

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Kristi L. Harrington, Circuit Court Judge

RECEIVED
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SC Court of Appeals

THE STATE,

RESPONDENT,

v.

ANTHONY JANIRUS ROBINSON,

APPELLANT.

RECORD ON APPEAL

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WITNESSES

North Charleston Police Department

The State of South Carolina

County of Charleston

AGENCY CASE NUMBER

2012034126

COURT OF GENERAL SESSIONS

January Term 2013

ARREST WARRANT NUMBER

2012A1010201557

DATE OF ARREST

September 21, 2012

ACTION OF GRAND JURY

THE STATE

vs.

ANTHONY JANIRUS ROBINSON

DOB: 1983-05-16

B/M

Foreperson of Grand Jury

JAN 09 2013

Date:

VERDICT

Guilty - Simple Possession of Cocaine

Tony B. Bate

Indictment for

Trafficking Cocaine

Foreperson of Petit Jury

JAN 09 2013

Date:

INDICT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

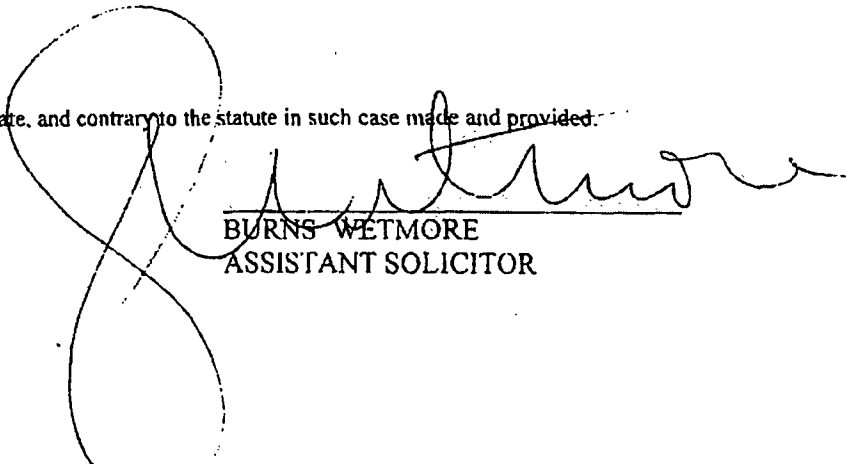
INDICTMENT

At a Court of General Sessions, convened on January 8, 2013 the Grand Jurors of Charleston County present upon their oath:

Trafficking Cocaine

That in Charleston County, South Carolina, on or about September 21, 2012, the Defendant, ANTHONY JANIRUS ROBINSON, unlawfully and knowingly did sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did possess or attempt to possess a controlled substance or a controlled substance analogue, to wit: cocaine, in excess of 10 grams but less than 28 grams; in violation of 44-53-370 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



BURNS WETMORE
ASSISTANT SOLICITOR

State vs. Anthony Robinson
Motion to Suppress
March 3, 2015

MOTION TO SUPPRESS

MR. COCHRAN: We have a motion to suppress that I would like to just put on the record. I don't have anything written. I just want to put it --

THE COURT: Do we need testimony?

MR. COCHRAN: No, Your Honor.

THE COURT: Let me hear from you regarding your motion.

MR. COCHRAN: Thank you, Your Honor. May it please the Court.

So this took place on September 21st, 2012. The officer was on foot patrol, at the outside of a nightclub, in the parking lot. He indicated in his report that he came to a specific automobile that smelled of marijuana. He then staked out, basically, that automobile, waiting for somebody to come to it.

He says that he saw my client and a woman come to the car, that the woman went to the passenger side, and that my client went to the driver's side, opened the door, and at that point he approached my client. He then, according to the officer, received consent to search my client's person, pat him down, found marijuana, and then proceeded to search the car where he found cocaine in the center console and cocaine in a sweatshirt in the back seat. So it was a search

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1 that was conducted in light of his smelling marijuana
2 of a parked car and then, incident to the arrest, for
3 possessing marijuana.

4 It would be our contention that the automobile
5 exception should not apply in this case, given that
6 under the circumstances he could have retrieved a
7 search warrant. I understand that the case law does
8 provide that probable cause can be established by the
9 officer smelling marijuana in the case of automobiles.

10 But I think under the Supreme Court's progeny
11 from Carroll and Beltman, and all those other cases,
12 that these -- that the thing we consider wouldn't
13 necessarily be at issue here because the car was
14 parked and not during a traffic stop. This was not
15 presented as a traffic stop. So I don't think there
16 was any exigency, there was not ready mobility and --
17 or potential for lost evidence, which would be the
18 language from Carroll. Obviously, an expectation of
19 privacy would be the same in a parked car as it would
20 be in a moving car. But because I think that there
21 was a sort of --

22 THE COURT: Where was the car, Mr. Cochran?

23 MR. COCHRAN: In a nightclub parking lot. And
24 my client was seen coming out of the nightclub.

25 And so what we would say is that the officer was

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1 sort of in a unique position to obtain a search
2 warrant for an automobile in this case, and he could
3 have obtained that by swearing to the magistrate that
4 he smelled marijuana. We would request that what was
5 found in the car be suppressed on that basis.

6 THE COURT: Mr. Wetmore?

7 MR. WETMORE: Thank you, Judge.

8 The facts are essentially what Mr. Cochran said.
9 And the police officer did initially, walking through
10 the parking lot, smelled marijuana he said pretty
11 strong in the car. So he did keep an eye on it.

12 Mr. Robinson comes out, he uses a key fob to
13 open the door, opens the driver's door, and is getting
14 ready to get in the door. And the officer is walking
15 up to him and he says when that door opened up, he
16 became overwhelmed with the odor of marijuana in the
17 car. So throughout the course of his focusing on that
18 car, he has a strong smell of marijuana -- that gives
19 -- probable cause to search the car without a warrant.

20 Further, Mr. Robinson was arrested for
21 possession of marijuana, and so he was going to
22 jail and they were going to tow that car. Before
23 they tow a car, Judge, they have to inventory it for
24 valuables, dangerous items, illegal items. And that's
25 what they were doing when they were getting ready to

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1 tow the car, was inventorying, and that's when they
2 found the cocaine in the center console and in the
3 jacket pocket.

4 And so, Judge, like I said, you know, they --
5 while they're doing that paperwork to tow the car,
6 they read him his rights and he admits to everything
7 freely and voluntarily. So we would ask you not to
8 suppress it.

9 THE COURT: Your response, Mr. Cochran?

10 MR. COCHRAN: Judge, we would take issue with
11 based on the officer's reports that there wasn't
12 indication as to whether or not this was inventory or
13 a search. I believe that the tow company was not
14 there. And under Gantz, it is important to draw a
15 distinction between the search and inventory. And I
16 don't think there was anything really to indicate that
17 this was an inventory search. It was a search
18 incident to the arrest for marijuana, which I think is
19 an important distinction.

20 THE COURT: Was the car towed?

21 MR. COCHRAN: No.

22 It was eventually turned over, Your Honor. The
23 owner was called and came and got it.

24 THE COURT: Your client was not the owner? He
25 was just the driver at the time?

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1 MR. COCHRAN: Yes, Your Honor.

2 THE COURT: Anything?

3 MR. WETMORE: Judge, I was just going to say
4 that the police officer has told me that the suspect
5 was being transported and so that's when he began to
6 inventory the vehicle, so indicates he's filling out
7 the paperwork for the towing company when the owner
8 shows up and says, that's my car and I'll just drive
9 it home. And so it wasn't towed because the owner
10 showed up. And the police officer said, hey, we
11 weren't trying to take her car, we just gave it to
12 her.

13 So I do believe like the odor of marijuana still
14 gives them the right to search without a warrant. And
15 then they were going to inventory the car and tow it,
16 and so that's what put him in there and then -- and
17 found the cocaine.

18 THE COURT: Anything further on that?

19 MR. COCHRAN: No, Your Honor.

20 THE COURT: Based upon the -- and do you want
21 the officer here? We can do this --

22 Do you agree substantially with what the officer
23 would testify to, based upon the police report?

24 MR. COCHRAN: We do to the extent that we do
25 disagree that this was an inventory search.

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1 I don't believe that there's some indication
2 that the owner of the car was contacted to come
3 retrieve it, Your Honor. They just walked by. That
4 this was a situation where the car was planned to be
5 turned over to the owner, and law enforcement was
6 well-aware of that. There was no reason to inventory
7 the car if they were turning it over to the owner.

8 THE COURT: Based upon the testimony that would
9 be presented from the officer is -- while I understand
10 there may be some discrepancy or difference in opinion
11 as to if this was an inventory search, clearly the
12 officer would have the right to -- if it was going to
13 be towed, if the owner hadn't appeared, he would have
14 had the right to search it pursuant incident for
15 towing -- and, probably even more so, to turn it over
16 to an owner -- based upon the smell. I would think
17 that he would then also have the right to an inventory
18 search to make sure that there was no further
19 contraband or illegal items in there.

20 Your motion to suppress is denied. Note your
21 exception to my ruling.

22 MR. COCHRAN: Yes, Your Honor.

23 [Whereupon, Mr. Robinson and Mr. Cochran confer]

24 MR. COCHRAN: If I could just talk to my client
25 one second?

APPEARANCES OF COUNSEL

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Jackson v. Denno Hearing
James Greenawalt
Direct Examination by Mr. Wetmore

JACKSON V. DENNO HEARING

THE COURT: Are you ready?

MR. WETMORE: Yes, Your Honor.

Back on the record with State vs. Anthony Robinson. This is a Jackson v. Denno hearing. We call James Greenawalt.

[Whereupon, Mr. Greenawalt comes forward]

THE CLERK OF COURT: Left hand on the Bible and raise your right.

[Whereupon, Mr. Greenawalt is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony you shall give the Court shall be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: I do.

THE CLERK OF COURT: You can go ahead and have a seat. Just state your name into the microphone and spell your last name for the record.

[Whereupon, Mr. Greenawalt takes the witness stand]

THE WITNESS: I'm Officer James Greenawalt -- last name is spelled G-R-E-E-N-A-W-A-L-T -- with North Charleston Police Department.

- - -

- - -

Jackson v. Denno Hearing
James Greenawalt
Direct Examination by Mr. Wetmore

1 JAMES GREENAWALT,
2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. WETMORE:

6 Q. Officer Greenawalt, we're just here to address
7 a statement made by the defendant to you. Anthony
8 Robinson: did you elicit a statement from him the night
9 of this incident?

10 A. Yes, I did.

11 Q. Can you give us a little bit of foundation for
12 that? The day and the place of that statement?

13 A. Yes, sir.

14 The date was September 21st, 2012, around two
15 o'clock in the morning, where at the club known as
16 Showtime, which is 3381 Ashley Phosphate Road, which is
17 within the city of North Charleston, county of Charleston.

18 Q. And who all was present when you had the
19 exchange with Mr. Robinson?

20 A. Myself and Lieutenant Buskirk.

21 Q. Now, could you tell if Mr. Robinson was under
22 the influence -- drugs, alcohol, anything like that -- to
23 impair his ability to give a free and voluntary statement?

24 A. Not to my understanding that night. He did not
25 have any kind of intoxication or -- it was given freely

Jackson v. Denno Hearing
James Greenawalt
Direct Examination by Mr. Wetmore

1 and voluntarily.

2 Q. Did you note any kind of mental or physical
3 disability to keep him from giving a free and voluntary
4 statement?

5 A. No, I did not.

6 Q. Now, the physical surroundings: you said the
7 parking lot of the nightclub?

8 A. Yes, sir.

9 Q. Was this a lengthy, you know, questions and
10 answer session or was it fairly brief?

11 A. Fairly brief.

12 Q. Talk about how long this thing took?

13 A. Mr. Robinson was placed under arrest for a
14 simple possession charge at that time and while he was in
15 custody, he was read his Miranda rights by me. And during
16 the inventory of the vehicle that he was in possession of
17 that night is when I located the cocaine. And shortly
18 thereafter, within five minutes or so, he was asked the
19 question whether the cocaine belonged to him.

20 Q. And so the length of time, as you said, about
21 five minutes you think --

22 A. About that time.

23 Q. -- the process?

24 A. Approximately.

25 Q. Now, during that time or any time after, any

Jackson v. Denno Hearing
James Greenawalt
Direct Examination by Mr. Wetmore

1 kind of threats or promises made to Mr. Robinson?

2 A. No, sir.

3 Q. So you indicated he was under arrest; right?

4 A. Correct.

5 Q. For possession on marijuana?

6 And he was obviously in your custody?

7 A. Yes.

8 Q. And so when you began speaking to him, obviously
9 he needed his Miranda warnings: right?

10 A. Correct.

11 Q. Did you give him those warnings?

12 A. I did.

13 Q. Tell me exactly what you did to give him those
14 Miranda rights.

15 A. The suspect was inside of our transport vehicles
16 that are used to transport our prisoners. While he was in
17 the rear of that vehicle, I opened the back door, took out
18 my PDA-issued Miranda warning card and read from the card
19 to Mr. Robinson.

20 Q. So did he know kind of the background and nature
21 of your questioning? Did you tell him, you know, why you
22 were out with him, why you were talking to him?

23 A. Yes.

24 Q. And then you gave him his rights from your card;
25 correct?

Jackson v. Denno Hearing
James Greenawalt
Direct Examination by Mr. Wetmore

1 A. Correct.

2 Q. Did he have any trouble understanding the rights
3 that you read to him?

4 A. No.

5 He freely admitted that he understood his rights
6 at the time.

7 Q. And his answers to your questions, they seemed
8 logical and reasonable, indicating he understood what was
9 going on?

10 A. Yes.

11 Q. Now, did you or anybody -- you said the
12 lieutenant was out there, too. Did anybody else threaten
13 him or coerce him to give up his Miranda rights?

14 A. No, sir. Nobody else was around.

15 Q. How did -- did he respond at all when you read
16 him his rights to have an attorney present?

17 A. He waived all rights, understanding that he
18 would answer my questions.

19 Q. And did he ever say, wait, I changed my mind, in
20 the middle of this or, I want to stop?

21 A. No.

22 Q. So he -- you read his rights, he waived them,
23 and he talked without interruption; correct?

24 A. Correct.

25 Q. And to the best of your knowledge, was his

Jackson v. Denno Hearing
James Greenawalt
Direct Examination by Mr. Wetmore

1 statement freely and voluntarily given?

2 A. Yes.

3 Q. Share with us what rights -- if you have your
4 card with you, share what rights you read to him.

5 A. The rights state, plain and simple, is that you
6 have the right to remain silent. Anything you say can and
7 will be used against you in a court of law. You have the
8 right to have an attorney present before any questioning.
9 If you cannot afford an attorney, one will be appointed to
10 you before questioning. Knowing these rights in mind, do
11 you wish to speak now.

12 Q. Okay. And he indicated he understood those
13 rights?

14 A. Yes.

15 Q. And he proceeded and actually had an exchange
16 with you --

17 A. Yes.

18 Q. -- a brief conversation with you?

19 And it was just the three of you at that point;
20 right?

21 A. Affirmative. Yes.

22 Q. And he told you he understood, or he nodded he
23 understood, or he indicated he understood --

24 A. Yes.

25 Q. -- his rights?

Jackson v. Denno Hearing
James Greenawalt
Direct Examination by Mr. Wetmore

1 Tell me, you know, what you asked and what he
2 said. Be as specific as you can. Okay?

3 A. I advised him of the cocaine that I located
4 inside the vehicle and that I needed to know who the
5 cocaine belonged to, due that there was more than one
6 person by the vehicle, him and the passenger female, I
7 needed to know who was actually the owner of the cocaine.
8 He explained to me that all the cocaine belonged to him.

9 Q. So he indicated that all the cocaine was his?

10 A. Yes.

11 Q. He didn't distinguish, well, some of that's mine
12 and some of it's not mine?

13 A. No.

14 Q. He indicated all of it was his?

15 A. Correct.

16 Q. Did he make any other statements to you that
17 night?

18 A. I didn't ask any other questions.

19 Q. Did you hear any other statements he made to
20 anybody else?

21 A. No.

22 MR. WETMORE: If you would answer any questions,
23 please, from Mr. Cochran.

24 MR. COCHRAN: May it please the Court.

25 THE COURT: Yes, sir.

Jackson v. Denno Hearing
James Greenawalt
Cross-Examination by Mr. Cochran

CROSS-EXAMINATION

BY MR. COCHRAN:

Q. Now, you had been waiting outside Mr. Robinson's car before he came to the car; right?

A. Yes.

Q. And that was because you smelled marijuana?

A. Yes.

Q. And you can specifically smell it coming from that car?

A. Yes.

Q. Was the door open?

A. Not at this time, no.

Q. Now, when he came out of the club, you approached him after he opened the front car door?

A. The driver's-side door, yes.

Q. Did you inform him why you were approaching?

A. Yes.

Q. What did you say?

A. I identified myself as a police officer with North Charleston and advised him to step back from the vehicle. He asked what was going on, and it was explained to him at a later time that he was being detained at this time for the smell of the marijuana coming from the vehicle.

Q. And did you ask him at that point if there was

Jackson v. Denno Hearing
James Greenawalt
Cross-Examination by Mr. Cochran

1 anything in the car that you should be aware of?

2 A. No, I did not.

3 Q. And did you have a patrol car near by?

4 A. Did I have a patrol car near by?

5 Q. Yes.

6 A. It was probably several hundred yards away.

7 Q. Did you have -- was that car equipped with
8 video?

9 A. It is.

10 Q. And was there video of him in the back seat, or
11 audio recording of him in the back seat, when he gave the
12 statement?

13 A. I cannot do that in my patrol car. I'm a K-9,
14 so I have a dog in the back seat of my car so I cannot put
15 him in the back of my car.

16 Q. But you said he was in the patrol car when he
17 gave the statement.

18 A. He was in the back of the transport vehicle.
19 Yes.

20 Q. Okay. Is that equipped with video?

21 A. I don't know if they are or not, sir.

22 Q. So you have a K-9. Did you use the K-9 to smell
23 the car?

24 A. No, I did not.

25 Q. Could you have placed the suspect in the front

Jackson v. Denno Hearing
James Greenawalt
Cross-Examination by Mr. Cochran

1 seat of your car?

2 A. No.

3 Q. So that's against the policy of a K-9 --

4 A. It would be a violation of our policy, yes.

5 Q. And you said when you went into the car, you
6 found cocaine in the center console?

7 A. Yes, sir.

8 Q. And that was a closed center console?

9 A. Yes.

10 Q. And that was inside of a black bag; is that
11 correct?

12 A. Correct.

13 Q. And then additional cocaine was found in a
14 jacket in the back?

15 A. Yes.

16 Q. Where was Mr. Robinson when that search took
17 place?

18 A. He was in custody in back of the transport
19 vehicle.

20 Q. And then you went back to the transport vehicle
21 and asked him if the cocaine in the car was his?

22 A. After post-Miranda. Yes.

23 Q. Was that your exact question?

24 A. [No response]

25 Q. What was your exact question?

Jackson v. Denno Hearing
James Greenawalt
Cross-Examination by Mr. Cochran

1 A. My exact question is who the cocaine -- who does
2 this cocaine belong to inside the vehicle.

3 Q. And he said, it's mine?

4 A. He said the cocaine was his.

5 Q. And where was the female passenger at this
6 point?

7 A. I couldn't remember at this time.

8 Q. Did she ever get put in handcuffs?

9 A. She was detained also. Both --

10 Q. Was she ever --

11 A. -- people were detained.

12 Q. Was she ever questioned?

13 A. I didn't question her.

14 Q. You don't know if she was put in handcuffs or
15 not?

16 A. Both people were placed in handcuffs. I don't
17 know if she was questioned.

18 Q. Was she ever placed in the transport vehicle?

19 A. No.

20 Q. If she were questioned, you would have done that
21 questioning?

22 A. If she were questioned, it would have been me or
23 one of the officers on scene.

24 Q. When you found the cocaine, what did you do with
25 it?

Jackson v. Denno Hearing
James Greenawalt
Cross-Examination by Mr. Cochran

1 A. The cocaine was secured in my vehicle.

2 Q. Did you ever show it to Mr. Robinson?

3 A. Did I ever show it to him? No.

4 Q. Did he sign a Miranda card?

5 A. No.

6 Q. He didn't sign an advice of rights form?

7 A. No.

8 Q. Did you have any kind of audio recording devices
9 on you at the time?

10 A. I did.

11 However, I was in an older-model Crown Vic that
12 our department uses and the audio recording was not able
13 to record from the distance that we were parked at where
14 my vehicle was.

15 Q. What about you? Like a cell phone or something?

16 A. No.

17 Q. You didn't carry a cell phone?

18 A. I don't use my cell -- personal cell phone to
19 record.

20 Q. What about a department-issued cell phone?

21 A. We don't have those.

22 Q. Did you have any recording device on you, on
23 your person, at the time?

24 A. No.

25 MR. COCHRAN: Beg the Court's indulgence.

Jackson v. Denno Hearing
James Greenawalt
Cross-Examination by Mr. Cochran

1 [Whereupon, Mr. Cochran and Mr. Malloy confer]

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

3 THE COURT: Mr. Wetmore?

4 MR. WETMORE: I don't have any further
5 questions. We call another witness to the stand.

6 THE COURT: You may step down.

7 THE WITNESS: Thank you.

8 [Whereupon, Mr. Greenawalt is excused and exits
9 the witness stand]

10 MR. WETMORE: We call Lieutenant Victor Buskirk.

11 THE COURT: Are you requesting the rule of
12 sequestration be invoked, Mr. Wetmore and Mr. Cochran?

13 MR. WETMORE: I'm not.

14 THE COURT: Mr. Cochran?

15 MR. COCHRAN: I'm sorry?

16 THE COURT: Rule of sequestration?

17 MR. COCHRAN: Yes, Your Honor.

18 THE COURT: All right. Thank you.

19 MR. COCHRAN: Thank you. I'm sorry.

20 [Whereupon, Mr. Buskirk comes forward]

21 THE CLERK OF COURT: Place your left hand on the
22 Bible and raise your right.

23 [Whereupon, Mr. Buskirk is duly sworn by the
24 clerk of court as follows: do you swear or affirm
25 that the testimony you shall give the Court shall be

Jackson v. Denno Hearing
James Greenawalt
Cross-Examination by Mr. Cochran

1 the truth, the whole truth, and nothing but the truth,
2 so help you God]

3 THE WITNESS: Yes, ma'am, I do.

4 THE CLERK OF COURT: You can go ahead and take a
5 seat.

6 [Whereupon, Mr. Buskirk takes the witness stand]

7 THE CLERK OF COURT: State your name into the
8 microphone. Spell your last name for the record.

9 THE WITNESS: My name is Lieutenant Victor
10 Buskirk. Spelling of the last name is B-U-S-K-I-R-K.
11 And I'm with the North Charleston Police Department.
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Jackson v. Denno Hearing
Victor Buskirk
Direct Examination by Mr. Wetmore

VICTOR BUSKIRK,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. WETMORE:

Q. Lieutenant Buskirk, we're just going to discuss the statement made by the defendant, Mr. Robinson. Were you present for any statement from him?

A. I was present during the reading of Miranda to him, yes, sir.

Q. Tell me, you know, where your interaction with Mr. Robinson took place.

A. It was in the back seat of the transport vehicle.

I had arrived on scene because I received a phone call from Officer Greenawalt. My intent was to see if Mr. Robinson was willing -- due to the amount of cocaine, if he was willing to work with our narcotics unit.

Q. Okay.

A. So I arrived on scene, asked Officer Greenawalt to make sure that he read the Miranda. He went to the back of the transport vehicle, pulled his card out and started reading his Miranda to him. There was a brief exchange there with them.

MIA PERRON, CVR-CM-M

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Jackson v. Denno Hearing
Victor Buskirk
Direct Examination by Mr. Wetmore

1 After they were done, then I proceeded to go to
2 the back of the vehicle to find out if he was willing to
3 work with our narcotics unit.

4 Q. So it was the defendant in the back seat of the
5 transport vehicle in the parking lot of the club?

6 A. Yes, sir.

7 Q. And you observed his rights being read to him?

8 A. I did.

9 Q. I've already asked the other officer this, but
10 did you notice anything about Mr. Robinson that caused you
11 concern about his state of mind? Intoxication,
12 disability, anything that would have led him to not give a
13 free and voluntary statement?

14 A. I did not. And I wouldn't have talked to him
15 about trying to make contact with our narcotics unit if I
16 had.

17 Q. Exactly.

18 You wouldn't have put somebody who was all high,
19 drunk, or something, in touch with other --

20 A. Correct.

21 Q. -- detectives?

22 So you've already established that you heard the
23 Miranda rights being given. You said that they were read
24 from the card. Is that correct?

25 A. Yes, sir.

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1 Q. And did the defendant appear to understand his
2 Miranda rights?

3 A. From what I could tell, he did.

4 Q. Didn't have any problem understanding what was
5 being said in responding to questions in a reasonable
6 fashion?

7 A. No, sir.

8 Q. And did you or the other officer ever threaten
9 the defendant or make him any kind of promises?

10 A. No, sir. My interaction with him was rather
11 casual.

12 Q. Did he ever ask for a lawyer?

13 A. No, sir.

14 Q. And to the best of your knowledge, it sounds
15 like you're saying that you believe his statement,
16 anything he said to you, would be freely and voluntarily
17 said?

18 A. Yes, sir.

19 Q. Tell me exactly your exchange, as best as you
20 can remember.

21 A. Well, I made contact with him. You know, I told
22 him who I was and the reason I was there was I was
23 interested in him working with our narcotics unit based on
24 the amount of cocaine that I was told was recovered. He
25 told me pretty much he couldn't do any of that kind of

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1 stuff. And I told him, I said, well, somebody who can put
2 their hands on almost an ounce of cocaine surely can do
3 something. And he told me, well, most of that's fake.

4 So he pretty much declined to do anything with
5 our narcotics unit, and that was the end of my interaction
6 with him.

7 Q. And so he was -- you were offering him the
8 opportunity to sort of work off these charges a little
9 bit?

10 A. Correct.

11 Q. But he declined to do that for whatever reason?

12 A. Yes, sir.

13 Q. Did he admit -- or did he claim the cocaine in
14 the car?

15 A. What he told me was the -- whenever I made
16 reference to somebody that could put their hands on about
17 an ounce of cocaine, his response to me was most of that's
18 fake, I can't really do anything.

19 Q. So he indicated that he knew what was in the car
20 and he indicated he thought most of it was fake?

21 A. Correct.

22 Q. Did he ever say anything at all about, well,
23 some of that stuff's mine but not all that stuff's mine?

24 A. No, sir.

25 Q. Did he say that anybody else had an ownership of

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1 it?

2 A. No, sir.

3 Q. The only thing he said was that he -- he could
4 attest that the stuff was -- that some of it was not real?

5 A. Correct.

6 Q. Anything else he said to you? Did he say
7 anything else?

8 A. No, sir.

9 Q. And the other officer has already discussed it.
10 But his statement was not recorded --

11 A. Not to my knowledge.

12 Q. -- a brief statement that you guys had and
13 that's it?

14 A. Right.

15 MR. WETMORE: The Court's indulgence.

16 THE COURT: Take your time.

17 MR. WETMORE: Nothing further at this time.

18 THE COURT: Mr. Cochran.

19 MR. COCHRAN: May it please the Court.

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Cross-Examination by Mr. Cochran

CROSS-EXAMINATION

BY MR. COCHRAN:

Q. Sir, did you do a report in this case?

A. I did not.

Q. And you specifically remember that you referenced an ounce of cocaine, in particular?

A. Correct.

That's what I was told on the phone that was recovered, was about an ounce.

Q. But you did not do a report?

A. I did not.

Q. And you didn't have anything on you at the time that would have enabled you to record this conversation?

A. No, sir.

Q. Did you -- were you aware of where the drugs were found in the car or what they were found in?

A. No, sir.

Q. Were you present -- you were present for the Miranda warnings read by Officer Greenawalt, but not the answer? Was that your statement?

A. Whenever I showed up on scene, I advised Greenawalt that I wanted him to read him Miranda before I even spoke with him. So I was at like the back of the car. He proceeded to the back of the transport vehicle and I observed him read it off of the card. So I didn't

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1 hear the exchange of what they were -- after the Miranda
2 was read, I didn't hear what their exchange was.

3 Q. Did you hear the Miranda?

4 A. I did not.

5 I observed him pull the card and start reading
6 from the card.

7 Q. Were you in a patrol car or --

8 A. I was in an unmarked Impala.

9 Q. Did that have a video camera on it?

10 A. It does not.

11 Q. Did you speak with the passenger of the car?

12 A. I did not.

13 My only purpose to come there was to speak with
14 Mr. Robinson about assisting with the narcotics unit.

15 Q. But you didn't want to speak to her about
16 assisting?

17 A. From my -- you know, once I spoke with Officer
18 Greenawalt, it looked like she was going to be released.
19 And, you know, with him claiming ownership, I didn't want
20 to muddy any waters with trying to bring somebody else in
21 and, you know, maybe he might have changed his mind later
22 and then that would cause problems with her knowing what I
23 was talking to him about.

24 Q. How would that be a problem?

25 A. You wouldn't want it to get out that people are

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1 assisting our narcotics unit --

2 Q. They're --

3 A. -- correct.

4 Q. So she was still on the scene when you were
5 there?

6 A. From what I recall, she was.

7 MR. COCHRAN: No more questions, Your Honor.

8 THE COURT: Mr. Wetmore?

9 MR. WETMORE: No further witnesses.

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

11 THE WITNESS: Thank you.

12 [Whereupon, Mr. Buskirk is excused and exits the
13 witness stand]

14 THE COURT: Mr. Cochran, do you have any
15 witnesses?

16 MR. COCHRAN: I do not, Your Honor.

17 THE COURT: All right. I'll be happy to hear
18 argument.

19 MR. COCHRAN: Your Honor, we do not have any
20 argument at this time.

21 THE COURT: All right. Thank you.

22 MR. WETMORE: Judge, we would simply ask that
23 these statements be admissible in trial.

24 MR. COCHRAN: Without objection, Your Honor.

25 THE COURT: All right. Thank you.

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1 With that, are there any other pretrial motions?

2 MR. WETMORE: None from the State, Your Honor.

3 MR. COCHRAN: Your Honor, my client, before the
4 hearing, told me that he -- he wanted me to inform the
5 Court that his family did get enough money together to
6 hire a private attorney, and he also would like for
7 the original hypothetical offer of trafficking first
8 offense to be put back and made available to him once
9 again.

10 THE COURT: Please stand, Mr. Robinson.

11 [Whereupon, Mr. Robinson complies]

12 THE COURT: Let's place Mr. Robinson under oath.
13 Thank you.

14 THE CLERK OF COURT: If you could, sir, please
15 raise your right hand.

16 [Whereupon, Mr. Robinson is duly sworn by the
17 clerk of court as follows: do you swear or affirm
18 that the testimony you give the Court shall be the
19 truth, the whole truth, and nothing but the truth, so
20 help you God]

21 MR. ROBINSON: Yes, ma'am.

22 THE COURT: Mr. Robinson, you've indicated that
23 you are hiring a private attorney; is that correct?

24 MR. ROBINSON: Yes, ma'am.

25 THE COURT: And you understand that I'm about to

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1 bring the jury up. Is your private counsel ready to
2 go forward here today?

3 MR. ROBINSON: No, ma'am.

4 THE COURT: Has there been some issue over the
5 evening hour with Mr. Cochran?

6 MR. ROBINSON: I just feel that he doesn't have
7 my best interest right now and like I feel he could
8 have been doing more being that we're going to trial
9 and being like -- I was trying to get in touch with
10 him like way before the cases so I could talk about
11 it, but like -- it seemed like the only time I could
12 get in touch with him was like the day before. Like I
13 leave messages. Like -- that's why I feel like him
14 and me and those -- up to me. I still come to like,
15 you know what I'm saying, everything --

16 THE COURT: Mr. Robinson, didn't I ask you
17 yesterday if you were satisfied with the services of
18 Mr. Cochran and you told me yes?

19 MR. ROBINSON: Yes, ma'am.

20 THE COURT: So did something change over the
21 evening hour?

22 MR. ROBINSON: Yes, ma'am.

23 THE COURT: What changed?

24 MR. ROBINSON: I just sit down and thought about
25 everything like he --

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1 THE COURT: But Mr. Cochran hasn't done anything
2 over the evening hour that has caused you any concern?
3 Nothing additional has been brought to your attention;
4 is that correct?

5 MR. ROBINSON: [Indicates negatively]

6 THE COURT: Is that a no?

7 MR. ROBINSON: No, ma'am.

8 THE COURT: Thank you, Mr. Robinson. We will
9 continue. If your attorney is ready to go forward
10 today -- but I'm bringing the jury up this morning.
11 All right?

12 Mr. Cochran, you've indicated to me on several
13 occasions that you are ready and able to try this
14 case. Is that still correct?

15 MR. COCHRAN: Yes, Your Honor.

16 THE COURT: And based upon your performance so
17 far, I feel that you are very well-versed and are
18 aware of the facts of this case, based primarily on
19 the motions that you have -- we've done this morning.

20 Y'all may be seated.

21 I had Sharon Vizer Hanks, just for the record,
22 go through the docket to see if she could find where
23 this was or was not placed on the record. It does not
24 appear that there was any -- that there is any
25 documentation that an offer was placed on the record.

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1 And Mr. Robinson indicated yesterday that even
2 if the offer had been placed on the record, and even
3 if we were able to get it yesterday, that from the
4 State -- which they did not indicate that they would
5 do that -- that he would not accept it anyway, would
6 not accept a first or a second. So at this point, I
7 think it's just a last-minute ploy to not call this
8 case for trial. We are ready, able, to begin this
9 case so we will do so.

10 Strikes are five and ten?

11 MR. WETMORE: Yes, ma'am.

12 THE COURT: Five and ten?

13 MR. COCHRAN: Yes, Your Honor.

14 [Off the record momentarily]

15 THE COURT: One more time. You believe the
16 strikes are?

17 MR. WETMORE: Five and ten.

18 MR. COCHRAN: I believe it's five and ten, yes,
19 if it carries over twenty.

20 THE COURT: All right. Thank you.

21 [Whereupon, an off-the-record bench conference
22 is held]

23 MR. COCHRAN: And I guess just for the record,
24 Your Honor, having read the statute I agree with Your
25 Honor on the basic language. We would request --

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1 THE COURT: Hold on one second because we need
2 to -- sometimes my court reporter is at ease until I
3 tell her otherwise, so let's start over again about
4 the strikes.

5 MR. COCHRAN: Your Honor, I agree with your
6 plain reading of the statute. We would request ten
7 strikes, given the seriousness of the case.

8 THE COURT: Mr. Wetmore, does the State take any
9 position?

10 MR. WETMORE: Judge, I think you correctly read
11 the statute. It appears to be five and five.

12 THE COURT: I cannot find any -- and I
13 understand the logic behind it, but the very plain
14 reading of the statute indicates five and five. So at
15 that point, if you exhaust more than five, I think
16 make -- just to preserve the record, just make the
17 appropriate objection.

18 MR. COCHRAN: Yes, Your Honor.

19 THE COURT: Thank you.

20 I'm going to take a quick comfort break. Does
21 anybody need to take a comfort break before we bring
22 the jurors up? Now will be the time.

23 MR. COCHRAN: I'll be here. I'm not --

24 THE COURT: All right.

25 [Whereupon, a recess is taken from 9:42 a.m. to

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1 9:48 a.m.]

2 [Off the record momentarily]

3 [Whereupon, the panel enters the courtroom at

4 9:51 a.m.]

5 THE BAILIFF: All jurors are present, Your
6 Honor.

7 THE COURT: Thank you.

8 Does your client waive formal arraignment?

9 MR. COCHRAN: Yes, Your Honor.

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James Greenawalt
Direct Examination by Mr. Wetmore
March 4, 2015

JAMES GREENAWALT,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. WETMORE:

Q. Officer Greenawalt, how long have you been with
North Charleston Police Department?

A. Going on seven years now.

Q. And what do you do for them? What are your
duties and your responsibilities?

A. Right now I'm currently assigned to the K-9
division. We are a support division as for patrol.

Q. So you have the police K-9.

Have you had any kind of training or experience
that helps you to do your job?

A. Yes.

I have actually going on thirteen years of law
enforcement experience. I have also attended several
advance classes for drug training, probably close to the
range of a hundred hours of advanced training for
narcotics and drugs.

Q. Now, were you on duty in that capacity on
September 21st, 2012, when this case happened?

A. Yes, I was.

Q. Can you describe kind of where you were, why you

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1 were there?

2 A. Our K-9 unit is actually a support unit for the
3 patrol. We are designated areas, that are higher crime
4 areas, to patrol and help out and assist.

5 One of the areas we were assigned that night was
6 Club Showtime, due to the increase of arrests they had had
7 there with drugs, guns and fights inside of the nightclub
8 itself and in the parking lot.

9 So on this night, I was -- had my patrol car
10 parked at the very front of the club parking lot so it was
11 visible to people pulling in and out, let them know that
12 there was a police presence. And I was actually
13 performing foot patrol of the parking lot at that time.

14 Q. And is that club -- you said Ashley Phosphate,
15 City of North Charleston?

16 A. Yes, sir.

17 It's Ashley Phosphate, City of North Charleston,
18 County of Charleston.

19 Q. Charleston County, as well.

20 And so about two o'clock in the morning, did you
21 become involved in this case against Mr. Robinson?

22 A. Yes, sir.

23 Earlier in the night, before two o'clock, I was
24 actually, like I said, performing foot patrol of the
25 parking lot. Number one of the things we do is make sure

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1 there's no loitering out in the parking lot. We've had a
2 problem with people actually selling drugs out of the
3 cars. We've also had a problem with people waiting in
4 vehicles for people exiting the club to cause
5 altercations, or drinking out in the parking lot instead
6 of partaking their drinks inside of the club itself.

7 So one of the things we were doing, we would
8 walk the parking lot itself to make sure there's nobody
9 loitering out in the parking lot.

10 Q. Because if -- it's just you on foot? You didn't
11 have the dog out in the parking lot?

12 A. No, sir.

13 Q. So you were on foot patrol. Tell me if you
14 noticed anything unusual.

15 A. Well, as I was walking through the parking lot,
16 I walk in between each and every car. And as I passed,
17 let's see, it was a white-in-color Oldsmobile 88; I could
18 smell the odor of marijuana coming from the vehicle.

19 Q. And was it a strong odor, faint order?

20 A. It was a very pungent order, to the point where
21 it got my very much attention. I turned, looked at the
22 car, got closer to the car. I could still smell a very
23 small, strong odor of marijuana coming from the vehicle.

24 Q. How could you tell if it was that particular
25 white-in-color Olds? Just by how close it was, how strong

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1 it was?

2 A. Yes.

3 Q. Was anybody in the car at that time?

4 A. The vehicle was unoccupied at this time.

5 Q. All right. So were you suspicious of that
6 vehicle?

7 A. I was.

8 Q. And so what did you do?

9 A. At that point I would radio my partner who would
10 be in the area, let him know what I've got going on. And
11 I stepped back from the vehicle. This Showtime bar is
12 actually connected to a couple of private residences of
13 apartments that are right next to it. So I went to the
14 breeze-way of the apartments where the car was parked down
15 towards and just stood and waited and kept the vehicle
16 unoccupied -- or I kept the vehicle in an unobstructed
17 view at all times to make sure that nobody came up to the
18 vehicle or tampered with the vehicle or was going towards
19 the vehicle.

20 Q. So did anybody get in or out of that car while
21 you were watching?

22 A. No.

23 Q. Now, did you ever have any opportunity to come
24 into contact with the defendant, Anthony Robinson?

25 A. I came in contact with Mr. Robinson after he had

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1 exited the nightclub.

2 Q. So you saw him come out the front door?

3 A. Yes.

4 Q. Tell me exactly what you saw with regards to
5 Mr. Robinson.

6 A. Mr. Robinson and a female companion walked over
7 to the vehicle. He had the driver keys in his hands,
8 unlocked the doors. The female companion, I believe
9 Ms. Rivers, walked over to the passenger side.

10 Mr. Robinson walked over to the driver's side
11 and then opened the driver's side door. For an officer
12 safety reason, this is myself, I came up and identified
13 myself to Mr. Robinson and stopped him from actually
14 making entry into the vehicle because through my
15 experience in doing my job, I know that when you have
16 drugs in a place, usually there's either guns or anything
17 else, other kinds of weapons, that are located with drugs.
18 So I wasn't going to allow him to make entry into the
19 vehicle itself.

20 Q. So you just saw him, with the keys, open the
21 driver door?

22 A. Correct.

23 Q. You said the lady he was with at the time was a
24 Ms. Rivers?

25 A. Yes. I had that in my report as she was

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1 Ms. Rivers.

2 Q. And in your experience and your observation that
3 night, who was in control of that car?

4 A. Mr. Robinson.

5 Q. You based that on what?

6 A. Based it on the fact that he had the keys in his
7 hands and unlocked the doors and was going for the
8 driver's side door itself.

9 Q. Did Ms. Rivers ever enter the vehicle?

10 A. No.

11 Q. So when he opened the door, was he getting in
12 the driver's seat?

13 A. Yes.

14 Q. Did you, at that point, approach him?

15 A. Yes, sir.

16 Q. What did you experience when you got close to
17 him at that point?

18 A. As I approached Mr. Robinson and was identifying
19 myself and the reason I was out with him, I could notice
20 that the smell of marijuana was extremely stronger now
21 that the door of the driver door was actually open. It
22 was a smell of burnt marijuana. It has a little different
23 smell of it than raw marijuana.

24 Q. So you can distinguish between raw, unsmoked and
25 marijuana smoked?

James Greenawalt
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1 A. Correct.

2 Q. And this, in your opinion, was a strong smell of
3 burnt marijuana coming from --

4 A. Correct.

5 Q. -- the Oldsmobile?

6 So what did you do? What did you say or what
7 did you do to Mr. Robinson?

8 A. Well, through our experiences that we've dealt
9 with in dealing with these clubs and stuff, when we're
10 dealing with somebody that possibly has narcotics or drugs
11 on them at the time, Mr. Robinson was detained at this
12 time. He wasn't arrested, but he was placed in handcuffs
13 at this time just to be detained for officer safety
14 reasons.

15 When we deal with somebody that has drugs or
16 something in their possession, normally it's either going
17 to be a fight or they're going to run, one of the two, and
18 I didn't want either one of those instances to happen
19 because right now the experience between me and Mr.
20 Robinson was fine. He was very obedient. He didn't try
21 to run or fight or anything. So we try to keep it as
22 civil as possible, as far as being detained.

23 Ms. Robinson [sic] also was placed in double-
24 locked handcuffs at the time, too.

25 Q. Ms. Rivers?

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1 A. I'm sorry.

2 Ms. Rivers. Ms. Rivers was also placed in
3 handcuffs at that time, also.

4 Q. So like I said, I understand that you've dealt
5 with this a lot. But you've had a lot of people give you
6 problems?

7 A. Correct.

8 Q. And we're not here saying Mr. Robinson did that;
9 correct?

10 A. No.

11 Q. What did you tell him? What did you say to him?
12 How did the conversation go? Did you tell him why you
13 were talking to him, why you were detaining him?

14 A. Yes, sir.

15 He was advised of who I was and why I was there
16 at the clubs and that the reason I'm getting out with him
17 is because there was a very strong odor of marijuana
18 coming from the vehicle that he has possession of.

19 Q. So he knew why you were talking to him?

20 A. Correct.

21 Q. What else did y'all talk about? What else did
22 you ask him?

23 A. He was brought to the rear of his vehicle. I
24 asked Mr. Robinson if he had anything illegal on his
25 person. Of course, he said no.

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1 So I asked for permission or consent to search
2 his person. Mr. Robinson at that time gave me consent to
3 search his person and during that search is when I located
4 marijuana on his person.

5 Q. So he didn't -- this wasn't a forceful search
6 where he was put down on the ground and searched? I mean,
7 you guys talked about it; right?

8 A. Correct. He was -- he consented.

9 Q. You asked him if he minded if you searched him
10 and he said he didn't mind?

11 A. Correct.

12 Q. And tell me exactly what you found and where you
13 found it.

14 A. During the search of Mr. Robinson's person, I
15 located a folded up one-dollar bill and it had two little
16 marijuana nuggets, which is part of the marijuana plant
17 itself that they grind up to smoke. He had two little
18 nuggets inside of the dollar bill in his back pocket.

19 I also located, in his right-front pockets -- or
20 I'm sorry -- left-front pocket, a personally-burnt
21 marijuana blunt. The marijuana blunt itself did have
22 marijuana inside that was already ground up and it was
23 already personally smoked.

24 Q. So a little bit of marijuana in two different
25 pockets?

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March 4, 2015

1 A. Correct.

2 Q. Did you test to make sure it was marijuana?

3 A. I did.

4 Q. Did it test for marijuana?

5 A. It tested positive for THC, which is the active
6 chemical inside of marijuana that gets you high.

7 Q. So at that point there's no question in your
8 mind that he was in possession of marijuana?

9 A. Correct.

10 Q. So what did you do? Was he placed under arrest
11 at that time?

12 A. At that time he was told -- he was told that he
13 was under arrest for possession of marijuana.

14 Q. Just for the possession of the marijuana?

15 A. Just for the marijuana.

16 Q. And that's just a city court charge; correct?

17 A. Correct.

18 Q. What did you do with the defendant?

19 A. The defendant at that time, I called for a
20 transport unit.

21 Due to me being a K-9 officer we are not, by
22 policy, allowed to place any individual in our vehicle due
23 to them being in the proximity of our police K-9s. So --

24 Q. You can't transport anybody because there's a --
25 a potentially dangerous dog in there?

James Greenawalt
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1 A. Correct.

2 Q. So you call a transport unit?

3 A. I called for a transport unit.

4 A unit -- one of our transport officers, whose
5 sole purpose is to transport prisoners, arrived on scene.
6 He was placed in the back of their transport vehicle at
7 that time.

8 Q. Did you take any actions with regard to the
9 defendant's car?

10 A. Yes.

11 With the defendant's car -- Ms. Rivers was still
12 detained to the side. With the defendant's car, our
13 policy is is the vehicles are towed. And whenever we are
14 towing the vehicle, we had a form to fill out, which is a
15 tow sheet, and on that tow sheet you have to list any
16 valuable items that are inside the vehicle or anything
17 illegal that was inside the vehicle.

18 Q. So you're bound to check the vehicles for
19 anything they tow?

20 A. Yes.

21 It's a safety precaution so when the vehicle was
22 towed by the tow yard, if there's any articles that are
23 missing from that, it can't be held back on the liability
24 on the police department because we actually -- we
25 inventory the vehicle at that time.

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March 4, 2015

1 Q. So it's for everybody's protection that you
2 inventory the vehicle?

3 A. Yes, sir. It's to keep everybody honest.

4 Q. And it's your job? You have to do it?

5 A. Yes.

6 Q. It's not something you chose to do?

7 A. Correct.

8 Q. It's something you do every time. You have to.

9 And so as you're inventorying the vehicle that
10 you have to do, tell me exactly what you found and exactly
11 where you found it. Be as specific as you can because
12 obviously this is the issue of this case.

13 A. Correct.

14 All right. There in my inventory of the
15 vehicle, located a black-in-color bag inside the center
16 console. Inside that black-in-color bag were several
17 clear plastic baggies containing a white powdery
18 substance, which was the cocaine, which did field test at
19 that time positive for cocaine.

20 Q. All right. Let me stop you there, if you don't
21 mind.

22 A. Sure.

23 Q. Tell me about the location. The center console;
24 am I correct, assuming it's the front seat where --

25 A. Correct.

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1 It was the front seat center console. It's the
2 armrest between the driver and passenger seat.

3 Q. Okay. So it's directly next to the driver's
4 seat?

5 A. Correct.

6 Q. Was the console open or closed?

7 A. It was closed.

8 Q. And inside of it -- so you opened it up?

9 A. Correct.

10 Q. Tell me exactly -- you mentioned a black bag,
11 black-in-color bag, in the center console. What was --
12 how can you describe this bag? What did it look like to
13 you?

14 A. It was just a regular black plastic bag, kind of
15 like one of the ones you would get from a small-liquor-
16 store-bottle-or-something plastic bag.

17 Q. So a black plastic bag. And you took that bag
18 out and opened it up?

19 A. Correct.

20 Q. You said you found several bags of cocaine?

21 A. Correct.

22 Q. Were these small bags? big bags?

23 A. These were smaller bags.

24 Q. Okay. So you found several small bags of
25 cocaine?

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1 A. Correct.

2 Q. Now --

3 A. Sandwich sized bags.

4 Q. Sandwich sized bags?

5 A. Yeah.

6 Q. About how many of them were there?

7 A. Inside that time, I want to --

8 Q. I know it's been a while --

9 A. Yeah.

10 Q. -- so look at your report, or whatever else, to
11 refresh your memory.

12 [Whereupon, the witness reviews documents]

13 THE WITNESS: Do you have the SLED test kit?

14 MR. WETMORE: If I may approach the witness,
15 Your Honor?

16 THE COURT: You may.

17 MR. WETMORE: Did you want the report or did you
18 want the best kit?

19 THE WITNESS: The report.

20 Q. [Mr. Wetmore] Showing you a report from SLED.
21 Does that help refresh your memory?

22 A. Yes.

23 Q. At least helped to give you an idea.

24 Was there -- I mean, just give me an idea. Were
25 there a bunch of bags in the center console?

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1 A. Yes. Three.

2 Q. Now, you said they were sandwich-sized bags.
3 These aren't tiny little bags. These are decent-sized
4 bags of cocaine?

5 A. Correct.

6 Q. Based on your training and experience, what
7 is -- what do you think when you see several small bags of
8 cocaine?

9 A. It's been my experience, in dealing with drugs
10 and everything, when -- your dealers will actually
11 separate --

12 MR. COCHRAN: I object to the request for
13 opinion evidence, Your Honor.

14 THE COURT: Rephrase your question, Mr. Wetmore.

15 Q. [Mr. Wetmore] In your experience, do drug
16 possessors have several bags --

17 MR. COCHRAN: Objection. Leading.

18 THE COURT: I'm going to allow it. You may
19 answer.

20 A. In my experience, possessors will not have
21 several different bags. Possessors will have one bag. In
22 my experience, dealers will have several bags.

23 Q. [Mr. Wetmore] And that's what you found, were
24 several plastic bags of cocaine in the center console?

25 A. Yes.

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1 Q. All total, was it a good amount or a small
2 amount?

3 A. In total, it was over -- it was already over the
4 ten grams.

5 Q. So you found trafficking weight in the center
6 console?

7 A. Yes.

8 Q. And it was split up into several little bags?

9 A. Correct.

10 Q. They were all within the same black bag?

11 A. Yes.

12 Q. Now, after you found that trafficking weight in
13 the center console, did you find anymore cocaine in the
14 vehicle?

15 A. Yes.

16 I secured that cocaine, and during my rest of my
17 inventory of the vehicle I located a black jacket.

18 Q. Describe that jacket, please.

19 A. The black jacket was a larger, man-sized jacket.
20 It wasn't small, it wasn't a medium, it wasn't anything,
21 it was a larger size that would fit me or another man.
22 Inside, this hoodie had two front pockets, and inside the
23 right jacket pocket of that hoodie I located another
24 plastic baggie of cocaine that weighed approximately
25 twelve grams. I also looked at that plastic baggie and

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1 the cocaine. I located a digital scale.

2 Q. So this larger black-hooded sweatshirt, exactly
3 where in the back of the car did you find it?

4 A. The large man's -- the hooded sweatshirt was
5 actually behind the driver's seat, directly behind the
6 driver's seat.

7 Q. Just laying on the back seat?

8 A. Laying on the back seat.

9 Q. Now, you said you found a bag of cocaine inside
10 the right front pocket. Was that a large amount of
11 cocaine or a small amount?

12 A. A large.

13 Q. Was that a trafficking amount of cocaine, as
14 well?

15 A. Yes, it was.

16 Q. And with that trafficking amount of cocaine, you
17 found a scale. Again, you know, don't mean to belabor the
18 obvious, but what does a scale mean to you?

19 A. Scales, through my experience, will designate
20 that somebody's been there to weigh it out into several
21 smaller baggies, which means they're going to be dealing
22 the drugs, not using.

23 Q. What did you do? You said there was a large
24 trafficking quantity in the center console and in the back
25 in the jacket. What did you do with all these objects?

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1 A. The cocaine all together was sealed into a best
2 kit, for SLED, to be tested.

3 Q. So you --

4 MR. WETMORE: If I may approach.

5 Q. [Mr. Wetmore] Let me show you this. Is this
6 the best kit you're talking about?

7 A. It is.

8 Q. You took all the cocaine from the two locations
9 in the car and you put it all in the same kit?

10 A. Yes.

11 It's common practice that when it's all involved
12 in one case, that everything is placed in the one best
13 kit.

14 Q. It makes sense to keep it together.

15 And so you took all the evidence, all the
16 cocaine evidence, and put it in that one best kit. What
17 did you do with the marijuana?

18 A. The marijuana was secured in my vehicle, along
19 with the cocaine. And the marijuana was sealed in a
20 different evidence bag because it was a muninciple charge,
21 not general sessions, and our North Charleston Police
22 Department is certified to do their own testing for
23 marijuana.

24 Q. So marijuana is kept separate from the cocaine.

25 A. [No response]

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1 Q. And what about -- I know you explained the
2 inventory process to preserve the contents of the car. I
3 know you're not supposed to take things out of the car,
4 but did you take that black bag that was in the center
5 console?

6 A. No, I did not take the black bag.

7 Q. So you just left that there?

8 A. Correct.

9 Q. What about the hooded sweatshirt? Did you just
10 leave that and remove the drugs?

11 A. I removed the drugs from the hooded sweatshirt
12 and left it inside the vehicle.

13 Q. I know they're going to ask you why didn't you
14 collect those items.

15 A. Our evidence lockers and stuff is overflowing
16 with evidence inside there. Stuff that is -- has nothing
17 to do with the case itself is not going to be secured. A
18 hooded sweatshirt that was in the back of the car, there
19 was no reason to -- it had nothing to do with the drugs.
20 It was a hooded sweatshirt sitting on the back of the seat
21 that had the drugs inside of it.

22 Q. So you removed the illegal items and left the
23 legal items; is that correct?

24 A. Correct.

25 Q. So at that point, did you have any further

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1 contact with Mr. Robinson?

2 A. Yes.

3 Q. Tell me what you -- what conversation you had
4 with him, if anything.

5 A. Once everything was secured and everything, I
6 went back to Mr. Robinson, who was sitting in back of a
7 transport vehicle at that time. And I got my issued PBA
8 card. It's a card that's issued to us through our Police
9 Benevolent Association. And on that card, it has Miranda
10 warnings, so that way you can't misspeak or not say
11 exactly what is said there. I took our my card and
12 advised Mr. Robinson of his Miranda rights.

13 Q. What did you tell him his rights were?

14 A. Mr. Robinson was advised that he had the right
15 to remain silent; anything he says can and will be
16 used against him in a court of law. I also advised
17 Mr. Robinson that he has the right to have an attorney
18 present, if he cannot afford an attorney, one will be
19 appointed to him before questioning. And then I asked
20 Mr. Robinson if he understood his rights.

21 Q. And what did he say?

22 A. Mr. Robinson advised that he understood the
23 rights that I had just read him.

24 Q. So you share with him his rights. He said he
25 understood them?

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1 A. Correct.

2 Q. Is there anything about Mr. Robinson that caused
3 you to question his state at that time? Was he
4 intoxicated?

5 A. No.

6 Q. Did he -- did it seem like he had any kind of
7 mental or physical disability that would keep him from
8 knowing what was happening?

9 A. No.

10 Mr. Robinson was in a calm demeanor, away from
11 everybody else inside the club that was exiting at the
12 time, and secured in the back of a patrol car.

13 Q. Now, who all was there when you were giving him
14 his rights and he was talking to you?

15 A. Lieutenant Buskirk was in the vicinity of me as
16 I was reading him his rights.

17 Q. So Lieutenant Buskirk, you, Mr. Robinson.
18 Anybody else?

19 A. No.

20 Q. While you were talking to him, any kind of
21 promises made to him?

22 A. No.

23 Q. Any kind of threats made to him?

24 A. No.

25 Q. Did you deliberately mislead him in any way?

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1 A. No.

2 Q. Based on your experience, many years, and based
3 on your experiences that night, was Mr. Robinson giving
4 you a freely-given statement?

5 A. Yes, he was.

6 Q. Tell me exactly how the exchange -- I think
7 that's also -- that raises an issue. What is exactly the
8 exchange, verbally, that you guys had?

9 A. Once I explained his rights to him and asked him
10 if he understood his rights and if he willing to talk and
11 he said yes, I asked him who the cocaine belonged to.
12 Mr. Robinson stated that the cocaine belonged to him.

13 Q. So you said whose cocaine and he said, it's
14 mine?

15 A. Correct.

16 Q. Did he distinguish, well, some of this cocaine
17 is mine and some of it is not?

18 A. No.

19 There was no distinct mention between cocaine in
20 the jacket, cocaine in the center console. One simple
21 statement of, all the cocaine -- the cocaine is mine.

22 Q. So all the cocaine was his.

23 Now, did you have any reason not to believe what
24 he was saying?

25 A. No.

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1 Q. Any belief that he was -- you know, felt
2 pressured or threatened?

3 A. No.

4 Q. Any beliefs this was not a free statement?

5 A. No.

6 Q. And no question that he fully claimed the
7 cocaine in the car?

8 A. Correct.

9 Q. And you talked to him before Lieutenant Buskirk
10 did; right?

11 A. Correct.

12 Q. You just said you had no reason to doubt
13 Mr. Robinson, he claimed all the cocaine. Did you at that
14 point turn his female companion, Ms. Rivers --

15 THE COURT: Hold on one second.

16 Ladies and gentlemen, please remember all my
17 admonitions. You may leave your notepads right where
18 they are. Please let us know when you are ready to
19 return. Thank you.

20 Please rise for the jury.

21 [Whereupon, the jury exits the courtroom at
22 11:38 p.m.]

23 THE COURT: Thank you. Be seated.

24 Officer Greenawalt, the rule of sequestration
25 has been invoked so please do not discuss your case

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1 with anyone. You may step down. We're going to take
2 a comfort break. Thank you.

3 Counsel, approach just for scheduling.

4 [Whereupon, a recess is taken from 11:39 a.m. to
5 11:51 a.m.]

6 THE COURT: Officer Greenawalt?

7 [Whereupon, Mr. Greenawalt retakes the witness
8 stand]

9 THE COURT: Anything before we bring in the
10 jury? Mr. Wetmore?

11 MR. WETMORE: Nothing, Your Honor.

12 THE COURT: Mr. Cochran?

13 MR. COCHRAN: No, Your Honor.

14 THE COURT: I remind you that you are still
15 under oath. Did you comply with the Court's
16 instructions?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: All right. Thank you. Let's bring
19 in the jury.

20 [Off the record momentarily]

21 THE COURT: Please rise for the jury.

22 [Whereupon, the jury enters the courtroom at
23 11:51 a.m.]

24 THE BAILIFF: All jurors present and seated,
25 Your Honor.

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1 THE COURT: Thank you. Please be seated.

2 Mr. Wetmore, your witness. You may continue.

3 MR. WETMORE: Thank you.

4 I appreciate y'all's patience. This has kind of
5 taken a while. I know that -- this is the main
6 officer. The others are going to be a lot quicker.

7 Q. [Mr. Wetmore] Officer Greenawalt, you were
8 saying that after Mr. Robinson fully confessed, what did
9 you do with the female that was with him? Ms. Rivers.

10 A. After Mr. Robinson confessed to the cocaine
11 being his, Ms. Rivers was identified and released from the
12 scene at the time.

13 Q. And you released her because he had claimed the
14 cocaine?

15 A. Correct.

16 Q. Did you ever -- did you ever start the paperwork
17 to have the car towed?

18 A. Yes, we did.

19 Q. Did you actually tow the car?

20 A. No, we did not.

21 Q. Why not?

22 A. After performing the inventory of the vehicle,
23 the actual registered owner of the vehicle arrived on
24 scene. Once she arrived on scene and she was identified
25 as the registered owner and her ID matched the

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1 registration that was found inside the vehicle, it's up to
2 the officer discretion whether or not we can release the
3 vehicle to a registered owner, per our policy.

4 So instead of her ensuing her getting a fee of
5 \$250, which is what it cost to have a vehicle towed and
6 released from the tow yard -- she didn't have anything to
7 do with the situation going on. I didn't see fit for me
8 to have her get charged \$250 to get her car back out of
9 the tow lot.

10 Q. Did you know what -- do you have in there what
11 her name is? Could you tell us that?

12 A. No.

13 Q. So Ms. Rivers was with him at the club. This is
14 a different one. What is her name?

15 A. The owner of the vehicle?

16 Q. Yes.

17 [Whereupon, the witness reviews documents]

18 A. I don't have that with me, sir.

19 Q. [Mr. Wetmore] Do you have your report that you
20 wrote with you? Take a look at your report, please, and
21 see if it will refresh your memory.

22 A. Shannon Brown, she arrived on scene, who was the
23 registered owner at this time, and she was identified as
24 the registered owner and the vehicle was released to her.

25 Q. So Shannon Brown was the owner?

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1 A. Yes.

2 Q. Released to her. She's obviously a female;
3 right?

4 A. Correct.

5 Q. And you left in the vehicle the black bag in the
6 center console and you left the bigger black-hooded
7 sweatshirt in the back seat?

8 A. Correct.

9 Q. Shannon Brown, the owner, is a female. She said
10 she thought it was more of a masculine sweatshirt in the
11 back seat?

12 A. Correct.

13 Q. I know you didn't see Mr. Robinson wearing the
14 sweatshirt. Was he wearing any sweatshirt or any jacket
15 or anything?

16 A. No, he wasn't.

17 Q. Do you remember what he was wearing?

18 A. I couldn't explain to you at the time what he
19 was wearing.

20 Q. It was I guess towards the end of September --

21 A. Correct.

22 Q. -- two o'clock in the morning. He wasn't
23 wearing a jacket or anything?

24 A. No.

25 Q. But you found a black jacket in the back seat?

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1 A. Correct.

2 Q. And did you believe that was his black jacket?

3 A. Yes.

4 Q. But you left the legal items in the car that you
5 gave to the owner?

6 A. Correct.

7 Q. Now, that takes care of the car. Tell me what
8 happened to Mr. Robinson.

9 A. After the vehicle was released to Ms. Brown and
10 the scene was clear, Mr. Robinson was transported by our
11 transport officer to the Charleston County Detention
12 Center.

13 Q. Did you go with him or not?

14 A. No.

15 Q. You remained and continued to do your shift or
16 whatever you were doing?

17 A. Correct.

18 I was the only -- I believe I was the only K-9
19 working that night. One of our policies is is if our
20 canine officer was to make an arrest, if you're the only
21 dog working that night that you're to stay in service so
22 you can help assist with other calls that there may be the
23 need arise for another dog. So our transport officer took
24 Mr. Robinson to the jail to book him in at the jail.

25 Q. And you continued to work.

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1 A. [No response]

2 Q. But you are the case officer on this case?

3 A. Correct.

4 Q. Did the jail uncover anymore drugs that went
5 with your case?

6 A. Yes.

7 During Mr. Robinson's intake, they do --
8 whenever you're found to be in possession of weapons or
9 drugs, they do a strip search of you at the jail to make
10 sure you're not bringing anymore contraband into the jail
11 itself. So during Mr. Robinson's strip search --

12 MR. COCHRAN: I would object, Your Honor.

13 THE COURT: What's the basis?

14 MR. COCHRAN: He did not witness this.

15 THE COURT: Sustained.

16 Q. [Mr. Wetmore] Was anymore evidence from
17 Mr. Robinson returned to you as the case agent?

18 A. Yes.

19 Q. Okay. What did you get later?

20 A. A small latex glove or -- glove that contained a
21 small, plastic bag that had been partially chewed on.

22 Q. So the glove with the small baggie, chewed up
23 baggie, in it?

24 A. Correct.

25 Q. And that was returned and included with the rest

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1 of the drugs in the case?

2 A. Yes.

3 Q. Where did the glove come from?

4 A. The detention officer.

5 Q. That's where they -- they don't have a best kit?

6 They just put it in a glove?

7 A. They don't have evidence bags at the jail.

8 While the strip search is being done, whoever the
9 detention officer is at the time will have extra gloves on
10 them and whatever contraband or if anything else is found
11 on the suspect while doing the strip search, it's placed
12 into a rubber glove.

13 Q. So that's the container that they have available
14 to use?

15 A. Correct.

16 Q. And then that's returned to you and you combine
17 it with the rest of the drugs in the case?

18 A. Correct.

19 Q. Was the bag that you got back pretty similar to
20 the bags that you found in the center console of the car?

21 A. It was also a clear plastic bag.

22 Q. So pretty similar in size?

23 A. Yes.

24 Q. So you weren't there for the trip to the
25 hospital; correct?

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1 A. Correct.

2 Q. Where he was taken to be evaluated?

3 A. Correct.

4 Once the -- it was found that he had ingested
5 possible drugs, per the jail's policy they make us take
6 them to an emergency room of our choosing to have them
7 cleared medically to make sure they're fine so there's no
8 incidents inside the jail.

9 Q. But that would have been that transport officer
10 that was taking care of that while you --

11 A. Correct.

12 Q. -- continued on with your shift?

13 So then I guess finally, your role, I guess:
14 tell me about the marijuana -- I mean, tell me about the
15 evidence that you collected and what you did with it.

16 A. Once I received the evidence from the transport
17 officer, it was combined with the evidence I had in my
18 best kit. And my best kit was then entered into the
19 computer system that we have at the station. Everything
20 was documented. A chain of custody form is filled out and
21 the evidence is then taken down to our evidence room where
22 we have what looks kind of like a mailbox that you would
23 drop your letters in at the U.S. Postal Service. It's a
24 secured box inside of a secured room that the evidence is
25 then signed in to and dropped into this box.

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1 Q. So then after Mr. Robinson was taken away, then
2 you -- some point later, you deposited the evidence in
3 this secure area?

4 A. Correct.

5 Q. Tell me exactly what you put in -- did you put
6 the marijuana inside -- in there?

7 A. Yes.

8 Q. But that is no longer in the evidence room;
9 correct?

10 A. Correct.

11 Q. Do you know what happened to it?

12 A. Once into -- this whole case was disposed of,
13 the evidence is taken out and destroyed.

14 Q. He's not charged with marijuana today?

15 A. No.

16 Q. It's a different court?

17 A. Correct.

18 Q. It's not here because it's already been
19 resolved?

20 A. Correct.

21 Q. Now, what about that scale? Did you put that
22 into evidence?

23 A. Yes.

24 It was in evidence and also was destroyed after
25 the municipal charge.

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1 Q. Again, it's not related to the charge here?

2 A. Correct.

3 Q. It's a city court charge. Once those were
4 resolved, there's -- what happened to it? Was it
5 destroyed, as well?

6 A. It's requisitioned back into police use. We
7 actually -- they reissue them back to the police officers
8 to help use them to weigh drugs that are found on the
9 streets.

10 Q. It's reused? Recycled?

11 A. Yes.

12 Q. Now, you did -- obviously, we've been looking at
13 it today. You did put your best kit into evidence as
14 well; right?

15 A. Correct.

16 Q. In this secured evidence locker?

17 A. Correct.

18 Q. Any evidence that has been tampered with or
19 messed with today? Can you tell?

20 A. Nothing's been tampered with or messed with.

21 Anything that has ever been opened or tested is
22 initialed and signed by whoever opened or initialed -- and
23 by the chain of custody, also.

24 Q. And you took that best kit, that secured kit,
25 and in it you put the trafficking weight mini baggies from

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1 the console? You put that in there?

2 A. Correct.

3 Q. You took the large trafficking weight from the
4 jacket pocket. Did you put that in there?

5 A. Correct.

6 Q. And you also took the chewed up bag that they
7 dropped into a glove at the jail. Did you put that in
8 there?

9 A. Yes, I did.

10 Q. So everything should be in there?

11 A. Yes.

12 Q. And after that, you left the evidence --

13 A. Correct.

14 Q. Now, were you the one that actually charged
15 Mr. Robinson with trafficking cocaine?

16 A. I am.

17 Q. As a case agent and the one who charged him, why
18 did you charge him with trafficking cocaine?

19 A. He gave me a confession saying that the cocaine
20 belonged to him that night.

21 Q. Did he appear to have control of the vehicle
22 where it was found?

23 A. He did.

24 Q. But you're basing it on the fact that he told
25 you --

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1 A. Correct.

2 Q. -- that the cocaine was his?

3 A. There was two people on scene coming to the
4 vehicle, Mr. Robinson and Ms. Rivers. With that, I had
5 the option of it being the hand of one is the hand of all.
6 They both could have gone for the charges of cocaine,
7 trafficking cocaine. After I read Mr. Robinson his
8 Miranda rights and he advised me that all the cocaine
9 belonged to him, that's why Ms. Rivers was allowed to
10 leave and Mr. Robinson was the only one charged with
11 trafficking cocaine.

12 Q. And, now, you obviously have experience with
13 doing drug charges. Why was he charged with trafficking
14 cocaine and not something less?

15 A. He was charged with trafficking cocaine due to
16 the amount of the weight and the way it was packaged and
17 also with a digital scale along, it fits the charge.

18 Q. But you didn't charge him with just plain old
19 possession of a small amount of cocaine?

20 A. No.

21 Due to the large amount of cocaine that we
22 found, it was definitely trafficking.

23 Q. And was there a trafficking amount in the center
24 console?

25 A. Correct.

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1 The trafficking charge, we were able to use that
2 charge, actually, it -- you know, it met the standard of
3 ten grams. With it being in the center console, the
4 center console itself was 11.7, I believe, and what was in
5 the back inside the jacket was twelve grams.

6 Q. So both locations had trafficking but you just
7 did the one trafficking?

8 A. Correct.

9 Q. And you only gave it to Mr. Robinson because he
10 claimed that?

11 A. Correct.

12 Q. Did you tell Mr. Robinson the amount?

13 A. No, I did not.

14 Q. Were you there when Officer Buskirk was talking
15 to him?

16 A. No. That was a private conversation between him
17 and Officer Buskirk.

18 MR. WETMORE: Court's indulgence for just one
19 second.

20 [Whereupon, Mr. Wetmore reviews documents]

21 MR. WETMORE: I don't have anything further at
22 this point.

23 THE COURT: Mr. Cochran?

24 MR. COCHRAN: Thank you, Your Honor. May it
25 please the Court.

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CROSS-EXAMINATION

BY MR. COCHRAN:

Q. You said that there were three baggies found in the center console; correct?

A. Correct.

Q. And you also said that in the center console, to the best of your knowledge there was 11.7 grams?

A. I believe so. I think that's what the test kit says.

Q. And you didn't go out and test it; right?

A. The SLED test kit? No.

Q. Right. You didn't test the drugs?

A. No.

Q. You weighed the drugs, but that was the field weight; right?

A. Correct.

Q. That's not the weight that's used here; right?

A. Correct.

Q. So you're looking at somebody else's work, aren't you?

A. Correct.

Q. And you're saying that you found 11.7 grams in the center console?

A. Correct.

Q. You didn't write that in your report?

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1 A. No.

2 Q. You did not put down in your report -- and you
3 did write a report; correct?

4 A. Yes.

5 Q. And you said you found cocaine in the center
6 console; right?

7 A. Correct.

8 Q. And a black jacket; right?

9 A. Correct.

10 Q. And you didn't say anything in the report about
11 the black jacket being a big men's jacket; right?

12 A. I remember from recollection that it was a man's
13 jacket.

14 Q. But you didn't put that in your report?

15 A. No.

16 Q. This happened back in 2012; right?

17 A. Correct.

18 Q. You make a lot of drug arrests?

19 A. I do.

20 Q. So 11.7 grams, that's not your number, that's
21 the chemical analyst's number; right?

22 A. Correct.

23 Q. And I'll show you that report real quick. Those
24 11.7 grams are from two baggies; correct?

25 A. Correct.

James Greenawalt
Cross-Examination by Mr. Cochran
March 4, 2015

1 Q. Here's the cocaine. Which two baggies?

2 A. It was tested. When they tested, they opened
3 the baggies up.

4 Q. So which two baggies were -- what -- were in the
5 center console?

6 A. I can't specifically say which baggies were in
7 the center console.

8 Q. Well, I thought you said three baggies were in
9 the center console.

10 A. There's three bags down here.

11 Q. There are three baggies down there. And how
12 much do they weigh?

13 A. 1.6.

14 Q. 1.6 grams. Three baggies were in the center
15 console; correct?

16 A. Correct.

17 Q. A large amount, a trafficking amount, of cocaine
18 was in the back seat in the black jacket; correct?

19 A. Correct.

20 Q. And those three baggies that were weighed
21 together only amounted to 1.6 grams of cocaine; correct?

22 A. Correct.

23 Q. You said that you got into this car because you
24 smelled marijuana; right?

25 A. Yes.

James Greenawalt
Cross-Examination by Mr. Cochran
March 4, 2015

1 Q. But you had a K-9 dog with you that night?

2 A. I did.

3 Q. Is that dog trained to smell drugs?

4 A. He is.

5 Q. And alert you when he smells drugs?

6 A. Yes.

7 Q. Did you bring him out to confirm your
8 suspicions?

9 A. Did not need to.

10 Q. Did you find burned marijuana in the car?

11 A. Did I find burnt marijuana in the car? No. I
12 found it on the person.

13 Q. But you didn't find it in the car?

14 A. No.

15 Q. You didn't keep the jacket?

16 A. No.

17 Q. You didn't keep the jacket because the evidence
18 locker is overflowing and it had nothing to do with this
19 case?

20 A. I didn't see --

21 Q. Is that right?

22 A. I didn't see the significance of it at that
23 time.

24 Q. At that time you didn't see it, but you see it
25 now?

James Greenawalt
Cross-Examination by Mr. Cochran
March 4, 2015

1 A. No.

2 Q. After talking with the solicitor, do you see
3 that it had something to do with this case?

4 A. No.

5 Q. Does it matter who it belongs to?

6 A. The jacket?

7 Q. Yeah.

8 A. Yes.

9 Q. And you thought it was important enough to give
10 specific details to the jury that you didn't include in
11 your report about that jacket; right?

12 A. Yes.

13 Q. So it must have something to do with the case;
14 right?

15 A. Yes..

16 Q. But you said it had nothing to do with the case.

17 A. [No response]

18 Q. So you didn't collect it?

19 A. No. It was not collected.

20 Q. None of these baggies of cocaine were processed
21 for fingerprints; correct?

22 A. No, they were not.

23 Q. The scale that you found in the black jacket in
24 the back seat was not processed for fingerprints?

25 A. No, it wasn't.

James Greenawalt
Cross-Examination by Mr. Cochran
March 4, 2015

1 Q. There were two people at this car; correct?

2 A. Correct.

3 Q. There was a woman with Mr. Robinson; correct?

4 A. Correct.

5 Q. You had a patrol car that night?

6 A. I did.

7 Q. Was it equipped with a video camera?

8 A. It is.

9 Q. Did you videotape any of this exchange that you
10 had with Mr. Robinson?

11 A. No.

12 As I stated, my vehicle was parked at the front
13 of the club, which is several hundred yards away, so that
14 when people pull in and out of this club that we have
15 problems with, will know there's a police presence at that
16 parking lot.

17 Q. When you were effecting the arrest and making
18 contact with Mr. Robinson, did other patrol cars show up?

19 A. I can't recollect at this time. I'm sure they
20 did.

21 Q. Well, at some point another car came to --

22 A. Transport showed up.

23 Q. Okay. And that was a police patrol car?

24 A. Our transport vehicles are old, out-of-service
25 police vehicles.

James Greenawalt
Cross-Examination by Mr. Cochran
March 4, 2015

1 Q. Well, it was being in service that night; right?

2 A. They're not used as police vehicles.

3 Q. But it was being used as a police vehicle that
4 night; right? It was transporting a --

5 A. It's a transport vehicle, it's not a police
6 vehicle.

7 Q. Is it equipped with a camera?

8 A. I don't know if it is or not. I'm not a
9 transport officer.

10 Q. Okay. But you are in charge of this case,
11 aren't you?

12 A. I am.

13 Q. And the interview with Mr. Robinson took place
14 in the back seat of this car; correct?

15 A. Correct.

16 Q. So if it was recorded, you would want to collect
17 that recording; right?

18 A. Yeah. But it wasn't recorded.

19 Q. Do you know that it wasn't recorded?

20 A. Yes. If it was recorded, it would be in
21 evidence.

22 Q. And you said that you don't know that the car
23 was equipped with a video camera?

24 A. Right.

25 Q. So was it or wasn't it?

James Greenawalt
Cross-Examination by Mr. Cochran
March 4, 2015

1 A. It was not.

2 Q. So you go from not sure to being sure?

3 A. If it was equipped with a camera, it would be in
4 evidence.

5 Q. Well, when I first asked you, you said that you
6 did not know whether or not the car was equipped with a
7 camera.

8 A. I advised you that I can't give you a correct
9 answer because I don't know for sure.

10 Q. Well, just for future reference, I'm only
11 concerned with correct answers.

12 A. Okay. Sure.

13 Q. You don't know whether or not that car was
14 equipped with a video camera?

15 A. Correct. I don't know for sure.

16 Q. And just to be clear here: on the report of
17 drug testing and weighing, that you did not fill out, 11.7
18 grams were found in two plastic baggies that were tested
19 together; correct?

20 A. Correct.

21 Q. And twelve grams was found in another plastic
22 bag; correct?

23 A. Correct.

24 Q. And there were three plastic baggies that were
25 tested together that only weighed 1.6 grams; correct?

James Greenawalt
Cross-Examination by Mr. Cochran
March 4, 2015

1 A. Correct.

2 Q. And you said that there were three baggies in
3 the center console; correct?

4 A. Correct.

5 Q. And the rest were found in the black sweatshirt;
6 correct?

7 A. No. The one bag was found in the black
8 sweatshirt.

9 Q. So we've got two baggies that equal 11.7 grams,
10 one baggie --

11 A. That were in the center console.

12 Q. -- one baggie that weighs twelve grams, a bag
13 that contained an imitation substance, three baggies that
14 contained 1.6 grams, and another that contained a
15 methalone, one -- point one grams?

16 A. Right.

17 Q. So three baggies were found in the center
18 console; correct?

19 A. As far as -- yes.

20 Q. And the rest of the cocaine was found in the
21 black hooded sweatshirt?

22 A. No.

23 There was one bag found in the black hooded
24 sweatshirt. The other ones were in the center console.
25 There was three bags.

James Greenawalt
Cross-Examination by Mr. Cochran
March 4, 2015

1 Q. But there were more than four bags; correct?

2 A. Inside one of those bags was the other bag that
3 was already separated.

4 Q. Into three baggies?

5 A. Yes.

6 Q. But there were more than four bags; correct?

7 A. There was three big bags in the center console.
8 Okay? Two of those bags contained cocaine that was 11.7
9 grams that were measured together. Okay. The third bag
10 that was in there had the other bags that were already
11 separated that was 1.6 grams.

12 Q. And you are just now saying this to the jury;
13 correct? You didn't say that on direct examination;
14 correct?

15 A. I'm advising you.

16 Q. You didn't say that when I originally asked you;
17 correct?

18 A. I said there was three bags in the center
19 console.

20 Q. Three bags total in the center console.
21 And you didn't write any of this in your report;
22 correct?

23 A. I wrote where the stuff was located, yes.

24 Q. You wrote that there was cocaine in the center
25 console and cocaine in the black hooded jacket in the back

James Greenawalt
Cross-Examination by Mr. Cochran
March 4, 2015

1 seat?

2 A. Correct.

3 Q. You did not specify baggies, the number of
4 baggies, or the weight or the quantity?

5 A. No.

6 MR. COCHRAN: Beg the Court's indulgence.

7 THE COURT: Yes, sir.

8 [Whereupon, Mr. Cochran and Mr. Malloy confer]

9 MR. COCHRAN: Nothing further, Your Honor.
10 Thank you.

11 THE COURT: Mr. Wetmore?
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James Greenawalt
Redirect Examination by Mr. Wetmore
March 4, 2015

REDIRECT EXAMINATION

BY MR. WETMORE:

Q. Officer Greenawalt, let me ask you a couple of things following up. It's your testimony today, being honest with us, that there was a large amount of cocaine found in the center console?

A. Correct.

Q. A trafficking amount in the center console?

A. Yes.

Q. Do you have any idea what something like that's worth on the street?

MR. COCHRAN: Objection. Outside the scope of cross.

THE COURT: Overruled.

A. At this time, I don't know what the fair-market value would go for.

Q. [Mr. Wetmore] Give us a --

A. In a ballpark figure?

Q. Yeah.

A. 3,000.

Q. And that was just the center console?

A. Just the center console.

Q. Now, you also found a large amount of cocaine in the jacket --

A. Correct.

James Greenawalt
Redirect Examination by Mr. Wetmore
March 4, 2015

1 Q. -- pocket? Is that also a trafficking amount?

2 A. Correct.

3 Q. Does it have a similar value of about 3,000?

4 A. Yes.

5 Q. Now, the report that the chemist later did, did
6 that report come to you? Was it addressed to you?

7 A. No.

8 MR. WETMORE: If I may approach the witness?

9 THE COURT: You may.

10 Q. [Mr. Wetmore] Is that the SLED report from the
11 chemist?

12 A. It is. And it is addressed to my name; however,
13 it's addressed to the North Charleston Police Department
14 where it goes right to the evidence.

15 Q. So, obviously, you didn't test it. You're not a
16 chemist.

17 A. Correct.

18 Q. But because you're the case agent, the report
19 comes to you?

20 A. Correct.

21 Q. I'm going to go through it with you --

22 MR. WETMORE: If I may approach, Your Honor.

23 Q. [Mr. Wetmore] We'll hear from the chemist, too,
24 so don't -- we're just talking to you now.

25 This first item it mentions, it says two plastic

James Greenawalt
Redirect Examination by Mr. Wetmore
March 4, 2015

1 bags each containing powder substance. The weight is 11.7
2 grams. Now, that you found where?

3 A. In the center console.

4 Q. Then it goes on to describe another item, which
5 is a plastic bag containing cocaine, twelve grams?

6 A. Correct.

7 Q. And where did you find that?

8 A. That was back in the jacket.

9 Q. So that's in the jacket. Both trafficking
10 weights; correct?

11 A. Yes.

12 Q. There is a bag that says not cocaine, no
13 controlled substance, fake cocaine; correct?

14 A. Correct.

15 Q. Where did you find that?

16 A. That was also in the center console but it
17 didn't test positive so I didn't add it to my report, as
18 far as it being --

19 Q. Okay. And then we have three bags containing
20 cocaine, 1.6 grams. Where did you find that?

21 A. That was also in the center console.

22 Q. And then finally there is a glove containing a
23 plastic bag and that ended up testing positive as
24 methalone, which is not cocaine. Where did you find that?
25 Did you find that in the car?

James Greenawalt
Redirect Examination by Mr. Wetmore
March 4, 2015

1 A. No, that was not found in the car. That was
2 what was recovered from the defendant's mouth at the jail.

3 Q. So that would be from the jail?

4 A. Correct.

5 Q. Then there's the big bag in the sweatshirt
6 pocket?

7 A. Correct.

8 Q. And the remainder of the small bags, the
9 packaging, also trafficking weight in total, was all in
10 the center console?

11 A. Correct.

12 Q. All in the same black plastic bag?

13 A. Correct.

14 Q. Now, Mr. Cochran criticized your report-writing
15 a little bit. Is it possible that you can record every
16 single thing --

17 MR. COCHRAN: Objection. Leading.

18 Q. [Mr. Wetmore] -- in your report?

19 THE COURT: Rephrase your question.

20 Q. [Mr. Wetmore] Are you physically able to record
21 everything that you do, see, think, in your report?

22 A. Our reports are for a general stipulation as far
23 as to jog a memory while they're in trials.

24 Q. So then you write the report to help remind
25 you --

James Greenawalt
Redirect Examination by Mr. Wetmore
March 4, 2015

1 A. Correct.

2 Q. -- of things?

3 Is your memory of this incident clear?

4 A. Yes.

5 Q. And you've shared with us everything exactly as
6 you --

7 MR. COCHRAN: Objection. Leading.

8 Q. [Mr. Wetmore] Have you --

9 THE COURT: Thank you.

10 Q. [Mr. Wetmore] -- shared everything with us
11 exactly as you remember?

12 A. Yes, I have.

13 Q. Did you use your reports, the notes, summaries,
14 to refresh your memory?

15 A. Yes, I have.

16 Q. Now, Mr. Cochran also criticized you for not
17 fingerprinting the bags of drugs -- or I think the scales,
18 he said.

19 A. Correct.

20 Q. You didn't fingerprint them; correct?

21 A. No.

22 Q. Are fingerprints used to identify an unknown
23 suspect?

24 A. Yes.

25 Q. In this case, did you know who the suspect was?

James Greenawalt
Redirect Examination by Mr. Wetmore
March 4, 2015

1 A. Yes.

2 Q. How did you know?

3 A. He openly admitted to me that that cocaine
4 belonged to him.

5 Q. Did he distinguish about the cocaine in this one
6 bag in the center console and added, that that's mine?
7 Did he do anything like that?

8 A. No.

9 Q. He claimed everything?

10 A. Yes.

11 Q. So basically, with his admission you did not
12 need to fingerprint them?

13 A. Correct.

14 Q. Finally, I was going to mention to you. They
15 asked why this wasn't recorded. Obviously, I think it
16 would be -- we always hope that there's a video to
17 corroborate the evidence; correct?

18 A. Correct.

19 Q. Without the video, are you able to remember what
20 took place? The statement?

21 A. Yes.

22 Q. You don't need a video to remember what you guys
23 talked about, do you?

24 A. No.

25 Q. No question in your mind about what you

James Greenawalt
Redirect Examination by Mr. Wetmore
March 4, 2015

1 testified to today? Everything is true?

2 A. Correct.

3 MR. WETMORE: If I may have just a moment, Your
4 Honor.

5 [Whereupon, Mr. Wetmore and Ms. Young confer]

6 MR. WETMORE: Nothing further. Thank you.

7 MR. COCHRAN: May it please the Court?

8 THE COURT: Yes.

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James Greenawalt
Recross-Examination by Mr. Cochran
March 4, 2015

RECROSS-EXAMINATION

BY MR. COCHRAN:

Q. Your original testimony was that there was 11.7 grams of cocaine in the center console; correct?

A. Correct.

Q. And now you're saying there was more than thirteen, possibly more than fourteen, grams in the center console; correct?

A. What I'm stating is that there was 11.7 in those two bags --

Q. Total, in the --

A. -- in the center console.

Q. -- center console?

A. Yes.

Q. There was 11.7 grams?

A. No. In the two bags there was 11.7 grams.

Q. And now you're saying there was more than two bags -- or more than three bags in the center console?

A. If I could just show you a picture of it maybe, it'll probably describe it to you. It was three bags.

Q. Well, I would love that. Did you take any pictures of the crime scene?

A. No, I did not.

Q. And the solicitor was going over the chemical analyst's report with you about the two bags that weigh

James Greenawalt
Recross-Examination by Mr. Cochran
March 4, 2015

1 11.7 and the other three that weighed 1.6 together and the
2 one that you say was in the jacket -- this is the chemical
3 analyst's report; right?

4 A. Yes.

5 Q. You were not standing with her when she tested
6 and weighed this cocaine, were you?

7 A. No. It was tested in Columbia.

8 Q. So how do you know which bag is being tested and
9 which bag is being weighed according to this report? You
10 can't possibly know that. You weren't there.

11 You used your own reports, you said, to jog your
12 memory during trial; correct?

13 A. Correct.

14 Q. Because you need your memory to be jogged
15 sometimes; correct?

16 A. Yes.

17 Q. Because you don't remember everything perfectly;
18 right?

19 A. Nobody does.

20 Q. And your report doesn't say anything about which
21 specific bags of which specific weights were where in the
22 car, do they?

23 A. No.

24 MR. COCHRAN: Nothing further.

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

James Greenawalt
Recross-Examination by Mr. Cochran
March 4, 2015

1 THE WITNESS: Thank you.

2 [Whereupon, Mr. Greenawalt is excused and exits
3 the witness stand]

4 THE COURT: Call your next witness.

5 MR. WETMORE: The State calls Lieutenant Victor
6 Buskirk with North Charleston Police Department.

7 [Whereupon, Mr. Buskirk comes forward]

8 THE CLERK OF COURT: Place your left hand --
9 raise your right.

10 [Whereupon, Mr. Buskirk is duly sworn by the
11 clerk of court as follows: do you swear or affirm
12 that the testimony you shall give the Court shall be
13 the truth, the whole truth, and nothing but the truth,
14 so help you God]

15 THE WITNESS: Yes, ma'am, I do.

16 THE CLERK OF COURT: You can go ahead and take a
17 seat.

18 [Whereupon, Mr. Buskirk takes the witness stand]

19 THE CLERK OF COURT: State your name into the
20 microphone, and spell your last name for the record.

21 THE WITNESS: Lieutenant Victor Buskirk. B-U-S-
22 K-I-R-K.

23 THE COURT: Mr. Wetmore.
24 - - -
25 - - -

Victor Buskirk
Direct Examination by Mr. Wetmore
March 4, 2015

1 A. Well, I've been assigned to several different
2 units. I was on our speed team, which is a street level
3 type vice team. I was on our narcotics unit, been through
4 training with narcotics through DNA. I've been through
5 active shooter training. I'm actually an active shooter
6 instructor. I've been to different drug schools, things
7 like that.

8 Q. Very good.

9 I'm going to take you back to the day when this
10 incident happened, September 21st, 2012. Were you on duty
11 that night?

12 A. Yes, I was.

13 Q. We've already heard from Officer Greenawalt.
14 What were you doing initially that night leading up to the
15 incident?

16 A. That particular night I was the watch commander.
17 I had a different function at that point. I was a patrol
18 lieutenant, so I was the highest-ranking supervisor that
19 night so I had to oversee the whole city.

20 And I also had the function of a bar goal, and
21 that's to try and reduce crimes at some of our bars within
22 North Charleston.

23 Q. So that was a particular goal of the police
24 department?

25 A. Correct.

Victor Buskirk
Direct Examination by Mr. Wetmore
March 4, 2015

1 Q. It was named the bar goal?

2 A. Correct.

3 Q. What sorts of things were you trying to combat?

4 A. Public intoxication, drunk driving, drugs and
5 weapons. We had a few that, you know, they were known to
6 have some drug activity, or weapons left in vehicles in
7 plain view, so we saw that as a need to combat that so we
8 had officers assigned to make patrols of those areas and
9 try and reduce those.

10 Q. So in that role, did you respond to Club
11 Showtime that night?

12 A. I did.

13 I received a phone call from Officer Greenawalt
14 telling me that he had a subject in custody that had
15 almost an ounce of cocaine. So I started that way to --
16 one, is because obviously it involved a bar, so I needed
17 to have knowledge of that. The other was, you know,
18 thinking about somebody with that amount of drugs maybe we
19 could get them to work with our narcotics unit.

20 Q. So Officer Greenawalt contacted you, discovered
21 an ounce of cocaine on the drugs, and you -- at that point
22 you went straight to the club?

23 A. I did.

24 Q. Where is Showtime?

25 A. Showtime is on Ashley Phosphate Road, directly

Victor Buskirk
Direct Examination by Mr. Wetmore
March 4, 2015

1 across from Pepperhill community.

2 Q. And is it like part of like a strip-mall? I've
3 not seen that, actually.

4 A. It's kind of an odd structure. You have the
5 bar. Next to the bar you have an apartment. It's I think
6 like maybe four or so apartments that are right there on
7 the same property the same side as the bar, and then
8 across from that you've got another establishment. It's
9 changed names a couple of times.

10 Q. And all that's off of Ashley Phosphate?

11 A. It is.

12 Q. Obviously the City of North Charleston?

13 A. Correct.

14 Q. Charleston County?

15 A. Yes, sir.

16 Q. So when you arrived on the scene, what did you
17 see? What was the situation when you got there?

18 A. Mr. Robinson was already in the transport
19 vehicle. I made contact with Officer Greenawalt. Before
20 I talked to Mr. Robinson, I wanted to make sure that he
21 was read his Miranda because obviously I wanted, you know,
22 to know that -- you know, we're talking, he understands
23 that, you know, we're communicating that he's, you know,
24 freely talking to me. Didn't want any of those issues to
25 come up, so I instructed Officer Greenawalt to go ahead

Victor Buskirk
Direct Examination by Mr. Wetmore
March 4, 2015

1 and read him his Miranda while I was there.

2 Q. So first you talked to your fellow officer,
3 Greenawalt?

4 A. Correct.

5 Q. Did y'all talk about what you had found?

6 A. He kind of gave me the rundown of, you know --
7 and we had spoke prior to that because obviously he had
8 called me, so I kind of knew what was going on. My main
9 function of showing up was the one for, you know, the bar
10 deal. But the second was for the -- hopefully, to get
11 narcotics involved.

12 Q. So you knew what you were dealing with,
13 obviously?

14 A. Yes, sir.

15 Q. Did you know the amount of cocaine that he had
16 found?

17 A. I knew there was roughly -- you know, in
18 speaking, he said almost an ounce.

19 Q. Okay. Almost an ounce.

20 A. Correct.

21 Q. Do you know how many grams in ounces?

22 A. About twenty-eight grams in an ounce.

23 Q. So you figured it was about twenty-eight grams?

24 A. Correct.

25 Q. SLED tested twenty-five, but that's close to

Victor Buskirk
Direct Examination by Mr. Wetmore
March 4, 2015

1 twenty-eight.

2 Now, when you arrived, the first thing you
3 wanted to know was that Mr. Robinson was read his Miranda
4 rights?

5 A. Correct.

6 Q. And did you witness Officer Greenawalt, the
7 other officer, reading him his rights?

8 A. I did.

9 Q. Tell me what you saw.

10 A. You know, I instructed him to go ahead and read
11 him his Miranda. I watched him go to the back of the
12 transport vehicle, opened up the door. Obviously, he's in
13 the back seat, Mr. Robinson was. And then Officer
14 Greenawalt read, from a Miranda card, the rights.

15 So I didn't hear word-for-word what -- their
16 conversation, but clearly I'm seeing him read off of the
17 Miranda card to Mr. Robinson.

18 Q. And was there anything about Mr. Robinson that
19 caused you to have concern over his giving a statement?
20 Intoxicated, anything like that?

21 A. Nothing that I would have observed. And with
22 working with narcotics and knowing that someone is
23 intoxicated or under the influence of drugs, we won't even
24 deal with them. It's just -- you know, it's a safety
25 issue and we just wouldn't do that.

Victor Buskirk
Direct Examination by Mr. Wetmore
March 4, 2015

1 Q. So in your opinion, he was okay to talk to?

2 A. In my opinion he was.

3 Q. Any kind of physical, mental, any kind of issues
4 that you noticed that would keep him from giving a free,
5 voluntary statement?

6 A. No, sir.

7 Q. Anything about what you were doing, or Officer
8 Greenawalt was doing, that cause us to question the
9 freeness or voluntariness of this statement? Were you
10 threatening him or anything?

11 A. No.

12 Our encounter was rather casual. You know, I'm
13 looking at him trying to -- you know, thinking that we're
14 trying to work our way up here, you know, understanding
15 that if somebody, you know, has that kind of dope, for
16 lack of a better word, cocaine on them, there is somebody
17 that's supplying that so I'm -- you know, I'm wanting to
18 work my way up. So there would be no intimidation there,
19 because we would be trusting him, to a degree, to do
20 things for us. So there would be no need to really
21 intimidate him on that.

22 Q. So it was a very friendly encounter with
23 Mr. Robinson as long as -- as much as you were involved?

24 A. Correct.

25 Q. Any question that the exchange you guys had was

Victor Buskirk
Direct Examination by Mr. Wetmore
March 4, 2015

1 a freely given voluntary statement?

2 A. I feel it was free.

3 Q. You know, why -- I mean, you've kind of already
4 touched on this. Why did you want him to work with the
5 narcotics people?

6 A. Well, clearly, you know, with that amount, we're
7 thinking, you know, mid-level dealer type thing, there's
8 people above him that are putting their hands on
9 substantially more than that. So we're trying to work our
10 way kind of up the food chain, for lack of a better term.
11 We're trying to get those upper-level dealers, so in doing
12 that, we utilize the lower ones.

13 Q. And did you present that possibility to
14 Mr. Robinson?

15 A. I did.

16 Q. If you can remember, let's talk about exactly
17 what you said back and forth.

18 A. It was -- pretty much, the exchange was I was
19 looking for him to work with our narcotics unit to provide
20 us with who he can get that amount from, and more. And he
21 pretty much told me, you know, I don't do that kind of --
22 I can't really do that for you. And he said, most of
23 that's fake anyway. So --

24 Q. And so did you mention the amount of cocaine
25 that had been found in his car?

Victor Buskirk
Direct Examination by Mr. Wetmore
March 4, 2015

1 A. In talking to him what -- you know, with him
2 saying, I really can't do that, you know, my thing was,
3 well, if somebody can put their hands on about an ounce of
4 cocaine, they can do things. And he was like -- that's
5 whenever he told me that, you know, pretty much, most of
6 that's fake anyway.

7 Q. So let me be clear here. You knew the amount,
8 roughly the amount, that had been found?

9 A. Correct.

10 Q. And you shared that amount with him

11 A. Correct.

12 Q. You told him, hey, there's about an ounce in
13 that car?

14 A. Yes.

15 Q. And you mentioned that in the context of, pretty
16 good bit of drugs, maybe you know where more are?

17 MR. COCHRAN: Object to leading at this point.

18 THE COURT: Rephrase that question.

19 Q. [Mr. Wetmore] Why would it be important to
20 share with him the amount of drugs that were found in the
21 car?

22 A. Because of the amount, knowing that that's more
23 than your typical user has. This is something that I felt
24 like I could -- you know, our narcotics unit could utilize
25 to get even more, because that's what I would consider a

Victor Buskirk
Direct Examination by Mr. Wetmore
March 4, 2015

1 mid-level amount.

2 Q. A mid-level amount.

3 And obviously an ounce is a good bit of cocaine?

4 It's a trafficking amount of cocaine?

5 MR. COCHRAN: Objection to --

6 Q. [Mr. Wetmore] -- correct?

7 MR. COCHRAN: -- the solicitor testifying.

8 THE COURT: Rephrase -- sustained. Rephrase
9 that question.

10 Q. [Mr. Wetmore] Is an ounce of cocaine a
11 trafficking amount of cocaine?

12 A. You only need ten grams for trafficking, so yes.

13 Q. On that side, did you inform, in some way,
14 Mr. Robinson that an ounce had been found in the car?

15 A. Yes, I did.

16 Q. And that was in your exchange about him working?

17 A. Yes, sir.

18 Q. But he declined to speak with narcotics or work
19 with the police?

20 A. Correct.

21 Q. When confronted with the knowledge that there
22 was an ounce found in the car, did he claim it?

23 A. The only thing he said to me was, you know, most
24 of that's fake. That's -- you know, that was our
25 exchange.

Victor Buskirk
Direct Examination by Mr. Wetmore
March 4, 2015

1 Q. When you asked about an ounce of cocaine he
2 said, well, most of it's fake?

3 A. Correct.

4 Q. He didn't distinguish, did he, some of that's
5 mine, some of it's not mine?

6 A. No, sir.

7 Q. The only distinction he made is that --

8 MR. COCHRAN: Object to leading.

9 THE COURT: Rephrase that question. Watch your
10 leading questions, Mr. Wetmore.

11 Q. [Mr. Wetmore]: The only distinction -- what
12 distinction did he draw?

13 A. That part of it was fake.

14 Q. Part of the ounce that --

15 A. Made reference to, yes.

16 Q. Did he indicate anything else belonged to
17 anybody else?

18 A. No, sir.

19 Q. Did he appear to know about the ounce of cocaine
20 found in the car?

21 A. I thought he was aware of it based on that
22 statement of, well, part of it's fake.

23 Q. That was his free and full statement?

24 A. Yes, sir.

25 Q. And did y'all talk about anything else?

Victor Buskirk
Direct Examination by Mr. Wetmore
March 4, 2015

1 A. No, sir.

2 Q. At that point, did you want to deal with him
3 anymore or did you have any reason to deal with him
4 anymore?

5 A. There was no reason for me to react with him
6 anymore. I mean, he pretty much told me he couldn't do it
7 and, you know, that was the end of it.

8 Q. So you didn't take part in dealing with the car
9 or dealing with the evidence? That would all be case
10 officers?

11 A. Correct.

12 Q. You didn't deal with the charges that were made
13 against Mr. Robinson, the basis for the charges?

14 A. No, sir.

15 Q. Why wasn't -- why didn't you charge anybody
16 else?

17 A. I wouldn't know why he didn't charge anybody
18 else. You know, the only person I spoke with was
19 Mr. Robinson.

20 Q. That small, limited interaction was your
21 involvement in the case?

22 A. Yes, sir.

23 MR. WETMORE: If I could have just a second,
24 Your Honor.

25 [Whereupon, Mr. Wetmore and Ms. Young confer]

Victor Buskirk
Cross-Examination by Mr. Cochran
March 4, 2015

1 Q. When you got there, you had been alerted to
2 Mr. Robinson by Officer Greenawalt; correct?

3 A. Correct.

4 Q. And Officer Greenawalt did not direct you to
5 speak with Kewanna Rivers; is that correct?

6 A. I don't recall speaking with a female.

7 Q. And you didn't speak with her; correct?

8 A. Not to my recollection.

9 Q. And he didn't bring her up to you at all?

10 A. I knew there was a female involved. But, you
11 know, based on the fact that he told me that, you know, he
12 had him in custody in the back of the car --

13 Q. Right.

14 A. -- then that's who I was directing my
15 questioning to at that time.

16 Q. And it was your understanding, by talking to
17 Officer Greenawalt, that Mr. Robinson had claimed the
18 cocaine?

19 A. Once he Mirandized him and came back up to me,
20 our exchange was, did you Mirandize him, yes, then I went
21 to him.

22 Q. And he Mirandized him under your instruction?

23 A. Correct.

24 Q. You asked him to Mirandize him?

25 A. Correct.

Victor Buskirk
Cross-Examination by Mr. Cochran
March 4, 2015

1 Q. So he now not --

2 A. Since I arrived on scene, I asked him to
3 Mirandize him because I didn't want to talk to him without
4 him being Mirandized.

5 Q. Why didn't you Mirandize him?

6 A. It was his case.

7 Q. And it was your understanding, then, that the
8 Miranda warnings had not been issued at that point;
9 correct?

10 A. From what I understood, no.

11 Q. So before the Miranda was read by Officer
12 Greenawalt, you were only directed by Officer Greenawalt
13 to speak with Anthony Robinson at that point; correct?

14 A. Correct.

15 MR. COCHRAN: Nothing further.

16 THE COURT: Mr. Wetmore?

17 MR. WETMORE: Just a couple of things.

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Victor Buskirk
Redirect Examination by Mr. Wetmore
March 4, 2015

REDIRECT EXAMINATION

BY MR. WETMORE:

Q. Lieutenant Buskirk, obviously there's no precise measurement on the cocaine until later --

A. Correct.

Q. -- with the chemist; is that correct?

Your field officer Greenawalt knew it was about an ounce; correct?

A. About an ounce. That's what I was told, about an ounce.

Q. And that's what he told you; is that correct?

A. Correct.

Q. Pretty close. Not exactly, but pretty close.

Did you inform the defendant that the amount found was about an ounce of cocaine?

A. Yes, I did.

Q. So he knew?

MR. COCHRAN: Objection.

THE COURT: What's your basis?

MR. COCHRAN: He's asking what my client knew.

Q. [Mr. Wetmore] Did you tell him --

THE COURT: Overruled. You may continue, Mr. Wetmore.

Q. [Mr. Wetmore] Did you tell him that almost an ounce of cocaine had been found in his car?

Victor Buskirk
Redirect Examination by Mr. Wetmore
March 4, 2015

1 A. Yes, I did.

2 Q. Obviously, you can't testify as to what he
3 comprehended. But he was told that; correct?

4 A. Correct.

5 Q. No question about that in your mind?

6 A. Not in my mind.

7 Q. All this stuff today Mr. Cochran indicated
8 wasn't videotaped?

9 A. Correct.

10 Q. But your memory is clear of the incident?

11 A. Yes, sir.

12 MR. WETMORE: I don't have anything further.

13 THE COURT: Mr. Cochran?

14 MR. COCHRAN: Nothing further, Your Honor.

15 Thank you:

16 THE COURT: You may step down. And I believe
17 you are free to go. Thank you.

18 THE WITNESS: Thank you, ma'am.

19 [Whereupon, Mr. Buskirk is excused and exits the
20 witness stand]

21 THE COURT: Call your next witness.

22 MR. WETMORE: The State calls Sargent Anthony
23 Williams.

24 THE COURT: Right up there, sir.

25 [Whereupon, Mr. Williams comes forward]

Anthony Williams
Direct Examination by Mr. Wetmore
March 4, 2015

ANTHONY WILLIAMS,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. WETMORE:

Q. Sargent Williams, how long have you been with
Charleston County Sheriff's Office?

A. Nine years. About nine and a half years.

Q. Have you been a detention -- a jail officer that
entire time, or did you do something else?

A. Detention.

Q. So you've been in that --

A. Yes.

Q. -- capacity the entire time?

Now, tell me a little bit about your duties at
the jail.

A. My current duties, or --

Q. Well, start out with what were you doing when
this incident happened September 21st, 2012?

A. At that time, I was a booking officer. I worked
in the part of the jail when people first come into the
jail, pat-search people, check paperwork, book them into
the system.

Q. And why -- I think it's probably pretty obvious.
Why is that important to check people and search people

Anthony Williams
Direct Examination by Mr. Wetmore
March 4, 2015

1 before they're booked in the jail?

2 A. Just to ensure they don't have any contraband on
3 them, anything that doesn't need to enter the jail.

4 Q. On that night, September 21st, 2012, did you
5 have the opportunity to book, search the defendant,
6 Anthony Robinson?

7 A. Yes. I was the searching officer.

8 Q. So tell me how that played out, how that went
9 down.

10 A. When I searched him -- typically what you do, if
11 you do your first pat search with the cuffs on, you know,
12 that's when you take off -- take everything out of their
13 pockets and make sure they don't have anything on them,
14 any weapons. Take everything off of them.

15 After you do the first search, you do the second
16 search with the cuffs off. At that time, you'll do
17 another complete search and towards the end you will have
18 them turn around and look at you and you will search their
19 mouth. You ask them to open their mouth, lift their
20 tongue to make sure there isn't any contraband there,
21 either.

22 Q. And in this instance dealing with Mr. Robinson,
23 did you ask him to lift up his tongue, open his mouth?

24 A. I did.

25 Q. Tell me about exactly -- the best of your

Anthony Williams
Direct Examination by Mr. Wetmore
March 4, 2015

1 memory, exactly what happened.

2 A. If I can recall, when I asked him to open his
3 mouth he was kind of hesitant in doing so. Typically when
4 that happens, you ask them again. In case they didn't
5 understand, you ask him again to open his mouth.

6 He appeared to try to conceal something by
7 moving around his tongue. So I asked him to hand over
8 whatever he had in his mouth. Didn't hand it over the
9 first time. I believe I asked a couple more times to hand
10 over the object, and I was handed over a small plastic bag
11 with white substance in it.

12 Q. So is it your opinion he was trying to hide that
13 bag?

14 A. Yes.

15 Q. But eventually -- it's obvious -- the more times
16 you asked to --

17 MR. COCHRAN: Objection. Leading.

18 THE COURT: Rephrase that question. Watch your
19 leading questions.

20 Q. [Mr. Wetmore] After asking him several times,
21 did he surrender the bag to you?

22 A. He did.

23 Q. What did you notice about the bag? Anything
24 unusual?

25 A. It appeared that the bag had been chewed a

Anthony Williams
Direct Examination by Mr. Wetmore
March 4, 2015

1 little, like it had little marks on there as if he was
2 trying to chew it.

3 Q. Was the bag itself cut or punctured?

4 A. I can't remember if it was cut or punctured.

5 I do remember it had like little marks on it as
6 if was trying to -- I can't remember if an actual hole was
7 placed in it or not. Can't recall.

8 Q. And how was it -- how did Mr. Robinson hand it
9 over to you?

10 A. He just used his hands.

11 Q. Did he --

12 A. Yes, he --

13 Q. -- spit it out, did you get it, or what?

14 A. No, no. I would never put my hand in anyone's
15 mouth. He handed it over to me.

16 Never was a problem. Wasn't irrate. It was
17 normal, just like handing over an object.

18 Q. No stress on either side?

19 A. Not that I can recall.

20 Q. After he handed you the plastic bag, what did
21 you do with it?

22 A. When I received it, I gave it over to North
23 Charleston transport officer Whitten.

24 Q. And do y'all put the bags in an evidence bag?

25 A. Normally what would happen -- I'm not sure if he

Anthony Williams
Direct Examination by Mr. Wetmore
March 4, 2015

1 had a plastic glove already that I placed it into or if I
2 just took the object and, you know, kept it in the glove I
3 already had. I can't remember which way.

4 Q. Sure.

5 But you believe that the bag was put in a
6 plastic bag?

7 A. Right.

8 Q. Is that typically what y'all do?

9 A. Correct.

10 Because if it's wet, you don't want to put it
11 inside of an envelope or anything so you typically keep it
12 in a plastic bag to keep it from breaking through.

13 Q. And y'all have plenty of plastic gloves doing
14 the job that you do?

15 A. Right.

16 Q. That's how you typically store the evidence?

17 A. Yes.

18 Well, we use gloves to pat-search people and
19 it's easy to use the glove to hand over the contraband
20 over to an officer, if it can fit in it.

21 Q. And after getting -- you said you gave it to
22 Officer Whitten?

23 A. Yes, North Charleston transport officer Whitten.

24 Q. We covered the little bags in the mouth.

25 What about Mr. Robinson? Did you have any

Anthony Williams
Cross-Examination by Mr. Cochran
March 4, 2015

CROSS-EXAMINATION

BY MR. COCHRAN:

Q. So you work at the detention center. And at intake, you receive their property, too?

A. Yes.

Q. Okay. So --

A. If they have any, yes.

Q. If the person has things in their pockets, things like that, it's all placed in property that they can retrieve when they leave the jail?

A. Correct.

Q. And do you recognize this as a return from the jail that you would sign off on retrieving your property?

A. Yes.

Q. And does that report that you're looking at indicate that a cell phone was returned?

A. It does.

MR. COCHRAN: Okay. Thank you, sir.

No further questions, Your Honor. Thank you.

THE COURT: Redirect, Mr. Wetmore?

MR. WETMORE: Just one question.

Anthony Williams
Redirect Examination by Mr. Wetmore
March 4, 2015

REDIRECT EXAMINATION

BY MR. WETMORE:

Q. The report, property report, that you were just looking at, Sargent, anywhere on there does it list that Mr. Robinson came to the jail with a jacket?

A. I would need to see it again. I can't remember what I read.

MR. WETMORE: Your Honor, if I may approach?

THE COURT: You may approach.

Q. [Mr. Wetmore] Does it appear that Mr. Robinson had his jacket with him when he got to the jail?

[Whereupon, the witness reviews documents]

A. I do not see a jacket listed.

MR. WETMORE: I don't have anymore questions.

Thank you.

THE COURT: Mr. Cochran?

MR. COCHRAN: Nothing further, Your Honor.

Thank you.

THE COURT: You may step down. You are free to leave or feel free to stay with us.

[Whereupon, Mr. Williams is excused and exits the witness stand]

THE COURT: Call your next witness.

MR. WETMORE: Monique Mouzon, North Charleston Police Department.

Mary Beth McCormack
Direct Examination by Mr. Wetmore
March 4, 2015

1 MARY BETH MCCORMACK,
2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. WETMORE:

6 Q. How long have you been with SLED, State Law
7 Enforcement Division?

8 A. For seven years this month.

9 Q. What is your position at SLED, or your title,
10 your duties?

11 A. I'm a forensic scientist in the drug analysis
12 department.

13 Q. What are your duties as a forensic scientist?

14 A. I analyze non-biological evidence for the
15 presence of controlled substances.

16 Q. I assume you have to have some sort of training
17 to do that job?

18 A. Yes, sir.

19 Q. Can you briefly describe to us your training,
20 education, that sort of thing?

21 A. Yes.

22 I have a bachelor of science degree in
23 chemistry and a master's in teaching chemistry and
24 physics, both from the University of South Carolina.
25 And I have completed training in the drug analysis

Mary Beth McCormack
Direct Examination by Mr. Wetmore
March 4, 2015

1 testing for in this case?

2 A. Anthony Robinson.

3 Q. Anthony Robinson.

4 MR. WETMORE: If I may approach?

5 THE COURT: You may.

6 [Whereupon, State's Exhibit Number 1 is marked
7 by the court reporter]

8 MR. WETMORE: Judge, at this point I would like
9 to introduce her report as State's Number 1.

10 THE COURT: Any objection?

11 MR. COCHRAN: No objection, Your Honor.

12 THE COURT: State's 1 into evidence without
13 objection.

14 [Whereupon, State's Exhibit Number 1 is admitted
15 into evidence by the Court]

16 Q. [Mr. Wetmore] So that is the report that you
17 created in this case?

18 A. Yes, sir.

19 Q. Now, take a look, if you would, please, at the
20 best kit, the drug evidence. Tell me whether or not that
21 package -- describe what you see there and help us
22 understand what we're looking at -- or what were you
23 looking at when you analyzed the evidence?

24 A. Okay. Inside this outer packaging -- which I
25 repackaged this evidence. Inside here is what we call a

Mary Beth McCormack
Direct Examination by Mr. Wetmore
March 4, 2015

1 best kit, is a tamper -- evidence kit that substances are
2 submitted to SLED in.

3 Q. And can you tell who you got that piece of
4 evidence from?

5 A. Yes, sir. I got it from Nikki Hughes.

6 Q. From Nikki Hughes?

7 A. Yes.

8 Q. Can you tell about what time you received that
9 bag, or no?

10 A. Yes. At 3:36 p.m. on September 28th, 2012.

11 Q. So there's no question in your mind those are
12 the drugs that you tested in this case, given your
13 paperwork?

14 A. Correct.

15 Q. Those are the ones that were delivered to you by
16 Ms. Hughes?

17 A. Yes, sir.

18 Q. Now, these items here, this evidence here, it's
19 in substantially the same condition today as when you
20 received it and where you did the testing?

21 A. Yes.

22 Q. There is some difference because of your
23 testing; correct?

24 A. Yes. I repackaged the evidence.

25 Q. But nothing you see there in that evidence cause

Mary Beth McCormack
Direct Examination by Mr. Wetmore
March 4, 2015

1 you concern that anything had been tampered with?

2 A. No.

3 That has a seal with my initial, and it appears
4 to not have been tampered with.

5 Q. Tell me exactly what test you performed on the
6 drugs in this case.

7 A. I performed a preliminary test and a
8 confirmatory test. Which in this case the preliminary was
9 a color spot test and the confirmatory test was the gas
10 chromatography mass spectrometry.

11 Q. And you did these tests yourself?

12 A. Yes, sir.

13 Q. And so what do these tests actually determine?
14 What are they supposed to tell you?

15 A. They determine what substances are present.

16 Q. Going through your report, can you tell us the
17 results, your results, from testing? Tell us what we have
18 here in that bag.

19 A. Yes.

20 There was cocaine found, 11.7 grams; cocaine
21 found, 120 grams; no controlled substance detected;
22 cocaine found with a combined weight of 1.6 grams; and
23 methalone found less than 0.1 grams.

24 MR. WETMORE: Madam Court -- Clerk, I'm sorry,
25 is there any way I can turn that on? Is that what

Mary Beth McCormack
Direct Examination by Mr. Wetmore
March 4, 2015

1 you're doing for me --

2 [Off the record momentarily]

3 MR. WETMORE: If I may approach the witness,
4 Your Honor?

5 THE COURT: You may.

6 MR. WETMORE: I would like to publish State's
7 Number 1 on the projector.

8 Q. [Mr. Wetmore] This is State's Number 1. This
9 is the report that you created that we're talking about
10 now; right?

11 A. Yes.

12 [Off the record momentarily]

13 Q. [Mr. Wetmore] So the first thing in State's
14 Number 1, that's what you're talking about -- how was it
15 packaged when you got the first item, item 1.11?

16 A. All of the bags were packaged in an evidence
17 bag, and then I itemized those bags into five different
18 items.

19 Q. So tell us about the first one. Like I said, I
20 thought it might be helpful to see the report while you're
21 doing this so we can make sure --

22 A. Okay. Item 1.1, I have two plastic bags, each
23 containing a powder substance. Item 1.1.2 --

24 Q. Let's just focus on this one first. I'm sorry.

25 A. Okay.

Mary Beth McCormack
Direct Examination by Mr. Wetmore
March 4, 2015

1 Q. Two plastic bags with white powder substance.
2 Your results? Did it test positive for cocaine?

3 A. Yes, sir.

4 Q. And the weight that you found was?

5 A. 11.7 grams.

6 Q. And it looks like it says 180.5 grains.

7 A. Yes.

8 Q. Is that correct?

9 A. Yes.

10 Q. And then tell me about the next item, the next,
11 under 1.1.2.

12 A. Plastic bag containing powder substance.
13 Cocaine found, 12.0 grams, which converted to 185.1
14 grains.

15 Q. So that was the second item?

16 A. Yes.

17 Q. The third item was what? That was another bag?

18 A. Another bag containing powder substance. And
19 there were no controlled substances detected.

20 Q. So one bag didn't have cocaine or anything in it
21 that was a controlled substance?

22 A. Correct.

23 Q. But you couldn't tell what it was? You didn't
24 try to?

25 A. I did not confirm what it was, but I did

Mary Beth McCormack
Direct Examination by Mr. Wetmore
March 4, 2015

1 indicate what the substance was.

2 Q. I haven't seen that. Can you tell us what it
3 was, if you know?

4 A. May I refer to my notes, please?

5 Q. Sure. Absolutely. I didn't know what you had
6 brought.

7 [Whereupon, the witness reviews documents]

8 A. All right. That substance is indicated to be
9 caffeine, but I did not confirm that it was caffeine.

10 Q. [Mr. Wetmore] So then item 1.1.4, tell me what
11 that is and what you found in these bags.

12 A. Okay. There were three plastic bags, each
13 containing powder substance. Cocaine was found with a
14 combined weight of 1.6 grams. I can't quite see the
15 grains. 24.6 grains.

16 Q. So those -- we talked about those four items. I
17 think there's another one here on page 2. Tell me about
18 that.

19 A. This is a glove that contained a plastic bag
20 containing powder substance. Methalone found, less than
21 0.1 grams.

22 Q. So just trace amounts of something called
23 methalone?

24 A. Yes, sir.

25 Q. So looking at your report, State's Number 1,

Mary Beth McCormack
Direct Examination by Mr. Wetmore
March 4, 2015

1 there's two bags of 11.7 grams of cocaine, one bag with
2 12 grams of cocaine, three bags with 1.6 grams of cocaine,
3 and then one bag that was no controlled substance,
4 possible caffeine, and one of them was methalone?

5 A. Yes, sir.

6 MR. WETMORE: Is that showing up there?

7 Q. [Mr. Wetmore] This is State's Number 1.
8 Looking at this best kit --

9 MR. WETMORE: I would like to mark that as
10 State's Number 2, if I could.

11 [Whereupon, State's Exhibit Number 2 is marked
12 by the court reporter]

13 Q. [Mr. Wetmore] So you -- all of that bagging is
14 secured in that best kit; correct?

15 A. Yes.

16 Q. All these items that you have laid out in your
17 report, you can kind of look at those attached to the best
18 kit?

19 A. Yes.

20 MR. WETMORE: Your Honor, at this point I would
21 like to admit State's Number 2, which is the best kit.

22 THE COURT: Any objection?

23 MR. COCHRAN: No objection.

24 THE COURT: State's 2 into evidence without
25 objection.

Mary Beth McCormack
Direct Examination by Mr. Wetmore
March 4, 2015

1 [Whereupon, State's Exhibit Number 2 is admitted
2 into evidence by the Court]

3 Q. [Mr. Wetmore] Now, after you tested the cocaine
4 and possible caffeine and methalone, all those -- all the
5 drugs in this case, what did you do with it? Did you do
6 anything specific with it?

7 A. I repackaged all the evidence in this heat-
8 sealed pouch, dated, initialed, and then placed it in what
9 -- we call it the drug vault in our department, that is a
10 secure location, until I returned it to evidence log-in.

11 MR. WETMORE: I have no further questions at
12 this time.

13 THE COURT: Mr. Cochran?

14 MR. COCHRAN: Thank you, Your Honor. May it
15 please the Court:

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Mary Beth McCormack
Cross-Examination by Mr. Cochran
March 4, 2015

CROSS-EXAMINATION

BY MR. COCHRAN:

Q. Ma'am, all of these -- so these were separate baggies of white powder substances that came to you; right?

A. Yes, sir.

Q. But they all came together in one larger container?

A. Yes.

Q. And was that also a larger plastic bag?

A. It was an evidence bag.

Q. And was there any indication on each individual baggie in terms of lumping them together or grouping them together in any way?

A. I did not make note of that.

Q. And if you look at your report, for instance if we look at 1.1.1, these were two baggies that were, all together, 11.7 grams; correct?

A. Yes, sir.

Q. Why were those two tested together?

A. I actually made a note of that on my worksheet. Can I refer to it?

Q. You can.

A. Those two bags -- I'll read what I wrote. Both bags were untied and leaking; treating as one sample.

Mary Beth McCormack
Cross-Examination by Mr. Cochran
March 4, 2015

1 Q. So by the way they were presented to you after
2 transportation -- after transporting, I guess, you wanted
3 to just test them together?

4 A. I did test them and treated them as one item.

5 Q. And you -- do you know the split? Because, I
6 mean, there are two bags with a total of 1.7 grams. Do
7 you know how much each weighed?

8 A. No, sir.

9 Q. And then would that also be true of 1.1.4?
10 There were three plastic bags that were tested together.

11 A. I individually tested those.

12 Q. You individually tested those?

13 A. Yes. Tested and weighed.

14 Q. And they had a combined weight of 1.6 grams?

15 A. Yes.

16 Q. Did you -- do you have the individual weights
17 for each of those?

18 A. I do.

19 Q. And what are the individual weights for those?

20 A. 0.6 grams; 0.5 grams; and 0.5 grams.

21 Q. 0.6 and 0.5 and 0.?

22 A. 5.

23 Q. 5.

24 Was there any reason for testing those together?

25 A. I tested those together -- we use analysts

Mary Beth McCormack
Cross-Examination by Mr. Cochran
March 4, 2015

1 discretion if the bags look the same. That's why I
2 grouped them together. But I did test all three and they
3 all three had the same results.

4 Q. Okay. And there was no indication from law
5 enforcement, when you were presented with these
6 containers, that would in any way group them together in
7 specific groups --

8 A. No.

9 Q. -- or separate groups?

10 MR. COCHRAN: Beg the Court's indulgence.

11 THE COURT: Take your time.

12 [Whereupon, Mr. Cochran and Mr. Malloy confer]

13 MR. COCHRAN: Nothing further, Your Honor.

14 Thank you.

15 THE COURT: Anything further, Mr. Wetmore?

16 MR. WETMORE: Judge, I just have one brief
17 witness, Ms. Shana Brown.

18 THE COURT: You haven't got any redirect?

19 MR. WETMORE: No, Judge. I'm sorry.

20 THE COURT: You may step down. You are free to
21 go.

22 THE WITNESS: Thank you.

23 [Whereupon, Ms. McCormack is excused and exits
24 the witness stand]

25 THE COURT: Lunch is here. Do you want to take

Shana Brown
Direct Examination by Mr. Wetmore
March 4, 2015

SHANA BROWN,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. WETMORE:

Q. Back in September 21st, 2012, did you own the
white Olds 88 that was the subject of this case?

A. Yes, I did.

Q. That night, at about 2:00 in the morning on
Ashley Phosphate Road at a club, were you out there with
the car at that time?

A. Yeah. I was called on the scene.

Q. Were you out at the club initially with the car?
Did you drive the car there?

A. No, I didn't.

Q. Who had borrowed the car from you?

A. I had lent the car to Ms. Rivers.

Q. Ms. Rivers?

A. Uh-huh. Because she has the permit and the
license.

Q. And with Ms. Rivers, was there anyone else that
you know of?

A. Yeah. It was Anthony.

Q. The defendant --

A. Uh-huh.

Shana Brown
Direct Examination by Mr. Wetmore
March 4, 2015

1 Q. -- was with Ms. Rivers when they borrowed the
2 car?

3 A. Uh-huh.

4 Q. Did anybody else have permission from you, the
5 owner --

6 A. No. Only --

7 Q. -- to be using that car?

8 A. Only Ms. Rivers.

9 Q. And she was with Mr. Robinson?

10 A. Uh-huh.

11 Q. Did anybody else get permission from you to use
12 that car?

13 A. No.

14 Q. Now, what were you doing that night at midnight,
15 one o'clock, 2:00 in the morning?

16 A. I was sleeping.

17 Q. You were sleeping.

18 All right. Did you have any idea what was going
19 on with your --

20 A. No.

21 Q. -- your car?

22 A. Huh-uh.

23 Q. No idea who was driving it?

24 A. No.

25 Q. No idea what this defendant --

Shana Brown
Direct Examination by Mr. Wetmore
March 4, 2015

1 A. When they left my house, Ms. Rivers was driving
2 it.

3 Q. So when it left your house, Ms. Rivers was
4 driving?

5 A. Uh-huh.

6 Q. But once it left --

7 A. I don't know.

8 Q. -- you don't have any information?

9 A. Huh-uh.

10 Q. Obviously, you can't comment on what the
11 defendant had in the car.

12 A. No.

13 Q. Are you aware that a large amount of cocaine was
14 found in your car?

15 A. Yeah. I was told by the police.

16 Q. Was it yours?

17 A. No.

18 Q. Did you put it there? Did you leave it there?

19 A. No.

20 Q. When it left -- when the car left your control,
21 did it have a large amount of cocaine in it?

22 A. No.

23 Q. What about a larger, black hooded sweatshirt on
24 the back seat behind the driver's side?

25 A. Not of my knowledge.

Shana Brown
Direct Examination by Mr. Wetmore
March 4, 2015

1 Q. You didn't leave that there?

2 A. No.

3 Q. It wasn't there when you lent the car, was it?

4 A. No.

5 I didn't search the car and see if there was a
6 jacket there --

7 Q. Right.

8 A. -- before they took it, so --

9 Q. But you don't remember one being there?

10 A. No.

11 Q. Now, tell me how you learned your car was
12 involved in all this mess up by the club.

13 A. I got a phone call from Ms. Rivers.

14 Q. Were you afraid your car was getting towed or
15 what did you --

16 A. Yes.

17 Q. -- what did you -- what did you understand the
18 situation to be?

19 A. When Ms. Rivers called me, she was -- both of
20 them was getting detained from the police so of my
21 knowledge coming to the scene, that both of them was being
22 locked up. So I was the owner of the vehicle so I was
23 just coming to retrieve my vehicle.

24 Q. So you ran up there to get it.

25 And did the police go ahead and give it to you

Shana Brown
Direct Examination by Mr. Wetmore
March 4, 2015

1 and let you take it on home?

2 A. Uh-huh.

3 MR. WETMORE: I don't have anything further.

4 Thank you.

5 THE COURT: Mr. Cochran?

6 MR. COCHRAN: May it please the Court, Your
7 Honor.

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Shana Brown
Cross-Examination by Mr. Cochran
March 4, 2015

CROSS-EXAMINATION

BY MR. COCHRAN:

Q. So is Kewanna Reeves the person you lent your car to?

A. Yeah. Kewanna Rivers.

Q. Kewanna Rivers. I'm sorry.

A. Uh-huh.

Q. And she drove the car away that night and Mr. Robinson was with her?

A. Uh-huh.

Q. And you actually saw them drive away with her in the driver's seat?

A. Yes.

Q. And you know her well enough to lend your car to her; right?

A. Yes.

Q. Do you know her to wear men's clothing?

A. Yes.

Q. Okay. Why does she wear men's clothing?

A. She was bad. She --

Q. I'm sorry. You said she was --

A. She was bad. Yeah.

Q. What does that --

A. She --

Q. -- what does that mean?

Shana Brown
Cross-Examination by Mr. Cochran
March 4, 2015

1 A. She dress like a dude.

2 Q. Okay. Why is that?

3 A. She liked females --

4 Q. So she's a lesbian?

5 A. Uh-huh.

6 Q. And have you ever seen her with drugs?

7 A. Yes.

8 Q. Have you ever seen her sell drugs?

9 A. Uh-huh.

10 MR. COCHRAN: No more questions.

11 THE COURT: Mr. Wetmore?

12 MR. WETMORE: Nothing further.

13 THE COURT: You may step down. You are free to
14 go.

15 THE WITNESS: Thank you.

16 [Whereupon, Ms. Brown is excused and exits the
17 witness stand]

18 THE COURT: Mr. Wetmore, call your next witness.

19 MR. WETMORE: At this point, the State rests.

20 THE COURT: Ladies and gentlemen, you have now
21 heard all the testimony you will hear from the State.
22 That indicates to the Court that there is a matter of
23 law that I must take up outside of your presence.
24 This is also a good time for your lunch break because
25 your lunch is here.

Shana Brown
Cross-Examination by Mr. Cochran
March 4, 2015

1 Ladies and gentlemen, do not begin discussing
2 this case. Do not -- please make sure you follow all
3 of my admonitions. After you have eaten your lunch if
4 you will indicate to the bailiffs, we'll receive you
5 back in the courtroom after we have finished our legal
6 matters.

7 Please rise for the jury.

8 [Whereupon, the jury exits the courtroom at
9 1:52 p.m.]

10 THE COURT: Thank you. Please be seated.
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Motion for a Directed Verdict
by Mr. Cochran
March 4, 2015

MOTION FOR A DIRECTED VERDICT

THE COURT: Mr. Cochran, any motions or matters?

MR. COCHRAN: Your Honor, at this point the defense would renew all motions and objections previously made.

I would also make a motion for a directed verdict, Your Honor, in terms of the trafficking charge. I think that there is enough evidence from the State's case that there were two people in this car and that they have not provided any evidence that this -- these substances were in the sole custody and control of Mr. Robinson. And, more importantly, they have not specifically given any evidence tending to prove that there was specifically ten or more grams within his custody and control. Given the evidence taken together from the officer and from the analyst, there were numerous baggies of cocaine containing different amounts of cocaine and it's very possible that the amount that was in the center console was less than ten grams and there has been nothing to indicate that Mr. Robinson specifically knew about the cocaine in the back seat that was contained in the black jacket.

THE COURT: Mr. Wetmore, your response to his previous motions? Anything concerning those?

Motion for a Directed Verdict
by Mr. Cochran
March 4, 2015

1 MR. WETMORE: Judge, I just would say as to the
2 amounts which obviously, in fact, is a trafficking
3 charge. The total weight, 15.3 grams. Okay? Of that
4 amount, twelve, about half, was in the jacket. All
5 the rest was in the center console in a bag.

6 And I think it's -- you know, obviously the most
7 important evidence I want you to consider for us is
8 that Mr. Robinson spoke with two police officers and
9 claimed that it was his. He didn't distinguish, well,
10 some of it's mine and some's not.

11 At any rate, in both locations you have a
12 trafficking amount. Mr. Robinson claimed all of it.
13 He said, it's mine. He didn't distinguish. In fact,
14 he even gave details to the police officer. He said,
15 well, some of that's going to end up being fake. And
16 he was right, because he knew it was his. Anyway,
17 Judge, as I said, you've got that credible evidence.

18 Judge, the owner of the vehicle said that when
19 she handed it to them, handed the car to them, it did
20 not have cocaine -- she couldn't imagine it had a
21 black hooded jacket in it.

22 And, Judge, I think we've at least met the
23 standard to go to the jury and ask you deny the
24 motion.

25 THE COURT: Anything further --

Motion for a Directed Verdict
by Mr. Cochran
March 4, 2015

1 MR. COCHRAN: No, Your Honor.

2 THE COURT: -- Mr. Cochran?

3 MR. COCHRAN: No, Your Honor.

4 THE COURT: As to all your previous motions, I
5 stand by the Court's original ruling. I haven't heard
6 anything that would cause me to change my ruling at
7 this time.

8 And in ruling on a motion for a directed
9 verdict, under Rule 19 under the rules of criminal
10 procedure, I must view the evidence and all reasonable
11 inferences in the light most favorable to the
12 nonmoving party. I am concerned only with the
13 existence or non existence of the evidence. The
14 defendant is charged with trafficking, an impertinent
15 point, so I do not have to read the entire statute to
16 prove possession, which I believe is at issue in this
17 case.

18 The State must prove beyond a reasonable doubt
19 that the defendant had both the power and the intent
20 to control the disposition or use of the cocaine and
21 possession may be either constructive or actual. Must
22 prove beyond a reasonable doubt that the amount of
23 cocaine or any mixture containing cocaine was ten
24 grams or more but less than twenty-eight grams.

25 Based upon the testimony that has been

Motion for a Directed Verdict
by Mr. Cochran
March 4, 2015

1 presented, viewed in the light most favorable to the
2 State, your motion for directed verdict is denied.
3 Note your exception to my ruling.
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State vs. Anthony Robinson
Verdict
March 4, 2015

VERDICT

THE COURT: Mr. Foreman, I understand you have reached a verdict. If you will please hand the form to the bailiff.

[Whereupon, the bailiff proffers documents to the Court]

THE COURT: Mr. Robinson, please rise.

THE CLERK OF COURT: The State of South Carolina, in the County of Charleston, for the Court of General Sessions for the Ninth Judicial Circuit, case number 2012-GS-10-00109, the State of South Carolina versus Anthony Janirus Robinson, we, the jury, find the defendant, Anthony Robinson, guilty of simple possession of cocaine. Signed Mr. Foreperson on this date.

Ladies and gentlemen of the jury, if this is your verdict, please indicate so by raising your right hand.

Please let the record reflect that all jurors have raised their right hand.

THE COURT: Thank you.

Anything required of the jury? Mr. Wetmore?

MR. WETMORE: Nothing.

MR. COCHRAN: No, Your Honor.

THE COURT: Are you prepared for sentencing?

State vs. Anthony Robinson
Verdict
March 4, 2015

1 MR. WETMORE: Yes, Your Honor.

2 THE COURT: Do you have your sentencing sheet or
3 did Ms. Young go get --

4 MR. WETMORE: Ms. Young is getting it right now.
5 I can begin the process without her if --

6 THE COURT: All right. Are you prepared to go
7 forward with sentencing at this time?

8 MR. COCHRAN: Yes, Your Honor.

9 THE COURT: All right. Thank you.

10 Ladies and gentlemen, I am going to sentence
11 Mr. Robinson at this time. It typically takes about
12 fifteen minutes, so please let me know if there is
13 anyone who cannot stay until just a wee bit after
14 5:00. Thank you.

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State vs. Anthony Robinson
Sentencing
March 4, 2015

SENTENCING

THE COURT: Mr. Wetmore, I have heard the facts. If you will please give me Mr. Robinson's prior criminal record.

MR. WETMORE: I will, Judge. Obviously, you're well aware of the facts. He does have a prior criminal history, Judge: a 2001 breaking into auto, two counts of that; 2001, he also has another instance with three counts of breaking into auto, three separate incidents; and later that year, two more counts of breaking into auto; also 2001, petty larceny. The next conviction I see is 2002, distribution of cocaine. He got time served for that, Judge. And then I show 2003, failure to stop for blue light. Again, he got time served for that. Again in 2003, another breaking into auto. And then also 2003, distribution of crack cocaine near a school. On that he got a -- he got a youthful offender sentence. And then, 2005, driving under suspension; 2006, assault and battery of a high and aggravated nature; 2006, possession of cocaine, failure to stop for blue light, resisting arrest; 2009, driving under suspension; 2009, careless driving; 2010, driving under suspension; 2010, giving false information, open container; 2011, failure to stop for a blue light,

State vs. Anthony Robinson
Sentencing
March 4, 2015

1 reckless endangerment to a child; 2012, driving under
2 suspension.

3 And, Judge, he does have -- after this
4 trafficking case he was arrested a month, almost to
5 the day, later and charged with some gun charges that
6 are obviously still pending.

7 Those are his convictions.

8 THE COURT: And so this will be a possession of
9 cocaine third offense; is that correct?

10 MR. WETMORE: Correct, Judge.

11 THE COURT: And what is the potential
12 punishment?

13 MR. WETMORE: Zero to ten.

14 THE COURT: Does the State take position as to
15 sentencing?

16 MR. WETMORE: Judge, obviously, you know, our
17 position is we think he's guilty of trafficking. I
18 think he should get the maximum, especially given, you
19 know, he's got a bad record, he's got drug stuff, he's
20 got property crimes, he's got violent crimes, he's got
21 driving crimes, he's got everything.

22 So I think if -- you know, given the fact that
23 he's not accepted responsibility of his actions as
24 others do by pleading guilty, coupled with the fact
25 that there was a greater amount of drugs, in all

State vs. Anthony Robinson
Sentencing
March 4, 2015

1 honesty it probably should contribute to it. Combined
2 with the fact of his record, I do think that that's
3 fair.

4 THE COURT: Mr. Cochran, I'll be happy to hear
5 from you regarding sentencing.

6 First, did you advise your client of his right
7 to appeal?

8 MR. COCHRAN: Yes, Your Honor.

9 THE COURT: And I'm aware that you probably told
10 Mr. Robinson not to make any statements to the Court,
11 to protect his right to appeal, so I understand that.
12 So I'll be happy to hear from you, or whomever, as
13 regard to sentencing.

14 MR. COCHRAN: Thank you, Your Honor. May it
15 please the Court.

16 I would like to point out that his drug history
17 is somewhat limited and all almost ten years old. The
18 bulk of his criminal history has been an issue as to
19 having his driver's license, driving without a
20 license, and those things have kind of piled up on
21 him.

22 But, Your Honor, in terms of what he's doing
23 with his life right now, every time I talk to him he
24 is taking care of his kids. He is -- besides being
25 caretaker for them, he is working for a heating and

State vs. Anthony Robinson
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March 4, 2015

1 air company and taking classes at Trident Tech. He
2 showed me that he's taking classes to get a culinary
3 arts degree. He's worked for the past as a cook.

4 Your Honor, this -- in terms of the drugs, this
5 has not been a pattern of behavior. I believe that
6 Mr. Robinson really does have a cocaine habit and had
7 no intention of selling drugs that night.

8 Your Honor, this was a situation where he
9 cooperated fully with the police. And in terms of
10 accepting responsibility, you know, I mean, his offer
11 was never for less than a trafficking charge. So I
12 think that he would have pled to a lesser charge. I
13 was actually begging at one point for a PWID for -- as
14 a lesser included to a plea, and we never were offered
15 that. So I think he would have taken responsibility
16 if given a reasonable opportunity where he wasn't
17 facing an enormous amount of prison time.

18 I understand that he has a lengthy criminal
19 record. I do not think that the maximum would be
20 appropriate in this case. I understand that Your
21 Honor may feel that probation would not be appropriate
22 in this case. I didn't find that -- request that
23 because of my personal knowledge of him and his family
24 and the care he gives to his kids.

25 He had a very strong family support. They

State vs. Anthony Robinson
Sentencing
March 4, 2015

1 didn't get back in time for sentencing. Very strong
2 family support. I've spoken to them at length about
3 this, Your Honor.

4 I would request that you at least consider
5 probation and if not probation, a short active
6 sentence with probation.

7 THE COURT: Mr. Robinson, anything you wish to
8 tell me? I'll remind you you're still under oath.

9 MR. ROBINSON: I don't have anything.

10 THE COURT: And you have been advised of your
11 right to appeal but you or your attorney must do so
12 within ten days. Do you understand that?

13 MR. ROBINSON: Yes, ma'am.

14 THE COURT: You understand you are facing a
15 potential of up to ten years in the department of
16 corrections and a fine up to \$12,500?

17 MR. ROBINSON: Yes, ma'am.

18 THE COURT: Anything else, Mr. Cochran?

19 MR. COCHRAN: No, Your Honor.

20 THE COURT: Anything else from the State?

21 MR. WETMORE: Judge, I do have the paperwork, if
22 you would like it now.

23 THE COURT: All right. Thank you.

24 MR. WETMORE: If I may approach?

25 THE COURT: Please.

State vs. Anthony Robinson
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March 4, 2015

1 [Whereupon, Mr. Wetmore proffers documents to
2 the Court]

3 THE COURT: Thank you.

4 Mr. Robinson, based upon the amount of drugs and
5 your prior criminal history, it's the order of the
6 Court on 2013-GS-10-0109 that you be committed to the
7 State Department of Corrections for a term of ten
8 years and pay a fine of \$12,500. I give you credit
9 for any time that you have served. Good luck to you,
10 sir.

11 MR. COCHRAN: Thank you, Your Honor.

12 THE COURT: Thank you, Mr. Wetmore, Mr. Cochran.

13 MR. WETMORE: Thank you, Your Honor.

14 THE COURT: Ladies and gentlemen, you have
15 completed your service to this case. If you would
16 please return back to the jury room, I'll be in there
17 in just a few moments to personally thank you for your
18 service.

19 [Whereupon, the jury exits the courtroom at
20 4:57 p.m.]

21 THE COURT: Thank you.

22 Outside the presence of the jury, anything
23 further?

24 MR. WETMORE: Nothing, Judge.

25 THE COURT: Anything further?

State vs. Anthony Robinson
Sentencing
March 4, 2015

1 MR. COCHRAN: No, Your Honor.

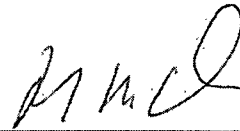
2 THE COURT: And as always, Mr. Wetmore and
3 Ms. Young, Mr. Cochran and Mr. Malloy, thank you. You
4 tried a great case. You're always courteous and
5 professional to the Court. Thank you for your
6 professionalism and your zealous representation of
7 your clients.

8 [JURY TRIAL CONCLUDES AT 4:58 P.M.]
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CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Dated: June 1st, 2016



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ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Kristi L. Harrington, Circuit Court Judge

RECEIVED

JUN 01 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

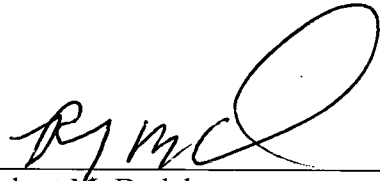
v.

ANTHONY JANIRUS ROBINSON,

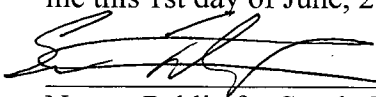
APPELLANT.

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above-referenced case has been served upon Amie L. Clifford, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 1st day of June, 2016.


Robert M. Dudek

SUBSCRIBED AND SWORN TO before
me this 1st day of June, 2016.


Notary Public for South Carolina

My Commission Expires: October 30, 2022.

(L.S.)