

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Williamsburg County

Honorable R. Ferrell Cothran, Circuit Court Judge

THE STATE,

v.

GARRICK EPPS,

RESPONDENT,

APPELLANT

APPELLATE CASE NO 2015-001003

RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG)

COURT OF GENERAL SESSIONS

The State of South Carolina,)
)
PLAINTIFF,)
)
v.)
)
Garrick Epps,)
)
DEFENDANT.)
_____)

TRANSCRIPT OF TRIAL
C/A No. 2014-GS-45-00216

Williamsburg Countyurthouse
April 21, 2015

BEFORE:

HONORABLE R. FERRELL COTHRAN, PRESIDING JUDGE.

APPEARANCES:

Assistant Solicitor Tyler Brown
Attorney for State of South Carolina

LeGrand Carraway, Esquire
Attorney for Garrick Epps

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

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1 The Court: Mr. Epps, you ready to go?

2 Mr. Epps: How you doing Mr. Cothran?

3 The Court: I'm good. The Solicitor has called your
4 case for trial. The question is whether you want a trial
5 or do you want to plead guilty?

6 Mr. Epps: Your Honor, could I say a few questions?

7 The Court: Say that again?

8 Mr. Epps: Could I say a few questions with you?

9 The Court: Okay.

10 Mr. Epps: I would like for The Court to have mercy
11 upon me or whatever. I actually want to know if I could
12 have a little bit more time to think about my case or
13 whatever. You know because I feel that the attorney that
14 I got was, whatever, for the simple fact, you know, what
15 I'm saying is I feel he wasn't qualified for the best of
16 my ability, you know, what I'm saying. I just want to
17 know could I have a little bit more time?

18 The Court: I can't give any more time. I've got a
19 jury already drawn. The solicitor has called this case.
20 You weren't here yesterday when this case was called. I
21 can't continue it. At this point, you've either got to
22 plead guilty or I'm going to bring that jury in here in
23 the next five minutes and we will take testimony. I
24 can't give you a continuance.

25 Mr. Epps: I understand.

1 The Court: Okay, so my question to you is are you
2 going to plead guilty or are we going to bring the jury
3 in and go to trial?

4 Mr. Epps: Like I say, if I'm pleading guilty, I'm
5 pleading guilty because I'm being forced or whatever.
6 But I would rather it go to a trial than to plead guilty
7 by force. So I'd rather go on and have the trial.

8 The Court: Well you say everybody pleads guilty is a
9 situation they always got to ...

10 Mr. Epps: Yeah, you know what I'm saying, I'd rather
11 have a trial ...

12 The Court: Alright, we'll give you a trial.

13 Mr. Epps: ... than being forced by ...

14 The Court: Well you're not being forced to plead
15 guilty.

16 Mr. Epps: Deep in my heart, I'm not guilty for these
17 charges so that's why I'd rather take the jury.

18 The Court: Alright, sit down. We'll give you a jury
19 trial...

20 Mr. Epps: All right.

21 The Court: Sit in that chair over there.

22 Mr. Tyler Brown: Your Honor, can I just briefly put
23 one thing on the record? In terms of a prior meeting
24 with Mr. Epps and Mr. Carraway, we met probably back in
25 February. We worked out what I believe to be a fair plea

1 offer and we actually held that plea offer open for about
2 two months up until Judge Newman was here for the last
3 general session court which was about two weeks ago so
4 that he could plea in front of Judge Newman; that was
5 their request and was a plea offer with a first offense.
6 Mr. Carraway got me down to a third offense where he
7 could have gotten anything from probation to fifteen
8 years. So just in terms of Mr. Carraway's representation
9 and terms of time to think about this case, this case has
10 been pending for almost a year now. The plea offer was
11 rejected after having three months to think on it. So I
12 just want to make sure the record is clear on that.

13 The Court: Okay. Alright, bring the jury.

14 (Jury enters courtroom 10:08 a.m.)

15 The Court: Ladies and gentlemen, I appreciate your
16 patience. We're about to begin the trial of The State
17 vs. Garrick Epps. Mr. Epps is charged under this
18 indictment with possession with intent to distribute
19 cocaine and possession with intent to distribute cocaine
20 base. Now, the elements of this indictment will be
21 explained to you. I will explain to you all in this
22 case. But to this indictment, he's entered a plea of not
23 guilty. Therefore, placed the burden on the State of
24 South Carolina to prove each and every element of this
25 indictment to you beyond a reasonable doubt. Now, your

1 job is to listen to the facts in this case, listen to the
2 evidence in this case and determine what the true facts
3 are. My job is to rule upon the admissibility of that
4 evidence and I rule on what evidence you can and cannot
5 hear and then at the end of this case, I will explain the
6 law to you, charge you on the law that you are to apply
7 to this case. And you take the facts you determine to be
8 true and the law that I give you and reach a verdict that
9 speaks the truth in this case. Your job will determine
10 the guilt or innocence of this defendant in this case. I
11 need you to pay close attention. The way you are going
12 to make this determination is basically through the
13 evidence. That evidence is going to come to you in
14 possibly three different forms. First of all, it's
15 through sworn testimony from this witness stand.
16 Witnesses will come before you under oath and testify.
17 And your job is to listen to that testimony and make a
18 determination as to what you think what witnesses are
19 telling the truth and use your common sense that you do
20 every day to determine what you think is the truth in
21 this case. The other way you're going to see evidence is
22 through the documents or photographs or whatever that may
23 be introduced as evidence. And the third way is through
24 stipulations of the attorneys. So your job is to
25 determine what the facts are in this case, or the truth

1 is in this case and reach a verdict that speaks the
2 truth. Now, if at any time during the testimony in this
3 case you need a break, I'll try to stop every hour, hour
4 and half. Usually I try to stop at the end of a
5 witness's testimony. But sometimes you need a break
6 quicker than that. I need you to pay close attention.
7 If you're uncomfortable then you can't pay attention. So
8 if you need a break, raise your hand, we'll take a break
9 and come back and continue the testimony. I'm also going
10 to tell you that you're not going to be able to discuss
11 this case with anybody during the trial, not even among
12 yourselves. And you may say well why when we go back to
13 the jury room on a break and we've heard from one or two
14 witnesses, why can't we talk about this case. And the
15 reason I don't want you to talk about it because if you
16 do, if you discuss after one witness what you think will
17 happen in this case, in the end of the case, you're going
18 to want to defend that opinion you have at the very
19 beginning to your fellow jurors. And I don't want you
20 start forming your opinions until you've heard all of the
21 case. Until you've heard from all of the witnesses and
22 the law that I'm going to give you. And then and only
23 then will it be proper for you to discuss the case. And
24 the same way when you go home tonight, you can't talk
25 about it with your family if you haven't finished this

1 case. If your family is like my family, they're going to
2 have opinions as to what you ought to do. They haven't
3 been here. You're the only ones that have been in here,
4 you're the only ones that would be able to tell what the
5 true facts are in this case. The system works when the
6 rules are followed. When we do this, the juries get it
7 right. And it's important for you to get it right
8 because if you make a mistake, it's very difficult to fix
9 that mistake. If I make a mistake, and at some other
10 time, at some other place that will be reviewed and if I
11 make a mistake in law. But if you make a mistake, it's
12 very hard to correct that. So that's why it's important
13 that you pay close attention and you listen to the facts
14 to determine what the truth is in this case. In a few
15 minutes, the solicitor is going to get up and make an
16 opening statement. And what the lawyers tell you is not
17 evidence in this case. They're just going to get up and
18 tell you what they think the issues are in this case and
19 where the evidence is going to take you in this case and
20 kind of give you a roadmap of what this case is about.
21 At the end of all of the evidence, they're going to get
22 up and argue to you as to what they think the evidence
23 showed and did not show. Then I'm going to charge you on
24 the law and give you this case to decide. So if you pay
25 attention to the lawyers, they're going to make their

1 opening statement to you. The defense doesn't have to
2 make an opening statement. They don't have to prove
3 anything. The State has the burden of proving this case
4 beyond a reasonable doubt. But many times, the defense
5 lawyer does get up and make an opening statement. If you
6 will pay close attention.

7 Mr. Brown: May we approach the bench, Your Honor?

8 The Court: Okay.

9 (Counsels approach bench)

10 The Court: Okay ladies and gentlemen, the Solicitor
11 pointed out that on the indictment this defendant is
12 charged with intent to distribute cocaine and possession
13 of cocaine base and I told you it was possession with
14 intent to distribute. He's charged with possession with
15 intent to distribute cocaine or cocaine base also known
16 as crack. Alright, Solicitor?

17 Mr. Brown: Thank you Your Honor, may it please The
18 Court?

19 Mr. Carraway: Good morning. Yesterday morning,
20 actually yesterday afternoon, my apologies, I introduced
21 myself as Assistant Solicitor Tyler Brown. I am one of
22 the assistant solicitors of the Third Circuit Solicitor's
23 office. Ms. Kimberly Barr and I we are the ones who have
24 been charged with ...

25 The Court: Hold on a minute. I'm sorry. The clerk

1 has not sworn the jury you in.

2 Mr. Brown: We should do that. Yes sir, Your Honor.

3 The Court: I'm sorry. I'm supposed to get the clerk
4 to swear you in.

5 Clerk: Good morning ladies and gentlemen. If you'll
6 please stand at this time and raise your right hand? Do
7 you solemnly swear and affirm that you shall well and
8 truly try case #2014-GS-45-216 The State vs. Garrick Epps
9 indicted for possession with intent to distribute cocaine
10 and possession of cocaine base and render a true verdict
11 according to the law and the evidence presented, so help
12 you God?

13 Jury: I do.

14 Clerk: Okay, you may be seated.

15 Mr. Brown: Your Honor, may it please The Court? Now
16 that y'all are properly sworn in, you are legal-bound
17 jurors. Where I was, was that myself and Kimberly Barr
18 are the prosecutors that have been charged by your
19 elected solicitor Ernest Finney to come and execute the
20 cases that are brought to this county, brought by our law
21 enforcement officers. It's my pleasure to work here,
22 it's my joy, it's a privilege to work here, working for
23 the Williamsburg County as one of your prosecutors.
24 Today, I am going to start out my opening and I'm going
25 to do what most attorneys don't normally do and that's

1 not talk for very long. I know that's usually shocking
2 to people that have been around attorneys, but I'll try
3 to keep my comments short to start out with. I'll save a
4 lot of my talking for closing arguments but as you saw
5 yesterday, today's case is The State vs Garrick Epps.
6 Mr. Epps is present here in the court today. He's the
7 gentleman seated by Mr. Carraway. Mr. Epps is charged,
8 as His Honor has already told you, with two counts that
9 you are here to consider: He's charged with one count of
10 possession with intent to distribute cocaine and one
11 count of possession of crack cocaine also known as
12 cocaine base. You will hear both of those terms used.
13 They're interchangeable, they're the same thing. But if
14 you hear one or the other, they are the same thing;
15 cocaine base and crack. Mr. Epps is charged with these
16 offenses and they are alleged to have arisen on June 13th
17 of 2014. Here in the Williamsburg community, out on the
18 intersection of New Zion and Hebron(sp) Road. What I
19 believe the facts are going to show in this case and what
20 I believe the testimony is going to show is that on that
21 night a little after ten o'clock, two of our law
22 enforcement officers, Investigator Watson and
23 Investigator Seth Scott were out on patrol in
24 Investigator Watson's car. They observed a vehicle, I
25 believe it was a Honda. No, I'm sorry, it was a Dodge

1 car driving through town. They also observed it speeding
2 a little bit but they stopped it because the tag lights
3 were out and law enforcement has to be able to see those.
4 When they made contact, they made contact with a one
5 person occupied vehicle being driven by Mr. Garrick Epps.
6 When they asked for his driver's license, they found out
7 that he didn't have one. He had no identification. His
8 license was suspended. As is protocol in those
9 circumstances, they had to make an arrest. Now, you're
10 going to hear some terms and one of those terms is an
11 inventory search. And you'll hear the reasons as to why
12 inventory searches happen is to protect law enforcement
13 of people saying things were stolen and you're going to
14 hear about those during the inventory search of that
15 vehicle, you're going to hear about how a Crown Royal bag
16 was found in the glove box. And inside that Crown Royal
17 bag was what the law enforcement officers believed and
18 was later tested and found to be quantities of cocaine
19 and quantities of crack cocaine.

20 You're going to hear from a chemists who will
21 testify about how these drugs are sent to them, how after
22 years of training and experience, he used that knowledge
23 and experience to test these drugs and to find out
24 whether it really was cocaine to make sure that we
25 haven't mischarged anybody. And you're going to hear how

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1 he came back asking about crack cocaine. You're going to
2 hear about weights. You're also going to hear about how
3 some of these drugs are packaged and some other
4 circumstances which we believe, at the end of this case,
5 will show that Garrick Epps had those drugs not for
6 personal use, but instead specifically with cocaine, to
7 sell. And you're going to hear this case, but it's not
8 going to take very long because this case is ultimately
9 about four witnesses. That's usually all a traffic stop
10 really is. The officers that stopped, the chemist that
11 tested it, and the officers that drove the drugs to and
12 from the chemist. Now, even though this is a short case,
13 I'm going to ask that you pay close attention. It's an
14 important case. It's an important case to The State,
15 it's an important case to the defense. I'm going to ask
16 you to pay close attention and imagine this case will be
17 over some time either right at or after lunch time. And
18 today, you will deliberate this case. It's important
19 that you pay close attention and you know the facts and
20 that you can properly debate and discuss whether or not
21 The State brought the case properly. I think one thing
22 that Mr. Carraway and I can agree on is that we
23 appreciate your service today. We appreciate your time.
24 I promise you, we are not looking at as something we want
25 to waste. We will work to properly present all the facts

1 as quickly as possible while still making sure that we do
2 it appropriately and respectfully and we thank you for
3 your time. Thank you.

4 The Court: Mr. Carraway.

5 Mr. Carraway: Defense waives opening.

6 The Court: Okay. Call your first witness.

7 Mr. Brown: The State will call Investigator Watson
8 of the Williamsburg County Sheriff's Department.

9 Clerk: Place your left hand on the Bible and raise
10 your right hand. Do you solemnly swear and affirm that
11 the testimony you are about to give will be the truth,
12 the whole truth, and nothing but the truth, so help you
13 God?

14 Mr. Watson: I do.

15 Clerk: Okay, take your seat.

16 Mr. Brown: May it please The Court?

17 Mr. Watson - Examination by Mr. Brown:

18 Q: Good morning Investigator Watson.

19 A: Good morning.

20 Q: For these ladies and gentlemen of the jury and for
21 the court reporter, can you please state your name,
22 your rank, spell your last name?

23 A: My name is Investigator Patrol Officer Watson. My
24 last name is spelled W-A-T-S-O-N. I'm with the
25 Williamsburg County Sheriff's Department Narcotics

1 Division.

2 Q: How long have you been with Williamsburg County?

3 A: I've been employed with Williamsburg County five
4 years and in law enforcement for eight.

5 Q: For eight years?

6 A: Yes.

7 Q: And who you with before?

8 A: Lane's.

9 Q: Just so these jurors can get to know you a little
10 bit, will you please let them know where you're
11 from, where you grew up, where you went to school,
12 and what kind of training you have.

13 A: I was born in Los Angeles, California. Came down
14 here to South Carolina, graduated from Blakely High
15 School over there in the Salters area. Graduated
16 from the academy in 200 from South Carolina Criminal
17 Justice.

18 Q: And you've been working here in the Williamsburg
19 area pretty much ever since?

20 A: I have.

21 Q: You said earlier, what division do you work with in
22 the sheriff's department?

23 A: Narcotics.

24 Q: Okay and were you working on or around June 13th of
25 2014?

1 A: I was.

2 Q: Do you remember what night of the week that was?

3 A: No. I can't remember what night of the week it was.

4 Q: If I represent to you it was a Friday night, would
5 you have any reason to disagree?

6 A: No sir.

7 Q: Were you working with anyone that night?

8 A: I was.

9 Q: Who were you working with?

10 A: I was working with Investigator Scott who is sitting
11 right here.

12 Q: Seth Scott sitting right here beside me?

13 A: Yes.

14 Q: And what area of Williamsburg County were y'all
15 working?

16 A: We were in the New Zion area. That's the Cades
17 area.

18 Q: And is that Williamsburg County?

19 A: Yes sir. It's all Williamsburg County.

20 Q: Tell me what time did you start that day and well,
21 what time did you start that day?

22 A: Normally myself and Investigator Scott, we start
23 early. We probably started around twelve that
24 evening.

25 Q: Okay, twelve in the afternoon?

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1 A: In the afternoon.

2 Q: And was there a point in time where you made contact

3 with a vehicle being driven by Mr. Garrick Epps?

4 A: Yes sir.

5 Q: And this is the same Garrick Epps who's sitting here

6 at the defense table with the beard?

7 A: It is.

8 Q: Tell me about what time was this contact made?

9 A: Contact was made around 10:43 at night.

10 Q: 10:43 at night?

11 A: Yes sir.

12 Q: And this is around the intersection where you

13 discussed earlier?

14 A: It was, New Zion Road.

15 Q: Tell the ladies and gentlemen of the jury please;

16 why did y'all make contact with him?

17 A: We did a --- we was patrolling the area, myself and

18 Investigator Scott. Made contact with the vehicle

19 because the tag light...which should be on, wasn't

20 on. It was out and we did a traffic stop for the

21 tag light because we couldn't read the tag on the

22 vehicle. We did the traffic stop on the vehicle.

23 Q: For me and jury, when you say tag light, which light

24 are you specifically talking about?

25 A: The light that actually illuminates your South

- 1 Carolina tag in the back of your vehicle.
- 2 Q: Okay. And that's the one that makes the letters
3 glow?
- 4 A: That's right.
- 5 Q: Okay and so that light was out that particular ...
- 6 A: It was off, yes sir.
- 7 Q: Is that a violation under South Carolina law?
- 8 A: It is a violation of the South Carolina law.
- 9 Q: And for that reason, you stopped him?
- 10 A: Yes sir.
- 11 Q: Was there any other reason that you stopped the
12 vehicle?
- 13 A: It was speeding a little bit within the fifty-five
14 zone. He did have a --- he was speeding.
- 15 Q: What kind of vehicle was it?
- 16 A: It was a gray in color Dodge Stratus.
- 17 Q: And a Dodge Stratus, is that a smaller car?
- 18 A: Smaller compact, yes.
- 19 Q: Like an Accord-type vehicle?
- 20 A: Yes.
- 21 Q: Was it a two door or a four door?
- 22 A: It was a four door.
- 23 Q: Okay and after you stopped the vehicle, did it stop
24 for you?
- 25 A: It did.

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1 Q: And you said you had Investigator Scott with you?

2 A: Yes sir.

3 Q: Tell me what y'all did next in terms of making
4 contact with the driver.

5 A: We made contact with the driver and I was the
6 initial officer that made contact on the driver's
7 side of the vehicle. I explained to him the reason
8 for the traffic stop. Protocol, I asked him for his
9 driver's license. At that time, Mr. Epps, who is
10 sitting over there, he looked at me and said Well I
11 don't have a South Carolina license. I just have a
12 I.D., which he handed me the I.D. At that time, I
13 handed the I.D. to Investigator Scott because it was
14 the two of us there so he could go and check it
15 through dispatch, but he already confirmed that it
16 was suspended. But we still have to confirm that it
17 is suspended.

18 Q: If I could stop you there just so I can make sure I
19 know the full layout of everything. You said you
20 handed it to Investigator Scott. Where was he
21 during the initial stop?

22 A: Investigator Scott was on the passenger side.

23 Q: Okay so you're on the driver's side, he's on
24 passenger side. Was Garrick Epps the driver of the
25 vehicle?

1 A: He was the only occupant. He was the driver of the
2 vehicle.

3 Q: You answered my next question. So there was no one
4 else in the vehicle?

5 A: There was no one else.

6 Q: Okay so you asked him for his license and he
7 provided you an identification?

8 A: Yes sir.

9 Q: Did he provide any explanation about why he didn't
10 provide a driver's license?

11 A: The only thing he said to me was that he was working
12 on trying to get his license back.

13 Q: Okay. When you get situations like that as a law
14 enforcement officer, what is y'all's typical, I
15 guess, next step to figure out what you need to do?

16 A: Normally, like I said, protocol, even though you
17 confirm it to be suspended, we still have to confirm
18 it through dispatch and dispatch runs it through the
19 DMV, The Department of Motor Vehicles, that held all
20 of our records and that tells if our license is
21 accurate or inaccurate. Once we relay the message
22 over to dispatch, which Investigator Scott did, then
23 they'll confirm it, if it is suspended or if it's
24 not under suspension.

25 Q: Okay and you said earlier that you gave the license

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1 to Investigator Scott. Was he the one who went back
2 to call dispatch?

3 A: He was the one that went back to the vehicle, yes
4 sir.

5 Q: What were you doing?

6 A: I was initially still talking, speaking to Mr. Epps.

7 Q: Okay, during the process of this, did dispatch relay
8 any information to you about the status of Mr. Epps
9 driving?

10 A: I relayed it, like I said, to Investigator Scott.
11 At that time, Investigator Scott, he relayed it over
12 to me that he was under suspension.

13 Q: Okay. And when someone is driving under suspension,
14 is that also a violation of the law?

15 A: It is a violation of South Carolina law.

16 Q: And what would be the typical next step that y'all
17 would take as law enforcement officers if someone is
18 driving under suspension?

19 A: When the suspension came out to being third offense,
20 normally, to be honest with you, it was more than
21 the third offense. I think it was like his ninth.
22 But at that time, when he was asked to exit the
23 vehicle and we was going to take him into custody at
24 that time.

25 Q: When you say take into custody, you were going to

1 arrest him?

2 A: Place him under arrest.

3 Q: Okay. Again, you said he was the only driver of the
4 vehicle?

5 A: Yes sir.

6 Q: So when you stopped the vehicle and you take someone
7 into custody and when there is no one else to drive
8 the vehicle, what is the standard protocol that the
9 sheriff's department takes in terms of handling that
10 vehicle?

11 A: The next step what we do when someone is apprehended
12 when they're the only occupant of that vehicle, even
13 if they're not the only occupant, if they're not the
14 owner of that vehicle or even if they have another
15 occupant in the vehicle and they're not the owner,
16 the car is still going to be towed because the owner
17 has to have the vehicle. We do an inventory of the
18 vehicle and like I said, he was the only person so
19 we was going to inventory it.

20 Q: Okay and that's before you tow a vehicle, you
21 inventory it?

22 A: Yes sir.

23 Q: And had there been a tow truck called by this point?

24 A: Yes sir. Investigator Scott had the tow truck.

25 Q: This investigator right here?

1 A: Yes sir.

2 Q: Now, tell these ladies and gentlemen of the jury
3 what an inventory search is, please.

4 A: Inventory search is mostly we document things that
5 may be of value that have to be towed with the
6 vehicle in case later on someone can't say I had a
7 diamond ring or I had this in here and it's missing.
8 So, we do a thorough search of the vehicle,
9 inventory it and document everything that we see to
10 value or may not be of value. But we document
11 everything so that our department can be safe of
12 anything that could come back and somebody say is
13 missing or taken that wasn't there.

14 Q: That's how y'all make sure that there's nothing
15 missing?

16 A: Yes sir.

17 Q: And that's to protect the sheriff's department from
18 getting sued?

19 A: Yes sir.

20 Q: Now did y'all do an inventory of this vehicle?

21 A: We did.

22 Q: And when y'all search these vehicles, do y'all look
23 in all the nooks and crannies to make sure you're
24 not missing anything?

25 A: We look, yes sir.

1 Q: Tell me, typically, where y'all are going to search
2 in a vehicle.

3 A: We start off from the outer shell and we look to see
4 if any dents because it can be towed and we have had
5 it where someone's car got damaged literally before
6 the tow and they tried to say it was damaged after
7 the tow so we do the outer shell of the vehicle.
8 Once we finish the outer shell of the vehicle, we go
9 inside and we document. A lot of people have
10 expensive radios, we look in glove boxes because
11 people keep items in the glove box. We look in the
12 trunk because people keep things in the trunk. We
13 look any and every place that valuables or
14 unvaluable things are kept. And we document.

15 Q: And that's what you did in this case?

16 A: That's what we did.

17 Q: Did y'all look in the glove box?

18 A: We did.

19 Q: And was it just you looking or was it you and
20 Investigator Scott looking?

21 A: It was myself initially started the inventory.

22 Q: And when y'all opened the glove box, did anything,
23 did you find anything of note in there?

24 A: Yes sir.

25 Q: What did you find?

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1 A: Soon as I opened the glove box, there was a purple
2 in color bag, those purple Crown Royal bag that the
3 alcohol come in. And at that time when we opened
4 the glove box, from my experience and being around
5 the substance, I smelled a strong odor of marijuana
6 scent coming from it. From the glove box itself.
7 We inventoried the bag which was the only thing in
8 the box but the registration and stuff.

9 Q: So just to be clear, the only thing in glove box was
10 the Crown Royal bag and then registration?

11 A: Registration and the brochure of the car. Telling
12 you about that car. That was in there.

13 Q: Okay so did you take the Crown Royal bag out and
14 look in it?

15 A: We did.

16 Q: Tell me what you found in that Crown Royal bag.

17 A: As soon as we opened the bag there was numerous
18 individual bags of marijuana. Once I took the bag
19 and emptied the bag out, there came nine bags of
20 cocaine base and there was four individual bags of
21 crack cocaine. And all of them was in smaller
22 ziploc, those smaller like those big ziploc that you
23 put food in them. It's just the real small ones.
24 They all was in there individual own pack.

25 Q: Now if I could pause you there because you said nine

1 individual bags. Did you say cocaine base or was it
2 the nine bags? What was it?

3 A: It was cocaine.

4 Q: Okay not cocaine base?

5 A: Not cocaine base.

6 Q: At this point, did you know for sure that it was
7 cocaine?

8 A: From my experience, yes I did but I still did a
9 field test on it.

10 Q: Okay and then there were four bags of cocaine base,
11 crack cocaine?

12 A: Crack cocaine, yes.

13 Q: Okay so you said you did a field test on them.

14 A: I did.

15 Q: What is a field test?

16 A: A field test is just in short that officer which is
17 testing it is believed to be. It gives you a
18 positive reaction that's saying yes or no that this
19 is not what you expect it to be. I did a field test
20 of the crack cocaine and the cocaine and normally
21 when you test it with our test kit, it's going to
22 turn blue, which when I tested it, it turned blue,
23 both of them.

24 Q: Now y'all still sent it off for official testing,
25 correct?

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1 A: We still, yeah, that's just protocol. We do it but
2 we still send it off to a specialist and let the
3 analysis determine that.

4 Q: And so at this juncture, you had what you believe,
5 enough to arrest him for cocaine and the crack
6 cocaine?

7 A: Yes, sir.

8 Q: And as well as the DUS?

9 A: And the DUS, yes, sir.

10 Q: Did y'all take him under arrest at that point?

11 A: Yes sir.

12 Q: And did y'all have the vehicle towed?

13 A: It was towed.

14 Q: And what did you do with the cocaine and the crack
15 cocaine that you found - what did you do once you
16 got back to the sheriff's department?

17 A: Protocol when we seize or find items of that nature,
18 we turn it into our evidence where they can send it
19 to the analysis so their expertise can have it also
20 and make a possible I.D. And I turned it into our
21 evidence custodian and had it sent off.

22 Q: Did you also search Mr. Epps?

23 A: Can you say that again, I didn't hear you.

24 Q: Did you also search Mr. Epps following ...

25 A: We did.

1 Q: Did you find anything else of note on him?

2 A: No, the only thing that was seized was the \$292.00.

3 Q: So there was money on him?

4 A: There was.

5 Q: And can you recall what the denominations were that
6 were broken down?

7 A: Literally, I think it was in hundreds, twenties,
8 tens, and fives.

9 Q: Okay and it was a total of \$292?

10 A: \$292. And I think it was \$2 or something like that.

11 Q: Okay. This all happened in Williamsburg County?

12 A: It all happened in Williamsburg County.

13 Q: And the individual seated, the defendant, Mr.
14 Garrick Epps, he was the one who was driving the
15 vehicle that night?

16 A: Yes sir.

17 Q: He was the same individual who had \$292 on him?

18 A: Yes sir.

19 Q: And had the cocaine and the crack cocaine divided
20 into nine bags of cocaine and four bags of crack
21 cocaine?

22 A: Yes sir.

23 Q: And it was in his glove box?

24 A: It was.

25 Mr. Brown: Please answer any of Mr. Carraway's

1 questions.

2 MR. WATSON - CROSS EXAMINATION BY MR. CARRAWAY:

3 Q: Alright you told me what he said about the driver's
4 license. I think you asked him for his driver's
5 license, right?

6 A: I did, yes sir.

7 Q: Okay and you told us what he said then. What did he
8 say then?

9 A: He said he didn't have a driver's license. He was
10 in the process of trying to get it back.

11 Q: Okay. And but you didn't tell me what he told you
12 about these drugs...

13 Mr. Brown: Your Honor, may we approach briefly?

14 (Attorneys approach bench without court reporter)

15 Mr. Carraway: Court's indulgence.

16 Q: Now, he didn't give you any trouble out there did
17 he?

18 A: No, sir. He didn't give me any trouble at all.

19 Q: Okay, and he didn't say anything when he pulled
20 right over is that right?

21 A: Yes, sir, he did.

22 Q: Pulled right over. And a lot of places you can hide
23 things in a car, isn't that right?

24 A: You can.

25 Q: Yeah, a lot of places. That's not hiding anything

1 in a glove compartment is it?

2 A: I wouldn't - I can't answer that because certain may
3 call that a hiding spot and certain people may not
4 call that a hiding spot.

5 Q: Okay. But that's the first place you went to isn't
6 it?

7 A: No, sir, we didn't initially start off at the glove
8 box. We started on the outside.

9 Q: Well when you got in the car?

10 A: When we got in the car, we looked in the seats,
11 under the seats before we hit the glove box.

12 Q: That would actually be the last place you would
13 look.

14 A: The glove box?

15 Q: Yes.

16 A: No, sir. The last place that we looked in at that
17 present time was the trunk.

18 Q: Okay but I'm talking about inside the car. That's
19 about the last place you'd look, isn't it?

20 A: I wouldn't say that. Every officer operates
21 differently.

22 Q: But, you said, that's not where you went to first.

23 A: No, I started on the outside of the perimeter.

24 Q: But you said when you went into the car, you went
25 under the seat.

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1 A: I looked in the seat and I looked in the glove box.

2 Q: And you looked under the seats and all of that,
3 right?

4 A: Yes.

5 Q: Okay. Didn't find anything anywhere else? That's
6 the only place you found was in this Crown Royal
7 bag?

8 A: Yes, sir.

9 Q: Is that right?

10 A: Yes sir.

11 Q: Okay. Was he nice and polite to you when you talked
12 to him?

13 A: He was, he was.

14 Q: Okay. And had he been fishing that day?

15 A: Well that's what he claimed, he was fishing, yes
16 sir. He claimed. I can't literally say he wasn't
17 because I wasn't at the pond with him but that's
18 what he claimed.

19 Q: He actually showed you some fish, didn't he?

20 A: He had some fish in the car, yes.

21 Q: He had them in a bucket, right?

22 A: Yes sir, it was in a bucket, yes, sir.

23 Q: Okay. Why when I ask you if he'd been fishing,
24 why'd you act like well I'm not sure whether if he
25 had or not?

- 1 A: Well, I can't tell you exactly when he went fishing
2 that day. The fish could've been in there all day.
3 I don't want to say he just got done fishing but
4 yeah had a fish --- he had some fish in a bucket.
- 5 Q: He had a rod and reel, didn't he?
- 6 A: He had a rod and reel in there.
- 7 Q: This was nighttime, wasn't it?
- 8 A: It was around 10:43 that night, yes, sir.
- 9 Q: Okay. How light was it at this time of year? How
10 light did it stay, what time of year was this? Did
11 it get dark late at this time of year or what?
- 12 A: It was daylight savings time so it was around June,
13 June, yeah June so the days were a little longer.
- 14 Q: And you said what time did this happen?
- 15 A: 10:43.
- 16 Q: What time do you have there that it happened?
- 17 A: 22:13.
- 18 Q: And what time is that?
- 19 A: That's military time. That's 10:43 am. As you can
20 see as you're coming out of the --- it's 10:13. I'm
21 sorry. 10:13.
- 22 Q: So it's not 10:43. It's 10:13.
- 23 A: 10:13. That was my mistake, yes, sir.
- 24 Q: Okay. Didn't y'all talk about the fish. You asked
25 him about it?

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1 A: Well, yeah it was a conversation that he struck up,
2 yes, sir.

3 Q: Okay. And actually y'all were there for a while
4 because I think the records department - y'all - no
5 matter what he tells you, y'all have got to run a
6 record check?

7 A: We have to, that's right.

8 Q: Is that right?

9 A: Yes sir.

10 Q: And there was a delay here - y'all stayed there
11 about half hour with him, didn't you?

12 A: It was, dispatch was running slow that night.

13 Q: Dispatch was running slow. Wasn't their fault but
14 they were getting information from Columbia and
15 Columbia was slow. Is that right or something like
16 that. But, anyway, you were not able to get his
17 record and you were there for about a half hour with
18 him, isn't that right?

19 Mr. Brown: I object to the narrative of the
20 question, Your Honor.

21 The Court: It's been asked and answered.

22 Q: But you were there for about a half hour with him
23 weren't you?

24 A: We were there for a while.

25 Q: Okay. What does this time mean right here?

1 A: That's the closing time. And that's 11:44 and
2 military time is 23:44.

3 Q: So, y'all were out there that long?

4 A: No, that's the actual closing time of when the case
5 was completed. Closing when you're at the jail and
6 all that.

7 Q: That's at the jail?

8 A: Yes, sir.

9 Q: But y'all were out there for about a half hour
10 waiting on the ...

11 A: We were out there waiting on the record, yes sir.

12 Q: Okay. And, he, of course, didn't want you to tow
13 the car. He wanted his girlfriend to come get it
14 and all of that. He called her?

15 A: Yes, he wanted that to happen.

16 Q: Okay. But y'all can't --- if she'd gotten there,
17 what could you have done?

18 A: Nothing. We can release --- we could release his
19 fish over to her or his canes, but our department is
20 not going to release a vehicle if it's not the owner
21 because if his girlfriend would have taken that car
22 and go down the road and wreck it, it would've come
23 back after me and my department. So it would have
24 to be the owner if we released the car and that's,
25 if, the car is released.

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35

- 1 Q: Okay. But she never got there, is that right?
- 2 A: She got there right after I think it was --- I think
3 the wrecker was there when she did arrive.
- 4 Q: Okay. But the car actually didn't belong to her.
5 It belonged to her mother or ...
- 6 A: Yes, sir.
- 7 Q: Is that, right?
- 8 A: Yes, sir.
- 9 Q: Okay. So he was driving his girlfriend's, a car
10 when it was actually in his girlfriend's mother's
11 name?
- 12 A: It was, yeah.
- 13 Q: In her mother's name so you couldn't have released
14 it to anybody but her mother?
- 15 A: That's right.
- 16 Q: Is that right?
- 17 A: Yes, sir.
- 18 Q: And his tail lights and all were on, were they not?
19 The tail lights were working, the signal lights,
20 it's just the light over the license plate that was
21 out.
- 22 A: The illumination of the tag, yes, sir.
- 23 Q: Okay, but, everything else was working fine but that
24 one thing?
- 25 A: Yes, sir.

1 Q: Is that right?

2 A: Yes, sir.

3 Q: And I think you may have said that he was driving a
4 little fast?

5 A: Yeah, he was.

6 Q: And he told you he was late getting home?

7 A: He was.

8 Q: That's what he told you?

9 A: Yes, sir, that's what he told me.

10 Q: You didn't find any drugs on him?

11 A: No, not on him.

12 Q: On his person?

13 A: Not on his person.

14 Q: Not on his person. He had some carpeting tools in
15 the car too, didn't he?

16 A: He did sir.

17 Q: What all did he have?

18 A: I really can't tell ...

19 Q: Okay, but y'all took those out right?

20 Mr. Brown: Objection. Relevance, Your Honor?

21 The Court: How's that relevant in this case.

22 Mr. Carraway: Okay. Question withdrawn. I don't
23 have any further questions, thank you.

24 The Court: Do you have any further questions?

25 **MR. WATSON - REDIRECT EXAMINATION BY MR. BROWN:**

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1 Q: Just to clarify. I got lost a little bit. The
2 actual stop actually took place 22:13 which is 10:13
3 at night?

4 A: It was at 22:13. That's 10:13.

5 Q: And the case was closed at 23:44, so 11:44?

6 A: 11:44, yes sir.

7 Q: And that was after being completely booked in and
8 everything?

9 A: Yes sir.

10 Q: And this is all twenty minutes away from the jail
11 where you made the stop?

12 A: Yes, sir.

13 Q: And y'all have to inventory the vehicle. About how
14 long does that take?

15 A: Depending on --- I really wouldn't say a time value
16 because depending on what the person may have in the
17 vehicle but normally if it's nothing really in it,
18 probably, in and out, probably ten minutes.

19 Q: And how long did you have to wait for the tow truck?

20 A: We waited probably about --- it was probably like
21 thirty-five minutes if I'm not --- That's an
22 estimate also that I'm giving you.

23 Q: So and how long does it take to book someone in?

24 A: They can book someone in probably if they get them
25 in within five minutes they can have them.

1 Q: So y'all had him on the side of the road
2 investigating, what, about thirty minutes total?

3 A: Yes sir.

4 Q: And that includes the inventory of the vehicle?

5 A: Yes sir.

6 Q: And at 10:13 at night, was it already pretty dark
7 out?

8 A: It was dark.

9 Mr. Brown: That's all. No further questions.

10 The Court: You may step down. You may call your
11 next witness.

12 Mr. Brown: Yes, Your Honor, may it please The Court?
13 The State will call Ms. Barbara Proctor from Williamsburg
14 County Sheriff's Department.

15 Clerk: Place your left hand on the Bible and raise
16 your right hand. Do you solemnly swear or affirm that
17 the testimony that you are about to give will be the
18 truth, the whole truth, and nothing but the truth, so
19 help you God?

20 Ms. Proctor: I do.

21 Clerk: Okay, you can have a seat.

22 Mr. Brown: May it please the Court?

23 The Court: Yes, sir

24 **MS. PROCTOR - EXAMINATION BY MR. BROWN:**

25 Q: Ms. Proctor, for these ladies and gentlemen of the

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1 jury, will you please let them know your name, and I
2 put you down as Investigator but your official rank
3 over at the Williamsburg County Sheriff's
4 Department.

5 A: I'm Barbara Proctor and I'm the evidence coordinator
6 at the Williamsburg County Sheriff's Department.

7 Q: Should I call you Ms. Proctor or Coordinator
8 Proctor?

9 A: Ms. Proctor.

10 Q: Ms. Proctor? Ms. Proctor, how long have you been
11 with the Williamsburg County Sheriff's Department?

12 A: Almost a year.

13 Q: And prior to that, where did you work?

14 A: I worked at Clarendon County Magistrate's Office and
15 Clarendon County Sheriff's Office.

16 Q: Okay and did you work evidence over in Clarendon
17 County Sheriff's Department as well?

18 A: Seven years.

19 Q: Okay for these ladies and gentlemen of the jury,
20 will you please kind of let them know what your job
21 is as the evidence custodian?

22 A: I have to have the care, custody and control of any
23 and all evidence that the officers may collect while
24 they're out on patrol or during an investigation.
25 My job is to hang on to that evidence, carry it

1 where it needs to go, pick it up and bring it back,
2 keep it, bring it to Court.

3 Q: Specifically dealing with drug cases, can you please
4 let them know --- let the jury know --- what the, I
5 guess how drugs are brought to you and what the
6 protocol is in terms of you collecting that and what
7 you do from there.

8 A: The drugs are placed in what we call a Best Kit and
9 I don't have one with me, but it comes with a clear
10 envelope and you seal it and it has all kinds of
11 paperwork with it that you can allow to describe
12 what you found so that you know what you have. Once
13 I get it, I keep it and I make a trip to Sumter and
14 carry all Best Kits at one time. I drop them off at
15 the chemists there to test them and when they're
16 ready, I go back and pick them up and then I keep
17 them in the evidence room until court.

18 Q: When you talk about chemist, you're talking about
19 Joe Powell here?

20 A: That's correct.

21 Q: Now were you the person who was in charge of
22 transporting these narcotics back in June of 2014?

23 A: At that particular time, the evidence room was still
24 under Captain Timmons. I was with him already in
25 there and the two of us, he actually signed off on

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1 delivering them but I was with him.

2 Mr. Brown: Permission to approach Your Honor. I'm
3 going to approach with State's number one. Permission to
4 approach?

5 The Court: Yes sir.

6 Q: Earlier on, you mentioned a Best Kit. Can you
7 identify this as a Best Kit?

8 A: That's one.

9 Q: And please tell us again, what is the purpose of
10 those?

11 A: To start with, it's to give the officer a safe place
12 to put it so that it is sealed. It's just what is
13 used to make a delivery and I'm sure Mr. Powell can
14 explain a Best Kit a little better than I can. He
15 seals it back in this. The inside is what the
16 officer seals it in and then Joe seals it back in
17 this.

18 Q: And for the record, I'm showing State's number one.
19 How do y'all seal the inside package?

20 A: It has a little tape that you peel off and press it
21 together and it has to be pretty much cut.

22 Q: And do y'all do anything to signify when y'all seal
23 it to make sure that seal is not broken before it's
24 taken to Joe Powell or somebody with SLED or whoever
25 the case may be?

1 A: Yeah, whoever seals it in this case. It was Watson,
2 you have to sign it and date it. That kind of
3 stuff. Once he seals it, if the seal is broken for
4 any reason, then I'm pretty sure Joe's not going to
5 take it. He would testify that the seal was in tact
6 when he got it.

7 Q: After these drugs were taken in and you were the
8 one, it was actually Captain Timmons who transported
9 it but you rode with him that day?

10 A: I was with him.

11 Q: And y'all dropped it off at Joe Powell's. Where is
12 Joe Powell located?

13 A: At the Sumter County Sheriff's Office.

14 Q: Does he test the drugs for the Williamsburg County
15 Sheriff's Department?

16 A: He does as of this date. This was the first batch
17 that we carried on 6/24.

18 Q: And he's been testing them ever since for us?

19 A: Right.

20 Q: After the drugs are tested, who picks them up and
21 brings them back?

22 A: I went on July 14th and brought them back to the
23 sheriff's office and that's where they ...

24 Q: Since that time, it has been your job to maintain
25 those and make sure no one's messed with them or

1 anything?

2 A: That's correct.

3 Q: You have indicators on that package right there to
4 indicate those were the same drugs that you drove to
5 Joe Powell and the same drugs that you picked up
6 from Joe Powell and drove back and maintained since
7 today's date?

8 A: Right. We have a control number that's on here and
9 we have the list of control numbers where they're
10 dropped off.

11 Q: Can you testify clearly today that those drugs have
12 not been tampered with in any way since you picked
13 them up from Joe Powell and that they were not
14 tampered with in any way before they were dropped
15 off with Joe Powell?

16 A: That's correct.

17 Q: Alright, and you're with Williamsburg County
18 Sheriff's Department?

19 A: I am.

20 Q: And you're the one who brought them to the court
21 room today?

22 A: That's correct.

23 Mr. Brown: Please answer any of Mr. Carraway's
24 questions.

25 Mr. Carraway: I don't have any questions.

1 The Court: Okay, please step down.

2 Mr. Brown: At this time, The State calls Joe Powell.

3 Clerk: Place your left hand on the Bible and raise
4 your right hand. Do you solemnly swear and affirm that
5 the testimony you are about to give will be the truth,
6 the whole truth, and nothing but the truth so help you
7 God?

8 Mr. Powell: Yes I do.

9 Clerk: You may take your seat.

10 Mr. Powell: Thank you.

11 Mr. Brown: May it please The Court, Your Honor?

12 The Court: Yes.

13 **MR. POWELL - EXAMINATION BY MR. BROWN:**

14 Q: Mr. Powell for these ladies and gentlemen of the
15 jury, will you, the same question you've heard me
16 ask everybody else - will you please let them know
17 who you are, where you work, and what your rank is?
18 Please spell your last name for the court reporter.

19 A: Yes my name is Joseph Powell P-O-W-E-L-L. I'm
20 currently employed at the Sumter County Sheriff's
21 Office as a Forensic Chemist. I've been working
22 there approximately four years.

23 Q: Prior to working with Sumter County Sheriff's
24 Department, where did you work?

25 A: Originally I came to work at the South Carolina Law

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1 Enforcement Division, known as SLED. I started out
2 in the drug area, the drug chemistry area and after
3 ten years, we developed the trace evidence, where I
4 moved into the supervisor's area. I continued to
5 work there through my career for 27 years and
6 retired. I was enjoying the life of retirement with
7 my wife and grandchildren. My wife thought it might
8 be good if I found a job so Sumter County had an
9 opening and I took and I've been employed there
10 since.

11 Q: So you work for Sheriff Anthony Dennis now?

12 A: That is correct.

13 Q: Now so you worked for SLED for how long? 37 years?

14 Is that right?

15 A: 27 years.

16 Q: 27? My apologies. Please let these jurors kind of
17 know a little bit about yourself and how you
18 actually got into a job like that. Let them know
19 what kind of education and background you have
20 please.

21 A: Originally, I went to school at University of
22 Southern Mississippi, working on my bachelor of
23 science degree in chemistry. After receiving that
24 as well as a minor in computer science, I came to
25 South Carolina to continue my studies in the area of

1 chemistry. However, as I was studying for my
2 advanced degree, we had a issue in my family that I
3 had to go and take care of and so I had to just stop
4 and take care of that issue. The job opening at
5 SLED became available and I went and was hired by,
6 at that time, the person over SLED was JP Strom. I
7 was hired and working for the department where I
8 went through an extensive in-house training program
9 in the area of drug analysis and how to be able to
10 operate the instruments necessary to accomplish
11 those tasks. After completing my training, I then
12 took on a case load of ten counties where I was
13 involved in analysis from those counties.

14 Williamsburg County was actually one of those
15 counties. And I continued working in those cases
16 from those counties up until I actually moved into
17 the trace evidence department. After I moved to
18 trace evidence, I became involved with other types
19 of analysis and came to court and testified to those
20 results, both for drugs as well as trace evidence
21 until I retired.

22 Q: And you said you have come to court and testified.
23 How many times have you testified in court to
24 today's date?

25 A: I've probably testified total over 600 times. Of

1 which in the drug area 330 times.

2 Q: And have you ever been qualified as an expert in
3 drug analysis?

4 A: Yes, sir. I've been qualified in Federal, State,
5 local and Magistrate level.

6 Q: Do you know approximately how many times?

7 A: Well, it would be split among those 330.

8 Q: Have you ever not been qualified as an expert in
9 drug analysis?

10 A: No, sir, I've always been qualified every time I've
11 been asked to testify in a drug case.

12 Q: Your Honor, at this time, I'd offer Joe Powell as an
13 expert in drug analysis.

14 The Court: Okay.

15 Mr. Carraway: Without objections.

16 The Court: The Court so finds him as an expert in
17 drug analysis.

18 (State's Exhibit Number One for I.D.)

19 Mr. Brown: Permission to approach with State's
20 number 1?

21 Q: And this is for I.D. only right now but do you
22 recognize this package right here?

23 A: Yes sir. It's a sealed pouch, which bears my
24 initials and the date that I sealed it. Contained
25 within is a plastic container, which we call a Best

1 Kit. When I was at SLED, I helped design these
2 kits. They're actually called a Best Evidence
3 Storage System. What it has in here is the items of
4 evidence, drugs that were submitted. The interior
5 plastic has also been sealed and has my initials and
6 date on it also.

7 Q: And so based on seeing your initials on there, do
8 they seem to be modified in any way or distorted?

9 A: No sir. Everything is in the same condition it was
10 when I sealed it.

11 Q: And does that mean anything significant to you?

12 A: That means that everything that I analyze and place
13 back inside here is still here. Nothing has been
14 tampered with or changed.

15 Q: Okay, so those are the same ones that you tested?
16 The same drugs?

17 A: Yes sir, that's correct.

18 Mr. Brown: Your Honor, at this time, I would offer
19 State's number one into evidence.

20 The Court: What says the defense?

21 Mr. Carraway: Without objection.

22 **(State's Exhibit Number One was marked)**

23 Q: Can you open that package up, please?

24 A: Yes sir.

25 Q: And it has not been opened before today's date,

1 correct?

2 A: That's correct.

3 Q: So you're opening it the first time it in front of
4 the jury?

5 A: Yes, sir.

6 Q: Since you tested it.

7 A: I'm opening it. This is the first time it's been
8 opened since I sealed it.

9 Q: Do you need some scissors. We might have some up
10 here.

11 A: Scissors would be wonderful.

12 Q: How about a letter opener?

13 A: We'll try it.

14 Mr. Brown: Permission to approach, Your Honor?

15 Q: What is contained in that package?

16 A: What's inside the sealed container is going to be
17 the other sealed container which is the actual Best
18 Kit package. As you can see, it bears my initials
19 and it also has within it two plastic bags which
20 contains the powder and also the crack or the base
21 cocaine that was analyzed in this case.

22 Q: Can I see that, please.

23 A: Yes, sir.

24 Q: Okay so you have - I'm sorry, explain that to me
25 again. You have one bag right here that has the

1 crack rock and this one has the powder?

2 A: Yes, sir. It's all combined together in two
3 separate ziploc bags.

4 Q: And what are these other packages or bags that you
5 see inside of here?

6 A: Those would've been the original containers that
7 contained the material when I received them.

8 Q: Okay, when you received them, how was it packaged?

9 A: It was originally within this. It had been sealed
10 with this green envelope. I did not open the
11 envelope from the seal side. I opened it up from
12 the bottom side. I removed the contents. Inside of
13 here there was going to be, there was ten plastic
14 bags containing some white powder and there was four
15 plastic bags containing some hard material that was
16 off-white material.

17 Q: And that was how Ms. Proctor and Captain Timmons
18 brought it to you?

19 A: That is correct.

20 Q: And that's Captain Timmons right there on the top of
21 the steps, correct?

22 A: Yes, sir.

23 Q: Okay, after you receive it, what's y'all's protocol
24 on how you test these substances?

25 A: First thing that I will do is I will take and do an

1 inventory of the evidence. I want to find out what
2 is there. So I counted the number of bags. I made
3 a note of those counts and then took and since I had
4 multiple bags, I needed to test each bag to see if
5 they're the same material. So then ten bags that
6 had the white material, I tested all ten of those
7 before combining them together to be able to get a
8 weight. Once I had accomplished getting the weight,
9 I then took and ran the material on an instrument
10 that allowed me to get a fingerprint, a molecular
11 fingerprint of what it's made of, what the material
12 may be. I did the same process with the hard
13 material, the off-white material. I tested those
14 four bags, determined they were all the same,
15 combined them together to get a weight and also ran
16 the analysis on it.

17 Q: Now, when you say fingerprint, you're not talking
18 about like I might leave if I touch the table like
19 that. What do you mean by molecular fingerprint?

20 A: A molecular fingerprint is going to be the
21 identification of chemicals based upon their
22 structure. What this allows you to do it actually
23 break these molecules down and the way they break is
24 unique to molecule. So if I'm looking at a molecule
25 of one type of material, it's going to have a unique

1 pattern compared to something else.

2 Q: When you first received these packages, was it nine
3 or ten individual bags of cocaine?

4 A: I counted ten individual containers with white
5 powder.

6 Q: Okay, and they all appear to be the same approximate
7 weight?

8 A: The appearance was about the same, yes, sir.

9 Q: Okay, and how many bags of crack cocaine did you
10 find?

11 A: I found four bags which contained the off-white
12 material.

13 Q: And did they also appear to be pretty equally
14 divided up in terms of their weight?

15 A: Approximately, yes, sir.

16 Q: And when you tested these, starting off each
17 individually, the ten bags of cocaine and the four
18 bags of crack cocaine, did they actually test
19 positive on this molecular fingerprint that you
20 discussed as cocaine and crack cocaine?

21 A: Yes sir, both the cocaine hydrochloride and the
22 cocaine base or the cocaine crack, either way you
23 want to describe it, tested out as being cocaine.
24 There were just two different forms. The cocaine
25 hydrochloride is a form you would normally get that

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1 is shipped over from another country. You take off
2 the hydrochloric acid it become what's known as the
3 base so we have both types there.

4 Q: Okay, and when you said take off, that's what people
5 talk about cooking crack cocaine, things of that
6 nature?

7 A: Yes sir. You add a base to it and shook off the ACL
8 off of it.

9 Q: Did you prepare a drug analysis based on your
10 findings in this particular case?

11 A: Yes, sir, I did.

12 Q: And you've already testified that each one of the
13 ten bags tested positive for cocaine and the four
14 bags tested positive for crack cocaine. Did you
15 find official microscopic weights of these
16 particular substances?

17 A: I have a total weight of cumulative of each one of
18 the types of cocaine.

19 Q: Okay. We'll start out with the powdered cocaine.

20 A: Yes sir. The powdered cocaine, the total weight of
21 1.66 grams and that is, of course, a scheduled 2
22 drug.

23 Q: Okay. And with the crack cocaine, did you test that
24 one as well?

25 A: I did.

1 Q: And how much did it weigh out?

2 A: 0.71 grams.

3 Q: Okay. 0.71 grams?

4 A: That's correct.

5 Q: So there was a total of a little over two grams of
6 cocaine in that car but .71 grams were crack?

7 A: That's correct.

8 Q: Okay. Now you weren't present at that car that day
9 correct?

10 A: No, sir, I was not.

11 Q: Do you have any independent knowledge about anything
12 that happened there other than just testing the
13 drugs that were brought to you?

14 A: Other than the information that was provided as far
15 as log issues and stuff, I know nothing about this
16 case at all.

17 Q: Okay, and after you finished testing those and after
18 you finished repackaging it, did you do anything
19 else other than repackaging it and sending it back
20 to the Williamsburg County Sheriff's Department?

21 A: Once I had placed the material back into the bags, I
22 sealed it. I then placed it inside of this envelope
23 where I sealed it and I returned it until I turned
24 it over to Ms. Proctor when she came I gave it to
25 her and I did not see it until this time today.

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1 Q: Alright. By the way, is this package now currently
2 sealed where no one can get any of this on their
3 hands if they touch the packaging?

4 A: It's properly sealed also...

5 Mr. Brown: Your Honor, at this time, I would like to
6 publish this to the jury and let them pass it around.

7 The Court: Okay.

8 Q: And you came here today from Sumter County to
9 testify?

10 A: Yes, sir I did.

11 Mr. Brown: Court's indulgence.

12 Q: In your training and dealing with narcotics, do you
13 ever go out onto the streets and I guess --- are you
14 trained to know the street value of drugs?

15 A: No sir. The street value of drugs is something ---
16 it all depends on --- I've seen cocaine and other
17 drugs go up and down through my entire career.

18 Q: Okay. So, you would not be able to give me accurate
19 testimony on that?

20 A: No, sir, I would not want to render an opinion. It
21 has value the moment it's purchased and that's all I
22 can tell you.

23 Q: Okay.

24 Mr. Brown: Please answer any questions Mr. Carraway
25 may have.

1 Mr. Carraway: I have no questions.

2 The Court: Okay. You may step down.

3 Mr. Powell: Thank you sir.

4 Mr. Brown: I'm going to let the jury finish looking
5 at that before I call my next witness. Your Honor, for
6 the last witness, we'll call Investigator Seth Scott with
7 the Williamsburg County Sheriff's Department.

8 Clerk: Place your left hand on the Bible and raise
9 your right hand. Do you solemnly swear and affirm that
10 you are about to give will be the truth, the whole truth,
11 and nothing but the truth so help you God?

12 Mr. Scott: Yes ma'am.

13 Clerk: Alright take your seat in the witness box.

14 Mr. Brown: May it please the Court, Your Honor?

15 The Court: Yes, sir.

16 **MR. SETH SCOTT - EXAMINATION BY MR. BROWN:**

17 Q: Investigator Scott, same question I've started
18 everybody else with, will you please let these
19 ladies and gentlemen of the jury know who you are,
20 what your rank it, where you work, for our court
21 reporter, please spell your last name.

22 A: My name is Seth Scott S-C-O-T-T. I work with
23 Williamsburg County Sheriff's Office as an
24 investigator. I've been in law enforcement for
25 about ten years.

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1 Q: Were you trained in the South Carolina Law
2 Enforcement Academy?

3 A: I was.

4 Q: And you've been with the Williamsburg County
5 Sheriff's Department these ten years or have you
6 worked elsewhere as well?

7 A: I've worked in other departments.

8 Q: Have you always worked in the Williamsburg County
9 region or did you work outside of the...

10 A: I worked outside of the region as well.

11 Q: Okay. Where were you born and raised?

12 A: I was born in Augusta, Georgia and I was raised in
13 Aiken, South Carolina.

14 Q: Aiken, South Carolina? And when did you move up
15 here to the Williamsburg region?

16 A: I don't live in Williamsburg County.

17 Q: Okay, how about this particular area? The Pee Dee
18 region?

19 A: About twenty-six years ago, something like that.

20 Q: Now Investigator Scott, you are a narcotics
21 investigator with the sheriff's department?

22 A: I am.

23 Q: And were you working along with Investigator Watson
24 back in June 13th, 2014?

25 A: I was.

1 Q: Okay. You were in here earlier when Investigator
2 Watson testified, correct?

3 A: I was.

4 Q: Okay and were you, what he testified to, is that an
5 accurate representation as to what you recall going
6 on that night?

7 A: It was.

8 Q: Were you present during the inventory search of the
9 vehicle?

10 A: I was.

11 Q: And were you also present when the Crown Royal bag
12 was found in the glove box?

13 A: I was.

14 Q: As has been testified by Investigator Watson as well
15 as by Joe Powell, was that an accurate
16 representation of the packaging that was received
17 that night?

18 A: It was.

19 Q: And you were present when Mr. Garrick Epps as
20 arrested, correct?

21 A: I was.

22 Q: Now as a narcotics investigator, are you involved in
23 the, I don't want to say involved in the drug trade,
24 are you involved in investigating narcotics
25 transactions in the Williamsburg area?

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1 A: I am.

2 Q: As a part of that, are you also involved in the
3 process of taking part in finding out values of
4 drugs at the current time and things of that nature?

5 A: I am.

6 Q: And you've been here as the drugs that were
7 introduced into evidence that are now in evidence.
8 Do you have the ability, just based on your
9 experience being out in the field, to tell these
10 jurors about the approximate street value of those
11 drugs?

12 A: Well, it varies like Mr. Powell said on supply and
13 demand and it also depends on who you're actually
14 dealing with at the time. You can charge somebody
15 charges one thing and charge somebody else something
16 totally different. It also depends on the narcotics
17 you're buying at the time.

18 Q: Could you give us approximate high and low estimates
19 about each one of those bags of powder cocaine
20 would've sold for on the streets? Well, they're not
21 individually packaged anymore.

22 Mr. Brown: Permission to approach?

23 The Court: Yes sir.

24 Q: Do you have any independent recollection as to how
25 they, about the size of each bag?

1 A: Vaguely. Usually when you get crack packaged in
2 bags like --- there's a little piece right there.
3 That's like about forty.

4 Q: Forty dollars worth?

5 A: Yes. Individual rock.

6 Q: Okay.

7 A: But I mean, that's just an estimate.

8 Q: About what does a gram of cocaine sell for these
9 days?

10 A: I've seen a gram of cocaine sell from anywhere from
11 \$60 to over a hundred.

12 Q: Okay so when it was testified that there was 1.7
13 grams, would that mean anywhere from 120 to over
14 \$200 worth of cocaine?

15 A: That's about right.

16 Q: And how about a gram of crack cocaine? What does
17 that sell for today?

18 A: It varies. I mean, it's hard to say. I mean, it
19 varies.

20 Q: How about you said that one rock was about \$40
21 worth? And it was individually -

22 A: About \$40 worth for a rock that size.

23 Q: And it was testified earlier by Mr. Powell that they
24 were pretty equally divided, would it be fair to say
25 that it was ...

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1 A: Depending on what the weight of one of those bags
2 was, probably about \$40 worth.

3 Q: Okay and there were four different bags of them?

4 A: Yes.

5 Mr. Brown: Okay, no further questions.

6 Mr. Carraway: I don't have any questions.

7 Mr. Brown: Your Honor, at this time, The State
8 rests.

9 The Court: Ladies and gentlemen, we're going to take
10 a ten minute break. I remind you don't discuss this case
11 and we're going to come back and finish the testimony.
12 So go to the jury room and we'll get y'all back out in
13 about ten minutes.

14 (Jury exits courtroom 11:17 a.m.)

15 The Court: Mr. Epps?

16 Mr. Epps: Yes sir?

17 The Court: How about stand up and raise your right
18 hand, sir.

19 (Mr. Epps complies)

20 The Court: Do you solemnly swear that the testimony
21 you are going to give me will be the truth, the whole
22 truth, and nothing but the truth so help you God?

23 Mr. Epps: Yes sir.

24 The Court: You can put your hand down. The State
25 has rested their case. Now you have an opportunity to

1 put up any evidence you want to or testify. You don't
2 have to testify. If you don't testify, I will instruct
3 the jury that they cannot hold that against you in any
4 way. They can't even discuss that. But you certainly
5 have a right to testify. If you do choose to testify,
6 then you're going to be subject to cross examination just
7 like any other witness. Do you understand that? You
8 have a right to remain silent and you don't have to
9 testify. It is your constitutional right to testify or
10 not to testify. In other words, your lawyer can advise
11 you as to what he thinks you should or should not do.
12 But it's your right. Do you understand that?

13 Mr. Epps: Yes sir.

14 The Court: And if you do decide to testify, then
15 you're subject to cross examination. I don't know
16 whether you've got a criminal record that qualifies, but
17 if you do they may be able to bring out some of your past
18 records if you choose to testify. Do you understand
19 that?

20 Mr. Epps: Yes sir.

21 The Court: Do you have any questions you want to ask
22 me concerning your rights?

23 Mr. Epps: I want to testify.

24 The Court: You want to testify?

25 Mr. Epps: Yeah.

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1 The Court: Okay. That's fine. You have that right.
2 But I just wanted to be sure you understood that outside
3 of the presence of the jury. So we'll take a short break
4 and come back and finish this trial.

5 (Break)/Jury in 11:37 a.m.)

6 The Court: Okay. Mr. Carraway.

7 Mr. Carraway: Defense calls Garrick Epps to the
8 stand.

9 The Court: Alright, if you'd come around Mr. Epps
10 and place your left hand on that Bible.

11 Clerk: Do you solemnly swear or affirm that you'll
12 tell the truth, the whole truth, and nothing but the
13 truth so help you God?

14 Mr. Epps: I do.

15 MR. EPPS - EXAMINATION BY MR. CARRAWAY:

16 Q: Garrick, how are you doing today?

17 A: Doing pretty fine.

18 Q: How old are you?

19 A: 44.

20 Q: Where do you live?

21 A: Lake City, South Carolina.

22 Q: Excuse me?

23 A: Lake City, South Carolina.

24 Q: You live in Lake City? Alright. Are you married?

25 A: Yes.

- 1 Q: Alright, how long have you been married?
- 2 A: Four and a half years.
- 3 Q: Four and a half years. And you're married to who?
- 4 A: Tiffany.
- 5 Q: Tiffany who?
- 6 A: McFadden-Epps.
- 7 Q: Tiffany McFadden-Epps. Alright. How long have
- 8 y'all been together?
- 9 A: Like 14 years now.
- 10 Q: Alright, how many children do you and Tiffany have
- 11 together?
- 12 A: We have two and I have a step daughter that I raised
- 13 since she was three years old.
- 14 Q: Okay and how old is she now?
- 15 A: She just turned 18.
- 16 Q: Just turned 18. What kind of work do you do?
- 17 A: I'm a certified electrician and I work security.
- 18 Q: Okay and I believe you've worked with my friend
- 19 Leroy Driggers? Is that not right?
- 20 A: Yes.
- 21 Q: And Leroy has about 10,000 mobile homes over in Lake
- 22 City and around doesn't he? Does he keep you busy?
- 23 A: Yes.
- 24 Q: Alright. Tell me what happened on this particular
- 25 night and what had you done during this particular

1 day in question here?

2 A: Basically when I'm not working, I like to fish. I
3 love to fish a lot. I go fishing like every Friday,
4 Saturday, and Sunday. That's what I like to do. I
5 fish a lot. I think like last year, maybe like
6 beginning of 2014 or whatever, I met a few other
7 guys at the fishing hole. I go fishing all the
8 time. This particular day, you know, I called a
9 couple guys and asked them what they was doing and
10 if they wanted to go fishing or whatever. My wife
11 and my sister they want to have a fish fry or
12 whatever, she had went to Georgetown to buy some
13 crabs stuff or whatever. She had ran short on money
14 to buy fish and stuff so I said, well, I'm going
15 fishing. By Friday and Saturday, I should be able
16 to catch enough so we have enough for he fish fry
17 with the crabs and stuff. So, I called a few of my
18 home boys up because they go fishing all the time..
19 I called them about 2:30, 3:00 and they said they'd
20 be waiting or whatever.

21 Q: And this was on a Friday?

22 A: Yeah on a Friday so

23 Q: Go ahead.

24 A: ... I went by, you know, Leroy Driggers they were
25 working on the trailers and stuff, all them stay

1 down there in Rembert or whatever. Barrineau, in
2 between is like Williamsburg County on that side of
3 town or whatever, I went and pick them up and my
4 fishing gear, if they had any fishing gear or
5 whatever. One of my home boys tackle box, reel and
6 all that stuff and before Levi got in the car, he
7 said, you know, like the snakes are bad and whatever
8 and I said yeah I know they bad. You got any guns
9 or anything? I said nah I ain't got no pistol or
10 anything, but anyway, Ricky said he might bring a
11 shotgun for water moccasins or whatever, you know,
12 he go fishing out there and stuff, you know, so keep
13 the snakes off and all. I ain't got one at all, you
14 know, I'm not allow to tote no firearm anyway, you
15 know, so --- and he had, I think it was a 45 or a 9
16 millimeter or something like that or whatever and he
17 said well I got my gun for snakes, you going to need
18 them because snakes and stuff are bad, you know. I
19 know he had a purple bag that you buy that have
20 liquor in it. That's what I figured was in the bag.
21 We going fishing or whatever and stop by the store
22 and got like a big bag of ice and beer or whatever
23 so when we went on the boat and we fish that day and
24 we fish until like I think around 9:00. When I
25 couldn't see I stopped, you know, it got dark and my

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1 wife call me and say I had to bring the car back to
2 her and I say for what and she had her niece and
3 nephew at the house and her sister called and wanted
4 her to bring them home so she had need the car back
5 because they going to North Carolina. So, I told
6 the guys I said, we got to wind up and go.

7 Everybody wind up, get the reels and stuff and start
8 the car up and they said man, why we got to leave so
9 early. I said because my wife called and need the
10 car and, you know, to take the niece and nephew back
11 home. They going to North Carolina so we had to put
12 everything in the car or whatever so I went back and
13 drop the guys back off and rode through the trailer
14 park, you know, what I'm saying with my girlfriend.

15 So, I hurried and got out the car and broke the
16 reels down. Sometimes, you know, the lines get
17 tangle and whatever. I had like three reels myself
18 and Rick he had like two reels and Mike he had like
19 two reels, so I got out the car to help, you know,
20 all the reels get tangle, the lines and stuff, and I
21 untangle the reels and stuff. So, I said see you
22 tomorrow, man. Be ready in the morning around nine.
23 We suppose to go fishing about nine in the morning
24 because I got to take my car back because my ole
25 lady is raising sand because my niece and nephew are

1 going back to North Carolina my sister want the
2 kids. So, I left and I was going home and the next
3 thing I know blue light. I was like ole blue light.
4 I know I ain't speeding or nothing like that. I
5 know so I, you know, pull side the road at the time,
6 you know, because I ain't trying to run or anything
7 I ain't stupid, you know, so I just went ahead, you
8 know, and pulled beside the road and sat there. It
9 was Officer Watson, he came to the car at the time
10 and said, you know, where you going, you know. He
11 said, where you going? I said I been at the lake or
12 whatever. He said, I see that, you know, you been
13 fishing. He ask me did you caught anything. I say
14 yeah, I said I caught a good bit, you know, and he
15 said okay. Just slow it down, you know, just slow
16 it down a little bit. So, he went and walk around
17 the car and the other officer got there with him and
18 he came back and he said you got your license and
19 registration and I was straight up with him. I said
20 I ain't going to lie to you, I said my license is
21 suspended and he said what your license suspended
22 for. I told him what my license was suspended for
23 and he said well, what I'm going to do is I'm going
24 to give you a break just because you honest with me,
25 I'm going to give you a break. Just cause you was

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honest me, I'm going to give you a break. I'm just going to give you a break, he said, you tell me you don't have a license I can write the Judge and tell the Judge (coughing interruption), I said, alright, I appreciate it. Hold up you can't go right now. I said, why? He said, you ain't got no license. You can call somebody to get the car though. I said, alright, I can call my wife. I get my wife to get the car or whatever. He said alright, I'm going to give you a break and go back home, you know, you didn't give me no problem and whatever and everything be alright and whatever. So, I just sit in the car and call my wife or whatever she said, well, I'm coming. So, I just sit in the car. We talked about fishing and stuff like that, fishing lines and stuff like that, you know, and normally whenever they stop you, automatically when the blue light be on the camera and everything suppose to be on. He suppose to record everything that you say and record everything that they say and it would have what he saying and have what I'm saying. We talked a while about fishing, I love to fish, so I told him I'm in the security business and we just been talking, talking and talking. Then, I think the officer, I know the officer name, but he had

1 mentioned, Officer Watson said I got to arrest you.
2 I said for what. He said, well, I got to arrest you
3 because, I think he said he had his boss or
4 something. He said I got to arrest, I know I told
5 you could go but you a habitual offender and they,
6 by law they got to lock you up anyway. I was like,
7 well, okay, you know, it ain't no problem. I called
8 my wife to come get the car. He was like yeah,
9 okay. I was like well, I really got to get ready to
10 go to work tonight or whatever, I need to go home
11 and change clothes. I got to arrest you, I know I
12 told you no, but my boss say I got to arrest you. I
13 said okay. So, he told me to step out the car or
14 whatever so I step out the car and he search me and
15 stuff like that and he said, well --- I turned my
16 back for him to handcuff me and he said no, I'm not
17 going to handcuff you backwards, I'll just handcuff
18 you front wards. So, I went and sit in the truck
19 and I was just sitting in the front seat of the
20 truck waiting on my wife to get the car. I said, I
21 got to call my supervisor and tell them I ain't
22 going to be at work tonight. The officer, right
23 there, whispered something to Watson and both of
24 them walked off for minute and, you know, and
25 started talking and stuff, you know, then Watson he

1 come to the car ... Owens truck was parked here
2 liked diagonal here where the car was and when they
3 put the light on me I had turned in the yard. Owens
4 car was parked here, I was parked right here
5 (coughing interruption)... and Wilson said, my wife
6 was getting the car and I was going to jail tonight
7 anyway he was at the car, starting searching the car
8 or whatever, the car was searched and then he got
9 around the glove box and in the glove box he came
10 back and said oh, look what I got, you know, I ain't
11 know what you talking about and he came back with
12 the bag (coughing interruption) and he said what's
13 in this Crown Royal bag. I said, I don't know, I
14 just thought it was my home boy's liquor bottle. I
15 seen he had put the bag in the glove compartment.
16 Usually when I see a purple bag, Crown Royal's in
17 it, you know, and I didn't no that he had drugs in
18 it in the car. I wouldn't have let him got in the
19 car in the first place, I would have said no man, I
20 can't get high like this, you know what I'm saying.
21 So, I thought there was Crown Royal in the bag.
22 When we got to the store and we had got a 24-case of
23 beer of whatever so I figured he got Crown Royal and
24 we fishing and drinking a little Crown or whatever,
25 you know, why we fishing. I didn't know, he came

1 back and said, oh, what's in the bag. I said I
2 don't know Crown Royal bag, like oh, no, this ain't
3 no Crown Royal liquor, that's marijuana in this bag,
4 he said I smell it. He said there ain't no way
5 that's Crown Royal liquor. I said I don't know
6 what's in the bag, the only thing I figured Crown
7 Royal liquor in the bag. He said, no, ma'am.
8 There's marijuana in the bag, you ain't smell it. I
9 said, no, I ain't smell it, you know, what I'm
10 saying. He poured it out in the seat. He like you
11 got marijuana here, you got crack, we got cocaine,
12 we got all that. I said, no, man, that ain't none
13 of mines. They ain't no need to lie to you but
14 that's not none of mines. He said, oh, you think I
15 got fool written on my forehead and he said is this
16 your stuff. He said you ain't talking to no rookie.
17 He said I been doing this here for a long time.
18 These your drugs? I said, no, man. I swear to God
19 on all four of my kids right now that ain't none of
20 mine drugs there. I'm trying to tell you that ain't
21 none of my drugs or whatever. I can I can pick up
22 the phone. I said let me call my home boy. Let me
23 call my home boy Levi. All I got to do is call him
24 and stay on the phone and let y'all listen to us. I
25 said the only thing I got to say is hey man, y'all

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1 ain't got to know, he ain't got to know y'all
2 around. All I got to do is call him on the speaker
3 phone and say hey man, you forgot and left that bag
4 in my car in my car, in my glove compartment. I say
5 I bet you he will say man turn and bring it back.
6 He had get the bag out the car and he wouldn't let
7 me make a phone call. That camera, video would have
8 my voice on it, on the phone when I'm telling the
9 man, I'll put him on the speaker phone let y'all
10 hear this ain't none of my drugs so y'all can hear
11 (coughing interruption) ... and I said well, anyway,
12 I need to use the phone, he said who you need to
13 call? I said, well, I need to call, I need to call
14 my girlfriend. He said what you mean your
15 girlfriend you just saying that or you calling your
16 wife and your wife suppose to come on so what you
17 mean you got a girlfriend. I ain't going to lie to
18 that officer right there. And he cut a little joke
19 he said so you got a side girlfriend? I said, yeah.
20 I ain't going to lie. He said that's why when you
21 wife came, I ask you to give both the cell phones,
22 you said oh, no. When I asked you do you want me to
23 give your wife both the cell phones that why you say
24 oh, no, no. You can't give my cell phone. He said,
25 you know, you had another woman. I said, I ain't

1 going to lie. I got another girl and that's why I
2 have two cell phones, you know. So, we ride on
3 down the road or whatever, and Watson let me use the
4 phone to call my other girlfriend, I ain't going to
5 lie. That was the only phone call and I was wanting
6 to call and let her know I got lock up and what had
7 happening. (Coughing interruption) ... on the
8 speaker phone or whatever and they could hear, so, I
9 said you know I was getting ready to go and she said
10 yeah ...

11 Mr. Brown: Objection. I object to the hearsay that
12 the girlfriend he might have had said on the other end of
13 the phone.

14 The Court: Objection sustained. You can't tell what
15 somebody else said.

16 A: Oh, oh. He just let me call her and I just explain
17 and she said boy, what you did and I said oh, they
18 got these drugs here. She said I say a prayer for
19 you ...

20 Mr. Brown: And again, same objection, Your Honor.

21 Mr. Carraway: You can't say what she says.

22 The Court: You can't tell what she says. You can
23 say what you did and you said.

24 A: Yeah, I just told her, you know, my home boy done
25 left some stuff in the car or whatever, you know,

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1 and she said well alright then. I say a prayer for
2 you. I hope everything come out alright. So, don't
3 lie, you know what I'm saying. My girl worrying, my
4 wife worry saying she going to come straight up to
5 the jail anyway (coughing interruption) ... but
6 someone there cut me off and when I did call home at
7 the time everything, he allowed me to make like two
8 or three phone calls that night, no sooner then when
9 I did call my wife she said they wouldn't let her
10 come see me they told what time my bond set probably
11 Sunday, Monday before they set it.

12 Q: Now, you can't tell anything that she says, you can
13 only say what you say. If this story is intended to
14 say what she is going to say back to you, you can't
15 tell that.

16 A: I just got where I call home and she said she
17 already ... all right.

18 Mr. Brown: Again. I hate to keep making the same
19 objections it's just ... Same objection.

20 The Court: He's saying what he said though.

21 Mr. Brown: I'm sorry. I thought I heard him say
22 what she said.

23 A: I told her my home boy left some stuff in the car
24 and they lock me up. She said alright.

25 Q: Now you can't tell anything that she says. You can

1 only say what you say so you can't - this story is
2 intended to tell what she's going to say back to
3 you. You can't tell that.

4 A: So, she said she already ... alright.

5 Q: Alright, but that's what happened that night?

6 A: Yeah, that's what happened that night.

7 Q: Okay.

8 Mr. Carraway: Alright, I don't have any further
9 questions. Answer anything that the solicitor may have.

10 Mr. Brown: May it please the Court, Your Honor.

11 **MR. EPPS - CROSS EXAMINATION BY MR. BROWN:**

12 Q: Mr. Epps, how are you today?

13 A: I'm good.

14 Q: You provided earlier that you were fishing with some
15 friends that particular day?

16 A: Yes.

17 Q: I just want to make sure I understand the time line.
18 You talked - I talk very fast in front of the jury.
19 It's a bad habit I have. I think you have the same
20 one so I just want to make sure that I understand
21 exactly the time line of when you picked him up and
22 everything. Where did you say you picked him up
23 from?

24 A: In the trailer park.

25 Q: And that is - where is that? Right on the

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- 1 Georgetown, Williamsburg Georgetown line or
2 something?
- 3 A: Yeah, right at the Indian store.
- 4 Q: Okay.
- 5 A: In Williamsburg County.
- 6 Q: Okay. Okay and who all did you pick up there?
- 7 A: I picked up Levi, my home boy Mike, Rick.
- 8 Q: So there's a Mike, a Rick, and a Levi?
- 9 A: Yeah.
- 10 Q: One second, let me make sure I have these notes. Is
11 that where they stay?
- 12 A: Yeah. In the trailer park, yeah.
- 13 Q: And I think you said, just correct me if I'm wrong,
14 that they stayed there with their girlfriends?
- 15 A: Yeah I know Levi, he stayed in the field in that
16 same trailer park. He stayed in the Flea Hill with
17 his girlfriend and Levi he married too, Levi is from
18 Manning. So, he had a girlfriend and he would come
19 stay from time to time.
- 20 Q: And that's where you're picking him up from was the
21 Flea Hill place?
- 22 A: Yeah.
- 23 Q: And that's where also Rick and Mike stay?
- 24 A: No, those guys they stay in Barrineau.
- 25 Q: And I think you said you picked them up around was

- 1 it 2:30, 3:00 range you said?
- 2 A: Yeah, I left to pick them up around, when I left the
- 3 house at least 4:00, 4:30 sharp. I left to go
- 4 fishing before it got too late or whatever.
- 5 Q: I got you. So when you said you picked them up in
- 6 the Flea Hill area, it was around 2:30, 3:00 I think
- 7 you said and you picked up all four of them.
- 8 A: Right.
- 9 Q: You said that Levi brought a gun?
- 10 A: Yeah he asked me did I have a gun, I said no I don't
- 11 have none.
- 12 Q: Okay and that was to look out for snakes you said?
- 13 A: Yeah.
- 14 Q: And where did he store this gun while y'all were
- 15 driving to and from?
- 16 A: He had the gun in his hand, the Crown Royal bag. I
- 17 didn't see in the Crown Royal bag, I just figured it
- 18 was liquor.
- 19 Q: Well we'll get to the Crown Royal bag in a second.
- 20 But where was he --- when he got into the car did he
- 21 put both of those into the glove box?
- 22 A: Yeah he put both in the glove box at one time.
- 23 Q: Okay and that was around 2:30, 3:00. Where did
- 24 y'all go fishing?
- 25 A: At Billy Baker.

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- 1 Q: Billy Baker? Where's that?
- 2 A: That's like --- I think like two and a half, three
- 3 miles on the other side of Roy Driggers trailer
- 4 park.
- 5 Q: Okay so just right up the road a little bit?
- 6 A: Yeah.
- 7 Q: And you live in Lake City right?
- 8 A: Yeah I always travel back roads to go there because
- 9 it seems a little quicker.
- 10 Q: I got you. And when you picked them up, you said
- 11 you went to the store and picked up beer. Did y'all
- 12 make any other stops or did y'all went straight
- 13 fishing.
- 14 A: No we went straight.
- 15 Q: What were y'all fishing for that day?
- 16 A: What were we fishing with?
- 17 Q: Well what were you fishing for?
- 18 A: I go bass fishing you know. They had been fishing
- 19 for other fish, you know, mainly when I go, I go for
- 20 bass.
- 21 Q: Y'all going for whatever would bite?
- 22 A: No when I go, I fish for bass. I have one reel that
- 23 I throw, that I free style with, you know just to
- 24 catch bass and I have two reels with a stopper on
- 25 them incase the brim biting or red breast or

1 anything like that.

2 Q: How long were y'all out there fishing that day?

3 A: We fished at least, I say til it got dark. I no I
4 fished all the way til around at least around 9
5 something. The other guys that work security they
6 was calling me earlier telling me, you know what I'm
7 saying, telling me, that work club security, we work
8 tonight, we got to go to work tonight. So, I was
9 telling them, when we stop fishing, I got home and
10 change clothes, you know what I'm saying. One of
11 y'all got to come pick me up or whatever because I
12 got to go home right quick my wife call and needs
13 the car. She got to get my niece and nephew back
14 home and her sister and they going to Charlotte or
15 whatever. They was going to so we can go ...

16 Q: Is it fair to say the answer is around 9:00 you
17 stopped fishing?

18 A: Around --- at least around 9:30. I fished until I
19 couldn't see no more.

20 Q: I got you. And when I ask these questions, I'm
21 trying to get specific answers. I want to make sure
22 to get kind of narrow in on what we're talking about
23 so when I ask if we can stay away from a narrative.
24 I'll give you a chance to explain a little bit but
25 you left around what, you got there fishing around 3

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- 1 to 3:30.
- 2 A: Around 4:00, four something.
- 3 Q: Okay you got fishing around 4:00?
- 4 A: That time of day was long at that time.
- 5 Q: I understand.
- 6 A: It don't get dark til around nine something.
- 7 Q: Okay so you were fishing from about 4:00 to about
- 8 9:00 right?
- 9 A: Yeah.
- 10 Q: Okay. After you left fishing, did the gun ever come
- 11 out that day?
- 12 A: Yeah he had the gun with him the whole while.
- 13 Q: Okay so he took it out of the glove box?
- 14 A: Yeah he had the gun with him the whole while.
- 15 Q: So he took the gun out for the fishing trip.
- 16 A: I had my machete for protection.
- 17 Q: Right.
- 18 A: He asked me to take the machete off my side.
- 19 Q: So, he took the gun out during the fishing trip?
- 20 A: Yeah he had it out the whole while.
- 21 Q: And then when y'all finished fishing around 9, 9:30
- 22 range, y'all got back in the car. Did he put it
- 23 back in the glove box at that time?
- 24 A: That's the thing I never seen him put it back in the
- 25 glove box.

1 Q: Okay. And then you drove him home, straight home
2 and dropped him off?

3 A: Yeah. I dropped him off.

4 Q: And y'all didn't make any other trips, any other
5 side trips during this entire day?

6 A: No I just left and dropped him off at home and I was
7 sort of in a rush and the officer stopped me and
8 said I was speeding.

9 Q: Did that Crown Royal bag ever come out while you
10 were out fishing that day?

11 A: No. I ain't never even saw it.

12 Q: You never even saw it?

13 A: I ain't pay no attention..

14 Q: Who is Levi Brown?

15 A: Levi Brown.

16 Q: Levi Brown. Who is Levi Brown?

17 A: Levi he was the dude I met fishing. I know Levi
18 love to fish so every time I go to the same whole,
19 he ends up at the same hole. We just kind of a
20 regular so me and him got out there when nobody be
21 out there fishing, so.

22 Q: Okay. So that's how you know him?

23 A: Yeah from down at the lake fishing, stuff like that.

24 Q: And it's your testimony here today that he is the
25 one that brought that Crown Royal bag?

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- 1 A: Yeah. Levi Brown.
- 2 Q: Why did you originally tell law enforcement that
- 3 Levi was the only one that went fishing with you
- 4 that day?
- 5 A: Play the video tape it will tell you what I said.
- 6 My homebody, I told them Levi was the one in the
- 7 front seat with the Crown Royal bag.
- 8 Q: So, if I call one of my officers they aren't going
- 9 to tell me that you only had one guy fishing with
- 10 you that day and it was Levi?
- 11 A: Play the tape. There's the evidence right there.
- 12 Q: Okay. They're also not going to tell me that you
- 13 told them that y'all were smoking reefer while you
- 14 were fishing that day?
- 15 A: I don't even get high.
- 16 Q: What's that?
- 17 A: I don't even get high or nothing.
- 18 Q: Okay.
- 19 A: I might drink my liquor but I don't get high.
- 20 Q: Okay. And also they're not going to tell me that
- 21 you told them - let me back up. When you said you
- 22 saw the blue lights, you testified that you weren't
- 23 even speeding or anything. You didn't know why you
- 24 were getting pulled over. Is that correct?
- 25 A: When he stopped me or whatever I didn't have a

1 chance to really say nothing when he stopped me, I
2 mean, he walked up to the car.

3 Q: But you were saying in your mind, you were thinking
4 I think ...

5 A: Yeah, at the time it was on my mind, I was well, I
6 wasn't speeding. I wonder why he stopped me.

7 Q: Okay.

8 A: I did say that to myself. Anytime you driving, even
9 if you ain't doing anything they can stop you.

10 Q: So my officer now won't get up here and testify if I
11 call him that you got in and said that you knew you
12 were speeding? They won't say that? You didn't
13 tell that to law enforcement?

14 A: I don't remember telling them that.

15 Q: Okay. That's fine.

16 A: I wasn't speeding.

17 Q: Well, let's go back.

18 A: That's why I say if I was speeding I never got a
19 speeding ticket. The only ticket I got was a tag
20 light out.

21 Q: And you got a warning on that right? The tag light?

22 A: I only got a warning ticket so he should have write
23 up a warning ticket if I was speeding or whatever,
24 who could have give a warning, or write me a
25 speeding ticket. He write me for a tag, if I

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- 1 speeding why not a speeding ticket.
- 2 Q: Let's go back to talking about this Crown Royal bag
- 3 a little bit. You were in the courtroom earlier
- 4 today when officers testified about the value of
- 5 that. Is it fair to say that that was around \$250-
- 6 \$300 worth of dope?
- 7 A: I ain't really know how much it is?
- 8 Q: But you were in here earlier today -
- 9 A: Yeah, but I don't know the value of it, though.
- 10 Q: Okay.
- 11 A: The only time I see it is when he dump it out in the
- 12 seat.
- 13 Q: That's the only time you saw it was when dumped it
- 14 out on the seat?
- 15 A: Yeah but he showed me, he dumped it out in the seat.
- 16 He thought it was just marijuana in the bag and he
- 17 just thought it was marijuana so he had the
- 18 marijuana ...
- 19 Q: Sir and I'm sorry ...
- 20 A: He had marijuana ...
- 21 Q: Sir. I'm sorry to keep cutting you off but I asked
- 22 a question and you're kind of going off on tangents
- 23 that have nothing to do with the questions. So
- 24 let's specifically stay with the question. Were you
- 25 in the courtroom earlier today when it was testified

1 that it was about two to \$300 worth of dope?

2 A: Oh yeah. I was in here for that.

3 Q: Okay. So my question for you is this: if Levi
4 brought this into the vehicle, and he brings \$200 to
5 \$300 worth of dope ...

6 Mr. Carraway: Objection Your Honor. Cause for
7 speculation.

8 Mr. Brown: I haven't even had a chance to finish my
9 question.

10 The Court: Finish the question.

11 Q: If he brings \$250 to \$300 worth of stuff, does it
12 make sense to you that someone would ...

13 Mr. Carraway: Objection Your Honor. Calls for
14 speculation.

15 The Court: Let him finish it and then I'll rule on
16 it.

17 Q: Does it make sense to you that someone would leave 2
18 or \$300 worth of merchandise in your vehicle that
19 particular day?

20 Mr. Carraway: Objection Your Honor. Calls for
21 speculation.

22 The Court: And I will allow the question.

23 Q: Does it?

24 A: Are you asking me that?

25 Q: I am asking you that, yes sir.

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1 A: Hey, anything is possible because he probably never
2 would have forget it if I wasn't rushing him,
3 drinking beers and stuff, you know. I drink a few
4 beers and stuff like that it's just that he probably
5 would remember to get the bag if he had get back in
6 the car. He take the gun off and put it back in the
7 glove compartment, of course, he would remember that
8 when I got in the yard but when he got in the car he
9 never took it off his side. When we got in the car,
10 whatever, he already knew where the gun was. I was
11 rushing him and rushing him and we was drinking and
12 whatever and I said I got to go, I got to get my car
13 back. So he got out. If the video camera is on my
14 car rang about seven or eight times and they
15 wouldn't let me, you know, answer my phone. I was
16 saying ...

17 Q: You were under arrest at that point, correct?

18 A: Yeah, they ...

19 Q: Sir ...

20 A: They could have ...

21 Q: So would you expect when you're under arrest to be
22 able to answer your telephone? You keep going to
23 that point. Do you actually expect they're going to
24 let you answer your telephone when you're under
25 arrest?

1 A: Yeah if they want to prove the point it wasn't my
2 drugs but they wouldn't let me know. That was the
3 man there but they wouldn't let me do it.

4 Q: Explain to me why he brought the bag in the first
5 place.

6 A: Explain to you why he brought the bag in the first
7 place.

8 Mr. Carraway: Objection Your Honor. Calls for
9 speculation.

10 A: Well, why he brought the bag in the first place ...

11 The Court: I'll allow the question.

12 A: Why he brought the bag in the first place, I don't
13 really know why he brought the bag. I know when he
14 got in the car he had a Crown Royal liquor bag, if I
15 had known drugs was in the car I wouldn't have let
16 him in the car. I figured it was Crown Royal
17 liquor. I drink liquor sometimes occasionally. He
18 didn't say I got reefer, I got drugs. If I had
19 known you can't do that man, I don't allow that.
20 Crown Royal liquor in a bag I was fine because I
21 know it was a Crown Royal bag with liquor. I never
22 seen no drugs in a Crown Royal bag.

23 Q: From 2:30 when you picked him up until 9:30 when you
24 dropped him off, at any point did y'all stop and
25 sell any of those drugs?

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1 A: No.

2 Q: From 2:30 until 9:00, 9:30 when y'all dropped him
3 back off, at any point did you take that bag out and
4 use any of those drugs?

5 A: No.

6 Q: From 2:30 until 9:30 at any juncture from the time
7 that you picked him up until the time that you
8 dropped this person who you're calling Levi Brown,
9 Levy Brown --- which one is it?

10 A: Levi.

11 Q: When you dropped Levi Brown off, at any point did he
12 ever take it out of the glove box?

13 A: I ain't never saw him take it out of the glove box
14 period.

15 Q: So explain to me ...

16 A: At the end of the day ...

17 Q: Sir, it was a yes or no.

18 The Court: One at a time.

19 Q: Yes or no. Did you ever see him take it out of the
20 glove box? Yes or no?

21 A: No.

22 Q: Okay, so explain to my why when y'all never took it
23 out of the glove box, when y'all never used it, when
24 y'all never sold any, when y'all never did anything
25 with the drugs according to you, explain to me why

1 he would take it out of the safety of his home and
2 bring it into a moving vehicle.

3 A: Why would he taken out the safety to a vehicle?

4 Q: Why would he even bring it into the car?

5 Mr. Carraway: Objection Your Honor. Calls for
6 speculation.

7 A: I ain't ... like if it was me ...

8 The Court: Overruled. Go ahead.

9 A: Like if it was me, if I had smoked weed or get high
10 or whatever, I'm going to keep mines with me. You
11 know, if I'm going to smoke weed, I'm going to keep
12 mines with me.

13 Q: But it wasn't just weed in that car was it?

14 A: If I smoke weeds, I'm not going to leave my drugs at
15 home. I just pick it up and go, you know, what I
16 mean. If I smoke dope I'm not going to have it in
17 my house put somebody else in jeopardy. I'm going
18 to answer for my own self. I'll have my own drugs.
19 I'm not putting drugs on somebody else to charge
20 on.

21 Q: But you just now said a key point "I'm not going to
22 put somebody else in jeopardy." Based on your
23 testimony, he put you in jeopardy by doing that,
24 didn't he.

25 A: Yeah, he put me in jeopardy.

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1 Q: Where's Levi today?

2 A: Like I stated. I got letters here for the Judge to
3 read. Where this dude right me. Every time this
4 dude write me a letter the correctional officer that
5 work at Williamsburg County they ...

6 Q: Sir, that's not my question.

7 A: I answering your question.

8 Q: No, you're talking about letters and I'm asking
9 where is he today.

10 A: That's what I was saying. Read the letters and it
11 will tell you where he at today.

12 Q: Where is he at today?

13 A: I can send the same letters ...

14 Q: I'll tell you what. Why don't you just tell me
15 where is he at today?

16 A: He's on the run. He live in Charleston.

17 Q: Who's he on the run from?

18 A: From what he say, he's got a charge. He got a bench
19 warrant and stuff like that.

20 Q: Where?

21 A: He claims supposed to be in Sumter County, he got a
22 bench warrant on him, he on the run. That's why I
23 was trying to tell them, like I said Levi and his
24 girlfriend they got into it and she was telling him
25 to turn himself in and tell the drugs was and he

1 said no I ain't, because I got letters where he
2 telling me ...

3 Q: Sir, you can't ...

4 A: ... that he ...

5 Q: Sir, sir ... Sir. You can't start talking about
6 what those letters said. But the question is if he
7 had warrants in Sumter and Clarendon, why when I
8 look on the public indexes does he not show up
9 anywhere?

10 A: Maybe he using a alias name or something.

11 Q: Is his named spelled Levi?

12 A: Levi Brown.

13 Q: How are we as the finders of facts supposed to know
14 whether or not you're just making this entire story
15 up, letters included?

16 A: Why would I do that. Like I said, I was out there
17 for five and a half months ...

18 Q: You can't make phone calls when you're in jail?

19 A: No. The phone calls monitored right. They record
20 the phone they hear what I say.

21 Q: But, sir ...

22 A: All that stuff is recorded, right?

23 Q: But sir, you can't sit there and tell someone who
24 visits or can't tell someone on the phone to make
25 something up for you? Is that what you're telling

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- 1 us?
- 2 A: How could I - I mean, it's possible.
- 3 Q: How are we supposed to know that Levi Brown even
- 4 exists?
- 5 A: He exists.
- 6 Q: So sir, is it your testimony here today that Levi
- 7 Brown got in your car with \$300 worth of dope, never
- 8 took it out and then leaves it in your car when he
- 9 leaves with no real reason of actually putting in
- 10 your car in the first place? Is that your testimony
- 11 here today? Yes or no?
- 12 A: All I'm saying ...
- 13 Q: Sir that's a yes or no question.
- 14 A: Maybe it wasn't in his right mind. You drink all
- 15 day you in your right mine all day?
- 16 Q: Again, my question is is it your testimony that Levi
- 17 Brown got in your car on that day, never took the
- 18 drugs out, never used them, never sold them, never
- 19 did anything with them except for put them in your
- 20 glove box and then abandoned them in your car, \$300
- 21 worth of dope. Is that your testimony here today?
- 22 A: Yeah, I didn't think he left it on purpose though.
- 23 Q: Yes - sir? Yes or no?
- 24 A: No, but I say yeah he left it in my car.
- 25 Q: Okay.

1 A: I mean, if it was mine, you know what I'm saying.
2 I'm going to throw it out the window. They ain't no
3 way I'm staying in the car if I got drugs in the
4 car. I'm going to throw it out the window. If I
5 know I have drugs in the car of whatever, I'm going
6 to throw drugs out the window if it was mines. I'm
7 not going to sit there if I know I already have a
8 drug history and I'm going to sit in the car why I
9 have drugs in the car. He was a few miles down the
10 road, I could have throw the drugs out. If it mines
11 ...

12 Q: You would have thrown them out the car then is that
13 what you said?

14 A: No, I said ...

15 Q: Sir ...

16 A: If it were mines ...

17 Q: Sir.

18 The Court: One at a time.

19 A: It if were mines ... I have a right to speak too.
20 If you speak ...

21 Q: Well, you just now said something that and I have a
22 specific question about that.

23 A: Well, if it was mines ...

24 Q: Sir I ...

25 Mr. Brown: Your Honor, I'd ask The Court ...

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1 The Court: When he asks a question, you answer. You
2 have a right ...

3 Mr. Epps: When I answer he going against ...

4 The Court: Listen, he has to ask his question first
5 and then you have a right to explain your answer. You
6 both can't talk at the same time. My court reporter
7 can't get both of you talking down okay.

8 Q: You just now talked about throwing the drugs out of
9 the car, is that correct?

10 A: I was saying ...

11 Q: Sir? Sir? Yes or no?

12 A: No I was saying if the drugs were mine, you didn't
13 understand what I said... if I was driving down the
14 road if these drugs my drugs I wouldn't even have
15 them in the glove box, if they were mines I'd have
16 them in my lap so I could throw them as soon as he
17 blue light me. You think I'm going to ...

18 Q: You would have them in your lap?

19 A: If I was riding and trafficking drugs it would be
20 somewhere where I can get to it so I could throw
21 them out and not catch me with them.

22 Q: Didn't you testify ...

23 A: If the drugs or mines and they put the blue light on
24 me ... he say oh something ain't right. I see him
25 move around in the car. You know what I'm saying.

1 What you looking in the glove box for, you know what
2 I'm saying. What man going to have drugs in this
3 car ...

4 Q: So you're telling us you don't think cops would see
5 you throwing it out of the window as well?

6 A: I'm saying if it was mines I would throw it out the
7 window.

8 Q: But you're talking a lot about how what they're
9 going to see you doing in the car and you're sitting
10 there saying that you would throw them out the car
11 but you know there's cameras on those vehicles?

12 A: Yeah that what I was saying.

13 Q: And you're saying that you don't think they would
14 catch you doing that too?

15 A: They probably wouldn't have a chance, I'd throw the
16 woods.

17 Q: Or you could also come in here and make up a huge
18 story couldn't you?

19 A: I ain't making up, I'm telling the truth. Like I
20 said, you got my record. You think if that was my
21 drugs in the car, you think I'd ...

22 Mr. Brown: May we approach?

23 Mr. Epps: I'm telling the truth.

24 Mr. Brown: May we approach?

25 Mr. Epps: You want to know, I'm telling you the

1 truth.

2 (Attorneys to bench)

3 Q: So you're telling me that you originally said that
4 Levi was the only guy with him?

5 A: As I stated earlier, other guys was with me but Levi
6 was the one that left it in the car.

7 Q: But again, law enforcement is not going to say that
8 that was who you said who was the only guy with you
9 originally?

10 A: They wanted to know who the drugs was and I told
11 them Levi Brown.

12 Q: And they're not going to provide that you did smoke
13 reefer when you were out fishing that day?

14 A: Look at the video tape. It will tell everything.

15 Q: And again, it is your testimony here today that Levi
16 Brown left \$300 worth of dope in your car?

17 A: Yeah it is.

18 Mr. Brown: No further questions Your Honor.

19 The Court: You can step down.

20 Mr. Epps: Your Honor.

21 The Court: Yes, sir.

22 Mr. Epps: Can I say a little bit more before I step
23 down?

24 The Court: Your lawyer said that he doesn't have any
25 more questions for you. It's not a narrative. They've

1 got to ask questions. Okay, do you have any further
2 witnesses?

3 Mr. Carraway: None, Your Honor.

4 The Court: The State got any reply?

5 Mr. Brown: Very briefly, Investigator Watson.

6 **REPLY TESTIMONY INVESTIGATOR WATSON - EXAM BY MR. BROWN:**

7 Q: Investigator Watson, I only have a few brief
8 questions just regarding what you just now testified
9 to, I mean Mr. Epps. When y'all first made the
10 traffic stop on him, who did he provide had been in
11 the car with him that day?

12 A: He said a Levi.

13 Q: Did he provide the names of anyone else?

14 A: No, he just said he went fishing with Levi.

15 Q: And he actually specifically said "My buddy, Levi"?

16 A: Yes.

17 Q: He didn't mention Mike or Rick?

18 A: No.

19 Q: Do you even know of a Levi Brown?

20 A: I don't, no sir.

21 Q: Did he provide anything about the marijuana that was
22 in the car?

23 A: He said he smoked it earlier out there.

24 Q: But he did tell y'all that that day?

25 A: Yes, he said he smoked earlier.

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- 1 Q: And the final thing I want to just briefly address:
2 he testified earlier today that the reason you were
3 going to let him go and then Investigator Scott came
4 up and said y'all had to do something, you told him
5 your boss outranked or something to that effect. Do
6 you remember that?
- 7 A: No because at that time I really - it's not correct
8 or consistent really. Investigator Scott just
9 really had come to narcotics. I've been in
10 narcotics...
- 11 Q: At that time, were you really kind of the lead
12 person?
- 13 A: I was.
- 14 Q: Did you - and you just now said about ranking - but
15 were you the higher ranking person out there that
16 day?
- 17 A: I was.
- 18 Q: Okay so was he your boss?
- 19 A: No, no sir.
- 20 Q: Was this a decision by the sheriff's department to
21 make the arrest that day?
- 22 A: Myself.
- 23 Q: Okay so when he says that you said my boss said I
24 have to do something, is that a true statement?
- 25 A: No sir.

1 Mr. Brown: Alright, no further questions.

2 The Court: Anything?

3 INVESTIGATOR WATSON CROSS BY MR. CARRAWAY:

4 Q: Did you write this narrative?

5 A: Yes sir.

6 Q: Okay. Tell me - find in here - I wasn't able to
7 find it. Find in there where you said where he told
8 you that he had smoked marijuana earlier that day.

9 A: I didn't put it in here. No sir, I didn't. And I
10 wrote it, I know I put it in here. He said they
11 smoked marijuana. But I didn't put it in here.....

12 Q: So he didn't say he smoked marijuana. He said they
13 smoked marijuana.

14 A: That's what he said.

15 Q: Okay. I don't have any further questions.

16 The Court: You can step down. Alright ladies and
17 gentlemen, we're going to lunch. And then when you
18 come back after lunch, we'll have the closing
19 agreements...it's 12:30. An hour and fifteen
20 minutes enough time for everybody? Alright, if
21 you'll be back at a quarter to two. Don't discuss
22 this case with anyone or allow anyone to discuss it
23 with you. I'll see y'all back here at a quarter to
24 two. Thank you.

25 (Jury exits courtroom for lunch break 12:25 p.m.)

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1 (Back on 1:51)

2 The Court: Is The State ready?

3 Mr. Brown: Yes sir.

4 The Court: Is the defense ready?

5 Mr. Carraway: The defense is ready Your Honor.

6 The Court: Alright, now that you're all here...

7 Clerk: Yes, sir. All here.

8 Mr. Epps: Mr. Cothran?

9 The Court: Yes?

10 Mr. Epps: Can I give you a piece of paper I need you
11 to read?

12 Mr. Brown: Your Honor, can I see that before it's
13 handed up to the Judge? You might want to keep the jury
14 off for at least two seconds.

15 The Court: Which one wants to go first?

16 Mr. Brown: Your Honor, I'll be happy to. Can I talk
17 to opposing counsel please? Your Honor, we'll start off.
18 Do you have the charges for the jury before we start or
19 anything? I'm ready to go if you are ready.

20 (Jury enters courtroom 3:12 p.m.)

21 The Court: Ladies and gentlemen, you will hear the
22 closing arguments of the attorneys on charges ...

23 Mr. Brown: Thank you Your Honor. May it please The
24 Court?

25 The Court: Yes sir.

1 Mr. Brown: Good afternoon. The reason we are just
2 now discussing that is we just had to make sure of the
3 scheduling after any evidence is put in by the defendant,
4 specifically speaking, The State gets to open ...closing
5 after...so we can make sure we got our scheduling right.
6 But I just want to start off by thanking y'all for your
7 time and your patience today. As I told you in the
8 beginning, this was going to be a short case, as we are
9 now resting. The next 30 to 45 minutes or so, y'all will
10 go back into that jury room. The twelve of you who were
11 initially selected on the jury will get the opportunity
12 at that time to discuss this case and see ...Our
13 alternate will most likely be going home ...will come
14 back later. I want to start off by saying that Mr.
15 Carraway and I will probably disagree on a lot of things
16 about this case. He's a good friend of mine but one
17 thing I think I can speak on behalf of both of us is that
18 we appreciate y'all's time and y'all's service. We
19 appreciate y'all being here. We know that it's
20 inconvenient. We know that there's probably a lot of
21 other places that you would rather be than here on a jury
22 with the gorgeous weather outside. The pollen's killing
23 everybody but it's still gorgeous outside. So I
24 certainly appreciate your time and I don't take y'all's
25 service lightly. Talking about the law in this case: I

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1 just want to go ahead and try to give you ...for when
2 y'all listen to closing arguments by the defense and
3 ...back later so that y'all can know what The State's
4 idea of what law is. The judge will charge you on the
5 law in a while, and I'll tell you right now he is the
6 law. He has been doing - he's been a lawyer for a lot
7 longer than I have. He knows the law a lot better than I
8 do. He will be the ultimate decider of what the law is.
9 But I think I have a pretty good idea of what it is. I'm
10 just going to briefly tell you what...As you know, the
11 defendant, Garrick Epps, is charged with two counts of
12 ...He's charged with possession with intent to distribute
13 powder cocaine, not crack cocaine, but powder cocaine.
14 And he's charged with possession of crack cocaine. This
15 court, as you've heard, is ...June 13th, 2014 in the New
16 Zion area of Orangeburg County. It is The State's job in
17 proving the case to prove his guilt beyond a reasonable
18 doubt. When I first started as a lawyer, I'll tell you
19 that the phrase eluded me a little bit. I didn't fully
20 know what it meant. I knew what we said in law school, I
21 knew what they said on TV about what it meant. And I've
22 heard about every analogy in the world from leaving irons
23 on and whether to turn around and go check it to one
24 really creative one that involves cooking collard greens
25 and listening to music and a child about to be spanked

1 and slamming doors but that's neither here nor there
2 because none of them ever really made sense to me. And
3 when I close on a law, I like to tell the jury the one
4 example of beyond a reasonable doubt that really makes
5 sense to me and that is what the law is. The law says
6 that to prove guilt beyond a reasonable doubt means that
7 you leave the jury firmly convinced of the defendant's
8 guilt. Beyond a reasonable doubt doesn't mean beyond any
9 and all doubt. There is, you can find doubt in just
10 about anything in the world. There are people who find
11 doubt in some of the most sure-footed, positive things
12 out there. But the question is whether or not The State
13 proves it beyond a reasonable doubt. That we leave you
14 firmly convinced. Said differently, an old prosecutor
15 that spent many years doing it, I watched him give an
16 analogy, sitting back in the jury room while we're
17 waiting for another jury to deliberate talked about how
18 he used to prosecute. Sometimes those cases are like a
19 lot of prosecutors he might call the juror and say I just
20 want to know what I did wrong so I can prove my case
21 better next time. The juror talked and said, well we
22 believed the guy was guilty, we just didn't see enough
23 evidence. That's what beyond a reasonable doubt is.
24 When you believe you've firmly convinced that the
25 defendant is guilty of these offenses. So let's talk

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1 about what these offenses are. Possession with intent to
2 distribute. I don't have to prove that he sold. Let me
3 be clear about that. I just have to prove that he
4 possessed the quantity of cocaine and he intended to at
5 some point. So what you have to consider to that, what
6 can you consider? I'll tell you that the law says that
7 you can consider the weight, when it's over a gram of
8 cocaine, specifically, that that creates a presumption.
9 It's a rebuttal but a presumption, but it was intended to
10 be sold. There is also other things that our law
11 recognizes that you can consider when you talk about
12 intent to distribute. How it's packaged. Packaged in a
13 bag that obviously has some weight comparison say to one
14 big bag, that might be personal use; a lot of personal
15 use but personal. But when you have it divided into a
16 bunch of different baggies and when those baggies are of
17 equal weights, that creates presumption that you can
18 consider lawfully under our law. That's why I was asking
19 those questions. How was it divided up into different
20 baggies. Were they about equal weights? They were about
21 equal weights. You can consider other things. You can
22 consider the money, I don't know if that's where that
23 money came from. I'm not going to suggest to you that
24 for sure that's where that money came from. But you
25 heard from the stand that he had fives tens and twenties,

1 a couple of hundred on him. Is that evidence that he was
2 selling or was intending to sell? That is for you, the
3 ladies and gentlemen of the jury to consider, value,
4 weights, divisions of bags. Amount of bags, ten
5 different bags. That's for you to decide. And then you
6 also have to consider whether or not that he actually
7 possessed it. Obviously that's a real big issue in this
8 case. So talking about PWID and also talking about
9 possession of crack, let's talk about what possession is.
10 Possession under the law of South Carolina, it's my
11 knowledge of the law all across the country, means that
12 you either actual or constructively possess. Those can
13 be a number of ways that you show that possession is
14 usually pretty clear. The cell phone sitting in my
15 pocket, I'm actually possessing it. I have sole dominion
16 and control and it's on my person in my pocket.
17 Constructive possession, my copy of water sitting over
18 there, even though it's not in my hand, even though it's
19 on my person, I still constructively possess that. The
20 remote control sitting on my night stand, I
21 constructively possess it because it's there. My wife
22 may disagree because she usually likes to take it from me
23 but I constructively possess that. And so the question
24 for you when you talk about Garrick Epps's case is the
25 drugs that were sitting in the glove box in the Crown

1 Royal bag, the glove box that is feet away from him, did
2 he constructively or actually possess those? I would
3 suggest to you that he did constructively possess those.
4 And I look forward when I close on the law to talk more
5 about how he did and how we established that, but for now
6 I will just suggest to you that that's what you are to
7 consider. Did he constructively or actually possess it
8 and with the cocaine, did he have the intent to
9 distribute it. Did we lay out the facts. As I said, we
10 have to prove this beyond a reasonable doubt. To do
11 that, we present evidence of this. A lot of people when
12 they watch TV shows, evidence is State's number one
13 through two hundred. I promise you, I've been in cases
14 that have State's one through two hundred, pictures and
15 all sorts of stuff like that. But let me be clear,
16 evidence is a lot of things. And the most important
17 evidence in most every single case is the evidence that
18 comes from that chair right there. The people
19 testifying, that is evidence. When Investigator Watson
20 got on the stand, when Investigator Scott got on the
21 stand, they offered evidence, they offered testimony.
22 When Joe Powell got up there and testified about the
23 weights, he offered evidence. You have State's number
24 one which is the drugs. In the cases like this, you're
25 not going to get a lot of the other physical pieces of

1 evidence. What you are considering largely is the
2 evidence that comes from the stand. So that goes into
3 what your role as jurors is. Because that is why, and
4 this is the most important part, that is why y'all are
5 here. As jurors, y'all didn't get a class on what you're
6 supposed to do here today. Our Clerk of Court didn't show
7 a video to you. There was no six hour lecture on what
8 you do, what you've got to think about because you don't
9 need it. As jurors, the training you need, the training
10 you've been getting your whole life. That evidence you
11 consider, it comes from common sense. You get to listen
12 to the witnesses. You get to listen to every single one
13 of them, defendant included. And you get to consider
14 that. And you get to consider are they believable. Are
15 they credible. Do what they offer, does it make sense.
16 The judge is going to charge you to believe one over many
17 or you can believe many over one. Because y'all have the
18 common sense considering the evidence in this case. To
19 determine whether or not the believable, the credibility
20 on what they said from that stand. I look forward in a
21 moment to talking to you about the evidence and really
22 getting into the facts. But I'd offer to you, when you
23 consider the evidence, when you consider the facts of
24 this case, and when you consider that based on your
25 obligation to find whether or not you believe it beyond a

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1 reasonable doubt whether you're firmly convinced there's
2 enough evidence. Thank you.

3 The Court: Mr. Carraway.

4 Mr. Carraway: Ladies and gentlemen of the jury, Mr.
5 Brown, Your Honor. I'm a New England Patriots fan and I
6 like what Bill Belichick said. Bill Belichick says he
7 tells every one of his players do your job. That's what
8 he tells them to do. That's what he told Malcolm Butler
9 to do. He told Malcolm Butler, he said, when you see
10 this set up here, when you see them stacked like this,
11 this is probably what they're going to do. They're going
12 to run this screen play is what they are going to run and
13 you sat your foot and you go, you don't hesitate. You
14 sat your foot and you go. And that's what he did.
15 Everyone here has done their jobs here. Tyler Brown has
16 done his job. His job here is to present the State's
17 case in the light most favorable to the State. That's
18 what he's supposed to do. He's here to argue their case
19 here. He's done a great job here. They've done
20 everything they were supposed to do. When you go out and
21 you pull somebody over and you find drugs in the car and
22 they're the only person in the car, you're supposed to
23 charge them. That's what you're supposed to do. You're
24 not supposed to listen to somebody say "Well, gee.
25 Somebody left these drugs in the car." No, he did his

1 job, he arrested him, he did every single thing. I
2 listened to every thing that he and Seth Scott did that
3 night and every thing they did was perfect. He did his
4 job. Now this lady right here; she's going to
5 transcribe, she's taking down everything you say. The
6 Judge is doing his job. And I'm doing my job. And
7 you're job is to listen to everything that the State has
8 presented here and hold them --- the judge will tell you,
9 you've got to find beyond a reasonable doubt that these
10 drugs that he possessed these drugs. That's what you've
11 got to find. Now, what I like to look at here, and I can
12 tell you one thing, if you're in a situation like this,
13 and you get caught or have drugs in your car, I can tell
14 you what; there are about twenty five other factors that
15 could go along here that were check off here, that you
16 check out to see. Is there anything beyond just finding
17 these drugs in the car? Because we know that can happen.
18 Somebody can do that. He was out with these guys and
19 here's what they're doing. They were out fishing. They
20 could've been fishing, they could've been doing this,
21 that happens. People go fishing or whatever here.
22 Somebody could say I'm not going to leave these drugs at
23 this house because I don't want some --- I'm going to
24 keep these drugs with me and I'm going to keep them in
25 something that is inconspicuous or whatever and I'm going

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1 to put them in the glove compartment in the car and after
2 today drinking beers or whatever. And come back and
3 somebody being in a hurry you could forget that bag. And
4 somebody said oh somebody couldn't forget that bag! This
5 is an unusual thing for this guy, for someone. Let's say
6 that his story is true to put it there or wherever, to
7 take it along, to put it there and to make sure I'm not
8 going to leave it here, I'm going keep this with me or
9 whatever. This Levi Brown, that's what he said. He's
10 told them that from the very start. From the time this
11 happened, I met him in about the middle of December from
12 that time on, he has sworn to me that these drugs did not
13 belong to me. They were left in my car or whatever.
14 Alright, he said this now. He was, of course, caught
15 driving a car here. There's so many other things that
16 you could look at here. Let's see --- let's examine
17 about twenty five other factors here and see if any of
18 them point to his guilty or whatever. These officers
19 came in here and what I liked about these guys is
20 everyone of them was straight up here. They came in
21 here, they told just the facts that they know of, they
22 didn't speculate on anything else. They could've told a
23 lot of other things here but they didn't. They wrote
24 down what they had here and they were straight up and
25 honest. That's what you call doing your job. I told law

1 enforcement --- I was public defender here for twenty
2 four years. I told law enforcement officers - I said
3 this: I said, one thing, when you get up on that stand,
4 you better make up your mind right now that you're going
5 to tell the truth when you get up there. Because I'm
6 going to tell you, there's going to be sometime that you
7 going to testify against a guy and you're going to come
8 back fifteen years later and you're going to meet that
9 guy in a dark parking lot and that guy may not be happy.
10 But at least you can look him in the eye and say I told
11 the truth. Whatever he's going to do, I told the truth
12 when I got up on the stand. You don't want to be sitting
13 up there and the guy saying I went to prison for fifteen
14 years and for us to both know I didn't tell the truth,
15 these guys told the truth here. They know they are going
16 to come in here, they're going to tell just what the
17 truth is and they're not going to add anything to it. So
18 they've done their job. Part of what he told you here is
19 he said he was calm, he was courteous, he didn't say
20 anything about he appeared nervous or fidgety or
21 whatever. He said he was calm, he was very nice, he was
22 very cooperative throughout the whole thing. Well,
23 that's one indicator there that if he had known these
24 drugs were in that car, an officer, these officers are
25 trained or whatever, they may have noticed something a

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1 little flimsy, he's nervous about something, he doesn't
2 want us around that car or whatever. They didn't say
3 anything like that. They can always scan the thing on a
4 DUI oh man, I smelled alcohol on his breath, they go
5 through a whole list or whatever. Not these guys. They
6 just told it as it was. He knew when I asked him was he
7 cooperative that it would have helped their case if he
8 had said no, no he wasn't cooperative. He seemed nervous
9 or whatever. No, he knew he could've said he seemed
10 fidgety or whatever. He didn't say that because he knew
11 that would've helped their case or whatever but he's
12 honest. He's straight up and he's telling the truth.
13 He's told the truth all --- he's done his job is what
14 he's done. So I didn't hear anything about him acting at
15 all as if he was nervous about --- they said this was
16 about a thirty minute stop now. They said he was out
17 there and they said they had problems calling back for
18 and he was out there. So for all of this time, they
19 didn't notice he didn't come in here and stretch the
20 truth or anything. They said no, he didn't say anything
21 like that. So we can assume he was calm and cooperative.
22 That indicates right there that he didn't know that there
23 were drugs in that car. That indicates that. Another
24 thing about this --- boy I'll tell you, you know, if
25 you're doing this --- he had two hundred and ninety two

1 dollars, it was a Friday night, he claimed he was an
2 electrician, he told you that he worked for Leroy
3 Driggers, and if any of you know Leroy Driggers he owns
4 ten thousand mobile homes, and he always got work going
5 back in and people moving out and reconditioning so I'm
6 sure he's got plenty of work he's got to do. He had two
7 hundred and ninety two dollars. It wasn't all in
8 twenties or whatever. The officer said --- I understood
9 him to say one one hundred dollar bill, Solicitor said
10 two one hundred dollar bills and some twenties or
11 whatever. But whatever it was, it wasn't you know, your
12 regular --- it wasn't all in twenties or whatever there.
13 And he didn't have thousands of dollars or whatever. So
14 the money he had is not something. I'm looking for
15 something else here. The money he had here is nothing
16 that indicates oh man, he had five thousand dollars.
17 I've had idiots get up on the stand there with five, six
18 thousand dollars, eighteen years old and the officer says
19 how much money did you have on you, questioning him ---
20 he says how much money you have on you. He says I had
21 six thousand dollars. And then he said that ain't no
22 money. They know good and well right there that kid's
23 dead right there. But anyway, we've all heard people say
24 stupid things like that. But he had two hundred and
25 ninety two dollars. Another thing is they impounded this

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1 car -

2 Mr. Brown: Objection Your Honor. That goes into
3 facts not in evidence.

4 The Court: What?

5 Mr. Brown: I'm sorry, Your Honor.

6 The Court: Okay.

7 Mr. Carraway: They impounded the car, took it down
8 to the police station or whatever. Like the officer
9 said, now this is a funny --- now this is one thing.
10 They're going to look it carefully down on the outside,
11 went over the outside, went in the trunk, went everywhere
12 in the car, and they impounded it and took it down to the
13 police station. Didn't find a crumb. A speck. Didn't
14 find any rolling papers, didn't find any other little
15 bags. Now they arrested him too and he told you they
16 kept him in there for five months. Now, they didn't find
17 any --- a grain of marijuana, a grain of any or hint of
18 any powder, or anything in that car or on his person.
19 They arrested him. They took him in there. They didn't
20 find anything. They didn't find some little baggie
21 outside anywhere in that car, one of those tiny baggies.
22 They didn't find a pipe in that car, they didn't find
23 anything on him at all. If they had found anything in
24 that car from combing through it --- now I can imagine, I
25 can tell you one thing. I got a lot of money I can bet

1 that if somebody is involved in this and you take that
2 car down and you take them in there, I'm sitting here
3 thinking they're going to find something in this car
4 because they're looking for something which is fine,
5 that's what their job is is to look and see if there's
6 any drugs in there. If there's scales or whatever. Or
7 if there's a little razor here or whatever that you use
8 to cut this stuff. Or if there's any of that kind of
9 stuff, any of these little bags, any rolling papers,
10 anything, anything like that. They didn't find anything
11 in his car or on him. So that's something else that I
12 would suggest he is innocent until he is proven guilty.
13 A judge will tell you, he's got cloak of innocence
14 hanging over him here. And the State has to pull this
15 off. They have to remove this cloak of innocence. Now
16 what we've got here is he told his story; somebody left
17 this in the car here. Okay. We'll go along with that.
18 Now we're going to look at about a thousand other things
19 here to see whether you're telling the truth here. And I
20 would suggest to you they didn't find anything on him.
21 Now, and also, he told them he was out, for whatever this
22 means, he was out fishing that day and apparently, he's a
23 very serious fisherman or whatever. Because he sounds
24 like he fishes all the time. He sounds like he was going
25 the next day and the next day. He sounds like that was

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1 his plan was or whatever but that's all fine. And he was
2 very much dressed up in fish clothes, in fishing clothes.
3 He said he had on every --- I don't know what he had on -
4 -- but I got the idea he was from head to toe boots and
5 everything else. He had the whole thing on. He even
6 said he had a machete here and I guess, I'm not a
7 fisherman or whatever, but I guess that's something you
8 have. I don't know whether they are for fish or to cut
9 your way through, something or whatever. Or cut your
10 line lose from something. I don't know what it was. But
11 anyway, said this other guy had a pistol or whatever
12 there. But anyway, so I think it's safe to say, and the
13 officer did not --- see here's another thing: when I ask
14 him something, if I say something at all and you saw when
15 Tyler Brown put the officer back up on the stand, if
16 there's anything I say is wrong, he can get back up there
17 and rebut. He didn't deny that this guy was fishing, I
18 got the idea he was a serious fisherman. He had fish in
19 his bucket, he was really dressed and he didn't get up --
20 - he said he had three reels back there. He didn't get
21 back and say that any of that stuff was wrong or
22 whatever. Because it's important if you're going to
23 believe what he says about who these drugs belonged to
24 that you believe everything else he says. You know, you
25 can't say well they didn't find any of that so I don't

1 know why he's telling us that. But I suggest that he's
2 telling the truth there. He was not nervous, he was
3 cooperative. Only thing he had out was a light over his
4 license plate. That's something that could have happen
5 to any of us. And he was speeding. Of course, nobody
6 likes to think they were speeding or whatever here. But
7 everybody wants to think - This officer's job is if
8 you're going - if it's thirty five, if you're going
9 thirty six, and he may not do it, he may give you a
10 little, but he doesn't have to. This is not like you can
11 just drive forty five when it says it's thirty five. So
12 whatever that was. There was a reason he pulled him
13 over. And I would suggest to you that it was probably a
14 combination of speeding and not having that light on over
15 the license plate or whatever. But everything else is
16 fine. It wasn't like he was riding along and knew that
17 his turn signal didn't work so then you know your light's
18 out, you're driving around without a light on, the front
19 lights were on, everything was on except this light. And
20 he sat on the stand and he said my phone starting ringing
21 a bunch and I asked them I said that's probably, he said
22 this now, that's probably the guy that this belongs to.
23 Listen to this call. I'm sure he's asking me about that.
24 And the officers did what they're supposed to. They
25 can't be letting somebody take phone calls and do all

1 this kind of stuff or whatever. It wasn't that what they
2 did was wrong, but you heard him say, you heard him say I
3 asked them that. You heard him say my phone rang a lot.
4 And I said I don't know if he actually saw the number or
5 he just heard his phone ring and said that could be that
6 guy asking for this. And they said you can't be
7 accepting any phone calls. You heard him say that. The
8 officer didn't get back up here and say that didn't
9 happen. He didn't say no, no, no, no, no, he's not
10 telling the truth about that. That phone didn't ring
11 any. Or the phone rang and I handed it to him and that
12 was his wife or whatever. That wasn't what that was. He
13 didn't say that. That's what their --- that's why
14 they're here is they present their case first, we present
15 our case but they always have what we call a reply. That
16 they can come back, if he claims something happened
17 between them, he can get back on the stand and say wait a
18 minute. That didn't happen at all. That phone did not
19 ring. He did not ask us about if you let me answer this
20 phone and listen, I can turn this on the speaker here so
21 y'all can hear what this guys says. He didn't say that
22 didn't happen. You know, and another thing. They did
23 not say that he seemed at all...a little high or drunk or
24 whatever. I think he said they had gotten a bunch of
25 beer or whatever out there. He didn't say he drank any

1 of it but anyway, I think I heard him say eighteen or
2 twenty four. But for four guys to go out and fish or
3 whatever, I guess that's not a whole lot. In this
4 report, he talks about one guy that --- this Levi Brown
5 or whatever - but there's not, they never brought up
6 where he said I was only out there with one guy. He just
7 talks about one guy because that's the guy that I think
8 Mike was one of them and whoever the other guy was and
9 this Levi Brown. So I mean he didn't tell - he's told
10 the same story all the way through here too. But another
11 thing, if you're - and nobody said they smelled an odor
12 of either alcohol or marijuana on him. Now that's not
13 hard to do if somebody's out there. You know good and
14 well that's we've been places when, I didn't have to be
15 around somebody. I can just tell something was going on
16 or whatever here. And it's odd here too how the officer
17 only said once I opened that glove compartment that I
18 smelled marijuana. He didn't say I smelled in the car.
19 He said I opened that glove compartment and does that
20 indicate that that Crown Royal bag had been there quite a
21 bit or whatever? Nobody ever said he was never --- I
22 don't know whether they drug test him when they take him
23 to the jail or whatever. Nobody's indicated here at all
24 that his eyes were bloodshot, or that he wasn't steady on
25 his feet, that his speech was slurred, or that he at all

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1 seemed --- and the officers, these guys --- and I want to
2 praise the honesty of these guys too. We've had ---
3 every once in a while, you get an officer that isn't
4 honest. And we've had them before. They don't stay
5 around long. These guys are honest. There's a lot of
6 things these guys could've said. They've been around a
7 long time. They could've said a lot of things. But all
8 they did was tell the truth here. They didn't say his
9 speech was slurred. They didn't say he was unsteady on
10 his feet. They didn't give him a field sobriety - they
11 didn't give him any of that and they didn't find anything
12 on him and it just seems like to me that if you're doing
13 what he's charged with doing here, and they take your car
14 down to the impound and they got --- and guess what?
15 They got the dogs down there also. And they go through
16 and they know what they're trying to do. They're not
17 trying --- they're just trying to find the truth here.
18 And by trying to find the truth, if they find some scales
19 hidden somewhere, if they find some of these little bags
20 hidden somewhere, that's taking you closer to the truth.
21 But when they look for everything, they want you to know
22 they did, which is fine. It's fine here just like these
23 video cameras that they want on these officers now. Just
24 like when you don't find something, it should - it works
25 in his favor here because you know they did. This is not

1 a bad thing. This is a good thing. And in a case ---
2 because I would suggest here if I said anything other
3 than this bag being in their, I have seen one scintilla
4 of evidence against him or whatever. I want them to do
5 all this. Now if they find something in there where I
6 just got to look at him and say how can you explain that.
7 Or they found this in your pocket or whatever here. Or
8 they found this hid up under here. You know they went
9 over everything in that trunk, they went over every
10 single thing, which is fine. But when they don't find
11 something, it should work for him. And it does work for
12 him. And keep in mind because they understand it is
13 their job, he is innocent until proven guilty. And they
14 understand okay I've heard this story. We've got him
15 here who will go check on it, we're going to check
16 everything that he's got. And we've got this car that is
17 a car it's his wife's car or whatever in the momma's name
18 or whatever but this is a car that it seems like from
19 what he said that's the only car they've got because she
20 told him he had to have the car back or whatever. And
21 that's why --- I don't know if you fish under moonlight
22 or whatever. I don't know what that deal is but anyway.
23 But he was bringing that back but this is a car he has a
24 lot or whatever here. And they didn't find anything ---
25 if they'd found any of what we talked about here, they

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1 would've brought it before here. And that's fine.
2 Because all --- all Mr. Brown wants is the truth. That's
3 all Officer Watson wants is the truth. And that's all I
4 want is the truth. And that's all Officer Watson had
5 told us today is the truth. Now he knows he can say a
6 lot of other things but he hadn't said anything. All
7 he's done is tell the truth here. We want the truth. So
8 they've done their job because it is possible --- their
9 job is driving along in a car and the car is somewhat a
10 family car that he drives a good bit any drugs in that
11 car --- this is your job. His job is to arrest that
12 person and charge him with that. It's the solicitor's
13 job to come in here and tell the case in the light most
14 favorable to the State. It is for me to point out I
15 believe like in this case is what else is there other
16 than that his story or whatever and there's so many other
17 things that could be there that they didn't find so you
18 have to think there wasn't anything in the car. There
19 wasn't anything on him. Nothing on him. Then he was not
20 high or anything because they didn't say anything about
21 that. He didn't know his --- his demeanor that night
22 suggests that he was not nervous or whatever. It didn't
23 look like they said boy he got upset when we started
24 talking about taking that car in. Nobody said anything
25 like that. They haven't said anything beyond they found

1 the drugs in the Crown Royal bag in the pocket of the
2 car. And you know - and I suggest to you he gets the
3 benefit of the doubt if that's all you have. Because
4 we've got twenty other --- twenty five other factors
5 which are not present which could have been like on the
6 scales I guess of justice which could've been boy if you
7 find some bags and you find some scales in there then
8 explain to me, they had scales. You know where those
9 scales had been? They've been --- they said look at this
10 now. Tell me what were you doing with these scales?
11 What were you doing with those? Well you know that's a
12 hard question to answer. But anyway, he didn't have a
13 single small bag; not a single crumb of marijuana, crack
14 cocaine, or cocaine. Not a single bit of powder. And
15 that's what they're supposed to do is go through that
16 car. That's their job. Because the good thing about
17 their job is if they find --- they're going to find out
18 the truth. If it's there, if there's something there,
19 then that's ... but then if they don't find something,
20 then they're happy also. They're happy with the truth
21 here. If they don't find anything, well that's good for
22 him because look, the evidence is, the idea is if he was
23 doing all this, they would've found something in that
24 car. Not necessarily, but there probably would've been
25 something in that car or something on him. Because they

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1 came up there and surprised him that night. They came up
2 behind him. I mean, it's not like they called him and
3 told him we're coming to your house or whatever here and
4 he could do whatever. No, whatever condition that car
5 was in, whatever condition he was in personally, and
6 whatever was in his clothes or whatever there, or in his
7 pockets, that's what he was good for. That's just it.
8 Those are the facts. And the facts are nothing in the
9 car, nothing on his person, and nothing in his behavior
10 or personality. Wasn't high, bloodshot, slurred speech.
11 He wasn't any of those things. There weren't any of
12 those things. And all I'm suggesting to you is Tyler
13 Brown is a terrific trial lawyer and he's a terrific
14 solicitor. He's done his job. He's presented their
15 case. Officer Watson, great officer. He gets an A plus
16 here. And he did what he --- he did his duty, he did his
17 job. He brought --- he arrested this person, brought him
18 in, and now I've got a job to defend him here. But
19 ultimately, each one of you, now it's your job to find as
20 he came in here innocent until proven guilty beyond a
21 reasonable doubt. And there's nothing wrong with
22 anything the solicitor has done here. You can't ---
23 things have been --- evidence has been manufactured in
24 some places but not here. They just presented you with
25 what they had. That's it. They haven't tried to add

1 anything and they've been very honest here. They've
2 presented you what they have. And any time you got drugs
3 in your car or whatever, you're going to be charged.
4 But this man has always maintained to me that he was
5 innocent and that this is the way it happened here. This
6 guy left it in here or whatever. And I haven't heard
7 anything here. I haven't seen anything here beyond this
8 to me, of course, I'm the lawyer or whatever but so many
9 other things. Boy, and I've checked them off here. What
10 about this, what about that car, what about him, what
11 about his attitude, what about his physical condition.
12 What about all of these things? I didn't, you know, I
13 mean, you've got to take it for what it is. Sometimes
14 you don't have all of those things and somebody still
15 maintains their innocence. In this case, pretty much,
16 look at it, okay, he's fine, his condition was fine, car
17 was fine, his clothes were fine. And he's told the story
18 that he's, you know, he's told the same story, he's stuck
19 to his story. I don't know what else I would've said if
20 I were him. He's stuck to it from day one here. And I
21 would suggest to you that everybody has done their job
22 here today. Everybody has done their job. And of
23 course, you know what I'm thinking, but it doesn't matter
24 what I think here. It just seems like to me that he is
25 given the benefit of the doubt because he's innocent

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1 until proven guilty beyond a reasonable doubt and it just
2 seems like to me that if you were to say beyond a
3 reasonable doubt, I need a little more than just that in
4 the glove compartment because that can happen there. The
5 gun had been in the glove compartment with the drugs but
6 took it out, as I understand it, when they went hunting
7 for snakes or whatever. They came back, the gun was not
8 put back in the glove compartment. He said I was in a
9 rush, I told the guys that the wife's got to have the
10 car, going up to North Carolina. And you guys have been
11 there, when the wife needs the car, that's the end of the
12 fishing trip. You're coming home. And he said they were
13 changing out the lines, doing all that stuff, they were
14 trying to get them all straight. But one of the things,
15 each had three rod and reels and got their lines crossed
16 and all that stuff or whatever. And then he said but
17 once we got there, which was ten or fifteen minutes
18 later, the officers had arrived or whatever, my phone
19 started ringing off the hook. I don't know who called
20 but I wanted them to let me answer it so they could hear
21 if it was this guy calling about that Crown Royal bag.
22 And the officers did not say --- did not get back on the
23 stand and reply and say that is a bold face lie, that did
24 not happen. He didn't say that phone did not ring, he
25 didn't say anything, he didn't ask about nothing. They

1 didn't say that. Now I don't know who it was. It
2 could've been his wife or girlfriend or whoever it was
3 calling or whatever. But I do know what he said and he
4 asked for that. And they didn't do the wrong thing.
5 They followed protocol. That's what they're supposed to
6 do. And they did everything correctly. Tyler Brown has
7 done everything perfectly and it should be commended and
8 I think we've all done our job here and now y'all have
9 the difficult job here. Of finding whether the State has
10 proven here beyond a reasonable doubt to remove this
11 cloak of innocence from him or whatever. And whether
12 y'all believe that they've proven beyond any reasonable
13 doubt that he's guilty. And I would suggest to you
14 searching the car, him and everything that I just don't
15 see anything beyond that Crown Royal bag being left in
16 the car or whatever and a bunch of phone calls right
17 after that from somebody or whatever where we might've
18 could've found out conclusively that then but that's not
19 anybody's fault. Everybody has followed what Bill
20 Belichick said, everybody has done their job. We've all
21 done ours. Our job is over now. Now it is your job and
22 that's why we picked you carefully here and that's why
23 we've got you twelve people here. Put your heads
24 together and figure this out. Thank you.

25 Mr. Brown: May it please the Court?

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1 The Court: Yes, sir.

2 Mr. Brown: Ladies and Gentlemen before I begin my
3 closing, I do want to just take a moment to address two
4 things that came up during Mr. Carraway's closing. First
5 off, I want to thank him for his kind words. Mr.
6 Carraway was actually the first trial attorney I ever
7 tried a case against and he was our public defender when
8 I first started here. I've known Mr. Carraway May 1st
9 will be four years since that I've been a prosecutor and
10 I've known him pretty much since day one. I think a lot
11 of people have a misconception that prosecutors and
12 defense attorneys are supposed to buck heads and hate
13 each other. But I'm happy that we have a good legal bar
14 here and I certainly appreciate his kind words. Second
15 off, I want to apologize for my coughing you just now
16 heard. I've been fighting a cough for about three weeks
17 and I hope that wasn't too distracting. Believe it or
18 not, it's getting better. But I do want to apologize for
19 that.

20 This is now the moment that I get to talk about the
21 law a little bit ago. Mr. Carraway talked about how he
22 perceived the facts that were presented in this case. I
23 get to be the last one to talk to you before the judge
24 does and so this is my opportunity to talk to you about
25 what I believe the facts were, what I believe the facts

1 show, and what I believe the evidence from the witness
2 stand, what it shows in this case. As I said earlier,
3 this case arose out of the New Zion area of Williamsburg
4 County. It was June 13, 2014 around 10:15 at night. My
5 apologies 10:13 was the official time. On that day, Mr.
6 Epps is arrested and charged with possession with intent
7 to distribute powder cocaine and possession of crack
8 cocaine. I've kind of already outlined the reason he was
9 charged with possession with intent to distribute was
10 that he had over a gram of, it was divided in bags that
11 had equal weights between them. It was already weighed
12 out in equal weights. And you had the money, which ---
13 I'm not going to suggest to you for a second that our
14 strongest evidence, I think the way it was divided up,
15 the weight divided up, the weight is really the indicator
16 to you whether or not it was PWID or whether or not it
17 was possession. That's the reason he got charged. There
18 was something Mr. Carraway said when he was talking about
19 his case that if this was really his drugs, there would
20 be some type of evidence in the car, that there would be
21 rolling papers, or scales, that there would be pipes,
22 things of that nature. You know, I found that really
23 interesting. And the reason for that is that in
24 prosecuting and being here for about four years, you kind
25 of learn the rules of the street. You kind of learn the

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1 rules of the game. Early on, I learned rule number one,
2 when you're in the drug trade, you don't use your own
3 product. You get hooked up on using what you're selling.
4 If you get hooked up on smoking crack or snorting powder
5 or if you are dealing with weed and you get hooked up
6 with smoking it you end up smoking all of your
7 merchandise before you can sell it and you don't have the
8 ability to make any money. That's the whole point of all
9 of this. So, I found that interesting that Mr. Carraway
10 brought that up. He said that these items weren't there.
11 Ladies and Gentlemen, I offer to you that the bags were
12 already equally divided up he didn't need the digital
13 scale anymore. I would have loved to have had one, if I
14 would have that certainly would have gone to my case and
15 I'm not going to pretend for a second it wouldn't but
16 they were already divided up. You're not going to find
17 rolling papers and you're not going to find pipes and
18 you're not going to find paraphernalia or scales.
19 Because, you see, even on the possession case, possession
20 of crack case what we are offering to you isn't that he
21 solely had it for his own use. He was charged with
22 possession because it wasn't over a gram. I'm not
23 suggesting to you for a second that it wasn't intended to
24 be distributed as well, what I'm offering to you is that
25 as a prosecutor my job is to present the best case that I

1 can within the confines as my oath and my duties as a
2 prosecutor. And the case law is clear and the statute is
3 clear that when we talk about possession with intent to
4 distribute one of the first things I look at is the
5 weight. If it's less than a gram, I'm not going to try
6 to say that's PWID even though it was divided into equal
7 bags. Even though those bags were of equal weight. I'm
8 not going to waste your time getting up here and arguing
9 that I have enough evidence to prove PWID, when I say
10 PWID by the way, I mean possession with intent to
11 distribute. That's the acronym. If I keep saying that I
12 apologize, I'm not going to waste your time and get up
13 here and say that it was PWID when it's not over a gram.
14 But, ladies and gentlemen, I suggest to you that, Garrick
15 Epps, I'm not going to suggest to you for a second that
16 he's really a dealer. I won't suggest to you that he's
17 in the trade, he's a business man, this is his business.
18 So, when Mr. Carraway gets up here and talks about this
19 and he gets up here and talks about the fact that there
20 wasn't rolled papers, there weren't pipes, that there
21 weren't various other things like drug paraphernalia,
22 scales and things of that nature, ladies and gentlemen,
23 I'd agree with him. If we had those things you'd
24 probably see them in evidence but rule number one in the
25 drug trade is don't use your own merchandise.

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1 Ladies and Gentlemen, that really goes to the heart
2 of what this case is about when you deal with Garrick
3 Epps. The bottom line is you saw him when he got off the
4 witness stand. When someone takes the witness stand and
5 you listen to that evidence, the heart of everything is
6 believability and credibility. Is his testimony
7 believable? Is he credible? The same thing goes for my
8 officers. You all ask the same questions about them.
9 You ask the same questions about Ms. Proctor, although I
10 don't know how much was asked about driving drugs to
11 Sumter and back. Ask the same questions about Joe
12 Powell. You ask the same questions about Watson, you ask
13 the same questions about Jeff Scott, but you also ask the
14 same questions about Garrick Epps. Is he believable and
15 credible. Ladies and Gentlemen, I offer to you that he's
16 not. He had an answer about absolutely everything but
17 what was amazing was that he never wanted to answer the
18 questions that were asked. I know you all probably got
19 frustrated in our back and forth because it got a little
20 heated up there but there came a point and time where
21 I've asked the same question three or four times and he
22 wants to give a three minute answer it never includes a
23 yes or a no. The bottom line, I need that answer and
24 y'all deserve that answer and he didn't want to give that
25 answer because ladies and gentlemen his story didn't make

1 sense.

2 Now, Mr. Carraway got up and said he had been
3 representing Mr. Epps since December and he's always told
4 the same story but there's another piece of knowledge
5 that I've learned. My grandmother use to say and I've
6 learned it to be truer and truer as I prosecute repeating
7 the same line doesn't make it true. I'm also not going
8 to get up here and suggest to you that his story hasn't
9 been from the start that Levi Brown left the drugs in his
10 car. But the reason this case is before you today
11 because as a prosecutor my job isn't to present to you
12 the best case for the state, I'm suppose to weigh the
13 facts as well. I'm suppose to look at the case as well
14 and if that story was credible, if our office believed
15 that story to be credible, we wouldn't be here today. I
16 offer to you, the facts that you heard, the testimony
17 that you heard isn't believable. Think about it. He
18 wants you to believe that a man got picked up at 2:30 to
19 3:00 on that same day, gets in his car with a 45 caliber
20 and a Crown Royal bag and puts it in the glove box.
21 Doesn't take it out of the glove box the rest of the day
22 until he's dropped off and they go out deep into the
23 woods. Then when he leaves that guy picks his gun up and
24 doesn't take his \$300 worth of dope that's sitting in the
25 glove box. For a number of reasons that story doesn't

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1 make sense but the first is going back and talking about
2 the drug trade, you don't leave your merchandise, you
3 can't sell it if you do that. Those drugs were intended
4 for sale.

5 I offer to you very clearly that those drugs were
6 there to be sold. Now, if you thought the person who had
7 them in that car, they were there to be sold. There's a
8 question about whose they are and this suggestion that
9 this guy name Levi Brown, who isn't here today and to
10 this day I still don't know if he even exist, this idea
11 that he gets in this car and that he leaves \$300 worth of
12 dope in that vehicle, but remembers his gun and remembers
13 his fishing stuff. That doesn't make sense. What makes
14 even less sense is this notion that he ever even put it
15 in the car. You heard as Mr. Epps sat on that stand
16 today as he testified under oath, as he got up there and
17 he said he picked him up where Levi Brown stays and he
18 added that there were two other people there with him,
19 Mike, I think and obviously those were back stories that
20 really don't have much merit or bearing on what we're
21 doing here today. Levi Brown, whether, if he exist is
22 the person we are talking about. He picks Levi Brown up
23 where Levi Brown lives and drives him out to the woods
24 for some reason you are suppose to believe that Levi
25 Brown decided it was a good idea to bring \$300 worth of

1 dope put it in that car and ride it out to the woods
2 knowing good and well the second you put drugs in the car
3 about half your Fourth Amendment Rights you have at your
4 house are gone. The car is searched so much easier and
5 anybody in the drug trade knows that. He wants you to
6 believe that this guy came and basically opened himself
7 up to being found that much quicker.

8 I suggest to you that that day those drugs were in
9 the car so that if anybody called and wanted to buy, they
10 could buy. And I tell you, he probably was fishing that
11 day. I don't refute that. I'll tell you my belief on
12 what the facts of this case really are is that he did go
13 fishing and his phone was there in case if anybody wanted
14 to buy he could make a ten minute trip, make \$20 or \$30
15 bucks and go back fishing. That may have happened that
16 day. I don't know. I only know what happened from 10:13
17 to 10:45. I'm sorry 11:45 when they finished booking him
18 in That's what I know. What I do also know is this
19 story about Levi Brown bringing drugs into this car for
20 know reason other than to put them in the glove box and
21 then leave \$300 worth of dope makes no sense. Ladies and
22 Gentlemen, that's kind of what the issue is because
23 Garrick Epps isn't believable, he's not credible. He has
24 an answer for everything and the reason why and you might
25 have missed this, this is coming directly from the

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1 record. He said it himself. If he were going to get
2 pulled over and I'm quoting, "I'm going to throw the
3 drugs out of the window. If it was mines, why I'm going
4 to sit there when I know I already have a drug history,
5 I'm going to sit in the car, I have drugs in the car?"
6 He has a answer and an explanation for any and
7 everything. Other than why in the world would this Levi
8 Brown guy even do this. I suggest to you either Levi
9 Brown doesn't exist or Levi Brown has no idea that his
10 name is being thrown around in this. I suggest to you
11 that Levi Brown had nothing to do with this. Because the
12 person who has something to do with these drugs is
13 sitting over at that defense table today. The person who
14 had something to do with these drugs had those drugs with
15 the intent to sell them. The person that had something to
16 do with those drugs is sitting over there selling y'all a
17 bunch of lies. He keeps saying them and keeps saying
18 them and he expects you all to believe that they are
19 true. Ladies and gentlemen, that's why you are here.
20 You are here to determine believability and to determine
21 credibility and Garrick Epps has none. Your job is to
22 listen to the facts and if you don't believe them you
23 don't have to believe them and the goes for the officers,
24 if you don't believe them, you don't have to believe
25 them. I submit to you they were substantially more

1 credible. But, I submit to you also that this story
2 being brought in by Garrick Epps and I'm not going to
3 call it facts, I'm going to call it story, this story
4 being brought in by Garrick Epps is exactly what that.
5 It is a lie that he has repeated from day one in hopes
6 that you all are willing to sit there and look at how
7 little sense it makes.

8 Again, I appreciate Mr. Carraway's kind words. My
9 job is to come here and be fair. My job is to come in
10 here and present the facts as best I can and to present
11 this case so that you Ladies and Gentlemen of the jury
12 can determine the facts of what is or is not the truth.
13 You've now heard all the facts, you've now heard all the
14 testimony. I'm almost done talking. Everybody is done
15 except the Judge, who I urge you to pay close attention
16 to. Ladies and Gentlemen, I submit that if you ask
17 yourself if you are firmly convinced and you believe the
18 case, you believe what has been put before you, I submit
19 to you that the answer should be we don't believe
20 anything Garrick Epps has said.

21 The truth of this case is the man who sits there and
22 brings that story that makes no sense, the man who sits
23 there and has a answer for everything and refuses to
24 answer questions, the man who had the drugs right beside
25 him, the man who got pulled over that night, the man

The State of South Carolina vs. Garrick Epps 139

1 sitting at the defense table was the man that on June 13,
2 2014 possessed a quantity of crack cocaine and possessed
3 a quantity of powder cocaine and he had it for a specific
4 purposes to sell. Ladies and Gentlemen, I'm asking you
5 to consider this case strongly, I ask you after you
6 deliberate to come back with a guilty verdict on both
7 counts. Thank you.

8 The Court: Do any of you all need a break? It's
9 going to take me about 10 or 15 minutes to charge you.
10 (No one indicated they needed a break)

11 The Court: All right. Ladies and Gentlemen, now
12 that you've heard all the evidence in this case as well
13 as the closing arguments from the attorneys, I will now
14 explain to you the law that you are to apply to this
15 case.

16 Under our constitution and code of laws, only the
17 jury can make a finding of fact. I am not permitted to
18 indicate to you how I might feel about the facts. So, if
19 I have said anything or done anything in this case that
20 might indicate to you that I have an opinion about the
21 facts, you are to disregard that. You and only you are
22 to make a determination about the facts of this case
23 based on the evidence that has been presented to you.

24 The same constitution and code of the laws that
25 makes you the sole judges of the facts, makes me the sole

1 judge of the law. Therefore, if you had an opinion of
2 what you think the law is or what the law should be, and
3 it's different from what I now tell you what the law is,
4 under your oath you are obligated to disregard your
5 opinion and accept the law exactly as I give it to you.

6 The fact the defendant was arrested, charged and
7 indicted in this case, is not evidence in this case and
8 cannot be considered by you as evidence of guilt in this
9 case, nor does it create any presumption or inference of
10 guilt. The indictment is simply the formal written
11 instrument which contains the charge or charges made
12 against the defendant. It serves as the formal document
13 by which this case is processed and brought into this
14 court.

15 The defendant has entered a plead of not guilty to
16 this indictment, and that plea casts the burden on the
17 State of South Carolina to prove to you beyond a
18 reasonable doubt that the defendant is in fact guilty and
19 has committed the crime in which the State has claimed
20 that the defendant has committed.

21 It is important rule of the law of this country that
22 the defendant in a criminal trial will always be presumed
23 to be innocent of the crime for which he is indicted
24 unless and until that guilt has been proven by evidence
25 that satisfies you the jury of that guilt beyond a

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1 reasonable doubt. The presumption of innocence is not a
2 mere legal theory. It is not just a legal phrase. It is
3 a substantial constitutional right to which every
4 defendant is entitled. This presumption of innocence
5 accompanies the defendant from the time he is charged
6 throughout the trial until you reach a verdict based upon
7 evidence satisfying you of that guilt beyond a reasonable
8 doubt.

9 A reasonable doubt is a doubt which makes an honest,
10 sincere, conscientious juror in search of the truth to
11 hesitate to act. Proof beyond a reasonable doubt is
12 proof of such a convincing character that a reasonable
13 person would not hesitate to rely and act upon it in the
14 most important of his or her own affairs.

15 Proof beyond a reasonable doubt can also be
16 described as proof that leaves you firmly convinced of
17 the defendant's guilt. There are very few things in this
18 world that we know with absolute certainty, and in a
19 criminal case the law does not require proof beyond every
20 doubt. If, based on your consideration of the evidence
21 you are firmly convinced that the defendant is guilty of
22 the crime charged, you must find him guilty. If on the
23 other hand, you think there is a real possibility he is
24 not guilty, you must give him the benefit of that doubt
25 and find him not guilty.

1 In determining what the facts in this case, you must
2 necessarily pass upon the credibility, which simply means
3 the believability of the witnesses and the value or
4 weight to be given their testimony. You alone must
5 decide the force and effect and the truth of the
6 testimony. In making these decisions there are many
7 things you may, and should take into consideration, such
8 as:

9 The appearance and manner of the witness on the
10 stand, sometimes referred to as the demeanor of the
11 witness. Was the witness forthright or hesitant? Was the
12 witness' testimony consistent or did it contain
13 discrepancies? What was the ability of the witness to
14 know the facts about which he or she testified? Did the
15 witness have a cause or a reason to be biased and
16 prejudiced in favor of the testimony he or she gave? Was
17 the testimony of the witness corroborated or made
18 stronger by other testimony and evidence or was it made
19 weaker or impeached by such other evidence or testimony?

20 Now the rules of evidence ordinarily do not permit a
21 witnesses to testify to opinions or conclusions, an
22 exception to this rule exists for witnesses we call
23 expert witnesses. A witness who, by education and
24 experience, has become an expert in some art, science,
25 profession or calling, may state an opinion as to

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1 relevant and material matter in which the witness claims
2 to be an expert in, and may also give the reasons for the
3 opinion.

4 You should consider any expert opinion given by a
5 witness and, like any other evidence, give it the weight
6 you think it deserves. If you decide that an opinion of
7 an expert witness' is not based on sufficient education
8 and experience, or if you decide that the reasons given
9 in support of the opinion are not sound, or that the
10 opinion is outweighed by other evidence, you may
11 disregard the opinion of the expert.

12 An expert witness' testimony is to be given no
13 greater weight than that of any other witnesses simply
14 because the witness is an expert, and further you are not
15 required to accept an expert's opinion, even though it is
16 not contradicted.

17 As jurors you have the right to believe a small
18 portion of a witness' testimony and discard the larger or
19 vice versa. You may believe all of a witness' testimony
20 or none. You may believe the testimony of a single
21 witness against that of many witnesses or the other way
22 around.

23 Now, criminal intent is the necessary element of
24 each crime that must be proved to you beyond a reasonable
25 doubt.

1 Criminal intent is always a matter that must be
2 determined by the jury from the circumstances surrounding
3 the situation. There is no way to prove intent to a
4 mathematical certainty. There is no way medical science
5 can dissect a person's brain and determine what he or she
6 had in mind, so the law states criminal intent may be
7 inferred from the circumstances shown to have existed,
8 both before and after the fact. This is how you, the
9 jury, makes a determination of whether or not the element
10 requiring an intent was present.

11 Criminal intent is a state of mind that operates
12 jointly with an act or omission in the commission of a
13 crime. Criminal intent is a mental state of conscious
14 wrongdoing so it is up to you, the jury, to determine
15 what the defendant intended to do based on the
16 circumstances shown to have existed. I tell you that the
17 State must prove criminal intent beyond a reasonable
18 doubt just as the State must prove every element beyond a
19 reasonable doubt.

20 There are two types of evidence which are generally
21 presented during a trial. Direct evidence and
22 circumstantial evidence. Direct evidence is evidence
23 that directly proves the existence of a fact and does not
24 require deduction. Circumstantial evidence is proof of a
25 chain of facts and circumstances indicating the existence

1 of a fact.

2 Crimes also may be proven by circumstantial
3 evidence. The law makes no distinction between the
4 weight or value to be given to either direct or
5 circumstantial evidence, however, to the extent the
6 circumstantial evidence is used, all of the circumstances
7 must be consistent with each other, and when taken
8 together, point conclusively to the guilt of the accused
9 beyond a reasonable doubt. If these circumstances merely
10 portray the defendant's behavior such as suspicious, the
11 proof has failed.

12 The State has the burden of proving the defendant
13 guilty beyond a reasonable doubt. This burden rests upon
14 the State regardless of whether the State relies on
15 direct or circumstantial evidence.

16 Now, the defendant is charged with possession with
17 intent to distribute cocaine. The State must proof
18 beyond a reasonable doubt that the defendant possessed
19 cocaine with the intent to distribute it. To prove
20 possession, the State must prove beyond a reasonable
21 doubt the defendant had both the power and intent to
22 control the disposition or the use of the cocaine.
23 Possession may be either actual or constructive.

24 Actual means that the cocaine was in the actual,
25 physical custody of the defendant. Constructive

1 possession means that the defendant had dominion and
2 control or the right to exercise dominion or control
3 either over the cocaine itself or the property which the
4 cocaine was found. Mere presence at the scene where the
5 drugs were found is not enough to prove possession. The
6 defendant's knowledge and possession may be inferred when
7 a substance is found on the property under the
8 defendant's control. However, this inference is simply
9 an evidentiary fact to be taken into consideration by you
10 along with the other evidence in this case and to be
11 given the weight you decide it should have. Two or more
12 persons may have joint possession of a drug.

13 The State must also prove beyond a reasonable doubt
14 the intent to distribute cocaine. Distribution means to
15 deliver other than administering or dispensing the drug.
16 Intended to be shown in acts and conduct of the defendant
17 and other circumstances which you may naturally and
18 reasonably infer as intent. In determining whether the
19 defendant had the intent to distribute the cocaine you
20 may consider the circumstances surrounding the
21 defendant's alleged possession.

22 You may consider the amount of substance alleged to
23 have been possessed. The amount of which it was allegedly
24 possessed. Place and where it was allegedly possessed
25 and other factors you may deem to be important. You must

The State of South Carolina vs. Garrick Epps 147

1 find that the defendant did not intend to have the
2 cocaine solely for his own personal use.

3 Possession of more than one gram of cocaine creates
4 an inference that the defendant possessed the cocaine
5 with the intent to distribute it. This inference does
6 not relieve the State from proof beyond a reasonable
7 doubt the defendant had the intent to distribute it, it
8 is simply an evidentiary fact to be taken into
9 consideration by you along with other evidence in this
10 case and given whatever weight you decide it should have.

11 Now, the defendant is also charged with possession
12 of crack cocaine, cocaine base. To prove possession, the
13 State must prove beyond a reasonable doubt that the
14 defendant had both the power and intent to control the
15 disposition or the use of the cocaine base and possession
16 of either actual or constructive. As I explained to you
17 before actual construction means the cocaine base was in
18 the actual, physical custody of the defendant.

19 Constructive custody means that the defendant had
20 dominion and control or the right to exercise dominion
21 and control either over the cocaine base itself or the
22 property in which the cocaine was found. Mere presence
23 at the scene where the drugs were found as I explained to
24 you earlier, is not enough to be possession. The
25 Defendant's knowledge and possession may be inferred when

1 a substance is found in the property under the
2 defendant's control. Out of this inference is simply an
3 evidentiary fact to be taken into consideration along
4 with all the other evidence and give it whatever weight
5 you decide it should have.

6 Now, my next charge and one I did not do and I'm
7 going to give you all an opportunity to do is I usually
8 let my juries select their own foreperson. I will send
9 you to the jury room in a minute and ask you to select
10 your foreperson. It has to be one of the original
11 twelve. You can take a few minute break and come back
12 and I will explain to you the verdict form at that time
13 and explain the foreperson and their duties. Now, the
14 foreperson doesn't have any greater vote than anyone else
15 but will simply reside over the deliberations.

16 Okay. Go to the jury room and take a few minutes
17 break and select the foreperson. Tell the jury when you
18 have done that and you will come back out and I will
19 explain to you all the verdict form at that time. So, if
20 you'll go to the jury room.

21 (Jury break to select foreperson)

22 The Court: Any exceptions or deletions on behalf of
23 the State on what I've charged?

24 Mr. Brown: No, it's fine what you charged.

25 The Court: Any on your behalf?

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1 Mr. Carroway: No, Your Honor.

2 The Court: Okay. If you all would get the evidence
3 out. Normally, when I send them out and tell them that
4 I'm going to send this back with the verdict form ---
5 have y'all looked at this verdict form? It's just the
6 caption of the case. As to the charge of possession with
7 intent to distribute cocaine, we the jury find the
8 defendant (1) guilty or not guilty. As to the charge of
9 possession of cocaine base we the jury unanimously find
10 the defendant guilty or not guilty. The foreman signs.
11 Okay. If you all want to take a five minute break.

12 (Court break/Back on)

13 (Jury enters courtroom)

14 The Court: All right. Have you all selected a
15 foreperson?

16 (Jury - yes)

17 The Court: What is your name? Okay. Are you one of
18 the original twelve?

19 Juror #42: Yes, sir.

20 The Court: What is your number and name?

21 Ms. Dougherty: #42, Christy N. Dougherty.

22 The Court: Okay. Ladies and gentlemen, you are not
23 partisans are advocates of the State of South Carolina
24 are this defendant. You don't serve as jurors to award
25 your friends are punish your enemies that system or

1 justice would simply not be tolerated. You have been
2 selected by both the State and the defendant as fair and
3 impartial jurors. It is your duty, then, by your joint
4 deliberations, to determine the truth in this case,
5 giving to this defendant the benefit of every reasonable
6 doubt on each and every issue. Then, to the facts that
7 you determine to be true, you then take and apply the law
8 which has been given you by this Court and thus arrive at
9 a verdict which speaks the truth in this case. When you
10 have done that you will have satisfied your oath as
11 jurors and you will have discharged your duties.

12 Madam forelady, I have had my law clerk come up with
13 the possible verdict form in this case. It's basically
14 the caption of the case and two charges that he's charged
15 with in this case. And as to the charge of possession
16 with intent to distribute cocaine base, we the jury,
17 unanimously find the defendant guilty or not guilty. And
18 as to the charge of possession of cocaine base, we the
19 jury, unanimously find the defendant guilty or not
20 guilty. And your job is simply to preside over the
21 deliberations and once you have decided on a verdict and
22 it must be unanimous, all twelve of you must agree on it,
23 you are to check the appropriate block on each one and
24 sign your name to it, date it and knock on the door and
25 we will bring you out to receive your verdict in this

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1 case.

2 During of your deliberations, if at anytime somebody
3 needs to be excused or needs to go to the restroom or
4 somewhere you're to stop talking about the case because
5 you can only talk about the case when all twelve of you
6 are presence in the room to deliberate. As I say it must
7 be unanimous and all twelve of you must decide this case.

8 Now, I'm going to send this verdict form along with
9 the evidence back to the jury room with you. Like I say
10 you can begin your deliberations. When you've got a
11 verdict, knock on the door and we will bring you back and
12 receive your verdict.

13 Ms. Burgess, you are the alternate. You need to
14 stay with me. The only reason I needed you is if
15 somebody got sick. All twelve of them are going to make
16 it. If you'll just hang with me and all the rest of you
17 go to the jury room. If you have a question, I can only
18 answer questions of law. So, if I need to explain the
19 law to you again, I can do that. If you have a question
20 of fact, I can't explain that, because I can't add
21 anymore evidence you've heard all the evidence you are
22 going to hear. But if you want me to explain the law you
23 simply write it down on a piece of paper that you have a
24 question about the law and I'll bring you back in and
25 explain it to you.

1 As I've told --- I was trying a case one time and
2 the jury went out that morning early and we sat there all
3 day long and finally I sent a note back to the jury
4 saying are y'all having any trouble reaching a verdict?
5 And the jury wrote a note back and said, oh, we reached a
6 verdict 9 hours ago and nobody told us what to do. The
7 judge forgot to tell us to knock on the door. So, you
8 reach a verdict knock on the door and let us know. Okay.

9 This cocaine, you can look at it, but don't open it,
10 okay. Thank you.

11 (Deliberations begin 3:17 p.m.)

12 (Jury returns to court room 4:27)

13 The Court: Madam forelady, you've reached a verdict?

14 Ms. Dougherty: Yes, Your Honor.

15 The Court: Is it unanimous?

16 Ms. Dougherty: Yes, sir.

17 The Court: Okay. You can pass it up, please.

18 Okay. You may publish the verdict.

19 Clerk: On behalf of the State vs. Garrick Epps,
20 2014-GS-45-216, as to the charge of possession with
21 intent to distribute cocaine, we the jury unanimously
22 find the defendant not guilty.

23 As to the charge of possession of cocaine base, we
24 the jury unanimously find the defendant guilty.

25 Signed the foreperson.

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1 The Court: Anything from the State or the defense?

2 Mr. Brown: Nothing at this time, Your Honor.

3 Mr. Carraway: Nothing, Your Honor.

4 The Court: Thank you all. Have a nice evening.

5 (Jury excused for evening)

6 The Court: Have you got the sentencing sheet?

7 Mr. Brown: Your Honor, the one that I had has
8 actually, was the one when we discussed the guilty plea.
9 If I can have two or three minutes.

10 The Court: Okay.

11 (Short court break)

12 The Court: Okay. Tell me about his prior record.

13 Mr. Brown: Yes, sir, Your Honor. You heard some of
14 this in chambers but 1995, he was convicted of possession
15 with intent to distribute crack cocaine for a first
16 offense. He received a 5 year sentence and \$5,000 fine.
17 He also had a resisting arrest at that time. There's a
18 DUS in 1998 along with resisting arrest out of Clarendon
19 County. In 2001, he had another DUS. In 2008, he had a
20 fourth DUS offense. In 2010, he picked up some charges
21 out of the Myrtle Beach area. Actually 2009, 2010, he
22 was convicted of PWID cocaine base, first offense, he
23 received a 2-year sentence on that date. I think he also
24 was convicted of habitual traffic offender, failure to
25 stop for a blue light and open container from those same

1 dates, as well as another DUS. It appears those all ran
2 concurrent. In 2013, he also had a resisting arrest,
3 habitual traffic offender and failure to stop for a blue
4 light. He received 1 year on those dates, it looks like
5 they ran concurrent and it appears that it was in May
6 that he was sent to the Department of Corrections on
7 that. So, when these events occurred it looks like he
8 had only been out for a couple of months from his last
9 prison stay. Then the charges that we're here for today.

10 The Court: Okay. Yes, sir.

11 Mr. Carraway: Your Honor, he is 44 years old. He
12 told me that he works for a guy that I know pretty well,
13 Leroy Driggers. He says he does electrical work for him.
14 He is 44 years old. He's been married for 4 years. They
15 have two children together and he helped raise another
16 child. You know, I would ask the court to consider that
17 his conduct on this particular evening was fine. The
18 officer said that he was no problem, none whatsoever and
19 this was about an hour to two hour encounter with him or
20 whatever and I would just ask you --- And he did serve
21 five and a half months on this charge, he could not make
22 bond. I think they had a high bond and I think
23 eventually he made bond so he has served five and a half
24 months and I would like for you consider all these things
25 and be as lenient as you possibly can with him.

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1 What are the minimum and maximum sentences for this
2 charge?

3 Mr. Brown: Zero to five.

4 Mr. Carraway: Okay. I would just ask that you
5 consider all these things or whatever and consider a time
6 served and probationary sentence for him.

7 The Court: Okay.

8 Mr. Carraway: I mean, he's never told me anything
9 other than he was innocent on this.

10 The Court: All right. I'll give him credit for the
11 time he has served. The sentence of the court is you are
12 committed to the State Department of Corrections for the
13 term of 5 years. Good luck.

14

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CERTIFICATE

This is to certify that the trial transcript in the matter of State of South Carolina vs. Garrick Epps, consisting of One Hundred Fifty-five (155) pages is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 25th day of March, 2016.



Melissa R. Singletary
Certified Court Reporter

DOCKET NO. 2014-GS-45-0216

The State of South Carolina

County of WILLIAMSBURG

COURT OF GENERAL SESSIONS

JULY TERM 2014

THE STATE

vs.

GARRICK EPPS

Indictment for

PWID Cocaine, 2nd Offense; Possession of Cocaine
Base, 2nd Offense; DUS 3rd or Subsequent

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

Solicitor's
File Copy

WITNESSES

Sheriff's Dept.

C. Watson

ARREST WARRANT NUMBER

2014A4510100518 2014A4510100516
2014A4510100519

ACTION OF GRAND JURY

TRUE BILL

Date 7/31/14

Shelley Queen
Foreperson of Grand Jury
Date: 7/31/14

VERDICT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF WILLIAMSBURG)

INDICTMENT FOR

PWID Cocaine, 2nd Offense; Possession of Cocaine Base,
 2nd Offense; DUS 3rd or Subsequent

At a Court of General Sessions, convened on July 31, 2014 the Grand Jurors of WILLIAMSBURG County present upon their oath:

COUNT ONE - POSSESSION WITH INTENT TO DISTRIBUTE COCAINE, 2ND OFFENSE

That Garrick Epps did in Williamsburg County, on or about the June 13, 2014, possess with intent to distribute, dispense or deliver, or did aid, abet, attempt or conspire to distribute, dispense, or deliver a quantity of Cocaine, a controlled substance under provisions of §44-53-110, et. seq., Code of Laws of South Carolina, 1976, as amended, such possession not having been authorized by law, and being in violation of §44-53-370(b)(1), S.C. Code of Laws, 1976, as amended, this being a second offense.

COUNT TWO - POSSESSION OF COCAINE BASE, 2ND OFFENSE

That in Williamsburg County, South Carolina, on or about June 13, 2014, the Defendant, Garrick Epps, did possess a controlled substance or a controlled substance analogue, to wit: Cocaine Base, in violation of §44-53-375 South Carolina Code of Laws (1976) as amended.

COUNT THREE - DRIVING UNDER SUSPENSION, 3RD OR SUBSEQUENT

That Garrick Epps did in Williamsburg County on or about June 13, 2014, drive a motor vehicle on a public highway of this State when his license or privilege to drive was cancelled, suspended, or revoked, such not being the first offense within a period of five years including and immediately preceding the foregoing date, in violation of §56-01-460, S.C. 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.

Solicitor


Ernest A. Fin

A CERTIFIED TRUE COPY
Sharon W. Stagers
 SHARON W. STAGGERS
 CLERK OF COURT
 WILLIAMSBURG COUNTY

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



John H. Strom
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 16th day of February, 2017.

RECEIVED

FEB 16 2017

SC Court of Appeals

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

FEB 16 2017

SC Court of Appeals

Appeal from Williamsburg County
Honorable R. Ferrell Cothran, Circuit Court Judge

THE STATE,

RESPONDENT,

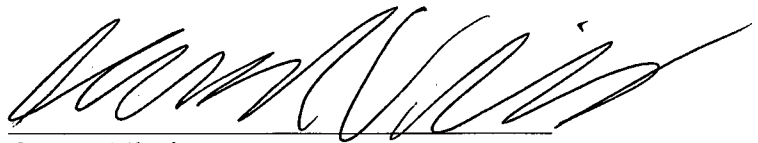
V.

GARRICK EPPS,

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.

U M (L.S.)
Notary Public for South Carolina

My Commission Expires 5/12/2025.