

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Oconee County
Honorable R. Scott Sprouse, Circuit Court Judge

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SFP 20 2016
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

WAYNE BEECHER CARTER,

APPELLANT

APPELLATE CASE NO. 2015-002009

RECORD ON APPEAL

ROBERT M. PACHAK
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

MEGAN HARRIGAN JAMESON
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR APPELLANT

CHRISTINA T. ADAMS
Solicitor, Tenth Judicial Circuit

100 South Main Street
Anderson, South Carolina 29624
(864) 260-4046

ATTORNEYS FOR RESPONDENT

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBIT NO. 1 (DVD OF TRAFFIC STOP)**

1 State of South Carolina
2 County of Oconee In the Court of General Sessions

3
4 State of South Carolina,)
5) 2015-GS-37-00214
6 -vs-) September 14, 2015
7 Wayne Beecher Carter,) Volume 1 of 2
8 Defendant.) Pages 1 - 86
9) Transcript of Record
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B E F O R E:

The Honorable R. Scott Sprouse, Judge;
and a jury.

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

Bethany Ann Blundy, Esquire
Attorney for the State

W. Wilson Burr, Esquire
Keith G. Denny, Esquire
Attorneys for Defendant

Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

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E x h i b i t s

For the Court:

Marked	Description	I.D.	Admitted
1	Note from jury - foreperson	56	

For the State:

Marked	Description	I.D.	Admitted
	None offered.		

For the Defendant:

Marked	Description	I.D.	Admitted
	None offered.		

1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at approximately 9:57 a.m.)

4 THE COURT: Good morning, ladies and gentlemen.
5 I'm Scott Sprouse, your resident circuit judge here in
6 Oconee County. We are gathered here for a term of
7 general sessions court. General sessions means
8 criminal court.

9 Now, the first thing we have to confirm is
10 everybody is in the right place. If you have been
11 summoned to serve in magistrate's court, municipal
12 court or federal court, you are in the wrong
13 courthouse. Is there any member of the pool that feels
14 like they have come to the wrong place? Okay.

15 This is a term, like I said, of criminal court
16 called general sessions court. This is a one-week term
17 of court. The purpose of our gathering this morning is
18 to determine your qualifications and eligibility to
19 serve as jurors this week.

20 First order of business, I'm going to have the
21 clerk introduce herself and her staff for you, and,
22 Ms. Whitfield, if you haven't already given them the
23 telephone number, do so.

24 THE CLERK: Good morning. I'm Beverly Whitfield.
25 I'm your elected clerk of court. It's a pleasure to

1 like me to call the first case?

2 THE COURT: Yes.

3 MS. BLUNDY: We're here on the State of South
4 Carolina versus Wayne Beecher Carter, indictment number
5 2015-GS-37-214.

6 THE COURT: Okay. Ladies and gentlemen, this is
7 the case, as stated, of the State of South Carolina
8 versus Wayne Beecher Carter. He has been charged with
9 possession with intent to distribute methamphetamine.

10 This indictment number that was read into the
11 record is simply the charge by which the case is
12 brought into court. It is not in any sense evidence of
13 the allegations it contains.

14 The defendant has pled not guilty to the charge;
15 therefore, the State has the burden of proving the
16 elements of the indictment beyond a reasonable doubt.
17 And if you are picked on the jury, it will be your
18 duty, ladies and gentlemen, to determine whether the
19 State has met that burden.

20 We're going to select the jury for this case, and
21 I'm going to need to ask you some more questions.
22 Again, these are not questions to pry into your private
23 lives but to ensure that each party receives a fair and
24 impartial jury.

25 Madam Clerk, would you swear -- well, they're

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Jury Qualification

1 already under oath. I'll remind you, you are already
2 under oath from the clerk swearing you before our
3 qualification questions.

4 I'm going to ask first each attorney to introduce
5 themselves and any persons from their office that may
6 be assisting in the case.

7 Ms. Blundy.

8 MS. BLUNDY: Good morning. My name is Beth
9 Blundy. I represent the solicitor's office here in
10 Oconee County. I work for the State. Officer
11 Sutherland will be assisting me in trial.

12 MR. BURR: May it please the Court, your Honor.

13 Good morning, ladies and gentlemen. I'm Wilson
14 Burr. I'm the county chief public defender. Working
15 with me on this case is Mr. Keith Denny from the
16 private bar, owner of Keith Denny Law Office. We're
17 representing Mr. Wayne Carter. Also helping me is my
18 paralegal, Lynn Black, who's been working with me the
19 past ten years. Thank you for your service.

20 THE COURT: Okay.

21 Is any member of the jury panel related by blood
22 or marriage or has a close personal or social
23 relationship with one of the parties or one of the
24 attorneys involved in the case? If so, please stand.

25 There are none.

1 neutral explanations for the strikes.

2 I would also note that one of these is a primary
3 juror, number 172, primary juror, and number 59,
4 Ms. Goodine, is the alternate. So I will overrule your
5 objection.

6 MR. BURR: Thank you, your Honor.

7 MS. BLUNDY: Thank you, your Honor.

8 (WHEREUPON, the jury entered open court at
9 11:30 a.m.)

10 THE COURT: Can we get the rest of the entire
11 panel in here, please.

12 (WHEREUPON, the remainder of the prospective jury
13 panel entered the courtroom.)

14 THE COURT: Anything from the State before we
15 swear our jury?

16 MS. BLUNDY: Nothing from the State.

17 THE COURT: Anything further for the defense?

18 MR. BURR: Nothing for the defense, your Honor.

19 THE COURT: Madam Clerk, would you swear our jury.

20 THE CLERK: Yes, sir.

21 (WHEREUPON, the jury was impaneled.)

22 THE CLERK: Let the record reflect that all
23 members of the jury panel have accepted the oath.

24 THE COURT: Okay.

25 Ladies and gentlemen of the remainder of the jury

1 panel, the first jury has been selected; therefore, you
2 will not be needed today. So I'm going to dismiss the
3 remainder of you for the day. Call in the telephone
4 number that was given to you after 6 o'clock tonight,
5 and it will give you further instructions as to what
6 you will need to do for the rest of the week.

7 It may be that there are no other cases, but the
8 clerk will let you know that in the phone message.
9 But, again, call after 6 o'clock tonight. So we thank
10 you for coming this morning. You're now dismissed.

11 (WHEREUPON, the remainder of the prospective jury
12 panel exited the courtroom.)

13 THE COURT: All right. Ladies and gentlemen,
14 you've been selected as the jury in the first case. As
15 I stated earlier, the State has the burden of proof in
16 the trial. The State has to prove beyond a reasonable
17 doubt that the defendant is guilty of the offense
18 charged. If the State fails to meet that burden, then
19 you are to find the defendant not guilty.

20 On the other hand, if the State does prove its
21 case beyond a reasonable doubt, you must find the
22 defendant guilty. The defendant is presumed innocent
23 and has no burden of proof in this trial.

24 Our roles in the trial are as follows: I am the
25 judge of the law. You are the judges of the facts, and

1 you will evaluate the evidence that is presented.

2 You're going to hear about reasonable doubt
3 further in the case, but I'll give you a preliminary
4 definition, is that it is a doubt that would cause a
5 reasonable person to hesitate to act.

6 Now, a few more things in preliminary
7 instructions. This is not going to be an endurance
8 contest. We will take breaks as we go along. I don't
9 think this is going to be an overly long trial, but we
10 will take breaks to allow you to stretch your legs.
11 We're not going to make you sit for long periods of
12 time. If anyone gets in distress and needs a break,
13 the bailiff is here to assist you, so please let your
14 bailiff know if you need to take a break.

15 This is very important. We're going to take
16 breaks, as we stated. There will also be times we go
17 into recess. When you are outside of this courtroom,
18 you cannot perform any independent research into the
19 facts of the case or the law. It's very easy to do in
20 our modern world -- smart phones, computers and access
21 to information. But you are not allowed to do any
22 independent research.

23 You also are not allowed to talk to any third
24 parties about the facts of the case. I've already
25 mentioned to you that you may run into one of the

1 attorneys or one of the witnesses or litigants in the
2 case. You can't talk to them. They know they can't
3 talk to you. So it's very important that you don't
4 discuss the facts of this case with any third parties
5 at any time outside this courtroom.

6 You cannot deliberate amongst yourselves until I
7 instruct you to do so at the end. Now, there will be a
8 time at the end for you to deliberate as a jury on
9 whether or not the State has proven its case beyond a
10 reasonable doubt. But you can't do that until I
11 instruct you to at the end. So those are some -- three
12 major things that you can't do during the course of the
13 trial.

14 Now, I get this question, so I'm going to tell you
15 up front you cannot take notes during the proceeding.
16 The reason for that is some people are good
17 note-takers. Other people are not good note-takers.
18 Your deliberations at the end should not be a contest
19 between those who took good notes and those who did
20 not.

21 Also during the course of the trial, you are
22 called as the triers of fact to evaluate the evidence,
23 and with that goes the credibility of the witnesses.
24 Sometimes the demeanor of a witness is an important
25 factor for a jury to observe. If your head is buried

1 in a notepad, you're not looking at the witness and you
2 may miss something that's important during the course
3 of the trial. So those are the reasons why I do not
4 allow note-taking during the course of the trial.

5 Now, the first thing I'm going to have you do now
6 is retire to your jury room. Your first order of
7 business will be to elect a foreperson. This is the
8 juror that presides over your deliberations at the end
9 of the trial. This is also the juror that will
10 communicate with the Court with any needs or questions
11 that the jury may have.

12 So, Mr. Bailiff, if you will take the jury to the
13 jury room. When you have elected a foreperson, write
14 that on a slip of paper, give that to the bailiff and
15 knock on the door and let the bailiff know when you
16 have decided.

17 Mr. Bailiff.

18 (WHEREUPON, the jury exited open court at
19 11:40 a.m.)

20 THE COURT: Okay. Any exceptions from the State?

21 MS. BLUNDY: Nothing from the State.

22 THE COURT: Any exceptions from the defense?

23 MR. BURR: Nothing from the defense.

24 THE COURT: We'll be in recess until the jury
25 selects a foreperson.

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Batson Motion

1 (WHEREUPON, a recess was taken from 11:41 a.m.
2 to 11:49 a.m.)

3 THE COURT: Okay. Let's go back on the record.
4 I have received a note from the jury that they
5 have elected William Sheskey as their foreman. So
6 let's make that a court exhibit. That will be juror
7 number 142.

8 (WHEREUPON, Court's Exhibit Number 1 was marked
9 for identification.)

10 THE COURT: If we can get our jury back in. We're
11 going to start this at 9:00 in the morning. I'm going
12 to send the jury home, and we'll go from there.

13 (WHEREUPON, the jury entered open court at
14 11:50 a.m.)

15 THE COURT: Okay. Ladies and gentlemen of the
16 jury, I've been informed that Mr. Sheskey has been
17 selected as your foreman.

18 Sir, you will sit in that chair every time you
19 come back in the courtroom, and you will be the
20 presiding juror.

21 Now, it is almost noon. We have several matters
22 of law that we need to take up. It's right at
23 lunchtime anyway, and the State and the defense have
24 informed me that there are several things that we need
25 to take up, and there are some other matters that are

1 before the Court this afternoon. So I'm going to
2 dismiss you for the day.

3 We will resume at 9 o'clock in the morning. We
4 will begin with opening statements, and the case will
5 begin. So you are dismissed for the day. Please keep
6 in mind my instructions: No independent investigation,
7 no discussion of the case with any third parties, and
8 no deliberation among yourselves until I instruct you
9 at the end.

10 So, ladies and gentlemen, we thank you for coming
11 this morning. We look forward to seeing you at
12 9 o'clock in the morning. And check -- if, for some
13 reason, something happens, check that phone number
14 tonight after 6 o'clock. Check the phone number.
15 Okay? You're dismissed.

16 (WHEREUPON, the jury exited open court at
17 11:52 a.m.)

18 THE COURT: Okay. Anything from the State before
19 we go into recess on this case?

20 MS. BLUNDY: Nothing from the State.

21 THE COURT: Anything from the defense?

22 MR. BURR: Nothing from the defense, your Honor.

23 THE COURT: Now, y'all want to do the motions at
24 2 o'clock this afternoon?

25 MR. BURR: Yes, your Honor.

1 had the combination to the safe. They work for the
2 department, and they are willing to testify.

3 As far as the drugs, they were dropped into the
4 drop box, and Ms. Nicholson picks those up, took these
5 to the analyst. I don't see a sufficient break.
6 There's plenty of case law on it if you need me to go
7 further.

8 THE COURT: Mr. Burr, I think that motion is
9 premature. I think the State is entitled to put their
10 case up on that issue, and if they can't prove chain of
11 custody, then at the time they seek to admit the
12 evidence, we'll deal with that question at that time.

13 MR. BURR: Okay. Thank you, your Honor.

14 We have two additional motions based on the
15 statute and cases provided to the Court earlier. The
16 original basis for the stop -- Mr. Denny is prepared to
17 make both of those arguments.

18 MR. DENNY: Your Honor, if it please the Court.

19 Your Honor, we are going to move at the
20 appropriate time in the trial itself as well as if the
21 Court wants to review the tape that the State is
22 willing to introduce, two aspects.

23 First and foremost, based on the incident report,
24 this arrest, this whole series of events, was after a
25 taillight incident. The officer, in the incident

1 report, states that while driving down, he noticed that
2 the defendant's taillight was broken and cracked, so he
3 pulled him over.

4 The supreme court in *Rodriguez vs. The United*
5 *States* addressed, you know, the issues about what is an
6 unlawful seizure, how much time should a law
7 enforcement officer take to actually handle that stop
8 on the side of the road. They can act fairly quickly.
9 Basically, it's just for whatever it takes to do that.

10 Now, if reasonable suspicion develops in that, the
11 question then goes to did they extend that time to
12 enlarge it beyond what they needed to do. Your Honor,
13 the video in this case, when you see it, you're going
14 to see two active taillights. They're active. There
15 was no reason for the stop, which we'll get into in
16 just a second.

17 But let's say that there was. When they get to
18 the side of the road, our case law, we've got
19 *Rodriguez*, which I handed up to the Court. Then we'd
20 also look at *Tindall*, which is a South Carolina supreme
21 court case. In that case, the supreme court -- this
22 supreme court said that you can't extend it beyond that
23 reasonable amount of time no matter what the cues were
24 that they believe they might see, whether it's a
25 stretch or there might be driving later at night.

1 In this case, the incident report, two great
2 factors. Apparently if it's 9 o'clock in Seneca, you
3 don't drive a truck. And if an officer has ever pulled
4 you over before, he's got the right to pull you over
5 for any reason. That was the incident report. I've
6 known this person in the past and the time of night,
7 9 o'clock. That was it. That's all they provided in
8 the incident report for the reason for the stop.

9 Your Honor, we'd submit that basically we then
10 look at the actual taillight itself. And if the State
11 does introduce the video they turned over to the
12 defense, that, according to the statute -- and we're
13 looking at 56-5-4510 -- according to that statute, it
14 talks about taillights. We're not talking about brake
15 lights. Just have to have one operational, be able to
16 see it from a distance of 500 feet.

17 You're going to see clearly in the video the
18 taillights are working. There's no reason for this
19 stop to ever occur, but yet the officer did. He pulled
20 him over. You see his brake lights work. You see his
21 signal lights work. You see him in full control and
22 operation of the vehicle.

23 Once he pulls over, then he basically continues
24 it. The great thing about the dash cam --
25 unfortunately the audio disappears -- the dash cam, you

1 see the supposed reason for the stop in full operation.
2 There's no reason. And he's alleging that it's
3 cracked.

4 Well, your Honor, when you look at not only -- in
5 looking at *State vs. Jihad* -- we talk about what a
6 taillight, whether it has to be fully operational --
7 says in good working order. Has to be able to emit a
8 red light from the back. And a taillight, these cases,
9 the cases from *Anderson*, in *Cornwell*, the cases with
10 *Jihad* specifically differentiate brake lights from
11 taillights. You only have to have one. There's
12 obviously one on the back. The other one is still
13 operational. It's just slightly cracked, so there's no
14 reason for the stop, first of all.

15 But then when we did get to the stop, he wanted to
16 issue a citation which issued at 10:32. When we do get
17 to the video, your Honor, the stop started about
18 10 o'clock. So we've got 32 minutes of what should
19 have been just an initial law enforcement-citizen
20 contact, address the taillight and move on.

21 That wasn't the reason for the stop, your Honor.
22 We believe that this stop was an illegal search and
23 seizure and everything subsequent to that was
24 inappropriate. And, you know, your Honor, at this time
25 if they move to introduce their video, we'll bring up

1 that objection at that point in time. If they want to
2 refute anything I've said, the video will clearly
3 demonstrate the facts we have stated are correct.

4 THE COURT: Ms. Blundy.

5 MS. BLUNDY: Thank you, your Honor.

6 Couple things as to address the broken taillight
7 issue. There is that statute out there that says one
8 operational taillight, and I believe the defense had
9 maybe passed you up a copy of that.

10 THE COURT: Right.

11 MS. BLUNDY: There are also numerous statutes that
12 address equipment violations, and I will pass that up
13 for your review as well. On the back page of this,
14 this is kind of the statute where I believe it was the
15 legislature's intent to make sure that everyone has a
16 properly equipped and working vehicle when they're out
17 on the public roadways here in South Carolina. And
18 that's 56-5-5310, conditions of the vehicle, conditions
19 of equipment. They basically say it needs to be in
20 good working order and so that nobody is in danger
21 while they're driving.

22 Additionally, specifically 56-5-4590 talks about
23 lamps and backup lamps, specifically brake lights,
24 taillights. And as a female, I had to do a little
25 research on that myself to know the distinction between

1 brake light and taillight. But there is a distinction.
2 And, clearly, I think defense counsel did hit the key.
3 He said it was broken.

4 And why is that significant in our case? It's
5 significant because in this state you cannot have a
6 white light glaring. It has to be covered. It has to
7 be fixed. The only white lights you can have are the
8 ones that illuminate the actual license plate or tag or
9 backup, reverse lights. So in this case, that was one
10 of the things that triggered him pulling him over.

11 *Jihad*, when it initially came out, it did address
12 some of the issue, although it talked about the brake
13 light and taillight that initially I think was heard in
14 '99, but then it was revisited by the supreme court of
15 the state in 2001. And in, I believe, the 2001 case,
16 the court kind of backed itself up and said, yeah, they
17 had reasonable suspicion for the stop, you know, based
18 on how the statute with the legislative intent was with
19 the statute.

20 Also a warning ticket was issued. On that warning
21 ticket, Officer Jefferson checked "defective
22 equipment," so it wasn't specifically to the taillight,
23 but that was the reason for the reasonable suspicion
24 for the stop.

25 Additionally, there's some supreme court case law

1 on this issue, believe it or not. And that came out
2 in -- North Carolina had a very similar statute to
3 South Carolina as far as brake lights and taillights
4 go. And in this case, the supreme court went and held
5 and said, you know what, we're just going to say it was
6 the officer's reasonable mistake to pull him over.
7 It's sufficient to think that if someone has a busted
8 taillight, that that would be permissible for a traffic
9 stop for a seizure. And they said that because of
10 that, they found it to be a reasonable mistake and that
11 under Section 8 under automobiles, if you flip through
12 the case, and, therefore, the stop was not
13 unconstitutional search or seizure. So we have that
14 case as well.

15 Then to address the second issue where the defense
16 is alleging *Tindall* and extenuation of the stop, I just
17 don't see that in this case. Certainly in the last few
18 months there's been a lot of rapid case law coming out
19 about the expansion of a traffic stop. And it seems to
20 me that the supreme court in our case has drawn a hard,
21 fast line on when you actually issue that ticket and
22 you hand that ticket over to the defendant or you tell
23 them, "I'm just going to issue a warning," I agree it's
24 done. It's over with. But that's not what happened in
25 this case.

1 In this case, Officer Jefferson pulls him over for
2 the broken taillight. He does approach him. He does
3 recognize him. There's no doubt about that, and he
4 indicates that in his report. They have a
5 conversation. And within two to three minutes, that
6 search is done and it's complete. There's no
7 extenuation, there's nothing extending this stop beyond
8 that. Whereas in *Tindall* -- and he consented to the
9 search, and that's important.

10 So if we do our analysis, there's two ways to
11 extend a stop, right? There's two ways. So the first
12 way is consent to search. The second way is reasonable
13 suspicion. And we have that case law as well, and that
14 comes out from the supreme court in *United States vs.*
15 *Digiovanni*, and that tells us what the two ways are to
16 extend a stop. So all the cases that the defense
17 provides you where the person didn't consent, they
18 don't apply here.

19 Secondly, in *Tindall*, he did agree to consent to
20 search in that stop, but what makes *Tindall* different
21 from our case is *Tindall* was placed in the back of a
22 patrol car for, I think, 23 minutes, your Honor. He
23 also had a drug dog sitting behind him in the backseat.
24 And the court denied the search because of the illegal
25 seizure of *Tindall*. That didn't happen here. Our

1 defendant was free, outside the car, not in handcuffs.
2 The whole thing happens within two to three minutes.
3 It's completely distinguishable. There's nothing
4 extending the stop here.

5 THE COURT: Do we have the video where I can see
6 the video?

7 MS. BLUNDY: Yes, sir.

8 THE COURT: Y'all are arguing the facts, and I
9 haven't seen it.

10 MS. BLUNDY: Sure.

11 MR. DENNY: Your Honor, may I address a couple
12 points?

13 THE COURT: Yes.

14 MR. DENNY: *Rodriguez* was heard in 2015.
15 April 2015 is when this opinion was issued. Now, I
16 point the Court's attention and the prosecutor to page
17 8 of the opinion. "The government arguing an officer
18 may incrementally prolong a stop to conduct a dog sniff
19 so long as the officer is reasonably diligent in
20 pursuing the traffic-related purpose of the stop, and
21 the overall duration of the stop remains reasonable in
22 relation to the duration of other traffic stops
23 involving similar circumstances. The Government's
24 argument, in effect, is that by completing all
25 traffic-related tasks expeditiously, an officer can

1 earn bonus time to pursue an unrelated criminal
2 investigation." That's the case we have here. What
3 the officer did, the officer pulled over Mr. Carter,
4 saw the taillight and kept him out there for
5 30 minutes.

6 Now, what the State didn't disclose to you, how
7 about you hold somebody out of the vehicle in the rain
8 with four cops present? Let me know how that feels
9 compared to someone sitting in the back of a car. You
10 know there were two narcotics officers called plus
11 Jefferson. I believe there were four officers total
12 there at the site. That compared to *Tindall* where
13 you're still in the presence of all these officers in
14 the rain is not a situation where basically someone is
15 going to feel like, okay, they're not -- they're
16 feeling comfortable.

17 Coming back to *Rodriguez*, you can see the video.
18 When they play the video, you will see it. Taillights
19 illuminated. Perfect working order. Come over, there
20 might be a crack. You see light. You see red. It
21 emanates. That's a two-minute stop. Let's address
22 that issue and move on.

23 There was nothing in the incident report that the
24 officer put that said he was acting erratic, that he
25 had an odor of alcohol or marijuana or anything that

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1 gave him any other reason to get into trying to search.
2 Took him out of the car. Specifically in the incident
3 report, specifically, "Due to the time of night and
4 times in the past, I have stopped the suspect." So if
5 you have a police encounter from someone from Seneca
6 and it's nighttime, that must be free rein from the
7 employee oath.

8 Your Honor, this is a bad stop from the get-go,
9 keeping him out there for an hour. It was actually an
10 hour long. 30 minutes into this is when this ticket
11 was written. Your Honor, illegal stop, illegal search
12 and seizure. We'd ask anything from it be suppressed.

13 THE COURT: Thank you, Mr. Denny.

14 I'd like to watch the video.

15 MS. BLUNDY: Would you like to take it back with
16 you or would you like to watch it in the courtroom?

17 THE COURT: I don't have the apparatus to play it
18 back there in judge's chambers. Let's just play it
19 right here.

20 We'll go into recess. I'll go watch this in
21 chambers. My clerk has informed me that she can play
22 this on her computer.

23 (WHEREUPON, a recess was taken from 2:39 p.m.
24 to 3:35 p.m.)

25 THE COURT: We're back on the record. I have

1 reviewed the video or the DVD provided by the State and
2 looked over the applicable law.

3 And, Mr. Burr, while I will concede this is a
4 close question, I'm going to deny your motion at this
5 time.

6 MR. BURR: Thank you, your Honor.

7 THE COURT: And, Ms. Blundy, here is your DVD.

8 MS. BLUNDY: Thank you, your Honor.

9 THE COURT: Anything further?

10 MR. BURR: Nothing from the defense at this time,
11 your Honor.

12 THE COURT: Anything from the State?

13 MS. BLUNDY: Nothing from the State, your Honor.

14 THE COURT: We'll now be in recess on this case
15 until 9 o'clock tomorrow.

16 MS. BLUNDY: Thank you.

17 (WHEREUPON, the Court takes up other matters from
18 3:36 p.m. until 4:20 p.m.)

19 THE COURT: Let's go back on the record on the
20 Carter case.

21 We're back on the record with the State versus
22 Carter case.

23 Mr. Nicholson, they have informed me that you are
24 the bondsman who Mr. Carter employed in this case.

25 MR. NICHOLSON: Okay. Yes, sir.

1 State of South Carolina
2 County of Oconee

In the Court of General Sessions

3
4 State of South Carolina,)
5) 2015-GS-37-00214
6 -vs-) September 15, 2015
7 Wayne Beecher Carter,) Volume 2 of 2
8 Defendant.) Pages 87 - 259
9) Transcript of Record
-----)

10
11 B E F O R E:

12 The Honorable R. Scott Sprouse, Judge;
13 and a jury.

14
15 A P P E A R A N C E S:

16 Bethany Ann Blundy, Esquire
17 Attorney for the State

18 W. Wilson Burr, Esquire
19 Attorney for Defendant
20
21

22 Diane L. Marcengill, RPR, CRR
23 Circuit Court Reporter
24
25

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Marked	Description	I.D.	Admitted
	None offered.		

None offered.

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1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at approximately 8:50 a.m.)

4 THE COURT: Anything from the State before we
5 bring our jury back in?

6 MS. BLUNDY: Nothing from the State, your Honor.

7 THE COURT: Anything from the defense before we
8 bring our jury?

9 MR. BURR: May it please the Court. I would like
10 to renew my motion to quash the indictment based on our
11 argument yesterday, it being a bad stop. Also like the
12 witnesses to be cautioned on your ruling of not
13 allowing the testimony in on any alleged statement
14 which may have been made to Officer Sutherland and
15 discussion of prior convictions or prior warrants.

16 THE COURT: All right. Mr. Burr, I will continue
17 to deny your motion --

18 MR. BURR: Yes, sir.

19 THE COURT: -- on the stop. Again, the Court
20 would note for the record that the tape, the DVD, was
21 reviewed, the applicable case law was reviewed, and I'm
22 going to deny your motion. We would reiterate that the
23 alleged statement, the second statement, is
24 inadmissible and the witnesses are directed not to
25 refer to that statement. Okay.

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Opening Statement by the State

1 Anything further?

2 MR. BURR: And the prior warrants and/or
3 conviction of drug involvement by the defendant.

4 THE COURT: Well, I mean, that issue, if your
5 client decides to take the witness stand, that would be
6 an issue.

7 MR. BURR: I'm trying to keep it from coming out
8 inadvertently through the State's witnesses.

9 THE COURT: Ms. Blundy.

10 MS. BLUNDY: Your Honor, we don't plan to use any
11 prior conviction, although we do believe that Officer
12 Jefferson's testimony would show that he recognized the
13 defendant and had prior dealings with the defendant.
14 That's in his report, although we won't talk about what
15 those dealings were.

16 THE COURT: He'd be entitled to testify he knew
17 who the defendant was, but we will not refer to any
18 prior arrests or record. Now, of course, like Mr.
19 Burr, we will evaluate that issue if your client
20 decides to testify.

21 MR. BURR: Yes, your Honor, of course. Thank you
22 very much.

23 MS. BLUNDY: Okay. Thank you.

24 THE COURT: All right. If we can get our jury.

25 (WHEREUPON, the jury entered open court at

1 9:08 a.m.)

2 THE COURT: Good morning, ladies and gentlemen. I
3 hope everyone had a good evening. Before we get
4 started, let me ask you, as a jury, did any third
5 parties attempt to discuss this case with you last
6 night? Did anyone do any independent research or did
7 anyone deliberate amongst yourselves? All right. Let
8 the record reflect that there are no affirmative
9 responses.

10 Ladies and gentlemen, we are set to begin the
11 trial. The trial will begin with opening statements by
12 the attorneys, then we will get into the evidence. Let
13 me instruct you, opening statements are not evidence,
14 but they are merely tools that the attorneys use to
15 help you understand their respective positions.

16 So is the State ready to proceed?

17 MS. BLUNDY: We are your Honor.

18 THE COURT: Okay. Ms. Blundy.

19 MS. BLUNDY: Thank you. May it please the Court.
20 Delivery, dispense, distribute drugs. That's what
21 we're talking about here this morning. Delivery,
22 dispense, distribute drugs. Methamphetamine, to be
23 more specific. So probably by now you're wondering,
24 what is this case all about? And I'm going to tell
25 you.

1 On September the 3rd, 2014, so almost a year ago
2 now, the defendant was driving on West North First
3 Street in Seneca in our county, and he caught the
4 attention of Corporal Jefferson, who was doing his job,
5 what he was hired to do. He saw that the defendant had
6 a broken taillight, and he pulled him over on a normal
7 traffic stop. But I submit to you that he was busted
8 for more than just a broken taillight. It was dark.
9 It was rainy.

10 Corporal Jefferson was by himself. He asked the
11 defendant to exit his vehicle. Because on approach, he
12 recognized the defendant. He asked him to empty his
13 pockets, which he did. And when he emptied his
14 pockets, he pulled out a wad of cash. \$1,053 to be
15 exact. Then Corporal Jefferson asked him to search his
16 car, said, "Hey, do you mind if I search your car?"
17 And the defendant said, "No, I don't mind."

18 So upon that point, he began to search the car,
19 and when he did, he found a black shaving bag
20 underneath the driver's seat of his truck. Thinking
21 that was a little strange, he unzipped the bag, and
22 inside the bag was methamphetamine. At that point he
23 then called Seneca narcotics. They have a separate
24 division for narcotics. And Officer Sutherland came
25 out to the traffic stop where he had been pulled over.

1 And when he met with Corporal Jefferson, Jefferson
2 handed him the shaving bag with other items that were
3 inside that bag. Now, the defendant in this case has
4 been charged with possession of methamphetamine with
5 the intent to distribute those drugs. We short name
6 call it PWID, possession with the intent to distribute.
7 Just kind of a short slang for it, but that's what it
8 is.

9 So what does that mean, what is the law in South
10 Carolina on possession with intent to distribute?
11 Because there's several ways that you can have that
12 here in South Carolina. One of the ways is the drugs
13 are of a sufficient weight, meaning there was such a
14 large amount or quantity that the legislature says if
15 you carry over a gram or more of methamphetamine, we're
16 going to attribute that you intended to sell those
17 drugs. But that is not the case that we have here.

18 The drugs did not weigh a gram. Another way is if
19 someone takes the drugs and actually physically hands
20 them or sells them to somebody else and you get it on
21 video or you have an eyewitness that that transaction
22 took place. But that's not the case we have here
23 either.

24 So why did we charge him with possession with the
25 intent to distribute these drugs? Well, there's other

1 evidence in this case that becomes very important. You
2 see, because inside that black shaving bag there was a
3 scale to weigh drugs, there were multiple, multiple
4 baggies to package the drugs, there was a spoon to
5 scoop out the drugs. And you'll get to hear more from
6 Officer Sutherland as to what all of those things mean
7 to him as a narcotics officer and why we can attribute
8 the intent to distribute these drugs that he found.

9 Let's back up a second to possession, right,
10 because you have to possess these drugs in order to
11 distribute them to somebody else. In South Carolina,
12 there are two ways to have possession. One is a legal
13 term. It's called actual possession. What does that
14 mean? It means the drugs are on your person. They're
15 in your pocket. They're in your undergarment. They
16 are physically on you. That's not the case here, is
17 it?

18 So how did he possess these drugs? Well, there is
19 a second way in South Carolina, and it's called
20 constructive possession. And what that means is the
21 defendant was in an area so close to these drugs that
22 he was able to control that area. He constructively
23 possessed that. And that's okay in South Carolina.
24 That's okay to establish possession. They do not have
25 to be directly on your body. I'm confident that when

1 you hear the testimony from this witness stand and when
2 you get to see the physical objects that were found,
3 you'll agree with me that he is guilty of possession to
4 distribute methamphetamine. And that's the verdict I'm
5 asking you to render today.

6 I have a high burden. It's beyond a reasonable
7 doubt. And the judge told you about it yesterday. It
8 is a high burden. There's no doubt, and it should be a
9 high burden. I wouldn't expect anything less either.
10 However, you need to understand it's not an impossible
11 burden to overcome. If you are confident, after
12 hearing the evidence and evaluating it for yourself, I
13 am confident that you'll agree he's guilty. Thank you.

14 THE COURT: Mr. Burr.

15 MR. BURR: May it please the Court.

16 Good morning, ladies and gentlemen. I don't know
17 if you guys found yesterday's proceeding a little bit
18 confusing. We had a visiting judge last year that made
19 the comment before people were selected for the jury,
20 he said, "Don't get nervous about it because I've been
21 doing this for 30 years, and I can promise you the
22 attorneys don't have a clue what you're doing." And
23 that's true. We have very little information. We sit
24 there looking at papers. We had information that you
25 sent in about your age, marital status, where you work,

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Opening Statement by the Defense

1 but we did want to look at you. Both sides are looking
2 for the same thing. We both look to sending some
3 people back, and keeping you, we wanted people that we
4 thought were intelligent and would pay attention and
5 looked like they could comprehend what was going on and
6 would be honest, listen to the oath and vote your
7 conscious. We don't have a lot to go with on that. We
8 just look at you, so we think you look intelligent and
9 honest, like you would listen to what we were telling
10 you.

11 This is -- it's not going to be a complicated
12 case. It's not going to be a long case, but it's
13 important. It's certainly important to my client as he
14 sits here. I've been trained to be a little cautious
15 on what I tell you at this part of the trial because
16 this is not evidence. This is just me talking to you.
17 Same thing with Ms. Blundy, just talking to you. But
18 if we go overboard and start promising you all kind of
19 crazy stuff you're going to hear from the stand and you
20 don't hear it, keep in mind what you have been
21 promised.

22 So I'm not going to go too far out on a limb, but
23 based on what Ms. Blundy just told you, I have reason
24 to believe you will see a video showing a traffic stop
25 where Officer Jefferson stopped Mr. Carter and searched

1 him. That video is not going to show you a whole lot.
2 You're going to hear testimony that he stopped him and
3 gave him a warning for a broken taillight. You will
4 get to see the car. Look for a broken taillight. You
5 will hear testimony that Mr. -- Officer Jefferson
6 already knew Mr. Carter. And you will know the real
7 reason he stopped him, because he knew him from prior
8 occasions. It wasn't because a taillight was broken.

9 You're going to have an hour-long video that's
10 going to bore you to tears, but look on there and see
11 if you see anything that indicates that the officer
12 gave any kind of rights advisement to Mr. Carter. Look
13 on that tape and see if you see anything on it that
14 shows you any drugs being taken from Mr. Carter's car.

15 There is a lot of stuff left that you don't see.
16 There's no consent to search. And if you hear
17 testimony that he gave him consent to search, why would
18 an intelligent person give consent if they had drugs in
19 the car? I'm not going to attack this entire case. Of
20 course, the State has the burden of showing the drugs
21 were confiscated, locked up, sent to the lab, tested.
22 So they have to go through all those steps.

23 Once the drugs that were involved in this case,
24 and there was .49 grams. That's less than half a gram.
25 A gram is 28 ounces. You're getting down to small

1 quantities. But once those drugs were put in the
2 package and dropped in the box and the lab people got
3 it, those people do great work. It's documented all
4 the way through. They have their lab expert. She
5 testifies all the time. Does great work. We have no
6 problems.

7 My problem -- and I'm getting out on thin ice --
8 I'm challenging what the first cop did in this
9 situation. I don't do it lightly. I used to be a cop.
10 My first job, I was in law enforcement for seven years,
11 went to law school. I was a prosecutor after that. So
12 I've seen both sides of it, but near and dear to my
13 heart, this is a case that is a real problem on what
14 happened on the street over in Seneca on September 3rd
15 of last year. And if you vote your conscience and
16 listen to the burden of proof, you will end up with the
17 same questions that I have in my mind right now.

18 There's not enough evidence. There's really no
19 evidence to show that Mr. Carter is guilty of what he's
20 charged with. So just pay attention. Watch that
21 video. Watch real closely. When I question the
22 officer, listen to his responses. If you think there
23 is a problem -- and the burden is high.

24 Mr. Carter and I have nothing to prove at all. In
25 fact, I'll be truly surprised if I call a witness.

1 Unless something unexpected comes up. I'll have a
2 right to call witnesses. I don't think -- it's hard to
3 prove a negative. Somebody accuses you of something,
4 how do you prove you didn't do it? So just bear with
5 me, listen to all the evidence and see if there's any
6 questions left in your mind. If there are, listen to
7 the standards, the instructions that the judge will
8 give you and vote your conscience according to that.
9 Thank you very much.

10 THE COURT: Ms. Blundy, call your first witness.

11 MR. BURR: Your Honor, I'd ask the witnesses be
12 sequestered.

13 THE COURT: All right. Ms. Blundy, would you
14 please have your witnesses leave the courtroom.

15 And, Mr. Burr, do the same, any potential
16 witnesses you might have.

17 MS. BLUNDY: Call Jeremy Jefferson to the stand.

18 JEREMY JEFFERSON,

19 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

20 DIRECT EXAMINATION

21 BY MS. BLUNDY:

22 Q Good morning, Corporal Jefferson. How are you
23 this morning?

24 A I'm fine.

25 Q Where are you currently employed?

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Jeremy Jefferson - Direct

1 A Seneca Police Department.

2 Q And how long have you been with the Seneca Police
3 Department?

4 A Well, about a year now.

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

6 A Five years.

7 Q And where did you work prior to Seneca?

8 A Oconee County Sheriff's Office.

9 Q What were some of your duties on both of those
10 jobs?

11 A Routine road patrol, state, local laws
12 enforcement, protect and serve.

13 Q Do you recall September the 3rd, 2014, of last
14 year?

15 A Yes, ma'am.

16 Q On that date did you come into contact with the
17 defendant in this case, Wayne Carter?

18 A I did.

19 Q Would you please point him out to the jury.

20 A (Indicating).

21 Q Thank you. Please let the record reflect that the
22 witness has pointed to the defendant at the defendant's
23 table.

24 Will you tell the jury how you came into contact
25 with the defendant?

1 A I stopped Mr. Carter for a busted passenger
2 taillight.

3 Q And where was that at?

4 A It was on First Street in the city of Seneca.

5 Q And what county was that in?

6 A Oconee County.

7 Q And what state is that in?

8 A South Carolina.

9 Q Thank you. What was it exactly about the
10 taillight that caught your attention?

11 A It had a white light coming out of the passenger
12 taillight that caught my attention because taillights
13 are supposed to be red and sealed. There shouldn't be
14 any busted parts of them.

15 Q And what happened when you approached the vehicle?

16 A I approached the vehicle, made contact with the
17 driver, which once I made contact with him and he gave
18 me his license, I realized it was Mr. Carter.

19 Q Did you recognize Mr. Carter?

20 A I did.

21 Q Did you have video in your patrol car at the time?

22 A I did. The audio wasn't working at the time.

23 Q What time of night was it, do you recall?

24 A It was late. It was around 10:00, 11 o'clock. It
25 was dark.

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Jeremy Jefferson - Direct

1 Q And what was the weather like?

2 A It had been raining off and on. It was kind of
3 misting.

4 Q Who was with you at the time you initially pulled
5 him over? Were you by yourself?

6 A Yes, ma'am, I was by myself.

7 Q Who was -- who, if anybody, was with Mr. Carter?
8 Was he by himself?

9 A Yes, ma'am, he was by hisself (sic).

10 Q Who or were you able to ascertain or figure out
11 who owned the actual vehicle?

12 A Mr. Carter did.

13 Q It was registered to him?

14 A I believe it was.

15 Q What did you ask him to do when you approached the
16 driver's side window?

17 A I approached the driver's side window, asked for
18 his driver's license. I was just making small talk
19 with him. I asked him if he minded stepping out and
20 talking to me. And common practice for me, I like to
21 ask, you know, "Do you got anything on you? Do you
22 mind emptying your pockets for me?" Upon doing that,
23 he had a large quantity of cash on him.

24 Q So at that point when you saw the cash, what did
25 you ask him to do?

1 A I asked if he had anything in his vehicle and if
2 he minded me, you know, searching his vehicle.

3 Q And what was his response to you?

4 A He said, "Oh, sure. Go ahead."

5 Q So what did you do at that point?

6 A I searched his vehicle, found a black bag under
7 the driver's seat. And upon opening the bag, I found a
8 white crystal-like substance, then I called the
9 narcotics officers.

10 Q Okay. Were there any other bags, luggage or
11 anything else with this black bag or was it by itself?

12 A No, ma'am. There wasn't anything else in the
13 truck other than that bag.

14 Q Who initially removed that bag from the vehicle?

15 A I removed it and placed it on the hood of my
16 patrol car.

17 Q And who did you hand it to after that?

18 A Officer Sutherland from narcotics division.

19 Q Did anybody else touch it from the time that you
20 retrieved it from the car and handed it to Officer
21 Sutherland?

22 A No, ma'am.

23 Q When you had it in your care, custody and control,
24 the bag and all of its contents, did you ever tamper
25 with anything inside that bag?

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Jeremy Jefferson - Direct

1 A No, ma'am.

2 Q Did you alter or change anything inside that bag
3 before you handed it to Officer Sutherland?

4 A I did not.

5 Q I'm going to show you what has been marked as
6 State's Exhibit 1 or to be marked as State's Exhibit 1.
7 (WHEREUPON, State's Exhibit Number 1 was marked
8 for identification.)

9 BY MS. BLUNDY:

10 Q I'm handing you what has been marked as State's
11 Exhibit 1. What is this?

12 A There is a DVD of the incident. It's a video of
13 the traffic stop.

14 Q Is it a fair and accurate representation as of the
15 day and time it was recorded?

16 A It is.

17 Q Has that video been altered or changed in any way?

18 A No, ma'am.

19 Q Did you have a chance to review that particular
20 disk prior to trial?

21 A I did.

22 Q Is that exactly as it happened?

23 A Yes, ma'am.

24 MS. BLUNDY: State moves to admit Exhibit Number
25 1.

1 MR. BURR: Your Honor, I have reviewed it, and I
2 have no objections.

3 THE COURT: Okay. State's Exhibit Number 1 would
4 be admitted without objection.

5 (WHEREUPON, State's Exhibit Number 1 was admitted
6 into evidence.)

7 BY MS. BLUNDY:

8 Q What was wrong with the audio on your video
9 camera?

10 A It's an older car that we have. The mic wasn't
11 working. I've since got into a car that has a working
12 microphone and video.

13 Q Has the Seneca department updated the cameras any?

14 A Not in that patrol car.

15 Q Not in that specific car?

16 A Right.

17 Q Are you still driving that specific car?

18 A No, ma'am.

19 Q What did you do with the cash that was found on
20 the defendant?

21 A Once I called Officer Sutherland, the cash and the
22 narcotics was -- basically the whole scene was turned
23 over to him so he could do his process.

24 Q So the narcotics as well, did you alter or tamper
25 with those -- that was inside the bag, correct?

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Jeremy Jefferson - Direct

1 A Yes, ma'am. I did not alter, touch, nothing with
2 them.

3 Q So you handed him the entire contents of that
4 black bag?

5 A Yes, ma'am.

6 Q And the cash?

7 A Yes, ma'am.

8 MS. BLUNDY: Your Honor, at this time I'd like to
9 publish this video for the jury.

10 THE COURT: Okay. Can we dim the lights so we can
11 have a better view.

12 (Whereupon, State's Exhibit Number 1 is being
13 played for the jury.)

14 BY MS. BLUNDY:

15 Q Deputy Jefferson, I know that this is hard to
16 tell, but in this video, can you explain the difference
17 between two lights and what you saw?

18 A Yes, ma'am. The driver's taillight would be the
19 one on the left of the vehicle is clearly red, and the
20 one on the right of the vehicle, which is the passenger
21 taillight, has a clear light coming towards the top
22 middle part of the taillight, and that's broken.

23 Q Thank you.

24 Officer Jefferson, at this point had the defendant
25 already emptied his pockets?

1 A Yes, ma'am.

2 Q And you were able to see the cash?

3 A I was.

4 Q And you had begun your search of the vehicle,
5 correct?

6 A Yes, ma'am.

7 Q Corporal Jefferson, who was arriving at this
8 point?

9 A That's Officer Durham.

10 Q Had you already placed a phone call to narcotics?

11 A Yes, ma'am. They were on their way.

12 Q At that point did Officer Durham, was he inside
13 that bag or touching any of the evidence inside that
14 bag?

15 A No, ma'am.

16 Q Where is the defendant or where has the defendant
17 been?

18 A He's been in the back of my patrol car.

19 Q And what are you doing right now on the video?

20 A I was -- at the time I was filling out a tow
21 sheet. I didn't know how the narcotics officers wanted
22 to go about it. I didn't know if they wanted to tow
23 his vehicle or what they wanted to do.

24 Q Who is that that just arrived?

25 A That is Narcotics Officer Sutherland.

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Jeremy Jefferson - Direct

1 Q And the other gentleman?

2 A That's going to be Tim Hunnicutt, also a narcotics
3 officer with the police department.

4 Q Because they're in narcotics, is that why they're
5 in plain clothes?

6 A Yes, ma'am, it is. They were actually out earlier
7 in the evening.

8 Q Is there a third gentleman there? Who is that?

9 A That's B.J. McClure. He's also a narcotics
10 officer with the police department.

11 Q So you had taken the black bag and set it on your
12 hood, then you set it on the bumper of the truck; is
13 that correct?

14 A I did. Once I opened the bag on the hood of my
15 car and realized what was in it, I set it on the back
16 of the truck and placed the individual in investigative
17 detention. He was not under arrest.

18 Q So it's fair to say they're looking at the black
19 bag?

20 A Yes, ma'am.

21 Q Why did you call narcotics? Why didn't you just
22 take the drugs into evidence yourself? Do you have a
23 policy on that?

24 A Actually, earlier in the evening we met with them,
25 and they told us if we get any kind of narcotics or

1 drugs to give them a call, they will come out. They
2 were actually going to be out in the evening, you know.
3 And once I stopped him and realized what I had, I was
4 like, I'll give them a call. They just told us, you
5 know, to call them, so.

6 Q So it's commonplace to work together on cases that
7 involve drugs?

8 A Yes, ma'am.

9 Q What, if any, traffic citations did you issue to
10 the defendant?

11 A Once the narcotics officers was done talking to
12 him, I wrote out a warning for defective equipment.

13 Q He had already been in custody for the drugs?

14 A He was in investigative detention.

15 Q Who actually ended up making the charge of
16 possession with intent to distribute methamphetamine?

17 A I think it was Officer Sutherland signed the
18 warrants for it.

19 Q Okay. You did not, correct?

20 A No, ma'am.

21 Q Do you know where they took the truck to?

22 A That was actually Mr. Carter driving off in the
23 truck.

24 Q So when you had your initial encounter with the
25 defendant and you asked him, "Do you have anything

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Jeremy Jefferson - Direct

1 illegal on you," what did he say?

2 A He said no.

3 Q And you asked him, "Do you mind if I search your
4 car"?

5 A Yes, ma'am.

6 Q "Search your truck"?

7 A Yes, ma'am.

8 Q What did he say?

9 A He said, "Yeah, go ahead."

10 Q And if he had said no, would you have searched the
11 car?

12 A No, ma'am.

13 Q What did you think about the wad of cash that was
14 in his pocket? What were your initial gut reactions?

15 A I mean, I felt like it was unusual. Most people
16 don't roll around with a large quantity of cash on
17 them.

18 Q And what time of night was this?

19 A It was late. It was 10:00, 10:30, somewhere along
20 in there.

21 Q So all banks would have been closed at this point?

22 A Yes, ma'am.

23 MS. BLUNDY: State moves to admit Number 1 if I
24 have not already done so.

25 THE COURT: It's already in evidence.

1 MS. BLUNDY: I have no further questions for this
2 witness, your Honor.

3 THE COURT: Let's take a short break -- they have
4 been sitting now for about an hour and a half -- before
5 Mr. Burr's cross-examination takes place.

6 Ladies and gentlemen, we're going to take a short
7 break, and I'm going to have the bailiff take you to
8 the jury room. Do not discuss the case or deliberate
9 amongst yourselves while we're taking the break.

10 Officer Jefferson, you are still under oath on the
11 witness stand, so you may not discuss your testimony
12 with anyone while we're taking a break.

13 THE WITNESS: Okay.

14 THE COURT: Mr. Bailiff.

15 (WHEREUPON, the jury exited open court at
16 10:26 a.m.)

17 THE COURT: We'll be in recess for about ten
18 minutes.

19 (WHEREUPON, a recess was taken from 10:27 a.m.
20 to 10:44 a.m.)

21 THE COURT: Anything from the State before we
22 bring the jury back?

23 MS. BLUNDY: Nothing from the State.

24 THE COURT: Anything from the defense before we
25 bring the jury back?

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Jeremy Jefferson - Cross

1 MR. BURR: Nothing from the defense.

2 THE COURT: If we can get our jury, please, sir.

3 (WHEREUPON, the jury entered open court at
4 10:45 a.m.)

5 THE COURT: All right.

6 Mr. Burr, your witness.

7 MR. BURR: May it please the Court, your Honor.

8 CROSS-EXAMINATION

9 BY MR. BURR:

10 Q Officer Jefferson, how much time did you say you
11 have in law enforcement?

12 A I've got five years.

13 Q Prior to this episode, have you ever had a patrol
14 car that had a functioning video camera?

15 A Yes, sir.

16 Q And usually when you do rights advisement,
17 everything, it's on that, you can hear it on audio,
18 correct?

19 A Usually.

20 Q Okay. If I understood you correctly, you said
21 this stop or you saw him around 10:00 or 11:00. It was
22 actually, according to the video, it was 9:50.

23 A Okay.

24 Q The reason that's important to me, in your
25 incident report, you said one reason for asking him to

1 search his car was because of the hour of the night; is
2 that correct?

3 A Okay.

4 Q I mean, there is no restriction to drive in Seneca
5 past 9 o'clock, is there?

6 A No, sir.

7 Q And I have some questions on the video, so I'm
8 going to need to replay part of it. And I promise I'll
9 only use two and a half minutes, if you will pay close
10 attention. It also may help -- I couldn't see part of
11 what was important to me because of the glare. The
12 darker TV up here may actually show part of what I'm
13 looking at.

14 (Whereupon, State's Exhibit Number 1 is being
15 played for the jury.)

16 BY MR. BURR:

17 Q Bottom left corner, the digits, that's the actual
18 time things are happening. It's military time. Right
19 before 2200, then there is a second and a portion of a
20 second. So if I understood you correctly, at the point
21 you took him out of the car, the defendant out of the
22 car, at 21.55. I don't expect you to have that
23 memorized. Just so you will know what to look at when
24 we get it back on. And then, if I understood you
25 correctly, when the prosecutor asked you about is that

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1 when you searched, that was at 21.56. And then at
2 22.11, it looks as though you and another officer are
3 doing a high-five behind the car; is that correct?

4 A It was a fist bump, actually.

5 Q And at 2159, which is actually just before that,
6 is when you said I think it's Officer Durham arrived?

7 A Yes, sir. He did arrive. I'm not sure of the
8 time.

9 Q Okay. And the reason -- the main reason I want to
10 replay it, it looked to me like back at 2153 is when he
11 arrived, which would have been before the search or
12 before the asking to search because somebody is walking
13 around the right side of the truck with a flashlight.
14 So if that's right, he was there before the search took
15 place.

16 If I could get some help to play this.

17 MS. BLUNDY: Is this going to be marked a defense
18 exhibit as well?

19 MR. BURR: I don't need to.

20 THE COURT: This is already in evidence as a
21 State's exhibit.

22 BY MR. BURR:

23 Q Before we start, also which taillight did you say
24 was bad in your testimony a while ago?

25 A The passenger. The one on the right side.

1 Q The passenger side was cracked. And you've read
2 that statute it just has to illuminate red for
3 500 feet, correct?

4 A The statute that I usually refer to is if you have
5 it on your vehicle, it has to be in working order.
6 Basically defective equipment.

7 Q But we have looked over the statute. That's not
8 the correct statute.

9 If she's ready here. Here.

10 (Whereupon, State's Exhibit Number 1 is being
11 played for the jury.)

12 BY MR. BURR:

13 Q And if you will get the lights for me. Both
14 taillights are working. And if you look right here,
15 both taillights are working. He hit his brake
16 lights -- I don't mean to testify here. Can you see
17 it? Are you going to watch this one?

18 A I can watch this one.

19 Q Both taillights are working, brake lights are
20 working, left turn signal is working. Driving
21 properly?

22 A The lens on the passenger side is cracked. That's
23 that white light that you see coming through it.

24 Q There's more white light on the left than the
25 right?

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1 A No.

2 Q Well, I mean, the jury can look for themselves.
3 You gave the blue light. He gave signal, changed
4 lanes. We're at 2152.

5 Now, direct your attention -- keep watching the
6 right side of the vehicle and see if you don't see
7 Officer Durham walk up with a flashlight, shine it in
8 the window. I think it's actually 2153.54 so we have
9 another minute.

10 At this point you're simply talking to Mr. Carter?

11 A Casual conversation.

12 Q Okay. That's somebody on the right side with a
13 flashlight?

14 A I don't believe there's nobody else there. If he
15 was there, I'm not aware that he was.

16 Q Did he park his vehicle behind where you were or
17 in front of you?

18 A He would have parked in behind me if he was there.

19 Q Was he present when you made the search?

20 A He actually arrived on scene once I got Mr. Carter
21 out and Mr. Carter was standing beside the truck. You
22 actually see him come around the front of the truck,
23 and he's actually standing beside the driver door.

24 Q There he is -- no, that's Mr. Carter getting out.

25 A That's Mr. Carter.

1 Q At what point did you ask Mr. Carter if you could
2 search his truck?

3 A Once I got him out of the truck, I asked him if he
4 had anything on him. He said no. I asked him, "Do you
5 mind emptying your pockets?" He said "Okay." He
6 emptied his pockets. I found the large quantity of
7 cash, and I said, "Is there anything in your truck I
8 need to know about?" He said no. I said, "Do you mind
9 if I look," and he said yes.

10 Q So he had no objection whatsoever to you looking
11 in his truck?

12 A No, sir.

13 Q If you get to the point where you're searching the
14 truck, have you done that yet?

15 A Yeah. I'm actually at the driver's door right
16 now.

17 Q Everything that you report to have found was in a
18 separate black bag?

19 A What's the question?

20 Q I mean, you reported several things that you
21 found. You found drugs, baggies, whatever?

22 A There was a black bag under the seat.

23 Q Okay.

24 A That's Officer Durham that just walked up. You
25 can see his arm beside the driver's door.

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1 Q I didn't see where he came from..

2 A He come around the other side of the vehicle.

3 Q He did come around?

4 A He come all the way around.

5 Q Okay. That's enough of that tape for one day.

6 So when we're looking at that tape, if any
7 requests for permission to search, they would have been
8 while -- after you got him out of the vehicle?

9 A Yes. Once he was outside the vehicle is when I
10 asked to search the vehicle.

11 Q He didn't seem the least bit reluctant to let you
12 search?

13 A No, he didn't.

14 Q As though he didn't expect anything to be found?

15 A Right.

16 Q It was some minutes later that you got the
17 high-five, fist bump. Did something special happen at
18 that point or what was exciting about that?

19 A No. He just arrived on scene, and we were just
20 talking and fist bump. It's not uncommon for us to do
21 that.

22 Q In your report you listed as .8 grams of
23 methamphetamines?

24 A If that's in the report, that's what I put.

25 Q How do you determine that?

1 A We weigh it on scales.

2 Q So you do have scales with you to weigh it on?

3 A We have some at the police department.

4 Q So you didn't put this weight in on the initial
5 stop. That was put in at a later date?

6 A No. Once I got back to the police department is
7 when I weighed the drugs, and that's when I did the
8 incident report.

9 Q Okay. When the drugs went to the lab, have you
10 seen the lab report?

11 A I have not.

12 Q I'm confused. You went back to the police station
13 and weighed the drugs?

14 A Actually, narcotics officers weighed the drugs.
15 Once I called them, they arrived on scene and took
16 the --

17 Q So you didn't get this -- it wasn't your weight.
18 Somebody else told you how much they weighed?

19 A Yes.

20 Q Okay. But yet you have seen the lab results and
21 it says .49 grams?

22 A I have not seen the lab results.

23 Q We will get those into evidence, and if it says
24 .49, do you have any explanation of what happened from
25 the .8? That's 40 percent missing.

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Jeremy Jefferson - Cross

1 A I have no idea. I did not weigh them.

2 Q But in your report it indicates you did?

3 A I don't have the report in front of me.

4 Q I can fix that.

5 A Okay.

6 Q Very bottom left.

7 A Do you have the supplemental report as well
8 because I don't know if I actually put this in or if
9 narcotics put that in.

10 Q That indicates to me it's your report?

11 A I can't tell you if this is my report or not
12 because the supplemental that goes with the report that
13 Officer Sutherland did, possibly that could be from his
14 portion of the report.

15 Q So do you have any idea or any knowledge as to who
16 actually weighed the drugs?

17 A It clearly states that I turned the drugs over to
18 narcotics in my report. Once they were out on scene.

19 Q Do you know personally whether it was Officer
20 Sutherland or --

21 A You would have to ask him. I can't testify to it.

22 Q Okay. Are you currently -- do you have any
23 ambition to try to get a job in narcotics?

24 A Not at this time.

25 Q Any reason why you don't want a job in narcotics?

1 A Personally, I do pretty good work on the road. I
2 like the road.

3 Q You mentioned earlier you had worked over at the
4 sheriff's office sometime back. Why did you leave the
5 sheriff's office?

6 A Personal reasons.

7 MS. BLUNDY: Objection; relevancy.

8 THE COURT: Mr. Bailiff, if you will take our jury
9 out, please.

10 (WHEREUPON, the jury exited open court at
11 11:00 a.m.)

12 MR. BURR: May it please the Court, your Honor.

13 THE COURT: Yes.

14 MR. BURR: The witness' credibility is certainly
15 at stake here. If there's any reason for him leaving a
16 previous job, I think it's worth getting into.

17 THE COURT: Do you have a specific incident that
18 you're seeking to elicit with the testimony?

19 MR. BURR: Rumor, your Honor. I've heard there
20 was some dissatisfaction, and he was passed over for a
21 promotion. That's why he left.

22 THE COURT: Ms. Blundy.

23 MS. BLUNDY: Your Honor, I just don't think that
24 goes to credibility, the fact that it's based on a
25 rumor. There's no actual concrete evidence of that. I

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Jeremy Jefferson - Cross

1 just don't see how it would play into this case. I
2 mean, he testified he worked there earlier. He
3 testified he left and he's gone to Seneca, so I don't
4 think anything else is relevant beyond that point.

5 MR. BURR: It's certainly not crucial to me. I'll
6 withdraw the question.

7 THE COURT: Okay. Question withdrawn by the
8 defense.

9 MR. BURR: Thank you, your Honor.

10 THE COURT: If we can get our jury back.

11 (WHEREUPON, the jury entered open court at
12 11:02 a.m.)

13 THE COURT: Mr. Burr.

14 MR. BURR: May it please the Court, your Honor.

15 BY MR. BURR:

16 Q Officer, from looking at the report and the
17 discovery requests made, I can't find any notes that
18 you made in reference to the stop at all. Did you make
19 any additional writings or anything?

20 A I did not.

21 Q It was over a year ago?

22 A Yes.

23 Q And you had not told anybody about the request to
24 search. The question, "Do you have anything on you,"
25 that wasn't written out anywhere?

1 A It wasn't written down, but I told narcotics
2 officers when they got there.

3 Q And the first time after that evening that you
4 mentioned that to anybody was last Wednesday when you
5 talked to Ms. Blundy?

6 A It is.

7 Q You were able to give her an exact quote of what
8 happened?

9 A Yeah.

10 Q And the quote you gave her is your testimony
11 today, that's accurate?

12 A The quote that I gave her, yes.

13 Q Who was the last person you stopped and searched
14 prior to this incident?

15 A I'd only been at Seneca at that time two to
16 three weeks, so I couldn't tell you.

17 Q Do you remember who you stopped after Mr. Carter?

18 A And searched or just stopped?

19 Q Either.

20 A Okay. Not right off, I don't.

21 Q But you do remember verbatim what was said in
22 Mr. Carter's case?

23 A I do because I don't make that many PWID cases.

24 Q And it's still your testimony the reason you
25 wanted to search Mr. Carter was because of the time of

1 the evening?

2 A There was several factors, the time of the
3 evening, the quantity of cash:

4 Q Quantity of cash. Didn't Mr. Carter tell you he
5 had just cashed three disability checks, put them in
6 the bank and had a receipt with him from the bank?

7 A He did not tell me that.

8 Q So just voluntarily gave you his money. Didn't
9 give you an explanation?

10 A He didn't give me the money. I asked him to empty
11 his pockets. At that point, he did.

12 Q And you confiscated his cash?

13 A No. Narcotics confiscated his cash.

14 Q Did you take it out of his pocket?

15 A No. He took it out of his pocket.

16 Q Who did he give it to?

17 A He set it on the edge of his truck.

18 Q Did you ever get it back to him?

19 A No, I did not.

20 Q So you're the person that instructed him to take
21 it out, and it wasn't returned to him?

22 A I didn't instruct him. I asked him if he would.

23 Q You do know he got his money back?

24 A I believe so.

25 Q What is the standard taught at the academy for

1 searching a vehicle?

2 A I don't have their standards in front of me.

3 Q Does reasonable suspicion sound about right?

4 A Possible.

5 Q When you did this report, you didn't think this
6 case would go to trial, did you?

7 MS. BLUNDY: Objection. He has no way to know
8 that, as it's my discretion whether or not I --

9 THE COURT: Sustained.

10 BY MR. BURR:

11 Q You put a list of stuff in your report that was
12 removed from the car and later confiscated by
13 narcotics, but you didn't -- did you list everything
14 that was taken?

15 A I don't have the report in front of me again.

16 Q Is there any reason you would leave any item out?

17 A Once I called narcotics, they took over the scene,
18 so I don't know what was taken and what wasn't taken.

19 Q Do you remember a reasonably expensive lady's
20 bracelet still in a jewelry case being in Mr. Carter's
21 car?

22 A I do.

23 Q Why is that not listed anywhere in your report?

24 A I don't know that it was expensive, but it was
25 gold. It was in the bag that narcotics had taken.

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Jeremy Jefferson - Redirect

1 Q You didn't list it anywhere?

2 A Narcotics took all the stuff. That was their
3 scene once they arrived.

4 Q Your report -- I keep thinking I'm assuming you
5 submitted this -- states everything that was taken
6 except that bracelet.

7 A I feel sure they have the bracelet, if they took
8 the stuff. I remember it being in the shaving bag.

9 Q You did know Mr. Carter before you made the stop?

10 A I did.

11 MR. BURR: No further questions, your Honor.

12 THE COURT: Any redirect?

13 MS. BLUNDY: Just a few brief questions.

14 REDIRECT EXAMINATION

15 BY MS. BLUNDY:

16 Q I really don't want to play that video again, but
17 it's clear from that video, is it not, you can see the
18 difference in the lights, correct?

19 A Yes, ma'am.

20 Q And so the right, on the passenger side, that is a
21 little bit shorter, that's the taillight that is
22 broken, is it not?

23 A It is. It's cracked.

24 Q Okay. And you did issue a warning citation for
25 it?

1 A I did.

2 Q And the box you checked on the warning citation
3 was "defective equipment"?

4 A It was.

5 Q Okay. And it is clear from the video that Officer
6 Durham arrived after the search?

7 A It is.

8 Q We saw that from reviewing it a second time.

9 The fist bump. Let's clear this up a little bit.
10 Were you excited that the drugs were recovered?

11 A I was.

12 Q Okay. Is it fair to say that narcotics probably
13 was as well?

14 A More than likely, yes.

15 Q Okay.

16 MS. BLUNDY: I have no further questions for this
17 witness.

18 THE COURT: Anything further for this witness?

19 MR. BURR: Not from the defense, your Honor.

20 Thank you.

21 THE COURT: Officer, you may step down.

22 Call your next witness.

23 MS. BLUNDY: Thank you, your Honor. At this time
24 we'd like to call officer Jason Sutherland.

25 JASON SUTHERLAND,

1 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

2 DIRECT EXAMINATION

3 BY MS. BLUNDY:

4 Q Good afternoon, Officer Sutherland.

5 A Afternoon.

6 Q Please state your full name for the record.

7 A Jason Sutherland.

8 Q And where are you employed?

9 A Seneca Police Department.

10 Q And how long have you been employed there?

11 A About four years.

12 Q And what are some of your duties there?

13 A Narcotics investigator.

14 Q Did you have any special training or classes?

15 What makes you a narcotic agent?

16 A I've had basic narcotics and advanced narcotics
17 classes.

18 Q And where are those taught?

19 A Basic narcotics was in Columbia at the police
20 academy, and I just got back from Mississippi for
21 advanced narcotics.

22 Q And when did you go to that class in Mississippi?

23 A Last week -- no. That would be week before last.

24 Q Week before last?

25 A Yeah.

1 Q Were you on duty on September the 3rd, 2014?

2 A Yes, I was.

3 Q And on this date, did you have contact with the
4 defendant, Mr. Carter?

5 A Yes, I did.

6 Q Where was he when you arrived on scene?

7 A Outside of the -- he was outside the truck or in
8 the rear of the patrol car. Corporal Jefferson made a
9 traffic stop on him.

10 Q And were you able to talk with Corporal Jefferson
11 when you arrived?

12 A I did.

13 Q And were you aware of why he was pulled over?

14 A Yes, ma'am.

15 Q What did Corporal Jefferson hand you when you
16 arrived?

17 A He turned over a black shaving bag. It contained
18 paraphernalia -- baggies, spoons, scales, and some
19 methamphetamine.

20 Q Did he also let you know that the defendant had
21 something in his pockets?

22 A Yes. He also had a \$1,053 in cash.

23 Q Would you say that's a rather large amount of
24 money?

25 A It's a good bit for anybody to just be carrying in

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Jason Sutherland - Direct

1 their pocket, I would say.

2 Q Do you recall what time of night it was?

3 A 10:30, maybe.

4 Q Do you think the amount of the money being \$1,053
5 as an odd number being strange?

6 MR. BURR: Objection, your Honor. I'm not
7 interested in what he thinks.

8 THE COURT: I'm going to overrule the objection.

9 MS. BLUNDY: Can I rephrase the question?

10 THE COURT: Rephrase the question.

11 BY MS. BLUNDY:

12 Q As a narcotics agent, do you oftentimes find
13 quantities of money?

14 A I do.

15 Q And sometimes what do large quantities of money
16 sometimes tell you as a narcotics agent?

17 A Drug sales.

18 Q Do you ever look at the size of the bills, whether
19 it's 100s, 20s, 50s, does that matter to you?

20 A I do.

21 Q What about the amount, if it's odd or even, does
22 that tell you anything?

23 A Sometimes odd amounts -- depends on what kind of
24 quantities you're selling, it might be odd amounts.

25 Q What did you do with the drugs that were found

1 inside the black shaving bag?

2 A Once we left the scene, I went back to my office
3 and secured them in my safe.

4 Q Did you happen to weigh the drugs before you
5 secured them?

6 A I did.

7 Q And you filled out a supplemental report with
8 Corporal Jefferson's report, correct?

9 A I did.

10 Q And in that you indicated that you thought the
11 drugs seized were approximately .8 grams; is that
12 correct?

13 A Yes, ma'am.

14 Q Are you aware that the lab report came back at a
15 smaller amount than .8 grams?

16 A Yes, ma'am, I am.

17 Q As a trained narcotics officer, why would that be?

18 A A lot of times there will be moisture from the
19 chemicals the meth is made from, and while they're in
20 the bag, in the safe, at the lab waiting to be tested,
21 the chemicals will dry out, and that will take away
22 some of the weight.

23 Q And you are aware that in a methamphetamine case,
24 if it weighs over a gram, so 1.0, you can charge
25 someone with possession with intent to distribute,

1 correct?

2 A Yes, ma'am.

3 Q But that wasn't the case here?

4 A No, ma'am.

5 Q So to go from .8 grams to .49 grams really didn't
6 matter as far as the charge goes?

7 A No.

8 Q Also your scales that you use to weigh this
9 initially, how up to date are they? Do you calibrate
10 them? Tell us about the scales that you have in your
11 office.

12 A They're just a set of digital scales. We zero
13 them out each time we weigh something. We try to
14 account for the bag, and, you know, each bag weighs
15 different.

16 Q Would you always defer to what the lab report said
17 versus what you did in your office on your scales?

18 A Yes.

19 Q Would you say that that's probably a little bit
20 more accurate than what you have?

21 A Oh, yeah. I'm sure her stuff is way more
22 accurate.

23 MS. BLUNDY: I'm marking State's Exhibit 2.

24 (WHEREUPON, State's Exhibit Number 2 was marked
25 for identification.)

1 BY MS. BLUNDY:

2 Q What is this?

3 A Drug analysis request. It's paperwork I fill out
4 with the suspect's information, case number, charge,
5 and submit it to the lab, ask them to do tests.

6 Q Okay. Is it substantially in the same condition
7 as the day you filled it out?

8 A Yeah.

9 Q Has it been altered or changed in any way before
10 this trial?

11 A No.

12 MS. BLUNDY: State moves to admit Exhibit Number
13 2.

14 THE COURT: Any objection?

15 MR. BURR: One second, your Honor.

16 No objection, your Honor.

17 THE COURT: State's Number 2 will be admitted
18 without objection.

19 (WHEREUPON, State's Exhibit Number 2 was admitted
20 into evidence.)

21 BY MS. BLUNDY:

22 Q Officer Sutherland, can you tell me the control
23 number you assigned to this evidence?

24 A C16228.

25 Q And how do you pick that number?

1 A When they make the Best packs, they pick the
2 number for us. It's stamped on there.

3 Q Will you explain Best pack for the jury.

4 A It's -- once you put it in there, you will take
5 the drugs, you drop it in there. It's got some glue on
6 a plastic bag. Once the glue is sealed, the only way
7 to open it is to cut it open, and the lab technician
8 does that. And we put it in there with these forms.
9 And when it gets to her, she looks at it, and that's
10 the way she will test it and what to test for and
11 stuff.

12 Q Is the Defendant's name also listed on there?

13 A Yes, it is.

14 Q So it's fair to say it's attached with a name and
15 a number?

16 A Yes.

17 Q And this form you submitted to whom?

18 A I put it in a Best pack. The evidence tech will
19 pick it up, and she will take it to Meredith at
20 Anderson.

21 Q And Meredith works at the lab, correct?

22 A Yes, ma'am.

23 MS. BLUNDY: I'm marking State's Exhibit 3.

24 (WHEREUPON, State's Exhibit Number 3 was marked
25 for identification.)

1 BY MS. BLUNDY:

2 Q Officer Sutherland, what is this form that I've
3 just handed you?

4 A It's a copy of the Best pack, the front of the
5 envelope.

6 Q This shows your chain of custody, correct?

7 A Yes, ma'am.

8 Q Who initially handed you the drugs in the black
9 bag?

10 A Corporal Jefferson.

11 Q And then what did you do specifically with that?

12 A After I left the scene, I secured it in my safe.

13 Q Where is your safe located?

14 A Right behind my desk at our office.

15 Q And narcotics has a separate office; is that
16 correct?

17 A Yes, ma'am.

18 Q Who else has access to that safe? Or who had
19 access to the safe at the time of this case?

20 A My partner, B.J. McClure, and at the time my
21 supervisor, Tim Hunnicutt.

22 Q Does anyone else know the combination to that
23 safe?

24 A Possibly them two and that would be it.

25 Q Is there limited access to the room where that

1 safe is held?

2 A Yes.

3 Q So when you dropped it in the safe, what day did
4 you do that?

5 A On the 3rd.

6 Q And what time is listed on there? I know it's
7 kind of hard to read. Do you recall?

8 A Looks like 2320.

9 Q And when is the next time that evidence was
10 touched?

11 A On the 8th.

12 Q And then what did you do with it?

13 A I took it out of the safe on the 8th, I filled out
14 the paperwork and dropped it in our evidence locker.

15 Q So from the 3rd to the 8th it remained secured in
16 the safe?

17 A Yes, ma'am.

18 Q Where is the evidence locker at?

19 A Down the hallway from our office.

20 Q So it's in the same building?

21 A Yes.

22 Q So you took it from the secure safe and put it in
23 the secure evidence locker on the 8th?

24 A Yes.

25 Q And then after that, you're not really sure who

1 touches it after that?

2 A No.

3 Q Okay.

4 A I just notify the evidence technician, and she
5 usually picks it up.

6 Q And you did notify the evidence technician on this
7 case as far as you recall?

8 A Yes. I have to notify her each time. She is not
9 located in our building.

10 Q And who is that?

11 A Melinda Nicholson.

12 Q So you notified Melinda to come pick up the
13 evidence?

14 A Yes, ma'am.

15 MS. BLUNDY: I'm marking this as State's
16 Exhibit 4.

17 (WHEREUPON, State's Exhibit Number 4 was marked
18 for identification.)

19 BY MS. BLUNDY:

20 Q Officer Sutherland, what is this form?

21 A It's our evidence form. Basically what this is,
22 I'll put a case number on it, suspect information. And
23 on the evidence form for your Best pack, it won't have
24 a description. It will just have as a description
25 "sealed Best pack number." Like for this one it would

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1 be C16228.

2 Q Is there also a separate chain of custody on the
3 back after it leaves your possession and control?

4 A Yes, ma'am, there is.

5 Q Is this form substantially in the same condition
6 as the day it was generated as far as your part that
7 you completed?

8 A My part, yes.

9 Q And the other form as well, as far as your part,
10 is it substantially in the same condition as the day it
11 was completed?

12 A Yes, ma'am.

13 Q You haven't altered these forms prior to trial?

14 A No. Once these forms leave my custody, I never
15 see them again.

16 Q Explain to the jury where the drugs went and where
17 all the other pieces or contents of the black bags
18 went -- black bag went?

19 A Once I left the scene, I secured the drugs in my
20 safe on the 8th, I put them in a Best pack, dropped
21 them in the evidence locker. They went to evidence,
22 then to the lab. The bag containing the paraphernalia
23 stayed in my safe under my control until today and
24 they're right here.

25 Q You brought them to court with you?

1 A Yes, ma'am.

2 Q Okay. Had the objects that remained in your
3 safe -- not the drugs, but all the other contents in
4 that bag, have they been tampered with or altered in
5 any way --

6 A No, ma'am.

7 Q -- while they've been in your care, custody and
8 control? Are they substantially in the same condition?
9 Have you had an opportunity to review them prior to
10 trial today?

11 A We reviewed them last week.

12 Q Okay. And did they look any different than the
13 night that you retrieved them from Corporal Jefferson?

14 A No.

15 Q And these items are nonfungible, meaning they
16 can't really change form, right?

17 A Correct.

18 Q Whereas with drugs, you could alter?

19 A Correct.

20 Q Okay. Why don't you go ahead and open the bag
21 that you brought.

22 MR. BURR: Objection, your Honor. I think we need
23 to have a hearing outside the presence of the jury.

24 THE COURT: Mr. Bailiff, if you will take our jury
25 to the jury room.

1 He's identified the items, so I'm going to overrule
2 your objection.

3 Ms. Blundy, I think your reliance on *State vs.*
4 *Smith* is correct in this situation.

5 So anything further before we bring our jury back
6 in?

7 Let me ask you this: Mr. Burr, you were given an
8 opportunity to review the contents of the bag.

9 MR. BURR: I was made aware last week of that bag,
10 your Honor.

11 THE COURT: Did you, in fact, review the contents
12 of the bag?

13 MR. BURR: I did.

14 THE COURT: Okay. Okay. All right. Let's get
15 our jury.

16 (WHEREUPON, the jury came into open court at
17 approximately 11:36 a.m.)

18 THE COURT: All right. Ms. Blundy.

19 MS. BLUNDY: Thank you, your Honor.

20 DIRECT EXAMINATION (Resumed)

21 BY MS. BLUNDY:

22 Q Turning back to the bag, would you mind opening
23 the bag.

24 A (Witness complies.)

25 Q And if you would, pull out what I'm going to mark

1 as State's Exhibit Number 8, the scale, please.

2 (WHEREUPON, State's Exhibit Number 8 was marked
3 for identification.)

4 BY MS. BLUNDY:

5 Q I am marking that as State's Exhibit 8. Officer
6 Sutherland, what is that?

7 A It's a digital scale that kind of looks like an
8 iPhone.

9 Q Okay. And as a trained narcotics agent, how did
10 you know that that was not an iPhone?

11 A Because I've seen tons of these things.

12 Q But it looks like an iPhone, correct?

13 A It's got a picture of one. Not -- doesn't look
14 one, really.

15 Q What happens when you lift the lid?

16 A Take the lid off, it's got a digital display and a
17 little area where you weigh your drugs.

18 Q Okay. And so that's a digital scale?

19 A Yes, ma'am.

20 Q Is that substantially in the same condition as the
21 day you first saw it when you got it from Corporal
22 Jefferson?

23 A Yes, ma'am.

24 Q Has that item been altered or changed in any way?

25 A No, ma'am.

1 Q And that was what was handed to you inside the
2 black bag?

3 A Yes, ma'am.

4 MS. BLUNDY: State moves to admit Exhibit Number
5 8.

6 MR. BURR: Renew my previous objection, your
7 Honor.

8 THE COURT: Objection noted. Overruled. State's
9 Exhibit 8 will be admitted.

10 (WHEREUPON, State's Exhibit Number 8 was admitted
11 into evidence.)

12 BY MS. BLUNDY:

13 Q As a narcotics agent, what do you think of those
14 scales? What are they used for? Tell the jury for
15 those of you who don't know.

16 A Drug transactions, drug sales, weigh out what
17 you're selling.

18 Q Okay.

19 MS. BLUNDY: Let's go ahead and mark Exhibit
20 Number 10 please, the spoon.

21 (WHEREUPON, State's Exhibit Number 10 was marked
22 for identification.)

23 BY MS. BLUNDY:

24 Q What is that?

25 A Silver spoon.

1 Q Is it substantially in the same condition as the
2 day you got it out of that bag?

3 A Yes, ma'am.

4 Q Altered or changed in any way?

5 A No, ma'am.

6 Q As a narcotics agent, what does that silver spoon
7 mean to you versus us who might think it's just an
8 eating utensil?

9 A In my training and experience, I've seen these
10 used to get a large quantity of drugs, scoop it out,
11 place it into another bag as you're weighing it to come
12 up with the amount that you're going to sell.

13 Q What about the size of the spoon? What does that
14 tell you? It's a relatively small spoon. It's not a
15 tablespoon.

16 A Small enough to get in bags. Most bags you're
17 going to sell out of are about that or smaller. Get in
18 there and dip it into another bag.

19 MS. BLUNDY: State moves to admit Exhibit Number
20 10.

21 MR. BURR: No objection, your Honor.

22 THE COURT: State's Number 10 will be admitted
23 without objection.

24 (WHEREUPON, State's Exhibit Number 10 was admitted
25 into evidence.)

1 MS. BLUNDY: I'm going to mark State's Exhibit 9,
2 the baggies, please.

3 (WHEREUPON, State's Exhibit Number 9 was marked
4 for identification.)

5 THE WITNESS: There's some. How many do you want?

6 MS. BLUNDY: All of them, please.

7 THE WITNESS: That's all of them.

8 BY MS. BLUNDY:

9 Q State's Exhibit Number 9, what are these?

10 A Little plastic baggies.

11 Q And are they substantially in the same condition
12 as the day you got them from Corporal Jefferson?

13 A Yes, ma'am.

14 Q Altered or changed in any way?

15 A No, ma'am.

16 Q What do they tell you as a narcotic agent?

17 A Most of the time you will see these little
18 baggies. The common thing is either jewel baggies you
19 can buy from Wal-Mart, and these, they're kind of --
20 they're baggies but they are kind of homemade baggies.
21 They're bag ends. Like if you get a bigger bag, you
22 just cut the corner of it off and dip out of a larger
23 bag, put in here, weigh it on your scale. Once you
24 weigh it up, pinch the end of it and twist it, and
25 that's how you receive your drugs.

1 Q And what's that shoved inside the pill bottle?

2 A More baggies. Actually, all these baggies were in
3 here on the night we stopped him, and I pulled them out
4 to make sure there were no more drugs in there.

5 Q And how many baggies -- I know you probably didn't
6 sit and count each one, but is there at least more than
7 20 there?

8 A Oh, yeah.

9 MS. BLUNDY: State moves to admit Exhibit Number
10 9.

11 THE COURT: Any objection?

12 MR. BURR: No objection, your Honor.

13 THE COURT: State's Number 9 would be admitted
14 without objection.

15 (WHEREUPON, State's Exhibit Number 9 was admitted
16 into evidence.)

17 MS. BLUNDY: I'm going to mark State's Exhibit 11
18 please, the torch.

19 (WHEREUPON, State's Exhibit Number 11 was marked
20 for identification.)

21 BY MS. BLUNDY:

22 Q What is this?

23 A It's a butane torch.

24 Q And is it substantially in the same condition as
25 the day you got it?

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1 A Yes.

2 Q Altered or changed in any way?

3 A No, ma'am.

4 Q As a narcotics agent, tell the jury what
5 significance this torch has, if any, to you.

6 A They use torches like this to smoke their drugs
7 with. It's easier to work than a lighter. A lighter,
8 you got to hold it down, keep striking the lighter.
9 Fill this up with butane. Once you hold this down, it
10 gets hot hotter than an average lighter. Hold it under
11 your meth pipe, and that's how you smoke your drugs.

12 Q But that doesn't necessarily correlate with the
13 sale, does it?

14 A No, just use.

15 Q So you didn't list that in your report as being
16 one of the items, correct?

17 A No, ma'am.

18 Q But it does have significance as far as drug use;
19 is that right?

20 A Yes, ma'am.

21 Q Okay.

22 MS. BLUNDY: State moves to admit Exhibit Number
23 11.

24 THE COURT: Any objection?

25 MR. BURR: No objection, your Honor.

1 THE COURT: All right. State's Exhibit 11 will be
2 admitted without objection.

3 (WHEREUPON, State's Exhibit Number 11 was admitted
4 into evidence.)

5 MS. BLUNDY: I'm going to mark State's Exhibit 12,
6 please, the meth pipe.

7 (WHEREUPON, State's Exhibit Number 12 was marked
8 for identification.)

9 BY MS. BLUNDY:

10 Q What is this?

11 A It's a methamphetamine pipe. People call it a
12 glass stem, glass rose. It's got several names.

13 Q Okay. Is it substantially in the same condition
14 as the day you got it?

15 A Yes, ma'am.

16 Q Has that been altered or changed in any way?

17 A No, ma'am.

18 Q How do you differentiate what pipe goes to what
19 drug? How do you know that's a meth pipe?

20 A Crack pipes, they have like filters and stuff in
21 them. Usually they don't have the glass bubble on the
22 end. The glass bubble on the end, they will put the
23 meth down, hold it, heat it up, turn the liquid vapor,
24 and they inhale the vapor off the drugs.

25 Q Okay. So that piece of evidence doesn't

1 necessarily go to a sale, right?

2 A Just drug use.

3 Q Just drug use. So that wasn't listed in your
4 report?

5 A No.

6 Q But it remained in the bag?

7 A Right.

8 MS. BLUNDY: State moves to admit Exhibit Number
9 12.

10 MR. BURR: No objection.

11 THE COURT: State's Exhibit 12 will be admitted
12 without objection.

13 (WHEREUPON, State's Exhibit Number 12 was admitted
14 into evidence.)

15 MS. BLUNDY: I'd like to mark State's Exhibit
16 Number 13, please, the other pipe.

17 (WHEREUPON, State's Exhibit Number 13 was marked
18 for identification.)

19 BY MS. BLUNDY:

20 Q What is it?

21 A It's an old pipe.

22 Q Is that substantially in the same condition as the
23 day you got it?

24 A Yes, ma'am.

25 Q Altered or changed by you in any way?

1 A No, ma'am.

2 Q What's the difference between the two pipes?

3 A This is used to smoke marijuana.

4 Q Okay. And how can you tell that? How do you know
5 that?

6 A You can smell it.

7 Q You can smell the residue?

8 A Yeah.

9 Q Would anybody use that to smoke methamphetamine
10 possibly?

11 A No, ma'am.

12 Q What does that indicate to you about drug use?

13 A He just uses it to smoke marijuana out of.

14 Q Is it different from a tobacco pipe?

15 A I guess you could really smoke tobacco out of it.

16 MS. BLUNDY: State moves to admit Exhibit 13.

17 MR. BURR: No objection, your Honor.

18 THE COURT: State's Exhibit 13 will be admitted
19 without objection.

20 (WHEREUPON, State's Exhibit Number 13 was admitted
21 into evidence.)

22 MS. BLUNDY: I'm going to back up and mark State's
23 Exhibit 7, please, the black bag.

24 (WHEREUPON, State's Exhibit Number 7 was marked
25 for identification.)

1 BY MS. BLUNDY:

2 Q Is this the black bag that Corporal Jefferson
3 handed to you outside of the defendant's car?

4 A Yes, ma'am.

5 Q Is it substantially in the same condition, along
6 with the contents, as the day you received it?

7 A Yes, ma'am.

8 Q Altered or changed by you in any way?

9 A No, ma'am.

10 Q Did you remove one item from that black bag?

11 A Just the meth.

12 Q Everything else is the same?

13 A Yes, ma'am.

14 MS. BLUNDY: State moves to admit Exhibit Number
15 7, the black bag.

16 MR. BURR: Your Honor, I want to renew my
17 objection to all of these items that I originally made
18 when the jury was out. Other than that, I have no
19 objection.

20 THE COURT: So noted. It's admitted.

21 (WHEREUPON, State's Exhibit Number 7 was admitted
22 into evidence.)

23 BY MS. BLUNDY:

24 Q Now, there were several other items. And just to
25 be complete in front of the jury, could you tell us

1 what other items were in the bag? I'm not going to
2 mark them as evidence, but could you tell us what they
3 are?

4 A There's an empty metal box. And here is a box
5 with a bracelet in it. Empty nylon case. A magnifying
6 glass, a zip-tie, fingernail clippers, and a plastic
7 container.

8 Q Okay. Thank you. Where is the first place that
9 you'll store evidence?

10 A My safe.

11 Q That's always the first place it goes to, correct?

12 A Yes, ma'am.

13 Q What do you do with the cash? Or what did you do
14 with the cash in this case?

15 A I put it in my safe as well.

16 Q And is that in -- do you put it in anything or you
17 just leave it completely open?

18 A No. I put it in a little envelope.

19 Q How big is your safe?

20 A I don't know the measurements on it. It's a
21 Sentry fire safe. It's about that wide (indicating).
22 Probably about that tall. It's got a digital lock on
23 it.

24 Q Does that safe remain locked at all times unless
25 you're going in and out of it?

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1 A Yes, it does.

2 Q You kept the drugs in that safe just for a period
3 of a few days, correct, before you dropped them --

4 A Correct.

5 Q -- into evidence, the other locker?

6 Why didn't you drop these other items into the
7 other evidence locker for the lab?

8 A It's not uncommon to hang on to paraphernalia in
9 the safe. I left it in there, actually, because we
10 made arrangements to meet with Mr. Carter the next day.
11 He was going to sign up to be an informant for us.

12 MR. BURR: Objection, your Honor.

13 THE COURT: Sustained.

14 BY MS. BLUNDY:

15 Q You, in fact, did return the money -- well, let me
16 mark this as State's Exhibit Number 6.

17 (WHEREUPON, State's Exhibit Number 6 was marked
18 for identification.)

19 BY MS. BLUNDY:

20 Q What is this?

21 A Property release for \$1,053.

22 Q Is this substantially in the same condition as the
23 day you executed it?

24 A Yes, it is.

25 Q And who else's signature is on this?

1 A Mr. Carter's.

2 Q And how much -- what were the items that were
3 described on this sheet?

4 A Just \$1,053 in cash.

5 Q And when did you release this \$1,053 in cash?

6 A On the 4th, September 4th.

7 Q And that was the next day, correct?

8 A Yes, ma'am.

9 Q And you met with Mr. Carter the next day; is that
10 right?

11 A I did.

12 MS. BLUNDY: State moves to admit Exhibit Number
13 6.

14 MR. BURR: No objection, your Honor.

15 THE COURT: All right. State's Exhibit 6 will be
16 admitted without objection.

17 (WHEREUPON, State's Exhibit Number 6 was admitted
18 into evidence.)

19 MS. BLUNDY: Your Honor, I believe we're going to
20 have one issue to take up outside the presence of the
21 jury.

22 THE COURT: Mr. Bailiff, take our jury out,
23 please, sir.

24 (WHEREUPON, the jury exited open court at
25 11:53 a.m.)

1 told not to divulge this. He did not call me because
2 of that. This is --

3 THE COURT: Ms. Blundy, I think that the probative
4 value of this is outweighed by the prejudicial effect;
5 therefore, I'm not going to allow you to put the
6 exhibit into evidence.

7 Mr. Burr, I'll sustain your objection.

8 Ms. Blundy, if you would like to have this marked
9 as an exhibit for the record.

10 MS. BLUNDY: That's okay. I'll leave it out.
11 Thank you.

12 THE COURT: Anything further before we bring our
13 jury back in?

14 MR. BURR: Nothing from the defense, your Honor.

15 MS. BLUNDY: Nothing from the State, your Honor.

16 THE COURT: All right. Get our jury.

17 (WHEREUPON, the jury entered open court at
18 11:59 a.m.)

19 THE COURT: Ms. Blundy.

20 MS. BLUNDY: Thank you, your Honor.

21 BY MS. BLUNDY:

22 Q Officer Sutherland, who executed the warrants in
23 this case?

24 A I signed the warrants. Our warrant officer served
25 them.

1 Q And do you recall what you asked for in the
2 warrant, what was the charge?

3 A PWID meth.

4 Q And did you base that on weight of the drugs?

5 A No, ma'am.

6 Q Did you base that on actually seeing him
7 distribute the drugs to somebody?

8 A No, ma'am.

9 Q What did you base it on?

10 A Based it on the stuff that accompanied the drugs,
11 the baggies, the scales, the spoon.

12 Q And what did that tell you?

13 A It's all consistent with drug sales.

14 MS. BLUNDY: No further questions, your Honor.

15 THE COURT: All right.

16 Mr. Burr.

17 MR. BURR: May it please the Court, your Honor.

18 CROSS-EXAMINATION

19 BY MR. BURR:

20 Q Officer Sutherland, first and foremost, you never
21 saw any of that stuff in the possession of Mr. Carter,
22 did you?

23 A No, sir.

24 Q But, in fact, your chain of custody forms and form
25 six and everything, maybe just out of a mistake, but

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1 you indicated you got them from Mr. Carter?

2 A That was just on the form, yes.

3 Q Okay. You also listed on here that you got it on
4 your form B as a result of an undercover operation?

5 A Yes. That is a typo. Everything I do is an
6 undercover operation, and that's -- all that was just
7 prefilled on there.

8 Q And you listed that you recovered the drugs on
9 September 3rd, 2014, but didn't submit them to the lab
10 until September -- until the evidence process until
11 September 8th, 2014?

12 A Correct.

13 Q Seneca Police Department does have a fairly
14 sophisticated evidence locker system, do they not?

15 A I don't know if it would be really sophisticated,
16 but --

17 Q I may have misspoken. You guys do have an
18 enclosed mail drop?

19 A Yes.

20 Q With a lock that, as far as you know, no one has a
21 key except the evidence custodian?

22 A Right.

23 Q And once you put it in there, she is the person
24 who takes it out?

25 A Yes.

1 Q And she's very articulate with the way she lists
2 her stuff every time it's moved and goes to the lab.

3 Do you know of any situation where there's ever been a
4 mistake on the work done once the lab received it?

5 A I don't know of any. I mean, I don't know all the
6 cases she does, no.

7 Q But prior to it getting to that process, it's
8 pretty hard to explain exactly how it's controlled?

9 A Until it was dropped in the locker, it was in my
10 safe. It remained in my safe.

11 Q But the chain, the documentation, leaves a lot to
12 be desired, does it not?

13 A Not really. I mean, I documented it when I took
14 it out, and I documented it when I dropped it.

15 Q You just mentioned on direct that there was a
16 lady's bracelet included in that?

17 A Right.

18 Q There's nothing in this report for a year's time,
19 that bracelet is never mentioned anywhere until I
20 requested to come to your office and look at the stuff
21 and all of a sudden it appeared?

22 A It's been in there ever since. There's several --

23 Q But nobody thought to document it or tell anybody?

24 A Well, there's several things in here that wasn't
25 documented on the paper.

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1 Q To your knowledge, did Officer Jefferson ever
2 weigh the drugs involved?

3 A Not to my knowledge.

4 Q But when you weighed them you listed it as
5 .08 grams?

6 A Right.

7 Q The lab came back with .49?

8 A Right.

9 Q That's real close to a 40 percent discrepancy.

10 A Yes. Like I explained, most of the time these
11 drugs are wet due to the chemicals they're made with.
12 There is a drying out.

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

14 A When they dry out, they are lighter, yes.

15 Q When you got back to your office prior to putting
16 them in the safe, do you seal them in any kind of a
17 container, bag, anything?

18 A No, just the bag it was in.

19 Q Just drop it in with the grocery bag or whatever
20 the rest of the stuff is in?

21 A Yeah. I just stuck it in the safe, yeah. I put
22 the drugs on the scale that night when I got back to
23 get the weight that night.

24 Q So you waited five days to submit the stuff into
25 the evidence locker. You waited two months to get a

1 warrant?

2 A Correct.

3 Q The stuff has been in your office in your safe,
4 everything with the exception of the drugs, for the
5 previous year. You really can't give a definite number
6 of how many people have the combination to that safe,
7 can you?

8 A I can't give you a definite number. I can give
9 you a number that should only be myself and two others.

10 Q Should be. When you do interviews, you don't
11 typically record your interviews, do you?

12 A No.

13 Q They don't record stuff with a tape recorder,
14 nothing at all?

15 A No.

16 Q So when we get here, it's just your version. Do
17 you have occasion where you knowingly don't follow
18 procedure?

19 A No.

20 Q Never an episode, incident, not a single one where
21 you didn't follow procedure?

22 MS. BLUNDY: Objection. Asked and answered.

23 THE COURT: Overruled. You can answer the
24 question.

25 BY MR. BURR:

1 Q If Mr. Carter had been taken into custody the
2 night of this incident, how would his car, his truck,
3 been moved?

4 A We would have towed it.

5 Q Why didn't you have it towed?

6 A Because, by procedure, we tow it.

7 Q So there is a procedure. It has to be towed?

8 A Yes.

9 Q Do you know of an episode where you have ever
10 gotten on a motorcycle and driven it off?

11 A Now you're dipping into another case.

12 Q I sure am. You just said you always follow
13 procedure, and I think I'm going to pin you down that
14 you don't always follow procedure. Did you drive a
15 motorcycle off against procedure?

16 MS. BLUNDY: I'm going to object to relevancy. I
17 don't know a thing about this.

18 THE COURT: Mr. Bailiff, if you will take our jury
19 out.

20 (WHEREUPON, the jury exited open court at
21 12:06 p.m.)

22 THE COURT: All right.

23 Ms. Blundy.

24 MS. BLUNDY: I mean, he's talking about a
25 completely different, obviously, drug case which I

1 don't know has any rationalization or bearing on this
2 case at all. And then my other objection would be here
3 we're arguing if we're not following procedure, I think
4 there is a strong argument for me to get into the
5 confidential informant agreement because we all know
6 things don't go by procedure once they sign those
7 agreements, which is why the warrants were held for two
8 months.

9 THE COURT: I'll allow you to ask this one
10 question on this one incident.

11 MR. BURR: Yes, sir.

12 THE COURT: Do not get into a case name. I'll
13 allow this one question, but we need to move on.

14 MR. BURR: Yes, sir.

15 THE COURT: Because if you want to get into that,
16 you run the risk of getting off into something that
17 we've already ruled on, so let's move on.

18 MR. BURR: Okay.

19 THE COURT: Get our jury.

20 (WHEREUPON, the jury entered open court at
21 12:09 p.m.)

22 THE COURT: Mr. Burr.

23 MR. BURR: May it please the Court.

24 BY MR. BURR:

25 Q Officer, after having had a chance to reflect,

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1 I'll ask you one more time: Has there been occasion
2 where you did not follow procedure?

3 A You are speaking about the motorcycle, and that
4 day, the incident, that subject was not arrested on
5 scene, and we did take the motorcycle and him back for
6 questioning. And, yes, we did drive the motorcycle
7 off. We didn't tow it that day. But he was not
8 arrested on scene, though.

9 Q Contrary to policy, contrary to procedure, you
10 drove the bike back?

11 A If they're not arrested on scene and we take them
12 back for questioning, for future cooperation, then, no,
13 we don't tow it right then and there, no. If they're
14 arrested on scene, yes, we tow it.

15 Q Getting into an area I'd like to get into but I
16 don't think the Court wants me to go too far into it --
17 in fact, I'll just leave it, your Honor. It's for a
18 whole other day.

19 Officer, do police officers, patrolman in general,
20 not just narcotics, do you guys have a lot of occasion
21 to stop people that have drug paraphernalia similar to
22 what you have sitting in front of you?

23 A Road patrol does, yes.

24 Q And they don't give that property back to the
25 individual to leave, take it with them, do they? It's

1 confiscated?

2 A Right.

3 Q Happens lots of times. Not all of them go to
4 trial. But a lot of stuff is confiscated. Patrolmen
5 have access to a lot of that stuff just like you have
6 in front of you?

7 A I think so. If they stop them and get it, I guess
8 they would have access to it.

9 Q Back to my original question. You did not see
10 where that property really came from, did you?

11 A It was turned over to me by Corporal Jefferson.

12 MR. BURR: Thank you, your Honor. No further
13 questions.

14 THE COURT: Anything further?

15 MS. BLUNDY: Yes, your Honor.

16 REDIRECT EXAMINATION

17 BY MS. BLUNDY:

18 Q Do you recall if the defendant's car was towed in
19 this case?

20 A No, it wasn't.

21 Q In fact, he was allowed to drive off from the
22 scene; is that right?

23 A Yes. He left that day, yes.

24 Q And are there occasions where you will not tow the
25 car?

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Jason Sutherland - Recross

1 A If they're not arrested.

2 Q Are there ever times where sometimes you need
3 to -- not need to, but will help the person out from
4 having a tow bill?

5 A It's our policy if they're arrested, we tow it.

6 Q So if they have been arrested that night?

7 A We tow it.

8 Q You tow it?

9 A Yeah. Unless there is a driver there. I mean,
10 sometimes I guess they release it to a driver if
11 they're on scene in the car with them, but if they're
12 by themselves and arrested, their car is towed.

13 Q And in the case with the motorcycle, I mean, it's
14 not really relevant to this case, but that person was
15 not arrested, correct?

16 A No, not on scene wasn't.

17 Q And then met with you at the sheriff's office?

18 A At the city police department.

19 Q I'm sorry, at the city police department.

20 MR. BURR: Objection, your Honor. The prosecutor
21 is getting into an area I don't think she wants to.

22 MS. BLUNDY: Your Honor, he asked the question and
23 I'm merely following up.

24 THE COURT: He can answer that question, but let's
25 not get any further into what we have already ruled.

1 BY MS. BLUNDY:

2 Q Okay. You had a meeting with that individual; is
3 that correct?

4 A Correct.

5 Q Okay.

6 MS. BLUNDY: No further questions.

7 MR. BURR: May it please the Court, your Honor.

8 RECROSS-EXAMINATION

9 BY MR. BURR:

10 Q The incident that I have in mind, that individual
11 was arrested. Later that day, was he not taken to the
12 county jail?

13 A Well, later that day after some questioning and
14 some investigation went on.

15 Q After he was taken over to your office, not the
16 police station, not the jail, held for four hours and
17 convinced to sign over his motorcycle, then he was
18 arrested; is that not right?

19 A We're not going to say convinced. I think you
20 said there is a day for that. He was not convinced.
21 I'm sorry. He did that on his free will.

22 Q Okay. But he signed it over and went to jail. He
23 was arrested that day?

24 A Later after --

25 MR. BURR: Thank you, your Honor.

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Bobby McClure, Jr. - Direct

1 THE COURT: Anything further from this witness?

2 MS. BLUNDY: Nothing further, your Honor.

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

5 Counsel, approach.

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

9 MS. BLUNDY: Your Honor, do you mind if I step
10 out.

11 BOBBY McCLURE, JR.,

12 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

13 DIRECT EXAMINATION

14 BY MS. BLUNDY:

15 Q Please state your name for the record.

16 A My name is Bobby McClure, Jr., with the Seneca
17 Police Department.

18 Q And Officer McClure, how long have you been with
19 the Seneca Police Department?

20 A Close to ten years.

21 Q And what do you do for them?

22 A Currently I'm assigned with the narcotics
23 division.

24 Q And how long have you been in the narcotics
25 division specifically?

1 A Around three years approximately.

2 Q Have you undergone specialized training to be part
3 of that division?

4 A Yes, ma'am.

5 Q And where was that at?

6 A I have had probably around a dozen classes in
7 Mississippi, Columbia, Atlanta, Greenville, Charlotte,
8 different places.

9 Q So all over the country?

10 A Pretty much the Southeast.

11 Q Southeast, okay. Who's your partner that you work
12 with a lot?

13 A Jason Sutherland. Investigator Sutherland.

14 Q And how long have you been partners with Officer
15 Sutherland?

16 A I want to say two years probably.

17 Q Is it fair to say you two have a good working
18 relationship with each other?

19 A Yes, ma'am.

20 Q In your time with Officer Sutherland, do you feel
21 he's an upstanding officer?

22 A Yes, ma'am.

23 Q Would you be partners with someone who wasn't?

24 A No, ma'am. It would be hard with somebody you
25 couldn't trust or have chemistry to work together. We

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1 have to be together day in, day out, days and nights,
2 so weekends, a lot of hours involved.

3 Q In your building, you have a separate building
4 from the police department, correct?

5 A Yes, ma'am.

6 Q And that's at an undisclosed location here in the
7 county; is that right?

8 A Yes, ma'am.

9 Q And it's a pretty secure building?

10 A Yes, ma'am. We have alarms and multiple locks,
11 safes, that type thing.

12 Q Do the doors remain locked most of the time?

13 A Yes, ma'am.

14 Q And you have a separate office with Officer
15 Sutherland?

16 A Yes. We have an office together, kind of a pretty
17 good-sized room, but our offices are in that room.

18 Q And there's limited access to that room, right?

19 A Yes. I'm thinking maybe three or four people have
20 a key to it, I think.

21 Q And do you keep evidence safes in that room?

22 A Yes. We each have one apiece that we have that's
23 designated for evidence.

24 Q And where are they located?

25 A I have one behind my desk on top of a filing

1 cabinet, and I believe his is behind his desk on top of
2 a table, I believe.

3 Q Do you have the combination to Officer
4 Sutherland's safe?

5 A At one time, about three years ago, I did. I've
6 since forgotten it. I think it's been changed. But as
7 far as the top of my head, I couldn't tell you what it
8 was. It's three -- I could think of some numbers in
9 it, but I would have to work with it and see if it
10 would come back to my mind, I guess. But I haven't
11 thought no more about that safe since we were at the
12 Seneca Police Department.

13 Q So you don't access that safe on a regular basis?

14 A No. I have one of my own that I use. I never use
15 his at all.

16 Q Were you aware of the evidence that was placed
17 into the safe regarding the defendant, Mr. Carter?

18 A I remember that night. I really didn't have a
19 whole lot to do with that case, but I remember when
20 Investigator Sutherland took evidence there. I believe
21 that was late at night. He put it in the safe. I want
22 to say this was, if I can remember right, a year ago,
23 maybe around midnight or something like that or after
24 before we left the building that night, so it was
25 pretty late. I remember he put it in the safe, and we

1 left for the night.

2 Q You never altered or tampered with or placed any
3 drug evidence into his safe; is that correct?

4 A No. I've never put any -- anything in that safe.
5 When I was at the police department, that's the safe
6 that I used three years ago, but not since, no.

7 Q Okay. And you didn't do that in this case?

8 A No, ma'am.

9 Q Okay.

10 MS. BLUNDY: No further questions.

11 THE COURT: Any questions?

12 MR. BURR: May it please the Court, your Honor.

13 CROSS-EXAMINATION

14 BY MR. BURR:

15 Q Officer, did I understand your testimony correctly
16 that if you had wanted to, you could have gotten into
17 the safe?

18 A If I went over there and messed with it, I might
19 could get the combination to come into my mind. But
20 from what I understand, it's been changed. The
21 combination has been changed.

22 Q Who told you it's been changed?

23 A He's told me it was different from what it was at
24 the police department. Investigator Sutherland.

25 Q Tell me -- I think he testified earlier it had not

1 been changed to his knowledge.

2 A I thought it had been changed.

3 Q But you don't have any personal knowledge as to it
4 has ever been changed?

5 A No, sir. I've been told it's been changed, but
6 personally I never attempted it to see if it has.

7 Q And when you had that safe and that combination,
8 you don't even know where the combination came from,
9 who had it before you got the combination?

10 A Before then it would have been -- I'm pretty sure
11 there were several officers that would have had it
12 before then. But they wouldn't have access to our
13 building now.

14 Q But any one of them could have told anybody else
15 the combination?

16 A Yeah. Anything is a possibility. Like that if
17 somebody can remember it, and, but.

18 Q Before I beat this dead horse.

19 A Yes, sir.

20 Q The police department has a good program for
21 storing stuff in an evidence locker where a lot of
22 people can't get to it, don't they?

23 A Yes, sir.

24 Q That was not what happened in this case?

25 A Well, nobody can get to these safes because we

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Bobby McClure, Jr. - Cross

1 have -- the people that have keys to the -- which would
2 be our supervisor and maybe a major, which I've never
3 known the major to ever be in there, but I doubt they
4 would know the combination.

5 MR. BURR: I have no further questions, your
6 Honor. Thank you.

7 THE WITNESS: Yes, sir.

8 THE COURT: Anything further for this witness?

9 MS. BLUNDY: Nothing from the State either.

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

12 MS. BLUNDY: I'd ask that this witness be excused.

13 THE COURT: Any objection?

14 MR. BURR: No objection.

15 THE COURT: This witness is excused.

16 MS. BLUNDY: I think this may be a good time to
17 take a recess.

18 THE COURT: Ladies and gentlemen, I conferred --
19 that's what I was talking to the attorneys about a
20 while ago at the bench is trying to plan out the rest
21 of our day. And this is a natural breaking point, so
22 we're going to go ahead and break for lunch. We will
23 resume at 2 o'clock. That gives you time to go get you
24 something to eat.

25 I'll give you the same instruction I gave you

1 MR. BURR: Your Honor, I just do that out of an
2 abundance of caution in the interest of rebuttal. I
3 have no interest in using him and don't need him.

4 THE COURT: All right. That's noted on the record
5 and neither side will take any action on their
6 respective subpoenas.

7 All right. We'll get our jury.

8 (WHEREUPON, the jury entered open court at
9 2:00 p.m.)

10 THE COURT: All right. Ms. Blundy, call your next
11 witness.

12 MS. BLUNDY: Thank you, your Honor. We'd like to
13 call Officer Melinda Nicholson, please.

14 MELINDA NICHOLSON,

15 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MS. BLUNDY:

18 Q Good afternoon, Sergeant Nicholson.

19 A Good afternoon.

20 Q State your name for the record, please.

21 A Melinda Nicholson.

22 Q And Sergeant Nicholson, where are you employed?

23 A I'm employed with the Seneca Police Department.

24 Q And how long have you been employed with Seneca
25 Police Department?

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Melinda Nicholson - Direct

1 A 17 years.

2 Q And during the 17 years, have you always held the
3 same job position?

4 A No, I have not.

5 Q What were some of your positions prior to where
6 you're at right now?

7 A I started out on patrol, on the road as patrol
8 officers call it. I worked the road for a year, and
9 then after a year I started working crime scene and
10 evidence part-time. Then I also, during that course of
11 that year, I went into Seneca Middle School as the
12 school resource officer. I was school resource officer
13 at Seneca Middle for nine years, and then I took over
14 the crime scene and evidence division in 2009.

15 Q And so you have been the crime scene evidence
16 coordinator since 2009?

17 A That's correct.

18 Q Being part of the evidence division, what are some
19 of your general duties?

20 A My general duties is to maintain the care and
21 custody, control of all the evidence for the department
22 that the officers submit in a secured evidence holding
23 facility. We have secured lockers that they put their
24 evidence in. They secure it with a lock that I have
25 the key to, and then each morning as I go in, I

1 retrieve the evidence, and I take it and log it in and
2 put it in our secured evidence facility.

3 Q Do you recall any conversations with Officer
4 Sutherland, him notifying you of any evidence in this
5 case pertaining to Mr. Wayne Carter?

6 A As to what? I'm sorry.

7 Q Let me strike that question. I'll reask it.

8 Let me show you what has been premarked as State's
9 Exhibit 3. Do you recognize this?

10 A Yes, I do. This is the evidence Best pack which
11 contains the drugs that I got out of the secured
12 locker, holding locker, on September the 9th, 2014.

13 Q And what did you do with it after you retrieved it
14 from the evidence locker?

15 A I took it down to my office, logged it in and put
16 it in our secured evidence storage.

17 Q And where did it go after it was in storage, and
18 on what date did you do that?

19 A On September the 12th, 2014, I took it to the
20 Anderson/Oconee Forensics Lab and signed it over to the
21 forensic chemist, Meredith Lanford.

22 Q And that was on the 12th?

23 A Yes, that's correct.

24 Q And that's all documented on this chain; is that
25 correct?

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Melinda Nicholson - Direct

1 A Yes, that's correct.

2 Q Is your handwriting on this chain?

3 A Yes, it is.

4 Q Is it substantially in the same condition as you
5 filled it out those days?

6 A Yes.

7 Q Has it been altered or changed in any way prior to
8 trial?

9 A No.

10 Q What is the suspect's name on this chain?

11 A The suspect name is Wayne Carter Beecher.

12 Q And what control number was assigned specifically
13 to this piece of evidence?

14 A The control number is C16228.

15 Q So please explain --

16 MS. BLUNDY: State moves to admit Exhibit Number
17 3.

18 THE COURT: I believe it's already in evidence.

19 MS. BLUNDY: I think it was marked. I'm not sure
20 if it was admitted.

21 THE COURT: Any objection?

22 Do you have a copy of it?

23 MR. BURR: No. I'm sorry. I've seen it in the
24 past, yes.

25 THE COURT: Okay. I just want to make sure you

1 had an opportunity to review it.

2 MR. BURR: Yes, sir. Thank you.

3 THE COURT: Any objection?

4 MR. BURR: No, sir.

5 THE COURT: All right. So State's 3 would be
6 admitted without objection.

7 (WHEREUPON, State's Exhibit Number 3 was admitted
8 into evidence.)

9 BY MS. BLUNDY:

10 Q Sergeant Nicholson, explain to the jury this
11 process. How do you know there's evidence stored in
12 that evidence locker? Do you check it daily?

13 A I do.

14 Q Do you also sometimes get phone calls from
15 officers letting you know that they have dropped
16 evidence in there?

17 A Occasionally I get text messages.

18 Q Do you check it on the weekends or just the
19 business days? How does that work?

20 A I check it -- my normal hours are Monday -- days
21 to work are Monday through Friday. So the first thing
22 I do when I get to the police department is go up and
23 check the lockers. If they have a secured lock on the
24 lockers, then there's evidence in them, and I unlock
25 those lockers and I take possession of the evidence --

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1 possession of the evidence.

2 Q When you retrieved this evidence from the locker
3 that day, did you notice any evidence of tampering
4 yourself? Was there any bags or anything that would
5 have indicated to you that it had been tampered with?

6 A No, there was not.

7 Q Do you have the evidence with you today?

8 A I do.

9 MS. BLUNDY: State would like to go ahead and mark
10 that as State's Exhibit number 14, please.

11 (WHEREUPON, State's Exhibit Number 14 was marked
12 for identification.)

13 BY MS. BLUNDY:

14 Q What is this?

15 A This is the secured evidence Best pack C16228 that
16 I retrieved from the secured evidence holding locker on
17 September the 8th, 2014, at Seneca Police Department.

18 Q And is this a copy -- I'm sorry. State's
19 Exhibit 3, is this a copy of the front of this bag?

20 A Yes, it is.

21 Q Are there other markings on this bag that are not
22 on this copy?

23 A Yes, there are.

24 Q And what are those?

25 A Okay. The markings on this one ends where I

1 turned the Best pack over to Meredith Lanford at the
2 Anderson/Oconee Forensics Lab. And then when I brought
3 it back from the lab and checked it back in the
4 evidence computer and put it back into our evidence
5 storage area, I signed that I brought it back from the
6 lab and that I checked it in and put it into evidence
7 storage. I also marked on here when Mr. Burr came and
8 wanted to look at the drugs inside the Best pack, I
9 marked on there when I checked it out of evidence
10 storage to take upstairs to let him view it. I also
11 marked on here where I checked it back into evidence
12 storage after he viewed it. I also marked on here
13 where I checked it out of evidence storage today and
14 brought it up here to court.

15 Q While this evidence has been in your care, custody
16 and control, has it been altered or tampered with in
17 any way?

18 A It has not.

19 Q Is it substantially in the same condition as the
20 day that you received it out of the locker?

21 A Yes, it is.

22 MS. BLUNDY: State would move to admit Exhibit
23 Number 14, please.

24 MR. BURR: No objection, your Honor.

25 THE COURT: State's Exhibit 14 would be admitted

1 without objection.

2 (WHEREUPON, State's Exhibit Number 14 was admitted
3 into evidence.)

4 BY MS. BLUNDY:

5 Q Sergeant Nicholson, would you go ahead and open
6 the sealed bag.

7 A I don't have my knife. Do we have a pair of
8 scissors I can borrow?

9 THE CLERK: I have got scissors.

10 THE WITNESS: Okay. Thank you.

11 Do you want me to take it out?

12 MS. BLUNDY: Yes, please.

13 Q Could you please explain to the jury what this
14 package is?

15 A The outer seal, sealed bag, is the bag that
16 Ms. Lanford sealed this one in after she analyzed it.
17 This, the inner sealed bag, is what the officer placed
18 the drugs into and sealed it himself and put it inside
19 this envelope with his paperwork for me to retrieve out
20 of the holding locker at the police department.

21 Q And is that why his handwriting is on the first
22 part of the envelope and your handwriting would be on
23 the second part of the envelope?

24 A Yes, that's correct.

25 Q Okay. At any time did you ever open that inner

1 sealed bag, the blue bag that the officer submitted to
2 you?

3 A No, I do not.

4 Q Thank you.

5 MS. BLUNDY: I have no further questions for this
6 witness.

7 THE COURT: Okay. Mr. Burr, your witness.

8 MR. BURR: May it please the Court, your Honor.

9 CROSS-EXAMINATION

10 BY MR. BURR:

11 Q Sergeant Nicholson, I have had several occasions
12 to come to your office and look at your operation, have
13 I not?

14 A Yes, you have.

15 Q And once stuff is placed in your custody, once you
16 receive it, you have real strict rules on how it's
17 stored, who can get to it and how it's safeguarded?

18 A Yes, sir.

19 MR. BURR: May I approach up here?

20 THE COURT: Yes.

21 BY MR. BURR:

22 Q You actually opened that envelope for me recently,
23 did you not?

24 A I did.

25 Q And then did you reseal it with the evidence tape?

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Melinda Nicholson - Cross

1 A I did.

2 Q And mark it so you could verify you had opened it
3 for me?

4 A Yes, sir, I did.

5 Q When you received the drugs from the officer,
6 they're already in an air-tight sealed bag that you
7 keep them stored in?

8 A Yes. They maintain -- they are maintained in the
9 same bag. I don't tamper with it or do anything with
10 it, that's correct.

11 Q It's sealed, then you transport it to the lab?

12 A Yes, sir.

13 Q They open it for the sole purpose of testing it?

14 A That's correct.

15 Q Then they reseal it again?

16 A That is correct.

17 Q Okay. Is all evidence delivered to you the same
18 way?

19 A It is delivered to me -- 98 percent of the time it
20 is left in the secured holding locker. There may be
21 two percent of the time the officer may just bring it
22 downstairs and hand it to me.

23 Q Is there more than one secure storage locker?

24 A Yes.

25 Q Because the agency has gone out of its way to make

1 it convenient for narcotics, they have a separate
2 drop-off box in their office, do they not?

3 A Yes, that's correct.

4 Q It has a keypad lock, and you have the only key to
5 it?

6 A I have -- I'm not the only one that has the key.
7 Excuse me. I'm the only one that has the key to the
8 narcotics office.

9 Q Right.

10 A Not to their office, but to their secured drug
11 locker, that is correct. I was thinking you were
12 talking about the lockers at the police department.

13 Q No. Normally the police department, if somebody
14 has a murder or whatever and they drop a gun off, they
15 can store it in a different locker?

16 A That's correct.

17 Q Because you guys are geographically separated.
18 Narcotics is a mile or so away from the police station?

19 A Maybe a quarter of a mile.

20 Q But you guys have a separate box for them, for
21 their convenience, that's within a matter of feet from
22 their office?

23 A That is correct.

24 Q And all the drugs here, once they were sealed you
25 sent them off. There's been no problem with them at

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Melinda Nicholson - Cross

1 all?

2 A No. I have not had a problem with them at all.

3 Q I have what is marked as State's Exhibit Number 7,
4 and I think it may have individual -- yeah, additional
5 items in it, Exhibit 11, the whole lot. Could you
6 identify this for the Court, please.

7 A I haven't seen that. That was not turned in to
8 me.

9 Q That was not turned in to evidence?

10 A It was not turned in to me.

11 Q Well, is there anything in there that's ever been
12 turned in to evidence at all, anything to indicate that
13 it's been turned in to the evidence locker?

14 A No, sir.

15 MR. BURR: No further questions. Thank you,
16 Sergeant.

17 THE COURT: Any redirect?

18 MS. BLUNDY: Just one redirect.

19 REDIRECT EXAMINATION

20 BY MS. BLUNDY:

21 Q Sergeant Nicholson, you said sometimes two percent
22 of the cases you wouldn't receive all of the evidence;
23 is that correct?

24 A No. What I said was that sometimes they hand
25 deliver it to me instead of putting it in the secured

1 holding locker. Sometimes they just walk down to my
2 office and give it to me.

3 Q Are you aware that Officer Sutherland and Officer
4 McClure had their own separate safes in their office?

5 A Yes.

6 Q Are you aware that sometimes they will hold
7 evidence there?

8 A Yes.

9 MS. BLUNDY: No further questions.

10 THE COURT: Anything further from this witness?

11 MS. BLUNDY: Nothing further from the State.

12 MR. BURR: Nothing from the defense, your Honor.

13 THE COURT: Any objection to this witness being
14 excused?

15 MS. BLUNDY: None from the State.

16 MR. BURR: Not from the defense, your Honor.

17 THE COURT: Thank you, ma'am. You are excused.

18 Call your next witness.

19 MS. BLUNDY: The State would call Meredith
20 Lanford.

21 MEREDITH LANFORD,

22 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION

24 BY MS. BLUNDY:

25 Q Good afternoon, Ms. Lanford. Could you please

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Meredith Landord - Direct

1 state your full name for the record.

2 A Meredith Lee Lanford.

3 Q And where are you employed?

4 A I am employed with the Anderson/Oconee Regional
5 Forensics Laboratory.

6 Q And where is that located?

7 A It is located in Anderson, South Carolina.

8 Q Can you tell the Court what your job is with the
9 laboratory?

10 A Yes. I am a forensic chemist, and my primary job
11 function is to analyze evidence that's brought to our
12 laboratory to test for any kind of controlled substance
13 that may be present.

14 Q And tell the jury a little bit about your
15 background. What do you need to be a forensic chemist?

16 A I graduated from Clemson University with a
17 bachelor's of science in chemistry. I then went on to
18 complete the forensic science certificate program at
19 Greenville Technical College. I was trained and
20 certified as a forensic chemist for my previous
21 employer, the Charleston police laboratory, as well as
22 my current employer. I was trained in the area of
23 forensic drug chemistry through the Drug Enforcement
24 Administration. I'm a member of the American Chemical
25 Society as well as the Clandestine Laboratory

1 Investigating Chemists Society, and each year I'm
2 required to pass a proficiency test as well as do
3 several hours of training in areas of forensics.

4 Q Approximately how many times have you analyzed
5 drugs? Can you even come up with a number for the
6 Court today?

7 A It's probably over 3,000.

8 Q How often have you analyzed substances for the
9 presence of methamphetamine?

10 A Almost on a daily basis.

11 Q How many times have you testified in court before
12 as a forensic chemist?

13 A 20 times.

14 MS. BLUNDY: Your Honor, at this time I would like
15 to present Ms. Lanford as an expert in forensic drug
16 chemistry.

17 MR. BURR: Your Honor, the defense will stipulate
18 Ms. Lanford is qualified as an expert witness in this
19 area.

20 THE COURT: As a forensic chemist?

21 MR. BURR: Yes, your Honor.

22 THE COURT: Forensic chemist.

23 Ladies and gentlemen of the jury, ordinarily a
24 witness is not able to give opinion testimony in a
25 case. Ordinarily a witness is limited to what they

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1 sensed, heard, saw, smelled, et cetera. Sometimes you
2 will have persons admitted as expert witnesses who, by
3 their education and experience, have become an expert
4 in some field and they're allowed to give an opinion.

5 However, as a trier of fact, you judge this
6 testimony like you do any other witness and give it
7 whatever weight you, as the jury, as the finders of
8 fact in this case, deem appropriate.

9 MS. BLUNDY: Thank you, your Honor.

10 Q Ms. Lanford, I'm going to show you what has
11 already been marked and admitted as State's Exhibit
12 Number 14. What is this?

13 A This is our Best drug evidence kit that we get.
14 Each agency that submits cases to our lab must put
15 their evidence in what we call a Best kit. So this is
16 that bag and then my outer bag that I seal it in.

17 Q And how do you recognize that specific piece of
18 evidence?

19 A I've got my laboratory number on it as well as my
20 initials and date are on here.

21 Q Okay. I also want to show you what the State is
22 going to mark as Exhibit Number 15.

23 (WHEREUPON, State's Exhibit Number 15 was marked
24 for identification.)

25 BY MS. BLUNDY:

1 Q What is this document?

2 A This is our official drug analysis report that we
3 give to each officer in their case.

4 Q And how do you recognize this specific document?

5 A It has the title of our laboratory on it as well
6 as our Anderson County Sheriff's Office seal as well as
7 my electronic initial on it.

8 Q Is that document substantially in the same
9 condition as the day it was generated?

10 A Yes, it is.

11 Q Have you altered or changed that document in any
12 way prior to trial?

13 A No, I have not.

14 Q Does this lab report match up with the number on
15 the outer evidence bag?

16 A Yes, it does.

17 Q And would this lab report contain the control
18 number that Seneca Police Department assigned to it?

19 A This is actually the control number that our
20 laboratory has assigned to it, so yes.

21 Q So the lab report is consistent with the drugs
22 that you analyzed; is that correct?

23 A Yes, it is.

24 Q Okay. So tell us a little bit about the process,
25 how do you analyze the drugs and what did it come back

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1 with?

2 A The first thing we do is we remove all packaging
3 that the substance is in to get a weight of just the
4 substance. I then perform two screening tests on the
5 substance to determine -- to narrow down what possible
6 controlled substance may be present, and then I perform
7 two confirmatory tests on our instruments in the lab to
8 determine if a controlled substance is actually present
9 or not.

10 Q Is it possible for an officer to weigh it on the
11 roadside or weigh it back in their office and then it
12 make it to your lab and have a different weight?

13 A Yes, it is.

14 Q Could you tell the jury what some of the reasons
15 may be for that?

16 A A lot of the times they will just weigh with the
17 packaging. You know, they will just weigh the baggie
18 along with the drugs. And like I said, we are required
19 to remove all the packaging and just weigh the actual
20 sample.

21 Q Are you aware of any discrepancy that may occur if
22 the drugs are fresh and full of chemicals, would they
23 be heavier at all than by the time that you get it?

24 A If -- I know of cases where we've gotten baggies
25 that are wet before, and in that particular instance

1 you have to, you know, let it dry out before. So if
2 it's a particularly wet substance, yes, we'll have to
3 dry it out before, so that would affect the weight.

4 Q So when you weigh it, it's in a dry state?

5 A Yes.

6 Q Okay. What did your analysis report come back at
7 for item A-1?

8 A It came back as methamphetamine found at
9 0.49 grams.

10 MS. BLUNDY: Thank you. I have no further
11 questions for this witness.

12 THE COURT: Mr. Burr.

13 MR. BURR: May it please the Court, your Honor.
14 Follow up on the question.

15 CROSS-EXAMINATION

16 BY MR. BURR:

17 Q I think Ms. Blundy was getting to some earlier
18 testimony that the weight of the drugs had changed
19 drastically because they had evaporated. Have you ever
20 heard of such a thing, the weight of drugs can become
21 40 percent lighter after they be kept in a sealed bag?
22 How would you explain that?

23 A I mean, moisture-wise that's the only thing I can
24 think is that, you know -- but like I said, if it comes
25 to our laboratory wet, the balance won't even zero, you

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1 know, zero out to let you take a weight, so it has to
2 be dry when it comes to us.

3 Q But meth in and of itself in a normal state is a
4 dry substance?

5 A Normally, yes..

6 Q So there is no evaporation process?

7 A I wouldn't say a drastic evaporation.

8 Q One further question. The exhibit you have in
9 front of you marked as State's Exhibit 14, sounds like
10 a silly question, but there's no way possible you can
11 look at that and tell where that meth originally came
12 from?

13 A No.

14 Q Anything prior to the chain of custody starting
15 there, you don't know where it came from?

16 A Right.

17 Q Thank you, ma'am.

18 MR. BURR: No further questions, your Honor.

19 MS. BLUNDY: Just brief follow-up.

20 THE COURT: Okay.

21 REDIRECT EXAMINATION

22 BY MS. BLUNDY:

23 Q Was there any evidence of tampering with that bag
24 when you received it?

25 A No. I have that it was a knotted clear plastic

1 baggie. Usually if I see any kind of tear or hole, or
2 if it's open, like somebody had knotted it, I usually
3 note that in my notes. And in this case I did not have
4 that.

5 Q If there's severe evidence of tampering, will you
6 even test the item?

7 A No. This -- this outer bag here, the Best
8 evidence kit bag, it has to be sealed properly or we
9 will not even admit it into the laboratory.

10 MS. BLUNDY: State would also move to admit
11 Exhibit Number 15 if I hadn't done so, the lab report.

12 MR. BURR: Defense has no objection, your Honor.

13 THE COURT: All right. State's Exhibit Number 15
14 would be admitted without objection.

15 (WHEREUPON, State's Exhibit Number 15 was admitted
16 into evidence.)

17 MS. BLUNDY: No further questions for this
18 witness.

19 THE COURT: Anything further for this witness?

20 MR. BURR: No, your Honor.

21 THE COURT: Any objection to this witness being
22 excused?

23 MS. BLUNDY: No, your Honor.

24 MR. BURR: Not for the defense.

25 THE COURT: All right. Ma'am, you are excused.

1 Call your next witness.

2 MS. BLUNDY: At this time the State would rest
3 their case.

4 THE COURT: Okay.

5 Mr. Bailiff, please take our jury to the jury
6 room.

7 (WHEREUPON, the jury exited open court at
8 2:29 p.m.)

9 THE COURT: Any motions?

10 MR. BURR: Defense would move for a directed
11 verdict, your Honor, and specifically to the point of
12 the PWID, there's been no evidence, nothing -- I think
13 the presumption is with a gram of evidence -- the
14 weight here is .49 -- is insufficient. There's
15 actually no evidence to prove any intent to distribute.

16 THE COURT: Well, the evidence that is in the
17 record, I believe the State would not be limited solely
18 to the weight in the charge. There is some evidence in
19 the record tending to prove what the State alleges,
20 therefore, I'm going to deny your motion.

21 MR. BURR: Thank you, your Honor.

22 THE COURT: Anything further?

23 MS. BLUNDY: Nothing from the State.

24 THE COURT: Okay. All right.

25 Mr. Carter, would you please stand.

1 (WHEREUPON, the jury entered open court at
2 2:53 p.m.)

3 THE COURT: All right. Ladies and gentlemen of
4 the jury, we have reached the end of the testimony in
5 the case. We will now proceed to the next stage of the
6 trial which is the opportunity the attorneys have to
7 make a closing argument. We'll begin with the State
8 and then the defense will close.

9 Ms. Blundy.

10 MS. BLUNDY: Thank you, your Honor. Dispense,
11 deliver, distribute. That's how I opened this case,
12 and that's how I close this case. If I'm driving along
13 in my truck, I know the contents of my truck. I know
14 what's in there. It's my truck. If I have something
15 underneath my driver's seat, I'm in control of that. I
16 know it's there. I'm in constructive possession.
17 That's the best example I can give you of constructive
18 possession.

19 And Mr. Carter didn't have the drugs on his person
20 like I told you earlier, and through the testimony you
21 know that it was placed directly under his driver's
22 seat in this -- this black shaving bag. It was the
23 only other piece of luggage in there, only other bag
24 that was in there.

25 We heard that testimony through Corporal

1 Jefferson. And he got consent to search the car. How
2 did he get that consent? Well, let's back up. We have
3 that horribly long video, and I'm so sorry that I had
4 to play practically the entire video for you. I know
5 that that video was like watching a pot boil. It's
6 boring. And there is a reason why I did that, though.
7 And the reason being is we have nothing to hide. I
8 wanted you to sit and see every minute of that video so
9 that you would know that what we are telling you are
10 the facts.

11 And the fact was that his taillight was broken.
12 You can see it on the video. It's not -- it's an old
13 camera. It was dark. The street wasn't well lit, and
14 you can clearly see that it was rainy. The video is
15 kind of grainy. Thank goodness they're working to get
16 better equipment and better cameras. And you heard
17 that from the officer in this case that he no longer
18 even has that piece of equipment. And the audio wasn't
19 working, so that doesn't help us either. And I'm sorry
20 about that, but that's the facts of the case that we
21 have here.

22 So he asked him, "Please empty your pockets." He
23 testified that he had recognized him from before. He
24 knew this defendant. Asked him to empty his pockets.
25 And when he did, he pulled out a wad of cash. \$1,053.

1 Think about that amount for a second. Why is that
2 significant? Because if you go to the bank and you're
3 taking out a large amount -- heck, if you're getting
4 that in social security, then you're better off than
5 half the Americans who get social security. But
6 \$1,053, it's an odd amount. If you're going out to the
7 bank to make a payment on something, you're going to
8 take out an even number. Maybe a thousand cash. Maybe
9 1,050. And still, to have that amount of money for the
10 average person on your person in the middle of the
11 night at 10:30 driving around with it, use your common
12 sense. That just does not happen.

13 That money is evidence of sales. Sales. It's an
14 odd amount. And how do we know that he was
15 distributing methamphetamine? I told you there is a
16 couple of ways. One is by weight of the
17 methamphetamine. Over a gram or more. I told you
18 that's not in this case. And you heard that through
19 the testimony of the lab analyst, also through the
20 testimony of Officer Sutherland when he initially
21 weighed it, his weight came back at .08. Her weight
22 came back at almost .5. There is a discrepancy there,
23 but there are some different reasons why that weight
24 may be different. The one thing we do know was it was
25 under a gram, so we can't say for sure he was selling

1 based on the weight.

2 But how do we know? We didn't see him actually
3 distribute to anybody. We do know that as well. But I
4 told you there was key pieces of evidence that we would
5 know that he was going to distribute that
6 methamphetamine. What are they? And I at length had
7 to go through and mark and ask questions of sufficiency
8 on each and every piece of evidence because it is
9 important. And you'll get to look at it. You will get
10 to see it. You borrow gloves, you can touch it, you
11 can pass it around in the jury room.

12 This. Looks like a cell phone from far away.
13 It's not a great cover up, I would say. I mean, you
14 can tell by looking at it after a couple of seconds
15 that it's not really a cell phone. And I don't know if
16 I can get this open. I may have to ask Officer
17 Sutherland to pop that open for me.

18 Scale. This scale is used as Officer Sutherland
19 had testified. What do they do with it? What was
20 Mr. Carter doing with it? He was taking all the
21 baggies. This isn't personal use. There is, I don't
22 even know how many baggies. So many. And they're
23 shoved down in this container. I'm not going to pull
24 them all out. There's well more than 20. More than
25 50, I would submit to you. Take it, they take the

1 spoon, scoop the drugs, put on the scale, make sure
2 it's the amount that they're going to sell, put it in
3 the baggie and distribute. These are key pieces of
4 evidence. I submit to you that if we didn't have these
5 pieces of evidence, it may be a different story. It
6 may not be a distribution-type case. But we have them.
7 So we know what his intentions were.

8 Then we have the other pieces of evidence just to
9 show that it goes along with methamphetamine like the
10 torch, as Officer Sutherland had testified how they use
11 it to heat up the drugs. Specifically, even if we
12 didn't have the lab report, we would know that it went
13 to methamphetamine because there is a pipe, there was a
14 pipe with it, and you heard testimony as to what this
15 pipe specifically is used for and why, why it's a meth
16 pipe, how they use it, and that no other types of drugs
17 are really smoked in that. So he may have had some for
18 personal use, but the majority was to distribute.

19 Here is also another pipe which Officer Sutherland
20 testified, you know, what this type of pipe may be used
21 for. I think he said marijuana. I said, "Could you
22 possibly use it for tobacco," he said, "Yeah, that's a
23 possibility, too." But we know it's another drug pipe.
24 Just more evidence of drugs.

25 I submit to you that the scales, the baggies and

1 the spoon are concrete evidence that this particular
2 defendant was possessing this methamphetamine with the
3 intention -- doesn't have to actually do it -- with the
4 intention to distribute it out here in our community.

5 What does it look like? You may have never seen
6 it before. And you'll get to look at it after I get
7 all my pieces of evidence here. You'll get to look at
8 it. You'll get to pass it around. Here is the item
9 that was tested. And you heard from the analyst who's
10 had a lot more experience in drug work than I've ever
11 had. She's had college degrees, numerous DEA
12 certifications. She's testified in court before. I
13 think she testified that she analyzes methamphetamine
14 every single day of her job. So she is confident that
15 this definitely was methamphetamine, and she told you
16 what weight it went in at. I would submit to you to go
17 by the weight that she analyzed. I think her scales
18 and everything are a lot more accurate, and that would
19 be the weight that I would go by. And so I submit to
20 you it probably was the .49 grams is what he had on
21 him.

22 There were other officers out at that scene. You
23 can see that from the video. We tried to let you know
24 who they were. They didn't have a relevant stake in
25 the case which is why they weren't called to the

1 witness stand. Officer Durham arrived after the search
2 had already been completed. The other narcotics
3 officers let Officer Sutherland handle the entire case.
4 They weren't -- their testimony wasn't really relevant
5 or needed. They didn't really handle the case.

6 The other issue that the defense may put before
7 you is these drugs were tampered with or these pieces
8 of evidence may not be accurate. Well, let's think
9 about that. We have the testimony from Corporal
10 Jefferson who handed it directly to Officer Sutherland.
11 And you can see this on the video. He places it on the
12 hood of his patrol car, places it on the back bumper of
13 the car. Nobody touches it until Officer Sutherland
14 arrives and then takes it into his custody and control.

15 And then where does he place it? He placed it in
16 the first place they put evidence, which is their safes
17 in their own personal office, undisclosed building here
18 in the county where they hold that evidence. That safe
19 is locked by combination. He did testify that there
20 were a few people who had the combination, one being
21 his partner who you got to hear from today. Another
22 being his lieutenant who unfortunately was ill. He
23 could not be here with us at trial today. Couldn't
24 even get on the witness stand, he was that sick. But
25 those were the only other two people that had that

1 combination to that safe. There's really no way you
2 could tamper with this. You can't really change the
3 baggies. You can't really -- it's what we call a
4 nonfungible piece of evidence. You can't really alter
5 the scales.

6 The drugs are a different story. The drugs can
7 change form. You could add different substances, take
8 away different substances, so those were handled
9 differently. They weren't just left in the safe. They
10 were then dropped to a separate locker. You heard from
11 Sergeant Nicholson who came and picked up those drugs.
12 She took them from a sealed package, then took them
13 directly back to the Seneca Police Department, logged
14 them into a separate locker for evidence then
15 eventually transported them down to Meredith over at
16 the lab in Anderson who then tested the
17 methamphetamine, and that's how we received the
18 results. There's no tampering. That's why I kept
19 asking that question over and over and over again, and
20 it may have seemed a little bit redundant and
21 repetitive, but it's important to let you know there
22 was not an issue in this case.

23 I am confident and I hope that you agree with me
24 when you evaluate all this evidence that you can see
25 the burned out taillight. It's not great. So it was

1 okay to pull him over. He's busted for more than a
2 taillight, folks. He had methamphetamine. He had the
3 intention to distribute it. We know that not from what
4 he says or what he does but the evidence that's against
5 him.

6 So I ask that when you go back in that jury room,
7 you deliberate, you talk about it, you say what you
8 like, what you didn't like, what you believe, what you
9 didn't believe. But at the end of the day, I want you
10 to look at the solid, concrete evidence against him and
11 find him guilty. Thank you.

12 THE COURT: Mr. Burr.

13 MR. BURR: May it please the Court, your Honor.

14 Your Honor, ladies and gentlemen, Ms. Blundy
15 started out saying, "We have nothing to hide." There
16 were two people, two officers out there on the scene
17 that should have seen what happened. One of them
18 refused to show up. This thing of looking at all the
19 evidence is what I would tell you right now that I'm
20 46 years old. Some of you may say, "I don't believe
21 that." And I say, "Well, I can prove it. My birth
22 date is 1969. I can get mathematicians, I can get
23 experts, but if I wasn't born in 1969, nothing else
24 matters.

25 The only thing that's important here is where this

1 bag came from. It wasn't placed in evidence like the
2 other stuff was. You have the video. This whole
3 case -- the defense's whole case rests on that video.
4 You have seen key parts of it twice already, and
5 certainly you will have it with you. You can look at
6 it again.

7 On that video, if you see this officer reach in
8 and take this bag out of defendant's car, then he's got
9 a problem. Look at it and see when the second officer
10 got there. When was the search. There's two or
11 three -- you wasted an hour of your life watching the
12 whole thing, but the two or three minutes really are
13 important.

14 You will also see, if you do watch all of it and
15 you've seen it, the defendant get in his car and drives
16 off. He had \$1,053 in his pocket. You heard this
17 morning the testimony of him telling the officer he
18 deposited three disability checks and the money was
19 given back to him. It was confiscated originally. But
20 it was ultimately, when he explained to law enforcement
21 where it came from, that he got his money back.

22 The thing of the bag is the old magic trick, and
23 we're all too old for magic. It is when you're looking
24 up here and I'm doing something down here. That's what
25 they're trying to slip by you by having the experts. I

1 don't challenge anything that Sergeant Nicholson told
2 you. I've been to her operation, have on numerous
3 occasions. Once that stuff comes in, it's logged in,
4 it's tagged. Every time it's moved, it's -- I've never
5 seen a mistake.

6 The young lady that gave the testimony as to what
7 the drug is, she's a specialist. She an expert
8 witness. I don't challenge that at all. My only
9 challenge is where did this drug come from. The one
10 that's listed in all the reports is .8 grams. It
11 disappears for five days. When it is submitted, and
12 there's no way you can look at one drug, meth, and see
13 where it came from. It's not the right weight. Why
14 they made the mistake, maybe they didn't know what was
15 in that bag, I have no idea at all.

16 The defense didn't put up any evidence because
17 there's not a lot to put up. It's like if somebody
18 accuses me of drunk driving last New Year's Eve. How
19 do I prove I wasn't? It's impossible. If I was and I
20 got caught, then they would have evidence to prove it.
21 There's no way I can prove what didn't happen except
22 you looking at that video. Conclude for yourself. And
23 as you're looking at that and discussing it, the judge
24 is going to instruct you later on all the rules, the
25 law you have to abide by. He's going to discuss

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Jury Charge

1 different kinds of evidence, the degree of evidence.

2 What bothers me about jury decisions sometimes,
3 people don't understand the degrees of evidence. You
4 have got to understand there's something called
5 probable cause. The officer went and got the warrant
6 two months after this happened. He had to tell the
7 magistrate something to get a warrant. Probable cause
8 is just, "I think it happened." That's just -- not
9 even -- if you have ever been sued or know a person
10 that's sued in civil court, it's preponderance of the
11 evidence. That means it's a fraction that tilts this
12 much right over here.

13 But our Constitution guarantees citizens, before
14 they can be convicted, it's beyond a reasonable doubt.
15 That is all the way over here. They have got to
16 eliminate all reasonable doubt from your mind. The way
17 I like to think of it is if you were raised -- if you
18 had a friend, neighbor that's been your best friend
19 since were you eight years old, and you pick up the
20 paper and you start reading and it says he's been
21 charged with some heinous crime. You would say, "I
22 don't believe it. You've got to prove it to me."
23 That's the same duty you owe this man right here. I
24 suggest you look at that video again and see if there's
25 any proof that that bag came out of his car.

1 I wish I could explain to you or put up evidence
2 and give you more to go on as to why I think that bag
3 was not his, but it's not on that tape. So I ask you
4 to look at it, think about it, think of the standard.
5 You took an oath. You said you could give both sides a
6 fair trial. The burden -- there's no burden at all.
7 He's innocent. Mr. Carter is innocent as he sits there
8 until you rip the cloak of innocence off him.

9 So please look at the evidence. Don't get too
10 carried away with the lab work and stuff because that's
11 sort of after the fact. Look at where this came from,
12 why it may have ended up on the scene there. You see
13 these officers all jumping around and doing high-fives
14 and stuff. Something's amiss. Think about it, make
15 them do their job, come back with the correct verdict,
16 and I think it will be not guilty. Thank you.

17 THE COURT: All right.

18 Ladies and gentlemen, we have come to the point in
19 the trial where I instruct you on the law. My
20 instructions will be somewhat lengthy. They will be in
21 three parts. The first will be your instructions on
22 the general rules that define and control the jury's
23 duties. Second, the instructions that state the rules
24 of law that apply, what the State must prove in its
25 case. And, lastly, some rules for your deliberations.

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Verdict

1 (WHEREUPON, the jury entered open court at
2 4:14 p.m.)

3 THE COURT: Ladies and gentlemen of the jury, I
4 received a question that states, "What part of the law
5 allowed the defendant to leave the scene on
6 September 3, 2014?"

7 Ladies and gentlemen, that is a factual question.
8 It is inappropriate for the Court to comment on the
9 facts of the case. You are to base your decision on
10 the evidence that is now in the record before you, and
11 that cannot be supplemented, and I cannot comment on
12 the facts of case.

13 So with that, I'm going to have you go back to the
14 jury room and resume your deliberations.

15 (WHEREUPON, the jury exited open court at
16 4:14 p.m.)

17 THE COURT: Anything from either party before we
18 go back into recess?

19 MS. BLUNDY: Nothing from the State.

20 MR. BURR: Nothing from the defense.

21 THE COURT: All right. We'll go back into recess.
22 (Court in recess, pending verdict, from 4:15 p.m.
23 until 4:46 p.m.)

24 THE COURT: I have been informed that we have a
25 verdict. Let's get our jury in.

1 (WHEREUPON, the jury entered open court at
2 4:46 p.m.)

3 THE COURT: Mr. Foreman, has the jury reached a
4 verdict?

5 JURY FOREMAN: Yes, sir.

6 THE COURT: Would you hand that verdict form to
7 the bailiff, please, sir.

8 Madam Clerk, would you publish the verdict.

9 THE CLERK: In the matter of the State of South
10 Carolina versus Wayne Beecher Carter, on indictment
11 number 2015-GS-37-214, possession with intent to
12 distribute methamphetamine, we, the jury, unanimously
13 find on indictment number 2015-GS-37-214 that the
14 defendant, Wayne Beecher Carter, is guilty of
15 possession with intent to distribute methamphetamine.

16 Ladies and gentlemen of the jury, if this was your
17 verdict and remains your verdict, please indicate so by
18 raising your right hand.

19 Let the record reflect that all members of the
20 jury have affirmed their verdict.

21 MR. BURR: Your Honor, defense would request
22 individual poll.

23 THE COURT: Okay. Madam Clerk.

24 THE CLERK: Ladies and gentlemen, as I call your
25 name and your jury number, if you would just affirm

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Sentencing

1 your verdict.
2 Number 26, Carol Cali.
3 JUROR: Guilty.
4 THE CLERK: Number 64, Michelle Hall.
5 JUROR: Guilty.
6 THE CLERK: Number 168, Misty Webb.
7 JUROR: Guilty.
8 THE CLERK: Number 142, William Sheskey.
9 JUROR: Guilty.
10 THE CLERK: Number 11, Michael Bates.
11 JUROR: Guilty.
12 THE CLERK: Number 149, Alyssa Spearman.
13 JUROR: Guilty.
14 THE CLERK: Number 129, Eugene Puerner.
15 JUROR: Guilty.
16 THE CLERK: Number 95, Rebecca Lloyd.
17 JUROR: Guilty.
18 THE CLERK: Number 159, Rhonda Tippet.
19 JUROR: Guilty.
20 THE CLERK: Number 42, Lindsey Edwards.
21 JUROR: Guilty.
22 THE CLERK: Number 122, Sandy Phaneuf.
23 JUROR: Guilty.
24 THE CLERK: And number 143, Randy Shook.
25 JUROR: Guilty.

1 THE COURT: Anything further before I dismiss the
2 jury from either party?

3 MR. BURR: Nothing from the defense.

4 MS. BLUNDY: Nothing from the State, your Honor.

5 THE COURT: Ladies and gentlemen of the jury, I
6 thank you for your service.. Jury duty is a high civic
7 duty. Next to voting, I can't think of anything more
8 important for our system of government and certainly
9 being willing to serve as a juror. Our judicial system
10 couldn't function without individuals serving. This
11 will end your duty for the week. You will be
12 dismissed, and this will satisfy your jury duty
13 requirement for the next three years.

14 Mr. Foreman, I need you to sign the indictment.
15 So the rest of you you will be dismissed. Thank you
16 for your service.

17 (WHEREUPON, the jury exited open court at
18 4:49 p.m.).

19 THE COURT: Mr. Carter, Mr. Burr, would you come
20 forward, please.

21 THE COURT: Ms. Blundy.

22 MS. BLUNDY: Yes, your Honor.

23 THE COURT: For purposes of sentencing, you have
24 the defendant's prior record.

25 MS. BLUNDY: We do. Your Honor, in '79 he was

1 convicted of two of charges of fraudulent check. In
2 '77 he was convicted of possession of cocaine. '77 --
3 I'm sorry, '97 he was convicted of possession of
4 cocaine. '97 he was convicted of possession with
5 intent to distribute crack. He was also charged in '97
6 with trafficking crack and he was convicted. He also
7 was charged with possession with the intent to
8 distribute marijuana in '97 and was convicted. Later
9 on in '97 he was again charged with possession of less
10 than one gram of cocaine second offense. He was
11 convicted on that as well. He has a few other charges
12 from '98, manufacturing and distributing crack. I'm
13 not quite sure if that was tied into the prior charge
14 or not. He was convicted on that as well. And he had
15 a possession with intent to distribute Schedule I
16 through III controlled substances, and he was convicted
17 on that as well.

18 In 2012 he had an unlawful neglect conviction, and
19 he currently has also three pending drug charges, two
20 for possession of controlled substance and one for a
21 possession with intent to distribute third offense.

22 THE COURT: Okay.

23 Mr. Burr, you agree that's your client's record?

24 MR. BURR: Your Honor, I challenge that '98
25 conviction for manufacturing. If my memory serves me,

1 that was not a conviction. I don't have my rap sheet
2 with me.

3 THE DEFENDANT: I was in prison in '98.

4 MS. BLUNDY: That might have overlapped and just
5 went on the custody -- may have been the prior '97
6 charge finally hitting the NCIC.

7 THE COURT: Mr. Burr, be happy to hear from you.

8 MR. BURR: May it please the Court, your Honor.
9 Prior to going to trial, we discussed plea deals with
10 the prosecution. Mr. Carter has some serious medical
11 issues. And that's been his horror, he's not to
12 survive in prison. He's not doing well at all.

13 I know we have gone through a lot. He's got a bad
14 record. He's got problems. I don't -- he's pretty
15 convincing that he's not a drug dealer. He's an
16 addict. He's been an addict for a big part of his
17 life. I would ask for the Court to consider giving him
18 a ten-year sentence suspended to five years probation
19 with two years house arrest with probation's electronic
20 monitoring. That way they could also get him into some
21 drug rehab, get some treatment for him. And if he
22 doesn't succeed, it's still hanging over his head.

23 Your Honor, it's just a sad case with his health
24 being the way it is.

25 THE COURT: Ms. Blundy, do you have anything you

1 would like to tell me?

2 MS. BLUNDY: Your Honor, would you like a State's
3 recommendation at this time? I mean --

4 THE COURT: Well, if you have a belief as to what
5 the State seeks, I'd be happy to hear it.

6 MS. BLUNDY: Okay. The State is adamantly opposed
7 to probation in this case. We would like to see some
8 active time. Based on looking at the sentences he had
9 served on his prior charges, it looks like he was
10 convicted and sentenced to ten years on that
11 trafficking charge. He, on the PWID, had done five
12 years. He did two years on the possession of cocaine.

13 If that gives the Court any guidance to prior time
14 that he has served. I definitely, if the Court
15 understands his position with drug use, he definitely
16 needs some active treatment unit time. That would be
17 the State's recommendation.

18 THE COURT: Mr. Carter, anything you would like to
19 tell me?

20 THE DEFENDANT: Yes, your Honor. I'm just an
21 addict. I've been an addict for years and years. You
22 know, I wasn't selling no cocaine. I wasn't selling no
23 meth. And all those charges in '97 was all together.
24 It's all one charge, all at the same time.

25 THE COURT: How many times have you been in

1 prison?

2 THE DEFENDANT: One time.

3 THE COURT: And how long did you serve?

4 THE DEFENDANT: Eight and a half years.

5 THE COURT: And that was drugs?

6 THE DEFENDANT: On a ten-year sentence, yes.

7 THE COURT: How old are you?

8 THE DEFENDANT: 60 -- be 62 in March.

9 THE COURT: Your attorney says you have got health
10 problems. That's wrong with you?

11 THE DEFENDANT: I've got leukemia. I have had my
12 stomach took out. You know, I'm in pretty bad shape.
13 Can barely walk anymore.

14 THE COURT: Well, do you think the drugs that
15 you're taking are good for your health condition?

16 THE DEFENDANT: I don't hurt. I really don't hurt
17 when I take them.

18 THE COURT: Okay. All right.

19 Madam Clerk, do we have a sentencing sheet?

20 THE CLERK: Do you have a sentencing sheet and a
21 docket sheet?

22 MS. BLUNDY: I do.

23 I just noticed I have the wrong sentencing sheet.
24 I need a new sentencing sheet.

25 I apologize to the Court. We're going to have to

State of South Carolina v. Wayne Carter 2015-GS-37-00214
Sentencing

1 print a new sentencing sheet. It actually has the
2 wrong defendant's name on it. I'm sorry for not
3 checking that prior to trial.

4 THE COURT: Mr. Burr, if you and your client stand
5 down right now. We'll take a brief recess while we
6 wait on that sheet.

7 (WHEREUPON, a recess was taken from 4:57 p.m.
8 to 5:04 p.m.)

9 THE COURT: If there's nothing further, this will
10 be the sentence of the Court: Taking into account the
11 nature of the offense, taking into account the
12 defendant's record, I'm very concerned that there are
13 multiple offenses over a long period of time, multiple
14 convictions spanning many decades.

15 Mr. Burr, I do not think your client is a good
16 candidate for probation due to the history of the
17 situation.

18 Now, I am taking into account the small amount
19 that was found in this case, so I'm not going to give
20 him the maximum sentence, but he could get up to
21 15 years on this, but the sentence of the Court:
22 Defendant to be confined to the Department of
23 Corrections for a term of eight years. Special
24 condition will be ATU.

25 Good luck to you, sir.

WITNESSES

Bobby Medline/Bobby Medline
Seneca Police Dept.

Jason Sutherland

ARREST WARRANT NUMBER

2014A3720300559

ACTION OF GRAND JURY

True Bill

McAppel
Foreperson of Grand Jury
Date:

MAR 09 2015

VERDICT

Guilty

William A. Sheshy
Foreperson of Grand Jury
Date:

September 15, 2015

DOCKET NO. 2015-GS-37- *00214*

The State of South Carolina
County of Oconee

COURT OF GENERAL SESSIONS

MAR 09 2015, TERM

THE STATE

VS.

WAYNE BEECHER CARTER

INDICTMENT FOR

POSSESSION WITH INTENT TO
DISTRIBUTE METHAMPHETAMINE

SC Code: § 44-53-375(B)
CDR Code: 3198

BAB

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2015 MAR 11 PM 3 39

ENTERED
COMPUTER

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

INDICTMENT

At a Court of General Sessions, convened on MAR 09 2015, the Grand Jurors of Oconee County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE

The defendant, Wayne Beecher Carter, did on or about September 3, 2014, in Oconee County, South Carolina, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to distribute, dispense, deliver, or purchase, or possess with the intent to distribute, dispense, deliver, or purchase Methamphetamine, a Schedule II controlled substance under provisions of Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended. All in violation of 44-53-375(B) of the South Carolina Code of Laws (1976) as amended.

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



BETHANY BLUNDY
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

158

COUNTY OF OCONEE

STATE VS.

WAYNE BEECHER CARTER

AKA:

Race: White

Sex: M

Age: 61

DOB: [REDACTED]

SS#: [REDACTED]

Address: Unity Church Rd

City, State, Zip: Westminster, SC 29693

DL# [REDACTED]

SID# SC00237283

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Dist/PWID Meth 1st

In violation of § 44-53-375(B) of the S.C. Code of Laws, bearing CDR Code # 3198

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS3700214

A/W: 2014A3720300559

Date of Offense: 09/03/2014

S.C. Code §: 44-53-375(B)

CDR Code #: 3198

SENTENCE SHEET

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Bethany Blundy, Assistant Solicitor 79907 SC Bar #

Wayne B. Carter Defendant Attorney for Defendant 1046 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 8 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Ordered PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: ATV☐ Appointed PD or appointed other counsel,

\$47.12 requires \$500 be paid to Clerk

during probation. on.

Presiding Judge: [Signature]

Judge Bar ID: _____ Judge Code: 752

Sentence Date: 9-15-15

Clerk of Court/Deputy Clerk: Beverly H. WhitfieldCourt Reporter: Diane Marcengilla

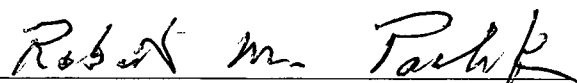
SCCA/217 (03/2011)

*Fine:		\$	
§14-1-206 (Assessments 107.5%)		\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
Proviso 47.9 (Public Def/Prob)	\$500	\$	
§14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$	150.00
§50-21-114 (BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
Proviso 90.5 (SCCA Surcharge)	\$5	\$	5.00
3% to County (if paid in installments)	\$	\$	8.40
TOTAL		\$	288.40

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,


Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 20th day of September, 2016.

RECEIVED

SEP 20 2016

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Oconee County
Honorable R. Scott Sprouse, Circuit Court Judge

RECEIVED

SFP 20 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

WAYNE BEECHER CARTER,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon Megan Harrigan Jameson, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and upon Wayne Beecher Carter, #247064, at Allendale Correctional Institution, PO Box 1151, Hwy. 47, Fairfax, SC 29827, this 20th day of September, 2016.



George Vlasis
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 20th day of September, 2016.

Christian Ford (L.S.)
Notary Public for South Carolina
My Commission Expires : March 1, 2026