

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Appeal from Union County

Paul M. Burch, Circuit Court Judge

CLARENCE J. PUCKETT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-001775

APPENDIX

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED NOVEMBER 13-15, 2012	1
APPLICATION FOR POST-CONVICTION RELIEF	374
RETURN.....	383
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JANUARY 20, 2016	389
ORDER OF DISMISSAL.....	432
INDICTMENT.....	444

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

In the General Sessions
Court of Union
Case No.: 2009-GS-44-01210

State of South Carolina.,)
Plaintiff.,)
-vs-)
Clarence Puckett, III.,)
Defendant.)

Transcript of Record

November 13-15, 2012
Union, South Carolina

B E F O R E:

Honorable John C. Hayes, III, Judge and a jury.

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

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I-N-D-E-XE-X-A-M-I-N-A-T-I-O-NWITNESSBY:PAGE NO.

Lieutenant John Sherfield

Solicitor Anthony

P.44-49

P.71-94

P.135-144

Mr. Delaney

P.49-55

P.94-135

P.144-146

Sergeant Jimmy Johnson

Solicitor Anthony

P.147-155

P.173

Mr. Delaney

P.156-172

Sergeant Dee Haney Solicitor Anthony

P.174-177

Mr. Delaney

P.177-181

Deputy Jeff Lawson Solicitor Anthony

P.181-184

Mr. Delaney

P.184

Chief Deputy Perry Haney

Solicitor Anthony

P.185-187

Agent Carmen Tucker Solicitor Anthony

P.188-202

Mr. Delaney

P.203-207

Robert Hines

Solicitor Anthony

P.211-221

P.225

Mr. Delaney

P.222-225

-3-

I-N-D-E-X - CON'T

<u>WITNESS</u>	<u>BY</u>	<u>PAGE NO.</u>
Kay Lee Heatherly	Mr. Delaney	P.230-234
		P.243
	Solicitor Anthony	P.234-242
Clarence Puckett	Mr. Delaney	P.244-274
		P.302-307.
	Solicitor Anthony	P.275-301
		P.308
Closing Arguments	Mr. Delaney	P.311-326
	Solicitor Anthony	P.327-342
Charge to the Jury		P.342-357
Allen Charge.		P.364-365
Verdict		P.366-367.
Sentencing.		P.367-372
Certificate Page of Reporter.		P.373
Voir Dire/Batson Sheet.		P.374

E-X-H-I-B-I-T-S

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1				
2				
3	ST.1	Digital Scales	P.59	P.94
4	ST.2	Photo	P.59	P.90
5	ST.3	SLED Best Bag	P.59.	P.222
6				
7	DEF.1	Photo	P.229	P.234
8	DEF.2	Photo	P.229	P.234
9	DEF.3	Photo	P.229	P.234
10	DEF.4	Photo	P.229	P.234
11	DEF.5	Photo	P.229	P.234
12	DEF.6	Photo	P.229	P.234
13	DEF.7	Photo	P.229	P.234
14				
15	CT.1	Jury Note		P.366
16	CT.2	Jury Note		P.366
17				
18				
19				
20				
21				
22				
23				
24				
25				

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

-5-

1 (COURT IN SESSION IN THE MATTER OF STATE V. CLARENCE
2 PUCKETT ON TUESDAY, NOVEMBER 13, 2012 AT 02:37 P.M..)

3 THE COURT: Thank you, good afternoon. Take your
4 seats please.

5 Members of the jury panel, I am John Hayes from Rock
6 Hill and I am assigned to hold criminal court here this
7 week. I along with Judge Alford from York are the two
8 judges that are assigned to York and Union Counties. This
9 week as I just mentioned we'll be doing criminal cases. I
10 will have some discussions with you, the best way to put
11 it, in a few minutes and I'll go over certain
12 qualifications and disqualifications and exemptions that
13 apply to jury service. And then I'll ask you certain
14 questions as a group regarding that and I'll tell you how
15 to respond and how we handle all of that.

16 First we're gonna go over the Roll Call so please
17 answer and give the Clerk the information that's requested.
18 And try to use a good strong voice so we can hear you.
19 Thank you.

20 MR. GAULT: As I call your name if you will please
21 stand. If you're married tell the Court if you are married
22 or if your single, where you work, and if you're married
23 where your spouse works as well.

24 (JURY ROLL CALL AT 02:38 P.M..)

25 THE COURT: Thank you. What I am going to do now is

1 go through this list of qualifications and
2 disqualifications, the exemptions for jury service. I'm
3 not going to ask that any of you stand up in front of
4 everyone and tell me if you need to respond to any of
5 these. What I will do is I will go through the entire
6 list; after I've gone through the list I will invite any of
7 you if you need to discuss any of these matters with me to
8 come forward. A bailiff or a deputy will stand there at
9 the bar, the break in the bar, and I will step down by the
10 court reporter, the attorneys have a right to come up and
11 listen to what we discuss, but you don't have to get up in
12 front of everyone. Of course if you don't need to come up
13 obviously keep your seat, but if you do need to come up
14 we'll have it that way.

15 First, in order to serve as a juror in this particular
16 type of court setting you must fall into one of the
17 following categories. You don't need to fall into all
18 three but you must fall into one.

19 You must hold a valid South Carolina driver's license,
20 or, a Department of Public Safety Identification card, or,
21 be a registered voter. If you don't have one of those, you
22 don't fall into one of those categories, then please come
23 forward in just a moment.

24 If any of you are not a United State's citizen, or, if
25 you reside in a county other than Union County, South

-7-

1 Carolina, please come forward in just a moment.

2 If any of you work in the courthouse here, or, if any
3 of you hold --

4 Wait until I get to the end and then I'll let
5 everybody come up.

6 If any of you work in this courthouse, or, if you hold
7 any elected office in Union County, please come forward in
8 just a moment.

9 If any of you hold a constable's license, either with
10 our without pay, please come forward in just a moment.

11 If any of you have been convicted, or pled guilty, in
12 state or federal court to a crime for which you could have
13 received punishment that exceeded one year imprisonment,
14 and, if your civil rights have not been restored by pardon
15 or amnesty, please come forward in just a moment. Now this
16 has to do with offenses for which one could have received
17 more than one year imprisonment. It has nothing to do with
18 any sentence one may have received.

19 If any of you have less than a sixth grade education
20 or it's equivalent, or, if you're unable to read, write,
21 speak or understand the English language, please come
22 forward in just a moment.

23 If any of you have any mental or physical health
24 problems that would prevent you from serving with us as a
25 juror this week, please come forward.

1 If any of you are sixty-five or older you have an
2 exemption. If you are sixty-five or older and wish to be
3 excused please come forward and you will excused. If
4 you're sixty-five or older and wish to remain and serve,
5 just simply keep your seat.

6 If any of you have a child under the age of seven, and
7 if you are the primary care giver for that child, and do
8 not work outside of the home, or, if any of you are the
9 primary care giver for any individual who cannot take care
10 of themselves, that is, if you spend your days taking care
11 of an individual regardless of age who because of
12 incapacity cannot take care of themselves, you may also
13 come forward in just a moment.

14 If any of you have served on a Circuit Court jury such
15 as this within the last three calendar years, or, if you
16 have served on a state wide or county grand jury within the
17 last five calendar years, please come forward. Serving on
18 a federal court, magistrate or municipal court does not
19 count in regard to this question.

20 Finally, if and of you have any reason why you cannot
21 serve as a juror, please come forward in - this particular
22 week - please come forward and we'll discuss it.

23 Now one of the bailiffs will stand there at the break
24 in the bar, if any of you need to discuss any of these
25 matters with me please come forward.

-9-

1 THE BAILIFF: 193.

2 DEPUTY SHERIFF: Order in the Court.

3 THE COURT: Yeah, let's keep quite.

4 DEPUTY SHERIFF: Order in the Court.

5 (WHITE FEMALE COMING FORWARD.)

6 THE COURT: Yes, ma'am, your name?

7 A. My name is Edith Darnell Millwood. Edith Darnell
8 Millwood.

9 THE COURT: All right.

10 MS. MILLWOOD: And I talked to the lady at the office
11 down stairs. I couldn't go get a doctor's statement
12 because I couldn't afford to go to the doctor. She told me
13 to come and talk to you. I have a panic disorder, a
14 anxiety disorder.

15 THE COURT: Do you take medication for it?

16 MS. MILLWOOD: I do but I'm out of it right now but
17 I'm also diabetic with high blood pressure and heart
18 trouble.

19 THE COURT: She'll be excused.

20 MS. MILLWOOD: Thank you. I appreciate it, Your
21 Honor.

22 THE BAILIFF: 124.

23 (BLACK FEMALE COMING FORWARD.)

24 THE COURT: Yes, ma'am, your name.

25 A. Chitina Henderson and I'm the primary care giver of

1 twins, four year old twins.

2 THE COURT: Okay. You don't work outside the home?

3 MS. HENDERSON: No, sir.

4 THE COURT: You can be excused.

5 THE BAILIFF: 2-0-3.

6 (WHITE FEMALE COMING FORWARD.)

7 THE COURT: Good afternoon.

8 A. How are you? I'm a stay at home mother. I serve as
9 primary care taker and parent. He's under the age of
10 seven.

11 THE COURT: You don't work?

12 JUROR 203: No.

13 THE COURT: Okay. You can be excused.

14 THE BAILIFF: 47.

15 JUROR 203: Can I go?

16 THE COURT: Yes you can go.

17 (BLACK FEMALE COMING FORWARD.)

18 A. I'm Jean Capps.

19 THE COURT: Ha.

20 MS. CAPPS: Nice to meet you. I just served, its been
21 less than three years.

22 THE COURT: All right. If you'll just have a seat out
23 there and we'll double check.

24 MS. CAPPS: And when I don't work I don't get paid.

25 THE COURT: I can transfer you to another time. I

-11-

1 can't excuse you. We'll double check on - -

2 I can't excuse you. I can transfer you to another
3 time.

4 MS. CAPPS: There ain't no time a good time when you
5 out of work.

6 THE COURT: Well this is gonna be a short week. I
7 can't tell you what to do but I need you to stay. Thank
8 you.

9 THE BAILIFF: 140.

10 (BLACK FEMALE COMING FORWARD.)

11 THE COURT: Your name?

12 A. Edna Jennings. I have about five kids at times during
13 the day. The parents work and they stay with me.

14 THE COURT: Are these your children?

15 MS. JENNINGS: These are my grand kids and the parents
16 work.

17 THE COURT: I'll excuse you.

18 She'll be excused.

19 THE BAILIFF: 86.

20 (WHITE FEMALE COMING FORWARD.)

21 THE COURT: Your name?

22 A. Edna Jennings.

23 THE COURT: Okay.

24 MS. JENNINGS: I had three strokes back in February.
25 I'm just now learning to do everything. I can read and

1 write. I can't - it comes and goes all the time. I'm just
2 now learning how to walk.

3 THE COURT: I'll excuse you.

4 She'll be excused.

5 THE BAILIFF: 178.

6 (BLACK MALE COMING FORWARD.)

7 THE COURT: All right, your name?

8 A. Donzell Martin. I just recently left SCDC in May and
9 I'm on probation.

10 THE COURT: Martin.

11 THE CLERK: We have his as disqualified.

12 THE COURT: You can leave. You're disqualified. Thank
13 you.

14 He's excused.

15 THE BAILIFF: 200.

16 (WHITE MALE COMING FORWARD.)

17 A. How you doing sir?

18 THE COURT: Your name?

19 A. Joshua Mullinax.

20 THE COURT: Okay.

21 MR. MULLINAX: I'm not sure if I'm registered to vote.

22 THE COURT: Do you have a driver's license?

23 MR. MULLINAX: Yes, sir.

24 THE COURT: That's enough.

25 MR. MULLINAX: That's enough.

-13-

1 THE COURT: He will remain with us.

2 THE BAILIFF: Number 1-0-2.

3 (WHITE MALE COMING FORWARD.)

4 THE COURT: Your name?

5 A. Daniel Green. We just opened a new Chester Wal Mart
6 over in Chester and I'm on full time third shift.

7 THE COURT: We'll switch to another time.

8 MR. GREEN: Yeah we just started over there and
9 everything.

10 THE COURT: We'll move you. We'll transfer you to a
11 later time. Step over there first.

12 He'll be transferred.

13 THE BAILIFF: 248.

14 (WHITE FEMALE COMING FORWARD.)

15 THE COURT: Yes, ma'am.

16 A. Debra Sloane. I have two children under the ages of
17 seven.

18 THE COURT: Do you stay home and keep them?

19 MS. SLOANE: I work but when they go to school after I
20 get home I have nobody to watch them.

21 THE COURT: What time do you get home from work?

22 MS. SLOANE: I get off at 2:00 they get home 2:30,
23 2:45.

24 THE COURT: You can be excused. Thank you.

25 THE BAILIFF: 252.

1 (WHITE FEMALE COMING FORWARD.)

2 THE COURT: Your name?

3 A. My name is Holli Smith and I have two kids ages seven
4 and one six months and I'm the care taker when I take
5 care of the kids while she's sick.

6 THE COURT: But do you work?

7 MS. SMITH: I do work. I'm off today and tomorrow. I
8 don't have to go in until five o'clock Thursday so she can
9 get over and go back to the day care.

10 THE COURT: But do you usually - -

11 MS. SMITH: I usually work 7:00 to 3:00 or 8:00 to
12 4:00.

13 THE COURT: Who keeps the child?

14 MS. SMITH: One of the kids when they're home from
15 school Lisa Stewart keeps the infant at her house.

16 THE COURT: I'll transfer you to another time. Step
17 over there.

18 She'll be transferred.

19 THE BAILIFF: 236.

20 (BLACK FEMALE COMING FORWARD.)

21 THE COURT: Your name?

22 A. Jacqueline Rogers. I have a disabled mother, I have
23 to look after her.

24 THE COURT: That's what you do all the time?

25 MS. ROGERS: Yeah most of the time yes.

-15-

1 THE COURT: I mean nobody else -

2 MS. ROGERS: No, my sister is - and I'm disabled too.

3 I've been sick --

4 THE COURT: You'll be excused.

5 She'll be excused.

6 THE BAILIFF: 285.

7 (WHITE FEMALE COMING FORWARD.)

8 THE COURT: Good afternoon. Your name?

9 A. Vaughan Ruggles. I live in Greenville County.

10 THE COURT: How long have you lived there?

11 MS. RUGGLES: Ten years.

12 THE COURT: And you haven't changed your driver's
13 license?

14 MS. RUGGLES: I still have a home here in Union, but
15 my son lives in it. I still have everything here.

16 THE COURT: Well you're gonna have to serve one place
17 or the other. You can't find your Greenville - do you have
18 your driver's license over here?

19 MS. RUGGLES: We're building a home in Spartanburg so
20 I'm changing everything to Spartanburg.

21 THE COURT: All right, I'll excuse you.

22 THE BAILIFF: 179.

23 (WHITE MALE COMING FORWARD.)

24 THE COURT: Yes, sir, your name?

25 A. Sammy Martin. I've got arthritis in my back and all

1 down my spine and I can't sit or stand.

2 THE COURT: All right, I'll excuse you.

3 MR. MARTIN: Thank you, sir.

4 THE COURT: He'll be excused.

5 THE BAILIFF: 2-0-2.

6 (WHITE MALE COMING FORWARD.)

7 THE COURT: Yes, sir, your name?

8 A. Philip Nations. I'm sole provider for my family and
9 my job takes me out of town a lot. It would be a lot of a
10 burden on me.

11 THE COURT: I can't excuse you. I can transfer you to
12 another time. Yesterday was a holiday now you've been here
13 today so the only possible - -

14 MR. NATIONS: I work yesterday.

15 THE COURT: But my point is, there's only three more
16 days left. If I transfer you, you might have to serve a
17 full five days. I can't excuse you but I can transfer you.
18 Your odds would be better to stay.

19 MR. NATIONS: It's a burden on me.

20 THE COURT: I know. Unfortunately it's a burden on
21 everybody to serve to some degree. I can't excuse you but
22 I can transfer you.

23 MR. NATIONS: I'll take my chances.

24 THE COURT: Okay. Thank you.

25 THE BAILIFF: 245.

-17-

1 (BLACK FEMALE COMING FORWARD.)

2 THE COURT: Good afternoon.

3 A. My name is Anvetta Sims. I work at the nursing home
4 in Inman at Magnolia, a nurse up there. Sometimes I work
5 twelve, sixteen hours. Today I had to leave to get
6 somebody to cover. We're short handed. You all can call
7 my supervisor. I'm not telling a story.

8 THE COURT: We're not questioning that but everybody's
9 got to be out of work to serve. I can transfer you to
10 another time when maybe you all will have more people
11 working but I can't excuse you.

12 MS. SIMS: All right, I done been transferred. That's
13 my second go round.

14 THE COURT: Stick with us then, I can appreciate it.

15 THE BAILIFF: 134.

16 (BLACK FEMALE COMING FORWARD.)

17 THE COURT: Yes, ma'am, your name?

18 A. Kimberly Hughes. They said we had a charge or
19 something.

20 THE COURT: What kind of charge?

21 MS. HUGHES: Criminal domestic violence charge. I
22 don't know how many years that's been, maybe seven.

23 THE CLERK: Upstairs in this courtroom?

24 We show her as being disqualified.

25 THE COURT: You can be excused then. Thank you.

1 THE BAILIFF: 159.

2 (BLACK FEMALE COMING FORWARD.)

3 THE COURT: Yes, ma'am, your name?

4 A. Tenesha Kershaw. I'm the guardian, she had surgery
5 this morning. They just discharged her like 1:15. I had
6 to send her home with my mom. I just need to get back to
7 her, I need to go to the drug store and pick up her pain
8 medicine.

9 THE COURT: Do you want to be transferred to another
10 time then? You want to be transferred to another term of
11 court rather than serve today?

12 MS. KERSHAW: Whatever I need to do. I just want to
13 get her pain medicine to her. I just want to go home and
14 see if can get her medicine to her. I can transfer.

15 THE COURT: You want to just - but you would be okay
16 for tomorrow?

17 MS. KERSHAW: That's fine.

18 THE COURT: Let's just - I'm gonna go ahead and excuse
19 you for the day. You got the number to call? Call that
20 tonight, you'll receive instructions whether to call back
21 tomorrow or come in but I'll let you go ahead and get that
22 medicine and take it. We want you back whenever that
23 message tells you to be back.

24 MS. KERSHAW: I appreciate that.

25 THE COURT: She's protected for this afternoon.

-19-

1 You have to be back tomorrow.

2 THE BAILIFF: 24.

3 (WHITE FEMALE COMING FORWARD.)

4 THE COURT: Good afternoon.

5 A. My daughter is a single mother. They only us as
6 grandparents, she has three daughters, four, five and
7 seven. She's got a job from 7:00 to 6:00 everyday and I
8 have to take them to school but I have to pick them up.
9 There's nobody else at home. My husband works. Their
10 daddy is not in their life.

11 THE COURT: Who keeps them after school?

12 A. That's what I'm saying.

13 THE COURT: I'll excuse you.

14 She'll be excused.

15 THE BAILIFF: 131.

16 (WHITE MALE COMING FORWARD.)

17 THE COURT: Yes, sir, your name.

18 A. Paul Hodge.

19 THE CLERK: Judge, he served the last time. I
20 remember.

21 THE COURT: You can be excused.

22 THE BAILIFF: 136.

23 (WHITE MALE COMING FORWARD.)

24 THE COURT: Yes, sir, your name?

25 A. Russell Inabinet. I'm a single parent and I'm self

1 employed. I really need to be off this.

2 THE COURT: I can transfer you to another time but I
3 can't excuse you. This is a short week, there's already
4 two days gone.

5 MR. INABINET: I got a lot of payments.

6 THE COURT: You want to transfer?

7 MR. INABINET: I guess.

8 THE COURT: All right. He'll be transferred.
9 Just step over there.

10 THE BAILIFF: 273.

11 (BLACK FEMALE COMING FORWARD.)

12 THE COURT: Your name?

13 A. Joann Thacker. I got two granddaughters that get off
14 the bus everyday, keep them until 7:30. Right now my
15 oldest granddaughter I'm waiting on - -

16 THE COURT: I'll excuse you.

17 She'll be excused.

18 SOLICITOR ANTHONY: Your Honor, I got one, Number 82,
19 disqualified.

20 You still showing, Freddie, 82? Rossi.

21 THE COURT: Rossi Fleming. Need to see you up here
22 just one minute.

23 (BLACK MALE COMING FORWARD.)

24 THE COURT: Do you have a criminal record?

25 MR. FLEMING: Yes.

-21-

1 THE COURT: You got a possession of crack?

2 MR. FLEMING: Yeah, 2006:

3 THE COURT: You'll be excused.

4 He'll be excused.

5 (COURT RETURNED TO THE BENCH.)

6 THE COURT: All right, the jury is qualified.

7 The clock back there says 3:10. Everybody's watch
8 says a different thing. We'll take a break. I'm going to
9 ask you to be back at 03:25 and we'll draw a jury at that
10 time. You can go outside and get fresh air, use the
11 restroom, but don't leave, we need you back at 03:25.

12 (COURT IN RECESS AT 03:10 P.M..)

13 (COURT BACK IN SESSION AT 03:31 P.M..)

14 THE COURT: Thank you. Take your seats.

15 Members of the jury panel, we're going to start our
16 first case for the week, it's called the State of South
17 Carolina versus Clarence Julius Puckett.

18 Mr. Puckett, will you please stand so the jury can
19 see.

20 (MR. PUCKETT STOOD.)

21 THE COURT: This is Mr. Puckett. If you'll turn
22 around and let the jury see who you are.

23 He is represented by Mr. Erik Delaney.

24 (DEFENSE ATTORNEY STOOD.)

25 THE COURT: You may be seated.

1 The State is represented by Mr. John Anthony, and
2 while he is standing I'm going to ask him to tell us what
3 the charges are regarding Mr. Puckett.

4 SOLICITOR ANTONY: Yes, sir.

5 Mr. Puckett is charged on 2009-GS-44-1210 with
6 trafficking in cocaine. And on 2010-44-774 for possession
7 of crack cocaine with the intent to distribute. These both
8 have been True Billed by the Grand Jury.

9 I'm handing the indictments up at this time.

10 (INDICTMENTS RECEIVED UP BY THE COURT.)

11 THE COURT: You've heard the charges against Mr.
12 Puckett, trafficking in cocaine and possessing with intent
13 to distribute crack cocaine. This allegedly occurred here
14 in Union County on August 21st, 2009 at [REDACTED] Road
15 in Union.

16 First, are any of you related by blood or marriage, or
17 are you a close personal friend or acquaintance of Mr.
18 Puckett, if so, please stand?.

19 (WHITE FEMALE STOOD.)

20 THE COURT: All, right, your name and number?

21 184, my name is Thayda Mathis, he's my first cousin.

22 THE COURT: All right. Well don't leave but I'll
23 excuse you from sitting on this particular jury. You can
24 just stay, don't leave because I may have to give you some
25 more instructions later, but we will exclude you from the

-23-

1 drawing.

2 Anyone else? No one else stands.

3 Have any of you heard about this case, know about it
4 from any source whatsoever? Read anything about it in the
5 news coverage or heard or talked at the office or at school
6 or something like that?

7 (WHITE FEMALE STOOD, SAT BACK DOWN.)

8 THE COURT: Please stand. I don't mean to be rude but
9 we can hear you better and see who you are.

10 (WHITE FEMALE STOOD.)

11 A. I heard about it through our community.

12 THE COURT: All right. And your name.

13 A. Tina Porter.

14 THE COURT: Did you get that?

15 THE CLERK: Number 212, Judge.

16 THE COURT: Number 212. Would that affect your
17 ability to be fair and impartial or could you hear this
18 case and be fair even though you've heard something about
19 it?

20 A. It probably would affect my - -

21 THE COURT: All right. Well I'll excuse you too.
22 Don't leave, just have a seat. Thank you.

23 Have any of you been represented by our Solicitor's
24 office, Kevin Brackett, particularly Mr. Anthony or Mr.
25 Fleming who are here in Union, or anybody been represented

1 by Mr. Erik Delaney, or anyone from his office, Mr. Harry
2 Dest office; is so, please stand?

3 (WHITE MALE STOOD.)

4 A. Kevin Haney, 108. Last year.

5 THE COURT: Somebody, one of these lawyers represented
6 you?

7 MR. HANEY: Mr. Delaney.

8 THE COURT: All right. Well I'll excuse you from
9 serving on this particular panel. Just have a seat, don't
10 leave. All right. Thank you.

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

13 No one stands.

14 Are any of you members of or contributors to
15 organizations such as Mother's Against Drunk Driver's,
16 Students Against Drunk Drivers, Citizens Against Violence,
17 Sheriff's Association, Trooper's Association or Fraternal
18 Order of Police, if so, please stand?

19 No one stands.

20 Are any of you or any of your family involved in law
21 enforcement? Any of you or a member of your family,
22 anything like anything from military police to sheriff's
23 deputy to policeman, or solicitor or US Attorney or
24 anything like that, if so, please stand?

25 (BLACK FEMALE STOOD.)

-25-

1 THE COURT: All right. Yes, ma'am, your name and
2 number.

3 A. Anveta Sims, 245.

4 THE COURT: And how are you related to someone in law
5 enforcement?

6 MS. SIMS: My first cousin is a sheriff in Chester
7 County.

8 THE COURT: Just remain standing.

9 Yes, sir.

10 (WHITE MALE STOOD.)

11 A. Joey Stepp, 268. I got a cousin that's a Spartanburg
12 County deputy.

13 THE COURT: All right. Just remain standing. Just
14 remain standing please.

15 All right, the three in the back.

16 (WHITE FEMALE STOOD.)

17 A. Megan Mills, 192. My husband is a correctional
18 officer at Tyger River.

19 THE COURT: All right. Next.

20 (WHITE FEMALE STANDING.)

21 A. Sherry Comer, Number 60. My husband is by marriage
22 related to Taylor.

23 THE COURT: Is this a Union County case?

24 SOLICITOR ANTHONY: Yes, sir, it is.

25 You talking about Sheriff Taylor?

1 MS. COMER: Yes, sir.

2 THE COURT: Okay. Well I'll excuse you. Don't leave,
3 just have a seat.

4 Now the last lady.

5 (WHITE FEMALE STANDING.)

6 A. Denise Eubanks, my husband is a officer for the city
7 of Union, Public Safety officer.

8 THE COURT: All right.

9 Now I've already excused - Oh, yes, ma'am.

10 A. Linda Comer, 59. My husband works for the Union
11 County Detention Center.

12 THE COURT: Where? The Detention Center?

13 MS. COMER: The Detention Center.

14 THE COURT: All right. Just remain standing.

15 Those of you who are standing if that relationship
16 would create a situation where you would be unable to be
17 fair and impartial in this trial, please raise your right
18 hand?

19 All right. Your name and number again?

20 A. 245, Anvetta.

21 THE COURT: All right, you - she's the only one who
22 raised her hand. Everyone else - all of you can be seated
23 and Ms. Anvetta - whatever...

24 THE CLERK: Sims.

25 THE COURT: Sims will be excused from the draw.

-27-

1 Have any of you or a member of your family been
2 affected by illegal drugs, that is, somebody in your family
3 - I'm not going to ask you to go into great details, but
4 anybody in your family been prosecuted or having or using
5 illegal drugs or you had a situation where you thought that
6 something happened to you because somebody else was using
7 illegal drugs, if so, please stand?

8 (WHITE MALE STOOD.)

9 THE COURT: All right, yes, sir, your name and
10 number.

11 A. Joey Candler, 45. My nephew was charged with illegal -
12 prescription drugs.

13 THE COURT: All right. Would that affect your ability
14 to be fair and impartial in this trial?

15 MR. CANDLER: No, sir.

16 THE COURT: Okay. Thank you. You will remain with
17 us.

18 (BLACK FEMALE STOOD.)

19 THE COURT: Okay, yes, ma'am.

20 Yes, ma'am.

21 A. My nephew he's serving consecutive things dealing with
22 drugs.

23 THE COURT: All right, your name and number.

24 A. Jacqueline Johnson, 148.

25 THE COURT: Did you all get that?

1 Could you be fair and impartial in this trial?

2 MS. JOHNSON: I have no idea.

3 THE COURT: I'll excuse you then. Don't leave, just
4 have a seat.

5 (BLACK MALE STOOD.)

6 THE COURT: All right, yes, sir.

7 A. Yes. I have a nephew with the same situation. He's
8 serving time in Spartanburg selling.

9 THE COURT: Would that affect your ability to be fair
10 and impartial in this trial?

11 A. Yes, sir.

12 THE COURT: All right. Just have a seat.

13 MADAME COURT REPORTER: Judge, could you get his name
14 and number?

15 THE COURT: Your name and number?

16 Wait.

17 A. I don't know my number but my name is Reginald Smith.

18 (BLACK FEMALE STOOD.)

19 THE COURT: All right, your name and number?

20 A. 277.

21 THE COURT: I beg your pardon?

22 A. 277.

23 THE COURT: All right.

24 A. My son has been arrested for drugs.

25 THE COURT: Would that affect your ability to be fair

-29-

1 in this trial?

2 A. Yes.

3 THE COURT: All right. I'll let you have a seat too.

4 The following are possible witnesses..

5 (WHITE FEMALE STOOD.)

6 THE COURT: Really I'm having trouble seeing back
7 there, it's so dark.

8 Your name and number?

9 A. Megan Mill, 192. My uncle got - -

10 THE COURT: Would that affect your ability to be fair
11 and impartial?

12 MS. MILLS: No.

13 THE COURT: Okay. You will remain with us then.
14 Thank you. I appreciate you telling us about that.

15 And I apologize. It's hard - it's kind of dark back
16 there and I can't see all of you.

17 Now the following are possible witnesses in this
18 trial. I don't know that all of them will testify, but
19 even if they don't testify you may hear their names. So if
20 you are related by blood or marriage, or a close personal
21 friend or acquaintance of any these individuals, please
22 stand.

23 Kaylee Heathery, Sergeant Jimmy Johnson, Lieutenant
24 John Sherfield, Sergeant Dee Haney, Deputy Scott Coffey,
25 Corporal Randy Manus, Deputy Jeff Lawson, Chief Deputy

1, Perry Haney, Captain Robbie Hines - all of them from the
2 sheriff's office - and then Carmen Tucker from State Law
3 Enforcement Division.

4 All right.

5 (WHITE FEMALE STOOD.)

6 THE COURT: Yes, ma'am, your name and number?

7 A. 266, related to Perry Haney.

8 THE COURT: How close?

9 A. Cousin.

10 THE COURT: All right. Well I'll excuse you then.
11 Just have a seat then. Thank you.

12 ((WHITE FEMALE STOOD.))

13 THE COURT: Yes, ma'am, your name and number?

14 A. Susan Ward, 288. Cousin to Jeff Lawson.

15 THE COURT: All right. Well I'll excuse you also.

16 Don't leave, just have a seat.

17 Anything else from the State?

18 SOLICITOR ANTHONY: No, sir.

19 THE COURT: Anything else from the Defense?

20 MR. DELANEY: No, Your Honor.

21 THE COURT: Do any of you out there on the jury panel
22 know of any reason whatsoever why you could not or should
23 not serve as a fair and impartial juror in this case, if
24 so, please stand?

25 No one stands.

-31-

1 When you hear your name called, please come forward
2 and this time come all the way up to the desk and turn
3 around and you will face back to where the Solicitor is
4 seated, and he will say either present the juror, or excuse
5 the juror. If he says excuse the juror you may return to
6 your seat. If he says present the juror, turn and face the
7 table where Mr. Puckett and his attorney are seated, his
8 attorney will say either excuse the juror, which again
9 means you may return to your seat. Or he will say swear
10 the juror, if you hear those words take a seat in the jury
11 box. Give us just one second. Bear with us.

12 (PAUSE.)

13 SOLICITOR ANTHONY: Your Honor, its my understanding
14 this is a five and five --

15 THE COURT: Five and five strikes and we'll draw one
16 alternate. Alternate strikes will be one and two.

17 (PAUSE.)

18 THE CLERK: As I call your name if you will come
19 forward, stand in front of the bench and turn and face
20 toward the attorneys and I will talking to the attorneys
21 once you get here. If you have any personal belongings
22 bring those with you as you come forward please.

23 Juror Number 95, Leslie Gibson.

24 (WHITE MALE COMING FORWARD.)

25 THE CLERK: So say the State?

1 SOLICITOR ANTHONY: Please present the juror.

2 THE CLERK: So say the Defense?

3 MR. DELANEY: Please excuse Mr. Gibson.

4 THE CLERK: You may return to your seat.

5 Juror Number 138, Susan Jackson

6 (WHITE FEMALE COMING FORWARD.)

7 THE CLERK: So say the State?

8 SOLICITOR ANTHONY: Please present the juror.

9 THE CLERK: So say the Defense?

10 MR. DELANEY: Please swear the juror.

11 THE CLERK: You can have a seat in the jury box,
12 ma'am.

13 Juror Number 209, Danny Phillips.

14 (BLACK MALE COMING FORWARD.)

15 THE CLERK: And also to all the jurors, some of these
16 seats will lean back rather quick so please be careful when
17 you have a seat there.

18 So say the State?

19 SOLICITOR ANTHONY: Please present the juror.

20 THE CLERK: So say the Defense?

21 MR. DELANEY: Please swear the juror.

22 THE CLERK: Please have a seat in the jury box.

23 Juror Number 6, Bobby Bailey.

24 (WHITE MALE COMING FORWARD.)

25 THE CLERK: So say the State?

-33-

1 SOLICITOR ANTHONY: Please present the juror.

2 THE CLERK: So say the Defense?

3 MR. DELANEY: Please swear the juror.

4 THE CLERK: Sit in the jury box.

5 Juror Number 221, Dustin Rakestraw.

6 (WHITE MALE COMING FORWARD.)

7 THE CLERK: So say the State?

8 SOLICITOR ANTHONY: Please present the juror.

9 THE CLERK: So say the Defense?

10 MR. DELANEY: Please swear the juror.

11 THE CLERK: Have a seat in the jury box please.

12 Juror Number 143, Mae Jeter.

13 (BLACK FEMALE COMING FORWARD.)

14 THE CLERK: So say the State?

15 SOLICITOR ANTHONY: Please present the juror.

16 THE CLERK: So say the Defense?

17 MR. DELANEY: Please swear the juror.

18 THE CLERK: Please have a seat in the jury box, ma'am.

19 Juror Number 239, James Sartor..

20 (BLACK MALE COMING FORWARD.)

21 THE CLERK: So say the State?

22 SOLICITOR ANTHONY: Please present the juror.

23 THE CLERK: So say the Defense?

24 MR. DELANEY: Please swear the juror.

25 (JUROR SEATED IN JURY BOX.)

1 THE CLERK: Juror 192, Megan Mills.

2 (WHITE FEMALE COMING FORWARD.)

3 THE CLERK: So say the State?

4 SOLICITOR ANTHONY: Please present the juror.

5 THE CLERK; So say the Defense?

6 MR. DELANEY: Please excuse the juror.

7 THE CLERK: Return to your seat, ma'am.

8 Juror Number 76, Steven Dobson.

9 (WHITE MALE COMING FORWARD.)

10 MR. DELANEY: Mr. Clerk, if you could repeat that
11 number?

12 THE CLERK: Number 76.

13 So say the State?

14 SOLICITOR ANTHONY: Please excuse the juror.

15 THE CLERK: You can return to your seat, sir.

16 Juror Number 265, Jeniaka Hames.

17 (BLACK FEMALE COMING FORWARD.)

18 THE CLERK: So say the State?

19 SOLICITOR ANTHONY: Please present the juror.

20 THE CLERK: So say the Defense?

21 MR. DELANEY: Please swear the juror.

22 THE CLERK: Have a seat in the jury box, ma'am.

23 Juror Number 61, Patti Cook.

24 (WHITE FEMALE COMING FORWARD.)

25 THE CLERK; So say the State?

-35-

1 SOLICITOR ANTHONY: Please present the juror.
2 THE CLERK: So say the Defense?
3 MR. DELANEY: Please swear the juror.
4 THE CLERK: Have a seat in the jury box, ma'am.
5 Juror Number 268, Joey Stepp.
6 (WHITE MALE COMING FORWARD.)
7 THE CLERK: So say the State?
8 SOLICITOR ANTHONY: Please present the juror.
9 THE CLERK: So say the Defense?
10 MR. DELANEY: Please excuse the juror.
11 THE CLERK: You can return to your seat.
12 Number 183, Dean Mason.
13 (WHITE MALE COMING FORWARD.)
14 THE CLERK: So say the State?
15 SOLICITOR ANTHONY: Please excuse the juror.
16 THE CLERK: Return to your seat.
17 Juror Number 46, Vivian Canzater.
18 (BLACK FEMALE COMING FORWARD.)
19 THE CLERK: So say the State?
20 SOLICITOR ANTHONY: Please excuse the juror.
21 THE CLERK: You can return to your seat, ma'am.
22 Juror Number 282, Tracy Turner.
23 (WHITE FEMALE COMING FORWARD.)
24 THE CLERK: So say the State?
25 SOLICITOR ANTHONY: Please present the juror.

1 THE CLERK: So say the Defense?

2 MR. DELANEY: Please swear the juror.

3 THE CLERK: Have a seat in the jury box, ma'am.

4 Juror Number 241, Cheryl Scarborough.

5 (WHITE FEMALE COMING FORWARD.)

6 THE CLERK: So say the State?

7 SOLICITOR ANTHONY: Please present the juror.

8 THE CLERK: So say the Defense?

9 MR. DELANEY: Please swear the juror.

10 THE CLERK: Have a seat in the jury box.

11 Juror Number 117, Jami Hart.

12 (WHITE FEMALE COMING FORWARD.)

13 THE CLERK: So say the State?

14 SOLICITOR ANTHONY: Please present the juror.

15 THE CLERK: So say the Defense?

16 MR. DELANEY: Please swear the juror.

17 THE CLERK: Have a seat in the jury box, ma'am.

18 Juror Number 93, Robert Gentry.

19 (WHITE MALE COMING FORWARD.)

20 THE CLERK: So say the State?

21 SOLICITOR ANTHONY: Please present the juror.

22 THE CLERK: So say the Defense?

23 MR. DELANEY: Please swear the juror.

24 THE CLERK: Have a seat in the jury box.

25 THE COURT: Alternate strikes will be one for the

-37-

1 State and two for the Defense.

2 THE CLERK: Juror Number 2-0-2, Philip Nations.

3 (WHITE MALE COMING FORWARD.)

4 THE CLERK: So say the State?

5 SOLICITOR ANTHONY: Please present the juror.

6 THE CLERK: So say the Defense?

7 MR. DELANEY: Please excuse the juror.

8 THE CLERK: You can return to your seat.

9 Juror Number 264, Elizabeth Spears.

10 (BLACK FEMALE COMING FORWARD.)

11 THE CLERK: So say the State?

12 SOLICITOR ANTHONY: Please present the juror.

13 THE CLERK: So say the Defense?

14 MR. DELANEY: Please swear the juror.

15 THE CLERK: Have a seat in the jury box, ma'am.

16 THE COURT: All right, anything from the State
17 involving the striking of the panel?

18 SOLICITOR ANTHONY: If I can have one moment.

19 (PAUSE.)

20 SOLICITOR ANTHONY: No, sir.

21 THE COURT: Anything from the Defense?

22 MR. DELANEY: No, Your Honor.

23 THE COURT: All right, those of you who were not
24 chosen I'm going to allow you to leave. Please do so
25 quietly so I can start talking to this group. And call

1 back tonight after 6:00 and follow whatever instructions
2 you receive at that time. Thank you.

3 (JURY PANEL DISMISSED AT 04:05 P.M..)

4 THE COURT: That still is a little light rumble but I
5 think you can hear me. We're not going to actually go into
6 giving --

7 Can we - Tell the bailiff's to...

8 Anyway if you can hear me, I hope you can. We're not
9 going to start into testimony today or the opening
10 statements of the attorneys. We have some legal matters to
11 take up before we do that and since it's already four
12 o'clock we're going to take those up and we'll start back
13 at 10:00 in the morning, so I'm going to release you in
14 just a few moments and have you come back at 10:00 a.m..

15 When you leave the bailiff will show you where the
16 jury room is and you are to come and go and they will tell
17 you how to get in and out, and you will report to this jury
18 room and not to the open courtroom. Now even though you
19 haven't been sworn you are on this jury panel so I have a
20 few things I have to tell you tonight before I let you go.

21 One is do not discuss this case among yourselves or
22 try to make up your own mind until I instruct you to
23 jointly deliberate and return a unanimous verdict. Prior
24 to that time you are not equipped with all the tools you
25 need to make a fair and reasonable decision.

-39-

1 Do not let anyone discuss the case with you outside
2 the courtroom. If anyone tries to discuss this case with
3 you tell them you cannot discuss as you are serving as a
4 juror and report back to me if anyone tries to discuss with
5 you as they would be in trouble with the court for trying
6 to speak to a seated juror.

7 I do not know that this case will receive any news
8 coverage but if it does don't listen to anything or watch
9 anything or read anything that could remotely deal with
10 this trial. Your oath requires you to render your verdict
11 based solely on the law and the evidence that's brought
12 during the trial. Along those lines we now have all sort
13 of electronic means to do research and to communicate with
14 each other. You are not to communicate with anybody
15 through any electronic or social means, don't Tweet anybody
16 or go on Facebook and tell anybody about this case. Don't
17 even tell anybody you're on this case. If you were to do
18 something like that somebody might Facebook you back or
19 whatever you do on Facebook because I don't do it and I
20 don't know, and say well if, you know, you ought to do this
21 and you ought not do that so just don't communicate with
22 anybody through anything personally or electronic means
23 dealing with this trial. And don't do any research, don't
24 go on line to any of the links that are available like
25 Google or - or anything like that to find out anything

1 about trial procedure, about judge, about rules of
2 evidence, about court procedure, about Mr. Puckett, about
3 the charges, about the solicitor. All the information you
4 receive on this trial has to be here in this courtroom or
5 it will not be fair to the State or Mr. Puckett. And of
6 course I would have to if anyone violated this oath and
7 take action against that person which I prefer not to do.

8 Now, Ms. Scarborough, I'm going to ask you to be the
9 foreperson. When you come back tomorrow you will take this
10 first seat. The alternate will always sit in that seat.
11 There is no other assigned seating. There are only two
12 seats that are assigned and you will be the liaison between
13 the jury and myself and preside over the jury deliberation
14 and ultimately sign the jury's unanimous verdict.

15 Anything from the State before the jury is dismissed?

16 SOLICITOR ANTHONY: No, sir.

17 THE COURT: Anything from the Defense?

18 MR. DELANEY: No, Your Honor.

19 THE COURT: All right. Well we'll swear you in when
20 you get here in the morning. Follow the bailiff and he
21 will give you your badges and tell you how to get in and
22 out. Have a pleasant evening.

23 (PETIT JURY EXITS COURTROOM AT 04:10 P.M..)

24 THE COURT: Any motions that we can take care of
25 today?

-41-

1 MR. DELANEY: I do have a few motions, Judge.

2 THE COURT: All right.

3 Anything from the State first?

4 SOLICITOR ANTHONY: The only thing that I have, Your
5 Honor, is we did have a charge on Mr. Puckett for
6 possession with intent to distribute marijuana. The State
7 elected not to pursue that charge today. I just wanted to
8 inquire of Mr. Delaney as to whether or not the defense
9 intends to go into marijuana being recovered in the
10 residence. I know in the first trial the defense did go
11 into marijuana being recovered in the residence, if that's
12 the case, then the State will go ahead and we'll present
13 our witnesses and probably have our witnesses, make a
14 mention of that, so, I just wanted to know if that was
15 something they were going to ask - not to have evidence
16 presented of and if they are not asking - asking the State
17 not to present evidence so that I can go ahead and do it so
18 we wouldn't look like we were concealing anything.

19 MR. DELANEY: Judge, we're not going to ask the State
20 not to mention marijuana. We were planning to question to
21 go into that as well.

22 SOLICITOR ANTHONY: Okay. Then that's really all my
23 motion. That's my only matter at this time.

24 THE COURT: All right. Mr. Delaney, I have your
25 motions. You've got the first motion to determine whether

1 the State has complied with discovery rules and cases.

2 SOLICITOR ANTHONY: We have, Your Honor.

3 THE COURT: All right. Prior record of Mr. Puckett
4 for impeachment.

5 SOLICITOR ANTHONY: He does not have any that would
6 qualify for impeachment under the rule.

7 THE COURT: All right. Prior bad act evidence.

8 SOLICITOR ANTHONY: We don't have any Lyle evidence
9 that we intend to introduce at this time.

10 THE COURT: All right. We'll sequester the witnesses.
11 That will be reciprocal. I do not see any lay witnesses on
12 the list, the only lay witness is actually one of the
13 defense witnesses. But there is a motion to determine
14 prior record of any of the State's lay witnesses, but I
15 don't see any - -

16 SOLICITOR ANTHONY: We don't have any lay witnesses.

17 THE COURT: All right. The next is admissibility of
18 the statement or statements made allegedly by Mr. Puckett
19 that the State would intend to introduce at trial.
20 Basically a Jackson versus Denno matter.

21 SOLICITOR ANTHONY: If I can just go back to the
22 sequestration. I would ask that Lieutenant Sherfield be
23 allowed to stay in the courtroom.

24 THE COURT: Certainly. Case agent can certainly stay
25 in.

-43-

1 SOLICITOR ANTHONY: He would be the case agent. And
2 just one other matter to advise the Court of. Deputy Haney
3 who is now a court security officer is a witness in the
4 case.

5 THE COURT: Do you have any objection to Deputy Haney
6 staying in?

7 MR. DELANEY: At this time no I don't - -

8 THE COURT: Well no don't say at this time because you
9 can't pop up half way through the trial -

10 MR. DELANEY: Could I --

11 THE COURT: You can think about it over night.

12 MR. DELANEY: I just don't know now. I can probably
13 let you know in the morning.

14 THE COURT: All right. Then I suggest that Mr.
15 Anthony that perhaps some backup be available if we get to
16 that.

17 SOLICITOR ANTHONY: Okay. Yes, sir.

18 THE COURT: Anything else?

19 SOLICITOR ANTHONY: No, sir. That's all as to
20 sequestration.

21 THE COURT: All right. Now, Jackson versus Dehno. Is
22 the State ready to proceed?

23 SOLICITOR ANTHONY: We are.

24 THE COURT: All right.

25 SOLICITOR ANTHONY: We call Lieutenant Sherfield.

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY -- IN CAMERA

-44-

(WHEREUPON: JOHN SHERFIELD,
BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION - IN CAMERA

LIEUTENANT JOHN SHERFIELD BY SOLICITOR ANTHONY:

Q. Would you state your name please?

A. Lieutenant John Sherfield.

Q. And, Lieutenant Sherfield, how are you employed?

A. I'm employed with the Union County Sheriff's Office as
a narcotics investigator.

Q. And were you working in that capacity on August 21st,
2009?

A. Yes, sir.

Q. And did you happen to go on that day in any capacity
as a narcotics investigator, did you happen to go to the
[REDACTED] residence of Mr. Puckett?

A. Yes, sir, I went to [REDACTED].

Q. All right. And what was the purpose of you going
there?

A. Initially I went there to do surveillance from. I had
Sergeant Johnson to obtain a search warrant for that
residence.

Q. All right. And then did Sergeant Johnson obtain a
search warrant?

A. Yes, sir.

Q. And after he obtained a search warrant, what happened?

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY - IN CAMERA

-45-

1 A. After he obtained a search warrant I met with he,
2 Deputy Haney and Deputy Coffey at the intersection of
3 [REDACTED] and [REDACTED] Road and we went
4 to the residence and executed the search warrant.

5 Q. And in the process of executing the search warrant,
6 without going into all the details of what happened when
7 you went in the house, where was Mr. Puckett found in the
8 mobile home?

9 A. He was in the bathroom next to the toilet.

10 Q. And were there any items found near him that in your
11 opinion was a controlled substance?

12 A. It was approximately two ounces of white powder
13 substance later identified as cocaine.

14 Q. So once you found Mr. Puckett in the bathroom near
15 this quantify of cocaine, what did you do in regards to
16 him?

17 A. Placed him under arrest, took him back to the kitchen
18 and living room area, advised him and the other occupant of
19 the residence their Miranda rights.

20 Q. And can you specifically advise the Court what
21 warnings you gave Mr. Puckett?

22 A. Yes, sir. I have a card in my wallet that I always
23 keep that I read from.

24 It says "You have the right to remain silent, anything
25 you say can and will be used against you in a court of law.

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY - IN CAMERA

-46-

1 You have the right to speak to an attorney, and you can
2 have the attorney present during any questioning. If you
3 cannot afford a lawyer one will be provided for you at
4 government expense. Knowing and understanding your rights
5 as I have explained them to you are you willing to answer
6 my questions without any attorney present?"

7 Q. And once you advised Mr. Puckett of his rights, what
8 happened?

9 A. He indicated that he was willing to talk with us.
10 Then he stated that Travis Anderson was the other person
11 inside the mobile home, did not have anything to do with
12 the drugs.

13 Q. And what was occurring, did anything occur at the time
14 he made this statement? I mean in regards to your
15 interaction with Mr. Puckett.

16 A. He was on the floor handcuffed.

17 Q. Okay. Was anything found on his person at - before he
18 made this statement?

19 A. A large sum of currency. He was searched and I
20 located One Thousand, One Hundred and Seventy-seven Dollars
21 in US currency from his pocket.

22 Q. All right. And then once you found the money, what
23 did Mr. Puckett say?

24 A. He said that he had fell upon hard times and lost his
25 job and that's why he was selling the drugs.

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY - IN CAMERA -47-

1 Q. All right. And in regards to the drugs, who the drugs
2 belonged to, what did he say?

3 A. He said that they were all his.

4 Q. All right. And the statement he made there after you
5 found the currency, was it made - had you ask him any
6 questions when he said that?

7 A. No.

8 Q. Okay. And did he tell you the location of any other
9 items that might be of - have been an interest in doing
10 this investigation?

11 A. After he made that statement I began to question him.
12 I ask him if there was any more drugs inside the residence.
13 He said there was some scales in the kitchen cabinet.

14 Q. And were you able to locate the scale?

15 A. Yes, sir.

16 Q. Okay. And then did he tell you about what he had been
17 able to do with any of the cocaine before you all got in
18 the residence?

19 A. He said he has flushed some but he would not elaborate
20 on how much he had flushed.

21 Q. Okay. And during the time that you were talking to
22 him on the 21st, the day you executed the warrant, did -
23 How did you characterize Mr. Puckett in regards to his
24 coherence and his ability to communicate?

25 A. He seemed, he seemed very coherent. He understood - I

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY - IN CAMERA

-48-

1 think -- what was going on. He indicated he understood his
2 Miranda warning when I advised him of it. He was nervous
3 and shaking but that's not uncommon.

4 Q. Okay. And when you ask him about the location of
5 anything else that might be of interest in the residence,
6 he told you about the scale, was that in response to any
7 threats or any promises on your part?

8 A. No, sir.

9 Q. Okay. All right. Well after you had that
10 conversation with him on the day you executed the warrant,
11 did you see him again after that?

12 A. The next day myself and Deputy Randy Manus went to the
13 Union County jail and interviewed Mr. Puckett.

14 Q. Okay. And did you do anything as far as advising him
15 of his rights before that conversation?

16 A. Yes, sir. I advised him of the same Miranda warning.

17 Q. All right. And did you read from the very same card
18 that you just read from?

19 A. Yes, sir.

20 Q. All right. And what did Mr. Puckett tell you during
21 that conversation?

22 A. He again indicated he understood his Miranda warnings
23 and he was willing to talk too. Again stated that the
24 drugs were his, that he had fell upon hard times again, and
25 that was the reason what he was selling the cocaine, he had

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY
BY MR. DELANEY

-49-

1 lost his job. Also during the interview at one point in
2 time I ask him if he would be interested in assisting us as
3 narcotics officers any maybe trying to have his supplier
4 arrested. He said he would have to think about that
5 because he was kind of scared of him. When I ask how much
6 cocaine the most that he could probably get he indicated
7 that he could get nine ounces of cocaine.

8 Q. And during that conversation how did Mr. Puckett
9 appear to you in regards to his ability to communicate?

10 A. Again he was coherent, alert, seemed like he
11 understood the questions and responded normally.

12 Q. All right. And at the time that you were speaking to
13 him did you make any threats or any promises to him before
14 or in regards to the questions you were asking him or as
15 part of the conversation?

16 A. No, sir.

17 Q. Thank you.

18 SOLICITOR ANTHONY: That's everything on direct.

19 CROSS EXAMINATION - IN CAMERA

20 LIEUTENANT JOHN SHERFIELD BY MR. DELANEY:

21 Q. So on August 21st at CJ's residence he said that he
22 had - he told you at that time he fell on hard - I guess
23 the first thing he said to you was he was claiming all the
24 drugs. Right?

25 A. Well the first thing he said was that Travis Anderson,

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-50-

1 the drugs were not Travis Anderson's; that he didn't know
2 nothing about.

3 Q. So Travis, he said to you Travis or Travis Anderson
4 didn't know anything about the drugs?

5 A. Right.

6 Q. Okay. And then after that was something about him
7 falling on hard times?

8 A. Yes, sir.

9 Q. Okay. And in response to a question that you had ask,
10 he had said that he told you the location of some scales?

11 A. Yes, sir.

12 Q. Okay. And then the other thing was that he had
13 flushed some of the cocaine down the toilet. Right?

14 A. Yes, sir.

15 Q. He didn't tell you how much?

16 A. No, sir, he would not tell me how much.

17 Q. Would not? Was that - That was the extent of the
18 statements that you're saying that CJ or Mr. Puckett made
19 at the residence?

20 A. Yes, sir.

21 Q. Okay. Nothing additionally?

22 A. No, sir.

23 Q. And when you came in your found - You found a couple
24 of blunts rolled up in the house?

25 A. Yes, sir.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-51-

1 Q. Okay. One of the blunts, did it appear that it - One
2 blunt I guess was full size. One of the blunts looked like
3 there may have been - it may have been smoked on?

4 A. Yes, sir.

5 Q. Okay. And -

6 May I approach, Your Honor.

7 THE COURT: Yes, sir.

8 Q. You prepared this Incident Report right there?

9 A. Yes, sir.

10 Q. Okay. And that's dated August 21st, 2009?

11 A. Yes, sir.

12 Q. Okay. And where you have the subjects information, is
13 there a box marked at that time as far as that the subject
14 is under the influence of alcohol?

15 A. Yes.

16 Q. Okay. And is that box marked?

17 A. It says no.

18 Q. Okay. Now under that there's a box that has as the
19 subject under the influence or has used drugs; is that
20 right?

21 A. Yes.

22 Q. Okay. And is that box marked?

23 A. It is marked yes.

24 Q. Okay. And so you marked that box?

25 A. Yes.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-52-

1 Q. Okay. And at that time was it your belief and
2 understanding that he was under the influence of something
3 at that time?

4 A. He seemed coherent to me.

5 Q. Okay.

6 A. I can't say that he was. I mean I marked yes because
7 part of one blunt was smoked. I don't know who smoked it
8 but I'm just - it's his residence so I marked yes.

9 Q. That was the reason that you marked the box?

10 A. Yes.

11 Q. It was nothing else that concerned you or at least
12 made it - brought to your attention that he's stoned or
13 he's high or something?

14 A. No, sir.

15 Q. Nothing like that as far as his behavior goes?

16 A. No, sir.

17 Q. Okay. And then you went back to or you talked to CJ
18 Puckett at the next day; is that right?

19 A. Yes, sir.

20 Q. Okay. And that was at the jail?

21 A. Yes, sir.

22 Q. Okay. And you went up there with Officer Manus; is
23 that right?

24 A. Manus. Randy Manus.

25 Q. Manus. Okay. Who does Manus work for?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-53-

1 A. The sheriff's office.

2 Q. The sheriff's office. Okay. He's not with narcotics?

3 A. No, sir.

4 Q. No. And you went there to meet with Mr. Puckett?

5 A. Yes, sir.

6 Q. Okay. Was he asking to see you or were you following
7 up on something? Do you recall?

8 A. To be honest I don't recall.

9 Q. Okay. And obviously he's still in custody at that
10 time from the night before. Right?

11 A. Yes, sir.

12 Q. Okay. And do you take him someplace. Where do you
13 take him to talk to him?

14 A. They brought him out of his main cell of the unit and
15 brought him to the - what we used to call the Magistrate's
16 office. It's the old Magistrate's office where the
17 magistrate used to go in and meet with people that was in
18 jail and set their bond. But now they have a different
19 place. That's where it was at the time.

20 Q. At that time? Okay. And what - Do you recall what
21 time of the night it was? Was this - I mean was this at
22 night?

23 A. It was later on in the evening. I estimate 7:00 or
24 eight o'clock in the evening.

25 Q. Okay. And it was you, Manus, and Mr. Puckett?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-54-

1 A. Yes, sir.

2 Q. Anybody else in the room?

3 A. No, sir.

4 Q. Okay. Did you guys have guns in the room?

5 A. No you have to leave your guns outside the jail.

6 Q. How long do you recall you talked to him that night?

7 A. Maybe thirty minutes at the most.

8 Q. And that night was CJ - You testified to that CJ said
9 that Mr. Puckett said is that - Again he made another
10 statement as far as the drugs were his, fell on hard times,
11 he had said that again?

12 A. Yes and that he lost his job.

13 Q. So the ones at the house and the ones at the jail?

14 A. Yes.

15 Q. Okay. And it appears there was some discussions about
16 him doing some work for narcotics or at least supplying
17 narcotics with some information?

18 A. Yes.

19 Q. Okay. And I think your testimony was that his
20 response was that he had to think about that; he was
21 scared, or something like that?

22 A. He actually named two or three people. He was in the
23 dirt track racing at the time. He named two or three
24 people that he had dealt with in the past. He never really
25 told me any more of his actual main supplier but he

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-55-

1 indicated that he may be interested and maybe helping us
2 get some of those.

3 Q. And there was some mention about him saying that he
4 could get up to nine ounces?

5 A. Yes.

6 Q. Anything else ---

7 A. No, sir.

8 Q. --- said? Okay. And you never went back to talk to
9 him any other times; had any other conversations with him?

10 A. I gave him my number and I left. I never talked to
11 him any more.

12 Q. Okay.

13 MR. DELANEY: That's all the questions I have, Judge.

14 THE COURT: All right.

15 Any redirect?

16 SOLICITOR ANTHONY: No, sir.

17 THE COURT: All right, you can step down. Thank you.

18 LIEUTENANT SHERFIELD: Thank you.

19 (WITNESS LEFT WITNESS STAND.)

20 SOLICITOR ANTHONY: That is our proffer.

21 MR. DELANEY: Judge, on the issue I would like to
22 address would be the fact that it appears that Mr. Puckett
23 was under the influence. Now to what extent I guess that
24 would be the question, but it was marked on the Incident
25 Report that he was under the influence or had been using

1 marijuana. There was some evidence that was found in the
2 house that would be consistent with that so, Your Honor, I
3 would make the argument that that's something he negate,
4 negates one's ability to be intellectually sound and making
5 good faith statement knowing all your rights that pertain
6 to Miranda warnings and those things. That's what we bring
7 to the Court's attention at this time.

8 THE COURT: All right. Well I'm going to allow the
9 introduction of the statements. I find that they are
10 freely voluntarily knowingly and intelligently given, that
11 prior to both statements Mr. Puckett was advised of his
12 rights under Miranda; the rights of the Fifth and Sixth
13 Amendment of the Constitution of the United States.

14 That he was advised from a card both times that he had
15 a right to remain silent, that anything he said could be
16 used against him in court. That he had the right to speak
17 to an attorney and have them present, have an attorney
18 present while he was answering questions. And that if he,
19 Mr. Puckett, could not afford an attorney one would be
20 appointed to him.

21 The first statement he was handcuffed and on the
22 floor. The second time he was in a magistrates office at
23 the jail. I find that under either incident was that
24 create any situation that would play against his statement
25 being voluntarily knowingly and intelligently made. That

-57-

1 as to the first statement given at the point of arrest the
2 statements were not in response to any questions. That no
3 threats were made either time, no promises made either
4 time, that both times Mr. Puckett appeared to the
5 interviewing officer that he understood, he Mr. Puckett,
6 understood *Miranda* warnings and that he voluntarily waived
7 those rights. Said he understood his rights, he was
8 coherent, alert, seemed to understand, responded normally,
9 no threats, no promises, no - of course the first time
10 nothing was ask about guns but I have to assume there were
11 guns present and the arrest took place there were not guns
12 present at the jail and no indication that if any guns were
13 present they were pointed at any body or being displayed.

14 . I find by a preponderance of the evidence that the
15 statements are admissible, that they were given by Mr.
16 Puckett freely voluntarily knowingly and intelligently
17 after he was given his rights as I said under *Miranda*, the
18 Fifth and Sixth Amendments of the Constitution. And that
19 he voluntarily waived those rights and the statement is
20 admissible. The jury of course by a greater degree of
21 proof the burden of proof will be instructed to view and
22 determine issues regarding statements first whether or not
23 the statement was in fact given by Mr. Puckett and if so
24 was it given in the context of him understanding or being
25 advised voluntarily waiving his rights. So as to the

1 admissibility I find that both statements and the fruits of
2 any such statements are admissible.

3 Anything else for the day?

4 SOLICITOR ANTHONY: No, sir, not from the State.

5 MR. DELANEY: No, Your Honor, none from the Defense.

6 THE COURT: All right. Then we'll be at ease.

7 And is Mr. Puckett out or incarcerated?

8 MR. DELANEY: He's out, Judge.

9 THE COURT: All right.

10 What's the State's position about --

11 SOLICITOR ANTHONY: We'd leave that up to the Court.

12 MR. DELANEY: And, Your Honor, obviously he's been out
13 for some time since his retrial. He's never missed any
14 appointments with me, it would be beneficial if he could
15 stay out tonight.

16 THE COURT: All right. Mr. Puckett, I'm going to
17 allow you to remain out and not be incarcerated tonight. I
18 want you to understand though if you were to not appear
19 here tomorrow at 10:00 a.m., or when your attorney tells
20 you to, I'm telling you to be here no later than 10:00
21 a.m., if you are not here this case will proceed, it would
22 go to the jury, if the jury were to convict you I would
23 seal the sentence, nobody in the world would know what that
24 sentence is, issue a bench warrant, I would direct the
25 Clerk to issue a bench warrant for your arrest. You would

-59-

1 at some point thereafter be arrested and brought before the
2 court and myself or another circuit court judge would
3 unseal and read to you that sentence and impose it. Do you
4 understand that?

5 MR. PUCKETT: Yes, sir.

6 THE COURT: So if you fail to appear tomorrow you
7 still will be tried in your absence. Do you understand
8 that?

9 MR. PUCKETT: Yes, sir.

10 THE COURT: Anything else from the State?

11 SOLICITOR ANTHONY: No, sir.

12 THE COURT: The Defense?

13 MR. DELANEY: No, Your Honor.

14 THE COURT: All right. The State's gonna check and
15 see if we got any more pleas we'll take a little short
16 break.

17 (COURT IN RECESS AT 04:45 P.M..)

18 (COURT BACK IN SESSION WEDNESDAY, NOVEMBER 14, 2012 AT
19 10:00 A.M., STATE V. MICHAEL SARTOR PLEA AT 10:00 A.M..)

20 (COURT IN SESSION IN THE MATTER OF STATE V. CLARENCE
21 PUCKETT AT 10:15 A.M..)

22 (WHEREUPON: STATE'S EXHIBITS NUMBER ONE THROUGH THREE
23 PREMARKED FOR IDENTIFICATION.)

24 THE COURT: All right, is the State ready?

25 SOLICITOR ANTHONY: Yes, sir.

1 THE COURT: Is the Defense ready?

2 MR. DELANEY: Yes, Your Honor.

3 THE COURT: Bring the jury in.

4 SOLICITOR ANTHONY: Just to mention one thing.

5 I know that Mr. Delaney said he had some issues with
6 Ms. Haney, Deputy Haney being in the courtroom. She's a
7 witness but she also works security. I just checked with
8 the sheriff's office, they told me they could accommodate,
9 provide security in keeping her out. Mr. Delaney he
10 advised me this morning where he still would like to have
11 her sequestered.

12 THE COURT: Okay.

13 SOLICITOR ANTHONY: So I think arrangements have been
14 made for that.

15 MR. DELANEY: And, Judge, my client's family is going
16 to be here in about five minutes is my understanding and
17 I'm not trying to hold up the starting of the trial, but
18 when they do arrive would it be okay with the Court if they
19 could come in at that time.

20 THE COURT: Sure.

21 MR. DELANEY: We may be in the middle of something.

22 THE COURT: Yeah as long as they do it quietly.

23 MR. DELANEY: Okay.

24 THE COURT: All right, bring in the jury.

25 SOLICITOR ANTHONY: Could they at least -

-61-

1 THE COURT: Wait, wait, wait.

2 SOLICITOR ANTHONY: --- at least wait until they don't
3 come in during opening statements. I just rather not - I
4 just ask not to have people walking in and out -

5 MR. DELANEY: I agree.

6 THE COURT: Okay. Well let them sit on the back row.
7 Let them come on in, sit on the back row and then move up
8 forward if they wish once you begin with the testimony.

9 SOLICITOR ANTHONY: All right.

10 THE CLERK: Did you hear, Mr. Belue? .

11 If any of the family comes in while they're talking,
12 have them set on the back until we have a break, and then
13 they can move forward at that time.

14 THE BAILIFF: Yes, sir.

15 THE COURT: Any spectators.

16 THE BAILIFF: Anyone. Okay. Yes, sir.

17 THE COURT: All right, bring in the jury.

18 (JURY REENTERS COURTROOM AT 10:20 A.M..)

19 THE COURT: Watch those chairs, we haven't lost a
20 juror yet but they do rock back. We're assured by the
21 Clerk that they are not going to rock too far back. They
22 will get your attention.

23 If everybody will please stand the Clerk will
24 administer the oath.

25 THE CLERK: Raise your right hand.

1 (WHEREUPON: PETIT JURY SWORN AT 10:21 A.M..)

2 THE COURT: You can be seated. Thank you.

3 I'm going to chat with you a few more minutes. I'm
4 not going to go over what I went over yesterday other than
5 to remind you it's very important that you follow those
6 admonitions and things I told you yesterday.

7 In just a moment the attorneys have the right but no
8 obligation to come before you and make what are called
9 opening statements. They are not at this point trying to
10 convince you of any verdict you should render, they will
11 have an opportunity to do that at a later point. What they
12 will be doing now will be giving you an outline or a road
13 map or a blue print of the trial. That is they will be
14 telling you a little bit more about what this case entails
15 and what they expect to evolve as the case is tried. They
16 are not witnesses so they are not giving you testimony
17 either.

18 I have three primary jobs in this case. Let me back
19 up just a minute. First, as to Mr. Puckett he has these
20 two charges but as to each he has entered pleas of not
21 guilty. These pleas of not guilty place on the State the
22 burden of proving his guilt beyond a reasonable doubt.
23 Under our law anyone including Mr. Puckett who is charged
24 with an offense is presumed innocent of that charge until a
25 jury is convinced by the State's evidence that that person

-63-

1 is guilty beyond a reasonable doubt.

2 I have three primary jobs, one is I am the logistics
3 person, make sure we take breaks, that one person speaks at
4 the time, that its quite in the courtroom, those sort of
5 things. The other is I rule on questions of evidence,
6 whether or not certain evidence is admissible. And after
7 you left yesterday I had a hearing on certain evidence that
8 I have ruled admissible and I will talk to you more about
9 that at the end of the trial, but I rule on questions of
10 the admissibility of evidence. The third job is that I am
11 the sole judge of the law in this case. You must take
12 accept and apply the law as I charge it. This is true even
13 if you think I charge the law in error, or even if you
14 think the law should be different. Your oath requires you
15 to take accept and apply the law as I charge it.

16 You are not to infer from anything I say or do at any
17 time during this trial as being an indication of an opinion
18 of mine on the facts. Our law does not allow a trial judge
19 to formulate or express to a jury an opinion on the facts.
20 It's solely your job as the trial jury in this case to
21 examine the evidence and to give to it the effect the value
22 and the weight the truth you believe it should have. In
23 doing this you may believe one witness as opposed to
24 several, several witnesses as opposed to one, you may
25 believe all or part of none of a witnesses' testimony.

1 Use your common sense, your sense of logic, your sense
2 of reason, use your experiences in life as you analyze the
3 evidence. As judges of the facts you must judge who to
4 believe the credibility of the witnesses. Use in
5 determining credibility the things I talked about. Use
6 those things you find in your day to day life as indicating
7 truthfulness in an individual. And you can use certain
8 evaluators; the witnesses' demeanor, how they act on the
9 stand. Are they hesitant or straight forward? Look at
10 consistencies or inconsistencies. Consider any bias or
11 prejudice a witness may have. And look at the opportunity
12 a witness had to know those things about which they
13 testified. All of these things you consider and determine
14 the facts and apply the law and you will be in a position
15 to return a verdict that speaks the truth.

16 You do not need to take notes. If you can't see or
17 hear, let me know, cup your ear, voice raising gesture,
18 nudging gesture, and I will try to correct it. It's not
19 fair to assign to you the task of determining this case
20 without giving you the opportunity to see and hear those
21 things you need to see and hear.

22 We take breaks about ever hour and a half. I find
23 that's a good break time, but, if for any reason any of you
24 need a break at any time, simply raise your right hand and
25 with no questions ask we'll take a break. It's hard to pay

-65-

1 attention if you're uncomfortable and need breaks. Let me
2 know and we'll take a break.

3 And I extend that to counsel and to Mr. Puckett also.
4 I now turn the case over to the attorneys for their
5 opening statements.

6 SOLICITOR ANTHONY: Thank you, Your Honor.

7 Good morning. My name is John Anthony, I'm the Deputy
8 Solicitor here in Union, and I'm the man who will be
9 representing the State in this trial.

10 One of the charges that Mr. Puckett has is called
11 trafficking cocaine. And that's kind of an odd word,
12 trafficking. You know when I think of trafficking I think
13 about being on the road, you know, being in traffic in a
14 traffic jam, something along those lines. And that is one
15 definition of trafficking, one idea, one definition of
16 trafficking involves movement. But when it comes to the
17 law and the drug law trafficking has a couple of
18 definitions. And one of the other ways to define
19 trafficking is simply possession. Either possessing, or
20 trying to possess, an amount of a drug that's above a
21 certain weight, and that is what Mr. Puckett is charged
22 with. He's charged with possession or attempting to
23 possess somewhere between twenty-eight grams and a hundred
24 grams of cocaine, and there's twenty-eight grams in an
25 ounce so basically we're talking about the crime would be

1 possessing somewhere over an ounce of cocaine.

2 Now, in this case the sheriff's office executed a
3 search warrant at Mr. Puckett's residence on [REDACTED]
4 [REDACTED] back on August the 21st of 2009, and what happened was
5 it was really pretty simple. They went into his house, the
6 bathroom door - they had trouble getting in the bathroom
7 door but when they finally got in through the bathroom door
8 Mr. Puckett they found him standing over a commode trying
9 to flush marijuana or flush cocaine down the commode.
10 That's what happened. He was caught with a bag of cocaine
11 in the commode standing over it. And that cocaine they
12 were able to recover it, it didn't get flushed down the
13 commode. They were able to recover it, they sent it to the
14 State Law Enforcement Division in Columbia where they have
15 a analyst down there who test drugs, and that analyst
16 tested the drugs and said that it was cocaine and it
17 weighed out at fifty-five grams. And that's what
18 trafficking is, it's being in possession of more than
19 twenty-eight grams of the drug and in this case twenty-
20 eight grams of cocaine.

21 So there were some other drugs found there at the
22 residence too. They found some drugs in the living room,
23 and initially when they recovered those drugs they thought
24 that that was cocaine too, so they sent that to SLED and
25 that turned out instead of being cocaine it turned out to

-67-

1 be crack when it was analyzed. And it was a little over
2 four grams of crack. So the law says that if you have over
3 one gram of crack that that creates evidence that you're
4 holding that crack with an intent to distribute because of
5 how much you have. So in this case along side of being
6 charged with trafficking cocaine once it was determined
7 that there was also crack found in the house, Mr. Puckett
8 was charged with possession with the intent to distribute
9 crack. So he's charged with those two crimes.

10 There was also some marijuana found in the house but
11 it was a comparatively small amount of marijuana so he was
12 charged with that but we're not trying him for that. We're
13 just trying him for the trafficking cocaine and the
14 possession with the intent to distribute crack.

15 So as you hear this case, we're gonna call the people
16 who were involved in doing the search. You will hear from
17 two narcotics officers and one sheriff's deputy who were
18 there who participated in the search of the residence. You
19 will hear from a couple of people from the sheriff's office
20 who took care of the drugs and who sent the drugs down to
21 the State Law Enforcement Division. You will hear from the
22 analyst from the State Law Enforcement Division who tested
23 them. And then you'll hear from another witness from the
24 sheriff's department, who just kind of to make sure that
25 things were correct, who reweighed them. And so that will

1 be the evidence you hear and we believe that once you've
2 heard the evidence in this case that you'll agree that Mr.
3 Puckett is guilty of trafficking cocaine and that he's
4 guilty of possession with the intent to distribute crack.

5 Thank you very much.

6 THE COURT: Mr. Delaney.

7 MR. DELANEY: May it please the Court.

8 THE COURT: Yes, sir.

9 MR. DELANEY: Good morning. My name is Erik Delaney,
10 I'm with the Union County Public Defender's Office.

11 When I hear the word trafficking I think of Tony
12 Montana from Scarface, Nino Brown from New Jack City,
13 Denzel Washington's character in American Gangster as Frank
14 Lucas, some documentaries. I've seen Pablo Escobar and
15 some of his associates.

16 Clarence Puckett, III, is not a drug trafficker.
17 You're going to hear he is a guy who lived in a small
18 single-wide mobile home that he purchased for fifteen
19 hundred dollars in 2008. You're going to hear that he had
20 One Thousand, One Hundred and Seventy-seven Dollars found
21 on him that was every last cent he had to his name.

22 You've already heard - You're gonna hear throughout
23 this trial CJ Puckett was located by officers in a bathroom
24 in his residence. In that bathroom in the toilet
25 approximately fifty some grams of cocaine were located in

-69-

1 the toilet. You're going to hear that throughout the
2 trial. You're also going to hear throughout this trial
3 something that the Solicitor did not mention in his opening
4 statement to you is that somebody, somebody else was in the
5 house that day when narcotic's officers came.

6 Two different kinds, two different ways somebody can
7 possess something. You're going to hear from Judge Hayes
8 at the end of this trial talking to you about possession
9 and these types of possessions. One way to possess
10 something obviously have it on you, have it in your pocket,
11 have it on your person. It's called actual possession.
12 The other type of possession is what they call constructive
13 possession. That's when you have dominion and control over
14 something.

15 The State has the burden in this case to prove to you
16 beyond a reasonable doubt that CJ Puckett had dominion and
17 control over this cocaine. They have the burden in this
18 case to prove each and every element of what Mr. Puckett is
19 charged with beyond a reasonable doubt. CJ Puckett comes
20 into this courtroom presumed innocent. He is veiled in a
21 cloak of innocence until that cloak is taken off by you
22 twelve collectively at the end of this trial. CJ Puckett
23 has a constitutional right not to say a word, not to
24 testify. Why? Because the State has the burden, the
25 burden to prove this case beyond a reasonable doubt.

1 Reasonable doubt is defined as the kind of doubt that
2 would leave a reasonable person not firmly convinced. The
3 kind of doubt that would leave a reasonable person hesitant
4 to act. This burden, this standard is so important to this
5 process, ladies and gentlemen, because if you are hesitant
6 to act, if you are not firmly convinced, you must find my
7 client not guilty.

8 An example I can use is the picture of an old set of
9 scales. Old fashion set of scales where you put something
10 on one side and something on the other and you balance an
11 old set of chains. Some of you may have been in civil
12 court before. The standard is much different in civil
13 court. Civil court it's the mere preponderance of the
14 evidence, what is more likely than not. If one party puts
15 their evidence on those scales in civil court and those
16 scales tip ever so slightly in favor of that party they've
17 met their burden. Here in criminal court the burden is
18 much higher, ladies and gentlemen. These scales have to
19 tip and they have to tip substantially. Hold the State to
20 their burden. And what you're going to have to ask
21 yourself at the end of this trial is that are you firmly
22 convinced, firmly convinced of CJ Puckett's guilt. Firmly
23 convinced.

24 You're going to hear a lot from this witness stand
25 throughout this trial. A lot of things are going to be

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-71-

1 said. But what I want you to focus on and think about is
2 what evidence is going to be brought to you that you can
3 see, you can hear, that is going to back up what's being
4 said from that witness stand? Thank you for your time.

5 THE COURT: Call your first witness.

6 SOLICITOR ANTHONY: The first witness will be
7 Detective Sherfield.

8 (WHEREUPON: LIEUTENANT JOHN
9 SHERFIELD, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
10 FOLLOWS:)

11 THE COURT: All right, please come up and have a seat.

12 DIRECT EXAMINATION

13 LIEUTENANT JOHN SHERFIELD BY SOLICITOR ANTHONY:

14 Q. Would you state your name please?

15 A. My name is John Sherfield.

16 Q. And, Mr. Sherfield, how are you employed?

17 A. I'm employed by the Union County Sheriff's Office as a
18 lieutenant in the Narcotic's Investigation Division.

19 Q. How long have you worked for the sheriff's office?

20 A. Approximately twenty-three years.

21 Q. And how long have you been a narcotics investigator?

22 A. A little over twelve years.

23 Q. I want to take you back now to August the 21st, 2009.

24 Did you have occasion that day, late that afternoon to
25 go out to [REDACTED] [REDACTED] [REDACTED]?

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-72-

1 A. Yes, sir.

2 Q. And is that in Union County?

3 A. Yes it is.

4 Q. All right. And what occurred to lead you to go to -
5 Or what circumstances arose to cause you to go to

6 [REDACTED]?

7 A. On August the 21st, 2009 I received information from
8 a reliable confidential informant that provided me with
9 useful reliable information in the past. This operative
10 stated that - -

11 MR. DELANEY: Your Honor, I object -

12 SOLICITOR ANTHONY: Without going -

13 MR. DELANEY: --- to the testimony at this time.

14 SOLICITOR ANTHONY: I can ask another question.

15 THE COURT: All right. Go ahead.

16 Objection sustained. Move on.

17 BY SOLICITOR ANTHONY:

18 Q. Without going into the specific information you were
19 given, based on your conversation with the informant, what
20 did you do?

21 A. I went to that address and set up surveillance on the
22 defendant's residence at [REDACTED].

23 Q. Okay. And that would be Mr. Puckett?

24 A. Yes.

25 Q. All right. And did you ask anybody else that you

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-73-

1 worked with to do anything?

2 A. Yes I did. Sergeant Jimmy Johnson also works
3 narcotics, I gave him a phone call, advised him I was at
4 that location, that I received information there would be
5 narcotics there and ask him to get a search warrant and I
6 gave him the description of the residence.

7 Q. Okay. And what did you do while Sergeant Johnson was
8 getting the warrant?

9 A. I did surveillance on the trailer while I was waiting
10 for them to return with the search warrant.

11 Q. Okay. During the time that you were doing
12 surveillance on the residence, did anybody come to it?

13 A. Yes.

14 Q. And who was that?

15 A. Travis Anderson.

16 Q. Okay. And what did you observed Mr. Anderson do?

17 A. Drive up in the drive way, get out of the car and go
18 inside the house.

19 Q. Were you able to tell if he was carrying anything when
20 he went in the house?

21 A. He had nothing in his hand.

22 Q. After you maintained surveillance for a while, did you
23 hear anything back from the other - from Sergeant Johnson
24 or from any other deputies?

25 A. Yes around 5:30 or fifteen till six, approximately,

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-74-

1 I was contacted by Sergeant Johnson, he said he was leaving
2 Union County jail where he had met with a magistrate and he
3 obtained a search warrant for the residence.

4 Q. And so where did you meet?

5 A. We agreed to meet at the intersection of [REDACTED]
6 [REDACTED] and [REDACTED] [REDACTED] [REDACTED]

7 Q. And who did you meet with?

8 A. It was myself, Sergeant James Johnson, Dee Haney a
9 uniform division of the sheriff's office, and Deputy Scott
10 Coffey.

11 Q. And once you got - once you met there, what was the
12 next thing that the four of you did?

13 A. We went to the defendant's trailer and executed the
14 search warrant.

15 Q. And how did the execution of the warrant proceed?

16 A. We drove up in the drive way, one got out, Sergeant
17 Johnson went to the front door, myself and Deputy Haney
18 went to the rear of the trailer, covered the back door.
19 Deputy Coffey as I recall it went to the corner on the far
20 side to watch any windows and stuff.

21 Q. What did you find when you went to the back of the
22 residence?

23 A. I found that the back door of the mobile home swung
24 out, it opened to the outside instead of to the inside and
25 it had a pad lock on it.

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-75-

1 Q. Okay. So once you determined there was a pad lock on
2 the outside of the back door, what did you do?

3 A. I knew nobody could come out of that door so I went
4 around, back around to the front door. Jimmy Johnson was
5 trying to gain entry inside the mobile home.

6 Q. And what were you able to observe Sergeant Johnson do?

7 A. He was - The front door which is unusual also swang
8 outward so it's very hard to kick in a door, kick it in
9 when the door actually swings outward. So he's having a
10 hard time getting - making entry into the door. It was
11 locked, he was jerking on the door and then he began
12 kicking at the door.

13 Q. And what did you observe happen as he did that?

14 A. The door finally came open.

15 Q. And while you were there waiting for him to be able
16 to get into the house, were you able to hear anything?

17 A. Yes you could hear somebody running through the
18 trailer.

19 Q. And so what happened after he was able - after
20 Sergeant Johnson was able to get the door to open?

21 A. When the door opened he went in and I went in
22 immediately behind him.

23 Q. And what did you see when you entered the trailer?

24 A. Found Travis Anderson standing in the living room
25 which was right inside this front door. He was standing

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-76-

1 beside the couch, told Travis Anderson to lay down on the
2 floor and put his hands behind his back. He stated laying
3 down on the floor, myself and Jimmy Johnson then began to
4 try to find out who was running down the hall. We could
5 hear the toilet being flushed in the bathroom so we went to
6 the bathroom door. That door was locked. Mr. Johnson
7 again was having a hard time getting in that door.

8 Q. And what did you do in an attempt to get into the
9 bathroom?

10 A. This mobile home had sheet rock walls. I went into
11 the kitchen area which adjoins the bathroom, moved the
12 microwave out of the way and started knocking a hole
13 through the walls so I could go through the wall and get in
14 the bathroom.

15 Q. What were you able to do eventually to the wall?

16 A. I knocked a big hole in it.

17 Q. Okay.

18 A. I was, you know, probably two and a half, three foot
19 hole through the interior and the exterior wall.

20 Q. And after you got the hole, what were you able to see?

21 A. While I was hitting on the - knocking the sheet rock
22 out and trying to go between the joist to get into the
23 bathroom, the door, Mr. Johnson got the door open some how,
24 he went in the bathroom and the same time Mr. Puckett seen
25 me coming through the wall and Mr. Johnson coming in

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-77-

1 through the door, he began screaming don't hurt me I give
2 up and threw his hands up in the air.

3 Q. Did you - Were you able to get the hole where you
4 could see through it in the bathroom?

5 A. Yes.

6 Q. Okay. What were you able to see through the hole?

7 A. I could see Clarence Puckett leaning over the toilet.

8 Q. All right. So how did you enter the bathroom?

9 A. I went around through the door.

10 Q. And when you got into the bathroom, what did you see?

11 A. I seen Sergeant Johnson had Mr. Puckett and was
12 leading him out and we recovered some - a plastic bag with
13 a white powder substance we believed to be cocaine in the
14 rim of the commode. The bag had been torn open.

15 Q. And where did Sergeant Johnson place the bag?

16 A. He took the bag out of the rim of the toilet and
17 placed it on top of the toilet on the tank.

18 Q. And did you see him do this?

19 A. Yes.

20 Q. Okay. And then were you able to look at the bag
21 yourself after he set it on top of the tank?

22 A. Yes I collected all of the evidence.

23 Q. Okay. And based on your experience when you saw the
24 substance, did you have an opinion of what it was?

25 A. I believed it to be cocaine.

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-78-

1 Q. Okay. All right. And so what did you do with the
2 cocaine in regards to the cocaine after Sergeant Johnson
3 got Mr. Puckett out of the bathroom?

4 A. I collected the evidence and brought it out to the
5 kitchen counter.

6 Q. Was there anything else collected from the bathroom?

7 A. Yes it was a small plastic bag which contained
8 approximately fourteen grams or half an ounce of marijuana
9 was in the wastebasket next to the commode.

10 Q. Okay. And where was Mr. Puckett taken in the
11 residence by Sergeant Johnson?

12 A. Kind of in an area between where the kitchen ends and
13 the living room starts just in the floor there.

14 Q. And where was Mr. Anderson at, at that time once you
15 got Mr. Puckett in the kitchen area?

16 A. Deputy Haney had handcuffed Mr. Anderson and he was
17 lying on his stomach in the living room floor.

18 Q. So once you retrieved the cocaine and walked out of
19 the bathroom and you're there in the kitchen/living room
20 area of the mobile home, do you - What did you do in
21 regards to speaking to Mr. Anderson and Mr. Puckett?

22 A. I advised both of them that they were under arrest
23 and advised them of their Miranda warnings.

24 Q. And could you just tell the jury the warnings you
25 gave the two of them?

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-79-

1 A. Sure. I have a card that I keep all the time usually
2 in my wallet but I have it in my shirt pocket today because
3 I figured I would be using it, and I read them these
4 warnings just as its written on this card.

5 "You have the right to remain silent. Anything you
6 say can and would be used against you in a court of law.
7 You have the right to talk to an attorney and have him or
8 her present with you while you are being questioned. If
9 you cannot afford to hire an attorney, one will be
10 appointed to represent you before any questioning if you
11 wish. You can decide at any time to exercise these rights
12 and not answer any questions or make any statements."

13 Then I ask them "Do you understand each of these
14 rights that I have explained them to you?" Both of them
15 answered in the affirmative.

16 And I ask, "Having these rights in mind, do you wish
17 to talk to me about the case?"

18 Q. And how did they respond?

19 A. As soon as I read that the defendant Clarence Puckett,
20 who was laying on his stomach, said that Travis Anderson
21 didn't know anything about the drugs.

22 Q. And did you after giving the warnings did you attempt
23 to start to search Mr. Puckett?

24 A. Yeah. I began to search him and I took One Thousand,
25 One Hundred and Seventy-seven Dollars cash from his pocket.

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-80-

1 And while I was searching him I ask him if there was any
2 other drugs inside the residence. He told me there was
3 some scales in the kitchen cabinet.

4 Q. Okay. And did he tell you anything that had happened
5 in regards to any other drugs in the residence? Or what he
6 done before you made it into the residence?

7 A. Yes. He had told me that he was able to flush some
8 of the drugs but he would not elaborate on how much that he
9 had actually been able to flush down the toilet.

10 Q. And after he said - After he told you about the
11 scales, did you do anything to attempt to recover them, or
12 recover the scales?

13 A. Yeah I went and opened the cabinet and got the scales
14 out just where he indicated they was at.

15 Q. All right. And did you make any observations about
16 the scales?

17 A. Yeah the scales were black and they were digital
18 scales. They had a white powder substance which I believed
19 was cocaine on the lid, the flat part where you actually
20 place items to weigh them.

21 Q. Okay. And in your experience what is the relation
22 between scales and the sale of drugs?

23 A. Well obviously if you're buying or selling drugs they
24 kind of go hand in hand. You want to make sure you're
25 getting what you pay for. If somebody says they gonna sell

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-81-

1 you an ounce of cocaine you want to put it on the scale and
2 weigh it to make sure its one ounce or twenty-eight grams.
3 You want to make sure they're not short changing you. A
4 lot of times they will double bag it and a plastic bag
5 weighs about a gram so you'd at least be getting a gram
6 less so, you know, you just want to make sure that you get
7 what you pay for or what you're selling.

8 Q. And in your experience what's the relationship between
9 dealing drugs and having a large sum of cash on your
10 person?

11 A. Usually somebody selling drugs they have a large
12 amount of currency.

13 Q. And when Mr. Puckett made the statement about Mr.
14 Anderson not knowing anything you referenced, did he say
15 anything further about ownership of the drugs in the
16 residence?

17 A. He did but I think that he may have said that they
18 were his drugs then. I remember him saying inside while we
19 was at the residence that he was selling drugs because he
20 had fallen upon hard times and he had lost his job.

21 Q. Okay. And so after he told you, after you had this
22 conversation with Mr. Puckett and found the money and found
23 the scales, what was the next thing you did there at the
24 house?

25 A. Well there was some more, there was two more baggies

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-82-

1 of drugs that was in the floor. We collected those too.

2 Q. All right. And the baggies that were found, once
3 again where were they found?

4 A. One was in the floor and one was on the couch kind of
5 next to the couch cushion.

6 Q. Okay. And those bags, when you found those, what did
7 you initially think that was?

8 A. I thought it was cocaine. It was about the same
9 color as the cocaine that we recovered from the commode.

10 Q. All right. And then did you do anything else in
11 regards to making the search that evening?

12 A. Some of the officers went outside and searched Travis
13 Anderson's car. I stayed inside with the defendant Mr.
14 Anderson.

15 Q. Okay. Was Mr. Anderson searched?

16 A. Yes.

17 Q. And how much - How much cash approximately did he
18 have on him?

19 A. He had a Dollar and Thirty-one cent.

20 Q. Was there anything found in Mr. Anderson's car?

21 A. Yes.

22 Q. And what kind of substance was found in his car?

23 A. Approximately an ounce or twenty-eight grams of
24 marijuana and some prescription medication.

25 Q. Was there any crack or cocaine found in the car?

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-83-

1 A. No, sir.

2 Q. So after the search of the residence was completed,
3 what did you do in regards to Mr. Puckett and Mr. Anderson?

4 A. We transported them to the jail.

5 Q. And what were they charged with at that time?

6 A. They were charged with trafficking cocaine and
7 possession with intent to distribute marijuana and a
8 possession of a scheduled four narcotic, prescription
9 medication.

10 Q. Okay. And that was in regards to Mr. Anderson and
11 what was found in his car?

12 A. Right.

13 Q. Okay. And what is the status right now on Mr.
14 Anderson's cases?

15 A. The case is still pending.

16 Q. All right. And then this happened on August 21st, did
17 you have any further contact with Mr. Puckett the next day?

18 A. I did.

19 Q. And where did you see him?

20 A. Myself and Deputy Randy Manus was at the Union County
21 Jail. We had the jail officers to bring Mr. Puckett from
22 his cell block up to an interview room that we use there at
23 the jail. It was also a magistrate's office that the
24 magistrate uses part time.

25 Q. And did you do anything as far as advising him of his

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-84-

1 rights on that day?

2 A. Yes. Again advised him of the same rights that I had
3 the day previously.

4 Q. And what did he tell you that day?

5 A. Again he said that the reason he was selling drugs he
6 had lost his job, didn't have any income. I interviewed
7 him about who he was getting his drugs from. He never
8 would say exactly who he was getting the cocaine from. The
9 reason I was doing that I also mentioned to him is that
10 we'd be interested in maybe getting his supplier. He named
11 several people that was involved in dirt track racing. He
12 also has a dirt track - I mean a dirt track race car, at
13 that time he did, and he was involved in that and he told
14 me at least three people that he knew was selling cocaine
15 and that he may be interested in helping me arrest those
16 people but that he wanted to think about it and I gave him
17 my number.

18 Q. And did you ever hear anything else from him?

19 A. No, sir.

20 Q. Did he tell you how much he could buy?

21 A. When we was talking he said that he would be able to
22 get up to nine ounces of cocaine which is a quarter kilo of
23 cocaine.

24 Q. And beside from the race car, were you aware of any
25 other vehicles being at his residence?

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-85-

1 A. Just Mr. Anderson's.

2 Q. Okay.

3 A. The only one I can remember.

4 Q. And how much based on your experience in doing
5 narcotics were - How much would an ounce of cocaine cost,
6 like the, you know if you bought it, first of all you just
7 bought it in a whole sale or bulk form, how much would that
8 -

9 A. If an individual now went and bought just a lump sum
10 of an ounce of cocaine all at one time around One Thousand
11 or Eleven Hundred Dollars.

12 Q. And then how much would that be sold for in individual
13 quantities?

14 A. Well usually on the street here now a gram of cocaine
15 will go around a Hundred Dollars. Its twenty-eight grams
16 to an ounce so if you broke it down and sold it by the gram
17 you could get roughly Twenty-eight Hundred Dollars out of
18 an ounce of cocaine.

19 Q. All right. And as far as crack goes if you had four
20 grams of crack, what would that sell for?

21 A. Pretty much the same thing, around a Hundred Dollars
22 per gram.

23 Q. Okay. And then if that were broke down in individual
24 quantities what would you...

25 A. The usual dose of crack cocaine is one tenth of one

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-86-

1 gram, it sells for Twenty Dollars. One tenth of one gram,
2 you know that would be Two Hundred Dollars a gram if you
3 sold it by the --

4 Q. Individually?

5 A. By the Twenty Dollar rock.

6 Q. All right.

7 A. So it really just depends on how you sell it.

8 Q. I'm going to show you what's been marked for
9 Identification as State's Exhibit Number Three. And this
10 is just a bag with a lot of other bags in it. What I will
11 do is - First of all I will call your attention to this bag
12 that's inside the big bag and ask if you can identify that
13 bag there?

14 A. This bag is a SLED Best Pak Bag, and what it is if we
15 collect drug evidence that we need to send to SLED to be
16 analyzed by the chemist in Columbia, they provide us with
17 these kits and called a Best Pak, that has this plastic in
18 it that you actually put your evidence in and put some
19 paper in about the evidence and the suspect information,
20 arrest date, case number, stuff like that. You put it in
21 this bag and then you seal it up top right here. And
22 that's what I did, I put the cocaine that we collected and
23 the pills in this Best Bag.

24 Q. Okay. Well first of all let's talk about the large
25 cocaine amount.

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-87-

1 I'm showing a little envelop that's got a A on the
2 back and then a bag. Can you tell the jury what that is?

3 A. This is the cocaine that was recovered from the inside
4 of the rim of the commode. What I done, this cocaine was
5 in a plastic bag that was torn. I took this cocaine and
6 the plastic bag that was torn I placed it in this.

7 (WITNESS INDICATED.)

8 A. And I sealed this up. And the reason I did that is
9 because I wanted to contain each piece of evidence
10 individually and in a separate pak so that it would not
11 cross contaminate any other evidence that I put in this
12 Best Bag.

13 Q. Okay. So when you got the evidence after the search
14 warrant, the actual cocaine that you just pointed out was
15 not packaged up the way it is now?

16 A. No it was not. It was in a regular piece of plastic
17 bag. I'm sure it's here somewhere. It's torn.

18 Q. Okay.

19 A. And I put it - the whole thing in this piece of
20 plastic.

21 Q. Okay.

22 A. And sealed it up.

23 Q. Okay. All right. And then I'm going to show you now
24 this which is another plastic envelop that has a B on it.

25 And I'm showing you - I'm showing you two more little

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-88-

1 plastic wrappers and two more little bags with a substance
2 in them. Could you explain that to the jury?

3 A. Yes. First, this is the bag that was torn with the
4 large amount of cocaine that was actually put in this first
5 bag. This is the second bag that I had labeled as B, the
6 same kind of bag as the first one. I said that we found
7 two small bags of what we thought was cocaine, one being in
8 the floor and one at the couch, which was later identified
9 as crack. This is the crack that was in that bag.

10 And this is one of the bags that one of the small
11 packages on the floor was in.

12 And this is the other small bag that the package on
13 the couch as in. I took these two pieces of plastic which
14 contained what I thought at the time was cocaine, but later
15 identified as crack, and I sealed it in this plastic
16 container and then put it inside this same Best Pak.

17 Q. I'm showing you now what has been marked for
18 Identification as State's Exhibit Number Two, and I'd ask
19 if you can identify that photo?

20 A. I know you can't see it from over there but this is a
21 photo I took after I actually packaged this stuff and
22 before I put it in the Best Pak. On your left here is a
23 photo of where I took the large amount of cocaine and
24 sealed it up in one of these little brown envelops. And on
25 the right here is where I sealed up the two small packages

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-89-

1 that I found in the floor and on the couch, again, in one
2 of these brown envelopes.

3 Q. All right. And does that picture does that fairly and
4 accurately depict how the large quantity of drugs and then
5 the two smaller quantity of drugs were packaged up to go to
6 SLED?

7 A. Yes. This is the way I packaged it.

8 Q. Okay.

9 A. And then I put these two packages along with the pills
10 into this Best Pak right here.

11 Q. Okay.

12 A. And then sealed it up -

13 THE COURT: Excuse me a minute.

14 A. I'm sorry.

15 THE COURT: Is that distracting?

16 MADAME COURT REPORTER: Yes, sir, it is. I'm probably
17 picking her up on my backup.

18 THE COURT: Their having a ceremony and she's finished
19 the National Anthem so hopefully we won't be - if it gets
20 to be too distracting give me a signal.

21 BY SOLICITOR ANTHONY:

22 Q. As to the picture, without referencing the drugs, is
23 the picture a accurate depiction of how those drugs were
24 packaged up?

25 A. Yes.

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-90-

1 Q. Okay.

2 SOLICITOR ANTHONY: We move Number Two into evidence.

3 MR. DELANEY: No objection, Judge.

4 THE COURT: In without objection.

5 (WHEREUPON: STATE'S EXHIBIT NUMBER TWO IDENTIFIED AND
6 MARKED, RECEIVED INTO EVIDENCE.)

7 SOLICITOR ANTHONY: And I'd ask to publish those to
8 the jury at this time.

9 THE COURT: All right.

10 SOLICITOR ANTHONY: And while I set this on our
11 projector, can you all turn the lights off please.

12 (COURTROOM LIGHTS DIMMED.)

13 (STATE'S EXHIBIT NUMBER TWO PUBLISHED TO THE JURY AT
14 11:05 A.M..)

15 SOLICITOR ANTHONY: Okay.

16 Q. So, Lieutenant Sherfield, the bag on the left, which
17 bag is that?

18 A. That is the bag that contained the large quantity of
19 cocaine that we recovered from the rim of the commode.

20 Q. Okay. And then the bag on the right what is that?

21 A. The two small bags that we found in the living room,
22 one from the floor and one from the couch.

23 Q. All right. And that's - those were packaged up in
24 those envelopes?

25 A. Right.

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-91-

1 Q. Correct? All right. And then the photograph, how was
2 the photograph stamped by the camera?

3 A. 21st which was August the 21st and the time was 07:58
4 or 07:59 p.m.

5 Q. All right. Thank you.

6 You can go ahead and turn the lights back on.

7 (COURTROOM LIGHTS TURNED BACK UP.)

8 Q. Now after you took those - the two envelopes, you
9 testified you put them in a SLED bag; is that correct?

10 A. That's correct

11 Q. Okay. And then what did you do with the SLED bag?

12 A. The SLED bag, after I put the evidence inside, there
13 is a form that you have to fill out that also goes in here,
14 I completed that paperwork, filled it out in here, sealed
15 it up up here at the top with the tamper proof resistant
16 tape, put it back in a envelop, wrote the case number on
17 the front of the envelop. And that was done on the 21st.

18 Q. And then where was it placed and stored on the 21st/

19 A. The 21st was actually on a Friday evening. This was
20 later on in the evening, the actual sheriff's office had
21 done closed. The investigators and the evidence officer
22 goes home at five o'clock on Friday so we have a vault at
23 our office, the Task Force office, and this evidence was
24 placed in that vault until Monday which was the 24th.

25 Q. And then what happened to it on the 24th?

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-92-

1 A. It was turned into Jeff Lawson at the time who was one
2 of the evidence officers.

3 Q. And was the bag, what was the condition of the big
4 SLED bag when you turned it over?

5 A. The same condition.

6 Q. Still sealed?

7 A. Yes, sir

8 Q. Okay. And what was the purpose of giving it to Jeff
9 Lawson?

10 A. At that time the way we did it I would, if I collected
11 evidence, I would turn it over to Jeff Lawson who would put
12 it in the main evidence vault which is down stairs by the
13 drink machines, if you've even been down by the sheriff's
14 office where they keep all the evidence. And they store it
15 in there until they get several of these Best Pak's and
16 then someone makes a trip to Columbia, SLED headquarters,
17 and logs this evidence in where it is analyzed by the SLED
18 chemist.

19 Q. And after -

20 (PAUSE. LOUD APPLAUSE COMING FROM COURTHOUSE FIRST
21 FLOOR LOBBY.)

22 Q. Have you - After the drugs had been sent back from
23 SLED have you had possession of the bag and the drugs since
24 then, since they've been sent back from SLED?

25 A. They was actually put in a vault and they been opened

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-93-

1 several times during the last three years for various
2 reasons. Attorneys wanting to see it, being reweighed.
3 Eventually I did get it back and I stored it at my office
4 in my vault.

5 Q. Okay. And is that where they were brought from today
6 from your office?

7 A. Yes.

8 Q. Okay. And has that been since January of last year
9 you kept them there?

10 A. Yes.

11 Q. Okay. All right. And I want to show you now - I want
12 to show you now what's been marked for identification as
13 State's Exhibit Number One.

14 Let me set this over here, get some of this stuff out
15 of your way.

16 (LOUD APPLAUSE COMING FROM COURTHOUSE FIRST FLOOR
17 LOBBY.)

18 Q. All right. Could you identify that item please?

19 A. These is the scales that I got out of the cabinet at
20 the defendant's residence on [REDACTED] [REDACTED]

21 Q. And where have the scales been kept?

22 A. Up in the cabinet, kitchen cabinet.

23 Q. Okay. But I mean since you - since you recovered them
24 on August 21st where were they kept?

25 A. In my office, the Task Force in a vault.

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY
BY MR. DELANEY

-94-

1 Q. Okay. And are those scales in the same condition they
2 were in when you recovered them on August 21st?

3 A. Yes, sir

4 Q. All right. We move the scales into evidence at this
5 time.

6 MR. DELANEY: No objection.

7 THE COURT: In without objection.

8 (WHEREUPON: STATE'S EXHIBIT NUMBER ONE IDENTIFIED AND
9 MARKED, RECEIVED INTO EVIDENCE.)

10 Q. And is Mr. Puckett here in the courtroom?

11 A. Yes he is.

12 Q. And could you point him out please?

13 A. He's the individual seated next to Mr. Delaney.

14 SOLICITOR ANTHONY: I'd ask that the record reflect
15 Mr. Puckett's been identified.

16 (WITNESS, LIEUTENANT SHERFIELD, IDENTIFIED THE
17 DEFENDANT, MR. PUCKETT.)

18 SOLICITOR ANTHONY: That's all my questions on direct.

19 THE COURT: Cross?

20 MR. DELANEY: I'm gonna move this podium, Judge.

21 (MR. DELANEY MOVED PODIUM.)

22 CROSS EXAMINATION

23 LIEUTENANT JOHN SHERFIELD BY MR. DELANEY:

24 Q. Good morning.

25 A. Good morning.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-95-

1 Q. And, Lieutenant Sherfield, you were the case agent in
2 this case.

3 A. I was.

4 Q. And case agent is the lead investigator. Right?

5 A. Yes, sir.

6 Q. This was your case?

7 A. Yes, ma'am.

8 Q. This case was your responsibility?

9 A. Yes, sir.

10 Q. And you are a lieutenant in the Union County Drug Task
11 Force; is that right?

12 A. I am.

13 Q. And actually you are the head of the Union County Drug
14 Task Force. Correct?

15 A. Yes, sir.

16 Q. And you started as an officer about twenty years ago?

17 A. Yes, sir.

18 Q. And been in narcotics for about twelve years now?

19 A. Yes, sir.

20 Q. Okay. And now before becoming an officer you received
21 a lot of training through the Academy; is that right?

22 A. Yes, sir.

23 Q. Okay. And as an officer, now Lieutenant, who is the
24 head of the Narcotic's Office, you've received lots of law
25 enforcement training. Correct?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-96-

1 A. Yes, sir.

2 Q. Lots of training on how to solve crimes?

3 A. Drug crimes yes, sir.

4 Q. And through your years of extensive training and your
5 years of experience you've learned the importance of
6 physical evidence; is that right?

7 A. Yes, sir.

8 Q. Forensic evidence?

9 A. Yes, sir.

10 Q. Incident Reports?

11 A. Yes, sir.

12 Q. Written statements?

13 A. Yes, sir.

14 Q. Recording statements?

15 A. Yes, sir.

16 Q. Now by physical evidence we're talking about tangible
17 items. Right?

18 A. Yes, sir.

19 Q. Example, drugs?

20 A. Yes, sir.

21 Q. Baggies, scales. It's evidence that you can reach out
22 and touch; is that right?

23 A. Correct.

24 Q. And you've been trained and you've heard some
25 testimony of the importance of handling physical evidence;

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-97-

1 is that right?

2 A. Yes.

3 Q. Okay. And training in the importance of preserving
4 that evidence; is that right?

5 A. Yes, sir.

6 Q. Okay. And you may order - As the case agent you may
7 order certain objects to be taken into evidence; is that
8 right?

9 A. If it's my case I will collect the evidence.

10 Q. Right. And as the case agent lead investigator it's
11 your case it is your call as to whether physical evidence
12 is tested or processed for forensic evidence; is that
13 right?

14 A. As long as it's within the sheriff's office policy.
15 You understand, I work for the sheriff, he makes some
16 policies of where the evidence is going to be kept, who is
17 designated as the evidence custodians, stuff of that
18 nature.

19 Q. But you - -

20 A. I have to work within his policy.

21 Q. But as the lead investigator you feel something needs
22 to be tested, some physical evidence you have needs to be
23 tested for forensic evidence, that's your call to make; is
24 that right?

25 A. It's my call to submit it to SLED, I cannot tell you

LIEUTENANT JOHN SHERFIELD: BY MR.. DELANEY

-98-

1 that SLED will test it. For example, I've had firearms or
2 scales and stuff I've tried to get DNA off of it. DNA is -
3 cause it's so expensive to test for that they will not do
4 it for just normal drug cases.

5 Q. For DNA?

6 A. Right.

7 Q. Now you testified that you know the importance of
8 forensic evidence. Right?

9 A. Right.

10 Q. And forensic evidence refers to a wide variety of
11 evidence that can be obtained and analyzed scientifically;
12 is that right?

13 A. Yes.

14 Q. Okay. And an example would be fingerprints. Right?

15 A. Yes.

16 Q. And as you've already mentioned DNA, hair fibers?

17 A. Right.

18 Q. Clothing fibers, those type of things. Right?

19 A. Right.

20 Q. Fingerprints is one of the main things. Correct?

21 A. Yes, sir.

22 Q. I mean that's something you are familiar with in the
23 narcotics division. Correct?

24 A. Yes.

25 Q. Okay. And you may I guess at times order physical

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-99-

1 evidence to be tested, analyzed. Correct?

2 A. At times yes.

3 Q. Okay. And SLED, South Carolina Law Enforcement
4 Division, they're available to analyze this evidence.
5 Correct?

6 A. Yes.

7 Q. Okay. SLED's open for business twenty-four, seven,
8 three sixty-five?

9 A. Well you have to go to intake which is from 9:00 to
10 5:00 to actually give the intake people your evidence. Of
11 course if you have, you know, a murder or something like
12 that and you call the forensic team to come up here and
13 process they would keep it and they would submit it their
14 self.

15 Q. And they have specialized training in testing
16 evidence. Correct?

17 A. Yes, sir.

18 Q. Okay. And forensic and physical evidence is important
19 because it can corroborate or contradict what someone is
20 saying; is that right?

21 A. Yes.

22 Q. And if I say - I'm saying I didn't hold this note pad,
23 and I'm adding I didn't hold this note pad, its something
24 that potentially could be checked to corroborate or
25 contradict what I'm saying. Right?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-100-

1 A. Well I see you holding the note pad.

2 Q. Well -

3 (WITNESS LAUGHED.)

4 Q. --- you know what I'm saying though. Right?

5 A. Yes, sir.

6 Q. Okay. And you received training as to the importance
7 of getting a signed written statement. Right?

8 A. Yes.

9 Q. And that can be from witnesses, can be from subjects?

10 A. Yes.

11 Q. And you have - to get a written statement you have
12 somebody put their statement in writing; is that correct?

13 A. That's correct.

14 Q. And at some point they will sign as to that statement.
15 Correct?

16 A. Yes.

17 Q. Okay. And there are occasions where officers will for
18 various reasons write someone's statement for them; is that
19 correct?

20 A. Yes.

21 Q. And then review that statement with the person?

22 A. Yes, sir.

23 Q. Okay. And then that person will then sign their
24 statement. Correct?

25 A. That's right.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-101-

1 Q. And there are forms that you have that you use these
2 voluntary statement forms you use in these situations.
3 Correct?

4 A. Sometimes yes, sir.

5 Q. Okay. And you have these forms I would imagine
6 available to you at the narcotics office. Correct?

7 A. I do.

8 Q. And if you're going out on an investigation that's
9 usually something you got it on you. Correct?

10 A. Usually yes, sir.

11 Q. Okay. And you normally have something to write with
12 on you. Correct?

13 A. Rights.

14 Q. Okay. And these forms will have an area where
15 obviously a space where that person can write their
16 statement. Correct?

17 A. That's right.

18 Q. It's got a spot down low where they sign their name.
19 Correct?

20 A. Yes, sir.

21 Q. And there's something in there they're swearing and
22 when they sign it their maintaining they're swearing that
23 that's the truth; is that right?

24 A. Yes, sir.

25 Q. Okay. And there is other information you put in this

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-102-

1 statement as far as when the statement was made and
2 documenting things; is that correct?

3 A. Yes, sir.

4 Q. In addition I guess an alternative to a written
5 statement - I'm sorry, having someone write out their
6 statement and signing it is someone's statement can be
7 recorded; is that correct?

8 A. Sometimes.

9 Q. Okay. And the narcotics office has all kinds of video
10 recording equipment. Correct?

11 A. Yes.

12 Q. You got big cameras. Right?

13 A. Yes.

14 Q. Little cameras?

15 A. Yes.

16 Q. And various video audio recording devices?

17 A. Yes.

18 Q. Use those - You use that equipment everyday. Right?

19 A. Right.

20 Q. And you have - As the head of the narcotics department
21 you have access to that equipment any time of the day.

22 Correct?

23 A. Right.

24 Q. Now also actually a little while ago when you
25 testified that you received training as to the importance

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-103-

1 of instant reports; is that correct?

2 A. Yes, sir.

3 Q. Okay. And you received training on how to write these
4 reports; is that right?

5 A. Yes, sir.

6 Q. And you had many years of experience writing these
7 reports?

8 A. Yes, sir.

9 Q. And incident reports they can include General Session
10 Case File Summaries. Right?

11 A. The old ones do but we don't do that any more.

12 Q. You don't do what anymore?

13 A. The General Sessions Case File Summary.

14 Q. You don't write those any more?

15 A. No.

16 Q. Just the regular Incident Report?

17 A. We have a new system at the sheriff's office called
18 Law Traction and we enter everything in that.

19 Q. I guess what I'm trying to get, there is other types
20 of supplemental reports that can be filed and those type
21 things. Correct?

22 A. Yes.

23 Q. Okay. And your training is essentially the same as
24 all of those; is that right?

25 A. Right.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-104-

1 Q. Okay. You were trained to be as accurate and detailed
2 as possible when you are filling out these reports.

3 Correct?

4 A. Yes, sir.

5 Q. You can't put every little thing during an
6 investigation into a report. Right?

7 A. I use the Incident Report to help refresh my memory on
8 the incident that happened like in this case three years
9 ago.

10 Q. Right. And that's one of the things that Incident
11 Reports are - keeping the report are to help you refresh
12 your memory. Correct?

13 A. Right.

14 Q. And you want to - You want to put in the big - the big
15 details and the important facts; is that right?

16 A. Yes, sir.

17 Q. And as you said it helps you when you're coming back
18 to court in cases and in this case years later; is that
19 right?

20 A. Right.

21 Q. It can also help if you have other officers who are
22 assisting you with the case and something that they can
23 refer to; is that right?

24 A. Yes, sir.

25 Q. And it helps you get it right. Correct?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-105-

1 A. Yes, sir.

2 Q. And you want to get it right.

3 A. Yes, sir.

4 Q. So I just want to go through for a minute what you
5 prepared. Do you have some of those documents up there
6 with you?

7 A. Yes, sir.

8 Q. Okay. You prepared the Incident Report dated August
9 the 21st, 2009; is that correct?

10 A. I did.

11 Q. And as we've heard obviously these charges were made
12 in the early evening hours or at least when Mr. Puckett and
13 Mr. Anderson were arrested on August the 21st, 2009.
14 Correct?

15 A. Around six o'clock we executed a search warrant.

16 Q. And this report here is dated August the 21st, 2009?

17 A. Yes, sir.

18 Q. And my assumption would be that this report then is
19 written on August 21st, 2009?

20 A. Yes, sir.

21 Q. Okay. You also compared the - I guess you said you
22 don't use them anymore but this time you prepared the
23 General Sessions Case File Summary; is that correct?

24 A. Yes, sir.

25 Q. Okay. And this report has no date on it. Correct?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-106-

1 A. No, sir. It has a case number, same case number but
2 no date.

3 Q. No date. Do you have any idea when you wrote this?

4 A. It was the same day as the date of the incident,
5 8/21/2009 in the narrative.

6 Q. Again, no date on it?

7 A. Only in the narrative.

8 Q. You say - In the narrative you say on 8/21/2009 but
9 you're describing your summary of what happened. Correct?

10 A. Right.

11 Q. So you're not saying you actually - In here for this
12 to be clear you're not saying that you wrote this on
13 8/21/2009?

14 A. Right.

15 Q. At least it was in here. And it looks like you would
16 have prepared a Union County Sheriff's Office Receipt for
17 Property Chain of Custody Report dated 8/21/2009?

18 A. Yes.

19 Q. All right now, Lieutenant Sherfield, I want to go -
20 let's go back to August the 21st, 2009. You had Sergeant
21 Johnson swear out a search warrant for the residence at 295

22 [REDACTED] Right?

23 A. Yes, sir.

24 Q. Okay. And gave him a - had given him a description of
25 the property; is that right?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-107-

1 A. I did. Over the phone I gave him a description of the
2 property.

3 Q. And that would have been a very small single-wide
4 mobile home?

5 A. Right.

6 Q. Had some white vinyl siding?

7 A. Seems like it did.

8 Q. Okay. Covered wooden front porch?

9 A. Yes, sir.

10 Q. Front door, back door?

11 A. Right.

12 Q. Okay. There was a drive way?

13 A. Yes, sir.

14 Q. And that drive way pretty short drive way. This
15 residence is located just off of Vanderford. I mean it's
16 pretty close to Vanderford; is that correct?

17 A. Yes.

18 Q. Okay. And we've heard already that you got this
19 search warrant based upon information concerning particular
20 activities going on there; is that right?

21 A. That's correct

22 Q. And after calling Sergeant Johnson to get the search
23 warrant you set up surveillance on the residence?

24 A. I did yes, while he was getting the search warrant.

25 Q. Right.

1 LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-108-

1 A. , Yes.

2 Q. Okay. And when you were conducting the surveillance,
3 where were you at?

4 A. Several different locations.

5 Q. Where - I guess were you across the ---

6 A. I was ---

7 Q. --- street, in a field?

8 A. --- driving in an unmarked vehicle.

9 Q. Okay. So you were driving up and down Vanderford?

10 A. Right.

11 Q. Okay. And where you were at in the car and driving
12 you were able to keep - have a visual on 295 Vanderford?

13 A. Yes pretty much the whole time. When I would go up
14 the road if I met a car I would, you know, give it a second
15 and turn around and go back.

16 Q. Okay. And those times you had a good view of the
17 residence?

18 A. There was a couple of times where I didn't have it in
19 my sight yes.

20 Q. And you were in an area where you could see if anybody
21 was coming, going from the residence. Correct?

22 A. Yes.

23 Q. Okay. And one of the things you look for when doing
24 surveillance is traffic; is that right?

25 A. Right.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-109-

1 Q. And when you say traffic, cars coming and going.

2 A. Correct.

3 Q. And that can also include - traffic can also include
4 people coming and going; is that right?

5 A. Yes.

6 Q. Okay. Now you didn't see this during your
7 surveillance cars coming and going, people coming and
8 going; is that right?

9 A. The only one I saw was Travis Anderson.

10 Q. Because you saw no one going. Right?

11 A. No, sir.

12 Q. But as you just said you saw someone coming to the
13 residence. Right?

14 A. I saw Travis Anderson in a Maxima.

15 Q. Single car ride while you're conducting your
16 surveillance. Right?

17 A. Yes.

18 Q. And that would be as you said a Maxima?

19 A. Uh-huh.

20 Q. Okay. And a guy gets out of this car and enters the
21 single wide mobile home. Right?

22 A. Right.

23 Q. And as you said you knew who this guy was at the time?

24 A. Yes.

25 Q. Travis Anderson?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-110-

1 A. yes.

2 Q. Recognized the vehicle as well?

3 A. Yes, sir.

4 Q. And, Lieutenant Sherfield, you were familiar with
5 Travis Anderson prior to August the 21st, 2009. Correct?

6 A. Yes.

7 Q. And during your surveillance did you see Travis
8 Anderson go back out to the car and come back in the mobile
9 home?

10 A. No I did not.

11 Q. Now that could have occurred when you were either
12 driving up and down the road or when you went and met with
13 officers down at the end of Vanderford; is that correct?

14 A. That's correct

15 Q. Possible?

16 A. Possible.

17 Q. But you're saying you didn't see that, but you saw him
18 get there, go into the residence?

19 A. Right.

20 Q. Okay. And the end of [REDACTED] [REDACTED] [REDACTED]

21 [REDACTED] [REDACTED] is where you met with Sergeant Johnson,
22 Sergeant Haney and Deputy Coffey?

23 A. It was actually [REDACTED] [REDACTED] [REDACTED]

24 Q. Okay. I'm sorry. Brown's Creek?

25 A. Yeah Brown's Creek.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-111-

1 Q. And that's a mile, two miles down from where 295
2 Vanderford is?

3 A. Probably a mile maybe.

4 Q. Not --

5 A. Not really. Probably not even a mile actually.

6 Q. Okay. So you met up with them down there; is that
7 correct?

8 A. Yes, sir.

9 Q. Okay. And the reason you were meeting up with other
10 officers at that time is you're executing a search warrant
11 and you want some back up with you; is that right?

12 A. You kind of want to have a plan whose going where.

13 Q. Okay. Makes sense. And these situations you also
14 want someone there to watch your back. Correct?

15 A. Right.

16 Q. These situations can be chaotic; is that right?

17 A. Yes.

18 Q. A lot of times you are surprising people; is that
19 right?

20 A. Yes.

21 Q. And I'm sure you witnessed seeing people when their
22 surprised, scared. They do some crazy things. Right?

23 A. Yes, sir.

24 Q. Okay. And people inside these places they can - they
25 can panic; they will panic; is that right?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-112-

1 A. Sometimes.

2 Q. Now, the four of you then proceeded down Vanderford to
3 go to the residence; is that right?

4 A. That's right.

5 Q. And, Lieutenant, you and Sergeant Haney initially go
6 to the rear of the residence?

7 A. Yes.

8 Q. Okay. And Sergeant Johnson is at the front door?

9 A. Yes, sir.

10 Q. Okay. And I imagine Deputy Coffey is doing something
11 around the residence as well. He's watching some window or
12 something like that.

13 A. Right.

14 Q. Is that right?

15 A. Yes, sir.

16 Q. And you testified when you got around back you noticed
17 that the back door had some type of pad lock on it; is that
18 right?

19 A. It had a pad lock on the outside yes, sir.

20 Q. Okay. And that in your mind I guess at that time you
21 didn't think anybody was coming out that door; is that
22 right?

23 A. That door was secure, nobody was coming out of it.

24 Q. So that's why you, Sergeant Haney went around to the
25 front?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-113-

1 A. Right.

2 Q. Okay. And you had testified that the front door, back
3 door were I guess I think you said they were kind of
4 unusual doors as far as they came, they swung open to the
5 outside, swung out instead of coming in; is that right?

6 A. Usually on a mobile home the door swings outward and
7 the other door swings inward. This door had two swinging
8 outward doors.

9 Q. Two swinging outward. Okay. And at some point when
10 you get back around - Now when you were around back of the
11 mobile home did you hear anything at that time?

12 A. Yes you could hear movement inside yes.

13 Q. You were at the back, you were hearing movement in the
14 mobile home at that time?

15 A. Yes.

16 Q. Okay. And that continues and you come around to the
17 front, you're still hearing movement in the mobile home; is
18 that right?

19 A. Right.

20 Q. Okay. And you could hear somebody or somebodies
21 running through the mobile home. Correct?

22 A. Yes.

23 Q. Okay. And don't know - You don't know who was running
24 inside that residence; is that correct?

25 A. That's correct

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-114-

1 Q. Don't know if it was Travis Anderson. Right?

2 A. All I can tell you Travis Anderson was in the living
3 room, the defendant was in the bathroom.

4 Q. Okay.

5 A. I don't know who ran where. I could hear a lot of
6 movement inside the mobile home.

7 Q. But prior to you - Prior to your entry into that
8 mobile home my question is you don't know who was running
9 in that mobile home. Correct?

10 A. Correct.

11 Q. And Travis Anderson in your Incident Report is listed
12 as six, six foot one, two hundred and twenty pounds; is
13 that right?

14 A. Yes, sir.

15 Q. Okay. And then CJ Puckett is listed as five feet six,
16 a hundred and thirty pounds; is that right?

17 A. Yes, sir.

18 Q. Travis Anderson is much bigger man than CJ Puckett.
19 Correct?

20 A. Correct.

21 Q. Now you testified that Sergeant Johnson was not able
22 to make entry immediately through the front door; is that
23 right?

24 A. Yes, sir..

25 Q. It took him a couple of tries?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-115-

1 A. Yes, sir.

2 Q. Okay. And you had put in your Incident Report that -
3 I mean put in your Incident Report that forceful entry was
4 made by Johnson through the front door; is that correct?

5 A. Yes. By force I mean the door was locked. We got it
6 open without any help.

7 Q. Now I think you testified - Let me ask you. These
8 doors had deadbolt locks on them. Correct?

9 A. Yes.

10 Q. Okay. And the door opened to the outside. Correct?

11 A. Correct.

12 Q. Okay. And I think your testimony some how this door
13 opened. Correct?

14 A. Somehow Sergeant Johnson got it open.

15 Q. Now possible that door was opened from the inside?

16 A. I don't know. When I was coming upon the porch
17 Sergeant Johnson was still kicking on the door, pulling on
18 the door, and it just came open. I couldn't see what
19 happened on the inside --

20 Q. Well I ask that because no damage to the door.
21 Correct?

22 A. If there was any damage it was very little.

23 Q. And no damage to the door frame?

24 A. No, sir, not that I recall.

25 Q. No damage to the deadbolt?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-116-

1 A. No, sir.

2 Q. And you testified that you locate somebody standing
3 just inside the door. Correct?

4 A. Travis Anderson.

5 Q. Right. So again my question would be possible that
6 that door was opened from the inside?

7 A. I can't tell you it was or wasn't. I don't know. I
8 know the door came open.

9 Q. And Sergeant Johnson he is the first in the mobile
10 home. Correct?

11 A. Correct.

12 Q. You were a couple of steps behind him?

13 A. Yes, sir.

14 Q. Okay. And you locate Travis Anderson in a living room
15 area, in the living area standing beside a couch; is that
16 right?

17 A. Yes, sir.

18 Q. Okay. And this couch was just inside the front door;
19 is that correct?

20 A. Yes, sir.

21 Q. Okay. And drugs were found on the couch. Right?

22 A. One small baggie was on the couch and one in the
23 floor.

24 Q. Okay. And the one on the floor, was the baggie empty
25 on the floor?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-117-

1 A. No both of them had drugs in them.

2 Q. Both of them had drugs in them? Okay. And where in
3 the floor?

4 A. Next to the wall near where Travis was.

5 Q. Okay. And then another bag found we just talked about
6 on the couch. Do you recall was it down in the couch, up
7 on top of the couch?

8 A. The way that I recall it, it was near the back part of
9 the cushion where the cushion slides up, butts up to the
10 couch. It was on top of the cushion but it was next to the
11 crack in the back.

12 Q. Okay. And who found the drugs on the couch?

13 A. I think Sergeant Johnson did.

14 Q. And - -

15 A. I collected all of the evidence but I think he found
16 it.

17 Q. And this ultimately was - it was more specifically
18 these were two baggies that ultimately the weight was about
19 four grams of cocaine. I guess more specifically later it
20 was determined to be about four grams of crack cocaine?

21 A. Yes, sir.

22 Q. Okay. Now you quickly secure, cuff Mr. Anderson and
23 put him on the ground; is that right?

24 A. Deputy Haney did that.

25 Q. Okay.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-118-

1 L. She cuffed the defendant.

2 Q. She cuffed him. She got him on the ground. You're
3 going through the place at that point. Right?

4 A. We go in I'm hollering at him to get down on the
5 ground, get down on the ground, I proceed on with Sergeant
6 Johnson to the bathroom when she comes in and she cuffs
7 him.

8 Q. Okay. So once you're in behind Johnson you're yelling
9 at Anderson to get down, once he complies and gets down,
10 you see that he's down, you're going forward, Haney cuffs
11 him at that point?

12 A. Actually we never even stopped, just ran on by him.
13 He was starting to get down, she was right behind me she
14 stopped at him.

15 Q. Okay. So you never stopped. So it's moving fast, you
16 guys are moving fast ---

17 A. Right.

18 Q. --- in there. Okay. And you head towards the
19 bathroom?

20 A. Yes, sir.

21 Q. Okay. And Sergeant Johnson had trouble getting in
22 the bathroom door?

23 A. Yes.

24 Q. Okay. And this bathroom door was another one of these
25 doors that swung out as well; is that correct?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-119-

1 A. Yes. Very unusual. It swung out too.

2 Q. And ultimately he's having trouble getting in the
3 door, you're - you begin to knock a hole in the wall at
4 that point; is that correct?

5 A. Yes.

6 Q. And did you knock a hole in the wall with your fist?
7 What were you using?

8 A. My hand.

9 Q. Your hand? Okay. Now you had testified previously
10 under oath that this was a hole that was big enough to walk
11 through the joist. That hole really wasn't that big though
12 was it?

13 A. It was my intention was to knock the hole between the
14 joist and go through there to get to him if we didn't get
15 the door open.

16 Q. Okay.

17 A. I had started knocking a hole out between the joist
18 and, I knocked the inside part of the sheet rock on the
19 kitchen side and the outside part of the sheet rock which
20 is on the bathroom side I had knocked it through on both
21 sides of the wall and I could see your defendant at the
22 toilet.

23 Q. Hole was basically big enough for you to at that point
24 look in; is that correct?

25 A. Yes.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-120-

1 Q. Okay. Was it big enough to put your gun through?

2 A. Yes.

3 Q. Okay. Did you put your gun through it?

4 A. No.

5 Q. You never put your gun through the hole?

6 A. I don't remember pulling my gun on him.

7 Q. Say again?

8 A. I don't remember pulling my gun on him.

9 Q. And at some point does Mr. Puckett put his hands up
10 and start moving towards the door?

11 A. No he puts his hands up screaming "I give up, I give
12 up, don't hurt me".

13 Q. And some how this door opens again; is that right?

14 A. Yes.

15 Q. Because there is no damage to the bathroom door is
16 there?

17 A. I don't think there was.

18 Q. And a bag of cocaine found in the toilet?

19 A. Yes.

20 Q. Six - About little over six grams of marijuana found
21 beside the toilet; is that right?

22 A. Fourteen grams.

23 Q. Fourteen grams? You sure about that?

24 A. I believe that's what --

25 Q. Okay.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-121-

1 A. Yes fourteen grams. Approximately a half ounce what
2 it was, what I thought at that time. I'm not exactly sure
3 what the weight came out to be.

4 Q. Yeah and - -

5 A. I was just estimating it as - -

6 Q. Did the weight come back quite a bit less than that?

7 A. It could have been. I mean that was just an estimate.
8 I don't know. I didn't weigh it at the time.

9 Q. Would you be surprised if it came back six, seven
10 grams?

11 A. Could have.

12 Q. Okay. Because about - We'll talk about this in a
13 minute. Strike that. Six, seven grams of marijuana, would
14 that equate to about Twenty Dollars worth of marijuana if
15 it came down to quality?

16 A. Yes it could, you know, about four grams, maybe Twenty
17 Dollars for it.

18 Q. Okay. And you said you found it in the waste basket
19 next to the toilet?

20 A. Yes.

21 Q. Okay. Now before we go into anything else I just want
22 to go through the interior of this mobile home.

23 So you had the front door, you come in the front door
24 and this is a small mobile home. Correct?

25 A. This is a single wide mobile home.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-122-

1 Q. Single wide. You go in the front door you have -
2 You're basically in the living room at that point, is that
3 right?

4 A. Right.

5 Q. And you have a couch to your right?

6 A. Correct.

7 Q. Okay. There's a couple of - You turn around at the
8 front door there's a couple of windows at that point ---

9 A. Yes.

10 Q. --- that face out towards Vanderford? Okay.

11 And you come into your left there is a bar area; is
12 that correct?

13 A. Yes.

14 Q. And that's where the kitchen is?

15 A. Yes.

16 Q. Okay. And if you go past the bar area that's towards
17 the bathroom over near the hallway area; is that right?

18 A. Yes.

19 Q. And right at the beginning of that hallway is to your
20 left is where the bathroom is; is that right?

21 A. Right.

22 Q. And you - Essentially you take a step out of the
23 bathroom you're in the living room/kitchen area; is that
24 right?

25 A. Yes.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-123-

1 Q. Okay. Now, Lieutenant, going back to the couch that's
2 located right when you come in the mobile home to your
3 right. Travis Anderson is located right next to the couch;
4 is that right?

5 A. Yes he was standing right next to the couch.

6 Q. And this is the same Travis Anderson you saw drive up
7 to Mr. Puckett's place while you were conducting
8 surveillance. Right?

9 A. Right.

10 Q. Same Travis Anderson you have testified you were aware
11 of, familiar with prior to August 21st, 2009. Correct?

12 A. Yes.

13 Q. Now according to your report in your testimony here
14 today clearly hear someone running through the trailer.
15 Correct?

16 A. Right.

17 Q. Don't know who that was. Right?

18 A. No, sir.

19 Q. Could have been as we talked about Travis Anderson
20 running through that mobile home. Correct?

21 A. Yes.

22 Q. Don't know what Travis Anderson brought into Mr.
23 Puckett's residence August 21st, 2009. Correct?

24 A. When I seen him he didn't have anything going in
25 inside.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-124-

1 Q. Right. And that's why you were driving up and down -
2 up and down Vanderford. Correct?

3 A. Right.

4 Q. And you also testified that you left that area to go
5 meet up with an officer down the road. Correct?

6 A. Yes I did..

7 Q. You also testified it's possible at that time that he
8 could have came back out to his car. Correct?

9 A. Yes.

10 Q. Okay. And we do know who was found right next to the
11 cocaine later determined to be crack on the couch. Right?

12 A. Right.

13 Q. Travis Anderson?

14 A. Yes.

15 Q. And we do know that almost twenty grams of marijuana
16 was found in Travis Anderson's vehicle?

17 A. Yes.

18 Q. Now being in your line of work you know a lot - a lot
19 about marijuana; is that right?

20 A. A little bit.

21 Q. When I say is there's many different kinds; is that
22 right?

23 A. Right.

24 Q. And at various times marijuana has certain
25 characteristics; is that right?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-125-

1 A. Yes, sir.

2 Q. Okay. And what I mean by that is texture, color,
3 smell. They all can be unique to a certain kind, type of
4 marijuana; is that correct?

5 A. Right.

6 Q. Okay. Now not just marijuana was found in Travis
7 Anderson's vehicle. Right?

8 A. Right.

9 Q. In addition to marijuana we know that there were forty
10 Xanax pills found in the car?

11 A. That's correct

12 Q. And you never discovered in your investigation that
13 Mr. Anderson had a valid prescription for those Xanax.
14 Correct?

15 A. He does not.

16 Q. Okay. And how much would you say I guess a single
17 pill or Xanax on the street would - -

18 A. Four or Five Dollars.

19 Q. How much?

20 A. Four or Five Dollars.

21 Q. Four or Five Dollars? Okay. So there was I guess
22 Two, Two Hundred and Fifty, Two Hundred Dollars worth of
23 Xanax pills in that bottle - -

24 A. If you sold them one at a time yes.

25 Q. Okay. And Xanax, that can be sold one at a time and

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-126-

1 be sold three, four, five at a time?

2 A. Right. Yeah.

3 Q. And also found - Excuse me. Also found in Travis
4 Anderson's vehicle was a set of scales. Correct?

5 A. Yes.

6 Q. And we have heard your testimony from earlier what
7 scales can be indicative of. Correct?

8 A. Right.

9 Q. And you - The car that pulled up you said was a 2003
10 Nissan; is that right?

11 A. Maxima, yes.

12 Q. Nissan, Maxima? Okay. And you pulled the title to
13 that vehicle ---

14 A. I did.

15 Q. --- in your investigation? You have that?

16 A. Yes, sir.

17 Q. Okay. Owners of that vehicle were Leslie and Nancy
18 Anderson. Correct?

19 A. That's correct

20 Q. Okay. You know Leslie Anderson as Judge Anderson - -

21 SOLICITOR ANTHONY: Objection. That's irrelevant.

22 THE COURT: I sustain the objection.

23 MR. DELANEY: Say again?

24 THE COURT: It's probably a good time to break.

25 I'll let the jury go out and we'll take a refresher

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-127-

1 break.

2 (JURY EXITS COURTROOM AT 11:52 A. M..)

3 THE COURT: The question had to do with one of the
4 automobile owners and objected to?

5 SOLICITOR ANTHONY: Yes, sir. The objection would be
6 that the fact that the owner of the car is a magistrate
7 judge is irrelevant.

8 THE COURT: All right. What's the relevancy?

9 MR. DELANEY: That's his parents, they were the owners
10 of the car, the vehicle is there, they pull the title. I
11 can withdraw that question.

12 THE COURT: All right. Well I sustain the objection
13 and its withdrawn anyway so we'll take a break.

14 You can step down, use the restroom, get water.

15 (WITNESS LEFT WITNESS STAND.)

16 (COURT IN RECESS AT 11:52 A. M..)

17 (COURT BACK IN SESSION AT 12:04 P.M..)

18 (WITNESS RETURNED TO THE WITNESS STAND.)

19 THE COURT: Keep your seats.

20 Is the State ready?

21 SOLICITOR ANTHONY: Yes, sir.

22 THE COURT: Defense ready?

23 MR. DELANEY: Yes, Your Honor.

24 THE COURT: During the break Mr. Gentry came to us, he
25 was the last juror seated, Number 93. He indicated that

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-128-

1 because of his relationship through employment with the
2 gentleman he believes - the gentleman in the audience who
3 he believes to be Mr. Puckett's, the defendant's step-
4 father, he felt he could not sit in fair judgment so I have
5 relieved him and will seat Ms. Spears, the alternate, as
6 the - one of the twelve.

7 Any comments on that?

8 SOLICITOR ANTHONY: No, sir.

9 MR. DELANEY: No, Your Honor.

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

11 (JURY REENTERS COURTROOM AT 12:06 P.M..)

12 THE COURT: Over the break Mr. Gentry indicated that
13 he had some legitimate reason for asking to be let off of
14 the jury panel which I did. He didn't do anything wrong,
15 he did not get any special treatment, just things emerged,
16 I had to let him be removed.

17 So, Ms. Spears, you are now actually on the panel.
18 You can sit there for right now but whenever you come in
19 this afternoon just join the other twelve rather than - no
20 need to switch right now. So we are now down to you twelve
21 and I'm turning the matter back over to Mr. Delaney.

22 MR. DELANEY: Thanks, Judge.

23 CROSS EXAMINATION

24 LIEUTENANT JOHN SHERFIELD BY MR. DELANEY:

25 Q. Lieutenant, did you in your paperwork you have up

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-129-

1 there that you have, do you have warrants that you took out
2 in the case?

3 A. I have copies of ---

4 Q. Copy of the warrant?

5 A. --- of two warrants for Mr. Puckett.

6 Q. Two warrants for Mr. Puckett?

7 A. Yes.

8 Q. Okay. Any indictments in that?

9 A. No I don't have any indictments.

10 Q. Okay. And we heard you took out a warrant for - sworn
11 out a warrant before a magistrate judge on August the 22nd,
12 2009 for trafficking cocaine regarding CJ Puckett.

13 Correct?

14 A. Yes.

15 Q. And then sworn out a warrant looks like two days later
16 August the 24th, 2009 for possession with intent to
17 distribute marijuana; is that correct?

18 A. Yes, sir.

19 Q. Okay. And as we've heard later found some of the
20 cocaine in the residence, it was crack not powder. Right?

21 A. Right.

22 Q. Okay. And you never took a warrant out on Mr. Puckett
23 for possession with intent to distribute crack. Correct?

24 A. No, sir.

25 Q. He was indicted on that charge; is that right?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-130-

1 A. Mr. Solicitor directly indicted him for that yes, sir.

2 Q. And Travis Anderson and as you testified - In your
3 direct to Mr. Anthony you identified Mr. Puckett sitting
4 here today. Correct?

5 A. Yes.

6 Q. Okay. Mr. Anderson is charged with trafficking, took
7 out a warrant on him for trafficking cocaine. Correct?

8 A. Yes, sir.

9 Q. Okay. Took out a warrant on him for possession with
10 intent to distribute marijuana. Correct?

11 A. Yes.

12 Q. Okay. Took out a warrant for him for possession of
13 the forty Xanax pills found in the vehicle. Correct?

14 A. Yes, sir.

15 Q. Okay. And never took out a warrant for him regarding
16 possession with intent to distribute crack; is that right?

17 A. That's correct

18 Q. Okay. And do you have any idea if he was ever
19 indicted on that charge?

20 A. I do not know.

21 Q. And Mr. Anderson is not in the courtroom here today.
22 Correct?

23 A. No, sir.

24 Q. And I think it was your testimony from earlier that
25 his case was or cases are pending; is that correct?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-131-

1 A. That's what I've been informed by the Solicitor's
2 office yes, sir.

3 Q. Okay. Go back and talk about this forensic evidence a
4 little bit. One bag found you said on the ground area near
5 where Travis Anderson was. Correct?

6 A. In the floor yes, sir.

7 Q. In the floor? Okay. And one of these bags found on
8 the couch. Correct?

9 A. Right.

10 Q. Two bags. Correct?

11 A. Yes, sir.

12 Q. Never - You didn't request that these bags be analyzed
13 for fingerprints. Correct?

14 A. No, sir.

15 Q. Okay. Didn't request that they be processed by SLED.
16 Right?

17 A. I ask for drug analysis.

18 Q. Right. But not any type of analysis to see if there
19 were any fingerprints on the bags. Correct?

20 A. No, sir.

21 Q. Okay. You didn't try to. Right?

22 A. No, sir.

23 Q. And scales that we saw earlier, didn't request that
24 SLED do any type of analysis on the scales. Correct?

25 A. No, sir, never sent 'em to SLED.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-132-

1 Q. Okay. That was neither for fingerprints or for what
2 you described as what you believed to be these cocaine
3 residue on the scales. Correct?

4 A. Never had it analyzed.

5 Q. Okay. And didn't try. Right?

6 A. No, sir.

7 Q. And no photographs taken of those scales inside the
8 residence. Correct?

9 A. No, sir.

10 Q. Okay. No photographs taken from where these scales
11 were supposedly taken from inside the residence. Correct?

12 A. No, sir.

13 Q. And you have access to a camera, somebody had a camera
14 out there that day or that night. Correct?

15 A. Yes, sir.

16 Q. Okay. And that would include no photos taken of the
17 supposed cocaine residue that was on the scale. Right?

18 A. No, sir. It's still on there.

19 Q. And there is no forensic evidence in this case.

20 Correct?

21 A. You have a drug analysis from SLED.

22 Q. All right. No forensic interviews in this case to do
23 with any fingerprints; is that right?

24 A. That's correct

25 Q. Okay. You didn't request any forensic evidence to be

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-133-

1 done to analyze baggies and scales; is that right?

2 A. That's correct.

3 Q. And its your testimony that you didn't try; is that
4 right?

5 A. Right.

6 Q. Now you testified as to the importance that's placed
7 on these incident reports; is that right?

8 A. Repeat that please.

9 Q. You testified already I ask you questions as far as
10 the importance that's placed on writing an incident report.
11 Correct?

12 A. Yes.

13 Q. And as we went through training to be as accurate and
14 detailed as possible. Right?

15 A. Yes.

16 Q. Okay. Put in the important information. Right?

17 A. Correct.

18 Q. All right. And we talked about the incident report
19 dated August the 21st, 2009. Right?

20 A. Yes, sir.

21 Q. That is the incident report you prepared the night of
22 this incident. Right?

23 A. Yes.

24 Q. There is absolutely no mention anywhere in that report
25 of any statement CJ Puckett made at his residence.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-134-

1 Correct?

2 A. No, sir.

3 Q. That's pretty important information that's left out,
4 would you not agree?

5 A. Yes, sir, I probably should have wrote that in there.

6 Q. Now we talked about this other report that you wrote,
7 the General Sessions Case File Summary; is that right?

8 A. Yes, sir.

9 Q. And that's the one that doesn't have a date on it.
10 Correct?

11 A. Right.

12 Q. Okay. And I defer your attention to this report. In
13 this report there are two sentences that relate to what CJ
14 Parker supposedly said regarding this case; is that right?

15 A. You mean CJ Puckett?

16 Q. Right. CJ Puckett said in this case?

17 A. Yes, sir.

18 Q. Okay. And if you go to the second page of that
19 report, about half way down, you follow me where it says
20 one question about the drugs? Do you see what I'm talking
21 about?

22 A. Yes.

23 Q. And it goes on to say that "Puckett stated that all
24 the drugs were his and Anderson didn't have any
25 explanation." Is that right?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-135-

1 A. Yes, sir.

2 Q. Okay. So there's that sentence there and then if you
3 look to the last paragraph in - So that's the only sentence
4 in this report here that says what he said at the house
5 that day; is that correct?

6 A. Yes, sir.

7 Q. Okay. Now you testified earlier that Mr. Puckett
8 besides saying all the drugs in the house are mine and the
9 drugs aren't Mr. Anderson's, he went on to say some things
10 to the effect of times were hard for him that's why he was
11 - that's why he was selling something like that?

12 A. Right.

13 Q. I think he said - You think that's what he said
14 something like that?

15 A. Yes, sir.

16 Q. I think your testimony was you thought that's what he
17 said. And the other thing you said is that he had told you
18 at the house that he had flushed some of the cocaine but he
19 wouldn't elaborate on the amount; is that correct?

20 A. That's correct.

21 Q. Okay. That's no where in the General Sessions Report.
22 Correct?

23 A. No, sir.

24 Q. Okay. And that's no where in any report that you
25 prepared in this case; is that correct?

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-136-

1 A. That's correct.

2 Q. Okay. But it's your testimony here today over three
3 years later that's what he said or that's what you think he
4 said in the house; is that correct?

5 A. Absolutely.

6 Q. You heard the testimony that you had - you made
7 earlier to say how important it is to document things when
8 you come into court years later to refer to things.

9 Correct?

10 A. Yes.

11 Q. But you don't have noting to refer to regarding these
12 statements. Right?

13 A. That's correct.

14 Q. Okay. And the other thing you write in the General
15 Sessions Case File Summary is that on August the 22nd as
16 you testified the next day you went to the jail and spoke
17 with Mr. Puckett at the county jail; is that right?

18 A. That's correct.

19 Q. Okay. And there you say that - In your report you
20 write "at the county jail Mr. Puckett admit that times just
21 had been hard for him that he needed some money as to why
22 he was selling cocaine." Correct?

23 A. That's correct.

24 Q. Nothing in any report generated by you in this case
25 regarding anything that you testified to about Mr. Puckett

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-137-

1 having - giving you names or having connections with being
2 able to get a certain amount of cocaine into the area? No
3 documentation of that?

4 A. No, sir.

5 Q. That's some pretty important stuff isn't it?

6 A. I could tell you the names if you want. I remember
7 them.

8 Q. You remember the names?

9 A. Yes, sir.

10 Q. But you didn't happen to write any of these names down
11 did you?

12 A. No, sir.

13 Q. Three years ago - - -

14 A. No, sir.

15 Q. - - - as you're trained to do?

16 A. No, sir.

17 Q. And as I've ask you already the report that you
18 prepared on August 21st, 2009, did not have one single
19 mention of one statement Mr. Puckett made allegedly in this
20 case. Correct?

21 A. That's correct.

22 Q. Okay. I want to move on then to an incident report
23 and what wasn't in them to - the written statement, we
24 talked about a written statement already. Right?

25 A. Right.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-138-

1 Q. And how important these written statements can be?

2 A. Right.

3 Q. No written statements in the case from CJ Puckett?

4 A. No, sir.

5 Q. And it is your testimony that these voluntary
6 statement forms you carry these around with you every you
7 go. Right?

8 A. Usually yes. Their in the trunk of my car.

9 Q. Carry pens with you every where you go. Right?

10 A. Yes.

11 Q. But you never after he supposedly confessed to this
12 you never to any type of written statement from him?

13 A. No, sir.

14 Q. You never had him write out what he was saying and
15 sign his name to it that that's the truth?

16 A. No, sir.

17 Q. You didn't do that at the house. Right?

18 A. Right.

19 Q. No where in your statement. And a day later when you
20 visit him at the office, at the jail, you didn't do that as
21 well. Right?

22 A. No, sir.

23 Q. And again, at that time you would have had access to
24 voluntary statement forms. Right?

25 A. Yes, sir.

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY
BY SOLICITOR ANTHONY

-139-

1 Q. Access to a pen. Right?

2 A. Yes, sir.

3 Q. You take statements from people, you get statements
4 from people all the time don't you?

5 A. I do.

6 Q. But you didn't do it in this case did you?

7 A. No, sir.

8 Q. And we've also heard that the narcotics office has
9 access to all of this video equipment. Correct?

10 A. Yes.

11 Q. And you testified as to the importance of what a
12 recorded statement can mean in a case. Correct?

13 A. Yes.

14 Q. At the office at the jail no recorded statement was
15 made?

16 A. There's no recorded statement.

17 Q. You didn't try?

18 A. No, sir.

19 MR. DELANEY: No further questions.

20 Thank you.

21 THE COURT: Redirect?

22 SOLICITOR ANTHONY: Yes, sir.

23 REDIRECT EXAMINATION

24 LIEUTENANT JOHN SHERFIELD BY SOLICITOR ANTHONY:

25 Q. Back when this case was made you testified you would

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-140-

1 do essentially two kinds of reports; is that right?

2 A. That's correct.

3 Q. You do an Incident Report and then you do a General
4 Sessions Summary?

5 A. That's right.

6 Q. And what was the distinction between the two?

7 A. This report which looks like this ---

8 (WITNESS HELD UP DOCUMENT.)

9 A. --- is actually handed over to the press. The press
10 has access to this. The General Sessions Case Summary
11 which looks like this.

12 (WITNESS HELD UP DOCUMENT.)

13 A. The press does not have access to. There's
14 information in the General Sessions Case Summary that will
15 not be listed in the Incident Report such as the operative
16 that I used, the operatives number; that's not in here.
17 There are several things in here that is not going to be
18 listed on the Incident Report that the general public can
19 view or that I want printed in the newspaper.

20 Q. And so as far as the degrees of detail which one was
21 more detailed?

22 A. The General Sessions Case Summary.

23 Q. And how much time passed from the time of this search
24 to the time you wrote the General Sessions Summary in this
25 case?

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-141-

1 A. I think the General Sessions Summary was written on
2 the 24th, probably on a Monday.

3 Q. So you would have written it three days later?

4 A. The weekend.

5 Q. The weekend at the next business day?

6 A. Right.

7 Q. Okay. And as far as what Mr. Puckett said that is
8 documented in the Summary; is that correct?

9 A. Yes.

10 Q. Okay. And its documented both as to what he said
11 on the 21st and what he said on the 22nd?

12 A. That's correct.

13 Q. Now as far as the conversation on the 22nd, when
14 you're talking to someone about potentially naming supplies
15 and things of that nature, is that something you would
16 normally include either in an Incident Report or a General
17 Sessions Summary?

18 A. No because somebody learns he's naming names if I
19 write that on a piece of paper which is passed through the
20 office the deputies, the clerks, other individuals will see
21 it. The solicitor's office gets copies, the public
22 defender's office gets a copy and it has their names on it,
23 information leaks out. You know if I - if he had a told me
24 I can buy drugs from John Smith and I write John Smith in
25 here somebody - You can bet somebody is gonna tell John

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-142-

1 Smith that Mr. Puckett is telling on them. I'm not going
2 to do that.

3 Q. So it wouldn't be - It wouldn't be - Your normal
4 practice would not be to write some of the things you were
5 told at the jail that night, in particular the names of
6 other supplies and how much he could buy at a time, that
7 type thing; would it be your normal course of business to
8 write that type thing down?

9 A. I would not write it in this file. At my office I
10 have a separate file cabinet that I have on individuals
11 that I may have received complaints from Crime Stoppers
12 tips, or other interest through other agencies about that I
13 would write this stuff down to keep in a locked file
14 cabinet at our drug office. It's not in the sheriff's
15 office or the solicitor's office or anywhere where
16 everybody can see it.

17 Q. As to the fingerprint and the forensic evidence
18 collection, why was it that you didn't ask SLED to try and
19 fingerprint the bags that the cocaine was in and the bags
20 that turned out to be the crack cocaine?

21 A. Well I've been doing this for twenty-three years,
22 you're just not gonna get a fingerprint off a small bag
23 that's all wrinkled up like that. The bags damaged at the
24 time it - The one in the toilet was wet, it's all wrinkled
25 up. You got to have a smooth surface to get a viable

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY

-143-

1 fingerprint and that's not going to happen on a plastic
2 bag.

3 Q. And as far as finding something like a scale in
4 somebody's house, would you expect to find Mr. Puckett's
5 prints on a scale like that?

6 A. I probably should have fingerprinted the scale. I did
7 not. I guess I took for granted when he told me it was in
8 the cabinet. I opened the cabinet, there it is, it his.

9 Q. And as far as your surveillance of the residence that
10 day, now long were you actually there doing the
11 surveillance waiting on the other deputies to show up?

12 A. Probably forty minutes, forty-five minutes.

13 Q. And the actual exhibit except for the drugs that I
14 showed you, are they in the same condition now as they were
15 when you took them into your custody and started storing
16 them in the vault at the narcotics office?

17 A. Those drugs have been sent to SLED, opened up by a
18 chemist, analyzed, sent back to the sheriff's office,
19 removed from our vault on at least three different
20 occasions, they've been repackaged in some different
21 packages for various reasons, court purposes, officer
22 reweighed them. The drugs themselves are still the same
23 drugs, the packages some of them are different.

24 Q. My question though is since you started keeping them
25 at the narcotics office in January of 2011, they have not

LIEUTENANT JOHN SHERFIELD: BY SOLICITOR ANTHONY
BY MR. DELANEY

-144-

1 been repackaged since then?

2 A. That's correct.

3 Q. Okay.

4 A. That was the reason I started keeping them at the
5 narcotics office, I felt like this is my case, they were
6 getting moved from the main evidence vault too often, too
7 many people's handling them, they are being opened and
8 weighted so I took them to my vault and I locked them up
9 and that's where they've been since then except for one
10 occasion where you all came and looked at them. They were
11 removed and replaced right back in by me.

12 Q. And by you all, do you mean Mr. Delaney and myself?

13 A. That's correct.

14 Q. Okay. So since January 11, the condition has been the
15 same since it's been in our custody?

16 A. Yes.

17 Q. All right. Thank you.

18 SOLICITOR ANTHONY: That's everything on redirect.

19 MR. DELANEY: Just a couple of quick ones, Judge.

20 RECROSS EXAMINATION

21 LIEUTENANT JOHN SHERFIELD BY MR. DELANEY:

22 Q. Again, trained to be as accurate and detailed as
23 possible as we heard in filling out these reports. Right?

24 A. Yes, sir.

25 Q. But your excuse a few minutes ago was the general

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-145-

1 public views your incident Report; is that correct?
2 That's why you aren't as detailed - as accurate and
3 detailed as you're trained to be?

4 L. The newspapers in here pretty much print word for word
5 what's in a regular sheriff's office incident report. They
6 are given these every morning by the Clerk and the
7 sheriff's office. They are not given the General Sessions
8 Case File Summary.

9 Q. And you think you wrote that in considering that you
10 thought you had written it at the same day August the 21st,
11 2009. You testified a little bit ago you think it was
12 about three days later, three or four days later you wrote
13 it?

14 A. I'm not sure what I day I actually wrote the General
15 Sessions Case File.

16 Q. Okay. And you just testified that you wouldn't put
17 names in a General Sessions Case File because you didn't
18 want whoever seeing those names. Right?

19 A. Right.

20 Q. But that doesn't prevent you from putting something in
21 there about Mr. Puckett saying that he could get cocaine
22 and get a certain amount of cocaine; those type of things.
23 Correct?

24 A. I could put it in there, it's not wise to do that
25 because then people know that I'm talking to Mr. Puckett

LIEUTENANT JOHN SHERFIELD: BY MR. DELANEY

-146-

1 and he's talking to me.

2 Q. Who are these people?

3 A. You have leaks in the sheriff's office. I mean the
4 average deputy does not have access to our narcotics files.
5 They do not know when we're working or not working. I mean
6 you have clerks, you have people in your office that get
7 these reports, you have people in the solicitor's office
8 that get these reports.

9 Q. So you got concern for the general public seeing it
10 and then you got concern for the leaks that can occur; is
11 that correct?

12 A. Nobody needs to see it is my point.

13 Q. No one needs to see it? You don't think that's
14 pretty important information that you're getting up here
15 and testifying to that my client said three years ago?

16 A. I just told you that's what he said.

17 Q. That's what you're saying. Right?

18 A. Every time I talked with Mr. Puckett there was someone
19 there with me.

20 Q. No further - -

21 A. I was not by myself.

22 MR. DELANEY: No further questions.

23 THE COURT: All right. You can step down and be
24 excused.

25 Jury panel; even though we've been back for a few

SERGEANT JIMMY JOHNSON: BY SOLICITOR ANTHONY

-147-

1 minutes, it's 12:30 so we're going to break for lunch until
2 1:45. That's an hour and fifteen minutes. Have a pleasant
3 lunch and we'll see you back at 1:45.

4 (JURY EXITS COURTROOM FOR LUNCH RECESS AT 12:30 P.M.)

5 THE COURT: We'll be at ease until 1:45.)

6 (COURT IN LUNCH RECESS AT 12:32 P.M.)

7 (COURT BACK IN SESSION AT 01:52 P.M..)

8 THE COURT: Is the State ready?

9 SOLICITOR ANTHONY: Yes, sir.

10 THE COURT: The Defense ready?

11 MR. DELANEY: Yes, Your Honor.

12 THE COURT: All right. Let's bring in the jury.

13 (JURY REENTERS COURTROOM AT 01:54 P.M..)

14 THE COURT: Call your next witness.

15 SOLICITOR ANTHONY: We call Sergeant Johnson.

16 (WHEREUPON: SERGEANT JIMMY
17 JOHNSON, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
18 FOLLOWS:)

19 DIRECT EXAMINATION

20 SERGEANT JIMMY JOHNSON BY SOLICITOR ANTHONY:

21 Q. Would you state your name please?

22 A. Yes. James Johnson.

23 Q. Mr. Johnson, how are you employed?

24 A. I'm a sergeant with the Narcotic's Division in the
25 sheriff's office.

SERGEANT JIMMY JOHNSON: BY SOLICITOR ANTHONY

-148-

1 Q. How long have you worked for the sheriff's office?

2 A. It will be fifteen years next month.

3 Q. And how long have you been an investigator in the
4 narcotics section?

5 A. Almost four years.

6 Q. Were you working in that capacity on August 21st of
7 2009?

8 A. Yes, sir.

9 Q. And that day did you get communication from Lieutenant
10 Sherfield?

11 A. Yes, sir.

12 Q. And based on that communication with Lieutenant
13 Sherfield, what did you do?

14 A. Lieutenant Sherfield contacted me and advised me of
15 the situation that he had and the information that he had
16 received from the confidential informant in reference to
17 the defendant's location. He ask me at that time to type
18 up a warrant - search warrant affidavit and to find a
19 magistrate or a magistrate on call and try to get that
20 taken care of and get it signed.

21 Q. And what address were you wanting to search?

22 A. I think it was [REDACTED] [REDACTED] [REDACTED].

23 Q. Okay. And was that in Union County?

24 A. Yes, sir.

25 Q. Okay. And once you got the affidavit part of the

SERGEANT JIMMY JOHNSON: BY SOLICITOR ANTHONY

-149-

1 warrant typed up, what did you do?

2 A. I went to the county jail where the magistrate was
3 located at that time and presented the warrant affidavit to
4 him and allowed him to read it and advised him of the
5 situation we had and at that time we signed it.

6 Q. And approximately what time would that happen?

7 A. It was somewhere around 5:30, 5:45 p.m. in the
8 afternoon.

9 Q. Okay. And after you had the search warrant signed by
10 the magistrate, did you contact anybody else about trying
11 to get some assistance in the execution of the warrant?

12 A. Yes, sir. At that time I contacted Deputy Haney and
13 Deputy Coffey, they were on the road at that time, advised
14 them that we had a search warrant that we needed their
15 assistance. And also contacted Lieutenant Sherfield
16 advising him that had the warrant in hand and that I was
17 heading in his direction.

18 Q. And did the four of you all, you and Lieutenant
19 Sherfield and the two patrol deputies, did you all get
20 together?

21 A. Yes. We all met up at the intersection of [REDACTED]
22 [REDACTED] [REDACTED] and [REDACTED] [REDACTED] and from there we
23 went together to the residence to serve the search warrant.

24 Q. When you went to the - to Mr. Puckett's residence,
25 what did you do particularly in regards to the execution of

SERGEANT JIMMY JOHNSON: BY SOLICITOR ANTHONY

-150-

1 the warrant?

2 A. I went to the front door of the location. At that
3 time I knocked on the door and announced sheriff's office
4 and at that time we attempted to gain entry into the home
5 and the door was locked at that time.

6 Q. Could you hear anything once you started knocking?

7 A. Yes I could hear someone or something in the living
8 room of the mobile home from the front location near the
9 front door, in that area the front of the trailer towards
10 the rear of the trailer.

11 Q. And what did you do in regards to trying to gain
12 entry?

13 A. At the point when the door being locked I attempted to
14 force it open. Unfortunately at that time this door, the
15 door on the mobile home, the front door that I was trying
16 to enter, opened outward instead of inward which made it
17 extremely difficult to try to get into, which at that point
18 I started to kick at the door attempting to get it open,
19 and trying to pull it and kick and finally at some point
20 the door - I don't know if it jarred the lock or whatever -
21 it come open and I was able to get into the mobile home.

22 Q. And when you entered the mobile home what did you see?

23 A. The first thing I noticed was Travis Anderson
24 standing in the living room area, as soon as I entered the
25 mobile home he raised his hands and stepped back and I

SERGEANT JIMMY JOHNSON: BY SOLICITOR ANTHONY

-151-

1 advised him to get on the floor as I went by him. I knew
2 that the other officers were coming in behind me.

3 Q. And so where did you go after that?

4 A. I went through the kitchen area to the hallway and the
5 first door that I came to that was closed was a bathroom
6 door and it was also locked at that time. As I was at the
7 door I could hear what sounded like the commode starting to
8 flush or flushing and I attempted to get into that door as
9 well. Unfortunately for me at that time it was something
10 that we're not used to seeing with a bathroom door, it was
11 an outward opening door and not an inward opening door
12 which I once again had to start kicking to try to get open
13 because no one would open it or whoever was inside wouldn't
14 open the door.

15 Q. I'm sorry. What?

16 A. Who ever was inside the bathroom at that time would
17 refuse to open the door so I had to try to force it open as
18 well. Once again I started to kick on the door trying to
19 get it open.

20 Q. And as a narcotics agent, when you serve a search
21 warrant and you located a bathroom and you can't get in it
22 and you hear a toilet flushing, what does that lead you to
23 think might be going on in there?

24 A. Somebody's trying to get rid of evidence. They have
25 contraband they're trying to flush down the toilet.

SERGEANT JIMMY JOHNSON: BY SOLICITOR ANTHONY

-152-

1 Q. Okay. So you go to the door of the bathroom, what's
2 Lieutenant Sherfield doing at this point?

3 A. Lieutenant Sherfield came in behind me obviously at
4 that point. As I was starting to kick on the door
5 Lieutenant Sherfield actually moved to the wall that
6 separated the kitchen and the bathroom and started to knock
7 a hole into the wall to get into the bathroom at that
8 point. And as I was kicking the door the door came open.

9 Q. And once the door opened what did you do?

10 A. I immediately stepped into the bathroom at that point
11 and located the defendant, Mr. Puckett, he was initially
12 leaned down over the toilet and he stood up and turned
13 around and saw me and said "I give up" put his hands in the
14 air.

15 Q. And so after he said this how did you respond to that?
16 What did you do next?

17 A. I stepped up and at that time as I'm moving towards
18 him Lieutenant Sherfield came around into the bathroom with
19 me at that point and got him and got him out of the way and
20 moved to the toilet. And as I did so I looked down the
21 water had actually flushed out of the toilet and was slowly
22 starting to fill back up. That's when I noticed a plastic
23 bag with a little amount of white powder residue or powder
24 substance in the bottom of the toilet that it wouldn't go
25 down because there was no water in the toilet at that time.

SERGEANT JIMMY JOHNSON: BY SOLICITOR ANTHONY

-153-

1 I reached in and picked it up and set it on the back of the
2 tank at the toilet.

3 Q. And did you see any other drugs in the bathroom?

4 A. Yes. Also while I was there the toilet - and I was
5 looking around the toilet to see if there was anything else
6 and I noticed a green plant material that appeared to be
7 marijuana in a baggie in the trash can next to the toilet.

8 Q. And so after you get the cocaine out of the toilet,
9 set it up on top of the tank, what is done with Mr.
10 Puckett?

11 A. He is taken into custody at that time and removed
12 from the bathroom into the living room/kitchen area inside
13 the mobile home.

14 Q. And what did Lieutenant Sherfield do once you got
15 Mr. Puckett into the living room/kitchen area?

16 A. At that time Lieutenant Sherfield advised Mr. Puckett
17 of his *Miranda* warnings, him and Mr. Anderson, and ask Mr.
18 Puckett if there was any other drugs inside the residence.
19 At that time Mr. Puckett stated there was a set of scales,
20 digital scales in a cabinet in the kitchen.

21 Q. All right. And did Mr. Puckett - Well after he
22 advised of that, what did you all - what happened in
23 regards to those scales?

24 A. They were at that time Lieutenant Sherfield located
25 the scales and seized them as evidence.

SERGEANT JIMMY JOHNSON: BY SOLICITOR ANTHONY

-154-

1 Q. And then did Mr. Puckett say anything in regards to
2 the drugs in the house?

3 A. Yes he did. He advised Lieutenant Sherfield at that
4 time that all the drugs in the house was his, that they did
5 not belong to Mr. Anderson, that Mr. Anderson did not know
6 they were in the bathroom.

7 Q. Didn't - Mr. Anderson did what?

8 A. Did not know anything about them.

9 Q. All right. And after the scale was recovered and Mr.
10 Puckett had made this statement, what else was done in
11 regards to searching first of all the area around where Mr.
12 Puckett and Mr. Anderson were?

13 A. Once they were taken into custody and secured at that
14 time the continued search of the residence was made inside,
15 outside, in the yard, in the vehicles, in the yard; that
16 type of thing. During the search in the living room area
17 there was a baggie of a white - what appeared to be a
18 powdered or rock like substance and it was white powdery
19 looking substance located in the living room next to a
20 wall, the far wall. If you came in the front door across
21 that room next to the wall on the floor. A second baggie
22 was located on the couch in that area.

23 Q. And after those items were located, those two baggies
24 of drugs, how were they - who collected those?

25 A. After we located them we made Lieutenant Sherfield

SERGEANT JIMMY JOHNSON: BY SOLICITOR ANTHONY

-155-

1 aware of it and he was the one that collected the evidence.

2 Q. Okay. And then what else did you do in regards to
3 searching around the residence?

4 A. After completing the search on the inside of the
5 residence, we moved outside. There was an out building out
6 there or a shed type building. There was a race car in the
7 yard that appeared to be like a dirt track type race car,
8 and Mr. Anderson's car was also located in the yard. Those
9 locations were searched and during the search of Mr.
10 Anderson's car additional contraband was located in the
11 car.

12 Q. And then were there any other vehicles there at the
13 residence?

14 A. No, sir.. Not besides the race car or the dirt bike
15 in the building.

16 Q. Okay. And when you say in the building, what are you
17 referring to?

18 A. It's like a car shed in the front.

19 Q. Okay. An out building ---

20 A. Yes.

21 Q. --- or garage type building?

22 A. Yeah garage type building.

23 Q. Okay. All right.

24 SOLICITOR ANTHONY: If I can have one moment.

25 (PAUSE.)

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-156-

1 SOLICITOR ANTHONY: All right, thank you.
2 That's everything on direct.

3 CROSS EXAMINATION

4 SERGEANT JIMMY JOHNSON BY MR. DELANEY:

5 Q. Good afternoon, Sergeant. Testified fifteen years in
6 law enforcement?

7 A. Yes, sir.

8 Q. Okay. And how many years with narcotics?

9 A. It will be four years January 1st.

10 Q. Okay. And you familiar with voluntary statement form?

11 A. Yes.

12 Q. Okay. Carry those with you when you go out?

13 A. We try to keep them in the car.

14 Q. Yeah. So normally you got them in your car?

15 A. Yes, sir.

16 Q. Carry pens with you as well?

17 A. Yes, sir.

18 Q. Okay. Your I guess statement - voluntary statement
19 form you would have had in the car that day, that was never
20 used at the residence?

21 A. Not to my knowledge.

22 Q. Say again.

23 A. Not to my knowledge.

24 Q. Okay. And with your experience you know the
25 importance of written statements. Right?

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-157-

1 A. Yes, sir.

2 Q. Okay. You know the importance of a recorded
3 statement; is that right?

4 A. Yes, sir, I know the situation.

5 Q. And your office has the capability to record people
6 saying things; is that right?

7 A. Yes, sir.

8 Q. Okay. And you testified just a few minutes ago that
9 Mr. Puckett made the statement that I think it was to the
10 effect of "all the drugs" or everything in the mobile home
11 is mine, it's not Mr. Anderson's; is that ---

12 A. Correct.

13 Q. --- accurate? Okay. He didn't say anything else.
14 I guess the other thing he did was you testified he said
15 that there was some scales in his kitchen; is that right?

16 A. Yes, sir.

17 Q. Okay. He didn't say anything else other than that?

18 A. He did state that - He was doing some general
19 conversation with Lieutenant Sherfield during that time, I
20 think he did make comments on something about he was down
21 on his luck, that was the reason why he was selling dope.

22 Q. That's what he said as well?

23 A. Something along that line yes, sir.

24 Q. Okay. And then did he also say something along the
25 lines of he was talking to - Or he flushed some of the

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-158-

1 cocaine down the toilet but he wouldn't elaborate ---

2 A. Yes.

3 Q. --- on how much?

4 A. He did. He did say that.

5 Q. He did say that as well? Okay. And I want to go to
6 the point where you, before you get to the residence you
7 received a call, say that it was information and you were
8 going to use that information to go get a search warrant;
9 is that right?

10 A. Yes. Lieutenant Sherfield gave me a call advised me
11 that one of our confidential informants ---

12 Q. Right.

13 A. --- that we had used had been to Mr. Puckett's
14 location ---

15 Q. Right.

16 A. --- and witnessed him sell --

17 MR. DELANEY: Your Honor.

18 THE COURT: Just - Go on to your next question.

19 BY MR. DELANEY:

20 Q. Again, my question to you is, and if you - just wait.

21 A. Okay.

22 Q. Listen to what my question is. You received
23 information; is that right?

24 A. Right.

25 Q. From Officer Sherfield?

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-159-

1 A. Correct.

2 Q. Okay. And your job at that point was to take that
3 information to somebody and to get a warrant; is that
4 right, search warrant?

5 A. Correct.

6 Q. Okay.

7 A. Yes, sir.

8 Q. At that point to get the search warrant, you go up
9 and meet with - take some of the other officers with you -
10 and you meet with Lieutenant Sherfield. Correct?

11 A. Yes, sir.

12 Q. Okay. And you are the officer who gets to the
13 resident you are the officer to go towards the front door;
14 is that right?

15 A. Yes, sir.

16 Q. Okay. And when you get to the front door you heard
17 someone inside the mobile home moving around; is that
18 right?

19 A. It sounded like someone ran towards the rear of the
20 mobile home or away from the front area of the mobile home
21 yes, sir.

22 Q. Okay. And because you said you heard them, it sounded
23 like they were moving from I guess the front near the door
24 area; is that right?

25 A. Yes, sir.

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-160-

1 Q. Okay. Back towards the rear of the mobile home; is
2 that right?

3 A. Somewhere in that direction yes, sir.

4 Q. Okay. And the bathroom is located back toward the
5 rear of that mobile home; is that right?

6 A. If you leave the living room/kitchen area the mobile
7 home starts down the hall, its right as you start into the
8 hallway.

9 Q. All right.

10 A. To the left. That would be adjacent to where the
11 kitchenette area was.

12 Q. Okay. And at that point you say that the door is
13 locked; is that correct?

14 A. Yes, sir.

15 Q. Okay. You're knocking announcing search warrant; is
16 that right?

17 A. Yes, sir.

18 Q. Police? Okay. And you're trying to open the door,
19 the door was locked?

20 A. Correct.

21 Q. Locked by a dead bolt; is that correct?

22 A. Well it's just the door was not just locked, you
23 cannot turn it and just open it up. There's no dead bolt
24 to my knowledge on the bathroom door.

25 Q. No I'm not talking about the bathroom door.

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-161-

1 A. Okay.

2 Q. I'm talking about the -

3 A. Front door.

4 Q. The front door. Yeah. We were talking about right
5 before you went into the place you were hearing this
6 movement ---

7 A. Oh yes.

8 Q. --- from the front to the back. Right?

9 A. Correct.

10 Q. Okay. And at that point your not search warrant
11 police okay. You weren't able to get in the front door;
12 its locked. Right?

13 A. Yes, sir.

14 Q. That door has a dead bolt on it. Correct?

15 A. I don't recall if it does or not but it may have.
16 Now whether that dead bolt was locked I do not know.

17 Q. Okay. And what you've testified to is that you
18 started I guess kicking on the door?

19 A. Yes, sir.

20 Q. Okay. And somehow that door pops open at that point;
21 is that correct?

22 A. Correct.

23 Q. Okay. But you're not sure how; is that right?

24 A. No. Not sure. All I know is that the door opens
25 outward.

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-162-

1 Q. Right.

2 A. And at that point for me to enter that door I've
3 got to do something either damage the door or cause the
4 bolt to jar or something ---

5 Q. Right.

6 A. --- to cause the door to open.

7 Q. Right. Right. Cause you said after you're pounding
8 on it, kicking on it, yelling, that door opens up. Right?

9 A. Correct.

10 Q. Okay. There was no damage done to that front door.
11 Right?

12 A. That I don't recall. I mean the way I was kicking it
13 there should be some dents on it at least.

14 Q. There should be some dents in it?

15 A. I would think so. Like I say, I was trying to get it
16 open. My concern at that time wasn't the condition of what
17 it looked like and was just to try to get it open any way I
18 could.

19 Q. . Right. Right, right, right. But you guys have
20 cameras there and things like that where you can go back
21 later and look and take pictures and stuff like that.
22 Right?

23 A. Yes, sir. The fact that the door come open that was
24 our concern at that time.

25 Q. Okay. I understand. But you're saying to your

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-163-

1 recollection don't know, if not you think there should be
2 some dents in the door?

3 A. At least dents. I would think that, you know, like I
4 said, I don't recall.

5 Q. Okay.

6 A. I didn't go back and inspect the door once we, you
7 know, secured the area and left.

8 Q. And you don't recall any damage to the door frame?

9 A. Like I said I don't recall that because I didn't go
10 back and inspect it afterwards.

11 Q. Okay. Or the dead bolt?

12 A. Once again, I don't recall, sir.

13 Q. Okay. Possible that door was opened from the inside?

14 A. It could be.

15 Q. Okay. And you come inside Travis Anderson is standing
16 right there at the door; is that correct?

17 A. Well when I came in he was back away from the front
18 door. He was probably three quarters away across the room
19 at least. I mean when I came in the door opens when I come
20 in. He's the first person I see as he's standing - he's
21 not right on top of me, he's standing back away from me
22 with his hands in the air.

23 Q. Right. He's standing next to the couch. Right?

24 A. He was just back into the room. He was away from me
25 which of course now once I got to him I told him to get on

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-164-

1 the floor.

2 Q. Uh-huh.

3 A. And went by him because I knew that there was somebody
4 else supposed to be in the residence and that was my job to
5 secure it, whatever else I could once I got inside. So
6 once I passed him I told him he had to get down, I never
7 looked back.

8 Q. Okay. And so you're moving fast in there at that
9 point, you're fast?

10 A. Tried to - -

11 Q. Towards that bathroom there?

12 A. Right. Towards the hall area where - -

13 Q. The hall. And right where that hallway begins that's
14 where the bathroom is. Right?

15 A. Correct. And that door actually being closed was the
16 first threat that I would come to so that's initially when
17 I stopped at it because I didn't want to pass it, you know
18 put myself in a dangerous situation with having somebody
19 come out behind me.

20 Q. Okay. So that door when you get to it, it's your
21 testimony that you start - You can't get in that door; is
22 that right?

23 A. No, sir. I can't open it because it's locked and you
24 can't force it in like most doors which makes it also
25 difficult so it has to come back away from me or completely

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-165-

1 break the handle.

2 Q. Right. Because you testified from just a little bit
3 ago that this door was an unusual door. I mean a rear door
4 as far as because you're assumption is you're going to that
5 door and you're pushing in on it and that door is coming
6 open one way or the other.

7 A. It's just like the front door of mobile homes that you
8 go into, whether it be a house or a mobile home, most of
9 the time the front door's gonna open inward.

10 Q. Uh-huh.

11 A. And also the bathroom doors, the bedroom doors,
12 they're gonna open in. This is different. These doors
13 opened out ---

14 Q. Right.

15 A. --- which would make me have to step where anyone
16 going into it to step back away from it going in this way.

17 Q. Right. You weren't expecting that type door?

18 A. No, sir.

19 Q. Okay. And going back to so at that point you couldn't
20 get in, you start kicking, pounding on that door; is that
21 right?

22 A. Correct.

23 Q. Okay. And little and behold that door opens up again;
24 is that right?

25 A. Correct.

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-166-

1 Q. Okay. No damage done to that bathroom door. Right?

2 A. Once again, I don't know. There could have been
3 some damage to that one because I was pounding on it pretty
4 good too.

5 Q. You were pounding on that one pretty good too?

6 A. Yes, sir.

7 Q. But then and that one should be some damage on the
8 door?

9 A. I don't recall. I didn't go back and inspect it
10 either. But like I said, you know, they both got beat on
11 pretty hard.

12 Q. Now possible that door was opened up from the inside
13 as well?

14 A. I don't - At the point where that door came open and I
15 opened the door there was no one standing even remotely
16 close to it. The defendant was already crouched down at
17 the toilet and I was standing at the door, behind the door.
18 Unless he's really fast.

19 Q. CJ wasn't - When you got in that door CJ wasn't
20 standing there in the doorway?

21 A. No, sir. He was crouched down at the toilet and
22 stood up as I come in the door.

23 Q. Lieutenant Sherfield didn't have a hole in the wall
24 at that time?

25 A. He was putting a hole in the wall and as when I come

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-167-

1 into the bathroom he looked into the hole as I did at the
2 defendant. But when I come into the bathroom the defendant
3 crouched down and was getting up off the toilet and turned
4 around and said "I give up don't hurt me" and put his
5 hands up.

6 Q. So when that door came open Lieutenant Sherfield
7 didn't have his gun through that hole and CJ wasn't over
8 there by the entrance of the door; that's your testimony?

9 A. No. He was not at the door, he was already at the
10 toilet. He was still at the toilet. Now whether I beat
11 Lieutenant Sherfield into or what he could see into the
12 room or not I do not know because he's coming through the
13 kitchen wall and I'm coming through the door but the first
14 thing that I noticed when I hit the door was the defendant
15 crouching over the toilet and was coming up from the toilet
16 standing up and he turned around. He was not at the door,
17 he was over the toilet.

18 Q. And its your testimony that the toilet at that
19 point was starting to fill up; is that right?

20 A. No. It was slowly starting to like you could see
21 water starting to run back into it but when I got to it the
22 contraband was actually setting down across the top of the
23 hole that goes out the bottom of the toilet and that's
24 where I retrieved it from. I reached down and grabbed it
25 from over the top of the hole and picked it up and set it

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-168-

1 on the back of the tank because the water was starting to
2 recede back into it and I didn't want it to get wet or
3 loose any more than what we already - what we had there.

4 Q. So that toilet wasn't filled up and starting to fill
5 up with water at that point?

6 A. When I got there the water was starting to come back
7 in. At that second it was starting to flow back down the
8 sides and I reached down and actually picked the contraband
9 up from over the top of the hole. It wasn't at the back
10 where you drop something in that toilet its gonna go down
11 to the bottom and that's where it was at, and there was no
12 water in the toilet, it was starting to seep back in
13 slowly.

14 Q. So you're saying there wasn't any - Let me ask you
15 this. Did you see - What you're describing you didn't see
16 any marijuana sitting on top of the water as far as any
17 marijuana --

18 A. No there was no marijuana or water in the bowl when I
19 got to the bowl. When I looked down the water was starting
20 to come back into the toilet and the white powder substance
21 in the plastic bag was sitting there over the top of the
22 hole. That's when I reached down and grabbed it and set it
23 on the back of the toilet because I didn't want to loose
24 any more than what had already been lost apparently. The
25 only marijuana I located was in the trash can in the

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-169-

1 bathroom.

2 Q. So you located some marijuana inside the trash can?

3 A. Yes.

4 Q. Just on top of the trash can?

5 A. It was - I don't recall a lid on it, it was just
6 sitting on top of the trash can.

7 Q. Okay. All right. And you were the officer who did
8 a search of the rest of residence; is that correct?

9 A. Yes, sir.

10 Q. Okay. And you found two baggies throughout the house;
11 is that right?

12 A. Yes, sir.

13 Q. Okay. Then at least one of these baggies was found
14 on the couch?

15 A. Yes, sir.

16 Q. Okay. The other baggie was found on the ground, couch
17 living room area?

18 A. The floor of the living room area yes, sir.

19 Q. Okay. And that's where Travis Anderson was located.
20 Correct?

21 A. Yes, sir.

22 Q. Okay. And you searched the cars that were - the car
23 that was out in the driveway; is that right?

24 A. Correct.

25 Q. Okay. And you found in that car I guess about.

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-170-

1 twenty grams of marijuana; is that right?

2 A. That sounds approximate yes, sir.

3 Q. Okay. A smaller amount was found in the bathroom in
4 the waste basket; is that right?

5 A. Yes, sir.

6 Q. Okay. Would I guess estimate six, seven grams found
7 in the - -

8 A. From what I recall it was approximately six grams in
9 the bathroom.

10 Q. That's about Twenty Dollars worth of marijuana; is
11 that right?

12 A. Probably close maybe, maybe a little more.

13 Q. Okay. In Travis Anderson's vehicle you find about
14 twenty grams of marijuana. Right?

15 A. Yes, sir.

16 Q. Okay. You find some pills; is that right?

17 A. Yes, sir.

18 Q. Okay. You find forty Xanax pills?

19 A. Yes, sir. Alprazolam yes, sir, schedule IV.

20 Q. Okay. And I don't know if you mentioned this on
21 your direct examination but you also found a set of digital
22 scales in the car; is that correct?

23 A. I think so. I don't recall to be honest with you
24 about the scales in the car but I do recall the other stuff
25 but very possible there were scales with the marijuana in

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-171-

1 the car.

2 Q. , And you said there was a shed. I think you described
3 it as a shed on the property?

4 A. Yes, sir.

5 Q. You searched that as well?

6 A. Yes, sir.

7 Q. Okay. And there was a dirt track race car ---

8 A. Correct.

9 Q. --- on the property as well and searched that too?

10 A. Yes, sir.

11 Q. Okay. You didn't locate any drugs in the shed, race
12 car, anything like that. Correct?

13 A. No, sir.

14 Q. Okay. Would you locate - After you left the bathroom
15 was two bags of cocaine located near Mr. Anderson.

16 Correct?

17 A. From what I recall it was crack cocaine.

18 Q. Crack cocaine?

19 A. Yes, sir.

20 Q. And then --

21 A. I mean where did you say I located? I'm sorry.

22 Q. Near Mr. Anderson, near where Mr. Anderson was
23 located when you came in the place.

24 A. One bag was near where Mr. Anderson was located on
25 the floor. And the other bag was on the couch which was the

SERGEANT JIMMY JOHNSON: BY MR. DELANEY

-172-

1 opposite side of the room.

2 Q. Okay. Because you're saying - It's your testimony
3 that he wasn't by the couch when you came in that
4 residence?

5 A. No. No he was probably mid ways of the room a little
6 further back. Like I said when I got in I was the first
7 one, through the door, I advised him to get on the ground
8 and I went by him and never looked back once I went by him.
9 So where, you know, if he moved back to the front of the
10 entrance or back towards that couch, he very well could
11 have. I didn't look back because when I went by him I kept
12 going.

13 Q. And then you searched - took the outside where Mr.
14 Anderson's vehicle you found different types of drugs,
15 digital scales you believe; is that correct?

16 A. Yes, sir. Definitely the marijuana and pills and
17 possibly the digital scales. The scales I don't recall
18 but right off the top of my head but I know the other stuff
19 was.

20 MR. DELANEY: The Court's indulgence, Your Honor.

21 (PAUSE AT 02:23 P.M..)

22 MR. DELANEY: That's all the questions I have,
23 Sergeant. Thank you.

24 SOLICITOR ANTHONY: Just briefly, Your Honor.

25

REDIRECT EXAMINATION

SERGEANT JIMMY JOHNSON: BY SOLICITOR ANTHONY

-173-

1 SERGEANT JIMMY JOHNSON BY SOLICITOR ANTHONY:

2 Q. The bathroom, where is the bathroom located in
3 relation to the rear wall of the trailer, to the back wall
4 of the trailer?

5 A. I'm sorry. You mean what would be considered if I
6 come in the front door the back far wall?

7 Q. Yeah.

8 A. When you first enter the door you have the kitchen
9 area on your left, living room area you actually walk into
10 it and it would be back to your right and would go back to
11 the back wall. You have to turn and go in through the
12 kitchen area, corner of the kitchen area, toe enter the
13 hallway and then the bathroom is immediately on your left.

14 Q. Okay. So the bathroom is over on the other side of
15 the back wall of the trailer?

16 A. Yes.

17 Q. Okay. Thank you.

18 SOLICITOR ANTHONY: That's all on redirect.

19 MR. DELANEY: No questions, Judge.

20 THE COURT: You can step down. Appreciate your time
21 and you can be excused.

22 (WITNESS LEAVING WITNESS STAND.)

23 THE COURT: Call your next witness.

24 SOLICITOR ANTHONY: The next witness is Deputy Haney.

25 (WHEREUPON: DEE HANEY, BEING

DEPUTY DEE HANEY: BY SOLICITOR ANTHONY

-174-

1 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

2 THE COURT: Come on up and have a seat please, ma'am.

3 DIRECT EXAMINATION

4 DEPUTY DEE HANEY BY SOLICITOR ANTHONY

5 Q. Would you state your name please?

6 A. April Dee Haney.

7 Q. And, Ms. Haney, how are you employed?

8 A. I'm employed with the Union County Sheriff's Office.

9 Q. What's your current position there?

10 A. Now I - Right now I'm courtroom security.

11 Q. And how long have you worked for the sheriff's office?

12 A. Since 1997.

13 Q. And back were you working in that capacity back in on
14 August 21st, or were you working for the sheriff's office
15 back on August 21st of 2009?

16 A. Yes, sir, I was on the road patrolling.

17 Q. All right. And in that capacity on August 21st, 2009,
18 did you go to [REDACTED] [REDACTED] [REDACTED]?

19 A. Yes, sir.

20 Q. And what was your purpose in going there on August
21 21st?

22 A. Assisting with a search warrant.

23 Q. And who did you go there with?

24 A. Lieutenant Sherfield and Sergeant Jimmy Johnson.

25 Q. And was there anybody else?

DEPUTY DEE HANEY: BY SOLICITOR ANTHONY

-175-

1 A. Yes, sir. Deputy Coffey.

2 Q. All right. When you arrived there at the mobile home,
3 what did - Where did you go specifically?

4 A. I went to the back door.

5 Q. And what did you find when you got to the back door?

6 A. I found that the back door was pad locked.

7 Q. So as you were there at the back door and you found
8 the pad lock, could you hear anything?

9 A. Yes, sir, I could hear Sergeant Johnson at the front
10 door knocking on the door announcing the sheriff's office.
11 And you could also hear what sound like someone running the
12 length of the trailer.

13 Q. And after you realized you couldn't get in through
14 the back door, what did you do?

15 A. Went around to the front door.

16 Q. Okay. And did you enter the trailer when - once
17 entrance was made by Sergeant Johnson?

18 A. Yes, sir.

19 Q. Okay. What order did you all go in?

20 A. I went in behind Sergeant Johnson.

21 Q. Okay. And what about Lieutenant Sherfield?

22 A. I think he - I'm not sure when he came in. He was
23 ahead of me.

24 Q. Okay. So Sergeant Johnson and Lieutenant Sherfield
25 came in ahead of you?

DEPUTY DEE HANEY: BY SOLICITOR ANTHONY

-176-

1 A. Yes, sir.

2 Q. All right. And when you got in there what did you do?
3 What was your immediate role in the execution of the
4 warrant?

5 A. One of the suspects was laying prong in the living
6 room floor. I handcuffed him.

7 Q. Okay. Was that Mr. Anderson?

8 A. Yes, sir.

9 Q. Okay. And while you were doing that, what did
10 Sergeant Johnson, what was he doing?

11 A. They were trying to get into the - There was a
12 hallway, there was a door there to the bathroom, they were
13 trying to get into that door.

14 Q. Okay. And what was Lieutenant Sherfield doing?

15 A. He was trying to break through some sheet rock going
16 into that room.

17 Q. And so and while they were doing that what were
18 you doing?

19 A. I was keeping my eye on the suspect, the subject that
20 was handcuffed in the floor.

21 Q. Okay. And so what did you observe Lieutenant
22 Sherfield and Sergeant Johnson eventually be able to do in
23 regards to the bathroom?

24 A. They eventually got into the bathroom.

25 Q. Okay. And did you see them bring anyone out of the

DEPUTY DEE HANEY: BY SOLICITOR ANTHONY
BY MR. DELANEY

-177-

1 bathroom?

2 A. Yes, sir.

3 Q. And who was that? Mr. Puckett?

4 A. Mr. Puckett yes, sir.

5 Q. All right. And where they bring Mr. Puckett?

6 A. They brought him into the kitchen/living room area.

7 Q. Okay. And when Mr. Puckett was brought into the
8 kitchen/living room area along with Mr. Anderson, did you
9 hear Mr. Puckett make any comments to Lieutenant Sherfield?

10 A. Yes, sir.

11 Q. And what did he say?

12 A. He made the comment that the drugs was his and Mr.
13 Anderson knew nothing about it.

14 Q. And what was your role after Mr. Anderson and Mr.
15 Puckett were apprehended? What was your further role in
16 the execution of the warrant?

17 A. I assisted - After they were secured I assisted
18 searching the bedroom area then I went outside to search
19 the out buildings and any vehicles outside.

20 Q. All right. Thank you.

21 SOLICITOR ANTHONY: That's everything on direct.

22 CROSS EXAMINATION

23 DEPUTY DEE HANEY BY MR. DELANEY:

24 Q. Good afternoon. Did you take your car to the
25 residence?

DEPUTY DEE HANEY: BY MR. DELANEY

-178-

1 A. Yes, sir.

2 Q. Okay. And that was your police cruiser at that time?

3 A. Yes, sir.

4 Q. Okay. And in that cruiser you have a voluntary
5 statement forms. You keep some of those in your cruiser?

6 A. Yes, sir.

7 Q. Okay. You keep pens, pencils in your cruiser as well?

8 A. Yes, sir.

9 Q. Okay. And it's your testimony that you heard CJ
10 Parker say - CJ Puckett say these are my drugs, none of
11 these drugs are Mr. Anderson's. Correct?

12 A. Yes.

13 Q. Okay. And then you also heard him say that he flushed
14 something, something went down the toilet?

15 A. No, sir, I didn't hear him say that.

16 Q. Okay. You never heard him say that he flushed some
17 of it down the toilet and he wouldn't elaborate how much?

18 A. I never heard him say any of that.

19 Q. And you never heard him - Let me ask you. Did you
20 hear him say that he was having - he was on hard times and
21 that's why he was selling cocaine?

22 A. No, sir.

23 Q. You never heard him say that as well?

24 A. No, sir.

25 Q. And you never heard him say I have some scales up

DEPUTY DEE HANEY: BY MR. DELANEY

-179-

1 in the cupboard did you?

2 A. I did hear him tell Lieutenant Sherfield where the
3 scales were.

4 Q. You did hear him say that?

5 A. Yes, sir.

6 Q. But you didn't testify to that a few minutes ago; is
7 that right?

8 A. Right.

9 Q. And you testified that you heard someone running the
10 - I think it was your testimony, the length of the trailer
11

12 A. Yes, sir.

13 Q. --- when you were outside?

14 A. Yes, sir..

15 Q. And you don't know who that was?

16 A. No, sir, I did not.

17 Q. Okay. And this is a small mobile home; is that
18 correct?

19 A. Yes, sir.

20 Q. Okay. You have the kitchen and then right at the
21 edge of the kitchen/living room you have a hallway; is that
22 right?

23 A. Yes, sir.

24 Q. Okay. And that hallway - that hallway starts you
25 have the bathroom. Correct?

DEPUTY DEE HANEY: BY MR. DELANEY

-180-

1 A. Yes, sir.

2 Q. Okay. And then right next to the bathroom you have
3 the bedroom; is that right?

4 A. The bedroom is at the end of that trailer yes, sir.

5 Q. And that's the end of the trailer. Correct?

6 A. Yes, sir.

7 Q. So the bathroom is back in that area; is that correct,
8 where the bedroom is?

9 A. The bathroom is right behind the kitchen wall there.

10 Q. Okay. And you - You searched the - Mr. Puckett's
11 bedroom; is that right?

12 A. Yes, sir.

13 Q. Okay. And you didn't locate, find anything in the
14 bedroom regarding the drugs, drug paraphernalia, or
15 anything like that; is that correct?

16 A. No, sir, I didn't.

17 Q. Okay. And you then assisted with the search of the
18 vehicle outside?

19 A. Yes, sir.

20 Q. Okay. And you found some drugs in the vehicle; is
21 that right?

22 A. Yes, sir.

23 Q. And you found some additional scales in the video;
24 is that right? I mean in the vehicle; is that right?

25 A. I found a clear baggie with marijuana and some pills.

DEPUTY DEE HANEY: BY MR. DELANEY

-181-

INVESTIGATOR JEFF LAWSON: BY SOLICITOR ANTHONY

1 Q. Okay. You didn't locate a set of digital scales?

2 A. I didn't.

3 Q. Okay. All right. Thank you.

4 MR. DELANEY: No further questions.

5 SOLICITOR ANTHONY: I don't have any redirect.

6 THE COURT: You can step down and be excused.

7 Appreciate your time.

8 (WITNESS LEAVING WITNESS STAND.)

9 THE COURT: Call your next witness.

10 SOLICITOR ANTHONY: The next witness is Investigator
11 Lawson.

12 (WHEREUPON: INVESTIGATOR
13 JEFF LAWSON, BEING FIRST CALLED AND DULY SWORN, TESTIFIED
14 AS FOLLOWS:)

15 DIRECT EXAMINATION

16 INVESTIGATOR JEFF LAWSON BY SOLICITOR ANTHONY

17 Q. Would you state your name please?

18 A. Jeff R. Lawson.

19 Q. And, Mr. Lawson, how are you employed?

20 A. As an investigator with the Union County Sheriff's
21 Office.

22 Q. And how long have you worked for the sheriff's office?

23 A. Twenty-seven years.

24 Q. And I want to take you back now to August of 2009.

25 What was your position with the sheriff's office at that

1 time?

2 A. At that time it was evidence custodian.

3 Q. Okay. I'm gonna show you what's been marked for
4 identification as State's Exhibit Number One. And I'm
5 gonna show you a bag that's part of that exhibit, I'm
6 handing up to you right now. And I'd ask if you have seen
7 that bag before?

8 A. Yes, sir.

9 Q. Okay. And what has been your dealings with that bag?

10 A. Received it from the investigating officer who would
11 be Lieutenant John Sherfield and would place it in the
12 evidence vault until safe keeping to transport to SLED in
13 Columbia for analysis.

14 Q. And when did you receive it?

15 A. I believe the date was August the 24, 2009.

16 Q. Okay. And what was the condition of that bag in so
17 far if it was secured when you received it?

18 A. When I received it and when I sent it off it was
19 sealed.

20 Q. Okay. And when you received it, where did you put it?
21 When you got it from Lieutenant Sherfield, where did you
22 put it?

23 A. I put it in the evidence vault.

24 Q. All right. And is that where you all keep or where
25 the sheriff's office keeps drugs that are waiting to go to

INVESTIGATOR JEFF LAWSON: BY SOLICITOR ANTHONY

-183-

1 SLED?

2 A. That's correct.

3 Q. All right. And how was the evidence room secured?

4 A. By two locks, one a combination and the other a key.

5 Q. Okay. And how long did the bag stay there in the
6 evidence vault?

7 A. To I think September the 16ht is when we transported
8 it.

9 Q. All right. And who did you give them to to make the
10 transport?

11 A. Chief Deputy Perry Haney.

12 Q. And when you transferred the bag to Chief Deputy
13 Haney, what was it's condition as far as being secured?

14 A. It was a sealed bag.

15 Q. And did you recover any of the drugs from this case?

16 A. I don't - -

17 Q. I mean did you - Were those after they were sent to
18 SLED and Chief Deputy Haney took them to SLED did you
19 receive them from SLED to come back ----

20 A. To bring back - -

21 Q. --- to the sheriff's office?

22 A. Yes, sir.

23 Q. Okay. And when was that?

24 A. I do not recall the date.

25 Q. Okay. But once you got them back, where did you take

INVESTIGATOR JEFF LAWSON: BY SOLICITOR ANTHONY
BY MR. DELANEY

-184-

1 them?

2 A. I took them and placed them back into the evidence
3 vault.

4 Q. Okay. And when you get a bag back like a SLED bag
5 like this and you get it back from SLED, what has - What
6 did the SLED people do to secure this bag?

7 A. They put it in another plastic bag along with the
8 other evidence from previous cases and that's when we
9 transport it back that way.

10 Q. Okay. So that bag when you brought that bag back
11 to the sheriff's office, it had actually been placed in
12 another bag?

13 A. That's correct yes, sir.

14 Q. Okay. All right. Okay.

15 SOLICITOR ANTHONY: That's everything on direct.

16 CROSS EXAMINATION

17 INVESTIGATOR JEFF LAWSON BY MR. DELANEY:

18 Q. Sergeant Lawson, you were not out at [REDACTED]
19 [REDACTED] on August the 24th, 21st, 2009. Right?

20 A. No, sir.

21 Q. And you weren't involved with that investigation;
22 is that right?

23 A. No, sir, I was not.

24 Q. Okay.

25 MR. DELANEY: No further questions. Thank you.

CHIEF DEPUTY PERRY HANEY: BY SOLICITOR ANTHONY

-185-

1 THE COURT: You can step down and be excused. We
2 appreciate your time.

3 INVESTIGATOR LAWSON: Thank you, Judge.

4 THE COURT: Thank you.

5 (WITNESS LEAVING WITNESS STAND.)

6 SOLICITOR ANTHONY: The next witness would be Chief
7 Deputy Haney.

8 (WHEREUPON: CHIEF DEPUTY
9 PERRY HANEY, BEING FIRST CALLED AND DULY SWORN, TESTIFIED
10 AS FOLLOWS:)

11 DIRECT EXAMINATION

12 CHIEF DEPUTY PERRY HANEY BY SOLICITOR ANTHONY

13 Q. Would you state your name please?

14 A. Yes, sir. Chief Deputy Perry Haney.

15 Q. And how are you employed, Mr. Haney?

16 A. I'm Chief Deputy with the Union County Sheriff's
17 Office.

18 Q. Okay. How long have you had that job?

19 A. Four years.

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

21 A. I'm in my thirty-ninth year.

22 Q. All right. I'm going to show you a bag that's
23 identified on the top as a SLED Drug Analysis Security
24 Envelop, and I'm going to ask you if you've seen that bag
25 which is part of State's Exhibit Number One and Four?

CHIEF DEPUTY PERRY HANEY: BY SOLICITOR ANTHONY

-186-

1 A. Yes, sir, I have.

2 Q. Okay. And when did you receive that bag?

3 A. I believe it was only that I received to take to the
4 SLED. I'm thinking it was September the 16th of 2009.

5 Q. Okay. And who gave you that bag?

6 A. Jeff Lawson.

7 Q. All right. And what was the condition of the bag when
8 you received it?

9 A. It was sealed and clean and in good shape.

10 Q. Okay. And so what did you do with that bag once he
11 transferred it over to you?

12 A. We signed the chain of evidence to keep it intact and
13 then I took it to SLED Headquarters in Columbia for
14 analysis.

15 Q. Okay. And when you take a bag to SLED and submit it
16 for an analysis, what kind of process do you go through
17 down there?

18 A. You go in and sign in and tell them you're bringing
19 evidence in, they send you to an evidence technician in
20 their receiving area where you continue to sign another
21 chain and check it in.

22 Q. Okay.

23 A. Fill out the paperwork.

24 Q. And is that what you did in regards to that - the bag
25 that's part of Exhibit Number One?

CHIEF DEPUTY PERRY HANEY: BY SOLICITOR ANTHONY

-187-

1 A. . Yes, sir.

2 Q. And what did you take it down there?

3 A. The same day.

4 Q. On September 16th?

5 A. Yes, sir.

6 Q. And who did you transfer it to?

7 A. The lady's name was Amy.. I believe it was Amy
8 Stevens, or Stevenson, or something like that.

9 Q. Okay. All right.

10 Q. I deal with her regularly and I know her. I believe
11 that's her name.

12 Q. Okay. All right. Thank you very much.

13 SOLICITOR ANTHONY: That's everything on direct.

14 MR. DELANEY: I have no questions for the Chief.

15 THE COURT: You can step down and be excused. Thank
16 you.

17 DEPUTY HANEY: Thank you, Judge.

18 THE COURT: Call your next witness.

19 SOLICITOR ANTHONY: The next witness is Agent Tucker.
20 She's probably back there in our office.

21 (WHEREUPON: AGENT CARMEN

22 TUCKER, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
23 FOLLOWS:)

24 DIRECT EXAMINATION

25 AGENT CARMEN TUCKER BY SOLICITOR ANTHONY:

AGENT CARMEN TUCKER: BY SOLICITOR ANTHONY

-188-

1 Q. Would you state your name please?

2 A. Carmen Janine Tucker.

3 Q. And, Ms. Tucker, how are you employed?

4 A. I work for the South Carolina Law Enforcement
5 Division.

6 Q. And how long have you worked for SLED?

7 A. How long?

8 Q. How long?

9 A. I have worked for SLED for six years, five months.

10 Q. And what's your current position at SLED?

11 A. My current position with SLED is a forensic
12 toxicologist.

13 Q. And back in October of 2009, what was your job at
14 SLED?

15 A. I worked in the Drug Analysis Department as a drug
16 analyst.

17 Q. And what did you do in that capacity?

18 A. As a drug analyst we would analyze potential
19 evidence for the presence of controlled substances.

20 Q. Would you tell the jury what your education and
21 training is in the field of drug analysis?

22 A. I will. I received my training in the field of drug
23 analysis at SLED. They trained me in chemical analysis to
24 include marijuana. I also did law and legals at the SLED-
25 at the South Carolina Academy. And we attended a week long

AGENT CARMEN TUCKER: BY SOLICITOR ANTHONY

-189-

1 conference at DEA, Drug Enforcement Administration and then
2 we had several conferences, training conferences that we
3 attended as well.

4 Q. Okay. And could you tell the jury just what your
5 general educational background is?

6 A. Sure. I have a chemistry degree, a masters, a
7 bachelor's degree in chemistry and a master's degree in
8 chemistry. And then I also have several years of
9 experience working synthesizing and characterizing and
10 purifying drug compounds for drug trials.

11 Q. All right. And have you testified in court before as
12 an expert witness?

13 A. Yes I have.

14 Q. And approximately how many times have you been
15 qualified as an expert in the field of drug analysis?

16 A. Fifteen.

17 SOLICITOR ANTHONY: Your Honor, at this time we submit
18 Agent Tucker as an expert in the field of drug analysis.

19 MR. DELANEY: No objection.

20 THE COURT: All right, I find she is qualified to
21 testify as to drugs analysis.

22 BY SOLICITOR ANTHONY:

23 Q. Okay. I'll tell you it might be easier if you step
24 down because we'll have to take this stuff out of the bag.

25 A. Okay.

AGENT CARMEN TUCKER: BY SOLICITOR ANTHONY

-190-

1 Q. And rather than just setting it up there on that shelf

2

3 MADAME COURT REPORTER: Mr. Anthony, she's gonna have
4 to keep her voice up so I can hear her.

5 SOLICITOR ANTHONY: Okay.

6 AGENT TUCKER: I can do that.

7 SOLICITOR ANTHONY: All right.

8 Q. I'm gonna show you this State's Exhibit Number One.

9 And the first thing I will show you is this bag that
10 has on the top of it SLED Drug Analysis Security Envelop.

11 And I would ask if you've seen that before?

12 A. Yes I have. This is the evidence bag that is
13 submitted.

14 Q. Okay. And when did you have that bag come into your
15 possession?

16 A. May I refer to my notes?

17 Q. Sure.

18 A. This evidence came into my possession on September 16th
19 of 2009. I received it from Ms. Patricia Crooks in our
20 Evidence Control Department.

21 Q. And could you just tell the jury how drugs wind up
22 coming to you when they're submitted by a law enforcement
23 agency to SLED?

24 A. Typically the different agencies will have a custodian
25 or someone bring the evidence into SLED. It's usually

AGENT CARMEN TUCKER: BY SOLICITOR ANTHONY

-191-

1 already sealed in these bags here, this evidence resistance
2 bag, tamper resistant bag, tamper evidence bag is what we
3 call it, and they bring them in. Now usually this is in a
4 manila envelop, okay, but that we keep with the paperwork
5 for the case, and then these are returned back downstairs.
6 They bring these bags in and the paperwork and usually come
7 into our evidence control department where it is then
8 entered into the system, the case is entered into the
9 system, and then they hold it until such time as we go down
10 and pick them up from them.

11 Q. Okay. And is that what happened in regards to our
12 bag, here as part of State's Exhibit Number One?

13 A. That's correct.

14 Q. Okay. And so you got that bag from Ms. Crooks; is
15 that correct?

16 A. Patricia Crooks that's correct.

17 Q. And Ms. Crooks works in Drug ID?

18 A. She works in ---

19 Q. Or not Drug ID.

20 A. --- evidence control.

21 Q. She works in Evidence Control.

22 A. Right.

23 Q. So she works in the department where the bag would
24 have been submitted?

25 A. That's correct.

AGENT CARMEN TUCKER: BY SOLICITOR ANTHONY

-192-

1 Q. All right. And when you recovered that bag from
2 Ms. Crooks, what was it's condition in regards to being
3 secure?

4 A. Okay, the first thing I do when I receive evidence
5 like this is I look all around the bag and check it for any
6 tears, cuts, any obvious signs of tampering. We call this
7 a tamper evident bag. Obviously its not resistant, you can
8 tear it open but that would be noticeable. Tamper evidence
9 simply means that this green goo you see here, this is a
10 seal, if you try to pull that it's going to start
11 stretching the bag essentially. There is no way to get
12 that open without it being obvious. And so after I check
13 the bag completely I will then mark okay on the front of it
14 with a marker, the date and my initials, and then I cut the
15 opposite end of the bag to retrieve the evidence out of it.

16 Q. Now once you receive that bag before you started
17 actually working on it, where did you put it?

18 A. Okay. When we go down to pick it up evidence we
19 usually pick up a crate that the case is assigned. Like I
20 said these bags are inside an envelop that doesn't have the
21 same label. We take that upstairs - When we pick it up
22 from evidence control it's important to note that it is
23 transferred electronically into our custody okay. So then
24 I take that upstairs. Inside of our lab we have a vault
25 and we lock it in the vault until such times we pull up X

AGENT CARMEN TUCKER: BY SOLICITOR ANTHONY

-193-

1 amounts of cases to process.

2 Q. Okay. And is that what happened in regards to this
3 bag?

4 A. That's correct.

5 Q. Okay. And then after you got it on the 16th when did
6 you actually pull it out and work on it?

7 A. This bag was actually processed on the 17th, you would
8 see the things marked on the bag itself.

9 Q. Okay. And was the bag sealed up and secured when you
10 got it back out on the 17th?

11 A. That's correct.

12 Q. Okay. And so once you got the bag on the 17th and
13 determined it was still secured and in good shape, what did
14 you do in regards to analyzing the items that were inside
15 it?

16 A. Like I said once I've insured that the bag is intact
17 I cut the opposite end of the seal, then we retrieve the
18 evidence and begin processing which simply means if there
19 is more than one item in there we use some of it because
20 that allows us the opportunity to give individual items a
21 description, some descriptive wording. And then we weigh
22 the evidence without the packaging okay. Each item is
23 weighed certainly without the packaging that's reported and
24 then we move on into our chemical testing.

25 Q. Okay. Well the first thing I'll ask you about, we got

AGENT CARMEN TUCKER: BY SOLICITOR ANTHONY

-194-

1 two - two envelops here, and were these inside of the bag?

2 A. Yeah. Both of these envelops here were inside this
3 bag.

4 (WITNESS HELD UP EVIDENCE.)

5 Q. Okay. And I'll first ask you about the bag that's
6 got the A on it. And ask you if you can tell the jury
7 who these two items, this substance here in this bag, and
8 then this other bag that you got a 1.1 marked off, how that
9 might be associated with that envelop?

10 A. Okay. The Number 8 on the back of this bag in this
11 plastic sleeve is what we call it, and the Number B on this
12 one, that is the designation given by the officer or
13 whoever collected this evidence - a designation. This bag
14 is labeled with the lab number for the case, the item
15 number which in this case this one is 1.1 which is the
16 first item we tested. This rock substance that you see
17 here was inside this zip lock bag and this zip lock bag was
18 inside of that plastic sleeve and that's how those are
19 related.

20 Q. Okay. All right. So when you got the - these drugs
21 here out, what did you do in regards to analyzing them?

22 A. Well like I said, I removed this plastic bag from this
23 sleeve and then I emptied the contents of this plastic bag
24 onto a waiver that's been preteared which just means you
25 put the waiver on the balance and you tear it out to zero

AGENT CARMEN TUCKER: BY SOLICITOR ANTHONY

-195-

1 so that what you're weighing is now reading the weight of
2 the substance. So a weight was taken and recorded.

3 Q. And what weight did you get?

4 A. For this particular item was 55.9 - I'm sorry. Yeah
5 55.95 grams.

6 Q. Okay. Now did you make any kind of observations
7 about the condition of the substance?

8 A. Absolutely.

9 Q. And what were they?

10 A. For this particular item we designated the description
11 is a pressed powder substance.

12 Q. Okay. And in so far as whether the substance was
13 dry or moist or anything along those lines, did you make
14 any observations?

15 A. I did. This one was damp.

16 Q. All right. And did you of course after you weighed
17 it you made observations about it but obviously one of the
18 primary purposes of an analysis is testing, so could you
19 tell the jury what you did in regards to testing it to
20 determine what it was?

21 A. Absolutely. A sample of this is taken and then we
22 use chemical agents to test it. We're looking for specific
23 color change, this is specific for each class of compounds,
24 a family of compounds. So this item is tested it gave me a
25 specific reaction. I use a separate agent and I get a

AGENT CARMEN TUCKER: BY SOLICITOR ANTHONY

-196-

1 different reaction. Depending on what I'm seeing then I
2 know which way to proceed as far as this is the presumptive
3 test when we do this spot test to the agents. To confirm
4 that, that is in fact what we're seeing we take it on to the
5 instrumentation.

6 Q. Okay. And how does that work?

7 A. Okay. For this particular item since it gave me a
8 reaction that indicated it's possibly cocaine, cocaine in
9 the hydrochloride form, or the salt form, the kind you
10 would typically snort. That would tell me that this case
11 needed to be extracted and then put on our Gas
12 Chromatography Mass Spectrometer, which is what I did, and
13 it confirms cocaine.

14 Q. And so based on that did you have an opinion as to
15 what the substance in the 1.1 bag was?

16 A. Yes I did.

17 Q. And what was that then?

18 A. Cocaine found.

19 Q. Okay. All right. We'll move on now.

20 And I will show you these items associated with the
21 bag which had your number 1.2 on it. And I've got a
22 plastic bag - two plastic bags or two pieces of plastic and
23 then two bags. And if you could just explain to the jury
24 how you found the Item 1.2 bag and what you did with it.

25 A. Okay. This rock like substance you see here was in

AGENT CARMEN TUCKER: BY SOLICITOR ANTHONY

-197-

1 these two plastic bags separately okay. And tied up in
2 little knots. Those two plastic bags were inside this
3 plastic sleeve. Its like the Number B by the officer.
4 That is the condition it was when I got it.

5 Q. Okay. And then once you took the substances out what
6 kind of work did you do with them and what kind of
7 determination did you make in regards to them?

8 A. The same process. We start, there is obviously more
9 than one item there. They are taken out, if they look,
10 appear to be the same by testing by chemical testing, then
11 they are left as Item 1.2 but they are designated as it
12 shows on the bag 1 and that one's given it's own weight too
13 and that one's given it's own weight.

14 Q. Okay. And then did you - the weight you reported was
15 that the combined weight?

16 A. The weight is reported on the report is a combined
17 weight.

18 Q. Okay. All right.

19 A. Once the - I'm sorry.

20 Q. Go ahead.

21 A. Once its confirmed that those two items are in fact
22 the same compound.

23 Q. Okay. Well just - I'll go ahead and just ask you now.
24 What was the combined weight of the two items?

25 A. The combined weight of the two items for Item 1.2 was

AGENT CARMEN TUCKER: BY SOLICITOR ANTHONY

-198-

1 4.22 grams.

2 Q. Okay. And did you make any kind of observations
3 about the condition of those two substances?

4 A. I did.

5 Q. Okay.

6 A. Those two substances were also listed as a compressed
7 powder substance, however, they were wet which is not damp
8 but a little wetter.

9 Q. A little wetter than damp is that you're
10 characterizing wet?

11 A. Right.

12 Q. Okay. And then did you perform any kind of procedure
13 to try and make a determination what substance those two -
14 those two items in those two bags were?

15 A. I did in the same manner as the Item 1.1. We just
16 tested it separately, we test them with chemical
17 agents and that tells us how we get ---- into distraction
18 for the instrumentation.

19 Q. And so when you did those test what determination did
20 you make as to what those items were?

21 A. Cocaine base crack found.

22 Q. Okay. And what is the difference between powder
23 cocaine and crack?

24 A. Okay. Powder cocaine is essentially cocaine
25 hydrochloride. It's cocaine in a salt form. Crack is

AGENT CARMEN TUCKER: BY SOLICITOR ANTHONY

-199-

1 cocaine in a base form. Cocaine in the salt form
2 traditionally a powder but it can be compressed hard and it
3 can look like crack. But in salt form it can be snorted in
4 the crack form. It can be smoked or it can be main line
5 -----

6 Q. And you said that - Well one item was damp. One item
7 in a plastic bag was wet. What would be the effect of
8 dampness or wetness on the weight of a substance?

9 A. It would -----

10 Q. And just so I - I think you've already said this,
11 but I'll just ask you just in a little different way.

12 The Item 1.2 substance is after performing a test,
13 did you form an opinion as to what those substances were?

14 A. I did.

15 Q. And in your opinion what were the Item 1.2 substances?

16 A. Cocaine base crack.

17 Q. Okay. All right. So once you performed the analysis
18 first of all we'll talk about the Item 1.1, the cocaine.

19 What did you do in regards to packaging that up to
20 be returned to the sheriff's office?

21 A. Okay. Typically if we receive the item, the evidence,
22 in a bag it cannot be repacked and obviously this zip lock
23 bag basically what happens is the grains get in the zip
24 lock so you can't reseal that, it's gonna leak out. So we
25 repack it in a zip lock bag from our lab which is the red

AGENT CARMEN TUCKER: BY SOLICITOR ANTHONY

-200-

1 line, the zip lock bag with the red line, and I put on here
2 bag add which tells me that that's a bag I added to this.

3 Q. Okay. So this bag right here.

4 A. That outer bag.

5 Q. The top, the outer bag, that's your bag?

6 A. That's mine.

7 Q. Okay. And then where did you put it? Where did you
8 put that outer bag?

9 A. The outer bag goes back into this plastic sleeve, this
10 is a heat sealable sleeve. This bag will also go in there.
11 Any packaging that the items came in once they are labeled
12 and any evidence that is resealed its placed into a
13 sealable bag, basically a bag that we have, heat seals it,
14 heat seals it in. And what we'll traditionally do is on
15 the inside of that bag before we heat seal it, we'll put
16 our initials and date it.

17 Q. Okay. All right. And is that what you did in regards
18 to this item?

19 A. That's correct.

20 Q. Okay. And then the two other bags, your - What you
21 labeled 1.12, how did you package them up for return to the
22 sheriff's office?

23 A. The same way. This little bag here, this little lock
24 bag in the middle and across the top that says bag add,
25 that's my bag as well.

AGENT CARMEN TUCKER: BY SOLICITOR ANTHONY

-201-

1 Q. Okay. And then the - in regards to this item which
2 is your --

3 A. There's one inside.

4 Q. Yeah this is your 1.2. You actually - Your bag is
5 actually inside this; is that correct?

6 A. That's correct.

7 Q. Okay. All right. And so that went back into this bag;
8 is that correct?

9 A. That's correct.

10 Q. To go back to the sheriff's office?

11 A. Yes, sir.

12 Q. And when you return it to the sheriff's office its
13 heat sealed and - -

14 A. I actually return it to evidence control downstairs.

15 Q. Okay. Well when you give it back to evidence control,
16 its heat sealed and ---

17 A. That's correct.

18 Q. --- and secured? Okay. All right. And so once
19 you're done with it and you put it into this bag and seal
20 that bag up, what do you do with the final bag that you had
21 and put everything into it where does it go?

22 A. You mean this heat sealed envelop?

23 Q. Yes. Where do you - -

24 A. Okay. Once this is heat sealed and enroll that we put
25 it back in our vault. It's locked up in the vault and so

AGENT CARMEN TUCKER: BY SOLICITOR ANTHONY

-202-

1 we have other cases to take back down. Usually we don't
2 take anything down until after we've put the report, we get
3 all the data back, we know it's going on - the actual case
4 has been reviewed, the report has been reviewed by the
5 review partner, and everything is inside and the case has
6 been closed out then we will take our evidence back
7 downstairs.

8 Q. Okay. And when did you do that in regards to this
9 evidence?

10 A. This evidence was returned back to the evidence
11 control department on October the 6th of 2009 to Nikki - I
12 don't know her last name, she got married.

13 Q. She was a Perry back then though. Right?

14 A. Perry, Nikki Perry.

15 Q. All right. And so at that point in time you're done
16 with the drugs and it's just a matter of somebody from the
17 sheriff's office picking them up and bringing them back to
18 Union; is that correct?

19 A. That's correct.

20 Q. Okay. All right.

21 SOLICITOR ANTHONY: If I can have one moment.

22 (PAUSE.)

23 SOLICITOR ANTHONY: All right. Thank you.

24 That's everything on direct.

25 MR. DELANEY: I got a couple of questions.

AGENT CARMEN TUCKER: BY MR. DELANEY

-203-

1 MS. TUCKER: Do you want me to stand?

2 MR. DELANEY: You can have a seat.

3 (WITNESS RETURNED TO WITNESS STAND.)

4 CROSS EXAMINATION

5 AGENT CARMEN TUCKER BY MR. DELANEY

6 Q. Ms. Tucker, you are a forensic toxicologist; is that
7 correct?

8 A. Currently yes.

9 Q. At the South Carolina Law Enforcement Division?

10 A. Yes, sir.

11 Q. Okay. And during the, I guess the department where
12 it's more chemistry; is that - -

13 A. Analytical chemistry yeah.

14 Q. Because other departments in SLED as far as there is
15 a department there that deals with analyzing and testing
16 for forensic evidence; is that correct?

17 A. We all test for forensic - Are you talking about crime
18 scene?

19 Q. Yeah I'm talking about things that would be sent to
20 you, physical evidence, tangible objects sent to you. You
21 also will do testing on that looking for a fingerprint,
22 stuff like that?

23 A. I do not do fingerprints. That's a different
24 department.

25 Q. Okay. There's a department in SLED ---

AGENT CARMEN TUCKER: BY MR. DELANEY

-204-

1 A. Yes.

2 Q. --- that does that?

3 A. Yes.

4 Q. Okay. So any of that were to be done and one had
5 been done in this case that request wouldn't come to you,
6 that would come to somebody else?

7 A. That's correct. Actually on the front end. It would
8 be requested on the front end.

9 Q. Okay. And you are - had gotten some specific training
10 regarding marijuana; is that correct?

11 A. I have.

12 Q. Okay. Marijuana: There is different kinds of
13 marijuana; is that accurate?

14 A. Different species.

15 Q. Okay. And these species can be unique as far as the
16 way they appear; is that correct? As far as texture,
17 color?

18 A. Color can - I've seen varieties in color but in my
19 experience the way the leafs look, the characteristics that
20 are on the leaves are all the same. The testing is the
21 same as well.

22 Q. Okay. But you can - You said there's different
23 species of marijuana. You can look at marijuana and it has
24 some obvious signs as far as saying is this a specific
25 species or not. Would you agree with that?

AGENT CARMEN TUCKER: BY MR. DELANEY

-205-

1 A. I'm not an expert on the species. I'm an expert on
2 testing it.

3 Q. Okay.

4 A. So I know what to look for under the microscope and I
5 know what to look for when I put it on the instrument or do
6 chemical testing.

7 Q. Okay. You're looking for certain components and all
8 marijuana is gonna have those components in there; is that
9 right?

10 A. Right.

11 Q. Okay. But you would - You would agree that when
12 getting marijuana to test, you - it's not always gonna
13 look the same as far as like I said texture, color, those
14 type things. Some are stronger, some smell stronger ---

15 A. That's correct.

16 Q. --- than others? Okay.

17 A. That's correct.

18 Q. Okay. And you tested - You testified to and you
19 tested and the results came back it was powder cocaine.

20 A. Compressed powder substance.

21 Q. Compressed powder substance. A little over fifty
22 grams was determined to be powder cocaine. Correct?

23 A. It's determined to be cocaine hydrochloride or cocaine
24 in the salt form yes.

25 Q. Okay in the salt form. Then there was a small amount

AGENT CARMEN TUCKER: BY MR. DELANEY

-206-

1 about four grams found I guess that being the base form, is
2 that ---

3 A. That's correct.

4 Q. --- correct? And determined from the salt powder
5 to the base that usually involved - that involved cooking
6 something. Right? Cooking something with the powder?

7 A. You mean processing it to make crack ---

8 Q. Yeah ---

9 A. --- from cocaine?

10 Q. --- to make crack.

11 A. Yes.

12 Q. Yeah. Because you're using the powder to alter - you
13 need the powder ---

14 A. Yeah.

15 Q. --- to make the crack. Right?

16 A. You're altering the cocaine in the salt form to get
17 crack.

18 Q. Okay. The powder in the crack and you testified
19 they can look - by looking at them sometimes you can't
20 necessarily tell them apart. They can look the same, you
21 have to do some more testing.

22 A. That's correct.

23 Q. Okay. And both of these I think you had described it
24 as being slightly tan in color. Would you say that with
25 these?

AGENT CARMEN TUCKER: BY MR. DELANEY

-207-

1 A. Maybe a off white.

2 Q. Off white? Okay. And both on the drug report that
3 you did in this case, both of these items are described as
4 tan or slightly tan, they're both compressed substances; is
5 that correct?

6 A. Right. We don't actually put a color on here because
7 color can change and it can change over time as it dries.
8 Or if it's really dry or whatever it might be to extend it.
9 We actually just put some physical description like powder
10 substance, compressed powder substance, rock like
11 substance.

12 Q. Okay. All right.

13 MR. DELANEY: Thank you.

14 SOLICITOR ANTHONY: No redirect.

15 THE COURT: Thank you. You can be excused we
16 appreciate your time.

17 AGENT TUCKER: Thank you.

18 (WITNESS LEAVING WITNESS STAND.)

19 MR. DELANEY: Your Honor, at this time could we
20 request a short - -

21 THE COURT: Sure. We'll take our afternoon break.
22 Go to the jury room, we'll send for you in just a
23 few minutes.

24 (JURY EXITS COURTROOM AT 03:06 P.M..)

25 (COURT BACK IN SESSION AT 03:20 P.M..)

1 THE COURT: Take your seats.

2 During the break Mr. Delaney indicated he had a
3 matter he wanted to take up.

4 Mr. Delaney.

5 MR. DELANEY: Thank you, Your Honor.

6 When Sergeant Johnson was testifying earlier there
7 was a mention made of my client being observed by a
8 confidential informant selling an amount or selling
9 something, selling cocaine. I do not feel that the
10 question I ask the officer should have elicited that
11 response. The officer testified he had fifteen years
12 experience. I'm sure he's testified in numerous trials
13 like this, should the solicitor inform him, you know, that
14 obviously he knows better than to go into that. That's
15 something that's prejudicial to the jury. I'd like to
16 bring that to the court's attention. What would be the
17 remedy? I ask the court to consider a mistrial in the
18 case. It's prejudicial. I don't know what the remedy
19 would be as far as an instruction to the jury that could
20 take back what ultimately was said.

21 THE COURT: All right. Let me -
22 You think you can find that?

23 MADAME COURT REPORTER: Yes, sir.

24 THE COURT: Okay. Find the question and the answer.

25 MADAME COURT REPORTER: It was on cross to Mr.
26 Johnson, correct?

-209-

1 MR. DELANEY: It was at like the very beginning of my
2 cross of Sergeant Johnson.

3 MADAME COURT REPORTER: Yes, sir.

4 That was 13.22 minutes into his testimony.

5 Oh, recross? Wait just a minute.

6 MR. DELANEY: Just on cross.

7 MADAME COURT REPORTER: Yes, just on cross.

8 Thirteen minutes and twenty-four seconds into his
9 testimony when you started.

10 Q. He did say that as well? Okay. And I want to
11 go to the point where you, before you get to the
12 residence you received a call, say that it was
13 information and you were going to use that
14 information to go get a search warrant; is that
15 right?

16 A. Yes. Lieutenant Sherfield gave me a call advised
17 me that one of our confidential informants ---

18 Q. Right.

19 A. --- that we had used had been to Mr. Puckett's
20 location -

21 Q. Right.

22 A. --- and witnessed him sell --

23 MR. DELANEY: Your Honor.

24 THE COURT: Just - Go on to your next question.

25 THE COURT: All right. What's the State's position?

26 SOLICITOR ANTHONY: We don't think the comment was

1 so prejudicial to require a mistrial.

2 MR. DELANEY: How prejudicial does it need to be?
3 That's just something that shouldn't have been said as far
4 as that being said to this jury that's - -

5 THE COURT: That was not necessary and it was not
6 responsive to - It was not a necessary to respond to the
7 question. It was gratuitous information and it of course
8 was hearsay and hearsay on hearsay basically. I'm not
9 going to grant a mistrial. I do not find that there is any
10 manifest necessity to grant a mistrial although this kind
11 of interjections disturb me particularly Officer Johnson
12 having been around for a long time and we shouldn't have to
13 get into these situations. I will give a curative
14 instruction if requested by the defense. Well I'm not
15 going to give a curative instruction, I think that would
16 highlight it and I'm not going to put the burden on the
17 defense to have to ask for a curative instruction so I deny
18 the motion for a mistrial and I'm not going to give any
19 kind of curative instruction. But I am going to request
20 the solicitor to have some similar or some sort of training
21 with the officers who appear as the solicitor's witnesses
22 and try to make sure they understand where they can go with
23 their testimony and where they can't go with their
24 testimony. We've already tried this case one time, don't
25 want to have to try it a third time based on some
26 extraneous interjection by a State's witness.

CAPTAIN ROBERT HINES: BY SOLICITOR ANTHONY

-211-

1 Do you understand, Mr. Anthony?

2 SOLICITOR ANTHONY: Yes, sir, I do.

3 THE COURT: All right. Anything else before we get
4 the jury in?

5 MR. DELANEY: No, Your Honor.

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

7 (JURY REENTERS COURTROOM AT 03:38 P.M..)

8 THE COURT: Call your next witness.

9 SOLICITOR ANTHONY: Your Honor, the next witness is
10 Captain Hines.

11 (WHEREUPON: ROBERT HINES,
12 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

13 DIRECT EXAMINATION

14 CAPTAIN ROBERT HINES BY SOLICITOR ANTHONY

15 Q. Would you state your name please?

16 A. Yes, sir. It's Captain Robert Hines.

17 Q. And, Mr. Hines, how are you employed?

18 A. Employed with the Union County Sheriff's Office.

19 Q. All right. And what's your current position there?

20 A. My position? Rank of a captain. I'm the director
21 over Union County 911, Union County Emergency Services, and
22 also the director over Union County Jail.

23 Q. I want to take you back to May of 2010. Were you -
24 What were your responsibilities in May of 2010 in regards
25 to the evidence room?

CAPTAIN ROBERT HINES: BY SOLICITOR ANTHONY

-212-

1 A. May of 2010 I was evidence custodian over the evidence
2 that was brought in to be secured by deputies.

3 Q. All right. And were you also responsible in regards
4 to doing testing on marijuana?

5 A. Yes, sir. I am certified through the State of South
6 Carolina through State Law Enforcement Division to test
7 marijuana.

8 Q. And as part of that testing did it include weighing
9 ---

10 A. Correct.

11 Q. --- items? Okay. And you have or did you at the
12 time still do - have a set of scales you used to weigh ---

13 A. Yes, sir.

14 Q. --- marijuana?

15 A. Yes, sir.

16 Q. Okay. I want to refer you - if you would just step
17 on down please.

18 (WITNESS LEFT WITNESS STAND.)

19 Q. And just be sure to speak up so that the court
20 reporter can hear you.

21 A. Yes, sir.

22 Q. I'm going to refer you to the items here on the table
23 which have been labeled State's Exhibit Number -- Number
24 Three, which we've taken a number of items out of the bag
25 as Number Three and placed them all here in front of the.

CAPTAIN ROBERT HINES: BY SOLICITOR ANTHONY

-213-

1 jury.

2 Do you recognize these items?

3 A. Yes, sir.

4 Q. Okay. And back in May of 2010 in your job as the
5 evidence custodian, did you have occasion to get these
6 items out of evidence?

7 A. Yes, sir, I did.

8 Q. Okay. And what - What were the purposes at least as
9 far as people viewing the evidence for which you got the
10 bag out of evidence?

11 A. You actually contacted me explaining that a case was
12 coming to court and you wanted to use some evidence, and
13 you provided me with the information, specifically the case
14 number I was able to go into the log book there inside of
15 the box look up the case number and find out what section
16 of the vault the evidence was located. The evidence was
17 located in V 94 which stands for Vault 94.

18 Q. And that bag you're holding right there, at the time
19 that you first showed the drugs in that bag to me, what was
20 the condition of it?

21 A. The condition of the bag was sealed completely with
22 tape and intact.

23 Q. And so obviously when you showed it to me what did we
24 do with the bag?

25 A. We took it into a room next to the vault, you looked

CAPTAIN ROBERT HINES: BY SOLICITOR ANTHONY

-214-

1 at it, examined it, stated that you wanted to open up the
2 bag and examine the contents of the - what was inside of
3 the bag. At that time I took - I had a knife and I cut
4 open the bag, opened it up, and pulled the contents of the
5 bag out and placed them on the table where you examined
6 them.

7 Q. And then aside from myself, did you go through that
8 same process with Mr. Puckett's attorney at the time?

9 A. Yes, sir. I was contacted by Mr. Puckett's attorney
10 at the time basically making the same request that she
11 wanted to look at the evidence and so I went and retrieved
12 this bag from the vault out of Vault 94. I went into the
13 same room, this was at a later time, and I presented this
14 bag to her and she ask why the bag had been opened. I
15 explained to her that Solicitor Anthony had wanted to
16 examine the contents of the bag. She says well I want to
17 see the contents of the bag. I took my knife out and
18 reopened the bag again and I took the contents out of the
19 bag and placed it on the table just as I did with Mr.
20 Anthony.

21 Q. Now once you open that bag there up in your hand a
22 couple of times, what did you decide to do in regards to
23 trying to find a place to - or a means of keeping all of
24 this?

25 A. After several times of opening it up and placing

CAPTAIN ROBERT HINES: BY SOLICITOR ANTHONY

-215-

1 scotch tape on it, initials on top of dates on top of
2 initials on top of dates, I decided just to take this bag
3 with the original contents in it and place it into a more
4 secured evidence bag. So basically I went and retrieved a
5 clean, fresh bag and just placed this bag that had been
6 opened and sealed several times inside this clean fresh bag
7 and then I sealed it up.

8 Q. All right.

9 A. Its another way of protecting the contents.

10 Q. Now on May 7th, did I make any request, any specific
11 request to you as far as asking you to do something
12 concerning the drugs ---

13 A. Yes, sir.

14 Q. --- in question?

15 A. Yes, sir. Mr. Anthony contacted me explaining the
16 fact there was some concern that the - the white substance
17 believed to be cocaine, crack cocaine, inside the evidence
18 bag could be holding moisture or possibly wet. He
19 requested that I go into the vault and take out the
20 contents of the bag that was in a plastic bag that prevents
21 the contents from breathing; take the contents out of the
22 plastic bag and basically allow the bag to stay open to air
23 dry. This was on a Friday. After he and I spoke he
24 explained to me what he wanted. I went and found my chief
25 deputy, Chief Deputy Perry Haney. I explained to Chief

CAPTAIN ROBERT HINES: BY SOLICITOR ANTHONY

-216-

1 Deputy what Mr. Anthony requested because I'm actually
2 opening a bag - I'm actually physically able to touch
3 evidence, and in this case it was cocaine. I don't do that
4 by myself so I went and found Chief Deputy Haney where
5 Chief Deputy Haney accompanied me to the vault. I had the
6 combination and the key the door as there was only two of
7 us and I opened up the door and I opened up a second door,
8 went into the vault retrieved this - - -

9 (WITNESS HELD UP EVIDENCE.)

10 A. - - - from Vault 94, opened it up and basically took
11 the evidence bag and held it open and this was mid Friday.
12 It stayed like that and when we got through we went out of
13 the vault; I secured both doors, it stayed like this all
14 day Friday, the rest of Friday and all day Saturday, all
15 day Sunday, Monday morning I come back to work.

16 Q. And what did you do on Monday morning in regards to
17 the drugs after you let them air out all weekend?

18 A. Yes, sir. I was contacted by you and you explained to
19 me that you - the purpose of letting them air dry, you
20 wanted me to re-weigh the contents after three days of
21 airing out. Again, I don't do this by myself so I
22 contacted Sergeant Jimmy Johnson, requested Sergeant Jimmy
23 Johnson meet with me at the vault. When he got to the
24 vault he said pretty much ha what's up, I explained to him
25 what I had done Friday with Chief Deputy Perry Haney.

CAPTAIN ROBERT HINES: BY SOLICITOR ANTHONY

-217-

1 I explained to him that we would be going into the
2 vault and we were going to get the evidence that had been
3 air drying and take the evidence and go to my scale and re-
4 weigh at the request of the solicitor.

5 Q. So first of all I've talked to you I ask you about the
6 cocaine which is this item that I have in my hand here
7 that's got the 1.1 on the exterior bag.

8 And what did you determine when you re-weighed the
9 cocaine?

10 A. I'm not understanding.

11 Q. What - When you re-weighed it what did it weigh?

12 A. Uh - I need to look at my chain of --

13 Q. Okay.

14 (WITNESS LEFT WITNESS STAND AND RETURNED.)

15 Q. Do you need the report?

16 A. I prefer the Evidence Chain.

17 Q. Sure.

18 A. Day No. I was weighed by me on my scale and it weighed
19 53.5 grams.

20 Q. Okay. All right. And then once you had weighed that
21 it weighed 53.5 grams. What did you do with the cocaine?
22 How did you repackage it?

23 A. Yes, sir. After I took it out of this package here.

24 (WITNESS HELD UP PACKAGE.)

25 A. I placed it into another evidence bag which is here

CAPTAIN ROBERT HINES: BY SOLICITOR ANTHONY

-218-

1 with the blue bag, blue writing on the bag here, I placed
2 the cocaine into this bag and sealed it. There is a gummy
3 substance at the top that once it's sealed it's sealed.
4 There is no way to reopen the bag or penetrate the bag
5 without causing damage obviously to the bag. So I placed
6 the cocaine back into this bag, folded it and placed it
7 back into this bag where it was sealed.

8 Q. Okay. And then when it says here "RH 5/10/10 9:24
9 a.m.; who wrote that?

10 A. RH is Robbie Hines. It's my initials on 5/10/2010 at
11 9:24 a.m., that's the day and the time that it was resealed
12 by me. I always initial and sign the note and I did that.

13 Q. Okay. And is that in the same condition as it was in
14 when you did the additional weighing on May 10th?

15 A. It appears to be yes, sir.

16 Q. Okay. All right. So I'll ask you now about the -
17 First of all I'll ask you about this bag right here which
18 is labeled Bag No.3. What did you do in regards to it?

19 A. Okay. This bag here - I had to kind of do this one
20 backwards. This bag here, this clear bag inside here,
21 similar to this bag here except it's smaller, it contained
22 or held white rock like substance. I took the white rock
23 like substance out of this bag, placed it onto the scale,
24 indicated this as Bag No. 3, and Bag No. 3 weighed at 2.4
25 grams. Bag No. 3 ---

CAPTAIN ROBERT HINES: BY SOLICITOR ANTHONY

-219-

1 Q. All right.

2 A. --- 2.4.

3 Q. All right. And then how did you repackage it so we
4 can go ahead and have that covered?

5 A. As you can see this clear bag inside here, it had
6 basically had already been compromised. There was a
7 cocaine matter that had breached the seal. I wasn't going
8 to reseal it like that so I placed the white rock like
9 substance as well as the original packaging into this
10 evidence bag.

11 (WITNESS HELD UP EVIDENCE BAG.)

12 A. And then I resealed this evidence bag and it's still
13 sealed. It was initialed by me, RH, Robbie Hines on
14 5/10/2010 at 9:36 a.m..

15 Q. Okay. All right. And then we'll talk now about this
16 bag which is the bag that you labeled No. 2, and what
17 happened after you dried it out and weighed it?

18 A. Yes, sir. After this bag was opened and dried, I took
19 the contents of this bag here.

20 (WITNESS INDICATED TO BAG.)

21 A. This bag here had contents in it, I took the contents
22 from this bag, I weighed it and it did not weigh on my
23 scale so I printed a receipt, there is manipulating or
24 anything like that, I print the receipt as it shows and
25 when it shows 0.0 I pushed print like I normally would and

CAPTAIN ROBERT HINES: BY SOLICITOR ANTHONY

-220-

1 that's Bag No. 2 and it weighed 0.0 grams.

2 Q. Okay. Now obviously there's something in there so it
3 had to weight something.

4 A. Yes, sir.

5 Q. What's the least amount of weight your scale will
6 register?

7 A. It goes - It starts at 0.0 grams. It weighs in grams,
8 my machine does not pick up on grains.

9 Q. Okay. So it has to be at least a gram?

10 A. That's correct yes, sir.

11 Q. Okay. And if something is less than a gram your
12 machine, your scale just show it as a zero.

13 A. Yes, sir.

14 Q. Okay.

15 A. And I just took this white - -

16 Q. Yeah it could have been - It could be up to what, 9
17 grams and your machine would still show zero.

18 A. That's correct.

19 Q. Correct? Okay. And then just explain to the jury
20 what you did to repackage that bag of crack you weighed?

21 A. Yes, sir. Again this bag - heat bag in here from SLED
22 would be compromised allowing this white fine powder stuff
23 to leak through the seal, the white seal here, so what I
24 did is I took the white sample off of the scales and I
25 placed it into another evidence bag which was mine, I

CAPTAIN ROBERT HINES: BY SOLICITOR ANTHONY

-221-

1 sealed it and it's still sealed. I at that point I
2 indicated Bag No. 2. at 0.0 grams on 5/10/2010 at 9:36
3 a.m.'. I took this bag and I rolled from the bottom to the
4 top, not top to the bottom, I rolled it from the bottom to
5 the top to make sure nothing escapes. I then rolled it and
6 I placed it into the original baggie, as such, where it was
7 sealed by me.

8 Q. And then what did you do after you had finished
9 packing everything back up what did you do with it?

10 A. I had the original chain of custody form, I placed
11 the three tags with the stamps from Day No. I to Day No. II
12 to Day No. III on this piece of paper here, this is all
13 original, myself and Sergeant Jimmy Johnson who was present
14 with me who was my witness basically, I repackaged all this
15 back up, placed it all back into this bag here and I took
16 it back to the vault where it was secured and I contacted
17 Mr. Anthony.

18 Q. And those bags, the crack - the bags the crack cocaine
19 are in, are they still in the same - Do they still appear
20 the same, do they still appear to be secured the same way
21 you secured them back on May the 10th of 2010?

22 A. Yes, sir.

23 Q. Okay. All right.

24 SOLICITOR ANTHONY: Your Honor, at this time we move
25 Exhibit One into evidence.

CAPTAIN ROBERT HINES: BY MR. DELANEY

-222-

1 I'm sorry, it's Exhibit Three. We move Three into
2 evidence.

3 MR. DELANEY: No objection.

4 THE COURT: In without objection.

5 (WHEREUPON: STATE'S EXHIBIT NUMBER THREE IDENTIFIED
6 AND MARKED, RECEIVED INTO EVIDENCE.)

7 SOLICITOR ANTHONY: Thank you.

8 That's everything on direct.

9 CROSS EXAMINATION

10 CAPTAIN ROBERT HINES BY MR. DELANEY:

11 Q. Captain, you are a marijuana analyst employed by
12 the Union County Sheriff's Office; is that right?

13 A. Yes, sir.

14 Q. And you had an opportunity to look at and test some
15 marijuana that was associated with this case; is that
16 right?

17 A. Yes, sir.

18 Q. Okay. Did you bring that marijuana with you to
19 court today?

20 A. I did yes, sir.

21 MR. DELANEY: May I approach, Your Honor?

22 THE COURT: Yes, sir.

23 MR. DELANEY: Thank you.

24 Q. What you tested - You have your report with you?

25 A. I do not no, sir.

CAPTAIN ROBERT HINES: BY MR. DELANEY

-223-

1 Q. I'll give you a copy of mine.

2 A. Thank you.

3 Q. It appears that you weighed three baggies that had
4 marijuana in it. Or I guess two specifically, two baggies
5 that had some marijuana in it; is that right?

6 A. I'm sorry.

7 Q. You analyzed two baggies that had some marijuana in
8 it; is that right?

9 A. Yes, sir. You're referring to Item No.5?

10 A. Yeah I think so. Well let me - One baggie that you
11 got contained - the weight on there is 18.4 grams; is that
12 right?

13 A. Yes, sir. Item No. 4.

14 Q. Okay. And this one would be Item No. 4; is that
15 right?

16 A. Yes, sir.

17 Q. Okay. And this would be Item No.3; is that right?

18 A. Yes, sir.

19 Q. Okay. And this bag contains 6.8 grams; is that
20 correct?

21 A. That's correct yes, sir.

22 Q. Okay. And then you also tested two that are described
23 as blunts; is that right?

24 A. Yes, sir. Item No. 5 with notes inside, a blunt in
25 each yes, sir.

CAPTAIN ROBERT HINES: BY MR. DELANEY

-224-

1 Q. Okay. And blunt or blunts equivalent I guess is to a
2 joint or just rolled with something different. Is
3 that accurate?

4 A. That's - Yes, sir, street slang for joint is blunt,
5 usually wrapped up in like a cigar.

6 Q. Right.

7 A. Yes, sir.

8 Q. And that's what we have here in Item No. 5; is that
9 right?

10 A. Yes, sir.

11 Q. And a little bit of marijuana was taken out of each
12 one of those rolled up ---

13 A. Yes, sir.

14 Q. --- cigar wrappers; is that right?

15 A. Yes, sir.

16 Q. Okay. And one of the cigar wrappers looks like
17 burnt to about half way down. Is that accurate?

18 A. I got two of them, Mr. Delaney. I guess one of 'em
19 is about an inch long and the other one is about maybe two
20 inches long.

21 Q. Right. One's about half the size of the other; is
22 that right?

23 A. Yes, sir.

24 Q. The last question I got for you, Captain, is to look
25 at this right here. Those two bags look - -

CAPTAIN ROBERT HINES: BY MR. DELANEY
BY SOLICITOR ANTHONY

-225-

1 THE COURT: For the record you might want to put on
2 what number bag. You got numbers all over the place.

3 MR. DELANEY: I'm sorry.

4 Q. Item No. 3 and 4. And that's what you had there in
5 your hands; is that correct?

6 A. Item No. 4 would be this one, 18.4 grams.

7 Q. Right.

8 A. Item No. 3 would be this one at 6.8 grams.

9 Q. Okay. And looking at Item No. 3 and Item No. 4, these
10 two bags of marijuana, they look the same as far as color,
11 characteristics. Fair to say?

12 A. Yes, sir. Color, characteristics yes, sir.

13 Q. All right. Thank you.

14 MR. DELANEY: No further questions.

15 THE COURT: Redirect?

16 SOLICITOR ANTHONY: If I could have one moment.

17 THE COURT: All right.

18 (PAUSE AT 04:01 P.M..)

19 REDIRECT EXAMINATION

20 CAPTAIN ROBERT HINES BY SOLICITOR ANTHONY:

21 Q. It would be fair to say that a lot of marijuana would
22 look consistent with the two items you just saw, ---

23 A. Yes, sir.

24 Q. --- Items 3 and 4?

25 A. Yes, sir.

1 Q. All right. Thank you.

2 SOLICITOR ANTHONY: That's everything.

3 MR. DELANEY: Nothing, Judge.

4 THE COURT: You can step down and be excused. We
5 appreciate your time. Thank you.

6 CAPTAIN HINES: Yes, sir, Judge, thank you.

7 (WITNESS LEAVING WITNESS STAND.)

8 SOLICITOR ANTHONY: That would be the State's
9 evidence.

10 THE COURT: All right.

11 Members of the jury panel, the State is resting, that
12 means that the State has presented it's case. It could
13 under certain circumstances present other testimony but
14 you've heard it's case. So we have to take up some matters
15 of law outside your presence so we'll take a break, and
16 after we take up what we have to take up, we'll bring you
17 back in and proceed.

18 (JURY EXITS COURTROOM AT 04:02 P.M..)

19 THE COURT: The jury is dismissed.
20 Anything from the State at this point?

21 SOLICITOR ANTHONY: No, sir.

22 THE COURT: Mr. Delaney.

23 MR. DELANEY: Judge, we just renew the motion we had
24 made regarding a mistrial. We renew that motion. We also
25 make - -

26 THE COURT: Well as to a mistrial I of course have

-227-

1 ruled and continue to rule there is no manifest necessity
2 and again, I'm not going to put you to the burden of
3 requesting a charge, corrective charge, but I'm not going
4 to give one because I think that would just be highlighting
5 something that may have just gone over the jury's head and
6 may not have, but since I do not find that this rises to
7 the level of manifest necessity to grant a mistrial I'm not
8 going to give a charge. All right.

9 MR. DELANEY: And also at this time, Judge, we make a
10 motion for a directed verdict at this time taking the
11 evidence in the most favorable light to the State.

12 THE COURT: All right. I deny that motion. I find
13 that the evidence is sufficient from which the jury could
14 make a determination that Mr. Puckett was involved in the
15 possession of these particular drugs, crack and the
16 cocaine, and that the trafficking weight of the cocaine is
17 certainly within - above that required for trafficking.
18 The weight on the - The testimony of the weight on the
19 crack puts it in presumptive range so I find that there is
20 sufficient direct and substantial - circumstantial evidence
21 from which the jury could find Mr. Puckett guilty.

22 Mr. Puckett, can you hear me?

23 MR. PUCKETT: Yes, sir.

24 THE COURT: At this time the State has rested so you
25 have a right to present a defense if you wish, but you do
26 not have to. You are presumed innocent of this charge and

1 the State must prove your guilty beyond a reasonable doubt.
2 You do not have to present any evidence, you do not have to
3 prove your innocence. But you can call witnesses if you
4 wish to testify on your behalf, and you can testify if you
5 wish.

6 Does he have any prior - I think we've already went
7 over - -

8 SOLICITOR ANTHONY: No, sir.

9 THE COURT: There are no impeachable offenses. If you
10 testify of course you will be under oath and be required
11 therefore to give truthful answers. If you choose to
12 exercise your constitutional right to remain silent I will
13 tell the jury that you have done that. I will remind them
14 that you do not have to prove your innocence but the State
15 has to prove your guilt beyond a reasonable doubt. I will
16 tell them that they cannot in any way hold against you or
17 discuss among themselves or factor into their own mind that
18 you exercised your constitutional right to remain silent.

19 Do you understand all of that?

20 MR. PUCKETT: Yes, sir..

21 THE COURT: Do you have any questions about it?

22 MR. PUCKETT: No, sir.

23 THE COURT: I advise you that this is your right, it's
24 not your attorneys or your family's or anybody else but you
25 get such information as you, Mr. Puckett, deem necessary
26 before making a decision. Have you reached a decision as

-229-

1 to whether to testify or not?

2 MR. PUCKETT: Yes, sir.

3 THE COURT: And are you going to testify?

4 MR. PUCKETT: Yes, sir.

5 THE COURT: All right. And do you have one other
6 witness listed, is she gonna testify?

7 MR. DELANEY: Yeah, Your Honor. We would call a
8 fairly brief witness before Mr. Puckett and then at that
9 time we need to call Mr. Puckett.

10 THE COURT: All right. Are you ready to go forward?

11 MR. DELANEY: I got to find my witness. I think she's
12 upstairs in my office.

13 THE COURT: All right. We'll take about --

14 They're refreshing, we'll refresh and take about a
15 five minute break.

16 (COURT IN RECESS AT 04:07 P.M..)

17 (WHEREUPON: DEFENDANT'S EXHIBITS NUMBER ONE THROUGH
18 SEVEN PREMARKED FOR IDENTIFICATION.)

19 (COURT BACK IN SESSION AT 04:15 P.M..)

20 THE COURT: Is the State ready?

21 SOLICITOR ANTHONY: Yes, sir.

22 THE COURT: Let's get Mr. Puckett in.

23 (DEFENDANT REENTERS COURTROOM.)

24 SOLICITOR ANTHONY: Mr Delaney.

25 I guess I do need to find out...

26 They're running a NCIC on his witness but I'm okay

KAY LEA HEATHERLY: BY MR. DELANEY .

-230-

1 with just starting and if she has anything impeachable I'll
2 just approach the bench.

3 THE COURT: Okay. All right.

4 , Bring in the jury.

5 (JURY REENTERS COURTROOM AT 04:18 P.M..)

6 THE COURT: Call your witness, call your first
7 witness.

8 MR. DELANEY: Thank you, Your Honor.

9 The Defense would call Kay Lea Heatherly.

10 THE COURT: All right. Please come up and be sworn.

11 (WHEREUPON: KAY LEA

12 HEATHERLY, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
13 FOLLOWS:)

14 DIRECT EXAMINATION

15 KAY LEA HEATHERLY BY MR. DELANEY:

16 Q. Good afternoon. Could you state your name for the
17 jury please.

18 A. My name is Kay Lea Heatherly.

19 Q. And, Ms. Heatherly, do you know my client?

20 A. Yes I do.

21 Q. How long have you known CJ Puckett?

22 A. I have been friends with their family for over ten
23 years.

24 Q. Do you know anyone else in the courtroom?

25 A. I know his mother and step-father.

KAY LEA HEATHERLY: BY MR. DELANEY

-231-

1 Q. You know Lieutenant Sherfield?

2 A. I do.

3 Q. How do you know him?

4 A. He's my cousin.

5 Q. First cousin, second cousin?

6 A. First cousin.

7 Q. Now - -

8 MR. DELANEY: Judge, may I approach?

9 Q. Kay Lea, I'm going to show you some photographs, okay.

10 And these photographs are marked Defendant's Exhibits
11 One through Seven. I'll give you a minute to look through
12 those photographs, okay.

13 A. Okay.

14 (DEFENDANT REVIEWING EXHIBITS.)

15 A. I took these photographs.

16 Q. All right. I'll ask you about that in just a minute.

17 A. Okay.

18 MR. DELANEY: May I approach?

19 THE COURT: Yes.

20 BY MR. DELANEY:

21 Q. Did you take these photographs that I showed to you?

22 A. Yes, sir.

23 Q. What are these photographs of?

24 A. Mr. Puckett's house.

25 Q. Okay. And more specifically what about Mr. Puckett's

KAY LEA HEATHERLY: BY MR. DELANEY

-232-

1 house?

2 A. After the raid.

3 Q. Well what on - I guess -

4 A. The hat, the front door, the hole in the wall.

5 Q. Okay.

6 A. And the kitchen.

7 Q. Okay. And when did you take these photographs?

8 A. The day after Mr. Puckett was released from jail.

9 Q. And this is marked Defendant's Exhibit Number One.

10 What is this a photograph of?

11 A. That is a photograph of the front door of Mr.

12 Puckett's home.

13 Q. Okay. Does it have any numbers?

14 A. . 295. Well 295 is on the picture.

15 Q. Okay.

16 A. And it's on [REDACTED] [REDACTED]

17 Q. Okay. And Defendant's Exhibit Number Two, what is
18 that a picture of?

19 A. That's a picture of the front door as well which was
20 not torn down in any way.

21 Q. Let me ask you another question. Defendant's Exhibit
22 Number Three, specifically what is that a picture of?

23 A. That is a picture of the lock on the front door.

24 Q. Okay. All right. And then I have what's been marked
25 as Defendant's Exhibit Numbers Four, Six and Seven. What

KAY LEA HEATHERLY: BY MR. DELANEY

-233-

1 are these a picture of?

2 A. That's the bathroom door. The bathroom door.

3 Q. And are those pictures a fair and accurate depiction
4 of what the bathroom door looked like when you took those
5 pictures?

6 A. Absolutely.

7 Q. Now the last picture I have for you is marked
8 Defendant's Exhibit Number Five. What is that a
9 picture of?

10 A. That is a picture of the - was a hole knocked in the
11 wall in the kitchen.

12 Q. Okay. And again, my question for you, are all of
13 those pictures that you've been showed here today are those
14 fair and accurate depiction of what the front door and the
15 back door looked like when you took those pictures?

16 A. Absolutely.

17 Q. Okay.

18 MR. DELANEY: At this time, Your Honor, I would move
19 these pictures, State's[sic] Exhibits Number One through
20 Seven into evidence and we ask that they be published to
21 the jury.

22 SOLICITOR ANTHONY: No objection.

23 THE COURT: In without objection. You may publish
24 them.

25 MR. DELANEY: Thank you.

KAY LEA HEATHERLY: BY MR. DELANEY
BY SOLICITOR ANTHONY

-234-

1 (DEFENDANT'S EXHIBIT ONE THROUGH SEVEN PREMARKED AND
2 IDENTIFIED, RECEIVED INTO THE RECORD. PUBLISHED TO THE JURY
3 AT 04:23 P.M..)

4 BY MR. DELANEY:

5 Q. I know you testified a few minutes ago knowing CJ's
6 family for a while?

7 A. Yes, sir.

8 Q. Been around his house in the past?

9 A. Yes, sir.

10 Q. Ever seen cocaine in his house?

11 A. No, sir.

12 Q. Ever seen CJ with cocaine?

13 A. No, sir.

14 MR. DELANEY: No further questions.

15 Thank you, Ms. Heatherly. Answer any questions Mr.
16 Anthony might have for you.

17 CROSS EXAMINATION

18 KAY LEA HEATHERLY BY SOLICITOR ANTHONY:

19 Q. I'm showing you Exhibit Number Five. That's the
20 picture of the hole in the kitchen wall; is that correct?

21 A. That's correct.

22 Q. Okay. Now when you took that picture, if you're
23 standing there where Mr. Puckett is looking through that
24 hole, can you see into the bathroom?

25 A. Yes, sir.

KAY LEA HEATHERLY: BY SOLICITOR ANTHONY

-235-

1 Q. Okay. So you're saying that the view through the
2 hole right now as that picture shows is unobstructed into
3 the bathroom? Or is there not something covering ---

4 A. I think --

5 Q. --- up the bathroom?

6 A. I think we have put something over that hole so that
7 I could use the bathroom.

8 Q. Uh-huh. Okay.

9 A. It is a - It was a complete hole through the wall yes
10 it was.

11 Q. Okay. So there was a complete hole through the wall.

12 A. Yes.

13 Q. But this picture is not - It shows the way the hole
14 looks from the kitchen but it does not show what you would
15 see like if the hole had just been freshly made?

16 A. The hole is freshly made.

17 Q. Well I guess my question is, you can't - If you took
18 the obstruction out from over the hole, you would see
19 something different than you see right now in the picture;
20 is that correct?

21 A. Correct.

22 Q. Okay. And there is no other picture, I just want to
23 make sure I'm not missing something, there is not another
24 picture is there, Ms. Heatherly, that would show the
25 interior of the bathroom?

KAY LEA HEATHERLY: BY SOLICITOR ANTHONY

-236-

1 A. No, sir.

2 Q. Okay. So you didn't take - You took pictures - some
3 pictures of the bathroom nor from the outside of the
4 bathroom but you didn't take any pictures of the inside of
5 the bathroom?

6 A. No, sir, I did not.

7 Q. Okay. And you say that he - Who called you about
8 going over there and taking a picture?

9 A. I think it was his mother. You know they was looking
10 for a camera.

11 Q. Uh-huh.

12 A. I'm a family friend, I had my camera in my vehicle and
13 I was ask if I would come for her and take pictures and I
14 did.

15 Q. And so when you went over there you said it was the
16 day he made bond?

17 A. The day after.

18 Q. The day after Mr. Puckett made bond?

19 A. Yes, sir.

20 Q. Okay. And are you aware of what went on in Mr.
21 Puckett's residence between the time of August the 21st and
22 the time he actually made bond?

23 A. Yes, sir.

24 Q. I mean were you over there at his house --

25 A. I was not there. I am aware of it.

KAY LEA HEATHERLY: BY SOLICITOR ANTHONY

-237-

1 Q. Okay. So you don't --

2 A. I was told.

3 Q. You were told? Okay.

4 A. That's all.

5 Q. But of your own personal knowledge you don't know
6 who might have gone to Mr. Puckett's house during that
7 period of time and what they might have done?

8 A. No, sir.

9 Q. And you say that you're friend with Mr. Puckett's mom?

10 A. And his entire family.

11 Q. Okay.

12 A. I practically raised his nephew.

13 Q. All right. And you said since you've known his
14 mom, did you say ten years; is that right?

15 A. Over ten years I've known his entire family.

16 Q. Okay. And do you have - aside from knowing Mr.
17 Puckett's mom, did you have any kind of social relationship
18 with him?

19 A. No, sir.

20 Q. So when you saw Mr. Puckett, where would you see him?

21 A. With the family.

22 Q. Okay. And would that be -

23 A. Around the family, at holidays.

24 Q. Okay. And would that be at his place or somewhere
25 else?

KAY LEA HEATHERLY: BY SOLICITOR ANTHONY

-238-

1 A. I've been to his place with his mom, I've been to his
2 mom's house.

3 Q. How many times would you say you've been to his place?

4 A. I've been to his place several times.

5 Q. Well I mean in the year before you took those pictures
6 how many times were you at his house?

7 A. In the what?

8 Q. In the year before you took those pictures how many
9 times were you at his house?

10 A. I - Many times.

11 Q. Well how would you define many?

12 A. I don't know. Ten, twenty.

13 Q. And when you would go over there would it be with
14 his mom?

15 A. Sometimes yeah.

16 Q. Okay. I mean were you ever over there just you and
17 Mr. Puckett?

18 A. No.

19 Q. Okay. So any time you'd be over there his mother would
20 be with you?

21 A. Most of the time yes, sir.

22 Q. Okay.

23 A. Or a friend.

24 Q. Or somebody else?

25 A. His family yeah.

KAY LEA HEATHERLY: BY SOLICITOR ANTHONY

-239-

1 Q. Somebody in his family would be there?

2 A. Yes.

3 Q. Okay. And that's what would lead you to go over there
4 would be a family occasion?

5 A. Right.

6 Q. With other people and his family over at his place?

7 A. Right.

8 Q. Okay. And that's not really the kind of situation
9 where you would expect somebody would be breaking out
10 cocaine or crack is it?

11 A. No I never seen any cocaine or crack.

12 Q. And you wouldn't expect ---

13 A. I did not ---

14 Q. --- you wouldn't expect ---

15 A. --- expect to -

16 Q. --- to see that in a situation with his family?

17 A. I wouldn't expect that out of Mr. Puckett.

18 Q. Okay. Did you know Mr. Puckett had a race car?

19 A. Yes I did.

20 Q. Okay. And did you ever - Did you have any kind of
21 dealings with him through the race car part of his life;
22 him having a car?

23 A. I did. I watched him race one time I did.

24 Q. And you said that his mom when she called you she
25 was looking for somebody with a camera?

KAY LEA HEATHERLY: BY SOLICITOR ANTHONY

-240-

1 A. Yes, sir.

2 Q. And she would know that you had a camera?

3 A. They did not know that I had a camera. They called
4 to see if her brother, her sister in law had a camera and I
5 was there and I had a camera and offered to go take the
6 pictures for them.

7 Q. I see. I see. So they were actually calling a family
8 member and you were with her brother in law - -

9 A. I'm a part of the family.

10 Q. Okay. And so you were there with her sister and her
11 brother in law and they were looking for a camera but you
12 volunteered to go there with a camera. Okay.

13 A. Exactly.

14 Q. Okay. And you took pictures of the bathroom door and
15 the front door?

16 A. And the hole in the wall.

17 Q. And the hole in the wall.

18 A. Yes, sir.

19 Q. Okay. All right. And did you do any kind of careful
20 inspection of them other than just taking pictures of them?

21 A. I looked them over very well yes, sir, I did because
22 I knew what it looked like before.

23 Q. All right.

24 SOLICITOR ANTHONY: If I can have one moment.

25 (PAUSE AT 04:32 P.M..)

KAY LEA HEATHERLY: BY SOLICITOR ANTHONY

-241-

1 Q. Were you aware of - Are you aware of how long Mr.
2 Puckett - how long it was from the time he was arrested and
3 the time he made bond?

4 A. Am I aware of how long it was?

5 Q. Yes.

6 Q. I was yeah but I couldn't tell you now because it's
7 been three years ago.

8 Q. Okay. I mean would three weeks sound about right from
9 the time he was arrested to the time he made bond?

10 A. I - To be honest I cannot remember.

11 Q. Okay. It would be fair to say it was more than just
12 a couple of days, it was a few weeks?

13 A. I don't think it was a few weeks no.

14 Q. Okay.

15 A. It was the day after he made bond.

16 Q. And were you aware of Mr. Puckett's employment
17 situation when this happened and he was arrested?

18 A. Was I aware of what?

19 Q. Of his employment situation, did he have a job?

20 A. No.

21 Q. He didn't have a job?

22 A. Not to my knowledge.

23 Q. And how long had he been unemployed to your knowledge?

24 A. Wait a minute. He may have been doing racing just
25 then. He could have been doing the racing just then.

KAY LEA HEATHERLY: BY SOLICITOR ANTHONY
BY MR. DELANEY

-242-

1 Q. When you say doing the racing, what do you mean?

2 A. Working on engines for people, racing race cars.

3 Q. You're not sure?

4 A. I'm not sure.

5 Q. Okay. Did you ever see any marijuana over at Mr.
6 Puckett's house?

7 A. No, sir.

8 Q. The times you were over there?

9 A. No, sir.

10 Q. Okay. And just so I'm clear, on that picture that
11 has the hole in it, if you took that cover off the hole you
12 would be able to see all the way back to the commode?

13 A. Because see I could not use the bathroom without
14 covering this hole up.

15 Q. Okay.

16 A. Without somebody seeing me.

17 Q. Okay. Because if you stood there where Mr. Puckett's
18 standing in that picture --

19 A. You could see the commode.

20 Q. You can see the commode. Okay. All right.

21 Thank you.

22 SOLICITOR ANTHONY: That's everything on cross.

23 MR. DELANEY: A couple on redirect, Your Honor.

24 REDIRECT EXAMINATION

25 KAY LEA HEATHERLY BY MR. DELANEY:

KAY LEA HEATHERLY: BY MR. DELANEY
BY SOLICITOR ANTHONY

-243-

1 Q. Ms. Heatherly, as you heard you ----- - three years
2 ago; is that right?

3 A. That - Yeah over three years.

4 Q. And just to make sure we're clear, as far as whether
5 or not CJ was working, you said to your knowledge the best
6 that you can remember he may be doing some work on some
7 engines; something like that?

8 A. Race cars yes, sir.

9 Q. But you also said you weren't sure; is that correct?

10 A. I'm not sure that's correct.

11 Q. And if he would be doing other types of jobs are you
12 sure if you know or remember about that as well?

13 A. No I am not sure. That's why I said I am not sure.

14 MR. DELANEY: Thank you, Ms. Heatherly, that's all the
15 questions I have.

16 MS. HEATHERLY: Thank you.

17 RECROSS EXAMINATION

18 KAY LEA HEATHERLY BY SOLICITOR ANTHONY:

19 Q. And kind of under that same token he could have drugs
20 in his house and you wouldn't know about that either; isn't
21 that correct?

22 A. Correct.

23 THE COURT: You can step down and be excused. We
24 appreciate your time. Thank you.

25 MS. HEATHERLY: Thank you. Left these pictures.

CLARENCE PUCKETT: BY MR. DELANEY

-244-

1 THE COURT: Just leave the pictures. Thank you.

2 (WITNESS LEAVING WITNESS STAND.)

3 THE COURT: Call your next witness.

4 MR. DELANEY: Judge, may I approach..

5 THE COURT: Yes.

6 (SIDE BAR CONFERENCE OFF THE RECORD OUT OF THE HEARING
7 OF THE JURY AT 04:38 P.M..)

8 THE COURT: Call your next witness.

9 MR. DELANEY: Thank you, Judge.

10 Defense would call Clarence Puckett, III.

11 THE COURT: Come up and be sworn.

12 (WHEREUPON: CLARENCE
13 PUCKETT, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
14 FOLLOWS:)

15 DIRECT EXAMINATION

16 CLARENCE PUCKETT BY MR. DELANEY:

17 Q. Please state your full name to the jury.

18 A. My name is Clarence Julius Puckett, III.

19 Q. What do you go by?

20 A. CJ.

21 Q. CJ, how old are you?

22 A. Right now I'm thirty-six years old.

23 Q. Were you born - Where were you born and raised?

24 A. Union, South Carolina.

25 Q. Did you go to high school here?

CLARENCE PUCKETT: BY MR. DELANEY

-245-

1 A. Yes I did.

2 Q. Where did you go to high school?

3 A. Union High School.

4 Q. And did your family still live here?

5 A. And any members of your family in the courtroom here
6 today?

7 A. Yes, sir.

8 Q. Who is that?

9 A. My mom and my stepdad.

10 Q. Okay. And have you some children, CJ?

11 A. No, sir.

12 Q. Are you married?

13 A. No, sir.

14 Q. Are you currently working any place right now?

15 A. Yes, sir.

16 Q. And where do you work?

17 A. I work at Coleman's Hardware and Grocery Store in
18 Pacelot, South Carolina.

19 Q. What do you do there at Coleman's?

20 A. I run the hardware and the meat department, help in
21 the meat department.

22 Q. Okay. How long have you worked there for?

23 A. Since April the 6th of this year.

24 Q. This year?

25 A. Yes, sir.

CLARENCE PUCKETT: BY MR. DELANEY

-246-

1 Q. And currently, CJ, what are your living arrangements?

2 A. My living arrangements are at my parents right now.

3 Q. Okay. Now I want to go back to August of 2009. As
4 we have heard you lived at [REDACTED]

5 A. Yes, sir.

6 Q. And as we've heard that is a single wide mobile home?

7 A. Yes, sir.

8 Q. Okay. Now big is that mobile home?

9 A. It's very small 10 by 45.

10 Q. You say 10 by 45. Ten feet wide?

11 A. Ten feet wide, forty-five --

12 Q. Forty-five feet long?

13 A. Yes, sir.

14 Q. How many bedrooms?

15 A. One. One single.

16 Q. How many bathrooms?

17 A. One.

18 Q. And did you own this mobile home?

19 A. Yes, sir.

20 Q. How much did you pay for it?

21 A. I paid Fifteen Hundred Dollars for it.

22 Q. And when did you pay Fifteen Hundred Dollars for the
23 mobile home?

24 A. In - I think February of - February or March of '08.

25 2008.

CLARENCE PUCKETT: BY MR. DELANEY

-247-

1 Q. Okay. Do you have - Did you ever get a receipt for
2 that?

3 A. Yes, sir.

4 Q. Do you have that receipt?

5 A. Yes, sir.

6 Q. Do you have it with you?

7 A. Yes, sir.

8 Q. Can I see it?

9 A. Yes, sir. Right here, sir.

10 MR. DELANEY: May I approach, Your Honor?

11 THE COURT: Yes, sir.

12 A. There's Mr. Humphrey's name on it.

13 (MR. DELANEY REVIEWING DOCUMENT.)

14 Q. All right. I'll give it back to you. The writing is
15 kind of light on that, CJ. What - What is the dollar
16 amount on that receipt?

17 A. It has Fifteen Hundred Dollars.

18 Q. Okay. Whose name is down at the bottom?

19 A. Mr. James Humphrey's.

20 Q. Who is he?

21 A. He is the previous owner of the trailer.

22 Q. Okay. And does it say anything else on that piece of
23 paper?

24 A. It says trailer.

25 Q. Okay.

CLARENCE PUCKETT: BY MR. DELANEY

-248-

1 A. Fifteen Hundred Dollars.

2 Q. Did you - -

3 SOLICITOR ANTHONY: I object. I mean this is reading
4 off a receipt. It's just hearsay.

5 A. I - -

6 THE COURT: I sustain the objection.

7 Just go on to your next question.

8 MR. DELANEY: We'll move on.

9 Q. Now you testified you owned this mobile home since
10 sometime in 2008?

11 A. Yes, sir.

12 Q. Okay. And did you rent the property it was on?

13 A. Yes, sir, I did.

14 Q. How much did you rent the property for?

15 A. Eighty-five Dollars a month.

16 Q. You paid Eighty-five Dollars a month for the property?

17 A. Yes, sir.

18 Q. To have your mobile home on the property?

19 A. Yes, sir.

20 Q. Okay. And at that time you didn't have any type of
21 house payments or anything like that ---

22 A. No, sir.

23 Q. --- on the mobile home?

24 A. No, sir.

25 Q. Okay. And the mobile home that you bought for Fifteen

CLARENCE PUCKETT: BY MR. DELANEY

-249-

1 Hundred Dollars in 2008, how did you pay for that?

2 A. I paid cash for it.

3 Q. How did you get that cash?

4 A. I had to save for over many years.

5 Q. Where was it saved from?

6 A. From work.

7 Q. From work. Okay. And who - Tell me again, who owned
8 this property?

9 A. James Humphrey's.

10 Q. Okay. And at this time in 2009, CJ, were you working
11 at this time?

12 A. I was doing side jobs, odd jobs. My job recently
13 in June me and Mr. Bluford - I worked for Welliford
14 Electrical, they had slowed down and hadn't had no business
15 coming so I was doing odd jobs to catch up until business
16 picked up with them again so I could go back full time with
17 them.

18 Q. How - How long had you been at Welliford Electric?

19 A. I had been in - I had started with Welliford
20 Electrical when I was about seventeen and off and on
21 I started - I came back in - 1998 I started back working
22 with Mr. Welliford up until 2000 - June of 2009.

23 Q. And what was your position at Welliford Electric?

24 A. Electrical - Electric - Electrician helper. I'm
25 sorry.

CLARENCE PUCKETT: BY MR. DELANEY

-250-

1 Q. Okay. And when that stopped in June, what type of
2 work were you doing? You said you were doing some side
3 jobs?

4 A. Yes, sir.

5 Q. Tell us about what type of side jobs were you doing?

6 A. Well I would work on race cars for people. I was
7 doing a lot of work for Mr. James Humphrey's down there on
8 the land. I would clean trees for him, work on his
9 machinery for him, and stuff like that to help pay my rent
10 and stuff. And just odd jobs building the decks and
11 porches for people or just helping people out.

12 Q. So you - Even though your job at Welliford Electric
13 ended in June, you were still making money?

14 A. Yes, sir.

15 Q. And back in 2009 did you have a checking account?

16 A. No, sir.

17 Q. Savings account?

18 A. No, sir.

19 Q. Where did you keep your money that you made?

20 A. On myself in pocket, in my wallet.

21 Q. We've heard some testimony about a race car found at
22 your house.

23 A. Yes, sir, we did.

24 Q. Tell us about that race car. What kind of race car
25 was it?

CLARENCE PUCKETT: BY MR. DELANEY

-251-

1 A. This was a Five Hundred Dollar four cylinder race car.
2 Little mustang, it didn't even have a motor in it. It was
3 just a body of a race car sitting outside. It wasn't even
4 running, it wasn't even capable of going to the race track
5 to run.

6 Q. And --

7 A. So it was just a frame sitting outside basically.

8 Q. Did you - Did you have an automobile at that time
9 that you were regularly drove?

10 A. I had - I had one. I had an old truck but it recently
11 had been tore up. The motor had been - A girl put sugar in
12 the motor and ruined the motor in the truck. Yeah kind of
13 bad.

14 Q. Is there any plans to have work done on that truck?

15 A. Yes, sir. I was trying to save more money and it was
16 gonna cost about Fifteen Hundred Dollars to redo that
17 motor. And I was trying to save money and pay bills at the
18 same time without a job and doing odd jobs to try to
19 collect money.

20 Q. Now, CJ, do the owner - Were you ever - Did you ever
21 have to leave the property that you were renting after your
22 arrest after the charges in 2009?

23 A. No, sir.

24 Q. Did Mr. Humphrey's know about the charges?

25 A. Yes, sir.

CLARENCE PUCKETT: BY MR. DELANEY

-252-

1 Q. And how much longer did you continue to reside at

2 [REDACTED]?

3 A. I sold the trailer and moved back in with my parents
4 July of last year, so up until July of last year I had the
5 trailer. So July 2011.

6 Q. The money that was found on you by the police officers
7 back in August of 2009, was that money - Did that money
8 have anything to do with drugs?

9 A. No, sir.

10 Q. Where did that money come from?

11 A. From work.

12 Q. That's where all that money came from?

13 A. Yes, sir.

14 Q. Every cent?

15 A. Every cent.

16 Q. CJ, have you ever been convicted of any type of
17 cocaine charge?

18 A. No, sir.

19 SOLICITOR ANTHONY: Objection. Bolstering.

20 THE COURT: I sustain the objection.

21 BY MR. DELANEY:

22 Q. Have you ever been arrested on any type of cocaine
23 charge?

24 SOLICITOR ANTHONY: Objection.

25 THE COURT: I'll sustain the objection. He's on trial

CLARENCE PUCKETT: BY MR. DELANEY

-253-

1 for these particular charges.

2 BY MR. DELANEY:

3 Q. Have you ever sold cocaine?

4 A. No, sir.

5 Q. Have you ever used cocaine?

6 A. I've tried cocaine in my younger days but I didn't
7 like cocaine. I'm not the type person - I like marijuana
8 back when I did do marijuana, smoke marijuana before all
9 this happened. I was the type of person that smoked
10 marijuana. I wasn't the type person that did cocaine or
11 drugs like that. Any kind of high drug no, sir.

12 Q. Okay. Now prior to August the 21st, 2009, CJ, how
13 long had you known Travis Anderson?

14 A. For approximately years. Eighteen to twenty years.

15 Q. So friends for I guess - Would it be fair to say
16 friends for twenty years?

17 A. No, sir. Actually more acquaintances. When we see
18 each other we speak, you know, we may hang out for the
19 night but we might not see each other for two or three
20 months or something. It's just when we ran across each
21 other we was friendly. No hard animosity toward each
22 other. We wasn't every day buddies.

23 Q. Okay. At times would you hang out with him on some
24 occasions?

25 A. Yes, sir.

CLARENCE PUCKETT: BY MR. DELANEY

-254-

1 Q. And been to his house before?

2 A. Yes, sir.

3 Q. And he had been to your place before?

4 A. Yes, sir.

5 Q. Okay. And had you all ever been to the races before?

6 A. Yes, sir.

7 Q. Okay. Is that something that you had in common?

8 A. Kind of did. Just opened the drag strip and he was
9 kind of into it and he wanted me to ride with it and I
10 wanted to see it myself. I had never seen it so we just
11 got a - We lived a mile from each other so he just picked
12 me up because I didn't have no ride and we was just gonna
13 ride to the drag strip together.

14 Q. Okay. All right.

15 A. Yes, sir.

16 Q. Get to that in just a minute. But just going back,
17 you said that you - And describing this friendship or
18 relationship with Travis Anderson you said that you had
19 known him about twenty years?

20 A. Yes, sir.

21 Q. And I think that you said that you were never real
22 close; is that right?

23 A. Yes, sir.

24 Q. Okay. Anything else about the relationship,
25 friendship that you had with Travis Anderson?

CLARENCE PUCKETT: BY MR. DELANEY

-255-

1 A. Well Travis was the type of person if I needed
2 marijuana I could get it from Travis.

3 Q. Okay. Now besides getting marijuana from Travis, did
4 you - Did you know Travis was messing with cocaine?

5 A. No, sir.

6 Q. In the past had Travis ever brought cocaine to your
7 place?

8 A. No, sir.

9 Q. Ever seen cocaine at his place?

10 A. No, sir. I had heard like other people that people do
11 stuff but he didn't do it around me. I'm not the type
12 person that done it cocaine so he didn't do cocaine around
13 me.

14 Q. Okay. But you said that back at that time marijuana,
15 that was your thing?

16 A. Yes, sir.

17 Q. Okay.

18 A. Yes, sir.

19 Q. Now on August 21, 2009, did you know that Travis was
20 coming over to your place that day?

21 A. Yes, sir.

22 Q. Why was he coming over?

23 A. We was scheduled to go to the drag strip together that
24 night.

25 Q. Okay. This drag strip, is that close to your place?

CLARENCE PUCKETT: BY MR. DELANEY

-256-

1 A. Its approximately maybe eight to ten miles.

2 Q. Okay. And you were going to go with him there?

3 A. Yes, sir.

4 Q. And I assume that's to like watch the races?

5 A. Yes, sir.

6 Q. Okay. And were there any drugs in this case before
7 Travis Anderson came by your residence?

8 A. No, sir.

9 Q. Any powder cocaine?

10 A. No, sir.

11 Q. Any crack cocaine?

12 A. No, sir.

13 Q. Any marijuana?

14 A. No, sir.

15 Q. Any Xanax?

16 A. No, sir.

17 Q. Any scales?

18 A. No, sir.

19 Q. Did you think there was a possibility he would bring
20 some marijuana into your place?

21 A. Yes, sir.

22 Q. And when Travis Anderson gets to your place, does he
23 come inside?

24 A. Yes, sir.

25 Q. What happens, what do you all do at the point that he

CLARENCE PUCKETT: BY MR. DELANEY

-257-

1 comes, comes inside?

2 A. Well he opens the door just as he had every time he
3 had been there we'd strike up a conversation and he heads
4 toward the bar and he just hands me the marijuana onto the
5 scale that he had and he never put it in a bag, he just
6 laid it on top of the scales and raked it off and that was
7 it. And he said I'll be right back, let me put my
8 cigarettes into the car and he walked outside and put his
9 cigarettes in the car and returned right back into the
10 home.

11 Q. Okay. Now you said you got some marijuana from him?

12 A. Yes, sir.

13 Q. All right. How much did you get from him?

14 A. Twenty, Twenty Dollar pack.

15 Q. Okay.

16 A. Yes, sir.

17 Q. And did you pay him at that time?

18 A. No, sir.

19 Q. Were you going to pay him?

20 A. Yes, sir.

21 Q. When were you going to pay him?

22 A. Well eventually if we would stop by the store when
23 we eventually got to the drag strip ourselves, you know, I
24 would have handed him his money at any time yes, sir.

25 Q. And, CJ, CJ, did you get any cocaine from Travis?

CLARENCE PUCKETT: BY MR. DELANEY

-258-

1 A. No, sir.

2 Q. Crack cocaine?

3 A. No, sir.

4 Q. Any type of pills?

5 A. No, sir.

6 Q. Xanax?

7 A. No, sir.

8 Q. Did you have any knowledge that Travis had any of
9 these things in his possession when he came to your place
10 that Friday evening?

11 A. No, sir.

12 Q. So, CJ, when you got what you said is Twenty Dollars
13 worth of marijuana, what do you do at that point?

14 A. At that point I began to roll a blunt as we call up
15 into a - I started to separate the stems and the seeds and
16 separate the marijuana ---

17 Q. Okay.

18 A. ---- and roll --

19 Q. Where --

20 A. Yes, sir.

21 Q. When you start to do that, where are you at at this
22 point?

23 A. I'm at the bar.

24 Q. Okay. And the bar that's in the -. The bar, that's in
25 the kitchen area?

CLARENCE PUCKETT: BY MR. DELANEY

-259-

1 A. Yes, sir.

2 Q. Right there in the kitchen/living room; is that right?

3 A. Well more of the kitchen than the living room. It had
4 the little bar in the space in between the kitchen. It
5 kind of separated the kitchen and the living room.

6 Q. Okay. So while you're doing this at the bar, what
7 was Travis doing at this time?

8 A. Travis was setting on my couch.

9 Q. Had he - You had mentioned he at some point went back
10 outside; is that right?

11 A. Yes, sir. He had to get his cigarettes out of his car
12 and returned.

13 Q. All right. And you didn't go to the car with him?

14 A. No, sir.

15 Q. And at that point is Travis back inside the mobile
16 home at this point?

17 A. Yes, sir.

18 Q. Okay. And where does he go when he comes back inside?

19 A. He comes in and sets down by the couch. Sets right
20 on the couch.

21 Q. Okay. And did you ultimately get this blunt or blunts
22 rolled up?

23 A. Yes, sir.

24 Q. Okay.

25 A. Yes, sir.

CLARENCE PUCKETT: BY MR. DELANEY

-260-

1 Q. And do you actually start to smoke one?

2 A. Yes, sir. I'd just lite it and hadn't even really
3 started to smoke it maybe a minute.

4 Q. Okay.

5 A. And - -

6 Q. And at this point where are you at?

7 A. I'm still standing at the bar.

8 Q. Okay.

9 A. On the other side of the bar from the living room.

10 Q. Okay. And where is Travis at?

11 A. On the couch.

12 Q. Okay. And at this point do you hear something?

13 A. Yes, sir.

14 Q. What do you hear?

15 A. I hear a loud banging on my door.

16 Q. Okay. And do you - When you hear this loud banging,
17 what is - what is Travis doing at that point?

18 A. Travis initially jumped up first. He was closest to
19 the door, he jumped up first and looked out the edge of the
20 window and told me that there was police out there.

21 Q. Okay. And what -What do you do at that point?

22 A. At that point I come out from around the bar myself
23 and look out the edge of the blind and look, the slit down
24 the side of my blind, and I see the police out there myself
25 at that point.

CLARENCE PUCKETT: BY MR. DELANEY

-261-

1 Q. And that's what you see outside?

2 A. Yes, sir.

3 Q. Okay. And at this point what is Travis doing?

4 A. Travis is done run by me down through the trailer.
5 He's kind of freaking out.

6 Q. Okay. Is he doing anything? Do you recall is he
7 doing anything with his pockets or anything like that?

8 A. He was fumbling with his pockets and trying to - like
9 he was trying to dig something out of his pocket but at the
10 same time he was running by me and I was going back. At
11 this time I started back toward the bar.

12 Q. Okay. And I want to ask you, so at this point what
13 do you do after looking out the window and see the police?

14 A. Okay. At this point I walked back around the bar and
15 where I had separated the seeds and the stems in the
16 marijuana and stuff and the marijuana was never in a bag,
17 so I just raked it together and put it all - the seeds and
18 the stems was not in the bag. I'm sorry.

19 Q. Okay.

20 A. I raked them into my hand and had a blunt still in my
21 mouth.

22 Q. Okay.

23 A. And I held them. I went to the bathroom first.

24 Q. Okay. Before - Stop right there. Where did you have
25 the bag of marijuana? Where did you have the bag of

CLARENCE PUCKETT: BY MR. DELANEY

-262-

1 marijuana at that point?

2 A. The bag of marijuana once I had broken the seeds and
3 split the seeds and the stems and all, I tied the bag of
4 marijuana up and stuck it into my pocket.

5 Q. Okay. And you just said that you go to the counter,
6 you get what's off the counter; is that right?

7 A. Yes, sir.

8 Q. Okay. And you have the bag in your pocket?

9 A. Yes, sir.

10 Q. Okay. And when you get back there and you get this
11 stuff loaded up, what is Travis Anderson doing?

12 A. Well by the time I rake everything into my hands and
13 I'm holding my hands like this -

14 (WITNESS DEMONSTRATED.)

15 A. --- I turn and Travis is coming from the back toward
16 the bathroom. So at this time we kind of bump into each
17 other and we have to dodge each other - --

18 Q. Well let me ask you this. Let me stop you there.

19 After getting the marijuana off the counter, where do
20 you head towards, where do you go at that point?

21 A. I head toward the bathroom.

22 Q. Okay.

23 A. Yes, sir.

24 Q. And does anything happen as you were getting in the
25 hallway where the bathroom is located?

CLARENCE PUCKETT: BY MR. DELANEY

-263-

1 A. Yes, sir. Me and Mr. Anderson that's where we had
2 kind of bumped into each other and had to get out of each
3 other's way so I could get to the bathroom.

4 Q. Now where is - Where is coming from at this point?

5 A. He's coming from the bathroom in the back of the
6 trailer.

7 Q. Okay.

8 A. Just way - He's coming my way just stepped into the
9 kitchen, I'm in the kitchen and I'm ready to turn around
10 and he's there right at the edge in the hallway.

11 Q. Okay. Now at that time does Travis try to - try to
12 hand you anything?

13 A. At one time he did. He had this little bag of - and
14 it wasn't no bigger than this and he handed it up with both
15 hands in his hand and he was like here, here, take this,
16 take this. And I had my hands full with the seeds and the
17 stems that I was --

18 Q. Okay. And let me ask you this. At this point things
19 are moving fast; is that right?

20 A. Yes, sir, very fast.

21 Q. Okay. Are you scared at that point?

22 A. . Very. Very, sir, yes, sir.

23 Q. All right. Now, CJ, I want to talk to you about at a
24 prior court proceeding you said that right before you went
25 into the bathroom Travis handed you cocaine and told you to

CLARENCE PUCKETT: BY MR. DELANEY

-264-

1 flush.

2 A. Yes, sir..

3 Q. Okay. And you said that at a prior court proceeding
4 am I right?

5 A. Yes, sir, I did.

6 Q. Is that what happened?

7 A. No, sir. Actually it was misunderstood but I
8 misunderstood it myself. Saying it myself I apologized
9 now. What had happened is he had tried to hand me the
10 cocaine, the little bag of whatever he had but I couldn't
11 take it and I refused to take it first but I also had my
12 hands full ---

13 Q. Okay.

14 A. --- so there's no way that I could have taken it.

15 Q. All right. Now did you also testify under oath at
16 this same court proceeding numerous times that Travis did
17 not give you anything when he was leaving the bathroom?

18 A. Yes, sir.

19 Q. And you had just testified that you had said that?

20 A. Yes, sir.

21 Q. But you said that you were nervous?

22 A. Yes, sir.

23 Q. And it didn't come out right?

24 A. It just completely didn't come out right. I had no
25 hand or association ---

CLARENCE PUCKETT: BY MR. DELANEY

-265-

1 Q. Okay.

2 A. --- or associated with no cocaine.

3 Q. Now as you headed to the bathroom where is Mr.
4 Anderson headed?

5 A. Mr. Anderson when I'm headed toward the bathroom as we
6 meet in the hallway at the end of the hallway right there,
7 he's running back toward the door, toward the couch and
8 everything in the living room area.

9 Q. Okay. Do you - And at that point you're heading into
10 the bathroom; is that right?

11 A. Yes, sir.

12 Q. Okay.

13 A. Yes, sir.

14 Q. And do you see or hear anything at that point as far
15 as Travis Anderson what he's doing up there?

16 A. No, sir, not really. Everything's happening so fast,
17 I was so scared, and I'm trying to get rid of the seeds and
18 stems out of my hand and I - I particularly don't remember
19 hearing anything at the time.

20 Q. Okay. Possible that CJ opened that door? I mean it's
21 possible that Travis opened that door?

22 A. Yes, sir. Yeah without a doubt.

23 Q. Now when you get into the bathroom ---

24 A. Yes, sir.

25 Q. --- what are you doing?

CLARENCE PUCKETT: BY MR. DELANEY

-266-

1 A. I take the seeds and the stems first and throwed them
2 toward the toilet, into the toilet, and as I do that I hear
3 a big bang behind, and as I turn around and look I see a
4 fist coming through the sheet rock. And I'm like what's
5 going on and so I took the marijuana that was in my pocket
6 and I just throwed it like that ---

7 (WITNESS DEMONSTRATED.)

8 A. --- as I was looking at them busting the hole in the
9 wall at the same time. So when I threw it I don't know
10 where the marijuana went. It could have went into the
11 waste basket, it could be beside it. I did throw the
12 marijuana. I claimed the marijuana.

13 Q. Okay.

14 A. I did throw it down.

15 Q. Okay. Now did you try to flush the toilet?

16 A. No, sir.

17 Q. When you got in there did you see anything in the
18 toilet?

19 A. No, sir.

20 Q. And it's your testimony, CJ, that you brought
21 marijuana into that bathroom?

22 A. Yes, sir.

23 Q. Did you bring any cocaine into that bathroom?

24 A. No, sir.

25 Q. And when you're in the bathroom, do you recall - Did

CLARENCE PUCKETT: BY MR. DELANEY

-267-

1 you - Did you shut the door? Is the door open or shut?

2 A. I recall pulling the door and it probably shut behind
3 me. The door was probably shut behind me.

4 Q. Okay. Now you had testified under oath previously
5 that it was your belief that the door was open; is that
6 right?

7 A. Yes, sir.

8 Q. Okay. Now I'm asking you today ---

9 A. Yes, sir.

10 Q. --- the best that you can remember, that door
11 open or shut?

12 A. Shut.

13 Q. Did you lock that door?

14 A. Yes, sir.

15 Q. The bathroom door?

16 A. No not the bathroom door. No, sir, the front door.

17 Q. You --

18 A. The front door was locked, the bathroom door was not
19 locked no, sir.

20 Q. And the front door has a dead bolt on it?

21 A. Yes, sir.

22 Q. Okay. And the dead bolt was locked on the front
23 door?

24 A. Yes, sir.

25 Q. But your testimony that - Your testimony here today

CLARENCE PUCKETT: BY MR. DELANEY

-268-

1 is ---

2 A. Yes, sir.

3 Q. --- that the bathroom door was closed.

4 A. Yes, sir.

5 Q. And you did not lock it?

6 A. It was not locked.

7 Q. Okay.

8 A. No, sir.

9 Q. How did the door open?

10 A. I have no idea. When he hit the hole in the wall I
11 throwed my hands up automatically and I opened the door
12 myself and Mr. Sherfield was standing right there and they
13 laid me right there in the floor. My feet was congested -
14 My feet was laying in the bathroom doorway, hallway
15 doorway, into the kitchen. My whole body was actually
16 laying in the kitchen. I was not arrested in the bathroom
17 near the toilet, near no cocaine or had nothing to do with
18 it. I didn't even see no cocaine in the bathroom. The
19 only thing that they got me - The only place that they
20 arrested me at was in my kitchen floor. That was after I
21 came out of the bathroom on my own. The bathroom door was
22 not busted in. There were no --

23 Q. Okay. Now you went in that bathroom. Did you go in
24 that bathroom to try to flush the marijuana?

25 A. Yes, sir.

CLARENCE PUCKETT: BY MR. DELANEY

-269-

1 Q. Okay. And you were stopped by something going
2 through the hole in the wall?

3 A. Yes, sir...

4 Q. Okay. And did you ever see a gun?

5 A. Yes, sir.

6 Q. Okay. What did you see through the hole?

7 A. When - The first I seen a fist come through - I heard
8 the big bang and I seen that they was busting a hole
9 through it and by the time I threw the marijuana I turned
10 back around at the same time and there was the gun and I
11 just throwed my hands up. I just opened the door real
12 quick and I said I give up.

13 Q. We heard that some crack cocaine was found under your
14 couch.

15 A. Yes, sir.

16 Q. And also on your floor?

17 A. Yes, sir.

18 Q. Did that crack cocaine that was found on your couch
19 and on your floor did that crack cocaine belong to you?

20 A. No, sir.

21 Q. Did you have any knowledge that the crack cocaine
22 was inside your house?

23 A. No, sir.

24 Q. Any knowledge that powder cocaine is inside your
25 toilet?

CLARENCE PUCKETT: BY MR. DELANEY

-270-

1 A. No, sir.

2 Q. And who was coming out of your bathroom when you
3 were going in to flush the marijuana?

4 A. Mr. Anderson.

5 Q. Now, CJ, when you were out in the kitchen and cuffed
6 on the floor you were at some point read your *Miranda*
7 rights; is that correct?

8 A. Yes, sir.

9 Q. Okay. And after that did anybody ask you to write
10 anything down?

11 A. No, sir.

12 Q. Anybody ask you to sign any statements?

13 A. No, sir..

14 Q. To your knowledge when you were talking with police
15 was anything recorded?

16 A. No, sir.

17 Q. Okay. What did you say, what did you tell the
18 narcotics officers when you were in the kitchen of the
19 mobile home on August 21st, 2009?

20 A. I told them that the marijuana was mine. I claimed
21 the marijuana, Mr. Anderson sole me the marijuana it was
22 mine and I took full responsibility for it.

23 Q. Okay.

24 A. Twenty Dollars.

25 Q. Did you claim anything else that was found?

CLARENCE PUCKETT: BY MR. DELANEY

-271-

1 A. No, sir. No, sir. I had my hands cuffed behind my
2 back. I acknowledged toward the marijuana saying it was
3 mine. I did not claim no cocaine or crack cocaine or
4 scales or any kind of - anything to do with cocaine I did
5 not have nothing to do with.

6 Q. Okay. And now did you say anything additionally that
7 you recall to narcotics officers at your residence that
8 evening?

9 A. No, sir.

10 Q. Now the next day at the jail, do narcotics officers,
11 more specifically Lieutenant Sherfield, came and talked to
12 you?

13 A. Yes, sir.

14 Q. Okay. And did someone else come with him?

15 A. Yes, sir. There was a deputy, a uniform deputy.

16 Q. Okay. That's fine. There was one other person with
17 him?

18 A. Yes, sir.

19 Q. Okay. And where did they take you to talk?

20 A. Into a little concrete, just a little concrete room.

21 I'm not sure.

22 Q. Okay. And what is the conversation about at the jail?

23 A. From Mr. Sherfield's side?

24 Q. Well first let me ask you, did you when Lieutenant
25 Sherfield and this other officer came and saw you at the

CLARENCE PUCKETT: BY MR. DELANEY

-272-

1 detention center, did you claim, say that any of the
2 cocaine ---

3 A. No, sir.

4 Q. --- that was found in your house was yours?

5 A. No, sir. No, sir.

6 Q. Did you say anything to Lieutenant Sherfield and this
7 other officer about times being hard for you and that's why
8 you were resorting to selling cocaine?

9 A. No, sir.

10 Q. You say anything about times being hard?

11 A. The only thing that was mentioned about times being
12 hard was that my truck being broke down and stuff. The
13 sugar inside the truck, we had laughed because I told him
14 my girl put sugar in my truck. That was the only thing
15 that was mentioned.

16 Q. And did you tell Lieutenant SHERfield and this other
17 officer that you could get up to nine ounces of cocaine?

18 A. No, sir.

19 Q. Did you ever tell him or give him names of people I
20 guess you were getting it from?

21 A. I wouldn't be here now is how I feel about it. If you
22 tell on somebody in Union you don't go to court. And
23 that's God's mighty---

24 Q. My question is to you now you said you - So its
25 your testimony you didn't say any --

CLARENCE PUCKETT: BY MR. DELANEY

-273-

1 A. No, sir. No, sir.

2 Q. And that's what you're telling this jury here today?

3 A. I'll tell each and everyone no, sir, I did not give no
4 one no name or no kind of account of cocaine, of crack
5 cocaine of any kind no way. No way possible. He can't
6 name no names that I give.

7 Q. Okay. Did they have you record anything - Sorry,
8 strike that. Did they have you write down anything when
9 you were in this room?

10 A. No, sir.

11 Q. Did they have you sign anything when you were in
12 this room?

13 A. They did have me sign something.

14 Q Well my question is specifically, did they have you
15 sign any type of a statement that you gave?

16 A. Oh, no, sir. No, sir.

17 Q. And to your knowledge were you being recorded at that
18 time when you were talking with the Lieutenant and this
19 other officer?

20 A. No, sir.

21 Q. CJ.

22 A. Yes, sir.

23 Q. What belonged to you in that house?

24 A. A Twenty Dollar bag of marijuana that I had just
25 purchased from Mr. Anderson.

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-274-

1 MR. DELANEY: Thank you, CJ. Answer any questions the
2 Solicitor has.

3 A. Yes, sir.

4 CROSS EXAMINATION

5 CLARENCE PUCKETT BY SOLICITOR ANTHONY:

6 Q. Mr. Puckett, you said that you had testified about
7 this incident before?

8 A. Yes, sir.

9 Q. Is that correct?

10 A. Yes, sir.

11 Q. And that was a little over two years ago in ---

12 A. About three, almost three years ago.

13 Q. --- in May of 2010?

14 A. May of 2010 yes, sir.

15 Q. Okay. And that was here in this courtroom?

16 A. Right here.

17 Q. As a matter of fact it was in that same chair you're
18 sitting in right now?

19 A. Talking to you yes, sir.

20 Q. Talking - That's right, talking to me and the attorney
21 you had at that time.

22 Q. Yes, sir.

23 Q. Okay. And at that time you did pretty much the same
24 thing you just did a few minutes ago as far as swearing
25 to tell the truth. Right?

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-275-

1 A. Yes, sir.

2 Q. I mean you came up and you put your hand on that Bible
3 and you said you'd tell the truth?

4 A. I sure did yes, sir.

5 Q. Okay. And have you read back over what you said that
6 day?

7 A. Yes, sir.

8 Q. So you've seen what we call the transcript where you
9 seen the questions you were asked ---

10 A. Yes, sir.

11 Q. --- and the answers you gave?

12 A. Yes, sir.

13 Q. Okay. And on that day you testified under oath that
14 before you ran into the bathroom Mr. Anderson handed you
15 cocaine and told you to flush it?

16 A. Yes, sir.

17 Q. Okay.

18 A. I tell you that I made that up to Mr. Erik that was a
19 mistake and I went through the rest of the testimony
20 numerous times saying that they got me not giving me no
21 cocaine. That was a mistake on my behalf.

22 Q. Well --

23 A. Just the word was mistaken that's all.

24 Q. You never in the testimony actually turned around and
25 said it was a mistake though did you?

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-276-

1 A. At the time I didn't but further more went on into the
2 rest of the testimony claiming that no he did not give me
3 no drugs. Right?

4 Q. But when you testified - When you testified you never
5 stopped and said Oh I was mistaken about that?

6 A. Well I was so nervous at the time, sir, I do apologize
7 and I openly admit to you all that I apologize I was being
8 nervous but further through the testimony that I gave I
9 over a hand full of times said that he did not give me no
10 drugs.

11 Q. And then towards the end you made the statement - Well
12 you had initially said that when he gave you the drugs he
13 threatened you; is that correct? Do you remember saying
14 that?

15 A. He did. He looked at me with a threat. He didn't
16 verbally threaten me.

17 Q. Okay. And then towards the end of the testimony I
18 ask you how he threatened you. Do you remember that?

19 A. Not right off.

20 Q. Well do you remember giving the answer "to get rid of
21 my drugs" and then I ask you "What was the threat?" And
22 you said "He said go ahead and rid of these drugs and not
23 to blame them on me."

24 A. And, sir, this is a guy that is six foot seven.

25 Q. Well my question was just did you say that?

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-277-

1 A. I'm saying your answer. It's got -

2 THE COURT: No. No. No you got to answer his
3 question and then you can give an explanation.

4 A. Oh.

5 THE COURT: He's asking is that in fact what you
6 testified to at an earlier time under oath?

7 A. Yes, sir.

8 Can you ask the question again?

9 Q. Did you not - Did you not say he, referring to Travis
10 Anderson said "to go ahead and rid of these drugs and not
11 to blame them on me?"

12 A. No, sir.

13 Q. Isn't that - You didn't say that?

14 A. No, sir.

15 Q. All right. Well I'm gonna give you, hand up a copy
16 of the transcript. I'd ask that you turn over to Page 42.
17 I'm gonna show you Page 42 and I'd ask you - Hold on and
18 let me get over here to my copy.

19 And I'm going to take you down, ask you to go down to
20 Page 19. Or I'm sorry, Number 19, Line Number 19 on Page
21 42; do you see that? And I say "What was the threat" is my
22 question. You see that?

23 A. Yes, sir.

24 Q. Okay. And what was your answer?

25 A. "He says get rid of the drugs and not to blame it on

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-278-

1 me."

2 Q. Okay.

3 A. It's exactly what it says yes, sir.

4 Q. Okay. And that's what he said.

5 A. Yes, sir.

6 Q. Get rid of the drugs and don't blame it on me?

7 A. Yes, sir.

8 Q. Okay.

9 A. Right here in this testimony right here yes, sir,
10 that's what it said.

11 Q. And - -

12 A. This is your transcript. Right?

13 Q. I'm just asking a question. Is that what it says?

14 A. It's your transcript.

15 THE COURT: Answer his questions okay, Mr. Puckett?

16 A. Yes, sir.

17 Q. Okay. And then if you would just how did you respond
18 going down to Lines 22 through 25?

19 A. It says "not to blame it on me. He didn't come out
20 and say I'll shoot you or blame it on me - don't blame it
21 on me or something like that." Like I said he never did
22 threaten me, it was just the look that he gave me while he
23 was trying to hand it to me. It says right here that he
24 did not say that he would shoot me or to blame these on me
25 or anything like that.

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-279-

1 Q. . Well I'll read - Let me read it for you.

2 A. Line 24.

3 Q. You just tell me if this is correct. Did you say "He
4 didn't come out and say I'll shoot you if you blame them on
5 me or something like that. But he made the statement and
6 it was very verbally stated for me to get rid of my drugs
7 and not to blame them on him."

8 A. Yes, sir..

9 Q. Is that what you said?

10 A. But it says to get - -

11 THE COURT: Answer the question. You can read can you
12 not?

13 A. Yes, sir.

14 THE COURT: You can read?

15 Q. Okay.

16 THE COURT: He's asking - He's asking is that what it
17 says.

18 A. Yes, sir.

19 BY SOLICITOR ANTHONY:

20 Q. All right. And that's what you testified that he
21 told you and this is on Page 42. Correct?

22 A. Yes, sir.

23 Q. What we just looked at?

24 A. Yes, sir.

25 Q. Okay. All right. And then if you turn over to Page

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-280-

1 7 which Page 7 was way before Page 42. Correct?

2 A. Yes, ---

3 Q. Okay.

4 A. --- sir.

5 Q. And when you get to Page 7 this is when you're lawyer
6 is asking you questions. Correct?

7 A. I'm sorry, I'm not there yet.

8 Q. Okay.

9 A. Just a second, sir. Please excuse me.

10 Okay. What line?

11 THE COURT: Which line, Mr. Anthony?

12 Q. I'd ask you to go look down to Page 15, Page 7.

13 THE COURT: Line?

14 Q. I'm sorry.

15 A. Page 15?

16 Q. Line 15. I'm sorry.

17 A. Page 7, Line 15?

18 Q. Line 15, Page 7. And isn't this - This is in response
19 and you can look back at Page 6 if you'd like, Mr. Puckett.
20 Isn't this in response to a question from your lawyer where
21 you're testifying and your lawyer is asking you questions?

22 A. On my 15 it says "Yes, sir."

23 Q. No my question is, when you're making this answer it
24 is in response to a question from your lawyer; isn't that
25 right?

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-281-

1 A. I have no idea.

2 Q. Well why don't you look back - -

3 A. It doesn't say that.

4 Q. Look back at Page 5 and Page 6 and see if you can
5 recall who's asking you that question.

6 A. Right here on Page 6, Line 11 it says Ms. Butler.

7 Q. Okay.

8 A. You can ask some more questions and Ms. Butler said
9 "Yes, sir."

10 Q. All right. Ms. Butler on Line 19 on Page 6 Ms. Butler
11 says "Well you just continue to tell us what happened on
12 that day." Isn't that right?

13 A. Yes, sir.

14 Q. Okay. And so then when you go over to Page 7 when you
15 get down to Line 15 you say "Is it correct you said I heard
16 Mr. Anderson run through the home, okay. When I was in the
17 bathroom I took the little bit of marijuana I had I threw
18 it on top of the water, it was in the toilet itself. All
19 right. Mr. Anderson had a thing of cocaine right before I
20 run into the bathroom Mr. Anderson handed me the cocaine
21 and threatened me to run into the bathroom and flush it or
22 he was going to" and then there's an objection. Isn't that
23 right?

24 A. Yes, sir.

25 Q. That's what it says. Okay.

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-282-

1 A. Yes, sir.

2 Q. And that's on Page 7?

3 A. Yes, sir.

4 Q. And that's what Ms. Butler ask you?

5 A. That's what Ms. Butler ask.

6 Q. So when I was asking you questions way over on Page
7 42 and ask you what the threat was, you gave that answer
8 that you just read.

9 A. Yes, sir.

10 Q. Okay.

11 A. Yes, sir.

12 Q. All right. And your testimony is today that you went
13 in the bathroom. Correct?

14 A. Sir? Excuse me.

15 Q. When the police came in you went in the bathroom; is
16 that correct?

17 A. Yes, sir. After I got the evidence off the counter.

18 Q. After you picked up the marijuana. The stems ---

19 A. And the seeds.

20 Q. --- and the seeds.

21 A. The seeds and stuff yes, sir.

22 Q. Okay. And you went into the bathroom. Correct?

23 A. Yes, sir.

24 Q. All right. And Mr. Anderson was coming out of the
25 bathroom?

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-283-

1 A. Yes, sir.

2 Q. All right. And you - You claim today that Mr.
3 Anderson didn't hand you the drugs?

4 A. He didn't.

5 Q. All right. You went on in the bathroom; is that
6 right?

7 A. Yes, sir.

8 Q. Did you shut the door?

9 A. Yes, sir.

10 Q. Did you lock the door?

11 A. I - No, sir.

12 Q. You didn't lock the door?

13 A. No, sir.

14 Q. Okay. So by your testimony today anybody who was
15 with the sheriff's office could have just opened up that
16 bathroom door and walked on in on you?

17 A. I don't know. The front door miraculously opened and
18 the bathroom door did too.

19 Q. Okay. Well my question was, you didn't lock it? You
20 just said you didn't lock the bathroom door. Right?

21 A. Right.

22 Q. All right I'm not asking you about the front door.
23 Just the bathroom door.

24 A. Okay. But it miraculously opened too. Right?

25 Q. Well the bathroom door wasn't locked.

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-284-

1 A. Right.

2 Q. Is that right?

3 A. I opened the bathroom door.

4 Q. Okay. Well that's my question. My question is just
5 simply, your testimony is you didn't lock the bathroom
6 door?

7 A. Right.

8 Q. Okay. So anybody who was executing that - Who was
9 there from the sheriff's office who wanted to go to that
10 bathroom door and walk in on you, all they had to do was
11 get to the door, open it up and walk in?

12 A. Yes, sir.

13 Q. That's your testimony?

14 A. Yes, sir.

15 Q. Okay. And so there would have been no need for
16 anybody to have to try to kick at the door and there would
17 have been no need for nobody to try and knock a hole in the
18 wall?

19 A. Right.

20 Q. Okay. All right. And your testimony is that you
21 never tried to flush the commode?

22 A. Right.

23 Q. Okay. Did - And your testimony is that you didn't
24 even know that there was cocaine in the commode; is that
25 correct?

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-285-

1 A. That's right.

2 Q. Okay. Okay. And when the police came they didn't
3 have to do anything to try to get in on your on that
4 bathroom - In that bathroom you just walked on out and gave
5 yourself up?

6 A. Yes, sir, that's right. After they hit the hole in
7 the wall I opened the door and came right out and
8 surrendered myself.

9 Q. Okay.

10 A. With no problem.

11 Q. All right.

12 A. Generally walked through and everything.

13 Q. But your testimony was there was no need for them to
14 knock a hole in the wall. Correct?

15 A. Correct.

16 Q. Because the door wasn't locked.

17 A. How would they know where I was at?

18 Q. Well I'm just asking.

19 A. Why didn't nobody check the bedroom?

20 Q. I'm asking you questions, Mr. Puckett.

21 You didn't have - They didn't have any reason to
22 knock the hole in the wall. Correct?

23 A. Correct.

24 Q. Okay. Because the bathroom door was open.

25 A. Correct.

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-286-

1 Q. And they didn't even have to - -

2 A. The door was shut.

3 Q. I'm sorry. The bathroom door was unlocked.

4 A. It was unlocked.

5 Q. Okay.

6 A. It was definitely shut.

7 Q. Okay.

8 A. Now what if they tried to push the door forward and
9 the door don't go forward?

10 THE COURT: Well just answer questions would you
11 please.

12 A. Yes, sir.

13 Q. But the bathroom door was opened by you.

14 A. Yes, sir.

15 Q. Okay. And you just gave yourself up to them?

16 A. Yes, sir.

17 Q. Okay. Okay. And even though you had gone into the
18 bathroom with the intention of getting rid of your
19 marijuana. Correct?

20 A. Correct.

21 Q. Okay. But your testimony is that even though you
22 would have had time to flush that marijuana down the
23 commode wouldn't you say?

24 A. No, sir.

25 Q. Well you gave --

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-287-

1 A. I said when they - I told you when they hit the wall
2 I throwed - I looked and I throwed the marijuana, looking
3 at the same time back and forth at them hitting the wall,
4 and I surrendered right then.

5 Q. Okay.

6 A. So there's no way I even said that I had time to
7 flush it.

8 Q. And your back door, is your back door locked?

9 A. No, sir.

10 Q. Okay. So there was no pad lock on your back door?

11 A. There is no pad lock. It was sheet rock, it was
12 actually sheet metal screwed all the way around it. It had
13 forty some screws all the way around the door.

14 Q. Okay. But not a pad lock?

15 A. No.

16 Q. Not a pad lock?

17 A. It didn't have no pad lock. Still don't have no pad
18 lock on it.

19 Q. Okay. And you had Eleven Hundred and Seventy-seven

20 ---

21 A. Yes, sir.

22 Q. --- Thousand Dollars cash on you?

23 A. Yes, sir.

24 Q. Okay.

25 A. And some change.

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-288-

1 Q. Okay. And your testimony is when they brought you
2 into the living room, did you - You're saying you did not
3 tell them where that scale was?

4 A. Exactly.

5 Q. You ---

6 A. There was no scale in my home.

7 Q. You didn't tell them there was a scale in your
8 kitchen cabinet?

9 A. No, sir.

10 Q. And you're testimony is that to your knowledge there
11 wasn't a scale in your kitchen cabinet?

12 A. There was no scales in my home. I just answered that.

13 Q. Okay. Well had Mr. Anderson brought a scale in?

14 A. He had had some scales yes, sir. He had walked back
15 out to his car too and there was scales found in his car.

16 Q. Well I guess my question is, first question would be,
17 did he bring a scale in?

18 A. Yeah he brought a scale in.

19 Q. Okay. Did he --

20 A. But they was found in his car.

21 Q. Did he weigh out the marijuana?

22 A. Yes, sir.

23 Q. Okay. He weighed out the marijuana.

24 A. Yes, sir.

25 Q. Gave you the marijuana?

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-289-

1 A. Yes, sir.

2 Q. Okay. And then your testimony is he took the
3 scale back out to his car?

4 A. I don't know what he did with it.

5 Q. Okay.

6 A. We walked back out to his car I testified to that
7 previously in another trial.

8 Q. Well he walked back out to his car?

9 A. Yes, sir.

10 Q. And did you see the scale any more after he walked
11 back out to his car?

12 A. I was busy at the bar rolling a blunt. I'm sorry.

13 Q. Okay. So the - Well did you see the scale that was
14 recovered from that the sheriff's office says they got from
15 your kitchen?

16 A. I've seen the scales that they've shown that they
17 said that was mine and I told them they couldn't get no
18 fingerprints off of it.

19 Q. Is that Mr. Anderson's scale?

20 A. Its in the picture in the back seat of his car.

21 Q. So you're --

22 A. And its in the Union Times that they found - -

23 Q. Well my question was, is that the scale that Mr.
24 Anderson brought in your house?

25 A. It could be yes, sir.

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-290-

1 Q. Okay.

2 A. But I didn't examine them fully.

3 Q. Okay.

4 A. Sorry.

5 Q. Okay. But you never told them there was a scale in
6 your kitchen cabinet?

7 A. No, sir, there was no scales in my -

8 Q. You never told them that none of the dope was Mr.
9 Anderson's?

10 A. Sir?

11 Q. You never told them that none of the dope in the
12 house belonged to Mr. Anderson? You never said that?

13 A. I never said what?

14 Q. That none of the drugs in the house belonged to Mr.
15 Anderson?

16 A. Uh - I didn't say that they did belong to Mr. Anderson
17 but I did not claim them. I claimed the marijuana.

18 Q. But you didn't say they didn't belong to him either?

19 A. But I claimed - I claimed mine.

20 Q. Uh -

21 A. That's what I claimed. I did not say that Mr.
22 Anderson - these are Mr. Anderson's or nothing no, sir.

23 Q. Okay.

24 A. That's the question.

25 Q. Okay. And you're testimony about Mr. Anderson is

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-291-

1 that he came to your house and brought a scale and so
2 weighed you out some marijuana?

3 A. Yes, sir.

4 Q. And gave you the marijuana?

5 A. Yes, sir.

6 Q. Okay. And you were there in the living room or
7 there at the bar at your kitchen, and you were rolling that
8 marijuana preparing to smoke it?

9 A. Yeah and separating it and getting it ready to roll
10 and roll it up yes, sir.

11 Q. And he had provided this to you and you had no paid
12 him?

13 A. Not yet no, sir.

14 Q. Okay. He went to all --

15 A. From the time he sold it to the time I went to - To
16 the time he sold me the pot to the time the police got
17 there the blunt hadn't even been rolled and partially
18 hadn't even been lit. It happened in the two minutes,
19 three minutes time, maybe five minutes at most. It was
20 that fast.

21 (WITNESS SNAPPED FINGERS.)

22 Q. Okay. But he had weighed it for you, gone back out
23 to his car and you were - was in the room while you were
24 sitting there rolling it and he hadn't ask for his money?

25 A. Right.

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-292-

1 Q. Okay.

2 A. Correct.

3 Q. All right.

4 A. And --

5 Q. . And your testimony is the day after that when
6 Lieutenant Sherfield came out to the jail to talk to you,
7 you never told him that you were - you could buy up to nine
8 ounces?

9 A. No, sir. He told me that a guy got caught with
10 nine ounces of cocaine and I hadn't heard nothing about it
11 or it hadn't been in the paper and I could do the same
12 thing to help myself.

13 Correct?

14 C. Well you - Once again I'm asking you questions.

15 You're not asking him questions, Mr. Puckett?

16 A. Well that's what was told.

17 Q. My question was did you ever tell him that you
18 could get ---

19 A. No, sir.

20 Q. --- nine ounces of cocaine? Okay. And did you have
21 a motor bike at your house?

22 A. Yes, sir.

23 Q. Okay. And how old was that?

24 A. How old was it?

25 Q. Yeah.

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-293-

1 A. The dirt bike that I had?

2 Q. Yeah.

3 A. In '09 it was five, four; five years old. Something
4 like that. But that was a Christmas present from someone.
5 That wasn't even purchased by me.

6 Q. Okay. And were you aware - I take it you were aware
7 Ms. Heatherly coming to your house to take those pictures?

8 A. Yes, sir.

9 Q. Okay. And that - Was it correct that she came to
10 your house the day you got out of jail and made bond?

11 A. It was - No I didn't get out of jail that evening
12 until after seven o'clock the evening. So it was the
13 following morning.

14 Q. It was the next day?

15 A. It was the next day after I got out of jail.

16 Q. Okay. And you were in jail until ---

17 A. The 25th.

18 Q. --- the 25th of October; isn't that right?

19 A. It was on the 26th is when we took the pictures.

20 Q. Okay. You took the pictures on the 26th?

21 A. I would say ---

22 Q. Okay.

23 A. --- the day after I got out of jail.

24 Q. All right. So you were in jail from August 21st to
25 October 25th?

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-294-

1 A. Yes, sir.

2 Q. All right.

3 SOLICITOR ANTHONY: If I could just have a couple of
4 moments, Your Honor.

5 . (PAUSE AT 05:32 P.M..)

6 Q. And, Mr. Puckett, just a few more questions.

7 When you testified back in 2010, and talked about
8 going into the bathroom and throwing your marijuana in the
9 toilet.

10 A. Uh-huh.

11 Q. You actually said that you put it - You tossed it in
12 the toilet; isn't that correct?

13 A. I tossed it toward the toilet.

14 Q. Okay. You still got the transcript? Look over at
15 Page --

16 A. Yes I do.

17 Q. Look over at Page 21 and go down to Line 21.

18 A. Okay. And start at which line, sir? Page 21, what
19 line?

20 Q. Yeah. Look at Line 21. And my question to you on
21 Line 21 was "And you put your marijuana in the commode;
22 isn't that correct?"

23 A. It says the next one - My answer is "I just tossed it
24 yes, sir."

25 Q. And then you said I tossed it from here to there

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-295-

1 into the toilet?"

2 A. "From here to there into the toilet, toward the
3 toilet."

4 Q. Well Line 22 says "I tossed it from here to there into
5 the toilet." Correct?

6 A. Yes, sir.

7 Q. Okay. And then going a little further if you go up
8 that page to Line 5 you say on Line 5 is not correct you
9 say "I noticed that it was the police out there so I took
10 off running to the bathroom myself and I throwed what
11 little bit of marijuana that I had it wasn't 6.8 grams, I
12 threw it into the toilet myself." That's what you say.

13 A. Okay. You saying -

14 THE COURT: No he's just asking you is that what's
15 printed on that piece of paper.

16 A. It says that it wasn't 6.8 grams I throwed it into
17 the toilet myself. "And it wasn't 6.8 grams but I throwed
18 it into the toilet myself."

19 Q. And that was your answer?

20 A. That's what's on this piece of paper.

21 Q. Okay. Well that's what you said isn't it?

22 A. Uh.

23 Q. That's what you said isn't it, Mr. Puckett?

24 A. I - yes, sir.

25 Q. Okay. And were you aware like when you went in the

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-296-

1 bathroom after Mr. Anderson walked out, were you aware that
2 the toilet had been flushed?

3 A. No, sir.

4 Q. You weren't? And that it never was - You couldn't
5 tell that the toilet had been flushed?

6 A. No, sir.

7 Q. And you didn't flush the toilet?

8 A. No, sir.

9 Q. Okay. And you said that at some point you saw a gun?

10 A. Yes, sir.

11 Q. Okay. And when was that exactly?

12 A. Through the hole in the wall.

13 Q. Okay. All right.

14 A. Uh-huh.

15 Q. And could you actually see Lieutenant Sherfield on -

16 A. All you could see was the gun. You couldn't see on
17 through the wall. Its just a hole this big about five feet
18 off the ground. The hole is not this big.

19 Q. Uh-huh.

20 A. So that's all you could see was a gun. You couldn't
21 see who had the gun. All you could see was the gun.

22 Q. All right. So you're testimony is you just looked
23 around and there was a gun pointed at you?

24 A. Well I heard a bang. I seen them breaking through
25 the wall.

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-297-

1 Q. Uh-huh.

2 A. And when I turned around I seen the gun coming
3 through the - you could see the hole and the gun coming
4 through the wall yes, sir.

5 Q. Okay.

6 A. Anything?

7 Q. And did you - Did you hear anybody saying open up
8 the door or anything along those lines?

9 A. Oh you could hear. I could hear a bunch of mumbling
10 and stuff like that and rumbling and people's feet stomping
11 and stuff but I didn't - I can't make out what nobody was
12 saying no, sir.

13 Q. But you --

14 A. I was so scared at the time I really - All I could
15 hear was my heart beating at the time. I didn't even hear
16 nothing else.

17 Q. And you were never aware of anybody trying to knock
18 in the bathroom door?

19 A. Trying to knock - -

20 Q. Trying to knock in the bathroom door yeah.

21 A. You may from the sound of him busting the hole into
22 the sheet rock it completely covered and destroyed all
23 other sounds. I mean this was loud.

24 Q. Okay.

25 A. Banging through sheet rock and pointing a gun at you

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-298-

1 is loud. Two layers of sheet rock that's loud.

2 Q. But your testimony is that you walked out of the
3 bathroom door.

4 A. I did.

5 Q. Okay. So nobody would have had to try to knock it
6 open. Correct?

7 A. Well what if they tried to open it in the opposite
8 way, Mr. Anthony?

9 Q. Well my question is just, nobody would have had to try
10 to open it up because you opened it up and walked out
11 yourself; isn't that correct?

12 A. After I seen the gun yes, sir.

13 Q. Okay.

14 SOLICITOR ANTHONY: If I can have one moment.

15 (PAUSE AT 05:44 P.M..)

16 Q. One other thing. When you testified before, when
17 you reread that transcript, Mr. Puckett, is it fair to say
18 you didn't say anything the first time you testified about
19 having your hands full seeds and the stems?

20 A. Uh I'm not sure if I did or not, sir. I know I did
21 say that I raked the stuff off of the counter.

22 Q. You did?

23 A. In the first testimony?

24 Q. Uh-huh.

25 A. I'm pretty sure I thought I did. I may be mistaken

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-299-

1 but I thought I did yes, sir.

2 Q. All right. I mean would you like a minute to try
3 and find that?

4 A. No, sir.

5 Q. Where you -

6 A. If there is no where you can point it out right?

7 Q. Well ---

8 A. That's what I'm asking.

9 Q. --- Mr. Puckett, I'm not able to point out something

10 A. What question are you trying to ask me?

11 Q. My question is when you testified the first time did
12 you tell the jury in that case about collecting the seeds
13 and the stems and your hands being full?

14 A. Uh not absolutely positive. It's been three years
15 ago, sir. I'm not absolutely positive. If I could look
16 through maybe --

17 Q. Well you've read through it lately haven't you?

18 A. No, sir.

19 Q. You hadn't read - When was the last time you read it?

20 A. Don't need to.

21 Q. . Okay. Well my question is just did you tell the jury
22 then about having to put the seeds and the stems in your
23 hands and your hands being full?

24 A. Like I said ---

25 Q. And if you need to --

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-300-

1 A. --- I don't recall. If I need to look through it
2 can I look through it myself?

3 Q. That would be fine.

4 A. All it is.

5 Q. Well I mean that would be fine if you want a chance to
6 look for it.

7 MR. DELANEY: Your Honor, I would say at this time he
8 said he doesn't recall. If Mr. Anthony wants to direct him
9 to a certain portion of this transcript --

10 SOLICITOR ANTHONY: Well I can't direct him to what's
11 not there.

12 THE COURT: If that's an objection its over ruled.

13 BY SOLICITOR ANTHONY:

14 Q. But if you want to look for it look for it.

15 A. Okay. I just a - Okay. Sure will. Because its -

16 (PAUSE 05:47 P.M..)

17 A. Okay. Page 4 right here, Mr. Anthony, it says that
18 "when they came and knocked on the door and as David said
19 my door opens opposite way."

20 Who is David? Page 4, Line 12.

21 Q. You would have to answer that, Mr. Puckett.

22 THE COURT: Its your answer.

23 SOLICITOR ANTHONY: Yeah it's your answer.

24 THE COURT: Its your answer so if you don't know who
25 David is they don't know who David is. It's your answer,

CLARENCE PUCKETT: BY SOLICITOR ANTHONY

-301-

1 Mr. Puckett.

2 A. "David says" --

3 (PAUSE.)

4 MR. DELANEY: Judge, may I approach?

5 (SIDE BAR OFF THE RECORD OUT OF THE HEARING OF THE
6 JURY AT 05:49.)

7 BY SOLICITOR ANTHONY:

8 A. Yes, sir, you ready?

9 Q. Sure.

10 A. Okay. It says right here that -

11 THE COURT: Tell him the page and the line.

12 A. Yes, sir.

13 It says right here on Page 7, Line 4, "I stepped from
14 the bathroom" - now this is from the kitchen into the
15 bathroom - "I stepped from the kitchen to the bathroom." It
16 doesn't say I had my hands full, it doesn't say I didn't
17 have my hands full.

18 Q. Okay. Well I --

19 A. But I did step from the bathroom - from the kitchen
20 into the bathroom.

21 Q. Well, Mr. Puckett, I understand you said that you
22 stepped from the kitchen.

23 A. I basically say - I don't say that I have my hands
24 full no, sir.

25 Q. Okay. You don't say that?

CLARENCE PUCKETT: BY MR. DELANEY

-302-

1 A. No, sir.

2 Q. In the transcript?

3 A. No, sir.

4 C. Okay. All right.

5 SOLICITOR ANTHONY: Thank you, Your Honor. That's all
6 my cross.

7 THE COURT: Any redirect?

8 MR. DELANEY: That's it?

9 THE COURT: Yeah.

10 MR. DELANEY: A few on redirect, Judge.

11 REDIRECT EXAMINATION

12 CLARENCE PUCKETT BY MR. DELANEY:

13 Q. You still have that transcript up there, CJ?

14 A. Yes, sir.

15 Q. Okay. I want you to grab that transcript, Page - go
16 to Page 19. Page 19, Line - look down on Line 8 there is a
17 question posed by Solicitor Anthony states "Okay. And when
18 he came out the bathroom is when you say he handed you the
19 cocaine?"

20 SOLICITOR ANTHONY: Well I object. That's not --

21 A. No this is -

22 SOLICITOR ANTHONY: That's hearsay.

23 A. Huh-huh, that's spoken by him. That's ask by him his
24 self. That's ask by him.

25 SOLICITOR ANTHONY: Well I object.

CLARENCE PUCKETT: BY MR. DELANEY

-303-

1 THE COURT: Let me let the jury go to the jury room
2 just for a minute.

3 (JURY EXITS COURTROOM AT 05:52 P.M..)

4 THE COURT: Mr. Puckett, I am not going to be too
5 harsh
6 on you but you can't be your own attorney. Let your
7 attorney take care of those kind of things.

8 A. Yes, sir.

9 THE COURT: You just answer the questions.

10 A. Yes, sir. I apologize for any frustration.

11 THE COURT: I just don't feel it's gonna help you to
12 take that tact.

13 A. Yes, sir.

14 THE COURT: But I'm instructing you just answer the
15 questions and let your attorney take care of the legal part
16 of it.

17 A. Yes, sir.

18 THE COURT: All right, Page 19, Line what?

19 MR. DELANEY: Page 19, Line 8 he's ask "When you came
20 out of the bathroom is when you say he handed you the
21 cocaine?" Mr. Puckett answers "No, sir."

22 THE COURT: This is Mr. Anthony's question?

23 MR. DELANEY: Mr. Anthony's question.

24 SOLICITOR ANTHONY: My objection is that's hearsay.

25 MR. DELANEY: Mr. Anthony objected - Mr. Anthony in

CLARENCE PUCKETT: BY MR. DELANEY

-304-

1 his direct he was asking questions about what Melinda
2 Butler ask my client and he's relying on the transcript -

3 SOLICITOR ANTHONY: Well I'm entitled to impeach him
4 of a prior inconsistent statement which is what I did in
5 cross examination but that does not mean that you can turn
6 around and ask him about things that are supported with
7 what he testified to. That's - There is nothing in the
8 rule that encompasses that.

9 MR. DELANEY: Well he - He testified on direct that he
10 was never handed cocaine. It was acknowledged on direct
11 that he had said otherwise in previous testimony. He also
12 testified on direct that he had said numerous times that
13 this previous prior trial that he said no Travis Anderson
14 didn't give me any cocaine. I just want to bring out the
15 fact that he did say on numerous occasions Travis Anderson
16 didn't give me cocaine.

17 SOLICITOR ANTHONY: And that's just self serving
18 hearsay.

19 THE COURT: So your position is this is not a prior
20 inconsistent statement but prior consistent statement.

21 SOLICITOR ANTHONY: It - What he said - What he's
22 wanting to put in is consistent to what he just testified
23 to, and so it would not fall under any kind of rule that
24 would allow for it's submission.

25 THE COURT: Well I'm still a little confused because

CLARENCE PUCKETT: BY MR. DELANEY

-305-

1 the question is "Okay, when he came out of the bathroom is
2 when you say he handed you the cocaine?"

3 And the answer is "Most certainly."

4 MR. DELANEY: Right. I mean that's just a little. It
5 goes on to say about five minutes after that "No, sir, no
6 he didn't give me any cocaine." That was the start of
7 saying no. Because on his direct is where he testified to
8 that and John -

9 THE COURT: Well this is a timing question here. See
10 when he came out of the bathroom is when you say he handed
11 you the cocaine. This has to do with - This is not
12 confirmatory - neither confirms or dis-affirms that it was
13 handed. This is a timing question. "When he came out of
14 the bathroom is when he said he handed me the cocaine?"

15 "No, sir." All right for the record -

16 MR. DELANEY: Yeah better -

17 THE COURT: I sustain.

18 MR. DELANEY: I'm sorry.

19 THE COURT: I sustain the objection as to that.

20 MR. DELANEY: Okay. Page 20, Lines - Essentially
21 Lines

22 9 through 22.

23 THE COURT: He does say that he never got the cocaine.

24 SOLICITOR ANTHONY: Yes, sir. My position is there
25 is no rule that no exception to the hearsay rule that

CLARENCE PUCKETT: BY MR. DELANEY

-306-

1 allows it to come in. I can ask him questions about things
2 he said was inconsistent with his testimony today from the
3 transcript but I don't think that allows him to be ask
4 about things that are inconsistent to his testimony today.

5 THE COURT: What rule, Mr. Delaney, what rule are you
6 relying on?

7 MR. DELANEY: I don't have a rule at this time, Judge.

8 This is a statement made by the defendant in the case.

9 SOLICITOR ANTHONY: Well the defendant's statements
10 are - They are only admissible if they are admissions and
11 this isn't him admitting to anything, this is him denying
12 something.

13 (PAUSE AT 05:58 P.M..)

14 THE COURT: Look at 801(d).

15 (PAUSE.)

16 THE COURT: What do you have to say?

17 MR. DELANEY: Judge, we're waiting. I don't have a
18 rule book over here. I'm sorry.

19 THE COURT: Come to court without a rule book?

20 MR. DELANEY: What's that?

21 THE COURT: You come into court without a rule book?

22 MR. DELANEY: Yeah I know. I left it upstairs in my
23 office. I had it here earlier.

24 THE COURT: Turn to Rule 801 Rules of Evidence.

25 C defines hearsay "as a statement other than one made

CLARENCE PUCKETT: BY MR. DELANEY

-307-

1 by the declarant while testifying at the trial or hearing
2 offered into evidence to prove the truth of the matter
3 asserted."

4 Then it goes down "and statements are not hearsay
5 prior statement by the witness but he doesn't fall into
6 those categories and it's not an admission by a party
7 opponent."

8 You're trying to come in under basically A, a prior
9 statement which is, or reversely you're trying to use a
10 prior statement to show consistency with his testimony
11 today.

12 MR. DELANEY: Yes, Judge.

13 THE COURT: Not inconsistency.

14 MR. DELANEY: Yes, Your Honor.

15 THE COURT: All right. I sustain the objection.

16 MR. DELANEY: May I have -- I probably just have one,
17 Judge.

18 THE COURT: Okay. Bring the jury back in.

19 (JURY REENTERS COURTROOM AT 06:04 P.M..)

20 THE COURT: All right, you may proceed.

21 REDIRECT EXAMINATION - CON'T

22 CLARENCE PUCKETT BY MR. DELANEY:

23 Q. CJ, the time that you got arrested, to the time you
24 bonded out as we heard on this charge, to your knowledge
25 was there any work done on you - at your place?

1 A. Sir?

2 Q. Was there any work done at your place from the time
3 you got arrested to the time you bonded out?

4 A. No, sir.

5 Q. Okay. Thank you. No further questions.

6 MR. DELANEY: That's all the questions I have at this
7 time, Your Honor.

8 THE COURT: Recross?

9 SOLICITOR ANTHONY: No. No recross.

10 THE COURT: Okay. You can step down, have a seat with
11 your attorney.

12 A. Papers.

13 THE COURT: Just hand that to your attorney.

14 (WITNESS LEAVING WITNESS STAND.)

15 THE COURT: Defense?

16 MR. DELANEY: Your Honor, at this time Defense rest.

17 THE COURT: Anything in reply?

18 SOLICITOR ANTHONY: Your Honor, I don't believe we

19 will

20 have anything. I would like to have over night to make my
21 decision.

22 THE COURT: We will wait until in the morning anyway.

23 We're going to stop for the day. I see some relief.

24 Be back at 10:00 a m., and we'll start as promptly at

25 10:00 am as we can. So please keep in mind that you are

-309-

1 not in a position yet to make up your mind because you
2 haven't heard my charge on the law and you haven't heard
3 the attorneys sum up and tell you why your verdict should
4 be a certain verdict. And you of course are not to let
5 anyone discuss the case with you or do any research or go
6 on line. Just keep in mind the things I advised you against
7 two days ago. So we'll see you at 10:00 in the morning and
8 have a pleasant evening.

9 (JURY EXITS COURTROOM AT 06:05 P.M..)

10 THE COURT: All right. We'll have a quick conference
11 on the charge. I know it's late but so we can when we get
12 in in the morning we can start working on it. And also you
13 can be thinking about another over night is anything you
14 may have otherwise we'll start back at 10:00 in the
15 morning. I'll ask the lawyers to be here at 9:30. Both
16 lawyers come on back and let's take a look at the charge
17 and the verdict form and all.

18 (COURT IN EVENING RECESS AT 06:06 P.M.)

19 (COURT BACK IN SESSION THURSDAY, NOVEMBER 15, 2013 AT
20 10:06 A.M..)

21 THE COURT: Thank you. Take your seats. Good
22 morning.

23 Is the State ready?

24 SOLICITOR ANTHONY: Yes, sir.

25 THE COURT: Defense ready?

1 MR. DELANEY: Yes, Your Honor.

2 THE COURT: Does the State waive opening?

3 SOLICITOR ANTHONY: Yes, sir, we do.

4 THE COURT: We've had a charge conference and I

5 believe

6 we are squared away with the charge. There is no lesser
7 included on the trafficking based on State versus Raffaltdt,
8 R-a-f-f-a-l-d-t. Will be a lesser included on the crack
9 with intent to distribute. Simple possession we'll do a
10 verdict form on that. I believe we're squared away on the
11 charge, so unless there's anything else we'll get the jury
12 in.

13 SOLICITOR ANTHONY: The State's ready.

14 MR. DELANEY: The Defense is ready.

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

16 (JURY REENTERS COURTROOM AT 10:07 A.M..)

17 THE COURT: Good morning. You all a little chilly?

18 I should have told you but I usually tell jury's and
19 of course we're all in a public courthouse and it's hard to
20 regulate the temperatures and what I sometimes tell jurors
21 is around this time of the year its best to wear short
22 sleeves and bring a sweater because it may be hot and then
23 cold. I didn't think of that so it's too late now.

24 But we finished with the presentation of the evidence.
25 The attorneys will now come before you and make their

CLOSING ARGUMENT: BY MR. DELANEY

-311-

1 summations, that is what I told you earlier that they would
2 be taking evidence presented and arguing as the law applies.
3 why your verdict should be a certain verdict, then I will
4 charge you the law.

5 Mr. Delaney, you ready to proceed?

6 MR. DELANEY: Thank you, Your Honor. May it please
7 the Court.

8 Good morning.

9 (ALL JURORS AFFIRMED GOOD MORNING.)

10 MR. DELANEY: And I know although yesterday everyone
11 was paying attention, we heard two, two different sides
12 yesterday. We heard two different versions. Now there
13 were two people inside [REDACTED] on August 21st,
14 2009 around 6:00, 7:00 in the evening. Two people. You
15 heard from one of them. Two people that know what happened
16 inside that residence. You heard from Clarence Puckett,
17 III, yesterday afternoon late in the day into the early
18 evening. And you heard when I got up asking questions,
19 asking questions about a little bit about his background, a
20 little bit about what he was doing at the time as these
21 charges came out. Most importantly I ask him some
22 questions about that day and what happened, what he did,
23 what he didn't do.

24 When I finished Solicitor Anthony got up and ask Mr.
25 Puckett questions, cross examined him. Mr. Puckett he got

CLOSING ARGUMENT: BY MR. DELANEY

-312-

1 frustrated. I submit he got stressed out on the stand.
2 Got a little bit of an attitude. So Mr. Anthony he's good
3 at what he does. But what I submit to you - Before I go
4 there, let's remember this a man that's on trial for
5 trafficking cocaine. It's a serious drug charge. It's
6 stressful. And I would submit to have an attitude, to get
7 a little combative, that's not that unusual when people are
8 coming at you saying these are your drugs and you're trying
9 to say no their not.

10 But what I want you - to point out and to have you
11 focus on his testimony is this. It didn't change
12 yesterday. It was consistent. The truth, and I submit to
13 you he told you the truth yesterday and actually it didn't
14 change. Now did you hear and will you hear in a little
15 bit, that well two years ago under oath Mr. Puckett said
16 that - Mr. Puckett said Mr. Anderson gave you the drugs and
17 before he went to the bathroom. That's what he said two
18 years ago. And I ask Mr. Puckett about that and he said
19 yeah that was said but that's not the truth, that's not
20 what I meant. And you heard right after that what did he
21 say? He said I said on numerous times during that same
22 proceeding what he told you yesterday that the way he told
23 you yesterday is that Travis Anderson tried to hand him
24 something. Didn't hand him anything, he tried. And he
25 told you that yesterday, he told Mr. Anthony that

CLOSING ARGUMENT: BY MR. DELANEY

-313-

1 yesterday. That didn't change. He told Mr. Anthony back
2 in this proceeding that everybody's referring to. That
3 hasn't changed.

4 And what did he tell you yesterday? He told you that
5 on August the 21st Travis Anderson was coming over to his
6 place. They at some point that evening were going to head
7 to a race track or a drag strip that's over in that area.
8 And you heard that CJ's car wasn't running at that time.
9 And you also heard that CJ's car wasn't running at that
10 time and you also heard CJ describe their relationship for
11 I guess you could say their friendship say even for twenty
12 years. CJ told you they weren't the closest of friends.
13 They were more acquaintances. They would go to the race
14 track sometimes but the main thing he told you is, that was
15 the guy that he'd get his weed from. That was CJ Puckett's
16 main connection to Travis Anderson, that was the guy he
17 would get his marijuana from. And I would submit to you
18 that is what he got that day. That is what he got before
19 the officers came into that place. He got Twenty Dollars
20 worth of marijuana.

21 What was found in the bathroom? Twenty Dollars worth
22 of marijuana. I ask a few different people who were
23 testifying yesterday, the Lieutenant, Captain Hines, I ask
24 Lieutenant Sherfield first about the marijuana and being
25 able to look at marijuana and see that there is different -

CLOSING ARGUMENT: BY MR. DELANEY

-314-

1 different types. Marijuana has different colors, different
2 textures. Lieutenant Sherfield agreed with that.

3 The chemist, the toxicologist, said she was more into
4 looking and breaking down the components to test if it's
5 marijuana and THC but she did say that there's different
6 species. And you saw me give both bags of marijuana, the
7 bag of marijuana that was found in Travis Anderson's
8 vehicle, the bag of marijuana that was found in the toilet,
9 had both of those bags gave them to Captain Hines. I ask
10 Captain Hines to look at those two bags and I ask him do
11 those two bags look alike, look similar? Are they the same
12 bag essentially? And you heard what his answer was.

13 I say that's important because the marijuana that was
14 found in the bathroom is the marijuana that came from that
15 bag in Travis Anderson's vehicle. And I say that's
16 important because and you may say well no one's charged
17 with marijuana here today. What's important? Because it's
18 something that corroborates what Mr. Puckett is saying,
19 that's why it's important. And I'll talk about some more
20 things that corroborate what he's saying in a minute.

21 But let's go back to what Mr. Puckett says. He goes
22 down to his house and the narcotics officers are knocking
23 on the door and trying to get in. You heard he's at the
24 bar area of this ten by forty-five foot mobile home.
25 That's a small, that's a small mobile home. Ten feet wide,

CLOSING ARGUMENT: BY MR. DELANEY

-315-

1 forty-five feet long. It's small. You heard what the
2 interior lay out was. When you went in the door you had
3 basically the living room. You had the couch just to your
4 right and you had a bar area just to your left. The
5 kitchen was right there and then you have a hallway.
6 Right off the kitchen and the living room a small hallway
7 where right there at the beginning of the hallway a
8 bathroom entrance and then further down into it.

9 So you hear CJ tell you that he's at the bar, Travis
10 Anderson who when he comes in the house at some point he
11 goes back out to his car and then comes back in. And you
12 heard that Lieutenant Sherfield had the house under
13 surveillance, and what he saw, and when he was there, and
14 when he wasn't. And you heard there was a time when he
15 wasn't there when Travis Anderson was there. Travis
16 Anderson is on the couch when the banging on the door
17 starts. You heard Mr. Puckett say at that point Mr.
18 Anderson was closest to the window and looks out the window
19 and says the cops are out there. And Mr. Puckett starts
20 freaking out which I submit is pretty normal. You got
21 drugs on you, the police are outside banging on the door,
22 you're probably gonna be freaking out inside the house.
23 And as CJ describes Travis Anderson he's doing something
24 with his pockets and starting to move in the mobile home,
25 to run back towards the back, and I would submit the

CLOSING ARGUMENT: BY MR. DELANEY

-316-

1 bathroom of the mobile home for the first time.

2 At that point Mr. Puckett says he goes and looks out
3 the window and sees what's out there as well. Now you
4 heard testimony from three different officers that this
5 trailer was moving, they were hearing movement in this
6 trailer before they got in. Someone it was described was
7 running around, running from - I think the testimony was
8 running from the front of the trailer which would be the
9 couch area, the front door area, the front of the trailer
10 to the back of the trailer where I submit is where the
11 bathroom is at. Running from the front to the back. And
12 that is something that I would argue with you corroborates
13 what Mr. Puckett is telling you. Mr. Puckett says at that
14 point he goes to the bar area and he then is taking apart
15 marijuana, rolling it up, and he had actually started to
16 lite one. At that point after he rolled it up and looked
17 out the window he had some stuff on the counter, went to
18 the counter and tried to get it off the counter, and he had
19 it in his pocket so he goes back to the counter and he gets
20 that. I ask him at that point what is Travis Anderson
21 doing. Travis Anderson is moving back and forth in that
22 trailer because he has him coming out of the bathroom and
23 then going back in that bathroom. And as Mr. Puckett is
24 going in that bathroom that's when Mr. Anderson is going
25 out and that's when he tries to give him something. CJ

CLOSING ARGUMENT: BY MR. DELANEY

-317-

1 says his hands he's got stuff in his hands.

2 And you heard yesterday as CJ sat up here for a while
3 yesterday and he maintained well I thought I said that, I
4 said that before. He didn't say that. He told you that
5 yesterday. And that's the truth.

6 What was found in this mobile home? We have a bag of
7 cocaine, a bag of what was ultimately determined to be
8 crack found on the floor of the mobile home in the living
9 room area. Ultimately where Travis Anderson was located.
10 We had a bag later determined to be crack cocaine found on
11 the couch right by where Lieutenant Sherfield said Travis
12 Anderson was standing. I would submit, ladies and
13 gentlemen, it's a crumb trail throughout that mobile home.
14 A crumb trail everywhere he went; cocaine, crack,
15 marijuana, pills, digital scales, followed. We had
16 testimony about doors yesterday. And that there was some
17 unusual doors to this mobile home that opened to the out.
18 They opened outwards, swung outward. The back door and the
19 bathroom door as well. And we heard testimony that the
20 officer, Sergeant Johnson, I would submit was not sure how
21 that door came open but he did testify when I ask him is it
22 possible Travis Anderson opened up that door when you were
23 pounding and kicking? Yeah it's possible. Why would he
24 open up the door?

25 You heard Lieutenant Sherfield's testimony was when I

CLOSING ARGUMENT: BY MR. DELANEY

-318-

1 ask him about - He's kind of experienced going into the
2 house serving search warrants - people start freaking out,
3 people do crazy things - because there is no damage - and
4 you will have those pictures to look at back in the jury
5 deliberation room - there is no damage to the doors, to the
6 front door there is no damage. To the frame of the door no
7 damage, to the deadbolt no damage. And if you're kicking
8 and beating on the door and the deadbolt is shut, swings to
9 the outside, there's going to be some damage to that door
10 unless someone opened it up.

11 And CJ says when he goes into the back room he shuts
12 the door. He has said that a couple of years ago, he said
13 the door may have been cracked, may have been open, but he
14 told you yesterday the best he can recall from a few years
15 ago that door was shut. And Sergeant Johnson testified to
16 you the door was shut. CJ said he didn't lock the door.
17 Sergeant Johnson says it was locked. And then again he
18 started kicking on the door, pounding on the door. And
19 again we got these doors that just pop, popped open. This
20 door again, the bathroom door pops open and you will have
21 the pictures to look at. The bathroom door, no damage to
22 the door. I ask Sergeant Johnson if there was any damage
23 to the door and whether there should have been some dents
24 in the door, something like that.

25 You will have the pictures to look at. And I expect

CLOSING ARGUMENT: BY MR. DELANEY

-319-

1 that you will hear well these pictures were taken in
2 October. You heard CJ testify that when he got out - the
3 day after he got out of jail, you heard Ms. Heatherly
4 testify that it was the day after he got out of jail she
5 was contacted and went over and took the pictures and no
6 repairs were done on the doors or anything like that. The
7 only thing she had said with the pictures was that she
8 recalled she put up something, something was put up in the
9 bathroom so someone could use the bathroom and have privacy
10 without a hole in the wall.

11 In speaking of the hole in the wall, and I expect
12 you're going to hear in a few minutes again, CJ Puckett
13 said this two years ago. Well if you recall, I was asking
14 Lieutenant Sherfield questions, I had ask him something
15 about him testifying to prior under oath, he testified
16 about knocking a hole in the wall big enough where he could
17 almost walk into. Now I ask him about that. He said well
18 that's not what I meant. That was my intent. But you will
19 see the pictures and how big that hole was, and what you -
20 what that hole is knocked all the way through. What you
21 can see and what you can put through that hole well CJ says
22 he's in that bathroom, he hears the loud pounding on the
23 wall, and he's got a fist coming through - a gun coming
24 through that wall. That's when he backs away from the
25 toilet and he goes towards the door of the bathroom.

CLOSING ARGUMENT: BY MR. DELANEY

-320-

1 And he tells you that what he has in his possession
2 when he's in that bathroom and when he's by that toilet,
3 when he's ultimately backing away from that toilet, what he
4 got rid of was a bag of marijuana and he says he threw - He
5 says it was toward the toilet. It was found in the waste
6 bucket. But I submit if you're in a panic you're going to
7 try to get rid of stuff and it's not that unusual. He said
8 he had dumped what he had had in the toilet. And then he
9 said he had no knowledge of what was in that toilet because
10 CJ Puckett being found in that bathroom by a toilet that
11 contained cocaine that is not possession. There needs to
12 be more. There needs to be knowledge, there needs to be
13 criminal intent. There to needs to be dominion and
14 control. And you are going to hear about these things from
15 Judge Hayes in a little bit who is going to instruct you as
16 to the law you must apply. He being there he is present in
17 that bathroom. Those drugs being in the bottom of the
18 toilet that's not possession. I would submit to you that's
19 mere presence and mere presence is not possession.

20 Now I believe the State will contend that well we have
21 more. We have Twelve Hundred Dollars, close to Twelve
22 Hundred Dollars, One thousand, One Hundred and Seventy-
23 seven Dollars found on Mr. Puckett. We've got that. We
24 have some scales. And because of that we feel he's a drug
25 dealer. He sells drugs to people. I told you at the

CLOSING ARGUMENT: BY MR. DELANEY

-321-

1 beginning of the trial you're going to hear - I suspect
2 that you're going to hear a lot of things being said up
3 here. But what I'm going to ask you to do is what evidence
4 backs up what you hear? What evidence corroborates what
5 you hear up there? Because I just talked to you about what
6 I feel corroborates what Mr. Puckett told you. The fact
7 that we have literally a crumb trail following Travis
8 Anderson. We have the doors, we have the movement in the
9 trailer, and we have the marijuana. We have those things
10 that corroborate what CJ is telling you.

11 But then what evidence do we have to corroborate what
12 the State wants you to believe? The scales. You heard
13 there was supposedly two set of scales found. One set came
14 out of, you heard, CJ's kitchen. No pictures. No pictures
15 of this scale in the house. No pictures. I showed you the
16 pictures of the drugs and the pictures of the scales. We
17 have one set of scales in the courtroom. Where's the other
18 set of scales? Two set of scales found. Supposedly we
19 have one set of scales in the courtroom. And then no
20 pictures of these scales. We have no forensics done on
21 these scales. And you heard the Lieutenant. I think his
22 words were he probably should have did it. Well probably.
23 But it wasn't done and you heard they didn't try.

24 And you heard CJ Puckett's testimony yesterday. He
25 didn't have any scales in his kitchen. He testified to you

CLOSING ARGUMENT: BY MR. DELANEY

-322-

1 he saw scales that day. Travis Anderson brought a set of
2 digital scales in the house. The marijuana was weighed on
3 the scales, he believed were taken back out. He said he
4 assumed to the car, he didn't go out there, he assumed to
5 the car.

6 One Thousand, One Hundred and Seventy-seven Dollars.
7 There is no evidence that that money is connected to drugs.
8 None. You have a man in 2009 that had worked a job, a
9 steady job until June of that year. From that time he was
10 doing various odd jobs working on engines and carpentry
11 work. He didn't have a checking account, he didn't have a
12 savings account. That house, his wallet was his bank.
13 That was every cent he had. And there is no evidence to
14 contradict that. No evidence that this is money related to
15 him selling drugs. And again there is no evidence he's
16 selling drugs.

17 Well we heard about information. We've got
18 information. Okay. We've got information from a reliable
19 informant. Okay. That's what we heard. We heard a lot of
20 talk. I would submit to you that informant is not that
21 reliable. Where is the evidence? Where is the
22 information? Its not there. And remember I told you at
23 the beginning they have the burden, they have the burden of
24 proof in this case. He doesn't have the burden. He
25 doesn't have to say a word. He had a constitutional right

CLOSING ARGUMENT: BY MR. DELANEY

-323-

1 to remain silent. He got up here and he told you his
2 version, he told you.

3 Now you're gonna hear I expect in a few minutes he
4 tells us he's a drug dealer, why you should send a message
5 to him that he shouldn't deal drugs in your community is
6 because he admitted to this. He admitted to this. He took
7 that stand yesterday, he didn't admit to anything. Let me
8 correct myself. He admitted to possessing marijuana that's
9 what he admitted to. Now in front of you here today, angry
10 aside, but I submit to you he's guilty of possession of
11 marijuana. That's what he admitted. He didn't admit
12 anything else. And what - What evidence do they have to
13 support that? Well we have some testimony, we have some
14 people talking. We have three officers that came in and
15 said he said this. And I'll submit to you three officers
16 that were not consistent with what they said. There was
17 Lieutenant Sherfield and we had Sergeant Johnson. Between
18 them the two experienced officers who have close to thirty-
19 five years of experience between them, and you heard me
20 yesterday ask Lieutenant Sherfield a lot of questions about
21 his training that he's received over the years starting
22 before he became a police officer at the academy. And what
23 you talk about in Incident Reports and written statements
24 and recorded statements, forensic evidence and the
25 importance of those things when you conduct an

CLOSING ARGUMENT: BY MR. DELANEY

-324-

1 investigation.

2 And what did we hear ultimately yesterday? We heard a
3 lot of excuses is what we heard. We heard that why we
4 don't fill out, why we don't put in important information -
5 because you heard the testimony. In an Incident Report you
6 put in the important information. You are trained to be as
7 accurate and detailed as possible. Not every little thing,
8 the important information. If someone is confessing to
9 trafficking cocaine, and making multiple statements and
10 confessing to that, that's pretty important information.
11 That's not confidential information that's gonna affect an
12 ongoing narcotics investigation or endangers some
13 information or some informant they have. You got some
14 excuses yesterday of well the media, the newspapers will
15 get it and they can run a copy of it, or there's leaks in
16 the sheriff's department. Those are excuses.

17 There is no written statements. Everyone of these
18 officers testified they had these forms with them. They
19 have pens with them. If some people write down - They
20 confess something they write it down and they assign to it.
21 That's what these statements are for, these voluntary
22 statement forms. You heard all of the capabilities that
23 they have and they do record people, record statements.
24 They didn't try and I'll submit it should have been done.
25 There were a lot of things that should have been done in

CLOSING ARGUMENT: BY MR. DELANEY

-325-

1 this investigation. They just weren't. Two experienced
2 capable officers, they just didn't do it.

3 Your time - This has been not a long trial but this is
4 an important trial. I'll submit this is the most important
5 day in Mr. Puckett's life. Your service in what you're
6 doing here is important. This is something that takes you
7 away from your life, away from your family, away from your
8 job. It's a burden on you, it's a service you're providing
9 here today. This is so important this system that we have.
10 It's not always perfect, it's got its flaws, but it is the
11 best system in the world. There is not a system like this.
12 You have an important job. And as I said when I got up at
13 here at the beginning, I know you all have taken this
14 serious in listening, in listening to what has been said, I
15 know you have. But also, asking yourselves what has been
16 presented, what have I heard to corroborate what the State
17 has presented? This system demands more. CJ Parker - CJ
18 Puckett deserves better.

19 At the beginning of this case I told you at the end of
20 this trial you're gonna have to ask yourselves are you
21 firmly convinced, firmly convinced of CJ Puckett's guilt?
22 Firmly convinced. That is the standard. They have the
23 burden, that is the standard. Are you firmly convinced?
24 Are you hesitant to act? And what you've heard, the two
25 sides that you've heard, ladies and gentlemen, I would

CLOSING ARGUMENT: BY MR. DELANEY

-326-

1 submit to you cannot be firmly convinced in what you heard
2 here today. As I mentioned to you in the opening in a
3 civil case you picture these old set of scales. In a civil
4 court has to deal with money, usually financial. And in a
5 civil case you take all that evidence presented by one
6 side, all of the evidence taken and presented by the other
7 side, and if those scales tip ever so slightly in one or
8 the other sides favor, then they met their burden. Well as
9 you know this isn't civil court. You got a much different
10 burden. But I would submit if you take what you heard in
11 this case from the State and what evidence they have, and
12 what they're saying versus what you heard from CJ Puckett
13 yesterday, and how what he told you makes sense, what
14 corroborates what he's saying, you weigh that out. I'm
15 saying, ladies and gentlemen, those scales will tip in the
16 favor of Mr. Puckett. He doesn't have the burden. There
17 were two sides, two people; two people inside [REDACTED]
18 [REDACTED] on August the 21st, 2009. Two people. You
19 heard from one person, you heard from one. Two people that
20 know what happened; you heard from one. Where's the other?
21 Thank you.

22 THE COURT: All right. We'll take a short refresher
23 break before we do the next argument. If you'll follow the
24 bailiff to the jury room.

25 We'll be at ease for about ten minutes.

CLOSING ARGUMENT: BY SOLICITOR ANTHONY

-327-

1 SOLICITOR ANTHONY: Thank you, Judge.

2 (COURT IN RECESS AT 10:49 A. M..)

3 (COURT BACK IN SESSION AT 11:05 A. M..)

4 THE COURT: Thank you. Take your seats.

5 State ready?

6 SOLICITOR ANTHONY: Yes, sir.

7 THE COURT: All right.

8 Bring in the jury. We're ready for them.

9 (JURY REENTERS COURTROOM AT 11:06 A.M..)

10 THE COURT: Mr. Anthony.

11 SOLICITOR ANTHONY: Thank you, Your Honor.

12 The key thing that you all are probably gonna be
13 talking about in the jury room is this idea of possession.
14 And the judge will tell you that there's two types of
15 possession. There's what's called actual possession which
16 basically means that an item is in your custody, it's in
17 your physical control and possession. And then there's
18 what's called constructive possession which means that
19 drugs are in the dominion and control of the person
20 charged.

21 Now for the cocaine charge, the trafficking cocaine
22 charge, all you have to find to convict Mr. Puckett of
23 trafficking cocaine is that Mr. Puckett was either in
24 possession of cocaine, or attempting to be in possession of
25 cocaine and the cocaine weighed over a certain amount; that

CLOSING ARGUMENT: BY SOLICITOR ANTHONY.

-328-

1 it weighed over twenty-eight grams. And if you find that,
2 then he's guilty of trafficking cocaine. So what you have
3 in this case, in this situation where there was the police
4 see Mr. Puckett, he's leaned over a commode, he's in a
5 locked bathroom all by himself, leaned over the commode
6 with cocaine in the commode. And I will disagree with Mr.
7 Delaney. I will tell you that you can say that that is
8 possession, the actual possession. He has possession of
9 that cocaine in that commode just like I got possession of
10 these papers. You know I'm standing over these papers; he
11 was bent over that cocaine, it was in his physical control.
12 And you don't even have to really talk about this idea of
13 constructive possession when you're dealing with the
14 cocaine because it's not a question of whether he has
15 dominion or control because he has actual, physical custody
16 of the cocaine. He has possession of it that way.

17 Now of course Mr. Puckett he says he didn't put the
18 cocaine in the toilet. He says that basically - if you
19 take his testimony what he's saying in his testimony is
20 that the deputies are lying. You know he's saying that
21 Lieutenant Sherfield and Sergeant Johnson were just lying.
22 They never saw him over that toilet because he never was
23 over the toilet. And they didn't have to come in the
24 bathroom and get him because he came out of the bathroom
25 himself. He never locked the door. You know they never

CLOSING ARGUMENT: BY SOLICITOR ANTHONY

-329-

1 had to come in and get him. That's what he says. So what
2 you have to do as jurors is you have to decide who's
3 telling the truth. That's what the finders of the fact
4 does.

5 So I want to just give you something to think about
6 when you're trying to make that decision because I think
7 there's one common sense way that you can know that
8 Lieutenant Sherfield and Sergeant Johnson are telling you
9 the truth about what they saw. And it really has to do
10 with probably the one thing that everybody involved on
11 either side of the case can agree on, and that is the hole
12 in the wall. You know everybody agrees that Lieutenant
13 Sherfield knocked a hole in the kitchen wall leading - the
14 kitchen wall shared with the bathroom or that the wall that
15 the kitchen and the bathroom shared. Everybody agrees with
16 that. As a matter of fact Mr. Puckett he had a picture
17 made of it, put into evidence.

18 Now just think about this. There would have been no
19 reason for Lieutenant Sherfield to knock a hole in the wall
20 if Mr. Puckett hadn't a locked that door. And if Mr.
21 Puckett had just come out of that bathroom like he said he
22 did. If Mr. Puckett had done what he says he did, that
23 hole would have never been put in that wall, because it's
24 just a matter of common sense you don't go knocking a hole
25 in the wall when you can just walk through a door. But Mr.

CLOSING ARGUMENT: BY SOLICITOR ANTHONY

-330-

1 Puckett did lock the door. You know he locked the door
2 because he wanted to get rid of the cocaine. And
3 Lieutenant Sherfield put a hole in the wall because of
4 that. And that's just one common sense way you can know
5 that the way Lieutenant Sherfield and Sergeant Johnson
6 describe this is true. You can know that Mr. Puckett was
7 bent over that commode trying to get rid of that cocaine,
8 that he was in possession of the cocaine.

9 And I know we talked about the doors not being
10 damaged. But Sergeant Johnson didn't say, he testified, he
11 didn't say that he would have done anything to those doors
12 to damage them other than put some dents in them where he
13 kicked them. It is quite possible that Travis Anderson
14 opened up the front door. We're not denying that that can
15 happened. He might a opened up from the door.

16 And Sergeant Johnson got the bathroom door to open
17 without breaking it. But that doesn't mean that it wasn't
18 secured by Mr. Puckett. And just like I said, if it hadn't
19 been locked, why would Lieutenant Sherfield then felt
20 compelled to put that big ole hole in Mr. Puckett's wall?
21 There's just no reason why that they could a walked in that
22 bathroom and got him if he'd a walked out that bathroom to
23 them like he says he did. They would a had to knock a hole
24 in the wall.

25 Now it is very important as well that when Mr. Puckett

CLOSING ARGUMENT: BY SOLICITOR ANTHONY

-331-

1 testified last time he admitted under oath, he admitted
2 under oath when he testified before that he possessed that
3 cocaine. He claimed that Travis Anderson gave it to him
4 and that he went to flush it, and that's what he said when
5 he testified the first time. You know that's not true
6 obviously because he told the deputies that night that it
7 was all his and Travis Anderson didn't know anything about
8 it. But that just shows you how much you can trust Mr.
9 Puckett's testimony because now he wants to back off this
10 and talk about how he was nervous and confused and
11 everything. But when he testified a couple of years ago
12 about this and when he said yeah Travis Anderson gave me
13 that cocaine and I went in the bathroom and tried to flush
14 it he was under oath. He was sworn to tell the truth just
15 like he did yesterday and it was his lawyer who ask him the
16 question. It wasn't me up here trying to confuse him, it
17 was his own lawyer and that's what he says.

18 So just from that, from the fact that he said
19 something under oath so different from what he said
20 yesterday how much stock do you put in anything he said
21 yesterday. How much stock can you put in what CJ Puckett
22 said.

23 But taken that, even if that were all he did, even if
24 all he did was take that crack from Travis Anderson and try
25 to flush it down the commode; well that's actual

CLOSING ARGUMENT: BY SOLICITOR ANTHONY

-332-

1 possession, that's been in his physical custody, that's
2 actual possession of crack - I'm sorry, that's cocaine,
3 that's actual possession of cocaine and that would make him
4 guilty of trafficking.

5 Now the other type of possession is constructive
6 possession. And constructive possession requires - the
7 words you will hear from the judge are dominion and
8 control. And that comes into play with the crack that was
9 found because that crack wasn't found in Mr. Puckett's
10 possession. It wasn't found on his person, he wasn't
11 standing right above it; it was found in his living room.
12 And that's the place that he controls is his living room.
13 Think about the TV remote in your house. You probably keep
14 a TC remote in your house, your living room TV you probably
15 keep it in your living room. But even when you're not in
16 the living room it's still there in your house. It's still
17 under your dominion and control. Even if someone might
18 come to your house to see you, and you leave the living
19 room, and the TV changer is still there with your guest,
20 well the remote is still there in your house. It's still
21 under your dominion and control.

22 But there's some other important evidence in this case
23 that proves Mr. Puckett had possession of that crack in
24 addition to it just being in his living room. And first of
25 all the most importantly you have to remember that Mr.

CLOSING ARGUMENT: BY SOLICITOR ANTHONY

-333-

1 Puckett admitted the night that they came in on him and got
2 him out of that bathroom, he admitted that all the drugs
3 were his. That's what he said. He said all of them are
4 mine and not Travis Anderson's. And that's owning up to
5 possession of cocaine and possession of crack. And if you
6 find him not guilty, you're saying that three sheriff's
7 deputies just plainly lied to you. You know that they just
8 came in here and took an oath to tell the truth and got up
9 on the stand and they just lied. They just made up that
10 Mr. Puckett said that all the drugs were his and they made
11 up that he said Mr. Anderson didn't know anything about
12 them and they made up what he said about the scales, you
13 know, because they all sworn an oath to tell the truth and
14 they all three said that he said that. And if he said that
15 then he's guilty, he's in possession.

16 Now Mr. Puckett he's not going to admit that he said
17 that. You know he's not going to get up here on the stand
18 yesterday and admit that he said that. But what would we
19 expect him to do? He's trying to get out of it, so sure,
20 he's not going to admit he said that. But you have to
21 decide who you believe, you know, you believe three
22 sheriff's deputies who all told you that he admitted that
23 it was his. Or you believe Mr. Puckett who had to admit
24 yesterday that he lied under oath. Who's more credible to
25 you?

CLOSING ARGUMENT: BY SOLICITOR ANTHONY

-334-

1 And one other thing, Mr. Puckett testified yesterday
2 that he had been out of work. But he denied saying that to
3 the deputies. You know he testified it was true he was out
4 of work but he denied that he said that to the deputies.
5 Well just ask yourself, how would the deputies know that he
6 was having a hard time financially if he hadn't told them?
7 You know how would they have known to say that Mr. Puckett
8 told this if he hadn't told them? How else would they have
9 found that? And he admitted yesterday that that was the
10 case. Yeah I was out of work, I was having an awful bad
11 time financially. So even though he denies saying that,
12 he had to say it because that's how the deputies would know
13 it was true. And if he said that the times had gotten
14 tough and the deputies knew that, well there's no reason to
15 think that he didn't say the other things the deputies said
16 that he didn't own up to having possession of those drugs,
17 that he'd own up to those drugs being his.

18 Now when you look at the crack charge, in addition to
19 finding that he was in possession of the crack to have
20 dominion and control over it like he admitted he did, you
21 also have to find he had it with the intent to distribute
22 it. That's the other part of the crack charge. So the
23 trafficking is just possession and weight. For the
24 possession with intent to distribute is possession and then
25 the intent to distribute.

CLOSING ARGUMENT: BY SOLICITOR ANTHONY

-335-

1 Now you can find intent to distribute first of all
2 based on how much Mr. Puckett had because the judge will
3 tell you that you can find and you can use as evidence the
4 fact that somebody has over a gram of crack as intent, as
5 evidence of their intent to distribute it because of the
6 amount that they have. But there are a couple of other
7 things that you can look at too.

8 First of all look at the scales. You know Mr. Puckett
9 had a scale with cocaine on it which to a drug dealer
10 that's like a hammer to a carpet. You know that's a tool
11 of the trade, that's something a drug dealer is gonna have
12 with them is a scale to measure out orders, so he had a
13 scale. And then just look at some of the things he said.
14 He told Lieutenant Sherfield that he could get up to nine
15 ounces at a time. Well that's almost Ten Thousand Dollars
16 worth of cocaine. You're not - obviously you're not
17 getting that kind of cocaine if you're not out selling it.
18 And then look at what he had in his pocket. He had Twelve
19 Hundred Dollars, almost Twelve Hundred Dollars in his
20 pocket. Well that's another sign that he's dealing, he's
21 running a cash business, he's running a drug operation so
22 he's gonna have a lot of cash. And you know one of the
23 most telling things about this case is that Mr. Puckett had
24 Eleven Thousand and Seventy-seven Dollars on him. And Mr.
25 Anderson - -

CLOSING ARGUMENT: BY SOLICITOR ANTHONY

-336-

1 THE COURT: Wait a minute. Excuse me. I hate to
2 interrupt you, it wasn't Eleven Thousand.

3 SOLICITOR ANTHONY: I'm sorry. You're right, its
4 Eleven Hundred. I'm sorry. I misspoke. It's Eleven
5 Hundred and Seventy-seven Dollars.

6 And Mr. Anderson had a whopping Dollar and Thirty
7 cents. Okay. You got one guy with almost Twelve Thousand
8 Dollars, you got another guy with a Dollar bill. Now who
9 sounds more like the drug dealer to you? Who do you
10 think's gonna be the drug dealer between those two? Are
11 you gonna believe the guy that's got almost Twelve Hundred
12 Dollars on him or the guy who's got a Dollar? And there
13 was over Two Thousand Dollars of cocaine in that commode.
14 There was almost two ounces at a Thousand Dollars an ounce,
15 or Eleven Hundred Dollars an ounce, so it was around Two
16 Thousand Dollars worth of cocaine in the commode. There
17 was over Four Hundred Dollars worth of crack in the living
18 room. So just ask yourself, you know, who's more likely to
19 be possessing Twenty-four Hundred Dollars worth of drugs,
20 Two Thousand in cocaine and approximately Four Hundred in
21 crack approximately? Who're more likely to be possessing
22 that? Is it the guy with the Twelve Hundred Dollars in his
23 pocket gonna be the one possessing that? Or the guy with
24 the Dollar in his pocket gonna be the one who's possessing
25 that?

CLOSING ARGUMENT: BY SOLICITOR ANTHONY

-337-

1 One other thing Mr. Puckett says that doesn't make any
2 sense. He claims Mr. Anderson weighed out some marijuana
3 for him on a scale and he said that he had already started
4 rolling that marijuana up into a cigarette but Mr. Anderson
5 never ask to get paid. That's what he said. Well I
6 already got it from him he weighed it out for me, I was
7 rolling it up, but he never ask to get paid. Now Mr.
8 Anderson had a Dollar and Mr. Puckett wants you to believe
9 that he never ask him to pay for marijuana that he sold Mr.
10 Puckett. Does that make any sense? You know that sounds
11 like an awful generous drug dealer to me. Somebody who's
12 got a Dollar on him and he'll weigh out some marijuana and
13 just gives it to you and let you start rolling it up and
14 won't even mention for paying. That's awful generous. But
15 when you look at who has the money wouldn't it make more
16 sense and be more likely that Mr. Puckett had sold the
17 marijuana to Mr. Anderson and maybe Mr. Anderson had taken
18 what he bought from Mr. Puckett back out to his car
19 already?

20 The other thing that's interesting is Mr. Puckett said
21 that he had rolled up the marijuana and had it on the
22 counter. But you know he never took that marijuana
23 cigarette he was rolling to the bathroom. He just left
24 that on the counter. That was what he claimed that he was
25 actually physically possessing when the police started

CLOSING ARGUMENT: BY SOLICITOR ANTHONY

-338-

1 knocking on the door. He was rolling up that marijuana
2 cigarette, but that marijuana cigarette stayed there on the
3 kitchen cabinet. And why do you think that might be? You
4 think it might be because Mr. Puckett knew there was
5 something a whole lot more important in that house that he
6 needed to get rid of? Because really if you got Two
7 Thousand Dollars worth of cocaine somewhere in your house,
8 and you know the police are getting ready to come in on
9 you, that's what you're gonna be thinking about. You're
10 not going to be thinking about that joint you're sitting
11 there rolling up. You're going to be thinking about that
12 cocaine. I got to get rid of that cocaine. That cocaine's
13 what's gonna get me in trouble. So sure enough, he left
14 the marijuana in the kitchen. He gets the cocaine and he
15 heads to the bathroom with what's really gonna get him in
16 trouble. Now that's what you can draw from those facts.

17 They want to talk about Mr. Anderson. I will just
18 say, Mr. Anderson still has a pending case okay. There
19 were drugs found in his car, he's gonna have his day in
20 court on those drugs and he's not going to get out of this.
21 But when you have a situation where you catch somebody red
22 handed flushing drugs down the commode and then they tell
23 you right after you catch them, ha yeah, it's all mine,
24 this other guy he didn't know anything about it. Well
25 we're going to take that guy to court first. That's the

CLOSING ARGUMENT: BY SOLICITOR ANTHONY

-339-

1 guy we're gonna be most concerned with. That's the guy
2 who's flushing the Two Thousand Dollar's worth of cocaine
3 down the toilet. That's the guy who admits its all his.
4 So that's why we're here with Mr. Puckett.. But Mr.
5 Anderson's not getting out of this, his case is still
6 pending.

7 And just to clear up one other thing, you know, Mr.
8 Puckett had a right to remain silent. He didn't have to
9 testify yesterday, he decided to. Well Mr. Anderson has
10 the right to remain silent too, so we can't just make Mr.
11 Anderson come in here and testify. That's not something
12 that we can do. And we don't have to because when you look
13 at what the deputies saw, when you look at what Mr. Puckett
14 admitted to, when you look at all the evidence in this case
15 we've proven our case. And you can look at the things Mr.
16 Puckett said about having access to these drugs and buying
17 these drugs. And look at the money he had on his person
18 and the scales. All of those things indicate that Mr.
19 Puckett is a drug dealer.

20 But one thing I want to make sure you all understand
21 is that on this trafficking charge, you don't have to find
22 that Mr. Puckett's a drug dealer to find him guilty of
23 trafficking in cocaine. All you have to find is that he
24 possessed over twenty-eight grams for whatever reason.
25 Whatever was going on in that house when the police came if

CLOSING ARGUMENT: BY SOLICITOR ANTHONY

-340-

1 he's in possession of twenty-eight grams of cocaine, then
2 he's guilty of trafficking cocaine. And when you have a
3 situation where a man is in a locked bathroom, bent over a
4 commode trying to flush cocaine down it, that's possession
5 of cocaine. You know especially when right after they get
6 caught they tell you that it's theirs. That's being in
7 possession of cocaine and that makes him guilty of
8 trafficking cocaine.

9 As to the PWID charge, if you find that - Obviously if
10 you find that he possessed the crack in the living room and
11 the intent to distribute it, then he's guilty of that. You
12 will have a choice though if for some reason you think that
13 he possessed that crack but he didn't intend to sell it,
14 then you'll have a choice of finding him guilty of what's
15 called simple possession of crack. Basically it's just
16 possession but not necessarily having the intent to
17 distribute it. You all will have both charges in the jury
18 room to decide on the trafficking cocaine and the PWID
19 crack. Your verdict has to be unanimous, that's as to each
20 indictment. But if you go back there and you can't agree
21 on a verdict to either indictment or you agree on a verdict
22 to one indictment and you can't agree on a verdict to the
23 other, that doesn't mean that you have to find Mr. Puckett
24 not guilty. Okay. If you can't agree all you need to do
25 is just let the judge know and you'll get some more

CLOSING ARGUMENT: BY SOLICITOR ANTHONY

-341-

1 instructions. But if you don't reach an agreement that
2 doesn't require you to render a not guilty verdict.

3 A little while from now you're gonna go back in that
4 jury room, provided the judge gives you these instructions,
5 and you get started talking about this case, and you're
6 gonna be ask to give a verdict. And the word verdict comes
7 from this Latin word that means to speak the truth. And
8 that's what a verdict is. It's you saying what you decided
9 happened in this case. And there's this old song some of
10 you all may have heard it, it's called the Trouble With the
11 Truth, and it has a line from it that goes "The trouble
12 with the truth is it's just what I need to hear. It rings
13 so right deep down inside my ear." And the truth needs to
14 be heard. You know people at the sheriff's office need to
15 hear the truth from you all in this case. They need to
16 know that when they do their job and they execute a search
17 warrant, they go in and they catch somebody bent over a
18 toilet with a large quantity of drugs that a jury is gonna
19 care about that and the jury is gonna apply the law and
20 convict somebody. And the people in Union County, they
21 need to hear the truth. They need to know that a jury is
22 gonna follow the law and when somebody's proven guilty of
23 trafficking drugs in Union County that they're gonna be
24 convicted of it.

25 But the thing about the truth is, the trouble with the

CLOSING ARGUMENT: BY SOLICITOR ANTHONY
CHARGE TO THE JURY:

-342-

1 truth is, the people who really need to hear it a lot of
2 time they don't even hear it. And that's the case here
3 because the person who really needs to hear the truth in
4 this case more than anybody is CJ Puckett. Because Mr.
5 Puckett needs to know that you can't be in the drug
6 business. You know even if you're just having a hard time
7 and you need some money, you just can't make money that
8 way. There is a right way to make money and there is a
9 wrong way to make money. And buying and selling cocaine
10 and crack was the wrong way to make money. But the thing
11 is there is only twelve people who can do anything about
12 what CJ Puckett did. There is only twelve people who can
13 tell CJ Puckett what he needs to hear, and just give him a
14 tap on the shoulder and say, CJ, you just can't do this.
15 You just can't be messing with cocaine and crack like this.
16 When you go back to the jury room I'd ask that you consider
17 all the evidence and that you return a verdict that speaks
18 the truth. Speaks the truth to Union County and it speaks
19 the truth to CJ Puckett. Find him guilty of trafficking
20 cocaine and possession with intent to distribute crack.

21 Thank you all.

22 THE COURT: Thank you, ladies and gentlemen, for your
23 attention you've given to the witnesses and the attorneys.
24 I am now going to ask you to give me your attention for a
25 few more minutes and I'm going to charge you the law that

CHARGE TO THE JURY:

-343-

1 you are to apply in this case.

2 Mr. Puckett is charged with the two offenses that
3 we've been talking about, the possession of crack cocaine
4 with the intent to distribute it and the trafficking in
5 cocaine. And I will tell you more about those in just a
6 moment. Now each of these indictments contains a separate
7 charge and each stands on it's own. By that I mean what
8 you find on one does not dictate what you have to find on
9 the other. I will tell you more about the State's
10 obligation to prove an offense beyond a reasonable doubt in
11 just a moment, but before you could find Mr. Puckett guilty
12 on either of these indictments, you will have to find as to
13 the charge on that indictment that the State has proven
14 their case, proven Mr. Puckett's guilt beyond a reasonable
15 doubt.

16 Now the fact that Mr. Puckett has been charged, the
17 fact that he was arrested, the fact that he is on trial is
18 not evidence he committed these offenses. That's just the
19 way our system works. When law enforcement believes that
20 someone has violated the laws of our state that's what
21 happens. They are arrested they are charged their case is
22 processed through our court system and they are ultimately
23 brought to trial. But that does not mean they are guilty.
24 It is up to you the trial jury in this case to determine
25 whether or not the State has proven that person, here Mr.

CHARGE TO THE JURY:

-344-

1 Puckett, guilt beyond a reasonable doubt.

2 Now in the jury room with you you will have these two
3 indictments, one charging trafficking in cocaine and the
4 other possession of crack cocaine with the intent to
5 distribute it. They are not evidence. They are the
6 paperwork by way of which this case is - these cases have
7 been processed through our court system, and they contain
8 the charges, what the State says Mr. Puckett did in
9 violation of the law. They are not evidence of anything.
10 Mr. Puckett as I have told you earlier is presumed innocent
11 of both of these charges. Now this presumption of
12 innocence in Mr. Puckett's favor is a very strong legal
13 theory. It is not just a legal phrase or a mere legal
14 theory, it is a substantial right. The presumption of
15 innocence in an individual favor, here Mr. Puckett,
16 attaches at the time they are arrested, remains with them
17 as their case is processed through our court system.

18 The presumption of innocence in Mr. Puckett's favor
19 exist at this moment, and even exist as you deliberate.
20 The presumption of innocence adheres to Mr. Puckett's
21 benefit until such time as you determine that the State has
22 proven his guilt beyond a reasonable doubt.

23 Now the State does not need to prove his guilty beyond
24 all or beyond every doubt but beyond a reasonable doubt.
25 Our courts have described a reasonable doubt as the kind of

CHARGE TO THE JURY:

-345-

1 doubt that would cause a reasonable person to hesitate to
2 act. Reasonable doubt - Proof beyond a reasonable doubt is
3 proof that leaves you firmly convinced of someone's guilt.
4 In our world there are very few things of course that we
5 can know with absolute certainty and our law doesn't
6 require that. If based on your consideration of the
7 evidence you are firmly convinced that Mr. Puckett is
8 guilty of one or both of these charges, you would find him
9 guilty. On the other hand if you find there is a real
10 possibility that he is not guilty, you would give him the
11 benefit of that doubt and find him not guilty. He is
12 entitled to the benefit of any reasonable doubt you have as
13 to any issue in this case.

14 I remind you that I am the sole judge of the law in
15 this case and that you must take, accept and apply the law
16 as I charge it. I remind you that this is true even if you
17 think I charge the law in error, or, even if you think the
18 law should be different. Your oath requires you to take
19 and accept and apply the law as I charge it.

20 You are not to have inferred or to infer from anything
21 I say or do as indicating an opinion of mine on the facts.
22 Our law does not allow a trial judge to formulate or
23 express to a jury any opinion on the facts. It is solely
24 your job to examine the evidence, to give to the evidence
25 the effect the value the weight and the truth you believe

CHARGE TO THE JURY:

-346-

1 it should have. In doing this you may believe one witness
2 as opposed to several; several witnesses as opposed to one.
3 You may believe all, part, or none of a witnesses
4 testimony.

5 Use your common sense, your sense of logic, your sense
6 of reason, use your experiences in life as you analyze the
7 evidence. As judges of the facts you necessarily must
8 judge the credibility that is the believability of the
9 witnesses who have testified. In assessing believability,
10 credibility, use the things I already talked about. Use
11 those things that you find in your day to day life as
12 indicating to you truthfulness in an individual. And you
13 can use certain evaluators. A witness's demeanor, are they
14 hesitant or straightforward in responding to questions.
15 Look at consistencies and inconsistencies in a witness's
16 testimony when they're testimony is given at trial or
17 compared with statements earlier made. You can look at any
18 bias or prejudice, that is whether a witness wished to help
19 or hurt one side or the other. And you can also look at
20 the opportunity a witness had to know those things to which
21 they testified. Consider all these things determine the
22 true facts apply the law and you will be in a position to
23 return a verdict that speaks the truth.

24 Now in cases such as this we usually have as we have
25 in this case we have two types of evidence. Direct and

CHARGE TO THE JURY

-347-

1 circumstantial evidence. Direct evidence is the testimony
2 of someone who claims to have actual knowledge of a fact
3 such as an eye witness. Direct evidence immediately
4 establishes the main fact which is sought to be proven.
5 Circumstantial evidence is proof of a chain of facts and
6 circumstances which indicate the existence of a fact.
7 Circumstantial evidence is evidence which immediately
8 establishes collateral facts from which the main fact may
9 be inferred. Circumstantial evidence is based on
10 inference and not on personal knowledge or observation.

11 Our law makes absolutely no distinction between the
12 weight or value to be given either direct or circumstantial
13 evidence. Nor is a greater degree of certainty required of
14 circumstantial evidence as opposed to direct evidence.
15 What you should do in this case is weigh all of the
16 evidence. If after weighing all of the evidence you are
17 not convinced of Mr. Puckett's guilt as to one or both of
18 these charges, you would give him - beyond a reasonable
19 doubt you would find him not guilty.

20 Now in this case we've had an expert testify about
21 chemistry and about the analysis and her opinion as to what
22 those substances presented and put into evidence what they
23 are. Generally individuals cannot give opinions, they can
24 only testify as to something they observed, something
25 they've seen, heard, or it could be taste, touch or smell.

CHARGE TO THE JURY

-348-

1 But generally one cannot take facts and take those facts
2 and from those reach an opinion. However where someone has
3 certain training, knowledge, experience or education in a
4 certain area, the law allows that person to express an
5 opinion and give an opinion for the jury's consideration.
6 Now the opinions of experts are given only to assist you.
7 They are not binding on you. Just like any other witness
8 you can accept in whole or in part or not at all the
9 opinion of an expert. Expert testimony is allowed to
10 assist you; as I said, it is not binding on you.

11 Now when you analyze and look at the experts
12 testimony, and here it was chemist, you not only look at
13 the same things you look at in regard to the testimony of
14 other witnesses which I've already gone over, but as to an
15 expert you also look at whether or not you, even though I
16 qualified them as an expert, you determine whether they had
17 the expertise to reach the opinion they reached. You also
18 determine whether or not they have - I'm sorry - whether or
19 not they have the credentials so to speak or whether or not
20 you find that they are worthy of an expert - rendering an
21 expert opinion. And also you look at and examine the
22 reasons they gave the opinion they reached. Again, these
23 witnesses are allowed to test you - to assist you, they are
24 not binding on you, and you may accept or reject in whole
25 or in part an expert's testimony.

CHARGE TO THE JURY

-349-

1 Now in this case there have been statements allegedly
2 made - testimony regarding statements allegedly made by Mr.
3 Puckett. At an earlier time I ruled that those statements
4 were admissible, but it is up to you to determine whether
5 or not he, Mr. Puckett, actually made the statements and
6 whether he did them freely voluntarily and knowingly and
7 intelligently. If you find that he did not make the
8 statement, then you of course would reject it entirely.
9 But you if you determine he did make the statement you must
10 determine whether or not he made the statement of his own
11 free will; that is, freely voluntarily knowingly and
12 intelligently. This means that any statement before you
13 could consider it must have been given without pressure,
14 force, fear, threats, coercion, intimidation, promises of
15 reward or hope of a reward of any kind. In determining
16 whether a statement was given voluntarily you could
17 consider the characteristics of the person giving it. That
18 is, the characteristics of Mr. Puckett. And look at and
19 consider the details of what questioning, if any, elicited
20 the statement. Some of the factors you may consider are
21 the defendant, Mr. Puckett's, age; his mental ability or
22 capacity, his intelligence, his background and environment,
23 where and how long the questioning took place, the nature
24 of the questioning, and the advice or the lack of advice as
25 to his constitutional rights. These rights include but are

CHARGE TO THE JURY

-350-

1 not limited to the right to remain silent, being advised
2 that any statement he made could be used against him in a
3 trial, that he had the right to have an attorney present
4 and that if he could not afford one the State would appoint
5 an attorney to represent him at no expense to him, and
6 advice that he could stop making the statement at any time.
7 You must carefully consider all of the circumstances
8 surrounding the giving of the alleged statement.

9 If the State has proved beyond a reasonable doubt that
10 the statement is given voluntarily, you then must consider
11 what consideration you deem proper to give it. You must
12 decide what weight if any should be given and whether or
13 not it was - if the statement was given truly freely and
14 voluntarily. Again, the State must prove that the
15 statement was made by Mr. Puckett, and that it was made of
16 his own free will and they must prove that beyond a
17 reasonable doubt.

18 The first charge I'm going to go over is the charge of
19 trafficking. Both of these charges are statutory offenses.
20 That is, our legislature has made this the law of our
21 state. Mr. Puckett is charged with trafficking in cocaine.
22 Here the State must prove beyond a reasonable doubt that
23 Mr. Puckett knowingly sold, manufactured, cultivated,
24 delivered, purchased, brought into the state, provided
25 financial assistance or otherwise aided, abetted,

CHARGE TO THE JURY

-351-

1 attempted, or conspired to sell, manufacture, cultivate,
2 deliver, purchase, or bring into this state, or was
3 knowingly in actual or constructive possession, or
4 knowingly attempted to become in actual or constructive
5 possession of cocaine.

6 The State must prove beyond a reasonable doubt that
7 the substance at issue was in fact cocaine, and they must
8 prove that the amount of cocaine or any mixture containing
9 cocaine was twenty-eight grams or more but less than one
10 hundred grams.

11 I'm going to define for you the terms possession,
12 constructive and - actual and constructive. I'm going to
13 also use those terms in addition to the trafficking
14 indictment I'm going to use them as to the other charge
15 which is possession of crack cocaine with the intent to
16 distribute it. I'm not going to redefine them, I'm not
17 going to define them for you twice, but the definition I
18 give as to trafficking is the same definition that applies
19 as to the indictment for possession of crack cocaine with
20 intent to distribute it.

21 To have possession under the law, the State must prove
22 beyond a reasonable doubt that Mr. Puckett had both the
23 power and intent to control the disposition or use of the
24 cocaine. The State of course must prove that the substance
25 was cocaine as I've already said. Possession of a

CHARGE TO THE JURY

-352-

1 substance may be either actual or constructive. Actual
2 possession means the cocaine was in Mr. Puckett's actual
3 physical custody. Constructive possession means that Mr.
4 Puckett had dominion and control or the right to exercise
5 dominion and control either over the cocaine itself, or the
6 property on which it was found.

7 The mere presence by an individual, of course Mr.
8 Puckett here, at the scene where the drugs were found is
9 alone not enough to prove possession. Actual knowledge of
10 the presence of a drug, here cocaine, is strong evidence of
11 a defendant's intent to control it's disposition or use. A
12 defendant's knowledge and possession may be inferred when a
13 substance such as cocaine is found on the property under
14 his or her control. However this inference is simply an
15 evidentiary fact to be taken into consideration by you
16 along with other facts and evidence in the case, and you
17 are to give this inference such weight if any you decide it
18 should have.

19 I charge you that two or more persons may have joint
20 possession of a drug. As to both the trafficking charge
21 and the possession with intent to distribute crack cocaine
22 charge that I'm going over in just a moment, I charge you
23 that the weight of any controlled substance is the weight
24 of that substance in pure form or any compound or mixture
25 thereof.

CHARGE TO THE JURY

-353-

1 The second charge in the indictment, another law
2 passed by our legislature, and it makes it a crime to
3 possession with intent to distribute crack cocaine. Crack
4 cocaine is cocaine which has been chemically altered into a
5 form suitable for smoking. Here the State must prove
6 beyond a reasonable doubt that Mr. Puckett possessed crack
7 cocaine with the intent to distribute it. I have already
8 defined for you both actual and constructive possession.
9 The term distribute means to deliver, other than by
10 administering or dispensing, a drug.

11 I remind you that two or more persons may have joint
12 possession of a drug and that the State must prove beyond a
13 reasonable doubt that Mr. Puckett, if you find he had
14 possession of the crack cocaine, intended to distribute the
15 crack cocaine. Again, distribution means to deliver, other
16 than by administering. Intent may be shown by acts or
17 conducts of the defendant and other circumstances from
18 which you may naturally and reasonably infer intent. In
19 determining whether a defendant had the intent to
20 distribute a drug, here crack cocaine, you may consider the
21 circumstances surrounding that person's alleged possession
22 of the drug. You may consider the amount of the substance
23 alleged to have been possessed, you may consider the manner
24 in which it was allegedly possessed, you can consider the
25 place where it was allegedly possessed and such other

CHARGE TO THE JURY

-354-

1 factors as you consider to be important. You must find
2 that Mr. Puckett, if he did possess the crack cocaine, did
3 not possess it solely for his own use.

4 Possession of more than one or more grams of crack
5 cocaine creates an inference that the crack cocaine was
6 possessed with the intent to distribute it. This inference
7 does not relieve the State from proving beyond a reasonable
8 doubt that a defendant had the intent to distribute it.
9 This inference is simply an evidentiary fact to be taken
10 into consideration by you, along with other evidence in
11 this case, and you may give it such weight as you decide it
12 should have.

13 Now if you find as to the crack indictment that the
14 State has failed to prove beyond a reasonable doubt Mr.
15 Puckett guilty of possessing that substance with intent to
16 distribute it you may consider whether the State has proven
17 beyond a reasonable doubt that Mr. Puckett was guilty of
18 simply possessing crack cocaine. Simple possession of
19 crack cocaine does not require an intent to distribute it.

20 As to this lesser included charge of simple possession
21 the State must prove beyond a reasonable doubt that Mr.
22 Puckett knowingly or intentionally possessed the crack
23 cocaine. Knowingly means that it was done with knowledge,
24 consciously, and not by accident. Intentionally means
25 willful.

CHARGE TO THE JURY

-355-

1 Now the State must prove any offense, the trafficking,
2 the possessing the crack cocaine with intent to distribute
3 or the lesser included simple possession of crack cocaine
4 beyond a reasonable doubt before you can convict Mr.
5 Backett as to any.

6 Your verdict must be unanimous, all twelve jurors must
7 agree. Once all twelve jurors are agreed, Madame Forelady,
8 you - of course you will preside over the deliberation and
9 you will ultimately sign on the verdict form which I will
10 go over with you in just a moment, indicating the jury's
11 unanimous verdict. Your verdict cannot be based on
12 sympathy, passion, public opinion, matters outside the
13 record. While you're deliberating if you have any
14 questions please write them down; the bailiff will make
15 sure you have paper and pen, or pencil, knock on the door
16 and give them to the bailiff. The bailiff will bring your
17 note to me and I will go over any questions with the
18 attorneys. It may be that I can write an answer to any
19 question on the note itself. If I do that and they send
20 the note back in, Madame Forelady, don't throw it away,
21 keep it and return it with the evidence because it has to
22 be part of the record.

23 I may have to bring you back in and answer your
24 question here in open court. In South Carolina we do not
25 send a written charge on the law in with the jury but if

CHARGE TO THE JURY

-356-

1 you wish for me to go over any part or all of my charge,
2 let me know and I will bring you back out and here in open
3 court recharge any part or all of my charge on the law.

4 We can have testimony replayed if you wish, just let
5 us know about that and we will bring you back in and do
6 that. When you have reached a verdict knock on the door
7 tell the bailiff. We may be doing some other work but we
8 will send for you as promptly as we can. When you first go
9 into the jury room do not start deliberating because I must
10 go over my charge with the attorneys just to make sure I
11 have made no error. If I have made an error I will bring
12 you back in and correct it. If I have not made any errors
13 I will send in the indictments with the verdict forms and
14 the exhibits and the bailiff will tell you to start
15 deliberating. It's close to noon so if you decide that
16 you're deliberations will take such time as you want us to
17 order lunch let us know. Just send out a note; got one
18 note from the jury that just said send food. We understand
19 if you get a note that says send food. It takes about an
20 hour for us to get it so if you'll just - if you need for
21 us to order a meal please let us know.

22 Now as to these indictments I have verdict forms
23 attached. There are only two options on the trafficking
24 charge. Now the order their in is of no importance. I
25 have to put them in some order so I always put them in this

CHARGE TO THE JURY

-357-

1 order. Madame Forelady, I don't know if you can see that
2 far, but on the verdict forms on the first line it says we
3 find the defendant guilty of trafficking cocaine. If you
4 find, that is if the jury unanimously finds that the State
5 has proven beyond a reasonable doubt Mr. Puckett guilty of
6 trafficking cocaine, as indicted, you simply put an X or a
7 check mark in front of that line.

8 If you find the State has failed to do so, that is
9 failed to prove Mr. Puckett guilty of trafficking cocaine,
10 you will put an X or a check on the second line that says
11 we find the defendant not guilty. There is a place for you
12 to date, the date is the 15th. And a place for you to
13 sign.

14 Now the possession of crack cocaine with intent to
15 distribute is a little different because there is that
16 lesser included simple possession which you may consider if
17 you determine that is appropriate. Again the order these
18 are in is of no importance. The first simply says - the
19 first line simply says we find the defendant guilty of
20 possessing crack cocaine with intent to distribute it. If
21 you find the State has not proven that then you - but you
22 find the State has proven Mr. Puckett guilty of simple
23 possession of crack cocaine, the lesser included, you would
24 put a check or an X in front of which ever of these. If
25 you choose either of these. If yo find the State has

1 failed to prove Mr. Puckett guilty of either of these
2 offenses beyond a reasonable doubt you would check the
3 third line where it says we find Mr. Puckett, the
4 defendant, not guilty.

5 Now I'm going to let you go into the jury room. Like
6 I say don't get too comfortable and don't start
7 deliberating, we may have to send for you. If that is the
8 case it will be very prompt. If not, we will send in to
9 you the indictments the verdict form and the exhibits.
10 Follow the bailiff to the jury room.

11 (JURY EXITS COURTROOM TO DELIBERATE AT 11:54 A.M..)

12 THE COURT: Any exceptions or additions from the
13 State?

14 SOLICITOR ANTHONY: No, sir.

15 THE COURT: Any from the Defense?

16 MR. DELANEY: No, Your Honor.

17 THE COURT: All right. Check out the verdict forms
18 and the indictments and the exhibits and we will send them
19 in and tell them to start deliberating.

20 And then when you've done that the Solicitor can let
21 me know where we are on the schedule.

22 And of course Mr. Puckett is to remain.

23 Mr. Delaney, Mr. Puckett is to remain on the premises
24 now that the jury is deliberating.

25 MR. DELANEY: Okay. All right.

LIEUTENANT JOHN SHERFIELD TESTIMONY REPLAYED

-359-

1 (COURT IN RECESS AT 11:55 A.M..)

2 (COURT BACK IN SESSION AT 12:13 P.M. IN STATE V. CHAD
3 MURPHY WITH ATTORNEY LAUREN TAYLOR, BOND REDUCTION MATTER.)

4 (COURT IN RECESS AT 12:20 P.M..)

5 (COURT BACK IN SESSION AT 01:25 P.M..)

6 THE COURT: Madame Forelady, I have received your note
7 sort of in reverse order, we've ordered food.

8 The second question about the form of the cocaine. I
9 can't answer that question. You have to rely on the
10 testimony as you recall it. I can't - I cannot answer what
11 form anything was in. That's what the testimony was for
12 and we have to rely on it. We're a little unclear exactly
13 what your first question, wants to hear. We are going to
14 play the testimony where Officer Sherfield is involved in
15 putting a hole in the wall. We think it covers what you're
16 asking. We're not real sure but that's what we're gonna
17 play. Okay.

18 Q. And what were you able to observe Sergeant
19 Johnson do?

20 A. He was - The front door which is unusual
21 also swang outward so it's very hard to kick in a
22 door, kick it in when the door actually swings
23 outward. So he's having a hard time getting -
24 making entry into the door. It was locked, he
25 was jerking on the door and then he began kicking

LIEUTENANT JOHN SHERFIELD TESTIMONY REPLAYED

-360-

1 at the door.

2 Q. And what did you observe happen as he did
3 that?

4 A. The door finally came open.

5 Q. And while you were there waiting for him to
6 be able to get into the house, were you able to
7 hear anything?

8 A. Yes you could hear somebody running through
9 the trailer.

10 Q. And so what happened after he was able -
11 after Sergeant Johnson was able to get the door
12 to open?

13 A. When the door opened he went in and I went
14 in immediately behind him.

15 Q. And what did you see when you entered the
16 trailer?

17 A. Found Travis Anderson standing in the living
18 room which was right inside this front door. He
19 was standing beside the couch, told Travis
20 Anderson to lay down on the floor and put his
21 hands behind his back. He stated laying down on
22 the floor, myself and Jimmy Johnson then began to
23 try to find out who was running down the hall.
24 We could hear the toilet being flushed in the
25 bathroom so we went to the bathroom door. That

LIEUTENANT JOHN SHERFIELD TESTIMONY REPLAYED

-361-

1 door was locked. Mr. Johnson again was having a
2 hard time getting in that door.

3 Q. And what did you do in an attempt to get
4 into the bathroom?

5 A. This mobile home had sheet rock walls. I
6 went into the kitchen area which adjoins the
7 bathroom, moved the microwave out of the way and
8 started knocking a hole through the walls so I
9 could go through the wall and get in the
10 bathroom.

11 Q. What were you able to do eventually to the
12 wall?

13 A. I knocked a big hole in it.

14 Q. Okay.

15 A. I was, you know, probably two and a half,
16 three foot hole through the interior and the
17 exterior wall.

18 Q. And after you got the hole, what were you
19 able to see?

20 A. While I was hitting on the - knocking the
21 sheet rock out and trying to go between the joist
22 to get into the bathroom, the door, Mr. Johnson
23 got the door open some how, he went in the
24 bathroom and the same time Mr. Puckett seen me
25 coming through the wall and Mr. Johnson coming in

LIEUTENANT JOHN SHERFIELD TESTIMONY REPLAYED

-362-

1 through the door, he began screaming don't hurt
2 me I give up and threw his hands up in the air.

3 Q. Did you - Were you able to get the hole
4 where you could see through it in the bathroom?

5 A. Yes.

6 Q. Okay. What were you able to see through the
7 hole?

8 A. I could see Clarence Puckett leaning over
9 the toilet.

10 Q. All right. So how did you enter the
11 bathroom?

12 A. I went around through the door.

13 Q. And when you got into the bathroom, what did
14 you see?

15 A. I seen Sergeant Johnson had Mr. Puckett and
16 was leading him out and we recovered some - a
17 plastic bag with a white powder substance we
18 believed to be cocaine in the rim of the commode.
19 The bag had been torn open.

20 Q. And where did Sergeant Johnson place the
21 bag?

22 A. He took the bag out of the rim of the toilet
23 and placed it on top of the toilet on the tank.

24 Q. And did you see him do this?

25 A. Yes.

LIEUTENANT JOHN SHERFIELD TESTIMONY REPLAYED

-363-

1 Q. Okay. And then were you able to look at the
2 bag yourself after he set it on top of the tank?

3 A. Yes I collected all of the evidence.

4 Q. Okay. And based on your experience when you
5 saw the substance, did you have an opinion of
6 what it was?

7 A. I believed it to be cocaine.

8 Q. Okay. All right. And so what did you do
9 with the cocaine in regards to the cocaine after
10 Sergeant Johnson got Mr. Puckett out of the
11 bathroom?

12 A. I collected the evidence and brought it out
13 to the kitchen counter.

14 THE COURT: Stop there.

15 That covers his testimony about what happened when he
16 punched the hole in the wall. If that doesn't cover it let
17 us know through another note and I'm going to let you go
18 back to the jury room.

19 (JURY OUT TO CONTINUE DELIBERATING AT 01:30 P.M..)

20 THE COURT: Anything from the State?

21 SOLICITOR ANTHONY: No, sir.

22 THE COURT: Anything from the Defense?

23 MR. DELANEY: No, Your Honor.

24 THE COURT: Okay. Here's a Court Exhibit.

25 (WHEREUPON: COURT EXHIBIT NUMBER ONE IDENTIFIED AND

ALLEN CHARGE TO THE JURY

-364-

1 MARKED, RECEIVED INTO EVIDENCE.)

2 THE COURT: We'll be at ease for a few minutes.

3 (COURT IN RECESS IN THE MATTER OF STATE V. CLARENCE
4 PUCKETT AT 01:31 P.M..)

5 (STATE V. JOEY BLACKWELL AND STATE VERSUS MELISSA
6 MILLWOOD PLEAS WITH ERIK DELANEY HEARD AT 01:31 P.M..)

7 (COURT IN RECESS AT 01:43 P.M..)

8 (COURT BACK IN SESSION IN THE MATTER OF STATE V.
9 CLARENCE PUCKETT AT 02:33 P.M..)

10 THE COURT: All right, we have received a note from
11 the jury. They have been unable to reach a unanimous
12 decision on either charge, either indictment, so I am going
13 to bring the jury in and give them a Allen charge.

14 Anything before the jury comes in from the State?

15 SOLICITOR ANTHONY: I just realized, I think
16 Lieutenant Sherfield is right back there. If I can just
17 get him.

18 MR. DELANEY: Nothing from the Defense.

19 (LIEUTENANT SHERFIELD REENTERING COURTROOM.)

20 THE COURT: All right, bring in the jury.

21 (JURY REENTERS COURTROOM AT 02:37 P.M..)

22 THE COURT: Madame Forelady, I have received your note
23 that you are unable to reach a unanimous decision. That's
24 understandable that twelve people have trouble reaching a
25 unanimous decision. It's hard sometimes when two or three,

ALLEN CHARGE TO THE JURY

-365-

1 or four people to agree particularly on something very
2 important. However I am going to ask you to continue to
3 deliberate and see if you cannot reach a unanimous
4 decision. Now I am not asking anyone to give up any of
5 their firmly held positions. I'm not asking anyone to cave
6 in but what I am asking is that each of you listen to each
7 other and when I say listen, try to listen attentively and
8 digest what each has to say without giving up like I say
9 any firmly held beliefs. If this case is not resolved
10 today I will simply have to be tried at another time before
11 another jury and I do not know that any other twelve in
12 Union County individuals would be any better equipped to
13 resolve this. So without giving up your firm held beliefs,
14 but listening to one another, I'm going to ask you to
15 continue to deliberate for a while. Thank you.

16 (JURY EXITS COURTROOM TO CONTINUE DELIBERATING AT
17 02:39 P.M..)

18 THE COURT: Anything from the State?

19 SOLICITOR ANTHONY: No, sir.

20 THE COURT: The Defense?

21 MR. DELANEY: No.

22 THE COURT: All right, we'll be at ease.

23 (COURT AT EASE IN THE MATTER OF STATE V. CLARENCE
24 PUCKETT AT 02:39 P.M..)

25 (BACK ON THE RECORD AT 03:09 P.M..)

VERDICT

-366-

1 (STATE V. LEKAY ROGERS PLEA WITH SOLICITOR ANTHONY AND
2 ERIK DELANEY ENTERED.)

3 (STATE V. LASHAWN BRANNON, SCHMERBER HEARING WITH
4 SOLICITOR ANTHONY AND ERIK DELANEY.)

5 (COURT IN RECESS AT 03:25 P.M..)

6 (COURT BACK IN SESSION IN THE MATTER OF STATE V.
7 CLARENCE PUCKETT AT 04:19 P.M..)

8 THE COURT: Thank you, take your seats.

9 MR. DELANEY: My clients in route to the courtroom,
10 Judge. He should be here any second.

11 (PAUSE.)

12 (WHEREUPON: COURT'S EXHIBIT NUMBER ONE, TWO,
13 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

14 THE COURT: I've been advised we have a verdict in Mr.
15 Puckett's case.

16 Bring in the jury.

17 (JURY REENTERS COURTROOM AT 04:21 P.M..)

18 THE COURT: Madame Forelady, I understand the jury has
19 reached verdicts.

20 MADAME FORELADY: Yes we have.

21 THE COURT: If you will hand them to the bailiff he
22 will hand them up to me.

23 (VERDICTS RECEIVED UP BY THE COURT.)

24 THE CLERK: In the case of State of South Carolina
25 versus Clarence Puckett Indictment for Possession of Crack

SENTENCING

-367-

1 Cocaine, find the defendant not guilty.

2 In Indictment for the State of South Carolina versus
3 Clarence Puckett for indictment for trafficking cocaine, we
4 find the defendant guilty.

5 THE COURT: If this be your verdict so say you all by
6 raising your right hand.

7 All twelve jurors confirmed their verdict by raising
8 the right hand.

9 Anything from the State before the jury is dismissed?

10 SOLICITOR ANTHONY: No, sir.

11 THE COURT: Anything from the Defense?

12 MR. DELANEY: No, Your Honor.

13 THE COURT: All right. Members of the jury panel, we
14 appreciate your help and thank you. That of course
15 concludes this for the week.

16 Now, Ms. Scarborough, I need you to meet with Mr.
17 Gault just a minute to sign the back of the indictments.
18 The rest of you feel free to leave.

19 If you'll step down to the table he'll step down
20 there. And you will be mailed a check. Thank you so much.

21 You can go out the same way you been coming in and
22 out.

23 (PETIT JURY DISMISSED AT 04:23 P.M..)

24 THE COURT: Thank you.

25 Anything from the Defense?

SENTENCING

-368-

1 MR. DELANEY: Your Honor, we would just at this time
2 renew motions that we made previously in this trial.

3 THE COURT: The motions are denied. As I said earlier
4 I believe this case warranted being submitted to the jury
5 and I believe the evidence supports the jury's unanimous
6 verdict. Now bring around Mr. Puckett for sentencing.

7 And I'll be glad to hear from Mr. Puckett and anyone
8 on his behalf.

9 Does he have any record?

10 SOLICITOR ANTHONY: He was - He has a criminal
11 domestic violence conviction from 2002. A simple
12 possession of marijuana in 1999, DUS in 1998, and a driving
13 without a license in 1997.

14 THE COURT: All right. Be glad to hear from you, Mr.
15 Delaney, and then the mother and stepfather if they wish to
16 and then Mr. Puckett.

17 MR. DELANEY: Thank you, Your Honor.

18 CJ is thirty-six years old as Your Honor has heard.
19 From his prior record he's never had a General Sessions
20 charge before. As far as drug charges there is a
21 possession of marijuana charge on his record. He's never
22 done any time before. He's looking at mandatory minimum
23 seven years at eighty-five percent. I would ask Your Honor
24 for mercy, I ask Your Honor to consider that sentence in
25 this case. I think with that sentence he's doing some

SENTENCING

-369-

1 serious time, violent offenses. I think in this case a
2 message can be sent and I think the chances of you or
3 whoever seeing CJ Puckett again would be slim. So I would
4 ask Your Honor because obviously it's a wide discretion of
5 what can be given in this charge and I would ask you to
6 sentence him to the lower range of seven.

7 Mother, stepfather...

8 A. Yes, sir.

9 THE COURT: Your name?

10 A. My name is Kathy Parker, CJ's mother. CJ's not a bad
11 violent person and he told us where to go - no place where
12 all these murderers, please don't send him away. You won't
13 never see him again. He won't never - He's not a bad
14 person, he's a good person. All mother's say that but I'm
15 telling the truth. He's good hearted he'll do anything for
16 anybody. He's never been violent. He just got messed up
17 with the wrong person. Please I beg you, please don't take
18 him. Please don't. Please.

19 THE COURT: Thank you. All right..

20 Do you want to say anything? Your name?

21 A. Ronald Parker, CJ's stepfather. You know I just want
22 to say that he is a good person. You know he got messed up
23 and he's - we all suffer a lot in the last three years
24 waiting on you know this time to get here. He's lost
25 everything. I mean he is working now but he was. You know

SENTENCING

-370-

1 he's not a bad person.

2 THE COURT: What was your first name again?

3 MR. PARKER: Ronald.

4 MS. PARKER: He's raised him since he was a year and a
5 half old.

6 MR. PARKER: They call me Rusty. My name is Ronald.

7 THE COURT: Okay. Thank you.

8 Mr. Delaney, you through?

9 MR. DELANEY: I'm through, Judge.

10 THE COURT: Okay. Mr. Puckett, anything you want to
11 say?

12 MR. PUCKETT: Uh, yes, sir. I - Sir, I've never meant
13 no harm for a person to no one. I never bothered nobody.
14 I thank you for your time. I apologize for taking up the
15 court's time. I would like to say that I made a mistake
16 and messing with the marijuana and everything. This charge
17 that has been brought up on me, I see that they found me
18 guilty, sir, and I just ask mercy of the court, sir, as
19 much as I can because I - I don't know what to say.
20 Actually, sir, I've seen people get three years probation
21 on account of the same charge but I know -

22 THE COURT: Let me stop you just a minute. You
23 weren't - Your credibility is not very good with me to
24 begin with, and I'll be very honest with you, based on
25 your testimony yesterday. But what you're telling me is

SENTENCING

-371-

1 it's factually impossible because this carries mandatory
2 seven years. Are you saying somebody got seven years but
3 they reduced to probation? No probation --

4 MR. PUCKETT: His name is Carl Long.

5 THE COURT: Well, I'm just telling you, the law says
6 no probation on this charge.

7 MR. PUCKETT: I guess. Okay.

8 THE COURT: So some judge did that, they violated the
9 law.

10 MR. PUCKETT: Yes, sir. Yes, sir.

11 THE COURT: So I doubt that that happened which just
12 shows me the continuing pattern your not quite being honest
13 with - to yourself. Until you can get to where you can be
14 honest with yourself you're certainly not going to be
15 honest to other people. Anything else you want to say?

16 (PAUSE.)

17 THE COURT: I presume he does not.

18 All right, the sentence is ten years and I'll give you
19 credit --

20 How much time has he served in jail?

21 MR. DELANEY: I think we had those dates.

22 SOLICITOR ANTHONY: There was approximately six weeks.

23 MR. DELANEY: August 21st through October --

24 SOLICITOR ANTHONY: Well no, it was a little over two
25 months. He was arrested on August 21st and he made bond on

1 October 25th.

2 THE COURT: I can't do math.

3 SOLICITOR ANTHONY: August the 21st -

4 MS. PARKER: Please don't.

5 SOLICITOR ANTHONY: --- through October 25th. Sixty-
6 five days.

7 THE CLERK: Sixty-three days if I did it right.

8 THE COURT: I'll give you credit for sixty-three days.

9 Thank you.

10 THE CLERK: I got sixty-five.

11 THE COURT: Hand it back up.

12 (COURT ADJOURNED AT 04:30 P.M..)

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-373-

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 Court of General Sessions for Union County, South Carolina, on the 13th, 14th, and 15th days of November, 2012.

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: April 17 / 2015

FORM 5

STATE OF SOUTH CAROLINA FILED FOR RECORD

2015 CP-44-00125COUNTY OF Union 2015 MAR 23 PM 9 00 IN THE COURT OF COMMON PLEAS

Clarence Julius Rickett # 353209 WILLIAM F. GAULT
 Full name and prison number (if any) of Applicant CLERK OF COURT
 UNION, SC

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Livesay-B
2. Name and location of Court which imposed sentence Union County
3. Name(s) of co-defendant(s) (if any) Travis Anderson
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2009-BS-44-1210 Trafficking Cocaine

(b)

(c)

5. The date upon which sentence was imposed and the terms of the sentence

(a) Nov. 15 2012 10 yrs.

(b)

A TRUE COPYMAR 23 2015
Revised 3/2003W. F. Gault
CLERK OF COURT

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- ☒ (b) after a plea of not guilty yes _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes _____
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. Direct Appeal Court _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Affirmed _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. Oct. 1 2014 _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. no _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) no _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) denied effective assistance of trial counsel
 (b) denied effective assistance of appellate counsel
 (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) See attached sheet - 4th amendment violation
 (b) 6th amendment right violation
 (c) _____

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? Yes
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
 (d) any other petitions, motions or applications in this or any other Court? _____

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. denied
 ii. _____
 iii. _____
 iv. _____

(b) the name and location of the Court in which each was filed:

- i. appellate court
 ii. _____
 iii. _____
 iv. _____

(c) the disposition thereof:

- i. affirmed
 ii. _____
 iii. _____

(a)

(b)

(c)

iv. _____

(d) the date of each such disposition:

i. Oct. 1 2014

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

no

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. no

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) no

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea?
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? yes

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:

- i. Eric Delaney Union County Public Defender
- ii. Carmen V. Ganjehsani appeals lawyer
- iii.

- (b) the proceedings at which each such attorney represented you:

- i. Carmen V. Ganjehsani appeals lawyer
- ii. Eric Delaney trial lawyer
- iii.

19. State clearly the relief you seek in filing this application:

Not Guilty - to go home Relief from Conviction

20. Are you now under sentence from any other court that you have not challenged?

no

STATE OF SOUTH CAROLINA)

County of)

VERIFICATION

I, , being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Clarence J. [Signature]

SWORN to and subscribed before me this 19th
day of February, 2015.

Katherine Scott (L.S.)
Notary Public

My Commission Expires: 9/25/22

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, , hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Clara Julia P. [Signature]
Applicant

SWORN or affirmed to and subscribed before me this
19th day of February, 2015.

Katherine Scott
Notary Public

My Commission Expires: 9/25/22

fact from Trial #2

Warrant is hearsay - no proof p.133-139
p. 148-149

Nothing shows or states of any proof
of me taking blame of drugs or
saying or telling on anyone, and to
getting them any drugs
p. 133-139 - 148-149

Co-defendant gets \$100.⁰⁰ fine

ANSWER TO QUESTION NUMBER 11

(a) Petitioner has been denied effective assistance of trial counsel. Such ineffectiveness caused irreparable harm to petitioner's case because the error allowed for petitioner to be convicted with tainted evidence from a illegal search and seizure, under the Fourth Amendment. Petitioner's counsel failed to make a proper objection to the introduction of illegally seized drugs at trial. Instead, counsel conceded to the introduction of the illegally seized drugs. Such a concession prejudiced petitioner. Absent the mistake of counsel, there exist a high probability that the outcome would have been different and the jury would have come back with a different verdict when the illegally seized drugs had not been admitted into evidence.

(b) Petitioner was denied effective assistance of appellate assistance during his appeal process. Appellate counsel failed to properly perfect a appeal for appeal to a higher court. Petitioner's appeal was denied and petitioner expressed that he wished to appeal his case to the Supreme Court for certiorari. Appellate counsel stated via a October 9, 2014, letter stating that he would not seek a rehearing nor certiorari at the South Carolina Supreme Court. Appellate counsel refused to file for relieve of counsel on petitioner's case. As a result, petitioner's attempts to file for a rehearing were rejected, due to the prohibition against 'hybrid representation.' After making appellate counsel aware of the court's refusal, appellate counsel still refused to file the necessary petitions to allow petitioner to proceed pro se. The final result, was that petitioner was unable to file for appeal and thus, he was denied his right to a full and complete appeal of his convictions. Evitts v. Lucey, 105 S.Ct. 830, 335-36(1985); Roe v. Flores-Ortega, 120 S.Ct. 1029, 1038(2000); Castellanos v. United States, 26 Fed 717, 719-20 (7th Cir.1994); U.S. v. Peak, 992 F.2d 39, 41-42 (4th Cir.1993) (finding that counsel's failure to file for appellate review when requested by defendant deprives defendant of 6th Amendment right to assistance of counsel even if he would have not been likely to win appeal).

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE SIXTEENTH JUDICIAL CIRCUIT
COUNTY OF UNION	)	
	)	2015-CP-44-125
Clarence Julius Puckett,	)	
S.C.D.C. No. 353209,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

Respondent, making its Return to the application for post-conviction relief (PCR) filed March 23, 2015, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Union County Clerk of Court. Applicant was True Bill indicted at the October 2009 term of the Union County Grand Jury for Trafficking in Cocaine (2009-GS-44-1210). Applicant was represented by Eric Delaney, Esquire. Applicant underwent a jury trial on November 13-15, 2012, before the Honorable John C. Hayes, III. Applicant was found guilty of trafficking in cocaine. Applicant was sentenced to imprisonment for ten years.

Applicant timely filed a notice of appeal on November 12, 2012, and the appeal was perfected by his appellate counsel, Appellate Defender Carmen V. Ganjehsani. By Order filed October 1, 2014, the South Carolina Court of Appeals affirmed Applicant's convictions. The Remittitur was sent October 17, 2014.

II.

In his current application for post-conviction relief, Applicant alleges he is being held unlawfully for the following reasons:

1. "Denied effective assistance of trial counsel"
2. "Denied effective assistance of appellate counsel"

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at evidentiary hearing. All amendments should be made well in advance of hearing and should be filed as required by Rule 11, SCRCP(a).

Attached herewith and incorporated herein are the Union County Clerk of Court records regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, and the trial transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent contends that Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. In a post-conviction relief proceeding, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its reasonableness under professional norms. Id. 300 S.C. at

117, 386 S.E.2d at 625, citing Strickland. The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668, 104 S. Ct. 2052. The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Second, counsel's deficient performance must have prejudiced the applicant such that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Id. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

Respondent submits that Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The allegation that appellate counsel was ineffective is without merit. Respondent contends that Applicant's appellate counsel rendered adequate assistance and provided representation within the range of competence required by appellate attorneys. A defendant is constitutionally entitled to the effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 105 S.Ct. 830 (1985). Where ineffective assistance of appellate counsel is alleged, the applicant must show that appellate counsel's performance was (1) deficient; and (2) that there

was prejudice from the appellate counsel's deficiency. Southerland v. State, 337 S.C. 610, 524 S.E.2d 833 (1999). To be effective, appellate counsel must give assistance of such quality as to make appellate proceedings fair. Id. Appellate counsel must provide effective assistance but need not raise every non-frivolous issue presented by the record. Id. Appellate counsel has a professional duty to choose among potential issues according to their merit. Jones v. Barnes, 463 U.S. 745, 103 S.Ct. 3308 (1983). Where the strategic decision to exclude certain issues on appeal is based on reasonable professional judgment, the failure to appeal all trial errors is not ineffective assistance of counsel. Griffin v. Aiken, 775 F.2d 1226 (4th Cir. 1985).

When a claim of ineffective assistance of appellate counsel is based upon failure to raise viable issues, the court must examine the record to determine "whether appellate counsel failed to present significant and obvious issues on appeal." Gray v. Greer, 800 F.2d 644, 646 (7th Cir. 1986). Generally, the presumption of effective assistance of counsel will be overcome only when the alleged ignored issues are clearly stronger than those actually raised on appeal. Id.

Respondent submits that Applicant cannot satisfy either requirement of the Strickland v. Washington test with regard to the ineffectiveness claims against appellate counsel. However, the allegation of ineffective assistance of appellate counsel probably raises questions of fact that cannot be conclusively refuted by the record. Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

Respondent denies each allegation that is not expressly admitted, qualified or explained.

VI.

WHEREFORE, Respondent requests an evidentiary hearing for the purpose of determining whether the Applicant's trial and appellate counsel were ineffective.

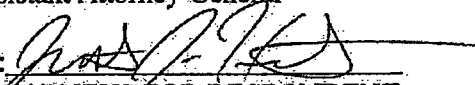
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

JUSTIN J. HUNTER
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

Dec 30, 2015

STATE OF SOUTH CAROLINA

COUNTY OF UNION

CLARENCE PUCKETT, #353209

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

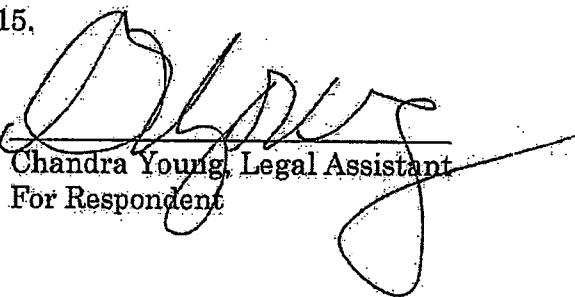
IN THE COURT OF COMMON PLEAS

2015-CP-44-0125

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Leah B. Moody
 235 East Main Street; Suite 115
 Rock Hill, SC 29731

DATED this 30th day of December, 2015.

 Chandra Young, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
) COURT OF COMMON PLEAS
COUNTY OF UNION) 2014-CP-44-0125

CLARENCE J. PUCKETT)
 APPLICANT)
 vs.) TRANSCRIPT OF RECORD
)
STATE OF SOUTH CAROLINA)
 RESPONDENT)

January 20, 2016
York, South Carolina

B E F O R E:

THE HONORABLE PAUL M. BURCH, JUDGE.

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

LEAH B. MOODY, ESQUIRE
Attorney for the Applicant

JUSTIN HUNTER, ASSISTANT ATTORNEY GENERAL
Attorney for the State

ERIK DELANEY, ESQUIRE

HATTIE O. GORDON
Circuit Court Reporter

I N D E X

Colloquy 4

CLARENCE PUCKETT

Direct By Ms. Moody 6

ERIK DELANEY

Direct By Mr. Hunter 24

Cross By Ms. Moody 33

Certificate of Reporter 43

EXHIBITS

NO EXHIBITS WERE MARKED OR ADMITTED INTO THE RECORD

COLLOQUY

MR. HUNTER: May it please the Court. The next case is Clarence Puckett v. State of South Carolina, 2014-CP-46-2815. Your Honor, he was indicted at the January 2009 term of the York County Grand Jury for trafficking in cocaine. 2009-GS-44-1210 -- and I apologize. The earlier action is 2014-CP-44-2815.

Your Honor, he was represented at trial by Erik Delaney. On November 13th through 15th 2012 he went to jury trial before the Honorable John C. Hayes. He was found guilty as indicted and sentenced to ten years.

He did file a direct appeal which was -- and his convictions were confirmed by an unpublished opinion, October 1st 2014. The remitter was sent October 17th 2014. On March 23rd 2015 he filed his current action. He is present today and represented by Ms. Moody.

THE COURT: Mr. Puckett.

MR. PUCKETT: Yes, sir.

THE COURT: If I can have your attention. Good afternoon to you. This is a standard procedure that I've adopted over the years of presiding over post-conviction relief hearings. I have, of course, been aware that there is a lot of misinformation within the Department of Corrections that can be out there and, certainly, some of it is correct and some of it is not correct.

1 What I need to discuss with you is to make sure that
2 you understand, and I suspect that you've probably
3 discussed some of this with Ms. Moody, but in a
4 post-conviction relief petition I have no authority to
5 reduce the sentence. The only authority, basically, you
6 have as a judge on a post-conviction relief matter would
7 be if you find sufficient grounds, would be to in effect,
8 grant a new trial.

9 Now, there are some dangers with that. Some land
10 mines out there that you need to be aware of that you may
11 already be but I want to make sure. If you were to be
12 granted relief you could be brought back to the Court of
13 the General Sessions and retried on that matter. And the
14 danger that you take that you need to be aware of is that
15 you possibly could receive a longer sentence. What was
16 the maximum on this particular offense?

17 MR. HUNTER: The trafficking plea, I believe, was
18 seven to 25 years.

19 THE COURT: Up to 25 years. So I will give you an
20 example. Several years ago a petitioner over in
21 Darlington County was convicted of voluntary manslaughter
22 and received around 20 year sentence. He was successful
23 on his P.C.R. petition, was brought back to Darlington,
24 was retried and received a 30 year sentence. And he
25 failed on appeal and post-conviction relief on that. So

1 you can see how that is a danger.

2 Now, that is basically what I need to discuss with
3 you. I in no way would advise you what you need to do. I
4 just want you to be aware of those pitfalls and if you
5 need time to discuss anything that I just covered with you
6 with Miss Moody I will certainly give you time to do that?

7 MR. PUCKETT: Okay.

8 THE COURT: Okay.

9 MR. PUCKETT: Yes, sir.

10 THE COURT: All right.

11 MS. MOODY: Your Honor, at this time I would like to
12 call Mr. Clarence Puckett to the stand.

13 CLARENCE PUCKETT, after being duly sworn,
14 testified as follows:

15 DIRECT EXAMINATION

16 BY MS. MOODY:

17 Q. Mr. Puckett, could you please state your full name
18 for the record?

19 A. My name is Clarence Julius Puckett the Third.

20 Q. And Mr. Puckett, where are you currently
21 incarcerated?

22 A. I'm incarcerated right now at Livesay Correction.
23 Livesay B Correctional.

24 Q. And you're incarcerated for trafficking?

25 A. Yes, ma'am.

1 Q. Okay. And what was your sentence that you received?

2 A. I received ten years.

3 Q. Did you go to trial on?

4 A. Yes, sir.

5 Q. Okay. Who was your attorney?

6 A. The first -- I had to trials.

7 Q. All right. Okay?

8 A. I had Melinda Butler at my first trial. My second
9 trial attorney was Erik Delaney.

10 Q. But when you filed your post-conviction relief action
11 you filed on the second trial?

12 A. Yes, ma'am.

13 Q. Okay. And who was your attorney for that second
14 trial?

15 A. Erik Delaney.

16 Q. Okay. And in your application you state some grounds
17 for why you brought this action?

18 A. Yes, ma'am.

19 Q. Okay. Can you please state to the Court what your
20 grounds are?

21 A. I was denied my direct appeal under the thing that
22 Mr. Delaney didn't call mistrial in a timely fashion to
23 the witness being on the stand as far as the affidavit and
24 search warrant.

25 Q. Okay. And when you say that you're saying that

1 Mr. Delaney was ineffective assistance of counsel?

2 A. Yes, ma'am.

3 Q. Okay. And that's the basis because he did not file
4 or he didn't object to a mistrial?

5 A. Yes, ma'am.

6 Q. Okay. Is there anything else that he failed to do?

7 A. Yes, ma'am. Mr. Delaney was neglectful and
8 inefficient -- ineffective for neglecting to ask for a
9 change of venue due to the co-defendant's -- the
10 co-defendants that I had dad was a magistrate judge in the
11 courtroom -- in the courthouse that I was convicted in.

12 Q. Okay. When you sent to trial, I want to be clear on
13 this, you went to trial in General Sessions?

14 A. Yes, ma'am.

15 Q. Okay. But as far as the warrants and the proceedings
16 leading up to your trial the codefendant's father was a
17 part of those proceedings at some point?

18 A. He was a magistrate judge in the courthouse.

19 Q. Okay.

20 A. That would show bias on -- exhibit bias towards me in
21 the courthouse.

22 Q. Okay. And can you explain a little bit further how
23 you feel that that was bias?

24 A. Well, he was, the defendant, was a D.S.S. worker for
25 the State, and his dad was a magistrate judge in the

1 courthouse. He received a \$100 fine. I got ten years for
2 the drugs in his car that they claim I took the blame for
3 all the drugs in his car.

4 Q. Okay. When you say, 'they' who are you speaking of?

5 A. The law enforcement.

6 Q. Okay. Did the codefendant, and his name was
7 Mr. Anderson?

8 A. Yes, ma'am.

9 Q. Okay. Mr. Anderson's father?

10 A. Yes, ma'am.

11 Q. His name?

12 A. Les Anderson.

13 Q. Okay. Les Anderson?

14 A. Yes, ma'am.

15 Q. Les Anderson, he participated in some form or fashion
16 in your being arrested?

17 A. No, ma'am, he didn't -- as far as him bonding me out
18 or anything like that or having any kind of legal
19 procedure over me, no, ma'am.

20 Q. So what if any -- so are you saying that he had no
21 contact with your case?

22 A. No, ma'am.

23 Q. Okay. So can you explain to the Court how
24 Mr. Anderson's involvement is this -- excuse me. Travis
25 Anderson's involvement in this case impacted your case?

1 A. He was the codefendant. They claimed that I took the
2 blame for all the drugs in his vehicle, and I did not take
3 the blame for all the drugs in nobody's vehicle outside of
4 my own.

5 Q. Okay. I guess what I'm trying to get to is what led
6 up to your codefendant and yourself being arrested?

7 A. He came to my home and sold me \$20 worth of marijuana
8 and a minute, two minutes later the police came in after
9 him and claimed that they had a warrant where somebody had
10 witnessed me selling drugs three days -- within three days
11 prior. Within 72 hours prior.

12 Okay. There is nobody. After two trials they
13 couldn't produce no informant. So that's what led to me
14 getting arrested for the trafficking of cocaine. They
15 claimed that I took the blame for the drugs inside of this
16 vehicle or there were supposed to be found in my home.
17 But there is no crime scene or no photo or no drugs found
18 in my home.

19 Q. Okay. So let's be clear. You were arrested for
20 trafficking cocaine?

21 A. Yes, ma'am.

22 Q. And Mr. Anderson came in your house?

23 A. Yes, ma'am.

24 Q. And after Mr. Anderson came in your house the police
25 came in your house?

1 A. Yes, ma'am. When he left they presented.

2 Q. Okay. So when they came into your house did they
3 arrest you then?

4 A. Yes, ma'am.

5 Q. Okay. Did they observe you in Mr. Anderson's car?

6 A. No, ma'am. They testified in the first and second
7 trial that I was never in Mr. Anderson's car.

8 Q. Okay. So the charges for this trafficking cocaine
9 stem from Mr. Anderson coming into your house and selling
10 you marijuana?

11 A. Yes, ma'am.

12 Q. And the police following him in the house?

13 A. Yes, ma'am.

14 Q. Okay. And after they got into your house what if
15 anything did any police find?

16 A. Well, they found the marijuana that I had, and other
17 than that all I scene was they had found supposedly beside
18 him where they had him in the floor restraining him and
19 what not, they found a little bag of cocaine about this
20 big. And other than that that's the only -- and they
21 don't even have a picture of that. They took the pictures
22 of the drugs at their office, at the narcotics office,
23 across town.

24 But the only crime scene photos is of his car in my
25 driveway. That's it. There's no pictures in my home. No

1 pictures of no drugs in my home. It's just the pictures
2 of drugs which are from in the picture and that was taken
3 in my driveway. That's the only crime scene photos that
4 they have.

5 Q. Okay. So when you went to trial, again going back to
6 Mr. Delaney, what did he not do that you find to be
7 ineffective assistance of counsel?

8 A. Well, he -- they had asked Mr. Delaney -- Mr. Delaney
9 had asked one of the officers about the informant coming
10 to my home and witnessing me sell drugs. And they
11 testified that they didn't have no informant.

12 Well, somehow in the midst of that Mr. Delaney asked
13 for a mistrial, but the Judge, Judge Hayes, denied the
14 mistrial. And the direct appeal's court claimed that Mr.
15 Delaney didn't call mistrial in a timely manner, and he
16 never introduced -- Mr. Delaney never also introduced a
17 crime scene photos of Anderson's car where the drugs were
18 found in Anderson's car to the jury.

19 Q. Let me make sure we are getting this on record. You
20 said that Mr. Delaney did not timely call the mistrial in
21 a timely fashion. Did the Court address that argument on
22 the Court of Appeals level or was it not preserved? Was
23 it preserved?

24 A. That I don't know. I got the papers from the
25 Attorney General's Office from the Court of Appeals. I

1 have that paper. I don't know if it was preserved or not
2 or nothing like that. I don't know.

3 Q. Okay. Go ahead. So as to the -- you were getting
4 ready to make a second point. I'm sorry?

5 A. Oh, Mr. Delaney never challenged the possession of
6 the drugs that was found in Mr. Anderson's car to the
7 jury. And Mr. Delaney never questioned -- he neglected to
8 challenge the possession of the scales found in Mr.
9 Anderson's car. They claim that there were two sets of
10 scales, but they could only produce one set of scales at
11 the trial. And that was clearly found. I've got the
12 pictures of Mr. Anderson's car.

13 Q. What else did Mr. Delaney not do?

14 A. That's about it. That's about all.

15 Q. Okay. Now, as it relates to your appellate counsel
16 you indicate that you did not have an argument that were
17 argued to the Court?

18 A. Yes, ma'am.

19 Q. And can you please tell the Court what those
20 arguments were?

21 A. The -- you talking about the -- excuse me. Let me
22 verify what you're saying. Your talk about my appeals
23 lawyer.

24 Q. Yes, sir.

25 A. What she argued?

1 Q. Yes.

2 A. She claimed to argue the Allen Charge given to the
3 jury, but it never came up on these papers. I don't know
4 about that, but the only thing that she argued was him
5 calling mistrial in a timely manner in the Allen Charge.

6 Q. Right, but you indicate that in your application --
7 you recall your application?

8 A. Yes, ma'am.

9 Q. And your answers to Question 11 on your application?

10 A. Yes, ma'am, the Allen Charge.

11 Q. Yes. You indicated that the petitioner was denied
12 ineffective assistance by the appellate counsel during his
13 appeal process?

14 A. Yes, ma'am.

15 Q. Okay. And you're saying that the only thing through
16 your ineffective assistance of appellate counsel is that
17 she did not raise the Allen Charge issue?

18 A. Yes, ma'am.

19 Q. Okay. And that goes to where the Judge talked about
20 whether going forward with the jury deliberating?

21 A. Yes, ma'am.

22 Q. Okay. What specifically do you take issue? Why did
23 you want her to challenge that?

24 A. I really didn't. She had told me -- she had got with
25 me and told me that he wasn't supposed to do it. I'm just

1 going off of what she said. I'm not, you know, I'm not no
2 lawyer pleading making excuse, but something about what he
3 wasn't supposed to do it on account of the reasons that he
4 gave the jury is what she had claimed. I'm just -- like I
5 said I'm just going off of what she said.

6 Q. Okay. So you would like the Court to refer to the
7 transcript on that?

8 A. If you would like. You're my lawyer. If you would
9 like.

10 Q. You understand that the transcript is in the record?

11 A. Yes, ma'am.

12 Q. The transcript of your trial?

13 A. Yes, ma'am.

14 Q. Okay. Would you like the lawyer -- excuse me. The
15 Judge to look at the Allen Charge portion of your
16 transcript on this issue?

17 A. Yes, ma'am.

18 Q. Okay. Was there anything else your appellate counsel
19 did not do?

20 A. No, ma'am. On my counsel, no, ma'am. On
21 Mr. Delaney, no, ma'am?

22 Q. Your appellate counsel.

23 A. Oh, my appellate counsel.

24 Q. Your appellate counsel.

25 A. Oh, no. No, ma'am.

1 Q. Nothing else on you appellate counsel?

2 A. No, ma'am.

3 Q. Now, as to these errors that you indicate to the
4 Court that are the ineffective assistance of counsel, of
5 trial counsel and appellate counsel, how is -- how would
6 you describe to the Court that you are prejudiced by their
7 ineffective assistance of counsel?

8 A. Well, Mr. Delaney, it was called into question to
9 whether or not they had proof of the informant coming to
10 my home to get their affidavit of search warrant to make
11 it legal. And when there is no proof of it they're saying
12 that he didn't call mistrial in a timely manner.

13 That would be very sufficient toward my case because
14 there is no proof of no informant that's come to my home
15 and witness me sell drugs to even amount to getting a
16 warrant to enter my home.

17 Q. Okay. So let me be clear. You're saying that the
18 charge -- the charges for the trafficking cocaine that you
19 were tried on the law enforcement used that as a basis for
20 getting a search warrant?

21 A. Yes, ma'am.

22 Q. Okay. But they based that off of someone coming into
23 your house observing drugs being sold in your house?

24 A. Yes, ma'am.

25 Q. Okay. And so when you went to trial?

1 A. They couldn't produce them.

2 Q. They could not produce a confidential informant?

3 A. No, ma'am.

4 Q. Okay, but didn't they argue about getting the search
5 warrant?

6 A. No, ma'am. Not -- they said that somebody came to my
7 home 72 hours -- within 72 hours and witnessed me sell
8 drugs.

9 Q. Okay. When you say, 'they' you're speaking of law
10 enforcement?

11 A. Law enforcement, yes, ma'am.

12 Q. So law enforcement testified to that?

13 A. Yes, ma'am.

14 Q. Okay. And there was no C.I. that came into the
15 courtroom and testified to anything?

16 A. No, ma'am.

17 Q. So the basis was the law enforcement information they
18 received?

19 A. Yes, ma'am.

20 Q. Okay. And that were -- you're saying that Mr.
21 Delaney should have objected and called for a mistrial?

22 A. Yes, ma'am.

23 Q. Okay. And so you feel you're prejudiced because you
24 got convicted?

25 A. Yes, ma'am.

1 Q. Okay. And that was for ten years?

2 A. Yes, ma'am.

3 Q. Okay. And as to the prejudice with your appellate
4 counsel is -- does that flow on through to your appellate
5 counsel or is there something else that your appellate
6 counsel did that prejudiced you?

7 A. No, ma'am. No, ma'am. I would say yes to her
8 neglecting to bring up the affidavit or search warrant,
9 but I -- everything else I'm -- and the Allen Charge. But
10 I'm just going off of what she had told me. I was
11 incarcerated. I didn't have no, you know, I don't know
12 nothing about that. I'm just going off of what she had
13 said.

14 Q. I understand that.

15 A. Okay.

16 Q. But what I'm saying is the prejudice that -- you're
17 asking the Court for some relief here, correct?

18 A. Yes, ma'am.

19 Q. Okay. And you're saying that because your attorney
20 was ineffective assistance of counsel that you were
21 prejudiced in some kind of way?

22 A. Yes, ma'am.

23 Q. And you use got ten years incarcerated?

24 A. Yes, ma'am.

25 Q. And so you want the Court to grant you what relief?

1 A. A new trial.

2 Q. Okay. And you understand that with a new trial you
3 start all over again?

4 A. Yes, ma'am.

5 Q. You understand that if you're found guilty you could
6 be convicted?

7 A. Of more time, yes, ma'am.

8 Q. All right.

9 A. Yes, ma'am.

10 Q. Is there anything else you want to relate to the
11 Court?

12 A. Also, there was -- I had wrote you to amend the -- it
13 states that the -- okay. The false police report where
14 under South Carolina Code Of Law 16-17-722, "The false
15 police report. It is unlawful for a person to file a
16 false police report as to the obtaining the search
17 affidavit and the search warrant."

18 Q. Okay. I believe you testified to that?

19 A. Yes, ma'am.

20 Q. Okay?

21 A. And the false swearing before an authorized person
22 of -- that administers oaths. That is 16-9-30. Okay.
23 And 1976 South Carolina State of Laws, 16-9-10, "Perjury
24 Law. Whereas, a person or persons to deliberately make
25 false and misleading statement while under oath as far as

1 obtaining the search warrant and the information under the
2 search warrant."

3 And the due process violation to where law
4 enforcement claimed to have a secret informant and come
5 and produce and could not produce any at either trial,
6 first or second trial, the South Carolina Codes of Law
7 17-23-60, "The right to confront any accusers. The Court
8 nor the Solicitor whether law enforcement violated this
9 statute by not allowing the cross-examination for this
10 accuser."

11 Q. Now, let me stop you there. When you say, 'accuser',
12 are you speaking of law enforcement officers or talking
13 about the confidential informant?

14 A. The confidential informant, yes, ma'am.

15 Q. Okay. So it's your position that the confidential
16 informant should have been there because that -- law
17 enforcement got their search warrant based on what the
18 confidential informant said?

19 A. Yes, ma'am. Yes, ma'am.

20 Q. But were you arrested for what the confidential
21 informant ---

22 A. Yes, ma'am. Yes, ma'am.

23 Q. So can you please tell the Court what you were
24 arrested for?

25 A. I was arrested for trafficking cocaine.

1 Q. Right. But was there another charge accompanying
2 that? Was the confidential informant observed?

3 A. Yes, ma'am, that's how's they got their warrant
4 coming to my home.

5 Q. Was that what the confidential informant indicated?

6 A. He indicated that I was selling drug out of my home.

7 Q. What kind of drugs?

8 A. Cocaine.

9 Q. Okay. Did you have a second charge for cocaine?

10 A. No, ma'am.

11 Q. You only had the one?

12 A. Oh, yes, ma'am, I had two. The day before trial they
13 charged me with possession with intent to distribute crack
14 and possession of crack. So then I beat them charges
15 somehow and was found guilty on the trafficking cocaine
16 charge alone. I was sentenced to ten years.

17 Q. So in total there were three charges? Two were
18 dismissed, and one you went to trial on?

19 A. No, I was -- I was found not guilty on the two crack
20 charges, and I was found guilty of the trafficking charge.

21 Q. But in terms of -- the Court needs to understand in
22 terms of the trafficking and those crack charges were they
23 held in this trial?

24 A. Yes, ma'am, they were held in this trial. The two
25 crack charges and the trafficking charge was held in the

1 second trial.

2 Q. Okay?

3 A. Yes, ma'am.

4 Q. And so in the second trial the C.I. was not there?

5 A. Neither trial, no, ma'am.

6 Q. Okay. But the trafficking it was based off the
7 search warrant?

8 A. Yes, ma'am. Yes, ma'am.

9 Q. Okay. Is there anything else?

10 A. The perjury, you know, "It is unlawful -- 1976
11 16-9-10. It is unlawful for any person to willingly give
12 false or misleading or incomplete testimony and under oath
13 in any court record, judicial, administrative or
14 regulatory proceeding in this state."

15 Q. So that goes back to the search warrant?

16 A. Yes, ma'am.

17 Q. So you're saying that law enforcement perjured
18 themselves?

19 A. Yes, ma'am. And also law enforcement purged
20 themselves, and let me find it. Okay. Here it is. Here
21 it is. Law enforcement claimed in the trial that I took
22 the blame for all the drugs. That was a lie. That was
23 perjury. Okay.

24 Secondly, they claimed that I told them that I could
25 get them nine ounces of cocaine at any willing time.

1 Okay. That's a lie. There is no written statement, no
2 video or audio. Nothing, and this is what they told the
3 jury. Okay. They also went and told the jury that I
4 told -- now, this is during the second trial. They went
5 and told the jury that I told on three people that I raced
6 with. So there is no video, no audio, no statements or
7 nothing produced that they can produce to actually back
8 this up from what they're saying.

9 Q. And so ---

10 A. It was a lie. It was a lie. It was perjury. And
11 they lied again by saying that I sold -- I was selling
12 drugs. They had a witness of me selling drugs which goes
13 back to the affidavit of the search warrant.

14 Q. And so, but, in context you said that your attorney
15 should have objected to all of that?

16 A. Yes, ma'am.

17 Q. Okay. Is there anything else?

18 A. That's it.

19 Q. No?

20 A. That's it?

21 Q. Is the relief that you're seeking from the Court here
22 today is to vacate your conviction?

23 A. Yes, ma'am.

24 Q. And allow you a new trial?

25 A. Yes, ma'am.

1 MS. MOODY: No further questions for this witness,
2 Your Honor.

3 THE COURT: Mr. Hunter?

4 MR. HUNTER: No questions for this witness.

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

6 MS. MOODY: Your Honor, we have no other witnesses.

7 THE COURT: All right. Mr. Hunter.

8 MR. HUNTER: State would call Mr. Erik Delaney.

9 ERIK DELANEY, after being duly sworn, testified
10 as follows:

11 DIRECT EXAMINATION

12 BY MR. HUNTER:

13 Q. Good afternoon, Mr. Delaney.

14 A. Good afternoon.

15 Q. Can you please give a brief background of your of law
16 practice?

17 A. Been doing public defender work since 2005. Started
18 here in York County, and have been doing -- working at the
19 Union County Public Defender's Office since sometime in
20 2012.

21 Q. So your practice is mainly if not all been
22 criminal, criminal defense?

23 A. That's correct.

24 Q. Can you just give us a brief overview of how you
25 became appointed I guess in Mr. Puckett's case.

1 A. It think we heard a little bit of background. Mr.
2 Puckett originally had an attorney by the name of Melinda
3 Butler. They went to trial. There was a mistrial, hung
4 jury, in that case. And then I'm not sure -- I believe
5 Ms. Butler the issue was as far as her fees for the second
6 trial. I don't think she was able to be paid so then my
7 office got appointed.

8 Q. Okay. So she was retained?

9 A. I believe she was retained.

10 Q. As far as the evidence is concerned did you receive
11 discovery from Mr. Butler that she received from the
12 State?

13 A. I believe all my discovery came from the Solicitor.

14 Q. Okay.

15 A. I think I got a fresh batch of discovery. Also got
16 the transcripts from Mr. Puckett's first trial.

17 Q. Okay. Was there anything left out of discovery that
18 you felt should be in there? Were there any issues you
19 had with the Solicitor's Office regarding that?

20 A. No. I believe they did turn over everything that
21 they had to.

22 Q. Okay. Could you recall how many times before trial
23 you met with Mr. Puckett?

24 A. In anticipation of trial we had -- I can say we had a
25 number of meetings as far as C.J. coming to my office. I

1 believe we came over here to York as well to -- when we
2 knew we were going to trial to go through a
3 cross-examination. C.J. did or Mr. Puckett did testify at
4 his first trial. He did testify at the trial that I was
5 involved with. So there were meetings where we would go
6 through practice cross-examination, his direct. So I
7 think we had probably a solid 10 to 12 meetings as far as
8 getting ready for trial.

9 Q. And in those discussions he gave you his version of
10 the facts?

11 A. He did.

12 Q. Okay. Did he assist in his giving you an alibi,
13 defenses, anything like that?

14 A. Yes, he did.

15 Q. Okay. Now, as far as the State's evidence is
16 concerned did you see any issues with the search warrant?

17 A. Search warrant, no. Issue with the confidential
18 informant provided information to narcotics. They went to
19 a magistrate and took out the search warrant. There
20 weren't -- I didn't see any issues jump out from the
21 search warrant in the case.

22 Q. And any issues with the confidential informant how
23 that was handled?

24 A. No, sir.

25 Q. Okay. Now, were there any issues regarding

1 statements he gave?

2 A. I mean we had a -- we did do a, from what I can
3 recall, a Jackson v. Denno regarding his statements.
4 Yeah, law enforcement, narcotics were alleging that Mr.
5 Puckett did make a number of statements to them at the
6 time of his arrest at his house and also at the jail. So
7 those were issues, you know, that were in the case.

8 They were saying Mr. Puckett made those statements,
9 you know. My meetings with Mr. Puckett he would tell me,
10 "No, I did not make those statements," so that was
11 obviously an issue in the case.

12 Q. So when these statements were raised, when they were
13 discussed, you on cross-examination you challenged those,
14 correct?

15 A. Yes, that is correct.

16 Q. Okay. Now, regarding State's evidence, how would you
17 characterize the State's evidence against Mr. Puckett?
18 Weak? Strong?

19 A. I mean he was found, you know, in his house,
20 according to law enforcement. It was in the bathroom.
21 There was a bag of cocaine in this bathroom or in this
22 toilet. You had narcotics officers coming in saying that
23 Mr. Puckett made these statements to him admitting and
24 claiming the drugs. So I would surmise that that's a
25 tough case.

1 There was, I think you heard some from Mr. Puckett,
2 that there was another individual in the house at the time
3 that the police came in. So one of the main issues we
4 tried to present during Mr. Puckett's trial that those
5 drugs that were found didn't belong to him. They belong,
6 I think you heard, to a gentleman by the name of Travis
7 Anderson.

8 Q. Mr. Anderson, he didn't testify, correct?

9 A. He did not.

10 Q. And if I remember correctly didn't you bring that up
11 in your closing, where is he?

12 A. I thought that was argued that was Mr. Puckett's best
13 chance at this trial was to put the blame on Mr. Anderson,
14 and you know, I tried my best to do that.

15 Q. Okay. Now, just kind of back up a little bit. Were
16 you ever aware of any request for change of venue to a
17 different county?

18 A. I can't say that as far as specifically change of
19 venue, and I know Mr. Puckett had concerns for, you know,
20 Travis. Travis Anderson, who he was in the community.
21 His father was some type of magistrate in Union. I never
22 appeared in front of him. He wasn't involved with this
23 case at all. I'm not sure exactly what he did as far as
24 the Magistrate's Office. But I do know he was employed as
25 a magistrate for a period of time.

1 Q. So do you think any motions for change of venue would
2 have been successful?

3 A. I don't believe it would have been, and I never
4 seriously considered that in this case.

5 Q. Okay. Now, I want to point to the, I guess, what was
6 testified to as a direct appeal issue ---

7 A. Yes, sir.

8 Q. --- about mistrial. I believe you essentially -- the
9 sergeant, his first name, he was about to say that a C.I.
10 witnessed him sell -- I'm pointing to Page 158?

11 A. Yes. It was during my direct of this sergeant, Jimmy
12 Johnson, and I would argue that it wasn't something I was
13 trying at the time to elicit. But he did, looking at Page
14 158, it states his answer was -- it says, "And witness him
15 sell." And at that point is where I interrupted before he
16 could go any further with, "Your Honor," and he kind of
17 changed his course at that point.

18 Q. Right. So you did I guess move for mistrial all be
19 it several witnesses later?

20 A. Yes. I did not -- it wasn't a contemporaneous. I
21 did not object. I would have the jury go out at that
22 time, you know. Why? I guess that's the question that
23 think during direct. I don't know how much the jury heard
24 of that, you know, with me interrupting like I did. But I
25 did, obviously, bring it to the Court's attention several

1 witnesses later. I sat back down. It just continued not
2 to sit right, and I just wasn't sure what they heard, what
3 they didn't hear. And, yes, that was the issue there.

4 Q. Right. I'm looking at Page 210. All be it late,
5 after you made your motion did the Court rule on it?

6 A. Judge Hayes did -- I guess ultimately give a ruling
7 late at that time. Yes.

8 Q. Stating that there was no manifest testimony?

9 A. Right. I think he was -- had some frustration I
10 think with the officer involved, but ultimately he said
11 that he did not feel that a mistrial was warranted in the
12 case.

13 Q. Okay. And after the close of the evidence you
14 renewed your motion?

15 A. I did.

16 Q. And do you remember the Judge ruling again on the
17 mistrial?

18 A. That's correct. He did.

19 Q. Okay. Do you have any issues with photos that the --
20 photos of the car that were in evidence or that the State
21 may have had?

22 A. Yeah, that's, you know, I know there were some. From
23 what I recall there were some photos of Travis Anderson.
24 He had a car in the driveway, and they found some things
25 in his car. There were some photos taken of what was in

1 the care. You know, I feel that those photos were
2 referenced at some point during the trial. I made some
3 reference to those photos.

4 Q. Okay.

5 A. Now, did I put those photos into evidence or did the
6 State? I just can't recall. I can't say that I did put
7 those in, but I can just say that they were referenced.
8 I'm aware of them.

9 Q. Okay. And as far as challenging the possession of
10 the drugs in the car was that an issue that you wanted to
11 raise at this trial?

12 A. I mean Mr. Puckett was in charge of anything in Mr.
13 Anderson's car. Now, there were some things in Mr.
14 Anderson's car that I wanted the jury to know about just
15 to make it seem, you know, that he was the one more likely
16 to have had drugs on him in the house cause there were
17 some things there were in the car.

18 I think Mr. Puckett referenced that they found a set
19 of scales in his car, so that's something we wanted the
20 jury to know about.

21 Q. Okay. Regarding the Allen Charge that was given were
22 you aware at the time of any issues with the Allen Charge?

23 A. No.

24 Q. Okay.

25 A. I didn't want it to be read at that time, but I

1 didn't feel that I had any way of stopping it.

2 Q. Okay. You didn't see any grounds for an objection?

3 A. I didn't object.

4 Q. Okay. As far as what was said in the police reports
5 were you aware of any false statements given in the police
6 reports that led to the warrants or did you have any basis
7 to challenge that?

8 A. No. Other than Mr. Puckett, you know, obviously
9 they, narcotics, said a lot of things that he did not
10 agree with as far as his statements, you know. So we
11 tried to challenge those the best we could, and I know
12 that the C.I, the confidential informant, that they used
13 for the search warrant, you know, it was their testimony
14 that this is someone that at least in the warrant to the
15 Judge that this is someone they had worked with in the
16 past and was reliable and, etc.

17 Q. So as far as any actual statements given or
18 statements alleged to have been given you challenged those
19 during the trial?

20 A. I tried to.

21 Q. Okay. Perjury issues by law enforcement. I think
22 specifically he talked about what was said or alleged to
23 have been said at the jail. Did you have any reason to
24 suppress those?

25 A. Well, we tried. Like I said, we tried to challenge

1 some of those statements as far as, you know, there was --
2 nothing was recorded by the officers. There was nothing
3 written by Mr. Puckett. This was an officer coming in and
4 testifying, and this is what the defendant told me. So we
5 tried to challenge that, you know, as far as where is
6 something to back that up. But it was the officer's
7 testimony as far as Mr. Puckett's statements go.

8 Q. Okay. Was there anything after trial you felt that
9 you should have done that you did not do?

10 A. Other than the fact of, you know, if I had one thing
11 to do over again, you know, I probably would have sent the
12 jury out at the time and made the objection. But like I
13 said at that time I didn't know what they heard. I was a
14 little thrown during my direct but that would be the
15 main -- I think the main thing.

16 Q. And given the Judge's ruling on that mistrial you
17 think it would have been successful at that time if made
18 timely?

19 A. I -- my opinion is I don't think he would have.

20 Q. Okay.

21 MR. HUNTER: Beg the Court's indulgence one second.
22 No further questions.

23 CROSS-EXAMINATION

24 BY MS. MOODY:

25 Q. Mr. Delaney, your last point, you were talking about

1 the mistrial issue?

2 A. Yes, ma'am.

3 Q. You didn't think the Judge would rule in your favor
4 for a mistrial?

5 A. Well, looking back as far as what his ruling was when
6 I did ultimately make the motion a little later he said he
7 wouldn't grant it. So that's just me. That's my opinion,
8 you know, based upon what he said a little later in the
9 trial.

10 Q. Now, after the search warrant the other charges that
11 Mr. Puckett was charged with did you all have the C.I.'s
12 information, the name of the C.I?

13 A. Now, he never had, from what I can remember, he never
14 had any charges with the C.I. They just solely used the
15 C.I. to get the search warrant. And then he had a
16 possession with intent to distribute crack. He actually
17 was found -- he got a not guilty on that charge at trial,
18 but it was the trafficking cocaine is what the jury came
19 back guilty on.

20 Q. So, so that I'm clear, the basis for all the arrest
21 that he was tried for, the indictments that he was tried
22 for, they had nothing to do with the C.I.

23 A. Well, they used the C.I. to get the search warrant.

24 Q. Right. I understand that part, but I'm saying the
25 charges after they got the search warrant were all based

1 off of entering his home?

2 A. Yes, ma'am.

3 Q. Okay. So he did not receive any charges based on a
4 buy or sale to a C.I.?

5 A. Right. I can't recall if he had a distribution
6 charge or anything like that. No. I just had him on a
7 P.W.I.D. crack, trafficking cocaine, powder cocaine, and
8 then also there was some marijuana charge but the State
9 elected on the day of trial, I think they elected not to
10 go forward on the marijuana charge. And just the P.W.I.D.
11 crack and trafficking cocaine.

12 Q. Okay, then, did you discuss this with your client,
13 the need for the C.I. during the trial?

14 A. I guess do you -- I'm a little confused with that
15 question.

16 Q. If it was a confidential informant that made a
17 purchase or observed ---

18 A. Right.

19 Q. --- the drugs in the home. Did you discuss the
20 defendant's right to have that information as to the
21 confidential informant?

22 A. I guess what information are you ---

23 Q. If there was a C.I. involved in the case what's your
24 position as to whether the State has to disclose that C.I.

25 A. Well, he knows -- I mean he knew it was a C.I.

1 obviously involved in the case. As far as me being able
2 to get him that information as far as who that C.I. was,
3 you know, that was never given to me. They, obviously as
4 you can see, never called that person at trial. They
5 never intended to.

6 Q. I guess what I'm getting at is if you have a buy from
7 a C.I. would you have to disclose that -- would the State
8 have to disclose that to you?

9 A. They have -- no. I don't believe so. I know every
10 county is different how they disclose their C.I.
11 information and all of that, but in my opinion in this
12 type of case, no, they wouldn't have to disclose the C.I.
13 to me.

14 Q. And why is that?

15 A. Why is that?

16 Q. Yes.

17 A. Just in my experience where if I have a guy that's
18 not charged with -- if they're just using the C.I. to get
19 a search warrant to go into someone's house, okay. And
20 then charges come from what they find in the house, I have
21 had great difficult, zero luck, in getting information on,
22 you know, getting that C.I. into court ---

23 Q. Okay, I understand that.

24 A. --- information.

25 Q. I understand that, but what I'm asking is did you

1 explain that to your client?

2 A. Yes. We discussed -- we discussed that.

3 Q. Okay. That's what I'm getting to.

4 A. Okay.

5 Q. All right. I understand that the charges -- the
6 charges -- the drugs that were found in the house were the
7 drugs based off of what they, the officers, observed in
8 the house themselves?

9 A. Right.

10 Q. Okay. And that's the facts of this case?

11 A. Sure.

12 Q. So did you explain to Mr. Puckett that the C.I. was
13 not there. It wasn't necessary to have the C.I. present
14 for the trial because the officers actually saw the drugs
15 in the house?

16 A. Yeah, I tried to explain that to him. Yes, ma'am.

17 Q. Okay. And at the time that you represented him did
18 he appear to understand that?

19 A. I believe so.

20 Q. And so with that what was your strategy from the
21 beginning on how to handle this case?

22 A. Put the blame on the co-defendant, Travis Anderson.

23 Q. And did you discuss that with Mr. Puckett?

24 A. I did.

25 Q. Now, as to the pictures that were given to you by the

1 State were all the pictures from the car or do you recall
2 where all the pictures came from?

3 A. There were some pictures from the car, and then there
4 were some pictures taken when they took the drugs back to
5 the Narcotics Office. I think they set them on a table
6 and they made some photographs of the drugs at that time.

7 Q. Okay. So as far as you understood the drugs came
8 from the house?

9 A. Um hum.

10 Q. And ---

11 A. Yes.

12 Q. And go ahead?

13 A. No. I just want to make sure I answered yes.

14 Q. Okay. Did you have any reason to believe that those
15 drugs were in Mr. Anderson's car?

16 A. According to the allegations, you know, the
17 information was that the drugs were taken out of the
18 bathroom, the cocaine, the power cocaine. The large
19 amount specifically taken out of the toilet area of the
20 bathroom.

21 Q. Okay. So where were -- when they were taken out of
22 the toilet area was he trying to flush the drugs down the
23 toilet or they were just around the toilet?

24 A. I think it was the officer's testimony that they felt
25 that some of the drugs was already -- was dumped, but it

1 was -- there was still a bag they said they found. It was
2 around the top of the rim of the toilet; that there was a
3 bag that still had powder cocaine in it. They felt that
4 there was an attempt to at least try to dump something
5 that was in the bag.

6 Q. And did you discuss this with Mr. Puckett?

7 A. Yes.

8 Q. And did he appear to understand what the State's
9 allegations were?

10 A. Yes, ma'am.

11 Q. Okay. As to the Allen Charge you previously
12 testified that you didn't want the Allen Charge?

13 A. Well, I don't like the Allen Charge. It was given.

14 Q. Okay. Did you explain the Allen Charge to Mr.
15 Puckett?

16 A. I don't recall. I'm -- I don't recall.

17 Q. Okay. Now, earlier you talked about the magistrate,
18 the co-defendant's father, Mr. Anderson, and the
19 magistrate. Is it your testimony that the magistrate had
20 nothing to do with the case?

21 A. Yes, that's correct.

22 Q. So as far as the only thing that might have come
23 about was the magistrate issuing the search warrant?

24 A. Well, it would have been the search -- this
25 particular magistrate that was referenced earlier he did

1 not issue the search warrant or anything like that in this
2 case. It was served, I believe ---

3 Q. Okay.

4 A. --- by Judge Crocker who was one of the magistrates
5 in Union County. Yeah, there was Magistrate Young. He
6 wasn't involved anywhere in this case.

7 Q. Okay. Did you discuss that with Mr. Puckett?

8 A. Yes, he was aware of that.

9 Q. So was there a big contention -- I mean as far as
10 change of venue, I'm also assuming that the change of
11 venue is based on the recommendation and the knowledge of
12 this magistrate being in the county. Did you all discuss
13 that at all?

14 A. Yeah, we did. I know Mr. Puckett. I would say that
15 was a concern of his. His family of who this individual
16 was, who Travis Anderson was. It was someone I didn't
17 know, but they felt that he was someone who was getting
18 preferential treatment by, you know, the police.

19 You know, he was charged and they were both charged,
20 but obviously, Mr. Puckett was the one that was being
21 called to trial. Mr. Anderson wasn't. So Mr. Puckett did
22 feel that, you know, he was being treated unfairly.

23 Q. Was Mr. Anderson charged with trafficking as well or
24 he was not?

25 A. He was.

1 Q. And so the time that he was being called to trial was
2 there -- had there been a motion for a severance early on
3 or what happened?

4 A. Yeah. I don't recall. I know that they never called
5 Mr. Anderson. Just Mr. Puckett.

6 Q. And by the time you did the trial had Mr. Anderson
7 pled?

8 A. No. His charges were still technically I guess you
9 would say hanging at that time. I think that was the
10 testimony by one of the officers in this case that his
11 charges were still pending. There was no resolution.

12 Q. But you never filed a motion? You never filed a
13 severance motion?

14 A. No, ma'am.

15 MS. MOODY: No further questions for the witness,
16 Your Honor.

17 MR. HUNTER: Nothing else from the State, and the
18 State rests. That's all we have in this case.

19 MS. MOODY: No motions, Your Honor.

20 THE COURT: All right. Obviously, it will be under
21 advisement and both sides are invited to present proposed
22 orders. Any briefs you want to do with those proposed
23 orders make sure you exchange proposed orders and the
24 briefs with each other before you forward them on to me.
25 How long do you need, 30 days?

1 MS. MOODY: Thirty day.

2 MR. HUNTER: Thirty days will be fine.

3 THE COURT: All right. Thank you.

4 MS. MOODY: Thank you, Your Honor.

5 MR. HUNTER: Thank you.

6 END OF TRANSCRIPT OF RECORD

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

I, HATTIE O. GORDON, Official Court Reporter for the
4th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of Common Pleas for York
County, South Carolina, on the 20th day of January, 2016.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto.

November 8, 2016



HATTIE O. GORDON, Court Reporter

JUDGEMENT ROLL NO. 2015CP4400125

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
OF THE SIXTEENTH JUDICIAL CIRCUIT

COUNTY OF UNION)

2015-CP-44-125

Clarence Julius Puckett,
S.C.D.C. No. 353209,

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSAL

CLERK OF COURT
UNION, SCFILED FOR RECORD
2016 AUG 3 PM 2 48

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed March 23, 2015. Respondent made its Return on or about December 30, 2015. An evidentiary hearing into the matter was convened on January 20, 2016, at the Moss Justice Center in York, South Carolina. Applicant was present at the hearing and represented by Leah Moody, Esquire. Justin Hunter, Esquire, of the South Carolina Attorney General's Office represented Respondent. At the hearing, Applicant testified on his own behalf. Applicant's trial counsel, Erik Delaney, Esquire, (hereinafter "Counsel") also testified. This Court had before it a copy of Applicant's records from the Union County Clerk of Court, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's PCR Application, and Respondent's Return.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Union County Clerk of Court. Applicant was True Bill indicted at the October 2009 term of the Union County Grand Jury for Trafficking in Cocaine (2009-GS-44-1210). Applicant was represented by Eric Delaney, Esquire. Applicant underwent a jury trial

on November 13-15, 2012, before the Honorable John C. Hayes, III. Applicant was found guilty of trafficking in cocaine. Applicant was sentenced to imprisonment for ten years.

Applicant timely filed a notice of appeal on November 12, 2012, and the appeal was perfected by his appellate counsel, Appellate Defender Carmen V. Ganjehsani. By Order filed October 1, 2014, the South Carolina Court of Appeals affirmed Applicant's convictions. The Remittitur was sent October 17, 2014.

In this PCR action, Applicant alleged he was being held unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a. Counsel failed to object to introduction of illegally seized drugs
 - b. Counsel failed to ask for mistrial at appropriate time
 - c. Counsel failed to ask for a change of venue
2. Ineffective Assistance of Appellate Counsel
 - a. Appellate Counsel failed to file an appeal to the Supreme Court after the Court of Appeals affirmed conviction.

II. SUMMARY OF THE TESTIMONY

Applicant's Testimony

Applicant testified that Counsel should have made a timely motion for mistrial and that his direct appeal was denied because the motion for a mistrial was not called in a timely fashion.

Applicant testified that Counsel should have asked for a change of venue from Union County. He testified that his codefendant, Travis Anderson, worked for the Department of Social Services and his codefendant's dad, Leslie Anderson, was a magistrate judge. He testified that Counsel should have asked for a change of venue because a trial in Union County would be biased against him. Applicant did testify that Judge Anderson had no role during any part of Applicant's trial.

Applicant testified that Counsel asked the State to provide information about the confidential informant but the State would not comply. He testified that Counsel never

challenged the possession of drugs in Travis Anderson's car or the possession of scales. Applicant testified that law enforcement committed perjury in their police report when they stated that Applicant told officers about selling drugs and his ability to get nine ounces of cocaine from a dealer.

Applicant testified that his appellate counsel should have challenged the Allen Charge that was given at trial. He also testified that appellate counsel should have filed for rehearing to the Supreme Court.

Counsel's Testimony

Counsel testified that his law practice history has been entirely in the criminal defense field and he has been a public defender since 2005. He testified that Applicant was represented by Melinda Butler at the first trial which ended in a hung jury. He testified that once he began his representation of Applicant, he received all of the discovery from the Solicitor's Office. Counsel testified that he met with Applicant about ten to twelve times preparing for trial.

Counsel testified that there were no issues with the search warrant and that the search warrant was obtained through information from the confidential informant. He testified that he explained to Applicant that the confidential informant was not necessary or required in his case and that he believed Applicant understood this information. Counsel testified that there were not any issues with the confidential informant. He testified that the confidential informant was not disclosed because the charges did not arise from buying from or selling to the confidential informant but from the police officers entering the home. Counsel testified that a Jackson v. Denno hearing was held and Counsel challenged all admitted statements on cross-examination. Counsel also testified that Applicant was not charged with possession any of the drugs found in Travis Anderson's car.

Counsel testified that Travis Anderson did not testify at trial about Counsel brought this to the jury's attention in closing. He testified that their best defense strategy was to put all the blame on Mr. Anderson. Counsel testified that Applicant had concerns about Mr. Anderson's father being a magistrate judge but Counsel did not see any issue because Applicant did not appear in front of Judge Anderson and Judge Anderson did not have any involvement with Applicant's case.

Counsel testified that he moved for a mistrial but it was not contemporaneous. He testified that the trial judge still gave a ruling on the mistrial and denied it because the judge found there was no manifest necessity to grant the mistrial. Counsel further testified that he does not particularly like the Allen charge but had no reason to contest it.

III. APPLICABLE LAW

In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the trial transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a matter of general impression, this Court finds Applicant's testimony and assertions to be not credible. In contrast, this Court finds Counsel's testimony to be credible and persuasive on all matters. These credibility findings have been applied to the Court's findings and conclusions set forth below.

Ineffective Assistance of Counsel

This Court finds that Applicant failed to meet his burden of proving that his trial counsel was ineffective. First, this Court finds that Applicant has failed to prove that Counsel was deficient for failing to object to the introduction of the drugs. This Court finds Counsel's

testimony persuasive that he had no lawful reason to challenge the search warrant which was lawfully obtained from a confidential informant's information. Additionally, the record reflects that the evidence against Applicant was seized pursuant to this lawfully obtained search warrant. This Court finds that Counsel rendered effective assistance in regards to this allegation.

Next, this Court finds that Applicant has failed to meet his burden of proving that trial counsel was ineffective for failing to move for a change of venue for Applicant's trial. This Court finds this allegation to be without legal justification as Applicant was tried in the county where the crime was committed before an impartial judge and jury. Applicant's allegations that he suffered bias because his codefendant's father was a magistrate is unsubstantiated and conclusory and this Court finds the allegation to be without merit. Accordingly, Counsel was not ineffective for failing to request a change of venue for Applicant's trial. Applicant has also failed to prove that the result of his trial would have been different had Counsel moved to change venue. Applicant's codefendant did not testify and Judge Anderson had no involvement in Applicant's pre-trial or trial proceedings. Thus, Applicant has failed to meet his burden to show that he was prejudiced by having his trial in Union County.

This Court also finds that Applicant has failed to meet his burden of proving that Counsel was ineffective for failing to timely move for a mistrial. During Counsel's cross examination of Sergeant Jimmy Johnson, Counsel began to ask how the search warrant was obtained and the following exchange took place:

A. Yes. Lieutenant Sherfield gave me a call advised me that one of our confidential informants --

Q. Right.

A. -- that we had used had been to Mr. Puckett's location --

Q. Right.

A. -- and witnessed him sell --

MR. DELANEY: Your Honor.

THE COURT: Just - Go on to your next question.

BY MR. DELANEY:

Q. Again, my question to you is, and if you - just wait.

A. Okay.

Q. Listen to what my question is. You received information; is that right?

A. Right.

Q. From Officer Sherfield?

A. Correct.

Q. Okay. And your job at that point was to take that information to somebody and to get a warrant; is that right, search warrant?

A. Correct.

(Tr. Transcript p. 158 l. 10 - p. 159 l. 5).

After several more witnesses, Counsel asked the court to consider a mistrial for Sergeant Johnson's testimony because it began to mention that a confidential informant had witnessed Applicant sell something. (See. Tr. Transcript p. 208). This issue was raised on appeal and dismissed as unpreserved because no contemporaneous motion for a mistrial was made. Applicant now alleges Counsel's untimely motion for a mistrial constitutes ineffective performance because it prevented the matter from being heard on the appellate level. This Court finds that even if this action is ineffective, Applicant cannot show that he was prejudiced because the trial court ruled on the motion, despite the fact that it was untimely made. The trial court denied the motion, finding that there was no manifest necessity to grant the mistrial because it was gratuitous information. (See. Tr. Transcript p. 210). The record also reflects that Counsel renewed this motion at the close of the State's case and again the trial judge denied the motion as there was no manifest necessity. (See Tr. Transcript p. 226-227). This Court finds that Applicant cannot show that the result of his trial would have been different had Counsel made a timely motion for a mistrial because the trial judge twice stated his ruling on the matter. Given that the

trial judge revealed how he would have ruled on the motion had it been timely made and applied the correct standard, this Court finds that Applicant was not prejudiced by Counsel's failure to raise the issue contemporaneously. Accordingly, this allegation must be dismissed.

Ineffective Assistance of Appellate Counsel

This Court finds that Applicant's allegation that his appellate counsel failed to file an appeal to the Supreme Court after the Court of Appeals affirmed his conviction must be dismissed. An individual has no constitutional right to the effective assistance of counsel when seeking discretionary appellate review. Wainwright v. Torna, 455 U.S. 586, (1982) (no Sixth Amendment right to counsel in pursuing discretionary appeal); see also Ross v. Moffitt, 417 U.S. 600 (1974) (no Fourteenth Amendment right to counsel when pursuing discretionary appeal after an appeal of right); State v. Clinkscale, 318 S.C. 513, 458 S.E.2d 548 (1995) (Sixth Amendment right to counsel "extends only to the first right of appeal").

The South Carolina Supreme Court has explicitly held that appellate counsel has no duty "to pursue regrading and or to pursue rehearing and/or certiorari following the decision of the Court of Appeals in a criminal direct appeal." Douglas v. State, 369 S.C. 213, 215-16, 631 S.E.2d 542, 543-44 (2006). The Court further stated:

The imposition of such a duty would conflict with this Court's explanation in In re Exhaustion of State Remedies in Criminal and Post-Conviction Relief Cases, 321 S.C. 563, 471 S.E.2d 454 (1990), that the Court of Appeals was created to reduce the State's appellate backlog." Id. A holding that certiorari must be sought whenever requested would increase this Court's workload by increasing the number of criminal writs of certiorari to the Court of Appeals. This Court "reviews [Court of Appeals] decisions by writ of certiorari only where special reasons justify exercise of that power." Id. We find that the decision whether to pursue certiorari is a matter left solely to the appellant's attorney's professional discretion.

Id.

Applying Douglas and its progeny of cases to this case, this Court finds that this allegation must be denied and dismissed with prejudice. Appellate counsel had no duty to petition for rehearing or to the Supreme Court for discretionary review. Furthermore, Applicant had no right to appellate review from the Supreme Court following his full and complete review by the Court of Appeals. Applicant cannot establish deficiency or prejudice as to this allegation, which must be denied and dismissed with prejudice.

V. CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of appeal within thirty days from the receipt of this Order by counsel of record to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

[Signature page to follow]

IT IS THEREFORE ORDERED:

1. That this application for post-conviction relief must be denied and dismissed with prejudice; and
2. That Applicant shall remain in the custody of the State.

AND IT IS SO ORDERED this 25th day of July, 2016.

DANIEL D. HALL
Chief Administrative Judge
Sixteenth Judicial Circuit

York

, South Carolina

JUDGEMENT SIGNED AND
ENTERED UP 8-3-16

CLERK OF COURT

A TRUE COPY

AUG - 3 2016

STATE OF SOUTH CAROLINA
 COUNTY OF UNION
 IN THE COURT OF COMMON PLEAS

Clarence Julius Puckett

FILED FOR RECORD

South Carolina State of

PLAINTIFF(S)

2016 AUG 3 PM 2:48

DEFENDANT(S)

Submitted by:

CLERK OF COURT

Attorney for: ☐ Plaintiff ☐ Defendant

☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

SEE ATTACHED ORDER OF DISMISSAL

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

s/Daniel D. Hall

2753

7/25/16

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on 3rd day of August, 2015, and a copy mailed first class or placed in the appropriate attorney's box on 3rd day of August, 2015, to attorneys of record or to parties (when appearing pro se) as follows:

Leah B. Moody 235 E. Main St., Ste 115 PO Box 1015 Rock Hill, SC 29730

Justin J. Hunter, Office of the Attorney General, PCR Division, PO Box 11549, Columbia, SC 29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

June H. Miller / clw
June H. Miller - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

WITNESSES

Sherfield/UCSO

ARREST WARRANT NUMBER

K302214

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Person of Grand Jury
Date: OCT - 8 2009

VERDICT

Guilty

[Signature]
Person of Petit Jury
Date: 11-15-12

DOCKET NO. 2009-GS-44-1210

The State of South Carolina

County of Union

COURT OF GENERAL SESSIONS

OCTOBER 12, TERM 2009

THE STATE

vs.

CLARENCE JULUIS PUCKETT, III

Indictment for

TRAFFICKING IN COCAINE

SC Code: 44-53-370

CDR Code: 2359

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 UNION)

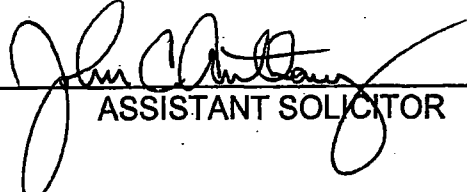
INDICTMENT

At a Court of General Sessions, convened on October 08, 2009, the Grand Jurors of Union County present upon their oath:

TRAFFICKING IN COCAINE

That Clarence Juluis Puckett, III, did in Union County, South Carolina, on or about August 21, 2009, traffic in Cocaine in that he did wilfully, unlawfully and knowingly sell, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of a quantity of Cocaine or any mixtures containing Cocaine, as provided in Section 44-53-210, et.seq., Code of Laws of South Carolina (1976, as amended), in an amount being more than 28 grams but less than 100 grams, in violation of Section 44-53-370, Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR