

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Kristi Lea Harrington, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

OMAR SHARIFF GENTILE

APPELLANT

APPELLATE CASE NO. 2016-000161

RECORD ON APPEAL

KATHRINE H. HUDGINS
Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit
101 Meeting Street
Charleston, SC 29401

ATTORNEYS FOR RESPONDENT

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INDEX

INDEX	i
MOTIONS HEARING TRANSCRIPT (SEPTEMBER 18, 2015)	1
TRIAL TRANSCRIPT (JANUARY 4, 2016)	18
<u>JACKSON V. DENNO HEARING</u>	
CHARLES JACOB GRILL	
Direct Examination by Mr. Sowards	19
MOTION TO SUPPRESS	26
JONATHAN SHEALY	
Direct Examination by Mr. Sowards	27
Cross Examination by Mr. King	34
TRIAL TRANSCRIPT (JANUARY 5, 2016)	66
OPENING STATEMENT BY MR. SOWARDS	67
OPENING STATEMENT BY MR. KING	69
TESTIMONY	
CHARLES J. GRILL	
Direct Examination by Mr. Sowards	72
Cross Examination by Mr. King	90
JOHN MARN	
Direct Examination by Ms. Linder	97
Cross Examination by Mr. King	115
Redirect Examination by Ms. Linder	121
ALEXANDER KEITH SUMNER	
Direct Examination by Ms. Linder	125
Cross Examination by Mr. King	129
Redirect Examination by Ms. Linder	134
BRIAN HINTON	
Direct Examination by Ms. Linder	137
Cross Examination by Mr. King	140

LINDA WILSON	
Direct Examination by Ms. Linder	144
SUSAN PAYNE	
Direct Examination by Ms. Linder	147
DEFENDANT'S RIGHTS.....	150
RENEE HILTON	
Direct Examination by Mr. Sowards	155
JONATHAN SHEALY	
Direct Examination by Mr. Sowards	164
Cross Examination by Mr. King	182
Redirect Examination by Mr. Sowards.....	192
MOTION FOR A DIRECTED VERDICT BY MR. KING.....	196
CLOSING ARGUMENT BY MR. SOWARDS	203
CLOSING ARGUMENT BY MR. KING.....	212
CHARGE OF THE COURT.....	220
<u>ALLEN CHARGE</u>	246
VERDICT	249
SENTENCING	256
INDICTMENTS AND SENTENCING SHEETS.....	263
CERTIFICATE OF COUNSEL	269

STATE OF SOUTH CAROLINA

VS.

OMAR GENTILE and
MAURICE GENTILE,

DEFENDANTS.

held before the Honorable Kristi L. Harrington
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Charleston County Courthouse
Charleston, South Carolina
on Friday, September 18, 2015, Commencing at 11:27 a.m.

SUSAN "MIA" PERRON, CVR-CM-M
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 31865
Charleston, South Carolina 29417-1865
1-706-231-6028

APPEARANCES OF COUNSEL

FOR THE STATE:

John Whitney Sowards, Esquire
Stephanie B. Linder, Esquire
9th Circuit Solicitor's Office
101 Meeting Street, Suite 400
Charleston, South Carolina 29402

FOR THE DEFENDANT:

Jason T. King, Esquire
Tamara M. Van Pala, Esquire
9th Circuit Public Defender's Office
101 Meeting Street, Fifth Floor
Charleston, South Carolina 29402

INDEX TO PROCEEDINGS

	PAGE
PROCEEDINGS	4
CERTIFICATE OF COURT REPORTER	17

EXHIBITS

[None]

PROCEEDINGS

THE COURT: And what type of motion is this?

MR. KING: The C.I., Your Honor.

THE COURT: The C.I. Okay. Thank you.

MR. KING: That's correct, Your Honor.

This is first up October 5th. This is a case where a confidential informant was used for an alleged control buy within seventy-two hours of a search of a residence.

Mr. Gentile was arrested and charged when they did the search warrant on the residence. He was in the house, they found drugs in the house, and they've charged him with trafficking. So it's not a case where there is a distribution with an informant that is involved with Mr. Gentile. It's my understanding that the informant bought drugs from Maurice Gentile, my client's brother, out of that residence.

So I'm making an argument that I should be allowed to know the identity of that informant, be able to interview them, possibly subpoena them for trial on the merits of the case, in addition to a motion to suppress on the search warrant.

I had sent a couple of cases over, Your Honor. It appears there's a balancing test where you balance the public interest of protecting the flow of criminal activities against the individual's right to prepare his

State vs. Gentle
Motions Hearing
September 18, 2015

1 defense. So we're asserting our right to due process
2 and our right to confrontation to know the identity and
3 interview this witness.

4 The two cases I sent to Your Honor were State vs.
5 Ryan [phonetic], a South Carolina case, and I believe
6 it's Rovlaro vs. United States, a United States Supreme
7 Court case.

8 THE COURT: Thank you, Mr. King, for preparing a
9 written motion, and articulating in the motion, and
10 citing case law. Thank you.

11 MR. KING: It's not that this informant was a
12 participant in the actual trafficking case, Judge. But
13 the language of these cases talk about if the informant
14 is a material witness. And I believe, you know, from
15 this informant's going from this residence, going inside
16 of the residence, within seventy-two hours of the search
17 warrant, you know, this is somebody who may have
18 information. It appears that this informant may know
19 the people inside the residence.

20 There's a quote from Rovlaro, Your Honor, that says
21 that where the disclosure of the informant's identity or
22 the contents of this communication is relevant and
23 helpful for the defense to use, or is essential to a
24 fair determination of a cause, the privilege must give
25 way.

State vs. Gentle
Motions Hearing
September 18, 2015

1 So we're arguing in this case that it would be
2 relevant and helpful to the defense at least to
3 interview this person and, you know, to determine if
4 that might be something we could present into evidence
5 to give merit to the case. That's it, in addition to my
6 motion to suppress on the search warrant.

7 THE COURT: What is the State's position?

8 MR. SOWARDS: Your Honor, first, the State's
9 position would be that Mr. King raised this exact issue
10 on this exact case last year, argued that exact argument
11 in front of Judge Young --

12 THE COURT: Is that correct, Mr. King?

13 MR. KING: It was a slightly different motion,
14 though somewhat correct. I filed a motion to compel the
15 DVD of that buy.

16 THE COURT: And what did Judge Young rule?

17 MR. KING: He denied that motion for me having the
18 DVD. I think the final agreement was with Ms. Byrd, the
19 previous attorney -- solicitor, on the case, they could
20 -- Mr. Gentile and his brother could watch the video on
21 mute with a transcription of the video.

22 But now we are at the brink of trial --

23 THE COURT: Do you see -- did you see the C.I. on
24 the video?

25 MR. SOWARDS: Your Honor, there is a point at which

State vs. Gentle
Motions Hearing
September 18, 2015

1 I think you can see the C.I. on the video.

2 THE COURT: Is there -- it's already been
3 disclosed?

4 MR. SOWARDS: It has not been disclosed, as far as
5 I know. I think a transcript was provided. Also, the
6 school --

7 THE COURT: The transcript. He could not view the
8 video. Is that --

9 MR. SOWARDS: That's correct.

10 Law enforcement, Your Honor, has a genuine concern
11 about the informant's safety in this case and what
12 watching the video might reveal regarding that.

13 And if I may approach, Your Honor --

14 THE COURT: You may.

15 MR. SOWARDS: -- and hand you the --

16 THE COURT: Do you plan to call the C.I. as a
17 witness?

18 MR. SOWARDS: We do not.

19 [Whereupon, Mr. Sowards proffers documents to the
20 Court]

21 MR. SOWARDS: Your Honor, just -- Mr. King cited a
22 few cases. Both of those cases involved distributions
23 and that distribution was being tried.

24 In this case, Your Honor, the defendant was never
25 charged with -- neither of them was charged with

State vs. Gentle
Motions Hearing
September 18, 2015

1 distribution. Warrants were not served. This is --

2 THE COURT: Well, what is he charged with?

3 MR. SOWARDS: -- strictly a search warrant case.

4 It's trafficking -- this has been as trafficking
5 heroin and a proximity charge. based on --

6 THE COURT: Based on weight, correct, and --

7 MR. SOWARDS: Correct, Your Honor.

8 THE COURT: -- then the proximity?

9 MR. SOWARDS: Based solely on what was found when
10 the search warrant was executed on February 9th.

11 THE COURT: Mr. King, happy to hear from you.

12 MR. KING: Your Honor, I filed this motion because
13 now that we're at the brink of trial -- I understand
14 that Judge Young didn't want to hand over the video, you
15 know, a year ago. But we're at the brink of trial now,
16 and I think the privilege of the informant has to give
17 way at this point for us to present a full and fair
18 defense. His due process rights. This informant is far
19 -- and it's -- that this informant came to this house so
20 close in time to the search warrant.

21 There's another person selling drugs out of the
22 house, I believe is Maurice Gentile, and this person
23 allegedly bought drugs from Maurice Gentile. It appears
24 in the video to maybe know -- to maybe know the people
25 inside the house. This person may have information that

State vs. Gentle
Motions Hearing
September 18, 2015

1 could help prove my client's innocence and that, you
2 know, he is not guilty of the trafficking for the drugs
3 found in the house.

4 It's really -- the whole case is based on this
5 informant. And it's so tied up into the main case,
6 their privilege must give way in this situation.

7 THE COURT: Was the only -- was the informant --
8 the purchase by the informant, was that the only -- was
9 that the sole basis of the search warrant?

10 MR. SOWARDS: It was, Your Honor. It formed the
11 probable cause for the search warrant.

12 And just to address Mr. King's point --

13 THE COURT: Well, let me rephrase my question.
14 Tell me about what transpired with the informant.

15 MR. SOWARDS: Your Honor, the -- I think it was
16 like pretty much all the controlled purchases that the
17 City of Charleston conducts. They wired the informant
18 for audio sound. The informant went to the home,
19 purchases cocaine from an occupant of the home, and then
20 left. And the officer then, based on that buy, went to
21 the magistrate, provided that information to the
22 magistrate, got a search warrant, and they executed it
23 on February 9th.

24 I think, Your Honor, were this a distribution case,
25 we would absolutely agree with Mr. King and we would not

State vs. Gentle
Motions Hearing
September 18, 2015

1 be having this hearing before you because he would have
2 the video and he would have everything he needs. But I
3 don't think the identity of the C.I. is important to
4 determine whether there was probable cause for the
5 search warrant.

6 THE COURT: Anything further, Mr. King?

7 MR. KING: Just that it is bigger than the search
8 warrant, Your Honor. It has to do with -- it could be
9 relevant to his defense. And I may not even know that
10 just, you know, being able to --

11 THE COURT: But explain it just hypothetically,
12 Mr. King. How could that be relevant to his defense?
13 Are you challenging the search warrant, then?

14 MR. KING: That is part of it, Your Honor.

15 I'm going to be challenging the search warrant.
16 During the trial itself I would -- you know, the
17 potential defense, most likely defense, against Mr.
18 Gentile was that he wasn't knowingly in possession of
19 the drugs found in that house, that he didn't live
20 there, that wasn't his house.

21 This informant might be able to say that she bought
22 drugs from Mr. Gentile's brother. So might be able to
23 say that Omar Gentile wasn't involved in drugs, that
24 this informant has never seen Mr. Gentile selling drugs
25 or around drugs. I mean, the person appears to know

State vs. Gentle
Motions Hearing
September 18, 2015

1 what's going on inside the house, and know people. So
2 there's some involvement with -- that's really what the
3 trial is about, is about this residence and --

4 THE COURT: But possession is different from
5 distribution.

6 MR. KING: It is, Your Honor. And I understand
7 that. It's not exactly on point with the normal cases
8 where there's a distribution and the informant
9 participates directly in that transaction. But it's so
10 close in time to the search warrant, this person could
11 have information that could help our defense. We don't
12 know exactly, because I don't know who it is and I can't
13 interview them.

14 THE COURT: But you have seen the video?

15 MR. KING: I have.

16 THE COURT: Okay. Anything further, Ms. Linder,
17 Mr. Sowards?

18 MR. SOWARDS: Your Honor, just to say that for the
19 search warrant suppression, I think only the officers
20 will be called. We're not arguing and we don't intend
21 to argue in the case that the defendant actually sold
22 drugs. And then the search warrant is for the location
23 and not necessarily for the occupants. It's just a
24 search warrant for Grove Street.

25 THE COURT: Say that one more time.

State vs.. Gentle
Motions Hearing
September 18, 2015

1 MR. SOWARDS: It was just a search warrant for
2 Grove Street and not directed towards any specific
3 occupant of the home.

4 THE COURT: All right. Final word, Mr. King.

5 MR. KING: Just that, you know, Mr. Gentile is
6 caught up in this and, you know, he's still charged even
7 if the search warrant wasn't -- he wasn't the target.
8 And I think that may be the whole point. He wasn't the
9 target of the investigation, but he got caught up in
10 this. And I think we have a right to interview any
11 witness who may have some knowledge about it.

12 THE COURT: All right. Take the matter under
13 advisement. I want to read that case again, in light of
14 the discussion and argument here today.

15 You will have my ruling -- I'm going to try to get
16 it done before close of business today. All right? So
17 if there is any additional case law or anything that I
18 need to know, I'll be happy to hear from you. All
19 right? Thank you.

20 MR. SOWARDS: Thank you, Your Honor.

21 THE COURT: And so this is first up October 5th; is
22 that correct?

23 MR. SOWARDS: That's correct.

24 THE COURT: All right. Mr. Gentile, please stand.

25 [Whereupon, Mr. Gentile complies]

State vs. Gentle
Motions Hearing
September 18, 2015

1 THE COURT: And I know I have done this several
2 times. How are you doing today?

3 MR. GENTILE: Fine.

4 THE COURT: And, sir, you know what I'm going to
5 say to you.

6 First of all, I'm going to place you under oath.
7 Please raise your right hand.

8 [Whereupon, Mr. Gentile is duly sworn by the Court
9 as follows: do you swear or affirm that the testimony
10 and the statements you are about to give the Court will
11 be the truth, the whole truth, and nothing but the
12 truth, so help you God]

13 MR. GENTILE: Yes, Your Honor.

14 THE COURT: Thank you. You may put your hand down.

15 Mr. Gentile, we are set now -- I had given you a
16 continuance, I believe, you and your brother; is that
17 right?

18 MR. GENTILE: Yes, ma'am.

19 THE COURT: And I'm not looking at my notes, so
20 please correct me if I'm incorrect, but from the last
21 docketing day. And so you are now first up on October
22 5th.

23 Is that correct, Mr. Sowards?

24 MR. SOWARDS: That is correct, Your Honor.

25 THE COURT: And you are prepared and ready to go,

State vs. Gentle
Motions Hearing
September 18, 2015

1 based upon my ruling, of course?

2 MR. SOWARDS: We are prepared.

3 THE COURT: And just assuming that I would grant
4 Mr. King's motion, would you still be ready to go on
5 October 5th?

6 MR. SOWARDS: I think so, Your Honor.

7 THE COURT: And you anticipate two, three days?

8 MR. SOWARDS: I think two days. Probably the end
9 of the day on Tuesday.

10 THE COURT: Mr. King, you are ready to go?

11 MR. KING: I will be, Your Honor. Just this
12 witness I would -- assuming what happens with this
13 hearing. But I'll be happy to get ready if -- whether
14 it goes either way. If it's not disclosed, if it is
15 disclosed, I think I can interview the witness and be
16 ready.

17 THE COURT: Mr. Gentile, you are up for trial. You
18 are first up on October 5th. Do you understand what
19 will happen if you do not show up?

20 MR. GENTILE: Yes, ma'am.

21 THE COURT: Tell me what will happen.

22 MR. GENTILE: I'll have a warrant for my arrest.

23 THE COURT: And what else? More importantly, I
24 think than that, would be what?

25 MR. GENTILE: Present.

State vs. Gentle
Motions Hearing
September 18, 2015

1 THE COURT: Well, what will happen is we will try
2 your case in your absence, because I have advised you of
3 what would happen if you don't show up, so your attorney
4 has his file and he would be sitting at that -- probably
5 at that very same table with no one to defend. But the
6 State would be able to go forward in your absence. Do
7 you understand?

8 MR. GENTILE: Yes, ma'am.

9 THE COURT: Sometimes defendants think that if they
10 don't show up, the case goes away. And I just want you
11 to understand that is not the case. We will try this
12 case with or without you. Do you understand?

13 MR. GENTILE: Yes, ma'am.

14 THE COURT: In and of itself, then, a bench warrant
15 independently would issue. But once you are picked up,
16 then the sentence would be revealed. So that's what
17 would happen if you don't show up. I have no concern or
18 think that you would not show up, because you've been
19 here several times.

20 Mr. King, he's always been here?

21 MR. KING: He has.

22 THE COURT: All right. Mr. Gentile, any questions?

23 MR. GENTILE: No, ma'am.

24 THE COURT: And I believe we have already asked and
25 there are no outstanding offers?

State vs. Gentle
Motions Hearing
September 18, 2015

1 All offers have been rejected on the record;
2 correct, Mr. King?

3 MR. KING: I believe so, Your Honor.

4 THE COURT: Is that correct?

5 MR. SOWARDS: That's correct.

6 THE COURT: All right. Thank you.

7 Good luck to you. I believe I will be trying your
8 case on October 5th. All right. Thank you.

9 MR. SOWARDS: Thank you, Your Honor.

10 [HEARING CONCLUDES AT 11:40 A.M.]
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State vs. Gentile

C E R T I F I C A T E

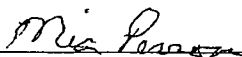
STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the motions hearing held before the Honorable Kristi L. Harrington, on Friday, September 18, 2015.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 10th day of March, 2016.



Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CVR-CM-M

-17-

STATE OF SOUTH CAROLINA
VS.
OMAR S. GENTILE
DEFENDANT.

VOLUME 1 OF 2

SUSAN "MIA" PERRON, CVR-CM-M
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 31865
Charleston, South Carolina 29417-1865
1-706-231-6028

Jackson v. Denno Hearing
Charles Jacob Grill
Direct Examination by Mr. Sowards

1 Shealy.

2 Q. And was the defendant, Omar Gentile, read his
3 Miranda rights?

4 A. Yes, he was.

5 Q. And who read him those rights?

6 A. Detective Shealy.

7 Q. And how was he read those rights?

8 A. He was read those rights from his -- from a
9 CPD-issued Miranda card.

10 MR. SOWARDS: Your Honor, may I approach the
11 witness?

12 THE COURT: You may.

13 Q. [Mr. Sowards] Detective Grill, I'm going to hand
14 you this card, and if you could please tell me what that is.

15 A. This is a CPD-issued Miranda warning card that we
16 use to provide defendants of their rights or their Miranda
17 warnings.

18 Q. And is that the card that was used when the
19 defendant, Omar Gentile, was read his Miranda rights?

20 A. Yes, sir, it is.

21 Q. And how do you know that?

22 A. Well, the defendant signed his card and, also, I
23 signed it and Detective Shealy signed it.

24 Q. And did the defendant, Omar Gentile, indicate to
25 you that he understood those rights or did he indicate that he

Jackson v. Denno Hearing
Charles Jacob Grill
Direct Examination by Mr. Sowards

1 understood those rights?

2 A. Yes, sir, he did.

3 Q. And how did he indicate?

4 A. Well, he said that he understood, and that -- he
5 signed the card.

6 Q. And did Omar Gentile's -- or the defendant's waiver
7 of his rights appear to you to be knowingly and voluntary?

8 A. Yes, sir.

9 Q. Do you know, or did you know, the age of the
10 defendant at the time?

11 A. I'm sure we did, but I don't recall his age.

12 Q. Did you know his education?

13 A. No, sir.

14 Q. Did you observe any mental defects?

15 A. No, sir.

16 Q. Did he appear to be intoxicated?

17 A. No, sir.

18 Q. Did he have bloodshot eyes or slurred speech?

19 A. No, sir, he did not.

20 Q. Did he appear to have any physical defects?

21 A. No, sir.

22 Q. And was the defendant detained at the time?

23 A. Yes, he was.

24 Q. And how was he detained?

25 A. He was placed in handcuffs.

Jackson v. Denno Hearing
Charles Jacob Grill
Direct Examination by Mr. Sowards

1 Q. And why was he placed in handcuffs?

2 A. Because like I earlier stated, that we were
3 executing a search warrant at that residence. He was located
4 inside that residence.

5 We detained him. We placed handcuffs on his hands,
6 behind his back and then when we brought him into the room to
7 advise him of his rights, we removed those handcuffs and put
8 them up front.

9 Q. Was the defendant threatened at any time?

10 A. No, sir, he was not.

11 Q. Was the defendant promised any leniency if he
12 talked?

13 A. No, sir, he was not.

14 Q. And did the defendant give a statement?

15 A. Yes, sir, he did speak with us.

16 Q. And were his statements memorialized in any way?

17 A. Yes, sir. Detective Shealy wrote a report.

18 Q. And what statements did the defendant make on that
19 date?

20 A. He stated -- may I refer to my report -- or to
21 Detective Shealy's report?

22 MR. SOWARDS: Your Honor, may --

23 THE COURT: You may.

24 [Whereupon, the witness reviews documents]

25 A. He basically stated that it was his residence.

State vs. Gentile
Motion by Mr. King
January 4, 2016

MOTIONS

THE COURT: Next motion, Mr. King?

MR. KING: Your Honor, the next motion is regarding the search warrant. This case is all based upon a search warrant based upon a controlled buy by a confidential informant.

First, I would just like, for the record, to incorporate by reference two other hearings that have been held on this issue. On June 20th, 2014, there was a hearing in front of Judge Young where I had requested a copy of the video-recording of the informant making the buy. And Mr. Gentile wanted to see that, as well. That was denied.

On September 18th, 2015, there was a hearing to reveal the identity of the informant. Your Honor conducted that hearing, and that motion was denied September 18th, 2015.

We are renewing that motion, Your Honor, to reveal the identity of the information and to call him to the stand for this hearing, based on the confrontation clause and due process clause.

THE COURT: To call the informant to the stand?

MR. KING: Yes, Your Honor. That's correct.

The confrontation and due process clauses under the U.S. and South Carolina constitutions.

State vs. Gentile
Motion by Mr. King
January 4, 2016

1 The second thing, Your Honor -- there's two parts
2 to my argument. One is that the affidavit in the search
3 warrant does not establish probable cause. I cited to a
4 case, State vs. Dupree, which holds that if a controlled
5 buy is properly conducted, then it would establish
6 probable cause for a search warrant. I just request
7 that the State make an evidentiary showing that the
8 controlled buy was properly conducted.

9 And the final issue, Judge, on that, I found a case
10 out of Indiana where an Indiana court suppressed
11 evidence based on a search warrant where even though the
12 search warrant said they have up to ten days to serve
13 the warrant, they suppressed it -- because I think seven
14 days had gone by -- and they argued that the probable
15 cause had dissipated during the time that the warrant
16 was issued and the time the warrant was served.

17 THE COURT: Do you have any South Carolina law on
18 that?

19 MR. KING: I referenced one case, Your Honor, that
20 says that probable cause does dissipate with time and
21 that the warrant has to be served in a reasonable time.
22 I believe that --

23 THE COURT: All right. What case is that?

24 MR. KING: That was Winborne, Your Honor. State
25 vs. Winborne.

State vs. Gentile
Motion by Mr. King
January 4, 2016

1 THE COURT: W-I-N-B-O-R-N-E.

2 MR. KING: That is State vs. Winborne, 273 South
3 Carolina 62.

4 I believe that's before the search warrant statute
5 was adopted in South Carolina. It does have a ten-day
6 -- up to ten days in that statute, as well.

7 But I'm making this argument on constitutional
8 grounds. The Indiana case references some federal law.
9 I believe it's the eighth circuit.

10 THE COURT: Anything further?

11 MR. KING: No. That's basically it, Your Honor.
12 But I just request --

13 THE COURT: Just outlining the issues in --

14 MR. KING: Right.

15 And that the State establish that there was
16 probable cause in the search -- in the affidavit itself
17 in the search warrant, and that the probable cause
18 extended until the time that the search warrant was
19 executed.

20 THE COURT: And are you renewing your motion to
21 reveal the C.I.?

22 MR. KING: I am, Your Honor.

23 THE COURT: All right.

24 MR. KING: And, overall, making a motion to
25 suppress the -- or suppress the evidence based on the

State vs. Gentile
Motion by Mr. King
January 4, 2016

1 other two search warrant issues that I mentioned.

2 THE COURT: Mr. Sowards?

3 MR. SOWARDS: Would Your Honor like for me to
4 address the first part, and then call our witness for
5 the search warrant?

6 THE COURT: Let's go ahead and call your witness.

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State vs. Gentile
Motion to Suppress
January 4, 2016

MOTION TO SUPPRESS

MR. SOWARDS: The State calls Agent Jonathan Shealy.

[Whereupon, Mr. Shealy comes forward]

THE CLERK OF COURT: Place your left hand on the Bible, and raise your right for me.

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

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

THE CLERK OF COURT: Thank you. Please be seated.

[Whereupon, Mr. Shealy takes the witness stand]

THE CLERK OF COURT: Sir, for the record, if you'll please state your name, spelling your last name.

THE WITNESS: Agent Jonathan Shealy. S-H-E-A-L-Y.

MR. SOWARDS: Thank you, Agent Shealy.

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Motion to Suppress
Jonathan Shealy
Direct Examination by Mr. Sowards

JONATHAN SHEALY,

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

DIRECT EXAMINATION

BY MR. SOWARDS:

Q. What is your occupation?

A. I'm currently employed with the South Carolina Law
Enforcement Division.

Q. And have you previously worked for the City of
Charleston Police Department?

A. Yes, sir.

Q. And when were you employed with the City of
Charleston Police Department?

A. I started with the City of Charleston Police
Department back in 2006, and I worked there for approximately
eight and a half years.

Q. And so it's fair to say you were employed with the
City of Charleston Police Department in February of 2012?

A. Yes, sir.

Q. And what were you -- what was your position with
the department during that time?

A. I was a member of the special investigations unit.

Q. And how long -- and could you describe what the
special investigations unit is?

A. The special investigations unit is a unit that is

Motion to Suppress
Jonathan Shealy
Direct Examination by Mr. Sowards

1 primarily composed of narcotics investigations and vice
2 alcohol investigations, and I worked the narcotics side
3 throughout my time with that unit.

4 Q. Agent Shealy, how long were you in the special
5 investigations unit?

6 A. Approximately around five years.

7 Q. Agent Shealy, how did you become involved in the
8 investigation of this case, State versus Omar Gentile?

9 A. This particular case, I was the case agent.

10 Q. And what was your role as a case agent?

11 A. A case agent typically starts an investigation
12 whether or not we get information on illegal narcotic activity
13 in an area.

14 My particular role in this investigation is I
15 basically had the C.I. do a controlled buy. I assigned
16 personnel to certain areas, whether it was with the controlled
17 buy or with the search warrant. I decide ultimately who is
18 being charged within the investigation.

19 MR. SOWARDS: May I approach the witness, Your
20 Honor?

21 THE COURT: You may.

22 Q. [Mr. Sowards] Agent Shealy, I'm going to hand you
23 this. It's a search warrant. Do you recognize that?

24 A. Yes, sir.

25 Q. And how do you recognize that?

Motion to Suppress
Jonathan Shealy
Direct Examination by Mr. Sowards

1 A. It is a search warrant that I typed up for the
2 residence of Grove Street.

3 Q. Did you sign the affidavit --

4 A. Yes --

5 Q. -- for the search warrant?

6 A. Yes, sir, I did.

7 Q. And what did you do after you signed the affidavit?

8 A. After the affidavit is signed, we execute the
9 search warrant.

10 Q. Now, when you go to the judge to have a search
11 warrant signed, do you just hand the judge the warrant and
12 stand there silently?

13 A. Absolutely not.

14 You typically give a judge a background of what
15 this investigation is about.

16 Obviously, the judge is going to read it. But you
17 give them a more detailed background of what's occurring, what
18 you're looking for, who the parties are involved, because
19 sometimes you don't put all your information into the search
20 warrant due to the fact that a search warrant is actually left
21 at a residence and there's some information that will
22 compromise an ongoing investigation. So you give the judge a
23 brief summary of what's going on.

24 Q. And is that what you did in this case?

25 A. Yes, sir, I did.

Motion to Suppress
Jonathan Shealy
Direct Examination by Mr. Sowards

1 Q. And what was the location to be searched?

2 A. Grove Street.

3 Q. And what was the probable cause for this search
4 warrant?

5 A. The probable cause for this search warrant,
6 particularly, was -- we had different things. We conducted a
7 controlled purchase of illegal narcotics from the residence,
8 and we also had intel that a legal narcotic activity was
9 coming from the residence.

10 And when I talk about controlled purchase, we had a
11 confidential informant that had information in reference to
12 narcotic activity going on at this residence. We used that
13 confidential informant to go and purchase illegal narcotics
14 from the residence.

15 And I want to explain a little bit about the
16 controlled purchase. Before and after a controlled purchase
17 is made, we have an operations plan. We have many team
18 members involved in this. We have surveillance, a
19 confidential informant that's searched prior to going out to
20 purchase illegal narcotics -- for any kind of weapons, any
21 kind of illegal whatever -- any kind of illegal thing on the
22 C.I. The C.I. is also given prerecorded U.S. currency that we
23 supply the C.I. from our narcotics fund. The C.I. is
24 instructed on what to do. From there --

25 From this particular buy, we did all that. We wire

Motion to Suppress
Jonathan Shealy
Direct Examination by Mr. Sowards

1 the C.I. up with audio and video surveillance equipment. We
2 also listen to that audio as it's going on to make sure the
3 C.I. is safe and that the C.I. is doing exactly what we told
4 the C.I. to do.

5 In this particular case, all that was done.. The
6 C.I. was searched. The C.I. was given prerecorded U.S.
7 currency. The C.I. was wired up. The C.I. left a
8 predetermined location, went directly to the residence of
9 Grove Street, knocked on the door, was invited in to Grove
10 Street where the C.I. did purchase an amount of an illegal
11 narcotic from a black male subject from with inside the
12 residence. The C.I. did then leave that residence and come
13 directly back to us, as instructed.

14 From that point, the C.I. turned the narcotics
15 directly over to myself, at which point the C.I. is then
16 searched once again to make sure there's no more illegal
17 narcotics on the subject.

18 I enter that -- I field-tested that narcotics to be
19 presumptive as illegal narcotics, and it's placed into
20 evidence. I then go back and review the audio and video.

21 And from that point, I did determine that the C.I.
22 did go directly to that residence, did enter that evidence --
23 that residence, and did purchase illegal narcotics.

24 And then the confidential informant also writes a
25 statement stating exactly what they did throughout that buy.

Motion to Suppress
Jonathan Shealy
Direct Examination by Mr. Sowards

1 Q. Now, when was the affidavit -- or when was this
2 signed by the magistrate? The search warrant.

3 A. You want the date?

4 Q. The date.

5 A. The date that the judge signed the search warrant
6 was February the 3rd, 2012.

7 Q. And when was the search warrant executed?

8 A. The search warrant was executed on February the
9 9th, 2012.

10 Q. What was the reason for any delay between when the
11 search warrant was signed and when it was executed?

12 A. There's multiple of reasons that we wait a period
13 of time.

14 One being is the protection of the confidential
15 informant. Most of the time we are still currently utilizing
16 these confidential informants on ongoing investigations, other
17 investigations. We are given that window of opportunity. We
18 are given ten days to serve a search warrant, so a lot of
19 times we will wait a certain amount of time to protect that
20 C.I.'s identity.

21 Another reason is there was multiple investigations
22 going on within that area at the time, and we tend to wait and
23 serve the search warrant to where it won't mess up any other
24 ongoing investigations in that area.

25 Q. And, Agent Shealy, did -- was that delay, was that

Motion to Suppress
Jonathan Shealy
Direct Examination by Mr. Sowards

1 in good faith?

2 A. Yes.

3 Q. And when you executed the search warrant on
4 February the 9th, did you have a good-faith belief that it was
5 at that time supported by probable cause?

6 A. Absolutely.

7 MR. SOWARDS: Beg the Court's indulgence.

8 [Whereupon, Mr. Sowards and Ms. Linder confer]

9 MR. SOWARDS: No further questions from the State.
10 Please answer any questions that Mr. King may
11 have.

12 THE COURT: Mr. King.

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Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

CROSS-EXAMINATION

BY MR. KING:

Q. Detective Shealy, you testified about some information you had about Grove Street?

A. Yes, sir.

Q. Can you -- I know you had an informant. And this informant is the one that made this controlled purchase situation?

A. Yes, sir.

Q. Did you have any other information? Or I guess maybe the question: what information did you have, prior to the controlled purchase, about this residence?

A. We had -- and I -- we had numerous -- we had a different -- a couple of different sources giving us information about narcotics activity at Grove Street. Our informant advised me that there was narcotic activity going on at Grove Street.

From that point, we determined whether or not -- we try to corroborate that with other information that we've heard about Grove Street and the individuals who live or stay at Grove Street. We determine whether or not we have enough to go ahead and make a buy or try to get into the residence. At that point we did, and that's where we did the controlled purchase.

Q. Now, is this something where you were trying to

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 find out about this residence? Or did you seek out this
2 residence? Or did information come to you about this
3 residence?

4 A. Information came to me about the residence.

5 Like I said before, we've had information through
6 numerous sources that narcotic activity was going on in this
7 area. That's why we had numerous operations going on in this
8 area.

9 Q. Can you describe more about that? Other than -- I
10 know you had this informant. You're talking about other
11 information. What type? I'm not asking for identities of
12 anything confidential, necessarily. But what information,
13 what other information, did you have other than what this
14 informant was telling you?

15 A. We were just told that there were individuals
16 selling illegal narcotics out of the residence of Grove
17 Street.

18 Q. This is coming from other informants, or police
19 officers?

20 A. Police officers, law enforcement.

21 Q. And you said you did supplement this search warrant
22 with oral testimony, you said, to the --

23 A. Yes, sir.

24 Q. -- the magistrate?

25 A. Yes, sir.

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 Q. Did you tell the magistrate about these other
2 sources of information, or did you just rely on this
3 controlled purchase?

4 A. I had told the magistrate in reference to,
5 obviously, the controlled purchase.

6 But I always try to give them an overall summary of
7 what's -- or how we led up to this. I said, you know,
8 basically through information that we've collected from a
9 confidential informant and through other sources, we knew
10 about illegal narcotic activity coming from this residence.
11 From that point, we utilized a confidential informant to go in
12 and make a controlled purchase.

13 Q. Did you tell the magistrate what this other sources
14 of information were, or did you just say we had other sources?

15 A. Just illegal narcotic activity.

16 Q. Was the information you were getting specific to
17 anyone in the residence?

18 A. We did get specific information about what was
19 occurring at the residence.

20 Q. And what was that? What was the specific
21 information?

22 A. We were basically told that -- from a confidential
23 informant that there were two individuals in the residence who
24 were selling illegal narcotics; one went by the name of Scope,
25 one went by the name of Juice; and that heroin was being sold

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 out of the residence, as well as cocaine.

2 Q. So you got this informant and you -- you said you
3 testified you conducted this controlled purchase. I want to
4 talk about that.

5 You didn't put any information about the
6 reliability of the informant in the search warrant, did you?

7 A. No, sir.

8 Q. Because sometimes I've seen them where they say,
9 you know, an informant who has previously supplied us with,
10 you know, information that's been confirmed.

11 So you were relying just on that purchase itself,
12 not on the previous reliability of the informant?

13 A. No, sir.

14 We have used that informant multiple times. And
15 like I said, that informant was an ongoing informant for us
16 for other cases. The informant was reliable.

17 But I -- you know, if you're asking did I put it in
18 the search warrant, no, sir, I did not.

19 Q. So as far as the magistrate knew, this was -- there
20 was no information the magistrate had about the reliability of
21 the informant, other than what you put in --

22 A. No, sir.

23 Q. -- the search warrant?

24 A. No, sir.

25 Q. In this case -- and I want to talk about how you --

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 I guess how you conduct this controlled buy.

2 You testified that you get the informant and you
3 search them?

4 A. Yes, sir.

5 Q. And you wire them up with a camera?

6 A. Yes, sir.

7 Q. And you drop this informant off. You don't drop
8 him off right in front of the house?

9 A. No, sir.

10 Q. You dropped him off some distance from the house, I
11 guess, I guess to preserve your cover?

12 A. Yes, sir.

13 Q. Do you remember -- do you have a rough idea of how
14 far away you dropped off the informant?

15 A. Several blocks.

16 I would say less than half a mile. It was -- and
17 don't quote me. I just -- definitely several blocks away.

18 Q. Not exact.

19 But they had to walk a few minutes to get to this
20 residence?

21 A. Certainly. Yes, sir.

22 Q. Is there constant surveillance on the informant
23 while they're walking there? Or just listening?

24 A. Well, we try to keep an eye on the informant.

25 Sometimes we -- you know, obviously there's times

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 where you get caught up in traffic. We do try to keep an eye
2 on an informant. That's why we have different people placed
3 in different areas.

4 I wouldn't be able to tell you for sure if we had
5 eyes on the informant the entire time. But we are constantly
6 listening to that. And with that being said, we review the
7 entirety of the audio. The video is cut on as soon as --
8 before we drop the informant off.

9 So I guess the answer to your question is we try to
10 keep eyes on the informant the entire time. Sometimes it's
11 not possible, but the camera pretty much --

12 Q. I guess that's what I was trying to establish is
13 you didn't keep constant surveillance on this informant the
14 entire -- visual surveillance the entire time they walked from
15 the drop-off point to Grove Street?

16 A. I really couldn't tell you that.

17 From my point, we -- myself and another detective
18 were responsible for the extraction of the C.I. So this
19 particular buy, we could have kept constant surveillance on.
20 Some buys you can, some buys you can't.

21 I honestly couldn't tell you whether or not we did
22 or not on this particular one.

23 I know we did have eyes on the residence. And I'm
24 just going from memory here. From when the C.I. did enter the
25 residence, we did have eyes on the residence.

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 Q. But, again, that was some distance away from where
2 the drop-off point was?

3 A. Yes, sir.

4 Q. So this -- the camera is put on I guess on the
5 front of their body somewhere?

6 A. It's placed in different positions.

7 We kind of switch it up. So it's all over, really.
8 But, typically, definitely in front somewhere of the body.

9 Q. So when you're watching the video, you can see
10 ahead of the informant, right, what's in front of them?

11 A. That's right.

12 Q. But you generally can't see their hands outside of
13 the view of the camera; right?

14 A. I would say no.

15 Q. And you can't see what's behind them --

16 A. No.

17 Q. -- if the camera is pointing straight ahead?

18 A. No, sir.

19 Q. And you can only see a certain amount straight
20 ahead and to the left and right?

21 A. Right.

22 Q. And do you remember in the video in this case that
23 there are other people? I mean, this informant is walking out
24 in public; right?

25 A. Right.

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 Q. During the daytime?

2 A. Right.

3 Q. So there are at least one other person on that
4 video, who's seen in the field of view at some point, that
5 this informant passes?

6 A. I would -- fair to say there probably was.

7 I mean, I -- like I said, I watched that video
8 years ago. But I'm sure it was. I mean, it was during the
9 daytime and it was -- in that area, that's a well-populated
10 area.

11 Q. And, now, and what you -- and you reviewed the
12 video and you believed it to be a narcotics purchase?

13 A. Absolutely.

14 Q. And it was Mr. Gentile's brother, Maurice Gentile,
15 who is on the video selling to the informant?

16 A. Well, like I said, there was a black male subject.
17 We believe it to be Maurice Gentile.

18 But with that being said, we do know that Mr. Omar
19 Gentile was definitely at the residence during the time of the
20 purchase.

21 Q. But he's not involved in the purchase, or do you
22 need to review the video again to refresh your memory? But
23 from what I saw, he's not involved in the purchase. He's
24 sitting inside on a couch I believe with Mr. Davis, the
25 handicapped man.

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 A. Right.

2 Q. So there's a person who comes to the door when the
3 informant comes to the door; right?

4 A. Right.

5 Q. And you can see that person's face on the video?

6 A. Right.

7 Q. And you did some research to find out who that
8 person was?

9 A. Right.

10 Q. And you determined that person was Maurice Gentile?

11 A. Right.

12 Q. In these videos, it really captures -- it captures
13 wherever the camera happens to be pointed; right? You can't
14 control necessarily where the camera is pointing?

15 A. No.

16 We don't have -- no, we can't manually control it.
17 It's kind of -- the human body kind of controls it. Wherever
18 the body goes, the camera goes.

19 Q. And in your experience doing these sort of
20 purchases, it captures -- let's see. Sometimes it can capture
21 the entire purchase, sometimes it might just capture a flash
22 of money? Right? It doesn't always capture everything on the
23 video --

24 A. No.

25 Q. -- is that right?

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 A. No. I -- no.

2 Q. And in this case it doesn't capture everything on
3 the video?

4 A. I haven't seen the -- this particular purchase was
5 actually -- like I said, we're not making motion pictures.
6 This is on the body. I believe from this purchase, this
7 actually by itself was pretty good. This was one of our
8 better pretty clear, knock on the door, go inside, money's
9 exchanged, narcotics are exchanged, leaves. But like I said,
10 I haven't reviewed this video in --

11 Q. Well, I didn't see any -- I remember seeing money
12 but not any cocaine actually on the video. And that wouldn't
13 be unusual, right, for the actual hand-to-hand not to be
14 caught --

15 A. Like I said, we're not --

16 Q. -- video camera?

17 A. -- we don't have --

18 THE COURT: Please don't talk over each other.

19 Thank you.

20 Let him finish his question, and then you may
21 answer. Thank you.

22 Q. [Mr. King] In your experience dealing with this,
23 the camera doesn't always capture the exact one hand placing
24 drugs into another hand?

25 A. No.

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 Q. Would you say probably more than likely it doesn't
2 actually capture that? You usually try and capture the
3 person's face?

4 A. No. We try to capture -- we try to capture
5 everything.

6 But like I said, we're not -- it's not a motion
7 picture. We try to do the best we can with the placement of
8 the cameras. It's our goal to capture everything, but that
9 doesn't necessarily always happen.

10 Q. Would you agree in this case that it doesn't
11 actually show cocaine on the video?

12 A. Like I said, I have not seen this video in a number
13 of years.

14 I recall seeing a hand-to-hand transaction. But if
15 you're asking me did I see a crystal-clear-in-color white-
16 powder substance, I would say no.

17 Q. After this, after this happened, I believe you
18 testified you waited -- this was on February 3rd that we're
19 talking about with the video. And you waited until the 9th to
20 serve the search warrant and execute it?

21 A. You're asking when the buy was made?

22 Q. The buy was on February 3rd; right?

23 A. No.

24 Q. It wasn't?

25 A. No. The search warrant was signed on February the

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 3rd.

2 Q. Well, how -- it says within the previous seventy-
3 two hours. So do you know how long before the search warrant
4 was taken to the magistrate that --

5 A. It was within seventy-two hours.

6 Q. Okay. But you don't remember exactly when? if it
7 was twenty-four or --

8 A. I can look back at my --

9 Q. But it could have been as much as seventy-two
10 hours?

11 A. It was within seventy-two hours.

12 Q. And you testified you waited until the 9th to
13 execute the search warrant, one reason to protect the identity
14 of the informant? I guess because if the police come in right
15 after some controlled purchase is done, it's going to be
16 obvious who the informant is so you want some time to pass?

17 A. Yes, sir.

18 Q. Did you do anything, any surveillance or anything
19 like that, between the time the search warrant was signed and
20 executed?

21 A. Yes.

22 We will do -- we'll do pre-surveillance on the
23 house, because we typically try to see if there's any
24 children, any dogs, elderly people, so we typically try to get
25 out there as much as we can. But a lot of times we really --

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 we don't -- we're working other cases. But we always
2 typically try to do at least a certain amount of surveillance
3 on it to see those factors. Because before we hit a house, we
4 want to make sure there's not little children in there, dogs.
5 We kind of want to know who's in and out, how many people's
6 there.

7 Q. So in this case you had I think it was Forrest,
8 Detective Forrest, who was doing pre -- the surveillance
9 before the day the search warrant was executed?

10 A. Detective Forrest. Yes, sir.

11 Q. Do you know how long you had been doing
12 surveillance before it was executed? Approximately an hour,
13 two hours?

14 A. I do not know.

15 I was involved in a second search warrant, that was
16 being executed that day, with the SWAT Team.

17 But I would say Forrest was -- Detective Forrest
18 was probably out there at least an hour before. We typically
19 try to get someone out there generally an hour before.

20 Q. But other than that, was there anything else done
21 in those intervening days after the search warrant was issued?

22 A. I would say -- yeah.

23 Like I said before, we typically try to go out
24 there and do as much surveillance as we can. I couldn't give
25 you the dates or the amount of time we did it, but we -- yes.

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 We would go out there and at least try to see if
2 there's dogs, children, see what kind of activity is going on
3 during that time. But I wouldn't be able to give you specific
4 dates or times or how long we did it, or anything like that.

5 Q. Can you give us specifics on what was observed in
6 that surveillance? Anything --

7 A. I can say that we definitely didn't see children,
8 dogs, any of that kind of thing. Because that's pretty much
9 what we're looking for at that point.

10 We've already got -- we've already established
11 probable cause that narcotics were being sold there. We
12 definitely want to look out for that, as well, but we're --
13 after a search warrant is signed, our main goal then is to see
14 the dangers before we execute the search warrant.

15 So I would be able to tell you we didn't observe
16 dogs, little children, anything like that, or that would have
17 been noted.

18 Q. And is that what -- and when Forrest is doing his
19 pre-search surveillance, is that what he's looking for as
20 well?

21 A. He's looking for a number of things, really. Any
22 dangers.

23 Basically, it's for security purposes, what -- any
24 dangers: did you see anybody take any guns in and out of
25 cars, dogs, children, things like that.

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 Q. And from my understanding, Forrest did observe
2 someone leaving Grove Street and entering Grove Street;
3 right?

4 A. Again, I was -- I was personally on another search
5 warrant. I never spoke with Forrest. But what I was told was
6 that he did see someone come out. But I wasn't given any
7 specifics to it. My focus was, at that time, executing
8 another search warrant at a different residence. So I was not
9 even part of the tactile surveillance, entry, or anything, on
10 Grove Street.

11 Q. Okay. But you did enter -- you were present during
12 Mr. Gentile's statement, though? You did -- you were there at
13 some point?

14 A. Right. Yes, sir. Yes, sir.

15 Q. So I guess, then -- I'll wrap it up.

16 From your knowledge, Detective Forrest didn't see
17 anything other than somebody leaving and going into another
18 residence? No information relating to drug activity?

19 A. No, sir. No, sir.

20 Like I said, I was on a different search warrant.
21 But when I did get there, I was later briefed or told that
22 Forrest did see someone exit the residence.

23 But I was not part of any of that. I was focusing
24 -- I mean, that -- it was my case. I was focusing on Grove
25 Street.

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 MR. KING: That's all the questions I have.

2 THE COURT: Mr. Sowards?

3 MR. SOWARDS: No further questions, Your Honor.

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

5 [Whereupon, Mr. Shealy is excused and exits the
6 witness stand]

7 THE COURT: Call your next witness.

8 MR. SOWARDS: The State has no other witnesses,
9 Your Honor.

10 THE COURT: Mr. King, do you have any witnesses?

11 MR. KING: I have no witnesses, Your Honor. Just
12 argument.

13 THE COURT: All right. Let me hear your argument.

14 MR. KING: Your Honor, the first issue I guess is
15 whether or not the probable cause existed for the
16 search.

17 I had cited the a court the case State vs. Dupree.
18 In this case, it appears -- it references control
19 purchases and gives some examples. And it appears in
20 this case is that the law enforcement is searching the
21 informant, dropping the informant off near the house and
22 observing them enter the house and then exit the house,
23 and then returning with the drugs.

24 It's a little different in this case because as the
25 officer testified, he can't say that there was constant

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 surveillance on this informant the whole time that
2 they're walking from the drop-off point to Grove
3 Street. And what you can see is what the camera is
4 filming, which happens to capture the person standing.
5 But, you know, there's no way to eliminate that this
6 person got these drugs from someone else. You know,
7 someone's off to the left or right, or even behind them.
8 It doesn't capture everything.

9 So I'm distinguishing State vs. Dupree because in
10 this case there wasn't constant surveillance on the
11 informant the entire time, and I would argue that the
12 controlled buy wasn't properly conducted as the --
13 again, The State vs. Dupree and that there was not
14 probable cause for the search.

15 Secondly, Judge, I was arguing that there was that
16 delay in serving the search warrant, executing it, from
17 February the 3rd to February 9th. And I had the Evander
18 [phonetic] case. That's really all I have, Judge. But
19 in that case they talk about how one controlled
20 purchase, you know, was not enough to show some ongoing
21 operation to where probable cause would last that long.
22 You know, so they're -- the holding in that case is, you
23 know, you have to execute the warrant promptly while the
24 probable cause still exists.

25 There was one purchase, alleged purchase, from this

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 house that they're basing this on. There was
2 surveillance done at the intervening -- you know, at
3 least some point, but that was just it seems like to
4 eliminate dogs, and children. And safety issues. But
5 there's no evidence that there was continuing drug
6 activity from February 3rd all the way up until February
7 9th. There is no testimony that there was a high volume
8 of traffic of people going into the residence and
9 leaving. You know, no other -- you know, they could
10 have conducted more than one controlled purchase at the
11 house.

12 But in this case, Judge, our view is that the
13 probable cause dissipated from February the 3rd to
14 February 9th, and they waited an unreasonably long time
15 to execute the search warrant. I think if they had
16 waited one day, two days, that still would have
17 protected the identity of the informant.

18 But, you know, they waited -- I believe they waited
19 too long and the probable cause had dissipated. I'm
20 making this motion based on the fourth amendment, the
21 corresponding provisions of the South Carolina
22 Constitution.

23 THE COURT: Then why do we have ten days in the
24 Constitution, Mr. King?

25 MR. KING: It's not in the Constitution, Your

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 Honor. It's in the --

2 THE COURT: Or in the --

3 MR. KING: -- statute.

4 THE COURT: In the statute.

5 MR. KING: It's in South Carolina 17-13-140. I
6 believe that's based on the Federal Rule. The Federal
7 Rule, I guess they have to have some sort of time limit
8 where the ten days is definitely too far.

9 But Indiana -- the Indiana case references some
10 federal cases that hold that doesn't mean the -- that
11 the probable cause absolutely lasts at least ten days.
12 Well, Magamus [phonetic] is is probable cause still
13 there when the search warrant is executed.

14 The ten days is a guideline, I think, and it sets
15 an outer boundary but it doesn't mean that they always
16 have -- and the federal cases say that this doesn't mean
17 they always have ten days to execute it; in certain
18 circumstances, the police need to go in and execute it
19 more promptly because probable cause dissipates over
20 time.

21 That's all, Your Honor.

22 THE COURT: All right.

23 MR. SOWARDS: Thank you, Your Honor. I'll address
24 the controlled purchase first.

25 Detective Shealy, Agent Shealy, testified that,

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 yes, while the informant was not under surveillance the
2 entire time, that there are controls in place to
3 establish the reliability of the informant, such as the
4 wiring of the informant with audio and video. They did
5 that in the case, this case. They searched the
6 informant before and after. They did that in this case.
7 That they had a live audio wire that they used to
8 monitor the informant as that person left the vicinity
9 of Agent Shealy, went to the house and came back.

10 Based on reviewing the video, it did appear that
11 the informant entered the residence of Grove Street.
12 And we would submit to you that at that point it's not
13 really all that important according to who actually sold
14 the drugs, but what's important is that the informant
15 entered Grove Street and purchases narcotics. But
16 there's nothing to suggest -- it's Agent Shealy's
17 testimony that there was nothing to suggest that
18 something untoward happened during the buy. So we would
19 submit to you, Your Honor, that the reliability of the
20 informant was established in that way.

21 But there was also the informant gave them intel
22 prior to the controlled purchasing, indicating that one
23 individual was selling heroin from the residence and one
24 individual was selling cocaine. And that intel was
25 corroborated by the buy, where cocaine was purchased.

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 Secondly, Your Honor, as far as the delay is
2 concerned, South Carolina Statute 17-13-140, as Your
3 Honor pointed out, provides law enforcement ten days to
4 search -- or to execute a search warrant. And I think
5 that that statute recognizes that. But as Mr. King
6 said, in some cases it's appropriate to do it two or
7 three days, and in some cases it's appropriate to do it
8 ten days, after the search warrant is signed.

9 Agent Shealy testified that there were a number of
10 investigations occurring in the area, any one of which
11 would be jeopardized by executing the search warrant at
12 Grove Street. Unlike I believe the case -- the
13 Indiana case that Mr. King cites to, merely had intel
14 beforehand that people were actively selling out of that
15 residence. It wasn't an instance where they just sent
16 the informant out to go try to buy drugs off someone.
17 They were given intel that narcotics activity was
18 occurring at the home and the informant went there to
19 purchase it.

20 And, also, Agent Shealy testified that they were
21 using the informant in other investigations and they
22 wished to protect the informant's identity, and all that
23 was done in good faith, and at the time that the search
24 warrant was executed Agent Shealy and others had a good-
25 faith belief that it was supported by probable cause.

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 THE COURT: Mr. King, anything further?

2 MR. KING: Just that the other part of my motion
3 was that if we had the informant here, if we had the
4 right to confront and cross-examine the informant, we
5 might be able to answer some of these questions. We can
6 -- the ability to call the informant to the stand.

7 THE COURT: What is your position as to the
8 informant?

9 MR. SOWARDS: Your Honor, our position is the same
10 today as it was on I believe it was September 18th --

11 THE COURT: I've heard a few cases since that time,
12 so if you will refresh your argument on that one.

13 MR. SOWARDS: Your Honor, the State's position is
14 that in cases such as this one where the informant was
15 not an active participant in the charges that are being
16 tried in this case the -- sorry -- that the informant's
17 identity can remain confidential. It allows the free
18 flow of information to law enforcement from informants.

19 Your Honor, the informant, like I said, was not an
20 active participant in the search warrant. Neither this
21 defendant nor the codefendant was the one that was
22 charged for anything related to the controlled purchase.
23 That distribution warrant was never served either
24 defendant.

25 So that would be our position, Your Honor.

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 THE COURT: Mr. King, anything further?

2 MR. KING: Nothing.

3 Just that they're talking about an ongoing
4 operation, so I think the informant would be a material
5 witness to this alleged ongoing operation.

6 Even though they didn't charge anyone for that
7 controlled purchase -- and there is case law that talks
8 about being a participate in a transaction. And there's
9 also language about being a material witness.

10 There's another person selling drugs out of the
11 front door, Maurice Gentile, so there could even be a
12 question about did the -- who the drugs actually
13 belonged to. So I think that we should have a right to
14 investigate that and possibly cross-examine that.

15 And I agree that the informant was not present
16 when the search warrant was executed, was not present in
17 the house or a part of that. But with it being an
18 ongoing -- the State claiming an ongoing drug operation,
19 that informant is still a material witness or a witness
20 to this ongoing drug operation. That's all.

21 THE COURT: Well, is there a charge of an ongoing
22 drug operation?

23 MR. KING: I guess there's not a charge. There's a
24 charge of trafficking. But, no, I guess there's not a
25 charge of --

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 THE COURT: But it's trafficking because of the
2 weight; correct?

3 MR. KING: That's right.

4 THE COURT: And it's possession with intent to
5 distribute because of the weight; correct?

6 MR. KING: Yes, Your Honor.

7 THE COURT: So tell me again, under the case law,
8 why the State would need to reveal the informant.

9 MR. KING: Because it's bigger than just this one
10 moment in time. If they're alleging an ongoing
11 operation and there's another -- it's not just that,
12 that there's an ongoing operation, but that this
13 informant is a witness, based on their testimony,
14 claiming that drugs were being sold out of that house.
15 What developed the information and really fueled this
16 case is that informant.

17 [Off the record momentarily]

18 MR. KING: And further grounds, Your Honor, there
19 is another person in the house who is selling drugs, and
20 that was witnessed by this informant. That informant
21 had information about what's going on inside that house
22 that could be helpful to our defense. Our defense is
23 that it's not Mr. Gentile's heroin.

24 THE COURT: One more time.

25 MR. KING: Our defense is that it's not Maurice --

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 it's not Omar Gentile's heroin that they're trying to
2 claim was his. There's another person in the house who
3 sold drugs to an informant, and that informant I believe
4 is a material witness that could provide helpful
5 information in this case.

6 THE COURT: Anything further?

7 MR. SOWARDS: No, Your Honor.

8 THE COURT: So your first argument, so that I -- I
9 just want to make sure that I'm clearly understanding,
10 because you've raised several issues and I just want to
11 address them in no particular order.

12 So at this point, you want -- we are revisiting
13 your request to reveal the C.I.?

14 MR. KING: Yes, Your Honor.

15 And to have him testify at this hearing to
16 establish probable cause. Because they're basically
17 testifying on hearsay at this point. The informant is
18 also a witness to this alleged controlled purchase. So
19 to reveal -- not just for -- for this hearing itself,
20 and for trial, as a material witness.

21 THE COURT: How I understand the facts to be
22 revealed and testified to today, the C.I. merely gave
23 the probable cause for the detectives to go and get the
24 search warrant; is that correct?

25 MR. KING: That's correct, Your Honor.

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 The informant -- they relied on this informant's
2 controlled purchase as probable cause to search the
3 house.

4 THE COURT: And based upon that, they went to a
5 magistrate, had a search warrant issued, executed the
6 search warrant within ten days; is that correct?

7 MR. KING: Yes, Your Honor.

8 THE COURT: And then your client has been charged
9 with not distributing to the confidential informant but
10 to merely possessing trafficking weight quantities
11 within the proximity of a school; is that correct?

12 MR. KING: Yes, Your Honor.

13 THE COURT: That's what the State alleges?

14 MR. KING: Yes, Your Honor.

15 THE COURT: Based upon my reading of the case law
16 and the testimony as I understand it here today, I again
17 deny your motion to reveal the C.I. based upon the case
18 law as I interpret it.

19 Because the C.I. was the basis for the probable
20 cause, I do find that there was probable cause for the
21 search warrant to issue, based upon the testimony,
22 again, presented here today and what was contained in
23 the affidavit.

24 And then I do find, based upon the officer's
25 testimony as to why they waited, the six-day delay was

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 not -- did not -- was not in violation of your client's
2 constitutional right.

3 Have I addressed all your remaining issues, Mr.
4 King? I just want to make sure.

5 MR. KING: Yes, Your Honor.

6 THE COURT: With that, is there anything else?

7 MR. KING: No, Your Honor.

8 MR. SOWARDS: I think the only other pretrial issue
9 would be whether the defendant can remain on bond.

10 THE COURT: What about sequestration?

11 MR. SOWARDS: We're not asking for witnesses to be
12 sequestered.

13 THE COURT: Mr. King?

14 MR. KING: I'm not asking for sequestration, Your
15 Honor. I don't think in this case it's necessary.

16 THE COURT: Let me hear your position as to whether
17 or not Mr. Gentile should be allowed to remain on bond.

18 MR. SOWARDS: Your Honor, the State would object.

19 Mr. Gentile is facing quite a bit of time if he is
20 convicted. Twenty-five years. He has a prior history
21 going back to 2002 of failing to appear. And those are
22 -- would be our two reasons.

23 THE COURT: He's been out on bond how long,
24 Mr. King?

25 MR. KING: Since 2012, Your Honor. Three years or

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 more.

2 He's shown up whenever he's supposed to show up. I
3 believe he's been to three or four status conferences,
4 in front of Your Honor, that we've had this year. This
5 has been on previous trial dockets. He's always shown
6 up. He's shown up today. He's here today. I think
7 he's shown -- I don't think he's going anywhere. If he
8 was, it would have been long before this.

9 But he's shown up for every court date. His bail
10 bondsman, Rhonda Smith, has no problem remaining on the
11 bond. We would ask that he remain out.

12 THE COURT: Have you ever requested his appearance,
13 that he's not shown up, since 2012?

14 MR. SOWARDS: Not that I'm aware of.

15 THE COURT: Mr. Gentile, please stand.

16 Go ahead and place him under oath.

17 THE CLERK OF COURT: Sir, if you'll raise your
18 right hand.

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

24 MR. GENTILE: Yes, ma'am.

25 THE COURT: Mr. Gentile, do you understand where we

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 are, procedurally, in your trial?

2 MR. GENTILE: Yes, ma'am.

3 THE COURT: Where are we?

4 MR. GENTILE: Going to the case.

5 THE COURT: And you understand that you have the
6 right to be present for your trial but you also --

7 MR. GENTILE: Yes, ma'am.

8 THE COURT: -- we could also proceed if you choose
9 not to show up?

10 MR. GENTILE: Yes, ma'am.

11 THE COURT: And so the trial could proceed in your
12 absence, should I grant your attorney's request to allow
13 you to remain on bond?

14 MR. GENTILE: Yes, ma'am.

15 THE COURT: And do you know what time we are
16 staring court in the morning?

17 MR. GENTILE: I believe 9:30.

18 THE COURT: And is there any reason that I should
19 not allow you to remain out on bond?

20 MR. GENTILE: Not any reason. I mean, I would like
21 to be with my family --

22 THE COURT: Are you --

23 MR. GENTILE: -- with my mama.

24 THE COURT: Are you going to show back up to court
25 tomorrow?

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 MR. GENTILE: Huh?

2 THE COURT: Will you be in court tomorrow?

3 MR. GENTILE: Oh. Yes, ma'am.

4 THE COURT: So you understand what will happen if
5 you do not show up?

6 MR. GENTILE: Yes.

7 THE COURT: What is going to happen?

8 MR. GENTILE: Be tried in my absence.

9 THE COURT: And what else?

10 MR. GENTILE: Found guilty.

11 THE COURT: I don't know that, because that's up to
12 the jury to determine. All right? I've seen defendants
13 be found not guilty in their absence. But I do not
14 recommend that as a strategy because I am telling you
15 you must appear tomorrow. Do you understand?

16 MR. GENTILE: Yes, ma'am.

17 THE COURT: And if you do not appear, not only will
18 we proceed in your absence but a bench warrant will
19 issue and I will find that you are in contempt of court.
20 Do you understand?

21 MR. GENTILE: Yes, ma'am.

22 THE COURT: All right. I'm going to sign the
23 order.

24 Mr. King, any concerns that you have, as an officer
25 of the Court?

Motion to Suppress
Jonathan Shealy
Cross-Examination by Mr. King

1 MR. KING: No, Your Honor.

2 THE COURT: Note your --

3 MR. KING: I've always been able to reach him.

4 THE COURT: He's always been here, I recall, on
5 time?

6 MR. KING: Yes, Your Honor.

7 THE COURT: Mr. Gentile, please be here at nine
8 o'clock in the morning.

9 MR. GENTILE: Oh, yes.

10 THE COURT: Ms. Leonard, are we going to be back in
11 the big courtroom?

12 THE CLERK OF COURT: You should be back in 4-C
13 tomorrow.

14 THE COURT: All right. Please have a seat.
15 Anything further?

16 MR. SOWARDS: Nothing from the State, Your Honor.

17 MR. KING: No, Your Honor.

18 THE COURT: See y'all at -- we'll begin at 9:30.

19 MR. SOWARDS: Thank you, Your Honor.

20 THE COURT: Thank you.

21 MR. KING: Thank you.

22 [JURY TRIAL ADJOURNS AT 3:39 P.M.]

23

24

25

State vs. Gentile

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable Kristi L. Harrington, on Monday, January 4, 2016.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 10th day of March, 2016.



Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CVR-CM-M

-106-

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) NINTH JUDICIAL CIRCUIT
 COUNTY OF CHARLESTON) CASE NO.: 2012-GS-10-02586
 2015-GS-10-05473

STATE OF SOUTH CAROLINA)
)
)
 VS.)
)
)
 OMAR GENTILE)
)
)
 DEFENDANT.)
)

JURY TRIAL

VOLUME 2 OF 2

held before the Honorable Kristi L. Harrington
 Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
 in the Charleston County Courthouse
 Charleston, South Carolina
 on Tuesday, January 5, 2016, Commencing at 9:46 a.m.

SUSAN "MIA" PERRON, CVR-CM-M
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 31865
Charleston, South Carolina 29417-1865
1-706-231-6028

State vs. Gentile
Opening Statement by Mr. Sowards
January 5, 2016

OPENING STATEMENT

1
2 MR. SOWARDS: Good morning. My name is Whit
3 Sowards, as I told you yesterday when we were selecting
4 you-all to serve on this jury. I am assistant solicitor
5 here in the ninth circuit solicitor's office and with me
6 is assistant solicitor Stephanie Linder.

7 On February 9th, 2012, detectives with the City of
8 Charleston Police Department's special investigations
9 unit executed a search warrant at Grove Street, not
10 too far from where we all are here today. When officers
11 entered the residence, they located the defendant, Omar
12 Gentile, in the living room. They located another
13 individual in a kind of makeshift bedroom in the back of
14 the downstairs.

15 As officers investigated Grove Street, they were
16 able to tie one of the bedrooms upstairs to the
17 defendant. And in that bedroom, detectives located some
18 personal effects appearing to belong to the defendant.
19 They found-- in one of the drawers they found a digital
20 scale. They found wax bindles, rubber bands, very
21 consistent with the distribution of heroin. And they
22 found in that same drawer 13.84 grams of heroin. They
23 also found about \$1500 in currency in the defendant's
24 bedroom.

25 So I know that people have strong opinions about

State vs. Gentile
Opening Statement by Mr. Sowards
January 5, 2016

1 whether drugs should be legalized in this country but on
2 February 9th, 2012, and today, the possession of heroin
3 was and is illegal in the state of South Carolina.

4 Now, throughout the course of this trial, you-all
5 will hear testimony from four of the detectives who
6 participated in the investigation of Grove Street.
7 You will hear from individuals with the City of
8 Charleston Police Department who collect, store, and
9 transport evidence. And you will hear from a chemist,
10 who is employed by the City of Charleston Police
11 Department, who performed a forensic analysis on
12 narcotics that were found in the defendant's bedroom.

13 Now, it's the State's burden to prove beyond a
14 reasonable doubt that the defendant is trafficking
15 heroin and possession with intent to distribute heroin
16 within the proximity of a school. And I submit to you
17 that after hearing all of that testimony and reviewing
18 all of the evidence that is submitted in this case, that
19 all twelve of you will be firmly convinced that the
20 heroin found in the defendant's bedroom was his and you
21 will render a verdict of guilty on both indictments.
22 Thank you.

23 THE COURT: Mr. King?

24 - - -

25 - - -

State vs. Gentile
Opening Statement by Mr. King
January 5, 2016

OPENING STATEMENT

MR. KING: On that day in February, Mr. Gentile had come to this residence, like he does most days, to take care of his cousin. John Davis is the guy that he referred to back in his bedroom. He's a handicapped individual. He had a leg amputated.

Mr. Gentile comes there -- doesn't live there, but comes there every day to help take care of this man. He has a job at Saint Morris [phonetic] Building Services. He's not involved in drugs. But he is at the wrong place at the wrong time, because he's sitting on the couch. He had come in -- spare pants laying over in that room on the bed, or pants that had been taken off. He's sitting on the couch now, in some more comfortable clothes, and the police bust in with a search warrant and they find heroin hidden in a drawer in that bedroom.

Now, it looks bad. Life's complicated, and there's situations where -- and we all know it from our experiences, whether our personal life, and sometimes in the plot of movies or TV shows or whatever, situations where you can get caught up where it might look bad at first look but it doesn't necessarily mean you're guilty.

About six days before the search warrant was executed, Omar's brother, Maurice Gentile, sold cocaine

State vs. Gentile
Opening Statement by Mr. King
January 5, 2016

1 to a confidential informant at Grove Street, at that
2 residence. Now, he can't help what his brother does.
3 And this is the world he lives in. But what we would
4 expect in that situation -- because things do happen in
5 life and sometimes things aren't what they appear, is
6 that the police do everything reasonable to make sure
7 that they have the right guy -- that they investigate
8 events, because they have to present this evidence to
9 you and you're going to have to make this determination
10 about a man's life of whether he's guilty or not.

11 So we're asking you to listen to all the evidence,
12 to follow the law as the judge instructs you that he is
13 presumed innocent. And they have to prove that this was
14 his heroin, and I don't think they can do that.

15 We're asking you to find him, at the end of all
16 this evidence, not guilty. Thank you.

17 THE COURT: Call your first witness.

18 MR. SOWARDS: Thank you. The State calls Detective
19 Jake Grill.

20 [Whereupon, Mr. Grill comes forward]

21 THE CLERK OF COURT: I need to swear you in.

22 MR. GRILL: Yes, sir.

23 [Whereupon, Mr. Grill is duly sworn by the clerk of
24 court as follows: do you swear or affirm that your
25 testimony will be the truth, the whole truth, and

State vs. Gentile
Opening Statement by Mr. King
January 5, 2016

1 nothing but the truth, so help you God]

2 THE WITNESS: Yes, sir, I do.

3 THE CLERK OF COURT: Be seated.

4 [Whereupon, Mr. Grill takes the witness stand]

5 THE CLERK OF COURT: Please state your full name,
6 and spell your last name for the record.

7 THE WITNESS: Yes, sir. Detective Charles Jacob
8 Grill. G-R-I-L-L.

9 MR. SOWARDS: Good morning, Detective Grill.

10 THE WITNESS: Good morning.

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Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

CHARLES J. GRILL,

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

DIRECT EXAMINATION

BY MR. SOWARDS:

Q. What is your current occupation?

A. I am currently employed by the City of Charleston Police Department.

Q. And how long have you been with the City of Charleston Police Department?

A. Over ten years.

Q. And what are your current duties with the City of Charleston Police Department?

A. Currently, I'm assigned to the DEA Charleston Drug Task Force.

It's a task force made up of local agencies assigned to the Federal Drug Enforcement Administration. I'm assigned to them.

However, the City -- I still work for the City, I just -- I'm just attached to that task force group. And my role in the City is under the special investigations unit within the City department detective's unit.

Q. And could you describe to the jury, please, your duties as a member of the DEA task force?

A. Yes, sir.

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 My duties and responsibilities are to investigate
2 drug traffickers within the jurisdiction of United States and
3 international cases.

4 When I was a City detective, my responsibilities
5 was to investigate drug trafficking with the City of
6 Charleston's jurisdiction.

7 However, attached to the federal drug task force,
8 I'm basically just the same thing as a federal agent and I
9 have the same authority as a Federal Drug Enforcement
10 administrator.

11 Q. And, Detective Grill, were you working with the
12 City of Charleston Police Department on February the 9th of
13 2012?

14 A. Yes, sir, I was.

15 Q. And in what capacity were you working with the
16 department then?

17 A. I was a detective, and we executed a search warrant
18 at the residence.

19 Q. Now, you've kind of described your duties with the
20 DEA task force, and you mentioned that you've also worked in
21 the special investigations unit. What were your duties as a
22 member of that?

23 A. Yes, sir.

24 Like I said earlier, my main priority in that unit
25 was to investigate drug traffickers or drug crimes that have

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 occurred within the City of Charleston, within the
2 jurisdiction of the City.

3 Q. And, Detective Grill, could you please explain to
4 the jury your training and background as it relates --

5 A. Yes, sir.

6 Q. -- to a police officer?

7 A. Every police officer attends the criminal justice
8 academy, which is in Columbia. You know, it's a -- when I
9 went through the academy, it was a nine-week program. I
10 believe they've increased it now.

11 And once you graduate there -- I was assigned the
12 patrol division of a team-one area of Charleston Police
13 Department, and I was on -- I worked on the streets for over
14 two years as a marked uniform police officer.

15 From there, I was assigned to the special
16 investigations unit. And within -- with being assigned there,
17 I also have obtained hundreds of hours of additional
18 specialized training in drug crimes and money-laundering
19 crimes, clandestine labs, stuff like that.

20 And after being in the special investigations unit
21 for approximately about two years, that's when I was then
22 assigned to the drug task force. And since then, I've
23 obtained several more hours of specialized training into like
24 the federal side of a drug investigation.

25 Q. I think you may have answered this earlier, but I

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 just want to make clear. Did you have the occasion to work on
2 February 9th of 2012?

3 A. Yes, sir, I was. Yes.

4 Q. And did you have the occasion to become involved in
5 the investigation of this case, State versus Omar Gentile --

6 A. Yes.

7 Q. -- on February 9th --

8 A. Yes, sir.

9 Q. -- 2012? .

10 And what was your role in the execution of the
11 search warrant at Grove Street?

12 A. I was on the entry team, the team that entered into
13 the residence.

14 MR. SOWARDS: May I approach the witness, Your
15 Honor?

16 THE COURT: You may.

17 Q. [Mr. Sowards] Detective Grill, I'm going to hand
18 you what's been marked as State's -- just for identification
19 as State's Exhibit 17.

20 A. Yes.

21 Q. Do you recognize that?

22 A. Yes, sir, I do.

23 Q. And is that a fair and accurate description of what
24 that's supposed to depict?

25 A. Yes, sir.

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 Q. And what is that?

2 A. It's a map of the City of Charleston. Or an area
3 in the City of Charleston.

4 MR. SOWARDS: Your Honor, at this time the State
5 moves -- would ask to move State's Exhibit 17 into
6 evidence.

7 THE COURT: Any objection?

8 MR. KING: May I just see it briefly?

9 THE COURT: You may approach.

10 [Whereupon, Mr. King reviews documents]

11 MR. KING: No objection, Your Honor.

12 MR. SOWARDS: Your Honor, at this time, the State
13 would ask to publish Exhibit 17.

14 THE COURT: State's 17 into evidence without
15 objection.

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

18 THE COURT: You may publish.

19 MR. SOWARDS: Thank you. May I approach, Your
20 Honor?

21 THE COURT: You may.

22 Q. [Mr. Sowards] While we're waiting on that, I'll
23 just ask you to describe what you see in that picture.

24 A. Yes, sir.

25 This is a -- it's an aerial photograph of the upper

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 peninsular of Charleston, I guess you could say.

2 Q. And I'm sorry. If you could again please describe
3 what we're looking at in this picture.

4 A. Yes, sir.

5 It's just an aerial photograph of the upper
6 peninsular of Charleston.

7 Q. And do you see -- or can you locate Grove Street
8 on that map?

9 A. Yes, sir.

10 This is King Street that runs through here, and
11 this is Grove Street, the dead-end of Grove. would be
12 somewhere around this area right here.

13 Q. And is that located in Charleston County, Detective
14 Grill?

15 A. Yes, sir, it is.

16 Q. And is that where the search warrant was executed?

17 A. Yes, sir, it was.

18 MR. SOWARDS: May I approach, Your Honor?

19 THE COURT: You may. You have continuing
20 permission.

21 MR. SOWARDS: Thank you.

22 Q. [Mr. Sowards] Detective Grill, I'm going to
23 hand you what has been marked for identification as State's
24 Exhibit 1.

25 A. Yes, sir.

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 Q. And do you recognize that picture?

2 A. Yes, sir.

3 Q. And how do you recognize that picture?

4 A. It's -- I just know it. It's a picture of Grove
5 Street.

6 Q. Is that a fair and accurate depiction of Grove
7 Street?

8 A. Yes, sir, it is.

9 MR. SOWARDS: Your Honor, at this time the State
10 would seek to move State's Exhibit 1 into evidence.

11 THE COURT: Any objection?

12 MR. KING: No, Your Honor.

13 THE COURT: State's 1 into evidence without
14 objection.

15 [Whereupon, State's Exhibit Number 1 is admitted
16 into evidence by the Court].

17 THE COURT: You may publish.

18 MR. SOWARDS: Thank you.

19 Q. [Mr. Sowards] And I think you testified that you
20 recognized that as Grove Street. Could you point out
21 specifically which residence is Grove Street?

22 A. Yes, sir. It's this one right here.

23 Q. And is that where you were part of the team that
24 executed the search warrant?

25 A. Yes, sir, it was.

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 Q. As you just stated, you were part of the team that
2 executed the search warrant at Grove Street. What exactly
3 was your role in the execution of that search warrant?

4 A. When we execute search warrants, we assign duties
5 and responsibilities to officers while we're doing that. But
6 for this purpose, my main focus was -- or my first priority,
7 and first priority of any search warrant that we do, is when
8 we make entry we have to secure that residence.

9 We approach the residence. We knock and announce
10 our presence. And then if we need to, we force entry into
11 that residence. We enter that residence. We secure that
12 residence. We detain anyone that's inside of that residence
13 and secure that residence, and then that's when we conduct --
14 after we secure that residence and make it secure, we --
15 that's when we'll then execute the search warrant and actually
16 start searching for whatever we're looking for.

17 Q. And was anyone located inside the residence when
18 entry was made?

19 A. Yes, sir.

20 When we made entry into that residence, we located
21 the defendant. I believe he was on the couch in the
22 downstairs living room. And then there was another individual
23 located in the downstairs back bedroom. I believe that was
24 Mr. Davis.

25 Q. And do you see the defendant in the courtroom

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 today?

2 A. Yes, sir, I do.

3 Q. Could you please point him out and describe what
4 he's wearing?

5 A. Yes, sir.

6 He's wearing the brown jacket, khaki pants, brown
7 shoes.

8 Q. And are you familiar with the defendant's name?

9 A. Yes, sir, I am. It's Omar Gentile. Also goes by
10 the name of Scope.

11 MR. SOWARDS: Please let the record reflect that
12 the witness identified the defendant, Omar Gentile, as
13 the individual who was present in the house.

14 THE COURT: It will.

15 Q. [Mr. Sowards] And, now, Detective Grill, as part
16 of the investigation of Grove Street, the execution of the
17 search warrant on February 9th, did you have the opportunity
18 to speak with the defendant, Omar Gentile?

19 A. Yes, sir, we did. I did.

20 Q. And when did that occur?

21 A. It occurred after -- well, when we initially made
22 entry, like I said, we detained him right there at the -- in
23 the living room. We detained Mr. Davis in the back bedroom.

24 And then we brought them together and actually I
25 read the search warrant to both of them while they were

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 detained right there.

2 And then after -- you know, we didn't locate anyone
3 after there. So after I read the search warrant, we then took
4 Mr. Gentile to the back bedroom, after we searched it to make
5 sure there was no weapons or anything like that. We sat him
6 down on the bed. And Detective Shealy, Agent Shealy, he read
7 them their -- his Miranda warnings, and then we proceeded to
8 have a conversation with him.

9 Q. Now, you just testified that Agent Shealy read the
10 defendant his Miranda warnings. How did he advise him of
11 those rights?

12 A. He read them off of a issued -- CPD issued Miranda
13 warning card.

14 Q. Detective Grill, I'm going to hand you what's been
15 marked for identification as State's Exhibit 26.

16 A. Uh-huh.

17 Q. Do you recognize that, sir?

18 A. Yes, sir, I do.

19 Q. And what is that?

20 A. It's the Miranda warning card, the CPD-issued
21 Miranda warning card, that we -- that Detective Shealy read to
22 Mr. Gentile.

23 Q. And how do you know that's the card that Detective
24 Shealy used to read --

25 A. Well, Mr. Gentile -- I'm sorry.

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 Q. -- Mr. Gentile his rights?

2 A. Mr. Gentile signed the card, Detective Shealy
3 signed the card, and I also signed the card. And it's dated
4 and timed.

5 Q. Thank you.

6 A. Yes, sir.

7 Q. Now, during the time in which you spoke to the
8 defendant, did the defendant appear to be under the influence
9 of drugs or alcohol?

10 A. No, sir, he did not.

11 Q. Did he appear to understand the nature of the
12 inquiry?

13 A. Yes, sir, he did.

14 Q. Did he appear to be confused by what was happening?

15 A. No, sir, he did not -- was not.

16 Q. Did he appear -- or did he ever tell you that he
17 did not understand what was happening?

18 A. No, sir, he did not.

19 Q. Was the defendant ever threatened?

20 A. No, sir.

21 Q. Was the defendant ever promised anything in
22 exchange for speaking with officers?

23 A. No, sir, he was not.

24 Q. I think you had testified earlier that the
25 defendant was detained at the time. What does that mean?

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 A. Well, when we initially make entry, we put
2 handcuffs on everybody that may be inside of a residence.

3 We put handcuffs on Mr. Gentile, placed the
4 handcuffs behind his back at the initial time. However, when
5 we moved him into the back bedroom, after we advised him of
6 his rights with the Miranda card, we moved those handcuffs to
7 his front so he could actually sign the card.

8 Q. Now, were the defendant's answers to yours and
9 Detective or Agent Shealy's questions recorded in any manner?

10 A. Yes, sir, they were.

11 Q. And how were they recorded?

12 A. In Agent Shealy's report.

13 Q. And after Agent Shealy advised -- I think you may
14 have testified to this, but I just want to make it clear.
15 After Agent Shealy advised the defendant of his constitutional
16 rights, did he acknowledge that he understood those rights?

17 A. Yes, sir, he did.

18 Q. And how did he make that acknowledgment?

19 A. He just said he understood.

20 Q. And after being advised of his rights, did the
21 defendant make any statements?

22 A. Yes, sir, we had a -- we had a little conversation.

23 MR. KING: Your Honor, I just renew my objection
24 pretrial.

25 THE COURT: It will be noted. Thank you.

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 Q. [Mr. Sowards] And what were those statements?

2 A. Refer to my report -- or Agent Shealy's report.

3 [Whereupon, the witness reviews documents]

4 A. He stated that -- he stated that he basically --
5 he comes to that residence every day to help take care of
6 Mr. Davis; that he did stay there from time to time; and that
7 his -- when he did stay there, his room was located upstairs.

8 And when we asked him to point out his -- to point
9 out his bedroom, he described -- well, we asked him where --
10 to describe where his bedroom was upstairs. He stated --
11 indicated that it was actually above where we were located in
12 the downstairs bedroom. So there was a bedroom located
13 directly upstairs. And while we asked him that he looked up
14 and said, it's up there. So he pointed out which one to us by
15 indicating where his bedroom was.

16 And then he asked while during the -- while during
17 the conversation we were having, he asked Detective Shealy to
18 get him some pants out of his bedroom, a thermal shirt, and a
19 pair of shoes out of his bedroom.

20 And then he also -- in the upstairs bedroom, the
21 one that he pointed out, it was a set of keys that were inside
22 of a lock. The door had a lock on it and there was a set of
23 keys on there, and which he stated that those keys in fact did
24 belong to him.

25 And he stated that he had over \$1,000 cash in his

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 room and that --

2 Also, when we asked him where his residence was,
3 while we were filling out the booking sheet, he stated that
4 Grove Street was his residence.

5 MR. SOWARDS: May I approach?

6 THE COURT: You may.

7 Q. [Mr. Sowards] Detective Grill, I want to hand you
8 what's been marked for identification as State's Exhibit
9 Number 2.

10 A. Yes, sir.

11 [Whereupon, the witness reviews documents]

12 Q. [Mr. Sowards] And do you recognize that?

13 A. Yes, sir.

14 Q. And how do you recognize that?

15 A. It's the floor plan of Grove Street.

16 Q. And is that a fair and accurate depiction of the
17 floor plan of Grove Street?

18 A. Yes, sir.

19 MR. SOWARDS: Your Honor, at this time the State
20 would seek to admit State's Exhibit Number 2.

21 THE COURT: Any objection?

22 MR. KING: No, Your Honor.

23 THE COURT: State's 2 into evidence without
24 objection.

25 [Whereupon, State's Exhibit Number 2 is admitted

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 into evidence by the Court]

2 THE COURT: You may publish.

3 Q. [Mr. Sowards] Detective Grill, what are we looking
4 at here?

5 A. That's the floor plan of Grove Street.

6 Q. Could you just generally kind of describe the
7 layout of the house?

8 A. Yes, sir.

9 I mean, right here, as you can see, that's the
10 living room. This is the back bedroom that we were referring
11 to. These are staircases. This is the front door of the
12 residence, so when you walk in there's a set of stairs.
13 That's where the stairs lead up to bedroom number two. And
14 this is bedroom number three, and then bedroom number four.

15 Q. And which bedroom did the defendant indicate
16 belonged to him?

17 A. It was this one right here, bedroom three.

18 Q. And that's where -- the keys you indicated the
19 defendant claimed as his own, that's where they were found?

20 A. Yes, sir.

21 Q. And what about the pants and the shirt and shoes?

22 A. The pants were obtained from that bedroom, bedroom
23 number 3.

24 Q. Thank you.

25 Detective Grill, are you familiar with the general

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 area around Grove Street?

2 A. Yes, sir.

3 Q. Are there any schools located near that residence?

4 A. Yes, sir.

5 There is a school directly across the street from
6 it. I mean, it's directly across the street from that
7 residence. It's -- I think it's 1002 King Street, is the
8 address of the school.

9 Q. And what school is that?

10 A. It's River -- excuse me. It's Charleston School of
11 Math and Science now, I believe is the name of it.

12 Q. And did the defendant make any statements regarding
13 the school?

14 A. He did.

15 He did state -- he did state that he was aware that
16 the school was directly outside of his house, across the
17 street.

18 Q. Now, you previously testified that you've had a lot
19 of training as a narcotics detective. Have you had training
20 on street-level drug dealing?

21 A. Yes, sir.

22 Q. And could you just generally describe that training
23 again for the jury?

24 A. Yes, sir. Like I said, we -- every police officer
25 attends the criminal justice academy.

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 After graduating that, I obtained training in
2 undercover techniques for undercover operations, surveillance
3 -- specialized surveillance training put on by the FBI.

4 And of course with the Drug Enforcement
5 Administration, I've obtained training with the basic
6 investigative school put on by the DEA, the Drug Enforcement
7 Administration.

8 And then also, once I was assigned to the -- as a
9 task force officer, I was given training as a task force
10 officer, orientation training, and basically what it entails,
11 what do they expect, from investigators.

12 Q. And are you, based on your training and experience,
13 familiar with the distribution of heroin?

14 A. Yes, sir, I am.

15 Q. And based on your training and experience, how is
16 street-level heroin typically distributed?

17 A. Typically what we see is street level -- on the
18 street level, you see it distributed in one or two ways. One
19 way being in a clear plastic baggie, either -- usually a half
20 gram to a gram quantity. Or typically what we see is it's
21 sold in what we call bindles, which are -- bindles are bags,
22 is what they refer to them, is -- basically, it's a folded
23 piece of like a wax bag or a waxine bag, almost -- and they
24 typically put anywhere from two -- or .03 grams to .04-or-five
25 grams. So it's a very minute -- pretty much a dosage unit

Charles Jacobs Grill
Direct Examination by Mr. Sowards
January 5, 2016

1 into a wax bag, and then they fold it and they -- so it makes
2 one little small rectangle. And then typically we call that a
3 bindle or a bag and it's either sold individually -- and each
4 individual bindle is sold for typically from twenty to twenty-
5 five dollars.

6 And then most commonly what we see is they'll take
7 ten bags and that will make a bundle. So a bundle is ten
8 bindles. And that typically goes for 200, 250 on the street.

9 MR. SOWARDS: Beg the Court's indulgence.

10 THE COURT: Take your time.

11 [Whereupon, Mr. Sowards and Ms. Linder confer]

12 MR. SOWARDS: I have no further questions at this
13 time.

14 Please answer any questions that Mr. King may
15 have.

16 THE WITNESS: Yes, sir.

17 THE COURT: Mr. King?

18 MR. KING: Detective Grill, I just want to ask you
19 a few questions.

20 THE WITNESS: Yes, sir.

21 - - -

22 - - -

23 - - -

Charles Jacob Grill
Cross-Examination by Mr. King
January 5, 2016

CROSS-EXAMINATION

BY MR. KING:

Q. You were part of the entry team --

A. Yes, sir.

Q. -- in the execution of the search warrant?

A. Yes, sir.

Q. It was about noon, roughly?

A. No, sir. Hang on.

[Whereupon, the witness reviews documents]

A. Yeah. Yes, sir, it was, actually.

Q. [Mr. King] You entered first --

A. I --

Q. -- one of -- one of the first to enter?

A. I don't know, sir. It was probably -- I could have been first or third. I don't --

Q. You were one of the first few groups, though, to enter into the residence?

A. Yes, sir. I was in the -- I was in the initial entry team. Yes, sir.

Q. Broke the door open?

A. Well, I mean, we made entry into it, yes, sir.

Q. Forcefully?

A. Yes, sir.

Q. You saw someone sitting on the couch?

A. We saw the defendant sitting on the couch.

Charles Jacob Grill
Cross-Examination by Mr. King
January 5, 2016

1 Q. Mr. Gentile?

2 A. Yes, sir.

3 Q. You detained him?

4 A. Yes, sir.

5 Q. You searched him?

6 A. Well, he -- I mean, he was just wearing a tank top
7 and some shorts.

8 Q. Well, you testified that's part of the routine.
9 You detain the individuals in the house?

10 A. Yes, sir.

11 Q. You search them? You want to make sure --

12 A. Oh, absolutely.

13 Q. -- they don't have any drugs or --

14 A. Absolutely.

15 Q. -- anything on them? So you go and search Mr.
16 Gentile?

17 A. Uh-huh.

18 Q. No heroin on him?

19 A. No, sir.

20 Q. No drugs or anything on him?

21 A. No, sir.

22 Q. You said he wasn't high on drugs?

23 A. Didn't appear.

24 Q. There was a guy, John Davis, there?

25 A. Yes, sir.

Charles Jacob Grill
Cross-Examination by Mr. King
January 5, 2016

1 Q. And he seemed -- he had an amputated leg --

2 A. Yes, sir.

3 I believe it was from the knee down, or something
4 like that.

5 Q. Knee down? There was like a walker in the room?

6 A. Sir?

7 Q. There was like a walker in his bedroom? Do you
8 remember?

9 A. Could have been, yes, sir.

10 Q. But he appeared to be in poor health?

11 A. He had a leg amputated.

12 Q. And it was a bandaged leg? It was still bandaged.
13 Do you remember seeing that?

14 A. I don't remember seeing a bandage, but I think
15 there was something white. I don't know if it was a bandage.
16 Could have been just a sleeve.

17 Q. You handcuffed Mr. Davis and Mr. Gentile and put
18 them on the couch?

19 A. Yes, sir.

20 Q. And then you said you took Mr. Gentile and you and
21 Detective Shealy, Agent Shealy, asked him questions?

22 A. Yes, sir.

23 Q. And he told you he comes there every day --

24 A. Uh-huh.

25 Q. -- to help take care of Cousin John Davis?

Charles Jacob Grill
Cross-Examination by Mr. King
January 5, 2016

1 A. Yes, sir.

2 Q. He stayed there sometimes, from time to time, is
3 what you said; right?

4 A. [Indicates affirmatively]

5 THE COURT: Is that a yes?

6 A. Yes, sir.

7 THE WITNESS: I'm sorry. I'm sorry.

8 A. Yes, sir.

9 Q. [Mr. King] And he indicated which room he stays
10 in?

11 A. Yes, sir.

12 Q. And he told you he had roughly \$1,000 in the room,
13 over \$1,000?

14 A. I believe he said he had over \$1,000. Yes, sir.

15 Q. I thought -- do you remember yesterday you had
16 testified that he had roughly 1,000? Is that fair enough?

17 A. Well, roughly over -- I mean, yes, sir.

18 Q. He asked for pants, thermal shirt, and shoes?

19 A. Yes, sir.

20 Q. That he -- you said he was wearing like maybe
21 lounging clothes?

22 A. Yes, sir.

23 He had on a white tank top and I believe some like
24 basketball type shorts or whatever.

25 Q. He didn't claim any drugs?

Charles Jacob Grill
Cross-Examination by Mr. King
January 5, 2016

1 A. No, sir, he did not..

2 Q. You were also involved in the search of Grove
3 Street next door; right?

4 A. Yes, sir.

5 Q. You got called into that case because a black male
6 was observed leaving Grove Street?

7 A. Yes, sir.

8 Before we executed the search warrant at , we had
9 pre-surveillance out there and the surveillance saw an
10 individual leave and then leave from Grove Street and walk
11 directly next door to Grove.

12 Q. And you assisted in the search of Grove Street?

13 A. Yes, sir.

14 Q. And in that -- at Grove Street, y'all found
15 about a gram of heroin?

16 A. I believe it was somewhere around there, yes, sir.

17 Q. And over 10 grams of cocaine base?

18 A. Cocaine, cocaine base, I don't --

19 Q. Cocaine base is crack cocaine?

20 A. Yes, sir.

21 Q. It's different -- I guess different than powder
22 cocaine?

23 A. Yes, sir.

24 Q. And \$3,137?

25 A. I mean, if you say so, yes, sir.

Charles Jacob Grill
Cross-Examination by Mr. King
January 5, 2016

1 Q. And it was claimed by Xavier Williams?

2 A. Yes, sir.

3 Q. And he was charged with trafficking cocaine?

4 A. I believe so, yes, sir.

5 MR. KING: That's all the questions I have.

6 THE COURT: Mr. Sowards, redirect?

7 MR. SOWARDS: No redirect at this time.

8 THE COURT: Detective, you may step down. Feel
9 free to stay with us, but I believe you are free to
10 leave.

11 THE WITNESS: Yes, ma'am.

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

14 THE COURT: Ladies and gentlemen, it's an
15 appropriate time for us to take a midmorning break.
16 Please remember all my admonitions. Leave your notepads
17 in your chair.

18 Please rise for the jury.

19 [Whereupon, the jury exits the courtroom at
20 10:32 a.m.]

21 THE COURT: Thank you. Please be seated. About
22 ten minutes.

23 [Whereupon, a recess is taken from 10:33 a.m. to
24 10:43 a.m.]

25 THE COURT: Anything before we bring in the jury?

Charles Jacob Grill
Cross-Examination by Mr. King
January 5, 2016

1 From the State?

2 MR. SOWARDS: Nothing from the State.

3 THE COURT: From the defendant?

4 MR. KING: No, Your Honor.

5 THE COURT: Please rise for the jury.

6 [Whereupon, the jury enters the courtroom at
7 10:44 a.m.]

8 THE BAILIFF: All jurors present.

9 THE COURT: Thank you. Please be seated.

10 Call your next witness.

11 MR. SOWARDS: The State calls Detective John Marn.

12 [Whereupon, Mr. Marn comes forward]

13 [Whereupon, Mr. Marn is duly sworn by the clerk of
14 court as follows: do you swear or affirm that your
15 testimony will be the truth, the whole truth, and
16 nothing but the truth, so help you God]

17 THE WITNESS: I do.

18 THE CLERK OF COURT: Be seated.

19 [Whereupon, Mr. Marn takes the witness stand]

20 THE CLERK OF COURT: Please state your full name,
21 and then spell your last name for the record.

22 THE WITNESS: Yes, sir. Detective John Marn.

23 M-A-R-N.

24 MS. LINDER: Good morning, Detective Marn.

25 THE WITNESS: Good morning.

John Marn
Direct Examination by Ms. Linder
January 5, 2016

JOHN MARN,

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

DIRECT EXAMINATION

BY MS. LINDER:

Q. What's your occupation?

A. I am a police detective currently assigned to the
special investigations unit.

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

A. Been in law enforcement since 2006.

Q. And how long have you been with the special
investigations unit?

A. Five years.

Q. What are your duties as a special investigations
unit detective?

A. Primary duties are to investigate narcotics and
vice-related criminal offenses.

Q. And can you tell the jury just a little bit about
your training and education?

A. Yes, ma'am.

I have a bachelor's degree in criminal justice,
master's in business and education.

I attended the six-month Pennsylvania police
academy, as well as the South Carolina criminal justice
academy.

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 And since being a police officer, I have
2 had additional training: advanced narcotics and vice
3 investigations, evidence handling, interview and
4 interrogation, courses along those lines.

5 Q. And did you have the occasion to be working back on
6 February the 9th, 2012?

7 A. Yes, ma'am.

8 Q. And are you involved at all in the case -- this
9 case at hand, which is the State versus Omar Gentile?

10 A. Yes, ma'am.

11 Q. And with that case, were you involved with the
12 search warrant that was executed?

13 A. I was.

14 Q. Do you remember what address that was?

15 A. Grove.

16 Q. And is that in the city of Charleston?

17 A. It is.

18 Q. Is it Charleston County?

19 A. Yes, ma'am.

20 Q. What was your role during that search warrant
21 execution?

22 A. Initially my role was on the entry team and then
23 once the location was secured, I transitioned into a search
24 component.

25 Q. What do you mean when the location was secure?

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 A. When we execute a search warrant at a location,
2 after we make entry we do what's called a sweep of the
3 location, detain anyone that's present at the location. Then
4 we do what's called a secondary sweep, just to make sure there
5 was no one that was overlooked or missed. And once we're sure
6 that the location is safe, we call it secured and then we move
7 on to the execution of the search warrant itself.

8 Q. And can you describe to the jury just how a search
9 is done? You said you transitioned to the search part.

10 A. Yes, ma'am.

11 The rooms in the residence are labeled, and then
12 a detective is assigned or goes to a specific room to conduct
13 a search and is methodically searching that particular room.

14 For instance, when I search a bedroom, the first
15 thing I do is I clear underneath the bed, and the bed itself,
16 then I methodically work from left to right in the room using
17 the bed as a place to place stuff as I search.

18 Q. And when you're executing a search warrant in this
19 case, a narcotics search warrant, what types of items are you
20 looking for?

21 A. Narcotics, paraphernalia, scales, paperwork, rubber
22 bands, glassine bags. Anything indicative of the narcotics
23 trade.

24 Q. Okay. I would like to take you back specifically
25 to this case, back to February 9th of 2012. After entering

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 that house at Grove Street, were any items of interest
2 located inside?

3 A. Yes, ma'am.

4 Q. And did you, in fact, locate evidence?

5 A. I did, ma'am.

6 Q. And what area of Grove were you specifically
7 tasked with searching?

8 A. Bedroom number three.

9 Q. Bedroom number three? And was that upstairs,
10 downstairs?

11 A. Upstairs.

12 Q. Did you locate items in bedroom number three?

13 A. Yes, ma'am.

14 Q. What items were located?

15 A. We located approximately 16 grams of heroin;
16 glassine baggies and rubber bands, which is used in the
17 narcotics trade, specifically heroin, for packaging heroin.

18 What they will do is they will place the heroin in
19 a glassine bag, which is called a bindle. And then ten
20 bindles together, wrapped, is called a bundle.

21 We found digital scales with residue on the scales,
22 paperwork in the name of Mr. Omar Gentile, a driver's license,
23 a pay stub was found in Mr. Gentile's name in the drawer where
24 the heroin was located, as well as other paperwork and a
25 social security card.

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 MR. KING: Your Honor, I just renew my pretrial
2 objection.

3 THE COURT: It's noted for the record. Thank you.

4 Q. [Ms. Linder] And was there anything unusual? Did
5 you locate anything on or about the door to the room?

6 A. Yes, ma'am.

7 The door had a lock on the door and I located --
8 there was keys inside the lock to the door.

9 Q. Were pictures taken of the search warrant, during
10 the search warrant, of the room that you searched?

11 A. Yes, ma'am.

12 Q. And at this time I would like to show you what's
13 already been entered as State's Exhibit 2.

14 MS. LINDER: If I may approach the witness, Your
15 Honor?

16 THE COURT: You may.

17 Q. [Ms. Linder] Do you recognize that?

18 A. Yes, ma'am, I do.

19 Q. And that's already been entered for the jury and
20 they've already seen it.

21 Can you just say what exactly that picture -- that
22 diagram depicts?

23 A. Yes, ma'am.

24 It depicts the location of Grove Street where we
25 executed the search warrant.

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 MS. LINDER: And I'm going to put this up, and it's
2 going to show up on the screen ahead of you and behind
3 you. It's a touch screen, so feel free to draw away
4 like you were on your cell phone.

5 Q. [Ms. Linder] Okay. So you said -- did you search
6 upstairs or downstairs?

7 A. Upstairs.

8 Q. Can you circle which bedroom you were responsible
9 for searching?

10 A. Yes, ma'am.

11 Q. So that's bedroom three?

12 A. It is.

13 Q. And it's the bedroom where you said you located all
14 those items?

15 A. Correct.

16 Q. At this time, I'm going to show you a bunch of
17 pictures and I would like for you to look at them and tell me
18 if you recognize these photos.

19 [Whereupon, the witness reviews documents]

20 A. Yes, ma'am, I do.

21 Q. [Ms. Linder] And how do you recognize them?

22 A. These are photos of the items that I located in
23 bedroom number three during the search warrant.

24 Q. And do they fairly and accurately depict the room
25 that you searched and the items that you located?

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 A. Yes, ma'am.

2 MS. LINDER: Your Honor, at this time I would seek
3 to introduce these photographs for the jury and publish
4 them. They are State's Exhibits 3, 4, 5, 6, 7, 8, 9,
5 10, 11, 12, 13 and 16.

6 THE COURT: Mr. King?

7 MR. KING: I just renew my pretrial objection, Your
8 Honor.

9 THE COURT: All right. Please approach.

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

12 THE COURT: Your objection, pretrial objection, is
13 noted for the record.

14 Ms. Linder?

15 MS. LINDER: Thank you, Your Honor.

16 Q. [Ms. Linder] Detective Marn, I wanted to go back
17 and look through State's Exhibits 3, 4, 5, 6, 7, 8, 9, 10, 11,
18 12, 13 and 16. Those are all the photos that you previously
19 reviewed?

20 [Whereupon, the witness reviews documents]

21 A. Yes, ma'am.

22 Q. [Ms. Linder] And those all accurately depict the
23 room that you searched that day?

24 A. They do.

25 THE COURT: Noting your previous objection,

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 Mr. King, State's 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13
2 and 16 into evidence noting your objection.

3 [Whereupon, State's Exhibit Numbers 3, 4, 5, 6, 7,
4 8, 9, 10, 11, 12, 13 are admitted into evidence by the
5 Court]

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

8 THE COURT: You may publish.

9 MS. LINDER: Thank you, Your Honor.

10 Q. [Ms. Linder] First, I would like to bring your
11 attention to State's Exhibit 3. Can you please explain to the
12 jury -- and if it's helpful, feel free to draw on that screen.
13 Can you explain to the jury what this picture depicts?

14 A. Yes, ma'am.

15 This picture first depicts the quantity of heroin
16 that was found in this room.

17 Q. Where is the heroin?

18 A. It is in the plastic bag on top of the dresser
19 there. I'm trying to circle -- yes.

20 Q. And what else do you see in this photograph?

21 A. A digital scale next to it, with white residue,
22 which is commonly used for weighing out narcotics.

23 Q. What else is important to you as a trained
24 narcotics officer?

25 A. If you look in the desk drawer you can see the

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 rubber bands and the glassine baggies, which is commonly how
2 heroin is packaged for distribution and sale.

3 Q. And what else did you find in this drawer?

4 A. There was money, United States currency, found.

5 Q. And did this box appear to be underneath this hat,
6 or is it laid really quickly right on top?

7 A. It appears to be underneath, somewhat, but more so
8 on top.

9 Q. At this time, I would like to have you open and
10 look at State's Exhibit 30.

11 A. [Witness complies]

12 Q. Do you recognize that?

13 A. I do, ma'am.

14 Q. And how do you recognize that?

15 A. This is the heroin that was located in bedroom
16 number three at Grove Street.

17 Q. Thank you.

18 A. You're quite welcome.

19 Q. Is that heroin the same heroin that's in the
20 picture that's on the screen?

21 A. Yes, ma'am.

22 Q. Now I would like to show you State's Exhibit 21.
23 Do you recognize that?

24 A. I do, ma'am.

25 Q. How do you recognize it?

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 A. That is the box housing the rubber bands and
2 glassine baggies that was located in the drawer in bedroom
3 number three.

4 Q. And are these shown in the picture that's in front
5 of the jury?

6 A. They are.

7 MS. LINDER: Your Honor, at this time I would seek
8 to admit State's Exhibit 21 into evidence.

9 MR. KING: Subject to my pretrial objection.

10 THE COURT: State's 21, noting the defendant's
11 objection, into evidence.

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

14 Q. [Ms. Linder] So this is the box that was in the
15 drawer. And what are these items?

16 A. Those are the glassine baggies I was explaining
17 earlier that are used commonly in the packaging of heroin for
18 sale.

19 Q. And what else was in this box?

20 A. Rubber bands.

21 Q. And how are those rubber bands used, again?

22 A. Once you place the heroin into a specific bag, it
23 is called a bindle. Ten bindles are put together, wrapped
24 with those gum bands, to form what is called a bundle.

25 Q. At this time I would show you what's been marked as

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 State's Exhibit 23. And what does that show?

2 A. That --

3 Q. What is that? Do you recognize it?

4 A. Yes, ma'am.

5 That is the digital scale, with the white residue,
6 in the photo.

7 Q. Is that in substantially the same condition as it
8 was the day you initially located it, February 9 of 2012?

9 A. Yes, ma'am.

10 MS. LINDER: Your Honor, at this time the State
11 would seek to admit State's Exhibit Number 23 into
12 evidence.

13 MR. KING: Subject to pretrial objection.

14 THE COURT: State's 23 into evidence, noting your
15 objection.

16 Q. [Ms. Linder] Detective Marn, what I would like
17 to do now is I would like to publish to the jury State's
18 Exhibit 4. And what does this picture show?

19 A. It's the picture of the box holding the glassine
20 baggies and the rubber bands that were located in the drawer
21 in bedroom three.

22 Q. Do you know what this is right here?

23 A. The Bank of America card, ma'am?

24 Q. Yes.

25 A. Yes.

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 Q. Whose name is that Bank of America card in?

2 A. Omar Gentile.

3 Q. And is that the defendant in this case?

4 A. It is.

5 Q. And is this the location where that bank card was
6 found?

7 A. Yes, ma'am.

8 Q. At this time I would like to publish for the jury
9 State's Exhibit 5. Can you please tell them what this picture
10 shows?

11 A. Yes, ma'am.

12 It shows a Crown Royal bag holding United States
13 currency.

14 Q. State's Exhibit 6?

15 A. State's -- a shot, just farther out, of the shoe
16 box which was holding the Crown Royal bag and the other money.

17 Q. State's Exhibit 7?

18 A. This is a pair of jeans that was located in bedroom
19 number three with the -- that United States currency in the
20 pocket.

21 Q. State's Exhibit 4. I'm sorry. State's Exhibit 8?

22 A. That is the South Carolina identification card of
23 Mr. Omar Gentile, the defendant in this case.

24 Q. State's Exhibit 9?

25 A. Mail addressed to Mr. Gentile, the defendant in

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 this case.

2 Q. And what address was it sent to?

3 A. Grove Street, ma'am.

4 Q. Is that the location of the search warrant?

5 A. It is.

6 Q. State's Exhibit 10?

7 A. Again, it's mail from the Department of Revenue,
8 sent to Mr. Omar Gentile at the location of the search
9 warrant, Grove Street.

10 Q. State's Exhibit 11?

11 A. Social Security card in the name of Mr. Omar
12 Gentile.

13 Q. At this time I would like to show you what's been
14 marked as State's Exhibit 25. If you can look at that,
15 please. After you've looked at it, please let me know: do
16 you recognize that item?

17 A. I do, ma'am.

18 Q. How do you recognize it?

19 A. This is one of the items that I seized during the
20 search warrant at Grove Street.

21 Q. And that item was from bedroom number 3?

22 A. It was.

23 Q. And is that in substantially the same condition as
24 it was when you seized it back on February the 9th of '12?

25 A. Yes, ma'am.

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 MS. LINDER: At this time, Your Honor, I would like
2 to -- I seek to admit State's Exhibit 25 into evidence.

3 MR. KING: Subject to our pretrial objection.

4 THE COURT: State's 25 into evidence, noting your
5 objection.

6 [Whereupon, State's Exhibit Number 25 is admitted
7 into evidence by the Court]

8 Q. [Ms. Linder] Detective Marn, can you please tell
9 me the significance? Why did you decide to collect this as
10 part of evidence?

11 A. Yes, ma'am. It's a pay stub in the name of the
12 defendant, Omar Gentile, that was located in the same drawer
13 as the heroin, the glassine baggies, the rubber bands, were
14 found.

15 Q. All in the same drawer as the drugs?

16 A. Yes, ma'am.

17 Q. At this time I show you what's been marked as
18 State's Exhibit 24. Do you recognize that?

19 A. Yes, ma'am, I do.

20 Q. Is it in substantially the same condition as it was
21 when you first saw it?

22 A. Yes, ma'am.

23 MS. LINDER: The State at this time would seek to
24 admit State's Exhibit 24.

25 THE COURT: Mr. King?

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 MR. KING: Sorry. Same objection, Your Honor.

2 THE COURT: State's 24 into evidence, noting your
3 objection.

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

6 Q. [Ms. Linder] Detective Marn, can you please tell
7 the jury what this is?

8 A. Yes, ma'am.

9 It's the South Carolina identification card for
10 Mr. Omar Gentile.

11 Q. And where was this found?

12 A. This was located in the pants pocket which were
13 located in bedroom number three that was previously shown.

14 Q. At this time I would like to show you what's been
15 marked as State's Exhibit -- and already admitted -- as
16 State's Exhibit 12. Can you please tell the jury what this
17 is?

18 A. Yes, ma'am.

19 It's a picture of United States currency located in
20 bedroom number three.

21 Q. State's Exhibit 13?

22 A. The same photo. Just a photograph showing you that
23 it was located in the dresser drawer in bedroom number three.

24 Q. And is this the same dresser drawer that we
25 previously looked at the other side? There are -- are there

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 multiple drawers --

2 A. Yes, ma'am.

3 Q. -- that we looked at?

4 A. Yes, ma'am.

5 Q. State's Exhibit 16?

6 A. It is another digital scale that was located in the
7 room, bedroom number three, during the execution of the search
8 warrant.

9 Q. And at this time, I'm going to show you what's been
10 marked as State's Exhibit 22. Will you look at that? Let me
11 know if you recognize it.

12 A. Yes, ma'am, I do.

13 Q. How do you recognize it?

14 A. This is the digital scale that I located in bedroom
15 number three during the search warrant.

16 Q. Does it appear in substantially the same condition
17 as it was when you first located it?

18 A. Yes, ma'am.

19 MS. LINDER: Your Honor, at this time we would seek
20 to admit State's Exhibit 22 into evidence.

21 MR. KING: Subject to our pretrial objection, Your
22 Honor.

23 THE COURT: Noting your objection, State's 22 into
24 evidence.

25 [Whereupon, State's Exhibit Number 22 is admitted

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 into evidence by the Court]

2 Q. [Ms. Linder] And if you could just tell the jury,
3 what is this?

4 A. It is a digital scale that is used commonly in the
5 narcotics trade for weighing up quantities of narcotics or
6 drugs.

7 And to me, what made that one significant is it is
8 used to weigh a higher quantity or a heavier weight than the
9 smaller digital scale which was previously shown.

10 Q. And at this time, I would like to show you what's
11 been marked as State's Exhibit 20. Feel free to take those
12 out. If you could please look at those and then let me know
13 if you recognize --

14 A. Yes, ma'am, I do.

15 Q. And how do you recognize them?

16 A. These are items that were located in bedroom number
17 three during the search.

18 Q. And are they substantially in the same condition as
19 they were when you first located them?

20 A. They are.

21 Q. And do you recall where specifically they were
22 located during the search warrant?

23 A. [No response]

24 Q. Were they located on the floor, on the dresser, in
25 the dresser somewhere?

John Marn
Direct Examination by Ms. Linder
January 5, 2016

1 A. In the dresser, ma'am, I believe.

2 MS. LINDER: Your Honor, at this time the State
3 would seek to admit State's Exhibit 20 into evidence.

4 MR. KING: Subject to pretrial.

5 THE COURT: State's 20 into evidence, noting your
6 objection.

7 [Whereupon, State's Exhibit Number 20 is admitted
8 into evidence by the Court]

9 MS. LINDER: Bet the Court's indulgence.

10 THE COURT: Take your time.

11 [Whereupon, Ms. Linder and Mr. Sowards confer]

12 MS. LINDER: That's all the questions I have for
13 you at this time, Detective Marn. If you could please
14 answer anything the defense may have.

15 THE WITNESS: Yes, ma'am.

16 THE COURT: Mr. King?

17 MR. KING: Thank you. Detective Marn?

18 THE WITNESS: Sir.

19

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John Marn
Cross-Examination by Mr. King
January 5, 2016

CROSS-EXAMINATION

BY MR. KING:

Q. So you searched bedroom number three?

A. Yes, sir.

Q. The door to that bedroom was open?

A. Yes, sir.

Q. The keys were in the door?

A. Yes, sir.

Q. You found a pair of black pants on the bed?

A. Yes, sir.

Q. With that ID in it?

A. Correct.

Q. That ID has an address of Williman Street,
Apartment --

A. Yes, sir.

Q. -- Charleston, 29403?

A. Yes, sir.

Which it's not uncommon for people not to change
their IDs or their address on their driver's licenses.

Q. But it also could be that he lives at Williman
Street, --

A. Well, all the evidence we found would say contrary
to that, sir.

Q. You found \$774 in the black jeans, in one pocket,
and 103 in another?

John Marn
Cross-Examination by Mr. King
January 5, 2016

1 A. I'm sorry, sir. Can you repeat?

2 Q. You found cash in two pockets in that -- in the
3 black pair of pants?

4 A. Yes, sir.

5 Q. \$774 in one pocket?

6 A. Yes, sir.

7 Q. 103 in another?

8 [Whereupon, the witness reviews documents]

9 A. Yes, sir.

10 Q. [Mr. King] That totals 887 in the pants?

11 A. Yes, sir.

12 Q. Roughly \$1,000? Close to it?

13 A. Close to it, within a couple of hundred.

14 Q. You found some other cards in the pants, like a AAA
15 card?

16 A. Yes, sir, there was other cards.

17 Q. There was a belt in the pants?

18 A. Yes, sir, I believe there was.

19 Q. Consistent with someone taking off a pair of pants
20 and laying them on the bed?

21 A. Yes, sir.

22 Q. Did you find any drugs in the pants?

23 A. No, sir.

24 Q. Any paraphernalia in the pants?

25 A. No, sir.

John Marn
Cross-Examination by Mr. King
January 5, 2016

1 Q. You found that bag of heroin inside the top dresser
2 drawer?

3 A. Correct.

4 Q. The drawer was closed?

5 A. I don't recall if it was closed or partially open.

6 Q. The photo --

7 MR. KING: May I approach, Your Honor?

8 THE COURT: You may.

9 Q. [Mr. King] This photo, Exhibit Number 3 --

10 A. Yes, sir.

11 Q. -- that doesn't accurately reflect how you found
12 the heroin, does it? Is that how you found it when you walked
13 in the room?

14 A. No, sir.

15 It would have been in the top of the dresser
16 drawer.

17 Q. You don't remember if you had to open the drawer or
18 not?

19 A. I don't.

20 Q. And you didn't take any photographs of the scene
21 when you first walked in of how that dresser looked, did you?

22 A. No, sir.

23 My responsibility is simply to search. There's
24 another detective that is housed with the photography and
25 recovery of the items.

John Marn
Cross-Examination by Mr. King
January 5, 2016

1 Q. And you said you've taken training in evidence
2 handling?

3 A. I have, yes.

4 Q. So you saw the heroin in that drawer when you were
5 searching?

6 A. Correct.

7 Q. You grabbed the heroin and you put it on top of the
8 dresser?

9 A. No, sir.

10 Q. How did it get on top of the dresser?

11 A. Once we find the -- once we locate -- as a
12 searcher, once I located the substance, I call for the officer
13 that is recovering. He comes, photographs it, and takes
14 custody of that evidence.

15 Q. So you didn't create that scene in that photograph
16 there?

17 A. Correct.

18 Q. One of the scales was found in the dresser drawer?

19 A. Yes.

20 Q. The other scale was found on the floor in the
21 closet?

22 A. In the closet. Yes, sir.

23 Q. You said there was like \$250 in cash in the drawer?

24 A. Yes, sir.

25 Q. A total of \$1,521 in the room? Does that sound

John Marn
Cross-Examination by Mr. King
January 5, 2016

1 accurate?

2 A. I would have to add up everything on the return,
3 but that sounds correct.

4 Q. And you said you found Omar Gentile's social
5 security card in that drawer?

6 A. Correct.

7 Q. You don't know when that social security card was
8 put in that drawer, do you?

9 A. No, sir.

10 Q. You found Omar's earning statement in that top
11 dresser drawer?

12 A. Correct.

13 Q. That was from April 1st, 2011; right?

14 A. I believe so, sir. If you could show me, I could
15 verify.

16 MR. KING: May I approach?

17 THE COURT: You may.

18 Q. [Mr. King] Showing you State's Exhibit Number 25.

19 A. Thank you.

20 [Whereupon, the witness reviews documents]

21 A. Yes, sir. That is correct.

22 Q. [Mr. King] That pay stubs is from months before
23 you were conducting this search; right?

24 A. Yes, sir.

25 Q. You found Omar's bank statement in that top dresser

John Marn
Cross-Examination by Mr. King
January 5, 2016

1 drawer?

2 A. I believe so, sir.

3 Q. And that statement is from the pay period of
4 November 10th through December 12th, 2011?

5 A. I would have to see it to verify.

6 Q. Handing you State's 20.

7 A. Thank you.

8 [Whereupon, the witness reviews documents]

9 A. That is correct, sir.

10 Q. [Mr. King] And you don't know when that bank
11 statement was put in that top drawer?

12 A. I do not.

13 Q. In fact, you don't know when anything was put
14 inside that top drawer?

15 A. No, sir.

16 Q. The same thing with the bank card. You found a
17 bank card in that top drawer?

18 A. Yes, sir.

19 I wouldn't know when it was placed in there,
20 either.

21 MR. KING: Those are all the questions I have.

22 THE COURT: Ms. Linder?

23 MS. LINDER: Just briefly, Your Honor.

24 - - -

25 - - -

Alexander Keith Sumner
Redirect Examination by Ms. Linder
January 5, 2016

REDIRECT EXAMINATION

BY MS. LINDER:

Q. Mr. King has brought up a bunch of things about different dates. Dates, addresses, so on and so forth.

MS. LINDER: I'm trying to see -- thank you very much.

Q. [Ms. Linder] In State's Exhibit 20 that's already been admitted into evidence, there's a Bank of America statement; right?

A. Yes, ma'am.

Q. And if you can look at the bottom of the statement, it talks about the ending balance on what date?

A. 12/12/11.

Q. So if the ending balance December 12 -- if there's an ending balance of December 12th, was it mailed before December 12th or after December 12th?

A. It would be mailed after, ma'am.

Q. So the postal service is pretty good these days. Even if it gets there two days later, it puts it at December 14th, and that's if it was mailed that day. How far away is December 14th to February 9th?

A. Roughly two months.

Q. So two months.

Okay. Do you believe a social security card is important?

Alexander Keith Sumner
Redirect Examination by Ms. Linder
January 5, 2016

1 A. Yes, ma'am, I do.

2 Q. Do you think a bank statement is important?

3 A. Yes, ma'am.

4 Q. Or a pay stub?

5 A. Yes, ma'am.

6 Q. These important items kept in a stranger's home?

7 A. Not likely.

8 Q. There's a key on the door to get into this room?

9 A. There was.

10 Q. There's a lock. Actually, a key and a lock?

11 A. Yes, ma'am.

12 Q. What did you do with those keys?

13 A. I notified the case agent, Detective Shealy, that
14 there was keys located in the door.

15 Q. This pay stub that Mr. King asked you to look at,
16 which is State's Exhibit Number 25, he asked you about the
17 date on it, which is?

18 A. Pay ending March 27th.

19 Q. Of?

20 A. 2011.

21 Q. A while ago?

22 A. Yes, ma'am.

23 Q. A while ago when we're talking about February 9th.
24 But what's the address of the defendant on that one?

25 A. River Biering [phonetic] Lane,

Alexander Keith Sumner
Redirect Examination by Ms. Linder
January 5, 2016

1 in North Charleston.

2 Q. Is that Grove Street?

3 A. No, ma'am.

4 Q. So in April of '11, there is a non-Grove Street
5 address but in December of '11, the bank statement, it's a
6 Grove Street address?

7 A. Yes, ma'am.

8 Q. And, again, talk about addresses and dates and all
9 that kind of stuff. I would like for you to look at State's
10 Exhibit 24.. What is that, again?

11 A. It's the South Carolina identification card for
12 Mr. Omar Gentile.

13 Q. And what address is on there?

14 A. Williman Street, Charleston, South
15 Carolina.

16 Q. And what date is that issued?

17 A. This was issued on June 22nd, 2010.

18 Q. So in 2010, Mr. Gentile is associated with
19 Williman. In 2011, Mr. Gentile is associated with a Whipper
20 or a Whipple, something in North Charleston. But less
21 than two months before the execution of the search warrant,
22 Mr. Gentile has important paperwork associated with the Grove
23 Street address?

24 A. That's correct.

25 MS. LINDER: Beg the Court's indulgence.

Alexander Keith Sumner
Redirect Examination by Ms. Linder
January 5, 2016

1 [Whereupon, Ms. Linder and Mr. Sowards confer]

2 MS. LINDER: Nothing further. Thank you.

3 THE WITNESS: Yes, ma'am.

4 MR. KING: Nothing.

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

6 THE WITNESS: Thank you, ma'am.

7 [Whereupon, Mr. Marn is excused and exits the
8 witness stand]

9 THE COURT: Call your next witness.

10 MS. LINDER: The State calls Keith Sumner.

11 Your Honor, can Detective Marn be excused?

12 THE COURT: Any objection?

13 MR. KING: No, Your Honor.

14 [Whereupon, Mr. Sumner comes forward]

15 [Whereupon, Mr. Sumner is duly sworn by the clerk
16 of court as follows: do you swear or affirm that your
17 testimony will be the truth, the whole truth, and
18 nothing but the truth, so help you God]

19 THE WITNESS: I do.

20 THE CLERK OF COURT: Be seated.

21 [Whereupon, Mr. Sumner takes the witness stand]

22 THE CLERK OF COURT: Please state your full name,
23 and spell your last name for the record.

24 THE WITNESS: Alexander Keith Sumner. S-U-M-
25 N-E-R.

Alexander Keith Sumner
Direct Examination by Ms. Linder
January 5, 2016

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

DIRECT EXAMINATION

BY MS. LINDER:

Q. What's your occupation?

A. I work with the City of Charleston Police
Department.

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

A. Twenty years.

Q. Were you working back -- where were you working,
what division were you working, back in February of 2012?

A. I was working with the special units, special
investigations unit, which is a narcotics and vice unit.

Q. And can you just tell the jury briefly a little bit
about your training and education and experience?

A. I graduated from USC with a bachelor's in criminal
justice. I attended the criminal justice academy. And I've
also went to a two-week investigation DEA course afterwards,
and several other yearly trainings.

Q. Were you working back in February the 9th of 2012?

A. Yes, I was.

Q. And were you working anything involved with this
case, the State versus Omar Gentile, on that date?

A. Yes, I was.

Alexander Keith Sumner
Direct Examination by Ms. Linder
January 5, 2016

1 Q. Were you involved in the search warrant execution?

2 A. Yes, I was.

3 Q. What was your role in that?

4 A. I was part of the entry team and then once we made
5 entry, we secured the scene.

6 After we secured the scene, my primary was a
7 recovering agent and also assist in searching the residence.

8 Q. What does a recovering agent mean?

9 A. A recovering agent: when somebody finds evidence,
10 the recovery agent will go over there, take a photo of it, and
11 take it into his custody and later on will tag and bag the
12 evidence.

13 Q. What's the purpose of having one person being the
14 recovering agent?

15 A. It makes it a lot easier with the chain of custody.
16 He's responsible.

17 Q. As the recovery agent, did you handle narcotics
18 that were seized in this case?

19 A. I did.

20 Q. And did you collect any narcotics in bedroom number
21 three?

22 A. Yeah. I collected --

23 Q. And the items that you collected from bedroom
24 number three, the items you collected, what did you do with
25 those narcotics?

Alexander Keith Sumner
Direct Examination by Ms. Linder
January 5, 2016

1 A. I took it to the -- after we collected all the
2 evidence, we write everything down, where it was located from
3 -- write everything down that the agent that found it, we
4 write it down where he located it, what bedroom, and then we
5 seal it and put it in a plastic bag, sealed, and initial.

6 Q. And you write all that down so you remember four
7 years later if you're in a situation like this?

8 A. Yes, ma'am.

9 Q. And after you took the drugs located in bedroom
10 number three and you for lack of a better term bagged and
11 tagged them, where did you take them?

12 A. Took them to the City of Charleston evidence at the
13 station.

14 Q. And who did you give them to?

15 A. Brian Hinton. Or Hinton.

16 Q. Okay. And did the drugs found in bedroom three
17 remain in your sole care, custody, and control from Grove
18 Street all the way until CP evidence where you gave them to
19 Brian Hinton?

20 A. Yes, they did.

21 Q. At this time I show you what's been marked as
22 State's Exhibit 30 for ID purposes. Do you recognize this?

23 A. Yes, ma'am.

24 Q. How do you recognize it?

25 A. Well, first of all, I put a tag on here with my --

Alexander Keith Sumner
Direct Examination by Ms. Linder
January 5, 2016

1 with the case number, the bag number, and what it is, the
2 offense is narcotics, and "submitted by" is my name right
3 here. And then when we seal it down here at the bottom and
4 top, I initial. My initials are right there.

5 Q. And does it appear in substantially the same
6 condition as when you first submitted it?

7 A. Yes, it does.

8 MS. LINDER: I have no further questions for you.
9 If you could answer anything Mr. King may have.

10 THE WITNESS: Okay.

11 THE COURT: Mr. King?

12 MR. KING: Thank you, Your Honor.

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Alexander Keith Sumner
Cross-Examination by Mr. King
January 5, 2016

CROSS-EXAMINATION

BY MR. KING:

Q. You testified you were the collecting agent --

A. Correct --

Q. -- your role?

You recovered the heroin that was found in the
bedroom three?

A. Yes, sir.

Q. When you went into the bedroom, do you remember
where the heroin was when you went in there? What did you see
when you went in the bedroom?

A. I would have to look at my notes to find out
exactly where, I mean, where he found it. I just took the
picture of it, and I would have to look at it to remember.

Q. You grabbed the heroin out of the drawer and put it
on top of the dresser?

A. I don't recall. I don't think -- no, I don't think
I did.

Q. Well, Detective Marn testified that the heroin was
inside the dresser drawer and that he didn't move it. And
there's a photograph of it on top of the dresser drawer. And
I'm assuming you took the photo; right?

A. Correct.

Q. How did it get on top of the dresser drawer?

A. Can I take a look at my notes?

Alexander Keith Sumner
Cross-Examination by Mr. King
January 5, 2016

1 Q. Sure.

2 [Whereupon, the witness reviews documents]

3 A. Yes. It was located in the top dresser drawer.
4 And when he -- you know, he pulled the drawer out, he probably
5 saw it there so I took it out and put it on the dresser.

6 Q. [Mr. King] And so you didn't take a photo --

7 A. Yeah, because there's -- there's so much other
8 stuff in there. So but just by taking a picture of it, of
9 just the dresser, and then the drawer itself, you couldn't see
10 it.

11 Q. But you didn't take the picture of the open dresser
12 drawer before anything was taken out of it?

13 A. No.

14 Q. You submitted that bag of heroin to the evidence
15 room?

16 A. Correct.

17 Q. You submitted it as approximately 16 grams of
18 heroin?

19 A. Yes, sir.

20 Q. Did you request that that plastic bag of heroin --

21 A. No.

22 Q. You submitted other drugs found at Grove Street;
23 right?

24 A. Yes.

25 Q. Was it you who found 50 grams of cocaine,

Alexander Keith Sumner
Cross-Examination by Mr. King
January 5, 2016

1 approximately 50 grams, in bedroom four?

2 A. Yes. I was the one that searched bedroom four.

3 Q. In two different plastic bags?

4 A. I would have to look at it to recall.

5 Q. Can you refresh your memory if you look at your
6 notes?

7 A. Yeah, I can.

8 [Whereupon, the witness reviews documents]

9 A. Yeah.

10 Actually, it was one clear plastic bag with 41
11 grams, and then there's another bag that had 10 grams.

12 Q. [Mr. King] Two plastic bags?

13 A. Two plastic bags.

14 Q. And you found about 79 grams of marijuana, again,
15 in two plastic bags?

16 A. Yes.

17 Q. And that's -- there are 28 grams in an ounce? Are
18 you familiar with conversions?

19 A. Yes.

20 Q. That would be close to three ounces of marijuana?
21 Close? Approximately?

22 A. Correct.

23 Q. In two plastic bags, again.

24 So cocaine, marijuana, and the heroin were all
25 in -- it's put in like a sandwich baggie, sort of? A plastic

Alexander Keith Sumner
Cross-Examination by Mr. King
January 5, 2016

1 sandwich baggie?

2 A. Yeah.

3 They can be put in sandwich bags, they can be put
4 in waxy paper. They can be put in a variety of packagings.

5 Q. These were all in plastic bags, though; right? The
6 marijuana, the cocaine and the heroin?

7 A. Bedroom number four?

8 Q. Well, the heroin in bedroom number three was in a
9 plastic --

10 A. Yeah.

11 Q. -- bag?

12 A. Yeah.

13 Q. And the cocaine and the marijuana in bedroom four
14 were in plastic bags?

15 A. Correct.

16 Q. When you submitted the marijuana and the cocaine
17 into evidence, do you remember if you requested that they
18 fingerprint the bags, as well as drug test?

19 A. I don't request anything, because it's not my case.
20 That would have to be on the case agent to request
21 the fingerprints.

22 MR. KING: May I approach, Your Honor?

23 THE COURT: You may.

24 [Whereupon, Defendant's Exhibit Number 1 is marked
25 by the court reporter]

Alexander Keith Sumner
Cross-Examination by Mr. King
January 5, 2016

1 Q. [Mr. King]. I'm going to hand you Defendant's
2 Exhibit 1 for identification.

3 A. Okay.

4 Q. That is a -- you don't have anything to do with
5 that property form? Because it seems to have a notation with
6 your name beside it that says Sumner after the police
7 fingerprint, as well as drug analysis.

8 A. Yes, my name and all.

9 But I've never seen this here. This is not my --
10 this is not the form that we use, that I use, or that the
11 department officers use.

12 This here is I think Brian Hinton. They're the
13 evidence -- this is their form. I've never seen this type of
14 form.

15 MR. KING: That's all the questions I have, Your
16 Honor.

17 THE COURT: Redirect?

18 MS. LINDER: Briefly, Your Honor.

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Alexander Keith Sumner
Redirect Examination by Ms. Linder
January 5, 2016

REDIRECT EXAMINATION

BY MS. LINDER:

Q. I just want to try to be clear.

We're here for Omar Gentile, who is charged with
heroin?

A. Correct.

Q. Not coke or weed?

A. No.

Q. So item 30 is the item that you said is in
substantially the same condition that was located by Marn but
collected by you in bedroom three?

A. Correct.

Q. And you collect more -- you physically collect
everything at the scene; correct?

A. Everything.

Q. So when you were also in bedroom three, right next
to -- when you lifted that heroin out of that dresser drawer,
you also actually were the person who collected and had item
21?

A. Correct.

Q. These waxine bundles and rubber bands.

You also are the person in bedroom number three --
with the heroin -- who collected State's Exhibit 25, this
earring statement with the defendant's name?

A. Correct.

Alexander Keith Sumner
Redirect Examination by Ms. Linder
January 5, 2016

1 Q. And you also are the person who collected State's
2 24 and 20 and 23 and 22, all of these items that were in
3 bedroom number three, which is the bedroom where the heroin
4 was located?

5 A. Correct.

6 Q. And the sheet of paper, Defense Exhibit 1 for ID
7 purposes that he showed you, is this a piece of paper that you
8 created?

9 A. No, ma'am.

10 Q. Does that piece of paper have heroin on it? Is
11 that request having to do with heroin seized in this case?

12 A. No.

13 Q. What type of drug does that request have to do
14 with?

15 A. Cocaine found in -- just two bags of cocaine.

16 Q. But this is a heroin case?

17 A. Correct.

18 MS. LINDER: I have nothing further, Your Honor.

19 THE COURT: Mr. King, any recross?

20 MR. KING: No further questions, Your Honor.

21 THE COURT: You may step down. You are free to go.
22 Feel free to stay with us.

23 [Whereupon, Mr. Sumner is excused and exits the
24 witness stand]

25 THE COURT: Call your next witness.

Alexander Keith Sumner
Redirect Examination by Ms. Linder
January 5, 2016

1 MS. LINDER: The State calls Brian Hinton.

2 THE CLERK OF COURT: This way, Mr. Hinton. Up
3 here, please.

4 [Whereupon, Mr. Hinton comes forward]

5 [Whereupon, Mr. Hinton is duly sworn by the clerk
6 of court as follows: do you swear or affirm that your
7 testimony will be the truth, the whole truth, and
8 nothing but the truth, so help you God]

9 THE WITNESS: I do, sir.

10 THE CLERK OF COURT: Be seated.

11 [Whereupon, Mr. Hinton takes the witness stand]

12 THE CLERK OF COURT: Please state your full name,
13 and spell your last name for the record.

14 THE WITNESS: Brian Hinton. H-I-N-T-O-N.

15 MS. LINDER: Good morning. How are you?

16 THE WITNESS: Good. How are you?

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Brian Hinton
Direct Examination by Ms. Linder
January 5, 2016

BRIAN HINTON,

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

DIRECT EXAMINATION

BY MS. LINDER:

Q. Where are you presently employed?

A. Charleston Police Department evidence room.

Q. And how long have you been in CPD's evidence?

A. Thirteen years.

Q. Were you working with City evidence back in
February of 2012?

A. I was.

Q. When you work at City evidence, what do some of
your duties include?

A. Within the evidence that's submitted by officers in
cases, I accept it and make sure their vouchers are correct,
it's properly sealed, and initialed. Accept the voucher in,
assign it a storage location, put it in that storage location,
and then maintain it until the disposition of the case.

Q. And does all of this occur in a secured area?

A. It does.

Q. So a random person couldn't just all of a sudden
just access it?

A. No.

Q. On February 9th of 2012, did you receive evidence

Brian Hinton
Direct Examination by Ms. Linder
January 5, 2016

1 from Keith Sumner with regard to this case?

2 A. I did.

3 Q. And did you receive a multitude of items from him?

4 A. I did.

5 Q. Did you receive those items in person?

6 A. I did.

7 Q. Is that unusual?

8 A. No.

9 Q. What types of items, just generally speaking, did
10 you receive from him?

11 A. I know we had money, some coins, paraphernalia,
12 scales, drugs, heroin, marijuana.

13 Q. All right. At this time, I'm going to show you
14 what's been marked as State's Exhibit 30. Do you recognize
15 this?

16 A. I do.

17 Q. How do you recognize it?

18 A. It's got our evidence label, which has the case
19 number, the bag and item number which is created during the
20 voucher, the offense, and the officer's name, and the seals.

21 Q. And does it appear in substantially the same
22 condition as it was when it was first turned into evidence?

23 A. Yes.

24 Q. And so your role with regards to Exhibit 30 is that
25 you did the intake?

Brian Hinton
Direct Examination by Ms. Linder
January 5, 2016

1 A. Correct.

2 Q. You never -- and that's where your role, your job,
3 with that ended?

4 A. Correct.

5 MS. LINDER: I have nothing further. Please answer
6 anything Mr. King may have.

7 THE COURT: Mr. King?

8 MR. KING: Thank you, Your Honor. May I approach
9 the witness, Your Honor?

10 THE COURT: You may.

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Brian Hinton
Cross-Examination by Mr. King
January 5, 2016

CROSS-EXAMINATION

BY MR. KING:

Q. Officer, I'm going to hand you what's been marked as Defendant's Exhibit Number 1.

A. Okay.

Q. Do you recognize those forms?

A. Yes, sir.

Q. What is that?

A. It's a chain of custody report, which has the bag and item number and basically from the time that it was received until it's accepted. Any time it left, it's documented on this form.

Q. And that's three property forms relating to three types of drugs found at Grove Street; is that right? Marijuana, cocaine, and heroin?

A. Yes, sir.

Q. At the top area of each one, there's a note section.

A. Right.

Q. For example, the marijuana? Where it says property description, marijuana?

A. Okay.

Q. Now, you see there's a note section there with a notation?

A. Yes, sir.

Brian Hinton
Cross-Examination by Mr. King
January 5, 2016

1 Q. Who makes that note in the notation?

2 A. You're talking about the quarter of the way down
3 here?

4 Q. It says: approximately 79 grams of a green-in-
5 color --

6 A. Right.

7 Q. -- plant-like substance.

8 A. The officer puts those notes in when they created
9 the voucher.

10 Q. Sumner. There's a notation that says Sumner.

11 A. Correct.

12 So he would have done that when he created the
13 voucher. Date and timestamps it when he -- when he puts --
14 after he inputs those notes in that field.

15 Q. And you're sure about that?

16 A. Yes, sir.

17 Q. Is that why it has Sumner's name in parenthesis
18 right after that, though?

19 A. Yes, sir.

20 Q. And it says on there please fingerprint the bags,
21 as well as drug test?

22 A. Correct.

23 Q. Now, the cocaine, can you find that one?

24 A. Yes, sir.

25 Q. Now, that has a similar note, too; right?

Brian Hinton
Cross-Examination by Mr. King
January 5, 2016

1 A. Yes, sir.

2 Q. With Sumner after it in parenthesis?

3 A. Correct.

4 Q. And that has two bags contained a white-in-color
5 powdery substance, cocaine --

6 A. Yes, sir.

7 Q. -- fingerprint the bags, as well as drug test;
8 right?

9 A. Yes. Yes.

10 Q. Now look at the heroin. That has a notation there,
11 as well, right, by Sumner?

12 A. Yes, sir.

13 Q. Is there any indication on there to fingerprint
14 that bag?

15 A. No, sir.

16 MR. KING: I have no other questions, Your Honor.

17 THE COURT: Redirect?

18 Q. [Mr. Sowards] No redirect, Your Honor.

19 THE COURT: You may step down. You are free to
20 leave, but feel free to stay with us.

21 THE WITNESS: Thank you, sir.

22 [Whereupon, Mr. Hinton is excused and exits the
23 witness stand]

24 THE COURT: Call your next witness.

25 MS. LINDER: The State calls Linda Wilson.

Brian Hinton
Cross-Examination by Mr. King
January 5, 2016

1 THE CLERK OF COURT: This way, please.

2 [Whereupon, Ms. Wilson comes forward]

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

5 [Whereupon, Ms. Wilson is duly sworn by the clerk
6 of court as follows: do you swear or affirm that your
7 testimony will be the truth, the whole truth, and
8 nothing but the truth, so help you God]

9 THE WITNESS: Yes, sir.

10 THE CLERK OF COURT: Be seated.

11 [Whereupon, Ms. Wilson takes the witness stand]

12 THE CLERK OF COURT: If you'll please state your
13 full name, and spell your last name for the record.

14 THE WITNESS: Linda Wilson. W-I-L-S-O-N.

15 MS. LINDER: Good morning.

16 THE WITNESS: Good morning.

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Linda Wilson
Direct Examination by Ms. Linder
January 5, 2016

LINDA WILSON,

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

DIRECT EXAMINATION

BY MS. LINDER:

Q. Where are you presently employed?

A. City of Charleston Police Department, evidence
division.

Q. And how long have you been with the City?

A. About seven years.

Q. What do your duties include being with evidence?

A. I usually take in evidence, accept it in, store it,
maintain chain of custody, get the evidence that officers
turns in to me.

Q. And is all of this done in a secure location?

A. Yes, ma'am.

Q. After an employee of City Charleston Police
Department Evidence takes an item in and secures it into
evidence, does it ever get sent out again?

A. Yes, ma'am. Some items go. Uh-huh.

Q. Do narcotics ever get sent out?

A. Yes, ma'am. They --

Q. Why?

A. They go to the lab for testing.

Q. And in your chain of custody that you maintain, do

Linda Wilson
Direct Examination by Ms. Linder
January 5, 2016

1 you keep track of who releases -- who signs them out?

2 A. Yes, sir.

3 Q. And who picks up the narcotics before they go to
4 the lab?

5 A. Susan Payne came to pick up -- comes and picks up
6 the narcotics..

7 Q. And on February the 10th of 2012, did you transfer
8 any narcotics from evidence to Susan Payne to go to the lab?

9 A. Yes, ma'am.

10 Q. Did you transfer a substance -- pardon me. At this
11 time, I hand you what's marked as State's Exhibit 30. Do you
12 recognize it?

13 A. Yes, ma'am.

14 Q. How do you recognize it?

15 A. Well, according to my chain of custody, it's bag
16 33, item 1.

17 Q. And what did you do with that evidence?

18 A. I -- when I came in that morning, I got it from
19 that lab box, where it was stored, and signed it over to Susan
20 Payne.

21 Q. And does that appear in substantially the same
22 condition as it did when you first saw it?

23 A. Yes, ma'am.

24 MS. LINDER: I have no further questions for this
25 witness, Judge. If you can please have Mr. King -- as

Linda Wilson
Direct Examination by Ms. Linder
January 5, 2016

1 well, if you can please answer any of Mr. King's
2 questions.

3 THE COURT: Mr. King?

4 MR. KING: I have no questions for this witness.

5 THE COURT: You may step down. Feel free to stay
6 with us, but you are free to leave.

7 [Whereupon, Ms. Wilson is excused and exits the
8 witness stand]

9 THE COURT: Who is your next witness?

10 MS. LINDER: The next witness is Susan Payne.

11 [Whereupon, Ms. Payne comes forward]

12 THE CLERK OF COURT: Put your left --

13 [Whereupon, Ms. Payne is duly sworn by the clerk of
14 court as follows: do you swear or affirm that your
15 testimony will be the truth, the whole truth, and
16 nothing but the truth, so help you God]

17 THE WITNESS: I do.

18 THE CLERK OF COURT: Be seated.

19 [Whereupon, Ms. Payne takes the witness stand]

20 THE CLERK OF COURT: Please state your full name,
21 and spell your last name for the record.

22 THE WITNESS: My name is Susan Marie Payne.

23 P-A-Y-N-E.

24 MS. LINDER: Good morning.

25 THE WITNESS: Good morning.

Susan Payne
Direct Examination by Ms. Linder
January 5, 2016

SUSAN PAYNE,

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

DIRECT EXAMINATION

BY MS. LINDER:

Q. Where are you presently employed?

A. The City of Charleston Police Department.

Q. And how long have you been with the City?

A. Approximately ten years.

Q. And what's your position there?

A. I am the evidence custodian and loans [phonetic]
administrator for the forensic services division.

Q. And what duties do you have that are involved with
narcotics?

A. I'm responsible for picking up the evidence at the
police station in the morning and bringing it to the forensic
laboratory.

Q. And on February the 10th of 2012, did you receive
an item, item 33-1, from the CPD evidence?

A. Yes, ma'am.

Q. And who did you receive that item from?

A. I received it from Linda Wilson.

Q. And what did you do with that item when you took it
to the lab?

A. I entered it into our system, assigned it a

MIA PERRON, CVR-CM-M

-203-

Susan Payne
Direct Examination by Ms. Linder
January 5, 2016

1 laboratory number, and placed it in our safe.

2 Q. And can just anybody access that safe?

3 A. No, ma'am.

4 Q. Is it secure?

5 A. Yes, ma'am.

6 Q. At this time, I want to show you what's been marked
7 as State's Exhibit 30 for ID purposes. Do you recognize this?

8 A. Yes, ma'am.

9 Q. How do you recognize it?

10 A. It has our analyst's initial and the sticker from
11 our laboratory on it.

12 Q. And does it appear in substantially the same
13 condition as it did when you first picked it up?

14 A. Substantially. Yes, ma'am.

15 MS. LINDER: I have no further questions for this
16 witness.

17 Ms. Payne, if you could please answer any questions
18 the defense may have.

19 MR. KING: I have no questions, Your Honor.

20 THE COURT: Ms. Payne, you may step down. Feel
21 free to stay with us, but you are also free to leave.

22 THE WITNESS: Thank you.

23 [Whereupon, Ms. Payne is excused and exits the
24 witness stand]

25 THE COURT: Mr. Foreman, it is an appropriate time

Susan Payne
Direct Examination by Ms. Linder
January 5, 2016

1 for us to take another break. Do y'all need a break, or
2 do you want to continue on? All right. We'll go ahead
3 and take a short break.

4 Please remember all my admonitions. Leave your
5 notepads right where they are.

6 Please rise for the jury.

7 [Whereupon, the jury exits the courtroom at
8 11:44 a.m.]

9 THE COURT: Thank you. Be seated.

10 Who is your next witness?

11 MR. SOWARDS: It will be Renee Hilton, the chemist.

12 THE COURT: And then who else?

13 MR. SOWARDS: Agent Shealy. I think he'll probably
14 be our last.

15 THE COURT: And so we're going to take ten minutes,
16 so should we -- how long do you anticipate?

17 MR. SOWARDS: I think we could get the chemist's
18 testimony in in probably ten or fifteen minutes.

19 And he'll be about thirty or forty-five.
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State vs. Gentile
Defendant's Rights
January 5, 2016

DEFENDANT'S RIGHTS

THE COURT: I'm going to go ahead and advise your client of his right to testify so you'll have a few minutes to talk to him.

THE CLERK OF COURT: Mr. Gentile, please stand.

[Whereupon, Mr. Gentile complies]

[Whereupon, Mr. Gentile is duly sworn by the clerk of court as follows: do you swear or affirm that you will tell the truth, the whole truth, and nothing but the truth, so help you God]

MR. GENTILE: Yes, sir.

THE COURT: Mr. Gentile, I'm going to explain to you certain of your rights. The State has not rested, and your attorney has not made the motion for a directed verdict, but I like to advise you of your rights as early as we can so that you have an opportunity to meet with your attorneys.

If you do not understand anything that I say, please let me know. If you need for me to explain anything in further detail, please let me know. Do you understand?

MR. GENTILE: Yes, ma'am.

THE COURT: The Constitution gives you certain protections. Under the fifth amendment to the Constitution of the United States, no person shall be

State vs. Gentile
Defendant's Rights
January 5, 2016

1 compelled in any criminal case to be a witness against
2 himself. This means that you cannot be required to
3 testify.

4 You do have the right to testify on your own
5 behalf. No one can make you testify. This is a
6 personal right, and no one can waive this right except
7 for you. If you decide to testify, you will be subject
8 to the same rules that govern other witnesses and you
9 may be examined and cross-examined on any relevant issue
10 in this case.

11 In addition, if you have any convictions involving
12 dishonest or false statements or for crimes punishable
13 by imprisonment for more than one year and I determine
14 that the probative value of admitting this evidence
15 outweighs its prejudicial effect to you, the solicitor
16 will be allowed to introduce your record to attack your
17 credibility.

18 If you decide to testify, this decision on your
19 part must be freely, voluntarily, and intelligently made
20 with knowledge of the protections given to you by the
21 fifth amendment and the consequences of your decision to
22 testify.

23 If you decide not to testify, I will instruct the
24 jurors that they cannot give the fact that you did not
25 testify any consideration whatsoever and there is to be

State vs. Gentile
Defendant's Rights
January 5, 2016

1 absolutely no prejudice to you because you did not
2 testify.

3 It is left entirely up to you. You may speak with
4 your attorney, your friends, your family, or anyone
5 else, but the final decision is left entirely up to you.

6 Do you understand what I have explained to you?

7 MR. GENTILE: Yes, ma'am.

8 THE COURT: Do you have any questions?

9 MR. GENTILE: No, ma'am.

10 THE COURT: Do you need for me to explain anything
11 in further detail?

12 MR. GENTILE: No, ma'am.

13 THE COURT: All right. Thank you.

14 We are going to go ahead and take a ten-minute
15 break, and you can speak to your client.

16 Mr. Gentile, please remember that the same
17 admonition that I gave you -- you're still out on the
18 same bond conditions but we will continue, whether or
19 not you decide to -- whether or not you show back up.
20 All right? Thank you.

21 We're at ease. Ten minutes.

22 [Whereupon, a recess is taken from 11:45 a.m. to
23 12:02 p.m.]

24 THE COURT: Anything before we bring in the jury?
25 From the State?

State vs. Gentile
Defendant's Rights
January 5, 2016

1 MR. SOWARDS: Nothing from the State.

2 THE COURT: From the defendant?

3 MR. KING: Your Honor, we had -- I had discussed
4 with Mr. Sowards about redacting a few things from the
5 bank statement and the social security number on the
6 social security card.

7 THE COURT: Okay.

8 MR. KING: So at some point before the evidence
9 goes back, if we consent, is that okay if we just redact
10 a few things?

11 THE COURT: Other personal identifiers, I think
12 that's appropriate. Thank you.

13 All right. Let's bring in the jury.

14 [Off the record momentarily]

15 THE COURT: Please rise for the jury.

16 [Whereupon, the jury enters the courtroom at
17 12:05 p.m.]

18 THE BAILIFF: All jurors are present.

19 THE COURT: Thank you. Be seated. Call your next
20 witness.

21 MR. SOWARDS: The State calls Renee Hilton.

22 THE CLERK OF COURT: This way, please.

23 [Whereupon, Ms. Hilton comes forward]

24 THE CLERK OF COURT: Put your left hand on the
25 Bible, and raise your right hand.

State vs. Gentile
Defendant's Rights
January 5, 2016

1 [Whereupon, Ms. Hilton is duly sworn by the clerk
2 of court as follows: do you swear or affirm that your
3 testimony will be the truth, the whole truth, and
4 nothing but the truth, so help you God]

5 THE WITNESS: Yes.

6 THE CLERK OF COURT: Be seated.

7 [Whereupon, Ms. Hilton takes the witness stand]

8 THE CLERK OF COURT: Please state your full name,
9 and spell your last name for the record.

10 THE WITNESS: Renee Hilton. H-I-L-T-O-N.

11 MR. SOWARDS: Good afternoon, Ms. Hilton.
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Renee Hilton
Direct Examination by Mr. Sowards
January 5, 2016

RENEE HILTON,

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

DIRECT EXAMINATION

BY MR. SOWARDS:

Q. What is your current occupation?

A. I'm the laboratory manager with the Charleston Police Department.

Q. And how long have you been with the Charleston Police Department?

A. In January 10th will be five years.

Q. And were you employed with the Charleston Police Department in February of 2012?

A. Yes.

Q. And what are your current duties as the laboratory manager?

A. I make sure that the laboratory runs, I make sure that our instruments are running properly, I manage the personnel within the laboratory, and I just manage the daily function of the laboratory as well as performing drug analysis, fire debris analysis and serology analysis.

Q. And could you please describe for the jury your training, education, and experience?

A. I have a bachelors's of science in chemistry from the University of South Carolina. I completed Charleston

Renee Hilton
Direct Examination by Mr. Sowards
January 5, 2016

1 Police Department's in-house training, as well as going to
2 various on-site and online trainings with regards to drug
3 analysis. I've helped prepare training, and I've trained
4 other members within our division.

5 Q. And have you had the occasion to chemically analyze
6 substances to determine whether the substance is or contains a
7 narcotic or a narcotic type drug?

8 A. Yes.

9 Q. And how many times have you done that?

10 A. I've done probably about 5,000 cases.

11 Q. And have you had an occasion -- or had the occasion
12 to chemically analyze substances to determine whether the
13 substance is or contains heroin?

14 A. Yes.

15 Q. And how many times have you done that?

16 A. We don't really calculate how many times we've done
17 a particular substance, but within a given week I probably do
18 about two or three heroin cases.

19 Q. And do you make these analyses as part of your
20 regular duties?

21 A. Yes.

22 Q. What kind of equipment do you have in the lab for
23 testing drugs?

24 A. We have three -- or excuse me. We have two
25 instruments, and a wet-color test.

Renee Hilton
Direct Examination by Mr. Sowards
January 5, 2016

1 Now, a wet-color test is something that we put on
2 the substance and based on the color change we can give a
3 presumptive identification of a substance to help us go -- to
4 figure out what test to do next.

5 The next instrument we have is the Fourier
6 Transform Infrared Spectrometer, FTIR for short. And that
7 particular instrument puts vibrations on the compound and,
8 based on the vibrations, it will result in a spectrum and then
9 based on that spectrum, we can compare it to know substances.

10 The last instrument is a gas chromatograph mass
11 spectrograph, GCMS for short. This particular instrument is
12 two instruments in one. The GC side of it separates the
13 substance -- or separates the sample into all of the compounds
14 within that sample. And then the second sample -- or excuse
15 me -- second instrument, based on the separation, can
16 determine the mass spec or the peak imprint of that particular
17 peak within the data.

18 Those are the three types we can use.

19 Q. And have you previously been admitted as an expert
20 on drug analysis?

21 A. Yes.

22 Q. And how many times?

23 A. I've testified seven times.

24 MR. SOWARDS: Your Honor, at this time the State
25 would move that Renee Hilton be declared as an expert in

Renee Hilton
Direct Examination by Mr. Sowards
January 5, 2016

1 the field of drug analysis.

2 THE COURT: Any objection?

3 MR. KING: No objection.

4 THE COURT: Ladies and gentlemen, normally a person
5 cannot give opinion testimony. Typically when a person
6 testifies, they must testify as to either what they've
7 heard or saw or sensed by smell or something of that
8 nature.

9 There is an exception in our law if someone is
10 qualified because of their education or experience.
11 They are then permitted to give their opinion in certain
12 areas.

13 I am going to qualify this witness in the area of
14 drug analysis, as an expert, to give opinion testimony
15 in that area. That does not mean that you must accept
16 her opinion. It is simply evidence for you to use in
17 any way that you see fit.

18 Mr. Sowards?

19 MR. SOWARDS: Thank you, Your Honor.

20 Q. [Mr. Sowards] As a result of completing your drug
21 analysis, do you generate a report of any kind?

22 A. Yes.

23 Q. And what does the report contain?

24 A. It contains the results, the item description, the
25 methods that I used to confirm the results, the case number,

Renee Hilton
Direct Examination by Mr. Sowards
January 5, 2016

1 the laboratory-generated lab number. And if it's supplied to
2 us, the suspect's name.

3 MR. SOWARDS: May I approach the witness, Your
4 Honor?

5 THE COURT: You may.

6 MR. SOWARDS: Thank you.

7 Q. [Mr. Sowards] Ms. Hilton, I'm going to hand you
8 what has been marked for identification as State's Exhibit 18.
9 Do you recognize that?

10 A. Yes.

11 Q. What is that?

12 A. My laboratory report.

13 Q. When you said my, I think that answers this next
14 question. Who prepared it?

15 A. I did.

16 Q. And when did you prepare that report?

17 A. I prepared it on February 17th, 2012.

18 Q. Is the report signed by you?

19 A. Yes.

20 Q. And who is the subject of the drug report or which
21 case is the subject of the drug report?

22 A. The case number is 1202203.

23 Q. Does that identify who the subjects are that are
24 subject to that drug report?

25 A. This report has the suspects' names on it, yes.

Renee Hilton
Direct Examination by Mr. Sowards
January 5, 2016

1 Q. And what are the suspects' names?

2 A. Maurice Eugene Gentile and Omar Shariff Gentile.

3 Q. And is that report a fair and accurate
4 representation of a lab report that you generated as a result
5 of your expert analysis of this case?

6 A. Yes.

7 MR. SOWARDS: Your Honor, at this time the State
8 would seek to move Exhibit 18 into evidence.

9 MR. KING: Only my -- renew my pretrial objections,
10 Your Honor.

11 THE COURT: State's 18 into evidence, noting your
12 previous objection.

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

15 MR. SOWARDS: Your Honor, at this time the State
16 requests to publish --

17 THE COURT: You may.

18 MR. SOWARDS: -- Exhibit 18. Thank you.

19 Q. [Mr. Sowards] Could you just describe what we're
20 looking at here?

21 A. This is my lab report.

22 Q. And I would like to ask you specifically item 33-1,
23 what does that indicate?

24 A. It is the weight, the uncertainty, the result, and
25 the methods used to determine item 33-1.

Renee Hilton
Direct Examination by Mr. Sowards
January 5, 2016

1 MR. SOWARDS: May I approach the witness, Your
2 Honor?

3 THE COURT: You may.

4 Q. [Mr. Sowards] Ms. Hilton, I'm going to hand you
5 what's been marked as State's Exhibit 30. Do you recognize
6 that?

7 A. Yes.

8 Q. And how do you recognize that?

9 A. It has my initials on it.

10 Q. And can you identify what that is?

11 A. It is a plastic bag with tan powder.

12 Q. And how can you identify that?

13 A. I'm looking at it.

14 Q. Is there anything else on there that indicates to
15 you what that is?

16 A. On the bag, no, other than just a plastic bag with
17 tan powder.

18 MR. SOWARDS: Your Honor, may I approach the
19 witness?

20 THE COURT: You may. You have continuing
21 permission.

22 MR. SOWARDS: Thank you.

23 Q. [Mr. Sowards] What is inside that bag?

24 A. A tan, crunchy, chunky powder.

25 Q. And is there anything written on that bag?

Renee Hilton
Direct Examination by Mr. Sowards
January 5, 2016

1 A. The lab number, the Q number, and my initials.

2 Q. And are those the drugs that you retrieved from the
3 vault -- from a secured location within the lab?

4 A. Yes.

5 Q. And is there a way for you to determine, based on
6 either that bag or the bigger plastic bag that it's contained
7 in, who handled it and -- before you did?

8 A. Not from the bag, no.

9 Q. But is there a way for you, in general, to identify
10 and handle items that are brought to the lab?

11 A. Yes.

12 Q. And how do you do that?

13 A. By the chain of custody.

14 Q. And who brought that to the lab? Do you know?

15 A. Susan Payne.

16 Q. And when you retrieved the item from the vault from
17 the lab, did it appear to be tampered with?

18 A. No.

19 Q. And does this exhibit appear in substantially the
20 same condition as it did back when you tested it?

21 A. Yes.

22 MR. SOWARDS: Your Honor, at this time the State
23 would move to admit State's Exhibit 30 into evidence.

24 MR. KING: Subject to my pretrial objection.

25 THE COURT: State's 30 into evidence, noting your

Renee Hilton
Direct Examination by Mr. Sowards
January 5, 2016

1 objection.

2 [Whereupon, State's Exhibit Number 30 is admitted
3 into evidence by the Court]

4 Q. [Mr. Sowards] Now, as you see on here, this is a
5 report generated by you. Could you please explain to the jury
6 the results of your analysis in this case?

7 A. Yes.

8 I weighed the substance at 13.84 grams, with an
9 assigned uncertainty of 0.01. The methods in which I used to
10 confirm the result, heroin, were color test and GCMS.

11 Q. And from those tests, were you able to form an
12 expert opinion as to what the exhibit is or what it contains?

13 A. Yes.

14 Q. And what is that?

15 A. Heroin.

16 MR. SOWARDS: Beg the Court's indulgence.

17 [Whereupon, Mr. Sowards and Ms. Linder confer]

18 MR. SOWARDS: No further questions from the State.
19 Please answer any questions Mr. King may have.

20 THE COURT: Mr. King, any questions?

21 MR. KING: No, Your Honor.

22 THE COURT: You may step down. You are free to
23 leave, but feel free to stay with us. Thank you.

24 THE WITNESS: Thank you.

25 [Whereupon, Ms. Hilton is excused and exits the

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

JONATHAN SHEALY,

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

DIRECT EXAMINATION

BY MR. SOWARDS:

Q. Agent Shealy, what is your occupation?

A. I'm currently working for the South Carolina Law Enforcement Division.

Q. And how long have you been with the South Carolina Law Enforcement Division?

A. Approximately one and a half years.

Q. And where did you work prior to -- or being with the South Carolina Law Enforcement Division?

A. I was employed by the City of Charleston Police Department.

Q. And how long were you with the City of Charleston Police Department?

A. I was hired in January of 2006, and approximately eight and a half years I was employed with the City of Charleston Police Department.

Q. And in what capacity did you work with the City of Charleston Police Department?

A. During the execution of the search warrant?

Q. Just in general. What duties did you have?

A. When I started off, I was in team one patrol. I

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 was a patrolman, uniformed. Answered calls for service.

2 After about two and a half years, I was assigned to
3 the special investigations unit, which is comprised of
4 narcotics investigations and vice operations, vice
5 investigations. Within that unit, I primarily focused on
6 narcotics investigations. During that time, I was also a
7 member of the Charleston SWAT team.

8 Q. And what were your duties in February of 2012? Or
9 sorry. What was your -- what was your role with the City of
10 Charleston Police Department in February of 2012?

11 A. February of 2012, I was -- I was a member of the
12 special investigations unit. And February of 2012 is when --
13 is the time we executed the search warrant at Grove Street.
14 I was the case agent on that investigation.

15 Q. And what do you mean by case agent? Could you
16 please describe for the jury what that means, what that
17 entails?

18 A. The case agent is typically the agent or the
19 officer who's in charge of a particular investigation.

20 And like I said before, being a member of the
21 special investigations unit, I primarily focused on narcotics
22 investigations.

23 Case agent basically takes over a case. Whether or
24 not we get information about criminal activity in a certain
25 area is assigned to an agent.

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 For this particular case, this was my case. I got
2 information about narcotic activity at this location. With
3 that being said, I was in charge of making decisions such as
4 how we were going to conduct the investigation, such as
5 possibly using a controlled buy, surveillance, assigning
6 people to different entities within that investigation whether
7 it be assisting me with a controlled buy or kind of lining up
8 people for search warrants and getting everything squared
9 away.

10 Also, I'm pretty much in charge of determining who
11 is charged and what those charges are.

12 Q. And just specifically about Grove Street, where
13 is that located?

14 A. Grove Street is located within the City of
15 Charleston jurisdiction. Downtown Charleston on the
16 peninsular.

17 Q. Is that in Charleston County?

18 A. Yes, it is. It's in Charleston County.

19 Q. And how did your investigation lead you to Grove
20 Street?

21 A. My investigation led me to Grove Street? We got
22 intel, through various sources, that there was narcotic
23 activity going on at Grove Street. From that intel, what
24 we did, we utilized a confidential informant to go and
25 purchase a quantity of illegal narcotics out of that

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 residence.

2 Q. And what did you do based on that confidential
3 buy --

4 A. We --

5 Q. -- controlled buy?

6 A. Based on the controlled buy that we got, we got a
7 search warrant signed by a judge to execute a search of that
8 residence for illegal narcotics.

9 Q. And on what date was that search executed?

10 A. That search was executed on February the 9th, 2012.

11 Q. Now, were you present when entry was made into the
12 residence?

13 A. No, sir, I was not present when entry was made into
14 the residence. I was involved in another search warrant that
15 was being conducted simultaneously with that search warrant.

16 Due to the fact that I was a member of the SWAT
17 team, SWAT team was actually making entry into another house
18 at the same exact time this house was being made entry -- or a
19 search warrant was being executed, so I was not present when
20 the search warrant was executed.

21 Q. Are you generally aware, though, of what happened
22 prior to your arriving there?

23 A. Yes, sir, I am.

24 Q. Were any individuals located in the residence when
25 the search warrant was executed?

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 A. Yes, sir.

2 There was two individuals located inside the
3 residence during the execution of the search warrant. One of
4 those individuals was the defendant, Mr. Omar Gentile.
5 Another individual was Mr. James Davis, an elderly gentleman.

6 Q. And do you see Omar Gentile in the courtroom today?

7 A. Yes, sir, I do.

8 Q. Could you please point him out and describe what
9 he's wearing?

10 A. He's wearing a brown jacket, brown pants, brown
11 shoes.

12 MR. SOWARDS: Please let the record reflect that
13 the witness identified Omar Gentile as the individual
14 who was present at Grove Street on February 9th of
15 2012.

16 THE COURT: It will.

17 Q. [Mr. Sowards] And during the -- or, actually,
18 after the search warrant was executed, did you have an
19 opportunity to speak with the defendant, Omar Gentile?

20 A. Yes, sir.

21 After the search warrant was executed and I -- my
22 task was completed on the other search warrant, I immediately
23 left the second location that we were searching. I came over,
24 due to the fact that I was the case agent, and I was able to
25 then pair up with my group over at Grove Street and I did

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 have the -- I did speak with the defendant.

2 Q. And prior to speaking with the defendant, did you
3 advise him of his rights?

4 A. Yes, sir, I did.

5 Q. And how did you advise him of those rights?

6 A. I advised the defendant of his rights by reading
7 from a preprinted CPD-issued Miranda card, and I read those
8 rights -- read them out loud to him.

9 Q. I'll hand you what's been marked as State's Exhibit
10 26. Do you recognize that?

11 A. Yes, sir, I do.

12 Q. And how do you recognize that?

13 A. This is the preprinted Miranda card that I was just
14 speaking of.

15 It's got it's -- the rights are right on one side.
16 On the back side, it basically states do you understand your
17 rights. There's a place for the defendant to sign, which
18 Mr. Omar Gentile did sign. Also, there's a place for the
19 warning officer to sign, which was myself, and a place for a
20 witness to sign, which was Detective Grill. Also, it's time
21 and dated, which we wrote the date and time on there that the
22 rights were read.

23 Q. And when you say you read them, did you read them
24 verbatim from that card?

25 A. I did.

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 Q. And what does that card state?

2 A. The card states -- and this is what I read to the
3 defendant -- you have the right to remain silent. Anything
4 you say can, will be used against you in a court of law. You
5 have the right to talk with a lawyer and have him present
6 during any questioning. If you cannot afford to hire a
7 lawyer, one will be appointed to represent you before any
8 questioning, if you wish one. If you decide to answer
9 questions without a lawyer present, you have the right to stop
10 answering questions at any time you so choose. On the back it
11 says, do you understand your rights, which we ask.

12 MR. SOWARDS: Your Honor, at this time the State
13 would seek to admit State's Exhibit 26.

14 MR. KING: Without objection.

15 THE COURT: State's 26 into evidence without
16 objection.

17 [Whereupon, State's Exhibit Number 26 is admitted
18 into evidence by the Court]

19 Q. [Mr. Sowards] Now, as you read the defendant his
20 rights, did he appear to understand the nature of your
21 inquiry?

22 A. Yes, sir, he did.

23 Q. Did he appear to be under the influence of drugs or
24 alcohol?

25 A. No, sir, he did not.

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 Q. Did he appear to be confused?

2 A. No, sir, he did not.

3 Q. Did he ever tell you that he didn't understand what
4 was happening?

5 A. No, sir, he did not.

6 Q. Was the defendant ever threatened?

7 A. No, sir, he was not.

8 Q. Was the defendant ever promised anything in
9 exchange for speaking with you or Detective Grill?

10 A. No, sir.

11 Q. Now, was the defendant detained? Was he in
12 handcuffs as you read him these rights?

13 A. Yes, sir, the defendant was detained. He was in a
14 pair of handcuffs. And that's common practice.

15 As you heard earlier, Detective Grill explained
16 that when a search warrant is executed, everyone in that
17 residence is detained for several reasons. One reason is for
18 officer safety, as well as suspect safety. Another reason is
19 for preservation of any evidence that may be in close vicinity
20 of a suspect. That's why they're -- everyone is detained.
21 That's common practice.

22 Q. Now, after advising the defendant of his rights,
23 did he acknowledge to you that he understood those rights?

24 A. Yes, sir, he did.

25 Q. And how did he make that acknowledgment?

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 A. He verbally stated that he acknowledged -- he
2 understood everything, as well as signing the back of the
3 card. At which time the defendant was handcuffed up front,
4 more comfortable, so he could sign the card.

5 Q. Now, after advising of the defendant -- or advising
6 the defendant of his rights, did the defendant make any
7 statements to you --

8 MR. KING: Your Honor, I just renew my pretrial
9 objection.

10 THE COURT: Thank you. Noted for the record.

11 A. Yes, sir, he did.

12 Q. [Mr. Sowards] And did you memorialize those
13 statements in any way?

14 A. Yes, sir, I did.

15 Q. And how did you memorialize those statements?

16 A. In my written or typed report.

17 Q. And what was the statements that the defendant gave
18 to you on February 9th of 2012?

19 A. He gave us several statements, to include that he
20 does come to the residence every day to take care of his
21 cousin, Mr. Davis. He stated that he did stay there from time
22 to time and that his bedroom was upstairs, which was
23 identified as bedroom number three. When we asked him to
24 describe basically where that bedroom was, he pointed up or
25 kind of motioned up and from where we were in the room, if you

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 stack the picture that was shown earlier, we were in basically
2 the back left corner of that residence. And bedroom number
3 three would be directly upstairs, second floor, in the back
4 left corner. So when we asked him, he kind of motioned up
5 with his head.

6 Some of the other things that he stated to us is he
7 asked us to get a pair of pants, a thermal shirt, and some
8 shoes from his bedroom, which we did.

9 I was advised that there was a set of keys in that
10 door which was in a lock. When I went up there to retrieve
11 pants, I noticed that there indeed was a set of keys in there.
12 So I did come back down, ask Mr. Gentile if he did want his
13 keys. He replied that he did and that they were his.

14 He also told us that he had over \$1,000 of cash in
15 that room.

16 And while we were filling out the booking sheet, I
17 did ask Mr. Omar Gentile what address he wanted me to put down
18 for the booking sheet, what was his address. He said, just go
19 ahead and put down Grove Street.

20 He also -- I did ask him did he realize that there
21 was a school directly across the street from his residence.
22 He replied to me, yes, that there was a school directly across
23 the street from his residence and that there was also a church
24 right around the corner.

25 Those are the things that he -- that we -- that he

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 told us.

2 Q. So in his statement to you, he claimed that bedroom
3 three, which was what we saw earlier on a layout, belonged to
4 him?

5 A. Yes, sir.

6 Q. What did you find? Or what was found in bedroom
7 number three?

8 A. There was a variety of items found in bedroom
9 three, to include 16 grams of heroin that were field-tested
10 and also from the lab tested as heroin.

11 There was paraphernalia, what we call paraphernalia
12 in the room, such as scales, the glassine or waxine baggies
13 commonly used to package heroin. Also located was rubber
14 bands, which is commonly used to package heroin and distribute
15 heroin.

16 There was a large amount of cash located throughout
17 the room.

18 There was various identification for Mr. Omar
19 Gentile, such as pay stubs, South Carolina ID card, social
20 security card belonging to Mr. Omar Gentile, Bank of America
21 cards.

22 There was also a box of ammo in that room, which is
23 commonly found in rooms or homes that drug dealers have where
24 --

25 THE COURT: Hold on. I'm having a hard time with.

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 the coughing.

2 MR. KING: May we approach?

3 THE COURT: Yes, you may.

4 [Whereupon, an off-the-record bench conference is
5 held]

6 MR. SOWARDS: Mr. Sowards, if you need to re-ask
7 the question so that it's clear. It's been a while.
8 Thank you.

9 MR. SOWARDS: Yes, ma'am. I'll move on to
10 something else, Your Honor.

11 THE COURT: All right. Thank you.

12 Q. [Mr. Sowards] Detective -- Agent Shealy, there
13 were a series of photographs taken while detectives recovered
14 at the -- are you familiar with those photographs?

15 A. Yes, sir, I am.

16 Q. Show you what's been admitted as State's Exhibit 3.
17 What are we looking at here, sir?

18 A. This picture here indicates the dresser drawer that
19 some items were located in. Obviously, we see here -- no,
20 that's not -- a set of scales with some white powder residue
21 on it. To the left of that you see a plastic baggie
22 containing the heroin. Down in the drawer itself, you have a
23 box that is containing the waxine or -- baggies that we were
24 talking about earlier. On top of that you see the black-in-
25 color rubber bands.

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 Just to the right of that box you see a piece of
2 tape. This is very common in bagging heroin because once you
3 fold that bag down, you have to secure it. So it's always
4 secured with a piece of tape, clear tape.

5 Just to the right of the tape, you see U.S.
6 currency.

7 I believe that's it in that picture.

8 Q. Do you know how much currency was recovered from
9 the left dresser drawer?

10 A. I believe from the -- I believe from the left
11 dresser drawer there was \$250 in U.S. currency.

12 Q. And what about in this picture?

13 A. This picture right here is the -- just another
14 picture of that dresser drawer.

15 Again, you have the box. You can clearly see the
16 waxine paper bags in that box, including the rubber bands.

17 To the right of it, you see the clear-in-color tape
18 that is used to secure the waxine baggies once the heroin is
19 placed into it.

20 You also see here the Bank of America card which
21 belonged to -- which had Omar Gentile's name on it.

22 Q. Agent Shealy, I'm going to hand you two items. One
23 has been marked as -- for ID as State's 14 and one has been
24 marked for ID as State's 15. And do you recognize those?

25 A. Yes, sir, I do.

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 Q. And how do you recognize those items?

2 A. These items were the items that were located in
3 bedroom number three that was located within that left dresser
4 drawer.

5 Q. And is that a fair and accurate depiction of the
6 room at the time?

7 A. Yes, sir.

8 Matter of fact, one of the pictures is pretty much
9 exactly how the drawer was found when it was located by
10 Detective Marn.

11 MR. SOWARDS: Your Honor, at this time the State
12 would seek to move Exhibits 14 and 15 into evidence.

13 MR. KING: Subject to my pretrial motion.

14 THE COURT: 14 and 15 into evidence without that
15 objection -- I'm sorry -- noting your objection.

16 [Whereupon, State's Exhibit Numbers 14 and 15 are
17 admitted into evidence by the Court]

18 THE COURT: You may publish.

19 MR. SOWARDS: Thank you.

20 Q. [Mr. Sowards] And what are we looking at here?

21 A. Again, this is a picture that we've just -- we just
22 saw. But in this picture right here, you also -- you have --
23 to your far left, you have the box with the waxine paper bags.
24 You can see the rubber bands just to the right of that. And
25 you have the clear-in-color tape.

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 If you look below the tape, you see the plastic
2 baggie sticking out from under the U.S. currency. This
3 plastic baggie is the baggie that contained the heroin that
4 was located in that drawer.

5 And on top of that obviously is the U.S. currency,
6 the \$250.

7 Q. And what -- you testified that Detective Marn was
8 the -- doing location in bedroom three. Could you describe,
9 from your perspective as a case agent, what that means?

10 A. You talking about --

11 Q. What it means to be the locator.

12 A. Okay. And it -- common practice is once you are
13 assigned to a search team, you -- it's just how it sounds.
14 You are searching for anything of evidentiary value, whether
15 that be money, drugs, guns, U.S. currency.

16 Once you locate an item, you leave that item where
17 it's found. From that point, you call up what we call the
18 camera man. You yell it out: camera man, I've got something,
19 I found something. The camera man will come in. He will take
20 photos of those items in place.

21 The camera man is the one who will collect those
22 items and take downstairs so that we keep a chain of custody
23 at a minimum, because you don't want a lot of people touching
24 evidence or moving evidence.

25 So that's why you have -- you have a searcher who

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 searches it; a camera man who comes in and photographs and
2 collects it. So that's kind of how we -- we did all of our
3 search warrants.

4 Q. So when would this picture have been taken?

5 A. This picture is -- and, again, I'm not -- I wasn't
6 there, but in my opinion this picture would have been taken as
7 soon as Detective Marn would have found this evidence. He
8 would have yelled out camera man, screamed it out. The camera
9 man would have came in, ask Detective Marn, what you got.
10 Detective Marn --

11 And like I said, I -- this is what I always did. I
12 would describe what I have, where it's at, you know, what I
13 believe it is, let's go ahead and take a photograph of it.
14 And then the camera man would move things around so he could
15 get better photographs of what was actually in the drawer.

16 Because a lot of times you can't -- from this
17 picture right here, you really can't tell what we've got
18 because in drawers things are piled up. So that's what I --

19 Q. And what does this picture show?

20 A. This picture right here is obviously the bag of
21 heroin that was located inside that drawer. It also shows to
22 the right of it the digital scales, which is commonly found in
23 distribution houses where narcotics are being sold. So you
24 have the heroin. You have the scales right next to it.

25 Q. There were -- well, I'll just ask you: as a case

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 agent, do you often ask for -- if drugs are found, do you have
2 those drugs or baggies fingerprinted?

3 A. No, sir.

4 You typically do not have baggies fingerprinted.
5 But there are instances where you could have them
6 fingerprinted, but typically you don't. In my experience
7 throughout hundreds of investigations, it's nearly impossible
8 to get a fingerprint from a plastic baggie. So typically you
9 do not. But there are some instances where you may.

10 Q. And what is the purpose of fingerprinting
11 something?

12 A. You basically fingerprint something to see if you
13 can pull a latent print to make identification of who may have
14 been in contact with that item, whether it be a -- whether it
15 be anything. You pull a print to see if someone's been in
16 contact with it.

17 Q. And why, again, did you believe that bedroom number
18 three belonged to the defendant, Omar Gentile?

19 A. Bedroom number three belonged to the defendant,
20 Omar Gentile, because of his statement stating that that was
21 his -- indeed his bedroom.

22 He told us that that was his bedroom. There was
23 numerous identifiers located in that bedroom to place him in
24 that bedroom. Being from his identification card -- the most
25 important things that we take with us every day: your ID

Jonathan Shealy
Direct Examination by Mr. Sowards
January 5, 2016

1 card, you never leave home without it; your bank card; your
2 social security card.

3 Also, a set of keys in a locked door that I asked
4 Mr. Omar Gentile if he wanted his keys out of the lock that
5 was in his door and he stated that he did want his keys. And
6 he took his keys.

7 Also from him asking me to get pants, shirt, and
8 shoes from his bedroom.

9 So, basically, the answer to your question is from
10 the items that we located from the bedroom, from the key we
11 located in the door, and from his verbal statements admitting
12 to that was -- to us, admitting that it was his bedroom.

13 Q. And was there any doubt in your mind who that
14 bedroom belonged to?

15 A. No, sir, no doubt whatsoever whose bedroom that
16 belonged to.

17 MR. SOWARDS: Beg the Court's indulgence.

18 [Whereupon, Mr. Sowards and Ms. Linder confers]

19 MR. SOWARDS: The State has no further questions at
20 this time.

21 Please answer any questions that Mr. King may
22 have.

23 THE WITNESS: Yes, sir.

24 THE COURT: Mr. King?

25 - - -

Jonathan Shealy
Cross-Examination by Mr. King
January 5, 2016

CROSS-EXAMINATION

BY MR. KING:

Q. Agent Shealy, you said you're the case agent in this particular case; right?

A. Yes, sir, I am.

Q. You're not part of the entry team? You weren't there at the very beginning?

A. No, sir, I was not.

Q. You said you were involved in another search, the execution of another search warrant?

A. Yes, sir.

I was just involved in the actual execution of a search warrant with the SWAT team.

Q. That wasn't at Grove Street next door, was it? That was a separate -- completely separate place?

A. Yes, sir, it was a completely separate place, but we were about a block away from that location.

Q. So that's at least three search warrants that were executed that day, is I guess the -- Grove Street, Grill at Grove Street. And you were executing one at another place. Was it close by?

A. Well, two planned search warrants and then I guess another search warrant that came about.

So, yeah, to answer your question, three search warrants.

Jonathan Shealy
Cross-Examination by Mr. King
January 5, 2016

1 Q. Is that common, doing more than one operation at
2 one time?

3 A. Yes, sir.

4 I mean, we've done it before. That's why -- I
5 mean, Charleston is the largest police department in the
6 state. We have plenty of manpower. It wasn't uncommon for us
7 to hit multiple houses in an area.

8 Just basically due to the fact that we have
9 multiple investigations going on at the same time in a certain
10 area, and if we do hit one house in that area and we have
11 investigations going on at a different house that's close by,
12 through our training and experience, once we hit a house,
13 everything shuts down for a while.

14 I mean, it's common sense. They know we're in the
15 area, they know we're hitting houses, and things are going to
16 quiet down for a while.

17 So if we do have -- I guess what I'm saying is it's
18 not uncommon, if we do have multiple investigations going on
19 in an area, to simultaneously hit houses. Our narcotics
20 division is large enough that our narcotics unit can hit a
21 house and our SWAT team can hit a house. And that's what
22 happened that day.

23 Q. As a case agent, you're familiar with all the
24 police reports in the case?

25 A. As the case agent, I'm familiar with my police --

Jonathan Shealy
Cross-Examination by Mr. King
January 5, 2016

1 with my report from my -- whatever I do, I'm familiar with,
2 because I'm trying to focus on my case.

3 Q. Right.

4 But is it part of a case agent's role to sort of
5 being supervised -- oversee the whole case?

6 A. My case, yes, sir.

7 Q. Right. And I'm talking about the Grove Street.

8 A. Yes, sir.

9 Q. Yeah. I'm talking about that.

10 So you were familiar with the police reports
11 relating to Grove Street?

12 A. Yes, sir.

13 Q. And all the evidence that was recovered there?
14 You're familiar with basically the whole case?

15 A. Yes, sir.

16 Q. And you're aware that Omar Gentile had a job;
17 right? Saint Morris Building Services?

18 A. I was aware there were pay stubs located in the
19 residence.

20 I -- that doesn't necessarily mean you work. I
21 mean, I can't say one hundred percent that I knew he had a
22 job.

23 Q. You put it in your incident report that he worked
24 at Saint Morris Building Services; right?

25 [Whereupon, the witness reviews documents]

Jonathan Shealy
Cross-Examination by Mr. King
January 5, 2016

1 A. You're talking about the incident --

2 Q. [Mr. King] Page 4 of the incident investigation
3 report, your recent incident report, where you list Omar
4 Gentile as a subject, and then Maurice Gentile.

5 [Whereupon, the witness reviews documents]

6 A. You're talking about in the actual place of
7 business --

8 Q. [Mr. King] Up ahead of that. You're looking at --
9 it's above that.

10 A. Yeah. I mean, when we -- yeah. Absolutely. When
11 we ask them what they -- what do you do for a living, they can
12 tell me they're an astronaut and I'll put that down.

13 So, yeah, a place of business, address, of whatever
14 his occupation was.

15 Q. And the same thing with the arrest report, the
16 booking sheet?

17 A. Yes. Yeah.

18 Booking sheet has the same thing. We ask them
19 common questions such as their name, date of birth, address,
20 social security number, closest kin. They can tell us whoever
21 they want. They can tell us their mother, their father.

22 So whatever we ask them, if they tell us they work
23 somewhere, we'll put that down. Absolutely.

24 Q. So you should be familiar, then, with information
25 Detective Olson obtained that showed the direct deposits all

Jonathan Shealy
Cross-Examination by Mr. King
January 5, 2016

1 the way up until February the 3rd from Saint Morris Building
2 Company?

3 A. Detective Olson did do an additional search warrant
4 on his bank records.

5 Detective Olson kind of did that. Obviously, it's
6 my case. But it's kind of an off branch. Detective Olson has
7 had extensive training in bank records and stuff like that, so
8 he would typically -- if we did find bank statements, he would
9 do search warrants on their -- on individual's bank records.

10 Q. Were you familiar with the information that he
11 obtained? Did you review that?

12 A. I did. I've reviewed his report and what he
13 obtained.

14 Q. So you know that there were direct deposits from
15 Saint Morris Building Company all the way up -- every month,
16 all the way up until February 3rd, every two weeks?

17 A. Right.

18 Q. So he had a job?

19 A. Yeah.

20 Q. You spoke with Mr. Gentile, Omar Gentile, you said,
21 and you asked him questions?

22 A. Yes, sir.

23 Q. You said he wasn't high on anything. It wasn't
24 like he was high on heroin or drugs or anything?

25 A. No, sir.

Jonathan Shealy
Cross-Examination by Mr. King
January 5, 2016

1 Q. He told you he comes there every day?

2 A. Yes, sir.

3 Q. He didn't say he lived there?

4 A. He told us that he did stay there. He did -- he
5 said that --

6 Q. From time to time.

7 A. -- I come here every day and I do stay here from
8 time to time.

9 Q. Helps take care of cousin John Davis, the elderly
10 gentleman you were talking about?

11 A. Yes, sir. Mr. Davis. Yes, sir.

12 Q. Said he stays in bedroom three from time to time
13 when he's there?

14 A. He said that that was his bedroom, bedroom number
15 three, and that's -- yeah, that's where he stayed at. That's
16 where we located all his personal belongings.

17 Q. And he told you about the money? That there was
18 roughly \$1,000 in the room?

19 A. He told us there was over \$1,000 in that room.

20 Q. You asked him if the heroin was his?

21 A. We did ask him about the narcotics located in that
22 room, whether the heroin was his. He did not acknowledge
23 anything about narcotics. Once we asked those questions, he
24 wouldn't acknowledge anything about drugs.

25 Q. He didn't claim the heroin?

Jonathan Shealy
Cross-Examination by Mr. King
January 5, 2016

1 A. He did not. No, sir.

2 Q. Now, you were executing the search warrant at
3 Grove Street that day?

4 A. Yes, sir.

5 Q. You testified that -- or you were executing it
6 because a black male sold cocaine to a confidential informant
7 at Grove Street; right?

8 A. Yes, sir, a black male sold cocaine to a
9 confidential informant.

10 Q. You identified that black male to be Maurice
11 Gentile, Omar Gentile's brother?

12 A. Yes, sir.

13 Q. And that was about six days or so prior to the
14 search warrant?

15 A. The date of the controlled purchase would have been
16 January the 31st, 2012, so roughly six days.

17 MR. KING: May I approach, Your Honor?

18 Q. [Mr. King] You're familiar with the lab report in
19 the case?

20 A. Yes, sir.

21 Q. Let me just show you State's Exhibit Number 18.

22 A. Yes, sir.

23 [Whereupon, the witness reviews documents]

24 Q. [Mr. King] That's got a lot of different drugs on
25 it?

Jonathan Shealy
Cross-Examination by Mr. King
January 5, 2016

1 A. It's got --

2 MR. SOWARDS: Objection, Your Honor. Relevance.

3 THE COURT: Counsel approach. And bring the
4 report, please.

5 [Whereupon, an off-the-record bench conference is
6 held]

7 THE COURT: Overruled..

8 Q. [Mr. King] State's Exhibit Number 18. I was just
9 asking, there was several different types of drugs listed
10 there?

11 A. Three. Yes, sir.

12 Q. The heroin on there is the only thing found in that
13 bedroom number three, like on that -- as far as those drugs on
14 that lab report; right?

15 A. The only drugs on this lab report that were found
16 in Omar Gentile's bedroom was the heroin.

17 Q. And the rest of that I think was found in bedroom
18 four?

19 A. Yes, sir, which we identified to be Maurice
20 Gentile's bedroom.

21 Q. You testified -- as a case agent, you didn't have a
22 the plastic bag of heroin tested for fingerprints; right?

23 A. No, sir.

24 Q. But you've heard testimony that when the plastic
25 bags of cocaine and plastic bags of marijuana were submitted

Jonathan Shealy
Cross-Examination by Mr. King
January 5, 2016

1 into evidence, there was a request for fingerprints on both of
2 those?

3 A. Yes, sir, I did. Yes, sir, I heard that.

4 Q. And you're aware of touch DNA?

5 A. I'm familiar with it. I'm not by no means an
6 expert.

7 Q. Are you aware that if a person touches something,
8 that they can leave their DNA on there --

9 A. Oh, absolutely.

10 Q. -- and you can test it for --

11 A. Absolutely.

12 Q. So you didn't have that bag of heroin tested for
13 any DNA?

14 A. For DNA?

15 Q. Right. Touch DNA.

16 A. No, sir. No, sir.

17 Q. When you worked at the Charleston Police Department
18 back then, did they have a fingerprint examiner in the police
19 department?

20 A. Yes, sir. As far as I know, we did.

21 Q. And so in basically the same building you were
22 working in, there was a fingerprint examiner in the same
23 building?

24 A. No, sir, not in the same -- well, I don't think
25 they were in the same building.

Jonathan Shealy
Cross-Examination by Mr. King
January 5, 2016

1 I don't want to get too technical. I think they
2 had their own separate lab offsite but --

3 Q. Close by?

4 A. Yeah. Yes, sir. Within the city limits.

5 Q. Did they have a local lab that tested DNA? Do you
6 know?

7 A. I do not know.

8 I know from me working with the State Law
9 Enforcement Division, if they did -- I don't want to answer
10 that question incorrect. I know most touch DNA goes to SLED,
11 which is South Carolina Law Enforcement Division. I'm not
12 sure if Charleston had their own.

13 Q. In any event, it could have been submitted to SLED
14 to have them test it for DNA? The plastic bag of heroin.

15 A. I guess -- yeah, it could have been, yes, sir.

16 MR. KING: That's all the questions I have, Your
17 Honor.

18 THE COURT: Mr. Sowards, redirect?

19 MR. SOWARDS: Just a couple of questions, Your
20 Honor.

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Jonathan Shealy
Redirect Examination by Mr. Sowards
January 5, 2016

REDIRECT EXAMINATION

BY MR. SOWARDS:

Q. Agent Shealy, Mr. King asked you about the statement and whether the defendant denied knowledge of the drugs or that he possessed drugs. Did he deny, or did he just not answer?

A. He just didn't answer.

When we asked about the heroin that was located in his bedroom, he just didn't answer. He didn't say anything.

MR. SOWARDS: Beg the Court's indulgence.

[Whereupon, Mr. Sowards and Ms. Linder confer]

MR. SOWARDS: No further questions, Your Honor.

THE COURT: Mr. King, recross?

MR. KING: No, Your Honor.

THE COURT: You may step down. You are going to stay with us. Thank you.

THE WITNESS: Thank you.

[Whereupon, Mr. Shealy is excused and exits the witness stand]

THE COURT: Call your next witness.

MR. SOWARDS: The State rests.

THE COURT: Ladies and gentlemen, that indicates to the Court that there is a matter of law that I must take up outside of your presence. It's also a really good time for us to go ahead and take our lunch break.

Jonathan Shealy
Redirect Examination by Mr. Sowards
January 5, 2016

1 Please utilize this clock on the wall. Please be
2 back, report back, at 2:15. 2:15. Thank you.

3 Please rise for the jury.

4 Take your notepads so we can lock them up. Thank
5 you.

6 [Whereupon, the jury exits the courtroom at
7 12:55 p.m.]

8 THE COURT: Please be seated.

9 THE COURT: Any motions or matters, Mr. King?

10 MR. KING: Yes, Your Honor.

11 At this time I would move for a directed verdict.

12 The --

13 THE COURT: Oh. Hold on one second. I'm sorry.

14 Let's go ahead and put the discussion of the
15 ammunition --

16 MR. KING: Yes.

17 THE COURT: -- so that the record -- before you
18 make your motion for a directed verdict. I apologize.

19 MR. KING: Right. I would put that on the record.

20 You know, earlier today we had talked in chambers
21 just briefly about a motion to exclude photographs of
22 the ammunition that they had through photos.

23 I was going to object to the ammunition in the
24 case. The State told me that they weren't going to put
25 those photographs in and then when Detective Shealy was

Jonathan Shealy
Redirect Examination by Mr. Sowards
January 5, 2016

1 testifying, he testified about finding ammunition in
2 that room. And my understanding, we had an agreement
3 that I was going to object to the ammunition. They
4 agreed not to put the photographs in.

5 My understanding would have been they weren't going
6 to bring up the ammunition at all, because they knew I
7 had an objection, really, to that, that it was not
8 relevant, and commutative, and any prejudicial -- any
9 probative value was substantially outweighed by its
10 prejudicial effect.

11 So I made an objection at that time. And I heard
12 Detective Shealy talk about the ammunition. So the
13 discussion that we had, there was an understanding that
14 they weren't going to go into the ammunition at all. If
15 they weren't -- if they're telling me, okay, we're not
16 going to put the photographs in, they knew I had an
17 objection to the ammunition, it doesn't quite seem right
18 to try to sneak it in another way through another
19 witness and telling me, we're not going to put the
20 photographs in.

21 THE COURT: My understanding was there was -- the
22 physical ammunition and a photograph -- and the
23 photographs of the ammunition; correct?

24 MR. KING: Yes, Your Honor.

25 THE COURT: And that you were objecting on several

Jonathan Shealy
Redirect Examination by Mr. Sowards
January 5, 2016

1 grounds. And so the photographs weren't put in. The
2 ammunition was not put in.

3 MR. SOWARDS: It was not. And --

4 THE COURT: And so we didn't place anything on the
5 record, Mr. King, so when y'all -- I had y'all approach
6 the bench so that we could just do this at the bench.

7 There was nothing placed on the record and so I
8 indicated to Mr. Sowards that we could do it outside the
9 presence of the jury but that he just needed to move on.

10 Anything further we need to place on the record,
11 Mr. King?

12 MR. KING: Not related to that, Your Honor.

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State vs. Gentile
Motion for a Directed Verdict by Mr. King
January 5, 2016

MOTION FOR A DIRECTED VERDICT

THE COURT: Let me hear from your motion for a directed verdict, or any other motions we need to hear.

I'm sure you're going to renew all your previous motions?

MR. KING: Yes, Your Honor, I do renew the previous motions.

I make a motion for a directed verdict. I believe they're -- I think they're relying on substantial -- or circumstantial evidence based on what's found in the room and where the drugs were located. I would argue that there is not substantial circumstantial evidence that Mr. Gentile was in possession of the drugs. And we've got some evidence that there was paperwork in the room. But they didn't find anything on him. And we would move for a directed verdict at this time.

THE COURT: All right. Mr. Sowards, is this your argument?

MR. SOWARDS: Thank you, Your Honor.

When considering the existence and not the weight of the evidence, and considering the evidence and all the inferences therefrom, the standard is that direct or substantial circumstantial evidence reasonably tends to prove the defendant's guilt, and the case should proceed to the jury.

State vs. Gentile
Motion for a Directed Verdict by Mr. King
January 5, 2016

1 Detective Grill, Agent Shealy, and Detective Marn
2 all testified that this incident occurred in Charleston
3 County on February 9, 2012, at Grove Street. Both
4 Detective Grill and Officer -- Agent Shealy identified
5 Omar Gentile as the individual located within the
6 residence, the individual who claimed the room where the
7 heroin was found.

8 And the evidence shows that based on the
9 defendant's statements and what was actually found in
10 bedroom three, coupled with the evidence or the
11 inferences from that, Omar Gentile had dominion and
12 control over bedroom three and its contents, including
13 the heroin.

14 The chemist testified that she tested and weighed
15 the drugs. They lab-tested positive for heroin. They
16 weighed 13.84 grams, which far exceeds the 4-gram
17 threshold for trafficking.

18 And finally, Your Honor, both -- well, actually,
19 Detective Grill testified that digital scales, bindles,
20 rubber bands, are all consistent with an intent to
21 distribute narcotics.

22 The defendant told both detectives that he was
23 aware of the school that was located across the street.

24 And so I think there is sufficient evidence, Your
25 Honor, to submit this case to the jury.

State vs. Gentile
Motion for a Directed Verdict by Mr. King
January 5, 2016

1 THE COURT: Mr. King, anything further?

2 MR. KING: [Indicates negatively]

3 THE COURT: As to all previous motions and matters,
4 I stand by the Court's original ruling. I have heard
5 nothing that would cause me to change my ruling.

6 On the motion for directed verdict, under Rule 19
7 of the Rules of Criminal Procedure I am concerned only
8 with the existence or nonexistence of the evidence and
9 not to the weight. Based upon the two indictments that
10 are before me, I do find that the State has met its
11 burden, and deny your motion for a directed verdict at
12 this time, Mr. King.

13 Mr. Gentile, please stand. I remind you that you
14 are still under oath.

15 [[Whereupon, Mr. Gentile complies]

16 THE COURT: Have you had time to speak with your
17 attorney as to whether or not you will testify?

18 MR. GENTILE: Yes, ma'am.

19 THE COURT: Do you need any additional time to meet
20 with him and her, either together or separately, or with
21 anyone else, to make a determination?

22 MR. GENTILE: Yes, ma'am. I do not need any time.

23 THE COURT: And you have made a decision? What is
24 that decision?

25 MR. GENTILE: I wish not to testify.

State vs. Gentile
Motion for a Directed Verdict by Mr. King
January 5, 2016

1 THE COURT: So I will instruct the jurors that they
2 are to give no consideration to the fact that you did
3 not testify in this case.

4 Please have a seat. Thank you.

5 [Whereupon, Mr. Gentile complies]

6 THE COURT: Are you requesting -- are there any
7 additional witnesses?

8 MR. KING: No, Your Honor.

9 I believe I would rest and then we would go on to
10 closing arguments.

11 THE COURT: And so let's just go ahead -- I'll
12 allow you to rest in front of the jury, but just as a
13 matter for the record, I will allow you to rest and then
14 renew all motions and matters.

15 MR. KING: Yes, Your Honor.

16 THE COURT: And, again, because there has been no
17 additional evidence presented, the Court stands by her
18 initial -- or original ruling.

19 I have -- you indicated there were no lesser
20 includeds, so I had the verdict forms prepared.

21 So we'll take -- we'll be back at 2:15. 2:15.

22 Mr. Gentile, we've reached the stage of the trial
23 -- you have been so appropriate, but I'm going to go
24 ahead at this point and place you in custody over the
25 lunch hour. Again, you have been more than appropriate,

State vs. Gentile
Motion for a Directed Verdict by Mr. King
January 5, 2016

1 but this is just the time where I think that it is time
2 for you to be placed into custody. All right. Thank
3 you.

4 MR. KING: Your Honor, I would be requesting a mere
5 presence charge.

6 THE COURT: It's in there. Thank you.

7 MR. KING: Thank you.

8 THE COURT: We are at ease until 2:15.

9 [Whereupon, a recess is taken from 1:03 p.m. to
10 2:23 p.m.]

11 THE COURT: Anything before we bring in the jury?

12 MR. SOWARDS: I think the only thing we would ask
13 is that if -- because there was no expert testimony on
14 anything, the lab report, other than just the heroin,
15 that we redact the stuff on the lab report regarding --
16 pertaining to marijuana that was found in the house --

17 THE COURT: Mr. King?

18 MR. KING: Which exhibit are you referring to?

19 MR. SOWARDS: Exhibit 18.

20 THE COURT: Okay. What's your position?

21 MR. KING: Your Honor, there's been testimony about
22 it. It's relevant to my defense. I've been talking
23 about it, asked questions about it. It goes along with
24 my defense that there's someone else in the house who
25 had all those drugs. And the main reason I asked

State vs. Gentile
Motion for a Directed Verdict by Mr. King
January 5, 2016

1 Detective Shealy about that particular document there
2 was to make sure that the jury understood only one of
3 those items was found in bedroom number three that they
4 claim was Mr. Gentile's.

5 There are some items on there that neither one of
6 us have talked about, like a straw, and cocaine residue.
7 I just didn't want the jury to think that something else
8 -- some other drugs were found inside of bedroom number
9 three.

10 THE COURT: You've already published that to the
11 jury. So note your exception -- objection, but I'm
12 going to allow it un-redacted.

13 With that, is there anything else?

14 MR. SOWARDS: Nothing from the State, Your Honor.

15 MR. KING: No, Your Honor.

16 THE COURT: And I will allow you to rest in front
17 of the jury.

18 And then are you doing close?

19 MR. SOWARDS: Yes, Your Honor.

20 THE COURT: And Mr. King?

21 MR. KING: Yes.

22 THE COURT: All right.

23 [Whereupon, the jury enters the courtroom at
24 2:26 p.m.]

25 THE BAILIFF: All jurors are present, Your Honor.

State vs. Gentile
Motion for a Directed Verdict by Mr. King
January 5, 2016

1 THE COURT: Thank you. Please be seated.

2 Did every member of the jury panel comply with the
3 Court's instructions over the lunch hour? If you
4 complied, please raise your right hand.

5 [Whereupon, jurors comply]

6 THE COURT: Thank you. All fourteen jurors
7 complied with my instructions over the lunch hour.

8 Mr. King?

9 MR. KING: Your Honor, the defense rests.

10 THE COURT: Ladies and gentlemen, you have now
11 heard all the testimony you will hear in this case and
12 you've received into evidence all the exhibits that have
13 been made part of the record in this case.

14 You will now hear closing arguments on behalf of
15 counsel. Just as I indicated to you what was contained
16 in opening statements is not evidence in this case,
17 neither is what is contained in their closing argument.

18 The State will go first, and then Mr. King will
19 have the final close, and then I will instruct you on
20 the law applicable to this case. You will then retire
21 to consider your verdict.

22 Please give your strict attention.

23 MR. SOWARDS: Thank you, Your Honor. May it please
24 the Court.

25

- - -

State vs. Gentile
Closing argument by Mr. Sowards
January 5, 2016

CLOSING ARGUMENT

1
2 MR. SOWARDS: When I spoke to you this morning, the
3 only thing you knew was that detectives with the City of
4 Charleston Police Department's narcotics unit had
5 charged the defendant, Omar Gentile, with trafficking
6 cocaine and possession with intent to -- I'm sorry --
7 trafficking heroin, and possession with intent to
8 distribute heroin within the proximity of a school. I
9 will submit to you that now you know why.

10 On February the 9th, 2012, acting on intel from a
11 few days before, the special investigations unit
12 executed a search warrant at Grove Street. And for
13 purposes of this trial we're concerned with what they
14 found in bedroom three, the bedroom that belonged to the
15 defendant, and in that bedroom they found 13.84 grams of
16 heroin.

17 Now, the judge will ultimately charge you on the
18 law, but I want to touch on a few of the things that
19 you'll hear. The State, as you've heard before, has the
20 burden of proving this case, and that burden is to prove
21 the defendant's guilt beyond a reasonable doubt.

22 Now, beyond a reasonable doubt is proof that leaves
23 you firmly convinced of the defendant's guilt. As you
24 see right there, there are very few things in this world
25 that we know with absolute certainty. And in criminal

State vs. Gentile
Closing argument by Mr. Sowards
January 5, 2016

1 cases, the law does not require proof that overcomes
2 every possible doubt, just proof that leaves you firmly
3 convinced.

4 And you'll also hear that there's two different
5 types, generally, of evidence that is submitted in
6 cases. There's direct evidence and circumstantial
7 evidence. Direct evidence is testimony of a person who
8 exerts or claims to have actual knowledge of a fact,
9 such as an eyewitness. And circumstantial evidence is
10 proof of a chain of facts and circumstances indicating
11 the existence of a fact. There's no distinction. As
12 far as the law is concerned, there's no greater weight
13 assigned to one or the other.

14 The defendant is charged with trafficking heroin.
15 And as you will hear when the judge charges you the law,
16 any person who is knowingly in actual or constructive
17 possession or knowingly attempts to become in actual or
18 constructive possession of 4 grams or more of any
19 morphine, opium, salt, isomer, or salt of an isomer,
20 including heroin, or 4 grams or more of any mixture
21 containing any of those substances, is guilty of
22 trafficking heroin. That requires the State to prove
23 several elements. The State has to prove that the
24 defendant knowingly, actually, or constructively
25 possessed, or attempted to come into actual or

State vs. Gentile
Closing argument by Mr. Sowards
January 5, 2016

1 constructive possession, of 4 grams or more of heroin.

2 The defendant is also charged with possession with
3 intent to distribute heroin within proximity to a
4 school, and that requires proof that the defendant had
5 to know that he was in, on, or within a half mile radius
6 of an elementary, middle, or secondary school; that the
7 defendant had actual control or the right to exercise
8 control over the heroin; the defendant knowingly
9 distributed, sold, purchased, manufactured, or intended
10 to distribute the heroin; and upon analysis, that the
11 substance was in fact heroin.

12 Now, you'll notice in the definition it referred to
13 actual possession and constructive possession. Actual
14 possession occurs when the drugs are found to be in the
15 actual physical custody of the person charged with
16 possession. In contrast, constructive possession occurs
17 when the defendant has the dominion and control over
18 either the drugs or the premises upon which the drugs
19 are found. And constructive possession may be
20 established by circumstantial as well as direct
21 evidence. And the law allows that the defendant's
22 control over the premises gives rise to a permissive
23 inference that the defendant constructively possesses
24 any drugs that are found. So constructive possession is
25 knowledge, plus dominion and control, is possession.

State vs. Gentile
Closing argument by Mr. Sowards
January 5, 2016

1 The State also has the burden of proving the weight
2 of the heroin. And as you saw in the definition of
3 trafficking heroin, that requires proof that the
4 substance weighed more than 4 grams. And proof of
5 knowledge regarding the weight is not required. So
6 whether -- that does not require that the State prove
7 that the defendant, he knew that it weighed 8 grams
8 versus 6, or vice versa.

9 Now, getting into the facts of this case, you heard
10 Detective Grill, Detective Marn, Detective Sumner, and
11 Agent Shealy testify about Grove Street. When
12 officers entered the residence they entered on the first
13 floor, obviously, through the door. They found the
14 defendant, Omar Gentile, sitting on the couch. They
15 found John Davis in the back bedroom downstairs. When
16 they took the defendant, Omar Gentile, into the back
17 bedroom to speak with him, he told them the bedroom
18 right above mine -- right above this one is mine.
19 That's bedroom three.

20 Now, inside bedroom 3, you heard Detective Marn
21 tell you -- well, actually, I'll get back to the
22 defendant. He told officers -- in addition to which
23 bedroom was his, he said he was present at Grove
24 Street almost every day, he stays over from time to
25 time, he claimed number three as his own. He requested

State vs. Gentile
Closing argument by Mr. Sowards
January 5, 2016

1. pants, a shirt, and shoes from that bedroom. He claimed
2. the keys that were hanging in the door. He said there's
3. more than \$1,000 in cash in there, and I know that
4. school is right across the street.

5. Now, what they actually found in bedroom three,
6. 13.84 grams of heroin in the dresser. In that same
7. drawer they found a box containing wax bindles, which
8. Detective Marn and Detective Shealy told you is what you
9. use to package heroin for street-level distribution.
10. You take one of these and you put about .03, .02, .03
11. grams of heroin in it, and then you put ten of them
12. together and you wrap them with a rubber band and that's
13. a bundle.

14. Also in that drawer they found \$250. And I think
15. that's significant -- they found his pay stubs, pay
16. stubs going all the way back to April of 2011. They
17. found a digital scale right above that drawer. They
18. found all that in his dresser drawer. And they found
19. his bank card, his ATM card. In the top right drawer,
20. they found a bank statement and some other items.

21. All that to say everything they found in his room
22. appeared to belong to him. They found pay stubs, they
23. found mail, his bank card, his ID. They found a scale,
24. his bindles, his rubber bands, and they found his drugs.

25. Now, we've heard a little bit about what they found

State vs. Gentile
Closing argument by Mr. Sowards
January 5, 2016

1 in bedroom four. We had officers testify it belonged to
2 Maurice Gentile. This case is not about what they found
3 in Maurice Gentile's room. This case is about what they
4 found in bedroom three, the one the defendant told
5 officers was his. They said they found -- or they
6 associated the other bedroom upstairs to the defendant's
7 mother.

8 As you can see on the map -- well, it might be kind
9 of hard to see -- you can see that this is 26, here's
10 Grove Street, and there's the school, all in Charleston
11 County.

12 I would like to take a minute just to go over
13 Detective Grill's testimony regarding street-level
14 distribution of heroin. He said it's common to see ten
15 bindles packaged together to form one bundle. That one
16 bundle, in general, is .02 grams of heroin. One bindle.
17 I'm sorry. One bundle is .2 grams. Which means the
18 13.84 grams found in Omar Gentile's room adds up to
19 sixty-nine bundles. One bundle on the street is worth
20 200 to \$250. Which means at the street level, this is
21 worth \$13,800.

22 Now, during cross-examination detectives were asked
23 about a few things that I want to address. Mr. King
24 asked them about why was the cocaine -- or why was the
25 cocaine bags and the marijuana bag asked to be printed

State vs. Gentile
Closing argument by Mr. Sowards
January 5, 2016

1 but not the heroin. There was testimony that we use a
2 fingerprint, we use touch ID -- touch DNA to prove
3 identification. Well, when somebody tells you, that's
4 my room, I think it's reasonable to assume that once in
5 the room -- which, by the way, was under lock and key,
6 keys the defendant said were his -- it's reasonable to
7 assume that what's in that bedroom belongs to him.

8 And there was also some question about multiple
9 addresses. On the pay stub, it lists River Biering Lane
10 in North Charleston. On the ID card, it lists
11 Williman Street in Charleston. On the bank statement,
12 it says Grove Street. But consider that all that
13 stuff was located in his bedroom at Grove Street.
14 They didn't find the pay stub somewhere else. They
15 found it in this drawer at Grove Street in the
16 bedroom he says was his.

17 There was also some talk about Grove Street,
18 right next door. During the brief surveillance of the
19 home, Detective Grill testified that he was told an
20 individual walked out of the house and into the
21 apartment or the residence next door, Grove Street.
22 And when they finished at Grove Street, they executed
23 a search warrant at Grove Street and in there they
24 found over 30 grams of crack cocaine, \$5,000, and a gram
25 of heroin.

State vs. Gentile
Closing argument by Mr. Sowards
January 5, 2016

1 Consider that when they opened the drawer where
2 they eventually found the heroin, they found \$250
3 sitting on top of that 13.84-gram bag of heroin. What
4 did they find next door? They found a gram of heroin.
5 Detective Grill told you that in his experience, a gram
6 of heroin can go 200 to \$250. I would submit to you
7 that rather than the person next door, Xavier Williams,
8 coming over and leaving this bag of drugs in Omar's
9 drawer, that he came over to buy a gram and he paid \$250
10 for it.

11 You've heard a lot of testimony today about what
12 they found. The defense would have you believe that
13 Omar Gentile had the worst luck. He comes over there to
14 help his cousin, goes upstairs, unlocks the door, takes
15 his pants off, throws some shorts on and gets real
16 comfortable, and lo and behold a neighbor comes over
17 just before the police execute a search warrant on his
18 house and leaves his drugs in Omar's room. That's what
19 you have to believe if you believe that story.

20 I submit to you that the simplest explanation in
21 this case, the one that makes the most sense, that
22 everything in that room belonged to Omar Gentile,
23 everything in that room, the room that he said was his,
24 that he stays overnight in it from time to time, that he
25 keeps his cash in it, he keeps his social security card

State vs. Gentile
Closing argument by Mr. Sowards
January 5, 2016

1 there, keeps his bank statement, keeps the pay stubs, he
2 keeps his ID, and he keeps his drugs. Everything in
3 there belongs to Omar Gentile.

4 I submit to you that the State has met its burden
5 to prove beyond a reasonable doubt that the defendant,
6 Omar Gentile, did knowingly possess 13.84 grams of
7 heroin. And I submit to you that after you've
8 considered all the evidence and testimony in this case,
9 that you will agree and that you will return a verdict
10 of guilty on both charges. Thank you.

11 THE COURT: Mr. King?
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State vs. Gentile
Closing Argument by Mr. King
January 5, 2016

CLOSING ARGUMENT

1
2 MR. KING: The solicitor talked about constructive
3 possession. You're going to be instructed on the law.
4 But the point to remember is that knowledge is the most
5 important thing. He has to have knowledge that those
6 drugs are in that drawer before he's guilty. If he's
7 merely present at the scene and he's just there, he's
8 not guilty.

9 He comes in every day to take care of his cousin.
10 That's what we've learned from this evidence. He stays
11 in that room from time to time. From the scene, it
12 looks like he comes in that day, takes off pants, puts
13 them on the bed. He's got money, he's got his cards in
14 it, puts on more comfortable clothes and he's there, the
15 only one there, helping take care of this elderly
16 gentleman, Mr. Davis.

17 He's not using drugs. Both officers testified to
18 that. He's not high on anything. There's no drugs on
19 him or in his pants that they find on the bed. And the
20 drug -- the heroin, the baggies, the scale of white
21 powder, I think the solicitor may have said that it was
22 on the dresser. But there was testimony that it was in
23 the dresser. Heroin, baggies, and a scale with white
24 powder, not tan powder, like heroin is. White powder in
25 that dresser drawer where you wouldn't see it if you

State vs. Gentile
Closing Argument by Mr. King
January 5, 2016

1 walked in, put your pants on the bed, changed clothes,
2 and walked out and sat on the couch. Detective Marn
3 said it was hidden in the drawer, the heroin, that he
4 had to get it out. Because I asked him about that. The
5 other scale was in a box in the closet. These are
6 things that aren't out in plain view where you would
7 immediately see them if you walked in.

8 So he's there sitting on the couch. And the items
9 in the drawer, the bank statements, the pay stub, those
10 aren't recent. Both of those are months old. So he's
11 there and he's sitting on the couch. And he's taken off
12 his pants, he's changed into comfortable clothes, and he
13 hasn't seen -- looked in a drawer, and the police bust
14 in the door and there he is on the couch. He had a job.

15 But it appears his brother is a drug dealer. He
16 can't help what his brother does or who his brother is
17 involved with, or what the guy next door may be doing.
18 Maybe that's why he tries to keep the door to his room
19 locked. I don't know. Does he know what his brother
20 was doing and he's supposed to report his brother? Who
21 knows. You know, people get killed in this business for
22 \$13,000 worth of drugs.

23 Now I want to talk about this investigation,
24 because that's what the most important thing is here is
25 the investigator and the evidence and what they've

State vs. Gentile
Closing Argument by Mr. King
January 5, 2016

1 proven, not what they say, not what they assume. So we
2 know that the informant bought drugs from his brother,
3 Maurice Gentile I believe Shealy said on January 31st,
4 2012. So nine days before the search. And they bust in
5 nine days later in the middle of the day.

6 Now, there are nine days there. We have no idea
7 what was going on in that house in those nine days. At
8 least Grill had training in surveillance. They all had
9 training, all the police officers who testified. You
10 know, they didn't conduct any surveillance on that house
11 over those nine days to try and get some more
12 information about what's going on in the house? This is
13 some sort of drug operation? Who owns the house? We
14 know about bedroom one. That's where they said Mr.
15 Davis was. They claim that bedroom three is Mr.
16 Gentile's, bedroom four is his brother, Maurice
17 Gentile's. Who's in bedroom number two? We don't know
18 that.

19 And the important thing about this investigation is
20 how badly it went. The guy who sold the drugs at the
21 house isn't even there when they do the search warrant.
22 They didn't even do some surveillance on the house to
23 try to catch the guy they're actually looking for. They
24 bust in and he's not there. Maurice Gentile is not
25 there. It's Omar Gentile taking care of John Davis.

State vs. Gentile
Closing Argument by Mr. King
January 5, 2016

1 And when they got there to do the search,
2 apparently they grabbed the bag of heroin out of the
3 drawer, put it on top of the dresser. Wanted to take a
4 picture of it. Sumner testified that he didn't take a
5 picture of the drawer with the heroin in it.

6 But Shealy testified about these photographs. If
7 you look at these photos -- and you should have them --
8 I mean, you'll see, they -- Shealy testified that there
9 was -- the drugs were up under this money. It was this
10 plastic bag. But this plastic bag appears to have some
11 sort of red like Ziploc style. That's not what that bag
12 of heroin has. And if you look at it, also, once
13 they've taken the heroin out and put it on the dresser,
14 the money doesn't look like it's been disturbed. And in
15 the angle there, you can't really see where this bag
16 might still be in there. You'll have these.

17 What I'm saying is that he's contradicting what
18 Sumner was saying. And is that bag with the red Ziploc,
19 is that supposed to be the same bag as the heroin? I
20 mean, what are we talking about here? It should be
21 clearer than this. Are they being forthright on the
22 stand when they're testifying? Being open and honest,
23 to make sure you have all the information you need to
24 make the right decision in this case about what really
25 happened?

State vs. Gentile
Closing Argument by Mr. King
January 5, 2016

1 Shealy didn't want to tell you he had a job, even
2 though he knew that there was a pay stub for Saint
3 Morris Building Services and there was evidence that he
4 was getting a direct deposit from Saint Morris Building
5 Services every two weeks up until February 3rd of 2012,
6 right before the arrest. Why did I have to fight with
7 him to get him to say he had a job? Right? Are they
8 being fair to Mr. Gentile and to you

9 What about this. Where did the rest of heroin go?
10 They found 16 grams of heroin, they said, in that
11 drawer. Although we don't know what it looked like or
12 where it was, because they grabbed it and took it out
13 and started taking photographs of it. All right. It's
14 13.84 now. Where did over 2 grams of heroin go?
15 \$13,000 worth, or 13 grams. That's a couple of thousand
16 dollars worth of heroin gone.

17 They were executing several search warrants that
18 day. I mean, this sort of investigation, are you sure
19 it's the right thing? Are you sure what they've brought
20 into court is really what they found?

21 Detective Marn, I mean, he wouldn't say whether the
22 drawer was open or closed. He knows the drawer was
23 closed. I think that's something that he would remember
24 if the drawer was wide open and he certainly wouldn't
25 have testified about that, when I'm arguing with him

State vs. Gentile
Closing Argument by Mr. King
January 5, 2016

1 that he didn't see what was in the drawer. He's the
2 only one that said that. I asked Detective Marn about
3 the address on the ID card, you know, if there's a
4 different address on the card. He said, oh, well, you
5 know, people often do that. And he just seemed
6 convinced that Omar Gentile lived there. And that's not
7 evidence, the fact that they assume that, that they
8 believe that. That's not how this works. They have to
9 prove this to you.

10 Now, Detective Sumner. When Hinton testified, he
11 said Sumner is the one who put on the property notes
12 about fingerprinting the plastic bags of marijuana and
13 cocaine. Had his name right after those notes. Sumner
14 said he didn't do that: I didn't do that. He's trying
15 to deny that, even though his name is right after the
16 notes and Hinton says that he's the one who put that on
17 there.

18 They're not being straightforward with you. And
19 that's the minimum we can ask, is that they're fair and
20 straightforward and give you the information you need.
21 This is not an assembly line where we just churn people
22 through and convict him because the police say he did
23 it. That's his heroin, trust us. Not in this
24 courtroom. Now, there's a war on drugs and there's
25 always innocent victims in a war. Drugs ruin lives.

State vs. Gentile
Closing Argument by Mr. King
January 5, 2016

1 But so does falsely accusing someone of trafficking
2 heroin because of how things appear, without doing a
3 full investigation to determine what's really going on.

4 Imagine we were in a trial for murder -- because
5 the burden of proof is the same -- and the police found
6 a body in that room and a murder weapon and the police
7 walked in and grabbed that murder weapon and put it on
8 top of the dresser and took a photograph of it and
9 didn't bother to test it for prints or didn't bother to
10 test it for DNA. Does that sound acceptable? What's
11 the difference? The burden of proof is the same. And
12 it's just as important for Mr. Gentile that they implore
13 [phonetic] on this trial.

14 And we should expect the police, if they're going
15 to charge a man with a crime like this, to do everything
16 reasonably possible to make sure that you're sure. And
17 they can't expect you to make a decision if they're not
18 going to give you that information. Questions left
19 unanswered. What if that plastic bag of heroin had
20 Maurice Gentile's fingerprint on it, or his DNA? What
21 if that plastic bag has Xavier Williams -- that's the
22 guy who left Grove Street and went next door -- what
23 if it had his fingerprint or his DNA on it? Isn't that
24 reasonable doubt? Isn't it reasonable to expect for
25 them -- when they requested the two bags, plastic bags,

State vs. Gentile
Closing Argument by Mr. King
January 5, 2016

1 of marijuana -- it's the same plastic bag -- Detective
2 Shealy says, well, we don't get the fingerprints off a
3 plastic bags.

4 Well, they requested that they test two bags of
5 marijuana for fingerprints and they requested that they
6 test two bags of cocaine for fingerprints. But not the
7 heroin? Is it reasonable to expect them to do the best
8 they can? Whatever is reasonable. I understand they
9 can't do everything. But there's a fingerprint examiner
10 close by. They've got somebody right there. But they
11 don't bother.

12 There's a great big question mark in this case, a
13 great big hole in this case, and Omar deserves better
14 than that and you deserve better than that because the
15 jury is the one who makes this decision about what
16 happened and whether he's guilty. And if you can't be
17 sure, then he's not guilty.
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State vs. Gentile
Charge of the Court
January 5, 2016

CHARGE OF THE COURT

1
2 THE COURT: Ladies and gentlemen, I am now going to
3 instruct you on the law applicable to this case.

4 I remind you that during this trial you and I have
5 had certain duties to perform. As the trial judge, it is my
6 responsibility to preside over the trial of this case, and I
7 also have the duty to rule on the admissibility of the
8 evidence offered during this trial.

9 You are to consider only the competent evidence
10 before you. If there was any testimony ordered stricken from
11 the record, you must disregard that testimony. You are to
12 consider only the testimony which has been presented from this
13 witness stand, the exhibits that have been made a part of the
14 record in this case, and any stipulations of counsel.

15 I have the additional duty to charge you the law
16 applicable to this case. As the presiding judge, I am the
17 sole judge of the law in this case. It is your duty as jurors
18 to accept the law and apply the law exactly as I state it to
19 you now. If you already have any idea as to what the law is
20 or what the law ought to be and it does not agree with what
21 I'm about to tell you, you must abandon your own idea because
22 you are sworn to accept the law and apply the law exactly as I
23 state it to you now.

24 In every case tried in this court before a jury, the
25 jury becomes the sole and exclusive judges of the facts. A

State vs. Gentile
Charge of the Court
January 5, 2016

1 trial judge may not make any comment regarding the facts in
2 this case. Since you, the jury, are the sole judge of the
3 facts in this case, you are not to infer from anything that I
4 have said or done throughout the progress of this trial that I
5 have any opinion about the facts in this case. The law does
6 not allow me to have an opinion about the facts in this case.
7 This is a matter for you to determine.

8 The indictments in this case charge the defendant
9 with trafficking in heroin and possession with intent to
10 distribute heroin within a proximity of a school. I remind
11 you the fact that the defendant was arrested, charged, and
12 indicted in this case is not evidence in this case and cannot
13 be considered by you as evidence of guilt in this case, nor
14 does it create any presumption or inference of guilt. The
15 document -- the indictment is simply the formal written
16 instrument that brings us to court here today.

17 The indictments in this case allege two different
18 offenses against the defendant. The charges are, indictment
19 2015-GS-10-5473, trafficking in heroin. Indictment 2012-GS-
20 10-2587, possession with intent to distribute heroin within
21 the proximity of a school. Each indictment charges a separate
22 and distinct offense. You must decide each indictment
23 separately on the evidence and the law applicable to it
24 uninfluenced by your decision as to the other indictment. The
25 defendant may be convicted or acquitted on either or both of

State vs. Gentile
Charge of the Court
January 5, 2016

1 the offenses charged. You will be asked to write a separate
2 verdict form of guilty or not guilty for each indictment.

3 Mr. Foreman, that is one of your additional duties,
4 but I'm going to explain the verdict forms at the end of my
5 charge.

6 The defendant has pled not guilty to each
7 indictment. That plea puts the burden on the State to prove
8 the defendant guilty. A person charged with committing a
9 criminal offense in South Carolina is never required to prove
10 himself innocent.

11 I charge you it is an important rule of law that
12 the defendant in a criminal trial, no matter what the
13 seriousness of the charge may be, will always be presumed to
14 be innocent of the crime for which the indictment was issued
15 unless guilt has been proven by evidence satisfying you of
16 that guilt beyond a reasonable doubt. This presumption of
17 innocence does not end when you begin your deliberations but
18 it accompanies the defendant throughout the trial until you
19 each a verdict of guilt based upon evidence satisfying you of
20 that guilt beyond a reasonable doubt.

21 The presumption of innocence is not mere legal
22 theory. It is not just a legal phrase. It is a substantial
23 right to which every defendant is entitled, unless you, the
24 jury, are satisfied from the evidence of the defendant's guilt
25 beyond a reasonable doubt.

State vs. Gentile
Charge of the Court
January 5, 2016

1 The rules of evidence ordinarily do not permit
2 witnesses to testify to opinions or to conclusions. An
3 exception to this rule exists for witnesses we call expert
4 witnesses, a witness who by education and experience has
5 become expert in some art, science, profession, or calling may
6 state an opinion as to relevant and material matters in which
7 the witness claims to be an expert, and may also state the
8 reasons for that opinion. You should consider any expert
9 opinion received in evidence in this case and, like any other
10 evidence, give it the weight you think it deserves. If you
11 decide that the opinion of an expert witness is not based on
12 sufficient education or experience, or if you conclude that
13 the reasons given in support of the opinion are not sound, or
14 that the opinion is outweighed by other evidence, you may
15 disregard the opinion entirely. An expert witness' testimony
16 is to be given no greater weight than that of other witnesses
17 simply because the witness has been qualified as an expert.
18 You are not required to accept an expert's opinion, even
19 though it is not contradicted.

20 The State has the burden of proving the defendant
21 guilty beyond a reasonable doubt. Some of you may have served
22 as jurors in civil cases where you were told that it was only
23 necessary to prove that a fact is more likely true than not
24 true by greater weight or preponderance of the evidence. In
25 criminal cases, the State's proof must be more powerful than

State vs. Gentile
Charge of the Court
January 5, 2016

1 that. It must be beyond a reasonable doubt. Proof beyond a
2 reasonable doubt is proof that leaves you firmly convinced of
3 the defendant's guilt. There are very few things in this
4 world that we do know with absolutely certainty, and in
5 criminal cases the law does not require proof that overcomes
6 every possible doubt. If based upon your consideration of the
7 evidence you are firmly convinced that the defendant is guilty
8 of the crime charged, you must find the defendant guilty. If,
9 on the other hand, you think there's a real possibility that
10 the defendant is not guilty, you must give the defendant the
11 benefit of the doubt and find him not guilty.

12 There are two types of evidence that are generally
13 presented throughout a trial: direct evidence and
14 circumstantial evidence. Direct evidence directly proves the
15 existence of a fact and does not require deduction.
16 Circumstantial evidence is proof of a chain of facts and
17 circumstances indicating the existence of a fact. Crimes may
18 be proven by circumstantial evidence. The law makes no
19 distinction between the weight or value to be given either
20 direct or circumstantial evidence. However, to the extent the
21 State relies on circumstantial evidence, all of the
22 circumstances must be consistent with each other and when
23 taken together point conclusively to the guilt of the
24 defendant beyond a reasonable doubt. If these circumstances
25 merely portrayed the defendant's behavior as suspicious, the

State vs. Gentile
Charge of the Court
January 5, 2016

1 proof has failed. The State has the burden of proving a
2 defendant guilty beyond a reasonable doubt. This burden rests
3 with the State regardless of whether the State relies on
4 direct evidence, circumstantial evidence, or a combination of
5 the two.

6 Necessarily, you must determine the credibility of
7 witnesses who have testified in this case. Credibility simply
8 means believability. It becomes your duty as jurors to
9 analyze the evidence and evaluate it and determine which
10 evidence convinces you of its truth. In determining the
11 believability of the witnesses who have testified in this
12 case, you may believe one witness over several witnesses or
13 several witnesses over one witness. You may believe a part of
14 the testimony of a witness and reject the remaining part of
15 the testimony of that same witness. You may believe the
16 testimony of a witness in its entirety, or reject the
17 testimony of a witness in its entirety. You may consider
18 whether the witness has exhibited to you any interest, bias,
19 prejudice, or other motive in this case. You may also
20 consider the appearance and manner of a witness while he or
21 she was testifying.

22 A statement alleged to have been made by the
23 defendant has been admitted into evidence in this case. While
24 I have determined that the statement is admissible, I instruct
25 you that you make the ultimate decision of whether or not the

State vs. Gentile
Charge of the Court
January 5, 2016

1 defendant made the statement. If the defendant did make the
2 statement, you must determine whether the statement was made
3 by the defendant voluntarily and of his own free will. This
4 means that the statement was not caused by pressure, force,
5 fear, threats, coercion, or intimidation, or by a hope or
6 promise of leniency, or a reward of any kind. In determining
7 whether the statement was voluntary, you should consider both
8 the characteristics of the defendant and the details of the
9 questioning. Some of the factors that you must consider are
10 the age of the defendant, the defendant's education or lack of
11 education, the defendant's mental ability or capacity, the
12 defendant's IQ or intelligence, the defendant's background and
13 environment, the place and length of detention, the nature of
14 the questioning, and the advice or lack thereof to the
15 defendant of his constitutional rights including but not
16 limited to the right to remain silent, that any statement
17 could be used against him in a court of law, the right to have
18 a lawyer present, that if he could not afford a lawyer a
19 lawyer would be appointed to represent him without any cost
20 and that he could stop making a statement at any time. You
21 must carefully consider all of the surrounding circumstances
22 before you give any weight to an alleged statement.

23 The State has a burden of proving beyond a
24 reasonable doubt that the alleged statement was voluntary. If
25 you determine it was, you may give the statement any further

State vs. Gentile
Charge of the Court
January 5, 2016

1 consideration that you deem proper. You must decide what
2 weight, if any, should be given to the alleged statement. If
3 you determine the alleged statement was not the free and
4 voluntary statement of the defendant, you should not consider
5 the statement at all.

6 In order to establish criminal liability, criminal
7 intent is required. For example, the mental state required to
8 be proven by the State for a particular crime might be
9 purpose, intent, knowledge, recklessness, or criminal
10 negligence. Criminal intent must be proven by the State
11 beyond a reasonable doubt. Criminal intent is always a matter
12 that must be determined by you from the circumstances
13 surrounding the situation. There is no way to prove intent to
14 a mathematical certainty. The law says that criminal intent
15 may be inferred from the circumstances shown to have existed.
16 This is how you make a determination of whether or not the
17 element requiring intent was present. It is not necessary to
18 establish intent by direct and positive evidence but intent
19 may be established by inference in the same way as any other
20 fact, by taking into consideration the acts of the parties and
21 all the facts and circumstances of this case.

22 Criminal intent is a mental state. It is a
23 conscious wrongdoing. It is up to you to determine what the
24 defendant intended to do based upon the circumstances shown to
25 have existed. Criminal intent can arise from action or a

State vs. Gentile
Charge of the Court
January 5, 2016

1 failure to act. It may arise from negligence, recklessness,
2 or an indifference to duty or consequences that is considered
3 by the law to be the equivalent of criminal intent.

4 Mere presence at the scene is not sufficient to
5 prove someone guilty of a crime. A defendant's presence where
6 a crime is being committed, or mere association with a person
7 who commits a crime, does not make a defendant an accomplice
8 or an aider and abetter of the person committing the crime.
9 The burden is on the State to prove every element of the crime
10 charged. If you find after reviewing all of the evidence that
11 the State has proved that the defendant was only present at
12 the scene of the crime and that they have not proved beyond a
13 reasonable doubt any other participation in the crime, then
14 you must find the defendant not guilty. The law is that proof
15 of at the scene of the crime is not sufficient to find someone
16 guilty.

17 The defendant is charged with trafficking in:
18 heroin. The State must prove beyond a reasonable doubt that
19 the defendant knowingly sold, manufactured, cultivated,
20 delivered, purchased, or brought into the State, or provided
21 financial assistance, or otherwise aided, abetted, attempted
22 or conspired to sell, manufacture, cultivate, deliver,
23 purchase or bring into the state, or was knowingly in actual
24 or constructive possession or knowingly attempted to become in
25 actual or constructive possession of 4 or more grams of any

State vs. Gentile
Charge of the Court
January 5, 2016

1 morphine, opium, salt, isomer, salt of an isomer thereof,
2 including heroin or 4 grams or more of any mixture containing
3 those substances. The State must also prove beyond a
4 reasonable doubt that the amount of the heroin, or any
5 mixture, was 4 grams or more but less than 14 grams.

6 To prove possession, the State must prove beyond a
7 reasonable doubt that the defendant had both the power and the
8 intent to control the disposition or use of the heroin.
9 Possession may be either actual or constructive. Actual
10 possession means that the heroin was in the actual physical
11 custody of the defendant. Constructive possession means that
12 the defendant had dominion and control, or the right to
13 exercise dominion and control, over either the heroin itself
14 or the property in which the heroin was found. Mere presence
15 at the scene where the drugs were found is not enough to prove
16 possession. The defendant's knowledge and possession may be
17 inferred when a substance is found on the property under the
18 defendant's control. However, this inference is simply an
19 evidentiary fact to be taken into consideration by you, along
20 with the other evidence in this case, and to be given the
21 weight you decide it should have. Two or more persons may
22 have joint possession of a drug.

23 To deliver means to actually constructively or
24 attempt to transfer the drug. Distribute means to deliver,
25 other than by administering or dispensing a drug.

State vs. Gentile
Charge of the Court
January 5, 2016

1 The defendant is charged with possession with
2 intent to distribute heroin within a proximity of a school.
3 The State must prove beyond a reasonable doubt that the
4 defendant distributed, sold, purchased, manufactured or
5 possessed with intent to distribute heroin, a controlled
6 substance, within a one-half mile radius of the grounds of a
7 public or a private elementary, middle, or secondary school, a
8 public playground or park, public vocational or trade school
9 or technical education center, or a public or private college
10 or university. The defendant must have knowledge that he is
11 in, on, or within a one-half mile radius of the grounds of a
12 public or private elementary, middle, or secondary school,
13 public playground or park, a public vocational or trade school
14 or technical education center, or a public or private college
15 or university.

16 I instruct you and emphasize the fact that the
17 defendant did not testify in this case is not a factor to be
18 considered by you in any way in your deliberation and in your
19 consideration on the question of the guilt or innocence of the
20 defendant. It must not be considered by you in any manner
21 whatsoever. A defendant has a constitutional right to remain
22 silent and the assertion of this right must not be considered
23 by you in your deliberations. I repeat, under your oath you
24 are to draw no conclusion whatsoever from the fact that the
25 defendant in this case did not testify. The fact that he did

State vs. Gentile
Charge of the Court
January 5, 2016

1 not testify should not even be discussed in the jury room.
2 The burden of proof is on the State. The defendant is not
3 required to prove his innocence. The burden of proof remains
4 on the State to prove guilt beyond a reasonable doubt.

5 Ladies and gentlemen, I am now going to go over the
6 verdict forms with you. There are two verdict forms, as I
7 indicated to you. You must decide each one separately, based
8 upon the evidence and the law as I have just instructed you.

9 Mr. Foreperson, you are responsible for completing
10 the verdict forms.

11 In the Court of General Sessions for the Ninth
12 Judicial Circuit, 2015-GS-10-5473, we, the jury, find the
13 Defendant Omar Shariff Gentile not guilty, or, we, the jury,
14 find the Defendant Omar Shariff Gentile guilty, of trafficking
15 heroin 4 grams to 14 grams.

16 After you have reached a unanimous decision,
17 Mr. Foreman, all twelve of you must agree. You will sign and
18 date that verdict form.

19 In the Court of General Sessions for the Ninth
20 Judicial Circuit, 2012-GS-10-2587, we, the jury, find the
21 Defendant Omar Shariff Gentile not guilty, or, we, the jury,
22 find the Defendant Omar Shariff Gentile guilty, of possession
23 with intent to distribute heroin within the proximity of a
24 school.

25 Once again, once you have reached a unanimous

State vs. Gentile
Charge of the Court
January 5, 2016

1 decision, meaning all twelve of you have agreed on that
2 verdict, you will sign and date that verdict form.

3 Ladies and gentlemen, there was no significance in
4 the way I read the verdict forms to you. It's simply I had to
5 put something on the paper first and I had to read one of the
6 verdict forms first.

7 Is there any question or any one of my first twelve
8 that feels you would be unable to complete your deliberations
9 in this case? Is you feel that you would be unable to
10 complete your deliberations, please raise your hand.

11 [Whereupon, there is no response]

12 THE COURT: All twelve jurors have indicated that
13 they are able to complete the deliberations.

14 To my two alternates, please do -- we are going to
15 keep you separate until the verdict forms and the evidence
16 have gone back to the first twelve.

17 Please do not begin your deliberations until my
18 bailiffs tell you you may do so. We will be collecting the
19 evidence and the verdict form, and then they will indicate to
20 you you may begin your deliberations.

21 Please rise for the jury.

22 [Whereupon, the jury exits the courtroom at
23 3:14 p.m.]

24 THE COURT: Thank you. Be seated.

25 Any objection, correction, to the charge as read?

State vs. Gentile
Charge of the Court
January 5, 2016

1 From the State?

2 MR. SOWARDS: No objection from the State.

3 MR. KING: No, Your Honor.

4 THE COURT: All right. Thank you.

5 And the verdict forms are fine. I made that one
6 correction. Do you just want to look at it one more
7 time before I send it back?

8 [Whereupon, counsel review documents]

9 MR. SOWARDS: How do you propose that we redact --
10 because we have -- I think the bank statement, we could
11 just Sharpie it out.

12 THE COURT: I would have proposed you did that over
13 the lunch hour.

14 MR. SOWARDS: I'm sorry.

15 THE COURT: Just hand me the -- just take a Sharpie
16 and cross it out.

17 MR. SOWARDS: That was just on this one. The
18 account number and the balances.

19 THE COURT: And just -- for that account number.
20 The whole account number.

21 MR. KING: We had talked about -- he said he wasn't
22 going to go into the amount of money on there and then I
23 wouldn't have to like try to do some accounting.

24 THE COURT: Is that sufficient?

25 MR. SOWARDS: There might be a little bit on the

State vs. Gentile
Charge of the Court
January 5, 2016

1 back.

2 MR. KING: Yeah, what's on the back.

3 THE COURT: I'll flip it over. But that's -- on
4 the front, that's sufficient?

5 MR. KING: Yes.

6 THE COURT: It's all on the back.

7 MR. KING: Do you need the back?

8 THE COURT: Why don't you do this. Why don't you
9 just make a copy of the front --

10 MR. SOWARDS: All I care about is the address.

11 THE COURT: Right.

12 So just make a -- see if Mike can make you a copy
13 of that, and we'll mark that.

14 MR. KING: This one is okay.

15 THE COURT: Once it's been admitted.

16 [Off the record momentarily]

17 THE COURT: Just leave the -- if you are in
18 agreement, we can leave the social security card out.

19 MR. SOWARDS: Just block out the --

20 THE COURT: Well, or you can make a copy of it.
21 The picture --

22 MR. SOWARDS: Well, we have the picture of it
23 that's in. If we could just black out the picture -- or
24 the number and just leave the card out?

25 THE COURT: Okay. That will be -- that's a great

State vs. Gentile
Charge of the Court
January 5, 2016

1 idea. Thank you.

2 MS. LINDER: We'll leave the actual social security
3 card out?

4 THE COURT: Right.

5 Because I'm not -- I believe that's sort of a crime
6 to deface a social security card. Because you can't --
7 once you laminate it, it's no longer valid.

8 [Whereupon, Court's Exhibit Number 1 is marked by
9 the court reporter]

10 [Whereupon, Court's Exhibit Number 2 is marked by
11 the court reporter]

12 THE COURT: So here's what I understand happened.
13 Let's put it on the record.

14 State's Number 11 was the social security picture.
15 I redacted it with a Sharpie by marking out the number,
16 but the picture will go back with the redaction.

17 Is that correct?

18 MR. SOWARDS: Correct.

19 MR. KING: Yes, Your Honor.

20 THE COURT: Court's Number 1 is the actual social
21 security card that was contained in that packet of
22 documents. We will retain that; because I am not going
23 to make any redactions or marks on the original social
24 security card.

25 Court's 2 is the original from the bank statements,

State vs. Gentile
Charge of the Court
January 5, 2016

1 State's 20. So Court's 2 is the redaction with the
2 account number on the front and the balance on the
3 front. We made a copy and are sending only that, which
4 will now be 20.

5 Is that correct?

6 MR. SOWARDS: Yes.

7 MR. KING: Yes, Your Honor.

8 THE COURT: Madam Court Reporter, does that
9 coincide with what you have?

10 THE COURT REPORTER: Yes, ma'am.

11 THE COURT: Thank you.

12 [Off the record momentarily]

13 THE COURT: All right. We'll be at ease.

14 Mr. Gentile will -- you will remain in custody.
15 Thank you.

16 [Whereupon, the evidence goes to the jury at
17 3:22 p.m.]

18 THE COURT: Madam Court Reporter --

19 Mr. Gaines, when you bring the jury in, there's a
20 note back there. Hold on one second. There's a note
21 back there. Would you bring that with you? That will
22 be Court's 3.

23 THE BAILIFF: Yes, ma'am.

24 THE COURT: And this will be Court's 4.

25 [Whereupon, Court's Exhibit Number 4 is marked by

State vs. Gentile
Charge of the Court
January 5, 2016

1 the court reporter]

2 THE COURT: And just bring in the jury.

3 [Whereupon, the jury enters the courtroom at
4 5:00 a.m.]

5 [Whereupon, Court's Exhibit Number 3 is marked by
6 the court reporter]

7 THE COURT: Thank you. Please be seated.

8 We are marking for the Court's record, for the
9 record, the first note as Court's 3. The second note
10 will be Court's 4.: Mr. Foreman, ladies and gentlemen
11 of the jury, I was unclear as to what you were referring
12 to, trafficking and possession, so I'm going to read the
13 elements of both of the indictments to you.

14 Please listen very carefully. As you are aware,
15 this is how we have to communicate back and forth, with
16 the notes, so please listen very carefully to my charge.

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State vs. Gentile
Re-Charge of the Court
January 5, 2016

RE-CHARGE OF THE COURT

THE COURT: The defendant is charged with trafficking in heroin. The State must prove beyond a reasonable doubt that the defendant knowingly sold, manufactured, cultivated, delivered, purchased, or brought into the State; or provided financial assistance, or otherwise aided, abetted, attempted or conspired to sell, manufacture, cultivate, deliver, purchase, or bring into the state, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of 4 grams or more of any morphine, opium, salt, isomer, salt of an isomer thereof, including heroin, or 4 grams or more of any mixture containing any of these substances. The State must also prove beyond a reasonable doubt that the amount of the heroin, or any mixture containing heroin, was 4 grams or more but less than 14 grams. To prove possession, the State must prove beyond a reasonable doubt that the defendant had both the power and the intent to control the disposition or use of the heroin. Possession may be either actual or constructive. Actual possession means that the heroin was in the actual physical custody of the defendant. Constructive possession means that the defendant had dominion and control, or the right to exercise dominion and control, over either the heroin itself or the property on which the heroin was found. Mere presence at the scene where the drugs were found is not enough

State vs. Gentile
Re-Charge of the Court
January 5, 2016

1 to prove possession. The defendant's knowledge and possession
2 may be inferred when a substance is found on the property
3 under the defendant's control. However, this inference is
4 simply an evidentiary fact to be taken into consideration by
5 you, along with the other evidence in this case, and to be
6 given the weight that you decide it should have. Two or more
7 persons may have joint possession of a drug. To deliver means
8 to actually constructively or attempt to transfer the drug.
9 Distribute means to deliver, other than by administering or
10 dispensing a drug.

11 Ladies and gentlemen, that was the statutory
12 elements of indictment 2015-GS-10-5473, trafficking in heroin.

13 The defendant is charged with possession with
14 intent to distribute heroin within proximity of a school. The
15 State must prove beyond a reasonable doubt that the defendant
16 distributed, sold, purchased, manufactured, or possessed with
17 intent to distribute heroin, a controlled substance, within a
18 one-half mile radius of the grounds of a public or a private
19 elementary, middle, or secondary school, a public playground
20 or park, a public vocational or trade school or technical
21 education center, or a public or private college or
22 university. The person must have knowledge that he is in, on,
23 or within a one-half mile radius of the grounds of a public or
24 private elementary, middle, or secondary school, a public
25 playground or park, a public vocational or trade school or

State vs. Gentile
Re-Charge of the Court
January 5, 2016

1 technical education center, or a public or private college or
2 university.

3 Ladies and gentlemen, that was the statutory
4 elements on indictment 2012-GS-10-2587.

5 THE COURT: You have, Mr. Foreman, the two verdict
6 forms that correspond with each of those charges.

7 Did that answer your question?

8 THE FOREPERSON: Yes.

9 THE COURT: All right. Please go back and continue
10 your deliberations.

11 Please rise for the jury.

12 [Whereupon, the jury exits the courtroom at
13 5:05 p.m.]

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State vs. Gentile
Re-Charge of the Court
January 5, 2016

1 THE COURT: Thank you. Be seated.

2 Any objection, correction, addition, to how I
3 handled Court's 4? From the State?

4 MR. SOWARDS: Not from the State.

5 MR. KING: No, Your Honor.

6 THE COURT: All right. We will be at ease.

7 [Whereupon, a recess is taken from 5:06 p.m. to
8 6:02 p.m.]

9 [Whereupon, Court's Exhibit Number 5 is marked by
10 the court reporter]

11 THE COURT: We've got another note. Does having
12 more than 4 grams automatically constitute as
13 trafficking. And my response was would you like me to
14 read you the charge for this indictment, and the answer
15 was yes.

16 So that's why we're here. So I'm just going to
17 read trafficking one more time. Or as ever -- I guess
18 as many times as they need for me to read it.

19 Mr. King?

20 MR. KING: I'm okay with that response.

21 THE COURT: All right. Thank you.

22 [Off the record momentarily]

23 THE COURT: Rise for the jury.

24 [Whereupon, the jury enters the courtroom at
25 6:02 p.m.]

State vs. Gentile
Re-Charge of the Court
January 5, 2016

1 THE BAILIFF: All jurors present, Your Honor.

2 THE COURT: Thank you. Please be seated.

3 Ladies and gentlemen, I have received a note, that
4 is now Court's Number 5, indicating a question you had
5 about the amount of grams automatically constituting as
6 trafficking.

7 Ladies and gentlemen, I am going to read the
8 entirety of the trafficking statute again. Please
9 listen carefully.

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State vs. Gentile
Re-Charge of the Court
January 5, 2016

RE-CHARGE OF THE COURT

THE COURT: Everything that I now read from this point on has to do with the trafficking indictment, which is indictment 2015-GS-10-5473.

The defendant is charged with trafficking in heroin. The State must prove beyond a reasonable doubt that the defendant knowingly sold, manufactured, cultivated, delivered, purchased, or brought into the State, or provided financial assistance, or otherwise aided, abetted, attempted or conspired to sell, manufacture, cultivate, deliver, purchase or bring into the state, or was knowingly in actual or constructive possession, or knowingly attempted to become in actual or constructive possession, of 4 grams or more of any morphine, opium, salt, isomer, or salt of an isomer thereof, including heroin, or 4 grams or more of any mixture containing any of these substances. The State must also prove beyond a reasonable doubt that the amount of the heroin, or any mixture containing heroin, was 4 grams or more but less than 14 grams. To prove possession, the State must prove beyond a reasonable doubt that the defendant had both the power and the intent to control the disposition or use of the heroin. Possession may be either actual or constructive. Actual possession means that the heroin was in the actual physical custody of the defendant. Constructive possession means that the defendant had dominion and control, or the

State vs. Gentile
Re-Charge of the Court
January 5, 2016

1 right to exercise dominion and control, over either the heroin
2 itself or the property on which the heroin was found. Mere
3 presence at the scene where the drugs were found is not enough
4 to prove possession. The defendant's knowledge and possession
5 may be inferred when a substance is found on the property
6 under the defendant's control. However, this inference is
7 simply an evidentiary fact to be taken into consideration by
8 you, along with the other evidence in this case, and to be
9 given the weight that you decide it should have. Two or more
10 persons may have joint possession of a drug. To deliver means
11 to actually constructively or attempt to transfer the drug.
12 To distribute means to deliver, other than by administering or
13 dispensing a drug.

14 Does that answer your question, Mr. Foreman?

15 THE FOREPERSON: Yes, ma'am.

16 THE COURT: All right. Can you check with your
17 jurors? Do I need to read it again? Would you like for
18 me to read it again?

19 THE FOREPERSON: [Indicates negatively]

20 THE COURT: Would you like for us to begin ordering
21 dinner?

22 THE FOREPERSON: No. Not yet.

23 THE COURT: Thank you. Please let us know if
24 anything changes.

25 Please continue your deliberations. Thank you.

State vs. Gentile
Re-Charge of the Court
January 5, 2016

1 Please rise for the jury.

2 [Whereupon, the jury exits the courtroom at

3 6:05 p.m.]

4 THE COURT: Thank you. Be seated.

5 Any objection to what just occurred?

6 MR. SOWARDS: No, Your Honor.

7 MR. KING: No, Your Honor.

8 THE COURT: All right. Thank you. Counsel

9 approach.

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

12 [Whereupon, a recess is held from 6:06 p.m. to
13 6:41 p.m.]

14 THE COURT: All right. The note says: we cannot
15 agree on both charges, so I'm going to read the Allen
16 charge and then send them back.

17 [Whereupon, Court's Exhibit Number 6 is marked by
18 the court reporter]

19 [Off the record momentarily]

20 THE COURT: Please rise for the jury.

21 [Whereupon, the jury enters the courtroom at
22 6:42 p.m.]

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State vs. Gentile
Allen Charge
January 5, 2016

ALLEN CHARGE

1
2 THE COURT: Ladies and gentlemen, you have
3 indicated to the Court that you have been unable to agree on a
4 verdict in this case. As I instructed you earlier, your
5 verdict must be unanimous on each indictment. When a matter
6 is in dispute, it isn't always easy for even two people to
7 agree, so when twelve people must agree it becomes even more
8 difficult.

9 In most cases, absolute certainty cannot be reached
10 or expected; however, you have a duty to make every reasonable
11 effort to reach a unanimous verdict. In doing this you should
12 consult with one another, express your own views, and listen
13 to the opinions of your fellow jurors. Tell each other how
14 you feel and why you feel that way. Discuss your differences
15 with open minds. Although the verdict of the jury must be
16 unanimous, every one of you has the right to your own opinion.
17 The verdict you agree to must be your own verdict, the result
18 of your own convictions, and you should not give up your
19 firmly-held beliefs merely to be in agreement with your fellow
20 jurors.

21 The majority should consider the minority's
22 opinion, and the minority should consider the majority's
23 opinion. You should carefully consider and respect the
24 opinions of each other and reevaluate your position for
25 reasonableness, correctness, and impartiality. You must lay

State vs. Gentile
Allen Charge
January 5, 2016

1 aside all other outside matters and reexamine the questions
2 before you based upon the law that I have given you and the
3 evidence in this case.

4 If you do not agree on a verdict in this case, I
5 must declare a mistrial. In that case, it does not mean that
6 anybody wins. It just means that at some future time, I will
7 try this case with some other jury sitting exactly where you
8 are sitting today. The same participants will come in, and
9 the same lawyers will ask basically the same questions and
10 they will get basically the same answers. You were selected
11 in the same manner from the same source as any future jury
12 will be and there is no reason for me to suppose that this
13 case will ever be submitted to twelve more intelligent,
14 impartial, and conscientious jurors as sits in front of me
15 here today. I therefore ask that you return to continue your
16 deliberations.

17 Please rise for the jury.

18 [Whereupon, the jury exits the courtroom at
19 6:46 p.m.]

20 THE COURT: Thank you. Be seated.

21 Any object to the Allen charge?

22 MR. SOWARDS: No, Your Honor.

23 MR. KING: No, Your Honor.

24 THE COURT: All right. We'll be at ease.

25 [Whereupon, a recess is taken from 6:46 p.m. to

State vs. Gentile
Allen Charge
January 5, 2016

1 6:57 p.m.]

2 THE COURT: Please be seated.

3 All right. We have a verdict. Anything before we
4 bring in the jury?

5 MR. SOWARDS: Nothing from the State.

6 MR. KING: No, Your Honor.

7 [Off the record momentarily]

8 THE COURT: Please rise for the jury.

9 [Whereupon, the jury enters the courtroom at
10 6:57 p.m.]

11 THE BAILIFF: All jurors present, Your Honor.

12 THE COURT: Thank you. Please be seated.

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State vs. Gentile
Verdict
January 5, 2016

VERDICT

THE COURT: I understand you have reached a verdict. If you will hand the verdict forms to the bailiff.

[Whereupon, the bailiff proffers documents to the Court]

[Whereupon, the Court reviews documents]

THE CLERK OF COURT: Please have the defendant stand.

[Whereupon, Mr. Gentile complies]

THE CLERK OF COURT: The verdict forms in the matter of The State of South Carolina versus Omar Shariff Gentile, defendant: we, the jury, find the Defendant Omar Shariff Gentile guilty of possession with intent to distribute within the proximity of a school. Signed by the foreperson on January the 5th, 2016.

Ladies and gentlemen of the jury, if this was your verdict, please raise your right hand.

[Whereupon, jurors comply]

THE CLERK OF COURT: Thank you.

Please let the record reflect that all twelve jurors raised their right hand.

On the other verdict form: we, the jury, find the Defendant Omar Shariff Gentile guilty of trafficking heroin, 4 grams to 14 grams. Signed by the foreperson

State vs. Gentile
Verdict
January 5, 2016

1 of the jury on January the 5th, 2016.

2 Ladies and gentlemen of the jury, if this was your
3 verdict, please raise your right hand. Please raise
4 your right hand.

5 [Whereupon, jurors comply]

6 THE CLERK OF COURT: Thank you.

7 Please let the record reflect that all twelve
8 jurors raised their right hand.

9 THE COURT: Thank you.

10 Anything further required of the jury? From the
11 State?

12 MR. SOWARDS: Nothing from the State, Your Honor.

13 MR. KING: The defense requests polling the jury.

14 THE COURT: You may poll the jury. Please use the
15 numbers. Thank you.

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State vs. Gentile
Polling of the Jury
January 5, 2016

POLLING OF THE JURY

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2 THE CLERK OF COURT: Ladies and gentlemen of the
3 jury, what is going to happen now is called polling the
4 jury. When I call your juror number, please raise your
5 hand. I will then acknowledge you and you can put your
6 hand down. I will then ask you two questions: were
7 those your verdicts, and are they still your verdicts.
8 Please respond verbally to each question.

9 Juror number 14, were those your verdicts?

10 JUROR NUMBER 14: Yes.

11 THE CLERK OF COURT: Are they still your verdicts?

12 JUROR NUMBER 14: Yes.

13 THE CLERK OF COURT: Juror number 12, were those
14 your verdicts?

15 JUROR NUMBER 12: Yes.

16 THE CLERK OF COURT: Are they still your verdicts?

17 JUROR NUMBER 12: Yes.

18 THE CLERK OF COURT: Thank you.

19 Juror number 51, were those your verdicts?

20 JUROR NUMBER 51: Yes.

21 THE CLERK OF COURT: Are they still your verdicts?

22 JUROR NUMBER 51: Yes.

23 THE CLERK OF COURT: Juror number 80, were those
24 your verdicts?

25 JUROR NUMBER 80: Yes.

State vs. Gentile
Polling of the Jury
January 5, 2016

1 THE CLERK OF COURT: Are they still your verdicts?

2 JUROR NUMBER 80: Yes.

3 THE CLERK OF COURT: Juror number 89, were those
4 your verdicts?

5 JUROR NUMBER 89: Yes.

6 THE CLERK OF COURT: Are they still your verdicts?

7 JUROR NUMBER 89: Yes.

8 THE CLERK OF COURT: Juror number 218, were those
9 your verdicts?

10 JUROR NUMBER 218: Yes.

11 THE CLERK OF COURT: Are they still your verdicts?

12 JUROR NUMBER 218: [No response]

13 THE CLERK OF COURT: Are they still your verdicts?

14 JUROR NUMBER 218: Yes.

15 THE CLERK OF COURT: Juror number 236, were those
16 your verdicts?

17 JUROR NUMBER 236: Yes.

18 THE CLERK OF COURT: Are they still your verdicts?

19 JUROR NUMBER 236: Yes.

20 THE CLERK OF COURT: Juror number 253, were those
21 your verdicts?

22 JUROR NUMBER 253: Yes.

23 THE CLERK OF COURT: Are they still your verdicts?

24 JUROR NUMBER 253: Yes.

25 THE CLERK OF COURT: Juror number 261, were those

State vs. Gentile
Polling of the Jury
January 5, 2016

1 your verdicts?

2 JUROR NUMBER 261: Yes.

3 THE CLERK OF COURT: Are they still your verdicts?

4 JUROR NUMBER 261: Yes.

5 THE CLERK OF COURT: Juror number 277, were those
6 your verdicts?

7 JUROR NUMBER 277: Yes.

8 THE CLERK OF COURT: Are they still your verdicts?

9 JUROR NUMBER 277: Yes.

10 THE CLERK OF COURT: Juror number 318, were those
11 your verdicts?

12 JUROR NUMBER 318: Yes.

13 THE CLERK OF COURT: Are they still your verdicts?

14 JUROR NUMBER 318: Yes.

15 THE CLERK OF COURT: Juror number 323, were those
16 your verdicts?

17 JUROR NUMBER 323: Yes.

18 THE CLERK OF COURT: Are they still your verdicts?

19 JUROR NUMBER 323: Yes.

20 THE CLERK OF COURT: If there is any juror whose
21 number I did not call, please raise your right hand.

22 [Whereupon, there is no response]

23 THE CLERK OF COURT: Your Honor, the jury has been
24 polled and the verdict stands,

25 THE COURT: Mr. King, anything further from the

State vs. Gentile
Polling of the Jury
January 5, 2016

1 jury?

2 MR. KING: No, Your Honor.

3 THE COURT: All right. Please be seated.

4 Mr. Foreman, on the verdict form for 2015-GS-10-
5 5473, you have checked 1 and initialed 1, and checked 1.
6 What is your -- what was -- the verdict was guilty?

7 THE FOREPERSON: Yes, ma'am.

8 THE COURT: And so you had checked not guilty
9 previously and then your initials indicate that you
10 withdrew that checkmark?

11 THE FOREPERSON: Yes.

12 THE COURT: Counsel, I just want you to see the
13 verdict form so that it's clear what happened.

14 And then, Mr. Foreman, I'm going to have you sign
15 the indictment, which is what we typically do. It's
16 just easier just for paperwork purposes.

17 I just want it on the record. It's not so clear on
18 the form. Okay?

19 [Whereupon, counsel review documents]

20 THE COURT: Ladies and gentlemen, you have
21 completed your service to this case, and you have also
22 completed your service for the week, so please return
23 back to your jury room. I will be there in just a few
24 moments to excuse you from service.

25 Please rise for the jury.

State vs. Gentile
Polling of the Jury
January 5, 2016

1 [Whereupon, the jury exits the courtroom at

2 7:03 p.m.]

3 THE COURT: Thank you. Be seated.

4 Do you have your sentencing sheets with you?

5 MR. SOWARDS: I do not.

6 THE COURT: Do you want to do sentencing tonight?

7 MR. SOWARDS: We would prefer that --

8 THE COURT: All right. I'm going to go release the
9 jury.

10 We'll be at ease. Thank you.

11 [Off the record momentarily]

12 THE COURT: Okay. Thank you. We'll be at ease.
13 I'm going to release the jury.

14 [Whereupon, a recess is taken from 7:04 p.m. to
15 7:22 p.m.]

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State vs. Gentile
Sentencing of Mr. Gentile
January 5, 2016

SENTENCING

THE COURT: Anything further from the State regarding sentencing?

MR. SOWARDS: Nothing, Your Honor.

THE COURT: And the potential sentence on the --

MR. SOWARDS: On the trafficking, it's a mandatory twenty-five years and a 100,000-dollar fine.

The proximity is up to ten years and a fine -- and/or a fine of \$100,000.

THE COURT: 100,000?

MR. SOWARDS: Yes, ma'am.

THE COURT: Is that your understanding, Mr. King?

MR. KING: Yes, Your Honor.

THE COURT: Is that what you advised your client?

MR. KING: Yes, Your Honor.

THE COURT: Did you also advise your client that trafficking is classified as a --

MR. SOWARDS: Violent and serious.

THE COURT: Is that correct, Mr. King?

MR. KING: I have at some point in the past. We haven't discussed that recently.

THE COURT: That is not marked on the sentencing sheets. Any objection to me marking it, Mr. King?

MR. KING: Is it a violent offense, Your Honor?

THE COURT: Violent and serious; is that correct?

State vs. Gentile
Sentencing of Mr. Gentile
January 5, 2016

1 MR. KING: That's correct, Your Honor.

2 THE COURT: And the possession within proximity is
3 a serious --

4 MR. SOWARDS: Serious.

5 THE COURT: -- nonviolent. Is that correct?

6 MR. SOWARDS: Correct.

7 THE COURT: Is that what you advised your client?

8 MR. KING: Yes, Your Honor.

9 THE COURT: Mr. King --

10 Is there anything further from the State?

11 MR. SOWARDS: No, Your Honor.

12 MR. KING: Your Honor, we are asking you to
13 consider running the charges concurrent. I believe
14 that's the discretion that Your Honor has. I don't
15 think there is any -- twenty-five years.

16 He's here today with his sister, Lapronda Gentile
17 [phonetic], and his girlfriend of four years, Robin
18 Cannady [phonetic]. They've been here during the trial
19 supporting him.

20 I have advised him to remain silent at this
21 particular point in the trial. That's what I always do.

22 But I would just urge you, Your Honor, if you would
23 consider being lenient and running them concurrently.

24 He worked before this, as I brought out in trial,
25 at Saint Morris Building Supply Company. He's been

State vs. Gentile
Sentencing of Mr. Gentile
January 5, 2016

1 working, since he's been out of jail, with the Post and
2 Courier. So he has had a job.

3 He's been out since 2012, I think about March of
4 2012, and without any other convictions. He's forty-
5 two. Looking back on his record, what I saw it looks
6 like he's never hurt anybody. It appears to be maybe
7 drugs. There's one pistol charge. But not even a
8 simple assault and battery or a CDV or anything like
9 that, so he's not someone who has hurt anybody.

10 Twenty-five years is a long sentence. It's eighty-
11 five percent. We would ask you to consider just to
12 sentence him to the twenty-five and sentence him to the
13 proximity charge concurrent with that.

14 THE COURT: Mr. Gentile, do you wish to address the
15 Court?

16 MR. GENTILE: [No response]

17 THE COURT: Anything you wish to say to the Court?

18 [Whereupon, Mr. King and Mr. Gentile confer]

19 MR. KING: He does not, Your Honor.

20 THE COURT: Sir, please stand.

21 MR. KING: I believe his -- would like to just
22 briefly address Your Honor.

23 THE COURT: I can't imagine what she would want to
24 tell me, but I'll hear from her in just a moment.

25 Mr. Gentile, I need you to stand, please.

State vs. Gentile
Sentencing of Mr. Gentile
January 5, 2016

1 [Whereupon, Mr. Gentile complies]

2 THE COURT: Mr. Gentile, you understand that you
3 have been convicted of both indictments? Do you
4 understand that?

5 MR. GENTILE: Yes, ma'am.

6 THE COURT: And the trafficking is considered a
7 violent and a serious offense. Do you understand what
8 those two classifications mean to you?

9 MR. GENTILE: Yes, ma'am.

10 THE COURT: Do you understand I have absolutely no
11 discretion? It is a twenty-five year sentence and a
12 100,000-dollar fine. Do you understand what that means?

13 MR. GENTILE: Yes, ma'am.

14 THE COURT: You understand that the potential
15 sentence is up to ten years on the proximity charge?

16 MR. GENTILE: Yes, ma'am.

17 THE COURT: You have the right to appeal this
18 conviction, but you or your attorney must do so within
19 ten days. Do you understand that, Mr. Gentile?

20 MR. GENTILE: Yes, ma'am.

21 THE COURT: And you went over all of this, Mr.
22 King, with Mr. Gentile?

23 MR. KING: Yes, Your Honor.

24 THE COURT: And he understood his right to appeal?

25 MR. KING: Yes, Your Honor.

State vs. Gentile
Sentencing of Mr. Gentile
January 5, 2016

1 THE COURT: Mr. Gentile, is there anything you wish
2 to tell me? I'll hear from your sister, but is there
3 anything you wish to tell me?

4 MR. GENTILE: Just tell my family that I love them.

5 THE COURT: I'm sorry?

6 MR. GENTILE: Just telling them I love them.

7 That's all.

8 THE COURT: They heard you. They heard you.

9 Y'all may have a seat so I can hear from sister.

10 Ma'am, I just need you to -- if you will just stand
11 right there.

12 MS. GENTILE: I actually --

13 THE COURT: Hold on one second. Remember we've got
14 to make it clear for the court reporter, so I need you
15 to state your full name for the record and spell your
16 last name.

17 MS. GENTILE: Latonya Gentile. G-E-N-T-I-L-E.

18 THE COURT: Yes, ma'am.

19 MS. GENTILE: And I actually just wanted to say
20 what Mr. King said. If you can at least be lenient and
21 just run concurrent, because I think twenty-five is a
22 long time. He's got two boys, both in college. It'll
23 be a long time before he sees them again. So he already
24 guilty. He already got twenty-five. Why not just give
25 him twenty-five? I would really appreciate that -- I

State vs. Gentile
Sentencing of Mr. Gentile
January 5, 2016

1 would really appreciate that.

2 THE COURT: Thank you. Anything else, Mr. King?

3 MR. KING: Your Honor, I think I've got to renew
4 all my previous trial motions and make a motion for a
5 new trial.

6 THE COURT: Anything -- any other -- anything else?

7 MR. KING: No, Your Honor.

8 THE COURT: So I'm going to address -- I haven't
9 heard anything that -- I would deny your motions to
10 reconsider all the previous motions.

11 Mr. Gentile, please stand.

12 [Whereupon, Mr. Gentile complies]

13 THE COURT: It's the order of the Court on 2015-GS-
14 10-5473 that you be committed to the State Department of
15 Corrections for a term of twenty-five years and pay a
16 100,000-dollar fine. It's the order of the Court on
17 2012-GS-10-2587 that you be committed to the State
18 Department of Corrections for a term of ten years.

19 Did he serve any time, Mr. King?

20 MR. KING: About thirty-seven days, Your Honor.

21 THE COURT: Credit for time served. They will run
22 concurrent.

23 Good luck to you, sir.

24 [JURY TRIAL CONCLUDES AT 7:29 P.M.]

25

State vs. Gentile

C E R T I F I C A T E

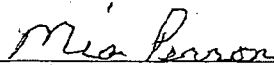
STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable Kristi L. Harrington, on Tuesday, January 5, 2016.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 10th day of March, 2016.



Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CVR-CM-M

-319-

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

OMAR SHARIEF GENTILEAKA: Omar Shariff Gentile, Omar GentileRace: [REDACTED] Sex: [REDACTED]DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED] StCity, State, Zip: [REDACTED]DL# [REDACTED] SID# SC00807572*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or☐ PLEADSTO: Traff Opium/Heroin 4g to 14gIn violation of § 44-53-0370(c)(3)(a) of the S.C. Code of Laws, bearing CDR Code # 0158☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

[Signature]

101021

68630

Whit Sowards, Assistant Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$ 100.00 provided that upon the service of days/months/years and or paymentof \$, plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2012-GS-10-2587☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ Ordered

PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service EmploymentPayment Terms: Obtain GED ☐☐ Set by SCDPPPS Attend Voc. Rehab. Or Job Corp. May serve W/E beginning Recipient: Substance Abuse Counseling ☐*Fine: Random Drug/Alcohol Testing ☐

§14-1-206 (Assessments 107.5%)

100,000.00

Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(1)(Conv. Surcharge)

\$100 \$ 100.00pmts. of \$ Beginning

§14-1-211 (A)(2)(DUI Surcharge)

\$100 \$ \$ Paid to Public Defender Fund

§56-5-2995 (DUI Assessment)

\$12 \$ Other:

§56-1-286 (DUI Breath Test)

\$25 \$

Proviso 47.9 (Public Def/Prob)

\$500 \$

§14-1-212 (Law Enforce. Funding)

\$25 \$ 25.00

§14-1-213 (Drug Court Surcharge)

\$150 \$ 150.00

§50-21-114 (BUI Breath Test Fee)

\$50 \$

§56-5-2942(J) (Vehicle Assessment)

\$40/ea \$

Proviso 90.5 (SCCA Surcharge)

\$5 \$ 5.00

3% to County (if paid in installments)

\$ 33,233.40

TOTAL

11,410.40Clerk of Court/Deputy Clerk: [Signature]Court Reporter: [Signature]Presiding Judge: [Signature]Judge Code: 218Sentence Date: 11/15/16

JWS/0214213/20120201143
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2022203

ARREST WARRANT NUMBER

2015-GS-10-05473

DATE OF ARREST

02/10/2012

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: SEP 14 2015

VERDICT

Guilty -

Jonathan Bates 1/5/15

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-10-05473

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2015

THE STATE

VS.

OMAR SHARIFF GENTILE
~~XXXXXXXXXX~~

Indictment for

TRAFFICKING IN HEROIN

SC Code: § 44-53-0370(e)(3)

CDR Code: 0287

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

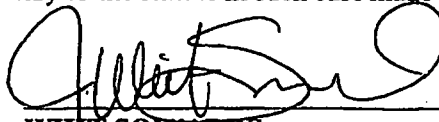
INDICTMENT

At a Court of General Sessions, convened on September 14, 2015, the Grand Jurors of Charleston County present upon their oath:

Trafficking in Heroin

The defendant, Omar Shariff Gentile, did on or about February 9, 2012, in Charleston County, South Carolina, knowingly sell, manufacture, cultivate, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of four (4) grams or more of any morphine, opium, salt, isomer, or salt of an isomer thereof, namely Heroin, as described in Section 44-53-190 or 44-53-210, or four (4) grams or more of any mixture containing any of these. All in violation of 44-53-0370(e)(3) 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.



WHIT SOWARDS
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS

OMAR SHARIFF GENTILEAKA: Omar Shariff Gentile, Omar GentileRace: [REDACTED] Sex: [REDACTED]DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: [REDACTED]DL# [REDACTED] SID# SC00807572*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒

In disposition of the said indictment comes now the Defendant who was

TO: Dist/PWID/Manuf Cont Subs in ProxIn violation of § 44-53-0445(A) of the S.C. Code of Laws, bearing CDR Code # 0107☐ NON-VIOLENT ☐ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lowd Act)The charge is ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury (def's initials)The plea is ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST:

[Signature]
Whit Sowards, Assistant Solicitor
SC Bar # 101021

Defendant

[Signature]
Attorney for Defendant
SC Bar # 68630

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed 5 years
and/or to pay a fine of \$ [REDACTED]; provided that upon the service of [REDACTED] days/months/years and or payment
of \$ [REDACTED], plus costs and assessments as applicable*; the balance is suspended with probation for [REDACTED]
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on 2015-GS-D-5473
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing☐ Ordered PTUP [REDACTED]
days/hours Public Service EmploymentTotal: \$ [REDACTED] plus 20% fee: \$ [REDACTED]Payment Terms [REDACTED]Obtain GED ☐☐ Set by SCDPPPS [REDACTED]Attend Voc. Rehab Or Job Corp [REDACTED]May serve W/E beginning [REDACTED]Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts of \$ [REDACTED] Beginning [REDACTED]\$ [REDACTED] Paid to Public Defender FundOther: [REDACTED]Recipient: [REDACTED]*Fine: [REDACTED] \$ [REDACTED]§14-1-206 (Assessments 107.5%) \$ [REDACTED]§14-1-211 (A)(1)(Conv Surcharge) \$100 \$ 100.00§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ [REDACTED]§56-5-2995 (DUI Assessment) \$12 \$ [REDACTED]§56-1-286 (DUI Breath Test) \$25 \$ [REDACTED]Proviso 47.9 (Public Def/Prob) \$500 \$ [REDACTED]§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§14-1-213 (Drug Court Surcharge) \$150 \$ 150.00§50-21-114 (BUI Breath Test Fee) \$50 \$ [REDACTED]§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ [REDACTED]Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ [REDACTED] \$ 8.40TOTAL \$ 288.40Clerk of Court/Deputy Clerk: [Signature]
Court Reporter: [Signature]Presiding Judge: [Signature]
Judge Code: 1025
Sentence Date: 1/5/16

LMC20120201143

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

1202203

ARREST WARRANT NUMBER

M996334

DATE OF ARREST

February 10, 2012

ACTION OF GRAND JURY

TRUE BILL
TRUE BILLForeperson of Grand Jury
Date.

MAY 07 2012

VERDICT

Guilty - Jonathan Bates 1/5/15

Foreperson of Petit Jury

Date

INDICT

DOCKET NO. 2012GS1002587

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

May Term 2012

THE STATE

vs.

OMAR SHARIFF GENTILE

~~XXXXXXXXXX~~
~~XXXX~~

Indictment for

Possession With Intent To Distribute Heroin
Within Proximity Of A School

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)

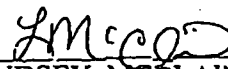
INDICTMENT

At a Court of General Sessions, convened on May 7, 2012 the Grand Jurors of Charleston County present upon their oath:

Possession With Intent To Distribute Heroin Within Proximity Of A School

That in Charleston County, South Carolina, on or about February 9, 2012, the Defendant, OMAR SHARIFF GENTILE, knowingly and unlawfully did distribute, sell, purchase, manufacture, or possess with intent to distribute Heroin, a controlled substance, within a one-half mile radius of the grounds of Charleston School of Math and Science located at 1002 King Street, Charleston, South Carolina, all in violation of Section 44-53-445 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.


 LINDSEY MCCLAIN
 ASSISTANT SOLICITOR

BY _____
 JUDITH A. STRONG
 CLERK OF COURT

2016 JAN 11 PM 12:00



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,

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FEB 16 2017

SC Court of Appeals



Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 16th day of February, 2017.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Kristi Lea Harrington, Circuit Court Judge

THE STATE,

RESPONDENT,

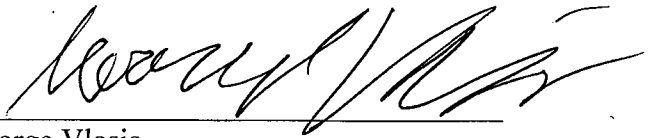
V.

OMAR SHARIFF GENTILE

APPELLANT

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 16th day of February, 2017.



George Vlasis
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 16th day of February, 2017.



(L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.

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FEB 16 2017

SC Court of Appeals