

Volume I of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Horry County

G. Thomas Cooper, Jr., Circuit Court Judge

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S.C. SUPREME COURT

REGGIE PINKNEY,

RESPONDENT,

V.

STATE OF SOUTH CAROLINA,

PETITIONER

APPELLATE CASE NO. 2016-000117

APPENDIX

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF HORRY		
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	05-GS-27-1401
	)	
Reggie Allen Pinkney,	)	
	)	
Defendant.	)	

TRANSCRIPT OF JURY TRIAL

The within jury trial was held on October 26-27, 2005, before The Honorable R. Markley Dennis, Jr. in the Court of General Sessions, Horry County, the Horry County Courthouse, Conway, South Carolina; attended by counsel, as follows:

APPEARANCES:

Tim Meacham, Assistant Solicitor
Appearing for State of South Carolina

J. M. "Buddy" Long, III, Esq.
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Appearing for Defendant

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1 THE COURT: Good morning, ladies and
2 gentlemen. Thank you for your patience in this
3 matter as we have been trying to get it
4 resolved.

5 There were two cases set for this
6 morning. One of them we have resolved, and
7 thank you for your help.

8 The next case, what I want to do is
9 pick the jury, because there's still some
10 matters of law that I have to take up, and I
11 have to take it up out of your presence. And
12 rather than keep everybody waiting, we're going
13 to pick our jury. You'll get an early lunch and
14 then we'll start with the case. While you're at
15 lunch we'll take care of those matters and then
16 we'll be ready to go. So you'll get a little
17 bit early lunch, and we'll try to move it as
18 quickly as possible.

19 The case this morning with which we
20 need your assistance is The State of South
21 Carolina, who is the party who is making the
22 claim -- the claim is being made against Reggie
23 Pinkney. I say "claim" because really that's
24 what, in essence, is being done. The State has
25 filed a charge and accused Mr. Pinkney of

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1 committing a crime, or two crimes, in fact, in
2 this case.

3 I have two indictments which I hold in
4 my hand. Ladies and gentlemen, they are what
5 they appear to be and what you see. They're
6 pieces of paper. And that's it. They're not
7 evidence. They merely contain the accusations
8 or allegations the State has made. That's why I
9 say it's a claim that we need your assistance in
10 resolving.

11 Mr. Pinkney is from Conway. Is that
12 correct?

13 MR. LONG: That's correct, Your
14 Honor.

15 THE COURT: Are there any members of
16 the jury panel related by blood or marriage,
17 have any business dealings, socially or casually
18 acquainted with an individual by the name of
19 Reggie Pinkney? If so, please stand. (No
20 response). Thank you. There are none.

21 Mr. Pinkney is represented by Mr. Long.
22 If you would identify yourself, please, and your
23 law firm.

24 MR. LONG: I'm Buddy Long, J. M.
25 Long, III and I represent the defendant.

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1 THE COURT: Thank you, Mr. Long.

2 Are there any members of the jury panel related
3 by blood or marriage, have any business dealings
4 with, socially or casually acquainted with, ever
5 been represented by Mr. Long or his law firm,
6 please stand? (No response). Thank you. There
7 are none.

8 I'm going to identify a number of
9 persons, ladies and gentlemen. If you are
10 related by blood or marriage, have any business
11 dealings with, socially or casually acquainted
12 with any of these persons, please stand and
13 share that information, please:

14 Detective Robert Bradley, Conway Police
15 Department,

16 Detective Robert Robinson, also Conway
17 Police Department,

18 Detective Jill Domogauer, Conway Police
19 Department,

20 Officer Tyrone Williams with the Conway
21 Police Department, and

22 Lisa Floyd with the Horry County Police
23 Department.

24 Any of those individuals? Yes?

25 JUROR: Detective Bradley recently

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1 investigated a robbery at my business.

2 THE COURT: Is it an ongoing
3 investigation?

4 JUROR: Somebody has been arrested.

5 THE COURT: Somebody has been? So
6 he'd not dealing with you now.

7 JUROR: No, sir.

8 THE COURT: The fact that you've had
9 that professional dealing with him, would that
10 affect or influence you in this case?

11 JUROR: No.

12 THE COURT: If Detective Bradley
13 should testify in this matter would you consider
14 his testimony the same as any witness testifying
15 in this matter?

16 JUROR: Yes.

17 THE COURT: And would your decision,
18 sir, be based on the evidence and the law and
19 would it be fair to both sides?

20 JUROR: Yes.

21 THE COURT: Your name and number,
22 please?

23 JUROR: John Miller, 215.

24 THE COURT: Thank you, Mr. Miller.

25 Are there others? Thank you. There appear to

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1 be none.

2 Also, are any members of the jury panel
3 related by blood or marriage, have any business
4 dealings with, socially or casually acquainted
5 with David Graham and Mr. Pinkney's mother? If
6 so, please stand. (No response). Thank you.
7 There are none.

8 The State in this case is being
9 represented by Mr. Meacham. If you would
10 identify yourself, please, and the office you
11 are with.

12 SOLICITOR MEACHAM: Yes, sir.
13 My name is Tim Meacham. I'm an Assistant
14 Solicitor here in Horry County.

15 THE COURT: Thank you, sir. Are
16 there any members of the jury panel related by
17 blood or marriage, have any business dealings
18 with, socially or casually acquainted with Mr.
19 Meacham, ever been represented by him, have any
20 connection at all, please stand? (No response).
21 Thank you. There are none.

22 Are there any members of the jury panel
23 related by blood or marriage, have any business
24 dealings with, socially or casually acquainted
25 with the Solicitor, Mr. Greg Hembree? If so,

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1 please stand. Ever been represented by Mr.
2 Hembree, please stand. (No response). Thank
3 you. There are none.

4 Are there any members of the jury panel
5 related by blood or marriage to anyone employed
6 with the Solicitor's Office for the Fifteenth
7 Circuit. They have an office in Horry County
8 and in Georgetown?

9 SOLICITOR MEACHAM: Yes, sir.

10 THE COURT: If so, please stand.
11 (No response). Thank you. There are none.

12 The State, in these documents, ladies
13 and gentlemen, accuses Mr. Pinkney of the
14 following. And this is what I'm going to share
15 with you -- again it's merely accusations. It's
16 not considered evidence. But I need to ask you
17 certain questions about what's alleged.

18 First, Mr. Pinkney is accused that on
19 February 23, 2005, in Horry County he did
20 knowingly and willfully oppose and resist and
21 arrest being made on him by a law enforcement
22 officer when he knew or should have known that
23 the person was, in fact, a law enforcement
24 officer and that he was attempting to place him
25 under arrest. He's accused in this indictment

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1 of the offense of resisting arrest.

2 He's also accused that on that same
3 date, February 23, 2005, that he did knowingly
4 sell, deliver, purchase or bring into this state
5 or did aid, abet, attempt or conspire to sell,
6 deliver, purchase or bring into this state or
7 was in actual or constructive possession or
8 attempted to become in actual or constructive
9 possession of a quantity of crack cocaine in an
10 amount that was more than ten grams, but less
11 than twenty-eight grams; which is further
12 alleged to be violation of certain sections of
13 our Code of Laws.

14 I share that with you, first, to find
15 out if anybody on the jury panel has read
16 anything, has heard anything, do you have any
17 prior knowledge of this alleged dispute. If so,
18 please stand. (No response). Thank you. There
19 are none.

20 Is there anything, ladies and
21 gentlemen, about the nature of this dispute,
22 that is, someone being accused of resisting
23 arrest and basically the offense alleged is
24 known as trafficking in crack cocaine more
25 than ten grams but less than twenty-eight grams.

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1 Is there anything about the nature of those
2 offenses that you, because of some philosophy
3 you have, some strong feelings you have,
4 something that may have happened to you or a
5 member of your family or close personal friend,
6 that would affect or influence your ability to
7 be fair and impartial as a judge in this case
8 with me?

9 Your responsibility, of course, will be
10 to decide the true facts of this case,
11 considering the evidence. And the evidence will
12 consist of the testimony of the witnesses and
13 exhibits that are introduced, and nothing else.

14 Is there anything that would affect
15 your ability to be fair and impartial about what
16 we've discussed thus far? If so, please stand.
17 (No response). Thank you. There are none.

18 In fact, one of the things that would
19 happen right before we started this trial would
20 be that you would raise your hand and you would
21 make a commitment to the State and Mr. Pinkney
22 that you would, at the appropriate time, apply
23 your common sense, your sense of logic and
24 reason, fairly and impartially in deciding the
25 true facts. And then, once making that decision

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1 on the true facts, you would take the law as I
2 gave it to you and apply that law to those facts
3 so that your decision would be fair to both
4 sides. If you feel, ladies and gentlemen, that
5 any of you could not make that commitment, for
6 any reason, please stand. (No response). Thank
7 you. There are none.

8 Any additional questions from the
9 State?

10 SOLICITOR MEACHAM: None from the
11 State.

12 THE COURT: Any additional questions
13 from Mr. Pinkney?

14 MR. LONG: No, Your Honor.

15 THE COURT: Thank you very much.

16 When your name is called if you will follow the
17 Clerk's instructions, she will call your name
18 and ask you to step forward. And then each side
19 has a right to excuse persons from serving.
20 We'll go through this process. First, she'll
21 say "what says the State," and the State will
22 either say to excuse or present the juror.
23 Then she'll turn to Mr. Long, "what says the
24 defendant," and the same response. We'll go
25 through this process until we select our twelve

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1 jurors and our alternate. Thank you.

2 CLERK: When I call your name, please
3 come up here level with me and turn and face
4 back toward them. 269, Stella Boland.

5 (WITNESS BEFORE COUNSEL)

6 CLERK: What says the State?

7 SOLICITOR MEACHAM: Present Ms.
8 Boland, please.

9 THE CLERK: What say the defense?

10 MR. LONG: Please swear the juror.

11 THE CLERK: Have a seat in the jury
12 box, please.

13 (JUROR NUMBER 169 SEATED)

14 CLERK: Juror Number 70, Levi
15 Crawford.

16 (WITNESS BEFORE COUNSEL)

17 CLERK: What says the State?

18 SOLICITOR MEACHAM: Excuse Mr.
19 Crawford from this trial, please.

20 THE CLERK: You're excused from this
21 particular case.

22 (JUROR NUMBER 70 EXCUSED)

23 CLERK: 215, John Miller.

24 (WITNESS BEFORE COUNSEL)

25 CLERK: What says the State?

1 SOLICITOR MEACHAM: Present Mr.

2 Miller, please.

3 THE CLERK: Defense?

4 MR. LONG: Please excuse the juror
5 from the trial of this case.

6 THE CLERK: You're excused from this
7 particular case.

8 (JUROR NUMBER 215 EXCUSED)

9 CLERK: Juror Number 123, Robert
10 Goodman, Jr.

11 (WITNESS BEFORE COUNSEL)

12 CLERK: What says the State?

13 SOLICITOR MEACHAM: Present the
14 juror, please.

15 THE CLERK: Defense?

16 MR. LONG: Please swear the juror.

17 THE CLERK: Have a seat in the jury
18 box, please.

19 (JUROR NUMBER 123 SEATED)

20 CLERK: Juror Number 69, Shaneece Cox.

21 (JUROR BEFORE COUNSEL)

22 CLERK: What say the State?

23 SOLICITOR MEACHAM: Present Ms. Cox,
24 please.

25 THE CLERK: Defense?

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1 MR. LONG: Please swear the juror.

2 THE CLERK: Have a seat in the jury
3 box, please.

4 (JUROR NUMBER 69 SEATED)

5 CLERK: 167, Johnny Johnson.

6 (JUROR BEFORE COUNSEL)

7 CLERK: What says the State?

8 SOLICITOR MEACHAM: Excuse Mr.
9 Johnson from this trial, please.

10 THE CLERK: You are excused from this
11 particular case.

12 (JUROR NUMBER 167 EXCUSED)

13 CLERK: 275, Barbara Rowe.

14 (JUROR BEFORE COUNSEL)

15 CLERK: What says the State?

16 SOLICITOR MEACHAM: Present Ms.
17 Rowe, please.

18 THE CLERK: Defense?

19 MR. LONG: Please swear the juror.

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

22 (JUROR NUMBER 275 SEATED)

23 CLERK: 353, Keith Hall.

24 (JUROR BEFORE COUNSEL)

25 CLERK: What says the State?

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1 SOLICITOR MEACHAM: Present Mr.
2 Hall, please.
3 THE CLERK: Defense?
4 MR. LONG: Please swear the juror.
5 THE CLERK: Have a seat in the jury
6 box, please.
7 (JUROR NUMBER 353 SEATED)
8 CLERK: 66, Joseph Cotton.
9 (JUROR BEFORE COUNSEL)
10 CLERK: What says the State?
11 SOLICITOR MEACHAM: Excuse Mr.
12 Cotton from this trial, please.
13 THE CLERK: You're excused from this
14 particular case.
15 (JUROR NUMBER 66 EXCUSED)
16 CLERK: 111, Cheryl Goss.
17 (JUROR BEFORE COUNSEL)
18 CLERK: What says the State?
19 SOLICITOR MEACHAM: Present Ms.
20 Goss, please.
21 THE CLERK: Defense?
22 MR. LONG: Please swear the juror.
23 THE CLERK: Have a seat in the jury
24 box, please.
25 (JUROR NUMBER 111 SEATED)

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1 CLERK: 161, Jennifer Jackson.

2 (JUROR BEFORE COUNSEL)

3 CLERK: What says the State?

4 SOLICITOR MEACHAM: Present the
5 juror, please.

6 THE CLERK: Defense?

7 MR. LONG: Please swear the juror.

8 THE CLERK: Have a seat in the jury
9 box, please.

10 (JUROR NUMBER 161 SEATED)

11 CLERK: 83, Julie Days.

12 (JUROR BEFORE COUNSEL)

13 CLERK: What says the State?

14 SOLICITOR MEACHAM: Present the
15 juror, please.

16 THE CLERK: Defense?

17 MR. LONG: Please swear the juror.

18 THE CLERK: Have a seat in the jury
19 box, please.

20 (JUROR NUMBER 83 SEATED)

21 CLERK: 260, Shuntee Richards.

22 (JUROR BEFORE COUNSEL)

23 CLERK: What says the State?

24 SOLICITOR MEACHAM: Present the
25 juror, please.

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1 THE CLERK: Defense?

2 MR. LONG: Please swear the juror.

3 THE CLERK: Have a seat in the jury
4 box, please.

5 (JUROR NUMBER 260 SEATED)

6 CLERK: 268, Randall Rogers.

7 (JUROR BEFORE COUNSEL)

8 CLERK: What says the State?

9 SOLICITOR MEACHAM: Present the
10 juror, please.

11 THE CLERK: Defense?

12 MR. LONG: Please swear the juror.

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

15 (JUROR NUMBER 268 SEATED)

16 CLERK: 25, James Tiddle.

17 (JUROR BEFORE COUNSEL)

18 CLERK: What says the State?

19 SOLICITOR MEACHAM: Present the
20 juror, please.

21 THE CLERK: Defense?

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

24 THE CLERK: You're excused from this
25 particular case.

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1 (JUROR NUMBER 25 EXCUSED)

2 CLERK: Number five, Jodie Altman.

3 (JUROR BEFORE COUNSEL)

4 CLERK: What says the State?

5 SOLICITOR MEACHAM: Present the

6 juror, please.

7 THE CLERK: Defense?

8 MR. LONG: Please swear the juror.

9 THE CLERK: Have a seat in the jury
10 box, please.

11 (JUROR NUMBER 5 SEATED)

12 CLERK: 251, Eston Pierce.

13 (JUROR BEFORE COUNSEL)

14 CLERK: What says the State?

15 SOLICITOR MEACHAM: Present Mr.

16 Pierce, please.

17 THE CLERK: Defense?

18 MR. LONG: Please swear the juror.

19 THE CLERK: Have a seat in the jury
20 box, please.

21 (JUROR NUMBER 251 SEATED)

22 THE COURT: Let's pick one alternate.

23 Strikes will be one and two.

24 THE CLERK: 64, James Culway.

25 (JUROR BEFORE COUNSEL)

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1 CLERK: What says the State?

2 SOLICITOR MEACHAM: Excuse Mr.

3 Culway.

4 THE CLERK: You're excused from this
5 particular case.

6 (JUROR NUMBER 64 EXCUSED)

7 CLERK: 352, Mary Auld.

8 (JUROR BEFORE COUNSEL)

9 CLERK: What says the State?

10 SOLICITOR MEACHAM: Present Ms.

11 Auld, please.

12 THE CLERK: Defense?

13 MR. LONG: Please swear the juror.

14 THE CLERK: Have a seat in the jury
15 box, please.

16 (JUROR NUMBER 352 SEATED)

17 THE COURT: Are there any motions
18 from the State regarding the selection?

19 SOLICITOR MEACHAM: No, Your Honor.

20 THE COURT: Any motions from the
21 defendant regarding selection?

22 MR. LONG: No, Your Honor.

23 THE COURT: Thank you very much.

24 Ladies and gentlemen, those of you that were not
25 selected -- we're going to check to see what

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1 Judge John is doing with his jury. I need for
2 you to return just momentarily downstairs.
3 Hopefully, you won't be detained much longer.
4 Thank you very much for your assistance. Have a
5 great day. Thank you.

6 (JURY POOL EXCUSED)

7 THE COURT: Ladies and gentlemen,
8 those of you that were selected, thank you very
9 much for your time and assistance.

10 As I mentioned, there are some matters
11 of law that I need to take up that will take
12 probably an hour or so -- maybe a little longer.
13 So that the Court personnel can also have a
14 lunch break, you will get a little longer than
15 normal. So I'm going to excuse you until, out
16 of an abundance of caution, let's say 1:30. If
17 you will return to the jury room at 1:30, we
18 will bring you back in the courtroom at that
19 time and we'll start the process.

20 Please remember something. You haven't
21 heard any evidence in this case. Don't
22 speculate about the case. You will make a
23 commitment to decide the case based on what you
24 hear in this courtroom. And that's important in
25 every respect to both sides. And it's also

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1 important that you make that commitment and that
2 you honor that. And in order to do that, you
3 obviously can't talk about this case outside of
4 the courtroom. So don't talk among yourselves
5 about the case. Don't permit anyone to talk
6 with you about the case while you're out, or
7 talk about it in your presence.

8 Have a good lunch and I'll see you at
9 1:30. If you'll exit through here, they'll show
10 you where you need to come. And we'll see you
11 at 1:30.

12 (JURY OUT @ 11:00 A.M.)

13 THE COURT: Just for the record,
14 we've selected the jury in this case. As I
15 understand, Solicitor, the State has given
16 notice that this case will be called for trial
17 this week. Is that correct?

18 SOLICITOR MEACHAM: That's correct,
19 Your Honor.

20 THE COURT: And as far as -- you had
21 indicated you were aware of that fact as well,
22 sir?

23 MR. LONG: Yes, Your Honor. With
24 all due regards to the Solicitor, he has been
25 very cooperative and very informative with me as

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1 far as giving me advance notice of the week of
2 court that they intended to call the case for
3 trial.

4 Yesterday afternoon I had to leave for
5 Georgetown. I had a preliminary hearing in
6 Georgetown. And he returned my call. I called
7 him before I left. He returned my call and said
8 that we would be here this morning. When I got
9 back from Georgetown I began calling Mr.
10 Pinkney. I left two messages on his cell phone
11 and I believe it was approximately 7:00 o'clock
12 when I finally spoke to him directly on his line
13 and told him that I wanted him here at 9:15
14 ready to go, that we were to draw a jury and we
15 would begin motions and the trial. At 9:15 or
16 9:20 I was here. He was not. I placed another
17 telephone call to him and reached him. Excuse
18 me, while at the office, before arriving here at
19 9:20, I called and spoke to him and he said he
20 was just a few blocks away and would be here.
21 He was not here when I got here. I called him
22 and did speak with him one time. He was he was
23 just down the street and he would be here. That
24 was approximately 9:30, 9:40 this morning. He's
25 not here. I've checked the hallways. I've

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1 checked outside the courtroom.

2 THE COURT: But you did have a
3 conversation with him and he knew that I was
4 going forward this morning.

5 MR. LONG: Yes, sir.

6 THE COURT: Very well. We'll
7 certainly continue to proceed. But the Court
8 has made a determination that he had prior
9 notice. And by virtue of his not appearing,
10 he's made a decision to waive his presence, at
11 least for the jury selection. And we're ready
12 to go forward with motions now, is that correct,
13 Mr. Long? You've filed certain motions?

14 MR. LONG: Yes, Your Honor. In
15 regards to -- the first -- before we get into
16 trial motions, he did tell me this morning, when
17 I spoke to him from my office, that he was
18 uncomfortable with my representation and that
19 he wanted to get a second opinion and that he
20 wanted me to ask the Court about a continuance,
21 because he did not feel happy or comfortable at
22 this point with the way the issues were framed
23 and the way -- the facts as we would present
24 them.

25 I told him that I thought -- my opinion

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1 was that the Court would not be inclined to
2 grant a continuance. But he needed to come on
3 to the Courthouse and we would discuss with Your
4 Honor. I haven't had any further discussions
5 with him on the telephone call, in the two calls
6 that I've had with him since, about his request
7 for continuance. But he did ask me to ask the
8 Court for a continuance.

9 THE COURT: Very well. First, I
10 would ask you, Mr. Long, you've had sufficient
11 opportunity -- I believe you've indicated you'd
12 been retained since June. Is that correct?

13 MR. LONG: That's correct.

14 THE COURT: Have you had the
15 opportunity to conduct an investigation on
16 behalf of your client?

17 MR. LONG: Yes, sir, I have.

18 THE COURT: And you are prepared to
19 go forward with trial this morning?

20 MR. LONG: Yes, sir, I am.

21 THE COURT: And you've filed several
22 Motions on his behalf. Is that correct?

23 MR. LONG: Motions for discovery,
24 primarily, Your Honor. There's not a written
25 motion to suppress. We plan to make that now.

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1 THE COURT: Very well. The case has
2 been called, so you're making that motion on his
3 behalf and you're prepared to argue that this
4 morning as well?

5 MR. LONG: Yes, sir.

6 THE COURT: I find -- and, Mr. Long,
7 we've had the pleasure of working together
8 before. How long have you been practicing law?

9 MR. LONG: Seventeen years, Your
10 Honor.

11 THE COURT: And how much of it in the
12 criminal court?

13 MR. LONG: Eighty percent of it.

14 THE COURT: Very well. Thank you,
15 sir. I have had the pleasure of working with
16 Mr. Long for some time. I find that certainly
17 he's a very competent lawyer from this area.
18 He's prepared to go forward. The Motion for
19 continuance, vicariously made -- Mr. Long is
20 at a real disadvantage because his client has
21 chosen not to be present. The Motion for
22 continuance is denied at this point. Thank you,
23 sir.

24 MR. LONG: Thank you.

25 THE COURT: Solicitor, are you

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1 prepared to present the evidence concerning the
2 motion to suppress?

3 SOLICITOR MEACHAM: Yes, sir.

4 THE COURT: Or argue that motion?

5 SOLICITOR MEACHAM: I'm prepared
6 to argue. I don't know the specificities of
7 the Motion.

8 THE COURT: All right. Why don't I
9 hear from you as to the basis for your Motion to
10 suppress?

11 MR. LONG: Your Honor, this occurred
12 on February 23, 2005. Reggie Pinkney was the
13 driver of a pickup truck belonging to his
14 mother. There was a passenger in the vehicle.
15 I believe it was a Mr. David Graham who is not
16 before the Court and not charged with anything.

17 The incident report -- facts related
18 to me by Mr. Pinkney were that the tag was
19 suspended, so that they pulled him over here in
20 Conway, about a block behind Wendy's, on Highway
21 509 and Ninth Avenue, and received a driver's
22 license, registration and proof of insurance
23 from him. And then during further investigative
24 searches or questioning or whatever occurred
25 from that traffic stop, thereafter they took him

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1 to the ground, handcuffed him and then reached
2 in the back of his pants and pulled out a
3 quantity of marijuana. I believe it was 4.5
4 grams or something. The drug test will state
5 the actual amount. And then took the pocket out
6 of his jeans and removed 20.6 grams of crack
7 cocaine.

8 We contend that these searches were in
9 violation of his Fourth Amendment Rights and we
10 would move to suppress any evidence found as a
11 result of the traffic stop that exceeded the
12 scope of the traffic stop.

13 THE COURT: Thank you, sir.
14 Solicitor, your response?

15 SOLICITOR MEACHAM: Your Honor, our
16 position would be there's was probable cause for
17 the stop, obviously, for a traffic violation.
18 We are prepared to offer testimony on the other
19 facts.

20 THE COURT: Very well. I'll be happy
21 to hear from you.

22 SOLICITOR MEACHAM: May it
23 please the Court, we would call Tyrone Williams
24 to the stand.

25 (WITNESS TAKES STAND)

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1 TYRONE WILLIAMS, being duly sworn to
2 tell the truth, the whole truth and nothing but
3 the truth, testified, as follows:

4 THE COURT: You may proceed.

5 DIRECT EXAMINATION

6 BY SOLICITOR MEACHAM:

7 Q. Officer Williams, you work for the Conway
8 Police Department?

9 A. Yes, sir.

10 Q. Were you working with the Conway Police
11 Department on February 23, 2005?

12 A. Yes, sir.

13 Q. And you happened to arrest an individual
14 named Reggie Pinkney?

15 A. Yes, sir.

16 Q. Could you tell us the circumstances related
17 to that arrest?

18 A. Yes, sir. I was doing the operation on
19 Hemingway Street that day and Mr. Pinkney drove
20 up in a blue-in-color GMC pickup with South
21 Carolina tax [REDACTED]. I pulled in behind the
22 vehicle and read the tag and it came back,
23 according to the South Carolina DMV, suspended.

24 Q. Was that inside the city limits of Conway?

25 A. Yes, sir.

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1 Q. And so what did you do after you saw that
2 the vehicle's tag was suspended?

3 A. After the information came back we was at
4 the light at Ninth and 501.

5 Q. Is that inside the city limits of Conway?

6 A. (Affirmative nod), and the light was red.
7 Once it turned green I initiated blue lights.
8 The subject pulled over on the street and I
9 identified him.

10 Q. Did you identify Mr. Pinkney as being the
11 driver of that vehicle?

12 A. Yes, sir.

13 Q. Who else was present at the scene?

14 A. Mr. David Graham, he was the passenger in
15 the vehicle. And myself and Officer Robinson
16 which was behind me. Detective Bradley pulled
17 up right up behind Officer Robinson.

18 Q. And where was your car parked?

19 A. Right directly behind Mr. Pinkney.

20 Q. And what did you do?

21 A. I exited my vehicle and approached his
22 vehicle from the rear and went up to his window
23 and asked him for all his information.

24 Q. You say information ---

25 A. His driver's license, registration and

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1 proof of insurance. And then I went back as
2 Officer Bradley took over. Officer Robinson
3 was at the passenger's side. And then as
4 Officer Bradley came up, he took the rear of
5 the vehicle.

6 Q. He was at the rear of the vehicle. Where
7 were you?

8 A. I went back to my vehicle to run some more
9 information on the subject.

10 Q. Did you take his driver's license and
11 information?

12 A. Yes, sir.

13 Q. And thereafter did you verify that the tag
14 was suspended?

15 A. Yes, sir.

16 Q. And was Officer Bradley present with Mr.
17 Pinkney the whole time?

18 A. Yes, sir. At the first/beginning he was
19 at the rear. I imagine that Mr. Pinkney called
20 Officer Bradley up to his side.

21 Q. When is the next time you saw Officer
22 Bradley and Mr. Pinkney?

23 A. It was at the rear of the vehicle.

24 Q. What happened?

25 A. As I was running the information I looked

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1 back up and I saw a dart and Officer Robinson
2 grabbed him, and then Officer Bradley grabbed
3 him. They went to the ground.

4 Q. You saw the officers dart?

5 A. I saw -- Mr. Pinkney darted. When I mean
6 -- to dart is he took off, trying to get away,
7 as Officer Bradley was patting him down for
8 weapons.

9 Q. And what did you do then?

10 A. I exited my vehicle in an attempt to help
11 them. They had him on the ground. They got him
12 cuffed and he was still trying to get up at the
13 time. I had ankle cuffs in the vehicle, so I
14 got those and placed them on his legs.

15 Q. And was this after he ran from the police?

16 A. Yes, sir.

17 Q. Now, did you serve a warrant on him for any
18 charge at that point?

19 A. No, sir.

20 Q. When did you obtain a warrant?

21 A. After everything was final.

22 Q. You got a warrant for resisting arrest?

23 A. Yes, sir.

24 Q. And what about when you saw -- when Officer
25 Bradley had him on the ground, what happened

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1 then?

2 A. As he had him on the ground he kept trying
3 to get up and tried to get away from the
4 officers. They kept repeatedly telling him to
5 stop, which he wouldn't do at the time.

6 Q. Did Officer Bradley retrieve something from
7 him at that point?

8 A. Yes, sir. He retrieved a substance
9 believed to be marijuana from the rear -- after
10 he got him handcuffed, the subject kept putting
11 his hands behind his rear, trying to push
12 something down -- in an attempt to push
13 something down the back of his pants.

14 Q. Did he retrieve anything else?

15 A. There was some type of a white-like
16 substance that was in his pocket that they had
17 to hold him to get out.

18 Q. How was that done? Did you see that?

19 A. Not at first, I didn't.

20 Q. Did you see it later?

21 A. Um-humm.

22 Q. After they got it out?

23 A. Yes, sir.

24 Q. Did you also obtain a warrant for
25 trafficking crack cocaine? Excuse me, did you

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1 obtain a warrant for trafficking crack cocaine?

2 A. Yes, sir.

3 Q. When was that done?

4 A. On the same day, on the 23rd -- 24th, I think
5 it was.

6 Q. On the 24th?

7 A. Yes, sir.

8 SOLICITOR MEACHAM: Thank you.

9 That's all I have.

10 THE COURT: You may cross examine.

11 MR. LONG: Thank you, Your

12 Honor.

13 CROSS EXAMINATION

14 BY MR. LONG:

15 Q. Officer Williams, I believe you said you
16 were on Hemingway Street patrolling at such time
17 as you went up behind or got behind a '91 GMC
18 pickup truck belonging to Mrs. Pinkney. Is that
19 correct?

20 A. That vehicle was known as -- Mr. Pinkney
21 always drove that vehicle.

22 Q. But is it registered in Mrs. Pinkney's
23 name?

24 A. I didn't have any idea who it was
25 registered to until it came back. Yes, it was

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1 Mrs. Pinkney or Clara Pinkney or something.

2 Q. And what was it about the tag that made you
3 run a license check? Was there a sticker
4 affixed to the tag?

5 A. No, the tag was kind of like in a leaning
6 position, like it didn't have both bolts in it,
7 like someone who put the tag hadn't put in the
8 bolt or something on it.

9 Q. Were both stickers affixed to the tag, the
10 current year and the month?

11 A. I couldn't read the stickers. The part
12 with the stickers was vacant.

13 Q. In your investigation of the registration
14 of that vehicle were the stickers still valid
15 for that vehicle's tag?

16 A. I'm not sure.

17 Q. Did you write him a ticket for an expired
18 tag?

19 A. No, sir.

20 Q. What was it that got your suspicion up to
21 run a tag -- a vehicle check on this tag?

22 A. Because when -- during my time, if the
23 tag's not got both bolts in it -- we have lots
24 of people taking people's tags and they don't
25 get all the bolts in the tag and it usually

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1 leans. And that was one of my suspicions, to
2 see if that tag did come back to that vehicle.

3 Q. This was a '91 pickup truck, correct? A
4 '91 GMC pickup?

5 A. I'm not sure, but I think it is.

6 Q. In your report if you say it's a '91 GMC
7 pickup truck -- it's not in the best of shape,
8 is it? It's more of a work truck, isn't it?
9 It's a little beat up, paint kind of faded?

10 A. But in -- other times the tag's affixed the
11 same way.

12 Q. But you say the tag wasn't affixed ---

13 A. No, sir.

14 Q. --- securely with both bolts. Was there
15 just one bolt holding the tag on?

16 A. One bolt.

17 Q. Was that hole rusted or clean?

18 A. I'm not even sure.

19 Q. So that caused you to run a check on the
20 tag. And according to the testimony, it came
21 back suspended, correct?

22 A. Yes, sir.

23 Q. Did the Highway Department inform you for
24 what reason it was suspended?

25 A. They gave a code. I think it was like

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1 insurance.

2 Q. Lapse of insurance?

3 A. Yes, sir.

4 Q. And when you stopped Mr. Pinkney he had a
5 passenger in the vehicle and you asked him for
6 license, registration and proof of insurance,
7 correct?

8 A. Yes, sir.

9 Q. And he furnished you with all three?

10 A. Yes, sir.

11 Q. And all three of those were current? His
12 driver's license was current. The registration,
13 as far as you know, was current for the vehicle.
14 And the proof of insurance showed that there was
15 insurance on that vehicle. Is that correct?

16 A. Yes, sir.

17 Q. And then you took his documents with you to
18 your patrol car which was behind the pickup
19 truck ---

20 A. Yes, sir.

21 Q. -- to run those documents and validate
22 those documents. Is that correct?

23 A. Yes, sir.

24 Q. I believe you said Officer Bradley was
25 behind you. Was he following behind you?

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- 1 A. Officer Robinson.
- 2 Q. Robinson. Was he following behind you?
- 3 A. Yes, sir.
- 4 Q. On Hemingway Street as you were following
- 5 Mr. Pinkney's vehicle?
- 6 A. Yes, sir.
- 7 Q. And why is that?
- 8 A. Because we do a street run operation.
- 9 We're all in that area together. And Mr.
- 10 Pinkney's known to be a runner.
- 11 Q. He's known to you ---
- 12 A. Yes, sir.
- 13 Q. --- as having a drug record. Is that
- 14 correct?
- 15 A. For being a runner, as if we'd get behind
- 16 him that he would run.
- 17 Q. Okay. And so you thought that he may, when
- 18 you flipped on the blue lights, take off and
- 19 drive away and you'd end up getting in a chase,
- 20 correct?
- 21 A. Yes, sir.
- 22 Q. And because of that had you already radioed
- 23 to Robinson to come on up. I've got Pinkney
- 24 here. He may try to run.
- 25 A. We was there together.

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1 Q. Were you in radio communication with
2 Officer Robinson about, 'this is Reggie Pinkney.
3 He may try to take off when I flip on the blue
4 lights.'

5 A. Yes, sir.

6 Q. So he knew what you knew as far as Mr.
7 Pinkney's vehicle?

8 A. Yes, sir.

9 Q. So they have two police vehicles pull him
10 over. Is that correct?

11 A. Yes, sir. I initiated the stop.

12 Q. But Officer Robinson was there with you?

13 A. He's my cover man.

14 Q. And when you went to the vehicle and
15 determined that he had a license, registration
16 and proof of insurance, what did you do at that
17 point?

18 A. Returned back to my vehicle to run the
19 information.

20 Q. All right.

21 A. From his driver's license. Usually, during
22 the day at this time, we'd call the insurance
23 company and see if there was insurance on the
24 vehicle.

25 Q. Is it fair to say that you were the primary

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1 investigating officer in this traffic stop?

2 A. Yes, sir.

3 Q. When you asked Mr. Pinkney for license,
4 registration and proof of insurance, did you
5 have any fears at that time about Mr. Pinkney
6 being armed or about the passenger being armed?

7 A. Yes, sir. There's a reason, a type person
8 you can't trust. And I don't trust anyone when
9 I come to a traffic stop, for my safety as well.

10 Q. And I understand that. So you had
11 suspicions at that point in time that maybe
12 you'd better check. Is that correct?

13 A. Yeah, to make sure his driver's license and
14 everything ---

15 Q. So you got the license and registration
16 from Mr. Pinkney. Was he still seated in the
17 vehicle when you got these documents?

18 A. Yes, sir.

19 Q. Or had you asked him to step out of the
20 vehicle?

21 A. He was still in the vehicle.

22 Q. And so had you left with those documents,
23 not having decided to frisk either he or the
24 passenger. Is that correct?

25 A. No, sir, not at the time.

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- 1 Q. You had not done it at that time?
- 2 A. No, sir.
- 3 Q. So what's important to you is you were
- 4 going to validate the documents?
- 5 A. Yes, sir.
- 6 Q. So, Officer Robinson then, he went to the
- 7 rear of the Pinkney vehicle, and he was to stay
- 8 there while you were completing running the
- 9 documents. Is that correct?
- 10 A. He was at the passenger's side window.
- 11 Q. He was at the passenger's side window?
- 12 A. Passenger's side window.
- 13 Q. And then Officer Robinson, he was where
- 14 while you were running the documents?
- 15 A. Officer Robinson was at the passenger's
- 16 side. Officer Bradley was at the rear of the
- 17 vehicle.
- 18 Q. Rear of the vehicle. At some point during
- 19 your running the documents did you see Mr.
- 20 Pinkney call an officer over to him?
- 21 A. No, sir. I didn't see that.
- 22 Q. While you were running the documents did
- 23 either of the other officers ask both occupants
- 24 to get out of the car and be frisked?
- 25 A. I couldn't hear them because the windows

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1 was up in the vehicle.

2 Q. Did you see it?

3 A. No, sir, I didn't see when they asked them
4 to come back.

5 Q. So you can't say for certain and you don't
6 know for certain whether or not it was done. Is
7 that correct?

8 A. No, sir.

9 Q. But then you say at some point in time --
10 now had you already received validation from the
11 Department of Motor Vehicles that the license
12 and registration for the vehicle was valid?

13 A. I was waiting for the information to come
14 back.

15 Q. You were waiting for the information when
16 you saw the occupants out of the car. Is that
17 correct?

18 A. Um-humm.

19 Q. And then I believe you say you saw him
20 start to dart or something like that?

21 A. Yes, start to run.

22 Q. But you didn't know if he had been patted
23 down by either officer at that time?

24 A. No, I didn't know if he was being patted
25 down or what was the reason that he ran.

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- 1 Q. The other passenger in the vehicle, was he
2 ever patted down, to your knowledge?
3 A. Not to my knowledge.
4 Q. As a matter of fact, he just walked off and
5 left. Didn't he?
6 A. No, he stood there and was telling them,
7 'don't do that.' "Don't do that. Don't
8 resist."
9 Q. But ultimately then he just walked off.
10 Isn't that correct?
11 A. Yes.
12 Q. And so by the time y'all had Reggie under
13 arrest, he just turned around and walked off and
14 left. Is that right?
15 A. Yes, sir.
16 Q. Now, to this day have you written a traffic
17 citation for Reggie Pinkney for operating a
18 motor vehicle with a suspended tag?
19 A. No, sir.
20 Q. A ticket was not issued at the scene?
21 A. No, sir.
22 Q. He was not placed under arrest for
23 operating a vehicle with a suspended tag?
24 A. No, sir.
25 Q. Did you ever speak to the person on

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1 Reggie's cell phone about this suspended tag?

2 A. No, the mother came up.

3 Q. All right. Who was the officer that spoke
4 with Mrs. Pinkney over the telephone about the
5 suspended tag?

6 A. I'm not sure. I don't recall. I don't
7 think I talked to her.

8 Q. You know it wasn't you, but one of the
9 others may have?

10 A. May have.

11 Q. Did she then come to the scene?

12 A. Yes, sir.

13 Q. And the proof of insurance, was that in her
14 name?

15 A. Yes, sir.

16 Q. With a reputable company?

17 A. Yes, sir.

18 Q. Does your patrol vehicle have a camera?

19 A. No, sir.

20 Q. Did any of the Conway City Police patrol
21 vehicles have cameras?

22 A. Yes, sir.

23 SOLICITOR MEACHAM: Object as to
24 relevancy, Your Honor.

25 THE COURT: I'll allow it. Thank

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1 you.

2 CROSS EXAMINATION CONTINUED

3 BY MR. LONG:

4 Q. Do Officers Robinson's or Bradley's
5 vehicles have a camera?

6 A. I'm unsure about Officer Robinson's
7 vehicle, but Officer Bradley, no.

8 Q. So you don't know whether Officer
9 Robinson's does or not?

10 A. Not if his vehicle has a camera.

11 Q. Which patrol vehicles are assigned cameras?
12 Would that be traffic patrol?

13 A. Mostly the newer cars. We don't have every
14 vehicle equipped with cameras yet.

15 Q. Okay, what percentage? Would you estimate
16 what percentage?

17 A. About sixty percent.

18 Q. Sixty percent do have cameras?

19 A. (No verbal response).

20 Q. And there were three cars, as far as you
21 know, out there and none of those had cameras?

22 A. No.

23 Q. I believe you said Officer Robinson was
24 standing closest to Mr. Pinkney when, as you
25 say, he acted like he was going to dart or

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1 something to that effect?

2 A. Officer Robinson was up by the passenger
3 door and Officer Bradley was at the rear of the
4 vehicle.

5 Q. Which officer was closest to Mr. Pinkney at
6 about the time you said he started to dart?

7 A. Detective Bradley.

8 Q. Detective Bradley. All right. And were
9 they both on the driver's side of the truck or
10 were they both on the passenger's side?

11 A. More like the passenger's side.

12 Q. Would it have been the front passenger's
13 side of the truck?

14 A. The back. The rear.

15 Q. The rear back.

16 A. Yes, sir.

17 Q. So that would have been the furthest from
18 the roadway where they were standing?

19 A. Yes, sir.

20 Q. Where did Officer Bradley take down Mr.
21 Pinkney? Where did he take him to the ground?
22 Wasn't that directly behind the pickup truck?

23 A. No, it was kind of to the side of it.

24 Q. How far to the side? Ten feet?

25 A. About ten or fifteen feet.

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1 Q. So just off the side and the back of the
2 pickup truck, passenger's side, correct?

3 A. Yes, sir.

4 Q. And then was he already taken to the ground
5 by Officer Bradley by the time Officer Robinson
6 then got involved?

7 A. I think both of them -- it took both of
8 them. Both of them went to the ground. All
9 three of them went to the ground.

10 Q. And when you say that you were either out
11 of on the way out of your vehicle?

12 A. I was on the way out of my car.

13 Q. So then I believe you said Mr. Pinkney was
14 then handcuffed. Was he handcuffed to the front
15 or the rear?

16 A. In the rear.

17 Q. In the rear. And you say you thought it
18 was like he was trying to push something down
19 his pants or something?

20 A. Yes.

21 Q. Could it have been just as likely he was
22 trying to pull his pants up?

23 A. I have no idea.

24 Q. Wouldn't that have been just as likely?

25 A. Could be.

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1 Q. But then while he was on the ground he was
2 still struggling, after he had been cuffed?

3 A. Yes, sir.

4 Q. And that's why you put the leg cuffs on
5 him?

6 A. Yes, sir.

7 Q. And y'all stood him up?

8 A. Yes, sir.

9 Q. And when you stood him up, then at that
10 point in time -- who frisked him for weapons?

11 A. Officer Bradley frisked him.

12 Q. Officer Bradley frisked him for weapons or
13 Officer Bradley frisked him for marijuana?

14 A. Officer Bradley did the frisking.

15 Q. Officer Bradley did the frisking. That was
16 after he was cuffed, legs and hands?

17 A. Before and after.

18 Q. Before and after? Did you see Officer
19 Bradley frisk him for weapons before?

20 A. Afterwards. No, not before. I was still
21 doing the paperwork and getting the information.

22 Q. Now, after Reggie was arrested for the
23 marijuana and the crack cocaine, which officer
24 was the one that took those into evidence?

25 A. I was.

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- 1 Q. The bag of marijuana and the crack cocaine,
2 those were taken by you physically into
3 evidence?
4 A. It was taken by Officer Bradley, and it was
5 passed on to me.
6 Q. And then your responsibilities were to take
7 it to the investigator?
8 A. Yes.
9 Q. And the marijuana, I believe you said, was
10 found by Officer Bradley in the back of the
11 pants?
12 A. Yes, sir.
13 Q. And where was the crack cocaine found?
14 A. In one of the pockets. I'm not sure which
15 pocket it was.
16 Q. And are we talking physically in the
17 pocket? Or are we talking that's where you went
18 through to get it?
19 A. You'd have to ask Detective Bradley.
20 Q. What about a quarter baggie? Was a quarter
21 baggie given to you to place in evidence as
22 well?
23 A. I'm not sure if that was part of the
24 evidence, the quarter plastic baggie.
25 Q. But it wasn't given to you?

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1 A. I don't think it was.

2 Q. It wasn't given to you to take back to
3 evidence. Is that correct?

4 A. It was the marijuana, the crack cocaine,
5 the money.

6 Q. But no quarter baggie, as far as you know?

7 A. As far as I know.

8 MR. LONG: Beg the Court's
9 indulgence?

10 THE COURT: Sure, take your time.

11 MR. LONG: Thank you, sir. I have
12 no further questions.

13 THE COURT: Redirect, Solicitor.

14 REDIRECT EXAMINATION

15 BY SOLICITOR MEACHAM:

16 Q. Officer Williams, you were investigating a
17 traffic stop?

18 A. Yes, sir.

19 Q. And did you actually see Mr. Pinkney run
20 from the police?

21 A. Yes, I saw him.

22 Q. Did you charge him with a violation at that
23 time?

24 A. Yes, sir, fleeing a police officer.

25 Q. And has that case been disposed of?

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1 A. Yes, sir.

2 Q. And what was the disposition of that case?

3 A. He was found guilty of it.

4 Q. Did you also charge him with the marijuana?

5 A. Yes, sir.

6 Q. Has that case been disposed of?

7 A. They are taking a look at it.

8 Q. And at the time you were at the scene were

9 you able to verify whether or not the tag was

10 suspended, before Mr. Pinkney ran?

11 A. No, sir. I was delayed due to the high

12 level of traffic over the radio.

13 Q. Was that still the investigation of that

14 traffic stop?

15 A. Yes, sir.

16 Q. That's all the questions I have.

17 THE COURT: Recross.

18 RECROSS EXAMINATION

19 BY MR. LONG:

20 Q. Was Mr. Pinkney under arrest at the time

21 you claim he started to dart?

22 A. No, sir.

23 Q. Thank you.

24 THE COURT: You may come down, sir.

25 Thank you, sir.

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1 (WITNESS STEPS DOWN)

2 THE COURT: You may call your
3 next witness.

4 SOLICITOR MEACHAM: If it please the
5 Court, we would call Officer Robert Bradley.

6 (WITNESS TAKES STAND)

7 ROBERT BRADLEY, being duly sworn to
8 tell the truth, the whole truth and nothing but
9 the truth, testified, as follows:

10 DIRECT EXAMINATION

11 BY SOLICITOR MEACHAM:

12 Q. Officer Bradley, you work for the Conway
13 Police Department?

14 A. Yes, sir, I do.

15 Q. And how long have you worked for the Conway
16 Police Department?

17 A. I have worked with them five and a half
18 years so far.

19 Q. How long have you been involved in law
20 enforcement?

21 A. Five and a half years.

22 Q. In what capacity do you work for the Conway
23 Police Department?

24 A. I am currently a detective. I got promoted
25 in February. Prior to that I was on the canine

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- 1 unit. I became the canine unit in 2001. I
2 started police work in the year 2000.
- 3 Q. Were you working with the police department
4 on February 23rd, 2005?
- 5 A. Yes, sir.
- 6 Q. Did you happen to become involved in the
7 arrest of Reggie Pinkney?
- 8 A. Yes, sir, I was.
- 9 Q. Can you tell us how you got involved and
10 where you were?
- 11 A. I had heard Officer Williams doing the
12 traffic stop.
- 13 Q. Did he say what the traffic stop was about?
- 14 A. No. We operated as a group at the time.
15 It was Officer Robinson, Officer Williams and
16 myself. And we were on the Narcotics Team.
17 It's just a rule that I have that if we go on a
18 stop, we all show up, just for officer safety.
- 19 Q. Where did you show up?
- 20 A. At the traffic stop at the corner of Smith
21 and Ninth.
- 22 Q. Was Officer Williams there?
- 23 A. Yes, sir, he was.
- 24 Q. Did he tell you at that time what he was
25 stopping the vehicle for?

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1 A. He was -- when I arrived he was up there
2 with Mr. Pinkney, and then he came back to the
3 vehicle. He said something about the tag.

4 Q. Was he sitting in the patrol car?

5 A. Yes, sir, he was sitting in the car.

6 Q. Where did you position your car?

7 A. I was behind Officer Robinson's car.

8 Q. What did you do?

9 A. I just -- Officer Robinson was over by the
10 passenger window. And Tyrone had come back and
11 he was sitting in the car. So I just positioned
12 myself at the front of the patrol car behind the
13 vehicle.

14 Q. And then what did you do after that?

15 A. I was sitting there just waiting for him to
16 conduct his business when Reggie opened up the
17 door and motioned me forward.

18 Q. What did you do then?

19 A. He handed me his cell phone. He said it
20 was the owner of the vehicle and wanted me to
21 talk to her.

22 Q. Okay, so what did you do at that point?

23 A. I started talking on the telephone and
24 asked her what I could help her with. And then
25 I looked down at the floor -- he'd opened up the

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1 car door -- the truck door -- and he had said
2 something about the window not going down all
3 the way. And then I was talking on the phone
4 and I looked down in the floorboard of the truck
5 was a torn-off piece of baggie.

6 Q. How long have you been involved in
7 narcotics?

8 A. Four years.

9 Q. What did that signify to you?

10 A. In my experience it's -- you can associate
11 it with drug use. They put the drugs in the
12 baggie and tie it off. And then when they're
13 ready to use it, they tear it off.

14 Q. At that point did you know that Officer
15 Williams had talked to Mr. Pinkney?

16 A. He had mentioned it on the way back to the
17 vehicle.

18 Q. So what did you do at that point?

19 A. I pulled the baggie up. I handed the phone
20 back to Reggie. I said, "Here you go." And I
21 put the bag on top of the truck. And I asked
22 Reggie to step back with me.

23 Q. What did he do?

24 A. He came on back. I backed up.

25 Q. Why did you do that?

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1 A. Sir?

2 Q. Why did you do that?

3 A. Well, to separate him from the passenger.

4 I wanted to just question him.

5 Q. And what happened after that?

6 A. As I was stepping back, I backed up so I
7 could maintain a visual on whoever was coming
8 back. And as he did, he kept touching his side.

9 In my experience, if ---

10 Q. Can you explain to the Court how he was
11 touching his side?

12 A. He was coming up and he was walking
13 forward. He was down like this touching his
14 side.

15 Q. What did that mean to you? Why did he do
16 that?

17 A. Well, it's my experience -- and you can
18 even see police officers do it. When you have
19 a weapon or something that you want to maintain
20 control of, you just check to make sure it's
21 still there. And it's like -- you've seen
22 officers as they're standing around, he'll
23 constantly touch his weapon on his side. Or if
24 somebody has a lot of money in the pocket,
25 they're constantly touching it to make sure it's

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1 still there.

2 Q. So what did you do?

3 A. My concern was for weapons. I brought him
4 back to the rear of the vehicle and asked him if
5 he had anything on him that I needed to be aware
6 of anything, that he could hurt me with, cut me,
7 stick me or blow me up. And he said no. And I
8 said, "Well, I'm going to pat you down for your
9 safety and mine." And I started the pat-down.
10 I reached down around his waist area where he's
11 been touching and ran my hand across ---

12 Q. Stand up and show the Court how you were
13 doing the pat-down.

14 A. I had him facing away from me, and I ran my
15 hand down this side. Then I started to come
16 down.

17 Q. And what happened at that point?

18 A. He started getting -- he said, "What's
19 going on? What's going on?" I said, "I just
20 want to pat you down to make sure you don't have
21 any weapons on you." And then he ran.

22 Q. Tell us specifically what you mean by "he
23 ran."

24 A. He -- his body hunkered down and he took
25 off to the right, towards the open area out

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1 there.

2 Q. Is there a field there?

3 A. Yes, sir, there's a little field, wooded
4 area. And as he tried to run, I grabbed him.
5 Officer Robinson came around and I pushed him
6 into Officer Robinson.

7 Q. Officer Robinson was where approximately
8 then?

9 A. He was at the passenger window of the
10 vehicle.

11 Q. And then what happened after that?

12 A. Officer Robinson and Pinkney went to the
13 ground. And then I joined them trying to subdue
14 him.

15 Q. What was he doing when you were trying --
16 what was he doing with his hands?

17 A. He was fighting, pulling, tugging. I was
18 telling him to stop, quit. Now -- 'you're under
19 arrest.'

20 Q. And what did you do then?

21 A. We got him handcuffed and he was on the
22 ground. And after we had him handcuffed, he was
23 fighting -- his hands were behind his back. He
24 kept reaching back in here like this. I hadn't
25 gotten back there to search for weapons yet.

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1 One of my main concerns was there was possibly a
2 weapon back there.

3 Q. In your experience as a law enforcement
4 officer where would a weapon be placed at that
5 point?

6 A. I mean, you can carry it in front, behind,
7 pockets, anywhere you can get to easily. So I
8 checked back there and as I ran my hand across
9 his buttocks, he tightened up. So I ran my hand
10 up between in his crotch area and felt a lump.

11 Q. And what did you do with that?

12 A. Sir?

13 Q. What was that?

14 A. That was -- I lifted his hands up and
15 reached in and pulled out the green leafy
16 substance believed to be marijuana.

17 Q. And what did you do then?

18 A. I continued searching him. I felt around
19 his front pocket and I felt a lump in there.
20 And I reached down into his pocket to retrieve
21 it and grabbed hold of it and pulled his pocket
22 inside out. It actually went through like this,
23 and the lump was on the inside of the pocket.
24 So then I had to use my pocketknife and I cut
25 the pocket. And when I did I opened up the

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1 cloth from around it and it was a tan rock-like
2 substance believed to be crack cocaine.

3 Q. Prior to ever seizing -- what did you do
4 when you seized the marijuana?

5 A. Officer Williams was there. I was finding
6 them and I was handing them directly to Officer
7 Williams.

8 Q. What were the other items you found on him?

9 A. He had \$4,600 in cash in his inner lapel
10 jacket pocket.

11 Q. Did you find anything else in the car?

12 A. Yes, sir. There was a set of scales and
13 probably about ten or fifteen dollars in the
14 center console.

15 Q. Prior to finding these -- were you able to
16 complete your weapons frisk prior to him
17 running?

18 A. No, sir. I had just initially started it
19 when he bucked up and ran.

20 Q. And was he thereafter arrested? Was he
21 arrested for resisting arrest at that point?

22 A. Yes, sir.

23 Q. Was that what he was placed under arrest
24 for?

25 A. Yes, sir.

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1 Q. And you received information that he was
2 stopped for a traffic investigation?

3 A. Yes, sir.

4 Q. And that was because of an improper tag?

5 A. Yes, sir.

6 Q. Was that information given to you?

7 A. Yes, sir.

8 SOLICITOR MEACHAM: That's all the
9 questions I have for you.

10 THE COURT: You may cross examine,
11 Mr. Long.

12 CROSS EXAMINATION

13 BY MR. LONG:

14 Q. Officer Bradley, you say that you don't
15 recall over the radio whether the subject was
16 identified or you don't remember if Officer
17 Williams said anything about, "Hey, this is
18 Reggie. I need some back-up," or anything of
19 that nature, just that it was a traffic stop?

20 A. Yes, sir. What it was was I was in the
21 satellite station, and I heard him going 10-38,
22 which is initiating a traffic stop. Okay? I
23 exited. I left the satellite station and went
24 and got in my patrol car and went to him. And
25 I heard the final location was to be Smith and

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1 Ninth Avenue.

2 Q. So is it true to say that Officer Williams
3 had been following this vehicle for some time?

4 A. I really don't know.

5 Q. How long did it take you to get from the
6 station when you heard 10-38, to Smith and Ninth
7 Avenue where the stop was?

8 A. Three or four minutes.

9 Q. During this three or four minutes, Officer
10 Williams, to the best of your knowledge, did not
11 frisk either occupant of the vehicle?

12 A. No, sir.

13 Q. Would that lead you to believe that he
14 didn't suspect either of them had any weapons if
15 he hadn't done it in that length of time? In
16 your experience as a police officer?

17 A. In my experience, when we go on a traffic
18 stop, we're going into an unknown situation.
19 All right? Initially, we don't pull everybody
20 out and frisk them. All right? He had stopped
21 him. He was in the course of investigating,
22 getting driver's license, registration and proof
23 of insurance. All right? When I arrived he was
24 up at the driver window, and he was coming on
25 his way back. All right? So at that point all

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1 he was doing was investigation to check out the
2 driver's license, the insurance and the
3 registration of the vehicle.

4 Q. Reggie Pinkney was known to him, is that
5 correct?

6 A. Yes, sir.

7 Q. And what about the passenger of the
8 vehicle? Was he known to him as well?

9 A. I really couldn't say, because I didn't
10 have much contact with him, other than when we
11 were fighting Reggie on the ground, I had
12 checked back to check on him, and he was walking
13 away. I told him to stay there. We were still
14 fighting with Reggie and had our hands full.

15 Q. Did he leave?

16 A. If he hadn't done anything wrong, he didn't
17 have any reason to leave.

18 Q. But if y'all are fighting with Reggie,
19 could you make him do anything?

20 A. He was telling Reggie to stop fighting.

21 Q. Now, at any point in time was the passenger
22 frisked for weapons?

23 A. No, sir, never had time, because we
24 initially started, you know -- I pulled Reggie
25 back. I saw him reaching, you know, patting.

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1 So I wanted, for my safety, to check and make
2 sure that he didn't have any weapons. And in
3 the course of that, he ran. And we got tied up
4 with him, and we didn't have an opportunity to
5 -- and by the time we finished with Reggie, the
6 subject in the passenger's seat was gone.

7 Q. Does your vehicle have a camera?

8 A. No, sir, it doesn't.

9 Q. So you estimate three or four minutes from
10 the time you heard 10-38 -- and 10-38 would be
11 when he's actually turning on the blue lights.

12 Is that correct?

13 A. Yes, sir.

14 Q. So that would have been maybe thirty
15 seconds for him to get Mr. Pinkney's vehicle
16 from 501 onto Smith Street. That's what, two
17 blocks, at most -- short blocks? And then
18 probably three and a half to four minutes for
19 you to then arrive at the scene.

20 A. Approximately.

21 Q. Now, when you arrived at the scene, you
22 pulled up behind Officer Williams's vehicle.

23 A. No, sir, I pulled up behind Officer
24 Robinson's vehicle.

25 Q. Officer Robinson's vehicle. Officer

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1 Robinson had already gotten there before you?

2 A. Yes, sir.

3 Q. And then when you got out of your vehicle
4 and got to your standing position, how long was
5 it before Mr. Pinkney motioned you over and
6 said, "Here, I want you to talk to my mama who
7 owns the truck."

8 A. Probably thirty seconds. It wasn't long,
9 because I had just gotten up there and Tyrone
10 had come back to his vehicle. Tyrone had gotten
11 all the way in the vehicle when Reggie opened up
12 the door and motioned for me to come here, come
13 here, come here.

14 Q. So he wanted -- isn't it correct that he
15 wanted his mom to explain to you that there was
16 insurance on the thing; there wasn't any problem
17 with the tag?

18 A. That's correct.

19 Q. Isn't that what she was trying to explain
20 to you on the telephone?

21 A. Yes.

22 Q. And it really wasn't your responsibility,
23 although you did listen to her. You were
24 waiting for Officer Williams to confirm that
25 the tag was either suspended or not.

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1 A. Correct.

2 Q. And to the best of your knowledge, Mr.
3 Pinkney was not charged with operating a vehicle
4 with a suspended license tag?

5 A. That is correct.

6 Q. And then when he called you to the vehicle
7 you testified that you saw a torn plastic bag on
8 the floorboard of the vehicle. Is that correct?

9 A. Right, right next to his foot.

10 Q. That would be the driver's floorboard?

11 A. That would be the driver's floorboard.

12 Q. And you, then, picked that plastic up?

13 A. Yes, sir.

14 Q. And where is that piece of plastic today?

15 A. It should be in evidence. Everything was
16 given to Officer Williams to place into
17 evidence.

18 Q. You gave that torn plastic bag to Officer
19 Williams?

20 A. Initially, I placed it on top of the
21 vehicle, and I pulled Reggie back to, you know
22 -- wanted to question him and then go question
23 the passenger. I never got to that portion of
24 it because, you know, the patting down for
25 weapons and then him running and the fight that

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1 we had. After everything was said and done, the
2 bag was pulled out from -- off the top of the
3 vehicle and there was a set of digital scales
4 found inside the vehicle. And all that was
5 given to Officer Williams.

6 Q. Did you take the torn plastic bag off the
7 top of the vehicle and give that to Officer
8 Williams?

9 A. Yes, sir, I believe I did.

10 Q. And did you also hand the scales to Officer
11 Williams?

12 A. Yes, sir, I did.

13 Q. And so as far as you know, Officer Williams
14 took it and put it into evidence back at the
15 City of Conway?

16 A. Yes, sir.

17 Q. You keep looking over there. Is there
18 something you want to see?

19 A. No, I just hear the papers shuffling and I
20 was just looking.

21 Q. So then when you saw this plastic bag
22 which, to you, meant that was things commonly
23 used in the drug trade for packaging of
24 narcotics. Is that correct?

25 A. Yes, sir.

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1 Q. And you asked him at that time to step out
2 of the vehicle?

3 A. Yes, sir.

4 Q. And you said he kept his hand kind of close
5 to his hip or something?

6 A. He touched down around his hip area and his
7 side.

8 Q. And you were looking for further evidence
9 of narcotics, weren't you?

10 A. No, sir, not at that time. I was looking
11 for weapons. Because usually you can associate
12 drugs with weapons. And I want to go home. So
13 my main concern is -- that's when I pulled him
14 back and asked him, I said, "Have you got
15 anything on you that's going to hurt me, cut me,
16 stick me or blow me up?"

17 Q. I have a summary prepared and provided
18 pursuant to discovery rules which states, "Cpl.
19 Bradley told subject that he was going to do a
20 frisk for weapons. Subject's body physically
21 stiffened. Cpl. Bradley touched subject's right
22 front pocket and felt an object. Cpl. Bradley
23 asked subject what it was. Subject stammered,
24 'I don't know.' Cpl. Bradley asked subject if
25 he could look. Subject stated yes. Cpl.

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1 Bradley removed money and a lighter from the
2 pocket." Now, are we talking a cigarette
3 lighter?

4 A. Yes, sir.

5 Q. That type of cigarette lighter? Is that
6 correct?

7 A. Um-humm.

8 Q. And are you, in your experience, pretty
9 adept at feeling that from the outside of
10 clothing and knowing that that's what it is?
11 It's not a perfectly round cylindrical, like a
12 medicine bottle. Aren't you pretty adept?

13 A. Everything was in a pocket and it was kind
14 of lumped together. And I just asked him -- I
15 asked his permission to go into it and look and
16 he said yeah.

17 Q. And he said yes, and you reached into the
18 pocket and you removed that lighter and some
19 money?

20 A. Yes, sir.

21 Q. And that money was like \$140 or \$20? How
22 much was it that you removed from the pocket?

23 A. I don't recall right offhand.

24 Q. A large quantity of money?

25 A. No, it wasn't large.

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1 Q. Just a couple of bills?

2 A. Yes.

3 Q. And then at that point, once he furnished
4 -- once he gave permission to go into his
5 pocket, you took those things out. And then,
6 was it then that he started to crouch a little
7 bit as if he were going to run?

8 A. Yes, sir.

9 Q. You'd already had your hands in his pocket?

10 A. Well, I pulled my hand out and I looked at
11 it.

12 Q. And you were within a foot of him, weren't
13 you?

14 A. I was behind him, yes.

15 Q. Within a foot of him, doing this?

16 A. Yes.

17 Q. Was there anything you felt in that pocket
18 or anywhere else on his person that led you to
19 believe he was armed? I mean, how did you
20 arrive at the pocket? Don't frisks normally
21 start under arms, down legs?

22 A. I started in the area that I saw him
23 touching, which was right in here.

24 Q. And that area proved to have no weapons.
25 Is that right?

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- 1 A. (Affirmative nod). No, sir.
- 2 Q. So was that summary accurate with what
3 transpired?
- 4 A. Yes, sir.
- 5 Q. Did Officer Robinson -- while you're
6 reaching in Mr. Pinkney's pocket, did Officer
7 Robinson -- was he conducting a frisk for
8 weapons of the passenger?
- 9 A. No, sir.
- 10 Q. To the best of your knowledge?
- 11 A. No, sir, not to the best of my knowledge.
12 I was focused on Mr. Pinkney.
- 13 Q. And after you reached in his pocket and
14 pulled out the lighter and the money, then and
15 only then did he crouch or act like he was
16 wanting to get away and run.
- 17 A. He actually -- yes, he crouched and ran.
- 18 Q. He crouched and ran. And you immediately
19 put your hands on him?
- 20 A. Um-humm.
- 21 Q. And did he pull you a couple of feet or so?
- 22 A. Yes, sir, he kept moving. I saw Officer
23 Robinson there. I told him to stop, and then I
24 kind of nudged him a little bit into Officer
25 Robinson's arms.

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1 Q. Was Mr. Pinkney under arrest when you took
2 the lighter and the money out of his pocket?

3 A. No, sir, not until the point he ran and I
4 told him to stop. And he kept continuing to go,
5 to resist. I just wanted to detain him. And
6 then I finally told him "you're under arrest."

7 Q. Now, describe for me, if you will -- he was
8 handcuffed in the back. Is that correct?

9 A. Yes, sir.

10 Q. And I believe Officer Robinson testified
11 that he put cuffs on his ankles as well.

12 A. Officer Williams.

13 Q. Williams, I'm sorry -- on the ground.

14 A. Um-humm.

15 Q. And then y'all stood him up?

16 A. He was still on the ground at the time.

17 Q. Still on the ground?

18 A. Yes, sir.

19 Q. And I was having to move him around to
20 check his pockets. We didn't stand him up until
21 later.

22 Q. All right, sir. While he was on the ground
23 cuffed feet and wrists, that's when you
24 continued your search of him?

25 A. Yes, sir.

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- 1 Q. And that's when, I think you testified,
2 that you felt under the crotch and you felt a
3 lump?
- 4 A. Yes, sir.
- 5 Q. Describe for me the size of the lump?
- 6 A. About the size of a super ball, you know,
7 those rubber bouncy balls.
- 8 Q. Could that have been the 4.6 grams of
9 marijuana?
- 10 A. Yes, sir.
- 11 Q. Is that in the BEST evidence kit?
- 12 A. It's not in the BEST kit. It was turned
13 into CPD's Evidence.
- 14 Q. And if you were to take that, would that be
15 the size of a bigger-sized ball?
- 16 A. It was bigger than that.
- 17 Q. Bigger than a quarter-sized lump of
18 marijuana?
- 19 A. Yes.
- 20 Q. And you felt that, and that's when you
21 reached in to the back of his pants?
- 22 A. Yes, sir.
- 23 Q. And felt that?
- 24 A. (Affirmative nod).
- 25 Q. Then when you reached in his pockets or

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1 continued to search inside his pockets, you say
2 you pulled his pocket out, but it was evidently
3 not in his pocket but somewhere on the inside?

4 A. On the inside. I had run my hands on the
5 outside of his pocket and felt a lump, reached
6 in to grab it, and couldn't get it. So I pulled
7 it out with the pocket, and it was on the inside
8 of the pocket. So I cut the pocket off and it
9 was on the inside.

10 Q. Did he have on briefs, underwear?

11 A. I'm sorry. At the time, I didn't check for
12 his underwear.

13 Q. Was it in the back?

14 A. It was in his right front pocket.

15 Q. The marijuana?

16 A. No. When I reached in, I don't recall if
17 he had underwear on or not. I just reached in.
18 I had gloves on.

19 Q. Again, I'm quoting from a summary here,
20 "Cpl. Bradley removed a plastic bag of a green
21 leafy substance believed to be marijuana
22 subsequently processed at 4.6 grams." You say
23 that was from a pocket?

24 A. No, that was from the back of his pants.
25 You lift up his pants, reach your hand in, down

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1 in there and remove it.

2 Q. And you don't recall whether he was wearing
3 underwear or boxers or anything like that?

4 A. I don't recall that.

5 Q. And you felt another lump. After he had
6 showed you the contents of the pocket or allowed
7 you to go into the pocket, when you felt a lump,
8 was the lump on the front of the pocket, on the
9 back of the pocket, on the front or back of the
10 pants?

11 A. It was right up here.

12 Q. I can't see where you're pointing.

13 A. Right towards the inner thigh, right here.

14 When I ran my hand down like that, I felt a
15 lump. I reached down, like this, to grab it,
16 grabbed hold of it and pulled it out like that
17 and felt the lump on the inside and then cut.

18 Q. What size lump are we talking about here?
19 Quarter sized? Half dollar sized? Nickel
20 sized?

21 A. A little bit bigger than that.

22 Q. Okay. Did it happen when he was face down?

23 A. He was all lumped up.

24 Q. Was Mr. Pinkney under arrest at that time,
25 when you were ---

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1 A. Yes, sir, for disobedience to a police
2 officer.

3 Q. Disobedience to a police officer.

4 A. Yes, sir. I told him to stop. He
5 continued on. I told him to quit. He refused
6 to quit. Wrestled him down. Handcuffed him.
7 He was under arrest.

8 Q. Was he ever charged with operating a
9 vehicle with a suspended license tag?

10 A. I do not believe so.

11 Q. Did you ever charge him or formally arrest
12 him for disobedience to a police officer?

13 A. That would be on a blue ticket. Officer
14 Williams handled the initial charging. I was
15 just there as support. And then once it was all
16 done, Officer Williams handled the rest of that.

17 Q. But you were the officer or you testified
18 that you gave him instructions to stop and he
19 continued?

20 A. Yes, sir.

21 Q. So you would have been the officer whose
22 instructions he disobeyed?

23 A. Yes, sir.

24 Q. Did you, yourself, cite him or charge him
25 with disobedience of an officer?

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1 A. I can't recall. He was charged, but I
2 don't remember ---

3 Q. I believe he was charged with resisting
4 arrest, but not with disobedience. You,
5 yourself, did not charge him with disobedience.

6 A. No, sir.

7 Q. And you don't know whether either of these
8 other officers charged him with disobedience?

9 A. I believe -- no, I don't remember.

10 Q. Describe for me, if you will -- I
11 understand there are different levels -- and,
12 Officer, please don't get me wrong. I'm not
13 criticizing you. I admire police officers and
14 respect them, because we can't function as a
15 civilized society without them. But when you're
16 describing somebody resisting arrest, there's
17 certainly all kind of levels of that. Is that
18 correct?

19 A. Yes, sir.

20 Q. There's some who will mouth at you. Is
21 that correct?

22 A. Yes, sir.

23 Q. And just run their mouth, cuss you, fuss at
24 you, this, that and the other, while you're
25 trying to everything to control them and they're

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1 resisting.

2 A. Yes, sir.

3 Q. There's others who will not let you conduct
4 searches or pat-downs or things of that nature
5 by body movement or turning and things of that
6 nature. And those are people you also charge
7 with resisting. Is that correct?

8 A. That's one level.

9 Q. And then there's varying levels of that.
10 And then there's also people who will turn or
11 swing or whatever because they don't want your
12 hands on them. Those are people as well that
13 you charge with resisting. Is that correct?

14 A. I have never charged anybody with
15 resisting. When I go to pat-down, the hands are
16 kind of -- I understand them being nervous. I
17 mean, I really do. You've got -- you're being
18 stopped, you know. I just tell them to calm
19 down. And the only time I'll go through and
20 charge resisting is somebody that's actively
21 trying to flee and get away.

22 Q. And that's when you said that he committed
23 resisting arrest, was after you had reached in
24 the pocket and pulled out the lighter or
25 whatever and began patting further?

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1 A. No, no. When he tried to run away and I
2 told him to stop.

3 MR. LONG: The Court's indulgence
4 for just one moment.

5 THE COURT: Sure.

6 MR. LONG: Thank you, sir. No
7 further questions.

8 THE COURT: Redirect.

9 SOLICITOR MEACHAM: I have no
10 further questions.

11 THE COURT: Thank you. You may come
12 down.

13 (WITNESS STEPS DOWN)

14 THE COURT: Do you have any
15 additional witnesses on this issue, Solicitor?

16 SOLICITOR MEACHAM: No, Your Honor.

17 THE COURT: Very well. Do you wish
18 to call any witnesses?

19 MR. LONG: Yes, Your Honor.
20 I'd like to call Officer Robinson.

21 (WITNESS TAKES STAND)

22 ROBERT WALKER ROBINSON, being duly
23 sworn to tell the truth, the whole truth and
24 nothing but the truth, testified, as follows:

25 DIRECT EXAMINATION

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1 BY MR. LONG:

2 Q. Officer Robinson, you arrived at this scene
3 after Officer Williams had made the traffic
4 stop. Is that correct?

5 A. As he was making the traffic stop.

6 Q. So you were behind his vehicle ---

7 A. Yes, sir.

8 Q. --- as he turned on his blue lights?

9 A. Yes, sir.

10 Q. And when he went to Mr. Pinkney's vehicle,
11 to the driver's door and asked him about
12 paperwork and things of that nature, what were
13 your responsibilities?

14 A. To keep an eye on the passenger.

15 Q. So you were standing at the passenger door?

16 A. Correct.

17 Q. And you were -- was the window rolled down?

18 A. Partially.

19 Q. How far partially? Barely cracked or
20 almost completely open?

21 A. Six inches.

22 Q. Six inches?

23 A. Yes, sir.

24 Q. And the glass on the vehicle, was it a
25 sunny day?

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1 A. Yes, sir.

2 Q. And were you able to see through the glass
3 and keep an eye on both the passenger and the
4 driver of the vehicle?

5 A. Yes, sir.

6 Q. And did you see Mr. Pinkney use his cell
7 phone or attempting to use his cell phone while
8 he was talking to the officer or either while
9 Officer Williams went back to his patrol car?

10 A. Yes, sir.

11 Q. And he was allowed to do that?

12 A. Yes, sir.

13 Q. No problems with that?

14 A. No, sir.

15 Q. Did you see anything in their behavior that
16 led you to believe, 'Hey, these guys need to be
17 out of the truck. They look like they could be
18 armed or armed and dangerous. We'd better bring
19 these guys out and make sure there's nothing on
20 them.'

21 A. No, sir, not at that time.

22 Q. Not at that time. So then when Officer
23 Williams came back to the vehicle -- did he
24 first go to the vehicle and get license,
25 registration and insurance and go back to his

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1 vehicle? Or did he go to his vehicle after
2 speaking with the driver and come back and then
3 get license, registration and insurance?

4 A. No, he went to the window and got license,
5 registration and insurance and then headed back
6 over to his vehicle with it.

7 Q. And then did he go back to the driver's
8 window again?

9 A. No.

10 Q. He never did go back to the driver's
11 window?

12 A. No.

13 Q. Was he then in the car when Officer Bradley
14 arrived?

15 A. Yes, sir.

16 Q. And when Officer Bradley arrived he then
17 stood by the driver's side?

18 A. The rear.

19 Q. The driver's rear?

20 A. Yes, sir.

21 Q. Did you see Mr. Pinkney on the telephone?

22 A. Yes.

23 Q. Did you hear him call Officer Bradley over?

24 A. Yes, sir.

25 Q. Did you observe anything on the floorboard

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- 1 of the vehicle?
- 2 A. Not from my side, no.
- 3 Q. And it would have been on the driver's
- 4 floorboard. Is that correct?
- 5 A. Yes, sir.
- 6 Q. Does this truck have a large console
- 7 between the floorboards, or does it just have a
- 8 carpeted area?
- 9 A. I don't recall.
- 10 Q. And then Officer Bradley -- you were there
- 11 when Officer Bradley asked him to step out?
- 12 A. Yes, sir.
- 13 Q. And then Officer Bradley moved him back
- 14 towards the rear of the vehicle?
- 15 A. Yes, sir, back to the tailgate.
- 16 Q. Your side of the vehicle, passenger's side
- 17 of the vehicle, correct?
- 18 A. Correct.
- 19 Q. Were you continuing to observe the
- 20 passenger while Officer Bradley was talking with
- 21 Mr. Pinkney?
- 22 A. I took a couple of steps back so I could
- 23 keep an eye on both of them.
- 24 Q. And then when Mr. Pinkney started to crouch
- 25 down did you observe him do that?

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A. Yes, sir, he stiffened up, and at that point that's usually a signal that they're fixing to try to run. So I just started
4 stepping back towards him.

5 Q. Did you ever observe Officer Bradley place
6 a torn plastic bag on the roof of the truck?

7 A. Yes, sir.

8 Q. Did you collect that torn piece of plastic
9 and place it in evidence?

10 A. No, I did not.

11 Q. Who collected it?

12 A. I believe Officer Bradley handed it to
13 Officer Williams.

14 Q. How far from the vehicle -- and I'm talking
15 about the rear passenger corner of the vehicle.
16 How far from that corner of the vehicle was Mr.
17 Pinkney finally placed on the ground and cuffed?

18 A. About ten or twelve feet.

19 Q. And you heard Officer Bradley testify that
20 he had ahold of his jacket and he kind of drug
21 him a little bit or whatever, and then that's
22 when you arrived.

23 A. He pushed him into me and I put him in a
24 bear hug and turned to go down to the ground.

25 Q. Would it be fair to say that Mr. Pinkney

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1 may have moved five feet of that on his own
2 power?

3 A. Yes.

4 Q. While you were helping with cuffing Mr.
5 Pinkney, that's when the passenger walked away?

6 A. Yes.

7 Q. And there was nothing to lead you to
8 believe that he was armed or dangerous or
9 involved in any illegal activity?

10 A. At that time we were wrestling around with
11 Mr. Pinkney and we didn't have a chance to even
12 get to deal with him.

13 Q. And Officer Williams, was he involved in
14 the struggle as well?

15 A. He came up and helped cuff him, yes.

16 Q. And so there were three officers covering
17 Pinkney and there was no reason for the
18 passenger -- no reason for any of y'all to go
19 get the passenger?

20 A. Well, not at that time. We were trying to
21 get Mr. Pinkney under control.

22 Q. Thank you, sir. No further questions.

23 THE COURT: Cross examine.

24 CROSS EXAMINATION

25 BY SOLICITOR MEACHAM:

1 Q. Did Officer Bradley -- was he able -- did
2 you see him actually pat down Mr. Pinkney?

3 A. He started to, yes.

4 Q. Was he able to complete that pat-down?

5 A. No, sir.

6 Q. What happened?

7 A. As soon as he started he got -- he run his
8 hand across his mid-section and then started
9 down his leg. And that's when he stiffened up
10 and ran.

11 Q. Did Officer Williams have communication
12 with Officer Bradley about why he was stopped,
13 why Mr. Pinkney was stopped?

14 A. It was on the radio whenever they finally
15 come back with a return that it was a suspended
16 tag.

17 Q. Thank you. That's all the questions I
18 have.

19 THE COURT: Redirect?

20 MR. LONG: No, sir.

21 THE COURT: You may come down. Thank
22 you.

23 (WITNESS STEPS DOWN)

24 THE COURT: Any additional witnesses,
25 Mr. Long?

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1 MR. LONG: No, sir.

2 THE COURT: Very well. Any reply,
3 Solicitor?

4 SOLICITOR MEACHAM: No, sir.

5 THE COURT: Thank you. I'll be happy
6 to hear from you, Mr. Long.

7 MR. LONG: Thank you, Your Honor.
8 There's an extensive line of cases that Your
9 Honor is well familiar with starting with *Terry*
10 *v. Ohio* and progeny and other cases that apply
11 to this in South Carolina.

12 I hand up a copy of *State v. Woodruff*.
13 I hand the Solicitor a copy as well. It's about
14 as close on its fact, Your Honor, as I could
15 find to the facts of this case, as I've
16 understood them to be.

17 THE COURT: Yes, sir.

18 MR. LONG: In this situation, an
19 arresting officer makes a traffic stop. He
20 receives license, registration and proof of
21 insurance from a vehicle that voluntary pulls
22 over, does not flee or lead on a chase, anything
23 of that nature. He does not have any
24 suspicions, although he says that he knows
25 Reggie Pinkney and knows he's a runner or has a

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1 drug record or something of that nature. But
2 he has no reason to conduct a frisk at the time
3 when he pulls the vehicle over and Mr. Pinkney
4 was cooperating and providing him with the
5 required documentation. That does not give rise
6 to the need for a pat-down for weapons at that
7 point in time.

8 What then occurs is Officer Bradley is
9 called by Mr. Pinkney to speak to the mother,
10 and claims to have seen a torn plastic bag in
11 the floorboard, which, in his opinion, led him
12 to believe that illegal activity was afoot and
13 he needed to either frisk for weapons and search
14 for evidence.

15 I don't know, Your Honor, where this
16 torn-up plastic bag is. I could easily see it
17 blowing from the top of the roof. If it was
18 taken into evidence it's not been provided for
19 any discovery. At the Solicitor's Office they
20 don't seem to know. But even if it is as
21 stated, a torn plastic baggie, in a '91 GMC
22 pickup truck, in the floorboard of the truck,
23 that is not, in and of itself, sufficient to
24 give rise to suspicion or probable cause to
25 justify this level of search.

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1 Now, when Officer Bradley took Mr.
2 Pinkney out of the truck or asked him to step
3 out of the truck, after speaking with the mother
4 and seeing the baggie, I don't believe -- and,
5 of course, officers have the first-hand view and
6 I'm not criticizing or second-guessing him. But
7 when someone is frisked, the typical scenario is
8 your hands are on the corner of the roof of the
9 vehicle. They are patted from underarms down,
10 around the crotch, down the leg, into the socks
11 and then clearly there is no weapon on that
12 individual.

13 And I don't criticize or second-guess
14 the officer, but I think it's suspicious for him
15 to have said it looked like he was favoring this
16 pocket, 'so I went to the pocket and I felt
17 something. And I asked him what was in there.
18 He said, "I don't know." I asked him if I could
19 go in and get it and he said, "Sure." And I
20 reached into his pocket and pulled out money and
21 a lighter.' And then, only after that, was the
22 crouch or the looked like he was going to dart
23 or something of that nature.

24 Mr. Pinkney is not under arrest at that
25 time. The officer, if he had time to reach into

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1 a suspect's pocket, he certainly would be aware
2 that there's nothing anywhere else on the
3 suspect. Your Honor, if an officer is reaching
4 into a suspect's pocket and the suspect still
5 has his other hands free, certainly the officer
6 would be concerned about a weapon on this side
7 -- it's just not likely to believe that a frisk
8 had not been completed before the officer starts
9 sticking his hands in a suspect's pocket for
10 something that's readily not a weapon, the size
11 and shape of a cigarette lighter.

12 Mr. Pinkney has a right to resist an
13 unlawful search. He has a right to not
14 cooperate at that point. And by attempting to
15 crouch or dart or whatever, he was not charged
16 with disobedience to a police officer. He was
17 not charged with resisting arrest until after he
18 had attempt to move away from the truck and, as
19 they say, run or whatever.

20 Your Honor, the case law pretty clearly
21 says that a pat and frisk for weapons has to be
22 a noninvasive search, basically outer clothing,
23 where you're looking for hard objects that could
24 be weapons. If there is something uncovered or
25 discovered during the scope of that search, then

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1 if that leads an officer to believe that it's
2 suspicious or probable, then the officer has a
3 right to conduct a more invasive search.

4 This officer put his hand in the pocket
5 and pulled out the lighter. At that point in
6 time he would have been assured that there were
7 no weapons on these individuals. Did he ever
8 frisk the passenger? So there was no suspicion.
9 And at that point in time it went beyond the
10 bonds of what's permitted.

11 He was never charged with a traffic
12 violation, never charged with disobedience of a
13 police officer, and only arrested after they had
14 searched him or patted him or whatever.

15 So on those grounds we would
16 respectfully ask the Court to suppress evidence
17 of any drugs found in the buttocks of Mr.
18 Pinkney or inside the pocket. I don't know how
19 it was inside the pocket, but inside the pants
20 of Mr. Pinkney as being an improper search.

21 THE COURT: Thank you, sir. You have
22 to consider it as a palliative search that you
23 have to do. You can't just put everything in a
24 bag and you can't analyze it in a bag. Because
25 you have to look at the overall picture here.

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1 You have a person who's stopped lawfully. While
2 the investigation was being conducted, we have
3 an officer who, at the behest of the defendant,
4 was asked to approach. The door opens. He
5 observes something which he clearly gave a
6 reason for his suspicion. And as to ask him to
7 come back, not for the purpose of frisking.
8 That was made and suggested merely to inquire
9 further about the baggie situation. He wanted
10 to separate the two. I think that was probably
11 prudent law enforcement approach and practice.
12 Only when he saw him patting or
13 touching an area, which he was clearly was able
14 to articulate in an irrational basis, was
15 suspicion and belief and a concern was given,
16 again, which was in line with the circumstances.
17 Clearly, this is a person known.
18 Clearly, there was some concern that was made
19 known before the stop. He stated the scene.
20 And I think it's -- I agree with you, I don't
21 think this officer conducted a full frisk. That
22 was never his intent. His intention was merely
23 to find and make sure the area he was touching
24 -- I think he showed very good judgment and
25 restraint in confining him.

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1 The question is at what point did he
2 decide to leave. Whether it was right after he
3 pulled it out, before he pulled it out -- that
4 being the hard object, certainly, he had every
5 right in the world to do that, given the reason
6 of his concern that he articulated. Everything
7 else -- because if the defendant doesn't move --
8 and I know you argue he had a right to leave.
9 He did insofar as the officer was concerned.
10 But he didn't have a right to leave the scene
11 because there was still an ongoing
12 investigation. And that's precisely why I say
13 you have to consider the totality of it.

14 So, given that, this officer had a
15 right to question him because of his suspicion.
16 But, more importantly, he had an obligation to
17 assist. He was asked to assist. And this
18 person was trying to leave. So he had a right
19 to act on all of those things, which he did.

20 Clearly, the drugs were discovered not
21 as a result of the pat-down. They were a result
22 of the lawful arrest. He was arrested for
23 resisted arrest, for leaving or attempting to
24 leave. They had to forcibly detain him, which
25 then he's under arrest. And now he's searched

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1 pursuant to that.

2 So for those reasons -- Solicitor,
3 anything else you wish to add?

4 SOLICITOR MEACHAM: No, Your Honor.

5 THE COURT: For all of those reasons,
6 the Motion -- certainly, I understand the basis
7 for it. In fact, I've excluded evidence before,
8 years ago, on the basis of what you're saying.
9 The officer -- similar case to the case that you
10 handed up. It's not that case, but the officer
11 -- that was suggested here in the *Woodruff* case,
12 that he suspected a weapon. This officer did.
13 And he gave a reason for that. And I think the
14 reasons were rational.

15 For those reasons, I think the Motion
16 must be denied and the State may proceed with
17 the presentation of the evidence at trial.

18 Thank you. Any other motions, pre-
19 trial motions at this stage?

20 MR. LONG: Well, there is some major
21 law we can take up, Your Honor. If it comes to
22 sentencing -- and maybe it's a good time, if
23 there's any, to do this.

24 THE COURT: Well, let's wait until --
25 I'll assume he's innocent right now. So I don't

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1 need to deal with that.

2 MR. LONG: I just wanted to clarify
3 for the record, his prior record -- maybe we can
4 do that or it may be an appropriate time later.

5 THE COURT: We'll do that because I
6 think that's going to be a matter of law. You
7 don't have to worry about. The State just has
8 to prove the case of whether to strike it or
9 consider it, the double offenses. I assume the
10 jury's not going to try him under the double
11 offenses, are they?

12 SOLICITOR MEACHAM: No, sir.

13 THE COURT: I didn't think so. So if
14 that be the case, we'll deal with that. Let's
15 see if we can have Mr. Pinkney, and then we'll
16 make the call as to whether or not we'll go
17 forward with the trial.

18 MR. LONG: May we approach the
19 Bench?

20 THE COURT: Sure.

21 (BENCH CONFERENCE)

22 THE COURT: We'll be at ease until
23 1:15.

24 (LUNCH RECESS)

25 SOLICITOR MEACHAM: May it please

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1 the Court, I would call Melissa Gerrard.

2 THE COURT: Okay.

3 (WITNESS TAKES STAND)

4 MELISSA GERRARD, being duly sworn to
5 tell the truth, the whole truth and nothing but
6 the truth, testified, as follows:

7 DIRECT EXAMINATION

8 BY SOLICITOR MEACHAM:

9 Q. Ms. Gerrard, you work for the Solicitor's
10 Office.

11 A. That's correct.

12 Q. And you're, in fact, a legal assistant
13 assigned to me, correct?

14 A. Yes, sir.

15 Q. Part of your procedure as legal assistant
16 is to send out subpoenas for individuals to
17 appear in Court?

18 A. Yes, sir.

19 Q. Is that form from the bond paperwork?

20 A. Yes, sir.

21 Q. Is it also pulled from the information that
22 you have?

23 A. Yes, sir.

24 Q. And did you have the occasion -- I'm going
25 to show you -- can you identify that document?

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1 A. That's a subpoena I mailed to Mr. Pinkney
2 on September 30th, 2005.

3 Q. You mailed it for what term of Court?

4 A. The term beginning October 14th, 2005
5 through October 28th.

6 Q. All right. Did you also -- I'm going to
7 show you a second document. What address did
8 you mail that to?

9 A. 5924 Highway 544, Box 54, Loris, South
10 Carolina.

11 Q. Did you also have occasion to mail out
12 another subpoena to Mr. Pinkney?

13 A. Yes, sir, I did.

14 Q. And what term of Court was that?

15 A. That is also the term beginning October
16 14th, 2005 through October 28th.

17 Q. And what address was that mailed to?

18 A. 2317B Leonard Avenue, Conway.

19 Q. Were those addresses pulled from the bond
20 paperwork in the two separate cases?

21 A. Yes, sir.

22 SOLICITOR MEACHAM: May it please
23 the Court, we would introduce the subpoenas that
24 were mailed to the two addresses into evidence.

25 MR. LONG: Without objection.

1 THE COURT: Without objection,
2 they're admitted as State's Exhibits 6 and 7.

3 (SO ENTERED AS STATE'S EXHIBITS 6 AND 7)

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR MEACHAM:

6 Q. That's all the questions that I have.

7 Please answer any questions of Mr. Long.

8 THE COURT: You may cross examine.

9 Any questions?

10 MR. LONG: Just very briefly.

11 CROSS EXAMINATION

12 BY MR. LONG:

13 Q. Did you also prepare letters to me on
14 behalf of Mr. Meacham notifying me that this
15 case would be tried and was on the trial roster
16 the week of October 24th?

17 A. I sent out subpoenas, yes, sir.

18 Q. Do you also do dictation of letters for Mr.
19 Meacham as well?

20 A. Yes, I do.

21 Q. I'll show you two documents and ask you if
22 you can identify these? Were those prepared by
23 you?

24 A. Yes, sir, those are my initials.

25 Q. And those were letters informing me that

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1 the case would be on trial the week of October

2 24th, the term beginning October 24th?

3 A. Yes, sir.

4 MR. LONG: Your Honor, we would
5 offer those into evidence.

6 SOLICITOR MEACHAM: No objection.

7 THE COURT: Defendant's Exhibits 1
8 and 2. Let's have them marked for identifica-
9 tion so that we have a record of it. We can get
10 you another copy.

11 MR. LONG: Thank you.

12 THE COURT: Defendant's 1 and 2 for
13 identification only.

14 (DEFENDANT'S EXHIBITS 1 AND 2 FOR ID)

15 THE COURT: Any further questions?

16 MR. LONG: No further questions.

17 THE COURT: Redirect?

18 REDIRECT EXAMINATION

19 BY SOLICITOR MEACHAM:

20 Q. When a subpoena is sent to the wrong
21 address, what's the procedure? Is the subpoena
22 returned to us?

23 A. Yes, sir. And I attach it with the
24 envelope and put it in the file that it's
25 returned to us.

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1 Q. Did we receive any subpoena that was
2 returned to us?

3 A. No, sir.

4 SOLICITOR MEACHAM: Thank you.
5 That's all the questions I have.

6 THE COURT: Any recross?

7 MR. LONG: No, sir.

8 THE COURT: Thank you. You may come
9 down.

10 (WITNESS STEPS DOWN)

11 SOLICITOR MEACHAM: May it please
12 the Court, we would call Ms. Donna Williams.

13 DONNA WILLIAMS, being duly sworn to
14 tell the truth, the whole truth and nothing but
15 the truth, testified, as follows:

16 DIRECT EXAMINATION

17 BY SOLICITOR MEACHAM:

18 Q. Ms. Williams, where do you work?

19 A. Clerk of Court's office.

20 Q. And how long have you worked there?

21 A. Fourteen years.

22 Q. In the course of working at the Clerk of
23 Court's office do you maintain records as to
24 defendants' bonds in particular cases?

25 A. We do.

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1 Q. And can you identify this document, marked
2 as State's Exhibit 8?

3 A. It's bond paperwork for Reggie Allen
4 Pinkney.

5 Q. And on that bond paperwork does it include
6 an address?

7 A. It does.

8 Q. And what is that address?

9 A. 2317B Leonard Avenue, Conway.

10 Q. Does it include an acknowledgment by the
11 defendant that he received the bond paperwork?

12 A. It does.

13 Q. And in that acknowledgment is there an
14 Order to appear in Court?

15 A. Yes, the term beginning July 6th at 8:30
16 a.m.

17 Q. And does say "thereafter," does it not?

18 A. And thereafter, right.

19 Q. And after that, does it include
20 consequences if the defendant fails to appear at
21 a term of Court?

22 A. Yes.

23 Q. What, specifically, does it say?

24 A. (Reading): "I understand and have been
25 informed that I have a right and obligation to

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1 be present at trial. Should I fail to attend
2 Court, the trial will proceed in my absence."

3 Q. Thank you.

4 SOLICITOR MEACHAM: May it please
5 the Court, we would move -- I'm sorry, one other
6 question.

7 DIRECT EXAMINATION CONTINUED

8 BY SOLICITOR MEACHAM:

9 Q. I'm looking at the left-hand corner of the
10 document. Is that a signature by Reggie
11 Pinkney?

12 A. It is.

13 Q. Is that under the acknowledgment that he
14 would be tried in his absence?

15 A. Yes.

16 SOLICITOR MEACHAM: May it please
17 the Court, we would move to introduce State's
18 Exhibit 8 into evidence.

19 THE COURT: Any objection?

20 MR. LONG: Without objection, Your
21 Honor.

22 THE COURT: State's 8 is admitted
23 into evidence without objection.

24 (SO ENTERED AS STATE'S EXHIBIT 8)

25 MR. LONG: I have no questions of

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1 this witness.

2 THE COURT: Thank you. You may step
3 down.

4 (WITNESS STEPS DOWN)

5 SOLICITOR MEACHAM: That's all we
6 have, Your Honor.

7 THE COURT: Very well.

8 SOLICITOR MEACHAM: Could we have a
9 deputy ---

10 THE COURT: --- call?

11 SOLICITOR MEACHAM: Yes, sir.

12 THE COURT: If you would, please. Go
13 see if you can call the name of the defendant.
14 His name is Reggie Allen Pinkney. If you would
15 call three times for him.

16 (DEPUTY EXITS/REENTERS COURTROOM)

17 THE COURT: All right, sir. Any
18 response?

19 THE DEPUTY: I called his name three
20 times with no response.

21 THE COURT: If you would please come
22 take the stand.

23 JULIUS RAYMOND NOBLES, being duly
24 sworn to tell the truth, the whole truth and
25 nothing but the truth, testified, as follows:

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1 SOLICITOR MEACHAM: If Your Honor
2 please.

3 DIRECT EXAMINATION

4 BY SOLICITOR MEACHAM:

5 Q. Officer Nobles, you work for the Horry
6 County Sheriff's Department?

7 A. Yes, sir.

8 Q. And one of your duties is court security in
9 the courtroom?

10 A. Yes, sir.

11 Q. Did you, at Judge Dennis's direction, call
12 in the hallway for the defendant known as Reggie
13 Allen Pinkney?

14 A. Yes, sir, I did, three times.

15 Q. And was there any response?

16 A. There was no response.

17 Q. Thank you. That's all the questions I
18 have.

19 THE COURT: Any questions?

20 MR. LONG: No questions.

21 THE COURT: Mr. Nobles, you may step
22 down.

23 (WITNESS STEPS DOWN)

24 THE COURT: Anything further,
25 Solicitor?

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1 SOLICITOR MEACHAM: That's all we
2 have, Your Honor.

3 THE COURT: Very well. Anything from
4 the defendant at this point?

5 MR. LONG: No, sir.

6 THE COURT: The record certainly
7 supports that the defendant had adequate and
8 proper notices. His attorney was noticed.
9 He had clear notification from the bond that he
10 had. He had communication with his attorney, as
11 previously stated on the record in this
12 proceeding before the motions hearing. It is
13 fair that he has made a decision on his part not
14 to appear and we'll proceed in his absence.

15 Thank you. And I will instruct the
16 jury both before you give your opening and if he
17 does not appear, I will remind them in my
18 closing instructions they cannot use that
19 against him.

20 State ready to proceed?

21 SOLICITOR MEACHAM: State is ready,
22 Your Honor.

23 THE COURT: Defendant is ready to
24 proceed?

25 MR. LONG: Defendant is ready.

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1 THE COURT: Thank you. Let's bring
2 in our jury.

3 (JURY IN @ 1:50 P.M.)

4 THE COURT: Good afternoon. Ladies
5 and gentlemen, you may sit in any seat in the
6 jury box, except for Ms. Auld. You have a
7 designated seat because you, at this point, are
8 the alternate juror. That term really doesn't
9 have any real meaning or significance right now.
10 At the end of the case, if the first twelve are
11 able to continue, then you wouldn't participate
12 in the deliberations. But since neither you nor
13 I know the status of all the jurors at that
14 time, you are very much a part of the jury. So
15 please do not let the fact that you are an
16 alternate deter in any way your attention or
17 cause you to think I'm really not part of it,
18 because you are. That will be your seat,
19 though, as long as you are the alternate juror.

20 The rest of you ladies and gentlemen
21 are certainly allowed and certainly free to sit
22 in any seat that you want. There's one other
23 designated seat. This lady's occupying it in
24 the front row. She's eligible to serve in this
25 capacity as are any of the first twelve of you.

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1 That will be the person that will be designated
2 by you -- the statute allows me to appoint the
3 presiding juror, foreman, forelady, foreperson.
4 I call it presiding juror. That's, in essence,
5 what you do. The responsibility of that person
6 is to actually sign the verdict form on behalf
7 of the jury. If there are exhibits introduced,
8 then it would be your responsibility to receive
9 those and when the jury has completed its
10 deliberations, returning those to the Court.
11 Other than that, that's really the extent of
12 your additional responsibilities. Any of the
13 first twelve -- the only person not eligible is
14 Ms. Auld.

15 At one of the breaks if you will select
16 your presiding juror, and once that person has
17 been identified, I simply ask that that
18 individual occupy the seat for the balance of
19 the trial.

20 Thank you. If you will give your
21 attention now to Ms. Williams as she gives you
22 your oath as jurors.

23 MS. WILLIAMS: Please stand and
24 raise your right hands to be sworn.

25 (JURY SWORN)

1 THE COURT: I told you you'd make a
2 commitment. And, first of all, each courtroom's
3 different -- one of the things that I like to do
4 -- something that I just enjoy doing, is coming
5 down to speak to you and not staying behind this
6 bench. They've fenced me in here, and so I
7 can't come down. Forgive me for that. But I'll
8 stand and I'll speak to you here.

9 I mentioned to you when you were
10 qualified this morning that you'd be making a
11 commitment to the State and to Mr. Pinkney that
12 you would try this case based on the evidence;
13 that you would use your common sense basically.
14 Remember I said does anything prevent you from
15 using your common sense, your sense of logic and
16 reason fairly and impartially in deciding the
17 true facts. And you've indicated there wasn't.

18 You also indicated in answering that
19 question that there was nothing about this case
20 that would cause you any problem in taking the
21 law as I gave it to you and applying it fairly
22 to those facts and reporting your decision. And
23 now, that's just what you've confirmed. You've
24 confirmed that by the oath that you've taken.

25 And by virtue of that oath you, now,

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1 have become a judge in this case with me and
2 we'll work together in resolving this case. My
3 responsibility, I've been assigned by the Chief
4 Justice to be here and conduct the term. Oddly,
5 I was assigned to conduct a term of Common
6 Pleas, which is civil court. And we completed
7 our business this morning, so the Solicitor was
8 kind enough and they said, "Well, we have a case
9 if you wouldn't mind trying it." So we're
10 trying now a criminal dispute. I'm delighted to
11 be here to do that.

12 But in my capacity, I've been assigned
13 as a judge of the law. That means I have to
14 make rulings on matters of law. That means I
15 have to give you the law at the conclusion of
16 the evidence or conclusion of this case.

17 But please remember something, and I'll
18 remind you of this when I give you the law.
19 Nothing that I say or do during this trial
20 should be considered by you in any way to be an
21 indication or statement of how you are to
22 resolve a factual issue. Because that's your
23 job. That's your sole responsibility. No one
24 in this room has that responsibility but you.

25 And what you've said now to the State

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1 and to Mr. Pinkney -- and let me state now, you
2 notice Mr. Long -- Mr. Pinkney's not present.
3 The fact that he's not here yet really makes no
4 difference to you and can't even be considered
5 by you. And I'll tell you why in just a moment.
6 But please remember that that's part of the
7 commitment that you've made to the State, to Mr.
8 Pinkney and the attorneys representing their
9 parties. And that is that you will decide the
10 case based on the evidence and the law.

11 And part of the law that I will tell
12 you is that when a person, as Mr. Pinkney, is
13 accused of committing a criminal offense, in
14 this state and as far as I know every state in
15 this United States, that person has no
16 responsibility to prove or disprove anything --
17 nothing at all. In fact, you should never and
18 can never look to the defendant to prove or
19 explain anything. Because if you do, then you
20 will violate the oath that you just took.

21 Now, the law is quite simple. It says
22 you may accuse someone. But when you do, it's
23 your responsibility, your burden to prove that
24 charge, prove your case to a standard we call
25 beyond a reasonable doubt. And that means,

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1 ladies and gentlemen, that they have to prove
2 each element of each offense to that level.

3 What does that mean? Simply this. At
4 the conclusion I will discuss with you these two
5 charges, one, resisting arrest and the other,
6 trafficking in crack cocaine. I'll tell you the
7 various factors or elements that the State has
8 to prove. When you go back and when you begin
9 your deliberations and not before, you will then
10 analyze the evidence and decide whether or not
11 the State has convinced you beyond a reasonable
12 doubt as to each of those elements.

13 Now, what is that standard? Simply
14 stated -- and I will talk about it more detail
15 during the charge. But, simply stated, it
16 simply means that type of doubt that would cause
17 an honest, sincere, conscientious juror,
18 searching for the truth in a case to hesitate to
19 act or take some action. And that's the
20 standard that you will apply. And if, when you
21 analyze the evidence as to each of those
22 elements, you conclude yes, I'm convinced of
23 that standard, then the State has met its burden
24 of proof and is entitled to a verdict of guilty.

25 If, on the other hand, as to any one

1 element, your conclusion is, you know, I'm not
2 sure. It's possible. It might be. It could
3 even be probable. That's not sufficient.
4 Because it has to be more than probability. It
5 has to be more than "might be". It has to be to
6 that standard, beyond a reasonable doubt.

7 And if you reach any conclusion other
8 than beyond a reasonable doubt, then you must
9 return a verdict of not guilty. Why? Because
10 the State has failed to meet its burden of
11 proof.

12 That's what this trial is all about.
13 That's why it's so critical that you not even
14 consider the fact that he's not here. Because
15 he doesn't have any responsibility at all in
16 this proceeding. And that's what jury's verdict
17 means. Guilty means the State met its burden.
18 Not guilty means they didn't. And that's what
19 we'll be about.

20 So you'll look solely to the State
21 throughout this proceeding. Now, we'll discuss
22 the law with you. As I told you, I'll define
23 for you these two charges. And I will also
24 discuss another principle of law, and that is
25 that persons who are charged, in addition to the

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1 State having the burden, are presumed innocent,
2 and that presumption continues throughout. And
3 each one of you has made the commitment to the
4 parties that you will take the law as I give it
5 to you. And I'm confident that you will.

6 Another part of that commitment that
7 you've just said is this. You've promised to
8 use your common sense, your sense of logic and
9 reason, when you begin the process of deciding
10 this case, but not before. What does that mean?
11 The last part of my instruction is probably the
12 last thing that I will say to you before you
13 leave this courtroom to commence that process,
14 and that is when you may start your
15 deliberations. Until the Court gives you that
16 instruction, you can't -- you must not. And if
17 you do, again, you've violated the commitment
18 you just made.

19 The law says and the parties expect
20 that you will maintain an open mind, that same
21 open mind that you brought with you when you
22 just walked in this courtroom. Because if you
23 think about it, each one of you said that you
24 knew nothing about this case. Each one of you
25 said there was nothing about the allegations

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1 that would cause you any concern, about your
2 ability to be fair and impartial, in other
3 words, that you've have an open mind. And
4 you've promised to keep that.

5 And the reason -- there's a very good
6 reason for that. There's an order to this
7 proceeding. The State, having the burden of
8 proof, is going to present evidence in just a
9 few moments. But before they do that, you'll
10 have an opportunity to hear from each attorney,
11 if they choose, to give you an overview of this
12 dispute. They may discuss some of the evidence
13 that you may or may not hear. We call that
14 opening statements.

15 They have two opportunities to speak to
16 you. One at opening statement, and the other
17 following the evidence, in what we call closing
18 arguments, where they will discuss the evidence
19 with you and suggest reasonable inferences that
20 you may draw from that evidence.

21 I'm confident that you'll find their
22 remarks very beneficial both in going through
23 the trial and when you begin your deliberations.
24 So please give them your attention.

25 But just as my remarks to you are not

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1 evidence, their remarks cannot be considered
2 evidence. Because the evidence will come from
3 the witness stand. It will come from the
4 testimony of witnesses. And it's that evidence
5 that you will ultimately analyze in making your
6 decision.

7 I look forward to trying this case with
8 you. It's an honor to serve with each one of
9 you. I appreciate your attention to my remarks
10 and ask you to please now give that same
11 attention to the attorneys as they give their
12 opening statements on behalf of their respective
13 parties. Solicitor?

14 SOLICITOR MEACHAM: Judge Dennis,
15 Mr. Long, ladies and gentlemen, first of all,
16 thank you for your service. My name is Tim
17 Meacham. I'm an Assistant Solicitor with Horry
18 County.

19 I want to talk to you about what we're
20 going to do here today. The judge has given you
21 a roadmap of how the trial occurs.

22 What I'm going to talk to you about are
23 the elements of this case and what we intend to
24 prove and how we intend to prove it. On
25 February 23rd, 2005, Mr. Reggie Pinkney was

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1 stopped here in the City of Conway by Officer
2 Tyrone Williams. Officer Tyrone Williams pulled
3 up the tag on Mr. Pinkney's car that was
4 suspended. He was detained briefly.

5 Officer Bradley went up to him.
6 Officer Bradley asked him to get out of the car.
7 He got out of the car. Mr. Pinkney, at that
8 time, started to reach for his pocket. At that
9 time Officer Bradley did what's known as a Terry
10 frisk, patted him down. Mr. Pinkney at that
11 point started to run. Officer Bradley, who you
12 will meet momentarily, started to give chase at
13 that point. Officer Bradley gave chase, found
14 what was crack cocaine in his pocket and
15 marijuana in his back pocket.

16 That's what this case is about. That's
17 solely what this case is about. You will hear
18 from witnesses who were at the scene as to what
19 exactly happened that morning.

20 And what do we have to prove? First of
21 all, we'll prove trafficking crack cocaine.
22 What we're going to do is one thing -- one, did
23 he have it on his person? It was on his person.
24 All right. You're going to hear that from
25 Officer Bradley. You're going to hear that from

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1 Officer Robinson. You're going to hear that
2 from Office Williams.

3 What else do we have to prove? Well,
4 that the amount of crack cocaine was ten grams
5 to twenty-eight grams. You're going to hear
6 that from a SLED chemist who is Lisa Floyd.

7 What else do we have to prove? We have
8 to prove resisting arrest. All right, you're
9 going to hear from Officer Bradley that he went
10 to go frisk Mr. Pinkney for weapons at the time
11 and that he started to run. That he started to
12 flee. You're going to hear that from Officer
13 Bradley. You're going to hear that from Officer
14 Robinson and you're going to hear that from
15 Officer Williams.

16 What I'd ask is for you to apply your
17 common sense to the testimony that you'll hear
18 today. Because you are truly the judges of the
19 facts. We appreciate your attention and we
20 appreciate your patience. And we are sure that
21 you will find the facts and what you'll hear
22 from that witness stand and there will be no
23 other verdict but guilty.

24 THE COURT: Thank you. Mr. Long, do
25 you wish to make an opening statement?

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1 MR. LONG: Yes, Your Honor.

2 THE COURT: You may.

3 MR. LONG: Ladies and gentlemen, I'm
4 Buddy Long. I drove ten miles to be here. I'm
5 self-employed as an attorney, with my office in
6 Conway. My wife teaches kindergarten at First
7 Presbyterian Church in Myrtle Beach. We each
8 know as much about each other now, because
9 that's the information we have on each other.

10 But what the State's just done and what
11 we have done is we've looked at you and looked
12 at your occupations. We've looked at your --
13 the way you're dressed or your shoes or your
14 hair or your lack of hair or your glasses or the
15 fact that you don't need glasses. But,
16 nonetheless, all of us agree that this is a jury
17 that can sit and decide the issues in this case.

18 And that's why we're all thankful that
19 you're here. Because we're imposing on you.
20 But you're doing a duty of citizenship and we
21 all will have to do it at some point in time.
22 And we thank you for it.

23 As His Honor has instructed you, the
24 fact that Reggie Pinkney is not here should not
25 come into play as far as your deliberations.

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1 And it's always tough to look at an empty chair
2 and not be reminded that he's not here. But His
3 Honor has most aptly explained to you that what
4 you're to look at and concentrate on is the
5 evidence that comes from that witness stand, the
6 credible evidence, the believable evidence.

7 You can believe some of what a witness
8 says, all of what a witness says or none of what
9 a witness says. That's a tough job. And that's
10 where jury duty gets so much credit. Because
11 it's tough to figure out just exactly what the
12 truth is.

13 I will not ever be openly critical of a
14 police officer. I admire them. I respect them.
15 I don't want their job. I know I couldn't
16 handle their job. But they, like me, and like
17 many of us, are prone to mistakes. Sometimes
18 the mistakes are conscious. Sometimes a mistake
19 is unconscious. Sometimes mistake is motivated
20 by bias or prejudice that we don't even realize
21 we have.

22 The best example, my wife is a very
23 truthful person. And if she's thought
24 something, she'll tell me. And, thankfully,
25 that keeps me straight and keeps me in line.

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1 She would never purposely tell me a lie. But
2 there are situations where we'll be on the beach
3 or whatever and she'll be leaning back or
4 whatever and I'll see a pretty girl come down
5 in a bikini and I'll be kind of glancing or
6 whatever. She'll ask me, "Are you looking at
7 that girl?" Of course, I'll do the typical
8 thing, "Oh, no, not really. I just happened to
9 look up." We've been married twenty-five years
10 last week.

11 But if that same woman comes down the
12 beach in a bikini and my wife looks at her and I
13 look at her and you'll have six men that look at
14 her, at she. If you take us aside and you poll
15 us. And you say, "Mrs. Long, was that a pretty
16 girl in her bikini on the beach?" Well, her
17 hair was wrong and this, that and the other, and
18 she's had surgery or this, that and the other,
19 and we're critical of other women. She's not
20 going to purposely say that woman is
21 unattractive, but she'd not going to say she was
22 pretty.

23 The reason I'm spending this time
24 explaining to you this is we have our own
25 biases. We have our own motivations. We're all

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1 human, and we all have egos. And many times we
2 have to wear our egos on our sleeve. So I just
3 ask you to look at some of the testimony that
4 comes from this case in light of the human
5 factor. That we're all human. Whether we put
6 on a coat and tie or a robe or a police
7 officer's uniform, whatever the case may be.
8 We're all human.

9 So I ask you to listen to the facts and
10 circumstances and return your verdict. Thank
11 you.

12 THE COURT: Thank you, Mr. Long. You
13 may call your first witness, Solicitor.

14 SOLICITOR MEACHAM: May it please
15 the Court?

16 THE COURT: Yes, sir.

17 SOLICITOR MEACHAM: The State would
18 call Tyrone Williams.

19 TYRONE WILLIAMS, being duly sworn to
20 tell the truth, the whole truth and nothing but
21 the truth, testified, as follows:

22 DIRECT EXAMINATION

23 BY SOLICITOR MEACHAM:

24 Q. Officer Williams, where do you work?

25 A. Conway Police Department.

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1 Q. And how long have you been with the Conway
2 Police Department?

3 A. Six and a half years.

4 Q. And what is your rank with the Conway
5 Police Department?

6 A. Senior master patrol officer.

7 Q. And how long have you had that rank?

8 A. Five years.

9 Q. Are you trained by the State Law
10 Enforcement Division as a law enforcement
11 officer?

12 A. Yes, sir.

13 Q. When did you receive your first
14 certification as a law enforcement officer?

15 A. In 1999.

16 Q. Now, were you working with the Conway
17 Police Department on February 23, 2005?

18 A. Yes, sir.

19 Q. Did you happen to come about to investigate
20 Reggie Pinkney for a crime?

21 A. Yes, sir.

22 Q. Tell me the circumstances and where you
23 first saw the vehicle and why you stopped the
24 vehicle.

25 A. I first saw the vehicle on Hemingway

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- 1 Street.
- 2 Q. You've got a soft voice.
- 3 A. (Adjusts microphone).
- 4 Q. Thank you very much.
- 5 A. I first saw the vehicle on Hemingway
- 6 Street.
- 7 Q. Why did you notice the vehicle on Hemingway
- 8 Street?
- 9 A. Because of the tag. It seemed like a bolt
- 10 was missing and the tag was leaning.
- 11 Q. When you say a bolt was missing, the tag
- 12 was doing what?
- 13 A. The tag was leaning like it was missing a
- 14 bolt.
- 15 Q. What did you do at that point?
- 16 A. I got behind the vehicle and I ran the tag.
- 17 Q. When you say "ran the tag," what do you
- 18 mean?
- 19 A. I ran the tag through the South Carolina
- 20 DMV and the tag came back suspended.
- 21 Q. So what did you do at that point?
- 22 A. At that point we were on Ninth Avenue. I
- 23 waited for the light to change to initiate the
- 24 stop. Once the light changed I initiated the
- 25 stop. Mr. Pinkney pulled over on Smith Street.

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1 Q. Hemingway Street is inside the city limits?

2 A. Yes, sir.

3 Q. Is it near the Bi-Lo?

4 A. It's behind Bi-Lo.

5 Q. What about Ninth Street?

6 A. Ninth Street's on the side on the Bi-Lo.

7 Q. And Smith Street, is that in the city
8 limits?

9 A. It's right behind Wendy's.

10 Q. And so what did you do at that point?

11 A. At that point when I got him stopped, I
12 approached Mr. Pinkney's vehicle and went to the
13 driver's side window and asked him for his
14 registration, driver's license and proof of
15 insurance.

16 Q. And what happened then?

17 A. Officer Robinson went to the passenger's
18 side of the vehicle. I came back to my car.
19 And Officer Bradley came shortly afterwards.

20 Q. Was Officer Robinson in a separate vehicle?

21 A. Yes, sir.

22 Q. So what did you do when you got his
23 driver's license and registration?

24 A. Once Officer Bradley was at the rear of the
25 vehicle, I went back to run the registration

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1 information and driver's license information.

2 Q. And where was Officer Bradley?

3 A. At the rear of the vehicle.

4 Q. Did they get there at the same time?

5 A. Just about.

6 Q. What were you doing -- did you ever see
7 Reggie Pinkney getting out of the car?

8 A. No, sir.

9 Q. What happened after that?

10 A. After that, I was checking the information.
11 I don't know what transpired between -- whether
12 there was a cell phone call or a telephone call.

13 Q. Why would you not know that?

14 A. Because I was taking care of the informa-
15 tion and getting the information back.

16 Q. Were you in your car?

17 A. Yes, sir.

18 Q. Mr. Pinkney was in his vehicle?

19 A. He was in his vehicle.

20 Q. Who was watching Mr. Pinkney?

21 A. Officer Robinson and Officer Bradley.

22 Q. Then what happened?

23 A. At that point I noticed that he came out to
24 the rear of the vehicle. And I just kept doing
25 what I was doing. I looked back up again and

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1 Mr. Pinkney had ran. And Officer Bradley and
2 Officer Robinson took him to the dirt.

3 Q. What happened after that? What did you
4 then?

5 A. At that point I exited my vehicle to assist
6 with putting the cuffs on him because he was
7 fighting the officers. He wouldn't take any
8 verbal commands. He wasn't listening to verbal
9 commands. And they finally got him handcuffed
10 and I came out with the ankle chains and put
11 them on his ankles.

12 Q. What did you see happen whenever you put
13 these ankles chains on him?

14 A. As he was sitting up he made some movement
15 to the rear, towards the back with his hands.

16 Q. All right.

17 A. And Officer Bradley put his hands inside
18 his pants and pulled out a green leafy substance
19 believed to be marijuana.

20 Q. I'm going to ask you can you identify what
21 has previously been marked as State's Exhibit 2?

22 A. That is the green leafy substance believed
23 to be marijuana.

24 Q. And who gave that to you?

25 A. Officer Bradley.

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1 Q. What happened after that?

2 A. After that, after he was arrested, there
3 was something in his pocket that Officer Bradley
4 cut. And he gave to me a tan rocklike substance
5 believed to be cocaine.

6 Q. Did you see Officer Bradley cut the item
7 out of his pocket?

8 A. Yes, sir.

9 Q. I want to show you has previously been
10 marked as State's Exhibit 1 inside a bag. Can
11 you identify this?

12 A. Yes, sir. That's the rocklike substance
13 believed to be cocaine. Believed to be crack
14 cocaine.

15 Q. Did Officer Bradley give that to you?

16 A. Yes, sir.

17 Q. Okay. What did you do -- did Officer
18 Bradley retrieve those items before he ran?

19 A. No, sir.

20 Q. When did he retrieve those items?

21 A. After he ran and had ankles on him.

22 Q. What did you do with this particular items
23 after that night?

24 A. I put them into the -- what we call a BEST
25 kit and put them into the evidence locker.

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1 Q. And the evidence locker is where?

2 A. At the Conway Police Department.

3 Q. Who has custody over all the items in the
4 evidence locker?

5 A. Detective Domogauer (phonetic).

6 Q. Were there other items that Officer Bradley
7 seized that night?

8 A. Yes, sir.

9 Q. What were some of the other items?

10 A. The scales, the cell phone, the marijuana,
11 the crack cocaine.

12 Q. Did Officer Bradley seize this from the
13 vehicle, which is now State's Exhibit 5?

14 A. Yes, that was handed to him as well.

15 Q. What is that?

16 A. It's a digital scale.

17 Q. Did you take that into evidence?

18 A. Yes, sir.

19 Q. A digital scale, what is it used for?

20 A. To measure weight.

21 SOLICITOR MEACHAM: May it please
22 the Court, we would move to introduce the
23 digital scale into evidence.

24 THE COURT: Any objection?

25 MR. LONG: Foundation, Your Honor?

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1 DIRECT EXAMINATION CONTINUED

2 BY SOLICITOR MEACHAM:

3 Q. Did you receive this from Officer Bradley?

4 A. It was part of the collection.

5 Q. Did Officer Bradley remove it from the
6 truck?

7 A. It was handed to me by him. I don't recall
8 if he removed it from the truck or not.

9 Q. Did you check it into evidence?

10 A. Yes, sir.

11 MR. LONG: We would object at this
12 time.

13 THE COURT: Very well. Sustain the
14 objection at this point.

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR MEACHAM:

17 Q. Did Officer Bradley remove anything else
18 from Mr. Pinkney?

19 A. A large quantity of money.

20 Q. Was that turned over to you?

21 A. Yes, sir.

22 Q. And did you log that into evidence?

23 A. Yes, sir.

24 Q. Did you take photographs or did Officer
25 Bradley?

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1 A. Officer Bradley took photos.

2 Q. Did you count the money that was involved?

3 A. No, sir, Officer Bradley and Officer
4 Dunbar.

5 Q. When you say "a large amount of money," do
6 you know the approximate amount?

7 A. No, sir, I don't have the approximate
8 amount.

9 Q. When Officer Bradley was there, did you
10 tell Officer Bradley the reason for stopping
11 that car?

12 A. It was on the radio where it came back
13 suspended.

14 Q. Is that the reason you stopped that car
15 that night?

16 A. Yes, sir.

17 Q. Now, at that time were you able to verify
18 whether that was suspended or whether the tag
19 was suspended or not?

20 A. The tag, yes, I was able to verify it
21 through the South Carolina DMV.

22 Q. Now, did you write Mr. Pinkney a ticket?

23 A. No, sir, not for a suspended tag.

24 Q. Did you write him any other tickets that
25 night?

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1 A. Yes, sir.

2 Q. What tickets did you write?

3 A. Disobeying a police officer, resisting
4 arrest and that was the tickets, and simple
5 possession of marijuana.

6 Q. Now, is the case of simple possession of
7 marijuana still pending?

8 A. No, sir.

9 Q. Is it in City Court?

10 A. Yes, sir.

11 Q. Do you know the disposition?

12 A. Guilty on all charges.

13 MR. LONG: Your Honor, I want to
14 object at this point.

15 THE COURT: Sustained. Jury is to
16 disregard the last statement. Move on,
17 Solicitor.

18 DIRECT EXAMINATION CONTINUED

19 BY SOLICITOR MEACHAM:

20 Q. But you did inform Officer Bradley when you
21 were stopping him?

22 A. Yes, sir.

23 Q. Thank you. That's all the questions I
24 have. Please answer any questions for Mr. Long.

25 A. Sure.

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1 THE COURT: You may cross examine,
2 Mr. Long.

3 CROSS EXAMINATION

4 BY MR. LONG:

5 Q. Officer Williams, this was February 23rd, at
6 approximately 2:15 in the afternoon. Is that
7 correct?

8 A. Yes, sir.

9 Q. And you were on a routine patrol in and
10 around that area. Is that correct?

11 A. Yes, sir, on Hemingway Street.

12 Q. On Hemingway Street. How long is Hemingway
13 Street? Is it a major thoroughfare road or is
14 it more of a small, residential street?

15 A. Small, residential street.

16 Q. And approximately how long is Hemingway
17 Street?

18 A. A quarter mile.

19 Q. And you were, as part of your routine
20 patrol, on Hemingway Street when you first saw
21 Mr. Pinkney's vehicle?

22 A. Yes, sir.

23 Q. Where did you first observe it? Were y'all
24 meeting each other, or were you parked?

25 A. I was parked behind -- on the side, on a

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- 1 little side street called Short Alley.
- 2 Q. Would that be perpendicular to Hemingway?
- 3 A. Yes.
- 4 Q. And then when you saw him go by, did he go
- 5 by from your right to left?
- 6 A. He went by from my left to right.
- 7 Q. From your left to right. So you were on
- 8 this side of Hemingway Street?
- 9 A. Yes, sir.
- 10 Q. And he went by on your left to right?
- 11 A. Yes, sir.
- 12 Q. And after he went past, is that when you
- 13 noticed the tag was crooked?
- 14 A. Yes, sir.
- 15 Q. How close were you to Hemingway Street?
- 16 From here to the podium? Would you estimate
- 17 that as twenty feet?
- 18 A. Probably about twenty feet.
- 19 Q. So you had a view of his tag?
- 20 A. Yes, sir.
- 21 Q. This is a 1991 GMC pickup truck. Is that
- 22 correct?
- 23 A. Yes, sir.
- 24 Q. And it's what we would commonly take about
- 25 or refer to as a work pickup truck, wasn't it?

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1 A. I wouldn't say a work pickup truck.

2 Q. It didn't have chrome wheels. It didn't
3 have shiny paint. Wasn't in good shape. There
4 were some dents and rust and things of that
5 nature, what we call a work truck.

6 A. (Affirmative nod).

7 Q. Wasn't nothing fancy about it, was there?

8 A. No.

9 Q. And it's certainly not unusual for somebody
10 to have a license tag affixed with whatever
11 bolts they have available. Is that right?

12 A. Usually, when we find tags that's not on
13 right and something's wrong -- we've had a lot
14 of tags stolen and things of that nature.

15 Q. So, now, when you saw that, that's when you
16 pulled out behind him?

17 A. Yes, sir.

18 Q. Does Hemingway Street end at Ninth Avenue?

19 A. No, sir.

20 Q. It goes on across?

21 A. It ends at Durant Street.

22 Q. Pardon?

23 A. Onto at Durant Street.

24 Q. And then Durant Street goes to Ninth?

25 A. Goes to Ninth.

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1 Q. And you followed him onto Durant and then
2 to Ninth?

3 A. Yes, sir.

4 Q. Then at Ninth, when he got where Durant
5 Street is at Ninth, did he turn right or left on
6 Durant?

7 A. When he got to Durant Street he turned
8 left.

9 Q. So he turned left and went by Bi-Lo and
10 came to the stop light at 501, correct?

11 A. Yes, sir.

12 Q. Was it during that period of time that you
13 radioed in and you said "License check, tag
14 number SC 91 QAD, status?" Is that what you
15 asked for?

16 A. I'd already started when I got in behind
17 him and I noticed the tag. And at that time we
18 had heavy radio traffic and you had to wait
19 because there was other officers getting tags as
20 well.

21 Q. So how long would it have been that you
22 would have been behind him after you saw the tag
23 numbers until you were at the stop light at
24 Highway 501?

25 A. By the time I got finished running the tag

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1 he was already at the stop sign at Durant and
2 Hemingway.

3 Q. How far would that be? Would that be three
4 or four city blocks?

5 A. No, sir.

6 Q. More or less?

7 A. Less.

8 Q. So they were able to report back to you in
9 that length of time that the tag was suspended?

10 A. I don't think I had the tag back until he
11 got to Durant Street. He was already pulling
12 onto Ninth Avenue.

13 Q. So then he was stopped at the red light and
14 you were directly behind him?

15 A. Yes, sir.

16 Q. He wasn't attempting to try to run or evade
17 or anything, was he?

18 A. No, sir.

19 Q. And then right as the light turned green
20 and y'all crossed, went straight across 501,
21 that's when you flipped on your blue lights,
22 right?

23 A. Yes, sir.

24 Q. And you were suspicious again at that point
25 in time -- they hadn't told you that the tag was

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1 suspended, right?

2 A. The tag was confirmed as suspended as the
3 light changed.

4 Q. So that's when you flipped on your blue
5 light and he pulled right over, didn't he?

6 A. As he went through the light I turned the
7 blue light on.

8 Q. I think the first street right there, right
9 there directly behind Wendy's, is called Beacham
10 Street, isn't it?

11 A. Yes, sir, that's what it is.

12 Q. The next one is Smith Street and runs all
13 the way to Fourth Avenue.

14 A. Yes, sir.

15 Q. Is that where he pulled over?

16 A. He pulled off right at Smith Street.

17 Q. He was maybe three or four car lengths off
18 of Ninth Avenue, where he pulled off on Smith
19 Street?

20 A. It was enough room for his vehicle and my
21 vehicle before you get to the curb.

22 Q. So you pulled up behind him?

23 A. Yes, sir.

24 Q. And you got out of your vehicle and you
25 still had your blue lights going?

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1 A. Yes, sir.

2 Q. And you walked to his passenger window?

3 A. Yes, sir, his driver's window.

4 Q. Did he roll down the window?

5 A. The window was already halfway down.

6 Q. The window was already halfway down.

7 A. Yes, sir.

8 Q. And what did you tell him?

9 A. I asked him for his information. I
10 explained to him the reason why I stopped him
11 was because his tag was suspended. Then I went
12 back to my vehicle to run further -- get further
13 information on his driver's license.

14 Q. And when you received the report back from
15 the Highway Department about the suspension of
16 the tag, it was for nonpayment of insurance or
17 something of that nature. Is that correct?

18 A. I believe that's correct.

19 Q. So that was for a violation of nonpayment
20 of insurance?

21 A. Yes, sir.

22 Q. And what you asked him for when you got to
23 his driver's window was license, registration
24 and proof of insurance. Is that correct?

25 A. Yes, sir.

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- 1 Q. And he gave you each of those documents?
- 2 A. Yes, sir.
- 3 Q. His driver's license was valid?
- 4 A. Yes, sir.
- 5 Q. The registration for that vehicle showed
- 6 that the tag was valid, as far as the sticker on
- 7 the tag?
- 8 A. Yes, sir.
- 9 Q. And then the proof of insurance showed
- 10 insurance in effect as of February 23rd, 2005,
- 11 correct?
- 12 A. Yes, sir.
- 13 Q. So he gave you those three documents.
- 14 A. Yes, sir.
- 15 Q. Did you have any question that they were
- 16 forgeries or fraud or alterations or anything
- 17 of that nature?
- 18 A. No, sir.
- 19 Q. So you took those back to the vehicle and
- 20 then completed a check on those documents?
- 21 A. Yes, sir.
- 22 Q. While you were in that process then was
- 23 when Officer who arrives?
- 24 A. Officer Bradley was there just before I
- 25 came back to my car.

1 Q. So you were just leaving the driver's side
2 of the truck when Officer Bradley pulled up?

3 A. He was already near or coming towards the
4 back of the truck when I started back to my
5 vehicle.

6 Q. And how long would you estimate that it
7 took from the time you got to Reggie Pinkney's
8 window before Officer Bradley pulled up?

9 A. About ten seconds.

10 Q. And how long was it after that before
11 Officer Robinson pulled up?

12 A. Officer Robinson was right behind me.

13 Q. He was right behind you?

14 A. Yes, sir.

15 Q. He was already there with you?

16 A. Yes, sir, he was already there.

17 Q. So within ten seconds or so there's three
18 police officers on this truck.

19 A. Yes, sir.

20 Q. And for having a tag crooked?

21 A. Yes, sir.

22 Q. And then while you're in your vehicle
23 you're continuing with the radio about verifying
24 the documents.

25 A. Yes, sir.

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- 1 Q. Officer Bradley was standing where?
- 2 A. At the rear of the truck.
- 3 Q. The passenger's rear or the driver's rear?
- 4 A. Passenger's rear.
- 5 Q. And then where did Officer Robinson go when
- 6 he arrived?
- 7 A. Officer Robinson went to the passenger's
- 8 side of the vehicle.
- 9 Q. Passenger's side of the vehicle.
- 10 A. He was already there at the passenger's
- 11 side when I first made my approach.
- 12 Q. And while you were running the records
- 13 check did you see anything about any
- 14 conversations or what took place between Reggie
- 15 Pinkney and Officers Robinson or Bradley?
- 16 A. No, sir.
- 17 Q. Did you request any information from the
- 18 passenger in the truck?
- 19 A. Not at the time.
- 20 Q. Did either of the other officers, to the
- 21 best of your knowledge?
- 22 A. To the best of my knowledge, I couldn't
- 23 really say.
- 24 Q. And I believe your testimony was while you
- 25 were in the process of doing the records check

1 that you saw Mr. Pinkney was outside the
2 vehicle. And I believe you said Officer Bradley
3 was trying to frisk him or pat him or something,
4 whatever, and he started to run.

5 A. Yes, sir.

6 Q. Could you overhear any of that
7 conversation?

8 A. No, sir, I had the windows up, and I
9 couldn't.

10 Q. It was February?

11 A. Yes, sir.

12 Q. So you don't know what took place other
13 than what you saw?

14 A. Only what I saw, sir.

15 Q. And you collected evidence at the scene
16 from Officer Bradley. Is that correct?

17 A. Yes, sir.

18 Q. You got no evidence yourself, either out
19 of the truck or from anywhere else.

20 A. No, sir.

21 Q. Thank you, sir. Nothing further.

22 THE COURT: Redirect?

23 SOLICITOR MEACHAM: Nothing further.

24 THE COURT: Thank you. You may come
25 down.

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1 (WITNESS STEPS DOWN)

2 THE COURT: You may call your next
3 witness.

4 SOLICITOR MEACHAM: May it please
5 the Court, we'd call Officer Robert Bradley.

6 ROBERT D. BRADLEY, being duly sworn to
7 tell the truth, the whole truth and nothing but
8 the truth, testified, as follows:

9 DIRECT EXAMINATION

10 BY SOLICITOR MEACHAM:

11 Q. Officer Bradley, where do you work?

12 A. City of Conway Police Department.

13 Q. How long have you been with the Conway
14 Police Department?

15 A. I've worked there for five and a half
16 years.

17 Q. In what capacity do you work?

18 A. I am currently a detective. I got promoted
19 back in February. Prior to that I was the
20 canine unit. I've been with the canine unit
21 since September of 2001.

22 Q. Did you have occasion to be involved in the
23 arrest of Reggie Pinkney?

24 A. Yes, sir, I did.

25 Q. When was that? Was it February 23rd?

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1 A. Yes, sir.

2 Q. And tell us how you became involved, when
3 it happened and what happened.

4 A. I was at the satellite station. I heard
5 Officer Williams call out he was going 10-38 on
6 a vehicle. At the time Officer Robinson,
7 Officer Williams and myself were part of the
8 house narcotics team that worked Conway. And
9 when one of us goes on a traffic stop, all of
10 us.

11 Q. Why is that?

12 A. It's a matter of safety.

13 Q. What did Officer Williams tell you?

14 A. I didn't quite hear because I was leaving
15 from the satellite station. I heard he was
16 initiating a traffic stop. So I left the
17 satellite station and got in the car and I heard
18 the location. So I got there and as I was
19 approaching the vehicle, Officer Williams was
20 coming back to the patrol car and he said it was
21 for a suspended tag.

22 Q. So what you do?

23 A. I stood right at the front of his patrol
24 car behind the suspect's vehicle.

25 Q. What did you do at that point?

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1 A. Well, I stood there while Officer Williams
2 was taking care of some paperwork. And then
3 Reggie Pinkney waved me up to the vehicle.

4 Q. Where was he?

5 A. He was in the driver's seat.

6 Q. What did he do?

7 A. He had opened up the door and waved me
8 forward. He was holding his cell phone out.
9 And I approached him and I said, "What can I
10 help you with?" And he said it was the owner of
11 the truck and wanted to explain about the
12 vehicle tag. Mr. Pinkney had waved me forward
13 and he had opened up the door. And he'd said
14 something about the window not going down
15 properly.

16 Q. So what did you do, as a police officer?

17 A. I took the phone, and I was standing there
18 and Reggie's sitting right in front of me with
19 the door open. And I'm standing there --
20 initially, I started to talk, and I looked down
21 in the floorboard and on the floor down by his
22 feet was a torn plastic bag. In my experience,
23 when I see items like that, it's normally
24 associated with drug use.

25 Q. Tell me specifically what the plastic bag

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1 looked like.

2 A. It was like the corner of a baggie, you
3 know, you take and twist up drugs and tie it
4 off. And when they're ready to use it, they
5 just rip it open and get the drugs out and this
6 sort of thing.

7 Q. At that point what did you do?

8 A. I handed the phone back to Reggie and I
9 picked up the bag and placed it on the roof of
10 the truck.

11 Q. Then what did you do?

12 A. I wanted to -- there was also a passenger
13 in the vehicle, and I wanted to question them
14 about it and separate them. So I had Reggie
15 step back to the rear of the vehicle in order to
16 question him. I backed up so I could maintain a
17 visual on Reggie.

18 Q. At any time did you force Reggie out of the
19 vehicle?

20 A. No, I asked him if he would step to the
21 rear of the vehicle.

22 Q. Which he did?

23 A. Yes, he did.

24 Q. Then what happened?

25 A. As he was approaching the rear of the

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1 vehicle he kept touching his side.

2 Q. Tell the jury exactly what he did.

3 A. He kept touching around his side, like
4 this. And in my experience -- it's just like
5 a police officer. If you ever notice a police
6 officer or anybody standing, we have a way --
7 and it's a subconscious habit. You'll reach
8 down and make sure that that weapon is still
9 there. And that was my concern when I got him
10 to the rear of the vehicle, that he possibly had
11 a weapon.

12 Q. Then what did you do?

13 A. I told him -- I asked him if he had
14 anything on him that would cut me, stick me,
15 blow me up. And he said no. I explained that
16 I was going to frisk him.

17 Q. What is a frisk?

18 A. A frisk is a search of the outer, you know,
19 to see if you can find a weapon.

20 Q. Show the jury exactly what you did.

21 A. I reached and touched him right in here.
22 That's where I initially went when I started
23 patting him down. Because if there's a weapon,
24 my concern it's going to be the area that he was
25 touching. So I started right here and I ran my

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1 hand down in the pocket.

2 Q. Then what happened?

3 A. I felt a lump in the pocket and asked
4 Reggie -- you couldn't really make it out. It
5 was bulky, you know. Some of it felt soft. I
6 asked him what was in his pocket. He stammered,
7 "I don't know." And he was very nervous at this
8 point. And I asked him, I said, "Reggie, can I
9 look and see what it is?" And he said, "Yes."
10 So I pulled out the cigarette lighter and a
11 little bit of cash.

12 Q. I show you what's been previously marked as
13 State's Exhibit 3.

14 A. Yes, sir.

15 Q. Is that what you retrieved from the
16 automobile that night?

17 A. Yes, sir, and a little bit of cash. It was
18 all kind of bundled up.

19 Q. Did you turn that in to Tyrone Williams?

20 A. Yes, sir. Well, after the initial strike,
21 yes, sir.

22 Q. And the amount of cash, what did you do
23 with the cash?

24 A. I put it back in his pocket. About that
25 time he crouched down to run. And I said,

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1 "Reggie, stop," and he took off. Officer
2 Robinson was coming from -- was at the
3 passenger's side of the vehicle, because we had
4 somebody else in there. And he started coming
5 back this way. I grabbed hold of his jacket and
6 just pushed him into Officer Robinson after I
7 told him to stop. Officer Robinson grabbed him
8 and they went down to the ground. And then we
9 all went down to the ground. I told Reggie to
10 stop, quit resisting. He continued to struggle
11 and fight. And eventually we got handcuffs on
12 him.

13 In the course of handcuffing, I remembered
14 the passenger and I looked back and he had
15 exited -- gotten out of the vehicle. And I told
16 him to stay right there. And he just (makes
17 noise) -- gone.

18 Q. What were you doing with Reggie?

19 A. My main concern was Reggie, because we had
20 to control him, you know, and we'd got him in
21 the handcuffs. We got him in the handcuffs
22 after the struggle, and he was kind of sitting.
23 He kept reaching into the back of his pants.
24 His hands were back here like this, and he kept
25 reaching back into the rear of his pants.

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1 Q. Why was that a concern?

2 A. Well, I hadn't got to that portion of his
3 body when I was searching for weapons. I don't
4 know if there was a gun, knife or what he had
5 back there.

6 Q. I want to ask you the question. How far
7 had you gotten in the initial frisk?

8 A. Just right to that pocket, and then it was
9 on. He took off running. And it was just a
10 struggle after that.

11 Q. Why were you concerned with his reaching
12 back there?

13 A. Well, if he had a gun it could still be
14 there, and that was my main concern is I didn't
15 want to see anybody get hurt.

16 Q. So what did you do?

17 A. I started to search that area he was
18 reaching for. And I grabbed him and when I did
19 he tensed his buttocks up. And I ran my hand up
20 in between and I felt a lump in the bottom of
21 his buttocks.

22 Q. Were you still frisking him at that point?

23 A. Yes, sir. I pulled his hands up and
24 reached my hand down into it and I pulled the
25 bag of green leafy substance believed to be

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1 marijuana.

2 Q. I'm going to show you what has been
3 previously marked as State's Exhibit 2. Is
4 that what you retrieved?

5 A. Yes, sir, it is.

6 Q. What happened?

7 A. At that time I decided to search him and
8 continued with the search on his back right
9 pocket. I felt down on the inside and ran my
10 hand across to right here, and there was a lump.
11 So I put my hand inside, like this and grabbed
12 an object and pulled it out. When I pulled it
13 out like that it was on the inside of the
14 pocket. Then I cut the pocket out and contained
15 on the inside portion that I cut out was a white
16 tan rock-like substance believed to be crack
17 cocaine.

18 Q. Let me show you what has been previously
19 marked as State's Exhibit 1. Can you identify
20 that?

21 A. Yes, sir, that is the object.

22 Q. What did you do with what has been
23 previously marked as State's Exhibit 2 and
24 State's Exhibit 1?

25 A. Officer Williams was standing right there

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1 next to us.

2 Q. Okay, what did you do with these items?

3 A. I removed the marijuana. I handed it to
4 Officer Williams. I removed the crack cocaine,
5 and I handed to Officer Williams.

6 Q. Then what happened?

7 A. Then Reggie kind of sat up and when I
8 looked over -- he was wearing a black leather
9 jacket. On the inside pocket there was cash
10 sticking out.

11 Q. Did you retrieve that cash?

12 A. Yes, sir.

13 Q. Who had the cash from the previous search?

14 A. It had been put back in his pocket after it
15 was pulled back out.

16 Q. What happened after that?

17 A. Went into the vehicle and started to search
18 the vehicle.

19 Q. Was he under arrest at that point?

20 A. Oh, yes, sir. When he started to struggle
21 and I told him to stop, and when he continued --
22 and he continued to resist. And then said, "All
23 right, now you're under arrest." So we had him
24 handcuffed.

25 Q. And what did you find in the vehicle?

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1 A. The little truck had a little center
2 console. I flipped it open and inside was a set
3 of digital scales and a little bit of cash.

4 Q. Did you retrieve that cash?

5 A. Yes, sir, and the scales.

6 Q. I'm going to show you State's Exhibit 5.

7 Do you recognize that?

8 A. Yes, sir, I do.

9 Q. What is that?

10 A. It's a digital scale used to weigh items.

11 And -- along with some drugs, it would be used
12 to weigh drugs.

13 Q. Did you retrieve this from his car that
14 night?

15 A. Yes, sir, it was right after the marijuana
16 had been removed and the crack cocaine had been
17 removed.

18 Q. Did you turn this into evidence?

19 A. I gave it to Officer Williams.

20 SOLICITOR MEACHAM: May it please
21 the Court, we'd move these into evidence.

22 MR. LONG: For the record, we
23 object, Your Honor.

24 THE COURT: Very well. Subject to
25 objection of counsel, I think it's been properly

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1 linked and we'll receive it into evidence.

2 (SO ENTERED AS STATE'S EXHIBITS 1 AND 5)

3 SOLICITOR MEACHAM: Permission to
4 publish?

5 THE COURT: You may.

6 DIRECT EXAMINATION CONTINUED

7 BY SOLICITOR MEACHAM:

8 Q. You said earlier you retrieved a cigarette
9 lighter?

10 A. Yes, sir.

11 Q. I want to show you what's been previously
12 marked as State's Exhibit 3. Is that the
13 cigarette lighter you retrieved that night, sir?

14 A. Yes, sir.

15 Q. Did you turn it over to Officer Williams to
16 put in evidence?

17 A. Yes, sir.

18 SOLICITOR MEACHAM: May it please
19 the Court, we would move Exhibit 3 into
20 evidence.

21 MR. LONG: Without objection.

22 THE COURT: Without objection,
23 State's Exhibit 3 is admitted.

24 (SO ENTERED AS STATE'S EXHIBIT 3)

25 SOLICITOR MEACHAM: Permission to

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1 publish?

2 THE COURT: You may.

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR MEACHAM:

5 Q. Now, in terms of the money, can you
6 describe the procedure that you follow at the
7 Conway Police Department when you seize money?

8 A. The money is photocopied or photographed --
9 photocopied.

10 Q. Is it counted?

11 A. Yes, and it's counted.

12 Q. Did you count the money that you previously
13 stated that you retrieved?

14 A. Yes, sir. We all as a group -- all the
15 officers that were involved sat there and
16 counted the money.

17 Q. And what was the total amount?

18 A. It was around forty-six hundred dollars.

19 Q. Four thousand six hundred dollars?

20 A. Yes, sir.

21 Q. Sir, how long had you been working as a
22 narcotics officer?

23 A. Approximately four years.

24 Q. And what was the street value of crack
25 cocaine?

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1 A. Well, normally, if you hear of weights and
2 all that, point-one gram rock is called a 20-
3 rock, twenty dollars. And it was over twenty
4 grams of crack. Well, if you divide that by
5 point-one, you have two hundred times twenty,
6 over four thousand dollars in crack cocaine.

7 Q. The twenty grams would be approximately
8 four thousand dollars?

9 A. Yes, sir.

10 Q. Did you take a photograph that night of the
11 money and the scales?

12 A. Yes, sir.

13 Q. I show you what's previously been marked as
14 State's Exhibit 4. Is that a photograph of the
15 money that was retrieved that night or what is
16 that a photograph of?

17 A. That is a photograph of the money that was
18 obtained off him. You can see the crack cocaine
19 and marijuana. That is the truck, and also the
20 scale and the little bit of cash also.

21 Q. Was there a cell phone that was retrieved
22 that night?

23 A. Yes, sir.

24 Q. Who was that given to?

25 A. It was signed back over to Officer

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1 Williams. Everything went into evidence.
2 Everything that was obtained went back into
3 evidence. He came back later and got his cell
4 phone.

5 Q. Did you take this photograph?

6 A. Yes, sir, I did.

7 Q. Was Officer Williams present?

8 A. Yes, sir, he was.

9 Q. Was Officer Robinson present?

10 A. Yes, sir, he was.

11 Q. Did they assist in counting the money?

12 A. Yes, sir.

13 SOLICITOR MEACHAM: May it please
14 the Court, we would move Exhibit 4 into
15 evidence.

16 MR. LONG: Without objection as to
17 its admissibility.

18 THE COURT: State's Exhibit 4 is
19 admitted without objection.

20 (SO ENTERED AS STATE'S EXHIBIT 4)

21 SOLICITOR MEACHAM: Permission to
22 publish.

23 THE COURT: You may.

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR MEACHAM:

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1 Q. Did you relay to Officer Williams your
2 struggle with Mr. Pinkney that night?

3 A. Didn't have time. It happened so quickly
4 that I didn't even have time to get on the
5 radio. As a matter of fact, our radios were
6 keying up through our dispatch. And our radios
7 were keying up and we wouldn't answer just
8 because, of course, we were in a struggle. And
9 then they started sending everybody to us.

10 Q. After the fact, did you explain to Officer
11 Williams and tell him more about what happened
12 with the arrest?

13 A. Yes, sir.

14 Q. Did you tell him -- did you seize any items
15 from Mr. Pinkney, any contraband from Mr.
16 Pinkney before he was placed under arrest?

17 A. No, sir, I did not.

18 Q. Thank you. That's all the questions -- one
19 other question. Are you familiar with the area
20 of Ninth and Smith?

21 A. Yes, sir, I am.

22 Q. Is that inside the city limits of Conway?

23 A. Yes, sir, it is.

24 Q. At any point during this arrest did anybody
25 go outside the city limits?

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1 A. No, sir.

2 Q. Thank you. That's all I have. Is Conway
3 in the state of South Carolina?

4 A. Yes, sir, it is.

5 THE COURT: You may cross examine.

6 MR. LONG: Thank you.

7 CROSS EXAMINATION

8 BY MR. LONG:

9 Q. Officer Bradley, you were at the satellite
10 station when you heard a call onto the radio. I
11 imagine you keep an open radio on a speakerphone
12 or something so that you can hear all radio
13 traffic at the satellite station. Is that
14 correct?

15 A. Yes, sir.

16 Q. Your car was parked at the satellite
17 station and you were inside the satellite
18 station?

19 A. Yes, sir, I was.

20 Q. When you heard the call about a license
21 check or a 10-38, I believe it was -- is that
22 correct?

23 A. Yes, sir.

24 Q. Where is the satellite station located?

25 A. It is on the corner of Racepath and

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1 Northern Avenue.

2 Q. And how far is that from Hemingway Street
3 and -- I don't remember the other, Dandridge?

4 A. Durant.

5 Q. Durant. How far is that from the
6 intersection of Hemingway and Durant?

7 A. It approximately -- if you go in a straight
8 line it goes Racepath, Highland Avenue, Lawton
9 Road and then Ninth Avenue. And Ninth Avenue
10 ran kind of in a straight line.

11 Q. In tenth of a mile, how many tenths of a
12 mile would it be?

13 A. In a straight line, it would be
14 approximately five-tenths of a mile. But you
15 had to drive in the roadway, it was probably
16 close to a half mile or less.

17 Q. A half mile or less?

18 A. Yes, sir.

19 Q. So you were in the substation when you
20 heard the call. You went out and got in your
21 car, cranked your car and backed out, got onto
22 the roadway and then roughly a half of a mile to
23 the intersection of where --

24 A. Where the actual traffic stop was is not on
25 the Durant, but it was on Smith and Ninth

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1 Avenue. Which Smith and Ninth Avenue was over
2 on the other side of 501.

3 Q. An additional two blocks or so?

4 A. Well, yeah.

5 Q. So then you would have, say, seven-tenths
6 of a mile or so from the substation to the
7 incident location at Smith and Ninth?

8 A. Yes.

9 Q. When you got there where was Officer
10 Williams?

11 A. He was at the driver window, talking to
12 Mr. Pinkney. And Officer Robinson was at the
13 passenger window.

14 Q. At what speed did you travel -- did you
15 have your blue lights flashing going to the
16 incident location or did you just drive
17 normally?

18 A. I had no blue lights, ran the speed limit.

19 Q. Is the speed limit 35 miles an hour?

20 A. Yes.

21 Q. When you arrived Officer Williams was
22 coming back from or he was standing at Mr.
23 Pinkney's vehicle. Is that correct?

24 A. Yes, sir.

25 Q. And did Officer Williams say anything to

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1 you?

2 A. Coming back to the vehicle, when I was
3 approaching, he looked up at me and said,
4 "Suspended tag." And then I stood at the front
5 of his patrol car, behind the subject's vehicle.

6 Q. And then Mr. Pinkney motioned you forward
7 to the window because he had his mother on the
8 line who was explaining about the lapse of
9 insurance ---

10 SOLICITOR MEACHAM: Objection, Your
11 Honor.

12 THE COURT: What's your objection?

13 SOLICITOR MEACHAM: Leading.

14 THE COURT: Restate your question,
15 please.

16 CROSS EXAMINATION CONTINUED

17 BY MR. LONG:

18 Q. Did Mr. Pinkney hand you a telephone to
19 speak with someone about the suspended tag?

20 A. Yes, sir.

21 Q. And did that person identify themselves to
22 you?

23 A. She identified, but I did not know who I
24 was talking to. I was talking to a person on
25 the telephone.

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1 Q. Did Mr. Pinkney attempt to try to identify
2 that person?

3 A. He said it was the owner of the vehicle.

4 Q. Did he say it was his mother?

5 A. I don't really recall.

6 Q. And so then while you were on the phone
7 with her, how long of a conversation was this?

8 A. Very, very brief. Very brief.

9 Q. One second? Thirty seconds?

10 A. Between that.

11 Q. Fifteen seconds?

12 A. Somewhere like that. It wasn't very long
13 at all because when I was attempting to talk to
14 her, Reggie was trying to talk at the same time.
15 My patrol mike was going off and I'm trying to
16 listen. When I did, I pulled my head down and
17 looked down and there's a little baggie sitting
18 at his feet on the floorboard of the truck.

19 Q. So while you were in a conversation with
20 someone on the telephone about the tag, that's
21 when you say you noticed the corner of the
22 baggie?

23 A. Yes, sir.

24 Q. Was this the corner of a sandwich baggie?
25 Was it the corner of a freezer baggie? Was it

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1 the corner of a hard or plastic ziplock baggie?
2 Or was it more of a corner of a baggie, like it
3 was torn from a sandwich baggie?

4 A. It could be any one. Like I said, it was
5 plastic, clear. You could see where the end of
6 it was kind of crumpled together in a clump.

7 Q. There was some indication of -- it's a
8 corner.

9 A. Yes.

10 Q. We know it's a right angle at the corner.

11 A. Yes, sir.

12 Q. Give me some indication of how far it was
13 across the top.

14 A. Across the top it would have been like
15 that. Very, very small.

16 Q. About an inch and a half?

17 A. Yes.

18 Q. So that would have been an inch and a half.
19 That would have been a baggie about that size.
20 Is that correct?

21 A. A little bit bigger.

22 Q. And inch and a half across to the side?

23 A. If you take a plastic sandwich bag, clear
24 plastic in a corner and you take and wrap an
25 item in it and then tear it off, that's what you

1 will look at. There was no substance inside the
2 baggie itself. It's been my experience as an
3 officer that a lot of time when you're talking
4 about running narcotics, they put the drugs, tie
5 it off and then when they're ready to use it,
6 they rip it open and distorted the ends of the
7 bags, where you could see the pull marks on it
8 and then discard the bag.

9 Q. Do you have any idea how long that baggie
10 had been there?

11 A. No, sir, I didn't.

12 Q. Was there any other debris in the floor-
13 board that was in or around or underneath or on
14 top of the baggie?

15 A. Not that I recall.

16 Q. And you picked up the baggie yourself?

17 A. Yes, sir.

18 Q. And you say you put it on the roof of the
19 truck?

20 A. Yes, sir, right there right above and set
21 it down.

22 Q. Did you clip it on the wiper blade or
23 something, or did you just lay it on top?

24 A. Just laid it up there.

25 Q. You weren't worried about it blowing off

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1 and blowing away?

2 A. The wind wasn't that -- you know, it wasn't
3 real heavy that day.

4 Q. So you put it there instead of, I guess,
5 sticking it in your pocket or in a pocket or
6 just holding it in your hand and you asked Mr.
7 Pinkney to exit the vehicle. Is that correct?

8 A. Yes, sir, I asked him if he could step back
9 and speak with me.

10 Q. And did you ask him like, "Mr. Pinkney, if
11 you don't mind..." -- please tell me so. But
12 'if you wouldn't mind, please step out of the
13 vehicle and have a conversation with me.' Or
14 did you say, "I need you to step out of the
15 vehicle and step to the back of the vehicle."

16 A. I asked him, I said, "Reggie, could you
17 step back to the rear of the vehicle?"

18 Q. And what if he had said no?

19 A. I'd explain -- he didn't. He said yes.

20 Q. What if he'd said no?

21 A. I'm not playing a game. We can do this all
22 day. I asked him politely to step to the rear
23 of the vehicle, and he said okay.

24 Q. Did he have a right to refuse you?

25 SOLICITOR MEACHAM: Objection, Your

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1 Honor.

2 THE COURT: Sustained. It's not
3 relevant. Thank you, sir.

4 CROSS EXAMINATION CONTINUED

5 BY MR. LONG:

6 Q. At this point then you asked him to step to
7 the rear of the vehicle, and you said he was
8 nervous. And you can understand people being
9 nervous being stopped by three police officers.

10 A. I can understand that. I've seen people
11 get very nervous with just one police officer.

12 Q. And you said he kept pressing or touching?

13 A. Touching.

14 Q. And you were concerned at that point in
15 time because, one, that baggie told you that
16 there was something -- narcotics, drug-related
17 that I've found, or two, people who commonly
18 have a weapon maybe want to touch it or feel it
19 or make sure it's there.

20 A. The reason for pulling him out of the
21 vehicle was there was a passenger sitting up in
22 the seat with him. I wanted to separate the
23 two. And that's standard practice. You want to
24 ask him 'what are you doing here?' What's going
25 on and get his story. And you don't want the

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1 passenger to hear his story. You get his story,
2 and then compare the two. It never got to that
3 point, because as I was walking backwards and he
4 was stepping out, he was touching his side. My
5 main concern then became that he had a weapon.

6 Q. And you went straight to that pocket to pat
7 it or touch it?

8 A. I touched -- ran my hand around this way in
9 the general area and then ran down.

10 Q. And isn't a typical pat-down where a person
11 puts their hands on the hood or the hands on the
12 fender or whatever, and you start at the arms
13 and go down the chest, you go down the pockets,
14 you go down to the socks and then you know that
15 person's clean, there's no weapon on him? Isn't
16 that the typical pat-down?

17 A. As a general rule. But he was touching the
18 area. And my main concern was I wanted to get
19 to that area that he was touching and make sure
20 that there was not anything there that could
21 harm me.

22 Q. I understand that, and you told me that.
23 But I asked you was it a typical pat-down, from
24 underarms to socks and then you know he's clean?

25 A. As a normal rule, yes.

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1 Q. And in this situation when you patted the
2 outside of that pocket -- when you went from
3 belt to pocket, you felt a hard object in there.

4 A. I felt something in there. I couldn't
5 exactly tell what it was.

6 Q. You felt a lighter?

7 A. I felt a hard object and I didn't know what
8 it was.

9 Q. You didn't know it was a lighter at the
10 time, but you felt it.

11 A. I felt it, yes.

12 Q. And then you said, "What is that?"

13 A. Yes, I did.

14 Q. And Reggie said, "I don't know."

15 A. I don't know. Then I asked him if I could
16 reach in.

17 THE COURT: Hold on a second. Wait
18 till he asks the question. We can't have you
19 both talking simultaneous. That's a nightmare
20 for the Court, for the jury and, most important,
21 for this lady (court reporter) to my left. She
22 has to take down everything you say. Thank you.

23 THE WITNESS: I apologize, Your Honor.
24 I'll try not to do that.

25 THE COURT: Thank you, sir.

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1 CROSS EXAMINATION CONTINUED

2 BY MR. LONG:

3 Q. You asked him if you could reach in there.

4 A. Yes, sir, I did.

5 Q. And he said what?

6 A. Yes.

7 Q. And so you reached in his pocket and you
8 felt some paper.

9 A. I pulled it out and looked at it.

10 Q. And you felt the lighter?

11 A. Yes, sir.

12 Q. You pulled both out of his pocket. And
13 they obviously weren't any weapons.

14 A. Right.

15 Q. And then you say you put the money back in
16 the pocket?

17 A. I started to slide it back into his pocket
18 and he couched down and started to move to my
19 right. I told him to stop. That's when Officer
20 Robinson came around. I gave him a little shove
21 into Officer Robinson. We all went to the
22 ground. I told him to stop, quit and then you
23 are under arrest.

24 Q. That's not what I was asking you. You put
25 the money back in his pocket, correct?

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1 A. I started to.

2 Q. Did you ask him for permission to put it
3 back in his pocket?

4 A. No, but it was his, and I had no reason not
5 to.

6 Q. What about the lighter? Did you attempt to
7 put that back?

8 A. Yes, sir. Just looked at it and I started
9 to put it back into the pocket.

10 Q. To your knowledge was Mr. Pinkney ever
11 given a ticket for a suspended license tag?

12 A. Not to my knowledge, no.

13 Q. And was he under arrest at that point?

14 SOLICITOR MEACHAM: Objection, Your
15 Honor.

16 THE COURT: Sustained. It's not
17 relevant to this proceeding.

18 MR. LONG: Your Honor, ---

19 THE COURT: Approach, please.

20 (BENCH CONFERENCE)

21 CROSS EXAMINATION CONTINUED

22 BY MR. LONG:

23 Q. Officer Bradley, when you -- in attempting
24 to put the money back in his pocket, the money
25 and the lighter, is that when he crouched down

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1 or whatever, like he was going to take off and
2 bolt?

3 A. Yes, sir.

4 Q. And where were you when you were conducting
5 this attempting pat-down? Were y'all at the
6 driver's rear corner of the truck?

7 A. When you're looking at the tailgate of the
8 truck, we were kind of basically in the center.

9 Q. Standing at the rear of the truck?

10 A. Standing at the rear of the truck.

11 Q. And when he started to run you were within
12 a foot of him, weren't you?

13 A. Yes, sir, I was directly behind him.

14 Q. And you grabbed him by the jacket?

15 A. Yes, sir, I did.

16 Q. And he pulled you a slight distance?

17 A. Pulled me to the right, correct.

18 Q. And then you pushed him into Officer ---

19 A. I had given him a verbal command to stop.
20 He kept moving in that direction. And then I
21 saw Officer Robinson there. So I just gave him
22 a nudge in his direction. Officer Robinson
23 grabbed him, rolled over and hit the ground and
24 then we all just went to the ground -- hands,
25 arms, trying to take control and handcuff him.

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1 Q. As I asking you, he pulled you maybe five
2 feet or so. Is that correct?

3 A. Approximately.

4 Q. And then you saw Officer Robinson coming
5 and you went ahead and pushed him to Officer
6 Robinson so Officer Robinson could wrap him up
7 and take him down.

8 A. Yes, sir.

9 Q. And he was on the ground approximately ten
10 feet from where you were attempting to try to
11 pat him down.

12 A. Approximately. Everything was fluid. When
13 you start a motion you continue motion. And by
14 the time they rolled and we all ended up on the
15 ground, probably about ten feet.

16 Q. From where the initial pat-down ---

17 A. The initial pat-down, yes, sir.

18 Q. Then, of course, both officers, Officer
19 Williams got out of his vehicle at that time.
20 Is that correct?

21 A. Yes, sir. I pulled Reggie's arms -- I had
22 an arm lock on him, holding him. Officer
23 Robinson was right here. I remember looking
24 back over my shoulder, and I saw the passenger
25 move away. I told him to stop, but I continued

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1 back with Reggie. Then Officer Williams came up
2 beside of me, on my left.

3 Q. About that time Officer Williams got out of
4 his car, correct?

5 A. Yes, sir.

6 Q. And then he came over and helped subdue
7 somewhat and put the leg cuffs on him. Is that
8 correct?

9 A. We put the handcuffs on first, and then the
10 ankle cuffs because he continued to struggle
11 even after he was handcuffed. They were applied
12 shortly thereafter.

13 Q. Did Officer Williams get out of his vehicle
14 and come over and put the leg cuffs on?

15 A. Yes, sir.

16 Q. Did you already have the handcuffs on him
17 at that time?

18 A. No. He was handcuffed first. And then
19 after the handcuffs were applied he continued to
20 struggle, and then the leg cuffs were applied.

21 Q. And it's at that point in time when you
22 testified you saw -- he was cuffed from behind?

23 A. Yes, sir, he had his hands cuffed behind
24 his back.

25 Q. And he kept trying to ---

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1 A. Kept trying to ---

2 THE COURT: I'm going to ask you,
3 wait for him to stop before you answer. Thank
4 you.

5 THE WITNESS: Yes, sir.

6 CROSS EXAMINATION CONTINUED

7 BY MR. LONG:

8 Q. And you noticed him moving his hands behind
9 his back, and you thought he was trying to reach
10 in his pants?

11 A. Yes, sir.

12 Q. And isn't it just as likely he may have
13 been trying to pull his pants up?

14 A. I couldn't tell you. I saw his hands back
15 behind. I don't know what his intentions were.
16 I know that I had not finished patting him down
17 for weapons. My concern was that there was a
18 weapon back there. I needed to make sure that
19 there wasn't anything else to hurt me or any of
20 the officers on the scene.

21 Q. Would it be possible, if he had a pistol
22 back here, if he was cuffed behind his back, to
23 shoot it?

24 A. Your hands are free. As it is -- is your
25 wrists are bound together, like this. Still he

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1 could grab the weapon. And there have been
2 subjects that have been handcuffed and people
3 injured by them able to retrieve guns. Because
4 you can still take your hands and put them
5 behind your back handcuffed, and still come
6 around, like this, with a weapon.

7 Q. So both of you noticed the motion of his
8 hands and you felt it necessary to search him,
9 you continued your frisk at that point, to make
10 sure he had no weapons. And that's when you say
11 you removed this bag from his lower butt cheeks?

12 A. It was up underneath his buttocks, sir.

13 Q. Underneath his buttocks. Okay. And then
14 did y'all sit him up? Was he still on the
15 ground sitting, or was he standing when you
16 completed the remainder of the search?

17 A. He was still on the ground then. I
18 continued the search. He was under arrest
19 then, so our search could become more invasive.

20 Q. He was under arrest for what?

21 A. Disobedience to a police officer.
22 Resisting arrest. It start off I just wanted
23 him to stop and talk. And he kept going. I
24 told him to stop. And then he reached a certain
25 point that it's time to -- you're under arrest.

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1 Q. Was the passenger of the vehicle ever
2 frisked or searched, to your knowledge?

3 A. No, sir, he wasn't. We didn't have time,
4 because we were fighting with Reggie. And that
5 took so much of our time. I saw him -- it was
6 in the course of when we were fighting him --
7 walking away. I told him to stop, but we had to
8 maintain control of what was going on, and I
9 didn't want him to get out of hand or anybody
10 hurt. So he was never stopped. He was never
11 talked to. By the time we finished subduing
12 Reggie, he was gone.

13 Q. But your responsibility following
14 completion of the search was that -- your
15 testimony is that you took that from the back of
16 the pants and you gave this to Officer Williams.

17 A. Yes, sir.

18 Q. And then you completed another search of
19 that same right front pocket. Is that right --
20 when you said you felt a lump on the inside of
21 the pants, and you reached in and grabbed the
22 inner pocket, pulled it out, then cut the
23 pocket. And that's where you discovered this.
24 Is that correct?

25 A. Yes, sir.

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1 Q. And then you gave this to Officer Williams?

2 A. Yes, sir.

3 Q. When did you give the torn plastic corner
4 of the baggie that was on the floorboard to
5 Officer Williams?

6 A. That was afterwards, after the money had
7 been removed and we started going back to the
8 vehicle. And then the torn-off piece of baggie,
9 the scales, the cash that was in there with it
10 -- that was given to Officer Williams.

11 Q. And where is that corner baggie today?

12 A. That I could not tell you, sir. I was not
13 in evidence.

14 Q. But everything else is here, correct?

15 A. Yes, sir.

16 Q. Including the lighter and the scales and
17 the drugs and the pictures of the money.

18 A. Yes, sir.

19 Q. Reggie Pinkney is known to Conway Police.
20 Is that correct?

21 A. Yes, sir, I've had dealings with Mr.
22 Pinkney before.

23 Q. He's known to the Conway Police?

24 A. Yes, sir.

25 Q. And did y'all know that he was the driver

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1 of that truck on that occasion? Did Officer
2 Williams call you on the radio and say, "I've
3 got Reggie in a truck," or anything of that
4 nature? Was it know who the drive was before
5 you arrived at the scene?

6 A. I didn't know until I arrived on the scene
7 who was in the vehicle.

8 Q. When you walked up to the vehicle, when
9 Reggie waved you up, you knew who he was?

10 A. Yes, sir, he was known to me.

11 Q. And did you know who else, if anyone, drove
12 that pickup truck?

13 A. No, sir, I had no knowledge of who else
14 drove it.

15 Q. Where were the scales found in the truck?

16 A. In the center console.

17 Q. Did you do a fingerprint analysis to
18 determine whether or not they were Reggie's or
19 anyone else's or the passenger's?

20 A. No, sir.

21 Q. Was anything else uncovered in the vehicle?
22 You told me about these scales and some money.

23 A. Yes, sir.

24 Q. Was that it?

25 A. I believe so.

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1 Q. Thank you, sir. No further questions.

2 THE COURT: Redirect.

3 SOLICITOR MEACHAM: No questions.

4 Thank you.

5 THE COURT: Thank you, sir. You may
6 come down.

7 (WITNESS STEPS DOWN)

8 THE COURT: Ladies and gentlemen, at
9 this point we'll take a break. Do not begin
10 your deliberations. Don't discuss the case
11 among yourselves. We'll be with you in about
12 ten minutes or so. Thank you. You may retire
13 to your jury room.

14 (JURY OUT AT 3:12 P.M.)

15 THE COURT: Anything from the State
16 before recessing?

17 SOLICITOR MEACHAM: No.

18 THE COURT: Anything from the
19 Defendant?

20 MR. LONG: No, Your Honor, just
21 an estimate of time.

22 THE COURT: Probably -- let's plan to
23 get back about 3:25, please. Thank you.

24 (BRIEF RECESS)

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

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1 (JURY IN AT 3:20 P.M.)

2 THE COURT: Thank you very much,
3 ladies and gentlemen. We're ready to continue.
4 Call your next witness.

5 SOLICITOR MEACHAM: May it please
6 the Court, we would call Robert Robinson.

7 ROBERT WALTER ROBINSON, being duly
8 sworn to tell the truth, the whole truth and
9 nothing but the truth, testified, as follows:

10 DIRECT EXAMINATION

11 BY SOLICITOR MEACHAM:

12 Q. Officer Robinson, do you work with the
13 Conway Police Department?

14 A. Yes, sir.

15 Q. And you were working on February 23, 2005?

16 A. Yes, sir.

17 Q. Were you working in the vicinity of Ninth
18 and Smith Avenue on that day?

19 A. Yes, sir.

20 Q. Did you happen to become involved in the
21 arrest of Reggie Pinkney?

22 A. Yes, sir.

23 Q. Could you tell us what happened, how you
24 were there?

25 A. We work as a team. Officer Williams said

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1 he was going 10-38 over the radio.

2 Q. What is 10-38?

3 A. Traffic stop. So I got in behind him, as
4 we usually go. We go as a team. We got onto
5 Hemingway Street. When he got to the light he
6 got the return as a suspended tag on the
7 vehicle. And he was waiting for the light to
8 change. At that time he initiated the traffic
9 stop. And the vehicle pulled over at Ninth and
10 Smith.

11 Q. Then what happened?

12 A. Then he got out. Officer Williams got out
13 and approached the driver's side of the vehicle.
14 I got out of my vehicle and approached the
15 passenger's side, to cover him while he was
16 conducting his business.

17 Q. Did you see Officer Bradley?

18 A. Officer Bradley arrived on the scene
19 shortly after that.

20 Q. Then what happened?

21 A. Officer Williams asked for the information,
22 driver's license, registration and insurance, at
23 which time -- when he received that, he headed
24 back to his car to call in the driver's license
25 and check that out. Cpl. Bradley, now

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1 detective, he showed up on the scene, and took a
2 position at the very back of the vehicle.

3 Q. And then what happened?

4 A. I saw Mr. Pinkney -- he motioned to
5 Detective Bradley to come up to the driver's
6 side of the vehicle, and he had his cell phone
7 in his hand. He said that the owner of the
8 vehicle was on the phone and he asked if he
9 would talk to her, and he said sure. So Officer
10 Bradley took the phone and started talking to
11 her. And the next thing I know he's asking him
12 to come back to the back of the vehicle. And as
13 he was going to the back of the vehicle he was
14 touching his side. And Officer Bradley asked
15 him to put his hands on the tailgate of the
16 truck and started patting him down. At this
17 time he picked them up and crouched down and
18 started to run.

19 Q. How brief was -- what happened after that?

20 A. When he started to run Officer Bradley had
21 hold of his jacket and pushed him into me. I
22 wrapped him up and twisted and turned and went
23 to the ground.

24 Q. Then what happened?

25 A. Then we struggled with him for -- it seemed

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1 like several minutes but, in fact, it was
2 probably a minute or minute and a half. We got
3 the cuffs on him. Officer Williams had exited
4 his car and came up. He was still struggling,
5 so we put the ankle bracelets on him.

6 Q. Then what happened?

7 A. Then after that we started sitting him up.
8 Officer Bradley started to patting him down --
9 finish his search for weapons. That's when he
10 pulled up his belt and reached down the back of
11 his pants and pulled out a clear plastic bag
12 with a green leafy substance.

13 Q. Did you see Mr. Pinkney do anything at that
14 point?

15 A. He was doing something with the back of his
16 pants, but in the position I was in, I couldn't
17 tell what he was doing.

18 Q. What were you doing?

19 A. I was up on his right shoulder, but I was
20 kind of turned. I wasn't facing -- I was facing
21 away from him.

22 Q. Then what happened?

23 A. Then he continued his search. He rolled
24 him over and he patted his leg and he looked at
25 me and said, "What is that?" He stuck his hand

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1 down in his pocket and he pulled the pocket out.
2 The lump that he found still was not -- he
3 wasn't able to get to it. I don't know how it
4 was attached to the pocket. So at the same time
5 I was going for my pocket knife, he went for his
6 and cut the pocket to obtain the tan rock-like
7 substance.

8 Q. I'm going to show you what has previously
9 been marked as State's Exhibit 1. Can you
10 identify what is inside the baggie?

11 A. It's a tan rock-like substance, believed to
12 be crack cocaine.

13 Q. Okay, is that in similar form as what
14 Officer Bradley retrieved that night?

15 A. Yes, sir.

16 Q. And who did he turn that over to?

17 A. Officer Williams.

18 Q. Did he retrieve anything from the back of
19 Mr. Pinkney?

20 A. A clear plastic bag containing a green
21 leafy substance.

22 Q. I'm going to show you what has previously
23 been marked as State's Exhibit 2. Can you
24 identify that?

25 A. That's what he pulled out of the back of

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1 his pants.

2 Q. And what did Officer Bradley do with this
3 item?

4 A. Handed it to Officer Williams.

5 Q. Thank you. That's all the questions I
6 have. Please answer any questions from Mr.
7 Long.

8 THE COURT: You may cross examine.

9 MR. LONG: Thank you, Judge.

10 CROSS EXAMINATION

11 BY MR. LONG:

12 Q. Officer Robinson, tell me about the torn
13 corner of a plastic bag.

14 A. Detective Bradley set it up on the roof of
15 the car just above the driver's side. He set it
16 up there and we were handing everything -- he
17 was handing everything to Officer Williams.
18 That's about all I can tell you about it.

19 Q. He didn't gather it from the top of the
20 roof?

21 A. No, sir.

22 Q. And to the best of your knowledge, he was
23 supposed to do that, correct?

24 A. Yes. Him or Officer Williams. Officer
25 Williams was collecting all the evidence.

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1 Q. And did you see either of them collect it
2 from the top of the roof?

3 A. No, sir.

4 Q. When you're beside the pickup truck -- and
5 we're talking about a 1991 GMC mid-size or small
6 size, what we call compact pickup truck. It's
7 not a big, full-sized truck, right? It's a
8 smaller size?

9 A. Correct, I believe it was a Sonoma.

10 Q. Was it a low rider? Was it jacked up, or
11 was it just factory height?

12 A. Factory height.

13 Q. And how tall are you, sir?

14 A. Six feet.

15 Q. You are standing -- there's two doors in
16 the vehicle, and the front of the vehicle would
17 be facing this way. Your responsibility was
18 standing by the passenger door, looking in the
19 window at the passenger. That was your
20 responsibility initially. Is that correct?

21 A. No, sir, you stand just back from the
22 door. You stand back. If this was the truck,
23 you'd be maybe about two steps to your left.

24 Q. Okay. This way?

25 A. Yes, sir.

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1 Q. So that you're looking directly into the
2 lap of the passenger of the car? Can you see
3 hands, shoulders, chest, lap?

4 A. No, sir, you're looking just over his
5 shoulder. That way if they pull a weapon, if
6 they've got a gun.

7 Q. So you can see both arms and you can see
8 his lap. You can see everything about right
9 here?

10 A. Yes, sir.

11 Q. And you say Reggie got out of the driver's
12 side. You would have been roughly two or three
13 feet back from the passenger door, correct?

14 A. Yes, sir.

15 Q. And Reggie got out of the driver's side of
16 the truck at Officer Bradley's direction. And
17 he walked back along the side of the bed of the
18 truck.

19 A. Yes, sir.

20 Q. I read the incident report. Isn't Reggie
21 five-foot-one?

22 A. Yes, sir.

23 Q. And you're saying that you saw him touching
24 or nudging something on his right body from your
25 viewpoint?

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1 A. He was crouched down.

2 THE COURT: Just one second, Mr.

3 Long. Allow the witness to finish answering the
4 question. Then you may ask another one.

5 CROSS EXAMINATION CONTINUED

6 BY MR. LONG:

7 Q. Excuse me for interrupting, please, sir.

8 A. What I saw was his left arm was moving in a
9 normal walking motion, like everybody swings
10 their arms when they walk. His right arm was
11 not moving. So I assume he was touching --
12 holding -- because a lot of guys we deal with
13 will hold whatever they're trying to hide,
14 whether it be a gun, whether it be narcotics.
15 They told to hold it because they don't want to
16 lose it.

17 Q. So from your vantage point here, from the
18 passenger door, right level with the edge of the
19 door. Is that correct?

20 A. Yes, sir.

21 Q. You're saying you saw him walk out of the
22 driver's door, along the bed of the truck -- and
23 it wasn't a high bed. It wasn't jacked up or
24 anything. But it wasn't a low-rider bed, so it
25 would have been the standard height. Is that

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1 correct?

2 A. That's correct.

3 Q. And you're saying that's he's five-foot-
4 one.

5 A. Yes, sir.

6 Q. And you say you saw his left arm swinging,
7 but his right arm was not.

8 A. Correct.

9 Q. And you assume that would be because he was
10 holding or reaching or patting something.

11 A. Correct.

12 Q. Did you collect any evidence at the scene?

13 A. No, sir.

14 Q. Did you collect any evidence from the
15 truck?

16 A. No, sir.

17 Q. Did you write a citation for operating with
18 a suspended tag?

19 A. No, sir.

20 MR. LONG: The Court's indulgence.

21 THE COURT: Sure.

22 MR. LONG: No further questions.

23 THE COURT: Redirect.

24 SOLICITOR MEACHAM: I have no
25 questions of Officer Robinson.

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1 THE COURT: You may come down,
2 Officer Robinson.

3 (WITNESS STEPS DOWN)

4 SOLICITOR MEACHAM: May it please
5 the Court?

6 THE COURT: Yes, sir.

7 SOLICITOR MEACHAM: The State would
8 call Lisa Floyd.

9 THE COURT: Okay.

10 (WITNESS TAKES STAND)

11 LISA FLOYD, being duly sworn to tell
12 the truth, the whole truth and nothing but the
13 truth, testified, as follows:

14 DIRECT EXAMINATION

15 BY SOLICITOR MEACHAM:

16 Q. Ms. Floyd, where do you work?

17 A. I work for the Horry County Police
18 Department. I run the regional drug analysis
19 lab.

20 Q. Are you a trained law enforcement officer
21 in the state of South Carolina?

22 A. Yes, I am.

23 Q. What type of training do you have to have
24 to work in the drug analysis lab?

25 A. I'm a certified forensic chemist, certified

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1 through the Spartanburg County Sheriff's Office
2 forensic laboratory by a former SLED chemist.

3 Q. How many tests have you run on substances,
4 controlled substances in the state of South
5 Carolina?

6 A. A little over two thousand.

7 Q. How many times have you testified in Court
8 concerning content of those controlled
9 substances?

10 A. Six times previously.

11 Q. And have you had the opportunity -- how
12 many times have you actually analyzed the
13 substance of crack cocaine?

14 A. Over sixty percent of those two thousand
15 cases.

16 SOLICITOR MEACHAM: May it please
17 the Court, we would move to qualify Ms. Lisa
18 Floyd as an expert in chemical analysis.

19 THE COURT: Do you care to examine
20 her as to her qualifications, Mr. Long?

21 MR. LONG: Very briefly, Your Honor.

22 THE COURT: Sure.

23 VOIR DIRE EXAMINATION

24 BY MR. LONG:

25 Q. Officer Floyd, when did you receive any

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1 undergraduate degrees in chemistry or anything
2 of that nature? Do you have any training in
3 those fields?

4 A. Yes, I have a bachelor of science degree in
5 biochemistry and approximately twenty-four hours
6 toward a master's in biochemistry from Clemson
7 University.

8 MR. LONG: No objection, Your Honor.

9 THE COURT: Very well. She's
10 permitted to render opinions in that area as
11 well.

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR MEACHAM:

14 Q. Ms. Floyd, did you happen to come into
15 custody of a substance from the Conway Police
16 Department?

17 A. Yes, they routinely submit evidence to me.

18 Q. Did you receive evidence in a case
19 involving Reggie Pinkney?

20 A. Yes, I did.

21 Q. And who did you receive that from?

22 A. From Jill Domogauer.

23 Q. Do you know Jill Domogauer?

24 A. Yes, I do.

25 Q. What is her role at the Conway Police

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1 Department?

2 A. To my knowledge, she handles the evidence.

3 Q. When did you receive that evidence?

4 A. I received that on March the 29th of 2005.

5 Q. Is there a log of what she turned in to you
6 on March 29, 2005?

7 A. There is a chain of custody form.

8 Q. And do you have a copy of that chain of
9 custody form?

10 A. Yes, sir.

11 Q. And what does it say?

12 A. That I received a package, control number
13 H000521 containing a tannish rock-like substance
14 from Jill Domogauer on March 29, 2005.

15 Q. And do you have a lab number? How was that
16 content received?

17 A. When I receive evidence from another agency
18 or my agency it's contained in a bag that's
19 inside this clear bag.

20 Q. Why is it in that clear bag like that?

21 A. That outer bag?

22 Q. Um-humm.

23 A. This is what I repackage it in to give it
24 back to the agency that submitted it.

25 Q. When you receive it, the blue bag -- what

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1 do you call that, that blue bag on the inside?

2 A. It's labeled a county drug analysis
3 security envelope and it's referred to as a BEST
4 kit.

5 Q. And why is it received in that type of
6 packaging?

7 A. It's a tamper-evident type of package so
8 that if there was any tampering done to it, it
9 would be obvious.

10 Q. And you identified this as having a control
11 number of what?

12 A. H000521.

13 Q. I'm going to show you what was previously
14 marked as State's Exhibit 1. What is the
15 control number there?

16 A. The control number printed on the bag is
17 H000521. It matches.

18 Q. Now, when that came into your custody from
19 Jill Domogauer, where does it go at the County
20 drug analysis lab?

21 A. It's stored with drug evidence prior to
22 testing.

23 Q. Who has custody of that drug evidence?

24 A. Only me.

25 Q. Are you the only one that has a key? Did

1 you retrieve this evidence by its control
2 number?

3 A. Yes, and it's also referred to by the lab
4 number as well.

5 Q. By the lab number. And what did you do to
6 retrieve this evidence and analyze this
7 evidence?

8 A. I'm sorry?

9 Q. What were the steps that you took when you
10 retrieved the evidence and analyzed it? When
11 did you do it?

12 A. It was retrieved on April the 5th for
13 testing. And the steps that I normally take
14 are, one, to examine the bag and make sure that
15 it's not been tampered with in any way, and at
16 that point I put my initials and the letters
17 "OK" indicating that I did inspect it thoroughly
18 to make sure it wasn't tampered with, the date
19 and the agency's case number that submitted it
20 to me.

21 Q. And so it gets logged in when?

22 A. It was received from Conway on March the
23 29th, and I opened it for testing on April 5th.

24 Q. And after receiving, you tested the
25 substance. What are the steps you take in

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1 testing substances for crack cocaine?

2 A. Well, the general steps for any suspected
3 drugs, I do what's called a presumptive test.
4 In this case it's a color analysis test. In the
5 presence of certain chemicals cocaine or other
6 drugs will turn specific colors. And in this
7 case it presented as crack cocaine. And I took
8 a sample of it, and extracted it. And it was
9 run by gas chromatography and mass selected,
10 which is the standard forensic procedure.

11 Q. And what were the contents of that lab note
12 that you received from the Conway Police
13 Department? What was the result of your test?
14 Did you put that -- the results of your test in
15 writing?

16 A. Yes, a lab report is issued for any tested
17 substance. And in this case the rocklike
18 substance that was contained in the sandwich
19 baggie was found to be cocaine in a base form
20 commonly known as crack.

21 Q. What was the amount?

22 A. 20.68 grams or 319.9 grains.

23 Q. Is this your report on that lab analysis on
24 that day?

25 A. Yes, it is.

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1 Q. Is the control number noted on your lab
2 report?

3 A. The control number is not noted. It is
4 logged, but the lab number is referred to on the
5 lab report.

6 Q. Is the lab report also on the BEST packet?

7 A. Yes, it is.

8 Q. What is the lab report on your report?

9 A. It is L050211.

10 Q. And what is the lab number on your BEST
11 security?

12 A. L0500211.

13 SOLICITOR MEACHAM: May it please
14 the Court, we would move to introduce the lab
15 report into evidence.

16 THE COURT: Any objection?

17 MR. LONG: We question the chain
18 of custody. I believe we still have one witness
19 left to establish the chain.

20 THE COURT: All he's introducing
21 right now is the report.

22 MR. LONG: Without objection.

23 THE COURT: Very well. State's
24 Exhibit 10 is admitted without objection.

25 (SO ENTERED AS STATE'S EXHIBIT 10)

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1 SOLICITOR MEACHAM: Permission to
2 publish?

3 THE COURT: You may.

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR MEACHAM:

6 Q. What happens after you analyze a particular
7 package?

8 A. Once it's -- whatever substance I need has
9 been removed for testing and the remaining
10 substance is weighed, then it's repackaged in
11 the outer clear plastic baggie so that it's
12 contained again in the proper manner to be
13 returned back to the agency that submitted it.

14 Q. You analyze it and you take it and put back
15 into your evidence locker. When did that
16 happen? When did that happen?

17 A. When I returned it back?

18 Q. Um-humm.

19 A. I don't have that chain of custody form
20 with me.

21 Q. But when you're through analyzing it, where
22 do you put it? Where do you put the drugs?

23 A. It's stored in a secure location in the
24 laboratory. Typically our procedure is whenever
25 an agency next drops off, they pick up all the

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1 evidence that's already been tested along with
2 the reports for that evidence.

3 Q. And does anyone have access to that area,
4 except for you?

5 A. I'm the only person that has access to that
6 area.

7 Q. So when it's picked up to take it back to
8 the agency from the evidence locker, who do they
9 have to check with?

10 A. They have to come to me.

11 Q. Thank you. That's all the questions I have
12 for Ms. Floyd. Please answer any questions from
13 Mr. Long.

14 THE COURT: You may cross examine,
15 Mr. Long.

16 CROSS EXAMINATION

17 BY MR. LONG:

18 Q. Officer Floyd, you were referring to a
19 color-change test as being the initial test
20 that you did. Is that the chemical test that's
21 referred to in your report?

22 A. Yes, it is.

23 Q. So in other words, you drop or place some
24 chemical on a portion of that to see if
25 chemicals should color change?

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1 A. Yes.

2 Q. It's not done with light or infrared or
3 anything of that nature?

4 A. No.

5 Q. And the other two tests you did are gas
6 chromatography?

7 A. Yes.

8 Q. And a mass spectrometer?

9 A. That's correct.

10 Q. And how are those tests conducted?

11 A. The gas -- it's GCMS for short. That's
12 what you're referring to?

13 Q. Yes.

14 A. It's an extraction procedure. For crack
15 and cocaine the way I can tell the difference
16 is a selective extraction procedure. If the
17 substance is believed to be powder cocaine, I
18 have to use a base in my extraction because you
19 have to get the cocaine into a form that will
20 actually dissolve, essentially. Crack is
21 already in a form where it will dissolve, so I
22 can use the chloride, which is the substance
23 that's typically used in these procedures.

24 Q. How sensitive are these tests for the
25 presence of cocaine? For example, if I were

1 to take a pound of baking soda and sprinkle a
2 little bit of powder and shake it up and say
3 would you test that. How sensitive would these
4 results be?

5 A. It is very likely that it would show up,
6 yes.

7 Q. If I had a pound of baking soda and a
8 sprinkle and shook it up and gave it to you, you
9 would report that as being a pound of cocaine.
10 Is that correct?

11 A. If it were to show positive for cocaine.
12 Typically, with trace amounts, things like that,
13 it's not that common that it will show positive
14 for that. When I get a report from the mass
15 selection detector or mass spectrometer, it
16 gives me what I like to refer to as a finger-
17 print of that chemical that's present. And what
18 I typically look for with cocaine are eight
19 specific items that get broken down during that
20 testing procedure. And if all eight are not
21 present, then it's not called positive. And
22 typically, when you have that small an amount,
23 all eight of those items will not be present.
24 They will indicate that it was cocaine, but I
25 will not call it positive.

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1 Q. Does then that give you some indication of
2 the potency or the amount of controlled
3 substance in some other substances?

4 A. Sure, very generally.

5 Q. So to make it a little easier, if I would
6 take an ounce of baking powder and put a
7 sprinkle of cocaine in it and shake it up, would
8 that test positive and you report it being an
9 ounce of cocaine?

10 A. I can't answer that specifically.

11 Q. But if all these tests came up as positive?

12 A. Yes, sir.

13 Q. Do you have any indication from your tests
14 about the potency of these drugs you tested?
15 Were they pure or were they one percent?

16 A. I have no way to determine purity. That's
17 not something that's typically tested.

18 Q. Now, were these drugs submitted to you as
19 23.3 grams of an off-white colored substance?

20 A. Were they submitted to me that way?

21 Q. Yeah, were they submitted to you as being
22 approximately 23.3 grams?

23 A. The evidence sheet, I believe, said a tan
24 rocklike substance was the only description.

25 Q. It is, without the weight that's being

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1 submitted to you?

2 A. Yes.

3 (PHONE RINGING IN COURTROOM)

4 MR. LONG: Your Honor, I apologize.

5 I left my cell phone on. I apologize, Your
6 Honor. I left it on at lunchtime when I was
7 attempting -- that is Mr. Pinkney that is
8 attempting to contact me. I apologize, Your
9 Honor.

10 THE COURT: Thank you. Move on,
11 please, sir. We'll talk about that later.

12 CROSS EXAMINATION CONTINUED

13 BY MR. LONG:

14 Q. How much of the substance is lost, if any,
15 during the testing that you do?

16 A. It is a destructive test procedure.
17 Typically, very little. I cannot put a weight
18 on it. If it's a large amount of the substance,
19 I try to take samplings from different areas
20 throughout. If it's a large rock I try to cut
21 it upon and take some from the center and from
22 the outside, so I get a representative sampling.

23 Q. Could you give me some indication as far as
24 percentage? Would it be more or less than one
25 percent? Again, I understand it depends on how

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1 much we're talking about. But if we're talking
2 about 20.68 grams of crack cocaine?

3 A. Here I would use approximately two-tenths
4 of a gram.

5 Q. Two-tenths of a gram? So the amount
6 submitted to you for testing mostly likely would
7 have been 20.88 grams? And then after you'd
8 done the testing you reported it as being crack
9 cocaine found, 20.68 grams?

10 A. If it were two-tenths. I would say it
11 probably was no more than two-tenths of a gram
12 that I use in testing.

13 Q. So it would be two-tenths of less?

14 A. Differently less.

15 MR. LONG: Thank you, Your Honor.
16 I have nothing further.

17 THE COURT: Redirect?

18 REDIRECT EXAMINATION

19 BY SOLICITOR MEACHAM:

20 Q. Ms. Floyd, is there any question in your
21 mind that the amount in this package that you
22 analyzed is between ten grams and twenty-eight
23 grams of crack cocaine?

24 A. No question.

25 Q. No further questions. Thank you.

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1 THE COURT: Recross?

2 MR. LONG: No, sir.

3 THE COURT: You may come down, Ms.
4 Floyd. Thank you.

5 (WITNESS STEPS DOWN)

6 SOLICITOR MEACHAM: May it please
7 the Court, with permission of the Court, Ms.
8 Floyd has a family matter and would like to be
9 excused.

10 THE COURT: Any objection?

11 MR. LONG: No, sir.

12 THE COURT: That's okay. There's no
13 objection to her being excused. Thank you, sir.
14 You are free to leave, Ms. Floyd. Call your
15 next witness.

16 SOLICITOR MEACHAM: May it please
17 the Court, the State would call Officer Jill
18 Domogauer.

19 (WITNESS TAKES STAND)

20 JILL DOMOGAUER, being duly sworn to
21 tell the truth, the whole truth and nothing but
22 the truth, testified, as follows:

23 DIRECT EXAMINATION

24 BY SOLICITOR MEACHAM:

25 Q. Officer Domogauer, you work for the Conway

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1 Police Department?

2 A. Yes, I do.

3 Q. Are you the custodian of evidence for the
4 Conway Police Department?

5 A. Among others, yes. That's one of my jobs.

6 Q. And as custodian of the evidence, did you
7 retrieve evidence in a case involving Mr.
8 Pinkney?

9 A. Yes, I did.

10 Q. What evidence did you retrieve?

11 A. Lighter, scales, a BEST kit, a County-
12 sealed BEST kit and an envelope containing a
13 plastic bag of green leafy substance.

14 Q. Did you retrieve -- I want to identify that
15 as State's Exhibit 1. Did you retrieve that
16 from an individual in the Conway Police
17 Department?

18 A. Yes, I did.

19 Q. When did you retrieve that?

20 A. Pardon me?

21 Q. When did you obtain that item?

22 A. Can I refer to the chain of custody form?

23 Q. Yes. Who did you retrieve the item from?

24 A. Officer Tyrone Williams.

25 Q. And did you retrieve the items on what

1 night?

2 A. I believe it was the 23rd of February.

3 Q. Has that remained in your custody during
4 that period of time?

5 A. Yes.

6 Q. Did you turn those items -- what do you do
7 with that item when you turn it in to the police
8 department?

9 A. Well, it's being turned in to me. If an
10 officer tells you, like they have in this case,
11 they put it into a locker. Outside of my office
12 at the Conway Police Department is a locker like
13 you would see in a high school. Each one has a
14 padlock. Each one has a separate key. The only
15 person who has custody of all keys are myself
16 and only myself. The office where stuff is
17 stored after it's labeled and logged in has a
18 key -- two sets of keys, different locks. I
19 obtain custody. I have a direct supervisor in
20 case something happens to me who can get into
21 that room. However, we each have a personal PIN
22 code for an alarm system outside of that door,
23 and each door inside thereof that office. Every
24 filing cabinet in that room, everything that you
25 could put something into has a lock on it with

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1 separate keys.

2 Q. What do you do with drug evidence whenever
3 you obtain it into your custody? What's the
4 procedure that you follow?

5 A. With drug evidence and with any evidence, I
6 look at the chain of custody form that the
7 officer submitted with the items. This is going
8 to be, say, for example, the chain of custody
9 that comes with the BEST kit. That's something
10 totally different inside. So we also have a
11 different chain of custody for the police
12 department for all evidence. I then, via case
13 number -- I review the chain of custody prior to
14 accepting it along with the evidence, to make
15 sure everything that they wrote down is present.
16 Once that comes about, I assign an "EIN" number
17 which stands for evidence identification number.
18 Then I give a location number which means where
19 it is in in my room. It's manually, hand-done
20 and we also computerize it in Conway.

21 Q. When you have that evidence and you put it
22 in the BEST package, do you give it a lab number
23 at that point?

24 A. I do not do anything with the BEST kit.
25 The BEST kit comes to me already sealed. I

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1 also, like Officer Floyd does, before I'll
2 accept a BEST kit -- I have nothing to do with
3 testing the narcotic, crack cocaine. I make
4 sure it's not been tampered and everything's
5 been sealed and signed. I also have to sign a
6 form and issue a "to the lab" saying I've done
7 so. That's when I submit it as coming into my
8 custody and I'm assuring that there's nothing
9 that's been done with this.

10 The officer on the scene right here,
11 Officer Williams, signed and sealed this kit
12 prior to me ever receiving it. These drugs were
13 sealed.

14 Q. So you do nothing with analyzing the chain
15 to the substance as you receive it from the
16 scene?

17 A. Not crack cocaine, no, sir.

18 Q. And when you submit it, you submit it to
19 the Horry County Police lab?

20 A. Horry County lab or sometimes the state
21 SLED lab which is the same.

22 Q. In this case who did you submit it to?

23 A. Lisa Floyd at the regional drug lab.

24 Q. And you submitted them on March 29th, 2005?

25 A. Yes, sir.

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1 Q. Did you retrieve it sometime thereafter?

2 A. I picked it up on June 7th, 2005.

3 Q. Is that after the drugs had been analyzed?

4 A. I only pick up after it's been analyzed.

5 Q. Is the BEST package in the same form as

6 when you sent it to the drug lab?

7 A. Slightly different.

8 Q. Why is it slightly different?

9 A. Because she has to open it and test it. I
10 hand her the middle envelope -- I believe she's
11 already left -- with the control number on it.
12 And inside that is the chain of custody form and
13 the bag. She then removes the bag and the chain
14 of custody form, does her analysis. She keeps
15 the envelope after she's done her analysis. She
16 puts the bag -- the original bag I sent to her
17 was this bag -- she puts it in a heat-sealed
18 envelope, reseals it and initials it. And
19 that's what I pick up, this and the paperwork.

20 Q. Is this the item that you retrieved from
21 the Horry County drug analysis lab on June 7th?

22 A. Yes, it is.

23 Q. How do you know that?

24 A. I also get a multiple case return form,
25 like Officer Floyd explained. I just don't go

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1 pick up one at a time. We'll drop off multiples
2 and we'll pick up multiples. And she gives me a
3 log of what I pick up. And that comes by my
4 Conway City Police case number, the Horry County
5 drug lab number, the bag's control number and
6 what is it, whether it's a box, bag or envelope.

7 Q. Did she sign that form?

8 A. She signs it and I signed it.

9 Q. And this indicates -- I'm going to show you
10 State's Exhibit Number 11. Is that the multiple
11 case return form that indicates you received
12 items on June 7th?

13 A. Yes, it is.

14 Q. Is that your signature?

15 A. Yes, it is.

16 Q. Does that appear to be Lisa Floyd's
17 signature?

18 A. It is. She signs it in front of me and I
19 sign in front of her.

20 Q. Does that match up with what was retrieved
21 that day?

22 A. Yes, it does.

23 Q. How do you match it up?

24 A. That has an H000521 is this bag's control
25 number. Right here on my form is H000521. The

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1 lab number also to that bag is L050211. The lab
2 number right here is L050211. And even further
3 the Conway City's case number of 2005-000611,
4 and on the bag is 2005-000611.

5 SOLICITOR MEACHAM: May it please
6 the Court, we would move to introduce the case
7 return form, State's Exhibit 11, into evidence.

8 THE COURT: Any objection?

9 MR. LONG: That's the BEST evidence
10 form?

11 THE WITNESS: That's the pick-up form.

12 MR. LONG: No objection, Your Honor.

13 THE COURT: Without objection,
14 State's Exhibit 11 is admitted.

15 (SO ENTERED AS STATE'S EXHIBIT 11)

16 SOLICITOR MEACHAM: Permission to
17 publish?

18 THE COURT: You may.

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR MEACHAM:

21 Q. Are these the items that you retrieved that
22 day? Have they been kept in your evidence
23 locker?

24 A. With that and others, yes.

25 SOLICITOR MEACHAM: May it please

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1 the Court, we'd move to introduce the drugs into
2 evidence.

3 THE COURT: Any objection?

4 MR. LONG: Yes, Your Honor,
5 subject to previous objections stated to the
6 Court earlier.

7 THE COURT: Very well. Subject to
8 defense objections previously stated fully on
9 the record in this case, it is admitted as
10 Exhibit Number 1. State's Exhibit 1 is admitted
11 subject to objection of counsel.

12 (SO ENTERED AS STATE'S EXHIBIT 1)

13 SOLICITOR MEACHAM: Permission to
14 publish?

15 THE COURT: You may.

16 DIRECT EXAMINATION CONTINUED

17 BY SOLICITOR MEACHAM:

18 Q. Was there another item that you retrieved
19 from the -- was another item retrieved from
20 Officer Williams that night?

21 A. Yes.

22 Q. Can you identify what's been marked as
23 State's Exhibit 2?

24 A. Yes, sir, I can identify this as being
25 marijuana, a plastic bag of marijuana. It was

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1 inside of a manila envelope, again with the case
2 number on it. Yes, that's what it's contained
3 in.

4 Q. And is that the manila envelope?

5 A. Yes, it is. It has the date of February
6 2005, the case number and it also has the
7 defendant's name.

8 SOLICITOR MEACHAM: May it please
9 the Court, we would move to introduce State's
10 Exhibit 2 into evidence.

11 THE COURT: Subject to the earlier
12 objection. Any other objection?

13 MR. LONG: The earlier objection,
14 Your Honor, and relevance.

15 THE COURT: It's been admitted in
16 testimony, but I'll admit it subject to that
17 objection as well. Thank you.

18 (SO ENTERED AS STATE'S EXHIBIT 2)

19 SOLICITOR MEACHAM: Permission to
20 publish?

21 THE COURT: Yes.

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR MEACHAM:

24 Q. Have you been trained by the State Law
25 Enforcement Division in analyzing marijuana?

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1 A. Marijuana, yes, I have.

2 Q. Tell me a little about the classes you
3 take.

4 A. I had to go up there for a class in
5 reference to the marijuana. We had classroom
6 studies and practical studies. Towards the end
7 of the class you have to take a written
8 examination. You have get seventy-five percent
9 or higher to pass. You also have to go through
10 a hundred samples of green leafy substance to
11 determine what it is. It can be a chemical test
12 and microscopic test. You must have the
13 accuracy of a hundred percent in order to be
14 certified by the state of South Carolina.

15 Q. To be clear, you were given a hundred tests
16 and you had to get a hundred percent?

17 A. A hundred tests that count. You get ten
18 practices, but a hundred and ten -- a hundred
19 samples, yes.

20 Q. Tell me about the results of your
21 examination as to your certification.

22 A. As far as how I did in school?

23 Q. Um-humm.

24 A. I had a hundred and ten samples. I was
25 correct on my analysis on all a hundred and ten

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1 samples. I had a written examination where the
2 state requires you to get seventy-five percent
3 or better to pass. I received a hundred percent
4 on my examination. The State of South Carolina
5 Law Enforcement Division has certified me for
6 marijuana analysis.

7 Q. When was that?

8 A. April.

9 Q. Of 2004?

10 A. I believe so.

11 Q. Was it April of 2004?

12 A. I have my card at the office. I'm sorry.

13 Q. Was it April of 2004 as opposed to April
14 2005?

15 A. I don't know the exact date. I'm sorry.

16 Q. Let me ask you a question. How many tests
17 have you run since then?

18 A. Actual tests for the City of Conway,
19 probably about approximately twenty or twenty-
20 five tests.

21 Q. Did you receive your certification -- were
22 you called upon to run a test in this particular
23 case?

24 A. Yes, I was.

25 Q. When were you called upon to run a test in

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1 this particular case?

2 A. I usually don't run marijuana analysis
3 until I know it's going to trial due to the cost
4 of the chemicals for the City of Conway that
5 they have to purchase to run a test.

6 Q. When were you called upon to do testing in
7 this case?

8 A. Probably October -- before October 14th.

9 Q. Of 2005?

10 A. Of 2005.

11 Q. 2005. Now, you were certified at the time
12 you ran this test. Is that correct?

13 A. Oh, yes, absolutely.

14 Q. And you ran a number of tests before then.
15 Is that correct?

16 A. Yes, sir.

17 Q. How many tests approximately for the City
18 of Conway have you run?

19 A. About twenty or twenty-five.

20 SOLICITOR MEACHAM: May it please
21 the Court, we would move to qualify her as an
22 expert in marijuana analysis.

23 THE COURT: Do you care to examine
24 her as to her qualifications?

25 MR. LONG: No objection.

1 THE COURT: Very well. She will be
2 permitted to render opinions in that area.

3 SOLICITOR MEACHAM: Thank you.

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR MEACHAM:

6 Q. Now, what were the results of the marijuana
7 that you retrieved from Tyrone Williams that
8 night?

9 A. Tyrone Williams submitted the green leafy
10 substance. I did perform two analyses on it.
11 I started with the microscopic analysis. There
12 are certain hairs in a marijuana leaf that are
13 characteristic to only that particular plant and
14 no other plant has them. They might have one or
15 two, but they don't have all three. And those
16 are multi-cellular hair, unicellular hair and a
17 glandular hair. And through the microscopic
18 test you can see those hairs. All three are
19 present in this sample.

20 Q. And what were the results?

21 A. Then we moved to the chemical test. After
22 getting a possible microscopic, you go to the
23 chemical test. We use a Duquenois-Levine
24 reagent. It's a color testing. It will turn
25 purplish-pink if THC, which is tetrahydro-

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1 cannabinol, which is the element to make
2 marijuana marijuana, if that is found. The
3 glandular hairs that you can see in the
4 microscopic test produces the THC that's found
5 in marijuana. But also the color test was
6 positive in the same, therefore I can testify
7 that it was a Class IV narcotic to be marijuana.

8 Q. Did you produce that analysis in writing?

9 A. Yes, I do. I do a formal drug report.

10 Q. And what's the total weight of the
11 marijuana?

12 A. I also weighed it. I apologize. Three-
13 point-five grams.

14 Q. And it tested positive for the chemical in
15 marijuana?

16 A. It tested positive for the THC which is
17 what marijuana is.

18 Q. I'm going to refer to State's Exhibit 12.
19 Can you identify that document?

20 A. Yes, it's my drug analysis report.

21 Q. That gives the weight. Is that correct?

22 A. Yes, it does.

23 Q. And how many grams?

24 A. Yes, it does, 3.5 grams.

25 SOLICITOR MEACHAM: May it please

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1 the Court, we would move to introduce her
2 analysis, her drug analysis of the marijuana.

3 THE COURT: Any objection?

4 MR. LONG: Without objection, Your
5 Honor.

6 THE COURT: Without objection it's
7 admitted.

8 (SO ENTERED AS STATE'S EXHIBIT 12)

9 SOLICITOR MEACHAM: Permission to
10 publish. That's all the questions I have for
11 Ms. Domogauer.

12 THE COURT: You may cross examine.

13 CROSS EXAMINATION

14 BY MR. LONG:

15 Q. Officer Domogauer, on this report, State's
16 Exhibit Number 12 -- do you have a copy of it?

17 A. Not in front of me, sir.

18 Q. I believe you stated that on Wednesday,
19 February 23rd, 2005, Officer Williams submitted
20 to you a quantity of marijuana for testing. Is
21 that correct?

22 A. Yes, it is.

23 Q. And this was signed on October 20th of 2005,
24 when you say you did the testing?

25 A. Yes, it is.

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1 Q. Did you just hold it for those six months,
2 eight month?

3 A. Yes, sir, I did.

4 Q. So he submitted it to you for testing on
5 February 23rd, and it was eight months later
6 until you tested it?

7 A. He submitted it to me, number one, for
8 evidence purposes.

9 Q. Correct.

10 A. And then I test for trial.

11 Q. He submitted it to you for examination. Is
12 that correct?

13 A. Yes.

14 Q. Were you not certified when he initially
15 submitted it to you, on February 23rd, 2005?

16 A. No, I was certified. The exact date of my
17 certification and my SLED number, I can get that
18 in one phone call.

19 Q. But it was your feel it was April of 2004,
20 not April of 2005?

21 A. I don't know directly. I want to make sure
22 I give an accurate date.

23 Q. And you tested it and weighed it and it
24 came back as 3.5 grams of marijuana. Is that
25 correct?

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1 A. Yes, sir.

2 Q. When it was submitted to you did it have
3 any approximate weight listed on it?

4 A. I believe it had an approximate weight of
5 about 4.8 or 4.6.

6 Q. I believe it was 4.6 grams approximate
7 weight. Can you explain the 1.3 -- the 1.1
8 difference in grams?

9 A. Yes, I can. My scales that I use for my
10 marijuana analysis are locked up in my office as
11 a safe -- secured as everything else I have. I
12 have a separate room. My scales are balanced.
13 I also don't weigh the baggies. I weigh just
14 the drug itself.

15 Q. So you're saying that typically the baggies
16 are weighed as well?

17 A. A patrol officer might do that. They're
18 not trained by a drug analysis not to weigh the
19 bags. They don't take the stuff out of the
20 bags. But for my analysis, I have to.

21 Q. What type of scales do the officers use
22 when they submit an item with an approximate
23 weight?

24 A. I don't know. Their approximate weight
25 matters not to me.

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1 Q. Did Officer Williams give to you a corner
2 piece of a baggie for evidence or testing?

3 A. No, sir.

4 Q. And so the items submitted to you in this
5 case were a small bag of marijuana, a larger bag
6 of crack cocaine, a scale, a lighter and money.
7 Is that correct?

8 A. Yes, sir. There was also a driver's
9 license and a cell phone.

10 Q. And a cell phone. And those were returned
11 back to Mr. Pinkney?

12 A. Yes, sir.

13 Q. When the cocaine was submitted to you --
14 crack cocaine was submitted to you by Officer
15 Williams, was there an approximate weight on
16 that?

17 A. What he submitted to me was a sealed BEST
18 kit.

19 Q. But did he put a copy of the incident
20 report or anything on that BEST kit?

21 A. I think on the incident report there might
22 have been an approximate weight. But there was
23 nothing on the BEST kit itself or in the BEST
24 chain of custody form for analysis.

25 Q. Do you recall whether or not that

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1 approximate weight was 23.3 grams?

2 A. I don't know, sir. I would have to see the
3 incident report.

4 Q. Would you like to review a copy of the
5 incident report to refresh your memory?

6 A. Sure. It only comes to me as a BEST kit.
7 In the incident report it states 23.3 grams.

8 THE COURT: Redirect?

9 SOLICITOR MEACHAM: Nothing from the
10 State. Thank you very much.

11 THE COURT: You may come down.

12 (WITNESS STEPS DOWN)

13 THE COURT: Anything further from the
14 State?

15 SOLICITOR MEACHAM: If Your Honor
16 please, the State rests.

17 THE COURT: Very well. Ladies and
18 gentlemen, there are some matters of law that I
19 have to take up now out of your presence. I'm
20 going to ask you to go to your jury room. Do
21 not begin your deliberations, however. Don't
22 discuss the case among yourselves. We will be
23 with you very shortly. Thank you.

24 (JURY OUT @ 4:15 P.M.)

25 THE COURT: Anything from the State

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1 at this point?

2 SOLICITOR MEACHAM: If Your Honor
3 please, the family emergency was for Ms.
4 Domogauer, not Ms. Floyd. I would ask that she
5 be excused.

6 THE COURT: Any objection?

7 MR. LONG: No objection.

8 THE COURT: You are free to leave.

9 SOLICITOR MEACHAM: Thank you.
10 Nothing further. Thank you.

11 THE COURT: Very well. Mr. Long?

12 MR. LONG: Thank you, Your Honor.

13 Two motions. One from the bottom of my heart,
14 red-faced with embarrassment, I do not even
15 carry a cell phone with me to Court for just
16 that reason. And I brought it today from lunch
17 because I was trying to get in touch with Mr.
18 Pinkney and speak with family members and things
19 of that nature, and simply forgot to turn it
20 off. I apologize, Your Honor. And that really
21 threw me. I had no idea I'd left it on. I
22 didn't even know I had it in my briefcase. And
23 I do not carry it for that reason. I know it's
24 disrespectful to the Court, to the jurors, to
25 the Solicitor, to the witnesses and things of

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1 that nature. And I sincerely apologize from the
2 bottom of my heart.

3 The second thing is, Your Honor, a
4 Motion for a directed verdict. I won't bore you
5 with a recount of all the testimony or lack of
6 testimony and things of that nature. Certainly,
7 there is evidence sufficient to go to the jury.
8 For the record, we would ask for a directed
9 verdict of not guilty of all these offenses.

10 Your Honor, my understanding is there
11 are two charges, trafficking crack cocaine and
12 resisting arrest. I objected to the marijuana
13 being placed into evidence because he's not
14 charged with those. And that's not properly
15 before the jury. We do have some use of that as
16 well. But, nonetheless, I don't know whether
17 it's correct at this point, since he was charged
18 with possession to intent to distribute
19 marijuana -- whether it's appropriate at this
20 point to ask for a directed verdict on that
21 charge as well.

22 THE COURT: We're not trying him on
23 that. There are two counts.

24 SOLICITOR MEACHAM: That's correct.

25 MR. LONG: I would assume that the

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1 Solicitor is not intending to go forward on that
2 in the future.

3 SOLICITOR MEACHAM: That case is
4 dismissed.

5 THE COURT: That's fine. I assumed
6 that's what he was talking about, that there was
7 an objection to what occurs in the lower court.
8 I assume he plead guilty to possession of
9 marijuana.

10 SOLICITOR MEACHAM: That's correct,
11 Your Honor.

12 THE COURT: So that case is
13 concluded.

14 MR. LONG: Okay, I just wanted the
15 relevancy of that marijuana ---

16 THE COURT: The relevancy -- that was
17 some of the other issues that are pertinent to
18 this overall case of dealing with search issues
19 and that sort of thing. And that answers, as
20 you point out in a sidebar, certain issues about
21 credibility, believability -- and for those
22 reasons I had to allow it to come in. I will
23 instruct the jury to not consider that for
24 purposes of the charge itself. I was trying to
25 think it over without it having anything to do

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1 with trafficking in crack cocaine. I agree with
2 you. I will so instruct the jury.

3 MR. LONG: Your Honor, lastly, I
4 feel it appropriate to renew our Motion to
5 suppress the testimony that came from the
6 witness stand. In some slight respect, maybe
7 not enough to impress Your Honor about any
8 differences in your ruling -- but we would again
9 renew our motion to suppress based on the
10 testimony that came through in the trial of this
11 case.

12 THE COURT: Thank you. That Motion
13 would respectfully be denied. And I deny the
14 Motion for a directed verdict as well. Do you
15 intend to call any witnesses, Mr. Long?

16 MR. LONG: No, Your Honor.

17 THE COURT: Let me ask you this.
18 I've been sitting here reading. What are your
19 requests to charge? Obviously trafficking and
20 resisting arrest. Are you going to ask me to
21 charge the lesser-included offenses?

22 SOLICITOR MEACHAM: Yes, sir, Your
23 Honor.

24 THE COURT: I think you would. I
25 think that's appropriate that they be charged,

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1 all of them. Because if you don't prove
2 trafficking, you have to prove intent to
3 distribute. If you don't prove that it could
4 be simple possession.

5 How long do you intend to be with
6 regard to your closing?

7 SOLICITOR MEACHAM: If Your Honor
8 please, I will be probably at the most fifteen
9 minutes.

10 THE COURT: Mr. Long?

11 MR. LONG: Just the same. I plan to
12 be no longer than fifteen minutes. But, Your
13 Honor, it could run on for fifteen, twenty
14 minutes.

15 THE COURT: With the charge that puts
16 it too late. Let's bring in our jury.

17 (JURY IN AT 4:20 P.M.)

18 THE COURT: Thank you very much,
19 ladies and gentlemen. Mr. Long, does the
20 defendant wish to call any witnesses at this
21 time?

22 MR. LONG: No, Your Honor.

23 THE COURT: Very well. That would
24 conclude, ladies and gentlemen, the evidentiary
25 portion of this proceeding.

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1 There still remains however the closing
2 arguments of the attorneys as well as the
3 charge. Given the hour, probably you're not
4 starting your deliberations before 5:30 or
5 thereabouts, maybe even a quarter to 6:00.
6 That's late. And you haven't started to talk
7 about this case. So I'm not going to do that to
8 you, because I think the jury's going to have to
9 come back tomorrow anyway.

10 So whether you come back to the panel
11 or you come back to this case, you'll probably
12 be coming back. So one good thing, I guess, is
13 you won't be a part of the selection of the next
14 case. So that is some side benefit for you.

15 I'm going to excuse you tonight and let
16 you go on home. And thank you for your
17 attention. Have you selected your presiding
18 juror yet? If you have not, in the morning if
19 you will do that when you come back, that will
20 help you. Because we're moving into the two
21 final portions.

22 Have a good evening. Please remember
23 something. You've heard all the evidence that
24 you're going to hear. And I know there's a
25 great temptation to start thinking about this

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1 case and maybe even deciding certain things. If
2 you do that, ladies and gentlemen, you violate
3 the oath -- you will have violated the oath that
4 you took. And if you think about it, you can't
5 deliberate until -- well, first of all, the
6 benefit of the closing argument. You'll find it
7 extremely beneficial. But, secondly, you
8 haven't heard the law. So you really can't make
9 any decisions until you hear the law that
10 applies in this case.

11 So please, do not decide any issue.
12 Don't discuss this case among yourselves or with
13 anyone else. And that would include somebody
14 that might be at home when you go home tonight.
15 If there is, I would imagine the first question
16 will be what are you doing and what's this case
17 about? And there would be a great temptation to
18 want to talk about it. But the minute you did,
19 you will have started your deliberations in this
20 case.

21 So tell them you'll finish it and
22 you'll talk about it tomorrow, but you can't
23 talk about it tonight. Have a good evening.
24 I'd ask you to please be back in your jury room
25 -- I have a matter not related to this, on the

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1 civil side, at 9:30 in the morning. So I would
2 ask you to be in your jury room, please, at
3 9:45. I should be finished in about fifteen
4 minutes. And if I have to -- if I'm a little
5 bit late, please forgive me. But I'll try to
6 get finished as quickly as I can. And at that
7 time we will resume the trial.

8 Have a good evening. Thank you.

9 (JURY OUT @ 4:25 P.M.)

10 THE COURT: Anything further from the
11 State?

12 SOLICITOR MEACHAM: No, Your Honor.
13 We would request a specific charge as far as to
14 the weight of trafficking crack cocaine, charge
15 the fact that there is an importance of the
16 weight for the trafficking charge.

17 THE COURT: I'll be happy to do that
18 if you will show me what it is. What is that
19 statute? Clearly it's meant for possession with
20 intent to distribute. I don't know that I
21 recall such an inference for trafficking, but I
22 stand to be corrected. The only inference with
23 which I'm familiar is the inference with
24 trafficking -- with respect to possession with
25 intent to distribute, not trafficking. To be

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1 honest with you, trafficking is probably the
2 most nebulous charge I have come across.
3 Because it even goes so far as to say I'm not
4 going to use that language. You have to prove
5 everything that you normally prove for
6 trafficking to possession with intent to
7 distribute. So please explain to me the
8 difference.

9 SOLICITOR MEACHAM: It is.

10 THE COURT: I'll be happy to look at
11 it.

12 SOLICITOR MEACHAM: Your Honor, I
13 have some additional requests to charge insofar
14 as reasonable doubt.

15 THE COURT: I assure you my
16 reasonable doubt will be all you want. I've
17 used the same reasonable doubt since I started.
18 Because *Lincoln v. Nebraska* hasn't changed.

19 SOLICITOR MEACHAM: Yes, sir.

20 THE COURT: And I think that -- I
21 think it's been affirmed on at least -- I think,
22 is referred to on using that charge. So that's
23 the charge I use. But if you want to submit
24 any, that's fine.

25 SOLICITOR MEACHAM: Yes, sir. I

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1 also have a charge on circumstantial.

2 THE COURT: I do that. I'll tell you
3 that I use basically the charge that the Supreme
4 Court finally said you can't use the old
5 language. You use a combination. The last
6 decision said no. I use basically -- it's
7 equal; no distinction to be given. I do put,
8 though, the last part of the evidence of the
9 circumstance has to be more than somebody
10 probably. I just eliminate all of the
11 reasonable hypotheses. That part is not in
12 there.

13 SOLICITOR MEACHAM: Thank you.

14 THE COURT: Thank you. Any specific
15 requests to charge, Mr. Long?

16 MR. LONG: Again, Your Honor, we
17 would request lesser-included offenses. I don't
18 think there is any lesser-included offense of
19 the resisting arrest charge. It is the lesser-
20 included offense, by statute.

21 THE COURT: It is.

22 MR. LONG: I don't -- that would it.

23 THE COURT: Thank you very much.

24 MR. LONG: Thank you.

25 SOLICITOR MEACHAM: 9:45 as well for

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1 us, Your Honor?

2 THE COURT: Yes, that'd be fine.

3 Who's going to take possession of the drugs? Is
4 it us? Ms. Williams will? Thank you.

5 MS. WILLIAMS: We will.

6 THE COURT: It's in the BEST kit, but
7 that's good. Thank you.

8 (COURT IN RECESS)

9 (TRANSCRIPT CONTINUES ON FOLLOWING PAGE)

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Before The Honorable R. Markley Dennis, Jr.

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1 OCTOBER 27, 2005

9:45 A.M

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THE COURT: It is the amount of
cocaine rather than the criminal act which
triggers the trafficking statute. And I think
that's the law, and distinguishes trafficking
from distribution and simple possession. It's
the amount of cocaine or any mixture containing
cocaine. It's ten grams or more for the
trafficking statute to apply. Which would mean
-- I guess I could say that if the jury believes
that it was -- there were fewer than ten grams,
then they could. But that would be the only way
it is helping us. I guess I'm looking to you
now to help me go to the next level.

MR. LONG: Your Honor, I'm aware
that the statute says any compound or mixture or
things of that nature. And I did get into some
testimony with one of the officers about, you
know, was it a hundred percent pure, fifty
percent pure, something of that nature. And the
statute does say -- but one of the elements that
the State has to prove beyond a reasonable doubt
is that there was more than ten grams. The
officer, arresting officer wrote down that it

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1 was 23.5 or 23.3 grams or something -- whatever.
2 The chemist who tested supposedly the same item
3 said that it was 20.68 grams or something of
4 that nature.

5 A jury can find that they found crack
6 cocaine on the person of Reggie Pinkney, but not
7 believe that it was that ten grams or that
8 twenty grams. Maybe I'm stretching it a little
9 bit. But when we're dealing with ---

10 THE COURT: And would find him not
11 guilty.

12 MR. LONG: They could find that that
13 was not the drugs that were found on him.

14 THE COURT: That's correct. If they
15 find that, they find him not guilty. That
16 doesn't have anything to do with the lesser-
17 included offense. Either guilty or not guilty.

18 MR. LONG: They found some drugs on
19 him, but we don't think those are the ones they
20 found.

21 THE COURT: Then that's fine. If
22 that's the case -- the only problem is the only
23 drugs -- you've got to have the only drugs that
24 have been introduced, marijuana and cocaine.
25 And your position is the cocaine wasn't found on

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1 him. That's fine. He's not guilty of
2 possession or trafficking of cocaine, because
3 they've got to prove possession. There's no
4 question about that.

5 I'm not going to charge constructive
6 possession. There's no evidence of anything.
7 There's only actual possession here. So it's
8 either -- that's what I said. There's not
9 really a lesser-included offense, unless there's
10 a challenge to the amount of cocaine. Because
11 otherwise he's not in possession of -- I mean,
12 if you had some evidence that said well, there
13 was other cocaine found in the car, then I would
14 probably agree with you that the lesser-included
15 offense would have to be. Because you could
16 argue, well, they combined it to get the
17 trafficking charge. No question. They could
18 believe that they found some amount on him and
19 the other is in another location and combined
20 the two. I agree with you. Because that would
21 be an actual or constructive possession issue.

22 But in this case the only evidence I
23 have at this point is it was found on him. Now,
24 if the jury believes it wasn't him -- that he
25 didn't have the cocaine -- it was somebody

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1 else's cocaine, then they find him not guilty.
2 Because they can't find him guilty of possession
3 of cocaine if they don't believe it was his in
4 any of that -- whether it's simple possession or
5 possession with intent to distribute.

6 MR. LONG: Maybe I'm stretching it,
7 Your Honor. Maybe I'm looking at extreme
8 possibilities. But if the jury should believe
9 that the 23.3 the officer claimed to have found
10 on Reggie Pinkney was not the 20-point-whatever
11 -- 68 grams that was tested by SLED or Horry
12 County, that that cocaine is not the cocaine
13 that the officer testified. We believe the
14 officer found some crack cocaine on Reggie
15 Pinkney but we don't think that's the one that
16 they found on him.

17 THE COURT: And you can argue that.
18 And if they haven't proven -- so you argue that
19 he found cocaine, but in what amount?

20 MR. LONG: That's correct. That's
21 what the jury ---

22 THE COURT: The problem is there's
23 only two amounts I have -- twenty-three or
24 twenty. Either one invokes the trafficking
25 statute.

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1 MR. LONG: Yes, sir, I understand.

2 THE COURT: So I just simply say it's
3 up or down. Either he's guilty of trafficking
4 or he's not.

5 MR. LONG: I understand.

6 THE COURT: What's the State's
7 position?

8 SOLICITOR MEACHAM: Our position
9 would be the weight itself invokes trafficking.
10 Again, there's no testimony concerning a lesser-
11 included offense.

12 THE COURT: I would agree with you.
13 I think -- that you for your case. I read it
14 and I hope I'm correct, but I think that's what
15 the law is saying. And I believe that's the
16 case and I will not charge the lesser-included
17 offense. I will charge -- I think it needs to
18 be clarified to some extent. And I know Judge
19 Patterson got into some trouble charging the
20 reasoning one time. And the Court said while he
21 quoted it verbatim from the case, the Supreme
22 Court reversed. He said -- well, that's just
23 the reasoning and that's not the law.

24 But I'm going to charge it because it
25 makes this logical. If they find it's more than

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1 ten grams then he's guilty. It's that simple.
2 If he has the actual possession of more than ten
3 grams, then he's guilty of trafficking. That's
4 what the law says. Okay? Thank you.

5 MR. LONG: One other -- in relation
6 to charge, Your Honor. Does your charge on the
7 offense of resisting arrest include the language
8 which states that a person has the right to
9 resist an unlawful arrest?

10 THE COURT: It doesn't, but I can put
11 it in there.

12 MR. LONG: I can't recall the case
13 off the top of my head.

14 THE COURT: I'll state something just
15 to that effect, that a person would always have
16 the right to resist an unlawful arrest. The
17 problem that we have in this case is -- I don't
18 know why we need to go forward with that one, to
19 be honest with you, Solicitor. But I understand
20 the reason it's made.

21 SOLICITOR MEACHAM: Yes, sir.

22 THE COURT: And all of that. But
23 it's your call.

24 SOLICITOR MEACHAM: If Your Honor
25 please, if I could be heard on resisting arrest?

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1 We focused on the drug part yesterday in the
2 requests to charge.

3 There's also a section in the resisting
4 arrest statute under 320(a) which essentially
5 says that he has a duty -- that regardless of
6 whether they're asserting ---

7 THE COURT: I'm not talking about any
8 charge of the second part. But the problem is
9 there's a fundamental of a right of a person not
10 to comply with an unlawful arrest. I mean, it's
11 just that simple. I mean, it really is just
12 those words. Now, the question is was he
13 lawfully -- was it a lawful arrest? I think
14 there's an abundance of evidence to say there
15 was. But there's also an issue of arrest for
16 what? What was he being -- what were they
17 taking him down for? Was it for driving without
18 a tag or for failing to honor the police
19 officer's stop?

20 SOLICITOR MEACHAM: Well, if Your
21 Honor please, that's one of the reason that I
22 would request that you not charge it. We tried
23 to admit into evidence that the fact that he ---

24 THE COURT: I appreciate that you
25 don't want me to. But the problem is that the

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1 facts support it. Because, you know, if he had
2 said -- and they kept using a term inter-
3 changeably. I want to know something. Because
4 what charges were disposed of in the municipal
5 court?

6 SOLICITOR MEACHAM: Disobedience of
7 a police officer.

8 THE COURT: See, that could be what
9 he was being arrested for, disobedience to a
10 police officer.

11 SOLICITOR MEACHAM: Yes, sir.

12 THE COURT: So that's why I say
13 you're really almost double-dipping, aren't you?
14 Resisting arrest and disobedience to a police
15 officer.

16 SOLICITOR MEACHAM: Yes, sir.

17 THE COURT: So I'm saying why don't
18 you just withdraw that and then it's a simple
19 process. Because it really isn't going to
20 change anything.

21 SOLICITOR MEACHAM: In terms of the
22 existing arrest?

23 THE COURT: Yes. Just throw that one
24 out the door.

25 SOLICITOR MEACHAM: If Your Honor

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1 please, we will not be going forward on
2 resisting arrest.

3 THE COURT: Thank you very much.
4 They withdraw it. They're not pressing that.

5 MR. LONG: May we still request
6 that portion of the charge?

7 THE COURT: No, sir. It had nothing
8 to do with trafficking.

9 MR. LONG: I understand.

10 THE COURT: Thank you very much.

11 MR. LONG: Your Honor, lastly, I
12 think I failed to renew my motions for directed
13 verdict at the conclusion of all testimony and
14 defendant's failure to put forward any
15 testimony. We would renew our Motions for
16 directed verdict and renew our motion to
17 suppress any and all drugs found as a result of
18 this search at the conclusion of all testimony.

19 THE COURT: Very well. And those
20 motions are noted and protected. You have
21 protected that position sufficiently, and the
22 Court again denies that.

23 MR. LONG: Thank you, Your Honor.
24 Lastly, since we have not presented any
25 testimony or evidence, we would request the

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1 State open in full and allow us to close.

2 THE COURT: That is correct.

3 MR. LONG: Thank you, Your Honor.

4 SOLICITOR MEACHAM: Your Honor, one
5 last thing, if Your Honor please. This is in
6 terms of closing. Mr. Long's done a very
7 effective job of trying this case and in terms
8 of using what I consider to be the suppression
9 hearing as being the factual issue. The State
10 would intend to argue the fact-finders of the
11 facts of the case as to what happened are the
12 jury, and the judge is the judge of the law as
13 to whether it's appropriate for us to be here
14 with this charge.

15 THE COURT: The appropriateness of
16 that hasn't got a thing to do with anything.

17 SOLICITOR MEACHAM: Yes, sir.

18 THE COURT: It's simply not an issue.
19 The only issue now before this jury is whether
20 or not this defendant -- it's a simple case.

21 SOLICITOR MEACHAM: Yes, sir.

22 THE COURT: We don't need to
23 complicate it. And if you can effectively argue
24 that -- all this other stuff is just -- that's
25 what it's supposed to be.

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1 SOLICITOR MEACHAM: Yes, sir. I
2 understand.

3 THE COURT: And so I will certainly
4 make him confine his argument to the evidence
5 and the reasonable inferences to be drawn from
6 that and the application of the law. So that's
7 what we're here for. I'm sure Mr. Long will do
8 that. I think -- if I was sitting in Mr. Long's
9 chair I would be wanting it charged too.
10 Because you've taken out -- you've sort of
11 gutted his case from an argument standpoint.
12 Because resisting arrest was the strength of his
13 argument. So now that's been done. So now it's
14 a very simple case. Did this man have in his
15 possession? Do we believe that the drugs were
16 taken from him or not? And that's really what
17 it boils down to. And then the question is was
18 it more than ten grams. If he did, it's
19 trafficking. And I really believe that's all
20 the charge is. Thank you.

21 SOLICITOR MEACHAM: Thank you.

22 THE COURT: Thank you all. Do we
23 have them all here?

24 THE BAILIFF: I think so.

25 THE COURT: We'll take about five

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1 seconds or so to stretch and then I'll be back.

2 (BRIEF RECESS)

3 THE COURT: Bring in the jury,
4 please.

5 (JURY IN AT 10:00 A.M.)

6 THE COURT: Thank you, ladies and
7 gentlemen, and good morning to you. I hope you
8 had a restful evening and are ready now to
9 resume the matter that we started yesterday.
10 Have you selected your presiding juror?

11 PRESIDING JUROR: Yes.

12 THE COURT: Your name and number,
13 please, for the record.

14 PRESIDING JUROR: My name's Randall
15 Rogers. I'm number 268.

16 THE COURT: Thank you so much. And
17 thank you, ladies and gentlemen, for taking care
18 of that. I appreciate that.

19 As you recall, we completed the
20 evidentiary portion yesterday. Now we will move
21 into the third phase of this proceeding where
22 the attorneys have their second opportunity to
23 speak to you. It would be appropriate now for
24 them to discuss the evidence which has been
25 introduced in this trial, and also to suggest to

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1 you reasonable inferences that you may draw from
2 that evidence.

3 It's also proper for them to discuss
4 some of the law with you, and how that law is to
5 be applied or should be applied to the evidence.
6 I'm confident you will find their remarks
7 extremely beneficial when you being your
8 deliberations. So please give them your
9 attention. But remember something. Nothing in
10 either closing arguments or my charge that you
11 hear this morning should be considered as
12 evidence. Because the evidence, of course, as
13 you know, came through the testimony of the
14 witness.

15 Thank you for your attention thus far.
16 Please give your attention now to the attorneys
17 as they give their closing arguments. Mr.
18 Meacham?

19 SOLICITOR MEACHAM: Judge Dennis,
20 Mr. Long, and ladies and gentlemen of the jury,
21 first of all, thank you for your attention on
22 behalf of the State of South Carolina. I
23 appreciate your patience here today. I
24 appreciate your patience here yesterday.

25 What are you called upon to decide here

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1 today? Ladies and gentlemen, this is as simple
2 of a case as there can possibly be. You are
3 here to decide three things. What are the drugs
4 in the defendant's possession? What evidence
5 did you hear?

6 On February 23, these were in Reggie
7 Pinkney's possession. They weren't in anybody
8 else's possession. They were in his front
9 pocket. Who did you hear it from? You heard it
10 from Williams, Robinson and Officer Bradley.

11 MR. LONG: Your Honor, I hate to
12 interrupt the closing argument. But may I
13 request the easel be turned so that it's not ---

14 THE COURT: Absolutely. You're free
15 to move, sir. Thank you.

16 SOLICITOR MEACHAM: Eyewitnesses,
17 the best type of testimony. The very people
18 that seized the drugs from his pocket. It
19 doesn't get any better than that.

20 So were the drugs in Reggie Pinkney's
21 possession? Of course they were. The evidence
22 doesn't show anything else but that.

23 The second question you get to is this.
24 Were the drugs crack? This says -- Lisa Floyd
25 testified that we have 20 grams of what is

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1 believed to be -- that what is crack cocaine.
2 Do you have any other evidence otherwise? This
3 is a very simple case. Is there any other
4 evidence to suggest otherwise? This is twenty
5 grams of crack cocaine.

6 The next question -- so you have the
7 drug report, chain of custody and then you have
8 the drugs themselves. Is there any question
9 that that is crack cocaine? Question number two
10 is answered, beyond every reasonable doubt.

11 Was it trafficking crack cocaine? Now,
12 you might think that trafficking -- and the
13 judge is going to charge you -- is the person's
14 required to move it from Miami to Conway, from
15 Conway to New York and that sort of thing.
16 That's not what the judge is going to charge
17 you. Trafficking itself is determined by the
18 weight of the drugs.

19 So your next question would be is it
20 between ten and twenty-eight grams? Is there
21 any other evidence otherwise that it's between
22 ten and twenty-eight grams?

23 Additionally, if you would look at the
24 drug report -- additionally, over four thousand
25 dollars was seized from the defendant's pocket

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1 that night. Officer Bradley testified that
2 that's twenty -- you'll recall the testimony.
3 That's twenty possible sales of crack cocaine.
4 And, lo and behold, you have the tools of the
5 trade which are used to weigh the crack cocaine.

6 The amount itself, without the other
7 stuff, establishes the fact that this is
8 trafficking in crack cocaine. This is as simple
9 of a case as you can get. There is no doubt he
10 was in the possession. It was crack cocaine.
11 You've not heard otherwise. And it was an
12 amount between ten and twenty-eight grams.

13 Reggie Pinkney is guilty of trafficking
14 crack cocaine. Thank you.

15 THE COURT: Thank you, Solicitor.
16 Mr. Long?

17 MR. LONG: Thank you. Ladies and
18 gentlemen, I appreciate His Honor's comments
19 when he says that what we have to say during
20 closing arguments you'll find enlightening and
21 extremely important and things of that nature.
22 I appreciate that he says that. But,
23 unfortunately, I found just the opposite to be
24 true. Because I feel it's the least productive
25 part of the trial. What I say is not evidence.

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1 What I recall of the witnesses' testimony may be
2 influenced by other duties in the courtroom.
3 I'm thinking about my next question or the next
4 document or things of that nature, and I'm not
5 listening as close as you are.

6 So if I say anything that contradicts
7 something from the witness stand, you go with
8 your recollection. Because you're the finders
9 of the facts; not me. But what I try to do is
10 to tell you the inferences and things that --
11 the conclusions that you can draw from the
12 testimony.

13 The Solicitor tells you it's a simple
14 case. Well, it's not really so simple. I mean,
15 you heard the testimony and you've heard the
16 witnesses and things of that nature. The thing
17 that makes it difficult, as His Honor will tell
18 you, you are the determiner of the credibility
19 or believability of the witnesses. You have to
20 determine what, how much, what type of, you
21 know, probability percentage -- that's a tough
22 job, to try to figure out what is a hundred
23 percent truth and what is shaded or covered by
24 bias or prejudice, or what, if anything, may be
25 outright incorrect. And that's difficult to do.

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1 And I appreciate that the twelve of you have to
2 go back there and unanimously agree on what
3 happened. That's tough. I can't agree what to
4 have to supper some nights. And to try to agree
5 on something this serious is tough.

6 I won't bore you and take a whole lot
7 of time. I won't go through the witnesses'
8 testimony item-by-item. But there are some
9 things that should concern you. Some things may
10 not concern you at all. They may not bother you
11 one bit. But there are things that ought to
12 concern you about the testimony.

13 One, three officers responded because
14 of a crooked tag. No picture of a crooked tag.
15 There's no car-cam videos of any of the three
16 patrol cars that's brought here before you
17 today. The testimony was 'well, the Highway
18 Department said that his tag was suspended.'
19 There's no corroborating evidence. There's no
20 report from the Highway Department that says his
21 tag was suspended. The officers did admit,
22 though, when I pulled him over and license,
23 registration and proof of insurance -- he had
24 it. And I checked it and it was all valid.

25 But then there was this suspicious

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1 corner of a bag. You know, things kept
2 escalating. Things kept going more and more and
3 more. 'We have this corner of a bag, and that
4 means they're a drug dealer. And we know Reggie
5 Pinkney and this, that and the other.' There's
6 no bag?

7 One officer testified, "Oh, yeah, I
8 gave it to Officer Williams."

9 Officer Williams said, "Well, I
10 probably should have put it in the BEST evidence
11 kit."

12 And the chemist said that no, there was
13 nothing there.

14 The evidence custodian says no, there
15 was nothing there. It's not there.

16 It's not before you.

17 The circumstances surrounding them,
18 Reggie on the cell phone trying to get the
19 officer to talk to his mama or whoever it was
20 about the -- 'No, there's insurance on this.
21 Yeah, I've got proof of insurance.' This tag's
22 not suspended or nothing of that nature. That
23 just kind of goes by the wayside.

24 And then, 'well, he was under
25 suspension.' Well, 'did you write him a ticket

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1 for operating a vehicle with a suspended
2 license?' 'Well, no, we didn't charge him with
3 that.'

4 And officers have a tough job. They
5 have to stick together. They're exposed to
6 extreme -- there's all types of stuff that goes
7 on. And they necessarily have to develop a
8 brotherhood or a camaraderie, or they have to
9 support each other.

10 Officer Robinson, for example, on
11 direct examination -- 'oh, yeah, I was standing
12 at the passenger's window and I saw him get out
13 and do just like Officer Bradley said. He was
14 motioning toward his pants or trying to hold
15 something.' How could you see that across a
16 pickup truck? He was trying to support his
17 fellow officer's conclusion that this guy's
18 dangerous or this guy's involved with drugs, and
19 we need to take him down and search him.

20 The officer testified and told you --
21 Officer Bradley, well, usually, you know, it's
22 kind of standard that when somebody is suspected
23 of being armed, for our sake, we conduct a pat-
24 down and we make sure they have no weapons. And
25 how do officers normally do that? Well, you

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1 start under the arms and feel and you pat and
2 you determine that there's no weapons. And then
3 we're free. We can relax a little bit. We can
4 talk to them about whether or not they should be
5 charged or arrested or stopped or detained or
6 things of that nature. He didn't do that in
7 this case. (Snaps fingers) -- right to the
8 pocket, reached in the pocket, asked him if he
9 could reach in the pocket, pulled out what was
10 in the pocket and stuck it back in. And then he
11 says Reggie crouched as if he was getting ready
12 to run.

13 Oh, yeah, people are nervous. People
14 are always nervous. I mean, people stopped by
15 just one police officer are always nervous, et
16 cetera, things of that nature, even if they've
17 done nothing wrong. But for him to characterize
18 what Reggie was attempting to do was he's
19 crouching to run or something of that nature?
20 Maybe Reggie was pulling his pants up after the
21 officer had been reaching in his pocket or
22 something. We don't know. We don't have car
23 cameras to show exactly what happened. And
24 we've all seen Cops and these police video shows
25 and things of that nature. They work pretty

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1 good.

2 The State -- His Honor may tell you,
3 the State will tell you that this has become
4 even a more simple case because the State is
5 ending prosecution or not pressing the charge of
6 resisting arrest.

7 Didn't prove completely that his tag
8 was suspended.

9 Didn't bring the corner baggie.

10 Didn't write him a ticket for operating
11 with a suspended tag.

12 Not going to prosecute him for
13 resisting arrest.

14 That all leads to the inference this
15 was a shake down. It was a shake down.

16 And what further supports that is
17 you've heard differing testimony from the
18 officers about what you heard over the radio,
19 what was stated over the radio, who was arriving
20 and when. Now, Officer Bradley said he was at
21 the substation, seven-tenths of a mile away from
22 the arrest scene. I believe it was Officer
23 Robinson or Williams who said he was there
24 (snaps fingers) in ten seconds. Within ten
25 seconds. Officer Williams was still at the

1 passenger window, and I don't recall exactly
2 what it was -- either leaving the passenger
3 window or at the passenger -- I mean the driver
4 window getting the license, registration and
5 insurance when Officer Bradley arrived. Three
6 patrol cars for a crooked tag. That was what
7 they understood as the supposed offense --
8 suspended tag.

9 Then they search and you hear all this
10 about him threatening to run and 'he maybe got
11 five feet and I had him by the jacket and I
12 pushed into the other officer.' And the other
13 officer took him down and they ended up maybe
14 ten feet -- three, six, nine, ten feet, roughly,
15 of where he supposedly attempted to run. And
16 then they reached in his back pocket and he had
17 his handcuffs behind his hand.

18 And supposedly he had marijuana almost
19 sticking out and he was trying to get to the
20 marijuana or something of that nature. Was it
21 possible he was pulling up his pants? 'Well,
22 yeah, that's possible, but I don't know. I
23 don't put any credibility in that. He was
24 trying to hide drugs.'

25 The officers then say, yeah -- they're

1 still don't know where the corner of the baggie
2 is, but we've got his lighter and we got the
3 scales out of the truck, and we got a small bag
4 of marijuana. He's not being prosecuted for
5 marijuana. What are they bringing the marijuana
6 in here for? They're not asking you to
7 determine guilt or innocence on marijuana. Oh,
8 yeah, we got this crack cocaine from him.

9 Officer Williams, I believe it was, who
10 weighs it and fills out an investigative summary
11 or whatever, it was presented as 23.3 grams of
12 an item purportedly or field-tested to be crack
13 cocaine. I had to ask the technician how much
14 does it take to test this stuff? Do you take
15 ten percent, one percent, five percent? How
16 much do you have to use? She said, oh, less
17 than point-two. It was point-two. Point-zero-
18 two. You recall the numbers. It was a tiny,
19 tiny amount.

20 She weighs it and she said, 'yep, it's
21 20.68 grams.' Wait a minute. That's two and a
22 half -- that's 2.3 grams difference. And you
23 heard the other officer talk about, 'well, you
24 know, they're selling point-one of a gram is
25 twenty dollars', or something of that nature.

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1 Well, he's talking two-point-three grams
2 difference from what the officers say they took
3 off of Reggie and what was ultimately tested by
4 the chemist.

5 His Honor will charge you that the law
6 -- and I'm certainly not telling you to, in any
7 way, ignore the law. Because that's your oath,
8 that you will take the law as His Honor gives it
9 to you. But somehow, somewhere, something's
10 gone wrong. When I was explaining an ounce of
11 baking soda and sprinkling enough controlled
12 substance on there and shake it up, that's going
13 to test as an ounce of that substance. And
14 maybe it's putting too much on the officers or
15 the chemist or the labs to say this is a hundred
16 percent pure, this is fifty percent pure, this
17 is ten percent pure or one percent pure. But
18 when we're talking about something as serious as
19 these allegations -- trafficking in crack
20 cocaine, ten to twenty-eight grams. I don't
21 have a nickel on me. But according to scales,
22 a nickel weighs five grams. A quarter weighs
23 five-point-seven grams. When you hear the term
24 "trafficking," you think of importation and
25 Coast Guard and ships and, you know, Miami and

1 things of that nature. That's what that normal
2 term -- the image it gives you.

3 But the weight of two nickels, ten
4 grams or more is what's classified as
5 trafficking. His Honor will charge you the law.
6 And maybe something needs to be done through the
7 Legislature or whatever they need to be -- we
8 need to know how much drugs are popping up. We
9 don't know how much baking powder, how much
10 powdered milk and things of that nature, any
11 compound mixture derivative, et cetera.

12 Yeah, maybe it is simple, like the
13 Solicitor says. Maybe it is one, two, three.
14 And if you can believe every word of every
15 witness that came from that witness stand, it
16 probably is real easy. But you, as the finders
17 of the fact -- if you take the law as His Honor
18 tells you it is, that is there a doubt for which
19 you can assign a reason -- and a reasonable
20 doubt is something that causes a normally
21 cautious, prudent person to hesitate to act, to
22 scratch your head and say, you know, 'I heard
23 the testimony, but I just don't know. I don't
24 know. I don't know if what one said was
25 different from what the other said.'

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1 His Honor will give you clues to try to
2 help you in determining the credibility, the
3 character, the demeanor, the body language, the
4 witness's willingness to answer questions or the
5 witness's avoidance of answering questions. Is
6 the witness's testimony supported by other
7 testimony presented by the State? Is the
8 witness's testimony or portions of the testimony
9 contradicted by other evidence submitted by the
10 State?

11 And that's why I apologized to you,
12 because that's tough. What you have to do is
13 just sit down with your common sense and your
14 best recall of what took place and gut feeling
15 and say, "Can I believe everything that
16 happened, everything that the officers testified
17 happened. If I can't believe everything that
18 happened, is that enough to give me a reasonable
19 doubt. Is that enough to make me hesitate to
20 act?"

21 His Honor will charge you if it does,
22 then your responsibility is to find him not
23 guilty. If you can believe everything your
24 responsibility is to find him guilty.

25 We ask you to do your job. Thank you.

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1 THE COURT: Ladies and gentlemen, if
2 I can have your attention now it becomes my
3 responsibility to give you the law which, of
4 course, it's your duty and responsibility to
5 accept and apply this law fairly and impartially
6 to the facts that you will ultimately determine
7 when you begin your deliberations.

8 Both the State and Mr. Pinkney have a
9 right to expect that you will, when so
10 instructed, apply your life's experience, your
11 knowledge, your sense of logic and reason,
12 fairly and impartially in analyzing the evidence
13 in this case and decide what you believe to be
14 the truth. And then, once making that decision,
15 you take this law and apply it fairly and
16 impartially to those facts and report that
17 decision. And when you've done that, you will
18 have honored the commitment that you made.

19 Please remember something. As I've
20 said throughout, you, and you alone, are the
21 judge of the facts of this case. No one else
22 has that responsibility but you. But it's my
23 responsibility to give you the law. And you
24 have promised the State and Mr. Pinkney that
25 you will accept this law notwithstanding your

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1 personal opinions about the law. Because that's
2 not what we're here to do. We're here to take
3 the law and apply that law. You and I have a
4 right to differ with certain principles of law.
5 We have a right to take action to have laws
6 changed in this country without any threat of
7 persecution. It's a great privilege.

8 But part of this process is, when we're
9 given this oath, we set those personal feeling
10 aside and we take the law and apply it. Now,
11 I'm confident that you will do that and you see,
12 when that's done, you see how the system works
13 effectively, two separate judges working
14 together to resolve it. One, I don't have
15 anything to do with the facts. You don't have
16 anything to do with the law. We combine our
17 efforts to get a result or a resolution of this
18 dispute.

19 During this instruction, ladies and
20 gentlemen, you may hear me use the term
21 "defendant." And if I do, that means Mr.
22 Pinkney. He has been charged in this case and
23 accused in this document. And there's only one
24 charge now that you will have, and that is the
25 charge of trafficking in crack cocaine.

1 This document will not accompany you to
2 your jury room. The reason for that is it's not
3 evidence. It's simple, as I've stated
4 throughout -- it merely contains the accusations
5 or allegations in this case. This document is
6 what brings everybody here. It forms the
7 parameters, if you will, for this dispute. It
8 sets forth the law, because it charges him with
9 violating a section of our Code of Laws, 44-53-
10 375, subparagraphs (c)(1)(C) which deals with
11 trafficking, in this trafficking of crack
12 cocaine, of more than ten grams, but less than
13 twenty-eight grams.

14 Now, as I mentioned to you, Mr. Pinkney
15 has been accused, and because of that -- we use
16 the term, and I believe I mentioned it to you --
17 maybe some of you -- when a party makes a claim
18 against someone, the party against whom the
19 claim is made, be it in this setting or in a
20 civil setting -- but we use that same term.
21 And it's just a term that's synonymous with Mr.
22 Pinkney. So if you hear that term, just know
23 that I'm talking about Mr. Pinkney, but it means
24 nothing more than that.

25 To this indictment Mr. Pinkney has

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1 rendered a plea of not guilty which, of course,
2 then places upon the State, as I mentioned when
3 I started, the burden of proving the guilt
4 beyond a reasonable doubt.

5 And the State, in order to obtain a
6 conviction, has to prove all of the elements of
7 the offense to that standard.

8 Mr. Pinkney, by rendering that plea of
9 not guilty, has the presumption of innocence.
10 And that presumption of innocence is maintained
11 and remains with him throughout the trial of
12 this case and until and unless you determine
13 beyond a reasonable doubt that he is guilty of
14 the offense charged. And that means after
15 considering the evidence, if you believe the
16 State has met its burden, then that presumption
17 is removed. But if not, then that presumption
18 is sufficient to carry the day, so to speak.
19 Because, based on that, if the State hasn't met
20 its burden, you must return a verdict of not
21 guilty.

22 Now, as I mentioned throughout, no one
23 -- no one accused of a criminal offense in this
24 state has the responsibility or burden of
25 proving or disproving anything. And this

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1 applies to Mr. Pinkney as well. The only party
2 that has a burden of proof is the State.

3 So, obviously, ladies and gentlemen,
4 persons who are accused of committing criminal
5 offenses have no responsibility to prove or
6 disprove anything. The fact that that person
7 does not testify in his or her own behalf or
8 does not offer any evidence shouldn't be
9 considered, because they don't have to. They
10 don't have to do anything. The fact that Mr.
11 Pinkney is not physically present in this
12 courtroom should not be considered by you. He
13 has no responsibility in this process, none
14 whatsoever. Because the State is the party that
15 accused him.

16 So the fact that Mr. Pinkney, ladies
17 and gentlemen, did not testify in this matter,
18 is not to be considered by you. And if you
19 consider that, if you talk about, if it in any
20 way becomes a part of your deliberations, then
21 you have violated your oath, and you've violated
22 his Constitutional right. Because it would be a
23 violation of his and anyone else charged in that
24 manner. Because as I stated, they do not have
25 that responsibility. So I instruct you, you may

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1 not discuss that in your jury room.

2 The State has the burden. It has to
3 prove it beyond a reasonable doubt. What is
4 that? Well, I told you, it's more than the
5 standard in a civil trial, which is
6 preponderance of the evidence. That means it's
7 more probable than not, more than likely so than
8 not. It's greater than that.

9 A reasonable doubt, ladies and
10 gentlemen, is a doubt which would make an
11 honest, sincere, conscientious juror who's
12 searching for the truth in a case to hesitate.
13 Proof beyond a reasonable doubt is proof that
14 would leave you firmly convinced of the
15 defendant's guilt.

16 Now, I will tell you that there are
17 very few things in this world and this life that
18 we know with absolute certainty. And beyond a
19 reasonable doubt does not require the State to
20 prove it to that standard, to an absolute
21 certainty. If, based on your consideration of
22 the evidence, you have -- you are firmly
23 convinced that the State has met its burden,
24 that is firmly convinced of each element, then
25 you must return a verdict of guilty.

1 If, on the other hand, you think
2 there's a possibility that he's not guilty, then
3 you must give him the benefit of that doubt and
4 return a verdict of not guilty.

5 Now, reasonable doubt, ladies and
6 gentlemen, can arise from the evidence which is
7 in the case or from the lack or absence of
8 evidence in a case. And it's up to you to
9 determine whether or not a reasonable doubt
10 exists as to the guilty of Mr. Pinkney. I
11 charge you that he's entitled to every
12 reasonable doubt arising in the whole case.
13 That simply means this. If, upon any issue of
14 fact which is essential to a conviction, you
15 have a reasonable doubt as to how that issue is
16 to be resolved, then you must resolve that in
17 his favor and return a verdict of not guilty.

18 If, on the other hands, you are, as I
19 stated, as to each issue are firmly convinced
20 from the evidence that that has been
21 established, then you must return a verdict of
22 guilty. Because that's your duty as a judge in
23 this case, to follow and apply the law.

24 Now, the evidence consists of the
25 testimony of the witnesses and exhibits and

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1 nothing else. My remarks, the attorneys'
2 remarks are not evidence, as I stated
3 throughout. I would further instruct you,
4 ladies and gentlemen, if, during any opening
5 statement or closing argument the attorneys'
6 remarks or statements about the evidence in this
7 case differ from your recollection, you must
8 disregard their remarks and accept your
9 recollection. Why? Because you are the sole
10 judges of the facts.

11 Likewise, if their remarks differ from
12 any principle of law that I give to you, you
13 must disregard those remarks. And the reason
14 for that is I'm the sole judge of the law. You
15 must take the facts as you determine them to be
16 and take the law as I give it to you.

17 Now, please understand something. The
18 fact that I give you a charge on a certain fact
19 or a certain issue in this case is not to be
20 considered by you or taken by you as a
21 suggestion of how you are to resolve any
22 particular factual issue. Because, ladies and
23 gentlemen, you and you alone are the judges of
24 the facts.

25 Likewise, my rulings on evidentiary

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1 matters that may have arisen during the trial of
2 this case, they also should not be considered by
3 you. Because that's my sole responsibility, to
4 rule on those matters of law.

5 Please consider the charge as a whole
6 and don't focus on any one aspect of the charge.
7 Ladies and gentlemen, in cases of this nature,
8 it's not uncommon to have one or both types of
9 evidence. And the two kinds of evidence we have
10 are direct and indirect. But the more common
11 name for indirect evidence is circumstantial
12 evidence.

13 Direct evidence is, as it would imply,
14 when somebody testifies to generally a sensory
15 perception. That is, I saw something. I heard
16 something. I felt something, or the like. If
17 you are firmly convinced as to the truthfulness
18 and the reliability of that testimony, then, of
19 course, that would establish that particular
20 fact or circumstance.

21 Circumstantial evidence or indirect
22 evidence would be when someone testifies to a
23 number of factors or circumstances which you are
24 firmly convinced of the truthfulness of those,
25 and when you combine those, they point to or

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1 suggest the existence of another fact or
2 circumstance. It could be even the commission
3 of a crime.

4 I would tell you that it's not uncommon
5 to have both methods in a case. And our law
6 makes no distinction between the weight or the
7 value to be given to direct or circumstantial
8 evidence, nor is there any greater degree of
9 certainty required of circumstantial evidence
10 than of direct evidence. You must consider all
11 evidence in a case, whether it's direct or
12 circumstantial evidence, and decide what you
13 find to be credible and believable. And then,
14 once making that determination, you return your
15 verdict.

16 I will tell you this, however. With
17 regard to the facts and circumstances
18 established, it has to be more than a suspicion
19 of guilt or more than somebody being probably
20 guilty. Because, as you know, that's not
21 sufficient to sustain a verdict. Because it has
22 to be more than that. It has to be you must be
23 firmly convinced of the defendant's guilt in
24 this particular case.

25 Now, how do you make that determination

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1 as to credibility and believability? I would
2 suggest to you that you've done that many, many
3 times in your life. You've heard something,
4 you're read something and you made a decision
5 whether you believed it or not. And you do the
6 same thing when you begin the process of
7 analyzing this evidence.

8 There are many factors that may assist one
9 in making this type of decision. And if I don't
10 discuss one of those factors with you in this
11 charge, please, if you have found it reliable in
12 your life and beneficial to you, use it when you
13 begin your deliberations. But some of the
14 factors that you may want to consider would be:

15 One would be the demeanor of the
16 witness. How did they appear to you on the
17 witness stand? Hesitant or straightforward in
18 answering questions.

19 Was the testimony of a witness
20 consistent or was it inconsistent?

21 Was it strengthened or weakened by
22 other evidence in the case?

23 How did the witness come to know the
24 facts that he or she testified to?

25 What was the ability of that witness to

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1 know those particular facts or circumstances?

2 Is there a reason that a witness would
3 have to give testimony which may be beneficial
4 to one side or which may be detrimental to one
5 side? In other words, was the witness biased or
6 prejudiced in any fashion?

7 In making this determination, ladies
8 and gentlemen, while you don't have discretion
9 when it comes to applying the law, you have
10 broad discretion when it comes to determining
11 the true facts. For you see, you can believe
12 one witness against many, many witnesses against
13 one. You can believe all of a witness's
14 testimony, parts of a witness's testimony or
15 none of a witness's testimony. Now, of course,
16 you don't make this decision arbitrarily. But
17 if there's a reason in the evidence or the
18 record of this case for taking that position,
19 you have that prerogative. Why? Because you
20 are here -- you have been selected to determine
21 and consider all the evidence in the case and
22 determine what you believe to be the true facts
23 of this dispute.

24 Now, let's look, ladies and gentlemen,
25 at the offense. As I stated to you, he's

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1 accused of committing the offense of trafficking
2 in crack cocaine. And the State must prove
3 beyond a reasonable doubt in this case that the
4 defendant knowingly sold, manufactured,
5 cultivated, delivered, purchased, brought into
6 this state, provided financial assistance or
7 otherwise aided, abetted, attempted or conspired
8 to sell, manufacture, cultivate, deliver,
9 purchase or bring into this state or was
10 knowingly in actual or constructive possession
11 or knowingly attempted to become in actual or
12 constructive possession of crack cocaine. The
13 State must also prove beyond a reasonable doubt
14 that the amount of crack cocaine was ten grams
15 or more, but less than twenty-eight grams.

16 So, what did I say? One aspect the
17 State proves, that a person was in possession,
18 actual possession of crack cocaine and proves
19 that the substance weighed ten grams or more,
20 but less than twenty-eight. Then the State has
21 met its burden of proof if you believe that the
22 substance, of course, is crack cocaine.

23 Actual possession means that the
24 defendant had it in his physical custody. He
25 had control of that. They have to prove that

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1 part of it to establish actual possession.

2 I would further instruct you, ladies
3 and gentlemen, that this charge, it is the
4 amount of crack cocaine rather than the criminal
5 act which triggers this trafficking statute and
6 distinguishes that from just simply the
7 distribution or possession with intent to
8 distribute or simple possession. If the amount
9 of crack cocaine is ten grams or more, then the
10 trafficking statute would be applied.

11 Ladies and gentlemen, in this case you
12 are not partisans for either side. You aren't
13 here to reward a soul, nor are you here to
14 punish anyone. You don't have any friends in
15 this process, nor do you have any enemies in
16 this process. You are here -- we both are here
17 with that situation, because that's what applies
18 to judges. We don't have any -- we have to set
19 all those aside. We also promised we'd set
20 aside all human emotion. Because, if you think
21 about it, it has nothing to do with our
22 decisions. We're called upon to exercise and
23 perform our duties and to exercise our good
24 judgment and knowledge and apply our common
25 sense and reason fairly and impartially and make

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1 our decisions.

2 To assist you, Mr. Presiding Juror,
3 once you have decided the true facts and taken
4 the law, you and the other jurors, in reporting
5 that decision, I've prepared a verdict form. It
6 will accompany you -- I'll send it back to you.
7 Again, I apologize for doing it from this far.
8 If I was here frequently I'd talk to them about
9 cutting me a little passageway there so I could
10 come down. But since I'm visiting, I won't make
11 any issue about that. But I will apologize.

12 You'll notice the caption, and that
13 really doesn't mean anything to you. That's to
14 facilitate the filing of the document. There
15 are two choices, and I'll tell you this. The
16 order of these choices means nothing. I had to
17 put it in some order. The first one says, "We,
18 the jury...", -- it reads on the trafficking
19 crack cocaine: "We the jury, find the defendant
20 Reggie Allen Pinkney..." -- Guilty," first
21 choice; second choice, not guilty.

22 You'll notice that there's a blank that
23 precedes that. Whichever your choice, if you
24 will place a check or an X in that blank, circle
25 it and then sign it where it says Presiding

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1 Juror, and you will have completed the form
2 properly.

3 What will you be saying if you say
4 guilty? You will be saying that, after
5 analyzing the evidence, you are convinced,
6 firmly convinced, that is beyond a reasonable
7 doubt, that the State established that Mr. Allen
8 Pinkney had in his possession crack cocaine and
9 the amount was ten grams but less than twenty-
10 eight grams -- at least ten, but less than
11 twenty-eight, and that you're firmly convinced
12 of that.

13 Not guilty? You'll be saying that
14 you've considered it and you're not firmly
15 convinced of those elements that the State has
16 met its burden of proof. And because of that,
17 you're returning a verdict of not guilty; that
18 is, that you're not firmly convinced that Mr.
19 Pinkney had in his possession a quantity of
20 crack cocaine and that the amount was ten grams
21 but less than twenty-eight grams.

22 Whichever it is, make your choice. It
23 has to be twelve to zero. Eleven to one won't
24 work. All of you have to agree.

25 Now, let me ask you, ladies and

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1 gentlemen, if each of the first twelve of you
2 feel that you'll be able to continue. And if
3 you do -- if anyone feels they can't, please
4 raise their hand. (No response). Thank you
5 very much.

6 At this point the first twelve have
7 indicated they can continue. So when the jury
8 retires, I'm going to ask that you (alternate)
9 not return to the jury room with them. The
10 bailiff will take you to another location, and
11 I'll be in there to let you know how much longer
12 I need for you to remain with us.

13 I know you're anxious to get started
14 with your deliberations, and you're almost
15 there. I have to excuse you now to discuss my
16 charge with the attorneys. It might be
17 necessary that I have to bring you back in to
18 give you some further instruction. And, if so,
19 I'll return you to the courtroom to accomplish
20 that. But if there aren't any additions, then
21 we will deliver the verdict form and the
22 evidence to you, Mr. Presiding Juror. When you
23 receive those, then you may begin your
24 deliberations, but not before.

25 Once the deliberations commence, the

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1 only restrictions on the deliberations is this.
2 If, at any point, ladies and gentlemen, any of
3 the jurors has to leave the table for any
4 reason, you must stop deliberating until all
5 twelve of you are together. Other than that,
6 you can proceed as you deem fit and proper.

7 I thank you for your attention. Please
8 retire to your jury room, and do not begin your
9 deliberations until you have received the
10 exhibits and the verdict form. Thank you.

11 (JURY OUT @ 10:45 A.M.)

12 THE COURT: Exceptions or additions
13 from the State?

14 SOLICITOR MEACHAM: None from the
15 State. Thank you.

16 THE COURT: Other than your request
17 to charge the lesser-included offenses,
18 possession with intent to distribute and simple
19 possession, any other exceptions or additions?

20 MR. LONG: None, Your Honor. And I
21 instructed the jury during my closing that the
22 State would end prosecution or nol prossing.
23 You have told them that there only is one
24 indictment.

25 THE COURT: Only one indictment

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1 they're going to decide.

2 MR. LONG: I don't know if it's
3 necessary for the State to formally, before the
4 jury, or the judge to formally, before the jury,
5 say that they have ended prosecution.

6 THE COURT: I don't think it's
7 necessary for that to be accomplished. If the
8 jury doesn't pass on it, and it's not presented
9 to them for their consideration, it was
10 withdrawn from their consideration.

11 MR. LONG: Thank you.

12 THE COURT: Thank you. That would be
13 my position. Do you agree with that?

14 SOLICITOR MEACHAM: I do.

15 THE COURT: Thank you. Thank you
16 very much. We'll be at ease.

17 (JURY IN DELIBERATIONS @ 10:40)

18 (NOTIFIED OF JURY QUESTION @ 10:50 A.M.)

19 THE COURT: I will mark the question
20 as Court's Exhibit 1, (reading): "Are we to
21 consider the search a part for the
22 deliberations?" My answer is no. I'm going to
23 bring them back in. That's a matter of law that
24 I determined, as to the legality of the search.

25 (SO ENTERED AS COURT'S EXHIBIT 1)

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1 MR. LONG: One thing I would request
2 is maybe a little more definitive on the
3 question.

4 THE COURT: It's not an aspect. The
5 search has got nothing to do with it. The issue
6 of the search is not a jury issue.

7 MR. LONG: But what they're asking
8 is whether the search was lawful or unlawful.
9 And I would certainly agree with that. But if
10 they're asking about whether or not they can
11 test the credibility of the officers' testimony
12 concerning the search ---

13 THE COURT: They can test the
14 credibility of those, but the legality of the
15 search has nothing to do with this case.

16 MR. LONG: Can your answer to them
17 be in that form.

18 THE COURT: I'll be happy to. Bring
19 in the jury, please. Anything from the State?

20 SOLICITOR MEACHAM: No, sir.

21 (JURY IN @ 11:05 A.M.)

22 THE COURT: Thank you very much.
23 Ladies and gentlemen, Mr. Rogers, I have what's
24 now Court's Exhibit Number 1. The question is,
25 "Are we to consider the search a part of the

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1 deliberations?"

2 Let me answer you in this fashion. As
3 you recall my charge, you are the sole judge of
4 the facts. I'm the sole judge of the law. The
5 lawfulness or legality of the search are
6 determinations that the Court makes. You don't
7 make determinations as to lawfulness, because
8 that's that separation that we talked about.
9 That's a matter for the Court to determine.

10 Any factual issues concerning that as
11 to how that would bear on the truthfulness or
12 believability of a witness, certainly you
13 consider that from that standpoint. But you
14 have nothing to consider with respect to whether
15 the search was legal or illegal, because that's
16 a matter of law for the Court to determine.

17 Thank you very much. You may retire
18 and resume your deliberations. If you have
19 further questions, please just submit them to
20 the bailiff.

21 (JURY OUT @ 11:12 A.M.)

22 THE COURT: Exceptions or additions
23 from the State?

24 SOLICITOR MEACHAM: Nothing from the
25 State.

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1 THE COURT: Exceptions or additions
2 from the defendant?

3 MR. LONG: No, sir.

4 THE COURT: We'll be at-ease.

5 (JURY IN DELIBERATIONS)

6 (NOTIFIED OF HUNG JURY AT 1:45 P.M.)

7 (SO ENTERED AS COURT'S EXHIBIT 2)

8 (JURY IN)

9 THE COURT: Thank you very much,
10 ladies and gentlemen. Mr. Presiding Juror, as I
11 understand, the jury has not been able to reach
12 a verdict. Is that correct, sir?

13 PRESIDING JUROR: Yes, Your Honor.

14 THE COURT: And you've been
15 deliberating now for about two and a half hours,
16 I think?

17 PRESIDING JUROR: Yes, sir.

18 THE COURT: Do you think any further
19 deliberation -- I don't want you to tell me
20 anything about the problems or discussions that
21 you've had. But do you think any further
22 deliberation would be of benefit to the jury in
23 resolving this case?

24 PRESIDING JUROR: No, sir.

25 THE COURT: No further instruction

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1 would benefit the jury on the law? Because it's
2 really not that complicated a situation. You
3 said no?

4 PRESIDING JUROR: Not that I know of.

5 THE COURT: Thank you, sir. Ladies
6 and gentlemen, that will conclude your services.
7 I will declare a mistrial and we'll have to
8 retry this case at another time, another place
9 and with another jury. They'll hear the same
10 evidence and they'll have an opportunity to make
11 a decision. But I appreciate your services.
12 And you're now free to discuss this case if you
13 wish. If you don't want to talk about it,
14 that's also your right and privilege as well.

15 I just want to tell you it's been a
16 privilege to work with you. And I thank you for
17 your commitment to this community, to the county
18 and to the state and, most importantly, your
19 assistance to this Court.

20 Good luck to each one of you. If you
21 have any questions about anything in just a few
22 moments I'll be happy to step back and try to
23 answer them. But if not, have a great day. And
24 as I understand, I believe that they've been
25 mailed their checks?

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1 THE CLERK: Yes, sir.

2 THE COURT: The check's in the mail.

3 You've heard that. I would definitely not
4 advise you to make any major purchases, because
5 I don't think you'll be paid -- but please
6 understand something. When you receive that
7 check, it in no way represents your value to
8 this process. There's no way to pay you for
9 that. It's invaluable. As the ad says, it's
10 priceless. I thank you for that. It's a
11 pleasure to be with you. Good luck to each one
12 of you.

13 (JURY EXCUSED)

14 THE COURT: Two things come to mind.
15 Number one, it's a mistrial through no
16 prosecutable error. Solicitor, do you have any
17 motions?

18 SOLICITOR MEACHAM: I do, if Your
19 Honor please. We'd move for a bench warrant to
20 be issued.

21 THE COURT: I'd be delighted to issue
22 one and one will be issued for his arrest.

23 MR. LONG: Your Honor, just as a
24 characterization, "mistrial" means as if trial
25 never occurred.

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1 THE COURT: Correct. Now, that does
2 not mean -- that's the next question.

3 MR. LONG: Yes, sir.

4 THE COURT: I assume, whether or not
5 the ruling on the suppression.

6 MR. LONG: Well, -- motions on
7 suppression and things of that nature, those, of
8 course, do not carry over.

9 THE COURT: Yes, they do.

10 MR. LONG: They do?

11 THE COURT: Yes, they do. That's one
12 of the things that I've seen. And the first
13 time I saw it was about four years ago in a case
14 where there was a *Jackson v. Denno* hearing and
15 there was a mistrial. It came back, and that's
16 what -- the second part is I need an Order from
17 the State setting forth in writing what was
18 found. Because that Order is a part of the
19 record in this case and the ruling in this case.
20 And it is subject to review. If it's an
21 acquittal, obviously, that's fine. But if it's
22 a conviction, then your position is preserved
23 for review. Your objection is preserved and I'd
24 love to pass it to the next judge. Obviously,
25 you might like to have it passed to the next

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1 judge, because they may see it differently.

2 I believe that's the ruling. Because I
3 think it was properly before me, and I heard it
4 and I think I can issue my Order and it will
5 stand. What's your position?

6 SOLICITOR MEACHAM: That would be
7 our position, Your Honor. We would have to
8 request a copy of the transcript.

9 THE COURT: That's fine.

10 MR. LONG: Your Honor, the only
11 procedural nightmare I see arising from that is
12 that once a written Order is prepared and
13 signed, our only recourse to object to that
14 ruling is to take that matter under appeal.

15 THE COURT: It's interlocutory,
16 because you can't -- he still may be acquitted.
17 So, I mean, since then, I've seen a reported
18 decision. And, generally, what they do is it
19 lists both judges in the heading, because my
20 ruling is a part of it and then the trial judge
21 is a part of it. So it really is -- that's my
22 view of it. But you may be correct. It may be
23 directly appealable. I don't think it is, but I
24 could be wrong.

25 MR. LONG: That would be a final

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1 ruling.

2 THE COURT: It's a final ruling.

3 MR. LONG: Which would ---

4 THE COURT: As to the admissibility
5 of that evidence. But it has nothing to do with
6 the determination. And I think the reason it's
7 interlocutory is because he could be acquitted.
8 Obviously, he's still free right now. So, you
9 know, it maybe that the matter is. But, yeah,
10 it's a ruling and I'm stuck with it. If I made
11 a mistake the Supreme Court will reverse it. I
12 would love to pass that to somebody else, but I
13 don't think we can do that. I think it's proper
14 that I ruled on it. I heard it. I ruled on it.
15 I think it now becomes a final Order in this
16 case for purposes of -- it can't be changed by
17 another judge. I don't think it's proper for
18 another judge to hear that. I think that would
19 be -- that judge overturning my Order,
20 basically. So I believe it has to be reduced to
21 writing to preserve it.

22 MR. LONG: Yes, sir.

23 THE COURT: Thank you very much.
24 Drugs and evidence will be returned to the
25 State. Give us a receipt that you take

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1 possession of the drugs. Thank you. Anything
2 else?

3 MR. LONG: That's it, Your Honor.

4 THE COURT: Very well. Thank you
5 very much.

6 (END OF PROCEEDINGS)

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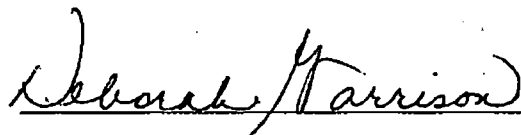
25

State of South Carolina v. Reggie Allen Pinkney
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CERTIFICATE OF REPORTER

I, the undersigned, Deborah Garrison,
official court reporter for the 9th Judicial
Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true,
accurate and complete transcript of the jury
trial held before The Honorable R. Markley
Dennis, Jr., on October 26-27, 2005;

I further certify that I am neither kin nor
counsel to any of the parties and have no
interest in the outcome of this action.



Deborah Garrison

Circuit Court Reporter

9th Judicial Circuit

Charleston, South Carolina

December 7, 2011

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF GENERAL SESSIONS
05-GS-26-01400/01401

STATE OF SOUTH CAROLINA,

PLAINTIFF,

vs.

REGGIE ALLEN PINCKNEY,

DEFENDANT.

TRANSCRIPT OF RECORD

JANUARY 11-12, 2006
CONWAY, SOUTH CAROLINA

BEFORE:

THE HONORABLE, JAMES B. LOCKEMY, JUDGE; AND JURY

APPEARANCES:

BY: TIMOTHY E. MEACHAM, ESQ.
ATTORNEY FOR STATE

BY: J. M. LONG, III, ESQ.
ATTORNEY FOR REGGIE PINCKNEY

BRENDA R. BABB
Circuit Court Reporter

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MR. MEACHAM

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25

CHRISTINA BARFIELD (IN CAMERA)

MR. MEACHAM

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1 THE COURT: MR. LONG, YOU'RE HERE NOW, MR.
2 MEACHAM, YOU'RE HERE. SO NOW, LADIES AND GENTLEMEN OF THE
3 JURY, I PRESENT TO YOU THE PROSECUTOR FOR THE NEXT CASE,
4 MR. TIMOTHY MEACHAM; CALL YOUR CASE, SIR.

5 MR. MEACHAM: MAY IT PLEASE THE COURT, THE STATE
6 WOULD CALL THE STATE V. REGGIE PINCKNEY, THAT IS INDICTMENT
7 2004-1401, 2005-1401.

8 THE COURT: AND THE CHARGE IS TRAFFICKING ---

9 MR. MEACHAM: TRAFFICKING.

10 THE COURT: --- IN CRACK COCAINE. I HAVE THE
11 INDICTMENT UP HERE, I DO, AND, MR. LONG, YOU REPRESENT MR.
12 REGGIE ALLEN PINCKNEY, IS THAT RIGHT, SIR?

13 MR. LONG: I DO, YOUR HONOR.

14 THE COURT: NOW, LADIES AND GENTLEMEN, WE'RE
15 GOING TO DRAW THE JURY AND MR. PINCKNEY IS NOT HERE RIGHT
16 NOW, BUT THE FACT THAT HE'S NOT HERE RIGHT NOW SHOULD IN NO
17 WAY BE HELD AGAINST HIM. THERE'S ALWAYS MANY REASONS WHY
18 SOMEONE IS NOT HERE PRESENTLY, SO PLEASE, LADIES AND
19 GENTLEMEN OF THE JURY, PLEASE IN NO WAY HOLD THAT AGAINST
20 MR. PINCKNEY THAT WE'RE GOING TO PROCEED IN THIS MATTER AT
21 THIS TIME WITHOUT HIS PRESENCE; BUT BEFORE WE DO THAT,
22 MADAM BAILIFF, IF YOU WOULD COME FORWARD, PLEASE, MA'AM.

23 JUST TO MAKE SURE, MR. PINCKNEY MAYBE CAN APPEAR
24 -- ANY WAY HOW ABOUT GO CALL HIS NAME OUT THREE TIMES IF
25 YOU WOULD FOR ME, PLEASE, MA'AM.

1 DANA SARVIS

2 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

3 THE COURT: WHAT IS YOUR NAME, MA'AM?

4 BAILIFF SARVIS: DANA SARVIS.

5 THE COURT: AND, MS. SARVIS, WHAT IS YOUR
6 POSITION?

7 BAILIFF SARVIS: I'M A BAILIFF.

8 THE COURT: AND WHAT COURT SYSTEM?

9 BAILIFF SARVIS: HORRY COUNTY.

10 THE COURT: OKAY, AND PURSUANT TO MY REQUEST DID
11 YOU CALL THE NAME OF REGGIE ALLEN PINCKNEY AT THE
12 COURTHOUSE DOOR THREE TIMES?

13 BAILIFF SARVIS: I DID.

14 THE COURT: AND DID YOU GET ANY RESPONSE AT ALL,
15 MA'AM?

16 BAILIFF SARVIS: NO RESPONSE.

17 THE COURT: OKAY, OKAY, THANK YOU VERY MUCH.

18 ANY QUESTIONS FROM MR. MEACHAM OR MR. LONG FROM MS. SARVIS?

19 MR. MEACHAM: NONE FROM THE STATE, THANK YOU.

20 MR. LONG: NO, YOUR HONOR.

21 THE COURT: OKAY, ALL RIGHT, AND WE'LL HAVE
22 OTHER MATTERS ABOUT THIS LATER ON BUT JUST SO, WHEN WE GO
23 TO CALL THE JURY. NOW, LADIES AND GENTLEMEN, ONCE AGAIN
24 THE FACT THAT MR. PINCKNEY IS NOT HERE AT THIS TIME IS IN
25 NO WAY REFLECTIVE UPON WHETHER OR NOT THERE'S ANY

1 PRESUMPTION OTHER THAN THE FACT HE IS PRESUMED INNOCENT OF
2 THE CHARGES.

3 HE IS CHARGED, THE ALLEGATIONS ARE THAT MR.
4 REGGIE ALLEN PINCKNEY DID IN HORRY COUNTY ON OR ABOUT THE
5 23RD OF FEBRUARY 2005, KNOWINGLY SELL, DELIVER, PURCHASE,
6 OR BRING INTO THE STATE OR DID ABET, AID, ATTEMPT, OR
7 CONSPIRE TO SELL, DELIVER, PURCHASE, OR BRING INTO THIS
8 STATE OR WITH AN ACTUAL OR CONSTRUCTIVE POSSESSION OR
9 ATTEMPTED TO BECOME AN ACTUAL CONSTRUCTIVE POSSESSION OF A
10 QUANTITY OF COCAINE IN AN AMOUNT OF MORE THAN 10 GRAMS BUT
11 LESS THAN 28 GRAMS, THE SAME BEING A CONTROLLED SUBSTANCE
12 AND IN VIOLATION OF THE LAW.

13 DOES ANYBODY KNOW ANYTHING ABOUT THESE
14 ALLEGATIONS, ANYTHING AT ALL ABOUT THESE ALLEGATIONS,
15 ANYBODY KNOW ANYTHING AT ALL ABOUT THE ALLEGATIONS?

16 (NO RESPONSE.)

17 ALL RIGHT, THE POTENTIAL WITNESSES THAT MAY
18 TESTIFY IN THE CASE INCLUDE:

19 DETECTIVE ROBERT BRADLEY OF THE CONWAY POLICE
20 DEPARTMENT;

21 OFFICER TYRONE WILLIAMS OF THE CONWAY POLICE
22 DEPARTMENT;

23 OFFICER ROBERT ROBINSON OF THE CONWAY POLICE
24 DEPARTMENT;

25 A CUSTODIAN OF THE CONWAY POLICE DEPARTMENT BY

1 THE NAME OF JILL DOMAGAUER, D-O-M-A-G ---

2 MR. MEACHAM: DOMAGAUER.

3 THE COURT: --- DOMAGAUER?

4 MEACHAM: YES, SIR.

5 THE COURT: DOMAGAUER, D-O-M-A-G-A-U-E-R, AND
6 AN ANALYST BY THE NAME OF LISA FLOYD. DOES ANYONE KNOW
7 THESE INDIVIDUALS, HAVE ANY BUSINESS, PERSONAL, OR SOCIAL
8 RELATIONSHIP WITH THEM, IF SO, PLEASE LET US KNOW NOW?

9 (NO RESPONSE.)

10 OKAY. ALSO, LADIES AND GENTLEMEN, THE NATURE OF
11 THESE CHARGES -- REMEMBER I TOLD YOU THE NATURE OF THE
12 OTHER CHARGE AND ASKED IF YOU HAVE ANY INVOLVEMENT AS FAR
13 AS YOUR FAMILY, FRIENDS, BEEN CHARGED WITH THOSE THINGS OR
14 VICTIM OF THOSE THINGS WHEN WE DEALT WITH THE CRIMINAL
15 SEXUAL CONDUCT? HERE WE'RE DEALING WITH ALLEGATIONS OF
16 ILLEGAL POSSESSION OR ILLEGAL INVOLVEMENT IN DRUGS,
17 COCAINE. IS ANYONE OUT THERE SUCH THAT THE FACT THAT WE'RE
18 DEALING WITH ALLEGATIONS OF THAT NATURE, THAT THAT IN AND
19 OF ITSELF WOULD AFFECT YOUR ABILITY TO BE FAIR AND
20 IMPARTIAL, IF SO PLEASE LET ME KNOW?

21 OKAY, COME ON AROUND, SIR, IF YOU WOULD, COME ON
22 DOWN, JUST COME ON DOWN, AND I'M GOING TO TRY IT OVER HERE
23 FIRST. IF WE NEED TO GO OVER THERE WE WILL, COUNSEL, IF
24 YA'LL WOULD COME ON UP.

25 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE

1 RECORD OUT OF THE HEARING OF THE JURY VENIRE AND COURT
2 REPORTER.)

3 THE COURT: NOW, LADIES AND GENTLEMEN, ALSO LIKE
4 I TOLD YOU THE OTHER DAY I DON'T WANT TO EMBARRASS ANYONE,
5 MAKE ANYONE FEEL UNCOMFORTABLE OR ANYTHING OF THAT NATURE,
6 BUT IF YOU HAVE SOMEONE IN YOUR FAMILY OR YOU HAVE A VERY
7 VERY CLOSE FRIEND WHO'S HAD ALLEGATIONS AGAINST THEM OF
8 ILLEGAL DRUG ACTIVITY OR IS INVOLVED IN SIMILAR SORT OR YOU
9 SUSPECT INVOLVED IN SOME ILLEGAL DRUG ACTIVITY, SOMETHING
10 OF THAT NATURE, PLEASE I'D RATHER IF YOU WOULD JUST COME
11 TELL ME ABOUT AT THIS TIME. ANYONE WHO'S EVER BEEN CHARGED
12 WITH IT OR YOU FEEL HAS BEEN SORT OF A VICTIM OF IT, SO
13 PLEASE COME TELL ME ABOUT IT?

14 (NO RESPONSE.)

15 OKAY, NOW THE NEXT THING IS I TOLD YOU ABOUT THE
16 GROUPS, AND REMEMBER NEITHER ONE OF THESE ATTORNEYS WERE
17 HERE, BUT ONLY BECAUSE, INFORMATION ONLY, THERE'S NOTHING
18 WRONG WITH THAT, YOU CAN BE A MEMBER OF ANY GROUP YOU WISH,
19 BUT JUST FOR INFORMATION PURPOSES ONLY. IS ANYBODY OUT
20 THERE A MEMBER OF ORGANIZATIONS LIKE MOTHERS AGAINST DRUNK
21 DRIVING, STUDENTS AGAINST DRUNK DRIVING, CITIZENS AGAINST
22 VIOLENT CRIMES, THINGS OF THAT NATURE, ANY OTHER
23 ORGANIZATIONS WHOSE FOCUS IS ON A CERTAIN CRIME SITUATION,
24 IF SO PLEASE STAND UP?

25 DIDN'T WE HAVE A COUPLE STAND UP BEFORE ON

1 MONDAY, ARE THEY NOT HERE? OKAY, MR. BISH, ANYONE ELSE?
2 OKAY, THAT WAS ALL, OKAY, THE OTHER IS ON THE OTHER JURY,
3 OKAY, GOOD, ALL RIGHT.

4 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
5 RECORD OUT OF THE HEARING OF THE JURY VENIRE AND THE COURT
6 REPORTER.)

7 THE COURT: MR. BISH IS EXCUSED. DOES ANYBODY
8 KNOW MR. REGGIE PINCKNEY, P-I-N-C-K-N-E-Y, MR. REGGIE
9 PINCKNEY, THE DEFENDANT, DOES ANYBODY KNOW MR. PINCKNEY?
10 (NO RESPONSE.)

11 OKAY, ARE THERE ANY NAMES, MR. MEACHAM OR MR.
12 LONG, YA'LL WISH ME TO QUALIFY THIS JURY ON?

13 MR. LONG: THERE ARE POSSIBLE WITNESS DAVID
14 GRAHAM OF CONWAY FOR THE DEFENSE.

15 THE COURT: OKAY, DAVID GRAHAM OF CONWAY,
16 ANYBODY KNOW MR. DAVID GRAHAM OF CONWAY?

17 (NO RESPONSE.)

18 OKAY, OTHER THAN ATTORNEY REPRESENTATION IS THERE
19 ANY OTHER QUESTIONS YOU WISH FOR ME TO ASK THIS JURY, MR.
20 MEACHAM?

21 MR. MEACHAM: NO, YOUR HONOR.

22 THE COURT: OTHER THAN ATTORNEY REPRESENTATION
23 ANY QUESTIONS YOU WISH ME TO ASK THIS JURY, MR. LONG?

24 MR. LONG: NO, SIR, YOUR HONOR.

25 THE COURT: ALL RIGHT, IF YOU WOULD, MR.

11

1 MEACHAM, INTRODUCE YOURSELF.

2 MR. MEACHAM: MY NAME IS TIMOTHY E. MEACHAM, I'M
3 ASSISTANT SOLICITOR HERE IN HORRY COUNTY.

4 THE COURT: ANYBODY KNOW MR. MEACHAM OR HAVE
5 ANY, ANY RELATIONSHIP WITH HIM, BUSINESS, PERSONAL OR
6 OTHERWISE, IF SO, PLEASE STAND UP, OR ANYBODY IN THE
7 SOLICITOR'S OFFICE OF THE FIFTEENTH JUDICIAL CIRCUIT?

8 OKAY, WHAT IS YOUR NAME AGAIN, MA'AM?

9 JURY PANEL MEMBER: PAM GREEN, 105.

10 THE COURT: YES, MS. PAM GREEN, 105.

11 MS. GREEN: I WORK FOR THE MYRTLE BEACH POLICE
12 DEPARTMENT AND I DON'T THINK I EVER SPOKE TO HIM BUT
13 SOMETIMES TO OTHER PEOPLE IN SOLICITOR'S OFFICE.

14 THE COURT: OKAY, WHAT DO YOU DO WITH THE MYRTLE
15 BEACH POLICE DEPARTMENT?

16 MS. GREEN: OFFICE ASSISTANT.

17 THE COURT: WHAT DOES THAT MEAN? YOU HELP
18 PEOPLE WHEN THEY HAVE TO COME IN PAY THEIR TICKETS OR
19 SOMETHING?

20 MS. GREEN: JUST POLICE CLERICAL WORK.

21 THE COURT: OH, OKAY, I MEAN A LOT OF THESE
22 PEOPLE WANT TO KNOW YOU IF YOU HANDLE TICKETS. ALL RIGHT,
23 WOULD THE FACT THAT YOU WORK WITH THE MYRTLE BEACH POLICE
24 DEPARTMENT, WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND
25 IMPARTIAL? DO YOU FEEL THAT YOU WORK FOR THE SOLICITOR'S

1 OFFICE IN ANY WAY, MA'AM?

2 MS. GREEN: NO.

3 THE COURT: ALL RIGHT, SO YOU COULD BE FAIR TO
4 BOTH SIDES AND YOU WOULD MAKE YOUR DECISION IN THIS CASE
5 BASED ON THE EVIDENCE IN THIS CASE AND THE LAW AS I
6 INSTRUCT IT TO YOU?

7 MS. GREEN: YES, SIR.

8 THE COURT: YOUR POSITION AS A EMPLOYEE OF THE
9 CITY OF MYRTLE BEACH -- YA'LL HAD A BIG THING THE OTHER
10 NIGHT I SAW ON THE NEWS, TOO, A BIG COUN, I MEAN THE
11 COUNCIL STARTED AND EVERYTHING ELSE, YOU MUST FEEL VERY
12 EXCITED ABOUT THE THING, BUT WOULD THAT IN ANY WAY AFFECT
13 YOUR VERDICT IN THIS CASE?

14 MS. GREEN: NO, SIR.

15 THE COURT: OKAY, THANK YOU, MS. GREEN. ANYONE
16 ELSE, ANYONE ELSE?

17 ALL RIGHT, MR. LONG, INTRODUCE YOURSELF TO THE
18 JURY, PLEASE?

19 MR. LONG: THANK YOU, YOUR HONOR. MEMBERS OF
20 JURY, I'M THE THIRD BUDDY LONG AND I'M A PRIVATE ATTORNEY
21 AND MY OFFICE IS IN CONWAY.

22 THE COURT: ANYBODY KNOW MR. LONG, HAVE ANY
23 BUSINESS, PERSONAL, OR SOCIAL RELATIONSHIP WITH HIM AT ALL,
24 IF SO PLEASE STAND UP, INCLUDING BEING REPRESENTED BY HIM
25 NOW OR IN THE PAST?

1 (NO RESPONSE.)

2 OKAY, NOW YA'LL EXCUSE ME JUST ONE SECOND HERE.

3 MR. LONG AND MR. MEACHAM, LET ME SEE YA'LL JUST ONE SECOND,
4 PLEASE.

5 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
6 RECORD OUT OF THE HEARING OF THE JURY VENIRE AND THE COURT
7 REPORTER.)

8 THE COURT: ALL RIGHT, SO THEY'RE READY. YOU'RE
9 READY DOWN THERE, SIR, ARE YOU READY, YOU WAITED ALL DAY
10 LONG, TOO, DIDN'T YOU? WHAT'S OUR JURY SELECTION MANNER
11 TODAY?

12 ALL RIGHT, MR. CANNON; ANY OBJECTION TO MR.
13 CANNON DRAWING THE JURY, THE NAMES IN THE CAPSULES IN A
14 CYLINDER, ANY OBJECTION FROM THE STATE OR FROM THE DEFENSE?

15 MR. MEACHAM: NO, YOUR HONOR.

16 MR. LONG: NO, YOUR HONOR.

17 THE COURT: ALL RIGHT, IF YOU WOULD, LADIES AND
18 GENTLEMEN, YOU KNOW THE DRILL. IF YOUR NAME IS CALLED
19 BRING EVERYTHING YOU BROUGHT WITH YOU, COME ALL THE WAY
20 DOWN HERE TO THE FRONT ROW, AND TURN AROUND AND LOOK AT
21 THEM AND THEY'LL LOOK AT YOU, HERE WE GO.

22 MADAM CLERK: NUMBER 105, PAMELA GREEN.

23 WHAT SAYS THE STATE?

24 THE COURT: COME UP A LITTLE BIT FURTHER, MS.
25 GREEN, THAT'S A GOOD PLACE RIGHT THERE.

1 MADAM CLERK: WHAT SAYS THE STATE?

2 MR. MEACHAM: PRESENT MS. GREEN, PLEASE.

3 MADAM CLERK: THE DEFENSE?

4 MR. LONG: THE DEFENDANT WILL EXCUSE THE JUROR
5 FROM THE TRIAL OF THIS CASE.

6 MADAM CLERK: YOU'RE EXCUSED FROM THE TRIAL OF
7 THIS CASE.

8 NUMBER 15, LINDA BALINT.

9 WHAT SAYS THE STATE?

10 MR. MEACHAM: PRESENT MS. BALINT PLEASE.

11 MADAM CLERK: THE DEFENSE?

12 MR. LONG: PLEASE SWEAR THE JUROR.

13 MADAM CLERK: PLEASE HAVE A SEAT ON THE JURY
14 ROW.

15 NUMBER 168, PATSY ROBERTS.

16 THE COURT: THOUGHT YOU WERE HIDING IN THE
17 CORNER WE WOULDN'T FIND YOU, DIDN'T YOU?

18 MADAM CLERK: WHAT SAYS THE STATE?

19 MR. MEACHAM: PRESENT MS. ROBERTS, PLEASE.

20 MADAM CLERK: THE DEFENSE?

21 MR. LONG: PLEASE SWEAR THE JUROR.

22 MADAM CLERK: PLEASE HAVE A SEAT IN THE JURY
23 ROW.

24 NUMBER 201, RALPH NARCISI.

25 WHAT SAYS THE STATE?

1 MR. MEACHAM: PRESENT MR. NARCISI, PLEASE.

2 MADAM CLERK: THE DEFENSE?

3 MR. LONG: PLEASE SWEAR THE JUROR.

4 MADAM CLERK: PLEASE HAVE A SEAT ON THE JURY
5 ROW.

6 NUMBER 302, DOUGLAS HARDWICK.

7 WHAT SAYS THE STATE?

8 MR. MEACHAM: PRESENT MR. HARDWICK, PLEASE.

9 MADAM CLERK: THE DEFENSE?

10 MR. LONG: PLEASE SWEAR THE JUROR.

11 MADAM CLERK: PLEASE HAVE A SEAT ON THE JURY
12 ROW.

13 NUMBER 315, LINDA LACK.

14 WHAT SAYS THE STATE?

15 MR. MEACHAM: EXCUSE MS. LACK FROM THIS TRIAL,
16 PLEASE.

17 MADAM CLERK: YOU'RE EXCUSED FROM THE TRIAL OF
18 THIS CASE.

19 NUMBER 75, DENNIS DUNCAN.

20 WHAT SAYS THE STATE?

21 MR. MEACHAM: PRESENT MR. DUNCAN, PLEASE.

22 MADAM CLERK: THE DEFENSE?

23 MR. LONG: PLEASE EXCUSE THE JUROR FROM THE
24 TRIAL OF THIS CASE.

25 MADAM CLERK: YOU'RE EXCUSED FROM THE TRIAL OF

1 THIS CASE.

2 NUMBER 84, PAUL EUBANKS.

3 WHAT SAYS THE STATE?

4 MR. MEACHAM: PRESENT MR. EUBANKS, PLEASE.

5 MADAM CLERK: THE DEFENSE?

6 MR. LONG: PLEASE SWEAR THE JUROR.

7 MADAM CLERK: PLEASE HAVE A SEAT ON THE JURY

8 ROW.

9 NUMBER 235, EMILA SCOLA.

10 THE COURT: SCOLA, FROM RHODE ISLAND.

11 MADAM CLERK: WHAT SAYS THE STATE?

12 MR. MEACHAM: PRESENT MS. SCOLA, PLEASE.

13 MADAM CLERK: THE DEFENSE?

14 MR. LONG: PLEASE SWEAR THE JUROR.

15 MADAM CLERK: PLEASE HAVE A SEAT ON THE JURY

16 ROW.

17 NUMBER 165, NICOLE KUHNS.

18 WHAT SAYS THE STATE?

19 MR. MEACHAM: PRESENT MS. KUHNS, PLEASE.

20 MADAM CLERK: THE DEFENSE?

21 MR. LONG: PLEASE SWEAR THE JUROR.

22 MADAM CLERK: PLEASE HAVE A SEAT ON THE JURY

23 ROW.

24 NUMBER 184, LOIS MATHEWS.

25 WHAT SAYS THE STATE?

17

1 MR. MEACHAM: PRESENT MS. MATHEWS, PLEASE.

2 MADAM CLERK: THE DEFENSE?

3 MR. LONG: PLEASE EXCUSE THE JUROR ON THE TRIAL
4 OF THIS CASE.

5 MADAM CLERK: YOU'RE EXCUSED FROM THE TRIAL OF
6 THIS CASE.

7 NUMBER 268, STACY SWEAT.

8 WHAT SAYS THE STATE?

9 MR. MEACHAM: PRESENT MS. SWEAT, PLEASE.

10 MADAM CLERK: THE DEFENSE?

11 MR. LONG: PLEASE SWEAR THE JUROR.

12 MADAM CLERK: PLEASE HAVE A SEAT ON THE JURY
13 ROW.

14 NUMBER 140, CRYSTAL HUTCHINS.

15 WHAT SAYS THE STATE?

16 MR. MEACHAM: PRESENT MS. HUTCHINS, PLEASE.

17 MADAM CLERK: THE DEFENSE?

18 MR. LONG: PLEASE SWEAR THE JUROR.

19 MADAM CLERK: PLEASE HAVE A SEAT ON THE JURY
20 ROW.

21 NUMBER 51, RICHARD CARROLL.

22 WHAT SAYS THE STATE?

23 MR. MEACHAM: PRESENT MR. CARROLL, PLEASE.

24 MADAM CLERK: THE DEFENSE?

25 MR. LONG: PLEASE SWEAR THE JUROR.

1 MADAM CLERK: PLEASE HAVE A SEAT ON THE JURY
2 ROW.

3 NUMBER 244, PHYLLIS SIMEON.

4 WHAT SAYS THE STATE?

5 MR. MEACHAM: PRESENT MS. SIMEON, PLEASE.

6 MADAM CLERK: THE DEFENSE?

7 MR. LONG: PLEASE EXCUSE THE JUROR ON THE TRIAL
8 OF THIS CASE.

9 MADAM CLERK: YOU'RE EXCUSED FROM THE TRIAL OF
10 THIS CASE.

11 MADAM CLERK: NUMBER 170 ---

12 THE COURT: MAKE SURE I GOT, I GOT ONE AND FOUR,
13 IS THAT YOUR COUNT, MADAM CLERK?

14 MADAM CLERK: YES, SIR.

15 THE COURT: YOURS, MR. SOLICITOR?

16 MR. MEACHAM: YES, SIR.

17 THE COURT: MR. LONG?

18 MR. LONG: YES, SIR.

19 THE COURT: OKAY.

20 MADAM CLERK: NUMBER 179, ANNIE MARTIN.

21 WHAT SAYS THE STATE?

22 MR. MEACHAM: PRESENT MS. MARTIN, PLEASE.

23 MADAM CLERK: THE DEFENSE?

24 MR. LONG: PLEASE EXCUSE THE JUROR FROM THE
25 TRIAL OF THIS CASE.

19

1 MADAM CLERK: YOU'RE EXCUSED FROM THE TRIAL OF
2 THIS CASE.
3 NUMBER 177, MARY MAESER.
4 WHAT SAYS THE STATE?
5 MR. MEACHAM: PRESENT MS. MAESER, PLEASE.
6 MADAM CLERK: THE DEFENSE?
7 MR. LONG: PLEASE SWEAR THE JUROR.
8 MADAM CLERK: PLEASE HAVE A SEAT ON THE JURY
9 ROW.
10 NUMBER 259, TAMMY STEVENS.
11 WHAT SAYS THE STATE?
12 MR. MEACHAM: PRESENT MS. STEVENS, PLEASE.
13 MADAM CLERK: THE DEFENSE?
14 MR. LONG: PLEASE SWEAR THE JUROR.
15 MADAM CLERK: PLEASE HAVE A SEAT ON THE JURY
16 ROW.
17 THE COURT: ALL RIGHT, NOW LET'S GET TO THE
18 ALTERNATES, ONE STRIKE FOR THE STATE, TWO FOR THE DEFENSE.
19 MADAM CLERK: NUMBER 16, RAYMOND BANKS.
20 WHAT SAYS THE STATE?
21 MR. MEACHAM: PRESENT THE JUROR, PLEASE.
22 MADAM CLERK: THE DEFENSE?
23 MR. LONG: PLEASE SWEAR THE JUROR.
24 MADAM CLERK: HAVE A SEAT ON THE JURY ROW,
25 PLEASE.

1 THE COURT: LET'S GET ANOTHER ALTERNATE, ONE
2 STRIKE FOR THE STATE, TWO FOR THE DEFENSE.

3 MADAM CLERK: NUMBER 48, ANN CAINES.

4 WHAT SAYS THE STATE?

5 MR. MEACHAM: PRESENT MS. CAINES, PLEASE.

6 MADAM CLERK: THE DEFENSE?

7 MR. LONG: PLEASE SWEAR THE JUROR.

8 MADAM CLERK: PLEASE HAVE A SEAT ON THE BACK
9 ROW.

10 THE COURT: OKAY.

11 MADAM CLERK: YOUR HONOR?

12 THE COURT: THANK YOU VERY MUCH. NOW, LADIES
13 AND GENTLEMEN OF THE JURY, BEFORE I TELL YOU ABOUT THE TIME
14 TO BE HERE TOMORROW TO START THE CASE, WE WON'T START IT
15 NOW, IS THERE ANYBODY ON THE JURY HAVE ANY BIAS, PREJUDICE,
16 OR ANYTHING YOU KNOW THAT WOULD PREVENT YOU FROM GIVING A
17 FAIR TRIAL BOTH TO THE STATE AND TO THE DEFENSE, ANYTHING
18 AT ALL?

19 (NO RESPONSE.)

20 DOES EVERYONE UNDERSTAND THE BURDEN IS UPON THE
21 STATE TO PROVE GUILT BEYOND A REASONABLE DOUBT AND THE
22 DEFENDANT IS PRESUMED INNOCENT. ANYBODY GOT A PROBLEM WITH
23 THAT CONCEPT OR APPLYING THAT CONCEPT, IF SO PLEASE LET ME
24 KNOW NOW?

25 (NO RESPONSE.)

21

1 OKAY, THEN IN THAT REGARD, MR. MEACHAM, MR. LONG,
2 LET ME SEE YOU ONE SECOND HERE, LET'S GET A DEFINITE TIME,
3 COME UP HERE, PLEASE. FEELS LIKE THIS IS LIKE RETURN
4 THINGS AT SEARS. WHAT DID YOU BUY FOR CHRISTMAS?

5 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
6 RECORD OUT OF THE HEARING OF THE JURY, JURY VENIRE AND THE
7 COURT REPORTER.)

8 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN,
9 THERE ARE A COUPLE MORE MATTERS WE STILL NEED TO DO, SO
10 LET'S GO AHEAD AND HAVE YOU ALL COME IN TOMORROW MORNING AT
11 10:30. SO YOU ALL GET TO LEAVE NOW AND THEY GOT TO STAY,
12 OF COURSE THEY WON'T BE HERE TOMORROW AND YOU WILL, BUT IN
13 ANY EVENT BE HERE. NOW YOU WILL TAKE THEM UP AND SHOW THEM
14 WHERE THEY NEED TO BE, OKAY, TAKE THEM UP AND SHOW THEM
15 WHERE THEY NEED TO BE. WHAT I WANT YOU TO DO TOMORROW
16 MORNING IS TO COME IN THE BACK ROOM WHERE SHE SHOWS YOU,
17 AND LIKE YOU HEARD ME INSTRUCT THE OTHER JURORS AND THE
18 OTHER JUDGES HAVE INSTRUCTED THE JURORS, ONCE YOU GET IN
19 FROM THE FIRST 12 OF YOU SELECT YOUR FOREPERSON, THE ONE
20 YOU WANT TO BE THE ADMINISTRATIVE SPOKESPERSON ON THE JURY,
21 THE ONE WHO IS IF I LEAVE YOU SITTING BACK FOR AN HOUR IS
22 GOING TO BE BANGING ON THE DOOR AND SAYING WHAT'S GOING ON,
23 THAT TYPE OF THING, SO SELECT YOUR ADMINISTRATIVE
24 SPOKESPERSON. HE OR SHE WILL ALSO BE THE ONE WHO BEGINS
25 DELIBERATIONS AND WILL BE THE ONE WHO WILL SIGN THE VERDICT

1 FORM, SO WE'LL SEE YOU TOMORROW MORNING IN THAT ROOM AT
2 10:30 TOMORROW MORNING. DO NOT DISCUSS THIS CASE WITH
3 ANYONE TONIGHT. DON'T TALK ANYTHING ABOUT IT WITH ANYONE.
4 SIR, WHAT ARE YOU READING THERE?

5 JURY PANEL MEMBER: STEVEN KING.

6 THE COURT: STEVEN KING? I REMEMBER READING THE
7 BOOK THINNER, THOUGHT I WOULD LOSE WEIGHT BUT I DIDN'T.
8 OKAY.

9 (WHEREUPON, THE JURY WAS EXCUSED FOR THE EVENING
10 AT 4:50 P.M. AND THE TRIAL RESUMES ON JANUARY 12, 2006 AT
11 9:00 A.M.)

12 THE COURT: OKAY, YESTERDAY THE CASE WAS CALLED
13 IN THE MATTER OF THE STATE V. REGGIE ALLEN PINCKNEY. THE
14 ONLY THING WE'VE DONE AT THIS POINT IS SELECTED THE JURY;
15 WE'VE NOT SWORN A JURY. WE WANT TO MAKE CERTAIN FINDINGS
16 BEFORE WE SWEAR THIS JURY BECAUSE I HAVE HAD NO HEARING
17 REGARDING THE DEFENDANT'S ABSENCE. BEFORE WE GET GOING
18 WITH THAT JUST SO WE'LL KNOW YA'LL HAVE ANY DOCUMENTATION,
19 ANY OTHER EVIDENCE THAT YOU CAN PROVE TO ME THAT THIS MR.
20 PINCKNEY WAS AWARE HE WAS SUPPOSED TO BE IN COURT TODAY AND
21 THAT IN FACT THAT HE'S NOT IN COURT TODAY. THOSE THINGS
22 I'D LIKE TO KNOW, MR. MEACHAM.

23 MR. MEACHAM: YOUR HONOR, PLEASE, IN THAT REGARD
24 WE ---

25 THE COURT: OH, I'M SO GLAD SEEING MY 403'S BACK

MS. GARRARD - DIRECT EXAM. IN CAMERA BY MR. MEACHAM

23

1 HERE.

2 MR. MEACHAM: --- MAY IT PLEASE THE COURT. WE
3 IN THAT REGARD, WE WOULD CALL MELISSA GARRARD FROM THE
4 SOLICITOR'S OFFICE TO THE WITNESS STAND TO PROFFER SOME
5 TESTIMONY.

6 THE COURT: ALL RIGHT.

7 MELISSA GARRARD

8 BEING FIRST DULY SWORN, TESTIFIED IN CAMERA AS FOLLOWS:

9 MADAM CLERK: PLEAS STATE YOUR NAME FOR THE
10 COURT.

11 THE WITNESS: MELISSA GARRARD, G-A-R-R-A-R-D.

12 THE COURT: ALL RIGHT, YOUR WITNESS.

13 DIRECT EXAMINATION

14 BY MR. MEACHAM:

15 Q MS. GARRARD, WHERE DO YOU WORK?

16 A I WORK AT THE HORRY COUNTY SOLICITOR'S
17 OFFICE.

18 Q AND WERE YOU WORKING WITH THE HORRY COUNTY
19 SOLICITOR'S OFFICE AS A LEGAL ASSISTANT?

20 A THAT'S CORRECT.

21 Q ARE YOU IN FACT MY LEGAL ASSISTANT?

22 A YES, SIR.

23 Q IS IT ONE OF YOUR RESPONSIBILITIES TO ISSUE
24 SUBPOENAS TO DEFENDANTS PRIOR TO THE TERM OF COURT?

25 A YES, SIR.

MS. GARRARD - DIRECT EXAM. IN CAMERA BY MR. MEACHAM

24

1 Q I'M GOING TO SHOW YOU A DOCUMENT THAT HAS
2 NOT BEEN MARKED AT THIS POINT, WHAT IS THAT?

3 A THAT IS A SUBPOENA FOR REGGIE PINCKNEY.

4 Q AND WHAT TERM OF COURT WAS IT FOR COURT?

5 A THE TERM BEGINNING JANUARY 2ND THROUGH
6 JANUARY 13TH, 2006.

7 Q AND TO WHAT ADDRESS WAS IT SENT?

8 A 2317-B LEONARD AVENUE CONWAY 29526.

9 Q AND SPECIFICALLY WHERE DID YOU RETRIEVE
10 THAT ADDRESS FROM?

11 A FROM HIS BOND PAPER WORK.

12 Q DID YOU ALSO SEND ANOTHER SUBPOENA TO
13 ANOTHER ADDRESS?

14 A YES, SIR.

15 Q OKAY, AND WHAT ADDRESS WAS THAT?

16 A 5924 HIGHWAY 554, LORIS, SOUTH CAROLINA
17 29569.

18 Q WHY DID YOU ALSO SEND IT TO AN ADDITIONAL
19 ADDRESS?

20 A BECAUSE WE WERE PROVIDED WITH AN ADDITIONAL
21 ADDRESS EITHER BY THE WARRANT OR THE INCIDENT REPORT.

22 THE COURT: DO YOU KNOW HOW YOU GOT THAT
23 ADDITIONAL ADDRESS?

24 MR. MEACHAM: (CONTINUING)

25 Q WAS THAT ADDRESS RETRIEVED FROM THE

MS. GARRARD - CROSS EXAM. IN CAMERA BY MR. LONG

25

1 DEFENDANT ALSO?

2 A YES, SIR.

3 Q IT WAS ACTUALLY THIS SPECIFIC TERM OF
4 COURT?

5 A I HAVE SUBPOENAED THERE AT PREVIOUS TERMS
6 OF COURT AS WELL.

7 Q OKAY, THANK YOU --

8 MR. MEACHAM: MAY IT PLEASE THE COURT WE WOULD
9 MOVE TO INTRODUCE THESE TWO DOCUMENTS INTO EVIDENCE.

10 THE COURT: OKAY, ANY OBJECTION TO THE
11 INTRODUCTION OF THE EVIDENCE FOR THE COURT?

12 MR. LONG: NO, YOUR HONOR.

13 THE COURT: COURT EXHIBIT 1 AND 2.

14 (WHEREUPON, COURT'S EXHIBITS 1 AND 2 MARKED FOR
15 IDENTIFICATION.)

16 MR. MEACHAM: THANK YOU, THAT'S ALL THE
17 QUESTIONS I HAVE, PLEASE ANSWER ANY QUESTIONS FOR MR. LONG.

18 THE COURT: ALL RIGHT, MR. LONG?

19 MR. LONG: THANK YOU, VERY BRIEFLY.

20 CROSS EXAMINATION

21 BY MR. LONG:

22 Q MS. GARRARD, CUSTOMARILY WHEN YOU SEND
23 SUBPOENAS TO THE DEFENDANT DO YOU ALSO SEND SAME SUBPOENA
24 OR NOTICE TO HIS ATTORNEY?

25 A YES, SIR.

MS. GARRARD - CROSS EXAM. IN CAMERA BY MR. LONG

26

1 Q ALL RIGHT, AND DO YOU KNOW WHETHER OR NOT
2 THOSE WERE MAILED TO ME FOR THIS TERM OF COURT AS WELL?

3 A THEY WERE.

4 MR. LONG: THANK YOU, MA'AM, NO FURTHER
5 QUESTIONS.

6 THE COURT: MS. GARRARD, THE SUBPOENAS YOU
7 MAILED OUT DO YOU KNOW WHETHER OR NOT THEY CAME BACK?

8 A THEY DID NOT, SIR.

9 THE COURT: ALL RIGHT, SO WHATEVER ADDRESSES YOU
10 MAILED THEM TO YOU ASSUMED THEY GOT THERE BECAUSE THEY
11 NEVER CAME BACK TO YOU?

12 A THAT'S CORRECT.

13 THE COURT: AND YOU DON'T KNOW EXACTLY WHERE YOU
14 GOT THAT SECOND ADDRESS BUT NORMALLY WHERE DO YOU GET THAT
15 SECOND ADDRESS?

16 A USUALLY FROM THE WARRANT.

17 THE COURT: SO THE WARRANT WOULD HAVE A
18 DIFFERENT ADDRESS USUALLY THAN THE BOND?

19 A NOT AS A GENERAL RULE BUT ON OCCASION.

20 THE COURT: OKAY, SO YOU GOT THIS SECOND ADDRESS
21 YOU'RE NOT SURE WHERE YOU GOT IT FROM?

22 A NO, SIR, BUT I CAN CHECK THE FILE IF YOU
23 WOULD LIKE ME TO.

24 THE COURT: COULD YOU STEP DOWN AND DO THAT?

25 A SURE.

MS. GARRARD - CROSS EXAM. IN CAMERA BY MR. LONG

27

1 THE COURT: GO AHEAD AND DO THAT. CAN I SEE THE
2 COURT EXHIBIT? MR. LONG, IS CLARA PINCKNEY IN THE
3 COURTROOM?

4 MR. LONG: YES, SIR, YOUR HONOR.

5 THE COURT: THIS IS THE LADY BEHIND YOU?

6 MR. LONG: YEAH, THIS IS THE MOTHER.

7 (WHEREUPON, MS. GARRARD RETAKES THE WITNESS
8 STAND.)

9 THE COURT: ALL RIGHT, MS. GARRARD, HAVE YOU NOW
10 DETERMINED WHERE YOU MAY HAVE GOTTEN THE SECOND ADDRESS?

11 A WE SENT A SUBPOENA TO THE BOND ADDRESS AND
12 ALSO IN AN ABUNDANCE OF CAUTION TO ANY OTHER ADDRESS THAT
13 IS IN THE COMPUTER SYSTEM THAT WAS PUT FORTH BY THE
14 DEFENDANT.

15 THE COURT: OKAY, BUT YOU DON'T KNOW HOW IT GOT
16 IN THAT COMPUTER SYSTEM OTHER THAN YOUR COMPUTER SYSTEM HAS
17 ANOTHER ADDRESS?

18 A THAT'S CORRECT, SIR.

19 THE COURT: CAUSE HOW COULD THE DEFENDANT GIVE
20 YOU ANOTHER ADDRESS HE WOULDN'T BE TALKING TO YOU?

21 A THEY USUALLY, EITHER THROUGH THEIR
22 ATTORNEY, SOMETIMES THEY COME TO OUR OFFICE, SOMETIMES THEY
23 CALL WITH A NEW ADDRESS AND THEY'RE NOW ENTERED INTO THE
24 COMPUTER.

25 MR. MEACHAM: HOPEFULLY I CAN, I'D LIKE TO ---

MS. GERRARD - REDIRECT EXAM. IN CAMERA BY MR. MEACHAM 28

1 THE COURT: GO AHEAD, OKAY.

2 REDIRECT EXAMINATION

3 BY MR. MEACHAM:

4 Q IF THE DEFENDANT HAD ANOTHER FILE UNRELATED
5 TO THIS PARTICULAR CASE THAT COULD BE IN THE COMPUTER ALSO?

6 A THAT'S CORRECT, SIR.

7 Q YOU COULD HAVE RETRIEVED IT FROM ANOTHER
8 FILE AND ANOTHER CASE; IS THAT CORRECT?

9 A THAT'S CORRECT.

10 Q ALL RIGHT, ARE YOU FAMILIAR ENOUGH WITH MR.
11 PINCKNEY'S FILE TO KNOW THAT HE HAD ANOTHER CASE UNRELATED
12 TO THE FACTS OF THIS CASE?

13 A THAT'S CORRECT.

14 Q COULD THAT HAVE BEEN THE BOND IN THAT
15 PARTICULAR CASE?

16 A IT COULD HAVE BEEN.

17 Q IS THAT THE REASON IN AN ABUNDANCE OF
18 CAUTION WOULD YOU HAVE ALSO SENT IT TO THAT OTHER ADDRESS?

19 A YES, SIR.

20 Q BUT THAT ADDRESS IN CONWAY MATCHES UP TO
21 THE BOND ADDRESS THAT YOU RETRIEVED FROM THIS PARTICULAR
22 CASE?

23 A THAT'S CORRECT.

24 THE COURT: ALL RIGHT, SO EXHIBIT 2, WHICH IS A
25 CONWAY ADDRESS, IS THE ONE YOU GOT OFF THE BOND?

MS. BARFIELD - DIRECT EXAM. IN CAMERA BY MR. MEACHAM 29

1 A YES.

2 THE COURT: AND EXHIBIT 1 YOU GOT FROM SOME
3 OTHER INFORMATION SOMEWHERE BUT YOU GOT IT AND SENT THAT AS
4 AN ABUNDANCE OF CAUTION?

5 A THAT'S CORRECT, SIR.

6 THE COURT: ANY OTHER QUESTIONS?

7 MR. MEACHAM: NO FURTHER QUESTIONS.

8 THE COURT: ALL RIGHT, YOU MAY STEP DOWN, MS.
9 GARRARD. BY THE WAY I WISH YOU WOULD SEND SOME NOTICE
10 SIMILAR TO THIS TO SOME OTHER CLERK'S PEOPLE BASICALLY A
11 NOTICE ABOUT DON'T BRING ANY CELL PHONES.

12 MR. MEACHAM: PERMISSION TO THE COURT MS.
13 GARRARD TO BE EXCUSED?

14 THE COURT: ANY OBJECTION?

15 MR. LONG: NO OBJECTION, YOUR HONOR.

16 THE COURT: ALL RIGHT, YOU MAY BE EXCUSED.

17 MR. MEACHAM: MAY IT PLEASE THE COURT WE WOULD
18 CALL CHRISTINA BARFIELD.

19 THE COURT: COME AROUND, MS. BARFIELD.

20 CHRISTINA BARFIELD

21 BEING FIRST DULY SWORN, TESTIFIED IN CAMERA AS FOLLOWS:

22 THE COURT: STATE YOUR FULL NAME?

23 THE WITNESS: CHRISTINA BARFIELD.

24 THE COURT: YOUR WITNESS.

25 DIRECT EXAMINATION

MS. BARFIELD - DIRECT EXAM. IN CAMERA BY MR. MEACHAM 30

1 BY MR. MEACHAM:

2 Q MS. BARFIELD, YOU WORK FOR THE CLERK OF
3 COURT'S OFFICE?

4 A YES, I DO.

5 Q ONE OF THE RESPONSIBILITIES OF THE CLERK OF
6 COURT'S OFFICE IS TO MAINTAIN CUSTODY OF THE BOND PAPER
7 WORK IN COURT CASES?

8 A YES, SIR.

9 Q ALL RIGHT, AND DO YOU MAINTAIN THE CUSTODY
10 OF THE BOND PAPER WORK WITH THE CASE INVOLVING DEFENDANT
11 REGGIE PINCKNEY?

12 A YES, SIR.

13 Q WOULD THAT BE RELATED TO INDICTMENT NUMBER
14 2005-1401?

15 A YES, SIR.

16 Q I'M GOING TO SHOW YOU A DOCUMENT THAT'S NOT
17 BEEN MARKED AS AN EXHIBIT. CAN YOU DESCRIBE WHAT THAT
18 DOCUMENT IS?

19 A IT IS THE BOND PAPER WORK FROM MR.
20 PINCKNEY.

21 Q ALL RIGHT, AND IN THAT DOCUMENT DO YOU SEE
22 SOMEWHERE WHERE MR. PINCKNEY SIGNED THAT DOCUMENT?

23 A YES, I DO.

24 Q OKAY, IS THERE AN ADDRESS ON THAT DOCUMENT
25 FOR MR. PINCKNEY?

MS. BARFIELD - DIRECT EXAM. IN CAMERA BY MR. MEACHAM

31

1 A YES, THERE IS.

2 Q AND WHAT'S THAT ADDRESS?

3 A 2317-B LEONARD AVENUE, CONWAY, SOUTH
4 CAROLINA 29526.

5 Q I'M GOING TO SHOW YOU WHAT HAS BEEN
6 ADMITTED AS COURT'S EXHIBIT 2, WHAT IS THE ADDRESS ON THAT
7 SUBPOENA?

8 A IT IS THE SAME 2317-B LEONARD AVENUE,
9 CONWAY, SOUTH CAROLINA 29526.

10 Q OKAY, NOW ON THAT SPECIFIC, ON THAT BOND
11 PAPER WORK IS THERE INFORMATION IN THERE DESCRIBING TO MR.
12 PINCKNEY WHAT HAPPENS IF HE DOESN'T SHOW UP FOR COURT?

13 A YES.

14 Q WHAT DOES IT SAY?

15 A IT SAYS, "I UNDERSTAND AND HAVE BEEN
16 INFORMED THAT I HAVE THE RIGHT AND OBLIGATION TO BE PRESENT
17 AT TRIAL. IF I FAIL TO ATTEND THE COURT THE TRIAL WILL
18 PROCEED IN MY ABSENCE."

19 Q AND THAT BOND PAPER WORK IS KEPT IN YOUR
20 CUSTODY?

21 A IN THE CLERK'S, YES.

22 Q IN THE CLERK'S OFFICE --

23 MR. MEACHAM: MAY IT PLEASE THE COURT, WE WOULD
24 MOVE TO INTRODUCE THE BOND PAPER WORK INTO EVIDENCE.

25 MR. LONG: WITHOUT OBJECTION, YOUR HONOR.

MS. OLIVER - DIRECT EXAM. IN CAMERA BY MR. MEACHAM

32

1 THE COURT: COURT'S 3.

2 (WHEREUPON, COURT'S EXHIBIT NUMBER 3 MARKED FOR
3 IDENTIFICATION.)

4 MR. MEACHAM: (CONTINUING)

5 Q IN THE BOND PAPER WORK IS ONE OF THE
6 CHARGES A TRAFFICKING IN CRACK COCAINE?

7 A YES, SIR.

8 Q TO YOUR INFORMATION DOCUMENT 2005-1401 IS
9 THAT A INDICTMENT FOR TRAFFICKING IN CRACK COCAINE?

10 A YES, SIR.

11 MR. MEACHAM: THAT'S ALL THE QUESTIONS I HAVE
12 FOR THE PLAINTIFF [SIC]. PLEASE ANSWER ANY QUESTIONS THE
13 COURT OR MR. LONG MAY HAVE.

14 MR. LONG: NO QUESTIONS, YOUR HONOR.

15 THE COURT: WAIT ONE SECOND. ALL RIGHT, THANK
16 YOU, MA'AM, I HAVE NO QUESTIONS. YOU WANT TO HAVE HER DO
17 THE CALLING OUT THERE?

18 MR. MEACHAM: YES, SIR. MAY IT PLEASE THE COURT
19 WE'D CALL CLAUDETTE OLIVER TO THE STAND.

20 CLAUDETTE OLIVER

21 BEING FIRST DULY SWORN, TESTIFIED IN CAMERA AS FOLLOWS:

22 MADAM CLERK: PLEASE STATE YOUR NAME FOR THE
23 COURT.

24 THE WITNESS: CLAUDETTE OLIVER.

25 DIRECT EXAMINATION

MS. OLIVER - DIRECT EXAM. IN CAMERA BY MR. MEACHAM

33

1 BY MR. MEACHAM:

2 Q AND, MS. OLIVER, WHERE DO YOU WORK?

3 A HORRY COUNTY SHERIFF'S OFFICE.

4 Q AND YOU'RE RESPONSIBLE FOR THE SECURITY IN
5 THE COURTROOM AT THE SHERIFF'S DEPARTMENT; IS THAT CORRECT?

6 A YES, SIR.

7 Q ALL RIGHT, NOW AT MY DIRECTION DID YOU CALL
8 THE NAME REGGIE PINCKNEY THREE TIMES AS PART OF THE
9 COURTHOUSE?

10 A YES, SIR.

11 Q DID YOU HEAR ANY RESPONSE?

12 A NO, SIR.

13 MR. MEACHAM: THANK YOU, THAT'S ALL THE
14 QUESTIONS I HAVE, PLEASE ANSWER ANY QUESTIONS THAT MR. LONG
15 AND THE COURT MAY HAVE.

16 MR. LONG: NO QUESTIONS, YOUR HONOR.

17 THE COURT: DID ANYBODY RESPOND?

18 A NO, SIR.

19 THE COURT: SEE ANYBODY OUT THERE?

20 A NO, SIR.

21 THE COURT: OKAY, THANK YOU, MA'AM. YOU'RE
22 CRYING IN THE WILDERNESS. OKAY, YOU CAN STEP DOWN. ALL
23 RIGHT, OTHER WITNESSES BY THE STATE?

24 MR. MEACHAM: NONE FROM THE STATE, THANK YOU.

25 THE COURT: ANY WITNESSES BY THE DEFENSE IN THIS

1 MATTER?

2 MR. LONG: YOUR HONOR, THE ONLY WITNESS, I
3 CANNOT CALL MYSELF, I WOULD LIKE TO IF I COULD JUST BRIEFLY
4 EXPLAIN SOME OF THE FACTS AND CIRCUMSTANCES RESULTING IN
5 THIS CASE BEING CALLED FOR TRIAL TODAY.

6 THE COURT: LET THE RECORD, ALSO REFLECT, CAUSE
7 I UNDERSTAND YA'LL HAVE TRIED THIS MATTER BEFORE RESULTING
8 IN A HUNG JURY WHEN HE WAS TRIED IN HIS ABSENCE IN OCTOBER?

9 MR. LONG: THAT'S CORRECT, YOUR HONOR.

10 THE COURT: AND SIMILAR INFORMATION WAS GIVEN
11 EXCEPT I'M SURE THE SUBPOENA NOTICES HAD DIFFERENT DATES ON
12 THEM BUT EVERYTHING ELSE WAS THE SAME?

13 MR. LONG: THAT'S CORRECT, YOUR HONOR.

14 THE COURT: ALL RIGHT.

15 MR. LONG: YOUR HONOR, VERY BRIEFLY. I SPOKE TO
16 HIM, I WANT TO SAY PROBABLY THE WEEK BETWEEN CHRISTMAS AND
17 NEW YEAR WHEN THE SUBPOENAS WERE RECEIVED FOR THE JANUARY
18 2ND TERM OF COURT. I DID TELL HIM THAT HE HAD BEEN NOTICED
19 TO APPEAR. ALL THROUGHOUT THAT TIME PERIOD I WAS SPEAKING
20 TO HIM IN THE HOPES OF GETTING HIM TO TURN HIMSELF IN SO
21 THAT WE COULD GO AHEAD AND PROCEED TO TRIAL WITH HIS
22 ASSISTANCE WITH HIS BEING PRESENT. I DO NOT SPECIFICALLY
23 RECALL TELLING HIM THE CASE WAS ON THE TRIAL ROSTER BUT I
24 DID HAVE A CONVERSATION, I BELIEVE, WITH MR. MEACHAM AT
25 ROLL CALL FOR THIS TERM OF COURT. I WAS UNDER THE

1 IMPRESSION THAT THE CASE BASICALLY WAS ON THE TRIAL ROSTER
2 BUT WASN'T, WOULD NOT BE CALLED FOR TRIAL BECAUSE HE WAS
3 STILL ABSENT, WAS STILL ABSCONDING AND THAT I TOLD MR.
4 MEACHAM I INTEND IN THE VERY NEAR FUTURE AND I BELIEVE IN
5 THE VERY NEAR FUTURE HE WOULD GO AHEAD AND TURN HIMSELF IN.

6 I RECEIVED A CALL AT 2:10 YESTERDAY SAYING THAT
7 THIS CASE WAS UP FOR TRIAL ---

8 THE COURT: IN THE AFTERNOON?

9 MR. LONG: 2:10 YESTERDAY AFTERNOON. I WENT TO
10 LUNCH AT 1:30, I GOT BACK FROM LUNCH AT 2:20 AND RECEIVED
11 THAT MESSAGE 10 MINUTES LATER. DID NOT EVEN HAVE TIME TO
12 CALL OR ATTEMPT TO TRY TO CALL MR. PINCKNEY BEFORE COMING
13 HERE TO COURT TO FIND OUT WHAT THE STATUS WAS, WHETHER WE
14 WERE ACTUALLY GOING FORWARD WITH THE TRIAL.

15 AFTER DRAWING THE JURY LAST NIGHT AND AFTER
16 FINISHING SOME OF THE DISCUSSIONS I GOT BACK TO THE OFFICE
17 AT 5:15, 5:30, CALLED MR. PINCKNEY'S CELL PHONE NUMBER AND
18 SPOKE TO HIM AT THAT TIME. I EXPLAINED TO HIM IN GREAT
19 DETAIL, BECAUSE IT TOOK APPROXIMATELY AN HOUR, HOUR AND A
20 HALF OF TELEPHONE CONVERSATION INTO THE EVENING HOURS OF
21 LAST NIGHT, THAT THE STATE WAS GOING FORWARD ON A
22 TRAFFICKING THIRD OFFENSE TRIAL; THAT THE PREVIOUS JUDGE'S
23 RULING FROM THE SUPPRESSION HEARING OF THE LAST MISTRIAL
24 WAS MOST LIKELY GOING TO BE THE LAW OF THE CASE IN THIS
25 CASE; HE WOULD NOT HAVE THE OPPORTUNITY TO HAVE A

1 SUPPRESSION HEARING; THAT THE SOLICITOR HAD OFFERED A PLEA
2 TO A TRAFFICKING SECOND OFFENSE WHICH CARRIES SEVEN TO 25
3 YEARS WITH NO RECOMMENDATION. NEGOTIATION, ANYTHING OF THAT
4 NATURE, OR ELSE THE STATE WAS GOING FORWARD WITH A TRIAL ON
5 TRAFFICKING THIRD.

6 NEEDLESS TO SAY, WITH AN HOUR AND A HALF OF
7 CONVERSATION AND PROBABLY FOUR TELEPHONE CALLS; THAT WE
8 WERE INTERRUPTING FOR WHATEVER REASON, HE WAS NOT INCLINED
9 OR DID NOT FEEL COMFORTABLE OR QUITE FRANKLY SCARED TO COME
10 IN AND COME TO COURT WITH THE CASE AS IT WAS, AS IT STANDS
11 WITH THIS SHORT NOTICE. HE REALIZES THAT I TRIED IT BEFORE
12 IN HIS ABSENCE AND HE BASICALLY WAS SCARED TO COME TO COURT
13 AT THAT TIME BECAUSE AGAIN, HE WAS FACING A THIRD OFFENSE
14 WHEN HE FELT IT SHOULD HAVE BEEN A SECOND OFFENSE; BUT I
15 WANT TO LET THE COURT KNOW AS AN OFFICER OF THE COURT.

16 THE COURT: NOW WHY WOULD HE HAVE BE SCARED
17 BETWEEN SECOND AND THIRD? I MEAN, YOU'RE SAYING YA'LL HAD
18 SOME NEGOTIATIONS AND I ASSUME, IS THAT, OR YOU SAYING HE
19 DIDN'T COME TO COURT LAST TIME HE'S EXPRESSING TO YOU I'M
20 NOT COMING TO COURT BECAUSE IT'S A SECOND. I SHOULD BE
21 CHARGED WITH THE SECOND NOT CHARGED WITH A THIRD?

22 MR. LONG: YOUR HONOR, THERE IS MUCH MUCH MORE
23 INVOLVED IN HIS DECISION AND WHAT HE HAD BEEN INFORMED OF
24 AND AWARE OF THAT I WOULD PREFER NOT TO GO INTO ON THE
25 RECORD. IN CHAMBERS I COULD DISCUSS WITH YOU SOME THINGS

1 THAT WERE GOING ON AROUND THE CASE THAT AFFECTED HIS
2 DECISION. I'D PREFER NOT TO GO INTO THOSE ON THE RECORD.

3 THE COURT: IF YOU DON'T THINK IT WOULD AFFECT
4 MY DECISION TO GO FORTH TODAY, YOU DON'T NEED TO.

5 MR. LONG: NO, IT WOULD NOT, YOUR HONOR, BUT
6 JUST WANTED TO LET YOUR HONOR KNOW AS AN OFFICER OF THE
7 COURT THAT HE WAS NOTIFIED THIS CASE WAS PROCEEDING TO
8 TRIAL AT ABOUT 5:30 LAST NIGHT AND HE, OF COURSE, IS NOT
9 HERE TODAY AS THE CLERK HAS INFORMED YOU; AND THAT I HAD
10 INFORMED HIM THAT HE WAS SCHEDULED FOR ROLL CALL BUT THAT I
11 DON'T THINK I SPECIFICALLY TOLD HIM THE CASE WAS ON THE
12 TRIAL ROSTER OR WAS EXPECTED TO BE CALLED FOR TRIAL.

13 THE COURT: ALL RIGHT, THERE WAS A ROLL CALL
14 THAT OCCURRED EITHER LAST WEEK OR WEEK BEFORE LAST WEEK?

15 MR. LONG: THAT'S CORRECT, YOUR HONOR.

16 THE COURT: AND WAS HE PRESENT AT THAT ROLL
17 CALL, MR. MEACHAM?

18 MR. MEACHAM: NO, SIR.

19 THE COURT: AND, MR. MEACHAM, YOUR OFFICE PUTS
20 OUT A TRIAL ROSTER, I ASSUME, AND THIS CASE WAS ON THAT
21 TRIAL ROSTER?

22 MR. MEACHAM: YES, SIR.

23 THE COURT: MR. MEACHAM, WHAT ABOUT THE BONDSMAN
24 OR THE BONDING COMPANY, HAVE THEY BEEN NOTIFIED OF HIS LACK
25 OF APPEARING?

1 MR. MEACHAM: YES, SIR, I BELIEVE THEY HAVE. IN
2 FACT, YOUR HONOR, OUR INFORMATION IS ---

3 THE COURT: I ASSUME WHAT IS THERE, A SECURITY
4 BOND ON HIM?

5 MR. MEACHAM: YES, SIR, MY INFORMATION IS THAT
6 THE BONDSMAN ALMOST HAD HIM IN CUSTODY JUST RECENTLY A FEW
7 DAYS AGO AND HE ABSCONDED FROM THEM AND SO THEY KNOW THAT
8 HE IS AT LARGE.

9 THE COURT: BUT NOBODY HAS MOVED TO ESTREAT
10 BOND?

11 MR. MEACHAM: YOUR HONOR, PLEASE, I DON'T KNOW
12 IF IT HAS BEEN ESTREATED. IT PROBABLY, IN TERMS OF
13 SCHEDULING OF ESTREATMENT, IT PROBABLY IS CLOSE TO
14 ESTREATMENT, YOUR HONOR.

15 MR. LONG: YOUR HONOR, I'VE BEEN IN TOUCH WITH
16 J.B. EVANS WHO WAS THE BONDSMAN ON THE SURETY BOND. HIS
17 MOTHER IS ALSO ON THE BOND, SHE POSTED SOME PROPERTY FOR
18 HER SON ON A \$10,000 BOND. I'VE BEEN IN TOUCH WITH HIM
19 SINCE THE OCTOBER TRIAL AND HE GOT CLOSE, I BELIEVE IT WAS
20 AROUND THANKSGIVING, THEY HAD HIM CORNERED AND HE SLIPPED
21 AWAY AGAIN, BUT I'VE BEEN IN CONTACT WITH THE BONDSMAN.
22 I'VE BEEN TELLING HIM THAT I CAN GET IN TOUCH WITH HIM AND
23 THAT I'VE BEEN TRYING TO ARRANGE FOR HIS VOLUNTARY TURNING
24 HIMSELF IN. THE SOLICITOR'S OFFICE HAS AGREED, I THINK,
25 THEY'VE ALREADY STARTED ESTREATMENT PROCEEDINGS BUT THEY

1 WERE WAITING TO SEE IF IN FACT I COULD GET HIM TO TURN
2 HIMSELF IN. THE FACT THAT THE CASE WAS CALLED FOR TRIAL
3 AND WE'RE NOW UP FOR TRIAL WILL NEGATE ANY POSSIBILITY OF
4 ME ATTEMPTING TO TRY TO ENTICE HIM TO TURN HIMSELF IN.

5 THE COURT: YA'LL APPROACH, PLEASE.

6 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
7 RECORD AND OUT OF THE HEARING OF THE COURT REPORTER.)

8 THE COURT: I FIND THAT THE DEFENDANT RECEIVED
9 NOTICE OF HIS RIGHT TO BE PRESENT AT THIS TRIAL. I FIND
10 FURTHER THAT THE DEFENDANT WAS AWARE AND LEARNED ACCORDING
11 TO EXHIBIT 3 THAT IF HE WAS NOT PRESENT HE WOULD BE TRIED
12 IN HIS ABSENCE AND THE MATTER WOULD PROCEED IN HIS ABSENCE.
13 I FIND THAT THE DEFENDANT, AFTER BEING WARNED AND NOTICED
14 THAT THE TRIAL WOULD BE GOING FORTH THIS WEEK AND AFTER
15 RECEIVING NOTICE OF HIS ABSENCE, WOULD RESULT IN HIS TRIAL
16 IN HIS ABSENCE AND THE FACT THE DEFENDANT IS NOT PRESENT, I
17 FIND HE IS NOT PRESENT BY THE TESTIMONY PRESENTED TO ME. I
18 FIND THAT HE MAKES A KNOWING AND INTELLIGENT AND VOLUNTARY
19 WAIVER OF HIS RIGHT TO BE PRESENT IN THE COURTROOM AND FOR
20 TRIAL OF THIS CASE AND, THEREFORE, IN COMPLIANCE WITH RULE
21 16 I HAVE MADE THE FINDING HE RECEIVED NOTICE OF THE RIGHT
22 TO BE PRESENT. HE WAS GIVEN A WARNING ABOUT THE TRIAL
23 BEING IN HIS ABSENCE IF HE DID NOT APPEAR AND, THEREFORE,
24 HIS KNOWING AND INTELLIGENT AND VOLUNTARY WAIVER OF THAT
25 RIGHT AND HIS NOT BEING PRESENT TODAY WE MAY PROCEED TO

1 TRIAL. SO I'M READY NOW TO PROCEED TO TRIAL.

2 I ALSO FIND THAT THE EVIDENCE PRESENTED TO ME
3 TODAY WOULD HAVE BEEN THE SAME EVIDENCE PRESENTED YESTERDAY
4 AND THE DEFENDANT WAS NOT PRESENT YESTERDAY WHEN THE JURY
5 WAS DRAWN. I MADE A CALLING OF HIS NAME THREE TIMES AND I
6 PUT THE SHERIFF'S DEPUTY UNDER OATH WHO TESTIFIED YESTERDAY
7 HE WAS NOT PRESENT YESTERDAY AND THE EVIDENCE OF HIS
8 KNOWLEDGE SUPPOSED TO BE IN COURT YESTERDAY WAS THE SAME
9 NOTICE I RECEIVED TODAY. I'VE ALSO MADE A FINDING THAT
10 YESTERDAY HE MADE A KNOWING, INTELLIGENT, AND VOLUNTARY
11 DECISION NOT TO BE PRESENT IN COURT WHEN THE JURY WAS DRAWN
12 YESTERDAY, SO I'M READY NOW TO PROCEED AND I'LL BE GLAD TO
13 CHARGE THE JURY.

14 MR. MEACHAM, AS YOU KNOW YOU ARE NOT PERMITTED
15 UNDER CASE LAW TO MAKING COMMENTS DETRIMENTAL TO THE
16 DEFENDANT REGARDING HIS ABSENCE. HIS ABSENCE IN NO WAY
17 INFERS GUILT, IN NO WAY DOES IT IN ANY WAY CAN BE USED AS
18 EVIDENCE AGAINST HIM. IN FACT YOU HAVE THE SAME BURDEN,
19 AND THE BURDEN DOESN'T CHANGE, SO PLEASE MAKE SURE YOU'RE
20 CAREFUL IN YOUR OPENING STATEMENT TO THE JURY, SIR.

21 MR. MEACHAM: YES, SIR.

22 THE COURT: ALL RIGHT, MR. LONG, DO YOU HAVE ANY
23 MOTIONS YOU WANT TO DISCUSS WITH ME?

24 MR. LONG: YES, YOUR HONOR, THE FIRST MOTION IS,
25 IS A MOTION FOR CONTINUANCE. I'VE EXPLAINED TO YOUR HONOR

1 SOME OF THE FACTS AND CIRCUMSTANCES RESULTING IN THIS CASE
2 BEING CALLED FOR TRIAL YESTERDAY AT 2:30, 2:45, WHATEVER
3 APPROXIMATE TIME IT WAS WHEN THE SOLICITOR, IT MAY HAVE
4 BEEN LATER IN THE AFTERNOON, BUT NONETHELESS; ONE, I WAS
5 UNDER THE UNDERSTANDING, AND MAYBE IT WAS A
6 MISUNDERSTANDING WITH THE SOLICITOR, BUT THAT WE WOULD TRY
7 TO ARRANGE HIS TURNING HIMSELF IN; THAT WE WOULD NOT BE
8 CALLING THE, THEY WOULD NOT BE CALLING THE CASE FOR TRIAL
9 DURING THIS TWO-WEEK TERM OF COURT, AND A SHORT NOTICE TO
10 ME THAT I DID NOT EVEN HAVE AN OPPORTUNITY OR ATTEMPT TO
11 TRY TO CONTACT HIM BEFORE COMING OVER HERE YESTERDAY FOR
12 DRAWING A JURY.

13 YOUR HONOR, IF I COULD HAND UP THIS SUMMARY, I'VE
14 SHOWED IT TO THE SOLICITOR, AND THIS WE FEEL IS THE BEST
15 WAY FOR YOUR HONOR TO UNDERSTAND SOME OF THE FACTS.

16 THE COURT: NOW IS THIS INVOLVING YOUR MOTION
17 FOR CONTINUANCE?

18 MR. LONG: YES, SIR, IT IS. THAT WAS IN EFFECT
19 THE DIRECT TESTIMONY GIVEN AT THE SUPPRESSION HEARING AT
20 THE OCTOBER TRIAL. AS YOUR HONOR HAS BEEN INFORMED WE'VE
21 DISCUSSED WITH YOU JUDGE DENNIS RULED FOLLOWING THE
22 SUPPRESSION HEARING THAT THE DRUGS WERE ADMISSIBLE AND WE
23 PROCEEDED TO TRIAL. THAT CASE WAS CALLED FOR TRIAL, THE
24 JURY WAS DRAWN, THEN IN THE SAME MANNER WE'RE DOING HERE
25 TODAY THEN BEGAN MOTIONS AT THAT TIME. THE CASE HAD BEEN

1 CALLED FOR TRIAL. THAT CASE RESULTED IN A MISTRIAL, YOUR
2 HONOR.

3 FOLLOWING THE MISTRIAL JUDGE DENNIS THEN AND I,
4 OF COURSE, RESPECTFULLY OBJECTED TO WHAT HE WAS ATTEMPTING
5 TO DO, ASKED THE SOLICITOR TO PREPARE A WRITTEN ORDER WITH
6 A DETAILED FINDINGS OF FACT SETTING FORTH THE REASONS, AND
7 HE EXPLAINED TO BOTH OF US THAT HE FELT IT WAS A CLOSE CALL
8 BUT THAT HE WAS MAKING HIS DECISION BASED UPON CERTAIN
9 ENUMERATED FACTS THAT HE FOUND TO BE THE FACTS OF THE CASE
10 AND THAT HE WISHED A DETAILED ORDER TO BE PREPARED.

11 WE THEN REQUESTED TRANSCRIPTS FROM THE COURT
12 REPORTER, THE SOLICITOR, SO THAT HE COULD IN FACT PREPARE
13 THAT ORDER, SUBMIT IT TO THE JUDGE, SUBMIT A COPY TO ME AS
14 HE SUBMITTED IT TO THE JUDGE, SO THAT THE JUDGE COULD MAKE
15 THAT THE LAW OF THE CASE.

16 MY OBJECTION TO HIS HONOR WAS THAT THAT WAS GOING
17 TO BE FURTHER UNNECESSARILY COMPLICATE THE CASE FROM THE
18 DEFENSE PERSPECTIVE BECAUSE, ONE, THAT WOULD FORCE US TO
19 APPEAL RIGHT OR WRONG AS SIGNED, AS WRITTEN BY HIM TO BE
20 THE LAW OF THE CASE. IN OTHER WORDS, IT WOULD NOT BE A
21 TEMPORARY ORDER THAT WOULD FORCE US TO APPEAL AND INTERJECT
22 AN APPEAL IN THE TRIAL OF THE CASE AS THE SOLICITOR GOT
23 READY TO RETRY IT. HE INFORMED ME THAT THIS WAS AN
24 INTERLOCUTORY ORDER NOT SUBJECT TO APPEAL, THAT OUR
25 RECOURSE WOULD BE TO AT THE RETRIAL WHEN THAT ORDER WAS

1 PLACED INTO AFFECT, AS THE SOLICITOR'S OFFICE IS INTENDING
2 TO DO TODAY, THEN IT WOULD BE FORCED TO APPEAL ALL OF IT AT
3 ONCE.

4 YOUR HONOR UNDERSTANDS FROM THE SUMMARY THAT I'VE
5 GIVEN YOU THAT THAT IS THE DIRECT TESTIMONY THAT WAS GIVEN
6 AT THE SUPPRESSION HEARING. THERE WAS ADDITIONAL TESTIMONY
7 PROVIDED ON CROSS THAT I WON'T GO INTO WITH YOU FOR THE
8 SOLICITOR'S, AND I MAY DISAGREE WHAT THE ANSWERS, WERE, BUT
9 THERE WERE THREE IMPORTANT THINGS THAT CAME OUT ON CROSS.

10 ONE, THERE WAS NO TICKET EVER ISSUED FOR A
11 SUSPENDED LICENSE TAG. TWO, THERE WAS NEVER A CORNER OF A
12 BAGGY OBTAINED FROM THE VEHICLE PLACED IN EVIDENCE OR TAKEN
13 INTO EVIDENCE AS A RESULT OF THIS TRAFFIC STOP. AND,
14 THREE, THAT THERE WERE THREE PATROL VEHICLES THERE FOR THIS
15 TRAFFIC STOP AND THERE WAS NO IN-CAR CAMERA, NO VIDEO OF
16 THIS ARREST SITE.

17 NOW WHAT THE STATE IS DOING IS, AS JUDGE DENNIS
18 DIRECTED, THAT HE HAS MADE A RULING IN THE TRIAL OF THE
19 CASE OR JUST PRIOR TO THE TRIAL OF THE CASE, OF THE CASE
20 THAT RESULTED IN A MISTRIAL. YOUR HONOR MAY HAVE DIFFERENT
21 FEELINGS FROM JUDGE DENNIS, MAY NOT. YOU MAY BE IN
22 ABSOLUTE ACCORD WITH HIS RULINGS OR YOU MAY HAVE YOUR OWN
23 OPINION OF THE FACTS AND EVIDENCE RESULTING IN WHETHER OR
24 NOT THIS WAS A LEGAL OR ILLEGAL SEARCH AND SEIZURE, BUT
25 NONETHELESS, WITHOUT THE ABILITY OF THE DEFENDANT TO ASSERT

1 HIS RIGHT FOR SUPPRESSION HEARING WE FEEL THAT IT AGAIN
2 FURTHER COMPLICATES THE CASE, FURTHER COMPLICATES ANY
3 APPEALS, CONVICTIONS, ANYTHING OF THAT NATURE
4 UNNECESSARILY.

5 I INCORPORATE THAT AS PART OF OUR MOTION FOR
6 CONTINUANCE BECAUSE, ONE, WE DO NOT HAVE A TRANSCRIPT.
7 TWO, WE DO NOT HAVE A WRITTEN ORDER. THREE, I UNDERSTAND
8 THAT YOU TALKED WITH JUDGE DENNIS IN CHAMBERS AND I GIVE
9 YOU CREDIT FOR THAT IN GETTING IN TOUCH WITH HIM AND I GIVE
10 HIM CREDIT TO HAVING RECALLED WHAT TOOK PLACE IN OCTOBER,
11 HE'S HAD MANY CASES SINCE THAT TIME; AND I'M SURE HE
12 INFORMED YOU TO THE BEST OF HIS ABILITY WHAT HIS RULING WAS
13 BASED ON AND THINGS OF THAT NATURE. BUT AS YOU SEE FROM
14 THE SUMMARY HE MAY BE INCORRECT IN SOME OF THE FACTS THAT
15 HE ASSUMED OR REMEMBERED OR RECALLED BECAUSE AS THE SUMMARY
16 STATES THOSE ARE SOMEWHAT DIFFERENT THAN THE FACTS HE MAY
17 HAVE RELATED TO YOU.

18 IN ORDER TO CLARIFY THIS, YOUR HONOR, AND AGAIN I
19 CANNOT TELL THE COURT THAT I CAN GUARANTEE HIS APPEARANCE
20 FOR TRIAL, I HAVE BEEN ATTEMPTING TO TRY TO DO THAT AND I
21 HAVE NOT GOTTEN A FLAT REFUSAL FROM HIM. IT HAS ALWAYS
22 BEEN A QUESTION OF TIME OR WHEN AND I DON'T KNOW WHAT HE'S
23 DOING RIGHT NOW. I DON'T KNOW WHERE HE IS RIGHT NOW. I'VE
24 BEEN IN TOUCH WITH HIS BONDSMAN, I'VE BEEN IN TOUCH WITH
25 HIS MOTHER WHO'S ALSO ON THE BOND. I'VE BEEN IN TOUCH WITH

1 HIM BY TELEPHONE, WHICH IS THE ONLY WAY I HAVE IN SPEAKING
2 WITH HIM, AND IT IS ALWAYS BEEN, HE HAS UNDERSTOOD AND I'VE
3 EXPLAINED TO HIM THAT HE NEEDS TO TURN HIMSELF IN BUT, TOO,
4 THAT THAT'S THE BEST THING FOR HIM, NOT FOR THE COURT, NOT
5 FOR ME, NOT FOR THE SOLICITOR'S OFFICE, NOT FOR HIS
6 BONDSMAN, NOT FOR HIS MOTHER, BUT FOR HIM. HE IS NOT A
7 DUMB INDIVIDUAL. HE'S REASONABLY INTELLIGENT. HE
8 UNDERSTANDS THAT HE IS GOING TO TURN HIMSELF IN. WHAT WE
9 ARE DOING BY THE QUICK CALLING OF THIS CASE WE ARE BACKING
10 WHAT HE FEELS HIM INTO A CORNER AND I THINK THAT'S GOING TO
11 THOROUGHLY FRUSTRATE ANY ATTEMPTS, ANY CHANCE OF LIKELIHOOD
12 OF HIM TURNING HIMSELF IN.

13 I DISCUSSED WITH HIM MANY TIMES, "REGGIE, THE
14 LONGER YOU WAIT," THIS WAS AFTER THE MISTRIAL, "THE LONGER
15 YOU WAIT THE LESS LIKELY YOUR CHANCES ARE GOING TO BE MONTH
16 BY MONTH, WEEK BY WEEK, DAY BY DAY." BUT WE FEEL, YOUR
17 HONOR, THAT A CONTINUANCE IS JUST IN THIS CASE BECAUSE OF
18 THE QUICK WAY IT'S COME UP, BECAUSE OF THE CONFUSION AS TO
19 JUDGE DENNIS' ORDER, THE FACT OF THE QUICK NOTICE TO ME
20 WE'D RESPECTFULLY ASK FOR A CONTINUANCE.

21 MR. MEACHAM: IF YOUR HONOR PLEASE, FIRST OF
22 ALL, WHILE I DON'T HAVE ANY OBJECTION TO THE SUMMARY, I
23 WANT TO MAKE IT CLEAR THAT I STIPULATE THAT THOSE ARE ALL
24 THE FACTS FROM, BUT THAT THE RECORD WOULD SPEAK FOR ITSELF
25 -- YOU DON'T HAVE THE RECORD AT THIS POINT -- I WOULD

1 STIPULATE THAT'S ALL THE FACTS THAT WERE PRODUCED AT THE
2 SUPPRESSION HEARING. I'LL EXPAND ON THAT FURTHER, YOUR
3 HONOR ---

4 THE COURT: WELL MY CONCERN ABOUT WATCH HOW YOU
5 EXPAND IT'S STRANGE THINGS THERE, MR. MEACHAM. BUT IN ANY
6 EVENT, THE KEY TO ME REGARDING A SUPPRESSION HEARING IS AS
7 I UNDERSTAND IT, MR. LONG, MR. MEACHAM, YOU ALL BOTH AGREE
8 THAT AT THE COURSE, IN THE COURSE OF THE FIRST TRIAL JUDGE
9 DENNIS HAD A SUPPRESSION HEARING. JUDGE DENNIS RULED AT
10 THE SUPPRESSION HEARING THAT THE DRUGS, THE PURPORTED
11 COCAINE, CRACK COCAINE TAKEN OFF THE PERSON OF THE
12 DEFENDANT, THAT THAT EVIDENCE WAS ADMISSIBLE IN TRIAL AND
13 HE RULED THAT AS PART OF THE LAW OF THE CASE AND HE DID
14 THAT AFTER HEARING THE DIRECT AND CROSS EXAMINATION
15 TESTIMONY OF ALL THE WITNESSES THAT WERE PRESENTED IN THE
16 SUPPRESSION HEARING; AND, AND WHEN YOU SAID I CALLED HIM, I
17 CALLED HIM IN BOTH YOUR PRESENCE, AND HE MENTIONED THE KEY
18 WAS THE FACT THAT THE DEFENDANT RAN, ALTHOUGH A SHORT PIECE
19 FROM THE VEHICLE, AND THEN WAS STOPPED AND FOR RESISTING
20 ARREST AND THAT'S WHEN THEY DID THE SEARCH AS TO THAT
21 RESISTING ARREST AND THEN FOUND THE COCAINE. ANYWAY, HE
22 RULED IT WAS ADMISSIBLE AND THAT THAT WAS GOING TO BE THE
23 LAW OF THE CASE.

24 NOW AM I CORRECT IN THAT THAT DID OCCUR THAT HE
25 RULED IT ADMISSIBLE AND STATED THAT WOULD BE THE LAW OF THE

1 CASE? HE DIDN'T WANT YOU TO DO A WRITTEN ORDER BUT IS IT
2 TRUE THAT HE RULED IT WAS ADMISSIBLE AND IT WAS THE LAW OF
3 THE CASE, MR. MEACHAM; IS THAT RIGHT?

4 MR. MEACHAM: YES, SIR.

5 THE COURT: MR. LONG?

6 MR. LONG: YOUR HONOR, HE RULED THE DRUGS WERE
7 ADMISSIBLE AT THE SUPPRESSION HEARING. AFTER THE
8 CONCLUSION OF THE TRIAL WHERE WE HAD A MISTRIAL IS WHERE HE
9 THEN DIRECTED THAT AN ORDER BE PREPARED AND THEN DIRECTED
10 THAT THAT WAS TO BE THE LAW OF THE CASE AT THAT POINT IN
11 TIME, A MISTRIAL WAS DECLARED.

12 THE COURT: WELL IF HE DIDN'T INTEND THAT TO BE
13 THE LAW IN THE CASE TO BE CLEAR THROUGH WHATEVER HAPPENS IN
14 THE FUTURE BE NO NEED FOR HIM TO SIGN AN ORDER ---

15 MR. LONG: THAT'S TRUE.

16 THE COURT: --- AND NO NEED FOR HIM TO SAY THAT
17 SO IN ESSENCE HE MADE THE DECISION THAT THE EVIDENCE WAS
18 ADMISSIBLE AND THAT DECISION HAS ALREADY BEEN MADE AND SO
19 IN MY MIND HE SAID IT WAS THE LAW OF THE CASE. YA'LL BOTH
20 AGREE, THEREFORE, IT IS THE LAW OF THE CASE AND IT
21 PRECLUDES ME FROM REVIEWING THE ADMISSIBILITY OF THE
22 EVIDENCE. SO THE EVIDENCE OF WHAT WAS TAKEN OFF THE PERSON
23 OF MR., PURPORTED OFF OF MR. PINCKNEY WOULD BE ADMISSIBLE.
24 AS TO A CONTINUANCE, PUTTING MR. PINCKNEY AGAINST
25 THE LAW MAY BE OF INTEREST BUT TO ME HE'S CHARGED WITH A

1 CRIME, HE HAS A DUTY TO BE HERE AT CERTAIN TIMES WHEN THESE
2 MATTERS ARE THERE. HE'S BEEN NOTIFIED SEVERAL OCCASIONS TO
3 BE PRESENT AND THIS IS NOT THE ONLY TIME HE HASN'T BEEN
4 PRESENT AND HE'S BEEN ABSENT AT LEAST ONE OTHER TRIAL ON
5 THE MATTER AS WELL AS ON OTHER OCCASIONS LIKE ROLL CALLS.
6 SO IF HE'S PUTTING, IF HE'S AGAINST THE LAW HE'S PUTTING
7 HIMSELF AGAINST THE LAW AND IT WAS ONE, TWO, ALMOST THREE
8 MONTHS SINCE HE WAS LAST TRIED ON THIS MATTER SO IT'S BEEN
9 90 DAYS AND STILL AFTER 90 DAYS HE STILL HAS DECIDED THAT
10 ALTHOUGH HE KNOWS THESE MATTERS ARE GOING ON HE KNOWS
11 WHAT'S HAPPENING HE'S COMMUNICATING TO YOU, AND I'M SURE
12 HE'S NOT TELLING YOU WHERE HE IS, HE'S JUST CALLING YOU ON
13 WHATEVER PHONES HE'S CALLING. BY THE WAY, MR. LONG, I WANT
14 TO LET YOU KNOW, SIR, IT SEEMS TO ME THAT YOU MIGHT HAVE A
15 DUTY IN SOME WAY, I KNOW YOU GOT ATTORNEY/CLIENT PRIVILEGE,
16 BUT IN ESSENCE, I'LL LET YOU EXAMINE THAT WHETHER YOU HAVE
17 A DUTY TO SHOW THEM WHATEVER NUMBERS COME UP WHEN HE CALLS
18 YOU. BUT THAT'S AN INTEREST -- AN INTERESTING CONCERN, BUT
19 I'LL LET YOU MAKE THAT DECISION. BUT A MOTION FOR
20 CONTINUANCE IS DENIED AND I GUESS IN LINE WITH THAT YOU'VE
21 ALREADY MADE THE DISCUSSION ABOUT THE ADMISSIBILITY OF THE
22 EVIDENCE. IN MY VIEW JUDGE DENNIS RULED THE LAW OF THE
23 CASE AND THE EVIDENCE IS ADMISSIBLE. THAT DOES NOT
24 PRECLUDE WHEN YOU GET THAT TRANSCRIPT HAVE HIM SIGN THAT BE
25 AN ORDER, MR. MEACHAM.

1 ALL RIGHT, OTHER MOTIONS?

2 MR. LONG: WELL IN THAT SAME VEIN, AND I JUST
3 WISH TO OBJECT TO YOUR RULING. WE WOULD ASK FOR A MOTION
4 TO SUPPRESS THE EVIDENCE WHICH WE ASSERT WAS ILLEGALLY
5 OBTAINED FROM AN IMPROPER ILLEGAL STOP. YOU HAVE HEARD THE
6 FACTS, YOU HAVE READ THE SUMMARY, I WON'T GO INTO A WHOLE
7 LOT OF DETAIL, BUT TO SAY, YOUR HONOR, WHEN THE LAST TRIAL
8 ENDED IN A MISTRIAL THAT'S AS IF ACCORDING TO THE LAW A
9 TRIAL DID NOT OCCUR. AFTER THE CALL OF THE CASE FOR TRIAL
10 WE HAD A SUPPRESSION HEARING, JUDGE DENNIS ISSUED HIS
11 RULING IN CONNECTION WITH THE TRIAL OF THAT CASE AT THAT
12 TIME. AFTER THE CONCLUSION OF THE MISTRIAL, EXCUSE ME,
13 THEN HE ATTEMPTED TO TRY TO ASSERT THAT THAT WAS THE LAW OF
14 THE CASE TO CARRY OVER TO BIND YOU OR ANY OTHER JUDGE WHO
15 THEREAFTER BEGINS TO TRY THIS CASE AGAIN. WE FEEL THAT
16 THAT IS IMPROPER, YOUR HONOR, THAT IS NOT PERMITTED BY LAW,
17 IT IS NOT ---

18 THE COURT: WHAT CASE LAW SAYS IT'S NOT
19 PERMITTED? DO YOU HAVE OTHER, DO YOU HAVE CASE LAW WHERE
20 ONE JUDGE MADE A RULING ON THE ADMISSIBILITY OF THE
21 EVIDENCE AND THE OTHER JUDGE SAID THAT RULING HAS BEEN
22 MADE, THEREFORE, I'M NOT GOING TO REVISIT IT AND THE
23 SUPREME COURT HAS SAID, OR THE COURT OF APPEALS HAS SAID,
24 NO, THAT'S IMPROPER, THE RULING IS UP TO THE TRIAL JUDGE TO
25 CHANGE IF HE WISHES TO?

1 MR. LONG: YOUR HONOR, I ASSERT THAT IT IS
2 IMPROPER FROM THE STANDING OF THE RULING WAS MADE AFTER THE
3 CALL OF THE CASE FOR TRIAL. THE MISTRIAL WAS DECLARED,
4 THAT MEANS ACCORDING TO THE LAW IT'S AS IF A TRIAL DID NOT
5 OCCUR.

6 THE COURT: EXACTLY.

7 MR. LONG: ALL RIGHT, SO IF HE MADE A RULING
8 FOLLOWING THE CALL OF THE CASE FOR TRIAL AND A MISTRIAL IS
9 DECLARED THAT RULING DID NOT OCCUR AND TO THEN TRY TO ---

10 THE COURT: NO, NO, THE TRIAL DID NOT OCCUR.

11 MR. LONG: THAT'S CORRECT, AND THAT RULING WAS
12 MADE ---

13 THE COURT: WELL MANY TIMES IN THE COURSE OF
14 TRIALS BEFORE TRIAL AND EVERYTHING ELSE MOTIONS ARE MADE
15 AND MOTIONS ARE DECIDED.

16 MR. LONG: AND THAT'S CORRECT, YOUR HONOR. THEY
17 CAN BE TEMPORARY ORDERS, THEY CAN BE FINAL. I MEAN ALL
18 KIND OF THINGS THAT ARE NOT SUBJECT TO BEING REVIEWED BY
19 THE TRIAL COURT BUT THIS IS AN ORDER OF RULING MADE DURING
20 THE TRIAL THAT HE IS TRYING TO ASSERT PREVENTS ANY OTHER
21 TRIAL JUDGE AT THE TRIAL OF THE CASE, WHICH WE ARE HERE FOR
22 TODAY IF WE DIDN'T HAVE A PREVIOUS TRIAL, WE ARE HERE TODAY
23 FOR THE TRIAL OF THE CASE AND WE'RE ASKING, YOUR HONOR, FOR
24 A SUPPRESSION HEARING ON THE ISSUE OF ADMISSIBILITY AND
25 LEGALITY OF THE DRUGS BEING ADMITTED INTO EVIDENCE.

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1 THE COURT: OKAY, MR. MEACHAM -- BUT YOU HAVE NO
2 CASE LAW?

3 MR. LONG: NO, YOUR HONOR, OTHER THAN AS YOU
4 FULLY UNDERSTAND ABOUT A MISTRIAL MEANING A TRIAL DID NOT
5 TAKE PLACE.

6 THE COURT: OKAY.

7 MR. MEACHAM: IF YOUR HONOR PLEASE, I THINK WE
8 ACTUALLY HAD ENTERED INTO A STIPULATION AS TO HIS RULE ON
9 SUPPRESSION ISSUE. WE THINK THAT IS THE LAW OF THE CASE
10 AND HIS ASSERTION ON THE SUPPRESSION ISSUE IS ESTOPPED.

11 THE COURT: ALL RIGHT. MR. LONG, WHAT I'M GOING
12 TO DO IS THIS. I'M GOING TO GIVE YOU LEEWAY IN YOUR
13 QUESTIONING OF WITNESSES AND IF AFTER ALL THE TESTIMONY IS
14 IN, IF AT THAT POINT IN TIME YOU WISH TO THEN MAKE A MOTION
15 FOR THE RULING TO BE CHANGED BECAUSE THE TESTIMONY THAT HAS
16 NOW BEEN PUT BEFORE ME THAT MAY OR NOT HAVE BEEN PUT BEFORE
17 JUDGE DENNIS, THEN I WILL LOOK AT IT AND THEN IF I WERE TO
18 THEN RULE THAT THE EVIDENCE IS INADMISSIBLE BECAUSE OF
19 WHATEVER IS SAID OR WHATEVER ELSE THEN, OF COURSE, THE
20 RULING IS OUT AND THEN I CAN ALWAYS GRANT A MOTION TO
21 DIRECT A VERDICT, THERE'S NO EVIDENCE. SO WE WILL PROCEED
22 IN THAT FASHION, THAT WAY IT WILL BE REVIEWED.

23 MR. MEACHAM: IF YOUR HONOR PLEASE, CAN I
24 ADDRESS THAT, YOUR HONOR?

25 THE COURT: ALL RIGHT.

1 MR. MEACHAM: AND I UNDERSTAND THE COURT'S
2 RULING AS TO WHAT IT IS, BUT WHAT THAT ESSENTIALLY DOES IS
3 MAKE THE JURY, WHICH IS A SUPPRESSION HEARING ---

4 THE COURT: I DIDN'T SAY IT'S GOING TO HAVE THE
5 FULL SUPPRESSION QUESTIONS. I SAID I'M GOING TO GIVE HIM
6 LEEWAY SO THAT I HAVE THE FULL FACT SITUATION AS I HEAR THE
7 MATTERS.

8 MR. MEACHAM: BUT IN TERMS OF ADDRESSING THE
9 ISSUES OF LAW INVOLVING THE COURT'S BUSINESS, THAT'S NOT
10 THE PROVINCE OF THE JURY, THAT SHOULD BE DONE OUTSIDE OF
11 THE PROVINCE OF THE JURY.

12 THE COURT: EXACTLY.

13 MR. MEACHAM: THAT WAS PREVIOUSLY DONE IN A
14 PREVIOUS COURT.

15 THE COURT: I DIDN'T KNOW IT WAS GOING TO BE
16 ARGUING THE LAW HERE IN FRONT OF THE JURY, MR. MEACHAM, I
17 SAID HIS QUESTIONS.

18 MR. MEACHAM: YES, SIR.

19 THE COURT: NOW TO ME THAT IS THE BEST WAY TO
20 PROCEED IN THIS MATTER. THE ONLY OTHER WAY TO PROCEED IS
21 FOR ME TO HAVE THE SUPPRESSION HEARING OUTSIDE OF THEIR
22 PRESENCE AND TO ME IT SEEMS, IF THERE'S NO EVIDENCE THERE
23 IF I WAIT AND RULE THAT EVIDENCE IS NOT ADMISSIBLE BUT I'M
24 GOING TO GO AHEAD AND DIRECT YOUR VERDICT ANYWAY. SO
25 ALTHOUGH WE'RE NOT GOING TO DISCUSS THE FOURTH AMENDMENT,

1 NOT GOING TO DISCUSS THE ISSUES OF CONSTITUTION OR ANYTHING
2 LIKE THAT IN FRONT OF THE JURY THE QUESTIONS ARE THERE
3 WHICH WILL THEN PRESENT TO ME THE FACTS OF WHAT OCCURRED OR
4 THE EVIDENCE YA'LL HAVE; AND WHEN YOUR CASE IS OVER THEN I
5 CAN HEAR HIS DISCUSSION WITHOUT HAVING TO DO IT TWICE,
6 THREE TIMES SINCE JUDGE DENNIS HAS ALREADY RULED, SO THAT'S
7 WHAT I'M GOING TO DO ANYWAY, THAT'S IT.

8 ALL RIGHT, NOW ANYTHING ELSE?

9 MR. LONG: NOTHING FURTHER AT THIS TIME, YOUR
10 HONOR.

11 THE COURT: ALL RIGHT, LET'S BRING THIS JURY IN,
12 LET'S GO.

13 (WHEREUPON, THE JURY RETURNS TO THE COURTROOM AT
14 11:50 A.M.)

15 THE COURT: OKAY, SO IT'S RICHARD CARROLL, OKAY,
16 WELL YA'LL NEED TO SWITCH PLACES THERE, IF YOU WOULD --

17 THE BAILIFF: THAT'S AN ALTERNATE, JUDGE.

18 THE COURT: OH, YOU'RE AN ALTERNATE?

19 ALTERNATE JUROR: YES, SIR.

20 THE COURT: OH, THAT'S HOW YA'LL DO THE
21 ALTERNATE?

22 THE BAILIFF: YEAH, WE PUT THE ALTERNATES IN
23 THESE LAST TWO CHAIRS.

24 THE COURT: WELL I'VE BEEN WRONG, SWITCH BACK.
25 IN FACT, EVERYBODY JUST START WALKING AROUND AND I'LL CALL

1 A NUMBER OUT AND YA'LL SIT DOWN RIGHT QUICK.

2 LADIES AND GENTLEMEN OF THE JURY, MR. CARROLL,
3 YOU WERE SELECTED FOREPERSON OF THE JURY, I NOTICED THAT
4 YESTERDAY AND EVERY DAY I'VE BEEN HERE YOU'RE WEARING A
5 COAT AND TIE. YOU WEAR A COAT AND TIE YOU GET SELECTED
6 FOREPERSON, HOW ABOUT THAT. SORRY, MR. EUBANKS, IT DIDN'T
7 APPLY TO YOU, THOUGH, DID IT? OF COURSE YOU'RE THE
8 ALTERNATE.

9 LADIES AND GENTLEMEN OF THE JURY, WE'RE NOW READY
10 TO PROCEED TO TRIAL IN THIS CASE. YOU'RE ABOUT TO BE SWORN
11 AS A JURY THEN I'M GOING TO GIVE YOU CERTAIN INSTRUCTIONS,
12 SO AT THIS TIME IF YOU WOULD LET'S SWEAR THE JURY.

13 (WHEREUPON, THE JURY WAS SWORN.)

14 THE COURT: ALL RIGHT, NOW, MR. FOREMAN, AND
15 LADIES AND GENTLEMEN OF THE JURY, I HAVE IN MY HAND WHAT'S
16 CALLED AN INDICTMENT, A PIECE OF PAPER. THIS INDICTMENT
17 CHARGES THE DEFENDANT ONE REGGIE PINCKNEY WITH A CRIME, THE
18 CRIME BEING TRAFFICKING IN CRACK COCAINE, ALLEGING HE HAD
19 MORE THAN 10 GRAMS BUT LESS THAN 28 GRAMS OF CRACK COCAINE.
20 THE FACT HE IS CHARGED WITH THAT CRIME IS NOT EVIDENCE AT
21 ALL THAT HE'S GUILTY OF THAT CRIME OR THAT HE COMMITTED THE
22 CRIME. THE DEFENDANT IS PRESUMED INNOCENT; THE BURDEN IS
23 UPON THE STATE OF SOUTH CAROLINA TO PROVE SOMEONE GUILTY
24 BEYOND A REASONABLE DOUBT. A BURDEN IS NOT UPON THE PERSON
25 CHARGED TO PROVE HIMSELF OR HERSELF INNOCENT. MR. PINCKNEY

1 HAS NO BURDEN WHATSOEVER TO PROVE HIMSELF INNOCENT. THE
2 BURDEN, ONCE AGAIN, IS ON THE STATE OF SOUTH CAROLINA.

3 LADIES AND GENTLEMEN, YOU WILL NOTE THAT THE
4 DEFENDANT IS NOT HERE. NOW, LADIES AND GENTLEMEN, THE FACT
5 THAT THE DEFENDANT IS NOT PRESENT HERE IN COURT IS NOT
6 EVIDENCE AT ALL AGAINST HIM AND SHOULD NOT BE HELD ADVERSE
7 AT ALL AGAINST HIM. THE PRESUMPTION OF INNOCENCE IS STILL
8 THERE. THE BURDEN ON THE STATE TO PROVE GUILT BEYOND A
9 REASONABLE DOUBT AND NOT UPON THE DEFENDANT TO PROVE
10 HIMSELF INNOCENT IS STILL PRESENT AND YOU MUST UNDER THE
11 LAW FOLLOW THAT CONCEPT.

12 SO HIS FAILURE TO APPEAR IS NOT ANY ADMISSION TO
13 ANYTHING, IT IS NOT ANY EVIDENCE AGAINST HIM IN ANY WAY, SO
14 PLEASE, LADIES AND GENTLEMEN OF JURY, UNDER YOUR OATH AS
15 JURORS YOU'RE REQUIRED TO FOLLOW THE LAW AS I GIVE IT TO
16 YOU AND SO YOU FOLLOW THAT LAW. HIS ABSENCE IS NOT AN
17 ADMISSION OF GUILT; HIS ABSENCE IS NOT EVIDENCE OF GUILT;
18 HIS ABSENCE DOES NOT LESSEN THE BURDEN OF THE STATE TO
19 PROVE GUILT BEYOND A REASONABLE DOUBT, AND HIS ABSENCE IN
20 NO WAY REMOVES ANY PRESUMPTION OF INNOCENCE OF THE
21 DEFENDANT.

22 NOW, LADIES AND GENTLEMEN, YOU AS A JURY WILL
23 DECIDE THIS CASE OF WHETHER THE DEFENDANT HAS BEEN PROVEN
24 GUILTY BEYOND A REASONABLE DOUBT. HOW DO YOU MAKE THOSE
25 DECISIONS? WELL YOU WILL HAVE WITNESSES THAT WILL COME

1 FORTH AND GIVE TESTIMONY. THE TESTIMONY OF THOSE WITNESSES
2 BECOMES EVIDENCE YOU'RE TO CONSIDER IN MAKING YOUR
3 DECISION.

4 IN ADDITION THERE MAY BE EXHIBITS INTRODUCED IN
5 THE CASE. THOSE EXHIBITS BECOME EVIDENCE FOR YOU TO
6 CONSIDER IN THE CASE OF WHAT FACTS HAVE BEEN PROVEN BEYOND
7 A REASONABLE DOUBT.

8 WHEN ALL THE EVIDENCE HAS BEEN PRESENTED IN THIS
9 MATTER AND AFTER THE ATTORNEYS HAVE GIVEN THEIR CLOSING
10 STATEMENTS I WILL THEN INSTRUCT YOU ON THE LAW IN THIS
11 PARTICULAR CHARGE, THEN YOU WILL GO BACK TO THE JURY ROOM,
12 YOU'LL MAKE YOUR DECISION OF WHAT FACTS HAVE BEEN PROVEN
13 BEYOND A REASONABLE DOUBT. YOU WILL THEN TAKE THE LAW AS I
14 GIVE IT TO YOU, PUT THEM TOGETHER, THEN REACH YOUR VERDICT.

15 NOW, LADIES AND GENTLEMEN, YOU CANNOT MAKE YOUR
16 DECISION THAT WILL BE FAIR AND JUST AND FOLLOW YOUR OATH
17 WITHOUT PAYING ATTENTION. SITTING HERE IN THIS COURTROOM
18 THERE ARE NO WINDOWS IN THIS OLDER BUILDING, THE ROOM, I
19 KNOW THAT, BUT THIS IS A VERY IMPORTANT MATTER TO THE STATE
20 OF SOUTH CAROLINA. THIS IS A VERY IMPORTANT MATTER TO THE
21 DEFENDANT, SO PLEASE PAY ATTENTION AND LISTEN BECAUSE I
22 CANNOT MAKE THESE DECISIONS. UNDER THE LAW I'M NOT
23 PERMITTED, ONLY YOU CAN MAKE THESE DECISIONS, SO, LADIES
24 AND GENTLEMEN, OBSERVE, LISTEN, AND PAY ATTENTION.

25 NOW THAT ALSO MEANS THAT YOU DON'T JUST LISTEN TO

1 WHAT A WITNESS SAYS, YOU ALSO OBSERVE THE WITNESS AS A
2 WITNESS IS GIVING TESTIMONY BECAUSE YOU MUST NOT ONLY
3 LISTEN, YOU MUST MAKE DECISIONS ON CREDIBILITY AND
4 BELIEVABILITY AND A LOT OF THAT COMES THROUGH OBSERVATIONS,
5 OBSERVATIONS.

6 NOW, LADIES AND GENTLEMEN, YOUR VERDICT IS GOING
7 TO HAVE BE UNANIMOUS, ALL 12 OF YOU ARE GOING TO HAVE TO
8 AGREE, SO THAT MEANS ALL 12 OF YOU SHOULD LISTEN AND PAY
9 ATTENTION. I'VE SEEN NO NOTE PADS OR PENS OR PENCILS,
10 THAT'S GREAT, BECAUSE I'D RATHER YOU NOT TAKE ANY NOTES.
11 THE CASE WILL BE IN YOUR HANDS IF NOT THIS AFTERNOON
12 TOMORROW MORNING AND, THEREFORE, YOU DON'T NEED TO WORRY
13 ABOUT TAKING NOTES BECAUSE MY CONCERN THERE YOU'LL BE NOT
14 OBSERVING WITNESSES OR LISTENING. I'D RATHER YOU TAKE YOUR
15 TIME AND LISTEN AND OBSERVE INSTEAD OF TAKING THE NOTES,
16 PLUS WE HAVE THIS FINE LADY, MS. BABB, HERE WHO'S WORKED
17 VERY HARD ALL WEEK LONG AND SHE'S REPEATING EVERYTHING I
18 SAY ESPECIALLY WHEN I SAID SHE'S WORKED VERY HARD ALL WEEK
19 LONG, AND SO SHE HAS EVERYTHING HERE IF WE NEED TO PLAY
20 ANYTHING BACK FOR YOU IF YOU'VE FORGOTTEN ANY TESTIMONY.

21 NOW MY TWO ALTERNATES, YOU ALWAYS SIT THERE.
22 I'VE NEVER BEEN IN A COURTROOM WHERE THE ALTERNATES ARE
23 CLOSER TO THE WITNESS THAN THE REGULAR JURORS BUT THAT'S
24 THE PROCEDURE HERE SO LET'S DO THAT. IF WE NEED YOU WE
25 WILL PUT YOU ON THE JURY PANEL; IF WE DON'T NEED YOU THEN

1 STATE.

2 MR. MEACHAM: THANK YOU, YOUR HONOR.

3 OPENING STATEMENT

4 BY MR. MEACHAM:

5 MR. LONG, JUDGE LOCKEMY, LADIES AND GENTLEMEN OF
6 THE JURY, FIRST OF ALL MY NAME IS TIM MEACHAM; I'M AN
7 ASSISTANT SOLICITOR HERE IN HORRY COUNTY. THIS IS A SIMPLE
8 CASE. IT IS AS SIMPLE AS THEY GET. ON FEBRUARY 23RD WE'RE
9 GOING TO SHOW YOU THAT THE DEFENDANT WAS DRIVING HERE IN
10 CONWAY, A VEHICLE WAS STOPPED FOR AN IMPROPER TAG, AND
11 WE'RE GOING TO SHOW YOU THAT HE WAS IN POSSESSION OF A
12 QUANTITY OF CRACK COCAINE THAT ENDED UP BEING TRAFFICKING
13 CRACK COCAINE.

14 LET ME TALK TO YOU A LITTLE BIT ABOUT THAT IN THE
15 BEGINNING, WHEN WE HEAR HE'S CHARGED WITH TRAFFICKING CRACK
16 COCAINE SOMETHING THAT MAY COME TO YOUR MIND IS THAT
17 TRAFFICKING MEANS SELLING IT IN MIAMI, THAT KIND OF THING.
18 ALL WE'RE REQUIRED TO SHOW IN TRAFFICKING CRACK COCAINE,
19 AND THE JUDGE IS GOING TO CHARGE YOU, IS A CERTAIN AMOUNT
20 AND THAT'S WHAT YOU'RE GOING TO SEE THAT THE DEFENDANT WAS
21 IN POSSESSION OF 22 GRAMS OR BETWEEN 10 TO 28 GRAMS OF
22 CRACK COCAINE HERE IN CONWAY, IT'S AS SIMPLE AS THAT.

23 YOU AS FACT FINDERS ARE THE JUDGE OF THREE THINGS
24 IN THIS CASE, THREE VERY SIMPLE THINGS: ONE, WERE THE
25 DRUGS IN THE DEFENDANT'S POSSESSION, VERY VERY SIMPLE.

1 WE'RE GOING TO SHOW YOU THAT TYRONE WILLIAMS, ROBERT
2 BRADLEY, AND ROBERT ROBINSON ARE GOING TO TESTIFY THAT THEY
3 SAW THE DRUGS IN THE DEFENDANT'S POSSESSION.

4 TWO, WERE THE DRUGS CRACK COCAINE, YOU'RE GOING
5 TO HEAR FROM AN EXPERT ANALYST OF THE HORRY COUNTY POLICE
6 DEPARTMENT IS GOING TO TESTIFY THAT, YES, THEY WERE CRACK
7 COCAINE.

8 THREE, WERE THE DRUGS BETWEEN 10 AND 28 GRAMS OF
9 CRACK COCAINE. THE ANALYST IS GOING TO TESTIFY THAT, YES,
10 THEY WERE. THIS IS AS SIMPLE OF A CASE AS YOU CAN GET.
11 YOU ARE PURELY HERE TO JUDGE THE FACTS OF THE CASE.

12 THE JUDGE WILL RULE ON MORE IMPORTANT, ON
13 IMPORTANT ISSUES LIKE ISSUES OF LAW WHEN THE THINGS ARE
14 ADMISSIBLE AND THAT TYPE OF THING BUT YOUR FOCUS IS WAS HE
15 IN POSSESSION OF THE DRUGS. WAS IT BETWEEN 10 AND 28 GRAMS
16 OF CRACK COCAINE AND WAS IT CRACK COCAINE AND YOU'RE GOING
17 TO SEE AT THE END OF THIS TRIAL WHEN WE TALK THAT THOSE
18 THREE THINGS OCCURRED IN THIS CASE. THANK YOU.

19 THE COURT: THANK YOU, MR. MEACHAM. MR. LONG?

20 MR. LONG: THANK YOU, YOUR HONOR.

21 THE COURT: OPENING STATEMENT FOR THE DEFENDANT.

22 OPENING STATEMENT

23 BY MR. LONG:

24 MR. MEACHAM, LADIES AND GENTLEMEN OF THE JURY,
25 I'M BUDDY LONG. I LIVE 12.2 MILES FROM THE COURTHOUSE. MY

1 WIFE IS A FOUR-YEAR KINDERGARTEN TEACHER AT THE FIRST
2 PRESBYTERIAN CHURCH IN MYRTLE BEACH AND I'M A PRIVATE
3 ATTORNEY EMPLOYED IN CONWAY. YOU AND I KNOW ABOUT AS MUCH
4 ABOUT EACH OTHER, THAT'S WHAT I KNOW ABOUT YOU, EACH OF
5 YOU, THAT'S WHAT THE STATE KNOWS ABOUT EACH OF YOU. THAT'S
6 WHAT PRIMARILY THE JUDGE KNOWS ABOUT YOU BUT WHAT YOU ARE
7 FROM YOUR APPEARANCE, YOUR DEMEANOR, YOUR AGE ---

8 THE COURT: HOLD ON, MR. LONG, I KNOW MS. SCOLA
9 IS FROM RHODE ISLAND, I DO KNOW THAT MUCH.

10 MR. LONG: OKAY, FROM ALL THESE THINGS WE LOOK
11 AT YOU AND WE SAY YOU ARE A REASONABLE PERSON THAT CAN
12 LISTEN TO TESTIMONY, THAT CAN LISTEN TO THE LAW AS HIS
13 HONOR TELLS YOU IT IS, APPLY THESE THINGS AND COME UP WITH
14 A VERDICT, A UNANIMOUS VERDICT.

15 NOW I AM A DEFENSE ATTORNEY, I DON'T CREATE THESE
16 THINGS. HIS HONOR WILL TELL YOUR THERE IS A PRESUMPTION OF
17 INNOCENCE BUT YOU DON'T REALIZE WHAT THAT MEANS IF YOUR
18 UNCLE OR YOUR FATHER OR YOUR SON OR YOUR PASTOR WERE HERE
19 TODAY, BEING TRIED HERE TODAY, FOR THIS SAME OFFENSE. YOU
20 GO, NO, THAT CAN'T BE, UH-UH, THAT CAN'T BE. YOU PRESUME
21 HIM OR HER, THEM TO BE INNOCENT, CAN'T BE, AND IT MEANS
22 SOMETHING WHEN YOU PUT IT IN THAT PERSPECTIVE WHEN YOU TAKE
23 YOUR OATH AND AS HIS HONOR TELLS YOU THE LAW THAT THERE IS
24 A PRESUMPTION OF INNOCENCE. IT'S NOT JUST SOMETHING THE
25 DEFENSE ATTORNEYS MOUTH, IT MEANS SOMETHING. IT'S HOW YOU

1 ARE TO LOOK AT THE EVIDENCE. HOW YOU ARE TO CONSIDER THIS
2 CASE BECAUSE REGGIE IS SOMEBODY'S SON, I MEAN HE IS
3 SOMEBODY'S HUSBAND OR WIFE OR SON OR FRIEND, OR THINGS OF
4 THAT NATURE.

5 I WISH I COULD TELL YOU THIS WAS AS EASY A CASE
6 AS THE SOLICITOR TELLS YOU IT IS. YES, MAYBE IT'S EASY
7 FROM HIS POINT OF VIEW, THEY PUT THE TESTIMONY UP THAT SAYS
8 THAT REGGIE PINCKNEY HAD IN HIS POSSESSION THIS QUANTITY OF
9 DRUGS, YEAH, YOU'RE SUPPOSED TO RETURN A GUILTY VERDICT.
10 BUT AS YOU WELL KNOW THERE'S TWO SIDES TO EVERY STORY, AND
11 AS HIS HONOR WILL TELL YOU YOU CAN BELIEVE ALL OF WHAT A
12 WITNESS SAYS, YOU CAN BELIEVE NONE OF WHAT A WITNESS SAYS.
13 YOU CAN BELIEVE A SMALL PART OF WHAT A WITNESS TESTIFIES TO
14 AND DISREGARD THE REMAINDER OR BELIEVE MOST OF IT AND
15 DISREGARD SMALL PARTS. THAT'S WHERE THIS JOB, THAT'S WHERE
16 YOUR JOB GETS VERY DIFFICULT AND I SYMPATHIZE WITH YOU
17 ABOUT THAT.

18 SOMEBODY CAN TELL ME SOMETHING AND I MAY HAVE NO
19 CLUE AS TO WHAT THEY'RE TELLING ME, WHETHER THEY'RE
20 BRAGGING, WHETHER THEY'RE LYING, WHETHER THEY'RE TELLING ME
21 THE ENTIRE TRUTH, WHETHER THEY'RE MAKING IT UP, WHETHER
22 THEY READ IT IN A BOOK, BUT I JUST SIMPLY HAVE TO GO ALONG
23 WITH IT. YEAH, OKAY, FINE, YOU KNOW, UNTIL IT STARTS TO
24 SOUND A LITTLE TOO INCREDULOUS FOR ME TO SAY BINGO, NOW I
25 UNDERSTAND, I CAN'T BELIEVE THAT. THAT'S WHAT THIS CASE

1 INVOLVES, THAT'S WHAT YOUR JOB INVOLVES. YOU HAVE TO SIT
2 AND SIFT AND LISTEN AND LOOK AND HEAR AND COMPARE AND IT
3 REQUIRES OF YOU MUCH RECALL ABOUT WHO SAID WHAT WHEN AND
4 HOW DID THAT HAPPEN THEN WHEN SOMETHING ELSE WAS HAPPENING,
5 THAT'S TOUGH.

6 THEN EACH OF YOU GO BACK IN YOUR JURY ROOM AND
7 DELIBERATE AND ALL 12 OF YOU, EXCUSE ME, MR. AND MS.
8 ALTERNATE, MUST REACH A VERDICT, OKAY, UNANIMOUS VERDICT.
9 MY WIFE AND I CAN'T AGREE WHAT WE WANT TO HAVE FOR SUPPER
10 SOMETIMES, I MEAN SOMETHING AS MUNDANE A DECISION AS,
11 HONEY, YOU WANT TO GO TO ARBY'S? YOU WANT TO GO TO TGI
12 FRIDAYS? YOU WANT TO GO TO RUBY, WELL I DON'T KNOW WE HAD
13 THAT LAST WEEK, AND WE'LL JUST STALEMATE. WE'LL JUST PICK
14 SOMETHING BY DEFAULT BECAUSE WE CAN'T REACH A UNANIMOUS
15 VERDICT ON SOMETHING AS MUNDANE AS THAT. THAT'S A TOUGH
16 JOB FOR YOU TRYING TO DETERMINE THE CREDIBILITY OF THE
17 WITNESSES, WHAT TO BELIEVE, WHAT THE FACTS ARE, AND
18 UNANIMOUSLY REACH A VERDICT, I SYMPATHIZE WITH YOU.

19 YOU'RE NOT HERE VOLUNTARILY, I APPRECIATE THAT,
20 BUT I UNDERSTAND FROM EACH OF YOU THAT THE OATH THAT YOU
21 GAVE HIS HONOR THAT YOU WILL LISTEN TO THE EVIDENCE, YOU'LL
22 PAY ATTENTION, YOU'LL LOOK AT THIS AND GIVE IT THE
23 IMPORTANCE THAT IT DESERVES.

24 I CANNOT TESTIFY, ANYTHING I TELL YOU IS NOT
25 EVIDENCE. IF I TELL YOU SOMETHING THAT I RECALL FROM THE

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1 WITNESS STAND THAT YOU RECALL DIFFERENTLY FORGET WHAT I
2 TELL YOU BECAUSE YOU'RE THE FINDERS OF THE FACTS. I HAVE
3 OTHER DUTIES AND RESPONSIBILITIES IN THIS COURTROOM. YOUR
4 JOB IS TO SIT AND LISTEN TO THE TESTIMONY AND I MAY BE
5 MISTAKEN IN WHAT I SAY. IF I TELL YOU SOMETHING ABOUT THE
6 LAW IT'S DIFFERENT FROM WHAT HIS HONOR TELLS YOU DISREGARD
7 WHAT I SAY BECAUSE I'VE EITHER STATED IT INCORRECTLY OR
8 JUST BEEN BUSY WITH SOMETHING ELSE AND MISSED IT BUT YOU DO
9 THOSE TWO THINGS AND ISSUE YOUR VERDICT AND REGGIE PINCKNEY
10 WILL BE SATISFIED, THANK YOU.

11 THE COURT: THANK YOU, MR. LONG. THE FIRST
12 WITNESS FOR THE STATE?

13 MR. MEACHAM: MAY IT PLEASE THE COURT WE CALL
14 OFFICER TYRONE WILLIAMS.

15 THE COURT: COME AROUND, OFFICER WILLIAMS.

16 OFFICER TYRONE WILLIAMS

17 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

18 MADAM CLERK: STATE YOUR NAME FOR THE COURT.

19 THE WITNESS: TYRONE WILLIAMS.

20 THE COURT: WILLIAMS, OKAY, YOUR WITNESS.

21 DIRECT EXAMINATION

22 BY MR. MEACHAM:

23 Q OFFICER WILLIAMS, YOU WORK WITH CONWAY
24 POLICE DEPARTMENT?

25 A YES, SIR.

OFFICER WILLIAMS - DIRECT EXAMINATION BY MR. MEACHAM

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- 1 Q AND WHAT IS YOUR RANK?
- 2 A SMPO.
- 3 Q WHAT IS THAT?
- 4 A SENIOR MASTER POLICE OFFICER.
- 5 Q ALL RIGHT, AND HOW LONG HAVE YOU HAD THAT
- 6 RANK?
- 7 A ABOUT SIX YEARS.
- 8 Q HOW LONG HAVE YOU WORKED WITH THE POLICE
- 9 DEPARTMENT?
- 10 A SEVEN.
- 11 Q ALL RIGHT, AND YOU WERE WORKING WITH THE
- 12 POLICE DEPARTMENT ON FEBRUARY 23RD, 2005?
- 13 A YES, SIR.
- 14 Q OKAY, WHAT SHIFT WERE YOU WORKING?
- 15 A I DON'T WORK SHIFT, I WAS WORKING NARCOTICS
- 16 OPERATION.
- 17 Q ALL RIGHT, WHAT AREA, WERE YOU WORKING IN
- 18 THE CITY LIMITS OF CONWAY?
- 19 A YES, SIR.
- 20 Q WHAT AREA WERE YOU WORKING?
- 21 A HEMINGWAY STREET.
- 22 Q OKAY, HEMINGWAY STREET IN THE CITY LIMITS
- 23 OF CONWAY?
- 24 A YES, SIR.
- 25 Q AND STATE OF SOUTH CAROLINA?

OFFICER WILLIAMS - DIRECT EXAMINATION BY MR. MEACHAM

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1 A YES, SIR.

2 Q COUNTY OF HORRY?

3 A YES, SIR.

4 Q ALL RIGHT, WHAT DID YOU SEE AND ABOUT WHAT
5 TIME DID YOU SEE IT, DID YOU SEE MR. PINCKNEY?

6 A AROUND THIRTEEN, FIFTEEN HOURS.

7 Q WHAT DOES THAT MEAN?

8 A AROUND 1:15.

9 Q 1:15?

10 A YES, SIR.

11 Q WOULD THAT BE IN THE AFTERNOON?

12 A YES, SIR.

13 Q OKAY, WHAT DID YOU NOTICE AND HOW DID YOU
14 COME ABOUT NOTICING MR. PINCKNEY THAT DAY?

15 A I WAS SITTING ON THE SIDE OF A BUILDING ON
16 HEMINGWAY STREET AND WHEN THE TRUCK CAME, IT WAS A GMC
17 TRUCK BLUE IN COLOR, I SAW THE TAG WAS KIND OF LIKE, IT
18 WASN'T TACKED ON TO THE REGULAR WAY OF A LICENSE PLATE
19 SHOULD BE.

20 Q OKAY, YOU SPEAK SO SOFTLY, I'M GOING TO
21 HAVE TO PULL IT UP A LITTLE BIT.

22 A HOW ABOUT THAT.

23 Q ALL RIGHT, AND WHAT DID YOU NOTICE ABOUT
24 THE TAG?

25 A THE TAG WASN'T FIXED, AFFIXED THE WAY IT

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1 SHOULD BE. IT WAS KIND OF LIKE LEANING AND MOST OF THE
2 TIME WHEN IT'S LEANING LIKE THAT MOST OF THE TIME THOSE
3 TAGS WILL BE STOLEN OFF OTHER VEHICLES.

4 MR. LONG: OBJECTION, YOUR HONOR, MOST OF THE
5 TIME OR NONE OF THE TIME OR ANY OF THE TIME IT'S NOT
6 RELEVANT IN THE TRIAL OF THIS CASE.

7 THE COURT: ARE YOU TESTIFYING AS TO WHY YOU HAD
8 SOME REASON TO GO TO THE VEHICLE?

9 THE WITNESS: (CONTINUING)

10 A YEAH.

11 THE COURT: DOESN'T MEAN THAT THERE'S ANYTHING
12 WRONG WITH THAT, YOU JUST DID IT?

13 A NOT NECESSARILY.

14 THE COURT: OKAY, LADIES AND GENTLEMEN, DON'T
15 ACCEPT THE FACT THAT THAT MEANS THERE WAS ANY STOLEN
16 VEHICLE HERE, IN FACT THERE WASN'T A STOLEN VEHICLE, YOU
17 MAY PROCEED.

18 MR. MEACHAM: (CONTINUING)

19 Q NOW YOU NOTICED THE TAG WAS LOOSE ON THE
20 VEHICLE?

21 A YES, SIR.

22 Q ALL RIGHT, DID YOU READ THE TAG?

23 A YES, SIR.

24 Q ALL RIGHT, DID YOU DO ANYTHING ABOUT THE
25 TAG, AFTER THAT WHAT DID YOU DO?

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1 A AFTER THAT I CALLED, AFTER I GOT BEHIND THE
2 VEHICLE I CALLED THE TAG INTO MY DISPATCH AND THEY GAVE ME
3 THE INFORMATION THAT THE TAG CAME BACK SUSPENDED.

4 Q ALL RIGHT, SO WHAT DID YOU DO AFTER THAT
5 POINT?

6 A AFTER THAT POINT I STILL WAITED FOR SOME
7 MORE INFORMATION FROM DISPATCH CAUSE USUALLY WE CHECK TO
8 SEE IF THE TAG IS, IF THEY SAY IT'S SUSPENDED YOU CHECK TO
9 SEE IF THE TAG IS STOLEN AS WELL.

10 Q ALL RIGHT?

11 A SO I WAITED FOR THAT INFORMATION, THEN IT
12 CAME BACK AND THEN WE GOT TO THE POINT WHERE WE INITIATED A
13 TRAFFIC STOP.

14 Q OKAY, WERE YOU IN A MARKED VEHICLE, EXCUSE
15 ME?

16 A YES, SIR, I WAS IN A MARKED VEHICLE.

17 Q ALL RIGHT, AND YOU INITIATED A TRAFFIC
18 STOP?

19 A YES, SIR.

20 Q OKAY, DID YOU NOTIFY BACK UP?

21 A YES, SIR.

22 Q OKAY, WHO DID YOU NOTIFY?

23 A OFFICER ROBINSON.

24 Q OKAY, AFTER YOU GOT THERE TELL ME WHAT
25 HAPPENED?

OFFICER WILLIAMS - DIRECT EXAMINATION BY MR. MEACHAM

70

1 A AFTER WE GOT TO THE, WE HAD TO SET AT THE
2 LIGHT FOR A MINUTE BECAUSE I WANTED TO GET TO A SAFER PLACE
3 TO PULL IT OVER, SO WE GOT TO SMITH, NINTH AVENUE AND SMITH
4 STREET AND THEN WE INITIATED A TRAFFIC STOP.

5 Q ALL RIGHT.

6 A MR. PINCKNEY PULLED OVER RIGHT AS I
7 INITIATED THE TRAFFIC STOP, HE PULLED OVER AND I APPROACHED
8 THE VEHICLE. OFFICER ROBINSON APPROACHED THE VEHICLE FROM
9 THE DRIVERS SIDE. I ASKED HIM FOR HIS INFORMATION; HE GAVE
10 IT TO ME. I WENT BACK TO MY VEHICLE; AS I WAS GOING BACK
11 TO MY VEHICLE OFFICER BRADLEY PULLED UP.

12 Q RIGHT, WAS OFFICER BRADLEY IN A MARKED CAR?

13 A YES, SIR.

14 Q ALL RIGHT, THEN WHAT HAPPENED?

15 A EVERYONE, EVERYONE HAD MARKED CARS.

16 Q OKAY, WHAT WERE YOU DOING AT THAT POINT;
17 WERE YOU IN YOUR CAR?

18 A AFTER WE, AFTER I STARTED BACK TO MY
19 VEHICLE OFFICER BRADLEY APPROACHED THE BACK AND HE STOOD IN
20 FRONT OF MY PATROL VEHICLE.

21 Q OKAY, AND WHAT DID YOU SEE?

22 A WHAT DID I SEE AT THE TIME, I SAW A PHONE,
23 I SAW A PHONE, I THINK IT WAS IN THE BACK WINDOW, I GUESS
24 HE SIGNALLED OFFICER BRADLEY TO COME UP AND AFTER HE CAME
25 UP AND I TALKED TO HIM I STARTED BACK, LOOKING BACK AT THE

OFFICER WILLIAMS - DIRECT EXAMINATION BY MR. MEACHAM

71

1 PAPER WORK AND TALKING TO DISPATCH.

2 Q OKAY, AND THEN WHAT HAPPENED?

3 A AND ALL OF A SUDDEN I SAW MR. PINCKNEY COME
4 OUT OF THE VEHICLE. I AIN'T PAID THAT NO ATTENTION CAUSE I
5 HAD OTHER TWO OFFICERS THERE AND THEN LATER ON THERE'S A
6 BOLT, THEY WAS RUNNING AFTER HIM AND THEY WAS ON THE
7 GROUND.

8 Q ALL RIGHT, AND AFTER THEY WERE ON THE
9 GROUND DID OFFICER BRADLEY HAND YOU SOMETHING?

10 A YEAH, AFTER THE STRUGGLE HE ---

11 Q WHAT DID YOU DO WHEN THEY WERE ON THE
12 GROUND; WHAT DID YOU DO?

13 A WHEN THEY WAS ON THE GROUND I THEN EXIT, I
14 WAS STILL IN MY VEHICLE AT THE TIME, I EXITED THE GROUND,
15 THEY WERE TELLING HIM TO PLEASE STOP RESISTING, STOP
16 RESISTING, AND HE KEPT ON AND THEY FINALLY GOT HIM
17 HANDCUFFED.

18 Q ALL RIGHT, AND WHO ELSE WAS THERE?

19 A OFFICER ROBINSON, OFFICER BRADLEY.

20 Q OKAY.

21 A AND MYSELF.

22 Q ALL RIGHT, AND AFTER, WERE THEY EVENTUALLY,
23 WAS HE EVENTUALLY PLACED IN HANDCUFFS?

24 A YES, SIR.

25 Q OKAY, AND WHO DID THAT?

OFFICER WILLIAMS - DIRECT EXAMINATION BY MR. MEACHAM

72

1 A I PLACED ONE SET, I THINK I PLACED THE LEG
2 CHAINS ON HIM, THE LEG IRONS, I PUT THOSE ON HIM.

3 Q WHY DID YOU DO THAT, WHY, DO YOU TYPICALLY
4 DO LEG IRONS?

5 A YES, BECAUSE HE PRESENT HIMSELF AS A RUNNER
6 WE ELIMINATE THAT PUT THE LEG IRONS ON HIM.

7 Q SO HE WON'T RUN?

8 A YES.

9 Q ALL RIGHT, AND DID YOU CHARGE HIM WITH A
10 SPECIFIC OFFENSE FOR THE ARREST?

11 A AFTER THE ARREST, YEAH, FROM CHARGED HIM
12 WITH DISOBEYING A POLICE OFFICER AFTER HE WAS DEMANDED TO
13 STOP AND HE DIDN'T.

14 Q OKAY, ALL RIGHT, AND DID YOU ALSO CHARGE
15 HIM WITH ANYTHING ELSE?

16 A SIMPLE POSSESSION OF MARIJUANA.

17 Q OKAY, DO YOU KNOW THE DEPOSITION OF THOSE
18 CASES?

19 A BOTH OF THEM PLED GUILTY.

20 MR. LONG: OBJECTION, YOUR HONOR, WE'VE HAD THIS
21 ISSUE BEFORE.

22 THE COURT: AS TO THE DISOBEYING A POLICE
23 OFFICER, YA'LL APPROACH.

24 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
25 RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING

OFFICER WILLIAMS - DIRECT EXAMINATION BY MR. MEACHAM 73

1 OF THE JURY AND THE COURT REPORTER.)

2 THE COURT: LADIES AND GENTLEMEN OF THE JURY,
3 PLEASE UNDERSTAND THAT IT'S MY FEELING MY RULING IS THAT
4 WHETHER OR NOT HE DID OR DIDN'T HAVE MARIJUANA, WHETHER OR
5 NOT HE DID OR DIDN'T GO TO SOME CITY JUDGE OR CITY COURT
6 ABOUT THIS MATTER HAS NOTHING TO DO WITH THIS CASE AT ALL
7 AND SO, LADIES AND GENTLEMEN, UNDER YOUR OATH DISREGARD ANY
8 OF THAT, HAS NOTHING TO DO WITH THIS CASE, WITH WHAT'S
9 GOING ON HERE TODAY. SO I'M INSTRUCTING YOU TO DISREGARD
10 THAT, DO NOT HAVE THAT HAVE ANYTHING TO DO WITH YOUR
11 DECISION IN THIS MATTER, YOU MAY PROCEED.

12 MR. MEACHAM: (CONTINUING)

13 Q AFTER HE WAS APPREHENDED DID OFFICER
14 BRADLEY RETRIEVE OR HAND YOU ANYTHING AT THAT TIME?

15 A YES, SIR.

16 Q OKAY, DID YOU SEE OFFICER BRADLEY AROUND
17 MR. PINCKNEY AT THE TIME THAT HE WAS ON THE GROUND?

18 A YES, SIR.

19 Q OKAY, WHAT DID, WHAT HAPPENED, DID YOU SEE
20 WHAT HAPPENED?

21 A HE FELT, HE FELT THE BULGE AND HE RETRIEVED

22 ---

23 MR. LONG: YOUR HONOR, AGAIN I OBJECT.

24 THE COURT: NO, HOW WOULD HE KNOW THAT? YOU
25 SAID HE FELT A BULGE. HOW WOULD HE KNOW SOMEBODY FELT A

OFFICER WILLIAMS - DIRECT EXAMINATION BY MR. MEACHAM

74

1 BULGE. THAT'S, WE NEED TO ASK THE OFFICER WHO DID THAT
2 THEN, YOU CAN, YOU CAN SAY WHAT HE HANDED YOU.

3 MR. MEACHAM: I ASKED HIM WHAT HE SAW, JUDGE, I
4 ASKED HIM IF HE SAW IT IS WHAT I SAID.

5 THE COURT: SAW WHAT, ASK YOUR QUESTION AGAIN.

6 MR. MEACHAM: (CONTINUING)

7 Q ALL RIGHT, WHAT DID YOU SEE?

8 A I SAW THE CRACK COCAINE THAT OFFICER
9 BRADLEY HANDED TO ME.

10 MR. LONG: OBJECTION, YOUR HONOR, AT THIS STAGE.

11 THE COURT: NO, HE CAN SAY HE THINKS IT IS.

12 MR. LONG: OKAY, ALL RIGHT.

13 THE COURT: YOU MAY PROCEED.

14 MR. MEACHAM: (CONTINUING)

15 Q ALL RIGHT, WHAT DID YOU SEE?

16 A I SAW THE CRACK, THE SUSPECTED CRACK
17 COCAINE THAT OFFICER BRADLEY GAVE TO ME WHEN HE RETRIEVED
18 IT FROM THE JACKET.

19 Q OKAY, WHEN HE HANDED IT YOU, RIGHT?

20 A YES, SIR.

21 Q OKAY, AND WHAT DID YOU DO WITH THAT?

22 A I PLACED IT INTO A BAG AND KEPT.

23 Q OKAY, YOU PLACED IT IN A BAG AND YOU TURNED
24 IT INTO WHERE?

25 A INTO THE EVIDENCE.

OFFICER WILLIAMS - DIRECT EXAMINATION BY MR. MEACHAM 75

1 (WHEREUPON, STATE'S EXHIBIT NUMBER 1 MARKED FOR
2 IDENTIFICATION.)

3 MR. MEACHAM: (CONTINUING)

4 Q ALL RIGHT, DO YOU PUT A LOG NUMBER WHEN YOU
5 TURN IT INTO EVIDENCE?

6 A YES, SIR.

7 Q ALL RIGHT, WHAT'S YOUR LOG NUMBER?

8 A ANY TIME WE HAVE SUSPECTED NARCOTICS WE PUT
9 THEM INTO WHAT WE CALL AN HORRY COUNTY BEST KIT WHICH IS
10 THE H000521 WAS THE BEST KIT NUMBER THAT I PUT IT ON TO.

11 Q CAN YOU IDENTIFY THIS STATE'S EXHIBIT 1, AS
12 WHAT'S PREVIOUSLY MARKED AS STATE'S EXHIBIT 1 AS H, WHAT IS
13 THE LOG NUMBER ON THAT?

14 A H000521.

15 Q OKAY, IS THAT THE BEST KIT THAT YOU PUT IT
16 IN?

17 A YES.

18 Q ALL RIGHT, DID YOU TURN IT INTO EVIDENCE
19 THAT NIGHT?

20 A YES.

21 Q OKAY, AND IS THAT THE CONDITION IN WHICH
22 YOU TURNED IT INTO EVIDENCE THAT NIGHT?

23 A YES, CAUSE IT'S SEALED.

24 Q NOW DID OFFICER BRADLEY HAND TO YOU
25 ANYTHING ELSE?

OFFICER WILLIAMS - DIRECT EXAMINATION BY MR. MEACHAM

76

1 THE COURT: BY THE WAY, MR. MEACHAM, YOU KEPT
2 ASKING HIM THIS IS THIS. FAR AS FOR THE COURT RECORD THEY
3 DON'T KNOW WHAT THIS, THIS IS, HAVE YOU HAD THAT MARKED FOR
4 IDENTIFICATION?

5 THE COURT: SO WHEN YOU WERE ASKING ABOUT THIS,
6 WHAT IS THE OBJECT YOU WERE ASKING ABOUT FOR IDENTIFICATION
7 NUMBER 1?

8 MR. MEACHAM: (CONTINUING)

9 Q FOR IDENTIFICATION 1 WHAT IS THIS, WHAT IS
10 THIS?

11 A THAT IS A HORRY COUNTY DRUG BEST KIT.

12 Q OKAY, AND IT DOES HAVE YOUR LOG NUMBER ON
13 IT?

14 A YES, SIR.

15 Q AND IS IT IN THE SAME CONDITION THAT YOU
16 ACTUALLY RETRIEVED IT THAT NIGHT?

17 A YES, SIR.

18 Q YOU PUT IT IN THAT BAG?

19 A YES, SIR.

20 Q WHEN DID YOU LOG IT INTO EVIDENCE?

21 A I LOGGED IT INTO EVIDENCE SOON AFTER I PUT
22 IT INTO THE BEST KIT IT GOES DIRECTLY TO THE EVIDENCE.

23 Q OKAY, THANK YOU, AND THIS IS PREVIOUSLY
24 MARKED, THIS IS MARKED AS EXHIBIT, STATE'S EXHIBIT 1?

25 A YES.

OFFICER WILLIAMS - DIRECT EXAMINATION BY MR. MEACHAM 77

1 Q OKAY, THANK YOU, DID YOU RETRIEVE ANYTHING
2 ELSE THAT NIGHT FROM OFFICER BRADLEY?

3 A THERE WAS A GREEN LEAFY SUBSTANCE BELIEVED
4 TO ---

5 MR. LONG: OBJECTION, YOUR HONOR. AGAIN, YOUR
6 HONOR, I MAKE ---

7 THE COURT: I SUSTAIN, NEXT QUESTION.

8 MR. LONG: AND I HAVE ---

9 MR. MEACHAM: (CONTINUING)

10 Q DID YOU RETRIEVE ANYTHING FROM OFFICER
11 BRADLEY?

12 THE COURT: IS THERE ANYTHING THAT'S GOING TO BE
13 RELEVANT TO THIS CHARGE, I'M GOING TO NEED YA'LL TO COME
14 AND TALK TO ME BEFORE YOU ASK THESE QUESTIONS. COME ON UP,
15 MR. LONG.

16 MR. LONG: YES, SIR.

17 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
18 RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING
19 OF THE JURY AND THE COURT REPORTER.)

20 THE COURT: GO AHEAD, MR. MEACHAM.

21 MR. MEACHAM: (CONTINUING)

22 Q OFFICER WILLIAMS, DID YOU FIND SCALES? DID
23 YOU RETRIEVE SOMETHING FROM OFFICER BRADLEY?

24 A YES, SIR, OFFICER BRADLEY HE DID GIVE ME A
25 SET OF SCALES AS WELL.

OFFICER WILLIAMS - DIRECT EXAMINATION BY MR. MEACHAM

78

1 (WHEREUPON, STATE'S EXHIBIT NUMBER 2 MARKED FOR
2 IDENTIFICATION.)

3 MR. MEACHAM: (CONTINUING)

4 Q I WANT TO SHOW YOU WHAT HAS BEEN MARKED AS
5 STATE'S EXHIBIT 2. ARE THOSE THE SCALES THAT YOU RETRIEVED
6 FROM OFFICER BRADLEY THAT NIGHT?

7 A YES, SIR.

8 Q OKAY, DID YOU LOG THOSE INTO EVIDENCE THAT
9 NIGHT?

10 A YES, SIR.

11 Q WAS THAT FEBRUARY 23RD?

12 A YES, SIR.

13 MR. MEACHAM: MAY IT PLEASE THE COURT WE WOULD
14 MOVE TO ENTER THESE SCALES INTO EVIDENCE.

15 MR. LONG: OBJECTION, YOUR HONOR, NOT PROPER
16 CHAIN.

17 MR. MEACHAM: YOUR HONOR, THE ---

18 THE COURT: ONE SECOND, YOU IDENTIFIED THOSE.
19 YOU'RE TELLING ME THAT'S WHAT YOU GOT THAT NIGHT?

20 THE WITNESS: (CONTINUING)

21 A YEAH, THAT'S WHAT WAS HANDED TO ME.

22 THE COURT: OKAY, IN EVIDENCE.

23 (WHEREUPON, STATE'S EXHIBIT NUMBER 2 ENTERED INTO
24 EVIDENCE.)

25 MR. MEACHAM: PERMISSION TO PUBLISH?

OFFICER WILLIAMS - DIRECT EXAMINATION BY MR. MEACHAM

79

1 THE COURT: YOU MAY DO SO.

2 MR. MEACHAM: (CONTINUING)

3 Q AND HOW LONG HAVE YOU BEEN A LAW
4 ENFORCEMENT OFFICER?

5 A SEVEN YEARS NOW.

6 Q OKAY, AND IN TERMS OF THOSE SCALES YOU'VE
7 HAD PREVIOUSLY EXPERIENCE IN THE USE OF THOSE SCALES?

8 A YES, SIR.

9 Q OKAY, BASED UPON YOUR PREVIOUS EXPERIENCE
10 AS A LAW ENFORCEMENT OFFICER WHAT ARE THOSE SCALES
11 TYPICALLY USED FOR?

12 MR. LONG: OBJECTION, YOUR HONOR.

13 THE COURT: TELL ME WHAT, WHAT'S YOUR
14 INVOLVEMENT BEEN IN MATTERS OF THIS NATURE, SIR?

15 THE WITNESS: (CONTINUING)

16 A I WAS THE INITIAL ---

17 THE COURT: SPEAK INTO THAT MICROPHONE, PLEASE?

18 A I WAS THE INITIAL VEHICLE THAT STOPPED
19 THAT.

20 THE COURT: NO, NO, IN MATTERS INVOLVING DRUG
21 ARRESTS; HAVE YOU MADE ANY DRUG ARRESTS BEFORE?

22 A YES, SIR.

23 THE COURT: OKAY, ABOUT HOW MANY?

24 A MORE THAN 10, MORE THAN 20.

25 THE COURT: OKAY, AND HOW LONG HAVE YOU BEEN A

OFFICER WILLIAMS - DIRECT EXAMINATION BY MR. MEACHAM

80

1 POLICE OFFICER?

2 A SEVEN YEARS, 7 YEARS.

3 THE COURT: AND YOU ONLY MADE 10 ARRESTS?

4 A THERE'S MORE, MORE ARRESTS, WELL IN
5 NARCOTIC, CRACK COCAINE.

6 THE COURT: ARE YOU FAMILIAR WITH WHAT PEOPLE
7 WHO YOU ARREST IN DRUG SITUATIONS WHAT PARAPHERNALIA IS
8 USED STUFF LIKE THAT AND ALL THAT?

9 A YES, SIR.

10 THE COURT: ALL RIGHT, ANYWAY I'LL LET HIM
11 ANSWER THE QUESTION FOR WHATEVER IT'S WORTH TO THE JURY.

12 MR. MEACHAM: (CONTINUING)

13 Q ALL RIGHT, AND BASED ON YOUR EXPERIENCE
14 WHAT ARE THESE SCALES USED FOR?

15 A SCALES ARE USED TO MEASURE OUT THE
16 NARCOTICS.

17 Q OKAY, ALL RIGHT, WAS ANYTHING ELSE
18 RETRIEVED, WHAT ELSE WAS RETRIEVED THAT MR. BRADLEY HANDED
19 OVER TO YOU, OFFICER BRADLEY HANDED OVER TO YOU?

20 A MONEY.

21 THE COURT: AS FAR AS ITEMS?

22 MR. MEACHAM: (CONTINUING)

23 Q ITEMS?

24 A U.S. CURRENCY.

25 Q HOW MUCH CURRENCY WAS RETRIEVED?

OFFICER WILLIAMS - DIRECT EXAMINATION BY MR. MEACHAM 81

1 A A LITTLE OVER \$4500.

2 Q OKAY, AND AS AN OFFICER DO YOU TURN THAT
3 INTO EVIDENCE?

4 A YES, SIR.

5 Q AS THE POLICY FOR THE CONWAY POLICE
6 DEPARTMENT WHAT HAPPENS TO THAT CURRENCY?

7 A PLACED INTO EVIDENCE AND AFTER THAT --

8 Q OKAY, ALL RIGHT, AND WAS ANY OTHER ITEM
9 RETRIEVED FROM MR. PINCKNEY?

10 A A CIGARETTE LIGHTER.

11 Q ALL RIGHT, STATE'S EXHIBIT --

12 (WHEREUPON, STATE'S EXHIBIT NUMBER 3 MARKED FOR
13 IDENTIFICATION.)

14 MR. MEACHAM: (CONTINUING)

15 Q WHAT HAS PREVIOUSLY BEEN MARKED AS STATE'S
16 EXHIBIT 3, IS THAT THE ITEM YOU RETRIEVED THAT NIGHT FROM
17 OFFICER BRADLEY?

18 A YES, SIR.

19 Q AND YOU TURNED IT INTO EVIDENCE ON FEBRUARY
20 23RD?

21 A YES, SIR.

22 MR. MEACHAM: PLEASE THE COURT, WE'D MOVE IT
23 INTO STATE'S EXHIBIT LIGHTER INTO EVIDENCE.

24 MR. LONG: OBJECTION, RELEVANCE, YOUR HONOR.

25 THE COURT: I'LL ADMIT IT FOR WHATEVER RELEVANCE

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

82

1 THE JURY WISHES TO GIVE IT.

2 (WHEREUPON, STATE'S EXHIBIT NUMBER 3 ENTERED INTO
3 EVIDENCE.)

4 MR. MEACHAM: PERMISSION TO PUBLISH TO THE JURY?

5 THE COURT: HAVE YOU GOT IT MARKED ALREADY?

6 MR. MEACHAM: YES, SIR.

7 THE COURT: WHAT IS IT STATE'S WHAT NOW?

8 MR. MEACHAM: STATE'S EXHIBIT 3.

9 THE COURT: ALL RIGHT, YOU MAY ADMIT IT BUT NO
10 CLICKING IT, LADIES AND GENTLEMEN OF THE JURY.

11 MR. MEACHAM: (CONTINUING)

12 Q ALL RIGHT, AND THE CURRENCY, WAS THE
13 CURRENCY TURNED INTO THE POLICE DEPARTMENT THAT NIGHT?

14 A YES, SIR.

15 Q AND IS A COUNTING DONE FOR THE CURRENCY?

16 A YES, SIR.

17 Q AND HOW MUCH WAS IT?

18 A THE TOTAL \$4675.

19 Q ALL RIGHT, WAS THAT THE CURRENCY THAT YOU
20 SAW BRADLEY, THAT BRADLEY HANDED TO YOU, OFFICER BRADLEY
21 HANDED TO YOU THAT NIGHT?

22 A YES, SIR.

23 MR. MEACHAM: ALL RIGHT, THANK YOU. THAT'S ALL
24 THE QUESTIONS I HAVE, PLEASE ANSWER ANY QUESTIONS MR. LONG
25 HAS.

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

83

1 THE COURT: ALL RIGHT, MR. LONG?

2 MR. LONG: THANK YOU, YOUR HONOR.

3 CROSS EXAMINATION

4 BY MR. LONG:

5 Q OFFICER WILLIAMS, 1:15 APPROXIMATELY
6 FEBRUARY 23RD 2005 YOU WERE ON PATROL, CORRECT?

7 A YES, SIR.

8 Q ALL RIGHT, AND YOU'RE NOT A PATROL OFFICER,
9 YOU ARE A NARCOTICS OFFICER?

10 A YES, SIR.

11 Q ALL RIGHT, THAT DOESN'T PREVENT YOU FROM
12 MAKING A CONTROLLED STOP, THOUGH, OR ISSUING SOMEONE A
13 CITATION FOR DRIVING UNDER SUSPENSION OR SPEEDING OR
14 ANYTHING OF THAT NATURE?

15 A NO, SIR.

16 Q ALL RIGHT, BUT THAT'S REALLY NOT YOUR
17 RESPONSIBILITY, YOU'RE NOT A RADAR PATROL OFFICER, ARE YOU?

18 A I'M RADAR CERTIFIED, SIR.

19 Q YOU'RE RADAR CERTIFIED?

20 A YES, SIR.

21 Q ARE YOU A RADAR PATROL OFFICER?

22 A YES, SIR, AS WELL.

23 Q ALL RIGHT, YOU DO THAT AS WELL AS
24 NARCOTICS?

25 A YES, SIR.

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

84

1 Q ALL RIGHT, YOU HAVE A RADAR IN YOUR
2 VEHICLE?

3 A NO, SIR.

4 Q IF YOU SEE SOMEONE VIOLATING THE LAW AS FAR
5 AS MAKING A CALIFORNIA STOP AT A STOP SIGN WHERE THEY ROLL
6 THROUGH THE STOP SIGN OR SOMETHING YOU CAN CHARGE THEM WITH
7 THAT; IS THAT CORRECT?

8 A YES, SIR.

9 Q ALL RIGHT, AND YOU DO ON A REGULAR BASIS?

10 A YES, SIR.

11 Q AS ANY PATROL OFFICER?

12 A YES, SIR.

13 Q ALL RIGHT, ON THIS DAY WHERE WERE YOU
14 SITTING IN RELATION TO WHERE THE ACTUAL TRAFFIC STOP
15 OCCURRED; HOW FAR AWAY WAS YOUR VEHICLE WHEN YOU SAW THE
16 BLUE PICKUP TRUCK WITH THE CROOKED TAG?

17 A FROM HERE TO THAT PODIUM.

18 Q FROM HERE TO THE PODIUM?

19 A YES, SIR.

20 Q ALL RIGHT, AND WHAT I'M TALKING ABOUT IS
21 HOW FAR WAS WHERE HERE WAS AND WHERE YOU WERE SITTING FROM
22 WHERE THE VEHICLE WAS STOPPED AND MR. PINCKNEY WAS FIRST
23 APPROACHED ABOUT THE TAG?

24 A IT'S ABOUT A MILE, LESS THAN A MILE.

25 Q LESS THAN A MILE?

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

85

1 A YES, SIR.

2 Q ALL RIGHT, AND THAT WOULD BE ON THE SOUTH
3 SIDE OF HIGHWAY 501 OFF OF NINTH AVENUE, IN THAT AREA,
4 BEHIND LIKE THE BI-LO CENTER; IS THAT CORRECT?

5 A NO, SIR, IT'S BEHIND THE BI-LO CENTER, YES,
6 SIR, ON THE SOUTH SIDE OF 501.

7 Q A LITTLE LESS THAN A MILE?

8 A YES, SIR.

9 Q CAUSE HE WAS PULLED ABOUT A BLOCK ON THE
10 NORTH SIDE OF HIGHWAY 501 FROM RIGHT THERE AT THE BI-LO
11 CENTER AT NINTH AVENUE AND 501?

12 A YES, SIR.

13 Q RIGHT, AND HE WAS PULLED LIKE I SAY ABOUT A
14 BLOCK FROM THERE WHICH IS WHERE LEGION STREET AND NINTH
15 AVENUE?

16 A LEGION STREET NINTH AVENUE IS WHEN I
17 PROBABLY ACTIVATED THE LIGHTS BETWEEN LEGION AND 501.

18 Q OKAY, AND THAT WOULD BE ONCE YOU HAD
19 CROSSED 501?

20 A YES, SIR.

21 Q ALL RIGHT, THE FIRST STREET THERE, THOUGH,
22 IS RIGHT BEHIND WENDY'S, THAT'S NOT LEGION STREET; IS THAT
23 CORRECT?

24 A THAT'S LEGION STREET.

25 Q THAT'S LEGION STREET?

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

86

1 A IF I'M NOT MISTAKEN THAT'S LEGION STREET
2 RIGHT BEHIND.

3 Q RIGHT THERE BEHIND WHERE I GUESS THE SECOND
4 ROAD --

5 A IS SMITH STREET.

6 Q SMITH STREET?

7 A YES, SIR.

8 Q SO THEN YOU GOT, YOU SAW HIM PASS YOU; IS
9 THAT CORRECT, YOU WERE PARKED?

10 A YES, SIR.

11 Q ALL RIGHT, AND YOU SAW WHAT APPEARED TO BE
12 A CROOKED TAG AND YOU SAID, HEY, THAT'S SUSPICIOUS, RIGHT?

13 A YES, SIR.

14 Q ALL RIGHT, AND THAT WAS SUSPICIOUS TO YOU
15 BECAUSE YOU SAID, WELL, IT MAY BE A STOLEN TAG OR IT MAY BE
16 A STOLEN TRUCK OR IT MAY BE WHATEVER, THAT'S SUSPICIOUS TO
17 YOU?

18 A YES, SIR.

19 Q ALL RIGHT, DID YOU KNOW REGGIE PINCKNEY?

20 A YES, SIR.

21 Q DID YOU KNOW THAT VEHICLE?

22 A YES, SIR.

23 Q DID YOU KNOW THAT VEHICLE BELONGED TO HIS
24 MOTHER?

25 A NO, SIR.

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

87

1 Q DIDN'T KNOW?

2 A I DIDN'T KNOW AT THE TIME IT BELONGED TO
3 HIS MOTHER,

4 Q ALL RIGHT, AND WHEN YOU RAN THE TAG ON IT
5 DID IT COME BACK REGISTERED TO A CLARA PINCKNEY?

6 A YEAH, AFTER I RAN THE TAG.

7 Q ALL RIGHT, AND WHEN YOU RAN THE TAG ON IT.
8 THAT WAS TO CHECK TO SEE IF IT WAS SUSPENDED OR STOLEN OR
9 WHATEVER?

10 A YES, SIR.

11 Q WHILE YOU WERE FOLLOWING IT; IS THAT RIGHT?

12 A YES, SIR.

13 Q ALL RIGHT, SO HE WENT BY WITH A CROOKED
14 TAG, YOU DIDN'T IMMEDIATELY PULL BEHIND HIM, DID YOU?

15 A YES, SIR, ONCE HE GOT A LITTLE PIECE DOWN
16 THE ROAD I THEN PULL BEHIND HIM.

17 Q OKAY, YOU PULLED BEHIND HIM?

18 A UH-HUH.

19 Q AND YOU FOLLOWED HIM FOR PROBABLY A HALF A
20 MILE, MAYBE A LITTLE MORE THAN A HALF MILE UNTIL YOU GOT TO
21 THE STOP LIGHT AT NINTH AVENUE AND 501; IS THAT CORRECT?

22 A YES, SIR.

23 Q ALL RIGHT, AND BY THAT TIME YOU HAD RADIOED
24 IN AND YOU SAID THEY TOLD YOU THAT THE TAG WAS SUSPENDED OR
25 SOMETHING?

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

88

1 A YES, SIR.

2 Q ALL RIGHT, SO THEN AT THAT POINT IN TIME
3 YOU DECIDED TO MAKE A TRAFFIC STOP?

4 A YES, SIR, I CALLED BACK UP BEFORE I ISSUED
5 THE TRAFFIC STOP.

6 Q ALL RIGHT, WHY DID YOU CALL BACK UP FOR A
7 TRAFFIC STOP?

8 A BECAUSE MR. PINCKNEY HAD RAN FROM ME IN THE
9 PAST.

10 Q ALL RIGHT, AND SO YOU THINK THEN BACK UP
11 WAS NEEDED AT THAT POINT IN TIME?

12 A YES, SIR.

13 Q ALL RIGHT, AND YOU KNEW IT WAS MR.
14 PINCKNEY?

15 A YES, SIR.

16 Q ALL RIGHT, SO THEN WHEN THE LIGHT TURNED
17 GREEN AND YOU PULLED ACROSS 501 THAT'S WHEN YOU CLICKED ON
18 YOUR BLUE THEN AND HE PULLED RIGHT OVER?

19 A HE COULD HAVE PULLED OVER ON LEGION STREET
20 WHICH HE DIDN'T BUT HE WENT ON TO SMITH STREET AND PULLED
21 OVER.

22 Q OKAY, YOU SAY HE PULLED OVER ON SMITH
23 STREET, OFF OF SMITH STREET?

24 A YES, SIR.

25 Q OKAY, AND SO THAT'S ABOUT A BLOCK OFF OF

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

89

1 501; IS THAT RIGHT?

2 A YES, SIR.

3 Q ALL RIGHT, CLICK ON YOUR BLUE LIGHT HE
4 TURNED IN?

5 A UH-HUH.

6 Q WHO ELSE WAS IN THE VEHICLE WITH HIM?

7 A MR. DAVID GRAHAM.

8 Q ALL RIGHT, THERE WAS A PASSENGER IN THE
9 TRUCK AS WELL ---

10 A YES, SIR.

11 Q --- CORRECT?

12 A YES, SIR.

13 Q ALL RIGHT, AND THE PASSENGER IN THE TRUCK
14 THIS IS A TWO SEATER TRUCK, IT DOESN'T HAVE LIKE AN
15 EXTENDED CAB OR ANYTHING OF THAT NATURE, IT WAS JUST A TWO
16 SEATER TRUCK?

17 A NO, NO, IT WAS JUST A TWO SEATER, TO MY
18 KNOWLEDGE IT WAS A TWO SEATER.

19 Q OKAY, ALL RIGHT, AND SO THEN YOU APPROACHED
20 THE VEHICLE TO CHECK ON LICENSE AND REGISTRATION AND PROOF
21 OF INSURANCE?

22 A YES, SIR.

23 Q ALL RIGHT, AND WHEN YOU CAME TO THE TRUCK
24 YOU SAID, HEY, REGGIE, I NEED YOUR LICENSE, REGISTRATION,
25 AND PROOF OF INSURANCE?

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

90

1 A YES, SIR.

2 Q ALL RIGHT, AND DID HE PROVIDE YOU WITH
3 THOSE THREE DOCUMENTS?

4 A YES, SIR.

5 Q ALL RIGHT, AND DID YOU TAKE THOSE DOCUMENTS
6 BACK TO YOUR PATROL VEHICLE?

7 A YES, SIR.

8 Q AND HAVE TIME TO INSPECT THEM AND LOOK AT
9 THEM AND CALL THEM IN OR WHATEVER THE CASE MAY BE?

10 A YES, SIR.

11 Q ALL RIGHT, NOW DID YOU ISSUE A TICKET FOR
12 HIM FOR DRIVING WITH A SUSPENDED LICENSE TAG?

13 A NO, SIR.

14 Q ALL RIGHT, DID YOU ISSUE A TICKET TO HIM
15 FOR AN EXPIRED DRIVERS LICENSE OR NO POSSESSION OF A
16 DRIVERS LICENSE?

17 A NO, SIR.

18 MR. MEACHAM: IF YOU PLEASE, I'M GOING TO OBJECT
19 AS TO RELEVANCE, YOUR HONOR, THAT DEALS WITH ISSUE OF LAW.

20 THE COURT: WELL, MR. LONG, YOU OBJECTED EARLIER
21 ABOUT THESE MATTERS. DID YOU WANT TO GO ON FULL FORCE.
22 YOU WANT TO OPEN THE DOOR I HAVE NO PROBLEM.

23 MR. LONG: I'M ASKING HIM ABOUT TICKETS HE DID
24 NOT ISSUE.

25 THE COURT: IF YOU ASK ABOUT TICKETS HE DID NOT

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

91

1 ISSUE THAT OPENS THE DOOR TO TICKETS HE DID ISSUE, NOW YOU
2 WANT TO CONTINUE ON?

3 MR. LONG: YES, SIR, YOUR HONOR.

4 THE COURT: PROCEED ON.

5 MR. LONG: (CONTINUING)

6 Q DID YOU WRITE HIM A TICKET FOR NO PROOF OF
7 INSURANCE?

8 A NO, SIR.

9 Q ALL RIGHT, CAUSE HE GAVE YOU THE FORM.
10 WHAT IS THE LITTLE CERTIFICATE THE LAW REQUIRED?

11 A YES, SIR, HE GAVE ME THE INSURANCE PAPERS.

12 Q ALL RIGHT, AND DID HE GIVE YOU THE
13 REGISTRATION?

14 A YES, SIR.

15 Q ALL RIGHT, SO THEN WHEN YOU WENT BACK TO
16 YOUR VEHICLE YOU HAVE THOSE DOCUMENTS AND YOU DIDN'T WRITE
17 HIM A TICKET FOR NOT HAVING ANY OF THOSE DOCUMENTS,
18 CORRECT?

19 A YES, SIR.

20 Q ALL RIGHT, AND IT WAS DURING THIS TIME THAT
21 OFFICER ROBINSON, WAS IT, PULLED UP, YOUR BACKUP?

22 A OFFICER ROBINSON, BY THE TIME I INITIATED
23 THE TRAFFIC, THE STOP, OFFICER ROBINSON WAS ALREADY BEHIND
24 ME DUE TO THE FACT WE HAD TO WAIT FOR THE LIGHT TO TURN ON
25 501 AND NINTH. I HAD TO WAIT FOR THE LIGHT, OFFICER

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

92

1 ROBINSON WAS ALREADY THERE.

2 Q ALL RIGHT, SO HE GOT BEHIND YOU AT THE
3 LIGHT GOING ACROSS THE HIGHWAY TOGETHER AND YOU TURNED ON
4 THE BLUE LIGHTS AND PULLED HIM OVER?

5 A YES, SIR.

6 Q NOW WHILE YOU'RE THEN GOING TO THE WINDOW
7 OFFICER ROBINSON IS THEN STANDING AT THE FRONT OF THE
8 TRUCK?

9 A HE'S STANDING AT THE PASSENGER SIDE.

10 Q PASSENGER SIDE?

11 A YES, SIR.

12 Q ALL RIGHT, AND SO THEN WHEN YOU WENT BACK
13 TO YOUR VEHICLE THAT'S WHEN OFFICER ROBINSON THEN WENT TO
14 THE DRIVERS SIDE WINDOW?

15 A NO, SIR, THAT'S THE TIME I WAS COMING BACK
16 FROM THE WINDOW OFFICER BRADLEY WAS WALKING UP AND HE STOOD
17 IN FRONT OF YOU ---

18 Q THEN OFFICER BRADLEY PULLED UP, HE HAD HIS
19 OWN PATROL CAR, RIGHT?

20 A YES, SIR.

21 Q SO THERE WAS THREE PATROL CARS THERE?

22 A YES, SIR.

23 Q AND SO THEN OFFICER BRADLEY WENT TO THE
24 DRIVERS WINDOW AS YOU WERE GOING BACK TO YOUR VEHICLE?

25 A OFFICER BRADLEY WENT TO MY FRONT OF MY

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

93

1 VEHICLE AND STAND [SIC].

2 Q OKAY, ALL RIGHT. HOW LONG DID IT TAKE YOU
3 TO VERIFY ALL THESE DOCUMENTS THINGS OF THAT NATURE TO
4 CHECK HIS DRIVERS LICENSE, PROOF OF INSURANCE, AND
5 REGISTRATION?

6 A IT DEPENDS ON HOW LONG DISPATCH IT TAKES TO
7 DISPATCH TO GIVE IT BACK TO ME.

8 Q HOW LONG DID IT TAKE YOU THAT DAY; DO YOU
9 RECALL?

10 A IT WAS ABOUT A COUPLE OF MINUTES.

11 Q A COUPLE OF MINUTES?

12 A YEAH.

13 Q THAT MEANING TWO MINUTES?

14 A TWO, THREE MINUTES.

15 Q ALL RIGHT, AND DURING THIS TIME DID YOU SEE
16 ANY ACTIVITY IN THE TRUCK? WERE YOU KIND OF KEEPING ONE
17 EYE ON THE TRUCK WHILE YOU WERE WAITING FOR THE INFORMATION
18 OR WERE YOU WATCHING THE OTHER OFFICERS ---

19 A YES.

20 Q --- WHILE YOU WERE WAITING ON THE
21 INFORMATION OR TALKING ON THE RADIO?

22 A WATCHING THE OTHER OFFICERS.

23 Q ALL RIGHT, AND WHAT YOU SAW, I BELIEVE YOU
24 TESTIFIED, WAS OFFICER BRADLEY WENT TO THE DRIVER'S SIDE
25 DOOR; IS THAT CORRECT?

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

94

1 A CORRECT.

2 Q AND YOU SAID REGGIE WAS HOLDING LIKE A CELL
3 PHONE OR SOMETHING?

4 A HE HELD UP A CELL PHONE WAS DIRECTED TO
5 OFFICER BRADLEY TO COME TO HIM OR SOMETHING.

6 Q ALL RIGHT, HE GAVE A CELL PHONE TO OFFICER
7 BRADLEY?

8 A YES, SIR.

9 Q OKAY, DID OFFICER BRADLEY TALK ON THE CELL
10 PHONE?

11 A I THINK SO, I CAN'T REALLY SPECULATE ON
12 THAT.

13 Q AND THEN YOU SAY, I BELIEVE TESTIFIED THAT
14 OFFICER, THAT REGGIE THEN GOT OUT OF THE VEHICLE?

15 A YES, SIR, I SAW WHEN HE CAME OUT THE
16 VEHICLE.

17 Q ALL RIGHT, WAS THAT AT OFFICER BRADLEY'S
18 REQUEST OR INSTRUCTION OR DID HE JUST STEP OUT AND GET OUT?

19 A I COULD NOT HEAR THAT DUE TO I HAD THE
20 WINDOWS UP, SO I DON'T HEAR THE OUTSIDE INTERFERENCE I HAD
21 MY WINDOWS UP ON MY PATROL CAR.

22 Q OKAY, SO YOU DIDN'T HEAR, YOU DON'T KNOW?

23 A I DIDN'T HEAR HIM CALL HIM BACK.

24 Q ALL RIGHT, AND THEN WHEN HE GOT OUT OF THE
25 VEHICLE WAS OFFICER BRADLEY THEN STAYING RIGHT WITH HIM

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

95

1 TOOK HIM TO THE REAR OF THAT VEHICLE?

2 A I THINK HE CALLED HIM BACK TO HIM. I'M NOT
3 SURE BECAUSE I WAS UP AND LOOKING DOWN AT MY PAPER WORK AND
4 LOOKING BACK UP TO MAKE SURE EVERYTHING WAS ALL RIGHT AT
5 THE TIME.

6 Q YOU THINK OFFICER BRADLEY CALLED HIM BACK
7 TO HIM, CALLED REGGIE PINCKNEY BACK TO HIM?

8 A THAT'S A QUESTION YOU HAVE TO ASK HIM, I
9 DON'T KNOW.

10 Q AND SO THEN WHEN THEY GOT TO THE BACK OF
11 THE VEHICLE I BELIEVE YOU TESTIFIED THAT IT WAS JUST A
12 LITTLE BIT THEN A STRUGGLE ENSUED?

13 A YES.

14 Q ALL RIGHT, APPROXIMATELY HOW LONG WAS IT
15 FROM THE TIME THAT THEY GOT TO THE BACK OF THE VEHICLE THAT
16 THEN THE NEXT THING YOU KNOW THERE'S A STRUGGLE GOING ON?

17 A ABOUT A MINUTE OR SO.

18 Q ABOUT A MINUTE OR SO AND YOU'RE STILL
19 WAITING ON THE INFORMATION, RADIO, AND CONTACT, THINGS OF
20 THAT NATURE?

21 A YEAH, AS WELL I WAS TRYING TO CALL ON THE
22 INSURANCE COMPANY AS WELL TO MAKE SURE IT WAS INSURED.

23 Q ALL RIGHT, DID YOU WITH YOUR EYES SEE
24 OFFICER BRADLEY ATTEMPTING TO SEARCH REGGIE PINCKNEY?

25 A I OBSERVED, HE DID STARTING A PAT DOWN FOR

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

96

1 WEAPONS BUT I DIDN'T, NO, SIR.

2 Q YOU SAID HE DID START A PAT DOWN?

3 A A PAT DOWN FOR WEAPONS.

4 Q ALL RIGHT, AND YOU SAY, DID YOU OBSERVE
5 THAT PAT DOWN?

6 A I SAW A PIECE OF THE PAT DOWN THEN I
7 FIGURED HE HAD IT UNDER CONTROL AT THE TIME.

8 Q OKAY, AND APPROXIMATELY HOW LONG DID IT
9 TAKE FOR HIM TO PAT HIM DOWN FOR WEAPONS?

10 A I DON'T THINK HE GOT FINISHED.

11 Q OKAY, AND THEN WAS OFFICER, I'M SORRY, WHAT
12 WERE THE OTHER OFFICER'S NAME? DID HE STAY WITH THE
13 PASSENGER DURING ALL THIS?

14 A YES, THE PASSENGER WAS STILL IN THE
15 VEHICLE.

16 Q OKAY, AND WAS THE PASSENGER EVER ASKED TO
17 EXIT THE VEHICLE?

18 A NO, SIR, I DON'T THINK SO.

19 Q THEN WHEN YOU SAW A STRUGGLE GOING ON OR
20 WHEN YOU SAW REGGIE PINCKNEY TRYING TO BOLT, I BELIEVE YOU
21 TESTIFIED OR WHATEVER, AT THAT TIME DID YOU GET OUT OF YOUR
22 VEHICLE?

23 A YES, SIR.

24 Q ALL RIGHT, AND YOU BY THAT TIME THE TWO
25 OFFICERS ALREADY HAD REGGIE ON THE GROUND?

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

97

1 A YES, SIR.

2 Q CORRECT?

3 A UH-HUH.

4 Q DID THEY ALREADY HAVE CUFFS ON HIM AT THAT
5 TIME?

6 A I DON'T THINK THEY HAD THEM ON HIM AT THE
7 TIME. I KNOW I REACHED OVER AND GRABBED MY LEG IRONS AFTER
8 I WAS GETTING OUT THE CAR.

9 Q OKAY, BUT THEY WERE IN THE PROCESS OF
10 PUTTING THE CUFFS ON HIM?

11 A THEY WAS TRYING TO.

12 Q WHEN YOU GOT OUT OF THE VEHICLE WITH YOUR
13 LEG IRONS?

14 A TRYING TO, YES, SIR.

15 Q HOW FAR FROM THE BACK OF THE PICK-UP TRUCK,
16 WAS HE?

17 A IT WAS ABOUT FROM HERE TO THAT TABLE THERE.

18 Q ALL RIGHT, SO WOULD YOU ESTIMATE THAT TO BE
19 TWENTY-FIVE TO THIRTY FEET OR SO?

20 A COULD BE LESS.

21 Q WOULD THAT BE ABOUT 10 YARDS ON A FOOTBALL
22 FIELD?

23 A NO.

24 Q LESS THAN THAT?

25 A I SAY ABOUT LESS THAN 10 YARDS.

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

98

1 Q OKAY, AND THEN YOU JUST TESTIFIED THAT YOU
2 SAW BRADLEY HAND SOMETHING FROM REGGIE'S JACKET TO YOU; IS
3 THAT CORRECT?

4 A JACKET, YES, SIR.

5 Q ALL RIGHT, AND THAT'S WHAT YOU THEN PUT IN
6 A BEST EVIDENCE KIT?

7 A YES, SIR.

8 Q THAT YOU SUSPECTED TO BE CRACK COCAINE; IS
9 THAT RIGHT?

10 A YES, SIR.

11 Q AND DID YOU TAKE THE CELL PHONE INTO
12 CUSTODY?

13 A YES, SIR, THERE WAS A CELL PHONE IN
14 CUSTODY.

15 Q AND THAT WAS LATER RETURNED TO REGGIE?

16 A YES, SIR, FROM MY UNDERSTANDING.

17 Q AND THE LIGHTER AND THE SCALES DO YOU KNOW
18 WHERE THE SCALES WERE TAKEN FROM?

19 A FROM THE TRUCK.

20 Q ALL RIGHT, DO YOU KNOW WHERE IN THE TRUCK,
21 WHO TOOK THOSE, BRADLEY?

22 A OFFICER BRADLEY TOOK THOSE OUT THE TRUCK.

23 Q SO HE WOULD HAVE TO BE THE ONE TO TESTIFY
24 WHERE THEY CAME FROM IN THE TRUCK?

25 A YES, SIR.

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

99

1 Q WERE FINGERPRINTS TAKEN OFF OF THE SCALES?

2 A I'M NOT SURE, SIR.

3 Q WELL WHO WOULD HAVE REQUESTED ---

4 A I CAN'T TESTIFY TO THAT.

5 Q --- THAT?

6 A THE EVIDENCE CLERK.

7 Q THE EVIDENCE CLERK WOULD?

8 A YEAH.

9 Q ALL RIGHT, BUT WHO WOULD REQUEST THE
10 EVIDENCE CLERK?

11 A I WOULD.

12 Q PARDON?

13 A I WOULD.

14 Q ALL RIGHT, AND DID YOU REQUEST THE EVIDENCE
15 CLERK ---

16 A NO, SIR.

17 Q --- FINGERPRINTS TO BE TAKEN FROM IT?

18 A NO, SIR.

19 Q ALL RIGHT, THAT SCALE IS THAT A SUFFICIENT
20 SURFACE FOR THE TAKING OF FINGERPRINTS?

21 A YES, SIR, COULD BE.

22 Q ALL RIGHT, AND NOT ONLY ---

23 MR. MEACHAM: OBJECTION, I DON'T THINK HE WOULD
24 BE QUALIFIED TO TESTIFY TO THAT, YOUR HONOR, IN TERMS OF
25 ANALYSIS.

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

100

1 THE COURT: YOU KNOW ANYTHING ABOUT
2 FINGERPRINTS? HAVE YOU EVER TAKEN FINGERPRINTS, OFFICER?

3 A HAVE I EVER TAKEN THEM, YES, SIR.

4 THE COURT: I'LL LET HIM TESTIFY TO THAT.

5 MR. LONG: (CONTINUING)

6 Q THE OUTSIDE SURFACES OF THIS SCALE ---

7 A YES, SIR.

8 Q I'M TALKING ABOUT ALL THE OUTSIDE SURFACES.
9 IS THAT A SUFFICIENT SURFACE FOR OBTAINING A DECENT QUALITY
10 FINGERPRINT?

11 A IT COULD BE.

12 Q ALL RIGHT, AND IT'S PLASTIC BUT IT'S NOT A
13 ROUGH PLASTIC, IS IT?

14 A YES, SIR.

15 Q NOW THE INSIDE SURFACE OF THIS, WHICH LOOKS
16 TO HAVE A BUNCH OF FINGERPRINTS ON THAT, WAS ANY, WOULD
17 THAT, WOULD THERE BE ANY PROBLEM TAKING PRINTS OFF OF THAT?

18 A COULD BE AND COULD NOT BE.

19 Q ALL RIGHT, THAT'S A STAINLESS STEEL
20 SURFACE?

21 A YEAH, STAINLESS STEEL SHOULDN'T BE A
22 PROBLEM.

23 Q ALL RIGHT, DO YOU SEE FINGERPRINTS ALL OVER
24 THAT?

25 A YES, SIR.

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG 101

1 Q ALL RIGHT, SO THERE SHOULD NOT BE ANY
2 PROBLEM WITH THAT?

3 A NO, SIR, SHOULDN'T BE.

4 Q BUT THEY WEREN'T EVER TAKEN; IS THAT
5 CORRECT?

6 A NO, SIR.

7 Q NEVER REQUESTED. WHICH OF THE THREE PATROL
8 VEHICLES HAD A VIDEO CAMERA OPERATING ON THAT DAY?

9 A NEITHER.

10 Q NEITHER OF THE THREE?

11 A NO, SIR.

12 Q ALL RIGHT, DOES YOUR PATROL VEHICLE HAVE A
13 VIDEO CAMERA?

14 A NO, SIR.

15 Q ALL RIGHT, DID OFFICER BRADLEY'S VEHICLE
16 HAVE A PATROL CAMERA?

17 A NO, SIR.

18 Q ALL RIGHT, DID OFFICER, THE OTHER OFFICER'S
19 NAME?

20 MR. MEACHAM: ROBINSON.

21 MR. LONG: ROBINS?

22 MR. MEACHAM: ROBINSON.

23 MR. LONG: (CONTINUING)

24 Q ROBINSON, DID HIS VEHICLE HAVE ---

25 A NO, SIR.

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

102

1 Q --- A VIDEO CAMERA, HOW MANY PATROL
2 VEHICLES OF THE CITY OF CONWAY, IF YOU KNOW, DO HAVE
3 CAMERAS?

4 A THE MAJORITY OF THEM.

5 Q THE MAJORITY?

6 A YES, SIR.

7 Q ALL RIGHT, AND EACH OF YOUR THREE VEHICLES
8 DID NOT?

9 A NO, SIR.

10 Q YOUR JOB I'M ASSUMING IS TO COLLECT ALL
11 EVIDENCE AT THE SCENE?

12 A YES, SIR.

13 Q ALL RIGHT, AND IN THE EVIDENCE THAT YOU
14 COLLECT AT THE SCENE WHETHER IT BE HANDED TO YOU FROM
15 ANOTHER OFFICER OR IF YOU IN FACT GO AND GET IT YOURSELF
16 THEN IT'S YOUR RESPONSIBILITY TO HOLD ON TO THAT, SAFE KEEP
17 IT, AND TAKE IT TO THE EVIDENCE ---

18 A YES, SIR.

19 Q --- CUSTODIAN AT THE CITY OF CONWAY?

20 A YES, SIR.

21 Q ALL RIGHT, SO WHAT WAS PURPORTED TO BE
22 CRACK COCAINE, A SCALE, A LIGHTER WAS TAKEN BY YOU; IS THAT
23 CORRECT?

24 A YES, SIR.

25 Q ALL RIGHT, WAS THERE EVER ANY CORNER OF A

OFFICER WILLIAMS - CROSS EXAMINATION BY MR. LONG

103

1 PLASTIC BAGGY GIVEN TO YOU OR TAKEN INTO EVIDENCE BY YOU?

2 A I DON'T RECALL IT BUT IT COULD HAVE BEEN, I
3 DON'T REMEMBER.

4 Q ALL RIGHT, DO YOU HAVE YOUR NOTES AND YOUR
5 CHAIN OF CUSTODY DOCUMENTS, THINGS OF THAT NATURE THAT YOU
6 CAN REVIEW?

7 A YES, SIR.

8 Q CAN YOU REVIEW THOSE AND TELL ME IF YOU
9 EVER TOOK A CORNER OF A PLASTIC BAGGY INTO EVIDENCE?

10 A I HAVE IT IN MY REPORT A LITTLE TORN
11 PLASTIC BAG.

12 Q PARDON ME?

13 A THE CORNER OF A PLASTIC BAG.

14 Q CORNER OF A PLASTIC BAGGY, ALL RIGHT, AND
15 WHERE IS THAT CORNER OF A PLASTIC BAGGY?

16 A I COULDN'T EVEN TELL YOU AT THIS TIME.

17 Q ALL RIGHT, HAVE YOU SEEN IT SINCE THAT
18 TIME?

19 A NO, SIR.

20 Q AND WHAT DID YOU DO WITH THAT CORNER OF A
21 PLASTIC BAGGY?

22 A I DON'T HAVE A KNOWLEDGE OF IT BEING GIVEN
23 TO ME.

24 Q YOU DON'T RECALL IT BEING GIVEN TO YOU?

25 A NOT AT THE TIME, NO.

OFFICER WILLIAMS - REDIRECT EXAMINATION BY MR. MEACHAM 104

1 Q ALL RIGHT, AND YOU, OF COURSE, THEN DIDN'T
2 TURN IT OVER TO AN EVIDENCE CUSTODIAN?

3 A NO, I COULDN'T TURN SOMETHING IN I DIDN'T
4 HAVE AT THE TIME.

5 Q ALL RIGHT, FAIR ENOUGH?

6 MR. LONG: THANK YOU, SIR, NO FURTHER QUESTIONS.

7 THE COURT: REDIRECT?

8 REDIRECT EXAMINATION

9 BY MR. MEACHAM:

10 Q OFFICER WILLIAMS, YOU DID NOT WRITE A
11 TICKET FOR THE LICENSE TAG?

12 A NO, SIR.

13 Q ALL RIGHT, DID YOU WRITE ANY OTHER TICKETS?

14 THE COURT: ANY TICKETS FOR TRAFFIC MATTERS,
15 SIR, TRAFFIC MATTERS?

16 A NO, SIR.

17 MR. MEACHAM: (CONTINUING)

18 Q DID YOU WRITE TICKETS, YOU DID WRITE A
19 TICKET FOR ---

20 A DISOBEYING.

21 MR. MEACHAM: OKAY, THANK YOU, THAT'S ALL I
22 HAVE.

23 THE COURT: OKAY, YOU MAY STEP DOWN. OKAY, NEXT
24 WITNESS, PLEASE?

25 MR. MEACHAM: MAY IT PLEASE THE COURT, WE'D CALL

DETECTIVE BRADLEY - DIRECT EXAMINATION BY MR. MEACHAM 105

1 ROBERT BRADLEY.

2 THE COURT: COME AROUND, MR. BRADLEY.

3 MR. MEACHAM: IF YOUR HONOR PLEASE WITH
4 PERMISSION OF THE COURT ---

5 THE COURT: ANY OBJECTION TO OFFICER BEING
6 EXCUSED SUBJECT TO RECALL?

7 MR. LONG: SUBJECT TO RECALL, YOUR HONOR, JUST
8 DON'T GO TOO FAR AWAY.

9 THE COURT: CONWAY IS NOT TOO FAR AWAY, IS IT,
10 OFFICER?

11 OFFICER WILLIAMS: NO, SIR.

12 THE COURT: OKAY, JUST BE AROUND WE MAY NEED TO
13 CALL YOU, OKAY, SIR.

14 DETECTIVE ROBERT BRADLEY

15 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

16 MADAM CLERK: STATE YOUR NAME FOR THE COURT.

17 THE WITNESS: ROBERT BRADLEY, LAST NAME IS B-R-
18 A-D-L-E-Y.

19 THE COURT: ALL RIGHT, MR. MEACHAM.

20 DIRECT EXAMINATION

21 BY MR. MEACHAM:

22 Q OFFICER BRADLEY, YOU WORK WITH THE CONWAY
23 POLICE DEPARTMENT?

24 A YES, SIR, I DO.

25 Q WERE YOU WORKING WITH THE CONWAY POLICE

DETECTIVE BRADLEY -- DIRECT EXAMINATION BY MR. MEACHAM 106

1 DEPARTMENT ON FEBRUARY 23RD, 2005?

2 A YES, SIR, I WAS.

3 Q YOU WERE INVOLVED IN THE ARREST AND
4 APPREHENSION OF REGGIE PINCKNEY?

5 A YES, SIR, I WAS.

6 Q CAN YOU TELL US THE CIRCUMSTANCES UNDER
7 WHICH YOU WERE INVOLVED IN THAT?

8 A I WAS AT MY SATELLITE STATION WHICH IS OFF
9 OF RACEPATH AND NORTON. I HEARD THE TRAFFIC STOP THAT
10 OFFICER WILLIAMS HAD CALLED OUT AND DECIDED TO GO TO HIM.

11 Q OKAY.

12 A ALL RIGHT.

13 Q NOW WHY AT A TRAFFIC STOP WOULD YOU HAVE A
14 BACK UP?

15 A WELL IT'S JUST AN OFFICER SAFETY ISSUE AND
16 WE WERE ALL ATTACHED TO THE COPS NARCOTICS TEAM AND WE
17 OPERATE AS A GROUP JUST FOR THE SIMPLE REASON AND THE
18 NATURE OF WHAT WE DO CAUSE WE'RE OUT THERE ON THE STREET.
19 WE'RE AFTER VIOLATORS, DRUG NARCOTICS, OR JUST DOING NORMAL
20 TRAFFIC STOPS AND TRAFFIC STOP IS ONE OF THE MOST DANGEROUS
21 THINGS THAT AN OFFICER CAN DO CAUSE MORE OFFICERS HAVE BEEN
22 KILLED DURING TRAFFIC STOPS OR INJURED.

23 Q ALL RIGHT, NOW WHAT TIME WAS IT WHEN
24 OFFICER WILLIAMS CONTACTED YOU?

25 A IT WAS APPROXIMATELY I HEARD THE CALL GO

DETECTIVE BRADLEY - DIRECT EXAMINATION BY MR. MEACHAM 107

1 OUT A LITTLE BIT AFTER 1:00.

2 Q SO WHAT DID YOU DO?

3 A I GOT IN MY PATROL CAR AND WENT TO THE
4 SCENE OF THE TRAFFIC STOP.

5 Q ALL RIGHT, THEN WHAT DID YOU DO? TELL US
6 WHAT YOU SAW WHEN YOU GOT TO THE SCENE OF THE TRAFFIC STOP?

7 A I PULLED UP, I SAW A BLUE PICK UP TRUCK
8 PARKED ON SMITH STREET. I SAW OFFICER WILLIAMS CAR BEHIND
9 IT AND BEHIND HIM WAS OFFICER ROBINSON'S. I PULLED MY
10 VEHICLE UP BEHIND OFFICER ROBINSON'S AND I LOOKED OVER, I
11 SAW OFFICER ROBINSON UP BY THE PASSENGER DOOR OF THE
12 VEHICLE AND THEN I SAW OFFICER WILLIAMS AT THE DRIVERS DOOR
13 OF THE VEHICLE.

14 Q ALL RIGHT, THEN WHAT DID YOU DO?

15 A I GOT OUT AND WALKED UP TO OFFICER WILLIAMS
16 PATROL CAR AS HE WAS COMING BACK AND I STOOD AT THE FRONT
17 RIGHT CORNER OF THE VEHICLE, ALREADY HAD AN OFFICER UP
18 THERE AT THE PASSENGER DOOR AND IT WAS OFFICER WILLIAMS
19 TRAFFIC STOP SO I JUST MAINTAINED THE POSITION THERE TO
20 OBSERVE.

21 Q ALL RIGHT, SO WHAT DID YOU DO, WHAT
22 HAPPENED?

23 A I WAS STANDING THERE AND MR. PINCKNEY
24 STARTED WAVING A CELL PHONE OUT, OUT OF THE VEHICLE DOOR
25 CALLING ME FORWARD. I WENT FORWARD TO THE VEHICLE AND HE

DETECTIVE BRADLEY - DIRECT EXAMINATION BY MR. MEACHAM 108

1 SAID HERE, HERE'S THE CELL PHONE IT'S THE OWNER OF THE
2 VEHICLE. I STARTED TALKING ON THE CELL PHONE. IN THE
3 PROCESS OF TALKING ON THE CELL PHONE THE VEHICLE DOOR WAS
4 OPEN AND LAYING DOWN ON THE FLOOR BOARD OF THE VEHICLE WAS
5 A SMALL TORN PIECE OF BAGGY. IT HAD A KNOT IN IT, AND IN
6 MY EXPERIENCE ---

7 Q HOW LONG HAVE YOU BEEN WORKING IN LAW
8 ENFORCEMENT?

9 A I'VE BEEN SIX YEARS, SIR.

10 Q ALL RIGHT, AND, AND HOW LONG HAVE YOU BEEN
11 WORKING NARCOTICS?

12 A I HAVE BEEN THE CANINE OFFICER FOR THE LAST
13 FOUR YEARS.

14 Q WHAT DOES A CANINE OFFICER MEAN?

15 A I WORK THE DRUG NARCOTICS DOG, ALSO
16 EVIDENCE RECOVERY ANIMAL.

17 Q HOW MANY DRUG ARRESTS HAVE YOU MADE?

18 A NUMEROUS, SIR.

19 Q IN TERMS OF NUMEROUS WHAT DO YOU MEAN BY
20 THAT?

21 A IN THE HUNDREDS AT LEAST.

22 Q ALL RIGHT, AND WHEN YOU SAW, YOU SAW WHAT
23 IN THE CAR?

24 A I SAW A TORN OFF BAGGY, LIKE THE CORNER OF
25 A GLAD BAG AND IT HAD A KNOT IN IT AND THE END OF IT WAS

DETECTIVE BRADLEY - DIRECT EXAMINATION BY MR. MEACHAM 109

1 PARTIALLY THERE BUT IT WAS A HOLE HAD BEEN RIPPED INTO IT.
2 IN MY EXPERIENCE THAT WHEN I SEE AN ITEM LIKE THAT IT, IT
3 TELLS ME THAT DRUG NARCOTICS ARE BEING USED OR KEPT INSIDE
4 OF IT. I REACHED DOWN AND I PICKED IT UP AND SET IT ON THE
5 ROOF OF THE VEHICLE, ALL RIGHT, HANDED THE PHONE BACK TO
6 MR. PINCKNEY AND I SAID, "MR. PINCKNEY, WOULD YOU STEP BACK
7 TO THE REAR OF THE VEHICLE WITH ME?" AS I SAID THAT I
8 STARTED WALKING BACKWARDS. THE NATURE OF WHAT WE DO YOU
9 WALK BACKWARDS TO MAINTAIN A VISUAL CONTACT ON THE PERSON
10 THAT'S GETTING OUT OF THE VEHICLE SO IF THEY MAKE ANY
11 SUDDEN MOVEMENTS OR YOU CAN REACT TO IT. AS HE DID AS HE
12 WAS GETTING OUT OF THE VEHICLE AND I WALKED TO THE REAR OF
13 THE VEHICLE BACKED UP AND I STOOD THERE AND OBSERVED HIM,
14 HE WAS APPROACHING ME BUT AT THE TIME HE WAS TOUCHING HIS
15 SIDE.

16 Q ALL RIGHT, COULD YOU STAND UP AND
17 DEMONSTRATE HOW HE WAS TOUCHING HIS SIDE?

18 A YES, SIR, HE WAS REACHING DOWN HERE
19 TOUCHING IN THIS AREA RIGHT IN HERE JUST LIKE THAT.

20 THE COURT: LET THE RECORD REFLECT THAT HE'S
21 SAYING THAT HE WAS USING HIS RIGHT HAND TO TOUCH THE RIGHT
22 SIDE OF HIS LEG.

23 A YES, SIR, RIGHT IN HERE.

24 THE COURT: THE POCKET AREA OF HIS LEG.

25 A JUST RIGHT UP HERE ON THE WAIST ---

DETECTIVE BRADLEY - DIRECT EXAMINATION BY MR. MEACHAM 110

1 THE COURT: PANTS POCKET AREA UPPER WAIST.

2 A WAIST POCKET AREA.

3 THE COURT: OKAY.

4 THE WITNESS: (CONTINUING)

5 A ALL RIGHT, YOU CAN OBSERVE THIS WITH POLICE
6 OFFICERS IF THEY HAVE AN ITEM LIKE OUR WEAPON WHEN WE SIT
7 THERE AND TALK YOU SEE AN OFFICER UNCONSCIOUSLY, AND IT'S
8 AN UNCONSCIOUS THING, WE SET OUR HAND ON OUR WEAPON OR
9 WE'LL TOUCH THE WEAPON. MY CONCERN, AND THAT GOES TO THE
10 SAME FOR EVERYBODY, IF THEY HAVE, SAY YOU HAVE A LARGE SUM
11 OF MONEY IN YOUR POCKET YOU WANT TO, YOU CONSTANTLY AND
12 IT'S JUST TOUCHING TO MAKE SURE IT'S THERE. I SAW HIM
13 TOUCHING THAT AREA AND MY CONCERN WAS THAT HE HAD A WEAPON
14 THERE IN THAT AREA SO I DREW HIM BACK TO ME AND I WAS
15 TALKING TO HIM, I SAID, "REGGIE, DO YOU HAVE ANYTHING
16 THAT'S GOING TO CUT ME, STICK ME, BLOW ME UP?" AND HE SAID,
17 HE STAMMERED NO. I THEN I SAYS WELL I'M GOING TO PAT YOU
18 DOWN FOR YOUR SAFETY AND MINE. I STARTED PATTING HIM DOWN.
19 I HIT HIS WAIST AREA, THERE WAS NOTHING THERE, RAN MY HAND
20 DOWN TO ---

21 Q OFFICER, IF YOU COULD STAND UP AND COME
22 AROUND?

23 A SORRY. I RAN MY HAND ACROSS THIS AREA
24 HERE, THE AREA HE WAS TOUCHING, THEN RAN MY HAND DOWN INTO
25 HIS POCKET. WHEN I HIT HIS POCKET THERE WAS A LUMP THERE.

DETECTIVE BRADLEY - DIRECT EXAMINATION BY MR. MEACHAM 111

1 YOU COULDN'T REALLY TELL WHAT IT WAS THROUGH THE POCKET
2 AREA, IT WAS JUST A HARD OBJECT. I ASKED HIM, I SAYS, MR.
3 PINCKNEY, REGGIE, CAN I LOOK, WELL FIRST I SAID, REGGIE,
4 WHAT IS THAT IN YOUR POCKET, HE KIND OF STAMMERED
5 SOMETHING. I SAYS DO YOU MIND IF I LOOK, HE SAID, GO
6 AHEAD. I REACHED INTO HIS POCKET, PULLED IT OUT AND IT WAS
7 SOME MONEY AND A LIGHTER.

8 Q IN TERMS OF MONEY WHAT AMOUNT AT THAT TIME
9 DO YOU --

10 A SEVERAL BILLS THAT WERE CRUMPLED UP.

11 Q ALL RIGHT?

12 A ALL RIGHT, AND THEN I STARTED TO PUT THE
13 ITEMS BACK IN HIS POCKET AND HIS BODY DROPPED. IF YOU EVER
14 SEE A FOOTBALL PLAYER BEFORE THEY START TO RUN THEY'LL SIT
15 UP THERE AND THEY'LL DROP INTO A CROUCH AND THEN THEY'LL
16 TAKE OFF. IT'S JUST LIKE ANY ATHLETE OR ANYBODY WILL DO
17 THAT, IT'S JUST, HE, HE DROPPED DOWN LIKE THAT. I TOLD
18 HIM, REGGIE, STOP AND HE TOOK OFF THIS WAY. WHEN HE DID I
19 GRABBED HOLD OF HIM AND THEN HE CONTINUED TO GO, I SAID,
20 "REGGIE, STOP." THAT'S WHEN OFFICER ROBINSON WAS THERE AND
21 I TOOK HIM AND PUSHED HIM INTO OFFICER ROBINSON. OFFICER
22 ROBINSON GRABBED HIM AND KIND OF LIKE A BEAR HUG AND THEN
23 WENT TO THE GROUND FELL OVER BACKWARDS. MR. PINCKNEY
24 FLIPPED OVER OFFICER ROBINSON AND THEN I JUMPED ON TOP OF
25 REGGIE, TOOK CONTROL OF HIS LEFT ARM AND PUT A ARM BAR LOCK

DETECTIVE BRADLEY - DIRECT EXAMINATION BY MR. MEACHAM 112

1 BEHIND HIS BACK AND THE WHOLE TIME THAT WE WERE DOING THIS
2 REGGIE WAS CONTINUING TO STRUGGLE.. SO WE EVENTUALLY
3 MANAGED TO GET HIM CUFFED AND I REMEMBER OFFICER WILLIAMS
4 HERE DURING THE COURSE OF THAT I HAD TURNED TO LOOK BACK
5 OVER MY SHOULDER BECAUSE THERE WAS ALSO A PASSENGER IN THE
6 VEHICLE AND I LOOKED AT HIM AND HE WAS WALKING AWAY. I
7 TOLD HIM TO STOP AND COME BACK BUT OBVIOUSLY I HAD MY HANDS
8 FULL AND I COULDN'T CONTINUE CUFFING MR. PINCKNEY AND GO
9 CHASE AFTER THIS GUY THAT LEFT THE AREA.

10 Q THEN WHAT HAPPENED?

11 A WE HAD HIM HANDCUFFED, WE HAD HIM SECURED,
12 AND I WENT BACK STARTED SEARCHING HIM AND I FELT A LUMP IN
13 THE INSIDE OF HIS POCKET.

14 Q CAN YOU STAND UP AND DEMONSTRATE WHERE?

15 A I FELT THE LUMP RIGHT HERE ON THE INSIDE OF
16 HIS POCKET SO I REACHED DOWN INTO IT INTO THE POCKET AND
17 THE LUMP WAS ON THE INSIDE OF HIS PANTS AND I GRABBED HOLD
18 OF IT AND PULLED HIS POCKET INSIDE OUT. ALL RIGHT, WHEN I
19 DID THAT I COULDN'T GET TO IT SO I CUT THE POCKET OFF WITH
20 MY POCKET KNIFE AND I FOUND A WHITE ROCK LIKE SUBSTANCE
21 BELIEVED TO BE CRACK COCAINE.

22 Q I WANT TO SHOW YOU WHAT HAS PREVIOUSLY BEEN
23 MARKED AS STATE'S EXHIBIT 1. IS THAT THE ITEM THAT YOU
24 FOUND THAT NIGHT, SIMILAR TO THE ITEM YOU FOUND THAT NIGHT?

25 A YES, IT IS.

DETECTIVE BRADLEY - DIRECT EXAMINATION BY MR. MEACHAM 113

1 Q ALL RIGHT, AND WHAT DID YOU DO WITH THAT
2 AFTER YOU RETRIEVED THAT, WHAT, HOW WAS IT FOUND ON MR.
3 PINCKNEY?

4 A IT WAS FOUND ON THE IN, AFTER I CUT IT OFF
5 I HANDED IT TO OFFICER WILLIAMS. EVERYTHING WAS FLUID AND
6 SOMETIMES THINGS GET MIXED UP, HE WAS ALSO ON THE COURSE OF
7 GETTING HANDCUFFED, HE WAS SITTING ON THE GROUND AND HE WAS
8 REACHING HIS HANDS -- IF I MIGHT?

9 Q YES, SIR.

10 A --- REACHING HIS HANDS WHEN HE WAS CUFFED
11 INTO THE REAR OF HIS PANTS LIKE THIS.

12 Q WHAT DID THAT INDICATE TO YOU AS A LAW
13 ENFORCEMENT OFFICER? WHY DID THAT CONCERN YOU AS A LAW
14 ENFORCEMENT OFFICER?

15 A WELL THERE COULD POSSIBLY BE A WEAPON OR
16 THERE'S AN ITEM OF CONCERN. PEOPLE SOMETIMES WILL PUT
17 HANDCUFF KEYS BACK THERE OR A WEAPON AND I JUST WANTED TO
18 MAKE SURE. WHEN I DID I REACHED DOWN INTO IT I GRABBED MY
19 HAND UP THE CROUCH AREA AND FELT A LUMP RIGHT AT THE
20 BUTTOCKS THAT I REACHED DOWN PULLED THAT OUT.

21 MR. LONG: YOUR HONOR, I'M GOING TO OBJECT AT
22 THIS POINT.

23 THE COURT: WELL COME APPROACH.

24 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
25 RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING

DETECTIVE BRADLEY - DIRECT EXAMINATION BY MR. MEACHAM 114

1 OF THE JURY AND THE COURT REPORTER.)

2 MR. MEACHAM: (CONTINUING)

3 Q ALL RIGHT, WHAT DID YOU FIND AT THAT POINT
4 WHERE?

5 A I PULLED FROM HIS BUTTOCKS I REACHED INTO
6 THE REAR AND PULLED OUT A QUANTITY OF GREEN LEAFY SUBSTANCE
7 BELIEVED TO BE MARIJUANA.

8 MR. LONG: YOUR HONOR, WE WOULD JUST HAVE A
9 CONTINUING OBJECTION.

10 THE COURT: OKAY, NOTED AND OVERRULED AT THIS
11 TIME BASED ON THE FOUNDATIONAL QUESTIONS THAT ARE ASKED.

12 (WHEREUPON, STATE'S EXHIBIT NUMBER 4 MARKED FOR
13 IDENTIFICATION.)

14 MR. MEACHAM: (CONTINUING)

15 Q NOW IN WHAT CONSISTENCY OR HOW WAS THE ITEM
16 RETRIEVED FROM, HOW DID YOU GET THE ITEM?

17 A I HAD FELT IT WHEN I RAN MY HAND UP THE
18 BACK OF HIS CROTCH AT HIS BUTTOCKS AREA AND FELT A LUMP.
19 WHEN I DID THAT HE TIGHTENED HIS BUTTOCKS.

20 Q WAS IT IN A PLASTIC BAGGY?

21 A YES, SIR, IT WAS IN THAT BAGGY THERE.

22 Q I'M GOING TO SHOW YOU WHAT HAS PREVIOUSLY
23 BEEN MARKED AS STATE'S EXHIBIT 4 FOR IDENTIFICATION
24 PURPOSES; CAN YOU TELL ME WHAT THAT IS?

25 A YES, SIR, IT IS A BAGGY CONTAINING A GREEN

DETECTIVE BRADLEY - DIRECT EXAMINATION BY MR. MEACHAM 115

1 LEAFY SUBSTANCE BELIEVED TO BE MARIJUANA WHICH IS THE ITEM
2 THAT I REMOVED FROM HIS BUTTOCKS AREA FROM THE REAR.

3 Q WHAT DID YOU DO WITH THAT ITEM?

4 A I HANDED THIS TO OFFICER WILLIAMS.

5 Q THANK YOU. NOW HAD YOU PREVIOUSLY OBTAINED
6 POSSESSION OF THE ITEM THAT YOU CUT OUT THE POCKET?

7 A YES, SIR.

8 Q LET ME SHOW YOU WHAT'S PREVIOUSLY BEEN
9 MARKED AS STATE'S EXHIBIT 1. IN WHAT CONSISTENCY AND WHAT
10 FORM WAS IT IN HIS POCKET, IN THE BAGGY?

11 A YES, SIR, IT WAS CONTAINED IN A BAGGY.

12 Q OKAY, AND WHO DID YOU TURN THAT OVER TO
13 THAT MORNING?

14 A OFFICER WILLIAMS.

15 Q WHAT ELSE DID YOU, WHAT ELSE HAPPENED AFTER
16 THAT?

17 A WELL HE HAD KIND OF SITTING IN A SITTING
18 POSITION WHERE WE WERE ALL KIND OF OUT OF BREATH AFTER ALL
19 OF THIS AND I OBSERVED A QUANTITY OF MONEY IN THE INSIDE OF
20 HIS LEFT JACKET POCKET.

21 (WHEREUPON, STATE'S EXHIBIT NUMBER 5 MARKED FOR
22 IDENTIFICATION.)

23 MR. MEACHAM: (CONTINUING)

24 Q CAN YOU STAND FOR THE JURY AND SHOW US
25 WHERE ---

DETECTIVE BRADLEY - DIRECT EXAMINATION BY MR. MEACHAM 116

1 THE COURT: WELL, I'M SORRY, MADAM COURT
2 REPORTER, HAVE YOU FINISHED? LET HER FINISH.

3 MR. MEACHAM: (CONTINUING)

4 Q CAN YOU STAND FOR THE JURY AND SHOW US
5 WHERE YOU FOUND THE MONEY?

6 A YES, HE WAS, IT WOULD HAVE BEEN RIGHT HERE.

7 THE COURT: OKAY, RIGHT HERE MEANS WHAT SO SHE
8 WILL PUT THAT IN.

9 A RIGHT ON THE INSIDE OF THE LAPEL.

10 THE COURT: OF THE LEFT HAND SIDE OF THIS?

11 A LEFT HAND SIDE OF THE JACKET, SIR.

12 THE COURT: OKAY.

13 Q WERE THERE OTHER ITEMS THAT YOU RETRIEVED
14 THAT NIGHT?

15 A YES, SIR, THERE WAS.

16 Q I'M GOING TO SHOW YOU WHAT HAS PREVIOUSLY
17 BEEN ADMITTED AS STATE'S EXHIBIT 2. CAN YOU TELL THE JURY
18 WHAT THAT IS AND WHERE YOU FOUND IT?

19 A IT'S A SET OF DIGITAL SCALES.

20 Q WHERE DID YOU FIND THAT?

21 A I FOUND IT ON THE INSIDE OF THE VEHICLE IN
22 THE LITTLE CONSOLE IN BETWEEN THE SEATS.

23 Q AND I'M GOING TO SHOW YOU WHAT HAS
24 PREVIOUSLY BEEN ADMITTED AS STATE'S EXHIBIT 3. CAN YOU
25 TELL THE JURY WHAT THAT IS AND WHERE YOU FOUND IT?

DETECTIVE BRADLEY - DIRECT EXAMINATION BY MR.. MEACHAM 117

1 A THAT WAS THE LIGHTER THAT WAS ON THE INSIDE
2 OF HIS POCKET ALONG WITH THE MONEY WHEN I GRABBED HOLD I
3 ASKED HIM WHAT IT WAS AND HE SAID HE WASN'T SURE.

4 Q NOW YOU'VE BEEN INVOLVED IN NARCOTICS, HOW
5 LONG IN NARCOTICS?

6 A THROUGH MY WHOLE POLICE CAREER BUT THE
7 MAJORITY OF IT WAS WORKING WITH THE CANINE "BEAR BEAR".

8 Q IN YOUR EXPERIENCE WITH CRACK COCAINE HOW
9 IS THAT CONSUMED?.

10 A IT IS SMOKED THROUGH A PIPE UTILIZING A
11 LIGHTER AND THE REASON IT'S CALLED CRACK COCAINE IS IT
12 MAKES A POPPING SOUND WHEN IT'S SMOKED.

13 Q IN YOUR EXPERIENCE IN NARCOTICS CAN YOU
14 TELL ME SOMETHING ABOUT THOSE SCALES?

15 A THEY'RE USED TO SUB DIVIDE. IF YOU LOOK AT
16 THE CRACK COCAINE, OR SUPPOSEDLY CRACK COCAINE, THAT WAS
17 RECOVERED YOU CAN SEE IT'S IN A BIG BLOCK AND THEY WILL
18 BREAK PIECES OFF OF IT USUALLY WHAT THEY CALL A TWENTY ROCK
19 AND THEY WILL USE THE SCALES TO WEIGH THAT.

20 Q OKAY, CAN YOU TAKE, DID YOU COUNT THE MONEY
21 THAT NIGHT?

22 A YES, I DID.

23 Q AND WHAT WAS THE TOTAL AMOUNT OF THE MONEY?

24 A IT WAS A QUANTITY OF \$4,675.

25 Q YOU TAKE A PHOTO -- DID YOU ALSO RETRIEVE A

DETECTIVE BRADLEY - DIRECT EXAMINATION BY MR. MEACHAM 118

1 CELL PHONE?

2 A YES, SIR, I DID.

3 Q DID YOU TAKE A PHOTOGRAPH OF THE MONEY, THE
4 ITEMS RETRIEVED THAT NIGHT?

5 A YES, SIR, I DID.

6 Q OKAY, I'M GOING TO SHOW YOU WHAT HAS BEEN
7 MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT 5?

8 A YES, SIR.

9 Q IS THAT THE PHOTOGRAPH OF THE MONEY AND THE
10 ITEMS RETRIEVED THAT NIGHT?

11 A YES, SIR.

12 MR. MEACHAM: MAY IT PLEASE THE COURT WE WOULD
13 MOVE TO INTRODUCE THE PHOTOGRAPH --

14 Q (CONTINUING) WAS THIS TAKEN BY YOU?

15 A YES, IT WAS, I CARRY A DIGITAL CAMERA WITH
16 ME.

17 MR. MEACHAM: MAY IT PLEASE THE COURT WE WOULD
18 MOVE TO INTRODUCE THE PHOTOGRAPH IN EVIDENCE.

19 MR. LONG: GENERAL OBJECTION, YOUR HONOR.

20 THE COURT: OKAY, OVERRULED, IT'S MARKED AS
21 WHAT?

22 MR. MEACHAM: AS STATE'S EXHIBIT 5.

23 THE COURT: DO YOU NEED TO ERASE ANYTHING OFF
24 IT, MADAM COURT REPORTER? STATE'S 5 IS IN EVIDENCE, YOU
25 MAY PUBLISH IF YOU WISH.

DETECTIVE BRADLEY - DIRECT EXAMINATION BY MR. MEACHAM 119

1 (WHEREUPON, STATE'S EXHIBIT NUMBER 5 ENTERED INTO
2 EVIDENCE.)

3 MR. MEACHAM: (CONTINUING)

4 Q THEN WHAT HAPPENED AFTER THAT?

5 A WE STARTED GETTING EVERYTHING TOGETHER. I
6 RECOVERED THE LITTLE BAGGY THAT I HAD PLACED ON TOP OF THE
7 CAR AND GAVE IT TO OFFICER WILLIAMS ALSO AND HIS JOB AND
8 RESPONSIBILITY WAS TO SUBMIT EVERYTHING THAT WAS COLLECTED
9 AT THE SCENE INTO EVIDENCE.

10 Q BACK TO THE LITTLE BAGGY, WAS THERE ANY
11 SUBSTANCE IN THE LITTLE BAGGY?

12 A NO, SIR, IT WAS JUST A LITTLE TORN PIECE OF
13 BAGGY. IT WAS APPROXIMATELY THIS BIG AND THAT WIDE; IT
14 WASN'T VERY BIG AT ALL.

15 Q WAS THERE ANYTHING IN THE BAGGY FOR
16 ANALYSIS PURPOSES?

17 A NO, SIR, NOT THAT I, YOU KNOW, NOT THAT I
18 COULD SEE WITH THE NAKED EYE.

19 MR. MEACHAM: THANK YOU, THAT'S ALL THE
20 QUESTIONS I HAVE, PLEASE ANSWER ANY QUESTIONS THAT MR. LONG
21 HAS.

22 THE COURT: MR. LONG, DO YOU WISH TO DO YOUR
23 CROSS EXAMINATION NOW OR DO YOU WANT TO WAIT TILL AFTER
24 LUNCH? IT'S UP TO YOU.

25 MR. LONG: AT THE COURT'S --

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

120

1 THE COURT: LET'S DO ABOUT FIVE OR 10 MINUTES
2 THEN WE'LL STOP IF YOU NEED TO GO FURTHER IF THAT'S ALL
3 RIGHT WITH YOU?

4 MR. LONG: THAT'S FINE, THANK YOU, YOUR HONOR.

5 CROSS EXAMINATION

6 BY MR. LONG:

7 Q OFFICER BRADLEY, YOU WERE AT THE SATELLITE
8 STATION WHEN YOU HEARD THE CALL THAT OFFICER WILLIAMS WAS
9 MAKING A TRAFFIC STOP; IS THAT CORRECT?

10 A YES, SIR, IT IS.

11 Q ALL RIGHT, AND YOU HEARD HIM SAY WHAT, "I'M
12 NOW FOLLOWING A VEHICLE AND NEED A TAG RUN ON THE VEHICLE"
13 OR "I'M NOW ACTIVATING A BLUE LIGHT AND PULLING OVER A
14 VEHICLE?"

15 A HE STATED THAT HE WAS INITIATING A TRAFFIC
16 STOP.

17 Q WHICH WOULD MEAN I'M TURNING ON MY BLUE
18 LIGHT AND I'M GETTING READY TO PULL SOMEBODY OVER?

19 A YES, SIR.

20 Q HOW FAR IS THE SATELLITE STATION FROM THAT
21 INCIDENT LOCATION SMITH STREET AND NINTH AVENUE?

22 A IT IS APPROXIMATELY A HALF MILE TO A
23 QUARTER OF A MILE IF YOU COME RIGHT OUTSIDE OFF OF HIGHLAND
24 AVENUE OR EVEN RACEPATH AVENUE YOU CAN TURN AND GO
25 APPROXIMATELY FOUR BLOCKS TO NINTH AVENUE AND MAKE A RIGHT

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

121

1 AND THEN RIGHT THERE.

2 Q FOUR BLOCKS AWAY?

3 A YES, SIR.

4 Q APPROXIMATELY, SO AND IN THE TIME THAT HE
5 SAID I'M INITIATING A TRAFFIC STOP YOU WERE AT THE
6 SATELLITE STATION YOU GOT OUT AND GOT INTO YOUR CAR?

7 A YES, SIR.

8 Q DROVE FOUR AND A HALF BLOCKS, WELL LET'S
9 CALL IT A QUARTER OF A MILE OR HALF A MILE; IS THAT WHAT
10 YOU SAID?

11 A APPROXIMATELY, YES.

12 Q ALL RIGHT, AND YOU ALSO HAD TO WAIT FOR THE
13 LIGHT AT NINTH AVENUE AND 501; IS THAT CORRECT?

14 A YES, SIR.

15 Q ALL RIGHT, AND THEN WHEN YOU WENT OVER
16 THERE OFFICER WILLIAMS WAS STILL AT THE DRIVER'S VEHICLE
17 WINDOW; IS THAT CORRECT?

18 A YES, SIR.

19 Q ALL RIGHT, AND THEN WHEN HE OBTAINED THE
20 INFORMATION FROM THE DRIVER, MR. REGGIE PINCKNEY, THEN YOU
21 POSITIONED YOURSELF TO KEEP AN EYE OR TO OBSERVE THE DRIVER
22 OF THE VEHICLE WHILE HE WAS RUNNING THE LICENSE CHECK,
23 THINGS OF THAT NATURE?

24 A THAT IS CORRECT.

25 Q AND THAT'S WHEN REGGIE CALLED YOU OVER.

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

122

1 DID YOU KNOW WHY THE VEHICLE WAS PULLED? DID OFFICER
2 WILLIAMS TELL YOU AT THAT TIME, HEY, I PULLED IT BECAUSE I
3 THINK HE'S GOT A SUSPENDED TAG OR HE'S GOT A CROOKED TAG OR
4 DID HE TELL YOU WHAT HE WAS PULLING HIM FOR?

5 A WHEN HE INITIATED THE TRAFFIC STOP HE HAD
6 CALLED AND MAY HAVE MENTIONED SOMETHING ABOUT THE TAG BUT I
7 CAN'T EXACTLY RECALL WHAT THAT HE INITIATED THE STOP AND
8 PART OF MY DUTIES AS A TEAM LEADER IS TO GO TO THEM.

9 Q SO THE ANSWER TO MY QUESTION DID YOU KNOW
10 THAT THE STOP WAS ABOUT A SUSPENDED TAG OR A CROOKED TAG OR
11 SOMETHING LIKE THAT?

12 A FOR THE SUSPENSION ON A TAG, YES, SIR.

13 Q ALL RIGHT, AND WHEN REGGIE HANDED YOU THE
14 PHONE WHO DID HE WANT YOU TO TALK TO?

15 MR. MEACHAM: IF YOUR HONOR PLEASE, I'M GOING TO
16 OBJECT.

17 MR. LONG: I'M JUST ASKING WHO ---

18 THE COURT: WHAT'S THE BASIS OF YOUR OBJECTION?

19 MR. MEACHAM: THE BASIS OF MY OBJECTION IS THIS
20 IS AN ISSUE OF LAW AND THE COURT DETERMINES THE VALIDITY OF
21 THE STOP.

22 THE COURT: I'M LETTING HIM ASK QUESTIONS.

23 MR. MEACHAM: YES, SIR.

24 THE COURT: I'M NOT MAKING A RULING LIKE THAT,
25 GO AHEAD. THERE'S ALREADY BEEN QUESTIONS ABOUT THIS ISSUE

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG 123

1 WITH THE SITUATION WITH THE PHONE. I MEAN YOU OPENED THAT
2 DOOR SO WHO DID HE WANT YOU TO TALK WITH?

3 THE WITNESS: (CONTINUING)

4
5 A THE OWNER OF THE VEHICLE.

6 Q THAT WAS HIS MOM?

7 A CORRECT.

8 Q ALL RIGHT, AND HE WANTED YOU TO TALK TO HER
9 ABOUT THE TAG; IS THAT CORRECT?

10 A THAT IS CORRECT.

11 Q ALL RIGHT, AND DID YOU TALK TO HER ABOUT
12 THE TAG?

13 A I HAD STARTED TO TALK TO HER, IDENTIFIED
14 MYSELF, AND THEN THAT'S WHEN I LOOKED DOWN AND OBSERVED THE
15 BAGGY ON THE FLOOR BOARD OF THE TRUCK.

16 Q ALL RIGHT, WHEN YOU ASKED REGGIE TO STEP
17 OUT OF THE VEHICLE YOU GOT THE BAGGY?

18 A YES, HANDED THE PHONE BACK TO HIM, I
19 REACHED DOWN AND PICKED UP THE BAGGY. I SHOWED IT TO
20 OFFICER ROBINSON AND I SET IT ON THE HOOD OF THE, THE ROOF
21 OF THE TRUCK.

22 Q AND WHERE WAS THE BAGGY IN THE VEHICLE?

23 A IT WAS BY HIS LEFT FOOT.

24 Q ALL RIGHT, SO IT WOULD BE ON THE DRIVER'S
25 FLOOR BOARD?

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

124

1 A THAT IS CORRECT.

2 Q ALL RIGHT, WAS THERE A HUMP BETWEEN THE
3 FLOOR BOARDS IN THIS PICKUP TRUCK OR DID IT HAVE THE BENCH
4 SEAT AND THE BENCH FLOOR BOARD BETWEEN?

5 A IT HAD TWO SPLIT RESTS, TWO BENCH SEATS IN
6 IT WITH A CENTER CONSOLE IN THE MIDDLE.

7 Q ALL RIGHT, DID THE CENTER CONSOLE GO TO THE
8 FLOOR BOARDS?

9 A I DO NOT RECALL THAT, SIR.

10 Q ALL RIGHT, AND THERE WAS NOTHING IN THE BAG
11 AS FAR AS RESIDUE OR ANYTHING OF THAT NATURE TO SUGGEST
12 THAT IT HAD AT ONE TIME HELD DRUGS?

13 A IN MY EXPERIENCE I SEE ITEMS LIKE THAT IT'S
14 AN INDICATOR.

15 Q NO, SIR, I'M NOT ASKING ABOUT YOUR
16 EXPERIENCE, I'M ASKING WAS THERE ANYTHING ---

17 THE COURT: ANSWER THE QUESTION. JUST ANSWER
18 HIS QUESTION FIRST THEN YOU CAN EXPLAIN TO HIM. SO ANSWER
19 IT FIRST, "DID YOU FIND ANY RESIDUE IN THE BAG AT ALL?"

20 THE WITNESS: (CONTINUING)

21 A THERE WAS NO RESIDUE VISIBLE TO THE NAKED
22 EYE BUT IN MY EXPERIENCE THAT WHEN I FIND A BAGGY CARRIED
23 LIKE THAT IT IS NORMALLY USED FOR DRUG USE.

24 Q ALL RIGHT, SO AT THAT POINT IN TIME THIS
25 WENT FROM A ROUTINE TRAFFIC STOP WITH THREE PATROL OFFICERS

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

125

1 TO A SUSPECTED NARCOTICS STOP; IS THAT CORRECT?

2 A I, YES, SIR.

3 Q ALL RIGHT, AND YOU REACHED DOWN AND YOU GOT
4 THE BAGGY OUT OF THE TRUCK AND YOU, I BELIEVE YOU SAID WERE
5 BACKING, WATCHING MR. PINCKNEY WALK TO THE REAR OF THE
6 TRUCK AFTER YOU ASKED HIM TO STEP TO THE REAR?

7 A NO, SIR. I HAD PUT THE BAGGY ON THE ROOF
8 OF THE PICK-UP TRUCK. I SHOWED IT TO OFFICER ROBINSON AND
9 SET IT UP ON THE TOP AND THEN I ASKED MR. PINCKNEY TO STEP
10 BACK. WHEN YOU GO, HE HAD A PASSENGER IN THE VEHICLE. I
11 WANTED TO SEPARATE THE TWO, ASK QUESTIONS OF THE DRIVER,
12 AND THEN ASK QUESTIONS OF THE PASSENGER, BUT IN THE COURSE
13 OF DOING THAT HE WAS TOUCHING DOWN ON HIS RIGHT SIDE. I
14 BECAME CONCERNED AND DECIDED TO DO A PAT DOWN FOR WEAPONS.

15 Q ALL RIGHT, THANK YOU, SIR. BUT TO GET BACK
16 TO MY QUESTION, ALL RIGHT, WHEN YOU REACHED DOWN AND YOU
17 GOT THE BAGGY OFF THE FLOOR BOARD DID YOU THEN, HAD YOU
18 ALREADY ASKED MR. PINCKNEY TO STEP OUT OF THE VEHICLE?

19 A NO, SIR, I PICKED IT UP, SHOWED IT TO
20 OFFICER ROBINSON, HANDED THE PHONE BACK, AND THEN ASKED HIM
21 TO STEP BACK.

22 Q ALL RIGHT, SO YOU REACHED BASICALLY ACROSS
23 HIM TO GET THE BAGGY?

24 A WHEN YOU'RE SITTING IN A VEHICLE AND A BAG
25 IS AT YOUR LEFT HAND, I MEAN LEFT FOOT ON THE FLOOR BOARD,

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

126

1 IT IS GOING TO BE RIGHT THERE. I DID NOT HAVE TO REACH
2 ACROSS HIM. IT WAS DOWN, THE DOOR OPENS THIS WAY, THE
3 BAGGY IS GOING TO BE RIGHT THERE AT HIS FOOT.

4 Q RIGHT, SO YOU REACHED DOWN BESIDE HIM AND
5 GOT THE BAGGY AND THEN YOU ASKED HIM TO STEP FROM THE
6 VEHICLE?

7 A YES, SIR.

8 Q ALL RIGHT, AND AS YOU ASKED HIM TO STEP
9 FROM THE VEHICLE YOU KEPT LOOKING BACKWARDS AND MOVING
10 BACKWARDS TO KEEP AN EYE ON HIM?

11 A YES, SIR, I WAS WALKING BACKWARDS.

12 Q ALL RIGHT, AND WHAT MADE YOU TAKE YOUR EYE
13 OFF OF HIM TO TAKE TIME TO PUT THE BAGGY ON TOP OF THE
14 TRUCK?

15 A I HAD STATED THAT I LOOKED, GLANCED AT
16 OFFICER ROBINSON. I SAID LOOK AND I PUT IT ON THE TOP,
17 HANDED THE PHONE BACK AND ASKED HIM TO STEP BACK TO THE
18 REAR OF THE VEHICLE. THIS IS A MATTER OF SECONDS, YOU
19 KNOW. YOU GO IN, OKAY, YOU PULL IT UP, LOOK, HAND THE
20 PHONE BACK, COULD YOU STEP BACK WITH ME, REGGIE.

21 Q ALL RIGHT, BUT YOU HAD THE BAGGY IN YOUR
22 HAND?

23 A YES.

24 Q AND OFFICER WILLIAMS WAS IN THE PATROL
25 VEHICLE ON THE RADIO, CORRECT?

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

127

1 A BEHIND ME, YES, SIR.

2 Q ALL RIGHT, AND YOU DECIDED I BETTER PUT
3 THIS ON TOP OF THE TRUCK, OKAY, REGGIE, NOW CONTINUE TO
4 STEP BACK TO THE CAR, WHAT MADE YOU DECIDE TO DO THAT?

5 A JUST A CHOICE AT THE MOMENT.

6 Q ALL RIGHT, NOW YOU ARE TRAINED AS A POLICE
7 OFFICER, HAVE HOW MANY YEARS EXPERIENCE ON THE FORCE?

8 A SEVEN YEARS, SIR, WELL NOT SEVEN, EXCUSE
9 ME, SIX, I'M GOING ON SEVEN.

10 Q DID YOU PUT \$4,675 ON TOP OF THE TRUCK?

11 A NO, SIR.

12 Q ALL RIGHT, AND YOU KNEW THAT BAGGY
13 CONSTITUTED THE DIFFERENCE BETWEEN A TRAFFIC STOP AND A
14 NARCOTICS STOP?

15 A IT BECAME INVESTIGATIVE. WHEN I SAW THE
16 BAGGY I WANTED TO PULL HIM TO THE REAR OF THE VEHICLE TO
17 QUESTION HIM ABOUT IT AND I ALSO WANTED TO SEPARATE HIM
18 FROM THE PASSENGER THAT WAS INSIDE OF THE VEHICLE. YOU
19 ASKED REGGIE QUESTIONS, TALK TO HIM, LISTEN TO WHAT HE HAS
20 TO SAY, AND THEN YOU QUESTION THE PASSENGER, THEN YOU
21 COMPARE THE STORIES TO SEE IF THEY MATCH UP. I NEVER GOT
22 TO THAT POINT.

23 Q WHAT HAPPENED TO THE BAGGY?

24 A I HAD REMOVED IT AND I HAD GIVEN IT TO
25 OFFICER WILLIAMS AFTER EVERYTHING WAS DONE. I COULD NOT

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

128

1 TELL YOU WHAT HAPPENED TO THE BAGGY, SIR.

2 Q DID YOU RETRIEVE IT OFF THE HOOD OF THE
3 VEHICLE?

4 A IT WAS ON THE ROOF, THE TOP, YES, SIR, I
5 DID.

6 Q YOU RETRIEVED IT FROM THE ROOF OF THE
7 VEHICLE AND GAVE IT TO OFFICER WILLIAMS?

8 A YES, SIR, I DID.

9 Q WELL THEN AT THE BACK OF THE VEHICLE YOU
10 WERE CONCERNED BECAUSE, AGAIN JUST TO DEMONSTRATE, YOU SAID
11 REGGIE WAS LIKE HOLDING HIS ARM OR SOMETHING UP AGAINST HIS
12 SIDE LIKE HE MAYBE WAS UNCONSCIOUSLY TOUCHING SOMETHING TO
13 FEEL SOMETHING THERE; IS THAT CORRECT?

14 A HE WENT LIKE THIS.

15 Q HE WAS DOING HIS HAND?

16 A MOVING HIS HAND.

17 Q ALL RIGHT, DID HE HAVE A RIGHT TO BE
18 NERVOUS?

19 A IT WAS A TRAFFIC STOP.

20 Q THREE PATROL OFFICERS?

21 A YES, SIR.

22 Q ALL RIGHT, AND WOULD THAT BE A NERVOUS
23 ACTION AS WELL? SOME PEOPLE RUB THEIR NOSE, SOME PEOPLE
24 TOUCH THEIR EAR, SOME PEOPLE PLAY WITH AN INK PEN OR
25 SOMETHING; IS THAT JUST A NERVOUS HABIT AS WELL?

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG 129

1 A EVERYTHING HAS TO BE TAKEN INTO CONTEXT.
2 WHEN WE DEAL WITH PEOPLE ON TRAFFIC STOPS ---

3 Q JUST ANSWER MY QUESTION YES OR NO AND THEN
4 EXPLAIN.

5 MR. MEACHAM: IF YOUR HONOR PLEASE ---

6 A WELL I WAS ---

7 THE COURT: WAIT ONE SECOND, WAIT ONE SECOND.
8 NOW, MR. LONG, I WAS GOING TO LET HIM SEE IF HE CAN ANSWER
9 IT BUT HOW DOES SOMEONE SAY WHETHER SOMEONE ELSE IS NERVOUS
10 OR ACTING NERVOUS? HE DIDN'T KNOW. ARE YOU GOING TO ASK
11 HIM IN HIS EXPERIENCE DO DRIVERS ACT NERVOUS WHEN YOU GET
12 THEM OUT OF A CAR; IS THAT YOUR QUESTION?

13 MR. LONG: THAT MAY BE, YOUR HONOR. HE'S
14 TESTIFIED ---

15 THE COURT: WELL I KNOW BUT I CAN'T, IF THERE'S
16 AN OBJECTION I CAN'T FORCE THE GUY TO SAY WAS THAT MR.
17 PINCKNEY'S NERVOUS REACTION BECAUSE HOW WOULD HE KNOW THAT
18 ONE WAY OR THE OTHER.

19 MR. LONG: (CONTINUING)

20 Q BACK TO YOUR QUESTION, ARE DRIVERS NORMALLY
21 NERVOUS AND INDICATE NERVOUS ACTIVITY WHEN THEY'RE STOPPED
22 BY A PATROL OFFICER?

23 A YES.

24 Q ALL RIGHT, AND COULD THAT HAVE BEEN A
25 NERVOUS ACTIVITY ON BEHALF OF REGGIE AS WELL?

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

130

1 A IT MIGHT HAVE BEEN BUT MY CONCERN IS BEING
2 IT'S A TRAFFIC STOP IS ONE OF THE MOST DANGEROUS THINGS
3 THAT WE CAN DO. I SAW HIM TOUCHING AN AREA, I WANTED TO
4 GET TO THAT AREA TO MAKE SURE THAT WE WERE ALL SAFE.

5 Q ALL RIGHT, AND I UNDERSTAND THAT AND I
6 CERTAINLY DON'T WANT YOU TO BE IN ANY JEOPARDY OR RISK.
7 YOU ARE, HAVE A PROCEDURE THAT WHEN AT THAT POINT IN TIME
8 WHEN YOU SAW HIM TOUCHING HIS HIP OR POCKET OR WHATEVER YOU
9 SAID, I WANT TO PROTECT MYSELF AND MY FELLOW OFFICERS TO
10 MAKE SURE HE DIDN'T HAVE A WEAPON; IS THAT CORRECT?

11 A YES, SIR.

12 Q ALL RIGHT, AND YOU WANTED TO CONDUCT WHAT'S
13 CALLED A TERRY PAT AND FRISK?

14 MR. MEACHAM: OBJECTION, TERRY FRISK, YOUR
15 HONOR, ISSUE OF LAW.

16 THE COURT: WELL HE'S ALREADY SAID HE WANTED TO
17 DO A PAT AND FRISK. WHEN HE SAYS TERRY, LADIES AND
18 GENTLEMEN, DON'T, IN OTHER WORDS YOU WERE JUST GOING TO DO
19 A PAT AND FRISK, FORGET THE THING ABOUT TERRY. TERRY IS
20 THE NAME OF A CASE LAW THAT SAYS THAT OFFICERS CAN DO PAT
21 AND FRISK, BUT IN CERTAIN CASES, SO TRY NOT TO MENTION THE
22 TERRY THING. YOU MENTIONED SOMETHING ELSE EARLIER I THINK
23 I FORGOT BUT CALIFORNIA STOP, I DON'T KNOW FOR CALIFORNIA
24 STOP, WHERE THAT TERM CAME FROM I DON'T KNOW, I ASSUME IN
25 CALIFORNIA THEY'RE SUPPOSED TO STOP LIKE THEY ARE HERE.

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

131

1 MR. LONG: IN CALIFORNIA HENCE THE NAME THEY
2 ROLL THROUGH STOP SIGNS REGULARLY.

3 THE COURT: SO EVERYBODY IN CALIFORNIA DOES IT,
4 OKAY.

5 MR. LONG: NO, THAT'S JUST WHERE THEY GOT THE
6 NICKNAME FROM.

7 THE COURT: I DON'T KNOW ANYBODY FROM
8 CALIFORNIA. ANYWAY JUST GO BACK, HE WAS GOING TO DO A PAT,
9 HE WAS GOING TO DO A PAT AND FRISK. YOU'RE GOING TO DO A
10 FRISK, YOU WERE GOING TO FRISK HIM FOR LOOKING FOR WEAPONS;
11 IS THAT RIGHT, SIR?

12 A YES, SIR, CORRECT.

13 THE COURT: ALL RIGHT, YOU MAY PROCEED.

14 MR. LONG: (CONTINUING)

15 Q AND YOUR PROCEDURE THAT THEY TEACH YOU IN
16 YOUR TRAINING AND EXPERIENCE IS TO CONDUCT A PAT, HOW, TOP
17 TO BOTTOM AND BOTTOM TO TOP?

18 A START FROM SIDE DOWN TO THE, DOWN TO AN
19 AREA, CONTINUE ON DOWN, UP, DOWN, BACK UP THE OTHER SIDE,
20 COVERING ALL, YOU QUARTER THE BODY.

21 Q OKAY, LEFT SIDE, TOP TO THE BOTTOM, THEN
22 RIGHT SIDE BOTTOM TO TOP?

23 A IT DEPENDS ON THE OFFICER, I GENERALLY ---

24 Q IS THAT GENERALLY THE WAY YOU DO IT?

25 A YES, SIR.

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

132

1 Q ALL RIGHT, BUT YOU WERE CONCERNED CAUSE HE
2 HAD HIS HAND ON HIS POCKET SO YOU SAID YOU PATTED THERE AND
3 YOU FELT SOMETHING, A LUMP?

4 A I HAD COME DOWN ACROSS THIS AREA. IF I
5 MAY?

6 Q YES, SIR, PLEASE.

7 A OKAY, I COME DOWN ACROSS THIS AREA AND THEN
8 DOWN.

9 Q AND THAT'S WHEN YOU FELT A LUMP?

10 A A LUMP.

11 Q ALL RIGHT, AND THAT'S WHEN YOU SAID WHAT'S
12 IN YOUR POCKET?

13 A THAT IS CORRECT.

14 Q AND HE STAMMERED SOMETHING OR SAID I DON'T
15 KNOW OR WHATEVER AND YOU ASKED CAN I LOOK?

16 A YES, SIR.

17 Q ALL RIGHT, AND YOU REACHED IN WITH YOUR
18 HAND?

19 A YES, SIR.

20 Q AND YOU PULLED OUT A LIGHTER AND SEVERAL
21 CRUMPLED BILLS?

22 A YES, SIR.

23 Q ALL RIGHT, DID YOU PUT THOSE BILLS INTO
24 EVIDENCE?

25 A YES, SIR, I DID.

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

133

1 Q ALL RIGHT, AND HOW MANY BILLS WAS IT?

2 A IT WAS \$16, SOMEWHERE AROUND IN THERE.

3 Q ALL RIGHT, WAS THAT A TEN, A FIVE, AND A
4 ONE OR A TEN AND SIX ONES OR HOW WAS IT?

5 A SOME, YES, SIR, JUST SEVERAL BILLS, IT WAS
6 TEN, FIVE, ONE.

7 Q DID YOU TAKE A PHOTOGRAPH OF THAT?

8 A NO, SIR. I HAD TAKEN A PHOTOGRAPH OF ALL
9 THE MONEY THAT WAS REMOVED FROM HIM WHICH IS RIGHT HERE.

10 Q WAS THE \$16 INCLUDED IN THE TOTAL OR WAS
11 THAT SOMETHING SEPARATE?

12 A IT WAS INCLUDED IN THE TOTAL, TOTAL AMOUNT
13 OF MONEY.

14 Q ALL RIGHT, AND SO THEN YOU SAID, I BELIEVE,
15 CAN I PUT THAT BACK IN YOUR POCKET?

16 A NO, SIR.

17 Q DID YOU PUT IT BACK IN HIS POCKET?

18 A I STARTED TO PUT IT BACK INTO HIS POCKET
19 WHEN HIS BODY DROPPED INTO A CROUCH AND HE TOOK OFF TO MY
20 RIGHT.

21 Q WHY DID YOU PUT IT BACK IN HIS POCKET IF
22 YOU WERE GOING TO TAKE IT AS EVIDENCE?

23 A AT THAT TIME I WASN'T TAKING ANYTHING INTO
24 EVIDENCE. HE WAS NOT UNDER ARREST UNTIL HE STARTED TO MOVE
25 TO THE RIGHT. I TOLD HIM TO STOP. HE DISOBEYED A LAWFUL

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

134

1 ORDER TELLING HIM TO STOP, AND THEN IT BECAME A FULL
2 CUSTODIAL ARREST AFTER THAT.

3 Q HE WAS NOT UNDER ARREST UNTIL YOU TOLD HIM
4 TO STOP MOVING TO THE RIGHT AND HE DID NOT STOP MOVING TO
5 THE RIGHT AND THEN THAT'S WHEN HE GOT TAKEN DOWN; IS THAT
6 CORRECT?

7 A I HAD TOLD HIM TO STOP, YES, SIR.

8 Q BUT HE WAS NOT UNDER ARREST AT THAT TIME?

9 A NOT WHEN I WAS PUTTING THE MONEY BACK INTO
10 HIS POCKET. IT WASN'T UNTIL AFTER HE DARTED TO THE RIGHT
11 AND I TOLD HIM TO STOP, HE CONTINUED ON. THAT'S WHEN IT
12 BECAME A FULL CUSTODIAL ARREST.

13 Q THE OTHER OFFICER WAS WATCHING THE
14 PASSENGER?

15 A YES, SIR.

16 Q ALL RIGHT, AND THEN YOU SAY REGGIE STARTED
17 TO BOLT SO WHEN HE CROUCHED DOWN OR WHATEVER LIKE HE WAS
18 GETTING READY TO RUN, YOU REACHED OVER TO PUT A HAND ON HIS
19 JACKET; IS THAT RIGHT?

20 A YES, SIR, I HAD MY HAND RESTING ON HIS BACK
21 LIKE THAT AND HE STARTED OFF THAT WAY AND EVERYTHING
22 HAPPENS LIKE THIS. I HAVE TO BE ABLE TO ANTICIPATE A MOVE
23 AND YOU HAVE TO REACT TO IT. IT'S LIKE PLAYING FOOTBALL OR
24 ANY SPORTS. YOU SEE SOMEBODY MOVE A CERTAIN WAY AND YOU
25 HAVE TO REACT TO THAT AND BY THE TIME I STARTED TO REACT TO

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG 135

1 IT HE WAS ALREADY MOVING THIS WAY. I TOLD HIM TO STOP AND
2 I LAID MY HANDS BACK ON HIM AND PUSHED HIM FORWARD INTO
3 OFFICER ROBINSON.

4 Q THAT WAS MY NEXT QUESTION THEN. SO YOU
5 WERE STANDING WITH REGGIE ON THE DRIVER'S REAR CORNER OF
6 THE VEHICLE OR ---

7 A I WAS ---

8 Q --- STANDING IN THE CENTER REAR OF THE
9 VEHICLE OR ON THE PASSENGER'S REAR OF THE VEHICLE?

10 A I WAS STANDING APPROXIMATELY AT THE CENTER
11 REAR OF THE PICKUP TRUCK.

12 Q THE CENTER REAR OF THE VEHICLE?

13 A YES, SIR.

14 Q ALL RIGHT, THEN THAT'S WHERE YOU WERE
15 STANDING OR WHERE REGGIE WAS STANDING?

16 A WE WERE BOTH STANDING, I WAS DIRECTLY
17 BEHIND HIM.

18 Q ALL RIGHT, AND YOU SAY HE CROUCHED DOWN AND
19 YOU PUT YOUR HAND ON HIM AND HE STARTED TO GO AND THEN YOU
20 PUSHED HIM TO THE OTHER OFFICER?

21 A HE HAD CROUCHED DOWN. I HAD TO REACT TO
22 THAT MOVEMENT, HE HAD STARTED HIS FORWARD MOMENTUM. I HAD
23 MY HAND ON HIS BACK, DID NOT HAVE HOLD OF HIS JACKET, BUT I
24 HAD MY HAND ON HIM AND I SAW OFFICER ROBINSON IN FRONT OF
25 US SO I PUSHED HIM INTO OFFICER ROBINSON.

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

136

1 Q AND OFFICER WILLIAMS TESTIFIED THAT OFFICER
2 ROBINSON TOOK HIM IN A BEAR HUG, FELL OVER AND HE FLIPPED
3 OVER TOP AND THAT HE ENDED UP APPROXIMATELY THIS DISTANCE
4 FROM THE BACK OF HIS PICKUP TRUCK WHERE YA'LL STARTED?

5 A I TESTIFIED TO THAT, SIR.

6 Q ALL RIGHT, SO IT'S PROBABLY THAT DISTANCE;
7 IS THAT CORRECT?

8 A CLOSE TO IT, IT PROBABLY WAS NOT THAT FAR.

9 Q LESS THAN 10 YARDS?

10 A ABSOLUTELY.

11 Q ALL RIGHT --

12 THE COURT: YOU GOING TO TAKE MORE THAN ABOUT
13 ANOTHER FIVE MINUTES. I'M GOING TO BREAK FOR LUNCH AT THIS
14 TIME.

15 MR. LONG: NO FURTHER QUESTIONS, YOUR HONOR.

16 THE COURT: ARE YOU THROUGH?

17 MR. LONG: YES, SIR.

18 THE COURT: I WON'T STOP YOU NOW, ARE YOU SURE?

19 MR. LONG: NO, SIR.

20 THE COURT: ANY REDIRECT?

21 MR. MEACHAM: NO, SIR.

22 THE COURT: ALL RIGHT, YOU MAY STEP DOWN, SIR.

23 THE WITNESS: THANK YOU, SIR.

24 THE COURT: OKAY, LADIES AND GENTLEMEN OF THE
25 JURY, I DON'T WANT YOU TO RETURN UNTIL ABOUT 2:45, OR 2:45.

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

137

1 WE'VE GOT A MATTER WE'RE GOING TO DO AN HOUR FROM NOW
2 THAT'S GOING, THAT HAS NOTHING TO DO WITH THIS CASE, GOING
3 TO TAKE ABOUT FIFTEEN OR TWENTY MINUTES AND JUST TO MAKE
4 SURE I'VE GOT SOME LEEWAY THERE I'M GOING TO SAY 2:45 FOR
5 YOU ALL, OKAY? SO YOU ALL HAVE A NICE LUNCH, DO NOT
6 DISCUSS THE CASE, WE'LL SEE YOU AT 2:45, SEE YOU LATER.

7 (WHEREUPON, THE JURY WAS EXCUSED FOR LUNCH AT
8 1:16 P.M.)

9 THE COURT: OFFICER, IF YOU WOULD COME BACK UP?

10 OFFICER BRADLEY: YES, SIR.

11 THE COURT: THERE'S SOME MATTERS I WANT TO HEAR
12 ABOUT.

13 DETECTIVE ROBERT BRADLEY

14 CROSS EXAMINATION

15 BY THE COURT:

16 THE COURT: YOU'RE STILL UNDER OATH?

17 THE WITNESS: YES, SIR.

18 THE COURT: TELL ME WHEN HE, YOU SAID SOMETHING
19 ON DIRECT ABOUT YOU TOLD HIM DON'T RUN, DON'T RUN. I MEAN
20 IS THAT WHAT YOU TOLD HIM YOU WERE CONCERNED HE WAS ABOUT
21 TO RUN WHEN HE CROUCHED AFTER YOU PUT THE MONEY BACK IN HIS
22 POCKET AND YOU WERE CONCERNED HE WAS ABOUT TO RUN CAUSE HE
23 CROUCHED?

24 A I WAS PLACING THE MONEY BACK INTO HIS
25 POCKET WHEN HE CROUCHED AND MOVED TO THE RIGHT. I TOLD HIM

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

138

1 TO STOP AFTER HE HAD ALREADY STARTED HIS FORWARD MOMENTUM
2 THAT WAY.

3 THE COURT: MOVED TO THE RIGHT MEANING AWAY FROM
4 THE VEHICLE?

5 A HE WAS, HE WAS MOVING AWAY FROM ME, SIR.

6 THE COURT: OKAY, WELL YOU DIRECTLY IN FRONT OF
7 HIM?

8 A I WAS DIRECTLY BEHIND HIM.

9 THE COURT: OKAY, WHEN YOU WERE BACKING UP AND
10 HE WAS, HE WAS NOT FACING YOU?

11 A WHICH PART --

12 THE COURT: AFTER YOU PUT THE MONEY IN HIS
13 POCKET, BACK IN HIS POCKET?

14 A HE, HE HAD HIS ---

15 THE COURT: OH, I SEE, THAT'S, YOU PUT HIM
16 AGAINST THE VEHICLE?

17 A HE WAS FACING, I DIDN'T HAVE HIM AGAINST
18 THE VEHICLE. WE WERE AWAY FROM THE VEHICLE BECAUSE A LOT
19 OF TIMES THEY CAN USE, IF YOU HAVE THEM LEAN UP AGAINST THE
20 VEHICLE THEY CAN USE THAT AS A LEVERAGE AGAINST YOU.

21 THE COURT: OKAY, SO WHERE DID YOU, WHERE WAS HE
22 FACING, JUST NOWHERE?

23 A I WAS BEHIND HIM, HE WAS FACING THE REAR OF
24 THE VEHICLE, SIR.

25 THE COURT: SO HE HAD COME ALL THE WAY BACK TO

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

139

1 THE REAR OF THE VEHICLE?

2 A YES, SIR.

3 THE COURT: AND THEN HE TURNED. SO HE WAS
4 BETWEEN OFFICER WILLIAMSON'S VEHICLE AND HIS VEHICLE?

5 A YES, SIR.

6 THE COURT: ALL RIGHT, AND THEN HE TURNED AND
7 FACED THE VEHICLE. DID YOU HAVE HIM PUT HIS HANDS UP?

8 A I HAD HIM PUT THEM UP HERE.

9 THE COURT: LIKE THIS?

10 A YES, SIR.

11 THE COURT: ALL RIGHT, SO HE PUT HIS HANDS
12 BEHIND HIS NECK?

13 A YES, SIR.

14 THE COURT: IN A LOCKING HANDS BEHIND HIS BACK?

15 A YES, SIR.

16 THE COURT: AND THEN THAT'S WHEN YOU PATTED HIM
17 DOWN AND ---

18 A I STARTED THE PAT DOWN.

19 THE COURT: ALL RIGHT, AND THEN HE, YOU SAID HE
20 MOVED TO THE RIGHT?

21 A AFTER I HAD ASKED HIM WHAT WAS IN HIS
22 POCKET. I ASKED HIM IF I COULD LOOK, HE SAID YES AND I
23 REMOVED THE ITEMS, PUT IT BACK IN HIS POCKET. WHEN I WAS
24 PUTTING IT BACK IN HIS POCKET HE, HE CROUCHED DOWN AND
25 MOVED TO THE RIGHT.

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

140

1 THE COURT: AWAY FROM THE ROAD?

2 A YES, SIR, THE ROAD IS RIGHT HERE TO MY LEFT
3 AND THERE WAS AN OPEN FIELD BETWEEN SMITH STREET AND LEGION
4 STREET AND THEN WENDY'S WAS, THERE'S SOME HOUSES AND THEN -
5 -

6 THE COURT: WELL LET ME ASK YOU, IF HE WAS
7 FACING THE SAME DIRECTION YOU WERE FACING WHEN YOU GOT THE
8 MONEY OUT OF HIS POCKET, RIGHT?

9 A YES, SIR.

10 THE COURT: WHEN YOU SAID HE CROUCHED, DID HE
11 CROUCH STILL FACING STRAIGHT AHEAD OR DID HE CROUCH BY
12 TURNING HIS BODY TO THE RIGHT?

13 A HE JUST, HE DROPPED DOWN. MAY I SHOW YOU?

14 THE COURT: UH-HUH.

15 A HE WAS LIKE THIS AND BEFORE SOMEONE MAKES
16 AN ACTION ---

17 THE COURT: GO AHEAD AND PUT YOUR HANDS BEHIND
18 YOUR NECK LIKE HE WAS.

19 A WHEN YOU TAKE AN ACTION ---

20 THE COURT: ALL RIGHT, NOW WAS HE, NOW ---

21 A I WAS DIRECTLY BEHIND HIM.

22 THE COURT: AND HE WAS FACING, SO YOU WERE
23 DIRECTLY BEHIND HIM THERE, HE WAS FACING STRAIGHT OUT? NOW
24 WHAT HAPPENS?

25 A SIR, I HAD HIM LIKE THIS AND HE DROPPED HIS

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

141

1 BODY DOWN LIKE THIS AND HE MOVED.

2 THE COURT: ALL RIGHT, SO HE DROPPED WITH HIS
3 HANDS STILL BEHIND HIS NECK?

4 A HE WAS BRINGING THEM DOWN, HE DROPPED THEM.

5 THE COURT: OKAY, AND THEN HE ACTUALLY, HIS FEET
6 ACTUALLY MOVED TO THE RIGHT AND THEN HIS BODY TURNED TO THE
7 RIGHT?

8 A HE STARTED TO MOVE, YES, SIR. HE HAD
9 TURNED HIS BODY AND STARTED MOVING IN THAT DIRECTION.

10 THE COURT: ALL RIGHT, AND THEN WHAT HAPPENED?

11 A I HAD, I WAS REACTING TO HIS MOVEMENT. I
12 GRABBED, TRIED TO GRAB HOLD OF HIS BACK AND I PUT MY HAND
13 ON HIS BACK ---

14 THE COURT: WHEN YOU SAY HIS BACK YOU MEAN YOU
15 DIDN'T GRAB HIM JUST TOUCHED IT OR THE COLLAR OF HIS SHIRT?

16 A BACK HERE IN THE MIDDLE OF HIS BACK.

17 THE COURT: OKAY, BUT THERE'S NOTHING TO GRAB
18 UNLESS YOU'VE GOT CLOTHING. YOU GRABBED CLOTHING?

19 A JACKET, I WAS ATTEMPTING TO GRAB IT.

20 THE COURT: ALL RIGHT --

21 A AND THEN I SAW OFFICER ROBINSON AND I JUST
22 GAVE HIM A SHOVE INTO OFFICER ROBINSON.

23 THE COURT: WELL, SEE, PLEASE DO THIS FOR ME?

24 A YES, SIR.

25 THE COURT: SOMEONE ASKS YOU A QUESTION YOU JUST

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

142

1 GO THREE OR FOUR SENTENCES. I WAS JUST ASKING YOU A
2 QUESTION, I WANT TO GO STEP BY STEP IF I CAN?

3 A YES, SIR.

4 THE COURT: SO DON'T ADD STUFF OTHER THAN WHAT I
5 ASK YOU.

6 A OKAY.

7 THE COURT: ALL RIGHT, SO HE TURNED SOMEWHAT TO
8 THE RIGHT WHEN HE CROUCHED DOWN. YOU WERE CONCERNED AND SO
9 BEFORE HE ACTUALLY, BEFORE, HOW FAR HAD HE MOVED BEFORE YOU
10 TOUCHED HIS CLOTHING IN THE BACK OR HAD HE MOVED?

11 A HE HAD MOVED, YES.

12 THE COURT: ALL RIGHT, HOW FAR?

13 A JUST, JUST SHIFT THE BODY.

14 THE COURT: ALL RIGHT, SO REALLY HIS BODY HAD
15 TURNED BUT AND YOU FELT HE WAS ABOUT TO RUN BUT HE HADN'T
16 QUITE RUN YET OR HADN'T RUN?

17 A YES, SIR, AND HE ---

18 THE COURT: OKAY, AND THEN YOU GRABBED HIS SHIRT
19 OR THE BACK OF HIS CLOTHING?

20 A YES, SIR, I HAD TOLD HIM TO STOP AND HE WAS
21 MOVING THAT DIRECTION WHEN I GRABBED HIM.

22 THE COURT: OKAY, MY QUESTION IS BEFORE YOU.
23 YOU SAID THEN HE STARTED, HE MOVED BEFORE YOU GRABBED HIM;
24 IS THAT RIGHT?

25 A YES, SIR, HE MOVED.

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

143

1 THE COURT: ALL RIGHT, HOW FAR DID HE MOVE
2 BEFORE YOU GRABBED HIM? SO IT WASN'T JUST A CHANGE
3 DIRECTION, HE ACTUALLY MOVED TOWARD THE RIGHT?

4 A YES, SIR, HE WAS APPROXIMATELY A COUPLE OF
5 FEET, OVER A FOOT TO A COUPLE OF FEET.

6 THE COURT: ALL RIGHT, WHEN HE MOVED THOSE
7 COUPLE OF FEET DID HIS BODY TURN TO THE RIGHT AND HE MOVED
8 OR DID HIS, OR WAS HE SIDEWAYS MOVING?

9 A HE HAD STARTED IN A SIDEWAYS MOTION AND
10 TURNED FACE.

11 THE COURT: ALL RIGHT, WHEN HE FACED RIGHT DID
12 HE, DID HE MOVE AFTER HE FACED RIGHT?

13 A YES, SIR, HE WAS MOVING IN A FORWARD
14 DIRECTION.

15 THE COURT: ALL RIGHT, NOW DID YOU TELL HIM NOT
16 TO RUN BEFORE HE ACTUALLY DID THAT MOVEMENT OR AFTER HE DID
17 THAT MOVEMENT?

18 A I HAD TOLD HIM TO STOP WHEN I INITIALLY SAW
19 THE MOVEMENT AND THEN AGAIN AS HE WAS MAKING THE MOVEMENT.

20 THE COURT: OKAY, AND THEN IT WAS AFTER HE DID
21 THOSE COUPLE OF FEET THAT'S WHEN YOU REACHED AND GRABBED
22 THE BACK OF HIS CLOTHING; IS THAT RIGHT?

23 A YES, SIR, CORRECT.

24 THE COURT: ALL RIGHT, AND WHEN YOU GRABBED THE
25 BACK OF HIS CLOTHING THEN WHAT?

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG

144

1 A I HAD PUSHED HIM TOWARDS ---

2 THE COURT: NO, NO, NO. WHAT DID HE DO AFTER
3 YOU GRABBED THE BACK OF HIS CLOTHING?

4 A HE WAS, I'M SORRY, HE WAS CONTINUING HIS
5 FORWARD MOMENTUM.

6 THE COURT: SO HE WAS PULLING YOU WITH HIM?

7 A YES, SIR.

8 THE COURT: ALL RIGHT, SO HE PULLED YOU WITH HIM
9 AND THEN OFFICER ROBINSON CAME FROM THE PASSENGER SIDE TO
10 BE IN BETWEEN HIM AND THE FIELD?

11 A HE HAD TO HAVE, SIR, BECAUSE WHEN I LOOKED
12 UP OFFICER ROBINSON WAS THERE AND I JUST PUSHED HIM.

13 THE COURT: OKAY, AND SO AFTER THE INITIAL TWO
14 FEET YOUR HAND ON HIS CLOTHING ABOUT HOW MANY MORE FEET DID
15 HE MOVE, ANOTHER COUPLE OF FEET?

16 A ANOTHER COUPLE OF FEET AND HE HAD RUN INTO
17 ---

18 THE COURT: DID YOU FEEL WITH YOUR HAND ON HIS
19 CLOTHING THAT HE WAS TRYING TO GET AWAY FROM YOU?

20 A YES, SIR.

21 THE COURT: OKAY, AND YOU HAD TOLD HIM AGAIN AT
22 SOME POINT IN TIME THROUGH THAT TO STOP AGAIN?

23 A YES, SIR.

24 THE COURT: AND IT WAS YOUR FEELING HE WAS NOT
25 OBEYING THAT ORDER TO STOP?

DETECTIVE BRADLEY - CROSS EXAMINATION BY MR. LONG 145

1 A YES, SIR, THAT IS CORRECT.

2 THE COURT: DO YOU FEEL IF YOU HAD NOT HAD YOUR
3 HAND ON HIS CLOTHING THAT HE WOULD HAVE GONE FURTHER?

4 A YES, SIR, I DO.

5 THE COURT: OKAY, I JUST WANTED TO GET THE
6 SCENARIO. SEE, WHEN YOU ASK QUESTIONS YOU GET THE ANSWERS.
7 YA'LL WANT TO ASK HIM ANY QUESTIONS TO FOLLOW UP MY
8 QUESTIONS, ANYBODY?

9 MR. MEACHAM: NONE FROM THE STATE, YOUR HONOR.

10 MR. LONG: NO, YOUR HONOR.

11 THE COURT: ALL RIGHT, THANK YOU. YOU MAY STEP
12 BACK DOWN. ALL RIGHT, NOW I'VE GOT TO DO THAT PLEA AND I'M
13 GOING TO DO THE PLEA ABOUT 2:15 SO YA'LL HAVE ABOUT AN HOUR
14 FOR LUNCH AND THEN AFTER WE FINISH THAT PLEA WE'LL GO BACK
15 INTO THIS CASE. OKAY, THANK YA'LL VERY MUCH.

16 (WHEREUPON, COURT WAS RECESSED FOR LUNCH AND THE
17 FOLLOWING TAKES PLACE ON THE RECORD AFTER THE LUNCH
18 RECESS.)

19 (WHEREUPON, STATE'S EXHIBITS NUMBERS 6, 7, 8, AND
20 9 MARKED FOR IDENTIFICATION.)

21 THE COURT: LET'S HAVE THE JURY.

22 (WHEREUPON, THE JURY RETURNS TO THE COURTROOM AT
23 3:29 P.M.)

24 THE COURT: ALL RIGHT, YOU READY TO GO,
25 EVERYBODY READY, ALL RIGHT, YOUR NEXT WITNESS, PLEASE?

MS. DOMOGAUER - DIRECT EXAMINATION BY MR. MEACHAM

146

1 MR. MEACHAM: MAY IT PLEASE THE COURT, THE STATE
2 WOULD CALL OFFICER JILL DOMOGAUER.

3 THE COURT: COME AROUND, MS. DOMOGAUER.

4 JILL DOMOGAUER

5 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

6 MADAM CLERK: PLEASE STATE YOUR NAME AND SPELL
7 YOUR LAST NAME FOR THE COURT.

8 THE WITNESS: JILL DOMOGAUER, D-O-M-O-G-A-U-E-R.

9 THE COURT: YOUR WITNESS.

10 DIRECT EXAMINATION

11 BY MR. MEACHAM:

12 Q OFFICER, EXCUSE ME, OFFICER DOMOGAUER, YOU
13 WORK FOR THE CONWAY POLICE DEPARTMENT?

14 A YES, SIR.

15 Q IN WHAT CAPACITY?

16 A I'M A DETECTIVE EVIDENCE CRIME SCENE
17 OFFICER.

18 Q NOW ARE YOU IN CHARGE ALSO OF THE CUSTODY
19 OF THE EVIDENCE THAT IS RECEIVED FROM A CRIME SCENE?

20 A FROM CRIME SCENES AND FROM OTHER OFFICERS
21 ON THE ROAD.

22 Q ALL RIGHT, WERE YOU WORKING IN THAT
23 CAPACITY ON FEBRUARY 23RD OF 2005?

24 A YES, I WAS.

25 Q DID YOU RECEIVE AN AMOUNT OF EVIDENCE OR

MS. DOMOGAUER - DIRECT EXAMINATION BY MR. MEACHAM

147

1 SOME ITEMS OF EVIDENCE FROM OFFICER TYRONE WILLIAMS?

2 A I GOT IT FROM MY SECURE LOCKER.

3 Q ALL RIGHT, TELL ME HOW, TELL, CAN YOU TELL
4 THE JURY HOW YOUR SECURE LOCKER WORKS AND HOW IT OPERATES?

5 A MY, THE EVIDENCE ROOM IN THE CONWAY CITY
6 POLICE DEPARTMENT IS MONITORED WITH MOTION ALARM SENSORS.
7 I HAVE A CODE TO ENTER THAT ROOM. OUTSIDE THE ROOM ARE
8 LOCKED LOCKERS WITH PADLOCKS ON THEM. I'M THE ONLY ONE WHO
9 HAS KEYS TO THOSE PADLOCKS SO WHEN YOU PUT IN A LOCKER
10 YOU'RE PUTTING IT IN MY HAND, NO ONE ELSE HAS ACCESS TO
11 THOSE ITEMS BUT ME.

12 Q AND DO YOU RECEIVE AN ITEM PREVIOUSLY
13 MARKED OR IDENTIFIED AS STATE'S EXHIBIT 1 FROM TYRONE
14 WILLIAMS ON FEBRUARY 23RD 2005?

15 A YES, I RECEIVED A COUNTY BEST KIT.

16 Q OKAY, AND WAS IT RECEIVED IN A COUNTY BEST
17 KIT?

18 A YES, SIR, IT WAS.

19 Q AND WHAT DO YOU DO WITH THAT?

20 A WELL WHEN I RECEIVED ALL THE EVIDENCE I LOG
21 IT IN, GIVE IT INTERNAL INVENTORY NUMBER FOR THE CONWAY
22 CITY POLICE DEPARTMENT. I ASSIGN A LOCATION TO SECURE
23 EVIDENCE ROOM. EVIDENCE LIKE THIS I PHYSICALLY TRANSPORT
24 TO WHATEVER LAB IT NEEDS TO GO FOR FURTHER ANALYSIS.

25 Q AND WHAT IS THE LAB THAT DOES THE ANALYSIS

MS. DOMOGAUER - DIRECT EXAMINATION BY MR. MEACHAM

148

1 FOR CONWAY POLICE DEPARTMENT CASES?

2 A WE HAVE TWO DRUG LABS. WE CAN EITHER GO TO
3 THE STATE LAW ENFORCEMENT DIVISION OR WE HAVE A LOCAL HORRY
4 COUNTY REGIONAL DRUG LAB.

5 Q IN THIS PARTICULAR CASE WHICH LAB DID YOU
6 USE?

7 A THE HORRY COUNTY REGIONAL DRUG LAB.

8 Q ALL RIGHT, WHEN DID YOU SUBMIT THIS TO THE
9 HORRY COUNTY REGIONAL DRUG LAB?

10 A IF I CAN REFER TO THIS?

11 Q YES?

12 A MARCH 29TH OF 2005.

13 Q AND HOW DO YOU KNOW THAT YOU SUBMITTED IT
14 ON MARCH 29TH OF 2005; DO YOU MAKE A RECORD OF THAT?

15 A YES, I DO.

16 Q I'M GOING TO SHOW YOU WHAT HAS PREVIOUSLY
17 BEEN MARKED AS STATE'S EXHIBIT FOR THE PURPOSES OF
18 IDENTIFICATION, FOR THE PURPOSES OF IDENTIFICATION STATE'S
19 EXHIBIT 7?

20 A YES, IT IS.

21 Q IS THAT YOUR NOTATION THAT EVIDENCE
22 SUBMITTED TO HORRY COUNTY REGIONAL DRUG LAB?

23 A THAT'S MY NAME AND MY SIGNATURE; I ALSO
24 SIGN THIS FORM WHEN I RECEIVE IT FROM OFFICER WILLIAMS.

25 Q IS OFFICER WILLIAMS SIGNATURE ON THERE?

MS. DOMOGAUER - DIRECT EXAMINATION BY MR. MEACHAM

149

1 A YES, IS.

2 Q WHAT DATE DOES IT SAY HE SUBMITTED IT TO
3 YOU?

4 A FEBRUARY 23RD OF 2005.

5 Q AND IT REMAINS IN THE LOCKED BOX?

6 A IT REMAINS IN MY CUSTODY.

7 Q CUSTODY UNTIL WHEN?

8 A WHENEVER I SUBMIT IT TO THE DRUG LAB.

9 Q WHICH WAS WHEN?

10 A WHICH WAS MARCH 29TH, 2005.

11 Q ALL RIGHT, AND WHEN IT'S IN YOUR CUSTODY
12 DID IT CHANGE SUBSTANCE OR FORM OR ALTERED IN ANY WAY?

13 A IT CAN'T BE.

14 Q OKAY, WHY?

15 A WELL IT CAN BE BUT THIS WASN'T, THE COUNTY
16 BEST KITS, IF I CAN SHOW THE JURY, HAVE THESE BLUE LINES ON
17 THEM. THIS IS WHAT YOU CALL A TAMPER, TAMPER PROOF BAG
18 THAT'S INSIDE THIS OTHER BAG. I INSPECT THE BAG WHEN I
19 RECEIVED IT FROM OFFICER WILLIAMS. IF THE BAG IS ALTERED
20 IN ANY WAY IT'S REFUSED AS EVIDENCE. UPON MY EXAMINATION
21 ON THE 23RD OF FEBRUARY THE BAG WAS NOT ALTERED IN ANY WAY
22 SHAPE OR FORM. IT'S ALREADY SEALED. IT WAS SEALED BY THE
23 OFFICER WHO SIGNS THE BAG. ONCE IT'S SEALED IT DOES NOT
24 GET OPENED ANYMORE, THEN I SUBMIT IT TO THE DRUG LAB AND
25 LISA IN FRONT OF ME ALSO INSPECTS THE BAG TO MAKE SURE NO

MS. DOMOGAUER - DIRECT EXAMINATION BY MR. MEACHAM

150

1 TAMPERING WAS DONE TO THE ITEMS.

2 Q AND WHEN YOU SUBMIT IT TO THE LAB YOU
3 SUBMIT FOR ANALYSIS?

4 A YES.

5 Q ALL RIGHT, AFTER IT'S ANALYZED WHAT DO YOU
6 DO WITH THAT OR WHAT HAPPENS TO THE SUBSTANCE AT THAT
7 POINT?

8 A DURING ANALYSIS OR AFTER?

9 Q AFTERWARDS?

10 A I CAN'T SPEAK ON WHAT LISA DOES BUT WHEN I
11 GO PICK IT UP IT COMES BACK INTO MY CUSTODY, I SIGN FOR IT.

12 Q ALL RIGHT, I'M GOING TO SHOW YOU WHAT, HOW
13 DO YOU KNOW THAT IT COMES BACK INTO YOUR CUSTODY?

14 A I GO PERSONALLY AND PICK IT UP.

15 Q ALL RIGHT, DO YOU SIGN FOR IT?

16 A YES, I DO.

17 Q I AM GOING TO SHOW YOU WHAT HAS PREVIOUSLY
18 BEEN MARKED AS STATE'S EXHIBIT 6, FOR PURPOSES OF
19 IDENTIFICATION, STATE'S EXHIBIT 6; WHAT IS THAT DOCUMENT?

20 A THIS IS MY, THE PICK UP FORM THAT I SIGN
21 WHEN I PICK UP NARCOTICS OR ANY TYPE OF SUBSTANCE FROM
22 LABS, YOU HAVE THEIR, THE LAB NUMBERS, THAT'S HOW I CAN
23 REFER, I KNOW IT WAS THIS BAG FROM THIS CASE.

24 Q OKAY, THE LAB NUMBER REFERS TO WHAT?

25 A THE LAB NUMBER IS AN INTERNAL NUMBER THAT

MS. DOMOGAUER - DIRECT EXAMINATION BY MR. MEACHAM

151

1 LISA FLOYD GIVES IT. WE ALSO HAVE A CONTROL NUMBER ON THE
2 BAG ITSELF, THE KIT NUMBER, THAT'S AN INCIDENT REPORT ON
3 PROPERTY SHEETS ON CHAIN OF CUSTODY AND ALSO ON THE RETURN.

4 Q AND DOES THE LAB NUMBER AND THE CONTROL
5 NUMBER MATCH WHAT IS IN THE BEST KIT?

6 A WHAT DO YOU MEAN?

7 Q THE LAB NUMBER AND CONTROL NUMBER MATCH UP
8 TO THE NUMBER THAT'S ON THE BEST KIT?

9 A THEY ARE TWO DIFFERENT NUMBERS.

10 Q OKAY --

11 A BUT THE NUMBERS ARE THE SAME ON EVERY
12 SHEET.

13 Q ON EVERY SHEET?

14 A YES, AND ALSO THIS PARTICULAR BAG ALSO HAS
15 A CASE NUMBER FROM OUR POLICE DEPARTMENT.

16 Q AND WHY DO YOU WANT TO HAVE THIS CONTROL
17 NUMBER?

18 A WELL IT'S HOW I KNOW THAT THIS IS THE BAG
19 THAT I'M TELLING HER THAT'S FROM THAT SCENE.

20 Q THE DRUGS YOU SUBMITTED?

21 A YES.

22 Q AND WHEN DID YOU RETRIEVE THOSE FROM THE
23 HORRY COUNTY?

24 A JUNE 7TH, 2005.

25 Q ALL RIGHT, AND YOU HAVE BEEN, THEY HAVE

MS. DOMOGAUER - DIRECT EXAMINATION BY MR. MEACHAM

152

1 BEEN IN YOUR CUSTODY SINCE, SINCE THAT DAY?

2 A YES.

3 Q ALL RIGHT, AND WOULD ANYONE HAVE ACCESS TO
4 THEM EXCEPT FOR YOU AT THAT POINT?

5 A UNLESS I'M CALLED TO COURT NO ONE HAS
6 ACCESS TO THEM.

7 Q AND THE FORM THAT YOU SUBMIT TO THAT
8 INCLUDES YOUR NOTATION, I'M REFERRING TO STATE'S EXHIBIT 7
9 MARKED FOR IDENTIFICATION, IS THAT YOUR SIGNATURE?

10 A YES, IT IS WHERE IT SAYS WHEN IT WAS
11 SUBMITTED TO ME BY OFFICER WILLIAMS AND WHEN I SUBMITTED IT
12 TO LISA FLOYD.

13 Q ALL RIGHT, AND SUBMITTED TO YOU ON FEBRUARY
14 23RD, 2005?

15 A YES, SIR.

16 Q WAS IT SUBMITTED TO LISA FLOYD ON MARCH
17 29TH, 2005?

18 A YES, SIR.

19 Q AND DOES IT HAVE A CONTROL NUMBER THAT
20 MATCHES UP TO THE, TO THE BAG?

21 A CONTROL LAB AND CASE NUMBER.

22 MR. MEACHAM: MAY IT PLEASE THE COURT, WE WOULD
23 MOVE TO INTRODUCE STATE'S EXHIBIT 7 INTO EVIDENCE.

24 MR. LONG: WITHOUT OBJECTION TO THE DOCUMENT,
25 YOUR HONOR.

MS. DOMOGAUER - DIRECT EXAMINATION BY MR. MEACHAM

153

1 THE COURT: ALL RIGHT, EXHIBIT 7 INTO EVIDENCE,
2 YOU MAY PUBLISH.

3 (WHEREUPON, STATE'S EXHIBIT NUMBER 7 ENTERED INTO
4 EVIDENCE.)

5 MR. MEACHAM: (CONTINUING)

6 Q NOW THAT DOCUMENT CONTROLS HOW, DOES IT
7 CONTROL HOW THE DRUGS GET TO ANALYSIS?

8 A MEANING?

9 Q CONTROLLING HOW THE DRUGS GET TO THE DRUG
10 LAB FOR ANALYSIS?

11 A I TRANSPORT THEM.

12 Q OKAY, THANK YOU, BUT THAT DOCUMENT
13 DOCUMENTS ---

14 A THAT DOCUMENT ---

15 Q --- WHEN YOU RECEIVED THEM AND HOW YOU GET
16 THEM THERE?

17 A THAT DOCUMENT DOCUMENTS WHEN IT COMES INTO
18 CUSTODY AND WHO'S HAD CUSTODY SINCE THEN, ALL PERSONNEL.

19 Q THANK YOU, I'M GOING TO SHOW YOU STATE'S
20 EXHIBIT 6, IS THAT YOUR SIGNATURE AT THE BOTTOM OF THAT
21 DOCUMENT?

22 A YES, IT IS.

23 Q DOES THAT INDICATE TO YOU WHAT?

24 A WHEN I PICKED UP THE SUBSTANCE THAT WAS
25 TESTED.

MS. DOMOGAUER - DIRECT EXAMINATION BY MR. MEACHAM

154

1 Q OKAY?

2 A IT INDICATES WHAT ITEMS I PICKED UP, THIS
3 ITEM IS LISTED ON THIS SHEET.

4 Q HOW DO YOU, HOW DO YOU KNOW THAT IT'S THAT
5 PARTICULAR ITEM?

6 A FROM THE CONWAY CITY POLICE DEPARTMENT'S
7 CASE NUMBER THAT COINCIDES WITH THE HORRY COUNTY LAB NUMBER
8 THAT COINCIDES WITH THE COUNTY BEST KIT CONTROL NUMBER.

9 Q AND DOES THAT COINCIDE WITH THIS?

10 A YES, SIR.

11 Q ALL RIGHT, AND WHEN DID YOU PICK THAT UP
12 FROM HORRY COUNTY DRUG LAB?

13 A JUNE 7TH OF 2005.

14 Q OKAY, AND WHOSE SIGNATURE IS ABOVE THAT?

15 A LISA FLOYD'S.

16 MR. MEACHAM: MAY IT PLEASE THE COURT, WE WOULD
17 MOVE TO INTRODUCE THE HORRY COUNTY RETURNING FORM INTO
18 EVIDENCE.

19 MR. LONG: NO OBJECTION AS TO THE ADMISSIBILITY
20 OF THE DOCUMENT, YOUR HONOR.

21 THE COURT: OKAY, WITHOUT OBJECTION.

22 (WHEREUPON, STATE'S EXHIBIT NUMBER 6 ENTERED INTO
23 EVIDENCE.)

24 MR. MEACHAM: (CONTINUING)

25 Q NOW DID YOU ALSO RECEIVE ADDITIONAL

MS. DOMOGAUER - DIRECT EXAMINATION BY MR. MEACHAM

155

1 EVIDENCE ON FEBRUARY 23RD FROM OFFICER WILLIAMS?

2 A YES, I DID.

3 Q I'M GOING TO SHOW YOU WHAT'S PREVIOUSLY
4 BEEN MARKED AS STATE'S EXHIBIT 4, CAN YOU IDENTIFY WHAT
5 THAT IS?

6 A THE MANILA ENVELOPE THAT OFFICER WILLIAMS
7 RETRIEVED TO ME IN THIS CASE OF MARIJUANA.

8 Q ALL RIGHT, NOW HAVE YOU BEEN TRAINED BY THE
9 STATE LAW ENFORCEMENT DIVISION IN ANALYZING MARIJUANA?

10 A YES, I HAVE.

11 Q TELL ME ABOUT YOUR TRAINING, YOUR CLASSES,
12 AND YOUR CERTIFICATION?

13 A EXCUSE ME, WELL TO BE SO CERTIFIED YOU HAVE
14 TO OBTAIN GO THROUGH A COURSE, HOURS OF TRAINING. YOU HAVE
15 TO TAKE A WRITTEN EXAM WHICH THE PASSING GRADE IS EIGHTY
16 PERCENTILE. YOU HAVE TO ANALYZE OVER A HUNDRED SAMPLES
17 WITH A HUNDRED PERCENT ACCURACY WHEN ANALYZING THOSE
18 SAMPLES AND THEN THEY GRADE THE BOTH OF THOSE PROCEDURES TO
19 DETERMINE CERTIFICATION.

20 Q HOW MANY TIMES, HOW MANY SUCCESSFUL TESTS
21 DO YOU HAVE TO RUN TO BE CERTIFIED?

22 A THROUGH SLED YOU HAVE TO DO A HUNDRED
23 SAMPLES.

24 Q OKAY, AND YOU WERE CERTIFIED WHEN YOU RAN
25 THE TESTS ON THIS PARTICULAR ITEM, CORRECT?

MS. DOMOGAUER - DIRECT EXAMINATION BY MR. MEACHAM 156

1 A YES, I RECEIVED A HUNDRED ON MY WRITTEN
2 EXAMINATION AND PROFICIENCY OF A HUNDRED ON SAMPLE TESTING.

3 Q ALL RIGHT, AND NOW WHEN DID YOU RECEIVE
4 YOUR CERTIFICATION?

5 A MY EXACT DATE OF CERTIFICATION WAS APRIL
6 26TH OF 2005.

7 Q OKAY, AND DID YOU RUN AN ANALYSIS ON THIS
8 PARTICULAR ITEM?

9 A AFTER APRIL 26TH OF 2005, YES, SIR, I DID.

10 Q ALL RIGHT, HAVE YOU TESTIFIED IN COURT AND
11 CERTIFIED AS AN EXPERT IN MARIJUANA ANALYSIS BEFORE?

12 A YES, I HAVE BEEN.

13 MR. MEACHAM: ALL RIGHT, MAY IT PLEASE THE
14 COURT, WE WOULD MOVE TO INTRODUCE OFFICER DOMOGAUER AS AN
15 EXPERT IN MARIJUANA ANALYSIS.

16 THE COURT: ANY OBJECTION?

17 MR. LONG: YES, YOUR HONOR. I OBJECT AGAIN ON
18 RELEVANCY CONTINUING OBJECTION THIS TRIAL IS NOT ABOUT
19 MARIJUANA.

20 THE COURT: SUSTAINED, LET'S JUST GO ON TO THE
21 OTHER ISSUES, MR. MEACHAM.

22 MR. MEACHAM: (CONTINUING)

23 Q ALL RIGHT. NOW WHEN YOU RECEIVED THE BEST
24 PACKET YOU KEPT THAT IN YOUR CUSTODY UNTIL COURT TODAY; IS
25 THAT CORRECT?

MS. DOMOGAUER - CROSS EXAMINATION BY MR. LONG

157

1 A AFTER I RECEIVED IT FROM THE LAB, YES.

2 Q AND IT'S NOT BEEN ALTERED IN ANY WAY?

3 A NO, SIR.

4 MR. MEACHAM: THANK YOU, THAT'S ALL I HAVE,
5 PLEASE ANSWER ANY QUESTIONS MR. LONG MAY HAVE.

6 THE COURT: CROSS EXAMINATION?

7 MR. LONG: THANK YOU, YOUR HONOR.

8 CROSS EXAMINATION

9 BY MR. LONG:

10 Q OFFICER DOMOGAUER, WHEN YOU RECEIVE
11 EVIDENCE FROM A PATROL OFFICER OR DETECTIVE, NARCOTICS
12 OFFICER, OR WHATEVER, HE DOESN'T HAND IT TO YOU, DOES HE?

13 A SOMETIMES THEY DO.

14 Q SOMETIMES THEY DO IF HIS SCHEDULE COINCIDES
15 WITH YOURS AND YOU'RE BOTH IN THE OFFICE?

16 A YES, SIR.

17 Q ALL RIGHT, BUT THE LARGEST MAJORITY OF THE
18 TIME HE PUTS IT IN A LOCKER, BEST EVIDENCE LOCKER OR
19 SOMETHING?

20 A AN EVIDENCE LOCKER, YES, SIR.

21 Q EVIDENCE LOCKER, RIGHT, SO YOU DON'T SEE IT
22 UNTIL YOU NEXT RETURN TO THE LOCKER TO REMOVE IT YOU SEE
23 HIS SIGNATURE, THINGS OF THAT NATURE?

24 A YES, SIR.

25 Q OKAY, JUST IN RESPONSE TO PREVIOUS

MS. DOMOGAUER - CROSS EXAMINATION BY MR. LONG

158

1 QUESTIONS, YOUR HONOR, WHAT DATE DID YOU TEST THE
2 MARIJUANA?

3 A WHAT DATE DID I TEST THE MARIJUANA?

4 Q YES?

5 A I CAN GIVE YOU AN EXACT DATE, I TESTED THE,
6 EXACT DATE OF ME TESTING THE MARIJUANA WAS ON OCTOBER 20TH,
7 2005.

8 Q OKAY, ALL RIGHT. I JUST, I JUST WAS
9 CURIOUS, I THOUGHT YOU TESTED IT THE SAME DATE THEY TURNED
10 IT OVER TO YOU?

11 A NO, SIR, I GOT CERTIFIED IN APRIL.

12 Q OFFICER WILLIAMS PUT IN THE EVIDENCE LOCKER
13 BEST EVIDENCE KIT, YOU'VE GOT THE NUMBER, WHAT DID HE
14 INDICATE THAT WAS ON THE BEST EVIDENCE KIT FORMS, WHAT
15 WEIGHT OF WHAT TYPE SUBSTANCE?

16 A THERE IS NO WEIGHT, SIR.

17 Q THERE IS NO WEIGHT?

18 A HE DESCRIBES HIS EVIDENCE IN HIS BEST KIT
19 AS A TANNISH ROCK LIKE SUBSTANCE.

20 Q ALL RIGHT, AND WOULD HE HAVE AT ANY POINT
21 IN TIME HAVE WEIGHED THOSE BEFORE HE SUBMITTED THEM TO YOU?

22 A I DON'T KNOW, SIR.

23 Q HAVE TO ASK HIM?

24 A YES, SIR.

25 THE COURT: WHAT ELSE DID YOU ASK ABOUT, SIR?

MS. FLOYD - DIRECT EXAMINATION BY MR. MEACHAM

159

1 MR. LONG: OFFICER WILLIAMS' THE WEIGHT OF THE
2 DRUGS.

3 MR. LONG: THANK YOU, MA'AM, NO FURTHER
4 QUESTIONS.

5 THE COURT: ANYTHING ELSE?

6 MR. MEACHAM: I HAVE NO QUESTIONS, THANK YOU.
7 MAY IT PLEASE THE COURT, WE WOULD CALL OFFICER LISA FLOYD.

8 THE COURT: OFFICER FLOYD, TAKE YOUR TIME,
9 OFFICER FLOYD, AND BE CAREFUL COMING UP, WE'LL ACCOMMODATE
10 YOU IN ANY WAY YOU WISH, MA'AM.

11 LISA FLOYD

12 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

13 MADAM CLERK: PLEASE STATE YOUR NAME FOR THE
14 COURT.

15 THE WITNESS: LISA FLOYD.

16 THE COURT: ALL RIGHT, YOUR WITNESS.

17 DIRECT EXAMINATION

18 BY MR. MEACHAM:

19 Q OFFICER FLOYD, YOU WORK WITH THE HORRY
20 COUNTY POLICE DEPARTMENT?

21 A YES, SIR.

22 Q AND HOW LONG HAVE YOU WORKED WITH THE HORRY
23 COUNTY POLICE DEPARTMENT?

24 A SINCE SEPTEMBER OF 2002.

25 Q IN WHAT CAPACITY DO YOU WORK WITH THE HORRY

MS. FLOYD - DIRECT EXAMINATION BY MR. MEACHAM

160

1 COUNTY POLICE DEPARTMENT?

2 A I AM A CERTIFIED LAW ENFORCEMENT OFFICER, I
3 WORK AS A FORENSIC CHEMIST IN THE HORRY COUNTY REGIONAL
4 DRUG ANALYSIS LABORATORY.

5 Q ALL RIGHT, AND CAN YOU TELL ME ABOUT YOUR
6 TRAINING IN SO FAR AS DRUG ANALYSIS?

7 A YES, I'M CERTIFIED AS A FORENSIC DRUG
8 CHEMIST THROUGH THE SPARTANBURG SHERIFF'S OFFICE FORENSICS
9 LABORATORY.

10 Q AND CAN YOU TELL ME ABOUT YOUR DEGREES AND
11 YOUR TRAINING, EDUCATION AND TRAINING?

12 A YES, I HAVE A BACHELORS OF SCIENCE DEGREE
13 IN BIOCHEMISTRY FROM CLEMSON UNIVERSITY. I HAVE ANOTHER
14 TWENTY FOUR HOURS TOWARDS A MASTER DEGREE IN BIOCHEMISTRY
15 AS WELL FROM CLEMSON, AND ---

16 Q OKAY, ANY OF YOUR TRAINING IN TERMS OF --
17 I'M SORRY, GO AHEAD?

18 A AS FAR AS MY TRAINING GOES I SPENT FOURTEEN
19 WEEKS TRAINING WITH THE SPARTANBURG COUNTY FORENSICS
20 LABORATORY TO DO THIS PARTICULAR POSITION.

21 Q HOW MANY TESTS HAVE YOU RUN IN ANALYZING
22 THE SUBSTANCE OF COCAINE BASE TOTAL OF YOUR CAREER?

23 A OF COCAINE BASE WELL OVER A THOUSAND.

24 Q OKAY, WELL OVER HOW MANY?

25 A A THOUSAND.

MS. FLOYD - DIRECT EXAMINATION BY MR. MEACHAM

161

1 Q ALL RIGHT, CAN YOU TELL US A LITTLE BIT
2 ABOUT THE PROCESS OF ANALYZING COCAINE BASE AND WHAT DO YOU
3 DO?

4 A WHEN I RECEIVE, WELL JUST IN GENERAL WHEN I
5 RECEIVE ANY SUBSTANCE THAT'S POSSIBLY A CONTROLLED
6 SUBSTANCE IT GOES THROUGH WHAT'S CONSIDERED PRESUMPTIVE
7 TESTING AND THEN CONFIRMATORY ANALYSIS AND IN THIS CASE I
8 PERFORMED TWO DIFFERENT COLOR TESTS WHICH ARE THE
9 PRESUMPTIVE TESTS. IT INDICATED TO ME THAT COCAINE WAS
10 PROBABLY PRESENT SO AT THAT POINT I PERFORMED WHAT'S
11 CONSIDERED A CONFIRMATORY ANALYSIS USING A GAS
12 CHROMATOGRAPH AND A MASS SELECTIVE DETECTOR WHICH ARE TWO
13 COMMONLY UTILIZED FORENSIC INSTRUMENTS.

14 MR. MEACHAM: OKAY, MAY IT PLEASE THE COURT, WE
15 WOULD MOVE TO SUBMIT HER AS AN EXPERT IN COCAINE BASE AND
16 LAB ANALYSIS.

17 THE COURT: MR. LONG, YOU HAVE OBJECTION FOR HER
18 QUALIFICATIONS OR WISH TO ASK ANY QUESTIONS IN THAT REGARD?

19 MR. LONG: NO OBJECTIONS TO HER QUALIFICATIONS
20 BEING QUALIFIED AS AN EXPERT IN CHEMICAL ANALYSIS.

21 THE COURT: LADIES AND GENTLEMEN, NORMALLY A
22 WITNESS IS NOT PERMITTED TO COME TO COURT TO GIVE OPINIONS.
23 A WITNESS IS NORMALLY ONLY PERMITTED TO RESPOND AS TO WHAT
24 THEY PERCEIVED BY THEIR SENSES, WHAT THEY HEARD, SMELLED,
25 TASTED, THINGS OF THAT NATURE, OR THEY SAW, HOWEVER WHEN A

MS. FLOYD - DIRECT EXAMINATION BY MR. MEACHAM

162

1 PERSON IS QUALIFIED IN THE FIELD NOT NORMALLY ONE THAT
2 LAYPERSONS ARE INVOLVED IN, SPECIALTY FIELDS, SCIENTIFIC
3 FIELDS, FIELDS OF THAT NATURE, THEN THE COURT CAN QUALIFY
4 THEM TO GIVE OPINION TESTIMONY IN THAT AREA.

5 NOW THE FACT THE COURT QUALIFIES A PERSON TO GIVE
6 OPINION TESTIMONY DOES NOT MEAN YOU MUST ACCEPT THAT
7 OPINION. WHAT IT MEANS IS THE OPINION BECOMES EVIDENCE YOU
8 CONSIDER. YOU CAN GIVE IT ANY WEIGHT, IF AT ALL, YOU WISH
9 TO GIVE TO IT. IT'S TOTALLY UP TO YOU WHETHER YOU ACCEPT
10 IT, REJECT IT, ACCEPT IT IN PART, REJECT IT IN PART. IT'S
11 TOTALLY UP TO YOU BUT THIS PERSON IS QUALIFIED IN THE AREA
12 OF COCAINE ANALYSIS AND CHEMICAL ANALYSIS OF DRUGS LIKE
13 COCAINE AND I WILL GIVE HER PERMISSION TO GIVE OPINION
14 TESTIMONY IN THAT AREA AND YOU CAN ACCEPT IT ANY WAY YOU
15 WISH, YOU MAY PROCEED.

16 MR. MEACHAM: THANK YOU.

17 Q (CONTINUING) NOW WHEN DID YOU RECEIVE THE
18 ITEMS FROM THE CONWAY POLICE DEPARTMENT?

19 A MARCH THE 29TH OF 2005.

20 Q OKAY, WHAT DO YOU DO WHEN YOU RECEIVE IT?

21 A UPON RECEIPT IT COMES IN AN ENVELOPE LIKE
22 THIS AND INSIDE THAT ENVELOPE IS THIS INNER BAG THAT YOU
23 SEE HERE SEALED ALONG WITH SOME PAPER WORK THAT MAKES UP
24 THE CHAIN OF CUSTODY FORM AND WHEN I RECEIVE IT I GIVE IT
25 MY LAB NUMBER WHICH IS JUST A CONSECUTIVE NUMBER, IN THIS

MS. FLOYD - DIRECT EXAMINATION BY MR. MEACHAM

163

1 CASE IT'S L050211, AND I DOCUMENT THAT IT WAS RECEIVED.

2 Q AND LET ME SHOW YOU WHAT IS PREVIOUSLY
3 MARKED STATE'S EXHIBIT 1, IS THAT, WHAT IS THAT STATE'S
4 EXHIBIT 1?

5 A THE LAB NUMBER MATCHES FOR THIS PARTICULAR
6 CASE WHICH AGAIN ON THE BAG IS L050211 AS WELL AS THE
7 CONTROL NUMBER WHICH IS PREPRINTED ON THE TOP LEFT OF THE
8 BAG, TOP RIGHT.

9 Q DID YOU PERFORM A SPECIFIC CHEMICAL
10 ANALYSIS FOR COCAINE BASE ON THAT PARTICULAR ITEM?

11 A YES, I DID.

12 Q AND WHEN DID YOU DO THAT?

13 A THE ACTUAL ANALYSIS WAS PERFORMED ON APRIL
14 THE 5TH OF 2005.

15 Q OKAY, AND WHAT WAS THE RESULTS OF THE
16 COCAINE BASE CONTENT IN THIS PARTICULAR ITEM?

17 A IT WAS FOUND TO BE COCAINE IN A BASE FORM
18 COMMONLY REFERRED TO AS CRACK COCAINE WITH A WEIGHT OF
19 20.68 GRAMS WHICH CONVERTS TO 319.09 GRAINS.

20 Q WOULD 20 GRAMS BE BETWEEN 10 AND 28 GRAMS
21 OF CRACK COCAINE?

22 A YES.

23 MR. MEACHAM: MAY IT PLEASE THE COURT --

24 Q (CONTINUING) I'M GOING TO SHOW YOU WHAT'S
25 PREVIOUSLY BEEN MARKED AS STATE'S EXHIBIT 9, IS THIS YOUR

MS. FLOYD - DIRECT EXAMINATION BY MR. MEACHAM

164

1 DRUG ANALYSIS REPORT AND WHAT YOU RECEIVED IN THIS BAG?

2 A YES, THE LAB NUMBER MATCHES AND THAT IS THE
3 ORIGINAL DOCUMENT.

4 MR. MEACHAM: MAY IT PLEASE THE COURT, WE WOULD
5 MOVE TO INTRODUCE THE DRUG ANALYSIS INTO EVIDENCE.

6 MR. LONG: NO OBJECTION AS TO THE ADMISSIBILITY
7 OF THE DOCUMENT.

8 THE COURT: ALL RIGHT, WHAT'S THE NUMBER?

9 MR. MEACHAM: STATE'S EXHIBIT 9.

10 THE COURT: 9 IS IN EVIDENCE.

11 (WHEREUPON, STATE'S EXHIBIT NUMBER 9 ENTERED INTO
12 EVIDENCE.)

13 MR. MEACHAM: PERMISSION TO PUBLISH?

14 THE COURT: YOU MAY DO SO.

15 MR. MEACHAM: THANK YOU.

16 Q (CONTINUING) NOW WAS THIS THE ITEM THAT YOU
17 ANALYZED THAT PARTICULAR DAY?

18 A YES, IT WAS.

19 Q HOW DO YOU KNOW IT WAS THAT ITEM?

20 A WHEN I, IF I MAY TAKE IT. WHEN I GO TO
21 OPEN IT, AGAIN AS JILL TESTIFIED I ACTUALLY INSPECT THAT
22 PARTICULAR BAG INSIDE, I WRITE THE LAB NUMBER ON IT, AND
23 ALSO WRITE MY INITIALS, THE LETTERS O.K. INDICATING IT HAS
24 NOT BEEN TAMPERED WITH AS WELL AS THE DATE THAT IT WAS
25 OPENED AND THE AGENCY'S CASE NUMBER AND AGAIN THAT MATCHES

MS. FLOYD - DIRECT EXAMINATION BY MR. MEACHAM

165

1 AS WELL.

2 Q ACCORDING TO YOUR PAPER WORK IT WAS IN
3 CUSTODY OF JILL DOMOGAUER AND YOURSELF WITH NO ACCESS FROM
4 ANYONE ELSE DURING THAT PERIOD OF TIME?

5 A THAT IS CORRECT.

6 MR. MEACHAM: MAY IT PLEASE THE COURT, WE WOULD
7 MOVE TO INTRODUCE STATE'S EXHIBIT 1 INTO EVIDENCE.

8 MR. LONG: OBJECTION, YOUR HONOR, CHAIN OF
9 CUSTODY. I'M ASSUMING HE'S TALKING ABOUT THE BEST EVIDENCE
10 KIT. THERE'S A CHAIN OF CUSTODY ISSUE, MAY WE APPROACH?

11 THE COURT: YES, SIR.

12 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
13 RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING
14 OF THE JURY.)

15 THE COURT: BEST EVIDENCE KIT AS STATE'S EXHIBIT
16 NUMBER --

17 MR. MEACHAM: 1.

18 THE COURT: 1 IS IN EVIDENCE.

19 (WHEREUPON, STATE'S EXHIBIT NUMBER 1 ENTERED INTO
20 EVIDENCE.)

21 MR. MEACHAM: PERMISSION TO PUBLISH?

22 THE COURT: YOU MAY PUBLISH IT, KEEP IT CLOSED.

23 MR. MEACHAM: THAT'S ALL THE QUESTIONS I HAVE,
24 PLEASE ANSWER ANY QUESTIONS THAT MR. LONG HAS.

25 THE COURT: OKAY, MR. LONG?

MS. FLOYD - CROSS EXAMINATION BY MR. LONG

166

1 CROSS EXAMINATION

2 BY MR. LONG:

3 Q OFFICER FLOYD, WHEN YOU ARE TESTING A
4 SUBSTANCE DO YOU WEIGH IT FIRST BEFORE YOU BEGIN TO TEST
5 IT?

6 A NO, TYPICALLY I ACTUALLY REMOVE WHATEVER I
7 NEED FOR TESTING AND THEN I TAKE THE WEIGHT.

8 Q ALL RIGHT, AND COULD YOU CHARACTERIZE HOW
9 MUCH YOU REMOVE AS FAR AS A PERCENTAGE OF THE WHOLE? DO
10 YOU REQUIRE A 10TH OF A GRAM, A 100TH OF A GRAM, I MEAN HOW
11 MUCH OF THE ACTUAL SUBSTANCE DO YOU REQUIRE OR NORMALLY
12 TAKE FOR TESTING?

13 A IT WOULD BE MORE ALONG THE LINES OF A
14 HUNDREDTH OF A GRAM.

15 Q OKAY, SO .01 T8TH OF A GRAM?

16 A SURE.

17 Q ALL RIGHT, SO IF WE'RE TALKING ABOUT 20.68
18 GRAMS THAT YOU TESTED AS BEING POSITIVE FOR COCAINE BASE
19 MOST LIKELY YOU WOULD HAVE STARTED OUT WITH 20.69 GRAMS?

20 A SOMEWHERE IN THAT VICINITY.

21 Q AND YOU MAY HAVE USED ONE ONE HUNDREDTH FOR
22 TESTING PURPOSES?

23 A THAT'S AN ACCURATE ASSUMPTION.

24 Q OKAY, NOW HOW ACCURATE ARE THESE PROCEDURES
25 THAT THEY USE, FOR INSTANCE, IF I HAVE A HUNDRED PERCENT

MS. FLOYD - CROSS EXAMINATION BY MR. LONG

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1 PURE COCAINE WOULD IT, OF COURSE, TEST POSITIVE FOR
2 COCAINE?

3 A DEFINITELY.

4 Q FIFTY PERCENT WOULD IT TEST POSITIVE FOR
5 COCAINE?

6 A MOST LIKELY, YES.

7 Q ONE PERCENT WOULD IT TEST POSITIVE FOR
8 COCAINE?

9 A IT DEPENDS.

10 Q IF IT WAS HOMOGENOUS, IT WAS PROPERLY MIXED
11 OR WHATEVER, THAT THE COCAINE WAS DISTRIBUTED UNIFORMLY
12 THROUGHOUT THE SUBSTANCE?

13 A MOST LIKELY IT WOULD STILL TEST POSITIVE,
14 YES.

15 Q ALL RIGHT, ONE-TENTH OF ONE PERCENT?

16 A I CAN'T REALLY ANSWER THAT. IF I MAY
17 EXPOUND ON THAT A LITTLE BIT. I DON'T DO A PURITY ANALYSIS
18 ON THE DRUGS THAT I RECEIVE AND THE WAY THAT I ACTUALLY
19 CALL SOMETHING POSITIVE DEPENDS ON QUITE A FEW DIFFERENT
20 FACTORS. FIRST THE PRESUMPTIVE TESTS HAVE TO BE POSITIVE
21 AND THEN WHEN I RECEIVE A PRINT OUT FROM THE MASS SELECTIVE
22 DETECTOR THAT I MENTIONED EARLIER THERE HAS TO BE EIGHT
23 PARTICULAR ITEMS PRESENT FOR ME TO CALL IT COCAINE. NOW IF
24 THE COCAINE IS PRESENT IN A VERY VERY SMALL AMOUNT, MAYBE
25 SIX OR SEVEN OF THOSE IONS MIGHT BE PRESENT INDICATING TO

MS. FLOYD - CROSS EXAMINATION BY MR. LONG

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1 ME STRONGLY THAT IT'S MOST LIKELY COCAINE BUT I PERSONALLY
2 WOULD NOT CALL IT POSITIVE UNLESS ALL EIGHT WERE PRESENT.

3 Q ALL RIGHT, AND WHAT PERCENTAGE MUST RISE TO
4 ALL EIGHT EVIDENCE, ALL EIGHT THINGS TO BE PRESENT?

5 A DEA WOULD KNOW THAT, I, I DON'T.

6 Q YOU DON'T KNOW. IN OTHER WORDS IF I GAVE
7 YOU ONE PERCENT COCAINE, OKAY, ONE GRAM OF COCAINE AND
8 NINETY-NINE GRAMS OF BAKING SODA OR WHATEVER, OKAY, ONE
9 PERCENT COCAINE AND SHOOK IT UP AND MADE IT HOMOGENOUS,
10 UNIFORMLY MIXED, WHEN I GIVE THAT TO YOU IN TESTING THAT
11 YOU WOULD SAY I HAVE A HUNDRED GRAMS OF COCAINE?

12 A IF ALL EIGHT IONS WERE PRESENT AND IT WAS
13 ABLE TO BE CALLED POSITIVE FOR COCAINE THEN, YES, THE
14 WEIGHT BE CONSIDERED ONE HUNDRED GRAMS OF COCAINE.

15 Q ALL RIGHT, AND WHEN YOU SAY IN THIS
16 INSTANCE THAT THERE WAS A 20.68 GRAMS OF COCAINE BASE THAT
17 YOU FOUND ALL EIGHT PARAMETERS THERE SUFFICIENT FOR YOU TO
18 SAY THAT IT IS 20.68 GRAMS OF COCAINE BASE NOT ONE PERCENT
19 OR FIVE PERCENT OR 10 PERCENT OR 20 PERCENT?

20 A CORRECT, NO PURITY ANALYSIS IS PERFORMED.

21 Q ALL RIGHT, AND IS THAT DONE? DO THEY EVER
22 REQUEST A PURITY ANALYSIS?

23 A NO, SIR.

24 Q WAS THE AMOUNT OF THE DRUGS SUBMITTED TO
25 YOU TAKEN BY OFFICER WILLIAMS AND WHATEVER SUBMITTED TO YOU

MS. FLOYD - REDIRECT EXAMINATION BY MR. MEACHAM

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1 WAS THERE A WEIGHT? WERE YOU EVER GIVEN ANY INDICATION OF
2 WHAT THE OFFICER DETERMINED THE WIGHT TO BE WHEN HE
3 SUBMITTED IT TO YOU?

4 A NO.

5 Q AFTER YOU COMPLETED YOUR TESTING AND THEN
6 NOTIFIED THE CITY OF CONWAY JILL DOMOGAUER CAME AND PICKED
7 UP THAT BEST EVIDENCE KIT FROM YOU AS WELL?

8 A YES, SHE DID.

9 MR. LONG: THANK YOU, MA'AM, NO FURTHER
10 QUESTIONS.

11 MR. MEACHAM: JUST ONE QUESTION.

12 REDIRECT EXAMINATION

13 BY MR. MEACHAM:

14 Q IS THERE ANY QUESTION IN YOUR MIND THAT IS
15 BETWEEN 10 TO 28 GRAMS OF CRACK COCAINE IN THAT PACKAGE?

16 A THERE IS NO QUESTION.

17 Q WHATSOEVER?

18 A NO, SIR.

19 MR. MEACHAM: THANK YOU.

20 THE COURT: ANYTHING ELSE?

21 MR. LONG: VERY BRIEFLY.

22 RECROSS EXAMINATION

23 BY MR. LONG:

24 Q BUT YOU CAN'T SAY WHETHER FIVE GRAMS OF
25 COCAINE WERE MIXED WITH 10 GRAMS OF BAKING POWDER TO MAKE

MS. FLOYD - RECROSS EXAMINATION BY MR. LONG

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1 THAT WEIGHT OF COCAINE, CAN YOU?

2 A NO, THERE'S NO WAY TO DETERMINE THAT.

3 Q THERE'S NO PURITY ANALYSIS, YOU HAVE NO
4 IDEA OF KNOWING THE CONCENTRATION?

5 A THAT'S CORRECT.

6 MR. LONG: THANK YOU.

7 THE COURT: YOU MAY STEP DOWN; YA'LL WISH FOR
8 HER TO BE EXCUSED?

9 MR. MEACHAM: YES, SIR, YOUR HONOR.

10 THE COURT: ANY OBJECTION?

11 MR. LONG: NO, OBJECTION, YOUR HONOR.

12 THE COURT: YOU MAY BE EXCUSED AND RETURN TO
13 COLUMBIA, IS IT?

14 THE WITNESS: HERE.

15 THE COURT: HERE, THAT'S RIGHT, THAT'S RIGHT,
16 SHE'S HERE. WHAT YOU PUT IN THAT ENVELOPE THERE'S NOTHING
17 TO BE PUT INTO EVIDENCE, IS IT?

18 THE WITNESS: NO, THEY'RE STICKERS.

19 THE COURT: OKAY, VERY GOOD, NEXT WITNESS?

20 MR. MEACHAM: THE STATE RESTS, YOUR HONOR.

21 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN OF
22 THE JURY, IF YOU WOULD, PLEASE, STEP INTO THE JURY ROOM
23 JUST FOR A MINUTE. I HAVE A COUPLE OF LEGAL ITEMS TO
24 HANDLE THEN WE'LL BRING YOU BACK IN. IF YOU'LL STEP TO THE
25 JURY ROOM. BY THE WAY, MR. FOREMAN, MR. FOREMAN, IF

1 ANYBODY ON YOUR JURY POOL INDULGES IN THAT SITUATION IF
2 THEY WANT TO WALK OUTSIDE FOR A MINUTE THEY CAN. JUST BE
3 BACK IN THE JURY ROOM IN 10 MINUTES, OKAY.

4 MR. FOREMAN: YES, SIR.

5 (WHEREUPON, THE JURY RETIRED TO THE JURY ROOM AT
6 3:50 P.M.)

7 MR. MEACHAM: JUST HOUSECLEANING, CAN OFFICER
8 DOMOGAUER HAS TO, WOULD ASK TO BE EXCUSED, I WILL NOT BE
9 CALLING HER?

10 THE COURT: OKAY, ANY OBJECTION BY THE DEFENSE?

11 MR. LONG: NO OBJECTION, YOUR HONOR.

12 THE COURT: ALL RIGHT, YOU MAY BE EXCUSED ALSO.
13 ALL RIGHT, ANY OTHER MOTIONS BY THE STATE?

14 MR. MEACHAM: NO, SIR.

15 THE COURT: ANY MOTIONS BY THE DEFENSE?

16 MR. LONG: YES, YOUR HONOR, TWO, WE GOT OFF TO A
17 ROCKY START INVOLVING A CONVICTION FOR SIMPLE POSSESSION OF
18 MARIJUANA. THE STATE WAS PERMITTED TO BRING UP THE FACT
19 THAT HE WAS FOUND IN POSSESSION OF MARIJUANA THROUGH
20 TESTIMONY OF OFFICER WILLIAMS AND/OR BRADLEY, BUT THE FACT
21 THAT THE BELL WAS RUNG HOW DIFFICULT IT IS TO UNRUNG A BELL
22 THE JURY HAS BEEN INFORMED THAT HE WAS CONVICTED OR FOUND
23 GUILTY OR FORFEITED, WHATEVER THE TESTIMONY WAS, THAT'S
24 PREJUDICIAL, YOUR HONOR. THAT'S PREJUDICIAL TO HIS RIGHTS
25 IN THIS CASE; WE'D MOVE FOR A MISTRIAL.

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1 THE COURT: MR. MEACHAM?

2 MR. MEACHAM: IF YOUR HONOR PLEASE, WE THINK, WE
3 STILL THINK THE ISSUE OF MARIJUANA ARE TOOLS OF THE TRADE,
4 THE DRUG TRADE. IN FACT, YOUR HONOR, MARIJUANA WAS
5 ADMITTED NOT, OTHER CASE BINDS THIS COURT, WE CERTAINLY
6 WON'T ASSERT THAT BUT WAS ADMITTED IN THAT PARTICULAR CASE
7 AS WAS THE ANALYSIS. IN FACT, YOUR HONOR, THERE WAS ALSO
8 QUESTIONS BY THE DEFENSE COUNSEL CONCERNING THE DATE OF THE
9 TEST OF THE MARIJUANA. WE DON'T THINK IT'S APPROPRIATE FOR
10 A MISTRIAL. THE COURT IN THE BEGINNING GAVE A CURATIVE
11 INSTRUCTION TO THE JURY AND IT'S VERY VERY CLEAR FOR THEM
12 TO DISREGARD THAT. YOUR HONOR, WE DON'T THINK THAT'S
13 SUFFICIENT FOR A MISTRIAL.

14 THE COURT: WHEN THE MATTER WAS FIRST BROUGHT UP
15 THE OFFICER HAD NOT, THERE WAS NO FOUNDATION AT ALL LAID
16 AND I WAS RATHER CONCERNED THAT SOMETHING THAT SHOULD BE
17 CONSIDERED HAD BEEN OBJECTIONAL WAS BROUGHT UP WITHOUT ME
18 KNOWING ABOUT IT AND THE QUESTIONS CAME OUT BEFORE THE JURY
19 AND IT CONCERNED ME THAT I WASN'T FIRST INFORMED BECAUSE IT
20 WAS OBVIOUS IT WAS GOING TO BE OBJECTED TO AND I, BUT THEN
21 I MADE MY RULING AND ASKED THE JURY TO DISREGARD IT.

22 AFTER THE OTHER OFFICER TESTIFIED WHO OBVIOUSLY
23 HAS EXPERIENCE IN THIS AREA AND WAS DOING THE SHAKE DOWN
24 SITUATION HERE AS FAR AS THE FRISK AND FOUND THE SCALES THE
25 OTHER MATTERS I DID A 403 ANALYSIS AS I LISTENED TO THIS

1 AND DETERMINED THAT USING THE 403 ANALYSIS THAT, THAT I WAS
2 GOING TO ADMIT IT INTO EVIDENCE. ALSO IN REGARD TO THE
3 ANALYSIS ALSO OTHER BAD ACTS AND SINCE IT SHOWS COMMON
4 SCHEME PLAN THAT TYPE OF THING. SO USING THE 403 ANALYSIS
5 AS, WELL AS A 44(B) I THINK IT IS, 44(B) AS FAR AS OTHER
6 BAD ACTS, LOOKING AT ALL IN THAT REGARD I DECIDED TO LET
7 THE EVIDENCE COME IN AND SO I DID PERMIT IT TO COME IN. SO
8 BASED ON THAT I WOULD DENY YOUR MOTION FOR A, BUT, FOR A
9 MISTRIAL. HOWEVER MY CONCERN WAS WHEN HE BROUGHT IT UP
10 AGAIN WITH THE ANALYSIS BY THE OFFICER HERE TO ME I JUST
11 THINK I DIDN'T WANT IT TO BE HONED IN TOO MUCH, HOWEVER,
12 MR. LONG, YOU YOURSELF DISCUSSED IT AS A MARIJUANA IN YOUR
13 QUESTION. BUT IN ANY EVENT, AFTER MY ANALYSIS USING THE
14 SOUTH CAROLINA RULES OF EVIDENCE, I HAVE DECIDED TO LET THE
15 TESTIMONY GO IN ABOUT IT AS LONG AS THIS IS NOT MADE THE
16 FOREFRONT OF ANYTHING AND I WOULD DENY YOUR MOTION.

17 MR. LONG: THANK YOU, YOUR HONOR. IT WAS NOT
18 REALLY PRIMARILY THAT MARIJUANA EVIDENCE AS MUCH AS IT WAS
19 THE MARIJUANA CONVICTION.

20 THE COURT: WELL I KNOW AND THEN AT THAT POINT
21 IN TIME I INSTRUCTED THE JURY TO DISREGARD, DISREGARD THAT
22 AND I AM LIKE YOU I WAS CONCERNED, RELATIVELY SHOCKED THAT
23 THAT WOULD EVEN COME IN WITHOUT AT LEAST LETTING ME HEAR IT
24 FIRST. BUT IN ANY EVENT, WITH MY INSTRUCTION I'M CONFIDENT
25 THE JURY DISREGARD IT PLUS AT THAT TIME I GAVE INSTRUCTIONS

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1 AND YOU DIDN'T MAKE ANY MOTION FOR A MISTRIAL THEN. YOU
2 JUST MADE AN OBJECTION WHICH I SUSTAINED YOUR OBJECTION,
3 GAVE THE INSTRUCTIONS TO THE JURY, CURATIVE INSTRUCTIONS,
4 AND FROM THAT POINT I THOUGHT THAT WAS FINE WITH YOU IS THE
5 FIRST TIME I HEARD YOU WANT IT FOR A MISTRIAL, SO THAT
6 COMES KIND OF LATE IN MY VIEW ALSO, BUT ANYWAY IT'S DENIED.

7 MR. LONG: THANK YOU, YOUR HONOR, SECONDLY,
8 DEFENSE WOULD MOVE FOR A DIRECTED VERDICT OF NOT GUILTY.
9 WE HAVE ACCEPTED THE LAW OF THE CASE DECISION FROM JUDGE
10 DENNIS, THE TESTIMONY THAT WAS BEFORE HIM YOU'VE HEARD HERE
11 TODAY. THE WORDS THAT I CHARACTERIZE THE TRAFFIC STOP
12 BASICALLY WAS A SHAKE DOWN, THAT HE WAS SUSPECTED OF HAVING
13 A SUSPENDED TAG, HE WAS STOPPED BY THREE PATROL OFFICERS
14 AND THREE PATROL CARS WITHOUT CAMERAS WHO THEN SAID HE WAS
15 NOT UNDER ARREST BUT THEY SAW A BAGGY, THE CORNER OF A
16 BAGGY WHICH LED THEM TO BELIEVE THIS WAS NOT JUST A TRAFFIC
17 STOP, THIS WAS A NARCOTICS STOP; BUT THAT THEY DID NOT
18 PRESERVE THE BAGGY, DO NOT HAVE THE BAGGY. THEY SAY THE
19 BAGGY WAS TURNED OVER TO OFFICER WILLIAMS AS EVIDENCE. IT
20 WAS NOT SUBMITTED INTO EVIDENCE. THERE WAS NO TESTING OF
21 ANY SUBSTANCE WITHIN IT. IT WAS TRASH IN THE VEHICLE THAT
22 THEY CLAIM BOOT STRAPS THEMSELVES INTO IT BECOMING A
23 SUSPICIOUS NARCOTICS INVESTIGATION.

24 WHEN THE OFFICER TESTIFIED THAT HE WAS ATTEMPTING
25 DO A FRISK OF REGGIE PINCKNEY BECAUSE REGGIE HAD HIS HAND

1 HERE OR SOMETHING AND THAT LOOKED SUSPICIOUS TO HIM THAT HE
2 WENT TO THAT, HE WENT DOWN AND WENT TO THAT AND PULLED OUT
3 SIXTEEN DOLLARS IN CASH AND A LIGHTER. THEN AS HE
4 ATTEMPTED TO PUT IT BACK IN HIS POCKET OR WHATEVER HE SAID
5 REGGIE CROUCHED AS IF HE WAS GOING TO RUN OR WAS GOING TO
6 HE WAS GOING TO RUN BUT NONETHELESS THEY ENDED UP LESS THAN
7 10 YARDS FROM THE VEHICLE AFTER YOU HAD HEARD HOW IT TOOK
8 PLACE THAT HE PUSHED HIM INTO THE OTHER OFFICER, THE OTHER
9 OFFICER TOOK HIM DOWN. IF HE IS NOT UNDER ARREST, IF THE
10 OFFICER HAS CONDUCTED A PAT SUFFICIENT SO THAT HE SAYS
11 WHAT'S IN YOUR POCKET, OH, I SEE IT, LET ME PUT THAT IN
12 YOUR POCKET FOR YOU, OKAY, FOR ---

13 THE COURT: NO, I DIDN'T HEAR THE OFFICER SAY HE
14 COMPLETED THE FRISK.

15 MR. LONG: WELL A FRISK OF THE POCKET, HE FELT
16 SOMETHING IN THE POCKET, OKAY; AND FROM THAT POINT IN TIME
17 THEN TO GO TO A TAKE DOWN WRESTLING MOVE TACKLE AND THEN
18 SEARCH THE DEFENDANT AT THAT TIME CLAIMING THAT HE WAS
19 DISOBEYING THE INSTRUCTIONS OF AN OFFICER. A PERSON HAS A
20 RIGHT TO RESIST AN UNLAWFUL ARREST. HE WAS NOT ARRESTED,
21 NOT PLACED UNDER ARREST. THE OFFICER WAS GOING IN HIS
22 POCKETS. CLEARLY A CIGARETTE LIGHTER AND SIXTEEN DOLLARS
23 IN CRUMPLED BILLS, WHETHER IT BE THREE BILLS OR FOUR BILLS
24 OR WHATEVER THAT'S NOT A TERRY STOP AND FRISK. THAT'S NOT
25 A PAT FOR WEAPONS, THAT IS A INVESTIGATIVE, THAT IS A BODY

1 SEARCH FOR NARCOTICS, AND THERE WAS NOTHING TO GIVE RISE,
2 THEY'VE NOT PRESENTED ---

3 THE COURT: THE OFFICER TESTIFIED HE SAID DO YOU
4 MIND IF I GO IN YOUR POCKET TO LOOK FOR IT AFTER I FELT,
5 AFTER HE FELT THAT.

6 MR. LONG: YOUR HONOR, AGAIN HE SAID DO YOU MIND
7 IF I GO IN MY POCKET TO SEE WHAT THAT IS, HE ASKED REGGIE
8 WHAT IT WAS, REGGIE SAID, I DON'T KNOW, OR HE MADE SOME
9 NONCOMMITTAL TYPE OF GESTURE; AND HE SAID DO YOU MIND IF I
10 GO IN YOUR POCKET AND GET IT, REGGIE SAID, SURE, GO AHEAD;
11 AND HE WENT IN THE POCKET AND HE GOT THE CRUMPLED BILLS OR
12 THE FOLDED BILLS, I DON'T KNOW EXACTLY WHAT THEY ARE, AND A
13 CIGARETTE LIGHTER. THOSE ARE NOT WEAPONS, YOUR HONOR, AND
14 THE OFFICER COULD TELL FROM A PAT OF THAT POCKET, HE COULD
15 TELL THEY WERE NOT WEAPONS. HE WAS NOT LOOKING FOR
16 WEAPONS. HE WAS LOOKING FOR DRUGS AND THAT GOES BEYOND
17 WHAT THE LAW PERMITS AS A SEARCH AND SEIZURE. WHEN THE
18 OFFICER SAYS NO, NO, STOP, WHATEVER, WHEN HE SAID REGGIE
19 WAS ATTEMPTING TO MOVE AWAY OR CROUCHING AS IF HE WAS A
20 MOVING AWAY OR GETTING READY DOWN, GETTING READY TO GO ---

21 THE COURT: NOW I ASKED THE OFFICER, THE OFFICER
22 SAID HE ACTUALLY BEGAN THE PROGRESS OF MOVING.

23 MR. LONG: TWO FEET.

24 THE COURT: WELL I KNOW THAT'S STILL MOVING, THE
25 FACT THE OFFICER WAS QUICK ENOUGH TO GRAB HIM SHOULDN'T

1 NECESSARILY SAY HE WASN'T GOING TO MOVE FURTHER, I MEAN HE
2 WAS MOVING.

3 MR. LONG: DID HE HAVE A RIGHT TO LEAVE AT THAT
4 POINT.

5 THE COURT: ARE YOU ASKING ME?

6 MR. LONG: I FEEL HE DID.

7 THE COURT: I'LL LET YOU KNOW IN A MINUTE, I'LL
8 GO AHEAD AND HEAR FROM YOU.

9 MR. LONG: YES, SIR, AND I'M NOT BEING FACETIOUS
10 WITH YOUR HONOR, YOU'LL VIEW IT ALL, BUT I THINK WHEN THE
11 OFFICER, THE BEST WAY I CAN DESCRIBE IT, YOUR HONOR,
12 OFFICERS CONDUCT PATS ALL THE TIME. THEY KNOW WHAT A
13 WEAPON FEELS LIKE WHETHER IT BE A KNIFE OR A PISTOL OR
14 SOMETHING OF THAT NATURE. WHEN AN OFFICER GOES ON A PAT,
15 WHEN HE FEELS DOLLARS BILLS AND CIGARETTE LIGHTERS HE'S NOT
16 GOING TO CONCERN HIMSELF WITH THAT UNTIL HE FINISHES THE
17 FRISK TO MAKE SURE THERE'S NO PISTOL, WEAPON, KNIFE,
18 SOMETHING OF THAT NATURE, THEN HE'S GOING TO SAY OKAY
19 WHAT'S IN YOUR POCKET BECAUSE A CIGARETTE LIGHTER ---

20 THE COURT: WAIT, WHAT TESTIMONY DO I HAVE THAT
21 THAT'S WHAT IS THE PROCEDURE? YOU'RE JUST TELLING AM I TO
22 ACCEPT THAT THIS OFFICER WENT BEYOND THE CORRECT POLICE
23 PROCEDURE; I HAVE NO EVIDENCE IN THAT REGARD?

24 MR. LONG: WE FEEL, YOUR HONOR, THAT IT WAS A
25 SHAKE DOWN, THREE POLICE OFFICERS ON A TRAFFIC STOP FOR A

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1 CROOKED TAG OR A SUSPENDED TAG, AND THEY WERE ATTEMPTING TO
2 DETAIN HIM CLAIMING THAT THERE WAS A BAGGY, TORN CORNER OF
3 A BAGGY, WHICH WAS NOT TAKEN INTO EVIDENCE, HAS NOT BEEN
4 PRODUCED FOR TRIAL, AND THAT THEY ATTEMPTED THEN TO
5 THEREAFTER SEARCH. THE SEARCH WAS NOT FOR WEAPONS; THE
6 SEARCH WAS LOOKING FOR NARCOTICS AND WE ASK FOR A DIRECTED
7 VERDICT.

8 THE COURT: OKAY, MR. MEACHAM?

9 MR. MEACHAM: YOUR HONOR, PLEASE, WE CITE THE
10 CASE OF STATE V. NELSON. FIRST OF ALL WE THINK THE STOP
11 WAS LAWFUL AND PROBABLE CAUSE FOR THE STOP BASED UPON THE
12 TAG BEING SUSPENDED, I GO BACK TO THAT ORIGINAL STOP. THAT
13 IS A PROBABLE CAUSE STOP, THAT IS AN INVESTIGATIVE
14 DETENTION.

15 SECONDLY, YOUR HONOR, EVEN IF THAT WERE NOT A
16 LAWFUL ARREST WE CITE STATE V. NELSON, 336 SC 186, THAT
17 WHEN THE, WHEN HE BEGAN TO FLEE THE SCENE AT THAT POINT, AT
18 THAT POINT HE HAD THE RIGHT TO ACTUALLY STOP HIM AND THEN
19 ARREST HIM FOR DISOBEDIENCE TO A POLICE OFFICER, SECONDLY
20 ARREST HIM FOR RESISTING ARREST.

21 THE THIRD THING, YOUR HONOR, THE BAGGY REGARDLESS
22 OF WHETHER IT'S ADMITTED INTO EVIDENCE IS THE OFFICER
23 TESTIFIED BASED UPON HIS EXPERIENCE THAT WAS CLEARLY WITHIN
24 IN PLAIN VIEW, CLEARLY EVIDENCE OF SOMEONE THAT IS IN THE
25 PROCESS OF DISTRIBUTING NARCOTICS. THAT WAS HIS TESTIMONY

1 THAT WAS BASED UPON HIS EXPERIENCE AND THAT WAS AN
2 ADDITIONAL REASON FOR THE PAT DOWN SEARCH IN ADDITION TO
3 HIS OFFICERS SAFETY. THERE WAS MORE THAN ENOUGH PROBABLE
4 CAUSE EVEN IF HE DIDN'T FLEE AT THAT POINT FOR HIM TO PAT
5 HIM DOWN.

6 THE COURT: MR. MEACHAM, DO YOU REALLY THINK IF
7 THIS OFFICER STOPPED ONE OF THOSE FOUR GUYS BEHIND YOU AND
8 SAW A PIECE OF PLASTIC BAG ON THE SEAT THEY WOULD SAY OR ON
9 THE FLOOR HE'D SAY THIS GUY IS INVOLVED IN DRUGS, I THINK
10 DRUGS ARE GOING ON?

11 MR. MEACHAM: NOT IF THEY HAVE ---

12 THE COURT: I MEAN I DON'T WANT TO GET TOO FAR
13 AFIELD HERE ABOUT HOW MUCH EVIDENCE THAT PIECE OF PLASTIC
14 MEANS.

15 MR. MEACHAM: I DON'T DISAGREE WITH YOU IF THEY
16 HAD THE ACTUAL --

17 THE COURT: WHY ARE THEY MOVING AROUND BACK
18 THERE WHEN I SAID THAT?

19 MR. MEACHAM: IF YOUR HONOR PLEASE, I DON'T, I
20 DON'T DISAGREE BUT UNDER THE CIRCUMSTANCES OF THE CASE. HE
21 ALSO TESTIFIED THAT WHEN HE GOT OUT HE WAS FIDGETY AND HE
22 ALSO HAD A BULK TO HIS PANTS, SO HE ALSO HANDED HIM A CELL
23 PHONE. THE TOTALITY OF THE CIRCUMSTANCES OF WHY HE PATTED
24 HIM DOWN AN ISOLATED INCIDENT, NO, SIR, YOU'RE EXACTLY
25 RIGHT, BUT THE TOTALITY OF THE CIRCUMSTANCES, YES, HE DID

1 THE APPROPRIATE THING.

2 LET ME ASK YOU THIS, YOUR HONOR, IF HE DID THE
3 FRISK, HE LEFT AND SAID, OKAY, GO, WE HAVE NO PROBABLE
4 CAUSE TO STOP YOU EVEN THOUGH YOUR TAG OUT, GO, WE HAVE A
5 BAGGY ON THE ---

6 THE COURT: I'VE NEVER SAID YOU DIDN'T HAVE
7 PROBABLE CAUSE TO STOP HIM. I'M NOT SURE WHY YOU'RE BEING
8 SO CONCERNED WITH THAT BUT GO AHEAD.

9 MR. MEACHAM: BUT THE TOTALITY OF THE BAG WAS
10 JUST ONE PIECE OF THE REASON AS TO WHY THEY'RE ALLOWED TO
11 SEARCH HIM NOT BY ITSELF.

12 THE COURT: WELL NOW THE OFFICER KNEW IT WAS HIS
13 MOTHER ON THE CELL PHONE CAUSE HE TALKED TO HER FOR A
14 SECOND.

15 MR. MEACHAM: NO QUESTION ABOUT IT.

16 THE COURT: I DON'T THINK THE CELL PHONE MEANS
17 ANYTHING, BUT HERE'S THE THING. IN MY MIND THE PERSON WAS
18 THERE FOR A TRAFFIC STOP, OFFICER WILLIAMS WAS DOING WHAT
19 HE HAD TO BE DO TO TRY AND FIND IF THERE WAS ANY VIOLATION
20 OR NOT. ALTHOUGH THE OFFICER HERE TESTIFIED HE WASN'T
21 UNDER ARREST, WHICH IS KIND OF INTERESTING ANSWER, BUT HE
22 WAS BEING DETAINED BECAUSE THERE WAS A TRAFFIC MATTER AND
23 DURING THE COURSE OF THE DETENTION HE WAS BEING FRISKED
24 BECAUSE THE OFFICER SAID HE HAD REASONABLE CONCERN ABOUT
25 THAT SO HE WAS FRISKING HIM. BEFORE HE FINISHED THE FRISK

1 THE, THE DEFENDANT BEGAN TO RUN, WELL, OR BEGAN TO ATTEMPT
2 TO RUN AND RAN A COUPLE OF FEET. BUT HOW DOES AN OFFICER
3 KNOW THAT IF HE'S GOT THE PERSON THERE HE'S FRISKING AND
4 THEN THE PERSON MAKES AN EFFORT TO BE FREE OF THE FRISK
5 THERE'S NOT GOING TO BE AN EFFORT EITHER TO RUN, WHICH I
6 THINK AN OFFICER HAS A RIGHT TO SAY STOP, YOU KNOW, YOU'RE
7 DETAINED IF NOTHING ELSE IF IT'S A TRAFFIC STOP AND THERE'S
8 NOTHING ELSE IT IS AN DETENTION, SAY STOP BECAUSE HOW DOES
9 THE OFFICER KNOW THAT, THAT THERE COULD BE SOME TURN AROUND
10 WITH A WEAPON SINCE HE HASN'T FINISHED THE FRISK AND THE
11 PERSON, THE OFFICER TESTIFIED HE REFUSED TO IT. I HAVE NO
12 EVIDENCE THAT HE DIDN'T REFUSE. NOBODY TESTIFIED HE DIDN'T
13 REFUSE TO AND, AND I THINK HE HAD A RIGHT TO TELL HIM TO
14 STOP. HE DIDN'T STOP AND THEN HE GRABBED HIM BY THE COLLAR
15 AND, AND THEN HE WAS ARRESTED FOR DISOBEYING A POLICE
16 OFFICER AND RESISTING ARREST. I'M NOT SURE RESISTING
17 ARREST WOULD BE THE APPROPRIATE THING BUT DISOBEYING A
18 POLICE OFFICER. IN ANY EVENT, THEN THEY HAD, THEY
19 CONTINUED WITH THE SEARCH AND FOUND THE COCAINE.

20 JUDGE DENNIS HAS ALREADY RULED IN THIS AREA. I
21 WANTED SOME EVIDENCE, THOUGH, BEFORE I MADE A DECISION TO
22 CONTINUE ON WITH IT. I THINK I HAVE ENOUGH EVIDENCE WITH
23 IT; I WILL DENY YOUR MOTION FOR A DIRECTED VERDICT BASED ON
24 THE JUDGE DENNIS' RULING IN THIS MATTER AND MY REVIEW OF IT
25 HERE TODAY. WE'LL GO FORTH, MOTION DENIED.

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1 MR. LONG: THANK YOU, YOUR HONOR. WE WOULD LIKE
2 TO RECALL OFFICER WILLIAMS FOR ONE LIMITED PURPOSE. THE
3 OFFICER TESTIFIED THAT IT WAS 20.68 GRAMS OF COCAINE BASE
4 WAS WHAT SHE TESTED. OFFICER WILLIAMS AND EVERY
5 INVESTIGATIVE SUMMARY, AND I DON'T KNOW HOW I OMIT IT OR
6 WHETHER OR NOT I OMITTED, BUT I DO THINK IT'S RELEVANT AND
7 IMPORTANT THAT ALL OF HIS SUMMARIES STATE APPROXIMATELY
8 23.3 GRAMS. SO THERE IS APPROXIMATELY 2.5 GRAMS MISSING OR
9 ERROR BETWEEN WHAT HE RECOVERED AND WHAT WAS TESTED AND SO
10 I WOULD LIKE TO RECALL OFFICER WILLIAMS FOR THAT LIMITED
11 PURPOSE AND MAYBE THE STATE IS WILLING TO STIPULATE. I
12 DON'T KNOW EXACTLY HOW THE MOST EASIEST WAY TO DO THAT BUT
13 IF WE COULD REQUEST HIM BACK, TAKE A BREAK.

14 THE COURT: STIPULATE TO WHAT?

15 MR. LONG: 23.3 GRAMS WAS ---

16 THE COURT: YOU WANT THE STATE TO STIPULATE TO
17 WHAT?

18 MR. LONG: THAT IT WAS REPORTED BY OFFICER
19 WILLIAMS AS BEING TAKEN FROM REGGIE PINCKNEY OR HANDED TO
20 HIM BY OFFICER BRADLEY.

21 THE COURT: THAT THE REPORTS FROM OFFICER
22 WILLIAMS WAS THAT IT WAS 20 APPROXIMATELY 23 POINT SOME ODD
23 GRAMS?

24 MR. LONG: YES, SIR.

25 THE COURT: YOU WANT THE STATE TO STIPULATE THAT

1 THAT'S IN THE REPORTS OF OFFICER WILLIAMS?

2 MR. LONG: STIPULATE THAT THAT'S WHAT OFFICER
3 WILLIAMS REPORTED THE WEIGHT OF THE SUBSTANCE WAS TAKEN
4 FROM REGGIE PINCKNEY.

5 THE COURT: OKAY, WILL YOU STIPULATE THAT?

6 MR. MEACHAM: I'LL STIPULATE THAT'S THE
7 APPROXIMATE WEIGHT GIVEN BY THE STREET WEIGHT.

8 MR. LONG: YEAH.

9 MR. MEACHAM: I WILL STIPULATE TO THAT.

10 MR. LONG: AND, YOUR HONOR, WE'VE GIVEN YOU THE
11 SUMMARY ---

12 MR. MEACHAM: THE APPROXIMATE WEIGHT GIVEN BY
13 THE STREET WEIGHT OFFICER WILLIAMS GAVE.

14 MR. LONG: WE HAVE GIVEN YOU THE SUMMARY, YOUR
15 HONOR.

16 THE COURT: I SAW IT, I REMEMBER READING IT.
17 I'M NOT SURE WHERE IT CAME FROM BUT I READ THE SUMMARY.

18 MR. LONG: OKAY, A TAN IN COLOR ROCK LIKE
19 SUBSTANCE BELIEVED TO BE CRACK COCAINE WAS REMOVED.
20 SUBSTANCE WEIGHED APPROXIMATELY 23.3 GRAMS.

21 MR. MEACHAM: IF YOUR HONOR PLEASE ---

22 MR. LONG: THAT WOULD BE THE STIPULATION.

23 MR. MEACHAM: IN FACT, IF ANYTHING WE WOULD
24 PROFFER ACTUALLY, FOR OFFICER BRADLEY WAS THE ONE THAT
25 WROTE THAT SUMMARY, SO I THINK THE FACT HE COULD ACTUALLY

1 PROFFER THE TESTIMONY.

2 MR. LONG: OKAY, VERY WELL.

3 MR. MEACHAM: I'D BE GLAD TO CALL HIM, I'VE
4 RESTED BUT I'D BE GLAD TO CALL HIM JUST TO GET --

5 MR. LONG: BUT IT WAS NOT ---

6 THE COURT: WELL IF HIS CASE IS CLOSED IT'S UP
7 TO YOU.

8 MR. MEACHAM: HE'S GOT TO CALL HIM.

9 MR. LONG: YES, SIR, I WOULD CALL HIM VERY
10 BRIEFLY.

11 THE COURT: CALL WHO?

12 MR. LONG: OFFICER BRADLEY WHO'S TESTIFIED THAT
13 HE WEIGHED THE SUBSTANCE ---

14 THE COURT: DO YOU WANT TO DO THAT IN FRONT OF
15 THE JURY?

16 MR. LONG: CAN I HAVE 15 SECONDS TO THINK ABOUT
17 IT, YOUR HONOR?

18 THE COURT: I'LL GIVE YOU DOUBLE THAT TIME.

19 MR. LONG: NO, I JUST NEED 15 SECONDS. YES,
20 SIR, YOUR HONOR, WE WOULD CALL HIM AS A WITNESS FOR THAT
21 LIMITED PURPOSE. I'D LIKE TO CALL HIM STILL WITHIN THE
22 STATE'S CASE BUT THE STATE HAS RESTED.

23 THE COURT: THE STATE HAS RESTED.

24 MR. LONG: YES, SIR.

25 THE COURT: ALL RIGHT, DO YOU PLAN TO HAVE OTHER

1 WITNESSES?

2 MR. LONG: NO, YOUR HONOR.

3 THE COURT: DO YA'LL WANT TO MAYBE ARGUE AND
4 CHARGE TODAY OR DO YOU WANT TO DO IT TOMORROW?

5 MR. MEACHAM: IN THAT REGARD WE HAVE SOME
6 SUBMISSIONS FOR CHARGE THAT I WANTED TO SUBMIT TO COURT
7 THAT I HAVE READY.

8 THE COURT: ALL RIGHT, BUT DO YOU WANT TO TRY
9 AND DO THAT TONIGHT?

10 MR. MEACHAM: JUDGE, I CAN. I DO HAVE A
11 CONFLICT THAT I ---

12 THE COURT: YOU'VE TOLD ME THAT YOU NEED TO BE
13 SOMEWHERE AT SIX.

14 MR. MEACHAM: YES, SIR.

15 MR. LONG: YOUR HONOR, AND I THINK WE COULD
16 ARGUE AND CHARGE AND ONE OF HIS MOST CAPABLE ASSISTANTS
17 COULD BE HERE FOR DELIBERATION IF YOU WISH TO BEGIN
18 DELIBERATION THIS EVENING BUT I THINK WE COULD POSSIBLY
19 ARGUE AND CHARGE.

20 THE COURT: WHAT DO YOU WANT TO DO, MR. MEACHAM?
21 I DON'T MIND.

22 MR. MEACHAM: I HAVE A CONFLICT AT SIX. I HAVE
23 NOT CONTACTED ANOTHER ASSISTANT TO DO THAT BUT I THINK WE
24 CAN GO AHEAD AND DO IT.

25 THE COURT: SO YOU WANT TO GO AHEAD AND DO IT?

1 OKAY.

2 MR. MEACHAM: JUDGE, ARGUMENT AND CHARGE WILL
3 TAKE UNTIL ABOUT FIVE AND WE PROBABLY WANT TO DO IT
4 TOMORROW, JUDGE. I'M THINKING IF HE'S GOING TO HAVE SOME,
5 IF HE'S GOING TO CALL HIM AS A WITNESS, A TESTIMONY, THEN
6 WE HAVE ARGUMENTS AND CHARGE IT MAY BE 5:30 BEFORE IT GETS
7 TO THE JURY.

8 THE COURT: HOW LONG DO YOU THINK YOUR ARGUMENT
9 WOULD BE?

10 MR. MEACHAM: FIFTEEN MINUTES.

11 THE COURT: HOW ABOUT YOURS?

12 MR. LONG: NO MORE THAN 15.

13 THE COURT: MY CHARGE WOULD BE 15. ALL RIGHT.

14 MR. LONG: BUT BEFORE WE START, JUDGE, CAN WE
15 TAKE A 10-MINUTE BREAK ---

16 THE COURT: NO, YES ---

17 MR. LONG: --- RECESS, 5 MINUTES WHILE THE JURY
18 IS OUT?

19 THE COURT: --- GO AHEAD, NO PROBLEM.

20 MR. MEACHAM: I'LL SEE IF I CAN GET SOMEONE TO
21 COVER.

22 THE COURT: GO AHEAD AND SEE IF YOU CAN FIND
23 SOMEONE.

24 MR. MEACHAM: THANK YOU, YOUR HONOR.

25 (WHEREUPON, A RECESS WAS TAKEN AT THIS TIME AND

1 THE FOLLOWING TAKES PLACE ON THE RECORD AFTER THE RECESS.)

2 MR. MEACHAM: IF YOUR HONOR PLEASE, I WANTED TO
3 SUBMIT SOME ---

4 THE COURT: ALL RIGHT, LET ME SEE WHAT YOU GOT.

5 MR. MEACHAM: --- REQUEST TO CHARGE. IF YOUR
6 HONOR PLEASE, TWO OF THESE, ONE OF THEM WOULD BE
7 CIRCUMSTANTIAL EVIDENCE. MOST IMPORTANT, IF YOUR HONOR
8 PLEASE, IS THE DEFINITION OF TRAFFICKING. STATE V. TAYLOR
9 WE WOULD SPECIFICALLY REQUEST THAT CHARGE BECAUSE OUR
10 POSITION OF THAT IS ACTUALLY THE LAW ON THE CASE THAT THE
11 WEIGHT ITSELF OF THE DRUGS DETERMINES THE TRAFFICKING
12 CHARGE. THE TRAFFICKING STATUTE ITSELF IS AN ACTIVE
13 STATUTE IN TERMS OF WHEN YOU READ IT REQUIRES A
14 DISTRIBUTION FROM ONE PLACE TO THE NEXT AND IN REALITY
15 TRAFFICKING IS DETERMINED BY THE WEIGHT.

16 THE COURT: WHERE'S THE STATUTE? HAVE I GOT A
17 COPY OF STATUTE? GIVE ME A COPY OF THE STATUTE.

18 LAW CLERK: I CAN GET IT, YOUR HONOR.

19 THE COURT: WELL HOPEFULLY MY LAW CLERK CAN GET
20 MY A COPY, IT'S RIGHT THERE.

21 MR. LONG: BEFORE HE GOES, YOUR HONOR, WE WOULD
22 HAVE ONE REQUEST TO CHARGE. I BELIEVE IT'S TITLE 56. I
23 THINK IT WAS PART OF THE THEN NEW DUI LAW THAT ALL PATROL
24 VEHICLES BE EQUIPPED WITH CAMERAS BY A CERTAIN SOMETHING
25 PERIOD OF TIME. IN DUI CASES SPECIFICALLY THEY HAVE TO

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1 SUBMIT AN AFFIDAVIT WHY THERE IS NO ON SITE ARREST SCENE
2 VIDEO. I WOULD JUST LIKE THE SIMPLE CHARGE THAT BY LAW THE
3 VEHICLES WERE ---

4 THE COURT: SIR, I'D RECOMMEND YOU NOT COME BACK
5 IN THIS COURTROOM. OFFICERS, YA'LL MAKE SURE HE DOESN'T
6 COME BACK IN HERE BECAUSE IF HE DOES I'LL HAVE TO FINE HIM.
7 NOW WHAT WAS IT?

8 MR. LONG: THAT I WOULD JUST SIMPLY REQUEST TO
9 CHARGE THAT PURSUANT TO STATUTE 56, I BELIEVE IT'S FIVE,
10 BUT I CAN'T RECALL THE LAST FOUR NUMBERS.

11 THE COURT: WHY DOES IT MAKE A DIFFERENCE HERE,
12 WHAT IS THE FACT OF THAT CAMERA, WHAT DIFFERENCE DOES THAT
13 MAKE HERE?

14 MR. LONG: THAT THE LAW REQUIRES THE PATROL
15 VEHICLES TO BE EQUIPPED WITH CAMERAS, CAMERAS THE VIDEO
16 WOULD BE THE BEST EVIDENCE WE SUBMIT CONTEND THAT THERE MAY
17 BE SOME CONTRADICTORY EVIDENCE THAT MIGHT HAVE BEEN SHOWN
18 FROM A CAMERA ---

19 THE COURT: SHOW ME THE, WHAT IS THE
20 CONTRADICTORY EVIDENCE ABOUT HIM HAVING, WHAT CONTRADICTORY
21 EVIDENCE IS INTRODUCED ABOUT THE DRUG POSSESSION?

22 MR. LONG: WELL YOU HAVE ONE OFFICER WHO
23 TESTIFIED, OFFICER WILLIAMS I BELIEVE TESTIFIED THAT THE
24 DRUGS WERE REMOVED FROM HIS JACKET AND WERE THEN HANDED TO
25 HIM BY OFFICER BRADLEY. HE WATCHED OFFICER BRADLEY REMOVE

1 THE DRUGS FROM HIS JACKET.

2 THE COURT: WHO TESTIFIED TO THAT?

3 MR. LONG: OFFICER WILLIAMS DID.

4 THE COURT: I HEARD HIM TESTIFY ---

5 MR. LONG: I ASKED HIM TWICE ABOUT JACKET.

6 THE COURT: YOU TALKING ABOUT THE COCAINE?

7 MR. LONG: YES, SIR.

8 THE COURT: THE PURPORTED COCAINE?

9 MR. LONG: YES, SIR. THEN THERE IS THE
10 CONFLICTING EVIDENCE ABOUT THE 23.3 GRAMS VERSUS THE 20.68
11 GRAMS.

12 THE COURT: WELL CAMERAS WOULDN'T HELP YOU WITH
13 THAT ONE WAY OR THE OTHER.

14 MR. LONG: THAT'S CORRECT, THE CAMERA ALSO WILL
15 HELP, THERE WAS TESTIMONY ABOUT -- YOUR HONOR, JUST, JUST
16 SIMPLY THE CHARGE THAT WILL PERMIT ME TO ARGUE THAT THAT
17 VEHICLE SHOULD HAVE BEEN EQUIPPED, OR THOSE THREE VEHICLES,
18 SHOULD HAVE BEEN EQUIPPED WITH A CAMERA AND THAT'S THE BEST
19 EVIDENCE. THEY WERE NOT EQUIPPED WITH VIDEO OR VIDEO WAS
20 NOT PROVIDED, WHY NOT? IT'S JUST AN ARGUMENT.

21 THE COURT: WHY DON'T YOU ASK THE OFFICER THAT
22 WHEN HE GETS BACK ON THE STAND. PLUS HE'S IN HERE WITH A
23 TEE SHIRT ON. HE'S IN COURT WITH A TEE SHIRT ON. HE'S
24 LUCKY I DIDN'T PUT HIM UNDER ARREST WHOEVER HE IS, COME TO
25 COURT WITH A TEE SHIRT, GOODNESS. I ADMONISHED THAT PEAVY

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1 GUY BACK THERE. I DON'T WANT PEOPLE THINK THEY'RE ALL
2 RIGHT COMING TO THE COURT WITH A TEE SHIRT ON. I PUT
3 PEOPLE IN JAIL IN DILLON COUNTY, YOU COME TO COURT WITH A
4 TEE SHIRT ON YOU GO TO JAIL, THIS IS NOT A LOUNGE, THIS IS
5 A COURTROOM. I'M SORRY, MA'AM, DID YOU HAVE A COMMENT?
6 PLEASE STAND UP, WHO MADE THAT COMMENT? WHO MADE THE
7 COMMENT, WHO SAID SOMETHING? MA'AM, DID YOU SAY SOMETHING?

8 GALLERY MEMBER: ME?

9 THE COURT: YES, MA'AM?

10 GALLERY MEMBER: NO, I LOOKED DOWN AT MY SHIRT.

11 THE COURT: DID YOU SAY SOMETHING, MA'AM?

12 GALLERY MEMBER: NO, SIR.

13 THE COURT: OH, SO NO ONE SAID ANYTHING? IF I
14 HEAR ONE MORE WORD I'M GOING TO HAVE TO DO SOMETHING NOW,
15 PLEASE. IN FACT, I HEARD YOU SAY SOMETHING WHEN I MADE SOME
16 COMMENT DURING THE COURSE OF A DISCUSSION WITH THE
17 ATTORNEYS.

18 GALLERY MEMBER: I DID THEN.

19 THE COURT: THAT'S RIGHT, MA'AM, YOU NEED NOT TO
20 SAY ANYTHING. HOW DOES THE COURT REPORTER KNOW WHEN A
21 VOICE COMES BACK WHETHER TO PUT IT ON THE RECORD OR NOT?
22 YOU CAUSE CONFUSION SO IF YOU WOULD I WANT, ALSO DURING THE
23 COURSE OF THE ARGUMENTS I WANT TO MAKE SURE NO, NOTHING IS
24 SAID BY ANYONE AND NO GESTURES WITH YOUR HEADS ONE WAY OR
25 THE OTHER, PLEASE. IF I HAVE TO CLEAR OUT THE COURTROOM I

1 WILL BUT I DON'T WANT THAT GOING ON.

2 MR. LONG, IF YOU ASK THE OFFICER THAT'S COMING
3 BACK UP, OFFICER BRADLEY, HE CAN TESTIFY TO THAT WHETHER OR
4 NOT -- BY THE WAY ARE YOU SUPPOSED TO HAVE CAMERAS ON
5 THERE?

6 MR. MEACHAM: YOUR HONOR --

7 THE COURT: I'LL ASK OFFICER BRADLEY, HE'S UNDER
8 OATH.

9 OFFICER BRADLEY: SIR?

10 THE COURT: STAND UP.

11 OFFICER BRADLEY: WE ARE GIVEN ASSIGNED VEHICLES
12 AND DECISION IS NOT LEFT UP TO US WHICH CARS HAVE AND DON'T
13 HAVE CAMERAS. THAT IS UP TO OUR COMMAND STAFF.

14 THE COURT: I WOULD NOT THINK NARCOTIC STOP
15 VEHICLES NORMALLY HAVE CAMERAS ANYWAY, DO THEY?

16 OFFICER BRADLEY: WELL THAT IS BROUGHT UP BEFORE
17 BUT HAS NEVER BEEN, THEY'VE NEVER PUT A CAMERA IN MY
18 VEHICLE. I CANNOT EXPLAIN WHY, WHETHER IT'S BUDGETARY OR
19 WHATEVER.

20 THE COURT: IS YOUR ARGUMENT THE LAW SAYS EVERY
21 POLICE VEHICLE MUST HAVE A CAMERA, EVERY POLICE VEHICLE?

22 MR. LONG: THAT'S EVERY PATROL VEHICLE AND IT'S
23 IN THE DUI STATUTE WHERE IT SAYS BUT IT SAYS THAT ALL ---

24 THE COURT: WELL I'LL LET YOU ASK HIM THAT BUT
25 I'M NOT GOING TO CHARGE AS A MATTER OF LAW, I DON'T THINK

1 THAT'S APPROPRIATE.

2 MR. LONG: THANK YOU.

3 THE COURT: OKAY, ANY REQUEST TO CHARGE IN
4 ADDITION, MR. LONG?

5 MR. LONG: NO, SIR, YOUR HONOR.

6 THE COURT: HAVE OBJECTION TO THE STATE'S
7 REQUEST?

8 MR. LONG: I HAVEN'T VIEWED THEM, YOUR HONOR.

9 THE COURT: IS YOUR MATTER ON CIRCUMSTANTIAL
10 EVIDENCE A GRIPPON MATTER? OKAY.

11 MR. MEACHAM: JUDGE?

12 THE COURT: YES, SIR?

13 MR. MEACHAM: MATTER OF HOUSEKEEPING; IT'S NOW
14 QUARTER TO, I SUPPOSE WE'RE STILL GOING TO THE JURY THIS
15 EVENING?

16 THE COURT: YES, SIR.

17 MR. MEACHAM: IT'S 25 TO FIVE I ---

18 THE COURT: WHAT ARE YOU TELLING ME, MR.
19 MEACHAM?

20 MR. MEACHAM: I WAS WONDERING IF WE SHOULD
21 SUBMIT THE CASE TO THE JURY THIS EVENING.

22 THE COURT: WELL YOU WERE GOING TO GO SEE IF
23 SOMEBODY, OBVIOUSLY THEIR DECISION WON'T BE HERE WHILE
24 YOU'RE STILL HERE.

25 MR. MEACHAM: THAT'S FINE, JUDGE.

1 THE COURT: SO THE QUESTION IS WHETHER YOU WANT
2 TO DO IT NOW OR TOMORROW.

3 MR. MEACHAM: WE'LL DO IT NOW, YES, SIR.

4 THE COURT: OKAY, JUST LET ME KNOW. YOUR
5 REQUEST TO CHARGE ON REASONABLE DOUBT I'M NOT GOING TO
6 CHARGE. MINE PRETTY MUCH SAYS THE SAME THING, EXACTLY IT'S
7 THE SAME THING. I'M GOING TO DO MINE, AND I HAVE NO
8 PROBLEM WITH THE OTHER MATTER. NOW WHAT WE'RE GOING TO DO
9 IS I'M GOING TO LET YOU PUT YOUR EVIDENCE UP AND AFTER YOU
10 PUT YOUR EVIDENCE I'LL THEN HAVE THEM STAND IN THE HALLWAY
11 AND WE'LL HEAR MOTIONS AND THEN WE'LL COME BACK AND DO THE
12 CHARGE IF THAT'S FINE WITH YOU ALL.

13 "ANY PERSON KNOWINGLY SELLS, MANUFACTURE,
14 CULTIVATES, DELIVERS, PURCHASES, BRINGS INTO THE STATE OR
15 WHO PROVIDES FINANCIAL ASSISTANCE OR OTHERWISE," IS THAT
16 WHAT YOU'RE TALKING ABOUT (E), IS IT 44-53-370 (E)?

17 MR. LONG: YES, SIR.

18 THE COURT: ALL RIGHT, "OTHERWISE AIDS, ABETS,
19 ATTEMPTS, OR CARRIES FOR SELL, MANUFACTURE, CULTIVATE,
20 DELIVER, OR PURCHASE," I'M DOING WHAT I TELL PEOPLE NOT TO
21 DO, I'M SORRY, BRENDA, "OR BRING INTO THIS STATE OR WHO IS
22 KNOWINGLY IN ACTUAL CONSTRUCTIVE POSSESSION OR WHO
23 KNOWINGLY ATTEMPTS TO BECOME IN ACTUAL POSSESSION," SO IT
24 DOES TALK ABOUT POSSESSION.

25 MR. LONG: YES, SIR.

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1 MR. MEACHAM: YES, SIR, IT DOES TALK POSSESSION
2 BUT PART OF THE STATUTE INVOLVING TRAFFICKING CRACK COCAINE
3 THE KNOWINGLY, CULTIVATING, MANUFACTURING IS NOT, ISN'T
4 INVOLVED AND THERE'S TWO TYPE OF FACTORS, EITHER SELLING IT
5 OR BE IN POSSESSION OF A QUANTITY AND THE CASE LAW IS VERY
6 CLEAR THAT ACTUALLY TRAFFICKING IS DETERMINED BY THE
7 AMOUNT. IT IS A WEIGHT SPECIFIC STATUTE.

8 THE COURT: NO, IT SAYS 10 GRAMS OR LOWER.

9 MR. MEACHAM: STATE V. TAYLOR SAYS IS THAT ---

10 THE COURT: WELL WHAT IT SAYS, THE STATUTE SAYS
11 THAT, TOO, SO WHY DO YOU NEED TAYLOR FOR THAT?

12 MR. MEACHAM: WELL BECAUSE IF YOU READ THE
13 ENTIRE STATUTE KNOWINGLY SELL, WE DIDN'T HAVE THAT IN THIS
14 CASE, CULTIVATES ---

15 THE COURT: IT SAYS BUT OR WHO IS KNOWINGLY IN
16 THE ACTUAL CONSTRUCTIVE POSSESSION OR KNOWINGLY INTENDS TO
17 BECOME IN ACTUAL CONSTRUCTIVE POSSESSION.

18 MR. MEACHAM: THAT PARTICULAR PART OF THE
19 STATUTE IS APPLICABLE IN THIS CASE BUT KNOWINGLY SELL,
20 CULTIVATE, DISTRIBUTE, MANUFACTURE IS NOT, DOESN'T
21 DETERMINE TRAFFICKING, THERE'S AN OR STATUTE. IF THE COURT
22 WOULD ---

23 THE COURT: WELL I'M GOING TO READ THE STATUTE
24 BUT I DON'T MIND THE CHARGE YOU GOT BUT I'LL READ THE
25 STATUTE AND YOU CAN ARGUE TO THE JURY ABOUT THE POSSESSION,

OFFICER BRADLEY - DIRECT EXAMINATION BY MR. LONG

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1 I MEAN THE ---

2 MR. MEACHAM: I'M NOT SURE I UNDERSTAND THE
3 COURT'S RULING.

4 THE COURT: I'M GOING TO RULE THIS STATUTE AND
5 THEN, EXCUSE ME, AND THEN I'M GOING TO LET, THEN I'LL ALSO
6 ADD THIS CHARGE HERE THAT YOU'LL HAVE, TOO, AND YOU CAN
7 ARGUE THE MATTERS TO THE JURY.

8 NOW OTHER THAN MY GENERAL CHARGE, OTHER THAN THE
9 STATUTE, OTHER THAN THE CIRCUMSTANTIAL EVIDENCE, DO YA'LL
10 HAVE ANY OTHER REQUESTS FOR CHARGE?

11 MR. LONG: NO, YOUR HONOR, NO EXCEPTIONS TO THE
12 STATE'S REQUEST TO CHARGE AND NO ADDITIONAL CHARGES.

13 THE COURT: DO YA'LL AGREE I'LL JUST HAND THE
14 VERDICT FORM TO THE JURY BE GUILTY OR NOT GUILTY?

15 MR. LONG: YES, SIR, WE, WE COULD MOVE FOR A
16 LESSER INCLUDED OFFENSE. I DON'T THINK YOU'D BE INCLINED
17 TO DO THAT. THEY COULD POSSIBLY FIND THAT THERE WAS FIVE
18 GRAMS AND 15 GRAMS OF BABY POWDER OR SOMETHING SINCE
19 THERE'S NOT A PURITY TEST DONE.

20 THE COURT: YOU ASKED THAT QUESTION BUT THERE
21 WAS NO EVIDENCE OTHER THAN WHAT IT IS.

22 MR. LONG: THAT'S CAUSE THEY DIDN'T DO A PURITY
23 TEST.

24 THE COURT: RIGHT.

25 MR. LONG: IT'S NOT WITHIN OUR MEANS TO BE ABLE

OFFICER BRADLEY - DIRECT EXAMINATION BY MR. LONG

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1 TO DO A PURITY TEST.

2 THE COURT: OKAY, SO GUILTY OR INNOCENT, GUILTY
3 OR NOT GUILTY. OKAY, BRING THE JURY IN, PLEASE.

4 (WHEREUPON, THE JURY RETURNS TO THE COURTROOM AT
5 4:40 P.M.)

6 THE COURT: OKAY, WE'RE NOW READY TO PROCEED
7 WITH THE EVIDENCE FROM THE DEFENSE, MR. LONG, YOUR FIRST
8 WITNESS, PLEASE, SIR?

9 MR. LONG: THANK YOU, YOUR HONOR. WE'D RECALL
10 OFFICER ROBERT BRADLEY TO THE STAND.

11 THE COURT: OFFICER BRADLEY, I'LL REMIND YOU,
12 SIR, YOU'RE STILL UNDER OATH. PLEASE COME FORTH.

13 THE COURT: ALL RIGHT, HE'S THERE.

14 OFFICER ROBERT BRADLEY

15 HAVING BEEN PREVIOUSLY SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. LONG:

18 Q OFFICER BRADLEY, YOU PREVIOUSLY TESTIFIED
19 THAT YOU OBTAINED DRUGS FROM REGGIE PINCKNEY. I BELIEVE
20 YOU TESTIFIED THAT IT WAS INSIDE THE POCKET ONCE YOU PULLED
21 THE POCKET OUT YOU HAD TO CUT THE END OF THE POCKET OFF AND
22 PULL THE DRUGS OUT; IS THAT CORRECT?

23 A YES, SIR, THAT IS CORRECT.

24 Q ALL RIGHT, AND THEN YOUR PROCEDURE ON THE
25 SCENE IS IS THAT YOU GAVE THOSE TO OFFICER WILLIAMS; IS

OFFICER BRADLEY - DIRECT EXAMINATION BY MR. LONG

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1 THAT CORRECT?

2 A YES, SIR, THAT IS, THAT IS CORRECT.

3 Q ALL RIGHT, AND YOU TESTIFIED THAT YOU GAVE
4 THE CORNER OF THE BAGGY THAT WAS ON TOP OF THE TRUCK THAT
5 YOU GAVE THAT TO OFFICER WILLIAMS OR OFFICER WILLIAMS WAS
6 TO GET THAT?

7 A I HANDED IT TO OFFICER WILLIAMS.

8 Q YOU HANDED IT TO OFFICER WILLIAMS, ALL
9 RIGHT, AND THEN DID YOU AFTER REGGIE PINCKNEY WAS ARRESTED,
10 DID YOU ACCOMPANY OFFICER WILLIAMS BACK TO THE STATION WITH
11 THE EVIDENCE?

12 A YES, SIR, I DID.

13 Q OR MET HIM. YOU TOOK YOUR CAR AND HE TOOK
14 HIS CAR; IS THAT CORRECT?

15 A THAT IS CORRECT.

16 Q AND WHEN YA'LL RETURNED BACK TO THE OFFICE
17 YOU WERE GOING THROUGH THE EVIDENCE RECEIVED, THAT IS THE
18 LIGHTER, THE SCALES, THE MONEY, COUNTING THE MONEY, AND THE
19 DRUGS ITSELF, CORRECT?

20 A THAT IS CORRECT.

21 Q ALL RIGHT, AND DID OFFICER WILLIAMS IN YOUR
22 PRESENCE WEIGH THE DRUGS THAT YOU TESTIFIED YOU GOT FROM
23 REGGIE PINCKNEY?

24 A YES, SIR, HE DID.

25 Q ALL RIGHT, AND DID HE GIVE AN APPROXIMATE

OFFICER BRADLEY - DIRECT EXAMINATION BY MR. LONG

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1 WEIGHT OF THOSE DRUGS?

2 A YES, SIR, HE DID.

3 Q ALL RIGHT, NOW WHAT WAS THAT APPROXIMATE
4 WEIGHT?

5 A IT WAS APPROXIMATELY 23.3 GRAMS.

6 Q ALL RIGHT, AND THOSE WERE THE DRUGS THAT
7 WERE TESTIFIED BY THE CHEMIST WHO SAID IT WAS 20.68 GRAMS,
8 SAME DRUGS?

9 A YES, SIR, AND IF I MAY ELABORATE?

10 Q YOU MAY, I JUST WANT TO KNOW IF IT WAS --

11 A WHEN WE TAKE THE STREET DRUGS OFF THE
12 STREET, WHEN WE GET IT BACK TO WEIGH IT OUR SCALES ARE NOT
13 BALANCED AND CERTIFIED AND WE WEIGH THE ITEM IN ITS
14 TOTALITY INSIDE THE BAG AND SLED HAS A DIFFERENT PROCEDURE
15 THAT EVERYTHING IS REMOVED FROM THE BAG AND WEIGHED BY
16 ITSELF.

17 Q SO WHAT YOU'RE TELLING THIS JURY IS, WAS
18 THIS THE BAG THAT THE DRUGS WERE IN WHEN YOU OBTAINED THEM,
19 THIS INSIDE A ZIPPER BAG?

20 A NO, SIR, THAT IS NOT. IT IS THE BAG THAT
21 IS BEHIND IT RIGHT THERE.

22 Q OKAY, AND THAT WOULD BE MORE LIKE A
23 SANDWICH, THIN SANDWICH BAGGY BAG; IS THAT CORRECT?

24 A IT IS A PLASTIC BAG.

25 Q OKAY, PLASTIC BAG. IT'S NOT THE THICK

OFFICER BRADLEY - DIRECT EXAMINATION BY MR. LONG

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1 PLASTIC BAG THIS BEST EVIDENCE BAG? IT'S MORE, CAN YOU
2 TELL, CAN YOU SEE THAT IT'S A THIN BURR?

3 A I CAN SEE IT'S A PLASTIC BAG, I'M NOT SURE
4 ABOUT THE THICKNESS OF IT.

5 Q OKAY, ALL RIGHT, AND SO YOU'RE SAYING THAT
6 YOUR SCALES AREN'T BALANCED OR CERTIFIED AND YOU WEIGH THE
7 BAG AS WELL AS THE CONTROLLED SUBSTANCE?

8 A YES, SIR.

9 Q ALL RIGHT, AND THEN A WARRANT IS ISSUED
10 AGAINST REGGIE PINCKNEY FOR POSSESSION 63 POINT, I MEAN
11 23.3 GRAMS OF CRACK COCAINE?

12 A FOR APPROXIMATELY THAT'S WHEN WE PUT
13 APPROXIMATELY IN THERE.

14 Q ALL RIGHT, NOW THERE WERE THREE PATROL
15 VEHICLES AT THIS ARREST SCENE; IS THAT CORRECT?

16 A THAT IS CORRECT, SIR.

17 Q ALL RIGHT, SIR, AND YOU'RE SAYING, I
18 BELIEVE THE TESTIMONY WAS THAT MOST OF THE PATROL VEHICLES
19 IN THE CITY OF CONWAY ARE EQUIPPED WITH A VIDEO CAMERA; IS
20 THAT CORRECT?

21 A THOSE IN PATROL SOME OF THEM DO AND SOME OF
22 THEM DON'T, I DON'T HAVE AN EXACT NUMBER.

23 Q ALL RIGHT, AND YOUR VEHICLE IS NOT EQUIPPED
24 WITH ONE?

25 A THAT IS CORRECT.

OFFICER BRADLEY - CROSS EXAMINATION BY MR. MEACHAM 200

1 Q ALL RIGHT, AND DO YOU KNOW WHETHER OR NOT
2 OFFICER WILLIAMS VEHICLE WAS EQUIPPED WITH ONE?

3 A NO, SIR, IT WAS NOT.

4 Q AND DO YOU KNOW WHETHER OR NOT OFFICER
5 ROBINSON'S VEHICLE WAS EQUIPPED WITH ONE?

6 A NO, SIR, IT WAS NOT.

7 Q AND THESE ARE ALL MARKED PATROL VEHICLES?

8 A THEY'RE THE UNITS THAT WE WERE ASSIGNED FOR
9 OUR SPECIFIC JOB DUTIES, SIR.

10 Q ARE THEY MARKED ---

11 A THEY'RE ---

12 Q --- PATROL VEHICLES?

13 A YES, SIR, THEY ARE MARKED UNITS.

14 Q BY MARKED PATROL VEHICLES DO THEY SAY CITY
15 OF CONWAY POLICE ON A WHITE VEHICLE WITH BLUE REFLECTIVE
16 TAPE ON BOTH SIDES OF THE BACK AND THE FRONT?

17 A YES, SIR, AND THERE IS A LIGHT BAR WITH
18 LIGHTS ON THE TOP.

19 Q OKAY, AND THEY ALSO HAVE THE LIGHT BAR ON
20 THE TOP?

21 A YES, SIR.

22 Q NO QUESTION WHEN YOU SEE IT THAT'S A POLICE
23 VEHICLE?

24 A THAT IS CORRECT.

25 Q ALL RIGHT, AND ARE THOSE COMMONLY REFERRED

OFFICER BRADLEY - CROSS EXAMINATION BY MR. MEACHAM

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1 TO AS PATROL VEHICLES?

2 A THE COMMON TERM FOR THE VEHICLE IS PATROL
3 VEHICLE.

4 Q ALL RIGHT, AND ARE THOSE PATROL VEHICLES
5 USED FOR TRAFFIC STOPS, TRAFFIC CITATIONS, AS WELL AS
6 OFFICERS USE FOR NARCOTICS OR DETECTIVES OR WHATEVER THE
7 CASE MAY BE?

8 A YES.

9 MR. LONG: ALL RIGHT, THANK YOU, SIR, NO FURTHER
10 QUESTIONS.

11 THE COURT: MR. MEACHAM?

12 CROSS EXAMINATION

13 BY MR. MEACHAM:

14 Q JUST A COUPLE OF QUESTIONS, WHEN YOU, WHEN
15 YOU WEIGH THE DRUGS ON THE STREET ARE YOU DOING IT AS AN
16 APPROXIMATE WEIGHT?

17 A YES, SIR.

18 Q IS THAT TO MAKE THE APPROPRIATE CHARGE
19 ACCORDING TO THE PARTICULAR DRUG STATUTE?

20 A YES, SIR, THAT IS CORRECT.

21 Q AND IN THIS PARTICULAR CASE THE CHARGE WAS
22 BETWEEN 10 AND 28 GRAMS OF CRACK COCAINE?

23 A THAT IS CORRECT, SIR.

24 Q ALL RIGHT, AND SO WE WEIGHED ON THE STREET
25 WITH THE BAG, WAS IT 23 GRAMS OF CRACK COCAINE?

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1 A IT WAS APPROXIMATELY.

2 Q APPROXIMATELY?

3 A YES.

4 Q AND IS THAT BETWEEN 10 AND 28 GRAMS OF
5 CRACK COCAINE?

6 A YES, SIR, IT IS.

7 Q ALL RIGHT, AND YOU HEARD, NOW DID YOU
8 RECEIVE THE DRUG REPORT BACK, IS THAT BETWEEN 10, IS THAT
9 20 GRAMS OF CRACK COCAINE?

10 A YES, SIR.

11 Q IS THAT BETWEEN 10 AND 28 GRAMS OF CRACK
12 COCAINE?

13 A YES, SIR, IT IS.

14 MR. MEACHAM: THANK YOU, THAT'S ALL I HAVE.

15 MR. LONG: VERY BRIEFLY ON REDIRECT.

16 REDIRECT EXAMINATION

17 BY MR. LONG:

18 Q BY MY MATH, AND I WON'T CERTIFY IT BEING
19 CORRECT, YOU WERE 2.62 GRAMS OFF. IF THAT HAD BEEN 8 GRAMS
20 OF COCAINE AND YOU MEASURED IT AS 10.62 WOULD YOU HAVE
21 WRONGFULLY CHARGED SOMEBODY WITH TRAFFICKING?

22 A IF THAT WAS THE WEIGHT AT THE TIME BUT THE
23 WEIGHT THAT WE HAD WAS MORE THAN 10 GRAMS.

24 Q ALL RIGHT, WHAT TYPE OF SCALES ARE USED AT
25 THE CITY OF CONWAY; ARE THEY DIGITAL ELECTRONIC SCALES LIKE

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1 THAT?

2 A SOME OF THEM ARE, YES.

3 Q ALL RIGHT, AND WHICH ONES WERE USED BY
4 OFFICER WILLIAMS THAT NIGHT?

5 A A SMALL SET OF BLACK DIGITAL SCALES.

6 MR. LONG: ALL RIGHT, THANK YOU, SIR. NO
7 FURTHER QUESTIONS.

8 THE COURT: ANYTHING ELSE, YOU MAY STEP DOWN,
9 SIR. OTHER WITNESSES BY THE DEFENSE?

10 MR. LONG: NO OTHER WITNESSES, YOUR HONOR, THE
11 DEFENSE WOULD REST.

12 THE COURT: OKAY, ANY REBUTTAL REPLY WITNESSES?

13 MR. MEACHAM: NO, SIR, THANK YOU.

14 THE COURT: OKAY, LADIES AND GENTLEMEN OF THE
15 JURY, HERE'S WHAT I WOULD LIKE TO DO. I WOULD LIKE TO GO
16 AHEAD AND CHARGE YOU TONIGHT. LET THE ATTORNEYS, THEY SAID
17 THEIR ARGUMENT WAS GOING TO BE ABOUT TWENTY MINUTES EACH
18 ALONE AND THEN MY CHARGE WOULD BE ABOUT FIFTEEN MINUTES,
19 TWENTY MINUTES OR SO. I'D LIKE TO CHARGE YOU TONIGHT AND
20 LET YOU GO AND DELIBERATE FOR A WHILE AND IF YOU WISH TO GO
21 HOME AND COME BACK TOMORROW AFTER THAT YOU CAN DO SO; OR IF
22 YOU ARE TIRED CAUSE YOU'VE BEEN HERE ALL DAY AND YOU RATHER
23 WE CHARGE AND DO EVERYTHING TOMORROW MORNING WE CAN DO IT.
24 IT'S TOTALLY UP TO YOU. WHAT I'D LIKE TO, THOUGH, IS GET
25 THE, THE ATTORNEYS ARGUMENTS AND MY CHARGE ON THE LAW IN TO

1 YOU. YOU CAN DELIBERATE. IF YOU CAN'T REACH A VERDICT
2 AFTER A CERTAIN PERIOD OF TIME THEN IF YOU WANT TO GO HOME
3 AND COME BACK TOMORROW MORNING THAT WOULD BE FINE. THAT'S
4 WHAT I THINK WOULD BE THE BEST THING BUT YOU KNOW IT'S
5 ALMOST TIME TO GIVE IT TO YOU ALL, IT'S ALMOST FIVE. SO
6 I'LL LET YOU ALL DECIDE, SO IF YA'LL WOULD STEP IN THE
7 HALLWAY. I'VE GOT TO DO A COUPLE OF MATTERS HERE AND THEN
8 I'M GOING TO BRING YOU BACK IN. WHEN I COME BACK IN, I'M
9 GOING TO BRING YOU BACK IN FIRST, MR. FOREMAN, YOU CAN LET
10 ME KNOW WHAT YA'LL WANT TO DO. IN FACT, YA'LL JUST GO ON
11 TO THE JURY ROOM AND I'LL, THEN I'LL HAVE YOU COME BACK IN
12 AND LET ME KNOW, OKAY.

13 (WHEREUPON, THE JURY RETIRED TO THE JURY ROOM AT
14 4:48 P.M.)

15 THE COURT: YOU KNOW, YA'LL, OKAY, ANY MOTIONS?
16 I'M REALLY CONSIDERING WITH THE ARM OF CHARGING POSSESSION
17 AS A LESSER OFFENSE, YOU CLAIM IT'S HIS THIRD OFFENSE,
18 DON'T YOU?

19 MR. MEACHAM: I'M SORRY?

20 THE COURT: YOU CLAIM IT'S HIS THIRD DRUG
21 OFFENSE, DON'T YOU?

22 MR. MEACHAM: YES, SIR, WE HAVE CERTIFIED
23 RECORDS.

24 THE COURT: MY GOODNESS, PENALTIES ARE PRETTY
25 SERIOUS NO MATTER WHAT IT IS.

1 MR. MEACHAM: WELL I THINK YOU WOULD HAVE TO
2 HAVE ACTUALLY A FACTUAL, WELL TRAFFICKING IS ACTUALLY A
3 MOST SERIOUS VIOLENT OFFENSE AND SO --

4 MR. LONG: EIGHTY-FIVE PERCENT.

5 MR. MEACHAM: YEAH, 85 PERCENT SO THE DIFFERENCE
6 IN TERMS OF THE TOTAL TIME AND THE, AND THE OTHER
7 CONSEQUENCES AS TO OTHER RELATED OFFENSES IT WOULD BE MORE
8 SEVERE SIMPLY BECAUSE OF THAT; AND I DON'T THINK WE'VE GOT
9 ANY FACTS OF IT BEING LESS THAN 10 GRAMS, I MEAN WE REALLY
10 DON'T. WE'VE GOT, THERE'S NO ARGUMENT THAT IT'S LESS THAN
11 10 GRAMS. I THINK THE JURY WOULD HAVE TO MAKE A REACH AND
12 ACTUALLY I DON'T THINK JURY NULLIFICATION IF THEY WOULD, IF
13 THEY ACTUALLY FOUND POSSESSION.

14 THE COURT: MR. LONG?

15 MR. LONG: YOUR HONOR, AGAIN, THE CHEMIST
16 TESTIFIED THAT IF FIVE GRAMS OF COCAINE WERE MIXED WITH 15
17 GRAMS OF BAKING SODA AND SUBMITTED TO HER FOR TESTING THAT
18 SHE WOULD FIND THAT TO BE 20 GRAMS OF COCAINE. THAT IS
19 SOME EVIDENCE MAYBE, IT'S NOT COMPELLING EVIDENCE. MAYBE
20 IT'S NOT CONCLUSIVE EVIDENCE BY ANY MEANS BUT IT IS SOME
21 EVIDENCE ENOUGH TO REQUEST A CHARGE OF POSSESSION OR
22 POSSESSION WITH INTENT. YOUR HONOR, WHAT WE'VE BEEN
23 CONCERNED ABOUT THROUGHOUT THIS CASE IS THE TRAFFICKING
24 THIRD. LEGISLATURE HAS TAKEN BASICALLY NO, HAS TAKEN ALL
25 DISCRETION FROM YOU AS FAR AS APPROPRIATE SENTENCE, MAYBE