds of that,
14 trying to ascertain who he was, she advised that he had
15 -- she had knowledge of some amount of drugs in the car
16 and also be possibly carrying a firearm.

17 Q. What happened next?

18 A. I immediately advised communications via radio
19 which would also go out to anybody else with access to
20 a radio of the information regarding the firearm and
21 also (inaudible) as well as the drugs that she spoke
22 of.

23 Q. Did you get a call from Corporal Beaudoin?

24 A. I did.

25 Q. What did she tell you?

(JON ELLWOOD-DIRECT BY MR. PATTERSON)

1 A. Corporal Beaudoin stated that there was a witness
2 that wanted to speak to an officer regarding something
3 they had observed during the pursuit process.

4 Q. Did you receive this call while the pursuit was
5 still active?

6 A. I did.

7 Q. And where did you respond to?

8 A. I responded to the street in front of the house at
9 [REDACTED] Drive, which was also in the City of
10 Hanahan.

11 Q. And who did you talk to?

12 A. I met with Mr. Loflin.

13 Q. What did he tell you?

14 A. Mr. Loflin handed me a -- when I made contact he
15 handed me a clear plastic bag that contained the --
16 kind of a disc-shaped white substance and several -- I
17 guess you could call it shards -- (inaudible). He
18 observed the pursuit past an area where he could see
19 and he saw a black male driving a blue Crown Victoria
20 and he said he observed the plastic bag being tossed
21 from the window. A short time later he also observed
22 the police car with lights and siren activated which
23 made him believe that he was being pursued by the
24 police.

25 Q. Corporal Ellwood, I'm going to show you what's

(JON ELLWOOD-DIRECT BY MR. PATTERSON)

1 been marked as State's Exhibit 5. It's already been
2 admitted in evidence. Do you recognize that?

3 A. I do.

4 Q. How do you recognize it?

5 A. That is a photograph that I took upon receipt of
6 the clear plastic bag. Through my training and
7 experience as a police officer (inaudible) until I
8 could put on some latex gloves to handle it properly.
9 At that time point it was secured and I took a
10 photograph of it.

11 Q. Was the bag open? Closed? What did it look like?

12 A. It was just a clear plastic bag.

13 Q. Did Mr. Loflin -- did you have him write a
14 statement?

15 A. I did.

16 Q. Corporal Ellwood, I'm going to show you what's
17 been marked as State's Exhibit 21 for identification.
18 Do you recognize that?

19 A. I do.

20 Q. And how do you recognize it?

21 A. I recognize it by the tag on the front of it.
22 This is an evidence narcotics bag. This is done in my
23 handwriting. It has my name on it.

24 Q. And is that what you collected from William
25 Loflin?

1 A. It is.

2 Q. And what did you do with it? I know you started
3 explaining a little bit.

4 A. I received it from Mr. Loflin. I secured it
5 against my windshield with my windshield wiper to put
6 on some gloves. Took a photograph of it. (Inaudible)
7 It's got chemicals in it that are -- they will react a
8 certain way in the presence of cocaine. (Inaudible)
9 At that point the evidence will be secured inside of my
10 patrol car.

11 Q. About what time did you get this bag from Mr.
12 Loflin?

13 A. Probably about 5:30.

14 Q. How long was that -- how long was your arrival at
15 [REDACTED] from the time this whole incident
16 started?

17 A. I would say probably 20 minutes.

18 Q. And it was secured in your vehicle?

19 A. Yes, sir.

20 Q. Did it remain there until you got back to the
21 station?

22 A. Yes, sir.

23 Q. Would anybody else have had access to it?

24 A. No, sir.

25 Q. What did you do with it once you got to the

(JON ELLWOOD-DIRECT BY MR. PATTERSON)

1 station?

2 A. Once I returned to the station at a point when
3 everything kind of calmed down as far as everybody
4 (inaudible) it would have been weighed on a scale and
5 it would have been put in evidence for additional
6 testing and verification of the actual substance. From
7 that point it would then go to an evidence locker
8 upstairs. The evidence lockers are like lockers.
9 (Inaudible) You pull it down, drop it in, you close it
10 and it falls to the bottom and it's padlocked.

11 (Inaudible)

12 Q. So nobody has access to it except for the evidence
13 custodian after you put it in the locker?

14 A. That's correct.

15 Q. And is the chain of custody created when -- when
16 you log it in? Do you do stuff on the computer?

17 A. When we log it in the chain of custody is
18 primarily done through the evidence technician. There
19 are some parts to the computer that the evidence
20 technician (inaudible).

21 Q. So there is a record of everybody who touches it
22 through the tag on the evidence?

23 A. Yes, sir.

24 Q. Going back to your initial response to the
25 apartment complex, did Evette tell you who was driving

(JON ELLWOOD-CROSS BY MR. SCHWACKE)

1 the vehicle?

2 A. She did.

3 Q. Who did she say?

4 A. She referred to him as Barry. During the course
5 of the investigation she provided me Barry -- actually
6 Barry Jerrod Stanley.

7 Q. Did you have a chance to speak with Deangelo
8 Watson?

9 A. I did.

10 Q. And did he write a statement?

11 A. I don't remember.

12 MR. PATTERSON: The Court's indulgence.

13 Q. Did Evette ever say anything about Deangelo Watson
14 being involved?

15 A. On the original -- during the original incident?

16 Q. During the original incident.

17 A. No, sir.

18 MR. PATTERSON: Nothing further, Your Honor.

19 THE COURT: Mr. Schwacke?

20 CROSS-EXAMINATION

21 BY MR. SCHWACKE:

22 Q. At the incident location for the domestic, Ms.
23 Nelson didn't request any medical assistance.

24 A. That's correct.

25 Q. How were you contacted about going to the Spring

(JON ELLWOOD-CROSS BY MR. SCHWACKE)

1 Hill address?

2 A. I was contacted via telephone.

3 Q. Regular telephone communication?

4 A. Yes, sir, on my city-issued telephone.

5 Q. And who was contacting you about it?

6 A. Corporal Beaudoin.

7 Q. Do you know how she got information about it?

8 A. I do not.

9 Q. Would calls into the department be normally
10 documented in some way?

11 A. Only thing I can speak to, I know the 911 calls
12 are recorded. I don't have knowledge as far as the
13 other lines. It's very possible but I just don't know
14 the answer to that.

15 Q. Okay. So you go to [REDACTED] and you
16 meet with who at that point?

17 A. Mr. Loflin.

18 Q. And where do you encounter him?

19 A. I -- I was actually looking for the address, you
20 know, looking for the house numbers. It's almost to
21 the end of the road where (inaudible).

22 Q. And were you parked at the 1252 address at that
23 point or did you just park on the side of the road?

24 A. I was parked on the side of the road. I wasn't in
25 a driveway. Is that what you mean?

(JON ELLWOOD-CROSS BY MR. SCHWACKE)

1 Q. Yes, I'm just trying to figure out approximately
2 where you were.

3 A. I was in -- along the road very close to 1252. I
4 can't -- I don't want to say I was absolutely in front
5 of the house.

6 Q. And so he approaches you while you're on the side
7 of the road.

8 A. As I get out of my car and I see people standing
9 there, I'm guessing those are the people that I'm there
10 to talk to. I get out and (inaudible).

11 Q. And what does he tell you when he approaches you?

12 A. He said that he -- first he has a bag, a clear
13 plastic bag and he handed it to me and said that he saw
14 the police chase. He saw this bag was thrown out of
15 the vehicle as it passed by where he could see it.
16 After securing it and -- and making sure what we were
17 dealing with was -- was (inaudible) he stated that it
18 was a blue-colored vehicle and he saw the blue light
19 behind it.

20 Q. Jump back to the drugs for a minute. The drugs
21 passed from whose possession to your possession?

22 A. Mr. Loflin's to mine.

23 Q. And that happens right out there at the street?

24 A. Yes, sir.

25 Q. And was there any indication from him where he

(JON ELLWOOD-CROSS BY MR. SCHWACKE)

1 retrieved it from?

2 A. He told me while speaking to me that it was -- he
3 told me up to the area near the intersection of Fort
4 and Spring Hill from where I was standing looking up.
5 There's at least one or two houses and the house at the
6 corner in that area which is (inaudible).

7 Q. You never had him show you actually where he
8 picked it up from?

9 A. I don't know.

10 Q. Did you speak with anyone else?

11 A. Not that I remember.

12 Q. Did you have any contact with a Mr. Rowland?

13 A. Not that I recall.

14 Q. You did get a statement from Mr. Loflin.

15 A. I did.

16 Q. And your incident report has that Loflin stated
17 that he had retrieved the clear plastic bag that
18 contained those materials?

19 A. I would have to look at the report.

20 Q. Would it refresh your memory for you to review
21 your narrative?

22 A. Sure.

23 Q. I can direct your attention to that.

24 A. I believe it does say that in my report.

25 Q. It says what?

(JON ELLWOOD-CROSS BY MR. SCHWACKE)

1 A. I put in my report Loflin stated he retrieved the
2 clear plastic bag that he witnessed the black male
3 driver of the blue-colored Crown Victoria.

4 Q. He retrieved it?

5 A. Yes.

6 Q. You then go back to meet with Evette after this --
7 Ms. Nelson?

8 A. (Inaudible)

9 Q. And there's some photograph that you obtained?

10 A. As far as a photograph of Mr. -- of the Defendant?

11 Q. Yes.

12 A. There was a photograph that was disseminated by
13 Officer Camp (inaudible).

14 Q. And did you show that to Officer Dodd?

15 A. I did at some point. I believe it was later that
16 same night. I showed the photo if you're referring to
17 the photo that I have on my phone that was (inaudible).

18 MR. SHWACKE: One moment, Your Honor.

19 THE COURT: Take your time.

20 MR. SHWACKE: Thank you. That's all the questions
21 I have.

22 MR. PATTERSON: Nothing further from the State,
23 Your Honor.

24 THE COURT: You may step down. Thank you. Ladies
25 and gentlemen, I told you we would go until about six.

(JON ELLWOOD-CROSS BY MR. SCHWACKE)

1 This is an appropriate time for us to end for the
2 evening. Please remember all of my admonitions. Do
3 not discuss this case with anyone. When you go home if
4 there's somebody there that asks you what you've done
5 today, you may not discuss this case with anyone. Do
6 not research -- do any independent research. Do not
7 read, watch, listen to any news account regarding this
8 case, should there be any. Please report back at 9:15.
9 The bailiff will tell you how to report at 9:15 in the
10 morning.

11 (Whereupon, the jury was excused for the evening
12 at 5:45 p.m. and the trial of the case adjourned.)

13 (Whereupon, the trial of the case reconvened on
14 April 8, 2014 and the jury came into open court at
15 approximately 9:27 a.m.)

16 THE COURT: Anything before we bring in the jury?

17 MR. PATTERSON: Nothing from the State, Your
18 Honor.

19 THE COURT: Do you need some time?

20 MR. SHWACKE: At least two minutes.

21 THE COURT: Take your time, Mr. Schwacke. I
22 understand. This is not your fault. We need to let
23 the record reflect that all 13 jurors conformed with
24 the Court's instructions. Mr. Patterson, call your
25 next witness.

(CHRISTOPHER ROWLAND-DIRECT BY MR. PATTERSON)

1 MR. PATTERSON: Thank you, Your Honor. The State
2 calls Chris Rowland.

3 THE COURT: Right up here, sir.

4 (Witness sworn)

5 THE CLERK: Please be seated, state your full name
6 and spell your last name for the record.

7 THE WITNESS: Christopher Adam Rowland -- R-O-W-L-
8 A-N-D.

9 CRISTOPHER ROWLAND, after being duly sworn,
10 testified as follows:

11 DIRECT EXAMINATION

12 BY MR. PATTERSON:

13 Q. Mr. Rowland, how are you doing today?

14 A. All right.

15 Q. Where do you currently work?

16 A. Airport for Ellis and Smith.

17 Q. And how long have you been working there?

18 A. About five months.

19 Q. And what type of work is it?

20 A. Commercial electrician.

21 Q. How long have you been doing electrician work?

22 A. Five years.

23 Q. And in 2004 did you have a conviction for a crime
24 that has a penalty of more than a year?

25 A. Yeah.

(CHRISTOPHER ROWLAND-DIRECT BY MR. PATTERSON)

1 Q. Were you subpoenaed here today by us?

2 A. (Inaudible)

3 Q. And do you know the Defendant?

4 A. No.

5 Q. Do you have any grudges against the Defendant?

6 A. No.

7 Q. Where are you currently living?

8 A. [REDACTED], Hanahan.

9 Q. And how long have you lived there?

10 A. Going on eight, nine years.

11 Q. And is that where you were living on March 11,
12 2013?

13 A. Yes.

14 Q. Do you remember that day?

15 A. Yes.

16 Q. Can you tell me what happened?

17 A. I was laying, chilling on the couch. My roommate
18 was out -- out smoking a cigarette on the porch. Heard
19 a bunch of sirens. He came in and told me that some
20 car just flew by my neighbors house, George, and threw
21 a bag out the window and I proceeded to go get it,
22 because in my mind there isn't but one thing that that
23 could be, and that's some type of drugs. And there's
24 kids that live there. All those houses where that
25 occurred, there's nothing but kids there. I mean, and

(CHRISTOPHER ROWLAND-DIRECT BY MR. PATTERSON)

1 that would be the last thing I would want in my
2 neighborhood, is a kid passing to die in possession --
3 or taking drugs, things of that nature, so I brought it
4 back and called the police and they took it over from
5 there.

6 Q. Mr. Rowland, I'm going to show you what has
7 previously been admitted as State's 10.

8 MR. PATTERSON: Your Honor, may I approach?

9 THE COURT: You may.

10 Q. Mr. Rowland, can you take a look at that for me?

11 A. Yes.

12 Q. Do you recognize that?

13 A. Yes.

14 Q. How do you recognize that?

15 A. It's the view off my back porch from my backyard.

16 MR. PATTERSON: Your Honor, may we publish that?

17 THE COURT: You may.

18 Q. If you could just turn around. Can you show me or
19 just give me a general idea of where ---

20 A. Where I found the bag?

21 Q. Yeah, where you found it at.

22 A. Right here.

23 Q. Okay. And that's about where you picked it up at?

24 A. Yes.

25 Q. Mr. Rowland, I'm going to show you what has been

(CHRISTOPHER ROWLAND-DIRECT BY MR. PATTERSON)

1 marked as State's Exhibit 22 for identification.

2 MR. PATTERSON: Your Honor, may I approach?

3 THE COURT: You may.

4 Q. Mr. Rowland, please take a look at that. Do you
5 recognize that?

6 A. Yes, sir.

7 Q. How do you recognize that?

8 A. That's the street that is perpendicular or
9 adjacent to my neighbor's house where I found the bag
10 at.

11 Q. And is that a fair and accurate representation of
12 the way that area would have looked on the day this
13 happened?

14 A. Yes.

15 MR. PATTERSON: Your Honor, at this time the State
16 would ask that State's 22 be admitted into evidence.

17 THE COURT: Any objections?

18 MR. SHWACKE: No objection.

19 THE COURT: State's 22 into evidence without
20 objection.

21 MR. PATTERSON: Permission to publish?

22 THE COURT: You may.

23 Q. If you could, give me an idea of how far from the
24 side of the street into the grass area you found it?

25 A. Right there.

(CHRISTOPHER ROWLAND-DIRECT BY MR. PATTERSON)

1 Q. Thank you, sir. Mr. Rowland, I'm going to show
2 you what has been marked as -- it's already been
3 admitted into evidence as State's 5. Do you recognize
4 that?

5 A. Yes, sir.

6 Q. How do you recognize that?

7 A. That is the bag I found on the side of the road
8 that I handed over to the police officer.

9 Q. And what did you do with it when you found it?

10 A. I held onto it, sat on the tailgate of my truck,
11 called the law.

12 Q. Did you hand it over to Mr. Loflin?

13 A. No. He was sitting next to me. To my memory he
14 never handled it other than he was talking with the
15 police officer. I left.

16 MR. PATTERSON: The Court's indulgence?

17 THE COURT: Take your time.

18 Q. Did you call 911?

19 A. No, I called the police department.

20 Q. You didn't call 911. You just called the police
21 department?

22 A. I have their number in my phone.

23 Q. Okay. Mr. Rowland, I'm going to show you what's
24 been marked as State's 21. It's, kind of, covered up.
25 If you can -- if you can see in there, do you recognize

(CHRISTOPHER ROWLAND-CROSS BY MR. SCHWACKE)

1 | what's in that bag?

2 A. Looks to be what was in that picture. The thing I
3 picked up, the drugs.

4 Q. And is that the bag that you picked up that day?

5 A. Yes, sir.

6 MR. PATTERSON: Nothing further from the State.
7 Please answer any questions Mr. Schwacke has.

8 THE COURT: Mr. Schwacke, your witness.

9 MR. SHWACKE: Thank you.

10 CROSS-EXAMINATION

11 BY MR. SCHWACKE:

12 Q. How are you doing, Mr. Rowland?

13 A. All right.

14 Q. So about what time are we talking about when all
15 this is going on?

16 A. I believe around five. It was in the evening.
17 Mr. Loflin got back from the first shift a little
18 early.

19 Q. And so he had just gotten home about five?

20 A. Around that time.

21 Q. And Mr. Loflin works with you on that shift?

22 A. At that time we were pulling two shifts.

23 Q. So he was going to have to go to work too?

24 A. Yes.

25 Q. And you met with an officer?

(CHRISTOPHER ROWLAND-CROSS BY MR. SCHWACKE)

- 1 A: Yes.
- 2 Q. Which officer did you meet with?
- 3 A. (Inaudible)
- 4 Q. Okay. And no doubt in your mind you met with a
- 5 police officer that night?
- 6 A. Yes, sir.
- 7 Q. Did they take your name, get your information?
- 8 A. Yeah.
- 9 Q. How did they take it down?
- 10 A. With a pen, piece of paper.
- 11 Q. Okay. So you were shown this picture; correct?
- 12 A. Yes, sir.
- 13 Q. And you indicated that where you found the item
- 14 was up here?
- 15 A. Yes, sir, right here alongside that road.
- 16 Q. Right here?
- 17 A. Yes, sir.
- 18 Q. Where it looks like it's a different color?
- 19 A. Yes, sir. No, right here on the side of the shade
- 20 where the little (inaudible) right there.
- 21 Q. I just want to make sure we're pointing to the
- 22 same spot.
- 23 A. All right.
- 24 Q. Am I pointing to the spot right there?
- 25 A. Down a little.

(CHRISTOPHER ROWLAND-CROSS BY MR. SCHWACKE)

- 1 Q. I'm going to let you ---
- 2 A. Right there.
- 3 Q. Right there?
- 4 A. Yes, sir.
- 5 Q. Okay. So on what's been marked as State's Exhibit
- 6 Number 8 for identification ---
- 7 A. Yes, sir.
- 8 Q. --- it would not be down in this area?
- 9 A. No, sir, it would be right here.
- 10 Q. Who all lived with you ---
- 11 A. My wife ---
- 12 Q. --- at the time?
- 13 A. --- my wife and William.
- 14 Q. And I'll show you what's been marked as State's
- 15 Exhibit 11 for identification. That is again ---
- 16 A. That's my back porch.
- 17 Q. Your back porch.
- 18 A. Yes, sir.
- 19 Q. And that fairly and accurately depicts the way it
- 20 looked a year ago?
- 21 A. No, sir, the jasmine's done took up this year and
- 22 bundled up to the post, to the top rail. This tree was
- 23 not there last year. Usually this hangs down but I'm
- 24 trying to get it to wrap through the lattice ---
- 25 Q. Okay. Now, you ---

(CHRISTOPHER ROWLAND-CROSS BY MR. SCHWACKE)

- 1 A. --- so I tied it up.
- 2 Q. You met with an investigator from my office; is
- 3 that correct?
- 4 A. That's correct.
- 5 Q. Ms. Freeman?
- 6 A. Yes, sir.
- 7 Q. And you did not tell her that?
- 8 A. No, I didn't tell her that'.
- 9 Q. Show you what's been marked as State's Exhibit 20
- 10 for identification. What is that?
- 11 A. My back porch.
- 12 Q. And there's actually someone on the back porch?
- 13 A. Yes.
- 14 Q. Who is that?
- 15 A. That's my wife.
- 16 Q. And when you described this to the investigator
- 17 from our office, you indicated that Mr. Loflin was
- 18 sitting at the table with the umbrella?
- 19 A. Yeah.
- 20 Q. And that's what he told you?
- 21 A. Yeah. Well, I mean, he didn't tell me that now.
- 22 I assumed that he was on the back porch and he was
- 23 sitting at the table. Whether he was or not, like I
- 24 said, I was on the couch.
- 25 Q. But you told our investigator ---

(CHRISTOPHER ROWLAND-CROSS BY MR. SCHWACKE)

1 A. I told her that that's where I believed he was at,
2 yes, sir.

3 Q. And you told the jury that initially.

4 A. That's -- and that's exactly what I just said. As
5 far as I know, that's where he was sitting.

6 Q. Initially you said that's where he was sitting and
7 now you're saying ---

8 A. I'm saying the same thing.

9 Q. --- you don't --- okay. So you went and picked it
10 up off the ground?

11 A. Yes, sir.

12 Q. Why did you go do it?

13 A. It's my home, my neighborhood and I feel more
14 responsible for my neighborhood than William should, so
15 that's why I did it.

16 Q. You didn't see the item -- how it got there at
17 all?

18 A. No.

19 Q. You have no clue how it got there?

20 A. Other than what William told me, no, sir.

21 Q. And he was the one, he's testified, he saw that.

22 A. Yes.

23 Q. But he didn't go pick it up.

24 A. Yes.

25 Q. What time was the next shift? You said you had to

(CHRISTOPHER ROWLAND-CROSS BY MR. SCHWACKE)

1 go start a shift at what time?

2 A. I didn't say the time but usually we went in about
3 11 o'clock, 12 o'clock at night.

4 Q. Okay. So when you testified that you didn't stick
5 around when the police came although you said you saw
6 the police ---

7 A. Yes, I had to go to work. I had to go pick my
8 wife up, get everything done for the day before I had
9 to go to sleep and go to work.

10 Q. And that was going to be at 11 o'clock at night?

11 A. Yes. I've got to cook dinner, wash clothes, get
12 ready for work.

13 Q. You never gave a statement to the police?

14 A. Other than what -- I mean, I gave them the drugs
15 and told them where I found it. I don't recall writing
16 a statement down, no.

17 Q. And your name doesn't appear on any Hanahan Police
18 Department reports?

19 A. I wouldn't know. I don't have any of those.

20 Q. And you touched the bag?

21 A. Yes, I had to pick it up.

22 MR. SHWACKE: One moment, Your Honor.

23 THE COURT: Take your time.

24 Q. So what was described to you by Mr. Loflin in
25 terms of being thrown from a car?

(CHRISTOPHER ROWLAND-REDIRECT BY MR. PATTERSON)

1 A. A car driving at high speed down that road, Fort
2 Drive, and tossed it out the window. That's about all.

3 Q. So you went looking for anything.

4 A. A bag. A bag is what he described.

5 Q. And you saw a Baggie and you thought it was what?

6 A. Sugar cookies. They were a round sugar cookie.
7 At the time they weren't all broke up.

8 Q. You mentioned to our investigator that you have
9 friends in the Solicitor's Office?

10 A. No, I didn't. I said I knew the investigator.

11 Q. You knew the ---

12 A. I had met him prior to a case that was involved
13 across the street where I was attacked a couple of
14 years ago.

15 Q. Okay. So you'd want to help them?

16 A. Want to help them? It had nothing to do with the
17 Solicitor's Office.

18 MR. SHWACKE: No further questions.

19 MR. PATTERSON: Briefly.

20 THE COURT: Take your time.

21 REDIRECT EXAMINATION

22 BY MR. PATTERSON:

23 Q. Mr. Rowland, when you picked up the bag were there
24 any other bags laying around?

25 A. No.

(VICTORIA BEAUDOIN-DIRECT BY MR. CONDON)

1 MR. PATTERSON: Nothing further, Your Honor.

2 THE COURT: Mr. Schwacke?

3 MR. SHWACKE: Nothing, Your Honor.

4 THE COURT: You may step down and you are free to
5 leave but you're also free to stay with us. Call your
6 next witness.

7 MR. CONDON: The State calls Corporal Lane
8 Beaudoin.

9 (Witness sworn)

10 THE CLERK: Please be seated, state your full name
11 and spell your last name for the record.

12 THE WITNESS: My full name is Victoria Beaudoin.
13 Last name is spelled B-E-A-U-D-O-I-N..

14 VICTORIA BEAUDOIN, after being duly sworn,
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MR. CONDON:

18 Q. Good morning. Do you go by Lane?

19 A. Yes.

20 Q. And who are you employed by?

21 A. Hanahan Police Department.

22 Q. And what is your job title there?

23 A. Currently corporal. I've been taken off the road
24 just helping out where I can.

25 Q. Because of maternity leave?

(VICTORIA BEAUDOIN-DIRECT BY MR. CONDON)

1 A. Yes.

2 Q. Okay. And what was your job title back on March
3 11, 2013?

4 A. That day I was corporal but I was also a shift
5 supervisor.

6 Q. And what were some of your job duties back then?

7 A. For that day was to work the road basic patrol and
8 also maintain schedules for the other employees that
9 were working that day.

10 Q. Did you respond to an incident involving the
11 pursuit of the Defendant Barry Stanley?

12 A. Yes, sir.

13 Q. And where did you respond to?

14 A. I responded to the area of Murray Drive and Fort
15 in reference to a vehicle that had left the scene.

16 Q. And can you explain to the jury what happened when
17 you responded to that area?

18 A. When I responded to the area, I was given the
19 description of the vehicle, a blue Crown Vic, and after
20 getting into the area I was told that -- that the
21 vehicle was located in Berkeley Hills by another
22 officer, so I staged to wait for the vehicle.

23 Q. And while you were staging can you explain what
24 happened after that?

25 A. I parked my vehicle on Fort near the Redeemer

(VICTORIA BEAUDOIN-DIRECT BY MR. CONDON)

1 Catholic School and waited for the vehicle. There's
2 only one way in and one way out, so while I was waiting
3 I saw the vehicle coming from where it was on Redeemer
4 and one of our other officers that was following had
5 his blue lights on.

6 Q. All right. And so what happened after that?

7 A. After he went through the stop sign, at the time
8 there was Corporal Lanphere, but now Sergeant Lanphere
9 began to then chase the vehicle with his blue lights
10 on, and then another officer and (inaudible).

11 Q. So what number car were you in the chase?

12 A. I was the third

13 Q. Third car. And what was the Defendant's driving
14 like at that point?

15 A. It was reckless. He had already driven through
16 one stop sign in front of me and then he went through
17 the traffic light, took a left onto Murray and then
18 continued with high speeds over the line without regard
19 for anybody coming in his direction.

20 Q. At any point did he hit a vehicle during the
21 chase?

22 A. Yes.

23 Q. And what happened after hitting the vehicle?

24 A. When he hit the vehicle I stopped out with the
25 vehicle to -- to -- noticing that there was damage to

(VICTORIA BEAUDOIN-CROSS BY MR. SCHWACKE)

1 it -- to render aid. At that time I located four to
2 five children (inaudible).

3 Q. And did you get on the phone with dispatch at that
4 time?

5 A. Yes.

6 Q. And did you receive any information from dispatch
7 in regards to possible drugs being located?

8 A. Yes.

9 Q. And what information was that?

10 A. When I called in to dispatch due to the radio
11 being on emergency use for the pursuit only, I called
12 in to notify them of the vehicle that was damaged and
13 to have the highway patrol to come out and assist.
14 That was when the dispatcher told me that another
15 person had called in and said that they had located
16 some type of drugs at [REDACTED] and I told
17 her that I would get an officer out there as soon as I
18 could.

19 Q. And did you relay that information to other
20 officers?

21 A. Yes.

22 MR. CONDON: No further questions.

23 THE COURT: Mr. Schwacke?

24 CROSS-EXAMINATION

25 BY MR. SCHWACKE:

(VICTORIA BEAUDOIN-CROSS BY MR. SCHWACKE)

- 1 Q. Help me with the name.
- 2 A. Bow-din.
- 3 Q. Bow-din. But you've also have reports at times
- 4 under the name Hollombeck?
- 5 A. Yes.
- 6 Q. And then you said something about you using ---
- 7 A. My name is Victoria Lane Beaudoin. Hollombeck was
- 8 my old name. I've gotten married since.
- 9 Q. So at times we see different names on ---
- 10 A. I go by both.
- 11 Q. Did you do a report for the events of March 11th?
- 12 A. No, the responding officer did the report.
- 13 Q. Okay. So did you review anything to help you
- 14 coming here today to testify?
- 15 A. No. Memory.
- 16 Q. You're doing good. You met with Evette Nelson the
- 17 next day?
- 18 A. Yes.
- 19 Q. And had a conversation with her about the events
- 20 that she had previously reported on the 11th?
- 21 A. Yes, sir.
- 22 Q. Which essentially she named a person named
- 23 Deangelo Watson.
- 24 A. Uh-huh.
- 25 Q. As a result of that conversation with her, you

(VICTORIA BEAUDOIN-CROSS BY MR. SCHWACKE)

1 actually took the step of removing and calling back the
2 arrest warrants you had previously filed the day before
3 for Mr. Stanley.

4 A. Yes.

5 Q. And that was based upon the interview with Ms.
6 Nelson?

7 A. It was based on her interview with him or about
8 that person. I didn't want the wrong person to get
9 arrested until we fully found out the information so
10 changed the name of the person.

11 Q. And that would have been despite the fact that
12 Officer Dodd had identified a photo of Mr. Stanley.

13 A. I'm sorry?

14 Q. Mr. Dodd had identified a photo of Mr. Stanley the
15 day before.

16 A. I was not aware of that.

17 Q. The next day you're still withdrawing the
18 warrants.

19 A. I had withdrawn until we had enough to know
20 whether it was him or the other guy.

21 Q. And you never went to the area where they found
22 the drug items?

23 A. No, sir, I stayed with the vehicle that he had
24 hit.

25 Q. And all you knew was that dispatch had told you a

(VICTORIA BEAUDOIN-REDIRECT BY MR. CONDON)
(VICTORIA BEAUDOIN-RECROSS BY MR. SCHWACKE)

1 call had been received?

2 A. Uh-huh.

3 Q. You don't know from whom?

4 A. I don't remember the last name, no, sir.

5 Q. And no recording was made of that call?

6 A. No, sir, it was -- I'm not sure if he had called
7 on our recorded line, but the phone call I was on was
8 through my work cell phone.

9 MR. SHWACKE: Thank you.

10 MR. CONDON: Just a couple more questions.

11 REDIRECT EXAMINATION

12 BY MR. CONDON:

13 Q. Is it a big decision to charge somebody with a
14 crime?

15 A. Yes, sir.

16 Q. Did y'all want to make sure you had the right
17 person charged?

18 A. Yes, sir.

19 RECROSS-EXAMINATION

20 BY MR. SCHWACKE:

21 Q. Arrests are made all the time based on an
22 officer's identification.

23 A. It is.

24 THE COURT: You may step down. Feel free to stay
25 with us. Thank you. Call your next witness.

(PAM NELSON-DIRECT BY MR. CONDON)

1 MR. CONDON: The State calls Pam Nelson.

2 (Witness sworn)

3 THE CLERK: Please be seated, state your full name
4 and spell your last name for the record.

5 THE WITNESS: Pam Nelson -- N-E-L-S-O-N.

6 PAM NELSON, after being duly sworn, testified as
7 follows:

8 DIRECT EXAMINATION

9 BY MR. CONDON:

10 Q. Good morning, Officer Nelson. Who are you
11 employed by?

12 A. Hanahan Police Department.

13 Q. And what was your job title back on March 11th,
14 2013?

15 A. Detective.

16 Q. And what are some of your job duties as a
17 detective?

18 A. I was in charge of (inaudible) sexual assaults on
19 children, child abuse, physical and sexual, domestic
20 violence, elder abuse, murders, attempted murders.

21 Q. And what was your involvement in the investigation
22 of this case?

23 A. I had went over to the witnesses' residence and
24 submitted photo lineups to see if the individuals could
25 pick out photographs.

(PAM NELSON-DIRECT BY MR. CONDON)

1 Q. And was this on March 14th?

2 A. It was.

3 Q. Did you take any statements from any witnesses?

4 A. I did.

5 Q. And who did you take statements from?

6 A. I took one statement from Tanya Deane, one
7 statement from Preston Kornahrens and one statement
8 from Greg Rider.

9 Q. And did you learn that they all lived together?
10 That was the wife and the child?

11 A. Yes.

12 Q. And did you give the eyewitness Greg Rider an
13 opportunity to identify the suspect in a photo lineup?

14 A. Yes.

15 Q. I'm going to show you what's been already admitted
16 into evidence as State's Exhibit Number 17. Do you
17 recognize that?

18 A. Yes.

19 Q. How do you recognize that?

20 A. It has my handwriting on it, as shown by Detective
21 Pam Nelson on 3/14 of '13, and I also advised Mr. Rider
22 if he could identify (inaudible) and then date and
23 circle the photograph.

24 Q. And did the eyewitness, Greg Rider, did he tell
25 you he would be able to identify the person involved --

(PAM NELSON-DIRECT BY MR. CONDON)

1

-

2

A. Yes.

3

Q. --- on that day? Did he say that he had a -- was it your understanding that he had a good view of the person involved?

4

5

6

A. Yes.

7

Q. And when you showed him that photo lineup, did you suggest any picture that he should select?

8

9

A. No.

10

Q. Did you in any way suggest who it should be?

11

A. No

12

Q. And did Greg Rider make a selection?

13

A. Yes, he did.

14

Q. And who did he select?

15

A. He selected number one which was Barry Stanley.

16

Q. And was he certain of that selection?

17

A. Yes.

18

Q. Did he indicate any doubt?

19

A. No.

20

Q. And again, who was the person he selected?

21

A. Barry Stanley.

22

MR. CONDON: No further questions.

23

THE COURT: Mr. Schwacke?

24

MR. SHWACKE: No questions, Your Honor, subject to our previous objection.

25

(MICHAEL EVERETT FOWLER-DIRECT BY MR. PATTERSON)

1 THE COURT: You may step down. You may stay with
2 us but I think you are also free to leave. Call your
3 next witness.

4 MR. PATTERSON: The State calls Lieutenant Fowler.
5 (Witness sworn)

6 THE CLERK: Please be seated, state your full name
7 and spell your last name for the record.

8 THE WITNESS: Michael Everett Fowler -- F-O-W-L-E-
9 R.

10 MICHAEL EVERETT FOWLER, after being duly sworn,
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MR. PATTERSON:

14 Q. Lieutenant Fowler, how are you doing today?

15 A. Yes, sir.

16 Q. Where do you currently work?

17 A. I'm employed by the City of Hanahan Police
18 Department.

19 Q. And how long have you been with Hanahan?

20 A. Twenty-three years, seven months.

21 Q. And what's your current position with the police
22 department?

23 A. I am the support services division commander.

24 Q. And what are your current duties?

25 A. My duties, I am responsible for records,

(MICHAEL EVERETT FOWLER-DIRECT BY MR. PATTERSON)

1 investigations, evidence, purchasing, fleet, budget
2 preparation, media responsibilities. Basically I'm in
3 charge of everything except (inaudible).

4 Q. And is it fair to say those were the same duties
5 you had on March 11th, 2013?

6 A. Yes.

7 Q. I'm going to show you what has been marked for
8 identification as State's 21.

9 MR. PATTERSON: Your Honor, may I approach?

10 THE COURT: You may.

11 Q. This is State's 21 marked for identification. Do
12 you recognize that?

13 A. I do.

14 Q. How do you recognize that?

15 A. This is a bag we use to package evidence with our
16 evidence ticket on it.

17 Q. And is your signature on that?

18 A. My signature? No.

19 Q. Is your handwriting on that?

20 A. Yes.

21 Q. Where did you obtain it from?

22 A. I obtained it from the temporary wall locker where
23 evidence is placed.

24 Q. And is that a secure location?

25 A. It is.

(MICHAEL EVERETT FOWLER-DIRECT BY MR. PATTERSON)

1 Q. Do you have a key for that?

2 A. I do.

3 Q. And where did you take it?

4 A. When I remove the evidence from the temporary wall
5 locker, I take it down to the property room and log it
6 into the evidence room.

7 Q. Does it say when you retrieved it on there?

8 A. March 13th, 2013 at 4:20 in the afternoon.

9 Q. When you obtained it was it sealed?

10 A. It was.

11 Q. Did it appear to have been tampered with?

12 A. No.

13 Q. And what do you do with it once you get it into
14 the evidence room?

15 A. When I take it down to the evidence room, I enter
16 it into the evidence tracking software and it prints
17 out a barcode label. I then put it in the appropriate
18 bin relevant to where it needs to go for testing, or if
19 it doesn't need testing I place it in the appropriate
20 officer's evidence container.

21 Q. And does it remain in that room until it's
22 transported for testing?

23 A. Yes.

24 Q. And is that a secure location?

25 A. It is.

(MICHAEL EVERETT FOWLER-CROSS BY MR. SCHWACKE)

1 MR. PATTERSON: Nothing further from the State at
2 this time.

3 THE COURT: Mr. Schwacke?

4 CROSS-EXAMINATION

5 BY MR. SCHWACKE:

6 Q. Lieutenant Fowler, so could you explain this wall
7 that you just mentioned?

8 A. Upstairs in the administrative section of the
9 police department there are 13 temporary wall lockers
10 that are keyed individually. The officer will take the
11 evidence, place it in the wall locker, remove the key,
12 drop that key into an old post office mailbox which is
13 locked and I have the only key. I will then retrieve
14 the key from the mailbox, remove the evidence from the
15 wall locker and transport it down to the permanent
16 property room.

17 Q. So in this case Officer Ellwood would be the one
18 who presents it into the wall unit?

19 A. Yes, sir.

20 Q. And how do you know what time that happens?

21 A. It's written on the evidence ticket.

22 Q. And the evidence ticket is a handwritten document?

23 A. Yes, sir, it's the -- the sticker that's applied
24 to the bag of evidence.

25 Q. So in this case it's attached to that bag?

1 A. Yes, sir.

2 Q. And is this -- which document are we talking about
3 where he actually wrote on it? This orange sticker?

4 A. Yes, sir. Entered into evidence at 11:30.

5 Q. Got 11:30?

6 A. 10:30. 2230. 2230. 10:30.

7 Q. Okay. And then I have a document that was given
8 to me like this. Is that ---

9 A. That's what put out by the evidence tracking
10 software.

11 Q. The software you were talking about?

12 A. Yes, sir.

13 Q. And so in that instance it says seizing officer,
14 John Ellwood. It says review officer, Travis Lanphere.

15 A. At the time Sergeant Lanphere was the one that was
16 involved in the pursuit. I believe that he was going
17 to be the case officer and ultimately it was decided by
18 the Chief of Police that Officer Ellwood would handle
19 the case.

20 Q. Okay. So then it says on location, it's got a
21 date and a time.

22 A. Yes.

23 Q. What is that?

24 A. On location means it's in the property room.

25 Q. So that means you've taken the step to remove it

(MICHAEL EVERETT FOWLER-CROSS BY MR. SCHWACKE)

1 from the wall into the property room?

2 A. Yes, sir.

3 Q. And that has a time on it as well?

4 A. Yes, sir.

5 Q. That looks like, if I'm reading this right, it's
6 on location on the 13th of March at 4:57 p.m.

7 A. (Inaudible)

8 Q. Then it has an entry that says sent to laboratory.

9 A. Yes.

10 Q. So tell me what the system is kicking out there.

11 A. Well, from the time I take it from the wall locker
12 I don't always have the opportunity to immediately
13 enter it into the evidence tracking software. I secure
14 it in the property room, sometimes the wall locker in a
15 more secure location, but because evidence is not the
16 only responsibility I have, I don't always have time to
17 sit down and immediately log it into the system.

18 Once I log it into the system that's the time
19 stamp that shows on location and then when I released
20 the evidence to Detective Durant to take it to the
21 Charleston Police Lab that's where it's documented sent
22 to laboratory.

23 Q. And that date and time was what?

24 A. It was sent to the laboratory on April 1st, 2013.
25 It was logged out at 10:24 in the morning.

1 Q. And is there a log -- I guess, do you create a
2 report when it's returned to the system?

3 A. It's logged back on location May 10th at 4:32 in
4 the afternoon.

5 Q. You said May 10th?

6 A. Yes.

7 Q. At what time?

8 A. It says 4:32 in the afternoon is when I logged it
9 back into the system.

10 Q. I'm going to show you again what's marked State's
11 Exhibit 21 for identification. Is there another time
12 that item gets checked out from Hanahan?

13 A. Yes, it was -- on April 1st it was given to Durant
14 to take to the laboratory.

15 Q. That was in 2013.

16 A. 2013.

17 Q. At the 10:25 time?

18 A. Correct.

19 Q. After it's -- when does that indicate it was
20 returned back to Hanahan?

21 A. The evidence ticket says 4/2 -- 4/2/14.

22 Q. So there's some activity with that on April the
23 2nd of 2014?

24 A. It appears to be, yes.

25 Q. Do you recognize the handwriting?

(MICHAEL EVERETT FOWLER-CROSS BY MR. SCHWACKE)

1 A. That is my handwriting.

2 Q. Does it indicate who it was checked out to and
3 then does it show a return after that?

4 A. It was brought back into the evidence room
5 4/20/14.

6 Q. And that's got your signatures on it?

7 A. Yes, sir.

8 MR. SHWACKE: One moment, Your Honor. I think
9 that's all the questions I have.

10 MR. PATTERSON: Nothing further from the State,
11 Your Honor.

12 THE COURT: You may step down. Feel free to stay
13 with us but you're also free to leave. Thank you.
14 Call your next witness.

15 MR. PATTERSON: The State calls Lieutenant Turner.
16 (Witness sworn)

17 THE CLERK: Please be seated, state your full name
18 and spell your last name for the record.

19 THE WITNESS: Spell my last name?

20 THE CLERK: Uh-huh.

21 THE WITNESS: Dennis Ray Turner. Turner is T-U-R-
22 N-E-R.

23 MR. PATTERSON: Court's indulgence.

24 THE COURT: Take your time.

25 DENNIS TURNER, after being duly sworn, testified

(DENNIS TURNER-DIRECT BY MR. PATTERSON)

1 as follows:

2 DIRECT EXAMINATION

3 BY MR. PATTERSON:

4 Q. Lieutenant Turner, how are you doing today?

5 A. Pretty good, sir.

6 Q. Where do you currently work?

7 A. The Hanahan Police Department.

8 Q. And how long have you been there?

9 A. Sixteen years this July.

10 Q. And what's your current position with Hanahan?

11 A. It's operations lieutenant which basically means I
12 supervise all of the patrol, including patrol division,
13 school resource officers, canine, traffic, and then I
14 have some ancillary (inaudible).

15 Q. And what were your duties -- were those the same
16 type of duties you would have had on March 13th, 2013?

17 A. Yes, sir.

18 Q. And how did you become involved in this case?

19 A. Basically Detective Durant had obtained a search
20 warrant to process the vehicle that was involved in the
21 chase and he asked for some help, so I went with him to
22 help him process the car.

23 Q. What was the purpose of the search warrant, when
24 you say process the car?

25 A. Basically to examine the car for any items inside

(DENNIS TURNER-DIRECT BY MR. PATTERSON)

1 the car that would help lead to the identification of
2 the driver. Also any forensic evidence that would be
3 found in the car, such as latent fingerprints, DNA,
4 those type of things.

5 Q. Lieutenant Turner, I'm going to show you what has
6 already been admitted into evidence as State's 1, 2, 3
7 and 4. Do you recognize these?

8 A. Yes, sir.

9 Q. And how do you recognize them?

10 A. These are the photographs of the vehicle the
11 search warrant was executed on.

12 Q. And is that a fair and accurate representation of
13 what the vehicle looked like at that time?

14 A. Yes, sir.

15 Q. Did you process the car for fingerprints?

16 A. Yes, sir.

17 Q. Do you have experience lifting latent
18 fingerprints?

19 A. Yes, sir.

20 Q. How many times roughly have you lifted
21 fingerprints?

22 A. I couldn't even begin to count. It's a lot. In
23 16 years, a lot.

24 Q. And was anybody with you at the time you processed
25 the car?

(DENNIS TURNER-DIRECT BY MR. PATTERSON)

1 A. Yes, sir, Detective Durant was.

2 Q. Lieutenant Turner, I'm going to show you what has
3 been marked for identification as State's 14.

4 MR. PATTERSON: Your Honor, may I approach?

5 THE COURT: You may.

6 Q. Please take a look at those.

7 THE COURT: What were the numbers, Mr. Patterson?

8 MR. PATTERSON: Numbers 14 and 15.

9 A. Yes, sir, I recognize them.

10 Q. And how do you recognize those?

11 A. These were the latent fingerprints that I
12 recovered from the vehicle. My name is written on the
13 back of the card which indicates who recovered the
14 fingerprints.

15 Q. And those are the fingerprints -- that's the
16 fingerprints you recovered?

17 A. Yes, sir.

18 MR. PATTERSON: Your Honor, at this time the State
19 would ask to admit fingerprint -- State's 14 and 15
20 into evidence.

21 MR. SCHWACKE: Without objection.

22 THE COURT: State's 14 and 15 into evidence
23 without objection.

24 MR. PATTERSON: Permission to publish?

25 THE COURT: You may.

(DENNIS TURNER-DIRECT BY MR. PATTERSON)

1 Q. Lieutenant Turner, where did you obtain these
2 particular fingerprints from?

3 A. The rearview mirror inside the car.

4 Q. Can you describe the method that you used to
5 obtain these particular fingerprints?

6 A. What I did is first I put on rubber gloves before
7 I open up the fingerprint powder for two reasons. One
8 is to make sure I don't get it on my hands, because
9 once it gets on your hands it gets all over, all over
10 you, and then also not to contaminate (inaudible) I
11 use. It's white powder. Essentially you take
12 (inaudible) I use a brush that looks like a miniature
13 feather duster. Put a little bit of powder on the
14 brush and start lightly going over the surface or
15 object that I want to obtain them, in this case the
16 rearview mirror, and you'll see the latent fingerprint.

17 It'll start to appear and once you get it dark
18 enough, the next thing I use is called lift tape. It's
19 clear -- it's clear tape. Slowly put it over the
20 fingerprint and once you -- once you're sure the air
21 bubbles are out and the print's been attached to the
22 tape, you slowly remove it and put it on what you just
23 showed that's called a backing card. It's, like, a
24 three by five index card. Just put it on there and
25 then once it's on there, you turn the card over, fill

1 out the date and a small sketch of it and other
2 information asked for on the back of the card.

3 Q. Once you obtained the fingerprints, what did you
4 do with them?

5 A. I gave them to Detective Durant.

6 Q. And before turning them over to Detective Durant,
7 were the fingerprints ever out of your custody?

8 A. No, they were with me until I gave them to him.

9 Q. During the vehicle search did you make note of the
10 position of the driver's seat?

11 A. Yes, sir.

12 Q. And what was significant about that?

13 A. I based it off of the -- I'm roughly five-nine, at
14 the time 230 pounds, and I could easily sit in the
15 driver's seat and I could -- if I had to, I could have
16 driven the car without any issue, without having to
17 move the seat backward or forward.

18 Q. And why did you think that was important to note?

19 A. Well, because I know they had earlier identified a
20 suspect that was real short, I think, five feet, five
21 foot two, somewhere around there, and so I noticed
22 right away that the position of the seat, someone that
23 tall wouldn't be able to reach the pedals. Based on
24 the height ---

25 Q. This short guy you're talking about, who is that?

(DENNIS TURNER-CROSS BY MR. SCHWACKE)

1 A. I believe his last name might have been Mr.
2 Watson.

3 Q. And so he's the short guy you're talking about?

4 A. Yes, sir, I think that was his name.

5 Q. The position of the seat in the car wouldn't have
6 matched somebody that short?

7 A. No, but I -- like I said, my height and weight, I
8 could have without a problem.

9 Q. And is your height and weight closer to that of
10 the Defendant's?

11 A. Yes, sir.

12 MR. PATTERSON: Nothing further, Your Honor.

13 THE COURT: Mr. Schwacke?

14 CROSS-EXAMINATION

15 BY MR. SCHWACKE:

16 Q. You weren't involved in the chase?

17 A. No, sir.

18 Q. So you have no idea if that seat got moved back?

19 A. No, sir.

20 MR. SHWACKE: That's all the questions I have.

21 MR. PATTERSON: Nothing further from the State.

22 THE COURT: You may step down. Feel free to stay
23 with us but you're also free to leave. Thank you.

24 Call your next witness.

25 MR. CONDON: The State calls Detective Fred

(FREDERICK JOSEPH DURANT-DIRECT BY MR. CONDON)

1 Durant.

2 (Witness sworn)

3 THE CLERK: Please be seated, state your full name
4 and spell your last name for the record

5 THE WITNESS: My name is Frederick Joseph Durant.
6 My last name is spelled D-U-R-A-N-T.

7 FREDERICK JOSEPH DURANT, after being duly sworn,
8 testified as follows:

9 DIRECT EXAMINATION

10 BY MR. CONDON:

11 Q. Good morning, detective. Who are you employed by?

12 A. Hanahan Police Department.

13 Q. And what is your job title with Hanahan?

14 A. Detective.

15 Q. And what are some of your job duties as detective?

16 A. I investigate property crimes. Also along with
17 Sergeant Brooks and Detective Camp, we will take latent
18 prints, firearms and drugs from the evidence room.

19 Q. And were you involved in an incident regarding the
20 Defendant Barry Stanley on March 11, 2013?

21 A. I was.

22 Q. And did you join a pursuit in progress?

23 A. I did.

24 Q. And can you explain to the jury what happened?

25 A. On March 11 I was actually on my way home when I

(FREDERICK JOSEPH DURANT-DIRECT BY MR. CONDON)

1 heard a call being transmitted over the radio. The
2 vehicle chase was actually coming towards my direction.
3 I was on Railroad Avenue and the chase was actually
4 coming up Murray Drive going towards Hanahan Road into
5 North Charleston.

6 As I turned my vehicle around and approached the
7 intersection at Railroad and Murray Drive, the chase
8 had already passed me, but as I reached that
9 intersection, Lieutenant Fowler passed me. His blue
10 lights were on, siren, and I joined in behind him. We
11 traveled on Rivers Avenue, made our way onto Interstate
12 26 and the vehicle chase ended on Maple Street.

13 While I was traveling -- while I was en route to
14 that direction, they gave a description of the guy.
15 They said it was a black male, stocky build. They said
16 he could possibly be hiding under a house. Once I
17 arrived at Maple Street, it was directly in front of 56
18 Maple but I patrolled the area. A perimeter was set
19 up. I patrolled surrounding streets. I met with
20 witnesses and neighbors.

21 I also met with the homeowner at 56 Maple Street.
22 There was a little bit of resistance at first, but
23 eventually he gave me consent to search his home.
24 Sergeant Lanphere and I went inside and we searched --
25 searched the area. He wasn't located. We also

1 searched the garage area and the back of the house and
2 he wasn't located there as well. We searched under the
3 house and he wasn't there. Shortly after Lieutenant
4 Fowler called the chase and after that the vehicle was
5 secured. The vehicle was secured. I looked at the
6 vehicle a little bit before -- you know, before it was
7 actually towed from the scene.

8 From what I observed, I saw some prints that were
9 clearly visible. It was real -- a lot of people were
10 out there, a lot of neighbors, witnesses. The media
11 was out there. I suggested that the vehicle be secured
12 and be towed to a secured location so it could be
13 processed.

14 Q. And was the vehicle secured?

15 A. Yes, it was in a vehicle (inaudible).

16 Q. All right. So y'all weren't able to locate the
17 Defendant driving the vehicle at that time?

18 A. We did not.

19 Q. And did you along with Officer Turner, did y'all
20 attempt to lift any prints from the car?

21 A. After a search warrant was obtained, yes.

22 Q. I'm going to show you what's been marked as
23 State's Exhibit 14 and 15. It's already been entered
24 into evidence. Do you recognize that?

25 A. I do.

(FREDERICK JOSEPH DURANT-DIRECT BY MR. CONDON)

1 Q. And are those the fingerprints that were lifted
2 from the car that day?

3 A. Yes.

4 Q. And once they were lifted, did you do anything
5 with the prints?

6 A. After the prints were lifted, I took them over to
7 North Charleston where we get our AFIS examination
8 done. I met with Sergeant White and I gave him the
9 prints for his examination.

10 Q. And can you describe where those prints were
11 lifted from?

12 A. The exact location, I'm not sure. It was --
13 Lieutenant Turner was actually lifting the prints from
14 the vehicle. While he was lifting the prints, I was
15 searching the car. From what I observed, the front
16 portion was actually processed for latent prints
17 between the driver and the passenger seat, the driver's
18 side window, the side mirror, the rearview mirror. I
19 know he took (inaudible) the dash. That was processed.

20 We looked in the dash -- the dash compartment in
21 the car. It was mainly the front portion of the
22 vehicle that was being processed and obviously I was in
23 the back to see whatever could be located in the back
24 of the vehicle.

25 Q. You stated that y'all obtained a search warrant

(FREDERICK JOSEPH DURANT-DIRECT BY MR. CONDON)

1 for the vehicle. What was the results of your search
2 warrant?

3 A. Photographs were taken, latent prints were lifted.
4 I also took a matchbook, two condoms and some
5 paperwork, some documentation.

6 Q. And what was your involvement in the photo lineup?

7 A. I contacted Charleston County and I requested a
8 photo lineup from Mr. Allen. They provided that photo
9 lineup and I got it to Sergeant Nelson.

10 Q. I'm going to show you what's been entered into
11 evidence as State's Exhibit 17. Was that the photo
12 lineup that you were provided?

13 A. Yes.

14 Q. I'm going to show you State's Exhibit 21. Do you
15 recognize that?

16 A. I do.

17 Q. Is that the bag of crack cocaine that was taken
18 from the crime scene?

19 A. Yes.

20 Q. And can you briefly describe how evidence is
21 stored at the City of Hanahan Police Department?

22 A. Once an officer collects evidence, they put it in
23 an evidence locker. It's locked with a key. The key
24 is then placed in a lock box. Only certain personnel
25 at Hanahan has access to it. That would be the chief,

(FREDERICK JOSEPH DURANT-DIRECT BY MR. CONDON)

1 Lieutenant Turner and Lieutenant Fowler. They have
2 access to that lock box. Lieutenant Fowler will take
3 the evidence from -- he'll go in that lock box. He'll
4 take the evidence out and he'll take it to the evidence
5 room.

6 After it's stored he collects all the -- he inputs
7 into the evidence computer. He'll then release it to
8 me or one of the other detectives and we'll take it to
9 wherever it needs to go to. In this case I took it to
10 -- I took it to the Charleston City Police at MUSC
11 where they have a lab there and they tested it --
12 tested the drugs.

13 Q. So you took that bag of drugs from the Hanahan
14 locker room and took it to the Charleston Crime Lab?
15 Is that what your testimony is?

16 A. Yes.

17 Q. And after the testing was complete, did you pick
18 up the bag from the Charleston crime lab?

19 A. I did.

20 Q. And what did you do with it?

21 A. I brought it back to Hanahan Police Department and
22 secured it back in the evidence locker.

23 Q. And did you take the bag of drugs from evidence to
24 Dean Kokinda of the Berkeley County Sheriff's Office?

25 A. I did.

1 Q. And what was the purpose of that?

2 A. Process for latent prints on the bag.

3 Q. Do you recall what day that was?

4 A. I believe it was April 2nd, 2014.

5 Q. At any point did you pick up the bag from Dean
6 Kokinda and then return it to evidence at the Hanahan
7 Police Department?

8 A. I did.

9 Q. Did you bring the drugs to Court today?

10 A. I did.

11 MR. CONDON: No further questions.

12 THE COURT: Mr. Schwacke?

13 MR. SHWACKE: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. SCHWACKE:

16 Q. Detective Durant, do you know the date that you
17 executed the search warrant on the vehicle?

18 A. March 13, 2013.

19 Q. And the purpose of that search warrant was to
20 obtain evidence in this case?

21 A. Yes..

22 Q. That would include fingerprints.

23 A. Yes.

24 Q. Because you know they're important in a case to
25 make an identification.

(FREDERICK JOSEPH DURANT-CROSS BY MR. SCHWACKE)

1 A. Yes.

2 Q. That was done back on March 13th, 2013?

3 A. Right.

4 Q. And I think you gave an item -- or listed the
5 items that you obtained from that search warrant that
6 you felt were relevant to this case.

7 A. Right.

8 Q. And the fingerprints aside, the items that were
9 actually seized as a part of that included a matchbox,
10 miscellaneous papers and two condoms?

11 A. Yes, sir.

12 Q. And those were the only items that you felt
13 relevant to this case?

14 A. Those were the items that I took from the vehicle.

15 Q. Correct.

16 A. Yes..

17 Q. And you would have taken any other items that were
18 important to a drug case.

19 A. Those were the only items that I thought were
20 relevant at the time.

21 Q. Right. So no Baggies?

22 A. I did not take any Baggies from the vehicle.

23 Q. No scales?

24 A. No.

25 Q. Nothing that would be used to consume drugs?

- 1 A. No, didn't take that.
- 2 Q. Didn't see it.
- 3 A. The only thing I took from the vehicle was
- 4 documents, a matchbook and two condoms.
- 5 Q. So if it was important, it was taken. You had all
- 6 the time in the world to go through the car and nothing
- 7 that was drug-related, Baggies, scales.
- 8 A. If I observed a scale ---
- 9 Q. Grinders.
- 10 A. If I observed it I would have probably taken it.
- 11 Q. None of those things were taken?
- 12 A. No, sir.
- 13 Q. And then you indicated that you later delivered
- 14 the bag that contains the crack cocaine to whom?
- 15 A. Charleston City Police. They have a lab at MUSC
- 16 Hospital.
- 17 Q. That was for the analysis?
- 18 A. Yes.
- 19 Q. More recently you have taken that item to the
- 20 Berkeley County Sheriff's Office?
- 21 A. Yes.
- 22 Q. And that was done when?
- 23 A. That was done April 2nd.
- 24 Q. Just last week?
- 25 A. Yes, sir.

(FREDERICK JOSEPH DURANT-REDIRECT BY MR. CONDON)

1 MR. SHWACKE: One moment, Your Honor.

2 THE COURT: Take your time.

3 MR. SHWACKE: Thank you. That's all the questions
4 I have.

5 MR. CONDON: One quick question.

6 REDIRECT EXAMINATION

7 BY MR. CONDON:

8 Q. Just to clarify, that long list of items that Mr.
9 Schwacke described, the grinder and all those drug
10 items, you did not see that in the vehicle?

11 A. If it was in the vehicle it would have been taken.
12 I didn't take a grinder or a scale or any of those
13 items.

14 MR. CONDON: No further questions.

15 MR. SHWACKE: Nothing further.

16 THE COURT: You may step down. Feel free to stay
17 with us but you're also free to leave. Thank you.
18 This is a good time for a midmorning break. Do not
19 begin your deliberations. Do not discuss this case
20 amongst yourselves. Please rise for the jury.

21 (Whereupon, the jury exited the courtroom at 10:27
22 a.m.)

23 (Off the record)

24 THE COURT: Anything before we bring in the jury?

25 MR. SHWACKE: No, Your Honor.

(SUSAN PAYNE-DIRECT BY MR. PATTERSON)

1 THE COURT: Mr. Patterson?

2 MR. PATTERSON: Nothing from the State, Your
3 Honor.

4 THE COURT: Let's bring them in. How many more
5 witnesses do you have, Mr. Patterson?

6 MR. PATTERSON: Seven.

7 THE COURT: Who is your next witness?

8 MR. PATTERSON: The State calls Susan Payne.

9 (Whereupon, the jury came into open court at 10:59
10 a.m.)

11 THE COURT: Thank you. Please be seated. Call
12 your next witness.

13 MR. PATTERSON: The State calls Susan Payne.

14 (Witness sworn)

15 THE CLERK: Please be seated, state your full name
16 and spell your last name for the record.

17 THE WITNESS: Susan Payne -- P-A-Y-N-E.

18 SUSAN PAYNE, after being duly sworn, testified as
19 follows:

20 DIRECT EXAMINATION

21 BY MR. PATTERSON:

22 Q. Hi, Ms. Payne. How are you doing this morning?

23 A. Good. How are you?

24 Q. Good. Where are you currently employed?

25 A. I work for the City of Charleston Police

(SUSAN PAYNE-DIRECT BY MR. PATTERSON)

1 Department.

2 Q. And how long have you been employed by Charleston?

3 A. About nine years.

4 Q. And what's your current job title?

5 A. I'm currently (inaudible) administrator and I'm
6 the technician for the forensic services division.

7 Q. And what are your typical duties?

8 A. I pick up evidence from the station. I receive
9 evidence from outside agencies or it comes in our lab.
10 And I'm also responsible for (inaudible).

11 Q. I'm going to show you what has been marked as
12 State's Exhibit 21. Do you recognize that?

13 A. Yes, sir.

14 Q. How do you recognize that?

15 A. (Inaudible)

16 Q. And when did you receive it?

17 A. I received it on April 1st of 2013 at 11:20.

18 Q. And who did you receive it from?

19 A. Officer Frederick Durant.

20 Q. And was the exhibit sealed when you received it?

21 A. Yes, sir.

22 Q. Did it appear to have been tampered with?

23 A. No, sir.

24 Q. What did you do with it once you received it?

25 A. I entered it into our database once it was

(SUSAN PAYNE-DIRECT BY MR. PATTERSON)

1 received and placed it in our safe.

2 Q. And how secure is that location?

3 A. It's secure. The lock (inaudible).

4 Q. And is that where the exhibit remained until it
5 was tested?

6 A. Yes

7 Q. Let me show you the chain of custody report that I
8 believe your office produced. It says there's a
9 exhibit -- evidence package and then an item one. What
10 do those two things describe? What is the evidence
11 package?

12 A. The evidence package (inaudible). The item is the
13 actual drugs inside the package.

14 Q. So evidence package just describes the outside.

15 A. Yeah, that I'm touching right now.

16 Q. And item one describes ---

17 A. The -- what's inside the package.

18 MR. PATTERSON: Thank you, Ms. Payne. Please
19 answer any questions Mr. Schwacke has.

20 MR. SHWACKE: No questions.

21 THE COURT: You may step down. Call your next
22 witness.

23 MR. PATTERSON: The State calls Ashley Earl.

24 (Witness sworn)

25 THE CLERK: Please be seated, state your full name

(ASHLEY EARL-DIRECT BY MR. PATTERSON)

1 and spell your last name for the record.

2 THE WITNESS: Ashley Carr Earl -- E-A-R-L.

3 ASHLEY EARL, after being duly sworn, testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. PATTERSON:

7 Q. Hi, Ms. Earl. How are you doing this morning?

8 A. I'm good. How are you?

9 Q. Doing well. Ms. Earl, where are you currently
10 employed?

11 A. The City of Charleston Police Department.

12 Q. And how long have you been employed with the
13 police department?

14 A. I've been there since November 2012.

15 Q. And what's your current job title?

16 A. Associate crime analyst.

17 Q. And what's your educational background?

18 A. I have a B.S. in Biology from Winthrop University.

19 Q. And what are your duties now currently?

20 A. Now, I am (inaudible) and I also perform quality
21 checks (inaudible).

22 Q. Was that the same type of position you were in
23 back on April 2nd, 2013.

24 A. I was a trainee then. I was training to become
25 (inaudible).

(ASHLEY EARL-DIRECT BY MR. PATTERSON)

1 Q. At this time I'm going to show you what has been
2 marked for identification as State's Exhibit 21. Do
3 you recognize that?

4 A. Yes.

5 Q. How do you recognize that?

6 A. It's the case that I performed under observation.

7 Q. And when did you receive that exhibit?

8 A. On April 2nd, 2013, and I received it from Renee
9 at 1:20.

10 Q. And was the exhibit sealed when you received it?

11 A. Yes.

12 Q. Did it appear to have been tampered with?

13 A. No.

14 Q. And what did you do with it once you received it?

15 A. I -- I opened it up and performed case work under
16 observation of Renee.

17 Q. And so everything you did was observed by your
18 supervisor?

19 A. Yes.

20 Q. What did you do with the evidence when you were
21 finished with it?

22 A. It put it back into the original container and
23 resealed it.

24 Q. Did you hand it back to Renee?

25 A. Yes, then it was transferred back to Renee.

(RENEE HILTON-DIRECT BY MR. PATTERSON)

1 MR. PATTERSON: Thank you, Ms. Earl. Please
2 answer any questions Mr. Schwacke might have.

3 THE COURT: Mr. Schwacke?

4 MR. SHWACKE: No questions.

5 THE COURT: You may step down. Call your next
6 witness.

7 MR. PATTERSON: The State calls Renee Hilton.

8 (Witness sworn)

9 THE CLERK: Please be seated, state your full name
10 and spell your last name for the record.

11 THE WITNESS: I'm Renee Hilton -- H-I-L-T-O-N.

12 THE COURT: Mr. Patterson?

13 RENEE HILTON, after being duly sworn, testified as
14 follows:

15 DIRECT EXAMINATION

16 BY MR. PATTERSON:

17 Q. Hi, Ms. Hilton. How are you doing?

18 A. Good. How are you?

19 Q. Doing well. Ms. Hilton, where are you currently
20 employed?

21 A. The City of Charleston Police Department.

22 Q. And how long have you been employed by the police
23 department?

24 A. Just over three years.

25 Q. And what is your current job title?

(RENEE HILTON-DIRECT BY MR. PATTERSON)

1 A. I'm the laboratory manager.

2 Q. And what are your typical duties?

3 A. I oversee the daily workings of the lab, to
4 include looking after personnel as well as (inaudible)
5 analysis and controlled substance analysis.

6 Q. So you actually perform controlled substance
7 analysis?

8 A. Yes.

9 Q. What type of academic background qualifies you for
10 this position?

11 A. I have a Bachelor's in Chemistry from the
12 University of South Carolina.

13 Q. And what types of specific training have you
14 received in the area of drug recognition and analysis?

15 A. I completed the City of Charleston's in-house
16 training program, as well as completed several online
17 courses and in-person drug analysis courses.

18 Q. And as part of your job do you continue to attend
19 training in your field to keep up with recent advances
20 and technology?

21 A. When there's funding, yes. When we don't have the
22 money we read articles, peer articles, journal articles
23 that, kind of, keep us up to date with the newer
24 technology that's coming up.

25 Q. Are you a member of any professional

(RENEE HILTON-DIRECT BY MR. PATTERSON)

1 organizations?

2 A. Yes.

3 Q. What are those?

4 A. I am a member of CLIC which is the Clandestine
5 Investigating Lab Chemists (sic). It's an online forum
6 that will discuss cases back and forth and drugs.

7 Q. And in your current position, how many times a
8 week do you analyze substances to determine whether or
9 not the substance is or contains a controlled
10 substance?

11 A. Probably between 30 and 40 times a week.

12 Q. And how many times in a given week do you analyze
13 cocaine base, otherwise known as crack cocaine?

14 A. Probably between 10 to 15.

15 Q. Have you ever been qualified as an expert in this
16 field in court before?

17 A. Yes.

18 Q. How many times?

19 A. Thirty.

20 MR. PATTERSON: Your Honor, at this time the State
21 moves that Ms. Hilton be qualified as an expert in the
22 field of chemistry and analysis of controlled
23 substances.

24 MR. SHWACKE: No objection.

25 THE COURT: Mr. Schwacke?

(RENEE HILTON-DIRECT BY MR. PATTERSON)

1 MR. SHWACKE: No objection.

2 THE COURT: Ladies and gentlemen, when a person
3 testifies he must testify as to either what he heard or
4 saw or smelled or something of that nature. There is
5 an exception in that if someone is qualified because of
6 their education and experience, they are permitted to
7 give their opinion in certain areas if the Court
8 qualifies them as an expert.

9 This witness will be qualified in the area of
10 chemistry and analysis of controlled substances to give
11 opinion testimony in those areas. That does not mean
12 that you must accept the opinion. It is simply
13 evidence for you to use in any way you choose. Mr.
14 Patterson?

15 MR. PATTERSON: Thank you, Your Honor.

16 Q. Ms. Hilton, I'm going to show you what has been
17 marked for identification as State's Exhibit 21. Do
18 you recognize this?

19 A. Yes.

20 Q. How do you recognize that?

21 A. There is a sticker on it with my initials as well
22 as a seal that has my initials on it

23 Q. And do you remember when you first received this
24 exhibit?

25 A. April 2nd of 2013.

(RENEE HILTON-DIRECT BY MR. PATTERSON)

1 Q. And where did you receive it from?

2 A. I removed it from our laboratory safe.

3 Q. And how does that process work?

4 A. Our evidence technician would receive the evidence
5 from whoever is submitting it and she would verify it
6 and record it in our electronic system and then put it
7 in the safe, which I then removed when I was ready for
8 it.

9 Q. And was the exhibit sealed when you received it?

10 A. Yes.

11 Q. Did it appear to have been tampered with?

12 A. No.

13 Q. Did you have anybody training under you at the
14 time?

15 A. I did.

16 Q. Who was that?

17 A. Ashley Earl.

18 Q. And how did she assist you in this process?

19 A. She did the analysis while I watched her and
20 verified that everything that she did was correct and
21 what I would have done myself.

22 Q. Do you wear gloves while handling the evidence?

23 A. No.

24 Q. How was the substance weighed?

25 A. I -- a weigh boat was put on our balance and

(RENEE HILTON-DIRECT BY MR. PATTERSON)

1 tared, and then the substance was removed from the
2 packaging and put in the weigh boat and recorded the
3 weight on our balance.

4 Q. And do you recall what the weight of this
5 substance was?

6 A. 28.84 grams.

7 Q. What did you do next after weighing it?

8 A. The next thing we probably would have performed a
9 wet color test.

10 Q. What is that?

11 A. It is a liquid that we put on the substance and
12 depending on the reaction, usually a color reaction, we
13 can kind of get a presumptive indication of what the
14 substance might be.

15 Q. Did you prepare a drug report ---

16 A. Yes.

17 Q. --- in this case? It looks like there were some
18 other tests performed. What are those? Can you
19 explain those to the jury?

20 A. The other testing was FTIR which is Fourier
21 transform infrared spectroscopy. That -- the substance
22 was placed on a -- just a contraption that shoots a
23 laser at it and depending on how the compounds and
24 molecule within that substance react, it'll give me
25 what we call a fingerprint and it's data that I look at

(RENEE HILTON-DIRECT BY MR. PATTERSON)

1 and determine by that fingerprint what the substance
2 could be. And then following that a GCMS analysis,
3 which is gas chromatogram mass spectrometry, was
4 performed, which then the substance was put in a
5 solvent and put on an instrument and depending on the
6 data from that, I was able to determine what the
7 substance is as well as all the other data with the
8 FTIR and the color test.

9 Q. And from these tests were you able to form an
10 expert opinion as to what the substance marked as
11 State's Exhibit 21 is?

12 A. Yes.

13 Q. And what was that?

14 A. Cocaine base.

15 Q. And is cocaine base a controlled substance in
16 South Carolina?

17 A. Yes.

18 MR. PATTERSON: Your Honor, at this time the State
19 would ask that State's Exhibit 21 be admitted into
20 evidence.

21 THE COURT: Any objection?

22 MR. SHWACKE: No objection.

23 THE COURT: State's 21 into evidence without
24 objection.

25 MR. PATTERSON: Permission to publish?

(RENEE HILTON-CROSS BY MR. SCHWACKE)

1 THE COURT: You may.

2 MR. PATTERSON: I believe that's all the State
3 has, Ms. Hilton. Please answer any questions Mr.
4 Schwacke might have.

5 CROSS-EXAMINATION

6 BY MR. SCHWACKE:

7 Q. Good morning.

8 A. Good morning.

9 Q. You've been with the city lab for three years?

10 A. Yes, sir.

11 Q. And how long has the City of Charleston been
12 operating a lab?

13 A. I believe since the '80s.

14 Q. And so I'm guessing you're in charge of it now.
15 Someone was there before you?

16 A. Yes, sir.

17 Q. So in terms of in-house training, you at some
18 point were trained by someone other than yourself?

19 A. Yes, sir.

20 Q. And looks like y'all are in the process now of
21 having Ashley Earl also qualified to be able to do this
22 type of work without supervision?

23 A. Currently she is now but at the time that this
24 case happened, she was training under me.

25 Q. So with this particular item, State's Exhibit

(RENEE HILTON-CROSS BY MR. SCHWACKE)

1 Number 21, there weren't two sets of tests done on it;
2 she did it; you observed it.

3 A. Yes.

4 Q. And you didn't then go back and just do your own
5 process?

6 A. No, I just -- I looked over what she -- she had
7 done as well as watching her perform the color test and
8 looking at all of the data that she performed.

9 Q. Do you ever just stop at one test or do you do all
10 three?

11 A. It -- it honestly depends on the quality that we
12 get from the results. We are required to do multiple
13 tests. We require two confirmatory tests to actually
14 call something something.

15 Q. Exactly what is a confirmatory test?

16 A. SWGDRUG is ---

17 Q. Say that again. I'm sorry.

18 A. SWGDRUG -- S-W-G-D-R-U-G.

19 Q. S-W-G ---

20 A. D-R-U-G.

21 Q. --- D-R-U-G. Is that a ---

22 A. It's a -- it's hard to -- kind of our guidelines
23 that we go by, and within those it says that the best
24 way to confirm something as controlled is to perform
25 multiple tests, two of which are confirmatory so

(RENEE HILTON-CROSS BY MR. SCHWACKE)

1 there's two -- instead of it being presumptive when
2 you're not fully sure of what the answer is, the
3 confirmatory have data that really supports my
4 conclusion.

5 Q. Is SWGDRUG like an accrediting agency?

6 A. No, it's not an accrediting agency. We are
7 accredited by ASCLD Lab.

8 Q. By?

9 A. ASCLD lab.

10 Q. I'm sorry. Can you spell that one for me?

11 A. A-S-C-L-A-B (sic).

12 Q. A-D.

13 A. A-B.

14 Q. A-B

15 A. Yeah

16 Q. Lab. Okay. ASC Lab (sic). And they're a
17 national organization?

18 A. Yes.

19 Q. And how long has the City of Charleston lab been
20 accredited?

21 A. Since 1998, I believe.

22 Q. And are there particular things that are required
23 of the Charleston lab to maintain its accreditation?

24 A. Yes.

25 Q. Like what, for instance?

(RENEE HILTON-CROSS BY MR. SCHWACKE)

1 A. We have to keep quality records to make sure that
2 our instruments are writing properly. Tests are done
3 even before they're put into use. If they don't pass
4 the required control or the quality control that we set
5 to it, we can't use that instrument until we figure out
6 what's wrong with it, and then perform the correct
7 quality control test to make sure that it's properly
8 running.

9 Q. So does ASC lab also make recommendations to you
10 if you have outdated equipment that you need to update?

11 A. They could but normally they won't. Unless the
12 instruments are not performing properly, then there
13 would be no reason for them to tell us to not use those
14 items.

15 Q. Who determines that the instruments are being
16 done?

17 A. The instruments have, like, a set of -- I guess in
18 the instructions, like, what should be performed and
19 what -- how it should work and be maintained, but we
20 set the guidelines in our policies and procedures that
21 if an instrument doesn't meet a certain guideline, that
22 we can't use it.

23 Q. And so the tests in this instance included the
24 color test?

25 A. Uh-huh.

1 Q. And then the FTIR and then the GC/MS?

2 A. Uh-huh.

3 Q. And I was trying to keep up but I think I fell
4 behind, so on the color test what exactly is involved
5 in that?

6 A. It's a wet color test, so it's a chemical that
7 we'll put on the substance and depending on how it
8 reacts, it can give us a presumptive indication of what
9 the substance could be.

10 Q. Could be?

11 A. Yes.

12 Q. You would not rely on that test alone?

13 A. Right. It's not one of my -- not in this
14 particular case.

15 Q. Okay. Why not in this particular case?

16 A. With the FTIR we have in our policies we have to
17 have high enough quality match when it's compared to a
18 standard to be able to call it cocaine base, and in
19 this particular instance the FTIR match was not -- it
20 was an 88 percent quality match, not -- and we require
21 90 percent and so then I had to go further with the
22 GCMS.

23 Q. So when you say 88 percent quality, the item has
24 got 12 percent filler or what are we talking about?

25 A. Right. It could -- it could have -- it could have

(RENEE HILTON-CROSS BY MR. SCHWACKE)

1 filler in it. It could -- the match with our standard
2 that we had already ran that we knew was cocaine base,
3 the percentage and the fingerprint that was matched to
4 it was not 100 percent and that could be due to fillers
5 or just other additives that were added into it. I'm
6 not 100 percent sure.

7 Q. So again, color test is a wet chemical looking for
8 a reaction. What is the most common test?

9 A. With -- we use cobalt glass and stainless chloride
10 and with those reaction -- with the cobalt it'll turn
11 blue and then when you add the stainless chloride,
12 it'll precipitate out so it'll, kind of, separate and
13 by that reaction we could tell that it was probably
14 cocaine base, but we require further testing.

15 Q. And then the FTIR?

16 A. That was our next test that we put -- you put the
17 substance in a -- it's a diamond ATR but it's just a
18 section on the instrument that shoots a laser at the
19 substance and depending on how the laser hit it and the
20 molecules, kind of, fell back down because they'll get
21 excited by the laser and then they'll fall down and
22 form a fingerprint, is what we kind of call it. So
23 there will be peaks and peak labeling with numbers and
24 that has to match one of our standards.

25 Q. So is that involving microscopy or how are you

(RENEE HILTON-CROSS BY MR. SCHWACKE)

1 seeing these things happen?

2 A. It prints out on a computer. The data prints out
3 on a computer and then that's where we compare it to a
4 known standard.

5 Q. Okay. And then the GC/MS. You said that was a
6 solvent?

7 A. Right. You put the substance in a solvent and
8 then it's injected on an instrument and through the
9 process within the instrument the sample -- another --
10 another piece of data is shown on a computer which is
11 then compared to reference materials in libraries and
12 standards to confirm that the substance is within what
13 we are (inaudible).

14 Q. You've heard of field tests. Is that a -- is that
15 a color test? What is that?

16 A. Yes. Field tests are color tests.

17 Q. And you said that's, kind of, the least -- I don't
18 want to put words in your mouth but out of the three
19 tests, that's the one that you would have the least
20 confidence in giving you a fully accurate answer?

21 A. Right.

22 Q. So a positive field test doesn't indicate really
23 anything in your professional opinion as -- other than
24 something that might need further tests?

25 A. Right.

(RENEE HILTON-REDIRECT BY MR. PATTERSON)

1 Q. Again, on the FTIR test it came out as 88 percent
2 -- I don't want to say purity but ---

3 A. It matched 80 percent to my known standard.

4 MR. SCHWACKE: Just a moment.

5 THE COURT: Take your time.

6 MR. SCHWACKE: Thank you. That's all the
7 questions I have.

8 REDIRECT EXAMINATION

9 BY MR. PATTERSON:

10 Q. There was another test performed after that test,
11 the 80 percent one, and at that point what percentage
12 did you get to, like, for certainty according to your -
13 --

14 A. The quality match on it had a 99 percent quality
15 match for the cocaine base.

16 MR. PATTERSON: Thank you. No further questions.

17 MR. SHWACKE: No other questions.

18 THE COURT: You may step down. Call your next
19 witness.

20 MR. PATTERSON: At this time I believe we might
21 have some matters to take up outside the ---

22 (Whereupon, a bench conference was held off the
23 record in the presence of the jury, but out of the
24 hearing of the jury.)

25 THE COURT: Call your next witness. Pursuant, and

(MICHAEL P. NORTON-DIRECT BY MR. PATTERSON)

1 just for the record, Mr. Schwacke, I did allow you to
2 articulate all this outside the presence of the jury.

3 MR. SHWACKE: Thank you, Your Honor.

4 THE COURT: Note your objection to this witness.
5 Mr. Patterson?

6 MR. PATTERSON: The State calls Officer Norton.

7 (Witness sworn)

8 THE CLERK: Please be seated, state your full name
9 and spell your last name for the record.

10 THE WITNESS: My name is Michael P. Norton -- N-O-
11 R-T-O-N.

12 THE COURT: Mr. Patterson?

13 MR. PATTERSON: Thank you, Your Honor.

14 MICHAEL P. NORTON, after being duly sworn,
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MR. PATTERSON:

18 Q. Officer Norton, how are you doing today?

19 A. Pretty good, sir. Yourself?

20 Q. Doing well. Officer Norton, where do you
21 currently work?

22 A. At the Hanahan Police Department, currently
23 assigned to Charleston County metro narcotics unit.

24 Q. And how long have you been with Hanahan?

25 A. I've been with Hanahan a little over two years.

(MICHAEL P. NORTON-DIRECT BY MR. PATTERSON)

1 Q. And did you work anywhere in law enforcement prior
2 to that?

3 A. Yes, I worked at (inaudible) Police Department up
4 in Maine and after that (inaudible) police department.

5 Q. And what was the total of that law enforcement
6 experience?

7 A. I spent four years up in Maine and about a year in
8 (inaudible).

9 Q. And you talked about being part of the narcotics
10 unit with Charleston County Metro. How long have you
11 been with the narcotics unit?

12 A. About nine months.

13 Q. And what's your educational background?

14 A. I have a high school diploma and college
15 background.

16 Q. Where did you get your college degree?

17 A. (Inaudible)

18 Q. And in addition to the criminal justice academy,
19 have you attended any additional narcotics training?

20 A. I have, sir.

21 Q. And tell me a little bit about that.

22 A. I've done some occasional classes and went to a
23 school in Georgia for undercover narcotics work.

24 Q. And prior to joining narcotics about how many drug
25 arrests in your career have you made?

(MICHAEL P. NORTON-DIRECT BY MR. PATTERSON)

1 A. Probably about 50.

2 Q. And since joining narcotics how many drug
3 investigations have you been a part of?

4 A. At least 30.

5 Q. And have you had the opportunity to work with
6 confidential informants?

7 A. I have, sir.

8 Q. Have you had the opportunity to talk with drug
9 users?

10 A. Yes.

11 Q. How about the opportunity to interview or talk
12 with drug dealers?

13 A. Yes, sir.

14 MR. PATTERSON: Your Honor, at this time the State
15 would ask that Officer Norton be qualified as an expert
16 in narcotics and narcotic recognition.

17 MR. SHWACKE: Objection. May we approach?

18 THE COURT: You may.

19 (Whereupon, a bench conference was held off the
20 record in the presence of the jury, but out of the
21 hearing of the jury.)

22 THE COURT: Your objection is sustained. Please
23 continue.

24 MR. SHWACKE: Thank you, Your Honor.

25 THE COURT: Thank you.

(MICHAEL P. NORTON-DIRECT BY MR. PATTERSON)

1 Q. Officer Norton, based on your training and
2 experience, can you give me an idea of how crack
3 cocaine is made?

4 A. It can be made numerous ways. One of the more
5 common ways I've seen in my experience is in the
6 microwave. It's one of the easier ways. Usually in a
7 microwave-safe dish with some water, some powdered
8 cocaine and usually a base baking soda and then cook it
9 in the microwave.

10 MR. PATTERSON: Thank you, Officer Norton. Please
11 answer any questions Mr. Schwacke might have.

12 THE COURT: Mr. Schwacke?

13 MR. SHWACKE: No questions.

14 THE COURT: You may step down. Feel free to stay
15 with us, but I think you're free to leave. Thank you.
16 Mr. Patterson?

17 MR. PATTERSON: The State calls Lieutenant Dean
18 Kokinda.

19 (Witness sworn)

20 THE CLERK: Please be seated, state your full name
21 and spell your last name for the record.

22 THE WITNESS: Dean Robert Kokinda. Spelling of
23 the last name -- K-O-K-I-N-D-A.

24 THE COURT: Mr. Patterson?

25 DEAN KOKINDA, after being duly sworn, testified as

(DEAN KOKINDA-DIRECT BY MR. PATTERSON)

1 follows:

2 DIRECT EXAMINATION

3 BY MR. PATTERSON:

4 Q. Lieutenant Kokinda, how are you doing this
5 morning?

6 A. Fine.

7 Q. Lieutenant Kokinda, where do you currently work?

8 A. I'm with the Berkeley County Sheriff's Office.

9 Q. And how long have you been employed with the
10 Berkeley County Sheriff's Office?

11 A. Almost 25 years.

12 Q. And what's your current job title?

13 A. I'm a lieutenant over the forensic services
14 division.

15 Q. And what are your current duties?

16 A. I process crime scenes as directed, keep the
17 evidence inventory, fingerprint analysis and drug
18 analysis.

19 Q. How long have you been working at fingerprint
20 analysis?

21 A. Since 1993.

22 Q. And what specialized education and training have
23 you received to become a fingerprint examiner?

24 A. I've had basic fingerprinting with the Federal
25 Bureau of Investigation; latent fingerprint with the

(DEAN KOKINDA-DIRECT BY MR. PATTERSON)

1 Federal Bureau of Investigation; and a forensic
2 ridgeology course (inaudible) the Royal Canadian
3 Mounted Police.

4 Q. And approximately how many fingerprints have you
5 examined?

6 A. Thousands. I usually have 300 examinations a
7 month.

8 Q. And are you a member of any professional
9 organizations?

10 A. The International Association for Identification.
11 I've held vice president, president, chairman of the
12 board of that organization.

13 Q. And have you received any certifications in the
14 field of fingerprints?

15 A. No. The certification is going through the
16 International Association for Identification. I
17 haven't done that.

18 Q. Have you attended any continuing education classes
19 in the field of fingerprints?

20 A. Numerous, usually through the International
21 Association for Identification.

22 Q. And what type of technical equipment is available
23 for you to use for this type of fingerprint analysis?

24 A. You use a magnifying glass and (inaudible). I use
25 a scan -- I use the computer where I scan in the latent

(DEAN KOKINDA-DIRECT BY MR. PATTERSON)

1 fingerprint and known fingerprint and magnify it where
2 I can see it and also mark it.

3 Q. Have you had the occasion to identify persons by
4 comparing latent fingerprints and/or palm prints with
5 their own inked fingerprints or palm prints?

6 A. Yes, I have numerous times.

7 Q. And roughly how many would you say, over the
8 course of your career?

9 A. Thousands.

10 Q. Have you had occasion to testify as an expert in
11 court regarding identifications of persons based on
12 fingerprint and palm print comparison?

13 A. Numerous times in this court and once in federal
14 court.

15 MR. PATTERSON: Your Honor, at this time the State
16 would ask that Lieutenant Kokinda be qualified as an
17 expert in the field of fingerprint analysis.

18 MR. SHWACKE: Without objection.

19 THE COURT: He will be so qualified.

20 Q. Lieutenant Kokinda, can you explain for me what an
21 inked print is?

22 A. Sure. An inked fingerprint is what we call a
23 known standard and it's just the images on a template
24 card using the first joint to the tip rolled in a
25 controlled fashion, trying to get as much of the ridge

(DEAN KOKINDA-DIRECT BY MR. PATTERSON)

1 detail as possible.

2 Q. And what exactly is a latent print?

3 A. Latent print is an image that's left behind from
4 these ridges that are on your -- the bottom of your
5 hands and also on the bottom of your feet. Those
6 ridges contain pores which is in sweat and when you
7 touch something it's a lot like a rubber stamp. You
8 put a rubber stamp in an ink pad and you stamp it and
9 you've got your image. Fingerprints are the same way.
10 You've got images of these ridges left behind on the
11 surface. Latent fingerprints, latent means invisible
12 and they're usually not seen unless you enhance them
13 with anything like a powder or a chemical.

14 Q. And what's the different between a latent and a
15 patent print?

16 A. Again, a latent fingerprint is invisible. You
17 don't see it until you enhance it. Patent is a visible
18 print where you have a contaminant on the ridges, like
19 paint or blood. You've got a visible print.

20 Q. And are there different distinguishing
21 characteristics of a fingerprint?

22 A. Well, within the ridges you've got three levels of
23 detail. The first level of detail is the ridge flow or
24 the pattern on the print and those patterns are
25 classified into four kinds of patterns, or three

(DEAN KOKINDA-DIRECT BY MR. PATTERSON)

1 general patterns, arches, loops and whorls, and within
2 those arches, loops and whorls you have a set of
3 classifications. The second level of detail is your
4 ridge pattern, so that's the actual path of each ridge
5 and that's where the identification starts. Within
6 that path that ridge might flow, it might stop, it
7 might split, so the ridge flow -- we can eliminate
8 people but we can't identify. The ridge path, we can
9 start the identification process. The third level of
10 detail is ridge shape and that's because these ridges
11 are pores and they're drawn out of the skin and fused
12 together. This is not a straight line. You know,
13 they're narrow at some places and wide in other places
14 so a lot of that depends on the clarity of the latent
15 fingerprint.

16 Q. And how is it possible for people to leave
17 fingerprints?

18 A. Again, you know, you've got these ridges and they
19 do sweat, so when you touch something you're leaving
20 residue on it, and with a latent fingerprint there's a
21 lot of different environmental factors, surface
22 factors, and just the mechanics of actually grabbing
23 something. I can grab a door knob, I've left my finger
24 on there. When I turn that door knob my wrist turns so
25 now instead of just having a slight impression, I've

(DEAN KOKINDA-DIRECT BY MR. PATTERSON)

1 twisted it and a lot of times that ruins it for the
2 identification process.

3 Q. What types of surfaces are conducive for
4 fingerprint examination? I'll get back to that. What
5 kinds of surfaces are conducive to leaving
6 fingerprints?

7 A. Well, you can leave a fingerprint pretty much on
8 most surfaces except water. Some surfaces are more
9 conductive. Smooth, non-porous surfaces leave a really
10 good fingerprint. Paper is very good because the oil
11 is actually absorbed into the paper and then the
12 environmental factors don't affect it as much, so your
13 fingerprint will last longer on paper. The rougher the
14 surface the less likely you're going to be able to make
15 identification, because you're dealing with these small
16 ridges that are within your finger and if the surface
17 is uneven then you're missing areas that could be
18 points of identification.

19 Q. So are some surfaces not conducive to leaving
20 fingerprints?

21 A. Some are better than others. That's, I guess, the
22 best answer to that.

23 Q. It's possible for a person to touch a surface and
24 not leave a fingerprint?

25 A. Identifiable fingerprint, yeah, and that's, kind

(DEAN KOKINDA-DIRECT BY MR. PATTERSON)

1 of, the common miscommunication that people have with
2 fingerprints. We say on a report, you know, no
3 fingerprints were found. Well, it's not true that no
4 fingerprints were found. It's that the fingerprints
5 that were there weren't identifiable. I sit at this
6 witness stand right here. I may not have touched
7 anything but if I touch something, I may leave an
8 identifiable fingerprint behind or I may just leave a
9 smudge that I know somebody touched there, but it's not
10 identifiable.

11 Q. And how are fingerprints -- I believe you already
12 discussed this a little bit, but what are the ways you
13 compare and identify the fingerprints? Is that going
14 back to the whorls? How does that work?

15 A. It goes into the three levels of detail. You have
16 a latent fingerprint or an unknown fingerprint side by
17 side with your known standard. You start at that first
18 level of detail, the ridge flow. You know, do these
19 rides, kind of, flow the same way between the latent
20 and the known? Once you have, you know, flow between
21 the two that are the same, then you start going to the
22 next level, ridge pattern, and you will actually follow
23 each individual ridge between the latent and the known
24 and make sure that each individual ridge ending or
25 verification between the known and the unknown

(DEAN KOKINDA-DIRECT BY MR. PATTERSON)

1 correspond to each other and are in agreement, not only
2 in the general area but between the ridges.

3 Q. And are fingerprints and palm prints specific to
4 each individual?

5 A. The individual -- nobody has the same
6 fingerprints, even identical twins who will share the
7 same DNA. Their fingerprints will be different.

8 Q. So it's not possible for two people to have the
9 same fingerprint?

10 A. It hasn't been found so far.

11 Q. I'm going to show you what has been admitted into
12 evidence as State's Exhibit 21. Do you recognize that?

13 A. Yes, I do

14 Q. How do you recognize that?

15 A. Last Thursday Detective Durant from the Hanahan
16 Police Department brought this to me to process for
17 latent fingerprints.

18 Q. And what time was that?

19 A. It was in the afternoon.

20 Q. And do you remember what date last Thursday was?

21 A. The 3rd.

22 Q. Lieutenant Kokinda, did you prepare a report for
23 this examination?

24 A. Yes, I did.

25 Q. What is the date on there?

(DEAN KOKINDA-DIRECT BY MR. PATTERSON)

1 A. Actually it's April the 2nd. I apologize.

2 Q. Was it sealed when you received it?

3 A. Yes, it was. I broke the seal and then when I got
4 done processing it, I resealed it and initialed it.

5 Q. And did you examine the exhibit for latent or
6 patent prints?

7 A. Yes, I processed it using cyanoacrylate which is
8 Super Glue fumes.

9 Q. And how does that work?

10 A. What you take is it's a -- it's Super Glue but
11 it's a little thinner Super Glue. We heat it to
12 actually go from a liquid state to a gaseous state in a
13 closed environment and the idea behind it is the fumes
14 will stick to any residue stuck on the object that
15 we're trying to process.

16 Q. And what were the results of your examination?

17 A. Some ridge detail was developed on the plastic bag
18 that contained the white powder substance, or white
19 rock substance, but the detail wasn't sufficient enough
20 to make an identification.

21 Q. So you weren't able to identify any latent or
22 patent fingerprints for comparison?

23 A. That's correct.

24 Q. What can affect -- again, I think you went into
25 this a little bit, but what could have affected the

(DEAN KOKINDA-CROSS BY MR. SCHWACKE)

1 ability to obtain fingerprints on this particular item?

2 A. There are a lot of different variables, especially
3 with latent fingerprints. You've got the type of
4 surface, smooth, non-porous surfaces leave very good
5 fingerprints behind. Flexible surfaces, you know, tend
6 not to because in the grabbing of it, it's moving
7 around. You know, your finger itself is pliable so any
8 time the mechanics of manipulating the hand affects it.
9 Environmental factors, humidity.

10 Right now, you know, the pollen, it kills us this
11 time of year trying to even locate or recover any
12 latent fingerprints because the pollen will settle down
13 onto it, you know, the oil buildup behind will absorb
14 the oil and there's nothing left behind.

15 MR. PATTERSON: The Court's indulgence. Nothing
16 further. Please answer any questions Mr. Schwacke
17 might have.

18 THE COURT: Mr. Schwacke.

19 CROSS-EXAMINATION

20 BY MR. SCHWACKE:

21 Q. Hey, how are you doing?

22 A. Good.

23 Q. I want to talk about fingerprints with you a
24 little bit, but I want to go into other activities and
25 things that you do within your department.

(DEAN KOKINDA-CROSS BY MR. SCHWACKE)

1 A. Okay.

2 Q. Now, until last Wednesday you didn't know anything
3 about this case; correct?

4 A. That's correct. And I don't really know nothing
5 about the case other than what the evidence that was
6 presented to me.

7 Q. What you were asked to do?

8 A. Right.

9 Q. With the Berkeley County Sheriff's Office you
10 testified that you do a number of things and a lot of
11 that is crime scene investigation?

12 A. That's correct.

13 Q. And so fingerprinting would be a part of that?

14 A. Yes.

15 Q. But you also are involved in things like
16 ballistics?

17 A. The collection of the evidence.

18 Q. Collection of the evidence.

19 A. I don't do ballistic analysis but the collection
20 of the evidence, yes.

21 Q. So photography?

22 A. That's correct.

23 Q. Anything to try to preserve the evidence in the
24 case that you're working on for your agency?

25 A. Correct.

(DEAN KOKINDA-CROSS BY MR. SCHWACKE)

1 Q. And that would include you at various times doing
2 DNA swabs?

3 A. Yes.

4 Q. And so you have experience in that..

5 A. In the collection of DNA?

6 Q. Correct.

7 A. Yes.

8 Q. And how many times have you done that in your
9 career with law enforcement?

10 A. Probably a thousand. I think we actually started
11 using DNA when I first started this. Actually started
12 using it when I first started crime scene
13 investigation.

14 Q. So you have some experience and expertise in that
15 as well?

16 A. In the collection of it?

17 Q. Correct.

18 A. Yes.

19 Q. You've been qualified as an expert in that area as
20 well?

21 A. In crime scene investigation, crime scene
22 processing.

23 MR. SHWACKE: Your Honor, I guess I'm going to
24 expand his area of expertise. I would move him to be
25 qualified as a crime scene investigation expert.

(DEAN KOKINDA-CROSS BY MR. SCHWACKE)

1 THE COURT: Any objection?

2 MR. PATTERSON: Object only to relevance.

3 THE COURT: Do you wish to voir dire him on that
4 area?

5 MR. PATTERSON: No, I believe that he could be
6 qualified to that. I'm just objecting the relevance of
7 it.

8 THE COURT: I'll note your objection. He will be
9 so qualified.

10 MR. SHWACKE: Thank you, Your Honor.

11 Q. So you've testified with regard to the leaving of
12 a fingerprint that you're going to have to develop
13 because it's not patent or obvious.

14 A. Correct.

15 Q. So when you're looking for any latent prints, you
16 indicated that one of the ways it's possible to leave a
17 fingerprint for later detection includes sweat and oils
18 from your hand.

19 A. That's the substance that's left behind, yes,
20 that's correct.

21 Q. So that is something that in the DNA realm would
22 be called touch DNA.

23 A. That means dead skin cells that actually fall off
24 the skin.

25 Q. All right. So there's two different ways, if I

(DEAN KOKINDA-CROSS BY MR. SCHWACKE)

1 were to touch this, that there could be DNA evidence
2 left behind for collection by a crime scene
3 investigator?

4 . A. . It's possible.

5 Q. And you weren't asked to do that on this document,
6 this item 21.

7 A. No.

8 Q. And again, you were just asked to do this last
9 Wednesday?

10	A. Yes

11 Q. And it's not your department's case?

12 A. No, it's Hanahan Police Department.

13 MR. SHWACKE: Thank you. That's all the questions
14 I have.

15 MR. PATTERSON: Nothing further from the State.

16 THE COURT: You may step down. Call your next
17 witness.

18 MR. CONDON: The State calls Sergeant Wyant.

19 (Witness sworn)

20 THE CLERK: Please be seated, state your full name
21 and spell your last name for the record.

22. THE WITNESS: Scott Cameron Wyant -- W-Y-A-N-T.

23 SCOTT WYANT, after being duly sworn, testified as
24 follows:

25 ~ ~ ~ ~ ~

(SCOTT WYANT-DIRECT BY MR. CONDON)

DIRECT EXAMINATION

1

2

BY MR. CONDON:

3

Q. Good morning. Who do you work for?

4

A. The City of North Charleston Police Department.

5

Q. And did you obtain fingerprints from Detective

6

Durant on March 13th, 2014?

7

A. Yes, I did.

8

Q. I'm going to show you what's been marked as

9

State's Exhibit 14 and 15. Do you recognize those

10

fingerprints?

11

A. These are the prints turned over to me by

12

Detective Durant.

13

Q. And what did you do with those fingerprints?

14

A. They were given to crime scene technician Hallman

15

who's in my unit. He does all of the -- most of the

16

fingerprint examinations for our unit.

17

Q. While in your possession were these fingerprints

18

altered or changed?

19

A. No, they were not.

20

MR. CONDON: Nothing further.

21

MR. SHWACKE: No questions.

22

THE COURT: You may step down. Thank you. Call

23

your next witness.

24

MR. CONDON: Can we approach a second?

25

THE COURT: You may. Ladies and gentlemen, I went

(AL HALLMAN-DIRECT BY MR. CONDON)

1 to a seminar last week and they said that you could --
2 I was told we need to move every hour, so feel free to
3 stand up. We're going to take a little stretch break
4 and we'll just take a stretch break, Mr. Schwacke. The
5 attorneys will take a little stretch break as well so
6 feel free to move.

7 (Whereupon, a bench conference was held off the
8 record in the presence of the jury, but out of the
9 hearing of the jury.)

10 MR. CONDON: Al Hallman.

11 (Witness sworn)

12 THE CLERK: Please be seated, state your full name
13 and spell your last name for the record.

14 THE WITNESS: Al Hallman -- H-A-L-L-M-A-N.

15 AL HALLMAN, after being duly sworn, testified as
16 follows:

17 DIRECT EXAMINATION

18 BY MR. CONDON:

19 Q. Good morning, Mr. Hallman.

20 A. Good morning.

21 Q. Who are you employed by?

22 A. The City of North Charleston Police Department.

23 Q. And what title or position do you hold with North
24 Charleston?

25 A. Currently I am a crime scene investigator.

(AL HALLMAN-DIRECT BY MR. CONDON)

1 Q. And can you, kind of, tell the jury about your
2 education, background and experience?

3 A. Yes, I recently retired from North Charleston
4 after 25 years being a police officer. During those 25
5 years, I did 17 of them as a crime scene investigator
6 and half of that as a crime scene supervisor. I've
7 been through numerous basic and advanced schools and
8 seminars that deal with forensic science. To name a
9 few, I attended the FBI's version of basic and advanced
10 fingerprint identification. I've been through a class
11 called advanced ridgeology; a class of complex latent
12 prints; crime scene reconstruction; shooting incident
13 reconstruction; blood stain pattern analysis; and
14 there's several other repetitive type fingerprint
15 courses that I've been through. I also have a diploma
16 through the American Institute of Applied Sciences in
17 forensic science.

18 Q. And have you had an occasion to identify persons
19 by comparing latent fingerprints or palm prints with
20 their own ink fingerprints or palm prints?

21 A. I have.

22 Q. About how many times have you done that?

23 A. Probably hundreds of thousands.

24 Q. Okay.

25 A. To give an example, last year alone I did 22,000

(AL HALLMAN-DIRECT BY MR. CONDON)

1 side-by-side comparisons, just the last year alone.

2 Q. Quite a few.

3 A. Yeah.

4 Q. And have you been qualified as an expert in
5 fingerprint comparison before?

6 A. I have.

7 Q. And about how many times?

8 A. Hundreds during my career.

9 MR. CONDON: Your Honor, the State would move that
10 examiner Al Hallman be declared as an expert in the
11 field of fingerprint comparison and analysis.

12 THE COURT: Any objection?

13 MR. SHWACKE: No objection.

14 THE COURT: He will be so qualified.

15 Q. I don't want to be repetitive here because
16 Examiner Kokinda went through a lot of the fingerprint
17 basics, so I'm going to jump right to it. I'm going to
18 show you -- it's up here. It's been entered into
19 evidence as State's Exhibits 14 and 15. Do you
20 recognize those fingerprints?

21 A. I do.

22 Q. And how do you recognize them?

23 A. These are two latent print cards or white backing
24 cards, we call them, bearing latent print lifts and
25 they've got my initials, and one is labeled as L2 which

(AL HALLMAN-DIRECT BY MR. CONDON)

1 is latent card two and it's got the date of 3/13/13 on
2 it and then L3, 3/13/13, and my initials.

3 Q. And are those the fingerprints you examined in
4 this case

5 A. They are.

6 Q. I'm going to show you what's been marked as
7 State's Exhibit Number 16 for identification purposes.
8 Do you recognize that?

9 A. Yes, sir

10 Q. And how do you recognize that?

11 A. This is the 10-print inked fingerprint card of
12 Barry Jerrod Stanley.

13 MR. CONDON: The State would ask that Exhibit 16
14 be moved into evidence.

15 MR. SHWACKE: One moment, Your Honor.

16 THE COURT: Is there any objection?

17 MR. SHWACKE: No objection.

18 THE COURT: Mr. Condon?

19 Q. In this case did you have a chance to make a
20 comparison of the fingerprints lifted from the vehicle
21 with that of the known prints of the Defendant?

22 A. Yes, I did.

23 Q. And can you explain how you went about that and
24 your result?

25 A. Yes, as I stated earlier about side-by-side

(AL HALLMAN-DIRECT BY MR. CONDON)

1 comparisons, how I do that is I'll take the unknown
2 latent print that has been lifted and presented to me
3 and then I'll take the known ink impressions which we
4 know came from one person and one person only, and then
5 I will set the latent print down and begin with it and
6 go back and forth to the 10-print card until I find a
7 pattern similarity, which the patterns is your level
8 one detail, which is loops, whorls and arches.

9 You know, once I find the pattern that they're
10 relatively the same, then we go into what's called
11 level two detail which is the actual minutiae or points
12 of identification within a print and for those points
13 we deal with what's called bifurcations which is where
14 one ridge will split into two different ridges. We
15 have trifurcations, tri meaning three. One ridge
16 breaks off into three. And we have ending ridges and
17 dots. Ending ridge is simply a ridge that stops. That
18 end is considered a point of identification and then
19 dots which is just little pieces of ridges that are
20 points of identification as well.

21 Then I start going, as I say, from the latent to
22 the inked print identifying points of identification
23 and relative similarity to the ink print that I'm
24 looking at. Once I've established that the points are
25 in relative conformity and they are exactly the same in

(AL HALLMAN-DIRECT BY MR. CONDON)

1 direction and flow, that's when I consider it as an
2 identification. The reason it's an identification is
3 because the chances of two people, living or dead,
4 having the same exact fingerprint is one in 10 to the
5 46th power. That's 10 with 46 zeroes behind it.
6 Basically it's impossible.

7 Q. And what was the results of your examination in
8 this case?

9 A. The prints on the interior rearview mirror, I'd
10 have to refer to my report, but I know they were
11 identified to the right thumb of Barry Stanley.

12 Q. I'm going to show you what's been marked as
13 State's Exhibit 23 for identification purposes. Do you
14 recognize these documents?

15 A. I do. The first document is my fingerprint
16 analysis sheet, the report that we do. The second one
17 is just a worksheet that I wrote down notes on
18 regarding the prints that I examined and on card L2,
19 latent 2.2 was positive with the number one right thumb
20 of Barry Jerrod Stanley, and on card three, latent
21 number 3.1 was also positive to the right thumb of
22 Barry Jerrod Stanley.

23 MR. CONDON: Your Honor, the State asks that
24 Exhibit 23 be admitted into evidence.

25 THE COURT: Any objection?

(AL HALLMAN-DIRECT BY MR. CONDON)

1 MR. SHWACKE: No objection.

2 THE COURT: State's 23 into evidence without
3 objection.

4 Q. Just to clarify one more time, the two prints from
5 the mirror, can you explain that? They were matched up
6 to who?

7 A. Barry Jerrod Stanley. They were -- 2.2 and 3.1
8 were both the right thumb ---

9 Q. Right thumbprints?

10 A. --- of Stanley. Yes.

11 Q. And what other prints were compared from the car
12 and did you have any other matches?

13 A. Yes, there were a total of five cards presented to
14 me for examination. On card number one which was
15 lifted from the outside or exterior driver's door, four
16 prints were identified to a Ms. Evette Monique Nelson
17 and that was the only other prints that were identified
18 during this case.

19 MR. CONDON: Just for the record the State has
20 admitted -- I just want to make sure we've admitted all
21 these exhibits into evidence. State's Exhibit 14, 15,
22 16, 23.

23 THE COURT: Yes. Is that correct? Is that what
24 you have?

25 COURT REPORTER: That's correct, yes.

(AL HALLMAN-CROSS BY MR. SCHWACKE)

1 THE COURT: That's correct.

2 MR. CONDON: No further questions.

3 THE COURT: Mr. Schwacke?

4 CROSS-EXAMINATION

5 BY MR. SCHWACKE:

6 Q. Officer -- I guess you're a civilian now; right?

7 A. I am a civilian, yes, sir.

8 Q. So you can't say officer. One of the drawbacks to
9 fingerprint analysis is you can't testify as to when it
10 was left there.

11 A. Absolutely not. There is no time stamp.

12 Q. And there are a number of factors that can affect
13 how long a fingerprint can be around ---

14 A. Yes.

15 Q. --- and still be able to be lifted.

16 A. Yes

17 Q. And it wouldn't surprise you for a person who is
18 the operator of the car or the owner of the car to have
19 their prints inside.

20 A. No, that would not surprise me at all.

21 Q. And you weren't asked to do any other fingerprint
22 evaluation.

23 A. No, sir, just the ones listed on this sheet here.

24 Q. And you indicated that you did that when?

25 A. I believe that was March 13th of -- yeah, March

1 13th of 2013.

2 MR. SHWACKE: Thank you. That's all the questions
3 I have.

4 THE COURT: Redirect?

5 MR. CONDON: No redirect, Your Honor.

6 THE COURT: You may step down.

7 THE WITNESS: Thank you, Your Honor.

8 THE COURT: Call your next witness.

9 MR. CONDON: Court's indulgence.

10 THE COURT: Take your time.

11 MR. CONDON: The State has no further witnesses.

12 THE COURT: State rests?

13 MR. CONDON: The State rests.

14 THE COURT: Ladies and gentlemen, we've reached an
15 appropriate time for us to take our lunch break. Do
16 not begin your deliberations. Do not discuss this case
17 amongst yourselves. Please remember all of my
18 admonitions. Please take your notepads with you.
19 We'll lock those up during lunch. Please be back at
20 1:45. Please have a wonderful lunch. See you at 1:45.
21 Please rise for the jury.

22 (Whereupon, the jury exited the courtroom at 12:08
23 p.m.)

24 THE COURT: Thank you. Be seated. Any motions,
25 Mr. Schwacke?

1 MR. SHWACKE: Your Honor, on behalf of Mr.
2 Stanley, I would move for a directed verdict of not
3 guilty; that the evidence at best is speculative as to
4 his involvement in these; that the amount of evidence
5 that the State has presented is insufficient to
6 establish his guilt beyond a reasonable doubt; and that
7 it does not meet the level of evidence to survive the
8 motion for directed verdict.

9 Specifically with regard to the trafficking
10 conviction, we would submit the State has not proven
11 the possession and control of the drugs by Mr. Stanley
12 and as a result of that, that particular charge --
13 they've never -- they've not shown either actual or
14 constructive possession of the drug and because of that
15 we make our motion for a directed verdict.

16 THE COURT: Mr. Patterson?

17 MR. PATTERSON: Thank you, Your Honor. May it
18 please the Court?

19 THE COURT: Yes.

20 MR. PATTERSON: The State's position is that we
21 have met all of our burdens in this case concerning the
22 elements of these crimes. Addressing the trafficking,
23 there is evidence. Eyewitness testimony puts this
24 Defendant in the car. There is fingerprint evidence
25 that puts this Defendant in the car. There is

1 testimony from an eyewitness that he saw a bag get
2 tossed out of the window of that vehicle. There is
3 testimony that only one person was driving that
4 vehicle. The bag that was tossed out was recovered
5 within a very short time frame. The police were there,
6 the testimony was, within 30 minutes. They recovered
7 that and that bag did test positive for cocaine base at
8 an amount of 28.84 grams which is above the threshold
9 for trafficking and comports with the indictment, so
10 there is certainly evidence, some of it direct, some of
11 it circumstantial, that puts him in the car, throwing
12 the bag out and essentially that amounts to a drop case
13 really, which is actually possession, if the jury
14 believes the evidence that we've presented, that he was
15 in possession of the drugs and threw them out the
16 window, which is actual possession.

17 In reference to the failure to stop for a blue
18 light, in that instance as we began we had an
19 eyewitness placing him in the vehicle leaving the
20 scene. We have fingerprints of him in the vehicle. He
21 was signaled by a marked patrol unit with sirens and
22 lights and even on the video you can see him using his
23 PA system. It's a 12-mile chase. He never stopped.
24 The route was discussed by Sergeant Lanphere. All of
25 those are roads and highways in the State of South

1 Carolina. So, Your Honor, the State believes that
2 there is certainly enough evidence to put this to the
3 jury on all charges.

4 THE COURT: Mr. Schwacke?

5 MR. SHWACKE: Nothing further, Your Honor.

6 THE COURT: When ruling on a motion for directed
7 verdict I am concerned with the existence or non-
8 existence of evidence, not to the weight, and I must
9 view the evidence and all reasonable inferences in a
10 light most favorable to the State. Mr. Stanley is
11 charged with one count of trafficking in cocaine base
12 28 grams or more but less than 100 and one count of
13 failure to stop for a blue light.

14 The State must prove beyond a reasonable doubt
15 that Mr. Stanley was driving the motor vehicle, that he
16 was driving the motor vehicle on the road, street or
17 highway and that he was signaled to stop by law
18 enforcement and officers by means of a siren or
19 flashing lights and that Mr. Stanley did not stop. Mr.
20 Rider testified that on the day of the incident he saw
21 the Defendant driving the blue Crown Vic. He testified
22 that he saw the Defendant driving the vehicle
23 approximately 10 or 15 seconds before the police
24 arrived at the apartment complex. He further indicated
25 that they must have passed him when they were coming in

1 and that's because they had arrived after the phone
2 call was made.

3 Officer Dodd testified that he was in pursuit of
4 the Defendant in the Crown Victoria, that he signaled
5 for the Defendant to pull over. The Defendant did not
6 pull over and he further testified as to what the car
7 looked like. He had a marked unit with the Hanahan
8 Police Department. He testified that the Defendant was
9 the individual he saw driving the Crown Vic.

10 Officer Lanphere testified that at the time he was
11 in pursuit of the Crown Vic on I26 eastbound and
12 reached up to 90 miles per hour. He testified he was
13 driving a fully equipped Chevy Tahoe with operational
14 blue lights that he was using to signal the Defendant
15 to stop, and he kept going. Lieutenant Turner and
16 Detective Durant testified that there were fingerprints
17 found in the vehicle.

18 As to the trafficking in cocaine, the State must
19 prove that Mr. Stanley either sold, manufactured or
20 purchased and brought into the State 10 grams or more
21 of cocaine base or that (inaudible) actual possession
22 or attempting to have actual constructive possession of
23 10 grams or more of cocaine base. There were several
24 witnesses that testified. Ms. Nelson told the officers
25 the day of the incident that he had taken the vehicle

1 and had drugs and possibly a gun in his possession.
2 Officer Dodd testified that he did lose sight of the
3 vehicle but he said the location corresponded in his
4 pursuit to where the drugs were later located.

5 Mr. Loflin testified that he saw the Defendant
6 driving the Crown Victoria in his neighborhood and
7 testified that he saw an object being thrown out of the
8 window when the vehicle was rounding the corner. He
9 stated the officer was well behind the Defendant's
10 vehicle and he asked Mr. Rowland to go pick up the
11 object. Mr. Rowland testified that he retrieved the
12 object and that he called the police and waited for
13 them to respond to his residence and gave them the
14 object that was thrown out of the vehicle.

15 Corporal Ellwood testified that he responded to
16 the residence and he obtained the Baggie and took the
17 Baggie and the contents to be analyzed and the
18 individuals from the Charleston police lab indicated
19 that Ms. Hilton observed and supervised Ashley Earl
20 perform the drug analysis and that the contents weighed
21 28.84 grams and the substance was found to be cocaine
22 base or crack cocaine.

23 Based upon the evidence that has been presented
24 (inaudible). Any further motions?

25 MR. PATTERSON: Nothing from the State. Sorry. I

1 apologize.

2 MR. SHWACKE: No, Your Honor.

3 THE COURT: Mr. Stanley, please rise. I need to
4 place you under oath.

5 MR. SHWACKE: If I could have just one moment?

6 THE COURT: You may. I just need to place you
7 under oath that you're going to promise to tell the
8 whole truth and nothing but the truth, so help you God.
9 Is that what you're going to do?

10 THE DEFENDANT: No, ma'am. I mean, no, I'm not
11 testifying.

12 THE COURT: Well, I've got to advise you of your
13 rights.

14 THE DEFENDANT: Okay.

15 THE COURT: And that's what I'm going to do right
16 now, but I'm going to be asking you some questions and
17 I don't have to do this with Mr. Schwacke or Mr.
18 Shelton because they're officers of the Court. They're
19 already sworn to uphold the integrity of this
20 courtroom, so I don't have to place them under oath.

21 But when lay witness, just as if you were going to
22 take the stand, and so everyone that came in here, we
23 placed them under oath. That's all I'm doing, just to
24 make sure that what you tell me is the truth. Are you
25 going to tell me the truth here today?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: All right. At this time I'm going to
3 explain to you certain of your rights. If you do not
4 understand anything that I say or need me to explain
5 anything in further detail, please let me know. Can
6 you do that, Mr. Stanley?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Thank you. We've reached the stage of
9 the trial where you may present your defense. You have
10 the right to claim the protections given to you by the
11 Constitution of the United States. The Fifth Amendment
12 states in part that no person shall be compelled in any
13 criminal case to be a witness against himself. That
14 means that you cannot be required to testify. You do
15 have the right to testify on your behalf; however no
16 one can make you testify. This is a personal right and
17 no one can waive this right except for you.

18 If you decide to testify you will be subject to
19 the same (inaudible) as other witnesses and you may be
20 examined and cross-examined on any relevant issue in
21 this case. In addition, if you have any convictions
22 involving dishonesty or false statements or for crimes
23 punishable by imprisonment for more than one year and I
24 determine that the probative value of admitting that
25 evidence outweighs its prejudicial effect to you, the

1 Solicitor will be able to introduce your record to
2 attack your credibility.

3 Mr. Patterson, there are convictions that you plan
4 to introduce.

5 MR. PATTERSON: That's correct, Your Honor.

6 THE COURT: Thank you. If you decide to testify
7 the decision on your part must be freely and
8 voluntarily and intelligently made with the knowledge
9 of the protections given to you by the Fifth Amendment
10 and the consequence of any decision to testify.

11 If you decide not to testify I will instruct the
12 jury that they cannot give the fact that you did not
13 testify any consideration whatsoever and that there is
14 to be absolutely no prejudice to you because you did
15 not testify.

16 It is left entirely up to you whether or not you
17 testify. You may talk with your attorneys or your
18 friends or family members or anyone else, but the final
19 decision is left entirely up to you. Do you understand
20 what I've explained?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Do you have any questions about what
23 I've explained to you?

24 THE DEFENDANT: No, ma'am.

25 THE COURT: Have you discussed with your lawyer

1 whether or not you should testify?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Have you made a decision whether or
4 not you're going to testify?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: And what is that decision?

7 THE DEFENDANT: No, ma'am.

8 THE COURT: You will not testify; is that correct?

9 THE DEFENDANT: Yes.

10 THE COURT: All right. Thank you. And, Mr.
11 Stanley, I will include in the charge that the jury is
12 not to consider the fact that you did not testify in
13 any manner whatsoever. Thank you. You may have a
14 seat.

15 Mr. Schwacke, is there any additional witnesses
16 that you want to add?

17 MR. SHWACKE: No, Your Honor.

18 THE COURT: So the defense rests?

19 MR. SHWACKE: We will rest.

20 THE COURT: And so we have reached an appropriate
21 time also for us -- do you have any lesser-includeds
22 that you will be requesting?

23 MR. PATTERSON: I'm not aware of any.

24 THE COURT: I always ask.

25 MR. PATTERSON: I'm 99 percent sure. I'm still

1 thinking we're going to be over the 20 grams. I don't
2 believe there's a lesser-included.

3 THE COURT: So you're not requesting any lesser-
4 includeds?

5 MR. PATTERSON: No, Your Honor.

6 THE COURT: Any charges, any special charges that
7 you think I may not have included, Mr. Schwacke?

8 MR. SHWACKE: Just earlier, the status conference
9 on Monday morning, we asked for the Logan charge
10 dealing with circumstantial evidence.

11 THE COURT: That is typically the one that I will
12 -- the one that I have. Is that sufficient for you,
13 Mr. Schwacke? The one that I have been using?

14 MR. SHWACKE: Well, the case allows us to ask for
15 the language that says the Court shall -- that language
16 along with the long reasonable doubt charge, so my
17 client is asking for the actual one laid out in Logan
18 along with ---

19 THE COURT: You and I have had a conversation
20 right after Logan came out and I believe we were in
21 trial ---

22 MR. SHWACKE: I know.

23 THE COURT: --- I'm just wanting to make sure you
24 are asking -- you want the wording ---

25 MR. SHWACKE: From -- from it, yes.

1 THE COURT: Word by word, not the one that I've
2 been using.

3 MR. SHWACKE: Yes, ma'am.

4 THE COURT: Okay. Any other?

5 MR. SHWACKE: No, ma'am.

6 THE COURT: I would be including identification.
7 Anything else?

8 MR. PATTERSON: The State would just ask for
9 clarification as to your charge for trafficking, how
10 you phrase it so that we understand what we can discuss
11 in our closing. Our indictment says trafficking 28 to
12 100 grams; however, trafficking really is 10 grams or
13 more, so for purpose of closing, will your jury
14 instruction say trafficking 10 grams or more and then
15 give the jury a list of weights to identify as to what
16 the weight was?

17 THE COURT: Mr. Schwacke, what's -- let me hear
18 from you on that.

19 MR. SHWACKE: Your Honor, the only testimony as to
20 weight has been 28.8 grams so I'm thinking it becomes
21 confusing to them if they hear numbers that they don't
22 need to hear, because otherwise you could go on to 100
23 and 200 and up to 400 grams. I just don't -- I think
24 you're supposed to charge on only where there's factual
25 basis for it and the only factual basis is for the 28

1 grams.

2 THE COURT: This is where with the weights
3 (inaudible) but I understand what Mr. Patterson is
4 asking for. What's your preference, Mr. Patterson?
5 The statute indicates that it's 10 grams or more just
6 as the definition of trafficking, that that becomes the
7 threshold weight. You have indicted for 28 to 100 and
8 the testimony, I believe, was 28.84.

9 MR. PATTERSON: That's correct. The State's
10 preference would be to go by the statute. Ten grams or
11 more is trafficking. The weight is an issue for the
12 jury.

13 THE COURT: Mr. Schwacke, I'll be happy to hear
14 from you.

15 MR. SHWACKE: Our discussion over here is whether
16 he sort of proposed a special verdict form like they
17 have asked if they find him guilty of the trafficking,
18 what weight do they find. I'm not sure if that's what
19 they're really asking.

20 MR. PATTERSON: Just that we be able to read the
21 statute as it is, that trafficking is 10 grams or more.
22 You know, as you get higher weight it becomes a
23 sentencing issue.

24 THE COURT: Sentencing issue. I'm inclined to
25 charge the statute which is 10 or more and leave it at

1 that but then I haven't heard any other testimony other
2 than -- sometimes in cases such as this there's some --
3 it was retrieved and then by the time it got weighed
4 there was some, but I haven't heard any conflicting
5 testimony so I think that it's appropriate just to be
6 under the charge 10 or more since I haven't heard any
7 contradictory weight issue and it is what the State has
8 charged. So what I will do is indicate that he was
9 charged with trafficking 10 to 28 and read the statute
10 and then (inaudible). Thank you.

11 MR. PATTERSON: Thank you, Your Honor.

12 THE COURT: Anything else?

13 MR. PATTERSON: Nothing from the State.

14 THE COURT: 1:45. Thank you. We're at ease.

15 (Off the record until 1:45 p.m.)

16 THE COURT: On the forms, any objection from the
17 State?

18 MR. PATTERSON: I'm sorry. Can you say it again?

19 THE COURT: Any objection regarding the verdict
20 forms?

21 MR. PATTERSON: No objections from the State.

22 MR. SHWACKE: None from the ---

23 THE COURT: Any objection -- I have emailed a copy
24 of my charge to Mr. Patterson and Mr. Schwacke. I
25 understand you haven't been to your office.

1 MR. SHWACKE: I am familiar with what your charge
2 is. No objection.

3 THE COURT: My biggest concern was that you
4 reviewed how I was going to proceed with the
5 trafficking charge. Any objection, Mr. Patterson?

6 MR. PATTERSON: No objections, Your Honor.

7 MR. SHWACKE: You're going to allow me to read
8 that?

9 THE COURT: Do you need any additional time?

10 MR. SHWACKE: No, ma'am.

11 THE COURT: I'll let you look at the whole charge,
12 Mr. Schwacke. All right? Anything before we bring in
13 ---

14 MR. PATTERSON: One final clarification.

15 THE COURT: Yes.

16 MR. PATTERSON: On the charge -- just to make sure
17 I understand correctly. It's going to be presented per
18 the statute at 10 grams but then below that there is
19 the caveat of the 28 to 100? I just want to make sure
20 that I have it correct.

21 THE COURT: Mr. Patterson, would you make a copy
22 of that charge?

23 MR. PATTERSON: I have it on my -- my email but I
24 didn't have a chance to print it out.

25 THE COURT: One of the reasons why I don't give

1 copies of my charges is because people tend to flip
2 through them as I'm reading them. So Mr. Schwacke, you
3 will need to rest in front of the jury and renew your
4 motions.

5 MR. SHWACKE: I'm making those same motions now,
6 so for the record we can just put them on?

7 THE COURT: And you will be giving the last close;
8 right?

9 MR. SHWACKE: That's correct.

10 THE COURT: Mr. Patterson, are you giving the
11 close?

12 MR. PATTERSON: I'll be giving the close, Your
13 Honor.

14 THE COURT: And are you ready because Mr. Schwacke
15 is going to close -- rest in front of the jury and then
16 I'll give them the instruction that they've heard all
17 this evidence, now they're going to hear closing
18 arguments and you will go and Mr. Schwacke will go and
19 then I'll instruct the jury. Anything else?

20 MR. PATTERSON: Nothing further from the State.

21 THE COURT: Anything else, Mr. Schwacke?

22 MR. SHWACKE: No, Your Honor.

23 THE COURT: Let's bring in the jury.

24 (Whereupon, the jury entered open court at 1:52
25 p.m.)

1 THE COURT: Thank you. Please be seated. Did
2 every member of the jury comply with the Court's
3 instructions? If you did not comply with my
4 instructions, please state. Thank you. All of the
5 jurors have complied with my instructions. Mr.
6 Schwacke?

7 MR. SHWACKE: Thank you. The defense rests and
8 would renew all motions previously made.

9 THE COURT: Thank you. Ladies and gentlemen, you
10 have now heard all the testimony that you will hear in
11 this case and received into evidence all the exhibits
12 that will be made part of the record in this case. The
13 next stage of the trial is closing arguments. You will
14 be hearing closing arguments on behalf of the State and
15 the Defendant.

16 After that I will instruct you on the law
17 applicable to this case. Just as I indicated to you,
18 what was contained in opening statements is not to be
19 considered evidence, neither is what is contained in
20 closing arguments. Please give your strict attention
21 to Mr. Patterson.

22 MR. PATTERSON: Thank you, Your Honor. May it
23 please the Court.

24 CLOSING ARGUMENT ON BEHALF OF THE STATE

25 MR. PATTERSON: A reckless disregard for the law.

1 When we started this case, I told you that's what the
2 Defendant showed when he took the police on a 12-mile
3 pursuit from Hanahan to downtown Charleston, and what
4 he showed when he tossed a bag of 28.84 grams of
5 cocaine base out of the window of his vehicle.

6 You heard a lot of testimony, so I'm going to take
7 time right now to go through the testimony that you've
8 heard and how it proves our case. Evette Nelson,
9 you're going to get to judge her credibility. Your job
10 as the fact-finder is to judge her story and her
11 credibility. That day she told officers that Barry
12 Stanley assaulted her and took her car. She wrote a
13 statement that day about her and the Defendant fighting
14 over keeping drugs in her house. She showed Detective
15 Camp a picture of the Defendant on her phone and
16 described him as the person who assaulted her and took
17 her car.

18 Did she lie to the police? Yes, she did but there
19 is absolutely no evidence indicating that some other
20 individual, Deangelo Watson, was involved. She told
21 you it looked like a grits festival in her microwave.
22 She told you there was no evidence of a box of grits in
23 the kitchen. Officer Norton told you that crack is
24 most commonly cooked in a microwave. She told you
25 there was a strange smell in the apartment. You get to

1 judge her credibility. Is she scared of the Defendant?
2 You get to make these determinations, but it's
3 important that in that moment on that day when this
4 occurred, she only identified one individual as being
5 involved and that was the Defendant Barry Stanley.

6 Tanya Deane, she's a neighbor. She's one of the
7 people that Evette ran to trying to find help. She
8 knows who Barry Stanley is. She's seen him in the
9 apartment complex. She was there when Evette came to
10 her for help. Evette told her that Barry Stanley was
11 coming to kill her. Evette never told her it was
12 anybody other than Barry Stanley.

13 Mr. Greg Rider, Tanya Deane's husband, he's an
14 eyewitness to this event. He 100 percent, positively
15 identified the Defendant Barry Stanley as the man
16 driving that vehicle. He had met Barry Stanley prior
17 to this incident. He knew who he was and he knew who
18 he was looking at when he saw the Defendant in that
19 vehicle. He told you he saw the Defendant for a good
20 10 seconds while he was in that vehicle, sitting in the
21 driver's seat. He picked the Defendant out of a photo
22 lineup. He told you that no one else was in that car.

23 The police arrived within 10 to 15 seconds, is
24 what he described, as the Defendant fled the scene.
25 He's also the first person that Evette comes to because

1 he's playing basketball outside. She comes running
2 outside and he described her as appearing to be afraid
3 for her life, and she told him that it was Barry
4 Stanley who assaulted her.

5 Detective Camp, you heard from Detective Camp.
6 She responds to the scene and Evette tells her that
7 Barry Stanley assaulted her and that he's the person
8 who fled in her vehicle and took her car. There's
9 never any mention to Detective Camp, who's there to
10 help, of any other person. Told Detective Camp there
11 was an argument about drugs in the house. Evette
12 appeared afraid, physically shaking, fearful. Evette
13 provided her with a picture of this Defendant from her
14 phone. Detective Camp took a picture of that photo and
15 sent it out to other officers involved in this case.

16 Officer Dodd, Officer Dodd was leaving his house
17 to use his vehicle for personal use, is the way he
18 described it. He describes seeing that vehicle and the
19 Defendant tried to strike his car in an attempt to
20 escape. He starts to pursue the Defendant. He says
21 the description of the person driving that car and that
22 vehicle matched the description of the suspect
23 information that gets put out by Detective Camp. He
24 even identified the Defendant as the person in the
25 vehicle based on the photo that Detective Camp had

1 sent. He said that the person in that vehicle was the
2 person in that photo and the person in that photo was
3 Barry Stanley. He chases him on the same route the
4 drugs are found on in that neighborhood. The Defendant
5 does not stop for his police car, for his lights and
6 his siren. The place where the drugs were thrown out
7 is around the corner where Detective Dodd told you he
8 slowed down to try and negotiate that sharp curve. He
9 tells you there's nobody else in that vehicle.

10 Sergeant Lanphere, you saw the video. That's a
11 long chase. The Defendant clearly wanted to escape and
12 he was extremely reckless in doing that. Told you he
13 saw the Defendant reach up with his right hand to
14 adjust the rearview mirror of that vehicle.
15 Defendant's right thumbprints are found on the rearview
16 mirror. He pursued the Defendant for almost 12 miles
17 all the way onto Interstate 26 at speeds of up to 90
18 miles an hour. He told you no one else was in that
19 vehicle.

20 Corporal Ellwood, Corporal Ellwood responded to
21 the scene. He gets there within one minute. Evette is
22 visibly shaken, she's afraid. She tells him that the
23 Defendant Barry Stanley possibly has drugs -- or has
24 drugs in the car and possibly has a gun in the car.
25 Information is given to him that a witness has located

1 drugs during the pursuit. He responds within 30
2 minutes to [REDACTED] collects those drugs
3 from William Loflin. He secures them in his vehicle.

4 The drug chain, it's our duty to establish a chain
5 of custody for these drugs. Detective Ellwood told you
6 he collected the drugs and he submitted them to
7 evidence. Lieutenant Fowler stored them in evidence.
8 Detective Durant took that evidence for testing. The
9 drugs are stored and tested by the ladies at the
10 Charleston Police Department crime lab. Those drugs
11 tested positive for cocaine base or crack cocaine at a
12 weight of 28.84 grams. That's what Renee Hilton
13 testified to.

14 William Loflin, he has no reason to lie. He isn't
15 even from Charleston. He's from Great Falls. He was
16 here on a contract. He identifies the vehicle as a
17 blue Crown Victoria with big rims. He sees and hears
18 the lights, the sirens. He's sitting on the back porch
19 smoking a cigarette. He gets up to see what's going
20 on. He tells you an officer is chasing this Crown
21 Victoria with blue lights and sirens. He tells you
22 that that Crown Victoria loses the officer around that
23 sharp turn. He sees the Defendant looking over his
24 shoulder to see where that officer is, trying to get
25 him to where he could toss that bag out. Sees the

1 Defendant throw a bag out of the window. Mr. Loflin,
2 not living in that neighborhood, only being there for
3 contracting, being there temporarily, asked his
4 roommate, Mr. Rowland, to go pick up the drugs and when
5 Mr. Rowland shows it to him, he says I know it's crack.

6 Mr. Rowland calls 911 or calls -- calls the police
7 department. Chris Rowland, he's sitting on his couch.
8 He doesn't see this but Mr. Loflin comes in and says
9 hey, Chris, this guy being chased by the police, he
10 threw something out of the window. Chris goes and
11 picks it up. He told you that. He calls the police
12 department. He waits in his driveway for them to
13 respond. He told you he was concerned about kids in
14 the neighborhood finding it.

15 Lieutenant Kokinda, he tested the bag containing
16 the drugs for fingerprints and no fingerprints were
17 developed. We know that Mr. Rowland touched the bag,
18 because he picked it up. We know that Mr. Loflin
19 touched the bag, because he handed it to Corporal
20 Ellwood and the ladies from the lab, they don't use
21 gloves so they touched the bag and their prints weren't
22 on the bag, but that doesn't mean they didn't touch the
23 bag. Lieutenant Kokinda told you why sometimes prints
24 are unable to be developed.

25 Lieutenant Turner, he lifted these fingerprints

1 from the rearview mirror of that vehicle. Those
2 fingerprints match the Defendant, his right thumb. He
3 told you that he took note of the position of the
4 driver's seat and that it was in such a position there
5 was no way that a person of Mr. Watson's size could
6 have been the one driving that vehicle.

7 Mr. Hallman, fingerprint analyst who identified
8 the fingerprints that were collected from the rearview
9 mirror. He discussed his expertise and told you that
10 those prints were a match for the Defendant, in his
11 expert opinion, and they're exactly where Sergeant
12 Lanphere saw him adjust the mirror.

13 Today the State is tasked with proving our case
14 beyond a reasonable doubt and we accept that burden.
15 What does that mean, a reasonable doubt? It does not
16 mean beyond all doubt. There are very few things in
17 this world that we know for an absolute certainty. The
18 law does not require proof that overcomes every
19 possible doubt, but if the facts of this case leave you
20 firmly convinced of the Defendant's guilt then you have
21 to find him guilty.

22 So what are the charges in this case? Failure to
23 stop for a blue light, what does that mean? The
24 statute is in absence of mitigating circumstances it is
25 unlawful for a motor vehicle driver while driving on a

1 road, street or highway of the State to fail to stop
2 when signaled by a law enforcement officer or law
3 enforcement vehicle by means of siren or flashing
4 light; an intent to increase the speed of vehicle or in
5 other manner avoid the pursuing law enforcement vehicle
6 when signaled by a siren or flashing light is prima
7 facie evidence of a violation of this section. Failure
8 to see the flashing light or hear the siren does not
9 excuse the failure to stop when the distance between
10 the vehicles and other road conditions are such that it
11 would be reasonable for a driver to hear or see the
12 signals from the law enforcement vehicle.

13 What does that mean? The State will show the
14 Defendant was driving the motor vehicle. Well, the
15 Crown Victoria is the motor vehicle and the Defendant
16 was driving. How do we know the Defendant was driving?
17 Was the Defendant driving the car? Yes. Greg Rider
18 positively identifies him as the person driving that
19 vehicle. The Defendant's fingerprints are located on
20 the rearview mirror. Sergeant Lanphere observed the
21 Defendant adjust the rearview mirror. Officer Dodd was
22 provided a picture of the Defendant and testified the
23 Defendant was the person driving that car.

24 Was he driving on a road, street or highway in
25 South Carolina? Yes. Officer Dodd testified about his

1 pursuit of the Defendant. Sergeant Lanphere testified
2 about the entire route of the pursuit. We saw a map
3 and all of the streets that the Defendant utilized in
4 his flight from police: Fort Drive, Murray Drive,
5 Rivers Avenue, Redeemer Avenue, 26, Rutledge, Maple.
6 Was he signaled by a law enforcement? Yes. You saw
7 the video, the whole time, lights and sirens. Sergeant
8 Lanphere tried to use his PA to get him to stop. Did
9 he stop? No, he did not.

10 Trafficking in cocaine base, in South Carolina a
11 person who knowingly sells, manufactures, delivers,
12 purchases or brings into this State or who provides
13 financial assistance or otherwise aids, abets, attempts
14 or conspires to sell, manufacture, deliver, purchase or
15 bring into this State or who is knowingly in actual or
16 constructive possession or who knowingly attempts to
17 become in actual or constructive possession of 10 grams
18 or more of cocaine base.

19 Again, a mouthful but it's simple. The State has
20 to prove three things: the substance was, in fact,
21 cocaine base, a controlled substance in the State of
22 South Carolina; the Defendant had possession of the
23 cocaine base; and the amount was more than 10 grams.

24 Is it cocaine base? How much is it? Yes, the
25 substance found in the plastic bag was lab-tested

1 positive as 28.84 grams of cocaine base. How do we
2 know? Renee Hilton told you. She's the crime analyst.
3 She testified she performed three separate tests on the
4 substance and all the tests confirmed the substance
5 was, in fact, cocaine base. She testified that the
6 crack was weighed at the lab and weighed 28.84 grams.

7 Possession, there are two kinds of possession:
8 actual and constructive. Actual possession is when a
9 person has actual, physical custody of the item. Well,
10 I submit to you that actual possession in this case has
11 been proved when the Defendant threw the bag of drugs
12 out of the car. Mr. Loflin testified that he saw the
13 Defendant driving the vehicle throw something out of
14 the window that was recovered and it was tested. It
15 was cocaine base.

16 Constructive possession is when a person has
17 dominion and control -- dominion or control either over
18 the item or the premises where it is located.
19 Possession may be inferred from the circumstances. The
20 evidence in this case only shows one thing: the
21 Defendant was in actual possession of those drugs.
22 When he took the bag and threw it out the window,
23 that's actual possession and if you believe Greg Rider,
24 Officer Dodd, fingerprint evidence, William Loflin, if
25 you believe their testimony, then the Defendant is

1 guilty of possession of these drugs and the State would
2 ask that you find the Defendant guilty of failing to
3 stop for a blue light or siren and trafficking in
4 cocaine base. Thank you.

5 THE COURT: Mr. Schwacke?

6 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT
7 MR. SHWACKE: Good afternoon. I told you yesterday
8 when I first spoke to you that I was going to be brief.
9 One point that I wanted to make with you is evidence in
10 the case sometimes is what you -- always what you hear
11 from the witness. It's either an exhibit that's
12 introduced from there or it's testimony of the witness.
13 I told you I wanted you to be patient and listen
14 intently, but I also told you sometimes the evidence
15 that matters at the end is the evidence you didn't hear
16 and that's what I want to talk with you about this
17 afternoon.

18 I'm going to go through here. You know, any case
19 has to start with the first witness and that was Evette
20 Nelson who has given statement after statement after
21 statement. By the time she finished testifying before
22 you yesterday, that was the fourth version of the case
23 that she's given to anybody whether it's law
24 enforcement or whether it was you. And just like the
25 State has suggested she's a liar, I submit to you you

1 can't believe what she has to say and that cuts both
2 ways. That hurts them and it hurts my client, but I
3 want to talk about that a little bit because there are
4 things that the State wants you to believe based on the
5 testimony, but they still want to use it.

6 For instance, they want you to believe that my
7 client is a drug dealer, that when he left that house
8 he had a bunch of drugs. Now, ladies and gentlemen,
9 there were search warrants that were served and there
10 were search warrants that were served and no evidence
11 of drugs, no evidence of paraphernalia, anything you
12 use drugs with, no evidence of any large amounts of
13 money that was made from the sale of drugs, no evidence
14 of packaging material such as Baggies, not in the car,
15 not in the house.

16 Now, the State wants you to say hey, there were
17 grits inside the microwave and there's no evidence of
18 grits. You know, that cuts both ways too because
19 Detective Norton testified that the way you cook
20 cocaine, crack cocaine is in a microwave where you mix
21 it with baking powder. There is no evidence of baking
22 powder in that house either and if they had it, it
23 would be right here. So they're trying to mislead you.
24 They're trying to edge you in a direction that you
25 shouldn't take because it comes first from the mouth of

1 Evette Nelson.

2 Mr. Rider testified that he saw my client go back
3 into the apartment and come back and he was concerned
4 about whether he was going to take the child and he
5 came back empty-handed, so he didn't take anything. No
6 gun, no evidence of a gun, no bullets, no ammunition,
7 nothing for a gun, apartment or car. Again, that
8 starts with Evette because she's the one who said that.
9 Mr. Rider didn't know she'd said that.

10 Officer Dodd is the one who initiates the pursuit
11 and his testimony is at no point along the course of
12 the route did he see anything get thrown from the
13 vehicle either. The only person that's going to be
14 here for you to consider that testimony from is Mr.
15 Loflin. I'm going to get to him. Officer Dodd
16 estimated the speed that was involved in their chase
17 was between 40 and 45 miles per hour.

18 Now, ladies and gentlemen, starting about third
19 grade you start learning units of measurement. One of
20 the things that we learn is that in a mile there are
21 5,280 feet. Other things we learn, there is 60 minutes
22 in an hour, 60 seconds in a minute, so that would be
23 some other numbers here in a second. At 40 miles per
24 hour by the time that you have completed that, you
25 would have gone 211,200 feet. That's how far you go at

1 40 miles an hour. So when you divide that -- because I
2 told you before there's 60 minutes in an hour and
3 there's 60 seconds in a minute. When you convert this
4 over to find out how fast that you're going a second,
5 you'll find that you're going 58.6 feet per second. We
6 went around on this with Mr. Loflin yesterday and we
7 ended up deciding (inaudible). Sixty feet, one second.

8 He wants you to believe he's able to see people
9 turning around, looking, doing this, and then he wanted
10 to explain hey, these photographs with these bushes,
11 well, you know, maybe I was over here a little bit or I
12 sat down and I pivoted and I saw something different.
13 But he left the fact the speed was about 40 miles per
14 hour. He left the fact that he had only a window of
15 feet and what that tells you is 1,001 and the State
16 wants you to depend on his testimony because he's the
17 only one who saw or says he saw.

18 Now, this isn't -- this is just a demonstrative
19 thing but it was used in the trial so it's not going to
20 be back there with you, but you will recall the
21 testimony of Officer Dodd who returned to the scene.
22 You will recall the testimony of Mr. Loflin and you
23 will recall the testimony of Mr. Rowland and every one
24 picked out a different spot on where those drugs were
25 found. Mr. Rowland and Mr. Loflin can't even agree who

1 found it, picked it up, brought it back and gave it to
2 the police.

3 Officer Ellwood who was out there that day, who
4 collected the drugs and brought it back to the
5 department, never heard of Mr. Rowland; not mentioned
6 in his report; in fact says Loflin was the one who gave
7 it to me. Who is this mystery person Mr. Rowland and
8 why did he just miraculously appear with no reference
9 in any police report about the same time the State
10 decided to try to lift fingerprints off the drugs? You
11 heard testimony. You heard them tell you when they
12 took the fingerprints from the car to go be examined
13 and then lastly when they realized how weak their case
14 is, because it all hinges on (inaudible). Try to get
15 someone to come in here and tell people (inaudible), so
16 they didn't.

17 The other thing they didn't do -- you heard Dean
18 Kokinda's testimony. Hey, any time you touch something
19 you're going to leave a fingerprint potentially. It
20 might not be legible. It might not be readable but
21 that's a process of leaving sweat out of your pores and
22 your fingerprint ridges. That is the stuff of DNA.
23 All they had to do instead of waiting another year was
24 to have sent that off to answer your questions.
25 Instead they want you to (inaudible) one second of the

1 car going by down the road 40 miles per hour.

2 I submit to you that Mr. Loflin is not somebody
3 you should believe either. Multiple forgery
4 convictions in 2002. Didn't stop. Had another forgery
5 conviction in 2007. Didn't stop. Had a petit larceny
6 and then shoplifting in 2009. And you saw him on the
7 stand and it's your job as judges to determine the
8 believability and credibility of witnesses. His story
9 changed and it changed right in front of your eyes from
10 that very witness, where things were and what he saw,
11 where he was sitting, where he was, who did what. The
12 police sent somebody totally different who came in here
13 and testified found (inaudible).

14 The State tried to push into evidence part of the
15 actual possession of the bag, tried to convince you you
16 should buy into it. They want you to believe because,
17 you know, this is a quantity of drugs that's
18 (inaudible). But where is the beef on this? Where is
19 it? A search of the house, search of the car, no
20 scale, no other drugs, no packaging materials, no
21 Baggies, no gun, no ammunition, no baking powder. I
22 submit to you, ladies and gentlemen, the State has not
23 proved its case and they realize it because they went
24 and later tried to get you additional evidence before
25 you.

1 So as regards the trafficking charge, Mr. Loflin
2 is not credible. You can't buy into his word based on
3 his record alone but also by the way he appeared to you
4 on that stand. You must find my client not guilty.

5 THE COURT: Ladies and gentlemen, I normally do
6 not send back a copy of my charge. You've got a
7 Foreperson and you are responsible for writing the
8 verdict in this case. At least pay close attention
9 because as I stated I will not send back a copy of my
10 charge.

11 I remind you that during this trial, you and I
12 have certain duties to perform. As the trial Judge it
13 is my responsibility to preside over the trial of this
14 case and I have the duty to rule on the admissibility
15 of the evidence offered during this trial. You will
16 consider only the evidence before you. If there was
17 any testimony ordered stricken from the record, you
18 must disregard that testimony. You are to consider
19 only the testimony that you've heard from the witness
20 stand as well as the exhibits that have been made part
21 of the record in this case.

22 I have the additional duty to charge you the law
23 applicable to this case. As the presiding Judge I am
24 the sole judge of the law of this case. It is your
25 duty as jurors to accept the law and apply the law

1 exactly as stated to you now. If you have any idea as
2 to what the law is or what the law ought to be and it
3 does not agree with what I'm about to tell you, you
4 must abandon your own idea because you are sworn to
5 accept the law and apply the law exactly as I state it
6 to you now.

7 In every case tried in this Court before a jury,
8 the jury becomes the sole and exclusive judges of the
9 fact. A trial judge may not make any comment regarding
10 the facts of this case. Do not think from anything
11 that I have said or done throughout the conduct of this
12 trial that I have any opinion about the -- excuse me --
13 opinion about the facts in this case. The law does not
14 allow me to have an opinion about the facts in this
15 case. This is solely a matter for you to determine.

16 The indictments in this case charge Mr. Stanley
17 with one count of trafficking in cocaine base, 28 grams
18 or more but less than 100 grams, and one count of
19 failure to stop for a blue light. I remind you that
20 the fact that Mr. Stanley was arrested, charged and
21 indicted in this case is not evidence in this case, nor
22 does it create any presumption or inference of guilt.
23 An indictment is simply the formal written instrument
24 which contains the charge made against the Defendant.
25 It is the formal document by which this case is brought

1 into Court.

2 The indictments in this case allege several
3 different offenses against Mr. Stanley. The charges
4 are: indictment number one, 2014-GS-08-0027, failing
5 to stop for a blue light; indictment number two, 2014-
6 GS-08-0028, trafficking in cocaine base 28 grams or
7 more but less than 100 grams. Each indictment charges
8 a separate and distinct offense. You must decide each
9 offense separately on the evidence and the law
10 applicable to it uninfluenced by your decision as to
11 the other indictment.

12 Mr. Stanley may be acquitted or convicted on any
13 or all of the offenses charged. Ms. Foreperson, you
14 will be asked to present your verdict (inaudible). Mr.
15 Stanley has pled not guilty to these indictments. A
16 person charged with committing a criminal offense in
17 South Carolina is never required to prove himself
18 innocent. I charge you it is an important rule of the
19 law that a Defendant in a criminal charge, no matter
20 what the seriousness of the charge may be, will always
21 be presumed to be innocent of the crime for which the
22 indictment was issued unless guilt has been proven by
23 the evidence satisfying you beyond a reasonable doubt.

24 The presumption does not end when you begin your
25 deliberations but it accompanies the Defendant

1 throughout the trial until you reach a verdict of guilt
2 based upon the evidence satisfying the standard of
3 guilt beyond a reasonable doubt. The presumption of
4 innocence is not mere legal theory. It is the
5 substantial right to which every defendant is entitled
6 until you are satisfied of the evidence of the
7 Defendant's guilt beyond a reasonable doubt.

8 The State has the burden of proving Mr. Stanley
9 guilty beyond a reasonable doubt. Some of you may have
10 served as jurors before in civil cases where you were
11 told that it was only necessary to prove that a fact is
12 more likely true than not true, so that you apply a
13 greater weight over a preponderance of the evidence.
14 Proof beyond a reasonable doubt is proof that leaves
15 you firmly convinced of Mr. Stanley's guilt. There are
16 very few things in this world that we do know to
17 absolute certainty and in criminal cases, the law does
18 not require proof that overcomes every possible doubt.
19 If, based upon your consideration of the evidence, you
20 are firmly convinced that Mr. Stanley is guilty of the
21 crime charged, you must find Mr. Stanley guilty. If,
22 on the other hand, you think there is a real
23 possibility that Mr. Stanley is not guilty, you must
24 give Mr. Stanley the benefit of the doubt and find him
25 not guilty.

1 There are two types of evidence that are generally
2 presented throughout the trial: direct evidence and
3 circumstantial evidence. Direct evidence directly
4 proves the existence of a fact that does not require
5 deduction. Circumstantial evidence is proof of a chain
6 of acts and circumstances indicating the existence of a
7 fact. Crimes may be proven by circumstantial evidence.
8 The law makes no distinction between the weight or
9 value to be given either direct or circumstantial
10 evidence; however, to the extent the State relies on
11 circumstantial evidence, all of the circumstances must
12 be consistent with each other and when taken together
13 point conclusively to the guilt of Mr. Stanley beyond a
14 reasonable doubt.

15 If the circumstances merely portray Mr. Stanley as
16 being suspicious the proof must fail. The State has
17 the burden of proving Mr. Stanley guilty beyond a
18 reasonable doubt. This burden rests with the State
19 regardless of whether the State relies on direct
20 evidence, circumstantial evidence or a combination of
21 the two.

22 It's necessary that you must determine the
23 credibility of the witnesses who have testified in this
24 case. Credibility simply means believability. It
25 becomes your duty as jurors to analyze the evidence and

1 determine which evidence is true. In determining
2 believability of the witnesses who have testified in
3 this case, you may believe one witness over several
4 witnesses, or several witnesses over one witness. You
5 may believe part of the testimony of one witness and
6 reject the remaining part of the testimony of that same
7 witness. You may believe the testimony of a witness in
8 its entirety or reject the testimony of a witness in
9 its entirety.

10 You may consider whether the witness has admitted
11 to you any interest, bias, prejudice in the case and
12 you may also consider the appearance and manner of the
13 witness while on the witness stand. A person who has a
14 past criminal record is competent to testify during a
15 trial. A past record does not affect the ability of
16 that witness to testify. The past record may be only
17 considered by you if at all in determining the
18 witness's believability. Remember, you are the sole
19 judges of the facts in this case and of the
20 believability of any and all of the witnesses.

21 There has been evidence presented that a witness
22 has made prior statements which are not consistent with
23 the witness's prior testimony. You may use this
24 evidence to decide whether to believe the witness. You
25 may also use evidence of the earlier contradictory

1 statements to determine the truth of the statements.
2 It is up to you to decide whether to believe the
3 earlier statements or to believe the testimony given at
4 trial. If a witness is shown to have knowingly
5 testified untruthfully concerning any material matter,
6 you may consider this in determining whether to trust
7 the witness's testimony as to other matters. You may
8 reject all the testimony of that witness or believe it
9 all or in part and give it the weight you feel it
10 deserves.

11 The rules of evidence ordinarily do not permit
12 witnesses to testify to opinions or to conclusions. An
13 exception to this rule exists for witnesses we call
14 expert witnesses. A witness who by education and
15 experience has become expert in some art, science,
16 profession may state an opinion as to relevant and
17 material matters in this case in which the witness
18 claims to be an expert and may also state the reasons
19 for that opinion. You should consider any expert
20 opinion received as evidence in this case like any
21 other evidence, giving it the weight that you think it
22 deserves. If you decide that the opinion of an expert
23 witness is not based on sufficient education or
24 experience, or if you conclude that the reasons given
25 in support of the opinion are not sound, or that the

1 opinion is outweighed by other evidence, you may
2 disregard the opinion entirely. An expert witness's
3 testimony is to be given no greater weight than that of
4 other witnesses simply because the witness is an
5 expert. Further, you are not required to accept an
6 expert's opinion simply because it is not contradicted.

7 At issue in this case is the identification of Mr.
8 Stanley as the person who committed the crime charged.
9 The State has the burden of proving identity beyond a
10 reasonable doubt. You must be satisfied beyond a
11 reasonable doubt of the accuracy of the identification
12 of Mr. Stanley before you may convict Mr. Stanley.
13 Identification testimony is an expression of belief or
14 impression by a witness and you must determine the
15 accuracy of any identification of Mr. Stanley. You
16 must consider the believability of each identification
17 witness in the same way as any other witness. You may
18 consider whether the witness has an adequate
19 opportunity to observe the offender at the time of the
20 offense. This will be affected by things such as how
21 long or short a time was available, how far or close
22 the witness was, the lighting conditions and whether
23 the witness had a chance to see and know the person.

24 Once again, I instruct you the burden of proof on
25 the State extends to every element of the crime charged

1 and it specifically includes the burden of proving
2 beyond a reasonable doubt the identity of Mr. Stanley
3 as the person who committed the crime. If, after
4 examining the testimony, you have a reasonable doubt as
5 to the accuracy of the identification, you must find
6 Mr. Stanley not guilty.

7 In order to establish criminal liability, criminal
8 intent is required. For example, the mental state
9 required to be proven by the State for a particular
10 crime might be purpose, intent, knowledge, recklessness
11 or criminal negligence. Criminal intent must be proven
12 by the State beyond a reasonable doubt. Criminal
13 intent is always a matter that must be determined by
14 the jury from the circumstances surrounding the
15 situation. There is no way to prove intent to a
16 medical certainty because there is no way to tell with
17 exact certainty what the person had in mind. The law
18 says criminal intent may be inferred from circumstances
19 that were shown to have existed. This is how you make
20 the determination whether or not the element requiring
21 intent was present. It is not necessary to establish
22 intent by direct and positive evidence, but intent may
23 be established by inference in the same way as any
24 other fact by taking into consideration the acts of the
25 parties and all the facts and circumstances of the

1 case. Criminal intent is a mental state. It is a
2 conscious wrongdoing. It is up to you to determine
3 what the Defendant intended to do based upon the
4 circumstances shown to have existed.

5 I instruct you and emphasize that the fact that
6 Mr. Stanley did not testify is not a factor to be
7 considered by you in any way in your deliberation. It
8 must not be considered by you in any manner whatsoever.
9 A Defendant has the Constitutional right to remain
10 silent and the assertion of this right must not be
11 considered by you in your deliberations. I repeat,
12 under your oath you are to draw no conclusion
13 whatsoever from the fact that Mr. Stanley did not
14 testify. The fact that he did not testify may not even
15 be discussed in the jury room. The burden of proof, as
16 I have stated to you, is on the State and Mr. Stanley
17 is not required to prove his innocence. The burden of
18 proof remains on the State to prove guilt beyond a
19 reasonable doubt.

20 Mr. Stanley is charged with failure to stop for a
21 blue light. In order to prove this crime, the State
22 must prove beyond a reasonable doubt that Mr. Stanley
23 was driving a motor vehicle; that Mr. Stanley was
24 driving the motor vehicle on a road, street or highway
25 of this State; that Mr. Stanley was signaled to stop by

1 a law enforcement -- excuse me -- by a law enforcement
2 vehicle by means of a siren or a flashing light; and
3 that Mr. Stanley did not stop. In determining whether
4 or not there are mitigating circumstances which would
5 justify Mr. Stanley's failure to stop for a blue light,
6 you may consider actual road conditions, actual
7 roadside conditions or other conditions such as
8 lighting and weather, officer, driver and/or passenger
9 safety and any other circumstances you believe to
10 reasonably mitigate the violation.

11 An official signal requiring a motorist to stop
12 may be a siren or flashing lights, but both are not
13 required. An attempt to increase the speed of a
14 vehicle or in some other manner avoid the pursuing law
15 enforcement vehicle when signaled by a siren or
16 flashing light may be considered as evidence of failure
17 to stop for a blue light; however, it is merely an
18 evidentiary fact to be taken into consideration by you,
19 along with all the other evidence in this case and to
20 be given the weight that you think it deserves.

21 Mr. Stanley is charged with trafficking in cocaine
22 base. The State must prove beyond a reasonable doubt
23 that Mr. Stanley knowingly sold, manufactured,
24 cultivated, delivered, purchased or brought into the
25 State, provided financial assistance or otherwise

1 aided, abetted, attempted or conspired to sell,
2 manufacture, cultivate, deliver, purchase or bring into
3 the State, was knowingly in actual or constructive
4 possession, knowingly attempted to become in actual or
5 constructive possession of cocaine base.

6 Actual possession means that the cocaine base was
7 in the actual physical custody of Mr. Stanley.

8 Constructive possession means that Mr. Stanley had the
9 dominion and control or the right to exercise dominion
10 and control over either the cocaine base itself or the
11 property on which the cocaine base was found. Mere
12 presence at the scene where the drugs were found is not
13 enough to prove possession. The Defendant's knowledge
14 and possession may be inferred when the substance is
15 found on the property under the Defendant's control;
16 however, this inference is simply an evidentiary fact
17 to be taken into consideration by you along with the
18 other evidence in this case and to be given the weight
19 that you think it deserves. The State must also prove
20 beyond a reasonable doubt that the amount of cocaine
21 base was 28 grams or more but less than 100 grams.

22 Ladies and gentlemen, I'm now going to let you
23 deliberate. Madam Foreperson, once again it is your
24 responsibility to complete both verdict forms. There
25 is one for each of the charges. In your Court of

1 General Sessions for the 9th Judicial Circuit Case
2 Number 2014-GS-08-00027 -- and again, there is no
3 significance to the fact that I read this verdict form
4 to you -- we the jury find the Defendant Barry Jerrod
5 Stanley not guilty of failure to stop for a blue light,
6 or we the jury find the Defendant Barry Jerrod Stanley
7 guilty of failure to stop for a blue light.

8 Madam Foreperson, you will sign the verdict form
9 indicating that you have reached a unanimous decision.
10 That means all 12 of you must agree. Once you have
11 reached a unanimous decision, you will sign it and
12 alert the bailiff that you have completed your
13 deliberation on those verdict forms.

14 Case Number 2014-GS-080028, we the jury find the
15 Defendant Barry Jerrod Stanley not guilty of
16 trafficking in cocaine base 28 grams to 100 grams, or
17 we the jury find the Defendant Barry Jerrod Stanley
18 guilty of trafficking in cocaine base 28 grams to 100
19 grams.

20 Again, you will sign the verdict form indicating
21 that you have reached a unanimous verdict, meaning all
22 12 of you must agree. Once those are completed, once
23 again, you indicate to the bailiff that you have
24 completed both verdict forms and you have reached a
25 verdict and we will see you back in the courtroom.

1 Madam Foreperson, one of the questions that always
2 comes up is will you read the verdict, will you publish
3 the verdict. You will not. You will hand the verdict
4 to my bailiff and I will make sure that the verdict
5 will be published. You do not have any public speaking
6 role as a result of your appointment as Foreperson.

7 Ladies and gentlemen, is there any member of the
8 panel who feels that they would not be able, for
9 whatever reason, to retire and begin deliberating at
10 this time? If so, please signify at this time. Thank
11 you. All 12 jurors have indicated that they are able
12 to begin their deliberations. With the one caveat,
13 this is the last time that I will say this to you: Do
14 not begin your deliberations at this time. Do not
15 begin discussing this case. We're going to be
16 gathering the evidence and the verdict forms to send
17 back to you. Once we have done that the bailiff will
18 indicate to you that you may then begin your
19 deliberations. So please go back to your room, take
20 your comfort break and begin getting ready for your
21 deliberations.

22 To my alternate, you have completed at this time
23 your service to this case. Same admonishment to you:
24 Do not begin your deliberations. Do not discuss this
25 case with anyone until I release you. Thank you.

1 Please rise for the jury.

2 (Whereupon, the jury exited the courtroom at 2:43
3 p.m.)

4 THE COURT: Any objection, correction, addition to
5 the charges from the State?

6 MR. PATTERSON: No objections, Your Honor.

7 MR. SHWACKE: No, Your Honor.

8 THE COURT: All right. All the evidence and the
9 verdict form will go back to the jury.

10 (Whereupon the jury began to deliberate at 2:46
11 p.m.)

12 THE COURT: The note indicates that we have
13 reached a verdict on one count and we are unable to
14 reach a verdict on the second count so I will bring
15 them in and give them the Allen charge and then send
16 them back. Any objection?

17 MR. PATTERSON: No objection.

18 MR. SHWACKE: No objection.

19 THE COURT: Let's bring the jury in.

20 (Whereupon, the jury came into open Court at 4:57
21 p.m.)

22 THE COURT: Thank you. Please be seated. Ladies
23 and gentlemen, I have received your note and so I am
24 going to give you what is called the Allen charge. You
25 have stated that you have been unable to agree on a

1 verdict in this case and as I instructed you earlier,
2 the verdict of the jury must be unanimous on each
3 indictment.

4 When a matter is in dispute it isn't always easy
5 for even two people to agree, so when 12 people must
6 agree it becomes increasingly more difficult. In most
7 cases absolute certainty cannot be reached or expected.
8 However, you have a duty to make every reasonable
9 effort to reach a unanimous verdict.

10 In doing this you should consult with each other,
11 express your own views and listen to the opinions of
12 your fellow jurors. Tell each other how you feel and
13 why you feel that way and discuss your differences with
14 open minds. Although the verdict of the jury must be
15 unanimous, every one of you has the right to your own
16 opinion. The verdict you agree to must be your own
17 verdict, the result of your own convictions and you
18 should not give up any firmly held beliefs merely to be
19 in agreement with your fellow jurors.

20 The majority should consider the minority's
21 opinion and the minority should consider the majority's
22 opinion. You should carefully consider and respect the
23 opinions of each other and re-evaluate your position
24 for reasonableness, correctness and impartiality. You
25 must lay aside all outside matters and re-examine the

1 questions before you based upon the law and the
2 evidence in this case.

3 If you do not agree on a verdict in this case I
4 must declare a mistrial. In that case it does not mean
5 that anybody wins. It just means that at some future
6 time I will try this case with some other jury sitting
7 exactly where you are. The same participants will come
8 in and the same lawyers will ask basically the same
9 questions and get basically the same answers and we'll
10 go through this whole process again.

11 You were selected in the same manner and from the
12 same source as any future jury will be and there is no
13 reason for me to believe that this case will ever be
14 submitted to 12 more intelligent, impartial and
15 conscientious jurors than sit in front of me today. I
16 ask you to return to your deliberations with the hope
17 that you can arrive at a verdict within a reasonable
18 time.

19 Madam Foreperson, it is five o'clock and as I
20 indicated to you previously, we typically end around
21 five o'clock, so if y'all think that after considering
22 my new instructions if y'all would like to retire for
23 the evening and come back in the morning, we'll
24 entertain that request as well. But please go back and
25 based upon my instructions to you, my Allen charge to

1 you, go back and consider and let me know how you wish
2 to proceed. If you wish to remain for the evening, we
3 will begin making arrangements to order dinner for you,
4 so those are all issues that you can consider at this
5 time. All right. Thank you. Please rise for the
6 jury.

7 (Whereupon, the jury exited the courtroom at 5:10
8 p.m.)

9 THE COURT: You may be seated. Any objection to
10 my charge?

11 MR. PATTERSON: No objection from the State.

12 MR. SHWACKE: None, Your Honor.

13 THE COURT: Okay. We'll be at ease.

14 (Whereupon, there was a pause in the proceedings.)

15 THE COURT: Let's bring them in.

16 (Whereupon, the jury entered open court at 5:08
17 p.m.)

18 THE COURT: Please be seated. I have received
19 your note that you wish to continue your deliberations
20 tomorrow; is that correct, Madam Foreperson?

21 THE FOREPERSON: Yes.

22 THE COURT: Please remember all of my admonitions.
23 Do not discuss this case with anyone in any fashion.
24 Please do not continue your deliberations. I know
25 that's going to be difficult now that you have spent

1 the better part of the afternoon thinking about this
2 case, but please go home and rest. Do not do any
3 outside investigations. Do not go by the scene where
4 any of these events are alleged to have taken place.

5 Please be back downstairs at nine a.m., and I will
6 see you in the morning. Thank you. Please rise for
7 the jury.

8 (Whereupon, the jury was excused for the evening
9 at 5:10 p.m. and the trial of the case adjourned.)

10 (Whereupon, the trial of the case reconvened on
11 April 9, 2014 and the jury continued to deliberate at
12 9:09 a.m.)

13 (Whereupon, the jury reached a verdict at 10:48
14 a.m.)

15 THE COURT: Mr. Schwacke, anything before we bring
16 in the jury?

17 MR. SHWACKE: Well, Your Honor, I am assuming at
18 some point you're going to ask them whether they obeyed
19 your instructions ---

20 THE COURT: Correct.

21 MR. SHWACKE: --- because we didn't do that this
22 morning before they began to deliberate.

23 THE COURT: Yes.

24 (Whereupon, the jury came into open court at
25 approximately 10:56 a.m.)

1 THE COURT: Thank you. Please be seated. Good
2 morning, ladies and gentlemen. I have not seen you yet
3 this morning, but I understand that you have reached a
4 verdict. Before you hand the form to the bailiff, I
5 just want to make sure, did all 12 of you comply with
6 my instructions over the evening hours? If you did,
7 please raise your right hand. All of the jurors have
8 complied with my instructions. Madam Foreperson, you
9 may please hand the verdict forms to the bailiff.
10 Thank you.

11 THE CLERK: The State of South Carolina versus
12 Barry Jerrod Stanley, Indictment 2014-GS-08-00027, we
13 the jury find the Defendant Barry Jerrod Stanley guilty
14 of failure to stop for a blue light, signed by the
15 Foreperson.

16 State of South Carolina versus Barry Jerrod
17 Stanley, Case Number 2014-GS-08-00028, we the jury find
18 the Defendant Barry Jerrod Stanley guilty of
19 trafficking cocaine base, signed by the Foreperson, Ms.
20 Kay -- Shenese -- sorry.

21 If this is your verdict would you signify by
22 raising your right hand? Thank you.

23 THE COURT: The record will reflect that all 12
24 jurors raised their hand.

25 MR. SHWACKE: Your Honor, we would ask they be

1 polled.

2 THE COURT: All right. Using the jury numbers we
3 will have polling of the jury.

4 THE CLERK: Juror number 145, is this your
5 verdict?

6 JUROR NUMBER 145: Yes.

7 THE CLERK: Is this still your verdict?

8 JUROR NUMBER 145: Yes.

9 THE CLERK: Juror number 13, is this your verdict?

10 JUROR NUMBER 13: Yes.

11 THE CLERK: Is this still your verdict?

12 JUROR NUMBER 13: Yes.

13 THE CLERK: Juror number 17, is this your verdict?

14 JUROR NUMBER 17: Yes.

15 THE CLERK: Is this still your verdict?

16 JUROR NUMBER 17: Yes.

17 THE CLERK: Juror number 18, is this your verdict?

18 JUROR NUMBER 18: Yes.

19 THE CLERK: Is this still your verdict?

20 JUROR NUMBER 18: Yes.

21 THE CLERK: Juror number 178, is this your
22 verdict?

23 JUROR NUMBER 178: Yes.

24 THE CLERK: Is this still your verdict?

25 JUROR NUMBER 178: Yes.

1 THE CLERK: Juror number 23, is this your verdict?
2 JUROR NUMBER 23: Yes.
3 THE CLERK: Is this still your verdict?
4 JUROR NUMBER 23: Yes.
5 THE CLERK: Juror number 72, is this your verdict?
6 JUROR NUMBER 72: Yes.
7 THE CLERK: Is this still your verdict?
8 JUROR NUMBER 72: Yes.
9 THE CLERK: Thank you. Juror number 166, is this
10 your verdict?
11 JUROR NUMBER 166: Yes.
12 THE CLERK: Is this still your verdict?
13 JUROR NUMBER 166: Yes.
14 THE CLERK: Juror number 63, is this your verdict?
15 JUROR NUMBER 63: Yes.
16 THE CLERK: Is this still your verdict?
17 JUROR NUMBER 63: Yes.
18 THE CLERK: Juror number 91, is this your verdict?
19 JUROR NUMBER 91: Yes.
20 THE CLERK: Is this still your verdict?
21 JUROR NUMBER 91: Yes.
22 THE CLERK: Juror number 10, is this your verdict?
23 JUROR NUMBER 10: Yes.
24 THE CLERK: Is this still your verdict?
25 JUROR NUMBER 10: Yes.

1 THE CLERK: Juror number 88, is this your verdict?

2 JUROR NUMBER 88: Yes.

3 THE CLERK: Is this still your verdict?

4 JUROR NUMBER 88: Yes.

5 THE CLERK: Judge, the jury has been polled. The
6 verdict stands.

7 THE COURT: Thank you. Anything further required
8 from the jury?

9 MR. SCHWACKE: Not at this time, Your Honor.

10 THE COURT: From the State?

11 MR. PATTERSON: Nothing from the State, Your
12 Honor.

13 THE COURT: Ladies and gentlemen, this completes
14 your service to this case. If you'll go back to your
15 jury room, I'll be there in just a few moments to
16 excuse you. I need to check on a few things to
17 determine when you'll need to report back and then,
18 Madam Foreperson, I have a task for you to sign
19 documents. So please go back to your jury room. Thank
20 you. Please rise for the jury.

21 (Whereupon, the jury exited the courtroom.)

22 THE COURT: Thank you. Be seated. Outside the
23 presence of the jury, Mr. Schwacke?

24 MR. SHWACKE: Your Honor, I would renew all
25 motions previously made. I don't know that we put on

1 the record specifically that I renewed my motions after
2 we rested because we moved right into -- into our
3 closings, but at this time I would renew all motions
4 for new trial based upon the same circumstances, facts
5 and legal arguments made at the close of the State's
6 case and upon resting, at this time, Your Honor, that
7 there's insufficient evidence to support the verdict.

8 THE COURT: Any response?

9 MR. PATTERSON: The State's response is the same
10 as our first response. We rely on that response.

11 THE COURT: Any response to their response, Mr.
12 Schwacke?

13 MR. SHWACKE: No, Your Honor.

14 THE COURT: I have heard nothing -- no indication
15 that I would -- that there is any reason or any
16 additional evidence or any legal argument that would
17 cause me to change my initial ruling, so I stand by my
18 initial ruling so are we ready to go forward on
19 sentencing?

20 MR. PATTERSON: The State is prepared to move
21 forward with sentencing.

22 THE COURT: Do you have your sheets?

23 MR. PATTERSON: I do, Your Honor. Sentencing
24 sheets, I need -- I'm sorry. I thought you meant mine.

25 THE COURT: Thank you. This is a trafficking

1 third offense, Mr. Schwacke? Trafficking third?

2 MR. PATTERSON: It is a third offense, Your Honor.

3 THE COURT: Do you agree that your client has ---

4 MR. SHWACKE: They have provided me with
5 sentencing sheets and copies of the indictments that
6 would reflect a prior conviction that was in December
7 of 2007; another drug offense from January 2005;
8 another conviction from April 2001.

9 THE COURT: Do you have the sheets, Solicitor?

10 MR. PATTERSON: Yes, Your Honor.

11 THE COURT: Anything further from the State?

12 MR. PATTERSON: I have certified copies of the
13 prior convictions. I'll furnish copies of those.

14 THE COURT: Mr. Schwacke has indicated that he's
15 seen those. Anything further?

16 MR. PATTERSON: Nothing further from the State.

17 THE COURT: Anything further, Mr. Schwacke?

18 MR. SHWACKE: Your Honor, with regard to
19 sentencing, Mr. Stanley has been in continuous custody
20 for 387 days on these charges. Present in the
21 courtroom and throughout the trial, his mother is here
22 today. His mother was in attendance yesterday. He has
23 a daughter who is 10 years old. I do not know if he
24 wishes to address Your Honor with regards to
25 sentencing. I do believe his mother does.

1 THE COURT: I'll be happy to hear from her.
2 Failure to stop for a blue light, first or second?

3 MR. SHWACKE: I believe it's a first.

4 MR. PATTERSON: I believe it's a first offense.

5 THE COURT: Thank you. Right there is fine.
6 Please state your full name for the record and spell
7 your last name.

8 MS. STANLEY: My name is Jolene Stanley -- S-T-A-
9 N-L-E-Y. Barry is my youngest. He has a 10-year-old
10 daughter. I keep her sometimes when he's not around.
11 I'm disabled. I have two sons. Barry doesn't have a
12 father. Well, he had a father. He died. I'm the only
13 one that took care of him. He's not a bad person.
14 He's not a bad person at all. He helps me. He helps
15 his daughter. He buys her clothes and he helps her
16 with her homework and if he's gone for a long time, I
17 don't know. I'm 53 years old and I'll try my best to
18 help my children and my grandchildren, but if he's gone
19 I don't know. I'll still be there because I'm going to
20 stay until he comes back home. Sometimes when you have
21 children you try to do the right thing by them. I also
22 know that at one point in life they'll grow up and then
23 they make their own decisions. Sometimes if they would
24 just only listen, if they would sometimes just only
25 listen to what their mom and daddy got to say there

1 wouldn't be all this. All I know now is I'm going to
2 have to go back home and tell his daughter and that's
3 going to hurt her like it's hurting me right now.
4 That's all.

5 THE COURT: Thank you, Ms. Stanley.

6 MS. STANLEY: Thank you.

7 THE COURT: Solicitor, this is a minimum mandatory
8 of 25 up to 30; is that correct?

9 MR. PATTERSON: That's correct, Your Honor.

10 THE COURT: And a \$50,000 fine?

11 MR. PATTERSON: That's correct, Your Honor.

12 MR. SHWACKE: It would be an 85 percent sentencing
13 so for that reason we would ask that you (inaudible).

14 THE COURT: And have you -- I understand he's also
15 pending some charges?

16 MR. SHWACKE: There are some Berkeley charges that
17 we're not trying with this case.

18 THE COURT: Did those occur before or after this?

19 MR. PATTERSON: They're all connected to this
20 offense, or this same incident. There was a charge in
21 connection with this offense for the Defendant's
22 driving. He attempted to strike one of the officers.
23 That was not tried as part of this case.

24 THE COURT: So there's another trafficking. When
25 did that occur? There's a trafficking pending?

1 MR. PATTERSON: No, there's an armed robbery
2 pending in Charleston.

3 THE COURT: Did that occur while he was under
4 bond?

5 MR. PATTERSON: This occurred while he was out on
6 bond for the armed robbery event.

7 THE COURT: And another pending failure to stop
8 for a blue light ---

9 MR. PATTERSON: In Charleston.

10 THE COURT: --- in Charleston. Mr. Stanley,
11 anything you wish to tell me?

12 THE DEFENDANT: I ask can you please have mercy on
13 me, ma'am? Honestly, I don't agree with the verdict.
14 I ask that you please have mercy on me.

15 THE COURT: My options are fairly limited, Mr.
16 Stanley. I must sentence you for a minimum of 25 years
17 up to 30 years and on the failure to stop for a blue
18 light, it's 90 days up to three years. Do you
19 understand those are the possible punishments?

20 The trafficking, because it is your third offense,
21 is considered a violent and a serious charge. Do you
22 understand what those two classifications mean for you?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And do you understand you have the
25 right to appeal this sentence?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: I know Mr. Schwacke also probably told
3 you not to say anything because you have the right to
4 appeal this case, but is there anything before I impose
5 sentence upon you?

6 THE DEFENDANT: Would you please have mercy and
7 take my family into consideration?

8 THE COURT: Thank you, Mr. Stanley. Anything
9 further, Mr. Schwacke?

10 MR. SHWACKE: No, Your Honor.

11 THE COURT: Anything further from the State?

12 MR. PATTERSON: Nothing further from the State,
13 Your Honor.

14 THE COURT: It is the order of the Court on
15 Indictment 2014-GS-08-00027 that you be committed to
16 the State Department of Corrections for a term of three
17 years, giving credit for 387 days. It is the order of
18 the Court on Indictment 2014-GS-08-00028 that you be
19 committed to the State Department of Corrections for a
20 term of 30 years and pay a fine of \$50,000, giving
21 credit for 387 days. Those indictments are to run
22 consecutive. Good luck to you, sir.

23 (Whereupon, the trial of the case was concluded.)
24

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

CERTIFICATE

Be it known that I, the undersigned Reba C. Hayes, CVR, official court reporter for the State of South Carolina, transcribed the foregoing transcript of 322 typewritten pages which represents a true, accurate and complete transcription of the testimony so given and the evidence introduced at the time and place aforesaid to the best of my skill and ability;

That I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

Witness my hand this 20th day of August, 2014.



REBA C. HAYES, CVR

(Original signature in Blue Ink)

VCD2013-03-00731

WITNESSES

Hanahan Police Department

[Signature]

AGENCY CASE NUMBER

2013006828

ARREST WARRANT NUMBER

2013A0820300292

DATE OF ARREST

March 18, 2013

ACTION OF GRAND JURY

True Bill

Thomas Martin Jr.
Foreperson of Grand Jury

Date: 2-11-14

VERDICT

Guilty

[Signature]

Foreperson of Petit Jury

4/9/14

Date:

INDICT

DOCKET NO. 2014GS0800027

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

February Term 2014

THE STATE

Vs

BARRY JERROD STANLEY

DOB: [REDACTED]

B/M

Indictment for

Failure to Stop for a Blue Light

14 FEB 11 PM 12:59
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

FILED
JH

JH

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

INDICTMENT

At a Court of General Sessions, convened on February 11, 2014 the Grand Jurors of Berkeley County present upon their oath:

Failure to Stop for a Blue Light

That Barry Jerrod Stanley did in Berkeley County, South Carolina, on or about March 11, 2013, while driving a motor vehicle on a road, street, or highway of the State, did knowingly, willfully, intentionally, and in the absence of mitigating circumstances, fail to stop for a law enforcement vehicle after being signaled by a flashing light and/or a siren to do so; all in violation of Section 56-5-750 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.


MICHAEL E. PATTERSON
ASSISTANT SOLICITOR

VCD2013-03-00731

WITNESSES

Hanahan Police Department

[Signature]

AGENCY CASE NUMBER

2013006828

ARREST WARRANT NUMBER

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Foreperson of Grand Jury

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4/9/14

DOCKET NO. 2014GS0800028

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

February Term 2014

THE STATE

Vs

BARRY JERROD STANLEY

DOB: [REDACTED]

B/M

Indictment for

Trafficking Cocaine Base 28g-100g

14 FEB 11 PM 12:59
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

FILED

JFH

JFH

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

INDICTMENT

At a Court of General Sessions, convened on February 11, 2014 the Grand Jurors of Berkeley County present upon their oath:

Trafficking Cocaine Base 28g-100g

That Barry Jerrod Stanley did in Berkeley County, South Carolina, on or about March 11, 2013, knowingly sell, manufacture, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State; or did possess or attempt to possess a controlled substance or a controlled substance analogue, to wit: Cocaine Base, in excess of 28 grams; in violation of 44-53-375 of the South Carolina Code of Laws (1976) as amended.

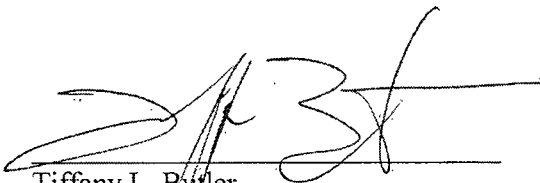
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


MICHAEL E. PATTERSON
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

July 8th, 2015



Tiffany L. Butler
Appellate Defender

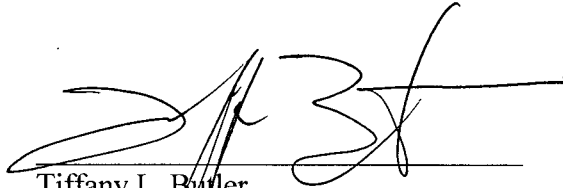
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

July 8th, 2015



Tiffany L. Butler
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED
JUL 08 2015
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

 ORIGINAL

Appeal from Berkeley County

Kristi Lea Harrington, Circuit Court Judge

RECEIVED

JUL 08 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BARRY JERROD STANLEY,

APPELLANT

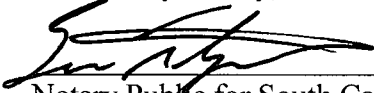
APPELLATE CASE NO. 2014-000767

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 8th day of July, 2015.


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 8th day of July, 2015.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.