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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Beaufort County

Maite Murphy, Circuit Court Judge

THE STATE

-VS.-

STANLEY L. WRIGHT

Defendant

Appellate Case No.:

2013-002090

RECORD ON APPEAL

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See ex. Attached

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CORPORAL RAYMOND HEROUX: BY MR. JOHNSON

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1 A. That is correct, sir.

2 Q. September the 1st, if I'm not mistaken, is always a
3 holiday, correct?

4 A. Yes.

5 Q. This being the end of the month, would it be unusual
6 for an individual to get paid before the holiday?

7 A. No.

8 Q. So, therefore, it would not be unusual for a
9 individual to have a substantial amount of money, as you
10 call it, in this case Two Thousand Dollars in his home if
11 he was employed?

12 A. It's possible.

13 Q. So, therefore, Two Thousand Dollars held by my client
14 on August the 31st before a holiday except for the - I
15 grant you, there is drugs at this house, but except for
16 those drugs being there is nothing unusual about my client
17 having Two Thousand Dollars on that particular day, is it?

18 A. Are you asking me as a common layperson or are you
19 asking me as a person with police experience to take the
20 totality of the circumstances and then answer your
21 question.

22 Q. I'm not asking you to be biased. I'm asking you --

23 A. I'm not trying to be biased, sir.

24 Q. Okay.

25 A. I'm just saying do you want me to take all my

CORPORAL RAYMOND HEROUX: BY MR. JOHNSON

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1 knowledge that I have and give you an honest opinion that
2 way or just as a lay person?

3 Q. I'm asking you based on the facts, excluding granted
4 you found drugs at this house, okay? I'm asking you --

5 A. Suspected.

6 Q. Suspected drugs at this house. If you would take that
7 out of the scenario and my client on the end of the month,
8 August the 31st, the day before a holiday ---

9 A. Yes.

10 Q. --- an employed individual ---

11 A. Yes.

12 Q. --- it would not be unusual for him to have Two
13 Thousand Dollars at his home in his -- either in his pocket
14 or at his home or in total, it would not be unusual would
15 it?

16 A. I would agree.

17 Q. Okay. The thousand dollars that you found was on a
18 shelf. Right?

19 A. Yes, sir.

20 Q. And it was in the living room area?

21 A. Yes, sir.

22 Q. And it was out? You could see it, couldn't you?

23 A. That's a matter for interpretation. I would say it
24 was hidden. I wouldn't say it was out in the open.

25 Q. Well, let's find the picture so we can --

CORPORAL RAYMOND HEROUX: BY MR. JOHNSON

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1 A. Can you see it? Could one see it, yes. Was it made
2 to be seen? I don't believe it was.

3 Q. Okay. So it's something that you can see, but you
4 would say it was made not to be seen?

5 A. Correct.

6 Q. Okay.

7 A. You can stick your head around a corner this much so
8 no one sees you or you can stick your head around the
9 corner that much so someone sees you, that's what I'm
10 trying to explain.

11 Q. But we're not talking about corners, sir. We're
12 talking about where this money was located.

13 A. I'm just trying to make an analogy to get my point
14 across to you.

15 Q. I understand that.

16 A. Okay.

17 Q. But we're talking about facts, not analogies. The
18 facts are that this money was on a shelf. Correct?

19 A. Yes.

20 Q. In the living room?

21 A. Yes.

22 Q. It was behind something that was used to hold it but
23 -- Let's get the picture. Do you have it there?

24 A. I do, sir.

25 Q. Take a look at it because I want to describe it.

CORPORAL RAYMOND HEROUX: BY MR. JOHNSON

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1 A. Uh-huh.

2 Q. All right. So is this -- and that --

3 MR. CHAPLAIN: Your Honor, can I approach?

4 THE COURT: Sure.

5 Q. So that is money that's on a shelf, it was on a
6 bookcase.

7 A. Yes.

8 Q. Correct?

9 A. Yes, sir.

10 Q. And it's placed behind something that --

11 A. Statue of some sort.

12 Q. Statues or whatever and it's placed in somewhere that
13 you can see it? It's behind it, but it's placed somewhere
14 you can see it. Correct?

15 A. Yes.

16 Q. There was no drug residue found on the money?

17 A. Correct.

18 Q. And matter of fact, you have no evidence of any drug
19 residue being found on anything other than the items that
20 you were saying was marijuana or cocaine. Correct?

21 A. That's true.

22 Q. Okay. At the time that my client was arrested,
23 officers have stated before that they had never heard of my
24 client or had any knowledge of him. Did your Task Force
25 have him under investigation?

CORPORAL RAYMOND HEROUX: BY MR. JOHNSON

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1 A. If they did, I was not aware of it.

2 Q. Okay. So he was not under investigation as of any
3 type of -- you - far as you know, there was - he was not
4 under investigation under your Drug Task Force as being a
5 drug dealer, a drug trafficker, or anything of that nature
6 prior to this incident. Correct?

7 A. That's correct.

8 Q. Okay. You do have knowledge - well, let me ask you
9 this. I don't want to ask you about anything you don't
10 have knowledge to. As the case - you was the case --

11 A. Officer?

12 Q. Officer?

13 A. Yes, sir.

14 Q. You collected the evidence, you took pictures?

15 A. Yes, sir.

16 Q. Did you do any other investigation into the case other
17 than that?

18 A. I obtained search warrant, did the search warrant
19 return, seized the money. There was no interviews with Mr.
20 Wright, 'cause he invoked his *Miranda*. Sent off the
21 suspected drugs for analysis and that was it.

22 Q. Okay. And, I guess I think it was about four o'clock,
23 you also - four o'clock in the morning you also served him
24 with an additional warrant where you charged him with
25 cocaine?

1 A. I'd have to refer to my report for that.

2 Q. Could you, please -

3 A. But - yes, sir. And I think it would --

4 Q. I'm sorry, I didn't hear you.

5 A. I don't think that sounds correct at four o'clock in
6 the morning because the bond court - typically, when you
7 have a General Sessions case, you write it on a county
8 ticket when you make a charge, say today ---

9 Q. Uh-huh.

10 A. --- and if it's after hours, you go to bond court to
11 get a warrant from the judge and bond court doesn't start
12 until nine o'clock so, initially, I would say no, it
13 wouldn't be at four o'clock in the morning, but I will look
14 ---

15 Q. But ---

16 A. --- look through the report.

17 Q. Do you - were you the one that served an additional
18 warrant on my client, because initially he was just charged
19 with marijuana possession?

20 A. Right, any -- and that was - subsequently, that was
21 dropped and then he was charged with the other offenses ---

22 Q. Right.

23 A. --- and I was the charging officer so yes, sir.

24 Q. Okay.

25 A. Yes, sir.

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BY SOLICITOR SHELTON

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1 Q. And just for clarification, the bags that you examined
2 that contained the alleged cocaine and the alleged
3 marijuana, there were tampered with after you sealed them
4 yourself?

5 A. I don't know if you want - I don't know if I would - I
6 don't like the word tampered. Did someone else do
7 something to those bags after I turned them into evidence?
8 Apparently, it looks like somebody did, yes.

9 Q. That's - that's fine enough. Thank you.

10 A. Thank you.

11 Q. I have no other questions.

12 THE COURT: Any redirect?

13 SOLICITOR SHELTON: Just briefly, Your Honor.

14 REDIRECT EXAMINATION

15 CORPORAL RAYMOND HEROUX BY SOLICITOR SHELTON:

16 Q. Defense counsel brought up the actual Mason jars. We
17 have them right here, so I'd like to actually approach and
18 have you look at them and I'll let you inspect them as
19 well. And you worked as a Drug Task Force officer.

20 Correct?

21 A. Yes, sir.

22 Q. Have you been involved with marijuana arrests before?

23 A. Yes, sir, three days ago I was.

24 Q. Okay. And other than that, have you been involved in
25 marijuana arrests before?

CORPORAL RAYMOND HEROUX: BY SOLICITOR SHELTON

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1 A. Yes, sir.

2 Q. A few, a lot?

3 A. Quite a bit. The one three days ago was a Mason jar
4 to be, matter of fact.

5 Q. Are you familiar with the term "marijuana shake" or --

6 MR. JOHNSON: Your Honor, objection.

7 A. Yeah.

8 MR. JOHNSON: Could we approach?

9 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
10 THE JURY).

11 BY SOLICITOR SHELTON:

12 Q. Officer Heroux, you said you looked for evidence of
13 evidentiary value when there is a sweep or when you're
14 executing a search warrant. Correct?

15 A. Yes, sir.

16 Q. Obviously, these Mason jars were seized. Correct?

17 A. Yes.

18 Q. So you determined they had evidentiary value.

19 Correct?

20 A. Yes.

21 Q. I'm going to approach and hand these to you and have
22 you inspect them, the State's Exhibit - I apologize -
23 Number Thirty-six. Now, admittedly, not tests have been
24 done on these. Correct?

25 A. That's correct. Excuse me, sir, may I have the

CORPORAL RAYMOND HEROUX: BY SOLICITOR SHELTON

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1 gloves, please?

2 Q. Oh, yes, yes.

3 A. There should be another set in there. Thank you.

4 Q. And based on your training and experience, have you
5 been able to be in contact before with anything that has
6 contained marijuana?

7 A. I have.

8 Q. What do you see inside of those Mason jars?

9 MR. JOHNSON: Objection, Your Honor. What he sees
10 insides the jar? There is nothing inside the jar, Your
11 Honor. He would only be speculating as to what could
12 possibly be inside of the jar.

13 THE COURT: If he knows what he can see, if he can
14 identify something, he can testify to it. If he -- he's
15 already testified that these have not been tested to.

16 Excuse me, gentleman, please approach the bench.

17 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
18 THE JURY.)

19 THE COURT: The witness may testify if he knows
20 whatever is in the jar or what his observation is but not
21 an opinion unless he has - unless he knows exactly what's
22 in there.

23 SOLICITOR SHELTON: Thank you, Your Honor. May it
24 please the court?

25 Q. Please just state what your observation is of what you

1 see inside of the jar?

2 A. Well, my observation on the large jar is like green,
3 very, very fine plant material and there is an odor
4 present. I actually just went to marijuana certification
5 class to test marijuana and tested a hundred and ten
6 samples, so I smelled a lot of marijuana during the day and
7 this is consistent with that smell.

8 MR. CHAPLAIN: Your Honor, I have to put these
9 objection on the record and I apologize, but he is
10 testifying there being marijuana there, he's already
11 testified that there is no record of marijuana. What he's
12 saying is extremely prejudicial. It is - He is giving an
13 opinion that he is not qualified to give, it's not based on
14 any facts, and I think that this is totally incorrect. I
15 understand the court ruling and I just ask to put this on
16 the record that this is totally inappropriate.

17 THE COURT: Well, I think the proper - the proper
18 thing at this point, I don't think he's established a basis
19 for stating it's consistent with marijuana based upon his
20 training and experience.

21 So members of the jury, you're to strike that answer
22 and do not give it any consideration whatsoever in your
23 minds.

24 Solicitor, please move on as to what is actually
25 admissible.

CORPORAL RAYMOND HEROUX: BY SOLICITOR SHELTON
BY MR. JOHNSON

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1 SOLICITOR SHELTON: Yes.

2 Q. As I said, just state what you see, personally see and
3 observe, limited to that, what you actually see.

4 A. Yes, sir. The small jar has a small, very fine plant
5 material in it. There's actually a green haze to the
6 bottom of the jar, a staining if you would, and the same
7 thing on the larger Mason jar.

8 Q. Thank you. Those are all the questions the State has.

9 THE COURT: Anything further, Mr. Johnson.

10 MR. JOHNSON: Yes, Your Honor, if it pleases the
11 court.

12 RECROSS-EXAMINATION

13 CORPORAL RAYMOND HEROUX BY MR. JOHNSON:

14 Q. Officer, a few seconds ago, you testified that there
15 was nothing in those jars and that you had no evidence to
16 present to the jury that indicated anything about drugs.

17 Correct?

18 A. That's correct.

19 Q. And now within three minutes, you now smell marijuana,
20 you see marijuana, and there's marijuana in the jars.

21 Correct?

22 A. That's my interpretation, yes.

23 Q. I have no other questions for you.

24 A. Thank you.

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

1 OFFICER HEROUX: Thank you.

2 (WITNESS LEAVING WITNESS STAND.)

3 THE COURT: At this point in the testimony I think
4 we'll go ahead and break for the day.

5 Ladies and gentlemen of the jury, at this time it's a
6 good time to break for the day. I know everybody is tired
7 and a lot of testimony throughout today, so I will advise
8 you again to please do not discuss this case with anybody
9 and do not allow anybody to discuss the case with you.
10 Don't do any independent research or look at any potential
11 media reports of that. And, again, don't deliberate it
12 amongst yourselves either. Have a nice evening. We will
13 resume the trial of this case at 9:30 in the morning, so if
14 you would be back in your jury rooms a little bit before
15 then so we can get started on time, I certainly would
16 appreciate that. Have a nice evening.

17 (JURY EXITS COURTROOM AT 04:37 P.M..)

18 BAILIFF: The jury is clear, Your Honor.

19 THE COURT: Thank you.

20 Counsel for both parties, can you give me a ball park
21 figure just for planning purposes of the rest of the week
22 how long you anticipate being.

23 SOLICITOR SHELTON: Thank you, Your Honor. I have
24 still the chain witnesses of James Padgett, Jimmy Padgett.
25 Also Jennifer Snider. Cynthia Payne and Eileen Rios.

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1 Those are all chain witnesses only specific to drug
2 exhibits because everything else has already been admitted
3 so they should be very quick. And then I have actually two
4 chemist that are going to testify. One is going to testify
5 specifically only to the marijuana because it was tested.
6 The other chemist is going to testify to the cocaine. And
7 the other - Excuse me. The first chemist is going - Renita
8 Berry is going to testify to the marijuana and the cocaine.
9 Jennifer Mills is only going to testify as to the cocaine
10 when she retested it when we tried to put this case back on
11 the docket while Renita Berry was out of the country.

12 THE COURT: So a couple of hours max?

13 SOLICITOR SHELTON: A couple of hours max I would
14 imagine.

15 THE COURT: Thank you. And counsel for the defense, I
16 will - how long do you anticipate your side to take?

17 MR. JOHNSON: A couple of hours max, Your Honor. We
18 should be finished by tomorrow as far as our case. We
19 should be finished depending how long their - the rest of
20 their case are. It should go to the jury tomorrow, Your
21 Honor.

22 THE COURT: Okay. I just want to make sure for
23 planning purposes for the next term

24 All right, gentlemen, we'll be in recess until
25 tomorrow morning.

1 MR. JOHNSON: Your Honor, just one thing ---

2 THE COURT: Yes.

3 MR. JOHNSON: --- I'd like to put on the record. If I
4 did anything I apologize to the Court. It was not
5 intentional and I would never do anything like that.

6 THE COURT: Thank you, Mr. Johnson. Your apology is
7 accepted.

8 MR. JOHNSON: Thank you.

9 THE COURT: We will be in recess until tomorrow
10 morning. Good afternoon.

11 SOLICITOR SHELTON: Thank you, Judge.

12 (COURT IN RECESS AT 04:44 P.M..)

13 (COURT BACK IN SESSION WEDNESDAY, SEPTEMBER 18, 2013
14 AT 09:40 A.M..)

15 THE COURT: Good morning everyone. You may have a
16 seat. Are there any matters we need to take up before we
17 bring the jury up?

18 SOLICITOR SHELTON: Not from the State, Your Honor.

19 MR. SHELTON: Your Honor, I don't think the Defense
20 actually give the clerk a copy of the - may I approach -
21 jury charge?

22 THE COURT: Okay.

23 MR. JOHNSON: And that's about the only thing we have
24 for jury charge we'd like the Court to consider.

25 THE COURT: Sure. What we'll do is at lunchtime I

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1 would anticipate that being probably about when you rest
2 and we'll make sure we print out all the other jury charges
3 and let you all go over everything. And think about, too,
4 if you want to have the jury actually have the actual jury
5 charge in the jury room. I'll leave that up to you all. I
6 think sometimes that's helpful for the jury to not come out
7 as many times asking questions about what the law is, but
8 I'll leave that up to you if you're okay with that so think
9 about that.

10 And then also for counsel for the defense, if you -
11 make sure you talk to your client about his right to
12 testify and that I'll be questioning him on that under oath
13 after the State rests.

14 MR. JOHNSON: We have.

15 THE COURT: Okay. I just want to make sure he had
16 plenty of heads-up on that. Anything further?

17 SOLICITOR SHELTON: No, Your Honor.

18 MR. JOHNSON: No, Your Honor.

19 THE COURT: All right. Let me get powered up here and
20 organized.

21 And counsel we just have to wait one second. We're
22 getting the exhibits brought back up here just in case you
23 need them during the trial.

24 SOLICITOR SHELTON: Thank you, Judge.

25 THE BAILIFF: Your Honor, the jury is entering.

1 (JURY REENTERS COURTROOM AT 09:48 A.M..)

2 THE COURT: Bailiff Bob, Mr. Bob.

3 THE BAILIFF: Yes.

4 THE COURT: Could we send the jury out for just one
5 second, we're missing one thing before we get started.

6 THE BAILIFF: Certainly, Your Honor.

7 THE COURT: Sorry about that.

8 THE BAILIFF: Reverse, please. Reverse. Reverse.

9 (JURY EXITS COURTROOM.)

10 THE BAILIFF: All right, Your Honor.

11 The jury is clear, Your Honor.

12 THE COURT: Thank you.

13 (PAUSE.)

14 THE COURT: Did we find it? Are we ready to go?

15 We're ready. Thank you.

16 THE BAILIFF: All right, Your Honor, the jury is
17 entering.

18 THE COURT: Thank you.

19 (JURY REENTERS COURTROOM AT 09:55 A.M..)

20 THE BAILIFF: And the jury is seated, Your Honor.

21 THE COURT: Thank you.

22 Good morning, ladies and gentlemen of the jury. Thank
23 you for your patience this morning and I apologize for the
24 confusion getting you up and down, but now we are ready to
25 resume the trial of this case.

CORPORAL JAMES PADGETT: BY SOLICITOR SHELTON

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1 Solicitor.

2 SOLICITOR SHELTON: Thank you, Your Honor. May it
3 please the court, good morning. The State calls James
4 Padgett from the Beaufort County Sheriff's Office.

5 MADAME CLERK: Would you place your left hand on the
6 Bible and raise your right hand for me, sir.

7 (WHEREUPON: JAMES PADGETT,
8 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:

9 MADAME CLERK: Please be seated. State your name and
10 spell it for the court please.

11 MR. PADGETT: My name is James D. Padgett, Corporal,
12 Beaufort County Sheriff's Office. Current assignment is
13 Evidence Section as an evidence technician.

14 DIRECT EXAMINATION

15 CORPORAL JAMES PADGETT BY SOLICITOR SHELTON:

16 Q. And, Corporal Padgett, will you please spell your last
17 name for the court reporter.

18 A. Yes. P-a-d-g-e-t-t.

19 Q. Thank you.

20 A. Yes, sir.

21 Q. You said your current assignment is in the Evidence
22 Section of the Sheriff's Office?

23 A. That's correct.

24 Q. Will you describe what you do in that section of the
25 Sheriff's Office?

1 A. As an evidence tech we are responsible for taking in
2 all evidence that comes into Beaufort County Sheriff's
3 Office from the officers. My responsibilities are to make
4 sure that the case numbers are right, the evidence
5 submittal is done properly, and that the evidence container
6 information matches what is on the submittal. We then put
7 it into our computer system, generate a container number,
8 tracking number for it, and then process it on to storage
9 and list the storage in our computer system so it can be
10 tracked.

11 Q. And where do you generally operate out of mostly?

12 A. My office is the - on Hilton Head. I'm in charge of
13 the Southern Division Evidence Collection.

14 Q. And what is located there for officers to put evidence
15 into?

16 A. We have temporary storage lockers that are metal. I
17 always call them my school lockers. They're real small,
18 but they can either put the evidence in those lockers when
19 the office is not open or they can come directly into the
20 office when it is occupied and hand-deliver it to us.

21 Q. And when is the office not open?

22 A. Weekends. It - normally, it's open from eleven - I
23 mean, eleven - 7:30 till five o'clock in the afternoon
24 weekdays except for lunchtime, and then nights and weekends
25 it's closed; holidays, it's normally closed.

CORPORAL JAMES PADGETT: BY SOLICITOR SHELTON

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1 Q. So if evidence comes in overnight, they put it in a
2 temporary storage locker?

3 A. Yes, sir.

4 Q. And describe what they do with the evidence when they
5 put it in the temporary storage locker?

6 A. The process is basically the same whether it's the
7 storage locker or whether it's hand-delivered except for
8 the documentation on the submittal and on the container for
9 the evidence will say temporary storage as the person or
10 receiving of that when it goes to temporary storage. If
11 it's hand-delivered, it goes - the name of the evidence
12 technician from Evidence who is signing it in. Once --

13 Q. And out? I'm sorry.

14 A. Yeah. In the temporary storage section of it, they
15 bring it in, they fill out their submittal and they fill
16 out the container, sign everything over to temporary
17 storage, then they take the lock off of - it's - the
18 lockers are unlocked all the time. So they take the
19 padlock out, open it up, put the evidence in, close it,
20 lock the padlock.

21 Q. And who has access to the padlock?

22 A. I have one key, the evidence section over here in
23 Beaufort has a key also.

24 Q. And then you say evidence section over here. What do
25 you do with evidence after it's put in evidence temporary

1 storage locker, you take it out and put the case number on
2 it, then where do you take the evidence?

3 A. After that, it is taken over here to Beaufort and the
4 process is - I'll process everything in over on Hilton
5 Head. I'll take it and I'll put it into whatever
6 container, storage container it needs to be put in a box or
7 an envelope. I then would transport it over here at the
8 evidence office here in Beaufort. I will then assign it to
9 a location in that office in our secure storage, then I'll
10 take it and place it in that area.

11 Q.. Without talking about where it is, will you please
12 just describe the nature of the building that it's stored
13 in?

14 A. That you - the building it's stored in over here is
15 it's a metal building. Basically, as you walk in, you've
16 got a real evidence office type area and there is a metal
17 door that goes into a non-windowed area of the building and
18 it's - so it's locked up behind that metal door in that
19 non-accessible area except for the door.

20 Q. And who has access to that area?

21 A. The evidence technicians.

22 Q. And no one else?

23 A. No. The only ones that can go in there after that is
24 with an evidence technician and they have to be signed in
25 and signed out and followed in and stayed with the whole

CORPORAL JAMES PADGETT: BY SOLICITOR SHELTON

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1 time they're there.

2 Q. Thank you.

3 MR. CHAPLIN: Objection.

4 THE COURT: Thank you.

5 (WHEREUPON: STATE'S EXHIBIT FORTY-FIVE PREMARKED FOR
6 IDENTIFICATION ONLY.)

7 Q. Mr. Padgett, I'm going to approach with a form, and
8 for identification purposes only I better put a number on
9 it for the court reporter. It will be labeled for
10 identification purposes only as State's 45. I'm going to
11 ask you if you recognize this?

12 A. Yes, sir.

13 Q. What is it?

14 A. This is a Evidence Submittal form in Beaufort County.

15 Q. And do you recognize any distinguishing
16 characteristics to it?

17 A. Yes, sir. I recognize different things as the case
18 officer which is to sign this, the officer who submitted
19 it, that it went to temp storage and that I took it out of
20 temp storage. That is done by the signatures that are on
21 here.

22 Q. And what is on the left-hand side of that form?

23 A. The left-hand side of the form, you have your
24 container numbers, and then the description of the evidence
25 that was in that particular container.

1 Q. And who fills out the container number section of that
2 form?

3 A. The container number section is filled out by me.

4 Q. And is your signature on that form?

5 A. I'm sorry?

6 Q. Is your signature on that form?

7 A. Yes, sir; signature is mine.

8 Q. And what date - the evidence that's listed in that
9 form, what date did you come into possession of it?

10 A. I took that evidence in on September 1st of 2011.

11 Q. And does that form contain - described in it a best
12 bag control number 007589?

13 A. Yes, sir.

14 Q. I'm going to approach with; for identification
15 purposes only, State's Exhibit 30, please do not show it to
16 the jury, just review it and see if you can find within
17 that bag there's a best bag? Is there?

18 A. Yes, it is.

19 Q. And what best bag control number is assigned to that
20 best bag?

21 A. The control number on this one is - let me see if I
22 can - it's kind of - you have control - two control numbers
23 on this really. One is the bag number of C007589 ---

24 Q. Correct.

25 A. --- and the other is a container number and that --

CORPORAL JAMES PADGETT: BY SOLICITOR SHELTON

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1 Q. Is it faded?

2 A. It's faded. I can't - 11-09-0056D ---

3 Q. Okay.

4 A. --- was the container number.

5 Q. And is that the same container number that is assigned
6 to that control - that control number of the best bag that
7 you assigned to it?

8 A. Yes, it is.

9 Q. On your form?

10 A. Yes, on the form it's the same number.

11 Q. And that's the container number that you assign to
12 that best bag?

13 A. That's correct.

14 Q. So that's the best bag you brought to Central ---

15 A. Yes, sir.

16 Q. --- storage? Thank you. On September 1st, 2011?

17 A. Right.

18 Q. And I'm going to do the same thing here. I'm going to
19 approach with State's Exhibit Thirty-one and I'm going to
20 ask if you can locate the best bag control number first.

21 A. Uh-huh.

22 Q. And first of all tell me whether there is a best bag
23 inside of that ---

24 A. Yes, sir

25 Q. --- without showing it to the jury?

1 A. Yes, there is.

2 Q. There is a best bag inside of it?

3 A. Yes, there is.

4 Q. And is there a control number that's printed on that
5 best bag?

6 A. That is C-0-0-7-5-8-0.

7 Q. And according to your form, is that - was that also
8 submitted to you on September the 1st, 2011?

9 A. That is correct.

10 Q. And did you assign a container number to it?

11 A. Yes, I did.

12 Q. And according to the form what container number did
13 you assign to it?

14 A. I assigned 11-09-0055D.

15 Q. And can you read the container number that is actually
16 the on the sticker on the back? Again, it may be faded but
17 if you can, please read it?

18 A. I got 11-09-0055D.

19 Q. Is that the same container ---

20 A. Yeah.

21 Q. --- number?

22 A. Yes, sir.

23 Q. And that's the container number you assigned to it?

24 A. That is correct.

25 Q. And that is the best bag that you brought from the

CORPORAL JAMES PADGETT: BY SOLICITOR SHELTON
BY MR. CHAPLIN

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1 temporary storage lockers and office in Hilton Head to
2 Beaufort Central Evidence on September 1st, 2011?

3 A. That's correct.

4 Q. Did you tamper with this evidence in any way?

5 A. No, sir.

6 Q. And was it in the same condition when you received as
7 when you - when you put it into - logged it into evidence
8 and Central Evidence?

9 A. Yes, sir.

10 Q. Those are all the questions I have. Thank you.

11 THE COURT: Mr. Chaplain?

12 CROSS-EXAMINATION

13 CORPORAL JAMES PADGETT BY MR. CHAPLIN:

14 Q. Morning, Officer.

15 A. Good morning.

16 Q. How long have you been doing the job that you were
17 doing on that day, how long you had been picking up and
18 dropping off?

19 A. As of now, I've been with Evidence Section for about
20 three years. I had been there a little over a year at that
21 time.

22 Q. Was everything on that occasion when you went to go
23 pick it up and drop it off, was it normal course of
24 business, was there anything that you did different than
25 you would normally do?

CORPORAL JAMES PADGETT: BY MR. CHAPLIN

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1 A. Not to my knowledge.

2 Q. So it was dropped off at night? I know you can look
3 at that.

4 A. According to the form it was dropped off at night,
5 yes, sir.

6 Q. And who dropped it off?

7 A. Corporal Heroux.

8 Q. Okay. And he dropped it off at what time?

9 A. It indicates at 02:37.

10 Q. Two-thirty - 2:30 in the morning?

11 A. Yes, sir.

12 Q. And you picked it up when?

13 A. I picked it up at 14:15 on the 1st.

14 Q. Okay. And those who are not in the military that
15 would be?

16 A. That would be 2:15 in the afternoon. I'm sorry.

17 Q. Okay. 2:15. Okay. And you said that when the
18 corporal went to the box, it would have been, you said,
19 like a school house locker?

20 A. Yes, sir.

21 Q. And it's a open lock that's sitting in there?

22 A. No, the lock is open and sitting through the lock
23 mechanism yes, sir.

24 Q. He - he open - he takes that out of the lock, he takes
25 the lock off of it, he opens up - opens it up and he puts

CORPORAL JAMES PADGETT: BY MR. CHAPLIN

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1 whatever he...

2 A. Yes, sir. And then he would close it back and put the
3 lock on.

4 Q. Okay. Then you come and you have your own key?

5 A. Yeah.

6 Q. You open it?

7 A. Yes, sir.

8 Q. You take the item out?

9 A. Yes, sir.

10 Q. And now you head off to Hilton Head?

11 A. With this - yeah, it would be back to the office to
12 enter it into the system yes, sir.

13 Q. Okay. So clarify that. So you take it out of the
14 locker, then you go somewhere and then enter it into a
15 computer?

16 A. Right.

17 Q. Okay. And where do you do that at? In Beaufort?

18 A. This one, it would have been Beaufort. This is one
19 that would have been picked up at the storage area for the
20 officers that work in the Drug Task Force.

21 Q. Okay. So once you do that - I'm just trying to - I
22 guess those who don't know how you do it, I just want to be
23 clear, clarify. I know that you already gave a whole bunch
24 of numbers and all of that.

25 A. Yes, sir.

1 Q. I'm not really interested in that. I'm interested in
2 what you did. So Beaufort, you then enter it into the
3 computer?

4 A. Right.

5 Q. Then you take it to?

6 A. Well, if I'm doing it in Beaufort, that's where I
7 will end up being stored ---

8 Q. Okay.

9 A. --- so it makes it a little bit simpler for me, I put
10 it all in the computer there, assign the case numbers, the
11 container numbers to it, mark everything, box it up and
12 take it into the back room locker area and store it on the
13 appropriate section.

14 Q. Okay. And then I could have sworn you said something
15 about going to Hilton Head. I was just --

16 A. Well, Hilton Head is where my office is.

17 Q. Right.

18 A. So if we have temporary storage in that office also
19 ---

20 Q. Okay.

21 A. --- so that's where I am primarily located, so that's
22 where Hilton Head comes in, 'cause I take in evidence there
23 also and I have to take it to Beaufort for storage after
24 that.

25 Q. Okay. So let's just talk about this case.

CORPORAL JAMES PADGETT: BY MR. CHAPLIN

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1 A. Just different areas.

2 Q. Okay. Well, let's clarify this case. The item that
3 he just showed you earlier ---

4 A. Uh-huh.

5 Q. --- that item went to the locker, came out of the
6 locker, went to you, you then took it to ---

7 A. Beaufort.

8 Q. --- Beaufort. So no talk of Hilton Head, you didn't
9 go to Hilton Head?

10 A. Hilton Head didn't come into this one at all, yes,
11 sir.

12 Q. Okay. Okay. There we go.

13 A. I'm sorry if I confused that.

14 Q. Okay. So now you've done with your part of it once
15 you enter it in?

16 A. I'm sorry?

17 Q. Once you have entered it in with a number ---

18 A. Uh-huh.

19 Q. --- are you done? Are you done at that point?

20 A. No, sir.

21 Q. Okay.

22 A. At that point I then package it like I take containers
23 and I package them up for storage, and then take them back
24 into the, the storage facility of the office and put them
25 in a designated area for that material.

CORPORAL JAMES PADGETT: BY MR. CHAPLIN

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1 Q. Okay.

2 A. In other words if it - we have different sections and
3 we assign it to a section so we can locate it easily.

4 Q. Okay. Then what happens?

5 A. At that point, I'm finished with then it would be if
6 someone comes up and signs it out for whatever reason or
7 whatever then that would be done separate from what I have
8 to do.

9 Q. Okay. Good point. Okay. Let's - I'm going to even
10 make it simpler. Let's talk about hands now. From the
11 point of the - of that item being retrieved from the scene,
12 it touched his hands. Correct?

13 A. Uh-huh.

14 THE COURT: Say yes.

15 Q. Then after --

16 A. Yes.

17 Q. Corporal, I keep saying Heroux, Corporal Heroux.

18 A. Heroux.

19 Q. Heroux. Corporal Heroux. I just didn't want to
20 butcher his name. Corporal Heroux's hands, then it goes to
21 ---

22 A. It goes - it went to me.

23 Q. --- to your hands.

24 A. Okay.

25 Q. So now we're at two sets of hands?

CORPORAL JAMES PADGETT: BY MR. CHAPLIN

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1 A. Okay. Right.

2 Q. Right?

3 A. Now, it goes to storage from me, storage in the
4 section of the office over here in Beaufort.

5 Q. Okay. So when you - when you're done with - as you
6 would say, per se, done with your part of it, at that point
7 it only touched Corporal Heroux's hand and your hands?

8 A. From he put it in the locker, I took it out and
9 processed it and stored over here.

10 Q. Can you look at this sheet and tell like who hands did
11 it go to next?

12 A. No, sir. That is not on this form.

13 Q. Okay. So you can't tell by looking at this who would
14 have touched it next?

15 A. No, sir. No.

16 Q. Okay. Is it Exhibit Thirty...

17 State's Exhibit Thirty-one, I'd like to show this to
18 you, and not to be shown to the jury. By looking at that
19 bag - are you with me?

20 A. Uh-huh.

21 Q. By looking at that packet ---

22 A. Yes, sir.

23 Q. --- bag, whatever, that exhibit, how many hands - by
24 just looking at it, can you tell how many hands that you,
25 by just looking at it, can tell touched that package, how

CORPORAL JAMES PADGETT: BY MR. CHAPLIN

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1 many people?

2 A. No, sir, I can't tell that by just looking at it ---

3 Q. Okay.

4 A. --- myself that its...

5 Q. You don't see signatures or you don't see anything
6 that can identify that more than just two of you all
7 touched it?

8 A. No, sir. There's no signatures on here. It would be
9 computerized.

10 Q. Okay.

11 A. Once it's transferred out to another individual, it's
12 put into the computer. There is a computer record of who
13 has touched that.

14 Q. Okay. But clearly to be to this point, right at this
15 point at where we are right now, someone would have touched
16 it after you?

17 A. Yes, sir.

18 MR. CHAPLAIN: I beg the Court's indulgence.

19 (PAUSE.)

20 MR. CHAPLIN: Your Honor, I don't have anything
21 further at this time.

22 THE COURT: Any redirect?

23 SOLICITOR SHELTON: No, Your Honor.

24 THE COURT: Sir, you may step down. Thank you. You
25 may be excused. Any objection?

EILEEN RIOS: BY SOLICITOR SHELTON

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1 SOLICITOR SHELTON: No objection for the State, Your
2 Honor.

3 THE COURT: Mr. Chaplin, may he be excused? Any
4 objections?

5 MR. CHAPLAIN: Oh, yeah, Your Honor, please...

6 THE COURT: Thank you.

7 MR. CHAPLAIN: Please allow him to leave.

8 (WITNESS LEAVING WITNESS STAND.)

9 THE COURT: You may call your next witness.

10 SOLICITOR SHELTON: Thank you, Your Honor. The State
11 calls Eileen Rios.

12 MADAME CLERK: Would you place your left hand on the
13 Bible and raise your right for me please.

14 (WHEREUPON: EILEEN RIOS,
15 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

16 MADAME CLERK: Please be seated, state your name and
17 spell it for the court.

18 THE COURT: Your witness.

19 SOLICITOR SHELTON: Thank you, Your Honor. May it
20 please the court?

21 MS. RIOS: Eileen Rios, last name R-i-o-s.

22 DIRECT EXAMINATION

23 EILEEN RIOS BY SOLICITOR SHELTON:

24 Q. Ms. Rios, who do you work for?

25 A. I'm employed by the Beaufort County Sheriff's Office.

1 Q. And how long have you been employed by them?

2 A. About twenty-two years.

3 Q. And what is your job?

4 A. I'm an evidence technician that work in the Evidence
5 Section.

6 Q. And how long have you been doing that?

7 A. Sixteen years.

8 Q. What are your roles and duties within the Evidence
9 Section as an evidence technician?

10 A. My primary duty is the intake and packaging of
11 evidence for storage.

12 Q. And do you do that on a daily basis?

13 A. Yes.

14 Q. Will you please tell the jury, just without telling
15 where it is necessarily, but it's in Beaufort. Correct?

16 A. Correct.

17 Q. The Central Evidence Receiving Area?

18 A. Yes.

19 Q. And please just tell them a little bit about that
20 facility and how it's maintained.

21 A. We have three main sections in the back: general
22 shelving for boxes; we have a enclosed, secure area for
23 guns and drugs, and a safe for any mail, jewelry or money.

24 Q. And you say in the back, is that where the evidence is
25 actually stored?

EILEEN RIOS: BY SOLICITOR SHELTON

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1 A. Correct.

2 Q. How do you get back there?

3 A. It's a locked secure door.

4 Q. And who has access?

5 A. Captain Keo, myself, Corporal Perkins and Lance
6 Corporal Padgett.

7 Q. That would be Jimmy Padgett?

8 A. Correct.

9 Q. Does anyone else have access?

10 A. No.

11 Q. And how could anyone else gain access?

12 A. They'd have to come to us, sign in for whatever reason
13 they had to go back. For any type of repairs to air
14 conditioning, they'd have to sign in. We'd escort them in
15 the back. Stay there with them while they do their work
16 and bring them back out and sign them back out.

17 Q. And why do you stay there with them while they do
18 their work?

19 A. So they don't have access to any of the evidence
20 that's back there.

21 Q. And why is that?

22 A. Well, we want to keep it secure and safe.

23 Q. I'm going to approach with State's Exhibit Number
24 Thirty-one. I ask that you not show this to the jury.
25 It's not been put into evidence yet, please. I ask if you

1 recognize it and if you can tell whether you've ever
2 handled this exhibit or anything contained within that bag?

3 A. Yes.

4 Q. What is it?

5 A. This is a Beaufort County Best bag inside a K-pack bag
6 and I recognize it by the, not only the case number but
7 also the container identification.

8 Q. And what is the control number on that Best bag? Can
9 you see that, first of all?

10 A. This particular control number is C-0-0-7-5-8-0.

11 Q. And what is the container number?

12 A. The container number is 11-09-0055D.

13 Q. And who assigns the container number?

14 A. That's automatically done by our computer system.

15 Q. And in evidence would the person who first took it
16 in intake assign that number?

17 A. Correct.

18 Q. Now, do you know whether you ever personally handled
19 this item?

20 A. Yes. I - yes, I do know.

21 Q. And do you know what you did with it?

22 A. Yes. On the - I have here it was - I transferred it
23 over to Lieutenant Renita Berry for analysis back in
24 September of 2011.

25 Q. And do you know who Lieutenant Renita Berry is?

EILEEN RIOS: BY SOLICITOR SHELTON

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1 A. She's our - She works with the Drug Department for the
2 Beaufort County Sheriff's Office for drug analysis.

3 Q. And did you personally deliver it to her?

4 A. She came to the Evidence. I transferred it to her in
5 our facility.

6 Q. Now, when you first transferred it to her, was it in
7 that same condition that you see it in now?

8 A. No.

9 Q. What condition would it be in?

10 A. It would be in the original Best bag which is enclosed
11 in this K pack bag.

12 Q. And would that Best bag have been sealed?

13 A. Yes.

14 Q. And would you have recognized if it wasn't sealed?

15 A. Oh, yes.

16 Q. Did you ever receive it back?

17 A. Yes, on the 12th - December 2nd of 2011, Lieutenant
18 Berry brought it back to the evidence lockup. We
19 transferred it over, and then I secured it in the evidence
20 lockup.

21 Q. And when you brought it back what - when they brought
22 it back, was it in the same condition as when you actually
23 departed with it?

24 A. It was - no. Once they have it in their facility, I'm
25 sure it's opened and once they bring it back, they bring it

1 in their - back in their own container which is a clear K-
2 pack bag with their stickers on it.

3 Q. Do you recognize one of those similar bags containing
4 that Best bag in front of you?

5 A. Yes.

6 Q. And that's a K-pack bag ---

7 A. Correct.

8 Q. --- that you just identified ---

9 A. Yes.

10 Q. --- that you know to be used by the Beaufort County
11 Drug Lab?

12 A. Yes.

13 Q. And what did you do with it once you received it back?

14 A. At that time, I secured it in the lockup.

15 Q. And the same question, who has access to that lockup?

16 A. Again, Captain Keo, myself, Lance Corporal Padgett and
17 at that time, it was Lance Corporal Jennifer Snider who was
18 working in evidence.

19 Q. Now, do you have procedures to determine whether the
20 evidence has been logged in and out of evidence?

21 A. Yes. Yes, it's all electronic. We all have our own
22 secure sign-on and password. At that time, let's say
23 Renita Berry would come in to check evidence out, she'll
24 sign onto the computer with her unique password and
25 password and sign and she'll transfer - I'll transfer those

EILEEN RIOS: BY SOLICITOR SHELTON

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1 items to her.

2 Q. And so there would be a record if anyone else touched
3 it between the time you entered - the time it was
4 originally put into evidence and the time that Renita
5 picked it up from you?

6 A. Correct.

7 Q. Was - Did it ever get taken out of evidence?

8 A. No, just on those times to go to the lab.

9 Q. Thank you.

10 SOLICITOR SHELTON: May I approach?

11 THE COURT: Yes, sir.

12 Q. I'm now going to approach with State's Exhibit Number
13 Thirty, and I'm going to ask you the same series of
14 questions. Do you recognize that?

15 A. Yes, I do.

16 Q. Do you know whether you've ever handled that item
17 before?

18 A. Yes, I do.

19 Q. How?

20 A. This was also transferred out to our lab, our
21 chemistry lab. I transferred it out to Lieutenant Berry
22 again on September 26th of 2011.

23 Q. And does that - What does that item contain by looking
24 at it?

25 A. By looking at it, it's our Beaufort County Best bag

1 with its own unique control number.

2 Q. And is that control number printed on the bag?

3 A. It's C007589.

4 Q. Can you see the container number on that bag?

5 A. Yes, I can.

6 Q. Can you read that to the jury?

7 A. It's 11-01-0056D.

8 Q. Have you ever come into possession of that bag before?

9 A. Yes, again on - in September of 2011, I transferred it
10 to Lieutenant Berry for analysis.

11 Q. And it went directly to Lieutenant Berry?

12 A. Yes, she came into our facility and I transferred it
13 to her.

14 Q. Did anyone have access to that bag, or did anyone
15 check out that bag rather, between the time that it was
16 originally submitted into evidence and the time that you
17 submitted it to Renita Berry?

18 A. No, no one.

19 Q. Did you ever come back in contact with this bag?

20 A. Yes, in December of 2011, Lieutenant Berry brought it
21 back to the Evidence Section, and we transferred it back in
22 and I secured it in the lockup.

23 Q. And is that where that bag has remained until today?

24 A. Correct.

25 Q. Besides bringing it back and forth to court?

EILEEN RIOS: BY SOLICITOR SHELTON
BY MR. CHAPLIN

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1 A. That's right.

2 Q. Thank you. And looking at that bag, is it sealed?

3 A. Yes.

4 Q. And is it in any different condition than it was when
5 you first received it?

6 A. It's in the chemistry lab's K-pack bag with their
7 identification on it.

8 Q. And, I apologize, I should have asked you this first,
9 and when you first received it, what was it in?

10 A. It was in our control - Beaufort County Control Best
11 bag.

12 Q. And was it sealed?

13 A. Yes.

14 Q. And would you have notated if it wasn't?

15 A. Correct.

16 Q. All right. Thank you. Those are all the questions I
17 have. Please answer any questions defense might have for
18 you.

19 THE COURT: Mr. Chaplain?

20 CROSS-EXAMINATION

21 EILEEN RIOS BY MR. CHAPLIN:

22 Q. How you doing?

23 A. Fine.

24 Q. Good. I want to show you State's Exhibit Thirty-one.

25 Do you recall seeing that package before?

EILEEN RIOS: BY MR. CHAPLIN

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1 A. Yes.

2 Q. Okay. And when would you have first come in contact
3 with it?

4 A. When I transferred - originally transferred it to
5 Lieutenant Berry.

6 Q. Okay. And it would have come from, I guess, the
7 gentleman that as up here first. You would have received
8 it from who?

9 A. Are you speaking about Lance Corporal Padgett?

10 Q. Yes. I'm just asking, yeah.

11 A. He would - he is the original person that took the
12 evidence in and locked it in the Evidence Section.

13 Q. Okay. So after leaving him, it would come to you?

14 A. No, it would - it would be - he brings it into our
15 facility ---

16 Q. Okay.

17 A. --- secures it and it would stay there until such time
18 it would be transferred out for analysis.

19 Q. Okay. So you don't actually look at it, examine it,
20 do anything with it. It just comes in and sit in this
21 locker?

22 A. He took it in. I'm sure he looked at it ---

23 Q. Right.

24 A. --- and secured it.

25 Q. No, I'm talking about - talking about you?

EILEEN RIOS: BY MR. CHAPLIN

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1 A. No.

2 Q. Right. It - you just know that he came and did his
3 job and put it in that locker?

4 A. Correct.

5 Q. Then, when you get a call or a text or page from the
6 chemist, correct?

7 A. Correct.

8 Q. Then you go grab that item?

9 A. Yes.

10 Q. And on this occasion, you're able to tell the court
11 that she came in and got it?

12 A. Correct.

13 Q. Is that what she always do?

14 A. At that time yes, she would come in and pick up the
15 item.

16 Q. How do you - what are you looking at or how do you
17 know she came in and got it from you?

18 A. Because once - it's an automated - it's an electronic
19 transfer. She has to come in and put her password, her
20 unique password into the computer system. She - I - well,
21 first I would put mine in 'cause I'm going to transfer the
22 items to her, and then she - we - you know, highlight the
23 items that she's going to check out. I have them boxed up.
24 We verify that those items are on the list on the computer.
25 I transfer them over. At that time, she puts in her

EILEEN RIOS: BY MR. CHAPLIN

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1 password and hits transfer and they all go from my custody
2 to hers and I hand them over.

3 Q. Okay. But then you - after she does her thing, it
4 comes back from her ---

5 A. Correct.

6 Q. --- and then comes back to you via this same --

7 A. The same procedure.

8 Q. Okay. Then you're able to actually tell the court if
9 anybody have touched that package after her. Like once it
10 comes back into you, you're able to tell if anyone
11 requested that package to take a look at it or do whatever
12 with it. Correct?

13 A. Yes.

14 Q. Okay. Did anybody after it came back from Ms. Berry
15 ---

16 A. Uh-huh.

17 Q. --- did anybody request that package to take a look a
18 it?

19 A. The only time it was looked at when the Solicitor came
20 to review the evidence. I remember him coming in and doing
21 that at that time.

22 Q. Who did that?

23 A. Mr. Shelton.

24 Q. Okay. And who was with him when he came to go - take
25 a look at it?

EILEEN RIOS: BY MR. CHAPLIN

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1 A. The officer was there also.

2 Q. And who was with them?

3 A. I don't recall if anyone else was.

4 Q. As far as you know it was just the Solicitor and --

5 A. Because I sat there with them when they went through
6 the evidence.

7 Q. Okay. But no one else was there that you can
8 remember?

9 A. No one else was there.

10 Q. No one else. And when was this, when did they come
11 look at it? Do you need to look at something or do you
12 have notes?

13 A. No, when I'm in the present, I - it's not transferred
14 out. It's in evidence. It's not like they took it
15 anywhere and we looked at it in another building. It's
16 still in Evidence, so and with me, I take the box of
17 evidence and I put it on the table in Evidence, they went
18 through it and reviewed it. We put it back in the box. I
19 sealed it up and secured it back in the locker.

20 Q. Okay. Well, let me make it even clearer, 'cause I'm
21 all about like "Hooked on Phonics." Do - When they came
22 in, did they get to touch it?

23 A. Yes.

24 Q. Did they get to touch that package?

25 A. Yes.

EILEEN RIOS: BY MR. CHAPLIN

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- 1 Q. Okay. Did they get to hold it up and look at it or
2 whatever they want to do with it?
- 3 A. If they - if they needed to, yes.
- 4 Q. Okay. The only thing they can't do is walk out with
5 it?
- 6 A. Walk out or open anything that's sealed.
- 7 Q. Okay. I'm glad you mentioned that. Look at that
8 package.
- 9 A. Uh-huh.
- 10 Q. And is that packaged sealed? I want you to look at it
11 real good.
- 12 A. Uh-huh.
- 13 Q. Is it sealed ---
- 14 A. No, it -
- 15 Q. --- all the way around?
- 16 A. Yeah with the heat seal.
- 17 Q. So there's no opening --
- 18 A. Is broken.
- 19 Q. Say it again?
- 20 A. The heat seal.
- 21 Q. Is what?
- 22 A. Broken.
- 23 Q. So it's not sealed?
- 24 A. Yeah.
- 25 Q. Okay. So the heat seal that's normally sealed, right?

EILEEN RIOS: BY MR. CHAPLIN

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1 A. Uh-huh. Yes.

2 Q. Is not sealed?

3 A. Correct.

4 Q. Why is that?

5 A. I take for granted that when they sealed it it didn't
6 take.

7 Q. Okay. So if the heat seal doesn't take ---

8 A. Uh-huh.

9 Q. --- then something could either go in the bag or come
10 out of the bag if it's not sealed, am I correct?

11 A. It's possible, but --

12 Q. Look at the bag one more time. I'm sorry to interrupt
13 you.

14 A. Uh-huh.

15 Q. But is it possible for something to go into that bag
16 in that opening that you're looking at?

17 A. It's possible but.

18 Q. But it is possible?

19 A. Yes.

20 Q. And now can --

21 SOLICITOR SHELTON: I ask that she's allowed to
22 explain her answer.

23 MR. CHAPLAIN: Oh, excuse me.

24 THE COURT: Sustain.

25 Q. I don't - do - I do not want to cut you off ever. If

1 you think I - just keep on talking.

2 A. At the time when we were going through the evidence I
3 was there. No one put anything in this package or took
4 anything out.

5 Q. No, I didn't ask that. I just --

6 SOLICITOR SHELTON: Objection.

7 THE COURT: She's --

8 Q. What I'm ask --

9 MR. CHAPLIN: Excuse me?

10 SOLICITOR SHELTON: Objection.

11 THE COURT: Mr. Chaplain, she's still explaining her
12 answer.

13 MR. CHAPLIN: Oh, excuse me.

14 Q. Go ahead.

15 A. Now, there is - not at that time.

16 Q. That you know of?

17 A. I was there. Not at that time.

18 Q. Okay. The question I have to you when that package
19 went to law enforcement, was that seal broken then?

20 A. I believe so yes, yes --

21 Q. It was broken?

22 A. Mr. Shelton pointed out that it was open, that it - or
23 that the seal was broken. I remember that.

24 Q. Oh, you do?

25 A. Uh-huh.

EILEEN RIOS: BY MR. CHAPLIN

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1 Q. And how long ago was this that you remember this?

2 A. It's within the past thirty days.

3 Q. Oh, that you realized that it was broken.

4 MR. CHAPLIN: Beg the Court's indulgence.

5 (PAUSE.)

6 Q. Okay. So you can recall if it was open then?

7 A. I remember him pointing it out to me ---

8 Q. That it was open?

9 A. --- and I - and.

10 Q. So this bag - How much evidence is back there that
11 you're in control of?

12 A. Ten thousand pieces.

13 Q. And can you say to the Court that that package never
14 came out of your purview, your - it never left you and that
15 you know positively there was no way for anyone to touch
16 that package at all? Can you say that in this courtroom
17 today, that it was no way for anyone to touch that package
18 without you knowing?

19 A. I'm not sure I understand what you - what you're
20 saying. I know it's was secure ---

21 Q. Can --

22 A. --- and --

23 Q. --- can - yes, can you say that --

24 SOLICITOR SHELTON: Objection. Again, she's trying to
25 answer his question and she's --

EILEEN RIOS: BY MR. CHAPLIN

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1 A. There is only --

2 MR. CHAPLAIN: I think she asked me to clarify it.

3 THE COURT: Well, let her finish her answer --

4 A. There's only four people that have access to our
5 evidence lockup and at no time would I believe that anyone
6 would have put anything in there or taken out anything.

7 Q. Okay. And you use the word you don't believe? You
8 say you don't believe that would have happened?

9 A. That's correct.

10 Q. Right. But so now it was Officer Padgett who had it
11 at first - excuse me, Officer Heroux who had it at first?

12 A. Uh-huh.

13 Q. Then, it went to Officer Padgett. Then it came to
14 your, what you call it, lockup?

15 A. Lockup facility.

16 Q. Okay. Then it left you and went to Ms. Berry. From
17 Ms. Berry back to you.

18 A. Uh-huh.

19 Q. Then, it's four people in your section. Right? It's
20 four people in your section.

21 MADAME COURT REPORTER: Is that an answer?

22 Q. Is there four people - Oh.

23 A. Yes, four people.

24 Q. Okay. That have access to that lockup?

25 A. Yes.

EILEEN RIOS: BY MR. CHAPLIN

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1 Q. And somehow that package now which is Exhibit Number

2 --

3 SOLICITOR SHELTON: Thirty-one.

4 Q. Thirty one, is open? You can safely say that?

5 A. Yes, it is open.

6 Q. Okay. And --

7 MR. CHAPLAIN: I beg the Court's indulgence?

8 THE COURT: Yes, sir.

9 (PAUSE.)

10 Q. Last question. So at this point for - At this point
11 it's safe to say six people, 'cause you count four as being
12 with you - you're one of the four. Right?

13 A. Correct.

14 Q. Okay. So six people had access to this - to what was
15 just presented to you, excuse me, seven at that point?

16 A. Okay.

17 Q. You want me to name them again?

18 A. Uh-huh.

19 Q. Okay.

20 A. Yeah.

21 MADAME COURT REPORTER: I'm sorry. I did not hear
22 that.

23 A. Correct.

24 Q. Heroux, Padgett, yourself, Berry and three others?

25 A. Yes.

EILEEN RIOS: BY SOLICITOR SHELTON

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1 Q. Nothing further.

2 THE COURT: Any redirect?

3 SOLICITOR SHELTON: Yes, Your Honor. Thank you.

4 REDIRECT EXAMINATION

5 EILEEN RIOS BY SOLICITOR SHELTON:

6 Q. Does Heroux have access to the actual evidence secured
7 area?

8 A. No.

9 Q. No. Who only has access to that?

10 A. Myself, Captain Keo, at the time Lance Corporal
11 Snider and Lance Corporal Padgett.

12 Q. Do you know Renita Berry's signature?

13 A. Yes, I'd recognize it.

14 Q. And her initials?

15 A. Yes.

16 Q. What about Jennifer Snider? I mean, excuse me,
17 Jennifer Mills?

18 A. Yes.

19 Q. And do you know who Jennifer Mills is?

20 A. Yes.

21 Q. Who is Jennifer Mills?

22 A. She is another one of our chemists.

23 Q. Now, you testified earlier that when you received this
24 package back from Renita Berry, what date was that?

25 SOLICITOR SHELTON: State's Exhibit Thirty-one, Madame

EILEEN RIOS: BY SOLICITOR SHELTON

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1 Court Reporter.

2 A. December 2nd, 2011.

3 Q. It was sealed. Correct?

4 A. Yes.

5 Q. And I'm going to approach you with the State's Exhibit
6 Number Thirty-one. Do you recognize Renita Berry's
7 signature on any - either one of those seals?

8 A. Yes.

9 Q. And is that seal still intact?

10 A. Yes, it's on the inside of this K-pack bag I see.

11 Q. And you said that's a K-pack bag. That's actually an
12 exterior bag. Correct?

13 A. Yes.

14 Q. Are there bags inside of that bag that you can see?

15 A. Yes.

16 Q. Now, if you look at the part where the heat seal has
17 come undone, you say I pointed that out to you?

18 A. Yes.

19 Q. When I came to inspect the evidence getting ready for
20 trial?

21 A. Yes.

22 Q. And how large is it open, without showing it to the
23 jury?

24 A. I'd say four-and-a-half inches.

25 Q. Uh-huh. Are you measuring it?

EILEEN RIOS: BY SOLICITOR SHELTON

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1 A. Yeah, I'm --

2 Q. Or would you rather do this?

3 A. Oh, okay. All right.

4 Q. Okay. Is the entire seal open?

5 A. No.

6 Q. Can you turn it up and get the contents out of it?

7 A. No.

8 Q. Okay. Thank you.

9 SOLICITOR SHELTON: And may I approach, Your Honor?

10 THE COURT: Yes, sir.

11 Q. And that is the exterior K-pack bag that the lab puts
12 it in. Correct?

13 A. Correct.

14 Q. And you describe it as a heat seal. Do you know how
15 heat seals work?

16 A. Yes.

17 Q. How do they work?

18 A. It's an instrument - we use it also, and you put the
19 plastic into the - it looks like a paper cutter, but it
20 heat seals. You push it down, hold it for a few seconds
21 and let up.

22 Q. And I'm going to approach again with this exhibit and
23 I'm going to ask you to look at the seal that has become
24 open, the heat seal ---

25 A. Yes.

EILEEN RIOS: BY SOLICITOR SHELTON

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1 Q. --- and see if you recognize the initials on that
2 seal?

3 A. Yes, I do.

4 Q. Who is that?

5 A. Jennifer Mills.

6 Q. And what date was that initial made?

7 A. February 14th, 2013.

8 Q. 2013. And if you look at Renita's initials what date
9 was it sealed?

10 A. I got down here 11/13/2011.

11 Q. 11/13/2011. And what day did you receive it back from
12 Renita?

13 A. I received it back from Renita December 2nd, 2011.

14 Q. And when you received it back from Renita, the other
15 seal was not even broken. Correct?

16 A. Correct.

17 Q. The other - there is only one seal that the bag had
18 been accessed and sealed upon. Correct?

19 A. Correct.

20 Q. So the other broken seal was not even in existence and
21 never been opened. Correct?

22 A. Correct.

23 Q. And to your knowledge, Renita had already done her
24 analysis. Correct?

25 A. That's right.

EILEEN RIOS: BY SOLICITOR SHELTON
BY MR. CHAPLIN

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1 Q. Thank you.

2 SOLICITOR SHELTON: May I approach, Your Honor?

3 THE COURT: Yes, sir.

4 Q. You said there's other evidence technicians that work
5 in the Evidence Division. Correct?

6 A. Yes.

7 Q. You've already testified to what their duties and what
8 your duties are. Correct?

9 A. Yes.

10 Q. And does anyone go in and just mess around with
11 evidence just for the fun of it?

12 A. No.

13 Q. No. Do you have a lot of work to do?

14 A. Yes.

15 Q. And when it's logged, why do you log it and store it
16 securely?

17 A. To preserve it for court.

18 Q. Thank you.

19 SOLICITOR SHELTON: No more questions.

20 THE COURT: Thank you.

21 RECROSS-EXAMINATION

22 EILEEN RIOS BY MR. CHAPLIN:

23 Q. I like the words you just used, did you said preserve?

24 A. Yes.

25 Q. Right. I like that word. Thirty-one. I'm just

EILEEN RIOS: BY MR. CHAPLIN

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1 giving that back to you, Exhibit Thirty-one. Let's stick
2 with the word preserve. Isn't it safe to say that you was
3 explaining how this heat seal machine work. Right?

4 A. Uh-huh.

5 Q. Isn't it the --

6 THE COURT: Is that yes?

7 A. Yes.

8 Q. Isn't the purpose of this heat seal is to preserve?

9 Wouldn't it be safe to say that's used to seal it, to
10 preserve it ---

11 A. Yes.

12 Q. --- whatever's inside?

13 A. Yes.

14 Q. Okay. So if that's what it's for, is that item
15 preserved right now?

16 SOLICITOR SHELTON: Objection, Your Honor.

17 A. Yeah.

18 SOLICITOR SHELTON: She does not have personal
19 knowledge as to the how the items inside are sealed.

20 Q. Is that --

21 A. Yeah.

22 Q. Is that item open?

23 THE COURT: If she knows.

24 A. Yes.

25 THE COURT: Mr. Chaplain.

1 MR. CHAPLAIN: Excuse me, Your Honor. I apologize.

2 THE COURT: Wait for the ruling before you go forward.

3 Overruled.

4 MR. CHAPLAIN: Thank you, Your Honor. I apologize.

5 Q. So is the item preserved inside right now?

6 A. Yes.

7 Q. Even though the seal is broken?

8 A. I can't - It won't come out.

9 Q. No, ma'am. The - You explained, and you looked over
10 at the jury, and you explained how this heat seal machine
11 works. What's the purpose of the heat seal machine and
12 what is it doing if it don't work, then is it performing
13 the function it's supposed to perform?

14 A. They heat seal it to seal everything in the bag.

15 Q. Correct.

16 A. Yeah.

17 Q. And, obviously, they heat sealed that bag and for
18 whatever reason you said it didn't take.

19 A. Correct.

20 Q. Correct. So is the item inside that bag preserved now
21 being that it's open?

22 A. I feel it's preserved.

23 Q. You feel it's preserved?

24 A. Yes.

25 Q. But is it open?

EILEEN RIOS: BY MR. CHAPLIN

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1 A. Yes.

2 Q. Okay. So although it's open, this heat seal machine
3 didn't do its job. Whoever opened it last obviously when
4 they sealed it, they didn't check it. Correct?

5 A. Yes.

6 Q. Okay. But even though all of that occurred, you're
7 telling me, as well as the jury and the judge, that this
8 item is preserved?

9 A. Yes, I feel it is.

10 Q. Let me have it back.

11 MR. CHAPLAIN: Beg the court's indulgence.

12 (PAUSE.)

13 MR. CHAPLIN: I don't have anything further, Your
14 Honor, from this witness.

15 THE COURT: You may step down, Ms. Rios. Thank you.
16 May she be excused?

17 SOLICITOR SHELTON: I ask that she may?

18 MR. CHAPLAIN: Yes, Your Honor.

19 THE COURT: Thank you, ma'am.

20 (WITNESS LEAVING WITNESS STAND.)

21 THE COURT: You may call your next witness.

22 SOLICITOR SHELTON: Thank you, Your Honor. The State
23 calls Renita Berry.

24 MADAME CLERK: Would you place your left hand on the
25 Bible and raise your right hand for me please.

RENITA BERRY: BY SOLICITOR SHELTON

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1 (WHEREUPON: RENITA BERRY,
2 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)
3 MADAME CLERK: Please be seated. State your name and
4 spell it for the court please.

5 MS. BERRY: Renita L. Berry, B-e-r-r-y.

6 DIRECT EXAMINATION

7 RENITA BERRY BY SOLICITOR SHELTON:

8 Q. Good morning, Ms. Berry.

9 A. Good morning.

10 Q. Or Lieutenant Berry. What is your job?

11 A. I am the Lab Director for the Beaufort County
12 Sheriff's office, forensic services laboratory.

13 Q. And what are some of your duties involving being the
14 Lab Director of the Beaufort County Sheriff's lab?

15 A. As the Lab Director, my primary responsibilities are
16 day to day operations and supervision of the laboratory.

17 Q. Do you also perform forensic testing?

18 A. Yes, I do.

19 Q. What is your previous experience?

20 A. I have a Bachelor's of Science degree in chemistry
21 from the University of South Carolina. I also have a
22 Master's degree in management from Western University.
23 Once completing my undergrad degree, I was employed by
24 South Carolina Department of Health and Environmental
25 Control, commonly known as DHEC. I served there as an

RENITA BERRY: BY SOLICITOR SHELTON

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1 analytical chemist for about four years. Once leaving
2 DHEC, I was then employed by South Carolina Law Enforcement
3 Division, commonly known as SLED, and I was with SLED for
4 about four years and it was at SLED where I received the
5 majority of my training as a forensic chemist.

6 While there, I completed an intensive training program
7 conducted by the Drug Analysis Department. By the Drug
8 Analysis Department I was certified as a forensic chemist
9 by the Drug Enforcement Administration and throughout the
10 years I've completed various trainings and courses for
11 instrumentation and for controlled substances.

12 Q. During your career as a forensic chemist, have you had
13 the opportunity to test cocaine?

14 A. Yes, I have.

15 Q. Do you have any idea how many times?

16 A. Thousands.

17 Q. How about marijuana?

18 A. Yes.

19 Q. Any idea how many times?

20 A. Thousands.

21 Q. Have you been qualified as an expert as a forensic
22 chemist before in any court?

23 A. Yes. Both in State and Federal.

24 Q. And do you have any idea how many times you've
25 testified as an expert as a forensic chemist?

RENITA BERRY: BY SOLICITOR SHELTON

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1 A. Over eighty times.

2 SOLICITOR SHELTON: The State moves and tenders Ms.
3 Renita - Lieutenant Renita Berry as an expert in forensic
4 chemistry.

5 THE COURT: Any voir dire?

6 MR. CHAPLIN: None, Your Honor.

7 THE COURT: All right. She is so qualified.

8 SOLICITOR SHELTON: Thank you.

9 Q. Lieutenant Berry, I am first going to hand you what's
10 been previously marked for identification purposes only
11 State's Exhibit Number Thirty, Okay?

12 A. Okay.

13 Q. Lieutenant Berry, I would ask that if you would just
14 take your time and look at that, see if you recognize it
15 and tell me if you ever handled it before.

16 A. Yes, I have.

17 Q. Do you know when you first came in contact with this
18 exhibit?

19 A. I first came into contact with this evidence September
20 26th 2011.

21 Q. And on that date what did you do with it?

22 A. Upon receiving it from evidence, I then secured it in
23 the lab. It was secured in the lab.

24 Q. When you say "secured in the lab," will you describe
25 how you secure it in the lab?

RENITA BERRY: BY SOLICITOR SHELTON

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1 A. Inside our laboratory, inside the chemistry portion of
2 the laboratory, is an area where we store all of our drugs.
3 It's another secure area where it has another locking
4 system and so all evidence while it is in the laboratory is
5 secured in that area until it is returned to evidence.

6 Q. When you first received that item, State's Exhibit
7 Number - Is it Thirty?

8 Let me make sure I'm referring to the right exhibit.

9 Yes, Exhibit Number Thirty. What condition is it in
10 and what is it packaged in?

11 A. Inside of this outer bag --

12 Q. Without quite showing it to the jury.

13 A. Okay.

14 Q. I'm sorry.

15 A. The evidence was turned in in what we call a best kit
16 and there is a brown envelope along with - inside of that
17 envelope is what we call a Best bag or a control bag. It's
18 a blue and white and clear bag. That is evident - you can
19 tell whether or not it has been tampered with and it has a
20 seal across it and so you can tell whether or not the seal
21 has been tampered with.

22 Q. Was it tampered with in this case?

23 A. No, it wasn't.

24 Q. It was sealed when you received it?

25 A. It was sealed.

RENITA BERRY: BY SOLICITOR SHELTON

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1 Q. What did you do with it?

2 A. It was placed into, again, the evidence storage area
3 until it was time for testing and then it was tested. I
4 took various samples.

5 Q. And how do you go about the process of taking samples?

6 A. The evidence is opened up one case at a time to review
7 the evidence that's there, the different items. You work
8 with one item at a time. You take small samples depending
9 on what type of testing you are going to do. In this case,
10 we conducted presumptive testing and confirmatory testing
11 using the presumptive chemical test and then with the
12 actual confirmatory test, instrumentation.

13 Q. And you performed those tests on those samples of
14 these substances?

15 A. Yes, I did.

16 Q. And before we go into that, were you able to - how
17 many items were located within that Best bag?

18 A. In this Best bag, there were two different - inside of
19 the Best bag, there were two evidence bags.

20 Q. And inside were those evidence bags sealed?

21 A. Yes, they were.

22 Q. And did you perform testing on both bags?

23 A. Yes.

24 Q. And did you issue those bags item numbers?

25 A. Yes, I did.

RENITA BERRY: BY SOLICITOR SHELTON

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1 Q. And did you distinguish those item numbers in any way?

2 A. Yes. One bag was considered Item 1 and it is notated
3 on that bag, and the other bag was listed as Item 2.

4 Q. Now, in Item 1, were you able to come to an opinion as
5 to what it contained?

6 A. Yes, I was.

7 Q. And what is your opinion?

8 A. For Item 1, it contained a green plant material and
9 based on my opinion, based on the testing that was done,
10 it's my opinion that the substance found was
11 tetrahydrocannabinol, a marijuana, found.

12 Q. And what was the weight?

13 A. The weight for Item 1 was 156.4 grams.

14 Q. How about Item Number 2?

15 A. Item Number 2. There were two small plastic bags,
16 each containing green plant material. They were both -
17 both plastic bags were analyzed and based on the different
18 testing that was completed, it's my opinion that it was
19 tetrahydrocannabinol, also known as marijuana, that was
20 found with both items.

21 Q. Lieutenant Berry, I'm going to approach with State's
22 Exhibit Number Forty-one, which is your report, and
23 reference to State's Exhibit Number Thirty . I'm going to
24 ask if you recognize it and whether it's a fair and
25 accurate copy of your report?

RENITA BERRY: BY SOLICITOR SHELTON

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1. A. Yes, it is.

2. Q. And does it accurately state what your conclusions,
3. your opinion is that the items contained?

4. A. Yes, it does.

5. Q. And again, when you received this bag it was sealed?

6. A. It was.

7. Q. And then you opened it to take out the items?

8. A. Yes.

9. Q. And you tested the items?

10. A. Yes.

11. Q. And you've already stated your opinion as to what it
12. contained?

13. A. Yes.

14. Q. When you were done, what did you do with it?

15. A. Once completed, the samples or the evidence is placed
16. back into a secure bag, into an outer bag and it's heat
17. sealed and ready and stored into the storage room or
18. evidence room until we return it to the actual evidence
19. section.

20. Q. And is that the same bag you see in front of you
21. today?

22. A. Yes, it is.

23. SOLICITOR SHELTON: State moves Exhibit Number Thirty
24. into evidence.

25. THE COURT: Any objections?

RENITA BERRY: BY SOLICITOR SHELTON

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1 MR. JOHNSON: No objection, Your Honor.

2 THE COURT: Thank you.

3 (WHEREUPON: STATE'S EXHIBIT NUMBER THIRTY, IDENTIFIED
4 AND MARKED, RECEIVED INTO EVIDENCE.)

5 Q. I ask you to open State's Exhibit Number Thirty.

6 Madame Clerk, do you have an scissors?

7 A. Thank you.

8 Q. And would you like gloves?

9 A. I'm fine. Okay.

10 Q. Will you please take Item 1 out first. I am going to
11 approach with State's Exhibit Thirty-A sticker, Thirty-A,
12 it's alpha.

13 SOLICITOR SHELTON: May I ask the witness to leave the
14 witness stand?

15 THE COURT: Yes, sir.

16 SOLICITOR SHELTON: And approach the jury and show
17 the item to the jury of Exhibit Number Thirty-A?

18 (WITNESS LEFT WITNESS STAND.)

19 Q. You can just walk across and show it to them and
20 explain what you see there.

21 A. You see where there is evidence tape along this
22 evidence bag --

23 SOLICITOR SHELTON: I apologize.

24 THE COURT: Ms. Berry, could you speak up a little
25 bit?

RENITA BERRY: BY SOLICITOR SHELTON

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1 SOLICITOR SHELTON: She can't hear you. You'll have
2 to speak up very loud.

3 A. I'll start over. You see where there is evidence tape
4 along this evidence bag and also tape along the bottom
5 where I've opened it and sealed it back. Inside you see
6 another plastic bag. Inside of that plastic bag, you can
7 see green material and you can actually smell it, I'm sure,
8 so after sitting in that other bag for a while it's got a
9 very strong odor.

10 Q. And that contains marijuana?

11 A. Yes.

12 Q. That's your opinion?

13 A. In my opinion it's marijuana.

14 Q. Thank you. I ask that you return to the witness
15 stand. Thank you so much for showing that to the
16 jury.

17 (WITNESS RETURNS TO WITNESS STAND.)

18 Q. Now I am going to approach with State's Exhibit
19 sticker Thirty-B, as in boy. And I have affixed this
20 sticker to Item Number 2 contained within State's Exhibit
21 Thirty which has already been admitted into evidence.

22 SOLICITOR SHELTON: For the record, State's Exhibit
23 Number Thirty-A was affixed to Item Number 1 which was
24 within State's Exhibit Number Thirty.

25 Q. And please describe for the jury what you see here and

RENITA BERRY: BY SOLICITOR SHELTON

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1 again approach if you don't mind with the Court's
2 discretion.

3 THE COURT: Yes, you may.

4 A. Thank you.

5 (WITNESS LEFT WITNESS STAND.)

6 A. Again, another smaller evidence bag, small evidence
7 bag, and inside there are two smaller plastic bags and
8 inside each of those plastic bags is a green plant
9 material.

10 Q. Thank you. Please return to the witness stand.

11 (WITNESS RETURNED TO WITNESS STAND.)

12 Q. Now, State's Exhibit Number Thirty-B that you are
13 holding in your hand, what is the weight of that substance?

14 A. The total weight of the two plastic bags that I've
15 just shown you is 3.70 grams.

16 Q. Three point seven zero grams?

17 A. Uh-huh.

18 Q. Are they just by looking at it approximately the same
19 weight independent of each other?

20 A. One bag - for one plastic baggie the weight was 2.60
21 grams and for the second it was 1.10 grams.

22 Q. So one was almost exactly two grams, 2.07 grams, you
23 said?

24 A. Two point six zero grams and one point one zero grams.

25 Q. Thank you. And how much weight was in the larger

RENITA BERRY: BY SOLICITOR SHELTON

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1 package again?

2 A. For Item 1, 156.4 grams.

3 Q. And the total weight was 161.1 grams; is that
4 correct? Or did I mistake that?

5 A. Yes. 161.1 grams total weight.

6 Q. Now, I noticed that those bags are sealed that were
7 contained within the K-pack bag. Is that common procedure?

8 A. Yes, it is.

9 Q. So what is the purpose is a K-pack bag serve?

10 A. And you are referring to this outer bag?

11 Q. The outer bag.

12 A. Evidence is placed back into the K-pack bag or to
13 is this outer bag so that we can seal everything together.
14 As you noticed, there is a black marking across the top.
15 Those are my initials along with the date that I actually
16 sealed the bag. This allows me to be able to identify that
17 the bag has not been tampered with and that my initials and
18 my seal is still in place

19 Q. And are you able to tell from the seals on the other
20 bag whether they have been tampered with?

21 A. Yes. They have not been.

22 Q. Okay. And is that a redundancy to make sure that they
23 are not tampered with?

24 A. It is.

25 Q. Now I'm going to approach - I'll actually take that

RENITA BERRY: BY SOLICITOR SHELTON

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1 back from you.

2 SOLICITOR SHELTON: May I approach the witness, Your
3 Honor?

4 THE COURT: Yes, sir.

5 SOLICITOR SHELTON: Thank you.

6 Q. Now I'm going to approach with State's Exhibit
7 Number Thirty-one. This has not been admitted into
8 evidence so please do not publish it to the jury. Have you
9 ever come in contact with this piece of evidence before?

10 A. Yes, I have.

11 Q. When did you first receive it?

12 A. I first received this evidence on 9/26/2011.

13 Q. Is that the same date that you received State's
14 Exhibit Number Thirty, the marijuana?

15 A. Yes, it is.

16 Q. And for what purpose did you receive it?

17 A. For analysis.

18 Q. And what did you do with it once you received it?

19 A. Followed the same procedures as with the first set of
20 evidence. It was stored into the evidence area until it
21 was time for testing.

22 Q. And that's the same storage area you've already
23 described?

24 A. Yes, it is.

25 Q. And it's secure. And who has access to it?

RENITA BERRY: BY SOLICITOR SHELTON

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- 1 A. Only those people working in the chemistry laboratory.
- 2 Q. And was it sealed when you received it?
- 3 A. Yes it was.
- 4 Q. And what condition was it, what was it packaged in
- 5 when you received it?
- 6 A. Again, it was in an outer envelope and inside of that
- 7 - there was an outer envelope and inside of there was a
- 8 blue and white evidence tamper proof - not tamper proof but
- 9 tamper evident plastic bag.
- 10 Q. And was that bag sealed?
- 11 A. Yes it was.
- 12 Q. What did you do with it?
- 13 A. Once it was time for testing, I then opened up that
- 14 case, opened up that evidence. Took out the small portions
- 15 of substance that I needed for testing and performed both
- 16 confirmatory and presumptive testing.
- 17 Q. And were you able to establish an opinion as to what
- 18 substances were inside of that bag?
- 19 A. Yes I was.
- 20 Q. And before we go into that opinion, again were you
- 21 able to locate separate items inside of the Best bag
- 22 itself?
- 23 A. Yes, I was.
- 24 Q. And did you distinguish those items in any way?
- 25 A. I did.

RENITA BERRY: BY SOLICITOR SHELTON

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1 Q. And what item numbers did you designate to them?

2 A. There was a larger evidence bag so that bag was
3 considered Item 1 and inside there was a plastic, a
4 sandwich bag which I listed as Item 1.1. And then there
5 was another plastic bag which is marked as Item 1.2. And
6 there was another evidence bag which is Item 2.

7 Q. And did you test each item separately?

8 A. Yes, I did.

9 Q. And were those evidence bags sealed when you received
10 them that were contained within the Best bag?

11 A. The two evidence bags were sealed.

12 Q. Yes.

13 A. Uh-huh.

14 Q. And do you have an opinion as to what Item 1.1
15 contained?

16 A. Yes, I do.

17 Q. Please tell the jury what your opinion is and the
18 weight.

19 MR. JOHNSON: Your Honor?

20 THE COURT: Yes, sir.

21 MR. JOHNSON: Before she gives that answer may
22 we approach?

23 THE COURT: Sure.

24 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
25 THE JURY.)

RENITA BERRY: BY SOLICITOR SHELTON

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1 THE COURT: You may proceed, Solicitor.

2 SOLICITOR SHELTON: Thank you, Your Honor. May it
3 please the Court.

4 THE COURT: Yes, sir.

5 Q. Lieutenant Berry, I just asked you and I'll ask you
6 again, do you have an opinion as to what was located in
7 Item 1.1 inside of that Best bag?

8 A. Yes, I do.

9 Q. Please tell the jury your opinion and the weight of
10 that substance.

11 A. Okay. A sandwich bag containing white powder and
12 compressed substance the results based on the different
13 tests that were completed, cocaine found, and the weight is
14 212.89 grams.

15 Q. Two hundred and twelve point eighty-nine grams in Item
16 1.1?

17 A. Yes.

18 Q. And you described it as a compressed substance?

19 A. A compressed powder substance.

20 Q. What do you mean by that?

21 A. You can look at it like a sugar cube where you can
22 tell - you know that if you were to just slightly tap that
23 sugar cube, that it would turn to various grains but it's
24 compressed. Like the little ones that you can buy just to
25 pick up and put in your coffee. It was like that, a

RENITA BERRY: BY SOLICITOR SHELTON

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1 compressed powder substance. But then some had already
2 broken away from that substance so you have the powder and
3 the compressed substance.

4 Q. How about Item 1.2? Did you analyze that item?

5 A. Yes, I did.

6 Q. And please tell the jury your findings and what it
7 contained and its weight, please.

8 A. Plastic bag containing powder substance. The results
9 based on the testing, cocaine found, 10.59 grams.

10 Q. And I should have asked you this ahead of time, but
11 combined - do you know how much weight that is combined?

12 A. The combined weight for the two substances, Item 1.1
13 and Item 1.2, is 223.48 grams..

14 Q. Two hundred and twenty-three point forty-eight grams?

15 A. Yes.

16 Q. And that is all cocaine?

17 A. Yes, it is.

18 Q. You say that there is an Item Number 2 as well.

19 Correct?

20 A. Yes there is.

21 Q. Were you able to find any controlled substance in that
22 item?

23 A. No. That was an evidence bag containing, a plastic
24 containing a green crumbled substance and we did not find -
25 I was not able to determine the presence of a controlled

RENITA BERRY: BY SOLICITOR SHELTON

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1 substance.

2 Q. But 1.1 and 1.2 is your opinion contained cocaine?

3 A. Yes it does..

4 Q. I'm going to approached with State's Exhibit Number
5 Forty-two.

6 THE COURT: Yes, sir.

7 Q. Do you recognize this?

8 A. Yes.

9 Q. What is it?

10 A. It's a copy of the report that was issued.

11 SOLICITOR SHELTON: I beg the Court's indulgence.

12 I'm getting ready to publish it to the jury.

13 THE COURT: Yes, sir.

14 Q. Did you complete that report?

15 A. Yes, I did.

16 Q. And that is a fair and accurate reproduction of that
17 report?

18 A. Yes, it is.

19 SOLICITOR SHELTON: State moves Exhibit Number Forty-
20 Two into evidence.

21 THE COURT: Any objections?

22 MR. JOHNSON: No objections, Your Honor.

23 THE COURT: Thank you.

24 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-TWO,
25 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

RENITA BERRY: BY SOLICITOR SHELTON

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1 SOLICITOR SHELTON: I ask that I publish it to the
2 jury.

3 THE COURT: Yes, sir.

4 (STATE'S EXHIBIT FORTY-TWO PUBLISHED TO THE JURY.)

5 Q. Now Ms. Berry - Lieutenant Berry, I'm sorry. I
6 apologize. I am going to show you - I've just published
7 State's Exhibit Number Forty-two into evidence. I'm going
8 to zoom in so the jury can see this but I first want you to
9 say is that an accurate reflection of what you see in front
10 of you. You may need to step down.

11 SOLICITOR SHELTON: Is that all right, Your Honor?

12 THE COURT: That's fine.

13 SOLICITOR SHELTON: Thank you.

14 (WITNESS LEFT WITNESS STAND.)

15 A. Yes, it is.

16 Q. Thank you. Now I'm going to zoom in so we can
17 actually see it.

18 (WITNESS RETURNED TO WITNESS STAND.)

19 SOLICITOR SHELTON: Now, ladies and gentlemen of the
20 jury, some of you can read this and you'll have this later.

21 Lieutenant Berry, this is where you actually show
22 your results here?

23 A. Where are you pointing?

24 Q. For Item Number 1.1?

25 A. Yes.

RENITA BERRY: BY SOLICITOR SHELTON

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- 1 Q. So that is 221.89 grams?
- 2 A. Yes, it is.
- 3 Q. And this is Item Number 1.2?
- 4 A. Yes.
- 5 Q. Ten point five nine grams?
- 6 A. Yes, it is.
- 7 Q. And both say, "results, cocaine found?"
- 8 A. Yes.
- 9 Q. And cocaine found?
- 10 A. Yes.
- 11 Q. And laboratory number 20 11 L0533?
- 12 A. Yes, it is.
- 13 Q. And what is the best bag number associated with that
- 14 laboratory number?
- 15 A. C007580.
- 16 Q. And when you received that bag, it was sealed?
- 17 A. Yes, it was.
- 18 Q. And you were the first one to take it out of evidence
- 19 to test it. Correct?
- 20 A. Yes.
- 21 Q. Now, do you have any other jobs or any other duties in
- 22 your life?
- 23 A. I am also in the Army National Guard.
- 24 Q. And have you recently returned?
- 25 A. Yes. I was deployed for about a year.

RENITA BERRY: BY SOLICITOR SHELTON

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1 Q. And during that time period, was anyone else employed
2 within the Beaufort County drug lab?

3 A. Yes.

4 Q. And who would that be?

5 A. Jennifer Mills.

6 Q. And the purpose of you testifying today is to testify
7 to your results. Correct?

8 A. Yes.

9 Q. Do you have any knowledge as to whether the tests, the
10 substance that you tested in front of you, was ever
11 retested?

12 A. Yes.

13 Q. And before I go into that, let me ask you this. When
14 you finish you testing process, what did you do with the
15 substance?

16 A. After testing the substance, all the items were placed
17 into a heat sealed bag. Heat sealed along where I signed
18 my initials and then returned to evidence to the Beaufort
19 County Sheriff's evidence section.

20 Q. And you put the evidence back in the evidence bags?

21 A. Yes.

22 Q. And were those sealed?

23 A. Yes, they were.

24 Q. And you sealed them.

25 A. Yes.

RENITA BERRY: BY SOLICITOR SHELTON

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1 Q. And then you put it back in the heat sealed bag, the
2 larger bag?

3 A. Yes.

4 Q. Is that sealed?

5 A. Yes.

6 Q. And do you know whether Jennifer Mills performed
7 testing on this substance in your absence?

8 A. Based on conversations with her, yes.

9 MR. JOHNSON: Objection, Your Honor. If she was
10 absent, she would know if she did or not.

11 THE COURT: If she knows, if she has reason to know.

12 I will overrule your objection.

13 BY SOLICITOR SHELTON:

14 Q. Do you have knowledge of laboratory notes and also
15 conversations with Ms. Mills?

16 A. Yes. I've reviewed her information along with mine
17 and she --

18 MR. JOHNSON: Your Honor, objection. Any conversation
19 is hearsay.

20 THE COURT: She is not testifying what the person told
21 her. She is just saying that she reviewed the notes, lab
22 notes, so as to that your objection is overruled.

23 BY SOLICITOR SHELTON:

24 Q. Did you review her lab notes?

25 A. Her lab notes along with her laboratory report.

RENITA BERRY: BY SOLICITOR SHELTON

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1 Q. And are those lab notes something that are maintained
2 as regular business records?

3 A. Yes.

4 Q. And were her findings consistent with your's?

5 A. Yes, they were.

6 Q. And do you know who requested to have the substance
7 retested?

8 A. I think it was you. I'm not sure.

9 Q. And do you know why?

10 A. The Court was -- apparently the case was going to court
11 and the --

12 MR. JOHNSON: Your Honor, objection again. She said
13 she is not sure. Then he asked do you know why. If she
14 wasn't sure, how would she know why?

15 THE COURT: She didn't say she wasn't sure. You're
16 objection is overruled.

17 SOLICITOR SHELTON: Thank you.

18 A. The case was going to court and because of my absence,
19 it was requested that the samples be re-analyzed.

20 Q. So that a chemist could testify in court?

21 A. Yes.

22 Q. So this substance was actually analyzed not once but
23 twice?

24 A. Yes, it was.

25 Q. With consistent results?

RENITA BERRY: BY SOLICITOR SHELTON

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1 A. Yes.

2 SOLICITOR SHELTON: May I approach, Your Honor?

3 THE COURT: Yes, sir.

4 Q. This is still not in evidence as far as the bag, but
5 I'm going to ask you to look at State's Exhibit Number
6 Thirty-one and see if you can see whether the outer
7 packaging is completely sealed.

8 A. No. There is an area here where there is an opening.

9 It's where there was an attempt to reseal it right
10 across all of the labels that you see here and it's not
11 sealed at this time.

12 Q. You say right across the labels that you see there?

13 A. Yes.

14 Q. Can that sometimes be a problem in heat sealing?

15 A. Yes. We try not to seal across labels but seal the
16 others on the other opening --

17 MADAME COURT REPORTER: I'm sorry. You try not to
18 seal across labels and?

19 A. We - I have to repeat that. Our goal is to always
20 seal the bag in the area where we know the seal is going to
21 be intact.

22 MR. JOHNSON: Your Honor, I object. She's showing the
23 bag to the jury.

24 A. I'm sorry.

25 SOLICITOR SHELTON: Sorry.

RENITA BERRY: BY SOLICITOR SHELTON

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1 Q. Please just describe it without showing it to the jury
2 yet.

3 I apologize.

4 THE COURT: Thank you.

5 SOLICITOR SHELTON: Thank you.

6 Q. You were saying your goal?

7 A. The goal is always to seal in an area where there is
8 not going to be a problem with the bag reopening. And you
9 also attempt to tug on the bag to make sure that happens.
10 However, we were in a process where we were having to put
11 several labels on the bag and there was no other area for
12 her to seal.

13 Q. Now, you said it's your practice to seal the bags that
14 are within that exterior bag?

15 A. To put some type of evidence tape or some type of tape
16 along with our initials to make sure that everything is
17 still in tact.

18 Q. So there are bags contained within that bag. Correct?

19 A. Yes.

20 Q. There is not actually loose cocaine --

21 MR. JOHNSON: Your Honor, objection. He is
22 testifying.

23 THE COURT: Please don't lead the witness.

24 SOLICITOR SHELTON: I apologize, Your Honor. I didn't
25 realize I was. I apologize.

RENITA BERRY: BY SOLICITOR SHELTON
BY MR. JOHNSON

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1 Please strike that question, Madame Court Reporter.

2 Q. Is there loose cocaine inside of that bag?

3 A. No, there is not.

4 Q. And is there any loose cocaine inside of the outer
5 bag?

6 A. No, there is not.

7 Q. So any cocaine would be packaged within the inner bag?

8 A. Yes.

9 Q. Thank you.

10 SOLICITOR SHELTON: Those are all the questions I
11 have. Please answer any questions defense might have.

12 CROSS-EXAMINATION

13 RENITA BERRY BY MR. JOHNSON:

14 Q. Good morning.

15 A. Good morning.

16 Q. Just a couple questions for you. The package that you
17 have there is not the package that you sealed and returned
18 back into - is not - the package that you have there, Item
19 31 I think is the one we were talking about. Its packaged
20 differently than when you packaged it and returned it
21 before you went away; is that correct?

22 A. I can't say that it is packaged differently?

23 Q. Right.

24 A. But it has been opened and resealed.

25 Q. And resealed?

RENITA BERRY: BY MR. JOHNSON

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1 A. Yes.

2 Q. Now, the reason that you seal packages is to prevent
3 people from tampering with them. Correct?

4 A. To prevent tampering and to ensure that the packaging
5 stays intact. Yes.

6 Q. To ensure the chain of custody?

7 A. Yes.

8 Q. Okay. Because anything to indicate that it could have
9 been tampered with effects the chain of custody. Correct?

10 A. Yes.

11 Q. As that package is now, being opened, it gives some
12 question to whether it could have been tampered with.
13 Correct?

14 A. It gives question, yes.

15 Q. Thereby affecting the chain of custody. Correct?

16 A. Yes and no.

17 Q. That's close enough. Thank you.

18 THE COURT: Redirect?

19 SOLICITOR SHELTON: I ask that you explain that
20 answer, yes and no.

21 A. Yes and no.

22 THE COURT: You may finish your answer, ma'am.

23 A. Thank you, Your Honor. I say yes and no simply
24 because the evidence was sealed. It was secure. It was
25 placed in a secure location at all times. The entire that

RENITA BERRY: BY MR. JOHNSON

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1 it is in the laboratory it's in a secure location and only
2 those persons authorized to be in that area are able to be
3 there. And in this case it was Jennifer Mills in my
4 absence. The evidence was then returned to evidence, our
5 evidence section, which is a big warehouse that secures and
6 safe keeps, and keep guards, all of the evidence for
7 Beaufort County Sheriff's office. So there it was placed
8 in whatever spot they place it in and it was secured until
9 it was time to be pulled out again, for court or for
10 whatever other reasons. So even though the bag - the seal
11 has come apart, the bag was at all times based on our
12 policy in a very secure location.

13 SOLICITOR SHELTON: Redirect, Your Honor?

14 THE COURT: Yes. Well, Mr. Johnson, do you have
15 anything further based upon her explanation of your last
16 question?

17 MR. JOHNSON: Yes, Your Honor. I thought he was
18 redirecting already.

19 THE COURT: No, sir. She was explaining her last
20 answer that you asked her so do you have anything further?

21 MR. JOHNSON: Yes.

22 THE COURT: You still have an opportunity.

23 RENITA BERRY BY MR. JOHNSON:

24 Q. But you was away for a year. Correct?

25 A. Yes, I was.

RENITA BERRY: BY MR. JOHNSON

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1 Q. So you cannot say for sure that you have any knowledge
2 of what happened to that bag while you was gone. Correct?

3 A. Can I give you another yes and no answer?

4 Q. Please explain.

5 THE COURT: Just say yes and no and then explain your
6 answer.

7 A. Thank you, Your Honor. I say yes and no again because
8 the policy is there and in any situation, even if I was
9 still in Beaufort County working at the laboratory, once
10 it's been placed back into the hands of our evidence
11 custodians, it sits there and again I have no knowledge
12 other than what our policy states whether or not it's in a
13 secure location, so based on policy, yes.

14 Q. Based on policy, but --

15 A. But either way I would not have been present at the
16 evidence within the evidence section to have my eyes on the
17 evidence if that makes sense.

18 Q. I'm sure. I just want to make sure you are finished
19 before I ask you the next question.

20 A. I am. Sorry about that.

21 Q. Okay. But the reason it is sealed is to protect the
22 chain of custody. Correct?

23 A. Yes.

24 Q. And that bag is not sealed?

25 A. Yes.

RENITA BERRY: BY SOLICITOR SHELTON

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1 MR. JOHNSON: No other questions.

2 THE COURT: Any redirect.

3 SOLICITOR SHELTON: Very briefly.

4 REDIRECT EXAMINATION

5 RENITA BERRY BY SOLICITOR SHELTON:

6 Q. Once again the exterior bag heat seal has come undone.

7 Correct?

8 A. Yes.

9 Q. And within that bag is the policy and procedures that
10 the actual drugs are packaged in separate bags. Correct?

11 A. Yes.

12 Q. And those bags would be sealed?

13 A. Yes.

14 Q. Thank you.

15 THE COURT: You may step down, Lieutenant, thank you.

16 OFFICER BERRY: Thank you, Your Honor.

17 (WITNESS LEAVING WITNESS STAND.)

18 THE COURT: You may call your next witness.

19 SOLICITOR SHELTON: Thank you. The State calls

20 Jennifer Snider.

21 I ask that Lieutenant Berry be excused.

22 THE COURT: Yes, ma'am. You may be excused. Thank
23 you.

24 Any objection?

25 MR. CHAPLIN: No objection, Your Honor.

OFFICER JENNIFER SNIDER: BY SOLICITOR SHELTON

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1 SOLICITOR SHELTON: And I ask without defense
2 objection that she may remain in order to witness the rest
3 of the testimony.

4 MR. CHAPLIN: No, Your Honor but we - right now we're
5 saying okay but we may come up with something after this
6 testimony. We would rather her exit.

7 THE COURT: Yes, sir. The order said sequestration.

8 SOLICITOR SHELTON: Okay.

9 MR. JOHNSON: Thank you. Sorry about that.

10 (WHEREUPON: JENNIFER SNIDER,
11 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

12 MADAME CLERK: Please be seated. State your name and
13 spell it for the Court.

14 MS. SNIDER: My name is Jennifer Snider, S-n-i-d-e-r.

15 THE COURT: Your witness.

16 SOLICITOR SHELTON: Thank you, Your Honor. May it
17 please the Court.

18 THE COURT: Yes, sir.

19 DIRECT EXAMINATION

20 OFFICER JENNIFER SNIDER BY SOLICITOR SHELTON:

21 Q. Officer, Deputy Snider, where do you work now?

22 A. I worked with the Beaufort County Sheriff's office,
23 Northern Enforcement Division, as a patrol deputy.

24 Q. And where were you working earlier in this year and
25 last year?

OFFICER JENNIFER SNIDER: BY SOLICITOR SHELTON

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1 A. I worked for the evidence division.

2 Q. And what were your duties when you were part of the
3 evidence division?

4 A. My duties consisted of transferring and the intake of
5 evidence for the Sheriff's office.

6 Q. I'm going to approach with State's Exhibit Number
7 Thirty-one. This has not been admitted into evidence yet
8 so I'm going to ask that you not show it to the jury.
9 Okay.

10 SOLICITOR SHELTON: May I approach, Your Honor?

11 THE COURT: Yes, sir.

12 Q. I'm also going to approach with an evidence transfer
13 sheet that I will mark for identification purposes only as
14 State's Exhibit Number Forty-six.

15 SOLICITOR SHELTON: May I approach, Your Honor?

16 THE COURT: Yes, sir.

17 Q. I ask that you recognize State's Exhibit Number Forty-
18 six and please tell the jury what it is.

19 A. Yes, sir. This is a Evidence Transfer Sheet that is
20 generated by the evidence division.

21 Q. And do you know if it refers to the evidence that
22 you personally handled?

23 A. Yes, it does.

24 Q. How do you know that?

25 A. I know that because my signature is on it.

OFFICER JENNIFER SNIDER: BY SOLICITOR SHELTON

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1 Q. And does it refer to any evidence that you actually
2 have in your possession right now, State's Exhibit Number
3 Thirty-one?

4 A. Yes, it does.

5 Q. And how do you know that?

6 A. I know that because of a number that's contained on
7 the evidence and it's also on the transfer sheet.

8 Q. And that number is the same?

9 A. Yes, it is.

10 Q. What does that indicate to you?

11 A. It indicates that we transferred this piece of
12 evidence that I'm holding to the lab.

13 Q. And do you know specifically what member of the lab
14 you transferred that evidence to?

15 A. Yes, I do. I transferred it to Corporal Cynthia
16 Payne.

17 Q. And do you know Cynthia Payne?

18 A. Yes, I do.

19 Q. Are you familiar with her signature?

20 A. Yes, I am.

21 Q. Do you see her signature on that sheet?

22 A. I do. Yes.

23 Q. And what date did you transfer that piece of evidence,
24 State's Exhibit Number Thirty-one, to Cynthia Payne?

25 A. I transferred this evidence on February 6th, 2013.

OFFICER JENNIFER SNIDER: BY SOLICITOR SHELTON

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1 Q. On February 6th, 2013?

2 A. Yes.

3 Q. And do you know what condition the evidence was in
4 when you transferred it?

5 A. It was in a sealed package when I transferred it to
6 the lab to her.

7 Q. Did you ever receive that evidence back?

8 A. Yes, I did.

9 Q. I'm going to approach now with what's marked as - as
10 rather State's Exhibit Number Forty-seven for
11 identification purposes only.

12 SOLICITOR SHELTON: May I approach, Your Honor?

13 THE COURT: Yes, sir.

14 SOLICITOR SHELTON: Thank you, Your Honor.

15 Q. Do you recognize this?

16 A. Yes, I do.

17 Q. And what is it?

18 A. This is an evidence receipt from the lab indicating
19 that they returned this same piece of evidence back to me
20 and it was returned by Jennifer Mills.

21 Q. Do you know who Jennifer Mills is?

22 A. Yes, I do.

23 Q. And who is Jennifer Mills?

24 A. Jennifer Mills is a chemist with the Beaufort County
25 Sheriff's office lab.

OFFICER JENNIFER SNIDER: BY SOLICITOR SHELTON
BY MR. CHAPLIN

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1 Q. And do you know what date she transferred that
2 evidence back to you?

3 A. Yes. It was February 20th of 2013.

4 Q. When she transferred that evidence back to you, what
5 condition was it in?

6 A. It was in a sealed package when it was returned.

7 Q. It was sealed at the time?

8 A. Yes, I was.

9 Q. And how do you know that?

10 A. I know that because we check before we place it back
11 into evidence and they initial it and the bags are always
12 kind of hard because of the air in them, because of the K-
13 packs that they use.

14 Q. And when you received it and placed it back into
15 evidence, please describe that process.

16 A. When we receive any evidence back in, we check it. We
17 make sure we have it when we're transferring it with the
18 lab, or with another officer, and once we take it back, we
19 place it back inside our secured lockup.

20 SOLICITOR SHELTON: Those are all the questions I have
21 for you. Thank you. I ask that I receive both of these
22 back.

23 CROSS-EXAMINATION

24 OFFICER JENNIFER SNIDER BY MR CHAPLIN:

25 Q. It's still good morning.

OFFICER JENNIFER SNIDER: BY MR. CHAPLIN

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1 A. Good morning.

2 Q. I can take a look back . How you doing?

3 A. Good, sir.

4 Q. Good. I've only got a couple questions for you. You
5 received the -- the item he was referring, you received that
6 from who?

7 A. I received it back in from Jennifer Mills.

8 Q. Okay. Jennifer Mills. And are you looking at
9 something that you can tell who had it before Jennifer
10 Mills?

11 A. Who had it before her in the lab?

12 Q. Right.

13 A. It would have been Cynthia Payne who brought it to her
14 once it left evidence.

15 Q. Okay. Let me try to get straight here. I'm going to
16 tell you what I know and then I want you to come in from
17 there.

18 SOLICITOR SHELTON: Objection. He is testifying by
19 entering a statement.

20 MR. CHAPLIN: Can I --

21 THE COURT: Can you just rephrase your question,
22 please.

23 Q. I am going to name some individuals that I believe
24 were in contact with that package prior to yourself. Would
25 you be able to authenticate what I'm going to say based on

OFFICER JENNIFER SNIDER: BY MR. CHAPLIN

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1 if I named the individuals, would you be able to tell who
2 had the package and when? Would you be able to do that?

3 A. Possibly.

4 Q. Okay. Well let's just go back to you then. Okay.

5 Once you received the package from Ms. Payne. Correct?

6 A. No. I gave it to Cynthia Payne.

7 Q. Okay.

8 A. From evidence I transferred it to Cynthia Payne.

9 Q. You received it from Ms. Mills?

10 A. Ms. Mills brought it back when she was completed with
11 it.

12 Q. Do you still have the package?

13 A. No.

14 Q. Okay. I'll let you hold this. Maybe that might help
15 the situation a little. By looking at the package, does
16 that help you be able to ascertain the chain of that
17 package by looking at it?

18 A. By looking at this package?

19 Q. Uh-huh.

20 A. No.

21 Q. You can't? Okay. Well, while you are still looking
22 at the package, when you received it from whoever you
23 received it from, was that package open?

24 A. No it was not. It was sealed.

25 Q. When you sent it to - Who, who did you send it to?

OFFICER JENNIFER SNIDER: BY MR. CHAPLIN

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1 A. Initially I took the package out of our lockup and I
2 transferred it to Cynthia Payne.

3 Q. Okay. Well was it open at that time?

4 A. It was sealed.

5 Q. And then it came back to you?

6 A. Yes.

7 Q. Okay, I'm getting this. So it came back to you?

8 A. Yes, I did.

9 Q. Was it open then?

10 A. No, it was sealed.

11 Q. Is it open now?

12 A. Yes.

13 Q. Can you tell myself, the court, the jury, when was
14 that package opened?

15 A. I don't know how this package got opened or when it
16 was opened. No.

17 Q. And the purpose of having the package sealed is what?
18 Why do we seal it?

19 A. Number one, because it's drugs and number two, for the
20 chain of custody.

21 Q. I like that last part, chain of custody. So now that
22 that package is open, has the chain been broken, as to
23 chain of custody?

24 SOLICITOR SHELTON: Objection. He's asking a legal -
25 for a legal conclusion.

OFFICER JENNIFER SNIDER: BY MR. CHAPLIN

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1 MR. CHAPLIN: Your Honor, she just mentioned two
2 issues. One being one and one being the chain. Can I just
3 ask her what she knows about the chain of custody?

4 THE COURT: You can ask for her specific knowledge,
5 but not a legal conclusion.

6 BY MR. CHAPLIN:

7 Q. Can you tell me your specific knowledge about the
8 chain? What do you know about the chain?

9 A. What I know about the chain of custody that I was
10 involved in is that this was a sealed package.

11 Q. What do you know about the chain as to now that that
12 package is open, how does that affect anything dealing with
13 the chain in your knowledge?

14 A. I don't believe I can answer that because we are in a
15 courtroom setting. We're not passing this back and forth
16 from evidence back to anybody else.

17 Q. Okay. But clearly it's open?

18 A. Yes.

19 Q. Okay. And it's clearly large enough - How wide is the
20 opening?

21 A. I'd say approximately four inches.

22 Q. And it wasn't like that when you first had it?

23 A. No, sir.

24 Q. It wasn't like that when you received it back?

25 A. No, sir.

1 Q. But it is now?

2 A. Yes, sir.

3 MR. CHAPLIN: I have nothing further for this witness.

4 THE COURT: Any redirect?

5 SOLICITOR SHELTON: No, Your Honor. We ask that this
6 witness be excused.

7 THE COURT: Any objection, Mr. Chaplin?

8 MR. CHAPLIN: No, no. That's fine.

9 THE COURT: You may be excused, Ms. Snider. Thank
10 you.

11 (WITNESS LEAVING WITNESS STAND.)

12 THE COURT: You may call your next witness.

13 SOLICITOR SHELTON: The State calls Cynthia Payne.

14 THE BAILIFF: Excuse me, Your Honor, may I approach?

15 THE COURT: Sure.

16 THE COURT: Ladies and gentlemen of the jury, I
17 understand we need to take a little break. We will do a
18 quick ten, fifteen minutes. You just let us know when you
19 are ready.

20 (JURY EXITS COURTROOM AT 11:27 A.M..)

21 THE BAILIFF: The jury is clear, Your Honor.

22 THE COURT: Thank you. We will take a quick recess.

23 SOLICITOR SHELTON: Thank you, Your Honor.

24 (COURT IN RECESS.)

25 (COURT BACK IN SESSION AT 11:45 A.M..)

1 SOLICITOR SHELTON: Your Honor, may it please the
2 Court.

3 THE COURT: Yes, sir.

4 SOLICITOR SHELTON: The State is not sure whether we
5 admitted Exhibit Number Forty-one which is Renita Berry's
6 Drug Report. We know she spoke of her results and we know
7 I laid a foundation for it. I intended to admit it and the
8 State requires that I just move it into evidence in front
9 of the jury because I believe the foundation is already
10 established.

11 THE COURT: That's fine. Yeah, I don't have it
12 checked off that you introduced it.

13 MR. JOHNSON: Your Honor, before the jury gets back,
14 the only objection we would have to that we noticed the
15 report but we still have the question about the chain of
16 custody of the item. We think that admitting that report
17 would be premature until we settle the issue about because
18 we are gonna raise the issue that the cocaine issue should
19 --

20 Now is that report on the marijuana?

21 SOLICITOR SHELTON: It is and the cocaine report's
22 already in evidence. And that's the marijuana report.

23 MR. JOHNSON: If that's the marijuana report I don't
24 have no objection. That's okay. Thank you.

25 THE COURT: Okay.

1 SOLICITOR SHELTON: The marijuana is already in
2 evidence. Thank you. So would you like me to just move it
3 into evidence in front of the jury or just take notice that
4 its in evidence?

5 THE COURT: However - If you prefer to do it in front
6 of the jury so they don't have a question that's fine. I
7 don't have no problems with that.

8 SOLICITOR SHELTON: Thank you. I'll just move it into
9 evidence without a witness if that's all right?

10 THE COURT: Okay. That's fine.

11 SOLICITOR SHELTON: Thank you, Your Honor.

12 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-ONE,
13 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

14 THE COURT: Anything further before we bring the jury
15 up? Where is Mr. Chaplin.

16 MR. JOHNSON: I'm prepared to go forward. He's making
17 a call.

18 THE COURT: Okay.

19 MR. JOHNSON: Thank you, Your Honor.

20 THE COURT: So we're good.

21 SOLICITOR SHELDON: Make sure Cynthia Payne is ready
22 to come in.

23 THE BAILIFF: Your Honor, the jury is entering.

24 (JURY REENTERS COURTROOM AT 11:48 A.M..)

25 THE BAILIFF: All right, Your Honor.

CORPORAL CYNTHIA PAYNE: BY SOLICITOR SHELTON

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1 THE COURT: Thank you.

2 You may call your next witness.

3 SOLICITOR SHELTON: Thank you, Your Honor. May it
4 please the Court.

5 The State calls Cynthia Payne.

6 MADAME CLERK: Would you place your left hand on the
7 Bible and raise your right hand for me please.

8 (WHEREUPON: CYNTHIA PAYNE,
9 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

10 MADAME CLERK: Please be seated. State your name and
11 spell it for the court reporter.

12 A. My name is Corporal Cynthia Payne and I'm a deputy
13 sheriff for the Beaufort County Sheriff's Office.

14 THE COURT: Your witness.

15 DIRECT EXAMINATION

16 CORPORAL CYNTHIA PAYNE BY SOLICITOR SHELTON:

17 Q. Will you please spell your last name for the record,
18 Corporal Payne?

19 A. Payne, P-a-y-n-e.

20 Q. And what is your roll as a deputy sheriff
21 specifically?

22 A. I'm currently assigned to the Forensic Services
23 Laboratory where I serve as a support technician.

24 Q. And what are some of your jobs and duties as a support
25 technician?

CORPORAL CYNTHIA PAYNE: BY SOLICITOR SHELTON

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1 A. Primarily administrative type work. I also handle the
2 evidence that comes in. Retrieve it from evidence and
3 enter it into the computer. That sort of thing.

4 Q. When you say handle the evidence be specific. You say
5 you retrieve it from evidence and enter it into a computer.
6 Do you actually physically handle the actual drugs?

7 A. No, sir. The out packaging.

8 Q. The out packaging. Thank you. I'm going to approach
9 with what had been pre-marked Exhibits for identification
10 purposes only which means don't show them to the jury
11 please, State's Exhibit Number Forty-six and State's
12 Exhibit Number Forty-eight. I'm gonna ask --

13 SOLICITOR SHELTON: May I approach, Your Honor?

14 THE COURT: Yes, sir.

15 Q. I'm gonna ask that you just review these and ask if
16 you recognize what they are.

17 A. Yes, sir.

18 Q. What are they?

19 A. These are evidence receipts listing the chain of
20 custody for several containers including Best Bag Number C
21 Charlie 0-0-7-5-8-0.

22 Q. C as in Charlie?

23 A. Yes, sir.

24 Q. 0-0-7-5-8-0

25 A. Yes, sir.

CORPORAL CYNTHIA PAYNE: BY SOLICITOR SHELTON

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1 Q. And I'm gonna ask that you speak kind of slowly. I
2 speak slowly anyway, so usually so the court reporter can
3 make sure she takes everything down.

4 A. Yes, sir.

5 Q. Okay. Now I'm going to approach with what is marked
6 as State's Exhibit Number Thirty-one for identification
7 purposes only, okay? Do not show it to the jury please.
8 I'm gonna ask if you recognize this and how?

9 A. Yes, sir, I do recognize it. It is marked with the
10 Best Bag control number Charlie 0-0--7-5-8-0. And it is
11 also marked with Lieutenant Berry's initials and with
12 Jennifer Mills initials.

13 Q. Do you know whether you've ever came into contact with
14 that piece of evidence before, Exhibit Number Thirty-one?

15 A. Yes, sir, I have.

16 Q. When?

17 A. That would be on February 6th, 2013.

18 Q. February 6, 2013. And where did you receive it and
19 who did you receive it from?

20 A. I received it at the Beaufort County Sheriff's Office
21 evidence section and I received it from Jennifer Snyder.

22 Q. And what did you do with it when you received it?

23 A. I signed for it on the Evidence Transfer Sheet and I
24 transported it to the Forensic Services Laboratory.

25 Q. And what condition was it in when you received it?

1 A. It was in a sealed package.

2 Q. And do you know whose signature was on the seal of the
3 sealed package when you received it?

4 A. It -

5 Q. First.

6 A. Correct. Yes that was Lieutenant Anita Berry. Her
7 signature is on it.

8 Q. Had Jennifer Mills to your knowledge handled the
9 evidence yet?

10 A. Not to my knowledge.

11 Q. Okay. Who did you deliver the evidence to?

12 A. I delivered it to Jennifer Mills.

13 Q. And who is Jennifer Mills again?

14 A. Jennifer Mills is the chemist, one of the two chemist
15 at the Forensic Services Laboratory.

16 Q. And can you tell from either one of those exhibits,
17 and please refer to it by the Exhibit Number, when you
18 delivered it to Jennifer Mills?

19 A. On State's Exhibit Forty-eight on February 6, 2013 I
20 delivered it to Jennifer Mills.

21 Q. And when you delivered it to Jennifer Mills was it
22 sealed?

23 A. Yes, sir.

24 Q. And how do you know from that Exhibit Forty- eight
25 that you delivered it to Jennifer Neals? Excuse me, Mills,

CORPORAL CYNTHIA PAYNE: BY SOLICITOR SHELTON

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1 on that date?

2 A. It's a standard Evidence Transfer Sheet it list
3 signature and a print of who the evidence is coming from
4 and who the evidence is going to. On the transfer from
5 section there is my printed name and my signature which I
6 recognize. And the going to section there is Jennifer
7 Mills printed name and her signature which I also
8 recognize.

9 Q. Now Exhibit Number Forty-seven; you said that is your
10 signature on - that is your signature on that as well?

11 A. Forty-seven?

12 Q. The other transfer sheet.

13 A. I got Forty-six.

14 Q. Excuse me, Forty-six.

15 A. Yes that is my signature on the receiving section of
16 the evidence transfer.

17 Q. You received that from Jennifer Snyder?

18 A. Correct.

19 Q. Is that a fair and accurate depiction of that Transfer
20 Sheet?

21 A. Yes, sir.

22 SOLICITOR SHELTON: The State moves Exhibit Number
23 Forty-six into evidence as already ID'd by Jennifer Snider
24 as well.

25 THE COURT: Any objection?

CORPORAL CYNTHIA PAYNE: BY SOLICITOR SHELTON

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1 MR. JOHNSON: No objection.

2 THE COURT: Thank you.

3 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-SIX,
4 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

5 SOLICITOR SHELTON: May I approach?

6 THE COURT: Yes, sir.

7 Q. So that sheet shows handing it - receiving it from
8 Jennifer Snyder?

9 A. Correct.

10 Q. Okay. And then tell the Court again - tell the jury
11 again briefly what you do with it? When you received it
12 from Jennifer Snyder what did you do with it?

13 A. I transported it to the Forensic Service's Laboratory.

14 Q. And where is that located?

15 A. It's at 111 Industrial Village Road in Beaufort,
16 South Carolina.

17 Q. Is there any secure facility inside in which you store
18 evidence there?

19 A. Yes, sir.

20 Q. Where is that?

21 A. That is in the chemistry storage locker which is
22 inside the chemistry laboratory.

23 SOLICITOR SHELTON: May I approach, Your Honor.

24 Q. And for State's Exhibit Number Forty-eight, I note
25 that that is the same note on it as State's Exhibit Number

CORPORAL CYNTHIA PAYNE: BY SOLICITOR SHELTON

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1 Forty-six?

2 A. Correct?

3 Q. What date did you transfer it then to Jennifer Mills?

4 A. February 6th of 2013.

5 Q. And did you alter it in any way before you transferred
6 it to someone else?

7 A. No, sir.

8 Q. It was sealed when you handled it?

9 A. Correct.

10 SOLICITOR SHELTON: May I approach, Your Honor?

11 THE COURT: Yes, sir.

12 SOLICITOR SHELTON: Let me take those exhibits back
13 from you.

14 Q. Will you please look at State's Exhibit Number Thirty-
15 one? And is there any place where the seal, the heat seal
16 seems to be coming loose?

17 A. Yes, sir.

18 Q. Where is that?

19 A. That is on the seal that Jennifer Mills applied

20 Q. Is it completely loose?

21 A. No, sir.

22 Q. Is part of the seal still intact?

23 A. Yes, sir.

24 Q. Does it - When you handled this evidence was it
25 sealed?

CORPORAL CYNTHIA PAYNE: BY SOLICITOR SHELTON
BY MR. JOHNSON

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1 A. Yes, sir.

2 Q. And when you delivered it to Jennifer Mills for
3 testing again, it was sealed?

4 A. Yes, sir.

5 Q. And when she received it, it was sealed?

6 A. Yes, sir.

7 Q. Before she tested it?

8 A. Correct.

9 Q. Thank you.

10 SOLICITOR SHELTON: Those are all the questions I
11 have. Please answer any questions the defense has.

12 THE COURT: Mr. Johnson.

13 MR. JOHNSON: Thank you, Your Honor. May it please
14 the Court.

15 CROSS-EXAMINATION

16 CORPORAL CYNTHIA PAYNE BY MR. JOHNSON:

17 Q. Good morning, Ms. Payne.

18 A. Good morning.

19 Q. Your job is to transport items from one location to
20 another; is that correct? As far as the evidence that
21 we're talking about.

22 A. Among other things yes, sir.

23 Q. Among other things. And you've given certain
24 documents - procedures that you have to follow in
25 transporting those items; is that correct?

CORPORAL CYNTHIA PAYNE: BY MR. JOHNSON

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1 A. Correct.

2 Q. When you do evidence?

3 A. Correct.

4 Q. Now one of the procedures, one of the important
5 things, you have to do is to make sure that all the items
6 are sealed; is that correct?

7 A. Correct.

8 Q. And that's to protect the chain of custody. Correct?

9 A. Correct.

10 Q. Because if the item is open the chain of custody is
11 broke. Correct?

12 A. No. Not necessarily.

13 Q. No? Okay. Explain that to me.

14 A. A sealed chain of custody is not intact. It's the
15 seal is not intact. We don't accept any evidence into the
16 laboratory which is not sealed.

17 Q. Right. Because if the item is open the chain of
18 custody is broken.

19 SOLICITOR SHELTON: Objection, Your Honor. This calls
20 for a legal conclusion. Same objection as before.

21 THE COURT: That's sustained. And you've ask me that
22 as well.

23 MR. JOHNSON: Your Honor, I'm not asking for a legal
24 conclusion as to whether that's - that's for the court to
25 determine I understand that. I'm asking her understanding

CORPORAL CYNTHIA PAYNE: BY MR. JOHNSON
BY SOLICITOR SHELTON

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1 of - she stated that those items are sealed to protect the
2 chain of custody.

3 THE COURT: You've already ask and answered that
4 question and she's already answered that question.

5 BY MR. JOHNSON:

6 Q. Last question. The item that is supposed to be
7 sealed out of Thirty-one that you just looked at.

8 A. Yes, sir.

9 Q. Correct?

10 A. Uh-huh.

11 Q. It's supposed to be sealed. Correct?

12 A. Yes, sir.

13 Q Because if you was to look at it and it wasn't sealed
14 you wouldn't transport it. Correct?

15 A. Correct.

16 Q. Is it open?

17 A. It's not fully sealed.

18 MR. JOHNSON: No other questions.

19 MADAME COURT REPORTER: It's not what?

20 A. Fully sealed.

21 THE COURT: Anything further?

22 SOLICITOR SHELTON: Briefly, Your Honor.

23 REDIRECT EXAMINATION

24 CORPORAL CYNTHIA PAYNE BY SOLICITOR SHELTON:

25 Q. And it was sealed when you received it into the lab.

CORPORAL CYNTHIA PAYNE: BY SOLICITOR SHELTON

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1 Correct?

2 A. Correct.

3 Q. And it was sealed when you turned it over to Jennifer
4 Mills for testing. Correct?

5 MR. JOHNSON: Your Honor, objection. It's been ask
6 and answered.

7 A. Correct.

8 THE COURT: Sir, he's going back into redirect based
9 upon your cross. I think its proper.

10 You may proceed.

11 SOLICITOR SHELTON: Thank you, Your Honor.

12 Q. Ask again. What was your answer to the question when
13 you turned it to Jennifer Mills - turned it into Jennifer
14 Mills for testing, was the item sealed or unsealed?

15 A. It was fully sealed.

16 SOLICITOR SHELTON: Thank you.

17 THE COURT: You may step down, ma'am. Thank you.
18 Can she be excused?

19 SOLICITOR SHELTON: I ask that she may, Your Honor.

20 MR. JOHNSON: No objection, Your Honor.

21 (WITNESS LEAVING WITNESS STAND.)

22 THE COURT: You may call your next witness.

23 SOLICITOR SHELTON: Thank you, Your Honor.

24 The State calls Jennifer Mills.

25 MADAME CLERK: Place your left hand on the Bible and

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 raise your right hand for me please.

2 (WHEREUPON: JENNIFER MILLS, BEING
3 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

4 MADAME CLERK: Please be seated. State your name and
5 spell it for the court reporter.

6 THE COURT: Your witness.

7 SOLICITOR SHELTON: Thank you, Your Honor, may it
8 please the court.

9 DIRECT EXAMINATION

10 JENNIFER MILLS BY SOLICITOR SHELTON:

11 Q. What is your name?

12 A. Jennifer Mills.

13 Q. And will you please spell your last name for the
14 court reporter?

15 A. M-i-l-l-s.

16 Q. Thank you. And what is your occupation and who do you
17 work for?

18 A. I'm employed by the Beaufort County Sheriff's Office
19 Forensic's Services Laboratory and my responsibilities are
20 to chemically analyze substances that are submitted,
21 generate a report then testify in court if it's necessary.

22 Q. What is your previous experience?

23 A. I worked for the Charlotte-Mecklenburg Police
24 Department Crime Laboratory in Charlotte, North Carolina
25 for thirty years. And when I finished there I had an

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 opportunity to come here to Beaufort County to help them
2 expand their disciplines and I took that opportunity.

3 Q. Now what did you do in Charlotte-Mecklenburg?

4 A. The same responsibilities that I have here. I'm
5 qualified or certified to do drug analysis, to identify
6 ignitable liquids and fire debris. And there I also did
7 blood concentrations for DWI cases.

8 Q. What is your educational background?

9 A. I have a B.S. in biochemistry from Queens - now called
10 University in Charlotte, North Carolina and that was in
11 1975. And then in 1978 I was hired by the crime laboratory
12 in Charlotte and spent one year in service training. And
13 then since that time I spent many hours and days in
14 different seminars being the FBI Academy and also the ATF
15 Laboratory and other seminars and educational - -

16 Q. And for the folks in the jury who do not know, what is
17 ATF?

18 A. Alcohol Tobacco and Firearms.

19 Q. And what are they a branch of?

20 A. The federal government.

21 Q. Thank you. Now have you - How long - You've kind of
22 answered this question already, but how long have you been
23 analyzing suspected drugs?

24 A. Thirty-five years and four months.

25 Q. And in that thirty-five years and four months have

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 you had the opportunity to analyze marijuana?

2 A. Marijuana? Yes.

3 Q. And do you have any idea how many times?

4 A. I can guesstimate approximately thirty thousand.

5 Q. And what about cocaine?

6 A. It would be the same quantity cause generally fifty
7 percent of the analysis would be marijuana, approximately
8 fifty percent would be cocaine so another thirty thousand.

9 Q. Thirty thousand different cases possibly or at least
10 submittals?

11 A. Thirty thousand different test that I run.

12 Q. Items.

13 A. I average it out approximately two test per case.

14 Q. Thank you. Have you ever been qualified as an expert
15 as a forensic chemist before?

16 A. Yes, sir.

17 Q. In courts?

18 A. Yes.

19 Q. And how many times?

20 A. It's been over five hundred times now.

21 Q. And in what courts?

22 A. Federal court and state court in North Carolina and
23 South Carolina.

24 SOLICITOR SHELTON: The State moves and tenders Ms.
25 Mills as an expert in chemical analysis as a forensic

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 chemist specifically for the purposes of this trial.

2 THE COURT: Any voir dire?

3 MR. JOHNSON: I have none, Your Honor, and there are
4 no objections.

5 THE COURT: Thank you. I find she is qualified as an
6 forensic chemist.

7 SOLICITOR SHELTON: Thank you, Your Honor.

8 Q. Now would you, Ms. Mills, briefly explain the Beaufort
9 County Drug Laboratory, if it has temporary storage, and
10 then how you conduct test.

11 A. The laboratory is a new building and in that building
12 we have evidence storage areas. One side is on what we
13 call the biology or DNA side. And one storage area is
14 inside the chemistry section, it's a evidence storage room
15 or closet.

16 Q. And when you receive where does it go?

17 A. When evidence is received or brought into the
18 laboratory it is taken either to the biology secure area or
19 the chemistry secure area and put in their storage closets.

20 Q. So specifically if it was drug testing where would it
21 go?

22 A. It would go into the chemistry section and then into
23 the evidence closet and stored there.

24 Q. And who has access to the evidence closet?

25 A. Only three people.

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 Q. Who would that be?

2 A. That would be our evidence assistant or laboratory
3 assistant Cynthia Payne, our laboratory director Renita
4 Berry and then myself.

5 Q. I want to approach you with what has been marked as
6 State's Exhibit Number Thirty-one for identification
7 purposes only. Please don't show it to the jury. And I'm
8 gonna ask you if you've ever been in contact with this
9 before - exhibit? Please do not show it to the jury if
10 possible.

11 A. Yes I have.

12 Q. And now I'm going to approach with State's Exhibit
13 Number Forty-eight.

14 SOLICITOR SHELTON: May I approach, Your Honor?

15 THE COURT: Yes, sir.

16 SOLICITOR SHELTON: Thank you.

17 Q. Do you recognize that?

18 A. I do.

19 Q. What is it?

20 A. State's Exhibit Number Forty-eight.

21 Q. Please don't show it to the jury. Its not in
22 evidence; for identification purposes only.

23 A. State's Exhibit Number Forty-eight has my signature
24 and printed name and the date and time that I received this
25 piece of paper. This is a copy of that piece of paper.

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 Q. Is it an accurate copy?

2 A. It is.

3 Q. Now how do you know you received that? How do you
4 know it refers to the evidence that you received?

5 A. Because it has the agency case number in reference to
6 the case. It has a laboratory case number, lab report
7 number. And also the control bag number.

8 Q. And what correlation to those numbers in reference
9 to that property transfer report have to State's Exhibit
10 Number Thirty-one if any?

11 A. State's Exhibit Number Forty-eight has the same
12 agency case number and the same laboratory case number that
13 is on State's Exhibit Thirty-one.

14 Q. Does it refer into that item?

15 A. It is referring to State's Exhibit Thirty-one.

16 Q. Thank you. And is your signature on State's Exhibit
17 Number Forty-eight?

18 A. Yes it is.

19 Q. And that would be the Transfer Report?

20 A. Yes.

21 Q. And can you tell from that report who you received
22 State's Exhibit Number Thirty-one from?

23 A. Yes I can.

24 Q. Who is it?

25 A. I received State's Exhibit Number Thirty-one from

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 Cynthia Payne.

2 Q. And what date?

3 A. February the 6th, 2013.

4 Q. And what was the purpose of you receiving it?

5 A. I had a request from the Solicitor's office to analyze
6 material inside State's Exhibit Number Thirty-one.

7 Q. And why was that request given?

8 A. The case was scheduled to go to court and the analyst
9 was not present, she was deployed, therefore they made a
10 request for it to be reanalyzed by an analyst that was
11 present.

12 Q. In order to testify in court?

13 A. Yes, sir.

14 Q. Now referring to State's Exhibit Number Forty-eight,
15 is that a fair and accurate depiction of that exhibit, of
16 that, excuse me, document?

17 A. Yes.

18 SOLICITOR SHELTON: The State moves Exhibit Number
19 Forty-eight into evidence as already authenticated by
20 Cynthia Payne.

21 THE COURT: Any objection?

22 MR. JOHNSON: Is that Number Forty-eight?

23 SOLICITOR SHELTON: Forty-eight.

24 MR. JOHNSON: No objection.

25 THE COURT: Thank you.

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-EIGHT,
2 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

3 SOLICITOR SHELTON: May I approach?

4 THE COURT: Yes, sir.

5 SOLICITOR SHELTON: You want to keep that.

6 Q. Now you received this item on February 6th, 2013.

7 Correct?

8 A. Yes, sir.

9 Q. And did you perform testing on the item?

10 A. I did.

11 Q. And when did you perform testing?

12 A. I performed the test on February the 14th, 2013.

13 Q. Now when you received this item what condition was it
14 in?

15 A. It was in a sealed condition.

16 Q. What type of bag was it in?

17 A. It was in a heat sealed nylon type bag that we use to
18 secure evidence after it's been analyzed.

19 Q. And what was contained within that heat sealed nylon
20 type bag?

21 A. The outer nylon heat sealed bag contained a what we
22 call Best Bag or Control Bag. And it also contained two
23 items that were sealed.

24 Q. And those items were sealed?

25 A. Yes.

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 Q. Did in order to perform testing did you open the bag?

2 A. Yes.

3 Q. Now before we get into that let's just talk about how
4 you performed testing and how you actually do it.

5 Will you please tell the jury how you perform testing
6 on cocaine.

7 A. When an unknown substance comes into the laboratory
8 to be analyzed we open the package we get a weight of the
9 substance without the packaging, record that. We take a
10 sample and we do a wet chemical test which is a color test.
11 In this case for cocaine it would be a cobalt thiocyanate
12 test. And we take another sample and we dissolve it and
13 we run it on the instrument, the gas chromatography mass
14 spectrometry, and then the combination of those test gives
15 us a result.

16 Q. And were you able to establish an opinion of what was
17 inside of those bags?

18 A. I was.

19 Q. And before we state what that opinion is please state
20 specifically with this case exactly how you performed the
21 test and how you got to the bag.

22 A. I opened the outer nylon bag and inside the outer
23 nylon bag was a control bag that had already been opened,
24 Control Bag C-0-0-7-5-8-0. And also there was a evidence
25 bag that was sealed.

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 Q. Did that evidence bag have any item number associated
2 with it?

3 A. Item Number One.

4 Q. And what did you do with that?

5 A. I opened the sealed Item Number One bag and inside
6 there was a cloth draw string bag, a purple bag, a crown
7 Royal type drawstring bag. It was also a plastic bag that
8 was labeled 2011-L-05331-1RLB. I opened that package and
9 inside that package was a plastic bag that contained white
10 substance, a compressed white substance, crumbled powder.

11 I had to empty it out, take a wipe of the substance
12 without the packaging - -

13 Q. What was the weight without the packaging?

14 A. 212.45 grams.

15 Q. Thank you. Sorry to interrupt. Please continue.

16 A. I took a portion of that sample and did a color test
17 as I mentioned before putting the reagents on there to get
18 a specific color. And then I took another portion of the
19 sample and dissolved it in a solvent and took that vial
20 into the instrument room where the gas chromatography mass
21 spectrometer was and ran an analysis on that.

22 Q. And is that referring to Item Number 1.1?

23 A. Correct.

24 Q. And what was your conclusion and opinion as to what
25 that item contained?

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 A. The contents of the substance in Item 1.1 in my
2 opinion it contained cocaine.

3 Q. And the weight again was 212.45 grams?

4 A. Yes it was.

5 Q. What did you do after you performed your test and
6 came to your analysis's opinion?

7 A. I replaced the substance, the white powder substance,
8 back into the plastic bag and put it back into the outer
9 plastic bag that I found it in. I sealed that and then put
10 it in the next plastic bag.

11 Q. So you sealed the bag that is contained inside of
12 the bag you see in front of you?

13 A. Correct.

14 Q. So there is a bag inside that contains Item Number
15 1.1 that is still sealed?

16 A. Yes.

17 Q. And you sealed it?

18 A. I did.

19 Q. How about Item Number 1.2?

20 A. Item 1.2, that was a plastic bag again that was
21 labeled 2011-L-0533-1.2 RLB. And inside that bag I opened
22 it up and there was a plastic bag and white substance.

23 Q. Did you perform an analysis on that bag and white
24 substance contained within?

25 A. I did.

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 Q. I should just say the white substance contained
2 within. I apologize.

3 Q. And what was the weight of that substance?

4 A. The weight of this substance without the packaging was
5 10.21 grams.

6 Q. And what did that substance contain in your opinion?

7 A. In my opinion it contains cocaine.

8 Q. What did you do with Item 1.2?

9 A. I placed the white substance back in the plastic bag
10 and sealed that and then it was placed into the next level
11 layer of plastic bag and was sealed.

12 Q. And that bag, the first plastic bag, you sealed it?

13 A. I did.

14 Q. And then in the next layer you said there is another
15 layer of plastic bag and you sealed that as well?

16 A. Yes.

17 Q. Now what about Item 2?

18 A. Item Number Two it was an evidence bag that was
19 labeled, again 2011-L-0533-2-RLB. I opened that bag and
20 inside there was a plastic bag that was tied that had some
21 greenish blue tannish material powder substance.

22 Q. Did you find any controlled substance in that?

23 A. I did not.

24 Q. So Item 1.1 and 1.2 you found cocaine?

25 A. Yes, sir.

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 Q. Now, first I'm going to approach with State's Exhibit
2 Number Forty.

3 SOLICITOR SHELTON: May I approach, Your Honor?

4 THE COURT: Yes, sir.

5 Q. And ask, Ms. Mills, if you recognize this
6 document?

7 A. Yes, sir, I do.

8 Q. What is it?

9 A. State's Exhibit Number Forty is a copy of the lab
10 report that I generated that gives the results of my
11 analysis in this case.

12 Q. And those are the statements and the analysis and
13 opinions that you just testified to?

14 A. Yes, sir.

15 SOLICITOR SHELTON: The State moves State's Exhibit
16 Number Forty into evidence.

17 THE COURT: Any objection?

18 MR. JOHNSON: No objection, Your Honor.

19 THE COURT: Thank you.

20 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY, IDENTIFIED
21 AND MARKED, RECEIVED INTO EVIDENCE.)

22 SOLICITOR SHELTON: Thank you.

23 May I approach, Your Honor?

24 THE COURT: Yes, sir.

25 SOLICITOR SHELTON: Thank you.

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 Q. I'm gonna approach with State's Exhibits Number
2 Forty-two.'

3 I note this has already been admitted into
4 evidence as Renita Berry's Report.

5 I'd like you, Ms. Mills, to look at that document and
6 her findings and then look at your findings and see if
7 there is any discrepancy whatsoever.

8 A. The difference is in the weight is the only difference
9 that I see. Also the date that it was received.

10 Q. Now as far as the weight, you say there is a
11 difference in the weight. Would you please tell the jury
12 what a difference in the weight is? First what is the
13 weight in Ms. Berry's report?

14 A. Ms. Berry reported in Item 1.1 that the sandwich bag
15 containing white powder compressed substance the weight of
16 the substance without the package was 212.89 grams. And my
17 report is 212.45 grams.

18 Q. Less than a half gram difference or around a half
19 gram difference?

20 A. Yes, sir.

21 Q. By over 212 grams?

22 A. Yes.

23 Q. What about for Item 1.2?

24 A. Ms. Berry's report reads plastic bag containing white
25 powder substance cocaine found the weight was 10.59 grams.

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 And my weight is 10.21 grams.

2 Q. Based on your training over thirty years of experience
3 are you able to tell the jury any explanation as to why
4 there could be a discrepancy that small in a weight of that
5 size?

6 A. There are factors to consider. One is that the
7 substance had to be poured out of another plastic bag and
8 weighed again. And there is a static electricity challenge
9 there with the weight, the powder clinging to the powder to
10 different bags therefore reducing the weight some. There
11 is also the difference between the substance being samples
12 being removed for analysis and then placed back in the
13 package and then being reweighed after someone else has
14 taken a portion out for analysis. And then the third and
15 probably the most significant one is moisture. The
16 substance was in the bag and I reopened it more than a year
17 later and that many times causes it to dry out which causes
18 a difference in the weight.

19 Q. And would you consider the difference in weight in
20 that large or small?

21 A. As small.

22 Q. Again, is less than a half gram difference in over
23 two hundred and twelve grams of cocaine?

24 A. Yes, sir.

25 Q. And what was the total weight from your analysis

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 between the Item Number 1.1 and 1.2?

2 A. The total weight or combined weight of my analysis for
3 Items 1.1 and 1.2 is 222.66 grams.

4 Q. 222.66 grams?

5 A. Yes, sir.

6 Q. I also handed you a separate evidence transfer sheet.

7 I can't remember the exhibit number, I apologize.

8 Is it up there?

9 A. No, sir.

10 SOLICITOR SHELTON: May I approach, Your Honor?

11 THE COURT: Yes, sir.

12 SOLICITOR SHELTON: I apologize. I already handed it
13 back to the court reporter.

14 Q. State's Exhibit Number Forty-seven. Do you recognize
15 that exhibit?

16 A. I do.

17 Q. And what is it?

18 A. This is a copy of the receipt referenced to this case
19 that has my name and the date on it.

20 Q. And what is it - you say it references to the case.
21 Is that the reference to when you turned that back into
22 evidence?

23 A. Yes it is.

24 Q. And what date was that?

25 A. February the 20th, 2013.

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 Q. And who did you turn it back in to?

2 A. Jennifer Snyder.

3 Q. And before turning it back in to evidence what did
4 you do with all the separate items 1.1 and 1.2 and 2 before
5 turning them back into the outer packaging and returning it
6 into evidence what did you do?

7 A. They were returned to the original outer bags and
8 they were sealed by me and labeled and then placed into the
9 original - the outer bag that I received, the heat sealed
10 nylon bag.

11 Q. And did you heat seal that bag?

12 A. Yes, sir.

13 Q. And that was after you performed your analysis.
14 Correct?

15 A. Yes.

16 Q. And the inner bags inside of that bag are sealed by
17 you.

18 A. Yes, sir.

19 Q. And they remain sealed?

20 A. Yes, sir.

21 Q. And when you turned it into evidence was that heat
22 seal sealed?

23 A. It was.

24 SOLICITOR SHELTON: May I approach, Your Honor?

25 THE COURT: Yes, sir.

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 SOLICITOR SHELTON: May I see State's Exhibit Number
2 Thirty-one?

3 Q. Now I'm going to point out to you on at the end of the
4 seal - end of the bag here - will you please tell the jury
5 what you see there?

6 A. Am I allowed to show it to the jury?

7 Q. Not yet.

8 A. State's Exhibit Number Thirty-one, the outer bag that
9 I receive the evidence in I opened the opposite end that
10 Ms. Berry sealed and removed the contents. I put the
11 contents back into the bag and heat sealed the end that I
12 had opened. I also put my initials, the date that I sealed
13 it 2/14/13, the laboratory case number 211L-0533 and my
14 initials across that heat seal at the end of the package.

15 Q. And is that heat seal along labels?

16 A. Yes it is.

17 Q. What could that cause?

18 A. An incomplete heat seal.

19 Q. But the evidence inside that bag was sealed by you?

20 A. Yes.

21 Q. And it is still sealed?

22 A. Yes, sir.

23 Q. And those are your initials from where you did heat
24 seal the exterior bag?

25 A. Yes, sir.

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 Q. And that exterior bag simply holds the inner bags
2 together. Correct?

3 A. Yes.

4 Q. Is there any loose cocaine inside of the exterior bag?

5 A. No, sir.

6 Q. The interior - I've hammered this home and I'm gonna
7 ask you, the interior bags are sealed from your seal?

8 MR. JOHNSON: Your Honor, objection. Ask and
9 answered.

10 THE COURT: Sustain.

11 SOLICITOR SHELTON: Thank you. I withdraw the
12 question.

13 Please strike it from the record.

14 State moves State's Exhibit Number Thirty-one into
15 evidence.

16 THE COURT: Any objection?

17 MR. JOHNSON: Yes, Your Honor, we object.

18 THE COURT: What's the nature of your objection?

19 MR. JOHNSON: The objection is that the package is
20 open, the chain of custody is broken that we feel that it
21 does not meet the requirement to be presented to the jury.

22 THE COURT: The chain of custody has been established
23 that would go to the weight of the evidence not as to
24 admissibility so I'll admit it subject to your objection.

25 MR. JOHNSON: Thank you, Your Honor.

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 (WHEREUPON: STATE'S EXHIBIT NUMBER THIRTY-ONE,
2 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

3 SOLICITOR SHELTON: Thank you.

4 Q. With it being admitted into evidence you may now show
5 it to the jury.

6 SOLICITOR SHELTON: May I approach the witness, Your
7 Honor?

8 THE COURT: Yes, sir.

9 Q. And I ask, Ms. Mills, if you would open first - I
10 apologize. I apologize, I'm getting ahead of myself.

11 I ask that you actually walk down with the piece of
12 evidence and show it to the jury as far as where it is now
13 open.

14 (WITNESS LEFT WITNESS STAND/PUBLISHED STATE'S EXHIBIT
15 NUMBER THIRTY-ONE TO THE JURY.)

16 Q. Thank you. Please return to the jury[sic] box, Ms.
17 Mills..

18 Now I'm gonna ask that you open along the long edge
19 State's Exhibit Number Thirty-one and identify what you see
20 inside.

21 (WITNESS OPENED EXHIBIT.)

22 Q. What do you find inside?

23 A. Inside State's Exhibit Thirty-one is the original
24 what we call Best Bag or control bag that was submitted
25 with the evidence. It has my initials and the date

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 2/14/13.

2 Q. Is there anything contained in that bag?

3 A. No, sir, not at this time.

4 Q. And will you please show the jury Item 1.1.

5 (WITNESS PUBLISHED ITEM 1.1 TO THE JURY.)

6 A. This is Item 1.1. It has L - RLB sealed on the bottom
7 and the date on the bottom. It has my seal on the side
8 with the date 2/14/13 and the laboratory number and Item
9 No. 1 on that package.

10 Q. And what is contained inside that bag?

11 A. And this package which is labeled Item No. 1 is 1.1
12 and 1.2.

13 Q. And what is contained in 1.1?

14 A. 1.1 plastic bag containing a plastic bag containing
15 white substance.

16 Q. And what is your opinion as to what that white
17 substance is and how much it weighs?

18 A. In my opinion the substance in 1.1 contains cocaine
19 and the weight of the substance without the package is
20 212.45 grams.

21 Q. And is your seal, seal still intact in that bag?

22 A. Yes, sir.

23 SOLICITOR SHELTON: May I approach, Your Honor?

24 THE COURT: Yes, sir.

25 Q. The State's approaching with State's Exhibit Marker

JENNIFER MILLS: BY SOLICITOR SHELTON

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1 Thirty-one (A.) I ask to publish to the jury.

2 THE COURT: Fine.

3 (STATE'S EXHIBIT THIRTY-ONE (A) PUBLISHED TO THE
4 JURY.)

5 SOLICITOR SHELTON: Additionally, Your Honor, the
6 State moves Forty-seven into evidence as a Transfer Sheet
7 between Ms. Mills and Ms. Snyder.

8 THE COURT: Any objection?

9 MR. JOHNSON: I'm sorry, Your Honor, I didn't hear.

10 SOLICITOR SHELTON: The Transfer Sheet between Ms.
11 Mills and Ms. Snyder, State's Exhibit Number Forty-seven.

12 MR. JOHNSON: I have no objection.

13 THE COURT: Thank you.

14 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-SEVEN,
15 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

16 SOLICITOR SHELTON: And finally State moves what's
17 already been authenticated as State's Exhibit Forty-one
18 which is Renita Berry's marijuana report.

19 THE COURT: Any objection?

20 MR. JOHNSON: No objection, Your Honor.

21 THE COURT: Thank you.

22 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-ONE,
23 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

24 BY SOLICITOR SHELTON:

25 SOLICITOR SHELTON: May I approach the witness, Your

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1 Honor.

2 THE COURT: Yes, sir.

3 Q. And contained within State's Exhibit Number Thirty-one
4 (A) is Item 1.1 and 1.2?

5 A. Yes, sir.

6 Q. Is that all the cocaine in this case?

7 A. Yes.

8 Q. Thank you. Those are all the questions I have.

9 Please answer any questions the defense has.

10 THE COURT: Mr. Johnson.

11 MR. JOHNSON: Thank you, Your Honor, may it please the
12 court.

13 CROSS-EXAMINATION

14 JENNIFER MILLS BY MR. JOHNSON:

15 Q. Good afternoon.

16 A. Yes, sir.

17 Q. Just a couple of questions for you. When you finished
18 your examination of the cocaine, or the items that you
19 determined to be cocaine, you sealed the bag?

20 A. Yes, sir.

21 Q. So it was not open. Correct?

22 A. No, sir.

23 Q. When it left you it was not open?

24 A. No.

25 Q. But it was open just now. Correct?

JENNIFER MILLS: BY MR. JOHNSON

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1 A. The outer bag when I looked at it now it was yes, sir.

2 Q. Okay. Next the final - actually the final question.

3 Your job as a forensic - as a forensic expert is to
4 test for substances such as cocaine and marijuana and
5 things of that nature. Correct?

6 A. Yes, sir.

7 Q. And you tested this and you found it to be cocaine.
8 Correct?

9 A. I found it to contain cocaine.

10 Q. But you have no evidence that that cocaine belonged
11 to my client do you?

12 A. No, sir, I do not.

13 Q. No other questions.

14 THE COURT: Any redirect?

15 SOLICITOR SHELTON: Thank you, Your Honor.

16 The State rest.

17 THE COURT: Thank you.

18 Ms. Mills, you may be excused. Thank you.

19 MS. MILLS: Thank you.

20 (WITNESS LEAVING WITNESS STAND.)

21 THE COURT: Ladies and gentlemen of the jury, at this
22 time the State has rested its case and it is about 12:30,
23 it probably would be a good time to take our lunch break.
24 There are a few matters of law that we must take up outside
25 of your presence. We will allow you to come back at - you

1 should have enough time by 1:45 to resume the trial of this
2 case. Again please don't discuss the case with anybody,
3 don't allow anybody to discuss the case with you, it's not
4 time for you to deliberate yet. We still have to finish
5 the entire case so do not deliberate amongst yourselves
6 either do any independent research of the case but at this
7 time you're excused until 1:45. Thank you.

8 (JURY EXITS COURTROOM FOR LUNCH RECESS AT 12:30 P.M..)

9 THE BAILIFF: The jury is clear, Your Honor.

10 THE COURT: Thank you.

11 Any matters from the Defense?

12 MR. JOHNSON: Yes, Your Honor. At this time we renew
13 our matters concerning motions and objections and motions
14 for a directed verdict.

15 THE COURT: Okay, sir, you may proceed.

16 MR. JOHNSON: I guess our first motion, Your Honor,
17 would be a motion that the chain of custody as related to
18 the cocaine evidence that the package was clearly open and
19 there is our belief that because that package was open that
20 the chain of custody was broke. It calls into question the
21 integrity of the packet as well as the items that was
22 presented to the jury was actually items that was tested.

23 The State presented a number of witnesses', all the
24 witnesses indicated that the item was sealed but nobody can
25 explain how the item opened. A lot of people gives - give

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1 a somewhat of an explanation that it could have popped open
2 due to some flaw in the seal or something of that nature
3 but nobody knew. Everybody could say it was sealed but
4 nobody could say what happened to the package.

5 And one other significant thing is nobody could say
6 when it happened. That would call that package into
7 question as to whoever that particular package stayed
8 within the chain and when did it did happen. It is our
9 belief that the integrity of the package was flawed by the
10 seal being broken and that as a result the chain of custody
11 was broken and as a requirement that particular item
12 cocaine should not be given to the jury and that that
13 particular charge of cocaine should be dismissed.

14 THE COURT: Solicitor.

15 SOLICITOR SHELTON: Your Honor, the package in
16 question is an exterior package that the actual packaging
17 of the cocaine was packaged within. That package remained
18 sealed even when we presented it into court. That's just
19 for the purpose of establishing the chain if its even
20 necessary past the time of the forensic testing to bring it
21 into court to show it to the jury if that's even necessary
22 and the State isn't conceding to that. That was sealed,
23 the package is actually containing the cocaine within the
24 exterior package which is still sealed.

25 And in fact Renata Berry testified that the exterior

1 package is just a redundancy to keep the interior packages
2 together. Similarly similar to a paper evidence bag even
3 where you put in other evidence bags that are sealed to
4 close that. And other counties actually do that. So it
5 really is a redundancy. It doesn't affect the integrity of
6 the evidence whatsoever. The actual evidence that was
7 presented is contained inside Item No. 1.1 - Item No. 1
8 rather, State's Exhibit Number Thirty-one (A) and that
9 package remains sealed.

10 Both chemist testified that the package was sealed
11 when they received it before testing. The packages they
12 received so that there is absolutely nothing, no problem
13 whatsoever with the testing and there is absolutely no
14 problems whatsoever with the ultimate publishing of the
15 evidence to the jury that's the actual cocaine because that
16 bag was still sealed or it was contained inside of the
17 exterior bag is a redundancy and is there only to keep the
18 interior together.

19 THE COURT: Either gentlemen?

20 MR. JOHNSON: Just one response, Your Honor.

21 THE COURT: Yes, sir.

22 MR. JOHNSON: Mainly for the record, Your Honor, it is
23 our contention that it is incumbent upon the court to
24 ensure that the - in this case the cocaine that was
25 presented to the jury during trial is the actual cocaine

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1 that was seized at the time my client was arrested.

2 The outer package which contained the items that was
3 tested by the lab the reason the outer package is sealed is
4 to maintain that integrity of that package all the way to
5 the jury. If the package is flawed or the chain is broken
6 before it gets to the jury then the court cannot certify or
7 the state cannot certify that that is actually the package
8 that was tested and sealed by the lab.

9 The package that was shown to the jury today was
10 opened. They cannot certify that that is actually the
11 package that was tested by the lab. He's saying that it's
12 just redundancy. It is not. It is sealed to protect the
13 integrity all the way to the point that its opened before
14 the jury from a sealed package and handed to the jury. In
15 this case the package was not sealed prior to handing it to
16 the jury and we believe that it breaks the chain.

17 THE COURT: Thank you, Mr. Johnson. I'm gonna
18 respectfully deny your motion pursuant to State v. Taylor
19 basically where an analyzed substances pass through several
20 hands that evidence must not leave it to conjecture as to
21 who had it and what was done to it I think the State has
22 proven through the testimony and establishes the chain of
23 custody who has had it. The standard is not that the State
24 has to abolish all probability of any tampering which you
25 know that goes to the weight of the evidence not to it's

1 admissibility. The State has proven that the actual or has
2 submitted the evidence that the actual bag containing the
3 actual cocaine was not open, just the bag that contained
4 the sealed bag so you're free to argue certainly to the
5 jury that it was open and I think that goes to the weight
6 of the evidence but not it's admissibility so I'm going to
7 respectfully deny your motions.

8 MR. JOHNSON: Thank you, Your Honor.

9 Your Honor, at this time we also would like to move to
10 renew all prior objections.

11 THE COURT: Yes, sir.

12 MR. JOHNSON: As it relates to that. Also, Your
13 Honor, as it relates to a directed verdict we do not
14 believe that the State has met it's burden. The State has
15 shown that cocaine was found at a location where my client
16 resides. But they have also shown evidence that there was
17 at least one other person located at that residence as well
18 as a possibility of other people. Thereby I do not believe
19 that the State has met their burden by showing that my
20 client had possession of the cocaine therefore we ask for a
21 directed verdict because the State has not met it's burden
22 of proof as it relates to my client having possession of
23 the cocaine or marijuana.

24 THE COURT: Thank you, Mr. Johnson.

25 Mr. SHELTON.

1 SOLICITOR SHELTON: Thank you, Your Honor.

2 The State has shown that not only was it his
3 residence, it was found in the master bathroom of the
4 residence and the cocaine and the marijuana was his
5 personal identification contained within a credit card, a
6 debit card, his photograph was above the master bathroom
7 vanity which the cocaine was found within. Also his ID was
8 found in the master bedroom pertinent to that master bath.
9 Further is found a bag full of mail that was identified as
10 the defendant's inside that master bedroom. Including the
11 bag that the defendant was the only one on the scene when
12 officers arrived. Evidence shows that it is believed that
13 clothing contained inside of the bedroom or some male
14 clothing all of this goes to the fact that it is Mr.
15 Wright's drugs.

16 THE COURT: Thank you, gentlemen. As you know the
17 trial court is concerned with the existence of evidence and
18 not it's weight. There has been some direct and
19 circumstantial evidence that would logically deduce the
20 potential guilt of the defendant and I will respectfully
21 deny your motion, Mr. Johnson.

22 Anything further at this time?

23 MR. JOHNSON: And to my other objections as well, have
24 been denied as well?

25 THE COURT: Yes, sir, my ruling stands as previously

1 ruled upon.

2 MR. JOHNSON: Thank you, Your Honor.

3 THE COURT: Anything further before we take our lunch
4 break?

5 MR. JOHNSON: Your Honor, do you want to examine our
6 client as far as his right to --

7 THE COURT: Do you want to do that right now?

8 MR. JOHNSON: I think that would be good ---

9 THE COURT: Sure.

10 MR. JOHNSON: --- if it might save some time.

11 THE COURT: Mr. Wright, if you would please stand.

12 Madame Clerk, would you swear the defendant, please?

13 MADAME CLERK: Yes, ma'am.

14 Raise your right hand for me please.

15 (WHEREUPON: STANLEY WRIGHT,
16 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

17 THE COURT: Mr. Wright, if at any point while I'm
18 asking you any questions if you do not understand please
19 stop me and let me know, okay?

20 MR. WRIGHT: Yes, ma'am.

21 THE COURT: All right, sir, at this point I'm gonna
22 explain certain rights to you in detail that you have in
23 considering your case. You have reached the stage of the
24 trial where you may present your defense. You have the
25 right to claim the protections given to you by the Fifth

1 Amendment to the Constitution of the United States which
2 states in part no person shall be compelled in any criminal
3 case to be a witness against himself. This means that you
4 cannot be required to testify in this case. You have a
5 right to testify on your own behalf, however, no one can
6 make you testify. This is a personal right and no one can
7 waive this right except for you. If you decide to testify
8 you will be subject to the same rules that govern other
9 witnesses' and you may be examined and cross examined on
10 any relevant issue in this case.

11 And in addition if you have any convictions involving
12 dishonesty or false statement or for crimes punishable by
13 imprisonment for one year and this court determines that
14 the approbative value of admitting this evidence outweighs
15 the prejudicial effect to you the solicitor will be able to
16 introduce your record and attack your credibility.

17 If you decide to testify this decision on your part
18 must be freely voluntarily and intelligently made with the
19 knowledge of the protections given to you by the Fifth
20 Amendment and the consequences of your decision to testify.

21 If you decide not to testify I will instruct the jury
22 that they cannot give the fact that you did not testify any
23 consideration whatsoever and that there is to be absolutely
24 no prejudice to you because you did not testify. It is
25 left entirely up to you whether or not you testify. You

1 may talk to your attorney, your family, your friends, or
2 anyone else, but that final decision is entirely up to you.
3 Do you understand what I've explained to you?

4 MR. WRIGHT: Yes, ma'am.

5 THE COURT: And have you discussed this with your
6 attorney whether or not you should testify?

7 MR. WRIGHT: Yes, ma'am.

8 THE COURT: Do you wish to talk to your attorneys any
9 more at this time as to whether or not you wish to testify?

10 MR. WRIGHT: No, ma'am.

11 THE COURT: And what is your decision regarding
12 whether you wish to testify?

13 MR. WRIGHT: I would not like to testify.

14 THE COURT: You would not like to testify. Thank you,
15 sir.

16 Anything further?

17 MR. JOHNSON: We have nothing further, Your Honor.

18 THE COURT: Can we print out the defendant's jury
19 instructions? Are they ready? Almost. Well have them
20 ready for you in about fifteen minutes if you all want to
21 come back to chambers we'll print them out for you.

22 SOLICITOR SHELTON: Thank you, Your Honor, I apologize
23 for not giving it to you when John ask for it this morning.
24 I forgot that I had very early on in this case printed out
25 some possible request to charge or just with regarding the

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1 trafficking. It's very straight forward and very simple.
2 It's probably what you already have in your charge so I'll
3 just hand this to John if that's all right.

4 MR. JOHNSON: And, Your Honor, because we've not put
5 in those cases I do not believe we put any evidence up
6 therefore we should have the last argument; is that
7 correct?

8 THE COURT: Yes, sir. So you're not gonna call any
9 witnesses?

10 MR. JOHNSON: No, Your Honor.

11 THE COURT: Okay, sir. That's fine. Thank you.

12 Do you all need more time then if you're not gonna put
13 anything up to prepare for closings during lunch? Or will
14 forty-five give you enough time?

15 MR. JOHNSON: I don't know what to do in closing, Your
16 Honor, so I think I'm ready.

17 THE COURT: Okay. I just want to make sure I give you
18 plenty of time.

19 SOLICITOR SHELTON: Forty-five is fine for me.

20 THE COURT: So we'll review the jury charge. Did you
21 discuss whether or not you wanted the jury charges to go
22 with the jury?

23 SOLICITOR SHELTON: I haven't discussed that as how
24 the law is as long as it's the complete charge. The State
25 doesn't have a problem with it.

1 THE COURT: How about the Defense?

2 MR. CHAPLIN: Your Honor, we would like it done, go
3 back with the jury.

4 THE COURT: Okay. I think it can be very helpful so
5 we'll do that. Thank you, gentlemen.

6 SOLICITOR SHELTON: Thank you, Your Honor.

7 (COURT IN LUNCH RECESS AT 12:55 P.M..)

8 (COURT BACK IN SESSION AT 02:30 P.M..)

9 THE COURT: Thank you. You may have a seat.

10 Did you all look at the final printed version that's
11 going back to the jury just to make sure there is no
12 problems.

13 MR. CHAPLIN: Your Honor, remember we need to rest in
14 front of the jury.

15 THE COURT: Oh absolutely. Absolutely. I was also
16 gonna ask the two of you once you've rest would you all
17 mind if we go ahead and go straight into the closings and
18 then reserve any motions for after that. That way the jury
19 is not coming in and out.

20 SOLICITOR SHELTON: Absolutely.

21 MR. CHAPLIN: What ever makes it easier for you and
22 them.

23 THE COURT: Okay. Do you all prefer they sign the
24 indictment and the verdict form? Or do you just get them
25 to sign it later?

1 MR. CHAPLIN: Your Honor.

2 THE COURT: Yes, sir.

3 MR. CHAPLIN: The last thing is I don't even know if
4 you want it or she would care to have it we did send
5 someone down to look at the video tape from Barker Partin.

6 THE COURT: Yes, sir.

7 MR. CHAPLIN: And they sent us a notarized - I'll pass
8 it up to Your Honor and if you wanted to make it - just say
9 that they don't have it cause it's too long and they loop
10 every four weeks.

11 THE COURT: Certainly. And we can make that a Court's
12 Exhibit.

13 MR. CHAPLIN: That's fine.

14 THE COURT: Once we get the final jury charge printed
15 I'm gonna make that a Court's Exhibit since it's going back
16 with the jury as well.

17 MR. CHAPLIN: I don't think that would be part of a
18 Court Exhibit would it?

19 THE COURT: If you'd like for it to be just to show
20 that you went to ---

21 MR. CHAPLIN: No.

22 THE COURT: --- the point of --

23 MR. CHAPLIN: No.

24 THE COURT: No. You don't want it to be a Court's
25 Exhibit? That's fine.

1 MR. JOHNSON: I think that was just related to our
2 pretrial motion, Your Honor.

3 THE COURT: Right. I just don't know if you wanted
4 that part --

5 SOLICITOR SHELTON: The State wouldn't mind making it
6 an exhibit to show that it was actually done and followed
7 through upon. Of course it's in the record.

8 MR. JOHNSON: We will make it a part of the record but
9 that one that will go back to the jury it wasn't - none of
10 that was --

11 THE COURT: And it would be a Court's Exhibit not --

12 MR. CHAPLIN: Take that back.

13 MADAME COURT REPORTER: So what are you calling this?
14 An affidavit or a letter? Just a letter?

15 MR. CHAPLIN: Yeah, that the affidavit from the IT
16 person from Barker Park. I think his name is on the
17 bottom.

18 MADAME COURT REPORTER: All right..

19 MR. CHAPLIN: We just told him verbally and then I
20 wanted something official.

21 Affidavit in Response to Subpoena.

22 MADAME COURT REPORTER: Which will be Court's Exhibit
23 Number Three.

24 MR. CHAPLIN: Okay.

25 (WHEREUPON: COURT'S EXHIBIT NUMBER THREE, IDENTIFIED

1 AND MARKED, RECEIVED INTO THE RECORD.)

2 MADAME COURT REPORTER: And the jury charge will be
3 Court Exhibit Number Four.

4 (WHEREUPON: COURT'S EXHIBIT NUMBER FOUR, IDENTIFIED
5 AND MARKED, RECEIVED INTO THE RECORD.)

6 THE COURT: You ready to bring our jury up?

7 MR. JOHNSON: Yes, Your Honor.

8 SOLICITOR SHELTON: The State is, Your Honor. Thank
9 you.

10 THE COURT: Bring up our jury.

11 Ladies and gentlemen, once we have the jury seated
12 there will be nobody coming in and out of the courtroom so
13 as not to --

14 THE BAILIFF: Your Honor, the jury is entering.

15 (JURY REENTERS COURTROOM AT 02:38 P.M..)

16 THE BAILIFF: The jury is seated, Your Honor.

17 THE COURT: Ladies and gentlemen of the jury, thank
18 you so much for your patience. I understand we held you
19 back there a little bit longer than we anticipated but we
20 are very thankful for your patience.

21 Mr. Chaplin.

22 MR. CHAPLIN: Your Honor, the defense rest at this
23 time.

24 THE COURT: Thank you.

25 Ladies and gentlemen of the jury, at this time both

CLOSING ARGUMENT: BY SOLICITOR SHELTON

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1 the State the Defense have rested their cases and it's now
2 time for me to instruct you on the law of the case. The
3 indictments in this case allege several different offenses
4 against the defendant. The charges are possession with
5 intent to distribute marijuana; trafficking cocaine, and
6 weapons possession during the commission of a violent
7 crime.

8 Each indictment charges -

9 MR. CHAPLIN: Your Honor, may we approach?

10 THE COURT: Yes, sir.

11 MR. CHAPLIN: Sorry to interrupt.

12 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
13 THE JURY AT 02:40 P.M..)

14 MR. CHAPLIN: Thank you, Your Honor.

15 THE COURT: I completely got ahead of myself. I
16 apologize, I completely neglected to let the Defense
17 attorneys and the State give their closing statements so
18 please strike what I just said. I will instruct you all
19 after they finish so I apologize for that.

20 Solicitor, you may proceed.

21 SOLICITOR SHELTON: Thank you, Your Honor.

22 Defense counsel, ladies and gentlemen of the jury.

23 I don't know if you remember but yesterday morning I
24 grabbed this paper bag here before I started my opening and
25 I set it right there. Inside is a digital scale and it has

CLOSING ARGUMENT: BY SOLICITOR SHELTON

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1 grams of cocaine right here per Renita Berry's analysis.
2 Cash and a seizure form with the cash showing the Two
3 Thousand Four Hundred and Eight Dollars that was seized
4 from the defendant. And the handgun all seized from the
5 defendant.

6 Now I encourage you to look at this. It's the Crown
7 Royal bag. Was found underneath the defendant's vanity.
8 And feel it, the cocaine is still hard and compressed.
9 And I do this so the Madame Clerk will not get mad if I
10 spill it. As this trial went on as I kid I loved the
11 Wizard of Oz, one of my favorite movies, still is. And it
12 was reminding me of the end of the movie with the Wizard
13 flaying behind the curtain in plain view and yelling look
14 not at the man behind the curtain because all that's
15 important in this case is the fact that Mr. Stanley Wright
16 possessed over two hundred grams of cocaine in his
17 residence and in his master vanity with his debit card
18 underneath it, with his picture of himself up on the mirror
19 and with his ID laying outside the doorway between there
20 and his bed.

21 What does that say? That he's in possession of those
22 drugs. Those drugs belong to him. I'm Stanley Wright
23 these are my drugs.

24 Now the master bathroom bath and vanity. You've seen
25 this picture in the exhibit, that's what it looked like

CLOSING ARGUMENT: BY SOLICITOR SHELTON

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1 when Collier went through, Archbell went through. And why
2 did they go through to find a person, find a missing
3 person? They weren't there to look for drugs, they were
4 trying to locate someone who had hung up on a 911 call.
5 They couldn't find it they opened that and you can see how
6 large it is. Someone could be stowed inside of it
7 especially a small female.

8 They were looking inside of that to try to find
9 someone injured or possibly dead. Their training and
10 experience tells them to do that. That's not an issue in
11 this case. They were there lawfully. That's not for you
12 to determine whether they actually saw it lawfully or not.
13 That's not an issue in the case. The issue is whether
14 these drugs belong to Stanley Wright. That is a matter of
15 law that the Court has already determined. It's not a
16 matter of fact for you to determine whether they first saw
17 those drugs lawfully.

18 There are the drugs inside of the vanity. There is a
19 Crown Royal bag, same one right here. There is the
20 individual packages of marijuana that are right here in
21 this bag. And there is the large package of marijuana
22 that's right here in this bag. You can even look at this,
23 see. It's the same bag that's still in here. This is the
24 original Best Bag that Lauve put it in that it was cut out
25 of. The control number is the same. There is the cocaine

CLOSING ARGUMENT: BY SOLICITOR SHELTON

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1 within the bag in the vanity and there is the marijuana in
2 bags and more bags. These. All taken together right
3 there, right there in his master bedroom bath vanity.

4 Scale that was on top of that same vanity right above
5 these drugs. This scale right here. Debit card. Where
6 was the debit card found? Beneath the drugs. This debit
7 card with Stanley Wright's name on it, Stanley Wright,
8 Junior underneath the drugs. And also what is this? It's
9 a picture. State's Exhibit Number Thirty-three. On the
10 mirror and you can see the very edge of it in the bottom of
11 that - top of that picture above the master bedroom vanity.
12 This picture, I am Stanley Wright this is my master
13 bedroom. These are my drugs. This is my master bedroom.
14 This is my gun. And in case you have any doubt about it
15 let's keep going.

16 There is the gun in the master bedroom closet. This
17 is his South Carolina ID card next to the bed in the master
18 bedroom. Right there same card. Cash: A big deal was
19 made about whether the cash was hidden or not. The fact is
20 there is a Thousand Dollars cash lying around inside of his
21 living room behind a statute in a wad all of large bills.
22 There they are.

23 What is trafficking cocaine? We can talk about it but
24 let's look at what the actual law is. The Judge is gonna
25 tell you what the law is and always defer to the judge.

CLOSING ARGUMENT: BY SOLICITOR SHELTON

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1 a care function set to zero.

2 MR. JOHNSON: Your Honor.

3 THE COURT: Yes, sir.

4 MR. JOHNSON: I will need to object to the - what the
5 State is preparing to do. I think he has the items before
6 him and the jury can look at those items. Those things
7 that he's presented now are not necessary and I think they
8 are cumulative, have no - it's just not proper for a
9 closing argument.

10 THE COURT: I disagree, Mr. Johnson, I think it is
11 proper and your objection is over ruled. Thank you.

12 MR. JOHNSON: Thank you, Your Honor.

13 SOLICITOR SHELTON: What I've just poured in there is
14 four grams, more than one, more than two, more than three.
15 Four grams. Remember what Andre Florencio testified to
16 yesterday? Half a gram of cocaine can be sold on the
17 street for personal use for about Fifty bucks. One gram
18 can be sold on the street for a Hundred bucks. Four grams.

19 That is eleven grams. Possession of more than ten
20 grams of cocaine in South Carolina is trafficking in
21 cocaine. Knowing possession of more than ten grams, actual
22 or constructive, is trafficking in cocaine a violent crime.

23 That is two hundred and twenty-three grams. Two
24 Hundred and twenty-two and a half grams by Jennifer Mills
25 less estimate less analysis, two hundred and twenty-three

CLOSING ARGUMENT: BY SOLICITOR SHELTON

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1 The Judge is the judge of the law, you are the judges of
2 the facts. That's the reason we stand up when you walk in
3 the courtroom. You have an important roll in this case as
4 the judge has, more important than what we have. You are
5 the judge of the facts. This is what the law that you will
6 interpret to those facts is for trafficking.

7 I'm gonna break this down for you but I want to have
8 you see the entire law first. This is actual South
9 Carolina law. The statute section is called 44-53-
10 370(e)(2). Any person who knowingly sells, manufactures,
11 cultivates, delivers, purchases, or brings into this state,
12 or, who aids by providing or who provides financial
13 assistance or otherwise aids, abets, attempts, or conspires
14 to sell, manufacture, cultivate, deliver, purchase, or
15 brings into this state, or, - all of these are or - who is
16 knowingly in actual or constructive possession or who
17 knowingly attempts to become in actual or constructive
18 possession of ten grams or more of cocaine is guilty of
19 trafficking in cocaine.

20 Focus on that last. Or who knowingly attempts, or who
21 knowingly is in actual or constructive possession, or who
22 knowingly attempts to become in actual or constructive
23 possession of ten grams or more is guilty of trafficking
24 cocaine.

25 It's the possession of more than ten grams of cocaine

CLOSING ARGUMENT: BY SOLICITOR SHELTON

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1 makes you guilty of trafficking if you know it.
2 Trafficking cocaine: Any person who is knowingly in actual
3 or constructive possession of ten grams or more of cocaine
4 is guilty of trafficking in cocaine. There are certain
5 laws that have when you hear them you kind of think you
6 have some type of summary in your mind as to what they
7 might be. Trafficking is one of them. You think
8 trafficking you think well we're shipping things over seas
9 or we're flying things in or you're driving things around.
10 That's not what the law is. It's possession of over ten
11 grams. Sure it could be bringing into the State. But the
12 mere possession of it of more than ten grams and knowing
13 that you're in possession of it is trafficking in cocaine
14 under South Carolina law.

15 And this breaks it down even more. Knowing possession
16 actual or constructive - and I'll get into that in just a
17 little bit - of over ten grams of cocaine is trafficking in
18 cocaine. Not over two hundred grams is a typo. But not
19 over two hundred grams, that is a typo. In this case
20 however there are two hundred grams of cocaine. And in
21 order for him to be guilty of trafficking in cocaine over
22 two hundred grams we must prove beyond a reasonable doubt
23 that he is in possession of more than two hundred grams of
24 cocaine. I say more than ten grams because trafficking
25 cocaine is a violent offense and it's unlawful to possess a

CLOSING ARGUMENT: BY SOLICITOR SHELTON

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1 firearm while you are committing a violent offense. And
2 that's another charge he's charged with. Okay.

3 Trafficking in cocaine over two hundred grams of
4 cocaine. Knowing possession, actual or constructive, plus
5 over two hundred grams of cocaine equals trafficking in
6 over two hundred grams of cocaine.

7 Possession of a weapon during the commission of a
8 violent crime. Trafficking in cocaine, possessing that
9 much cocaine is a violent crime. And why? Well probably
10 because it most of the time involves this. The legislature
11 has determined that. And it did involve this. He had this
12 to protect his product.

13 Actual and constructive possession. Now actual
14 possession is when the drugs are found in the actual
15 physical custody of the defendant. For example he was in
16 actual possession of a fourteen hundred and eighty dollars
17 on his person yesterday. Mr. Johnson was in actual
18 possession of a six hundred dollars he showed you
19 yesterday. I'm in actual possession of my wallet right
20 now.

21 What is constructive possession? Constructive
22 possession is when the defendant has dominion and control,
23 or the right to exercise dominion and control over the
24 drugs. Constructive possession can be established by
25 circumstantial or direct evidence. That's *State v. Brown*.

CLOSING ARGUMENT: BY SOLICITOR SHELTON

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1 That is a case law in South Carolina. That's not me just
2 saying it.

3 So what is constructive possession? Remember when I
4 brought that grocery bag in and I sat it down. I left it
5 there. I knew where it was. It was there all night. I
6 got back today it was still there. I had constructive
7 possession of that grocery bag. This courthouse was locked
8 the day before. I've got a key pad to get in the
9 courthouse. I had constructive possession of the contents
10 of the grocery bag. I still do. It's right there. That's
11 just one example of what constructive possession is. Think
12 about the things one might have in your bathroom right now.
13 Anybody at home? Do you have constructive possession of
14 them? Toothbrush, toothpaste, personal items, medications,
15 private items? Yes.

16 You have a key to your house. What about your car?
17 Do you have anything in your trunk? Do you have a key to
18 your trunk? A key to your car? Anything in your car right
19 now you have constructive possession of it. You have
20 dominion and control over it. You have the right to
21 exercise dominion and control over it.

22 Stanley Wright had constructive possession of all of
23 this. The Defense admitted it's his house, it's his
24 bedroom. All of this. Where do you keep your most
25 personal items in your master bedroom? In your bedroom

CLOSING ARGUMENT: BY SOLICITOR SHELTON

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1 where do you keep your most personal private items? In
2 your bedroom in your medicine cabinet underneath your
3 vanity cause that's personal to you.

4 Now let's think about knowingly and constructive
5 possession. Remember when Archbell testified when he
6 walked into the residence it was an over whelming smell of
7 marijuana? Where did they find drugs in the house? The
8 master bedroom. That's where the smell was coming from.
9 That's how - I mean you can - This is sealed and you can
10 smell it and it's been sitting in this for over two years.
11 You really think that Stanley Wright didn't know it was
12 there in his master bedroom where he has his own picture
13 over his master bedroom vanity?

14 Let's think about these drugs and that scale I used.
15 One gram, One Hundred Dollars. What's a kilo? One
16 thousand grams. What's a quarter kilo? Two hundred and
17 fifty grams. Remember when Renita Berry testified that it
18 was compressed like a sugar cube? And what Florencio
19 talked about when he said that when you break if off of a
20 brick it's compressed? And when she said that some of it
21 was loose like it had been taken out, part of it taken off?
22 What does that show you? Personal use is one gram. This
23 is two hundred and twenty-three grams and the fact is it
24 doesn't even matter whether he bought it for to use it
25 himself over years. Because there is no Cosco, Sam's Club,

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1 defense to trafficking in cocaine. If you possess more
2 than a certain amount you're guilty of it. Anyone would be
3 knowingly so.

4 You don't have to have the intent to distribute it.
5 You possess it you're guilty of that. That's the way the
6 law is written. Why is that? Because that cocaine is
7 worth, wholesale, Nine to Ten Thousand Dollars for a
8 quarter kilo. So let's just say Eight Thousand Dollars
9 wholesale. You sell one gram of that at a time without
10 even cutting it, without even adding any sugar or adding
11 any baby formula or anything else to it, what they call
12 cutters of fillers to it, which is what happens when you
13 have something off a brick you add more things to cut it as
14 Florencio testified to. If that happens, you just sell
15 that one gram at a time that's Twenty-two Thousand Dollars
16 worth of drugs.

17 If you cut it and double it, that is Forty-four
18 Thousand Dollars worth of drugs. You think there is any
19 doubt that Stanley Wright doesn't know that he has Forty-
20 four Thousand Dollars worth of drugs in his bathroom? No
21 there is no doubt.

22 In the legal business we call certain things red
23 herrings. And that's kind of what I'm talking about when
24 look not at the man behind the curtain. One red herring in
25 this case is the chain of custody. You've heard everyone

CLOSING ARGUMENT: BY SOLICITOR SHELTON

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1 that's touched these items testify. You know exactly what
2 they did with them. You know exactly how they were
3 handled. You know exactly how they were sealed and who by.
4 You know exactly who took the items out, what they did with
5 them, how they handled them, how they resealed them. And
6 you know that first of all the cocaine was tested by Renita
7 Berry and found over two hundred and twenty grams of
8 cocaine in it well before Jennifer Mills even opened it
9 back up and retested it.

10 And furthermore it's sealed. No seal is broken here.
11 And even if you want to focus on the fact that this seal
12 cause they went back and it's kind of like Santa Claus
13 checking the list twice and actually tested it twice to
14 make sure they had the right result and also to make sure
15 we could bring this case to trial and justice is served.
16 That this heat seal was broken because it was sealed over
17 these paper labels that's not even all the way broken open,
18 you can see that this can't even get in and out of it. You
19 saw Eileen Rios shaking it. This was tested and sealed,
20 this is inside, this is a redundancy to keep all the items
21 together.

22 The 911 caller I told you already. All that does is
23 explain why officers responded to the scene initially.
24 Sweeping the house is legal. They were looking for someone
25 in distress and it's legal to do that. The Court has ruled

CLOSING ARGUMENT: BY SOLICITOR SHELTON

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1 upon that; that is legal. This is not your concern. Your
2 concern is once they found the drugs, were they his?

3 They just weren't his drugs. That's not credible
4 either. There is over whelming evidence to the contrary.
5 How many identifying pieces of information do we have that
6 are closely associated to those drugs of Stanley Wright?
7 The scene wasn't secured. All the testimony is that yes it
8 was. The only testimony you heard from anyone not being at
9 the scene was from one individual that approached Mr.
10 Archbell. Mitchell Archbell said that he was causing a
11 scene. He was being unruly and they had to push - get him
12 away from the scene..

13 Once those drugs were seen inside of the residence no
14 one went in and no one went out. And why did the officer's
15 not seize them right away? Because they're doing their job
16 correctly. They were looking for a person, they weren't
17 looking for drugs, they just happened to see the drugs.
18 They saw the drugs, they noted it, they kept doing their
19 job because they were looking to make sure someone was safe
20 and not injured. And when they exited they secured the
21 scene and they called the people who specialize in this
22 stuff.

23 You saw how long it took Ray Heroux to even introduce
24 all of the evidence in this case. Imagine how much man
25 power it takes to accurately and secure a scene, going into

CLOSING ARGUMENT: BY SOLICITOR SHELTON

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1 this house, take the pictures correctly, seize the evidence
2 put it in the bags, sign the bags correctly, seal the bags,
3 all which Ray Heroux did. It takes a lot of time.

4 Road deputies jobs are to respond to 911 calls, 911
5 hangups. They called the experts, the experts got a search
6 warrant, came in served the search warrant, and then
7 located the drugs. That's how proper procedure works.
8 They were doing their jobs correctly and you know why?
9 Because the Constitution of the United States demands it.

10 Once they got out what they were looking for they
11 happen to see it they had probable cause to get the search
12 warrant. That's not for you to determine. They got the
13 search warrant they responded to the scene and then they
14 searched the house after a judge issued that search
15 warrant.

16 All the evidence states, all the evidence shows that
17 the house was secured once those drugs were located. No
18 one got in and out of that house except law enforcement.
19 And no law enforcement went back into the house until after
20 the search warrant was obtained. And that was the purpose
21 of searching the house for drugs and all this.

22 And did any other people have access to the house?
23 There is no evidence to show that they did on that
24 afternoon. The 911 caller they were looking for her and
25 she wasn't there. Look at the pictures see if you see any

CLOSING ARGUMENT: BY SOLICITOR SHELTON

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1 female clothing in that. See if you see any female
2 identifying information underneath the drugs. Or if you
3 see any female ID's lying in the master bedroom. Mere
4 presence? No.

5 So let's specify the chain of custody. Heroux on
6 August 31st through the middle of the night September 1st
7 took it and turned it into temporary storage. Correct?
8 James Padgett delivered it into central evidence. He
9 testified to that. Eileen Rios then delivered it to Renata
10 Berry on 9/26/2011 who tested it and found more than 220
11 grams of cocaine and also over five ounces of marijuana.

12 Renata Berry returned it into evidence on December 2nd
13 2011. It had already been tested, both drugs at that time,
14 over two hundred grams of cocaine were found at that time
15 and the outside was sealed, the inside was sealed,
16 everything was sealed.

17 Jennifer Snider took it from evidence and Cynthia
18 Payne on February 6th , 2013 to retest it while Renata
19 Berry was out of the country. She wasn't able to testify
20 in court so we could bring the case into court and she has
21 recently returned. Cynthia Payne then transferred it to
22 chemist Jennifer Mills who testified and then retested the
23 drugs. When Jennifer got the drugs they were sealed from
24 Renata. She opened it, she took them out still inside the
25 inside packages - this package - and then tested it. And

CLOSING ARGUMENT: BY SOLICITOR SHELTON

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1 what was her findings? Within a half gram difference of
2 weight and the exact same findings. Two hundred and
3 twenty-two and a half grams of cocaine.

4 And then Jennifer Mills returned it into evidence as
5 Jennifer Snider. It was sealed at that time and at some
6 point in evidence this seal here became open. This seal -
7 and you can look at it - signed by Jennifer Mills - there
8 is her initials - on February 14, 2013. Renata Berry right
9 there from when she sealed it earlier. And her seal is
10 still intact as well.

11 She tested the cocaine long before Jennifer Mills
12 tested it and resealed it. When Jennifer Mills received
13 the cocaine it was sealed. She tested it and her findings
14 were consistent with Renita Berry. The exterior of the bag
15 is a redundancy. That's what Renita Berry told you. And
16 the interior bag remains sealed.

17 The 911 caller, the matter in which Archbell and
18 Collier first saw the drugs is legal - period. Stanley
19 Wright was the only one home. The evidence is over
20 whelming that the drugs belonged to Stanley Wright and he
21 knew that they were there. Think about this thing about
22 Stanley Wright's job. Who is the only person that you
23 heard anything about Stanley Wright having a job from? His
24 lawyer. What I say isn't evidence. What his lawyers says
25 is not evidence. There is no evidence whatsoever that

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1 Stanley Wright had a job at the time whatsoever. And this
2 thing about it being the end of the month or right before
3 Labor Day weekend. I happen to remember exactly when
4 August 31st 2011 was because I was in the middle of a trial
5 in Collenton County that ended on September 2nd, 2011 and
6 that was a Friday. August 31st, 2011 was a Wednesday. It
7 wasn't the end of the week right before a holiday weekend.
8 It was a Wednesday when he had all this money on him.
9 What a lawyer says is not evidence.

10 Proof beyond a reasonable doubt. Now these are not my
11 words. This is the law of the State of South Carolina,
12 it's consistent with the law across the United States.
13 There are very few things in this world that we know with
14 absolute certainty and in criminal cases the law does not
15 require proof that over comes every possible doubt. Proof
16 beyond a reasonable doubt is proof that leaves you firmly
17 convinced that the defendant is guilty. Firmly convinced
18 of the defendant's guilt.

19 Reasonable doubt equals a real possibility that the
20 defendant is not guilty. Not any possibility. A meteor
21 can hit us in two seconds. That's a possibility. Not any
22 possibility. A real possibility.

23 Again, trafficking in over two hundred grams of
24 cocaine is knowingly possessing either actual or
25 constructive possession of over two hundred grams of

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1 cocaine and that equals trafficking in over two hundred
2 grams of cocaine.

3 Mere presence. If you believe that the defendant was
4 merely present at his own house, the only one home with
5 over whelming marijuana smoke in his house, and all these
6 drugs are found in his master bedroom vanity, with his
7 debit card underneath it, his picture up on top, and then
8 his ID outside of the door to the bathroom next to the
9 bedroom and its his bedroom, if he is merely present and
10 doesn't have anything to do with those drugs then you find
11 him not guilty. If you think that raises a real
12 possibility then he's not guilty.

13 Possession of marijuana with intent to distribute.
14 Knowing possession of marijuana with intent to distribute
15 equals possession of marijuana with intent to distribute.
16 How do we show you he has intent to distribute? Well
17 here's all the marijuana. Here are the two little baggies
18 that are in here. Remember the little corner baggies that
19 were talked about? And then look at these right next to
20 it. What is marijuana packaged in? These are one of the
21 things that people package marijuana in. Florencio
22 testified to that. And how about this? It's really hard
23 to explain that. And this. And the Fourteen Hundred and
24 Eighty Dollars cash he had on him when there is no evidence
25 whatsoever that he had a job.

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1 Possession of a weapon during the commission of a
2 violent crime is knowingly possession of a firearm during
3 the commission of a violent crime equals possession of a
4 weapon during the commission of a violent crime. The
5 defendant had a pistol in his closet in his master bedroom
6 closet. He was also in possession of over ten grams of
7 cocaine. That is trafficking in cocaine. He was in
8 possession of a firearm during the commission of a violent
9 crime. This plus this equals possession of a weapon during
10 the commission of a violent crime.

11 If this was mine, and I'm not here in evidence, I'm
12 not here arguing for you, and I know this is cocaine, and I
13 know this is a firearm I'm guilty. This street value at
14 least Twenty-two Thousand Dollars of cocaine in there.

15 And why did I say - and I don't mean to be flippit
16 because I mean for you to take this seriously. Obviously
17 this is serious. One of the definitions of reasonable
18 doubt is reasonable doubt that makes a reasonable person
19 hesitate to act. Think about that. Hesitate to act. It's
20 not hesitate to think. Its important to think about this
21 and think about what is reasonable. Use the plain
22 language, the plain meaning of the word reasonable doubt.
23 It's very much that, a reasonable doubt, not any doubt, a
24 reasonable doubt. And remember what Florencio said, Staff
25 Sergeant Florencio when he was talking about when you have

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1 this the marijuana, this the cocaine, this the baggies,
2 this the digital scale all together lying in the same room
3 in your master bedroom? Remember when he said that drug
4 dealers like to keep things close?

5 And then this loaded on a closet shelf. It's not
6 unlawful to have a loaded gun in your closet shelf. A lot
7 of people do. Is it smart not to just keep it out there
8 especially if you have kids just loaded? No not smart.
9 But is it legal? Perfectly. Is this legal? Use your
10 common sense. No it's not.

11 I've already talked about the drugs and kilos are
12 compressed hard. Nearly two hundred and fifty grams of
13 cocaine. That is Nine to Ten Thousand Dollars of cocaine.
14 Let's just say this is Eight Thousand Dollars of cocaine.
15 Twenty-two Thousand Dollars street value before it's even
16 cut. Loaded handgun laying on the back bedroom shelf.
17 Over five ounces of marijuana. Baggies some with small
18 amounts of marijuana packaged. Twenty-four Hundred and
19 Eighty Dollars in cash and a scale.

20 Use your common sense is what Florencio says. And he
21 wasn't able to anser this question and I'll answer it right
22 now. What does it mean? It means he's a drug dealer.
23 It's exactly what it means. Is it pretty, is it nice, is
24 it a nice thing to say? Absolutely not but that's what the
25 evidence compels.

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1 Drug dealers like to keep their drugs close. What's
2 closer than you master bathroom vanity?

3 Now there was a question ask that I honestly wish I
4 would ask one of the witnesses'. And is it perfectly legal
5 to have Two Thousand, Four Hundred and Eighty Dollars? Yes
6 it's perfectly legal to have a Thousand Dollars cash
7 absolutely. Do a lot of people just have it lying around?
8 No I don't think so. Do a lot of people walk around with
9 Fourteen Hundred and Eighty Dollars cash in their house?
10 No. Is it legal? Perfectly. And then it's ask well is it
11 normal? There is nothing normal about this case. There is
12 nothing normal without the drugs - the question was ask
13 without the drugs would that be normal? Sure. The problem
14 is that this is a drug case and there is no question that
15 those drugs were in his house.

16 There is no question it's his house, they admit it's
17 his house. There is no question that's his master
18 bathroom. Use your common sense. There is no question
19 that he knew that street value of at least Twenty-two
20 Thousand Dollars of drugs was in his master bathroom
21 vanity.

22 That's why this case is here. That's why you're here
23 today because of the drugs. There is nothing normal about
24 it. And if there is God help us all.

25 These are just some of the reasons you can consider

CLOSING ARGUMENT: BY SOLICITOR SHELTON

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1 that would lead you to be firmly convinced of his guilt.
2 The defendant is home alone. The drugs are found in his
3 master bathroom. The defendant's debit card is found with
4 the drugs. The defendant's picture is found above the
5 vanity containing drugs. Over two hundred grams of cocaine
6 is tested twice same result. Over five ounces of
7 marijuana. Over an ounce gives an inference, gets you an
8 inference that it was there with possession with intent to
9 distribute. Over five ounces with the baggies with the
10 cash with the digital scale gives you proof beyond a
11 reasonable doubt.

12 The defendant's ID is found next to the master bed.
13 Defendant's mail found on the master bedroom floor. The
14 gun is found in the master bedroom closet. Men's clothing
15 and shoes are found in the bedroom closet. Almost Fifteen
16 Hundred Dollars cash found on the defendant and another
17 Thousand Dollars cash found in the living room. The master
18 bedroom is only access to the master bath and the master
19 closet. You can't get to either one without going through
20 the master bedroom where the defendant lives.

21 Now this isn't an easy task you have to undertake.
22 It's probably one of the most sober task you will ever have
23 to undertake. And we appreciate your service so much. You
24 paid attention through some trying times. You've been here
25 for a long time and we cannot thank you enough.

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BY MR. JOHNSON

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1 Our system of government would not work without you.
2 And now I'm going to humbly ask you to go back do your duty
3 as a juror look at the evidence consider the facts and come
4 back with a verdict of guilty on all counts. And why?
5 This totality of the circumstances compels you to find him
6 guilty. Thank you.

7 THE COURT: Mr. Johnson.

8 MR. JOHNSON: Thank you, Your Honor.

9 Good afternoon, ladies and gentlemen. I want to start
10 off by saying that during the course of the last two and a
11 half days its been contentious sometimes. Please don't
12 take that the wrong way. We are both advocates for
13 justice. It's the prosecution's job to be a advocate for
14 the State and to prove his point. It's my job as defense
15 counsel to represent my client and to be an advocate for
16 him.

17 The system does not work if you don't have two equal
18 dedicated advocates on both sides. So it gets contentious
19 sometimes.

20 But the facts are that my client is on trial. He's
21 charged with serious charges, and the system requires that
22 he be represented and be given a just and fair trial. And
23 I think you can do that.

24 We did not come before you and argue that there is
25 some conspiracy and people are conspiring just to set him

CLOSING ARGUMENT: BY MR. JOHNSON

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1 up. We are not arguing to you that drugs didn't exist in
2 that home. We're going to argue the law to you as the law
3 states it. What counsel tells you, what I tell you, is not
4 the law. The Judge will tell you the law once we finish.
5 You will take that law back there with you and you need to
6 take that and compare it to the facts in this case. It's
7 my job just to try to help you to see my client's side and
8 why he is saying that he is not guilty of these charges.

9 There were drugs found in the house. My client was
10 outside the house. There was at least one other individual
11 at that house. Because remember, the police was going
12 inside to look for her. So there is evidence of two people
13 that was in that house. At least two. And the reason I
14 say at least two, because remember, they have shown you all
15 this evidence they collected but you have heard of no one
16 investigating.

17 Police have a tendency - I used to be a prosecutor and
18 I just tell police you do a good job. You grab the right
19 person a lot of times and you arrest them and then you go
20 back and prepare your case. It's supposed to be the other
21 way around. You prepare your case. You collect the
22 evidence, you decide and you look at the facts and then
23 make the determination who to arrest. The police arrested
24 someone that they believed to be the owner of these drugs.
25 That was the end of the case. They went and collected

CLOSING ARGUMENT: BY MR. JOHNSON

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1 everything - And remember, by 2:30 - They got there at 18 -
2 Well they got there around six o'clock. By 2:30 which is
3 approximately eight hours this case is closed.

4 Investigation done. Warrants given out. People
5 arrested and we're here today. In eight hours all this
6 supposedly evidence collected, pictures taken, evidence
7 taken, eight hours.

8 Now a prime example: It was State Exhibit Number
9 Thirteen, an example of investigation. They have a picture
10 of the debit card that was found on the - the drugs which
11 they say indicated that my client must have been the person
12 to have possession because his credit card - I mean his
13 debit card is there. Well you're gonna take this back with
14 you, I want you to take a look at it. It expired in 2010.
15 This is August the 31st of 2011. What could he do with it?
16 Go to the ATM machine and get money out? No. Its an
17 expired credit card that was in the bottom of a cabinet in
18 a room where he slept. It does not show that he was there
19 today with it. He had no use for it.

20 But they're saying that this shows that he must have
21 been in possession of it cause his debit card was there. I
22 submit to you this is not his debit card. Its an old debit
23 card but it's not one that's used. Look at these things
24 when you go in the back. They make a difference. It's not
25 just that simple.

CLOSING ARGUMENT: BY MR. JOHNSON

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1 Another point.. The State never even looked at it.
2 They didn't take the time. All they saw was a name and
3 that's good enough.

4 His driver's license. Sometimes its near the door
5 near the bathroom. Sometimes its near the bed, sometimes
6 it's in the middle of the floor. It's under his bed. Look
7 at the picture. Not near the bathroom. Its his house.
8 We're not saying that its not his house. The State makes a
9 big argument and they said all the time actual possession
10 and constructive possession. But there is one fact. Mr.
11 Wright was not in actual possession of anything. They
12 searched him he had no drugs on him at all. That's a fact.

13 This Two Thousand Dollars that they are saying is drug
14 money: Look at the money when you go back. Crisp Twenty
15 Dollar bills the kind of things you get when you go to the
16 bank and cash your check. Their not crumpled up. They are
17 not folded. They are not used. Remember no drugs para -
18 there was no analysis of drugs found on any items where you
19 would get when people are using drugs. And believe me if
20 the police had it, you would have heard it. But then
21 again, they didn't investigate.

22 A gun in the house: Almost every home owner has a gun
23 in his house. Nowadays you probably need to have one in
24 your house. I have one. At the time that this happened
25 Mr. Wright cooperated with the police. He didn't run. He

CLOSING ARGUMENT: BY MR. JOHNSON

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1 cooperated and did everything that was ask of him. The
2 officer testified to that. They drug this out, they say
3 this is the evidence that they have, and that's true. But
4 none of that evidence indicate that my client possessed it.
5 No fingerprints on nothing. There is no DNA found on
6 nothing connecting my client. Remember this is not a one
7 bedroom house. This is a three bedroom house.

8 There is nothing to say that my client was the
9 individual in that house to have possession of that drugs,
10 except that they have a driver's license, they have an
11 expired debit card, and they have Two Thousand Dollars.
12 The money wasn't found near the drugs. The law requires
13 the State to prove beyond a reasonable doubt that my client
14 had actual, which he didn't, or constructive which we
15 believe they did not prove possession of cocaine and
16 marijuana.

17 If they do not prove that beyond a reasonable doubt,
18 you by the oath that you took are required to find him not
19 guilty.

20 Now we spent a lot of time as some people might say
21 nick pickin talking about holes in the evidence and stuff.
22 That does not prove that the evidence was something wrong
23 necessarily with the evidence but it's about attention to
24 details. If you make a mistake here, you make a mistake
25 here, there is a good chance that on this side you also

CLOSING ARGUMENT: BY MR. JOHNSON

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1 made a mistake. They made a lot of mistakes in this case.
2 But they want you to believe that they're perfect.

3 They also talked about procedure. They didn't follow
4 procedure. They can - Everyone can tell you that the bag
5 was sealed and they did it perfectly. But somebody lied to
6 you. And you know how I know that? Because the bag was
7 open. But nobody can't tell you how that happened. What
8 they have, they have constructive and actual possession of
9 that bag the whole time for the last two years and they
10 can't even tell you what happened to it. So how do you
11 expect them to tell you who actually possessed that
12 cocaine? They made up their mind that they had someone.
13 They found drugs and they arrested someone. Case closed
14 eight hours.

15 No officer testified that he did any investigation.
16 The number one witness takes pictures and collected
17 evidence. That's all he did. Didn't talk to no
18 witnesses'. Didn't talk to no neighbors. Didn't attempt
19 to investigate anything. The officers told you on the Drug
20 Force they had never ever heard of my client before in this
21 town of being a drug dealer. He was not on their radar.
22 He was not on there. I submit to you because he wasn't.
23 He still isn't.

24 They have not given you a closed case. It is open.
25 They have not told you that there - they showed you a

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1 picture of one bedroom. There is two other bedrooms. You
2 know why they don't have pictures of the other bedroom?
3 They never went in there. They are not trying to ascertain
4 if anybody else is there because if there are other people
5 that live in that trailer, then the case got problems.

6 These are all things that you need to consider.
7 Things are not just that simple. They are not just that
8 simple. Think of your own homes, of your own bathrooms,
9 and how children and the people that live there. Do you
10 know everything that's under your sink at all times? Think
11 of the police coming up to a house there are people
12 outside. If there is someone else that has drugs how hard
13 would it have been for them to run inside and try to hide
14 the drugs? And if you're gonna hide drugs where are you
15 gonna go? You are gonna go in the bathroom the furthest
16 away from the door. Look at the picture. Its up under the
17 sink in the master bedroom on top of an expired ID card
18 that belonged to my client.

19 It would be real simple for you to walk back there and
20 spend ten minutes and say let's go home. I ask you to take
21 your time in this. This is not that simple.

22 The Judge will give you a charge and in that charge
23 she will tell you the law. She will also tell you certain
24 things. One of the things that I think is very important
25 is she will give you the charge about mere presence. That

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1 charge basically states that a person's mere presence at
2 the scene where drugs and contraband is found, his mere
3 presence there does not make him in possession of that
4 drug. That's why the State is spending a lot of time with
5 the ID card and the other things because they realize that
6 just my client's presence there at that scene in that house
7 does not make him in possession of those drugs. They have
8 to show other things. That's why their pushing so hard
9 about this Thousand Dollars and all the other things.

10 Its not that unusual for an individual who has a job
11 and the reason I say not that I'm saying it, there was no
12 evidence from the State that he didn't have a job when I
13 ask the police. They agree with me it wasn't unusual to
14 have that kind of money.

15 I ask that you do not use my client not testifying
16 against him because that's his right not to testify. It
17 also gives us the advantage to talk to you last. Because
18 if we put up any evidence the State would get to talk to
19 you last. I think this case is important enough that the
20 Defense have the last word. So please do not use anything
21 about my client not testifying against him. All the
22 evidence is here. You will have all the evidence that we
23 could give you.

24 Reasonable doubt: People you see it on TV and they say
25 the only reasonable doubt and its not always with there is

CLOSING ARGUMENT: BY MR. JOHNSON
CHARGE TO THE JURY:

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1 no doubt. That doesn't exist. The Judge will tell you
2 about reasonable doubt but the way I try to explain it to
3 you is, reasonable doubt is the kind of doubt that
4 reasonable people such as yourselves have after looking at
5 the evidence. To me it's just that simple.

6 If you look at all this evidence, look at the facts,
7 and seriously look at it, and you still have doubt, that's
8 reasonable doubt. That's the doubt that requires you to
9 find my client innocent. Its not for us to prove ourselves
10 innocent. Its for the State to prove him guilty. Because
11 right now at this very second as my client sits there he's
12 innocent. He is innocent. You can call him a drug dealer
13 all you want but that the only thing in this case that is
14 not true.

15 Right now at this second, you know, America, my client
16 is innocent. He is a citizen just like you and you are the
17 ones that can find him guilty. Only then is the defense of
18 my client over when you as a jury makes that decision.
19 Take your time, ladies and gentlemen, this is not play
20 play. This is not TV, this is not reality TV, this is true
21 life. Please take your time. Thank you.

22 THE COURT: Thank you, gentlemen.

23 Ladies and gentlemen of the jury, I know I run on fast
24 forward before as I obviously was before, and so now with
25 the State and the Defense have both rested and given their

CHARGE TO THE JURY

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1 closing statements, it's time for me to instruct you on the
2 law. Make sure you can hear me here.

3 The Defendant in this case has been - The Indictments
4 in this case allege several different offenses against the
5 defendant. The charges are Indictment Number One
6 possession with intent to distribute marijuana. Indictment
7 Number Two trafficking in cocaine. And Indictment Number
8 Three weapons possession during the commission of a violent
9 crime.

10 Each indictment charges separate and distinct
11 offenses. You must decide each Indictment separately on
12 the evidence and the law applicable to it uninfluenced by
13 your decision as to any other indictment. The Defendant
14 may be convicted or acquitted on any or all of the offenses
15 charged. You will be ask to write a separate verdict of
16 guilty or not guilty for each indictment.

17 The Defendant has pled not guilty to each of these
18 indictments and the plea of not guilty puts the burden on
19 the State to prove the Defendant guilty of each indictment
20 before he can be convicted of that indictment.

21 A person charged with committing a criminal offense in
22 South Carolina is never required to prove himself innocent.
23 I charge you that it is an important rule of the law that
24 the defendant in a criminal trial no matter what the
25 seriousness of the charge may be will always be presumed to

CHARGE TO THE JURY:

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1 be innocent of the crime for which the indictment was
2 issued unless guilt has been proven by the evidence
3 satisfying you of that guilt beyond a reasonable doubt.

4 The presumption of innocence does not end when you
5 begin your deliberations but it accompanies the Defendant
6 throughout the trial until you reach a verdict of guilt
7 based upon the evidence satisfying you of that guilt beyond
8 a reasonable doubt. The presumption of innocence is like a
9 robe of righteousness placed about the shoulders of the
10 defendant which remains with the Defendant until it has
11 been striped from the Defendant by evidence satisfying you
12 of the defendant's guilt beyond a reasonable doubt.

13 The presumption of innocence is not a mere legal
14 theory, it's not just a legal phrase. It's a substantial
15 right to which every defendant is entitled unless you the
16 jury are satisfied from the evidence of the defendant's
17 guilt beyond a reasonable doubt.

18 What is a reasonable doubt in the law? A reasonable
19 doubt is the kind of doubt that would cause a reasonable
20 person to hesitate to act. The State has the burden of
21 proving the defendant guilty beyond a reasonable doubt.
22 Some of you may have served as jurors in civil cases where
23 you were told that its only necessary to prove that a fact
24 is more likely true than not true such as by the greater
25 weight or preponderance of the evidence. In criminal cases

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1 the State's proof must be more powerful than that. It must
2 be beyond a reasonable doubt.

3 Proof beyond a reasonable doubt is proof that leaves
4 you firmly convinced of the defendant's guilt. There are
5 very few things in the world that we know with absolute
6 certainty and in criminal cases the law does not require
7 proof that over comes every possible doubt. If based on
8 your consideration of the evidence you are firmly convinced
9 that the defendant is guilty of the crime charged, you must
10 find the defendant guilty. If on the other hand you think
11 there is a real possibility the defendant is not guilty,
12 you must give the defendant the benefit of the doubt and
13 find him not guilty.

14 I remind you that during this trial you and I have
15 certain duties to perform. As a trial judge its my
16 responsibility to preside over the trial of the case and I
17 also have the duty to rule on the admissibility of the
18 evidence offered during this trial. You are to consider
19 only the competent evidence before you. If there was any
20 testimony ordered stricken from the record in this case
21 during this trial, you must disregard that testimony. You
22 are to consider only the testimony which has been presented
23 from this witness stand, any exhibits which have been made
24 part of the record in this case, and any stipulations of
25 counsel in this case.

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1 There has been testimony regarding a 911 call for
2 domestic disturbance. That testimony is relevant only to
3 show why law enforcement went to the scene to investigate.
4 You are not to consider that 911 call for domestic
5 disturbance as evidence of another crime.

6 In addition I have the duty to charge you the law
7 applicable to this case. As a presiding judge I am the
8 sole judge of the law in this case and it's your duty as
9 jurors to accept and apply the law as I now state it to
10 you. If you already have any idea as to what the law is or
11 what the law ought to be and it does not agree with what I
12 now tell you the law is, you must abandon this idea because
13 you are sworn to accept the law and apply the law exactly
14 as I state it to you.

15 In every case tried in this court before a jury the
16 jury becomes the sole and exclusive judge of the facts in
17 the case. A trial judge cannot intimate, state, comment,
18 or make any statement to a trial jury about the facts in a
19 case. Since you the jury are the sole judge of the facts
20 in the case you are not to infer from what I have said
21 during the progress of this trial and ruling upon the
22 admissibility of evidence or otherwise or anything that I
23 say now during the course of this instruction to you that I
24 have any opinion about the facts in this case. The law
25 does not allow me to have an opinion about the facts in

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1 this case. This is a matter solely for you the jury to
2 determine. As jurors it is your duty to determine the
3 effect, value, weight, and the truth of the evidence
4 presented during this trial.

5 There are two types of evidence which are generally
6 presented during a trial. Direct evidence and
7 circumstantial evidence. Direct evidence is the testimony
8 of a person who claims to have actual knowledge of a fact
9 such as an eyewitness. It is evidence which immediately
10 establishes the main fact to be proved.

11 Circumstantial evidence is proof of a chain of facts
12 and circumstances indicating the existence of a fact. It
13 is evidence which immediately establishes collateral facts
14 from which the main fact may be inferred.

15 Circumstantial evidence is based on inference and not
16 on personal knowledge or observation. The law makes
17 absolutely no distinction between the weight or value to be
18 given to either direct or circumstantial evidence. Nor is
19 a greater degree of certainty required for circumstantial
20 evidence than of direct evidence.

21 You should weigh all of the evidence in the case.
22 After weighing all of the evidence if you are not convinced
23 of the guilt of the defendant beyond a reasonable doubt you
24 must find the defendant not guilty.

25 In order to establish criminal liability, criminal

CHARGE TO THE JURY:

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1 intent is required. For example the mental state required
2 to be proven by the State for a particular crime might be
3 purpose, intent, knowledge, recklessness, or criminal
4 negligence. Criminal intent must be proven by the State
5 beyond a reasonable doubt. Criminal intent is always a
6 matter that must be determined by the jury from the
7 circumstances surrounding the situation. There is no way
8 to prove intent to a mathematical certainty. There is no
9 way medical science can dissect a person's brain and
10 determine what the person had in mind so the law says that
11 criminal intent may be inferred from the circumstances
12 shown to have existed.

13 This is how you make a determination of whether or not
14 the element requiring intent was present. It is not
15 necessary to establish intent by direct and positive
16 evidence, but intent may be established by inference in the
17 same way as any other fact by taking into consideration the
18 acts of the parties and all of the facts and circumstances
19 of the case.

20 Criminal intent is a mental state, a conscious wrong
21 doing. It is up to you to determine what the defendant
22 intended to do based upon the circumstances shown to have
23 existed. Criminal intent can arise from action or failure
24 to act. It may arise from negligence, recklessness, or an
25 indifference to duty or to consequences that is considered

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1 by the law to be the equivalent of criminal intent.

2 Necessarily you must determine the credibility of
3 witnesses' who have testified in this case. Credibility
4 simply means believability. It becomes your duty as jurors
5 to analyze and to evaluate the evidence and to determine
6 which evidence convinces you of it's truth. In determining
7 the believability of witnesses' who have testified in this
8 case, you may believe one witness over several witnesses'
9 or several witnesses' over one witness. You may believe a
10 part of the testimony of a witness and reject the remaining
11 part of the testimony of that same witness. You may
12 believe the testimony of a witness in its entirety or
13 reject the testimony of a witness in its entirety. You may
14 consider whether any witness has exhibited to you any
15 interest, bias, prejudice, or other motive in this case.
16 You may also consider their appearance and manner of a
17 witness while on the witness stand.

18 Normally a person cannot give opinion testimony.
19 Normally when a person testifies and must testify as to
20 what they either saw, heard, sensed by smell or something
21 of that nature. However there is an exception when someone
22 is qualified because of education or experience they are
23 permitted to give their opinion in certain areas if the
24 Court qualifies them that way.

25 These witnesses' will be qualified areas of illicit

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1 drug trade practices, illicit drug trade valuation and
2 forensic chemistry in this case in order to give opinion
3 testimony in that area. That does not mean that you must
4 accept the opinion but it is evidence for you to use in any
5 way that you see fit.

6 I will give you a copy of these instructions in
7 written form during your deliberations. You may refer to
8 the instructions to guide your decision making. You must
9 consider the instructions as a whole and not follow some
10 and ignore others. Please return the instructions to the
11 Court at the time your verdict is rendered.

12 The Defendant is charged with possession with the
13 intent to distribute marijuana. The State must prove
14 beyond a reasonable doubt that the defendant possessed
15 marijuana with the intent to distribute it. To prove
16 possession the State must also - must prove beyond a
17 reasonable doubt that the Defendant had both the power and
18 the intent to control the disposition or the use of the
19 marijuana.

20 Possession may be either actual or constructive.
21 Actual possession means that the marijuana was in the
22 actual physical custody of the Defendant. Constructive
23 possession means that the Defendant had dominion and
24 control or the right to exercise dominion and control over
25 either the marijuana itself or the property on which the

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1 marijuana was found.

2 Mere presence at the scene where the drugs were found
3 is not enough to prove possession. Actual knowledge of the
4 presence of the marijuana is strong evidence of the
5 Defendant's intent to control its disposition or use. The
6 Defendant's knowledge and possession may be inferred when a
7 substance is found on the property under the Defendant's
8 control. However, this inference is simply an evidentiary
9 fact to be taken into consideration by you along with the
10 other evidence in this case and to be given the weight you
11 decide it should have.

12 Two or more persons may have joint possession of the
13 drug. The State must also prove beyond a reasonable doubt
14 that the Defendant intended to distribute the marijuana.
15 Distribute means to deliver other by - other than by
16 administering or dispensing a drug. Intent may be shown by
17 acts and conduct of the Defendant and other circumstances
18 from which you may naturally and reasonably infer intent.

19 In determining whether the Defendant had the intent to
20 distribute the marijuana you may consider the circumstances
21 surrounding the Defendant's alleged possession. You may
22 consider the amount of the substance alleged to have been
23 possessed, the manner in which it was alleged possessed,
24 the place where it was allegedly possessed, and other
25 factors which you consider to be important.

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1 You must find the Defendant did not intend to have the
2 marijuana solely for his own use. Possession of more than
3 twenty-eight grams or one ounce of marijuana creates an
4 inference that the Defendant possessed the marijuana with
5 the intent to distribute it.

6 The inference does not relieve the State from proving
7 beyond a reasonable doubt that the Defendant had the intent
8 to distribute. It's simply an evidentiary fact to be taken
9 into consideration by you along with the other evidence in
10 this case and to be given the weight you decide it should
11 have.

12 The Defendant is charged with trafficking in cocaine.
13 The Defendant must - The State must prove beyond a
14 reasonable doubt the Defendant knowingly sold,
15 manufactured, cultivated, delivered, purchased, brought
16 into this state, provided financial assistance or otherwise
17 aided, abetted, attempted, or conspired to sell,
18 manufacture, cultivate, deliver, purchase, or bring into
19 this state, was knowingly in actual or constructive
20 possession, knowingly attempted to become in actual or
21 constructive possession of cocaine.

22 The State must also prove beyond a reasonable doubt
23 that the amount of cocaine or any mixture containing
24 cocaine was two hundred grams or more but less than four
25 hundred grams.