

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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MAR 15 2017

SC Court of Appeals

Appeal from York County

Honorable John C. Hayes, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JARVIS TYRONNE HUGHES,

APPELLANT

APPELLATE CASE NO 2016-001462

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT #3: PHOTO LINE UP

State of South Carolina.,)
)
)
 County of York.)

In the General Sessions
 Of York
 Case No.: 2015-GS-46-03456

State of South Carolina.,)
)
 Plaintiff.,)
)
 -vs-)
)
 Jarvis Tyronne Hughes.,)
)
 Defendant.)

Transcript of Record

June 20-21, 2016
 York, South Carolina

B E F O R E:

The Honorable John C. Hayes, III, judge, and a jury.

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ORIGINAL

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 Official Court Reporter
 To the Honorable John C. Hayes, III

I-N-D-E-XE-X-A-M-I-N-A-T-I-O-N

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Reporter's Note: All Exhibits were filed with the York
County Clerk of Court's Office.

1 (COURT IN SESSION MONDAY, JUNE 20, 2016 AT 03:44 PM.)

2 (WHEREUPON, STATE'S EXHIBIT NUMBERS ONE THROUGH SEVEN
3 PREMARKED FOR IDENTIFICATION.)

4 (WHEREUPON, COURT'S EXHIBIT NUMBER ONE, PREMARKED FOR
5 IDENTIFICATION.)

6 THE COURT: Take your seats, please. All right.

7 Yes, sir.

8 SOLICITOR SHELTON: May it please the Court, your
9 Honor?

10 THE COURT: Yes, sir.

11 SOLICITOR SHELTON: We're here this afternoon for a
12 jury trial. It is the case of the *State of South Carolina*
13 *versus Jarvis Tyronne Hughes*, one count distribution of
14 crack cocaine, True-Billed Indictment 2015-GS-46-0-3-4-5-6.

15 ~~The Defendant has pled not guilty to this charge, and the~~
16 ~~State is ready to proceed with trial.~~

17 THE COURT: All right. Are you representing him, Ms.
18 Inzerillo?

19 MS. INZERILLO: I do, your Honor.

20 THE COURT: All right. Any matters before we get the
21 jury up?

22 SOLICITOR SHELTON: Your Honor, we do have some
23 pretrial matters to take up, but I believe we can go ahead
24 and pick our jury first, and then address those afterwards.

25 THE COURT: All right. I've got the State's witness

1 list. Does the Defense have a witness list?

2 MS. INZERILLO: No, your Honor.

3 THE COURT: I've got State's request for voir dire.

4 Does the Defense have any issues with any of those?

5 MS. INZERILLO: No, your Honor.

6 THE COURT: I have the defendant's request for voir
7 dire, does the State have any issues with any of those?

8 SOLICITOR SHELTON: No, sir.

9 THE COURT: I don't always ask these exactly like --
10 or verbatim from the way you hand them up. I think I ask
11 the questions, but they may be couched in a little
12 different verbiage. All right. Ready for the jury.

13 Are they coming up?

14 MADAM CLERK: Getting ready to call 'em.

15 THE COURT: Okay. Good.

16 SOLICITOR SHELTON: Judge, if you want, we can address
17 a couple of these ---

18 THE COURT: All right.

19 SOLICITOR SHELTON: --- pretrial motions.

20 THE COURT: Okay. Why don't we do that?

21 SOLICITOR SHELTON: Your Honor, Defense motion number
22 one, determined that the State has complied with *Rule Five*
23 and *Brady*, we have. I've met with Ms. Inzerillo several
24 times about this case. We have fully complied with *Rule*
25 *Five* and *Brady* in this case.

1 THE COURT: Any problem with that, Ms. Inzerillo,
2 number one?

3 MS. INZERILLO: Your Honor, I believe I've been given
4 all the discovery in this case, as well as the other two
5 buys, that were the confidential files. The only thing I
6 don't know if I'm missing, and this may be sort of sused
7 out in some later hearings is if there is any other
8 information that may be relevant that the State has not
9 turned over. That's sort of a conversational of oral
10 information and not anything that was written down. And
11 so, I think, for right now, they have complied. I have met
12 with Mr. Shelton on this case a few times and so, I have
13 received all of the paper discovery and the videos from
14 those cases.

15 THE COURT: All right. The prior record of Mr.
16 Hughes.

17 SOLICITOR SHELTON: Your Honor, I would recommend that
18 we defer to that -- defer that motion until the appropriate
19 time, right before if he decides to testify. Its lengthy,
20 I could go through it and make it a Court's Exhibit now.

21 THE COURT: All right. We'll just remember to do that
22 when I advise him of his rights ---

23 SOLICITOR SHELTON: Yes.

24 THE COURT: --- at the end of the State's case.

25 SOLICITOR SHELTON: Yes, sir.

1 THE COURT: Witnesses with criminal histories.

2 SOLICITOR SHELTON: Your Honor, we have one lay-
3 witness in this case, Derrick Doss, working as a
4 confidential informant. I have turned over copies of
5 disposition sheets from our state, out-of-state. It's kind
6 of a lengthy investigation. I think we will probably need
7 to flesh out exactly what is impeachable under Rule 609 and
8 what's not. But I think we should probably go into that a
9 little bit more after the -- the jury is picked -- is
10 impaneled.

11 THE COURT: All right. Sequestration to be granted
12 reciprocally. Any Lyle testimony? I know you talked about
13 three transactions. This apparently is the first one.

14 SOLICITOR SHELTON: Yes, sir. No -- no Lyle
15 testimony.

16 THE COURT: Okay. *Neil versus Biggers*, I've already
17 been told we need a *Neil versus Biggers* hearing. Looks
18 like a photo lineup issue. Motion to exclude any mention
19 of future buys. We don't know about future buys. How can
20 anybody testify about future buys?

21 MS. INZERILLO: Your Honor, on the recording in this
22 case, it appears that the two people in the room were
23 discussing setting up another buy, and the CI coming back
24 later that day, to effectuate that buy. That was not a buy
25 that Mr. Hughes was ever charged with, and I --

1 THE COURT: I understand.

2 SOLICITOR SHELTON: Your Honor, that -- that was
3 actually -- I can -- if I can elaborate a little bit more
4 on that. It was a conversation trying to establish, can I
5 get more. It's in -- contemporaneous with the actual
6 distribution that's alleged at this time. It's right after
7 that deal had been commiserated, if you will. Its
8 basically, the informant is asking Mr. Hughes, can I get
9 more; can I get a basket; how much would you charge for a
10 basket. He says he'd charge him a hundred and seventy-five
11 and says, all right, I'll be back later. I don't know if
12 he went back or not. To my knowledge, he didn't. He
13 didn't go back to the Drug Unit but to the extent that it's
14 part of the res geste goes to the knowledge element of the
15 case, that sort-of-thing. It's contemporaneous with the
16 allegation in this case, so I think it's -- I think it's
17 relevant for the jury's consideration.

18 THE COURT: Well, I'll probably have to hear it. It
19 doesn't sound to me -- it might be weighing prejudicial, as
20 opposed to the approbative value, and may be the
21 prejudicial outweighs the probative because he's being
22 charged with a buy and so a CI buy. I mean I don't know
23 when you look at motive and plan of scheme and all those
24 things I don't know why you would have to prove any of
25 that. You've got the actual buy itself. But I'll listen

1 to what you have to say.

2 SOLICITOR SHELTON: Very good. We can --

3 THE COURT: I'll listen to what he has to say.

4 SOLICITOR SHELTON: Yes, sir. And then I think, as
5 far as the subsequent -- the subsequent buys, we've
6 instructed -- I've instructed the State's witnesses not go
7 go into anything that happened after this, as far as any
8 other controlled buys.

9 THE COURT: All right. Ready for the jury?

10 Ms. Inzerillo, anything?

11 MS. INZERILLO: I'm ready for the jury, your Honor.

12 THE COURT: All right.

13 (JURY ENTERS COURTROOM AT 3:51 PM.)

14 THE COURT: Members of the jury panel, I'm -- good
15 afternoon, first, and I'm John Hayes from Rock Hill and I,
16 along with Judge Gravely from Pickens who you met this
17 morning am assigned to hold criminal General Sessions court
18 here this week. We're going to start our first trial for
19 the week for this courtroom at this point, at this time.

20 This is the case of the *State versus Jarvis Tyrone*
21 *Hughes*. Mr. Hughes, would you please stand, and let the
22 jury see who you are? This is Mr. Hughes. He is
23 represented by Ms. Melissa Inzerillo from the Public
24 Defender's Office.

25 (DEFENDANT JARVIS HUGHES AND MS. INZEROLLO STAND.)

1 THE COURT: The State is represented by Mr. Shelton
2 and Mr. Pleming.

3 (SOLICITOR'S SHELTON AND PLEMING STAND.)

4 THE COURT: You may be seated.

5 THE COURT: Mr. Hughes is charged with the offense of
6 distribution of crack cocaine. It's alleged to have
7 occurred here in York County on June 12th of 2015. It's
8 alleged that on that date in violation of the laws of our
9 state he distributed a controlled substance known as crack
10 cocaine. To this charge he has entered a plea of not
11 guilty. He is presumed innocent of this charge and need
12 not prove his innocence. Since he has pled not guilty, the
13 burden is on the State to prove his guilt beyond a
14 reasonable doubt before a jury could convict him.

15 I'm going to go over certain questions similar to what
16 Judge Gravely went over this morning. Now, he was asking
17 more general questions, mine are more specific, and they
18 have to deal with whether or not you can be fair and
19 impartial in the trial of Mr. Hughes.

20 If you have to respond to any of these questions,
21 please just stand where you are, and we'll have a dialogue
22 between here and there. I'm not going to ask you to come
23 up and step down. I can communicate with you from where we
24 are. First, do any of you -- are any of you related by
25 blood or marriage, or are any of you a friend of, or even

-13-

1 know, Mr. Jarvis Tyrone Hughes, who just stood a moment
2 ago; if so, please stand. No one stands.

3 Any of you know Ms. Inzerillo, Mr. Fleming, Mr.
4 Shelton, Mr. Barton O'Kelly, who is in the lighter-colored
5 coat, seated with Ms. Inzerillo, works with the Public
6 Defender's Office? Do any of you know any of those
7 individuals I just named? Related to them, or know them
8 from any source whatsoever; if so, please stand.

9 No one stands.

10 Do any of you know anything about this case, heard
11 about it from any source whatsoever or formed an opinion
12 about any issue which would be involved in this case; if
13 so, please stand? No one stands.

14 Were any of you members of the Grand Jury which passed
15 on this indictment at an earlier time; if so, please stand?

16 No one stands.

17 Are any of you or a member of your immediate family
18 involved in law enforcement or in the prosecution of
19 criminal cases at any level? Anything from a State
20 solicitor or attorney general, U.S. Attorney, Sheriff's
21 Office, Highway Patrol, Air Marshal, anything like that?

22 And what I'm gonna do is ask -- We'll work our way
23 back, give me your name and number, and then just remain
24 standing and tell me after you give your name and number,
25 why you're standing, that is, Uncle Joe is a Sheriff's

1 deputy in Florida or whatever.

2 Yes, sir.

3 (WHITE MALE STANDING.)

4 A. William A. Enes, Juror Number Sixty-five. My son is a
5 member of the Horry County Police Department.

6 THE COURT: All right. Your name and number?

7 JUROR SIXTY-FIVE: Enes, E-n-e-s. Number Sixty-five.

8 THE COURT: All right. And what relationship do you
9 have to --

10 JUROR SIXTY-FIVE: He's my son.

11 THE COURT: Who is your son?

12 JUROR SIXTY-FIVE: My son is a member of Horry County
13 Police Department.

14 THE COURT: Oh. You're his dad?

15 A. No.

16 THE COURT: Well, I've gotten lost. Both of you all
17 claiming the same child?

18 A. No.

19 THE COURT: Oh. I'm sorry. I -- I had the wrong
20 person. Incidentally, Mr. Gosnell, who is the Chief of
21 Police in Horry, City of Horry or City of Conway now, used
22 to be a highway patrolman here in York County.

23 All right. Your name and number. I'm sorry. Just
24 remain standing. Now, I've got everybody confused.

25 (WHITE MALE STANDING.)

-15-

1 A. Leslie Dale Baker, Juror Number Thirteen. My sister-
2 in-law is a magistrate here in York County. I've got three
3 nephews that are Highway Patrol in York County. Not in
4 York County, but Spartanburg and chester.

5 THE COURT: All right. Yes, sir, your name and
6 number?

7 (WHITE MALE STANDING.)

8 A. Alex Eller, Juror Number Sixty-two. My father is a
9 police officer for Rock Hill City.

10 THE COURT: All right. This is a City case, isn't it?

11 SOLICITOR SHELTON: The Drug Unit, your Honor. I
12 believe Harrelson is associated with Rock Hill PD.

13 THE COURT: All right. We'll have testimony from a
14 Rock Hill City Police officer, so I'm going to excuse you
15 from serving. Don't leave. Just have a seat.

16 The other two, would the fact that you have these
17 relatives in law enforcement, if that prevent you from
18 being fair and impartial, please raise your right hand.

19 Neither does. All right. Thank you. You may be
20 seated. And I appreciate it. And I'm sorry I got
21 everybody confused.

22 Now, do any of you -- are any of you or a member of
23 your immediate family contributors to or member of
24 organizations such as Mothers Against Drunk Drivers,
25 Students Against Drunk Drivers, Citizens Against Violence,

1 Troopers' Association, Sheriffs' Association, or Fraternal
2 Order of Police; if so, please stand?

3 No one stands.

4 Have any of you ever worked with or been prosecuted by
5 the York County Solicitor, Sixteenth Circuit Solicitor's
6 Office, Kevin Brackett; or, have any of you worked with
7 that office in any way whatsoever? Worked as a victims'
8 advocate, or in any other capacity; if so, please stand.

9 No one stands.

10 Has anybody worked with the York County, Mr. Harry
11 Dest office, Public Defender's Office, in any way
12 whatsoever; if so, please stand?

13 No one stands.

14 Do any of you have any beliefs, religious,
15 philosophical, or otherwise, that would prevent you from
16 serving as a juror in this particular case; if so, please
17 stand?

18 No one stands.

19 The next question's going to be kind of general, and
20 I'm doing it for a reason. And I'm not going to ask you to
21 get up and tell me why you're standing. The fact that you
22 stand in response to this question will be all I need to
23 know. And then, I'll ask you about whether you can be fair
24 and impartial in the trial of this case.

25 Have any of you had a family member, or have you

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1 personally been affected by what you consider the abuse of
2 someone of illegal substances? That is, have a family
3 member that's involved in the use of controlled substance,
4 or had some kind of incident that occurred at your home or
5 out in the community that you attribute it to somebody
6 having such a problem; if so, please stand? All right.

7 I'm not going to ask you to be specific. All I'm
8 going to do is ask you to give me your name and number, and
9 then I'll come back and ask if any of you cannot be fair
10 and impartial. Let's first just go through your name and
11 number, and I know one of you has already stood before, but
12 we have to make a record. So, every time you stand, you
13 get to tell us your name and number again. And let's start
14 and work our way from the aisle, in, row by row.

15 (WHITE FEMALE STANDING.)

16 A. Julie Pugh, One Eighty-three.

17 (WHITE FEMALE STANDING.)

18 A. Vicky Reaves, One Eighty-six.

19 (WHITE MALE STANDING.)

20 A. Leslie Dale Baker, Thirteen.

21 WHITE MALE STANDING.)

22 A. Michael Crump, Forty-eight.

23 (WHITE MALE STANDING.)

24 A. Scott Summitt, Two sixteen.

25 (WHITE FEMALE STANDING.)

1 A. Karrington Duke, Sixty-one.

2 (WHITE FEMALE STANDING.)

3 A. Victoria Boush, Twenty-eight.

4 (WHITE FEMALE STANDING.)

5 A. Cheryl Long, One nineteen.

6 (WHITE FEMALE STANDING.)

7 A. Melissa Rasmussen, One eighty-five.

8 (BLACK FEMALE STANDING.)

9 A. Robbin Gross, . . .

10 THE COURT: Could you hear that?

11 MADAM COURT REPORTER: No.

12 THE COURT: The last one again, a little louder.

13 A. Robin Gross, Seventy-nine.

14 (WHITE FEMALE STANDING.)

15 A. Jolene Fatheree, Sixty-seven.

16 THE COURT: Now, the ones of you who are standing, if
17 this life experience would prevent you from being fair and
18 impartial in the trial of this case, please raise your
19 right hand. All right.

20 Those of you that did not raise your right hands, sit
21 down. The three that raised your right hands, all right.

22 Your name again?

23 A. Victoria Boush.

24 THE COURT: All right. I'm going to excuse you from
25 serving on this particular trial. Just have a seat. Thank

1 you.

2 Your name and number again?

3 A. Karrington Duke, Sixty-one.

4 THE COURT: All right. I'm going to excuse you from
5 serving on this trial.

6 Yes, ma'am.

7 A. Cheryl Long, One nineteen.

8 THE COURT: All right. Again, I'll excuse you from
9 serving on this trial. Thank you for assisting us in
10 taking care of that.

11 The following are possible witnesses in this case. I
12 do not know whether all will testify or not, but even if
13 they don't testify, their names may be mentioned. So, if
14 you know any of these individuals, of course, if you are
15 related by blood or marriage, but also, if you just know
16 them through any social events, church, or in any way
17 whatsoever, please stand.

18 Mr. Leland Harrelson, he's here. Mr. Ryan King from
19 the York County Multi-District -- York County Multi-Drug
20 Enforcement Unit. There are four -- two of those
21 individuals, Ryan King and Justin Spencer. Then, from the
22 York County Sheriff's Office, Patrick Patterson and Cynthia
23 Mitchum. And then, I call them civilians, someone who's
24 not associated with law enforcement, Derrick Doss.

25 Any of you know any of these individuals, related to

1 them, know them from church or organization?

2 No one stands.

3 Anything further from the State?

4 SOLICITOR SHELTON: Nothing further, your Honor.

5 THE COURT: Anything further from the Defense?

6 MS. INZERILLO: No, your -- Your Honor, we would ask
7 the Court to ask question nine, in the Defense requests.

8 THE COURT: All right. Have any you or a member of
9 your family, to your knowledge, of course, have any contact
10 with the York County Multi-Jurisdictional Drug Enforcement
11 Unit, whether or not there was any arrest or not; if so,
12 please stand?

13 No one stands.

14 Anything else, Ms. Inzerillo?

15 MS. INZERILLO: No, your Honor.--Thank-you.

16 THE COURT: Do any of you know of any reason whatsoever
17 why you could not or should not serve as a fair and
18 impartial juror in the trial of this particular case; if
19 so, please stand?

20 No one stands.

21 Now, the way we do our jurors in this particular
22 courtroom is, each side has the right to strike up to five
23 individuals, that is, excuse, five individuals. We'll draw
24 twelve jurors and two alternates. On the alternates, the
25 State can strike one, excuse one, and the Defense can

1 excuse two.

2 The way we'll do this is, if you hear your name
3 called, simply stand where you are. You don't have to say
4 anything, just stand. Face first the table where the
5 solicitors are seated. One of them will say, either,
6 present the juror; or, excuse the juror. If you hear the
7 words, excuse the juror, just simply take your seat. If
8 you hear the words, present the juror, turn and face the
9 table where Mr. Hughes and his attorney are seated.

10 Ms. Inzerillo will say, either, excuse the juror;
11 again, that means you may simply sit down; or, swear the
12 juror. If you hear those words, swear the juror, please
13 come forward. Bring you with you your pocketbook or books
14 or whatever you may have, so you won't have to go back and
15 get it. ~~But if you hear the words, swear the juror, please~~
16 come up, and the bailiff will show you where to have a seat
17 in the jury box.

18 Madam Clerk.

19 MADAM CLERK: Number Eight, Melissa Hefferon.

20 (WHITE FEMALE STANDS.)

21 THE COURT: Just stand where you are. That's fine.

22 MADAM CLERK: What say you for the State?

23 SOLICITOR SHELTON: Please present the juror?

24 MADAM CLERK: Defense?

25 MS. INZERILLO: Please swear the juror.

1 MADAM CLERK: Please come up and have a seat in the
2 jury box.

3 Number Thirty-six, Melvin Carpenter.

4 (WHITE MALE STANDS.)

5 MADAM CLERK: What say you for the State?

6 SOLICITOR SHELTON: Please present the juror.

7 MADAM CLERK: Defense?

8 MS. INZERILLO: Please swear the juror.

9 MADAM CLERK: Please come up and have a seat in the
10 jury box.

11 Number Forty-eight, Michael Crump.

12 (WHITE MALE STANDS.)

13 MADAM CLERK: What say you for the State?

14 SOLICITOR SHELTON: Please present the juror.

15 MADAM CLERK: Defense?

16 MS. INZERILLO: Please swear the juror.

17 MADAM CLERK: Please come up and have a seat in the
18 jury box.

19 Number One eighty-five, Melissa Rasmussen.

20 (WHITE FEMALE STANDS.)

21 MADAM CLERK: What say you for the State?

22 SOLICITOR SHELTON: Please present the juror.

23 MADAM CLERK: Defense?

24 MS. INZERILLO: Please swear the juror.

25 MADAM CLERK: Please come up and have a seat in the

1 jury box.

2 Number Two sixteen, Scott Summitt.

3 (WHITE MALE STANDS.)

4 MADAM CLERK: What say you for the State?

5 SOLICITOR SHELTON: Please excuse the juror.

6 MADAM CLERK: You are excused from this case.

7 Number 2-0-2, Deann Segal.

8 (WHITE FEMALE STANDS.)

9 MADAM CLERK: What say you for the State?

10 SOLICITOR SHELTON: Please present the juror.

11 MADAM CLERK: Defense?

12 MS. INZERILLO: Please swear the juror.

13 MADAM CLERK: Please come up and have a seat in the
14 jury box.

15 Number One twenty-two, Rose Marshall.

16 (BLACK FEMALE STANDS.)

17 MADAM CLERK: What say you for the State?

18 SOLICITOR SHELTON: Please present the juror.

19 MADAM CLERK: Defense?

20 MS. INZERILLO: Please swear the juror.

21 MADAM CLERK: Please come up and have a seat in the
22 jury box.

23 Number Nineteen, Dillon Barrett.

24 (WHITE MALE STANDS.)

25 MADAM CLERK: What say you for the State?

1 SOLICITOR SHELTON: Please present the juror.

2 MADAM CLERK: Defense?

3 MS. INZERILLO: Please swear the juror.

4 MADAM CLERK: Please come up and have a seat in the
5 jury box.

6 Number One eighty, Megan Pressley.

7 (WHITE FEMALE STANDS.)

8 MADAM CLERK: What say you for the State?

9 SOLICITOR SHELTON: Please present the juror.

10 MADAM CLERK: Defense?

11 MS. INZERILLO: Please swear the juror.

12 MADAM CLERK: Please come up and have a seat in the
13 jury box.

14 Number Two thirty-four, Jimmy Walsham.

15 (WHITE MALE STANDS.)

16 MADAM CLERK: What say for the State?

17 SOLICITOR SHELTON: Please present the juror.

18 MADAM CLERK: Defense?

19 MS. INZERILLO: Please excuse the juror.

20 MADAM CLERK: You are excused from this case.

21 Number One thirty-three, Keith McCoy.

22 (WHITE MALE STANDS.)

23 MADAM CLERK: What say you for the State?

24 SOLICITOR SHELTON: Please present the juror.

25 MADAM CLERK: Defense?

1 MS. INZERILLO: Please excuse the juror.

2 MADAM CLERK: You are excused from this case.

3 Number One fifty-one, Nicole Morgan.

4 (WHITE FEMALE STANDS.)

5 MADAM CLERK: What say you for the State?

6 SOLICITOR SHELTON: Please present the juror.

7 MADAM CLERK: Defense?

8 MS. INZERILLO: Your Honor, may we approach?

9 THE COURT: Yes..

10 (BENCH CONFERENCE, OFF THE RECORD, AT 04:17 PM.)

11 MS. INZERILLO: Please swear the juror.

12 MADAM CLERK: Please come up and have a seat in the
13 jury box.

14 Number Two twenty-six, Rebecca Tucker.

15 (WHITE FEMALE STANDS.)

16 MADAM CLERK: What say you for the State?

17 SOLICITOR SHELTON: Please present the juror.

18 MADAM CLERK: Defense?

19 MS. INZERILLO: Please excuse the juror.

20 MADAM CLERK: You are excused from this case.

21 Number Two fifty-two, Aaron Hein.

22 (WHITE MALE STANDS.)

23 MADAM CLERK: What say you for the State?

24 SOLICITOR SHELTON: Please present the juror.

25 MADAM CLERK: Defense?

1 MS. INZERILLO: Please swear the juror.

2 MADAM CLERK: Please come up and have a seat in the
3 jury box.

4 Number One ninety-three, Matthew Rohring.

5

6 (WHITE MALE STANDS.)

7 MADAM CLERK: What say you for the State?

8 SOLICITOR SHELTON: Please present the juror.

9 MADAM CLERK: Defense?

10 MS. INZERILLO: Please swear the juror.

11 MADAM CLERK: Please come up and have a seat in the
12 jury box.

13 Number Sixty-seven, Jolene Fathering.

14 (WHITE FEMALE STANDS.)

15 MADAM CLERK: What say you for the State?

16 SOLICITOR SHELTON: Please excuse the juror.

17 MADAM CLERK: You are excused from this case.

18 MADAM CLERK: Number One seventy-seven, Megan Poole.

19 (WHITE FEMALE STANDS.)

20 MADAM CLERK: What say you for the State?

21 SOLICITOR SHELTON: Please present the juror.

22 MADAM CLERK: Defense?

23 MS. INZERILLO: Please excuse the juror.

24 MADAM CLERK: You are excused from this case.

25 Number One eighty-three, Julia Pugh.

1 (WHITE FEMALE STANDS.)

2 MADAM CLERK: What say you for the State?

3 SOLICITOR SHELTON: Please present the juror.

4 MADAM CLERK: Defense?

5 MS. INZERILLO: Please swear the juror.

6 MADAM CLERK: Please come up and have a seat in the
7 jury box.

8 THE COURT: The first alternate the strikes are one
9 and two.

10 MADAM CLERK: Number Ninety-seven, Brittany Hunsinger.

11 (WHITE FEMALE STANDS.)

12 MADAM CLERK: What say you for the State?

13 SOLICITOR SHELTON: Please present the juror.

14 MADAM CLERK: Defense?

15 MS. INZERILLO: Please swear the juror.

16 MADAM CLERK: Please come up and have a seat in the
17 jury box.

18 Number Sixty-three, Donna Elliott.

19 (WHITE FEMALE STANDS.)

20 MADAM CLERK: What say you for the State?

21 SOLICITOR SHELTON: Please present the juror.

22 MADAM CLERK: Defense?

23 MS. INZERILLO: Please swear the juror.

24 MADAM CLERK: Please come up and have a seat in the
25 jury box.

1 THE COURT: Anything from the State involving the
2 striking of the panel?

3 SOLICITOR SHELTON: No, sir, your Honor.

4 THE COURT: Anything from the Defense involving the
5 striking of the panel?

6 MS. INZERILLO: No, your Honor.

7 THE COURT: All right. Okay. Those of you who were
8 not chosen, I'm going to allow you to leave and I'm going
9 to ask you to do it quietly because I need to start talking
10 to this jury panel. Please call tonight after Seven and
11 follow whatever instructions you receive.

12 (JURY POOL EXITS COURTROOM AT 04:23 PM.)

13 THE COURT: Those of you who were chosen, I'm going to
14 chat with you a little bit then I'm going to let you go for
15 the day, and we're not going to administer the oath until
16 in the morning.

17 We have some matters to do outside of your presence,
18 and if we do them this afternoon, that will save us time
19 during the rest of the week. This case will not take all
20 week, but -- shouldn't say the rest of the week, but the
21 rest of the trial time.

22 Now, as I told you when you were seated out in the
23 general audience, Mr. Hughes is charged with purchasing and
24 distribution of crack cocaine. He has entered a plea of
25 not guilty to this charge, and that places on the State the

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1 burden to prove his guilt beyond a reasonable doubt. He is
2 presumed innocent of this charge and need not prove his
3 innocence. The State has to prove his guilt beyond a
4 reasonable doubt.

5 Now, you are on this panel, and when you come in in
6 the morning, I'm going to have some further instructions,
7 but I want to go ahead and instruct you of a few things
8 right now. Number one, do not discuss the case among
9 yourselves or try to make up your own mind during this
10 trial. We'll reach a point where I will instruct you to
11 jointly deliberate and returning a unanimous verdict.
12 Prior to that time, you're not equipped with all the tools
13 you need to make a fair and reasonable decision. So, don't
14 discuss the case among yourselves, and that's to any degree
15 whatsoever. Don't think by discussing the, quote, facts,
16 end quote, that you're not discussing the case. Just don't
17 discuss the case at any degree whatsoever, and don't try to
18 make up your own mind.

19 I do not know that this case will receive any news
20 coverage, but if it does, don't let yourself be exposed to
21 any news coverage. Don't listen, watch, or listen to
22 anything that could remotely deal with this trial. If
23 anyone tries to discuss this case with you outside the
24 courtroom, tell them you cannot do so as you're serving as
25 a juror, and report back to me if anyone tries to discuss

1 this case with you. Hopefully, giving me that person's
2 identity, because I will have to take action against
3 someone who has tried to talk to a seated juror.

4 Do not do any independent research on this case.
5 Particularly, do not access any Google, the Cloud, or any
6 of these information sources, technological sources that we
7 have now where you can get information about anything.
8 That would be improper. Your verdict has to be based on
9 the law and the evidence as it's presented here in this
10 courtroom. So, don't access any electronic or any type of
11 cell phone or related device, to obtain any information
12 about this case, about Mr. Hughes, about his attorney, the
13 State's attorney, about me, about evidence, about anything
14 that can deal with this trial.

15 Do not even, on Facebook or one of the social medias,
16 I ask that you not even go on and say you're serving as a
17 juror. That sounds pretty innocent, but someone may text
18 you -- not text you -- but reply -- I don't know all the
19 lingo -- may reply with something that might not be healthy
20 for you serving as a juror so just stay off of that. You
21 don't need -- people don't need to know those sort of
22 things, and somebody may respond with something that would
23 not be beneficial to your resolving this case, and not --
24 and put you in a position of not being able to be fair and
25 impartial to the State and to Mr. Hughes.

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1 Now, Ms. Morgan, I'm going to ask you to be the
2 foreperson. The other lady when you come in tomorrow,
3 you'll take this first seat. The two alternates will
4 always sit in those seats. There is no further assigned
5 seating. Just, the bailiff will bring you in, and wherever
6 you happen to come in the line that comes in have a seat.
7 The Forelady will be the liaison between myself and the
8 jury. You will preside over the jury's deliberation and
9 ultimately sign the jury's unanimous verdict; has assigned
10 seating, and the alternates have assigned seating.

11 So I'm going to let you go in just a moment, but first
12 let me ask, is there anything else that the State wants me
13 to cover this afternoon as far as instructions?

14 SOLICITOR SHELTON: No, sir.

15 THE COURT: Ms. Inzerillo?

16 MS. INZERILLO: No, your Honor.

17 THE COURT: All right. If you will go out this door,
18 the bailiff will tell you how to get in and out of the
19 building and how -- up to the jury room while you're
20 serving.

21 We'll start back -- be here at 9:30. Now, it's very
22 important that you're here when you're supposed to be. If
23 you're not -- this sounds harsh, but this is just the way
24 it works -- if you're not, I have to ask the Sheriff to
25 find out why you're not here. And not only would you be

1 holding up an awful lot of people and holding up this
2 trial, and putting the Court and the parties in an awkward
3 position, you will be, really, in contempt of Court for not
4 being here when you're supposed to be. And I did not
5 threaten any drastic action, but if you're not here, we
6 need to find out why. We're not hard to work with. If you
7 have some legitimate reason you can't be here, let us know.
8 If you're running late, tire trouble or something like
9 that, and I hope none of you have it, call and let us know.
10 Let us know when we can expect you. If any of you are sick
11 and cannot come, let us know, and we can deal with that.
12 We can deal with the known, we can't deal with the unknown.

13 So have a pleasant evening, and we'll see you back at
14 9:30 in the morning.

15 (JURY EXITS COURTROOM AT 4:23 PM.)

16 THE COURT: You want to move forward with the Neil
17 *versus Biggers* hearing?

18 SOLICITOR SHELTON: Yes, your Honor.

19 THE COURT: All right.

20 SOLICITOR SHELTON: Judge, can we get Derrick Doss
21 from the holding cell, please, sir?

22 MADAM CLERK: Please raise your right hand and place
23 your left as best you can on the Bible.

24 WHEREUPON, DERRICK DOSS,
25 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON - PRETRIAL

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DIRECT EXAMINATION

DERRICK DOSS BY SOLICITOR SHELTON:

Q. Good afternoon. Please state your full name for the record.

A. Derrick Ray Doss.

Q. How old are you?

A. Thirty-four.

Q. And where are you from?

A. I live in Rock Hill, South Carolina right now.

Q. And how far did you go in school?

A. Fourteen years.

Q. Mr. Doss, were you working with the Drug Unit as a -- for York County as a CI in June of 2015?

A. Yes, sir.

Q. Specifically on June 12th, 2015, did you tell Drug Unit officers you could buy crack cocaine from someone?

A. Yes.

Q. Who did you tell them you could buy from?

A. A person I know as Pootie.

COURT REPORTER: I'm sorry?

A. A person I knew as Pootie.

BY SOLICITOR SHELTON:

Q. For the record, that's P-o-t-t-i-e. Was Pottie his real or legal name?

A. No.

1 Q. Did you know his real or legal name at that time?

2 A. Not at that time.

3 Q. And were you able to buy crack cocaine from Pottie on
4 June 12th, 2015?

5 A. Yes.

6 Q. Were you able to buy from him any other times when you
7 were working as a confidential informant with the Drug
8 Unit?

9 A. Yes.

10 Q. Was that on August 7th, 2015?

11 A. Yes.

12 Q. And on August 20th of 2015?

13 A. Yes.

14 Q. Later, in this ongoing investigation, were you able to
15 learn a different nickname or street name for Hugh -- or
16 excuse me, for Pottie?

17 A. Yes.

18 Q. Was that before or after the June 12th drug buy?

19 A. After.

20 Q. And was that before or after the August 7th drug buy?

21 A. Before.

22 Q. What other nickname or street name did you learn that
23 Pottie goes by?

24 A. Lucky.

25 Q. And who told you that?

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON - PRETRIAL

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1 A. Himself.

2 Q. So, when you're speaking about himself, who are we
3 speaking about? Do you see him in the courtroom?

4 A. Yes.

5 Q. Can you point him out for the judge?

6 (WITNESS POINTS TOWARD DEFENDANT.)

7 SOLICITOR SHELTON: Your Honor, please notice that Mr.
8 Doss is pointing to the defendant in this case, Mr. Hughes.

9 Q. Prior to the June 12, 2015 drug deal, what
10 description, if any, did you provide the Drug Unit about
11 the man you knew at the time as being called Pottie?

12 A Just dark complexion, around my height, with a low-
13 crop haircut.

14 Q. And did you know approximately how old he was?

15 A. I assumed he was around my age.

16 Q. And which is?

17 A. Thirty-four. At that time, thirty-three.

18 Q. So, early, mid-thirties, approximately. Were you the
19 one who set up the drug deal?

20 A Yes.

21 Q. So, in other words, the Drug Unit didn't tell you who
22 to buy from.

23 A No.

24 Q. You told them who you could buy from.

25 A. Yes.

1 Q. How long had you known Pottie, prior to June 12th,
2 2015?

3 A. I personally knew him after meeting him about two to
4 three days.

5 Q. And how did you meet him?

6 A. We was known through another acquaintance, and I just
7 happened to walk up on him one day, and started a
8 conversation.

9 Q. So, that was around June 10th, June 9th or June 10th
10 of 2015?

11 A. Yes, sir.

12 Q. And on June 12th, 2015, did you know Pottie's phone
13 number?

14 A. Yes.

15 Q. And how did you get that number?

16 A. I obtained it from him two or three days prior.

17 Q. Did you save it in your phone or something like that?

18 A. Yes.

19 Q. Saved it in your phone?

20 A. Yes.

21 Q. And where was Pottie staying at the time, or where did
22 you run into him?

23 A. When I obtained his phone number?

24 Q. Yes, sir.

25 A. Econolodge, on Riverview Road.

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON - PRETRIAL

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1 Q. Okay. And is that -- is the Bestway Inn close to the
2 Econolodge?

3 A. Yes, sir.

4 Q. And those are both located on Riverview Road, in Rock
5 Hill?

6 A. Yes.

7 Q. In York County?

8 A. Yes.

9 Q. So, to be clear, how many times prior to June 12th,
10 2015 had you been face-to-face with Pottie?

11 A. One time.

12 Q. And approximately how long were you in his presence
13 that day?

14 A. Three to eight minutes.

15 Q. Could you clearly see his face?

16 A. Yes.

17 Q. On June 12, 2015, how were you able to set up the drug
18 deal?

19 A. I called him prior to calling Investigator Harrelson.

20 Q. And did you call him on the number that Pottie had
21 given you?

22 A. Yes.

23 Q. And was that phone call recorded by the Drug Unit?

24 A. My original call? Before I called the Drug Unit?

25 Q. Yeah, I'm talking about on June 12, 2015.

1 A. Yeah. No, my original call was not.

2 Q. Okay. But did you then -- did you call him when you
3 were with the Drug Unit later on?

4 A. Yes, yes.

5 Q. Was that call recorded?

6 A. Yes.

7 Q. And where did he tell you to meet him?

8 A. Originally he said the Econolodge. And then,
9 immediately after saying Econolodge, it was the Best -- the
10 back parking lot of the Bestway.

11 Q. And that's on Riverview Road on Rock Hill?

12 A. Yes.

13 Q. And how did you get to that meeting location?

14 Q. I was dropped off by the Drug Unit.

15 Q. And so, then, did you walk from the drop-off location?

16 A. Yes.

17 Q. And were you outfitted with audio/video recording
18 equipment at that time?

19 A. Yes.

20 Q. On June 12, 2015, did you purchase crack cocaine from
21 the man you knew as Pottie, later learning he also goes by
22 Lucky?

23 A. Yes.

24 Q. What about on August 7th?

25 A. Yes.

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON - PRETRIAL

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1 Q. And what about on August 20th?

2 A. Yes.

3 Q. Mr. Doss, did you buy crack cocaine from Pottie, or
4 Lucky, on any other times between June 12th and August 7th,
5 when you were not working as a confidential informant with
6 the Drug Unit?

7 A. Yes.

8 Q. Approximately how many times?

9 A. Half dozen to -- half dozen to a dozen times.

10 Q. So, six to twelve times?

11 A. Approximately, yes.

12 Q. Each time, was that from him directly, or did you
13 acquire that through a runner or a some third party?

14 A. At least two times it was a third party, but partic --
15 the majority of the time it was him.

16 Q. Were you, at some point during this investigation,
17 shown a collection of photographs known as a photo lineup?

18 A. Yes.

19 Q. And was that before or after the drug deal on June 12,
20 2015?

21 A. After.

22 Q. Was that on August 5th of 2015 that you were shown the
23 photos?

24 A. Yes.

25 Q. And who showed them to you?

1 A. Investigator Harrelson.

2 Q. Mr. Doss, I'm going to hand to you what's marked as --
3 for identification in trial as State's Number Three; also,
4 for this hearing its pre-marked as Court's Exhibit Number
5 One. Do you recognize this?

6 A. Yes.

7 Q. Okay. Go ahead and hold on to that. What is it?

8 A. It's a photo lineup of six different people.

9 Q. And is that the photo lineup you were shown on August
10 5th by Harrelson?

11 A. Yes.

12 Q. So, there are three pages in that exhibit; correct?

13 A. Yes.

14 Q. How many of those pages were you shown?

15 A. Just this first page here.

16 Q. You were not shown pages two or three?

17 A. No.

18 Q. And is this the original or exact document you were
19 shown that day?

20 A. Yes.

21 Q. Where were you when Harrelson showed you those six
22 photographs?

23 A. At the Drug Unit. In Rock Hill.

24 Q. Do you recall if anyone else was present at that time?

25 A. I do not know who it was, but there was an

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON - PRETRIAL

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1 investigator present, yes.

2 Q. What, if anything, do you remember Harrelson saying to
3 you, prior to him showing you the six photos?

4 A. He handed me the -- he handed me the page, and told me
5 to take my time and look at it, that the person may or may
6 not be in the photos.

7 Q. Did anyone else say anything to you prior to that,
8 prior to you being shown the photos?

9 A. No.

10 Q. Did Harrelson or anyone else say anything or do
11 anything to influence or suggest to you what photograph to
12 select?

13 A. No.

14 Q. Was this the only set of photos you were shown in this
15 investigation?

16 A. Yes.

17 Q. Had you watched or seen any images from the June 12,
18 2015 buy video?

19 A. No.

20 Q. Specifically, had you been -- seen any of that prior
21 to being shown the photographs?

22 A. No.

23 Q. Did you select a photograph from the six photos shown
24 to you by Harrelson?

25 A. Yes.

1 Q. Which one did you select?

2 A. Here, marked as Photo Number Five.

3 Q. Did you hesitate in any way in making your selection?

4 A. No.

5 Q. And did you mark your selection in any way?

6 A. Yes.

7 Q. Would you please describe how you marked it?

8 A. Circled it, signed it, and dated it.

9 Q. You signed your name and dated it to -- what's the
10 date you dated it?

11 A. 8/5/15.

12 Q. And the picture of the person that you selected, is
13 that the person you knew as Pottie at the time?

14 A. Yes.

15 Q. Is that the same person who sold you crack cocaine on
16 June 12, 2015?

17 A. Yes.

18 Q. And one more time, do you see him present in the
19 courtroom today?

20 A. Yes.

21 Q. Please point him out for the judge.

22 SOLICITOR SHELTON: Your Honor, Please let the record
23 reflect that Mr. Doss has, again, pointed to the defendant
24 in this case, Jarvis Hughes.

25 (WITNESS POINTS TO DEFENDANT JARVIS HUGHES.)

DERRICK DOSS: CROSS BY MS. INZERILLO - PRETRIAL

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1 SOLICITOR SHELTON: Please answer any questions Ms.
2 Inzerillo may have.

3 A. Yes, sir.

4 MS. INZERILLO: May it please the Court, your Honor?

5 THE COURT: Yes, ma'am.

6 CROSS-EXAMINATION

7 DERRICK DOSS BY MS. INZERILLO:

8 Q. Mr. Doss, your testimony here for this hearing is that
9 you did a deal with Mr. Hughes, sitting at the table like
10 the -- on June 12th, you knew him as Pottie; is that right?

11 A. Yes, ma'am.

12 Q. And then, at some point later, you discovered that his
13 name was Lucky?

14 A. Yes, ma'am.

15 Q. And then, at some point after that, you were shown a
16 lineup by investigators -- Investigator Harrelson?

17 A. Yes, ma'am.

18 Q. Okay. Now, you -- you testified that you've seen Mr.
19 Hughes ten to twelve times during that approximately six-
20 to eight-week period between June and August; is that
21 right?

22 A. Yes, ma'am.

23 Q. And you were doing buys, essentially, not linked to
24 the DEU?

25 A. Yes, ma'am.

1 Q. Were all of those buys with Mr. Hughes, or were they
2 with other people?

3 A. They were set up originally for Mr. Hughes, but two to
4 three of those, he had somebody else meet me and the rest
5 of 'em I met him.

6 Q. Okay. And you testified that on 8/07 and 8/20 that
7 you also purchased from the person you knew as Pottie,
8 otherwise known as Lucky?

9 A. Yes, ma'am.

10 Q. On 8/07, though, didn't you deal directly with a white
11 male named Christopher Roof?

12 A. On 8/07?

13 Q. Um-hmm.

14 A. I cannot be a hun -- yes.

15 Q. Okay.

16 A. Yes.

17 Q. So, you didn't go face-to-face with Mr. Hughes that
18 day?

19 A. No.

20 Q. The day that you left the buy on June 12th, the only
21 information that you had was that the person's name was
22 Pottie; is that right?

23 A. Yes, ma'am.

24 Q. Did not have Jarvis Hughes' name?

25 A. No, ma'am.

DERRICK DOSS: CROSS BY MS. INZERILLO - PRETRIAL

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1 Q. And the description -- you testified here today that
2 you gave a description?

3 A. Yes, ma'am.

4 Q. And that he was about as tall as you, about your same
5 age, dark skin, black male.

6 A. With a short, cropped haircut, yes, ma'am.

7 Q. Short, cropped haircut.

8 A. A fade haircut, yes, ma'am.

9 Q. That -- At what point did you let Investigator
10 Harrelson know about the name change, the Lucky to Pottie?

11 A. Between the original buy and the next buy, with the
12 Drug Unit.

13 Q. Before or after the photo lineup?

14 A. Before the photo lineup.

15 Q. When you were shown this photo lineup, what exactly
16 did Investigator Harrelson say to you?

17 A. He handed it to me, and told me to take my time and
18 look at it, that the person may or may not be in the photo
19 lineup.

20 Q. What person?

21 A. Mr. Hughes. At that time, they didn't -- he didn't
22 use a name. He just said, the person that you bought from
23 may or may not be in the lineup.

24 Q. Why were you meeting with Mr. Harrelson on this day?

25 A. To purchase crack cocaine from him?

1 Q. From who?

2 A. Mr. Hughes.

3 Q. On the 5th of August?

4 A. On the 5th of August, I was meeting with Mr. Harrelson
5 to do our statement from the 12th.

6 Q. The statement that was given to Mr. Harrelson and
7 signed on August 20th?

8 A. Yes. The statement was done the day that we did the
9 buy, but it was not signed and printed out until then.
10 Which it happened more than -- more than once.

11 Q. Okay. Now, have you since seen the video in this
12 case?

13 A. Yes, ma'am. Last week.

14 Q. You did two other buys not in this video; is that
15 right, trying to get a drug deal done with Mr. Hughes?

16 A. Yes, ma'am.

17 Q. And on the August 7th one, Mr. Hughes did not show up,
18 but a white male did; is that right?

19 A. Yes, ma'am.

20 Q. And then, on the August 20th buy, Mr. Hughes did not
21 show up. You had to leave the money outside of a yard and
22 take the drugs off the ground; is that right?

23 A. Yes, ma'am.

24 Q. So, you actually were never face-to-face with Mr.
25 Hughes on that day, either?

DERRICK DOSS: CROSS BY MS. INZERILLO - PRETRIAL

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1 A. No, ma'am.

2 Q. So, the only times that you are now claiming you are
3 face-to-face with Mr. Hughes were the times that the DEU
4 was not involved in your purchasing drugs.

5 A. And June 12th, I was face-to-face.

6 Q. Okay. Now, on -- When you were shown this lineup on
7 August 5th, were you meeting with Investigator Harrelson to
8 do another buy on Mr. Hughes?

9 A. On the 12th?

10 Q. On the -- no, on August 5th.

11 A. No, ma'am.

12 Q. He just showed you this and said, Mr. Hughes is in
13 this; do you see him.

14 A. He did not say Mr. Hughes is in this; did you see
15 him.

16 Q. Okay. What did he tell you?

17 A. He handed me the thing and said, take my time and look
18 at it. This person -- the person may or may not be in the
19 photo lineup.

20 Q. What person?

21 A. The person I purchased crack cocaine from. He just
22 said, the person.

23 Q. All right. Now, at the time that you do the buy, you
24 don't give Jarvis Hughes' name; is that right?

25 A. On the 12th? Yes, ma'am.

1 Q. That's right. All right. And it's only some time
2 after that that you then claim to know him as Lucky; is
3 that's right?

4 A. Yes, ma'am.

5 Q. Did you ever identify him as Jarvis Hughes to Mr.
6 Harrelson?

7 A. No, ma'am.

8 Q. Only as Lucky?

9 A. Yes, ma'am.

10 Q. Did Mr. Harrelson in any way confirm that that was
11 correct, that Lucky was, in fact, Jarvis Hughes?

12 A. No.

13 Q. Did you -- in your -- The statement in this case, you
14 never mention Jarvis Hughes as -- as Pottie; is that
15 correct?

16 A. Yes, ma'am.

17 Q. Do you recall?

18 A. Yes, ma'am.

19 Q. That is correct?

20 A. Yes, ma'am.

21 Q. All right. When you claimed that you had seen Mr.
22 Hughes six to twelve times in between June and August, were
23 you high all those times?

24 A. No. I was going to meet him so I could get high. But
25 not at the present time, no, ma'am, at the time I went to

DERRICK DOSS: CROSS BY MS. INZERILLO - PRETRIAL

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1 purchased.

2 Q. Do you recall any specifics about any -- each one of
3 those times that you saw Mr. Hughes?

4 A. I remember we met in the elevator a lot at the
5 Econolodge.

6 Q. Okay. And quick two or three second deal; walk out??

7 A. No, because he'd usually get on and we'd ride up and
8 ride down once or twice.

9 Q. What was the conversation that you now claim you found
10 out from Mr. Hughes that his name -- street name was Lucky,
11 and not Pottie?

12 A. It was not a conversation with him. It was a
13 conversation with someone else that we had dealt with, that
14 we know mutually. And -- and then, I had asked him, and I
15 -- I cannot remember verbatim how that conversation went.
16 I cannot remember that conversation.

17 Q. Was that mutual person Jay?

18 A. Yes, ma'am.

19 Q. And that was -- the Jay, essentially a prior dealer
20 that had stopped calling?

21 A. That what?

22 Q. That had stopped -- quit taking your phone calls?

23 A. At -- on June 12th, he didn't take my phone call, but
24 no, at that point he had not stop taking my phone calls
25 altogether.

DERRICK DOSS: REDIRECT BY SOLICITOR SHELTON - PRETRIAL

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1 Q. Okay. So, Jim -- so, this person, Jay, tells you that
2 Mr. Hughes' name is Lucky and not Pottie.

3 A. Yes.

4 Q. Okay.

5 MS. INZERILLO: No further questions, your Honor.

6 Thank you.

7 THE COURT: Redirect?

8 SOLICITOR SHELTON: Beg the Court's indulgence.

9 REDIRECT EXAMINATION

10 DERRICK DOSS BY SOLICITOR SHELTON:

11 Q. I just want to be clear. I didn't quite catch what
12 you on one of the -- on one of the questions you were
13 answering or you were asked and answered. On your June
14 12th statement, who did you tell Harrelson you knew the --
15 the crack dealer as, on June 12, 2015?

16 A. As Pottie.

17 SOLICITOR SHELTON: No further questions.

18 THE COURT: Re-cross?

19 MS. INZERILLO: No, your Honor.

20 THE COURT: All right. You can return back to the
21 holding cell. Thank you.

22 (WITNESS DERRICK DOSS LEAVES WITNESS STAND.)

23 THE COURT: Call your next witness.

24 SOLICITOR SHELTON: Your Honor, the next witness is
25 Leland Harrelson.

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1 (WHEREUPON, LELAND HARRELSON,
2 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:

3 SOLICITOR SHELTON: Your Honor, for the record, I
4 don't know if I put it on there, Harrelson is our case
5 agent, so. I don't know that I noted that earlier in the
6 sequester motion.

7 THE COURT: He can stay in.

8 DIRECT EXAMINATION

9 INVESTIGATOR LELAND HARRELSON BY SOLICITOR SHELTON:

10 Q. Please state your name, for the record.

11 A. Hugh Leland Harrelson, Junior.

12 Q. And how are you presently employed?

13 A. I'm employed by the City of Rock Hill, and I'm
14 currently assigned to the York County Multi-Jurisdictional
15 Drug Enforcement Unit.

16 Q. How long have you been a sworn police officer?

17 A. For approximately nine years.

18 Q. How long have you worked in the Drug Unit?

19 A. Approximately six.

20 Q. During your years with the Drug Unit, have you
21 participated in what are known as controlled buys, that
22 involved utilization of confidential informants?

23 A. Yes, sir, I have.

24 Q. On June 12th, 2015, did you meet with one of those
25 confidential informants named Derrick Doss?

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1 A. Yes, sir, I did.

2 Q. And was Doss able to set up a crack cocaine deal that
3 day?

4 A. Yes, he was.

5 Q. Did you tell him who to buy from?

6 A. I did not.

7 Q. Did he tell you who he could buy from?

8 A. Yes, he did.

9 Q. And did he have the person's phone number?

10 A. He did.

11 Q. So, no one from law enforcement, the Drug Unit, no one
12 gave him this phone number; he already had it in his
13 possession?

14 A. That is correct.

15 Q. What description, if any, as best you can recall, did
16 Doss provide you about the person with whom he had -- he
17 said he could buy crack?

18 A. Black male in his early thirties, and gave an
19 approximate height and weight. I can't recall that right
20 now.

21 Q. And did he have a name for this guy?

22 A. He did. He stated that his name was Pottie.

23 Q. And that's not his legal name; right?

24 A. That is correct.

25 Q. And did he know where Pottie was staying and where he

INVESTIGATOR LELAND HARRELSON: DIRECT BY SOLICITOR SHELTON
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1 was hanging out at that time?

2 A. Yes. He stated he stayed in the hotels around the
3 Riverview Road area.

4 Q. Did Doss call Pottie to set up a drug deal?

5 A. He did.

6 Q. And was that call recorded?

7 A. It was.

8 Q. Did Doss buy crack from Pottie on June 12th, 2015?

9 A. He did.

10 Q. Was that drug buy audio and video recorded?

11 A. It was.

12 Q. And those recordings were part of your -- your
13 investigation in this controlled buy?

14 A. Yes, sir.

15 Q. Were you aware of the real name of this guy Pottie
16 prior to the investigation on June 12th, 2015?

17 A. I was not.

18 Q. Were you able to learn or ascertain his real name
19 after the buy?

20 A. Yes, sir, I was.

21 Q. Please explain.

22 A. I got in contact with some officers with the Rock Hill
23 Street Crimes Unit, showed them a picture from the video
24 that I had, stated to them that this individual hung around
25 the Riverview Road area.

INVESTIGATOR LELAND HARRELSON: DIRECT BY SOLICITOR SHELTON
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1 MS. INZERILLO: Your Honor, I'm going to object. I
2 think we're going to get into some hearsay because I don't
3 believe any of these officers are present.

4 SOLICITOR SHELTON: Your Honor, I believe that's
5 relevant for a pretrial hearing, to explain the police
6 investigation, and -- and --

7 THE COURT: What was the question, again?

8 SOLICITOR SHELTON: How he came to know the real
9 identity of Pottie on that day.

10 THE COURT: I overrule the objection. Go ahead.

11 BY SOLICITOR SHELTON:

12 Q. So, you looked at the video.

13 A. Yes, sir.

14 Q. And were able to take a photo and show the Street
15 Crimes?

16 A. Correct. And ask them if they could go out, and if
17 they ran across this individual, to obtain his -- his name
18 for me, through, you know, his driver's license, which they
19 did.

20 They got back in contact with me and gave me the name
21 of Jarvis Hughes, which I looked up through South Carolina
22 DMV photo; also, police records, and matched the photos up
23 to -- from the DMV or police records to the video.

24 Q. And did you know Jarvis Hughes prior to that day?

25 A. No, sir, I did not.

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1 Q. Do you see Jarvis Hughes in the courtroom today?

2 A. Yes, sir, I do.

3 Q. Could you please point him out?

4 A. It's the gentleman in the blue blazer.

5 (WITNESS LELAND HARRELSON INDICATED TO DEFENDANT

6 JARVIS HUGHES.)

7 Q. Were you at this time aware, June 12th through August
8 5th, when you mentioned you had shown Doss the photo
9 lineup, were you aware of any extracurricular drug buys
10 that he was doing, outside of his involvement with the Drug
11 Unit?

12 A. No, I was not.

13 THE COURT: He who?

14 SOLICITOR SHELTON: I'm sorry. Mr. Doss.

15 Q. Were you aware of any unauthorized Drug Unit buys that
16 Mr. Doss was going for his own personal use?

17 A. No, sir.

18 Q. And when did you learn about those unauthorized buys?

19 A. After all this had taken place.

20 Q. Was it recently?

21 A. Yes, recently.

22 Q. Was it before of after you prepared and showed him the
23 photo lineup?

24 A. This was all after.

25 Q. And through this investigation, were you able to

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1 prepare a series of photos known as a photo lineup for this
2 investigation?

3 A. Yes, I was.

4 Q. I believe right here we have what's marked as State's
5 Number Three, for trial, for identification, and Court's
6 Exhibit Number One, for the purposes of this hearing.

7 Do you recognize this?

8 A. Yes, sir, I do.

9 Q. And what is it?

10 A. This is the photo lineup that I showed Mr. Doss.

11 Q. And is it the original?

12 A. Yes, it is.

13 Q. How many photos are in that exhibit?

14 A. Six.

15 Q. Is one of the photos, was it known to you as a known
16 photo of Jarvis Hughes?

17 A. Yes, sir.

18 Q. And how did you obtain the photographs used in this
19 lineup?

20 A. This was taken from the York County Sheriff's Office
21 computer system that they have to generate a police photo
22 lineup.

23 Q. And on what date did you show Doss that lineup?

24 A. 8/5/2015.

25 Q. And so, to be clear, the other buys that Doss made

INVESTIGATOR LELAND HARRELSON: DIRECT BY SOLICITOR SHELTON
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1 with the Drug Unit were after this; correct? August 7th
2 and August 20th, that he bought indirectly -- that Doss
3 bought from Hughes or Pottier or Lucky ---

4 A. Correct.

5 Q. --- or whatever you call him?

6 A. Yes.

7 Q. Did you or anyone else show Doss the recording of the
8 June 12, 2015 buy, or any images from that recording?

9 A. No, we did not.

10 Q. And specifically, I'm asking prior to showing him the
11 photo lineup on August 5, 2015.

12 A. No.

13 Q. In fact, was the first time Doss was shown the June
14 12th buy video a couple weeks ago, when we were preparing
15 for trial?

16 A. That is correct.

17 Q. Do you recall where you and Doss were when you showed
18 him the lineup on 8/5/15?

19 A. Our offices at the Rock Hill Law Center.

20 Q. And was -- where, in that office, would you have been?

21 A. We have a conference room.

22 Q. Was anyone else in the room with the two of you at
23 that time?

24 A. I don't recall if anybody else was in the room.

25 Q. And was Doss shown the first page of that exhibit

INVESTIGATOR LELAND HARRELSON: DIRECT BY SOLICITOR SHELTON
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1 only?

2 A. Yes, that is correct.

3 Q. So, in other words, he was not provided any names or
4 identifying information on that first sheet?

5 A. No, sir.

6 Q. Nothing to suggest the identity of anyone listed in
7 those photos?

8 A. That is correct.

9 Q. And the exhibit you hold in your hand contains two
10 other pages; is that right?

11 A. Yes, sir.

12 Q. What are those other pages?

13 A. They're the same photos, just with the names. It says
14 if they're an adult, and they they're also assigned a
15 picture number.

16 Q. Page two, there are four of the six photos?

17 A. Yes, sir.

18 Q. And page three, there are two of the six photos?

19 A. That is correct.

20 Q. And are they associated with -- are they labeled,
21 Photo 1, Photo 2, Photo 3, that sort of thing?

22 A. Correct. Yes, they all correspond with the first
23 page.

24 Q. What, if anything, did you tell Doss, prior to showing
25 him the photos?

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1 A. I told him to take a look at these six photographs. I
2 said he may or may not be on here. I said study each one
3 carefully. Look at their facial features.

4 Q. And this conversation, was this trying to identify the
5 individual he knew as Pottie, that he bought from on June
6 12, 2015?

7 A. That is correct.

8 Q. Did you or any other person influence or suggest to
9 Mr. Doss in any way which photo to select?

10 A. No, sir.

11 Q. Was this the one and only lineup he was shown?

12 A. Yes, sir.

13 Q. Did he select a photo?

14 A. Yes, he did.

15 Q. Which one?

16 A. He selected Photo Number 5.

17 Q. And how do you know that?

18 A. He circled it, signed it, and put a date by it.

19 Q. And did you witness all that?

20 A. Yes, sir, I did.

21 Q. And did he indicate to you whether or not that was the
22 person -- whether the person depicted in Photo Number 5 was
23 the person who sold him crack cocaine on June 12th, 2015?

24 A. Yes, he stated that was him.

25 Q. And to be clear, is that the person he knew as Pottie?

INVESTIGATOR LELAND HARRELSON: CROSS BY MS. INZERILLO
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1 A. Yes, sir.

2 Q. What is the actual name of the person in Photo Number
3 5?

4 A. Jarvis Tyrone Hughes.

5 SOLICITOR SHELTON: Nothing further at this time.

6 THE COURT: Ms. Inzerillo?

7 MS. INZERILLO: May it please the Court, your Honor?

8 THE COURT: Certainly.

9 CROSS-EXAMINATION

10 INVESTIGATOR LELAND HARRELSON BY MS. INZERILLO:

11 Q. Mr. Harrelson, you weren't in the room when the buy
12 was done; is that right?

13 A. That is correct.

14 Q. Only Mr. Doss was.

15 A. That is correct.

16 Q. And the other person, Pottie.

17 A. Yes.

18 Q. Okay. And you didn't hang around outside the door
19 where you would have gotten a glimpse of the guy in real-
20 time, or anything like that?

21 A. No.

22 Q. So, your -- What you had to do was go back and look at
23 the video, and see if you could piece together who's on the
24 video.

25 A. That is correct.

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1 Q. And on June 12th, the only information that you had
2 was a nickname Pottie; is that right?

3 A. Yes.

4 Q. And that's what you indicated on the evidence log,
5 where you noted, LNU, FNU Pottie; is that right?

6 A. That is --

7 MS. INZERILLO: May I approach, your Honor?

8 BY MS. INZERILLO:

9 A. Yes. That is correct.

10 Q. Okay. And --

11 MS. INZERILLO: May I approach again?

12 Q. And the incident report done that day that it was an
13 individual only known as Pottie; is that right?

14 A. That is correct.

15 Q. And in that initial entry from June 12th, there is no
16 description of height or weight of this Pottie person; is
17 that right?

18 A. There may be on another page of the report. There --

19 Q. But at the time that was entered, that was entered on
20 June 12th; is that right?

21 A. No. This is the back page. We do have a front page
22 that would have his --

23 Q. That's correct. After the fact, you put in Jarvis
24 Hughes; right?

25 A. No. There was another -- which, I may have it right

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1 here. I would have to --

2 MS. INZERILLO: May I approach, your Honor.

3 THE COURT: Yes, ma'am.

4 BY MS. INZERILLO:

5 A. Yes. It has his name on here now. When we did the
6 report originally, when we did the first case report, we
7 would have put, last name unknown, and then Pottie and put
8 his description out. When we do a supplement after someone
9 is arrested, it -- we fill in their name, if they were
10 unidentified during the initial report.

11 Q. And so, that's what happened with that report.

12 A. That is correct. Yes.

13 Q. So, this final report doesn't reflect what you guys
14 knew on June 12, which is just this last paragraph that
15 says, "while conducting a narcotics investigation, officers
16 of DEU found that an individual known only as Pottie did
17 distribute approximately point three grams of crack to
18 another."

19 A. When we originally did that report, the page you have
20 in your hand would have reflected that. It would have the
21 last name unknown, first name unknown, and Pottie, and most
22 likely would have had approximate age, height, weight,
23 would have went along with that. But when we do the
24 supplement, when everything is done, it automatically --
25 you have to fill that information in. That's the Sheriff's

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1 Office reporting system.

2 Q. Okay. So, when you finalized this report, any initial
3 information you had that you put in, that's the
4 height/weight description, would be deleted, and
5 substituted with just a name, an address, a phone number,
6 race, sex, date of birth, and age?

7 A. Yes. When we identify the suspect, we go back and
8 enter all that information in there.

9 Q. And that particular information about the height,
10 weight, the type of skin, that was not included in the
11 initial description in that first paragraph down at the
12 bottom?

13 A. No. It is not on our narrative here. We put a short
14 narrative of just, kind of, what took place. We put all
15 that information, which would have been in the body of the
16 report.

17 Q. Okay. And then, you filled out an evidence log, as
18 well, which also had from June 12th, LNU FNU, Pottie?

19 A. Correct, yes.

20 Q. Okay. Now. The -- You indicated that you looked at
21 the video to see who was on the video; is that right?

22 A. That is correct.

23 Q. Okay. And you couldn't immediately identify who was
24 on the video as Mr. Hughes.

25 A. Correct.

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1 Q. You had to send it to -- through Street Crimes to have
2 them assist you with that.

3 A. That is correct.

4 Q. And Street Crimes, which officer did this?

5 A. I do not recall what officer did that for me.

6 Q. Some officer from Street Crimes comes back to you and
7 says, this is the name of the person that we have as Jarvis
8 Hughes?

9 A. Well, stated that, yeah, as close as to the picture
10 that we gave them, they said that that, you know, Jarvis
11 Hughes matched the person they found out around the hotel
12 area.

13 Q. And then, based on -- just on that information, you
14 put Mr. Hughes' picture in the six-pac lineup?

15 A. No. I went back and I did a little bit of research.
16 I looked him up to see if the picture would resemble the
17 picture that I had initially had in the video, which it
18 did. And then, that's where I made the lineup, based off
19 of that information.

20 Q. So, you compared -- Do you have the picture you were
21 given by Street Crimes?

22 A. I do not, no.

23 Q. Is that what you used to compare to the lineup?

24 A. It was a picture that I had given them. I do not have
25 that picture.

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1 Q. And then, so you did your own independent ---

2 A. Um-hmm.

3 Q --- identification, and determined the person in the
4 video matched the picture that you were given, as Jarvis
5 Hughes?

6 A. Yes.

7 Q. And then, I believe you indicated that you got -- you
8 checked a Rock Hill police file, or Rock Hill Police log,
9 to check for something, as well; is that right?

10 A. Yeah. It would have been some police records looking
11 for a picture ---

12 Q. Okay.

13 A. --- to see if it matched up.

14 Q. Did you just stop the video to make the
15 identification, or how did you make the identification in
16 this case?

17 A. Most likely, I would have stopped the video. I
18 typically take a photograph of the video screen with a cell
19 phone, and I would print the picture out and gave it to the
20 officers.

21 Q. Now, I know the judge hasn't seen the video yet, but
22 essentially, the camera is attached to something on Mr.
23 Doss; is that right?

24 A. Yes.

25 Q. Or he's carrying it in some way?

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1 A. Correct.

2 Q. The video's kind of shaky; is that right?

3 A. Yeah. I mean, it's not a perfect --

4 Q. It's not a clear, dead-on, as I'm looking at you, and
5 I can describe your hair color and your eye color, and the
6 color of your tie, that kind of thing?

7 A. Yeah. I mean, it's not perfect.

8 Q. Okay.

9 MS. INZERILLO: Your Honor, may I approach?

10 Q. I'm gonna show you what now has marks on it as State's
11 Exhibit Four and Five. Do you recognize those as still
12 shots from the video?

13 A. Yes, they are.

14 Q. Presumably pretty good still shots. It's as clear as
15 they could get.

16 A. Yes.

17 Q. Okay.

18 MS. INZERILLO: Your Honor, I'm not sure if the Court
19 wishes to make this a Court Exhibit, but I would ask the
20 Court to take this into consideration, for purposes --

21 THE COURT: It would have to be in, somehow.

22 MS. INZERILLO: I will ask that it be a Court's
23 exhibit, then, for purposes of this hearing.

24 THE COURT: Any objection?

25 SOLICITOR SHELTON: I don't have a problem with that,

INVESTIGATOR LELAND HARRELSON: CROSS BY MS. INZERILLO
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1 your Honor.

2 THE COURT: All right.

3 SOLICITOR SHELTON: It's two separate photos. It
4 would be Court's Number Two and Number Three. But your
5 Honor, just to be clear, those are the same ones I intend
6 to introduce in trial, so.

7 (WHEREUPON, COURT'S EXHIBIT NUMBERS TWO AND THREE,
8 IDENTIFIED AS STATE'S EXHIBITS FOUR AND FIVE, RECEIVED INTO
9 EVIDENCE.)

10 MADAM COURT REPORTER: Solicitor Sheldon.

11 SOLICITOR SHELTON: Yes, ma'am?

12 COURT REPORTER: State's Exhibit Number Four is going
13 to be Court's Number Two.

14 SOLICITOR SHELTON: Thank you.

15 COURT REPORTER: State's Exhibit Number Five is going
16 to be Court's Number Three.

17 SOLICITOR SHELTON: Very good. Thank you.

18 MS. INZERILLO: Let the record reflect I'm showing
19 these to Judge Hayes for consideration.

20 (COURT'S EXHIBIT NUMBERS TWO AND THREE, RECEIVED UP BY
21 THE COURT FOR CONSIDERATION.)

22 BY MS. INZERILLO:

23 Q. So, essentially, based on that quality of video, you
24 made an independent comparison that, in your estimation,
25 Pottie was Mr. Hughes; is that right?

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1 A. Yes. Now those are not the original photos that I
2 used. I used a different photo, but it was based off of
3 the video.

4 Q. Okay. Now, this photo lineup that you presented to
5 Mr. Doss, you met with him on August 5th?

6 A. That is correct.

7 Q. What was the purpose of that meeting?

8 A. I believe that meeting was probably just to tie up
9 some loose ends on some paperwork that we had outstanding
10 together.

11 Q. The photo lineup was the only thing that was done that
12 day; right?

13 A. For this case, yes. I don't recall if we had
14 something with a different case.

15 Q. Okay. And this, what's been marked as Court's Exhibit
16 One, was the exact photo lineup that you had generated, and
17 that you showed Mr. Doss?

18 A. That is correct.

19 Q. And just to be clear on the record, it is black and
20 white pictures; is that right?

21 A. Yes.

22 Q. Of six black men?

23 A. It is. Yes, ma'am.

24 Q. And all of them are in -- they're booking photos;
25 right?

INVESTIGATOR LELAND HARRELSON: CROSS BY MS. INZERILLO
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1 A. That is correct.

2 Q. Okay. So, all of these are in jump-suits?

3 A. Yes. It's looks like everybody's in an orange jump-
4 suit.

5 Q. Okay. And are you able to tell height from any of
6 these pictures, or have any information as to height?

7 A. From the pictures on the lineup?

8 Q. Um-hmm.

9 A. No.

10 Q. Any indication as to the varying degrees of skin tone,
11 light skin, dark skin, in any of the pictures in the photo
12 lineup?

13 A. No, ma'am.

14 Q. What were your exact words to Mr. Doss when you handed
15 him the lineup?

16 A. I handed him the lineup and asked him to look at these
17 six photos. The individual he purchased crack may or may
18 not be on there, to take a look at the facial features, and
19 to look at each picture carefully.

20 Q. And when you asked him that, you, at that time, were
21 not aware, as he asserted earlier, that he had done
22 multiple buys without you knowing?

23 A. I did not know.

24 Q. Okay. And what was the reason that you called him
25 into the meeting that day?

INVESTIGATOR LELAND HARRELSON: CROSS BY MS. INZERILLO
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1 A. One item was the lineup.

2 Q. Is that what you told him?

3 A. No. I mean, I asked him to come by, that we had some
4 paperwork we needed to discuss and to take care of.

5 Q. At that point, did he give you any information that
6 Pottie was Lucky?

7 A. I don't recall at that particular meeting.

8 Q. Mr. Doss went out on two subsequent buys under your,
9 supervision; is that right?

10 A. That is correct.

11 Q. And under those two additional buys, the first one, he
12 was sent to a hotel to do a deal, and a white male showed
13 up.

14 A. Yes.

15 Q. To do the deal.

16 A. And then, in the second buy, through the course of the
17 events on that day, Mr. Doss was instructed to leave drugs
18 by a fence -- I mean, leave money by a fence and pick up
19 the drugs.

20 A. That is correct.

21 Q. So, another one of those videos is Mr. Hughes seen?

22 A. That is correct.

23 Q. Is this the only photo lineup that was done in the
24 course of all three cases?

25 A. Yes, it was.

INVESTIGATOR LELAND HARRELSON: CROSS BY MS. INZERILLO
PRETRIAL

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1 Q. This photo lineup was also used -- well, let me back
2 up. In the two subsequent cases to this in August, you
3 refer to Mr. Hughes as Lucky; is that right?

4 A. That is correct.

5 Q. You state, I think, on the video, and then in some
6 statements that you drafted, that Mr. Hughes is known to
7 you as Lucky?

8 A. That is correct.

9 Q. So, it would be your testimony in those cases that
10 this photo lineup is of Jarvis Hughes, who was Lucky.

11 A. Say -- run that by me --

12 Q. This is the one photo lineup for the case; right.

13 A. Yes, that is correct.

14 Q. And so, you know Jarvis Hughes, who is Photo Number 5,
15 as Lucky.

16 A. I knew him as Lucky and Pottie.

17 Q. Okay.

18 A. Those were the two names that we had been given by Mr.
19 Doss.

20 Q. Okay. You later learned it was Lucky; is that right?

21 A. That is correct.

22 Q. That you later --

23 A. For the first deal, we knew him as Pottie. And I
24 believe, on into the investigation, we learned that his
25 street name was Lucky.

INVESTIGATOR LELAND HARRELSON: CROSS BY MS. INZERILLO
PRETRIAL

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1 Q. How did you learn that?

2 A. By Mr. Doss.

3 Q. When did Mr. Doss come in and tell you that?

4 A. I don't recall the exact date.

5 Q. Do you have with you today any of the police records
6 that you looked at, and reports that you looked at, to make
7 your identification?

8 A. I do not.

9 Q. Do you have with you today any of the Street Crimes
10 that the picture that they generated for you, that assisted
11 you in making your identification?

12 A. I do not.

13 Q. In any of the drug buys involving Mr. Hughes, the two
14 from August and the one from June, were you ever face-to-
15 face with Mr. Hughes for any of those buys?

16 A. No, I was not.

17 Q. Were you ever in any conversation directly with Mr.
18 Hughes in any of those?

19 A. No.

20 MS. INZERILLO: No further questions, your Honor.

21 SOLICITOR SHELTON: Your Honor, for the purpose of the
22 record, I would just move in Court's Number One for your
23 consideration. I know we've been talking about the lineup,
24 but you haven't seen it yet, so.

25 THE COURT: I wondered when it was coming in.

INVESTIGATOR LELAND HARRELSON: REDIRECT BY SOLICITOR SHELTON
RECROSS BY MS. INZERILLO
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1 SOLICITOR SHELTON: Yes, sir. Here it is, Court's
2 Number One. It's also State's Three, for trial purposes.

3 (WHEREUPON, COURT'S EXHIBIT NUMBER ONE, ORIGINALLY
4 STATE'S THREE, IDENTIFIED AND MARKED, RECEIVED INTO
5 EVIDENCE AND RECEIVED UP BY THE COURT FOR CONSIDERATION.)

6 REDIRECT EXAMINATION

7 INVESTIGATOR HUGH HARRELSON BY SOLICITOR SHELTON:

8 Q. Investigator Harrelson, in your training and
9 experience in law enforcement and the Drug Unit, nine years
10 total in law enforcement, six years with the Drug Unit, is
11 it common or uncommon for people to be known as more than
12 one street name or nickname?

13 A. That is very common.

14 SOLICITOR SHELTON: Nothing further.

15 THE COURT: Re-cross?

16 MS. INZERILLO: Just briefly.

17 RE-CROSS EXAMINATION

18 HUGH HARRELSON BY MS. INZERILLO:

19 Q. Did you check with the hotel to see if they knew if a
20 Lucky or a Pootie was residing there on this day?

21 A. I did not.

22 Q. Did you subsequently do that?

23 A. I did, prior to this -- prior -- after the case. I
24 mean, I went to the hotel to ask if Jarvis Hughes had
25 rented a room.

INVESTIGATOR LELAND HARRELSON: RECROSS BY MS. INZERILLO
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1 Q. Okay. And I believe, just so the judge can be
2 educated, that the -- on the June 12th buy, Mr. Doss had
3 indicated he was either in Room 223 or 225, in which the
4 deal took place; ---

5 A. That is correct.

6 Q. --- is that correct? At the Bestway Inn, in Rock
7 Hill?

8 A. Yes.

9 Q. And initially, he asserted to you on the video it was
10 225, and then you subsequently went back and reviewed the
11 tape, and thought it was Room 223; is that correct?

12 A. Yes, that is correct.

13 Q. And so, that was the information when you talked to
14 the hotel, you asked if Jarvis Hughes had rented a room?

15 A. Yes, ---

16 Q. On --

17 A. --- I asked them if they had rented Room 225 or 223.

18 Q. And you found that Room 223 was not rented on that
19 day.

20 A. That was correct.

21 Q. And that Jarvis Hughes did not rent Room 225 on that
22 day.

23 A. That is correct.

24 MS. INZERILLO: Your Honor, that's all I have.

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

1 HUGH HARRELSON: Yes, sir.

2 THE COURT: Anything further from the State?

3 SOLICITOR SHELTON: No, sir, your Honor. That's our
4 proffer.

5 THE COURT: Ms. Inzerillo?

6 MS. INZERILLO: Thank you, your Honor. May it please
7 the Court.

8 Your Honor, I would, actually, with the Court's
9 permission, bifurcate my argument, as to each witness in
10 this case, starting with Mr. Doss as he testified first.

11 Your Honor, I would ask that Mr. Doss be precluded
12 from identifying Mr. Hughes in court as the - - I believe
13 the prior identification of him was tainted. Your Honor,
14 has in your possession Court's Exhibit One. It's a black-
15 and-white six-pack array of six black men. The description
16 that Mr. Doss gave was very specific as to skin tone,
17 perhaps a type of height and weight and of age and none of
18 that really can be ascertained from the photo lineup. It
19 was done in black-and-white, not in color, which would have
20 assisted him in reviewing that.

21 Your Honor, Mr. Doss gave a lot of information about
22 how many times he had seen Mr. Hughes, but then, when
23 pressed, was forced to admit that at least on two of them,
24 where he was working with the DEU, he did not, in fact, see
25 Mr. Hughes on that day.

1 THE COURT: Let me -- you kind of got me lost. Isn't
2 the issue whether or not the photo lineup is suggestive?

3 MS. INZERILLO: And I think how that goes to his
4 identification in court.

5 THE COURT: Well, exact --

6 MS. INZERILLO: Yes.

7 THE COURT: So, you need to tell me -- Well, is it
8 your position that the photo lineup, Court's Exhibit One,
9 is suggestive?

10 MS. INZERILLO: It is, your Honor. That is my
11 position. And it's a little bit confusing, suggestive in
12 the fact that it is unclear as to who was in the lineup.
13 It doesn't -- Because of the way the photo lineup was --
14 was done, it's unclear as to the skin tone of the men,
15 which I think would be one of the qualities that Mr. Doss
16 highlighted in his description of Mr. Hughes.

17 THE COURT: Well, that's where I'm losing you. The
18 question is, the Court, looking at this exhibit, the burden
19 is on the defense to prove by a preponderance of the
20 evidence it is suggestive.

21 MS. INZERILLO: Yes, your Honor. I think if you look
22 at the photo lineup, in Photo 5, the man in Photo 5, is one
23 of the more -- is one of the darker-skinned men in the
24 lineup. There are two other men that appear to be dark-
25 skinned, but because of the way the lineup was created, it

1 -- it does not show which is darker and which is lighter.
2 I believe Photos 4 and 3, it is unclear from those, as
3 well, because of the way that the photos were arrayed as to
4 the skin tone of the men.

5 THE COURT: Go on.

6 MS. INZERILLO: I'm sorry, your Honor.

7 THE COURT: Go on as long as you want. I didn't mean
8 to get you off track. But all -- all of the background --
9 I was trying to figure out what that had to do with whether
10 or not this was suggestive. You may have some concerns
11 about how it was prepared with Mr. Doss' identification
12 based on which lineup; is questionable in the lineup, at
13 least I understand the issue, and I may have the wrong
14 issue, is whether or not his identification is reliable or
15 whether they're suggestive in the photo lineup, and if it
16 is suggestive, is it so suggestive that it would taint his
17 ability to make an in court identification. So I'm
18 listening.

19 MS. INZERILLO: Thank you, your Honor. I apologize.

20 Yes, your Honor, that is what we are asserting,
21 looking specifically at Photo Number 5 as one of the
22 pictures that involves a, I believe, at least from my
23 review, of that evidence, the darker-skinned male.

24 Your Honor, I believe the Court has heard the
25 remainder of the testimony, and certainly I understand

1 credibility is certainly within the providence of the jury,
2 but I think it's also in the providence of the Court in
3 determining the believability of whether Mr. Doss was
4 accurately identifying Mr. Hughes. We don't have any
5 indication as to the lighting in the room, how long he was
6 in the room. He's -- I believe that the June 12th time was
7 only the second time that he had met this person known as
8 Pottie. And then, the --

9 THE COURT: But those are other indicia of liability;
10 Lighting, face-to-face, prior knowledge. Those are other
11 indicia, as I understand it, of identification. The issue
12 here is, he just had a photo lineup, has identified
13 somebody, and whether that is a reliable identification.

14 MS. INZERILLO: I think it all -- I think it feeds
15 into the photo lineup, your Honor. I think the testimony
16 that we heard was that, prior to June 12th, Mr. Doss had
17 only met the person he knows as Pottie one time. Then, the
18 second time he sees him, he's in a motel room, but we have
19 no information as to the circumstances of the first
20 meeting, in terms of the lighting; was it dark out. The
21 person that he saw, the --

22 And then, with the deal, there's been no testimony put
23 forth as to the lighting in the room, the description of
24 the person, how good of a look at the person that he got.
25 And both of those, in addition to some other interactions

1 that Mr. Doss now testifies he had over the course of eight
2 weeks prior to picking out this, which also goes -- also
3 had a lack of information associated with that, in terms of
4 the length of time, the type of interactions that they had.
5 All of that led to him picking out this person in Photo
6 Number 5 of this lineup. This wasn't a person, even by his
7 own testimony, that, prior to June, he had -- was longtime
8 friends with or related to, or anything like that. So, I
9 think the only thing he knows about this lineup and what
10 he's shown is what he's now testified to.

11 So, your Honor, I think -- I would ask the Court to
12 consider that the out of court identification, as there was
13 no identification of the person Pottie on that day, this is
14 the only identification of Pottie, and that also would now
15 bleed into his in-court identification. And I would make
16 the argument, your Honor, that, because it was so
17 suggestful in the out-of-court in the means in which it was
18 ascertained; as well as the lack of information surrounding
19 it in terms of the liability that it so taints the in-court
20 identification by Mr. Doss, that it should be suppressed.

21 SOLICITOR SHELTON: Your Honor, I think all those
22 things Ms. Inzerillo are bringing up are questions for the
23 jury, as to the reliability of this particular
24 identification on point. But I think the question at hand
25 here is, did law enforcement somehow suggest who Mr. Doss

1 should select. Harrelson indicated also as an aside that
2 he was not aware that Doss was even making other buys
3 outside of his role as a confidential informant from
4 Hughes, Lucky, Pottie, or whatever he was calling him. The
5 only time that he's aware of is the June 12th buy.

6 He has to utilize the video that you have a copy of,
7 stills from the video. That's a video where a number of
8 stills could be ascertained from it. Harrelson testified
9 that he doesn't have the exact still that he used, but I
10 think you get the gist of the video looking at those
11 exhibits. I think a person can look at that video and
12 compare it to the lineup, and see that this is Mr. Hughes.

13 But that's not the question. The question is, did
14 Harrelson or anybody else suggest to Doss who to select.

15 Was t unduly suggestive and there's simply, then, no
16 evidence whatsoever put forward to suggest that it was
17 unduly suggestive. I would ask you to deny the motion and
18 allow us to proceed with the in-court identification. We
19 would also make a motion to determine the admissibility of
20 the lineup itself in -- in front of a jury.

21 MS. INZERILLO: Your Honor, I had specifically made my
22 first motion as to regards to Mr. Doss. But as the State
23 has responded to Investigator Harrelson, as well, I would
24 ask the Court to consider suppressing Mr. Harrelson's
25 individual identification of Mr. Hughes in this case. It's

1 -- Mr. Harrelson testified that he was not present for the
2 deal, this particular deal June 12th.

3 THE COURT: Did he make an in-court? He did make an
4 in-court?

5 MS. INZERILLO: He did make in-court identification,
6 yes, your Honor. And that he was not present, face-to-face
7 with this person Pottie or Lucky at any time in June or
8 August; that he pulled stills and still, based on the
9 stills could not make an --

10 THE COURT: Le me before you go too far.

11 Mr. Shelton, Mr. Harrelson is not going to try to
12 identify the defendant as the person that sold the drugs?

13 SOLICITOR SHELTON: No, sir, your Honor. He
14 specifically pointed -- pointed him out for the record that
15 that is Jarvis Hughes. He doesn't say that's Pottie. He
16 doesn't say that he witnessed the drug deal or anything
17 like that. He's simply saying that's Jarvis Hughes, to the
18 extent that we were trying to complete the record, as it
19 were.

20 THE COURT: Well, go ahead. I hate to keep cutting
21 you off, but I'm trying to keep my train of thought going
22 because obviously, Mr. Harrelson can't identify Mr. Hughes
23 as the person in the hand-to-hand transaction.

24 MS. INZERILLO: I agree with that. And that was my
25 understanding as to his testimony, that he was identifying

1 Mr. Hughes as Pottie, slash, Lucky, however they know him,
2 and that that would I.D. -- or identify Mr. Hughes as,
3 also, the person in the video.

4 Your Honor, I have some -- still have some grave
5 concerns about Mr. Harrelson identifying Mr. Hughes. Mr.
6 Harrelson essentially relied on a third party to ascertain
7 that identification. We don't know who that third party
8 is. We don't know the means in which that was done, how
9 that person got the information, what stills he looked at
10 to do the comparison; and any of the paperwork from Rock
11 Hill Pd, or of any pictures that he looked at from the DMV.
12 None of that has been provided. I don't think he has it
13 with him. And so, your Honor, because that impacts our
14 ability to cross-examine those people and test the validity
15 of that identification, I would ask that his particular
16 investigation -- or identification, even as the defendant
17 as Jarvis Hughes, be suppressed.

18 SOLICITOR SHELTON: Your Honor, Harrelson is the case
19 agent in this case. He knows -- he knows the defendant is
20 Jarvis Hughes. That would be the extent that he would seek
21 to -- he was part of the team that arrested him on the 20th
22 and so he has independent knowledge, aside from Doss and
23 the 6/12 investigation, that Jarvis Hughes is Jarvis
24 Hughes, so that would be the extent of it. I'd probably
25 refrain from him specifically saying that's -- I know for a

1 fact that's Pottie; or I know for a fact that that's Lucky.

2 I'll concede that point.

3 THE COURT: Well, I'm going to -- I'm going to
4 suppress any identification by Officer Harrelson of Mr.
5 Hughes. I'm not going to suppress the in-court -- I mean,
6 the out-of-court identification through the lineup.

7 Looking at the test for due process on the *Biggers*
8 question, the first question the Court must consider is
9 whether a identification procedure conducted -- was it
10 conducted in a manner that was unduly suggestive.

11 Every photo lineup I've seen, and I've seen a lot in
12 twenty years, you don't get sextuplets, and if you did,
13 then you wouldn't be able to identify one from the other.

14 I find that the photo lineup State's Exhibit Three,
15 Court's Exhibit Number One, is not unduly suggestive.
16 There are six African-Americans with close-cropped hair.
17 Skin tones are not identical. Actually, two look like
18 they've actually got a light shined on their face. But I
19 do not believe that is -- leads to any suggestion that
20 those two were not the individual Mr. Doss was trying to
21 identify.

22 The burden is on Mr. Hughes to show that the
23 identification is suggestive. I'm looking at it right now,
24 and I find that it is not. Again it has six African-
25 Americans they appear to me, and I know there is a big

1 debate and a big issue about interracial identifications.
2 Mr. Doss is white; Mr. Hughes is African-American, and I'm
3 white and I'm looking at pictures of African-Americans, so
4 I understand that issue, but it does not appear to me; the
5 gentleman all have similar faces, they're not exact. Some
6 are a little rounder than the others. They all have close-
7 cropped hair. They are all outfitted in the same --
8 similar or same outfit. You see more of their t-shirt than
9 you do in others, but I am not going to suppress the use of
10 the photo lineup as a basis for Mr. Doss' in-court
11 identification of Mr. Hughes.

12 MS. INZERILLO: Thank you, your Honor.

13 THE COURT: Is that all -- that's probably all for
14 today. It's almost 5:30.

15 SOLICITOR SHELTON: Yes, sir, your Honor. We -- we
16 can take up the matter from the video, Melissa talked about
17 the future buy, as she calls it. During the break, I'll
18 cue that up to specific --

19 THE COURT: During what break?

20 SOLICITOR SHELTON: The overnight break, your Honor.
21 I'll have a specific time line, so you can look at that
22 first thing in the morning, before we bring the jury back
23 in.

24 THE COURT: You're telling me we're taking a break?

25 SOLICITOR SHELTON: No, sir.

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1 MS. INZERILLO: Your Honor, I do have a question based
2 on the identification issue, just very quickly, before we
3 end for the day. Your Honor, in the course of this case,
4 Investigator Harrelson -- and I think we've heard, perhaps,
5 the confidential informant, made statements about the
6 identification of Mr. Hughes outside the context of the
7 June 12th. There were statements made, for example, search
8 warrants that were used on other dates.

9 THE COURT: I don't hear anything about search
10 warrants.

11 MS. INZERILLO: Well, it was not brought up at this
12 point.

13 THE COURT: Well obviously I didn't hear it.

14 MS. INZERILLO: Well, right. But -- because that
15 search warrant was not done before anything regarding the
16 June 12th, but it has statements regarding the June 12th
17 and the identity of the person in June -- on the June 12th
18 date. So, your Honor, I -- my question would be to be
19 allowed -- because I think that goes to the overall jury
20 consideration of the identity of the person in the room --
21 to be allowed to cross-examine the witnesses regarding any
22 statements outside of that, without opening the door, and
23 allowing the State to go into the full breath of he --

24 THE COURT: You're asking me for something I can't do.
25 You're telling me you ought to be able to ask questions and

1 not allow the State a fair response. It doesn't work that
2 way. If you quote open the door end quote the door is open
3 in asking questions, I'm not going to prohibit you from
4 asking those questions, but if they're asked, you can't, as
5 a former judge used to say, throw a rock and hide your
6 hand, you can't do that. So, I don't know what relief
7 you're seeking but to the extent that you've warned me and
8 warned Mr. Sheldon I'll have to -- but I can't -- I can't
9 not let -- I think the high courts call it invite a
10 response, particularly arguments, but I can't close that
11 door.

12 MS. INZERILLO: Thank you, your Honor.

13 THE COURT: All right. We'll start back at 9:30.

14 Everybody have a pleasant evening.

15 (COURT IN EVENING RECESS AT 5:30 PM.)

16 (COURT BACK IN SESSION TUESDAY, JUNE 21, 2016 AT 09:53
17 AM.)

18 THE COURT: Thank you. You may take your seats. Good
19 morning. Bring in Mr. Hughes.

20 (WHEREUPON, COURT'S EXHIBIT NUMBER FOUR, PRE-MARKED
21 FOR IDENTIFICATION.)

22 (DEFENDANT, JARVIS HUGHES, BLACK MALE, REENTERS
23 COURTROOM AT 09:54 AM.)

24 THE COURT: Mr. Hughes is present. The solicitors are
25 present. Ms. Inzerillo is present. Anything before we get

1 the jury in?

2 SOLICITOR SHELTON: Your Honor, we do have a couple of
3 pretrial matters from the Defense motions we need to take
4 up. We spoke briefly in chambers about a couple of these.
5 I would like to address I believe it's Defense Motion
6 Number Three, motion to determine prior record of
7 defendant. I'm sorry. Yeah, motion for a list of
8 witnesses, as well as criminal histories of any state's
9 non-law enforcement witnesses disclosed by the State.

10 Derrick Doss, the informant in this case, does have a
11 pretty lengthy criminal history. I have provided all of
12 that -- actually, investigative it's very extensively. He
13 has convictions from Kentucky, Tennessee, and South
14 Carolina. He has a pending charge in North Carolina and a
15 pending charge in South Carolina. I don't think the
16 pending charges, he could be delved into, because they are
17 pending. He's in jail on probation violation. I'm going
18 to actually bring that up in front of the jury on my
19 direct.

20 As I mentioned in chambers, your Honor, I would
21 request that you give the jury some sort of a brief
22 instruction that he's innocent of that charge unless and
23 until proven guilty, just like on any other criminal
24 offense or criminal charge, or any other individual.

25 As for Mr. Doss' impeachable convictions under Rule

1 609, the State would agree that he could be impeached on
2 his 2004 receiving stolen property conviction. That is a
3 misdemeanor. It could be categorized as a crime of
4 dishonesty under the Rule. It is, on its face, outside of
5 the ten-year window, but he, in 2007, was ruled in on
6 what's essentially a probation violation. In Kentucky,
7 they refer to it as contempt of Court.

8 As I explained in chambers, my investigation in
9 talking with folks in the Kentucky system, has revealed
10 that they have a private probation system. It's not state-
11 driven, like we are here in South Carolina. So, it's
12 almost like a conditional discharge-type program, and you
13 see the words conditional discharge in a lot of their
14 convictions and things like that, where someone has a
15 suspended sentence, as in this 2004 receiving stolen
16 property conviction.

17 He was apparently -- didn't do or didn't follow to the
18 tee what he was required to do on the suspended sentence,
19 was ruled back in and failed to appear, and was in contempt
20 of Court. Order was issued; he was picked back up and
21 sentenced on June 5th of 2007 for the 2004 conviction; and
22 the disposition was probation extended until came into
23 compliance for missing court, and not paying restitution as
24 ordered.

25 So, to the extent that the receiving stolen property

1 charge is admissible for impeachment under 609, I would
2 agree. It falls within the time frame, and it's a crime of
3 dishonesty. I do not, however, believe that the contempt
4 of Court action would be a relevant impeachable offense,
5 because it's -- it's just a continuation of the original
6 offense, just a -- and a furtherance of the sentencing
7 phase of that essentially.

8 THE COURT: Ms. Inzerillo, do you agree or disagree?
9 Comment?

10 MS. INZERILLO: Your Honor, I don't have a comment on
11 that.

12 THE COURT: Okay.

13 MS. INZERILLO: I'll defer to the Court on that.

14 THE COURT: Well, I adopt the philosophy or the
15 approach by the State, under Rule 609, probation violation
16 in and of itself, whether it's called contempt of court or
17 a probation violation, is not a crime. It's a part of the
18 sentence, actually, and the effecting of the sentence for
19 someone who has violated probation, not performed his
20 sentence, so, it's not a stand-alone crime, and while it
21 could be some contempts that involved dishonesty or false
22 statement, that there's nothing in this recitation by the
23 State or the evidence that's been indicated that the
24 State's uncovered that would place this in 609, too.

25 So, I'm not going to allow the Defense to impeach Mr.

1 Doss on the 2007 event whatever they call it. But the
2 State's agreed, the effect of the 2004 obviously was still
3 -- that that sentence would still -- had not been
4 completed; it ran into the ten years by those dates,
5 obviously. So, anything else before we get the jury in?

6 SOLICITOR SHELTON: Yes, sir. We'll need to go
7 through this same exercise with a couple Kentucky
8 convictions, and then should get a little simpler from
9 there.

10 THE COURT: Okay.

11 SOLICITOR SHELTON: In 2007, Derrick Doss was
12 convicted of a misdemeanor, bad checks, less than Three
13 hundred dollars. I believe that is a crime of dishonesty,
14 and he was just given, essentially, like a conditional
15 discharge-type sentence there. There didn't appear to be
16 any kind of contempt for that particular charge. I think
17 he was just sentenced on that charge, but it would be a
18 crime of dishonesty under 609.

19 And also, 2007, he was convicted of theft by unlawful
20 taking. Similar to the 2004 conviction, he received a
21 sentence in 2007 that was unsupervised probation for two
22 years, ruled in on a contempt in 2009; restitution not
23 paid. Contempt is what they're telling us. So, again,
24 same logic we were talking about before. It's a
25 continuation of the sentence. He's brought back in on what

1 appears to be some sort of a probation violation, and he
2 has -- after that, it says, "on 4/7/2009, received
3 seventeen days, two days credit for time served. Waived
4 court costs and fines, sent to a prison farm."

5 THE COURT: Don't go quite so fast.

6 SOLICITOR SHELTON: I'm sorry. April 7, 2009, when he
7 was brought in on the contempt of court, similar to the
8 2004 received seventeen days, two days' credit for time
9 served, waived court costs and fines, and sent to a place
10 called Crossroads. Now, they did tell me he did not go.
11 He never did do what he was supposed to do there. I don't
12 know the status of that. I don't know if he's still in
13 contempt for not doing that. But again, under the same
14 argument, it's a continuation of the original sentence.

15 THE COURT: Wouldn't the same what I said apply to the
16 first one apply to all subsequent?

17 SOLICITOR SHELTON: Yes, sir. All -- I believe so,
18 unless Ms. Inzerillo has some --

19 THE COURT: I don't need to go through every one. I
20 mean, I keep ruling that any offense that falls under 609,
21 that is a crime that carries over a year, within a ten-year
22 period, or a crime of dishonesty, can he be impeached on
23 those. But he's herald back in to court for a revocation-
24 type contempt of court, but that is not impeachable.

25 SOLICITOR SHELTON: Very good.

1 THE COURT: No impeachable value.

2 SOLICITOR SHELTON: Okay. So, just, as a summary,
3 2004 receiving stolen property; 2007 bad checks, less than
4 Three hundred dollars; 2007 theft by unlawful taking; 2013
5 in Tennessee, theft of merchandise, Five hundred dollars or
6 less, crime of dishonesty and a misdemeanor. He has two
7 pending charges in Tennessee that I don't think are
8 impeachable.

9 Do you agree with me on that, your Honor? Pending
10 charges?

11 THE COURT: It says there's got to be convictions.

12 SOLICITOR SHELTON: Okay.

13 THE COURT: That's the word it uses in 609.

14 SOLICITOR SHELTON: Yes, sir. In North Carolina he
15 has a pending charge from 2016. South Carolina, he has
16 2006 burglary third degree and petty larceny; burglary
17 third degree being a felony. It carries more than a year.
18 I don't know if it's inherently a crime of dishonesty or
19 not. I can't remember if there was a --

20 THE COURT: Which one?

21 SOLICITOR SHELTON: Burglary. I can't remember if
22 there's a case on that or not.

23 THE COURT: Well it falls in the first category.

24 SOLICITOR SHELTON: Yes, sir. Then, the petty larceny
25 is, of course, a crime of dishonesty. January of 2015,

1 shoplifting, third or more, which would fall under both
2 categories. April 2015 and convicted October 2015, two
3 counts of neglect by a legal custodian that are both felony
4 convictions. Your Honor, he had a probation violation in
5 South Carolina in 2008 for the burg. Is that the same
6 logic as we applied --

7 THE COURT: I find that revocation is not a crime. It
8 is a consequence of the first crime, or the crime for which
9 he is on probation, and is a consequence of the sentence
10 and is not a conviction.

11 SOLICITOR SHELTON: Your Honor, that's the extent of
12 my summary of Mr. Doss' criminal history. If Ms. Inzerillo
13 sees something different, maybe we need to address that
14 now.

15 MS. INZERILLO: Your Honor, I don't see anything
16 different. The only thing I would ask on behalf of the
17 Defense is, because Mr. Doss is currently incarcerated for
18 a probation violation stemming from the shoplifting third
19 and the two counts of neglect, that the Court not give any
20 special instruction about him being innocent until proven
21 guilty. I think when we do cases like this, and it's
22 analogous to someone who has a pending set of charges, and
23 is working them off, with the hopes that they will get a
24 reward from the State, and so, in those cases, the Court
25 doesn't generally comment on the status of those cases, and

1 I would think that would be analogous in this case.

2 With the probation violation he is still facing a
3 sentence that has been hung over his head, and I think it
4 would be exactly the same as a pending charge, and what he
5 expects, and what he hopes to achieve in regards to the
6 probation violation just on the pending charge.

7 THE COURT: Well, on a probation violation, the
8 question is not really whether someone is innocent or not.

9 The question is whether or not there is a substantial
10 violation of probation. It's not a -- I never thought
11 about it but it's not really an up or down, sort of, guilty
12 or not guilty. It's whether or not it's a substantial
13 violation. I'm not going to give any particular comments
14 on what that means. Anything else?

15 SOLICITOR SHELTON: Your Honor, while there was some
16 mention about potential benefit to Derrick Doss; I just
17 want to put on the record, I've discussed this with Ms.
18 Inzerillo, for the June 12th, 2015 buy, the case that is at
19 bar right now, Mr. Doss was paid by the Drug Unit Sixty
20 dollars. He was a paid informant. He would have been paid
21 whether the deal was successful or not; whether the drugs
22 were real or not.

23 He had pending charges at the time. At no point was
24 he working those charges off. The char -- those charges
25 were later resolved in October of 2015, after this buy; but

1 that was not a part of any agreement to get him to work as
2 a confidential informant. He is incarcerated on a
3 probation violation. His testimony is not -- His probation
4 violation has nothing to do with him coming in and testify.
5 He is not being paid to testify. I intend to flush all
6 that out in front of the jury on my direct, but I just
7 wanted to go ahead and put that on the record. Mr. Doss
8 was simply a paid informant, paid to buy crack on June
9 12th, 2015. That's the extent of any benefit he received
10 from the State as working as an informant for the Drug
11 Unit.

12 THE COURT: Okay. Thank you.

13 MS. INZERILLO: Your Honor, on behalf of the Defense,
14 I would just have two additional requests for redactions in
15 this case. Yesterday, we discussed the lineup, and I would
16 ask, additionally of the Court to consider redacting the
17 photo lineup, now that the Court has held it's admissible.

18 The testimony before the Court yesterday, and I
19 believe that would be in front of the jury, is that they
20 were photographs sent over from the Sheriff's Office. I
21 believe there was testimony they were booking photos. It
22 would appear, even though it's in black and white, that
23 they're all similarly dressed. And the concern of the
24 Defense is that a juror may -- may believe that, because
25 Mr. Hughes was identified out of that photograph lineup,

1 that he has had some cause or some reason to be in the
2 system and being in a booking photo. And so, for that
3 reason, your Honor, we would ask that the lineup just be
4 cropped or redacted in some way, to take out that fact.

5 THE COURT: Well, this was discussed in chambers, and
6 I don't see how the -- that there be a redaction of the
7 photo lineup and it still have the value that it's supposed
8 to have. Whether it does or does not in this case, is, of
9 course, for the jury. The -- All the individuals appear to
10 be in what we, in this business, understand to be a prison
11 garb, shirt. But there's nothing on the -- any of the six
12 photos indicating that those were mug shots. Nothing such
13 as a number hanging under their face; height, measurement
14 charts behind them, so I'm not going to order a redaction.

15 MS. INZERILLO: Your Honor, if we could just make an
16 additional request, that the State be precluded from making
17 any -- eliciting any testimony that they were original
18 booking photo or anything like that, that might alert the
19 jury.

20 SOLICITOR SHELTON: Your Honor, in chambers we
21 discussed this. My proposal, my intention, is to simply
22 ask -- or elicit, through Investigator Harrelson, after the
23 buy, he watched the video and developed a photo lineup that
24 he later showed to the CI.

25 THE COURT: All right.

1 SOLICITOR SHELTON: Our intention is to completely
2 sidestep anything about the nature of the photos..

3 THE COURT: Thank you.

4 MS. INZERILLO: Your Honor, in my motions yesterday, I
5 asked the Court to consider redacting the video involving
6 any conversation of any future buys between the two people
7 in the room. I was unclear from my notes whether the Court
8 wished to take that up before, or wish to take that up at
9 the time of the testimony.

10 SOLICITOR SHELTON: Judge, I think we should probably
11 deal with it now, because -- to the extent that we would
12 need to introduce a redacted video, we would need to deal
13 with that before we get into testimony. And we have that
14 relative time frame drawn up now, if you want to view it on
15 the overhead projector.

16 THE COURT: Okay.

17 SOLICITOR SHELTON: Could you dim the lights in here?

18 And your Honor, just for the record, this -- the video
19 we're about to play is what's been marked for
20 identification as State's Number Two. Ms. Inzerillo and I
21 agreed that, without laying any foundation for the purposes
22 of this hearing, that it would be admissible as Court's
23 Number Four; it's also marked as that. I would go ahead
24 and move that in, for the record, and then publish the
25 relevant time frame.

1 THE COURT: We're looking at approximately the twelve-
2 minute, fifty-two-second mark, and to about fourteen
3 minutes and thirty seconds. This is basically the -- the
4 time period in the hotel room, immediately preceding the
5 drug deal in the hotel room, immediately after the drug
6 deal in the hotel room where there's a lot of conversation
7 going on, including the conversation Ms. Inzerillo is
8 talking about.

9 THE COURT: All right. Any objection to this being a
10 Court's exhibit?

11 MS. INZERILLO: No, your Honor.

12 THE COURT: All right. I think I can see from here,
13 hopefully.

14 (WHEREUPON, COURT'S EXHIBIT NUMBER FOUR, IDENTIFIED
15 AND MARKED, RECEIVED INTO EVIDENCE/PUBLISHED TO THE COURT
16 AT 10:09 AM.)

17 THE COURT: What is the -- It's very hard for me to
18 understand but I did hear the word basket a couple of
19 times. I thought I heard the word bucket, but anyway,
20 what's the issue?

21 MS. INZERILLO: Your Honor, in this case, the -- the
22 circumstances surrounding the buy here is that it was
23 called a fifty, not a basket. A basket is some other
24 amount that he can buy for a hundred and seventy-five
25 dollars. Essentially, what's happening in this is they --

1 he goes there to do the buy that he set up, which is for
2 fifty, but then talks about a basket, which is unrelated to
3 this. There was no discussion with the officers, or
4 anything set up to buy a basket, to get a hundred and
5 seventy-five dollars to buy that, however much that would
6 be -- would equivocate to. But -- and so, it's the concern
7 of the Defense that there's discussion about a buy that's
8 unrelated, and there's -- You can hear that the CI is
9 essentially making plans to come back to buy that, that
10 there's another deal going on, from my understanding, Mr.
11 Hughes was never charged with and it's unclear, I think,
12 even to the State, as to whether this deal actually was
13 effectuated. And because it could be potentially
14 prejudicial in indicating or implicating Mr. Hughes in
15 other deals outside this -- the four corners of this
16 indictment, as well as the confusing nature of it, which
17 would also make it prejudicial, your Honor, we would just
18 ask that that be redacted.

19 SOLICITOR SHELTON: Your Honor, I don't believe this
20 is confusing at all. These are two men talking about drugs
21 and money. This is part of the res gestis of the case. To
22 the extent that I anticipate the Defense is going to argue
23 to this jury, you don't see a hand-to-hand, this is
24 contextual. The probative value of this evidence far
25 outweighs the potential prejudicial impact. This is not a

1 prior bad act. This is some sort of a planning in the same
2 time frame as the buy. This isn't like something that was
3 discussed three weeks later. This is within the same
4 ninety-second encounter between these two individuals. And
5 so, I think it's very relevant. I think it's very
6 probative in nature. It goes to the fact that this was
7 about drugs and money. This wasn't some -- you know, to
8 the extent the Defense may argue, you know, he's bringing
9 in money, because he owed him some; or you see -- can't see
10 a hand-to-hand.

11 If the Defense is willing to stipulate they wouldn't
12 make those arguments, then maybe we could come to an
13 agreement. They want to say they're not going to argue,
14 you don't see a hand-to-hand and we don't know what this
15 was really about, but I know they can't do that. They have
16 to defend the case, just like the State has to present the
17 case. I think the State should be allowed to present the
18 entirety of this conversation, and namely because this
19 conversation is about drugs and money, which is the same
20 context of the actual drug deal that's going down at this
21 particular time.

22 THE COURT: I find it's part of the res geste and I'm
23 going to require it to be redacted.

24 Anything else before we get the jury in?

25 MS. INZERILLO: No, your Honor. Thank you.

1 THE COURT: All right. Bring in the jury.

2 MS. INZERILLO: Actually, your Honor, may I step out
3 for a moment before we --

4 THE COURT: Um-hmm.

5 (PAUSE.)

6 MS. INZERILLO: Thank you, your Honor. I'm sorry.

7 THE COURT: Bring in the jury.

8 (JURY REENTERS COURTROOM AT 10:18 AM.)

9 THE COURT: Now that you're all comfortably seated, if
10 you'll stand, the Clerk will administer the oath.

11 (PETIT JURY SWORN AT 10:18 AM.)

12 THE COURT: You may be seated. Thank you. We're not
13 really running late. We started at 9:30. We actually went
14 'til about five, closer to five thirty yesterday, dealing
15 with matters, what we call pretrial matters; that is,
16 matters we have to take up outside your presence, and by
17 concentrating and doing them yesterday afternoon and this
18 morning, the case will go quicker and smoother, and we
19 won't be having to send you in and out as much as we might
20 otherwise. So, we -- I apologize for getting you in at
21 9:30, and then not having you in here for forty-five
22 minutes, but we've been working during those forty-five
23 minutes to get things ready so the case will go smoother
24 and quickly.

25 Now, I gave you some admonitions yesterday about not

1 discussing the case and not going online. I'm not going to
2 repeat those.

3 In just a minute, the attorneys have the right but no
4 obligation to come before you and make what are called
5 opening statements. These are not arguments. The
6 attorneys, at this point, are not trying to convince you of
7 a certain verdict. They'll have an opportunity to do that
8 at the end of the trial, where they can come before you and
9 argue, based on the law and the evidence in the record your
10 verdict should be a certain verdict.

11 At this point, they're not doing that. They're giving
12 you sort of a preview of the trial, an outline, or a
13 blueprint. And so, what they say is not argument; it's
14 just to educate the jury more as to what this case, from
15 their sight, from their standpoint, entails.

16 I remind you that Mr. Hughes is presumed innocent.
17 He's entered a plea of not guilty. He is presumed
18 innocent, and he need not prove his innocence. The State
19 must prove his guilt beyond a reasonable doubt.

20 In the case, I have three primary jobs. One is
21 logistical. One is to make sure we take breaks, that you
22 can see and hear, the mechanical parts of the trial. I
23 also have to rule on questions of admissibility of
24 evidence. My third job is that I am the sole judge of the
25 law in this case. You must take, accept, and apply the law

1 as I charge it, even if you think I charge the law in
2 error, or even if you think the law should be different,
3 you must take, accept, and apply the law as I charge it.

4 I am giving you now some legal principles. During the
5 trial, I may give you some. At the end of the trial, I'll
6 give you a concise and comprehensive charge on the law,
7 which you are to apply to the facts as you determine them
8 to be. You are the sole judges of the facts.

9 Do not infer from anything I say or do at any time
10 during this trial as being an opinion of mine, or indicate
11 an opinion of mine on the facts. Our law does not allow a
12 trial judge to formulate or express to a jury any opinion
13 on the facts. That is solely your job. It is solely your
14 job to examine the evidence, give to the evidence the
15 effect, the value, the weight, and the truth you believe it
16 should have.

17 In doing this, you may believe one witness as opposed
18 to several, several witnesses as opposed to one. You may
19 believe all, part, or none of a witness's testimony. Use
20 your common sense, your sense of logic, your sense of
21 reason. Use your experiences in life as you analyze the
22 evidence.

23 As judges of the facts, you necessarily must judge the
24 credibility, that is, the believability of the witnesses
25 who testify. In assessing credibility, use the things I

1 have already talked about. Use the things that you, in
2 your personal life, find as -- to be indicators of
3 truthfulness. And you can use certain evaluators, like how
4 a witnesses acts on the stand, that is, their demeanor.
5 Are they hesitant or straightforward? Is their testimony
6 consistent or inconsistent? Did they have any reason to
7 help or hurt one side or the other; that is, any bias or
8 prejudice. And you can consider the opportunity a witness
9 had to know those things to which the witness testified.
10 All of these things you take into consideration, determine
11 the true facts, apply the law as I charge it to you at the
12 end of the trial, and you will be in a position to return a
13 verdict that returns the truth -- a verdict that speaks the
14 truth.

15 You do not need to take notes. If you need a break,
16 let me know. We takes breaks about every hour and a half.
17 If you need a break, simply raise your right hand, and with
18 no questions asked, we'll take a break. We want to move
19 the case along, but we're not in such a hurry that we won't
20 take a break if one is needed, and I extend that to Counsel
21 and Mr. Hughes.

22 If you can't see or you can't hear, let me know. Cup
23 your ear. Give me a voice-raising gesture or a nudging
24 indicator. It's not fair to put this matter in your hands
25 for resolution and then not allow you to see and hear those

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1 things that are important to your reaching your verdict.

2 I turn it over now to the attorneys.

3 SOLICITOR SHELTON: May it please the Court, your
4 Honor?

5 THE COURT: Yes, sir.

6 (OPENING STATEMENT BY SOLICITOR SHELTON:

7 SOLICITOR SHELTON: Good morning. Jarvis Tyrone
8 Hughes sold crack cocaine to a man name Derrick Doss on
9 June 12th, 2015. He sold that crack in York County on
10 Riverview Road, at one of the hotels there called Bestway
11 Inn.

12 How do we know that? Because that buy was done in
13 conjunction with the Drug Unit. Agent Harrelson is the
14 case agent in this case. Derrick Doss was working as what
15 is known as a confidential informant. He was undercover.
16 He was not a police officer. He's a civilian who was
17 wearing a wire, and went -- set up a drug deal and went to
18 buy the drugs.

19 You're going to hear from Derrick Doss, the informant.
20 You're going to hear from Agent Harrelson. You're going to
21 hear from his partner, Agent King. You're going to get to
22 see a video that was produced in conjunction with this buy.
23 You're going to get to hear a phone call recording of the
24 buy being set up between Derrick Doss, the informant, and
25 Hughes, the defendant.

1 Derrick Doss is a crack addict. Derrick Doss is a
2 criminal; he has a criminal record. The Drug Unit cannot
3 send a school teacher to buy drugs. They have to use
4 people who know how to get it, who know where to get it.
5 They have to use informants like Derrick Doss. Lucky thing
6 for you, you don't have to believe Derrick Doss one hundred
7 percent. You don't have to take him at his word. This was
8 an entire investigation knows as what's called a controlled
9 buy.

10 The Drug Unit is a little bit leery of Doss, as well.
11 They know he's a crack addict. They know he's a criminal.
12 That's why they put a wire on him. That's why they put
13 video recording equipment on him. They wanted to know
14 what's going -- they don't want to know what's happening
15 with him; they want to be in control of the buy. Okay?

16 Before the Drug Unit sent Doss to buy crack from
17 Hughes, they searched him. You're going to hear that that
18 was a very thorough search. They're checking him for any
19 and everywhere he could hide drugs, money, weapons. They
20 want to make sure he's not going in with anything.

21 You remember science class, control group, you have
22 control of the situation. It's neutral. Okay? He's going
23 in with nothing but the wire, the camera, and Fifty dollars
24 that the Drug Unit issued him to buy the drugs with. The
25 video is recording; the audio feed is broadcasting to the

1 officers.

2 He walks from a predetermined drop location to the
3 hotel. He has a conversation with the defendant a couple
4 of times during that walk. You're gonna hear that
5 conversation. He has a conversation with Harrelson a
6 couple of times. Why is he talking to Harrelson? Because
7 Harrelson is maintaining control of this buy. He wants to
8 know what's going on. He wants to be kept updated. He
9 can't see Derrick Doss the whole time, but he knows where
10 he is, he knows what he's doing; he wants to make sure
11 everything's still okay.

12 You're going to get to see what happens in that hotel
13 room. Now, it's a camera that's kind of jerky. It's a
14 little bit hard to see what's going on, but you're going to
15 hear conversation about drugs and money. You're going to
16 be able to see things on that video that will leave you
17 firmly convinced that this was a drug deal.

18 The State has to prove that Jarvis Tyronne Hughes
19 distributed or delivered crack cocaine to another person
20 that day. So, distributed or delivered, gave it to him.
21 We're not required to prove a hand-to-hand exchange took
22 place. That didn't happen in this case. Hughes had the
23 crack ready for the informant to pick up. The deal was
24 already set before the informant got in the hotel room.
25 There is no hand-to-hand exchange. That doesn't mean a

1 distribution didn't occur.

2 I'll talk with you more about that in closing
3 argument, but think about, throughout this case think about
4 the mailman. Think about what the mailman does every day
5 when he comes to your house. He delivers the mail. How
6 often does the mailman hand you the mail? Not very often,
7 unless you happen to be home for that afternoon. But you
8 know where to go to get the mail when you come home. You
9 know you go to your mailbox and open it up. That's the
10 deal. Think about that as an analogy here. The mailman
11 delivers the mail. The drug dealer delivers the crack.

12 So, we have to prove that a drug deal occurred. We
13 have to prove it actually was crack cocaine. We have to
14 prove it was Jarvis Hughes that sold it to another person,
15 and we have to prove it happened in York County, which that
16 last one certainly won't be in dispute.

17 But there are two key topics that I'm going to go over
18 with you again in closing that I want you to think about
19 throughout this trial. Was it Jarvis Hughes, and was it a
20 drug deal? It's really that plain and simple. Now there's
21 a lot of details that you're going to hear about in this
22 case. There's a lot of ins and outs but look -- I ask you
23 to look at the big picture; look at everything in context.
24 Don't take one piece of evidence in isolation. Consider
25 all of the evidence as a whole. You may have heard it

1 referred to as the totality or something along those lines.
2 Look at the big picture. Don't lose sight of the forest
3 from the trees, things like that.

4 The State, who I represent, I work for the Solicitor's
5 Office; I represent the State of South Carolina. I carry
6 the burden of proof, and so do the officers in this case.
7 We carry the burden of proof, proving to each one of you,
8 unanimously, beyond a reasonable doubt, that this crime
9 occurred on the day that we allege. It's not beyond all
10 doubt. It's not beyond a shadow of a doubt. It's beyond a
11 reasonable doubt. There are very few things in this world
12 that we can know with absolute certainty. That's not what
13 we're here for. We're not here looking -- looking for
14 doubt.

15 Now, Ms. Inzerillo's job is to point out things that
16 she is going to argue casts doubt on the case. This is a
17 search for truth, not a search for doubt. So, when the
18 State has met its burden, you're going to hear two
19 definitions from the judge, and probably from Ms.
20 Inzerillo, and maybe again from me, but these are legal
21 terms.

22 What is burden -- What is the burden of proof, proof
23 beyond a reasonable doubt? What does that mean? Proof
24 beyond a reasonable doubt is the kind of proof, the kind of
25 evidence that leaves you firmly convinced that the crime

1 occurred. So, something, you see it, you analyze it, and
2 you're convinced. You believe it.

3 On the flip side, reasonable doubt, so the kind of
4 doubt that doesn't meet the burden, is the kind of doubt
5 that causes you to hesitate to act. You're just going, I
6 don't know. This is kind of a gut-check standard, if you
7 will.

8 When it's your time to deliberate at the close of all
9 of the evidence, when you're -- you're not supposed to talk
10 about it until all the evidence is done, and Judge Hayes
11 tells you, now it's time to talk about it; when it's time
12 to talk about it, don't confuse deliberation with
13 hesitation. It's your job to talk about it, it's your job
14 to deliberate at the appropriate time. Simply because
15 you're talking about it doesn't mean you're hesitating to
16 act. But don't confuse those two things. I'll talk with
17 you more about that again later.

18 At the end of the day, either today or maybe tomorrow,
19 when it's your time to do your job and to determine the
20 facts of this case, I'm confident, after hearing all of the
21 evidence, as a whole, you'll render a verdict that speaks
22 the truth and that's guilty as charged.

23 MS. INZERILLO: May it please the Court, your Honor?

24 OPENING STATEMENT BY MS. INZERILLO:

25 MS. INZERILLO: There are two predominate people that

1 you're going to hear from in this case. The first is an
2 informant. The second is an investigator. And they're
3 called those two different things, because they have two
4 very different roles. The State just talked with you about
5 the fact that this case is based on what's called a
6 controlled buy. A controlled buy involves both of those
7 people.

8 What you're going to hear is that in a controlled buy
9 the investigator is not in the room with the informant.
10 You've heard already from the State the informant's a
11 criminal; that he may or may not be someone you can
12 believe. And the judge told you, your job is credibility.
13 In a controlled buy, the informant is the only person in
14 the room. The investigator's role is to investigate that
15 piece of evidence that he brings back.

16 And as jurors here today or tomorrow, I would expect
17 you're going to see this in evidence that that investigator
18 saw because they're going to play a video, maybe hear a
19 recording. But you're also going to hear that that is
20 limited. What you see on this video is what pieces -- It's
21 a two-part dance I guess you could say. And so, as a jury,
22 I would ask for you to pay attention to both.

23 The informant presumably will testify, and I would ask
24 you to assess his credibility. I disagree with the State
25 in one thing. Your job is to assess whether you believe

1 it. The investigator is the second part. He picks up
2 where the informant leaves off. Look at his investigation.

3 In this case, you have to determine if Mr. Hughes is
4 guilty of distribution. Look at the video if they show it
5 to you. Listen to what the informant tells you, the paid
6 informant. Listen to the investigation that was done, and
7 determine if the investigation matches whatever the
8 informant will testify to because a controlled buy is not
9 one or the other. The investigator does not stand in the
10 shoes of the informant, just like the informant doesn't
11 stand in the shoes of the investigator. So, for your
12 consideration, I would ask that you consider that totality.

13 The State is correct that they have to prove Mr.
14 Hughes guilty beyond a reasonable doubt. He is also right
15 that that is not beyond all doubt, but it is a doubt that
16 makes you think, I'm not really sure if Mr. Hughes did
17 this. That's reasonable doubt. We experience reasonable
18 doubt every day in our lives.

19 As Judge Hayes just told you, you don't leave your
20 real life at the door. You come in with the same
21 perception, the same gut feeling, in this room as you would
22 in the other parts of your life. And I ask you to apply
23 that to this case, to whatever evidence is shown to you,
24 whatever testimony is given to you; because a controlled
25 buy, it's not a magic trick. It's not -- it's not

OFFICER RYAN KING: DIRECT BY SOLICITOR SHELTON

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1 something that is pulled out of thin air.

2 You're heard that he -- the investigator controls the
3 buy, because the person that's going in may or may not be
4 trustworthy. Keep that in consideration as you listen to
5 the testimony.

6 It is my belief that, after hearing all the testimony
7 in this case, you will still not be firmly convinced,
8 definitely have reasonable doubt. After reviewing all the
9 evidence, listen to the testimony, you'll find Mr. Hughes
10 not guilty.

11 THE COURT: You may call your first witness.

12 SOLICITOR SHELTON: Thank you, your Honor. May it
13 please the Court. First witness is Ryan King.

14 MS. INZERILLO: Your Honor, may we approach?

15 THE COURT: Yes, ma'am.

16 (BENCH CONFERENCE, OFF THE RECORD, OUT OF HEARING OF
17 THE JURY AT 10:36 AM.)

18 THE COURT: All right, let me let the jury go to the
19 jury room just for a minute.

20 (JURY EXITS COURTROOM AT 10:37 AM.)

21 (SIDE BAR OFF THE RECORD.)

22 THE COURT: All right. Bring the jury back in.

23 (JURY REENTERS COURTROOM AT 10:40 AM.)

24 THE COURT: Mr. King, if you'll come up and be sworn.

25 (WHEREUPON, RYAN KING, BEING

OFFICER RYAN KING: DIRECT BY SOLICITOR SHELTON

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FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

OFFICER RYAN KING BY SOLICITOR SHELTON:

Q. Good morning.

A. Good morning.

Q. Please introduce yourself to the jury.

A. Ryan King. I'm currently employed with the Sheriff's Office.

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

A. A little over nine years.

Q. And you currently work with the York County Multi-Jurisdictional Drug Enforcement Unit?

A. I do. I've been there a little over two years.

Q. And is that commonly known as the Drug Unit, or the DEU?

A. It is.

Q. What is the Drug Unit?

A. It's sort of like a task force. It's composed of officers from all the agencies in York County, so York -- the Sheriff's Office has officers on it; Clover, Fort Mill, Rock Hill. Even Winthrop has an officer on the -- on the Drug Unit. So, we -- we pretty much investigate all the drug offenses in the county.

Q. And during your time with the Drug Unit, have you participated in what are known as controlled buys?

OFFICER RYAN KING: DIRECT BY SOLICITOR SHELTON

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1 A. Yes. Yes, I have.

2 Q. Approximately how many?

3 A. We probably average maybe two, maybe three a day. So,
4 a lot.

5 Q. And you're working forty-hour weeks ---

6 A. Yes.

7 Q. --- during the time you've been in the Drug Unit?

8 A. Yes, sir.

9 Q. What is a controlled drug buy?

10 A. A controlled drug buy is, pretty much, we have what's
11 called a confidential informant come in, sit down and meet
12 with us. They tell us that, you know, they can go out and
13 buy a certain drug from this individual they know. So, we
14 have them signed up ahead of time. There is a list of
15 rules they have to fill out, an agreement, and -- so, we
16 have them come in, and we give them money and -- to go
17 purchase the drugs; and we also give them video
18 surveillance equipment, audio recording equipment.

19 So, once we hand them all that, we search 'em, make
20 sure they didn't come in with anything, any drugs or
21 anything on 'em; and we also search their vehicle that they
22 may be driving, to make sure there's nothing in that, and
23 we send them out to purchase the drugs. We have -- we're
24 listening the whole time to a wire radio that's attached to
25 'em.

OFFICER RYAN KING: DIRECT BY SOLICITOR SHELTON.

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1 After they purchase the drugs, the come back and meet
2 with us immediately. We recover the drugs from them,
3 search 'em again, make sure there's nothing else hidden on
4 'em. Search their vehicle again, make sure they didn't
5 hide anything in the vehicle, and recover all of our
6 equipment, and obtain a statement from them.

7 Q. So, a confidential informant, or an informant in
8 general, are they law enforcement officers?

9 A. No.

10 Q. So, they are civilians?

11 A. They are.

12 Q. And they're in plain clothes?

13 A. Yes, sir.

14 Q. Are they allowed to carry a weapon or anything like
15 that?

16 A. No, no. Actually, there's a whole list of rules we go
17 through. They can't carry a weapon. They're only allowed
18 to buy drugs when they're working for us. They're subject
19 to search at all times.

20 Q. And so, the wire and the video recording equipment,
21 that stuff is hidden; correct?

22 A. It is.

23 Q. So, they're what may be commonly referred to as
24 undercover?

25 A. Yes, sir.

OFFICER RYAN KING: DIRECT BY SOLICITOR SHELTON

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1 Q. And confidential informants, is there a difference
2 between a paid informant and a -- an informant working off
3 charges?

4 A. There is. We have individuals that want to volunteer
5 to come in and go out and buy drugs. And for their time,
6 we'll offer them some money to out and do that. And on the
7 other hand, there's individuals that come in that may have
8 a minor charge or something that they're trying to work
9 off. So, we'll kind of assist them in -- you know, they
10 may be able to get some leniency on that charge if they go
11 out and bring in somebody bigger.

12 Q. So, sometimes informants working off charges actually
13 have major charges pending; right?

14 A. They do.

15 Q. So, essentially, they're either paid money for their
16 time, or they're hoping to get some sort of consideration
17 on a pending charge.

18 A. Yes, sir.

19 Q. Were you involved in the investigation of Jarvis
20 Tyrone Hughes on June 12th, 2015?

21 A. I was.

22 Q. Was a confidential informant utilized in that
23 investigation?

24 A. It was.

25 Q. Is his name Derrick Doss?

OFFICER RYAN KING: DIRECT BY SOLICITOR SHELTON

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1 A. It was.

2 Q. Was he a paid informant, or was he working off
3 charges?

4 A. He was paid.

5 Q. What was your role in the investigation?

6 A. I was handling the notes, keeping track of what
7 happens during the -- when the CI arrives, when we give him
8 them money, when we send him out, when we search him. I
9 was keeping track of all the notes.

10 Q. And those notes, when you're keeping those notes, are
11 you checking some sort of a clock or anything?

12 A. Yes, yes. I mean, I have a watch that I wear to check
13 that. Every time -- every time something happens, I write
14 down what -- the time that it happens.

15 Q. So, you're writing those notes in real time?

16 A. Yes, sir.

17 Q. Do you later transcribe them or write them down, or
18 type them up, I mean, on the -- on a recorder?

19 A. Yeah. Yeah, while we're out on the road, I write them
20 in a little notepad. And then, once everything's done and
21 we get back to the office, I type 'em up.

22 Q. Would you say accuracy is important in those notes?

23 A. Yes, sir.

24 Q. Were any other officer involved in this case?

25 A. There were. I was in the car with Investigator

OFFICER RYAN KING: DIRECT BY SOLICITOR SHELTON

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1 Harrelson, and I'd have to actually look at the notes to
2 see who else was out there with us.

3 Q. All right. Hold on a second. All right. Are these
4 the surveillance notes you were describing?

5 (WITNESS REVIEWING DOCUMENT.)

6 A. It is.

7 Q. If you would just glance over those, and let me know
8 if that refreshes your recollection.

9 A. It does. There was -- there was one other officer out
10 there. Investigator Spencer was also out -- he was in that
11 area -- also listening to the wire, just in case something
12 were to happen.

13 Q. And how many vehicles were involved?

14 A. Two vehicles.

15 Q. Which vehicle were you in?

16 A. I was in Investigator Harrelson's Tahoe.

17 Q. Okay. And what about Spencer?

18 A. He was in his F-150.

19 Q. And how -- what about Derrick Doss? How did he get to
20 the buy location?

21 A. Me and Inves -- Excuse me. Me and Investigator
22 Harrelson picked him up, and we gave him a ride to another
23 location, Velodrome, and he was searched and given all the
24 equipment there. And then, we gave him a ride from there
25 to an apartment complex near where the deal was supposed to

OFFICER RYAN KING: DIRECT BY SOLICITOR SHELTON

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1 happen. Once at the apartment complex, we let him out of
2 our vehicle, and he walked on foot from there to where the
3 deal occurred.

4 Q. And so, he had to have met up with y'all first. He
5 came in and met up with you. Did he meet with you in the
6 field, or at the Drug Unit?

7 A. He met up with us out.

8 Q. Okay. And what time was that on June 12th?

9 A. Approximately 02:39 pm.

10 Q. Okay. And so, just walk -- walk us through. You can
11 glance at your notes to refresh your recollection on the
12 time sequence if you need to. Just walk them through the
13 steps that were taken, from the time the CI arrived, met
14 with you and Harrelson, to the time he left for the buy on
15 foot.

16 A. Okay. So, like I said, approximately 02:39 pm, we met
17 with the CI. We drove from there to the Velodrome.
18 Approximately 2:45 pm, CI was searched by Harrelson.
19 Nothing was found on him.

20 MS. INZERILLO: Your Honor, I'm going to object to
21 that. Hearsay.

22 THE COURT: All right. Just tell us what you did or
23 observed.

24 SOLICITOR SHELTON: If I could ask a followup
25 question?

OFFICER RYAN KING: DIRECT BY SOLICITOR SHELTON

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1 A. Yes.

2 Q. Were you present for the search?

3 A. I was.

4 Q. To your knowledge, was anything -- any contraband of
5 any kind find ---

6 A. No.

7 Q. --- found by Harrelson?

8 A. Leland would have mentioned it if something was found
9 and document --

10 MS. INZERILLO: Your Honor, I would --

11 THE COURT: Yeah. Let's --

12 SOLICITOR SHELTON: Okay.

13 THE COURT: I sustain the objection.

14 SOLICITOR SHELTON: Yes, sir.

15 A. A couple minutes later, approximately 02:47 pm, the CI
16 was given all the electronic surveillance equipment by
17 Investigator Harrelson. A couple minutes later, again,
18 approximately 02:49 pm, Investigator Harrelson gave the CI
19 Fifty dollars to purchase the drugs. A minute later, the
20 CI made a phone call to the target.

21 MS. INZERILLO: Objection to the hearsay, your Honor.

22 THE COURT: Just -- let's -- I don't know whether it's
23 hearsay or not. Just -- He's got to testify, and it's
24 something he saw. I --

25 SOLICITOR SHELTON: Yes, sir. He was present for all

OFFICER RYAN KING: DIRECT BY SOLICITOR SHELTON

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1 of this.

2 THE COURT: I know. I just -- You might want to couch
3 your question so that we don't have to deal with that.

4 SOLICITOR SHELTON: Sure.

5 Q. Investigator King, were any phone calls made by
6 Derrick Doss?

7 A. Yes.

8 Q. While he was with you and Harrelson?

9 A. Yes. Yes, there was.

10 Q. And was that phone call recorded?

11 A. It was.

12 Q. Approximately what time was that?

13 A. 02:50 pm.

14 Q. And after that phone call, what happened next?

15 A. During the phone call, the CI agreed to meet with the
16 target.

17 MS. INZERILLO: Objection to the hearsay.

18 SOLICITOR SHELTON: Don't talk about the context ---

19 THE COURT: I sustain the objection.

20 SOLICITOR SHELTON: --- of the phone call.

21 Q. Just tell me the next step in the investigation after
22 the phone call.

23 A. Approximately three minutes later, we left the
24 Velodrome. And then, a few minutes after that, 02:59 pm,
25 the CI makes another phone call in our presence to the

OFFICER RYAN KING: DIRECT BY SOLICITOR SHELTON

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1 target.

2 Q. Okay. Were you in the -- in Harrelson's vehicle when
3 Doss left on foot?

4 A. I was.

5 Q. And after Doss left and presumably had an encounter
6 with someone, the target, if you will, did he return to
7 that vehicle?

8 A. He did.

9 Q. Were you still with Harrelson in the vehicle at that
10 point?

11 A. I was.

12 Q. And approximately how long was Doss gone from the
13 vehicle?

14 A. So, he left at 02:53 pm. He returned at 03:14 pm.

15 So, roughly twenty minutes, twenty-one minutes.

16 Q. So, that's counting for walking to and from the
17 meeting location.

18 A. Yes, sir.

19 Q. Were you -- were you present when Harrelson made or
20 received any phone calls during the time that Doss was
21 gone?

22 A. I was.

23 Q. Did he -- did Harrelson -- well, I'll skip that.
24 Could you hear both sides of the conversation?

25 A. No. I could just hear Harrelson.

1 Q. And were you monitoring in that time a live audio
2 feed?

3 A. Yes.

4 Q. While Doss was away from the vehicle?

5 A. Yes, sir.

6 Q. What's the point of the live audio feed?

7 A. Just to help us maintain control of the CI, make sure
8 nothing outside the ordinary happens.

9 Q. And what are some things you might be listening for?

10 A. So we know when the deal's done. To make sure the
11 target isn't trying to -- to steal the money from the CI.
12 Make sure the CI's not in any kind of danger or anything.

13 Q. Would you also be listening to see if the -- the
14 informant, Doss in this case, had any interactions with
15 anyone other than the target?

16 A. Yes, sir.

17 Q. And to your recollection, did -- were any other
18 interactions made between Doss and anyone else?

19 A. No, sir.

20 Q. That you could hear?

21 A. No, sir.

22 Q. To your knowledge, was the buy successful that day?

23 A. It was.

24 MS. INZERILLO: Objection, your Honor.

25 THE COURT: I sustain the objection. Disregard that

OFFICER RYAN KING: DIRECT BY SOLICITOR SHELDON
CROSS BY MS. INZERILLO.

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1 question and answer.

2 BY SOLICITOR SHELTON:

3 Q. And was Derrick Doss searched again after he returned
4 to the vehicle, after the approximate twenty-minute time?

5 A. He was.

6 Q. And where did that search take place?

7 A. After the crack was recovered by Investigator
8 Harrelson, the CI, Derrick Doss, was then searched again
9 back at the Velodrome.

10 Q. And approximately what time was that?

11 A. 03:19 pm.

12 Q. And were you present during that time?

13 A. I was.

14 Q. Did this entire investigation occur in York County,
15 South Carolina?

16 A. It did.

17 Q. Please answer any questions Ms. Inzerillo may have.

18 MS. INZERILLO: Thank you, your Honor. May it please
19 the Court?

20 THE COURT: Yes, ma'am.

21 CROSS-EXAMINATION

22 OFFICER RYAN KING BY MS. INZERILLO:

23 Q. Investigator King, you are employed by the Sheriff's
24 Office attached to the DEU; is that right?

25 A. Yes, ma'am.

OFFICER RYAN KING: CROSS BY MS. INZERILLO

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1 Q. Okay. And so, you're in a -- essentially an officer,
2 an investigator.

3 A. Yes, ma'am.

4 Q. All right. In this case on June 12th, did you go into
5 any hotel room with Mr. Doss?

6 A. No, I did not.

7 Q. Okay. For the twenty minutes that Mr. Doss was out of
8 your presence or away from the car, did you walk with him
9 during that time?

10 A. No, ma'am.

11 Q. And then, when you indicated that you were taking
12 notes, you're indicating what your -- you are actually
13 perceiving from inside the truck, or right outside the
14 truck, whatever you're doing at the Velodrome or at the
15 apartment complex; is that right?

16 A. Yeah. I'm taking notes on what I see, what I hear
17 from the -- the feed.

18 Q. Okay. Now, in cases like this, you had indicated that
19 you make a deal with someone that's like a paid informant;
20 ---

21 A. Yes, ma'am.

22 Q. --- is that correct? Okay. And essentially, that
23 means that someone comes to you with information, and you
24 pay them for that information.

25 A. Somewhat, yes.

OFFICER RYAN KING: CROSS BY MS. INZERILLO

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1 Q. Somewhat. Okay. There could be a buy and all that
2 involved, but essentially, it's a contract, a monetary
3 arrangement between you and that person.

4 A. Yes, ma'am.

5 Q. Okay. And -- and in this case, you know about the
6 person that has come and given you information. I mean,
7 you look into the person.

8 A. Yes. That is correct.

9 Q. To see if -- if -- if it's someone that you want to
10 work with. Let's put it that way. Is that right?

11 A. Yes, ma'am.

12 Q. So, not just every Tom, Dick, or Harry can walk in and
13 say, I got this, without you guys looking into it a little
14 bit more.

15 A. Yes.

16 Q. Okay. And you mentioned that a common thing that you
17 do is have the confidential informant or the paid informant
18 sign a contract.

19 A. Yeah, we have them all sign a list of rules.

20 Q. Okay. And you did the same thing in this case with
21 Mr. Doss.

22 A. Yes, ma'am.

23 Q. Okay. And in that list of rules or that contract,
24 essentially, it lays out to them the do's and don't's of
25 being a confidential informant.

OFFICER RYAN KING: CROSS BY MS. INZERILLO

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1 A. Yes, ma'am.

2 Q. Okay. So, they know things like, they can't do any
3 deals on the side. I think you mentioned that. Is that
4 correct?

5 A. Yes, ma'am.

6 Q. Okay. And that any issues that they get into, they
7 need to report it back to you guys; is that correct?

8 A. Issues as far as?

9 Q. Like, if they get in trouble, or if they come across
10 any information, they need to report back ---

11 A. Yes, ma'am.

12 Q. --- to you. And part of that is because they're not
13 always in your presence all the time?

14 A. Correct.

15 Q. Now, on this particular day, you meet or see Mr. Doss,
16 first at the Velodrome on June 12th; is that right?

17 A. No. We picked him up before we went to the Velodrome.

18 Q. Okay. And then, y'all kind of met up at the Velodrome
19 to pat him down and mic him up, essentially.

20 A. To search, yes. Search him and give him all the
21 equipment.

22 Q. Okay. And part of the reason that you do that is
23 because one, as we've established, there's a time period
24 when he is out of your presence.

25 A. Yes.

OFFICER RYAN KING: CROSS BY MS. INZERILLO

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1 Q. And two, because he's out of your presence, you can't
2 control everything that he does.

3 A. No, we can't.

4 Q. Okay. So, in an attempt to try to control, you put a
5 microphone on him, or a video camera.

6 A. Uh-huh.

7 Q. And you pat him down.

8 A. Yeah, we search him. Yes.

9 Q. Search him. Okay. When he leaves your presence, you
10 mentioned that there was an audio feed; is that right?

11 A. Yes, ma'am.

12 Q. So, and make sure I'm describing this correctly, when
13 he leaves you and you don't see him, all you do is hear
14 what's going on; is that right?

15 A. Yes, ma'am.

16 Q. When you're talking about real time sitting in that
17 truck, all you're doing is listening; right?

18 A. Yes, ma'am.

19 Q. So, you're not seeing at that point in real time what
20 he's doing.

21 A. No. We're listening to it.

22 Q. You're listening to it. So, if he talks, you'll hear
23 that.

24 A. Yes, ma'am.

25 Q. But if he waves or does something non-verbal, you

OFFICER RYAN KING: CROSS BY MS. INZERILLO
REDIRECT BY SOLICITOR SHELTON

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1 don't know that he's done that?

2 A. No, ma'am.

3 Q. Okay. And you indicated that you draft that,
4 essentially, that surveillance log in real time.

5 A. Yes, ma'am.

6 Q. Okay. And -- and that's important to be accurate
7 about that you put in there.

8 A. It is.

9 Q. Okay. But that surveillance log is -- it is -- when
10 you draft it, you indicated that you write down the times
11 and then you go back and type it up that same day.

12 A. Yes, ma'am.

13 Q. Okay. Based on the information that you have.

14 A. Yes, ma'am.

15 Q. What you saw, what you searched, that kind of thing.

16 Okay.

17 MS. INZERILLO: Your Honor, I have no further
18 questions.

19 THE COURT: Redirect?

20 SOLICITOR SHELTON: One question.

21 REDIRECT EXAMINATION

22 RYAN KING BY SOLICITOR SHELTON:

23 Q. Could you hear what was going on in the hotel room?

24 A. Yes, I could.

25 SOLICITOR SHELTON: Nothing further.

OFFICER RYAN KING: RE-CROSS BY MS. INZERILLO

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1 THE COURT: Re-cross?

2 MS. INZERILLO: Just briefly, your Honor.

3 RE-CROSS EXAMINATION

4 RYAN KING BY MS. INZERILLO:

5 Q. And when you heard on the audio feed, you heard that
6 it was Room 225; is that correct?

7 A. I don't recall without watching or listening to it.

8 Q. Okay. You indicated in this surveillance report it
9 was Room 223?

10 A. Yes, ma'am.

11 Q. Okay.

12 MS. INZERILLO: Thank you, your Honor.

13 THE COURT: All right. You can step down and be
14 excused. We appreciate your time.

15 RYAN KING: Thank you.

16 (WITNESS LEAVES WITNESS STAND.)

17 THE COURT: Members of the jury panel, we're going to
18 take about a ten- to twelve-minute refresher break so
19 follow the Bailiff to the jury room.

20 We'll be at ease for about twelve minutes.

21 (JURY EXITS COURTROOM AT 11:01 AM.)

22 (COURT AT EASE AT 11:01 AM.)

23 (COURT BACK IN SESSION AT 11:20 AM.)

24 THE COURT: Thank you. You may take your seats.

25 Get Mr. Hughes.

1 SOLICITOR SHELTON: Your Honor, Mr. Doss is our next
2 witness.. You want to bring him in, or bring him in, in
3 front of the jury? I don't really care either way. I can
4 just -- we can just call him and bring him in when the jury
5 is in.

6 THE COURT: Where's Ms. Inzerillo? I thought I saw
7 her.

8 THE BAILIFF: She just stepped out, your Honor.

9 THE COURT: Oh. Okay. Well, we can go ahead and put
10 Mr. Doss on the stand.

11 SOLICITOR SHELTON: All right.

12 DEPUTY NEAL: Are you going to swear him in, in front
13 of the jury though or?

14 THE COURT: Yeah. He can sit up there. I'll swear
15 him in.

16 DEPUTY NEAL: Okay. You want me to set this up there
17 for you?

18 THE COURT: Yeah.

19 (WITNESS ENTERS COURTROOM AND TAKES THE STAND.)

20 THE COURT: He'll be here when the jury comes in.

21 Is the jury coming?

22 THE BAILIFF: Yes, sir.

23 (JURY REENTERS COURTROOM AT 11:23 AM.)

24 THE COURT: The next witness is on the stand and I
25 believe his name is Derrick Doss; is that correct?

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON

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1 DERRICK DOSS: Yes, sir.

2 THE COURT: If you'll put your left hand on the *Bible*
3 as best you can, and raise your right.

4 (WHEREUPON, DERRICK DOSS,
5 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

6 THE COURT: You may proceed.

7 SOLICITOR SHELTON: May it please the Court, your
8 Honor?

9 DIRECT EXAMINATION

10 DERRICK DOSS BY SOLICITOR SHELTON:

11 Q. Good morning.

12 A. Good morning.

13 Q. Please state your full name, for the record.

14 A. Derrick Ray Doss.

15 Q. Do you sometimes go by a nickname?

16 A. Yes.

17 Q. What's that nickname?

18 A. Red.

19 Q. R/e/d?

20 COURT REPORTER: I'm sorry.

21 BY SOLICITOR SHELTON:

22 Q. Red, R/e/d?

23 A. Yes.

24 Q. Okay. I need you to speak up. This lady here has to
25 be able to record what you're saying, and the jury needs to

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON

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1 hear you, so make sure you speak up. Okay?

2 A. Okay.

3 Q. How old are you?

4 A. Thirty-four.

5 Q. How far did you go in school?

6 A. Fourteen years.

7 Q. Have you ever been convicted of a crime?

8 A. Yes.

9 Q. Were you convicted of crimes in the State of Kentucky?

10 A. Yes.

11 Q. Specifically, in 2004, did you plead guilty to the
12 charge of receiving stolen property?

13 A. Yes.

14 Q. Is that a misdemeanor?

15 A. Yes.

16 Q. Is it also what's known as a crime of dishonesty?

17 A. Yes.

18 Q. In 2007, did you plead guilty to a charge of bad
19 checks, less than

20 A. Yes.

21 Q. In Kentucky?

22 A. Yes.

23 Q. Is that a misdemeanor, also?

24 A. Yes.

25 Q. Also, a crime of dishonesty?

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON

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1 A. Yes.

2 Q. Also, in 2007, did you plead guilty to the charge of
3 theft by unlawful taking?

4 A. Yes.

5 Q. In Kentucky?

6 A. Yes.

7 Q. Is that a misdemeanor?

8 A. Yes.

9 Q. And is that a crime of dishonesty?

10 A. Yes.

11 Q. In 2013, were you -- did you plead guilty to a charge
12 of theft of merchandise, Five hundred dollars or less, in
13 the State of Tennessee?

14 A. Yes.

15 Q. Misdemeanor?

16 A. Yes.

17 Q. Crime of dishonesty?

18 A. Yes.

19 Q. In South Carolina, did you plead guilty to charges of
20 burglary third degree and petty larceny?

21 A. Yes.

22 Q. From the same incident?

23 A. Yes.

24 Q. Is petty larceny a misdemeanor?

25 A. Yes.

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON

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1 Q. Is burglary a felony that carries more than a year?

2 A. Yes.

3 Q. And are those both crimes of dishonesty?

4 A. Yes.

5 Q. In October of 2015, did you plead guilty to charges of
6 shoplifting, third or more, property offense?

7 A. Yes.

8 Q. In South Carolina?

9 A. Yes.

10 Q. That's a ten-year felony?

11 A. Yes.

12 Q. And a crime of dishonesty?

13 A. Yes.

14 Q. Did you also plead guilty of two counts of neglect by
15 a legal custodian?

16 A. Yes.

17 Q. Is that also a felony?

18 A. Yes.

19 Q. And as part of -- as a sentence in that guilty plea,
20 were you ordered -- were you ordered to spend some time in
21 the county jail, followed by probation?

22 A. Yes.

23 Q. And are you currently incarcerated on a -- an alleged
24 probation violation, stemming from that sentence?

25 A. Yes.

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1 Q. Have you ever used crack cocaine?

2 A. Yes.

3 Q. How many times?

4 A. I've used it consistently for about thirteen or
5 fourteen years.

6 Q. Were you using crack cocaine and/or other drugs during
7 the time frame in which you got in all that trouble?

8 A. Yes.

9 Q. When is the last time you used crack?

10 A. October 28th, 2015.

11 Q. Do you know how to get crack cocaine?

12 A. Yes.

13 Q. Do you know who to go to in order to buy crack
14 cocaine?

15 A. Yes.

16 Q. Have you ever worked as a confidential informant, or a
17 CI, with the York County Drug Unit?

18 A. Yes.

19 Q. And did you sign a CI agreement with them in August of
20 2015?

21 A. Yes.

22 Q. Or I'm sorry, August of 2014?

23 A. Yes.

24 Q. Were you working with the Drug Unit as a confidential
25 informant on June 12th, 2015?

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1 A. Yes.

2 Q. Were you using crack cocaine during the time frame in
3 which you worked with the Drug Unit as a CI?

4 A. Yes.

5 Q. In the CI agreement, had you indicated that you would
6 not use crack while you were working as an informant?

7 A. Yes.

8 Q. And do you admit that you violated that part of the
9 agreement?

10 A. Yes.

11 Q. On June 12th, 2015, were you a paid informant, or were
12 you working off charges?

13 A. Paid informant.

14 Q. At that time, you had charges pending in South
15 Carolina; correct?

16 A. Yes.

17 Q. And specifically, that was for shoplifting and the two
18 counts of neglect by a legal custodian.

19 A. Yes.

20 Q. Were you promised, assured, or given anything by the
21 Drug Unit or any other member of law enforcement, or the
22 Solicitor's Office, in relation to those charges that led
23 you to decide to work for the Drug Unit as a CI?

24 A. No.

25 Q. Were you threatened in any way about those charges to

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON

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1 get you to work as a CI?

2 A. No.

3 Q. So, you were simply a paid informant in this
4 investigation?

5 A. Yes.

6 Q. How much were you paid?

7 A. Sixty dollars.

8 Q. By the Drug Unit?

9 A. Yes.

10 Q. Were you paid before or after the drug deal?

11 A. After.

12 Q. Was it your understanding you would be paid for an
13 honest effort?

14 A. Yes.

15 Q. And would you have been paid, as was your
16 understanding, whether or not the buy was successful?

17 A. Yes.

18 Q. And would you have been paid whether the drugs you
19 bought were real or fake?

20 A. Yes.

21 Q. You're in jail on a probation violation charge;
22 correct?

23 A. Yes.

24 Q. That charge has not come before a judge yet.

25 A. No.

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON

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1 Q. Have you been promised anything or threatened in any
2 way, regarding that pending probation violation warrant to
3 get you to testify in this trial?

4 A. No.

5 Q. Have you been paid or promised anything, or promised
6 to be paid, for your testimony in this trial?

7 A. No.

8 Q. In short, is there anything in it for you at this
9 point?

10 A. No.

11 Q. Are you testifying of your own free will in court?

12 A. Yes.

13 Q. I'm gonna turning your attention to the day in
14 question, June 12th, 2015. Did you meet with agents from

15 the Drug Unit that day?

16 A. Yes.

17 Q. Was Agent Harrelson one of those agents?

18 A. Yes.

19 Q. Did you indicate to him that you could buy crack
20 cocaine from someone?

21 A. Yes.

22 Q. What did that person go by?

23 A. Pootie.

24 Q. What description, if any, did you give Harrelson about
25 this guy you knew as Pootie?

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON

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1 A. Dark complexion, short cropped haircut, about my
2 height -- about my height, and around my age, between
3 thirty and thirty-five.

4 Q. Was Pootie his real name?

5 A. No.

6 Q. Did you know his real name?

7 A. No.

8 Q. Prior to that day, June 12th, 2015, approximately how
9 long had you known Pootie?

10 A. Two to three days.

11 Q. Had you ever been face-to-face with him before that
12 day, June 12th, 2015?

13 A. Yes.

14 MS. INZERILLO: Your Honor, at this time, I would
15 renew previous objections to this --

16 THE COURT: Overruled.

17 MS. INZERILLO: Thank you, your Honor.

18 BY SOLICITOR SHELTON:

19 Q. Approximately how many times?

20 A. Once.

21 Q. Was that the two or three days earlier you just
22 mentioned?

23 A. Yes, sir.

24 Q. And did he give you his phone number that day?

25 A. Yes.

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON

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1 Q. So, on June 12th, 2015, did you have Pootie's phone
2 number?

3 A. Yes.

4 Q. Was it written down or programmed into your phone, or
5 something like that?

6 A. At that point, I believe I had it wrote down, yes.

7 Q. So, on June 12th, 2015, how and where did you meet up
8 with the Drug Unit agents?

9 A. I met them at the Velodrome.

10 Q. But first, did they meet you at Gable Oaks Apartments?

11 A. Yes, yes. Excuse me.

12 Q. And then, carried you to the Velodrome?

13 A. Yes.

14 Q. And was that in preparation for the buy?

15 A. Yes.

16 Q. And was Leland Harrelson one of those officers?

17 A. Yes.

18 Q. Was anyone else with him at the time?

19 A. I do not recall their name, but there was another
20 officer, yes.

21 Q. And did you indicate to them that you could buy drugs
22 from someone that day?

23 A. Yes.

24 Q. What type of drugs?

25 A. Crack cocaine.

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON

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1 Q. And was that -- you said you could buy from the guy
2 you knew at Pootie?

3 A. Yes.

4 Q. And did you call that guy?

5 A. Yes.

6 Q. The guy you knew as Pootie?

7 A. Yes.

8 Q. And did you call him on the phone number that you
9 already had for him?

10 A. Yes.

11 Q. Was the phone call recorded by Drug Unit agents?

12 A. Yes.

13 Q. So, I want to be clear. You -- the Drug Unit didn't
14 tell you who to call and buy from; correct?

15 A. Correct.

16 Q. You told them who you could buy from.

17 A. Yes.

18 Q. And you set that deal up yourself.

19 A. Yes.

20 Q. But they recorded the phone call setting it up?

21 A. Yes.

22 Q. I'm going to hand you what's been marked for
23 identification as State's Exhibit Number One. It's a CD.

24 Do you recognize that item?

25 A. Yes.

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1 Q. Is there an audio recording on that disc?

2 A. Yes.

3 Q. Have you listened to it?

4 A. Yes.

5 Q. Is it a recording of that phone call you made?

6 A. Yes.

7 Q. Is it true and accurate?

8 A. Yes.

9 SOLICITOR SHELTON: Your Honor, I'd move to enter this
10 in as evidence.

11 MS. INZERILLO: No objection, your Honor.

12 THE COURT: In, without objection.

13 (WHEREUPON, STATE'S EXHIBIT ONE, IDENTIFIED AND
14 MARKED, RECEIVED INTO EVIDENCE.)

15 SOLICITOR SHELTON: I would also, at this time, move
16 to publish the recording to the jury.

17 THE COURT: You may.

18 (STATE'S EXHIBIT NUMBER ONE, PUBLISHED TO THE JURY AT
19 11:34 AM.)

20 BY SOLICITOR SHELTON:

21 Q. Derrick, who were you talking with in that recording?

22 A. Mr. Hughes.

23 Q. The man you knew at Pootie?

24 A. Yes.

25 MS. INZERILLO: Objection to that identification.

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON

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1 THE COURT: I overrule the objection.

2 BY SOLICITOR SHELTON:

3 Q. What were you all talking about?

4 A. Purchasing a fifty dollars' worth of crack cocaine.

5 Q. And did you, in fact, place an order for fifty-
6 dollars' worth of crack cocaine?

7 A. Yes.

8 Q. And is that what you meant when you saying, I want to
9 spend fifty, or give you fifty?

10 A. Yes.

11 Q. So, to be clear, at that point, were you setting up a
12 drug deal in that phone call?

13 A. Yes.

14 Q. And the other -- the man on the other end of the line,
15 who you said was Pootie, did he indicated whether or not he
16 could sell fifty dollars' worth of crack to you?

17 A. Yes.

18 Q. And yes, he indicated he could?

19 A. Yes.

20 Q. And did you agree to meet with him somewhere?

21 A. Yes.

22 Q. And where was that?

23 A. Originally, he said Econolodge and then he immediately
24 said after that the Bestway.

25 Q. And is that on Riverview Road?

1 A. Yes.

2 Q. In Rock Hill, in York County, South Carolina?

3 A. Yes.

4 Q. Prior to going to the Bestway for the drug deal, were
5 you searched by a police officer?

6 A. Yes.

7 Q. And was that search done in the parking lot of the
8 Velodrome?

9 A. Yes.

10 Q. Who searched you?

11 A. Investigator Harrelson.

12 Q. Describe the manner in which he searched you, please.

13 A. Took my shoes off, took the soles outside -- took the
14 soles outside of my shoe, looked under that. Took my socks

15 off. Checked my waistband, you know, shook my underwear,

16 shook my shorts, checked through my shirt. Took my hat

17 off, went through my hat. Checked inside of my mouth.

18 Pretty thorough. Everything but strip-searched me.

19 Q. You were wearing a hat that day; right?

20 A. Yes.

21 Q. He checked in your hat?

22 A. Yes.

23 Q. He checked inside, around the rim?

24 A. Yes.

25 Q. Just to be clear, there's a little flap inside of

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON

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1 these hats that things can be concealed in?

2 A. Yes.

3 Q. And he checked that area?

4 A. Yes.

5 Q. Did he turn out your pockets?

6 A. Yes.

7 Q. What about -- were you carrying a wallet or anything
8 like that?

9 A. He took everything -- proceeded to take everything out
10 of my wallet, went through all the cracks and crevices of
11 my wallet, and put everything back in it. Also, had a pack
12 of cigarettes that day. He dumped the cigarettes out,
13 looked through that, and then put 'em back in.

14 Q. Did you have a pocket knife or anything like that?

15 A. Yes. They -- they took that during the deal.

16 Q. So, Harrelson maintained possession of the pocket
17 knife while you went for the deal. Is that what you're
18 saying?

19 A. Yes.

20 Q. Okay. So, Harrelson, would you say he checked you any
21 and everywhere you could hide drugs, money, and weapons?

22 A. Yes.

23 Q. Was it a thorough search?

24 A. Yes.

25 Q. Was it a strip search?

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1 A. No.

2 Q. Was it everything but a strip search?

3 A. Yes.

4 Q. Did you have any drugs, money, or weapons on you,
5 other than the pocket knife, at that time?

6 A. No.

7 Q. After the search, were you given money by one of the
8 agents to buy the crack?

9 A. Yes.

10 Q. How much?

11 A. Fifty dollars.

12 Q. And after all of that, did they then carry you back to
13 the apartments?

14 A. Yes.

15 Q. And you walked on foot to the Bestway.

16 A. Yes.

17 Q. Before you left the Drug Unit officers -- Let me just
18 back up one second. Were you -- you were with Harrelson
19 and another officer; is that correct?

20 A. Yes.

21 Q. Were you in one of their vehicles?

22 A. Yes.

23 Q. So, they had picked you up. You weren't in your own
24 vehicle at any time during this investigation?

25 A. No.

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1 Q. Okay. Were you outfitted with audio and video
2 recording equipment before you left for the buy?

3 A. Yes.

4 Q. Did the equipment -- did the audio/video recording
5 equipment record everything that happened, from the time it
6 was turned on to the time it was turned off?

7 A. Yes.

8 Q. And it was turned on and off by the drug agents?

9 A. Yes.

10 Q. Were you also outfitted with a live wire, or a
11 monitoring wire?

12 A. Yes.

13 Q. I'm going to hand to you what's been marked for
14 identification as State's Exhibit Number Two. This is a
15 DVD. Do you recognize that item?

16 A. Yes.

17 Q. Is there an audio/video recording on that disc?

18 A. Yes.

19 Q. Have you watched and listened to it?

20 A. Yes.

21 Q. Is it related to the June 12th, 2015 controlled buy of
22 the Drug Unit?

23 A. Yes.

24 Q. Is it true and accurate?

25 A. Yes.

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1 SOLICITOR SHELTON: I would move this into evidence,
2 your Honor, as State's Two.

3 MS. INZERILLO: Your Honor, just subject to the
4 previous objection as to the content.

5 THE COURT: Over objection.

6 MS. INZERILLO: Thank you, your Honor.

7 SOLICITOR SHELTON: At this time, your Honor, I would
8 ask to publish this video to the jury.

9 THE COURT: In over objection. Yes, you may.

10 (WHEREUPON, STATE'S EXHIBIT NUMBER TWO, IDENTIFIED AND
11 MARKED, RECEIVED INTO EVIDENCE.)

12 SOLICITOR SHELTON: Beg the Court's indulgence, your
13 Honor.

14 Madam Clerk, if you will please.

15 (COURTROOM LIGHTS DIMMED.)

16 (STATE'S EXHIBIT NUMBER TWO PUBLISHED TO THE JURY AT
17 11:34 AM./STOPS AT 12:05 PM.)

18 BY SOLICITOR SHELTON:

19 Q. All right. Mr. Doss, looks like you made or received
20 two phone calls so far as you're -- while you're walking to
21 the hotel?

22 A. Yes.

23 Q. Who was the first call with?

24 A. With Pootie.

25 Q. And who was the second call with?

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1 A. Investigator Harrelson.

2 Q. So, the first call, Pootie, was it kind of about
3 directions, where you needed to go. And the second call to
4 Harrelson, he's checking in with you, to find out where
5 you're going?

6 A. Yes.

7 (STATE'S EXHIBIT TWO CONTINUES PLAYING.)

8 BY SOLICITOR SHELTON:

9 Q. All right, Derrick, who was that phone call with?

10 A. Investigator Harrelson.

11 Q. And why did you call him?

12 A. At that point, he was not answering the phone, so I
13 was just letting him know what was going on.

14 Q. Okay. And you mentioned something about seeing
15 somebody else?

16 A. Yes.

17 Q. Were they close to you, or were they far away?

18 A. Probably about two blocks.

19 Q. Okay. Did you think it was Pootie at that time?

20 A. I wasn't sure, but yes, I thought it might have been.

21 Q. Okay. Were you able to determine whether or not it
22 was him shortly after that call?

23 A. Yes.

24 Q. And was it him, or was it not him?

25 A. It was not him.

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1 Q. Okay.

2 (STATE'S EXHIBIT TWO CONTINUES PLAYING.)

3 BY SOLICITOR SHELTON:

4 Q. All right, Derrick, I just want to be clear. Who is
5 that phone call with?

6 A. Pootie.

7 Q. And again, trying to get directions, trying to meet up
8 with him?

9 A. Directing me to where he was at, yes.

10 Q. Okay.

11 MS. INZERILLO: Your Honor, I would have an objection
12 to any time prior to the previous motion that an
13 identification was made, may I ask the Court for a standing
14 objection?

15 THE COURT: Yes, you may.

16 MS. INZERILLO: So I don't keep jumping up. Thank
17 you, your Honor.

18 THE COURT: Your standing objection, objection over
19 ruled.

20 MS. INZERILLO: Thank you, your Honor.

21 (STATE'S EXHIBIT TWO CONTINUES PLAYING.)

22 BY SOLICITOR SHELTON:

23 Q. Derrick, did you make any stops, meet with anyone, on
24 your way to the buy when you were --

25 A. No.

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1 Q. Did you make any stops to meet with anyone or take
2 anything from anyone on your way back?

3 A. No.

4 Q. So, the crack you handed to Harrelson is the crack you
5 got from Pootie?

6 A. Yes.

7 Q. Pootie, the first two conversations, the first two
8 phone conversations with him were about kind of him walking
9 you in to where you were -- you were supposed to meet him;
10 right?

11 A. Yes.

12 Q. The third one is a little bit of a longer
13 conversation; correct?

14 A. Yes.

15 Q. And if memory serves, there was some talk about Pootie
16 saying he wanted you to smoke some of it.

17 A. Hum.

18 Q. What's he talking about?

19 A. He had never met me before, and I'm assuming that he
20 wanted to see me hit it, making sure that I wasn't --

21 MS. INZERILLO: Objection to the statement.

22 THE COURT: Yeah. Don't go into what you assumed.

23 BY SOLICITOR SHELTON:

24 Q. Okay. What did you take it to -- what did you take
25 the statement to

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON

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1 A. I took it as he wanted to see me hit it.

2 MS. INZERILLO: Same objection, your Honor.

3 THE COURT: I sustain the objection. That's the same
4 question.

5 SOLICITOR SHELTON: Okay.

6 Q. Did -- Were you asked if you had your stem on you?

7 A. Yes.

8 Q. What's that?

9 A. A crack-smoking device.

10 Q. And were you asked why you're not F'ing with Jay this
11 time?

12 A. Repeat the question.

13 Q. Let me back up. There was mention of this guy you
14 knew as Jay.

15 A. Yes.

16 Q. Was he the guy you normally bought crack from?

17 A. Yes.

18 Q. And was Pootie asking why you weren't going to him?

19 A. Yes.

20 Q. Was Pootie waiting for you in the hotel room?

21 A. Yes.

22 Q. And he left the door open for you?

23 A. Yes.

24 Q. And while you're walking around the upper level, the
25 second floor, were you paying attention to room numbers or

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON

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1 anything?

2 A. No.

3 Q. Had you been told at any time what room number you
4 were going to?

5 A. No.

6 Q. And do all the doors -- There's some door's on the
7 outside of the hotel; right?

8 A. Yes.

9 Q. Do all those doors look the same?

10 A. Yes.

11 Q. So, explain what happened in the hotel room.

12 A. Walked in, handed him the money almost immediately.
13 He pointed to the dresser that the TV was sitting on, and
14 the crack was laying underneath that. I didn't have
15 anything to put it in, so I asked for a piece of plastic.
16 I turned around there was like a Wal-Mart bag or some kind
17 of shopping bag there. I took it, and I put the -- the
18 crack inside of it and twisted it up and put it inside of
19 my hat. Then, I proceeded to -- just for conversation, I
20 proceeded to ask him about another purchase of crack, for
21 later on.

22 Q. So, piece -- the Wal-Mart bag, you tore off a corner
23 of the bag to put the crack in, or a piece of it?

24 A. Yes. Just a piece of it.

25 Q. And you twisted that up and put it in your hat?

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1 A. Yes.

2 Q. And that was shown on video; correct?

3 A. Yes.

4 Q. And you asked about a basket. What's a basket?

5 A. Three and a half grams.

6 MS. INZERILLO: Your Honor, I object to --

7 THE COURT: I sustain the objection.

8 I sustain the objection.

9 SOLICITOR SHELTON: Your Honor, may we approach?

10 THE COURT: Yeah.

11 (BENCH CONFERENCE, OFF THE RECORD OUT OF THE HEARING
12 OF THE JURY, AT 12:08 PM.)

13 BY SOLICITOR SHELTON:

14 Q. So, after the buy, as soon as you walked out of the
15 hotel room, did you ask the man what he goes by?

16 A. Yes.

17 Q. What did he say?

18 A. Pootie.

19 Q. And is that what you knew him as at the time?

20 A. Yes.

21 Q. What did you do next?

22 A. I proceeded to leave.

23 Q. And did you speak with Investigator Harrelson after
24 that?

25 A. Yes.

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1 Q. And did you explain to him what had happened in the
2 hotel room?

3 A. Yes.

4 Q. And at some point, you realize you hadn't gotten the
5 room number; is that right?

6 A. Yes.

7 Q. Because I believe at first, you said you thought it
8 was 223 or 225, you weren't certain.

9 A. Yes.

10 Q. And Harrelson asked you to go back and check?

11 A. Yes.

12 Q. And when you went back and checked, again, not having
13 been paying a lot of attention to it previously, you said
14 you were certain it was 225.

15 A. Yes.

16 Q. And was that a mistake?

17 A. Yes.

18 Q. Was it, in fact, 223?

19 A. Yes.

20 Q. So, after you put the crack in your hat in the hotel
21 room, did it stay in your hat the entire time ---

22 A. Until --

23 Q. --- on your walk back to the Drug Unit agents?

24 A. Yes.

25 Q. And again, did you make any stops on the way back?

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1 A. No.

2 Q. Did you meet or have any contact with anyone else on
3 the way back?

4 A. No.

5 Q. I believe there was a conversation with you and
6 Harrelson where you mention, I've got five months and seven
7 days. What's that about?

8 A. A lie that I told about being clean at that time.

9 Q. Okay. So, you told him you -- you had told him you
10 were clean for five months and seven days?

11 A. Yes.

12 Q. But you were, in fact, using.

13 A. Yes.

14 Q. And when you got back to the Drug Unit vehicle, did
15 one of the officers recover the crack from you?

16 A. Yes.

17 Q. Who was that?

18 A. Investigator Harrelson.

19 Q. And was that on video?

20 A. Yes.

21 Q. I want to be clear. Prior to you giving it -- After
22 you recovered it from the hotel room, prior to giving it to
23 Harrelson, did the crack -- did the crack leave your
24 possession at any time, even for a second?

25 A. No.

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1 Q. Were you searched again after the buy?

2 A. Yes.

3 Q. By whom?

4 A. Investigator Harrelson.

5 Q. Was that at the Velodrome, as well?

6 A. Yes.

7 Q. So, you all loaded back in the truck, drove to the
8 Velodrome, searched again?

9 A. Yes.

10 Q. In the same manner you described earlier?

11 A. Yes.

12 Q. Very thorough search?

13 A. Yes.

14 Q. And did you have anything in your possession at that
15 time you were not supposed to have?

16 A. No.

17 Q. No drugs, no money, no weapons?

18 A. No.

19 Q. The Fifty dollars that you were given, did you give
20 that to Pootie?

21 A. Yes.

22 Q. And the crack that you bought, you had already given
23 it to Harrelson?

24 A. Yes.

25 Q. Did you later sign a typed statement about this

DERRICK DOSS: DIRECT BY SOLICITOR SHELTON

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1 incident a couple months later? I believe it was on August
2 20th of 2015.

3 A. Yes.

4 Q. Did you type up that statement or did Investigator
5 Harrelson?

6 A. Investigator Harrelson.

7 Q. Did you read it before you signed it?

8 A. Yes.

9 Q. And were you shown the buy video, what we just ---
10 watched, at any time prior to signing that statement?

11 A. No.

12 Q. According to your typed statement, was it -- was the
13 hotel room number Room 223?

14 A. Yes.

15 Q. I believe in your statement you also indicated that
16 you had put the money on the bed in the hotel room that
17 day; is that correct?

18 A. Yes.

19 Q. Was that accurate?

20 A. That was incorrect.

21 Q. And did you, in fact, give the money hand-to-hand to
22 Pootie?

23 A. Yes.

24 Q. So that was a misstatement in your statement ---

25 A. Yes.

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1 Q. --- when you put it on that?

2 A. Yes.

3 Q. Okay. Were you shown a collection of photographs
4 known as a photo lineup in relation to this investigation?

5 A. Yes.

6 Q. Was that before or after the drug deal on June 12th,
7 2015?

8 A. After.

9 Q. Was that on August 5th of 2015?

10 A. Yes.

11 Q. And who showed you those photos?

12 A. Investigator Harrelson.

13 Q. I'm handing you what's been marked for identification
14 as State's Exhibit Number Three. Take a moment to look at
15 that, please.

16 (WITNESS COMPLIES; REVIEWS STATE'S EXHIBIT THREE.)

17 Q. Do you recognize that item?

18 A. Yes.

19 Q. What is it?

20 A. It's a photo lineup.

21 Q. And is that the same lineup you were shown by
22 Harrelson on August 5th, 2015?

23 A. Yes.

24 Q. It appears that there are three pages in that exhibit;
25 is that correct?

1 A. Yes.

2 Q. Were you only shown the first page by Harrelson?

3 A. Yeah. The other two pages was not attached at all.

4 Q. Okay. How many photographs are on that first page?

5 A. Six.

6 Q. Do you recall if anyone else was present with you and
7 Harrelson when he showed you the photos?

8 A. There was no other officer present.

9 Q. What, if anything, do you remember Harrelson or any
10 other office, or anybody else, for that matter, saying to
11 you, prior to showing you the page of six photographs?

12 A. Not prior, but as he handed it to me, he said, the
13 person -- he told me to take my time and look at it, told
14 me the person may or may not be there.

15 Q. Okay. So, you're talking about the person who sold
16 you crack on June 12th, 2015?

17 A. Yes, sir.

18 Q. Did anyone else say anything to you about the photos?

19 A. No.

20 Q. Did Harrelson or anyone else say or do anything to
21 influence you or suggest to you what photo to select?

22 A. No.

23 Q. Was this the only set of photos you were shown?

24 A. Yes.

25 Q. Had you watched or seen any images from the buy video

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1 we just saw, prior to being shown those photos?

2 A. No.

3 Q. Did you select a photo from those six photos Harrelson
4 showed you?

5 A. Yes.

6 Q. Which one?

7 A. Photo Number Five.

8 Q. Did you mark your selection in any way?

9 A. I circled it, signed it, and dated it.

10 Q. Is that the original document?

11 A. Yes.

12 Q. So, that is your handwriting?

13 A. Yes.

14 Q. The picture of the person you selected, the person

15 depicted in Photo Number Five, is that the person you knew
16 at the time as Pootie?

17 A. Yes.

18 Q. Is that the same person who sold you crack cocaine on
19 June 12th, 2015?

20 A. Yes.

21 Q. Do you see that person present in the courtroom today?

22 A. Yes.

23 Q. Please point him out for the judge and jury.

24 MS. INZERILLO: Your Honor, I just want to be clear
25 for the record that we're renewing all previous objections

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1 to this item, as well as the standing objection.

2 THE COURT: All right. Overruled.

3 MS. INZERILLO: Thank you, your Honor.

4 SOLICITOR SHELTON: Your Honor, please let the record
5 reflect that the witness pointed to the defendant in this
6 case, seated on the far-right side of Counsel table, next
7 to Mr. Barton O'Kelly.

8 (WITNESS INDICATED TOWARD DEFENDANT.)

9 SOLICITOR SHELTON: Please answer any questions Ms.
10 Inzerillo may have for you.

11 A. Yes, sir.

12 CROSS-EXAMINATION

13 DERRICK DOSS BY MS. INZERILLO:

14 Q. All right, Derrick, we learned a little bit about you
15 today; ---

16 A. Yes, ma'am.

17 Q. --- is that right?

18 A. Yes, ma'am.

19 Q. Okay. First thing that we can see, everybody in the
20 room can see that you're in an orange jumpsuit.

21 A. Yes, ma'am.

22 Q. Okay. And you're in handcuffs?

23 A. Yes, ma'am.

24 Q. All right. And that's because, as you explained with
25 Mr. Shelton, you are currently in jail on a probation

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1 violation.

2 A. Yes, ma'am.

3 Q. And a probation violation, for many people who don't
4 know, means that you promised the Court you would do
5 something in exchange for not going to jail.

6 A. Yes, ma'am.

7 Q. Okay. So, it's kind of like a contract.

8 A. Yes, ma'am.

9 Q. You don't serve your sentence as long as you promise
10 to do certain things.

11 A. Yes, ma'am.

12 Q. Okay. And as the State pointed out, you allegedly
13 have violated that contract.

14 A. Yes, ma'am.

15 Q. So, that's why you got to wait and be held?

16 A. Yes, ma'am.

17 Q. All right. And one of those charges that you're on
18 probation for is the shoplifting charge.

19 A. Yes, ma'am.

20 Q. And that was the ten-year felony?

21 A. Yes, ma'am.

22 Q. Okay. And that's not the first time that you've
23 stolen something.

24 A. No, ma'am.

25 Q. Okay. And that's -- You also have a record for

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1 possessing something that was stolen?

2 A. Yes, ma'am.

3 Q. And you also have a charge for essentially writing bad
4 checks.

5 A. Yes, ma'am.

6 Q. Okay. And I think you also had the charge for
7 breaking into someone's house.

8 A. It was not a house. No, ma'am.

9 Q. Okay. Breaking into someone's property.

10 A. Yes, ma'am.

11 Q. All right. That's the burglary third; right?

12 A. Yes, ma'am.

13 Q. Okay. And then, the petty larceny is that you stole
14 something when you broke in?

15 A. Yes, ma'am.

16 Q. All right. And Mr. Shelton was pretty thorough with
17 your record, but essentially, in a nutshell, that goes back
18 ten-plus years.

19 A. Yes, ma'am.

20 Q. All right. So, you have this sort of history of theft
21 and this kind of activity, property crimes as people call
22 it, that goes back over a decade?

23 A. Yes, ma'am.

24 Q. Now, on August -- in August of 2014, you signed
25 another contract.

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1 A. Yes, ma'am.

2 Q. And that contract was with the DEU?

3 A. Yes, ma'am.

4 Q. All right. And you -- when you signed that contract,
5 it has a whole list of -- it says that you agree to the
6 following, and you have to initial by each one?

7 A. Yes, ma'am.

8 Q. Okay. And then, at the bottom, you sign it and you
9 date it.

10 A. Yes, ma'am.

11 Q. All right. And that was eight months prior to June
12 12th?

13 A. Yes, ma'am.

14 Q. All right. Now, the thing about -- and I think we've
15 established that you were paid for this.

16 A. Yes, ma'am.

17 Q. Whatever happened on June 12th. Okay. Now, the thing
18 about being the paid informant is, you go into that room
19 alone?

20 A. Yes, ma'am.

21 Q. All right. So, I know that video kind of jumps around
22 a little bit, but Investigator Harrelson wasn't with you in
23 the room?

24 A. No, ma'am.

25 Q. Neither was Investigator King?

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1 A. No, ma'am.

2 Q. They're not walking with you, as we see it kind of
3 bouncing around?

4 A. No, ma'am.

5 Q. Okay. So, when we see on this video Investigator
6 Harrelson kind of talk into it, and then hands you the
7 stuff, tells you where to put the money and all that, and
8 you walk away ---

9 A. Yes, ma'am.

10 Q. --- you have walked away from the officers ---

11 A. Yes, ma'am.

12 Q. --- is that right? And you know, being a paid CI,
13 that they're going to put a microphone on you?

14 A. Yes, ma'am.

15 Q. And somewhere, it's kind of hard to tell in the video,
16 but there's a video camera attached to you somewhere.

17 A. Yes, ma'am.

18 Q. Now, you know where they are.

19 A. Yes, ma'am.

20 Q. Okay. But they're kind of small or hidden or
21 something, so that whoever you're interacting with doesn't
22 see; ---

23 A. Yes, ma'am.

24 Q. --- is that right? And you know, essentially, for all
25 intents and purposes, where they're pointing?

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1 A. Yes, ma'am.

2 Q. And I know on there, it kind of bounced around a
3 little bit. But you understand if it's here on the bill of
4 your hat or right here, if you're walking, it's going to
5 shoot forward.

6 A. Yes, ma'am.

7 Q. Okay. So, it's not some fancy-pants camera, where it
8 goes all the way around, or anything like that?

9 A. No, ma'am.

10 Q. Just shoots right out. And you know, both with the
11 audio and with the video, what they'll pick up; right?

12 A. Yes, ma'am.

13 Q. So, you know if you get on a telephone call, they'll
14 hear that. And in fact, we heard several instances of that
15 on this video.

16 A. Yes, ma'am.

17 Q. Okay. And the arrangement between you and the DEU on
18 this day was that you would get paid Sixty dollars?

19 A. Yes, ma'am.

20 Q. And that was in exchange for the information,
21 essentially, that you brought to them?

22 A. Yes, ma'am.

23 Q. Okay. Okay. Now, I'm going to go back to this --
24 this sort of, contract because I wanted to give everybody
25 the context of what you do. Okay? Because your job is the

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1 informant; right?

2 A. Yes, ma'am.

3 Q. That's what you do. You're kind of the road guy that
4 goes in, does the heavy lifting, comes back out again?

5 A. Yes, ma'am.

6 Q. All right. And you do that because you have a
7 contract with them?

8 A. Yes, ma'am.

9 Q. And you have sort of the do's and don't's of what you
10 can do.

11 A. Yes, ma'am.

12 Q. And part of that contract, in fact, the very first
13 thing on that contract is that you will not possess any
14 drugs outside of your work as an informant with them?

15 A. Yes, ma'am.

16 Q. And in fact, you admitted with Mr. Shelton that you
17 did possess drugs.

18 A. Yes, ma'am.

19 Q. You possessed a lot of them. A lot of times.

20 A. Yes, ma'am.

21 Q. Let's put it that way. I don't want to -- I don't
22 want to trick you. But yeah, that you, on a lot of
23 different times, possessed drugs.

24 A. Yes, ma'am.

25 Q. Okay. And you never told Harrelson that?

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1 A. No, ma'am.

2 Q. Okay. Now, I'm going to kind of use some terms we see
3 on TV. You ever seen a cop show and they talk about a
4 handler?

5 A. Yes, ma'am.

6 Q. That person is my handler. Would you kind of agree
7 that maybe Harrelson is kind of like your handler?

8 A. Yes, ma'am.

9 Q. He's your point of contact with the DEU.

10 A. Yes, ma'am.

11 Q. So, if you -- something goes wrong, you call
12 Harrelson. That could be fair?

13 A. I don't understand the question.

14 Q. Let's say you're in the buy, and something goes wrong.

15 A. Yes, ma'am.

16 Q. You call Harrelson.

17 A. Yes, ma'am.

18 Q. That's right, correct me if I'm confusing you. All
19 right? If -- and in this case, when you think you have
20 information, you call Harrelson?

21 A. Yes, ma'am.

22 Q. So, it's not like a toll-free line, you just call and
23 whoever picks up is who you do it with. You're actually
24 assigned to Investigator Harrelson.

25 A. I wouldn't say I was assigned, but that's who I dealt

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1 with every time.

2 Q. Okay. And I think you had indicated because I kind of
3 got excited about that line of questioning, that you never
4 told Investigator Harrelson all the times outside of this
5 that you possessed drugs?

6 A. No, ma'am.

7 Q. Okay. It's also a crime to purchase drugs?

8 A. Yes, ma'am.

9 Q. And you obviously purchased drugs to possess them.

10 A. Yes, ma'am.

11 Q. Okay. And you didn't tell them that, either?

12 A. No, ma'am.

13 Q. All right. In fact, what we heard on this tape is
14 that you tell Investigator Harrelson that you've been clear
15 for, I think, five months and seven days, or something like
16 that.

17 A. Yes, ma'am.

18 Q. Which was a lie?

19 A. Yes, ma'am.

20 Q. Okay. And you lied to him in the middle of the deal?

21 A. Yes, ma'am.

22 Q. Right. Okay. So, it wasn't just a, no, I told him I
23 didn't want to do it, lie. It was a very specific month,
24 date lie?

25 A. Yes, ma'am.

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1 Q. Okay. And this is as he's listening as, as you're
2 conversing with him in real time, as they say?

3 A. Yes, ma'am.

4 Q. And you knew, having gone there and come back, that
5 you had essentially done enough to get the Sixty dollars?

6 A. Yes, ma'am.

7 Q. Okay. Because it was your understanding, if the crack
8 came back baking soda, it wouldn't matter; you'd still get
9 paid Sixty dollars.

10 A. Yes, ma'am.

11 Q. Okay. And -- Okay. Let's focus in on June 12th. All
12 right?

13 A. Yes, ma'am.

14 Q. You had testified that you had called Harrelson and
15 told him you thought you had a buy you could set up.

16 A. Yes, ma'am.

17 Q. And that information came from you?

18 A. Yes, ma'am.

19 Q. That was not information developed by DEU, where they
20 sent you in to do a buy?

21 A. No, ma'am.

22 Q. Okay. And you had the phone number?

23 A. Yes, ma'am.

24 Q. Do you recall what that phone number was?

25 A. No, I do not.

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1 Q. Okay. Was it a 7-0-4 number?

2 A. I believe so, yes.

3 Q. Okay. And at the time, you called that number?

4 A. Yes, ma'am.

5 Q. And did it -- but outside -- And that was the recorded
6 phone call that we heard?

7 A. Yes, ma'am.

8 Q. But you had actually called that person the day
9 before, as well?

10 A. I'm not sure.

11 Q. Okay. Do you recall testifying in a hearing regarding
12 this case yesterday afternoon?

13 A. Yes, ma'am.

14 Q. Okay. And you recall putting your hand on the *Bible*
15 for the hearing, just like you did today?

16 A. Yes, ma'am.

17 Q. And do you recall in that hearing testifying that you
18 did talk to the person the day before?

19 A. I don't believe it was the day before. I -- I -- I
20 believe I -- I believe I -- if I did, I was incorrect. I
21 spoke with him, probably, about thirty minutes prior before
22 calling Investigator Harrelson, because I didn't want to
23 waste anybody's time.

24 Q. Okay.

25 A. I don't -- it wasn't the day before. If I -- like I

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1 said, if I said that, I was wrong. It was about thirty
2 minutes prior to calling Investigator Harrelson.

3 Q. Okay. But you had contact with him, outside of Mr.
4 Harrelson's presence?

5 A. Yes.

6 Q. Okay. And that phone call, that initial phone call
7 was not recorded?

8 A. No, ma'am.

9 Q. So, then -- so, none of that was written down.
10 Investigator Harrelson didn't write anything down on that,
11 that you're aware of?

12 A. Not that I'm aware of, no.

13 Q. Okay. But then, so this phone call that we hear,
14 that's recorded by Investigator Harrelson, that's actually
15 the second time ---

16 A. Yes, ma'am.

17 Q. --- that day you had talked to someone?

18 A. Yes, ma'am.

19 Q. Okay. Are you aware if Investigator Harrelson ever
20 took a screen shot of your phone, showing these phone
21 calls?

22 A. I know on occasions, he did. I'm not -- I can't say
23 one hundred percent for sure if he did that day or not.

24 Q. Okay. And we don't see that anywhere on this video?

25 A. No, ma'am.

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1 Q. Okay. And to your knowledge, on this day do they dump
2 your phone or anything like that? To verify that phone
3 call?

4 A. I cannot say for sure.

5 Q. Okay. So, you've made this preliminary phone call.
6 Then, you go and you meet with Investigator Harrelson?

7 A. Yes, ma'am.

8 Q. And then, that's the recorded phone call that we hear.

9 A. Yes, ma'am.

10 Q. All right. And in so many words, because when we
11 heard the phone call, you ask for a fifty. And then, at
12 some point, you're told to go to the Bestway Inn?

13 A. Yes, ma'am.

14 Q. Okay. Now, at this point, you have a microphone on
15 you?

16 A. Yes, ma'am.

17 Q. And you have the camera on you.

18 A. Yes, ma'am.

19 Q. And you know that Harrelson is listening in.

20 A. Yes, ma'am.

21 Q. So, every time a phone rings, he could hear that; ---

22 A. Yes.

23 Q. --- right? And there are a couple of times when he
24 calls you and says, where are you?

25 A. Yes, ma'am.

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1 Q. Okay. Because and I know it sounds like I'm beating a
2 dead horse -- you -- you get dropped off, essentially, at
3 Gable Oaks Apartments?

4 A. Yes, ma'am.

5 Q. Okay. And that is, I'm guessing, maybe by this time,
6 maybe about a ten-minute walk to where you're going? Seven
7 to ten minutes?

8 A. Five, six minutes. Yes, ma'am.

9 Q. Okay. To get to the Bestway Inn?

10 A. Yes, ma'am.

11 Q. And the Bestway Inn is on Riverview Road in Rock Hill?

12 A. Yes, ma'am.

13 Q. And on the Bestway -- on Riverview Road, there's the
14 Bestway, the Econolodge, Days Inn, down where McDonald's

15 is, down by the highway?

16 A. Well, the Bestway is all the way at the other side of
17 Riverview, next to -- I cannot -- I can't think of the name
18 of it, but it is a bar; and then, there's a B&B Tire.

19 Q. Right. That's right.

20 A. But it's the last -- it's the last hotel on the right.

21 Q. But it's on -- it's on that road where there's a whole
22 bunch of hotels?

23 A. Yes, ma'am. Yes, ma'am.

24 Q. Okay. And you're walking along, and at one point, you
25 think you see someone who's wearing all black, and you

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1 think it's the person?

2 A. Yes, ma'am.

3 Q. Okay. And at one point here you tell Investigator
4 Harrelson I'm going to kind of backtrack and go, to see if
5 that's him?

6 A. Yes, ma'am.

7 Q. And so, you actually get off the path of going to
8 Bestway. You kind of get diverted, to see if it's this
9 person that you're looking for.

10 A. I walked about twenty feet past the Bestway parking
11 lot. Yes, ma'am.

12 Q. Okay. And then, there's another part of this video
13 where you're talking about being at the pool at the Days'
14 Inn.

15 A. Yes, ma'am.

16 Q. And then, after that, you go to the Bestway Inn.

17 A. Yes, ma'am.

18 Q. Now, --

19 A. I was -- I was not at the pool. I was on the road,
20 but fifty feet off the road, there's a pool. So, I was
21 just in front of the pool, but I was still in the street, I
22 never got off the street.

23 Q. So, we hear you on the -- on the video that we just
24 heard, say, I'm at the Days' Inn pool, the pool at the
25 Days' Inn?

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1 A. Well, I was in the street, in front of the pool. Yes,
2 ma'am.

3 Q. Okay. Now, when you get to the Bestway Inn, you go
4 inside the hotel room; ---

5 A. Yes, ma'am.

6 Q. --- is that right? And we just watch, and you
7 verified that this is the video that you took that day?

8 A. Yes, ma'am.

9 Q. That we've just seen?

10 A. Yes, ma'am.

11 Q. And so, this is going to sound like a really stupid
12 question, but the only image that we can see from here of
13 this video is what your camera took pictures of?

14 A. Yes, ma'am.

15 Q. Okay. So, if there -- you know, there's one point
16 where you set down the camera and it goes black. Do you
17 recall that?

18 A. No, ma'am.

19 Q. Okay.

20 A. Vaguely, yes. Vaguely, I do.

21 Q. Okay. So, when it sets down and you walk away or do
22 something over here, I may not see what you're doing,
23 because the camera is looking at what the camera is looking
24 at.

25 A. Yes, ma'am.

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1 Q. In so many words. Okay. And when you initially pick
2 up or say that you get the crack, we see something go in
3 the hat bill; ---

4 A. Yes, ma'am.

5 Q. --- is that right?

6 A. Yes, ma'am.

7 Q. You kind of hold that up. Okay. But before that, we
8 don't see anything?

9 A. No, ma'am.

10 Q. Okay. And for those people who may not have the sort
11 of extensive knowledge of drugs that you do, it can be kind
12 of fairly common for people to hide drugs in a hat bill?

13 A. Yes, ma'am.

14 Q. Okay. And again, stupid question, but work with me,
15 that's because possessing drugs is illegal?

16 A. Yes, ma'am.

17 Q. Okay. So, if you possess drugs and you want to hide
18 them where an officer can't find it, you know the places to
19 hide them?

20 A. Yes, ma'am.

21 Q. Okay. And one of them could be a hat bill?

22 A. Typically, they look there, but since I wasn't worried
23 about being arrested that day, that's where I put it.

24 Q. Okay.

25 A. So, typically, no, I would not put it in the hat bill.

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1 I just did that day.

2 Q. But you're still, at this time, still buying and using
3 drugs?

4 A. Yes, ma'am.

5 Q. And so, you still know all the tricky places to hide
6 things?

7 A. Yes, ma'am.

8 Q. Okay. And as you're going out the door, you get the
9 guy's name as Pootie; is that right?

10 A. Yes, ma'am.

11 Q. And before that point, you never called him Pootie?

12 A. No, ma'am.

13 Q. Okay. You don't walk in and go, hey, Pootie, what's
14 up? Okay.

15 Now, when you're leaving, you're kind of talking to
16 Harrelson. You pick up the phone immediately and called
17 him or he calls you?

18 A. About a minute afterwards, yes, ma'am.

19 Q. Okay. Essentially, he -- he can't see you, so he's
20 verifying that -- that something has finished, and where
21 are you, are you on your way back?

22 A. I can't speculate whether he could seen me or not,
23 because typically, they kept a pretty good eye on me
24 usually ---

25 Q. Okay. But he wasn't there with you?

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1 A. --- from a distance. No, he was not there with me.

2 Q. All right. And you tell Harrelson in that phone
3 conversation, I gave him the money.

4 A. Yes.

5 Q. Okay. And tell him in that conversation, real time,
6 the drugs were on the TV stand?

7 A. Yes, ma'am.

8 Q. Okay. And then, at that point, he wants you to go
9 back and find the room number?

10 A. Yes, ma'am.

11 Q. So, you walk back, and narrow it down to 225 or 223?

12 A. Yes, ma'am.

13 Q. But now, you actually go and look; right?

14 A. Yes, ma'am.

15 Q. So, you're not -- and we can kind of see this on the
16 video -- you're not just kind of standing there like,
17 peering over. We see you walk over to where you were, and
18 then say, I'm a hundred and ten percent sure it's 225.

19 A. Yes, ma'am.

20 Q. Okay. So, this is not a situation where you walked
21 around to the front of the building and thought about it
22 for a second, and came and chose one of those two numbers?

23 A. Say again?

24 Q. You -- this is not a situation where he's telling you
25 to check, and you just kind of think about it, not go back

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1 and check, and just pick 225 or 223?

2 A. Yes, ma'am.

3 Q. You actually went back, looked, and tried to verify it
4 was 225?

5 A. Tried to, yes.

6 Q. Okay. Now, but what you told him in real time there
7 is, I'm a hundred and ten percent sure it's 225?

8 A. Yes, ma'am.

9 Q. Okay. So, you go back to the truck?

10 A. Yes, ma'am.

11 Q. You want to get your sixty bucks.

12 A. Yes, ma'am.

13 Q. Okay. Because again, you're still using?

14 A. Yes, ma'am.

15 Q. And now, this happens on June 12th; is that right?

16 A. Yes, ma'am.

17 Q. On -- It's not until August 5th that you're shown a
18 photo lineup; is that right?

19 A. Yes, ma'am.

20 Q. And that photo lineup is all in black-and-white?

21 A. Yes, ma'am.

22 Q. Okay. And that's essentially what you saw on that
23 day?

24 A. Yes, ma'am.

25 Q. Now, when you met with Investigator Harrelson that

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1 day, you weren't being recorded. That conversation you had
2 had with him was not recorded, to your knowledge?

3 A. About the photo lineup?

4 Q. Uh-huh.

5 A. No, ma'am.

6 Q. All right. And you didn't give a statement on that
7 day?

8 A. No, ma'am.

9 Q. You didn't give this -- the written statement until
10 two weeks later, on August 20th?

11 A. Yes, ma'am.

12 Q. All right. And I think Mr. Shelton went into some of
13 your statement with you, but if I ask you a question and
14 you don't recall, just let me know.

15 A. Yes, ma'am.

16 Q. And I'll be happy to show it to you. Okay? Now, you
17 -- the statement was already typed up for you?

18 A. No, it was not already typed up.

19 Q. Okay. All right. So, he typed up a statement for
20 you.

21 A. I -- yes.

22 Q. Okay. And you had indicated with Mr. Shelton that you
23 had not seen the video prior to this?

24 A. No, ma'am.

25 Q. And this is about two months after -- Is my math right

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1 on that? Yeah, two months later. Okay.

2 A. Yes, ma'am.

3 Q. And you ended up signing that statement?

4 A. Yes, ma'am.

5 Q. You draw a little line indicating there's nothing more
6 on the page, and you sign it?

7 A. Yes, ma'am.

8 Q. It's two pages. Do you recall?

9 A. No.

10 Q. It's a two-page document.

11 A. It was a one-page document when I signed it.

12 MS. INZERILLO: May I approach the witness, your
13 Honor?

14 THE COURT: Yes, ma'am.

15 BY MS. INZERILLO:

16 Q. And again, I just want you to look. I don't want to
17 be tricky or anything.

18 A. No, you're correct. It is two pages. I forgot. I
19 forget about the second -- second signature sheet.

20 Q. Okay. That -- that's all right. So, the first page,
21 just to be clear, information about you, and then the
22 actual typewritten statement?

23 A. Yes, ma'am.

24 Q. And then, the second page is the -- another part you
25 had to sign, swearing that that was the truth, the whole

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1 truth, and nothing but the truth?

2 A. Yes, ma'am.

3 Q. And then, at the bottom, it's some stuff about being
4 notarized, and when the interview was done, and when the
5 statement was done; is that correct?

6 A. Yes, ma'am.

7 Q. Okay. Now, and to go back, on the front page, you see
8 the little squiggle line where you signed it?

9 A. Yes, ma'am.

10 Q. And that statement, as I indicated, has on the second
11 page that that is the truth, the whole truth, and nothing
12 but the truth; right?

13 A. Yes, ma'am.

14 Q. And that's very similar to the oath that you just took
15 here, putting your hand on the *Bible*?

16 A. Yes, ma'am.

17 Q. In fact it's the exact same place, whole truth,
18 nothing but the truth ---

19 A. Yes, ma'am.

20 Q. --- so help me, God? Okay. Now, on the video, you
21 said you were a hundred and ten percent sure it was Room
22 225?

23 A. Yes, ma'am.

24 Q. And in that statement, the room number has been
25 changed to 223?

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- 1 A. Yes, ma'am.
- 2 Q. You didn't circle that, initial it, write in 225?
- 3 A. No, ma'am.
- 4 Q. Okay. And when you give a statement, generally, it's
- 5 your words. It's what you say happened?
- 6 A. Yes, ma'am.
- 7 Q. Okay. And that statement also says that the money was
- 8 put on the bed?
- 9 A. Yes, ma'am.
- 10 Q. But that's not correct, either?
- 11 A. That was my mistake.
- 12 Q. And that wasn't changed by you?
- 13 A. No, ma'am.
- 14 Q. Okay.
- 15 A. At that time, we didn't realize it was a mistake,
- 16 until after the video was reviewed. Well, I didn't realize
- 17 it was a mistake until after I viewed the video last week.
- 18 Q. Okay. So, again, but you hadn't seen the video?
- 19 A. No. Not 'til last week.
- 20 Q. And then, it says that, on June -- Oh, I'm sorry. But
- 21 you told Harrelson on June 12th that you had given him the
- 22 money. We heard that on the video?
- 23 A. Yes, ma'am.
- 24 Q. Okay. And again, not anything you changed?
- 25 A. No, I didn't.

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1 Q. Okay. And that the drugs were on the dresser?

2 A. Yes, ma'am.

3 Q. Okay. And on that day, we heard it was on the TV
4 stand?

5 A. The TV -- the TV is on top of a dresser, so a TV
6 stand, dresser, same thing.

7 Q. Okay. Do you clarify that?

8 A. No, ma'am.

9 Q. Dresser slash TV stand, anything like that? Because
10 on the video, you clearly say TV stand. And we see a TV in
11 the video.

12 A. Okay.

13 Q. Okay. So, you all go through the set of events.

14 A. Yes, ma'am.

15 Q. Based on what you remember?

16 A. Yes, ma'am.

17 Q. Those were all the changes, and you didn't correct any
18 of them?

19 A. No, ma'am.

20 Q. Okay.

21 A. They were changed because -- I mean these are my words
22 verbatim. This is what he typed out. There -- there was
23 nothing changed by them. This is ---

24 Q. So ---

25 A. -- what they typed out for me.

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1 Q. --- it was your words that it was Room 223, and not
2 225?

3 A. Yes, ma'am.

4 Q. Even though you had not watched the video?

5 A. Yes, ma'am.

6 Q. It was your words that changing the manner in which
7 the money was given?

8 A. Yes, ma'am.

9 Q. Even though you hadn't watched the video.

10 A. I hadn't watched the video.

11 Q. And again, where the drugs were found. That manner
12 changed, as well?

13 A. It -- that never changed. It was on top of the TV
14 where the -- where the -- where the TV was sitting on top
15 of a dresser is where -- is where the drugs were found.

16 That -- that's -- that's never changed.

17 Q. Now, in that statement, you indicate that you interact
18 with someone named Pootie?

19 A. Yes, ma'am.

20 Q. And there's no description in that statement of
21 Potoie?

22 A. No, ma'am.

23 Q. But you had indicated that you had given a
24 description?

25 A. Yes, ma'am. Not during the statement.

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1 Q. Right. That it was someone about your height, about
2 your age, that kind of thing. Okay. And that statement
3 indicates that you were interviewed at eleven -- somewhere
4 around eleven o'clock that morning?

5 A. This one?

6 Q. Yes. It's probably on the second page.

7 A. Yes, ma'am.

8 Q. And that you signed the statement about 11:30 that
9 same day?

10 A. 11:26, yes, ma'am.

11 Q. Okay. Now, Mr. Shelton asked you pretty extensively
12 about any promises that you were made.

13 A. Yes, ma'am.

14 Q. Do you recall that?

15 A. Yes, ma'am.

16 Q. And he asked you about the -- while you were working
17 for the DEU during this time frame, you were picking up
18 charges?

19 A. Yes, ma'am.

20 Q. And that nothing was promised to you on that?

21 A. Nothing was, no.

22 Q. Okay. But you were still picking up charges?

23 A. Yes, ma'am.

24 Q. And not telling Harrelson?

25 A. No. He knew the charge.

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1 Q. Okay. So, he knew the charges, and he still worked
2 with you?

3 A. Yes, ma'am.

4 Q. You are -- you've been paid the Sixty dollars?

5 A. Yes, ma'am.

6 Q. But you still have a probation violation there?

7 A. Yes, ma'am.

8 Q. Are you -- And it's your hope, essentially, that you
9 get some leniency on your probation violation?

10 A. I was pretty much told by my probation officer at my
11 court date, because of the -- because of the violation, I
12 would be reinstated with time served.

13 Q. Okay. And you're -- that's up to the judge?

14 A. Yes, ma'am. Yes, ma'am, ---

15 Q. And you're --

16 A. --- essentially.

17 Q. -- hoping -- you're hoping reinstatement for time
18 served?

19 A. Yes, ma'am.

20 Q. Okay. And it would be nice, though, if the State
21 would help?

22 A. I was told unequivocally, without a doubt, they would
23 not. Made it -- well, made it more than clear.

24 Q. Okay.

25 A. On more than one occasion, because I asked them to and

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1 tried to get them to.

2 Q. Okay. And it would certainly help you if they didn't
3 hurt you in any way?

4 A. Yes, ma'am.

5 Q. Okay. So, that's kind of a hope, too. Even if they
6 don't help you, maybe just don't hurt you?

7 A. I, -- I thought about it like that.

8 Q. Okay. Is that fair?

9 A. It's a good way to think about it, yes, ma'am.

10 Q. All right. Well, I appreciate that.

11 MS. INZERILLO: Thank you very much, your Honor.

12 I have no further questions.

13 THE COURT: All right. Redirect?

14 SOLICITOR Shelton: Beg the Court's indulgence.

15 (PAUSE.)

16 SOLICITOR SHELTON: No further questions.

17 THE COURT: All right. You may step down. Thank you.

18 SOLICITOR SHELTON: Your Honor, for the record, I

19 would ask that Mr. Doss be excused from --

20 THE COURT: He can be excused.

21 SOLICITOR SHELTON: Thank you.

22 DERRICK DOSS: What about this?

23 MADAM COURT REPORTER: Let me have that.

24 DERRICK DOSS: Yes, ma'am.

25 MADAM COURT REPORTER: Thank you.

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(WITNESS LEAVES WITNESS STAND.)

SOLICITOR SHELTON: May we approach briefly, after Mr.

Doss clears, please?

(BENCH CONFERENCE, OFF THE RECORD OUT OF THE HEARING
OF THE JURY AT 12:42 PM.)

THE COURT: All right. Members of the jury panel,
it's twenty 'til one. We're going to break 'til two
o'clock for lunch. Have a pleasant lunch, and we'll see
you back in the jury room at two o'clock. Thank you.

(JURY EXITS COURTROOM ON LUNCH RECESS AT 12:42 PM.)

THE COURT: We'll be at ease 'til two o'clock.

(COURT IN LUNCH RECESS AT 12:43 PM.)

(DEFENDANT REENTERS COURTROOM AT 02:04 PM.)

(COURT BACK IN SESSION AT 02:17 PM.)

THE COURT: All right. Take your seats.

Bring in the jury.

(JURY REENTERS COURTROOM AT 02:19 PM.)

THE COURT: You may call your next witness.

SOLICITOR SHELTON: May it please the Court, your
Honor, the State calls Leland Harrelson.

(WHEREUPON, LELAND HARRELSON,
BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

INVESTIGATOR LELAND HARRELSON BY SOLICITOR SHELTON:

Q. Good afternoon.

1 A. Good afternoon.

2 Q. Please state your name, for the record.

3 A. I'm Hugh Leland Harrelson, Junior.

4 Q. What do you do for a living?

5 A. I'm a -- I'm employed by the City of Rock Hill as a
6 police officer, and I'm currently assigned as an
7 investigator to the York County Multi-Jurisdictional Drug
8 Enforcement Unit, here in York County.

9 Q. How long have you worked in law enforcement?

10 A. I've been a police officer for approximately nine
11 years and I've been assigned to the Drug Unit for the past
12 six.

13 Q. During your time with the Drug Unit, have you
14 participated in controlled drug buys?

15 A. Yes, sir, I have.

16 Q. Approximately how many?

17 A. Several hundred drug buys.

18 Q. And have you entered any -- excuse me. Have you
19 interviewed any drug users, specifically crack users?

20 A. Yes, I have.

21 Q. Approximately how many?

22 A. Probably within the several hundreds.

23 Q. And during that time, have you interviewed any drug
24 dealers, specifically crack-cocaine dealers?

25 A. Yes, I have.

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1 Q. Approximately how many?

2 A. In the hundreds.

3 Q. And during controlled buys, do you interview CI's
4 after the controlled buys?

5 A. Yes, we do.

6 Q. Do drug dealers and/or drug users sometimes go by
7 nicknames or aliases?

8 A. Yes. It is very common.

9 Q. And so, if you hear words like dude name or street
10 name, is that another way of describing a nickname or an
11 alias?

12 A. Yes. That is correct.

13 Q. Were you involved in the investigation of a man known
14 as Pootie, by Derrick Doss, on June 12th, 2015?

15 A. Yes, I was.

16 Q. And what role did you have in that investigation?

17 A. I was the lead investigator in that case.

18 Q. And can you explain what your responsibilities were as
19 the lead investigator in the case?

20 A. Yeah. I was the contact point for the confidential
21 informant. I worked with him. We worked together, in
22 order to line up drug deals. Also, as the lead
23 investigator, I had other officers in my unit assisting me,
24 and I -- the lead investigator kind of takes the leadership
25 role of the case, and he kind of assigns everybody a

1 different job, and kind of oversees the entire operation.

2 Q. So, did you have two other officers with you in this
3 investigation?

4 A. I did. I had Investigator King and Investigator
5 Spencer were assisting me in this particular investigation.

6 Q. And King's role was to take surveillance notes; right?

7 A. That is correct. King rode with me in my
8 vehicle. King was kind of the scribe in this deal. He
9 kind of took all of the notes, kind of, you know, what we
10 did and what time we did it.

11 Q. And what was Spencer's role?

12 A. Spencer's role, he was in a separate vehicle by
13 himself, and he was kind of helping us run surveillance.

14 When we send somebody off to do a drug deal, we can't

15 necessarily go with them, but we are out there. We may be
16 a few blocks away. We may not be able to see the person
17 all the time, but we try our best to. So, sometimes we'll
18 have a vehicle kind of floating around the area to help us
19 do surveillance and keep an eye on, you know, what's going
20 on with our undercover deal.

21 Q. And is part of the surveillance team, is that also
22 kind of a safety concern, if something were to go wrong,
23 you'd have other officers in the area?

24 A. Yes, it is, as well. The safety of our informant is
25 our main priority. We don't want to get anybody hurt. So,

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1 if things were just going bad, you know, we're ready to go
2 get our informant out of that situation at that time.

3 Q. And during this investigation on June 12th, were you
4 monitoring a live audio feed, or a wire, when Doss was not
5 with you?

6 A. Yes. That is correct. We have a -- a receiver inside
7 of our vehicle, so we're able to hear the conversation that
8 takes place, you know, with the CI, so we can hear
9 everything that's going on.

10 Q. So, when he's walking to and from the buy, you can
11 hear any conversations that are going on?

12 A. Yes. That is correct.

13 Q. And what about when he was in the hotel room? Were
14 you able to hear what was going on in the hotel room?

15 A. We were, yes.

16 Q. But to be clear, you're not able to see anything at
17 that time. You're just listening to a wire.

18 A. That is correct. We could not see him. We could only
19 hear him.

20 Q. And were you also able to communicate with Doss
21 directly by phone at times during the investigation?

22 A. Yes, I did.

23 Q. After the investigation was completed, were you able
24 to go back and listen to the audio/video recordings?

25 A. Yes, I did.

1 Q. And your review of that, plus being in contact with
2 the CI and listening to the live wire, was there anything
3 unusual or out of the ordinary, as far as controlled buys
4 go, in this investigation?

5 A. No. It was just a standard controlled buy.

6 Q. The CI in this investigation, Derrick Doss, was he a
7 paid informant, or was he working off charges?

8 A. Yes. He was a paid informant.

9 Q. How much was he paid?

10 A. I paid him Sixty dollars.

11 Q. And that was specifically to buy crack on June 12th,
12 2015?

13 A. That is correct.

14 Q. Were you aware of any pending charges against him at
15 that time?

16 A. At that time, I was not.

17 Q. Were those charges mentioned at all as part of his
18 agreement to cooperate with the Drug Unit as a CI in this
19 investigation?

20 A. No, they were not. He was strictly a paid informant.
21 He worked on a monetary basis with us.

22 Q. So, to be clear, was he made any promises or threats
23 at all, other than the agreement to pay him Sixty dollars
24 that day?

25 A. No, he was not.

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1 Q. Would he have been paid, whether the buy was
2 successful or not?

3 A. Yes, that is correct. He would have been paid.

4 Q. As long as he gave it an honest effort, and went out
5 and actually tried to buy, he would have been paid;
6 correct?

7 A. Yes, that is correct.

8 Q. Would he have been paid, whether the drugs bought were
9 real or fake?

10 A. Yes, he would have.

11 Q. Prior to June 12th, 2015, I believe it was August of
12 2014, had Doss entered into a CI agreement with the Drug
13 Unit?

14 A. Yes, he had.

15 Q. Did that agreement include the condition that he would
16 refrain from breaking the laws of South Carolina?

17 A. Yes, sir, that is correct.

18 Q. And did you later learn that he had, in fact, breached
19 that agreement by using drugs while he was a CI, and by
20 getting arrested?

21 A. Yes, I did.

22 Q. Okay. Were you aware on June 12th, 2015 that he was
23 using drugs again?

24 A. I was not.

25 Q. And in fact, had he told you he was clean, and had

INVESTIGATOR LELAND HARRELSON: DIRECT BY SOLICITOR SHELTON

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1 been clean for some time?

2 A. That is correct.

3 Q. But you later learned from him that he had been using
4 again during that time frame; correct?

5 A. Yes, I did.

6 Q. And to be clear, was that after the investigation that
7 concluded that you learned that he was using?

8 A. Yes, that is correct.

9 Q. Investigator, is it common or uncommon for an
10 informant to use drugs, and, or get arrested after entering
11 into a CI agreement with the Drug Unit?

12 MS. INZERILLO: Objection, your Honor.

13 THE COURT: I sustain the objection.

14 BY SOLICITOR SHELTON:

15 Q. Was Doss paid to testify in this case?

16 A. No, he was not.

17 Q. Was he promised any help with his probation violation?

18 A. No, he was not.

19 Q. In fact, was he told, in no uncertain terms, that no
20 one was going to advocate on his behalf, not from law
21 enforcement or the Solicitor's Office?

22 A. That is correct.

23 Q. Who set up the deal with the guy known as Pootie that
24 day?

25 A. The CI did, Derrick Doss.

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1 Q. And how did he set it up?

2 A. He had made a phone call to Mr. Doss prior --

3 MS. INZERILLO: Objection, your Honor.

4 THE COURT: It would be based on hearsay, so I sustain
5 the objection.

6 SOLICITOR SHELTON: Okay.

7 Q. Was a phone call placed in your presence setting up
8 the deal?

9 A. Yes, there was.

10 Q. Was that -- was that call placed by Mr. Doss?

11 A. Yes, it was.

12 Q. And was that call recorded?

13 A. Yes, it was.

14 Q. And that's State's Number One, that we already heard.

15 A. Yes, sir, that is correct.

16 Q. What description of this guy, Pootie, if any, did Doss
17 provide?

18 MS. INZERILLO: Objection, your Honor.

19 THE COURT: I sustain the objection.

20 BY SOLICITOR SHELTON:

21 Q. What did you in preparation for the crack buy?

22 A. In preparation for the crack buy, I picked up Mr. Doss
23 from an apartment complex and drove him over to the Rock
24 Hill Velodrome, which is just a couple of blocks away.
25 It's in River Park. It's kind of just a little secluded

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1 park, not a lot of people there during the daytime. So,
2 when we got there, we placed a phone -- placed a phone call
3 to our dealer, and we went ahead and set up the drug deal,
4 which I recorded inside the vehicle.

5 MS. INZERILLO: Objection to the comment on the phone
6 call to the drug dealer.

7 THE COURT: Well, I -- he can't testify as to who was
8 called. He can only testify that Doss made -- he saw Doss
9 make a call. He can't testify who -- who was on the other
10 end, if any, but I sustain the objection.

11 MS. INZERILLO: Thank you, your Honor.

12 BY SOLICITOR SHELTON:

13 Q. Was Doss searched, per Drug Unit policy, before the
14 buy?

15 A. Yes, he was.

16 Q. Who conducted the search?

17 A. I did.

18 Q. And what were you looking for in the search?

19 A. I was to make sure he didn't have any money, because
20 we wanted him to use our money. Also, making sure he
21 didn't have any drugs, and to make sure he didn't have any
22 weapons with him.

23 Q. So, money and drugs, these are smaller items?

24 A. Yes, they are.

25 Q. So, can you describe the manner in which you searched

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1 Doss that day?

2 A. Basically, I do the same thing every time. I start at
3 the top. If someone is wearing a hat, which Mr. Doss was
4 that day, I'll take his hat off. I'll check his hat, check
5 the inside of the hat. I'll move down, check his shirt,
6 you know, make sure he doesn't have anything taped to his
7 body or his chest. I'll check his pants. I will check
8 inside all of his pockets. Also, I will shake his pants up
9 and down, to make sure he doesn't have anything in his
10 pants, and I will, you know, pat him down, to make sure he
11 doesn't have an item or anything strapped to his leg.
12 Also, I'll check inside of his waistband; and also, inside
13 of his belt. And we have them take their shoes off, and we
14 check their feet and their shoes as well.

15 Q. What about a wallet?

16 A. If -- Yes, they have a wallet, you know, any items,
17 we're going to go through it. He did have a wallet that
18 day. I did go through his wallet; and also, he had a pack
19 of cigarettes, which I went through as well.

20 Q. And where did this search before the buy take place?

21 A. It took place in the parking lot of the Velodrome.

22 Q. And did Doss have any contraband, any money or drugs
23 on his person?

24 A. No, he did not.

25 Q. Did he have a pocket knife?

1 A. He did, which I kept inside my vehicle.

2 Q. Was Doss issued any money with which to buy crack?

3 A. Yes, we did issue him money.

4 Q. How much?

5 A. It was Fifty dollars.

6 Q. Who gave it to him?

7 A. I did.

8 Q. And was this the only money he took into the drug
9 deal?

10 A. Yes, that is correct.

11 Q. What vehicle did you take the CI in to the drop off
12 point?

13 A. It was my vehicle. I have an unmarked Tahoe.

14 Q. Is that a personal vehicle or a work vehicle?

15 A. It is a police vehicle.

16 Q. Is it regularly maintained and vacuumed?

17 A. Yes, it is.

18 Q. Is it kept on City or County property, or?

19 A. I mean, I drive my vehicle back and forth from my
20 residence to work, but I maintain, you know, my vehicle,
21 and keep it clean, and make sure, you know, before and
22 after, anytime we do anything, you know, nobody leaves
23 anything behind.

24 Q. So, you -- you regularly check it to make sure there's
25 not anything hidden anywhere or dropped or anything like

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1 that in the car. Is that what you're saying?

2 A. That is correct.

3 Q. And is it kept under lock and key?

4 A. It is, yes.

5 Q. And do you ever loaned it out to other -- to
6 informants or anything like that, if they don't have their
7 own transportation?

8 A. No. That vehicle is strictly for my use.

9 Q. And did you maintain control of that vehicle at all
10 times during this investigation?

11 A. Yes, sir, I did.

12 Q. Was Doss outfitted with audio surveillance --
13 audio/video surveillance equipment?

14 A. Yes, he was.

15 Q. Describe what he was outfitted with.

16 A. We give 'em a wire so we can hear everything. We also
17 give him a camera, and we use a backup digital recorder.
18 Just in case the wire doesn't work, we still have just
19 audio of the call, so we give 'em three pieces of
20 equipment.

21 Q. And why are you outfitting them with that equipment?

22 A. We outfit it to help control the deal. We're using
23 the wire so we can hear what's going on. We're using the
24 video to verify, you know, what he -- what -- what he did.
25 And we use the recorder just as a backup for us, in case

1 the camera, you know, malfunctioned; it didn't work, we --
2 we would still have audio recording.

3 Q. Did you outfit Doss with that equipment?

4 A. Yes, I did.

5 Q. And did you turn it on, beginning when he was about to
6 leave for the buy?

7 A. Yes, sir; that is correct.

8 Q. And did that equipment record the events that took
9 place, to the best of your knowledge, on that day?

10 A. Yes, it did.

11 Q. Did you retrieve that equipment from Doss after he
12 returned to the vehicle?

13 A. Yes, sir, I did.

14 Q. And are you the one that turned that equipment off
15 after Doss returned to the vehicle?

16 A. I did, yes.

17 Q. And did you then download the video and provide it to
18 the Solicitor's Office?

19 A. That is correct.

20 Q. And so, after -- The drop-off point was the Gable Oaks
21 Apartment; is that correct?

22 A. That is correct?

23 Q. That's where you dropped him off, and that's where he
24 returned after the buy?

25 A. Yes, sir, correct.

INVESTIGATOR LELAND HARRELSON: DIRECT BY SOLICITOR SHELTON

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1 Q. After Doss returned back to the truck, did he have any
2 contraband in his possession at that time?

3 A. Yes, he had purchased crack.

4 Q. And was that crack recovered?

5 A. Yes, I recovered the crack from him.

6 Q. And describe how you recovered it from him.

7 A. I took the crack from him, and I shot just a little
8 video of it, and then I placed it in an evidence bag.

9 Q. And where did he have it before you took possession of
10 it?

11 A. It was inside of his hat.

12 Q. I'm gonna show you what's been marked for
13 identification as State's Exhibit Number Eight.

14 Do you recognize that item?

15 A. Yes, I do.

16 Q. What is it?

17 A. This is the evidence bag that contains the crack.

18 Q. The crack? What crack?

19 A. The crack that was purchased during the undercover
20 buy.

21 MS. INZERILLO: Objection to the --

22 THE COURT: I sustain the objection.

23 BY SOLICITOR SHELTON:

24 Q. The crack you recovered from Doss?

25 A. Yes; that is correct.

1 Q. In the recovery that was seen on the video, State's
2 Number Two, that he took out of his hat and gave it to you?

3 A. Yes; that is correct.

4 Q. And you described that you put it in an evidence bag
5 at some point after you maintained -- after you gained
6 possession of it; is that correct?

7 A. Yes. I placed it inside of a smaller bag, since it is
8 a small item. And we write DEU on there, so we know that
9 this smaller bag is our bag. It's not part of the case.
10 And then, I place it, when I get back to the office, into
11 this evidence bag, which we fill out, and drop into an
12 evidence locker.

13 Q. So, the evidence bag, is that, in fact, there's like a
14 -- there's an inner bag and an outer bag, correct? Like a
15 -- You have a small, little -- you have the crack, the
16 little bag that says DEU.

17 A. Correct.

18 Q. Evidence bag. And then, there's a larger bag that all
19 that's inside of currently, right?

20 A. Yes; that is correct.

21 Q. So, the inner bag is the evidence bag, correct? With
22 the -- with the blue --

23 A. No. We'll have three bags. I have a small Ziplock
24 bag.

25 Q. Uh-huh.

INVESTIGATOR LELAND HARRELSON: DIRECT BY SOLICITOR SHELTON

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1 A. And then, I have the actual evidence bag, which is
2 what we fill out.

3 Q. Right.

4 A. And of course, this is sealed into another bag, which
5 was done by somebody else.

6 Q. Right. So, that's what I'm getting at. This inner
7 bag with the blue trim, that's the evidence bag, right?

8 A. Yes, sir; that is correct.

9 Q. And so, that -- that bag was sealed up by you?

10 A. Yes; that is correct.

11 Q. And what did you do with it after you sealed the crack
12 in that bag?

13 A. After I sealed it up, we work out of the Rock Hill
14 Police Department, and we have a drop locker where we drop
15 all of our evidence and I dropped it and placed it in
16 there.

17 Q. And had you maintained possession and control of the
18 crack the entire time you recovered it from Doss?

19 A. Yes, sir.

20 Q. To the time you sealed it up and put it in the
21 evidence drop?

22 A. Yes, I did.

23 Q. And the evidence drop at Rock Hill PD is that a secure
24 location?

25 A. Yes, sir, it is.

INVESTIGATOR LELAND HARRELSON: DIRECT BY SOLICITOR SHELTON

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1 Q. Who has access to it?

2 A. The evidence custodians at the York County Sheriff's
3 Office.

4 Q. And so, can you or any other officers with the Drug
5 Unit and Rock Hill PD get into that?

6 A. No, we cannot. Once it's placed in there, there's --
7 we have no way of retrieving it.

8 Q. Was Doss searched again after the buy?

9 A. Yes, he was.

10 Q. Was he searched back at the Velodrome?

11 A. Yes, he was.

12 Q. And that's after you recovered the crack from him?

13 A. That is correct.

14 Q. And who searched him the second time?

15 A. I did.

16 Q. And was that search done in the same area you
17 described earlier?

18 A. Yes, in the exact same way I did originally.

19 Q. And did Doss have any other contraband on him, any
20 other drugs or money?

21 A. He did not.

22 Q. Looking at State's Number Two, and was published
23 earlier, did you notice a time stamp, the bottom-right
24 corner of the video screen?

25 A. Yes, I did.

INVESTIGATOR LELAND HARRELSON: DIRECT BY SOLICITOR SHELTON

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1 Q. The date and time seen on there, is there a date and
2 time projected on the bottom-right corner, what we're
3 calling time stamp?

4 A. Yes, there is.

5 Q. I believe it showed 6:13. Is that your recollection?

6 A. I believe that is correct.

7 Q. Was this in -- did this buy, in fact, occur on 6/12?

8 A. Yes, it did.

9 Q. So, with the time stamp on the video, State's Two,
10 incorrect?

11 A. Yes, it is incorrect.

12 Q. Why is that?

13 A. Typically, our equipment, you know, the batteries will
14 run dead, and it's just -- you have to go in there and
15 reset it every time. So, we just don't -- we set the date
16 and time on the actual equipment. We give a little
17 preamble before, and actually say the date and what's going
18 on.

19 Q. So at the very beginning and the very end, the voice
20 that we hear you announce, this is Investigator Harrelson,
21 that's your voice; correct?

22 A. Yes, it is.

23 Q. And you're -- so, you're narrating the actual date and
24 time?

25 A. That is correct.

INVESTIGATOR LELAND HARRELSON: DIRECT BY SOLICITOR SHELTON

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1 Q. And you viewed the buy video after the -- after the
2 controlled buy in this case?

3 A. Yes, I did.

4 Q. I'm going to hand up to you four photographs marked
5 State's Exhibit Four, Five, Six, and Seven.

6 Take a moment to look at those, please.

7 (WITNESS COMPLIES.)

8 Q. Do you recognize those items?

9 A. Yes, I do.

10 Q. Are they still shots from the buy video, State's
11 Number Two?

12 A. Yes, they are?

13 Q. Are they true and accurate?

14 A. Yes, they are.

15 SOLICITOR SHELTON: Your Honor, I'd move to admit
16 these items as evidence.

17 MS. INZERILLO: Your Honor, I would object. I don't
18 believe this officer developed these stills, or can testify
19 as to what part went in. Just -- I think it's just loaded
20 down stills so we would have an objection to it.

21 THE COURT: I overrule the objection. They're in,
22 over objection.

23 (WHEREUPON, STATE'S EXHIBIT NUMBERS FOUR, FIVE, AND
24 SIX AND SEVEN IDENTIFIED AND MARKED, RECEIVED AS EVIDENCE.)
25 BY SOLICITOR SHELTON:

INVESTIGATOR LELAND HARRELSON: DIRECT BY SOLICITOR SHELTON

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1 Q. Investigator, were you able to prepare a series of
2 photos known as a lineup in relation to this case?

3 A. Yes, I did.

4 Q. I'm handing you what's been previously marked for
5 identification as State's Number Three.

6 Do you recognize that item?

7 A. Yes, sir, I do.

8 Q. What is it?

9 A. This is the photo lineup.

10 Q. And was it shown in relation to this case?

11 A. Yes, it was.

12 Q. Is it the original photo lineup used in this
13 investigation?

14 A. Yes, sir, it is.

15 Q. How many photos are in that exhibit, on the first
16 page?

17 A. Six photographs.

18 MS. INZERILLO: Your Honor, at this time, I would
19 renew all previous objections to this line of evidence, and
20 ask that the Court with permission the same objection --

21 THE COURT: Objection's overruled, and I understand
22 your objection to this line of questioning.

23 MS. INZERILLO: Thank you, your Honor.

24 BY SOLICITOR SHELTON:

25 Q. Investigator, did you show this lineup to Derrick

INVESTIGATOR LELAND HARRELSON: DIRECT BY SOLICITOR SHELTON

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1 Doss?

2 A. Yes, I did.

3 Q. Did you show it to him on August 5th, 2015?

4 A. Yes; that is correct.

5 Q. Did you or anyone else show Doss the recording or any
6 still shots or images, the recording from the 6/12/15 buy
7 video, prior to showing him that photo lineup?

8 A. No, we did not.

9 Q. In fact was the first time Doss was shown the buy
10 video a couple weeks ago in the Drug Unit office, in
11 preparation for this trial?

12 A. Yes; that is correct.

13 Q. Do you recall where you and Doss were when you showed
14 him the lineup?

15 A. We were in a conference room at the Rock Hill Police
16 Department.

17 Q. Is that in the Drug Unit?

18 A. Yes.

19 Q. Was anyone else in the room with the two of you at the
20 time?

21 A. I do not recall if there was another officer with us
22 or not.

23 Q. Was Doss shown the first page only?

24 A. Yes; that is correct.

25 Q. So, he was not shown any pictures with any names or

INVESTIGATOR LELAND HARRELSON: DIRECT BY SOLICITOR SHELTON

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1 identification associated with it. It was just the one
2 that has Photo 1, Photo 2, Photo 3, et cetera?

3 A. That is correct. The very first page.

4 Q. And there are three pages in that exhibit; correct?

5 A. Yes, sir, correct.

6 Q. The other two pages, what are those?

7 A. They have the same pictures, they just have the
8 person's name that goes along with the photographs.

9 Q. So, these were known photographs?

10 A. Yes, they were.

11 Q. What, if anything, did you tell Doss, prior to showing
12 him the first page, the six-pack photos with no identifiers
13 on them?

14 A. I told them to take a look at these six pictures. The
15 person may or may not be on there. I told him to look at
16 each photograph carefully, and to study the person's facial
17 features.

18 Q. And did you or any other person influence or suggest
19 to him in any way which photograph to select?

20 A. No, we did not.

21 Q. Was this the one and only lineup you showed Doss
22 during the investigation?

23 A. Yes, it was.

24 Q. Did Doss select a photo?

25 A. He did.

INVESTIGATOR LELAND HARRELSON: DIRECT BY SOLICITOR SHELTON

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1 Q. Which one?

2 A. Photo Number 5.

3 Q. How do you know if he made that selection?

4 A. He circled it, signed it, and put the date.

5 Q. And did you witness him do that?

6 A. I did.

7 Q. Did he indicate to you whether or not the person
8 depicted in Photo Number 5 was the person he knew as
9 Pootie?

10 MS. INZERILLO: Objection, your Honor, to the hearsay.

11 THE COURT: I sustain the objection.

12 BY SOLICITOR SHELTON:

13 Q. Did he indicate to you whether or not the person
14 depicted on Photo Number 5 was the person that sold him
15 crack on June 12th?

16 MS. INZERILLO: Objection, your Honor.

17 THE COURT: Overruled.

18 BY SOLICITOR SHELTON:

19 A. Yes, he did.

20 Q. What is the actual name of the person depicted in
21 Photo Number 5?

22 A. Photo Number 5 is Jarvis Tyrone Hughes.

23 Q. Did this entire investigation occur in York County,
24 South Carolina?

25 A. Yes, it did.

INVESTIGATOR LELAND HARRELSON: CROSS BY MS. INZERILLO

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1 SOLICITOR SHELTON: Please answer any questions Ms.
2 Inzerillo may have.

3 MS. INZERILLO: May it please the Court, your Honor.

4 CROSS-EXAMINATION

5 INVESTIGATOR LELAND HARRELSON BY MS. INZERILLO:

6 Q. Investigator Harrelson, you indicated that you were
7 listening in to what was going on, on that day?

8 A. Yes, that is correct.

9 Q. And we hear you on the buy video asking the paid
10 informant to go back and find the room number; is that
11 right?

12 A. Yes; that is correct.

13 Q. And he responds to you with the number; is that
14 correct?

15 A. Yes, that is correct.

16 Q. And at the time, he told you it was 225?

17 A. Yes, that is correct.

18 Q. And based on your own independent investigation, you
19 determined that it should have been Room 223.

20 A. Yes, that is correct. I went back and reviewed the
21 video, and I could see Room 224 and Room 225. And when he
22 came out, there was one more door, and that room was Room
23 223.

24 Q. And last week, you discovered that Room 223 was not
25 rented on this date, right?

INVESTIGATOR LELAND HARRELSON: CROSS BY MS. INZERILLO

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1 SOLICITOR SHELTON: Objection. It's hearsay.

2 THE COURT: I sustain the objection.

3 BY MS. INZERILLO:

4 Q. Did you do any followup investigation regarding the
5 room?

6 A. Yes, I did.

7 Q. And did you do followup investigation regarding both
8 Room 223 and 225?

9 A. Yes, I did.

10 Q. And per your investigation, was Mr. Hughes the renter
11 of either one of those rooms?

12 SOLICITOR SHELTON: Objection.

13 THE COURT: I sustain the objection.

14 MS. INZERILLO: No further questions, your Honor.

15 THE COURT: All right. Any redirect?

16 SOLICITOR SHELTON: No, sir.

17 THE COURT: You can step down and have a seat.

18 (WITNESS LEAVES WITNESS STAND.)

19 SOLICITOR SHELTON: Next witness, your Honor?

20 THE COURT: Yes, sir.

21 SOLICITOR SHELTON: Patrick Patterson.

22 Your Honor, before Mr. Patterson is sworn in, I
23 don't -- I can't remember if I actually moved State's
24 Number Three in as evidence. I would do that again if I
25 hadn't already done -- if I've already done so.

PATRICK PATTERSON: DIRECT BY SOLICITOR SHELTON

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1 MADAM COURT REPORTER: You have not.

2 THE COURT: Any?

3 MS. INZERILLO: Previous objections, your Honor.

4 THE COURT: All right. In over objection.

5 (WHEREUPON, STATE'S EXHIBIT NUMBER THREE, IDENTIFIED
6 AND MARKED, RECEIVED INTO EVIDENCE.)

7 (WHEREUPON, PATRICK
8 PATTERSON, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
9 FOLLOWS:)

10 DIRECT EXAMINATION

11 PATRICK PATTERSON BY SOLICITOR SHELTON:

12 Q. Good afternoon.

13 A. Afternoon.

14 Q. Please state your name.

15 A. Patrick Patterson.

16 Q. What do you do for a living?

17 A. I'm an evidence technician with the York County
18 Sheriff's Office.

19 Q. And where do you work?

20 A. Here at the Moss Justice Center.

21 Q. Okay.

22 A. In the evidence room.

23 Q. And is that on the Sheriff's Department side?

24 A. Yes.

25 Q. Downstairs?

1 A. Yes, sir.

2 Q. And how long have you worked there?

3 A. Five and a half years.

4 Q. What are your present duties?

5 A. Intake and we secure evidence. We log it in. We keep
6 it secure, until such time it needs to leave our evidence
7 room for testing or for court.

8 Q. And as part of that intake process, do you go around
9 to law enforcement drop sites in York County, and collect
10 evidence submitted by law enforcement?

11 A. I do.

12 Q. And would you explain how that works?

13 A. We have two sites, one in Rock Hill and one in Fort
14 Mill. I go and pick the evidence up there, and it never --
15 never leaves my control. I transport it back here to our
16 evidence room, until we secure and lock it there.

17 Q. And were you working as an evidence custodian last
18 June of 2015?

19 A. Yes, sir.

20 Q. And have you been working continuously in that role
21 before and since?

22 A. Yes, sir.

23 Q. So, each case is assigned a case number; correct?

24 A. Yes, sir.

25 Q. And is a chain of custody and control kept for each

PATRICK PATTERSON: DIRECT BY SOLICITOR SHELTON

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1 item of evidence submitted in a case?

2 A. It is.

3 Q. What information is documented on those chains of
4 custody?

5 A. The person that -- that submitted the evidence to us,
6 when I pick it up, I'll sign that it came from the location
7 that it was originally dropped, with the signature and the
8 date of when I took possession of it.

9 Q. And then would you also denote that when you -- if you
10 transferred it to another person such as a chemist?

11 A. If it leaves our custody, then either myself or one of
12 the two other employees in our evidence room will sign it
13 over to either whoever's taking it for testing, or for here
14 for court.

15 Q. I think it's right there next to you ---

16 A. Right here.

17 Q. --- what's been previously marked as State's Number
18 Eight.

19 A. Yes.

20 Q. Do you recognize that item?

21 A. I do.

22 Q. How do you recognize it?

23 A. By my signature, that I picked it up from our Rock
24 Hill evidence drop on June the 15th of 2015.

25 Q. And that Rock Hill evidence drop site, is that a

1 secured location?

2 A. It is. It is a locker with -- we have -- our
3 employees only have the locks, myself and two other people.

4 Q. So, three people for the -- that work for the evidence
5 are the only ones with the keys to the locker?

6 A. Yes, sir.

7 Q. And when you took possession of that item from the
8 evidence drop on June 15th, 2015, was it in a sealed
9 evidence bag?

10 A. It was. We always check the seal before we take
11 possession of something.

12 Q. And had that seal been tampered with in any way?

13 A. No, sir.

14 Q. What did you do with it when you initially took
15 possession of it?

16 A. I checked it for, you know, checked the seal, check
17 the accuracy of the information on it, and took possession
18 of it to transport it here.

19 Q. I believe you've already testified to this, but was it
20 continuously under your care and control?

21 A. Yes, sir.

22 Q. And the evidence room at Moss Justice Center, can you
23 just briefly describe what that room is like?

24 A. It's a room probably close to the size of this
25 courtroom. It has two entrances. Both are double-locked,

PATRICK PATTERSON: DIRECT BY SOLICITOR SHELTON

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1 heavy steel doors. Like I say, myself and two other
2 persons are the only ones who have locks.

3 Q. So, that's a secured location. Once it's brought back
4 there, the evidence is secured?

5 A. Yes, sir.

6 Q. And I believe it was on September 1st, 2015, did you
7 transfer possession of that to someone else?

8 A. I did. I signed this over to Cynthia Mitchum, our
9 chemist with the Sheriff's Office.

10 Q. And where did that transfer take place?

11 A. In her lab.

12 Q. And why -- to your knowledge, why was she handed the
13 -- the item?

14 A. It was given to her for testing.

15 Q. She's the chemist for the County?

16 A. She is.

17 Q. And when you handed it to her, was the evidence in a
18 sealed evidence bag, still?

19 A. It was in the -- it was in the same condition it was
20 when I picked it up.

21 Q. So it hadn't been tampered with in any way?

22 A. No, sir.

23 Q. And you gave it directly to Ms. Mitchum that day?

24 A. Yes, sir.

25 SOLICITOR SHELTON: Please answer any questions Ms.

PATRICK PATTERSON: CROSS BY MS. INZERILLO

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1 Inzerillo may have.

2 MS. INZERILLO: May it please the Court, your Honor?

3 THE COURT: Certainly.

4 CROSS-EXAMINATION

5 PATRICK PATTERSON BY MS. INZERILLO:

6 Q. If you can read that bag that you've got in your hand,
7 and see kind of where this package was; is that right?

8 A. Yes, ma'am.

9 Q. Okay. Because generally, everybody who including
10 yourself, that touches or transfers that package has to
11 essentially sign it in and out.

12 A. Yes.

13 Q. In so many words.

14 A. Yes, ma'am.

15 Q. Its like a log. And so, I think what you just
16 testified to is based on the log that you've got in your
17 hand on the evidence bag, you can see where you picked it
18 up, and where you transferred it to Cynthia Mitchum?

19 A. Yes, ma'am.

20 Q. And then, after that, she transferred it back to you.

21 A. Yes, ma'am.

22 Q. And there's no one else that that package ever got
23 transferred to?

24 A. No.

25 Q. Nowhere like forensics, or no one came to pick it up?

PATRICK PATTERSON: CROSS BY MS. INZERILLO

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1 A. Not according to this chain of custody.

2 Q. Okay. And if forensics had come to pick it up, you
3 would have had to sign it back out to them, and follow the
4 same protocols you did with Ms. Mitcham; is that right?

5 A. Yes.

6 Q. And just to be clear, forensics are the people that do
7 fingerprinting and DNA and that kind of thing.

8 A. Correct.

9 Q. And you, in your experience, do routinely transfer
10 things in and out to them.

11 A. Yes.

12 Q. All right.

13 MS. INZERILLO: Your Honor, I have no further
14 questions.

15 THE COURT: Redirect.

16 SOLICITOR SHELTON: No, sir. I ask that he be
17 excused.

18 THE COURT: Okay. You can step down and be excused.
19 We appreciate your time. Thank you.

20 (WITNESS LEAVES WITNESS STAND.)

21 THE COURT: Call your next witness.

22 SOLICITOR SHELTON: Next witness is Cynthia Mitcham.

23 (WHEREUPON, CYNTHIA MITCHUM,
24 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

25 DIRECT EXAMINATION

CYNTHIA MITCHUM: DIRECT BY SOLICITOR SHELTON

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1 CYNTHIA MITCHUM BY SOLICITOR SHELTON:

2 Q. Good afternoon.

3 A. Good afternoon.

4 Q. Please state your name.

5 A. Cynthia Mitchum, M-i-t-c-h-u-m.

6 Q. Please -- excuse me. Rethink that. How are you
7 presently employed?

8 A. I'm employed with the York County Sheriff's Office in
9 the Drug Analysis Laboratory.

10 Q. How long have you been in that job?

11 A. I've been there since 2000, so sixteen years here at
12 the Sheriff's Office.

13 Q. And do you have any prior experience before working
14 with the Sheriff's Office?

15 A. Yes. Prior to working with the Sheriff's Office, I
16 was with the South Carolina Law Enforcement Division,
17 commonly known as SLED, in Columbia, South Carolina, also
18 in their Drug Analysis Department, and I was there for
19 seven and a half years.

20 Q. What type of duties do you perform in your job?

21 A. I receive in evidence, and I will analyze the evidence
22 for controlled and non-controlled substances.

23 Q. Do you have any education, training, background
24 experience, or job experience that would qualify you as a
25 chemist in the field of chemical drug analysis and

CYNTHIA MITCHUM: DIRECT BY SOLICITOR SHELTON

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1 identification?

2 A. Yes, I do.

3 Q. Would you please explain?

4 A. I have a bachelor of science degree in chemistry,
5 which I received from Winthrop University in 1990. And
6 then, I've also been through the DEA training through
7 there, and my training through the South Carolina Law
8 Enforcement Division.

9 Q. And you've been a chemist for approximately twenty-
10 three and a half years?

11 A. That is correct.

12 Q. During that time, have you ever been qualified in
13 court as an expert in the field of chemical or drug
14 analysis and identification?

15 A. Yes, I have.

16 Q. Approximately how many times?

17 A. In excess of two hundred times.

18 Q. Approximately how many samples have you tested in your
19 career?

20 A. Oh, excess ten thousand. It's regular duties.

21 Q. So, a whole lot.

22 A. A whole lot.

23 Q. Just so we're clear, do you analyze substances such as
24 narcotics and illegal drugs as part of your job duties?

25 A. Yes, I do.

CYNTHIA MITCHUM: DIRECT BY SOLICITOR SHELTON

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1 SOLICITOR SHELTON: Your Honor, I would offer Ms.
2 Mitchum as an expert in the field of chemical analysis and
3 identification of substances.

4 THE COURT: Any voir dire?

5 MS. INZERILLO: No, your Honor. No objection.

6 THE COURT: I find she's qualified.

7 BY SOLICITOR SHELTON:

8 Q. Ms. Mitchum, I believe sitting right next to you is
9 what's marked as State's Number Eight.

10 Do you recognize that item?

11 A. Yes, I do.

12 Q. How do you recognize it?

13 A. I can recognize it with my signature in the chain.

14 And then, I have my initials on the bags.

15 Q. And how did it come to be in your possession?

16 A. I received this from Patrick Patterson on 9/01 of
17 2015.

18 Q. And Patrick works with the evidence folks here at
19 Moss?

20 A. Yes, he does.

21 Q. And did you take possession of it to analyze the
22 contents in the bag?

23 A. Yes, I did.

24 Q. Specifically the stuff that's inside -- way inside the
25 bag?

CYNTHIA MITCHUM: DIRECT BY SOLICITOR SHELTON

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1 A. Correct.

2 Q. What condition was the evidence bag in when you
3 received it?

4 A. When I first received the bag, I received this inner
5 bag that has the blue filigree down the sides, and that was
6 intact. And I know this because I've got, okay, and my
7 date -- the date and my initials on the side of the bag to
8 let me know I checked the bag to make sure it was sealed.

9 Q. So, that's how you know that the seal was intact, and
10 hadn't been tampered with?

11 A. That is correct.

12 Q. And what did you do with it after you inspected it to
13 make sure the seal was intact?

14 A. It then goes into a drug locker that I have inside of
15 the drug laboratory that I have the only keys for, until I
16 have a chance to be able to pull it out and do my analysis
17 on the substances.

18 Q. And was it continuously under your custody and control
19 while you had possession of it?

20 A. Yes.

21 Q. In your lab?

22 A. Yes.

23 Q. And were you able to test the drugs or substances in
24 the bag?

25 A. Yes, I did.

CYNTHIA MITCHUM: DIRECT BY SOLICITOR SHELTON

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1 Q. Please explain that process.

2 A. What I'll do is, the substance is a rock substance,
3 and I'll do what's known as a chemical analysis, and also,
4 an instrumental analysis on the substances.

5 Q. And it's in the evidence bag. Do you cut into the bag
6 at some point? How does that work?

7 A. Yes. And this bag is in a Ziplock bag. And then,
8 there's a smaller bag here, and I'll remove the substance,
9 and I will test the drugs themselves, and I'll take part of
10 the substance that will be consumed in analysis.

11 Q. And after you test the substance, did you then return
12 it to the bags, as you'd found it?

13 A. Yeah. I folded this bag up inside of this outer bag
14 and so that you can still see it here, if it needs to be
15 seen in court, or be viewed by anybody who's coming to look
16 at the evidence. And then, that outer bag, I sealed it,
17 and it is still sealed today, with my initials, and the
18 date in the heat seal.

19 Q. So, the bag as you currently hold it, is in the same
20 condition now as when it left your possession, after you
21 tested the substance?

22 A. That is correct.

23 Q. And what did you do with the -- the evidence bag after
24 you tested it and sealed it all back up?

25 A. I returned it back to evidence on 10/22 of 2015.

CYNTHIA MITCHUM: DIRECT BY SOLICITOR SHELTON

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1 Q. And I think you've already touched on this, but did
2 you document your handling of it by signing your name and
3 dating it?

4 A. Yes. There's an additional chain on the back of the
5 evidence that shows who -- who handles the evidence from
6 there.

7 Q. Were you able to make a determination as to what the
8 substance is in the bag?

9 A. Yes, I did.

10 Q. And what was that determination?

11 A. Okay. State's Exhibit Number Eight, which Item Number
12 1 in this case, was a rock substance that was found to be
13 cocaine base, also known as crack, a Control Two substance,
14 weighing 0.18 grams.

15 Q. And did you prepare a report of your findings?

16 A. Yes, I did.

17 Q. Is that what you were reading from just now?

18 A. Yes.

19 Q. May I hold that, please?

20 A. Sure.

21 SOLICITOR SHELTON: I'm going to mark this for
22 identification as State's Exhibit Number Nine.

23 (WHEREUPON, STATE'S EXHIBIT NUMBER NINE, PREMARKED FOR
24 IDENTIFICATION.)

25 BY SOLICITOR SHELTON:

CYNTHIA MITCHUM: CROSS BY MS. INZERILLO

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1 Q. And this report, is it true and accurate as your
2 findings?

3 A. Yes, it is.

4 SOLICITOR SHELTON: Your Honor, I'd move to admit
5 State's Eight and Nine as evidence.

6 MS. INZERILLO: No objection, your Honor.

7 THE COURT: In without objection.

8 (WHEREUPON, STATE'S EXHIBIT NUMBERS EIGHT AND NINE,
9 IDENTIFIED AND MARKED, RECEIVED AS EVIDENCE.)

10 SOLICITOR SHELTON: Please answer any questions Ms.
11 Inzerillo may have.

12 CYNTHIA MITCHUM: Okay.

13 MS. INZERILLO: May it please the Court, your Honor?

14 THE COURT: Yes, ma'am.

15 CROSS-EXAMINATION

16 CYNTHIA MITCHUM BY MS. INZERILLO:

17 Q. Ms. Mitchum, just briefly, on the report that you
18 drafted which I think it's State's Nine.

19 A. Yes.

20 Q. You -- That's your usual form that you fill out?

21 A. That's correct.

22 Q. Okay. And there on that form, you note who submitted
23 the information and the delivery method by which it was
24 submitted; is that right?

25 A. That's correct.

CYNTHIA MITCHUM: CROSS BY MS. INZERILLO

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1 Q. So, for example, it says submitted by, and then it has
2 Patrick Patterson? And then, delivery method, it says
3 hand-to-hand?

4 A. Correct.

5 Q. That indicates that Patrick gave it to you hand-to-
6 hand?

7 A. Correct. There's two delivery methods for the
8 laboratory, and that's -- that's what this indicates on the
9 report, is how it's actually given to the laboratory.
10 There's hand-to-hand, and then there's also a drug box,
11 which outside agencies would use to drop the drugs.

12 Q. So, that's just delineating for you, how you actually
13 received it?

14 A. Correct.

15 Q. Because, and this might be apparent, but your --
16 before you were -- picked this up or have this signed over
17 to you, the State's Number Eight, you didn't have any
18 involvement in the case?

19 A. That is correct.

20 Q. And then, once you sign it back over to evidence, or
21 to wherever it goes after that or you test it, you have no
22 further involvement?

23 A. Correct.

24 Q. Okay.

25 MS. INZERILLO: No further questions, your Honor.

1 THE COURT: Redirect?

2 SOLICITOR SHELTON: No, sir.

3 THE COURT: You can step down.

4 (WITNESS LEAVES WITNESS STAND.)

5 SOLICITOR SHELTON: Your Honor, the State rests its
6 case.

7 THE COURT: Members of the jury panel, the State is
8 resting. That means the State has presented its case. We
9 have to stop right now and take up some matters outside of
10 your presence. You're not yet in the position to start
11 discussing the case. You're not yet in the position to try
12 to make up your own minds. We're going to take a break at
13 this time.

14 (JURY EXITS COURTROOM AT 3:01 PM.)

15 THE COURT: Anything from the State at this time?

16 SOLICITOR SHELTON: Not at this time, your Honor.

17 THE COURT: -Ms. Inzerillo?

18 MS. INZERILLO: Thank you, your Honor, may it please
19 the Court.

20 THE COURT: Yes, ma'am.

21 MS. INZERILLO: Your Honor, at this time, Defense
22 would renew all previous motions and objections, as well as
23 move for a directed verdict.

24 THE COURT: Well, that motion is denied. I believe
25 there is sufficient evidence from which a jury could

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1 conclude that the State has carried its burden as the
2 burden of proving Mr. Hughes guilty beyond a reasonable
3 doubt. I'm not finding that they have done that, but I
4 find that there is sufficient evidence from which the jury
5 can reach that conclusion, so, I deny your motion for a
6 directed verdict.

7 MS. INZERILLO: Thank you, your Honor.

8 THE COURT: Mr. Hughes, can you hear me?

9 SOLICITOR SHELTON: Your Honor, just reminding you,
10 before we go into whether the defendant would like to
11 testify or not, we do need to take up the matter which
12 deferred from pretrial, which would be prior impeachable
13 offenses, if you'd like me to put that on the record.

14 THE COURT: Yeah. Mr. Hughes, what Mr. Shelton is
15 going to do at this time is go over those offenses with
16 you; if you testify, they can ask you about. So, just --
17 just listen right now.

18 MR. HUGHES: Okay. Yes, sir.

19 SOLICITOR SHELTON: Give me just a second, your Honor.
20 Let me get it organized here. I'll go ahead -- I want to
21 mark these as Court's exhibits, your Honor, and -- I'm
22 going to trying to so sequentially, that's why I'm trying
23 to organize these. Okay.

24 So, in 2013, Mr. Hughes was convicted in Rock Hill
25 Municipal Court for providing false information to the

1 police. I'm sorry, that's a 2015 conviction. So this
2 would be a Court's exhibit -- I can't remember what number.

3 MADAM COURT REPORTER: Five.

4 SOLICITOR SHELTON: I believe Court's Number Five.

5 In 2013, May of 2013, he was convicted of petty
6 larceny, and that is a crime of dishonesty. That's a
7 General Sessions convictions. That would be Court's Six.

8 And also, in 2013, March 20th, 2013, he was convicted
9 of two separate counts from two separate incident dates of
10 forgery, less than Ten thousand dollars. So, these would
11 be two separate court exhibits. In 2014, February 26th,
12 2014, he was convicted of distribution of an imitation
13 controlled substance. It carries more than a year.

14 And in North Carolina, in -- beg the Court's
15 indulgence. It's hard to read these out-of-state certified
16 convictions sometimes. It's a 2014 case. I'm having a
17 hard time putting my finger on the actual day right now.
18 The incident day was 8/19/2014, charged with possession
19 with intent to distribute cocaine in Union County, North
20 Carolina. He's currently on probation for that, was at the
21 time. And incident date of 6/18/2014 of attempt or
22 conspiracy to obtain property by false pretenses; also, on
23 probation at the time -- at this time. So, I would have
24 those all entered as Court's exhibits, with the
25 corresponding numbers to denote where we are, and I've

1 provided copies of all this to Ms. Inzerillo prior to
2 today.

3 (WHEREUPON, COURT'S EXHIBIT NUMBERS FIVE THROUGH
4 ELEVEN, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

5 THE COURT: Have you gone over those, Ms. Inzerillo?

6 MS. INZERILLO: I have reviewed them, your Honor, and
7 I would have an objection or a request to the Court, if Mr.
8 Hughes does decide to testify, to not allow him to be
9 specifically questioned about either one of the drug
10 charges, the 2014 distribution from South Carolina, or the
11 PWID cocaine out of North Carolina.

12 THE COURT: Well, I -- they should be couched as an
13 offense, a felony without denominating the name of the
14 offense since that would be I think the prejudicial value
15 of that out weighs any probative value of impeachment; that
16 is, the nature because that is so similar. Its not
17 identical to what he's on trial for today.

18 MS. INZERILLO: Your Honor, and my understanding of
19 the companion conspiracy charge, along with the PWID
20 cocaine through the North Carolina conviction was in
21 relation to a drug deal, it was not a separate distinct
22 offense that he pled to at the same time. And so, I would
23 also ask the Court to limit the inquiry into that as it
24 would have the same prejudicial effect.

25 THE COURT: I think that was a yes he nodded.

1 SOLICITOR SHELTON: I don't -- I don't have a problem
2 with that, your Honor.

3 THE COURT: Okay.

4 SOLICITOR SHELTON: I think it's a conspiracy so I
5 think it would -- even by its nature, is not a crime of
6 dishonesty. I'm okay with just couching it as a crime that
7 carries over a year. I don't even know if it's a felony to
8 be -- unless I dug through that record a little bit harder
9 and saw that they noted it as a felony, so.

10 THE COURT: We've got a note where Ms. Rasmussen,
11 Number One eighty-five, wants to call her daughter about a
12 quote very important test she had today quote. So, while
13 we take our break, I'm going to let Ms. Rasmussen be taken
14 to the library and make a call to check on how her daughter
15 did in this test. Any objection?

16 SOLICITOR SHELTON: No, sir.

17 MS. INZERILLO: No, your Honor.

18 THE COURT: Mr. Hughes, can you hear me?

19 MR. HUGHES: Yes, sir.

20 THE COURT: We've reached the point of the trial where
21 the State has rested, that means you have a right to
22 present a defense. You have a right to call witnesses on
23 your behalf, if you wish, to testify on your behalf, but
24 you do not have to because the State has the burden of
25 proving your guilt beyond a reasonable doubt, and you are

1 presumed innocent.

2 Now, you have the right to testify. If you testify,
3 the State would be able to ask you questions about this
4 supposed event that took place on June 12th of last year;
5 and also, can ask you questions regarding your prior
6 record, to the extent that it's been put in -- gone over
7 with by the solicitor. As to your prior record, the State
8 can ask you those questions solely regarding whether the
9 jury should believe you or not. In the law we call that
10 for impeachment purposes. That is, they can ask you those
11 questions not to indicate that you are a bad person,
12 perhaps, that's enough to convict you of this crime, but
13 rather for the jury to have that information to judge
14 whether to believe you or not. And I'll tell the jury in
15 my charge, if you testify, that they cannot use those prior
16 offenses as evidence that you committed this offense, that
17 they can only use those offenses to assess your
18 believability or credibility. Do you understand all that?

19 MR. HUGHES: Yes, sir.

20 THE COURT: Now, if you exercise your constitutional
21 right to remain silent, I will tell the jury that is what
22 you've done, that you have exercised your right to remain
23 silent; that the jury -- I will tell them that they cannot
24 use that against you in any way whatsoever, that they
25 cannot discuss in the jury room the fact that you exercised

1 your right to remain silent. They cannot factor into their
2 own thought processes the fact that you exercised your
3 right to remain silent, and I will remind the jury that you
4 are presumed innocent. You need not prove your innocence,
5 but the State must prove your guilt beyond a reasonable
6 doubt. You understand all that?

7 MR. HUGHES: Yes, sir.

8 THE COURT: Do you have any questions about that?

9 MR. HUGHES: No, sir.

10 THE COURT: Have you explained all that to him, Ms.
11 Inzerillo?

12 MS. INZERILLO: Yes, your Honor.

13 THE COURT: Have you also explained to him the effect
14 of presenting evidence has on rights and closing arguments?

15 MS. INZERILLO: Yes, your Honor.

16 THE COURT: All right. Do you understand all that?

17 MR. HUGHES: Yes, sir.

18 THE COURT: Do you -- are you going to -- are you
19 going to testify, Mr. Hughes, or exercise your right to
20 remain silent?

21 MR. HUGHES: Can I talk with Ms. Inzerillo?

22 THE COURT: Yeah. We're going to take a break. We'll
23 take a break, and you -- you can get advice from anybody,
24 whoever you want. It's not Ms. Inzerillo's or Mr. Barton
25 O'Kelly's; of course, the Solicitor's, or mine, or anyone

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1 else. It's your decision, Mr. Hughes, but you can get such
2 advice as you believe you need. So, we'll take a break at
3 this time, anyway. And depending on, after you talk to him
4 and give him some time to think, we might ought to sit down
5 and look at the charges too.

6 MS. INZERILLO: Yes, your Honor.

7 THE COURT: We'll be at ease.

8 MS. INZERILLO: Thank you, your Honor.

9 (COURT IN RECESS AT 3:10 PM.)

10 (WHEREUPON, COURT'S EXHIBIT NUMBER TWELVE, IDENTIFIED
11 AND MARKED, RECEIVED INTO EVIDENCE.)

12 (COURT BACK IN SESSION AT 3:36 PM.)

13 THE COURT: Thank you. You may take your seats. Mr.
14 Hughes, when we adjourned and took our recess, you were
15 going to talk to whoever you wanted about whether to
16 testify or not. Have you reached a decision?

17 MR. HUGHES: Yes, sir. I don't want to testify.

18 THE COURT: You're going to exercise your right to
19 remain silen?.

20 MR. HUGHES: Yes, sir.

21 THE COURT: All right. Thank you. Then we'll go into
22 arguments and charge, and the State waive opening?

23 I'm sorry, you can't waive opening now. The State
24 will open, and Defense will close, have the last --

25 SOLICITOR SHELTON: I'd say I'd like to, Judge, but.

CLOSING STATEMENT: BY SOLICITOR SHELTON

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1 THE COURT: I understand. It's late in the afternoon.

2 All right. Let's bring in the jury.

3 I'll let you rest on the record, Ms. Inzerillo, ---

4 MS. INZERILLO: Yes, your Honor.

5 THE COURT: --- in front of the jury.

6 MS. INZERILLO: Okay.

7 (JURY REENTERS COURTROOM AT 03:39 PM.)

8 THE COURT: Ms. Inzerillo?

9 MS. INZERILLO: Your Honor, at this time the Defense
10 rests.

11 THE COURT: All right. Member of the jury panel, the
12 State has rested before you went out. Now, the Defense has
13 rested, so we've reached the point of the trial where we
14 will hear their closing statements or their arguments. I
15 told you this morning they were giving you outlines of the
16 trial, and not arguing their case. Now, they will be
17 taking the facts, and they know what law I'm going to
18 charge, we talked about that over the break. So, they know
19 what charge I'm going to give you regarding the law, so
20 they will be arguing why the facts as you find them to be,
21 applying the law I charge, why your verdict should be a
22 certain verdict. Counsel?

23 SOLICITOR SHELTON: May it please the Court, your
24 Honor? Madam Clerk, would you dim the lights, please?

25 (COURTROOM LIGHTS DIMMED.)

CLOSING STATEMENT: BY SOLICITOR SHELTON

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CLOSING STATEMENT BY SOLICITOR SHELTON:

SOLICITOR SHELTON: Ladies and gentlemen, you're going to hear Judge Hayes instruct you on the law of the charge that's alleged in this case, and it's a -- it's a complicated mouthful of legal terminology, as most laws are. A person who manufactures, distributes, dispenses, delivers, et cetera, et cetera, et cetera, cocaine base. What does that break down to for this case? A person who distributes or delivers cocaine base is guilty of distribution of crack cocaine. So, I talked to you in opening statement about the word distribute, distribution. I want you to listen to Judge Hayes instruct you on the law.

The law does not require the State to show that a hand-to-hand exchange took place. Ms. Inzerillo, I expect, is going to point that out, we don't see a hand-to-hand. We don't see a hand-to-hand, but that doesn't mean the State has failed in proving its case. The State has to prove that the Defendant, Jarvis Tyrone Hughes, distributed or delivered crack cocaine to Derrick Doss on June 12th, 2015.

Think of the word deliver. Think of what it means to give to another person's possession. Remember the mailman. Come rain or shine, he's going to deliver that mail to you. How often does the mailman hand you the mail? He puts it

CLOSING STATEMENT: BY SOLICITOR SHELTON

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1 in your mailbox. You know where to go to get it. The
2 mailman doesn't have to tell you every day or call you on
3 the phone. Go get the mail from the mailbox. You know
4 it's there. The mailman still delivers the mail without
5 handing it to you. So, the facts in this case, and we're
6 going to go through this, show that Hughes distributed or
7 delivered crack to Doss. Hughes had it ready for Doss
8 ahead of time. Remember, that phone call set the deal. He
9 had it sitting on the dresser next to the TV. Hughes
10 motioned to it for Doss to pick it up after the money is
11 exchanged. And a motion over here, Doss turns over,
12 collects it with the plastic -- put it in the plastic bag,
13 tuck it in his hat. That's distribution.

14 You're also going to hear some more legal terminology,
15 and a big very important one I talked to you about in
16 opening statement, was reasonable doubt. And I'll just
17 remind you, you're going to -- I expect Ms. Inzerillo will
18 talk with you about that a good bit as well, and I know for
19 a fact that Judge Hayes will instruct you on what that law
20 is. He's the judge of the law. What he tells you is the
21 law is the law of the land. But I'm going to attempt to, I
22 guess, expose you to it ahead of time, because again, these
23 are lawyer words, so it kind of helps to hear them a couple
24 times.

25 So, proof beyond a reasonable doubt, the kind of proof

CLOSING STATEMENT: BY SOLICITOR SHELTON

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1 we have to convince you of before you can find Jarvis
2 Hughes guilty of this crime, is proof that leaves you
3 firmly convinced. You -- you see it, you know it. On the
4 flip side, proof that fails to meet that burden that leaves
5 reasonable doubt in your mind, is the kind of doubt that
6 causes you to hesitate to act. I just don't know about
7 that. Remember that gut-check standard. We -- we, the
8 State, do not have to prove beyond any and all doubt. We
9 do not have to prove beyond a shadow of a doubt. We have
10 to prove beyond a reasonable doubt, and that's one of the -
11 - that's one of our favorite lawyer words, reasonable.
12 What does reasonable mean? A normal doubt, an everyday
13 kind of doubt. You are presumed to be reasonable people.
14 You were people brought in from throughout this county,
15 coming from different life experiences, different
16 backgrounds, but you've all found yourself on jury duty;
17 your average, normal, everyday people. You possess the
18 tools necessary to determine whether reasonable doubt
19 exists or not. You already have what you need.

20 Remember, please, throughout this argument and
21 throughout your deliberation, a trial is a search for
22 truth. It's not a search for doubt. Ms. Inzerillo, her
23 job is to cast doubt. Her job is to pick up little things
24 and try to poke holes in the State's case, and she does a
25 fine job of it. Don't lose sight of the big picture,

CLOSING STATEMENT: BY SOLICITOR SHELTON

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1 please. Remember, we're -- we're looking for the truth.
2 We're not looking for doubt.

3 And don't conclude -- don't confuse deliberation with
4 hesitation. Deliberation is your job. Deliberating, or
5 talking about it, is not the same as hesitating to act, so
6 don't confuse the two. That's why they have chairs back
7 there in the jury room. Sit down and talk about it, as
8 long as you need to. That's your job.

9 So, let's dig into the -- Too main questions this
10 morning, and I told you this comes out of two main
11 questions. Was this a drug deal, and was it Jarvis Hughes
12 that was dealing the drugs? So, let's go with the first
13 question. Yes, this is a drug deal. How do we know that?
14 First, Doss told Drug Unit officers he could buy crack. He
15 bought for them as a CI. Doss is a user. He admitted to
16 you on this witness stand he uses crack. He's used it for
17 ten-plus years. Doss is a flawed man, but he was honest
18 about his drug addiction. He is a user, and he knows who
19 sells it. He met with the Drug Unit, gave Harrelson a
20 description of a man he knew as Pootie at the time. He
21 knew that man's phone number, and he called him to set up
22 the drug deal. So, here's that phone call. This is
23 State's Number One.

24 (STATE'S EXHIBIT NUMBER ONE PUBLISHED TO THE JURY AT
25 03:46 PM/STOP AT 03:48 PM.)

CLOSING STATEMENT: BY SOLICITOR SHELTON

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1 SOLICITOR SHELTON: Okay. The phone call shows,
2 proves, establishes, this is a drug deal. So, let's break
3 this down. Doss says, hey, it's Red, Jay's buddy. I met
4 you the other night. Hughes says, Oh, yeah, and then
5 something that's kind of hard to hear. Maybe you can hear
6 it, but I had trouble hearing it. Doss said, I was trying
7 to give you Fifty dollars if I could. Hughes asks, What,
8 now? Doss replied, I was trying to give you a fifty if I
9 could. Hughes asks, You want what, now? Doss replied,
10 Trying to spin fifty. Hughes asks, Oh, you want to get a
11 fifty. Doss replied, Huh? Hughes asks, You say you want a
12 fifty question mark. Doss said, Yeah. Hughes said, Yeah,
13 I got you, bro. What are they talking about? Fifty-
14 dollars' worth of crack. That's a fifty. You heard Doss
15 explain that to you, a fiddy, a fifty. He's not just going
16 to give him Fifty dollars because he likes him. He's going
17 to get Fifty dollars in exchange for something, crack, in
18 this case.

19 You want me to just come through, asks Doss. And
20 Hughes said, ultimately, come to Bestway. Walk all the way
21 to Bestway. I got you, bro. And so, Doss confirms, meet
22 you at Bestway. Yeah, Bestway. I'll call you when I'm out
23 there. So, then, that was recorded by the Drug Unit,
24 because you heard testimony. And then, Doss walked from
25 the Drug Unit to the buy, after being searched. Okay.

CLOSING STATEMENT: BY SOLICITOR SHELTON

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1 So, somebody has to go first, and somebody has to go
2 second when it's time to do these closing arguments. I got
3 to go first this time. So, I got to guess what Ms.

4 Inzerillo may argue to you, because I don't want to let her
5 just have free reign, right? I'm going to take my shot at
6 what she's going to argue. So, she may or may not go into
7 these arguments. Obviously, either she will or she won't,
8 right? But I'm going to take a stab at what I think she
9 may touch on. I expect Ms. Inzerillo may argue something
10 to the effect of, you don't hear Doss use the words crack
11 cocaine to that guy on the phone, and they say it's Pootie
12 or Mr. Hughes, my client; therefore, the State just can't
13 prove this phone call was setting up a drug deal.

14 So, the slang words they use to prove it's a drug
15 deal, at least they're setting up the drug deal. I'm
16 trying to give you Fifty dollars, spend a fifty. You say
17 you want a fifty, yeah, I got you, bro. Deal set. Hughes
18 is going to have fifty-dollars' worth of crack ready; he's
19 expecting Doss to walk in and give him Fifty dollars, and
20 then give him the crack.

21 There's more evidence proving this is a drug deal.
22 Doss was searched before the deal by the Drug Unit, who
23 drove him there in their vehicle that they regularly
24 maintain and regularly search, to make sure nothing's left
25 in there. You heard Harrelson talk about that. It's a

CLOSING STATEMENT: BY SOLICITOR SHELTON

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1 County vehicle that's in his possession, used only for law
2 enforcement purposes. There's nothing in there that's not
3 supposed to be in there. And then, after Doss is searched
4 by Harrelson, and you heard him testify the manner in which
5 he searched, you heard Doss testify to the manner in which
6 he was searched. Extremely thorough search: turning out
7 his pockets, patting him down, checking for things that
8 could be taped to his body, checking his hat, looking at
9 his shoes, looking at all inside his shoes, in his socks,
10 anywhere he could hide drugs or money. Small items,
11 thorough search. Not a strip-search; everything but a
12 strip-search.

13 Before the deal, Doss was given the Fifty dollars by
14 the Drug Unit, and he had no drugs on him. There's simply
15 no evidence to suggest he had any drugs on him. All the
16 testimony in evidence is that he had nothing on him.
17 Harrelson testified, Doss testified Harrelson did the
18 search. Doss was searched again after the deal. After the
19 deal, Doss had crack cocaine that he gave to Harrelson, and
20 you see it on video, and no money. Where did the Fifty
21 dollars go? He gave it to Pootie, Hughes, and he got the
22 crack from him.

23 Then, there's the video, State's Number Two. On the
24 buy video or the context of the buy video, Harrelson drives
25 Doss to and from the buy area in his Drug Unit vehicle,

CLOSING STATEMENT: BY SOLICITOR SHELTON

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1 walks him off -- drops him off, and Doss walks to and from
2 the hotel. Doss talked with Hughes on the way on the
3 phone. Hughes walked him into the room. He's like, come
4 to Bestway; come to the back; all right. go up the stairs;
5 all right, come around back and you'll see. So, he's
6 walking him in, step by step. He's actually watching him,
7 if you recall, from the video. You can see him from the
8 balcony, making sure he's alone. He doesn't want to get
9 caught.

10 And Hughes wanted him to smoke some. What's he
11 talking about? He's talking about crack. Hughes wanted
12 Doss to smoke some of the crack in front of him. He wanted
13 to make sure he's not the police. The video includes the
14 drug deal in the hotel room. Doss walks straight to the
15 buy, walks straight back. Makes no stops along the way, to
16 or from. Did not meet with anyone along the way, to or
17 from. He didn't get the drugs but anywhere but that hotel
18 room, from Hughes.

19 During the phone call -- during the buy, Doss and
20 Hughes talked on the phone, I think it was three times,
21 during the walk to the hotel room. The first call, Hughes
22 told Doss to come to the back of the Bestway. That initial
23 phone call, come to Bestway. First phone call on the buy
24 video, come to the back of Bestway. Second call, go all
25 the way down, he's still giving him directions, right? So,

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1 those first two calls it's getting him closer. Third call,
2 Doss describes what he's wearing, and Hughes is watching
3 him. He indicates that he's watching him. Hughes gives
4 him some general instructions on the first two calls. He's
5 a little more specific, but only in the third call but only
6 after Doss agreed to smoke some first. Hughes asks Doss if
7 he had his stem, which is slang for pipe, on him. Hughes
8 told Doss, I want to see you smoke some. Hughes questioned
9 Doss about why he wasn't getting his crack from someone
10 else, because Doss hadn't known -- known Hughes very long.
11 I think there was talk about this guy, Jay. Why aren't you
12 messing with Jay? And Doss told you, that's the guy he
13 usually gets his drugs from, but he wasn't picking up, so
14 he called Pootie.

15 Once Doss agreed to smoke, which, he didn't ultimately
16 smoke -- he talked his way out of it -- but once he agreed
17 to smoke, Hughes then gave him the specifics on where to
18 go. All right, you're upstairs, come around the back,
19 you'll see me. The call ended between Hughes and Doss as
20 soon as Doss walks in the door of the hotel room. Hughes
21 is waiting on him with the door open. Again, the deal was
22 already set ahead of time. Hughes is just trying to make
23 sure -- he's trying to look out for himself by walking him
24 in, and trying to see -- make sure he's not the police.

25 Okay. This is a clip from State's Number Two of that

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1 third call. I want to listen -- I want you to listen to
2 this one more time, please.

3 (STATE'S EXHIBIT TWO PUBLISHED TO THE JURY AT 03:55
4 PM.)

5 SOLICITOR SHELTON: All right. So, from the looks at
6 it the drug deal actually happening in the hotel room. So,
7 let's pick up where we left off.

8 (STATE'S EXHIBIT NUMBER TWO CONTINUES TO BE
9 PUBLISHED.)

10 SOLICITOR SHELTON: Okay. Looking at that video, Ms.
11 Inzerillo may argue to you that since you don't actually
12 see the guy we have shown as Mr. Hughes hand the crack
13 cocaine to Doss on the video, and because you can't
14 actually see crack cocaine on the video, period, that we
15 can't prove our case. Well, that's not -- that's not true.

16 You're going to hear talk about direct and
17 circumstantial evidence. The video was direct evidence.
18 Circumstantial evidence is treated the same way as direct
19 evidence. It's just a different kind of evidence. It's a
20 series of facts, when you take everything together, lead to
21 one logical conclusion. So, that's where we talk about the
22 controlled buy, and the fact that Harrelson knows he's
23 going -- he's sending a CI in with no drugs and only
24 government-issued funds. That's how he knows that what --
25 what is going to happen in there is controlled in its

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1 nature. Then, it's fifty -- the Fifty dollars is for the
2 drugs that are going to be recovered by the CI and brought
3 to the agent, who is in charge of the buy. So, those
4 series -- I'll talk a little bit more about that, but those
5 series of events, taken with the video, you can look at all
6 of the evidence together when you're doing your
7 deliberating. So, just simply because we can't see a hand-
8 to-hand, again, doesn't -- it doesn't mean we can't --
9 can't and haven't proven a distribution occurred. And
10 because we don't see crack in that room doesn't mean we
11 haven't and can't prove that distribution of crack cocaine
12 occurred.

13 So, the Defense argument in that form or a different
14 form completely ignores what the video does show. So let's
15 walk through these clips. A lot of this kind of happens
16 fast, so if you need to look back at this stuff again, you
17 can pause it in the jury room, if you need to. You know,
18 there's a lot of this stuff. You're going to have the
19 video back there. You can watch it if you need to again,
20 but I'm going to try to break this down into -- into
21 segments.

22 (STATE'S EXHIBIT NUMBER TWO CONTINUES TO BE PUBLISHED
23 TO THE JURY.)

24 SOLICITOR SHELTON: Right there's the money and right
25 there's where he motions to the drugs on the -- on the T --

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1 on the dresser next to the TV. Doss picked up the crack,
2 put it in a piece of plastic, and then put it in his hat.

3 (STATE'S EXHIBIT NUMBER TWO CONTINUES TO BE PUBLISHED
4 TO THE JURY)

5 SOLICITOR SHELTON: So, I forgot to mention the money
6 thing. The CI did acknowledge that in his statement that
7 was typed up by Harrelson, that he signed later, I think it
8 was like six or seven weeks later, the testimony came out,
9 his statement said he put the money on the bed. That's not
10 true. You see from the video that the money was handed by
11 Doss to Hughes. So, to the extent that that may be brought
12 up by the Defense, the video is the best evidence. That's
13 real time. I would argue to you that Investigator
14 Harrelson was confused as to what actually took place on
15 that. Remember, Doss hadn't seen the video before he
16 signed that statement. But the video shows you that the
17 money was handed to Hughes. And then, later in the
18 investigation, Doss took the crack out of his hat and gave
19 it to Harrelson, back at the Drug Unit vehicle.

20 (STATE'S EXHIBIT NUMBER TWO CONTINUES TO BE PUBLISHED
21 TO THE JURY.)

22 SOLICITOR SHELTON: So, there, we see it's crack, and
23 you'll be able to see for yourself State's Number Eight,
24 same packaging. Little plastic bag with the crack in it.
25 It's the same thing that Harrelson recovered from --

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1 directly from Doss that he put in his hat, after Hughes
2 distributed it to him. And this was tested by the State's
3 chemist. We'll talk about that in a minute.

4 There was conversation about drugs in the hotel room.
5 Doss asked for a piece of plastic to tear off. He needed
6 something to put the crack in. He said -- I think he said
7 he found a Wal-Mart bag, tore a piece of it off, folded it
8 up, and put it in his hat. Doss asked Hughes if he could
9 get more crack than that for Fifty dollars. I think he
10 said, can I get more than that for a fifty. And Hughes
11 replied, Hell, no. Doss told Hughes how much he'd have to
12 pay for -- Sorry, Doss asked Hughes how much he'd have to
13 pay for a basket. I'm assuming it's some sort of quantity
14 of drugs. Hughes told him one seventy-five, and said he'd
15 put 'em on the scales for him.

16 What else is he going to put on the scales for him?
17 Drugs. So, that goes to show, this is all about money and
18 drugs. That's what this entire conversation is about in
19 the hotel room. That's what this whole twenty-minute --
20 the phone call and the walk up to the hotel room and back,
21 it's all about drugs. And the meeting in the hotel room
22 was only ninety seconds. What else are they doing if
23 they're not exchanging drugs, if they're not buying and
24 selling drugs?

25 Yes, this was a drug deal. The deal was set up in

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1 phone calls, a ninety-second meeting. They just needed a
2 little time to complete the deal. Hughes already had it
3 weighed out. Doss knew how much money to give him, and he
4 had it ready. You see evidence of the exchange on the
5 video. You see the buy money exchanged. You see Hughes
6 motion towards the dresser with the TV on it. That's where
7 the crack is. You hear Doss ask about plastic. He put the
8 crack in his hat. The crack in plastic later recovered
9 from his hat, handed to Harrelson, and all they talked
10 about was drugs and money. This wasn't an innocent
11 meeting. It was a crack cocaine deal.

12 This was also a controlled buy. And I won't be
13 exhaustive on this, but if you remember the testimony from
14 King and Harrelson about what a controlled buy is. The
15 controlled nature of the drug buy also supports Doss'
16 testimony that he got crack from Hughes and gave it to the
17 Drug Unit. The deal was set in a phone call that was
18 recorded by the Drug Unit. Doss was searched before and
19 after the deal. No drugs or money. The Drug Unit gave
20 Doss Fifty dollars to buy the crack. The Drug Unit, in
21 their custody and control, no drugs in it. Harrelson and
22 King monitor the investigation with a live wire, and
23 Harrelson was in phone contact with CI. Doss handed the
24 crack he bought to Harrelson in the Drug Unit vehicle.
25 Searched again after the buy, and no money or drugs found.

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1 So, it is crack cocaine.

2 There's a still from State's Two, after Harrelson had
3 the drugs in his possession and he opened it up, you saw at
4 the end of that video. There's the crack inside, and it's
5 the same packaging and rocklike substance that's in State's
6 Number Eight. And Harrelson testified, he took that, kept
7 -- kept possession of it, put it in the evidence bag,
8 sealed it up. We know with certainty that what is on the
9 video recovered by Harrelson is the exact same thing that's
10 in State's Number Eight, that was tested by Ms. Mitchum.
11 There's no question about that.

12 Ms. Mitchum testified, and she -- that she tested the
13 drugs in State's Eight, and that it is, in fact, crack
14 cocaine. She's been doing this for twenty-plus years, has
15 tested hundreds of samples -- tens of thousands of samples,
16 has testified hundreds of times as an expert. Her
17 testimony is absolutely solid, and I don't think anyone is
18 going to dispute that her findings are that it was crack
19 cocaine. I don't really think that's a question here.
20 Without a doubt, it's crack cocaine.

21 And you see in her report, Item 1, which is State's
22 Eight, determined to contain crack -- cocaine base, also
23 known as crack, weighing .18 grams.

24 So, question number two, was this Jarvis Hughes? Yes,
25 it's Jarvis Hughes. Doss knew him as Pootie. Even though

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1 Doss didn't know his real legal name, he knew him as
2 Pootie, and that man is Jarvis Hughes. Doss had met Hughes
3 in person before, had his phone number. He had been face-
4 to-face with him one time before. He was face-to-face with
5 him that day. You know, he's right there with him in the
6 hotel room. He was with him a couple days earlier, and
7 knew how to get in touch with him.

8 And Doss picked Hughes out of a photo lineup. He
9 picked the man out that he knew to be as Pootie, but that
10 man is Jarvis Hughes, the defendant in this case. Doss was
11 not shown the video, State's Two, prior to seeing the
12 lineup, and he was not influenced by anyone in the Drug Unit
13 or law enforcement. So, his selection from that photo
14 lineup, State's Number Three, was from his firsthand

15 experience, no one's hand. When he picked Number Five, the
16 man he knew as Pootie, that sold him crack on June 12th,
17 that's Jarvis Hughes. That's the man who sold him crack.

18 And there's a picture of the lineup. I don't know
19 that you all have seen that yet, but that's State's Number
20 Three, and a little bit closer look at Hughes. You're
21 gonna have that lineup to compare. That is a known
22 photograph of Jarvis Hughes. You'll have that lineup to
23 confuse to the man you see right there in the courtroom,
24 and to the video you see, and to the stills you see,
25 State's Number Four through Seven.

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1 So, here are some of those stills. This is State's
2 Number Four, State's Number Five, State's Number Six, and
3 State's Number Seven. They are printed out for you to
4 consider in your deliberations. Look at 'em side-by-side,
5 with that Photo Number Five from the lineup. That is,
6 without a doubt, the same man. Compare each one of those
7 pictures, you'll see for yourself. And Hughes said
8 himself, he goes by the name Pootie.

9 (STATE'S EXHIBIT NUMBER TWO CONTINUES TO BE PUBLISHED
10 TO THE JURY.)

11 SOLICITOR SHELTON: And remember the in-court
12 identification, Doss pointed Hughes out in the courtroom as
13 the man he knew as Pootie, the man who sold him crack on
14 June 12th, 2015. And you can see for yourself, that's the
15 same man that's in these State's exhibits. The video
16 confirms that Doss told the truth.

17 Now, the Defense, I'm sure, will argue that you can't
18 believe a word that Doss said. Remember, I told you in
19 opening statements, Doss is who he is. He's a crack
20 addict, and he has a criminal history. He has a history
21 for crimes of dishonesty. He has lied to Investigator
22 Harrelson. He lied to him in this investigation about
23 being clean. These are all actions of an addict, but
24 there's nothing in the evidence that's been presented to
25 you that undermines the credibility of his testimony

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1 regarding the central question here, that he bought
2 cocaine, crack cocaine, from Jarvis Hughes, on June 12th,
3 2015.

4 He may be a flawed human, but he did not sit up there
5 and make any excuses for himself. He did not lie about his
6 past. He was honest with you. I ask you to take that into
7 consideration. The Drug Unit can't send a school teacher
8 to buy crack. They have to use people like Derrick Doss to
9 buy crack cocaine. School teachers wouldn't even know how
10 to ask for it, so they have to use crack addicts, people
11 with criminal histories, to buy.

12 One of the major reasons that they use this
13 surveillance equipment is so you don't -- you, a jury,
14 don't have to one hundred percent believe what they're
15 saying. You have the evidence for yourself, to see for
16 yourself, the evidence that exists in this case. Would it
17 be wonderful if we had a better video? Certainly, it
18 would. But we don't. You can still see from the evidence
19 presented, exactly what took place that day, and that was
20 the distribution of crack cocaine.

21 The Defense may argue to you that Derrick Doss would
22 say or do anything for Sixty dollars. He'd steal for it.
23 He'd lie for it. He'd become a CI for it. And he'll say
24 anything in court if he thinks it will help him out of his
25 charges. Well, folks, why would Doss lie? He was a paid

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1 informant. He was not working off charges. He was given
2 Sixty dollars after the buy. He's already been paid. He
3 was paid that day. What's in it for him to come in here
4 and lie in this courtroom? No promises or threats were
5 made to him in any way, shape, or form, regarding any of
6 his charges that were pending at the time, any charges that
7 may have come afterwards, or his probation violation. This
8 was purely a paid informant.

9 Let me ask you this question. Think about this when
10 you're assessing Mr. Doss' credibility. If, somehow, even
11 for a moment, you believe the Defense's argument that Doss
12 had drugs hidden somewhere else, and this agent over here,
13 who has been a Drug Unit agent for six years, in law
14 enforcement for nine years, who has done searches on CI's
15 two or three times a day for the last six years, working
16 forty-hour weeks, think how many people he's searched. If
17 Derrick Doss could pull one over on him and have this piece
18 of -- if, somehow, you believe that Derrick Doss had that
19 hidden on him somewhere, that Harrelson couldn't find it, I
20 want you to think about this. Why is it not baking soda?
21 Why is it not talcum powder? Why did it test positive as
22 crack cocaine?

23 Doss paid Fifty dollars for this. He got paid Sixty
24 dollars to do the buy. He's going to make ten bucks off
25 this whole thing? What's the point? Why would he waste

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1 his time and make Ten dollars? He's gonna get paid Sixty
2 dollars whether the drugs are real or fake. So, if he
3 really planted it why wouldn't he have planted fake drugs?

4 It's because he didn't plant it. He bought it from Jarvis
5 Hughes, who was selling crack.

6 He would have been paid whether the deal went through
7 or not. He could have just blown it off. Again, what's in
8 it for him? And when he got in trouble again for violating
9 his probation -- that's why he's wearing an orange
10 jumpsuit, and why he's wearing handcuffs -- he's not
11 denying that. He was on probation, and he violated his
12 probation, and he will have his day in court for that.
13 That day hasn't happened yet, but he will have his day in
14 court for that.

15 He testified to you that he asked the State to help
16 him with the probation violation, and he was told
17 unequivocally, no. He still testifies. Why? Because he's
18 up there telling you the truth. He's not being paid to
19 testify, and it's all on video. Why is he going to lie if
20 it's all recorded and documented? He'd get caught up in
21 that lie. Sure, there are some discrepancies in his
22 statement six -- six weeks later, but the video clears that
23 up.

24 That day, he was confused. Was it Room 223 or Room
25 225? He wasn't looking at room numbers. He goes back, I'm

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1 sure it's 225. It was 223, and I'll show you how we know
2 that, based on the video. So, the discrepancies that may
3 be there, there's the room number, and the money on the bed
4 or hand-to-hand. The video clears that up. So, don't hold
5 that against him. He didn't even prepare that statement.
6 He did make -- he did make the comment on the video, but he
7 didn't prepare the statement. But regardless, the video
8 shows you. It clears up any questions you may have on what
9 exactly did occur with those little details that don't
10 outshine the big picture but they are relevant.

11 So, how do we know it's Room 223? I want you to pay
12 attention to this. This is the room where the drug deal
13 had just happened. Okay? This is Room 223. You can't see
14 the room number on this video, but I'm going to show you
15 what room number you can see. Go ahead and play it.

16 (STATE'S EXHIBIT PUBLISHED TO THE JURY AT 04:10 PM.)

17 SOLICITOR SHELTON: One door, two door, three door.
18 Got that? Room 225 is the third door on his way back.
19 Look at it for yourself, Room 225. You can pause it.
20 There's a time stamp for you to pause it. Remember 3:11:26
21 on the video time. And Harrelson told you that's not the
22 ex -- that's not the real time, because this was on June
23 12th but this is a marker for the video, so we know that
24 it's actually accumulating time, that it is a live video.
25 3:11:26, if you want to pause it there and see for yourself

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1 you can.

2 So, it was Room 223, and Doss, in his statement, says
3 it was. He got confused that night. He wasn't looking for

4 a room number. Hughes didn't tell him what room number to
5 come to. He's walking him in. He's only telling him where
6 to go once he agrees to smoke some this -- smoke some of
7 the crack. Doss is a user who knew who to buy from, knew
8 how much to pay for it. That's his purpose of working with
9 the Drug Unit. The phone calls, they use drug slang,
10 talked about money and price, a fifty. Doss asks Hughes if
11 he could get more for his Fifty dollars; Hughes told him
12 no. Doss gave the buy money to Hughes on the video. Doss
13 picked up the crack and put it in plastic in his hat,
14 ninety-second deal. Didn't need to be longer. The deal

15 already set. Drugs ready for pickup. Very little
16 conversation, except about money and crack. What else do
17 they need to talk about? The deal was already made.

18 Before the deal, Doss had Fifty dollars from the Drug
19 Unit, no drugs. After the deal, Doss had a rock of crack
20 cocaine and no money. Yes, this is Jarvis Hughes. Doss
21 told you it was Hughes. He had met him before, and he knew
22 him as Pootie. He knew his phone number. He picked him
23 out of the photo lineup, without having seen the video,
24 without anyone influencing him. And the lineup and the
25 stills and the man in this courtroom, who looks a little

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BY MS. INZERILLO

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1 bit different now, he's got some facial hair, you can see
2 it's the same man. This was 6/12/2015 that the buy
3 occurred. That man in the video and in the photo lineup,
4 the same features, the same facial shape, the same haircut.
5 It's the same person, and that's Jarvis Tyrone Hughes.
6 It's the same guy that's in the courtroom. Yes, it's a
7 drug deal. Yes, it's Hughes. Yes, Hughes is guilty.

8 Ladies and gentlemen, I thank you for your time. I
9 ask you, during your deliberations, to keep the big picture
10 in mind. Think about what's in it for -- for Derrick Doss.
11 What would he have to -- why would he have to lie? Think
12 about all the evidence that you've seen, and render a
13 verdict that speaks the truth, and that's guilty as
14 charged.

15 THE COURT: Ms. Inzerillo?

16 MS. INZERILLO: May it please the Court, your Honor?

17 THE COURT: Yes, ma'am.

18 CLOSING STATEMENT BY MS. INZERILLO:

19 MS. INZERILLO: There were a lot of comments made
20 about what I'm going to do, what I'm going to argue; the
21 holes I'm going to poke in the State's case. And so, I
22 kind of want to start out this afternoon by reminding you,
23 Jarvis Hughes is presumed innocent of this charge. The
24 judge will tell you in his charges that, as of right now,
25 as of 4:20 in the afternoon, Jarvis Hughes is presumed

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1 innocent.

2 In fact, he wears that presumption of innocence like a
3 robe about his shoulders. I love that. That's probably my
4 favorite part of this charge. I think that language is--
5 beautiful. Sitting in this room, right now, like a robe
6 about his shoulders, Jarvis Hughes is innocent. It is not
7 my job to poke holes in the State's case. It is the
8 State's job to remove that robe of innocence.

9 Ladies and gentlemen, that's why they present a case.
10 That's why the burden is on them, and the witnesses have to
11 file before you and take the stand, and give testimony.
12 That's why, throughout the course of the day, he
13 painstakingly entered a whole bunch of things into
14 evidence. That's probably why we're guilty on both sides,
15 we may have bored you a little bit by repeating the same
16 things. The burden is on the State to take that robe of
17 innocence off of Jarvis Hughes, and ladies and gentlemen,
18 they can't do it.

19 As I told you this morning in my opening, a controlled
20 buy is not really a magic trick. It's a standard thing
21 that the Drug Unit does, and it's kind of a two-piece
22 dance. The officers try to control what they can control,
23 so they try to put a wire on them, pat people down, see
24 what they can find. But they know they're dealing with
25 people who aren't the most trustworthy of people. But

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1 then, they're done. For the meat of the sandwich, they're
2 done. It is the confidential informant, the paid informant
3 in this case, that does all the heavy lifting. He goes
4 into the room; he interacts with the person without
5 officers. And I'm sure I've bored you to death with that
6 today, but it's an important distinction, because there's a
7 lot of excuses that are made for Derrick Doss. There's a
8 lot of words like misunderstanding and he got that wrong.

9 In so many words, ladies and gentlemen, he is the
10 eyewitness to the crime. Not the officers, not the
11 chemist, not the guy who holds onto the evidence. It is
12 Derrick Doss. Derrick Doss is the only person who can come
13 into this room, who could swear on a Bible, that Jarvis
14 Hughes was the person that sold him drugs that day. He's
15 the only one. He was the only one in the room. And we
16 heard about a million reasons why you can't believe Derrick
17 Doss. We heard he got a ten-year record. He's got a lot
18 of history of stealing, being untruthful. We heard, in the
19 course of this tape, he's lying to his handler. He's lying
20 to the officers on tape. We also heard that he, in
21 general, lied to them. Led them to believe that he wasn't
22 using when he was. Depending on who you believe, either he
23 had told Officer Harrelson that he had picked up new
24 charges, or, Officer Harrelson didn't know. I'm still
25 unclear as to what happened with that.

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1 He lies all the time.. He lied all the way through the
2 video.. Even Officer Harrelson had to, at several points,
3 say, I didn't know that. I didn't realize at the time he
4 was still using. The officers of the Drug Unit go the
5 additional step of essentially creating a contract with
6 people like Derrick Doss. So, there's no question what
7 they have to do. Derrick Doss knew that and he violated
8 that every time. He admitted that he violated it, I
9 believe, and you substitute your recollection if mine is
10 wrong, even Harrelson admitted it. No, I think he broke
11 that rule, too. We have a million and one reasons not to
12 believe Derrick Doss, and not one has been presented as to
13 why we should. Not one.

14 A lot of talk has been made about this video, so let's
15 talk about the video for a moment. What Officer Harrelson
16 knew is what all of you and all of us know from this video.
17 That's his frame of reference. He's not in the room. He
18 doesn't have any additional information than what you see
19 there. So, if you were just to watch that video, and said
20 -- and was asked to describe the person in that video, I
21 would submit to you that you can't do it. I would submit
22 that you can't, even if you still-shotted it, crop it, look
23 at that video and tell the height, the weight of the
24 person. I think one of the still shots that was shown to
25 you in closing and put into evidence, the person's eyes are

CLOSING STATEMENT: BY MS. INZERILLO

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1 closed. There's not one clean shot of the person.

2 At the time that the buy was done, the only thing that
3 Derrick Doss could say is, I just know him as Pootie. And
4 you hear, man, what do they call you? Pootie. I made a
5 big deal about what's in the statement, and you'll hear the
6 judge charge you about inconsistent statements. What was
7 said before, and what was said now. That's important,
8 because the only eyewitness to the crime gave two
9 inconsistent statements about material facts in this case.
10 If you believe what you hear on the video or what's being
11 presented to -- through the video, Derrick Doss walks in,
12 gives him a hand-to-hand with money, picks up money off of
13 a table, and then walks out to go. Those are all very
14 important facts if you're an officer. Where are the drugs?

15 Where is the money? Two major components of a drug deal.

16 Six weeks later, when he has to give a statement, he
17 bungles all that up. The money is now given in a different
18 way. It's thrown on the bed. The drugs are now found on
19 another piece of furniture in the room. And you heard Mr.
20 Doss, well, you know, it's sort of a dresser TV cabinet,
21 when he realized there was an issue. The reason I will
22 tell you this is important, ladies and gentlemen, is
23 because if I tell you, ladies and gentlemen, this is what
24 happened. Look at this video and see if you see him walk
25 into a room, put the money on the bed, and look for the

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1 drugs on the dresser. That's your frame of reference.

2 If he changes that and says, actually, no, I handed
3 him the money, and the drugs were over here on the TV
4 stand, completely something different. That would adjust
5 what you're looking for in the room. That would adjust
6 what you're looking for in the video. Those are very
7 material differences. They seem small, but very material
8 differences. And you've heard me hound on and on and on
9 about the room number, 223, 225. This wasn't a simple
10 mistake. This wasn't a, yeah, I don't feel like walking
11 back around to the back of the Bestway, so I'm just going
12 to guess it's 225 or 223. You heard Investigator Harrelson
13 say, yeah, he went back and double-checked, thought it was
14 223. Mr. Doss, the paid informant, goes back around, and
15 at least pretends to look. Hundred and ten percent sure
16 it's 225. A hundred and ten percent sure it was 225.

17 Now, the State mentioned a lot of, well, why would he
18 do this; why would he take the money; why would he lie? I
19 don't know. He's still using. I don't know the answer to
20 that question, and I don't know the answer to that
21 question, because Mr. Doss now is up front about things
22 that they didn't know at the time, that he was using.
23 Maybe just as plausible of an answer as he said Room 225,
24 because he intended to go back to whoever Pootie is and get
25 some more drugs. He didn't want to burn his connection.

CLOSING STATEMENT: BY MS. INZERILLO

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1 Officer Harrelson wouldn't have known that. He wouldn't
2 have known to follow up with Mr. Doss, because Mr. Doss
3 made sure Mr. Harrelson was left out of that loop.

4 Like I indicated to you, there's about a million
5 reasons why you can't believe Mr. Doss. He is the key
6 component to this. There's a lot of talk being made about
7 they searched down, they sent him in. He goes in with
8 money, he comes out with drugs. So, let's look at that.
9 Mr. Doss admitted on the stand, I'm a user, I've been using
10 for years, and I know that it's illegal to possess drugs.
11 I know all the ways to hide drugs. All the times that he's
12 been using drugs maybe Officer Harrelson didn't know about,
13 you think he walks out with them in his hand, going, hey,
14 you all, got my drugs see y'all later? No. He knows where
15 to hide them.

16 This is a man who knows how to manipulate the system.
17 He was manipulating Officer Harrelson. He's got a history
18 of manipulation, and it's not too far to say that he would
19 manipulate this situation. He knows where the cameras are
20 shooting. He knows what they can hear. He knows that they
21 are essentially in a tin can, and the only thing they can
22 hear and see is what he wants them to hear or see. And I'm
23 not going to play this video for you again, because
24 personally, I get a little seasick watching it, but if you
25 do watch it, pay attention to a couple of things.

CLOSING STATEMENT: BY MS. INZERILLO

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1 Mr. Doss walks into the room. At one point, knowing
2 where the camera is, at the point when the State says he
3 was pointing to where the drugs are, he sits down and the
4 screen goes black. Now, this is a man who knows exactly
5 where to put that camera. You see him, after that, move
6 the camera, set it down. The screen goes black. When he
7 moves it and he sets it down, he steps off-camera. You
8 don't see what he's doing.

9 The video, ladies and gentlemen, is not the be all and
10 end all. It is not the reason Derrick Doss should be
11 believed, because there's nothing in that video that
12 corroborates whichever version of events on this day that
13 you wish to believe. Wherever the money was, however any
14 drugs were moved back and forth, whichever one. There's
15 nothing on that video that corroborates that.

16 The officers in this case, their job is to
17 investigate. That is their role. They are not the
18 informant. They are not the one -- they're not the
19 eyewitness to the crime. So, what do we know about the
20 investigation in this case? Presumably, and I think I
21 gleaned this from the conversation, Officer Harrelson had
22 an idea; Derrick Doss is not a Boy Scout. Probably from
23 his record, I think Officer King talked about, yeah, we
24 kind of vet CI's. We look into them, see if it's someone
25 we want to work with. So, you know this. You know there's

CLOSING STATEMENT: BY MS. INZERILLO

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1 a person who has a long history of stealing, getting money
2 under false pretenses, that kind of thing, and you send
3 them into a room, and you don't see what happens. He comes
4 out, and what investigation is done after that? Are you
5 going to take the man's word? A man with a long history of
6 not being truthful, you're just going to take his word.

7 So, what do you do? Six weeks after June 12th, Mr.
8 Doss is shown a lineup. He picks a picture out of the
9 lineup. Now, you heard Mr. Doss' testimony that he had
10 only seen the person twice before. It had been in June.
11 He had done whatever phone conversations on this date and
12 one phone conversation that is not tracked or recorded. We
13 don't know what was said in that conversation. We don't
14 know if they discussed whatever fifty could be. Maybe
15 fifty to him was crack and something else. We don't know
16 what was decided. What you hear on this is fifty.

17 He picks someone out of the lineup. A lineup, ladies
18 and gentlemen, is not the be all and end all. It is a
19 tool, an investigative tool. So, we know we're dealing
20 with someone who has a history of not being truthful; at
21 least, depending on who you believe, someone you know
22 that's still getting involved in the law, breaking the law.
23 And no one checks to see whether picture number five could
24 be in the room. I believe we heard testimony that he had a
25 number, a cell phone number. I think it was from like 704,

CLOSING STATEMENT: BY MS. INZERILLO

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1 or something like that. Mr. Doss' phone, it was never
2 screen-shotted. It was never down -- dumped, downloaded,
3 that kind of thing. But if they had a number, they can run
4 the number. Maybe picture number five's number was instead
5 a 704 number. They had a room number. That day, Mr.
6 Harrelson did admit, yes, I went back to double-check the
7 room number. Maybe picture number five wasn't in the room.
8 Maybe he wasn't in either room. No one went back to
9 double-check the word of this untrustworthy person.

10 The statement that he gives two weeks later, that he
11 says he was relying on recollection, they didn't show him
12 the video, he's relying on something that happened pretty
13 much about two months earlier. Gets major details wrong.
14 Interestingly enough, the one detail that is okay is that
15 it was 223 and not 225. But I'm not exactly sure, based on
16 the testimony, whether Mr. Doss, all that information came
17 straight from his lips and he got mixed up, or Officer
18 Harrelson typed it in that way, and Mr. Doss signed it.
19 Either way, no corrections, but items that, interestingly
20 enough, at least match up to the little bit of
21 investigation that was done.

22 When they went back and tried to corroborate that
23 statement, let me check the video and see if that's what
24 happened. Hum. Didn't match. Do you consider that
25 investigation? I would. Let's double-check this guy's

CLOSING STATEMENT: BY MS. INZERILLO

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1 word.

2 Now, ladies and gentlemen, it has been about a year,
3 almost to the month and the day, this allegedly happened.

4 And Mr. Doss took the stand and was so sure, a year later,
5 of all the events, exactly what happened, that Jarvis
6 Hughes was picture number five, and that Jarvis Hughes was
7 Pootie. He was sure of that. Yet six weeks later, six
8 weeks after June 12th, he -- or two months, I should say,
9 he got major items wrong, major descriptions wrong. Got
10 the wrong room number. I don't want Mr. Doss in jail.
11 He's got legal issues. And maybe he's being told, I'm not
12 going to help you, I'm not going to get you out of trouble
13 this time. But I'm sure Mr. Doss doesn't want anything to
14 get worse. You've heard the charges for which he was on
15 probation he picked up at the time he was working for the
16 DEU. Mr. Doss still, in my view, is taking the stand not
17 for money, not because maybe he believes that he's not
18 going to get any help but because he sure as heck doesn't
19 want it to get any worse.

20 He told you his agent told him, well, I'm hoping to
21 get re-instated, put back out on probation. That's what he
22 wanted. He doesn't want to stay in jail. He doesn't want
23 to make this situation any worse, because ladies and
24 gentlemen, today, in this courtroom, on June 21st, it is an
25 extenuation of whatever events happened on June 12th, 2015.

CLOSING STATEMENT: BY MS. INZERILLO

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1 And there's a continuation through the events that
2 precipitated him being put on probation. You cannot take
3 one from the other, and I would imagine, from Mr. Doss'
4 perspective, there is a hope, a hope, if you can't help
5 him, at least don't hurt him.

6 And in any of our lives, that is a strong motivation,
7 and it's a human one. Just don't hurt me any worse than
8 I'm already hurt. Let this work out the way that I want it
9 to work out. So, there may have been a lot of talk about,
10 no, I'm was sternly told I wasn't promised anything. I was
11 sternly told I wasn't getting any help with anything, but
12 there is, in the faintest bit in his heart, a hope that, at
13 least it doesn't get worse, and that is motivation.

14 This is the same man who signs a statement that's
15 placed in front of him, riddled with inconsistencies, and
16 he signs it without making any changes. This is a man who
17 comes into court and falls on his sword for that statement,
18 even though it was drafted by an officer. This is a man
19 who, still hopes it won't be that.

20 As I indicated to you, there's two parts. The
21 investigation doesn't corroborate what Mr. Doss wants you
22 to believe. No other bit of information was brought before
23 you that independently puts Mr. Hughes in that room. You
24 heard when Mr. -- when Patrick, the evidence guy, took the
25 stand, these -- these drugs were never tested for DNA or

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1 fingerprints. There was no followup. Can you link Mr.
2 Hughes to the room, can you link him to the phone number?
3 Can we find some way to link Mr. Hughes to this case in a
4 way that doesn't rely on this shaky video and the word of a
5 thief, and it wasn't done.

6 And so, I remind you, ladies and gentlemen, it is not
7 my job to poke holes in the State's case. It is their job
8 to take that robe of innocence off of Mr. Hughes, because
9 right now, he wears it. Every bit of evidence they
10 present, they hope, will remove it. But I would argue to
11 you, ladies and gentlemen, that it has not, and that is the
12 crux of reasonable doubt. That is what reasonable doubt
13 is. You hear it described in a lot of different ways. For
14 the guys, and I apologize for the sports analogy, it's
15 horrible, but it's trying to get a touchdown and getting to
16 the two-yard line. It's, you know, trying to kick a field
17 goal and falling short. You hear of this kind of stuff,
18 hitting the -- back when we were younger, and you could
19 kind of hit the bell and it would go up and ding, doesn't
20 go all the way up and down. There's a lot of analogies.
21 That's reasonable doubt. That's reasonable doubt. It is
22 the doubt that makes you, in your gut, think, no, I don't
23 think they did it. I don't think that they removed that
24 robe from Mr. Hughes' shoulders.

25 And a big part of that is credibility, and the Judge

CLOSING ARGUMENT: BY MS. INZERILLO
CHARGE TO THE JURY:

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1 will tell you it's credibility. The only eyewitness in
2 this case is someone who cannot be believed. Someone that,
3 if he spun you a tale, would you not think, hum, I don't
4 know about that. Let me check and see if that's right.
5 And if that's true, with nothing else to corroborate it, it
6 is insufficient, and I would ask you, members of the jury
7 to find Mr. Hughes not guilty. Thank you.

8 CHARGE TO THE JURY:

9 THE COURT: All right. Members of the jury panel, I
10 appreciate the attention you've given to me, the attorneys
11 and the witnesses in this case. I'm now going to charge
12 you the law that you are to apply to the facts as you
13 determine them to be. With you, in the jury room, you will
14 have the indictment. This is the charging paper, the
15 document by which this case is processed through our court
16 system. It is not evidence. It contains the charge the
17 State has made against Mr. Hughes, but it is not evidence.

18 Madam Forelady, it also is where you will enroll the
19 unanimous jury verdict, and I'll tell you more about that
20 in a few moments. The fact that Mr. Hughes is on trial,
21 the fact that he was arrested, the fact that he is charged,
22 the fact that he's here on trial is not evidence in this
23 case, and is not to be considered by you as any evidence of
24 his guilt. That's just the way our system works. When
25 someone is thought to have committed an offense, they are

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1 arrested, charged, indicted, and come to trial.

2 Mr. Hughes, like anyone charged with any offense in
3 our system, is presumed innocent of this indictment, of
4 this charge. He has so pled, and by pleading this not
5 guilty, he places on the State the burden of proving his
6 guilt beyond a reasonable doubt. In South Carolina, no one
7 charged with any offense is required to prove themselves
8 innocent. The presumption of innocence is an important
9 rule of law. It's not a mere legal phrase. It is an
10 important rule of law anyone charged with any offense in
11 our system will be presumed innocent, until such time as
12 the State has satisfied you of that person's guilt beyond a
13 reasonable doubt. This presumption of innocence attaches
14 to an individual at the time of their arrest, and remains
15 with them until a trial jury, here that would be you, of
16 course, is convinced of his guilt beyond a reasonable
17 doubt. The presumption of innocence in Mr. Hughes' favor
18 remains as I speak. It remains with him as you deliberate.
19 The presumption of innocence in his favor is removed if,
20 and only if and when, you determine that the State has
21 proven his guilt beyond a reasonable doubt.

22 The presumption of innocence has been described as
23 being a robe -- like a robe of righteousness placed around
24 the shoulders of an individual charged with an offense.
25 And that robe remains on that individual until it is

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1 stripped from them by evidence that the State has presented
2 that convinces the jury beyond a reasonable doubt of that
3 person's guilt.

4 What is reasonable doubt? Our court have defined a
5 reasonable doubt as the kind of doubt that would cause a
6 reasonable person to hesitate to act. There are very few
7 things in our world that we can know with absolute
8 certainty, and that is not required in a case such as this.
9 If, based on your consideration of the evidence, you are
10 firmly convinced of Mr. Hughes' guilt of this charge, you
11 would find him guilty. If, on the other hand, you think
12 there's a real possibility that Mr. Hughes is not guilty of
13 this offense, you would give him the benefit of that doubt,
14 and find him not guilty. He is entitled to the benefit of
15 any reasonable doubt you have as to any issue in this case.

16 I remind you that I have the duty to charge you the
17 law that you are to apply to the facts in this case, and
18 it's up to you to do so, whether you think I charge the law
19 in error, or whether you think the law should be different.
20 Your oath requires you to take, accept, and apply the law
21 as I charge it. You are not to infer from anything I say
22 or do or have said or done during this trial as indicating
23 an opinion of mine on the facts. As I told you this
24 morning, our law does not allow a trial judge to formulate
25 or express to a jury any opinion on the facts. It is

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1 solely your job, it is solely up to you to examine the
2 evidence, and to give to the evidence the effect, the
3 value, the weight, and the truth you believe it should
4 have.

5 In doing this, you may believe one witness, as opposed
6 to several; several witnesses, as opposed to one. You may
7 believe all, part, or none of the witness's testimony. In
8 analyzing the evidence, use your common sense, your sense
9 of logic, your sense of reason. Use your experiences in
10 life. As judges of the facts, you necessarily must judge
11 the credibility, that is, the believability of the
12 witnesses who have testified.

13 In assessing believability, use the things that I just
14 talked to you about. Use the things that you, in your day-
15 to-day life, find as being indicators of truthfulness in
16 individuals, and you can use certain evaluators. How a
17 witness acts on the stand; their demeanor; are they
18 hesitant or straightforward? Look at consistencies or
19 inconsistencies in their testimony. Consider the
20 opportunity a witness had to know those things about which
21 the witness testified.

22 Look at any bias or prejudice the witness may have.
23 That is, whether a witness wished to help or hurt one side
24 or the other. And you can look at the criminal record of a
25 witness if a witness has a criminal record. The testimony

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1 of a witness may be discredited or impeached by showing
2 that that witness previously made a statement which was
3 inconsistent with their present testimony.

4 The earlier contradictory statements are also
5 admissible to establish the truth of these statements. It
6 is your providence to determine the credibility, if any, to
7 be, given the earlier statements of an individual, or given
8 the testimony, or the statement as given at trial, as
9 impeached by cross-examination. If a witness is shown
10 knowingly to have testified falsely concerning any material
11 matter, you may consider this in determining whether to
12 trust that witness's testimony and other particulars also.
13 You may reject all the testimony of the witness, or give
14 all or part of such testimony the credibility you think it
15 deserves.

16 Generally, our rules of evidence do not permit an
17 individual to express an opinion about the facts.
18 Generally, one testifies about something they've seen or
19 heard. The testimony of witnesses is usually restricted to
20 something they have sensed with one of their five senses.
21 As I have said, it's usually something they've seen or
22 heard, but it could be taste, touch, or smell. However,
23 where an individual has certain experience, training,
24 knowledge, and education in a certain area, that person can
25 be qualified as an expert, and take facts, and from those

CHARGE TO THE JURY:

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1 facts render an opinion. That's what Ms. Mitchum did. She
2 was qualified as an expert by me, but, in your
3 consideration of her testimony, you determine whether you
4 believe she was qualified to give the opinions she reached.
5 And you also in determining whether to consider how much
6 weight to give her opinions of facts you consider the
7 reason she reached the opinion she reached.

8 The testimony of experts such as Ms. Mitchum is
9 allowed into evidence to assist you. It is not binding on
10 you. You may accept it or reject it, in whole or in part.
11 She, like any other witness, is a witness, and you give her
12 the same analysis that you give any witness. And in
13 addition, as I said, look at her qualifications, and decide
14 whether she was qualified; and also, look at the decision
15 she reached to determine whether you depend on that, in
16 whole or in part.

17 In cases such as this, there are generally two types
18 of evidence presented, direct and circumstantial evidence.
19 Direct evidence is evidence which directly proves a fact,
20 and does not require deduction. Circumstantial evidence is
21 proof of a chain of facts and circumstances which indicate
22 the existence of a fact. Crimes may be proven by
23 circumstantial evidence, direct evidence, or a combination
24 of the two. Our law makes no distinction between the
25 weight or value to be given to either direct or

CHARGE TO THE JURY:

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1 circumstantial evidence.

2 However, to the extent the State relies on
3 circumstantial evidence, all the circumstances must be
4 consistent with each other, and when taken together, point
5 conclusively to the accused beyond a reasonable -- the
6 guilt of the accused beyond a reasonable doubt. If such
7 circumstances merely portray a defendant's behavior as
8 suspicious, the State's proof has failed. The State has
9 the burden of proving an individual's guilt beyond a
10 reasonable doubt. This burden rests on the State, whether
11 the State relies on direct, circumstantial, or a
12 combination of those two types of evidence.

13 In this case, Mr. Hughes has exercised his
14 constitutional right to remain silent. The fact that he
15 has done so cannot be used against him in any way
16 whatsoever. Any individual charged with an offense in our
17 system, judicial system, has an absolute right to remain
18 silent. As I've told you, Mr. Hughes does not have to
19 prove his innocence. The State must prove his guilt beyond
20 a reasonable doubt. The fact that he exercised his right
21 to remain silent cannot be discussed by you in the jury
22 room, nor can it be factored into your own deliberation.

23 The fact that Mr. Hughes exercised his right to remain
24 silent cannot mitigate against him in any way whatsoever.
25 Keep in mind, he is presumed innocent. The State must

CHARGE TO THE JURY:

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1 prove his guilt beyond a reasonable doubt.

2 An issue in this case is the identification of Mr.
3 Hughes as the person who committed the crime with which he
4 is charged. The State has the burden of proving identity
5 beyond a reasonable doubt. You must be satisfied beyond a
6 reasonable doubt of the accuracy of the identification of
7 Mr. Hughes before you may convict him. Identification
8 testimony is an expression, or belief, or an impression by
9 a witness. You must determine the accuracy of a -- an
10 identification of Mr. Hughes by a witness. You must
11 consider the believability of an identification witness in
12 the same way as you look at those -- the testimony of any
13 witness in this case. You may consider whether the witness
14 who testifies as to the identity had an adequate
15 opportunity to observe the defendant at the time of the
16 offense. And this will be affected by such things as how
17 long or short a time was during which the incident
18 occurred; how far or close the witness was; the lighting
19 conditions, and whether the witness had a chance to see or
20 know the individual in the past.

21 I instruct you that the burden of proof extends to the
22 State on every element of this offense, including and
23 specifically including the burden to prove beyond a
24 reasonable doubt, the identity of Mr. Hughes as the person
25 allegedly who committed this offense.

CHARGE TO THE JURY:

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1 Now, distribution of crack cocaine is a statutory
2 offense. That is, it's an offense that was enacted by our
3 legislature, and made into the laws of our state. And it's
4 very -- the charge is very simple but the State must prove
5 beyond a reasonable doubt is that Mr. Hughes distributed
6 crack cocaine. That, of course, means the State must prove
7 that the substance at issue was, in fact, crack cocaine.
8 It also means that the State must prove that Mr. Hughes
9 distributed crack cocaine.

10 To distribute means to deliver, or to actually,
11 constructively, or attempt to transfer a substance; here,
12 the crack cocaine. A transfer may involve an exchange for
13 money, but there does not have to be anything given in
14 exchange for drugs for -- of those drugs to constitute
15 distribution. Again, the State must prove those two
16 elements: that it was crack cocaine, and that it was
17 distributed; of course, the identity and the other things
18 I've talked about beyond a reasonable doubt, before you
19 could convict Mr. Hughes of this charge.

20 There are two possible verdicts in this case, and
21 Madam Forelady, on the back of the verdict form --
22 indictment, you will see the word in the bottom-left,
23 verdict. There's four lines below that. The bottom line
24 is for you to sign. There's a place for the date. Today
25 is the 21st. On one of three lines above your signature

CHARGE TO THE JURY:

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1 and below the word verdict, you will write the jury's
2 unanimous verdict.

3 If the State has failed to convince the jury of Mr.
4 Hughes' guilt beyond a reasonable doubt, you would write
5 two words, not guilty. On the other hand, if the jury
6 finds that the State has proven Mr. Hughes' guilt beyond a
7 reasonable doubt, you will write the one word, guilty.

8 Now, when you go into the jury room in just a moment,
9 do not start deliberating, because I have to go over my
10 charge with the attorneys. If I have made an error, I'll
11 have to bring you back in and correct it. If not, we will
12 send in the indictment and the exhibits, and a computer for
13 you to play the video and at that time, the bailiff will
14 tell you to start deliberating. But do not do that, do not
15 start deliberating until that time.

16 If, while you're deliberating, Madam Forelady, the
17 jury has any questions, please write them on a piece of
18 paper, of course. Send that out by way of the jury -- by
19 way of the bailiff, the bailiff will bring that note to me.
20 We're not going to be starting another trial, so I should
21 be able to gather the attorneys; because I have to go over
22 any questions you ask before I respond. If I can write an
23 answer to the note on the note itself, I will do that, send
24 it back. And if I do that, keep the note and turn it in
25 with the evidence, because it has to be part of the record.

CHARGE TO THE JURY:

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1 If I need to re-charge you on the law, or you have
2 some question that needs to be answered by me in the
3 courtroom, I will bring you back and do that, here in open
4 court. If you want testimony replayed, we can do that,
5 also.

6 Your verdict cannot be based on passion, prejudice,
7 sympathy, public opinion, or matters outside the record.
8 When the jury has reached a unanimous verdict, knock on the
9 door and tell the bailiff. The bailiff will come and get
10 me, and as I said, we're not starting any other business
11 this afternoon, so we should be able to send for you
12 promptly.

13 Again, when you first go into the jury room, do not
14 start deliberating until the jury -- until the bailiff
15 tells you to do so. Ms. Hunsinger and Ms. Elliott, since
16 you are the alternates, and we won't need your
17 participation any further, when the jury goes out this
18 time, just -- just keep your seats, and I'll deal with you
19 in just a moment.

20 So I'm going to allow you to leave the courtroom at
21 this time, go to the jury room but don't start deliberating
22 until I signal you to do so, by way of the bailiff.

23 (JURY EXITS COURTROOM TO DELIBERATE AT 04:57 PM.)

24 THE COURT: I'll be with the two of you in just a
25 moment. Anything from the State involving the charge?

1 SOLICITOR SHELTON: No, sir.

2 THE COURT: Anything from Defense?

3 MS. INZERILLO: No, your Honor.

4 THE COURT: All right. Check the indictments and the
5 exhibits, and we'll send them in along with -- does the
6 State have a computer, a clean computer?

7 SOLICITOR SHELTON: Getting it. Getting it, your
8 Honor.

9 THE COURT: You're always getting it. You should have
10 it here.

11 SOLICITOR SHELTON: I know. It's the -- I always
12 forget to bring it in. He's bringing -- he went to get it
13 real quick.

14 THE COURT: It's not like you haven't done this a
15 dozen times.

16 SOLICITOR SHELTON: I know.

17 THE COURT: All right. Send that in, send the
18 exhibits, and let them start deliberating.

19 The two of you, Ms. Huntsinger and Ms. Elliott, if you
20 will call tomorrow at one o'clock or after once o'clock,
21 you will receive your next instruction. It will either be
22 to report or to call back. Thank you for your help.

23 (ALTERNATE JURORS DISMISSED AT 04:58 PM.)

24 THE COURT: All right. We'll be at ease.

25 (COURT AT EASE AT 4:58 PM.)

1 (COURT BACK IN SESSION AT 5:22 PM.)

2 (WHEREUPON, COURT'S EXHIBIT NUMBER THIRTEEN,

3 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.

4 (COURT BACK IN SESSION AT 5:22 PM.)

5 (JASON RAY GRANT PLEA WITH PHIL SMITH.)

6 THE COURT: Counsel, could I see you all?

7 Ms. Inzerillo.

8 (BENCH CONFERENCE OFF THE RECORD AT 05:55 PM.)

9 (WHEREUPON, COURT'S EXHIBIT NUMBER FOURTEEN,
10 IDENTIFIED AND MARKED, RECEIVED INTO THE RECORD.)

11 (COURT BACK IN SESSION AT 06:44 PM.)

12 (WHEREUPON, COURT'S EXHIBIT NUMBER FIFTEEN, IDENTIFIED
13 AND MARKED, RECEIVED INTO THE RECORD.)

14 THE COURT: Thank you, you may take your seats.

15 I'm told we have a verdict. Is the State ready?

16 SOLICITOR SHELTON: Yes, your Honor.

17 THE COURT: Defense ready?

18 MS. INZERILLO: Yes, your Honor.

19 THE COURT: All right. Bring in the jury.

20 (JURY REENTERS COURTROOM AT 6:45 PM.)

21 THE COURT: Madam Forelady, I understand the jury has
22 reached a verdict?

23 MADAM FORELADY: Yes, sir.

24 THE COURT: If you'll hand it to the bailiff, she'll
25 hand it up to me.

VERDICT:

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1 (VERDICT RECEIVED UP BY THE COURT.)

2 MADAM CLERK: In the *State of South Carolina versus*
3 *Jarvis Tyronne Hughes*, with Indictment 2015-GS-46-0-
4 3-4-5-6, for the charge of distribution of crack, we, the
5 jury, find the defendant guilty. Signed by the foreperson
6 this day. If this so be your verdict, so say you all by
7 raising your right hand.

8 Let the record show all affirmed.

9 (ALL JURORS AFFIRMED.)

10 THE COURT: Anything from the State before the jury is
11 dismissed?

12 SOLICITOR SHELTON: No, sir.

13 THE COURT: Anything else from the Defense?

14 MS. INZERILLO: No, your Honor.

15 THE COURT: Members of the jury panel, you can leave
16 and call back tomorrow after one o'clock, and find out
17 about what next to do. I do not require jurors to stay
18 while we go through the sentencing process, but if any of
19 you want to see how that goes, the bailiff will take you
20 around, and we'll make that back two rows available, and
21 you can -- if you like. You don't have to. I'm not going
22 to infringe on your time, but if you want to see the
23 sentencing, the next phase, I'm not to require you to stay
24 but you can come in the back, and the bailiff will help you
25 do that if you'd like. I may see you again this week if

SENTENCING:

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1 you are drawn on another jury, so, call back tomorrow
2 afternoon. Thank you for your help.

3 (JURY DISMISSED AT 06:47 PM.)

4 THE COURT: We'll wait a minute before the sentence.
5 Are there any motions?

6 MS. INZERILLO: Yes, your Honor. At this time, the
7 Defense would move for a new trial, and renew all previous
8 motions and objections.

9 THE COURT: All right. Those motions are denied. As
10 I said it at the directed verdict stage, I felt this was a
11 case, it was a case of identity, a case of credibility, and
12 I thought that you, Ms. Inzerillo, did a good job on
13 attacking the credibility of Mr. Doss. But between his
14 testimony and the video apparently the jury, well obviously
15 the jury, determined that the State had carried it's burden
16 by the greater weight -- by beyond a reasonable doubt,
17 so, those motions are denied.

18 Is this a first offense, second offense?

19 SOLICITOR SHELTON: Your Honor, this is a third.

20 THE COURT: Third offense?

21 SOLICITOR SHELTON: True thirds so it would be
22 mandatory ten to thirty, no parole. And I'll go on the
23 record with the prior convictions. Some of them were
24 already --

25 THE COURT: Let's wait and see if any of the jurors

SENTENCING:

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1 want to come in. I think they are.

2 Mr. Shelton, I'll let you proceed. I understand this
3 is a third, third offense.

4 SOLICITOR SHELTON: It is, your Honor.

5 THE COURT: And I'll let you tell me what other record
6 he has. I know you told me some during the middle of the
7 trial regarding to whether or not Mr. Hughes was going to
8 exercise his right to testify or to remain silent, but I'll
9 ask you to go over his record and anything else that you
10 believe pertinent. And then, of course, I'll hear from Ms.
11 Inzerillo and Mr. Hughes on his own behalf.

12 SOLICITOR SHELTON: Yes, sir, your Honor. In January
13 -- On January 8th, 2012, Mr. Hughes pled guilty to
14 possession of crack cocaine with the intent to distribute,
15 second offense in front of your Honor. He received a ten-
16 year sentence. And I'll make this another Court's exhibit.
17 I have a certified copy here that I've given to Defense
18 already.

19 On April 23rd, 2001, he pled guilty to possession of
20 marijuana, second offense. Received one year suspended on
21 five-years of probation. So, those are two prior drug
22 convictions.

23 And on June 26th of 2000, he was guilty, bench trial,
24 possession of marijuana in York Municipal Court. I'll make
25 that a Court's Exhibit as well. I think that was the

SENTENCING:

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1 underlying conviction for the second on the one I just
2 named.

3 April 23rd, 2001, convicted of possession of a stolen
4 vehicle, felony level, one to five thousand dollars. That
5 was five years suspended on five years probation. That was
6 in conjunction with the marijuana second that I named
7 shortly -- just a little while ago. He was also convicted
8 of, by guilty plea, failure to stop for a blue light, with
9 three years suspended on five years probation.

10 We already have marked as Court's exhibits, Court's
11 Exhibit Number Five is for false information to police in
12 the City of Rock Hill, April of 2015.

13 Court's Exhibit Number Six is petty larceny,
14 disposition dated May 30th of 2013, in York Magistrate
15 Court.

16 March 20, 2013, conviction for -- it's Court's Exhibit
17 Number Seven, for forgery, felony level, value less than
18 ten thousand dollars. Received four years, provided on
19 service of looks like maybe thirty days and one year of
20 probation. It's kind of hard to make out. Your Honor can
21 look at that, but it looks like it was a visiting judge.
22 On the same day, he pled to a separate count with a
23 different incident date, forgery, value less than ten
24 thousand dollars, receiving a concurrent sentence.

25 February 26th of 2014, he pled guilty to distribution

SENTENCING:

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1 of an imitation controlled substance. He was sentenced to
2 time served. He served approximately four and a half
3 months according to the judge's note on this sentencing
4 sheet.

5 And most recently, Court's Exhibit Ten and Eleven, he
6 was convicted in Union County, North Carolina, it appears,
7 for a 2014 incident. This is Court's Exhibits Ten and
8 Eleven. I believe these incidents -- these charges were
9 pending at the time this buy occurred. He was later
10 adjudicated on that, prior to subsequent distributions that
11 are currently under indictment. He was put on probationary
12 sentence. He is on probation for attempt to -- attempted
13 conspiracy to obtain property by false pretenses, offense
14 date, June 18th, 2014; and possession with intent to sell
15 or distribute cocaine, offense date August 19th, 2014. So,
16 he has two major prior drug convictions, along with two
17 possession of marijuana convictions, and distribution of
18 imitation controlled substance conviction, Your Honor.

19 That's the extent of his record. And I'll mark the
20 remainder of these as Court's Exhibits with the clerk when
21 we're finished here.

22 THE COURT: All right. Anything else from the State
23 on sentencing?

24 SOLICITOR SHELTON: Your Honor, I just would point
25 out, this was a lengthy investigation by the Drug Unit.

SENTENCING:

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1 Mr. Hughes was selling on Riverview Road, and still has two
2 pending charges that I know we're not here on today, but
3 it's noteworthy. On August 7th and on August 20th he's
4 accused of selling crack-cocaine to the same informant in
5 the -- through a runner in the August 7th case, at one of
6 the hotels on Riverview. So, through a third party that
7 the CI had set up a deal with, and had the other guy
8 selling drugs for him.

9 And then August 20th, he was selling drugs out of the
10 house of a female, who is also currently under indictment,
11 on Arlington Road. So, Mr. Hughes is not -- he's been
12 doing this a long time. He uses a lot of other people to
13 sell his drugs, help him sell drugs. I think it's pretty
14 apparent that this is what he does, and I'd just ask you to
15 take all that into consideration.

16 (WHEREUPON, COURT'S EXHIBIT NUMBERS SIXTEEN THROUGH
17 NINETEEN, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

18 THE COURT: Thank you. Ms. Inzerillo?

19 MS. INZERILLO: Thank you, your Honor. Your Honor, we
20 would ask the Court to consider a sentence on the,
21 essentially, less than halfway in the range that Mr. Hughes
22 is exposed to.

23 THE COURT: The range is ten to thirty?

24 MS. INZERILLO: Ten to thirty, yes, sir. And I on Mr.
25 Hughes' behalf, I would point out to the Court, he is

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1 thirty-three years old. He was living at -- in Rock Hill
2 at the time of his arrest. His mother is here today, and
3 she was here yesterday. Yesterday a aunt was able to come.
4 I know -- I took over this case from another attorney in
5 our office who has since taken another job, and in all of
6 my times in speaking with Mr. Hughes, his mother has been
7 very -- has kept in a lot of contact with me, very
8 concerned about her son. I've had several conversations
9 with Mr. Hughes about this particular case, as well as the
10 other two pending cases that are not before your Honor.

11 Your Honor, I can tell you that what's on paper is not
12 the entire picture of Mr. Hughes. He's young. He's only
13 thirty-three. He has some small children. He is -- I
14 think his priority, Mr. Hughes and I correspond by letter a
15 great deal and in one of the letters he sent me a picture
16 of his child, just to kind of emphasize the importance that
17 that young child has with him.

18 I think part of the motivation in this case outside of
19 asserting his innocence, was his concern with being in his
20 children's lives and taking care of his -- of his children.
21 And I know several are concerns involve him -- He wanted to
22 be home in time for the child's to start kindergarten,
23 which I don't think, of course, is an option at this point.

24 Your Honor, certainly the Court's aware of his record.
25 I'm not going to shy away from that. I've spoken to his

SENTENCING:

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1 family, and they indicated to me they had some concerns
2 about some drug use that Mr. Hughes was doing; that it
3 doesn't appear that he's a wealthy man. He's -- he's in
4 front of your Honor on borrowed clothes. This is not a
5 situation where, even though he's got multiple offenses,
6 not only around this time period, but prior, that he was
7 making a lot of money at this or spending and living the
8 high life. I think this was a young man who was trying to
9 take care of his family, and unfortunately got involved in
10 this way of life.

11 Your Honor, as the Court has heard, the majority of
12 the prior sentences that Mr. Hughes has received, they were
13 either were magistrate level, or he received a probationary
14 sentence outside of the distribution before your Honor in
15 2002. In that case, he got a ten-year sentence, your
16 Honor. It's marked as non-violent and I have to apologize
17 to the Court, because I can't remember if in 2002 it would
18 have been considered eighty-five percent or non-violent but
19 the sentencing sheet does note non-violent.

20 I would ask the Court to take that into consideration,
21 that that was outside of -- even though he's got an
22 extensive record, that one sentence is the longest amount
23 of time that's he's spent in jail. That is primarily the
24 reason why I'm asking the Court to consider the lower end.
25 Certainly that ten-year sentence is the minimum that he can

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1 get in front of your Honor tonight. And I would ask the
2 Court to take that into consideration. His mother is here.
3 I don't believe she wishes to address the Court, your
4 Honor.

5 Your Honor, Mr. Hughes has been incarcerated for three
6 hundred and six days, since August 21st, 2015, which was
7 the day of arrest, at the conclusion of these cases, and he
8 remained in unable to make bond on those cases. I think
9 that's also indicative of -- the State has the assertion
10 that he is dealing a lot, and I guess, some sort of high
11 roller, but I would note, he's before your Honor, not a
12 wealthy man, and was unable to make your Honor's bond of a
13 hundred and forty thousand dollars. So, your Honor, I
14 would ask the Court to take all of that into consideration,
15 and to sentence Mr. Hughes on.

16 THE COURT: Mr. Hughes, anything you want to say?

17 MR. HUGHES: No, not really. I mean, just -- just
18 hoping you'll be leniency on me, you know. I mean, I just
19 have kids. That's basically all that -- that's all I was
20 doing. I couldn't get a job. I tried. That's it. You
21 know I couldn't get a job so I just trying to to make money
22 the quickest way possible. I got three little girls. Just
23 had two of them, so. One of them ain't even ten months
24 yet. As long as I been in here she was born August the
25 3rd, I got locked up August the 20th. I'm just trying to

SENTENCING:

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1 make a little cash, that's all. I couldn't get no job.
2 That's it, but other than that, yeah, just be leniency on
3 me, I hoping.

4 And I just really want to say, for the record, that I
5 really didn't know the person's real name of that video.
6 That wasn't even me in that video. But I just want you to
7 be as leniency on me as possible, Mr. Hayes. You know, I'm
8 telling -- I'm telling you the truth, being honest. Hey,
9 that's the only way I could have made a little penny. I
10 can't get a job. But I don't want to be sitting in jail
11 for so long when I'm just having these kids. That really
12 hurts me, that's what I'm saying. I wasn't doing anything
13 like I'm trying to make this my life. It was something I
14 had to do to get a penny. It ain't like I was just doing

15 it just to do it like I like it. No, I was doing it
16 because that's the only way I could make a penny. I
17 couldn't get a job.

18 Every time, they say -- every time I try to get a job,
19 they go with a convicted, I mean a felony, you're a felony,
20 you're a felony. Baby needs pampers. Got to pay for the
21 medication. You know a bottle of milk cost forty, fifty
22 dollars. You know, it was just hard for me, man. It's
23 just hard, for real. I mean, I'm just asking you, would
24 you be leniency. I don't -- I really don't want to do all
25 this time in prison, but I'm asking you would you be

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1 leniency on me. And would you accept me to a rehab place
2 to do my time as in like I got a letter -- I had wrote
3 South Carolina Strong. They -- they located in North
4 Charleston. But they say, you can be accepted through any
5 kind of plea bargaining, any kind of serve the time. I'm
6 just hping that you give me that opportunity, you know,
7 instead of going back to prison. I just don't -- I just
8 don't want my kids to see it, you know; because I mean, I
9 know I did wrong. I'm asking for leniency you know.
10 Everybody or it's some people that be in your face laughing
11 at you doing dirt behind your back to also tell you hadn't
12 got caught for. I'm just a person that's just trying to
13 get through, trying to make a little penny just to take
14 care of my family.

15 That's all I was trying to do, and I just hope you
16 take that into consideration. Let me do my time at a
17 little rehab place or something, you know. I had it little
18 further down the road, anyway, back in 2007, 2008 with a
19 lot of people. Anyway they still doing time now. I just
20 don't want to get down there and get killed. You know what
21 I'm saying? Something stupid happened to me, you know? I
22 just -- It's a place called South Carolina Strong. I was
23 just hope you would send me to that place. You know they
24 say it's up to the judge to get time the judge accept it I
25 can make an acceptance over the phone and you can get

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1 accepted. I'm just hoping you'll please, you know, do that
2 for me. Believe me, you won't never see me again ever in
3 this courtroom. I just want to -- I don't -- I just don't
4 want to go to prison. You know it's too much trouble
5 behind that. It's gonna be -- It's gonna be trouble on my
6 back if I go to prison. That's just why I say you can do
7 leniency on me on that part.

8 THE COURT: All right. Well, I regret you anticipate
9 having some trouble in prison. Its not a pleasant place to
10 be. It's not supposed to be. I'll make some effort to get
11 you some rehabilitation, but you've had plenty of time to
12 do that. You've already been incarcerated once. The
13 choice you made for a way to provide for your family was
14 counter-productive. You're setting yourself up for failure
15 by arguably, at least by your presentation, trying to make
16 a penny to take care of these children, you did it the
17 wrong way.

18 MR. HUGHES: Nobody said --

19 THE COURT: If this was the first time and you told
20 me that, I'd buy it, but you've got a stream of records. I
21 haven't tried to match up the dates of your offenses.

22 How old is your oldest child?

23 MR. HUGHES: Fifteen. She's fifteen. I had just had
24 her when I got the ten years, back in 2000.

25 THE COURT: Your record goes earlier than that,

SENTENCING:

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1 doesn't it?

2 SOLICITOR SHELTON: The arrest record does, I think,
3 2000, 2001, he got some of the earlier convictions.

4 MR. HUGHES: Yeah, I had like, some marijuana charges.
5 They gave me thirty days on the chain gang or some little
6 dispute.

7 SOLICITOR SHELTON: Your Honor, I don't mean to cut
8 off Mr. Hughes. I think the sentencing sheet there may be
9 an error on there. We may want to double-check and see if
10 it's violent or non-violent.

11 THE COURT: I've got it down as non-violent.

12 SOLICITOR SHELTON: I was just looking up our cheat
13 sheet. I thought it might be but then the cheat sheet here
14 that I have says it may be violent so we may want to look
15 into that.

16 THE COURT: Okay. We'll check on that. I've got it,
17 Ms. Inzerillo, as a serious offense. Ms. Inzerillo.

18 MS. INZERILLO: Yes, your Honor. That's correct.

19 THE COURT: And it's an eighty-five percent, no parole
20 offense?

21 MS. INZERILLO: That's correct, your Honor.

22 THE COURT: Okay. We'll check on violent. My notes
23 show it is a non-violent, but we'll double-check it.

24 Mr. Hughes, your story sounds sad, but it's -- You're
25 not carrying much weight with me based on your record.

SENTENCING:

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1 Your sentence is -- your sentence is twenty years, and
2 I'll give you credit for three hundred and six days. I'm
3 gonna recommend you receive some treatment for the drug
4 problems that you say you have. Of course, what you've
5 done is created drug problems for thousands, probably, of
6 other people, at least hundreds that we're gonna have to
7 send somewhere to get rehab -- rehabed, because of the
8 choice you made to get in the business to make a little
9 penny, as you call it. That's ten years less than I could
10 give you, and tens years more than the minimum.

11 Thank you.

12 MS. INZERILLO: Thank you, your Honor.

13 DEFENDANT HUGHES: Is there any way I can do that time
14 in SC Strong, South Carolina Strong?

15 THE COURT: I believe -- that's up to South Carolina
16 Department of Corrections. All I do is sentence you. I
17 don't know that much about SC Strong. I don't think
18 they'll want to keep you for eighteen and a half to twenty
19 years.

20 MR. HUGHES: He said any kind of conviction. He said
21 anything. He said it was people there that got thirty
22 years.

23 THE COURT: I'm not recommending you. I'm
24 recommending you receive Addiction Treatment Unit through
25 the South Carolina Department of Corrections while you're

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1 incarcerated, and that's all I'm going to do. If you can
2 talk to the South Carolina Department of Corrections into
3 putting you into some other program then my hats off to you
4 but not me. Thank you.

5 MS. INZERILLO: Thank you, your Honor.

6 THE COURT: All right. We'll be adjourned until nine
7 thirty in the morning.

8 (COURT ADJOURNED AT 7:03 PM.)
9
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CERTIFICATE OF REPORTER

State of South Carolina)
)
County of York)

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for 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 evidence introduced in the trial of the captioned case, relative to appeal, in the General Sessions Court for York County, South Carolina, on the 20th and 21st days of June, 2016.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Wanda Nelson

Wanda Nelson, CVR-M
Certified Verbatim Reporter,
Official Court Reporter,
Notary Public, in and for
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: September 8 / 2016

WITNESSES

DEU

Witnessing Officer: T. Hager

ARREST WARRANT NUMBER

2015A4610201263

ACTION OF GRAND JURY

TRUE BILL

Shirley Sanders

Foreperson of Grand Jury
Date: 11/2/15

VERDICT

Guilty

David M. Morgan

Foreperson of Grand Jury
Date:

DOCKET NO. 2015-GS46- 034560

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

NOVEMBER 12, TERM 2015

THE STATE

VS.

JARVIS TYRONNE HUGHES

INDICTMENT FOR

DISTRIBUTION OF CRACK COCAINE

SC Code: § 44-53-375(B)
CDR Code: 3039

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

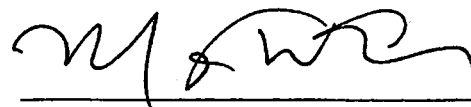
INDICTMENT

At a Court of General Sessions, convened on November 12, 2015, the Grand Jurors of York County present upon their oath:

DISTRIBUTION OF CRACK COCAINE

The defendant, Jarvis Tyronne Hughes, did on or about June 12, 2015, in York County, South Carolina, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase Crack Cocaine, a cocaine base, in violation of the provisions of Section 44-53-370. All in violation of 44-53-375(B) 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.

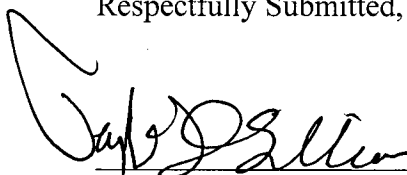


MATTHEW W. SHELTON
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Taylor D Gilliam
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 15th day of March, 2017.

RECEIVED

MAR 15 2017

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL
RECEIVED

Appeal from York County
Honorable John C. Hayes, Circuit Court Judge

MAR 15 2017
SC Court of Appeals

THE STATE,

RESPONDENT,

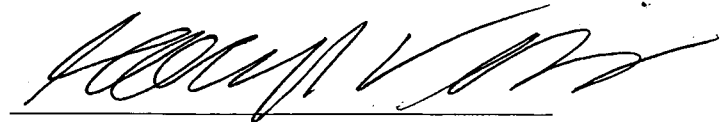
V.

JARVIS TYRONNE HUGHES,

APPELLANT

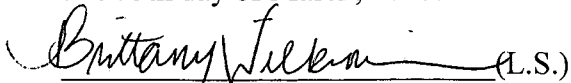
CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Jarvis Tyronne Hughes, #280975, at Perry Correctional Institution, 430 Oaklawn Road, Pelzer, SC 29669, this 15th day of March, 2017.



George Vlasis
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 15th day of March, 2017.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: November 3, 2026.