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STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

SC SUPREME COURT

Appeal from Florence County
D. Craig Brown, Circuit Court Judge

SYLLVESTER D. TAYLOR

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001854

APPENDIX

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	)	COURT OF GENERAL SESSIONS
COUNTY OF FLORENCE	)	2007-GS-21-295
	)	
	)	
	)	
State of South Carolina	)	)
PLAINTIFF	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Syllester D. Taylor,	)	)
DEFENDANT	)	

April 17-20, 2007
 Florence, South Carolina

B E F O R E:

THE HONORABLE THOMAS A. RUSSO, Judge and a jury.

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

ROBERT N. WELLS, Deputy Solicitor
 Attorney for the State

VICK MEETZE, Assistant Public Defender
 Attorney for the Defendant

KESHIA REED
 Circuit Court Reporter

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
S-1	Bond Document		83
S-2	Crack Cocaine	93	128
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1 MR. WELLS: May it please the Court?

2 THE COURT: Yes, sir.

3 MR. WELLS: At this time, the State calls the trial
4 indictment 2007-295, The State vs. Syllester D'Andre
5 Taylor for possession of cocaine base with intent to
6 distribute, represented by Vick Meetze of the public
7 defender's office. We're ready to go to trial at this
8 time.

9 THE COURT: All right. Thank you, Mr. Wells.

10 MR. MEETZE: Your Honor, if I may just have a second
11 to confer with my client?

12 THE COURT: Sure.

13 (WHEREUPON, a pause in the proceedings.)

14 MR. MEETZE: Your Honor, if I may confer with
15 Mr. Wells for a moment?

16 THE COURT: Sure -- well, while y'all are doing that
17 I'm just going to just explain -- ladies and gentlemen,
18 Mr. Wells has call this case The State vs. Syllester
19 D'Andre Taylor. Mr. Taylor is presumed innocent of this
20 charge. To that charge, he has pled not guilty. And so
21 that places the burden of proof on the State of South
22 Carolina to prove his guilt. This charge that he is
23 facing is simply a charge. It's an allegation. The
24 indictment is simply a piece of paper. It is just a piece
25 of paper that contains the charge.

1 (WHEREUPON, a bench conference was held in the
2 presence of the jury panel, but out of the hearing of
3 the jury panel.)

4 THE COURT: All right. Thank you, gentlemen. As I
5 indicated, ladies and gentlemen, Mr. Taylor is presumed
6 innocent of this charge. An indictment is simply a piece
7 of paper. On that piece of paper, is the charge that he
8 is charged with. It's an allegation at this point. On
9 this indictment 07-295, Mr. Taylor has been charged with
10 the charge of possession of cocaine base or what is
11 commonly referred to as crack cocaine with intent to
12 distribute. And it simply states that in Florence County
13 on or about July the 25th of 2006, that Mr. Taylor did in
14 fact possess with intent to distribute a quantity of
15 cocaine base which is not authorized by law, that is the
16 charge against Mr. Taylor. So let me ask is there any
17 member of the jury panel who knows anything about this
18 case at all, if so please stand? Thank you. There none.
19 This case is being prosecuted by Mr. Robert Wells of the
20 Solicitor's office. Mr. Wells, if you would please stand
21 and introduce yourself, sir?

22 MR. WELLS: Thank you, ladies and gentlemen of the
23 jury, my name is Robert Wells. I'm deputy solicitor for
24 the Solicitor's office in Florence and Marion County.
25 I'll be trying this case on behalf of the State of South

1 Carolina. Thank you.

2 THE COURT: Thank you, sir.

3 Ladies and gentlemen, is there any member of the jury
4 panel related by blood, connected by marriage or have any
5 other close personal relationship or business relationship
6 with Mr. Wells, if so please stand? Thank you... There
7 none. Mr. Taylor is present in court. He's represented
8 by Mr. Vick Meetze.

9 Mr. Meetze, if you would introduce yourself and
10 Mr. Taylor.

11 MR. MEETZE: My name is Vick Meetze. I work here in
12 the Florence County public defender's office. And this is
13 my client. His name is Syllester Taylor.

14 THE COURT: Mr. Taylor, if you please stand and face
15 the jury.

16 MR. MEETZE: Syllester Taylor.

17 THE COURT: All right. Thank you, sir, you may have
18 a seat. I'm gone begin with Mr. Meetze. Is there any
19 member of the jury panel related by blood, connected by
20 marriage or who has any close, personal or business
21 relationship or who has been represented in the past by
22 Mr. Meetze, if so please stand? Thank you. There are
23 none.

24 Also with regards, Mr. Taylor is there any member of
25 the jury panel who's related by blood, connected by

1 marriage or who has any close, personal relationship with
2 Mr. Taylor if so please stand? All right. Thank you.
3 There none.

4 Ladies and gentlemen, or before I do this,
5 Mr. Meetze, Mr. Wells, may I ask you...

6 (WHEREUPON, a bench conference was held in the
7 presence of the jury panel, but out of the hearing of
8 the jury panel.)

9 THE COURT: Ladies and gentlemen, I'm gone call out a
10 list of names. Please listen carefully and as you listen,
11 this is the question that I'm gone propose very similar to
12 what you've already heard. As I go through this list of
13 names, my question is for each of these individuals would
14 be this: Is there any member jury panel who's related by
15 blood, connected by marriage, or who has any close
16 personal, business relationship with any of these names
17 that I'm going to call out. Please listen carefully if
18 that question applies to you, go ahead and stand as soon
19 as you hear a name. Now, if you hear a name and that
20 question applies and you stand please, continue to listen
21 because I have several names. And it may be that you know
22 more than one person or have a relationship with more than
23 one person on this list. These are witnesses who are
24 potential witnesses in this case. They may or may not
25 testify, but they are potential witnesses. Toby Bellamy

1 ---

2 MR. WELLS: He's the one officer in the courtroom.

3 THE COURT: All right. And if the witnesses are
4 present, just stand face the jury and then you may have a
5 seat. Darren Yarborough, Hartwell Bryant, Kim Cockfield,
6 and Elizabeth Wiggins-Mitchell. All right.

7 Sir, your name?

8 PROSPECTIVE JUROR: James Hutchinson.

9 THE COURT: Mr. Hutchinson, who on that list do you
10 know or are related to?

11 MR. HUTCHINSON: I know Toby Bellamy.

12 THE COURT: All right. Now, your relationship with
13 Officer Bellamy -- are you related to him or you just know
14 him?

15 MR. HUTCHINSON: I went to high school with him and
16 that's been many years ago.

17 THE COURT: All right. Let me ask you this, sir, the
18 fact that you know Officer Bellamy in that way would that
19 in any way affect your ability to be fair and impartial in
20 the trial of this case?

21 MR. HUTCHINSON: No, sir.

22 THE COURT: All right. Thank you very much. You may
23 have a seat.

24 MR. MEETZE: Your Honor, can I have his number?

25 THE COURT: Oh, I'm sorry. Mr. Hutchinson is juror

1 number 67.

2 All right. Is there any member of the jury panel who
3 is employed by any city, county, state or federal law
4 enforcement agency either presently or in the past, if so
5 please stand? Yes, sir, your Name?

6 PROSPECTIVE JUROR: Frederick Cameron.

7 THE COURT: All right, Mr. Cameron, juror number 24.
8 And what agency was that, sir?

9 MR. CAMERON: Corrections in Florence County
10 detention center.

11 THE COURT: All right. And how long ago was that?

12 MR. CAMERON: 2004.

13 THE COURT: Okay, sir. Mr. Cameron, the fact that
14 you had that experience would that in anyway affect your
15 ability to be fair and impartial during the trial of the
16 case?

17 MR. CAMERON: No, sir.

18 THE COURT: Thank you, sir. You may have a seat.
19 Anyone else?

20 Is there any member of the jury panel related by
21 blood, connected by marriage or who is a close personal
22 friend of someone who is employed in law enforcement
23 either at this time or in the past, if so please stand?
24 Thank you. There none.

25 PROSPECTIVE JUROR: Excuse me could you repeat that

1 again?

2 THE COURT: Is there any member who is related by
3 blood, connected by marriage or who is a close personal
4 friend to someone who is involved in law enforcement?

5 Your name, ma'am?

6 PROSPECTIVE JUROR: My name is Patsy H. Stuckey...

7 THE COURT: Juror Number 135. All right,
8 Ms. Stuckey, now let me ask you this are you related by
9 blood or by marriage or are you a friend of someone in law
10 enforcement?

11 MS. STUCKEY: I'm related.

12 THE COURT: All right. And is that someone who's in
13 local law enforcement here?

14 MS. STUCKEY: In Darlington County.

15 THE COURT: In Darlington County. Ma'am, the fact
16 that you have a relative that is involved in law
17 enforcement in Darlington County, would that in anyway
18 affect your ability to be a fair and impartial juror in
19 the trial of this case?

20 MS. STUCKEY: No, it wouldn't.

21 THE COURT: Thank you very much, ma'am. And upfront
22 here.

23 PROSPECTIVE JUROR: James Flynn.

24 THE COURT: Juror number 48. All right, Mr. Flynn,
25 is it a relationship by ---

1 MR. FLYNN: Marriage.

2 THE COURT: Is it someone in local law enforcement?

3 MR. FLYNN: Williamsburg County.

4 THE COURT: In Williamsburg County. The fact that
5 you have a relation to someone in Williamsburg County
6 who's in law enforcement would that in anyway affect
7 your ability?

8 MR. FLYNN: No, sir, not at all.

9 THE COURT: Thank you very much, sir. You may have a
10 seat. Let me start on this side. Yes, ma'am.

11 PROSPECTIVE JUROR: Barbara Cain juror 23.

12 THE COURT: All right. Ms. Cane, is it you know them
13 or you related?

14 MS. CAIN: Related.

15 THE COURT: All right. Is it someone in local law
16 enforcement?

17 MS. CAIN: Columbia.

18 THE COURT: The fact that you have a relative in
19 Columbia in law enforcement would that affect your ability
20 to be a fair and impartial juror in the trial of this
21 case, ma'am?

22 MS. CAIN: No, sir.

23 THE COURT: Thank you very much. You may have a
24 seat.

25 Yes, ma'am, your name?

1 PROSPECTIVE JUROR: Melanie Pierce Greer juror number
2 120.

3 THE COURT: All right, juror number 120.

4 MS. GREER: Related and unrelated from Florence,
5 Darlington, Williamsburg County, Columbia. We just get
6 around.

7 THE COURT: Well, let me ask you this, the fact that
8 your family is very extensively involved in that line of
9 work, would that in anyway affect your ability to be a
10 fair and impartial juror in the trial of this case?

11 MS. GREER: No, sir.

12 THE COURT: Thank you very much, ma'am. You may have
13 a seat. No, it was 120 -- no, sorry 110. Juror number
14 110 that's right.

15 All right. Any member of the jury panel related by
16 blood, connected by marriage or who is a close personal
17 friend of anyone who is employed by any city, county or
18 state or federal prosecutor's office if so please stand?
19 Thank you. There are none.

20 Is there any member of the jury panel who has worked
21 as a volunteer for any law enforcement agency or
22 prosecutor's office if so please stand? Yes, ma'am, your
23 name?

24 PROSPECTIVE JUROR: Priscilla McInville.

25 THE COURT: All right. Juror number 93. And, ma'am,

1 is it law enforcement agency or a prosecutor's office?

2 MS. MCINVILLE: No, it's law enforcement prison
3 ministry in Darlington, Florence and Marion.

4 THE COURT: All right. And I'm very familiar with
5 that. The prison ministries that you're involved in the
6 fact that you have that involvement, would that in anyway
7 affect your ability to be a fair and impartial juror in
8 the trial of this case?

9 MS. MCINVILLE: No, sir.

10 THE COURT: Thank you very much, ma'am.

11 Is there any member of the jury panel or does any
12 member of the jury panel contribute money to any
13 organizations such as mothers against drunk driving,
14 students against drunk driving, citizens against violent
15 -- violence everywhere or any of these organizations which
16 lobby on behalf of victim's rights, if so please stand?
17 Thank you. There none.

18 Is there any member of the jury panel who contributes
19 money or has contributed money to the -- such law
20 enforcement organizations such as the paternal order of
21 police, South Carolina law enforcement officer's
22 association or the South Carolina trooper's association,
23 if so please stand? All right. Let me start right here.
24 And if you know your juror number if you know it, you give
25 it to me when you give me your name please.

1 PROSPECTIVE JUROR: Frank Love number 87.

2 THE COURT: All right.

3 MR. LOVE: Made donations to the sheriff's department
4 paternal order of police and I periodically call.

5 THE COURT: All right. Would that in anyway, sir,
6 affect your ability to be fair and impartial in the trial
7 of this case?

8 MR. LOVE: No, sir.

9 THE COURT: Thank you, sir.

10 Yes, sir, your name?

11 PROSPECTIVE JUROR: David Burr number 21.

12 THE COURT: All right, Mr. Burr.

13 MR. BURR: I contribute to the highway patrol, and
14 the county and all that.

15 THE COURT: All right. Would that in anyway affect
16 your ability, sir, to be fair and impartial?

17 MR. BURR: No, sir.

18 THE COURT: All right. Thank you, sir, you may have
19 a seat.

20 All right, and, Mr. Flynn.

21 MR. FLYNN: Forty-eight. I think all of them one
22 time or another.

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

25 MR. FLYNN: No, sir.

1 THE COURT: Your name, sir?

2 PROSPECTIVE JUROR: Terrance Furst 52 and it want
3 affect my judgment.

4 THE COURT: All right. And you contributed to
5 various organizations such as that?

6 MR. FURST: Most of those that you said.

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

8 And we're back with Ms. McInville.

9 MS. MCINVILLE: Priscilla McInville and I don't know
10 my number. And it want affect mine.

11 THE COURT: Thank you very much, ma'am.
12 Mr. Hutchinson.

13 MR. HUTCHINSON: Number 67. The Highway Trooper's
14 Association.

15 THE COURT: Would that in anyway affect your ability,
16 sir?

17 MR. HUTCHINSON: No, sir.

18 THE COURT: All right. Thank you very much.
19 Yes, ma'am.

20 PROSPECTIVE JUROR: My name is Katie Ard. I
21 contribute to the South Carolina State Trooper's
22 Association.

23 THE COURT: All right, juror number 6. Ms. Ard,
24 would that in anyway affect your ability, ma'am, to be
25 fair and impartial?

1 MS. ARD: No, sir.

2 THE COURT: Thank you very much. You may have a
3 seat.

4 On this end, yes, sir, in the brown coat.

5 PROSPECTIVE JUROR: Mark Anthony juror number 3.

6 THE COURT: All right, Mr. Anthony.

7 MR. ANTHONY: To the police.

8 THE COURT: Would that in anyway, sir, affect your
9 ability to be fair and impartial during the trial of this
10 case?

11 MR. ANTHONY: No, sir.

12 THE COURT: Thank you, sir. You may have a seat.
13 Yes, sir.

14 PROSPECTIVE JUROR: Marshall Parker juror 109.

15 THE COURT: All right, sir.

16 MR. PARKER: Highway patrol and it would not affect
17 my judgment.

18 THE COURT: Thank you, Mr. Parker.

19 PROSPECTIVE JUROR: Renee Kennedy. I think juror
20 number 79. Paternal order of police and state troopers.

21 THE COURT: All right, Ms. Kennedy, would that in
22 anyway affect your ability to be fair and impartial during
23 the trial of this case?

24 MS. KENNEDY: No, sir.

25 THE COURT: Thank you very much.

1 Yes, ma'am.

2 PROSPECTIVE JUROR: Joan Zakhour 150.

3 THE COURT: Yes, ma'am.

4 MS. ZAKHOUR: Police department and highway patrol
5 and it will not affect.

6 THE COURT: Thank you very much, ma'am.

7 And, yes, ma'am.

8 PROSPECTIVE JUROR: Judy Gasque number 55 South
9 Carolina officer's association and it want affect my
10 judgment.

11 THE COURT: Thank you very much, Ms. Gasque. Anyone
12 else? All right. Ladies and gentlemen, this is sort of a
13 catch-all question. Obviously, the purpose in jury
14 selection is to make sure that those that serve on a jury
15 can be fair and impartial. They can hear the evidence,
16 present it, and that they can weigh that evidence and give
17 both the State of South Carolina and the defendant at bar
18 a fair and impartial trial. Is there any member of the
19 jury panel who knows of any reason why he or she would not
20 be able to sit as a fair and impartial juror during the
21 trial of this case and if so please stand? All right,
22 thank you. There none. Any further questions from the
23 State? Oh, got one. Yes, ma'am.

24 PROSPECTIVE JUROR: Well, I would rather not hear
25 this gentleman's case because ---

1 THE COURT: Let me get you to come up forward here
2 please. While you're coming up, ma'am, can I get your
3 name?

4 PROSPECTIVE JUROR: Sadie Washington number 133. The
5 reason I don't want to hear this defendant's case is
6 because of my son charge with the same crime. And I'm
7 still a little concern about his case and I rather not
8 hear it.

9 THE COURT: Okay. Well, I understand that, that's
10 fine. What I'll do is pull your name from this case.

11 MS. WASHINGTON: Okay.

12 THE COURT: All right. When you return to your seat,
13 just don't discuss that with anyone. All right. Thank
14 you very much. Juror number 143 is excused from this
15 case.

16 Now, ladies and gentlemen, let me just explain to you
17 the process that we go through very quickly. Madam clerk
18 has all your names in this little drum. She'll spin that
19 around and she'll just randomly reach in and pull a name.
20 If she calls your name, please come forward bring with you
21 if you brought anything a book, pocketbook, umbrella
22 whatever anything you might have brought with you bring
23 that with you. And if you would come up and stand right
24 here next this microphone and face the back of the
25 courtroom. At that point -- right here where Mr. Propps

1 is standing. At that time, the clerk will recognize
2 Mr. Wells on behalf of the State. And Mr. Wells will have
3 an opportunity to either say something along the lines of
4 please present the juror or something along those lines or
5 please excuse the juror. If he excuses you, you'll go
6 back and have a seat. If he says something along the
7 lines of please present the juror, then the clerk will
8 recognize Mr. Meetze on Mr. Taylor's behalf. And
9 Mr. Meetze will have an opportunity to say something along
10 the lines of either seat that juror or excuse that juror.
11 Obviously, if you're excused, you may return to your seat.
12 If he accepts and ask to seat you, you'll then come over
13 and have a seat in the jury box. We'll go through this
14 process until we have a jury selected. Okay. So having
15 said that, I'd recognize Mrs. O'Hara. And it's five and
16 five, gentlemen.

17 THE CLERK: 72 Nikki Johnson. What say the State?

18 MR. WELLS: Please present Ms. Johnson.

19 THE CLERK: What say the defendant?

20 MR. MEETZE: Please swear the juror.

21 THE CLERK: Please have a seat in the your box,
22 ma'am.

23 160 Denise Stroman. What say the State?

24 MR. WELLS: Please present Ms. Stroman.

25 THE CLERK: What say the defendant?

1 MR. MEETZE: Please swear the juror.

2 THE CLERK: Please have a seat in the jury box,
3 ma'am.

4 89 Cynthia McAllister. What say the State?

5 MR. WELLS: Please present Ms. McAllister.

6 THE CLERK: What say the defendant?

7 MR. MEETZE: Please swear the juror.

8 THE CLERK: Please have a seat in the jury box,
9 ma'am.

10 93 Priscilla McInville. What say the State?

11 MR. WELLS: Please present Ms. McInville.

12 THE CLERK: Say the defendant?

13 MR. MEETZE: Please excuse this juror.

14 THE CLERK: You been excused from this trial only,
15 ma'am.

16 85 Markeley Lee. Your Honor, he's the one that's
17 protected for.

18 THE COURT: Mr. Lee, I'm going to set you aside and
19 the reason is you need protection for tomorrow afternoon;
20 isn't that correct?

21 MR. LEE: Five O'clock, yes, sir.

22 THE COURT: Oh, okay, it's five o'clock. That's
23 right. Okay.

24 THE CLERK: Say the State?

25 MR. WELLS: Please excuse Mr. Lee from this trial

1 only, sir.

2 THE CLERK: You been excused for this trial only,
3 sir.

4 45 Eddie Faison. What say the State?

5 MR. WELLS: Please excuse Mr. Faison from this trial.

6 THE CLERK: You been excused from this trial only,
7 sir.

8 91 Raleigh McDaniel. What say the State?

9 MR. WELLS: Please present Mr. McDaniel.

10 THE CLERK: What say the defendant?

11 MR. MEETZE: Please swear the juror.

12 THE CLERK: Please have a seat in the jury box, sir.

13 6 Katie Ard. What say the State?

14 MR. WELLS: Please present Ms. Ard.

15 THE CLERK: Say the defendant?

16 MR. MEETZE: Please excuse this juror.

17 THE CLERK: You been excused from this trial only.

18 3 Mark Anthony. What say the State?

19 MR. WELLS: Please present Mr. Anthony.

20 THE CLERK: What say the defendant?

21 MR. MEETZE: Please swear the juror.

22 THE CLERK: Please have a seat in the jury box, sir.

23 58 James Green. What say the State?

24 MR. WELLS: Please excuse Mr. Green from this trial.

25 THE CLERK: You been excused from this trial only,

1 sir. You may return to your seat.

2 109 Marshall Parker. Say the State?

3 MR. WELLS: Please excuse Mr. Parker from this trial.

4 THE CLERK: You been excused from this trial only,

5 sir.

6 23 Barbara Cain. What say the State?

7 MR. WELLS: Please present Ms. Cain.

8 THE CLERK: What say the defendant?

9 MR. MEETZE: Please excuse this juror.

10 THE CLERK: You been excuse from this trial only,

11 ma'am.

12 151 Daniel Anderson. What say the State?

13 MR. WELLS: Please excuse Mr. Anderson from this

14 trial.

15 THE CLERK: You been excused from this trial only,

16 sir.

17 66 Robert Hudson. Does the State wish to challenge

18 this juror for cause?

19 MR. WELLS: Please present Mr. Hudson.

20 THE CLERK: What say defendant?

21 MR. MEETZE: Please swear the juror.

22 THE CLERK: Please have a seat in the jury box

23 please, sir.

24 55 Judy Gasque. Does the State wish to challenge

25 this juror for cause?

1 MR. WELLS: Please present Ms. Gasque.

2 THE CLERK: What say the defendant?

3 MR. MEETZE: Please excuse this juror.

4 THE CLERK: You been excused for this trial only,
5 ma'am.

6 48 James Flynn. Does the State wish to challenge..
7 this juror for cause?

8 MR. WELLS: Please present Mr. Flynn.

9 THE CLERK: What say the defendant?

10 MR. MEETZE: Please excuse this juror.

11 THE CLERK: You been excused from this trial only.

12 20 James Burgess. Does the State wish to challenge
13 this juror for cause?

14 MR. WELLS: Please present Mr. Burgess.

15 THE CLERK: Does the defendant wish to challenge this
16 juror for cause?

17 MR. MEETZE: Please swear the juror.

18 THE COURT: Please have a seat in the jury box, sir.

19 52 Terrance Furst. Does the State wish to challenge
20 this juror for cause?

21 MR. WELLS: Please present Mr. Burgess.

22 THE CLERK: Does defendant wish to challenge this
23 juror for cause?

24 MR. MEETZE: Please swear the juror.

25 THE CLERK: Please have a seat in the jury box, sir..

1 24 Frederick Cameron. Does the State wish to
2 challenge this juror for cause?

3 MR. WELLS: Please present Mr. Cameron.

4 THE CLERK: Does the defendant wish to challenge this
5 juror for cause?

6 MR. MEETZE: Please swear the juror.

7 THE CLERK: Please have a seat in the jury box, sir.

8 110 Melanie Greer Pierce. Does the State wish to
9 challenge this juror for cause?

10 MR. WELLS: Please present Ms. Pierce.

11 THE CLERK: Does the defendant wish to challenge this
12 juror for cause?

13 MR. MEETZE: Please swear the juror.

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

15 68 James Jackson. Does the State wish to challenge
16 this juror for cause?

17 MR. WELLS: Please present Mr. Jackson.

18 THE CLERK: Does the defendant wish to challenge this
19 juror for cause?

20 MR. MEETZE: Please swear the juror.

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

22 5 Matthew Ard. Does the State wish to challenge this
23 juror for cause?

24 MR. WELLS: Please present Mr. Ard.

25 THE CLERK: Does the defendant wish to challenge this

1 juror for cause?

2 MR. WELLS: Please swear the juror.

3 THE CLERK: Please have a seat in the jury box, sir.

4 THE COURT: All right.

5 MR. WELLS: One alternate.

6 THE COURT: You need one alternate?

7 MR. WELLS: Probably get one alternate.

8 THE COURT: Do one alternate.

9 THE CLERK: 153 Kimberly Foster. What say the State?

10 MR. WELLS: Please present Ms. Foster.

11 THE CLERK: What say the defendant?

12 MR. MEETZE: Please swear the juror.

13 THE CLERK: Have a seat in the jury box.

14 THE COURT: All right. Ladies and gentlemen of this
15 jury, I'm going to ask you at this time just a moment to
16 step back into your jury room. Mr. Propps will show you
17 where to go and get y'all situated. Now, what's important
18 and what makes you good jurors is you don't know anything
19 about this case other than what I shared with you. You
20 have to base your decisions once all the evidence is in
21 and you've heard the law in the case. And until that
22 time, it's improper to have any discussions about the
23 case. So as you go back into your jury room get
24 comfortable, introduce yourselves to each other, but
25 please have no discussions about this case. That should

1 be pretty easy since you don't know anything about it.
2 But just refrain from having any conversation about the
3 case and I will bring you back out shortly.

4 (WHEREUPON, the jury retired to the jury room.)

5 At this time, the State have any motions regarding
6 jury selection?

7 MR. WELLS: No, Your Honor.

8 THE COURT: Defense have any motions regarding jury
9 selection?

10 MR. MEETZE: No, sir, Your Honor.

11 THE COURT: All right. Ladies and gentlemen, may I
12 ask you to bare with me for one moment. I'm gone step
13 back and get the lay of the land and see if there's
14 anything else we need you for today. If not, I'll excuse
15 you. If we do have another case, then we'll pull another
16 jury, but let me just find out about that, so please just
17 remain at ease for a moment.

18 (WHEREUPON, a break was taken.)

19 THE COURT: Mr. Wells and Meetze, if you will step up
20 here please.

21 (WHEREUPON, a bench conference was held in the
22 presence of the jury panel, but out of the hearing of
23 the jury panel.)

24 THE COURT: All right. This trial that we just
25 pulled a jury on would not start before tomorrow morning

1 or sometime tomorrow. Those that associated with this
2 trial, y'all are excused until the morning.

3 (WHEREUPON, the proceedings concluded on April 17,
4 2007 to be reconvened on May 18, 2007.)

5 MR. WELLS: On indictment number 2007-295, The State
6 vs. Syllester D'Andre Taylor. We picked a jury on his
7 case yesterday. They were to call back between 10 and
8 10:30. The defendant had signed up to plead guilty
9 yesterday to what I offered, but he's not shown up today,
10 which I had a feeling might happen the way he was
11 waffling. What I would propose to do is this, the jury be
12 told to be back at 2:30. We have a hearing about 12
13 o'clock. I got two of the officers here. I can get the
14 others here by 12 o'clock. Then give Mr. White a chance
15 to try to find him. If not, we'll try him in his absence.
16 Of course, then it will be a third he'll be tried for.

17 THE COURT: All right.

18 MR. WELLS: And, of course, we'll move for a bench
19 warrant too obviously, but I'll give Mr. White a chance to
20 try to find him. First, I'd move for a bench warrant on
21 him since he's not shown back up.

22 THE COURT: All right. Well, Mr. Meetze, have you
23 heard from him?

24 MR. MEETZE: I have not, not this morning, Your
25 Honor.

1 THE COURT: Mr. White, you know anything -- have you
2 heard from him?

3 MR. WHITE: I have not heard from him, but I can
4 certainly give it an effort.

5 THE COURT: Sure, whatever y'all want to do. I just
6 wanted to -- Mr. Wells, has requested a bench warrant. If
7 no ones heard from him, I'm certainly going to grant that
8 request. All right, well, I'm going to grant the request
9 for a bench warrant. We'll put -- now, if y'all hear from
10 him or if he shows up before ten o'clock and we are able
11 to go forward, let me know. But, Mrs. O'Hara, at this
12 point, on the ten o'clock message we need that panel to be
13 up here on the 11th floor ready to go at 2:30. And so,
14 Mr. Wells ---

15 MR. WELLS: We got some major pleas I want to do this
16 morning.

17 THE COURT: Sure.

18 MR. WELLS: If we could just say, he made some motion
19 we could try to do them maybe around 12 o'clock. Would
20 that be all right?

21 MR. MEETZE: That's fine.

22 THE COURT: Okay, that will work.

23 (WHEREUPON, court in recess.)

24 THE COURT: We're going to go on record now for the
25 purpose of the record this is -- the indictment number.

1 MR. WELLS: This would be 2007-295 The State vs.
2 Syllester D'Andre Taylor. We had picked a jury in the
3 case yesterday. The defendant did not come back today.
4 I'm assuming from this point on we go ahead and try him
5 like he's a trial in the absence from this point on where
6 I put in -- can be tried in his absence and have Mr. Ellis
7 after lunch call his name three times and make sure that
8 he doesn't answer and put Mr. Ellis up if he doesn't
9 answer.

10 THE COURT: But for the record his attorney Vick
11 Meetze is present.

12 MR. WELLS: Correct. And he had wanted to make some
13 motions.

14 THE COURT: And at this time, I recognize Mr. Meetze
15 for his motions.

16 MR. MEETZE: Thank you, Your Honor. Your Honor, with
17 regard to the defense's motion pretrial in this, the first
18 one would be a motion to determine the date as complied
19 with all of the requirements of Rule 5 and Brady. And I
20 spoke with Mr. Wells about that and I don't have any
21 reason to believe that he hasn't. He's indicated that
22 there wasn't any 911 tape or anything like that, that the
23 only incident report was basically a half a page narrative
24 ---

25 THE COURT: And you received that?

1 MR. MEETZE: Yes, sir, and I have received that.
2 Also receive the drug report and just basically if there
3 were any other supplemental report that included narrative
4 or anything like if I was missing was my concern. And he
5 informed that he has, but I'm satisfied with regard to
6 that motion, Your Honor.

7 THE COURT: All right.

8 MR. MEETZE: Number two will be a motion to determine
9 prior record of the defendant, the State would intend to
10 introduce should he choose to show up and choose to
11 testify at that point.

12 THE COURT: All right. Have you shared that with
13 Mr. Meetze, Mr. Wells?

14 MR. WELLS: Your Honor, I think I give him copies of
15 prior criminal record; is that the case?

16 MR. MEETZE: You have.

17 MR. WELLS: I think right now seeing that the
18 defendant has not shown up, it would be a little bit
19 premature. However, what I would plan to do on these drug
20 offenses if he were to testify, I would, of course, simply
21 ask him on that date he was convicted of a crime which
22 carries a maximum penalty of one year or greater or more
23 than one year without going further.

24 THE COURT: Mr. Meetze, what's your position on that?
25 I think that would be appropriate.

1 MR. MEETZE: I think that would be appropriate as
2 well. I would question which drug offenses he would
3 intend to do that. And again, this may all be mute. I
4 agree with that.

5 THE COURT: I guess all of them that carry more than
6 a year.

7 MR. MEETZE: Well, but they would have to be --
8 there's one possession of crack charge that was a
9 conviction that looks like in 1995 or at least it looks
10 like he was sent to jail in 1995. He would have had to
11 have been released within the last ten years and I don't
12 know -- that's probably a question mark, that would be the
13 only one that I would have concerns with whether it was
14 valid. The other drug charges after the incident '98, I
15 agree would be appropriate to use for impeachment.

16 MR. WELLS: I would probably than not take -- I
17 probably just not go into that one if he should show up
18 and want to testify.

19 THE COURT: All right.

20 MR. MEETZE: Thank you, Your Honor. Again, defense
21 doesn't dispute the other charges and the State right use
22 those for impeachment purposes. I would ask at this time
23 also for a motion -- a motion for a list of his witnesses.
24 There was -- Your Honor, called those out yesterday and I
25 wrote them down, but I didn't get all of them.

1 THE COURT: Here you go. You welcome to either copy
2 that or take that.

3 MR. MEETZE: Thank you, so much. Your Honor, make a
4 motion at this time and again, I don't have any
5 information, but we make a motion to determine the
6 existence or admissibility of any prior bad acts,
7 testimony pursuant to Lyle that the State would intend to
8 introduce in their case.

9 THE COURT: Is there anything, Mr. Wells?

10 MR. MEETZE: No, Your Honor.

11 THE COURT: All right.

12 MR. MEETZE: I would also make a motion to sequester
13 the witnesses for the State and defense all of my
14 witnesses, but...

15 THE COURT: You mean your one that didn't show up.

16 MR. MEETZE: The one that I didn't show up.

17 THE COURT: All right. Well, he's sequestered.

18 Mr. Wells.

19 MR. WELLS: Your Honor, of course, probably I'm --
20 there were three people that came to the scene one which
21 is not one of the primary ones may not be called because I
22 think he's gone out of town. I'm not sure the need. We
23 can sequester, but I'm not sure the need of it. It's
24 going to be two witnesses at the scene to testify.
25 There's going to be one person testifying on the chain and

1 the chemist testify tomorrow.

2 THE COURT: So, I guess, fact witnesses you only have
3 two?

4 MR. WELLS: Probably two.

5 MR. MEETZE: One of those would be allowed to stay in
6 anyway depending on what order you called them in.

7 THE COURT: Well, you certainly would be allowed to
8 have your chief investigator or your chief law enforcement
9 officer for this particular case present. And so I guess
10 you want the other fact officer to be outside?

11 MR. MEETZE: Yes, sir, Your Honor.

12 THE COURT: All right.

13 MR. MEETZE: We'll do that when the time comes we'll
14 do that. I don't know if there any non-law enforcement
15 witnesses the State would intend to call if there is the
16 ---

17 THE COURT: My indication is there are none.

18 MR. WELLS: No, Your Honor, there none.

19 MR. MEETZE: So that would take care number six.
20 Number seven, Your Honor, we make a motion to determine
21 the existence of admissibility of any statements the
22 defendant may have made that the State would intend to
23 introduce pursuant to Jackson vs. Denno.

24 THE COURT: Any statements, Mr. Wells?

25 MR. WELLS: No, Your Honor.

1 MR. MEETZE: All right. Then that would bring us to
2 eight, Your Honor, that would be a motion to suppress the
3 drug evidence in this case due to -- based on an unlaw
4 stop that was -- the stop being based on an anonymous tip
5 as well as evidence being found during an unlawful search
6 following an unlawful arrest.

7 THE COURT: All right. Well, to that extent,
8 Mr. Wells, I will allow you to present your evidence.

9 MR. WELLS: All right. I call officer Toby Bellamy
10 to the stand.

11 THE COURT: All right. Officer Bellamy, if you
12 please come around, sir.

13 THE CLERK: If you will, sir, place your left hand on
14 the Bible and raise your right hand. Do you swear to tell
15 the truth, the whole truth, and nothing but the truth so
16 help you God?

17 MR. BELLEMY: Yes, I do.

18 THE CLERK: Please have a seat and state your full
19 name for the record?

20 MR. BELLEMY: Deputy Toby Bellamy from the Florence
21 County Sheriff's Office.

22 WHEREUPON,

23 Toby Bellamy,
24 after first having been duly sworn, testified as follows:

25 DIRECT EXAMINATION IN-CAMERA

1 BY MR. WELLS:

2 Q And, Deputy Bellamy, on the night of July 25th 2006,
3 if you would relate what you did concerning a dispatch you
4 received or at least heard on that particular night
5 concerning some drug activity or possible drug activity?

6 A On the night in question, myself and other deputies
7 were in the area working the area due to other previous
8 drug related incidents going on in the area. We had an
9 anonymous call come in, dispatch in about a black male on
10 a bicycle in the area of a dirt portion of Ervin Street.

11 Q A dirt portion of Ervin Street?

12 A Ervin Street, yes, sir, in Florence County. The
13 dispatch was basically it was a black male no necessarily
14 clothing description just a black male on a bicycle at
15 that intersection of Ervin where the dirt portion of Ervin
16 meets Gilyard.

17 Q And what was the person allegedly doing?

18 A The anonymous complaint came in as he was possibly
19 selling dope.

20 Q All right. Go ahead. So as a result of that
21 dispatch with that information, what if anything, did you
22 do then?

23 A As a result of having that dispatch, myself and other
24 officers responded to the area to check the area for
25 anybody. Prior to going into the area, I did ride through

1 the area and see a subject fitting that description on a
2 bicycle in the area right on a dirt portion of Ervin
3 Street.

4 Q Was it just the one person you saw?

5 A At the time, it was just one subject on a bicycle
6 Myself and other deputies then arrange to meet at a
7 disclosed location away from where the subject was to try
8 to surprise basically maybe see exactly what was basically
9 going on. As we cross Gilyard Street to enter the dirt
10 portion of Ervin ---

11 Q So now were you still in your car?

12 A We had parked the cars and we were on foot at this
13 time.

14 Q All right. So that was you and was Officer Bryant
15 also one of the ---

16 A Officer Hartwell Bryant and Lieutenant Darren
17 Yarborough was also with us. As we cross Gilyard Street
18 onto the dirt portion of Ervin Street, we observed a black
19 male which been the defendant, Syllester Taylor.

20 Q Was that the same person you had seen earlier on the
21 bicycle?

22 A Yes.

23 Q All right. Go ahead.

24 A We observed the subject on a bicycle. He was kind of
25 straddled the bicycle holding it up and talking with

1 another subject real close. In my line of work and with
2 recent experiences, it's been any time two males are that
3 close huddled up trying to hide something. It's 90
4 percent of the time it's some sort of illegal activity
5 going on. This kind of made myself suspicious that the
6 subject was conducting a illegal drug transaction. At
7 that time, we then approached the subject. As we came
8 toward the subject, he then got on a bicycle as if he was
9 going to ride off. At that time, due to the officers
10 safety reasons not knowing if he had any weapons and the
11 fact that we had probable cause that there might have been
12 a drug activity taking place, at that time I then told
13 Mr. Syllester that he should get his hands up and then get
14 on the ground. And he then kept paddling towards me as if
15 he was not going to stop. At that time, I then asked
16 Mr. Syllester once more to get on the ground. He didn't
17 do so. I then conducted a arm-bar takedown subject off of
18 the bicycle to put him on ground, so that I could make
19 sure that he did not have any weapons on him.

20 Q So when you say arm-bar takedown, what do you mean?

21 A It's basically a maneuver taught to all officers and
22 police academy. It's at a takedown where you basically
23 stretch the subjects arm out straight and so that he has
24 him prone out on the ground to get a better assessment of
25 what he has on his person.

1 Q All right. Go ahead relate then what you did then?

2 A After having the subject down, he was explain -- I
3 explain to the subject why he was being detained. And
4 basically told him he was being right then patted down to
5 make sure he didn't have any weapons on him. By doing so,
6 the whole time he was trying to wiggle free stating that
7 he didn't do it. At that time, I then patted his right-
8 hand pocket and could feel a large budge in his pocket.
9 It was unknown at this time to this deputy if it was a
10 weapon or what. I then explain to him again that he
11 was -- the whole purpose of stopping to him start with
12 because the whole time he was asking why you stopping me.
13 Explain that to him again. Ask him what was in his
14 pocket. At that time, he started wiggling trying to break
15 free. At that time, due to the fact he did have a large
16 item in his pocket this deputy thought it might have been
17 some sort of weapon.

18 I then push the subject to the top of his pocket
19 without entering the pocket. It rolled out on the ground
20 beside him with a green tennis ball. At the time, I
21 picked the tennis ball up. As I picked it up, I squeezed
22 it. It had a slit in the top of it. And inside of the
23 tennis ball, you could actually see the bag of what was
24 believed to be crack cocaine at the time. I then
25 explained to him that he was under arrest for possession

1 of crack. At that time, he then jumped up as to try to
2 push away from this officer and run away. The subject was
3 at that time Deputy Hartwell Bryant came over when he saw
4 me struggling with the subject on the ground trying to get
5 him in handcuffs. I did get one handcuff on him before he
6 started kicking away. At that time, Deputy Bryant came
7 over. I did drive stun the subject with my taser. At
8 which time, the subject then jumped completely up off the
9 ground and tried the run. Myself and Deputy Bryant and
10 Lieutenant Yarborough then detained the subject and put
11 him in handcuffs where he was advised he was under arrest
12 for possession of crack cocaine.

13 Q All right. Let me just show you is this appear to be
14 the tennis ball and the crack cocaine that you seize from
15 him?

16 A Yes, sir, that's it. The crack was inside of the
17 tennis ball.

18 Q Inside the tennis ball in this slit?

19 A Yes, sir.

20 MR. WELLS: You want to see it?

21 THE COURT: All right.

22 MR. WELLS: Thank you. If you would answer any
23 questions Mr. Meetze has.

24 CROSS-EXAMINATION IN-CAMERA

25 BY MR. MEETZE:

1 Q Officer Bellamy, are you considered to be the lead
2 investigator in this case?

3 A No, sir.

4 Q You are not?

5 A I'm the primary officer as far as the stop.

6 Q As far as the stop. Did you prepare the paperwork in..
7 this case?

8 A The report, yes, sir.

9 Q And that would include the narrative?

10 A That would include the narrative, yes, sir it would.

11 Q Y'all were already in that area; correct?

12 A Yes, sir.

13 Q You got a dispatch based on an anonymous tip for drug
14 activity in that area?

15 A Yes, sir.

16 Q Description was given black male on a bicycle
17 essentially was the description?

18 A Yes, sir.

19 Q Now, it was there any copy of any 911 tape from that?

20 A No, sir.

21 Q Dispatch didn't know who called?

22 A No.

23 Q You had?

24 A I had no clue. All that came out is a dispatch call.

25 Q So you have no idea as to the reliability of this

1 person, their background or anything?

2 A All the calls we receive through dispatch we follow
3 up on no matter what.

4 Q I'm just talking about one call?

5 A Right.

6 Q This call, this individual that call? . . .

7 A Yes, sir.

8 Q You don't know who that person is?

9 A No, sir.

10 Q Therefore, you could not in anyway, shape or form
11 verify or vouch for that person's reliability on the
12 stand?

13 A I can vouch for my dispatcher. My dispatcher is the
14 one that gave me the call.

15 Q Well, I understand that, but the dispatcher didn't
16 know this individual either?

17 A Dispatchers don't know a lot of individuals that call
18 in.

19 Q I understand.

20 A Especially, if they call in on 911 calls.

21 Q But you agree that nobody involved in the case knew
22 who called?

23 A Yes, sir.

24 Q Okay. Now, you prepared this incident report;
25 correct?

1 A I narrate it through a dictaphone. I did not type
2 it. I did notice myself in reading the incident report
3 that there was a typo on one of the sentences.

4 Q And that typo would be?

5 A Instead of did -- where it says did cooperate, it
6 should have said didn't cooperate.

7 Q I understand. And I was gone ask you about that.
8 And we all make typographical errors. I don't deny that
9 -- dispute that one bit. Now, there's nothing in this
10 incident report ---

11 MR. MEETZE: You don't mind if I approach the
12 witness, Your Honor?

13 THE COURT: Yeah, that's fine.

14 BY MR. MEETZE:

15 Q If you would look at the incident report indicate
16 where in that incident report it says that you observed
17 the subject huddled up with another person in what
18 appeared to you to be a drug transaction?

19 A I have read the report. And, yes, I did not
20 intentionally leave it out, but I did leave that section
21 out.

22 Q You didn't intentionally put it in?

23 A I didn't intentionally put it in either.

24 Q Do you agree that there's nothing in that incident
25 report with regards to any activity you saw him in with

1 regards to huddling up or being close to any other person;
2 correct?

3 A I agree with that.

4 Q And that's pretty -- that's not like a minor thing to
5 be left out you agree with that?

6 A I agree with that, but I also agree that, you know,
7 that I was dispatch to a call with subject on a bicycle.
8 As I approached the area, a lot was going on at the time.
9 Yes, it probably should have been put in there. At the
10 time, I did put the subject was paddling away on his
11 bicycle. As far as my opinion is, if he's paddling away
12 at the sight of an officer especially when an officer
13 tells him to stop to me that's a sign of guilt.

14 Q You think that anybody that you ask to stop for any
15 reason is suppose to stop immediately?

16 A I don't think they have to stop, but if they're
17 engaged in illegal activity and an officer asked them to
18 stop to talk with them, yes, there's a problem.

19 Q But you would agree that if they're not engaged in
20 any illegal activity or you don't have any reasonable
21 suspicion of any illegal activity, then under the law they
22 wouldn't have to stop?

23 A They do not have to stop.

24 Q And when you had him on the ground, you started
25 patting him down you said for weapons?

1 A Yes, sir.

2 Q You felt an object in his pocket?

3 A Yes, sir.

4 Q You say you sort of worked that object out without
5 going into his pocket, but worked it up to where it
6 eventually came out of his pocket?

7 A Yes, sir.

8 Q You said when you felt that object, you weren't sure
9 whether or not that was a weapon or what it was?

10 A Right.

11 Q It might be -- it turn out to be a tennis ball?

12 A Right.

13 Q So you felt a tennis ball in somebody's pocket --
14 what turned out to be a tennis ball in somebody's pocket
15 and there was the question in your mind as to whether that
16 might be a weapon?

17 A Well, I didn't know it was a tennis ball in his
18 pocket to start with.

19 Q You probably knew that it exhibited some similar
20 characteristics to a tennis ball?

21 A I have no clue. Weapons come in all shapes, sizes
22 and colors now days. I know cell phone ---

23 Q You could tell it was round when you felt it?

24 A I knew it was round, but, I mean, they make cell
25 phone guns these days who knows what they make.

TOBY BELLAMY - CROSS-EXAMINATION BY MR. MEETZE

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1 MR. MEETZE: I don't have any further questions, Your
2 Honor.

3 THE COURT: All right.

4 MR. WELLS: You can come down.

5 (WHEREUPON, the witness leaves the witness stand.)

6 MR. WELLS: I call briefly Deputy Hartwell Bryant.

7 THE CLERK: Please place your left hand on the Bible
8 and raise your right hand. Do you swear the testimony
9 you're about to give in this case will be the truth, the
10 whole truth, and nothing but the truth so help you God?

11 MR. BRYANT: I do.

12 THE CLERK: Please be seated and state your name for
13 the record?

14 MR. BRYANT: My name is Richard Hartwell Bryant, III,
15 Florence County Sheriff's office.

16 WHEREUPON,

17 Richard H. Bryant, III,
18 after first having been duly sworn, testified as follows:

19 DIRECT EXAMINATION IN-CAMERA

20 BY MR. WELLS:

21 Q Deputy Bryant, let me call your attention to the
22 night of this incident on July 25th 2006, if you would
23 relate to the judge what part you played in, what you
24 observed?

25 A Deputy Bellamy called me on the radio told me to meet

1 him in a certain spot.

2 Q Where did that turn out to be?

3 A I can't remember the exact name of the housing
4 complex, but it was right off of Ervin Street and in the
5 area of Gilyard and Ervin and Howard not Howard Street,
6 but I can't remember the other street's name right
7 offhand. He informed me that there was a male subject,
8 black male subject on a bicycle on the dirt road section
9 of Ervin Street possibly involved in some criminal
10 activity going on in the area. We went through the
11 housing complex came up on the road. As we did, I
12 observed the black male subject on the bicycle who Deputy
13 Bellamy had informed me of was talking to another black
14 male subject. As they notice our presence, the other
15 black male subject begin to walk away towards a wooded
16 area. At the time, as we began getting closer, Deputy
17 Bellamy said he was going to go for the person on the
18 bike. I would go for the other person walking away. As I
19 walked up to the person, he just kind of stood there in
20 kind of disbelief that we were in the area. He -- as I
21 talk to him, ask him, pat him down for any weapons or
22 anything, he complied by throwing his hands up in the air
23 to me, that right there is automatically there pat me
24 down.

25 Q This was the second person?

1 A This is the second person not the person... I do not
2 know that person's name. At the time or after the fact
3 that he was clean and had no warrants or wants, I observed
4 Deputy Bellamy fighting with the subject that was on the
5 bicycle. At that time, I ran -- I left the subject that I
6 was with and ran over to Deputy Bellamy and helped ..
7 apprehend the subject who Deputy Bellamy was fighting
8 with.

9 Q And that was the defendant, Mr. Syllester Taylor; is
10 that correct?

11 A Can you repeat that?

12 Q That was the defendant in this case; is that right?

13 A Yes, sir.

14 MR. WELLS: Okay. All right that's all answer any
15 questions defense counsel may have.

16 CROSS-EXAMINATION IN-CAMERA

17 BY MR. MEETZE:

18 Q So you went after the second guy or pursued him in
19 whatever direction he went?

20 A Correct.

21 Q And when he got there, he allowed you to search him?

22 A He stopped and as I was talking to him got his name,
23 I didn't have -- I didn't write it down. He was not under
24 arrest. He was -- I was just doing field questioning to
25 him.

1 Q Did you search him?

2 A Huh.

3 Q Did you search him? Did you search him?

4 A I patted him down. I didn't search him. I Terry
5 frisked him for any weapons or anything that might have
6 been on him.

7 Q Didn't find any contraband on him?

8 A There was nothing to find. The subject I remember he
9 even emptied his pockets and he -- most he had on him was
10 some money.

11 Q And you saw prior to this you say you saw ---

12 A As we came around the corner ---

13 Q --- Mr. Taylor and that gentleman ---

14 A --- we saw the defendant, Mr. Taylor, and this other
15 subject huddled up pretty close together.

16 Q But you didn't see anything other than two people
17 huddled up; correct?

18 A Well, I mean ---

19 Q Sir.

20 A Sir.

21 Q I couldn't understand what you had said?

22 A It was an area of two people huddled up.

23 Q You didn't see anything any hand to hand exchange of
24 any kind anything like that?

25 A At that time, I was unsure of what was going on.

1 Q Is that, no, you didn't see any hand to hand exchange
2 of any kind?

3 A Well, just because of the area, I mean, I had...

4 Q I mean, that's not a confusing question. Did you see
5 any items of anything or any kind of hand to hand
6 exchange?

7 A I didn't see any hand to hand exchange going on, but
8 that was not saying that it didn't happen before we came
9 around the corner.

10 Q Did you see anything other than those two folks
11 talking? Two people huddled up, I guess, anything you
12 could discern other than that from what you observed?

13 A From what I observed, I saw two people huddled up
14 together.

15 MR. MEETZE: Okay. I don't have any further
16 questions, Your Honor.

17 MR. WELLS: You can come down Deputy Bryant. Thank
18 you.

19 (WHEREUPON, the witness leaves the witness stand.)

20 MR. WELLS: That would be all the State would have on
21 this particular motion.

22 THE COURT: All right. Mr. Meetze, be happy to hear
23 from you, sir.

24 MR. MEETZE: Your Honor, as you probably can gather,
25 we do not have any witnesses to testify in this motion.

1 THE COURT: All right.

2 MR. MEETZE: Would like to based on the testimony
3 here today would ask the Court to suppress the drug
4 evidence. I handed Mr. Wells some case law and I'll hand
5 the Court copies of that case law. I got two U.S. Supreme
6 Court case Florida vs. J.L. as well as State vs. Green.
7 Those two cases basically stand for anonymous tips not
8 being sufficient for a sufficient indicatio -- not being
9 sufficient indicatio of reliability for anonymous tip
10 alone to be enough for a stop. And would hand those cases
11 forward.

12 And the other case is simply is State vs. McGowan.
13 It is just a case that stands for the principle that it is
14 that somebody can resist an unlawful arrest.

15 THE COURT: Okay.

16 MR. MEETZE: And would say in this case, that's
17 exactly what happened here. There's no dispute that this
18 incident began through an anonymous tip. The incident
19 report indicates that the officers arrived. Mr. Taylor
20 began to peddle off. They asked him to stop and he did
21 not comply with those orders. And he was at that time
22 taken down by the arm bar that was testified to. He was
23 asking his questions and wiggling around and all that.
24 And the officer indicated that he found the tennis ball on
25 him which might have been a weapon and pulled it when he

1 got it out of his pocket. Then he looked inside of it and
2 saw that there was crack cocaine in there. Would submit
3 to the Court that again Mr. Taylor was well within his
4 rights to not stop on that command. They at that point in
5 time did not have any probable cause to stop him nothing
6 other than an anonymous tip. Their testimony today is an
7 added part that he was talking to somebody, but that
8 conversation again does not rise to the level of probable
9 cause to stop Mr. Taylor in this case. They did not see
10 any sort of hand to hand exchange. There was nothing
11 other than a little bit of money apparently on the other
12 person. No other contraband that was found on him.

13 Nothing other than two guys that according to the
14 testimony huddled close to one another. No other
15 testimony as to any activity did they observe going on.

16 Based on the anonymous tip and based on simply being
17 in close proximity to somebody in this area would not be
18 enough for the search. And Officer Bellamy did indicate
19 that when he took him down -- first of all for the stop,
20 so there's no reason for any kind of a Terry frisk or
21 anything like that because an anonymous tip is not
22 sufficient in that regard. Once he was down, he was
23 patted down for weapons and he felt an object in his
24 pocket. Wasn't sure what that was. And I would say that
25 he did have the right to go into his pocket. However, he

1 worded it it was a tennis ball. Says he didn't know what
2 it was and he worked his way out and saw that it was a
3 tennis ball. Continued to search that tennis ball at that
4 point in time he could tell it wasn't a weapon and ended
5 up finding what he did.

6 Again, you know, the testimony is that Mr. Taylor was
7 resisting these efforts when they had to arm bar him down,
8 take him down. And while they had him on the ground, that
9 he was continuing to resist, but I would simply say the
10 law allows somebody to resist an unlaw arrest and any
11 evidence found as a result of that arrest or result of
12 that stop would be through fruit of a poisonous tree. We
13 would ask the Court to find so in this case and therefore,
14 suppress the drug evidence that being the crack found in
15 the tennis ball as a result of an improper stop based on
16 anonymous tip and him having the right to resist an
17 unlawful arrest. Thank you.

18 THE COURT: Thank you, Mr. Meetze.

19 Mr. Wells.

20 MR. WELLS: Your Honor, I believe as understand Terry
21 you don't have to have a full probable cause. What you
22 have to do the officer -- there has to be a reasonable
23 suspicion for a Terry investigation if you already
24 stopped. It don't have to be probable cause, but there
25 has to be reasonable suspicion. I think clearly in this

1 case the officer did have a reasonable suspicion for
2 several reasons.

3 First, the anonymous tip which they checked out was
4 the location of the person a black male on a bicycle in
5 this dirt road area, which is kind of an isolated area who
6 appeared to be dealing in drugs. They go there. They
7 ride by see the fellow defendant on the bicycle. They
8 have time to go park their car, come back. He's still
9 there at that location. He obviously not riding his
10 bicycle off anywhere. He's there as they say huddled up
11 with another person who appears to be somebody some kind
12 of possible criminal activity going on. When they start
13 walking over, the other man immediately walks away towards
14 the woods. This defendant gets on his bicycle and starts
15 peddling off towards the officer like he's not going to
16 stop. The officer asked him to stop. He continues to
17 peddle several times until finally the officer has to grab
18 him was the only way to get him to stop. When he refuses,
19 he takes him down.

20 Certainly, this is not a reasonable suspicion of some
21 criminal activity is going on. I don't know what it is.
22 The officer also feels some kind of bulge in his pocket
23 when he checks for weapons. I think certainly have no
24 idea of knowing what that is officer certainly had a right
25 to check out and see what that is under the circumstances

1 which it turned out to be this tennis ball which contained
2 drugs, but certainly it's a bulge which the officer said
3 to be pretty much anything. I think clearly the officer
4 had reasonable suspicion based on the circumstances to
5 make a Terry frisk as he did on this particular night at
6 the stop. That would be the position from the State.

7 THE COURT: All right.

8 MR. MEETZE: Your Honor, if I may, the only thing I
9 would respond in Florida vs. J.L., it's actually a gun
10 case where they get an anonymous tip that there's an
11 individual standing in a particular spot wearing -- they
12 had a clothing description that he had a weapon on him.
13 And the police, you know, while they had all of that
14 information and the police got there, there was somebody
15 fitting that description there who they did approach. And
16 they did find the weapon and they charged him. And it was
17 determined that that the clothing description and all that
18 ended up panning out to be accurate was not sufficient for
19 them to approach him and to search him.

20 THE COURT: All right.

21 MR. WELLS: In this case, you have additional things
22 than what they observed when they went back to the scene.
23 Another person huddled up with him appeared to be criminal
24 activity. Then the fact that once they saw law
25 enforcement they immediately start leaving and don't

1 respond.

2 THE COURT: And I'm going to deny your motion to
3 suppress, Mr. Meetze. You're exactly right in reading of
4 the cases, but both of these cases stand for the premise
5 that an anonymous tip and just to quote the case that
6 based -- reasonable suspicion based solely on an anonymous
7 tip lacks sufficient indicatio reliability. I think if
8 the testimony was that they had an anonymous tip, they
9 went to the area, they found a person fitting that
10 description on a bicycle. They walked up to him and they
11 frisked him, I think you be dead on point and I would
12 agree with you. It's not what we have here. There is not
13 just solely anonymous tip. There is the observation of
14 the officers. According to the testimony of Officer
15 Bellamy, this is a known drug area two individuals huddled
16 up. I think there's more than just simply an anonymous
17 tip. There's the observations of the officers. And then,
18 of course, Officer Bryant substantiated the huddle so to
19 speak.

20 Now, clearly, you make a good point about the report
21 and things of that nature, but I think that goes to the
22 credibility and the weight of the evidence not existence
23 of it. It does seem to be more than simply an anonymous
24 call here. And so I think that there was based on what
25 the officers testified to there was enough reasonable

1 suspicion to stop and do an investigatory interview. With
2 regards to the search, I think it was appropriate to do
3 the search. I think your argument carries much more
4 weight if simply the only thing in his pocket would have
5 been a little baggy that certainly would not pose any
6 threat of a weapon I wouldn't believe, but that's not what
7 we had had here. We had a hard object in his pocket
8 whether it was round or felt or at least round on one end.
9 I guess when it's in someone's pocket, you can't
10 completely manipulate it around. I think the officer did
11 have the right to satisfy himself that that hard object
12 was not a weapon and in doing so found illegal drugs. And
13 so based on those factors, I'm going to deny your motions
14 to suppress. Anything further?

15 MR. MEETZE: Nothing further from the defense, Your
16 Honor, we regard to pretrial motions.

17 THE COURT: All right.

18 MR. WELLS: That's all at this time, Your Honor. Of
19 course, if they find the defendant in the next hour...

20 THE COURT: That jury is suppose to be here at 2:30,
21 so we'll -- I guess y'all have roll call at 2:15. And
22 we'll just reconvene at 2:30.

23 (WHEREUPON, court in recess.)

24 THE COURT: I guess y'all heard. I shouldn't leave
25 it at that should I? You know about the juror that we had

1 the conflict and we had to substitute the alternate.
2 Well, we've had another juror call. And said it was
3 family emergency. I told Doris, no, they need to be here.
4 I said find out what the family emergency is. I didn't
5 want someone to like die and I'm being a hard person to
6 get along with. This guy's fiance who is three or four..
7 months pregnant is having difficulties. He's had to rush
8 her to the emergency room. So having said that,
9 obviously, we can't proceed with 11.

10 MR. WELLS: Well, could we go back and just to
11 tomorrow and have the juror who --

12 THE COURT: I told Doris ---

13 MR. WELLS: --- the other juror that was going to be
14 excused because of a job interview this afternoon and just
15 start the testimony tomorrow.

16 THE COURT: Well, here's what I told Doris to tell
17 this guy to be here first thing in the morning with
18 something from the doctor showing me that that this
19 emergency was in fact valid emergency. The other guy is
20 going to be calling in after six, so we'll have a full
21 panel in the morning. It's just we can't do anything
22 about it this afternoon.

23 MR. MEETZE: Was it the other fellow this morning
24 that had the job interview was he told that he was excused
25 in this case?

1 THE COURT: He was just told to call back after six
2 tonight.

3 MR. WELLS: Cause he could -- I mean, he could be on
4 the jury tomorrow.

5 THE COURT: Sure. I mean, my whole thing is we're
6 probably back at full strength tomorrow 13 jurors.

7 MR. WELLS: Someway on the voice mail we need to have
8 something ---

9 THE COURT: What we can do is we can lead off the six
10 o'clock message. We'll call Mr. Cameron directly. I'll
11 get these people here to be here at 9:30. We all ready
12 told the emergency guy to be here at 9:30. We'll contact
13 Mr. Cameron. If we can't, we'll lead off the six o'clock
14 message with his name. Mister so and so Cameron you need
15 to be at the courthouse at 9:30 rest of you whatever that
16 message is. And it gives you the opportunity to find Mr.
17 Taylor.

18 MR. MEETZE: No question, it is nothing but a
19 fortunate break for Mr. Taylor.

20 MR. WELLS: If law enforcement can help you at all,
21 there is a bench warrant out now.

22 MR. MEETZE: I understand.

23 THE COURT: I'm assuming that they sent everybody
24 downstairs.

25 MR. WELLS: I'm assuming so. Now, I have several

1 pleas signed up one of whom is in the jail that I could
2 take up here that's a pro se once this is finished. It's
3 just a matter of coordinating.

4 THE COURT: I think we're finished and I apologize to
5 the officers. It's nothing we can do. Unfortunately in
6 civil court, the attorneys can agree to go with less than
7 12. In criminal court, you can't do that. You got to
8 have 12.

9 MR. WELLS: Well, why don't we go ahead and just
10 explain to the other jurors that there been a problem with
11 several jurors.

12 THE COURT: That's what I'm going to do. I'm going
13 to tell them to be back at 9:30. Ask the members of the
14 jury to join us please, Mr. Propps.

15 (WHEREUPON, the jurors returned to the courtroom.)

16 THE COURT: I've never been real good in math, but
17 I've always been able to at least count. And as you can
18 count, there's only 11 of you. We have had two members of
19 your panel who have had situations arise. One is actually
20 a situation that the Court -- I should have caught. But
21 one of your jurors had a prior job interview for this
22 afternoon that I was aware of and I didn't anticipate a
23 case going 'til this afternoon. I just didn't catch it.
24 The other was an emergency situation. So we are not going
25 to be able to proceed this afternoon. But both of those

1 situations would be resolved and so we can begin this case
2 in the morning.

3 I apologize to you for bringing you here and having
4 to turn you around, but it did get you another day's per
5 diem, which might get you a cup of coffee. But what I'm
6 going to have to do is I'm going to have to excuse you for
7 the day. Both of your fellow jurors will be back with us
8 in the morning. And we'll be back at full strength, then
9 we can proceed in the morning. So the same instruction
10 that I gave you yesterday with regards to not discussing
11 this case with anyone still applies and will continue to
12 comply throughout the trial until it's over. But so
13 please do not have any conversation with anyone. Do not
14 let anyone have a conversation with you. If you would
15 please be back here in your jury room at 9:30 in the
16 morning. We will be ready as they say fish or cut bait.
17 We'll crank it up at that point. So thank you very much
18 for your understanding. And we'll see you in the morning
19 at 9:30.

20 (WHEREUPON, the jury was excused.)

21 (WHEREUPON, the proceedings were concluded for the
22 day to be reconvened on April 19, 2007.)

23 THE COURT: Are you ready to proceed?

24 MR. WELLS: Your Honor, we are. Before we start
25 however, I first just put on the record I'm assuming that

1 the defendant is still not present; is that correct?

2 MR. MEETZE: Your Honor, I been periodically checking
3 on the 10th floor to see if he was down there, he is not.
4 We did get in contact yesterday with the bondsman who
5 indicated that he would give his best effort to try to
6 find him. Didn't make any promises beyond that.

7 THE COURT: Was it the overworked Mr. Tindall?

8 MR. MEETZE: No, Your Honor. But when I checked this
9 morning, he had not been brought to Effingham in the
10 meantime. So at this point in time, he is not here and
11 that we are prepared to see.

12 MR. WELLS: Therefore, we would be trying in his
13 absence. I think based on the law I want to make sure all
14 the jurors were back first. And I was gone ask Mr. Ellis
15 to go out and call the name of the defendant three times.

16 THE COURT: If you would do that please, that would
17 be wonderful.

18 (WHEREUPON, a pause in the proceedings.)

19 THE COURT: All right for the class out here, ladies
20 and gentlemen, we're ready to proceed with our trial. We
21 selected this jury a couple of days ago. But you will --
22 other than the jury selection process, you'll see the
23 entire trial because we haven't started yet and we're
24 going to begin now. This is the State of South Carolina
25 vs. Syllester Taylor. The charge is possession of crack

1 cocaine with intent to distribute, so that just gives you
2 an idea of the kind of case that we're about to try. For
3 your purposes and I'm going to inform the jury,
4 Mr. Taylor is not present. He was present for the jury
5 selection, but he has chosen not to be present for the
6 trial. No person who faces criminal offense in this
7 country is ever required to prove themselves innocent.
8 Therefore, during the course of a trial, a defendant can
9 remain silent or they can choose not to show up at all.
10 In this case, Mr. Taylor has exercised his right not to be
11 present, so we'll be going forward with the State
12 presenting their case and then if Mr. Meetze who
13 represents Mr. Taylor has anything to present, he'll have
14 an opportunity to do that.

15 MR. ELLIS: Your Honor.

16 THE COURT: Yes.

17 MR. ELLIS: I called out the name Syllester D'Andre
18 Taylor three times on the 10th floor and on the 11th floor
19 with no response.

20 THE COURT: Thank you very much, sir. All right.
21 Anything before we bring the jury out?

22 MR. WELLS: That's all, Your Honor.

23 THE COURT: The defense?

24 MR. MEETZE: No, sir, Your Honor.

25 THE COURT: Mr. Propps, if you would please, sir.

1 (WHEREUPON, the jury returned to the courtroom.)

2 THE COURT: Good morning, ladies and gentlemen. I
3 appreciate everyone's patience. As you are aware at some
4 point at the conclusion of this trial, you're going to be
5 asked to talk and deliberate and make a decision. I just
6 want you to understand that you don't need to decide
7 whether or not the judge needs a new watch. I promise you
8 my watch works fine, that clock works fine. We had some
9 matters not related to this trial that we had to take up
10 before we began. And I felt like if we did that before we
11 started, then we would have to interrupt the trial once we
12 get started. So I appreciate your patience because I know
13 you been here since 9:30. We're prepared to begin the
14 trial at this point. I would ask you if you would, ladies
15 and gentlemen, stand and give Mrs. O'Hara your attention,
16 so she can place you under your oath as jurors for this
17 trial.

18 THE CLERK: Please stand and raise your right hand.

19 (WHEREUPON, the jury was sworn.)

20 THE COURT: Thank you. Now, ladies and gentlemen,
21 before we proceed, let me -- I'm going to make some
22 preliminary remarks to you. Those remarks are not a
23 charge on the law. I will charge you on the law at the
24 conclusion of the trial. These earlier remarks are just
25 going to be to kind of help you as we proceed with the

1 case. One of the first things I'm going to share with you
2 before I go to my actual pretrial charge is to -- as I
3 told you when you were selected as jurors, that once an
4 individual pleads not guilty to an offense that places the
5 burden of proof on the State of South Carolina.

6 Now, all people who come into court are presumed
7 innocent of the charges that they are allege to have
8 committed unless or until the State proves that guilt
9 beyond a reasonable doubt. And so because of that the
10 person charged with a crime is never required to testify.
11 They can remain silent. They can exercise their
12 constitutional right to remain silent. They can actually
13 choose not to even attend the trial. They're not required
14 to do that because there's no burden on the defendant.
15 The burden rest with the State. A defendant can present
16 testimony. They can testify, but they're not required to.

17 Now, in this case, Mr. Taylor has chosen not only to
18 exercise his right to remain silent. He's chosen to
19 exercise his right to not be present. Now, what I'm
20 going to tell you is this: That as members of the jury,
21 you are not to take into consideration in determining
22 guilt or innocence and determining the facts of the case.
23 You're not to take into consideration at all the fact that
24 Mr. Taylor has chosen not to attend, that has no bearing
25 on guilt or innocence at all. And it would be improper

1 for you to even give it any consideration. Any criminal
2 defendant who comes into court and pleads not guilty is
3 not required to be present for a trial. So having said
4 that, please understand and I'll remind you of it in my
5 charge to you before you have the opportunity to
6 deliberate, that you're not to consider at all, you're not
7 even to discuss when you do get an opportunity to
8 deliberate, that Mr. Taylor has chosen not to be present,
9 that should not be a factor at all in your decision during
10 your deliberations.

11 Now, having said that, before we begin the trial,
12 what I want to tell you is that this trial will probably
13 be very different from what you may expect. Ladies and
14 gentlemen, many people do not have the chance to attend
15 actual court sessions as you are doing now. And you may
16 think that from watching television or movies or reading
17 books, that trials are always full of high drama, intense
18 action and riveting circumstances. And while those things
19 may be present or may be true at times during the course
20 of this trial, this trial is not for your in
21 entertainment. It is a fundamental part of our democracy.
22 It is the search for the truth in an effort to make sure
23 that justice is done between the parties that are before
24 the Court.

25 Now, searching for the truth and making sure that

1 justice is done is often slow, deliberate, and often times
2 repetitive. Very much opposite of what you've seen on
3 television or in the movies or have read in books. This
4 courtroom is a place of honor that is dedicated to the
5 protection and the preservation of citizens rights,
6 through what many people have called the greatest justice
7 system ever created.

8 The attorneys who appear before you are advocates for
9 the sides that they represent, but first and foremost,
10 they are officers of the Court sworn to uphold the
11 integrity and the fairness of our judicial system and to
12 help you in your search for the truth. You should expect
13 them to be professional, competent and ethical in the
14 representation of their client's interest. Remember that
15 you have just taken an oath to try this case and reach a
16 fair and a just verdict. And you are also expected to be
17 professional, reasonable and ethical in your duties. I
18 want to thank you for accepting your responsibility as
19 jurors and for your contribution to our system of justice
20 as you're doing here today.

21 Now, as I told you earlier, what I'm going to tell
22 you now is intended to serve as introduction to the trial
23 of the case. They're not -- these remarks are not a
24 charge on the law. I will charge you and instruct you on
25 the applicable law in this case at the end of the trial

1 before you retire to deliberate. This is merely an
2 explanation of the procedure that we will follow in this
3 trial so that you may better understand what may be
4 happening.

5 Mr. Taylor is charged by an indictment which was
6 filed with this court with the crime of possession of . . .
7 cocaine base, but what is commonly referred to as crack
8 cocaine with the intent distribute. The elements of which
9 will be explain to you later. The indictment, ladies and
10 gentlemen, is simply the charge by which the case is
11 brought into court and is not in any sense evidence of any
12 of the allegations that it contains. The defendant has
13 pled not guilty to this indictment. The State therefore
14 has the burden of proving each of the elements of the
15 indictment beyond a reasonable doubt.

16 It will be your duty, ladies and gentlemen, to decide
17 whether the State has met that burden. Your purpose as
18 jurors is to find and to determine the facts of this case.
19 You are the sole judge of the facts. If at any time I
20 make any comment regarding the facts, you must disregard
21 that comment. You are to determine the facts from the
22 testimony that you hear and the other evidence that may be
23 introduced during the course of the trial. It is up to
24 you to determine the inferences which you feel may
25 properly be drawn from the evidence.

1 It is especially important that you perform your duty
2 of determining the facts diligently and conscientiously
3 because ordinarily there's no way to correct an erroneous
4 determination of facts by a jury. On the other hand and
5 with equal emphasis, the same law that makes you the
6 judges of the facts makes me the judge of the law. The
7 law as given by the Court is the only law that you may
8 consider in this case. You must accept and follow it even
9 though you may disagree with it. I cannot tell you what
10 the facts are and you cannot disagree with me about what
11 the law is or what you think it should be.

12 Your job, ladies and gentlemen, is to take the law as
13 I give it to you and apply it to the facts as you find
14 them to be from the testimony of the witnesses and any
15 other evidence that is introduced. After doing that, you
16 will render your verdict a true and a just verdict under
17 the solemn oath that you just took as jurors.

18 Now, until I advise you to begin your deliberations,
19 you must not discuss this case with anyone and that even
20 includes amongst yourselves. After the case is submitted
21 to you, you must then discuss it amongst yourselves, but
22 only in the jury room with all members of the jury
23 present. The attorneys and the parties in this case have
24 been advised that they're not to talk to you at all. So
25 if you see any of them in the hall or if you see any of

1 these witnesses out in the hallway and they don't speak to
2 you, they're not being rude. They're just doing what
3 they're asked to do.

4 During the trial, please do not read, listen to or
5 watch any news reports about this case. I don't
6 anticipate that you would see any, but if you did, you
7 would need to divert your attention away from that. You
8 must not consider anything that you have read or heard
9 about this case outside of this courtroom. It is
10 important that you keep an open mind and not decide any
11 issue in this case until all of the evidence has been
12 presented. The parties have made their closing arguments
13 and that I have instructed you on the law.

14 It is your solemn responsibility to determine the
15 guilt or the innocence of the defendant and your verdict
16 must be based solely on the evidence as it is presented
17 during the course of this trial and on the law as I
18 instructed to you during the close of the trial.

19 Now, in just a moment, Mr. Wells, the Solicitor for
20 the State, will make what is called an opening statement
21 in which he will explain to you the issues in this case or
22 at least what he thinks the issues in this case are.
23 After that, the attorney for Mr. Taylor, Mr. Meetze may
24 also make an opening statement although he is not required
25 to do so. What the attorneys tell you during their

1 opening statements is not evidence, ladies and gentlemen.
2 It is only their contention as to what the issues are.
3 The evidence in this case will be presented to you by the
4 testimony of witnesses from this witness stand who are
5 sworn under oath to tell the truth and any exhibits which
6 may be introduced during the course of the trial...

7 From time to time during the trial, you may hear one
8 of the lawyers say something along these lines, Your
9 Honor, I believe we have a question of law or a matter of
10 law that we need to discuss with the Court or, Your Honor,
11 may we approach the bench. Sometimes during those times,
12 I may find it necessary to excuse you from the courtroom
13 for a short period of time while I discuss with the
14 attorneys a matter of law. The reason for this is because
15 as I told you earlier, you are the judges of the facts of
16 the case. And sometimes, when I'm discussing matters of
17 law with the lawyers, it may be necessary for me to make
18 some comment as to the facts in connection with the ruling
19 whether or not a particular law applies.

20 Now, I'm not suppose to tell you what I think the
21 facts are, so I will excuse you from the courtroom during
22 those times so that nothing that I say in connection with
23 that ruling would in anyway affect your ability to
24 determine the facts or to influence you in anyway
25 regarding the facts.

1 Now, in determining what the true facts are in this
2 case, you're going to have to decide whether or not the
3 testimony of a witness is believable. It is my
4 responsibility to rule as a matter of law as to whether
5 certain testimony is admissible at all or not. But once
6 the testimony is admitted, whether or not you believe it,
7 is solely up to you to determine. And deciding whether
8 to believe a witness, you have the right to consider the
9 interest of any witness, the bias of any witness, the
10 prejudice of any witness, the opportunity for the witness
11 to have seen the matters about which the witness
12 testifies, and the way the witness acts on the witness
13 stand.

14 You have the right, ladies and gentlemen, to consider
15 anything that is in this record that will help you to
16 evaluate the testimony of the witness. That means that it
17 is your duty to pay close attention to these witnesses, to
18 observe the witnesses, to listen to them and to pay close
19 attention to the attorneys and to the Court. Please don't
20 let your thoughts wonder, but give strict attention to the
21 testimony in this case, so that at the end of the trial
22 and the end of the testimony, after all of the arguments
23 of counsel have been done and I've charged you on the law,
24 you will then be in a position to determine what the true
25 facts are, apply the law to those facts and thus render a

1 true and a just verdict. Now, those are just preliminary
2 comments to help you as we begin the trial of this case.
3 Before we proceed, let me ask of the State are there any
4 objections or exceptions to the Court's opening comments?

5 MR. WELLS: No, Your Honor.

6 THE COURT: Anything from the defense?

7 MR. MEETZE: No, sir.

8 THE COURT: Thank you, gentlemen. All right. Now,
9 ladies and gentlemen, at this time the Court would
10 recognize Mr. Wells for his opening statement.

11 MR. WELLS: Thank you, Your Honor. May it please the
12 Court, ladies and gentlemen of the jury. Again, my name
13 is Robert Wells. I'm a Deputy Solicitor here in Florence
14 County. I will be trying this case on behalf of the State
15 of South Carolina. Now, as you have heard Judge Russo
16 say, the State has the burden of proving the defendant's
17 guilt beyond a reasonable doubt, that's the burden the
18 State has in any criminal case throughout this United
19 States. And certainly, we welcome the opportunity of
20 proving the defendant's guilt to your satisfaction beyond
21 a reasonable doubt at this time.

22 Now, the defendant in this case is Syllester D'Andre
23 Taylor. You saw him at beginning of trial that is the
24 person who is on trial. Now, since the defendant is not
25 present, I will be having to call -- fulfill some

1 technicalities of the law several other court personnel at
2 which just very briefly to cover some technicalities, but
3 that is not a consideration as far as guilt or innocence
4 in this case. It's just to show that the State can try
5 the defendant in his absence in this particular case.
6 What the State must prove beyond a reasonable doubt in
7 this case and this is what you're to consider the facts is
8 was the defendant on the night of July 25th 2006, in
9 possession of crack cocaine or cocaine base. We use to
10 call it crack cocaine, but the State legislature change --
11 when they made some changes in the statute, they change it
12 and now call it now cocaine base. But it's cocaine base
13 crack cocaine the same thing. Did he on the night of
14 July 25th 2006 possess crack cocaine with intent to
15 distribute. And I would say in that regard under the law
16 in the State of South Carolina if a person is in
17 possession of crack cocaine or cocaine base in an amount
18 of more than one gram, there is an inference of fact that
19 a person has the cocaine base of crack cocaine with the
20 intent to distribute.

21 In this case, we intend to prove that the amount he
22 had was about five and a half times that inference or
23 about five and a half grams of crack cocaine. The main
24 witness I'll be putting up in this case will be the three
25 officers who are involved on that particular night. That

1 different ones did different things on that particular
2 night, but they will be testifying to the circumstances
3 under which they came to check out the defendant on the
4 dirt road part of Ervin Street around 10:30, 11 p.m. at
5 night on that particular day. And they will be testifying
6 to, of course, what was found with what I believe Officer
7 Bellamy will be testifying to in fact finding in the
8 defendant's right pocket a tennis ball with a slit in it,
9 which had inside the tennis ball with a slit -- in the
10 slit a plastic baggie which contained a quantity of crack
11 cocaine or cocaine base in the amount of about five and a
12 half grams. So in this case, of course, you can have
13 either constructive possession or actual possession. In
14 this case, we intend to show that he had actual possession
15 of the crack cocaine and under circumstances for which you
16 would find with intent to distribute as well.

17 This case should not take long. We'll definitely
18 finish this case today. Of course, I'll also be putting
19 up the chemist to testify it was crack cocaine as well and
20 the person who took it to and from the lab. This case
21 will not take long. We should finish the whole trial
22 today, so jurors if you had to do something tomorrow, you
23 shouldn't worry about that because we will finish this
24 case today I assure you. Nonetheless even though it will
25 not take long, it's still important for the State and the

1 defendant, so we just ask you to listen carefully to all
2 the testimony as it comes from this witness stand because
3 at the end of the trial, you can reach a verdict that
4 speaks the truth. Thank you.

5 THE COURT: Thank you, Mr. Wells.

6 Mr. Meetze.

7 MR. MEETZE: Thank you, Your Honor, may it please the
8 Court?

9 THE COURT: Yes, sir.

10 MR. MEETZE: Had an opportunity to introduce myself
11 to you the other day and privilege to have the opportunity
12 to stand before you again and do that. My name is Vick
13 Meetze and I work in the Florence County public defender's
14 office. And I am a lawyer for Syllester Taylor who's
15 charged in this case. And what Mr. Wells just told you
16 and what I'm telling you now none of this is evidence. It
17 is simply statements to be made prior to the evidence
18 being presented to you. All of the evidence in the case
19 will come from testimony from this witness stand. That
20 will be what you will need to consider in order to make a
21 determination in this case as to whether or not my client
22 is guilty or not guilty. It would also be physical
23 evidence presented as well. So either physical evidence
24 or testimony from the witness stand would be all that you
25 are allowed to consider.

1 And one phrase that you'll hear a number of times
2 during the course of this trial even though as Mr. Wells
3 said, it's not gone be a long trial. I certainly don't
4 anticipate it going any pass today or not, but he has also
5 said the length of the trial doesn't matter. Whether it's
6 two weeks or whether it's one day, it's very very
7 important to criminal court is very serious business. And
8 the reason it is is because in criminal court you're
9 dealing with people's lives. You're dealing with people's
10 very liberties. In civil court, which where you have
11 lawsuits and things like that, they are punishment or
12 things such as that is usually money, money damages.
13 Somebody might have to pay some money. And I certainly
14 don't want to have to part with my money involuntarily,
15 but I much rather do that than have my liberties
16 restricted. There's nothing more important than that and
17 that's why the burden of proof in a criminal case is so
18 much higher than in any other case civil primarily.

19 The burden of proof in a criminal case is beyond a
20 reasonable doubt. Now, I'm going to try to give you a
21 little bit of explanation as to what that is. At the
22 close of the case, the judge will charge you on the law.
23 And he'll give you an explanation of what that is. As if
24 what he says differs in anyway from what I tell you,
25 certainly you go with the judge's instructions on the law

1 as to reasonable doubt, as to what beyond a reasonable
2 doubt means. But I will give you an example. I mention
3 there's two different types of cases in circuit court.
4 Criminal cases in court of general sessions which is where
5 we are now and the burden of proof there is beyond a
6 reasonable doubt. There's also the court of common pleas.
7 which is civil court. In there, the burden is by
8 preponderance of the evidence. By preponderance of the
9 evidence, just means more likely than not. If you got a
10 wreck case that you're trying to determine who's at fault,
11 then it's like a 51 percent to 49 percent deal. There's
12 just that slight little edge then you can rule in one
13 person's favor. If you think of it as a set of scales and
14 both sides put their evidence on each end of the scale, if
15 one side tilts ever so lightly, then that person would be
16 who you would rule in favor of. But when you're dealing
17 with a criminal case and the burden is beyond a reasonable
18 doubt, then the burden is much more powerful. If you
19 think of the same set of scales, once the State has
20 presented their evidence those scales would have to tilt
21 extremely in their favor in order for you to reach a
22 verdict and find someone guilty beyond a reasonable doubt.

23 And again, the differences in the burdens of proof is
24 the differences in what's at stake. In criminal court,
25 you're dealing with people's lives and you're dealing with

1 people's liberties and the stakes don't get any higher
2 than that.

3 I would like to thank you for your attention and
4 thank you for being here to listen to all the evidence. I
5 will tell you again and it's also a reiteration that it's
6 not lost on any of you I'm sure that my client is not
7 here. But as the judge told you and I'll tell you again
8 now, that is not evidence in the case to be considered as
9 to guilt or innocence. He has a right to not be here.
10 And would ask you to follow the judge's instructions with
11 regards to that, base your decision on the evidence as
12 presented to you. And at the close of the case, I will
13 again be able to address you and at that time will be
14 asking you to bring back a verdict that speaks the truth
15 in this case. And we're going to ask you for a verdict of
16 not guilty. Thank you.

17 THE COURT: Thank you, Mr. Meetze. Mr. Wells ---

18 MR. WELLS: Before I call my first witness, I believe
19 Mr. Meetze had made a motion by having certain witnesses
20 sequestered, so do that at this time.

21 THE COURT: Thank you, sir.

22 MR. WELLS: I would ask officer -- as far as on the
23 main part of the case, Officer Bellamy to stay. Ask the
24 other three if they could go in our conference room down
25 the hall.

1 THE COURT: Ladies and gentlemen, if y'all would do
2 so, we will send for you as you're needed. Thank you.
3 And y'all can -- you can either use this room here. If
4 you would like to, you can go into my conference room
5 right there. It might be easier to access them.

6 MR. WELLS: That will be fine.

7 THE COURT: Wherever you're comfortable. Thank you.

8 (WHEREUPON, a pause in the proceedings.)

9 THE COURT: Now, call your first witness.

10 MR. WELLS: Now, just very briefly, first, Mr. James
11 Ellis, if you'll come forward.

12 THE CLERK: Place your left hand on the Bible and
13 raise your right. Do you swear to tell the truth, the
14 whole truth, and nothing but the truth so help you God?

15 MR. ELLIS: I do.

16 THE CLERK: State your full name?

17 MR. ELLIS: My full name is James Edward Ellis.

18 WHEREUPON,

19 James E. Ellis,
20 after first having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. WELLS:

23 Q And, Mr. Ellis, are you one of the bailiffs for this
24 court?

25 A Yes, sir.

1 Q And as part of your duties as bailiff prior to trial
2 of the case today, did you go out in the hallway and call
3 the name of Syllester D'Andre Taylor three times?

4 A I call his name three times both on the 10th floor
5 and on the 11th floor.

6 Q And did you get any response on either floor?

7 A No, sir.

8 MR. WELLS: Thank you that's all.

9 THE COURT: Thank you, Mr. Ellis. You may be
10 excused, sir.

11 (WHEREUPON, the witness leaves the witness stand.)

12 MR. WELLS: And I call Mrs. Doris O'Hara to the
13 stand.

14 THE COURT: If you would please place your left hand
15 on the Bible and raise your right hand. Do you solely
16 swear or affirm that the testimony you give in this case
17 will be the truth, the whole truth, and nothing but truth
18 the truth so help you God?

19 MRS. O'HARA: I do.

20 THE COURT: Thank you, ma'am. Please have a seat on
21 the witness stand and say your name -- full name for the
22 record?

23 MRS. O'HARA: Doris Poulas O'Hara.

24 WHEREUPON,

25 Doris P. O'Hara,

1 after first having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. WELLS

4 Q And, Mrs. O'Hara, are you one of the deputy clerk's
5 of court for this court?

6 A I am.

7 Q And as one of your duties, does the clerk of court
8 keep the records so far as to the bonds returnable to this
9 term of court?

10 A We do.

11 Q All right. And do you have with you the bond for
12 Syllester Taylor?

13 A I do.

14 Q And do you have the original -- would this be a
15 certified copy of that bond?

16 A Yes.

17 MR. WELLS: I move to admit this into evidence.

18 THE COURT: Without objection, it's State's Exhibit

19 1.

20 (WHEREUPON, State's Exhibit No. 1 was admitted into
21 evidence.)

22 BY MR. WELLS:

23 Q And, Mrs. O'Hara, looking at this does this bond show
24 that his bond was returnable to the August 7, 2006, term
25 of court and each term of court thereafter?

1 A It does.

2 Q And is there also an acknowledgement that the
3 defendant can be tried in his absence which he signs if he
4 does not appear in the court?

5 A It does.

6 MR. WELLS: That's all.

7 THE COURT: Any questions?

8 MR. MEETZE: No questions.

9 THE COURT: Thank you, ma'am. You may step down.
10 You're excused from the witness stand, but not the
11 courtroom.

12 (WHEREUPON, the witness leaves the witness stand.)

13 THE COURT: All right, Mr. Wells.

14 MR. WELLS: I call Deputy Toby Bellamy to the stand.

15 THE COURT: Deputy Bellamy, if you would please come
16 around, sir.

17 THE CLERK: Please place your left hand on the Bible
18 and raise your right hand. Do you swear or affirm that
19 the testimony you give in this case will be the truth, the
20 whole truth, and nothing but the truth so help you God?

21 MR. BELLEMY: I do.

22 THE CLERK: Please be seated and state your name for
23 the record?

24 MR. BELLEMY: Deputy Toby Bellamy with the Florence
25 County Sheriff's Office..

1 WHEREUPON,

2 Toby Bellamy,

3 after first having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. WELLS:

6 Q And, Deputy Bellamy, how long you been employed in
7 law enforcement?

8 A I been employed with the Florence County sheriff's
9 office for one year. I was previously employed with the
10 City of Florence police department for three and a half
11 years.

12 Q All right. And let me call your attention to the
13 night of July 25th 2006, around 10:30 or 11 p.m., did you
14 have occasion on that particular night to receive a
15 dispatch which you responded to?

16 A Yes, sir, on the night in question, myself and other
17 deputies were advised of a 911 dispatch of a black male
18 subject possibly selling dope in the area ---

19 MR. MEETZE: Objection, Your Honor, hearsay.

20 MR. WELLS: Your Honor, I would wish to respond to
21 that this is not hearsay. I've got some cases on that
22 because we're not offering this for the truth of the
23 matter asserted. We're offering it to show why the
24 officer acted as he did on this particular night.

25 THE COURT: All right. Overruled.

1 BY MR. WELLS:

2 Q Go ahead.

3 A I was gone say on the night in question received a
4 911 dispatch that there was a black male subject on a
5 bicycle at the intersection of Ervin Street and Gilyard,
6 which is actually gone be on the dirt portion of Ervin
7 Street was where the dispatch was given out to.

8 Q Was that in the County of Florence?

9 A That's in the County of Florence, yes, sir.

10 Q All right. Go ahead.

11 A On the night after the dispatch call came out and
12 myself and other deputies involved in the case, we're in
13 the area working due to ---

14 Q Were you each in separate cars?

15 A We were all in separate vehicles, yes, sir. We're
16 all working the area mainly just saturating the area for
17 possible drug activities and illegal activities of any
18 sort.

19 Q Is this an area where it's commonly drug activity?

20 A It's a high crime area and heavily drug traffic, drug
21 populated area.

22 Q All right. So go ahead so as a result of that, did
23 you have any communication with any other officers in the
24 area that night?

25 A At the time, myself, Lieutenant Darren Yarborough,

1 and Deputy Hartwell Bryant was also in the area. We met
2 up and talked about what the dispatch. Lieutenant
3 Yarborough suggested that we approach the area on foot.
4 Prior to approaching the area, I did go down Gilyard
5 Street in my marked patrol vehicle just to see if there
6 was anything to the dispatch. I did observe a black male
7 down the dirt road on a bicycle. At the time, it was
8 unknown that that was the male in question, but it was a
9 black male in the area that we were dispatched to on a
10 bicycle and was the only one on a bicycle in the area.

11 Q Now, this turn out later to be Mr. Taylor?

12 A Later this was determined to be Mr. Taylor.

13 Q All right. So go ahead so what did y'all do then?

14 A Lieutenant Yarborough then had myself and Deputy
15 Bryant and the other deputies to respond to what is known
16 as Clyde Court apartments which is off of Jarrett Street.
17 At that time, we then parked our patrol vehicles and made
18 way on foot through the apartment complex across Gilyard
19 Street. Two of the other deputies that actually met up
20 with us went to a different location from where Mr. Taylor
21 and myself and Deputy Bryant and Lieutenant Yarborough
22 went to. As we made our way across Gilyard Street, we
23 approached the dirt portion of Ervin Street. As we
24 rounded the corner to Ervin where we had clear view of all
25 of the dirt portion of Ervin Street, we did observe -- I

1 observed a black male subject on a bicycle which was in
2 deed Mr. Syllester Taylor.

3 Q And did this appear to be the same one person who
4 observed earlier?

5 A It appeared to be the same person.

6 Q Probably about how long had pass by maybe?

7 A No more than 15, 20 minutes or so.

8 Q All right, sir. Okay. Go ahead.

9 A At that time, I observed Mr. Taylor and another
10 unknown black male subject. I didn't speak with the other
11 subject. They were huddled close together at the dirt
12 portion of Ervin Street. Mr. Taylor was standing with his
13 bicycle straddled between his legs kind of in a huddle
14 with the other subject was standing beside him very close
15 unable to tell due to the lighting situation if anything
16 was passed off or anything like that, but due to illegal
17 activities in the area, we decided to make approach to
18 Mr. Taylor.

19 Q All right. Now, is that a fairly isolated area at
20 that point?

21 A Yes, sir, it's pretty much dead ends into a wooded
22 area and has a small dirt portion of Howard Street that
23 actually intersects with it.

24 Q Now, was this on the dirt portion of the road?

25 A This was on the dirt portion of the road, yes, sir.

1 again. At which time, the subject then started peddling
2 tried to peddle by me. At that time, I then decided to
3 detain the subject. I did tell the subject to get off the
4 bicycle. Subject would not get off the bicycle. At the
5 time, I did conduct an arm-bar takedown on a subject and
6 put the subject on the ground, so that he could be
7 secured. While the subject was on the ground, he was
8 steadily kind of wiggling away trying to get away from
9 this deputy. At that time, I did observe a large bulge in
10 his right pocket.

11 Q His right pocket of what pants, shirt?

12 A Right pants pocket.

13 Q Right pants pocket?

14 A Yes, sir. While I was holding the subject down and
15 he was uttering, you know, he didn't do anything what have
16 you. He -- I then started my pat down search basically
17 for my safety because I have no idea of this subject had
18 any weapons on him at the time. And at that time, I then
19 felt the bulge. And I could tell it was a round object
20 because it could not say exactly what it was. At that
21 time, I did begin working the object up and been my
22 experience in law enforcement that now days anything can
23 be a round object. They make bombs the size of golf balls
24 now. So it was unknown to me exactly what was in his
25 pocket. I then worked the item up without going into his

1 Q All right. So what did you then do at that point you
2 and the other deputy and Lieutenant Yarborough?

3 A At that point in time, myself and Deputy Bryant was a
4 few steps ahead of Lieutenant Yarborough. We then made
5 approached to the two subjects. Once the two subjects
6 realized it, we were indeed deputies.

7 Q You were in your uniform?

8 A Yes, sir, we were in uniform.

9 Q Go ahead?

10 A Once they did observe that we were deputies, started
11 walking towards -- Mr. Taylor hopped on his bicycle and
12 started riding towards us as if to get away pretty much.
13 Deputy Bryant did go and talk with the other subject. I
14 have no clue what was discussed between him and the other
15 subject. As far as Mr. Taylor goes, when they approached
16 on the bicycle, I basically told him Mr. Taylor, sir,
17 please stop I need to talk to you a second.

18 Q You didn't know his name at the time?

19 A No, I didn't know his name at the time. As the
20 subject stopped or as he come by me, he would not stop.
21 He kind of glanced at me and then turn away as if to ride
22 off. At that time, due to reasonable suspicion that the
23 subject was possibly selling dope in the area due to his
24 actions and to be huddled with the other subject and
25 dispatch that came in, I then demanded the subject to stop

1 pocket at the time. I worked the item up until it dropped
2 out on the ground beside him. I picked the object up. It
3 was a green tennis ball. It did have a cut in the top of
4 it. And as I pick the ball up, I could see the plastic
5 bag with what appeared to this deputy to be crack cocaine
6 in side. At that time, I did advise Mr. Taylor that he
7 was under arrest. I grabbed his left arm and pulled it
8 behind him and put one handcuff on him. At that time,
9 Mr. Taylor then began snatching and yanking away from this
10 deputy. Myself and Mr. Taylor both was on the ground at
11 this time. I was trying to hold Mr. Taylor down and get
12 the other handcuff on. Mr. Taylor then took his right
13 hand as he was laying on the ground and had it up under
14 him. I still at this point time did not get to check and
15 see if he had any weapons up under him at that time. At
16 that time, I then pulled my taser devise out. I removed a
17 cartridge off the end of the taser. And I done what is
18 technically known as a drive stun with the taser device
19 into the subject's middle back area, which is part of our
20 training on how to subdue subjects.

21 Q Is that basically where it just stuns them briefly?

22 A Yes, sir, it gives them a brief stun. And at which
23 time, he was advised again to put his other hand behind
24 his back at which he didn't. Due to the tazing and the
25 excitement, Mr. Syllester at the time he then jumped up

1 from the ground and tried to get away from this deputy.
2 At the time, Lieutenant Yarborough and Deputy Bryant then
3 came and assisted and put the other handcuff on him.

4 Q Now, is the -- Mr. Taylor that you found in
5 possession of the tennis ball with the drugs that night is
6 that the same Syllester Taylor that you saw here at
7 beginning of the trial of the case?

8 A Yes, sir, it was. The day we pulled the jury it was
9 the subject that was sitting in the chair by Mr. Meetze.

10 Q I mean, you were the only officer here when we picked
11 the jury?

12 A Yes, sir.

13 Q Now, let me show you these items and ask if you
14 recognize ---

15 MR. MEETZE: Your Honor, for the record, I would
16 object to this line of questioning with regards to the
17 drugs for purposes of the record.

18 THE COURT: I'm going to note your objection and I
19 overrule. Mr. Wells.

20 BY MR. WELLS:

21 Q If you would relate if you recognize the object I
22 just handed to you in the bag?

23 A Yes, sir, this would be the tennis ball that was in
24 Mr. Syllester Taylor's right pocket. The white rock like
25 substance was actually what was inside of the ball. And

1 it has a split in it on the seam where you can actually
2 squeeze it and he could get what he needed in and out of
3 it.

4 Q So it was not difficult to see when you squeezed it?

5 A No, sir, once you pick the ball up, just the little
6 bit of pressure open the slit up so that you could see
7 what was inside.

8 MR. WELLS: I would mark this whole package for
9 identification at this time.

10 THE COURT: All right. Subject to your objection.
11 That's State's Exhibit 2.

12 MR. WELLS: This be for identification at this time.

13 THE COURT: All right.

14 (WHEREUPON, State's Exhibit Number 2 was marked for
15 identification.)

16 BY MR. WELLS:

17 Q And was the defendant then placed under arrest for
18 this charge?

19 A Yes, sir, he was advised that he was under arrest at
20 the time I discovered the tennis ball, but due to him
21 struggling with officers, it took us a few minutes to
22 actually get him in handcuffs.

23 Q And based on your experience in dealing with drugs,
24 was this amount of drugs fairly valuable?

25 A Yes, sir.

1 MR. WELLS: That's all. Answer any questions that
2 defense counsel has.

3 CROSS-EXAMINATION

4 BY MR. MEETZE:

5 Q Deputy Bellamy, you been in law enforcement for a
6 total of four and a half years?

7 A Yes.

8 Q And in this case, there were a number of deputies
9 that were out there?

10 A Yes, sir.

11 Q You sort of took the lead in this case?

12 A Yes, sir.

13 Q You would be basically the primary officer in this
14 case?

15 A Yes, sir.

16 Q And in law enforcement and as an law enforcement
17 officer, you go through a lot of training; is that
18 correct?

19 A Yes, sir.

20 Q Training in the police academy?

21 A Yes, sir.

22 Q Training in -- on the job training?

23 A Yes, sir.

24 Q Training in how to collect evidence?

25 A Yes, sir.

- 1 Q Training in how to preserve evidence?
- 2 A Yes, sir.
- 3 Q One way to preserve evidence is through paperwork;
- 4 correct?
- 5 A Yes, sir.
- 6 Q And when a case is investigated, there's always
- 7 paperwork to prepare?
- 8 A Yes, sir.
- 9 Q You probably spend a lot of time preparing paperwork?
- 10 A Yes, sir, we do.
- 11 Q Paperwork will have names of potential suspects?
- 12 A Yes, sir.
- 13 Q Paperwork will have names of potential witnesses?
- 14 A Yes, sir.
- 15 Q Paperwork would have lists of any physical evidence
- 16 that may have been found at a crime scene?
- 17 A Yes, sir, it would.
- 18 Q And paperwork would have a narrative section?
- 19 A Yes, sir.
- 20 Q Narrative section is a writeup of what happened?
- 21 A Right.
- 22 Q And it's important that a narrative be as complete
- 23 and detailed as possible; correct?
- 24 A Yes, sir, that's true.
- 25 Q And the reason for that is because you're not going

1 to be the only person reading the incident report?

2 A Yes, sir.

3 Q You're not going to be the only one that looks at the
4 narrative in this case; is that correct?

5 A That's true.

6 Q Your supervisor a lot times may read a narrative that
7 you may prepare?

8 A Yes, sir.

9 Q Prosecutors gone have to read it?

10 A That's right.

11 Q And so it's important for people who were involved in
12 the investigation to be able to get an accurate picture
13 of what happened; correct?

14 A Right.

15 Q In this case, a narrative was about a half a page?

16 A Yes, sir.

17 Q So that's not considered to be a very long narrative?

18 A No, sir, that's about average.

19 Q And that's in, you know -- in other words, the case
20 investigations took a long period of time where there
21 would be multiple pages to a narrative?

22 A No, sir, pretty the investigation was what I observed
23 on the scene that night.

24 Q And it all happened pretty quick?

25 A Yes, sir.

1 Q Weren't a lot of details to remember were they?

2 A It was a good bit.

3 Q It was?

4 A Yes, sir.

5 Q Half a page worth?

6 A At the time.

7 Q Okay. Now, did you do the narrative in this case?

8 A I called the narrative in on a dictaphone system
9 which we have at our sheriff's office. And they're
10 actually recorders there that ladies actually type up the
11 report as to what we say on the phone.

12 Q So your words somebody else's typing?

13 A Basically.

14 Q So essentially, the information contained in this
15 incident report was provided by you?

16 A Yes, sir, and sometimes, the ladies in there do make
17 small typographical mistakes due to some folks language
18 and the way we -- our accents.

19 Q I understand. Now, when I was going over a little
20 bit ago with you people, different people that reviewed
21 narratives in this case -- the people that are prepare
22 these things also have to review them; don't they?

23 A That's right.

24 Q Because there may come a time when they have to
25 testify at trial?

1 A Yes, sir.

2 Q And you in deed, did a review this narrative before
3 you testified here hear today?

4 A Yes, sir, I did.

5 Q Now, you mention that there's a typographical area in
6 this incident report and that typographical area is that
7 the incident report indicated that he did not resist your
8 command to stop?

9 A Right. It should have been that he did resist.

10 Q He did disobey your order to stop?

11 A Right, right.

12 Q And that's understandable. But an omission is not a
13 typographical error?

14 A Omission is not a typographical error?

15 Q And in this incident -- and are you familiar with the
16 incident report?

17 A Yes, sir, I am familiar with it.

18 Q Okay. Is there anywhere in the incident report where
19 in the narrative to this incident report that you saw two
20 black males that night?

21 A No, sir, there's nothing in there about that.

22 Q Anything in the incident report in the narrative that
23 they were huddled up close together?

24 A No, sir, nothing in there about that.

25 Q In fact, the incident report just indicates that --

1 there's nothing in the incident report about the original
2 sighting that you testified to today as well?

3 A Right. The incident report basically just states
4 that we did get the call to go to the area. Pretty much,
5 it picks up from the point that we had to use force on the
6 subject. And what we observed as coming into the area
7 about seeing the black male -- pretty much the black male
8 on the bicycle that goes long with the 911 call that we
9 picked up. My concentration was only on that black male
10 not pretty much everybody involved. I had another deputy
11 that was covering the other subject. And unfortunately, I
12 can't watch everybody's hands and do my job safely.

13 Q Well, the incident reported indicates that there was
14 a dispatch?

15 A Yes, sir.

16 Q That you went to the area?

17 A Yes, sir.

18 Q And that you approached the suspect on foot?

19 A Yes, sir.

20 Q But there's nothing about the first sighting of
21 Mr. Taylor or of a black male on a bicycle?

22 A No, sir, there's not.

23 Q And there's no mention of a second person there?

24 A No, sir.

25 Q What you observed them doing?

1 A No, sir.

2 Q And those aren't small details of this case; correct?

3 A Well, true. As far as what he was charged with
4 possession with intent to distribute crack cocaine, those
5 are not details in the case. The subject had a tennis
6 ball on him that night that contained crack cocaine on his
7 possession.

8 Q So you're telling me that's a very insignificant
9 detail in this case?

10 A It's not insignificant, but I'm telling you that as
11 far as what he's charged with, it has nothing to do with
12 it in my opinion. I charge with him possession of crack
13 cocaine which he had in his possession crack cocaine.

14 Q This investigation -- struck that. This case started
15 with a call from your dispatch officer to yourselves and
16 the other deputies?

17 A Yes, sir.

18 Q And that was a call based on an anonymous tip?

19 A Yes, sir.

20 Q You don't know who made that call?

21 A I have no clue who made that call.

22 Q To your knowledge, dispatcher didn't know who made
23 that call?

24 A To my knowledge, I have no clue how the dispatch got
25 the call. I assume it's like any other anonymous call it

1 came in on over 911. We get a bunch of them every day.

2 Q Now, with you not knowing that individual, you have
3 absolutely no way to vouch for that person's reliability?

4 A No, sir, I do not.

5 Q In a lot cases, there are civilian informants used in
6 a lot of drug cases?

7 A Yes, sir, it is.

8 Q And those folks are usually referred to as
9 confidential reliable informants?

10 A Informants, yes, sir.

11 Q And there's a reason why they're called that; is that
12 correct?

13 A Yes, sir.

14 Q Because the law requires police officers if they're
15 going to use information that there be some sort of proof
16 of reliability of that information?

17 A Right. Also as offers, we depend on citizens in
18 neighborhoods such as this area that we were in to kind of
19 help us out and give us calls as to what's going on in
20 their neighborhood. Some of those citizens due to their
21 safety don't like to give their names out. The area that
22 we were in that night there is a housing development there
23 that has a lot of older people in the development, that I
24 know personally working with the City of Florence that
25 does not like to give their names, that's because they're

1 scared to come out of their own home because of the drug
2 dealing and stuff that's going on in the area.

3 Q Fair enough. But with regards to confidential
4 reliable informant that you're going to actually use ---

5 A Right, but we wouldn't use one that's not.

6 Q I understand. I understand that, but I'm asking you
7 a different set of questions.

8 A Right, right.

9 Q A reliable informant is usually somebody who has
10 given information to the police before?

11 A Right.

12 Q That information has turned out to be good
13 information?

14 A Right.

15 Q And that develops a level of reliability to give the
16 police under the law the right to use that information to
17 make cases?

18 A That's true.

19 Q And that did not happen?

20 A That did not happen. Case had nothing to do with a
21 confidential informant.

22 Q Now, as folks, as people who work in the criminal
23 justice system we all have laws to follow?

24 A Yes, sir.

25 Q And in other words, you can't simply just go up pick

1 somebody out and arrest them?

2 A No, sir, I can't.

3 Q You got to have probable cause?

4 A I have to have reasonable suspicion to make any kind
5 of approach to anyone.

6 Q Correct. All right. If you arrested somebody
7 without the standard probable cause that would be an
8 unlawful arrest?

9 A Yes, sir, it would.

10 Q If someone is being arrested unlawfully that
11 individual would have a right to resist that arrest?

12 A That's true.

13 Q Now, you indicated that when you got Mr. Taylor on
14 the ground, you patted him down for weapons?

15 A Right.

16 Q And you indicated that you did that for your safety?

17 A Yes, sir.

18 Q And also that's done for the public's safety, not just
19 officers, but the public safety as well?

20 A Right.

21 Q And that's called in our law a Terri frisk?

22 A Terri frisk.

23 Q Right. And that's based on a case called Terri vs.
24 Ohio?

25 A That's right.

1 Q Which gives law enforcement based on a reasonable
2 suspicion to pat somebody down?

3 A That's right.

4 Q When you doing a Terri frisk, if you feel something
5 that you know as soon as you touch it or feel it, is not a
6 weapon, under the Terri law, you wouldn't be able to go
7 into his pocket and bring that object out?

8 A That's true.

9 Q Okay. In this case, you felt a round object?

10 A Right.

11 Q That turned out to be a tennis ball?

12 A I didn't know what it was when I first started.

13 Q Right. But you do know now what it was?

14 A I know now because we actually recovered the item.

15 Q So you felt something that turned out to be a tennis
16 ball?

17 A Yes, sir. Unfortunately, at the time, I did not know
18 it was a tennis ball. And I have a wife and two kids that
19 I need to go home to.

20 Q I understand that.

21 A And that's me making sure I knew what was in his
22 pocket on that night was part of my job.

23 Q I understand that that's your testimony and the jury
24 understands that's your testimony. I just wanted to make
25 sure that you agree that what you felt that night turned

1 out to be a tennis ball and that is true; correct?

2 A Yes, sir, it was a tennis ball.

3 Q And when you felt that object, you thought that there
4 was a possibility that that could be a weapon?

5 A I thought that might be a weapon.

6 Q And you maneuvered it out of his pocket?

7 A Yes, sir.

8 Q And it turned out to be a tennis ball?

9 A Yes, sir.

10 Q And you looked inside there was a hole. You looked
11 inside?

12 A Yes, sir.

13 Q And that ---

14 A That's where the crack cocaine was.

15 Q And that's when you arrested Mr. Taylor?

16 A Yes, sir.

17 Q You searched him incident to the arrest?

18 A After we got him in handcuffs, he was searched
19 incident to arrest.

20 Q Okay. And you didn't find any weapons when you
21 searched him?

22 A Didn't find any weapons on him.

23 MR. MEETZE: I have no further questions, Your Honor.

24 THE COURT: Thank you. Anything on redirect?

25 MR. WELLS: Yes, one thing briefly.

REDIRECT EXAMINATION

BY MR. WELLS:

Q Officer Bellamy, as part of your duties, do you do numerous reports during a year?

A Yes, sir, we do thousands of reports during the year.

Q And normally, do you just dictate what comes to your mind when you dictate?

A Basically, we -- during the -- while the incidents going on, you know, we have a little bit of time. We just jot down notes and then immediately before shift is over with we call the reports in. Some nights we might have five. Some nights we might have ten reports all which has to be called in before we can go home.

MR. WELLS: All right. That's all.

THE COURT: All right. You may step down.

(WHEREUPON, the witness leaves the witness stand.)

MR. WELLS: The next witness I would call would be Deputy Hartwell Bryant to come in.

MR. MEETZE: Your Honor, just in case, they want to any time any witness has done testimony I don't have any objection to them being excused if they need to be.

THE COURT: All right. Thank you very much, Mr. Meetze.

THE CLERK: Place your left hand on the Bible and raise your right hand. Do you swear or affirm the

1 testimony you give in this case will be the truth, the
2 whole truth, and nothing but the truth so help you God?

3 MR. BRYANT: I do.

4 THE CLERK: Please be seat and state your name for
5 the record?

6 MR. BRYANT: My name is Richard Hartwell Bryant, III.
7 I'm with the Florence County Sheriff's office.

8 WHEREUPON,

9 Richard H. Bryant, III.

10 after first having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. WELLS:

13 Q And how long have you been in law enforcement, Deputy
14 Bryant?

15 A Approximately three years...

16 Q And, Deputy Bryant, let me call your attention back
17 to the night of July 25th 2006, around 10:30, 11:00 p.m.
18 and ask were you on routine patrol that night?

19 A Yes, sir, I was.

20 Q And did you have occasion to receive a dispatch which
21 you subsequently responded to?

22 A Yes, I did.

23 Q If you would relate to the jury what was the nature
24 of the dispatch?

25 A Nature of the dispatch was an anonymous caller called

1 in stated there was a (inaudible) on a bicycle in the dirt
2 road section of Ervin Street selling -- dispatch would
3 have given it out as a code, but it was basically selling
4 drugs.

5 Q All right. Now, as a result of that, what if
6 anything, did you do?

7 A I -- there were several other units in the area.

8 Q And could communicate with any of them by radio?

9 A Yeah, I acknowledge to them on the radio I was also
10 in the area. At that time, we met up at a apartment
11 complex that was adjacent to the area.

12 Q Now, was that the idea of your supervisor?

13 A That was the idea of Lieutenant Yarborough with the
14 sheriff's office my lieutenant.

15 Q All right. So who all actually -- so what did you do
16 when you meet up there?

17 A We -- at that time, I was kind of unfamiliar where we
18 were, but we walk through the apartment complex and came
19 out on what Gilyard Street I believe, went around the
20 curve and where we saw subject was indeed standing on the
21 dirt road portion on a bike with another black male
22 subject with him. Prior to going over there, Deputy
23 Bellamy ---

24 Q So who was walking there together you and who else?

25 A Myself, Deputy Bellamy and Darren Yarborough.

1 Q All right. He was the supervisor?

2 A Yes, sir.

3 Q All right. So again, what did you see there on the
4 dirt road part?

5 A One black male subject on a bicycle and one black
6 male subject standing next to him.

7 Q All right. And could you tell at that time what if
8 anything they were doing?

9 A No, I could not.

10 Q So as a result of that, what if anything, did y'all
11 then do?

12 A As we looked and saw the subjects sitting there, had
13 an idea that some criminal activity was going on. We
14 approached the subjects. As they recognized our presence,
15 they then split. The subject on foot then walked away
16 going down Ervin Street. Subject the bicycle came towards
17 us. Deputy Bellamy stated he's got the guy on a bicycle.
18 I kind of started walking a little faster telling the
19 other subject, hey, come here stop let me talk to you for
20 a minute. He stopped. We engaged in words. Asked him
21 for some I.D. and, you know, what was going on. He handed
22 me -- presented me with his identification. I checked him
23 for warrants and his records. Asked him if I could frisk
24 him, Terri frisk him, pat him down search him for weapons.
25 He acknowledged by throwing his hands up in the air which

1 at that time I was patting him down talking to him. At
2 the same time while in conversation, I observed Deputy
3 Bellamy in a physical altercation with the defendant. At
4 that time, handed him back his I.D. card and go over there
5 to Deputy Bellamy.

6 Q So the man that you went after the second man, you
7 then basically let go; is that right?

8 A Yes, sir.

9 Q And then you went over and helped Deputy Bellamy?

10 A Yes, sir.

11 Q And he was the one that was dealing with the
12 defendant; is that right?

13 A Yes, sir.

14 Q All right. Tell me what you observed then and what
15 was happening?

16 A I was coming towards Deputy Bellamy. Deputy Bellamy
17 and the subject was on the ground. He was trying to kick
18 and get up. As I got there, Deputy Bellamy had one
19 handcuff on one arm, but was not willing to comply to get
20 -- handcuff the other arm. At that point, I believe
21 Deputy Bellamy tazed the subject and he got up. We put
22 him -- he was kind of kicking and screaming at some point.
23 We were able to get him on the ground and handcuff him.

24 Q All right. And he was placed under arrest?

25 A Taken into custody.

1 Q Did you yourself actually deal with any of the drugs
2 that night that were found on him?

3 A No, sir.

4 MR. WELLS: That's all the questions I have. Answer
5 any questions defense counsel may have.

6 CROSS-EXAMINATION

7 BY MR. MEETZE:

8 Q Deputy Bryant, as you testified you and Deputy
9 Bellamy were in different cars, but you basically were
10 there at the same time?

11 A Yes, sir.

12 Q And y'all both were approaching at the same time?
13 Approaching the two individuals in your testimony?

14 A Yes, sir.

15 Q You didn't prepare any of the paperwork in this case?

16 A No, sir.

17 Q You didn't provide any of the...

18 A At the time, what I believe what I did was held the
19 subject down in reference to the case.

20 Q Right. You didn't provide any of the ---

21 A No, sir.

22 Q Whatever is put on the dictaphone for somebody to put
23 into a narrative, you didn't provide any of that?

24 A No, sir.

25 Q Okay. You went after the second person that you

1 said?

2 A Yes, sir.

3 Q You spent a little bit of time with that person
4 enough to call in to see if there's any warrants?

5 A Two or three minutes. Depending on -- maybe not even
6 two to three minutes. Maybe, you know one of those things
7 what feels like three minutes could be five minutes.
8 Could have been 30 seconds I was talking to him. I had
9 his I.D. record the radio usually takes 15 seconds to get
10 a records check back.

11 Q And you did search him?

12 A Patted him down.

13 Q Patted him down. Didn't feel anything or find
14 anything suspicious?

15 A No.

16 Q No contraband?

17 A I asked the subject what he had in his pockets. I
18 had already patted him down. He pulled his pockets inside
19 out for me. One hand had a little bit of money that was
20 it.

21 Q When you say a little bit of money...

22 A I didn't count it.

23 Q Okay. Then your attention was drawn to Deputy
24 Bellamy. When you got there, it was basically right
25 before he was actually putting him in handcuffs and placed

1 under arrest or at least taken into custody?

2 A Yeah, when I remember having one handcuff on and he
3 was trying to get the other arm on he couldn't get it on.

4 Q And you weren't there for anything that lead up to
5 that point?

6 A No, sir.

7 Q And you have no personal knowledge of...

8 A I was not informed of the drugs that was taken into
9 account of the situation until after the subject was
10 already handcuffed.

11 MR. MEETZE: I don't have any further questions.

12 MR. WELLS: Nothing further of this witness.

13 THE COURT: Thank you, Deputy. You may step down.

14 (WHEREUPON, witness leaves the witness stand.)

15 MR. WELLS: We call Lieutenant Darren Yarborough.

16 THE CLERK: Place your left hand on the Bible and
17 raise your right hand. Do you solemnly swear or affirm
18 the testimony you give in this case will be the truth, the
19 whole truth, and nothing but the truth so help you God?

20 MR. YARBOROUGH: I do.

21 THE CLERK: Please be seated and state your name for
22 the record?

23 MR. YARBOROUGH: Darren Yarborough.

24 WHEREUPON,

25 Darren Yarborough,

1 after first having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. WELLS:

4 Q And, Lieutenant Yarborough, with whom are you
5 employed?

6 A Florence County Sheriff's department.

7 Q And how long have you been in law enforcement?

8 A Fourteen years.

9 Q Now, Lieutenant Yarborough let me call your attention
10 to the night of July 25th of 2006, around 10:30, 11 p.m.

11 Now, on that particular night, were you one of the
12 supervisors on duty?

13 A Yes, sir.

14 Q Now, in that regard, did you hear a dispatch which
15 you responded to?

16 A Yes, sir.

17 Q And what was the nature of the dispatch?

18 A Some drug activity on the dirt portion of Howard
19 Street.

20 Q All right. Was there any type of a person you were
21 looking for?

22 A A black male on a bicycle.

23 Q All right. Now, is that an area in which you've had
24 problems with drugs in past being sold?

25 A Yes, sir.

1 Q Now, as a result of that, did you have any
2 communication with any other officers in the area?

3 A Yes, sir.

4 Q And as a result of that, what did you suggest that
5 they do?

6 A I suggested that we meet on Jarrett Street near the
7 Clyde Court apartments and park our cars there and walk
8 through the apartments and approach on foot.

9 Q What was the reason for doing it that way?

10 A So first of all so we want be seen.

11 Q All right. So did you in fact do that on that
12 particular night?

13 A Yes, sir.

14 Q And who were the deputies who walked with you over to
15 the scene?

16 A Myself, Deputy Bellamy, Deputy Hartwell. And we had
17 two other deputies that went on the back side, but they
18 never got involved with the incident.

19 Q All right. And so if you would relate what you
20 observed occur when you walked over to that particular
21 area?

22 A Saw again two black males one was on a bike. One was
23 in the front of the guy that was on the bike. We made our
24 approach. I pretty much just kind of stood back and let
25 Deputy Hartwell and Deputy Bellamy take care of the

1 situation.

2 Q All right. And did each of them go to a different
3 individual?

4 A Yes, sir.

5 Q All right. And what did you then subsequently see as
6 far as Deputy Bellamy and the person on the bicycle?

7 A They started struggling which at that time, you know,
8 I help Deputy Bellamy try to maintain control of the
9 subject.

10 Q All right. So you went over and helped get him under
11 control?

12 A Yes, sir.

13 Q All right. And did you see that night this
14 particular object that's been marked as State's Exhibit
15 Number 2 for identification?

16 A Yes, sir.

17 MR. MEETZE: Your Honor, I object.

18 THE COURT: I note your objection.

19 BY MR. WELLS:

20 Q All right. And was this what was found on the person
21 of the defendant by Officer Bellamy?

22 A Yes, sir.

23 Q All right. And looking at what appears to be crack
24 cocaine, based on your experience in dealing with people
25 in drugs, would you estimate the value being more or less

1 than a thousand dollars?

2 A More.

3 Q Now, after the defendant was placed under arrest, did
4 Deputy Bellamy was he the one that was brought in the
5 drugs and the defendant?

6 A Yes, sir.

7 Q And did you yourself prepare any paperwork in the
8 case?

9 A No, sir.

10 MR. WELLS: That's all. Answer any questions defense
11 counsel has.

12 CROSS-EXAMINATION

13 BY MR. MEETZE:

14 Q Lieutenant Yarborough, you indicated that as Deputy
15 Bryant, Deputy Bellamy approached you stayed back?

16 A I mean, I walked up there with them, but I didn't get
17 so much hands involved with the incident.

18 Q But eventually, you saw Deputy Bellamy struggling?

19 A Yes, sir.

20 Q And you did go there?

21 A Yes, sir.

22 Q At that point in time had he already got the tennis
23 ball out of his pocket?

24 A Not to my knowledge.

25 Q Not to your knowledge. So you were there when all

1 that happened?

2 A I was there once he showed me the tennis ball.

3 Q Okay. But you didn't see him actually how he got
4 possession of it or anything like that?

5 A No, sir.

6 Q And you didn't ever actually handle that evidence?

7 A No, sir.

8 Q When you first saw the person on bike talking to the
9 other individual, you couldn't tell what they were doing?

10 A No, sir.

11 MR. MEETZE: I don't have any further questions.

12 THE COURT: Anything further?

13 MR. WELLS: Nothing further of this witness.

14 THE COURT: Thank you, sir. You may step down.

15 (WHEREUPON, the witness leaves the witness stand.)

16 MR. WELLS: We call Officer Kim Cockfield to the
17 stand.

18 THE CLERK: Place your left hand on the Bible and
19 raise your right hand. Do you solemnly swear or affirm
20 the testimony you give in this case will be the truth, the
21 whole truth, and nothing but the truth so help you God?

22 MS. COCKFIELD: Yes, ma'am.

23 THE CLERK: Please be seated and state your name for
24 the record?

25 MS. COCKFIELD: Jennifer Kim Cockfield.

1 WHEREUPON,

2 Jennifer Kim Cockfield,

3 after first having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. WELLS:

6 Q And, Officer Cockfield, with whom are you employed?

7 A Florence County sheriff's office.

8 Q And how long have you been employed in law
9 enforcement?

10 A Law enforcement a total of eleven years.

11 Q Now, Officer Cockfield, is one of your duties to
12 transport drugs to and from the place where they are to be
13 tested?

14 A Yes, sir, it is.

15 Q And during this particular time period in the fall of
16 2006, where were the drugs being tested for the Florence
17 County sheriff's department?

18 A Charleston police department lab in Charleston.

19 Q All right. Now, let me show you what's been marked
20 as State's Exhibit Number 1 for identification and ---

21 MR. MEETZE: Objection.

22 THE COURT: Noted.

23 Go ahead, sir.

24 BY MR. WELLS:

25 Q Let me show you what's been marked State's Exhibit

1 Number 1 for identification and ask if you can identify
2 this item. And if this was an item that you had an
3 occasion to transport to the Charleston police department
4 for forensic lab?

5 A Yes, sir, it is. It's been heat sealed with my
6 initials on it.

7 Q All right. Where do you put your -- do you transport
8 this inside bag which contains the tennis ball and the
9 drugs?

10 A Yes, sir.

11 Q And is that where you put your initials?

12 A Yes, sir.

13 Q All right. Where in particular on that bag and
14 anywhere else?

15 A No, sir, just on the inside bag.

16 Q Inside bag. All right. And did you retrieve this
17 item to take to Charleston police department forensic
18 lab from the evidence room where Deputy Bellamy had placed
19 it?

20 A Yes, sir.

21 Q All right. And from checking your records prior to
22 trial, did you transport it there on October 25th 2006 to
23 Charleston?

24 A Yes, sir, I did.

25 Q And did you subsequently return it back from

1 Charleston on November 8th 2006?

2 A Yes, sir.

3 Q And at that time had it been placed by the chemist in
4 the sealed outside bag?

5 A Yes, sir, they placed it in that bag prior to me
6 bringing it back.

7 Q All right. And did you place it then back into the
8 evidence room here in Florence?

9 A Yes, sir, I did.

10 Q And has it been there until you brought it here to
11 trial?

12 A Yes, sir, it has.

13 MR. WELLS: All right. Nothing further from this
14 witness.

15 CROSS-EXAMINATION

16 BY MR. MEETZE:

17 Q You don't have any personal knowledge about any of
18 the facts of this case?

19 A No, sir, I don't.

20 Q You simply took a bag of evidence from one place to
21 another?

22 A Yes, sir.

23 Q And then brought -- did you bring it back or someone
24 else?

25 A I brought it back.

1 Q And that's it?

2 A Yes, sir.

3 MR. MEETZE: I don't have any further questions.

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

5 (WHEREUPON, the witness leaves the witness stand.)

6 MR. WELLS: Any objection that she's excused?

7 MR. MEETZE: None.

8 MR. WELLS: And for the last witness, I need for the
9 clerk -- you can be excused. Can one of y'all go to our
10 office the chemist is in the conference room. We need her
11 now.

12 (WHEREUPON, a pause in the proceedings.)

13 THE CLERK: Go to the witness stand. Place your left
14 hand on the Bible and raise your right hand. Do you swear
15 or affirm the testimony you gave in this case will be the
16 truth, the whole truth, and nothing but truth so help you
17 God?

18 MRS. WIGGINS-MITCHELL: I do.

19 THE COURT: Please be seated and state your name for
20 the record?

21 MRS. WIGGINS-MITCHELL: Elizabeth Wiggins-Mitchell.

22 WHEREUPON,

23 Elizabeth Wiggins-Mitchell,
24 after first having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

JENNIFER COCKFIELD - CROSS-EXAMINATION BY MR. MEETZE

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1 BY MR. WELLS:

2 Q And you normally called Mrs. Wiggins-Mitchell?

3 A Mitchell or Nicki's fine.

4 Q All right. Mrs. Mitchell, first let me ask you what
5 -- where are you employed?

6 A I'm employed by the Charleston police department in.
7 forensic laboratory.

8 Q And in that regard, what did you do in the forensic
9 laboratory?

10 A I'm the manager of the laboratory.

11 Q All right. And in that regard, are you also a
12 chemist?

13 A Yes, sir, I am.

14 Q And do you test drugs to see what they are?

15 A Yes, sir.

16 Q Now, in that regard, if you would relate to the,
17 ladies and gentlemen of the jury, what your training and
18 experience is in the field of chemistry in particular in
19 testing for drugs?

20 A I have a degree in chemistry and biochemistry that I
21 received from the College of Charleston. I started my
22 employment with the Charleston police department, I
23 completed their rigorous in-house training program, which
24 included reading various text books concerning the
25 analysis of drugs, shadowing another chemist who did drug

1 analysis through over 100 cases, having all of my cases
2 reviewed for 12 weeks and completing a competency test in
3 the area of drug analysis.

4 Q All right. And since that time in your employment,
5 would you estimate that you have tested 100's or event
6 thousands of drugs?

7 A Actually, I have. I looked at it this morning I
8 found about 7,000 cases.

9 MR. WELLS: All right. Your Honor, in that regard,
10 we would ask that Mrs. Mitchell be declared an expert in
11 the field of chemistry as far as drug testing.

12 MR. MEETZE: No objection, Your Honor.

13 THE COURT: All right. Ladies and gentlemen,
14 Mrs. Mitchell is going to be considered an expert witness
15 for the purposes of her testimony. Let me just tell you
16 that the difference between an expert witness and lay
17 witness is that for example in this case because of
18 Mrs. Mitchell's training, her education, her experience in
19 this particular field, she has been declared an expert in
20 that field, which allows her to not only testify as to her
21 procedures that she followed, but to also to give her
22 opinion as to the results that she obtained. A layperson,
23 a lay witness is not allowed to give opinion testimony.
24 They can only testify to those facts that they have seen,
25 heard, smelled or tasted. The difference in the two is

1 simply the fact that an expert witness is allowed to give
2 opinions and just want to share that with you. And,
3 Mr. Wells, you may proceed.

4 MR. WELLS: Thank you, Your Honor.

5 MR. MEETZE: For the record, I would object to her
6 testimony involving the drugs.

7 THE COURT: All right. Your objection is noted and
8 overruled.

9 BY MR. WELLS:

10 Q Now, Mrs. Wiggins, first let me ask you if you would
11 look at what's been marked as State's Exhibit Number 2 for
12 identification and ask if this was an item brought from
13 the Florence County Sheriff's department for testing by
14 you and if you in fact tested these items inside?

15 A This was.

16 Q All right. In that regard, did you put your initials
17 on any of the items or the bag or anything?

18 A Yes, sir, my initials on each item in the bag as well
19 as the bag that it was originally packaged in.

20 Q All right. Now, in that regard as far as the white
21 substance that you tested, what -- if you would relate to
22 the, ladies and gentlemen of the jury, basically how that
23 was received by you and what -- how -- what type of
24 testing you did in your findings?

25 A Yes, sir, when I received this evidence, there was a

1 plastic bag with a white rock-like substance placed inside
2 this tennis ball that has been cut open. That entire
3 package, the tennis ball, was inside of a plastic bag
4 that had been heat sealed and initialed by the the officer
5 from the Florence County Sheriff's department when they
6 brought it to me. Upon receipt -- and this was logged
7 into our data base and given an individual number by our
8 laboratory so that we can track it. I began my analysis
9 with a wet chemistry test and then proceeded to two
10 different types of instrumental analysis to confirm my
11 findings.

12 Q All right. And, what if anything, did you find the
13 white substance to be?

14 A I found the substance to contain crack cocaine
15 cocaine base.

16 Q All right. Is crack cocaine and cocaine base two
17 terms, but the same thing?

18 A Yes, sir, they are.

19 Q All right. And in that regard, what did you
20 determine the weight to be of the crack cocaine?

21 A 5.52 grams.

22 Q All right. All right. Is this is a copy of the
23 report that you prepared in that regard?

24 A Yes, sir.

25 Q All right.

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1 MR. WELLS: I move first to admit this into evidence
2 her report.

3 MR. MEETZE: Again, renew my previous objection.

4 THE COURT: Overrule your objection that's State's
5 Exhibit 3.

6 (WHEREUPON, State's Exhibit No. 3 was admitted into
7 evidence.)

8 BY MR. WELLS:

9 Q Now, Mrs. Mitchell, once you had finished testing the
10 drugs in fact to be crack cocaine or cocaine base, did you
11 then put it into this outer bag and heat seal it up?

12 A Yes, sir.

13 Q All right. And that's your initials then you put
14 after you done that?

15 A Yes, sir.

16 Q And does it appear to be in the same condition the
17 bag as when you turned it back over to the sheriff's
18 department in Florence?

19 A Yes, sir, the only difference is that I didn't put
20 that orange sticker on it.

21 Q Right. That's the exhibit for the courtroom this
22 morning. All right.

23 MR. WELLS: Your Honor, at this time, I would move to
24 admit into evidence what's been marked as State's Exhibit
25 Number 2 for identification?

1 THE COURT: And subject to defense objection which is
2 overruled, that is in evidence and that is State's Exhibit
3 Number 2 now in evidence.

4 (WHEREUPON, State's Exhibit No. 2 was admitted into
5 evidence.)

6 MR. WELLS: If you would answer any questions defense
7 counsel may have.

8 CROSS-EXAMINATION

9 BY MR. MEETZE:

10 Q You don't have any personal knowledge of the facts of
11 this case?

12 A No, sir.

13 Q You have nothing to add with regards to how law
14 enforcement got those drugs and how they ended up in your
15 hands and all that?

16 A No, sir.

17 MR. MEETZE: I don't have any further questions.

18 THE COURT: Thank you, ma'am. You may step down.

19 MR. WELLS: Any objection that she's excused.

20 MR. MEETZE: None.

21 THE COURT: There's no objection. You're free to go,
22 ma'am.

23 (WHEREUPON, the witness leaves the witness stand.)

24 MR. WELLS: And that would be the State's case, Your
25 Honor.

1 THE COURT: All right. Ladies and gentlemen, I'm
2 going to ask you to step back to your jury room for just a
3 moment. I got some matters that I need to take up with
4 the attorneys. I would remind you that the case is not
5 over. It's not appropriate to have any discussions about
6 the evidence in this case. And I know that's difficult,
7 but you're not to have any discussions about anything you
8 heard today, talk about anything else. One thing I'm
9 going to do before I excuse you back there is I'm going to
10 ask Ms. Nikki Johnson -- Ms. Johnson, would you be willing
11 to serve as the forelady of the jury.

12 MS. JOHNSON: Yes.

13 THE COURT: All right. And let me explain to you
14 members of the jury what that role is. It is simply this
15 as I will instruct you later on, your verdict whatever
16 that verdict is must be unanimous. All 12 -- when you
17 deliberate, there will be 12 of you must agree. So
18 therefore, the forelady's vote or opinion is no greater or
19 less than any of you. All of you have equal importance in
20 this process. The reason the Court appoints a foreperson
21 is simply for this reason. There needs to be some
22 communication or contact person between the members of the
23 jury and the Court. The foreperson serves as a liaison
24 so to speak between the jury and the Court. So therefore,
25 if you have any questions as a juror, if anyone has any

1 questions or any communication that you need to present to
2 the Court, the foreperson in this case Ms. Johnson, will
3 write that question down on a sheet of paper, pass it out
4 to the Court. I will review that. If I need to bring all
5 of you out, I'll bring all of you out to respond to it.
6 But if I only need to bring her out, I'll bring her out
7 and then she'll convey the response to the rest of the
8 panel. So that's the main purpose of a foreperson.

9 You also have to have somebody -- you got 12 people
10 who are sitting down and about to discuss things
11 somebody's got to be able to say, okay, we need to begin
12 and, okay, we need to stop. And so the foreperson also
13 has the duty of presiding over the deliberations, that
14 doesn't mean ruling over them. It simply means presiding
15 over them. One of the things I'm going to explain to you
16 is that when you do deliberate, you're only allowed to
17 deliberate when everyone is present. So for example, if
18 one member of the jury during the course of deliberations
19 has to go to the restroom, then the forelady in this case
20 would say, all right, we need to stop discussions until
21 that individual returns. So that that individual will
22 have the benefit of all of the discussions. So then when
23 that person returns, then we'll begin. And then the final
24 thing is you'll have a verdict form.

25 The forelady will be in charge of that form so that

1 when you do reach a unanimous verdict, then she will
2 simply mark that form appropriately as to what you're
3 verdict is and then sign it as the forelady. I tell you
4 all that with the emphasis on this, the forelady in this
5 case is no more important than any member of the jury.
6 Once the deliberations begin, there's 12 people, all 12
7 people carry the same weight, the same importance and are
8 entitled to your decision.

9 So now, the last thing is that when you come back out
10 we're creatures of habit. When my wife and I go to church
11 on Sunday morning, if somebody's sitting in our seat, we
12 look around like we're lost. You know, because we're just
13 always have sat in the same seat. As members of the jury,
14 you're not assigned to any particular seat. When you file
15 back out, the only exception to that rule is with two
16 people and that would be the forelady and the alternate.
17 The forelady, Mrs. Johnson, in this case, would occupy
18 this seat where this gentleman sitting right here the
19 first seat on the first row. And then our alternate would
20 always occupy that chair that she's in. Other than that,
21 the rest of you can sit anywhere you want.

22 Now, I'm not going to tell you you got to all file to
23 the end of the row and nobody can -- you taken a
24 particular hankering to a seat you're in and you want to
25 sit, there that's fine. But if it's easier to have

1 everybody file in and file out and not have to step other
2 each other, that's all well and good as well. So when you
3 come back out other than Ms. Johnson and the alternate,
4 sit wherever you like. So please go back to your jury
5 room, have no discussions about the case and I'll bring
6 you back out shortly.

7 (WHEREUPON, the jury retired to the jury room.)

8 THE COURT: All right. We are at the close of the
9 State's case. At this time, I'll be happy to entertain
10 any motions if there are any from the defense?

11 MR. MEETZE: Thank you, Your Honor. May it please
12 the Court?

13 THE COURT: Yes, sir.

14 MR. MEETZE: Your Honor, at this time, I would renew
15 my previous objections. And would also make a motion for
16 a directed verdict in this case for the record based on
17 the evidence presented to this jury being insufficient for
18 a reasonable jury to come back with a verdict of guilty.

19 THE COURT: Thank you, Mr. Meetze. I'm going to
20 respectfully overrule or deny your motion. We had -- just
21 for purposes of our class out here cause I know you may be
22 wondering I haven't given Mr. Meetze's objections a whole
23 lot of time. I believe, it was yesterday or the day
24 before, Mr. Meetze made a motion on behalf of Mr. Taylor
25 to suppress the drug evidence based on many factors which

1 he argued to the Court. After hearing those factors and
2 weighing the testimony from the witnesses that I heard in
3 that hearing the other day, I overruled his or denied his
4 motion for suppression and allowed -- felt that the State
5 had met the burden that they needed to meet for the drugs
6 to be admitted. And so therefore to make the record clean
7 and to keep the record appropriate, Mr. Meetze has been
8 making objections regarding the drug evidence. However,
9 pursuant to my earlier ruling, I simply just overrule
10 those objections, but he's making those objections to
11 preserve the record just for your information.

12 Now, of course, Mr. Meetze at this stage of the game,
13 the Court is not concerned with nor is it appropriate for
14 the Court to rule on the weight of the evidence simply
15 whether or not there's an existence of evidence whereby a
16 jury could find. I'm going to deny your motion based on
17 the fact that I do believe that there is sufficient
18 evidence if the jury choose to believe it as the State has
19 presented it whereby they would be able to reach a
20 verdict. Anything further?

21 MR. MEETZE: Your Honor, I can tell the Court the
22 defense would not be putting up any evidence or testimony.
23 We rest at this time as well.

24 THE COURT: All right, sir. Now, let me make this
25 suggestion, gentlemen. I've got a charge which I prepared

1 and what I'm doing right now is I'm printing it. Grayson,
2 if you would get a copy for Mr. Wells and for Mr. Meetze
3 please. Again, for y'all's information, that's my lawyer.
4 His name is Grayson Smith. He graduated from law school.
5 Circuit court judges are blessed to have the option to
6 have a law clerk to work with us. And Grayson has agreed
7 to work with me. And so he graduated from law school
8 last year. And he'll work with me until August of this
9 year when he'll go on to bigger and better things. And
10 I'll have another law clerk who will come work with me
11 who's graduated from law school, but he's the gentlemen
12 that you've seen in and out.

13 The charge is fairly a basic charge, but I do want to
14 give it to each of you, allow you to review it. But
15 looking at the time, I'm going to give you your
16 opportunity for your closings. My thought process is to
17 allow this jury to go the lunch. Let you review the
18 charges. If there's any discussion we need to have about
19 that, we'll do that. And then upon their return from
20 lunch, we'll argue. And I'll charge the jury and allow
21 them to deliberate.

22 MR. MEETZE: Certainly, no objection, Your Honor.

23 THE COURT: With regards to the class, I don't mean
24 to cut you short. But what I'm going to do at this time
25 is I am going to excuse this panel for -- let them go to

1 lunch, so that we can take up matters that we have to take
2 up involving the jury charge. Let me take care of that
3 and then I'll address you.

4 MR. MEETZE: Judge, may we approach.

5 THE COURT: Yes.

6 Mr. Propps, hold on for just a moment please.

7 (WHEREUPON, a bench conference was held.)

8 (WHEREUPON, the jury returned to the courtroom.)

9 THE COURT: All right. Mr. Meetze, recognize you,
10 sir.

11 MR. MEETZE: Your Honor, the defense would rest.

12 THE COURT: All right, sir. Thank you. Ladies and
13 gentlemen, you heard all of the evidence in the case. You
14 heard from the State. You heard from the defense that the
15 defense has rested. And so now we're at the portion of
16 the trial where typically it would be my time to give you
17 the law. And then once you have that, then you're
18 prepared to go back in the room and start your
19 deliberations, but we're just upon the lunch hour. Well,
20 actually, I've left out probably one of the most important
21 parts really we're at the point since the defense has
22 rested where you're going to hear from the attorneys with
23 their closing argument. And at the close of their
24 argument, I will give you the law. But we're at the lunch
25 hour and so as not to limit the lawyers with regard to

1 their argument, I'm going to excuse you for lunch just a
2 little bit early. It's ten minutes to 12. I'm going to
3 ask if you would be back in your jury room at 1:30 ready
4 to come back out and go to work.

5 All right. So that gives you a little bit more than
6 an hour and half to be able to go get some lunch, come
7 back, find a park and be back here. This is very
8 important. You have heard all the evidence you're going
9 to hear, but what you haven't heard is you haven't heard
10 from the attorneys their arguments. You haven't heard the
11 law and so it is very crucial that you have no
12 conversations amongst yourselves or with anyone else about
13 this case. During the lunch break enjoy your lunch. If
14 anyone attempts to speak with you about the case, you just
15 inform them very politely that you're a juror on this case
16 and you're not allowed to talk to anyone about it. If
17 that person or people persist, you let me know and I'll
18 make sure that they don't do that, enjoy your lunch. And
19 if you would, please be back in your jury room at 1:30.
20 Okay. Thank you.

21 (WHEREUPON, the jury was excused for lunch.)

22 THE COURT: All right. At this time, Mr. Meetze,
23 I'll be happy to hear from you with regards to your
24 motions.

25 MR. MEETZE: Your Honor, for the record, I would

1 renew my previous objections that were made during the
2 trial of the case during the State's case in chief. And I
3 will also renew my motion for a directed verdict based on
4 the same reason as in the State's case.

5 THE COURT: Thank you, sir. And again, with all due
6 respect, I would deny the motion. I do believe that there
7 is evidence, credible evidence whereby jury could find a
8 verdict and I think it is appropriate to allow them to do
9 that.

10 Now, having said that, gentlemen, what I like to do
11 is excuse y'all at this point. If you would just check by
12 my office and Grayson will have a copy of the charge that
13 I prepared.

14 MR. WELLS: He's given it to us.

15 THE COURT: Oh, he did. Please review that. If
16 there's any additions or subtractions or whatever
17 corrections that you feel are appropriate, we'll talk
18 about those. Why don't we get back together about 1:15.
19 We'll look into that. Also, did he give you a copy of the
20 verdict form. I don't know if he included that. If not,
21 we'll go over that at 1:15.

22 MR. WELLS: Your Honor, I don't believe he did.

23 THE COURT: All right. We'll go over that at 1:15
24 when y'all return then, okay.

25 MR. MEETZE: Thank you, Your Honor.

1 (WHEREUPON, a lunch break was taken.)

2 THE COURT: Gentlemen, I gave to you at the lunch
3 break a copy of the charge that I proposed. Have you had
4 an opportunity to review that?

5 MR. WELLS: The State has had an opportunity. We
6 have no objections to the charge or the form of the
7 verdict.

8 THE COURT: Okay. Mr. Meetze.

9 MR. MEETZE: Same the defense, Your Honor. I have
10 reviewed it and I have no objections to it or the verdict.

11 THE COURT: All right. Well, gentlemen, the verdict
12 form -- that's right you don't have a copy of that. I've
13 got the charge that I gave you. As you both know, I read
14 from it verbatim. So you know you got it. I do send the
15 charge back with the jury. And I send them actually the
16 one I read off of, so that will be exactly what they get.
17 Is there anything that we need to take up before we begin
18 with the closing arguments, Mr. Wells?

19 MR. WELLS: Nothing that I'm aware of.

20 THE COURT: Mr. Meetze.

21 MR. MEETZE: Nothing, Your Honor.

22 THE COURT: All right. Are you both ready to proceed
23 then?

24 MR. WELLS: Yes, sir.

25 MR. MEETZE: Yes, sir.

1 THE COURT: Mr. Propps, if you would ask the members
2 of the jury to join us?

3 (WHEREUPON, the jury returned to the courtroom.)

4 THE COURT: Welcome back, ladies and gentlemen of the
5 jury. I hope everyone had a good lunch. We have now
6 reached that time in the trial where I indicated to you
7 before you went to lunch, that you have heard all the
8 evidence in the case. The exhibits that are going to be
9 involved in this case are in evidence and you'll have
10 those with you in the jury room. There's two other areas
11 of this case that you need before you can deliberate. You
12 need to hear from the attorneys with regards to their
13 closing arguments and we're about to do that. And then at
14 the close of that, I will give you the law to you to apply
15 to the facts as you find the facts to be.

16 Now, please keep in mind, I told you earlier
17 regarding the opening statements that what the lawyers
18 tells you and what the lawyers have to say to you is not
19 evidence. The evidence is in. It was evidence from the
20 witness stand and exhibits, but it's very important what
21 they share with you because they are -- Mr. Wells on
22 behalf of the State and Mr. Meetze on behalf of Mr. Taylor
23 are going to at least share with you their contentions as
24 to what the evidence shows. And it's their efforts to try
25 to help you decide the case. Please give them your close

1 attention. And as I indicated at the conclusion of their
2 arguments, I will then give you the law that you're to
3 apply to the case. So having said that, I would recognize
4 Mr. Wells.

5 MR. WELLS: May it please the Court, ladies and
6 gentlemen of the jury, first, let me thank you for your
7 time and attention in this case. While it did not take
8 long to try this case, nonetheless it is an important
9 case, a serious case. And all we can ask you to do is
10 listen very carefully to the evidence as it comes from the
11 witness stand so at the end of the trial, you can reach a
12 verdict that speaks the truth. Certainly, you appear to
13 give careful attention, that's all we can ask you to do.

14 Now, the procedure we're going to follow in this
15 particular case is I'm first going to talk to you about
16 the evidence and the law which the State thinks is
17 important. Then Mr. Meetze will do the same. And then
18 the judge will charge you the final instruction, the law
19 that you're to take and apply the evidence in this case.

20 You basically are the fact finders in this case and
21 what your job is to determine what the facts were, what
22 actually happened on July 25th 2006. Then apply the law
23 as the judge charged it to you. Let me say at the
24 beginning while I'm going to talk to you as to some of the
25 evidence and testimony as I remember it, if your memory of

1 any of the testimony differs from mine, of course, you
2 take your recollection because that's what your job is to
3 determine what the testimony was or the evidence was.

4 By the same token, if I say anything about the law,
5 which seems different from the way the judge charged it to
6 you at the end of the trial, of course, you will take the
7 judge in his charge because he is the one that you might
8 say is kind of like the referee in this case that tells
9 you what the rules are and the law that applies in this
10 particular case.

11 Now, this is not a difficult case. But let's just go
12 over briefly some of the evidence the facts in this case
13 and then look at the -- this evidence and the law that
14 will apply to you. First, on this particular night
15 July 25th 2006, around 10:30 or so 10:30, 11 o'clock at
16 night what started this was that there was an anonymous
17 call into the dispatch and the dispatcher then gave out
18 that call what the caller had called in to the officers
19 who were in the vicinity and that was that the person who
20 called in said that there was a black male on a bicycle
21 somewhere around Ervin Street who was dealing in or
22 selling drugs. That's what the officers new. They did
23 not know how accurate that report was, but that's what the
24 original call in was.

25 As a result of that, officers in that area or in and

1 around Ervin Street that general area of town responded.
2 The officer in charge of that particular night a
3 supervisor was Lieutenant Darren Yarborough. So in
4 talking over the radio with other officers including
5 Officer Bellamy and Officer Bryant, they decided or he
6 decided a good strategy would be not for all these
7 police cars to drive up where the person sees them at a
8 distance and takes off and he realizes they're coming
9 towards him. But rather to go meet in an area where they
10 can then walk over to that location, so that they will
11 not be seen coming. And they can get up on the person if
12 there is a person there meeting that description. So
13 that's what they did on this particular night. They
14 decided to meet over, I believe, around the Clyde Court
15 apartments and park their vehicles.

16 Now, on the way over there, Deputy Bellamy said that
17 he did drive in the general vicinity where he was close
18 enough that he could see at a distance on Ervin Street a
19 person, a black male on a bicycle. And that's all he knew
20 that there was a person who meet that description. So he
21 came onto the location where they met. The three of them
22 then went together over towards that location.
23 Apparently, from what Officer Yarborough said he sent two
24 other deputies who were not -- turned out did not have to
25 get involved in this case over to a different location

1 kind of as back up on the other side I guess if somebody
2 run that direction. So at any case, when they come up
3 towards the scene and looking what they all saw that they
4 -- the person on the bicycle, which Deputy Bellamy said
5 appeared to be the same person he had seen when he was
6 driving over here. And then they also saw another person
7 that was close up to the person on the bicycle. He said
8 the person who was later identified to be the defendant
9 was straddling the bicycle standing up. The other person
10 was in close proximity talking to him. This was an
11 isolated area. It was the end of the dirt road there on
12 Ervin Street. A little part that becomes dirt right
13 before you dead end on the woods on the other end.

14 The officers, of course, did not know what was being
15 discussed. Certainly, it's an isolated area. Certainly,
16 appeared questionable. Activities may have been going on
17 at the time so the officers started on foot. Lieutenant
18 Yarborough said he hung back and let the other two
19 officers take charge. They said as soon as these two
20 individuals one who turned out to be the defendant on
21 bicycle and the other man saw the officers approaching,
22 they immediately split. The defendant started riding on
23 his bicycle, started riding in the direction of the
24 officers which really he had no other choice as far as
25 riding his bicycle because he gone the other way he been

1 at the woods where he couldn't have ridden his bicycle
2 because the road dead ends there. That other man though
3 started walking the other way, so what the officers did
4 Deputy Bryant said he would take the person on the bicycle
5 -- not Deputy Bryant, Deputy Bellamy the person on the
6 bicycle. Deputy Bryant said he would take the other
7 person.

8 And Deputy Bryant said he went over to the other
9 person did a pat down quickly and did not find anything on
10 that person. Check for warrants because the person gave
11 an I.D. and he let that person go. If there was a drug
12 transaction that was in the process, apparently had not
13 been consummated. At least in the little patted him down
14 and I believe the man open his pockets. He did not see
15 anything of a criminal nature, and so the person was let
16 go simply as that. However, of course, Officer Bryant saw
17 the trouble Deputy Bellamy was having and, of course, went
18 over to assist him.

19 Well, what happened when Deputy Bellamy tried to stop
20 the defendant. It was not the same as the other
21 individual. Certainly, I'm sure because that person who
22 was the defendant knew what he had on his person which was
23 a very large amount of drugs of crack cocaine. So the
24 person was riding his bicycle in the direction where
25 Officer Bellamy was. Officer Bellamy was telling him to

1 stop. He was not stopping. He was trying to turn his
2 head and keep on riding. So finally, Deputy Bellamy when
3 he was close enough literally grabbed his arm and did a
4 takedown to get him down on the ground.

5 He said the person who he identified as the defendant
6 he was the only one here at the beginning of trial when
7 picking a jury. He said that was the person who was here
8 when we picked a jury was the defendant, was the person he
9 stopped on that particular night. All right. He got him
10 down on the ground. He said the defendant say, why, you
11 stopping me and so forth. He did a pat down. He said he
12 immediately felt a bulge in the defendant's right pocket,
13 which he did not know at that time what it was but tried
14 to slip it out. He said the defendant was trying to get
15 up and get away, but he finally was able to just do up and
16 get this -- what turned out to be this -- as you can see
17 this tennis ball which has a big slit in it whereas you
18 how I press it, you can see easily comes open enough where
19 you can get the crack cocaine in and out. And, of course,
20 what was in it this large amount of crack cocaine that was
21 inside the tennis ball. He said particularly after he got
22 that out the defendant -- he got one handcuff on him. The
23 defendant was trying to get up, appeared to be trying to
24 get away. And so the other officers, Officer Bryant as
25 well as Lieutenant Yarborough came over to his assistance

1 and were able to help in getting him handcuffed. And I
2 think finally the officer had to taze him first which
3 basically is like a stun gun which stops him for a short
4 amount of time where he can help him get handcuffs on him.
5 And then he was placed under arrest for possession of
6 cocaine base or possession of crack cocaine with intent to
7 distribute.

8 Now, ladies and gentlemen, let's look at the law
9 which apply in these facts. The judge will charge you.
10 You'll have an option of three verdicts in this case. You
11 can find the defendant guilty of the possession of cocaine
12 base with intent to distribute or you can find the
13 defendant guilty of a lesser-included offense of simple
14 possession of cocaine base or you can find the defendant
15 not guilty.

16 Now, first the two elements really in this particular
17 case that we need to consider is first possession and then
18 with intent to distribute. First on possession, you have
19 either constructive possession or actual possession. For
20 example, if I had -- say this tennis ball with the drugs
21 were down at my feet where I have an area where I have
22 dominion and control over them, that would be considered
23 constructive possession. It was such that I was
24 controlling that area where I can immediately get to these
25 drugs and knew they were there and put them there. They

1 were in my constructive possession. But in this case, we
2 have a situation that's most stronger. We have actual
3 possession and the drugs were actually in the defendant's
4 pocket.

5 While obviously, the judge will charge you. You need
6 -- the State needs to prove knowing possession. You
7 obviously never prove exactly what's in the defendant's
8 head. But clearly, where the defendant has it in his
9 pocket and is trying so hard to get away from the
10 officers. It's pretty obvious if he hadn't had anything
11 on him like this, he would have had no reason to resist
12 the officers and would certainly talk to them. But in
13 this case, he knew exactly what he had been caught with.
14 He had no idea the officers were going to be coming over
15 looking for him that night. And so, of course, he was
16 trying to get away. So clearly, he had knowing possession
17 in this particular case of the drugs.

18 The second thing would be with intent to distribute.
19 And there are various elements that you can consider with
20 intent to distribute on this particular night. First,
21 ladies and gentlemen, it's interesting that the defendant
22 was in an isolated area the dirt road end of the street
23 right before it near the woods on a bicycle. It's
24 interesting that Officer Bellamy when he drove in a
25 distance where he could see the defendant was there. And

1 when they come back on foot probably 10, 15, 20 minutes
2 later, the defendant is still there. It's obvious he's
3 not riding his bicycle just riding his bicycle around.
4 He's there for a purpose. I think it seems obvious when
5 he was doing business with somebody he's there for one
6 purpose and that's to sell drugs.

7 Second, of course, ladies and gentlemen, in
8 considering whether it's intent to distribute, you can
9 consider how this thing was packaged. You know, he
10 obviously had it in this tennis ball as a method of trying
11 to hide the drugs. This is a large amount drugs. You
12 know, this isn't a situation of somebody going to buy some
13 tiny piece of crack cocaine for \$20.00, that might weigh
14 like a tenth of a gram or something on the street. This
15 is a large amount of crack cocaine. In fact, Lieutenant
16 Yarborough testified the value of this crack cocaine will
17 be more than a \$1,000. And this is not something that
18 somebody just bought a tiny little bit to smoke. This is
19 a drug dealer that has this much crack cocaine. And these
20 circumstances on his person like that.

21 Now, of course, the judge will charge you, ladies and
22 gentlemen, that there is an inference of fact that a
23 person who has in their possession a quantity of crack
24 cocaine of one gram or greater of crack cocaine is in
25 possession with intent to distribute. And in this case,

1 of course, we have is about five and a half times that
2 inference because it's 5.52 grams of crack cocaine. So
3 this is a large amount of crack cocaine. The defendant
4 had on his person clearly dealing drugs. You will not
5 have this crack cocaine if you do not have it for the
6 purpose of intent to distribute particularly in that
7 isolated situation in a tennis ball like this.

8 Let me finally say, ladies and gentlemen, just very
9 briefly in response to one thing the defendant's attorney
10 said at the beginning of trial in opening statement. He
11 said you're dealing with people's lives and people's
12 liberties. Well, you know, the real person who was
13 dealing with people's lives in this case was the
14 defendant. Cause when you get out there selling crack
15 cocaine not caring the consequences, not caring if
16 somebody addicted who buys the drugs, you are just
17 basically making them a slave to drugs is what it amounts
18 to and for one purpose greed, money, easy money.

19 Let me just say I know some people on the jury might
20 think, well, I have some sympathy for the defendant or I
21 hate to convict the defendant. Well, ladies and
22 gentlemen, anybody getting out there selling crack
23 cocaine, certainly you should have no sympathy for them.
24 The defendant did his own actions. He's the one that
25 choose to get out there obviously dealing crack cocaine

1 this large amount and therefore, he's the one who needs to
2 pay the consequences.

3 The word veredicto -- the word verdict comes from the
4 Latin word veredicto which means to speak the truth. And
5 let me ask you to do that in this case, but certainly,
6 ladies and gentlemen, the State feels that if you do that
7 consider the evidence as it come out on this witness stand
8 that the one proper verdict in this particular case is the
9 defendant should be found guilty of what he did with the
10 possession of crack cocaine or possession of cocaine base
11 with the intent to distribute. Again, thank you very much
12 for your time and attention in this case.

13 THE COURT: Thank you, Mr. Wells.

14 Mr. Meetze.

15 MR. MEETZE: May it please the Court?

16 THE COURT: Yes, sir.

17 MR. MEETZE: Ladies and gentlemen, thank you again
18 for your participation and your attention during this
19 trial and it want be too much longer. But I do want to
20 tell you a few things. First thing I want to tell you is
21 that we live in a nation of laws. And a lot our conduct
22 as civilians and conduct as law enforcement officers are
23 dictated by laws. And there different kind of laws.
24 There's laws that can be violated that can put you in jail
25 or fine you or put you on probation or something like

1 that. And then there's other kinds of laws as well that
2 dictate certain procedures that must be followed.
3 Violating those laws I'm not gone put you in jail or
4 anything like that, but there still needs to be
5 consequences for violating those laws. And you may not
6 know it, but whether you know it or not, you seen examples
7 or an example of that here today. You may wonder why the
8 courier was needed to testify in this case. The lady that
9 took the drugs from here to Charleston and back. She
10 didn't have anything to do with the investigation or she
11 didn't test them, so why was she here. Well, it's because
12 the law dictates. But why did she testify? That's
13 because the law dictates that she has to. When you're
14 dealing in a case where the evidence is considered to be
15 what's called fungible blood evidence is an example and
16 drug evidence is an example of evidence that's considered
17 to be fungible where it could be tampered with or changed
18 in some way or another. There's what's called a chain of
19 custody. And you have to prove every link in that chain,
20 so that you can demonstrate to a jury that none of that
21 happened, that nothing was tampered with. And I'm not
22 telling you what the evidence in this case was. I'm
23 explaining to you the reason she testified is because she
24 had to under the law. Mr. Wells by having her here to
25 testify was doing his job and following the procedures

1 dictated by the law in this case. So whether it seems
2 like the testimony didn't amount too much, it was as
3 tedious -- it was testimony that had to be presented.

4 Now, there's also procedures that law enforcement
5 officers have to follow on their job. You can't arrest
6 somebody without probable cause. You can't search
7 somebody for weapons without a reasonable suspicion. In
8 this case, this whole case started based on an unanimous
9 call to dispatch. The incident report that was prepared
10 in this case and submitted at the discovery what they say
11 happened in the case said that they got an unanimous call
12 from dispatch. Dispatch called the officers to say
13 there's an unanimous call was made, that there's a black
14 male on a bicycle selling drugs in this particular area.
15 Under our law, that's not enough to stop somebody or
16 arrest somebody or search someone. Now, I do understand
17 that the testimony went a little bit further than what the
18 incident report had to say. The testimony from the
19 officers was that when they got there, they saw the
20 individual and an individual on a bicycle and then about
21 15 or 20 minutes later saw that individual again he was
22 talking or huddled closely with another individual. Their
23 testimony was he couldn't see anything that was going on,
24 couldn't see what they were doing, that it was simply
25 that.

1 Now, that testimony not included in the incident
2 report. I think as you read the question in your mind
3 because the judge will charge you one of the things that
4 is -- one of the functions of the jury is to determine the
5 credibility of the witnesses and credibility can be
6 anything you want it to be. I will submit to you that in
7 this case when you leave out a key piece of evidence from
8 your incident report and then testify to something that
9 you haven't put in your report or anything, then there's
10 an issue with regards to credibility as to that testimony.

11 The officer, you know, for example, that part of his
12 testimony went a long way towards establishing what he
13 would feel like in this case was probable cause. Without
14 it, there's not probable cause and without it he's not
15 justified in his action. There's nothing in there that
16 indicates there was another individual. But he comes here
17 to court and testifies to something that's not in his
18 incident report at all and that does diminish I submit to
19 you his credibility. Also what diminishes credibility of
20 testimony is the fact that he would admit on the stand
21 that that was a big piece of evidence in this case. He
22 indicated that while he didn't feel like it was totally
23 insignificant, he wouldn't consider it a major piece of
24 evidence either, but I submit to you when you leave out
25 from your incident report a key piece of evidence which

1 gives you -- which would give you probable cause that is a
2 major piece of evidence. And, in fact, that he wouldn't
3 even get on the stand admit that again goes to
4 credibility. Also, as he testified, when you do a pat
5 down search for somebody for weapons, you -- that's what
6 you looking for. You're looking for weapons and there's a
7 policy behind that. If there's a reasonable suspicion to
8 believe that somebody may have a weapon, you can pat them
9 down to determine if they have weapons and that's for the
10 safety of the officers and safety for the general public
11 as well. But you have to have a reasonable suspicion. He
12 also did testify that when you conducting a pat down if
13 you feel something in somebody's pocket, but when he feels
14 it, he can tell right away it's not a weapon. He can't go
15 any further than that. In this case, he felt -- he saw a
16 bulge, patted him down, felt something which ended up
17 being a tennis ball. And he testified that to him it
18 could have been a weapon. It was a tennis ball, but it
19 could have been a weapon or he even mention maybe even a
20 bomb. And so he felt like he would work it out of his
21 pocket and that's what he did and that's when he found the
22 drugs in the tennis ball. Now, these actions are not
23 proper procedure when we don't follow.

24 MR. WELLS: Your Honor, I hate to interrupt it seem
25 like a lot of his argument is concerning things that a

1 court's decision is to make and really are not the
2 decision of the jury as far as admissibility of evidence.

3 THE COURT: The evidence is -- the evidence that is
4 before the jury has been deemed admissible under the law
5 being instructed as that.

6 MR. MEETZE: When these things aren't followed..
7 properly, there should be consequences. And in this case,
8 I will submit to you that the consequences of the actions
9 of the officers in this case should result in a verdict of
10 not guilty. They can't be allowed to do these things.

11 One more point with regard to credibility of the
12 witnesses. I will submit to you that again that's an
13 important part of your function. And for the officer to
14 get on the stand and say ended up being a tennis ball and
15 thought it might be a weapon, I feel like that also
16 diminishes his credibility.

17 Now, as Mr. Wells told you, Mr. Taylor charge with
18 possession with intent to distribute crack cocaine. You
19 going to have three options for verdicts in this case
20 guilty of possession with intent to distribute crack
21 cocaine or guilty of a lesser-included offense of simple
22 possession. You can also find him not guilty of anything.

23 Mr. Wells pointed out to you what he felt like was
24 the evidence that the State had to prove an intent to
25 distribute and keep in mind, we're asking you to find

1 bring back the verdict of not guilty of anything. If you
2 do not agree that that's appropriate that the police acted
3 appropriately, I would certainly submit to you that at the
4 absolute most Mr. Taylor is only guilty of is simple
5 possession in this case. And the reason I say that is
6 because the police first of all you get this anonymous
7 tip. And this anonymous tip based on testimony was that
8 there's a black male on a bicycle who's selling drugs in
9 this area and so the police show up. They see my client.
10 They say he's talking to another individual close -- in
11 close proximity to one another. They can't see any hand
12 to hand transaction. They can't see anything pass from
13 one person to another. They can just as easily be talking
14 to one another incidentally as doing any kind of a drug
15 deal. They think that's what it is. And I understand
16 that. But thinking that's what it is doesn't make it so.
17 And thinking that's what it is does not equal proof beyond
18 a reasonable doubt. When they finally did take my client
19 into custody, they did search him. They didn't find any
20 money on him. No evidence at all that he had any money on
21 him. But there's been -- if he had been out there like
22 this tipster said selling drugs, he have some money on
23 him, that's the way the drug trade works. You take money
24 from an individual. You give them whatever yourself. But
25 he didn't have any money on him. If he was out there

1 selling drugs prior to this time or during this time, he
2 would have had money. But he didn't have any money and
3 that is certainly evidence that he was not distributing
4 drugs and that he did not have an intent to distribute
5 drugs.

6 Also, there's a number of different ways that
7 evidence can be presented that could show an intent to
8 distribute. Mr. Wells indicated that this tennis ball the
9 way it's packaged shows an intent to distribute. And I
10 would submit to you that it doesn't at all. It might show
11 an intent to hide something, conceal something, but the
12 way this is packaged does not demonstrate or is not
13 evidence of an intent to distribute. There is something
14 in the drug trade called packaged for sell. If you got a
15 large amount of drugs, but those drugs are packaged in
16 individual baggies, so you got however much marijuana or
17 cocaine or crack cocaine whatever it is but that you got
18 all put into ten different bags and you're found with ten
19 different bags even if it was just a little bit in it, it
20 all adds up to a lot. But it's all packaged in small
21 amounts in a number of bags, that's called packaging for
22 sell that's not the case here. This is one bag with an of
23 amount crack cocaine in it not evidence with intent to
24 distribute. It is not being packaged for sell.

25 Also other evidence that can be involved in drug

1 cases that we don't have here scales. Scales are used by
2 drug dealers all the time to weigh out drugs, to weigh
3 them out, to fix a price for what they gone sell at. Many
4 times in drug cases that is something that is found.
5 There are scales that can fit in people's pockets and are
6 found in people's pocket. That's not here in this case.
7 You don't have that because it doesn't exist, no scales.
8 So there's no indication of any weighing out or anything
9 like that. Also, the individual that Mr. Taylor was
10 talking to he was tracked down and he was searched.
11 Nothing -- no contraband found on him. No money found on
12 him.

13 Again, if he's there to buy drugs from Mr. Taylor, he
14 had money on him even if the sell was not consummated, he
15 had money on him, but he didn't. So that certainly
16 evidence that this was not a drug deal going down as
17 police walked up on him. He could just as easily have
18 been two guys talking to one another as it could have been
19 anything else.

20 The law requires proof beyond a reasonable doubt and
21 the evidence presented in this case just does not rise to
22 that level. And based on that again, if you feel like the
23 actions leading up and everything done was appropriate, I
24 certainly would submit to you that if Mr. Taylor is guilty
25 of anything it is certainly no more than guilty of simple

1 possession. And we would ask in that instance for that
2 verdict. Thank you very much for your time and your
3 patience.

4 THE COURT: Thank you, Mr. Meetze. Ladies and
5 gentlemen, if you'll give me a moment. Ladies and
6 gentlemen, I take the time to come around here and be with
7 you for a couple of reasons. As I told you when we
8 started this case, your job as jurors are to be the judges
9 of the facts of the case and I'm not to have anything to
10 do with that. So being up on the bench and out of the way
11 out of what I call the arena is proper. For me to be out
12 of the way and allow lawyers to do their job because
13 they're the ones that present evidence. But now, we're in
14 this together, so I think it's appropriate for me to come
15 down here to be with you to give you the law that you're
16 to apply. The other reason is not nearly so legal. It's
17 just a lot more friendlier. And I just rather sit and
18 talk with people face to face than sit up there and do it.
19 So what I'm going to do now is I'm going to give you the
20 law that you are to apply to the facts as you find them to
21 be.

22 Madam forelady and ladies and gentlemen of the jury,
23 the State of South Carolina charges the defendant,
24 Syllester D. Taylor, with the offense of possession of
25 cocaine base with the intent to distribute. You should

1 distinctly understand that the indictment just contains
2 allegations by the State and confesses jurisdiction in
3 this matter to this court and is in no way to be
4 considered as evidence. The only evidence in this case is
5 the testimony from the witness stand and from the exhibits
6 that have been introduced during the trial.

7 Now, to this indictment, the defendant has pled not
8 guilty which places upon the State the burden of proving
9 the defendant guilty beyond a reasonable doubt. A person
10 charged with committing a criminal offense in South
11 Carolina is never required to prove him or herself
12 innocent. I charge you that it is a vital and an
13 important rule of law that a criminal defendant in a trial
14 no matter how great or serious the offense with which he
15 or she is charged may be must always be presumed innocent
16 until his or her guilt has been proved beyond a reasonable
17 doubt.

18 This presumption of innocence remains with the
19 defendant at all times throughout the trial and is only
20 removed when and if the State has proved beyond a
21 reasonable doubt the guilt of the defendant. So the
22 burden of proof is on the State of South Carolina to
23 establish by evidence to your satisfaction the guilt
24 beyond a reasonable doubt of this defendant on trial here
25 today and to establish the guilt beyond a reasonable doubt

1 as to each and every element of the crime that is charged.

2 Now, what is a reasonable doubt. A reasonable doubt
3 is the kind of doubt that would cause a reasonable person
4 to hesitate to act. The State has the burden of proving
5 the defendant guilty beyond a reasonable doubt. Some of
6 you may have served as jurors in civil cases where you
7 were told that it is only necessary to prove that a fact
8 is more likely true than not true such as by the greater
9 weight or the preponderance of the evidence. In criminal
10 cases, the State's proof must be more powerful than that.
11 It must be beyond a reasonable doubt. Proof beyond a
12 reasonable doubt is proof that leaves you firmly convinced
13 of the defendant's guilt. There are very few things in
14 this world that we know with absolute certainty. And in
15 criminal cases, the law does not require proof that
16 overcomes every possible doubt. If based on your
17 consideration of the evidence you are firmly convinced
18 that the defendant is guilty of the crime charged, you
19 must find the defendant guilty. If on the other hand, you
20 think there's a real possibility that he's not guilty,
21 then you must give the defendant the benefit of the doubt
22 and find him not guilty.

23 Madam forelady and members of the jury, under the
24 constitution of South Carolina, you are the finders of
25 facts in this case. I do not have the right to comment

1 upon the facts or to even express any opinion that I may
2 have as to the facts. Nor, may I suggest in anyway what I
3 may think about the guilt or the innocence of the
4 defendant. You should form no opinion in that regard from
5 anything I may have said or any ruling that I may have
6 made.

7 You are also the judges and the sole judges of the
8 credibility and the believability of the witnesses who
9 have testified in this case. In passing upon their
10 credibility, you may consider many things such as the
11 demeanor or the manner of testifying, was the witness
12 forthright or hesitant, whether the witness had a reason
13 to be biased or prejudiced, whether a witness' testimony
14 was contradicted on the one hand or corroborated on the
15 other. What was witnesses opportunity for observation and
16 knowledge about the matters that they testified. You do
17 not decide this credibility or this believability by
18 counting the number of witnesses. You may believe a small
19 portion of a witness' testimony and disregard the larger
20 or visa versa. You may believe one witness against many
21 or many against one. All these things you will consider
22 bearing in mind that you should give the defendant the
23 benefit of any reasonable doubt if such doubt exists after
24 you have considered all the evidence in the case.

25 Now, the rules of evidence ordinarily do not permit

1 witnesses to testify to opinions or conclusions. An
2 exception to this rule exist for witnesses that we call
3 expert witnesses. A witness who by education and
4 experience has become an expert in some art, science,
5 profession or calling may state an opinion as to relevant
6 and material matter in which the witness claims to be an
7 expert. And they also state the reasons for that opinion.
8 You should consider any expert opinion received in
9 evidence in this case and like any other evidence give it
10 the weight that you think it deserves. If you decide that
11 the opinion of an expert witness is not based on
12 sufficient education and experience or if you conclude
13 that the reasons given in support of that opinion are not
14 sound or that the opinion is outweighed by other evidence,
15 you may disregard the opinion in its entirety. An expert
16 witness' testimony is to be given no greater weight than
17 that of another witness simply because the witness is an
18 expert.

19 Further, you are not required to accept an expert's
20 opinion even though it is not contradicted. The testimony
21 of a police officer is not entitled to more weight than
22 that of any other witness. You are the sole judges of the
23 credibility of a witness and you are not to give more
24 credence to a police officer's testimony solely because he
25 or she is a police officer. Rather, you should judge an

1 officer's testimony by the same standards that apply to
2 any other witness.

3 Now, there are two types of evidence which are
4 generally presented during a trial. There's direct
5 evidence and there's circumstantial evidence. Direct
6 evidence is the testimony of a person who claims to have
7 actual knowledge of a fact such as an eyewitness. It is
8 evidence which immediately establishes the fact the main
9 fact to be proven.

10 Well, circumstantial evidence is proof of a chain of
11 facts and circumstances indicating the existence of a
12 fact. It is evidence which immediately establishes
13 collateral facts from which the main fact may be inferred.
14 Circumstantial evidence is based on inference and not on
15 personal knowledge or observation.

16 Now, ladies and gentlemen, the law makes absolutely
17 no distinction between the weight or the value to be given
18 to either direct or circumstantial evidence. Nor is a
19 greater degree of certainty required of circumstantial
20 evidence than that of direct evidence. You should weigh
21 all of the evidence in this case.

22 I further instruct you and I emphasize that the fact
23 that the defendant choose not to be present for this trial
24 and did not testify is not a factor to be considered by
25 you in anyway in your deliberation and in your

1 consideration on the question of the guilt or innocence of
2 the defendant. It must not be considered by you in any
3 manner whatsoever. A defendant has the constitutional
4 right to remain silent or to not be present for his or her
5 trial in the assertion of this right must not be
6 considered by you in your deliberations. I repeat under
7 your oath you are to draw no conclusion whatsoever from
8 the fact that the defendant was not present for this trial
9 and in this case did not testify. The fact that the
10 defendant was not present for this trial and did not
11 testify should not even be discussed in the jury room.
12 The burden of proof as I stated to you is on the State.
13 The defendant is not required prove his innocence. The
14 burden of proof remains on the State to prove guilt beyond
15 a reasonable doubt.

16 Now, during the trial, items were received into
17 evidence as exhibits. These exhibits will be sent into
18 the jury room to help you as you deliberate. Examine
19 these exhibits if you think that they will help you in
20 your deliberations.

21 Now, as I told you before the trial started, the same
22 constitution that makes you the finders of the facts makes
23 me the sole and only instructor on the law. You must
24 accept as correct the law that I charge and apply that law
25 to the evidence as you find it in reaching your verdict.

1 Please put aside any conceptions you may have had as to
2 the law before coming here today and accept the law as I
3 instruct it to be.

4 You for your purposes of your duty as jurors today
5 should not be concerned about what the law ought to be or
6 what you think the law ought to be, but what I charge you
7 the law is now in this state. As I instructed you at the
8 beginning of the trial, the evidence from which you are to
9 decide the facts consistent of sworn testimony from the
10 witness stand, both on direct and cross-examination
11 regardless of who call the witness and the exhibits which
12 have been received into evidence.

13 Now, the defendant is charged with possession of
14 cocaine base commonly referred to as crack cocaine with
15 the intent to distribute. The State must prove beyond a
16 reasonable doubt that the defendant possess cocaine base
17 with the intent to distribute it. To prove possession,
18 the State must prove beyond a reasonable doubt that the
19 defendant had both the power and the intent to control the
20 disposition or the use of the cocaine base. Possession
21 may be either actual or constructive. Actual possession
22 means that the cocaine base was in the actual physical
23 custody of the defendant. Constructive possession means
24 that the defendant had dominion and control or the right
25 to exercise dominion and control over either the cocaine

1 base itself or the property on which the cocaine base was
2 found.

3 Mere presence at the scene where drugs are found is
4 not enough to prove possession. Actual knowledge of the
5 presence of the cocaine because is strong evidence of the
6 defendant's intent to control his disposition or use. The
7 defendant's knowledge and possession may be inferred when
8 a substance is found on the property under the defendant's
9 control. However, this inference is simply an evidentiary
10 fact to be taken into consideration by you along with the
11 other evidence in the case and is to be given the weight
12 that you decide it should have.

13 Now, the State must also prove beyond a reasonable
14 doubt that the defendant intended to distribute the
15 cocaine base. Intent may be shown by acts and conduct of
16 the defendant and other circumstances from which you may
17 naturally and reasonably infer intent. In determining
18 whether the defendant had the intent to distribute the
19 cocaine base, you may consider the circumstances --
20 circumstances surrounding the defendant's alleged
21 possession. You may consider the amount of the substance
22 alleged to have been possessed. The manner in which it
23 was allegedly possessed and or packaged the place where it
24 was allegedly possessed and other factors which you
25 considered to be important.

1 I charge you, madam forelady, and, ladies and
2 gentlemen of the jury, that under South Carolina law
3 possession of one or more grams of cocaine base creates an
4 inference that the defendant possessed the cocaine base
5 with the intent to distribute it. This inference does not
6 relieve the State from proving beyond a reasonable doubt..
7 that the defendant had the intent to distribute. It is
8 simply an evidentiary fact to be taken into consideration
9 by you along with other evidence in the case and it is to
10 be given the weight that you decide it should have.

11 If you find that the State has failed to prove
12 beyond a reasonable doubt that the defendant is guilty of
13 possession with intent to distribute cocaine base, you may
14 consider whether the State has proved beyond a reasonable
15 doubt that the defendant is guilty of simple possession of
16 cocaine base. Simple possession does not require the
17 intent to distribute cocaine base.

18 Ladies and gentlemen of the jury, you have been
19 selected as fair and impartial jurors sworn to impartially
20 try and determine the facts of this case. And when you
21 comply with your oath to do so, then no one will have the
22 right to criticize your verdict. It is your duty to
23 determine the truth in this case by your joint
24 deliberations. To the facts that you determine to be the
25 truth, you then take and apply the law as the Court has

1 now given you. And thus you arrived at a verdict that
2 does speak the truth in this case. For the word verdict,
3 which as the Latin derivation means a true saying. When
4 you have accomplished these responsibilities, you will
5 have satisfied your oath as jurors and you will have
6 discharged your duty to this court. I will now instruct
7 you as the forms of the verdict in this case.

8 Now, ladies and gentlemen, there's no significance
9 whatsoever in the order in which I state these possible
10 verdicts that simply that they must be stated in some
11 order anytime you have more than one item to list. They
12 have no significance in the order in which I state them or
13 in the order in which they're listed on the verdict form.
14 And I have the verdict form. Now, ladies and gentlemen,
15 this jury charge as I've read to you will also go back
16 into the jury room with you, in this notebook will be the
17 verdict form, madame forelady. It's a simple form. It
18 just has the heading of the case the State of South
19 Carolina vs. Syllester D. Taylor. It has the indictment
20 number. And then it says just verdict form Count 1 and
21 that is possession of cocaine base also known as crack
22 cocaine with intent to distribute. And these are your
23 options. We, the jury, find the defendant, Syllester D.
24 Taylor, either one guilty of possession of cocaine base
25 also known as crack cocaine with intent to distribute or

1 two guilty of simple possession of cocaine base or crack
2 cocaine or three not guilty. Whatever the verdict is of
3 the jury, madame forelady, the unanimous verdict, you'll
4 just place a check in the appropriate blank. And then if
5 you would sign as the forelady of the jury. When you have
6 a verdict, an unanimous verdict, you'll knock on the door
7 and inform the bailiff that you have reached a verdict and
8 then I'll bring you back out. And I will accept your
9 verdict.

10 Now, I'm going to hopefully for the last time I am
11 going to ask you to return to your jury room, but not
12 start your deliberations. What I need to do is I need to
13 talk with the attorneys, give them an opportunity to make
14 sure that I have not left anything out that should have
15 been in the charge. If the charge is okay or if I need to
16 make a change on the charge, I'll bring you back out and
17 I'll charge you. But if the charge is okay, I'll gather
18 the exhibits. I'll take this notebook and they'll be
19 passed in to you. If I need you to come back out, I'll
20 bring you out. If Mr. Propps brings you the notebook and
21 the exhibits, madam forelady, this is your cue to begin
22 deliberations. So if you would please return to your jury
23 room, but please do not begin your deliberations yet.
24 I'll be back with you shortly.

25 (WHEREUPON, the jury retired to the jury room at 2:38

1 p.m.).

2 THE COURT: Are there any exceptions or objections
3 from the State with regards to the charge?

4 MR. WELLS: None from the State.

5 THE COURT: Anything from the defense?

6 MR. MEETZE: No, sir, Your Honor.

7 THE COURT: Gentlemen, normally, would have you come
8 up check out these exhibits. But you really only got
9 these three -- the bond paper, the drugs, and the
10 forensics report, I'm going to go ahead and just send
11 those on back out with the notebook.

12 MR. MEETZE: No objection.

13 THE COURT: Mr. Propps, if you would, ask them to
14 please begin their deliberations. Bring the alternate out
15 thank you, sir.

16 (WHEREUPON, the jury began deliberations at 2:40.)

17 THE COURT: Ms. Foster, ma'am, I'm sorry. You're --
18 I like to refer to it you're like that person that's
19 practiced all week with the team and now we're getting
20 ready on Saturday afternoon to kickoff and the coach says
21 you can't play. I'm sorry about that, but I want to thank
22 you for your service this week. You are free to go. And
23 you don't have to come back. You're done. Thank you,
24 ma'am. If you need a work excuse or anything, Mrs. O'Hara
25 can get that for you.

1 (WHEREUPON, the alternate was excused.)

2 (WHEREUPON, court in recess.)

3 THE COURT: I understand they have a verdict
4 gentlemen. You ready to receive that?

5 MR. WELLS: Yes, sir.

6 MR. MEETZE: Yes, sir, Your Honor.

7 THE COURT: All right. Mr. Propps, if you would ask
8 the members of the jury to join us please.

9 (WHEREUPON, the jury returned to the courtroom with a
10 verdict at 2:59.)

11 THE COURT: Madam forelady, has the jury reached an
12 unanimous verdict?

13 MS. JOHNSON: Yes.

14 THE COURT: All right, ma'am, if you would please
15 pass that over to madam clerk. All right. Everything
16 appears in order.

17 Madam clerk, if you would please publish the verdict
18 for the jury.

19 THE CLERK: State of South Carolina vs. Syllester D.
20 Taylor, defendant, 2007-GS-21-295 possession of cocaine
21 base also known as crack cocaine with the intent to
22 distribute. We, the jury, find for the defendant,
23 Syllester D. Taylor, guilty of possession of cocaine base
24 also known as crack cocaine with the intent to distribute.
25 Signed April 19th 2007 by Nikki Johnson, forelady.

1 Members of the jury and Ms. Forelady, if this is your
2 verdict, please raise your right hand.

3 (WHEREUPON, all jurors' agreed in the affirmative by
4 raising their right hand.)

5 THE COURT: All right. Thank you, madam clerk.

6 Madam forelady and members of the jury, I want to
7 thank you for your service and just so you'll understand
8 somewhat the procedure. Typically, if a defendant is
9 present and jury reaches a verdict of guilty, we would
10 proceed at that point to the sentencing phase and the
11 defendant would come before the Court for sentencing.

12 Mr. Taylor is not present. And I'm going to share
13 somethings with you that if you -- let me say this your
14 service for this week has now been completed. You don't
15 have to come back tomorrow and so you're done. And what I
16 am going to share with you because juries you have the
17 toughest job in the courthouse because you're only allowed
18 to hear what the law allows you to hear so that your
19 verdict is not compromising that your verdict is not based
20 on things that would be improper. So there's certain
21 things that you're not able to be told because in this
22 case Mr. Taylor was facing these charges for what he
23 allegedly did on this particular day. And so what you
24 don't know and what you don't understand, but you will
25 hear if we were doing sentencing today is first of all

1 Mr. Taylor not being here today, it was his decision, but
2 it was done without being known by his attorney. He's
3 absconded. His lawyer doesn't know where he is and
4 they've been looking for him. They can't find him. We
5 will find him, but we can't find him. So that's -- I
6 think you should be able to understand that. The other
7 thing is -- and, Mr. Wells, I don't know if you have it in
8 front of you, but Mr. Taylor -- and I say this to tell you
9 that your verdict I believe based on what I know and what
10 I've heard, I believe your verdict absolutely speaks the
11 truth. I think you nailed it. Mr. Taylor has quite an
12 extensive record involving drug trafficking and drug
13 involvement.

14 MR. WELLS: That's correct. He has certainly at
15 least two drug offenses involving crack cocaine. The last
16 one being a distribution where he got a six year jail
17 sentence, but apparently, did not have much affect.

18 THE COURT: Okay. But anyway, we want be going
19 through that process today and what we will happen is
20 this, the State will prepare a sentencing sheet.

21 Mr. Meetze will review that sheet on behalf of Mr. Taylor.
22 Then I will impose a sentence, that sentence will then be
23 sealed in an envelope and set with the clerk's office.
24 And it will be held until they pick up Mr. Taylor. There
25 has been a bench warrant issued for his arrest and law

1 enforcement is for looking for him now. When they find
2 him, they will take him into custody. And they'll bring
3 him into court. And then if I'm here, I'll impose that
4 sentence. If I'm not, whatever judge is here will then
5 take the sealed sentence and open it and whatever sentence
6 it is, that's the sentence will be imposed. . . .

7 I share all that with you just because some people
8 wonder, well, why aren't juries allowed to know that. And
9 the reason is simple is all of us have made mistakes in
10 our life. If my little girl goes into the pantry and
11 takes a cookie without asking, she gets in trouble. If
12 two days later I go back to the pantry and the cookies are
13 missing, I shouldn't just turn to her and just assume
14 she's guilty because she did it before. I should know
15 that she did it. I should have evidence that she did it.
16 That's the simplistic way of saying in this case
17 Mr. Taylor does have a drug history of selling crack and
18 being involved in that type of activity, but he had the
19 right for you to decide on this particular day was he
20 guilty or not. And it wouldn't be fair or proper for you
21 to know that he's done this in the past because sometimes
22 people will think, well, if he did it before, he'll
23 probably did it this time too. It's very important that
24 the evidence in this case led you to your verdict and I
25 think it did just that. I appreciate your attentiveness

1 and the way you listen. The way you gave the lawyers the
2 respect that they deserve and you certainly deserve that
3 same respect. You have earned a three-year exemption for
4 jury service for the balance of this year and the next two
5 years if you get called for jury service you can
6 respectfully decline. I would hope that you would serve,
7 but you're certainly not required to. You've earned an
8 exemption. If anyone needs a work excuse, Mrs. O'Hara has
9 those and she will give those to you as you leave. The
10 old adage about the checks in the mail, the checks in the
11 mail. You'll get that. The county's good for it, just
12 don't get terribly excited because it's not even a
13 fraction of what you're worth and what your time is worth.
14 Thank you for participating in the criminal justice system
15 this week. I hope it was a minimal inconvenience as it
16 can be. If anyone has anything in the jury room, you need
17 to get it that's fine. If not, you're free to go. Thank
18 you.

19 (WHEREUPON, the jury was dismissed.)

20 MR. WELLS: Your Honor, I'll bring another sheet to
21 Mr. Meetze, I guess, have him sign it showing he's
22 reviewed it.

23 THE COURT: Vick, I think the key there is that it's
24 the right CDR code. It's a third.

25 MR. WELLS: I guess, of course, sentence -- let me

1 just place into record.

2 THE COURT: Sure, absolutely.

3 MR. WELLS: Actual record so gotten it before the
4 Court.

5 THE COURT: I want you to place into the record and I
6 also hear from Mr. Meetze if there's anything that he
7 would like to address with to the Court.

8 MR. MEETZE: I will. Before we do that, I would like
9 to make posttrial motions.

10 THE COURT: Sure.

11 MR. WELLS: What do you want to do first?

12 THE COURT: Let me hear from Mr. Meetze on those and
13 then I'll hear from the State.

14 MR. MEETZE: Your Honor, first for the record, I
15 would like to make a motion at this time first renew all
16 my prior objections made throughout the trial and also
17 added at this time to make a motion for a new trial based
18 on the verdict. It was returned not being supported by
19 the evidence that was submitted.

20 THE COURT: All right, sir. I thank you very much.
21 I appreciate that. With all due respect, I'm going to
22 deny those motions. As I told you earlier, again the
23 weight of the evidence is not the Court's concern just the
24 existence of it. But having heard from the jury and their
25 verdict, I think their verdict was in line with the

1 evidence. The amount of the drugs involved in this case
2 was five times over the legal inference and that coupled
3 with the information law enforcement had and the
4 observation of the police officers I think certainly was
5 enough for the jury to find as they did.

6 MR. WELLS: Your Honor, as far as his prior criminal
7 record, he had in 1995 a simple possession of marijuana
8 \$400 fine, trespassing \$152 fine. In 1995, he had a
9 possession of crack cocaine. He got a two-year sentence
10 for. In 1998, he had a distribution of crack cocaine
11 second offense. He got a six-year sentence for. And also
12 unlaw possession of a pistol, he got a one-year sentence
13 for to run concurrently. In 1998, he had another
14 possession of marijuana charge \$425 or 30 days, also
15 possession of alcohol by a minor. And I think, Your
16 Honor, those are the main things I've got.

17 THE COURT: All right. Mr. Meetze, I'll be happy to
18 hear from you on behalf of Mr. Taylor.

19 MR. MEETZE: Thank you, Your Honor. Your Honor,
20 Mr. Taylor is 29 years old. He went to the tenth grade in
21 school, has one child that is two years old. He -- says
22 29 years old. The charge that he's been convicted of here
23 today carries a mandatory minimum sentence of 15 years and
24 I think that is a very substantial sentence. It would put
25 him getting out of jail when he's over 40. Exactly how

1 old he would be -- I think he would be over 40 though by
2 the time he got out. I think that is certainly
3 substantial. He has done some time before a six-year
4 sentence. I don't know if that was a first offense or
5 second offense. I don't know if it was 85 percent
6 sentence or not, but certainly, even the minimum sentence
7 that this carries would be substantially more time than
8 anything he's done previously. We just ask the Court to
9 consider the minimum sentence in this case. I'm right in
10 saying that any appeal he would want to file would need to
11 be done after the sentence is actually read.

12 THE COURT: Yes, I think that's correct.

13 MR. WELLS: That's correct.

14 THE COURT: Until the sentence is published and
15 Mr. Taylor is before the Court.

16 MR. WELLS: And, Your Honor, I just want to put this
17 on the record in case the defendant would ever come back
18 and say that Mr. Meetze had not done him a good job. I
19 had negotiated with Mr. Meetze prior to trial where I had
20 agreed to take a plea to possession of cocaine base with
21 intent to distribute as a second offense for a negotiated
22 five-year sentence. Of course, that would be 85 percent.
23 But instead of five years, it would been -- instead of 15
24 minimum, he's looking at here would have been five years.
25 The defendant had said he would do that and actually

1 signed up to plead guilty, but I made the mistake of
2 letting him go home over the night. And then he failed to
3 show back up at all, so he has been totally uncooperative
4 with the Court I would submit.

5 THE COURT: And as was indicated I think earlier, his
6 bond -- conditions of his bond the paperwork reflects that
7 he understands that he if he fails to appear for trial
8 that he would be tried in his absence and the State did
9 elect to do so.

10 MR. WELLS: Mr. Clements has brought to my
11 attention -- and I might just make this if it ever comes
12 back a PCR question just for a Court's Exhibit that this
13 was the sheet where he actually signed up to plead guilty
14 to what I just said I'd offered.

15 THE COURT: All right.

16 MR. CLEMENTS: For any PCR purposes, Your Honor.

17 THE COURT: All right. We'll make that a Court's
18 Exhibit that'll be part of the record. All right,
19 gentlemen, thank you very much. I'm going to impose
20 sentence here and then I'll pass that over to Mrs. O'Hara
21 for her to complete the clerk's portion of that and then
22 it will be sealed. And whenever they -- if they pick up
23 Mr. Taylor, we'll deal with it at that point.

24 (WHEREUPON, Court's Exhibit Number 1 was marked for
25 the record.)

1 (WHEREUPON, the proceedings were concluded for the
2 day to be reconvened on April 20, 2007.)

3 MR. WELLS: All right. We now like to go ahead with
4 the sentencing of Syllester D'Andre Taylor. If you would
5 come back around, Mr. Taylor.

6 THE COURT: The sentencing sheet has already been
7 done. I just need -- the clerk's got it in their
8 possession.

9 MR. WELLS: Let me just put somethings on the record.
10 Your Honor, earlier this week, I believe, we began on
11 April 17th through yesterday the 19th. We had picked a
12 jury on April 17th against the defendant, Syllester
13 D'Andre Taylor, indictment 2007-295. He failed to come
14 back the next day after his jury had already been picked.
15 We proceeded with the trial in his absence. Yesterday, he
16 was found guilty of possession of cocaine base with intent
17 to distribute which would be a third offense. A bench
18 warrant was issued yesterday. As I understand, deputies
19 did find and place under arrest last night and he was
20 brought in last night. And he is now here for the
21 sentencing.

22 THE COURT: All right. Mr. Meetze, I heard from you
23 yesterday. Before imposing sentence, if there's anything
24 further you wish to add to that or if Mr. Taylor has
25 anything he wants to share with the Court, I'll be happy

1 to hear from anyone.

2 MR. MEETZE: Your Honor, understands that the
3 sentence is already issued at this point in time. I don't
4 have anything else to say. Mr. Taylor may.

5 THE COURT: I'll be happy to hear from you if you
6 have anything to say Mr. Taylor.

7 DEFENDANT TAYLOR: No, sir.

8 THE COURT: All right. This the case which was tried
9 this week before a jury. Members of the jury found
10 Mr. Taylor guilty of the charge in the indictment of
11 possession of cocaine base with intent to distribute.
12 What the jury did not know and what Mr. Wells put on the
13 record yesterday that this is a third offense, so
14 therefore Mr. Taylor was facing a sentence of not less
15 than 15 years not more than 30 years. Sentence of the
16 Court on the 2007-GS-21-295 is that you be committed to
17 the state department of corrections for a period of 30
18 years and pay a fine of \$100,000.

19 END OF REQUESTED TRANSCRIPT
20
21
22
23
24
25

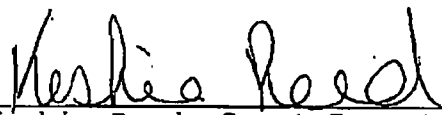
1 CERTIFICATE OF REPORTER

2 STATE OF SOUTH CAROLINA

3 COUNTY OF FLORENCE

4
5 I, Keshia Reed, Court Reporter and Notary Public
6 in and for the State of South Carolina At Large, do hereby
7 certify that the above-entitled cause was heard as
8 hereinafter set out; that I was authorized to and did
9 transcribe the said proceedings; and that the foregoing
10 and annexed pages, numbered 1 through 183, inclusive,
11 constitute a true and accurate transcription of my
12 stenographic report of the said cause taken during the
13 said hearing.

14 In witness whereof, I have hereunto affixed my
15 signature this 7th day of January, 2008.

16
17 
18 Keshia Reed, Court Reporter
My Commission Expires: 6-5-2010

FILED

2013 MAY 17 AM 1:27
STATE OF SOUTH CAROLINACounty of Florence }
CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC }Sillester D'Andre Taylor #251960

Full name and prison number (if any) of Applicant,

vs.

State of South Carolina

Name of Respondent.

In the Court of Common Pleas

2013-CP-21-1347

APPLICATION FOR
POST-CONVICTION RELIEFCERTIFIED A TRUE COPY
Connie Reel-Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.INSTRUCTIONS — READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make it clear to which question any such continued answer refers.

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken *in forma pauperis*, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which applicant was convicted.

1. Place of detention McCormick Correctional Institution
2. Name and location of Court which imposed sentence General Session Florence County
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 2007-GS-21-295 PWID
 - (b) _____
 - (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) April 20, 2007 30 years
 - (b) _____
 - (c) _____

5. Check whether a finding of guilty was made

- (a) after a plea of guilty _____
 (b) after a plea of not guilty ✓ _____
 (c) after a plea of nolo contendere _____

6. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

- i. In The Court Of Appeals
 ii. _____
 iii. _____

(b) the result in each such Court to which you appealed:

- i. Reverse Conviction
 ii. _____
 iii. _____

(c) the date of each such result:

- i. June 1, 2009
 ii. _____
 iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. Opinion No. 4687
 ii. _____
 iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) _____
 (b) _____
 (c) _____

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective assistance of trial counsel
 (b) Violation of due process per the Federal, United States and South Carolina Constitution
 (c) And fourth amendment

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) counsel fail to investigate the facts and laws surrounding my whole case
 (b) counsel failed to properly attack search and seizure
 (c) _____

11. Prior to this application have you filed with respect to this conviction

- (a) any petition in a State Court under South Carolina Law? Yes
- (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? No
- (d) any other petitions, motions or applications in this or any other Court?
No

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. N/
- ii.
- iii.
- iv. A

(b) the name and location of the Court in which each was filed:

- i. N/
- ii.
- iii.
- iv. A

(c) the disposition thereof:

- i. N/
- ii.
- iii.
- iv. A

(d) the date of each such disposition:

- i. N/
- ii.
- iii.
- iv. A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/
- ii.
- iii.
- iv. A

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. N/A
 ii. N/A
 iii. N/A

(b) the proceedings in which each ground was raised:

- i. N/A
 ii. N/A
 iii. N/A

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) see 10A applicant first presenting ground
 (b) _____
 (c) _____

16. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? No
 (b) your trial, if any? Yes
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? None

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. Vick Meetze
 ii. Elizabeth Best / Robert Paychak
 iii. _____

(b) the proceedings at which each such attorney represented you:

- i. trial/sentencing
 ii. appeal
 iii. _____

18. State clearly the relief you seek in filing this application.

New trial and any other relief that I am entitled to and or the court deems just and fair.

19. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA

County of McCormick

VERIFICATION

I, Syllester D. Taylor, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Syllester D. Taylor

SWORN to and subscribed before me this 15day of May, 2013.

J. C. Franklin (L.S.)
Notary Public

My Commission Expires: 12-16-2019

FILED
2013 MAY 17 AM 1:27
CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Syllester D. Taylor, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security therefor.

Syllester D. Taylor
Applicant

SWORN or affirmed to and subscribed before me this

15 day of May, 2013.

J. C. Franklin
Notary Public

My Commission Expires 12-16-2019

CERTIFIED A TRUE COPY
Connie Reel-Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

) IN THE COURT OF COMMON PLEAS
) FOR THE TWELFTH JUDICIAL CIRCUIT

Syllester D. Taylor, #251960,

) Case No. 2013-CP-21-1347
)

Applicant,

)

v.

)

RETURN

State of South Carolina,

)

Respondent.

)

)

Respondent, making its Return to the Application for Post-Conviction Relief filed May 17, 2013, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Florence County Clerk of Court. In January 2007, the Florence County Grand Jury indicted Applicant for possession of cocaine base with intent to distribute, third or subsequent offense (2007-GS-21-295). William V. Meetze, Esquire, represented Applicant. On April 17, 2007, Applicant proceeded to trial before the Honorable Thomas A. Russo and a jury. On April 18, 2007, Applicant failed to appear in court and Judge Russo proceeded to try Applicant in his absence.¹ On April 19, 2007, the jury found Applicant guilty as indicted and Judge Russo imposed a sealed sentence. On April 20, 2014, Applicant appeared in court and Judge Russo unsealed and pronounced a sentence of thirty (30) years imprisonment.

Applicant filed a timely notice of appeal, and Elizabeth A. Franklin-Best, Esquire, of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals reversed

¹ Judge Russo found Applicant knowingly and voluntarily waived his right to be present at trial.

Applicant's conviction on May 13, 2010. State v. Taylor, 388 S.C. 101, 694 S.E.2d 60 (Ct. App. 2010). The South Carolina Supreme Court granted the State's petitioner for writ of certiorari to review the Court of Appeal's opinion on April 20, 2011. The Supreme Court reversed the Court of Appeals and affirmed Applicant's conviction on Jan. 9, 2013. State v. Taylor, 401 S.C. 104, 736 S.E.2d 663 (2013). The remittitur was returned to the circuit court on January 25, 2013.

II.

In his Application, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. "Ineffective assistance of trial counsel"
 - a. "counsel failed to investigate the facts and laws surrounding my whole case"
2. "Violation of due process per the Federal, United States and South Carolina Constitution And fourth amendment"
 - a. "counsel failed to properly attack search and seizure"

Any claims not specifically enumerated in the Application or amendments thereto will be opposed by Respondent at the evidentiary hearing. All amendments should be made well in advance of hearing and should be filed in compliance with Rule 11, SCRCP.

Attached to this Return and incorporated herein are the records of the Florence County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, the trial transcript, and Applicant's appellate records. Any records not attached will be forwarded upon receipt. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent submits Applicant's allegation of ineffective assistance of trial counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in the application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of trial counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes trial counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove trial counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, trial counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Respondent further submits Applicant's allegation of due process violations is without merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citing Drayton v. Evatt, 312 S.C. 4, 430 S.E.2d 517 (1993); Hyman v. State, 278 S.C. 501, 299 S.E.2d 330 (1983); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993)). Here, Applicant alleges trial counsel failed to properly attack a search and seizure. However, the issue raised on appeal from Applicant's conviction involved the search of seizure leading to his indictment. See Taylor, 388 S.C. at 105, 694 S.E.2d at 62 ("Syllester D. Taylor appeals his conviction and thirty-year sentence for possession with intent to distribute (PWID) cocaine base, arguing the trial court erred in admitting the drug evidence because the officers lacked reasonable suspicion to stop him or probable cause to search his tennis ball."); Taylor, 401 S.C. at 106, 736 S.E.2d at 664 (2013) ("The State contests the court of appeals' decision holding the police search and seizure of Syllester Taylor (Respondent) improper under the Fourth Amendment to the United States Constitution."). Therefore, trial counsel sufficiently attacked the validity of the search and seizure at trial.

Furthermore, post-conviction relief "is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction." S.C.

Code Ann. § 17-27-20(b); see also Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1975)

("It is uniformly held that an application for post-conviction relief is not a substitute for an appeal.").

Here, Applicant's due process allegations were already raised and ruled upon in his direct appeal.

Therefore, they cannot be re-litigated by a collateral attack.

Respondent submits these allegations should be dismissed pursuant to Rule 12(b)(6), SCRPC.

V.

Respondent denies each and every allegation not hereinbefore expressly admitted, qualified, or explained.

VI.

WHEREFORE, having made its return, Respondent requests an evidentiary hearing be held.

Respectfully submitted,

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Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

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By: 
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May 13, 2014

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS

2013-CP-21-1347

SYLLESTER D. TAYLOR, #251960)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,)

Respondent.)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Jonathan D. Waller, Esquire
1720 Main St., Suite 104
Columbia, SC 29201

DATED this 13th day of May, 2014.


 Norma Bigbee, Legal Assistant

State of South Carolina	)	Court of Common Pleas
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2013-CP-21-01347

Sylvester Taylor,

Plaintiff,

-vs-

Transcript of Record

State of South Carolina,

Defendant.

April 15, 2015
Florence, South Carolina

B E F O R E:

The Honorable D. Craig Brown, Judge

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

Jonathan Waller, Esquire
Attorney for the Plaintiff

Croom Hunter, Esquire
Attorney for the Defendant

Krystal J. Smith
Court Reporter

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1 APRIL 15, 2015

2 (WHEREAS this matter was scheduled for a post-conviction
3 relief hearing, the applicant appeared along with his
4 counsel of record. The hearing began at 9:47 a.m.)

5 THE COURT: Yes, sir, Mr. Hunter?

6 MR. HUNTER: May it please the Court. This is Sylvester
7 Taylor versus the State of South Carolina, 2013-CP-21-1347.
8 Mr. Taylor is presently confined with SCDC pursuant to the
9 Florence County Clerk of Court's order.

10 In January 2007, he was indicted by the Florence County
11 Grand Jury for possession of cocaine base with intent to
12 distribute, third or subsequent offense, 2007-GS-21-295. He
13 was represented by William Vick Meetze.

14 On April 17th, 2007, he proceeded to trial before the
15 Honorable Thomas A. Russo and a jury. He -- and then on April
16 18th, 2007, he failed to appear. Judge Russo proceeded to
17 trial in his absence. On April 19th, 2007, the jury found the
18 applicant guilty as indicted, and Judge Russo imposed a sealed
19 sentence, which was unsealed on April 20th, 2014 [sic], where
20 Judge Russo unsealed it and pronounced a sentence of 30 years'
21 imprisonment.

22 Mr. Taylor filed a timely Notice of Appeal, which was
23 handled by Elizabeth Franklin Best of the Office of Appellate
24 Defense. The South Carolina Court of Appeals reversed Mr.
25 Taylor's conviction on May 13th, 2010. That was *State v.*

1 Taylor, 388 S.C. 101, 694 S.E.2d 60, Court of Appeals, 2010.

2 Then the South Carolina Supreme Court granted the State's
3 petition for writ of certiorari and ended up reversing the
4 Court of Appeals decision and affirming Mr. Taylor's
5 conviction on January 9th, 2013. That's *State v. Taylor*, 401
6 S.C. 104, 736 S.E.2d 663, 2013. The remittitur was issued on
7 January 25th, 2013, and Mr. Taylor filed this application for
8 PCR on May 17th, 2013.

9 He's represented here today by Mr. Waller. The State is
10 ready to proceed.

11 THE COURT: All right. Mr. Waller?

12 MR. WALLER: Thank you, Your Honor. Just briefly to -- I
13 guess to inform the Court of our specific issues, Mr. Taylor
14 alleges that trial counsel was ineffective for failure to
15 challenge the chain of custody of the drug evidence that was
16 admitted and for -- two, and for failing to object to two
17 impermissible comments during the State's closing argument.

18 THE COURT: All right.

19 MR. WALLER: At this time, I would call Mr. Taylor to the
20 stand.

21 THE CLERK: Would you please step up to the witness box,
22 place your left hand on the Bible, and raise your right hand?
23 Do you swear or affirm that the testimony you are about to
24 give will be the truth, the whole truth, and nothing but the
25 truth, so help you God?

26

SYLVESTER TAYLOR - DIRECT BY MR. WALLER

1 THE APPLICANT: I do.

2 THE CLERK: Excuse me?

3 THE APPLICANT: I do.

4 THE CLERK: Okay. Please take a seat and state your name
5 for the record.

6 THE APPLICANT: Sylvester Taylor.

7 SYLVESTER TAYLOR, being first duly
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. WALLER:

11 Q: Mr. Taylor, how are you this morning?

12 A: I'm all right.

13 Q: Mr. Taylor, how old are you?

14 A: Thirty-seven.

15 Q: Can you speak up just a little bit?

16 A: Thirty-seven.

17 Q: She has to take everything down. All right. Where are
18 you from?

19 A: Florence County.

20 Q: Okay. How long have you lived in Florence?

21 A: All my life.

22 Q: Okay. You were arrested on these charges back in 2006
23 originally; is that right?

24 A: Yes, sir.

25 Q: Okay. And who was your lawyer on those charges?

SYLVESTER TAYLOR - DIRECT BY MR. WALLER

- 1 A: Vick Meetze.
- 2 Q: Okay. Was he your first lawyer?
- 3 A: Yes, sir.
- 4 Q: Okay. So he was the only one you had?
- 5 A: Yes, sir.
- 6 Q: Okay. How did Vick Meetze come to be your lawyer?
- 7 A: They appointed him to me.
- 8 Q: Okay.
- 9 A: The Court appointed him to me.
- 10 Q: Were you able to make bond before this trial or were you
- 11 locked up?
- 12 A: I made bond.
- 13 Q: Okay. How long between when you made bond and the trial,
- 14 if you recall?
- 15 A: Maybe nine months.
- 16 Q: Okay. Now, were you and Mr. Meetze able to meet and
- 17 discuss your case?
- 18 A: Yeah. Very briefly.
- 19 Q: Okay. How many times do you think y'all met?
- 20 A: Maybe two.
- 21 Q: Maybe two?
- 22 A: Two times.
- 23 Q: Okay. Do you remember what y'all talked about during
- 24 those meetings?
- 25 A: Well, we -- we talked and we spoke of the case, but at

SYLVESTER TAYLOR - DIRECT BY MR. WALLER

1 the same time he didn't speak of any defense --

2 Q: Okay.

3 A: -- or anything.

4 Q: Let me back up just a little bit. Did y'all -- when
5 y'all met, did y'all discuss the charge against you?

6 A: Yes, sir.

7 Q: Okay. Did y'all discuss the elements of that charge?

8 A: Yes, sir.

9 Q: Okay. Did y'all discuss the possible sentences of that
10 charge?

11 A: Yes, sir.

12 Q: Okay. So you knew what you were facing?

13 (WHEREUPON, no verbal response.)

14 Q: Okay. Did y'all discuss the evidence that the State had?

15 A: No.

16 Q: Okay. When y'all -- when y'all did talk, what did you
17 talk about?

18 A: Well, I explained the case to him and explained the
19 incident to him and he didn't sound very confident in
20 representing me.

21 Q: Okay. Did y'all talk about any potential defenses that
22 you might have?

23 A: No, not at all.

24 Q: Okay. Did you provide Mr. Meetze with any information
25 about the incident?

SYLVESTER TAYLOR - DIRECT BY MR. WALLER

- 1 A: All the information.
- 2 Q: Okay. What did you tell him?
- 3 A: The entire incident.
- 4 Q: Well, all right. Specifically, what did you tell him?
- 5 A: Well, I tell him basically how the incident played out
- 6 and all of the lies that he found in the incident report, and
- 7 he just spoke as if the officers were just going to lie. So
- 8 it wasn't like he was speaking of a fighting -- a fighting
- 9 chance at all.
- 10 Q: Okay. Did you and Mr. Meetze discuss any of the State's
- 11 potential witnesses? I know the officers were there, but
- 12 there were some other people mentioned in the incident report
- 13 or --
- 14 A: No.
- 15 Q: Y'all didn't? Okay. Did you and Mr. Meetze discuss the
- 16 procedures that would take place during a trial?
- 17 A: No.
- 18 Q: Okay. Now, once the trial actually got started, you were
- 19 there at the very beginning; is that right?
- 20 A: Well, I was forced to pick a jury.
- 21 Q: Okay. But you were there when the jury was selected?
- 22 A: Yeah.
- 23 Q: Okay.
- 24 A: They picked the jury.
- 25 Q: Okay. But you weren't there when the trial actually got

SYLVESTER TAYLOR - DIRECT BY MR. WALLER

1 started; is that right?

2 A: No.

3 Q: Okay. Now, had you and Mr. Meetze discussed before the
4 trial started what would happen if you weren't there?

5 A: No.

6 Q: Okay. Did you know that the trial would keep going
7 forward if you weren't there?

8 A: No.

9 Q: Okay.

10 A: I signed the plea.

11 Q: Okay. So you had actually agreed to plead guilty when?

12 A: That day before the jury was picked.

13 Q: Okay.

14 A: Yeah.

15 Q: Now, ultimately you were convicted; is that right? In
16 your absence?

17 A: Yes, sir.

18 Q: Okay. And you appealed that conviction?

19 A: Yes, sir.

20 Q: Okay. And your -- what happened with your appeal when it
21 was at the Court of Appeals?

22 A: They overturned the sentence.

23 Q: Okay. And then what did the Supreme Court do?

24 A: They overturned it back into the State.

25 Q: Okay.

SYLVESTER TAYLOR - DIRECT BY MR. WALLER

1 A: With frivolous cause -- with frivolous -- meaning, like,
2 no facts.

3 Q: Okay. When you and Mr. Meetze were meeting in
4 preparation for trial -- because I know you said you did meet
5 -- did y'all discuss the actual search of you?

6 A: Well, I told him how it went, but it wasn't no procedure.
7 I told him there wasn't no procedure was searched. Like they
8 said they did a Terry frisk. It wasn't no Terry frisk.

9 Q: Okay. Did y'all discuss and did Mr. Meetze tell you
10 about what they would have to show in order to -- for that to
11 be a proper --

12 A: No.

13 Q: -- search?

14 A: No.

15 Q: Okay. Mr. Taylor, I've asked all the questions I have of
16 you. Is there anything that you think I've left out that you
17 want the Court to be aware of?

18 A: Well, yeah. As far as all the fabrication that the
19 officers made on the stand, and being that they can't produce
20 a 9-1-1 call that they testified to.

21 Q: Okay. Is there anything in relation to your
22 representation by Mr. Meetze?

23 A: Yeah. As far as the chain of custody, yeah. He didn't
24 -- the officer didn't testify to anything as far as what he
25 did with the drug evidence. He said nothing about it. He

SYLVESTER TAYLOR - DIRECT BY MR. WALLER

1 didn't object or nothing.

2 Q: Okay.

3 MR. WALLER: No further questions. Please answer any
4 questions Mr. Hunter has. Thank you.

5 THE COURT: Cross-examination.

6 CROSS-EXAMINATION

7 BY MR. HUNTER:

8 Q: Good morning, Mr. Taylor.

9 A: Good morning.

10 Q: I believe you spoke that you met with Mr. Meetze two or
11 three times prior to your --

12 A: Twice.

13 Q: Twice? Okay. Did y'all review any of the discovery?

14 A: Well, the incident report.

15 Q: That's it though?

16 A: Exactly.

17 Q: Okay. That's all that he reviewed with you?

18 A: Yeah. And he was -- and he knows that there was a
19 contradiction in the incident report and the officer's
20 statements.

21 Q: Okay. Did you discuss with Mr. Meetze what your defenses
22 might be if you decided to go to trial?

23 A: No. Well, we spoke of what the -- the -- the -- the
24 charge carried, but as far as discussing to the length as far
25 as understanding, no.

SYLVESTER TAYLOR - CROSS BY MR. HUNTER

1 Q: So y'all didn't talk about, you know, if you decided to
2 go to trial, here's what we're going to argue?
3 A: No.
4 Q: Okay.
5 A: We didn't spoke of nothing, no defense strategy.
6 Q: Okay.
7 A: So he didn't do the job.
8 Q: Did you give him the names of any witnesses or anyone?
9 Because I believe that in the transcript wasn't -- well, you
10 weren't there, but --
11 MR. HUNTER: Let me rephrase this, Your Honor.
12 Q: When you were initially arrested, you were on your
13 bicycle; right?
14 A: Exactly.
15 Q: And you were talking to another person?
16 A: Exactly.
17 Q: Did you give Mr. -- Mr. Meetze that person's name to go
18 talk to him?
19 A: No.
20 Q: Okay.
21 A: But that person is willing to testify.
22 Q: Okay. Is that person here today?
23 A: No.
24 Q: Okay. And so you decided -- tell me about how you
25 decided to plead guilty because it sounds like you were

SYLVESTER TAYLOR - CROSS BY MR. HUNTER

1 initially going to go to trial.

2 A: Like I tell you, he spoke of no legal defense.

3 Q: Okay.

4 A: So I let him know that I wasn't going to no trial with
5 him, being that he couldn't speak of -- he couldn't -- he
6 didn't inform me of no defense strategy.

7 Q: Okay.

8 A: So I informed him that I would take the plea --

9 Q: Okay. So --

10 A: -- before.

11 Q: So you wanted to take the five-year plea offer?

12 A: Exactly.

13 Q: Okay. Well, why didn't you come back the next day?

14 A: Well, I didn't have transportation.

15 Q: Okay.

16 A: And I stayed a little ways out --

17 Q: Okay.

18 A: -- at the time.

19 Q: Well, why didn't you come? Why didn't you come back the
20 day after that?

21 MR. WALLER: Objection, Your Honor. I don't see how this
22 has anything to do with Mr. Meetze's representation.

23 THE WITNESS: Exactly.

24 MR. HUNTER: Well, Your Honor, he's --

25 THE COURT: Hold on a minute. Yes, sir?

SYLVESTER TAYLOR - CROSS BY MR. HUNTER

1 MR. HUNTER: Your Honor, he's alleging that -- well,
2 basically, I mean he wasn't -- I mean he didn't show up for
3 trial. The trial didn't start for three days after jury
4 selection. So he had plenty of time to come back prior to his
5 --

6 THE COURT: How does that go to ineffectiveness?

7 MR. HUNTER: Well, I'll withdraw the question, Your
8 Honor.

9 THE COURT: I mean it's cross-examination. Certainly
10 under the rules, cross-examination is pretty broad, as you all
11 well know. Go ahead and move on, please.

12 MR. HUNTER: Okay.

13 BY MR. HUNTER:

14 Q: All right. So you -- your main concern is that you don't
15 think Mr. Meetze presented a good defense during the trial;
16 right?

17 A: You said I don't think. I know he didn't.

18 Q: You know he didn't?

19 A: Exactly.

20 Q: Okay. All right.

21 MR. HUNTER: No further questions.

22 MR. WALLER: No redirect.

23 THE COURT: Sir, you may step down. Thank you. Any
24 other witnesses, Mr. Waller?

25 MR. WALLER: Yes, Your Honor. I would call Vick Meetze.

VICK MEETZE - DIRECT BY MR. WALLER

1 THE CLERK: Do you swear or affirm that the testimony you
2 are about to give will be the truth, the whole truth, and
3 nothing but the truth, so help you God?

4 THE WITNESS: I do.

5 THE CLERK: Please take your seat and state your name for
6 the record.

7 THE WITNESS: My name is Vick Meetze.

8 VICK MEETZE, being first duly sworn,
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MR. WALLER:

12 Q: Mr. Meetze, how are you today?

13 A: Good.

14 Q: Mr. Meetze, how did you come to be Mr. Taylor's attorney?

15 A: He was appointed at I guess his initial bond hearing in
16 front of a magistrate court judge and the case was assigned to
17 me --

18 Q: Okay.

19 A: -- by at the time I guess would be Michael Bell.

20 Q: Okay. And you are a public defender?

21 A: I am a public defender, correct.

22 Q: Now, how many times, if you recall, did you meet with Mr.
23 Taylor about his charge?

24 A: I don't recall the exact number. I would say it was -- I
25 would certainly say it was more than two because he -- as he

VICK MEETZE - DIRECT BY MR. WALLER

1 indicated, he had bonded out. At the time, I don't believe we
2 had the system we have now where they come for initial
3 appearance, but we may have. I don't recall exactly if that
4 system was in place or not, but he had certainly been on the
5 list to come to court a number of times and he -- and he
6 normally always showed up. He had been notified in previous
7 terms of court that his case was -- was up for trial other
8 weeks, but they just didn't get to it, and he had been up
9 those weeks as well. So I don't think there's any issue with
10 the amount of time and opportunity that we had to speak about
11 his case.

12 Q: Okay. Did y'all discuss any potential defenses that he
13 might have?

14 A: I'm sure we went over the search that led to the officers
15 finding the drugs. As far as any defenses during a trial, Mr.
16 Taylor made no bones about the fact that he did not want a
17 trial. He never indicated any desire for a trial. He said
18 the exact opposite. He didn't want the trial. The only
19 problem was when he was put -- when he was brought to court
20 for that purpose, he didn't want to plead either.

21 He was -- he was looking for the often hoping for but
22 non-existent door number three, and got finally to the term of
23 court that it was actually tried and, you know, he was still
24 in that same position. I don't want a trial. I don't want to
25 plead. I don't want a trial. It wasn't that he didn't want

VICK MEETZE - DIRECT BY MR. WALLER

1 to plead. He couldn't plead then. I think it may have been a
2 situation with children and trying to make arrangements for
3 children and that kind of thing. But he always told me he did
4 not want a jury trial.

5 Q: Do you -- if you could, just what do you recall of the
6 actual search itself and what you thought was improper with
7 the search?

8 A: The search itself -- it started with an anonymous tip,
9 and I felt like the anonymous tip portion of the search made
10 -- made the search illegal based on a federal case. *Florida*
11 *v. J.L.* is the case I normally refer to, but I think there's
12 other precedent in that regard to where you can't search
13 somebody based on just an anonymous tip. There has to be some
14 kind of corroboration.

15 That's why officers who utilize informants have to be
16 confidential and reliable informants, informants that they've
17 used in the past, gotten information from, that information is
18 proven to be adequate and reliable so that they can use those
19 reliably anonymous tips. They don't know who gave them. They
20 don't -- there's no indicia of reliability in regards to that.
21 So I made a motion in regards to that.

22 Also, I think in my argument was that they didn't have
23 any basis to stop him. That he did nothing wrong by not
24 stopping when they told him to, that kind of thing, and that
25 the search was improper. You know, even if it was a

VICK MEETZE - DIRECT BY MR. WALLER

1 legitimate Terry frisk, once they frisked him that it was
2 obvious that he didn't have any weapons and, once there were
3 no weapons, any further search beyond that went beyond the
4 scope of a Terry frisk.

5 Q: Okay. And what -- just for the record, what were the
6 drugs contained in in this case?

7 A: They were contained in a tennis ball which was in a front
8 pocket, and they felt the tennis ball, what was clearly a
9 round object. I think the officer during his testimony
10 indicated he didn't know what it was. It could have been a
11 bomb or something like that. So the testimony was that the
12 officer sort of maneuvered the ball out of the pocket and it
13 fell onto the ground. After the tennis ball fell onto the
14 ground, the officer picked the tennis ball up and squeezed it.
15 And when he squeezed it, there was a slit in the tennis ball
16 and it opened up and he could see a plastic baggie in there,
17 and that plastic baggie contained crack cocaine.

18 Q: Okay. Now, was that -- would you say that was your main
19 defense?

20 A: That was the main defense, yes.

21 Q: Okay.

22 A: You know, at trial once -- once the judge denied the
23 motion to suppress the drugs, then the trial went forward.
24 And, you know, at that point in time there wasn't an argument
25 that he wasn't in possession of the drugs. This was a

VICK MEETZE - DIRECT BY MR. WALLER

1 possession with intent to distribute cocaine base case, and I
2 think the weight ended up being between four and five grams.

3 There was no -- the testimony from the officers was that
4 they saw an individual on a bike, who ended being Mr. Taylor,
5 speaking closely with another individual. And I think the
6 officers' testimony was that their experience and training
7 indicated that that would be a drug transaction, but they'd
8 also testified that they did not see anything change --
9 exchange hands. They didn't see any hand-to-hand transaction
10 of any kind. They didn't see anything handed to the one
11 person from Mr. Taylor or anything from the other individual
12 handed back to Mr. Taylor. No kind of exchange of any kind.

13 So -- but once the motion was denied, there wasn't a
14 defense to the possession part. So I think my argument at
15 trial as far as what the jury should determine was that there
16 was no evidence of an intent to distribute outside of weight
17 and -- and that they should only find him guilty of a lesser
18 offense of possession because the possession was -- was
19 difficult at that point in time to deny. It was -- the ball
20 was in his pocket. So --

21 Q: Okay. Now, you and Mr. Taylor discussed prior to the
22 trial actually beginning what would happen if he didn't show
23 back up?

24 A: I don't think we did. In fact, I'm certain that we did
25 not. I did not specifically tell him, now, if you don't show

VICK MEETZE - DIRECT BY MR. WALLER

1 up tomorrow, the trial will go forward without you. He had
2 been there for jury selection. It was his suggestion to see
3 can I come back -- see if they'll still let me plead tomorrow
4 for the five years, that kind of thing, but I'm certain I
5 didn't tell him that they would move forward with the trial if
6 he didn't show up, and I don't think the judge did either.

7 Q: The judge didn't have any problem though with him staying
8 out on bond?

9 A: The judge did not, no. And, you know, when he was having
10 -- you know, when it came down and it's time to either plea or
11 go to trial and he didn't want to do either one, the State
12 began the process of jury selection. And the whole time, he
13 was sort of sitting there next to me just sort of whispering
14 to me I don't want to do this. I don't want to do this. I
15 don't want to do this. And there's a -- in the transcript,
16 there's a time during there where it mentions that there's a
17 bench conference, and that bench conference was with regards
18 to -- you know, he had indicated he wanted -- you know, wanted
19 me to see if he could plead the next morning.

20 And so that conference was about that, and Bob Wells was
21 the prosecutor. He did not have any objection to that, and he
22 wanted to go ahead and go forward with the jury selection and
23 -- but he didn't have any problem with Mr. Taylor coming back
24 the next morning and accepting the plea agreement, and Judge
25 Russo did not have any problem with that either.

VICK MEETZE - DIRECT BY MR. WALLER

1 Q: Okay. Have you had a chance to review the transcript in
2 preparation for today?

3 A: I left it over there, but I reviewed it to a certain
4 extent.

5 Q: Okay. Do you recall the testimony of Officer Bellamy?

6 A: I remember Officer Bellamy testifying.

7 Q: Okay.

8 A: If you'll let me know the specific part that you're --

9 Q: Well, would it help if I hand you a copy?

10 A: Sure. Or you could -- if I could get off the stand, I
11 can get my copy or I'll use yours.

12 Q: I've got a copy.

13 A: Sure.

14 Q: I'm not sure I can point to a specific page. Just his
15 testimony in general, if you recall, after he testifies about
16 the -- the stop and the search, do you recall if there was any
17 testimony about what then happened with the drugs that he
18 seized from Mr. Taylor? His testimony begins -- his direct
19 begins on page 85.

20 MR. WALLER: Your Honor, do you have a copy as well?

21 THE COURT: Yes, sir.

22 (WHEREUPON, there was a pause in the proceedings.)

23 BY MR. WALLER:

24 A: Now, on his direct examination, I do not see what -- I do
25 not see where he indicates what he did with the drugs after he

VICK MEETZE - DIRECT BY MR. WALLER

1 found them.

2 Q: And I apologize for the lengthy -- the lengthy portion
3 there.

4 A: I apologize for my slow reading.

5 Q: If you could turn to page 93?

6 A: Yes, sir.

7 Q: The -- the drug evidence was State's Exhibit Number 2 and
8 it was marked for identification at that point, and you made
9 an objection. Was that objection subject to your motion to
10 suppress?

11 A: Yes.

12 Q: Now, on through the rest of the trial, other people
13 testified about the drugs; is that right? I believe the lady
14 who transported it to Charleston to be tested and the actual
15 chemist.

16 A: Right.

17 Q: Is that correct?

18 A: That's correct.

19 Q: Okay. On page 128 at the top of the page --

20 A: Yes, sir.

21 Q: -- is where the -- is where the drugs were actually
22 admitted into evidence?

23 A: Yes, sir.

24 Q: And that was subject to again your previous motion to
25 suppress; is that correct?

VICK MEETZE - DIRECT BY MR. WALLER

1 A: That's right.

2 Q: Okay. What was the trial strategy for not objecting to
3 the evidence being admitted for failure to prove sufficient
4 chain of custody?

5 A: There was no trial strategy in that regard. That was not
6 a thought that occurred to me.

7 Q: Okay. All right. Mr. Meetze, if you could, please turn
8 to page 147. We're nearing the end of the trial here. This
9 is the solicitor's closing arguments.

10 A: Okay.

11 Q: If you would, review beginning at line 10 and going
12 through line 17.

13 A: Okay.

14 Q: In that first sentence, Mr. Wells makes the comment --
15 it's pretty obvious if he hadn't had anything on him like
16 this, he would have had no reason to resist the officers and
17 would certainly talk to them. What was the trial strategy on
18 not objecting to his comment about Mr. Taylor not speaking to
19 the officers?

20 A: There was no conscious strategy in regard to not -- there
21 wouldn't be -- if that's an objectionable statement, that was
22 just an objection that I failed to respond to.

23 Q: All right. If you would, flip over to page 149, please,
24 as well. And then beginning at line 10 also and really going
25 through the bottom of the page.

VICK MEETZE - DIRECT BY MR. WALLER

1 THE COURT: What was that page, Mr. Waller?

2 MR. WALLER: 149, Your Honor. I apologize. Beginning at

3 line 10.

4 BY MR. WALLER:

5 A: Just down to the bottom?

6 Q: Yes, sir.

7 A: Nothing on the next page?

8 Q: Just the first I guess line.

9 A: Okay.

10 Q: Did you have any issue with that statement at the time it

11 was made?

12 A: I did not.

13 Q: Okay. What was the trial strategy for failing to object

14 to that or not object to that? Excuse me.

15 A: There was no strategy in regards to that.

16 Q: Okay.

17 MR. WALLER: I have no further questions of this witness.

18 THE COURT: All right. Mr. Hunter, cross-examination.

19 CROSS-EXAMINATION

20 BY MR. HUNTER:

21 Q: Good morning, Mr. Meetze.

22 A: Good morning.

23 Q: How long have you been practicing law?

24 A: Sixteen years I guess.

25 Q: Okay. And of that -- of those 16 years, how much of your

VICK MEETZE - CROSS BY MR. HUNTER

- 1 practice has been devoted to criminal defense?
- 2 A: Let's see. It would be 13 years in August.
- 3 Q: Okay. And you were appointed on this case?
- 4 A: I was.
- 5 Q: And that was through your work with the Public Defender's
- 6 Office?
- 7 A: That's right.
- 8 Q: Okay. I believe you testified you met with Mr. Taylor at
- 9 least more than a couple times?
- 10 A: Yes, sir.
- 11 Q: Okay. Did you file Rule 5 and Brady motions?
- 12 A: We did.
- 13 Q: Did you go over the discovery with Mr. Taylor?
- 14 A: Yes, sir.
- 15 Q: Okay. Did you have any trouble getting discovery from
- 16 the State?
- 17 A: No, sir.
- 18 Q: Okay. Did you review Mr. -- discuss Mr. Taylor's version
- 19 of the facts -- what happened?
- 20 A: Yes, sir. He had plenty of opportunity to explain to me
- 21 what happened.
- 22 Q: Okay. And so I believe you testified that your defense
- 23 was essentially going to be to argue that it should have just
- 24 been a possession charge and not a possession with intent to
- 25 distribute?

VICK MEETZE - CROSS BY MR. HUNTER

- 1 A: Once the suppression motion was denied --
- 2 Q: Okay.
- 3 A: -- the -- the -- to me, the best strategy that could
- 4 possibly be in Mr. Taylor's best interest at that point in
- 5 time was to argue for a possession as opposed to possession
- 6 with intent to distribute.
- 7 Q: Okay. And you did have -- you did have a suppression
- 8 motion; correct?
- 9 A: Yes.
- 10 Q: Okay. And I believe you -- did you hold a Jackson v.
- 11 Denno hearing as well?
- 12 A: I don't recall. If that's in the transcript --
- 13 MR. HUNTER: I beg the Court's indulgence.
- 14 BY MR. HUNTER:
- 15 Q: Never mind.
- 16 A: I don't recall him making --
- 17 Q: There wasn't one.
- 18 A: -- any statements.
- 19 Q: There was no statement. I apologize. Let's see. Did
- 20 you discuss the elements of the charges with Mr. Taylor?
- 21 A: Yes, sir.
- 22 Q: Okay. I believe you've already pretty well discussed the
- 23 evidence the State had against Mr. Taylor. So your main issue
- 24 was -- was with the Terry frisk?
- 25 A: Yes, sir. The -- we felt like that the drugs should have

VICK MEETZE - CROSS BY MR. HUNTER

1 been suppressed and we made a motion pursuant to that, and
2 that motion was denied at the trial level and the trial went
3 forward in Mr. Taylor's absence. He was not there for any of
4 the -- for any of the pretrial. He was just there for the
5 jury selection.

6 Q: Okay. And then his -- his conviction was overturned by
7 the Court of Appeals; correct?

8 A: Yes, sir.

9 Q: Okay. Did he give you any -- any leads or witnesses to
10 investigate? To interview?

11 A: No, sir.

12 Q: Prior to his decision to plead guilty, did you discuss
13 that he would be waiving his right to a jury trial and
14 whatnot? Did y'all get that far?

15 A: I think he signed up that day, but we didn't qualify.
16 You know, judges have options and it was never discussed
17 whether to do this or not. I think he signed up before he
18 left that day.

19 Q: Okay.

20 A: But sometimes in those circumstances judges and
21 prosecutors and defense attorneys would want to what's called
22 qualify the plea, go ahead and go forward with the plea to the
23 extent of accepting the plea, but deferring sentencing to
24 another time. That -- none of that happened.

25 Q: Okay.

VICK MEETZE - CROSS BY MR. HUNTER

1 A: But he may have signed up and it seems like that he --
2 that he did, but I don't remember that exactly. So if he
3 signed up, then certainly I went over all that with him prior
4 to that. But I mean he knew, you know, his case had been up
5 for trial some previous terms and I mean he knew his case was
6 going to be called for trial at some point in time. He knew
7 that that was a decision that he was going to have to make and
8 his decision was either going to be to go to trial or to enter
9 -- enter a plea. And we had been over that and had always
10 gotten the same answers. That he didn't want a trial, but he
11 didn't want to plead either.

12 Q: Okay. So it's fair to say that he knew he needed to come
13 back the next day after the jury selection to finish his plea?

14 A: You know, when he -- after he was convicted, the deputies
15 went to his residence or wherever -- I think it was his
16 residence -- and arrested him on the bench warrant and brought
17 him back to court. So I think his sentence was unsealed that
18 same week that he was tried. It seems like he told me
19 something along the lines of once he had signed up that they
20 wouldn't go forward with the trial.

21 Now, like I testified earlier, I did not specifically
22 tell him that if he didn't show up, the trial would go forward
23 in his absence. Okay? And the judge didn't tell him that
24 either. And I'm not blaming anybody. I'm just saying it's --
25 it sometimes happens that judges will inform somebody in that

VICK MEETZE - CROSS BY MR. HUNTER

1 circumstance, now, if you don't come back, we're going forward
2 without you, but I don't think it was done this time. I don't
3 recall it being done and I don't think it was.

4 Q: Okay. But -- but you did tell him his plea would be the
5 next morning?

6 A: Well, that was his idea. Yes, sir.

7 Q: Okay.

8 A: So I mean he knew. You know, that was all being done at
9 his suggestion.

10 Q: Okay. Do you make it a practice to -- to object during
11 closing arguments?

12 A: It's not something I do very often, but it's not -- not
13 as a rule that I don't object during closing arguments. If I
14 hear something that I believe is objectionable, I'll do that
15 and -- and I have before. It's not something that I do often,
16 but I don't -- I don't have a rule that I won't do it.

17 Q: Is it fair to say that at the time that didn't strike you
18 as objectionable?

19 A: It did not. Or if it had, I would have objected.

20 Q: Okay. Did you have a problem during the trial with the
21 chain of custody?

22 A: There was nothing that came to my mind that -- that -- at
23 the time that was an issue with chain of custody.

24 Q: Okay. And you had reviewed all of the discovery prior?

25 A: I had.

VICK MEETZE - CROSS BY MR. HUNTER

- 1 Q: Okay. And did you make a directed verdict motion?
- 2 A: I did.
- 3 Q: Okay. Do you recall whether Mr. Taylor's name was called
- 4 out three times prior to the trial beginning?
- 5 A: I don't have a specific recollection of that, but I feel
- 6 -- I'm sure that it -- that it did.
- 7 Q: Okay. Do you have your -- still have a copy of the
- 8 transcript there?
- 9 A: I do.
- 10 Q: Okay. I believe if you'll turn to page 63 -- beginning
- 11 on 63 and into 64, would you mind reading that and refreshing
- 12 your memory?
- 13 A: Okay. All right.
- 14 Q: And after -- after refreshing your memory, can you say
- 15 whether or not Mr. Taylor's name was called out three times
- 16 prior?
- 17 A: It was.
- 18 Q: Okay. And, in fact, the trial didn't begin the first day
- 19 after -- after Mr. Taylor failed to appear, did it?
- 20 A: It did not.
- 21 Q: Okay. Do you recall how many days?
- 22 A: It seems like we picked a jury on a Monday and with the
- 23 intent of beginning the trial the next morning, but we weren't
- 24 able to begin the next morning and we didn't start it seems
- 25 like until Wednesday I think.

VICK MEETZE - CROSS BY MR. HUNTER

1 Q: Okay.

2 A: But there was at least a full day in-between picking the
3 jury and starting the trial, if not -- if not a day and a half
4 or so.

5 Q: And would Mr. Taylor have been able to accept the plea up
6 until the time the trial actually began?

7 A: Yes, sir.

8 Q: Okay.

9 MR. HUNTER: I beg the Court's indulgence just a moment,
10 Your Honor.

11 THE COURT: All right.

12 MR. HUNTER: That's all I have. Thank you, Mr. Meetze.

13 THE COURT: Any redirect?

14 MR. WALLER: No, Your Honor.

15 THE COURT: Mr. Meetze, you may step down. Thank you.

16 THE WITNESS: Thank you.

17 MR. WALLER: Your Honor, the applicant rests.

18 THE COURT: All right. Anything by way of argument, Mr.
19 Waller?

20 MR. WALLER: Well, I do, Your Honor. I didn't know if
21 the State was going to put up any evidence.

22 THE COURT: Oh, I'm sorry. Mr. Hunter, are you going to
23 put up anything?

24 MR. HUNTER: No, Your Honor.

25 THE COURT: I didn't see any other -- any other parties

1 sitting -- seated over there. So --

2 MR. WALLER: Yes, sir. Your Honor, briefly, Mr. Meetze
3 testified that, upon reviewing the transcript, Officer Bellamy
4 never testified to what happened to the drugs. The first time
5 we see those drugs again it is being transported to be tested,
6 as in through the chemist. Your Honor, they're admitted on
7 page 128.

8 Mr. Hunter asked on cross-examination whether the chain
9 -- whether there were any issues with the chain and the
10 discovery. Your Honor, just because they are contained in
11 discovery materials, the State obviously still has to prove
12 the chain as far as practicable.

13 The applicant contends that it was ineffective for
14 failing to object to the admission of the drug evidence
15 because the chain had not been proven. The foundation had not
16 been laid for those drugs to come in.

17 Additionally, Your Honor, during the solicitor's closing
18 arguments, page 147, lines 10 through 17, we contend that the
19 solicitor made a comment on the defendant remaining silent and
20 not speaking to law enforcement. We feel that's -- that is
21 ineffective and impermissible comment.

22 The -- I would direct the Court's attention to -- to
23 *Doyle v. Ohio*. It's a United States Supreme Court case from
24 1976. It's at 426 U.S. 610.

25 Additionally, *Brown v. State*. That's a South Carolina

1 Court of Appeals case relating a *Doyle* comment to a PCR. That
2 case is factually a little bit different. I'll give you the
3 cite in one second. It's factually a little bit different in
4 that the solicitor makes a comment as to the defendant not
5 testifying at trial, but I still feel it's the same -- the
6 same issue with making a comment that the solicitor -- that
7 the defendant -- excuse me -- was -- was not making
8 statements. That cite is 652 S.E.2d 765 and, again, it's a
9 South Carolina Court of Appeals case from 2007.

10 And, Your Honor, finally, on page 149 beginning at line
11 10 and continuing through the bottom of the page and just
12 briefly onto the next page, the solicitor goes into some
13 comments that the applicant contends is impermissible comments
14 on his character. He starts talking about society and then
15 that a defendant that is out there selling drugs is taking --
16 is taking liberties with other people's lives. And we just
17 feel that that comment is impermissible.

18 I would ask the Court to consider *State v. Cooper*, 514
19 S.E.2d 584. That was a South Carolina Supreme Court case from
20 1999. Again, it's not factually exact, but it is a case that
21 discusses comments during a closing argument intending to
22 inflame the passions of the jury.

23 We would ask the Court to consider those and grant the
24 application for post-conviction relief.

25 THE COURT: Mr. Hunter?

1 MR. HUNTER: Just very briefly, Your Honor. I'll start
2 first with the chain of custody.

3 Mr. Meetze testified that he reviewed discovery. He did
4 not have a problem with the chain of -- chain of custody.
5 During the trial, it did not jump out at him as being a
6 problem with the chain of custody. The defendant is entitled
7 to a fair trial, not a perfect trial.

8 Regarding the closing arguments, Mr. Meetze testified
9 that they did not strike him as objectionable at the time. He
10 testified that he, while not making a practice not to object
11 during closing arguments, he felt like at that time it was not
12 necessary.

13 And with regard to the *Strickland*, I -- while applicant
14 -- I don't believe applicant has shown prejudice or has shown
15 that Mr. Meetze was ineffective to the point that his such
16 ineffectiveness would have changed the outcome of the trial.
17 I don't think he's shown prejudice.

18 THE COURT: All right. Now, with regards to the chain of
19 custody issue, pursuant to *State v. Hatcher*, which is a South
20 Carolina Supreme Court case, 392 S.C. 86, *State v. Hatcher*
21 stands for the proposition that the State is not required to
22 specifically identify every individual who handled drug
23 evidence in order to establish chain of custody.

24 Furthermore, in *State v. Hatcher*, the Supreme Court goes
25 on to say, citing *State v. Sweet*, 374 S.C. 1, this Court has

1 long held that a party offering into evidence fungible items
2 such as drugs or blood samples must establish a complete chain
3 of custody as far as practicable. It goes on to say where the
4 substance -- and this is citing *Benton v. Pellum*, P-e-l-l-u-m,
5 232 S.C. 26 -- where the substance analyzed is passed through
6 several hands, the evidence must not leave it to conjecture as
7 to who had it and what was done with it between the taking and
8 the analysis.

9 It goes on to say where other evidence establishes the
10 identity of those who have handled the evidence and reasonably
11 demonstrates the manner of handling of the evidence, our
12 courts have been willing to fill gaps in the chain of custody
13 due to an absent witness. Proof of chain of custody need not
14 negate all possibility of tampering so long as the chain of
15 possession is complete. In applying this rule, we have found
16 evidence inadmissible only where there is a missing link in
17 the chain of possession because the identity of those who
18 handled the substance was not established at -- established at
19 least as far as practicable.

20 Again, I am reading from *State v. Hatcher*, 392 S.C. 86,
21 which cites various cases. And I also read -- in reading
22 *State v. Hatcher*, what I just read was cited in *State v.*
23 *Hatcher* and came from *State v. Carter*, 344 S.C. 419.

24 I do not -- based upon what I've heard here today and
25 based upon *State v. Hatcher*, I do not find ineffective

1 assistance of counsel with regards to chain of custody issues.
2 That his conduct -- Mr. Meetze's conduct as it relates to that
3 does not rise to the level of ineffective assistance.

4 In essence, counsel did not fail to render reasonably
5 effective assistance under prevailing professional norms as it
6 relates to that issue. Therefore, as he does not meet the
7 necessity of proving ineffective assistance under the first
8 prong of *Strickland*, he does not even get to second -- to the
9 second prong, which also must be proven, and that is
10 prejudice.

11 What I am going to do is I am going to look at these
12 cases cited by Mr. Waller as it relates to the closing
13 argument statements. Okay? But I'm -- as it pertains to the
14 ineffectiveness on the chain of custody issue, this Court
15 finds that there is no issue of ineffectiveness on that issue.

16 But I will look at those cases and make a decision and
17 let you all know on that. All right?

18 MR. WALLER: Thank you, Your Honor.

19 THE COURT: This may not have been pointed out in the
20 transcript. Mr. Meetze testified that he didn't specifically
21 recall telling Mr. Taylor that his trial would go forward if
22 he did not return.

23 However, during the course of the trial, Ms. Doris O'Hara
24 of the Clerk's Office was put on the stand and testified as to
25 bond paperwork, bond paperwork which was admitted into

1 evidence, which states bond paperwork of August 7, 2006, that
2 the -- excuse me -- that the defendant -- the bond paperwork
3 shows that his bond was returnable to August 7, 2006, term of
4 court and each term of court thereafter.

5 Furthermore, there is an acknowledgement within that bond
6 paperwork that the defendant can be tried in his absence,
7 which he signs, if he does not appear in court. That
8 particular document was admitted as an exhibit. And simply by
9 Mr. Meetze not specifically telling him that, he signed
10 paperwork indicating or reflecting the fact that he could be
11 -- that he could be tried in his absence.

12 Okay? All right. We'll stand down for a minute.

13 MR. WALLER: Thank you, Your Honor.

14 THE COURT: Yes, sir?

15 MR. WALLER: No, no. I was just saying thank you for
16 clarifying that.

17 THE COURT: I just wanted that clear on the record.
18 Okay?

19 MR. WALLER: Yes, sir.

20 THE COURT: Thank you.

21 (WHEREUPON, the proceedings ended at 10:40 a.m.)

22

23 --- END REQUESTED TRANSCRIPT ---

24

25

1	State of South Carolina	)
2		) Certificate
3	County of Florence	)

I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 38 constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of Common Pleas for Florence County, South Carolina, on the 15th day of April, 2015.

14 I do further certify that I am neither of kin, counsel,
15 nor interest to any party hereto.

17 s/ Krystal J. Smith

18	Court Reporter
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20	Florence, South Carolina
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21 | November 1, 2015

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

Sylvester D. Taylor, #251960,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

Case No. 2013-CP-21-1347

ORDER OF DISMISSAL

FILED
2015 AUG -5 AM 10:51
CONNIE REEL-SHEARIN
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, SC

This matter comes before the Court by way of an Application for Post-Conviction Relief filed January 10, 2012. Respondent made a Return on or about March 2, 2012. The Court convened an evidentiary hearing into the matter on April 15, 2015, at the Florence County Courthouse. Applicant was present at the hearing and represented by Jonathan Waller, Esquire. J. Croom Hunter, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Applicant's trial counsel, William V. Meetze, Esquire, also testified. The Court had before it a copy of the plea transcript, the records of the Florence County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the pleadings in this matter. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Florence County Clerk of Court. In January 2007, the Florence County Grand Jury indicted Applicant for possession of cocaine base with intent to distribute, third or subsequent offense (2007-GS-21-295). William V. Meetze, Esquire, represented Applicant. On April 17, 2007, Applicant proceeded to trial before the Honorable Thomas A. Russo and a jury. On April

CERTIFIED: A TRUE COPY

Connie Reel-Shearin

CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

18, 2007, Applicant failed to appear in court and Judge Russo proceeded to try Applicant in his absence.¹ On April 19, 2007, the jury found Applicant guilty as indicted and Judge Russo imposed a sealed sentence. On April 20, 2014, Applicant appeared in court and Judge Russo unsealed and pronounced a sentence of thirty (30) years imprisonment.

Applicant filed a timely notice of appeal, and Elizabeth A. Franklin-Best, Esquire, of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals reversed Applicant's conviction on May 13, 2010. State v. Taylor, 388 S.C. 101, 694 S.E.2d 60 (Ct. App. 2010). The South Carolina Supreme Court granted the State's petitioner for writ of certiorari to review the Court of Appeal's opinion on April 20, 2011. The Supreme Court reversed the Court of Appeals and affirmed Applicant's conviction on Jan. 9, 2013. State v. Taylor, 401 S.C. 104, 736 S.E.2d 663 (2013). The remittitur was returned to the circuit court on January 25, 2013.

II. ALLEGATIONS

In his application, Applicant alleged he is being held in custody unlawfully for the following reasons:

1. "Ineffective assistance of trial counsel"
 - a. "counsel failed to investigate the facts and laws surrounding my whole case"
2. "Violation of due process per the Federal, United States and South Carolina Constitution And fourth amendment"
 - a. "counsel failed to properly attack search and seizure"

However, at the PCR hearing, Applicant proceeded with the following allegations:

1. Failure to challenge the chain of custody.
2. Failure to object to impermissible comments during the State's closing argument.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

¹ Judge Russo found Applicant knowingly and voluntarily waived his right to be present at trial.

The Court has reviewed the record in its entirety and has heard the testimony and arguments presented at the evidentiary hearing. The Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court finds Counsel's testimony credible and Applicant's testimony not credible. The Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003). Furthermore, this Court finds that Applicant abandoned all allegations except for those specifically addressed below.

A. Summary of Testimony

Applicant testified he was arrested in 2006, and Vick Meetze (Counsel) was appointed to represent him. Applicant testified he was successful in bonding out of jail, and that he only discussed his case with Counsel a couple of times. Applicant testified he and Counsel did discuss the elements of the charge he was facing as well as the possible sentences he was facing. Applicant testified he and Counsel never discussed the State's evidence against him, with the exception of the incident report. Applicant testified they never discussed any possible witnesses to present at trial; nor did they discuss trial procedures. Applicant acknowledged during his testimony that he did not have any witnesses to testify on his behalf at the PCR either. Applicant believed Counsel did not show any faith in his story. Applicant testified he appeared for jury selection, at which point he agreed to plead guilty to a negotiated five year sentence. Applicant testified he believed the chain of custody was improperly presented at trial, and he thought the evidence should have been excluded based on issues with the search.

Applicant next called Counsel to testify. Counsel testified he was appointed as part of his duties as a public defender, and he met with Applicant more than twice. Counsel testified he discussed the search with Applicant. Counsel testified he believed the search was illegal and the drugs should have

been excluded because the search was based on an anonymous tip. Counsel believed the police had no basis to stop Applicant and because it was obvious Applicant did not have any weapons on him, Counsel believed the search exceeded the legal scope of a Terry frisk. Counsel testified he argued this to the trial court, but the judge allowed the drugs over his objection. Counsel testified Applicant never wanted a trial, and he was not sure if he told Applicant the trial would move forward without him present.² Counsel testified he could not recall any specific strategy in declining to object to the chain of custody. Counsel also testified he did not object to Applicant's statement because he did not believe there were any grounds on which to exclude it.

On cross-examination, Counsel testified he has been practicing law for sixteen years, thirteen of which have been spent in criminal practice. Counsel testified Applicant's trial did not begin for three days after his failure to appear for the guilty plea, and Applicant still could have accepted the plea up until the start of the trial. Counsel testified Applicant's name was called three times prior to the start of trial, as required by law. Counsel testified he filed Rule 5 and Brady motions and reviewed the discovery materials with Applicant. Counsel testified he reviewed the elements of the charges with Applicant. Counsel testified he did discuss Applicant's version of the facts. Counsel testified that once the drugs were admitted, his strategy at trial was to argue that Applicant only possessed the drugs for personal use and had no intent to distribute. Counsel testified he reviewed the chain of custody and did not see any issues with it. However, Counsel testified he did object to certain testimony offered by the manager of the drug lab. Counsel testified Applicant never gave him any potential witnesses to contact or leads to investigate. Counsel testified the solicitor's comments during the State's closing did not strike him as objectionable. Counsel testified Applicant knew his plea would be the next morning after he decided not to go to trial. Counsel acknowledged the Court of Appeals did reverse Applicant's

² Applicant's bond paperwork was admitted into evidence at the PCR hearing. From this paperwork it is clear Applicant

conviction based on his objections to the admission of the drugs, but the Supreme Court reinstated the conviction.

B. Ineffective Assistance of Counsel

In this post-conviction relief action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of trial counsel as a ground for relief, Applicant must prove trial counsel's "conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether trial counsel provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The Court strongly presumes trial counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The Court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, Applicant must prove trial counsel's performance was deficient. Id. Under this prong, the Court measures trial counsel's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, trial counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that,

was aware of the consequences of his failure to appear.

but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

This Court finds Applicant has failed to show Counsel's performance fell below an objective standard of reasonableness. Counsel's testimony indicated he was extremely familiar with the facts of Applicant's case. This Court finds Counsel met with Applicant an adequate number of times and was familiar with the discovery materials. Additionally, Applicant has failed to meet his burden of proving that his statement was coerced in any way. Counsel's testimony indicates he did not believe he had any basis for challenging the admissibility of the statement.

1. Chain of Custody

With regard to Counsel's alleged failure to object based upon the chain of custody, this Court finds Applicant has failed to show any ineffectiveness on the part of Counsel. A complete chain of custody must be established as far as practicable when a party seeks the admission of fungible evidence like drugs or a blood sample during trial. State v. Governor, 362 S.C. 609, 612, 608 S.E.2d 474, 475 (Ct. App. 2005); see Hatcher, 392 S.C. at 95, 708 S.E.2d at 755 ("The State need not establish the identity of every person handling fungible items in all circumstances; rather, the standard is whether, in the discretion of the trial judge, the State has established the chain of custody as far as practicable."). However, the proof of the chain of custody need not exclude every possibility of tampering. State v. Smith, 326 S.C. 39, 41, 482 S.E.2d 777, 778 (1997); see Rogers, 361 S.C. at 187, 603 S.E.2d at 915 ("South Carolina law does not require testimony as to the exclusion of any possibility of tampering."). Instead, in order to satisfy the requirements for establishing the chain of custody, the evidence and testimony presented during trial must simply not leave to conjecture who was in possession of the fungible item and what was done with it between its seizure and analysis. State v. Johnson, 318 S.C. 194, 196, 456 S.E.2d 442, 443 (Ct. App. 1995). "[I]f the identity of each

person handling the evidence is established, and the manner of handling is reasonably demonstrated, no abuse of discretion by the trial court is shown in admitting the evidence absent proof of tampering, bad faith, or ill-motive." State v. Sweet, 374 S.C. 1, 6, 647 S.E.2d 202, 205-206 (2007). Furthermore, "where there is a weak link in the chain of custody, as opposed to a missing link, the question is only one of credibility and not admissibility." State v. Carter, 344 S.C. 419, 424, 544 S.E.2d 835, 837 (2001).

This Court finds Counsel is an extremely capable and experienced criminal lawyer. Counsel testified he reviewed the chain of custody and did not believe there were any legitimate grounds on which to object to the chain of custody. This Court has weighed Counsel's testimony as well as reviewed the transcript of Applicant's trial. Based on the foregoing, and in conjunction with the applicable jurisprudence, this Court can find no ineffectiveness on the part of Counsel for electing not to challenge the chain of custody. There is no question as to the weight of the drugs, from whom they were confiscated, or how they were handled between the seizure and the trial. As such, this Court finds the allegation without merit.

2. The State's Closing Argument

With regard to Counsel's alleged failure to object to the State's closing argument, this Court finds Applicant has failed to show any ineffectiveness on the part of Counsel. "Closing argument serves to sharpen and clarify the issues for resolution by the trier of fact in a criminal case. For it is only after all the evidence is in that counsel for the parties are in a position to present their respective versions of the case as a whole. Only then can they argue the inferences to be drawn from all the testimony, and point out the weaknesses of their adversaries' positions." State v. Mouzon, 321 S.C. 27, 31-32, 467 S.E.2d 122, 124-25 (Ct. App. 1995), aff'd, 326 S.C. 199, 485 S.E.2d 918 (1997) (citing Herring v. New York, 422 U.S. 853 (1975)). "A solicitor's closing argument must be carefully tailored

so as not to appeal to the personal biases of the jury.” Von Dohlen v. State, 360 S.C. 598, 609, 602 S.E.2d 738, 744 (2004). “The argument must not be calculated to arouse the jurors’ passions or prejudices, and its content should stay within the record and reasonable inferences that may be drawn therefrom.” Id. at 609–10, 602 S.E.2d at 744. “Improper comments do not automatically require reversal if they are not prejudicial to the defendant, and the appellant has the burden of proving he did not receive a fair trial because of the alleged improper argument.” Humphries v. State, 351 S.C. 362, 373, 570 S.E.2d 160, 166 (2002). “The relevant question is whether the solicitor’s comments so infected the trial with unfairness as to make the resulting conviction a denial of due process.” Id.

This Court finds Applicant has failed to show the State’s closing argument “so infected the trial with unfairness as to make the resulting conviction a denial of due process.” Id. Applicant specifically alleged the Solicitor’s language was objectionable, where he said “It’s pretty obvious if he hadn’t had anything on him like this, he would have had no reason to resist the officers and would certainly talk to them.” (Transcript p. 147.) Applicant also claimed Counsel should have objected to the Solicitor’s language on page 149, where he said he wanted to address a comment Counsel made in his opening argument concerning the jury’s role in dealing with Applicant’s life and liberty. Although Counsel testified he had no specific reason for not objecting to either of these comments made by the Solicitor, this Court finds Applicant has failed to show how Counsel’s failure to object constituted ineffectiveness. Furthermore, Applicant has failed to show any resulting prejudice, especially considering the great weight of the evidence against Applicant. As such, this Court finds no ineffectiveness on the part of Counsel for not objecting, and the allegation is without merit.

C. All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence

regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

D. Overwhelming Evidence of Guilt

This Court notes that Applicant can show no prejudice in regards to any of the alleged allegations as there is clear overwhelming evidence of guilt. See Franklin v. Catoe, 346 S.C. 563, 570, 552 S.E.2d 718, 722 (2001), cert. denied, 535 U.S. 1114, 122 S.Ct. 2332, 153 L.Ed.2d 162 (2002) (finding overwhelming evidence of guilt negated any claim that counsel's deficient performance could have reasonably affected the result of defendant's trial); Geter v. State, 305 S.C. 365, 367, 409 S.E.2d 344, 346 (1991) (concluding reasonable probability of a different result does not exist when there is overwhelming evidence of guilt).

IV. CONCLUSION

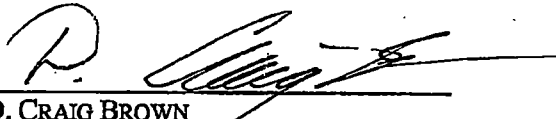
Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCR, provides that if Applicant wishes to seek appellate review, his post-conviction relief attorney must serve and file a notice of appeal on Applicant's behalf. Applicant and his attorney are directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice;
and
2. Applicant must be remanded to the custody of the Department of Corrections to
complete service of his sentence.

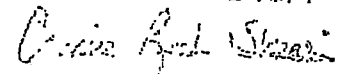
AND IT IS SO ORDERED this 5 day of August, 2015.


D. CRAIG BROWN
Presiding Judge
Twelfth Judicial Circuit

Florence, South Carolina

FILED
2015 AUG -5 AM 10:54
CORR REEL-SHE ARIN
COP & G.S.
FLORENCE COUNTY, SC

CERTIFIED: A TRUE COPY



CLERK OF COURT C.R. & G.S.
FLORENCE COUNTY, S.C.

WITNESSES
LT. BRETT CAMP FCSO

Bellamy

PROS: RNW

D/O: 07-25-2006

ARREST WARRANT NO.

K047983 (1)

ACTION OF GRAND JURY

TRUE BILL

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

Date:

DOCKET NO. 2007 - GS - 21 - 00295

The State of South Carolina,

County of FLORENCE

RNW

COURT OF GENERAL SESSIONS

JANUARY TERM 2007

THE STATE

vs.

SYLLESTER D'ANDRE TAYLOR

Indictment for

POSSESSION OF COCAINE BASE
WITH INTENT TO DISTRIBUTE

FILED

2007 JAN 11 PM 3:25

CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

INDICTMENT FOR

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

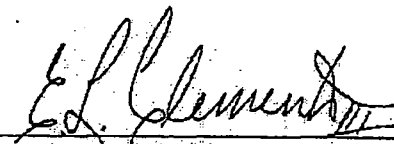
POSSESSION OF COCAINE BASE WITH INTENT TO
DISTRIBUTE

At a Court of General Sessions, convened on JANUARY 11, 2007, the Grand Jurors of FLORENCE
County present upon their oath:

COUNT ONE - POSSESSION OF COCAINE BASE WITH INTENT TO DISTRIBUTE

That SYLLESTER D'ANDRE TAYLOR did in FLORENCE County on or about July 25, 2006, violate Section 44-53-0375(B)(3) of the Code of Laws of South Carolina (1976), as amended, in that he did knowingly and intentionally possess with intent to distribute a quantity of Cocaine Base, a controlled substance; such possession not having been authorized by law.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR