

STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

OCT - 8 2015

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
D. Garrison Hill, Circuit Court Judge

S.C. Supreme Court

Appellate Case No. 2014-002008
Lower Court Case No. 2012-CP-23-6281

JAQUES JAMAR SULLIVAN, #335849

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

**APPENDIX
TO
PETITION FOR WRIT OF CERTIORARI**

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

JEREMY A. THOMPSON
Attorney and Counselor at Law

Law Office of Jeremy A. Thompson, LLC
P.O. Box 12891
Columbia, SC 29211
803-779-2555
803-779-2556 Fax
jeremyatlaw@yahoo.com

ATTORNEY FOR PETITIONER.

ATTORNEYS FOR RESPONDENT.

INDEX

Index	i
Trial Transcript	1
Jury Selection.....	17
Ben Ford	
In Camera Direct.....	39
In Camera Cross.....	50
In Camera Redirect	52
Shannon Branham	
In Camera Direct.....	53
In Camera Cross.....	56
State's Opening Statement.....	60
Defense's Opening Statement.....	62
Shannon Branham	
Direct.....	65
Cross	90
Redirect.....	92
Recross.....	94
Roddric Ingram	
Direct.....	95
Cross	106
Emily Reinhart	
Direct.....	119
Ben Ford	
Direct.....	128
Cross	143
Ashley Asbill	
Direct.....	145
Cross	146
Kevin Hinson	
Direct.....	149
Cross	159

Angel Ladrum	
Direct.....	160
State's Closing Argument.....	177
Defense's Closing Argument.....	191
Charge to the Jury.....	195
Verdict.....	211
Sentencing.....	212
Criminal Contempt Order.....	216
Brief of Appellant.....	218
Final Brief of Respondent.....	245
Court of Appeals Opinion.....	259
Application for Post-Conviction Relief filed October 1, 2012.....	261
Clerk of Court Records.....	268
SCDC Records.....	278
State's Return dated May 2, 2013.....	282
PCR Hearing Transcript.....	288
Pamela Michelle Stewart	
Direct.....	291
Jaques Jamar Sullivan	
Direct.....	297
Cross	309
Daniel J. Farnsworth	
Direct.....	319
Cross	324
Allen Oliver Fretwell	
Direct.....	335
Cross	338

Order of Dismissal filed August 14, 2014	347
Affidavit of Daniel J. Farnsworth	355
Applicant's Exhibit #1	356
Applicant's Exhibit #2	357
Applicant's Exhibit #3	360

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF GREENVILLE)

) COURT OF COMMON PLEAS

) 2008-GS-23-7026

) 2008-GS-23-7027

3)
4)
5 STATE OF SOUTH CAROLINA)

) TRANSCRIPT OF RECORD

6 -vs-)

7 Jaques Jamar "Jay" Sullivan)
-----)

COPY

8 January 14, 2009
9 Greenville, South Carolina

10 B E F O R E:

11 THE HONORABLE EDWARD MILLER, Judge.

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

13 ALLEN FRETWELL, ESQUIRE
14 ASSISTANT SOLICITOR
15 Attorney for the State

16 DANIEL FARNSWORTH, ESQUIRE
17 Attorney for Defendant

18
19
20 CAROLINE HISKELL
Circuit Court Reporter

I N D E X

					PAGE
	MOTION FOR CONTINUANCE				7
	JURY SELECTION AND QUALIFICATION				17
	JUDGE'S OPENING COMMENTS				30
	SUPPRESSION HEARING				38
	WITNESSES	DIR	CROSS	REDIR	RECR
	STATE WITNESSES:				
	Officer Ben Ford	39	50	52	--
	Mauldin Police Department				
	Special Agent Shannon Branham	53	56	--	--
	State Law Enforcement Division				
					PAGE
	JURY SWORN				60
	OPENING STATEMENTS				
	BY MR. FRETWELL:				60
	BY MR. FARNSWORTH:				62
	DAY 2 OF TRIAL OF JAQUES SULLIVAN				176
	CLOSING ARGUMENTS				
	BY MR. FRETWELL:				177
	BY MR. FARNSWORTH:				191
	JURY CHARGE				195
	JURY VERDICT				
	MOTION FOR DIRECTED VERDICT				170
	SENTENCING				212
	WITNESSES	DIR	CROSS	REDIR	RECR
	STATE WITNESSES:				
	Special Agent Shannon Branham,	65	90	92	94
	State Law Enforcement Division				
	Roddrick Ingram	95	106	--	--

1	Lt. Emily Reinhart	119	--		
2	State Law Enforcement Division				
3	Officer Ben Ford,	128	143	--	--
4	Mauldin Police Department				
5	Senior Agent Ashley Asbill	145	146	--	--
6	State Law Enforcement Division				
7	Kevin Hinson	149	159	--	--
8	State Law Enforcement Division				
9	Angil Ladrum,	160	--	--	--
10	State Law Enforcement Division				

E X H I B I T S

11	DESCRIPTION	FOR ID./IN EVD.			

COURT EXHIBITS

12	C-1 Trial Card postmarked 6-29-09	13	13
13	C-2 Search Warrant	40	40
14	C-3 Jury Question		

STATE EXHIBITS

15	S-1 Aerial Map	7	71
16	S-2 Map of Burger King	7	71
17	S-3 Picture of Cocaine/Marijuana Evidence	7	75
18	S-4 Picture of Cocaine/Marijuana Evidence	7	75
19	S-5 Picture of Drug Paraphernalia	7	75
20	S-6 Picture of Folded US Currency	7	75
21	S-7 Picture of SLED Best Evidence	7	75
22	Envelope (Manila)		
23	S-8 Picture of Vehicle License Tag	7	75
24	S-9 Picture of Green Chevrolet Tahoe	7	75
25	S-10 BEST Evidence Pouch	7	168
26	S-11 BEST Evidence Pouch	7	169

1	S-12 Transformers Container	7	89
2	S-13 New Balance Shoe Box	7	89
3	S-14 Bag Containing Digital Scales	7	85
4	S-15 Bag Containing Plastic Bags	7	85
5	S-16 Bag Containing Plastic Container of	7	88
6	Rubber Bands		
7	S-17 Bag Containing Crown Royal Bag &	7	88
8	International Money Order Receipts		
9	S-18 Box Containing Rossi .38 Special Handgun	7	158
10	and Five (5) .38 Rounds		
11	S-19 Audio Recording (April 3, 2008)	7	99
12	S-20 Map of 208 N. Pliney Circle (Close-up)	7	129
13	S-21 Picture of Front Door at 208 N. Pliney	7	138
14	Circle		
15	S-22 Picture of Black Bag in Crack Behind	7	138
16	Wall		
17	S-23 Picture of Black Bag in Wall (Exposed)	7	138
18	S-24 Picture of Gloved Hand Full of Money	7	138
19	(Rubber-Banded)		
20	S-25 Picture of Orange Digitek Digital	7	138
21	Scales		
22	S-26 Picture of Shoe Box with Banded Money,	7	138
23	Rubber Band & Plastic Bag		
24	S-27 Picture of metal canister containing	7	138
25	banded money		

1	S-28 Picture of banded cash in pocket of	7	138
2	red clothing		
3	S-29 Picture of banded cash in pocket of	7	138
4	red clothing (exposed)		
5	S-30 Picture of banded cash in pockets of	7	138
6	red shirt		
7	S-31 Picture of banded cash in pockets of	7	138
8	red shirt (exposed)		
9	S-32 Picture of banded cash in pants	7	138
10	pocket		
11	S-33 Picture of purple gloved hands	7	138
12	holding Crown Royal bag		
13	S-34 Picture of purple Crown Royal bag	7	138
14	containing banded money		
15	S-35 Picture of multiple Crown Royal	7	138
16	bags on bed		
17	S-36 Picture of gun on shelf	7	138
18	S-37 Picture of Rossi .38	7	138
19	S-38 Picture of Crown Royal Bag in	7	138
20	desk drawer		
21	S-39 Picture of baggies of cocaine in	7	138
22	Crown Royal bag		
23	S-40 Picture of Plastic baggies in	7	138
24	blue trash can		
25	S-41 SLED Chain of Custody pages	7	128

State versus Jaques Sullivan

1	S-42 BEST Evidence Pouch	7	153
2	S-43 BEST Evidence Pouch	7	153
3	S-44 Angil Landrum report	7	164
4	S-45 Angil Landrum report	7	164

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

State versus Jaques Sullivan

P R O C E E D I N G S

(Whereupon, State's Exhibit 1 through 45 were pre-marked for identification.)

THE COURT: We're ready to proceed on the State versus Jaques Sullivan case.

MR. FARNSWORTH: Judge, they're getting him. He's in the hall. I think he's going to have a Motion for Continuance.

THE COURT: Okay. I'll be happy to entertain that.

MR. FRETWELL: Judge, while they're getting him, I have an issue with a piece of evidence. It's a gun. I've been told by security that they need to secure this item before we get started. It's in a sealed condition right now.

THE COURT: Wait for him to come in here before we do anything.

(Whereupon, defendant is present in the courtroom.)

THE COURT: We're ready to proceed in the State of South Carolina versus Jaques Jamar "Jay" Sullivan. Anything before I get the jury up here?

MR. FARNSWORTH: Your Honor, my client has informed me and he informed me prior to the time this case was set for trial that he wanted a Motion for Continuance

State versus Jaques Sullivan

1 to be heard. He can give you the specific reason. I'm
2 sure it involves family and things or last minutes things
3 to do, but he can tell you.

4 THE COURT: All right.

5 MOTION FOR CONTINUANCE

6 MR. SULLIVAN: I'd like to get a continuance
7 so I can take care of some personal family matters. I
8 have a little girl to take care of and just need to clear
9 up a few things.

10 THE COURT: What?

11 MR. SULLIVAN: Well, like I said I got some
12 personal issues around the house.

13 THE COURT: What are they?

14 MR. SULLIVAN: My house, my little girl.
15 I've got a few loose matters that I need to take care of
16 and I'm asking for some time to do that.

17 THE COURT: No, sir.

18 Tell me the history of this case,
19 Mr. Fretwell. What's the date of offense and the date of
20 the Indictments?

21 MR. FRETWELL: The date of the offense is
22 April 3, 2008. This case was delivered to the grand jury
23 and a True Bill was obtained on March 17, 2009.

24 THE COURT: Has this case been on the docket?

25 MR. FRETWELL: Yes, sir. It was on the

State versus Jaques Sullivan

1 docket last month for the first time and then it was
2 rescheduled for this month.

3 THE COURT: When was it scheduled for this
4 month?

5 MR. FRETWELL: When was it placed on the
6 docket?

7 THE COURT: Yes.

8 MR. FRETWELL: Two-and-a-half weeks ago, Your
9 Honor.

10 THE COURT: Mr. Farnsworth, had Mr. Sullivan
11 been informed of the date of the trial?

12 MR. FARNSWORTH: Your Honor, he was sent a
13 card and we called him and we had him in the office prior
14 to the time the other case -- the case was set for trial
15 another time, and I think it's been since. He wants to
16 address you again.

17 THE COURT: I'll be happy to hear from him
18 one more time if he's got any valid reason for a
19 continuance.

20 MR. SULLIVAN: Yes, Your Honor. Basically,
21 I'm still, like I said, for personal reasons and I'm not
22 pleased with my representation to the fullest at all, and
23 I think there are things that have been disclosed that I
24 need time to look into, and I'm not 100 percent happy with
25 the situation with my representation at all right now.

State versus Jaques Sullivan

1 THE COURT: Well, explain that to me. What
2 is it you're unhappy with. I don't want generalities, I
3 want specifics.

4 MR. SULLIVAN: Well, for one, I know that the
5 person that's on this card right here is a legal
6 fictitious entity, for one, and I've been wanting to get
7 some clearance on ---

8 THE COURT: What card are you talking about?

9 MR. SULLIVAN: This card right here.

10 THE COURT: What card is that?

11 MR. SULLIVAN: This name on this card right
12 here in all caps.

13 THE COURT: Mr. Farnsworth, what card is he
14 talking about?

15 MR. FARNSWORTH: You want me to bring it up,
16 Your Honor?

17 THE COURT: Yes, sir.

18 (Court reviewing presented card.)

19 For the record, this a card that Mr. Sullivan
20 took out of his pocket and he's referring to. And what
21 name are you talking about?

22 MR. SULLIVAN: For the record, I am referred
23 to as ---

24 THE COURT: Jaques Jamar Sullivan.

25 MR. SULLIVAN: I am referred to the name in

State versus Jaques Sullivan

1 all caps, Your Honor.

2 THE COURT: That's Jaques Jamar Sullivan.

3 Would you raise your right hand for me.

4 (No response.)

5 Raise your right hand, sir.

6 MR. SULLIVAN: I am not ---

7 THE COURT: Raise your right hand.

8 MR. SULLIVAN: For the record, Your Honor ---

9 THE COURT: No, sir. Let me explain
10 something to you, if you disobey the order of the Court in
11 this court one more time, I will have you shackled, and if
12 necessary if you disrupt the proceedings, I can have you
13 gagged. And if necessary, I will have you removed from
14 court and we will proceed with the trial.

15 Now, raise your right hand.

16 (Mr. Sullivan raises right hand.)

17 Do you swear to tell the truth, the whole
18 truth, and nothing but the truth?

19 MR. SULLIVAN: No, Your Honor.

20 THE COURT: I find you in contempt and I'm
21 going to sentence you to six months in jail for that.
22 Now, you may have a seat because I will not allow someone
23 who will not tell the truth to speak in this courtroom on
24 the record. Please have a seat.

25 All right, Mr. Farnsworth, he said he's

State versus Jaques Sullivan

1 unhappy with you. He said some issues have come up but
2 he's not willing to tell me what it is. Have you met with
3 him? Can you give us just a brief background? I don't
4 want to put you on the spot and I don't want you to
5 disclose any privileged attorney/client information.

6 MR. FARNSWORTH: When this case was placed on
7 the docket some time back in June, I can refer to my
8 calendar here, I have it with me but I don't know the
9 exact date -- but anyway, the card probably went out, the
10 one I received anyway, probably went out 10 days or close
11 to that before the trial date. We notified him. We got
12 him in and we went over -- he had already been provided
13 with copies of discovery.

14 We showed him we had video and audio in this
15 case, telephone calls and things like that, video
16 transactions. We showed all that and the photographs that
17 were going to be introduced, and everything that I'd been
18 provided with by the State, as I've shown him and given
19 him copies of.

20 He has been in I don't know how many times.
21 He was supposed to be in yesterday at 3:00 and he called
22 and he said his wife had some kind of dental surgery. He
23 called and he couldn't make it, but I would stay there as
24 long as he wanted to being that the case was going to be
25 heard today.

State versus Jaques Sullivan

1 THE COURT: Did he give you any witnesses or
2 anything he wanted you to do for him?

3 MR. FARNSWORTH: No, sir.

4 THE COURT: How has he introduced himself to
5 you?

6 MR. FARNSWORTH: I call him Jaques;
7 Mr. Sullivan.

8 THE COURT: Mr. Sullivan, are you willing to
9 tell me the truth; take an oath?

10 MR. SULLIVAN: This is for the record, Your
11 Honor.

12 THE COURT: Are you willing to take an oath?

13 MR. SULLIVAN: I am an authorized
14 representation for that fictitious entity in all caps.

15 THE COURT: Mr. Sullivan, are you willing to
16 take an oath to tell the truth?

17 MR. SULLIVAN: No, Your Honor.

18 THE COURT: Well, you have a seat. I'm going
19 to introduce this card into the record and make it a
20 Court's Exhibit.

21 (Trial card postmarked 6-20-09 marked as
22 Court's Exhibit No. 1 for identification and admitted into
23 evidence.)

24 MR. SULLIVAN: Sir.

25 THE COURT: Sit down.

State versus Jaques Sullivan

1 MR. SULLIVAN: You're not my attorney.

2 THE COURT: Sit down.

3 MR. SULLIVAN: And I'd like request that I
4 can get legal counsel.

5 THE COURT: Sit down.

6 MR. SULLIVAN: I am not ---

7 THE COURT: Mr. Halloway, I am going to
8 request perhaps put a taser, if we have a -- do we have a
9 taser belt we can put on him.

10 SHERIFF HALLOWAY: Yes, sir.

11 THE COURT: We'll wait until they're ready to
12 proceed.

13 (Defendant taken out of the courtroom.)

14 We'll be at ease. We got to wait on him to
15 get fitted.

16 (Whereupon, there was a brief recess.)

17 (Defendant re-enters the courtroom.)

18 THE COURT: Mr. Sullivan, I've reconsidered
19 my previous ruling about the taser belt. We're going to
20 hold off on that but we are ready to proceed with trial.
21 So we're going to get the jury up here and pick the jury.
22 Anything else you want to tell me before we start?

23 MR. SULLIVAN: (No response.)

24 THE COURT: Let's get the jury up.

25 MR. FRETWELL: One of the items in evidence

State versus Jaques Sullivan

1 in this case is a gun and some bullets that were located
2 in the defendant's residence. I was told by security that
3 they need to secure the firearm before the start of the
4 trial.

5 THE COURT: It is in a sealed box; is that
6 correct?

7 MR. FRETWELL: That is correct, Your Honor.

8 THE COURT: When will you intend to introduce
9 that?

10 MR. FRETWELL: This will be identified by the
11 first witness in the trial. It might not be opened and
12 entered into evidence until next to the last witness. I
13 have eight witnesses.

14 THE COURT: Let's deal with that at a break.

15 Mr. Farnsworth, what I propose is I allow, in
16 your presence, allow the officers here in the courtroom to
17 open the box and secure the weapon and we'll do it in
18 Mr. Sullivan's presence. We'll do it out here in open
19 court. We'll do it outside the presence of the jury, and
20 if y'all so desire, I'll struck the jury that it was done
21 and how we did it. Before that comes out of the box,
22 we'll handle that.

23 MR. FARNSWORTH: Your Honor, I think
24 Mr. Sullivan wants to address the Court again.

25 THE COURT: I'll hear from him briefly.

State versus Jaques Sullivan

1 MR. SULLIVAN: Your Honor, like I said, I am
2 not pleased with Mr. Farnsworth at all and his
3 representation, and I do not have a contract with the
4 gentleman, and I again ask the Court to allow me to seek
5 representation. I am not pleased with Mr. Farnsworth at
6 this time. I'd like to seek representation.

7 THE COURT: You haven't stated anything to me
8 specifically about why he should be relieved. He is one
9 of the outstanding defense lawyers in this jurisdiction.
10 So without absence of any specifics as to why he should be
11 relieved, I am, at this time, I am not going to do it.
12 Your trial is not going to be delayed in any event. It's
13 going forward today. It's time to face the music as they
14 say.

15 MR. SULLIVAN: Again, for the record, Your
16 Honor, I am the authorized representation for the
17 fictitious entity here today, and for the record, I am
18 Malakiy Yair Bey.

19 THE COURT: You want to spell that for the
20 court reporter.

21 MR. SULLIVAN: My name? Who I am?

22 THE COURT: That name you just said into the
23 record.

24 MR. SULLIVAN: M-A-L-A-K-I-Y, Yair, Y-A-I-R,
25 Bey, B-E-Y.

State versus Jaques Sullivan - Jury Selection

1 THE COURT: All right. Thank you.

2 Mr. Farnsworth, Mr. Sullivan's mother's name.

3 Ma'am, what is your name.

4 MS. POLK: Deborah Sullivan Polk, P-O-L-K.

5 THE COURT: Do y'all have any voir dire you
6 want me to ask?

7 MR. FRETWELL: None other than the usual.

8 MR. FARNSWORTH: Just the usual.

9 THE COURT: Thank you.

10 This is on both counts of the one indictment?

11 MR. FRETWELL: There will be three total
12 charges, Your Honor.

13 THE COURT: Strikes are five and five.

14 MR. FRETWELL: Are you going to have the
15 witnesses stand and be identified?

16 THE COURT: No, just the attorneys.

17 JURY SELECTION AND QUALIFICATIONS

18 (Jury pool enters the courtroom at
19 10:25 a.m.)

20 THE COURT: Good morning, I appreciate y'all
21 being here and all the sacrifices that you made. Ladies
22 and gentleman, I want to tell you we are about to begin
23 the trial in the case of the State of South Carolina
24 versus Jaques Jamar Sullivan. There are two indictments
25 here. The first indictment is No. 2008-7027. It alleges

State versus Jaques Sullivan - Jury Selection

1 that Jaques Jamar Sullivan did in Greenville County on or
2 about April 3 of 2008 willfully and unlawfully have in his
3 possession and control -- and under his control a quantity
4 of marijuana, and that's a violation of the Statutes and
5 Laws of this State.

6 The next indictment is No. 2008-7026. It is
7 a two-count indictment for trafficking cocaine. It
8 alleges that Jaques Jamar Sullivan did in Greenville
9 County on or about the 3rd day of April 2008 knowingly
10 sell, manufacture, deliver or bring into the State of
11 South Carolina or did knowingly provide financial
12 assistance or otherwise aide, abet, attempt or conspire to
13 sell, manufacture, delivery or bring into the State or was
14 knowingly or actual or constructive possession of more
15 than 100 grams of cocaine in violation of the Statutes and
16 Laws of the State of South Carolina?

17 Count 2 of this same indictment is possession
18 of a weapon during the commission of a violent crime and
19 it alleges that Jaques Jamar Sullivan did in Greenville
20 County on or about the 3rd day of April, 2008 did possess
21 or visible display a handgun during the commission or
22 attempted commission of a violent crime, that being
23 trafficking cocaine, in violation of the Statutes and Law
24 of the State of South Carolina.

25 Now, ladies and gentleman, to these

State versus Jaques Sullivan - Jury Selection

1 indictments Mr. Sullivan has pled not guilty and when a
2 citizen does that, certain rights attach. And I want
3 y'all the keep these in mind throughout the course of
4 these proceedings because the are vital important rights
5 that are the foundation or form the foundation for our
6 criminal justice system which allows us to live in the
7 free and wonderful country that we live in.

8 So please keep it in mind that any person who
9 is charged with a crime is presumed to be innocent unless
10 and until the State can prove them guilty beyond any
11 reasonable doubt of each and every element of each offense
12 that they are charged with.

13 Every citizen is presumed innocent and that
14 cloak of innocence can not be removed unless and until the
15 State, who is the charging body, proves in the minds of
16 the jurors beyond a reasonable doubt each and every
17 element of each offense charged. And each offense is to
18 be judged separately on it own facts and its must stand
19 alone.

20 Now, I also want to tell you that these
21 indictments that I have read to you, and I show you now,
22 are just exactly what they appear to be. They are pieces
23 of paper. They are not evidence and y'all should not
24 consider, make any inference, or make any presumption that
25 they are evidence because all they are are pieces of paper

State versus Jaques Sullivan - Jury Selection

1 which allow this case to wind it's way through the system
2 to arrive here in court and have the facts of the case
3 presented in court to a fair and impartial jury. So
4 please keep that mind. They are not evidence and should
5 not be considered in any form or fashion to be otherwise.

6 Now, ladies and gentleman, I'm going to
7 qualify y'all to serve for this particular case by asking
8 you some questions in just a few moments. Before I do
9 that I would ask the attorneys to stand and introduce
10 themselves to you.

11 MR. FRETWELL: Good morning, ladies and
12 gentleman, I am Allen Fretwell. I am the assistant
13 solicitor, prosecutor, here in Greenville and this is
14 Agnes Agwell(ph) and she will be assisting me today.

15 MR. FARNSWORTH: Good morning, ladies and
16 gentleman, my name is Daniel Farnsworth and I am a
17 criminal attorney here in Greenville and I've been
18 practicing here about 39 years.

19 THE COURT: Now, ladies and gentleman of the
20 jury, is there any member of the jury who is related by
21 blood or marriage or has a business, personal or social
22 relationship with any of the attorneys who are involved in
23 this case or any member in their office, if so, please
24 stand.

25 MR. GANTT: I resented Mr. Fretwell in some

State versus Jaques Sullivan - Jury Selection

1 real estate matters.

2 THE COURT: Mr. Gantt, does that, the fact
3 that you represented Mr. Fretwell, prevent you from being
4 fair and impartial in this case?

5 MR. GANTT: It would not, Your Honor.

6 THE COURT: And could you follow the law as I
7 would give it to you under your oath?

8 MR. GANTT: I would, Your Honor.

9 THE COURT: Thank you, sir.

10 Is there any member of the jury panel related
11 by blood or marriage or have a business, personal, or
12 social relationship with Mr. Jaques Jamar Sullivan? If
13 so, please stand. Mr. Sullivan is seated here at counsel
14 table with Mr. Farnsworth.

15 (No response from panel.)

16 All right, ladies and gentleman, I'm going to
17 read you a list of witnesses in the case. Please listen
18 because I'm going to want to know the same information
19 about these folks: Agent Ashley Asbill with SLED, Agent
20 Shannon Branham with SLED, Kevin Hinson with SLED, Angil
21 Landrum with SLED, Lieutenant. Emily Reihart with SLED,
22 Officer Ben Ford with the Mauldin Police Department,
23 Roddrick Ingram and Deborah Sullivan Polk. Is there any
24 member of the jury panel who is related by blood, marriage
25 or have a business, personal or social relationship with

State versus Jaques Sullivan - Jury Selection

1 any of those persons whose names I have just read? If so,
2 please stand.

3 (No response from panel.)

4 Is there any member of the jury panel who has
5 any knowledge about the events that are alleged in these
6 indictments? If so, please stand.

7 (No response from panel.)

8 Is there any member of the jury panel who has
9 a family member or friend who has ever been a victim of or
10 charged with this type of offense? If so, please stand.

11 Your name, sir?

12 MR. MATHUR: Suresh Mathur. My son was
13 charged.

14 THE COURT: Would that limit your ability to
15 be fair and impartial in this case?

16 MR. MATHUR: I don't believe so.

17 THE COURT: Could you follow the law as I
18 would give it to you under your oath?

19 MR. MATHUR: Absolutely.

20 THE COURT: Yes, ma'am.

21 MS. HILLARD: Wonda Hillard. My sister was
22 charged and served time.

23 THE COURT: Would that fact impair you from
24 being fair and impartial in this case?

25 MS. HILLARD: No, sir.

State versus Jaques Sullivan - Jury Selection

1 THE COURT: And could you follow the law as I
2 would give it to you under your oath?

3 MS. HILLARD: Yes, sir.

4 THE COURT: Thank you, ma'am. I appreciate
5 that.

6 Is there any member of the jury panel who is
7 aware of any bias or prejudice to either the State or the
8 defendant? If so, please stand.

9 (No response from the panel.)

10 Is there any member of the jury panel who is
11 a member of or contributor to a group whose primary
12 concern is the promotion of law enforcement or victim's
13 rights? Examples of that would be MADD, SAD, or CAVE.

14 Yes, sir, your name, sir.

15 MR. KACZMARCZYK: Yes, sir. My name is Ed
16 Kaczmarczyk and we contribute to MADD.

17 THE COURT: And that's Mother's Against Drunk
18 Driving?

19 MR. KACZMARCZYK: Yes, sir.

20 THE COURT: Would that fact that you have
21 done that, would it impair your ability to be fair and
22 impartial in this case?

23 MR. KACZMARCZYK: No, sir.

24 THE COURT: Could you follow the law as I
25 would give it to you under your oath?

State versus Jaques Sullivan - Jury Selection

1 MR. KACZMARCZYK: Yes, sir.

2 THE COURT: Thank you, very much.

3 Is there any member of the jury panel who
4 knows of any reason whatsoever why you should not serve in
5 this case with particular emphasis upon your ability to be
6 fair and impartial and to follow the law as I would give
7 it to you throughout the course of the trial? Is there
8 anyone who could not do that, please stand.

9 (No response from panel.)

10 Anything else?

11 MR. FRETWELL: Nothing from the State, Your
12 Honor.

13 MR. FARNSWORTH: Nothing from the defense.

14 THE COURT: Let's pick a jury.

15 THE CLERK: As I call your name, if you would
16 stand in place.

17 Juror No. 17, Geraldine Bell.

18 What says the State?

19 MR. FRETWELL: Please present Ms. Bell.

20 THE CLERK: What says the defendant?

21 MR. FARNSWORTH: Please seat the juror.

22 (Whereupon, Juror Geraldine Bell, black
23 female, was seated in the jury box.)

24 THE CLERK: Would you please bring your
25 belongings and have a seat in the jury box.

State versus Jaques Sullivan - Jury Selection

1 Juror No. 206, Wonda Hillard.

2 What says the State?

3 MR. FRETWELL: Please excuse Ms. Hillard.

4 THE CLERK: You may be seated, you're excused
5 from this trial.

6 Juror No. 132, Jennifer Owens.

7 What says the State?

8 MR. FRETWELL: Please present Ms. Owens

9 THE CLERK: What says the defendant?

10 MR. FARNSWORTH: Please seat the juror.

11 (Whereupon, Juror Jennifer Owens, white
12 female, was seated in the jury box.)

13 THE CLERK: Would you please bring your
14 belongings and have a seat in the jury box.

15 Juror No. 189, Tiffany Wells.

16 What says the State?

17 MR. FRETWELL: Please present Ms. Wells.

18 THE CLERK: What says the defendant?

19 MR. FARNSWORTH: Please seat the juror.

20 (Whereupon, Juror Tiffany Wells, white
21 female, was seated in the jury box.)

22 THE CLERK: Would you please bring your
23 belongings and have a seat in the jury box.

24 Juror No. 117, Sharon Merck.

25 What says the State?

State versus Jaques Sullivan - Jury Selection

1 MR. FRETWELL: Please excuse Ms. Merck.
2 THE CLERK: Please be seated, you're excused
3 from this trial.
4 Juror No. 181, Nicholas Waddell.
5 What says the State?
6 MR. FRETWELL: Please present Mr. Waddell.
7 THE CLERK: What says the defendant?
8 MR. FARNSWORTH: Please seat the juror.
9 (Whereupon, Juror Nicholas Waddell, white
10 male, was seated in the jury box.)
11 THE CLERK: Would you please bring your
12 belongings and have a seat in the jury box.
13 Juror No. 179, Elizabeth Viers.
14 What says the State?
15 MR. FRETWELL: Please present Ms. Viers.
16 THE CLERK: What says the defendant?
17 MR. FARNSWORTH: Please seat the juror.
18 (Whereupon, Juror Elizabeth Viers, white
19 female, was seated in the jury box.)
20 THE CLERK: Would you please bring your
21 belongings and have a seat in the jury box.
22 Juror No. 18, Rosalind Bennon.
23 What says the State?
24 MR. FRETWELL: Please present Ms. Bennon.
25 THE CLERK: What says the defendant?

State versus Jaques Sullivan - Jury Selection

1 MR. FARNSWORTH: Please seat the juror.

2 (Whereupon, Juror Rosalind Bennon, black
3 female, was seated in the jury box.)

4 THE CLERK: Would you please bring your
5 belongings and have a seat in the jury box.

6 Juror No. 172, Jason Thompson.

7 What says the State?

8 MR. FRETWELL: Your Honor, may we approach.

9 (Whereupon, there was a bench conference.)

10 THE COURT: Mr. Thompson, how long were you
11 protected?

12 MR. THOMPSON: I think from Monday 12:00 on.

13 THE COURT: I'm excusing you from this case.

14 I'll use that as a Court's strike. Thank you.

15 Juror No. 161, Neil Shepherd.

16 What says the State?

17 MR. FRETWELL: Please present Mr. Shepherd.

18 THE CLERK: What says the defendant?

19 MR. FARNSWORTH: Please seat the juror.

20 (Whereupon, Juror Neil Shephard, white male,
21 was seated in the jury box.)

22 THE CLERK: Would you please bring your
23 belongings and have a seat in the jury box.

24 Juror No. 4, Mark Alexander.

25 What says the State?

State versus Jaques Sullivan - Jury Selection

1 MR. FRETWELL: Please present Mr. Alexander.
2 THE CLERK: What says the defendant?
3 MR. FARNSWORTH: Please seat the juror.
4 (Whereupon, Juror Mark Alexander, white male,
5 was seated in the jury box.)
6 THE CLERK: Would you please bring your
7 belongings and have a seat in the jury box.
8 Juror No. 125, Duane Nichols.
9 What says the State?
10 MR. FRETWELL: Please present Ms. Nichols.
11 THE CLERK: What says the defendant?
12 MR. FARNSWORTH: Please seat the juror.
13 (Whereupon, Juror Duane Nichols, white
14 female, was seated in the jury box.)
15 THE CLERK: Would you please bring your
16 belongings and have a seat in the jury box.
17 Juror No. 185, Amy Walsh.
18 What says the state?
19 MR. FRETWELL: Please excuse Ms. Walsh.
20 THE CLERK: Please be seated, you're excused
21 from this case.
22 Juror No. 64, Brenda Gault.
23 What says the State?
24 MR. FRETWELL: Please present Ms. Gault.
25 THE CLERK: What says the defendant?

State versus Jaques Sullivan - Jury Selection

1 MR. FARNSWORTH: Please seat the juror.

2 (Whereupon, Juror Brenda Gault, white female,
3 was seated in the jury box.)

4 THE CLERK: Would you please bring your
5 belongings and have a seat in the jury box.

6 Juror No. 187, Cheryl Watley.

7 What says the State?

8 MR. FRETWELL: Please present Ms. Watley.

9 THE CLERK: What says the defendant?

10 MR. FARNSWORTH: Please seat the juror.

11 (Whereupon, Juror Cheryl Watley, black
12 female, was seated in the jury box.)

13 THE CLERK: Would you please bring your
14 belongings and have a seat in the jury box.

15 Juror No. 153, Sherry Riddle.

16 What says the State?

17 MR. FRETWELL: Please present Ms. Riddle.

18 THE CLERK: What says the defendant?

19 MR. FARNSWORTH: Please seat the juror.

20 (Whereupon, Juror Sherry Riddle, white
21 female, was seated in the jury box.)

22 THE CLERK: Would you please bring your
23 belongings and have a seat in the jury box.

24 THE COURT: Let's get one alternate.

25 THE CLERK: Juror No. 146, Barbara Ready.

State versus Jaques Sullivan - Judge's Comments

1 What says the State?

2 MR. FRETWELL: Please seat Ms. Ready.

3 MR. FARNSWORTH: Please seat the juror.

4 THE CLERK: Thank you. You may have a seat
5 in the jury box.

6 (Whereupon, Juror Sherry Riddle, white
7 female, was seated in the jury box.)

8 THE COURT: Any exception or objection to the
9 jury panel pursuant to Jebb or Batson?

10 MR. FARNSWORTH: No, Your Honor.

11 MR. FRETWELL: No, Your Honor.

12 THE COURT: Ladies and gentleman, I apologize
13 to all you out there that you didn't get a chance to serve
14 today. I hope you get another chance later in the week.
15 At this time I'm dismissing you and asking you to call
16 back after 6:00 tonight to find out when to call back or
17 report. Thank you very much.

18 (Remainder of panel dismissed.)

19 Any reason not to go ahead and swear the
20 jury?

21 MR. FRETWELL: May we approach?

22 THE COURT: Okay.

23 (Whereupon, there was a bench conference.)

24 JUDGE'S OPENING COMMENTS

25 Ladies and gentleman, thank you for being

State versus Jaques Sullivan - Judge's Comments

1 here. I really do feel like you are the fortunate ones to
2 be selected to serve. It is a great honor and a great
3 responsibility to shoulder the burdens of jury duty and we
4 really appreciate it. It's a very serious responsibility
5 that you undertake.

6 I want to tell you a little bit and then I'm
7 going to excuse you from the courtroom while we dispose of
8 some matters that hopefully will shorten the trial and
9 move things along a little bit better.

10 We have a dispute about the facts of the case
11 which can't be resolved in any other fashion except to ask
12 a jury to come up and listen to those facts as they are
13 presented in this courtroom, and to listen to the law and
14 make a decision and resolve this dispute. So that what
15 we're here to do and that's what we're going to ask you
16 all to do.

17 I would emphasis again that the indictments
18 that I read to you are not evidence and you should not
19 consider the fact that an allegation has been made against
20 one of your fellow citizens. It's just an allegation and
21 should not be considered as evidence. The evidence that
22 you will need and you will hear to resole this dispute
23 will come in one of three ways.

24 Generally, everyone thinks of testimony and
25 it will be testimony from this witness stand under oath

State versus Jaques Sullivan - Judge's Comments

1 and subject to Constitutional scrutiny. The second type
2 of evidence would be in the form of documents or objects
3 that will be introduced into evidence also subject to
4 Constitutional scrutiny; and the third possible way that
5 evidence will be presented to you is by way of stipulation
6 from the parties and that will be that the parties will
7 agree that there's a fact that is beyond dispute and y'all
8 should accept it as true.

9 I don't know what combination, if not all
10 types of evidence, that will be presented or not, but
11 those are the types of evidence that will be received in
12 this courtroom. And your verdict should be based solely
13 on the evidence that's presented to you. Just remember
14 the indictments are not evidence. They are just the
15 documents that allow the case to come up here and be
16 presented to you.

17 I would again remind you about the foundation
18 of our justice system that every citizen who is accused of
19 a crime is presumed innocent unless and until the State,
20 who is the charging body, can prove to each of you beyond
21 any reasonable doubt each and every element of each
22 offense that a citizen is charged with. The burden is
23 always on the State to prove a case and a citizen never
24 has to prove themselves innocent. Please keep those
25 principals in mind as well.

State versus Jaques Sullivan - Judge's Comments

1 I'll give you a little brief road map about
2 the trial. I break it down into five parts. They are not
3 all of equal length, but this is so y'all have an idea of
4 sort of where we are in the trial of the case. The first
5 will be the opening statements to you by the attorneys
6 which we'll get to after y'all will come back. The second
7 part of the trial is the meat and potatoes and that is the
8 presentation of the testimony and the evidence in the
9 case. The third part of the trial will be the closing
10 arguments of the attorneys. The fourth part of the trial
11 will be when I give you the law, when I charge you on the
12 law as it applies to this case, and then the fifth part of
13 the trial will be when you all retire to your jury room to
14 deliberate and decide this case and resolve this dispute.

15 So that's a brief road map that y'all can
16 keep in mind and have an idea about procedurally where we
17 are in the trial.

18 I'm going to ask you to do probably many
19 things, but I know three things I will ask you to do that
20 are vitally important to insure that this is a fair and
21 impartial trial. The first one is I will ask you to come
22 into court with an open mind. I asked all those questions
23 yesterday to qualify you to serve and I asked the
24 questions today to qualify you to serve in this case
25 particular so that we -- and the purpose of all those

State versus Jaques Sullivan - Judge's Comments

1 questions is to make sure that we have a fair and
2 impartial jury that doesn't come in here with their mind
3 made up about which way a case ought to be decided.

4 Every citizen deserves that and it is the
5 intent of this Court to insure that we have a fair and
6 impartial decision making body. So keep an open mind
7 throughout the course of the trial. Don't make up your
8 mind until you're back in that jury room and deliberating.

9 The second thing I'll ask you to do is to, of
10 course, pay attention throughout the course of the trial.
11 It's easy, I know. There might be a couple of school
12 teachers on there and you know that there are students
13 that might want to look out the window. I know I did and
14 it's amazing I got through school, but daydreaming is
15 something that's part human nature and it's easy to sort
16 of drift off and not pay attention. I ask you and urge
17 you not to do that in this case.

18 When you are back in deliberation if you have
19 sort of not paid attention, a fact may come up, an issue
20 may come up which is of vital importance, and if you
21 weren't paying attention, you might be at a disadvantage
22 at that time in discussing this case. So please play
23 close attention throughout the course of the trial.

24 The last thing I'm going to ask you to do is
25 not talk about this case with anyone until you're in there

State versus Jaques Sullivan - Judge's Comments

1 deliberating. Don't talk about it with the bailiffs.
2 Don't talk about it when we break for lunch and y'all go
3 to eat, maybe eat with a friend or family member or
4 something, don't talk about the case. Don't talk about
5 the case amongst yourselves. You might ask why I ask you
6 to do that since the reason you're here is to resolve the
7 dispute. We don't want any outside influence having an
8 impact on this case. We don't want anything that is not
9 presented to you in the courtroom subject to
10 Constitutional scrutiny to weigh in your decision making
11 process. It wouldn't be fair to yourselves, your fellow
12 jurors, to allow someone outside this courtroom who is not
13 making the sacrifices that you are making to have any
14 influence in the outcome of this trial.

15 So please don't talk about this case. Don't
16 do independent research, don't go on the Internet, don't
17 go visit the scene or anything like that. Everything you
18 need to decide this case will be presented to you in this
19 courtroom. So please keep that in mind.

20 I will tell you, you are the sole judges of
21 the fact and the trial judge is not allowed to, by law,
22 have an opinion about the facts. So don't think anything
23 I say or do throughout the course of the trial that I have
24 an opinion, because I do not. Y'all are the sole judges
25 of the facts. You decide what is true and what is not

State versus Jaques Sullivan - Judge's Comments

1 true.

2 Now, that same law that makes you the judges
3 of the facts makes me the sole judge of the law. So if
4 you have any idea of what you think the law is or what the
5 law should be and it disagrees with what I tell you the
6 law is throughout the course of this trial, you will swear
7 an oath, when you come back, to set aside your own opinion
8 and apply the law precisely as I state it to you.

9 We do have some legal matters that I'm going
10 to have take up outside your presence, and we may from
11 time to time in the trial ask y'all to leave the courtroom
12 to do that. We're not trying to deceive you in any way.
13 I used to say we're not trying to hide anything from you,
14 but, in fact, we are. We want to make sure -- there may
15 be some issues that come up that might not be
16 Constitutionally appropriate for you to hear so we do it
17 outside your presence to make sure that there is no poison
18 in the well so to speak. That's why we do it. We're not
19 trying to deceive you or keep anything from you that you
20 ought to be able to hear. So that's what we do when we
21 ask you to leave the courtroom.

22 Now, y'all are free to sit anywhere you like
23 with the exception of Ms. Ready. You are the alternate so
24 you have an assigned seat. We need a foreperson and I'm
25 going to ask Ms. Bennon to serve as the fore lady in this

State versus Jaques Sullivan - Suppression Hearing

1 matter so you have an assigned seat.

2 Now, the foreperson, I'm sorry there is no
3 pay raise involved with that. You are the moderate of the
4 discussions at the end of the trial and also if the jury
5 needs a spokesperson in the courtroom, we would ask you to
6 do that as well.

7 So at this time, ladies and gentleman, I will
8 excuse you to your jury room and we'll get back to you
9 just as quickly as we can.

10 Thank you very much.

11 (Jury leaves the courtroom.)

12 What issues do we need to address?

13 MR. FRETWELL: I think we need to address the
14 issue of the weapon.

15 THE COURT: All right. I am going to ask
16 Sergeant McCall to secure the weapon, open the box right
17 here in open court.

18 SERGEANT MCCALL: Do you want to have the
19 court reporter house it?

20 THE COURT: We will hold it up here even
21 though it's not in evidence at this time, but I'd ask you
22 to go ahead and secure the weapon, open the box and please
23 make sure that Mr. Sullivan is able to observe what you
24 do.

25 MR. FRETWELL: Just for the record, it is

State versus Jaques Sullivan - Suppression Hearing

1 pre-marked as State's 18 for identification.

2 (Whereupon, the weapon was opened and secured
3 in open court.)

4 THE COURT: For the record, I believe
5 Sergeant McCall has secured the weapon and he has just
6 displayed it to the defendant. I would ask that the court
7 reporter take custody of it during the pendency of the
8 trial until it's introduced into evidence.

9 (Whereupon, the weapon was received by the
10 court reporter.)

11 Mr. Fretwell, what do you have?

12 MR. FRETWELL: Other than that, I think
13 Mr. Farnsworth has an issue with the search warrant.

14 MR. FARNSWORTH: I ask that we have a
15 Suppression Hearing on the search warrant.

16 MR. FRETWELL: We are prepared.

17 Your Honor, the State would call Officer Ben
18 Ford.

19 SUPPRESSION HEARING

20 THE CLERK: Please place your left hand on
21 the bible and raise right to be sworn in.

22 BENJAMIN LEE FORD, having been duly sworn,
23 testified as follows:

24 THE CLERK: Please state your full name for
25 the record.

Suppression Hearing - Ben Ford - Direct Examination

1 THE WITNESS: Benjamin Lee Ford.

2 THE CLERK: Thank you.

3 DIRECT EXAMINATION

4 BY MR. FRETWELL:

5 Q. Officer Ford, where are you currently employed?

6 A. The Mauldin Police Department.

7 Q. Where were you employed before you were employed
8 by the Mauldin Police Department?

9 A. South Carolina Law Enforcement Division.

10 Q. And were you employed by the South Carolina Law
11 Enforcement Division in April of 2008?

12 A. That's correct.

13 Q. And do you recognize the defendant?

14 A. I do.

15 Q. And who is the defendant?

16 A. Jaques Sullivan, AKA "Jay"?

17 Q. Can you tell the Court how you came to know this
18 defendant and what the circumstances were surrounding
19 that?

20 A. Yes. There was an undercover narcotics operation
21 conducted using a confidential informant. A search
22 warrant was served on Mr. Sullivan's house. I was a part
23 of the arrest party that arrested Mr. Sullivan that day.

24 Q. Tell the Court about the initial arrest of the
25 defendant, how that occurred, and the facts that lead them

Suppression Hearing - Ben Ford - Direct Examination

1 to the search warrant of the defendant's residence?

2 A. Okay. On that day, the informant contacted
3 Mr. Sullivan by telephone and set up an undercover buy of
4 illegal narcotics; cocaine. Myself and another agent of
5 SLED, Agent Asbill, after that phone call, we traveled
6 directly to Mr. Sullivan's house which we had identified
7 previously from another operation.

8 Q. What was that location, sir?

9 A. 208 North Pliney in Simpsonville.

10 Q. Is that Circle, Road, Street, do you know?

11 A. I don't recall -- Drive, I believe.

12 Q. Would it help you if you look at your search
13 warrant?

14 A. Absolutely.

15 MR. FRETWELL: Your Honor, I'd like to mark
16 this as a Court's Exhibit.

17 (Search Warrant marked for identification as
18 Court's Exhibit No. 2 and admitted into evidence.)

19 BY MR. FRETWELL:

20 Q. I'd like to show you what's been marked as
21 Court's 2. Is that the search warrant that you were
22 referring to?

23 A. It is.

24 Q. Take a moment and review the search warrant and
25 see if you can tell the Court exactly the location where

Suppression Hearing - Ben Ford - Direct Examination

1 the defendant's residence is in Simpsonville?

2 A. It's 208 North Pliney Circle in Simpsonville. I
3 do recall that.

4 Q. Continue with what you were telling the Judge
5 about heading to this location in reference to this drug
6 buy?

7 A. Okay. Myself and Agent Asbill arrived at 208
8 North Pliney Circle. We waited there approximately 10
9 minutes. We observed Mr. Sullivan's green SUV. If I can
10 refer to my notes I can tell you what kind of SUV it was.

11 Q. And before you do that, can you provide us with a
12 time frame of when this occurred in relation to the calls
13 that were being made by the informant?

14 A. Yes. Once the call was made from a location
15 where we were with the informant, we left immediately, a
16 matter of one or two minutes, went to the location, so it
17 may have been two minutes, and it took approximately two
18 or three minutes to get to the location.

19 Once we arrived, it was about 10 minutes that
20 passed, we saw a black male fitting Mr. Sullivan's
21 description leave the residence from the back door at the
22 garage and walk out and get into the green Chevrolet Tahoe
23 that was parked in the driveway behind the house.

24 Agent Asbill and I followed that vehicle to
25 the location where the drug deal was supposed to happen.

Suppression Hearing - Ben Ford - Direct Examination

1 Q. Was there only one individual that got into that
2 vehicle?

3 A. Only one individual, yes.

4 Q. And approximately how long after the initial call
5 did this individual get into the green Chevy Tahoe?

6 A. Approximately 15, 17 minutes.

7 Q. What did you do after the Tahoe left the
8 residence?

9 A. We followed the Tahoe to a location which was
10 Burger King and that was the location that was identified
11 during the phone call from the informant to the defendant.

12 Q. That was the pre-arranged meeting?

13 A. Pre-arranged meeting location.

14 Q. Did the Tahoe ever get out of your sight as you
15 were following it?

16 A. No.

17 Q. What occurred once the Tahoe arrived at Burger
18 King?

19 A. The Tahoe arrived at Burger King and backed into
20 a parking space beside the undercover individuals that
21 were parked in the Burger King parking lot to make the buy
22 from Mr. Sullivan. We pulled up and blocked the SUV in.
23 Myself and Agent Asbill exited the truck we were in and
24 arrested the defendant, Mr. Sullivan.

25 Q. Was he found in possession of any narcotics?

Suppression Hearing - Ben Ford - Direct Examination

1 A. He was.

2 Q. Can you tell the Court what he was found in
3 possession of?

4 A. It was approximately five ounces of cocaine and a
5 little bit of marijuana, also.

6 Q. And your understanding of the arrangement between
7 the informant and the defendant was that he was to bring
8 that quantity of cocaine to that location; is that
9 correct?

10 A. The arrangement was four ounces.

11 Q. And the location of 208 North Pliney Circle, who
12 provided you with that information?

13 A. We found that through a prior investigation from
14 a prior incident narcotics operation we conducted with
15 Mr. Sullivan.

16 Q. And in what relation does that location have with
17 the defendant to your understanding?

18 A. We understand that he lives there. Both times
19 that we conducted the operations he was there and -- the
20 house is in his girlfriend's name.

21 Q. It's not just his girlfriend. They have
22 something else in common?

23 A. Common law marriage and they have a child also.

24 Q. Anybody else live in that residence to your
25 knowledge?

Suppression Hearing - Ben Ford - Direct Examination

1 A. Not to my knowledge.

2 Q. Okay. Tell the Court about how you went about
3 securing the search warrant for the defendant's residence
4 after you had arrested the defendant?

5 A. After we arrested the defendant, we had agents
6 immediately return to the location at 208 North Pliney
7 Circle in Simpsonville to secure the residence and wait
8 for issuance of the search warrant. We then contacted the
9 Magistrate Judge Davis, and myself and agent Branham were
10 able to secure the search warrant and present it to Judge
11 Davis for commission.

12 Q. And did you prepare the search warrant for the
13 location of 208 Pliney Circle in Simpsonville?

14 A. We did.

15 Q. Please read for the Court the affidavit section
16 of the search warrant that you presented to Judge Davis.

17 A. "I, Benjamin Ford, am a Special Agent with the
18 Vice Unit of the South Carolina Law Enforcement Division,
19 SLED, and have been employed in this capacity for four
20 months. I have over 8 years of total Law Enforcement
21 experience and I am certified and qualified to prepare and
22 execute search warrants pertaining to illegal drug
23 activity.

24 On April 3, 2008, SLED Agents S. Branham, T.
25 Casey, B. Ford, A. Asbill and C. Bragg were conducting an

Suppression Hearing - Ben Ford - Direct Examination

1 undercover narcotics investigation regarding the
2 trafficking and distribution of cocaine. A confidential
3 informant working with SLED placed a phone call to "Jay"
4 AKA Jaques Sullivan and inquired about purchasing a
5 quantity of cocaine. The telephone conversation was
6 recorded and "Jay" stated that he would meet the
7 confidential informant in 20 minutes at the Burger King in
8 Simpsonville to deliver the cocaine.

9 Agent Asbill and I went to the residence
10 where "Jay" lives at 208 Pliney Circle in Simpsonville and
11 saw "Jay's" green Chevrolet Tahoe in the driveway behind
12 the residence. We watched the house and green Tahoe for
13 about 10 minutes when we saw a black male exit the
14 residence, enter the green Tahoe, and drive away from the
15 residence. We followed the green Tahoe to the Burger King
16 in Simpsonville and arrested "Jay" (Jaques Sullivan) on an
17 outstanding warrant for Trafficking Cocaine and the
18 cocaine that was presently in the vehicle with him upon
19 his arrest."

20 Do you want me to go on?

21 Q. Yes.

22 A. "That, based upon my training and experience with
23 other narcotics investigations, I know: That controlled
24 substance traffickers very often place assets in names
25 other than their known names to avoid detection of those

Suppression Hearing - Ben Ford - Direct Examination

1 assets by law enforcement agents. That controlled
2 substance traffickers maintain books, receipts, notes,
3 ledgers, money orders and other documents relating to the
4 transportation distribution of controlled substances; that
5 controlled substances/dangerous drug
6 traffickers/distributors, commonly "front" (provide
7 controlled substances/dangerous drugs on consignment)
8 controlled substances/dangerous drugs to their clients;
9 that the aforementioned books, records, receipts, notes,
10 and ledgers are maintained where the controlled
11 substances/dangerous drug traffickers/distributors have
12 ready access to them. With today's technology, they keep
13 these records in handwritten form as well as in computers
14 and other magnetic media.

15 That it is common for controlled
16 substances/dangerous drug traffickers/distributors who
17 have access to a computer system, to use this computer
18 system to maintain records, receipts and notes of their
19 controlled substance trafficking.

20 That due to the nature and volume of data
21 potentially stored on a computer system, computer media
22 and magnetic recording devices, it is known that large
23 volumes of data can almost be instantly erased or
24 destroyed by controlled substance traffickers/distributors
25 to prevent the seizure.

Suppression Hearing - Ben Ford - Direct Examination

1 Therefore any and all computer systems and other
2 magnetic media must be searched as well."

3 Q. And you signed your name as the Affiant for that
4 statement?

5 A. I did.

6 Q. And this was the evidence or the statement that
7 was presented to Judge Davis?

8 A. Yes.

9 Q. And that was the same day, in fact, moments after
10 the arrest that you made in this case; is that correct?

11 A. That's correct.

12 Q. Were you part of the team that executed this
13 search warrant on the defendant's residence at 208 Pliney
14 Circle in Simpsonville?

15 A. I was.

16 Q. And do you have a copy of the Return there with
17 you?

18 A. Yes, I do.

19 Q. Can you tell the Court the items that were
20 recovered from the defendant's residence?

21 A. I will. Listed is (A) a crown bag containing a
22 quantity of off-white rocked-powder substance in clear
23 packaging. It was found in a black table drawer in the
24 computer room.

25 (B) is a New Balance shoe box with US currency

Suppression Hearing - Ben Ford - Direct Examination

1 found in the master bedroom closet.

2 (C) is a transformer canister with US currency
3 found in the master bedroom floor.

4 (D) is a Rossi black .38 special handgun, Serial
5 Number T158441 found in the master bedroom closet on the
6 shelf.

7 (E) is a black bag with US currency found in the
8 garage bathroom.

9 (F) is a red shirt with US currency found in the
10 master bedroom closet.

11 (F) is beige pants with US currency found in the
12 master bedroom closet.

13 (G) is beige pants with US currency found in the
14 master bedroom closet.

15 (H) is a red coat with US currency found in the
16 master bedroom closet.

17 (I) is Crown Royal bag with US currency in black
18 fleece. (I) continued on the next page says it was found
19 in the back bedroom second closet.

20 (J) is green tablet found in kitchen table. It
21 was identified by Pamela Stewart as being Jaques
22 Sullivan's pill tablet.

23 (K) international money orders found in spare
24 bedroom closet on top shelf.

25 (L) Nokia cell phone bill found in blue trash can

Suppression Hearing - Ben Ford - Cross-Examination

1 in the computer room.

2 (M) Clear baggies and wrapping found in blue the
3 trash can in the computer room.

4 (N) is Digitek scales found in master bedroom on
5 top of dresser behind the mirror on the ledge.

6 (O) Rounds of ammunition, there were five of those
7 found in the Rossi handgun which was found in the master
8 bedroom closet.

9 (P) Rubber bands, black, that were the same type
10 that US currency was wrapped in, those were found in the
11 master bedroom. Four were by the bed.

12 Q. These are the items that were recovered from the
13 defendant's residence on April 3?

14 A. Yes.

15 Q. Were you with Agent Branham when she returned
16 this Return to the Judge?

17 A. I was.

18 Q. And what date did she return it to the Judge?

19 A. Actually, I was mistaken. I don't recall
20 actually being with her when we returned. I apologize for
21 that.

22 Q. In the affidavit of the search warrant, Officer
23 Ford, there was mention of the defendant being arrested at
24 the time of your arrest on April 3rd for some prior
25 trafficking charges. During that prior case, do you know

Suppression Hearing - Ben Ford - Cross-Examination

1 if surveillance was made on defendant's residence at that
2 time?

3 A. It was. I was a part of that surveillance.

4 Q. And did that defendant depart from a previous
5 occasion to go and meet for another drug transaction?

6 A. Yes, he did. We did follow him to that location,
7 that night.

8 Q. Was he also driving the green Chevy Tahoe at that
9 time?

10 A. He was.

11 MR. FRETWELL: Please answer any questions
12 Mr. Farnsworth may have.

13 CROSS-EXAMINATION

14 BY MR. FARNSWORTH:

15 Q. Officer Ford, as I understand it, you and another
16 officer went to the Magistrate's office to obtain the
17 search warrant?

18 A. The Judge actually came to us, yes.

19 Q. She came to -- where exactly did she come to?

20 A. Simpsonville Police Department.

21 Q. And subsequent to that you went to the address
22 that Mr. Sullivan lived?

23 A. That's correct.

24 Q. And do you know whether or not Mr. Sullivan was
25 there? If not, where he was at that time?

Suppression Hearing - Ben Ford - Redirect Examination

1 A. When we arrived on that day, we saw his vehicle
2 there ---

3 Q. I meant when the search warrant was served.

4 A. When the search warrant was served, he was in our
5 custody.

6 Q. So he was not at the residence; is that correct?

7 A. That's correct.

8 Q. And who was the search warrant served on?

9 A. Ms. Stewart was there, his common law
10 wife/girlfriend. She was there outside the residence.
11 She was not allowed to gain entrance until the search
12 warrant was served.

13 Q. The search warrant was served on her and
14 explained to her; is that correct?

15 A. Yes, sir.

16 Q. And do you know -- how long did it take you to go
17 from the residence where Mr. Sullivan lives to
18 Simpsonville and back with the search warrant? How long
19 did it take you to go and get the search warrant and
20 return to the property approximately?

21 A. A couple of hours.

22 Q. And do you know whether or not the officers
23 involved in this investigation were at the house during
24 that period of time?

25 A. The house was secured by other agents with SLED,

Suppression Hearing - Shannon Branham - Direct Examination

1 yes.

2 Q. And do you know whether or not any of these other
3 agents entered that house until you got back?

4 A. I was not there and couldn't answer that.

5 Q. But Ms. Pamela Stewart was there, the common law
6 wife of Mr. Sullivan?

7 A. It's my understanding she arrived there when the
8 agents were there, yes.

9 MR. FARNSWORTH: That's all I have.

10 THE COURT: Anything else?

11 MR. FRETWELL: A couple points I have for
12 verification.

13 REDIRECT EXAMINATION

14 BY MR. FRETWELL:

15 Q. Officer Ford, did you go straight from the Burger
16 King parking lot to the Police Department to get that
17 search warrant or did you go by the residence first?

18 A. I went straight to Simpsonville Police
19 Department.

20 MR. FRETWELL: No further questions, Your
21 Honor.

22 THE COURT: All right.

23 Okay, you can step down. Thank you, sir.

24 (Witness leaves the witness stand.)

25 MR. FRETWELL: Your Honor, the State calls

Suppression Hearing - Shannon Branham - Direct Examination

1 Shannon Branham.

2 THE CLERK: If you would step up and place
3 your left hand on the Bible and raise your right.

4 SHANNON BRANHAM, having been duly sworn,
5 testified as follows:

6 THE CLERK: Thank you.

7 DIRECT EXAMINATION

8 BY MR. FRETWELL:

9 Q. Agent Branham, if you'll look at Court's Exhibit
10 2 ---

11 MR. FRETWELL: Your Honor, if I haven't
12 introduced that if I'm supposed to introduce that for
13 purposes of this hearing, I'll do so at this point.

14 MR. FARNSWORTH: No objection.

15 (Search Warrant marked as Court's Exhibit No.
16 2 for identification was entered into evidence.)

17 BY MR. FRETWELL:

18 Q. Agent Branham, if you'll look at the Return
19 section of that document.

20 A. Yes, sir.

21 Q. Are you the officer who completed that return?

22 A. I am.

23 Q. And that Return was connected with that search
24 warrant that was initiated on what day?

25 A. It was initiated on April 3.

Suppression Hearing - Shannon Branham - Direct Examination

1 Q. And when was that search warrant delivered back
2 to the Magistrate?

3 A. April 7.

4 Q. And was it delivered to the issuing Magistrate?

5 A. Yes; Judge Davis.

6 Q. For clarification, you were involved with the
7 arrest of the defendant at the Burger King parking lot; is
8 that correct?

9 A. Yes, sir, I was.

10 Q. Did you, from the Burger King parking lot,
11 respond to 208 Pliney Circle in Simpsonville?

12 A. Initially we responded to Simpsonville Police
13 Department, and Agent Ford and I started to compile the
14 search warrant at that time.

15 Q. What is your understanding of the condition of
16 the location when officers arrived there?

17 A. It was secured by Lieutenant Ralph Bobo. It was
18 also secured by Agent Terry Casey.

19 Q. And based on your conversations with the
20 defendant prior to obtaining the search warrant, did the
21 defendant have a specific request about who he would like
22 to contact and to be present when the search warrant was
23 issued?

24 A. He did. Mr. Sullivan had a concern about his
25 child and about contacting his common law wife to be at

Suppression Hearing - Shannon Branham - Direct Examination

1 the residence before entry was made. However, we didn't
2 have to do that, but we did. We complied with his request
3 and we waited until Ms. Stewart was there before we
4 executed the search warrant.

5 Q. So she was not already at the residence when you
6 executed the search warrant?

7 A. When I arrived, she had not arrived on scene
8 yet -- well, let me think -- I can't recall where she
9 there or was she not there.

10 Q. The easier question would be was she inside the
11 residence before you executed the search warrant and after
12 the time you had secured the residence?

13 A. When we initiated and served the search warrant
14 on her, she was actually in the breezeway of the location
15 where we could make entry to the back door.

16 Q. So she was not located inside the residence?

17 A. No, sir.

18 Q. Were you part of the entry team that entered the
19 residence?

20 A. Yes, sir.

21 Q. Were there any other individuals in the residence
22 when you entered the residence?

23 A. No, sir.

24 Q. And it had previously been secured by SLED?

25 A. Yes, sir.

Suppression Hearing - Shannon Branham - Cross-Examination

1 Q. And by ---

2 A. By Lieutenant Bobo of the Simpsonville Police
3 Department?

4 Q. Please answer any questions that Mr. Farnsworth
5 may have.

6 CROSS EXAMINATION

7 BY MR. FARNSWORTH:

8 Q. Officer, you said that two officers, I believe,
9 Officer Bobo was one, had secured the property; is that
10 correct?

11 A. Yes, sir.

12 Q. And by securing that means not let anybody in,
13 officers or individuals ---

14 A. Enter the residence until we were there with the
15 correct paperwork, yes, sir?

16 Q. And what mean by paperwork you mean the search
17 warrant?

18 A. Yes, sir.

19 Q. And that search warrant was served upon Pamela
20 Stewart; is that correct?

21 A. Yes, sir.

22 Q. Thank you.

23 A. Yes, sir.

24 MR. FARNSWORTH: Nothing further.

25 MR. FRETWELL: Nothing further, Your Honor.

Suppression Hearing - Shannon Branham - Cross-Examination

1 There are no additional witnesses, Your Honor.

2 THE COURT: Thank you, Officer.

3 (Witness leaves the witness stand.)

4 Anything from the defense?

5 MR. FARNSWORTH: Judge, we would ask that the
6 Court consider the suppression of the search warrant.

7 There was some question about one of the witnesses,
8 whether or not or when a Return had been made and on that
9 basis we would ask Your Honor for suppression.

10 THE COURT: Well, I'm going to deny the
11 defendant's Motion to Suppress and to find that the search
12 warrant was not reasonable, and I decline to suppress the
13 evidence as a result there of.

14 Anything else for the pretrial?

15 MR. FRETWELL: Your Honor, Mr. Farnsworth and
16 I have discussed photographs that were taken by the
17 officers during the course of the search warrant and also
18 taken by the officers at the time the defendant was
19 arrested of the items that were located on his person and
20 in his vehicle. Mr. Farnsworth indicates to me that he
21 intends to object to any photographs of the currency from
22 the residence and I will certainly let him address that.
23 Mr. Farnsworth indicated to me that he wanted to do this
24 pretrial and just let the Court be aware that he intended
25 to object to those pictures coming in.

Suppression Hearing - Shannon Branham - Cross-Examination

1 THE COURT: Mr. Farnsworth.

2 MR. FARNSWORTH: Your Honor, our position is
3 the pictures, and there are seven as I understand and I've
4 seen them all, pictures involving showing of money that
5 was seized or drugs or drug paraphernalia, our position is
6 that the prejudicial effect on the jury would far outweigh
7 the evidentiary value of these photographs, and for that
8 reason we would ask that any of those that are itemized as
9 money, drugs or drug paraphernalia be excluded.

10 MR. FRETWELL: The officers have already
11 testified a little bit about the reasons they responded to
12 the defendant's residence and the items that were seized
13 at the defendant's residence. These items, the officers
14 will testify, are connected to the drug trade. They are
15 relevant to the defendant's motive for why he was involved
16 in drug trafficking and relevant to the fact that it was
17 no mistake that these items were in his possession.

18 THE COURT: I haven't seen the photographs so
19 I don't know what we're talking about.

20 MR. FRETWELL: Let me show you, Your Honor,
21 just the pictures I intend to introduce.

22 (Court reviews photographs.)

23 THE COURT: Mr. Farnsworth, I don't see any
24 reason to deny admissibility of these photographs. Of
25 course, he's going to have to build and put a foundation

State versus Jacques Sullivan - Opening Statements

1 under them, and I think we're going to have to deal with
2 them at the time. It does not appear to be repetitive.

3 It's not the same money is it, Mr. Fretwell?

4 MR. FRETWELL: No, Your Honor. There may be
5 one or two pictures in that group that shows the location
6 and then the items pulled out for clarification, but, no,
7 Your Honor, there are no identical pictures and those are
8 separate groups of money.

9 THE COURT: This time I'm going to deny the
10 motion and we'll deal with it as it comes up.

11 Anything else?

12 MR. FRETWELL: If you're going to call the
13 jury back in --

14 THE COURT: We're going to take a break.
15 We're going to take about a five or ten minute break and I
16 want to deal with Ms. Miller. We'll be at ease in the
17 Sullivan case so you're free to leave.

18 (Whereupon, there was a brief recess.
19 Defendant exits the courtroom.)

20 THE COURT: Let's get Mr. Sullivan out here.

21 (Defendant enters the courtroom.)

22 Let's bring in the jury.

23 (Jury enters the courtroom.)

24 Ladies and gentleman, thank you for your
25 patience and at this time I'm going to ask you to stand

State versus Jacques Sullivan - Opening Statements

1 and ask the clerk to administer the oath. Thank you.

2 THE CLERK: The response to the oath is, "I
3 will." Please raise your right hand.

4 You shall well and truly try case 2008-GS-
5 23-7026, Jaques Jamar Sullivan, indictment for trafficking
6 cocaine and possession of a weapon during the commission
7 of a violent crime and 2008-GS-23-7027, indictment for
8 possession of marijuana and a true verdict render
9 according to the law and the evidence so help you God.

10 (Whereupon, jury was sworn.)

11 Thank you.

12 THE COURT: All right, ladies and gentleman
13 we're going to proceed with brief opening statements of
14 counsel.

OPENING STATEMENTS

15
16 MR. FRETWELL: May it please the Court, Your
17 Honor.

18 Madam fore lady, ladies and gentleman of the
19 jury, the case before you today demonstrates that the love
20 of money is the route of all kinds of evil.

21 On April 3, 2008, the defendant, Jaques Jamar
22 Sullivan arranged to sell four ounces of cocaine for about
23 \$4,000. SLED agents arrested the defendant when he
24 arrived at the meeting location and seized 127 grams of
25 cocaine, some marijuana, and almost \$700 from the

State versus Jacques Sullivan - Opening Statements

1 defendant.

2 Agents then secured a search warrant for the
3 defendant's residence where they recovered an additional
4 84 grams of cocaine, digital scales, a fully loaded
5 handgun, and over \$52,000 in cash.

6 Case Agent Shannon Branham will tell you how
7 she identified the defendant as a source for large
8 quantities of cocaine.

9 Roddrick Ingram, a former drug dealer turned
10 governmental informant, will tell you how he arranged to
11 purchase four ounces of cocaine from the defendant.
12 You'll also hear from the analyst who tested the items,
13 confirmed the presence of cocaine and marijuana and
14 determined the combined weight of the cocaine exceeded 200
15 grams.

16 Ladies and gentleman, the defendant has been
17 charged with three criminal offenses, and as the Judge
18 alluded to before, these indictments are not evidence.
19 The defendant has been charged with trafficking in cocaine
20 and possession of a weapon during the commission of a
21 violent crime, and possession of marijuana.

22 Trafficking is defined as the possession of
23 more than 10 grams of cocaine. Possession can be actual
24 or it can be constructive. In other words, the drugs can
25 be in the physical custody of the defendant. They can be

State versus Jacques Sullivan - Opening Statements

1 under his dominion or control or they can be located on or
2 in property over which the defendant has ability to
3 exercise dominion or control.

4 Further, because trafficking is determined in
5 the State of South Carolina to be a Violent Offense, the
6 defendant's possession of a handgun qualifies as a
7 separate offense. Possession of marijuana requires
8 similar proof of possession.

9 This case, ladies and gentleman, is about the
10 defendant's greed for money and the illegal means in which
11 he chose to obtain it by trafficking in cocaine. At the
12 conclusion of the case, I will ask you to find the
13 defendant guilty of trafficking in cocaine, possession of
14 a weapon during the commission of a violent crime and
15 possession of marijuana. Thank you for your attention.

16 THE COURT: Mr. Farnsworth.

17 MR. FARNSWORTH: Yes, sir.

18 Ladies and gentleman, first of all, we want
19 to state we appreciate your service on this jury. Winston
20 Churchill said many years ago the greatest service a
21 citizen can do during peace time is to serve as a juror on
22 a civil or a criminal case. So you really have an
23 important job and a lot of responsibility. The Court
24 knows that and myself and Mr. Fretwell know that and we
25 appreciate it.

State versus Jacques Sullivan - Opening Statements

1 Mr. Sullivan pled not guilty to this case,
2 and as such that requires the State to prove the evidence
3 in the indictment, one of them involves marijuana and one
4 of them involves a weapon. That requires the State to
5 prove each and every element of all three offenses beyond
6 a reasonable doubt. That's what the State's burden is.

7 Now, you were asked several questions that
8 the Judge asked you before you were chosen, and two of the
9 more important ones were has anybody formed an opinion or
10 know anything about this case to the extent they couldn't
11 give Mr. Sullivan a fair and impartial trial. The second
12 was are you so opposed to drugs or the violation of drug
13 laws that you couldn't render a fair and impartial verdict
14 and you answered you could give a fair trial and we
15 appreciate it.

16 You were just sworn and took your oath in
17 this case, and if you remember what the first lines were
18 in the oath, do you swear to try this case based on the
19 law and the evidence and you affirmed that you could. So
20 out of the panel that came in here, you are the 12 that
21 agreed to take it. We had some information on your
22 beforehand in this case, marital status, age and stuff
23 like that, so we knew a little bit about you, but in any
24 event, we're glad you're on this jury and we have every
25 confidence that you'll render a fair and impartial verdict

Shannon Branham - Direct Examination

1 in this case.

2 Some of you may not have served on a jury
3 before or even on a criminal jury, but the two important
4 cardinal rules of law would be involved in every criminal
5 case: No. 1 is the presumption of innocence. The accused
6 in a case is always presumed to be innocent. It is
7 attached the minute the person is charged under the
8 offense and stays with him or her unless and until a jury
9 says that that person is guilty beyond a reasonable doubt.

10 And No. 2 is, of course, the State has the
11 burden of proving the guilt of the accused in each and
12 every element of each offense beyond a reasonable doubt.
13 There's no burden on the accused in a criminal case. He
14 is not required to testify. He is not required to present
15 evidence. The only burden is on the State of South
16 Carolina. If they can not prove guilt to your
17 satisfaction, then your duty, consistent with the oath
18 that you took is to find the person not guilty.

19 I'm going to say one or two other things and
20 and then I'm going to step down. The thing that I ask you
21 to do, and the Judge explained about five different parts
22 of the trial is I'm just going to ask you to do a couple
23 of things and I'm sure that you will. I'm going to ask
24 you to listen carefully to all the evidence in this case
25 as we go along. I'm going to ask you to remember three

Shannon Branham - Direct Examination

1 things; the presumption of innocence, the burden of the
2 State to prove guilt beyond a reasonable doubt, and
3 remember the oath that you took to well and truly try the
4 case. Remember none of you have any friends to reward or
5 enemies to punish; listen to the evidence. Thank you.

6 THE COURT: Call your first witness.

7 MR. FRETWELL: If it please the Court, Your
8 Honor, the State would call Special Agent Shannon Branham.

9 THE CLERK: Agent Branham, would you please
10 step forward to be sworn in.

11 Please place your left hand on the bible and
12 raise your right hand.

13 SHANNON BRANHAM, after having been duly
14 sworn, testified as follows:

15 THE CLERK: You may be seated.

16 Please state your full name for the record.

17 THE WITNESS: Shannon Bowling Branham.

18 DIRECT EXAMINATION

19 BY MR. FRETWELL:

20 Q. Agent Branham, good morning.

21 A. Good morning, sir.

22 Q. What is your current position or assignment with
23 the State Department of Law Enforcement?

24 A. I am an investigator assigned to the Piedmont
25 region.

Shannon Branham - Direct Examination

1 Q. And what do you do as an investigator assigned to
2 the Piedmont region?

3 A. We investigate major violent crimes, which we
4 assist local law enforcement, cities and counties,
5 narcotics investigation, underage alcohol fatalities,
6 prostitution, a vast majority of things with investigation
7 in the region.

8 Q. Let me ask you a little bit about your training
9 and experience, specifically the narcotics investigation.
10 Can you tell the jury something about your training in
11 that?

12 A. I've attended and completed the Narcotic Basic
13 Investigative School which was put on by the Criminal
14 Justice Academy. I have also completed and was present in
15 my class in the Narcotic Commanders School that DEA puts
16 on, but the majority of my experience has been in the
17 field where I did and I still do a lot of undercover work.
18 I go into certain areas where there would be alcohol or
19 narcotics and I buy in an undercover capacity.

20 Q. And how long have you been an agent for this
21 State Law Enforcement Division?

22 A. It would be nine years in October.

23 Q. You were working in 2008 in your current
24 capacity; is that correct?

25 A. Yes, sir.

Shannon Branham - Direct Examination

1 Q. And what was your specific assignment in April of
2 2008?

3 A. We were conducting an undercover operation in the
4 City of Simpsonville, South Carolina involving a
5 confidential informant and we were going to -- the
6 informant was going to purchase a quantity of cocaine.

7 Q. You recognize the individual sitting here, the
8 defendant?

9 A. I do.

10 Q. Who is the defendant?

11 A. That's Jaques Sullivan, AKA "Jay".

12 Q. How did you become aware of Mr. Sullivan?

13 A. Confidential informant's information with regards
14 to purchasing cocaine from Mr. Sullivan.

15 Q. Who was that informant?

16 A. Roddrick Ingram.

17 Q. How did you come to meet Mr. Ingram?

18 A. I met Roddrick through Tina Dobbs who is formally
19 a Greenville City detective assigned to the narcotics
20 unit. She's currently working with the federal government
21 now. She introduced me to Roddrick and told me he had some
22 information that was out of her jurisdiction in the City
23 of Greenville and he wanted to cooperate and could provide
24 us with some information that we needed to know about.

25 Q. And what was the information that he provided to

Shannon Branham - Direct Examination

1 you?

2 A. Roddrick provided to us that he could purchase a
3 large quantity of cocaine from a source that he identified
4 as "Jay", Jaques Sullivan.

5 Q. Did he give you a specific amount of what he
6 thought he could purchase from that individual?

7 A. Ounces of cocaine.

8 Q. And what was the reason that Mr. Ingram was even
9 talking to you? Why was he in a position to be able to or
10 willing to provide this information?

11 A. Mr. Ingram had been arrested by the Greenville
12 City Police Department, Vice Unit, for a narcotics
13 charges. And by that time once he was arrested and
14 detained and spoken with, he wanted to cooperate with law
15 enforcement.

16 Q. What kind of deal or offer did you provide on
17 behalf of the State Law Enforcement Division to
18 Mr. Ingram?

19 A. There was no deal and no offer.

20 Q. Did you understand that Detective Dobbs had
21 provided Mr. Ingram with some sort of deal?

22 A. No, sir.

23 Q. Okay. Let me take you to specifically April 3,
24 2008. On that day, is that the day that you had arranged
25 for this deal to take place?

Shannon Branham - Direct Examination

1 A. Yes, sir.

2 Q. Tell the jury about how, I guess, the plan was
3 put in place for this particular transaction?

4 A. We met at a location which was the Simpsonville
5 Police Department. We were under the supervision of their
6 local lieutenant, which was Ralph Bobo. We had the
7 confidential informant there. There were several recorded
8 phone calls that the informant made to Mr. Jaques
9 Sullivan, AKA "Jay" with regard to purchasing a quantity
10 of cocaine. At that time, the deal was set up, the
11 location was set which was the Burger King in Simpsonville
12 which is on Fairview Road right off of 85.

13 Myself and undercover agent, Terry Casey,
14 went to that location in an undercover vehicle and that
15 was provided by Agent Ford at the time. We sat there and
16 continued monitoring the surveillance agents by cell
17 phone. Lieutenant Bobo was also present for manpower
18 during the arrest. Surveillance agents called us and said
19 that: He's leaving, Jaques is leaving, he's on his way in
20 a green Tahoe and we were to expect his arrival in
21 minutes.

22 Jacques arrived in a green Chevrolet Tahoe,
23 backed in beside us and at that time he was placed under
24 arrest by surveillance agents for the take down.

25 Q. Let me take you back to what you referred to as

Shannon Branham - Direct Examination

1 several taped conversations between Mr. Ingram and the
2 defendant. Do you have notes or can you recall what the
3 nature and quantity of those phone calls that were made on
4 April 3?

5 A. Yes, sir. The first two phone calls that I
6 recollect went to voice mail. He was unable to get
7 Jaques, and then there was a return phone call from Jaques
8 with regard to purchasing approximately four-and-a-half
9 ounces of cocaine. It was afterwards decided that he was
10 about to bring four ounces, which is considered in
11 narcotics slang a "baby," which is about an eighth of a
12 kilo of cocaine, to the meeting location which was the
13 Burger King, and that was what was decided on.

14 Q. And that specific deal was struck between
15 Mr. Ingram and the defendant; is that correct?

16 A. Yes, sir, and during recorded phone conversation
17 and in the present of Agent Chester Bragg. He's also a
18 SLED agent.

19 Q. We may have already talked about this but did you
20 have a confirming phone call that set the exact time when
21 the meeting would take place?

22 A. Yes, sir, and that gave myself and Agent Casey
23 enough time to be able to drive from the Simpsonville
24 Police Department to the Burger King there on Fairview
25 Road to be in the place that we needed to be.

Shannon Branham - Direct Examination

1 Q. Let me show you State's 1 and 2. Do you recognize
2 these maps?

3 A. Yes, sir.

4 Q. I'm going to have you step down, if you will.

5 MR. FRETWELL: At this time, the State would
6 offer State's Exhibit 1, State's Exhibit 2 into evidence.

7 MR. FARNSWORTH: Without objection.

8 THE COURT: Okay. No objection.

9 (Map of 208 N. Pliney Circle and Burger King
10 on Fairview Road previously marked State's Exhibit No. 1
11 for identification was admitted into evidence.)

12 (Map of Burger King on Fairview Road (close-
13 up) previously marked as State's Exhibit No. 2 for
14 identification was admitted into evidence.)

15 BY MR. FRETWELL:

16 Q. I'm going to show you, first of all, State's
17 Exhibit 1 and ask you if you can point out to the jury
18 these different locations that you've already testified
19 to.

20 A. Yes, sir. This is the Burger King where myself
21 and Agent Terry Casey, we were placed there in an
22 undercover vehicle awaiting the arrival of Mr. Jaques
23 Sullivan.

24 And as you can tell, this is Fairview Road
25 here (indicating). We pulled in approximately right here

Shannon Branham - Direct Examination

1 and parked. We pulled in the right way. We didn't back
2 in or anything.

3 Jacques, he pulled in, backed in.

4 Q. I've got a close-up. I'd also like to have you
5 address this area up here.

6 A. The 208 North Pliney Circle is the residence of
7 Jaques Sullivan and that's where Agent Asbill and Agent
8 Ben Ford were placed conducting surveillance on this
9 residence before Jaques Sullivan arrived to meet myself
10 and Agent Casey.

11 Q. Now, let me show you State's Exhibit 2. Can you
12 explain that?

13 A. This is the Burger King Fairview Road right off
14 of 85. We pulled in this parking lot here. If I'm not
15 mistaken we parked right here in this parking space. We
16 pulled directly into this parking space. Jaques Sullivan
17 came off of Fairview Road in the same direction of travel
18 that we had taken earlier when we arrived there. He
19 backed his Tahoe -- green Tahoe directly in beside myself
20 and Agent Casey. Lieutenant Ralph Bobo was placed here
21 (indicating). He's conducting surveillance and also any
22 type of security that might go down if Agent Casey and I
23 can't take care of ourselves once the arrest has been
24 made.

25 He was in an undercover vehicle. It was

Shannon Branham - Direct Examination

1 actually my vehicle he was in. Agent Ford and Agent
2 Asbill, they also came in to the same direction of travel
3 that Jaques Sullivan did. They parked their vehicle in
4 front of his vehicle which preventing him, of course, from
5 trying to leave the area at the time of the arrest.

6 Lieutenant Bobo came from this direction and
7 approached his vehicle from the right front so that he
8 couldn't leave the area.

9 Q. Agent Branham, the defendant's vehicle pulled in
10 and pulled right next to the you. He didn't circle the
11 building or go through the drive through or anything like
12 that.

13 A. No, sir. Once Jaques Sullivan pulled into the
14 parking lot here, he immediately pulled in beside us and
15 at that time we exited our vehicle, Agent Asbill and Agent
16 Ford exited theirs and Lieutenant Bobo converged on the
17 area.

18 Q. Thank you. You can take your seat.

19 Agent Branham, what happened when the
20 defendant arrived in the vehicle and he was placed under
21 arrest?

22 A. Yes, sir. He was placed under arrest and at that
23 time Agent Asbill began searching him to make sure there
24 was no weapons, to make sure there wasn't anything that
25 was going to harm or hurt any of the agents or harmful to

Shannon Branham - Direct Examination

1 Mr. Sullivan. There was a large quantity of narcotics
2 retrieved by Agent Asbill at that time, and then he was
3 transported -- Jaques Sullivan was transported by Agent
4 Asbill to the Simpsonville Police Department?

5 Q. Agent Branham, I'm going to show you what's been
6 marked as State's Exhibit 3 through 9 for identification
7 and ask you if you recognize what's depicted in those
8 photos?

9 A. In reference to Exhibit 3, I do recognize the
10 quantity of cocaine, quantity of marijuana, Crown Royal
11 bag and also the BEST kit, which at SLED when we retrieve
12 narcotics, we place it in a BEST kit. It's like a plastic
13 bag and once you seal it, it doesn't open again. That's
14 for our protection and the protection of the narcotics and
15 it's also visible in the photograph as well.

16 Exhibit 4 is also a quantity of cocaine,
17 marijuana. I do recognize that.

18 Exhibit 5 is a multi-colored smoke pipe
19 normally used for smoking marijuana.

20 It's also Exhibit 6 which is a photograph of
21 money wrapped in a black rubber band. The edge around it
22 is the Crown Royal bag, which I also recognize, which was
23 taken off of Jaques Sullivan's person at the time of
24 arrest by Agent Asbill. This is also a copy of the
25 photograph of the BEST kit whereby the drugs were placed

Shannon Branham - Direct Examination

1 into evidence at the SLED login.

2 Exhibit 8 is a photograph of Jaques
3 Sullivan's license tag on his green Chevrolet Tahoe,
4 Number 389SMX, which is Sierra, Mike, Xray, which I also
5 recognize.

6 And then there is Exhibit 9 which is actually
7 a photograph of the green Tahoe once it was brought back
8 to the Simpsonville Police Department.

9 Q. Agent Branham, do those photographs adequately
10 represent and depict the items that you saw on April 3,
11 2008?

12 A. Yes, they do.

13 Q. Have they been materially altered in any way?

14 A. No, sir, they have not.

15 MR. FRETWELL: Your Honor, the State would
16 ask that Exhibits 3 through 9 be entered into evidence.

17 THE COURT: Any objection?

18 MR. FARNSWORTH: Just note my earlier
19 objection.

20 THE COURT: Same ruling.

21 (Photographs previously marked as State's
22 Exhibits Nos. 3 through 9 for identification was entered
23 into evidence.)

24 MR. FRETWELL: With your permission, Your
25 Honor, if I might publish these exhibits.

Shannon Branham - Direct Examination

1 THE COURT: You may do so.

2 (State's Exhibit 3 through 9 was published to
3 the jury.)

4 BY MR. FRETWELL:

5 Q. I have here a Stylus that will allow you to point
6 out, and if I can have the lights off to make it more
7 clear.

8 This is State's Exhibit 3, if you could just
9 point to the jury what these items are.

10 A. Yes, sir. This is the quantity of cocaine that
11 was retrieved off of Mr. Sullivan that was in the Crown
12 Royal bag that Agent Asbill recovered. There was also a
13 quantity of marijuana within the bag as well. It was over
14 four ounces of cocaine. You can see it's individually
15 packaged. From my experience as a narcotic's agent, it's
16 packaged this way for distribution.

17 Q. And the bag that you mentioned in your previous
18 testimony and the items, could you tell the jury about
19 that?

20 A. Yes, sir. This is a SLED BEST pack. The
21 narcotics was placed into this BEST pack. It also has a
22 login number here, a SKU, which is logged into SLED at our
23 login headquarters. There is also a control number, which
24 is not too visible here, but it would be on another
25 photograph.

Shannon Branham - Direct Examination

1 Q. State's Exhibit 4.

2 A. Yes, sir, this is just another close-up of the
3 narcotics. You can better see here the packaging and the
4 way it is packaged, the edging of the bag of the Crown
5 Royal bag, the gold handle off of the Crown Royal bag,
6 also the marijuana.

7 Q. And is that lighter that's depicted at the
8 bottom, was that also one of the items collected from the
9 defendant?

10 A. Yes, sir, and it was also turned in for testing.
11 As the case agent, I wanted to make sure everything was
12 thoroughly tested.

13 Q. How about State's Exhibit 5.

14 A. Yes, sir, this was also retrieved and also had it
15 tested for residue. It's commonly known for smoking
16 marijuana, also used for smoking crack, and it's used in
17 my experience for using narcotics.

18 Q. And State's Exhibit 6.

19 A. Yes, sir, this is a quantity of US currency that
20 was found on Mr. Sullivan at the time of the arrest and
21 also once again the infamous Crown Royal bag?

22 Q. Do you recall the exact amount of money that was
23 recovered from Mr. Sullivan?

24 A. It was around \$700. I think it was around \$685.

25 Q. I'm going to show you State's Exhibit 7.

Shannon Branham - Direct Examination

1 A. Yes, sir. This is -- once the narcotics have
2 been packaged in the clear baggies that I showed you
3 earlier photo, it is then placed along with a Chain of
4 Custody which contains the narcotics. Who handles the
5 narcotics is what the Chain of Custody is; from my hands
6 to the lab. Once it goes to the lab, to login, it's given
7 a BEST over here, Best Evidence, Sample Control Testing.
8 That right there (indicating) is maintained with the drug
9 evidence throughout the case for login purposes.

10 Q. And State's 8.

11 A. Yes, sir. This is the photograph that we took
12 once we returned Mr. Sullivan's vehicle to the
13 Simpsonville Police Department and just made sure that we
14 had a copy of the tag for information and intel purposes.

15 Q. And finally State's Exhibit 9.

16 A. This is the vehicle that arrived to meet myself
17 and Agent Casey that was driven by Mr. Jaques Sullivan
18 during the narcotic transaction at the Burger King, and
19 this is once we returned the vehicle back to the Police
20 Department, Simpsonville Police Department. That is
21 Lieutenant Bobo who drove the vehicle back.

22 Q. Thank you. If I could have the light.

23 Agent Branham, tell the jury about the
24 execution of the search warrant and your involvement in
25 that process at the defendant's residence.

Shannon Branham - Direct Examination

1 A. Yes, sir. We returned to the Simpsonville Police
2 Department. We collected all of our evidence, bagged and
3 tagged everything appropriately as far as the SLED BEST
4 kit. We also, at that time, Mirandized Mr. Jaques
5 Sullivan, asked if he had anything to say on his behalf.
6 He advised us he had no intentions on cooperating with law
7 enforcement.

8 MR. FARNSWORTH: Objection, Your Honor.

9 THE COURT: Hearsay.

10 BY MR. FRETWELL:

11 Q. Without saying anything about that, can you
12 continue what you did at the Police Department with
13 respect to the securing and the executing of the search
14 warrant?

15 A. Yes, sir. Ben Ford and I combined information
16 with regard to the search warrant. The search warrant,
17 Ben Ford typed it up. We contacted Magistrate Davis in
18 Simpsonville. She actually came to the Simpsonville
19 Police Department to sign the search warrant. At the
20 request of Mr. Sullivan we contacted his common law
21 wife/girlfriend to have her present there at the residence
22 even though we did not have to do so, but we honored that
23 request.

24 We made contact with her, Ms. Pamela Stewart
25 is her name and she came to the residence. The search

Shannon Branham - Direct Examination

1 warrant was served on her and we executed the search
2 warrant at that time.

3 MR. FRETWELL: Your Honor, may we approach.

4 (Whereupon, there was a bench conference.)

5 THE COURT: Ladies and gentleman of the jury,
6 I want to tell you all that there's been some reference as
7 to comments made by Mr. Sullivan in response to law
8 enforcement. I want to tell you that you are to disregard
9 that, give it no consideration whatsoever. Every citizen
10 has the Constitutional right to remain silent and that
11 Constitutional right, if exercised, can never be held
12 against a person. So totally disregard that testimony and
13 keep that principle in mind throughout the course of these
14 proceedings.

15 Thank you very much.

16 BY MR. FRETWELL:

17 Q. Agent Branham, when you arrived at the
18 defendant's residence at 208 North Pliney Circle, can you
19 tell the jury how you went through the process of
20 executing that search warrant?

21 A. Yes, sir. We served the search warrant on
22 Ms. Pamela Stewart. We actually read it to her in a
23 breezeway area location. It was kind of adjacent to the
24 backdoor we knew we would make entry to. We served her
25 with the search warrant and we made entry.

Shannon Branham - Direct Examination

1 Q. Was Ms. Stewart present at the time or inside 208
2 North Pliney Circle when you all secured the residence and
3 execution of the search warrant, or did she come
4 afterwards?

5 A. She did not enter the residence until we made
6 entry and we secured the residence. At that time, she was
7 allowed to come in and she and I sat at the kitchen table
8 while other agents searched the residence.

9 Q. And you were part of the team that entered 208
10 North Pliney Circle?

11 A. Yes, sir.

12 Q. Was there anybody in the residence when you
13 entered the residence?

14 A. No, sir.

15 Q. Now, prior to that time, had agents secured the
16 residence?

17 A. Yes, sir.

18 Q. And what does it mean to secure a residence?

19 A. When you secure a residence, you -- the number
20 one focus is officer safety and also anyone else who was
21 there just like Ms. Stewart. We wanted to make sure she
22 was safe as well. We go in. We check every room, check
23 under beds, closed doors, backyard, close buildings. That
24 way we make sure everything is secure. We know that there
25 is nobody else or an outside entity that going to come in

Shannon Branham - Direct Examination

1 and try to hurt or harm any one of the other agents.

2 Q. Agent Branham, I'm going to show you a series of
3 items and ask if you can identify them. I'll all your
4 attention to State's Exhibit 17, State's Exhibit 11,
5 State's Exhibit 12, 13, 18 and State's Exhibit 14.

6 Agent Branham, if you could go through each
7 of these items and identify by the State's Exhibit number
8 and tell the Court if you recognize the item, and what the
9 item is.

10 A. Yes, sir. With regard to State's Exhibit 10,
11 it's a BEST kit like we referred to earlier that we
12 package our narcotics in. You were actually shown a
13 photograph of this as well. This is cocaine, quantity of
14 marijuana, and I believe a lighter. That's all that's
15 contained in that package. It's also labeled with what
16 you can see is our case number which is 25080051.

17 Q. While you are on that particular item, Agent
18 Branham, let me ask you did you secure that set of items
19 and seal them for delivery to SLED?

20 A. Yes, sir.

21 Q. Would you tell the jury how you went about --
22 when you first came into possession of these items, how
23 did you receive them and how you prepared them for
24 delivery to what is known as SLED?

25 A. Yes. I received them from Agent Asbill who is

Shannon Branham - Direct Examination

1 the primary custodian of the evidence that was taken from
2 Jaques Sullivan at the time of arrest. It was placed into
3 my custody at that time. I took these narcotics and I
4 placed them inside this bag and then it's sealed. At that
5 time, I placed it inside of a manila envelope which you
6 saw a picture of earlier and I dropped it off at SLED
7 login, which is in Columbia, South Carolina at our
8 forensics lab.

9 Q. What is the purpose of sealing the items?

10 A. So nothing can be tampered with, nothing can be
11 construed for it to be something else; that the weight of
12 the evidence is not lost.

13 Q. All of the items in what has been identified as
14 State's Exhibit 10, were they properly sealed when you
15 delivered them to SLED?

16 A. Yes, sir.

17 Q. And for what purpose do you provide evidence to
18 the main headquarters down at SLED?

19 A. At that time, the evidence -- SLED runs the
20 narcotics through a series of tests on instruments that I
21 could not even imagine to tell you about to test for
22 narcotics at that time?

23 Q. Are those items also stored at SLED?

24 A. Yes, sir.

25 Q. And did you or another agent recover these items

Shannon Branham - Direct Examination

1 for purpose of transporting them back for trial today?

2 A. Yes, sir, we did.

3 Q. You recovered them from what location?

4 A. The SLED login, the same location where the
5 evidence was dropped off initially.

6 Q. If you could continue with the next exhibit.

7 A. This would be State's Exhibit 15. These are some
8 clear baggies. I actually put that rubber band around
9 them just to keep them more secure. This was also
10 consistent with the packaging that we found, the wrapping
11 of the narcotics that was Jaques Sullivan's. These
12 multiple baggies were found at 208 North Pliney Circle
13 during the course of the search warrant by agents.

14 Q. The next exhibit.

15 A. State's Exhibit 14, these are Digitek Scales,
16 digital scales. Through my experience in narcotic
17 investigation this is what narcotics traffickers use to
18 weigh narcotics before they're sold.

19 Q. Just with respect to State's Exhibit 15 and
20 State's Exhibit 14, are both of those items in the same
21 condition as when you retrieved them from the defendant's
22 residence on April 3, 2008?

23 A. Yes, sir, they both are.

24 MR. FRETWELL: Your Honor, at this time, the
25 State would move State's Exhibits 14 and 15 into evidence.

Shannon Branham - Direct Examination

1 MR. FARNSWORTH: Without objection

2 THE COURT: All right.

3 (Bag containing digital scales previously
4 marked as State's Exhibit 14 for identification was
5 admitted into evidence.)

6 (Bag containing plastic bags previously
7 marked as State's Exhibit 15 for identification was
8 admitted into evidence.)

9 BY MR. FRETWELL:

10 Q. Agent Branham, if you'll move to the next
11 exhibit.

12 A. This is State's Exhibit 11. This is also another
13 quantity of cocaine that was found at the residence.

14 THE COURT: Agent, I'm going to ask you not
15 to publish it to the jury until it's admitted into
16 evidence.

17 THE WITNESS: Yes, sir.

18 There's also a Crown Royal bag that the
19 cocaine was -- the narcotics were placed in the Crown
20 Royal bag at the residence where we executed the search
21 warrant at 208 North Pliney Circle.

22 BY MR. FRETWELL:

23 Q. And this drug evidence, these were the items that
24 were located at the defendant's residence; is that
25 correct?

Shannon Branham - Direct Examination

1 A. Yes, sir.

2 Q. And who sealed those items for transport to SLED?

3 A. I did.

4 Q. Did you follow a similar procedure that you
5 describe with the other drug evidence?

6 A. The same procedure, yes, sir.

7 Q. And is it your testimony that these items were
8 sealed before they were delivered to SLED?

9 A. Yes, sir.

10 Q. They were in the same condition when you dropped
11 them off at SLED as when you recovered them at the
12 residence and from the defendant's person?

13 A. Yes, sir.

14 Q. If you could move to the next item.

15 A. Yes, sir. This is State's Exhibit 16. These are
16 black rubber bands that were found at the residence that
17 were consistent with the rubber bands around the money
18 that was found on Mr. Jaques Sullivan's person at the time
19 of his arrest, and also on other US currency that was
20 found at the residence. It was also bundled in these type
21 rubber bands; black rubber bands.

22 Q. And the next item.

23 A. State's Exhibit 17, this is a Crown Royal bag and
24 also international money orders. The Crown Royal bag is
25 consistent, of course, with the narcotics container the

Shannon Branham - Direct Examination

1 narcotics was contained in at the time of his arrest, and
2 also, it was consistent with what the narcotics were
3 placed in at his residence that was also recovered by the
4 agents who were searching his residence. And also
5 international money orders, through my experience as a
6 narcotics investigator, we normally see a lot of money
7 orders, money being sent in and out of state with
8 involvement in narcotics trafficking as well.

9 Q. Now, you mentioned, Agent Branham, that the Crown
10 Royal bag was consistent with the Crown Royal bag
11 retrieved from the defendant's person. We saw a picture
12 of that earlier. Could you tell the jury how were the
13 drugs in the Crown Royal bag found when you arrested the
14 defendant?

15 A. Agent Asbill actually found those narcotics, and
16 they were placed in his waistband if I recall. Agent
17 Asbill can testify to that, though.

18 Q. But they were together?

19 A. Yes, sir.

20 Q. With respect to the rubber bands and the money
21 orders and the Crown Royal bag, were all those items in
22 substantially the same condition as when you seen them in
23 the defendant's residence?

24 A. Yes, sir.

25 MR. FRETWELL: The State would move State's

Shannon Branham - Direct Examination

1 Exhibit 16 and 17 into evidence.

2 MR. FARNSWORTH: Without objection.

3 THE COURT: Okay, without objection.

4 (Bag containing plastic container of rubber
5 bands previously marked as State's Exhibit 16 for
6 identification was admitted into evidence.)

7 (Bag containing Crown Royal bag and
8 international money orders previously marked as State's
9 Exhibit 17 for identification was admitted into evidence.)

10 BY MR. FRETWELL:

11 Q. The next item.

12 A. The next item is State's Exhibit 18. This is a
13 .38 Rossi handgun which was fully loaded at the time it
14 was recovered with five rounds which was suitable for this
15 model weapon.

16 Q. And was this item also sealed for transport to
17 SLED?

18 A. Yes, sir.

19 Q. And did you seal this item?

20 A. Yes, sir.

21 Q. And the next item.

22 A. This canister was found at the residence, 208
23 North Pliney Circle, during the course of the search
24 warrant. There was a large quantity of money around, I'd
25 say, \$20,000 to \$30,000 in this container in the master

Shannon Branham - Direct Examination

1 bedroom.

2 Q. And that shoe box next to it?

3 A. This was also recovered. There was several other
4 items that was in the shoe box. There was the money
5 orders, Crown Royal bags, et cetera.

6 Q. The popcorn canister that you just referred to,
7 was that State's Exhibit 12?

8 A. Yes, sir.

9 Q. What is the exhibit number of the shoe box?

10 A. State's Exhibit 13.

11 Q. Are both the popcorn tin and the shoe box
12 substantially in the same condition as you retrieved and
13 recovered them from the defendant's residence?

14 A. Yes, sir.

15 MR. FRETWELL: The State would move State's
16 12 and 13 in at this time.

17 MR. FARNSWORTH: Without objection.

18 THE COURT: No objection.

19 (Transformer's canister previously marked as
20 State's Exhibit 12 for identification was admitted into
21 evidence.)

22 (New Balance shoe box previously marked as
23 State's Exhibit 13 for identification was admitted into
24 evidence.)

25

Shannon Branham - Cross-Examination

1 BY MR. FRETWELL:

2 Q. You indicated that Pamela Stewart was present
3 with you at the kitchen table when you were cataloging
4 these items; is that correct?

5 A. Yes, sir, she was.

6 Q. Did you have a conversation with Ms. Stewart
7 about these items?

8 A. I did.

9 MR. FARNSWORTH: I'm going to object, Your
10 Honor. It's hearsay. She's not here.

11 THE COURT: Don't say anything that the woman
12 said, but so far nothing objectionable. Go ahead.

13 BY MR. FRETWELL:

14 Q. The incident location both the Burger King on
15 Fairview Road and 208 North Pliney Circle, are both of
16 these incident locations within the County of Greenville?

17 A. Yes, sir, they are.

18 Q. Please answer any questions Mr. Farnsworth may
19 have.

20 CROSS-EXAMINATION

21 BY MR. FARNSWORTH:

22 Q. Just a couple of questions, Agent Branham. I
23 believe you mentioned early on with respect to Roddrick
24 Ingram that an officer in Greenville City had made a case
25 on him and contacted you?

Shannon Branham - Cross-Examination

1 A. Yes, sir.

2 Q. And as a result of that, you and Mr. Ingram
3 apparently led or discussed his going to work as a state
4 informant?

5 A. Yes, sir.

6 Q. And was that shortly after the drug charges that
7 the City of Greenville made against him?

8 A. Yes, sir, I believe it was a couple of days;
9 three or four days.

10 Q. Would you say he was anxious to go to work for
11 you?

12 A. Yes, sir.

13 Q. And no promises were made at all?

14 A. No, sir.

15 Q. And I believe that when someone goes to work for
16 SLED as an informant that you check them out and their
17 background and this sort of thing; work background,
18 criminal record, if any, and this type of thing?

19 A. Yes, sir.

20 Q. And they sign an agreement with you; is that
21 correct?

22 A. Correct.

23 Q. And how are they, if you know, how are they
24 compensated? Are they compensated financially?

25 A. No, sir.

Shannon Branham - Redirect Examination

1 Q. And no instance is a CI compensated for work he
2 does you?

3 A. It depends on the circumstances of the case. In
4 this case, no, sir, Roddrick Ingram was not compensated.

5 Q. He was not, but it does occur?

6 A. Yes, sir. Under certain instances in different
7 cases, yes, it does.

8 Q. As a result of your meeting with him and talking
9 with him, who approves him being a confidential informant?
10 Would that be you?

11 A. No, sir, that would be the lieutenant.

12 Q. And who would that be?

13 A. At the time it was Collin Leigh.

14 Q. So he was approved and this was just a couple of
15 days after the City of Greenville charges. And then how
16 long was it before you put him to work --

17 A. Probably the next week if I'm not mistaken.

18 MR. FARNSWORTH: That's all I have, Your
19 Honor.

20 MR. FRETWELL: Very briefly, Your Honor.

21 THE COURT: All right.

REDIRECT EXAMINATION

22
23 BY MR. FRETWELL:

24 Q. Just to clarify, Agent Branham, other than making
25 the phone calls that you indicated are recorded, was the

Shannon Branham - Redirect Examination

1 CI, Mr. Ingram, involved at all in the arrest or the
2 subsequent search of the defendant's residence?

3 A. No, sir, he was in another secure location with
4 another SLED agent, Chester Bragg.

5 Q. He wasn't even there?

6 A. No, sir, he was not even there.

7 Q. And with respect to what Mr. Farnsworth has
8 addressed as far as being approved as being a CI, are
9 there some sort of standards for which you judge the
10 usefulness or appropriateness of a CI?

11 A. Well, we have a CI packet, Confidential Informant
12 Packet, which consists of a fingerprint card because when
13 they're buying the narcotics, they use state documented
14 funds and there are some circumstances where they've taken
15 off with our funds so we want to make sure that we can
16 track them back to find where they are exactly, who they
17 are if they've given us wrong information at the time.
18 It's approximately four pieces of paperwork that we fill
19 out that's very thorough, and at that time it's presented
20 to a supervisor. He signs off on it and then it's kept on
21 file at SLED.

22 Q. Once again for purposes of clarity, you didn't
23 provide any funds to Mr. Ingram for this drug purchase?

24 A. No, sir.

25 Q. And, in fact, he wasn't even there?

Shannon Branham - Redirect Examination

1 A. No, sir.

2 MR. FRETWELL: Nothing further.

3 RECROSS-EXAMINATION

4 BY MR. FARNSWORTH:

5 Q. You told Mr. Fretwell, you said Roddric Ingram
6 was not at the scene where the deal went down nor at the
7 location of the search warrant.

8 A. No, sir. He was not at the Burger King nor was
9 he at 208 North Pliney.

10 Q. He was the person who set up the transaction?

11 A. Yes, sir.

12 Q. Without him it probably wouldn't have been made;
13 is that correct?

14 A. Yes, sir.

15 MR. FARNSWORTH: Thank you.

16 THE COURT: Okay, ma'am, you can set down.

17 (Witness leaves the witness stand.)

18 MR. FRETWELL: At this time, the State would
19 call Roddric Ingram.

20 THE CLERK: Mr. Ingram, please place your
21 left hand on the Bible and raise your right hand.

22 RODDRIC JEROME INGRAM, having being duly
23 sworn, testified as follows:

24 THE CLERK: Thank you. You may be seated.

25 Please state your full name for the record.

Roddric Ingram - Direct Examination

1 THE WITNESS: Roddric Jerome Ingram.

2 DIRECT EXAMINATION

3 BY MR. FRETWELL:

4 Q. Mr. Ingram, I'm going to need you to scoot up in
5 your chair, pull that microphone right up to your mouth
6 and speak clearly, okay.

7 Introduce yourself again to the jury.

8 A. My name is Roddric Jerome Ingram.

9 Q. You're going to have to speak a little bit slower
10 and a little bit louder because I'm having trouble hearing
11 you.

12 Mr. Ingram, did you know the defendant?

13 A. Yes, I do.

14 Q. How do you know the defendant?

15 A. I see him on occasion at the club.

16 Q. Do you know his name?

17 A. I just know him by the nickname.

18 Q. What's his nickname?

19 A. Jay.

20 Q. The lady that just testified, Agent Branham, do
21 you know her?

22 A. Yes, I do.

23 Q. How were you put in contact with Agent Branham
24 and the State Law Enforcement Division?

25 A. Through another agent she introduced us.

Roddric Ingram - Direct Examination

1 Q. Is that Detective Dobbs that Agent Branham was
2 talking about?

3 A. Yes.

4 Q. How did you come in contact with Agent Dobbs?

5 A. I came in contact with Agent Dobbs one night I
6 was going to visit a friend and they was raiding the house
7 and they made me pull over so they could search my vehicle
8 and found some cocaine in my car.

9 Q. That was yours, right?

10 A. Yes.

11 Q. How much cocaine was it?

12 A. It was six grams.

13 Q. Six grams?

14 A. Yes.

15 Q. And you were arrested that night by the
16 Greenville Police Department, were you not?

17 A. Yes, sir.

18 Q. And after that you were introduced to Agent
19 Branham with the State Law Enforcement Division; is that
20 right?

21 A. Yes, sir.

22 Q. Did you tell one of the Greenville Police
23 Department officers or Detective Dobbs that you had the
24 ability to help them in drug operations?

25 A. Later on that night when she questioned me and

Roddric Ingram - Direct Examination

1 she asked me if I could help her assist with any future
2 buys. I said, yes.

3 Q. And you had been in trouble with drug trafficking
4 before, hadn't you?

5 A. Yes.

6 Q. In fact, you were convicted and served federal
7 time, did you not?

8 A. Yes, sir.

9 Q. And Detective Dobbs was aware of that?

10 A. Yes, sir.

11 Q. That's why she asked you about helping them,
12 didn't she?

13 A. Yes, sir.

14 Q. What did you tell Detective Dobbs and then Agent
15 Branham about what you could do about perspective sources
16 of cocaine?

17 A. I told her I know a few people and I could
18 possible make a few buys.

19 Q. One of those individuals this defendant?

20 A. Yes, sir.

21 Q. How did you contact the defendant to arrange a
22 purchase of cocaine?

23 A. Through a cell phone.

24 Q. Did you know his telephone number?

25 A. Yes, I did.

Roddrick Ingram - Direct Examination

1 Q. And when you placed those phone calls, were you
2 wired up to be recorded, do you recall that?

3 A. The phone calls were recorded, yes, they were.

4 Q. The phone calls were recorded. You weren't
5 wearing a body mic, it was just the phone itself?

6 A. Yes.

7 Q. Did you place calls to Mr. Sullivan, the
8 defendant, on April 3, 2008?

9 A. Yes, I did.

10 Q. Do you recall how many phone calls -- let me show
11 you what's been marked as State's Exhibit 19. Take a
12 moment to look at it. Do you recognize that CD?

13 A. Yes, I do.

14 Q. Have you listened to that CD?

15 A. Yes, I have.

16 Q. What does that CD relate?

17 A. Jay and my phone calls.

18 Q. Those are the phone calls from April 3, 2008?

19 A. Yes, they are.

20 Q. And when you listened to them, did they
21 accurately reflect the conversations that you had with the
22 defendant on that day?

23 A. Yes.

24 Q. Have they been materially altered in any way?

25 A. No, sir.

Roddric Ingram - Direct Examination

1 MR. FRETWELL: At this time, we would ask to
2 be allowed to enter State's Exhibit 19 into evidence.

3 MR. FARNSWORTH: No objection.

4 (CD previously marked as State's Exhibit No.
5 19 for identification was admitted into evidence.)

6 BY MR. FRETWELL:

7 Q. Mr. Ingram, I'm going to ask you, while she's
8 setting that up to play, to tell the jury a little bit
9 about these conversations ahead of time. It's been a
10 little bit, at times, difficult because you talk kind of
11 quickly. Tell the jury what they're going to hear on this
12 recording and we'll listen to the recording and I've got
13 some questions about some of the statements you made on
14 the recording.

15 Could you tell them about the recordings
16 first, sir.

17 A. First you're going to hear two times I tried and
18 there was no answer and then the third time we had an
19 answer. He answered the phone. I told him I was in town
20 and I'd like to purchase some cocaine while I'm here in
21 his town.

22 Q. You didn't say can I purchase some cocaine. What
23 did you say to him?

24 A. I'd like to get a baby or purchase a baby from
25 him.

Roddric Ingram - Direct Examination

1 Q. Purchase a baby?

2 A. Yes.

3 Q. Tell the jury what is a "baby"?

4 A. A "baby" in real weight of four-and-a-half
5 ounces.

6 Q. Of cocaine?

7 A. Yes.

8 Q. Why is it called a "baby"?

9 A. It's the smallest of a kilo.

10 Q. And is there some significance about the quantity
11 of four-and-a-half ounces of cocaine?

12 A. It's just the amount of dope, cocaine.

13 Q. Well, let me ask you this question. Can you give
14 a four-and-a-half segment of cocaine for a different price
15 than if you would if you bought it an ounce at a time?

16 A. If I bought it an ounce at a time, I'm going to
17 pay higher.

18 Q. You're going to pay higher?

19 A. Yes.

20 Q. So you wanted a baby, and is that a wholesale
21 rate?

22 A. Yes.

23 Q. At the time in April of 2008, what was the going
24 rate for a baby?

25 A. \$3,200 to \$3,500.

Roddric Ingram - Direct Examination

1 Q. Hundred dollars?

2 A. Yes.

3 Q. Three thousand two hundred --

4 A. Three thousand to \$3,500?

5 Q. And how much was the going rate for one ounce of
6 cocaine?

7 A. Roughly \$1,000. It could possibly go to \$1,200.

8 Q. Could it be less than \$1,000?

9 A. Yes.

10 Q. And, in fact, you made a deal with the defendant
11 for how much weight?

12 A. For four ounces.

13 Q. That's not four-and-a-half, is it?

14 A. No, sir.

15 Q. So were you buying them in a four ounce block or
16 an ounce by ounce?

17 A. I had to buy them in an ounce by ounce.

18 Q. And what was the price, if you can recall, that
19 you agreed to pay the defendant? Obviously, all of this
20 is a farce and you're not going to pay him anything, but
21 what did you agree to pay the defendant for each ounce of
22 cocaine?

23 A. \$925 a piece.

24 Q. When you asked him if he could provide you with,
25 as you term a "baby," what was his reply?

Roddric Ingram - Direct Examination

1 A. He couldn't do it.

2 Q. He couldn't do it. What did you understand that
3 to mean?

4 A. He couldn't sell it to me as a resale price, but
5 he'd break it down. He would have to sell it to me ounce
6 by ounce.

7 Q. And that means you're going to pay more for it;
8 is that right?

9 A. Yes.

10 Q. Did you make another telephone call to the
11 defendant shortly before the buy was supposed to take
12 place?

13 A. Yes, I did.

14 Q. And tell the jury about that conversation?

15 A. As I recall, I called and I said: I got the
16 money for four ounces, I got enough money for four ounces,
17 I got to count up my money and I got enough for four
18 ounces.

19 Q. And did he indicate to you whether he would be
20 able to meet you?

21 A. Yes, he did.

22 Q. And how long did he say he was going to take to
23 meet you?

24 A. About 15, 20 at the most.

25 Q. One last thing before we play the recording. Go

Roddric Ingram - Direct Examination

1 back to the first conversation. When you discussed with
2 the defendant about the baby versus ounce by ounce, how
3 did the defendant and you refer to an ounce? What do you
4 recall it?

5 A. An "oz."

6 Q. Did you ask him it was going to be a certain
7 amount per ounce or oz.

8 A. Yeah, I asked him: So I got to buy it by single?
9 And he said, yeah, that's the way he would sell it to me,
10 four ounces by single, oz.

11 Q. And the price you indicated was \$925 and you
12 asked him -- did you ask him if that was the price?

13 A. Yes.

14 Q. And what did he indicate to you?

15 A. Yes.

16 Q. How did he say yes?

17 A. "Yeah, that's the way I can do it, I can do it
18 like that."

19 Q. I'd like you to take a look at the statement, the
20 statement you gave to refresh your recollection. Is this
21 the statement that you gave to Officer Ford, that's seated
22 right back here, on April 3, 2008?

23 A. Yes, it is.

24 Q. And when you asked the defendant if it was going
25 to be \$925 an ounce, how did he respond to you?

Roddric Ingram - Direct Examination

1 A. "That's what's up."

2 Q. Thank you.

3 MR. FRETWELL: Your Honor, at this time we'd
4 like to play the recording, State's Exhibit 19.

5 THE COURT: Any objection, Mr. Farnsworth?

6 MR. FARNSWORTH: No objection.

7 (Whereupon, State's Exhibit No. 19 tape
8 recording was played in open court.)

9 BY MR. FRETWELL:

10 Q. Mr. Ingram, on the tape when you told the
11 defendant -- first of all, is that the defendant's voice
12 on the tape?

13 A. Yes, it is.

14 Q. When you told the defendant that you wanted to
15 buy the baby and he couldn't do it, you made reference to
16 some sort of the house. Would you tell the jury what you
17 mean when you said you were trying to establish a house?

18 A. Yeah, I told the defendant that I was working on
19 starting a trap house. It's called a trap house and I
20 needed a good quantity of cocaine to get it going right so
21 I won't keep running house, so that house was like a trap
22 house.

23 Q. Trap house?

24 A. Yes.

25 Q. Tell the jury what a trap house is?

Roddric Ingram - Direct Examination

1 A. A trap house is a house you come to, it's
2 supposed to be like 24/7 and you can come to it and buy
3 drugs from it any time, all the time.

4 Q. The federal conviction we talked about before,
5 that was a conviction that you received in 1997 for
6 possession of cocaine with intent to distribute; is that
7 correct?

8 A. Yes, sir.

9 Q. You also had a conviction at that same time same
10 incidence, for possession of crack cocaine with intent to
11 distribute; is that correct?

12 A. Yes, sir.

13 Q. And did you receive a sentence of nine-and-a-half
14 years or 144 months for that?

15 A. Yes, I received 144 months and I did nine-
16 and-a-half years.

17 Q. You received a 144-month sentence and you did
18 nine-and-a-half years?

19 A. Yes, I did.

20 Q. Were you released by the Bureau of Prisons?

21 A. Yes, I was.

22 Q. And the incident where you were arrested by the
23 Greenville Police Department and talked to Detective Dobbs
24 was after that?

25 A. Yes, it was after.

Roddric Ingram - Cross-Examination

1 Q. What did Detective Dobbs tell you she was going
2 to do for you with respect to your charge?

3 A. She said if I would give her some names and give
4 her a buy, she would dismiss my charge.

5 Q. And you did that, didn't you?

6 A. Yes, I did.

7 Q. And that was for the six grams of cocaine that
8 you had in your vehicle?

9 A. Yes.

10 Q. Let me also show you what's been marked as
11 State's Exhibit 9 and what's been identified as a Green
12 Chevrolet -- actually it's in evidence as State's Exhibit
13 9. Do you recognize that vehicle, sir?

14 A. Yes, I do.

15 Q. And whose vehicle is that?

16 A. AKA "Jay", Jaques Sullivan.

17 Q. Is that the individual sitting right there?

18 A. Yes, it is.

19 Q. Please answer any questions that Mr. Farnsworth
20 has for you.

21 CROSS-EXAMINATION

22 BY MR. FARNSWORTH:

23 Q. Mr. Ingram, how old are you now?

24 A. Thirty-eight.

25 Q. And are you married or single or what?

Roddric Ingram - Cross-Examination

1 A. Single.

2 Q. How many children do you have?

3 A. Four.

4 Q. How many mothers -- one mother of all the
5 children or are there separate mothers?

6 A. Four.

7 Q. Four different mothers?

8 A. Yes.

9 Q. And you pay child support?

10 A. Yes, I do.

11 Q. How much you pay?

12 A. \$160 a week.

13 Q. Total?

14 A. Yes.

15 Q. And tell the jury where all you've worked in like
16 the last 10 years. What kind of work do you do when
17 you're not dealing in drugs?

18 A. I work, at restaurants.

19 Q. What restaurant have you ever worked at?

20 A. Sticky Fingers.

21 Q. How long did you work there?

22 A. A couple of years.

23 Q. A couple of years. What year did you get out of
24 federal prison?

25 A. '04.

Roddric Ingram - Cross-Examination

1 Q. And did you have your supervised furlough revoked
2 -- supervised release? Were you on release after you got
3 out?

4 A. Yes.

5 Q. Did you ever violate that?

6 A. Once.

7 Q. And you went back to prison?

8 A. Nope.

9 Q. Didn't go back?

10 A. Nope.

11 Q. But you violated; is that correct?

12 A. Yes, they brought a charge.

13 Q. Another drug charge?

14 A. No.

15 Q. What kind of charge?

16 A. Resisting arrest.

17 Q. Now, you're 32, how many years would you say
18 you've been dealing in drugs?

19 A. About 18.

20 Q. Let's get to this situation with the Greenville
21 City making the charge on you, that was back on February
22 the 2nd, '08, wasn't it?

23 A. Yes.

24 Q. And you said there was a house being searched for
25 drugs and you pulled up; is that correct?

Roddric Ingram - Cross-Examination

1 A. Yes.

2 Q. And at that time were you going to take those
3 drugs into that house? Is that what you were going to do?

4 A. No, I wasn't.

5 Q. And I believe you were charged with failure to
6 pay child support and there was a warrant and they
7 arrested you on that first, didn't they?

8 A. Yes.

9 Q. Did you give the officers all the correct
10 information about yourself?

11 A. They didn't ask me nothing.

12 Q. They didn't ask you your name or social security
13 and all that, your birth date?

14 A. Oh, yes.

15 Q. And did you give them all the accurate
16 information or did you lie to them?

17 A. I lied.

18 Q. So you didn't want to get arrested on anything
19 else, did you?

20 A. No.

21 Q. But you had that cocaine laying on the seat
22 there, didn't you?

23 A. No.

24 Q. Where was it?

25 A. Hidden in some food.

Roddrick Ingram - Cross-Examination

1 Q. Hidden in some food?

2 A. Yes.

3 Q. And that was the food you were going to go back
4 and give your child who was in the car with you?

5 A. No.

6 Q. It wasn't?

7 A. No.

8 Q. What food was it hid in?

9 A. Some rice.

10 Q. And after they arrested you, they found this
11 cocaine in your car, didn't they?

12 A. Yes.

13 Q. And you said six ounces. It was a little over
14 seven grams, wasn't it?

15 A. No.

16 Q. It wasn't over seven grams?

17 A. No.

18 Q. How many was it?

19 A. Roughly six; five, six.

20 Q. So after this happened you knew you were in some
21 big trouble because you had a history of some drug
22 convictions, didn't you?

23 A. Yes.

24 Q. And you didn't want to go back to prison after
25 you just served nine-and-a-half years, did you?

Roddric Ingram - Cross-Examination

1 A. Right.

2 Q. And you were going to do just about anything to
3 keep from going back to prison, weren't you?

4 A. Yes.

5 Q. And that's why you wanted to go to work as an
6 undercover agent, correct?

7 A. After she told me the deal, yes.

8 Q. Who told you the deal?

9 A. Officer Dobbs.

10 Q. And she's the officer with the City of
11 Greenville?

12 A. She was at the time.

13 Q. And she told -- what did she tell you you had to
14 do to get these cases dismissed?

15 A. Give her some names to come up with a buy.

16 Q. And you did that?

17 A. Yes.

18 Q. Were you paid anything for it, too, extra?

19 A. No.

20 Q. And on the recording I heard you say that you
21 needed some drugs to start a trap house?

22 A. Yes.

23 Q. So you would start you a trap house where you
24 could see or have someone there selling drugs for you 24
25 hours a day?

Roddrick Ingram - Cross-Examination

1 A. I just used that in our conversation.

2 Q. And you're telling us now that that wasn't your
3 plan and you were just saying that?

4 A. I was saying that, yes.

5 Q. Are you still selling drugs?

6 A. No, I'm not.

7 Q. When did you quit?

8 A. '02, the day I was arrested.

9 Q. And were you told or did you know how much time
10 you could have gotten with that six grams that you were
11 caught with by the Greenville City police based on your
12 record of convictions?

13 A. I knew for myself that my next strike, another
14 conviction, could get me life.

15 Q. So you could get life. You would have done
16 anything, wouldn't you, to get out of getting life,
17 wouldn't you?

18 A. True.

19 Q. You'd have lied, wouldn't you?

20 A. I wouldn't lie.

21 Q. Well, you lied. You said you told the officers
22 when they arrested you lied. You told them the incorrect
23 name.

24 A. That wasn't pertaining to no charge though.

25 Q. Did you tell the truth in the information you

Roddric Ingram - Cross-Examination

1 gave them?

2 A. No.

3 Q. And if you're not doing drugs and you're not
4 doing anything, how do you live? How did you buy that
5 shirt you got on?

6 A. I work.

7 Q. And where are you working now?

8 A. At Liberty.

9 Q. Liberty what?

10 A. Tap room.

11 Q. But you're not involved in drugs anymore?

12 A. No, sir.

13 MR. FARNSWORTH: That's all I have.

14 THE COURT: Anything on redirect?

15 MR. FRETWELL: No, Your Honor.

16 THE COURT: Thank you, sir, you can step
17 down.

18 (Witness leaves the witness stand.)

19 All right, madam fore lady, and ladies and
20 gentleman of the jury, we're going to break for lunch.
21 It's a little bit after 1:00. We'll give you all until
22 2:30. We'll ask you to be back in your jury room at 2:30.
23 Please remember not to talk about this case with anybody
24 and don't do any independent research and we'll see you
25 back at 2:30. Enjoy your lunch.

Roddric Ingram - Cross-Examination

1 (Whereupon, there was a jury lunch recess at
2 1:05 p.m.)

3 Anything before we break?

4 MR. FRETWELL: No, sir, I believe the
5 defendant is still in custody.

6 THE COURT: We've gone off his bond, correct.
7 See you all at 2:30.

8 (Whereupon, there was a lunch break at
9 1:06 p.m.)

10 THE COURT: Mr. Fretwell, do you have a
11 witness named Bebe that's going to testify?

12 MR. FRETWELL: No, sir.

13 THE COURT: Bobo?

14 MR. FRETWELL: Ralph Bobo. No, sir. I know
15 who he is but I don't intend on calling him.

16 THE COURT: Okay. Well, we've been informed
17 that one of the jurors is a distant non blood relative of
18 Mr. Bobo who, I guess, is the Police Chief in
19 Simpsonville?

20 MR. FRETWELL: He's the lieutenant.

21 THE COURT: I was informed of that over
22 break. If you'd like me to, I can examine the witness.

23 MR. FARNSWORTH: I would ask the Court if it
24 would because the extent of that relationship could be
25 closer and he did participate in this investigation.

Roddric Ingram - Cross-Examination

1 THE COURT: Right, but he's not a witness.

2 MR. FRETWELL: He's not, Your Honor, but I
3 certainly would like to know if he had any kind of
4 information about the case apart from what's been --

5 THE COURT: Well, he's already said he didn't
6 know about the case.

7 MR. FRETWELL: I don't know if that triggered
8 something in his mind or her mind about --

9 THE COURT: Well, his name is Mark Alexander,
10 Juror No. 4. Let's ask Mr. Alexander to come out.

11 (Whereupon, Juror No. 4 was brought into open
12 court.)

13 Hello, Mr. Alexander. You're fine right
14 there. I understand that you are related to Lieutenant
15 Bobo down at the Simpsonville Police.

16 MR. ALEXANDER: My wife is related to him.

17 THE COURT: And I appreciate you bringing
18 that to our attention, and his name is not listed anywhere
19 and there's no reason for you to have responded
20 beforehand. I just want to make sure of the fact that you
21 are related to an officer who may or your wife is related
22 to an officer who may have been involved in this
23 investigation, would that impair your ability to be fair
24 and impartial in this case to either the State or the
25 defense?

Rodddric Ingram - Cross-Examination

1 MR. ALEXANDER: No, Your Honor. In the last
2 23 years, I've met him maybe five times.

3 THE COURT: You've met him five times?

4 MR. ALEXANDER: Yes.

5 THE COURT: And you could follow the law as I
6 would give it to you?

7 MR. ALEXANDER: Yes, sir.

8 THE COURT: Would you tend to believe one
9 witness over another because of this relationship you had?

10 MR. ALEXANDER: No, sir.

11 THE COURT: Anything else would you all like
12 me to inquire?

13 MR. FRETWELL: None from the State, Your
14 Honor.

15 MR. FARNSWORTH: I just have a motion after
16 you're through.

17 THE COURT: Okay. Mr. Alexander, I thank you
18 very much and appreciate it. I will explain to the jury
19 why we brought you out individually.

20 MR. ALEXANDER: Okay. Thank you.

21 (Juror Alexander leaves the courtroom.)

22 MR. FARNSWORTH: Your Honor, at this time my
23 client asks that I move for a mistrial based on the fact
24 that his wife is related to Officer Bobo who is, to my
25 knowledge, been at that police department for several

Roddrick Ingram - Cross-Examination

1 years. He did participate in this investigation and took
2 an active part in it.

3 THE COURT: I don't think it's arisen to the
4 level of relieving the juror, and therefore, would not
5 have risen to the level of granting a mistrial. He is
6 under oath and he said he had met Officer Bobo five or six
7 times in the last 23 years, I think that's what it was.
8 He said that he can follow his oath and so I will deny
9 that motion.

10 Anything else before we bring in the jury?

11 MR. FRETWELL: Nothing, Your Honor.

12 DEFENDANT MOTHER: As his mother, can I say
13 something?

14 THE COURT: No, ma'am. Mr. Farnsworth, you
15 want to check with her?

16 Just hold them up for a minute.

17 MR. FARNSWORTH: Your Honor, she just wants
18 to know that they were asked if any of them were related
19 to law enforcement and if they had any relationship with
20 law enforcement, and she wants to know why is this just
21 now coming up and he should have told you then.

22 THE COURT: I didn't ask that question. I
23 asked if they were related to any of the witnesses.

24 Let me just ask the lawyers to approach real
25 quickly.

Emily Reinhart - Direct Examination

1 (Whereupon, there was a bench conference
2 outside the presence of the jury.)

3 THE COURT: Okay, bring them in.

4 (Whereupon, the jury returned to the
5 courtroom.)

6 All right. Madam fore lady, ladies and
7 gentleman of the jury, I hope you had a pleasant lunch. I
8 don't want you all to think anything about having your
9 fellow juror step out to the courtroom. He had disclosed
10 a name that came up in the trial was a very distant
11 relative. He just wanted to inform the Court. I've
12 spoken to him about it and appreciate that very much. I
13 don't want y'all to think anything was going on that you
14 shouldn't be aware of. I appreciate the honesty. And
15 we're ready to proceed at this time.

16 Mr. Fretwell.

17 MR. FRETWELL: If it please the Court. Your
18 Honor, at this time, I had intended on calling Lieutenant
19 Emily Reinhart later in the process and Lieutenant
20 Reinhart has informed me that she has an obligation back
21 in Columbia for later on this afternoon.

22 THE COURT: Just call your witness.

23 MR. FRETWELL: I just wanted to explain to
24 the Court ---

25 THE COURT: Sir, we're not going to have

Emily Reinhart - Direct Examination

1 speaking -- you're not here to testify.

2 MR. FRETWELL: The State would call
3 Lieutenant Emily Reinhart.

4 THE COURT: Okay.

5 THE CLERK: Ms. Reinhart, if you would place
6 your left hand on the bible and raise your right to be
7 sworn in.

8 EMILY REINHART, having been duly sworn,
9 testified as follows:

10 THE CLERK: Thank you.

11 State your full name for the record.

12 THE WITNESS: Emily B. Reinhart.

13 DIRECT EXAMINATION

14 BY MR. FRETWELL:

15 Q. Good afternoon, Lieutenant.

16 A. Good afternoon.

17 Q. Could you tell the jury what your position is
18 with SLED and what your responsibilities are?

19 A. I'm employed by the South Carolina Law
20 Enforcement Division in the Forensic Services Laboratory,
21 and I am currently the Lieutenant over the Evidence
22 Control Department.

23 Q. And as the supervisor of Evidence Control, what
24 are your responsibilities with respect to evidence that
25 comes into the custody of the State Law Enforcement

Emily Reinhart - Direct Examination

1 Division?

2 A. I currently have five forensic technicians that
3 are assigned to me and they're responsibilities those
4 responsibilities involve the receipt of all forensic
5 evidence that is coming to the laboratory for analysis
6 from all over the State of South Carolina.

7 My responsibility is to manage and maintain
8 the evidence room and to see that all of their
9 responsibilities are filled. That involves the receipt of
10 the evidence, the input of all the data into our computer
11 system that creates the case coming into SLED.

12 They are also responsible for packaging the
13 evidence and storing it in our main evidence room. And
14 then they will transfer that evidence to technicians that
15 are going to perform certain types of examinations on the
16 evidence.

17 Q. Lieutenant, when an item of evidence comes into
18 the custody of your department at SLED, in what condition
19 do you receive that?

20 A. We receive the evidence pretty much in the
21 condition that the officer presents it. Some of that
22 evidence is in boxes or bags or envelopes, and once the
23 evidence is received, the technicians are responsible for
24 sealing that evidence in the presence of a submitting
25 officer and preparing it for analysis.

Emily Reinhart - Direct Examination

1 Q. What if the item is already been sealed, will
2 your technicians accept that as well?

3 A. That's correct. In some situations, once the
4 evidence is already sealed by the submitting officer, and
5 if that's the situation, then the technician will input
6 the information into the computer system based on what the
7 officer tells the technician what is in the sealed
8 container.

9 Q. Do your technicians check to make sure items are
10 properly sealed when they take full possession and custody
11 of those items?

12 A. They do. That is one of their responsibilities
13 to insure that the integrity of the evidence is
14 maintained.

15 Q. I'm going to show you what I have marked as
16 State's Exhibit 41. I'll ask you to take a look at that
17 set of items and if you can explain to the jury what that
18 set of documents is.

19 A. This document is called a Chain of Custody. For
20 every case that is logged into SLED, we create what is
21 called a Chain of Custody and what that basically does is
22 it creates and maintains the integrity of the evidence for
23 the duration of the time that that evidence is in our
24 custody.

25 Every employee in our laboratory that has the

Emily Reinhart - Direct Examination

1 capability of transferring evidence amongst themselves is
2 assigned a barcode reader. We actually have a barcode
3 that we put on our identification tag and we are
4 responsible each time we take evidence into our custody or
5 we transfer it to somebody else, we have to scan that
6 barcode. It's like a grocery store black barcoded label.

7 Once we scan that barcode, it creates what we
8 call the Chain of Custody in our electronic computer
9 system.

10 When it's time to come to trial, we can print
11 out the Chain of Custody and this gives a detailed
12 description of where every piece of evidence has been the
13 entire time it's been at SLED.

14 Q. And when one of your technicians scans a piece of
15 evidence with their barcode, is that recorded
16 electronically in some sort of computer system?

17 A. That's correct. Each container that is created
18 in the laboratory, we also place a barcode label on that
19 container. When we are making an electronic transfer, we
20 will first scan our personal bar codes to show that that
21 evidence has gone into our personal custody, and then we
22 also scan the barcode on the physical piece of evidence.
23 That identifies the actual item that we are transferring
24 in the lab. All of that information is saved in the
25 computer and it is printed out in this document.

Emily Reinhart - Direct Examination

1 Q. I'm going to show you a couple of other items
2 that have been marked for identification. I'm going to
3 show you what's been marked as State's 10, 11 and 18 and
4 I'll ask you if you can associate those items with that
5 Chain of Custody, and if so, how?

6 A. One of the first things that I look for to be
7 able to identify this evidence is a lab number. When the
8 technicians are logging in the evidence and they get all
9 of the information put into the computer system, the
10 computer assigns a lab number to this case.

11 Every piece of evidence that comes in for
12 this particular case can be identified by this particular
13 lab number being affixed with a label onto the container.
14 So first of all, I can, in fact, identify each one of
15 these items based on the lab number that is on the yellow
16 label.

17 In addition to that, there will also be an
18 item number or a container letter that is on that barcoded
19 label that will allow me to associate this item with
20 something that's printed in this document. So I can make
21 a direct association between this physical piece of
22 evidence and all of the Chain of Custody information that
23 goes along with that piece of evidence.

24 Q. Let's take, for example, Item Exhibit 10 for
25 identification. Are you able to look at that packaging

Emily Reinhart - Direct Examination

1 and determine which item number State's Exhibit 10 refers
2 to?

3 A. Yes, sir, I am.

4 Q. And what item number is it?

5 A. This item is Item No. 1.

6 Q. Do you have that item listed on your Chain of
7 Custody?

8 A. Yes.

9 Q. Can you tell the Court with respect to Item 1
10 just give us, for example, how did this item come into the
11 custody of SLED and your particular department of Property
12 and Evidence, and what happened with it while it was
13 there.

14 A. Based on the electronic document that I'm
15 provided with, Special Agent Shannon Branham of the South
16 Carolina Law Enforcement Division logged this evidence
17 into SLED on April 4, 2008.

18 Amy Stevens, who is a forensic technician who
19 works for me in the Evidence Control Department was the
20 technician that assisted Agent Branham at the time. The
21 evidence goes into Amy Stevens' custody. At that time,
22 Amy places it on a secured shelf in our evidence room
23 called the Drug Evidence Intake Storage Area. That's
24 where the sealed evidence is placed until someone else
25 needs to move that evidence.

Emily Reinhart - Direct Examination

1 On April 20, 2008, another technician in my
2 department, Selena Kinard, had to retrieve that piece of
3 evidence off of the shelf to give it to someone that had
4 requested that evidence. In this case, forensic scientist
5 Angil Landrum had requested that evidence. So there is an
6 electronic transfer from Selena to Angil Landrum.

7 After Angil is finished with her analysis,
8 she will then bring her evidence back down to our evidence
9 room for storage.

10 On July 8, 2008, Selena Kinard accepted that
11 evidence from Angil and Selena stored it back in the
12 evidence room. On June 10, 2009, Selena Kinard once again
13 retrieved that evidence and returned it to Special Agent
14 Shannon Branham.

15 Shannon then brought the evidence back to our
16 evidence room on June 23, 2009. Amy Stevens, again, was
17 the technician who received that evidence from Agent
18 Branham. Amy placed that evidence back in the evidence
19 room on the same day, June 23 of 2009. And then on July
20 13 of 2009, Selena Kinard returned that sealed container
21 of evidence to Special Agent Ashley Asbill who was also
22 employed by SLED.

23 Q. Thank you. During the time in which that item,
24 State's Exhibit 10, was in the custody of your department,
25 does anyone have access to that item without it being

Emily Reinhart - Direct Examination

1 recorded on this sheet?

2 A. No, sir.

3 Q. At the time it is within your custody and
4 control, is the seal broken or the bag opened to check for
5 contents or anything like that when it's within your
6 custody and control?

7 A. No, sir, our facility is simply a storage
8 facility.

9 Q. And that simple description of what you've told
10 us about State's Exhibit 10 or SLED Item No. 1, do you
11 also have information relating to State's Exhibit 11 and
12 State's Exhibit 18.

13 A. Yes, sir. This document would contain the same
14 type of chain of custody information for every item that
15 was submitted for this particular case.

16 Q. Just to be sure, let's also have you check what's
17 been marked for identification as State's 42 and 43.

18 A. Yes, sir. Again, I can identify both of these
19 containers first of all because of the lab number that is
20 associated and also there is additional information on
21 that label; Container C and Container D. That information
22 can again be associated back to this official document and
23 I can locate these items within the document and provide
24 the chain of custody?

25 Q. This document that's generated by the computer,

Benjamin Lee Ford - Direct Examination

1 are any steps taken with the individuals involved in the
2 process such as Angil Landrum and other individuals to
3 verify the accuracy of this document?

4 A. Yes, sir. Before one of these documents is
5 released for the purpose of court, each person that has
6 been involved in the chain of custody on this case is
7 asked to verify this chain of custody. Essentially what
8 that means is that we pull this information up in the
9 computer and we go through it. We read it, we review it
10 just to make sure that all of the information is accurate.
11 That then becomes a verified chain of custody and we can
12 release this document to the courts.

13 Q. Thank you. The document that you're referring
14 to, State's Exhibit 41, to the best of your knowledge and
15 belief is it an accurate representation of the transport
16 of these items through the custody of the State Law
17 Enforcement Division?

18 A. Yes, sir, it is.

19 Q. Please answer any questions Mr. Farnsworth may
20 have.

21 MR. FARNSWORTH: No questions, Your Honor.

22 THE COURT: Thank you, ma'am, you may step
23 down.

24 (Witness leaves the stand.)

25 MR. FRETWELL: Your Honor, may the Lieutenant

Benjamin Lee Ford - Direct Examination

1 be released from her subpoena?

2 THE COURT: Any objection to that?

3 MR. FARNSWORTH: No objection.

4 THE COURT: All right. Thank you.

5 MR. FRETWELL: Your Honor, at this time, I
6 would move State's Exhibit 41 into evidence.

7 MR. FARNSWORTH: Without objection.

8 THE COURT: Without objection.

9 (SLED Chain of Custody pages previously
10 marked as State's Exhibit 41 for identification was
11 admitted into evidence.)

12 MR. FRETWELL: At this time, the State would
13 call Officer Ben Ford.

14 THE CLERK: Place your left hand on the bible
15 and raise your right to be sworn in.

16 BENJAMIN LEE FORD, having been duly sworn,
17 testified as follows:

18 THE CLERK: State your full name for the
19 record.

20 THE WITNESS: Benjamin Lee Ford.

21 THE CLERK: Thank you.

22 DIRECT EXAMINATION

23 BY MR. FRETWELL:

24 Q. Officer Ford, where are you currently employed?

25 A. The Mauldin Police Department.

Benjamin Lee Ford - Direct Examination

1 Q. And how long have you been employed at the
2 Mauldin Police Department?

3 A. I've been back at Mauldin since December of 2008.

4 Q. And prior to December of 2008 where were you
5 employed?

6 A. I was employed with the South Carolina Law
7 Enforcement Division.

8 Q. Did you work with Agent Branham and Agent Asbill
9 and these other individuals?

10 A. I did.

11 Q. And how long did you work for SLED?

12 A. I worked for SLED for one year.

13 Q. Were you working with SLED in April of 2008?

14 A. I was.

15 Q. And did you come in contact with the defendant at
16 that time?

17 A. I did.

18 Q. Would you please tell the jury the nature of your
19 contact and your involvement in the operation of April 2,
20 2008?

21 A. Yes, I will. April 3, 2008, I was apart of a
22 narcotics investigation that we as SLED agents were
23 conducting in Simpsonville, South Carolina. I came to
24 know the defendant through arresting him that day and
25 getting a search warrant at his residence and executing

Benjamin Lee Ford - Direct Examination

1 that search warrant that day.

2 Q. I'm going to direct you to State's Exhibit 20.

3 I'll ask you if you recognize this map.

4 A. I do recognize the map?

5 Q. What does it depict?

6 A. That is a picture of Mr. Sullivan's residence at
7 208 North Pliney Circle in Simpsonville.

8 Q. Does that accurately reflect the area as you
9 recall?

10 A. Yes, it does.

11 MR. FRETWELL: I move State's 20 into
12 evidence at this time.

13 MR. FARNSWORTH: No objection.

14 THE COURT: Without objection.

15 (Map of N. Pliney Circle previously marked as
16 State's Exhibit 20 for identification was admitted in
17 evidence.)

18 BY MR. FRETWELL:

19 Q. Can you step down.

20 (Witness steps down from witness stand.)

21 You said you were involved with some
22 surveillance at the defendant's residence; is that
23 correct?

24 A. I was.

25 Q. If you could tell the jury, using this map, tell

Benjamin Lee Ford - Direct Examination

1 the jury where the defendant's residence is and where you
2 were in relation to the residence?

3 A. This is marked the defendant's residence at 208
4 North Pliney Circle in Simpsonville. You can see North
5 Pliney Circle is here and South Pliney Circle is here.
6 Through the surveillance on that day, myself and Agent
7 Asbill were positioned approximately here. (indicating)
8 Here we could see a clear path to the garage, here, of the
9 residence at 208 North Pliney Circle. This is where the
10 back door comes out. This is a breezeway. This is the
11 main part of the residence here. Also the driveway comes
12 out around back of the garage.

13 Q. With respect to the timing of how these events
14 occurred, when did you respond to 208 North Pliney Circle
15 in relation to when these phone calls were made by the
16 confidential informant in this case?

17 A. The phones calls were made -- approximately two
18 minutes after the phone calls were made, myself and Agent
19 Asbill left the Simpsonville Police Department, traveled
20 to this location here on South Pliney to observe this
21 residence. The Police Department is less than a mile
22 away, two streets over, approximately two to three minutes
23 to get there. So in a matter of five minutes from after
24 the calls were made we were stationed here.

25 Q. And during this time period, are you in

Benjamin Lee Ford - Direct Examination

1 communication with other officers that are with the
2 confidential informant.

3 A. Yes, we stayed in communication or I did with
4 Agent Shannon Branham who was still at the Simpsonville
5 Police Department and the informant was also with Agent
6 Chester Bragg.

7 Q. Chester Bragg?

8 A. The uniformed police officer.

9 Q. Based on the last phone call that the informant
10 testified about where they actually set up the time to go
11 and meet, what were you doing at that time?

12 A. During the last phone call?

13 Q. Yes.

14 A. I was at the Simpsonville Police Department
15 awaiting instruction on what to do once we made contact
16 with the defendant. Once that contact was made and the
17 location was set, we wanted to get to this residence as
18 soon as possible to see if the defendant was there. Since
19 we had previously seen this defendant there, we knew this
20 was the address.

21 Q. So you go over there to your location on South
22 Pliney Drive and what did you observe when you were there?

23 A. Agent Asbill and I, when we arrived here
24 (indicating), we positioned ourselves on this roadway so
25 we could get a clear view of the back of the house which

Benjamin Lee Ford - Direct Examination

1 the green Chevy Tahoe was parked outside of the garage.
2 So what our purpose was was to get eyes on that vehicle to
3 see if it moved. And it was a bonus to be able to see the
4 back door here so we could see someone exit the house and
5 head for the vehicle in case that happened.

6 Q. How long after you arrived did you see some
7 movement from the residence?

8 A. Approximately 10 minutes we sat on South Pliney
9 Circle before we saw any action.

10 Q. And what did you see?

11 A. We saw a black male fitting the defendant's
12 description exit the house, walk clearly into the
13 driveway. We could clearly see the individual from the
14 street walk into the driveway and into the green Chevy
15 Tahoe. We did not see any other vehicles exit the house
16 or enter.

17 Q. And did the vehicle then leave the residence?

18 A. It did leave.

19 Q. What was your understanding at that point based
20 on your communications with the other officers about where
21 that vehicle was heading and, for lack of a better word,
22 the bust was going to occur?

23 A. From my understanding we believed that vehicle
24 was heading to the location at Burger King, which was the
25 pre-arranged meeting location of the deal. So we followed

Benjamin Lee Ford - Direct Examination

1 the vehicle on North Pliney and it never lost our sight
2 all the way to Burger King.

3 Q. Let me show you what's already been in evidence
4 as State's 1. Just show the jury kind of the general route
5 that you took to get from 208 North Pliney to the Burger
6 King?

7 A. Basically here is 208 North Pliney, out Pliney to
8 Fairview, all the way down to here, turn to the right, go
9 over 385, down Fairview and go into the Burger King.

10 Q. And did you go into the Burger King parking lot
11 as well?

12 A. I was a passenger with Agent Asbill when we did.

13 Q. Did he make any deviations, turns at all from
14 Fairview Road once he got on Fairview Road?

15 A. He did not.

16 Q. And the time that elapsed from the time you
17 initially left the Police Department to go do your
18 surveillance to the time you pulled in behind the
19 defendant at the Burger King parking lot was how many
20 minutes?

21 A. Twenty minutes, twenty-two minutes.

22 Q. You can take a seat back up on the witness stand.

23 What was your responsibility once you and
24 Agent Asbill -- is it Agent Asbill?

25 A. That's correct?

Benjamin Lee Ford - Direct Examination

1 Q. Once you pulled into the Burger King parking lot,
2 what was your responsibility at that point?

3 A. Our responsibility was to block the end of the
4 defendant's vehicle in the parking lot to prevent a
5 possible escape or vehicle chase. We allowed him to park
6 which he backed into the parking space. We pulled in
7 front of him to block his vehicle in the parking space
8 leaving about six feet from my passenger door to the front
9 of his vehicle, and the our responsibility was to execute
10 an arrest of the defendant.

11 Q. Did you encounter the defendant during that
12 process?

13 A. I did.

14 Q. And you identified this defendant as being the
15 individual you assisted in arresting on April 3, 2008 at
16 the Burger King parking lot?

17 A. Yes, sir, that is him.

18 Q. Do you recognize State's Exhibit 9 as being the
19 vehicle he was driving that you followed and observed at
20 208 North Pliney Circle?

21 A. Yes, it is.

22 Q. Did you participate in the execution of the
23 search warrant?

24 A. I did.

25 Q. Tell me what your responsibility was with respect

Benjamin Lee Ford - Direct Examination

1 to the search warrant?

2 A. My responsibility was to photograph any and all
3 evidence that was found at the defendant's residence.

4 Q. And you went actually to secure the search
5 warrant?

6 A. Absolutely, I did go and meet with the judge to
7 obtain the search warrant.

8 Q. The judge issued the search warrant?

9 A. That's correct.

10 Q. And tell us about what happened when you executed
11 the search warrant at 208 North Pliney Circle?

12 A. We executed the search warrant with the
13 defendant's common law spouse/girlfriend. There she
14 actually, I believe, allowed us into the -- or gave us
15 access to the house so we wouldn't have to break a door or
16 window or anything of that nature. We did go into that
17 residence. We made sure there were no other individuals
18 in the residence, which there were not, so we could be
19 safe in our search. The other agents began the search and
20 I began the photograph and documentation of what was
21 found?

22 Q. Just to be clear, when you said that there were
23 no other individuals in the residence, Ms. Stewart wasn't
24 in the residence either was she?

25 A. No, she was not in the residence. The residence

Benjamin Lee Ford - Direct Examination

1 was locked and agents were standing by outside until we
2 arrived with the search warrant which gave us legal access
3 or legal reason to go in the residence.

4 Q. And you indicated that your responsibility was to
5 photograph evidence as it was located in the residence?

6 A. That's correct.

7 Q. Let me show you what has been pre-marked as
8 State's 21 through 40. I just want to know if you can
9 identify those pictures as being the pictures that you
10 took that day.

11 (Witness reviewing photographs.)

12 A. Yes, I can identify that those are all the
13 pictures I took that day?

14 Q. And are they true and accurate representations of
15 what you saw that day?

16 A. They are.

17 Q. And have they been materially altered in any way?

18 A. No, sir.

19 MR. FRETWELL: Your Honor, at this time the
20 State would seek to admit State's Exhibit 21 through 40
21 into evidence.

22 MR. FARNSWORTH: Your Honor, I haven't seen
23 them.

24 THE COURT: We don't know which ones they
25 are. Let's see them.

Benjamin Lee Ford - Direct Examination

1 MR. FRETWELL: Yes, sir.

2 MR. FARNSWORTH: Your Honor, if you would
3 note our objection.

4 THE COURT: The same objection.

5 MR. FARNSWORTH: Same objection?

6 No objection to these.

7 THE COURT: Identify the number of the ones
8 you have the previous objection to.

9 MR. FARNSWORTH: That would be State's
10 Exhibit 24, 25, 26, 27, 28, 29, 30, 21, 32, 33, 34, 35 and
11 40.

12 THE COURT: All right, same ruling.
13 Objection noted for the record. Thank you.

14 (Photographs previously marked as 21 through
15 40 for identification was admitted into evidence.)

16 MR. FRETWELL: Your Honor, at this time I
17 would like to publish these to the jury.

18 THE COURT: All right.

19 BY MR. FRETWELL:

20 Q. Let me give you this little Stylus so you can
21 point to the picture from where you are seated or you can
22 get up if that's more comfortable for you.

23 Let me show you the first, State's Exhibit
24 21. Can you just explain the pictures and why you took
25 them for the jury, please.

Benjamin Lee Ford - Direct Examination

1 A. This is the front door of residence at 208 North
2 Pliney Circle. The reason, obviously, I took this picture
3 is to show the numbers on the residence that we do have
4 the right residence.

5 Q. And State's 22.

6 A. This here, if you can see this bag here, what
7 this is is a trash bag that contained money, a large
8 amount of money. This was discovered in the bathroom in
9 the garage area by Agent Casey. I did take that picture.

10 Q. And State's 23.

11 A. This is the same bag here just from a different
12 point of view of the previous picture, the same location,
13 in the bathroom in the garage had money in it.

14 Q. And State's 24.

15 A. This is the money that, in fact, came out of that
16 trash bag.

17 Q. Do you recall what kind of quantity in these
18 bands?

19 A. I do not recall how much that was.

20 Q. And State's 25?

21 A. This is a picture of the digital scales that are
22 commonly used to weigh narcotics.

23 Q. And just to clarify, does that depict what has
24 been marked as State's Exhibit 14?

25 A. That is.

Benjamin Lee Ford - Direct Examination

1 Q. And State's 26.

2 A. This is the shoe box containing money found in
3 the residence. This is the same shoe box that is here.

4 Q. Just for the record that would be State's 13?

5 A. That's correct.

6 Q. And State's 27.

7 A. This is the canister that is also here,
8 Transformer canister. I actually discovered this in the
9 bedroom of the defendant on the floor by the window. It
10 was covered with the lid on and actually that's a picture
11 of the money inside.

12 Q. And is that State's 12 that's right there on the
13 table?

14 A. It is.

15 Q. And State's 28.

16 A. This is a picture of one of the agents finding
17 money hidden in some clothing in the closet. This red
18 garment here was found in the defendant's closet in his
19 bedroom. We took a picture of that just to show the money
20 as it was discovered by the agents.

21 Q. And in conjunction with State's 28, let me show
22 you 29.

23 A. Yes, that's another view point of the money when
24 the agent pulled the money out of the coat.

25 Q. And then State's 30.

Benjamin Lee Ford - Direct Examination

1 A. This here, I believe that's right there you can
2 see money sticking out of that shirt pocket there. That's
3 another garment that was found in the defendant's closet
4 in his bedroom.

5 Q. And in conjunction with that, 31.

6 A. Absolutely, that's another picture of the same
7 garment, money in both pockets there.

8 Q. And State's 32.

9 A. This would be a pair of pants that we found a
10 quantity of money in same closet in the bedroom of the
11 defendant.

12 Q. State's 33.

13 A. This is Crown Royal bag also discovered with a
14 large amount of money in there, right there. I can
15 identify that as money. It was money that we retrieved
16 out of that bag.

17 Q. And 34 in conjunction with that.

18 A. This is a different point of view of that same
19 bag that the money was in.

20 Q. And 35.

21 A. This is a picture of just multiple Crown Royal
22 bags that we found in the defendant's bedroom. The
23 purpose of me taking this picture would have been the fact
24 that we found narcotics, illegal drugs, in a Crown Royal
25 bag on his person and at the residence along with the

Benjamin Lee Ford - Cross-Examination

1 money at the residence in Crown Royal bags.

2 Q. No Crown Royal bottles, just these bags?

3 A. There were no bottles found.

4 Q. And then 36.

5 A. This is a picture of the handle of the gun that
6 was found. This is the top of the closet of the
7 defendant's bedroom, top of his closet, that's where we
8 located that?

9 Q. Let me show you 37.

10 A. Yes, this is the agent that pulled it down and
11 made sure the weapon was safe. It was loaded at the
12 time.

13 Q. If you could look at State's 18, right there, and
14 tell me if you recognize State's 18 based on this
15 photograph?

16 A. Yes, that's the gun.

17 Q. Let me show you State's 38.

18 A. This is a picture that I took when I was in the
19 office/computer room of the residence of a Crown Royal bag
20 that was found in a bottom desk drawer of a little
21 computer desk in there, and that's what I saw right there.

22 Q. And State's 39.

23 A. This is a quantity of illegal drugs -- what we
24 believed to be illegal drugs found in that bag.

25 Q. And if I can direct you to State's Exhibit 11

Benjamin Lee Ford - Cross-Examination

1 that's before you, what association does 11 have to these
2 photographs?

3 A. This was the narcotics that were found in that
4 bag.

5 Q. Is that what's shown in that picture?

6 A. It is.

7 Q. And finally State's 40.

8 A. This was a picture that was taken also in the
9 office of this defendant's residence. You can see just
10 plastic baggies similar to what was used to package
11 narcotics. That's why I took that picture.

12 Q. Okay. Please answer any question that
13 Mr. Farnsworth may have.

14 CROSS-EXAMINATION

15 BY MR. FARNSWORTH:

16 Q. Officer Ford, you said that you did surveillance
17 on the car being driven by Mr. Sullivan, is that correct,
18 from his house to the Burger King?

19 A. Yes, sir.

20 Q. And you also said that your responsibility was to
21 block his car once it got in the parking area; is that
22 correct?

23 A. Yes, that a tactile move.

24 Q. So I would assume that he pulled in first or you
25 pulled in first?

Brunson Ashley Asbill - Direct Examination

1 A. He pulled in first. We were following.

2 Q. So you came in the same entrance as he did to the
3 parking lot?

4 A. That's correct.

5 Q. And had he already backed his car in when you
6 tried to block him?

7 A. Yes, he did.

8 Q. And then you made an attempt to block him?

9 A. That's correct.

10 Q. And he did not flea; is that correct?

11 A. No, he did not flea.

12 MR. FARNSWORTH: That's all the questions I
13 have.

14 MR. FRETWELL: I have nothing further.

15 THE COURT: Thank you sir, you can step down.

16 (Witness leaves the witness stand.)

17 MR. FRETWELL: Your Honor, at this time I
18 would call Senior Agent Ashley Asbill.

19 THE CLERK: Place your left hand on the bible
20 and raise your right to be sworn in.

21 BRUNSON ASHLEY ASBILL, having been duly
22 sworn, testified as follows:

23 THE CLERK: Would you state your full name
24 for the record.

25 THE WITNESS: Brunson, B-R-U-N-S-O-N, Ashley,

Brunson Ashley Asbill - Direct Examination

1 A-S-H-L-E-Y, Asbill, A-S-B-I-L-L.

2 THE CLERK: Thank you.

3 DIRECT EXAMINATION

4 BY MR. FRETWELL:

5 Q. Senior Agent Asbill, were you also involved in
6 the narcotics operation on April 3, 2008?

7 A. Yes, I was.

8 Q. Involving this defendant?

9 A. Yes, I was.

10 Q. What was your responsibility during that
11 operation?

12 A. My responsibility was when the phone call was
13 made from the informant to Mr. Sullivan was to go with
14 Officer Ford to the address at Pliney and set up
15 surveillance there and watch.

16 Q. And did you also follow the defendant to the
17 Burger King?

18 A. I did.

19 Q. Once you arrived at the Burger King, what
20 responsibility did you have with respect to the arrest of
21 this defendant?

22 A. When we pulled in, he pulled in ahead of us and
23 we pulled in behind him. He wheeled around to back into
24 the parking space so we had to wait until he backed in.

25 Once he backed in and situated his vehicle, we pulled in

Brunson Ashley Asbill - Cross-Examination

1 front of him.

2 Q. Were you driving?

3 A. I was.

4 Q. Did you get out of the vehicle?

5 A. I did.

6 Q. And what did you do with the defendant at that
7 point?

8 A. I identified myself to the defendant and told him
9 to put his hands where I can see him.

10 Q. And what, if anything, did you recover from the
11 defendant's person or vehicle?

12 A. The defendant had on him a Crown Royal bag that I
13 recovered that contained cocaine and some marijuana in it.

14 Q. Any other items?

15 A. On his person?

16 Q. Yes, sir.

17 A. There was some money, \$685, I believe it was.

18 Q. Let me refer you to State's 10, are those the
19 items that you just described?

20 A. Yes, it is.

21 Q. And then also State's 3 through 9, same pictures
22 I showed Agent Branham earlier. Are those the pictures of
23 the items that you recovered, except for the last two,
24 items that you recovered from the person of the defendant?

25 A. Yes, sir, it is.

Brunson Ashley Asbill - Cross-Examination

1 Q. Now, were the drugs actually located inside that
2 Crown Royal bag? Is that correct?

3 A. Yes, sir, all of it was inside that Crown Royal
4 bag.

5 Q. What other responsibilities did you have at that
6 point?

7 A. I transported Mr. Sullivan back to the
8 Simpsonville Police Department.

9 Q. And you recognize the defendant?

10 A. I do.

11 Q. Is this the individual that you participated in
12 the arrest and then transported back to the Police
13 Department?

14 A. Yes, sir.

15 Q. Please answer any questions that Mr. Farnsworth
16 may have for you.

17 CROSS-EXAMINATION

18 BY MR. FARNSWORTH:

19 Q. Okay, Officer, you said some money was found on
20 his person?

21 A. Yes, sir.

22 Q. Where exactly?

23 A. Front pants pocket. I don't know which one but I
24 remember it was his front pants pocket.

25 Q. And you said that what you described as drugs

Kevin Hinson - Direct Examination

1 were found in a Crown Royal bag; is that correct?

2 A. That's correct.

3 Q. And specifically where was that bag found?

4 A. It was found in his front pocket.

5 Q. Same pocket the money was in?

6 A. I believe it was in a different pocket but I'm
7 not sure.

8 MR. FARNSWORTH: That's all I have.

9 MR. FRETWELL: No questions, Your Honor.

10 THE COURT: All right, sir, you can step
11 down.

12 (Witness leaves the witness stand.)

13 MR. FRETWELL: Your Honor, the State would
14 call Kevin Hinson.

15 THE CLERK: Mr. Hinson, please come forward
16 and place your left hand on the bible and raise your right
17 hand to be sworn in.

18 KEVIN PAUL HINSON, after having been duly
19 sworn, testified as follows:

20 THE CLERK: Please state your full name for
21 the record.

22 THE WITNESS: Kevin Paul Hinson.

23 THE CLERK: Thank you.

24 DIRECT EXAMINATION

25 BY MR. FRETWELL:

Kevin Hinson - Direct Examination

1 Q. Mr. Hinson, where are you current employed?

2 A. At the South Carolina Law Enforcement Division.

3 Q. In what capacity are you employed by SLED?

4 A. Agent assigned to latent prints.

5 Q. I might need you a little bit closer to that.

6 You're a little bit soft spoken and we need to hear you.

7 How long have you been employed by SLED as a
8 latent print agent?

9 A. Two-and-a-half years.

10 Q. And it is examiner?

11 A. Yes.

12 Q. Latent print examiner.

13 Tell us a little bit about your educational
14 background and your experience in law enforcement?

15 A. Total in law enforcement is nine-and-a-half
16 years, graduated '95, majored in political science and
17 minored in criminal justice.

18 Q. And what are your duties and responsibilities as
19 a latent print examiner for SLED?

20 A. To analyze and process evidence submitted by
21 various agents for the purpose of developing latent
22 prints.

23 Q. And what kind of training, specifically, have you
24 had to perform these duties?

25 A. Numerous hours of training in concert with senior

Kevin Hinson - Direct Examination

1 agents, testing, observation, review and annual testing
2 for proficiency. It's a national credit laboratory.

3 Q. And in what field has all this training occurred?

4 A. Specifically with latent prints.

5 MR. FRETWELL: At this time the State would
6 move to qualify this witness as an expert in latent print
7 analysis.

8 MR. FARNSWORTH: No challenge.

9 THE COURT: Thank you.

10 BY MR. FRETWELL:

11 Q. Mr. Hinson, let me direct you to reports that you
12 did and items that you analyzed. First of all, I'll point
13 you to State's Exhibit 42 and 43, can you identify on
14 there a lab number?

15 A. Yes, I can.

16 Q. Can you tell the Court whether or not that lab
17 number matches what is listed on the Chain of Custody
18 that's been entered as State's Exhibit 41?

19 A. It does.

20 Q. And what are those two items?

21 A. The actual items in the specific containers?

22 Q. Yes. What does it contain to your knowledge?

23 A. These items I believe to contain small type
24 plastic bags that I processed for latent prints.

25 Q. And you received those bags -- tell the Court how

Kevin Hinson - Direct Examination

1 you received those bags and what you did with them?

2 A. I received them in the Latent Print Department
3 and we did what we call latent incoming storage, which is
4 a sealed area that only we have access to with a key and a
5 barcoding as was explained to your earlier. Once I
6 received those items, I scanned them into my custody as
7 well as the items that I'm receiving, and these items were
8 sealed when I received them.

9 Q. And what did you do with the items once you
10 obtain them?

11 A. I open the sealed envelopes, visually examined
12 the items and matched what they described to be contained,
13 and then I process them accordingly.

14 Q. You've indicated it's a sealed area. In what
15 condition did you receive these bags? Were they in a
16 sealed condition?

17 A. They were sealed.

18 Q. Was there any indication that the items of
19 evidence had been tampered with prior to being removed
20 from the original packaging and sent to you?

21 A. No.

22 Q. Would they have been removed by a SLED person or
23 some other person?

24 A. They would only be removed by internal SLED.

25 Q. Okay. And what procedure did you follow when you

Kevin Hinson - Direct Examination

1 analyzed the items?

2 A. Depending on the items, these in particular,
3 they'll visually examined. I'm looking for latent
4 fingerprints. I place them in what we call a fuming
5 chamber, which is similar to an aquarium and take super
6 glue and place it on a hot plate, as best as I can
7 describe it. It's enclosed and the fumes begin to develop
8 and assemble around the items because they're contained in
9 like an aquarium for further development of any possible
10 latents that may or may not be there.

11 Once that process is finished, I visually
12 look at that item again and see where latents may or may
13 not be and then use a processing developer, a black powder
14 that looks like real fine sand. A black powder type
15 element is brushed on there, much like painting, to
16 further develop latents that may or may not be there.
17 After that, it's visually examined again for any possible
18 latents that may or may not exist.

19 Q. At this time I'm going to ask you to open 42 and
20 43 and just verify the contents inside that you and I have
21 just discussed.

22 A. This is State's Exhibit 42 and this is the
23 package. These are the packages and the items that I
24 processed.

25 Q. And are those items in the same condition when

Kevin Hinson - Direct Examination

1 you examined them and sealed them?

2 A. They appear to be, yes.

3 Q. And if you could do the same for 43 as well.

4 A. These items in State's Exhibit 43 appear to be
5 the same.

6 MR. FRETWELL: Let me, at this time,
7 introduce State's Exhibit 42 and 43 into evidence.

8 MR. FARNSWORTH: No objection.

9 (BEST Evidence pouch previously marked as
10 State's Exhibit 42 for identification was admitted into
11 evidence.)

12 (BEST Evidence pouch previously marked as
13 State's Exhibit 43 for identification was admitted into
14 evidence.)

15 BY MR. FRETWELL:

16 Q. What did you learn from your examination of these
17 two items?

18 A. The end result was based on the development
19 procedures implemented and they were deemed no value for
20 identification.

21 Q. What do you mean, "no value for identification."

22 A. There either was no existence of latent prints or
23 there were insufficient ridges or developments of latents
24 for me to identify or have enough for me to submit for an
25 AFIS machine, Automated Fingerprint Identification System.

Kevin Hinson - Direct Examination

1 Q. What does the AFIS machine do?

2 A. I'll submit it to AFIS which is another person
3 that handles and solely operates that AFIS machine. He or
4 she, for us it's a she, gathers this latent, captures it
5 on an image and runs it through a national data base of
6 fingerprints.

7 Q. And your testimony when you analyzed these items,
8 you either discovered no latent evidence or insufficient
9 evidence that you use to test against other fingerprints;
10 is that correct?

11 A. That's correct.

12 Q. On some of these items, is it true that you did
13 find some existence of latent evidence?

14 A. There were some. They were insufficient.

15 Q. And you've referred to that as insufficient ridge
16 detail?

17 A. Yes.

18 Q. Can you give us a little bit more of an
19 explanation of what that means?

20 A. Insufficient ridge detail means there's not
21 enough ridges much like if you were to visualize corn
22 fields or corn rows, they're actual rows or ridges in your
23 fingers. When moisture or another substance is on the
24 ridges, that will transfer to a surface that I can develop
25 and then process, but there wasn't enough of that

Kevin Hinson - Direct Examination

1 particular ridge or ridges of a finger or a palm for me to
2 actually extract and lift and be able to lift actually to
3 an identifying card or subject and/or submit to AFIS?

4 Q. Is it unusual for you to cast an item and find
5 the existence of some latent evidence or insufficient
6 latent evidence for you to compare?

7 A. No.

8 Q. It's not unusual. How does latent evidence from
9 a person's hand get on another item?

10 A. It's simple transference. If there's enough
11 moisture secreted through the pores to transfer to a
12 surface, say blood transfer to a surface, depending on the
13 surface, that surface would dictate how I would develop
14 it, how I would process it, how I would try to lift it
15 from that surface. In many instances, there could be no
16 ridge detail, there could be very little. It all depends
17 on a person's hands and how it actually would apply to
18 that particular surface.

19 Q. Are there some people that don't leave any kind
20 of latent?

21 A. Some people can, some people can't, it really
22 depends on the person and depends on the surface, and it
23 depends on the secretion from the actual ridges in the
24 fingers and/or any other substance that would transfer to
25 a particular item that I lift.

Kevin Hinson - Direct Examination

1 Q. Are there any other conditions other than the
2 type of surface that's being touched or handled and
3 whether or not that person is a heavy secretor that would
4 account for the absence or insufficient evidence with
5 respect to latents?

6 A. Latents are very fragile. They're mostly made up
7 of moistures. They are very fragile. If the person
8 touching the particular item or surface and their hand
9 slides as they touch it or they're wearing gloves or
10 someone else places something in that area and goes to
11 pick it up such as a cloth or a piece of paper, there are
12 elements that would cause that latent either not to be
13 developed or only be partially developed. That can
14 happen.

15 Q. Let me just show you, for instance, Exhibit 17,
16 that's been described as a Crown Royal bag that's purpose
17 -- what is that? Velvet?

18 A. It appears to be some type of material that
19 appears to be velvet.

20 Q. On a substance such as that, could you recover
21 any kind of latent evidence off of a cloth bag or
22 something like that?

23 A. No, I couldn't.

24 Q. Thank you. Let me refer you now that State's
25 Exhibit 18. Can you identify what item or items are

Kevin Hinson - Direct Examination

1 located in State's 18?

2 A. It's a revolver and five bullets in a sealed
3 package with my initials and date.

4 Q. When those items were left in your care, they
5 were sealed; is that correct?

6 A. They were sealed in this box. The cartridges
7 were sealed in a separate container that has the lab
8 number and item number on it.

9 Q. Does it appear to be any kind of alteration to
10 the weapon since the time that you handled it?

11 A. It doesn't appear to be, no.

12 Q. What about the item that's located inside the
13 weapon? Did you insert that item in the weapon?

14 A. I did not.

15 MR. FRETWELL: Your Honor, at this time, I'd
16 like the Court to instruct the jury on what's happened
17 with this item.

18 THE COURT: Well, is it in evidence, yet?

19 BY MR. FRETWELL:

20 Q. It's not in the same condition when it left your
21 possession, but can you identify the handgun that's in
22 there and the bullets that are contained with it by any
23 kind of means?

24 A. The actual cartridges and the actual weapon, I
25 have written the case number and the item number and

Kevin Hinson - Cross-Examination

1 placed my initials on all of this.

2 Q. How did you do that on the weapon?

3 A. Metal inscriber, it's electrical, and it's
4 actually like scribing a carving into the actual surface
5 of the item.

6 Q. So there's no question in your mind that these
7 are the actual items you handled?

8 A. Yes.

9 MR. FRETWELL: Your Honor, at this time, I
10 would move State's Exhibit 18 into the record.

11 MR. FARNSWORTH: No objection.

12 (Box containing Rossi handgun and rounds
13 previously marked State's 18 was admitted into evidence.)

14 THE COURT: They're in evidence.

15 Ladies and gentleman, what they referring to
16 is we under my supervision, in this courtroom on the
17 record requested, pursuant to a standing order in the
18 courthouse, requested that the security personnel here
19 open the box and secure the weapon so it can not be fired.
20 So the cable is what we put in and that was put in by
21 security personnel.

22 BY MR. FRETWELL:

23 Q. Did you also analyze this weapon and these
24 bullets for the same kind of latent evidence?

25 A. Yes.

Angil Landrum - Direct Examination

1 Q. Did you perform a similar type of examination as
2 you did with the plastic baggies?

3 A. I did.

4 Q. And what results?

5 A. No verifiable identification.

6 Q. Is it true that on some of the bullets or on the
7 weapon that some evidence was found but insufficient for
8 comparison; is that true?

9 A. On some there were ridges there.

10 Q. Similar explanation there for why none was found?

11 A. Yes.

12 Q. Please answer any questions that Mr. Farnsworth
13 may have for you.

14 CROSS-EXAMINATION

15 BY MR. FARNSWORTH:

16 Q. Mr. Hinson, with respect to the latents you
17 lifted off the baggies and the gun, did you also lift some
18 off the amunition?

19 A. I didn't lift any latents. I processed them and
20 visually examined them and deemed them to be insufficient
21 for not enough ridge detail on all of them.

22 Q. So everything you examined for purposes of
23 fingerprint matching and you believed they had no value
24 for identification or did not match the prints of
25 Mr. Sullivan; is that correct?

Angil Landrum - Direct Examination

1 A. That I deemed of no value had either no ridge
2 development or insufficient ridge detail development.

3 MR. FARNSWORTH: Nothing further.

4 MR. FRETWELL: I have no further questions
5 and ask that this witness be released from his subpoena.

6 THE COURT: You can step down. Any objection
7 to releasing him?

8 MR. FARNSWORTH: No.

9 THE COURT: You are released.

10 (Witness leaves witness stand.)

11 MR. FRETWELL: Your Honor, at this time, the
12 State would call Angil Landrum to the stand.

13 THE CLERK: Please place your left hand on
14 the bible and raise your right hand to be sworn in.

15 ANGIL LANDRUM, having been duly sworn,
16 testified as follows:

17 THE CLERK: Thank you, you may be seated.

18 Would you please state your full name for the
19 record.

20 THE WITNESS: Angil Landrum.

21 DIRECT EXAMINATION

22 BY MR. FRETWELL:

23 Q. Ms. Landrum, would you please tell the jury how
24 you are employed by the State Law Enforcement Division?

25 A. I am a forensic chemist.

Angil Landrum - Direct Examination

1 Q. What are your duties and responsibilities as
2 related to being a chemist?

3 A. My duties and responsibilities are to conduct
4 scientific examination of drug related evidence, maintain
5 a chain of custody and to provide expert testimony in a
6 court of law.

7 Q. And how long have you been employed in this
8 capacity in performing those duties?

9 A. Six-and-a-half years.

10 Q. Can you tell us a little bit about your
11 educational background?

12 A. I have my Bachelor's Degree in Chemistry, as well
13 as my Master's Degree in Chemistry.

14 Q. With respect to your responsibilities as a
15 chemical analysis, what kind of training have you
16 received?

17 A. I am a graduate of the Drug Chemistry Academy at
18 the National Forensic Science Technology Center. I've
19 also received on-the-job training as well where you're
20 required to take a competency test as well as a
21 proficiency test each year.

22 Q. And have you previously testified as an expert in
23 the State?

24 A. Yes, sir, I have.

25 Q. And what field have you been qualified?

Angil Landrum - Direct Examination

1 A. Drug analysis.

2 MR. FRETWELL: At this time, the State would
3 offer Angil Landrum in the field of drug analysis.

4 MR. FARNSWORTH: No objection.

5 THE COURT: So qualified.

6 BY MR. FRETWELL:

7 Q. Ms. Landrum, I would point you to the exhibits
8 that I have before you, State's Exhibit 10 and 11 for
9 identification and ask you if you recognize these exhibits
10 and what, if anything, you've done with respect to these
11 exhibits?

12 A. Yes, sir, I do recognize them. These are the
13 items and evidence that I actually analyzed in this case.

14 Q. And how do you know that specifically?

15 A. It has my initials on it.

16 Q. Could you tell the Court what you did with
17 respect to State's Exhibit 10 and State's Exhibit 11?

18 A. What I did with State's 10 and 11, I performed a
19 preliminary test as well as a confirmatory test on both
20 the exhibits. A preliminary test is a drug screening test
21 used to give me an idea as to what the unknown substance
22 may be, and in this case it was a color test where you
23 observed either the presence or absence of a color change.

24 The confirmatory test identifies the
25 substance to the exclusion of all others. And the

Angil Landrum - Direct Examination

1 confirmatory test was Fourier Transform Infrared
2 Spectroscopy, and what that does is the infrared light
3 measures the absorbance of the light at different wave
4 lengths and a spectrum is generated and that spectrum is
5 compared against a known compound.

6 Another confirmatory test that was used in
7 this case is a Gas Chromatography Mass Spectroscopy. It's
8 a two-part test and the GC part of it, is abbreviated
9 "GSMS", and the GC part of it separates the components of
10 the sample and the mass spect takes the components of that
11 same and breaks it down into fragments, which is a
12 spectrum and each spectrum is unique for every molecule.
13 That also is compared against a known spectrum as well.

14 Q. Were you able to compare these unknown sample at
15 the time, State's Exhibit 10 and 11, to a known sample to
16 determine a specific match?

17 A. Yes, sir.

18 Q. And what was the specific substance these items
19 were composed of?

20 A. I'd have to refer to the report.

21 Q. Do you have a copy of your reports?

22 Let me show you what's been marked State's 44
23 and 45. Are these copies of your reports?

24 A. Yes, sir, it is.

25 Q. And are those reports pertaining to those items,

Angil Landrum - Direct Examination

1 10 and 11, that are in front of you?

2 A. Yes, sir, it was.

3 Q. And are these reports done in reference to an
4 incident occurring on April 2, 2008?

5 A. Yes, sir, it does.

6 Q. And did you sign your report?

7 A. Yes, sir, I did.

8 Q. Are these true and accurate copies of the reports
9 that you generated?

10 A. Yes, sir, it is.

11 Q. Have they been materially altered in any way?

12 A. No, sir.

13 MR. FRETWELL: At this time, the State would
14 move State's Exhibits 44 and 45 into evidence.

15 MR. FARNSWORTH: No objection.

16 (Angil Landrum's reports previously marked as
17 State's Exhibit 44 and 45 for identification was admitted
18 into evidence.)

19 BY MR. FARNSWORTH:

20 Q. Ms. Landrum, based on those reports can you tell
21 us what is located in State's Exhibit 10?

22 A. In State's Exhibit 10, we have Item 1.1 is a
23 Crown Royal bag. Item 1.1.1 -- do you want the results or
24 the description?

25 Q. The results and the description.

Angil Landrum - Direct Examination

1 A. Item 1.1.1, plastic sandwich bag containing
2 compressed powder substance and the results were cocaine
3 found, 28.23 grams, 435.64 grains, C-II.

4 Item 1.1.2, plastic sandwich bag containing
5 compressed powder substance and the results were cocaine
6 found, 15.04 grams, 232.09 grains, C-II

7 Item 1.1.3, plastic sandwich bag containing
8 compressed powder substance. The results were cocaine
9 found, 15.04 grams, 232.09 grains, C-II.

10 Item 1.1.4, plastic sandwich bag containing
11 compressed powder substance and the results were cocaine
12 found, 28.04 grams, 432.71 grains, C-II.

13 Item 1.1.5, plastic sandwich bag containing
14 compressed powder substance. The results were cocaine
15 found, 28.13 grams, 434.10 grains, C-II.

16 Item 1.1.6, plastic sandwich bag containing
17 compressed powder substance. Results were cocaine found,
18 1.56 grams, 24.07 grains, C-II.

19 Item 1.1.7, plastic sandwich bag containing green
20 plant material, marijuana found, 6.85 grams, .024 ounces,
21 C-I.

22 Item 1.1.8, plastic sandwich bag containing green
23 plant material. The results were marijuana found, 1.58
24 grams, 0.05 ounces, C-I.

25 Items 1.1.9, blue lighter containing residue,

Angil Landrum - Direct Examination

1 results, no controlled substance detected.

2 Item 1.1.10, ziplock bag containing glass pipe
3 containing plant material. The results were marijuana
4 found, 0.05 grams, 0.00 ounces, C-I.

5 Q. Ms. Landrum, you've referred to your result
6 section to a measurement in grams.

7 A. That's correct.

8 Q. And first of all I ask you for all of those who
9 can't remember the conversion of grams to ounces, how many
10 grams are in an ounce?

11 A. 28.35 grams equal one ounce.

12 Q. You referred to something about grains. Can you
13 tell the jury what grains are?

14 A. Grains is just a conversion to convert grams to
15 grains and you multiple how many grams you have times
16 15.543.

17 Q. It's a unit of measurement; is that correct.

18 A. That's correct.

19 Q. And then you mentioned with respect to the
20 cocaine that was found as C-II you mentioned in connection
21 with the marijuana, what do those refer to?

22 A. It's the schedule of the drug.

23 Q. And this schedule was set by whom?

24 A. The State.

25 Q. Is that a controlled substance schedule?

Angil Landrum - Direct Examination

1 A. That's correct.

2 Q. Did you compute a total weight for State's
3 Exhibit 10 in your findings?

4 A. Yes, sir.

5 Q. And what was that, and let's start with the
6 cocaine and then move to the marijuana?

7 A. For Exhibit 10 the total weight of cocaine was
8 127.42 grams.

9 Q. And how about the marijuana?

10 A. The total of marijuana was 8.48 grams.

11 Q. When you received State's Exhibit 10, was it in a
12 sealed condition?

13 A. Yes, sir, it was.

14 Q. And when you completed your analysis of State's
15 Exhibit 10, did you reseal it?

16 A. Yes, sir, I did.

17 Q. And is it in substantially the same condition
18 today as it was when it left your hands?

19 A. Yes, sir, with the exception of the State's
20 Exhibit sticker on it.

21 MR. FRETWELL: At this time, Your Honor, the
22 State would move State's Exhibit 10 into evidence.

23 MR. FARNSWORTH: Without objection.

24 THE COURT: All right.

25 (BEST Evidence Pouch previously marked as

Angil Landrum - Direct Examination

1 State's Exhibit 10 for identification was admitted into
2 evidence.)

3 BY MR. FRETWELL:

4 Q. We now move to State's Exhibit 11. Based on your
5 report, can you tell the jury what is located -- what the
6 substance was analyzed to be in State's Exhibit 11?

7 A. Item 2.1, a Crown Royal bag.

8 Item 2.1.1, plastic sandwich bag containing
9 compressed powder substance. The results were cocaine
10 found, 28.06 grams, 433.02 grains, C-II.

11 Item 2.1.2, plastic sandwich bag containing
12 compressed powder substance. The result was cocaine
13 found, 27.96 grams, 432.47 grains, C-II.

14 Item 2.1.3, plastic sandwich bag containing
15 compressed powder substance. The results were cocaine
16 found, 28.09 grams, 433.48 grains, C-II.

17 Q. What was the total weight of the cocaine in
18 State's Exhibit 11?

19 A. The total weight of the cocaine was 211.53 grams?

20 Q. You've combined all of the substances together?

21 A. That's correct. The one for submission 2 was
22 84.11 grams.

23 Q. And the total weight between the two exhibits you
24 say is 211.53 grams.

25 A. That's correct?

Angil Landrum - Direct Examination

1 Q. And the total amount of marijuana that you
2 analyzed in conjunction with these two exhibits, is it
3 8.48 that you've already testified to?

4 A. That's correct.

5 Q. When you received State's Exhibit 11, was it in a
6 sealed condition?

7 A. Yes, sir, it was.

8 Q. And when you were finished analyzing the
9 substance, did you reseal it?

10 A. Yes, sir, I did.

11 Q. Was it in the substantially in the same condition
12 as it was the last time it left your hands?

13 A. Yes, sir, it is, with the exception of the
14 exhibit sticker.

15 Q. Does it appear to be altered in any way?

16 A. No, sir.

17 MR. FRETWELL: At this time, the State would
18 move State's Exhibit 11 into evidence.

19 MR. FARNSWORTH: No objection.

20 (BEST Evidence Pouch previously marked as
21 State's Exhibit 11 for identification was admitted into
22 evidence.)

23 MR. FRETWELL: Thank you, Ms. Landrum. If
24 you will answer any questions that Mr. Farnsworth may have
25 for you.

Angil Landrum - Direct Examination

1 MR. FARNSWORTH: I have no questions of this
2 witness.

3 THE COURT: Is there any reason not to
4 release her from subpoena?

5 MR. FRETWELL: No.

6 MR. FARNSWORTH: No.

7 THE COURT: You're released from your
8 subpoena.

9 (Witness leaves the witness stand.)

10 MR. FRETWELL: At this time, the State rests.

11 THE COURT: Ladies and gentleman of the jury,
12 I have a legal matter I have to take up with the
13 attorneys. It's a good time for a break anyway so if
14 y'all want to retire to the jury room, I'll be back with
15 you shortly. Please don't discuss the case yet. Thank
16 you very much.

17 (Jury exits the courtroom.)

18 MR. FARNSWORTH: Your Honor, for the record,
19 I move for a Directed Verdict for insufficiency.

20 THE COURT: I will find that there is
21 sufficient evidence. It's a jury question and I will deny
22 that motion.

23 Mr. Farnsworth, do you know what your client
24 intends to do.

25 MR. FARNSWORTH: I'll need a few minutes to

Angil Landrum - Direct Examination

1 discuss it with him.

2 THE COURT: We'll take a 10 minute break.

3 (Whereupon, there was a brief recess.)

4 Mr. Sullivan, I want to inform you as I
5 inform every defendant that you have an absolute right to
6 testify in this case. You also have an equal absolute
7 right not to testify, and your failure to testify will not
8 be held against you and I will so instruct the jury.

9 I want to make sure that you understand and
10 have had enough time to speak with your attorney about
11 whether or not you want to testify. There are certain
12 strategic benefits that go along with testifying and
13 strategic benefits that go along with not testifying.

14 Have you discussed all of that with your
15 attorney?

16 MR. SULLIVAN: (Nods head).

17 THE COURT: He nods his head, yes.

18 Do you know whether or not you want to
19 testify?

20 MR. SULLIVAN: As an authorized
21 representative for Jaques Jamar Sullivan I do not want to
22 testify.

23 THE COURT: He does not want to testify.

24 Has anybody forced you in anyway or promised
25 you anything to get you to enter that decision?

Angil Landrum - Direct Examination

1 MR. SULLIVAN: No.

2 THE COURT: And you're doing that freely and
3 voluntarily?

4 MR. SULLIVAN: Yes.

5 THE COURT: Do you understand all your rights
6 with respect to testimony.

7 MR. SULLIVAN: (Nods head).

8 THE COURT: He nods yes.

9 Is there any other question you would like to
10 ask me about whether or not you want to testify about the
11 testimony?

12 MR. SULLIVAN: No, I'm all right.

13 THE COURT: Mr. Farnsworth, do you have any
14 other evidence you want to put up?

15 MR. FARNSWORTH: No, Your Honor.

16 THE COURT: We'll bring the jury back in and
17 we'll discharge them for the night. Before we leave,
18 we'll talk about charges to the jury.

19 (Jury enters courtroom.)

20 All right, madam fore lady, ladies and
21 gentleman of the jury, welcome back. I want to tell you
22 if you remember my little road map about the parts of the
23 trial, I want to tell you that we have completed the first
24 part and now we have completed the second part. So all of
25 the testimony and the evidence that you're going to hear

Angil Landrum - Direct Examination

1 has been presented to you.

2 It's 4:25 and it's a good time to break for
3 the evening. We'd go too late if we wanted to continue at
4 this time, so I ask you to be back in your jury room at
5 9:30 in the morning. Again, I would ask you to please do
6 not discuss this case if anyone. It's tempting, it's
7 human nature and we all know it, especially if you're with
8 people who you know and love or associate with that you
9 want to discuss this. Remember why I've asked you not to
10 discuss it and the importance of not discussing it.

11 Let everything that you need to hear and see
12 with respect to how to resolve this case be heard and seen
13 in this courtroom and in this courtroom only. So don't go
14 on the Internet, don't go visit the scene or anything like
15 that. Y'all have a pleasant evening and we'll see you
16 back at 9:30.

17 (Jury discharged from the courtroom for the
18 evening at 4:27 p.m.)

19 Do you want to talk about the jury charges?
20 We don't have to but I'm here to do it if you like to.

21 MR. FRETWELL: Judge, it's been a while since
22 I've tried a case before you and I can't remember if you
23 included the firmly convinced language ---

24 THE COURT: No.

25 MR. FRETWELL: Not at all?

Angil Landrum - Direct Examination

1 THE COURT: No.

2 MR. FRETWELL: Then I would ask you to
3 include the firmly convinced language ---

4 THE COURT: No. Anything else?

5 Do you want a charge on expert witness?

6 MR. FRETWELL: Just your usual charge.

7 THE COURT: You do want that?

8 MR. FRETWELL: Yes, sir.

9 THE COURT: Is there any identification issue
10 in this case?

11 MR. FRETWELL: Not as far as the State.

12 THE COURT: Mr. Farnsworth, do you want to
13 charge the jury on his failure to testify?

14 MR. FARNSWORTH: Yes, sir.

15 THE COURT: Any circumstantial evidence
16 charge?

17 MR. FARNSWORTH: Yes.

18 THE COURT: Is there any circumstantial
19 evidence?

20 MR. FRETWELL: You could argue that the drugs
21 found in his residence are circumstantial.

22 THE COURT: Okay.

23 Anything else that you can think of?

24 MR. FARNSWORTH: Your Honor, would you
25 consider charging mere presence?

Angil Landrum - Direct Examination

1 MR. FRETWELL: I object to that. I would
2 oppose that charge based on the evidence presented before
3 you.

4 THE COURT: Give me one second. The total
5 weight of the drugs is?

6 MR. FRETWELL: On both locations?

7 THE COURT: It's one indictment, isn't it?

8 MR. FRETWELL: Yes, sir. I believe it's
9 211.53 of cocaine and 8.48 grams for the marijuana.

10 THE COURT: And it's cocaine, not crack
11 cocaine?

12 MR. FRETWELL: That's correct, Your Honor.
13 The indictment says more than 100 grams and the weight was
14 more than 211 grams but we're proceeding on the 100 grams.

15 THE COURT: I'm going to think about the mere
16 presence over night. I don't think I'm going to charge
17 it, but I'll let y'all present an argument on it.

18 Anything else?

19 MR. FRETWELL: No, Your Honor.

20 MR. FARNSWORTH: No, Your Honor.

21 THE COURT: We'll ask you to be back at 9:30
22 in the morning.

23 END OF TRANSCRIPT RECORD FOR JULY 14, 2009. TRIAL TO
24 RESUME 9:30 A.M. ON JULY 15, 2009.)

25 (Day 2 of the trial of Jaques Jamar Sullivan

State versus Jaques Sullivan
Closing Arguments - Mr. Fretwell

1 resumes on this day, July 15, 2009 at 9:30 a.m.)

2 THE BAILIFF: The court will come to order.
3 The Honorable Edward Miller presiding.

4 THE COURT: Thank you. Please be seated.
5 Anything before we bring in the jury?

6 MR. FRETWELL: I'm going to be using a
7 demonstrative in my closing showing the exhibits that's
8 already in evidence.

9 THE COURT: Any objection?

10 MR. FARNSWORTH: No objection.

11 THE COURT: All right. Let's get the jury
12 in.

13 (Whereupon, jury entered the courtroom at)
14 All right. Madam fore lady, ladies and
15 gentleman of the jury, I hope y'all had a pleasant
16 evening. As I told you yesterday, we've completed the
17 first two parts of the trial and that is the opening
18 statements and the presentation of the testimony and
19 evidence. So all that's in and done.

20 We're going to move now to the third part of
21 the trial which are the closing arguments of the attorneys
22 where they advocate their positions.

23 Y'all paid great attention throughout the
24 course of the trial and I asked you to continue playing
25 attention to the arguments of these attorneys.

State versus Jaques Sullivan
Closing Arguments - Mr. Fretwell

1 Thank you very much.

2 CLOSING ARGUMENTS

3 MR. FRETWELL: Good morning. I'm going to
4 get right to it. You've heard a lot of testimony
5 yesterday regarding a drug transactions between Roddric
6 Ingram Roddric, who was a informant in this case, and the
7 defendant. That raises a question as to how the defendant
8 come into the picture. Well, first of all, the informant
9 gives information to the SLED agent that he can make a
10 buy, a large quantity, four ounces, from this defendant.
11 Is the informant motivated to cooperate with SLED?
12 Absolutely. He absolutely has huge incentive to cooperate
13 with SLED. But understand, ladies and gentleman, law
14 enforcement can not use law abiding citizens to infiltrate
15 drug cartels, drug organizations to make purchases.

16 They can't go and get a preacher or a teacher
17 and take that person and just have them go up to somebody
18 they don't know and buy drugs. They have to use the
19 people who these people know and have use people that they
20 trust. And that's what happened in this instance.

21 However, SLED did take precautions so you
22 would not have to rely on this drug dealer to establish
23 the defendant's guilty. They recorded the phone calls
24 that he made. So you have at your disposal an actual
25 recording of the conversation that took place between the

State versus Jaques Sullivan
Closing Arguments - Mr. Fretwell

1 defendant and the informant. You can listen to it and no
2 one can tell you otherwise about what happened. You're
3 not relying merely on the informant's word.

4 They also removed the informant from the
5 picture. Yes, he set up the buy, but he wasn't at the
6 scene. This is not a situation where law enforcement
7 gives money to a CI of questionable character and nature,
8 sends him into a house to make a drug purchase and we have
9 to rely on his word that he exchanged the money for drugs
10 and that's how it happened and it was this defendant. You
11 don't have to rely on that.

12 All the testimony related to this defendant
13 and the drugs on his possession did not come from
14 Mr. Ingram, it came from these law enforcement officers.
15 It's their credibility that you judge, not Mr. Ingram's.

16 The second way that this defendant came into
17 the picture is through the actual process of the informant
18 contacting the defendant. He called him. And, again, as
19 I've said, these phone calls were recorded and if you have
20 any question about what they say, you can always ask the
21 judge to play them again for you during your
22 deliberations.

23 Secondly, how do we know, other than the
24 informant saying and recognizing his voice, that this
25 voice on the other end of the tape is the defendant?

State versus Jaques Sullivan
Closing Arguments - Mr. Fretwell

1 Well, the defendant's own actions proved he was the person
2 on the other side of that recording, that it's his voice.
3 How do we know that? You heard the testimony of Agent
4 Ford -- former Agent Ford. He said moments after the call
5 took place, that he was in constant contact with the other
6 officers, that he drove over to the house, the defendant's
7 house, saw him come outside a few minutes after he
8 arrived, about 10 minutes, get into his green Tahoe and
9 head on over to the Burger King. Coincidence? No.
10 Because he was acting according to the pre-arrangement
11 that you heard on that tape about the drug deal. He got
12 in his car and two agents testified that he went straight
13 to the Burger King and didn't deviate.

14 In fact, if you will recall, Agent Ford said
15 from the time the phone call was made until the time he
16 pulled in behind the defendant at the Burger King, it was
17 about 22 minutes. What did the voice on the other end of
18 that recording say about how long it was going to take him
19 to make it to Burger King? Fifteen or twenty minutes.
20 Twenty minutes, if that, so we have the right time frame.

21 Not only that, how much cocaine was he found
22 with? He was found with four-and-a-half ounces. The deal
23 was for four but do you remember what the informant asked
24 him for originally? He asked him for a "baby." He wanted
25 four-and-a-half ounces. The defendant knew what the

State versus Jaques Sullivan
Closing Arguments - Mr. Fretwell

1 demand was. He knew the demand was four-and-a-half
2 ounces, but he was going to make a little profit on it.
3 He was going to sell it by the oz, by the ounce. So he
4 brought his four and he brought a half ounce.

5 Interestingly enough, he also brought \$685 in
6 case. Why? Well, he's a business man. He sells the
7 other half ounce and if he has to make a negotiation, he
8 might have to make change, \$685 in change.

9 Also, think about the precision here. It is
10 exactly four-and-a-half grams. If you take 127 grams
11 divide that by 28 grams in an ounce, it is exactly 4.5, no
12 more, no less, it's right on the dot. What does that
13 establish? He knew about the pre-arrangement. He's the
14 individual on the other side of that tape.

15 Also, what did he carry the drugs in? He
16 carried them in a Crown Royal bag. That's important, not
17 at the time, but it would be important later when they
18 find all those Crown Royal bags in his house and the drugs
19 that were found in the Crown Royal bags at his house, and
20 the cash that was found in the Crown Royal bags at his
21 house.

22 What is the third way the defendant is
23 brought into this or comes into the picture with respect
24 to his drug transaction? The defendant himself. The
25 defendant, himself, agrees to the drug sale, gets into the

State versus Jaques Sullivan
Closing Arguments - Mr. Fretwell

1 vehicle and drives over there. Nobody forced him to enter
2 into this drug transaction. He did that. Remember the
3 words on the tape, "I would if I could, but I can't sell
4 it to you at that price." But he does make an agreement
5 to sell it by the oz. Nobody forces him to go outside and
6 get into this Tahoe. Nobody forces him to drive to the
7 Burger King, and nobody forces him to bring four-
8 and-a-half ounces of cocaine. He does that. At the
9 conclusion of the closing, we'll show a little bit more
10 about the why.

11 He came alone. He came bringing money,
12 possibly for change. What does all this evidence prove?
13 Possession of marijuana. What is required? The defendant
14 is charged with possession of marijuana. What is required
15 to prove possession of marijuana? That you possess
16 marijuana. You heard testimony from the officers that
17 they retrieved this quantity of plant like substance from
18 the defendant on his person in his pocket.

19 This is not a situation, and you'll later
20 hear a charge from the Judge distinguishing between actual
21 and constructive possession, this is actual physical
22 custody. Now, what is the substance? You heard testimony
23 from the chemist, Angil Landrum, who told you it was 8.48
24 grams of marijuana. Is the defendant guilty of the
25 possession of marijuana? Absolutely. No question.

State versus Jaques Sullivan
Closing Arguments - Mr. Fretwell

1 Let's look at the trafficking in cocaine
2 charge a similar way. In his possession, testified to by
3 Ashley Asbill, the agent who removed it from his pocket,
4 you remember his testimony it was from the front pocket.
5 Hidden inside the same Crown Royal bag, Agent Asbill
6 testified, was 127.53 grams of cocaine on his person. He
7 testified it was cocaine, actual physical custody, the
8 amount more than 100 grams.

9 I told you in the opening that trafficking
10 occurs at more than 10 grams. That's the first category
11 of trafficking. The second category of trafficking is
12 more than 28 grams, which would be more than an ounce.
13 The third category is trafficking in more than 100 grams.
14 And that's what this defendant is charged with,
15 trafficking in more than 100 grams; has that on him and
16 brought it to the transaction site. Is the defendant
17 guilty of trafficking in cocaine? Absolutely.

18 So if that's the case why all this talk about
19 the drugs at the house? What's the point of that? Well,
20 to answer that question we need to look at what was found
21 at the house. First of all, what was found at the house
22 was cocaine. And the amount of that cocaine was what we
23 talked about trafficking in more than 10 grams. In fact,
24 it was more than 28 grams. The testimony of Angil Landrum
25 was more than 84 grams. So trafficking weight at his

State versus Jaques Sullivan
Closing Arguments - Mr. Fretwell

1 house; the question becomes is that two trafficking
2 charges? Does he get one trafficking charge for the
3 amount that is brought to the buy and another trafficking
4 charge for the amount that's at his house? No. Same
5 substances, he's in possession of both. He's in actual
6 possession of the amount that he has on his person, and
7 he's in constructive possession of the amount he has at
8 his house, but it's all together in one charge. It's
9 trafficking in cocaine. That's why we're at the house.

10 Now, also understand that the gun was located
11 in a closet in his house where the cocaine is found and
12 where all of the money, the digital scales and everything
13 else is found. So the question is, is the defendant in
14 constructive possession of the cocaine and the drugs for
15 purposes of possession of a weapon during the commission
16 of a violent crime?

17 The Judge will charge you that trafficking in
18 cocaine is a violent crime in South Carolina. Don't rely
19 on what I've told you. The Judge will tell you that. The
20 Judge will also define constructive possession for you.
21 He will define it by saying that an item that's in your
22 possession is under your dominion or control, such as I
23 might have in my brief case sitting over there and I might
24 have a notebook. That's in my possession, that's my
25 property. He's also going to tell you that if I have the

State versus Jaques Sullivan
Closing Arguments - Mr. Fretwell

1 right and the ability to exercise dominion and control
2 over an item, then that is also within my constructive
3 possession. Think about the things that are in your
4 house; your jewelry box, your shaver, those are all your
5 items. You possess them. Not right now, not right here,
6 but they're yours and you possess them. That is the
7 concept of constructive possession that the Judge will
8 explain to you.

9 What do we have at this house? What's the
10 total picture here, ladies and gentleman? We have a drug
11 operation that is the defendant's business. We have all
12 the elements of a business.

13 Let's look at it. You've got the supply or
14 the inventory, the cocaine in the Crown Royal bag that the
15 officer testified they found in the office. You have the
16 digital scales right here. This is the digital scales by
17 which the defendant can weigh the shipments if you want to
18 look at it that way. You have the packaging material.
19 You have these empty bags that Agent Branham testified
20 were the same type of bag that the drugs were packaged in
21 that she received from him at the time of his arrest and
22 that they were on the bags of cocaine that were located at
23 the house in the Crown Royal bag.

24 You have additional packaging in the form
25 of -- if I can find it -- all of those Crown Royal bags

State versus Jaques Sullivan
Closing Arguments - Mr. Fretwell

1 that were located on the bed, all of those Crown Royal
2 bags. What does he carry his drugs around in? Crown
3 Royal bags. There they all are. No Crown Royal bottles,
4 just the bags.

5 He has proceeds. We're looking at the
6 elements of a operation or a business. He has proceeds.
7 They're all over the house. They're in the Crown Royal
8 bag, they're in his clothing all over the house. They're
9 in items such as the canister that's right here. In fact,
10 you recall the testimony of the officer that there was
11 almost somewhere between \$20,000 and \$30,000 in this
12 canister alone, in the shoe box that's right here as well.
13 All of this cash all over the house are proceeds of the
14 business.

15 And, ladies and gentleman, what do you need
16 to guard your proceeds? Well, a business might put in an
17 alarm systems. They might hire a security guard, but a
18 private person -- private enterprise, what does he go out
19 and do? He gets a gun and he keeps it loaded to protect
20 his proceeds. Ladies and gentleman, that gun is every bit
21 a part of this operation as the baggies and the scales.

22 The defendant treats his operation like a
23 business. When the CI asked: Can I buy this "baby," can
24 I buy it in a four-and-a-half chunk? No, I can't do that,
25 I can sell it to you by the oz, so he's making a little

State versus Jaques Sullivan
Closing Arguments - Mr. Fretwell

1 profit. He's mindful of the profit there. He's treating
2 this like a business. He brings the extra half ounce just
3 in case he needs to make another deal. There's a demand
4 and he's got the supply to fill it. He's thinking like a
5 business man. He brings the \$685 that we talked about in
6 case he needs to make change.

7 Ladies and gentleman, is it reasonable to
8 believe that the defendant has four-and-a-half ounces of
9 cocaine in his pocket to sell at the time that he's
10 arrested but he doesn't know about the three ounces that
11 are back at the house? Is it reasonable? Is it
12 reasonable that he carries his cocaine in a purple Crown
13 Royal bag, velvet material, hard to leave prints, but he
14 didn't put the three ounces of cocaine in the Crown Royal
15 bag at his house.

16 Is it reasonable to believe that he has
17 thousands of dollars squirrelled all over his house, but
18 he has no idea that the money is there?

19 Is it reasonable that there are thousands and
20 thousands and thousands of dollars in his house along with
21 a loaded gun, but he doesn't know the gun is there and he
22 doesn't use it for the purpose of protecting his
23 enterprises?

24 What are the conclusions? The defendant knew
25 about the gun. He uses the gun as security for his

State versus Jaques Sullivan
Closing Arguments - Mr. Fretwell

1 proceeds and for his operation because the drug business
2 is an inherently dangerous business. You put guns with
3 drugs, you get a potentially lethal combination, and
4 that's the reason for the Statute.

5 Is it against the law to have a loaded gun in
6 your house? Absolutely not. But the Legislature says if
7 you take trafficking drugs and you combine that with a
8 gun, that's a separate charge because guns and drugs are
9 dangerous together, and that's the reason for the Statute.
10 We're not talking about use of the gun, that he's got the
11 drugs there and he's also using the gun, no. Most of time
12 he carries it or has it in his possession. We're not
13 talking about ownership of the gun. Who knows how he got
14 this gun. Who knows who it was registered to. It's
15 possession that the law looks at because those two things
16 coming together are a lethal combination and that's the
17 reason for the Statute. Is the defendant guilty of
18 possession of a weapon in the commission of a violent
19 crime? Yes, he is.

20 So what was the whole point about this latent
21 expert who comes up and tells you I checked everything and
22 I didn't get any identifiable prints? First of all I have
23 to tell you that the defense gets the last argument. The
24 reason I'm going on and on is because I don't get a chance
25 to get back up in front of you and refute something or

State versus Jaques Sullivan
Closing Arguments - Mr. Fretwell

1 rebut something that Mr. Farnsworth says, so I have to
2 anticipate arguments like the Judge is going to charge you
3 that you have to prove more than mere presence to prove
4 possession of drugs.

5 What is the context of something like mere
6 presence? If I'm at somebody's house as a visitor, there
7 happens to be drugs on the table when the cops come
8 in. Does that have anything to do with me? No. I'm
9 merely present. I didn't know anything about them. I was
10 merely present. It does not apply when you have drugs on
11 your person or they're in your home where you live and you
12 know about them and you're the person who lives there. So
13 I have to anticipate those type of arguments.

14 I have to anticipate that he might say it was
15 Pam Stewart, my baby's momma, it was all her stuff. As
16 you will recall, she wasn't even there. She came after
17 the officers secured the residence and was there during
18 the inventory of the residence, not even in the residence
19 at the time.

20 Look at the clothing, ladies and gentleman.
21 There's men's clothing all over the house. There's money
22 in canisters and it's bound by all these little rubber
23 bands around them.

24 I have to anticipate an argument that
25 Mr. Farnsworth gets up here and says there's no

State versus Jaques Sullivan
Closing Arguments - Mr. Fretwell

1 fingerprints matching any of this stuff, so it's not my
2 client's or in his possession. It's jut not true, ladies
3 and gentleman. That's the purpose of Mr. Kevin Hinson.
4 Why was he here? Ladies and gentleman, this isn't CSI.
5 This isn't the television show CSI, because it if were,
6 myself, Mr. Farnsworth, Judge Miller, we'd all be a lot
7 better looking, we'd be tan and we'd be spending a lot
8 more time on the beach, and I don't drive a Hummer.

9 So what did Kevin Hinson tell you? He told
10 you that latent evidence, that fingerprint evidence is
11 fragile. It's very fragile. In fact -- I wrote this down
12 -- he said that some people don't even leave fingerprints
13 because they're non secretors. He told you that friction,
14 moisture can destroy a print. Based on the surface being
15 touched, it may not be receptive. Remember the velvet
16 bag? It's impossible to get a print off of a bag like
17 that. He told you weather condition and temperature can
18 have an impact. He told you that with the passage of
19 time, the print may just degrade.

20 Well, he did tell you that there were some
21 latents on there but not anything that he could use for
22 comparison purposes. Now, why is that? Well, before we
23 address that let's remember that he tested all of the bags
24 in this case, all of these bags. These are the bags that
25 came out of his pocket, ladies and gentleman, and there

State versus Jaques Sullivan
Closing Arguments - Mr. Fretwell

1 were no prints on them. Did he touch them? Absolute.
2 There were no prints on these. There were no prints on
3 these. There were no prints on that gun, but it's
4 important that there were no prints on the items in his
5 pocket because he did handle those. He put them in his
6 pocket.

7 And think about this, ladies and gentleman,
8 someone at some point had to have touched these bags, but
9 there are no discernable prints. Does that mean no one
10 has ever possessed them? No. And that's the reason for
11 this testimony because a juror may enjoy CSI, it's a good
12 show, but that's not how it works in real life and that's
13 why Mr. Hinson was here to explain to you that the
14 defendant purposely used these Crown Royal bags because
15 you couldn't leave prints on them.

16 Did he take the bag and once the other bag
17 was inside kind of roll it around and wipe off the prints
18 like you would if you were cleaning up after yourself and
19 didn't want to be detected?

20 Did he use gloves? Remember, ladies and
21 gentleman, this is his business. This is what he does for
22 a living. This is his business. He's going to have to
23 know about fingerprints and other issues that could be
24 dangerous for him.

25 So, the question is why? Why deal drugs if

State versus Jaques Sullivan
Closing Arguments - Mr. Farnsworth

1 it's so dangerous? You got to have a gun so why even do
2 this. Understand in the State of South Carolina, the
3 State is not required to prove motive. I don't have to
4 prove to you why he did this, just that he did. But I
5 think there's an answer in this case. I think there is an
6 answer in this case and I think it has to do with this.

7 I think it has to do with money (pointing to
8 enlarged photo). I think it has to do with the defendant
9 wanting to make money and he wants to make it in a way
10 that is easy and he can make a lot of it. And ladies and
11 gentleman, he was successful.

12 This isn't a person who is out selling drugs
13 to support his own habit. This is a person who's putting
14 large quantities of drugs on the street that destroy the
15 fabric of our society.

16 Ladies and gentleman, I am asking you to find
17 the defendant guilty. Find him guilty of trafficking in
18 cocaine, possession of marijuana and possession of a
19 weapon during the commission of a violent crime.

20 Thank you.

21 MR. FARNSWORTH: If it please the Court, Your
22 Honor.

23 THE COURT: Yes, sir.

24 MR. FARNSWORTH: Ladies and gentleman of the
25 jury, we again appreciate your service on the jury. We

State versus Jaques Sullivan
Closing Arguments - Mr. Farnsworth

1 appreciate y'all listening. You'll hear one more thing
2 after I sit down and that's Judge Miller's charge on the
3 law.

4 I'm going to be rather brief and certainly
5 not as long as Mr. Fretwell has been, but as you remember
6 Roddric Ingram was a chief State witness. He supposedly
7 planned this entire transaction. And if you remember
8 yesterday when he was testifying, he told us he had been
9 dealing in drugs since he was 14 years old and that would
10 have been 18 years because he was 32 years old.

11 He said that he was not married and he had
12 four children by four different women and he paid \$169.00
13 in child support to each one, which would be about \$700
14 per month. He could only name one job when I asked where
15 he had worked in the last 10 years and I think that was a
16 food establishment that he said he worked there.

17 He also told us that he did nine-and-a-half
18 years in a federal penitentiary for two different drug
19 charges. Also, his testimony was that shortly after he
20 had got out of prison, he got in trouble with the
21 Greenville City Police Department and that was the
22 situation where he was in his car and just happened to
23 come up in front of a residence where a search warrant was
24 being executed for drugs. And when the police confronted
25 him, you remember, he gave them false information

State versus Jaques Sullivan
Closing Arguments - Mr. Farnsworth

1 regarding his social security, name and stuff like that.
2 But they got on their computer and found that it was, in
3 fact, Rodddric Ingram and it wasn't the person he said he
4 was.

5 While they were there, they found there was a
6 child support warrant for failure to pay child support and
7 six or seven ounces of drugs was found in his car.

8 Now, at this point, and he testified to this,
9 he knew that he was in big trouble. In fact, his
10 testimony was I was facing a life sentence by getting
11 caught with these drugs that he was caught with.

12 Now, you know after serving nine-and-a-half
13 years, Mr. Ingram learned something being in the
14 penitentiary. He did learn one thing, he learned how to
15 play our system and that's exactly what he learned.

16 He worked himself a deal with law enforcement
17 and you heard his testimony that by providing names and
18 doing buys for law enforcement, his case, for which I just
19 described with the Greenville City Police Department would
20 be dismissed and he would escape a life sentence. That's
21 his own testimony.

22 Mr. Fretwell alluded to and I'm not so naive
23 to know that you can't go down here to First Baptist
24 Church and pick out your informants, but I've got a real
25 problem in the facts of this case that Mr. Ingram can

State versus Jaques Sullivan
Closing Arguments - Mr. Farnsworth

1 escape a life sentence, by his own testimony, by doing
2 what he's been doing all his life; nothing extra, nothing
3 special, just dealing drugs which is actually what he did.

4 He told you, as I said, about the work. He
5 had one place he's worked in the last 10 years. He's been
6 a drug dealer all his adult life. He served nine-and-half
7 years in prison and it apparently didn't do him any good.
8 When he gets out, he's back into it again. He's a career
9 criminal, that's what he is.

10 There's an old adage that says crime doesn't
11 pay, but in Mr. Ingram's case it did pay. It paid big
12 time.

13 There's something wrong with this system when
14 he can get away with what he got away with just by doing
15 criminal activities like he'd been doing all his life;
16 nothing extra, he's just been doing the same thing all his
17 life.

18 My client, if you convict him, is facing a
19 life in prison sentence and Mr. Ingram walks away scott
20 free, and if he -- he says he quit since this last one in
21 February of '08 -- he walks away and who knows. If he
22 wishes, he can continue in dealing in drugs. I just have
23 a real problem with Mr. Ingram in this case.

24 I ask you to do what you believe is the right
25 thing in this case.

State versus Jaques Sullivan
Jury Charge

1 Thank you.

2 JURY CHARGE

3 THE COURT: Okay. Madam fore lady, ladies
4 and gentleman of the jury, during this trial, you and I
5 have certain duties to perform and as the trial judge, it
6 is my responsibility to preside over the trial of this
7 case and to rule upon the admissibility of the evidence
8 offered during the trial.

9 It is also my duty to charge you the law
10 applicable to the case. And it is your duty as jurors to
11 accept and apply the law as I now state it to you.

12 If you think you have any idea as to what the
13 law is or what the law should be and it disagrees with
14 what I tell you the law is now, you must set aside your
15 own idea because you are sworn to accept the law and apply
16 the law precisely as I state it to you.

17 And I would remind you again that in every
18 case tried in this court before a jury, the jury is the
19 sole and exclusive judge of the facts. A trial judge can
20 not comment on or make any statement about the facts in
21 the case. So please don't think anything I may have said
22 or done that I have an opinion about the facts. The law
23 does not allow it and I do not have such an opinion.

24 I would also instruct you that the fact that
25 the defendant was arrested, charged and indicted in this

State versus Jaques Sullivan
Jury Charge

1 case is not evidence of guilt nor does it create any
2 presumption or inference of guilt. These documents are
3 simply the formal written instruments which contain the
4 charge made against a defendant and they serve as the
5 formal documents by which the case is processed and
6 brought into court.

7 Now, the indictments in this case allege
8 three different offenses against the defendant and they
9 are trafficking cocaine, possession of a weapon during the
10 commission of a violent crime, and possession of
11 marijuana. Each count of the indictments charges a
12 separate and distinct offense and you must decide each
13 charge separately on the evidence and the law applicable
14 to it uninfluenced by your decision as to any other charge
15 in the indictments. And the defendant may be convicted or
16 acquitted on any or all of the offenses charged, and you
17 will be asked to write a separate verdict of guilty or not
18 guilty for each charge.

19 Now, necessarily part of your job is to
20 determine the credibility or believability of the
21 witnesses who have testified. It becomes your duty as
22 jurors to evaluate the evidence and determine which
23 evidence convinces you that it is true, and in determining
24 the believability of the witnesses. You may believe one
25 witness over several or several over one. You may believe

State versus Jaques Sullivan
Jury Charge

1 part of the testimony of a witness and reject the
2 remaining part. You may believe the testimony of a
3 witness in its entirety or reject that same testimony in
4 its entirety.

5 You may consider whether the witness has an
6 interest in the result of the trial, whether the witness
7 is prejudiced to either the State or the defense, the
8 opportunity for the witness to have seen the matters and
9 things about which that witness has testified and the way
10 the witness acts on the witness stand or what we call a
11 witness's demeanor.

12 Now, the Rules Of Evidence ordinarily do not
13 permit witnesses to testify to opinions or conclusions.
14 An exception to this rule exists to witnesses we call
15 expert. A witness who by education and experience has
16 become expert in some art, science or profession, may give
17 an opinion as to the subject the witness claims to be an
18 expert in and may also give the reasons for the opinion.
19 And you should consider any expert opinion given by a
20 witness and like all of the other evidence give it the
21 weight that you think it deserves. And I would tell you
22 that an expert witness's testimony is to be given no
23 greater weight than that of other witnesses simply because
24 the witness has been qualified as an expert and you do not
25 have to accept an expert's opinion even though it is

State versus Jaques Sullivan
Jury Charge

1 uncontradicted.

2 I would instruct you and I would emphasize
3 that the fact that the defendant did not testify in this
4 case is not a factor to be considered by you in any way in
5 your deliberations on the question of guilt or innocence.
6 It must not be considered by you in any manner whatsoever.
7 Every citizen has the Constitutional Right to remain
8 silent, and the assertion of this right must not be
9 considered by a jury in its deliberations. The burden of
10 proof always remains on the State and a defendant is never
11 required to prove their innocence.

12 The defendant has pled not guilty to the
13 charges in the indictments, and that plea puts the burden
14 on the State to prove the defendant guilty.

15 A person charged with committing a criminal
16 offense in South Carolina is never required to prove
17 themselves innocent. And I charge you that it is a
18 cardinal and important rule of the law that the defendant
19 in a criminal trial will always be presumed to be innocent
20 of the crime for which an indictment or a charge has
21 issued unless guilt has been proven by evidence satisfying
22 you of guilt beyond a reasonable doubt.

23 A reasonable doubt is the kind of doubt that
24 would cause a reasonable person to hesitate to act. A
25 reasonable doubt may arise from the evidence which is in

State versus Jaques Sullivan
Jury Charge

1 the case or the lack or absence of evidence in the case
2 and you the jury must determine whether or not reasonable
3 doubt exists as to the guilt of the defendant.

4 The State has the burden of proving each and
5 every element of a crime beyond a reasonable doubt and any
6 reasonable doubt you may have in your deliberations should
7 be resolved in favor of the defendant.

8 There are two types of evidence which are
9 generally permitted during a trial and that is direct
10 evidence and circumstantial evidence. Direct evidence is
11 the testimony of a person who claims to have actual
12 knowledge of a fact such as an eyewitness. It is evidence
13 which immediately establishes the main fact which is
14 sought to be proved. Circumstantial evidence is proof of
15 a chain of facts and circumstances indicating the
16 existence of another fact. It is evidence which
17 immediately establishes collateral fact from which the
18 main fact may be inferred.

19 Circumstantial evidence is based on inference
20 and not on personal knowledge or observation. The law
21 makes absolutely no distinction between the weight or
22 value given to either direct or circumstantial evidence.
23 Nor is a greater degree of certainty required of
24 circumstantial evidence than of direct evidence. And you
25 should weigh all of the evidence in this case, and after

State versus Jaques Sullivan
Jury Charge

1 weighing all of the evidence, if you are not convinced of
2 guilt of the defendant beyond a reasonable doubt, then you
3 must find him not guilty.

4 The defendant is charged with trafficking in
5 cocaine. The State must prove beyond a reasonable doubt
6 that the defendant knowingly sold, manufacture,
7 cultivated, delivered, purchased, brought into this state,
8 provided financial assistance or otherwise aided, abetted,
9 attempted or conspired to sell, manufacture, cultivate,
10 deliver, purchase or bring into this state or was
11 knowingly in actual or constructive possession or
12 knowingly attempted to become an actual or constructive
13 possession of cocaine.

14 The State must also prove beyond a reasonable
15 doubt that the amount of cocaine or any mixture containing
16 cocaine was greater than 100 grams. Now, to prove
17 possession, and ladies and gentleman, this applies to both
18 the charge of marijuana and the cocaine, to prove
19 possession the State must prove beyond a reasonable doubt
20 that the defendant had both the power and the intent to
21 control the disposition or use of the drug.

22 Possession may be either actual or
23 constructive. Actual possession means that the drug was
24 in the actual physical custody of the defendant.

25 Constructive possession means that the defendant had

State versus Jaques Sullivan
Jury Charge

1 dominion and control or the right to exercise dominion or
2 control over either the drug itself or the property on
3 which the drug was found.

4 I would tell you, however, mere presence at
5 the scene where the drugs were found was not enough to
6 prove possession. Actual knowledge of the presence of the
7 drug is strong evidence of the defendant's intent to
8 control its disposition or use and the defendant's
9 knowledge and possession may be inferred when the
10 substance is found on the property under the defendant's
11 control.

12 However, this inference, is simply an
13 evidentiary fact to be taken into consideration by you
14 along with all of the other evidence in the case and be
15 given the weight that you decide it should have. I would
16 also tell you that two or more persons may have joint
17 possession of a drug.

18 Now, the State must also prove beyond a
19 reasonable doubt that the substance introduced in the case
20 relating to trafficking cocaine was, in fact, cocaine.
21 And the State must also, on a separate charge, must prove
22 beyond a reasonable doubt that the substance introduced in
23 the case was marijuana. So the possession and what I've
24 told you about the possession of drugs applies to
25 marijuana and also to the cocaine.

State versus Jaques Sullivan
Jury Charge

1 Now, the defendant is also charges with
2 possession of a weapon during the commission of or attempt
3 to commit a violent crime. The State must prove beyond a
4 reasonable doubt that the defendant was in possession of a
5 firearm or visibly displayed what appeared to be a firearm
6 during the commission of a violent crime. A firearm means
7 any machine gun, automatic riffle, revolver, pistol or any
8 weapon which will, is designed to or maybe readily
9 converted to expel a projectile.

10 In order to find the defendant guilty of
11 possession of a weapon during the commission of a violent
12 crime, you must first find the defendant guilty of either
13 committing a violent crime or attempting to commit a
14 violent crime. And I would tell you that trafficking in
15 cocaine is classified as a Violent Crime under the laws of
16 South Carolina.

17 There are two possible verdicts that you may
18 reach on each of the three charges. There's no importance
19 to the way in which I have stated them. One has to be
20 stated first. The two possible verdicts on each of the
21 three charges are guilty or not guilty. All 12 of you
22 must agree on a verdict and your verdict can not be based
23 on sympathy, passion, prejudice, emotion or any other
24 consideration which is not in evidence in this case. You
25 have no friends to rewards, you have no enemies to

State versus Jaques Sullivan
Jury Charge

1 punish.

2 Now, madam fore lady , when y'all have
3 reached a verdict, I am sending a verdict form back to the
4 jury room with you and there are three charges I'll ask
5 you to respond to, and I hope it's self-explanatory. I
6 believe it is. Number one, as to the charge of
7 trafficking cocaine greater than 100 grams, we the jury
8 find the defendant either guilty or not guilty. One the
9 second one, as to the charge of possession during the
10 commission of a violent crime, we the jury find the
11 defendant guilty or not guilty. And, finally, the third
12 charge, as the charge of simple possession of marijuana,
13 we find the defendant either guilty or not guilty. And
14 then there's a place for you to sign your name and date
15 the form.

16 When y'all have reached a verdict on all
17 charges, please signal to the bailiff and we will receive
18 you back into the courtroom to take your verdict.

19 I'm going to dismiss you in just one second.
20 I ask you not to begin your deliberations just yet. I
21 have to go over the charge on the law which I've just
22 given you with the attorneys to make sure there is nothing
23 that I've misstated or I've left out. But when the
24 verdict form comes to the jury room along with all of the
25 evidence, then y'all can begin your deliberations.

State versus Jaques Sullivan
Jury Charge

1 I thank you very much.

2 With the exception of Ms. Ready, I would ask
3 y'all to please go to the jury room.

4 (Jury exits the courtroom.)

5 Ms. Ready, I hope I explained to you that you
6 are the alternate in the case and while you are just as
7 qualified as each of the 12 person who are left the
8 courtroom and who are going to sit on this case, you've
9 paid just as close attention and you deserve as much
10 credit as they do and ought to be able to decide the case.
11 The law does not allow more than 12 in the jury room. So
12 I brought to you the church and didn't get you married,
13 but you're free to go at this time and I'd ask you to call
14 back after 1:00. Thank you very much, Ms. Ready.

15 (Alternate juror leaves the courtroom.)

16 Any exceptions or objections to the charges
17 given?

18 MR. FRETWELL: The only issue I have with the
19 charge is the court related the concepts of actual and
20 constructive possession with respect to the marijuana and
21 cocaine. It did not specifically relate those concepts of
22 possession with respect to the gun. In other words, the
23 jury could be under the impression that they have to find
24 that the gun was actual ---

25 THE COURT: Anything else?

State versus Jaques Sullivan
Jury Charge

1 MR. FRETWELL: No, sir.

2 THE COURT: Mr. Farnsworth?

3 MR. FARNSWORTH: No, Your Honor.

4 THE COURT: All right. Bring them back in
5 and we'll make sure Mr. Fretwell is happy.

6 (Jury returns to the courtroom.)

7 Ladies and gentleman, it was pointed out when
8 I gave you the definition of possession, constructive and
9 actual possession, that I related it to the drugs which is
10 true. I did not mention anything about the gun, but
11 possession, I did tell you, that the State must prove
12 beyond a reasonable doubt that the defendant was in
13 possession of a firearm. That word "possession" has the
14 same definition with respect to the gun as it does with
15 respect to drugs as with respect to any other object
16 presented as evidence in the court.

17 I also want to tell you that if you all have
18 specific questions that you would like answered, it is
19 appropriate for the fore lady to write those on a note and
20 send it to me and I will answer them as best I can within
21 the confines of the law.

22 Thank you, very much.

23 (Jury exits the courtroom.)

24 Now, any exceptions or objections to the law
25 as stated?

State versus Jaques Sullivan
Jury Charge

1 MR. FRETWELL: None from the State.

2 MR. FARNSWORTH: None, Your Honor.

3 THE COURT: Y'all go through the evidence and
4 make sure you got it all and when you're ready send it on
5 back. Do not send the bullets.

6 Is the gun safe even with the bullets in
7 there?

8 THE SHERIFF: The gun can go back and the
9 bullets stay out.

10 THE COURT: Tell them that I kept the
11 bullets. If they want to exam the bullets, we would send
12 them into back and the gun comes out. We will not have
13 the bullets and the gun in there at the same time.

14 (Bullets retained by the court reporter.)

15 (Jury began deliberation at 10:35 a.m.)

16 (Trial resumed at 11:40 a.m.)

17 JURY QUESTION

18 THE COURT: I have a question from the jury.

19 QUESTION: "Can we have clarification on the charge of the
20 possession of the firearm. Signed: Roslind Bennon,
21 Foreperson."

22 So I propose that we bring them back into
23 court and I'll recharge them.

24 (Jury question marked as Court's Exhibit
25 Number 3 for identification and admitted into evidence.)

State versus Jaques Sullivan
Jury Charge

1 (Jury enters courtroom at 11:43 a.m.)

2 Okay, ladies and gentleman, I have your
3 question and I'll read it into the record in your
4 presence. "Can we have clarification on the charge of the
5 possession of the firearm."

6 I am going to recharge you on the possession
7 of the weapon during the commission of a violent crime.
8 Because I am solely charging this crime, do not place
9 anymore emphasis on this part of the charge than on any
10 other part of the charge.

11 The defendant is charged with possession of a
12 weapon during the commission of or attempt to commit a
13 violent crime. The State must prove beyond a reasonable
14 doubt that the defendant was in possession of a firearm or
15 visibly displayed what appeared to be a firearm during the
16 commission of a violent crime. A firearm means any
17 machine gun, automatic riffle, revolver, pistol or any
18 weapon which will, is designed to or maybe readily
19 converted to expel a projectile.

20 In order to find the defendant guilty of
21 possession of a weapon during the commission of a violent
22 crime, you must first find the defendant guilty of either
23 committing a violent crime or attempting to commit a
24 violent crime. Trafficking in Cocaine is classified as a
25 violent crime under the Statues and Laws of the State of

State versus Jaques Sullivan
Jury Charge

1 South Carolina.

2 To prove possession, the State must prove
3 beyond a reasonable doubt that the defendant had both the
4 power and the intent to control the disposition or use of
5 the firearm. Possession may be either actual or
6 constructive.

7 Actual possession means that the firearm was
8 in the actual physical custody of the defendant.

9 Constructive possession means that the defendant had
10 dominion and control or the right to exercise dominion or
11 control over either the firearm itself or the property on
12 which the firearm was found.

13 Mere presence at the scene where the firearm
14 was found is not enough to prove possession. Actual
15 knowledge of the presence of the firearm is strong
16 evidence of the defendant's intent to control it's
17 disposition or use.

18 The defendant's knowledge and possession may
19 be inferred when a firearm is found on the property under
20 the defendant's control. However, this inference is
21 simply an evidentiary fact to be taken into consideration
22 by you along with the other evidence in the case and be
23 given the weight you decide it should have. And I would
24 tell you that two or more persons may have joint
25 possession of a firearm.

State versus Jaques Sullivan

1 Does that answer your question?

2 JURY FOREPERSON: Yes.

3 THE COURT: Okay, you may be excused back to
4 your jury room.

5 (Jury exits the courtroom.)

6 Any exception or objection to the charges
7 given?

8 MR. FRETWELL: No, Your Honor.

9 MR. FARNSWORTH: No, Your Honor.

10 (Trial in recess for deliberations.)

11 (Trial resumes at 11:45 a.m., jury not
12 present in courtroom.)

13 THE COURT: I need Mr. Sullivan,
14 Mr. Farnsworth and Mr. Fretwell.

15 Just as y'all exited and it hadn't been two
16 minutes since y'all were gone, it was brought to my
17 attention that inadvertently and exhibit from the next
18 case was taken to the jury room.

19 Did they have an opportunity to look at it?

20 THE BAILIFF: No, because it was way on this
21 side.

22 THE COURT: They never looked at it.
23 Counsel, show what the exhibit is.

24 I'm looking at the back of it. It's an
25 aerial photograph, satellite photograph showing locations

State versus Jaques Sullivan

1 in Greenville County. It's in the State versus Shawn
2 Tepper, the next case. It's totally unrelated to this
3 case, although geographically the same area. Any motions?

4 MR. FRETWELL: I'd just like some more
5 information about how Ms. Cote knew that she had taken it
6 back there.

7 THE COURT: Because an assistant solicitor in
8 your office said they have taken it back to the jury room,
9 so we immediately went and got it. I don't think they had
10 it in there 15 seconds.

11 THE BAILIFF: I thought it was from this
12 case. I didn't even turn it over and look at it. I just
13 put it in there with the face down.

14 THE COURT: Any motions?

15 MR. FARNSWORTH: No motions.

16 THE COURT: I find there is no prejudice. It
17 was inadvertent. Even if they had examined it, there's
18 nothing on there that would be prejudice to Mr. Sullivan.

19 (Trial in recess for deliberations.)

20 (Trial resumes at 12:40, verdict reached,
21 jury enters the courtroom. All parties present.)

22 THE COURT: All right, madam fore lady, I
23 understand y'all have reached a verdict. Would you please
24 hand it to the bailiff.

25 Madam clerk, would you please publish the

State versus Jaques Sullivan

1 verdict.

2 THE CLERK: Case No. 2008-GS-23-7076 and
3 7027, Jaques "Jay" Sullivan. As to the charge of
4 trafficking cocaine greater than 100 grams, we the jury
5 find the defendant guilty. As the charge of possession of
6 a weapon during the commission of a violent crime, we the
7 jury find the defendant guilty. As to the charge of
8 simple possession of marijuana, we the jury find the
9 defendant guilty.

10 Is this your verdict? If so, please raise
11 your hand.

12 (Jury panel responds in the affirmative.)

13 THE COURT: Anything further for the jury?

14 MR. FRETWELL: Nothing from the State.

15 MR. FARNSWORTH: Nothing from the defense.

16 THE COURT: Ladies and gentleman, thank you
17 very much for your service in this case. You are, at this
18 time free to leave. We will be handling the sentencing in
19 a moment, but thank you for your service. I would ask you
20 to call back after 6:00 this evening to find out when you
21 need either to call back or report.

22 Ms. Bennon, we need to ask you to sign the
23 indictments before you leave.

24 The rest of y'all can stay, go or whatever
25 you'd like to do.

State versus Jaques Sullivan

1 (Jury is discharged from the trial of Jaques
2 Sullivan and exits the courtroom.)

3 THE COURT: Any motions?

4 MR. FARNSWORTH: Just reinstate my earlier
5 motions.

6 THE COURT: Same ruling.

7 Mr. Fretwell.

8 MR. FRETWELL: His prior record and the
9 number of days in jail.

10 THE COURT: All right.

11 MR. FRETWELL: His prior record starts in
12 1998 with malicious injury to personal property and
13 trespassing; 1999, grand larceny; 2003, possession of
14 controlled substance schedule II; 2004, driving under
15 suspension; 2006, failure to stop for blue light. The
16 defendant with the night he served last night has a total
17 of 15 days on this charge, Judge.

18 THE COURT: Is all that true and correct,
19 Mr. Sullivan?

20 MR. SULLIVAN: Come again?

21 THE COURT: Is all that true and correct
22 about your prior criminal history?

23 MR. SULLIVAN: Yes.

24 THE COURT: Mr. Farnsworth.

25 MR. FARNSWORTH: With respect to that, the

State versus Jaques Sullivan

1 controlled substance was a possession of ecstasy, I
2 believe. He's had nothing other than that in big court
3 all these years and certainly not a violent record. He
4 and Ms. Pamela Stewart, I assume, husband and wife by
5 common law and they have a young daughter who's been in my
6 office. She's a nice little kid, well-mannered that he
7 has certainly showed, to me, and interest in since I've
8 known him. I would just ask, Your Honor, to take all of
9 that into consideration.

10 THE COURT: All right. Anything you want to
11 tell me, Mr. Sullivan?

12 MR. SULLIVAN: I fully except everything
13 that's going on right now, and I apologize for my actions
14 and ask the Court to be lenient, as to what Mr. Farnsworth
15 had to say about my daughter. And to also take in
16 consideration to ask the Court to look at my record as far
17 as being on the home incarceration, too.

18 THE COURT: No, sir, you're not qualified for
19 the home incarceration program.

20 Anything else from the State?

21 MR. FRETWELL: No.

22 MR. FARNSWORTH: I think what he is saying is
23 he's been on the home incarceration ever since he got out
24 on bond. He just wanted the Court to be aware of that.

25 THE COURT: All right. I'm going to give him

State versus Jaques Sullivan

1 time served on the marijuana, 25 years and a \$50,000 fine
2 on the trafficking; five years on the weapon charge and on
3 the criminal contempt of court six months consecutive.

4 Best of luck to you.

5 ---END OF TRANSCRIPT RECORD---

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

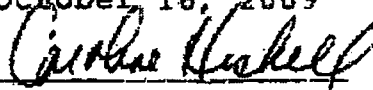
25

State versus Jaques Sullivan

1 I, the undersigned Caroline Hiskell, Official
2 Court Reporter for the Thirteenth Judicial Circuit of the
3 State of South Carolina, do hereby certify that the
4 foregoing is a true, accurate, and complete transcript of
5 record of all the proceedings had and evidence introduced
6 in the trial of the captioned case, relative to appeal, in
7 the Circuit Court of Greenville County, South Carolina on
8 the 14th and 15th day of July, 2009.

9 I do further certify that I am neither of kin,
10 counsel, nor interest to any party hereto.

11
12 October 16, 2009

13 

14 Caroline Hiskell
15
16
17
18
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
State of South Carolina,)
-vs-)
Jacues Jamar "Jay" Sullivan,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
CASE NOs. 2008-GS-23-7076; 7027

CRIMINAL CONTEMPT ORDER

2009 SEP 15 PM 4:05
CLERK OF COURT
JACQUES JAMAR SULLIVAN

On April 3, 2008, the Defendant was arrested on allegations of trafficking cocaine, possession of a weapon during a violent crime, and simple possession of marijuana, and was subsequently indicted by a grand jury. On July 14, 2009, the Defendant appeared before this court for a scheduled jury trial on those allegations. The Defendant was represented by his attorney, Daniel Farnsworth.

When the case was called to trial, the Defendant acted in a disruptive manner that was improper and offensive to the Court, including displaying a lack of respect for the Court, interrupting the Court, and refusing to take an oath. This Court warned the Defendant that continued behavior would not be tolerated and could be punished by direct criminal contempt.

The power of a court to directly and criminally punish contempt committed in its presence has existed, according to Blackstone, "as early as the annals of our law extend." The contempt power should be cautiously and rarely invoked; nevertheless, it is "essential to the preservation of order in judicial proceedings... and consequently to the due administration of justice." Curlee v. Howle, 277 S.C. 377, 287 S.E.2d 915 (1982). The contempt power includes the ability to maintain order and decorum inside the courtroom. Stone v. Reddix-Smalls, 295 S.C. 514, 369 S.E.2d 840 (1988). Direct contempt involves deliberate misconduct committed in

#1
E

the presence of the court, "which disturbs the court's business...and where immediate punishment is essential to prevent demoralization of the court's authority before the public." In Re Oliver, 333 U.S. 257, 275 (1948) (internal quotation marks omitted). One may be found in direct criminal contempt if his misconduct interferes with judicial proceedings or exhibits disrespect for the court. State v. Havelka, 285 S.C. 388, 330 S.E.2d 288 (1985). "Contemptuous behavior" is conduct that disrespects the authority and the administration of the law. Burns v. Universal Health Servs. Inc., 340 S.C. 509, 515, 532 S.E.2d 6, 10 (Ct. App. 2000). Any person that exhibits such behavior in the court's presence may be immediately admonished and punished appropriately, without notice or hearing. Int'l Union, United Mine Workers of Am. v. Bagwell, 512 U.S. 821, 827 (1994); Bloom v. Illinois, 391 U.S. 194, 204 (1968).

The Defendant disrupted the courtroom with his behavior after receiving fair and adequate warning by the Court. Due to his deliberate misconduct, the court had to delay his proceedings and have the Defendant brought back to the courtroom to deal with the contempt issue.

Accordingly, this Court finds the Defendant to be in contempt and is hereby sentenced to 6 months in the South Carolina Department of Corrections. - CONSECUTIVE TO
INDICTMENT # 2008-GS-23-07026

IT IS SO ORDERED.


Edward W. Miller
Circuit Judge

Greenville, SC
July 15, 2009

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY

Edward Miller, Circuit Judge

Case No. 2008-GS-23-007026

Case No. 2008-GS-23-007027

The State, ... Respondent,

v.

Jaques Jamar Sullivan, ... Appellant.

BRIEF OF APPELLANT

J. Falkner Wilkes, (SC Bar #12893)
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
(864) 271-6035 facsimile

Counsel for Appellant

TABLE OF CONTENTS

Table of Contents	i
Table of Authorities	ii
Statement of Issues on Appeal	1
Statement of the Case	2

ARGUMENT

I. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY ADMITTING EVIDENCE OBTAINED BY A DEFECTIVE SEARCH WARRANT.	3
Conclusion	20

TABLE OF AUTHORITIES

Cases

United States v. Calandra, 414 U.S. at 347, 94 S.Ct. 613	19
Commonwealth v. Kline, 335 A.2d 361 (Pa. 1978)	18
United States v. Perez, 393 F.3d at 460	19
Samples v. Mitchell, 329 S.C. 105, 495 S.E.2d 213 (Ct.App. 1997)	7
Segura v. Texas, 826 S.W.2d 178 (Tex. 1992)	8
Serrano v. State, 123 S.W.3d 53 (Tex.App.-Austin 2003, pet. ref'd)	19
Singleton v. State, 313 S.C. 75, 437 S.E.2d 53 (1993)	10
Sowers v. Commonwealth, 643 S.E.2d 506 (Va.Ct.App. 2007)	14
State v. Austin, 306 S.C. 9, 409 S.E.2d 811 (Ct.App. 1991)	8
State v. Baccus, 367 S.C. 41, 625 S.E.2d 216 (2006)	6
State v. Cannon, 0701003821 (Del.Super. 6-27-2007).	19
State v. Church, 538 So.2d 993 (La. 1989)	10
State v. Dalton, 868 P.2d 873 (Wash.App. 1994)	18
State v. Easler, 327 S.C. 121, 489 S.E.2d 617 (1997)	8
State v. Forrester, 343 S.C. 637, 541 S.E.2d 837 (2001)	9
State v. Graham, 325 Mont. 110, 103 P.3d 1073 (2004)	17
State v. Hechtile, 2004 UT App 96, 89 P.3d 185	16
State v. Mueller, 319 S.C. 266, 460 S.E.2d 409 (Ct.App.1995)	7
State v. Quattlebaum, 338 S.C. 441, 527 S.E.2d 105 (2000)	5
State v. Simpson, 325 S.C. 37, 479 S.E.2d 57 (1996)	6
State v. Thein, 138 Wash.2d 133, 977 P.2d 582 (1999)	11,13,18
State v. Thompson, 363 S.C. 192, 609 S.E.2d 556 (Ct.App. 2005)	5,18

State v. Vasquez-Marquez, 2009 UT App 14Case No. 20070488-CA.	11
State v. Wilson, 345 S.C. 1, 545 S.E.2d 827 (2001)	5
United States v. Angulo-Lopez, 791 F.2d 1394 (9th Cir.)	14
United States v. Calandra, 414 U.S. 338, 94 S.Ct. 613, 38 L.Ed.2d 561 (1974) .	19
United States v. Gomez, 652 F. Supp. 461 (E.D.N.Y. 1987)	14
United States v. Lalor, 96 F.2d 1578, 1582 (4th Cir.)	
cert. denied, 114 S.Ct. 485 (1993)	14
United States v. McClellan, 165 F.3d 535 (7th Cir. 1999)	20
United States v. Reddrick, 90 F.3d 1276 (7th Cir. 1996)	14
United States v. Rowland, 145 F.3d 1194 (10th Cir. 1998)	11,13
United States v. Schultz, 14 F.3d 1093 (6th Cir. 1994)	14,19
United States v. Ventresca, 380 U.S. 102, (1965)	12
Yancey v. State, 44 S.W.3d 315 (Ark. 2001)	17
Zurcher v. Stanford Daily, 436 U.S. 547 (1978)	18

Constitutional Provisions

U.S. Const. amend. IV	8
S.C. Const. art. I, § 10	8

Other References

Toal, Vafai, & Muckenfuss, Appellate Practice in South Carolina 76 (1999)	7
2 Wayne R. LaFave, Search and Seizure § 3.7(d) (3d ed. 1996)	18

STATEMENT OF ISSUES ON APPEAL

1. Did the trial court commit reversible error in admitting evidence from the Appellant's home obtained by a search warrant?
2. Was the affidavit for the search warrant lacking in facts to support the magistrate's finding of probable cause?

STATEMENT OF THE CASE

Jacques Jamar "Jay" Sullivan was charge with possession of marijuana and indicted by grand jury in Greenville County for trafficking 100 grams of cocaine, and for possessing a weapon during the commission of a violent crime.

Sullivan was tried before a jury in the Court of General Sessions in Greenville County January 14, 2009, the Honorable Edward Miller, presiding. Appellant was represented at trial by Daniel Farnsworth of Greenville. The State was represented by Allen Fretwell, Assistant Solicitor, Thirteenth Judicial Circuit. The Appellant was found guilty and sentenced to a period of time served on the marijuana charge and twenty-five years and a \$50,000 fine on the trafficking, and five years on the weapon charge. He was also charged with criminal contempt during the course of the trial to which he was sentenced to six months consecutive. The Appellant is currently in the South Carolina Department of Corrections. Notice of appeal was timely filed by trial counsel, Daniel J. Farnsworth. J. Falkner Wilkes has been substituted as counsel for the Appellant and represents Appellant on appeal.

I. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY ADMITTING EVIDENCE OBTAINED BY A DEFECTIVE SEARCH WARRANT.

At the initiation of the trial the Defendant moved to suppress evidence discovered at his residence as the result of a search warrant. R. 38. The court took testimony as to the validity of the warrant. The search warrant was received into evidence as well. R: 216-220. There was no testimony that the magistrate issuing the warrant was supplied any information, either in writing or orally which would supplement the facts found in the affidavit of the search warrant itself. Any probable cause analysis must therefore be confined to those facts found within the four corners of the affidavit. State v. Thompson, 363 S.C. 192, 609 S.E.2d 556 (Ct.App. 2005).

The search warrant provides in essential parts:

"On April 3, 2008, SLED Agents S. Branham, T. Casey, B. Ford, A. Asbill and C. Bragg were conducting an undercover narcotics investigation regarding the trafficking and distribution of cocaine. A confidential informant working with SLED placed a phone call to "Jay" AKA Jaques Sullivan and inquired about purchasing a quantity of cocaine. The telephone conversation was recorded and "Jay stated that he would meet the confidential informant in 20 minutes at the Burger King in Simpsonville to deliver the cocaine.

Agent Asbill and I went to the residence where "Jay" lives at 208 Pliney Circle in Simpsonville and saw "Jay's" green Chevrolet Tahoe in the driveway behind the residence. We watched the house and green Tahoe for about 10 minutes when we saw a black male exit the residence, enter the green Tahoe, and drive away from the

residence. We followed the green Tahoe to the Burger King in Simpsonville and arrested "Jay" (Jaques Sullivan) on an outstanding warrant for Trafficking Cocaine and the cocaine that was presently in his vehicle with him upon his arrest."

R. 218.

The affidavit further contained no further specific information relating to the Defendant's residence. The remainder of the affidavit was boiler plate language based on "training and experience with other narcotics investigations. The boiler plate language contained generalized statements that traffickers place assets in other peoples' names, they maintain books, notes and such relating to trafficking, they commonly "front" drugs to clients, they may keep computer records, and that computer records can be easily erased. There were no specific facts or observations as to any illegal activity at the Sullivan residence or why any of the objects sought would be located there.

The magistrate issued the search warrant for the Defendant's home based on his arrest on at a public location completely unrelated to his home. There was no evidence of drug activity at Sullivan's home. The only evidence relative to Sullivan's residence searched was that Sullivan had been there at some point prior to his arrest at the Burger King. The warrant does not establish that Sullivan was at home at the time he is alleged to have received a call from the confidential

informant. Nor does the warrant indicate how long it was after the phone call from the confidential informant that the officers arrived and observed Sullivan at the home. The affidavit indicates only that the officers observed Sullivan leave his home ten minutes after their arrival there. There was no indication how long it took them to actually arrive. There is therefore no evidence in the affidavit that the Sullivan was even at his home at the time the confidential informant made the call. The only facts that are clearly established in by the affidavit is that the Sullivan was arrested on an outstanding warrant at a Burger King and that he had drugs on him at that time. The fact that the police arrived at the residence after some undisclosed period of time and observed Sullivan leaving his home and driving to the Burger King is simply insufficient to establish a basis of the subsequent search of his residence.

A. STANDARD OF REVIEW

"In criminal cases, the appellate court sits to review errors of law only."

State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). The appellate court is bound by the trial court's factual findings unless they are clearly erroneous. State v. Quattlebaum, 338 S.C. 441, 452, 527 S.E.2d 105, 111 (2000). "A deferential standard of review likewise applies in the context of a Fourth Amendment challenge to a trial court's fact-driven affirmation of probable cause." State v.

Thompson, 363 S.C. 192, 199, 609 S.E.2d 556, 560 (Ct.App. 2005). In terms of a court's review of the magistrate's decision to issue a search warrant, "[t]he duty of the reviewing court is to ensure the issuing magistrate had a substantial basis upon which to conclude that probable cause existed." State v. Baccus, 367 S.C. 41, 50, 625 S.E.2d 216, 221 (2006). "In reviewing the validity of a warrant, an appellate court may consider only information brought to the magistrate's attention." State v. Thompson, 363 S.C. 192, 200, 609 S.E.2d 556, 560 (Ct.App. 2005).

B. PRESERVATION OF ERROR

The issue in this case is adequately preserved for appellate review. The Defendant first raised the issue by moving for suppression of the evidence in limine. In this case the suppression hearing was followed immediately by the state offering the same testimony before the jury along with the introduction of the objectionable evidence. In most cases, "[m]aking a motion in limine to exclude evidence at the beginning of trial does not preserve an issue for review because a motion in limine is not a final determination. The moving party, therefore, must make a contemporaneous objection when the evidence is introduced." *See* State v. Simpson, 325 S.C. 37, 479 S.E.2d 57 (1996). However, where a judge makes a ruling on the admission of evidence on the record immediately prior to the introduction of the evidence in question, the aggrieved party does not need to

renew the objection. The issue is preserved:

Because no evidence was presented between the ruling and [the] testimony, there was no basis for the trial court to change its ruling. Thus, . . . [the] motion was not a motion in limine. The trial court's ruling in this instance was in no way preliminary, but to the contrary, was a final ruling. Accordingly, [the defendant] was not required to renew her objection to the admission of the testimony in order to preserve the issue for appeal. State v. Mueller, 319 S.C. 266, 268-69, 460 S.E.2d 409, 410 (Ct.App.1995).

State v. Forrester, 343 S.C. 637, 642, 541 S.E.2d 837, 840 (2001).

As in Forrester, the witness testifying in the suppression hearing (Branhan) was also the first witness to testify before the jury. The evidence offered at the suppression hearing was followed by the same testimony for the admission of the cocaine. Since no significant opportunity existed for the court to change its ruling, Sullivan did not need to object a second time to the introduction of the cocaine for the issue to be properly preserved for review. Samples v. Mitchell, 329 S.C. 105, 495 S.E.2d 213 (Ct.App. 1997); *see also Toal, Vafai, & Muckenfuss, Appellate Practice in South Carolina* 76 (1999).

In addition to the suppression issue being sufficiently preserved under Forrester, the Defendant did renew his objections during the trial. R. 75, l. 18. The comments by the trial court indicate that the Defendant's objection was considered continuing throughout the trial and, remained outstanding at the time evidence was

entered. R. 138, 1-13. The Defendant's suppression issue was therefore adequately raised and preserved for appellate review.

**C. VIOLATION OF STATE AND FEDERAL PROTECTIONS
AGAINST UNREASONABLE SEARCH AND SEIZURE.**

The search in this case violated the Defendant's rights under both the Federal and State Constitutions. The Federal Constitution provides: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. *U.S. Const. amend. IV*. The South Carolina Constitution provides similar protection against unlawful searches and seizures. *See S.C. Const. art. I, § 10*.

Although the Fourth Amendment and Article I, Section 10 act in parallel to provide a safeguard against unlawful searches and seizures, our state Constitution is not limited only to the protections as provided under the Fourth Amendment. "State courts may afford more expansive rights under state constitutional provisions than the rights which are conferred by the Federal Constitution." *State v. Easler*, 327 S.C. 121, 131 n. 13, 489 S.E.2d 617, 625 n. 13 (1997); *see also*

State v. Austin, 306 S.C. 9, 409 S.E.2d 811 (Ct.App. 1991). The relationship between the federal and state rights has been described as a recognition that the federal Constitution sets the floor for individual rights while the state constitution establishes the ceiling. State v. Forrester, 343 S.C. 637, 642, 541 S.E.2d 837, 840 (2001) *quoting* Segura v. Texas, 826 S.W.2d 178, 182 (Tex. 1992).

In analyzing the respective rights provided under the Fourth Amendment and Article I, Section 10, the court has reasoned that South Carolina Courts could interpret the same language in our state constitution as providing more protection than the federal counterpart. In its analysis the courts have given special attention to the additional language in Article 1, § 10 which provides for the right to be free from unreasonable invasions of privacy. The court has found that by articulating a specific prohibition against "unreasonable invasions of privacy," the people of South Carolina have indicated that searches and seizures that do not offend the federal Constitution may still offend the South Carolina Constitution. Violations of which, may result in the exclusion of the discovered evidence. State v. Forrester, 343 S.C. 637, 642, 541 S.E.2d 837, 840 (2001).

In placing a special significance on the right to privacy, the Court in Forrester looked to other states which have similar protections. In doing so it

identified ten states have express right to privacy provisions in their constitutions.¹

South Carolina and five other states were found to have their right to privacy provision included in the section prohibiting unreasonable search and seizures.²

South Carolina and the other states with a right to privacy provision imbedded in the search and seizure provision of their constitutions have held such a provision creates a distinct privacy right that applies both within and outside the search and seizure context. *See, e.g., Singleton v. State*, 313 S.C. 75, 437 S.E.2d 53 (1993) (finding the state constitutional right to privacy prevented the forced medication of a death row inmate in preparation of execution).

Many states that have adopted explicit state constitutional right to privacy provisions have read their constitutions as applying protection above and beyond the protection provided by the federal Constitution. *See, e.g., State v. Church*, 538 So.2d 993 (La. 1989) (disallowing a police roadblock under the state constitution's

1

Alaska Const. art. I, § 22; Ariz. Const. art. II, § 8; Cal. Const. art. I, § 1; Fla. Const. art. I, § 23; Hawaii Const. art. I, § 6; Ill. Const. art. I, § 6; La. Const. art. I, § 5; Mont. Const. art. II, § 10; S.C. Const. art. I, § 10; Wash. Const. art. I, § 7 fn 1. Alaska Const. art. I, § 22; Ariz. Const. art. II, § 8; Cal. Const. art. I, § 1; Fla. Const. art. I, § 23; Hawaii Const. art. I, § 6; Ill. Const. art. I, § 6; La. Const. art. I, § 5; Mont. Const. art. II, § 10; S.C. Const. art. I, § 10; Wash. Const. art. I, § 7

2

They are Hawaii, Illinois, Louisiana, Washington, and Arizona.

right to privacy even though it did not violate the Fourth Amendment). Likewise, the South Carolina Constitution, with an express right to privacy provision included in the article prohibiting unreasonable searches and seizures, favors an interpretation offering a higher level of privacy protection than the Fourth Amendment. State v. Forrester, 343 S.C. 637, 642, 541 S.E.2d 837, 840 (2001).

In the present case the search warrant for Sullivan's residence is based on his arrest at a Burger King. Absent that arrest the search warrant affidavit provides insufficient facts to establish the occurrence of any illegal activity at Sullivan's residence. The essence of the search warrant affidavit is that Sullivan was arrested on an outstanding Trafficking warrant at a Burger King and found to have drugs in his possession at the time of his arrest. While Sullivan had been observed at his home prior to arriving at the Burger King, the affidavit lacks specific facts as to any drug or other illegal activity occurring at Sullivan's residence. Affidavits based on similar facts have repeatedly been held insufficient to support a warrant for the search of a residence:

... "[a]lthough common sense and experience inform the inferences reasonably to be drawn from the facts, broad generalizations do not alone establish probable cause. . . . [G]eneralizations do not substitute for facts and investigation." State v. Thein, 977 P.2d 582, 589-90 (Wash. 1999). In sum, an affidavit that details only the facts showing that the accused had been involved in selling drugs will never allow a reasonable inference that those drugs are stored at the accused's

residence.

State v. Vasquez-Marquez, 2009 UT App 14Case No. 20070488-CA.

The court in Vasquez relied on United States v. Rowland, 145 F.3d 1194 (10th Cir. 1998), for the proposition that "[p]robable cause to search a person's residence does not arise based solely upon probable cause that the person is guilty of a crime. Instead, there must be additional evidence linking the person's home to the suspected criminal activity." *Id.* at 1204. The same is true in Sullivan's case. The relevant inquiry is whether the supporting affidavit contains specific facts to establish a nexus between the residence and objects of the search. The affidavit in this case fails to show where the officer provided specific facts to do so. The state relied instead on mere generalities and conclusions in its search warrant affidavit.

Because of its reliance on generalities and conclusions, the affidavit in Sullivan's case is insufficient to support probable cause for the search warrant: Affidavits may not be "purely conclusory" but must detail the "underlying circumstances" in order to support a determination that probable cause exists. United States v. Ventresca, 380 U.S. 102, 108-09 (1965). Although the magistrate may draw reasonable inferences from the information given in the search warrant application such inferences must be based on specific facts and cannot be the result of broad generalizations. Affidavits may not be "purely conclusory" but

must detail the "underlying circumstances" in order to support a determination that probable cause exists. United States v. Ventresca, 380 U.S. 102, 108-09 (1965). Thus, "[a]lthough common sense and experience inform the inferences reasonably to be drawn from the facts, broad generalizations do not alone establish probable cause. . . . [G]eneralizations do not substitute for facts and investigation." State v. Thein, 977 P.2d 582, 589-90 (Wash. 1999).

The fact that Sullivan was arrested on an outstanding warrant and had drugs in his possession are insufficient to warrant the search of his home. Probable cause to search a person's residence does not arise based solely upon probable cause that the person is guilty of a crime. See United States v. Rowland, 145 F.3d 1194 (10th Cir. 1998) "In sum, an affidavit that details only the facts showing that the accused had been involved in selling drugs will never allow a reasonable inference that those drugs are stored at the accused's residence." Vasquez.

[An] affidavit [that] provide[s] no basis to either limit the possible sites or suggest that [the suspect's] home was more likely than the otherwise endless possibilities. . . . is insufficient to provide a substantial basis for concluding there was probable cause to believe the contraband would be in [the suspect's] home at the time the search was to take place.

United States v. Rowland, 145 F.3d 1194, 1025 (10th Cir. 1998).

Courts have further reasoned that allowing only generalities and conclusory statements, in the form of an officer's "expert" opinion, to establish probable cause would erode Fourth Amendment protections because where "there is nothing to connect the illegal activities with the arrested person's [residence], to issue a warrant based solely on the agent's expert opinion would be to license virtually automatic searches of residences of persons arrested for narcotics offenses." *See Sowers v. Commonwealth*, 643 S.E.2d 506, 511 (Va.Ct.App. 2007) and *United States v. Gomez*, 652 F. Supp. 461, 463 (E.D.N.Y. 1987). Under the Federal Constitution, although an officer's training and experience can be considered in determining probable cause, it cannot "substitute for the lack of [an] evidentiary nexus" between the place to be searched and any criminal activity. *United States v. Schultz*, 14 F.3d 1093, 1097 (6th Cir. 1994).

In many cases addressing the issue of generalizations where the warrant was found to be valid, probable cause was not simply based on generalizations about drug dealers, but rather, each affiant had additional facts that supported the reasonable inference that the drugs were at the suspect's residence instead of somewhere else. *See United States v. McClellan*, 165 F.3d 535, 546 (7th Cir. 1999) (where the informant had seen the suspect back-up his pick-up truck to a storage facility, located at the residence . . . and unload 6 bundles of marijuana

into the storage facility'. . . ."); United States v. Reddrick, 90 F.3d 1276, 1279 (7th Cir. 1996) (quoting testimony that the informant had very recently been in the residence and had seen several kilos of drugs there); United States v. Angulo-Lopez, 791 F.2d 1394, 1396 (9th Cir. 1986) (stating that citizen informants had reported that the suspect was selling drugs out of his residence). Courts have consistently held that broad generalization about drug dealers, unsupported by any underlying factual circumstances that would connect drugs to the suspect's home, are insufficient to support a finding of probable cause that the drugs are at the suspect's home.

Sullivan's case is very similar to the facts in Vasquez, where the police observed Vasquez returning to his home after the controlled buys. The court there found that connecting a defendant to a home does not necessarily connect the home to the drugs. In Vasquez the court rejected the argument that the affidavit that could support an inference that the drugs were in Vasquez's home based on the speed with which drugs were supplied in response to the CI's telephone requests. There the State argued that "[t]he speed with which [Vasquez] was able to regularly supply cocaine on short notice further supports the inference that [Vasquez] kept his cocaine in a readily accessible but secure location, such as his home". This argument was rejected in Vasquez.

The affidavit in this case fails to establish the phone number called by the confidential informant, or that it was actually Sullivan's home number. And although the police went to Sullivan's home subsequent to the call, they do not know where he was at the time of the call. Nor is there any indication in the affidavit as to the amount of time it took the officers, after the confidential informant's call, to reach Sullivan's house. The affidavit therefore lacked information showing a sufficient nexus between Sullivan's home and any illegal activity. As in Vasquez, the search warrant relied only on Sullivan's arrest and being seen at his house near the time of his arrest. Other than that the affidavit contained only general statements about drug dealers based on the officer's experience. The court in Vasquez held that such generalizations are insufficient to support a finding of probable cause holding that "while the police may have "guessed" correctly, the probable cause requirement of the Fourth Amendment does not permit the State to search and seize evidence based solely on hunches, even when those intuitions are based on training and experience. *See State v. Hechtle*, 2004 UT App 96, ¶¶ 14-16, 89 P.3d 185 (concluding that an arresting officer's suspicions based on his training and experience were insufficient to establish probable cause where the officer did not validate his suspicions)."

Similar results have been reached in numerous other jurisdictions when

addressing conclusory allegations. In Arkansas the court rejected the use of conclusory allegations to establish probable cause:

The State is asking the court to hold that a conclusory allegation in an affidavit for a search warrant that an individual sells drugs would be probable cause to issue a search warrant for that individual's home because drugs are likely to be found where drug dealers live. See *U.S. v. Pitts*, supra. The rule the State proposes would expand our court's opinions and rule that probable cause to search a certain location must be based on a factual nexus between the evidence sought and the place to be searched. This we will not do.

Yancey v. State, 44 S.W.3d 315 (Ark. 2001)

Montana and Wyoming have followed a similar course in holding that the absence of facts within the affidavit, establishing a nexus between the place to be searched and the evidence sought, prevents a finding of probable cause. In rejecting an expansive use of inferences to find a nexus, the Montana Supreme Court stated:

We decline to eviscerate the requirement that when a person's residence is to be searched, the application must demonstrate the probability that the items to be seized will be found within it.

The warrant requirement is the mechanism implementing the constitutional protection against the "chief evil" of the government physically invading the privacy and sanctity of a person's home. . . .

Moreover, this bedrock principle cannot be overcome by resorting solely to "common sense," "practical considerations," and "probability." Facts stated in the application are also statutorily and constitutionally required before the magistrate is entitled to use these

other intuitive approaches in making the totality of circumstances determination. Here, there were no facts included in the application for search warrant that implicated Graham's home. Common sense, practical considerations and probabilities are not, therefore, enough.

Rather, if the authorities had probable cause to search Graham's home, then they were required under well-settled principles of search and seizure law to include facts supporting that conclusion within the four corners of the search warrant application and to ensure that the home was particularly designated as a place to be searched in the warrant.

State v. Graham, 325 Mont. 110, 103 P.3d 1073, 1080 (2004) (*internal citations omitted*).

The Supreme Court of Washington likewise has emphasized that underlying facts are needed to support an inferential nexus.

Absent a sufficient basis in fact from which to conclude evidence of illegal activity will likely be found at the place to be searched, a reasonable nexus is not established as a matter of law. . . .

. . . [O]ur precedent requires probable cause be based on more than conclusory predictions. Blanket inferences of this kind substitute generalities for the required showing of reasonably specific "underlying circumstances" that establish evidence of illegal activity will likely be found in the place to be searched in any particular case. . . .

The rule the State proposes would broaden "to an intolerable degree" the strict requirement that probable cause to search a certain location must be based on a factual nexus between the evidence sought and the place to be searched. Such a rule would not only subvert fundamental constitutional protections but would be inconsistent with the approach and reasoning of our previous cases.

State v. Thein, 138 Wash.2d 133, 977 P.2d 582, 588-589 (1999) (*internal citations omitted*).

Texas has also rejected the use of only conclusory statements:

"Probable cause to believe that a man has committed a crime on the street does not necessarily give rise to probable cause to search his home." 2 *Wayne R. LaFave, Search and Seizure* § 3.7(d) (3d ed. 1996) (*quoting Commonwealth v. Kline*, 335 A.2d 361, 364 (Pa. 1978)); *see also State v. Thein*, 977 P.2d 582, 589 (Wash. 1999); *State v. Dalton*, 868 P.2d 873, 875 (Wash.App. 1994). In determining whether a search warrant is supported by probable cause, the crucial element is not whether the target of the search is suspected of a crime, but whether it is reasonable to believe that the items to be seized will be found in the place to be searched. *Zurcher v. Stanford Daily*, 436 U.S. 547, 556-57 n. 6 (1978).

Serrano v. State, 123 S.W.3d 53 (Tex.App.-Austin 2003, *pet. ref'd*).

The Delaware courts have reached a similar result:

traffickers . . . has committed a crime will support an arrest, but not necessarily a search warrant for the suspect's home.[fn25] Rather, the factual showing necessary to establish probable cause to search . . . Failure to require an adequate fact-based connection between Page 14 illegal activity and an arrestee's home risks licensing "virtually automatic searches of residences of persons arrested for n . . . search and seizure provisions are intended to protect special privacy interests which inhere in the home.

On its face the affidavit so clearly lacked probable cause that evidence seized as a result of it must be excluded in this case. Generally, evidence seized in violation of the Fourth Amendment is subject to suppression under the exclusionary rule, *see United States v. Calandra*, 414 U.S. 338, 347-48, 94 S.Ct. 613, 38 L.Ed.2d 561 (1974); *Perez*, 393 F.3d at 460, the over-arching purpose of which is "to deter future unlawful police conduct," *Calandra*, 414 U.S. at 347;

94 S.Ct. 613.

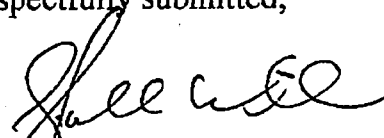
State v. Cannon, 0701003821 (Del.Super. 6-27-2007).

Federal courts similarly disfavor conclusory statements. See United States v. Schultz, 14 F.3d 1093 (6th Cir. 1994), where the court held that an officer's training and experience may be considered in determining probable cause but that "it cannot substitute for the lack of evidentiary nexus" *Id.* at 1097. "In determining whether a search warrant is supported by probable cause, the crucial element is not whether the target of the search is suspected of a crime, but whether it is reasonable to believe that the items to be seized will be found in the place to be searched." United States v. Lalor, 96 F.2d 1578, 1582 (4th Cir.) *cert. denied*, 114 S.Ct. 485 (1993). In Sullivan's case the affidavit is lacking any specific facts to support a finding of probable cause. Because case law is clear in requiring specific facts to support probable cause, any reliance by officers on the resulting search warrant was simply unreasonable. As a result, the trial court erred in refusing to exclude the evidence seized as a result thereof.

CONCLUSION

Based on the foregoing the decision of the lower court to admit evidence seized as a result of the search warrant should be reversed and the evidence suppressed. The case conviction and sentence should be reversed and remanded accordingly.

Respectfully submitted,



J. Falkner Wilkes, 12893
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
(864) 271-6035 facsimile
Counsel for the Appellant

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY

Edward Miller, Circuit Judge

Case No. 2008-GS-23-007026

Case No. 2008-GS-23-007027

The State, ... Respondent,

v.

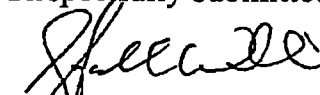
Jaques Jamar Sullivan, ... Appellant.

CERTIFICATE

I certify that the Brief of Appellant is the same in content as that of the Initial Brief except for typographical and grammatical corrections in compliance with Rule 211(b).

I further certify that the Brief of Appellant has been redacted as required for financial information, personal identifiers, and other private data as required by the Order of the Supreme Court.

Respectfully submitted,



J. Falkner Wilkes, 12893

144 Whitsett Street

Greenville, SC 29601

(864) 282-1292

(864) 271-6035 facsimile

Counsel for Respondent

June 15, 2010.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY

Edward Miller, Circuit Judge

Case No. 2008-GS-23-007026

Case No. 2008-GS-23-007027

The State, ... Respondent,

v.

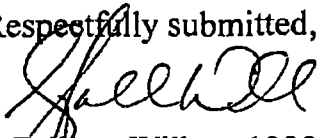
Jaques Jamar Sullivan, ... Appellant.

CERTIFICATE OF SERVICE

I certify that I have served a copy of the Brief of Appellant on the Respondent by placing a copy of same in the United States Mail, first class postage prepaid, this 15th day of June 2010, addressed as follows:

Julie M. Thames, Assistant Attorney General
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

Respectfully submitted,


J. Falkner Wilkes, 12893
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
(864) 271-6035 facsimile

Counsel for Respondent

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County
The Honorable Edward W. Miller, Circuit Court Judge

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

JAQUES JAMAR SULLIVAN,

APPELLANT.

FINAL BRIEF OF RESPONDENT

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

CHRISTINA J. CATOE
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
803-734-3737

ROBERT M. ARIAIL
Solicitor, Thirteenth Judicial Circuit

305 E. North St., Ste. 325
Greenville, SC 29601
(864) 467-8270

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF CONTENTS	1
TABLE OF AUTHORITIES	2
STATEMENT OF ISSUE ON APPEAL.....	3
STATEMENT OF THE CASE	4
ARGUMENT	5
CONCLUSION	11

AUTHORITIES CITED

Federal Cases:

<u>Illinois v. Gates</u> , 462 U.S. 213 (1983)	8, 9
<u>U. S. v. Ventresca</u> , 380 U.S. 102 (1965)	8-9

State Cases:

<u>State v. Bellamy</u> , 336 S.C. 140, 519 S.E.2d 347 (1999)	8
<u>State v. Davis</u> , 354 S.C. 348, 580 S.E.2d 778 (Ct App. 2003)	5
<u>State v. Dickman</u> , 341 S.C. 293, 534 S.E.2d 268 (2000)	5
<u>State v. Dupree</u> , 354 S.C. 676, 583 S.E.2d 437 (Ct. App. 2003)	8
<u>State v. Forrester</u> , 343 S.C. 637, 541 S.E.2d 837 (2001)	6
<u>State v. Garner</u> , 304 S.C. 220, 403 S.E.2d 631 (1991)	10
<u>State v. Keith</u> , 356 S.C. 219, 588 S.E.2d 145 (Ct. App. 2003)	10
<u>State v. Kilgore</u> , 325 S.C. 188, 480 S.E.2d 736 (1997)	10
<u>State v. King</u> , 349 S.C. 142, 561 S.E.2d 640 (Ct. App. 2002)	6
<u>State v. Livingston</u> , 282 S.C. 1, 317 S.E.2d 129 (1984)	8
<u>State v. Prioleau</u> , 345 S.C. 404, 548 S.E.2d 213 (2001)	5
<u>State v. Scott</u> , 303 S.C. 360, 400 S.E.2d 784 (Ct. App. 1991)	10
<u>State v. Sullivan</u> , 267 S.C. 610, 230 S.E.2d 621 (1976)	8
<u>State v. Weston</u> , 329 S.C. 287, 494 S.E.2d 801 (1997)	8

STATEMENT OF ISSUE ON APPEAL

The issue raised on appeal is not preserved for review; but, in any event, the trial court properly admitted evidence found pursuant to the search warrant, where the information provided to the magistrate supplied probable cause to believe that evidence of drug trafficking would be found in Appellant's residence.

STATEMENT OF THE CASE

Appellant was indicted in March 2009 in Greenville County for trafficking in cocaine over 100 grams, possession of a weapon during commission of a violent crime, and possession of marijuana. (R. p. 7-8). Appellant was tried on July 14-15, 2009, before the Honorable Edward W. Miller.¹ (R. p. 1-214). The jury found Appellant guilty, and Judge Miller sentenced Appellant to twenty-five (25) years for trafficking in cocaine, five (5) years for possession of a weapon during commission of a violent crime, fifteen (15) days (time served) on the possession of marijuana charge, and six (6) months, consecutive, for a contempt of court violation that occurred prior to the commencement of trial. (R. p. 214, lines 1-3). A Notice of Appeal was timely served and filed.

¹ The first page of the transcript incorrectly lists the trial date as "January 14, 2009." (See R. 1; p. 175, lines 23-24).

ARGUMENT

The issue raised on appeal is not preserved for review; but, in any event, the trial court properly admitted evidence found pursuant to the search warrant, where the information provided to the magistrate supplied probable cause to believe that evidence of drug trafficking would be found in Appellant's residence.

Error Preservation

Respondent first submits that the issue now raised is not preserved for review. The argument made on appeal is regarding whether the information in the search warrant was sufficient to give probable cause to search Appellant's home. However, the sole argument before the lower court was as follows: "Judge, we ask that the Court consider the suppression of the search warrant. There was some question about one of the witnesses, whether or not or when a Return had been made and *on that basis* we would ask Your Honor for suppression." (R. p. 57, lines 5-9) (emphasis added). Appellant never argued that the information in the search warrant was insufficient to establish probable cause. (See R. p. 38, lines 12-15; p. 57, lines 5-13). Clearly, the issue now being raised was not preserved for review by this Court. See State v. Davis, 354 S.C. 348, 360-61, 580 S.E.2d 778, 784-85 (Ct App. 2003) (an argument for suppression of evidence based upon an alleged defect in the search warrant must be presented to, and ruled upon by, the trial court in order to be preserved for review); State v. Dickman, 341 S.C. 293, 295, 534 S.E.2d 268, 269 (2000) (citations omitted) (a party may not argue one ground at trial and an alternate ground on appeal); State v. Prioleau, 345 S.C. 404, 411, 548 S.E.2d 213, 216 (2001) (citation omitted) (in order to preserve an alleged error for review, a specific objection must be made to alert the court regarding the precise nature of the error).

In addition, Respondent submits that even if the precise argument had been raised to and ruled upon by the trial court, Appellant failed to renew any objection when the items found pursuant to the search warrant were introduced into evidence. In fact, when the drugs were introduced, Appellant stated that he had "no objection." (See p. 169, lines 17-22). Respondent submits that Appellant's argument that the search warrant issue was preserved under State v. Forrester, 343 S.C. 637, 541 S.E.2d 837 (2001), is misplaced. In Forrester, the South Carolina Supreme Court held that the defendant's suppression issue was preserved because "the witness introducing the cocaine for the state was the initial witness in the trial;" therefore, "[n]o evidence was taken between the trial court's ruling on the admission of the cocaine and its introduction." State v. Forrester, *supra*, at 642-43, 541 S.E.2d at 840.

In contrast, in Appellant's case, the cocaine found pursuant to the search warrant was not introduced until much later in the trial. In fact, six witnesses testified before the drugs found pursuant to the search warrant were offered for admission. (See R. p. 65-169; see p. 168, line 4 – p. 169, line 22). The trial objections referenced by Appellant in his Brief in fact dealt with the prejudicial nature of certain photographs, rather than an issue regarding the sufficiency of the search warrant. (See R. p. 75, lines 15-23; p. 137, line 19 – p. 138, line 15 – both referring to p. 57, line 15 – p. 59, line 10). Accordingly, for both of the reasons discussed above, the issue now raised on appeal is not preserved for review. See State v. King, 349 S.C. 142, 149-150, 561 S.E.2d 640, 643-44 (Ct. App. 2002) (where State v. Forrester exception does not apply, a defendant must object at the time the drugs are introduced in order to preserve his in limine suppression motion for review). Notwithstanding Respondent's belief that the issue is not preserved, the merits are addressed below.

The Search Warrant

The search warrant indicated that a confidential informant called Appellant to arrange to purchase cocaine from him. (R. p. 45, lines 2-5). The telephone call was recorded. (R. p. 45, lines 5-6). Appellant agreed to deliver the drugs and stated he would meet the confidential informant in twenty minutes at a nearby Burger King restaurant. (R. p. 45, lines 5-8). Meanwhile, officers went to Appellant's residence and saw Appellant's green Tahoe parked in the driveway behind the house. (R. p. 45, lines 9-12). After about ten minutes, the officers observed Appellant exit his residence and enter his green Tahoe. The officers then followed Appellant, driving the Tahoe, directly to the Burger King, where he was arrested in the parking lot after he was found to be in possession of cocaine. (R. p. 45, lines 15-19). A previous outstanding warrant for trafficking cocaine was served upon Appellant at that time. (R. p. 45, lines 16-19).

The search warrant further explained that the officer had eight years of law enforcement experience, and that in his experience, controlled substance traffickers often maintain either written or computer records detailing their trafficking activities. (R. p. 45, line 22 – p. 46, line 19). Further, the officer averred that drug traffickers often keep these records where they are readily accessible and easy to destroy. (R. p. 44, lines 17-23; p. 45, line 22 – p. 47, line 2). The officer who signed the search warrant affidavit, Officer Ford, presented all of the above information to the local magistrate shortly after Appellant's arrest at Burger King. (R. p. 47, lines 3-11). The search warrant was issued and was executed that same day, and drugs, various drug-packaging materials, scales, over thirty thousand dollars (\$30,000.00) in cash, a handgun, and rounds of ammunition were recovered in Appellant's residence. (R. p. 44, lines 5-11; p. 47, line 12 – p. 49, line 14; p. 86-90; p. 139-143; p. 216-220).

Applicable Law

“A magistrate may issue a search warrant only upon a finding of probable cause.” State v. Bellamy, 336 S.C. 140, 143, 519 S.E.2d 347, 348 (1999). “The [search warrant] affidavit must contain sufficient underlying facts and information upon which the magistrate may make a determination of probable cause.” State v. Dupree, 354 S.C. 676, 684, 583 S.E.2d 437, 441 (Ct. App. 2003) (citations omitted). “Magistrates are concerned with probabilities and not certainties.” State v. Sullivan, 267 S.C. 610, 618, 230 S.E.2d 621, 625 (1976) (citation omitted). In determining whether a “fair probability” exists that evidence of a crime will be found in the place to be searched, the magistrate may draw reasonable inferences from the information given in the search warrant application. See Illinois v. Gates, 462 U.S. 213, 238-40 (1983). Further, “[a]ffidavits are not meticulously drawn by lawyers, but are normally drafted by non-lawyers in the haste of a criminal investigation, and should therefore be viewed in a common sense and realistic fashion.” State v. Sullivan, supra. A common sense and logical interpretation of a search warrant affidavit will overcome any asserted deficiency. State v. Livingston, 282 S.C. 1, 6, 317 S.E.2d 129, 132 (1984).

On appeal, “[a] reviewing court should give great deference to a magistrate’s determination of probable cause.” State v. Weston, 329 S.C. 287, 290, 494 S.E.2d 801, 802 (1997) (citation omitted). “A grudging or negative attitude by reviewing courts toward warrants is inconsistent with the Fourth Amendment’s strong preference for searches conducted pursuant to a warrant.” Illinois v. Gates, supra, at 236 (citations omitted). “Although in a particular case it may not be easy to determine when an affidavit demonstrates the existence of probable cause, the resolution of doubtful or

marginal cases in this area should be largely determined by the preference to be accorded to warrants." U. S. v. Ventresca, 380 U.S. 102, 109 (1965) (citation omitted).

In this case, it was apparent from a fair and logical reading of the entirety of the search warrant that a "fair probability" existed that evidence of drug trafficking would be found at Appellant's residence. Illinois v. Gates, *supra*. The magistrate had a substantial basis – specifically, obvious time constraints – for concluding that Appellant packaged the drugs inside his home after setting up the drug buy with the confidential informant. The search warrant, read in conjunction with the directions provided in the "Description of Premises to be Searched," indicates that after the confidential informant's conversation with Appellant, officers immediately left the police department and traveled less than a mile to Appellant's address to perform an investigative surveillance.¹ (See R. p. 218-19). When they arrived, Appellant was inside his residence and his Tahoe was parked in the back. (R. p. 45, lines 9-12; p. 218). After about ten minutes of surveillance - just enough time for Appellant to prepare the drugs following his discussion with the confidential informant – officers followed Appellant as he left his residence and drove directly to the pre-arranged location, making no stops along the way. (R. p. 218). Appellant was then lawfully arrested at the Burger King and was found to be in possession of the cocaine requested by the confidential informant. (R. p. 218). All of this took place within the twenty-minute time frame established by Appellant. (See R. p. 218).

¹ The local magistrate in a small city such as Simpsonville would be very much aware of the close proximity of the police department to Appellant's address. The magistrate would also be aware of the time it would take for Appellant to travel from his address to the Simpsonville Burger King. Notably, the magistrate's own office is within blocks of the police department and only about a mile from Appellant's residence. (See R. p. 221 – State's Exhibits 1 & 2).

In State v. Scott, 303 S.C. 360, 400 S.E.2d 784 (Ct. App. 1991), a search warrant for a residence was upheld where officers observed the defendant leave his home; where these officers followed the defendant, maintaining visual contact at all times; and where a subsequent lawful stop revealed that the defendant was in possession of a large quantity of cocaine. In State v. Keith, 356 S.C. 219, 588 S.E.2d 145 (Ct. App. 2003) a residential search warrant was found to be proper where the affidavit outlined the investigative surveillance of the defendant's home, the officers' observation of the defendant's vehicle as it left the home, and the lawful stop and discovery of drugs. Similarly, in Appellant's case, it was reasonable for the magistrate to infer that Appellant gathered and packaged the drugs inside his residence after speaking with the confidential informant. Therefore, probable cause existed to believe that evidence of drug trafficking would be found in Appellant's residence, and the trial judge properly admitted the evidence found pursuant to the search warrant.

Finally, Respondent would submit that even if the search warrant had been defective, Appellant was lawfully arrested with approximately 4.5 ounces (127.42 grams) of cocaine, and 8.48 grams of marijuana, in his front pants pocket. (See R. p. 146-48; p. 164-67). The cocaine was packaged for distribution in six different baggies. (R. p. 76; p. 164-66). This evidence overwhelmingly sustained the drug charges, regardless of the additional drugs found pursuant to the search warrant. Appellant is not entitled to reversal of his drug charges where there was overwhelming evidence of guilt. See State v. Kilgore, 325 S.C. 188, 192, 480 S.E.2d 736, 738 (1997); State v. Garner, 304 S.C. 220, 222, 403 S.E.2d 631, 632 (1991) (any error in admission of evidence is harmless where there is overwhelming evidence of guilt).

CONCLUSION

Based upon the foregoing, Respondent requests that this Court affirm Appellant's convictions and sentences.

Respectfully submitted,

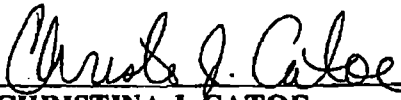
HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

CHRISTINA J. CATOE
Assistant Attorney General

ROBERT M. ARIAIL
Solicitor, Thirteenth Judicial Circuit


CHRISTINA J. CATOE

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

ATTORNEYS FOR RESPONDENT

June 14, 2010

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County
The Honorable Edward W. Miller, Circuit Court Judge

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

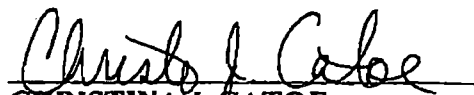
v.

JAQUES JAMAR SULLIVAN,

APPELLANT.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the **Final Brief of Respondent** complies with Rule 211(b), SCACR, and also complies with the South Carolina Supreme Court's August 13, 2007 **Order on Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings**.


CHRISTINA J. CATOE

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

ATTORNEYS FOR RESPONDENT

June 14, 2010

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County
The Honorable Edward W. Miller, Circuit Court Judge

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

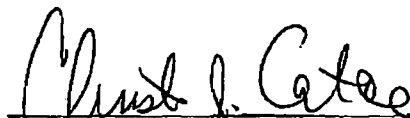
v.

JAQUES JAMAR SULLIVAN,

APPELLANT.

AFFIDAVIT OF SERVICE

The undersigned attorney hereby certifies that the **Final Brief of Respondent** in the above-referenced case has been served upon **J. FALKNER WILKES, ESQUIRE**, 114 Whitsett Street, Greenville, SC, 29601, this 14th day of June, 2010.



CHRISTINA J. CATOE
Assistant Attorney General

Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

SWORN to before me this 14th day of June, 2010.



Notary Public for South Carolina

My Commission Expires:

10/28/2014

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State,

Respondent,

v.

Jaques Jamar Sullivan,

Appellant.

Appeal From Greenville County
Edward W. Miller, Circuit Court Judge

Unpublished Opinion No. 2011-UP-446
Submitted October 1, 2011 – Filed October 11, 2011

AFFIRMED

J. Falkner Wilkes, of Greenville, for Appellant.

Attorney General Alan Wilson, Chief Deputy
Attorney General John W. McIntosh, Assistant
Deputy Attorney General Salley W. Elliott, and
Assistant Attorney General Christina Catoe, all of
Columbia; and Solicitor W. Walter Wilkins, III, of
Greenville, for Respondent.

PER CURIAM: Jaques Jamar Sullivan appeals his conviction for trafficking cocaine, possession of a weapon during the commission of a violent crime, and simple possession of marijuana, arguing the trial court erred in admitting evidence obtained by a defective search warrant. We affirm¹ pursuant to Rule 220(b)(1), SCACR, and the following authority: State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) (stating an issue is preserved for appellate review when it was raised to and ruled upon by the trial court and when the ground presented to the trial court was the same as the ground argued on appeal).

AFFIRMED.

HUFF, PIEPER, and LOCKEMY, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Jaques Jamar Sullivan (Inmate No. 335849)
Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2012-CP-23-06281

APPLICATION FOR

POST-CONVICTION RELIEF

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENS
2012 OCT - 10
P 4:39

in

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Perry Correctional Institution
2. Name and location of Court which imposed sentence Greenville County, SC Court of General Sessions
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2008-7027 Possession of Marijuana
 - (b) 2008-7026 Trafficking Cocaine while in Possession of a Weapon
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) January 14, 2009. A sentence of time served was imposed for possessing

Revised 3/2003

marijuana.

(b) January 14, 2009. A sentence of 25 years and a \$50,000.00 fine were imposed for the trafficking cocaine offense, including a 5 year sentence for possessing a weapon, and 6 months consecutive for for criminal contempt of court.

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty X

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. The State of South Carolina Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. Denied/Conviction Affirmed

ii. _____

iii. _____

(c) the date of each such result:

i. Filed October 11, 2011

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. None

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

Revised 3/2003

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) My constitutional rights to the effective assistance of trial counsel under the Sixth Amendment, and applicable case law, was violated in the following manner. 1) trial counsel had a conflict of interest, that was not disclosed to me until after my conviction. 2) Trial counsel was unprepared for trial; 3) Trial counsel failed to investigate, obtain and review the discovery/evidence in my case prior to trial; 4) Trial counsel failed to review the discovery/evidence with me prior to trial; 5) Trial counsel failed to make appropriate and necessary objections to inadmissible evidence at trial; 6) Trial counsel failed to call necessary witnesses at trial; 7) Trial counsel failed to file necessary and appropriate motion(s) to challenge any wire-tap(s)/recordings in this matter; 8) Trial counsel failed to challenge an illegal search and seizure in my case; and 9) Trial counsel failed to appropriately represent me at the forfeiture hearing following my conviction.

(b) I was denied the right to a fair trial when the trial court denied my motion for a continuance to enable me to retain alternate trial counsel.

(c) My constitutional rights to the effective assistance of appellate counsel under the Sixth Amendment, and applicable case law, was violated in the following manner: 1) Appellate counsel failed to raise appropriate and/or reviewable issues on appeal.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) I was denied my right to effective assistance of counsel during the trial court proceedings as follows: 1) Conflict of Interest: Trial counsel previously represented one of the confidential informant(s) used by law enforcement to bring the criminal charges against me that resulted in my conviction set forth above. This prohibited trial counsel from effectively representing me throughout every stage of the criminal proceedings. Further, this was a violation of trial counsel's ethical obligations. 2) Unprepared for Trial: Trial counsel was unprepared for trial. 3) Discovery: Trial counsel failed to obtain all the discovery in my case. After my conviction, I requested my file. Upon receipt, I learned there was an additional audio/video disc that was not acquired by trial counsel. Further, I do not believe trial counsel reviewed the

Revised 3/2003

discovery in my case. 4) Review of Discovery: See number 3. 5) Objections: Trial counsel failed to make necessary and appropriate objections at trial, including but not limited to objecting to the introduction of the gun during the course of the trial. 6) Witnesses: Trial counsel failed to subpoena necessary witnesses for the defense of my case. 7) Motions: Trial counsel failed to challenge the recordings made by law enforcement. 8) Search and Seizure: Trial counsel failed to file necessary motion(s) challenging the search and seizure of evidence from my residence. 9) Forfeiture: Trial counsel represented to me that he would represent me at my forfeiture hearing, but failed to do so by not filing any responsive pleadings, misrepresenting that he filed responsive pleadings and failing to attend the hearing.

(b) The trial court denied my motion for continuance when I requested additional time to obtain alternate counsel as a result of my trial counsel being ineffective and unprepared for trial.

(c) Appellate counsel failed to raise any issues on appeal that the South Carolina Court of Appeals could review. Instead, counsel raised an issue that was barred from review by the appellate court.

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(b) the name and location of the Court in which each was filed:

- i. _____

Revised 3/2003

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

Revised 3/2003

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) These issues have not been raised in any other Court as the appropriate manner in which to address these issues is through this Petition.
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? _____
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Daniel J. Farnsworth P.O. Box 10196 Greenville, SC 29603
- ii. J. Falkner Wilkes 114 Whitsett St. Greenville, SC 29601
- iii. J. Bradley Bennett 101 W. Park Ave. Greenville, SC 29601
- (b) the proceedings at which each such attorney represented you:
- i. Trial Attorney: Daniel J. Farnsworth, Esq.
- ii. Appellate Counsel: J. Falkner Wilkes, Esq.
- iii. PCR Counsel: J. Bradley Bennett, Esq.
19. State clearly the relief you seek in filing this application:
- I am respectfully requesting my conviction be reversed and the matter be remanded for a new trial.
20. Are you now under sentence from any other court that you have not challenged?
- No

STATE OF SOUTH CAROLINA

County of

VERIFICATION

I, ~~Applicant~~ ^{Petitioner} being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Jacques James Sullivan
Applicant

SWORN to and subscribed before me this 1st
day of October, 2012

[Signature] (L.S.)
Notary Public

My Commission Expires: 10/10/12

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE

VS.

Jaques Jamar Sullivan

AKA:

Race: B Sex: M Age: 33DOB: SS#Address: 208 North Pliny Circle
Simmons ville, SC 29681DL#: SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008GS2307026A/W#: 1799520Date of Offense: 4/3/2008S.C. Code §: 44-53-0370(B)(2) 44-53-375CDR Code #: 0280 0363

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Trafficking in Cocaine, More Than 100 Gramsin violation of § 44-53-0370 of the S.C. Code of Laws, bearing CDR Code #☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. 0363 (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Allen Fretwell 17016
Fretwell, Allen SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
(and/or to pay a fine of \$ 50000*, provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 15 DAYS☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

§ 35.13 (Public Def/Prob) \$500 \$

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$

§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00

TOTAL \$

Paul B. Williams

Clerk of Court/ Deputy Clerk

Court Reporter: Hishell

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE W. AllenJudge Code: 2101310Sentence Date: 7/15/09

SCCA/217 (03/2009)

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Jaques Jamar Sullivan

AKA:

Race: B Sex: M Age: 33DOB: - SS# -Address: 208 North Pliny CircleSimpsonville, SC 29681DL#: - SID#: -

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008GS2307026A/W#: 1799524Date of Offense: 4/3/2008S.C. Code § : 16-23-0490CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Possession of a Weapon During the Commission of a Violent Crime

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Fretwell, Allen17016
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 15 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

§ 35.13 (Public Def/Prob)

§ 73.3, 1B TP (Law Enforce. Funding)

§ 33.7, 1B TP (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

§ 90.11 TP (SCCA Surcharge)

TOTAL

Paul B. Wickens
Clerk of Court/ Deputy ClerkCourt Reporter: Hickell

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE Edward A. McJudge Code: 21 1 1 3 10Sentence Date: 7/15/09

SCCA/217 (03/2009)

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
TRAFFICKING COCAINE AND POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on

MAR 17 2009

the Grand Jurors of Greenville

County present upon their oath:

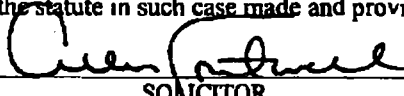
COUNT I - TRAFFICKING COCAINE

That JAQUES JAMAR SULLIVAN did in Greenville County, on or about the 3rd day of April, 2008, knowingly sell, manufacture, deliver or bring into the State of South Carolina, or did knowingly provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver or bring into the State or was knowingly in actual or constructive possession of more than 100 grams of Cocaine. This is in violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

COUNT II - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That JAQUES JAMAR SULLIVAN did in Greenville County on or about the 3rd day of April, 2008, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Trafficking Cocaine. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

WITNESSES

S. Branham *SB*

Sled

4/3/2008

ARREST WARRANT NUMBER

1799520 and 1799524

ACTION OF GRAND JURY

TRUE BILL

Micki Cummins

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty:

Rosaline
Foreperson of Petit Jury

7/15/09
Date:

DOCKET NO. 2008-GS-23-
AOF

007026

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS
March

TERM 2008

THE STATE

vs.

JAQUES JAMAR SULLIVAN

GUILTY

Indictment for

0280/0549

TRAFFICKING COCAINE AND POSSESSION OF
A WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME

VIOLATION 14-53-0370 and §16-23-0490

ENTERED
ACCT

ARREST WARRANT

1-799520

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

against

Jaques Jamar Sullivan

Address: 208 North Piney Circle

Simpsonville, SC 29681-

Phone: SSN:

Sex: M Race: B Height: 5 10 Weight: 224

DL State: DL #:

DOB: Agency ORI #: SCLED0000

Prosecuting Agency: Sled

Prosecuting Officer: S Branham - 331

Offense: Drugs / Trafficking in cocaine, 100 g or more, but less than 200 g

Offense Code: 0280

Code/Ordinance Sec: 44-53-0370(e)(2)(X)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Jaques Jamar Sullivan

on 4-3-08

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Fairview/Austin Summary Court
205 North Maple Street, Suite 4
Simpsonville, SC 29681

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant S Branham

being duly sworn deposes and says that defendant Jaques Jamar Sullivan

did within this county and state on or about 04/03/2008

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville

in the following particulars:

DESCRIPTION OF OFFENSE Drugs / Trafficking in cocaine, 100 g or more, but less than 200 g

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT WAS FOUND TO BE IN POSSESSION OF A QUANTITY IN EXCESS OF 100 GRAMS OF AN OFF-WHITE POWDERED LIKE SUBSTANCE REPRESENTED AS POWDERED COCAINE. THE DEFENDANT IS NOT AUTHORIZED TO POSSESS SAID SUBSTANCE BY LAW. THIS OFFENSE OCCURRED IN GREENVILLE COUNTY, SC.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4400 Broad River Road

Columbia 29221-

Affiant's Telephone (803)896-7011

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/3/2008 defendant Jaques Jamar Sullivan

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Greenville) as set forth below.

DESCRIPTION OF OFFENSE: Drugs / Trafficking in cocaine, 100 g or more, but less than 200 g

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 04/03/2008

Signature of Issuing Judge (L.S.)

Darrell Fisher

Judge Code: 5068

Judge's Address

Judge's Telephone

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

ARREST WARRANT

I-799524

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

against

Jaques Jamar Sullivan

Address: 208 North Pliney Circle

Simpsonville, SC 29681-

Phone: SSN:

Sex: M Race: B Height: 5 10 weight: 224

DL State: DL #:

DOB: Agency ORI #: SCLED0000

Prosecuting Agency: Sied

Prosecuting Officer: S Branham - 331

Offense: Weapons / Poss. weapon during violent crime, if
not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant on

Jaques Jamar Sullivan

4-13-08

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Fairview/Austin Summary Court
205 North Maple Street, Suite 4
Simpsonville, SC 29681

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant S Branham

who

being duly sworn deposes and says that defendant Jaques Jamar Sullivan

did within this county and state on or about 04/03/2008

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:DURING THE EXECUTION OF A LAWFUL SEARCH WARRANT ON APRIL 3, 2008 AT 208 NORTH PLINEY CIRCLE,
THE DEFENDANT WAS FOUND TO BE IN POSSESSION OF A 38 CALIBER ROSSI PISTOL, SERIAL NUMBER T158441
DURING THE COMMISSION OF THE VIOLENT CRIME OF TRAFFICKING COCAINE. THE PISTOL WAS FOUND IN
THE DEFENDANT'S BEDROOM CLOSET AND NO ONE ELSE HAD KNOWLEDGE OF THE WEAPON IN RESIDENCE.
THIS OFFENSE OCCURRED WITHIN THE CITY LIMITS OF SIMPSONVILLE WHICH IS IN GREENVILLE COUNTY

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4400 Broad River Road

Columbia 29221-

Affiant's Telephone (803)896-7011

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/3/2008 defendant Jaques Jamar Sullivan

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Greenville

) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable

Sworn to and subscribed before me

on 04/03/2008

Signature of Issuing Judge (L.S.)

Darrell Fisher

Judge Code: 5068

Judge's Address

Judge's Telephone

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 818

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

Jaques Jamar Sullivan

AKA:

Race: R Sex: M Age: 33

DOB: SS#:

Address: 208 North Piney Circle
Simpsonville, SC 29681

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS 137880

INDICTMENT/CASE#: 2008GS2307027

A/W#: 1799523

Date of Offense: 4/3/2008

S.C. Code § : 44-53-0370(B)(2)

CDR Code #: 0186

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Possession of Marijuana, 2nd Drug Offense

in violation of § 44-53-0370(D)(3) of the S.C. Code of Laws, bearing CDR Code # 0182

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Fretwell Allen

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 60 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 15 Days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCOPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§ 56-5-2995 (DUI Assessment)	\$12 \$
§ 56-1-286 (DUI Breath Test)	\$25 \$
§ 35.13 (Public Def/Prob)	\$500 \$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25 \$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100 \$
§ 50-21-114(BUI Breath Test Fee)	\$50 \$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$
§ 90.11 TP (SCCJA Surcharge)	\$5 \$ 5.00
TOTAL	\$

Clerk of Court/ Deputy Clerk

Court Reporter: Hoskell

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE Edw. W. McJudge Code: 2111310Sentence Date: 7-15-09

SCCA/217 (03/2009)

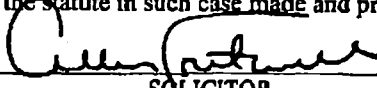
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
POSSESSION OF MARIJUANA

At a Court of General Sessions, convened on **MAR 17 2009** the Grand Jurors of Greenville
County present upon their oath:

That JAMES JAMAR SULLIVAN did in Greenville County, on or about the 3rd day of April, 2008, willfully
and unlawfully have in his possession and under his control a quantity of Marijuana. This is in violation of §44-
53-370 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

WITNESSES

S. Branham *SB*

Sted

4/3/2008

ARREST WARRANT NUMBER

1799523

ACTION OF GRAND JURY

TRUE BILL

Nicki Cummings

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty:

Rosalind Bern
Foreperson of Petit Jury

7/15/09
Date:

DOCKET NO. 2008-GS-23-

AOF

607027

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

March

TERM 2008

THE STATE

VS.

GUILTY

JAQUES JAMAR SULLIVAN

Indictment for

0182

POSSESSION OF MARIJUANA

VIOLATION § 44-53-0370

FILED

ARREST WARRANT

I-799523

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE
against

Jaques Jamar Sullivan

Address: 208 North Pliny Circle

Simpsonville, SC 29681-

Phone: SSN:

Sex: M Race: B Height: 5 10 Weight: 224

DL State:

DOB: Agency ORI #: SCLED0000

Prosecuting Agency: Sled

Prosecuting Officer: S Branham - 331

Offense: Drugs/p. w.i.t.d. -marijuana 1st offense

Offense Code: 0186

Code/Ordinance Sec: 44-53-0370(b)(2)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

Jaques Jamar Sullivan

4-3-08

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Fairview/Austin Summary Court
205 North Maple Street, Suite 4
Simpsonville, SC 29681

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant S Branham

being duly sworn deposes and says that defendant Jaques Jamar Sullivan

did within this county and state on or about 04/03/2008

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Greenville

in the following particulars:

DESCRIPTION OF OFFENSE Drugs/p. w.i.t.d. -marijuana 1st offense

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:THE DEFENDANT WAS FOUND TO BE IN POSSESSION OF A QUANTITY OF A GREEN LEAFY SUBSTANCE WHICH
APPEARED TO BE MARIJUANA. THE PACKAGING WAS INDIVIDUALLY WRAPPED IN TWO SEPARATE CLEAR
BAGGIES INDICATING THE INTENT TO DISTRIBUTE TO ANOTHER. THE DEFENDANT IS NOT AUTHORIZED TO
POSSESS SAID SUBSTANCE BY LAW. THIS OFFENSE OCCURRED WITHIN THE CITY LIMITS OF SIMPSONVILLE
WHICH IS IN GREENVILLE COUNTY, SC.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4400 Broad River Road

Columbia 29221-

Affiant's Telephone (803)896-7011

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/3/2008

defendant Jaques Jamar Sullivan

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Greenville

) as set forth below.

DESCRIPTION OF OFFENSE: Drugs/p. w.i.t.d. -marijuana 1st offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me

on 04/03/2008

Signature of Issuing Judge (L.S.)

Darrell Fisher

Judge Code: 5068

Judge's Address

Judge's Telephone

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 10/30/12
 OMCOMITA RELEASE DATE SCREEN C051123
 SCDC# > 335849 LOC: PERRY
 SULLIVAN, JAQUES JAMAR SCDC CLASSIFICATION...: VIOLENT
 OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY...: N
 SEXUAL PREDATOR...: NOT APP
 DNA STATUS...: COMPLETED
 GPS REQUIREMENT...: N
 PREA DECISION...:
 CURRENT SENTENCE: 025-00-000 CONSECUTIVE SENTENCE ...: N
 025-00-000 CURRENT SENT START DATE: 06/30/2009
 PROJECTED COMPLETION DATES
 MAXOUT DATE: 06/24/2034 CURRENT EWC ..: 3 F 5
 YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC
 INITIAL PAROLE DATE: 00/00/0000 NEXT PAROLE HEARING DATE: 00/00/0000

 TOTAL GT DAYS EARNED: 000000 LABOR CREW/WORK PROG DATE: 99/99/9999
 TOTAL EARNED WORK CREDITS ...: 000285 LABOR CREW DISQ REASON:
 TOTAL EDUCATION CREDITS: 000000 CATEGORY 4 OR 5 OFFENSE
 TOTAL EXTRA EARNED CREDITS ..: 000 SUPERVISED REENTRY DATE...: 00/00/00
 TOTAL SERVICE TIME EARNED ...: 001200 ISS.....:

PFKEYS: 5:HISTORY OF DATE CHANGES
 4-© 1 Sess-1 167.7.50.33 SCDC1659 3/11

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RECORD SUMMARY REPORT DATED 10/30/12

C0511

SULLIVAN, JAQUES JAMAR FBI # 836206HB4 SID# SC01220024 SCDC # 335849

OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE

INSTITUTION ... PERRY CORR INST

SECURITY/CUST.: 3 MINIMUM IN

CURR INCARC SENT...: 25 YRS 0 MOS 0 DYS

CENTRAL MONITORING.: NO

SOCIAL SECURITY #....:

CURRENT PROGRAM...: NO CURRENT PROGRAM

AGE...: 36 DATE OF BIRTH..

DORM.....: Q1A0206B

RACE....:B SEX...:M

PROJ MAXOUT DATE: 06/24/2034

PROJ PAROLE DATE: 00/00/0000

EWC JOB...: LIBRARY HELPER

EDUC PGM.: NO CURR EDUC PROGRAM

EWC LEVEL: 3P5 EEC LEVEL:

ASSIGNMENT...: LIBRARY

PREVIOUS NUMBERS:

** NO PREVIOUS NUMBERS **

CURRENT OFFENSES	SENTENCE YRS MOS DYS COUNTY	SENTENCE START V/NV CATEGORY
FIREARMS PROVISION	5 0 0 GREENVILLE	6/30/20 9 N 3
TRAFFICKING IN CRACK COC	25 0 0 GREENVILLE	6/30/20 9 V 4

PRIOR COMMITMENTS OVER 90 DAYS:

MISSING PRIORS DATA

DETAINERS (HOLD, WANTED, NOTIFY):

CONTEMPT OF COURT

HOLD

PRESIDING JUDGE

CATEG: 1

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

NO NON-ASSAULTIVE DISCIPLINARY HISTORY

HISTORY OF MOVEMENTS:

		INCARCERATED	ADMINISTRATIVE
11/ 2/10	PERRY		
8/18/ 9	LEE	INCARCERATED	ADMINISTRATIVE
7/20/ 9	KIRKLAND	INCARCERATED	R&E PROCESSING
7/20/ 9	PERRY	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB	START	END	TERMINATION	JOB
DESCRIPTION	DATE	DATE	REASON	LVL
LIBRARY HELPER	11/23/11	0/ 0/ 0		YF5
FOOD SERVICE AIDE	11/15/11	11/15/11	INMATE REQUEST	YF5
GENERAL WORKER	09/03/09	11/ 2/10	INSTIT TRANSFER	YF5

HISTORY OF EARNED EDUCATION CREDITS:

EEC	START	END	TERMINATION
DESCRIPTION	DATE	DATE	REASON

NO SCHOOL ASSIGNMENTS

***** END OF REPORT *****

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville

STATE VS.

Jaques Jamar Sullivan

AKA:

Race: B Sex: M Age: 33

DOB: SS#:

Address: 208 North Piney Circle
Simpsonville, SC 29681

DL#: SID#:

INDICTMENT/CASE#: 2008GS2307026

A/W#: 1799524

Date of Offense: 4/3/2008

S.C. Code §: 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Possession of a Weapon During the Commission of a Violent Crime

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC) §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Fretwell, Allen

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 15 DAYS☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	
§ 90.11 TP (SCCJA Surcharge)	\$5	\$ 5.00

TOTAL

Paul B. Wickersham
Clerk of Court/ Deputy Clerk

Court Reporter: Hishell

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE Edward W. DeBeauvoirJudge Code: 211310Sentence Date: 7/15/09

SCCA/217 (03/2009)

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

Jaques Jamar Sullivan

AKA:

Race: R Sex: M Age: 33

DOB: SS#

Address: 208 North Piney Circle
Simmons, SC 29681

DL#: SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008GS2307026

A/W#: 1799520

Date of Offense: 4/3/2008

S.C. Code §: 44-53-0370(EV2) 44-53-375

CDR Code #: 0280 0363

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Trafficking in Cocaine, More Than 100 Grams

in violation of § 44-53-0370 of the S.C. Code of Laws, bearing CDR Code #

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC) §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. 0363 (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Fretwell, Allen

17016
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
(and/or to pay a fine of \$ 50000; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 15 DAYS☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

§ 35.13 (Public Def/Prob)

§ 73.3, 1B TP (Law Enforce. Funding)

§ 33.7, 1B TP (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

§ 90.11 TP (SCCJA Surcharge)

TOTAL

Paul B. Wickham

Clerk of Court/ Deputy Clerk

Court Reporter: Hishell

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 2111310

Sentence Date: 7/15/09

SCCA/217 (03/2009)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2012-CP-23-6281
COUNTY OF GREENVILLE	)	
	)	
Jaques Jamar Sullivan,	)	
S.C.D.C. #335849,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed October 1, 2012, the Respondent would show this Court:

I.

The Applicant is currently incarcerated with the South Carolina Department of Corrections. The Greenville County Grand Jury indicted the Applicant at the March 2009 term of General Sessions for trafficking cocaine (2008-GS-23-7026, count 1), possession of a weapon during the commission of a violent crime (2008-GS-23-7026, count 2) and possession of marijuana (2009-GS-23-7027). Daniel J. Farnsworth, Esquire, represented the Applicant.

After the State brought the case to trial, the Applicant was found guilty. On July 15, 2009, the Honorable Edward W. Miller sentenced the Applicant to concurrent terms of twenty-five years for trafficking cocaine, five years for possession of a weapon during the commission of a violent crime, and time-served for possession of marijuana, second offense. Judge Miller also levied a consecutive sentence of six months for criminal contempt.

A notice of appeal was filed at the South Carolina Court of Appeals. J. Falkner Wilkes, Esquire, perfected the appeal. The Court of Appeals affirmed the Applicant's convictions and

sentences. State v. Sullivan, Op. No. 2011-UP-446 (S.C. Ct. App. filed Oct. 11, 2011). The Remittitur was sent on October 27, 2011.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject convictions, the trial transcript, the appellate records, and the Department of Corrections records.

II.

In his application for post-conviction relief the Applicant alleges his conviction was unlawful for the following reasons:

1. Ineffective assistance of trial counsel.
 - a. "Trial counsel had a conflict of interest, that was not disclosed to me until after my conviction."
 - b. "Trial counsel was unprepared for trial."
 - c. "Trial counsel failed to investigate, obtain and review the discovery/evidence in my case prior to trial."
 - d. "Trial counsel failed to review the discovery/evidence with me prior to trial."
 - e. "Trial counsel failed to make appropriate and necessary objections to inadmissible evidence at trial."
 - f. "Trial counsel failed to call necessary witnesses at trial."
 - g. "Trial counsel failed to file necessary and appropriate motion(s) to challenge any wire-tap(s)/recordings in this matter."
 - h. "Trial counsel failed to challenge an illegal search and seizure in my case."
 - i. "Trial counsel failed to appropriately represent me at the forfeiture hearing following my conviction."
 - j. "I was denied the right to a fair trial when the trial court denied my motion for a continuance to enable me to retain alternate trial counsel."
2. Ineffective assistance of appellate counsel.
 - a. "Appellate counsel failed to raise appropriate and/or reviewable issues on appeal."

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is

without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v.

Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

A defendant is constitutionally entitled to effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 105 S. Ct. 830 (1985). In analyzing a claim of ineffective assistance of appellate counsel, the Court applies the Strickland test just as it would when analyzing a claim of ineffective assistance of trial counsel. See Bennett v. State, 383 S.C. 303, 309, 680 S.E.2d 273, 276 (2009); Southerland v. State, 337 S.C. 610, 616, 524 S.E.2d 833, 836 (1999) (noting courts apply the Strickland test to determine if appellate counsel was deficient for failing to raise an issue and whether the defendant was prejudiced from the failure to raise the issue). Appellate counsel, however, is not required to raise every non-frivolous claim, but instead may select among them in order to maximize the likelihood of a favorable outcome. Smith v. Robbins, 528 U.S. 259, 288, 120 S. Ct. 746, 765 (2000).

The Respondent contends that the Applicant's appellate attorney rendered effective assistance of counsel. However, this ground for relief may raise factual issues that are not conclusively refuted by the record. The Respondent requests an evidentiary hearing on this allegation. See Sharper v. State, 279 S.C. at 265, 305 S.E.2d at 248.

V.

The Respondent denies each allegation not expressly admitted, qualified or explained.

VI.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held on the issues raised in the PCR application.

Respectfully submitted,

ALAN WILSON
Attorney General

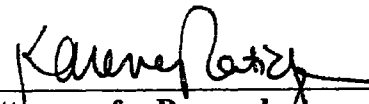
JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

KAREN C. RATIGAN
Assistant Deputy Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

May 2, 2013

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

JAQUES JAMAR SULLIVAN, 335849

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

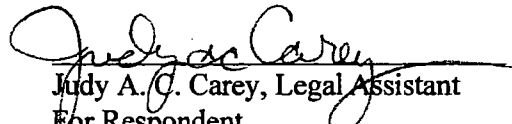
2012-CP-23-6281

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

J. Bradley Bennett, Esquire
101 West Park Avenue
Greenville SC 29601

DATED this 2nd day of May, 2013.


Judy A. C. Carey, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

COURT OF COMMON PLEAS

2012-CP-23-06281

JAQUES JAMAR SULLIVAN,
APPLICANT,

vs.

TRANSCRIPT OF RECORD

STATE OF SOUTH CAROLINA,
RESPONDENT.

COPY

April 25, 2014

Greenville, South Carolina

B E F O R E:

THE HONORABLE D. GARRISON HILL, JUDGE.

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

J. BRADLEY BENNETT, ESQ.
Attorney for the Applicant

KAREN C. RATIGAN, ESQ.
Attorney for the Respondent

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(AW) - Denotes Applicant's Witness

(RW) - Denotes Respondent's Witness

Page No.

(AW) <u>PAMELA MICHELLE STEWART:</u>	
Direct Examination by Mr. Bennett.....	4
(AW) <u>JAQUES JAMAR SULLIVAN:</u>	
Direct Examination by Mr. Bennett.....	10
Cross-Examination by Ms. Ratigan.....	22
(RW) <u>DANIEL J. FARNSWORTH:</u>	
Direct Examination by Ms. Ratigan.....	32
Cross-Examination by Mr. Bennett.....	37
(RW) <u>ALLEN OLIVER FRETWELL:</u>	
Direct Examination by Ms. Ratigan.....	48
Cross-Examination by Mr. Bennett.....	51

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
	(Plaintiff's Exhibits)		
P-1	Letter dated 6/12/09.....	8	8
P-2	Indictment 2008-GS-23-02426.....	19	19
P-3	Indictment 2010-GS-23-00726.....	19	19

All Exhibits were retained by the Clerk of Court for Greenville County.

P R O C E E D I N G S

THE COURT: Yes, ma'am.

MS. RATIGAN: Thank you, Your Honor.

May it please the Court.

This is the case of Jaques Sullivan v. the State of South Carolina. The docket number is 2012-CP-23-6281.

Mr. Sullivan was indicted for trafficking cocaine, possession of a weapon during the commission of a violent crime, and possession of marijuana. He was represented on these charges by Mr. Farnsworth.

The case was brought to trial in July of 2009 before Judge Miller. On July 15th of 2009, Judge Miller sentenced Mr. Sullivan to concurrent terms of 25 years for trafficking cocaine, five years for possession of a weapon during the commission of a violent crime, and time served for possession of marijuana second offense. Judge Miller, also, levied a consecutive sentence of six months for criminal contempt.

Mr. Sullivan did file a timely notice of appeal that was perfected at the Court of Appeals. That Court affirmed Mr. Sullivan's convictions and sentences on October 11th of 2011.

The application was timely filed. So the State is ready to proceed.

THE COURT: Yes, sir, Mr. Bennett.

1 MR. BENNETT: May it please the Court, Your Honor.

2 THE COURT: Yes, sir.

3 MR. BENNETT: We call Ms. Pamela Stewart to the
4 stand.

5 THE CLERK: Ms. Stewart, please, place your left hand
6 on the Bible and raise your right hand.

7 WHEREUPON,

8 PAMELA MICHELLE STEWART,
9 after first having been duly sworn, testified as follows:

10 THE CLERK: Thank you.

11 Please state your full name for the record.

12 THE WITNESS: Pamela Michelle Stewart.

13 THE CLERK: Thank you.

14 You may be seated.

15 DIRECT EXAMINATION

16 BY MR. BENNETT:

17 Q Good morning, Ms. Stewart.

18 Thank you for being here today.

19 A Good morning.

20 Q What is your relationship with Mr. Jaques Sullivan?

21 A His live-in girlfriend.

22 Q And how long have you known him?

23 A Since high school, 1991.

24 Q And you were living with him at the time of his
25 arrest; is that correct?

1 A That's correct.

2 Q And are you familiar with his attorney, Mr. Dan
3 Farnsworth?

4 A Yes.

5 Q How is it that you are familiar with Mr. Farnsworth?

6 A I went to the office a couple of times with Jaques
7 Sullivan before the trial in June of 2009.

8 Q And so you had met Mr. Farnsworth because of that?

9 A Yes.

10 Q And did you sit in on any meetings or anything with
11 Mr. Farnsworth and your boyfriend?

12 A Yes. I -- at one meeting we went to, we listened to
13 some audio regarding the case. And it was -- my daughter
14 was with me as well. And we were -- he was trying to --
15 Mr. Farnsworth was trying to get the audio to work. And I
16 had to step out to calm my daughter down a little bit.
17 And we all stepped outside. It was raining.

18 And I overheard a conversation Mr. Farnsworth had
19 with Jaques that day. He said, Jaques, You want to know
20 where all this started? This is stemming from Julia Marie
21 Anderson, her case.

22 Q Did you know Julia Marie Anderson?

23 A No, I did not.

24 Q Did you ask Jaques afterwards about Julia Marie
25 Anderson?

1 A No, I didn't.

2 Q Did you have a chance to be acquainted with Jaques
3 during his trial -- were y'all still together?

4 A Yeah. We were still together. I was not present at
5 the actual trial, though. I was working.

6 Q And you've remained -- what do you say today your
7 relationship with Jaques is? I understand he is
8 incarcerated at Perry. But are you his girlfriend still?

9 A Yes. I'm still his girlfriend, yes.

10 Q And y'all have maintained communication?

11 A Yes, we do.

12 Q And y'all have done so since the beginning of his
13 incarceration sentence?

14 A Yes. That's correct.

15 Q In fact, have you assisted Jaques in any way going
16 forward with his appellate rights?

17 A Yes, I have.

18 Q And how have you done that?

19 A He told me to go ahead and get the file from
20 Mr. Farnsworth, his case file. And I started that
21 endeavor probably -- February of 2012 is when it started.

22 So I proceeded to talk with Melanie, his assistant, I
23 guess, to get the file. The initial meeting we had, she
24 was kind of hesitant to give me the file stating, you
25 know, it's over a hundred pages and was just giving me

1 all, you know, different excuses. And she told me then
2 that I needed to get Jaques to send them a letter stating
3 that it was okay to release the file to me.

4 Q Were you able to, actually, get a copy of the file?

5 A I did.

6 Q How was that?

7 A Once Jaques sent the letter to Mr. Farnsworth's
8 office, I proceeded to call and follow-up to see if they
9 made a decision as far as releasing the file. And,
10 eventually, it was released to me.

11 So I went to Mr. Farnsworth's office. I got the
12 file. And she told me I had to -- Melanie told me I had
13 to take the file to get it copied myself and then bring it
14 back.

15 Q Did you do that?

16 A I did. I went to Kinko's to get it copied.

17 MR. BENNETT: Your Honor, may I approach?

18 THE COURT: Sure.

19 BY MR. BENNETT:

20 Q Ma'am, I'm going to hand you a document. I'd like
21 you to take a look at this, please. After you've had a
22 sufficient opportunity to review that document, ma'am,
23 please, let me know if you recognize that document.

24 A I do.

25 Q What do you recognize that document to be?

1 A I recognize it as a document that was inside of
2 Jaques' file. As I was making the copy, I came across
3 this fax cover letter.

4 Q And why is it that that document stands out to you in
5 relationship to the other documents possibly?

6 A Well, because it's a fax cover letter from the
7 Solicitor's Office to Mr. Farnsworth. It's regarding the
8 State of South Carolina v. Jaques Jamar Sullivan regarding
9 his case. But someone had written Julia Anderson's name
10 on it.

11 Q Did you provide a copy of that document to Jaques
12 with the other documents that you had photocopied?

13 A I did.

14 MR. BENNETT: Your Honor, I'd like to have this moved
15 into evidence as Plaintiff's Exhibit No. 1, please.

16 MS. RATIGAN: I would object, Your Honor. She has
17 stated it's an item in the file, which she can't identify
18 when it was received, who it was received by. She
19 can't identify who wrote the words "Julia Anderson" on
20 there.

21 MR. BENNETT: If I may be heard, Your Honor.

22 THE COURT: Overruled.

23 (WHEREUPON, Plaintiff's Exhibit No. 1 was marked for
24 identification and admitted into evidence.)

25 MR. BENNETT: Thank you, Your Honor.

1 BY MR. BENNETT:

2 Q Ma'am, once you received that document and the other
3 documents that you photocopied, what did you do with them?

4 A I put everything in a package and mailed it to
5 Jaques.

6 Q Did you have any further discussions with
7 Mr. Farnsworth?

8 A No, I did not.

9 MR. BENNETT: Thank you.

10 No more questions at this time, Your Honor.

11 THE COURT: All right. Cross-examination.

12 MS. RATIGAN: I have no questions, Your Honor.

13 MR. BENNETT: May the witness be excused, Your Honor?

14 THE COURT: Yes, sir.

15 MR. BENNETT: Ma'am, you can step down.

16 Thank you.

17 THE WITNESS: Thank you.

18 THE COURT: All right. Yes, sir.

19 MR. BENNETT: Thank you, Your Honor.

20 I call Mr. Jaques Sullivan.

21 THE CLERK: Mr. Sullivan, please, place your left
22 hand on the Bible and raise your right hand.

23 WHEREUPON,

24 JAQUES JAMAR SULLIVAN,
25 after first having been duly sworn, testified as follows:

1 THE CLERK: Thank you.

2 Please state your full name for the record.

3 THE WITNESS: Jaques Jamar Sullivan.

4 THE CLERK: Thank you.

5 You may be seated.

6 THE WITNESS: Thank you.

7 DIRECT EXAMINATION

8 BY MR. BENNETT:

9 Q Good morning, Mr. Sullivan.

10 A Good morning.

11 Q I know you're nervous. It's a big day for you. Just
12 calm down. You're going to do great.

13 Okay. If you will, please, tell the Court a little
14 bit about the fact of you receiving these documents that
15 you've already heard about here today in court from your
16 girlfriend, Ms. Pamela Stewart.

17 A Well, I was already incarcerated at Perry
18 Correctional Institution. And I had already asked her
19 about sending me the file. And when she sent me the file,
20 if I'm not mistaken, when I received it, it was in March.

21 And upon receiving the file, I started to go through
22 it because it was all mixed up. It was all mixed up. And
23 in looking through those papers, I seen a lot of evidence
24 inside of it, documents that I hadn't seen from the file
25 that I had from 2008 when I was still at home before going

1 to trial and being convicted.

2 Q And that file that you had in 2008 was a file that
3 you had received from your attorney, Mr. Farnsworth; is
4 that correct?

5 A Yes.

6 Q And when you received the additional -- or when you
7 received the documents from your girlfriend Ms. Stewart,
8 there were additional documents that you did not
9 originally have received -- had not received from your
10 attorney; is that correct?

11 A Yes, sir. That's correct.

12 MR. BENNETT: May I approach, Your Honor?

13 THE COURT: Sure.

14 MR. BENNETT: And may I retrieve Plaintiff's Exhibit
15 No. 1?

16 THE COURT: Yes. It's right here.

17 BY MR. BENNETT:

18 Q Mr. Sullivan, I'm going to hand you what's been
19 marked and accepted into evidence as Plaintiff's Exhibit
20 No. 1. If you will, please, take an opportunity to review
21 that document.

22 A (Witness complied.)

23 Q Do you recognize that document, sir?

24 A Yes, sir.

25 Q What do you recognize it to be?

1 A It came from the Solicitor's Office just out of the
2 discovery material. And it's, basically, you know, State
3 of South Carolina versus me, Jaques Jamar Sullivan. And
4 it has her name on it, Julia Anderson. And it's all her
5 incident information on it.

6 Q All right. Now, did you know who -- at that time
7 when you received that document from your girlfriend,
8 Ms. Stewart, did you know Ms. Julia Anderson?

9 A Yes.

10 Q How is it that you knew Ms. Anderson?

11 A We were at his office and we had a prior
12 conversation --

13 Q I'm going to interrupt you for one second. When you
14 say "his office," I think I know who you're talking about,
15 but just, for the record, who's office was it?

16 A Mr. Farnsworth's office.

17 Q Okay. So you were at Mr. Farnsworth's office having
18 a meeting about your case; is that correct?

19 A Yes, sir.

20 Q Okay. Please go ahead. I'm sorry to have
21 interrupted you.

22 A We were at Mr. Farnsworth office. And that was one
23 of the visits where I was there to listen to some
24 audiotapes that he had. His assistant was getting it
25 ready on the computer.

1 And after listening to those, we were outside. And
2 that was, also, the visit where Pam was present. And he
3 started to share with me about where the case got started.
4 And he mentioned to me that all of this had started with
5 Julia Marie Anderson. I was kind of dumbfounded in
6 looking at him, you know, because I was wondering what
7 that was all about.

8 And after having that conversation outside of his
9 office -- it was raining. He was smoking a cigarette.
10 And we were standing up under the -- I guess right as soon
11 as you step outside the door of the office. And that was
12 about the gist of it there.

13 So after receiving this file and going through all
14 the information, when I seen this here, I said, well, wow,
15 this makes a lot of good sense here now why I was feeling
16 the way I felt before about, you know, I was uncertain
17 about what was going on. Because he never gave me full
18 discovery from 2008 that I had that had anything dealing
19 with a confidential informant inside of it. And it was
20 never a complete file. I just had like a partial file.

21 So when I got the one that she sent me after being
22 incarcerated -- and it's 500 and some odd plus pages.

23 Q Okay. Now, you mentioned confidential informant.
24 Did you have a confidential informant testify against you
25 at your trial?

1 A Repeat the question.

2 Q Sure. You mentioned a confidential informant. Did
3 you have a confidential informant testify against you
4 during your trial?

5 A Yes, I did.

6 Q And that was whom?

7 A Roddric Ingram.

8 Q Ingram. Okay. I believe his full name is Roddric
9 Jerome Ingram; is that --

10 A Roddric Jerome --

11 Q Did you know Roddric Jerome Ingram at the time of
12 your trial?

13 A Yes.

14 Q How is it that you knew him?

15 A I knew him from being out and about and from the
16 club. And then, like I said, we had prior dealings.

17 Q Okay. And did you know whether or not Roddric Jerome
18 Ingram and Julia Anderson knew each other?

19 A Yes.

20 Q Please explain.

21 A Roddric and Julia were girlfriend and boyfriend
22 pretty much having somewhat of an affair, so to say. And
23 they were, also, in the business together.

24 Q And I'm sorry. I just want to make sure I understood
25 what you said. Did you say they had an affair, so to

1 speak?

2 A They were having an affair. They were girlfriend and
3 boyfriend pretty much.

4 Q Okay. Thank you.

5 Go ahead. And you said they were in the business
6 together?

7 A Yes.

8 Q What do you mean by they were in the "business
9 together"?

10 A Drug business.

11 Q In other words, were they dealing drugs together?

12 A Yes, they were.

13 Q Had you had drug dealings with both Mr. Ingram and
14 Ms. Julia Anderson?

15 A Yes, sir.

16 Q And did you know them to be working together as a
17 team, in essence?

18 A Yes.

19 Q Mr. Sullivan, did you at some point in time find out
20 that your lawyer, Mr. Farnsworth, was, actually, the
21 lawyer for Julia Marie Anderson?

22 A Do you mean prior to receiving the file or --

23 Q You're exactly right. I didn't ask that question
24 very well. Let's talk about it from the beginning part.

25 While you were being represented by Mr. Farnsworth

1 prior to trial, did he ever tell you that he had, in fact,
2 represented Julia Marie Anderson?

3 A No, sir. He never gave me any indication or he never
4 told me at all that he was representing her in any form or
5 fashion.

6 Q This discussion that you had when he was smoking a
7 cigarette while it was raining outside of his office after
8 he had told you that the impetus for the case was Julia
9 Marie Anderson, did he tell you at that time that he had
10 represented Julia Marie Anderson?

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

12 Q How is it that you found out that Mr. Farnsworth,
13 your attorney, had, in fact, represented someone by the
14 name of Julia Marie Anderson?

15 A That was after I was incarcerated. And, like I said,
16 I had Pamela to go to his office to retrieve my complete
17 file. And in getting that complete file, I had heard from
18 her. She had to tell me to send a notarized letter to
19 Mr. Farnsworth. So I did that to get my authorization to
20 get the file in its entirety.

21 When she mailed the file to me and I got the complete
22 file, that's when I noticed these documents inside it.
23 That's when I came about knowing that she had something to
24 do with my case.

25 Q Putting together the statements by your attorney and,

1 also, the document that has the lady's name Julia Marie
2 Anderson written on it, did that lead you to do some
3 further investigation on your own?

4 A Yes, sir.

5 Q What investigation is it that you did?

6 A After reviewing the file and then -- and saying to
7 myself -- I said, well, with her name being on this Rule 5
8 sheet from the Solicitor's Office, I said, I need to go
9 get some information on her. So I had Pam to go to the
10 courthouse and retrieve the indictments on her, and
11 tracking sheets on her, everything I could on her to find
12 out exactly what was going on with her, what was the
13 attachment to her.

14 And, upon getting that, she got some certified
15 documents and tracking sheets stating that Mr. Farnsworth
16 represented her and represented me at the same time.

17 Q Okay. And you were able to do all this while you
18 were incarcerated?

19 A Yes, sir. That's correct.

20 MR. BENNETT: May I approach, Your Honor?

21 THE COURT: Yes, sir.

22 BY MR. BENNETT:

23 Q Mr. Sullivan, I've handed you two separate documents.
24 For speed's sake, I'm going to get you to look at both of
25 those at the same time.

1 A Okay.

2 Q Do you recognize those two documents, sir?

3 A Yes, I do.

4 Q What do you recognize those documents to be?

5 A These documents here are, basically, the cover sheets
6 for the indictment and statement of the case. And it's
7 the tracking sheet for the indictment itself. And they're
8 both dealing with the incident from February 2nd, 2008,
9 which would be the arrest between Julia Marie Anderson and
10 Roddric Jerome Ingram.

11 Q That date, February 2nd, is that the date that led
12 Roddric Jerome Ingram to start making statements against
13 you?

14 A Yes, it is.

15 Q And those documents that you have in front of you,
16 are those the actual documents that you received from your
17 girlfriend, Pam Stewart?

18 A Yes, they are. These are the documents that I had
19 her to go to the courthouse and get and make sure that she
20 got them certified.

21 Q With the raised seal, in other words?

22 A Yes, they are, the indictment and the tracking sheet
23 itself, both of them. I told her to make sure that she
24 got both of them certified so there would be no mistake
25 that they came from the courthouse and these couldn't be

1 fabricated.

2 MR. BENNETT: Thank you.

3 If you'll hand those back to me.

4 Your Honor, I'd ask that these be moved into evidence
5 as Plaintiff's Exhibit Nos. 2 and 3.

6 MS. RATIGAN: I have no objection to them being moved
7 in. I would ask that, perhaps, the witness or somebody
8 identify what indictments we're talking about by
9 indictment number, perhaps, just for the purposes of the
10 record.

11 MR. BENNETT: That'd be fine.

12 THE COURT: All right. They're in evidence.

13 (WHEREUPON, Plaintiff's Exhibit Nos. 2 and 3 were
14 marked for identification and admitted into evidence.)

15 MR. BENNETT: Thank you.

16 Plaintiff's Exhibit No. 2 will be arrest warrant
17 J484772. Plaintiff's Exhibit No. 3 will be indictment
18 2010-GS-23-00726A.

19 BY MR. BENNETT:

20 Q In reading those documents, Jaques, what effect did
21 those documents have on you and your knowledge about
22 Mr. Farnsworth's representation of Julia Marie Anderson?

23 A Like I say, when I got the file and went through it
24 and I seen the sheet dealing with me from the Solicitor's
25 Office with my name, her name, the incident reports. And

1 I took the date off of it and I said, wow.

2 So I went to my transcripts because I had my
3 transcripts, also. And I started to compare the dates.
4 And I said, man. I said, this is crazy. I said, I had no
5 idea, you know. This had never been told to me, nor did I
6 know anything about this prior to trial, you know.

7 So I assumed that that was a serious conflict of
8 interest situation. So I began to look at it in depth and
9 started to do my homework and put the paperwork together
10 to be able to articulate this today.

11 Q And when you say something that you put together and
12 knew, specifically, what is it that you put together and
13 knew, based upon those documents?

14 A Well, from getting the file, from having that Rule 5
15 paper come from the Solicitor's Office, the incident
16 report date from the -- on the cover sheet that you have
17 there, it matches the ones for the indictments on her.

18 And inside of the file, also, are the complete
19 incident reports that go back to the drug investigation
20 dealing with the two of them. And the two of them would
21 be Julia Marie Anderson and Roddrick Jerome Ingram. And I
22 put the pieces of the puzzle together right there.

23 Q Using those dates from those documents in Plaintiff's
24 Exhibit Nos. 2 and 3, how did you feel when you realized
25 that your lawyer represented Ms. Julia Marie Anderson both

1 prior to your case and, also, past your case?

2 A I knew it wasn't right and exact. I knew there was
3 something terribly wrong there. And I knew if I had had
4 knowledge of that and I knew that if the Judge had been
5 made aware of that at the time that that wouldn't have
6 been able to go forward like that. I knew that there was
7 no way possible that he could represent her and represent
8 me at the same time in my case trial and investigation
9 when everything stemmed and started from her.

10 Q And he had never told you at any time that he had
11 represented her?

12 A He never told me at any time that he represented her
13 at all.

14 Q If he had told you, what would you have done?

15 A I would have immediately -- I would have immediately,
16 you know, objected. I'd have did something at trial, you
17 know, to say, hey, this isn't right. I didn't have any
18 knowledge of that at all.

19 Q What if it was prior to the trial that he had told
20 you, would you have continued on with him being your
21 lawyer?

22 A No, I would not.

23 Q Why not?

24 A Because I would have wanted new counsel. That way, I
25 would have been able to retain full discovery. That way,

1 I would have been able to prepare a proper defense of me,
2 and, also, be able to call everybody that needed to be in
3 that courtroom as a witness. Because that's impeachable
4 evidence. And I should have been able to confront my
5 accuser and be able to bring this to the Court's
6 attention.

7 MR. BENNETT: Thank you, Mr. Sullivan.

8 No more questions at this time, Your Honor.

9 Please answer any questions Ms. Ratigan might have,
10 Mr. Sullivan.

11 CROSS-EXAMINATION

12 BY MS. RATIGAN:

13 Q Mr. Sullivan, would it be fair to say you had several
14 meetings with Mr. Farnsworth before you went to trial to
15 talk about your case?

16 A I wouldn't say that I had several meetings with him
17 before the trial to talk about my case. But I had been to
18 his office on different occasions to speak with him
19 briefly.

20 Q Had you gone over the State's evidence with him?

21 A No, I had not.

22 Q None of it?

23 A None at all.

24 Q Well, I thought you said you were there to listen to
25 audio recordings?

1 A The only thing that -- the only thing that he shared
2 with me was that one occasion where I was in his office to
3 listen to that and we were there -- we probably weren't
4 there 10 minutes.

5 Q So you did review some of the evidence?

6 A We listened to audio on the computer or whatever it
7 was that his assistant was setting up.

8 Q Did you ever discuss with him that there had been a
9 confidential informant in the case?

10 A That would be Roddric Jerome Ingram.

11 Q Yes. So -- but what I'm saying is, did you discuss
12 with Mr. Farnsworth that there was a CI in the case?

13 A No. Basically, what he would do when I would come to
14 his office is he would call him by his nickname. His
15 nickname is Sweets.

16 And, at the time, we never really knew whether Sweets
17 was a female or whether Sweets was a male. And I would
18 always address him as saying, why don't you know whether
19 this guy is a guy or a female? Because he didn't seem to
20 be aware of what was going on with Roddric Jerome Ingram.

21 Q But what I'm asking you is did you discuss the fact
22 that there was going to be a CI against you in this case?

23 A Oh, I knew that there was a confidential informant.

24 Q Okay.

25 A Yes, ma'am.

1 Q So you knew there was a confidential informant, and
2 you knew there were some audio recordings?

3 A Yes.

4 Q Okay. And did you tell Mr. Farnsworth your version
5 of what had happened the day you got arrested?

6 A Yes.

7 Q And the day that you said you were outside in the
8 rain with Mr. Sullivan -- I'm sorry, with Mr. Farnsworth
9 and he told you it all started with Julia Marie Anderson,
10 when would that have been? If your trial was in July of
11 2009, when would he have told you that? Do you recall?

12 A That would have been on or about the end of June. My
13 first court appearance was July 1st. And we didn't go
14 that day. It was continued.

15 Q Okay. So the end of June of 2009. So a few -- maybe
16 a month before your trial?

17 A Yes.

18 Q Okay. And you testified Mr. Farnsworth said this all
19 started with Julia Anderson?

20 A Yes. That's what he told me. That's what he shared
21 with me.

22 Q And what -- did he explain to you what he meant by
23 that?

24 A No, not exactly. He just -- like I said, we went
25 outside and he was smoking a cigarette. And he asked

1 me -- he said, If you want to know why all this got
2 started -- he asked me did I know Julia Marie Anderson.
3 And, like I said, I was looking a little dumbfounded and
4 answered yes to him. And he said, Well, this is where all
5 this got started at.

6 Q And he didn't say anything else?

7 A He didn't say anything else. He told me that
8 Roddric -- he told me that Roddric was on his way over
9 there and got jammed up. They were doing --

10 Q Wait. Hold on a second. On his way over to where?

11 A Over to Julia Marie Anderson's house.

12 Q Okay. And then what else did Mr. Farnsworth say?

13 A He just shared that that's where this started. And
14 he was jammed up. They were already there raiding her
15 house. And he was on his way over there. And they
16 stopped him and searched his vehicle and found drugs and
17 stuff on him, too. And that's how the whole thing got
18 started. That's what he shared with me outside his
19 office.

20 Q So, at that point, you knew this CI was Mr. Ingram?

21 A I knew beforehand that it was Roddric Jerome Ingram.

22 Q Okay. So even though Mr. Farnsworth had called the
23 CI by the nickname Sweets, at some point, you figured out
24 it was Mr. Ingram?

25 A Yeah. I already knew his government [sic].

1 Q So Mr. Farnsworth said, this all started with Julia
2 Marie Anderson, and this is how the CI got involved. And,
3 at that point, did you discuss it any further?

4 A No.

5 Q Okay. And you were convicted in July of 2009. When
6 did you receive those indictments -- Julia Marie
7 Anderson's indictments?

8 A I was already incarcerated.

9 Q Okay. But that's what I'm asking you is when was
10 that?

11 A Yes. I was already incarcerated and I had been at
12 Perry Correctional Institution. And I received those
13 indictments in 2012, I want to say.

14 Q Okay. And when did Ms. Stewart get you a copy of
15 your file where you found Plaintiff's Exhibit No. 1, the
16 letter with Julia Anderson's name on it? When would you
17 have gotten that from Ms. Stewart?

18 A I got that in March.

19 Q Of?

20 A Of 2012, if I'm not mistaken. I've got the actual
21 cover sheet inside of my file there on the table.

22 Q Okay. So you received --

23 MR. BENNETT: I'll be more than happy -- I'm sorry to
24 interrupt.

25 MS. RATIGAN: No. I just needed to know relative to

1 the trial when he got these files.

2 BY MS. RATIGAN:

3 Q So 2012. That's all I needed to know. And --

4 MR. BENNETT: I'm not trying to object, Your Honor.
5 But I guess if the question was asked and the witness is
6 interested in trying to answer the question more
7 specifically, and he's claiming that there's a document
8 that can refresh his recollection in his paperwork, I'd be
9 more than happy to provide that if --

10 MS. RATIGAN: I'm satisfied with the answer he's
11 given to my question.

12 MR. BENNETT: Thank you.

13 BY MS. RATIGAN:

14 Q And your testimony, Mr. Sullivan, is that if you had
15 known about this relationship between Mr. Farnsworth and
16 Ms. Anderson that you would have asked for a new attorney?

17 A Yes, I would have.

18 Q Okay. Well, you were already unhappy with
19 Mr. Farnsworth at your trial, were you not?

20 A Very, very much unhappy.

21 Q Okay. So you tried to relieve him at trial and the
22 Judge, basically, shot you down?

23 A That is correct.

24 Q Okay. So isn't this just another attempt to kind of
25 cast bad light -- Mr. Farnsworth in a bad light?

1 A Repeat the question.

2 Q Isn't this just another attempt to try to cast
3 Mr. Farnsworth in a bad light. You've already made one
4 attempt, have you not?

5 A Respectfully, I don't know what to say to that, only
6 that I was unhappy then. And after finding out all that
7 information, I was unhappy after the fact about that. And
8 I understood exactly why I felt the way I felt in that
9 courtroom that day about not wanting to be represented by
10 him and wanting to be -- you know, having the opportunity
11 to obtain new counsel.

12 Q Well, why were you unhappy with Mr. Farnsworth that
13 day?

14 A Like I said, he wasn't very, very clear about
15 anything having to do with my discovery from the
16 beginning. And several times when I called his office
17 having any questions to do with my case as a whole, he
18 just wasn't very truthful, you know, throughout the whole
19 process, so.

20 Q What do you mean he wasn't truthful?

21 A With any type of questions having to do with Roddrick,
22 or anything that I wanted to know about the discovery
23 material dealing with Roddrick, or anything else in the
24 case that I hadn't been given answers to, or how I was
25 feeling at the time.

1 Q Okay. But what I'm asking you is you said he wasn't
2 truthful. That implies that he was lying to you. What
3 was he being untruthful or lying to you about?

4 A Well, for one, like I said, we had never discussed
5 anything other than when I come to his office, he would
6 ask me do I know anything about Roddric, had I seen
7 Roddric. It was never anything -- like I had a situation
8 with a forfeiture and him supposed to represent me in a
9 forfeiture hearing for a lot of money that was taken from
10 me. I never got any clear, you know, information about
11 that. There was just a lot of different things dealing
12 with his representation as a whole.

13 Q So he was unclear with you and didn't answer your
14 questions?

15 A Right. And I never was able to call and get anything
16 from his legal assistant either.

17 Q Okay. But my question is, you said he was not
18 truthful. What was he untruthful about? I'm not talking
19 about not answering questions. I'm talking about what did
20 he tell you that was untrue?

21 A About who and about what exactly, Ms Ratigan?

22 Q You said he was untruthful. I'm just trying to ask
23 you the question. What did he tell you that was untrue?

24 A There's an abundance of things at the time. Like I
25 said, I mean, I can't recall everything that I can say

1 that I asked him at the time, or that I asked his legal
2 assistant. But, you know, he wasn't very clear with me
3 about information I wanted to know pertaining to the
4 discovery as you can see --

5 Q So he was not clear?

6 THE COURT: Wait. Let him finish answering the
7 question.

8 MS. RATIGAN: Okay.

9 BY MS. RATIGAN:

10 Q Please finish.

11 A What I'm saying is everything that I wanted to know
12 that had anything to do with audio, video dealing with
13 information of Roddric Ingram as the confidential
14 informant and contract, all that stuff that I wanted to
15 know I wasn't getting any clear information from him at
16 the time.

17 And I understand, like I said, why I didn't want to
18 be represented by him any more before I went to trial and,
19 also, now that I'm sitting here before you in this
20 courtroom today and being convicted -- you know, having
21 this file and seeing all this impeachable evidence that I
22 didn't have in the first file. It's just a clear
23 statement of what was going on at the time.

24 Q Well, can you tell me today -- give me an example of
25 something that Mr. Farnsworth told you that was untrue?

1 I'm not talking about unclear. You said untruthful. Tell
2 me -- give me an example of what he told you that was a
3 lie.

4 A When I came to his office that day -- for example,
5 when I got there that day to listen to the audio on the
6 computer that was set up by his assistant, before I had
7 even got to that, he had told me that they had audio and
8 visual on me. When we get there that day, there's no
9 visual. There's just audio.

10 And I asked him, I said, Mr. Farnsworth, where is the
11 visual?

12 Oh, there is no visual. There's just audio.

13 And that was what he had to say. So that was an
14 example of what I'm trying to say by him not being very,
15 very clear or very truthful with me about what was
16 supposed to be versus not -- you know, what's not supposed
17 to be.

18 MS. RATIGAN: That's all I have, Your Honor.

19 MR. BENNETT: No follow-up.

20 THE COURT: All right. Thank you, Mr. Sullivan.

21 MR. BENNETT: You can step down. Watch your step.

22 THE COURT: You may call your next witness.

23 MR. BENNETT: Thank you, Your Honor.

24 The Plaintiff rests.

25 THE COURT: Let's just take about a five-minute

1 break, and then we'll have the next witness.

2 MS. RATIGAN: Thank you, Your Honor.

3 THE COURT: Thank you.

4 (WHEREUPON, a break was taken.)

5 THE COURT: Yes, ma'am, Ms. Ratigan.

6 MS. RATIGAN: Thank you, Your Honor.

7 The State would call Mr. Farnsworth.

8 THE CLERK: Mr. Farnsworth.

9 WHEREUPON,

10 DANIEL J. FARNSWORTH,

11 after first having been duly sworn, testified as follows:

12 THE CLERK: Thank you.

13 Please state your full name for the record.

14 THE WITNESS: It's Dan middle initial "J" Farnsworth.

15 DIRECT EXAMINATION

16 BY MS. RATIGAN:

17 Q Mr. Farnsworth, do you recall representing
18 Mr. Sullivan on these charges?

19 A Yes, I do.

20 Q And were you retained in this case, or were you
21 appointed?

22 A I was retained.

23 Q And did you file the usual Brady and Rule 5 motions?

24 A I did.

25 Q And did you receive those materials from the State?

1 A Yes.

2 Q Did you receive full discovery from the State?

3 A As far as I know, I received full discovery.

4 Q And did you review the discovery materials with
5 Mr. Sullivan?

6 A Yeah. I'm almost sure I would have. You know,
7 that's been my practice, and particularly on a case of
8 this magnitude. But it has been five years, I mean, I
9 can't tell you exactly where we were or what was said.
10 But I'm sure -- I've never gone to trial and hadn't
11 reviewed the evidence with my client.

12 Q And you -- so you were aware that this was a CI?

13 A A what?

14 Q A CI, confidential informant case?

15 A Yeah. I mean, we even had a tape of the conversation
16 where the transaction was set up between the CI and
17 Mr. Sullivan.

18 Q And did Mr. Sullivan provide you his version of what
19 had happened that day, his version of events?

20 A Well, I don't know so much about that. What his
21 defense was -- I mean, I never heard anything about he had
22 an alibi. And I don't know that he had a defense. If he
23 did, I don't think he related it to me.

24 Q So what was your trial strategy going to be going
25 into trial?

1 A My strategy was, you know, just, you know, try to
2 pick and find anything I could as the trial went on.
3 There were no -- I mean, the case was -- there was a phone
4 call recorded. There was surveillance. A transaction was
5 made. They arrested him right there and -- where he was
6 supposed to meet the guy. And, I mean, you know, I don't
7 know what strategy -- much you could do on that with any
8 strategy.

9 Q Did you explain to Mr. Sullivan you thought the State
10 had some pretty strong evidence against him?

11 A I don't think I needed to explain that to
12 Mr. Sullivan, if I didn't. But, I mean, that was just --
13 I thought it was -- he understood what the evidence was.
14 And if he understood it, he knew that it was pretty strong
15 evidence.

16 MS. RATIGAN: May I approach, Your Honor?

17 THE COURT: Sure.

18 MS. RATIGAN: Let me grab this.

19 BY MS. RATIGAN:

20 Q Mr. Farnsworth, I'm handing you what's been marked as
21 Plaintiff's Exhibit No. 1.

22 A All right.

23 Q Do you recognize that letter?

24 A I recognize this letter, yeah, as being a cover sheet
25 of a -- from Mr. Fretwell to me itemizing the discovery

1 that he had mailed to me on June 12th, 2009, and -- which
2 is typical. I mean, every discovery has a cover sheet.

3 Q At the very top, the name Julia Anderson is written;
4 is that correct?

5 A That seems to be Julia Anderson. That's correct.

6 Q Is that your handwriting?

7 A No. It's not my handwriting.

8 Q Do you recognize that handwriting?

9 A No.

10 Q And Mr. Sullivan testified that approximately a month
11 before the trial, he came to your office and y'all had a
12 conversation outside, and you told him that this all
13 started with Julia Marie Anderson. Do you recall ever
14 telling him that?

15 A I don't recall that conversation. I'm not saying
16 that -- you know, I'm not saying he's making it up. But I
17 don't recall making [sic] that conversation. I don't
18 think I would have had a conversation about one of my
19 clients with another client, I mean, you know.

20 Q And was Julia Marie Anderson at all involved in
21 Mr. Sullivan's case that he went to trial on?

22 A Not to my knowledge, no.

23 Q And do you recall whether or not you did, in fact,
24 represent Julia Anderson?

25 A Yeah. I did represent Julia Anderson. But, you

1 know, I can't tell you exactly when. I think I
2 represented her on a -- like a possession charge and a --
3 some kind of driving charge maybe in magistrate's court
4 like driving under suspension, or something like that.

5 MS. RATIGAN: May I approach, Your Honor?

6 THE COURT: Sure.

7 BY MS. RATIGAN:

8 Q You've already got them up here. I'm handing you
9 Plaintiff's Exhibit Nos. 2 and 3. If you'll look through
10 those. I believe the last page is the tracking sheet.
11 Does it list you as Ms. Anderson's attorney?

12 A It does.

13 Q And what is the disposition of those indictments --
14 or those cases?

15 A The disposition of both cases were -- are dismissal,
16 nolle prossed.

17 Q And what was the date of the dismissal on those?

18 A It looks like -- it says October the 15th, 2010.
19 It's stamped on there in bold black 2010 -- October 15th,
20 2010. But it says, date of disposition, October 13th,
21 2010. So I don't know which is correct.

22 Q But you don't have any independent recollection of
23 when you would have become involved in Ms. Anderson's
24 cases?

25 A No. And if I had had some advance knowledge about

1 this, I maybe could have looked through her files. But,
2 of course, I didn't know that her name was, you know,
3 going to be -- that I needed to know that today.

4 Q At any point, do you recall representing -- pardon
5 me. At any point, do you recall mentioning Ms. Anderson,
6 talking about her, anything having to do with Ms. Anderson
7 with the Solicitor's Office?

8 A Not to my knowledge, no.
9 About Mr. Sullivan's case?

10 Q Yes, sir.

11 A No. I don't have any knowledge of that.

12 MS. RATIGAN: That's all I have, Your Honor.

13 THE COURT: All right. Yes, sir, Mr. Bennett.

14 MR. BENNETT: Thank you, Your Honor.

15 May it please the Court.

16 CROSS-EXAMINATION

17 BY MR. BENNETT:

18 Q Mr. Farnsworth, I'm not trying to embarrass you, but
19 you suffer from a form of dementia currently, do you not?

20 A I did, yeah. I, certainly, did.

21 And you asked me do I suffer from it now?

22 Q Yes, sir.

23 A I don't think so.

24 Q But you still take medication for it?

25 A Yeah.

1 Q You take quite a bit of medication --

2 A Well, let me just be specific, if you want to hear
3 it.

4 Q Sure.

5 A My doctors do not seem to think I have dementia any
6 more. Okay. They might have diagnosed me -- misdiagnosed
7 me to start with. Okay.

8 Q Okay. You take medication --

9 A Yeah. I take medication.

10 Q Let me finish my question, if you don't mind, sir.

11 A All right.

12 Q You take medication for having dementia, though, do
13 you not?

14 A Yes.

15 Q You take that on a daily basis?

16 A I sure do.

17 Q And you took that medicine today, I would assume,
18 already?

19 A I, certainly, did.

20 Q Whether you have been diagnosed or misdiagnosed at
21 one time, at least, you were diagnosed with dementia;
22 correct?

23 A That's correct.

24 Q And dementia is not an ailment that has a cure, is
25 it?

1 A I don't know if it has a cure or not. It gets --
2 probably gets -- as I understand it, it gets progressively
3 worse.

4 Q Over time, it gets worse, as opposed to better;
5 correct?

6 A Yeah.

7 Q Okay. So as you sit here today, do you have actual
8 recollections about your interactions with Mr. Sullivan,
9 or are you just testifying based upon what you have read
10 in your case file?

11 A Maybe just a bit of both. But let me just say this
12 to explain my answer. This has been five years ago. I've
13 handled I don't know how many hundreds and hundreds of
14 cases. And it's hard for me to remember for the last
15 45 years every conversation I've had with every client.
16 And I don't think anybody would expect anybody to. But
17 the answer I gave is bits of both.

18 Q And, sir, I'm not trying to ask for every
19 conversation that you've had over that time.

20 A Okay.

21 Q If I ask you a question and you, however, don't have
22 a specific recollection, if you will, please, say you
23 don't remember, as opposed to testifying based upon
24 something that you might have just recently read in your
25 case file.

1 A No. I don't have any recollection for that.

2 Q And in regards to Julia Marie Anderson, you mentioned
3 that had you had prior knowledge that this was an issue,
4 you might be better prepared with other documents,
5 something similar to that?

6 A Yeah. If I could find those, yeah.

7 Q So what is your practice -- you've been practicing
8 law for about 40 years; correct?

9 A Yeah.

10 Q What is your practice in regards to retaining files?

11 A Well, my practice is -- a large part of my practice
12 was I did some part-time indigent defense work for many
13 years. And those files were kept.

14 My files that -- in my private practice would have
15 been -- probably been -- you know, I had maybe a range
16 there of about three, four, five years that I would keep
17 them. I even put them in storage one time.

18 And then I moved a couple of times from my office on
19 Stone Avenue down to Pettigru Street, and then back to
20 Stone Avenue. And the -- you know, some of those files
21 were, you know, stored at my son's office. And, in fact,
22 when I became sick in February of 2012, all of -- he got
23 apparently -- I wasn't aware of it. But they went down
24 and got all my files and stored them in his office. And
25 I'm still looking for files that I haven't been able to

1 find.

2 So during that process, some of them, apparently, got
3 misplaced or, you know.

4 Q I'm sorry. I didn't mean to interrupt. But just for
5 the record to keep it clear. When you say your son, you
6 mean Dan Farnsworth, Jr.?

7 A Yeah.

8 Q He's an attorney here in town?

9 A Yeah.

10 Q And he might have some of those files from that
11 period of time?

12 A No -- I think he may have some. But I've gotten most
13 all of those files back in boxes. And they're stored in
14 my attic.

15 Q In your attic at your house, or at your office?

16 A At my house.

17 Q Records from 2010, just four years ago, do you think
18 those are at your house?

19 A I don't know. I'd have to look.

20 Q Okay. Did you read the petition that Mr. Sullivan
21 had filed in this case for his PCR?

22 A His application?

23 Q Yes, sir. I'm sorry. Application, not petition.

24 A I may have when it was first sent to me. And I'm
25 sure I read it.

1 Q And you're aware that it has in there the issue of a
2 conflict of interest of his attorney?

3 A I don't even know if I saw that, to be honest with
4 you.

5 Q As you sit here today, I just want to make sure I'm
6 clear. Do you remember that you, in fact, did represent
7 Julia Marie Anderson as her attorney?

8 A I do remember, specifically, that I represented her.

9 Q On, at least, two occasions?

10 A It might have been at the same time, but two
11 different -- a drug and a driving type thing on different
12 dates came to me maybe at the same time.

13 Q And those are the cases that you just described as
14 being nolle prossed?

15 A That's what the papers say.

16 Q Both of those, though?

17 A Yeah.

18 Q And is it safe to say that while you were here
19 earlier today and heard Mr. Jaques Sullivan's testimony
20 about the conversation that you and he enjoyed while you
21 were standing outside smoking a cigarette in the rain
22 after one of y'all's meetings -- do you remember that
23 conversation?

24 A No. I don't have any recollection with respect to me
25 saying that it all started with Julia Anderson, or

1 whatever, Julia Anderson.

2 Q Whether it was through representing Ms. Anderson
3 previously or through this case of Mr. Sullivan's, when
4 was it that you realized that cooperating witness Roddric
5 Ingram was, in fact, in a relationship with Julia Marie
6 Anderson?

7 A I don't know when I would have known that, you know.
8 I don't have any idea -- any recollection.

9 MR. BENNETT: One moment, Your Honor.

10 THE COURT: All right.

11 BY MR. BENNETT:

12 Q Did you file any motions to suppress any of the
13 evidence in this case?

14 A Motions to suppress, no. We did a suppression
15 motion.

16 Q And what was that for?

17 A To suppress the search warrant.

18 Q Anything else?

19 A I might have filed -- or we did a -- I think it was
20 an oral motion from reading the transcript where I was
21 asking that the photographs that were taken that depicted
22 the pictures of the monies and things that were taken by
23 the search warrant that they be excluded, I think. I
24 think there might have been one more.

25 Q During the actual trial, you cross-examined Roddric

1 Ingram, did you not?

2 A I'm sure I did, yeah.

3 MR. BENNETT: One moment, Your Honor. I apologize.

4 I got my page numbers wrong. And my client just helped me
5 out.

6 BY MR. BENNETT:

7 Q It was a search of a house that was at issue in
8 regards to that motion to suppress, was there not?

9 A On his -- on Mr. --

10 Q Sullivan's --

11 A House, yes.

12 Q Yes, sir. And there was, also, a house where
13 Mr. Ingram was going. And that's when he got arrested.
14 And you questioned him about that during your questioning
15 in his testimony, did you not?

16 A I don't -- I'd have to look at it.

17 What page is that on?

18 MR. BENNETT: If I may approach, Your Honor. I've
19 got it cued up.

20 THE COURT: Sure.

21 BY MR. BENNETT:

22 Q It started on Page 192 -- I'm sorry, 191 at the very
23 bottom and going through --

24 A Okay.

25 MS. RATIGAN: I'm sorry. What page is -- what trial

1 transcript page is it on?

2 THE WITNESS: This is the part where --

3 MS. RATIGAN: Of the trial --

4 THE WITNESS: -- of the closing argument.

5 In this closing argument? Am I at the right place?

6 You said 191?

7 BY MR. BENNETT:

8 Q I think I might have the bate stamp versus the page
9 number.

10 A I read Page 191 --

11 Q I apologize. It is Page 108.

12 MR. BENNETT: My copy is Page 108 directing the Court
13 and counsel to Line 20 of the Roddrick Ingram
14 cross-examination, Page 108, Line 20 beginning there and
15 moving down to the end of Page 109.

16 BY MR. BENNETT:

17 Q After reviewing that transcript -- first of all, does
18 that refresh your recollection of performing that
19 cross-examination that day?

20 A Yeah. I mean, it speaks for itself. Those are my
21 words, yeah.

22 Q Did you realize that that house, which is the house
23 that you were questioning Roddrick Ingram about, is Julia
24 Marie Anderson's house?

25 A No, I did not. I don't have any recollection of that

1 being the case.

2 Q Let's put yourself back in the position that you were
3 at the time of this trial. When was the trial itself?

4 A It was July the -- no, excuse me, January 14th, 2009.

5 Q 2009?

6 A Yeah.

7 Q And we know that you represented Julia Marie Anderson
8 prior to that date; correct?

9 A I don't know -- yeah. It says the incident happened
10 that I represented her on was February of 2008. But I
11 don't know when she came to me. These indictments were
12 ended on -- in 2010.

13 Q Correct.

14 A October of 2010. So I don't know exactly when she
15 would have come to me on these.

16 Q Nonetheless, it was a date prior to the trial;
17 correct?

18 A That she came to me?

19 Q Correct.

20 A On these cases?

21 Q Yes, sir.

22 A Well, I can't tell you exactly when. I don't have
23 her file with me. I mean, I can't answer that.

24 Q Do you believe that you still have that file?

25 A I'd be glad to look for it for you. I don't have any

1 idea if I've got it.

2 Q Okay. That was my question. So you don't know
3 whether or not you would still have those files, but you
4 believe that you might?

5 A Until I look, I don't know. But I'll be happy to
6 look.

7 Q If you were working on a case and a former or a
8 current client of yours was, also, involved in the case of
9 a different client of yours, do you believe that's a
10 conflict of interest?

11 A Sure.

12 MR. BENNETT: No more questions at this time, Your
13 Honor.

14 THE COURT: Ms. Ratigan.

15 MS. RATIGAN: I have nothing further, Your Honor.

16 THE COURT: All right. Thank you, Mr. Farnsworth.

17 MR. BENNETT: If I may retrieve my document.

18 Thank you.

19 MS. RATIGAN: Judge, we'd very briefly call
20 Mr. Fretwell.

21 THE CLERK: Mr. Fretwell, please, place your left
22 hand on the Bible and raise your right hand.

23 WHEREUPON,

24 ALLEN OLIVER FRETWELL,
25 after first having been duly sworn, testified as follows:

1 THE CLERK: Thank you.

2 Please state your full name for the record.

3 THE WITNESS: It's Allen Oliver Fretwell.

4 Good morning.

5 THE COURT: Good morning.

6 DIRECT EXAMINATION

7 BY MS. RATIGAN:

8 Q Just a few questions, Mr. Fretwell, just for the
9 purpose of kind of cleaning up the record. When do you
10 recall this trial was? What month?

11 A I don't recall it.

12 Q Okay.

13 A I don't recall it. I can tell you that, according to
14 the transcript and the documents that I have, the actual
15 trial took place in July of 2009.

16 Q Okay. So if the transcript said January, in your
17 opinion, that would just be an error?

18 A I know it to be an error based on the documents that
19 I have.

20 Q Okay. And, again, just for purposes of kind of
21 making sure all the I's are dotted and T's are crossed,
22 did Mr. Farnsworth file discovery motions in this case?

23 A He did.

24 Q And did you convey all of the discovery materials to
25 Mr. Farnsworth?

1 A From my review of the initial discovery response and
2 the supplemental responses, I conveyed to Mr. Farnsworth
3 all of the discovery materials with, I believe, the
4 exception of one recording that had to do with a pending
5 charge that Mr. Farnsworth -- Mr. Sullivan had that
6 Mr. Farnsworth, I believe, also, represented him on.

7 But I think that I -- I think in the letter, we
8 notified Mr. Farnsworth that we could not make a copy of
9 that particular disk, but that it was available for his
10 review. And if memory serves me correct, it was, also, a
11 trafficking.

12 Q And were there audio and video recordings in the
13 discovery? Do you recall?

14 A I'd have to look. I mean, I know we introduced an
15 audio recording at trial.

16 Q Okay. But these would have been conveyed to
17 Mr. Farnsworth?

18 A Like I said, they were all copied and provided to
19 Mr. Farnsworth with the exception of the one that I just
20 noted. And I can't tell you if that was an audio, or a
21 video, or both. But I can tell you by looking.

22 Q If it won't take too much time. I don't want you to
23 have to go through your whole file.

24 A It says, Button cam. So it's probably a video. I
25 mean, I couldn't swear to that. It may just have come out

1 of the audio. But it was recorded with a camera.

2 MS. RATIGAN: May I approach, Your Honor?

3 THE COURT: Sure.

4 BY MS. RATIGAN:

5 Q Mr. Fretwell, I'm going to hand you what's been
6 marked and introduced as Plaintiff's Exhibit No. 1. Do
7 you recognize that letter?

8 A It appears to be a copy -- no. It appears to be an
9 original which I have a copy, except for there are marks
10 on it that I did not make.

11 Q And, at the top, there is a name written in. Is that
12 your handwriting?

13 A I have written in "Dan" where it says, Dear
14 Mr. Farnsworth. I've struck out Mr. Farnsworth. There's,
15 also, a name written in black ink, Julia Anderson. That's
16 not my handwriting.

17 Q Do you recognize that handwriting?

18 A I do not.

19 Q Okay. And regarding Julia Anderson, is that someone
20 who was involved at all in this case?

21 A In the case that we tried against Mr. Sullivan?

22 Q Yes, sir.

23 A Not to my knowledge.

24 MS. RATIGAN: That's all I have, Your Honor.

25 THE COURT: Mr. Bennett.

CROSS-EXAMINATION

BY MR. BENNETT:

Q Do you know who Roddric Ingram is, Mr. Fretwell?

A I do.

Q And he was a witness in this case; correct?

A Yes.

Q And he, in fact, was a cooperating witness?

A Yes.

Q A confidential informant?

A Yes.

Q I know it's been a few years ago, but did you interview him?

A I did talk to Mr. Ingram. If -- I, generally, talk to everybody that I call as a witness.

Q I didn't mean that in any disparaging way --

A No, no.

Q -- just, specifically, meaning him, you do have a recollection of interviewing Mr. Ingram?

A I do remember him, yes, sir.

Q And, in fact, he was cooperating because he had gotten arrested while on his way and was exactly parked outside of his girlfriend Julia Marie Anderson's house, was he not?

A I have no idea where he was going. I know that he was arrested at some point. And that as -- either as a

1 result of that arrest or other arrests, he was connected
2 with Detective -- former Detective Tina Dodd with the city
3 police department. And she introduced Ingram to Shannon
4 Branham with SLED.

5 But I don't know anything about where he was going.
6 I know a little bit, based on my reading of the
7 transcript, about maybe what he had on him when he was
8 arrested, maybe that it was in a food container, or
9 something to that effect.

10 Q Do you remember when you -- do you have your file
11 handy?

12 A It's back on the bench.

13 Q Do you remember when you had your first interview
14 with Roddric Ingram?

15 A I can look in my file and try to answer that
16 question --

17 Q If it would be notated there, if you don't mind.

18 A Okay.

19 MR. BENNETT: May I approach, Your Honor?

20 THE COURT: Sure.

21 BY MR. BENNETT:

22 Q And for purposes of expedition -- trying to expedite
23 this, Mr. Fretwell, I'm, also, going to ask you how many
24 times you did meet with Mr. Ingram. So while you're
25 looking through those documents, look for the date of each

1 of the meetings that you had with Mr. Gambrell -- Ingram.

2 A I know he was in our office or, at least, in the
3 courthouse on May 29th, 2009, because he was served with
4 his subpoena for trial, which was I believe, originally,
5 set in June. We were not reached in June.

6 And one of the deputies that worked here at the time
7 served his subpoena on him. I can't tell you whether that
8 was the time where we went over -- where I asked him
9 questions about his testimony, or if I had asked him on a
10 previous time and maybe he was just here that day to have
11 the subpoena served.

12 My practice at the time was that I would meet with
13 the witness, especially if it was not a witness employed
14 by the State or a governmental entity. I would interview
15 that individual. And then I would go -- if we already had
16 in mind a date for the trial, I would go ahead and have
17 his subpoena served or her subpoena served on her at that
18 time so we wouldn't have any issues about people not
19 showing up for trial.

20 Q So just to be clear, it seems as though you had one
21 meeting with Mr. Ingram prior to trial, or possibly two?

22 A I can tell you definitively I met with him prior to
23 trial. And I can tell you that I walked -- I would have
24 definitely had contact with him on May 29th, 2009. And
25 either myself or my paralegal would have walked him down

1 to the lobby to have a subpoena served on him.

2 Q Who was your paralegal at this time?

3 A On May the 29th of 2009, my best guess would be that
4 it was Sonia Bass. Looking through the file, there were
5 times when I had Sonia and there were times when I had
6 Erica Burg as a paralegal.

7 Q Is one of the obligations of your paralegal to check
8 for conflicts in cases that you're prosecuting?

9 A What do you mean by "conflicts"?

10 Q I'll elaborate. In a legal conflict where one
11 attorney represents multiple defendants who could become
12 adversary against each other, a conflict, a legal
13 conflict. Do y'all do legal conflict checks in your
14 office?

15 A We don't do that. If for some reason -- you know,
16 just a recent example comes to mind. If we are -- I mean,
17 the PD's and the 608 attorneys that are appointed,
18 obviously, have a lot of cases.

19 So if in the context of going over material either in
20 preliminary hearing or discovery, if that were to be noted
21 by one of the PD's or a 608 attorney and we became aware
22 of it, then, you know, we would do everything we could to
23 assist in getting new counsel for the Defendant. But, no.

24 The answer to your original question, my paralegal at
25 that time would not be doing any kind of independent

1 checking based on anything I can think of, other than
2 possibly if there were a co-defendant that was assigned --
3 for example, you know, at the time -- at some point,
4 Mr. Farnsworth practiced with his son. So if his son was
5 assigned to a co-defendant and Mr. Farnsworth was assigned
6 to a co-defendant and they were both on the same case,
7 then we would be alerted to that and notify counsel, if
8 they didn't know that themselves.

9 Q What if a lawyer represented a defendant and, also,
10 represented a cooperating witness in a prosecution of that
11 defendant?

12 A If we were aware of that?

13 Q Correct.

14 A Oh, absolutely. We would notify that attorney. For
15 example, in this case, you know, the informant was Roddric
16 Ingram. If I knew that Mr. Farnsworth represented
17 Mr. Ingram, I would have brought that to his attention.
18 Knowing Mr. Farnsworth, he would have brought that to my
19 attention. But, yeah, we would have done that. But my
20 paralegal wouldn't be charged with that.

21 Q Do you have Defense Exhibit -- I mean Plaintiff's
22 Exhibit No. 1 in front of you, by chance?

23 A (There was no verbal response.)

24 Q This is the letter from you to Mr. Farnsworth. Do
25 you see Julia Anderson handwritten up there above the

1 name --

2 A I do.

3 Q -- of Jaques Jamar Sullivan?

4 A I do.

5 Q Could that handwriting be one of your paralegals?

6 A No.

7 Q But you know that it is not your handwriting?

8 A I know it's not my handwriting. I know it's not
9 Sonia Bass' handwriting. I know it's not Erica Burg's
10 handwriting. And I have the document -- that same
11 document without that name and appears to be a received
12 stamp and notation by, I assume, Mr. Farnsworth's office,
13 or the exhibit sticker in my file.

14 Q So based upon all of those things, it's your belief
15 and your testimony here under oath that the name
16 handwritten Julia Anderson was written after this letter
17 was received at Dan Farnsworth's office; correct?

18 A It could have been written at any point thereafter up
19 to and including this morning is what I would say.

20 Q Definitely not from your office. But upon receipt,
21 it was changed in some form?

22 A After receipt?

23 Q Correct.

24 A At some point when somebody had possession of this
25 document?

1 Q Correct.

2 A Right.

3 MR. BENNETT: Thank you.

4 No more questions, Your Honor.

5 THE COURT: Thank you.

6 MS. RATIGAN: I have nothing further for

7 Mr. Fretwell.

8 And the State would rest at this time, Judge.

9 THE COURT: Thank you, Mr. Fretwell.

10 THE WITNESS: Thank you, Judge.

11 MR. BENNETT: Your Honor, I have a point of order at
12 some point when it's appropriate.

13 THE COURT: Yes, sir.

14 MR. BENNETT: Thank you, Your Honor.

15 I would request either having the Court postpone its
16 ruling or keep the record open to allow Mr. Farnsworth to
17 make a good faith effort at trying to obtain the file from
18 his office, or from his house of his client Julia Marie
19 Anderson.

20 MS. RATIGAN: I would object to that, Your Honor.
21 While it is clear that in the application it does mention
22 conflict of interest, it doesn't mention Ms. Anderson by
23 name. In fact, it says, He previously represented one of
24 the confidential informants.

25 Well, in this case, she was not a confidential

1 informant. Mr. Bennett, clearly, knew the issue he wanted
2 to proceed upon today. And because there's no discovery
3 in PCR, he was not obligated to inform any of us of that
4 issue. We would argue that if he wanted Mr. Sullivan --
5 not Mr. Sullivan, but Mr. Farnsworth to be able to fully
6 answer these questions, he could have informed him prior
7 to today. And Mr. Farnsworth could have attempted to
8 locate that file.

9 So we would object to it being held open any further.

10 THE COURT: All right. I will allow you until May
11 15th to --

12 Will that give you enough time, Mr. Farnsworth, to
13 look?

14 MR. DANIEL J. FARNSWORTH: Yes, Your Honor.

15 THE COURT: Well, just look. And if you can't find
16 it, just notify Ms. Ratigan of your results of your
17 search.

18 And, Mr. Bennett, I'll give you until May 25th to
19 submit any brief you wish to on conflict of interest
20 issue, which Ms. Ratigan may respond to, if she desires.

21 Thank you.

22 *****END OF TRANSCRIPT OF RECORD*****
23
24
25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 25th day of April, 2014.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

December 31, 2014

A handwritten signature in cursive script, reading "Hollie M. Jenkins", is written over a horizontal line.

Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

Jaques Jamar Sullivan,
S.C.D.C. #335849,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
C.A. No. 2012-CP-23-6281

ORDER OF DISMISSAL

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENHUISER
2014 AUG 14 PM 3 09

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed October 1, 2012. The Respondent made its return on May 2, 2013. An evidentiary hearing was convened on April 22, 2014 at the Greenville County Courthouse. The Applicant was present and represented by J. Bradley Bennett, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying were: (1) Pamela Stewart, (2) the Applicant's trial counsel, Daniel J. Farnsworth, Sr., Esquire, and (3) assistant solicitor Allen O. Fretwell, Esquire. The Court had before it the trial transcript, the Greenville County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, the return, the appellate records, and Applicant's Exhibits 1-3.¹

¹ At the conclusion of the hearing, this Court allowed trial counsel until May 15, 2014 to determine if he had a file for Julia Marie Anderson. This Court then stated PCR counsel would have an additional ten days in which to file a brief on the issue of conflict of interest. Trial counsel submitted an affidavit (dated



PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the March 2009 term of the Greenville County Grand Jury for trafficking cocaine (2008-GS-23-7026, count 1), possession of a weapon during the commission of a violent crime (2008-GS-23-7026, count 2) and possession of marijuana (2009-GS-23-7027). He was represented by Daniel J. Farnsworth, Sr., Esquire.

After the State brought the case to trial, the Applicant was found guilty. On July 15, 2009, the Honorable Edward W. Miller sentenced the Applicant to concurrent terms of twenty-five years for trafficking cocaine, five years for possession of a weapon during the commission of a violent crime, and time-served for possession of marijuana, second offense. Judge Miller also levied a consecutive sentence of six months for criminal contempt.

A notice of appeal was filed at the South Carolina Court of Appeals. J. Falkner Wilkes, Esquire, perfected the appeal. The Court of Appeals affirmed the Applicant's convictions and sentences. State v. Sullivan, Op. No. 2011-UP-446 (S.C. Ct. App. filed Oct. 11, 2011). The Remittitur was sent on October 27, 2011.

ALLEGATIONS

In his application, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel.
 - a. "Trial counsel had a conflict of interest, that was not disclosed to me until after my conviction."
 - b. "Trial counsel was unprepared for trial."
 - c. "Trial counsel failed to investigate, obtain and review the

May 15, 2014) that he was unable to locate the file. The affidavit is attached to this order. PCR counsel declined to file a brief.

- discovery/evidence in my case prior to trial.”
- d. “Trial counsel failed to review the discovery/evidence with me prior to trial.”
 - e. “Trial counsel failed to make appropriate and necessary objections to inadmissible evidence at trial.”
 - f. “Trial counsel failed to call necessary witnesses at trial.”
 - g. “Trial counsel failed to file necessary and appropriate motion(s) to challenge any wire-tap(s)/recordings in this matter.”
 - h. “Trial counsel failed to challenge an illegal search and seizure in my case.”
 - i. “Trial counsel failed to appropriately represent me at the forfeiture hearing following my conviction.”
 - j. “I was denied the right to a fair trial when the trial court denied my motion for a continuance to enable me to retain alternate trial counsel.”
2. Ineffective assistance of appellate counsel.
- a. “Appellate counsel failed to raise appropriate and/or reviewable issues on appeal.”

At the PCR hearing, the Applicant proceeded solely upon the issue of whether trial counsel had a conflict of interest in this case.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

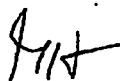
The Applicant alleges he received ineffective assistance of counsel. In a PCR action, “[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence.” Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

JH

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). In order to prove prejudice, an applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052).

The Applicant stated he had several meetings with trial counsel and told him what happened on the day in question. The Applicant stated, however, that they did not review discovery materials and that he never received full discovery from trial counsel. The Applicant stated trial counsel mentioned – at the end of June 2009 – that his case started because of Julia Marie Anderson. The Applicant stated a confidential informant testified at his trial and that this informant was in business with Anderson. The Applicant stated trial counsel never said he had previously represented Anderson and that the Applicant did not learn this until 2012. The Applicant stated he would have asked for a new attorney if he had known trial counsel previously represented Anderson. The Applicant admitted he had asked for trial counsel to be relieved at one point because trial counsel was not truthful – but could not recall at the PCR hearing how counsel was untruthful.

Pamela Stewart, the Applicant's girlfriend, stated she sat in on a few meetings with trial counsel and the Applicant before trial. Stewart stated she overheard a conversation trial counsel



had with the Applicant in which he stated this prosecution stemmed from Julia Marie Anderson's case. Stewart stated she obtained a copy of the Applicant's file from trial counsel in February 2012 and a July 12, 2009 letter² had Julia Anderson handwritten across it.

Trial counsel testified he filed discovery motions and received full discovery from the State. Trial counsel testified he reviewed the discovery materials with the Applicant. Trial counsel testified they knew this was a confidential informant case, as there was a tape of the conversation between the informant and the Applicant. Trial counsel testified there was strong evidence against the Applicant and that he did not hear any kind of defense from the Applicant. Trial counsel testified he could not recall when he would have represented Anderson. Upon cross-examination and review of Applicant's Exhibits 2 and 3, trial counsel stated he represented Anderson on two charges but could not say whether or not it was before the Applicant's trial. Trial counsel testified Anderson was not involved with this case. Trial counsel testified he did not recall telling the Applicant his case started with Anderson and noted he did not believe he would speak with one client about another. Trial counsel testified the handwritten notation on Applicant's Exhibit 1 was not his handwriting and that he did not recognize the handwriting.

Assistant solicitor Allen Fretwell testified he received trial counsel's discovery motions and provided all of the discovery materials to him (except for an audio recording on a pending trafficking charge, which trial counsel could come and review). Fretwell testified Anderson was not involved with the Applicant's case. Fretwell testified the notation on Applicant's Exhibit 1 was not his handwriting and that he did not recognize the handwriting. Fretwell testified he had a copy of Exhibit 1 in his file, and there was no handwriting on it.

This Court finds the Applicant failed to meet his burden of proving trial counsel had a

² Applicant's Exhibit 1.

MIT

conflict of interest in this case. Initially, this Court finds trial counsel to be credible in his assertion that he did not recall discussing Anderson with the Applicant and that he would not discuss one client with another. Regardless, an applicant alleging his conviction was unlawful due to a conflict of interest from counsel's representation bears the burden of showing that a potential conflict actually materialized into a realized conflict adversely affecting counsel's performance. See Jackson v. State, 329 S.C. 345, 354, 495 S.E.2d 768, 773 (1998) (citing Cuyler v. Sullivan, 446 U.S. 335, 100 S. Ct. 1708, 64 L. Ed. 2d 333 (1980)); Padgett v. State, 324 S.C. 22, 27, 484 S.E.2d 101, 103 (1997). While Applicant's Exhibits 2-3 indicate trial counsel once represented Anderson, the Applicant failed to present any evidence that this representation occurred either before or during trial counsel's representation of the Applicant. Assistant solicitor Fretwell testified Anderson was not involved in this case, and the Applicant failed to present any evidence to the contrary. Further, while Applicant's Exhibit 1 had the words "Julia Anderson" handwritten at the top of the page, neither trial counsel nor assistant solicitor Fretwell could identify this handwriting. This Court finds the Applicant has failed to demonstrate either that there was an actual conflict of interest in this case or that it affected trial counsel's representation of the Applicant.³

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that trial counsel failed to render reasonably effective assistance under prevailing professional norms. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by trial counsel's performance. This Court

³ It is especially difficult to demonstrate how the Applicant could have suffered any prejudice, as the State presented overwhelming evidence of the Applicant's guilt. See Geter v. State, 305 S.C. 365, 367, 409 S.E.2d 344, 346 (1991) (concluding reasonable probability of a different result does not exist when there is overwhelming evidence of guilt).

concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient and the Applicant was not prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 13 day of AUG., 2014.

D. Garrison Hill

D. Garrison Hill
Presiding Judge
Thirteenth Judicial Circuit

Greenville, South Carolina.

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

AFFIDAVIT

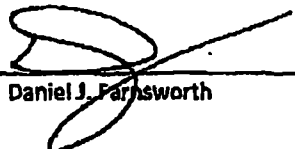
Personally appeared before me the undersigned, Daniel J. Farnsworth, who first being duly sworn states;

That he previously represented Julia Anderson on separate incidents, one a drug possession charge and the other involving, I believe, a drug charge.

That in the past several years the undersigned's files have been moved from one office to another and back and to his son's office and back to his home.

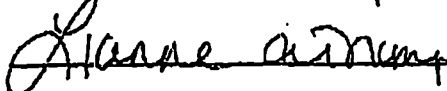
That during that period some files have been thrown away because they had ended, some due to age, and others being misplaced or lost.

That finally the undersigned was unable to find the Julia Anderson files.


Daniel J. Farnsworth

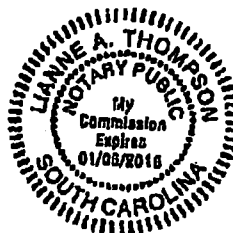
Sworn to before me this

the 15 day of May, 2014



Notary Public for South Carolina

My commission expires: 1/6/16



State of South Carolina
Solicitor, Thirteenth Judicial Circuit

Telephone: 864-467-8647
Telefax: 864-467-8610



Solicitor
Robert M. Ariail

June 12, 2009

Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185

RECEIVED

6-12-09

Anwile

Daniel Farnsworth, Sr, Esq.
414 Pettigru Street
Greenville, SC 29601

Julia Anderson

Re: STATE OF SOUTH CAROLINA vs. JAQUES JAMAR SULLIVAN

DAN:
Dear Mr. Farnsworth.

Pursuant to Rule 5 (C) South Carolina Rules of Criminal Procedure, Continuing Duty to Disclose, the State has recently received additional evidence or material previously requested or ordered, which is subject to discovery or inspection under this rule. The additional discovery is as follows:

1. GPD Incident Report case # 2-08-12708 by Officers AH Skardon and MB Estes dated 2-02-08, 2 pages.
2. Supplemental Report by Officer MB Estes dated 2-02-08, 1 page.
3. Supplemental Report by Officer MP Austin dated 2-02-08, 1 page.
4. Supplemental Report by Officer LA Moody dated 2-02-08, 1 page.
5. GCDPS Property Reports dated 2-02-08, 8 pages.
6. GCDPS Drug Analysis Report by Chemist James W. Armstrong dated 2-21-08, 1 page.
7. GCDPS Drug Analysis Report by Chemist James W. Armstrong dated 2-21-08, 1 page.
8. GCDPS Drug Analysis Report by Chemist James W. Armstrong dated 3-05-08, 1 page.

If you have any questions regarding this defendant's case(s) or need any further assistance, please do not hesitate to contact me.

Sincerely,

Allen

Allen Fretwell
Assistant Solicitor



WITNESSES

A Skardon *ms*

Greenville Police Department

2/2/2008

DOCKET NO. 2008-GS-23-

KB

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August

TERM 2008

THE STATE

vs.

ARREST WARRANT NUMBER

J484772

JULIA MARIE ANDERSON

ACTION OF GRAND JURY

TRUE BILL

July L. Mayes

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

3011

POSSESSION OF COCAINE

VIOLATION § 44-53-0370

Foreperson of Petit Jury

Date:

002426

certified Copy
Paul B. Williams
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated *5-1-12*

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
POSSESSION OF COCAINE

At a Court of General Sessions, convened on **AUG 19 2008** the Grand Jurors of Greenville
County present upon their oath:

That JULIA MARIE ANDERSON did in Greenville County, on or about the 2nd day of February, 2008,
willfully and unlawfully have in her possession and under her control a quantity of Cocaine. This is in
violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

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

Amuly B. Howard
SOLICITOR

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: JULIA MARIE ANDERSON

Indictment # : 2008GS2302426

Address: _____

Warrant/Ticket # 1484772

City: GREENVILLE State: SC ZIP :29605

No Warrant: _____

SS#: _____ Sex: F Race: W

Offense Code: 3011

Date of Birth: _____

Offense Name: Drugs/Poss. Cocaine, 1st

State: SC Driver's License #: 99999999

Date of Arrest: February 2, 2008

DATE OF DISPOSITION: October 11, 2010 **OCT 11 2010**

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X 4. Dism/Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Prosecutorial discretion

Judge: _____ Ct. Reporter: _____

Defense Attorney: FARNSWORTH, SR, DANIEL Solicitor: Mark Moyer *[Signature]*

Offense Code: 3011 Offense Name: Drugs/Poss. Cocaine, 1st

Sentence: _____

ertified Copy
Paul B. Wilkerson
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated 4-24-12

WITNESSES

A Skardon

Greenville Police Department

2/2/2008

ARREST WARRANT NUMBER
DIRECT PRESENTMENT

DOB: SSN:

ACTION OF GRAND JURY

TRUE BILL

Ann Shaverette
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-23-000726
WIB

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS
February TERM 2010

THE STATE

vs.

JULIA MARIE ANDERSON

Indictment for

0183

POSSESSION OF COCAINE WITH INTENT TO
DISTRIBUTE

VIOLATION § 44-53-0370

ertified Copy
Paul B. W. Benjamin
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated 5-1-12

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
POSSESSION OF COCAINE WITH INTENT TO DISTRIBUTE

At a Court of General Sessions, convened on
County present upon their oath:

FEB 16 2010

the Grand Jurors of Greenville

That JULIA MARIE ANDERSON did in Greenville County, on or about the 2nd day of February, 2008, possess with intent to distribute or aid, abet, or conspire to possess with the intent to distribute a quantity of Cocaine, a controlled substance, such possession not having been authorized by law. This is in violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

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

L. L. Burt
SC JUDGE

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: JULIA MARIE ANDERSON

Indictment #: 2010GS2300726A

Address: _____

Warrant/Ticket # 2010GS2300726A

City: Greenville State: SC ZIP: _____

No Warrant: _____

SS#: _____ Sex: F Race: W

Offense Code: 0183

Date of Birth: _____

Offense Name: Drugs / Mdp. Narcotic Dru

State: _____ Driver's License #: _____

Date of Arrest: February 16, 2010

DATE OF DISPOSITION: 10-13-10 **OCT 15 2010**

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* ☒ 4. Dism/Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Prosecutorial discretion

Judge: _____

Ct. Reporter: _____

Defense Attorney: FARNSWORTH, SR. DANIEL

Solicitor: Mark Moyer 

Offense Code: 0183

Offense Name: Drugs / Mdp. Narcotic Dru

Sentence: _____

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: JULIA MARIE ANDERSON

Indictment #: 2010GS2300726A

Address: _____

Warrant/Ticket # 2010GS2300726A

City: Greenville State: SC ZIP: _____

No Warrant: _____

SS#: _____ Sex: F Race: W

Offense Code: 0183

Date of Birth: _____

Offense Name: Drugs / Mdp, Narcotic Dru

State: _____ Driver's License #: _____

Date of Arrest: February 16, 2010

DATE OF DISPOSITION: 10-13-10
OCT-15 2010

DISPOSITION:

____ 1. Guilty Plea

* ____ 7. Remanded

____ 2. Trial (Guilty)

____ 8. Dismissed at Prelim

____ 3. Trial (Not Guilty)

____ 8. No Bill

* X 4. Dism/Nol Pros/Pros Ended

* ____ 9. Failure to Appear

* ____ 5. Judicial Commitment

* ____ 10. Other

____ 6. Judicial Dismissal

* Explain: Prosecutorial discretion

Judge: _____

Ct. Reporter: _____

Defense Attorney: FARNSWORTH, SR. DANIEL Solicitor: Mark Moyer

Offense Code: 0183

Offense Name: Drugs / Mdp, Narcotic Dru

Sentence: _____

Retained Copy
Paul B. Wickens
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated 4-24-12