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SC Court of Appeals

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Berkeley County

Honorable Kristi Lea Harrington, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JOSEPH UMPHLETT,

APPELLANT

APPELLATE CASE NO. 2015-002121

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT #4 – OFFICER OSWALD DASH CAMERA CD

Frank Thompson
Direct Examination by Ms. Nickles
October 1, 2015

1 definitely grams.

2 Q. Why would one need to weigh small quantities?

3 A. For small street-level sellers.

4 Q. So you also recovered this from the room?

5 A. We did.

6 Q. Was there anything in the defendant's statement,
7 that he admitted possession of, that you did not find in
8 the room?

9 A. There was not.

10 Q. When you went in to execute the search warrant,
11 did you -- were you able to use this in any way?

12 A. Sorry?

13 Q. Were you able to use his statement in any way?

14 A. I was.

15 It led me directly to where I needed to go to
16 find the drugs that were inside the room.

17 Q. Fair to say that he almost gave you a roadmap to
18 where everything was located?

19 A. Sure.

20 MR. SEATON: Objection, Your Honor. Leading.

21 THE COURT: Overruled.

22 Q. [Ms. Nickles] Now, let's talk about James Fludd
23 for a second. You said that this defendant said he had
24 been driving to Marietta and Woodstock. And those are in
25 what state?

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1 A. The state of Georgia.

2 Q. To get methamphetamine and bring it back here?

3 A. That's correct.

4 Q. He said the methamphetamine in this case he had
5 gotten from Georgia?

6 A. Correct.

7 He got from Mr. Fludd on a front, where he didn't
8 have to pay money to get it, he was to return the proceeds
9 of his sales back to Mr. Fludd.

10 Q. Okay. And I'm going to show you a picture.
11 Along with all of this that he led you to, did you, in
12 fact, retrieve what you believed to be methamphetamine?

13 A. We did retrieve methamphetamine from the room
14 inside the safe. I also field-tested it and it indicated
15 that -- a presumptive test, that it was methamphetamine.

16 Q. And where was the meth located?

17 A. Inside the black Sentry safe, which was on the
18 floor in between the two beds, as well as the residue that
19 was found inside the plastic containers.

20 Q. I'm going to hand you State's Exhibit 42. Whose
21 hand is that in that picture?

22 A. That is my hand.

23 Q. And what are you holding?

24 A. Two bags of, at the time, field-test presumptive
25 methamphetamine.

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1 Q. And where was that taken?

2 A. Inside the hotel room.

3 Q. And I'm going to show you State's Exhibit 41. Is
4 that the same meth?

5 A. Yes, it is.

6 Q. And where is that -- where is it, then?

7 A. This was taken inside the safe. The
8 methamphetamine was sitting inside the safe when we took
9 the picture.

10 Q. So as you're searching, is someone taking
11 pictures?

12 A. Yes.

13 The way we do it, we have one person assigned to
14 do a search warrant return, which is basically a receipt of
15 all things we take out of the residence or the -- the place
16 to be searched. A copy of that return goes to the
17 defendant or the property being searched, to the judge, and
18 then to our file.

19 One person is required -- assigned to do that job
20 so that we get a record of everything that we found and
21 taken out as evidence.

22 One person usually is the person taking pictures,
23 and then we have other people doing the search. So if I'm
24 searching over here and I find say this item here, I would
25 call the person that's taking the picture, direct them to

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1 it, they would snap a photograph of it, they would take it
2 and then give it to the person that's taking the return,
3 and then that person would take the evidence and we would
4 have it processed.

5 Q. Okay. And I'm going to show you State's 39.
6 What is that a picture of?

7 A. This is a picture of the safe, as well, with the
8 two bags of methamphetamine and a box of Smart Simple
9 sandwich bags.

10 Q. Was anything else in the safe with that?

11 A. Sorry.

12 The gun is also inside on top of the -- the gun
13 is laying down, and the methamphetamine bags are sitting on
14 top of the gun.

15 Q. And that's this gun that the defendant admitted
16 would be in there?

17 MR. SEATON: Your Honor, objection. Asked and
18 answered.

19 THE COURT: Overruled.

20 A. That gun is the gun that's in the picture.

21 Q. [Ms. Nickles] So after he admitted knowledge and
22 ownership of all this, you found exactly what he admitted?

23 A. That is correct.

24 Q. The gun, the safe, the drugs? All of it?

25 A. Correct.

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1 Q. The bullets?

2 A. That is correct.

3 Q. Containers?

4 A. That is correct.

5 Q. And a shoe box labeled Joe?

6 A. Correct.

7 Q. And do you know this defendant's first name?

8 A. I do.

9 Q. What is it?

10 A. Joseph.

11 Q. When you arrived on scene, some of these weapons
12 had already been retrieved from the room. How did you come
13 into custody of these weapons?

14 A. That is correct.

15 While talking to Officer Williams, he advised me
16 that they were told that there was two weapons inside the
17 room. And he had told me that he was given consent by the
18 defendant to go inside the room to the night stand to
19 retrieve those weapons. He was also told that there was an
20 amount of marijuana inside there.

21 They secured the weapons in I believe it was
22 Officer Henderson's vehicle, and I later went with Officer
23 Williams and Henderson and obtained the weapons and we
24 placed them on the search warrant return.

25 Q. Okay. So you got them from who?

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1 A. They were in Officer Henderson's trunk of his
2 vehicle.

3 Q. And then you took custody of them?

4 A. Correct.

5 And I brought them back inside and we placed them
6 on the search warrant return.

7 Q. And we haven't talked about this gun yet. I want
8 to talk about this gun for a minute. Do you recognize
9 State's Exhibit 126 that's already been admitted?

10 A. Yes. This is a Smith & Wesson semiautomatic
11 pistol.

12 Q. Okay. And what did the defendant tell you about
13 this gun?

14 [Whereupon, the witness reviews documents]

15 A. I apologize.

16 Q. [Ms. Nickles] Take your time. There are so many
17 guns, it's hard to -- we want to make sure we're talking
18 about the right one.

19 [Whereupon, the witness reviews documents]

20 THE COURT: Please observe appropriate handling
21 of firearms, Ms. Nickles. Thank you.

22 Q. [Ms. Nickles] In the second-to-last answer --

23 A. I think -- the questions was, whose gun was in
24 the night stand, and he said the .9mm, which that Smith &
25 Wesson is a .9mm, was -- belonged to Kory.

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1 Q. Okay. So this is Kory's?

2 A. Correct.

3 Q. And he told you this is Kory's?

4 A. Correct.

5 Q. But all this is his?

6 A. That's correct.

7 Q. So he did tell you that this gun belonged to
8 Kory?

9 A. He did and --

10 MR. SEATON: Objection, Your Honor. Asked and
11 answered.

12 THE COURT: Sustained.

13 MS. NICKLES: Move this over here.

14 Q. [Ms. Nickles] Okay. Back to James Fludd. He
15 told you that was his supplier. Did you do any follow up
16 regarding James Fludd?

17 A. We did. I was able to pull a South Carolina
18 driver's license from a driver's license record of James
19 Fludd.

20 We also made a recorded phone call to James Fludd
21 with the number that the defendant provided me.

22 Q. So -- and when was -- when did this take place?
23 Was this on scene or was it --

24 A. No.

25 We had already left and went to the police

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1 department. We were in one of the interview rooms inside
2 of the defendant's office.

3 The defendant provided me with the phone number
4 to Mr. Fludd and I used a program that we have where we can
5 -- basically, I would call the defendant's phone and then
6 enter the number that we want to call --

7 MR. SEATON: Your Honor, I'm going to object. I
8 think we have a matter of law.

9 THE COURT: Please approach.

10 [Whereupon, an off-the-record bench conference is
11 held]

12 THE COURT: Ms. Nickles.

13 Q. [Ms. Nickles] Were you also able to listen to
14 the phone call?

15 A. Yes.

16 While the call is going on, I'm listening to it
17 on my phone.

18 Q. So you're listening to it as it's happening?

19 A. That is correct.

20 And I control the call. I can end the call at
21 any time, as well as the person cooperating making the
22 phone call. Or if the target to the phone call was to hang
23 up, it would end the call.

24 Q. And who gave you the number for James Fludd?

25 A. The defendant gave me the number.

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1 Q. And when y'all called James Fludd, what did the
2 defendant have to say to James Fludd?

3 A. The call, basically the defendant was telling him
4 that he had not sold all the methamphetamine yet so he
5 didn't have the payment, he wouldn't be coming down in the
6 next couple of days.

7 Q. Now, when you say coming down in the next couple
8 of days: coming down where?

9 A. To Georgia. To Marietta, Georgia.

10 Q. Okay.

11 A. Basically, we were trying to buy a little bit of
12 time.

13 The call also went on. Mr. Fludd had told the
14 defendant to go ahead and just send him the payment or the
15 money that he had now. And this was going to be done by
16 the use of Green Cards, which is basically like -- almost
17 like Western Union but you use a card you purchase from a
18 gas station, Walmart, any type of establishment, and you
19 load money onto the card. It has an account number and a
20 pin number and any one of us could -- we had that account
21 number and pin number, we could get the money off of there
22 and transfer it to our Green Card -- or excuse me -- our
23 Green Dot.

24 Fludd gave the defendant the account number and
25 pin numbers to the card -- or the account numbers to the

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1 card so that he could load money onto it, and kind of
2 explained to him how to do it so that we could transfer the
3 money so that he could get whatever money he had now from
4 the two ounces that he was supposed to have sold from the
5 nine.

6 Q. And can you explain to the jury -- you did a
7 little bit. But in your training and experience as a
8 narcotics investigator, are Green Dot cards used often by
9 traffickers?

10 MR. SEATON: Objection, Your Honor.

11 That calls for speculation, and certainly
12 relevance to this case.

13 THE COURT: Counsel approach.

14 [Whereupon, an off-the-record bench conference is
15 held]

16 THE COURT: I'm going to allow this limited
17 testimony. Thank you.

18 MS. NICKLES: Thank you.

19 THE COURT: Note your objection, Mr. Seaton.

20 Q. [Ms. Nickles] In your training and experience as
21 a narcotics investigator, are Green Dot cards commonly used
22 by traffickers?

23 A. They are.

24 You can move money around, unfortunately in small
25 amounts. There's a 500-dollar limit on each card. But you

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1 can move money around easily and throughout state lines
2 without having to physically be there.

3 Q. So rather than using cash?

4 A. Correct.

5 Rather than couriering cash down to whatever
6 location it's supposed to go to, you can load money onto
7 the cards, a number of cards, and then easily transfer
8 between those cards to your account.

9 Q. And the defendant discussed this method of
10 transfer with James Fludd?

11 A. That is correct.

12 James Fludd was giving him instructions how to do
13 it and the defendant was acting as if he didn't know what
14 he was talking about, kind of stalling or buying some time,
15 because we were trying to preserve anything we could, as
16 far as the investigation later with Mr. Fludd. So he
17 was -- Mr. Fludd was giving him --

18 MR. SEATON: Objection, Your Honor. Hearsay.

19 THE COURT: Is there an exception?

20 MS. NICKLES: Your Honor, he's not speaking as to
21 what anyone said. He was just explaining the purpose
22 for the phone call.

23 THE COURT: Overruled.

24 A. We were trying to preserve any type of
25 investigation we could do later with Mr. Fludd. So that's

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1 why we made the phone call. Fludd was wanting the money
2 and said, hey, just put it on the Green Card and send it to
3 me that way. And we were getting the account numbers so
4 that we could possibly do a money-laundering or some other
5 investigation, as far as getting the money that Fludd was
6 expecting on Green Cards.

7 Q. [Ms. Nickles] The topic of that conversation,
8 what did they -- what were they referring to when they were
9 talking about this exchange of money?

10 A. Why were they exchanging money?

11 Q. Yes. Did he say what he owed him money for?

12 A. I don't recall, without listening to the CD or
13 the audio, if they actually said marijuana -- or excuse me
14 -- methamphetamine.

15 I know that he told him that he hadn't sold
16 everything yet and he was waiting for people to bring money
17 that owed him money. So I can't really say, without
18 listening to it, if they actually said, hey, the money I'm
19 sending --

20 Q. What did you believe they were talking about?

21 A. Methamphetamine and narcotics.

22 Q. Whenever you were -- let's go back to your search
23 of the room.

24 Whenever you completed the search and collection
25 of all this evidence, who took custody of it?

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1 A. We went back to the office. And because of the
2 hour -- we had been out earlier that day, and now to the
3 morning -- the drug evidence I placed into a safe that I
4 have access to.

5 I am the custodian of our narcotics funds, which
6 is the confidential funds we use to buy drugs, so I have a
7 safe at my desk that I only have access to. We placed the
8 methamphetamine, the ecstasy, the Molly, and the marijuana
9 into my safe until the next morning when Detective Tanner
10 later processed the evidence.

11 Q. And once you took all this evidence back, do you
12 know who helped you process it?

13 A. Detective Tanner processed it. I didn't process
14 it.

15 Q. And, now, there have been two Tanners.

16 A. I'm sorry. Detective Ryan Tanner.

17 Q. So it was Detective Hurshel Tanner on scene?

18 A. Correct.

19 I called detective Hurshel Tanner to the scene to
20 assist with the investigation of the search warrant.

21 Q. And then whenever -- after you took the evidence
22 back, it was in a secure location?

23 A. Correct.

24 It was secured in my safe that I only have access
25 to. And then the next -- or later in the day, when we came

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1 back into the office, I gave the evidence to Detective Ryan
2 Tanner, who processed the evidence and then later submitted
3 it to Summerville Police Department's chain of custody --
4 or with evidence technicians.

5 Q. Okay. Going back to this statement now that the
6 defendant provided to you. There are two signatures on the
7 bottom. When were those signatures placed there?

8 A. At the conclusion of the statement.

9 Once the defendant wrote out the final answer,
10 the defendant -- or placed his signature on the right side
11 of the statement form where it says, I have read or had
12 read to me the foregoing statement which I made freely and
13 voluntarily; the facts contained therein are true and
14 correct to the best of my knowledge.

15 Q. And there are a few things that we haven't
16 touched on in this statement. You had mentioned that you
17 had signed a gram of Molly, two ecstasy pills, bags, and
18 bullets. Did you find what you believed to be, based on
19 your training and experience, a gram of Molly and two
20 ecstasy pills?

21 A. I believe it was Molly.

22 I don't have the official lab record, but the two
23 pills we found were -- presently had a imprint of a monkey
24 and a smiley face. And through other investigations that
25 I've conducted, I have found similar pills with the monkey

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1 and a smiley face that were later lab-tested as ecstasy or
2 MBMA.

3 Q. But you don't actually test drugs?

4 A. No, I do not test the drugs.

5 Q. Where are the drugs tested?

6 A. With Summerville Police Department, the marijuana
7 is tested in-house. Their lab -- or excuse me -- crime
8 scene people are certified to test marijuana.

9 Any other drug is sent to SLED for lab analysis.
10 And SLED is the State Law Enforcement Division, the State
11 Police.

12 Q. And all the drugs that you recovered in this
13 case, or things you believe to be drugs, were sent to the
14 appropriate agencies for testing?

15 A. That is correct.

16 On scene, I did field-test with a small test kit.
17 One of the bags of methamphetamine and the ice did present
18 itself as presumptive as methamphetamine, which is enough
19 for probable cause for an arrest. We test that item with a
20 field-test kit. That gives me enough to go to a judge to
21 obtain an arrest warrant for the arrest of that person for
22 whatever crime that drug was --

23 Q. And was the defendant in this case placed under
24 arrest?

25 A. The defendant was arrested at the end of our

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1 investigation of this case.

2 Q. And then he was transported just back to the
3 station?

4 A. Transported to Summerville Police Department.
5 Correct.

6 Q. And then you met with him there afterwards to
7 conduct this phone call?

8 A. Correct.

9 We got some more info from him about Fludd, and
10 then made the phone call to Fludd.

11 Q. And you were able to verify that Fludd is
12 actually a real person?

13 A. Yes.

14 We had another voice on the line that indicated
15 he was James Fludd.

16 Q. Okay. You had another voice on the line that --
17 even if that wasn't James Fludd, did it appear to be a
18 supplier?

19 A. It was someone that had intimate knowledge --

20 MR. SEATON: Objection, Your Honor.

21 THE COURT: Sustained.

22 Q. [Ms. Nickles] Based on your conversation you
23 heard, what did you believe the topic of conversation to
24 be?

25 MR. SEATON: Objection. Asked and answered.

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1 THE COURT: Sustained.

2 Q. [Ms. Nickles] You said Mr. Umphlett gave you
3 Mr. Fludd's number?

4 A. That's correct. I wouldn't have --

5 MR. SEATON: Objection. Asked and answered.

6 THE COURT: Sustained.

7 Q. [Ms. Nickles] Did you know James Fludd's phone
8 number?

9 A. I did not know James Fludd's phone number.

10 Q. Did you know who James Fludd was?

11 A. Prior to the defendant telling me who James Fludd
12 was, I did not know who James Fludd was.

13 MS. NICKLES: Beg the Court's indulgence.

14 [Whereupon, Ms. Nickles and Mr. McNeely confer]

15 MS. NICKLES: No further questions. Thank you.

16 Please answer any questions that Mr. Seaton may have.

17 THE COURT: Mr. Seaton?

18 MR. SEATON: Your Honor, given the time and the
19 amount of time it's going to take to question him, I
20 don't know if you would prefer a break for lunch at
21 this point.

22 THE COURT: We're going. Thank you. Your
23 witness.

24 MR. SEATON: Thank you, Judge.

25 - - -

Frank Thompson
Cross-Examination by Mr. Seaton
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CROSS-EXAMINATION

BY MR. SEATON:

Q. Officer Thompson, if I tell you that's a tablet there in your lap or in front of you, and I'm standing close to it, does that make it mine? Am I in possession of your tablet?

MS. NICKLES: Objection.

THE COURT: What's the basis?

MS. NICKLES: He's asking for a legal conclusion.

THE COURT: Overruled.

A. Would I say that you're in possession of this?

Q. [Mr. Seaton] Yeah. Well, you're not -- it's not in your possession. It's sitting right there on the thing, and I'm -- we're both close to it, so who possesses it?

A. I would say I possessed it.

Q. And would you agree with me that if I recognize it and I see it, that that doesn't mean that I possess it? Just because I can tell you it's there and it's sitting in front of you, that doesn't mean that I possess your tablet, does it?

A. No, it does not.

Q. And would you agree with me that when you were on scene at the hotel, that Mr. Umphlett was not in physical possession of any of these firearms?

A. No. Mr. Umphlett was in the back of a patrol

MIA PERRON, CVR-CM-M

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1 car.

2 Q. And would you agree with me that Mr. Umphlett was
3 not in physical possession of any of the drugs?

4 A. Again, Mr. Umphlett was in the back of a patrol
5 car.

6 Q. And would you also agree with me that he would
7 have been farther away from the drugs than Kory Abdon was?

8 A. Again, he was in the back of a patrol car.

9 Q. Well, I guess what I'm asking is I'm trying to
10 figure out other than the fact that he said everything is
11 mine, I'll take them, why didn't you charge Kory Abdon, who
12 was just as close to the drugs and just as close to the
13 guns as Mr. Umphlett, other than the fact that he said
14 that?

15 A. Because Mr. Umphlett admitted to me, under
16 Miranda, that the drugs inside the hotel room was his. He
17 also described the items that were inside there.

18 In my years of law enforcement experience, I have
19 never had an innocent person come to me and say, all this
20 is mine, and it not be theirs.

21 So this is -- this is an admission: this is my
22 drugs, this is my --

23 Q. Never been any false admissions in your -- how
24 many years have you been doing this now?

25 A. About seventeen years. Almost eighteen years.

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1 Q. Never stopped anybody and somebody says, ah, it's
2 all mine, I don't -- please don't take my wife to jail?
3 That's never happened?

4 A. I've never had anyone say it was theirs and it
5 not be theirs, that I knew of, no.

6 Q. And maybe you misunderstood the question I asked
7 you earlier because I said other than the fact that he said
8 they're mine, is there anything else why -- any other
9 reason you didn't question Kory Abdon, hey, what's in the
10 safe? Did you ask her what's in the safe?

11 A. I did not.

12 Q. Did you ask her to describe what's in the drawer?

13 A. I did not.

14 Q. Well, so when you say he described it and she
15 didn't, it's because you didn't ask her, did you?

16 A. I didn't.

17 Q. So other than the fact that he said everything is
18 mine, there's no difference in where she was in proximity
19 to these things than where he was; correct?

20 A. Other than when I corroborated what he said with
21 the phone call that we made to his supplier, James Fludd.
22 Through that conversation --

23 Q. We'll get to that in a minute --

24 A. Can I --

25 Q. -- because that was after you had already

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1 arrested him.

2 I'm talking about before you arrested him --
3 before you arrested him and your decision that you were not
4 going to arrest Kory Abdon. When did you decide that -- or
5 did you decide, or who decided, that we were not going to
6 arrest Kory Abdon?

7 A. I think it was a unanimous decision, not to
8 arrest her, between all the detectives on scene --

9 Q. So when did y'all --

10 A. May I finish?

11 Q. When did y'all talk about it?

12 MS. NICKLES: Objection.

13 THE COURT: What's the basis?

14 MS. NICKLES: May he please allow the witness to
15 answer his question? He's cutting him off before he
16 can finish.

17 MR. SEATON: If I did, I apologize.

18 Q. [Mr. Seaton] Go ahead.

19 THE COURT: Thank you, Mr. Seaton.

20 MR. SEATON: I'm sorry.

21 A. Investigations with drugs aren't open and shut.
22 They continually go on. So after talking with Mr. Umphlett
23 and him admitting that the items inside the room was his,
24 that he had the only knowledge of it, we made the telephone
25 call that would corroborate that information. Had we found

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1 something inside the room that would lead us to believe
2 that this Kory female was involved, certainly we would have
3 arrested her.

4 But this gentleman is telling me that, all the
5 stuff inside this hotel room is mine, this is where it is,
6 this is where it came from, and then we made that phone
7 call which corroborated everything that he was telling me,
8 we --

9 Q. [Mr. Seaton] I appreciate you said that this is
10 an open and shut case when it comes to drugs. I appreciate
11 that. But that's not the question that I was asking you.
12 Because once again, you keep wanting to talk about this
13 phone call that was made to Mr. Fludd. But you would agree
14 with me that was a long time after you arrested him;
15 correct?

16 A. It was --

17 Q. According to your testimony just a minute ago, it
18 was. Would you agree with me? Was it afterwards?

19 A. The phone call was made after --

20 Q. Okay. So I'm asking --

21 A. -- the arrest.

22 Q. -- you about your decision of who you're going to
23 arrest and who you're not going to arrest. You said y'all
24 -- you had a unanimous decision that you were not going to
25 arrest Kory Abdon. When did y'all have this conversation?

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1 A. Once we completed the search of the hotel room.

2 Q. And so how did y'all get together and say, well,
3 let's don't arrest Kory? How was this conversation?

4 And first of all, let me make sure I -- you agree
5 with me: it is certainly not in your incident report.
6 Nowhere in here do you say anything about any discussion
7 about whether to arrest Kory Abdon or not; correct?

8 [Whereupon, the witness reviews documents]

9 A. No. I don't write anything about our discussion.

10 Q. [Mr. Seaton] All right. Well, then, from your
11 recollection, since it's not in writing -- from your
12 recollection, who had this conversation? Who did you
13 discuss whether we're going to arrest the other person?
14 Because wouldn't you agree it's standard operating
15 procedure that you arrest everybody? If you've got two
16 people in a room and there's drugs and there's guns, you
17 got to arrest everybody. Wouldn't you agree that's
18 standard operating procedure?

19 A. No, I would not agree that's standard operating
20 procedure.

21 Q. All right. So tell me how you came to the
22 decision -- if you never asked Kory Abdon any questions
23 about what was in the safe or what was in the drawer or
24 what kind of guns you had or how many guns you had, if you
25 never asked her any of those questions how can you

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1 corroborate or not corroborate her knowledge of what was in
2 the room the same way you did for Mr. Umphlett?

3 A. A number of factors. The admission of the
4 defendant that all the items inside the room is his. Okay?
5 He telling us where these items would be located, what they
6 would be located.

7 We found the safe. We found the methamphetamine
8 inside the safe. We found the Molly inside the safe. We
9 found the ecstasy inside the safe. We also found the gun
10 that he said would be inside the safe. Inside that shoe
11 box with his name on it, Joe, written in blue marker, we
12 also found the two plastic containers that had the residue
13 of methamphetamine inside of it.

14 Now, him providing me with a written statement
15 saying that all the items was his, that he goes to
16 Marietta, Georgia, to pick these items up, he picks up four
17 to six ounces at a time, and this time he was fronted nine
18 ounces, had sold two ounces, led us to believe that this
19 was only going to be Mr. Umphlett's, based on his
20 admission, based on the items that we found inside the
21 room.

22 Q. I agree with you. It's based on his own
23 admission and the fact that he knew what was in the room.

24 But you never asked her about what was in the
25 room. You never asked Kory what was in the room, did you?

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1 A. No, I didn't ask Kory.

2 Q. And you agree with me that simply having
3 knowledge about something doesn't make it yours. Would you
4 agree with me about that?

5 A. I would agree with you on that, yes.

6 Q. So let's talk about -- I guess my first question
7 really is wasn't there quite a few sets of tennis shoes in
8 this room?

9 A. There was a lot of stuff in the room, clothes --

10 Q. Wasn't there -- I'm sorry. I didn't mean to cut
11 you off.

12 A. -- clothes, baby toys, baby clothes.

13 I believe -- without looking at a picture, you
14 know, based off my mind, or memory, there was a couple of
15 boxes of shoes and tennis shoes.

16 Q. There was quite a few sets of shoes and quite a
17 few boxes, shoe boxes, wasn't there?

18 A. Without looking at a picture to say yes --

19 Q. And would you agree the shoe box that had Joe's
20 name on it, there was also a pair of the same shoes as the
21 shoe box?

22 A. Without looking at a picture, I honestly couldn't
23 tell you.

24 Q. I understand.

25 So let me ask you this. A couple of questions.

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1 You've already told us that this voluntary statement that
2 Mr. Umphlett made, that some of this is your handwriting
3 and some of it is his?

4 A. That is correct.

5 Q. And did you coach him on any of this stuff? Did
6 you tell him what to say?

7 A. I didn't coach him.

8 As I said before in my testimony, one of the
9 police officers approached me and said, hey, he doesn't
10 know what to write. So I went back to the patrol car and
11 told him basically write what you told me was in there,
12 where it was, and left him to that. He wrote the statement
13 on his own, by himself, in the patrol car.

14 Q. All right. So when you were not coaching him, do
15 you --

16 A. I --

17 Q. -- really believe that he would use the language
18 two empty plastic containers with residue?

19 A. Again --

20 Q. Do you really -- do you really think that's the
21 kind of language that this man would use in writing a
22 statement? That he's going to tell you that he's got two
23 plastic containers with residue? Do you really believe
24 that?

25 A. Again, you said when I wasn't coaching him. I

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1 did not coach him. I simply told him to tell us what was
2 in there, where it was. I closed the patrol car door and I
3 walked away. He wrote the statement, on his own, inside
4 the vehicle.

5 Q. And when he talks about three or four grams of
6 weed, do you really think that he's going to say exactly
7 how many grams of -- because we're talking about this
8 [indicates] much, aren't we? Isn't that about three or
9 four grams?

10 A. Grams are a small amount.

11 Q. You really think he's going to use that language
12 that, I have three or four grams of marijuana under -- in
13 the -- underneath the mattress?

14 A. I do, because the defendant is a drug
15 trafficker. The defendant has knowledge of drug weights,
16 prices, stuff like that. Yeah, I think the defendant would
17 use three to four grams in his statement.

18 Q. So if that's true, then, why does he use ounces
19 when we talk about the ice? Why is -- why do we switch
20 over from grams to ounces? Because we're using two
21 different tables here. We're using a metric table and
22 we're using a good old-fashioned American English table.
23 So why do you reckon he's switching up here?

24 A. Because the common weight to talk about drug
25 weights is grams, ounces, kilos, pounds.

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1 Q. And at no point did you say if you write this or
2 if you take responsibility, we're not going to arrest Kory
3 Abdon?

4 A. No.

5 He did ask us not to arrest her and I explained
6 to him, as I said before, if our investigation shows that
7 she's not involved, then she's not going to be arrested.

8 If we found something -- if that box, the shoe
9 box, said Kory in blue writing and it had those two plastic
10 containers with the residue, she would have been arrested.

11 We found nothing that indicated she was involved
12 in the trafficking of controlled substances in the state of
13 South Carolina, so she was not arrested for it.

14 Q. You tell us that Officer, or Detective, but what
15 you don't tell us is what you did to determine her
16 involvement. Because there was no discussion with her
17 about any of these things. So what investigation did you
18 do, or are you aware of anyone doing, about her
19 involvement?

20 A. I questioned the defendant, who took
21 responsibility and admitted to the drugs that was found
22 inside the room..

23 Q. All right. Now if you would answer the question
24 that I asked you, is what did you do about her. Her is not
25 Mr. Umphlett. Her --

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1 MS. NICKLES: Objection.

2 Q. [Mr. Seaton] -- is mister --

3 THE COURT: Hold on one second. What's the
4 basis?

5 MS. NICKLES: This has been asked and answered
6 several times.

7 THE COURT: Sustained.

8 Q. [Mr. Seaton] So you did nothing; correct?

9 A. Again, interviewed the defendant, obtained a
10 written statement where he wrote in his own handwriting the
11 things that was found in the room and was going to be
12 there. We found those things. And he said that they were
13 his, that he had the only knowledge of them.

14 Q. And you told us about this way of transferring
15 money with -- once -- because you had already made the
16 arrest; correct? I'm sorry. That wasn't a fair question.
17 Tell you where we're at.

18 You arrested Mr. Umphlett and you want him to
19 make a phone call; is that correct?

20 A. Mr. Umphlett was arrested at the time and I asked
21 for his cooperation to further our investigation to go
22 after the source of supply, the person that is supplying
23 this methamphetamine to come into the state of South
24 Carolina. Mr. Umphlett agreed and we made a recorded phone
25 call to James Fludd.

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1 Q. And I'm assuming you said make it easier on
2 yourself, if you'll cooperate with us, I'll do what I can
3 to help with the problems that you've got if you make this
4 phone call?

5 A. We do -- it's typical in my line of work. We
6 have a lot of leniency.

7 So let's say this investigation he had ten
8 charges, we could have charged him with three things right
9 then and there, held off on the other seven things. If he
10 was to cooperate with us and we could further this
11 investigation, we could do away with those charges and not
12 charge him with them.

13 Or if he had been charged, in this instance we
14 could -- to make our recommendation to the prosecutor and
15 say, this is what he was charged with, this is what he has
16 done to help us further this investigation to get the
17 supplier that's bringing it into the state of South
18 Carolina, and make a recommendation that either sentencing
19 leniency or dropping the charges, a reduction in charges.
20 Any number of things we're able --

21 Q. So -- I'm sorry. Go ahead.

22 A. -- to recommend.

23 Q. So you did make a promise.

24 A. Didn't make a promise. I can't promise anything.

25 There's three people involved in this: myself,

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1 or the investigator -- actually, about four people: the
2 investigator, the defendant, the prosecutor, and now the
3 judge.

4 Q. And --

5 A. So I can't promise anything that these three
6 other people are going to do. I --

7 Q. Well, you've already told us that you could help
8 him --

9 A. I --

10 THE COURT: Please let him finish. Thank you.

11 MR. SEATON: I'm sorry, Your Honor. I apologize.

12 A. I can only make a recommendation, as I said
13 before, to the solicitor, say this is what he's done, this
14 is the amount of dope we had on him, this is the amount of
15 dope he's brought with his cooperation. I --

16 Q. [Mr. Seaton] I could have sworn --

17 I'm sorry. Did I cut you off again? If I did, I
18 apologize.

19 A. But I can't promise anyone anything.

20 Q. Did you just tell us a minute ago, though, that
21 you could decide whether or not you wanted to charge him
22 with just a couple of things instead of a lot more things?
23 I think that was what your testimony was.

24 A. We have the leniency to hold charges, not charge
25 them right them.

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1 Because I'll be honest with you, sometimes it's
2 hard for defendants to get out of jail on bond. So if this
3 defendant is capable of doing a number of positive things
4 to reduce the amount of drugs that are coming into my
5 county, we want to get that person out on bond as fast as
6 we can. So we may charge them with a simple possession of
7 marijuana so they can make bond and come work for us, and
8 we'll take care of the other charges on the back end by
9 either recommendation through the solicitor or just
10 dropping the charges at all.

11 It's easier if we hold the charges and not serve
12 them with the warrants because now it's just two people:
13 us and the defendant. If the defendant falls off and
14 doesn't follow up or live up to their agreement, then
15 they'll end up getting charged and we start the whole
16 process over again and we end up where we are today.

17 Q. So now that's the threat end of it because you
18 made a promise I can help you, but if you're going to hold
19 these other things over their head as a threat that if they
20 don't cooperate that this is the penalty. So you've got
21 both the promise and the threat that you've already told us
22 you hadn't made; correct?

23 A. At no point in my testimony did I say that I
24 promised him anything. I cannot promise anyone anything.
25 I don't have that power.

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1 And there is no threat. It's an agreement. If
2 you work with us -- they know they're there. They know the
3 charges are there. They committed the crime, so they know
4 that the charges are there. So if they work with us, then
5 we don't have to charge them with it. That just makes it a
6 lot easier for everybody --

7 Q. So that --

8 A. -- two people, instead of four people.

9 Q. So now you've charged Mr. Umphlett with
10 trafficking in methamphetamine, which is a pretty serious
11 charge, isn't it, as the solicitor wanted to point out?
12 That's a lot more than consumption, I think was what she
13 wanted to point out. It's more than consumption level?

14 A. This is a lot more than consumption level.

15 Q. So now he's been charged. And he knows, if I
16 work for you, you're going to help me. Girlfriend is
17 already out of the picture, correct, because y'all aren't
18 charging Kory?

19 A. The girlfriend --

20 Q. That's already taken care of?

21 A. The girlfriend was not charged.

22 Q. So now I'm going to work for you. You wanted him
23 to make a phone call; correct?

24 A. I did ask him if he would make a phone call and
25 he agreed.

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1 Q. And you told him about this whole process with
2 the Green Dot cards, about how you can launder money with
3 the Green Dot card?

4 A. No. I didn't tell him anything about Green Dot
5 cards.

6 Q. And so he makes the phone call, as he's already
7 told you he's going to cooperate. So he makes the phone
8 call.

9 A. He did make the phone call. He provided me with
10 the phone number to plug.

11 Q. And you did not make any promise, you did not
12 make any threat, for him to make this phone call?

13 A. No. This was his own, voluntarily.

14 Q. And at no point did -- was there actually any
15 contact between Mr. Umphlett and this Mr. Floyd or Fludd
16 fellow, was there?

17 A. I'm sorry?

18 Q. You don't have any -- you don't have any contact?
19 You don't have them meeting up or exchanging money or
20 anything like that? We've got a phone call?

21 A. After the phone call?

22 Q. Yes.

23 A. No. No.

24 The defendant never called back, never showed up,
25 couldn't get a hold of him. I had reached out to Kory to

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1 try to get a hold of the defendant, to bring him back in,
2 and never heard back.

3 Q. So there was a phone call, and that's it?

4 A. That was the conclusion of that part of the
5 investigation that we were taking on.

6 Q. So in other words, it went nowhere?

7 A. Nowhere.

8 MR. SEATON: Thank you. Nothing further.

9 THE COURT: Redirect?

10 MS. NICKLES: Nothing from the State.

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

12 THE WITNESS: Thank you.

13 THE COURT: Call your next witness.

14 THE WITNESS: Do you want me to just leave this
15 here?

16 THE COURT: Call your next witness.

17 [Whereupon, Mr. Thompson is excused and exits the
18 witness stand.

19 MR. MCNEELY: The State calls Wade Rollings.

20 [Whereupon, Mr. Rollings comes forward]

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

23 [Whereupon, Mr. Rollings is duly sworn by the
24 clerk of court as follows: do you solemnly swear or
25 affirm the testimony you shall give in this case shall

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

3 THE WITNESS: I do.

4 THE CLERK OF COURT: If you'll have a seat.

5 [Whereupon, Mr. Rollings takes the witness stand]

6 THE CLERK OF COURT: State your full name for the
7 record, and spell your last name.

8 THE WITNESS: All right. My name is Wade
9 Franklin Rollings. R-O-L-L-I-N-G-S.

10 THE COURT: Mr. McNeely?

11 MR. MCNEELY: Thank you, Judge.

12 Good morning -- or good afternoon, Mr. Rollings.

13 How are you?

14 THE WITNESS: Pretty good. How are you doing?
15
16
17
18
19
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22
23 - - -
24 - - -
25 - - -

Wade Rollings
Direct Examination by Mr. McNeely
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1 Because what I do is once I finish testing it, I
2 heat-seal the bag, initial it, and date it.

3 Q. And you did that to all of those packages?

4 A. Yes.

5 Q. Do they appear to have been tampered with since
6 you finished testing them?

7 A. No.

8 Q. Do you notice anything particular about those
9 packages today?

10 A. Other than the fact that I can still smell it
11 after a year or so with being heat sealed. Other than
12 that, no.

13 Q. Show you what's been marked as State's Exhibit
14 53. Do you recognize that document?

15 A. Yes, I do.

16 Q. What is that document?

17 A. This is the marijuana analysis form that's
18 completed after the testing.

19 Q. Is that the marijuana analysis testing form for
20 the marijuana recovered in this case?

21 A. Yes, it is.

22 Q. Briefly describe for the jury the process that
23 you do to test the marijuana.

24 A. Briefly, once I get it I unseal -- well, the
25 officers will seal it in a heat-sealed bag or a self-sealed

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1 bag when they place it in the drug box. Once I take it I
2 cut it open.

3 Depending upon what it's in, if it's in a bag,
4 cigarettes or whatever, we have to weigh just the green-
5 plant material itself.

6 Once it's weighed, we take some, place it under a
7 microscope, do a microscopic exam, and then we do a
8 chemical examination on that same sample.

9 Q. And you produced a report for that testing in
10 this case?

11 A. Yes, sir.

12 Q. And what were the results of that report?

13 A. All three were confirmed marijuana.

14 Q. What was the total weight?

15 A. Grand total weight is 3.5 grams.

16 Q. And you signed that report?

17 A. Yes, sir.

18 MR. MCNEELY: The State would move at this time
19 to admit State's Exhibit 53 into evidence.

20 MR. SEATON: Without objection, Your Honor.

21 THE COURT: State's 53 into evidence without
22 objection.

23 [Whereupon, State's Exhibit Number 53 is admitted
24 into evidence by the Court]

25 MR. MCNEELY: Thank you, Your Honor.

Lawrence Zivkovich
Direct Examination by Ms. Nickles
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1 A. Let's see here.

2 [Whereupon, the witness reviews documents]

3 A. I picked up the package from Doris Yarbrough on
4 May 21st, 2014.

5 Q. [Ms. Nickles] And where did you pick that up?

6 A. In our evidence log-in area.

7 Q. Were there any indications that it had been
8 tampered with at all?

9 A. No, ma'am.

10 When I pick up the evidence, I will examine the
11 evidence and once I've found that it hasn't been tampered
12 with, I'll write on it. And this one has seal is intact on
13 May 22nd, 2014, with my initials.

14 MR. SEATON: Your Honor, the defendant is willing
15 to stipulate that it is a proper sample and that the
16 sample shows that it was methamphetamine. We're
17 prepared to stipulate to that.

18 THE COURT: Are you prepared to stipulate?

19 MS. NICKLES: Your Honor, I would like to
20 introduce this into evidence and ask him a few more
21 questions.

22 THE COURT: All right. You may continue.

23 MS. NICKLES: Your Honor, at this point the State
24 would move -- and I'll mark this as State's --

25 MR. SEATON: Without objection.

Lawrence Zivkovich
Direct Examination by Ms. Nickles
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1 MS. NICKLES: -- 132 into evidence.

2 [Whereupon, State's Exhibit Number 132 is marked
3 by the court reporter]

4 THE COURT: 132.

5 MS. NICKLES: Thank you.

6 THE COURT: State's 132 into evidence without
7 objection.

8 MS. NICKLES: Thank you.

9 [Whereupon, State's Exhibit Number 132 is
10 admitted into evidence by the Court]

11 Q. [Ms. Nickles] Once you received this, did you
12 conduct any kind of test or analysis on this package?

13 A. I did.

14 Q. And what kind of test or analysis did you
15 perform?

16 A. I performed a chemical test and an
17 instrumentation test.

18 Q. And what are those?

19 A. A chemical test is just when you put a substance
20 inside of a particular chemical. Depending on what type of
21 color that chemical may emit, it gives you an indication of
22 what drug may or may not be, or if it even is a drug. And
23 depending on what those chemical tests show you, then it
24 informs you of what type of instrumentation you need to run
25 it on.

Lawrence Zivkovich
Direct Examination by Ms. Nickles
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1 Q. And in this case, what was the result of that?

2 A. It showed that I found -- on item 1.1, I had two
3 bags containing methamphetamine.

4 Q. And from that, were you able to form an expert
5 opinion as to what that exhibit is or contains?

6 A. Yes, ma'am.

7 I found that it -- the two bags contained a
8 combined weight of 193.71 grams of methamphetamine.

9 Q. And that -- you said that measurement was in
10 grams; right?

11 A. Yes, ma'am.

12 Q. Are you familiar with approximately how many
13 ounces that would be?

14 A. Well, there's approximately twenty-eight grams to
15 an ounce. I mean, without a calculator, I would say it's
16 roughly maybe five or six ounces. Excuse me. Ten -- close
17 to eight ounces.

18 Q. Okay. So that's just a rough estimate?

19 A. Yes.

20 Q. So you said you were able to conduct some tests
21 on this. Do you normally generate a report as a result of
22 your analysis?

23 A. I do.

24 Q. Did you create a report in this case?

25 A. I did.

Lawrence Zivkovich
Direct Examination by Ms. Nickles
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1 Q. And does that report reflect the opinions that
2 you just stated?

3 A. It does.

4 Q. I'm going to hand you -- or I believe you may
5 already have it. Was your report contained in that --

6 MR. SEATON: Without objection, Your Honor.

7 THE COURT: Hold on. You're getting way ahead
8 and the record will not be clear.

9 A. Yes, ma'am.

10 Q. [Ms. Nickles] Okay. You said this was the case
11 ending in 26. I have a copy of that marked as State's
12 Exhibit 57. Do you recognize this?

13 [Whereupon, the witness reviews documents]

14 A. Yes, ma'am. It's a copy of my report.

15 Q. [Ms. Nickles] Okay. And do you sign your report
16 when you're done with it?

17 A. Electronically. Yes, ma'am.

18 Q. And do you see your signature on that report?

19 A. I do.

20 Q. And what -- if you could explain for the jury
21 what all is contained in this report. If you could just
22 explain for them these item numbers and what your results
23 are.

24 A. Item 1.1 was found to contain two bags of
25 methamphetamine, with a total weight of 193.71 grams.

Lawrence Zivkovich
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1 And then bag 1.2 contained no controlled
2 substances.

3 And then item 1.3.1 contained a tablet, which had
4 one benzylpiperazine in it.

5 And item 1.3.2 had a tablet with also contained
6 one benzylpiperazine.

7 Q. And these samples that you obtained, they were
8 originally brought to SLED by Summerville Police
9 Department?

10 A. That is correct.

11 Q. So those were the samples collected in this case,
12 the State versus Joseph Umphlett?

13 A. Yes, ma'am.

14 Q. I'm going to ask you a few questions. When you
15 picked the package up from log-in, is it a secured drug
16 vault --

17 A. Yes. When I pick --

18 Q. -- or is it dropped --

19 A. -- it up, it's from an actual person.

20 Q. Okay. But before that, it's dropped into a
21 secure drug vault?

22 A. When they bring it to SLED, a person will
23 actually check it into SLED's custody and then they will
24 hold it into a secure area until the analyst comes to pick
25 up the evidence.

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1 Q. But after you tested both of these, you did turn
2 them back in?

3 A. Yes, ma'am.

4 Q. And they eventually arrived back here?

5 A. [No response]

6 MS. NICKLES: Your Honor, I would just -- for the
7 record, I would like to make sure that 132, 133, 56 and
8 57 are admitted.

9 THE COURT: 132, 133 [sic], 56 and 57. And there
10 was no objection?

11 MR. SEATON: Without any objection.

12 THE COURT: All right. They will be admitted
13 without objection.

14 [Whereupon, State's Exhibit Number 56 is admitted
15 into evidence by the Court]

16 [Whereupon, State's Exhibit Number 57 is admitted
17 into evidence by the Court]

18 [Whereupon, State's Exhibit Number 132 is
19 admitted into evidence by the Court]

20 MS. NICKLES: I have no further questions. Thank
21 you.

22 THE COURT: Mr. Seaton?

23 MR. SEATON: No questions, Your Honor.

24 THE COURT: Sir, you may step down. Feel free to
25 stay with us, but I think you're probably going to head

In-Chambers Conference
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1 lone remaining alternate.

2 MR. SEATON: I think we've got to take her at her
3 word.

4 THE COURT: I'm going to go ahead -- she
5 indicated that she had listened to all the testimony.
6 I think that -- I think it's a close call. And of
7 course like we were all saying, we can't watch everyone
8 all of the time. And so I'm going to go ahead, based
9 upon -- she's taken an oath to try this case, just as
10 every witness has, and so I'm going to take her at her
11 word.

12 Please though, throughout the course of my
13 charges -- though usually they'll fall asleep during
14 closings, too, and my charges. So if you observe --
15 and especially her. If you observe that she's closing
16 her eyes again, please let me know. All right?

17 Anything further as to the charges?

18 MR. SEATON: No, Your Honor.

19 MR. MCNEELY: Not as to the charges, Your Honor.

20 THE COURT: As to the?

21 MR. MCNEELY: As to the evidence.

22 THE COURT: Oh. Okay.

23 MR. MCNEELY: The State thought that it admitted
24 Exhibit 131 into evidence and was subsequently informed
25 by the Court and her court reporter that it was not

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1 actually admitted. It was marked and identified on the
2 record and we would move now to admit that, as a
3 formality. It is the packet of marijuana.

4 THE COURT: Mr. Seaton?

5 MR. SEATON: I'm trying to recall.

6 THE COURT: It was in a big manilla envelope
7 and --

8 MR. MCNEELY: I also believe it was consented
9 to --

10 MS. NICKLES: Yeah.

11 MR. MCNEELY: -- somewhat.

12 MR. SEATON: I think in fairness I have to agree
13 with you. I was just trying to recall the whole
14 scenario. But that's when we were kind of picking up
15 the pace a little bit.

16 MR. MCNEELY: I handed him the marijuana marked
17 131 and he said, this is it, this is from the case.
18 And I thought I admitted it, and I apparently didn't,
19 and I admitted the report.

20 THE COURT: 131 into evidence.

21 [Whereupon, State's Exhibit Number 131 is
22 admitted into evidence by the Court]

23 THE COURT: And we'll just -- Mr. Seaton, to
24 protect the record, you don't have an objection one way
25 or the other because you do not recall?

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1 MR. SEATON: I do not recall. So in fairness --

2 THE COURT: And so --

3 MR. SEATON: -- to everyone, I would have to say
4 if that was the case, then that's the case.

5 THE COURT: And just while we're back here: we
6 had a conference, Ms. Nickles, with Detective Thompson,
7 I believe, about the expert qualification and the
8 testimony concerning the phone call, and you did not
9 object to her line of -- or you did not require that
10 the testimony be from that of an expert?

11 MR. SEATON: I certainly did not -- because we
12 had decided we weren't trying to admit him as an
13 expert, then I think he was available for opinions,
14 impressions that he had of the time. So that's why we
15 were doing it on a question-by-question basis.

16 THE COURT: I just wanted to make sure that that
17 was addressed, the issue of whether or not he was an
18 expert, because he did give, in essence, testimony that
19 could be considered to be an opinion based upon his
20 training and experience as law enforcement I believe
21 seventeen years?

22 MS. NICKLES: Yes, Your Honor.

23 THE COURT: And so I just wanted to make sure the
24 record was clear that we -- while you did not
25 necessarily agree with the testimony, you agree that he

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CLOSING ARGUMENT

MS. NICKLES: Ladies and gentlemen, we are here today for three reasons.

Number one is that the defendant brought over a hundred grams of methamphetamine from Georgia into South Carolina. And on May 11th, 2014, that defendant possessed almost 200 grams of methamphetamine that he brought into this state from Georgia.

The second reason that we're here is that you heard testimony that this defendant has been previously convicted of a violent crime. As a result of his conviction of a violent crime, he is prohibited from possessing firearms or ammunition. On May 11th, 2014, this defendant possessed at least two firearms and ammunition.

The third reason we are here is because the defendant has been charged with trafficking and under the laws of South Carolina, trafficking is a violent crime and a person who is involved in the commission of a violent crime also is prohibited from possessing a firearm.

Ladies and gentlemen, because this defendant brought methamphetamine from Georgia into South Carolina, into Berkeley County, he was committing a violent crime and as a result he was charged, as you

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1 heard at the beginning of this case, with trafficking
2 methamphetamine, possession of a weapon during a
3 violent crime, and a person who has previously been
4 convicted of a violent crime in possession of a weapon.

5 Ladies and gentlemen, we're here today because of
6 Joseph Umphlett. We're not here because of officers,
7 we're not here because of anyone who testified. We are
8 here because of Joseph Umphlett. And I know that you
9 have heard a lot of testimony and been through a lot of
10 witnesses, so bear with me.

11 But I do want to make sure that we are clear on
12 the law and the burden that the State has to prove. In
13 this case the State has the burden of proof. And in
14 this case, with this evidence, ladies and gentlemen,
15 that is a burden that the State welcomes.

16 Trafficking methamphetamine. What is trafficking
17 methamphetamine? You heard at the beginning of this
18 trial that you may think that trafficking
19 methamphetamine involves a big operation and involves a
20 lot of people. And per our laws, what South Carolina
21 has established, that trafficking is simply a person
22 who knowingly sells, manufactures, delivers, purchases,
23 or. And these ors are important. I'm reading it like
24 this because I want you to realize it's not all of
25 these things. It's one or the other.

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1 So a person who sells, manufactures, delivers,
2 purchases, or brings into this state, or who provides
3 financial assistance, or otherwise aids, abets,
4 attempts, or conspires to sell, manufacture, deliver,
5 purchase, or bring into this state, or who is knowingly
6 in actual or constructive possession or who knowingly
7 attempts to become in actual or constructive
8 possession, of ten grams or more of methamphetamine.

9 And ladies and gentlemen, we'll touch on the
10 possession because a lot has been said during this
11 trial about possession. There are two types of
12 possession in South Carolina. And the judge will
13 instruct you on those. And if ever there is anything I
14 say that conflicts with what the judge says, the judge
15 is the one who gives you the law.

16 But I do want to touch on these elements so we're
17 clear. What of the first words I said was knowingly.
18 Knowingly means that the State must prove that the
19 defendant had actual knowledge of the nature of the
20 conduct at issue. This, simply put, means that he
21 didn't do it by accident, that it wasn't hidden from
22 him, that he knew that he was possessing
23 methamphetamine.

24 Now, this does not go to the weight. This goes
25 to the substance involved. So knowingly, simply put,

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1 means that the defendant was aware that what was in his
2 possession was methamphetamine. And the word
3 possession comes up a lot.

4 Possession can be two types of possession. And
5 the judge will instruct you on this, but before the
6 argument I think it's important to understand that
7 actual possession is what it sounds like: actual
8 possession of, actual possession of this pen, something
9 physically on my person. I have it. You can see me
10 with it.

11 But there is another kind of possession in South
12 Carolina, and that possession is called constructive
13 possession. Constructive possession requires that
14 someone has dominion and control. Now, these two words
15 also have definitions. Dominion means supremacy in
16 determining the direction or action, or in governing
17 the particular place or location. Simply put, that you
18 have the ability and the knowledge to take these things
19 from one place to another. Control means subject to
20 authority, to regulate, to govern and direct, to
21 exercise a restraining or directing influence over the
22 object.

23 And these sound complicated. But dominion and
24 control, simply put, again means that you have the
25 ability to move these things about. First of all, you

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1 have to do it knowingly, so you have to know what you
2 have, and then that you have the dominion and control
3 over these items. You don't have to be holding them.
4 You just have to have the ability to control where they
5 go.

6 And I want to go back to, now that we've gone
7 over that, the wording of the statute. There are a lot
8 of ors. To find the defendant guilty of trafficking,
9 you need to only find one. The defendant in this case
10 admitted that he brought into South Carolina, from
11 Georgia, the methamphetamine at issue in this case.
12 That alone, ladies and gentlemen, combined with your
13 finding that this methamphetamine was over ten grams,
14 is enough to find him guilty.

15 And if you don't believe that he brought this
16 methamphetamine into South Carolina from Georgia, if
17 you find that he had possession, either actual or
18 constructive, of that methamphetamine, that alone is
19 enough to find him guilty. You need not find every
20 single one. Pay attention when the judge charges you
21 to the ors.

22 Now, I know that you have all listened to the
23 testimony, so I don't want to repeat everything that
24 the witnesses said from this stand. But let's take a
25 little look at what happened in this case, simply put.

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1 There is a phone call placed to a non-emergency line
2 and officers responded. You heard testimony from the
3 three responding officers.

4 You heard testimony from Lisa Parker, the caller,
5 and from Nicole Pia, who was the dispatcher. A call
6 comes in and requests a child-welfare check. Officers
7 are dispatched. Normally, Nicole Pia said that was --
8 you know, there was a way that she put out calls. She
9 did that in this case. No one was targeted. And
10 officers responded.

11 The first officer who testified -- the first
12 officer who responded was Officer Oswald. Ladies and
13 gentlemen, he testified that he was a patrol officer,
14 this was in his normal scope of employment, something
15 that he typically does every day. Also, Officer
16 Henderson responded. And along with them, Officer
17 Williams responded..

18 When they arrive at the scene, they are there to
19 check on the welfare of the children. They go to the
20 first desk. They get information. They try to
21 corroborate what's been given to them on the dispatch
22 call. That leads them to room 119. When they get to
23 room 119, they knock on the door and it takes a little
24 bit of time for the occupants to answer.

25 Ladies and gentlemen, one of the things you can

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1 use in reaching a verdict is your common sense. You're
2 allowed to consider the evidence, and you can use your
3 common sense. And when we're going through these facts
4 starting out, I want you to use your common sense. Why
5 do you think it took them a little while to answer?
6 When the defendant opens the door, he cracks it. Why?
7 Eventually, he opens it all the way.

8 And you heard the audio. And you'll have the
9 evidence with you so if there are any questions about
10 anything, you can listen to the audio again. I
11 challenge you, listen to that audio. Everything that
12 they testified to is how it happened.

13 Then, once they're on scene, they all testified
14 that they smelled what they believed to be marijuana.
15 As a result of that, they furthered their
16 investigation. They then requested consent to search,
17 and the defendant gave them limited consent to search.
18 At that point they decided to call in the specialists.
19 Who responded then? The three detectives.

20 They all said, they testified, that this was
21 their normal way of responding, that the three of them
22 worked together, that they were kind of a team.
23 Strickland is to get the search warrant, Thompson, who
24 you recently heard from who said he's been a narcotics
25 detective for seventeen years, responds to the scene

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1 and he starts to investigate. While he's on scene, he
2 comes into contact with the defendant and the defendant
3 says he wants to talk to him. He asked him if he's
4 been Mirandized. The defendant says he has been
5 Mirandized. He has a verbal conversation with him, and
6 he asked the defendant to reduce that to writing. The
7 defendant does so. He signs it.

8 And from there, Strickland arrives on scene.
9 This is probably the most important piece of evidence
10 in this case.

11 If we could publish --

12 I want you to pay attention to this because
13 Officer Thompson, after getting this written statement
14 from the defendant, this is their roadmap. They have
15 not been in the room. They have not seen any of the
16 contents of the room. He didn't go in the room. And
17 the defendant tells them that everything belongs to him
18 and instructs them to it. He says there is seven
19 ounces of ice, seven ounces of ice is how this
20 statement starts, with a .9mm target pistol. Seven
21 ounces of ice, a .9mm target pistol, along with a bag
22 with a gram of Molly and two ecstasy pills. Seven
23 ounces of meth, a gram of Molly, and ecstasy pills,
24 ladies and gentlemen, along with that.

25 He says, you will find bullets in the night

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1 stand, and one gram of weed under the first mattress.
2 Maybe three to four grams of weed also in the night
3 stand, which is also in here. So now he's admitted he
4 knows where all the weed is, even the weed under the
5 mattress. He knows it's under the mattress. And then
6 he mentions the second weapon, a .38. He also tells
7 them that they will find two empty containers with
8 residue. And that was in this box. H even had his
9 name on it: Joe. Joe's box, Joe's container.

10 Then he says, it's all mine and only mine. I've
11 been driving to Marietta and Woodstock, Georgia, to get
12 four to six ounces of ice fronted to me, from a James
13 Fludd, for almost two months now; I pick up from him.

14 Ladies and gentlemen, look at this statement when
15 you are deliberating. Look at this evidence. Look at
16 this statement and look at this evidence. Does this
17 sound like a lucky guess or like somebody who got
18 caught in the wrong place at the wrong time? Or does
19 this sound like somebody who knows exactly where
20 everything in the room is because it belongs to him?

21 Additionally, he gave his source. He talked
22 about a James Fludd. You heard from Detective Thompson
23 that he followed up on that. He was on the line when
24 the defendant said that he was still willing to speak
25 and still willing to make the phone call. He got the

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1 phone number from the defendant. He listened in on the
2 call. And the conversation that they had was about,
3 hey, I'm not going to be able to make it back with the
4 money for the meth that I just picked up in Georgia and
5 brought to South Carolina. I got held up. It's going
6 to be a little while. That's fine. You can just put
7 some money that you owe me on a Green Dot card and
8 transfer it to me. And Detective Thompson testified
9 that that is a common way for drug traffickers to
10 exchange money.

11 He asked him follow-up questions. Does Kory know
12 that the drugs you stated in the room are there.

13 Answer: no, she believes I only had the weed I was
14 about to smoke. Ladies and gentlemen, I would point
15 out that line, about to smoke. If you're about to
16 smoke some weed, do you think it would be in the night
17 stand, or do you think maybe it made it there
18 immediately prior to opening the door?

19 He then continued. Has Kory ever saw you sell
20 ice or Kory know that you've had ice. Defendant: no;
21 she has asked me and I told her no; I did nothing in
22 front of her. Question: how often do you go to
23 Georgia to pick up ice and how much each time. Answer:
24 about once a week for four to six ounces. What do you
25 pay for each ounce. \$700. Describe James Fludd: a

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1 white male about six feet, 140 pounds, sandy-color
2 hair, acne-scared face, red blazer. Who's gun was in
3 the night stand. Black .38 was mine; the .9mm is legal
4 to Kory; I got it from Skip off of Remount Road. And
5 that's funny, because he was happy to admit that this
6 gun belonged to Kory. He didn't say that gun belonged
7 to Kory. He said, oh, that gun's Kory's, the rest of
8 this is mine. So that's Kory's; this is his.

9 And he said: the .38 was mine. This gun is his.
10 This gun that he is not allowed to have, this gun he is
11 not allowed to have because he has a violent crime
12 conviction. We'll give him that gun. We'll say that
13 gun belongs to Kory. But these? These? These belong
14 to him. And one of these alone is enough, these
15 bullets alone are enough, for one of the charges.

16 Last question. Do you claim ownership and
17 knowledge of all illegal drugs and weapons in the room.
18 Answer: yes, it was mine, and I had only knowledge of
19 them.

20 Ladies and gentlemen, he then signs this
21 statement. And right above where he signed it: I have
22 read or had read to me the foregoing statement, which I
23 have made freely and voluntarily. The facts contained
24 therein are true and correct to the best of my
25 knowledge.

MIA PERRON, CVR-CM-M

-814-

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1 Now, I want to remind you -- the judge said this
2 at the beginning, right before closing, that in this
3 case when you are determining guilt or innocence that
4 you are allowed to consider the evidence. The evidence
5 in this case came from this stand. It didn't come out
6 of my mouth, it didn't come out of Mr. Seaton's mouth,
7 it came from this stand and it is admitted on that
8 table and here. Evidence is either spoken from here or
9 has a red label on it.

10 We all have jobs here. Mr. Seaton has a job to
11 defend his client, and he's been trying to plant little
12 seeds of doubt along the way. But what Mr. Seaton is
13 saying in this case is not evidence. Use your common
14 sense. He questioned a lot of things. He wants to
15 blame a lot of people. He wants to blame the
16 responding officers, he wants to blame the
17 investigators, he wants to blame Kory Abdon, he wants
18 to blame Lisa Parker. He wants to blame everybody but
19 Joseph Umphlett.

20 Joseph Umphlett is the one who is on trial. The
21 officers aren't on trial. This is not the State versus
22 Kory Abdon, this is the State versus Joseph Umphlett.
23 And in this case, this evidence points to that
24 defendant. It does not point to anyone else. Again,
25 look at this statement before officers searched. This

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1 is how they knew where to find everything.

2 He made a really big deal about Kory not being
3 Mirandized, Kory not being Mirandized, Kory not being
4 Mirandized. And then when he found out that wasn't
5 true -- she was. She was Mirandized. She was
6 questioned. She wasn't arrested, because all of the
7 evidence points to him.

8 The funny thing about this is they were --
9 officers testified they were separated pretty soon when
10 they were on scene. Somehow, their stories are pretty
11 well aligned. The defendant says that gun is Kory's
12 and she knew about the pot. While Kory is away from
13 him she says, that gun's mine and I knew about the pot.
14 Do you think that's a coincidence, or do you think
15 maybe that's the truth?

16 He made a big deal out of Detective Thompson's
17 end of the investigation after the phone call. The
18 reason why the investigation ended after the phone call
19 into James Fludd is because this defendant wouldn't
20 respond and he wouldn't cooperate.

21 He made a lot -- a big, big deal out of the
22 officers who took the stand and asked them if they made
23 reports, and if they had recordings, and lots of
24 questions about their investigation. And they were
25 honest. When they didn't have something, they told you

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1 they didn't have it. When they were questioned about
2 the absence of a report or equipment that was not
3 working, they didn't try to explain it away, they just
4 said yes. Do you think that those officers were lying
5 to you? Do you think all six law enforcement officials
6 who took that stand were lying?

7 We may not have every single word recorded. And
8 the memories of the officers are not perfect one year
9 later. That's why they write reports. And they're
10 nervous. They don't take the stand every day. So they
11 may not remember everything perfectly. But you know
12 one thing that was perfect in this case? This roadmap
13 to where all the evidence in the whole room was
14 located. This statement that matched Kory Abdon's
15 statement about the Smith & Wesson being hers and her
16 knowing of the marijuana. And what else is accurate is
17 the weight of the drugs.

18 Now, he made a big deal about, well, how would he
19 know to use ounces and grams, does that sound like
20 something he would use? Yes. He's a drug trafficker.
21 Weight is very important to him. Weight is his job.
22 Weight. Weight is important when you're selling drugs.
23 You know the measurements are ounces for this, grams
24 for this. Of course he knows how to describe the drugs
25 that were found in his possession.

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1 And if that's his profession, you know he's got
2 to be keeping tabs on his inventory. It wasn't Kory's,
3 it was his. The I have seven ounces of meth, I have
4 approximately -- I don't want to misstate it -- a
5 couple grams of weed here. He knew. He knew this
6 because it was his, because it was his, all of this was
7 his. He told officers it was his. He told officer
8 after officer after officer.

9 He started out slow. He started out with, yeah,
10 the marijuana in the drawer is mine. And then they
11 kept -- continued to investigate. They Mirandized him.
12 He told them he had been Mirandized before, he
13 understood. He gave them limited consent to get the
14 marijuana.

15 And then when that didn't work and he found out
16 that narcotics detectives were on the way, he wanted to
17 talk, he wanted to give them a little bit more
18 information: it's all mine, it's enough, it's seven
19 ounces. Ladies and gentlemen, it's seven ounces of
20 crystal meth that he brought into South Carolina from
21 Georgia to weigh and package and sell. Seven ounces of
22 crystal meth brought into this state and this county by
23 Joseph Umphlett, with these guns, while he's carrying
24 these bullets, packing it up real nicely in this big
25 old safe.

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1 He made sure he had his supplies with him, too.
2 Does it make any sense to have a bunch of baggies with
3 a handgun and methamphetamine? Of course it does, if
4 you're selling it.

5 Ladies and gentlemen, there is a video in
6 evidence, if you have questions. And it's almost three
7 and a half hours long. We didn't play that entire
8 video because we didn't want you to have to sit through
9 three and a half hours of video when all of this
10 evidence points in one direction. But if you have any
11 doubt please, when you go back, watch that video.
12 Listen and remember. Remember the testimony and listen
13 to what you hear on that video. See if you think any
14 of those officers were not telling the truth. They
15 admitted when they didn't have something. They weren't
16 here to trick you or lie to you or deceive you. They
17 didn't try to trick or lie to or deceive that
18 defendant, either. They're just trying to do their
19 job.

20 Ladies and gentlemen, please, please, please look
21 at this. Look at the time that was taken before the
22 search warrant was executed. Remember the testimony
23 about this. Remember that he gave his source and that
24 was corroborated. Remember that we're here for three
25 reasons: that on sometime before May 11th, 2014, this

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1 defendant brought these drugs into Berkeley County;
2 this defendant possessed these guns in Berkeley County;
3 this defendant possessed this ammunition in Berkeley
4 County. All of this. Ladies and gentlemen, whatever
5 wasn't here, he brought into Berkeley County, too. He
6 even put it in a box with his name on it.

7 I think Detective Strickland said it best when he
8 was explaining the investigation. He said there were
9 seven ounces of meth in the defendant's room and
10 several loaded guns. And the defendant voluntarily
11 claimed ownership of all of these items. That's all
12 there is to it. That alone proves the defendant's
13 guilt beyond a reasonable doubt.

14 Ladies and gentlemen, I told you when I started
15 that the State bears the burden of proof in this case.
16 That means we must prove to you beyond a reasonable
17 doubt all of the elements of these offenses. And that
18 is why we put -- we were so careful to put every person
19 up here, so you could hear the evidence from the place
20 where you're supposed to hear it and make a
21 determination based on this evidence and this evidence
22 [indicates].

23 Ladies and gentlemen, we're going to ask you to
24 use your common sense when you're evaluating all this.
25 Use your day-to-day knowledge in determining whether

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1 you think this really belonged to someone else. Seven
2 ounces of crystal meth. Remember the testimony. And
3 remember, nobody is on trial but Joseph Umphlett. No
4 one. This is the State versus Joseph Umphlett.

5 Mr. Seaton is going to get up here in a little
6 while. And he has a job to defend his client. But
7 while he's talking to you, keep in mind what came from
8 this stand, judge the credibility of the witnesses, ask
9 yourself do you think they were telling the truth or do
10 you think all six of them got together and conspired,
11 as he would claim, again, to come up with this plan to
12 make it look like Joseph Umphlett did something that he
13 didn't. That's not what happened. Keep that in mind.
14 He has a job to defend his client, and we have a job to
15 prevent -- present this evidence to you.

16 It's not often that we have a roadmap leading up
17 to all the evidence that we find in a case. Ladies and
18 gentlemen, the only way the defendant could make this
19 roadmap is if he had knowledge of these drugs. And you
20 will hear the judge charge you that possession does not
21 have to be total ownership, that it can be constructive
22 possession evidenced by the ability to have dominion
23 and control.

24 Saying everything that was in that safe -- all of
25 this evidence, ladies and gentlemen, I submit dominion

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1 and control. This proves it. This is before they go
2 in. The only person who could have given this
3 information to the officers was someone who knew where
4 everything was. So keep that in mind. Don't forget
5 this roadmap. Look at this roadmap. Look at this
6 evidence. Watch the DVD. Make your own conclusions.

7 Ladies and gentlemen, I want to address one more
8 thing, and that was Lisa Parker. She was one of the
9 first people you heard from. I want you to think about
10 her and I want you to judge her credibility. She was
11 visibly shaking on this stand because she was so
12 nervous. She didn't want to be here. She didn't want
13 to testify. Mr. Seaton hammered her about why do you
14 want to remain anonymous, why did you want to remain
15 anonymous, why didn't you want to give your name. And
16 I think Lisa Parker said something that was very
17 telling. She said, I don't know how deep his drug
18 trafficking goes, and I was scared of retaliation then
19 and I still am now.

20 Ladies and gentlemen, if you feel that we have
21 failed to meet our burden, then you must let him go.
22 But if you believe that we have proved beyond a
23 reasonable doubt -- and that is just something that
24 leaves you firmly convinced. You will hear it from the
25 judge -- that this defendant brought this meth into

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1 South Carolina and into this county, then you must find
2 him guilty.

3 And that's what we ask you to do.. We ask you to
4 return a verdict that is fair, that is based on your
5 knowledge and your observation of what we presented.
6 But I would submit to you that in this case, with this
7 evidence, the State has surpassed that burden. Thank
8 you.

9 THE COURT: Mr. Seaton?

10 MR. SEATON: Thank you, Your Honor.
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1 CLOSING ARGUMENT

2 MR. SEATON: This so-called roadmap is a lot more
3 like a paint by numbers, and if they want to leave that
4 up there I'll be happy to help with how they painted by
5 numbers here. You have been told a lie, wrapped in a
6 lie in a lie sandwich, because the solicitor has gone
7 out of their way to make sure that you ignore all of
8 the facts of what you heard from this stand.

9 And much like Detective Thompson back here told
10 us, he said, this is an open and shut case. Because
11 every time I tried to ask him and every other officer
12 what did you do, other than take him at his word when
13 he says I did it, their answer is, well, he said he did
14 it. That's the lie that you have to believe because
15 Mr. Umphlett lied to them.

16 When they took a couple of minutes to come to the
17 door, he said, I'll take the -- I'll take this charge;
18 I know that your mama is here, I know that y'all are
19 trying to get into trouble, you're going to be in a lot
20 of trouble, I'll take this charge.

21 And so that's why I spent so much time asking
22 them what they've done when you have -- because I think
23 even the solicitor would agree with me, we don't have
24 actual possession of anything. All we've got is what
25 they call constructive possession. And I went out of

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1 my way. I wasn't trying to be funny when I pointed out
2 that if I know this man has got a gun, does that mean I
3 have constructive possession of it because I know he's
4 got it. Or when the detective had his tablet in front
5 of you and I said, I know you've got a table there,
6 does that make it mine because I know it's here and I'm
7 standing just as close to it as you are? No.

8 So does it make one bit of sense that they never
9 questioned Kory Abdon about her -- about what part she
10 might have played in all of this? And I did make a big
11 deal about the fact that she was never Mirandized. Do
12 you know why? Because the police never did a report.
13 How am I supposed to know, in a three-hour video, that
14 if y'all can hear it you've got much better ears than I
15 do -- but at some point there is supposed to be, or I'm
16 assuming the lieutenant who was here -- I don't know.
17 She didn't identify herself. I couldn't really hear --
18 who allegedly gave the Miranda warnings to Ms. Abdon?
19 Who knows? Because they didn't do a report.

20 The lieutenant, the boss of the bosses, she
21 didn't even do a report. When I found out about it was
22 when she walked up here and sat on this stand. The
23 same time you did. Guess who was just as surprised
24 when I found out, yeah, they Mirandized her? But what
25 did they do after they Mirandized her? Nothing.

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1 Nothing. Did they ask her any questions about where
2 anything is located?

3 Let's talk -- let's look at the so-called roadmap
4 for a second. They lied to you when they said they
5 hadn't been in the room when this was created. Think
6 about what you heard from these guys up here. They
7 were in the room within the first ten minutes. This
8 [indicates] is two and a half, three hours, into them
9 having been when he writes this. They had been in the
10 drawer, they had taken the guns, they had seen the
11 marijuana. And this is supposed to be a roadmap?

12 Hell -- heck, everybody had seen all this stuff.
13 There ain't nothing -- this ain't Lewis and Clark
14 blazing a new trail. This is Highway 26 that everybody
15 had been up and down. It's not a roadmap. It's what
16 he was told to say.

17 If anybody truly believes for one single solitary
18 minute that Mr. Umphlett is going to sit down in the
19 middle of the night when he's just been arrested and
20 he's going to write that you're going to find two empty
21 containers with residue, come on. When they talk about
22 using your common sense, do you really think he wrote
23 that? Do you really think he said that? Or was he
24 told to say that because when he decided, I'm going to
25 take the charge for my woman, I'll say what I need to

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1 say, I'll do what I need to do.

2 But does that really mean his lie becomes their
3 lie? Does that mean because he lied and said, I'll
4 take the charge, that therefore nobody has got to do
5 their job? Is that what we're -- is that what we're
6 supposed to mean? Is that what open and shut, as
7 Detective Thompson says? Is that what it means, that
8 we -- nobody's got any responsibility to do any real
9 work or any real investigation, or maybe ask the person
10 who's room it is?

11 Why don't we start there? We went there to the
12 motel, to whatever -- Mr. Ogier, or whatever his name
13 was. Kory Abdon, that's who rented the room. That's
14 whose children's stuff was there. What did we ask her?
15 Well, you know, at some point -- she wasn't real sure
16 when but at some point a lieutenant rode by and read
17 her her Miranda. Didn't fill out a report but, you
18 know, so what, we're here to tell the truth.

19 So that's the investigation that was done.

20 Now, let's talk about the investigation. Oswald
21 tells us that he gets the call because he's the guy
22 that works that sector of town: I get a call about a
23 welfare check on some kids, Kory Abdon and Joseph
24 Umphlett. Well, guess whose chimes in. The guy who --
25 there ain't been no mention of drugs now at this point,

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1 according to what they said on the stand, that
2 Mr. Williams -- I call him Mr. Williams because he's no
3 longer a policeman.

4 Mr. Williams says, my job was to do major cases,
5 drug interdiction, and things of that nature. Well, he
6 just chimes in, after we hear of Joseph Umphlett and
7 Kory Abdon, I'm going to go over there. You know, he
8 denies that he knows that this is his cousin's husband.
9 Well, yeah, maybe we've been at a couple of places
10 together but I don't -- you know, I don't know. But he
11 denied that. But somehow, he ends up in charge of this
12 thing.

13 Now, you've got his boss, the sargent, Sargent
14 Henderson, who should have been in charge or at least
15 the first man -- the first responder, as he was called.
16 He should have been the one in charge. But what did
17 you hear on the one out of three tapes that you got to
18 hear? All you heard was, his wife's cousin. That's
19 all you heard.

20 Now, we all know the whole reason we went there
21 was not true. There was no children.

22 The next thing you're supposed to believe is
23 this: this cigar blunt, this little bit of marijuana
24 that they could smell it all the way outside. Because
25 that's how they end up getting inside this room, is

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1 what they call the plain smell. If I can smell it,
2 then I get to come in.

3 Now, he told them to come on in, you can take the
4 marijuana; yeah, there are some guns, you can take
5 that. But at what point do you now overstep your
6 bounds and you say, well, listen, we've changed our
7 mind; I'm going to contact another detective and we
8 aren't going to tell him the whole story and he's going
9 to go to the judge and not tell the judge the whole
10 story; we're going to tell him about the welfare check
11 but we ain't going to tell him that we've already found
12 out there's no children there.

13 So when I asked Mr. Williams, the wife's cousin,
14 about his video: well, didn't realize it wasn't
15 working, didn't find that out until sometime after the
16 arrest; didn't have any problems before, hadn't had any
17 problems since, but in this case, guess what, my wife's
18 cousin's tape don't work.

19 Then we hear from officer -- or Corporal at the
20 time, now Sargent, Henderson, who tells us, yeah I had
21 a tape but I threw it away; I destroyed the evidence; I
22 have a duty to uphold the laws of the state of South
23 Carolina, the City of Summerville, to give this man a
24 fair opportunity, and I've got this video that should
25 be just as long -- if that one's three hours, it ought

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1 to be just as long because he was there just as long as
2 the other officers, and he destroyed it. So if they
3 want to talk about the roadmap, there's your roadmap.
4 There's your roadmap.

5 The investigation that was not done included a
6 lot of things that was not done. We've got this whole
7 table full of stuff. And I want to include this gun
8 with the rest of them, and the reason being is
9 according to, quote, the roadmap, he says it's his,
10 too, that he takes responsibility for all the guns. So
11 while, yeah, he said Kory had it legally, he still
12 takes responsibility so I'm going to go ahead and put
13 all this stuff together. This is one roadmap that he's
14 allegedly taken responsibility for.

15 Why couldn't we fingerprint all of this stuff?
16 How hard is that? It's still -- where -- where is any
17 of that testimony? The baggies, the drugs, the guns,
18 anything. Where's anything? All we've got is two
19 people who have the same access. And did Kory Abdon
20 get arrested? No. Was she questioned? No. Is she
21 here today to testify? No. Is this an investigation?
22 No. It's a man who took responsibility for his
23 girlfriend and he's here to pay for it today. And I
24 don't know how to tell you how to analyze that, because
25 he took responsibility for his girlfriend. And whether

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1 that means you need to find him guilty because he did
2 the wrong thing by doing that, or because you believe
3 that all he did was lie to them and say it's mine.
4 They certainly can't prove beyond a reasonable doubt
5 that it's his.

6 All you've got is his word. That's for up to
7 y'all to decide. I can't do that for you. If a man
8 takes the responsibility for his girlfriend and says, I
9 got it, I'll do it for you, I got it, does that means
10 he needs to be found guilty today? That's up to y'all.

11 But that's the lie that he's told to these
12 people. And there's plenty of lies that they've told
13 you, and there's a lot of lies they told to him because
14 when they promised him, just as you heard from this
15 stand, well, I made promises but I didn't make
16 promises, I made threats but I didn't make threats.
17 Everybody knows how that game gets played.

18 Now, they wanted to make a big deal about this
19 James Fludd guy. He's arrested and he's charged with
20 all this stuff. He's gotten his girlfriend out of
21 trouble. She's no longer -- she and the kids are fine.
22 Detective Thompson and them say, tell you what, make
23 some phone calls for us, we'll help you out. Well,
24 that's what he tried to do. Nothing came of it, but he
25 tried. He did what they told him to do, just like he

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1 did here.

2 This roadmap is not a roadmap, it's a guide.
3 It's a paint by number steps. Question: blah, blah,
4 blah. Answer: blah, blah, blah. You will see that
5 this is not something that he created. This is
6 something they created. Because when he said, I'm
7 going to take it, he meant it. And he took it and he
8 did exactly what police told him to do: fill this out,
9 answer the questions, do what we tell you to do.

10 If this is Mr. Umphlett's lockbox or -- again, we
11 don't know who's touched it, but why were the keys to
12 the lockbox -- when it was locked, why were they on
13 Kory Abdon's car keys? The same reason she rented the
14 room. The same reason that the call was about Kory.
15 This whole case has been about Kory.

16 And so I agree with the solicitor when they said,
17 well, the only one on trial today is this man. I agree
18 with that. But really who's on trial today is Kory
19 Abdon and the work of the Summerville Police Department
20 by doing no investigation, by simply taking him at his
21 word when he says, I did it; all right, we don't have
22 to do anymore, let's go home; we could have -- there's
23 so many things that we could have done to prove this
24 that we didn't do.

25 Her Honor will tell you that it's the State's

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1 burden to prove beyond a reasonable doubt that he's
2 guilty of the crimes that he's been charged with. And
3 she will further tell you that a reasonable doubt is a
4 doubt that makes a reasonable person hesitate to act.
5 And I've always struggled with the meaning of that.
6 And she'll explain it to you a little better.

7 But I've had some thoughts about it. And I'm
8 sure everybody here is familiar with what they call
9 Lady Justice. And that is the woman who stands there
10 and holds the scales of justice. And she's wearing a
11 blindfold, and the reason she's wearing a blindfold is
12 because justice has no friends to reward and no enemies
13 to punish.

14 And with the scales of justice, if the scale is
15 tipped one way a little more than the other, the one
16 who's tipped just a little more one way, the other in a
17 civil case wins. That's what's called a preponderance
18 of the evidence. In this case, in a criminal case,
19 it's got to look like this [indicates]. It has to be
20 beyond a reasonable doubt.

21 So when you think of the scales of justice,
22 that's what you have to determine: that the facts from
23 the very beginning to the very end, that every fact
24 looks like this: beyond a reasonable doubt. And I
25 think when you apply that kind of standard and you

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1 think about what kind of investigation was not done,
2 other than the fact that Mr. Umphlett said, I'll
3 take --

4 And you know what? That was good enough for the
5 Summerville Police Department. He wants it, he's got
6 it. And they helped him write this. And you can
7 certainly look at the time on it and you know what time
8 they got there and you know how long they had already
9 been in and out of that room, and you know what they
10 already knew. So this isn't a roadmap. This is paint
11 by numbers.

12 One of the things that the solicitor said, that I
13 agree with, is use your common sense, use your everyday
14 experiences. Don't pretend like you've never heard of
15 anybody who's ever taken the charge for somebody else
16 the way those officers did. Don't pretend like that
17 doesn't happen every day. Use your common sense. Use
18 your everyday experience. Think about that. And think
19 about when he said, this is an open and shut case, and
20 I think what you'll realize it's not.

21 This is not an open and shut case. It's a lot
22 more complicated than that. Life is a lot more
23 complicated than that. And if that means you do your
24 job and you do your investigation and you do the work
25 that you're supposed to do, then you do it. But you

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1 don't just say it's open and shut. We don't need to
2 talk to the woman who owns the car, who owns -- or who
3 rented the room, who has the keys to the lockbox; we
4 don't need to talk to her; we're good; we're good; he
5 said, I got it.

6 He got it all right. We're here today because he
7 got it. It's up to y'all to decide whether he got it
8 or not. I ask that you find he ain't got it.

9 THE COURT: Ladies and gentlemen, I am now going
10 to instruct you on the law applicable to this case.

11 Now would be an appropriate time if you just want
12 to stand and stretch your legs. Feel free to do so.

13 Ladies and gentlemen, this is the last part of
14 the trial before you retire to consider your verdict.
15 This is also some time when members of the audience
16 feel like they need to leave. That's why I also give
17 y'all time to stretch.
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Verdict
October 1, 2015

VERDICT

THE COURT: All right. Let's bring in the jury.

[Whereupon, the jury enters the courtroom at
4:52 p.m.]

THE COURT: Thank you. Please be seated.

I understand you have reached a verdict. If you
will hand the verdict form to the bailiff.

Mr. Umphlett, please rise.

Are you going to publish the verdict?

THE CLERK OF COURT: Yes. I was waiting for you
to --

The State of South Carolina versus Joseph
Umphlett, case number 2014-GS-08-1525. On the charge
of trafficking methamphetamine, we, the jury, find
Joseph Umphlett guilty.

The State of South Carolina versus Joseph
Umphlett, indictment number 2014-GS-08-1526. On the
charge of possession of a weapon during a commission of
a violent crime, we, the jury, find Joseph Umphlett
guilty.

The State of South Carolina versus Joseph
Umphlett, indictment number 2014-GS-08-1528. On the
charge of possession of a firearm by a convicted felon,
we, the jury, find Joseph Umphlett guilty.

Is this your verdict?

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1 THE FOREPERSON: Yes.

2 THE CLERK OF COURT: If this is the jury's
3 verdict, if you will signify by raising your right
4 hand.

5 [Whereupon, jurors comply]

6 THE CLERK OF COURT: All jurors have raised their
7 right hand.

8 THE COURT: All right. All twelve jurors. Thank
9 you.

10 Anything further required of the jury from the
11 defendant?

12 MR. SEATON: No, Your Honor.

13 THE COURT: Anything further required of the jury
14 from the State?

15 MS. NICKLES: No, Your Honor.

16 THE COURT: All right. Thank you. Please be
17 seated.

18 Ladies and gentlemen, this completes your service
19 to this case and it also completes your service for the
20 week.

21 Please go back to your jury room. I'll be in
22 there in just a few moments to personally thank you for
23 your service to Berkeley County.

24 Ms. Rutledge, you can go back with the jury if
25 you would like to. Thank you.

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1 Please rise for the jury.

2 [Whereupon, the jury exits the courtroom at
3 4:54 p.m.]

4 THE COURT: Thank you. Be seated.

5 Outside the presence of the jury, anything
6 further from the State?

7 MS. NICKLES: No, Your Honor.

8 MR. SEATON: No, Your Honor.

9 THE COURT: Are we prepared to go forward on
10 sentencing at this time?

11 MS. NICKLES: Yes, Your Honor. I have the
12 sentencing sheets prepared.

13 THE COURT: Ms. Nickles, Mr. Seaton, is that all
14 the evidence? Before I go back to the jury room, would
15 you just ensure that all of the evidence that was put
16 in has come out?

17 MS. NICKLES: Yes, Your Honor.

18 THE COURT: Thank you.

19 THE COURT: As you are probably aware, I am most
20 concerned about the firearm and the drugs before I go
21 back.

22 MR. MCNEELY: Yes, ma'am.

23 THE COURT: If you'll just --

24 [Off the record momentarily]

25 MR. MCNEELY: I put the ammunition back in the

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1 box, Your Honor.

2 THE COURT: So all of the drugs and guns are in
3 the box?

4 MR. MCNEELY: Yes, ma'am.

5 THE COURT: Just checking.

6 I'm going to go release the jury. I will be
7 right back.

8 [Off the record momentarily]

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State vs. Joseph Umphlett
Sentencing
October 1, 2015

SENTENCING

1
2 THE COURT: Mr. Seaton, is your client ready to
3 proceed with sentencing?

4 MR. SEATON: Yes, Your Honor.

5 THE COURT: Did you advise your client of his
6 right to appeal?

7 MR. SEATON: Yes, ma'am.

8 THE COURT: Mr. Umphlett, you have the right to
9 appeal this conviction, this verdict, but you or your
10 attorney must do so within ten days of today's date.

11 Do you understand?

12 MR. UMPHLETT: Yes, Your Honor.

13 THE COURT: I am going to sentence you here
14 today. You understand what the sentence is going to
15 be?

16 MR. UMPHLETT: Yes, Your Honor.

17 THE COURT: What is the sentence going to be?

18 MR. UMPHLETT: Life.

19 THE COURT: I'm sorry?

20 MR. UMPHLETT: Life.

21 THE COURT: Mr. Seaton, I'll be happy to hear
22 from you.

23 The State is filling out the sentencing sheets.
24 And as I have indicated to your client on more than one
25 occasion this week, my options are limited. The

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1 sentence is what it is.

2 So I'll be more than happy to hear from you.

3 MR. SEATON: Your Honor, because there's no
4 politician to hear my cry about the fact that the Court
5 should have the discretion to decide the appropriate
6 sentence, rather than the State Legislature, I don't
7 want to say anything more except to say that I
8 understand your hands are tied.

9 THE COURT: Mr. Umphlett, do you wish to address
10 the Court? You do not have to. And as a matter of
11 fact, most attorneys advise their clients not to say
12 anything.

13 MR. UMPHLETT: No, Your Honor.

14 THE COURT: No, you do not wish to address the
15 Court?

16 MR. UMPHLETT: No, ma'am.

17 THE COURT: Have you been pleased with the
18 services of Mr. Seaton?

19 MR. UMPHLETT: Yes, Your Honor.

20 THE COURT: Do you think there was something he
21 could have done, or perhaps should not have done,
22 throughout the progress of your representation?

23 MR. UMPHLETT: Excuse me?

24 THE COURT: Was there something that he did well,
25 or not so well? Any complaints about the way he has

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1 handled himself during --

2 MR. UMPHLETT: Not at this time, Your Honor, no.

3 THE COURT: I'm sorry?

4 MR. UMPHLETT: Not at this time, Your Honor, no.

5 THE COURT: All right. Thank you.

6 Ms. Nickles, I have sat through the progress of
7 this trial. I will be more than happy to hear from the
8 State.

9 MS. NICKLES: Your Honor, nothing further at this
10 time, other than the LWOP notice was served in excess
11 of ten days prior to trial.

12 THE COURT: When was it served?

13 MS. NICKLES: It was served on August 27th, 2015,
14 in front of Judge Dennis, on the record.

15 THE COURT: Mr. Seaton, you are not challenging
16 the sufficiency of the LWOP notice --

17 MR. SEATON: No, Your Honor --

18 THE COURT: -- is that correct?

19 MR. SEATON: -- I was here for that and certainly
20 that is correct, the date and being in front of Judge
21 Dennis.

22 THE COURT: What is the potential punishment on
23 possession of a weapon during the commission of a
24 violent crime?

25 MR. MCNEELY: Five years, in addition to the

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1 underlying crime, Your Honor.

2 THE COURT: It may run concurrent, though; is
3 that correct?

4 MR. MCNEELY: That's correct, Your Honor.

5 THE COURT: Do you agree with that, Mr. Seaton?

6 MR. SEATON: I do, Your Honor.

7 I think it's also kind of hard to run
8 consecutive, but --

9 THE COURT: And what is the potential for
10 possession of a firearm by a person convicted of a
11 violent offense?

12 MR. MCNEELY: It's also five years, Your Honor.

13 THE COURT: And, again, that may run concurrent?

14 MR. MCNEELY: To the best of my knowledge.

15 MS. NICKLES: Anything further, Ms. Nickles?

16 Mr. McNeely?

17 MS. NICKLES: No, Your Honor.

18 I do have your form --

19 THE COURT: Thank you.

20 It's the order of the Court on 2014-GS-08-1825
21 that you be committed to the State Department of
22 Corrections, under 17-24-45, to a term of life without
23 the possibility of parole. It's the order of the Court
24 on 2014-GS-08-1526 that you be committed to the State
25 Department of Corrections for a term of five years.

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1 It's the order of the Court on 2014-GS-08-1528 that you
2 be committed to the State Department of Corrections for
3 a term of five years. Those three indictments will run
4 concurrent.

5 Good luck to you, sir.

6 MR. MCNEELY: Thank you, Your Honor.

7 MR. SEATON: Thank you, Your Honor.

8 MS. NICKLES: Thank you, Your Honor.

9 [JURY TRIAL CONCLUDES AT 5:21 P.M.]
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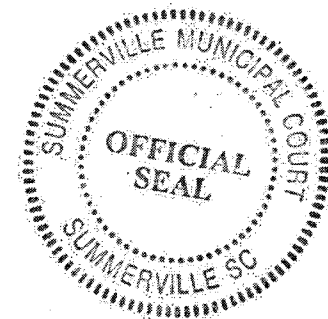
STATE OF SOUTH CAROLINA

County of Berkeley

Town of Summerville

OCA: 14038000

SEARCH WARRANT

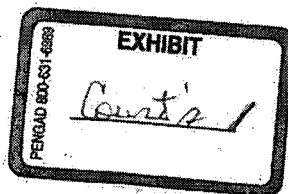


Date May 12, 2014

Officer Detective Strickland

I HEREBY CERTIFY THIS TO
BE A TRUE AND EXACT COPY

DATE 9/23/15



STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF Berkeley

Personally appeared before me, one Detective Strickland
who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions
of Section 17-13-140, 1976 Code of laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Including but not limited to, a quantity of green plant material commonly referred to as Marijuana. Any and all items used to facilitate
the distribution, possession, and consumption of Marijuana. Also all items listed in exhibit "A" attached to this affidavit.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

The property to be searched is located at the Economy Inn, 200 Holiday Dr. Room 119, County of Berkeley, Town of Summerville,
SC. The residence is better described as a brick two story hotel, comprised of multiple units. The numbers 119, are clearly affixed to
the blue front door of the room. Room 119 is the furthest end unit of the main building, on the first floor. Also to be searched, a black
in color four door Saturn Ion (SC Tag JUI275) which is known to be driven by Umphlett.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

On May 11, 2014, Officers with the Summerville Police Department were dispatched to Room 119 at the Economy Inn in reference to
a child welfare check. The complainant stated the mother, Kory Abdon, and her boyfriend, Joseph Umphlett, make the children sit on
the bed while they "go to work in the bathroom." The complainant also advised that Abdon and Umphlett have histories of drug use, as
well as charges. Upon arrived at Room 119, PFC/K9 H. Williams advised he made contact with Abdon and Umphlett, and detected a
overwhelming odor of what he recognized from his training and experience to be Marijuana. PFC/K9 Williams requested consent to
search the room, but was denied consent. PFC/K9 Williams advised Umphlett stated there was Marijuana in the nightstand, but denied
consent to search the room. PFC/K9 Williams had Abdon and Umphlett exit the room, and contacted your affiant, Det. Strickland.
Based on the above facts, I believe probable cause exists that above sought items, namely Marijuana, will be located in Room 119.
The recovery of these items is vital to this investigation.

Sworn to and Subscribed before me

this 12th day of May, 20 14

Signature of Judge

(L.S.)

12:44 AM
AffiantAddress: 300 West 2nd North StreetSummerville, S.C. 29483Phone: (843) 871-2463

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF Berkeley

Personally appeared before me, one Detective Strickland
who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions
of Section 17-13-140, 1976 Code of laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Page 2.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

Also to be searched, any occupants of the room, and any lock boxes and containers located therein.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

Page 2.

Sworn to and Subscribed before me
this 12th day of May, 20 14

Signature of Judge

(L.S.)

Det. M. Strickland

Affiant

Address: 300 West 2nd North Street
Summerville, S.C. 29483

Phone: (843) 871-2463

STATE OF SOUTH CAROLINA

COUNTY OF Berkeley

SEARCH WARRANT

Form Approved by
S.C. Attorney General
Session 17, 13, 160
March 15, 1978

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF Town of Summerville

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

See attached affidavit.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

See attached affidavit.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

Issuing Judge

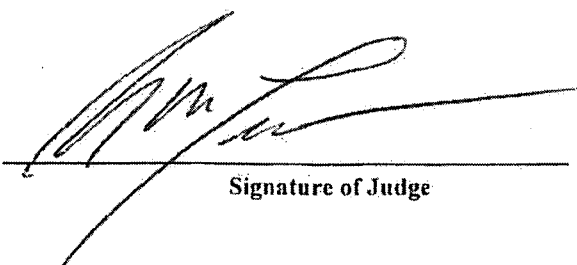
within ten days from the date of this warrant, such Inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Summerville, S.C.

May 12th, 20 14

12644



Signature of Judge

(L.S.)

EXHIBIT A
PROPERTY TO BE SEIZED

- 1.) BOOKS, RECORDS, RECEIPTS, NOTES, LEDGERS, AND OTHER PAPERS, RELATING TO THE TRANSPORTATION, ORDERING, PURCHASE, AND DISTRIBUTION OF CONTROLLED SUBSTANCES.
- 2.) PAPERS, TICKETS, NOTES, SCHEDULES, RECEIPTS, AND OTHER ITEMS RELATING TO DOMESTIC AND INTERNATIONAL TRAVEL
- 3.) BOOKS, RECORDS, RECEIPTS, BANK STATEMENTS AND RECORDS: MONEY DRAFTS, LETTERS OF CREDIT, MONEY ORDERS AND CASHIERS CHECKS, RECEIPTS. PASSBOOKS, BANK CHECKS, SAFE DEPOSIT BOX KEYS, AND OTHER ITEMS EVIDENCING THE OBTAINING, SECRETING, TRANSFER, AND / OR CONCEALMENT OF ASSETS AND TO OBTAINING, SECRETING, TRANSFER, CONCEALMENT AND / OR EXPENDITURE OF MONEY
- 4.) UNITED STATES CURRENCY, PRECIOUS METALS, JEWELRY, AND FINANCIAL INSTRUMENTS, INCLUDING STOCKS AND BONDS ~ AMOUNTS INDICATIVE OF THE PROCEEDS OF ILLEGAL NARCOTIC TRAFFICKING.
- 5.) PHOTOGRAPHS, IN PARTICULAR PHOTOGRAPHS OF CO-CONSPIRATORS, OF ASSETS AND / OR CONTROLLED SUBSTANCES.
- 6.) INDICA OF OCCUPANCY, RESIDENCY, AND / OR OWNERSHIP OF TO PREMISES DESCRIBED ABOVE, INCLUDING, BUT NOT LIMITED TO, UTILITY AND TELEPHONE BILLS, CANCELED ENVELOPES, AND KEYS.
- 7.) RECEIPTS FOR ITEMS EVIDENCING THE EXPENDITURE OF THE PROCEEDS OF DRUG DISTRIBUTION, INCLUDING BUT NOT LIMITED TO CLOTHING, FURNITURE, AND ELECTRONIC EQUIPMENT.
- 8.) WEAPONS.
- 9.) CONTROLLED DANGEROUS SUBSTANCES AND RELATED PARAPHERNALIA.

Summerville Police Department Search Warrant Return

Page 1 of 2Case # 14038000I Det. Cpl. H. Tanner, received the attached Search Warrant on May 12, 2014,

and have executed it as follows:

On May 12, 2014, at 1:00 o'clock PM/(AM), searched the person of _____or the premises at 200 Holiday Drive Room 119 (Economy Inn), which is described in the warrant.I left a copy of the warrant with Room 119 together with a copy of the receipt

(Name of Person searched or location of premises searched)

for the items seized.

The following is an Inventory of property taken pursuant to the warrant:

By Whom	Item Seized	Location
<u>Det. Cpl. H. Tanner</u>	--Clear bag containing (2) clear bags of crystal like substance. --Pachmayer 9mm Model 75 S# C3629 w/magazine and 15 rounds. --Box of sandwich bags. --Clear bag containing (4) AAA batteries. --Clear bag containing a clear bag of crystal substance and a clear bag of 2 tablets.	<u>BLACK SENTRY SAFE LOCATED ON FLOOR</u>
<u>Det. Cpl. H. Tanner</u>	--Digital scale (Digitz) from night stand --Grinder w/GPM residue, SCID of Umphlett, Nebo tactical pistol light, cut cigar w/GPM, 12 gauge slug, Federal 50 count 9mm ammo box containing (9) bullets and (1) burn GPM cigarette located in night stand drawer. --Ruger LCR .38 Special S# 542-19855 cont. (5) rounds of .38 in cyl.	<u>ROOM 119</u>
<u>Det. Cpl. H. Tanner</u>	located in the night stand drawer. --Box of 20 .38 caliber bullets containing (7) bullets located in brown purse under night stand. --Unmarked silver grinder containing GPM residue located under bed closest to the door. --Clear bag containing GPM located under bed closest to the door.	<u>ROOM 119</u>
<u>Det. Cpl. H. Tanner</u>	--Burnt GPM cigarette located on floor next to bed. --Rolling paper, round mesh screen and two push rods located in a paper bag under night stand. --Nike AFI-XXX shoe box containing (2) clear plastic containers with crystal like residue and two zip lock bags with crystal like residue located on dresser top behind TV.	<u>ROOM 119</u>

This inventory was made in the presence of: Det. Sgt. Thompson and Det. StricklandI swear that this Inventory is a true and detailed account of all the property taken by me pursuant to the warrant
Sworn to before me this
14 day of May, 2014
[Signature]
Signature of Judge (L.S.)

[Signature]
Signature of Office Executing Warrant

11:15 AM

Summerville Police Department
Search Warrant Return

595

Page 2 of 2

Case # 14038000

By Whom

ITEM SEIZED

LOCATION

Det. Cpl. H. Tanner

--Glass pipe located on shelf in closet area.
--Straw with residue located in the purse of Kory Abdon.
--Grinder with skull logo containing GPM located on dresser.
--Keys to safe.
--Iphone cell phone located on top of night stand.
--Verizon flip cell phone located in purse of Kory Abdon.
--Kyocera cell phone located in night stand drawer.

ROOM 119

Det. Cpl. H. Tanner

--Verizon LG cell phone located on bed.
--Ipad located on table.
--Smith and Wesson 9mm bearing S#DYF3905 w/mag
containing 12 9mm bullets located in the night stand.

ROOM 119

I swear that this Inventory is a true and detailed account of all the property taken by me pursuant to the warrant.

SWORN to before me this

14 day of May 2014
[Signature]
Signature of Judge (L.S.)

[Signature]
Signature of Officer Executing Warrant

11:45 AM

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

Sgt. Randal Olsen
Summerville Police Department
300 W. 2nd North Street
Summerville, SC 29483

DRUG ANALYSIS

June 23, 2014
SLED LAB: L14-06327
Your Case No: 14038000
Incident Date: 05/12/2014
[S] Joseph Umphlett

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE:

- Sub # 1 On May 20, 2014, items were received from Sgt. Randal Olsen of the Summerville Police Department.
- Item: 1.1 Clear ziplock bag containing crystal substance
RESULTS:
Methamphetamine (C-II) found in the sample tested; 1 tested. Net weight: less than 0.10 grams.
- Item: 1.2 Blue ziplock bag containing residue
RESULTS:
Methamphetamine (C-II) found in the sample tested; 1 tested. No weight obtained.
- Item: 1.3 Plastic bag containing a straw containing residue
RESULTS:
Amphetamine (C-II) and Methamphetamine (C-II) found in the sample tested; 1 tested. No weight obtained.



P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-



June 23, 2014
L14-06327

Page 2

Item: 1.4

Plastic container containing crystal substance

RESULTS:

Methamphetamine (C-II) found in the sample tested; 1 tested. Net weight: 0.84 +/- 0.01 grams (12.96 +/- 0.15 grains). Confidence level for the weight is 99.7%.

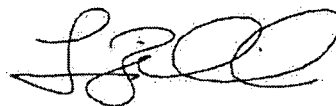
Item: 1.5

Plastic container containing crystal substance

RESULTS:

Methamphetamine (C-II) found in the sample tested; 1 tested. Net weight: 0.21 +/- 0.01 grams (3.24 +/- 0.15 grains). Confidence level for the weight is 99.7%.

This report contains the conclusions, opinions and interpretations of the analyst whose signature appears below.



Lawrence A. Zivkovich
Forensic Scientist



FORM A

REPORT OF ANALYSIS FOR
CONTROLLED DANGEROUS SUBSTANCES
(Substance Found)

I, Lawrence A. Zivkovich, am a Forensic Scientist employed by the South Carolina State Law Enforcement Division (SLED), certified by SLED as a Forensic Scientist qualified to perform testing and analysis for controlled and/or dangerous substances prohibited by law in this State by Title 44, Chapter 53 of the Code of Laws and Rule 61-4 of the Department of Health and Environmental Control.

I have 8 years and 2 months experience as a Forensic Scientist. During that period, I have been qualified as an expert witness and testified in court no less than 24 times. I have received the following training as a Forensic Scientist.

B.S. Chemistry, University of South Carolina, Columbia, SC 1996
Marijuana Analyst Certification, South Carolina Law Enforcement Division, 2006
South Carolina Law and Legal Training, South Carolina Criminal Justice Academy, 2006
Chemical Analyst Certification, South Carolina Law Enforcement Division, 2007
Drug Enforcement Administration, Forensic Chemist Seminar, 2008

Sub # 1 On May 20, 2014, items were received from Sgt. Randal Olsen of the Summerville Police Department.

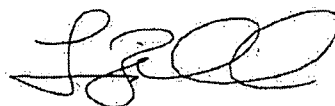
I tested the above item(s) using the following legally reliable forensic laboratory procedures approved by SLED:

☒ Chemical Test
☐ Microscopic Exam
☐ Infrared Spectroscopy
☐ Visual Examination

☒ Gas Chromatography
☒ Mass Spectroscopy
☐ Physical Test
☐ Published Literature

See Drug Analysis Report L14-06327 for Results.

Forensic Scientist



Lawrence A. Zivkovich

Date: June 23, 2014



P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-7351

Issuing Authority: Quality Manager



SLED Forensics Form # DDA 020, November 2013
Page 1 of 1

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

Sgt. Randal Olsen
Summerville Police Department
300 W. 2nd North Street
Summerville, SC 29483

DRUG ANALYSIS

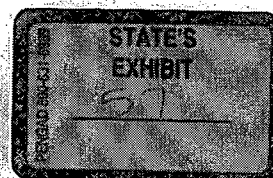
June 23, 2014
SLED LAB: L14-06326
Your Case No: 1403800
Incident Date: 05/12/2014
[S] Joseph Umphlett

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE:

- Sub # 1 On May 20, 2014, items were received in B240251 from Sgt. Randal Olsen of the Summerville Police Department.
- Item: 1.1 Heat sealed bag (Ex 1) containing a plastic bag containing two plastic bags containing crystal substance
RESULTS:
Methamphetamine (C-II) found in the sample tested; 2 tested. Total net weight: 193.71 +/- 0.01 grams (2989.33 +/- 0.15 grains). Confidence level for the weight is 99.7%.
- Item: 1.2 Heat sealed bag (Ex 5) containing a plastic bag containing crystal substance
RESULTS:
No controlled substance(s) detected in the sample tested; 1 tested.
- Item: 1.3 Heat sealed bag (Ex 6) containing a plastic bag containing...

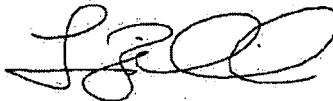


June 23, 2014
L14-06326

Page 2

- Item: 1.3.1** One (1) yellow "Stewie" shaped tablet
RESULTS:
1-Benzylpiperazine (BZP) (C-I) found in the sample tested; 1 tested.
- Item: 1.3.2** One (1) red monkey shaped tablet
RESULTS:
1-Benzylpiperazine (BZP) (C-I) found in the sample tested; 1 tested.

This report contains the conclusions, opinions and interpretations of the analyst whose signature appears below.



Lawrence A. Zivkovich
Forensic Scientist



FORM A

REPORT OF ANALYSIS FOR
CONTROLLED DANGEROUS SUBSTANCES
(Substance Found)

I, Lawrence A. Zivkovich, am a Forensic Scientist employed by the South Carolina State Law Enforcement Division (SLED), certified by SLED as a Forensic Scientist qualified to perform testing and analysis for controlled and/or dangerous substances prohibited by law in this State by Title 44, Chapter 53 of the Code of Laws and Rule 61-4 of the Department of Health and Environmental Control.

I have 8 years and 2 months experience as a Forensic Scientist. During that period, I have been qualified as an expert witness and testified in court no less than 24 times. I have received the following training as a Forensic Scientist.

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Drug Enforcement Administration, Forensic Chemist Seminar, 2008

Sub # 1 On May 20, 2014, items were received in B240251 from Sgt. Randal Olsen of the Summerville Police Department.

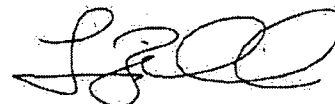
I tested the above item(s) using the following legally reliable forensic laboratory procedures approved by SLED:

☒ [X] Chemical Test
☐ [] Microscopic Exam
☐ [] Infrared Spectroscopy
☐ [] Visual Examination

☒ [X] Gas Chromatography
☒ [X] Mass Spectroscopy
☐ [] Physical Test
☐ [] Published Literature

See Drug Analysis Report L14-06326 for Results.

Forensic Scientist



Lawrence A. Zivkovich

Date: June 23, 2014



P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-7351

Issuing Authority: Quality Manager



SLED Forensics Form # DDA 020, November 2013
Page 1 of 1

SUMMERVILLE POLICE DEPARTMENT

☐ Victim
☐ Witness
☒ Accused

Page 1 of 1

VOLUNTARY STATEMENT FORM

DATE 5/12/14 TIME 0001OCA # 14038000NAME Joseph Umohlett

SOCIAL SECURITY # [REDACTED]

ADDRESS [REDACTED]

PHONE [REDACTED]

EMPLOYMENT Straight Line Tile (owner)

PHONE [REDACTED]

RACE WhiteSEX Male

DATE OF BIRTH [REDACTED]

EDUCATION 1yr college

There is 7oz of Ice with a 9mm target pistol along with a bag of gram of molly & 2 ecstasy pills bags & bullets in night stand one gram of weed under first mattress 3 maybe 4 grams of weed also in nightstand one black tacus 38 there is also 2 empty plastic containers with residue. It is all mine and only mine. I have been driving to Mariette & Woodstock GA to get 4-6 oz of Ice fronted to me from a James Flood for almost 2 mos. now. I pick up from him.

Q: Does Kory know that the drugs you stated in the room are there?

A: No she believed I only had the weed I was about to smoke.

Q: Has Kory ever saw you sell ICE or know you have had ICE?

A: No she has asked me I told her no I did nothing in front of her.

Q: How often do you go to GA to pick up ice? And how much each time?

A: Bout once a week for about 4-6 ozs.

Q: What do you pay for each ounce?

A: 700

Q: Describe James Flood.

A: White male bout 6 ft 140lbs sandy color hair acne scared face Red Blazer

Q: Whose gun was in the nightstand?

A: Black 38 was mine the 9mm is legal to Kory I got it from Skip off of remount Rd.

Q: Do you claim ownership and knowledge of all illegal drugs and weapons in the room? A: Yes it was mine & I had only knowledge of them

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH I HAVE MADE FREELY AND VOLUNTARILY, THE FACTS CONTAINED THEREIN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESS

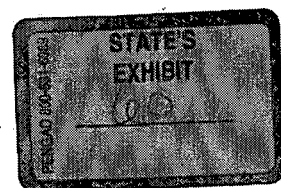
SIGNATURE

SIGNATURE

SIGNATURE

I HAVE RECEIVED A COPY OF THIS STATEMENT

SIGNATURE



VCD2014-05-01070

WITNESSES

[Signature]
Ryan Brea Det. SPD
Summerville Police Department

AGENCY CASE NUMBER

14038000

ARREST WARRANT NUMBER

2014A1820500288

DATE OF ARREST

May 12, 2014

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury

Date: 10-17-14

VERDICT

GUILTY

[Signature]
Foreperson of Petit Jury

10/1/15

Date:

INDICT

DOCKET NO. 2014GS0801525

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.

JOSEPH RUSSELL UMPHLETT

DOB: 1980-03-09

W/M

Indictment for

Trafficking Methamphetamine

FILED
14 OCT -7 PM 12:22
CLERK OF COURT
BERKELEY COUNTY, S.C.

[Handwritten initials]

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

INDICTMENT

At a Court of General Sessions, convened on October 7, 2014 the Grand Jurors of Berkeley County present upon their oath:

Trafficking Methamphetamine

That Joseph Russell Umphlett did in Berkeley County, South Carolina, on or about May 12, 2014, knowingly sell, deliver, purchase or bring in this state, or aid, abet, attempt or conspire to sell, deliver, purchase or bring into this state, or was in actual or constructive possession, or attempted to become in actual or constructive possession of a quantity of methamphetamine in an amount of more than one hundred grams but less than two hundred grams, same being a controlled substance all within the meaning of Section 44-53-375, et seq., S.C. Code of Laws, 1976, as amended, such possession not having been authorized, and being in violation of Section 44-53-375(e)(2), S.C. Code of Laws, 1976, as amended, for the crime of trafficking.

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


MICHAEL E. PATTERSON
ASSISTANT SOLICITOR

VCD2014-05-01070

WITNESSES

[Signature]
Summerville Police Department

AGENCY CASE NUMBER

14038000

ARREST WARRANT NUMBER

2014A1820500289

DATE OF ARREST

May 12, 2014

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury
Date: 10-11-14

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury

Date: 10/1/15

INDICT

DOCKET NO. 2014GS0801526

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.

JOSEPH RUSSELL UMPHLETT

DOB: [REDACTED]
W/M

Indictment for

Possession of a Weapon During Commission
of a Violent Crime

CLERK OF COURT
BERKELEY COUNTY, S.C.

14 OCT - 7 PM 12:22

FILED

[Signature]

[Signature]

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

INDICTMENT

At a Court of General Sessions, convened on October 7, 2014 the Grand Jurors of Berkeley County present upon their oath:

Possession of a Weapon During Commission of a Violent Crime

That Joseph Russell Umphlett did in Berkeley County, South Carolina, on or about May 12, 2014, possess a handgun or visibly display what appeared to be a handgun during the commission, or attempted commission, of Trafficking Methamphetamine, a violent crime. This is in violation of 16-23-490 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.


MICHAEL E. PATTERSON
ASSISTANT SOLICITOR

VCD2014-05-01070

WITNESSES

[Signature]
Summerville Police Department

AGENCY CASE NUMBER

14038000

ARREST WARRANT NUMBER

Direct Indictment

DATE OF ARREST

May 12, 2014

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury
Date: 10-7-14

VERDICT

Bulky

[Signature] 12/1/15
Foreperson of Petit Jury Date:

INDICT

DOCKET NO. 2014GS0801528

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.

JOSEPH RUSSELL UMPHLETT

DOB: [REDACTED]
W/M

Indictment for

Possession of Firearm by Convicted Felon
CDR: 3434

FILED
14 OCT -7 PM 12:22
CLERK OF COURT
BERKELEY COUNTY, S.C.

[Handwritten initials]

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

INDICTMENT

At a Court of General Sessions, convened on October 7, 2014 the Grand Jurors of Berkeley County present upon their oath:

Possession of Firearm by Convicted Felon

That Joseph Russell Umphlett did in Berkeley County, South Carolina, on or about May 12, 2014, did willfully, unlawfully and feloniously have in his possession and under his control a handgun, to wit: a Ruger LCR 38 Special, and he has been convicted of a violent crime, as defined by Section 16-1-60. This action is in violation of Section 16-23-0500(A) 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.


MICHAEL E. PATTERSON
ASSISTANT SOLICITOR

RECEIVED
OCT 17 2016
SC Court of Appeals

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,



John H. Strom
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 17th day of October, 2016.