

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SALUDA COUNTY

Donald B. Hocker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL MCCRAW,

APPELLANT

APPELLATE CASE NO. 2013-002745

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF SALUDA

2013-GS-41-00341

2013-GS-41-00345

The State of South Carolina

-VS-

**Michael William McCraw and
Travis Samuel Warren,**

Defendants.

TRANSCRIPT OF RECORD

October 8, 9, & 10, 2013
Saluda, South Carolina

Ordered: January 6, 2014

Delivered: April 28, 2014

BEFORE:

The Honorable Donald B. Hocker, Presiding Judge.

APPEARANCES:

Mr. Ervin Maye, Esquire
Mr. Michael Ross, Esquire
Assistant Solicitors for the State

Mr. Ola Johnson, Esquire
Attorney for Defendant Mr. Michael W. McCraw

Mr. Theodore Williams, Esquire
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Circuit Court Reporter

PAMELA FAUCETTE, CVR - 864-574-9534 or 336-260-2864

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October 8, 2013

11:08 A.M.

(Off-the-Record Comments)

Voir Dire

THE COURT: All right. Now, I'm going to ask the -- the Solicitor if he will call this first case to trial. And, then, we will conduct our voir dire.

(Brief Pause)

MR. MAYE: May it please the Court? Your Honor, the State now calls for trial indictment number 2011-GS-41-071, *The State vs. Michael William McCraw*, an indictment for manufacturing methamphetamine. It's been true billed by the grand jury of Saluda County. And the State now calls this for trial.

Additionally, the State calls indictment 2000-GS-41-345 [sic], *The State vs. Travis Samuel Warren*, an indictment for manufacturing methamphetamine. It too has been true billed by the grand jury of Saluda County.

The State calls both of these cases for trial by jury at this time.

THE COURT: Thank you very much, Solicitor. Madam Clerk, I'm going to ask you to swear the qualified jury panel in, please, ma'am.

(Whereupon, the jury panel was sworn.)

(Off-the-Record Discussion)

MR. MAYE: Your Honor, may I approach?

THE COURT: Certainly.

(Whereupon, a bench conference was had with all attorneys present.)

THE COURT: All right, Solicitor?

1 **MR. MAYE:** Your Honor, the correct indictment number for
2 Travis Samuel Warren is indictment 2013-GS-41-345, Your Honor. I'll just tell
3 you the indictment number charges the same with manufacturing
4 methamphetamine. And it's been true billed by the grand jury of Saluda
5 County. That is the only addition or correction that I have.

6 **THE COURT:** Thank you very much.

7 **MR. MAYE:** Yes, Your Honor.

8 **(Brief Pause)**

9 **THE COURT:** I — I did fail to ask, if the State and the Defense, is
10 there any objections or exceptions to the qualification and the exemption
11 process of the jury panel from the State?

12 **MR. MAYE:** None from the State, Your Honor. Thank you.

13 **THE COURT:** From the Defense?

14 **MR. JOHNSON:** None of the Defense, Your Honor.

15 **MR. WILLIAMS:** None from Defendant — Defendant Warren, Your
16 Honor.

17 **THE COURT:** Okay. Thank you very much. Okay, ladies and
18 gentlemen of the jury panel, if you would, pay very close attention to the
19 questions that I ask you.

20 Is anyone related by blood or ever been related by marriage, to either
21 of the two Defendants — and, if they would, please stand ---

22 **(Both Defendants complied with the Court's request.)**

23 **THE COURT:** — Michael William McCraw and Travis Samuel
24 Warren. If you'll just face the jury panel, please, gentlemen.

25 **(Both Defendants complied with the Court's request.)**

1 **THE COURT:** Thank you very much. You can have a seat.

2 **(Both Defendants complied with the Court's request.)**

3 **(No Response)**

4 **THE COURT:** Has anyone ever had a close personal or social
5 relationship, with either of the two Defendants, Michael William McCraw
6 and/or Travis Samuel Warren? If so, please, stand.

7 **(No Response)**

8 **THE COURT:** All right. No one can leave the courtroom at this
9 time. Be seated.

10 **(Off-the-Record Discussion)**

11 **THE COURT:** I'm going to provide you with a list of possible
12 witnesses for either the State or the Defense in this case. And I say possible;
13 they may not testify.

14 Has anyone ever been related by blood or marriage to any of the
15 people that I will list in just a moment or does anyone have a close personal
16 or social relationship with the following: William Troy Norris, Michelle Norris,
17 Russ Padgett, Jesse Quartlebaum, Kess Holmes, Billy Laney, Nick
18 Schifferle? If so, please, stand.

19 **(Potential juror stood in response.)**

20 **THE COURT:** Okay. Yes, sir, your number and your name,
21 please, sir.

22 **POTENTIAL JUROR:** My number is 76. My name is Tommy
23 Duncan.

24 **THE COURT:** Okay.

25 **POTENTIAL JUROR:** I've been knowing Russ Padgett ever since

1 he was born.

2 **THE COURT:** Okay. And the fact that you've known Russ
3 Padgett for a long time, would that prevent you from being fair and impartial
4 to both the State and the Defense in this case?

5 **POTENTIAL JUROR:** No, sir.

6 **THE COURT:** Okay. Thank you, sir. Have a seat. And let me
7 mention one thing too. And I failed to do this at the beginning of the voir dire.
8 The same rules apply. If there is something that you would like to tell
9 me or respond to me, that you want to do so in private like you did earlier,
10 then, I'll give you an opportunity at that time. So you do not need to respond
11 in public if you wish not to.

12 **(Brief Pause)**

13 **THE COURT:** All right. At this time, I'm going to ask the — the
14 attorneys for the State to introduce themselves. And, then, I'll give the same
15 opportunity to the attorneys for the Defense. Solicitor?

16 **MR. MAYE:** My name is Ervin Maye and I am an assistant
17 solicitor for the Eleventh Judicial Circuit. Seated with me is Mike Ross, who
18 is also an assistant solicitor of the Eleventh Circuit.

19 **THE COURT:** Okay. Thank you very much. And Defense?

20 **MR. JOHNSON:** I'm Ola Johnson. I practice out of Lexington
21 County, South Carolina.

22 **MR. WILLIAMS:** I'm Theo Williams. I live in Batesburg, South
23 Carolina. And my office is in Lexington, South Carolina, with the firm of
24 Williams, Hendricks, Styger and Brandt (phonetic).

25 **THE COURT:** Okay. Thank you, Mr. Williams. Has any member

1 of the jury panel ever been represented by any of the attorneys involved in
2 this case or any of their particular law firms or respective law firms.? If so,
3 please, stand.

4 (No Response)

5 THE COURT: Has anyone ever been related, by blood or
6 marriage, to or have you ever had a close personal or social relationship with
7 any of the attorneys involved in this case or their respective law firms? If so,
8 please, stand.

9 (No Response)

10 (Brief Pause)

11 THE COURT: Well, ladies and gentlemen of the jury panel, the
12 Defendants have been indicted. And let me just state to you, the indictments
13 that I have in my hand that the Solicitor referred to earlier, these indictments
14 are not evidence.

15 They're not an indication of — of guilt on the — on the part of the
16 Defendants. The indictments serve as the mechanism in order to get the
17 case to where we are today, to — to trial.

18 So, when the indictments are referred to, at any point in these
19 proceedings, do not consider them as evidence or any indication of — of guilt
20 on the part of the — on the part of the Defendants.

21 I'm going to publish the — the indictments to you. And — and I'll do
22 so separately for each Defendant. And I'll give you the body of the
23 indictment.

24 "That Michael William McCraw did, in Saluda County, on or about the
25 date of December 3rd, 2010, unlawfully, knowingly, intelligently, and willfully

1 make -- manufacture, or otherwise aid, abet, attempt, or conspire with
2 Michelle Holloman Norris (phonetic) and/or Travis Samuel Warren, to
3 manufacture a quantity of methamphetamine, a controlled substance, under
4 the provisions of the laws of this State."

5 **(Brief Pause)**

6 **THE COURT:** "That Travis Samuel Warren did, in Saluda
7 County, on or about the date of December 3, 2010, knowingly, intentionally,
8 willfully, and unlawfully manufacture or otherwise aid, abet, attempt or
9 conspire with William -- Michael William McCraw and/or Michelle Holman
10 Norris, to manufacture a quantity of methamphetamine, a controlled
11 substance, under the provisions of the laws of this State."

12 Has any member of the jury panel formed or expressed an opinion
13 about any issue or matter involved in this case? If so, please, stand.

14 **(No Response)**

15 **THE COURT:** Okay. Chances are all you know about this case
16 is what I just read to you from the indictments. Is there any member of the
17 jury panel aware of any bias or prejudice towards either the State or the
18 Defendants in this case?

19 **(No Response)**

20 **THE COURT:** Is there any member of the jury panel that was a
21 member of the grand jury which issued the indictments in this case? I don't
22 believe that would apply because I talked to you about grand jury service
23 previously, but I'm asking it as I'm required to: Has any member of the jury
24 panel served on the grand jury that issued these indictments?

25 **(No Response)**

1 **THE COURT:** Is there any member the jury panel who is a
2 member of or a contributor to any group which has as its primary concern the
3 promotion of law enforcement or victims' rights?

4 And these groups would include, but not limited to, MADD, SADD, or
5 CAVC? That acronym stands for Citizens Against Violent Crimes. If that
6 applies to you, please, stand.

7 **(No Response)**

8 **THE COURT:** Is there any member of the jury panel who has a
9 family member or a close personal friend who has ever been a victim of or
10 accused of a crime? If that applies to you, please, stand.

11 **(No Response)**

12 **THE COURT:** Has any member of the jury panel or any member
13 of your family, member of the jury panel, or any close personal friend of the
14 jury panel, has ever been affected by drugs or drug abuse? If so, please,
15 stand.

16 **(No Response)**

17 **THE COURT:** Is there any member of the jury panel morally
18 opposed to drugs or drug use such that you could not render a fair and
19 impartial decision in this case?

20 **(No Response)**

21 **THE COURT:** Are you or any member of your family or a close
22 personal friend currently a law enforcement officer or ever have been a law
23 enforcement officer or otherwise someone who has had any power of arrest?
24 If that applies to you, please, stand.

25 **(Potential juror stood in response.)**

1 **THE COURT:** Yes, sir?

2 **POTENTIAL JUROR:** Ollie Williams. I have a nephew that is a
3 DEA agent.

4 **THE COURT:** Okay. The fact that you have a nephew that is a
5 DEA agent, would that prevent you from being fair and impartial to both the
6 State and the Defense in this case?

7 **POTENTIAL JUROR:** No.

8 **THE COURT:** Thank you, sir. Yes, sir?

9 **POTENTIAL JUROR:** Juror number 59. My mother, Janice Ergle,
10 is a jail administrator for Saluda County.

11 **THE COURT:** Okay. The fact that your mother is a jail
12 administrator for Saluda County, would that prevent you from being fair and
13 impartial to the State and to the Defense?

14 **POTENTIAL JUROR:** No, sir.

15 **THE COURT:** Thank you, sir. Yes, ma'am?

16 **POTENTIAL JUROR:** My husband is a SLED agent.

17 **THE COURT:** Okay. And your number -- your juror number and
18 name, please.

19 **POTENTIAL JUROR:** Number 123, Sherri Matthews.

20 **THE COURT:** And, yes, ma'am, Ms. Matthews?

21 **POTENTIAL JUROR:** My husband works for the South Carolina
22 Law Enforcement Division.

23 **THE COURT:** All right. The fact that your husband works with
24 SLED, would that prevent you from being fair and impartial to both the State
25 and the Defense in this case?

1 **POTENTIAL JUROR:** No, sir.

2 **THE COURT:** Okay. Thank you, ma'am.

3 **(Brief Pause)**

4 **THE COURT:** All right. Has any member of the jury panel, or
5 any family member of the jury panel, ever been prosecuted by the Eleventh
6 Circuit Solicitor's Office?

7 **(No Response)**

8 **(Brief Pause)**

9 **THE COURT:** Does any member of the jury panel know of any
10 reason whatsoever why he or she should not serve as a juror in this case,
11 with particular emphasis being placed on your ability to be fair and impartial
12 to both the State and the Defendant — both Defendants? If so, please,
13 stand.

14 **(No Response)**

15 **THE COURT:** Now, I'll give you an opportunity. Is there any
16 member the jury panel who would like to talk with me privately concerning
17 those questions I have just given to you? If so, we'll form a line and we'll
18 come down in front. If so, please, stand.

19 **(Potential juror stood in response.)**

20 **THE COURT:** Okay. We have one. If you'll come down,
21 please, ma'am.

22 **(Potential juror stepped forward.)**

23 **(Off-the-Record Comments)**

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

25 **(Off-the-Record Discussion)**

1 THE COURT: Anyone else?

2 (No Response)

3 THE COURT: Let me first ask the State, are there any additional
4 voir dire questions that you would like the Court to consider asking?

5 MR. MAYE: None from the State, Your Honor.

6 THE COURT: Any objections to the voir dire previously given to
7 the jury panel from the State?

8 MR. MAYE: Not from the State, Your Honor.

9 THE COURT: Thank you very much. All right. Mr. Johnson, any
10 additional voir dire questions you would like the Court to consider asking the
11 jury panel?

12 MR. JOHNSON: No, sir.

13 THE COURT: All right. Are there any objections or exceptions to
14 the voir dire previously conducted with the jury panel?

15 MR. JOHNSON: No, sir.

16 THE COURT: Okay. Mr. Williams, any additional voir dire
17 questions you would like the Court to consider asking?

18 MR. WILLIAMS: No, Your Honor.

19 THE COURT: Any objections or exceptions to the voir dire
20 conducted with the jury panel?

21 MR. WILLIAMS: None, Your Honor.

22 THE COURT: Thank you very much.

23 (Brief Pause)

24 (Voir dire concluded at 11:29.)

25 THE COURT: Madam Clerk, you may proceed.

1 (Brief Pause)

2 THE COURT: There is going to be a list compiled. And, if your
3 name is called, you will be asked to come -- how do they -- do they come
4 around? How does -- how is that normally done?

5 (Off-the-Record Discussion)

6 THE COURT: All right. You'll come around to the side and you
7 stand at the bench facing the State and the Defense. And they will consider
8 whether or not they want for you to serve as a member of this trial jury.

9 Please, if you are not selected, don't take offense. Don't feel
10 ashamed; don't take offense.

11 Some of you are saying, "Yeah -- I -- I know what some of you are
12 thinking, but these fine lawyers -- and let me just tell you now, we have
13 excellent lawyers in this case; the solicitor's office and defense lawyers, they
14 are excellent lawyers.

15 And they have a -- a manner in which they select a -- a -- a jury. And
16 they have certain reasons for wanting or not wanting certain people to serve
17 on -- on the jury that they're involved in.

18 So, even though some of you will not be upset or take offense to that,
19 if others of you may be inclined to do so, please, please, don't.

20 (Brief Pause)

21 THE COURT: Let me just see the lawyers one second, please.

22 (Whereupon, a bench conference was had with all attorneys
23 present.)

24 Jury Selection

11:31 A.M.

25 THE COURT: Are the lawyers ready?

1 **MR. MAYE:** The State is ready, Your Honor.

2 **MR. JOHNSON:** The Defense is ready, Your Honor.

3 **MR. WILLIAMS:** Defense for Warren is ready, Your Honor.

4 **THE COURT:** Thank you very much. You may proceed, Madam

5 Clerk.

6 **MADAM CLERK:** Okay. As I call your name, please, come forward

7 and stand right here (indicating) and face the audience. And bring all of your

8 belongings with you because your next stop may be the jury box.

9 169, Lanigan S. Rodgers.

10 **(Potential juror stepped forward.)**

11 **MADAM CLERK:** What say ye for the State?

12 **MR. MAYE:** Please present the juror.

13 **MADAM CLERK:** What say ye for the Defense?

14 **(Brief Pause)**

15 **MR. JOHNSON:** Please seat the juror.

16 **MADAM CLERK:** What say ye for the Defense Warren?

17 **MR. WILLIAMS:** Please excuse the juror from the trial of this case.

18 **MADAM CLERK:** Please return to your seat.

19 **(Potential juror complied with the request.)**

20 **MADAM CLERK:** 104, Tammie S. Jones.

21 **(Potential juror stepped forward.)**

22 **MADAM CLERK:** What say ye for the State?

23 **MR. MAYE:** Please present the juror.

24 **MADAM CLERK:** What say ye for Defense Warren [sic]?

25 **(Brief Pause)**

1 MR. JOHNSON: Please seat the juror.
2 (Brief Pause)
3 MR. WILLIAMS: Please excuse the juror from the trial of this case.
4 MADAM CLERK: Please return to your seat.
5 (Potential juror complied with the request.)
6 MADAM CLERK: Twenty-four (24), Tonya D. Butler.
7 (Potential juror stepped forward.)
8 MADAM CLERK: What say ye for the State?
9 MR. MAYE: Please present the juror.
10 MADAM CLERK: What say ye for the Defendant Warren?
11 (Brief Pause)
12 MR. JOHNSON: Defendant McCraw?
13 MADAM CLERK: Warren.
14 MR. WILLIAMS: Did you mean ----
15 MADAM CLERK: I said Warren.
16 MR. WILLIAMS: Okay. Well, I thought you were going with
17 McCraw first. I'm sorry.
18 MADAM CLERK: Okay. All right.
19 MR. WILLIAMS: Please swear the juror.
20 MADAM CLERK: Okay. McCraw?
21 MR. JOHNSON: Please seat the juror.
22 MADAM CLERK: Okay. Please have a seat in the jury box.
23 (Potential juror complied with the request.)
24 MADAM CLERK: 202, Brittany A. Waters.
25 (Potential juror stepped forward.)

1 **MADAM CLERK:** What say ye for the State?

2 **MR. MAYE:** Please present the juror.

3 **MADAM CLERK:** What say ye for Defendant McCraw?

4 **(Brief Pause)**

5 **MR. JOHNSON:** Please seat the juror.

6 **MADAM CLERK:** What say ye for Defendant Warren?

7 **MR. WILLIAMS:** Please swear the juror.

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

9 **(Potential juror complied with the request.)**

10 **MADAM CLERK:** 180, Eric B. Shealy.

11 **(Potential juror stepped forward.)**

12 **MADAM CLERK:** What say ye for the State?

13 **MR. MAYE:** Please present the juror.

14 **MADAM CLERK:** What say ye for the Defendant McCraw?

15 **MR. JOHNSON:** Please seat the juror.

16 **MADAM CLERK:** What say ye for Defendant Warren?

17 **(Brief Pause)**

18 **MR. WILLIAMS:** Please swear the juror.

19 **MADAM CLERK:** Please, have a seat in the jury box.

20 **(Potential juror complied with the request.)**

21 **MADAM CLERK:** 200, Kyna R. Wallace.

22 **(Potential juror stepped forward.)**

23 **MADAM CLERK:** What say ye for the State?

24 **MR. MAYE:** Please present the juror.

25 **MADAM CLERK:** What say ye for the Defendant McCraw?

1 MR. JOHNSON: Please seat the juror.

2 MADAM CLERK: What say ye for Defendant Warren?

3 MR. WILLIAMS: Please swear the juror.

4 MADAM CLERK: Please, have a seat in the jury box.

5 (Potential juror complied with the request.)

6 MADAM CLERK: 181, Charles E. Shell.

7 (Potential juror stepped forward.)

8 MADAM CLERK: What say ye for the State?

9 MR. MAYE: Please present the juror.

10 MADAM CLERK: What say ye for Defendant McCraw?

11 (Brief Pause)

12 MR. JOHNSON: Please excuse the juror.

13 MADAM CLERK: Please return to your seat.

14 (Potential juror complied with the request.)

15 MADAM CLERK: 156, Donna N. Rhinehart.

16 (Potential juror stepped forward.)

17 MADAM CLERK: What say ye for the State?

18 MR. MAYE: Please present the juror.

19 MADAM CLERK: What say ye for the Defendant McCraw?

20 MR. JOHNSON: Please seat the juror.

21 MADAM CLERK: What say ye for the Defendant Warren?

22 MR. WILLIAMS: Please excuse the juror from the trial of this case.

23 MADAM CLERK: Please return to your seat.

24 (Potential juror complied with the request.)

25 MADAM CLERK: 103, Barbara Ann Jones.

1 (Potential juror stepped forward.)

2 MADAM CLERK: What say ye for the State?

3 MR. MAYE: Please present the juror.

4 MADAM CLERK: What say ye for Defendant McCraw?

5 MR. JOHNSON: Please seat the juror.

6 MADAM CLERK: What say ye for Defendant Warren?

7 MR. WILLIAMS: Please swear the juror.

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

9 (Potential juror complied with the request.)

10 MADAM CLERK: 120, Elaine R — I mean, Elaine A.

11 Marchegiano.

12 (Potential juror stepped forward.)

13 MADAM CLERK: What say ye for the State?

14 MR. MAYE: Please present the juror.

15 MADAM CLERK: What say ye for the Defendant McCraw?

16 MR. JOHNSON: Please seat the juror.

17 MADAM CLERK: Defendant Warren?

18 MR. WILLIAMS: Please excuse the juror from the trial of this case.

19 MADAM CLERK: Please return to your seat.

20 (Potential juror complied with the request.)

21 MADAM CLERK: 102, Gary J. Johnson.

22 (Potential juror stepped forward.)

23 MADAM CLERK: What say ye for the State?

24 MR. MAYE: Please present the juror.

25 MADAM CLERK: What say ye for Defendant McCraw?

1 (Brief Pause)

2 MR. JOHNSON: Please excuse the juror.

3 MADAM CLERK: Please return to your seat.

4 (Potential juror complied with the request.)

5 MADAM CLERK: Thirty-six (36), Sammy S. Connelly.

6 (Potential juror stepped forward.)

7 MADAM CLERK: What say ye for the State?

8 MR. MAYE: Please present the juror.

9 MADAM CLERK: What say ye for Defendant McCraw?

10 MR. JOHNSON: Please excuse the juror.

11 MADAM CLERK: Please return to your seat.

12 (Potential juror complied with the request.)

13 MADAM CLERK: Thirty-three (33), Louise L. Coleman.

14 (Potential juror stepped forward.)

15 MADAM CLERK: What say ye for the State?

16 MR. MAYE: Please excuse the juror from the trial of this case.

17 MADAM CLERK: Please return to your seat.

18 (Potential juror complied with the request.)

19 MADAM CLERK: 123, Sherri W. Matthews.

20 (Potential juror stepped forward.)

21 MADAM CLERK: What say ye for the State?

22 MR. MAYE: Please present the juror.

23 MADAM CLERK: What say ye for Defendant McCraw?

24 MR. JOHNSON: Please excuse the juror.

25 MADAM CLERK: Please return to your seat.

1 (Potential juror complied with the request.)

2 MADAM CLERK: 140, Kayla M. Nichols.

3 (Potential juror stepped forward.)

4 MADAM CLERK: What say ye for the State?

5 MR. MAYE: Please present the juror.

6 MADAM CLERK: What say ye for Defendant McCraw?

7 MR. JOHNSON: Please seat the juror.

8 MADAM CLERK: What say ye for Defendant Warren?

9 MR. WILLIAMS: Please swear the juror.

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

11 (Potential juror complied with the request.)

12 MADAM CLERK: 132, Bobby S. Mitchell.

13 (Potential juror stepped forward.)

14 MADAM CLERK: What say ye for the State?

15 MR. MAYE: Please present the juror.

16 MADAM CLERK: What say ye for Defendant McCraw?

17 MR. JOHNSON: Please seat the juror.

18 MADAM CLERK: Defendant Warren?

19 MR. WILLIAMS: Please swear the juror.

20 MADAM CLERK: Please have a seat in the jury box.

21 (Potential juror complied with the request.)

22 MADAM CLERK: 41, Meredith R. Crawford.

23 (Potential juror stepped forward.)

24 MADAM CLERK: What say ye for the State?

25 MR. MAYE: Please present the juror.

1 MADAM CLERK: What say ye for Defendant McCraw?

2 MR. JOHNSON: Please seat the juror.

3 MADAM CLERK: Defendant Warren?

4 MR. WILLIAMS: Please swear the juror.

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

6 (Potential juror complied with the request.)

7 MADAM CLERK: 162, Sammie L. Robinson.

8 (Potential juror stepped forward.)

9 MADAM CLERK: What say ye for the State?

10 MR. MAYE: Please excuse the juror from the trial of this case.

11 MADAM CLERK: Please return to your seat.

12 (Potential juror complied with the request.)

13 MADAM CLERK: Number seven (7), Christine B. Frick.

14 (Potential juror stepped forward.)

15 MADAM CLERK: What say ye for the State?

16 MR. MAYE: Please present the juror.

17 MADAM CLERK: What say ye for Defendant McCraw?

18 MR. JOHNSON: Please seat the juror.

19 MADAM CLERK: Defendant Warren?

20 MR. WILLIAMS: Please swear the juror.

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

22 (Potential juror complied with the request.)

23 MADAM CLERK: 12, Essie M. Bledsoe.

24 (Potential juror stepped forward.)

25 MADAM CLERK: What say ye for the State?

1 MR. MAYE: Please present the juror.

2 MADAM CLERK: What say ye for Defendant McCraw?

3 MR. JOHNSON: Please seat the juror.

4 MADAM CLERK: Defendant Warren?

5 MR. WILLIAMS: Please swear the juror.

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

7 (Potential juror complied with the request.)

8 MADAM CLERK: 187, Russell B. Smith.

9 (Potential juror stepped forward.)

10 MADAM CLERK: What say ye for the State?

11 MR. MAYE: Please present the juror.

12 MADAM CLERK: What say ye for Defendant McCraw?

13 MR. JOHNSON: Please excuse the juror.

14 MADAM CLERK: Please return to your seat.

15 (Potential juror complied with the request.)

16 MADAM CLERK: 91, Larry W. Holley.

17 (Potential juror stepped forward.)

18 MADAM CLERK: What say ye for the State?

19 MR. MAYE: Please present the juror.

20 MADAM CLERK: What say ye for Defendant McCraw?

21 MR. JOHNSON: Please seat the juror.

22 MADAM CLERK: Defendant Warren?

23 MR. WILLIAMS: Please excuse the juror from the trial of this case.

24 MADAM CLERK: Please return to your seat.

25 (Potential juror complied with the request.)

1 MADAM CLERK: Nine (9), Wanda B. Black.
2 (Potential juror stepped forward.)
3 MADAM CLERK: What say ye for the State?
4 MR. MAYE: Please present the juror.
5 MADAM CLERK: What say ye for Defendant McCraw?
6 MR. JOHNSON: Please seat the juror.
7 MADAM CLERK: Defendant Warren?
8 MR. JOHNSON: Please seat the juror.
9 MADAM CLERK: Please, have a seat in the jury box.
10 MADAM CLERK: 43, Evelyn S. Crumpton.
11 (Potential juror stepped forward.)
12 MADAM CLERK: What say ye for the State?
13 MR. MAYE: Please present the juror.
14 MADAM CLERK: What say ye for Defendant McCraw?
15 MR. JOHNSON: Please seat the juror.
16 MADAM CLERK: Defendant Warren?
17 MR. WILLIAMS: Please swear the juror.
18 MADAM CLERK: Please have a seat in the jury box.
19 (Potential juror complied with the request.)
20 THE COURT: One alternate.
21 MADAM CLERK: 11, Virginia L. Blacks.
22 (Potential juror stepped forward.)
23 MADAM CLERK: What say ye for the State?
24 MR. MAYE: Please present the juror.
25 MADAM CLERK: Defendant McCraw?

1 **MR. JOHNSON:** Please seat the juror.

2 **MADAM CLERK:** Defendant Warren?

3 **MR. WILLIAMS:** Please swear the juror.

4 **MADAM CLERK:** Please have a seat in the jury box.

5 **(Potential juror complied with the request.)**

6 **(Jury selection ended at 11:47 a.m.)**

7 **(Off-the-Record Comments)**

8 **THE COURT:** Okay. I'm going to ask that the -- the trial jury to
9 retire for just a few minutes in the -- the jury room. We'll bring you back
10 shortly.

11 **(The jury exited the courtroom at 11:47 a.m.)**

12 **THE COURT:** Anything from the State to the -- any objections
13 or exceptions to the selection of the jury?

14 **MR. MAYE:** None from the State, Your Honor.

15 **THE COURT:** From Mr. Johnson?

16 **MR. JOHNSON:** No, sir.

17 **THE COURT:** Mr. Williams?

18 **MR. WILLIAMS:** No, Your Honor.

19 **THE COURT:** Thank you very much.

20 **(Brief Pause)**

21 **THE COURT:** All right. The remaining members of the -- the
22 jury panel, you have been provided -- I assume Madam Clerk, with a phone
23 number -- a call-in phone number?

24 **(Off-the-Record Discussion)**

25 **THE COURT:** Ladies and gentlemen of the jury panel, you will

1 be — as you leave in just a moment, you'll be provided with a number. And
2 what you'll need to do after 6 o'clock tonight, you need to call that number.
3 And you will receive instructions on what to do from that point forward.

4 So it's very important that you call to see if we need you back
5 tomorrow or when we need you back if at all. So be sure to call that number
6 after 6 o'clock.

7 So, with that being said, there's no further business that we have to
8 take up with you. The remaining members are --- you are free to leave. I
9 hope you have a good evening. And, hopefully, we'll see you back.

10 **(Whereupon, the jury panel was excused and exited at 11:49 a.m.)**

11 **(Off-the-Record Comments)**

12 **THE COURT:** Okay. I -- I think what -- what I'm going to do is
13 what I indicated to the lawyers back in -- in chambers. I think I'm going to
14 have the trial jury come back in the morning and we'll start the case just to
15 make sure that we have plenty of time to deal with -- with the motions.

16 We'll have to have a suppression hearing and any time I may need in
17 properly ruling on the motions. So, just to err on the side of caution, I think
18 we'll have -- just have them come back in the morning.

19 And there's still -- we need to break. We need to take a break and,
20 then, of course, a lunch break too. So any objections to that from the State?

21 **MR. MAYE:** None from the State, Your Honor.

22 **THE COURT:** Mr. Johnson?

23 **MR. JOHNSON:** No objection, Your Honor. I did have something I
24 need to put on the record.

25 **THE COURT:** Okay. I just -- I'm going to get them out and go

1 ahead and excuse them for the day. And, then, we'll deal with that.

2 **MR. JOHNSON:** Yes, sir.

3 **THE COURT:** Mr. Williams, any objection to starting in the
4 morning?

5 **MR. WILLIAMS:** No objection, Your Honor.

6 **THE COURT:** Okay. Thank you. If you will, bring the jury back
7 out.

8 (The jury entered the courtroom at 11:53 a.m.)

9 (Off-the-Record Comments)

10 **THE COURT:** Okay. Members of the trial jury, what the plan is,
11 is I've got some -- some legal issues, some matters, to take up with the
12 lawyers. And we're going to work on that this afternoon.

13 So we're not going to start the trial of this case until in the morning. So
14 I'm going to ask that you come back in the morning at 9:30; be prompt. At
15 that time, we will appoint a foreperson of the jury, in addition to having you
16 sworn in as the official trial jury.

17 I will remind you -- and you'll hear this, throughout the proceeding and
18 throughout the whole trial, don't discuss this case among yourselves. Don't
19 discuss it with any friends or family member that you may come into contact
20 with today or this evening.

21 And I'll -- I'll remind you of that throughout the proceeding until the end
22 of the day when it's time for you to begin your deliberations. So that is very,
23 very important. Please, keep that in mind.

24 I hope you have a great afternoon and evening. And we will see you
25 back promptly at 9:30 in the morning.

1 (Whereupon, the jury was excused and exited at 11:57 a.m.)

2 THE COURT: Let's take a -- a short break. And, then, we'll get
3 back on the record. I'll hear from you, Mr. Johnson, and, then, we'll probably
4 get started on -- on your motions before we break for lunch.

5 MR. JOHNSON: Yes, sir. Sir, the State's witness list was passed
6 up. I didn't -- Mr. Maye passed that up. I don't have a copy of that list.

7 THE COURT: You want a copy of it? Okay.

8 MR. JOHNSON: Yes.

9 (Off-the-record comments regarding making copies of the State's
10 witness list.)

11 THE COURT: All right. We'll be at ease for a few moments.

12 (Brief pause while copies are made.)

13 Pre-Trial Motions 12:18 p.m.

14 (Off-the-Record Comments)

15 THE COURT: All right, gentlemen, we're -- we're back on the
16 record. And Mr. Johnson filed several motions. I'll take them up in whatever
17 order that we need -- that you would like to have them dealt with.

18 MR. JOHNSON: Yes, sir.

19 THE COURT: And, then, you said you had something else to go
20 on the record.

21 MR. JOHNSON: I have a few other things. Well, I -- I would like to
22 ask the State to sequester all the witnesses during the pre-hearing -- or
23 pretrial motions. If they can have their witnesses outside the courtroom
24 during that process.

25 I think it's -- ask the Court during the trial and the pretrial as far as

1 their testimony.

2 **THE COURT:** Now, I would imagine that one or --- more than
3 one of the officers will --- will testify in the suppression hearing. But other
4 than that, Solicitor, do you have any objection to your folks being outside the
5 courtroom?

6 **MR. MAYE:** We will comply with that.

7 **THE COURT:** And, then, when we get into the suppression
8 hearing, then, you can call whoever you need to.

9 **MR. MAYE:** Sure.

10 **MR. JOHNSON:** Okay.

11 **(Witnesses exited the courtroom.)**

12 **MR. JOHNSON:** All right. Your Honor, the first I guess non-related
13 to their testimony would be my --- I want to put on the record that my client ---
14 I found out months ago that I was the solicitor assigned to a case that
15 involved my client.

16 And that was actually --- according to the solicitor's office, they're going
17 to use that as a previous conviction for enhancement. And I've talked to my
18 client. And there's no indication that he wishes to move to have me relieved
19 as far as I know.

20 **(Off-the-Record Comments)**

21 **MR. JOHNSON:** Okay. Your Honor, that answer has been
22 changed. I think my client has a motion at this time.

23 **DEFENDANT MCCRAW:** I want to make a motion to have him
24 relieved as ---

25 **THE COURT:** I --- I cannot hear you.

1 **DEFENDANT MCCRAW:** I said I would like to make a motion of have
2 him relieved as counsel.

3 **THE COURT:** Okay.

4 **DEFENDANT MCCRAW:** Because ----

5 **MR. JOHNSON:** Well, Your Honor, I — I would just say that I — I
6 gave him written notice and I talked to him months ago. We talked about it in
7 July when this trial was originally up.

8 And this is the first I've head of this, but, if it's his motion, I'm going to
9 step aside and let him argue it to the Court.

10 **DEFENDANT MCCRAW:** It was not — it was not months ago. This is
11 the first time I've — this is the first time I've been back in front of a judge
12 since I found this out.

13 He said he sent me a letter. He did send me a letter. And I got the
14 letter probably a week and a half ago.

15 **MR. JOHNSON:** Your Honor, I'll just state for the record I spoke
16 with Solicitor Mike Ross, who is not in the courtroom, but he's involved in this
17 case.

18 And, when he notified me right before our pending trial in July — he
19 notified me and handed me the sentencing sheets — I called Mr. McCraw the
20 day we were supposed to have our trial.

21 And Judge Russo actually had to leave the bench due to an injury.
22 And we and Mr. McCraw talked about it. I gave him notice at that time.

23 **THE COURT:** What about Judge Russo?

24 **MR. JOHNSON:** Well, he — we couldn't go forward with any
25 motions or — or our trial at that time. So the trial did not go forward. But I

1 found out on that day or just before that day I found out that I was the solicitor
2 on a previous conviction ----

3 **THE COURT:** Right.

4 **MR. JOHNSON:** — used for enhancement. So I — I talked to Mr.
5 McCraw about it at that time, Your Honor.

6 **THE COURT:** Okay. And, of course, Mr. McCraw, your --- all
7 right, is it your position that Mr. Johnson did not discuss that with you some
8 several months ago?

9 **DEFENDANT MCCRAW:** It wasn't seven months ago.

10 **THE COURT:** I said several months ago.

11 **DEFENDANT MCCRAW:** No, it wasn't several months ago.

12 **THE COURT:** Okay.

13 **DEFENDANT MCCRAW:** And like I say, I — I still got the letter at
14 home. I got the letter like a week and a half ago.

15 **MR. JOHNSON:** That — that was — I did send a letter recently, but
16 this conversation took place over the phone in July.

17 **(Brief Pause)**

18 **THE COURT:** All right. And you're wanting Mr. Johnson to be
19 relieved — relieved as your attorney. Why do you believe that there would be
20 a conflict for him to represent you?

21 **DEFENDANT MCCRAW:** I mean, he worked — he worked for
22 Lexington County. He prosecuted me.

23 **THE COURT:** You — you need to speak up, sir.

24 **DEFENDANT MCCRAW:** He helped to prosecute me in another case,
25 I mean. And I'm — I'm not really satisfied with what he's done so far either —

1 either, sir. I mean, he hasn't really kept me informed on anything.

2 I mean, he tells me stuff, but, I mean, he — he hasn't even asked for a
3 plead deal. So, I mean...

4 **THE COURT:** Well, you — you — you got two different areas
5 here that I'm hearing you base your motion on. One is you want him relieved
6 because he formerly prosecuted you on behalf of the solicitor's office
7 sometime in the past.

8 And, then, you're saying you're not happy with him because he hasn't
9 done what you expected him to do?

10 **DEFENDANT MCCRAW:** Right. Well, I — I believe that the
11 client/attorney privilege has been breached. And, I mean, just I don't trust
12 him.

13 **THE COURT:** All right, sir. You believe — all right. Now, we
14 have a third ground; that he has breached the attorney/client privilege.

15 **DEFENDANT MCCRAW:** No, I said the fact — I'm sorry. I apologize.
16 Maybe I stated that wrong, but I — to me, it's a conflict of interest. I — I don't
17 think it — you know, I'm not sure it would be fair. I mean, I...

18 **THE COURT:** All right. Solicitor, do you have any — any position
19 on — on this?

20 **MR. MAYE:** Well, Your Honor, he's been on notice for trial all
21 this time. I've spoken with Mr. Johnson. And I — and it's an unusual
22 situation for me to be collaborating something.

23 But he told me that he discussed it with him at that time.

24 **THE COURT:** Yeah.

25 **MR. MAYE:** And we talked about this at length. And he

1 indicated that his client understood it but waived it at that point in time.

2 We've now waited until the call of the case.

3 The State's position respectively, Your Honor, would be he would
4 have two options. He can go forward at this time certainly without counsel. I
5 mean, if he wants to discharge his counsel, at this point in time, we've
6 already called the case. It's begun.

7 And he can certainly proceed and represent himself if he wants to if he
8 wants to discharge Mr. Johnson because he's not asked for a continuance;
9 he's just asked to discharge Mr. Johnson.

10 So, at this point in time, we can certainly go ahead and try him at — at
11 this point in time and continue on. And he can relieve Mr. Johnson if he
12 wants to.

13 But he's — we would maintain — he stated, again, he's basically waived
14 it. And we're prepared to go forward.

15 **THE COURT:** Mr. McCraw, if — if I were to grant your motion
16 and relieve Mr. Johnson as your attorney, are you prepared to go forward
17 today?

18 **DEFENDANT MCCRAW:** No, no, sir. I — I would like to have a
19 continuance if possible.

20 **THE COURT:** Okay.

21 **DEFENDANT MCCRAW:** I mean, like I say, I just got the letter a
22 week and a half ago.

23 **THE COURT:** Well, Mr. Johnson has represented to the Court,
24 Mr. McCraw, that he spoke to you some several months ago when he found
25 out of this situation of him formerly prosecuting you.

1 He indicates to the Court, as an officer of the Court, he even — he
2 even talked with the Solicitor about this; that he discussed it with you, even
3 though maybe the letter had just been written a week and a half ago.

4 **DEFENDANT MCCRAW:** Yes, sir. Well, it — it wasn't several months
5 ago. But, like I say, as soon as I came in today, I wrote him a note telling him
6 I wanted a motion for him to be relieved as counsel.

7 And he told me I had to wait until the proper time. He said that's now,
8 so, that's the first time I've been in front of a judge since I've been told this.

9 I — I didn't — I don't know how to go about it. I'm not an attorney. I do
10 know I need the Court's permission to do it, though, so...

11 **(Brief Pause)**

12 **THE COURT:** All right. Let me just see the lawyers back in
13 chambers. Mr. Johnson is still your attorney, so, I'm not going to have you
14 back there because I have not relieved him yet.

15 Let me — let me see the lawyers back in chambers. Everybody else
16 be at ease for just a few minutes, please.

17 **(Whereupon, an in-chambers conference began 12:26 p.m.)**

18 **THE COURT:** Okay. Let the record reflect that I had a — a
19 discussion with the lawyers in — in chambers concerning the motion made by
20 Mr. McCraw to have his attorney, Mr. Johnson, relieved.

21 I'm going to take that under advisement. And I will issue a ruling the
22 first thing in the morning.

23 Mr. McCraw, I'll say this, and you can take it however you wish to take
24 it: It's the Court's opinion that this motion that you have made is intended to
25 delay these proceedings. That's my opinion. And it's — it's only the Court's

1 opinion.

2 And I'll certainly take that into consideration, along with everything else
3 in — in ruling on — on your motion. So we will be in recess in this case until
4 9:30 in the morning.

5 **(Whereupon, the proceeding recessed for the day at 12:34 p.m.**
6 **and reconvened at 9:30 a.m. on October 9, 2013.)**

7 **(Off-the-Record Comments)**

8 **(Pause while Mr. Johnson tries to contact Mr. McCraw.)**

9 **THE COURT:** We'll go on the record for just a second.

10 **MR. JOHNSON:** Yes, sir.

11 **(Off-the-Record Comments)**

12 **(Resumed pre-trial motions at 9:38 a.m.)**

13 **THE COURT:** All right. We're on the record this morning in the
14 matter of *The State v. Michael William McCraw and Travis Samuel Warren*.

15 It appears that it's about ten minutes past the time I indicated that we
16 would begin the trial. And, Mr. Johnson, Mr. McCraw is not present. Have
17 you an opportunity to reach him by phone?

18 **MR. JOHNSON:** I've attempted that at all numbers, Your Honor.
19 I've not been successful.

20 **THE COURT:** Okay.

21 **(Brief Pause)**

22 **THE COURT:** Yesterday, of course, I think everybody was
23 informed that we would start back this morning. I — I took the motion that Mr.
24 McCraw made pro se. I took that motion under advisement. But I think
25 everyone was informed that we would start back at 9:30 this morning.

1 Let me go ahead and — and deal with his motion. And, then, we'll
2 deal with how we're going to proceed with him not being present.

3 Due to the hard work of my trusted law clerk, he came up with a case
4 that is amazing dead on point. And it's *The State vs. Childers* (phonetic). It's
5 at 373 South Carolina 367 Supreme Court decision. And it is dead on point.

6 And without a showing that there is a conflict of interest, Mr. Johnson,
7 that — that you would have in representing the Defendant or a showing that
8 you have some divided loyalties between the Defendant and the solicitor's
9 office, then, I have every discretionary right to deny Mr. McCraw's motion to
10 — for you to be relieved. And I'm, therefore, denying his motion.

11 He did make some brief comment that he didn't believe that you had
12 done anything. And, based just upon the numerous motions that you have
13 filed on his behalf, I think certainly the Court can make a finding that you
14 have provided excellent representation up to this point on behalf of Mr.
15 McCraw.

16 So his motion is denied. And, Mr. Johnson, you're still on the case.
17 Now, what do we do because he's not present? In order for me to proceed
18 forward with a trial in — in his absence, based on *The State vs. Jackson*, we
19 — there is a two-part finding, whether or not he received notice; and — and I
20 think he did because he was here yesterday and I said we would resume this
21 trial at 9:30 this morning.

22 But, the second part under *State vs. Jackson* that I think he is entitled
23 to be warned that we would proceed, with the trial in his absence, if he did not
24 appear.

25 And, of course, none of us anticipated that he would not appear today

1 because he was here yesterday. So I think the -- the better course of action
2 -- and I'm certainly going to allow the State to state your position and -- and
3 certainly from Defense, but it would seem like to me that I just need to order
4 the sheriff's department to go out and try to locate Mr. McCraw and, then,
5 kind of go from there.

6 But first I'll hear from the -- from the Solicitor and, then, from Defense
7 Counsel on this.

8 **MR. MAYE:** Your Honor, the State would rely -- Rule 15 states
9 "Except in cases where capital punishment is the sentence, a person indicted
10 for misdemeanors and/or felonies may voluntarily waive his rights to be
11 present and tried in his absence upon a finding by the Court that such person
12 has received notice of his right to be present and a warning was given that a
13 trial would proceed in his absence upon a failure to attend for court."
14 (Phonetic).

15 Your Honor, I note that this bond paperwork, at any point in time -- in
16 the past, when I ever tried anybody in their absence, we go back to their bond
17 paperwork. And I will hand up to the Court here -- and we can obtain the
18 originals.

19 **(Documents handed up.)**

20 **THE COURT:** All right.

21 **MR. MAYE:** This is an acknowledgment by Mr. McCraw that, "I
22 understand that, if I violate any conditions of this order ..." -- and this was the
23 order for his original bond -- "... a warrant for my arrest will be issued. I
24 understand and have been informed that I have a right and an obligation to
25 be present at trial. And, should I fail to attend the court, trial will proceed in

1 my absence. It has been explained to me that, if I fail to appear before the
2 Court as required, a warrant for my arrest will be issued.”

3 Your Honor, what I have is a copy, but I know that all of them, when
4 their bonds are initially set, receive that notice.

5 **THE COURT:** Right.

6 **MR. MAYE:** That is the notice that the State has always relied
7 upon in proceeding to trial. And I think that we can proceed in his absence
8 given the fact that he had that admonition and -- especially with his presence
9 yesterday.

10 **THE COURT:** Right, right. And -- and I'm aware that, that
11 language appears in those -- in those bond forms. I dealt with this issue, to
12 some extent, in Laurens a month or so ago. And that issue was brought up
13 as well.

14 I'm trying to figure out, if -- if we came across a case where -- which
15 maybe said that it was not adequate notice or maybe it said that it was
16 adequate notice. Let me look.

17 **MR. MAYE:** And, Your Honor, we did notify his bail bondsman
18 yesterday of his appearance to try to get him here.

19 **(Brief Pause)**

20 **THE COURT:** Give us a -- and -- and I'm going to hear from
21 Defense Counsel, but there's a case that addresses that. And I think we
22 need to -- we need to locate that case.

23 But, Mr. Johnson, do you have any -- any ideas?

24 **MR. JOHNSON:** Well, Your Honor, I would just agree with the
25 Court; he was not given notice by the Court.

1 **THE COURT:** Yeah.

2 **MR. JOHNSON:** And, also, there's no testimony or anything
3 backing up the fact that he received notice through this paperwork, which I
4 don't think would be sufficient anyway. And I would ask the Court to continue
5 the proceedings.

6 **THE COURT:** Okay. Mr. Williams, you want to -- you want to
7 jump in on this? I know you don't have a dog in the fight ---

8 **MR. WILLIAMS:** You're right, Your Honor, I don't.

9 **THE COURT:** --- but on this point?

10 **MR. WILLIAMS:** I -- I -- you're right; I don't have a position on this
11 issue, Your Honor.

12 **THE COURT:** All right. Let's just be at ease for just a moment to
13 see if I can -- if we can locate that case that we're thinking about.

14 (Pause from 9:47 a.m. until 10:01 a.m.)

15 **MR. MAYE:** Your Honor, I -- I can deliver to the Court -- I did
16 only have one page here, but I found all three.

17 **THE COURT:** Okay.

18 **MR. MAYE:** I'd like to make this a Court's Exhibit at this point
19 in time if it please the Court.

20 **THE COURT:** Sure.

21 **MR. MAYE:** But I have his bail receipt form signed by the judge
22 and signed by him.

23 **THE COURT:** Okay.

24 **MR. MAYE:** Or at least a copy of it. I mean, I have the
25 originals, but what I have is a copy.

1 **THE COURT:** All right. That will be marked as Court's Exhibit
2 Number 1.

3 **(Whereupon, Court's Exhibit 1 was marked for identification.)**

4 **MR. JOHNSON:** I'll step out again while ----

5 **THE COURT:** Sure.

6 **(Pause while Mr. Johnson stepped out of courtroom .)**

7 **MR. MAYE:** May it please the Court, Your Honor?

8 **THE COURT:** Is this on the record?

9 **MR. MAYE:** Yes, I would guess.

10 **THE COURT:** All right. Back on the record.

11 **MR. MAYE:** Judge, I think in traditional cases, where someone
12 was tried in their absence — the State would take the position in this case,
13 what distinguishes it from any of the other traditional trial in absence cases,
14 in the past, when I have done trials in absence, the Defendant did not appear
15 at all.

16 The State would take the position what distinguishes this from other
17 cases, where that has been the case, Mr. McCraw appeared. We selected a
18 jury.

19 I know that the jury has not been sworn in this case and jeopardy does
20 not attaches — has not attached, but the State would take the position that
21 we've begun the trial in this case and this is basically a situation where he did
22 not return in the course of the trial.

23 At this stage in the proceeding, we have already selected and
24 impaneled a jury. And I would think that this is distinguished from true trial
25 absence cases because we stated the case had been called.

1 We have selected a jury. I would think this is more analogous to
2 someone that, during the course of a multi-day trial, they did not return rather
3 than a true case of a trial in absence.

4 **THE COURT:** Right.

5 **MR. MAYE:** He certainly had notice that we selected a jury and
6 began this trial yesterday.

7 **THE COURT:** Right. And -- and I believe I'm going to proceed
8 forward. We've found the case, *The State v. Fairey*, F-a-l-r-e-y, 374 SC 92,
9 which appears -- I'm just reading; I want to make sure -- but which appears
10 that it does allow for the bond form to serve as notice. I just wanted to make
11 sure.

12 **(Brief Pause)**

13 **THE COURT:** Okay. I'm going to -- under *State v. Fairey*, I'm
14 going to find that Mr. McCraw did receive adequate notice that he would be
15 tried in his absence.

16 What we'll need sometime before we conclude, Solicitor, the
17 photocopy -- and I know what the -- the form says, but does cut off some of
18 the language. So we -- we need to make sure we have a clean second page
19 of the bond form.

20 So, if you could either locate a better copy or locate the original. You
21 see what I'm saying?

22 **MR. MAYE:** I'm seeing the second page ---

23 **THE COURT:** It just kind of cuts off some of the language. Do
24 you see?

25 **(Brief Pause)**

1 MR. MAYE: That first copy ----

2 (Off-the-Record Comments)

3 MR. JOHNSON: Your Honor, can I receive a copy of the ----

4 THE COURT: Yeah.

5 MR. JOHNSON: I'll run a copy of it.

6 THE COURT: The second page — a new second page and,
7 then, let Mr. Johnson take a look at it.

8 MR. MAYE: Sure.

9 (Brief Pause)

10 (Off-the-Record Comments)

11 (Brief pause while a new copy is made.)

12 (Copy of bond paperwork given to Mr. Johnson.)

13 MR. JOHNSON: Thank you, Judge.

14 THE COURT: All right. Court's Exhibit 1 needs to --

15 (Off-the-Record Comments)

16 THE COURT: Can we replace that second page?

17 MR. MAYE: Yes, sir, we can.

18 (Court's Exhibit 1 replaced with new copy.)

19 MR. JOHNSON: Your Honor, do you want me to respond just for
20 the record on that?

21 THE COURT: Yeah, go — go ahead.

22 MR. JOHNSON: Okay. I would argue that my client was not given
23 sufficient notice under that. And that is our position. And we ask for a
24 continuance based on that.

25 THE COURT: All right. Your request, Mr. Johnson, is denied.

1 Again, let me just make sure that the record is -- is -- is perfectly clear.

2 Yesterday --

3 (Brief Pause)

4 (Off-the-Record Discussion)

5 THE COURT: All right. Let's -- let's make sure that the -- the
6 record is -- is perfectly clear. Yesterday, on October 8th, Mr. McCraw made
7 a motion --- all this being prior to the jury being sworn, made a motion for Mr.
8 Johnson to be relieved. And I took his motion under advisement, instructed
9 everybody to be back today this morning at 9:30.

10 Consequently, he received adequate notice to -- to appear. And,
11 secondly, I find, based upon the bond form pursuant to *State vs. Fairey*, he
12 received adequate notice that he would be tried in his absence. So we're
13 ready to go forward.

14 Now, I've got numerous motions, Mr. Johnson, that you have filed.
15 Are any of those motions resolved or are they all still in the contested mode?

16 MR. JOHNSON: Well, Your Honor, I think we can knock some
17 them out real quick. First I wanted to address the motion regarding the
18 indictments and releasing the jury and basically having a new jury -- jury
19 pool. If you would like me to address that first of all, I think ---

20 THE COURT: Well, I have not seen a motion related to the
21 indictments.

22 MR. JOHNSON: I -- I did not file that. That's based on what
23 happened yesterday ----

24 THE COURT: Okay.

25 MR. JOHNSON: ---- when we ----

1 **THE COURT:** Anything from the Defense, Mr. Johnson?

2 **MR. JOHNSON:** Your Honor, I just think we need a side bar briefly.

3 **THE COURT:** Okay. All right.

4 **MR. WILLIAMS:** None on behalf of Defendant Warren, Your Honor.

5 **THE COURT:** Okay. Thank you.

6 **(Whereupon, a bench conference was had with all attorneys**
7 **present.)**

8 **THE COURT:** One other matter, Mr. Foreman and ladies of the
9 jury. One of the Defendants, as you can see, is not present in the courtroom.
10 That is Michael William McCraw, who Mr. Johnson represents.

11 And I instruct you now — and I'll instruct you again at the close of this
12 case if — if it still is applicable, you are not to hold it against Mr. McCraw, in
13 any manner whatsoever, that he is not present for at least the start of this
14 trial.

15 You cannot consider that. You cannot discuss that, and that cannot
16 factor in whatsoever concerning your decision in this case.

17 Is that satisfactory, Mr. Johnson?

18 **MR. JOHNSON:** Yes, sir, thank you.

19 **THE COURT:** Thank you very much. All right, now, Solicitor,
20 opening?

21 **MR. ROSS:** Thank you, Your Honor. May it please the Court?

22 **THE COURT:** Certainly.

23 **Opening Statements** **11:22 a.m.**

24 **MR. ROSS:** Tired, dirty, and lost. If you run from Saluda
25 County deputies, that's how you're going to end up; tired, dirty, and lost.

1 Mike McCraw and Travis Warren, the two gentlemen on trial today,
2 they learned that lesson the hard way during — during the early morning
3 hours of December 2nd and 3rd of 2010.

4 The facts leading up to their arrest, leading up to their being found
5 tired and dirty and lost, those facts are very simple and straightforward. And
6 you're going to hear all about them during the course of this trial.

7 On the night in question, Saluda County Deputies responded to [REDACTED]

8 [REDACTED]. This is just down the street on the shores of Lake Murray.

9 They were responding to a suspected burglary in progress. And, when
10 the deputies arrived at [REDACTED], two people ran out the back of that
11 single wide trailer.

12 They jumped over a fence and, then, the deputies heard a splash into
13 Lake Murray. And, at that point, the chase stopped. It was about midnight,
14 early December, and freezing cold.

15 Those deputies knew that, whoever ran out the back, they were not
16 going to get very far. They weren't going to swim their way home. And the
17 deputies also had a burglary in progress.

18 So they checked on the house. And there they found a lady by the
19 name of Michelle Norris. And the evidence will show that her ex-husband
20 owns [REDACTED].

21 And, when the deputies got inside of that house, that trailer, they were
22 overwhelmed by a powerful chemical odor. That smell was so strong that the
23 deputies had trouble breathing. And one of them even threw up right there
24 on the scene.

25 And they immediately knew what they had on their hands. And they

1 knew that they had themselves a meth lab at that property. And they knew
2 that meth labs are inherently dangerous and inherently explosive.

3 You need special training to dismantle one of these meth labs. And
4 none of those officers had that specialized training. So they called narcotics
5 officers that did.

6 Two narcotics officers from over in Lexington County came over to
7 deal with that meth lab. And one of them is going to take the stand and tell
8 you exactly what he did that day; how he responded to the scene.

9 And, as those narcotics officers were securing the scene at [REDACTED]
10 [REDACTED], the Saluda County Deputies focused on finding those
11 suspects that ran out the back.

12 And it didn't take them long to find Mike McCraw. He was about one
13 half mile from the scene, freezing cold, trying to start a fire.

14 Later that morning they found Travis Warren. He didn't make it that far
15 either.

16 Ladies and gentlemen, it was so cold that December morning that
17 these two individuals were actually happy to see the police when they arrived
18 to arrest them. And they were arrested and charged with that meth lab that
19 they were running away from.

20 And, during the course of this trial, you all are going to learn more
21 about meth and meth labs than you probably ever wanted to know. And the
22 folks that are going to teach you are narcotics officers who deal with this stuff
23 every day.

24 And you're going to learn that today you don't need fancy equipment
25 and you don't need a degree in chemistry to make methamphetamine.

1 All you really need is some Sudafed, some household chemical products,
2 and a Coke bottle.

3 You go down to any pharmacy and you buy yourself some Sudafed.
4 And the scientific name for Sudafed is pseudoephedrine. This is an over-the-
5 counter cold medication that everybody in this courtroom has probably taken
6 at one point in their lives.

7 And you take that Sudafed, those Sudafed pills and you crush them
8 up. You crush them into powder and you put them in this Coke bottle
9 (indicating).

10 Then, you add Coleman Camp Fuel. You add drain opener. You add
11 ammonium nitrate, which you can get from cold packs that you would put on
12 a sports injury.

13 And, then, you add lithium batteries strips, and put all these
14 ingredients in this Coke bottle and, then, you shake it up (demonstrates).
15 You shake this Coke bottle up and the energy that's produced from shaking
16 the bottle will cause chemical reactions; all those chemicals react with each
17 other.

18 And that process works with Sudafed, with pseudoephedrine, into
19 methamphetamine; it's as easy as that. It's as easy as shaking a Coke
20 bottle.

21 **(Brief Pause)**

22 **MR. ROSS:** So you're going to hear from those narcotics
23 officers. And you're going to hear from the deputies that responded to the
24 scene and the deputies that caught Mr. McCraw and Mr. Warren.

25 And you're also going to hear from Michelle Norris. You'll remember

1 she was the lady in the house when they ran away.

2 We anticipate that she's going to take this stand and testify. And she
3 was charged with this meth lab too. And she's going to tell you her story.
4 And the evidence will show that she was knee deep in this meth conspiracy
5 too.

6 She'll explain how she brought them there to [REDACTED], how
7 they ended up there, how that was her ex-husband's property. And, aside
8 from that, who knows what she's going to say.

9 But, after everybody testifies, and you hear from all the witnesses in
10 this case, as the Judge explained a while ago, he's going to charge you on
11 the law.

12 And Judge Hocker is going to explain that, under the law in South
13 Carolina, the same law that makes it illegal to manufacture meth, also makes
14 it illegal to aid, abet, assist, or conspire with someone else who is making
15 methamphetamine; aid, abet, assist, or conspire.

16 So if you're -- under the law in South Carolina, it doesn't matter if
17 you're shaking the bottle or if you're buying the ingredients or if you're in any
18 other way helping that person that's making meth, the law treats it just the
19 same.

20 And I tell you that because it's important in this case because three
21 people are charged with this meth lab. And the evidence will show three
22 people were involved in this meth conspiracy.

23 And two of them get their day in court today; two of whom are on trial
24 today.

25 And the evidence will be clear. And, after you hear all of this evidence,

1 we're going to ask that you find these two men guilty as charged.

2 **THE COURT:** Thanks, Solicitor. Defense?

3 **(Mr. Johnson's opening statement began at 11:30 a.m.)**

4 **MR. JOHNSON:** Ladies and gentlemen, my name is Ola Johnson.

5 I practice out of Lexington, South Carolina. And I represent Mr. McCraw.

6 And I wanted to touch on two things that Mr. Ross said. He said who
7 knows what Ms. Norris will say. Well, as you review the evidence in this trial,
8 I want you to remember that he said that because it's a very, very accurate
9 statement, "Who knows what she will say."

10 You're going to learn about that and you're going to learn about Ms.
11 Norris. And I want you to pay attention to what she said; what she says now
12 and what she said before. I think it's very important and very indicative of
13 who she is and what's she's been doing.

14 I would also point he made the statement about degrees and testing
15 and said you don't need a degree. Well, if you want to find out what a
16 substance is, you can't tell by looking at it. You need -- you really need
17 testing and you need an expert.

18 So listen, as you sit and review the evidence from the State, knowing
19 that they have the burden, beyond a reasonable doubt, to prove my client
20 guilty of manufacturing methamphetamine.

21 And let's focus on what they did, what testing took place, and what
22 experts with degrees tested what substances. And I think you're see a much
23 clearer picture of what's really going on and what they got.

24 Despite the evidence that they claim that they're going to show you, I
25 would ask you to focus not only on their evidence, but what you don't see.

1 Focus on the evidence they fail to show you. That's part of your job as well.
2 They have the burden. It's their job.

3 And I certainly appreciate your attention. Once, again, I'm — my name
4 is Ola Johnson. I practice out of Lexington, and I just want to say thank you.

5 And thank you for your attention. And, please, focus on both sides;
6 the evidence that you see and the things that they fail to produce. Thank
7 you.

8 **THE COURT:** Thank you, Mr. Johnson. Mr. Williams?

9 **MR. WILLIAMS:** May it please the Court?

10 **(Mr. Williams' opening statement began at 11:32 a.m.)**

11 **MR. WILLIAMS:** Mr. Foreman, ladies and gentlemen of the jury, I'm
12 Theo Williams. I'm not the one from Edgefield, but I live in Batesburg, South
13 Carolina and I practice law in Lexington, South Carolina, along with my wife
14 and several other lawyers there.

15 My client is Travis Warren. You met him yesterday.

16 Now, I know you've been cooped up for a while and a lot of stuff we've
17 done. And what we're doing right now I guess is kind of telling you what we
18 think the case will be about. It's called an opening statement.

19 But I want you to remember that what lawyers tell you, in an opening
20 statement, really isn't evidence in any way whatsoever. It is meant to —
21 sometimes it's flowery, just like closing statements, but normally in an
22 opening statement, you're supposed to tell the jury what you intend to prove
23 and what you intend to — to show.

24 And I know you've heard, you know, the statement from the Solicitor
25 about tired and dirty and that kind of thing, almost like a Les Miserables

1 (phonetic) type of introduction.

2 And you've heard about the Coke bottle and how he did do things.

3 You all aren't old enough to remember Shake 'n Bake, but you don't

4 necessarily prove the evidence against an individual based on slogans, good

5 stories, melodrama.

6 To prove the guilt of an individual who is charged with a crime, you

7 have to examine the evidence that is brought forward. And you have to make

8 the determination as to what that evidence proves.

9 You have to look and see if that evidence points to guilt. And, then,

10 you weigh that evidence and you listen to the law. And you see whether or

11 not that convinces you, beyond a reasonable doubt, that anybody is guilty of

12 anything and particularly the one person who I'm representing, who is Travis

13 Warren.

14 In the law, you are not guilty by association. Collateral damage, as in

15 war, may be appropriate, but it's not appropriate in court. You make a

16 decision, in regards to the guilt of the Defendant, based on the evidence

17 against that Defendant.

18 And, if the State doesn't have that evidence to prove my client, Mr.

19 McCraw [sic], guilty beyond a reason doubt, it's your job to find him not guilty.

20 I would suggest to you that there will be a total lack of evidence either

21 physical, direct, circumstantial — which are legal terms if you will — to show

22 that my client participated in the manufacture of meth.

23 Look for those reports that indicate that meth was there to begin with.

24 Look for the evidence that my client did anything to produce any meth

25 whatsoever.

1 I thank you for your attention and hopefully the trial won't be too long.

2 **THE COURT:** Thank you, Mr. Williams.

3 **MR. WILLIAMS:** Thank you, Your Honor.

4 **THE COURT:** Is the State ready to call its first witness?

5 **MR. MAYE:** The State is ready to proceed, Your Honor. The

6 State would call William Troy Norris to the stand.

7 **THE COURT:** Okay.

8 (The witness stepped forward to be sworn.)

9 (Whereupon,

10 **WILLIAM TROY NORRIS**

11 having been first duly sworn, testified as follows:)

12 **THE COURT:** Your witness, Solicitor.

13 **Direct Examination by Mr. Maye:**

11:35 A.M.

14 **Q.** Would you state your name for the record and introduce yourself to the
15 ladies and gentlemen of the jury?

16 **A.** William Troy Norris.

17 **Q.** Okay. Mr. Norris, now you're not a Saluda resident full time, are you?

18 **A.** No, I'm not.

19 **Q.** Okay. Tell the ladies and gentlemen of the jury where you're from and
20 where you live.

21 **A.** West Columbia.

22 **Q.** You live over in West Columbia? How long have you lived over in
23 Lexington County, West Columbia?

24 **A.** Thirty-five (35), 36 years.

25 **Q.** Who is Michelle Norris or who was she to you?

1 A. She used to be my wife. She's my ex-wife.

2 Q. She was your wife? How long were you all married?

3 A. Roughly around eight (8) years. We were together eight (8) years and
4 married for six (6).

5 Q. Okay. Did you all have any family or children together or anything?

6 A. One child.

7 Q. You have one child?

8 A. Yes.

9 Q. Okay. Let's go back to December of 2010, just prior -- the months
10 prior to December the 2nd of 2010, going into the early morning hours of December
11 the 3rd, 2010.

12 In the months proceeding that -- let's just cut to the chase: Were you
13 and your wife splitting up? What were the circumstances?

14 A. We were. She -- it had been going on for about two years. And, in
15 the beginning of 2010, around February, that was probably the last time I physically
16 saw her.

17 I spoke to her on the phone. I did that because we have a child. But
18 physically that's the last time I saw her besides going to Family Court one day.

19 Q. Had a lot of erratic behavior? Let's cut to the chase, she had a drug
20 problem ----

21 A. That's right.

22 Q. ---- correct?

23 A. Right.

24 Q. Okay. Moving forward into December of 2010, on that night of
25 December the 2nd of 2010, did you have an ongoing domestic case with her in the

1 Family Courts?

2 A. I did. We had an emergency hearing.

3 Q. Okay. What did you do on that night in order to try to find out what
4 was going on in her life, what she was doing? What steps did you personally take in
5 order to obtain evidence that you could use?

6 A. I hired a private investigator by the name of ----

7 THE COURT: If you will, sit real close to the microphone, Mr.
8 Norris.

9 THE WITNESS: Yes, sir.

10 (The witness complied with the request.)

11 THE COURT: Thank you.

12 A. ---- Glen Bradley.

13 Q. He was a private investigator?

14 A. He was a private investigator, yes.

15 Q. He worked over in Lexington County?

16 A. Yeah.

17 Q. Okay. What did you hire him to do? What was he doing?

18 A. To collect evidence on Michelle for the custody case.

19 Q. Okay. How was he going to do that? Was he going to follow her
20 around?

21 A. Follow her around.

22 Q. Okay.

23 A. Video her for me.

24 Q. Now, Mr. Bradley is no longer with us, he's deceased; is that correct?

25 A. That's correct.

1 Q. Since this case occurred December the 2nd going into the 3rd of 2010,
2 unfortunately, Bradley, he passed on; he died. Is that correct?

3 A. He did.

4 Q. Okay. I want you to tell me about the evening of December the 2nd of
5 2010. But, in doing so, I don't want you to tell me anything that Mr. Bradley said.
6 But, on that night, did you get a phone call from him?

7 A. I did. And he kept me abreast of where -- he had a tracking device on
8 her car.

9 Q. Okay.

10 A. And he was keeping me abreast of where her car was at throughout
11 the night.

12 MR. WILLIAMS: Your Honor, I would object to the statement that
13 he "kept him abreast." Obviously that would require hearsay testimony with
14 regards to what ----

15 MR. MAYE: Yeah. Don't say anything -- and I apologize, Your
16 Honor. We withdraw.

17 THE COURT: I sustain the objection. Don't repeat what Mr.
18 Bradley may have told you or any conversation that you had.

19 THE WITNESS: Okay.

20 Q. (By Mr. Maye) Let me just ask you this: As a result of a phone
21 conversation you had with him, what steps did you take and what did you do on the
22 night of December the 2nd of 2010 going into the 3rd, in that late night. What did you
23 do after you talked with him?

24 A. I called the Saluda Sheriff's Department.

25 Q. What did you tell them when you called them?

1 A. That I felt there was a burglary in progress on some property that
2 nobody should be at.

3 Q. Okay. Did you own property in Saluda County?

4 A. I do.

5 Q. Tell the ladies and gentlemen of the jury about that property.

6 A. It's lake property. My daddy has a place beside of mine. And we go
7 up there during the summer. And come winter time, we shut everything down; no
8 electricity, no water, no heat.

9 There's not even access to any kind of heat up there. So in
10 December it would be odd for someone to be up there.

11 Q. So in December you got her shut down like a lot of folks do at the
12 lake?

13 A. Right. It generally comes right when they start back to school. We
14 shut everything down, winterize it and, then, wait til spring.

15 Q. Okay.

16 MR. MAYE: Beg the Court's indulgence.

17 **(Brief pause while exhibit shown to Counsel.)**

18 Q. (By Mr. Maye) About how long have you and your dad had those
19 adjoining lake properties over there?

20 A. He's had his property since I was six (6) years old, so 40 years. And
21 I've had mine there for about 20- some years.

22 Q. Okay. So I guess like a lot of people, you all use that to come out and
23 enjoy the lake?

24 A. We do, and cut a lot of grass.

25 Q. I want to show you what's been marked as State's Exhibit 11, 12, 13,

1 15, 16, and 17. Take a look at all of those photos.

2 **(Brief pause while the witness complied with the request.)**

3 Q. (By Mr. Maye) Got a chance to look at all of them?

4 A. Yes.

5 Q. Let me ask you: Do those photographs fairly and accurately reflect
6 the scenes in and around your piece of property; the yard, the trailer? Do all of
7 those photographs show either items -- scenes on the property or the trailer itself
8 there that you own at [REDACTED]?

9 A. Yes, sir.

10 **MR. MAYE:** At this time, Your Honor, I'm going to move to
11 admit these into evidence.

12 **THE COURT:** What says Defense, Mr. Johnson?

13 **MR. JOHNSON:** No objection, Your Honor.

14 **THE COURT:** Mr. Williams?

15 **MR. WILLIAMS:** No objection.

16 **THE COURT:** All right. Without objection, it will be marked as
17 State's 11, 12, 13, 15, 16 and 17 into evidence.

18 **(Whereupon, State's Exhibit Numbers 11, 12, 13, 15, 16, and 17**
19 **were admitted without objection.)**

20 Q. (By Mr. Maye) Mr. Norris, let me show you 15. What does that show?
21 What is that view out there in that photograph?

22 A. That is the property. And it's taken from the back facing the road that
23 runs in front (inaudible).

24 Q. Okay.

25 **THE COURT:** Mr. Norris, you're going to need to speak ----

1 **THE WITNESS:** Okay.

2 **THE COURT:** ---- into the microphone so our court reporter can
3 hear you and so I can hear you.

4 **A.** Okay. This is the property entering the trailer.

5 **Q.** That's your trailer and that's the front — that's the back side of the
6 trailer but -----

7 **A.** The back side.

8 **Q.** ---- where you go in and out?

9 **A.** In and out most -- 90% of the time, yes.

10 **Q.** And the front side faces the lake?

11 **A.** The front and side faces the lake, but most of the time we go from

12 [REDACTED]

13 **Q.** Let's talk about 16. What does that show?

14 **A.** That's also what I call the front of the trailer which is facing towards the
15 lake.

16 **Q.** As you come into the property?

17 **A.** As you come into the property, yes, sir.

18 **(Brief Pause)**

19 **Q.** Let's look at State's 11. What area around the trailer does that show?

20 **A.** This is facing the lake and it has a front porch on it, which is the front
21 door.

22 **Q.** Okay. And that's around the back side of the trailer?

23 **A.** The back side, but facing the lake.

24 **Q.** Let's talk about State's 13. What area of your property does that
25 show?

1 A. The left side also what I call the front side of the trailer.

2 Q. Okay. State's 12, what area of the property is that?

3 A. That would be where the boat ramp is at on -- well, it's my dad's
4 property, not mine.

5 Q. Okay. So you all got it where you can put the boat in and out and all of
6 that?

7 A. Yes.

8 Q. Okay.

9 (Brief Pause)

10 Q. What about State's 17? What does that show?

11 A. That is my dad's property -- no, that's my property actually on the left
12 side. The trailer would be to the right.

13 Q. Okay.

14 (Brief Pause)

15 Q. Do you know either Travis Warren or Michael McCraw? Did you know
16 either one of them back at that time?

17 A. No, no, sir.

18 Q. Okay. On the night of December the 2nd, 2010, going into December
19 the 3rd of 2010, did you give any permission for Travis Warren or Michael McCraw
20 to go to your trailer there and enter it?

21 A. No, sir.

22 Q. Okay. How about Michelle Norris at that time, did she have any
23 permission to go into that trailer or do anything?

24 A. No, sir.

25 (Brief Pause)

1 Q. So you made the initial call to the sheriff that night asking them to go
2 check your property?

3 A. I did.

4 Q. Okay. When was the next time you went back out to the trailer?

5 A. Later that night — well, it was the next day, 2010, December the 3rd.
6 And it was about 4:30 in the morning.

7 Q. Okay. So you went out there at that point in time?

8 A. The deputies asked me to come out, yes.

9 Q. Okay. At any point in time, did you have lithium batteries or Coleman
10 Camp Fuel or items like that at the trailer out there?

11 A. No, we had all space heat. We didn't use camp fuel out there.

12 Q. Okay. Did you ever have any big Coke bottles or attempt to
13 manufacture any meth on that property?

14 A. I don't drink Coke.

15 Q. Okay.

16 A. Any soft drinks.

17 Q. Okay. But you've never had any materials out there that would be —
18 that you utilized to make meth or manufacture meth or illegal drugs on that property,
19 did you?

20 A. No, sir.

21 Q. Okay.

22 (Brief Pause)

23 MR. MAYE: Answer any questions the Defense has for you.

24 THE COURT: Cross examination? Can — can we decide on the
25 order that — and it doesn't matter to the Court — but who will go first on cross

1 and recross?

2 **MR. JOHNSON:** I'll be happy to go first if Mr. Williams ----

3 **THE COURT:** Can you decide on that?

4 **MR. WILLIAMS:** Sure, Your Honor.

5 **THE COURT:** Is that --

6 **MR. WILLIAMS:** Sure.

7 **THE COURT:** Okay. Mr. Johnson?

8 **MR. JOHNSON:** Thank you.

9 **Cross Examination by Mr. Johnson:**

11:45 A.M.

10 **Q.** Mr. Norris, your ex-wife is not an honest person, is she?

11 **A.** No, she is not.

12 **Q.** And, when she's asked a question, she's capable of telling a lie when
13 it's convenient for her, correct?

14 **A.** Yeah, yes ----

15 **Q.** And ----

16 **A.** ---- in my case.

17 **Q.** Yep. And you had access to this trailer before this incident for how
18 long?

19 **A.** Twenty (20) years.

20 **Q.** Okay. And, to this day, you would describe Ms. Norris as somebody
21 who is not honest?

22 **A.** I would say that in my case, yes.

23 **Q.** Okay.

24 **(Brief Pause)**

25 **MR. JOHNSON:** No more questions, Your Honor.

1 THE COURT: Mr. Williams?

2 MR. WILLIAMS: Just a couple of questions, Your Honor.

3 Cross Examination by Mr. Williams: 11:47 A.M.

4 Q. Mr. Norris, from -- from my understanding, you are no longer married
5 to her. So you were divorced from her at some particular point in time. What was
6 the date of your divorce?

7 A. Two thousand and eleven (2011). And I can't remember the exact
8 date. It was in November.

9 Q. November maybe; is that what you said?

10 A. Yes, sir.

11 Q. All right. So you were divorced in November of 2011. What was the
12 date of your separation from you wife?

13 A. I'm not sure about the exact date, but the separation was filed
14 approximately two weeks when we had our first hearing. The only reason I hired a
15 private investigator was because my lawyer said I needed to.

16 Q. I guess more directly, on December the 2nd, of 2010, had you filed for a
17 divorce or separation on that date?

18 A. The -- a week or two before.

19 Q. Had you had any type of order, a Family Court order, a temporary
20 order, that established that the lake property was yours alone or that your wife had
21 no access to it?

22 A. I don't have any -- I don't understand the question.

23 Q. Had you been to court, at any point in time, prior to December the 2nd
24 or December the 3rd, and some judge had ordered that the lake property, which you
25 owned, was not -- was not accessible to your ex-wife; that she had no right to be

1 there?

2 A. No, I had not.

3 (Brief Pause)

4 Q. So, when you called the Saluda County Sheriff's Department and told
5 them that your ex-wife was going — that your wife was going there and she didn't
6 have the right to be there, and that you thought that there was going to be a break-in
7 or a burglary — is that what you told them?

8 A. Yes, because stuff had been missing up there.

9 Q. All right. You actually had no legal basis to say that it was burglary,
10 did you?

11 A. If I understand your question, we had been missing stuff up there for a
12 while, so we had it parked (phonetic) every December and there was no heat and no
13 water, and I —

14 Q. She had the right to be there, didn't she?

15 A. No, I told her three years prior that, it was — you know, that it wasn't
16 her place to visit. She didn't have a key to it. That she didn't stay out of my
17 business, I would call the police.

18 Q. The — the only reason why she didn't have a right to be there is
19 because you had told her she couldn't be there; is that correct?

20 A. Right.

21 (Brief Pause)

22 A. Nobody should be there in December.

23 (Brief Pause)

24 MR. WILLIAMS: That's all I have, Your Honor.

25 THE COURT: Any redirect?

1 MR. MAYE: Yes.

2 Redirect Examination by Mr. Maye: 11:50 A.M.

3 Q. Did she even have a key to the property ----

4 A. No.

5 Q. ---- to your knowledge?

6 A. I was the only one that had a key.

7 Q. Okay.

8 A. Me and my father.

9 Q. So if anybody entered the property they broke -- they were forcing
10 their way in; they didn't enter with any key that you gave anybody or allowed anyone
11 to have?

12 A. Right. And, at that time, key -- a lot of keys stayed in my safe
13 because of the things that were transpiring prior to that.

14 Q. All right. You were having trouble with her. You made sure that she
15 didn't have a key to your knowledge to either your place of business or that lake
16 house, didn't you?

17 A. Correct.

18 Q. She had a drug problem, right?

19 A. Correct.

20 Q. And stuff had been missing from out there, correct?

21 A. Right.

22 Q. All right.

23 MR. MAYE: Nothing else. Thanks.

24 THE COURT: Recross?

25 Recross Examination by Mr. Williams: 11:51 A.M.

1 **Q.** One question on recross is, when you arrived at that scene, was there
2 evidence of a break-in at the trailer?

3 **A.** I mean, I could look at it and smell it. I could go in -- I walked in and
4 walked out the smell was so bad.

5 **Q.** Did you see any broken locks?

6 **A.** There, again, I didn't look.

7 **MR. WILLIAMS:** That's all I have, Your Honor.

8 **THE COURT:** Thank you for your testimony, Mr. Norris. You can
9 step down. Any objections to this witness being excused?

10 **MR. MAYE:** None from the State.

11 **MR. JOHNSON:** None from the Defense.

12 **THE COURT:** Mr. Williams?

13 **MR. WILLIAMS:** No objection from Travis Warren, Your Honor.

14 **THE COURT:** All right. Mr. Norris, you're welcome to stay with
15 us or you're free to leave.

16 **THE WITNESS:** Okay. Thank you.

17 **(Witness complied with the Court's request.)**

18 **THE COURT:** All right. Does the State have a -- another say
19 relatively short witness?

20 **MR. MAYE:** The next one I would say would be more lengthy
21 than the whole trial I would think.

22 **THE COURT:** Okay.

23 **(Brief Pause)**

24 **THE COURT:** Okay. Well, I guess, then, we'll take a -- a little
25 earlier lunch break, Mr. Foreman and -- and ladies of the jury. We're going

1 to break for lunch.

2 And it's about seven til 12:00 if that clock is correct. So, let's be back
3 in the courtroom — or be back in your jury room rather at 1:15.

4 I remind you, again, don't talk about this case among yourselves or
5 with anyone else. Have a good lunch and we'll see you back at 1:15.

6 **(Whereupon, the jury exited the courtroom for the luncheon**
7 **recess at 11:53 a.m.)**

8 **(Off-the-Record Comments)**

9 **THE COURT:** Can I see the lawyers up here?

10 **(Whereupon, a bench conference was had with all attorneys**
11 **present.)**

12 **THE COURT:** This is on the record.

13 **MR. WILLIAMS:** Are we going to have — After we had this
14 discussion we just talked about, Your Honor, are we going to place something
15 on the record?

16 **THE COURT:** Well, we'll — we'll make that decision. All right.
17 Everybody be at ease for just a moment. I've got a little matter to deal with in
18 chambers. And, then, we'll be in recess for lunch. Don't go anywhere until
19 then.

20 **(Whereupon, a recess was taken while an in-chambers meeting**
21 **with Counsel was had.)**

22 **(Off-the-Record Comments)**

23 **(Whereupon, a lunch recess was had from 12:15 p.m. til 1:15 p.m.)**

24 **THE COURT:** Let's mark this Court's 2, please.

25 **COURT REPORTER:** All right.

1 **THE COURT:** Thank you.

2 **(Whereupon, Court's Exhibit 2 was marked for identification.)**

3 **(Brief Pause)**

4 **THE COURT:** Okay, Gentlemen, anything we need to put on the
5 record before the jury is brought back out?

6 **MR. JOHNSON:** Yes, sir, I've got a little —

7 **THE COURT:** I see a smile on Mr. Johnson's face.

8 **MR. JOHNSON:** Well, I'm just in a good mood. I — I'm — I have
9 received some paperwork.

10 There was an indication, from the solicitor's office, that there was a fax
11 to the clerk's office from my client. And I went to the clerk's office and I
12 retrieved it.

13 And there was a message, along with a document, from Lexington
14 Medical Center. I called the Lexington Medical Center; they confirmed that
15 Mr. McCraw was admitted for some broken ribs.

16 And this says "Discharge Instructions" on it, but they were unable to
17 confirm if he was discharged. But they said it was because their records
18 haven't been updated.

19 But this does say that there were fractured ribs. And it says, "Rib
20 Fracture Discharge Instructions," and, then, there is a prescription for
21 oxycodone. And that was the — it goes on with the message that was
22 attached, which has the name "Mike McCraw" written on it.

23 I've not been able to contact my client, but that is something I received
24 from the clerk's office and the solicitor has also informed me that they
25 received a phone call from they say that it was a person claiming to be my

1 client giving them this information.

2 So I'm would I guess move for a mistrial at this point if we've got a
3 medical emergency. Did you want to see this ----

4 **THE COURT:** Yeah, yes, sir. Have you see it, Solicitor?

5 **MR. MAYE:** No, I have not, Your Honor, but ----

6 **THE COURT:** Well, take -- take a look at it first before handing it
7 to me.

8 **MR. MAYE:** Sure.

9 **(Brief pause while Mr. Maye reviews document.)**

10 **MR. MAYE:** It just says he has three broken ribs, Your Honor,
11 on there. And, like I said, the jury is sworn, and we're ready to proceed.

12 **MR. MYERS:** Let me add something to that, Your Honor. I was
13 back there when the call came purportedly from Mr. McCraw. And he made
14 a statement like he had some ribs and relay that to Mr. Johnson.

15 We said, "Give us your telephone number so we can confirm it." And
16 he wouldn't.

17 **THE COURT:** Okay.

18 **MR. MEYERS:** He would not tell us where he was and wouldn't
19 tell us where he was or what telephone number he could be reached.

20 **(Pause)**

21 **THE COURT:** Well, you know, it would appear that we're going
22 to have to do a little bit more inquiry. I -- I don't want to just proceed without
23 making some further inquiry of whether or not this condition would medically
24 prevent Mr. McCraw from attending this -- this trial.

25 I think what -- and I don't -- I don't know if -- if Dr. Andrew Denato

1 (phonetic), who appears to be the treating physician, whether or not he would
2 talk with you, Mr. Johnson. But we're going to need to — we're going to need
3 to find — we're going to need to check behind this.

4 I can't just accept it on its face and declare a — a mistrial. But, then,
5 again, on — on the flip side of it, I can't just say, "Well, there's no merit to this.
6 We'll proceed forward."

7 So, I've got to — and, if it requires this Court issuing an order to obtain
8 this information ASAP, the Court will certainly do that.

9 So, what I'm going to ask you to do, Mr. Johnson, is — is — is make a
10 — I'm sure this Dr. Denato, being an ER doctor at — is that Lexington ----

11 **MR. JOHNSON:** Yes, sir.

12 **THE COURT:** ---- Medical — it's Lexington ---

13 **MR. JOHNSON:** Medical Center.

14 **THE COURT:** ---- Medical Center that — is to contact the ER
15 Department and see if — if he's available. Well, he's going to have to make
16 himself available.

17 I mean, I — I'm going to try to cooperate with the doctor, but, then,
18 again, we're — we're in the middle of a trial — and see what information you
19 can obtain.

20 If it requires a court order, we'll --- we'll supply a court order for you.

21 **MR. JOHNSON:** Your Honor, do you want a conference call with
22 this doctor in chambers or...?

23 **THE COURT:** I — I think that would be good for us to have a
24 conference call. And — so we can all hear what this doctor says.

25 **MR. JOHNSON:** Yes, sir. I'll work on it right now.

1 **THE COURT:** So we'll just -- we'll be at ease for a little bit.

2 **MR. MEYERS:** I can get in touch with the head of security.

3 **THE COURT:** Okay, at -- at the hospital?

4 **MR. MEYERS:** (Nods affirmatively.)

5 **THE COURT:** Okay. And see if they can assist in helping --

6 **MR. JOHNSON:** Yes, sir.

7 **THE COURT:** ---- in helping us on this.

8 **MR. JOHNSON:** Thank you, Judge.

9 **THE COURT:** We'll just be at ease.

10 (At ease while hospital personnel were contacted from 1:28 p.m.
11 until 2:01 p.m.)

12 (Off-the-Record Comments)

13 (Whereupon, Court's Exhibit 3 was marked for identification.)

14 (Brief Pause)

15 **THE COURT:** We need to get this to Lexington County, this
16 bench warrant, so ----

17 **MR. MAYE:** We -- we will. And they indicate that they believe
18 he's still staying at this airport inn, in Traveler's. Actually, that's where we got
19 this video from. That's what the narcotics officer that's here now says that
20 they -- their most recent experience with him was ----

21 **THE COURT:** All right.

22 **MR. MAYE:** ---- and that he's still there.

23 **THE COURT:** Well, does any -- does anybody need this bench
24 warrant?

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

1 (Off-the-Record Discussion concerning Mr. McCraw and juror
2 who lived on Harvest Lane, who was excused and the alternate took her
3 place on the jury.)

4 (Brief Pause)

5 THE COURT: All right. We're back on the record. And I'll put on
6 the record what has taken place over the last half hour, forty-five minutes.

7 The clerk's office received a -- a two-page fax from Michael McCraw,
8 the Defendant. The first page of the fax has been marked as Court's Exhibit
9 Number ----

10 COURT REPORTER: Three (3).

11 THE COURT: -- Number 3. The first page is an attached
12 cover sheet. The second page is a document purporting to be from -- issued
13 from the emergency room at the Lexington Medical Center indicating Mr.
14 McCraw had sustained some rib fractures and was treated on this date,
15 October 9th.

16 Consequently, the Court, in the presence of the solicitor's office and
17 defense counsel, was able to talk with Kelly Harnett, H-a-r-n-e-t-t, who is the
18 supervisor for the physician's group at the emergency room. And she pulled
19 up all of the records in the emergency room and indicated that she saw
20 nothing in those records, from either a physical standpoint, a medication
21 standpoint, that would prevent Mr. McCraw from attending court today.

22 She indicated that he sustained, based upon the history given to the
23 emergency room from Mr. McCraw, that he sustained the rib fractures in an
24 altercation that took place on October 8th.

25 He was not given any work or school excuse. He was admitted into

1 the emergency room at 10:45 a.m. and discharged at 11:58 a.m.

2 As a result of that, the Court has made the decision that we will
3 proceed forward with the trial of this case in the Defendant's absence. Along
4 with that, the Court has issued a bench warrant for Mr. McCraw to be picked
5 up and brought to the court.

6 With that said, Mr. Johnson, do you need to place anything else on the
7 record?

8 **MR. JOHNSON:** Your Honor, just that my motion for a mistrial on
9 my — the basis of — of the fact that the person that we spoke to, from the
10 hospital was not the treating physician, but the fact that she did confirm,
11 however, that he did receive these prescriptions, I believe for oxycodone, and
12 being under — under the influence of drugs, I think would be a situation
13 where my client wouldn't be able to show up and — there's a chance that he
14 would not be able to show up and function at a trial and ask for a mistrial or a
15 continuance at this point.

16 **THE COURT:** Does the State want to put anything —

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

18 **THE COURT:** Oh, excuse me. Mr. Williams. You go ahead.

19 **MR. WILLIAMS:** Your Honor, my client has shared with — some
20 information with me, in regards to this, and has indicated that he actually saw
21 some sort of evidence of — of an altercation yesterday after court, meaning
22 that he saw evidence that he had been in a fight.

23 But I certainly — he hasn't — he doesn't know how he is this morning,
24 but he can confirm that yesterday after court that he observed evidence of
25 where he had been in a fight.

1 **THE COURT:** Okay. So would that -- did he, then, form the
2 opinion that, when he -- when Mr. McCraw was in court yesterday, that he
3 had already been in that altercation?

4 **MR. WILLIAMS:** If what he was -- if what he was telling my client
5 was accurate, then, that would be the conclusion that I would draw from that.

6 **THE COURT:** Okay. All right. All right, thank you very much.
7 Anything from the Solicitor?

8 **MR. MAYE:** Yes, Your Honor. We just maintain that it's a
9 willful ----

10 **THE COURT:** Right.

11 **MR. MAYE:** --- failure to appear. And that this is just some
12 excuse to generate that. Like I said, whoever contacted the solicitor's office,
13 we attempted to get some contact information. I mean, he's been intention
14 --- whoever called was being intentionally elusive ----

15 **THE COURT:** Right.

16 **MR. MAYE:** --- wouldn't give us any information to contact
17 anyone.

18 For that reason, and just sending it by a generic fax with no way to
19 contact him, he's not trying to avail himself for communications with this
20 Court. And we just think it's a willful attempt to delay.

21 **THE COURT:** Okay. And that person did report to me ----

22 **MR. MAYE:** He identified himself as McCraw, but when we
23 asked him for information to assist the Court to be able to verify any of this, it
24 was willful refusal to provide any contact information.

25 For that reason, we would certainly think that it was just staged for this

1 purpose.

2 **THE COURT:** All right. And, then, too the record needs to
3 reflect that his attorney, Mr. Johnson, has made every diligent effort that he
4 could in trying to reach Mr. McCraw and been unable to; consequently, Mr.
5 Johnson has had no communication initiated by Mr. McCraw to — to Mr.
6 Johnson.

7 So, with all that said, the motion for a mistrial will be denied. We will
8 proceed forward. Hopefully, the — law enforcement will have some success
9 in — in locating Mr. McCraw.

10 All right. Anything before we ----

11 **MR. MAYE:** Nothing from the State, Your Honor. We're ready
12 to proceed.

13 **THE COURT:** All right. Let's bring the jury out.

14 (The jury was summoned and entered the courtroom at 2:18 p.m.)

15 **THE COURT:** Ms. Blacks, you're no longer an alternate, so, you
16 want to have a seat with — with the others? Just sit in that row.

17 (Juror complied with the Court's request.)

18 **THE COURT:** All right. Let the record reflect the jury is back in.
19 Thank you very much for your patience. We had some matters that we had
20 to deal with. And, Solicitor, you may call your next witness.

21 **MR. MAYE:** The State would call Michelle Norris to the stand.

22 **THE COURT:** Okay.

23 (The witness stepped forward to be sworn.)

24 (Whereupon,

25 MICHELLE NORRIS

1 **MR. JOHNSON:** Thank you, Judge. That's all I wanted.

2 **THE COURT:** Certainly.

3 **MR. MAYE:** Your Honor, I was informed yesterday, when I
4 went back in the back, a person calling and identifying themselves as the
5 Defendant in this case did call up. And he indicated that he -- he had sent
6 some kind of paperwork up here.

7 And the person that identified himself as this Defendant was told that
8 the trial was ongoing and he needed to come on up here and that we needed
9 contact information for him and a way to get in touch with him. And that
10 person would not, again, give any contact information.

11 But they were apprised that the trial was outgoing and that he needed
12 to be here. And that was the only communication. But that occurred
13 sometime during the afternoon when we were in here. I was not aware of
14 that when we broke yesterday afternoon.

15 **THE COURT:** Very good. And I understand that -- I assume
16 rather that law enforcement is diligently looking for the Defendant, but as of
17 -- as of now, still unsuccessful in locating him.

18 **MR. MAYE:** No, but he was apprised that he needed to be ---
19 whoever called was apprised that they needed ---

20 **THE COURT:** Right.

21 **MR. MAYE:** --- to be here. And --- and the trial was ongoing.

22 **THE COURT:** Okay. All right. Thank you very much. Let's bring
23 the --- the jury out.

24 And they've indicated, as I've mentioned, they're having a little hard
25 time hearing, so, we all need to be -- be mindful of -- of speaking loud so

1 **THE COURT:** Mr. Johnson?

2 **MR. JOHNSON:** No, Your Honor, nothing from McCraw, Your
3 Honor.

4 **THE COURT:** Mr. Williams?

5 **MR. WILLIAMS:** Nothing from Defendant Warren, Your Honor.

6 **THE COURT:** Okay. All right. If you would, bring the jury out,
7 please.

8 **(Whereupon, the jury was summoned and entered the courtroom**
9 **at 4:25 p.m.)**

10 **THE COURT:** Mr. Shealy, have you reached a verdict — a
11 unanimous verdict as to both Defendants?

12 **M/R. SHEALY:** Yes, Your Honor.

13 **THE COURT:** Okay. Would you hand the verdict form to the
14 bailiff? And, if you'll hand it, Madam Clerk, to me first, I'm not going to
15 publish it, I just want to see it. And, then, I'll hand it back to you and ask you
16 to publish it.

17 **(Foreman complied.)**

18 **(The bailiff and Madam Clerk complied with the Court's request.)**

19 **THE COURT:** You may publish, Madam Clerk.

20 **MADAM CLERK:** "The State of South Carolina vs. Michael William
21 McCraw and Travis Samuel Warren, as to indictment 2013-GS- 41-340, the
22 charge of manufacturing methamphetamine, we, the jury, find the Defendant
23 Michael Warren [sic] McCraw guilty. "As to the indictment 2013-GS- 41-345,
24 the charge of manufacturing methamphetamine we, the jury, find the
25 Defendant Travis Samuel Warren guilty, Eric B. Shealy, foreperson."

1 **THE COURT:** Does either side wish to have the jury polled?

2 **MR. MAYE:** The State declines, Your Honor. Thank you.

3 **THE COURT:** Mr. Johnson, Mr. Williams?

4 **MR. JOHNSON:** I request, yes, Your Honor.

5 **THE COURT:** Excuse me?

6 **MR. JOHNSON:** I request it, Your Honor.

7 **THE COURT:** You would request the jury be polled?

8 **MR. JOHNSON:** Yes, yes, sir.

9 **THE COURT:** Okay. All right. Madam Clerk?

10 **(Brief Pause)**

11 **MADAM CLERK:** As I call your name, I will ask you, "Is this your
12 verdict and still your verdict?" And you, then, just reply.

13 Tonya D. Butler, is this your verdict and still your verdict?

14 **MS. BUTLER:** It is.

15 **MADAM CLERK:** Brittany A. Waters, is this your verdict and still
16 your verdict?

17 **MS. WATERS:** It is.

18 **(Brief Pause)**

19 **MADAM CLERK:** Eric B. Shealy, is this your verdict and still your
20 verdict?

21 **MR. SHEALY:** It is.

22 **MADAM CLERK:** Kyna R. Wallace, is this your verdict and still your
23 verdict?

24 **MS. WALLACE:** Yes.

25 **(Brief Pause)**

1 **MADAM CLERK:** Barbara Ann Jones, is this your verdict and still
2 your verdict?

3 **MS. JONES:** Yes.

4 **MADAM CLERK:** Kayla M. Nichols, is this your verdict and still your
5 verdict?

6 **MS. NICHOLS:** Yes, ma'am.

7 **MADAM CLERK:** Bobbie S. Mitchell, is this your verdict and still your
8 verdict?

9 **MS. MITCHELL:** Yes, ma'am.

10 **MADAM CLERK:** Meredith R. Crawford, is this your verdict and still
11 your verdict?

12 **MS. CRAWFORD:** Yes, ma'am.

13 **(Brief Pause)**

14 **MADAM CLERK:** Essie M. Bledsoe, is this your verdict and still your
15 verdict?

16 **MS. BLEDSOE:** Yes, ma'am.

17 **MADAM CLERK:** Wanda B. Black, is this your verdict and still your
18 verdict?

19 **MS. BLACK:** Yes, ma'am.

20 **MADAM CLERK:** Evelyn S. Crumpton, is this your verdict and still
21 your verdict?

22 **MS. CRUMPTON:** Yes.

23 **THE COURT:** Okay. Thank you, Madam Clerk. Mr. Foreman
24 and ladies of this jury, I want to first, again, thank you for accepting your —
25 your civic responsibility and serving on this jury.

1 It's not an easy job. And I understand that and I appreciate that. But I
2 do thank you on behalf of everyone for accepting this responsibility and
3 performing effective jury service.

4 As I told you at the beginning, serving on a jury is the second highest
5 civic responsibility that we all have, second only to the military. So, again, I
6 appreciate it.

7 And you are free, if you want, to discuss your verdict or anything about
8 this case with anyone you would like to. But, if someone approaches you and
9 wants to talk to you about this case and about your verdict, and you don't
10 want to talk to that person and if they continue to insist and that causes you
11 some problems or difficulty, then, what you need to do ----

12 **(Off-the-record comments regarding polling last juror.)**

13 **THE COURT:** Okay. All right.

14 **MADAM CLERK:** Ms. Blacks, is this your verdict and still your
15 verdict?

16 **MS. BLACKS:** Yes.

17 **MADAM CLERK:** I'm sorry. Thank you.

18 **THE COURT:** That's all right. Thank you. Then, you need to
19 immediately notify the Court of that. And I'm not suggesting that's going to
20 happen. I think that rarely happens, but it could. And I want you to know
21 that the Court will protect you if that were to happen.

22 So, again, I thank you very much. You all are good for the remainder
23 the week. We're almost at the end of the week. We have no further trials
24 scheduled. So you are excused for the remainder of the week.

25 **(Off-the-Record Comments)**

1 Mr. Shealy, since you're the foreman, you need stay for just a second to sign
2 both of the indictments as foreperson. But you all are free to leave.

3 I like to shake the hands of my juries. So, if you'll — as you're
4 escorted out, you will shake my hand so I can thank you personally, I would
5 very much appreciate that.

6 (The Court shook the hand of all the jurors as they exited the
7 courtroom.)

8 (Off-the-Record Comments)

9 (The foreperson signed both indictments before exiting the
10 courtroom.)

11 THE COURT: All right. We're going to be at ease just a few
12 minutes before we proceed into the sentencing phase of this case.

13 (Whereupon, court was at ease at 4:35 p.m.)

14 (Off-the-Record Comments)

15 **Post-Trial Motions**

16 THE COURT: Okay. Any post-trial matters that need to be dealt
17 with by the Court?

18 MR. JOHNSON: I'd like to make a motion, Your Honor.

19 THE COURT: Okay. I'll be glad to hear from you.

20 (Brief Pause)

21 MR. JOHNSON: Your Honor, at this time, I'd move for the Court to
22 set that aside and — set the verdict aside and grant a new trial based on all
23 the previous objections, motions, and evidence. I'd argue no reasonable jury
24 could come to this verdict based on that.

25 THE COURT: Okay.

1 **MR. JOHNSON:** And I have a motion for new trial at this time.

2 **THE COURT:** Okay. Thank you very much. Mr. Williams?

3 **MR. WILLIAMS:** Your Honor, I would move for a new trial
4 essentially on the same basis, and that is the prior arguments that I've
5 made at the end of all the evidence.

6 **THE COURT:** Thank you very much.

7 **MR. WILLIAMS:** Thank you.

8 **THE COURT:** And your --- your motions are respectfully denied.
9 Okay?

10 **MR. JOHNSON:** Your Honor, I have a question about sentencing.
11 I have a motion about that regarding Mr. McCraw, but since he's not present,
12 would you hear that at a later date or how would we proceed with that?

13 **THE COURT:** You have a motion related to the -- the sentencing
14 of your client? I intend to -- to -- to sentence your client today and seal that
15 sentence until he can be brought to Court.

16 **MR. JOHNSON:** Well, if I -- Your Honor, for the record, it's my
17 understanding the Solicitor is indicating he wanted to have him sentenced on
18 third offense.

19 **THE COURT:** Okay.

20 **MR. JOHNSON:** But, basically, the new -- the indictment that they
21 brought last week has a CDR code for a first offense. And it says, "375
22 Subsection (b)." It does not specify (b)(1), (b)(2), or (b)(3).

23 And, since it's 375(b), it doesn't specify a first, second, or third. And it has
24 the actual CDR code on it. I believe that 319(a) (phonetic), which is for a first
25 offense, I would ask the Court to sentence as a first offense based on that.

1 **MR. MAYE:** Your Honor, the CDR code would not be
2 controlling on the indictment. The sentencing is, at the time of his conviction,
3 what his priors actually are.

4 And that's a third, second, or third offense on sentencing is a matter
5 for the Court. And it references 375. The question is, you know, what his --
6 how many priors he has.

7 And I have with Mr. McCraw, he has -- I have certified true copies of
8 his sentencing sheet on indictment 2004-GS-32-732, William McCraw was
9 originally indicted for distribute of crack cocaine first offense. He pleaded and
10 was sentenced September 12th, 2005, by the Honorable William B. Keesley,
11 on possession of cocaine, Your Honor. That is within 10 years.

12 It's my understanding a possessory offense would stay on your record
13 for 10 years, Your Honor. If after 10 years, he would have -- it would roll off.
14 Any subsequent offense stays on forever.

15 He has a subsequent offense on Indictment 2007-GS-32-0541,
16 possession with intent to distribute methamphetamine first offense. He was
17 originally indicted for trafficking methamphetamine 28 to 100.

18 He pleaded down to PWID meth. And that was -- it looks like in front
19 of Judge Goodstein on February the 13th of 2008. So that would make this a
20 true third offense, Your Honor, for the purposes of sentencing.

21 **(Document handed up.)**

22 **MR. MAYE:** I've completed sentencing sheets for both Mr.
23 McCraw -- McCraw and Warren.

24 It's been a long time since I've had a trial in absence, but it seems like
25 to me that the sentence is typically sealed on a trial in absence.

1 **THE COURT:** Well, it — it is. Mr. Johnson, apart from the
2 incorrect CDR code, apart from that, would you agree that it would be a third
3 offense?

4 **MR. JOHNSON:** I -- I agree that, that is the record of the client
5 and that would make it a third offense. I was just arguing that we were put on
6 notice, by that indictment of a first offense, because it does not specify
7 Subsection (1), (2), or (3). It says "375(b)," and, then, when you add in that
8 CDR for a first offense, I would argue we were put on notice for a first
9 offense. But those are the convictions I agree on Mr. McCraw.

10 **(Brief Pause)**

11 **MR. MAYE:** Your Honor, the only thing I have on the record for
12 that, on offenses where it is a -- an essential element of the crime, for
13 example, for it to be a subsequent offense on something, it's necessary.

14 But my understanding on those cases, the body of the indictment or
15 the language serves to give one notice of the offense for which they're
16 charged. And, at that point in time, sentencing is a matter for the Court.

17 It's not a jurisdictional issue at that point in time. It's just a sentencing
18 issue. And that's purely mechanical on the date of his conviction today, what
19 he has as priors. So, we would certainly respectfully maintain that it's a true
20 third on him.

21 **THE COURT:** Would you give me those priors again, please,
22 Solicitor?

23 **MR. MAYE:** Well, I hand them up to, Your Honor. I have
24 certified true copies that I sought ----

25 **THE COURT:** Do you have copies of those too?

1 **MR. MAYE:** I'll hand them up.

2 **(Documents handed up.)**

3 **MR. MAYE:** And I have the remainder of his record as well,
4 Your Honor, outside these certified true copies, but those two convictions.

5 Mr. McCraw's record additionally indicates a 19 -- a 9/29/1988 public
6 disorderly conduct conviction. It shows a simple assault and battery on the
7 same date.

8 It shows an unlawful weapon conviction, a Magistrate's Court
9 conviction, on the same date. It shows a disorderly conduct, a second one,
10 on the same date. And it may just be one.

11 And for purposes of sentencing, we just stipulate that he had one prior
12 in that regard, not that it would be very persuasive to the Court one way or
13 another;

14 Failure to surrender driver's license it looks like 2001. We move
15 forward to the first of those convictions, Your Honor, that you have the
16 certified true copy; the possession it looks like 9/12/ 2005, the cocaine one.

17 **(Brief Pause)**

18 **MR. MAYE:** And, then, that 2/13/ 2008 one that I see that I
19 think that we've handed up. And that's what I show for convictions on him.

20 So it looks like he's got some Magistrate Court offenses and those two
21 drug offenses. But that does push him into the range of a third offense.

22 **THE COURT:** All right. Okay. Mr. Johnson. anything else
23 related to sentencing concerning your client because, again, the sentence is
24 going to be sealed.

25 **(Brief Pause)**

1 I'm going to take this with me. And, then, we'll — Madam Clerk, I'll get
2 the sealed sentence back to you. But I'm — I'm going to take this with me.

3 **MADAM CLERK:** Yes, sir.

4 **(Brief Pause)**

5 **MR. JOHNSON:** Nothing further from the Defense, Your Honor.

6 **THE COURT:** All right. Now, we can deal your client. You all
7 can come up, Mr. Williams.

8 **MR. WILLIAMS:** Yes, Your Honor.

9 **(The Defendant stepped forward with his attorney.)**

10 **THE COURT:** I'll first hear from the Solicitor with respect to
11 sentencing. And, then, I'll hear anything from the — from the Defense.
12 Solicitor, anything you want to tell me related to the sentencing of Mr.
13 Warren?

14 **MR. MAYE:** Mr. Warren, Your Honor, has a 9/19/1994
15 conviction out of Lexington County for burglary second degree nonviolent.
16 He got eight (8) years suspended on five (5) years of probation in 1994.

17 **(Brief Pause)**

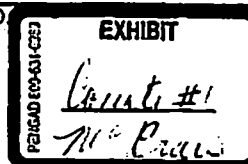
18 Then, we move forward to 1995, to 3/29 of 1995, he had multiple
19 convictions — multiple charges of burglary third pleaded down to a single
20 count of burglary third.

21 And he got a YOA, an active YOA, in 1995 for burglary third, Your
22 Honor, and a public disorderly conduct conviction in 1999, and a criminal
23 domestic violent conviction 4/7 of 2010. It looks both of those are Magistrate
24 Court offenses. They're separate offenses.

25 **(Brief Pause)**

J142354, J142355

CRIMINAL CHARGING DOCUMENT NO.

BAIL PROCEEDING
FORM II

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SALUDA

STATE OF SOUTH CAROLINA

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

v.

MICHAEL WILLIAM MCCRAW
NAME OF DEFENDANT

Offense Charged: TRAFFICKING METH, MANUFACTURING METH

At a bail proceeding conducted by the undersigned judge, for the defendant named above, it was determined by the court (check one or both):

- ☒ The release of the defendant on recognizance will not reasonably assure his appearance as required.
☐ The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact: PRIOR DRUG CHARGES, WANTED IN RICHIE AND FOR FAILURE TO APPEAR

[Considerations: Nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings]

THEREFORE, IT IS HEREBY ORDERED:

- That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
- That the above named defendant be released from custody provided as follows:

CASH IN LIEU OF BOND

- ☐ The defendant, acknowledges himself to be indebted to the State of South Carolina in the sum of _____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

- ☐ The defendant, acknowledging himself to be indebted to the State of South Carolina in the full amount of _____, his release to be obtained by payment to the court of _____ % (not to exceed 10%) of the full amount of the bond, deposits _____ to secure his release from custody. Should the defendant fail to perform the conditions of this Order, the full amount shall be levied on his real and personal property for the use of the State.

APPEARANCE RECOGNIZANCE WITH SURETY

- ☒ The defendant will provide good and sufficient surety approved by the court, in the form hereinafter set forth in this Order, acknowledging an indebtedness to the State in the amount of \$50,000.00.

3. That the defendant shall appear at (check one):

- ☒ the term of COURT OF GENERAL SESSIONS beginning on Monday, August 1, 2011
at 9:00 o'clock, AM, at SALUDA COUNTY COURTHOUSE, FIRST APPEARANCE ON FEB 17, 2011 AT 9:00AM
and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court. 07-28-2011
- ☐ the session of MAGISTRATE COURT beginning on _____
at _____ o'clock, _____ at _____
If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

INITIALS OF DEFENDANT M. E. Brown

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described hereinafter in the Order.

SIGNATURE OF JUDGE

December 3, 2010
DATE

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

ADDRESS [REDACTED] SIGNATURE OF DEFENDANT [Signature]
 LEXINGTON, S.C. 29073 DATE December 3, 2010
 CITY STATE ZIP TELEPHONE [REDACTED]
 SOCIAL SECURITY NUMBER [REDACTED] DRIVER'S LICENSE OR ID NUMBER [REDACTED] ATTORNEY REPRESENTING ACCUSED (IF KNOWN) [REDACTED]

SPECIAL CONDITIONS OF RELEASE

a. ☐ Placement in custody. The defendant is placed in the custody of: _____ NAME OF PERSON OR ORGANIZATION

ADDRESS _____ CITY STATE _____ ZIP _____ TELEPHONE _____
 who agrees (1) to supervise the defendant as set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

SIGNATURE OF CUSTODIAN (IF APPROVED)

DATE

b. ☐ Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions:

c. ☐ Part-time Release. The defendant will be released from custody from _____ o'clock, _____ to _____ o'clock, _____
 on _____ on condition that he return to the custody of _____
 at _____ as designated.
 LOCATION

d. ☐ Other Conditions. The defendant will comply with the following other conditions of release:

APPEARANCE RECOGNIZANCE WITH SURETY

On the 20th day of MAY, 2011, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of \$50,000.00, such sum to be levied on his real and personal property for the use of the State, should named defendant fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

Andell Anderson 864 255-8539
 NAME OF SURETY BONDSMAN TELEPHONE
 216 Northmead Blvd
 ADDRESS OF SURETY BONDSMAN
 Greenwood SC 29649
 CITY STATE ZIP
 International Fidelity
 NAME OF INSURANCE COMPANY
 P.O. Box 9816
 ADDRESS OF INSURANCE COMPANY
 Calabass CA 91372
 CITY STATE ZIP

[Signature]
 SIGNATURE OF SURETY BONDSMAN
 [Signature]
 SIGNATURE OF JUDGE
 5-20-2011
 DATE

FED & BLACK INKS

TRANSFER BOND

INTERNATIONAL FIDELITY INSURANCE COMPANY

SAN ANTONIO, TEXAS 78202-1000 (800) 935-2245

POWER NUMBER IS100K-26883

POWER AMOUNT \$ 100,000

December 31, 2011

INTERNATIONAL FIDELITY INSURANCE COMPANY, a corporation duly organized and existing under the laws of the State of Texas, does hereby constitute and appoint, its true and lawful Attorney-in-Fact, with full power and authority to sign the company's bonds, to, and deliver on its behalf as surety, any and all obligations as herein provided, and the execution of such obligations in pursuance of these powers, as fully and to all intents and purposes as if done by the regularly elected officers of said company at its home office in their city and county, hereby ratifies and confirms all and whatsoever its said Attorney-in-Fact may lawfully do and perform in the premises by virtue of this power of attorney.

THIS POWER OF ATTORNEY IS VOID IF ALTERED OR ERASED, THE OBLIGATION OF THE COMPANY SHALL NOT EXCEED THE SUM OF ONE HUNDRED THOUSAND*****

AND MAY BE EXECUTED FOR RECOGNIZANCE ON CRIMINAL BAIL BONDS ONLY.

Authority of such Attorney-in-Fact is limited to the execution of appearance bonds and cannot be construed to guarantee defendant's future lawful conduct, adherence to travel limitation, fines, restitution, payments or penalties, or any other condition imposed by a court not specifically related to court appearances. A separate Power of Attorney must be attached to each bond executed. Powers of Attorney must not be returned to Attorney-in-Fact, but should remain a permanent part of the court records.

NOTICE: Stacking of Powers is strictly prohibited. No more than one power from this Surety may be used to post any one bail amount.

Bond Amt \$ 50,000 Date Executed 5-20-11

Defendant McCray, Michael DOB

Case # J142354, J142355 Appearance Date 8-1-11

Offense Trafficking Meth

Court County Saluda

Court City Saluda Court State SC Div./Dept.

If rewrite, give orig. power # ☐ Increase ☐ Decrease

Executing Agent Richard A. [Signature] Signature (if applicable, add your COURT assigned Agent #)



Form# IF1.0100 (9/06)

ORIGINAL

[Signature]
Francis McNeill, Chairman of the Board

[Signature]
Norman K. [Signature]

NOT VALID FOR
IMMIGRATION



01257112



~~██████████~~ COLUMBIA RAMP

FAX # 803 822-1700 OFFICE # 803 ~~██████████~~

To: Clerk of Court ^{Saludg} - From: CAER/Michael McGraw

Fax #: 2 # of pages including cover sheet

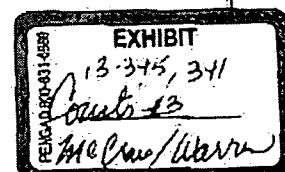
Phone # 803-870-6498 Today's Date: 10-9-13

864-445-3772

Subject: I have 3 broken ribs. This is why I haven't shown up. The following sheet is proof of this. Please let me know what to do next. Sorry for the inconvenience. Thank you.

Michael McGraw

~~██████████~~ STRONG...ALL DAY LONG



2/19/68

McCraw, Michael W (MR # M001332538)
LMC Emergency Department
2720 Sunset Boulevard
West Columbia SC 29188
Phone: 803-791-2350
Fax: 803-939-4578

Encounter Date: 10/09/2013

Michael W McCraw
MRN: M001332538

Department: LMC Emergency Department
Date of Visit: 10/9/2013

Diagnoses this visit

Your diagnosis was Fracture of multiple ribs. 3

You were seen by

You were seen by Andrew Donato, MD.

Discharge InstructionsDischarge References/Attachments

RIB FRACTURE DISCHARGE INSTRUCTIONS (ENGLISH)

You are allergic to the following

No active allergies

Procedures and tests performed during your visit

XR Ribs Left With PA Chest

Your MedicationsStart Taking

OXYCODONE-ACETAMINOPHEN (PERCOCET) 8-325
MG PER TABLET
Order Dose: 1-2 tablets

Take 1-2 tablets by mouth every 4 (four) hours as
needed for Pain.

Continue These Medications Which Have Not Changed

No Medications Reported

These Medications Have Changed

No Medications Reported

Stop Taking

No Medications Reported

Preferred Pharmacy

None

STATE OF SOUTH CAROLINA
COUNTY OF SALUDA

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA ,)
)
PLAINTIFF,)
)
-VS-)
)
MICHAEL MCCRAW)
)
DEFENDANT.)
_____)

2013-GS-41-340

TRANSCRIPT OF RECORD

DECEMBER 2, 2013
SALUDA, SOUTH CAROLINA

B E F O R E:

THE HONORABLE THOMAS A. RUSSO

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

ATTORNEY FOR PLAINTIFF:

ERVIN J. MAYE, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

OLA A. JOHNSON, ESQUIRE

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
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(No exhibits were presented during this hearing)

1 MR. MAYE: Michael McCraw, come around. If it please
2 the court, Your Honor. Let's go back on the record and I
3 don't -- I apologize I do not have the indictment for
4 which he was convicted.

5 The last term of General Sessions that we had here in
6 Saluda County, the State began and called a case for
7 manufacturing methamphetamine against the Defendant in
8 this case, Mr. McCraw. Your Honor, he was here when we
9 began the case. We started the trial. He did not return.
10 The jury actually returned a verdict of guilty against him
11 in his absence, Your Honor. A bench warrant was issued
12 for him and he was subsequently taken into custody. Judge
13 Hocker sentenced his Co-Defendant at that time, Your
14 Honor. He handed down a sentence against Mr. McCraw.
15 Sealed it.

16 We bring him back before court of General Session
17 here in Saluda County, Your Honor, for the purpose of
18 having Judge Hocker's sentence carried out against Mr.
19 McCraw. It was a third offense sentence, Your Honor. And
20 I leave it to the Court to -

21 THE COURT: All right.

22 MR. MAYE: -- publish and carry out whatever sentence
23 was imposed by Judge Hocker.

24 THE COURT: All right. And Mr. Johnson, you
25 represented Mr. McCraw in this matter?

1 MR. JOHNSON: Yes.

2 THE COURT: All right. And you discussed with him and
3 he understands that the only purpose of today is to
4 basically for me to unseal this and impose whatever
5 sentence Judge Hocker handed down?

6 MR. JOHNSON: Yes.

7 THE COURT: All right. I've taken the envelope.
8 This is signed on the front, Donald B. Hocker, Circuit
9 Court Judge on October 10, 2013, State vs. Michael McCraw
10 under indictment number 2013-GS-41-340. The charge was
11 manufacturing methamphetamine. And I'm -- it's a sealed
12 envelope. I'm going to undo the seal and will impose
13 whatever sentence Judge Hocker has handed down. On
14 indictment 2013-GS-41-340, the sentence is that the
15 Defendant be committed to the State Department of
16 Corrections for a period of 30 years. He's to be given
17 credit for 203 days credit for time served, signed Donald
18 B. Hocker, October 10th -- excuse me -- yeah October 10,
19 2013.

20 MR. JOHNSON: Your Honor, how would we address the
21 issue -- the time served is now 239 days. Can I move to
22 amend that?

23 THE COURT: Well, yeah. I mean -- here's what's
24 going to happen. The sentence that Judge Hocker imposed
25 -- the sentencing date was 10/10. Of course, he's -- has

1 he been in 239 the whole -- you said 239?

2 MR. JOHNSON: 230 -- excuse me Judge. Yes, sir, 239.

3 THE COURT: It was 203 at the date Judge Hocker
4 imposed this and he was -

5 MR. MAYE: Arrested on a bench warrant subsequent to
6 that time, Your Honor when he was taken into custody.

7 THE COURT: But how much later?

8 MR. JOHNSON: That arrest date took place October --
9 excuse me, Your Honor. That actually took place October
10 17, and counting from then we add in that time -- there
11 was a time where he was served. He was actually served
12 with a bench warrant 2012 on October 16, 2012. Got out
13 November 7, and I have that bench warrant number. That's
14 been confirmed with the jail this morning. That gave him
15 additional time.

16 THE COURT: He was picked up on the bench warrant
17 when? October

18 MR. JOHNSON: October 16, 2012 and then I came to
19 represent him and got him released on November 7, 2012.
20 And I have that number here for the bench warrant.

21 THE COURT: All right.

22 MR. JOHNSON: I believe that was about 23 days there.
23 And then he was picked up October 17, 2013 on this bench
24 warrant, the latest bench warrant.

25 THE COURT: And that until today is?

1 MR. JOHNSON: That's 17 more days, I believe.

2 THE COURT: From October 17 until today?

3 MR. JOHNSON: Yes, sir.

4 THE COURT: 46 days.

5 MR. JOHNSON: I'm sorry Judge. I missed a month.

6 You're right.

7 THE COURT: All right. So we've got 69 days?

8 MR. JOHNSON: Yes, sir.

9 THE COURT: All right. So I'm going to --

10 MR. JOHNSON: Judge, I have 272 days, if that's

11 correct.

12 THE COURT: That's what I got.

13 MR. JOHNSON: Yes, sir. Your Honor, I'd also move
14 for reconsideration of that sentence, if possible, at this
15 time.

16 THE COURT: Well, that would have to be before Judge
17 Hocker. He imposed the sentence.

18 MR. JOHNSON: Yes, sir.

19 THE COURT: I'm just reading it and what I think you
20 might have to do is make that Motion for Reconsideration
21 in writing and then it'll be passed on to Judge Hocker for
22 his consideration.

23 MR. JOHNSON: Yes, sir.

24 THE COURT: I'm going to provide that as of today,
25 that Mr. McCraw receive credit for 272 days.

1 MR. JOHNSON: Thank you, Judge.

2 THE COURT: Now what that is, is that's Judge
3 Hocker's original 203 and then I'm adding the 69 days that
4 he served subsequent.

5 MR. JOHNSON: Yes, sir.

6 THE COURT: Well, not subsequent. Actually prior to
7 trial and then subsequent to being picked up on the bench
8 warrant.

9 MR. JOHNSON: Yes.

10 THE COURT: Well, hold on. Why wasn't that 203 --
11 that 23 days, why wasn't that included in the 203 days?

12 MR. JOHNSON: Well, Judge. It may have been my
13 mistake if I didn't include that originally because if I
14 failed to do that. I know I called and -- I realized he
15 had that bench warrant and I called and confirmed it this
16 morning. If that wasn't included originally, that was my
17 mistake.

18 THE COURT: Now, here's what I'm saying. At the time
19 of the sentence, which was October of 2013 --

20 MR. JOHNSON: Yes.

21 THE COURT: -- Judge Hocker had him -- giving him
22 credit for 203 days, which should've been that 23 days you
23 talked about back in 2012. That should be included in
24 that 203.

25 MR. JOHNSON: Well, I've got the arrest dates. I

1 don't have the computer in front of me.

2 THE COURT: I do.

3 MR. JOHNSON: Yes, sir. It's from -- the original
4 arrest date was 12/3/10.

5 THE COURT: All right. Hold on.

6 MR. JOHNSON: Yes, sir..

7 THE COURT: Original arrest date:

8 MR. JOHNSON: Yes, sir.

9 THE COURT: 12/3/10?

10 MR. JOHNSON: Yes, Sir.

11 THE COURT: All right. And when did he get out on
12 that?

13 MR. JOHNSON: That was May 20, 2011.

14 THE COURT: All right. Then he got out on May 20,
15 2011.

16 MR. JOHNSON: Yes, sir.

17 THE COURT: All right. That's 168 days.

18 MR. JOHNSON: All right. And he was picked up on
19 October 17, 2013.

20 THE COURT: October 17, 2000-who?

21 MR. JOHNSON: 13.

22 THE COURT: Okay.

23 MR. JOHNSON: And.

24 THE COURT: Until today?

25 MR. JOHNSON: Oh. No, Your Honor. That was -- I'm

1 sorry, Judge.

2 THE COURT: 2012.

3 MR. JOHNSON: I was confused. I was confused. I
4 skipped the bench warrant and went straight to the second
5 bench warrant. The actual -- the bench warrant date --
6 the first bench warrant I apologize -- excuse me, Judge --
7 was October 16, 2012. I apologize.

8 THE COURT: And he got out when?

9 MR. JOHNSON: November 7, 2012.

10 THE COURT: November 7?

11 MR. JOHNSON: Yes, sir.

12 THE COURT: 2012.

13 MR. JOHNSON: October 16.

14 THE COURT: That's 22 days.

15 MR. JOHNSON: Yes, sir.

16 THE COURT: Okay.

17 MR. JOHNSON: And then picked up on second bench
18 warrant October 17, 2013 to today.

19 THE COURT: Until today, which I think we came up with
20 is 46 days.

21 MR. JOHNSON: Yes, sir.

22 THE COURT: All right. So we got 168, plus 22, plus
23 46. 236.

24 MR. JOHNSON: That's what I've got, Judge. I
25 apologize.

1 THE COURT: All right. No problem. You want me to
2 give him credit for 236 days time served.

3 MR. JOHNSON: Thank you, Judge.

4 THE COURT: Thank you, sir.

5 (End of requested transcript of record)

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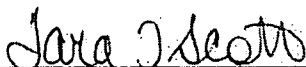
Certificate of Reporter

Certificate of Reporter

I, the undersigned, Tara T. Scott, CVR, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenwood County, South Carolina, on the 2nd day of December, 2013.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

April 28, 2014

A handwritten signature in cursive script, reading "Tara T. Scott", is written over a horizontal line.

Tara T. Scott, CVR

Circuit Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

FILED IN THE COURT OF GENERAL SESSIONS
FOR THE SECOND JUDICIAL CIRCUIT

State of South Carolina 2013 DEC -3 PM 12:16 Indictment 2013-GS-41-340

v.

Michael McCraw

CLERK OF COURT
SALUDA CO. S.C.

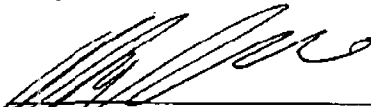
**MOTION TO RECONSIDER
SENTENCE**

Defendant.

The Defendant in the above-captioned matter respectfully moves the Court to reconsider and reduce the sentence it imposed on the Defendant on Monday, December 2nd, 2013

As grounds for the reconsideration and reduction, the Defendant urges that the interests of justice will be served by the granting of this request. The Defendant will present further grounds as necessary, both in open court and *in camera* at such date and time as the Court deems appropriate to set such a hearing.

Respectfully submitted,



Ola Johnson
Attorney for Defendant

Saluda, South Carolina
December 3, 2013

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS
ELEVENTH JUDICIAL CIRCUIT

COUNTY OF SALUDA

State of South Carolina,

vs.

Michael McCraw

Defendant

AFFIDAVIT OF OLA JOHNSON

Indictment 2013-GS-41-340

FILED
2013 DEC 13 PM 12:32
CLERK OF COURT
SALUDA CO. S.C.

PERSONALLY APPEARED BEFORE ME, Ola Johnson, who being first duly sworn does state as follows:

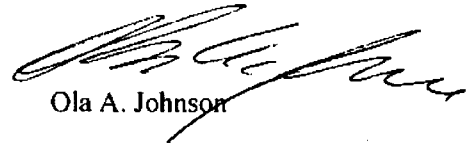
1. In support of my Motion to Reconsider Sentence filed on December 3rd, 2013, I did include the relevant details in this affidavit regarding the sentencing of my client Michael McCraw.

2. On December 2nd, 2013 the sentence for Michael McCraw was opened and published to him by the Hon. Thomas Russo in Saluda County General Sessions Court. At that time I moved before the court asking the court to reconsider the sentence (the maximum of 30 years incarceration) and I attempted to offer information in mitigation. Judge Russo refused to hear my motion and instructed me to file my motion to reconsider with the original trial judge. My position was that the judge publishing the sentence has the authority to reduce it and the decision that sentencing judge did not have the authority to do so was in error. *State v. Smith, 280 S.E.2d 200 (1981)*.

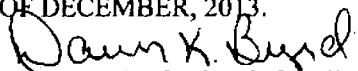
3. Mr. McCraw's history of convictions did not include violent offenses and aside from the two drug convictions that were used to enhance the charge that Mr. McCraw was convicted of, his history provided by the solicitor's office contains only magistrate level convictions. The co-defendant Travis Samuel Warren was convicted at the same trial as my client and of the same crime and he received a sentence of 8 years that equaled almost half of his potential sentencing range of 15 years. Mr. Warren's history included felony convictions including Burglary. As a result of the enhancement to a 3rd offense, Mr. McCraw's sentence was a "no parole" sentence that would require him to serve 85% of his sentence before parole would even be considered. Mr. Warren's time was a regular parole eligible sentence. (History of criminal convictions attached as Exhibit A).

4. Mr. McCraw is a graduate of Airport High School in Lexington County and has raised two children to adulthood. He has the support of his parents who reside in South Carolina.

5. The ability of my client to attend his trial was hindered by his medical condition as reflected in the exhibit and affidavit filed previously with this court in support of my Motion for a New Trial.


Ola A. Johnson

SWORN TO AND SUBSCRIBED
BEFORE ME THIS 12th DAY
OF DECEMBER, 2013.


Notary Public for South Carolina

My Commission Expires: May 12, 2018



Exhibit A

Rap Sheet

DATE: 12-03-2010 05:10:51 AM Type: Recv

SUBJECT: QR From III
 Message:
 Reference: 032T000047
 Mag Key : QR
 Date/Time: 20101203051531
 Source : III

032T000047.III.QR.20101203051531.
 TO: SALSO002-00275186 20101203 05:15:31 0035D91285
 FROM: III 20101203 05:15:29
 FL0102A501A2942QR
 SC0410000
 THIS INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR
 RECORD REQUEST FOR FBI/699933JA1. INDIVIDUAL'S RECORD WILL BE
 COMPLETE WHEN ALL RESPONSES ARE RECEIVED FROM THE FOLLOWING SOURCES:
 FBI - FBI/699933JA1

AN ADDITIONAL RECORD MAY BE OBTAINED FROM FILES WITHIN YOUR STATE.
 END

DATE: 12-03-2010 05:10:50 AM Type: Recv

SUBJECT: CR From NLETS
 Message:
 Reference: 032T000047
 Mag Key : CR
 Date/Time: 20101203051530
 Source : NLETS

032T000047.NLETS.CR.20101203051530.
 TO: SALSO002-00275186 20101203 05:15:30 0008B8CC9A
 FROM: NLETS 20101203 05:15:30
 CR.WVFBINF00
 03:11 01117
 12/03/2010 03668 SC0410000
 *02A501A294
 TXT
 HDR/2L0102A501A2942QR
 ATN/COCKRELL, DEPUTY RICHARD

***** CRIMINAL HISTORY RECORD *****
 ***** Introduction *****

This rap sheet was produced in response to the following request:

FBI Number 699933JA1
 Purpose Code C
 Attention COCKRELL, DEPUTY RICHARD

The information in this rap sheet is subject to the following caveats:

This record is based only on the FBI number in your request-699933JA1.
 Because additions or deletions may be made at any time, a new copy
 should be requested when needed for subsequent use. (US; 2010-12-03)
 All arrest entries contained in this FBI record are based on
 fingerprint comparisons and pertain to the same individual. (US;
 2010-12-03)
 The use of this record is regulated by law. It is provided for official
 use only and may be used only for the purpose requested. (US;
 2010-12-03)

***** IDENTIFICATION *****

Subject Name(s)

MCCRAW, MICHAEL WILLIAM
 MCCRAW, MIKE (AKA)
 MCCRAW, MICHEAL (AKA)

Subject Description

11/7/2012 Page 94 of 105

FBI Number
699933JA1

State Id Number
SC00655493

Social Security Number
[REDACTED]

Sex
Male

Race
White

Height
5'08"

Weight
145

Date of Birth
[REDACTED]

Hair Color
Black

Eye Color
Blue

Fingerprint Pattern
POD017PM13PIPO20PI15 (FPC)

Scars, Marks, and Tattoos
Code

Description, Comments, and Images

TAT BACK
TAT R ARM

TATTOO ON BACK
TATTOO ON RIGHT ARM

Place of Birth
SC

Citizenship
US

Fingerprint Images

Caution Information

Caution

WANTED - CONFIRM THAT WANT IS STILL
OUTSTANDING. AGENCY-SHERIFF'S OFFICE COLUMBIA
(SC0400000) WANTED-NCIC #W651430230
MCCRAW, MICHAEL FAILURE TO APPEAR - SEE MIS
(IDENTIFY ORIGINAL OFFENSE) CASE #1008859218
DATE OF WARRANT 09/20/2010 NOTIFY SC0400000
SHERIFF'S OFFICE COLUMBIA SC CAUTION-QUERY NCIC
FOR REASON OF CAUTION AND POSSIBLE CROSS
REFERENCE INFORMATION

***** CRIMINAL HISTORY *****

***** INDEX OF AGENCIES *****

Agency
Address

FBI-CJIS DIV-CLRKSEB CLARKSBURG; WVFBINF00;
1000 CUSTER HOLLOW RD
CLARKSBURG, WV 26306

Agency
Address

SHERIFF'S OFFICE COLUMBIA; SC0400000;
5623 TWO NOTCH RD
COLUMBIA, SC 29223

* * * END OF RECORD * * *

DATE: 12-03-2010 05:10:50 AM Type: Recv

SUBJECT: QWA From NC2K
Message:
Reference: UNKNOWN
Msg Key : QWA
Date/Time: 20101203051530
Source : NC2K

UNKNOWN, NC2K, QWA, 20101203051530.
TO: SALS0002-00275184 20101203 05:15:30 000638D630
FROM: NC2K 20101203 05:15:28
1L0102A501A2962QWA
SC0410000

***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.
 MKE/LOCATED WANTED PERSON - CAUTION
 05 - VIOLENT TENDENCIES
 3 - EXTRADITION - SURROUNDING STATES ONLY
 ORI/SC0400000 NAM/MCCRAW, MICHAEL SEX/M RAC/W POB/SC DOB/ [REDACTED]
 HGT/508 WGT/175 EYE/GRN HAI/BLK FBI/699933JA1
 SMT/TAT R ARM
 FPC/DMD018PM13PIPM20PI16 MNU/PI-SC00655493 SOC/[REDACTED]
 OLN/007316730 OLS/SC OLY/2015
 OFF/FAILURE TO APPEAR - SEE MIS
 OOC/AMPHETAMINE - MFR
 DOW/20100920 OCA/1008859218
 WNO/GS40M720023 CTI/SC0400000
 MIS/SURROUNDING STATES EXTRA PRIOR WEAPON ASSAULTS AND DOC CHARGES SUBJ DID FTA
 MIS/ON A MAUFACTURING METHAMPHETAMINE CAHRGE
 DNA/N
 ORI IS RICHLAND CO SO COLUMBIA 803 576-3000
 DOB/[REDACTED]
 AKA/MCCRAW, MICHAEL WILLIAM
 AKA/MCRAW, MIKE
 SMT/TAT BACK
 LOCATED/20101203 SC0410000 DETN
 NIC/W651430230 DTE/20101019 0909 EDT DLU/20101203 0429 EDT
 IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

 DATE: 12-03-2010 05:10:49 AM Type: Recv

SUBJECT: ICHR From SCCH
 Message:
 Reference: 032T000047
 Msg Key : ICHR
 Date/Time: 20101203051527
 Source : SCCH

032T000047.SCCH.ICHR.20101203051527.
 TO: SALSO002-00275182 20101203 05:15:27 003F9A2A34
 FROM: SCCH 20101203 05:15:26

ICHR REQUEST FOR RAP SHEET
 ORI-SC0410000 FBI-699933JA1 PUR-C
 ATN-COCKRELL, DEPUTY RICHARD

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING
 AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS.
 BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
 SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-12/03/2010 TIME-05:17:20
 REQ ORI-SC0410000 SALUDA CNTY SO
 SID-SC00655493 FBI-699933JA1
 NAME-MCCRAW, MICHAEL WILLIAM SEX-M RACE-W BORN-SC
 HEIGHT-508 WEIGHT-145 EYES-GRN HAIR-BLK SKIN- OOM 13
 FPC-PMD018PM13PIPM20PI16 HENRY-18 M 29 W MOI
 I 20 W

PHOTOGRAPH AVAILABLE
 1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFS

DATE RECORD ENTERED--10/03/1988 DATE OF LAST UPDATE--10/19/2010

 ADDITIONAL IDENTIFIERS BIRTH DATES MARKS SOC SEC MISC NUM
 NAME
 MCCRAW, MICHAEL [REDACTED]
 MCCRAW, MIKE [REDACTED]

TAT BACK
 TAT R ARM

 CONTRIBUTOR/SUBJECT DOA/RCVD CHARGE/DISPOSITION/ETC

MCCRAW, MICHAEL WILLIAM 09/10/1988
 SC0320200 CAYCE PD
 CASE-10388
 WARR-07614LT

ARREST CHARGE 01-DISORDERLY
 Page. 3

WARR-07615LT	CONDUCT PHOTOGRAPH AVAILABLE
WARR-07616LT	ARREST CHARGE 02-ASSAULT
WARR-07614LT	ARREST CHARGE 03-UNLAWFUL WEAPON COURT CHARGE 01-DISORDERLY CONDUCT COURT DISP-CONVICTED;30D CONFINED; \$218 FINE;CONFINEMENT OR FINE;PAID COURT DATE-09/29/1988
WARR-07615LT	COURT CHARGE 02-SIMPLE ASSAULT T COURT DISP-CONVICTED;30D CONFINED; \$218 FINE;CONFINEMENT OR FINE;PAID COURT DATE-09/29/1988
WARR-07616LT	COURT CHARGE 03-UNLAWFUL WEAPON COURT DISP-CONVICTED;30D CONFINED; \$218 FINE;CONFINEMENT OR FINE;PAID COURT DATE-09/29/1988
MCCRAW, MICHAEL WILLIAM SC0320000 LEXINGTON CNTY SO CASE-9947193 ATN- WARR-G054303	08/20/1999
WARR-G054302	ARREST CHARGE 01-SIMPLE ASSAULT PHOTOGRAPH AVAILABLE
CIT-N/A-MISDEMEANOR DOC-R84 WARR-G054303	ARREST CHARGE 02-TRESPASSING COURT CHARGE 01-SIMPLE ASSAULT T COURT DISP-NON-CONVICTION; DISMISSED COURT DATE-04/10/2000 ATN-
MCCRAW, MICHAEL WILLIAM SC0320000 LEXINGTON CNTY SO ATN- WARR-36185BD	12/21/1999
CIT-16-25-20-MISDEMEANOR DOC-R84 WARR-36185BD	ARREST CHARGE 01-CRIMINAL DOMESTIC VIOLENCE OFFENSE DATE-12/21/1999 PHOTOGRAPH AVAILABLE COURT CHARGE 01-CRIMINAL DOMESTIC VIOLENCE 1ST OFFENSE COURT DISP-NON-CONVICTION; NOT GUILTY COURT DATE-12/21/1999 ATN-
MCCRAW, MICHAEL WILLIAM SC0320000 LEXINGTON CNTY SO CASE-0067953 ATN- WARR-G222133	10/29/2000
DOC-R84 WARR-G222133	ARREST CHARGE 01-CRIMINAL DOMESTIC VIOLENCE PHOTOGRAPH AVAILABLE COURT CHARGE 01-CRIMINAL DOMESTIC VIOLENCE 1ST OFFENSE COURT DISP-NON-CONVICTION; NOLLE PROSSED COURT DATE-05/11/2001 ATN-
MCCRAW, MICHAEL WILLIAM SC0320000 LEXINGTON CNTY SO	12/11/2000

CASE-0078668
ATN-
WARR-69855BN

CIT-56-1-365-MISDEMEANOR
DOC-R84 WARR-69855BN

ARREST CHARGE 01-POSSESSION
OF SUSPENDED DRIVERS LICEN
SE

COURT CHARGE 01-FAIL TO SURRE
NDER DRIVERS LIC WHEN
REQUIRED
COURT DISP-CONVICTED;\$200
FINE
COURT DATE-01/18/2001
ATN-

MCCRAW, MICHEAL
SC0320000 LEXINGTON CNTY SO
ATN-
WARR-G815840
CIT-34-11-60-MISDEMEANOR

10/30/2001

WARR-G815841
CIT-34-11-60-MISDEMEANOR

ARREST CHARGE 01-FRAUDULENT
CHECK UNDER \$500 - 1ST
PHOTOGRAPH AVAILABLE

WARR-G816202
CIT-34-11-60-MISDEMEANOR

ARREST CHARGE 02-FRAUDULENT
CHECK UNDER \$500 - 1ST

WARR-G816203
CIT-34-11-60-MISDEMEANOR

ARREST CHARGE 03-FRAUDULENT
CHECK UNDER \$500 - 1ST

WARR-G225797
CIT-34-11-60-MISDEMEANOR

ARREST CHARGE 04-FRAUDULENT
CHECK UNDER \$500 - 1ST

WARR-G798196
CIT-34-11-60-MISDEMEANOR

ARREST CHARGE 05-FRAUDULENT
CHECK UNDER \$500 - 1ST

ARREST CHARGE 06-FRAUDULENT
CHECK UNDER \$500 - 1ST

MCCRAW, MICHAEL WILLIAM
SC0320000 LEXINGTON CNTY SO
ATN-
WARR-H129284
CIT-44-53-375(B) (1)-FELONY

01/02/2004

CIT-44-53-370(D) (1)-MISDEMEANOR
DOC-04GS3201732 WARR-H129284

ARREST CHARGE 01-MANUF, DISTRI
B, ETC, ICE/CRANK/CRACK
COCAINE-1ST
PHOTOGRAPH AVAILABLE

COURT CHARGE 01-POSS SCHED
I(B)(C) LSD/SCHED II 1ST
COURT DISP-CONVICTED; 2 YRS
UPON 90 DAYS TIME SERVED
BAL SUSP UPON 2 YRS PROB
CTS
COURT DATE-09/12/2005
ATN-

MCCRAW, MICHAEL WILLIAM
SC0320000 LEXINGTON CNTY SO
CASE-NA
ATN-990000035367
WARR-I201445
CIT-44-53-375(B) (1)-FELONY

03/04/2005

WARR-63001DB
CIT-61-9-87-MISDEMEANOR

ARREST CHARGE 01-MANUF, DISTRI
B, ETC, ICE/CRANK/CRACK
COCAINE-1ST
OFFENSE DATE-03/04/2005

CIT-44-53-375(B) (1)-FELONY

ARREST CHARGE 02-OPEN CONTAIN
ER OF BEER/WINE
OFFENSE DATE-03/04/2005

11/7/2012 Page 98 of 105

DOC-00GS32 WARR-I201445

COURT CHARGE 01-MANUF, DISTRIB
 , ETC, ICE/CRANK/CRACK COCAI
 NE-1ST
 COURT DISP-NON-CONVICTION;
 NOLLE PROSSED
 COURT DATE-09/12/2005
 ATN-990000035367

MCCRAW, MICHAEL WILLIAM
 SC0320500 WEST COLUMBIA PD
 CASE-NA
 ATN-990000245796
 WARR-J030870
 CIT-44-53-375 (C) (2) -FELONY

09/25/2006

CIT-44-53-375 (B) (1) -FELONY
 DOC-07GS3200541 WARR-J030870

ARREST CHARGE 01-TRAFF ICE, CR
 ANK, CRACK COCAINE>28G
 BUT<100G-1ST
 OFFENSE DATE-09/25/2006
 PHOTOGRAPH AVAILABLE

COURT CHARGE 01-DRUGS/MAN, DIS
 T, ETC OF COCAINE BASE 1ST
 COURT DISP-CONVICTED; 90 days
 no credit for timeserved
 vacate bw
 COURT DATE-02/13/2008
 ATN-990000245796

BASED ON SEARCH OF SCLD CJIS CCH FILE USING FBI/699933JA1
 REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLD CJIS RECORD INDICATES SUBJECT HAS OUT OF STATE ARREST INFORMATION
 REQUEST FORWARDED TO NCIC FOR OUT-OF-STATE INFORMATION
 INFORMATION FROM OTHER STATES TO FOLLOW THRU NLETS VIA YOUR TERMINAL

INQUIRY WILL BE FORWARDED TO: NCIC WANTED PERSONS

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING FIREARM OR AMMUNITION
 PURSUANT TO FEDERAL GUN CONTROL ACT OF 1968

INFORMATION SUBMITTED TO SLED CCH INDICATES THIS INDIVIDUAL HAS BEEN
 CONVICTED OF A FELONY ACCORDING TO THE SOUTH CAROLINA CODE OF LAWS.
 THEREFORE, THIS PERSON IS INELIGIBLE TO SHIP, TRANSPORT, OR RECEIVE ANY
 FIREARM OR AMMUNITION AFFECTED BY INTERSTATE OR FOREIGN COMMERCE, AS
 DEFINED BY THE GUN CONTROL ACT OF 1968 (18 USC 922(G)).

** S C CJIS END OF RECORD **

DATE: 12-03-2010 05:10:46 AM Type: Recv

SUBJECT: ACK From SWITCH
 Message:
 Reference: UNKNOWN
 Msg Key : ACK
 Date/Time: 20101203051526
 Source : SWITCH

UNKNOWN SWITCH ACK 20101203051526.
 SALS0002-00107157 20101203 05:15:26 [02A501A295] ACK

DATE: 12-03-2010 05:10:46 AM Type: Recv

SUBJECT: ACK From SWITCH
 Message:
 Reference: 032T000047

Reference: 032T00008B
 Mag Key : ICHR
 Date/Time: 20101203142341
 Source : SCCH

032T00008B.SCCH.ICHR.20101203142341.
 TO: SALS0002-00275271 20101203 14:23:41 003F9A36FD
 FROM: SCCH 20101203 14:23:41

ICHR REQUEST FOR RAP SHEET
 ORI-SC0410000 FBI-306837VA7 PUR-C
 ATN-HOLMES

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING
 AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS.
 BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
 SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-12/03/2010 TIME-14:25:34
 REQ ORI-SC0410000 SALUDA CNTY SO
 SID-SC00933766 FBI-306837VA7
 NAME-WARREN, TRAVIS SAMUEL SEX-M RACE-W
 HEIGHT-506 WEIGHT-125 EYES-BRO HAIR-BLN SKIN- BORN-NC
 FPC-PO600411102561021211 HENRY-10 O 1 R OII 10
 L 17 R OII

PHOTOGRAPH AVAILABLE
 PALM PRINTS AVAILABLE
 1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--01/10/1994 DATE OF LAST UPDATE--11/08/2010

ADDITIONAL IDENTIFIERS NAME	BIRTH DATES	MARKS	SCC SEC	MISC NUM
WARREN, TRAVIS S				

TAT HAND

CONTRIBUTOR/SUBJECT DOA/RCVD CHARGE/DISPOSITION/ETC

WARREN, TRAVIS SAMUEL 12/21/1993
 SC0320000 LEXINGTON CNTY SO
 CASE-9347979
 WARR-D956775

ARREST CHARGE 01-BURGLARY
 2ND DEGREE
 OFFENSE DATE-12/21/1993
 PHOTOGRAPH AVAILABLE

CIT-16-11-312 PELONY
 DOC-94GS3200662 WARR-D956775

COURT CHARGE 01-BURGLARY,
 2ND DEGREE (NON-VIOLENT)
 COURT DISP-CONVICTED;8 YRS
 SUSP 5 YRS PROB. \$250 P D
 FUND
 COURT DATE-09/19/1994

WARREN, TRAVIS SAMUEL 06/15/1994
 SC0320400 LEXINGTON POLICE DE
 WARR-02728XN

ARREST CHARGE 01-POSSESSION
 OF BEER BY MINOR
 OFFENSE DATE-06/15/1994
 PHOTOGRAPH AVAILABLE
 COURT CHARGE 01-POSSESSION
 OF BEER BY MINOR
 COURT DISP-CONVICTED;\$304 OR
 30 DAYS
 COURT DATE-03/21/1995

WARR-02728XN

WARREN, TRAVIS SAMUEL 08/24/1994
 SC0320000 LEXINGTON CNTY SO
 CASE-9432907
 WARR-D957886

ARREST CHARGE 01-PETTY LARCEN
 Y
 OFFENSE DATE-08/24/1994
 PHOTOGRAPH AVAILABLE
 COURT CHARGE 01-PETTY LARCENY
 COURT DISP-NON-CONVICTION;

WARR-D957886

11/7/2012 Page 104 of 105

DISMISSED

SC040055C R & E CENTER COLA 03/29/1995 CUSTODY STATUS-RECEIVED
CASE-226015 START DATE-03/29/1995
CIT-16-11-313 FELONY

COURT CHARGE 01-BURGLARY 3RD
DEGREE
COURT DISP-MULTIPLE CHARGE
ONE DISPOSITION; YOA 5C
CONSECUTIVE

CIT-16-17-410 FELONY

COURT CHARGE 02-CRIMINAL
CONSPIRACY
COURT DISP-MULTIPLE CHARGE
ONE DISPOSITION

WARREN, TRAVIS S 03/13/1997
SC0400000 RICHLAND CNTY SO
WARR-18500AH

ARREST CHARGE 01-SIMPLE POSSE
SSION OF MARIJUANA
OFFENSE DATE-03/13/1997
PHOTOGRAPH AVAILABLE
PALM PRINTS AVAILABLE
COURT CHARGE 01-MARIJUANA
28GM LESS OR 10GM OR LESS
COURT DISP-CONVICTED;\$376
COURT DATE-04/24/1997

WARR-18500AH

WARREN, TRAVIS SAMUEL 07/11/1997
SC0400000 RICHLAND CNTY SO
WARR-83048AJ

ARREST CHARGE 01-DISORDERLY
CONDUCT
OFFENSE DATE-07/11/1997
PHOTOGRAPH AVAILABLE

WARREN, TRAVIS SAMUEL 09/29/1999
SC0320500 WEST COLUMBIA PD
ATN-

ARREST CHARGE 01-PUBLIC DISOR
DERLY CONDUCT
OFFENSE DATE-09/29/1999
COURT CHARGE 01-PUBLIC DISORD
ERLY CONDUCT
COURT DISP-CONVICTED:TIME
SERVED
COURT DATE-10/21/1999

DOC-R84 WARR-56141BE

ATN-

WARREN, TRAVIS SAMUEL 10/27/2002
SC0320500 WEST COLUMBIA PD
ATN-
WARR-51899CB
CIT-56-5-1220-UNCLASSIFIED

ARREST CHARGE 01-HIT AND RUN
ACCIDENT WITH PROPERTY
DAMAGE
OFFENSE DATE-10/27/2002

CIT-56-5-1220-UNCLASSIFIED
DOC-03GS3202047 WARR-51899CB

COURT CHARGE 01-HIT AND RUN
ACCIDENT WITH PROPERTY
DAMAGE
COURT DISP-NON-CONVICTION;
NOLLE PROSSED
COURT DATE-06/01/2004

ATN-

WARREN, TRAVIS SAMUEL 12/14/2009
SC0320000 LEXINGTON CNTY SO
CASE-28578109
ATN-032028578109
WARR-59826EP
CIT-16-25-20 (A) -MISDEMEANOR

ARREST CHARGE 01-CRIMINAL
DOMESTIC VIOLENCE 1ST
OFFENSE
OFFENSE DATE-12/14/2009
PALM PRINTS AVAILABLE

CIT--MISDEMEANOR
WARR-59826EP

COURT CHARGE 01-CRIMINAL
DOMESTIC VIOLENCE 1ST
OFFENSE
COURT DISP-CONVICTED
COURT DATE-04/07/2010
ATN-032028578109

BASED ON SEARCH OF SCLED CJIS CCH FILE USING FBI/306837VA7
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLED CJIS RECORD INDICATES SUBJECT HAS NO OUT-OF-STATE ARREST INFORMATION
INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING HANDGUN IN
SOUTH CAROLINA

INFORMATION SUBMITTED TO SLED CCH PURSUANT TO 16-23-10 (C) AND 23-31-110
(C) OF THE SOUTH CAROLINA CODE OF LAWS INDICATES THIS INDIVIDUAL HAS BEEN
CONVICTED OF A CRIME OF VIOLENCE AND IS NOT PERMITTED TO POSSESS OR
ACQUIRE A HANDGUN.

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING FIREARM OR AMMUNITION
PURSUANT TO FEDERAL GUN CONTROL ACT OF 1968

INFORMATION SUBMITTED TO SLED CCH INDICATES THIS INDIVIDUAL HAS BEEN
CONVICTED OF A FELONY ACCORDING TO THE SOUTH CAROLINA CODE OF LAWS.
THEREFORE, THIS PERSON IS INELIGIBLE TO SHIP, TRANSPORT, OR RECEIVE ANY
FIREARM OR AMMUNITION AFFECTED BY INTERSTATE OR FOREIGN COMMERCE, AS
DEFINED BY THE GUN CONTROL ACT OF 1968 (18.U.S.C. 922(G)).

** S C CJIS END OF RECORD **

FILED

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
 COUNTY OF SALUDA) 2013 DEC 20 AM 11:04

CLERK OF COURT
 SALUDA CO. S.C.

STATE OF SOUTH CAROLINA)

VS.)

MICHAEL MCCRAW)
 TRAVIS SAMUEL WARREN)

Defendants)

ORDER
 13-GS-41-340 AND 345

These Defendants were tried together by jury and both were convicted of Manufacturing Methamphetamine on October 10, 2013. As to Defendant McCraw it was a third offense and for Defendant Warren a first offense.

DEFENDANT MICHAEL MCCRAW

As to Defendant McCraw, he was tried in his absence (TIA). Notwithstanding the fact that the record is complete with the Court's basis for trying him in his absence, it will be necessary to address some of the aspects of this TIA as the Defendant's counsel has raised this issue in his Motion for Reconsideration. Both Defendants appeared for trial on the first day. Only a jury was selected, but not sworn on this first day. At the start of the second day, Defendant McCraw was not present. The Court made its ruling to proceed forward with the trial. Around noon on the second day of trial, the Court received notification that Defendant McCraw received treatment from Lexington County Medical Center for fractured ribs. Consequently, the Court had a phone conference in chambers, with counsel and the Solicitor present, with a supervising nurse who reviewed the records and indicated that the doctor made no indication that the injury or medication would prevent the Defendant from appearing in Court. (Note: The co-Defendant told his lawyer that in fact Defendant McCraw sustained this injury the week prior to trial). Due

to the fact that no evidence was presented that the Defendant was medically unable to attend trial, the Court proceeded with trial. The jury returned a verdict of guilty and the jury was polled as to the existence of a unanimous verdict. Accordingly the Court imposed sentence under seal. Subsequently, Defendant McCraw, through his counsel provided a partial cell phone photograph of an unsigned medical document allegedly from a Dr. Wes Shuler with Lexington Medical Center.

On the day after the conviction, the Saluda County Clerk of Court received a phone call from one of the female jurors indicating she wanted to change her verdict as to both Defendants, stating she was "swayed" by the other jurors. As a courtesy to the lawyers and as information to them, the Court wrote a letter advising them of this phone call.

Counsel for the Defendant McCraw filed a Motion for New Trial on two grounds:

1. Based upon the above juror information;
2. Based upon the partial photograph of the unsigned medical document

On December 2, 2013, the verdict was unsealed by The Honorable Thomas Russo and sentence was imposed on Defendant McCraw for a period of thirty (30) years incarceration in the South Carolina Department of Corrections.

Subsequently, counsel for the Defendant filed a Motion to Reconsider Sentence on December 3, 2013 along with an Affidavit (with attachments) in support of the previously filed Motion for a New Trial. A later Affidavit/Memorandum was filed in support of the Motion to Reconsider Sentence.

The Court has carefully considered the arguments of counsel, however, the Court will not grant relief requested pursuant to the Motion for New Trial nor the Motion for Reconsideration of the Sentence based upon the following:

#2
TSA

1. As to the juror issue, there has been no evidence presented to indicate any juror misconduct or jury tampering to justify any relief. Counsel's Affidavit supports this. The Court believes that it is simply a "buyer's remorse" situation. Each juror, including this juror, was carefully questioned (by poll) as to the guilty verdict and there was no indication of anything improper in the jury room during deliberations.
2. As to the alleged medical excuse, counsel for the Defendant provided to the Court simply what the Defendant provided him, via text, a photograph, which is partial in nature, which purports to be an unsigned document from Lexington Medical Center excusing the Defendant on October 9, 2013 from work or school. The Court requested of counsel to provide hard copy of this document to the Court but counsel has been unable to obtain one from his client. In addition, based upon counsel's Affidavit, the Medical Center had no record of this document.
3. As to the sentence, the statute authorizes a maximum of thirty years for a third or subsequent conviction for manufacturing methamphetamine.

DEFENDANT TRAVIS SAMUEL WARREN

This Defendant received a sentence of eight years in the South Carolina Department of Corrections. Counsel for the Defendant Warren filed a Motion for New Trial and Reconsideration of Sentence based upon the fact that the subject juror indicated that she was "swayed" in her vote for conviction and that the sentence was excessive. Likewise, this Motion is denied. As to the juror issue, the same findings and ruling above apply here. As to the excessive sentence issue, the sentence of eight years is clearly less than the maximum penalty of fifteen years allowed by statute.

Both attorneys are commended for their fine efforts on behalf of their respective clients.

#3
DBW

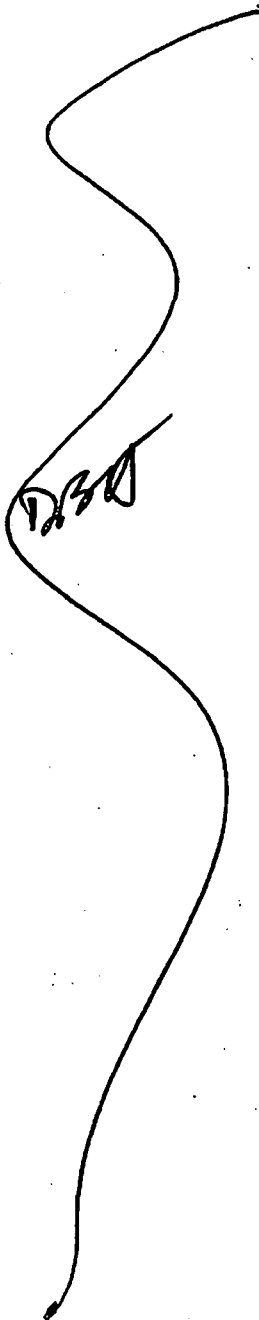
SO ORDERED.



DONALD B. HOCKER
PRESIDING JUDGE
CIRCUIT COURT, ELEVENTH JUDICIAL CIRCUIT

Laurens, South Carolina

Date: 12-18-13



#4

121
WITNESSES
PADGETT

SCSO

DOCKET NO. 2013-GS-41- 340

The State of South Carolina

County of SALUDA

COURT OF GENERAL SESSIONS

OCTOBER TERM 2013

THE STATE

vs.

MICHAEL WILLIAM MCCRAW

ARREST WARRANT NUMBER
DIRECT

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: OCT 01 2013

VERDICT

Guilty

Foreperson of Petit Jury

Date: Oct 10, 2013

CDR#3198

Indictment for

MANUFACTURING
METHAMPHETAMINE

DONALD V. MYERS, SOLICITOR

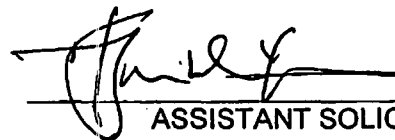
STATE OF SOUTH CAROLINA)
COUNTY OF SALUDA)

INDICTMENT FOR
MANUFACTURING
METHAMPHETAMINE

At a Court of General Sessions, convened on October 1, 2013 the Grand Jurors of Saluda County present upon their oath:

That MICHAEL WILLIAM MCCRAW, did in Saluda County on about the date December 3, 2010, unlawfully, knowingly, intentionally, willfully and manufacture or otherwise aid, abet, attempt, or conspire with Michelle Holloman Norris and/or Travis Samuel Warren, to manufacture a quantity of methamphetamine, a controlled substance under the provisions of §44-53-110, et Seq. and in violation of §44-53-375(B) 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.

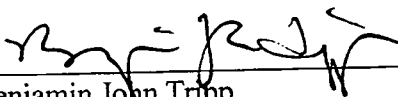


ASSISTANT SOLICITOR

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."

April 2, 2015



Benjamin John Tripp
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