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SC Court of Appeals

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RONALD DAVID RATLIFF,

APPELLANT

APPELLATE CASE NO 2016-001267

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA) GENERAL SESSIONS COURT
2 COUNTY OF CHARLESTON) CASE NO.2015-GS-10-01375;
01376

4 STATE OF SOUTH)
CAROLINA,)
5 Plaintiff,) Transcript of Record
6 vs.)
7 RONALD DAVID RATLIFF,) Date: June 6 - 8, 2016
8 Defendant.)

9 * * * * *

12 B E F O R E:
13 THE HONORABLE DEADRA JEFFERSON

17 * * * * *

20 Denise J. Lauder, RPR
21 Ninth Judicial Circuit

1 much done today as possible so that we don't have
2 to bring you back and forth, and also so we don't
3 have to send you out to lunch and then have you
4 come back; that requires you to also spend more
5 time downtown than you may want to.

6 I understand that it's raining
7 torrentially outside. Hopefully, that will subside
8 before you are excused.

9 I intend to select two criminal juries
10 at least preliminarily today for those to start on
11 tomorrow and on Wednesday or Thursday. So I give
12 that to you for planning purposes.

13 The first case that we are going to
14 select is the State of South Carolina V Ronald
15 David Ratliff.

16 Sir, if you will stand so that the
17 clerk can proceed with your formal arraignment.

18 THE CLERK: Case number
19 2015-GS-10-01376, State of South Carolina V Ronald
20 David Ratliff. Indictment for possession of
21 contraband in county jail.

22 If you would answer to that name,
23 please raise your right-hand.

24 THE DEFENDANT: (Raised hand)

25 THE CLERK: You may put it down.

1 that the court's instructions are adhered to during
2 deliberation.

3 In order to reserve everyone's rights,
4 I'm going to give counsel the right to take
5 exception to anything that the Court has said by
6 way of opening instruction. Any exception from the
7 State?

8 MR. COOPER: Nothing from the State,
9 Your Honor.

10 THE COURT: From the defense?

11 MS. FORD: No, Your Honor.

12 THE COURT: Ladies and gentlemen, I
13 would ask that you give counsel your undivided
14 attention in opening argument.

15 You may proceed.

16 MR. COOPER: Thank you, Your Honor.
17 May it please the Court.

18 THE COURT: Yes, sir.

19 MR. COOPER: Ms. Ford, Mr. Mack.

20 Ladies and gentlemen of the jury, good
21 morning. On December 18, 2014, the defendant,
22 Ronald Ratliff, was incarcerated in the Charleston
23 County Detention Center in North Charleston. He
24 had a court hearing downtown Charleston so he was
25 transported from the jail to Lockwood Boulevard for

1 the court hearing and then back to the jail.

2 Once he got back to the jail, he waited
3 to be patted down by detention officers. Every
4 person that is booked into a jail, whether they be
5 a new arrestee or an inmate that is returning to
6 the jail, they are patted down. You will hear from
7 a detention officer today that would tell you why
8 they do and what they're looking for.

9 The defendant waited several minutes in
10 the intake area of the jail to be patted down.
11 Captain Donald Salters, who will testify in just a
12 few minutes, was the one that patted him down. And
13 you will hear from him and he will tell you what
14 happened that day.

15 You will hear from him how as soon as
16 he walked up to the defendant to pat him down, he
17 smelled the overwhelming smell of marijuana coming
18 from the defendant. He will also tell you why they
19 go through that process, why they pat everybody
20 down, how many times they do it, why they search
21 people, why it's important to keep weapons and
22 contraband out of the jail population.

23 As a result of the strong odor of
24 marijuana, Captain Salters advised the defendant
25 that he was going to have to be strip searched.

1 Captain Salters will tell you why that was
2 necessary. So he told the defendant that he was
3 going to be strip searched and escorted the
4 defendant into the strip search room they have for
5 that purpose.

6 You will also hear that once inside
7 that strip search room, before the search began,
8 the defendant reached inside his jail jumpsuit into
9 his underwear and grabbed a bag of marijuana. Now,
10 that bag contained nine smaller bags with each one
11 having marijuana.

12 Now, there are two things I want you to
13 keep in mind during this trial: Timing. The
14 defendant waited until he was just about to be
15 strip searched before officers would have found the
16 marijuana anyway and that's when he gave it to the
17 officers. At no time before did he do that. It
18 was just before the strip search.

19 The second thing I want you to remember
20 is the location. Inside the jail, where did he
21 have the marijuana? It was hidden in his
22 underwear. Keep those two things in mind while you
23 listen to the testimony today. As a result, as the
24 judge said, the defendant is charged with two
25 crimes; possession with the intent to distribute

1 marijuana and possession of contraband inside a
2 county jail.

3 Now, after trial -- at the end of the
4 trial the judge will instruct you as to the law of
5 both of those charges, the elements, and the law in
6 the state of South Carolina that's applicable. She
7 is the judge of the law, you are the judges of the
8 facts. So take what she says, take the law as she
9 gives it and apply it to the facts as you see fit.

10 So all I ask is that you pay attention
11 to the testimony and listen to what the witnesses
12 say, observe the evidence. You get to determine
13 what's important. What facts are important and
14 what facts aren't. You get to determine who sounds
15 credible and who doesn't. As the judge of the
16 facts, that's your role.

17 Once you have gathered all the facts,
18 once you have made those determinations and you
19 apply that to the law that she gives you -- not the
20 law that you may want it to be, or the law you
21 think it should be, but the law as the judge gives
22 you. Once you do that, once you do as your oath
23 says, well and truly try the case and a true
24 verdict rendered based on the evidence and the law,
25 so once you do all that, I think you will come to

1 one logical conclusion, he's guilty.

2 Thank you.

3 THE COURT: Ms. Ford.

4 MS. FORD: Thank you, Your Honor. May
5 it please the Court?

6 THE COURT: Yes, ma'am. You may
7 proceed.

8 MS. FORD: David Ratliff perhaps made a
9 poor decision, but not a criminal one. He decided
10 not to trust certain police officers and instead he
11 wanted to speak to the supervisor, the person in
12 charge, and that's exactly what he told people.

13 In December of 2014, David was
14 incarcerated at the Charleston County Detention
15 Center. He was taken from the jail to city court
16 on Lockwood, as the Solicitor mentioned. And on
17 his way there, he was by himself, on the way back
18 there was another guy in the van, but in a
19 completely different compartment.

20 He was transported by two officers,
21 Officers Gibbs and Lewis. Now, the funny thing
22 about this van is that it reeked of marijuana and
23 it was very noticeable. And David, on the way to
24 jail, had a conversation with the officers about
25 this odor. They acknowledged it. They said, yeah,

1 it's been smelling like that for a awhile, we've
2 looking, nothing's back there.

3 So David tells them, I'm going to
4 search for it. And they say, yeah, yeah, sit down.
5 But David doesn't. Instead, he looks and he easily
6 finds the marijuana, but at this point something is
7 suspicious and so he makes a decision not to tell
8 the officers about the marijuana he found.

9 Instead of trusting these two guys who
10 had not been able to find the easily found
11 marijuana, he decided to wait until he would be
12 able to speak to a supervisor. So when he got to
13 the jail he asked several times, can I speak to a
14 supervisor? And they said, no, not until you tell
15 us why. Can I speak to a supervisor? Again, no,
16 not until you tell us why.

17 And so after that, when they're going
18 to search him, he readily takes it out. The
19 marijuana is right in the front of his jumpsuit,
20 stuck in sort of his boxers under the jumpsuit.
21 This is a place -- a very obvious place, a place
22 that something would easily be discovered during
23 the pat-down. The Solicitor mentioned a pat-down
24 to you and it's just like it sounds, a police
25 officer will literally pat down a person's body.

1 You may have experienced this or seen
2 an officer do it on the side of the road or a
3 traffic stop, or maybe on TV, because marijuana
4 would have been easily discovered on David's way
5 back into the jail.

6 In this trial, we would ask you to look
7 at David's actions, the context, and what makes
8 sense. Because the thing about a crime is that
9 intent is important. One of the charges before
10 you, possession with intent to distribute
11 marijuana, even has that word in its title. And
12 intent to commit a crime is what David did not have
13 that day.

14 His intent was to hand the marijuana
15 over to who he believed was the right person. And
16 at the end of this trial we would ask you to find
17 David Ratliff not guilty.

18 MR. COOPER: State calls Officer Ernest
19 Lewis.

20 ERNEST LEWIS,
21 being first duly sworn, testified as follows:

22 THE CLERK: Thank you very much, have a
23 seat. And for our record, if you can state your
24 first and last name and spell out your last name
25 please.

1 THE WITNESS: First name is Ernest,
2 last name is Lewis, L-E-W-I-S.

3 THE COURT: You may proceed.

4 MR. COOPER: Thank you, Your Honor.

5 THE COURT: You're welcome.

6 DIRECT EXAMINATION

7 BY MR. COOPER:

8 Q. Morning, Officer Lewis.

9 A. Morning.

10 Q. Can you tell the jury where you work?

11 A. I work for the City of Charleston.

12 Q. In what capacity do you work for the
13 City of Charleston?

14 A. I'm a transport officer.

15 Q. How long have you done that?

16 A. Eight years.

17 Q. Can you describe for the jury what is
18 entailed in being a transport officer?

19 A. Well, I do court transports for two
20 years, and that consists of picking up inmates
21 that's already incarcerated in jail and bring them
22 to court and return them back to the jail.

23 Q. Did you become involved in transporting
24 the defendant back in December 2014?

25 A. Yes, sir.

1 Q. Where were you transporting him from
2 and to?

3 A. I was transporting him from county jail
4 to magistrate's court at Lockwood.

5 Q. And was anybody else with you at that
6 time?

7 A. Yes; Transport Officer Gibbs.

8 Q. What kind of vehicle were you driving?

9 A. Transport van.

10 Q. Who was driving the vehicle that day?

11 A. Transport Officer Gibbs.

12 Q. And do you remember what the number of
13 that van was?

14 A. 113.

15 Q. Okay. Where was -- where were you
16 sitting? If Officer Gibbs was driving, where were
17 you sitting in the van?

18 A. Passenger side front.

19 Q. Is that the front compartment separate
20 from where you transport the inmates?

21 A. Yes, it is.

22 Q. Right. And then can you describe for
23 the jury the way the passenger compartments are set
24 up?

25 A. On the side of the passenger, there's a

1 side door that fits about three, and then you have
2 the back another -- another compartment -- and not
3 a compartment, another section. And that holds
4 about -- anywhere between seven and eight.

5 Q. Are those two compartments separate?

6 A. Yes, it is.

7 Q. Can you get in between those two
8 compartments inside the van?

9 A. No.

10 Q. I want to show you what's been
11 introduced as evidence, State's Exhibit 1. Is that
12 the van you used that day?

13 A. Yes, it is.

14 Q. Showing you State's Exhibit 2. Is that
15 with the right number?

16 A. Yes, it is.

17 Q. Showing you State's Exhibit 3. Can you
18 tell the jury what this shows?

19 A. This is the side door of the van where
20 you have the front door, which is the outside door,
21 and then you have what -- the inside door where we
22 are able to see the inmates before we can bring
23 them out. Some of them will try to escape if we
24 can't see them from inside the van.

25 Q. Showing you State's Exhibit 4. Is that

1 the inside of the side compartment?

2 A. Yes.

3 Q. Can you kind of orient the jury; on the
4 left, is that where the inmates would sit?

5 A. On the left, yes.

6 Q. Okay. And you can actually touch on
7 the screen and draw where the inmates would be
8 sitting.

9 A. This holds three. So you have one here
10 and one here and one here. (Indicating)

11 Q. All right. And then on the right side
12 of the screen, is that where your compartment would
13 be?

14 A. On the right side, right.

15 Q. And you said you can see the inmates
16 that are in -- there's a window where you can see
17 between the compartments?

18 A. You can see not that good on this van
19 here, you can't see that. This door right here is
20 adjustable where, if you have a combative inmate,
21 you can put two here and close the door and he'd be
22 away from the other two. That's right here.
23 (Indicating)

24 Q. I'm showing you State's Exhibit 5. Can
25 you tell the jury what this shows?

1 A. This is the back of the van which holds
2 about anywhere between eight and nine, and they
3 would be sitting on each side there.

4 Q. And then showing you State's Exhibit 6?

5 A. This is inside of the van and they
6 would be sitting along here.

7 Q. Okay. Now, I want to focus your
8 attention back on when you're driving the van. How
9 often do you search the van?

10 A. We search it in the morning. If you
11 are on a day shift, when you come in at 7:00, you
12 search it. It's searched on the night shift when
13 that person leaves also; so it's a double check.

14 Q. So at the beginning and end of each
15 shift?

16 A. Exactly.

17 Q. Do you also transport -- search it
18 after transports?

19 A. Yes, you do.

20 Q. Okay. And then why do you search it?
21 What are you looking for when you --

22 A. Because they hide contraband, anywhere
23 between razors, drugs, marijuana. Anything in
24 there, they hide under the seats here.

25 (Indicating) And sometimes they can try to get it

1 in the back seats, guns.

2 Q. Now, why is it important for you to
3 search and find those items?

4 A. Because you have to be careful, they
5 can use it on you. Or on the next van of prisoners
6 that you take, they can get hold of them and use it
7 on you. So we try to search it every time because
8 you never know.

9 Q. So it's in your best interest to be
10 thorough when you search?

11 A. Absolutely.

12 Q. Okay. Now, what compartment did the
13 defendant sit in on the way to Lockwood?

14 A. He sat in the side.

15 Q. I'm showing you State's Exhibit 4.

16 A. He sat right here. (Indicating)

17 Q. Okay. And was the defendant restrained
18 during transport?

19 A. Yes.

20 Q. How was he restrained?

21 A. This defendant had a belly belt on with
22 handcuffs on the side, and all prisoners wear
23 shackles on their ankles.

24 Q. Did that van have an odor of marijuana
25 at that time?

1 A. Yes, it did. We had problems with that
2 for many times, because the slider down there -- we
3 can't smell it, so we have to unscrew the whole
4 thing, which we did a couple of times to see what
5 was in it. And usually the residue gets in there
6 from the heat, it's so hot in there. And actually
7 marijuana can penetrate that metal, and we can
8 hardly get it out of the metal. And then we tried
9 to spray it.

10 Q. So even if there is not any marijuana
11 there, the smell still may linger?

12 A. Yeah, there could be a little scent of
13 it.

14 Q. Now, other than your routine searches,
15 were there any other searches that were done to the
16 van to make sure there wasn't any marijuana in
17 there?

18 A. Oh, yes. Yes. We had taken (sic)
19 that numerous times in the shop because we do
20 transport. So we have to make sure that there's no
21 fresh stuff that's in there, and that it's still
22 that scent that's in the cushion, which is made of
23 cotton.

24 Q. Do they do a more detailed search at
25 the shop?

1 A. Absolutely.

2 Q. Do you know what that search entailed?

3 A. Yes.

4 Q. Can you tell the jury for me?

5 A. They uncrew -- they unscrew the screws
6 and take off the back so you're actually going to
7 get to see the metal.

8 Q. Now, underneath that cushion where the
9 individual would sit on, is that just a metal
10 bench?

11 A. Yes, that's a metal bench underneath of
12 it.

13 Q. There's no compartment underneath the
14 seat?

15 A. No.

16 Q. You have to come in from the front of
17 the picture?

18 A. Right.

19 Q. Did you also have K9 search the
20 vehicle?

21 A. It was brought to my attention, but I
22 didn't do it. I didn't do it.

23 Q. Was that done recently before this
24 incident?

25 A. Yes, all this was before that.

1 Q. And during those searches at the shop,
2 there was no contraband or marijuana or anything
3 found, was there?

4 A. No.

5 Q. So you said you transported the
6 defendant to Lockwood Boulevard which is city
7 court?

8 A. Yes.

9 Q. Okay. And then what happened at city
10 court.

11 A. We have a long tunnel from -- it's
12 attached on to the city jail. Well, there's no
13 more city jail, but it's attached on to the sally
14 port at the city, and it's a long tunnel that I
15 bring them up to the door at the side to the
16 courtroom.

17 Q. If you could explain to the jury what a
18 sally port is?

19 A. The sally port is where you have the
20 front desk, you have the sergeant, and you have a
21 holding cell there. It's a booking area where
22 officers do the booking reports and stuff like that
23 temporarily.

24 Q. Did you escort the defendant to court
25 and back to the van?

1 A. Yes.

2 Q. And when you left did you have anybody
3 else in the van when you headed back?

4 A. Yes, we did. We had a prisoner that
5 when I came downstairs and -- we call it a fresh
6 prisoner. That means he's from the street.

7 Q. So it wasn't somebody who had come from
8 the jail, it was somebody who had just been
9 arrested?

10 A. Exactly.

11 Q. And you did you transport him with
12 Mr. Ratliff?

13 A. Yes.

14 Q. Where did the fresh prisoner sit?

15 A. We keep them separated in the back
16 compartment, and Mr. Ratliff was in the side
17 compartment.

18 Q. So they didn't share the same
19 compartment?

20 A. No, they don't.

21 Q. And Mr. Ratliff was in the same
22 compartment that he rode down when he rode back to
23 the --

24 A. Absolutely.

25 Q. And then once you got back to the jail,

1 where did you take the defendant?

2 A. That goes right into what you call the
3 intake. Intake -- that's your returning prisoners,
4 you go into the intake and then you wait on line
5 and he has to be patted down, not strip searched.

6 Q. And do you wait with the inmate that
7 you're bringing back until they get patted down?

8 A. Yes, sir.

9 Q. Why do you do that?

10 A. He's still in my custody until we check
11 him into the county jail.

12 Q. How long were you and Mr. Ratliff
13 waiting for Captain Salters?

14 A. We had about three or four prisoners on
15 the wall, fresh from the street. So anywhere from
16 five to ten minutes.

17 Q. During that point in time, did he ever
18 say anything to you?

19 A. No, he didn't.

20 Q. Did he ever ask you to speak to a
21 supervisor?

22 A. No, he didn't.

23 Q. And you're not employed at the jail,
24 are you?

25 A. No, I'm not.

1 Q. Now, it was Captain Salters who came
2 down to pat down the defendant, right?

3 A. Yes, he did.

4 Q. What happened as Officer Salters began
5 the search process?

6 A. Salters came over to me and said he
7 smelled marijuana on the prisoner.

8 Q. How did the defendant react at that
9 time?

10 A. We talked about it and then we went to
11 him and told him he had to get strip searched. He
12 didn't want to comply to a strip search.

13 Q. Did you smell the marijuana?

14 A. I didn't smell it, Officer Salters did.

15 Q. But you didn't pat down the defendant?

16 A. No, I didn't pat him down.

17 Q. Did you go into the strip search room
18 with Officer Salters and the defendant?

19 A. Yes.

20 Q. Can you tell the jury what happened in
21 the strip search room?

22 A. We asked him to take off his -- I want
23 to say his clothing, and he refused.

24 Q. Okay. And then what else happened
25 before the actual strip search?

1 A. Well, the lieutenant from county jail
2 heard the disturbance, because it was loud in
3 there, and lieutenant opened the door and spoke to
4 him and told him he would have to comply.

5 Q. Why was it loud in there?

6 A. We was -- he was loud and we was trying
7 to tell him to obey our command.

8 Q. Did he want to go through a strip
9 search?

10 A. No, he didn't. After that he said he
11 wanted to see the captain.

12 Q. Did he hand everything over to your
13 Officer Salters?

14 A. After the lieutenant told him, that's
15 when he reached into his front pants and handed
16 over the white substance -- I mean, white bag with
17 marijuana in it.

18 Q. So the lieutenant actually came into
19 the room?

20 A. Well, she opened the door.

21 Q. Okay. Now, did the defendant ever tell
22 you or anybody else before handing over that
23 marijuana that he found any marijuana?

24 A. No, he didn't.

25 Q. Did you ever see that bag of marijuana

1 prior to when the defendant had it in his hand?

2 A. No.

3 MR. COOPER: Beg the Court's
4 indulgence?

5 THE COURT: Yes, sir.

6 MR. COOPER: Thank you, Officer Lewis.
7 I have no further questions. Please answer any
8 questions that the defense may have for you.

9 THE WITNESS: Yes.

10 THE COURT: You may proceed.

11 MS. FORD: Yes, Your Honor. May it
12 please the Court.

13 THE COURT: Yes, ma'am.

14 CROSS-EXAMINATION

15 BY MS. FORD:

16 Q. Hello, Officer Lewis.

17 A. Morning.

18 Q. Officer Lewis, are you trained -- did
19 you go to the law enforcement academy?

20 A. Yes, I did.

21 Q. When you go to the academy, you all are
22 trained about report writing, correct?

23 A. Yes.

24 Q. And reports are important for several
25 reasons, one of which is to help you with your

1 memory, correct?

2 A. Yes.

3 Q. Often cases may take a year and a half
4 to get to trial?

5 A. Correct.

6 Q. You didn't actually write a report for
7 this case, did you?

8 A. No.

9 Q. The van -- you told us the transport
10 van smelled like marijuana prior to the day
11 Mr. Ratliff was in the van, correct?

12 A. It was a slight scent. It wasn't
13 something that -- it wasn't something like we had
14 to take it to the shop; we knew about it. When it
15 gets warm and that cotton heats up, you can smell a
16 little scent.

17 For instance, we had two inmates that
18 we took to court that morning in the same spot.
19 They didn't smell it. So once it starts heating
20 up, you may smell it.

21 Q. The van would smell on and off like
22 marijuana, correct?

23 A. Correct.

24 Q. So you took two other inmates to jail
25 that morning?

1 A. Correct.

2 Q. And they never mentioned the smell of
3 marijuana to you?

4 A. Correct.

5 Q. Okay. So they just -- you didn't have
6 a conversation about marijuana with the morning
7 inmates?

8 A. No.

9 Q. Mr. Ratliff, he actually when he was in
10 the van on the way to court, he mentioned the smell
11 of marijuana to you, correct?

12 A. Yes.

13 Q. And you told him that you were aware of
14 it, but you had searched the van and nothing was
15 found?

16 A. Correct.

17 Q. Correct. And you actually -- when you
18 were taking Mr. Ratliff to court, you couldn't
19 smell any marijuana on him personally, correct?

20 A. Correct.

21 Q. I want to talk a little bit about
22 searches. Part of your job consists of searches,
23 correct?

24 A. Correct.

25 Q. That's actually a really important part

1 of your job as a transport officer?

2 A. Absolutely.

3 Q. And you told us today that it was
4 routine to search the van in the morning and at the
5 end of the day?

6 A. Yes.

7 Q. And so on this day, the van was
8 searched prior to the morning inmates being taken
9 to court?

10 A. Yes. It was searched twice. It was
11 searched from the night shift when they drop it
12 off, and when I come in after that I do it myself,
13 personally search it.

14 Q. And you and Officer Gibbs, you also
15 search people, correct?

16 A. Yes, we do.

17 Q. And on Mr. Ratliff's way to court you
18 patted him down, correct?

19 A. Absolutely. When they come down from
20 county jail into the area of taking them out, we
21 have to pat them down, put shackles on them and
22 handcuffs.

23 Q. When you patted down Mr. Ratliff prior
24 to court, you never felt any baggies on his person,
25 correct?

1 A. No.

2 Q. And did you pat him down after he got
3 out of the van?

4 A. No. We take him out of the van and
5 right upstairs to court.

6 Q. And the way back to the jail, there was
7 another inmate or a guy from the street?

8 A. Exactly.

9 Q. But he was in a separate compartment,
10 correct?

11 A. Yes.

12 Q. Had you patted him down before you put
13 him in the van?

14 A. Yes; he's patted down also. He's
15 patted down twice by the arresting officer, and
16 he's patted down when I take over. When we change,
17 it's my job to pat him down also.

18 Q. And nothing was found on him during the
19 pat-down?

20 A. No. And also he was strip searched too
21 being that we found that and he didn't smell like
22 any marijuana.

23 Q. And that would have been after --

24 A. That was when we were in county jail,
25 right.

1 Q. When you went to court this was in the
2 afternoon, correct?

3 A. I'm not sure on that because we had two
4 for morning court. I don't know if he was in a
5 later morning court or it was after 12. I'm not
6 positive on that.

7 Q. But he was not the first transport of
8 the day?

9 A. Absolutely.

10 Q. And the hearing had been scheduled
11 earlier that day, but it was moved to later,
12 correct?

13 A. I'm not sure on that. It may have.

14 Q. And Mr. Ratliff was taken directly from
15 the jail to court?

16 A. Absolutely.

17 Q. And was he in his jail-issued jumpsuit?

18 A. Yes.

19 Q. At court you told us about a tunnel?

20 A. Yes.

21 Q. Is it fair to say that the inmates are
22 segregated from the public at large at court?

23 A. Yes.

24 Q. So they don't have any access to other
25 people while at court?

1 A. Right.

2 Q. Okay. And you weren't at court too
3 long, correct?

4 A. Right.

5 MS. FORD: Bed the Court's indulgence?

6 THE COURT: Yes, ma'am.

7 BY MS. FORD:

8 Q. Just a few more questions. You told us
9 about a strip search. What does that entail?

10 A. A strip search is taking off the
11 inmate's clothes.

12 Q. Okay.

13 A. And looking up the cavity, mouth, hair,
14 toes.

15 Q. Is it common for people to stuff things
16 in their cavities?

17 A. Of course.

18 Q. And ultimately with the marijuana found
19 in this case, it was not in a cavity, correct?

20 A. No, ma'am.

21 Q. Okay. You told us that the van was
22 searched that morning and it would have been
23 searched that night. It was actually not searched
24 in between the first set of people taken to court
25 and Mr. Ratliff?

1 A. Not when we do inmates out of county.
2 We search the inmates when they come down from the
3 jail, and the van is not searched. It is looked
4 at. When the inmates come out, I open the door and
5 look. We don't go through feeling or anything with
6 the inmates, only just with the fresh prisoners.

7 Q. Okay. So it was not searched prior to
8 Mr. Ratliff getting in the van? Between him
9 getting in the van and --

10 A. Right. Right. It's not searched.

11 Q. And Mr. Ratliff, when he was at the
12 jail, he actually told you he had wanted to speak
13 to the captain about it?

14 A. He told Officer Salters first, and
15 that's when Officer Salters came to me and
16 discussed it because Correction Officer Salters
17 smelled it.

18 Q. Okay. So that was just you and
19 Salters, correct?

20 A. Correct.

21 Q. So Mr. Ratliff was not present during
22 that conversation?

23 A. No, he wasn't. He was standing on the
24 wall.

25 Q. Okay. And when you were in the van,

1 when you and Mr. Ratliff were discussing the
2 marijuana odor, did you ever tell him that you had
3 found some marijuana that day?

4 A. Excuse me?

5 Q. When you and Mr. Ratliff were in the
6 van discussing the marijuana odor, did you ever
7 tell him that you had found some marijuana that
8 day?

9 A. I don't think we discussed -- getting
10 into details with our prisoner. I don't talk that
11 much to them. If he asked me a question, I would
12 give him an answer. I don't get into details if I
13 search it or anything.

14 Q. Again, you didn't write a report after
15 this incident?

16 A. I didn't have to because it was found
17 in the county jail. That was one of the things we
18 talked about afterwards, being that it was inside
19 the jail it was -- if it was outside in my van and
20 he have told me, then I would have to write a
21 report up.

22 Q. But you didn't have a report to review
23 for --

24 A. No, I took their report and gave it to
25 my sergeant. I waited on it and gave it to my

1 sergeant immediately when I left the county jail.

2 Q. But I'm asking, you didn't personally
3 document --

4 A. No, I didn't.

5 MS. FORD: Thank you. No further
6 questions.

7 THE COURT: Any redirect?

8 MR. COOPER: Briefly, Judge.

9 THE COURT: You may proceed.

10 REDIRECT EXAMINATION

11 BY MR. COOPER:

12 Q. Officer Lewis, marijuana smell can
13 linger like smoke, right?

14 A. Yes.

15 Q. Did you make efforts and did your
16 agency make efforts to ensure that no marijuana or
17 contraband was in the van?

18 A. Absolutely.

19 Q. Did the defendant mention that he
20 smelled marijuana?

21 A. Yes, he said he smelled it.

22 Q. Was it you or Officer Gibbs that
23 responded in dialogue with him?

24 A. I think it was Officer Gibbs mostly. I
25 kind of not talk to them.

1 Q. And do you all pat down inmates before
2 they get into the van for the first time?

3 A. Yes, we do.

4 Q. Does the jail also search inmates
5 before they leave the jail?

6 A. Yes, they do.

7 Q. So they're searched twice before they
8 leave?

9 A. You mean leave to the --

10 Q. When they leave the jail to get in the
11 van, they're searched by the jail and searched by
12 you?

13 A. To go to court?

14 Q. When they leave the jail?

15 A. No, I search them when they leave the
16 jail.

17 Q. And you searched the defendant that
18 morning?

19 A. Absolutely.

20 Q. Or that afternoon?

21 A. I put on the cuffs and handcuffs. In
22 the afternoon, we searched -- when I bring him back
23 to jail, he's searched by the correction officer.

24 Q. So you-all don't search --

25 A. Not when they come back, no.

1 Q. And the searches of the van that you do
2 a number of times a day, is that procedure?

3 A. Procedure.

4 Q. Now the strip search that was done,
5 that's done by -- is that done by the detention
6 center staff, or is that done by you?

7 A. The detention staff is there and I'm
8 there.

9 Q. But they perform --

10 A. They perform.

11 Q. -- the strip search?

12 A. Right.

13 Q. Officer Lewis, when you all were inside
14 the strip search room, did the defendant want to be
15 strip searched?

16 A. No.

17 MR. COOPER: No further questions.

18 THE COURT: Any objection to the
19 witness being excused? From the State?

20 MR. COOPER: No.

21 THE COURT: From the defense?

22 MS. FORD: No, Your Honor.

23 THE COURT: Sir, you're excused.

24 THE WITNESS: Thank you.

25 THE COURT: You may call your next

1 witness.

2 MS. NEWMAN: The State calls Officer
3 Daniel Gibbs.

4 DANIEL GIBBS,
5 being first duly sworn, testified as follows:

6 THE CLERK: Please have a seat. For
7 the record, please state your first and last name
8 and spell your last name.

9 THE WITNESS: Daniel Gibbs, last name
10 is G-I-B-B-S.

11 THE COURT: You may proceed.

12 MS. NEWMAN: Thank you.

13 DIRECT EXAMINATION

14 BY MS. NEWMAN:

15 Q. Morning, Officer Gibbs.

16 A. Morning.

17 Q. Can you please tell the jury where you
18 work?

19 A. City of Charleston Police Department as
20 a transport officer.

21 Q. And how long have you been with the
22 City of Charleston?

23 A. About ten years.

24 Q. Now, back on December 18th of 2014,
25 were you working the same position?

1 A. Same position.

2 Q. Okay. And on that date, did you become
3 involved in the case against this defendant, Ronald
4 Ratliff?

5 A. Yes.

6 Q. What was your involvement?

7 A. I had to transport him to court on that
8 date.

9 Q. Okay.

10 A. And to the county jail.

11 Q. And how did you first come into contact
12 with the defendant that day? When did you first
13 see him?

14 A. I first saw him at the county jail. He
15 was to be transported to court downtown Charleston.

16 Q. And what kind of vehicle were you using
17 to transport him?

18 A. Transport vehicle 13. It's a Ford van
19 E350, hub wagon they call it.

20 Q. And when you transported him, were you
21 with anybody else?

22 A. Officer Lewis.

23 Q. Okay. Now, prior to your shift
24 beginning, do you search the van?

25 A. Yes, we do.

1 Q. And why do you do that?

2 A. To make sure there isn't any
3 contraband, any drugs, any weapons that could hurt
4 us or could harm the prisoners as well.

5 Q. And before someone is transported from
6 the jail to court, are they searched?

7 A. Yes, they are searched.

8 Q. And what is that process?

9 A. Being that the first process is once
10 they're getting transferred from the unit in county
11 jail, they're patted down. They get patted down a
12 second time when they're transported to the
13 transport vehicle which is in the sally port. Once
14 they get to court downtown Charleston, they're
15 patted down again.

16 Q. What about cleaning the vehicles, was
17 your van cleaned at all?

18 A. Yes. Always clean before shift and
19 after every prisoner.

20 Q. After every prisoner?

21 A. Yes.

22 Q. And how is it cleaned? Can you tell
23 the jury a little bit about that, please?

24 A. Well, when we come on shift, we might
25 be able to do a detailed search, back and front,

1 and after every prisoner it has to be searched.

2 Q. And was this particular van ever
3 cleaned by anyone other than yourself?

4 A. Yes, it's cleaned by other officers.

5 Q. Did it ever to go to any shops?

6 A. Yes. We had it checked out by the
7 garage, the City of Charleston garage.

8 Q. And do you remember when that would
9 have been?

10 A. That day. That day before this
11 occurred.

12 Q. And when it's checked out by the city
13 garage, what do you mean by that?

14 A. Like they check up -- they check under
15 the seats, under panels, and make sure that no
16 drugs or no contraband is there.

17 Q. Would they be removing the seat
18 cushions?

19 A. Yes, they do.

20 Q. So the day before the van was cleaned?

21 A. Yes, it was.

22 Q. Okay. And, again, you mentioned you
23 look at the van and search the van before
24 transporting --

25 A. Yes.

1 Q. -- is that correct? When you first
2 arrived at the jail, where did you encounter the
3 defendant?

4 A. Encounter.

5 Q. When did you first see him?

6 A. I first saw him in the intake area.
7 That's where they come up when they're being
8 transported to court before they get transported to
9 the van.

10 Q. And then do you bring them out to your
11 van?

12 A. Yeah. We pat them down before they're
13 transported to our van.

14 Q. Where did he sit in your van?

15 A. He sat right behind me in the first
16 compartment.

17 Q. Was there anybody else that was
18 transported along with him?

19 A. No, not at that time.

20 Q. Okay. Now, was the defendant
21 restrained during the transport in any way?

22 A. Yes, he was.

23 Q. How would he have been restrained?

24 A. Handcuffs.

25 Q. Would he have had shackles on?

1 A. He would have shackles on, yes.

2 Q. Why would someone be restrained?

3 A. We don't want them to flee or hurt
4 himself or hurt us.

5 Q. Okay. So once the defendant was in
6 your van, where was he transported to?

7 A. City of Charleston, Lockwood Drive to
8 the courthouse.

9 Q. And describe the interior of the van,
10 how the seats are situated.

11 A. Well, behind the driver's seat is a
12 seating area for three people, it's enclosed, and
13 behind that is a second compartment with double
14 doors for like four more people on each side, but
15 they cannot touch each other or nothing because
16 there is a partition in the middle with metal and
17 fiberglass.

18 Q. When you were transporting the
19 defendant, you mentioned I believe Officer Lewis
20 was with you?

21 A. Yes.

22 Q. Do you remember who was driving?

23 A. I don't remember who was driving.
24 Probably I was driving.

25 Q. Okay. Now, did the defendant make any

1 comments to you during the ride to city court?

2 A. Yes, he did.

3 Q. Tell the jury about that.

4 A. He said that he smelled marijuana and
5 he could find it if he wanted me -- if We wanted
6 him to find it for us. And I said, no, just stay
7 handcuffed and stay seat belted, because I don't
8 want you moving around in the van like that.

9 And the van had been checked already,
10 and I don't need you moving around the van like
11 that. And that was it.

12 Q. What did he say to that?

13 A. He said, I can find it for you if you
14 want me to, you know.

15 Q. Okay.

16 A. That was it. He said, you know who I
17 am? And I said, no. I'm Mr. Ratliff. You'll see
18 me on MSNBC.

19 MS. FORD: Objection.

20 THE COURT: Approach.

21 (Bench conference.)

22 THE COURT: Objection overruled, you
23 may proceed. The answer will stand.

24 BY MS. NEWMAN:

25 Q. Officer Gibbs, did you ever notice the

1 smell of marijuana in the van before?

2 A. I have.

3 Q. And would you say it was potent? Was
4 it easy to smell?

5 A. Somewhat, yes.

6 Q. Okay. Now, when the defendant was done
7 at city court, did you transport him back to the
8 detention center?

9 A. Yes.

10 Q. And I think you mentioned somebody else
11 -- another prisoner was in a separate compartment?

12 A. Yes.

13 Q. Okay. When you returned to the intake
14 area at the detention center, what happened after
15 that? Where did the defendant go?

16 A. Returned to the sally port Charleston
17 County Detention Center, we walked into the intake
18 area, and after he walked in, got patted down, and
19 then Officer Salters took over.

20 Q. Did you smell marijuana on him at any
21 point?

22 A. No, I didn't smell it.

23 Q. Okay. So he was walked into the jail?

24 A. Correct.

25 Q. And then he was eventually searched?

1 A. Yes.

2 Q. Were you present for that search?

3 A. I was present for the search outside
4 the strip search room.

5 Q. You weren't in the strip search room?

6 A. No, I was not.

7 Q. During the time that the defendant was
8 in your van, did he ever mention that he found
9 marijuana?

10 A. No.

11 Q. Did he ever mention finding marijuana
12 when you were walking into the jail?

13 A. No.

14 Q. When was the first time the defendant
15 mentioned that he found marijuana?

16 A. When Officer Salters said he smelled
17 marijuana. When you smell marijuana or any type of
18 stuff like that, you're -- automatically get strip
19 searched. He said that he was going to get strip
20 searched because we smelled marijuana on you. And
21 he said he wanted to speak to a higher official,
22 and that was ...

23 Q. So he mentioned that after he was told
24 he was going to be strip searched?

25 A. Afterwards.

1 Q. Now, when you looked in your van prior
2 to your shift, did you ever see any bags of
3 marijuana?

4 A. No, nothing was in that van. They had
5 it cleaned and searched and had a K9 through that
6 van the day before.

7 MS. NEWMAN: Beg the Court's
8 indulgence?

9 No further questions.

10 THE COURT: Any cross-examination of
11 the witness?

12 MS. FORD: Yes, Your Honor.

13 THE COURT: You may proceed.

14 CROSS-EXAMINATION

15 BY MS. FORD:

16 Q. Officer Gibbs, were you trained at the
17 police academy?

18 A. Yes.

19 Q. And so at the academy you learn about
20 writing reports, correct?

21 A. Correct.

22 Q. That's because other people rely on
23 them with the prosecution of the case, correct?

24 A. Correct.

25 Q. And you rely on them to help you as

1 well, correct?

2 A. I don't understand what you're trying
3 to say.

4 Q. One reason you write a police report is
5 to help you remember everything since you have a
6 lot of contact with people and you may have to go
7 to court a year-and-a-half later, correct?

8 A. No, not correct. Because this
9 incident, it occurred at Charleston County. So I
10 was just taught for my City of Charleston Police
11 Department to advise my supervisor, and I advised
12 my supervisor what happened.

13 Q. You typically don't find yourself in
14 court; is that fair to say, as a transport officer?

15 A. Not typically.

16 Q. You generally don't make arrests
17 yourself --

18 A. No, I don't. No arrests.

19 Q. -- correct? But, in general, you learn
20 at the academy that you may want to -- one reason
21 to write a report is to help you remember things in
22 case you have to go to court one day?

23 A. If it happened in my vehicle, the
24 incident.

25 Q. I'm not talking --

1 A. Not -- what are you trying to say?

2 Q. I'm asking about in general. Nothing
3 to do --

4 A. In general.

5 Q. In general. You didn't write a report
6 after this incident, correct?

7 A. Because it wasn't -- it didn't happen
8 inside my vehicle. It wasn't a report needed.

9 Q. I'm just saying you did not write a
10 report.

11 A. No, I didn't write a report.

12 Q. Okay. Now, the van -- is it fair to
13 say that this van smelled like marijuana before
14 this day?

15 A. It has, yes.

16 Q. Okay. And it smelled like marijuana on
17 and off for months?

18 A. Yes.

19 Q. That's why you would take it to be
20 cleaned out, correct?

21 A. Correct.

22 Q. On the way to city court, you told us
23 that Mr. Ratliff was patted down multiple times,
24 correct?

25 A. Correct.

1 Q. You didn't smell marijuana on his
2 person at this point, correct?

3 A. Not at this point, no.

4 Q. You only smelled marijuana after he got
5 out of the van when you got back to the jail,
6 correct?

7 A. I didn't smell it then.

8 Q. You didn't smell it?

9 A. Officer Salters smelled it. I didn't
10 smell it.

11 Q. Okay. And you told us that there was a
12 conversation with Mr. Ratliff about the marijuana,
13 correct?

14 A. He said that --

15 Q. Right, about the odor?

16 A. Yes.

17 Q. You had a conversation about the odor?

18 A. Exactly.

19 Q. And he told you he was going to look
20 for it, correct?

21 A. Correct.

22 Q. And you told him to sit back down?

23 A. Sit back down, please don't do that.

24 You're seat belted and you're handcuffed, you're
25 not to be moving around that vehicle.

1 Q. Okay. But you also told him he wasn't
2 going to find anything in there?

3 A. No.

4 Q. Because the van had been searched?

5 A. Yes, by K9.

6 Q. But that was not that morning, correct?

7 A. Not that --

8 Q. The K9 --

9 A. No, it was the day before.

10 Q. Okay. And is that documented anywhere,
11 that the van was searched by K9 officers the day
12 before?

13 A. No. We had it searched by Officer
14 Ryan. He checked it out, the van, and I had it
15 checked by the garage previously because we smelled
16 marijuana and we wanted to make sure that it was
17 clean.

18 Q. Do you document when the van is
19 searched, in general?

20 A. It's documented at the garage that the
21 van was, you know, searched.

22 Q. But every time there's a search, that
23 is not necessarily documented?

24 A. No.

25 Q. So that's based on your memory there

1 was a K9 search the day before?

2 A. That's correct.

3 Q. Okay. In the van on your way back from
4 city court, there was another person in the van,
5 correct?

6 A. Yes, in the back.

7 Q. So that was a completely different
8 compartment from where Mr. Ratliff was?

9 A. Completely.

10 Q. And there was no ability for these two
11 people to have physical contact in the van.

12 A. Not at all.

13 Q. And the two of them -- to your
14 knowledge, there was never a discussion about the
15 marijuana between them?

16 A. Not to my knowledge, no.

17 Q. And at the jail when you were in the
18 intake area, it's fair to say that Mr. Ratliff did
19 not want to talk to you, correct?

20 A. Correct.

21 Q. He was not -- he wanted to talk to
22 other people?

23 A. Higher in command, yes. At the county
24 jail.

25 MS. FORD: Beg the Court's indulgence.

1 THE COURT: Uh-huh.

2 BY MS. FORD:

3 Q. One more question: Did you tell
4 Mr. Ratliff that you had found weed earlier that
5 day?

6 A. No.

7 MS. FORD: No further questions.

8 THE COURT: Any redirect for the
9 witness?

10 MS. NEWMAN: No, Your Honor.

11 THE COURT: Any objection to the
12 witness being excused? From the State?

13 MR. COOPER: No, ma'am.

14 THE COURT: From the defense?

15 MS. FORD: No, Your Honor.

16 THE COURT: Sir, you're excused.

17 You may call your next witness.

18 MR. COOPER: The State calls Captain
19 Donald Salters.

20 THE CLERK: Head up this ramp to the
21 Bible.

22 DONALD SALTERS,

23 being first duly sworn, testified as follows:

24 THE CLERK: Please have a seat. And
25 for the record, state your first and last name and

1 spell the last name please.

2 THE WITNESS: Donald Salters,
3 S-A-L-T-E-R-S.

4 THE COURT: You may proceed.

5 MR. COOPER: Thank you, Your Honor.

6 THE COURT: You're welcome.

7 DIRECT EXAMINATION

8 BY MR. COOPER:

9 Q. Good morning, Officer Salters.

10 A. Morning.

11 Q. Can you tell the jury where you're
12 employed?

13 A. I work at the Sheriff Al Cannon
14 Detention Center.

15 Q. Where is that located?

16 A. Charleston County.

17 Q. That's the county jail for Charleston
18 County?

19 A. Yes.

20 Q. What do you do?

21 A. I'm currently a processing officer.

22 Q. And is that -- what does that entail?

23 A. That entails the booking and processing
24 area. Inmates that are being brought into the
25 facility, that's their first contact with the jail

1 staff.

2 Q. Is that also known as the intake
3 area --

4 A. Yes.

5 Q. How long have you been in that
6 position?

7 A. I've been in intake since 2011, I
8 believe.

9 Q. And did you hold prior positions with
10 the jail before that?

11 A. Yes.

12 Q. What all had you done at the jail prior
13 to doing processing?

14 A. I've done approximately two years in
15 general population working in housing, I've done
16 four years on what was called the tactical action
17 control team, and I've done two years in dress out.

18 Q. What was tactical action control team?
19 Can you explain that to the jury?

20 A. The tactical action control team was a
21 group of officers that got called out for unruly
22 and basically rowdy inmates, whether it was inside
23 the facility or coming in off the street.

24 Q. Okay. And then you said you spent some
25 time in dress out. Can you explain to the jury

1 what dress out is?

2 A. Dress out is the process of moving the
3 inmates from the booking intake area where they're
4 wearing street clothes, dressing them out, giving
5 them a uniform, their starter kits, and then having
6 them escorted up to their unit.

7 Q. So in all, how long have you worked for
8 the detention center in these various positions?

9 A. Fourteen years.

10 Q. Now, the detention center, is that
11 located in Charleston County?

12 A. Yes; 3841 Leeds Avenue.

13 Q. In North Charleston?

14 A. Yes.

15 Q. How did you become involved in this
16 case?

17 A. I was working in intake on that day,
18 Mr. Ratliff was a court return from Charleston City
19 Police Department.

20 Q. And can you explain to the jury what
21 happens at the intake area of the jail?

22 A. All the inmates that are being brought
23 into the jail are either new arrestees or returning
24 from court are brought through intake. If they're
25 new arrestees, we have them line up on the wall.

1 We try to keep them separated by gender, males,
2 females on one side or the other.

3 It entails a pat search with the
4 handcuffs on, and then we request that the
5 arresting officer remove the handcuffs and we do a
6 second pat search with the handcuffs off.

7 Q. So you do two pat-downs on the person
8 coming into the jail?

9 A. Yes.

10 Q. Why do you do that?

11 A. The first one is generally to feel out
12 for any kind of objects, any potential contraband.
13 The second pat-down is a more detailed search
14 getting into the waistlines, getting into the
15 armpits.

16 Q. And why is it important to ensure that
17 you find the contraband, the objects, before they
18 get into the general population?

19 A. Contraband is a form of currency.
20 Contraband can range from a cell phone to illegal
21 drugs, illicit photos. So that kind of stuff can
22 be used as currency inside the jail.

23 Q. You were also looking for weapons at
24 the same time as well?

25 A. Yes.

1 Q. And so when you were working on
2 December 18, 2014, that's when the defendant was
3 coming back from court?

4 A. Yes.

5 Q. Okay. Is the intake area recorded by
6 video surveillance?

7 A. Yes.

8 Q. Does the detention center maintain a
9 recording of that video surveillance?

10 A. Yes.

11 Q. Are you aware of how long they maintain
12 the recordings?

13 A. As the duration of how long they're
14 kept, I'm not positive, no.

15 Q. But they do keep the recordings?

16 A. Yes.

17 Q. And then was this specific incident
18 recorded on video?

19 A. Yes.

20 Q. Have you ever had -- have you had the
21 opportunity to watch that video?

22 A. Yes.

23 Q. Was it an accurate depiction of what
24 happened that day?

25 A. Yes.

1 MR. COOPER: Beg the Court's
2 indulgence? May I approach the witness?

3 THE COURT: You may.

4 BY MR. COOPER:

5 Q. Officer Salters, I'm showing you what
6 was marked for identification purposes only as
7 State's Exhibit 7. Do you recognize this?

8 A. Yes.

9 Q. What is that?

10 A. That is the disk that contains a camera
11 view of the intake area along the wall and of unit
12 IP 103, which is the strip search room.

13 Q. How do you know what's on the CD?

14 A. I viewed the CD and I signed the disk.
15 That is my name and -- along with my P number.

16 MR. COOPER: Your Honor, at this time
17 the State would move to have State's Exhibit 7 into
18 evidence.

19 THE COURT: Any objection?

20 MS. FORD: Yes, Your Honor.

21 THE COURT: Approach. No speaking
22 objections.

23 (Bench conference)

24 THE COURT: Objection is overruled.

25 Proceed. State's Number 7 is marked and admitted.

1 (PLF. EXH. 7 in evidence.)

2 (Video played in open court.)

3 BY MR. COOPER:

4 Q. Okay. Officer Salters, the video
5 should be on the screen in front of you as well. I
6 believe you can actually touch the screen and draw
7 on it to point to what you're talking about. Can
8 you orient the jury as to the layout of the intake?

9 A. Okay. Back here is the sally port,
10 coming in from the vehicles. These are inmates
11 coming in. These inmates right here are currently
12 immigration inmates.

13 Q. And now where that line of inmates on
14 the right is, is that where you were talking about
15 that people line up before they are patted down and
16 searched?

17 A. Yes.

18 Q. Are you in this video?

19 A. Yes. This is me right here.

20 (Indicating)

21 Q. Is there a time stamp on the video that
22 tells you what date and stamp?

23 A. Yes. In the top left-hand corner,
24 12/18/2014, at approximately 15:31:35?

25 Q. And that was the same date and time of

1 this incident, correct?

2 A. Yes.

3 Q. Is the defendant in this screen shot?

4 A. Yes, sir. This is him right here in
5 the red jumpsuit. (Indicating)

6 Q. And are officers -- who transported him
7 back to court?

8 A. This is Office Lewis and Officer Gibbs.

9 Q. Okay. Pause for one second while we
10 play --

11 (Video is played in open court.)

12 BY MR. COOPER:

13 Q. Now, the individual that you pointed
14 out as being the defendant, he's on the right side
15 of the screen. Why is he not in the line of the
16 other people waiting to be patted down and
17 searched?

18 A. Court returns, we have them come around
19 because we don't have to pull any property off of
20 them. So it just requires the two pats and then we
21 can send them back to the unit.

22 Q. And as the person you pointed out as
23 being you, what are you doing in this video?

24 A. Right now I'm doing an initial pat on
25 one of the immigration inmates.

1 Q. Okay.

2 (Video played in open court.)

3 BY MR. COOPER:

4 Q. About how long after Mr. Ratliff
5 entered the jail was it until you were able to
6 search him? Approximately?

7 A. All right. Approximately, I would say,
8 a couple of minutes because I had to finish up with
9 this gentleman first.

10 (Video played in open court.)

11 Q. Now what are you about to do?

12 A. I'm about to do a pat search on
13 Mr. Ratliff there so that we can get him back to
14 the unit.

15 Q. You said that you do two pat-downs?

16 A. Yes.

17 Q. All right.

18 (Video played in open court.)

19 Q. Officer Salters, can you tell the jury
20 what happened when you went to pat down the
21 defendant?

22 A. Once I came down his left leg, I
23 noticed a strong odor of marijuana coming off of
24 him. I finished the initial pat, told Mr. Lewis
25 that he could go ahead and uncuff Mr. Ratliff. And

1 once I opened the door to IP 103, which is the
2 search room, I told Mr. Ratliff that we needed to
3 do a strip search.

4 At that point that's when he informed
5 me he wanted to speak to a captain or lieutenant.

6 Q. You said that at the beginning that you
7 do two pat-downs when everybody comes back into the
8 jail; is that correct?

9 A. Yes.

10 Q. At what point or when do you do strip
11 searches of the people?

12 A. The only time that we conduct a strip
13 search is if they have a drug charge or weapons
14 charge, they're coming in from another facility,
15 the arresting officer requests one, or we know
16 their drug history.

17 Q. Why did you elect to do a strip search
18 in this case?

19 A. Due to the strong odor of marijuana
20 coming from him and being the fact that he's
21 already --

22 MS. FORD: Objection.

23 THE COURT: Basis?

24 MS. FORD: I'm not --

25 THE COURT: Approach.

1 (Bench conference.)

2 THE COURT: Madame Forelady, ladies and
3 gentlemen, I have a very brief matter of law to
4 take up. During the break, please do not discuss
5 the case.

6 Just have them stand outside in the
7 hall and place their notepads in their seats
8 please.

9 (Jury out 11:33 a.m.)

10 THE COURT: Sir, you may complete your
11 answer.

12 Do you remember the question? Do you
13 need him to repeat it?

14 THE WITNESS: Yes, please.

15 BY MR. COOPER:

16 Q. I had asked you, Officer Salters, why
17 did you elect to perform a strip search in this
18 case?

19 A. Due to the strong smell of marijuana
20 coming off of Mr. Ratliff, I deemed it necessary
21 that he be strip searched.

22 Q. Was there another reason?

23 A. The smell of marijuana coming off of
24 him gave me probable cause to strip search.

25 Q. Did you know why he was already

1 incarcerated?

2 A. No.

3 THE COURT: Okay. You were going to --
4 I believe the question that you asked and maybe
5 this may -- the first question you asked was why
6 they do the initial search. The genesis of your
7 second one is why did they skip the second one and
8 went straight to strip search.. That was the
9 original question. I'm paraphrasing.

10 MR. COOPER: Yes, ma'am.

11 THE COURT: That was the essence of it.
12 Sir, would your answer have been the same to that?

13 THE WITNESS: Yes, ma'am.

14 THE COURT: Okay. Bring in the jury.

15 The objection is overruled.

16 (Jury in, 11:35 a.m.)

17 THE BAILIFF: Jurors are present.

18 THE COURT: Thank you. You may
19 proceed.

20 BY MR. COOPER:

21 Q. Just to clarify, you smelled marijuana
22 that's why you elected to strip search the
23 defendant?

24 A. Yes.

25 Q. And had you not smelled marijuana, you

1 would not have strip searched him?

2 A. No.

3 Q. Because you don't strip search
4 everybody -- every person that comes in?

5 A. No.

6 Q. How strong was the odor of marijuana?

7 A. It was extremely pungent.

8 Q. And it was coming from his person?

9 A. Yes.

10 Q. Once you informed him that he was going
11 to be strip searched, did he say anything to you?

12 A. Yes. He requested to speak to a
13 captain or lieutenant.

14 Q. What did you tell him?

15 A. I told him unless I have something to
16 give them as far as the reason for it, the request,
17 he wasn't going to get their -- get their
18 attention.

19 Q. Did he give you a reason?

20 A. No, he would not.

21 Q. Why do you have to have a reason before
22 they get an audience with a captain or a
23 lieutenant?

24 A. Generally, what we do is, if it's
25 something that can be handled at an officer's

1 level, we handle it for them. Any time an inmate
2 requests to speak to a captain or lieutenant, we
3 can't just allow them access to the captains and
4 lieutenants. They have their busy -- their busy
5 routines that they have to maintain every day.

6 So if it's something that an officer
7 can handle at our level then -- that's why it's our
8 judgment to determine whether or not their audience
9 needs to be addressed with them. Even then, for
10 him to speak to a captain or a lieutenant, he would
11 still have to go through a sergeant first.

12 Q. And he did not give you a reason why he
13 wanted an audience, correct?

14 A. No.

15 Q. So what did do you next?

16 A. We entered the strip search room, and
17 as soon as he went behind the curtain there, he
18 turned around, unsnapped the front of his jumper,
19 reached inside and pulled out a plastic bag.

20 Q. What was inside the plastic bag, could
21 you tell?

22 A. It was a large plastic bag that had
23 other plastic baggies with a green leafy substance
24 in it.

25 Q. Was that the source of the odor?

1 A. Yes.

2 Q. Where did he remove that from again?

3 A. Inside the jumper.

4 Q. Did he say anything to you once he
5 removed that item from the uniform?

6 A. He just said he wanted to use that as
7 information with the captain and lieutenant.

8 Q. Was Officer Lewis inside the strip
9 search room with you?

10 A. Yes.

11 Q. Was the first time that Mr. Ratliff
12 requested an audience after the pat-down?

13 A. Yes.

14 Q. Did he request one at any time during
15 those few minutes before you went over there?

16 A. Not to my knowledge, no.

17 Q. About how big was the bag?

18 A. (Indicating) Probably about -- about
19 the size of a tennis ball.

20 Q. Okay. Did you continue to strip search
21 him after he gave you the item?

22 A. Yes.

23 Q. Did you find any other contraband on
24 his person?

25 A. No.

1 Q. It was only before you were about to
2 strip search him that he produced the marijuana?

3 A. Yes.

4 Q. Now, based on your years of training
5 and experience at the jail, would there be any
6 benefit why a defendant would want to have
7 marijuana at the jail?

8 A. Yes.

9 MS. FORD: Objection; speculation.

10 THE COURT: Overruled. It's within the
11 ambit of his training and experience and it's also
12 based on his rational perception of doing his job
13 for over the amount of time that he's testified.

14 You may answer the question within the
15 ambit of your knowledge, sir.

16 THE WITNESS: Marijuana would be more
17 or less currency inside the jail. Although inmates
18 aren't allowed to have cash to use, marijuana is
19 currency inside the jail. He could use it to have
20 money put into his canteen account, he could sit
21 there and barter for other illicit drugs that may
22 be inside the jail. He could have other inmates
23 order canteen for him as payment for him.

24 BY MR. COOPER:

25 Q. Can you explain what you mean by

1 canteen?

2 A. Canteen is basically a supply store
3 that gives inmates hygiene, food products, stuff
4 like that, for whatever their monetary values are.

5 Q. How do they normally pay for those
6 items from the canteen?

7 A. Each inmate is assigned an inmate
8 number and attached to that inmate number is their
9 account for money to be deposited into.

10 Q. But there is physically no money or
11 currency inside the jail?

12 A. No.

13 Q. And you and your staff do the best job
14 they can to ensure there is no drugs in the jail?

15 A. Yes.

16 Q. But sometimes do drugs happen to find
17 their way into the jail?

18 A. Yes.

19 Q. So even in the smallest amount,
20 marijuana or other drugs could be used as currency
21 in the jail?

22 MS. FORD: Objection.

23 THE COURT: Basis?

24 MS. FORD: Solicitor --

25 THE COURT: No speaking objection.

1 What is the basis of the objection?

2 MS. FORD: Leading, Your Honor.

3 THE COURT: Sustained; leading.

4 Rephrase.

5 BY MR. COOPER:

6 Q. Would any amount of marijuana be used
7 as currency in the jail?

8 A. Yes.

9 Q. Is marijuana an item listed as
10 contraband at the Charleston County Detention
11 Center?

12 A. It is not singly pointed out as
13 contraband. Contraband is defined as anything that
14 is not issued by the Charleston County Detention
15 Center or issued by McAngus Blackhawk.

16 Q. Is marijuana issued by either one of
17 those entities?

18 A. No.

19 Q. So it would be contraband at the
20 Charleston County Detention Center?

21 A. Yes.

22 MR. COOPER: Beg the Court's
23 indulgence.

24 BY MR. COOPER:

25 Q. What was the defendant's demeanor once

1 you informed him he had to be strip searched?

2 A. Uneasy.

3 Q. Did he want to go into the room and be
4 strip searched?

5 A. No.

6 MR. COOPER: No further questions.

7 THE COURT: Any questions for the
8 witness?

9 MS. FORD: Yes, Your Honor.

10 CROSS-EXAMINATION

11 BY MS. FORD:

12 Q. Hello.

13 A. Good morning.

14 Q. Morning. Is it Deputy Salters or
15 Officer Salters?

16 A. The sheriff gave us new titles so it's
17 Deputy Detention Salters.

18 Q. Okay.

19 A. But Officer Salters is fine.

20 Q. Okay. Officer Salters, you've been
21 through law enforcement training, correct?

22 A. Yes, ma'am.

23 Q. And --

24 A. Well, correction. I've been through
25 basic jail training, yes.

1 Q. So you haven't been --

2 A. No.

3 Q. -- to the police academy?

4 A. Not LE1 or LE 2 class, no.

5 Q. Okay. But you do learn about writing
6 reports, correct?

7 A. Yes.

8 Q. And you actually did write a report in
9 this case?

10 A. Yes.

11 Q. And one reason you write reports is to
12 help with your memory should you need to testify at
13 court?

14 A. Yes, ma'am.

15 Q. And as recently as I think last week
16 you actually had indicated to the Solicitor you
17 didn't remember certain things without the aid of
18 your report, correct?

19 A. Yes.

20 Q. So on your own without assistance, you
21 do not recall everything about this day, correct?
22 Is that fair to say?

23 A. The fine details, no.

24 Q. You came across Mr. Ratliff in the
25 intake area, correct?

1 A. Yes.

2 Q. And as we saw in the video, you
3 actually weren't with him during a lot of his time
4 in the intake area, correct?

5 A. No.

6 Q. So -- but you could see him on the
7 video talking to other people, correct?

8 A. Yes.

9 Q. So you're not aware of what he was
10 telling those people, correct?

11 A. No, ma'am.

12 Q. And, unfortunately, the video we have
13 does not have audio, correct?

14 A. Right.

15 Q. So we are unable to know what
16 Mr. Ratliff said, correct?

17 A. Yes.

18 Q. Now, Mr. Ratliff, he did ask to speak
19 to a captain or a lieutenant, correct?

20 A. Yes.

21 Q. And you told him no, correct?

22 A. I told him not without me knowing what
23 it was in reference to.

24 Q. He asked again, didn't he? If he could
25 speak to a captain or lieutenant?

1 A. I believe so.

2 Q. Okay.

3 A. And once again I told him not without
4 me knowing what it was in reference to.

5 Q. But multiple times he asked about it,
6 correct?

7 A. Uh-huh, I believe so. Yes.

8 Q. Would seeing your report help?

9 A. That would be fine.

10 (DFT. EXH. 1, Report, was marked for
11 identification.)

12 BY MS. FORD:

13 Q. I'm handing you what was marked for ID
14 purposes only.

15 A. Yes.

16 Q. Is that your report?

17 A. Yes.

18 Q. Do you need a moment to review it?

19 A. One moment.

20 Q. Okay. And so Mr. Ratliff did ask
21 multiple times to speak to a supervisor, correct?

22 A. Yes.

23 Q. And you told him all those times, no,
24 you have to -- not until you tell me why, correct?

25 A. Yes.

1 Q. He asked you if the two of you could
2 actually speak in private, correct?

3 A. Yes.

4 Q. You were telling us that you could
5 smell marijuana on him, right?

6 A. Yes.

7 Q. It was a strong smell?

8 A. Yes.

9 Q. But you never told Mr. Ratliff that you
10 could smell the marijuana on him before he asked to
11 speak to a supervisor, correct?

12 A. No.

13 Q. So it was not brought to his attention
14 that you were aware of the odor, correct?

15 A. No.

16 Q. And when you began to pat him down, you
17 said you could smell the odor once you were going
18 down his leg?

19 A. Yes.

20 Q. It was actually at that point he asked
21 to speak to a supervisor, correct?

22 A. No. He waited until after I finished
23 the first pat.

24 Q. Well, it was before mention of the
25 strip search?

1 A. Yes.

2 Q. Okay. So he did ask to speak to a
3 supervisor before you told him you needed to strip
4 search him?

5 A. Yes.

6 Q. Now a strip search, one thing that's
7 different about a strip search versus a pat-down is
8 that you may go into holes in somebody, correct?

9 A. We don't go into them, no.

10 Q. But people do hide contraband in holes,
11 correct?

12 A. Yes.

13 Q. Mr. Ratliff's marijuana when he went --
14 when he asked to speak to you in private, he went
15 into the room, he took the marijuana out, correct?

16 A. Yes.

17 Q. And it was just sitting in his
18 waistband, correct?

19 A. Waistband or his boxers, which I am
20 going to assume they were sitting in his boxers
21 because they were sitting right there at his waist
22 level.

23 Q. So when you -- again, you do two
24 pat-downs. The second pat-down you told us that is
25 when you typically look into or feel somebody's

1 waistband area, correct?

2 A. Yes.

3 Q. And just to go over this again, have
4 you been an officer in the units where inmates
5 reside?

6 A. I left housing right before I came to
7 processing. I was in housing for six months
8 approximately.

9 Q. So your experience within -- with the
10 inmates day-to-day activities, that's six months,
11 correct?

12 A. No. Collectively, I've worked in
13 general population for two years.

14 Q. General population. That's --

15 A. Housing units.

16 Q. And this time you were working in the
17 intake area?

18 A. Yes, ma'am.

19 Q. And was doing searches your primary
20 job?

21 A. One of them, yes.

22 MS. FORD: Beg the Court's indulgence?

23 THE COURT: Uh-huh.

24 MS. FORD: No further questions.

25 THE COURT: Any redirect?

1 MR. COOPER: Briefly.

2 THE COURT: You may proceed.

3 REDIRECT EXAMINATION

4 BY MR. COOPER:

5 Q. Officer Salters, how many chances did
6 you give the defendant to give you a reason for an
7 audience with the captain or lieutenant?

8 A. At least two or three.

9 Q. And was the first time he asked to
10 speak to a captain or lieutenant after you started
11 and stopped the pat-down?

12 A. Yes.

13 Q. Your report mentions that he asked to
14 speak to you in private?

15 A. Yes.

16 Q. You were going to strip search him once
17 you smelled the marijuana?

18 A. Yes.

19 Q. Where do you do the strip search?

20 A. In IP 103.

21 Q. Is that where you went?

22 A. Yes.

23 Q. Did you at any time mention to Officer
24 Lewis that you were going to have to strip search
25 the defendant?

1 A. Yes.

2 Q. Was that before or after the
3 defendant's request to see a captain or lieutenant?

4 A. After.

5 Q. You only completed one pat-down,
6 correct?

7 A. Yes.

8 Q. Why is that?

9 A. Due to the smell of marijuana, since I
10 knew I was going to do a strip search on him, and
11 being the fact that a strip search is way more
12 detailed than a second pat since we actually have
13 them remove all of their clothing and we search the
14 clothing piece by piece, that's why I -- forgo the
15 second pat search because I knew I was actually
16 going to get in a much more detailed search of the
17 clothing during the strip search.

18 Q. Did you ever feel the object during
19 your first pat-down?

20 A. No.

21 MR. COOPER: Beg the Court's
22 indulgence?

23 THE COURT: Yes, sir.

24 MR. COOPER: Nothing further from the
25 State.

1 THE COURT: Any objection to the
2 witness being excused? From the State?

3 MR. COOPER: No, ma'am.

4 THE COURT: From the defense?

5 MS. FORD: Your Honor, may I briefly
6 recross?

7 THE COURT: Approach.

8 (Bench conference.)

9 THE COURT: You may proceed.

10 MS. FORD: Thank you.

11 RECROSS-EXAMINATION

12 BY MS. FORD:

13 Q. The Solicitor was asking you about when
14 you mentioned to him the strip search.

15 MR. COOPER: Objection; I believe
16 that's been asked and answered.

17 THE COURT: Sustained. Rephrase.

18 BY MS. FORD:

19 Q. At what point Mr. -- you told us that
20 Mr. Ratliff asked to speak to a supervisor as you
21 were going down the leg? \

22 A. He asked after I finished the first pat
23 search.

24 Q. Then -- I'm just trying to establish a
25 time line. Then he asked to speak to you in

1 private?

2 MR. COOPER: Objection; asked and
3 answered also.

4 THE COURT: Sustained; it's been asked
5 and answered. You don't get recross to rehash
6 cross-examination.

7 BY MS. FORD:

8 Q. Then he goes -- the strip search was
9 not mentioned until you went into the room --

10 MR. COOPER: Objection --

11 THE COURT: I haven't heard the whole
12 question. Rephrase the question.

13 BY MS. FORD:

14 Q. The strip search was not mentioned
15 until you went into the room where he had asked to
16 speak to you in private, correct?

17 MR. COOPER: Objection. The time line
18 of when he asked --

19 THE COURT: No speaking objections. Is
20 it asked and answered?

21 MR. COOPER: Yes, ma'am.

22 THE COURT: Sustained; asked and
23 answered.

24 MS. FORD: No further questions then,
25 Your Honor.

1 THE COURT: Any objection -- any
2 further questions from the State.

3 MR. COOPER: Nothing from the State.

4 THE COURT: Any objection to the
5 witness being excused? From the State?

6 MR. COOPER: No.

7 THE COURT: From the defense?

8 MS. FORD: No, Your Honor.

9 THE COURT: Sir, you're excused.

10 Madame Forelady, ladies and gentlemen,
11 we are going to take advantage of this break in
12 testimony to take a brief restroom break. Do not
13 discuss the case in any manner whatsoever, and
14 please leave your notepads in your seats. We
15 should be out about ten minutes.

16 (Jury out, 11:58 a.m.)

17 THE COURT: You may be seated. Please
18 make sure that the court reporter has all the
19 exhibits.

20 Who is the State's next witness?

21 MS. NEWMAN: The State's next witness
22 is Deputy John Mizner.

23 THE COURT: And who is the State's
24 witness after Mr. Mizner?

25 MS. NEWMAN: Investigator Christopher

1 Hochreiter.

2 THE COURT: Do you have them all here?

3 MR. COOPER: Yes, Judge.

4 THE COURT: How long will Deputy Mizner
5 be?

6 MS. NEWMAN: Your Honor, I wouldn't
7 think more than ten or 15 minutes.

8 THE COURT: And how about Hochreiter?

9 MR. COOPER: He's a chain witness,
10 Judge. He'll be short.

11 THE COURT: All right. Be at ease for
12 ten minutes.

13 MR. COOPER: Thank you.

14 (A recess transpired.)

15 THE COURT: State ready to proceed?

16 MR. COOPER: Yes.

17 THE COURT: Defense ready to proceed?

18 MS. FORD: Yes, Your Honor.

19 THE COURT: You can bring the jury down
20 the hall.

21 (Jury in 12:16 p.m.)

22 THE COURT: Hope you enjoyed your
23 break. We will resume with testimony.

24 You may call your next witness.

25 MS. NEWMAN: Thank you, Your Honor.

1 The State calls Deputy John Mizner.

2 THE COURT: Officer, you can come
3 forward to be sworn.

4 JOHN MIZNER,
5 being first duly sworn, testified as follows:

6 THE CLERK: Please have a seat. For
7 the record, please state your first and last name
8 and spell out your last name.

9 THE WITNESS: John Mizner, M-I-Z-N-E-R.

10 THE COURT: You may proceed.

11 DIRECT EXAMINATION

12 BY MS. NEWMAN:

13 Q. Afternoon, Deputy Mizner.

14 A. Afternoon.

15 Q. Can you please tell the jury where you
16 work?

17 A. I work at Charleston County Sheriff's
18 Office.

19 Q. How long have you been with the
20 Sheriff's Office?

21 A. Going on five years.

22 Q. What is your current position?

23 A. Patrol deputy.

24 Q. And was that your assignment back on
25 December 18, 2014?

1 A. It was.

2 Q. Can you tell the jury a little bit
3 about your law enforcement experience?

4 A. My law experience, I started off in
5 Berkeley County in 2002 as a reserve deputy. I was
6 there for four years with them and then went full
7 time. Upon graduating the academy approximately
8 three years later, I became a K9 officer for
9 three-and-a-half-years. So basically my background
10 is more K9.

11 I left there and came to Charleston
12 County, stayed with Charleston County until 2014,
13 then went to North Charleston for five months, and
14 came back to Charleston County.

15 Q. And how many drug arrests or
16 investigations would you say you've been associated
17 with in your time in law enforcement?

18 A. Numerous.

19 Q. Would you be able to quantify?

20 A. Maybe a hundred.

21 Q. On December 18th, 2014, were you
22 involved in a case with this defendant?

23 A. I was.

24 Q. And how did you become involved?

25 A. I was dispatched to it.

1 Q. And why were you dispatched?

2 A. According to the jail, they needed a
3 responding deputy, which would be me, to come over
4 there and actually do a report and take possession
5 of the contraband.

6 Q. So you were dispatched to take
7 possession of the contraband?

8 A. I was.

9 Q. What contraband was that?

10 A. It was approximately nine bags of green
11 plant materials that field tested presumptive for
12 marijuana.

13 Q. When you say field tested, what do you
14 mean by that?

15 A. I actually have a little case that you
16 can put it in there. You put a piece of it inside
17 there, break it, shake it up and it actually
18 changes color.

19 Q. And when you got to the jail, what did
20 you do?

21 A. Took possession of it and spoke with
22 Deputy Salters and he advised me --

23 MS. FORD: Objection; hearsay.

24 THE COURT: I don't think it's offered
25 for the truth. I will listen and make sure it's

1 nothing substantive.

2 Sir, you may answer.

3 THE WITNESS: Can you repeat the
4 question for me?

5 BY MS. NEWMAN:

6 Q. Sure. When you got to the jail, what
7 did you do?

8 A. I spoke with Deputy Salters. He
9 advised me that he had received contraband from
10 Mr. Ratliff.

11 Q. Okay. And so you received the
12 contraband from whom?

13 A. From Deputy Salters.

14 Q. And once you received the marijuana,
15 what did you do next?

16 A. I took possession of it and transported
17 it in my vehicle to Charleston County Sheriff's
18 Office.

19 Q. Can you tell the jury -- describe the
20 contraband one more time.

21 A. It was a clear bag that contained nine
22 smaller bags of marijuana inside of it.

23 Q. Now, where did you transport the
24 marijuana?

25 A. To 3505 Pine Haven. At the time that's

1 where the Sheriff's Office was located at.

2 Q. Okay. Did you transport the marijuana
3 directly --

4 A. From the jail to 3505 Pine Haven.

5 Q. Did you stop anywhere along the way?

6 A. No.

7 Q. Once there, what did you do?

8 A. I submitted it into evidence and tagged
9 it and put it inside of our mailbox where you open
10 it and shut it in.

11 Q. After you put it in the mailbox, did
12 you have any other contact --

13 A. No, I did not.

14 Q. -- with the drugs? Is that mailbox
15 secure?

16 A. Yes. It's inside the Sheriff's Office.

17 Q. Once it's dropped in there, who can
18 access it?

19 A. Only Forensic Services Unit can access
20 it.

21 Q. And Forensic Services Unit is?

22 A. Our FSU if you want to call them that,
23 but it's basically your crime analysis or crime
24 people that actually do the crime scene more than
25 anything.

1 Q. Now, were you present for the search of
2 the defendant?

3 A. No, I was not.

4 Q. So when was the first time that you saw
5 the marijuana?

6 A. When Deputy Salters gave it to me.

7 Q. Okay. Did you charge the defendant?

8 A. Yes, I did.

9 Q. What did you charge him with?

10 A. I charged him with contraband inside
11 the detention facility and possession with intent
12 to distribute marijuana.

13 Q. Why did you charge him with possession
14 with intent to distribute marijuana?

15 MS. FORD: Objection.

16 THE COURT: Basis?

17 MS. FORD: That's a legal conclusion,
18 Your Honor.

19 THE COURT: It's within the ambit of
20 his experience and job, so it's the basis for why
21 he charged the defendant.

22 Overruled; you may proceed.

23 THE WITNESS: Basically, the way it was
24 bagged. It was nine separate bags.

25 BY MS. NEWMAN:

1 Q. Nine separate bags?

2 A. Yes.

3 Q. And do you have to have any specific
4 weight to charge someone with possession with
5 intent --

6 A. Normally over 28 grams.

7 Q. Are you required to have that weight to
8 charge someone?

9 A. No.

10 Q. And, again, why did you charge him with
11 intent to distribute?

12 A. Because it was nine separate bags.

13 MS. FORD: Objection; asked and
14 answered.

15 THE COURT: Overruled.

16 THE WITNESS: Because it was nine
17 separate bags.

18 BY MS. NEWMAN:

19 Q. In your law enforcement experience,
20 what, if anything, do multiple baggies of marijuana
21 indicate?

22 A. Distribution.

23 MS. NEWMAN: Beg the Court's
24 indulgence. No further questions. Thank you.

25 THE COURT: Any questions for the

1 witness?

2 MS. FORD: Yes, Your Honor.

3 THE COURT: You may proceed when you're
4 ready.

5 CROSS-EXAMINATION

6 BY MS. FORD:

7 Q. Deputy Mizner, you had no -- you
8 observed nothing regarding this case as far as --

9 A. Not as far as the search, no.

10 Q. You charged Mr. Ratliff with possession
11 with intent to distribute based on the amount of
12 baggies, correct?

13 A. Correct, yes, ma'am.

14 Q. And that's just one factor to be
15 considered, correct?

16 A. Yes, ma'am.

17 Q. You didn't find any cash or anything on
18 Mr. --

19 A. No.

20 Q. He was incarcerated, correct?

21 A. Yes.

22 Q. So other things you might look for
23 would be multiple telephones, correct?

24 A. Yes.

25 Q. Ledgers of sales, correct?

1 A. Correct.

2 Q. None of that was on Mr. Ratliff?

3 A. No.

4 Q. And to arrest someone, you just need to
5 meet the requirement of probable cause, correct?

6 A. Correct.

7 Q. And probable cause is a lower standard
8 than beyond a reasonable doubt?

9 A. Correct.

10 MS. FORD: No further questions.

11 THE COURT: Any redirect.

12 MS. NEWMAN: Briefly, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. NEWMAN:

15 Q. Deputy Mizner, you received the
16 marijuana from the detention center, correct?

17 A. Yes.

18 Q. And are people that are in the
19 detention center able to have personal cell phones?

20 A. No. It's considered contraband.

21 MS. NEWMAN: No further questions.

22 THE COURT: Any objection to the
23 witness being excused? From the State?

24 MR. COOPER: No, ma'am.

25 THE COURT: From the defense?

1 MS. FORD: No, Your Honor.

2 THE COURT: Sir, you're excused.

3 THE WITNESS: Thank you.

4 THE COURT: You're welcome.

5 You may call your next witness.

6 MR. COOPER: State calls Chris

7 Hochreiter.

8 CHRISTOPHER HOCHREITER,

9 being first duly sworn, testified as follows:

10 THE CLERK: Have a seat, please. For
11 the record, please state your first and last name
12 and spell the last.

13 THE WITNESS: Christopher Hochreiter.
14 Last name is H-O-C-H-R-E-I-T-E-R.

15 THE COURT: You may proceed.

16 MR. COOPER: Thank you, Your Honor.

17 THE COURT: You're welcome.

18 DIRECT EXAMINATION

19 BY MR. COOPER:

20 Q. Mr. Hochreiter, where do you work?

21 A. I'm working in technology services with
22 Charleston County.

23 Q. Did you at any point in the past work
24 with Charleston County Sheriff's Office?

25 A. Yes, sir, I did.

1 Q. When did you work with the Sheriff's
2 Office?

3 A. From May of 2010 until September of
4 2015.

5 Q. What was your position in December of
6 2014?

7 A. I worked in the Forensic Services Unit
8 of the Sheriff's Office.

9 Q. And you worked there until when?

10 A. Until September, mid September of 2015.

11 Q. And what were your responsibilities at
12 the Sheriff's Office?

13 A. Mainly, I validated the intake of
14 evidence, just the daily intake of evidence that
15 came in. I validated that and made copies of CDs
16 for appeal.

17 Q. Can you explain to the jury what you
18 mean by validate the evidence?

19 A. So, essentially, it comes in with a
20 description and I generally ensure that the
21 description is as accurate as I'm able to make it.

22 Q. And did you happen to validate the
23 evidence in this case?

24 A. If I may look at my notes?

25 Q. Please.

1 A. Yes, I did.

2 Q. And when did you validate the evidence?

3 A. December 19, 2014.

4 Q. And what would you have done as far as
5 validate evidence in this case?

6 A. Since this is alleged drug material, I
7 don't do a lot of handling. At the beginning, I
8 would make sure that the weight that is given is
9 accurate and make sure that the description that's
10 provided is accurate.

11 Q. Do you remember what condition the
12 marijuana was in, the way it was packaged when you
13 saw it?

14 A. No, sir, I don't recall that.

15 Q. Where would you have retrieved the
16 evidence from?

17 A. This would have been at the old
18 Sheriff's Office headquarters on Pine Haven and
19 where we kept our evidence lockers was in
20 headquarters. They're all unlocked, and whenever a
21 deputy puts evidence in, they lock it with a
22 padlock and we have the keys to the padlock.

23 So I would go in in the mornings and
24 retrieve the evidence with my key and unlock all
25 the locks -- or unlock all the lockers and retrieve

1 the evidence.

2 Q. When you retrieved evidence in this
3 case, where did you take it when you were finished
4 validating it?

5 A. We took it back to our office, which
6 was adjacent to the Sheriff's Office, and then with
7 this being alleged drug material, it would go into
8 what we call the drug vault, which is another
9 locked area inside the Forensic Services Unit.

10 Q. So as far as your validation purposes,
11 was the evidence what it was reported to be?

12 A. Yes.

13 Q. Did you manipulate the evidence in any
14 way when it was in your possession?

15 A. No.

16 Q. Between taking it from the cabinet and
17 placing it in the secure drug room, was it ever out
18 of your possession or out of your sight?

19 A. No, sir.

20 Q. Did you assign an investigator to
21 analyze the evidence?

22 A. No. The testers are -- they work on a
23 rotational basis.

24 Q. Did you have any other involvement in
25 this case?

1 A. In July of this last year, I signed the
2 evidence out to Investigator Hopps.

3 Q. And Investigator Hopps is employed by
4 who?

5 A. Solicitor's office, Charleston County
6 Solicitor's Office.

7 Q. Did you manipulate the evidence before
8 giving it to Investigator Hopps?

9 A. No.

10 MR. COOPER: Beg the Court's
11 indulgence?

12 No further questions for this witness.
13 Please answer any questions the defense may have
14 for you.

15 THE COURT: Any cross-examination of
16 the witness?

17 MS. FORD: No, Your Honor.

18 THE COURT: Any objection to the
19 witness being excused? From the State?

20 MR. COOPER: No, ma'am.

21 THE COURT: From the defense?

22 MS. FORD: No, Your Honor.

23 THE COURT: Sir, you're excused.

24 Madame Forelady, ladies and gentlemen,
25 we're going to take advantage of this break in

1 testimony to take our lunch recess. We are going
2 to break until 1:30.

3 During the break, please do not discuss
4 the case among yourselves or with anyone else. You
5 will leave your notepads in your seats. Your lunch
6 has arrived. The bailiff will distribute it to
7 you.

8 Feel free to eat in that -- in your
9 jury room if you would like, but you can also go
10 outside in the courtyard if you want to and eat.
11 And you're welcome to walk around if you would like
12 to during lunch. Just return promptly to your jury
13 room by 1:30.

14 I would caution you that I would not
15 move my car if I were you, because it's the height
16 of Spoleto and you may not have a space when you
17 come back. Also, downtown is very congested. Even
18 under the best circumstances it can take 30 minutes
19 to get from the Meeting Street exit to the
20 courthouse. So I would caution you against moving
21 your vehicle; however, I've been told it's gorgeous
22 outside. You may want to enjoy some of the
23 sunshine before it hits 90.

24 So have a wonderful lunch and we will
25 see you all at 1:30 at which time we will resume

1 testimony.

2 Leave your notepads, please.

3 (Jury out 12:31 p.m.)

4 THE COURT: You may be seated. Is
5 there anything we need to take up before we adjourn
6 for lunch? From the State?

7 MR. COOPER: No, ma'am.

8 THE COURT: From the defense?

9 MS. FORD: No, Your Honor.

10 THE COURT: Please make sure that the
11 Court Reporter has all of the evidence, that nobody
12 has any at their tables.

13 And, sir, the jury has been sworn, your
14 bond has been called, you will be taken into
15 custody.

16 (State's Exhibit Number 11 was
17 withdrawn by Attorney Cooper.)

18 (A luncheon recess transpired.)

19 THE COURT: State ready to proceed?

20 MR. COOPER: Yes, Your Honor.

21 THE COURT: Defense ready to proceed?

22 MS. FORD: Yes, Your Honor.

23 THE COURT: Who is the State's next
24 witness?

25 MR. COOPER: Erin Meyer.

1 (Jury in 1:42 p.m.)

2 THE COURT: You may be seated.

3 Ladies and gentlemen, I hope you had a
4 pleasant lunch recess. We will now resume
5 testimony.

6 You may call your next witness.

7 MR. COOPER: The State calls
8 Investigator Erin Meyer.

9 THE COURT: Officer, please come to be
10 sworn.

11 ERIN MEYER,
12 being first duly sworn, testified as follows:

13 THE CLERK: Please have a seat. And
14 for the record, if you could state your name, the
15 first and last, and spell your last name please.

16 THE WITNESS: My name is Erin Meyer,
17 last name M-E-Y-E-R.

18 THE COURT: You may proceed.

19 MR. COOPER: Thank you.

20 THE COURT: You're welcome.

21 DIRECT EXAMINATION

22 BY MR. COOPER:

23 Q. Good afternoon, Investigator. Can you
24 tell the jury where you're employed?

25 A. I'm employed by the Charleston County

1 Sheriff's Office.

2 Q. How long have you been there?

3 A. Approximately, nine-and-a-half-years.

4 Q. What is your current position at the
5 Sheriff's Office?

6 A. I am a forensic investigator.

7 Q. How long have you been a forensic
8 investigator with the Sheriff's Office?

9 A. A little over eight years.

10 Q. And before the Charleston County
11 Sheriff's Office, were you previously in law
12 enforcement?

13 A. Yes. I was certified by the South
14 Carolina Criminal Justice Academy in October of
15 2000 and went to work for Spartanburg County
16 Sheriff's Office.

17 Q. What department do you work in the
18 Sheriff's Office here?

19 A. The forensic unit. We fall under the
20 criminal investigations division.

21 Q. Can you explain what FSU does?

22 A. We have several different roles. One
23 is, we are crime scene investigators and we respond
24 to the scene of an incident, collect and preserve
25 evidence. The other side of our jobs is to

1 maintain that evidence back at the office and
2 protect the integrity and do an analysis if it's
3 possible for us to do and then send it off.

4 Q. As part of the analysis you do
5 in-house, is marijuana analysis one of those?

6 A. Yes. We are all marijuana analysts.

7 Q. So you are certified to test for
8 marijuana?

9 A. Yes.

10 Q. Can you elaborate for the jury the
11 different educational training and qualifications
12 that you have to test for marijuana?

13 A. Basic experience, drug identification,
14 some drug interdiction courses. The main one is a
15 course offered by SLED. In order for you to become
16 certified as a marijuana analyst you have to -- you
17 have to go through a three-day course and then you
18 have to take a written test and you have to get
19 80 percent or higher and you have to test 50
20 samples at 100 percent.

21 Q. And you did complete all of that
22 successfully?

23 A. Yes. In fact, I did it twice, yes.

24 Q. Approximately, how many different
25 marijuana analysis have you performed?

1 A. Last time I checked, it was well over
2 700.

3 MR. COOPER: Your Honor, at this time I
4 would offer Investigator Meyer as an expert in the
5 field of marijuana analysis.

6 THE COURT: Any objection or questions?

7 MS. FORD: No, Your Honor.

8 THE COURT: So admitted without
9 objection. You may proceed.

10 MR. COOPER: Thank you, Judge.

11 THE COURT: You're welcome.

12 BY MR. COOPER:

13 Q. Investigator Meyer, what was the nature
14 of your involvement in this case?

15 A. I did test for marijuana.

16 Q. And what was the condition of the
17 marijuana when you first received it?

18 A. When a deputy drops something into
19 evidence, there is a procedure where it gets
20 validation. And once it's assigned that bar code
21 and that label, that label is put on that bag.
22 It's put in a secure location in our vault.

23 I was actually advised that I had
24 marijuana to test so I went to the vault and
25 retrieved the bag. And so it was in a paper

1 evidence bag with a work request attached to it.

2 Q. Do you remember how the marijuana was
3 packaged when you began the analysis?

4 A. No. I remember there being several
5 multiple bags.

6 Q. Okay.

7 A. Without me opening the package at that
8 time or me prepared to test it and sit down at that
9 time, I just knew there were multiple bags.

10 Q. Can you describe for the jury the
11 process you used in testing?

12 A. When we decide to sit down and test,
13 it's usually for several hours. We have to sit
14 down and calibrate our scales, make sure that they
15 are accurate. We put weights on them and we have
16 to document that, we have to sign the log, and we
17 have to write down -- record those weights and then
18 we start.

19 We take a sample and you start testing.
20 You do the weights and then you do a microscopic
21 examination and then you do a chemical exam. Based
22 on the results, you -- it's whether or not it's
23 marijuana.

24 Q. Can you explain to the jury what a
25 microscopic exam consists of?

1 A. There are certain characteristics in
2 marijuana, or THC, that we look for that we have to
3 have in order to be able to consider that a
4 positive test. One of them are -- on the other
5 side of the leaf on the bottom side there are
6 different hairs that we look for, there's serrated
7 edges, count the number of leaves depending on the
8 size of the sample.

9 There are hairs called cystolithic
10 hairs, more commonly called bear claws because it
11 looks like little cat claws. There's singular
12 hairs and molecular hairs and glandular hairs that
13 actually contain the THC. And we have to make sure
14 all of those are present in order for us to have a
15 positive microscopic exam.

16 Q. And after you complete a microscopic
17 exam, can you explain to the jury what's involved
18 in the chemical exam?

19 A. It's a three step procedure. There's a
20 -- it's called a Duquenois-Levine test. The
21 Duquenois reagents, it's several chemicals mixed
22 in, that you drop several drops on the sample and
23 just to moisten it. And then you would add
24 hydrochloric acid, and it's going to turn a shade
25 of pink or purple.

1 And then you're going to add a drop of
2 chloroform and it's going to create a -- if it's
3 positive, it's going to create almost like a pupil
4 or a bubble. We call it an eye. It will be kind
5 of clear and it's going to push the purple and pink
6 to the outside and it will look a little pinkish.

7 Q. How do you record the results of your
8 physical examination, microscopic tests and
9 chemical tests?

10 A. We have a worksheet that we use. For
11 instance, where we have multiple bags, there's no
12 worksheet that we use. We document the weight --
13 and we would weigh each sample individually and
14 document the weight, and then we'd go through and
15 use positives or negatives and describe what we're
16 seeing, the pink eye or the purple eye.,

17 Q. Did you document -- did you create a
18 worksheet in this case?

19 A. Yes.

20 Q. Would you recognize it if I showed it
21 to you?

22 A. Most likely.

23 MR. COOPER: May I approach the
24 witness?

25 THE COURT: You may.

1 BY MR. COOPER:

2 Q. I'm showing you what was marked as
3 State's Exhibit 8 for identification purposes only.
4 Can you -- do you recognize that document?

5 A. Yes.

6 Q. What is that?

7 A. It's the GPM worksheet we use for
8 multiple bags.

9 Q. Is it the one from this case?

10 A. Yes.

11 Q. How can you tell?

12 A. The bar code and the case number.

13 Q. Is that in the same or similar
14 condition as the last time that you saw it?

15 A. Yes, sir.

16 Q. Other than being a photocopy?

17 A. Yes.

18 Q. And it was you that created this
19 worksheet?

20 A. Yes.

21 MR. COOPER: At this time I would move
22 to have State's Exhibit 8 moved into evidence.

23 THE COURT: Any objection?

24 MS. FORD: Yes.

25 THE COURT: Approach.

1 (Bench conference.)

2 THE COURT: Sustained.

3 Proceed.

4 BY MR. COOPER:

5 Q. Investigator Meyer, can you -- how many
6 bags did you test in this case?

7 A. Nine.

8 Q. Nine separate bags?

9 A. Yes.

10 Q. Can you tell the jury what the results
11 of your analysis of nine individual bags were?

12 THE COURT: You have not complied with
13 the Court's instructions and you cannot ask that
14 question until you do establish the appropriate
15 foundation regarding the testing.

16 MR. COOPER: Yes, Your Honor.

17 BY MR. COOPER:

18 Q. Investigator Meyer, where did you
19 retrieve the evidence from?

20 A. The vault.

21 Q. And it would have been placed there by
22 who?

23 A. It's --

24 Q. How --

25 A. The validating officer, the officer

1 that collects the evidence from the lockers. And
2 each morning we validate them and we slap a sticker
3 on it and that gets put in the locked vault.

4 Q. And it stays there when a validating
5 officer puts it there until the assigned
6 investigator takes it out for analysis?

7 A. Correct.

8 Q. And how do you know the evidence in
9 question corresponds to the specific case?

10 A. Well, based on the fact that the
11 worksheet attached to it corresponds with the label
12 that's been put on it and the description is
13 accurate, that would be the only way I would know.

14 Q. And on the label is there a specific
15 case number and label?

16 A. Yes. Sorry, and the bar code. The bar
17 code is usually generated on the label itself along
18 with the case number and then it's also generated
19 on all the paperwork. So it definitely puts that
20 -- when the deputy sits down to enter evidence,
21 they sit down at the computer, and it's an
22 electronic log.

23 That computer generates that bar code
24 number and it gets put on all the paperwork that
25 gets printed out. That paperwork gets attached,

1 stapled, however, to the evidence and they drop it
2 into the locker. We go and get it out of the
3 locked lockers and validate them and put the
4 sticker on the outside of the evidence.

5 Q. And that contains the case number
6 that's unique to every --

7 A. Yes. Contains a case number, the bar
8 code, description, the case agent's name at the
9 bottom and usually incident location.

10 Q. Does the case number on the worksheet,
11 is it the same number as what was listed on the
12 evidence, the same case number?

13 A. Yes. I need to look at the package of
14 evidence, but, yes.

15 MR. COOPER: May I approach the
16 witness, Your Honor?

17 THE COURT: You may.

18 BY MR. COOPER:

19 Q. I'm showing you what was marked for
20 identification purposes only State's Exhibit 10.

21 A. I wouldn't have written these up here.

22 Q. I'm sorry, say that again.

23 A. I would not have -- I would not have
24 been documenting those -- the case number and the
25 bar code on this worksheet had it been something

1 different on the package.

2 Q. So the case numbers and bar codes match
3 from your worksheet to the evidence?

4 A. Yes, sir.

5 MR. COOPER: Beg the Court's
6 indulgence.

7 BY MR. COOPER:

8 Q. At this time, Investigator Meyer, can
9 you show the jury what the results of the analysis
10 was?

11 MS. FORD: Objection; foundation.

12 THE COURT: Approach.

13 (Bench conference.)

14 THE COURT: Madame Forelady, ladies and
15 gentlemen, we are going to take a very brief
16 recess. During the break, please do not discuss
17 the case and leave your notepads in your seats.

18 (Jury out, 1:56 p.m.)

19 THE COURT: Ma'am, could you please
20 hold up the container that -- how you came into
21 possession of --

22 A. (Indicating)

23 Q. Did you create that envelope?

24 A. No. This envelope is --

25 Q. That's how you got it from the secured

1 area; is that correct? Don't let me put words in
2 your mouth. I'm trying to determine how it came
3 into your possession.

4 A. I don't recall whether it was in an
5 evidence bag or in a paper envelope, but,
6 traditionally, we use one or the other depending on
7 the size of the sample. After 700, I can't tell
8 you how it came to me.

9 I can tell you that I most consistently
10 like to use envelopes. So if it wasn't generated
11 in the validation process, then I did it then. I
12 like mine in envelopes. I put all of mine in
13 envelopes.

14 Q. So you can't say how it came to you,
15 whether it was in an envelope or a bag?

16 A. Correct. I know it's in a package, a
17 paper package or envelope, because we don't just
18 put the drugs back there visible like that in that
19 area. They belong in a bag.

20 Q. So where did you retrieve the drugs
21 from?

22 A. From the vault. They get put in the
23 secure vault.

24 Q. How are they packaged when you retrieve
25 them from the vault?

1 A. Yeah, I'm sorry, I don't --

2 Q. So you don't know who created the
3 envelope you have in your hand or who created the
4 label?

5 A. We create the label. I can tell you --

6 Q. When you say we --

7 A. The label is -- the bar code is created
8 when that deputy enters that item in evidence.
9 When we get that item out, we validate the bar
10 code, and when we hit, print label, the computer
11 automatically generates the label.

12 The person doing the validating that
13 morning, puts the label on the package. So then
14 that package goes into the vault.

15 Q. So if I understand what you're saying,
16 when that label that you have on that package was
17 generated, you didn't generate two labels, correct?

18 A. No.

19 Q. It would have been one label that was
20 generated to put on the package --

21 A. Yes, ma'am.

22 Q. So it would make sense to me then
23 that's the package that it came in, because you
24 wouldn't have created two labels, would you?

25 A. Right. Unless -- unless I had a

1 package that came in that then would not fit in the
2 -- after I got done with my -- and it wouldn't fit
3 back in that one, I'm not going to rip that label
4 off of that original packaging --

5 Q. You would create another label.

6 A. Right. Yes, ma'am.

7 Q. Would your system show that?

8 A. No, I don't think it would show me
9 printing another label.

10 Q. Do you have any recollection as to
11 whether it would not have fit?

12 A. If I can open it and look at it, I will
13 be able to tell you.

14 Q. Yes, ma'am. Go ahead and do that.

15 A. Oh, yeah. That's -- that came to me
16 like that, because I wouldn't have needed another
17 package. I wouldn't have needed to generate
18 another label. This would have been perfectly
19 fine. These all would have fit in this package.

20 THE COURT: Are there any questions as
21 a result of the Court's questions? I had to get to
22 the root of what -- the chain.

23 MR. COOPER: I just want to make sure
24 that the Court is not still wanting something more
25 from me --

1 THE COURT: It's not what I want. It's
2 what case law requires. You should have had the
3 officers identify the packaging that they created
4 when they took possession of the drugs. You have
5 to prove the chain as far as practical. You don't
6 have to prove it perfectly.

7 That's why you have her for proof and
8 that's for them to argue the weight of the evidence
9 and the sufficiency of your chain. At a basic
10 minimum, you should have had them put their hands
11 on what they created and verified that they got the
12 drugs physically, they put them in this package,
13 they generated the label, it went in the box.

14 As I said at the bench, you don't -- he
15 testified that it was the size of a baseball. He
16 couldn't have just dropped that in the box. You'd
17 have issues of contamination. It wouldn't have
18 dropped it in there. He had to put it in
19 something.

20 MR. COOPER: Yes, ma'am.

21 THE COURT: Generate a label, put it in
22 the mailbox, then whoever got it scanned it,
23 verified it, put it in the vault, then she would
24 have gotten it and tested it.

25 MR. COOPER: Yes, ma'am.

1 THE COURT: And while you asked
2 questions of your chain witness, you didn't have
3 them authenticate or verify that this was in fact
4 what they put it in and that it hadn't been
5 tampered with from the time, at least to their
6 knowledge, that they put it in the package.

7 So if you would like to recall your
8 witnesses to establish that, I'm going to allow you
9 to do.

10 MR. COOPER: Yes, ma'am.

11 THE COURT: However, I will allow her
12 to testify subject to connection, but if you don't,
13 I'm going to strike all of her testimony.

14 MR. COOPER: Yes, ma'am.

15 THE COURT: So do you want a few
16 minutes to call your witnesses and see if they're
17 available?

18 MR. COOPER: Yes, ma'am.

19 THE COURT: We will be at ease for a
20 few minutes.

21 MR. COOPER: Thank you, Judge.

22 THE COURT: Ma'am, you can walk around,
23 just don't discuss your testimony with anyone.

24 THE WITNESS: Yes, ma'am.

25 (A recess transpired.)

1 (DFT. EXH. 1, Copy of jury charge, was
2 marked for identification.)

3 (DFT. EXH. 2, Copy of jury charge, was
4 marked for identification.)

5 MR. COOPER: Your Honor.

6 THE COURT: Yes, sir.

7 MR. COOPER: Both of our chain
8 witnesses are on the way. Mr. Hochreiter is on his
9 way back from Lees Avenue and Deputy Mizner is on
10 his way back from Awendaw.

11 THE COURT: We will proceed with the
12 witness's testimony subject to connection. And you
13 can go ahead and get the jury for me please.

14 MR. COOPER: Thank you, Judge.

15 THE COURT: You're welcome.

16 MR. COOPER: Actually, he's on Ravenel
17 Road so he'll be here sooner than expected.

18 THE COURT: So you're calling who
19 again?

20 MR. COOPER: Deputy Mizner, the one who
21 placed it into evidence as well as Mr. Hochreiter
22 who was the validating officer, the chain witness.
23 So both of them to ensure that we connect the chain
24 properly.

25 THE COURT: Did Deputy Salters put it

1 into any kind of packaging? Who put it in the
2 locker at the jail?

3 MR. COOPER: Deputy Mizner took it from
4 the jail and placed it in the envelope at the
5 Sheriff's Office and then placed it in the evidence
6 locker at the Sheriff's Office and that's where
7 Mr. Hochreiter would have moved it from that locker
8 and kept it.

9 Deputy Mizner retrieved it directly
10 from Officer Salters at the detention center.

11 THE COURT: I'm not going to tell you
12 how to try your case. You just need to make sure
13 that your chain is complete, because if she makes
14 an objection regarding that, I'm going to give it
15 serious consideration.

16 MR. COOPER: Yes, ma'am.

17 THE COURT: I didn't mean to say she.
18 I meant Counsel.

19 MR. COOPER: Pardon?

20 THE COURT: I didn't mean to refer to
21 Ms. Ford as she.

22 (Jury in, 2:15 p.m.)

23 THE COURT: Thank you. We appreciate
24 your patience. We will now resume the witness's
25 testimony. You may proceed.

1 MR. COOPER: Thank you, Your Honor.

2 THE COURT: You're welcome.

3 BY MR. COOPER:

4 Q. Investigator Meyer, when an object is
5 initially placed into evidence by an officer, can
6 you walk the jury through how that process works
7 from when it's placed into a locked box until the
8 time you get it.

9 A. A deputy responds to a call and
10 entertains some kind of evidence. At that point it
11 would go into certain packaging based on our
12 protocol and our procedures and policies. They
13 would respond to the sheriff's office and log into
14 an evidence system where they would create an entry
15 for each individual item of evidence.

16 At that point, once they create that
17 entry, there's an item number, or what we call a
18 bar code, attached to it and there's a description,
19 a location, a date, and a case number. All of that
20 information is provided in there.

21 When they are done and they log out,
22 the computer will automatically print what we call
23 a pending evidence sheet and a worksheet, as they
24 need some kind of analysis done on something. It
25 will also print that worksheet. If they need a

1 chain of custody printed, at that point it can also
2 do that.

3 Once they have all of their paperwork
4 together, it's attached to the package somehow or
5 another, and the package gets placed into a locked
6 locker. There are locked boxes and lockers and
7 then there's a mailbox-type locker that we also
8 have. We are the only ones with the keys and code.

9 So just us and forensics are the only
10 ones that have access to the lockers. Every
11 morning we go down to the office and we will unlock
12 all the lockers and collect everything and bring it
13 back to the lab. And that's what I'm calling the
14 validation process.

15 We sit down and we piece by piece --
16 that bar code that's generated at the top of that
17 paperwork, you type in that bar code and it
18 automatically when you hit print label, it puts it
19 in our custody. That's us saying that I have
20 possession of this piece -- this item, this piece
21 of evidence.

22 The label will go on the package and
23 the package may -- the item may need different
24 packaging, depends on what type of analysis you're
25 asking to be done on it. Once that label is on

1 that package and there's work to be done to it, it
2 either will go to a locked area in the work bay or
3 to the vault which is where we conduct our
4 marijuana analysis.

5 Q. Are you able to tell from the
6 documentation who created the label in this case.

7 A. Yes.

8 Q. Who is that?

9 A. Can I look at my --

10 MR. COOPER: May I approach the
11 witness?

12 THE COURT: You may.

13 THE WITNESS: It would be --

14 MS. FORD: Objection; hearsay.

15 THE COURT: Overruled. It's a business
16 record.

17 THE WITNESS: It would be what the
18 screen shot is. There's a tracking system on the
19 side of the screen that shows when that person
20 entered it -- when the deputy submitted it and then
21 who validated it and entered it.

22 BY MR. COOPER:

23 Q. Is that what you're --

24 A. Well, that would tell me too, but, yes.

25 Yes. So it was entered by Mizner, the initial

1 submitting deputy, and then Deputy Hochreiter
2 pulled it out 11:56 a.m., like the following
3 morning and validated it. That's what we're
4 calling entered by -- it's a bad term to use, but
5 it's technically validated. He validated it and
6 put the label on it.

7 Q. Once he validated it, where would he
8 have placed it?

9 A. In the locked vault where we do our
10 marijuana analysis.

11 Q. Is that where you received the evidence
12 in this case?

13 A. Yes. That's where I would go to get it
14 from and I would be added to the chain by pulling
15 it out and doing the marijuana analysis on it.

16 Q. Judging by the internal documentation,
17 was there anybody that retrieved that evidence from
18 the time that Deputy Hochreiter put it in there
19 until the time you pulled it out?

20 A. No, sir.

21 Q. And the bar code number and the OC
22 number, are they the same ones that are listed on
23 the bag of evidence?

24 A. Yes.

25 Q. And the evidence number on the

1 Sheriff's Office list the same -- does it
2 correspond with the individual piece of evidence?

3 A. Ask me that again.

4 Q. The evidence number that your
5 department assigns to each individual --

6 A. That bar code item number?

7 Q. Is that the same?

8 A. Yes.

9 Q. Okay.

10 A. Yes. As it is on the list and the
11 evidence.

12 MR. COOPER: Okay. Beg the Court's
13 indulgence for one second.

14 BY MR. COOPER:

15 Q. Does the officer who initially placed
16 the item into evidence, do they request specific
17 analysis from FSU?

18 A. Yes. They have the initial request
19 indicated that they wanted a drug test, marijuana
20 analysis to be done.

21 Q. And did you perform that test?

22 A. Yes, sir.

23 Q. Can you share with the jury what the
24 results of that analysis were?

25 MS. FORD: Objection, Your Honor.

1 THE COURT: Basis?

2 MS. FORD: Foundational.

3 THE COURT: Overruled. You may
4 proceed.

5 MR. COOPER: Thank you, Your Honor.

6 BY MR. COOPER:

7 Q. Investigator Meyer, can you share with
8 the jury what the results of your analysis was?

9 A. Can I refer to the report that I
10 generated?

11 Q. Yes.

12 A. Once we -- once we did the marijuana
13 analysis, we generate the very last thing -- I'm
14 sorry, let me back up. Once we test them, they get
15 separated, they get sealed, I initial and date it,
16 and they get put up, get locked back up. And then
17 the last thing I would do is generate a report.

18 On the report it would not show the
19 individual weights of each bag. We just give a
20 total weight in our report, but in my report it
21 indicates that 7.28 grams of marijuana was found.

22 Q. Okay. And does that tell you how many
23 bags were involved in that, or no?

24 A. Not on my report. On my worksheet it
25 would.

1 Q. And how do you know what worksheet
2 corresponds to that report?

3 A. Because I wrote the case number and the
4 bar code at the top of my worksheet and at the top
5 of the work request, and it is on the marijuana
6 analysis report.

7 Q. Do you still have the worksheet with
8 the --

9 A. I do.

10 Q. Okay. Is that the worksheet that
11 belongs with the item of evidence in this case?

12 A. Yes.

13 Q. And you can tell that by how?

14 A. Case number is written at the top and
15 the item number for the individual piece that I was
16 doing the analysis on.

17 Q. How many bags were involved in your
18 analysis?

19 A. Nine.

20 Q. And you tested each one separately?

21 A. Each sample has to be tested and
22 weighed and looked at under the microscope.

23 Q. Did each of the nine samples test
24 positive in your analysis for marijuana?

25 A. Yes, sir.

1 Q. Can you tell the jury what the weights
2 for each of the nine bags are?

3 A. Bag number one was .81 grams; bag
4 number two was .72 grams; bag number three, .81
5 grams; bag number four, .82 grams; bag number five,
6 .92 grams; bag number 6, .93 grams; bag number
7 seven, .77 grams; bag number eight, .76 grams; and
8 bag number nine, .74 grams.

9 Q. Now, at the top of the worksheet, what
10 is this entitled?

11 A. GPM worksheet.

12 Q. Can you explain to the jury what that
13 stands for?

14 A. GPM stands for green plant or plantlike
15 material. It's a term that is often used prior to
16 analysis because you don't want to wrongfully call
17 something marijuana that's not marijuana or THC
18 when it's not THC. So it's very commonly used as
19 GPM, green plantlike material.

20 Q. Does that worksheet also indicate the
21 positive test results for the microscopic and the
22 chemical analysis in each bag?

23 A. Yes, sir.

24 Q. Does it show the total weight of all
25 nine bags?

1 A. Yes, sir.

2 Q. What was the total weight?

3 A. 7.28 grams.

4 MR. COOPER: Your Honor, at this time
5 the State would like to offer State's Exhibit 8
6 into evidence.

7 MS. FORD: Objection; hearsay and
8 bolstering.

9 THE COURT: It's not hearsay; she
10 created the report.

11 MS. FORD: Prior inconsistent
12 statement, Your Honor.

13 THE COURT: It's not hearsay; she
14 created -- she's an expert. I'll take it under
15 advisement.

16 What is that marked as?

17 MR. COOPER: State's Exhibit 8.

18 THE COURT: It's ID only at this time.

19 MR. COOPER: Yes, ma'am.

20 Thank you.

21 THE COURT: You may proceed.

22 MR. COOPER: Thank you, Your Honor.

23 THE COURT: Uh-huh.

24 BY MR. COOPER:

25 Q. And then you would have submitted the

1 results of your analysis back into -- submitted it
2 back to the officer or back into --

3 A. Yes. After I've put up the evidence, I
4 return to my desk and go back in and put the
5 results into the computer under that item. We have
6 a work request slot and then there's a spot for me
7 to put my results. I would have entered the
8 results in there, and then I would have generated
9 the report, and the report is going to pull certain
10 areas from that original entry.

11 Q. Would you recognize the actual items
12 that you tested if I were to show them to you?

13 A. Yes, sir.

14 Q. I'm showing you State's Exhibit 10 for
15 identification purposes only. Is that the bag of
16 evidence that corresponds to the analysis you
17 performed in this case?

18 A. Yes, sir. If I may look in it?

19 Q. Please.

20 A. Yes.

21 Q. How were you able to tell?

22 A. I have consistently -- when I test
23 marijuana and there is multiple bags, the bag that
24 I receive it in, I package by itself. It's one of
25 mine, but all --

1 MS. FORD: Judge, objection; publishing
2 items not in evidence, Your Honor.

3 THE COURT: I'm sorry, can you --

4 BY MR. COOPER:

5 Q. Can you just without showing --

6 THE COURT: Approach.

7 (Bench conference.)

8 THE COURT: Overruled.

9 Ma'am, you may continue; the objection
10 is overruled.

11 MR. COOPER: Thank you.

12 THE WITNESS: Consistently, if I
13 receive an outer bag that contains smaller bags, it
14 gets packaged by itself. Once I test the samples
15 and they get repackaged, the sample -- I put the
16 bag at the bottom and the samples -- it gets heat
17 sealed, the sample goes to the top, we heat seal it
18 again, and these are my initials, EKM, and the date
19 I sealed it. And then they would all go back into
20 the original packaging and get placed back into the
21 vault.

22 BY MR. COOPER:

23 Q. From the time that you retrieve the
24 evidence, you keep each of the nine individual bags
25 separately?

1 A. Yes. It all stays separate and stays
2 in my possession.

3 MR. COOPER: Your Honor, at this time
4 the State would offer State's Exhibit 20 into
5 evidence.

6 THE COURT: Any objection?

7 MS. FORD: Yes, Your Honor. Just based
8 on foundation and chain.

9 THE COURT: Sustained. ID only until
10 the chain is completed.

11 MR. COOPER: Yes, ma'am.

12 Beg the Court's indulgence?

13 THE COURT: Yes, sir.

14 MR. COOPER: All right. Investigator
15 Meyer, I have no further questions of you at this
16 time. Please answer any that the defense may have
17 for you.

18 THE WITNESS: Yes, sir.

19 THE COURT: Any questions for the
20 witness?

21 MS. FORD: Yes, Your Honor.

22 THE COURT: You may proceed.

23 CROSS-EXAMINATION

24 BY MS. FORD:

25 Q. Just a few. You did not actually

1 create the envelope that we've been seeing,
2 correct?

3 A. No.

4 Q. The paper envelope?

5 A. No.

6 Q. Someone else created that?

7 A. It would have needed to be packaged in
8 that before it got put into the vault.

9 Q. And you separated the baggie into the
10 baggies that you were showing -- you're the one who
11 separated the bags, correct?

12 A. Yes, ma'am. There should be -- there
13 would be no separation of the substances during the
14 validation period. That is for the analyst to do
15 when they began their testing.

16 Q. Do you know how it came to you in the
17 first place? How it looked; do you recall that?

18 A. Whether it was in this particular
19 envelope?

20 Q. Yes.

21 A. I'm going to say that more than likely
22 it was, because it fit in that envelope. If it was
23 a --

24 Q. Buy you don't --

25 A. -- larger sample -- right. After

1 700 -- they are either going to come to me in one
2 of these, an envelope, or a paper bag.

3 Q. When you opened -- assuming that is the
4 envelope, when you opened it, do you recall how the
5 marijuana was packaged?

6 A. Yeah. There were smaller bags inside
7 of a bigger bag.

8 MS. FORD: Beg the Court's indulgence.

9 THE COURT: Yes, ma'am.

10 BY MS. FORD:

11 Q. Do you remember how the marijuana
12 looked in the bag? If it was squished or anything
13 like that, if the bags were closely tied or --

14 A. Yeah. I don't untie the knots.

15 Q. Okay.

16 A. When I get multiple bags inside a
17 larger bag, and this is one of the reasons, I don't
18 untie them because I split the bottom with a razor
19 and then I empty the substance into a tray.

20 Q. So you cut the bag?

21 A. Yes. I cut the bottom of the bag. I
22 don't undo the knots. So they were in smaller
23 bags, inside the bigger bag.

24 Q. And you weren't present when the drugs
25 were initially found?

1 A. Correct.

2 Q. And you weren't there when the drugs
3 were packaged, correct?

4 A. Correct.

5 MS. FORD: No further questions.

6 THE COURT: Any redirect?

7 MR. COOPER: Nothing further from the
8 State.

9 THE COURT: Any objection to the
10 witness being excused? From the State?

11 MR. COOPER: No, ma'am.

12 THE COURT: From the defense?

13 MS. FORD: No, Your Honor.

14 THE COURT: Ma'am, you're excused.
15 State may proceed.

16 MR. COOPER: State calls Detective
17 Chris Goode.

18 CHRISTOPHER GOODE,
19 being first duly sworn, testified as follows:

20 THE CLERK: For our record, if you
21 could state your first and last name and spell the
22 last.

23 THE WITNESS: Christopher Goode,
24 G-O-O-D-E.

25 THE COURT: You may proceed.

1 DIRECT EXAMINATION

2 BY MR. COOPER:

3 Q. Afternoon.

4 A. Afternoon.

5 Q. Can you tell the jury where you're
6 employed?

7 A. Mount Pleasant Police Department.

8 Q. How long have you been at Mount
9 Pleasant Police Department?

10 A. Almost five years.

11 Q. What is your current position?

12 A. Currently assigned to the special ID
13 unit as a narcotics detective.

14 Q. How long have you been a narcotics
15 detective?

16 A. Almost three years now.

17 Q. Okay. Can you explain what your job as
18 a narcotic detective entails?

19 A. We investigate drug dealers through a
20 variety of techniques, we conduct surveillance,
21 controlled buys using CI, confidential informants,
22 sometimes go undercover and conduct the buys
23 ourselves. We execute search warrants, arrest
24 warrants, conduct interviews of the drug dealers.
25 Basically, try to further your narcotics

1 investigation the best we can.

2 Q. What kind of drugs do you commonly
3 encounter in your work?

4 A. In the Town of Mount Pleasant, I've
5 encountered almost every type of drug, but, mainly,
6 we see marijuana, cocaine, crack cocaine, ecstasy,
7 to prescription pills, things of that nature.

8 Q. During the time that you've been a
9 narcotics detective, how many drug transactions
10 would you be involved with in one form or another?

11 A. Well over 100. I would say upwards,
12 closer to 200.

13 Q. Can you tell the jury about any
14 specialized training you received as far as
15 narcotics investigations?

16 A. Yes, sir. Since I've been in narcotics
17 I've taken numerous advanced specialized courses
18 for narcotics investigations. Specifically, I've
19 taken approximately over 240 hours of courses, some
20 of them through the Criminal Justice Academy, some
21 through HIDTA, which is a high-intensity drug
22 trafficking association -- it's a federally funded
23 grant -- some through FLETC, the Federal Law
24 Enforcement Training Center. Some of the courses
25 I've taken are basic narcotics investigations,

1 narcotics undercover techniques, current drug
2 strategies, some drug recognition, marijuana and
3 undercover operations, and several others.

4 Q. Are there any other ways that you keep
5 current as far as your line of work?

6 A. Yes, sir. One of the best ways that we
7 learn how things go on the street is through
8 interviews and debriefs of CIs, drug dealers, and
9 drug users. They provide the current knowledge of
10 how things are really going on the street and the
11 new ways they're trying to conceal the drugs or
12 sell the drugs, new street terms, a variety of
13 things.

14 It's best -- sometimes there's a lot of
15 new things that come out, or new street terms or
16 even new forms of marijuana that came from Colorado
17 that we weren't aware of at the time, but we
18 learned from them through interrogation.

19 Q. Do you have to be aware and keep
20 updating that type of information to be successful
21 at what you do?

22 A. Yes.

23 MR. COOPER: Your Honor, at this time,
24 the State would offer Detective Goode as an expert
25 in the field of narcotics investigations?

1 THE COURT: Any questions or objection?

2 MS. FORD: A few, Your Honor.

3 THE COURT: Pardon me?

4 MS. FORD: A few, Your Honor.

5 THE COURT: You may proceed.

6 EXAMINATION

7 BY MS. FORD:

8 Q. Detective Goode, have you been
9 qualified as an expert before in trial?

10 A. No, ma'am.

11 Q. And so you've been doing narcotics work
12 for nearly three years?

13 A. Yes.

14 Q. And have you ever studied in your work
15 addiction?

16 A. Studied as in taking a training course?

17 Q. Yes. Working with counselors to get to
18 know addicts or -- you work with dealers and
19 addicts, correct? Is that fair to say?

20 A. Dealers, addicts, and users.

21 Q. Have you ever had any training about
22 the psychology, for example, of addicts and
23 dealers?

24 A. I wouldn't say specifically, but I do
25 have a bachelor's of arts degree in psychology, but

1 I didn't go into the advanced training of the
2 psychology of a drug user.

3 Q. Did you study addiction in particular?

4 A. No. A few brief courses in it, but --
5 in college. It wasn't anything specifically
6 related to my job title.

7 Q. A whole class on drugs or they were
8 just mentioned?

9 A. They were mentioned.

10 MS. FORD: Okay. No further questions.

11 THE COURT: Any objection to the
12 witness being qualified as an expert?

13 MS. FORD: No, Your Honor.

14 THE COURT: So admitted without
15 objection. You may proceed.

16 MR. COOPER: Thank you, Your Honor.

17 THE COURT: You're welcome.

18 By MR. COOPER:

19 Q. Detective Goode, has your training and
20 your experience taught you how to differentiate
21 between somebody who simply has marijuana for
22 personal use and somebody who is possessing it for
23 distribution?

24 A. Yes, it has.

25 Q. And you explain to the jury some of the

1 factors that you look at to determine if somebody
2 has marijuana for possession or distribution?

3 A. Each case is pretty different. It can
4 depend on a variety of factors. We look at the
5 manner in which the drugs are packaged, multiple
6 baggies, corner-cut baggies. Basically, if you
7 picture a Ziplock bag being squared on -- cut the
8 bottom corners and stretch it out, put in small
9 amounts, twisty-tie it up for distribution, use
10 different types of bags -- I've seen grocery bags,
11 not just sandwich bags.

12 Not only that, but the weight factor of
13 the drug itself, if it's more than a determined
14 amount for personal use, can be considered as
15 intended for distribution. If we find them in
16 possession of scales, digital scales, large sums of
17 currency, conversations on their cell phones
18 through text messages, drug ledgers.

19 Sometimes people will keep a notebook
20 with transactions that people owe them money or
21 drugs they've sold to all the people that they
22 generally sell to.

23 Q. Is the weight of the drug one of the
24 ways that you can tell whether or not somebody has
25 it for a personal use or distribution?

1 A. Yes, sir.

2 Q. Specifically focusing your attention on
3 marijuana, does the law provide an inference weight
4 when the amount of the drugs would be considered to
5 be distribution instead of personal use?

6 A. Yes, it does. It infers that 28 grams,
7 which is an ounce of marijuana, is indicative of
8 possession with intent to distribute.

9 Q. Is it required for there to be 28 grams
10 in order for you to be able to charge somebody with
11 possession with intent to distribute?

12 A. No, sir.

13 Q. Is that just one of the ways you can
14 infer possession with intent to distribute?

15 A. It's one of the ways, but it's not the
16 only factor that comes up.

17 Q. Based on your training and experience,
18 what are some common weights that you see in drug
19 transactions for marijuana?

20 A. It depends entirely on the drug dealer
21 and the level of drug dealer you're dealing with.
22 There are smalltime drug dealers, mid-level drug
23 dealers, and there's large scale drug dealers.

24 Typically, we see some of the mid
25 level, but a general drug transaction for marijuana

1 they'll do it in fractions of an ounce. So an
2 eighth of an ounce is 3.5 grams approximately. The
3 next up they'll use is a quarter of an ounce, which
4 is seven grams, and then a half ounce, 14 grams up
5 to an ounce, and so on.

6 Q. What are some of the highest and lowest
7 weights for marijuana transactions?

8 A. I've dealt with investigations where we
9 purchased a gram of marijuana. I've dealt with
10 investigations where we purchased five pounds. The
11 most I've dealt with, and it was only one time, was
12 50 pounds of marijuana for a drug transaction.

13 Q. Why does the weight vary so much
14 between different transactions?

15 A. Like I said, it depends on the
16 dealer -- the user and the dealer, who you know at
17 the time. If the user doesn't have a lot of money,
18 he can't afford to buy a lot of marijuana.
19 Sometimes some dealers aren't willing to distribute
20 small amounts of marijuana because they don't think
21 it's worth it to them. Some of them aren't willing
22 to distribute large amounts because they don't want
23 the penalties that come with it.

24 Q. Okay. You mentioned earlier that
25 packaging may affect whether or not you would infer

1 that somebody is possessing for personal use or for
2 distribution. Can you elaborate on that for the
3 jury?

4 MS. FORD: Objection. He can only
5 testify about the --

6 THE COURT: Overruled.

7 BY MR. COOPER:

8 Q. You mentioned that the way drugs or
9 marijuana are packaged can help you infer one way
10 or the other. Can you explain how you analyze that
11 for the jury as far as how the drugs are packaged?

12 A. Someone that has marijuana they're
13 intending to distribute, generally has multiple
14 plastic baggies -- as I said earlier, multiple bags
15 with the drugs inside. A drug user -- commonly if
16 we're going to do a drug deal, for instance, if
17 we're purchasing a quarter ounce of marijuana, the
18 drug dealer is only going to sell the one bag of
19 marijuana to him with all the -- seven grams inside
20 that bag.

21 It's conducted, one transaction, quick
22 and easy. So a user only has that one bag to pick
23 out of. It's not common for a user to have
24 multiple bags. It doesn't make sense for them to
25 break it down and to rebag it up.

1 A drug dealer will have multiple bags
2 because it will make the transaction go a lot
3 quicker and it's less time for him to get caught in
4 the parking lot or wherever they might be doing the
5 drug deal at. They've already got it pre-weighed
6 out so they don't have to show the drug user their
7 full stash of marijuana.

8 A lot of them are secretive and they
9 don't want people to know, so they'll keep it
10 pre-packaged up. They can grab one bag real quick
11 and they've got it, and they don't have to weigh it
12 out and waste time.

13 Q. When dealing with the situation with
14 maybe multiple bags of marijuana, does whether or
15 not the weight of the bags being either similar or
16 different, does that affect your -- how you look at
17 it?

18 A. If the bags are similar in weight, like
19 I said, they don't have to fumble through and pick
20 the one that weighs the amount they're looking for.
21 If they have ten bags and they're all separated
22 into three-and-a-half-grams apiece, they can just
23 reach in there, grab it, and not worry about the
24 one that may have too much marijuana or too little.
25 So they can get the drug deal done quick and easy.

1 Generally, that's the goal.

2 They don't want to hang out and talk
3 about it too long because they'll be caught.

4 MR. COOPER: Beg the Court's
5 indulgence?

6 THE COURT: Uh-huh.

7 MR. COOPER: Your Honor, may we
8 approach?

9 THE COURT: You may.

10 (Bench conference)

11 MR. COOPER: Thank you. I have no
12 further questions for you at this time. Please
13 answer any that the defense may have.

14 THE WITNESS: Thank you.

15 THE COURT: You may proceed.

16 CROSS-EXAMINATION

17 BY MS. FORD:

18 Q. All right. Detective, when you're
19 looking at a case to decide how you feel someone
20 should be charged, you told us that you look at
21 multiple possible factors, correct?

22 A. Yes.

23 Q. And one could be a lot of cash on the
24 person?

25 A. Correct.

1 Q. That could be indicative of a drug
2 dealer?

3 A. Yes, ma'am.

4 Q. You might look for multiple phones on
5 someone?

6 A. That's one, yes.

7 Q. If you had that phone, you would look
8 at the contents such as pictures and text messages?

9 A. If we have legal access to the phone,
10 yes.

11 Q. You would look for possible ledgers
12 discussing -- looking like drug transactions,
13 correct?

14 A. That's one way.

15 Q. You could look for scales?

16 A. Correct.

17 Q. You could look -- sometimes you look at
18 the presence of empty baggies, a lot of empty
19 baggies and other paraphernalia?

20 A. That could be one of the ways, ma'am.

21 Q. And you do look at the amount of the
22 drugs, correct?

23 A. That's also one of the ways, yes.

24 Q. And with marijuana, the presumptive
25 amount is 28 grams, correct?

1 A. That's one of the inferences of it,
2 yes.

3 Q. And, Detective, you had nothing to do
4 with this particular case at all, correct?

5 A. I did not.

6 Q. And when you're talking about
7 packaging, you're talking about -- you're looking
8 at who did the packaging, correct?

9 A. Yes, I guess you could say that. Could
10 you rephrase it maybe?

11 Q. You told us about how a drug dealer
12 would package -- possibly package their drugs in a
13 certain way so it would be easy access, correct?

14 A. That's correct.

15 Q. So you're assuming that he did the
16 packaging himself?

17 A. Not -- I wouldn't say that he did the
18 packaging himself every time. It's not the -- but
19 it could be that he mainly does the packaging.

20 Q. That person, possibly -- the person has
21 -- who has the drugs -- I mean, what if they bought
22 the drugs that way? Is it possible that someone
23 would buy drugs from someone that way?

24 A. It's not -- in my experience I can say
25 that almost every single time we purchase

1 marijuana, when we purchase it in quantity -- if we
2 purchase it in smaller quantities, like I said,
3 under an ounce, they don't sell it to us in
4 multiple baggies. It's generally packaged up in
5 one bag.

6 Q. Many of your cases are controlled buys,
7 correct?

8 A. That's correct.

9 Q. And that means that usually they're set
10 up in advance?

11 A. We try to set them up in advance.
12 Generally, a drug dealer doesn't want to set
13 something up for the next day.

14 Q. But there's a phone call and a
15 discussion beforehand?

16 A. Correct.

17 MS. FORD: Beg the Court's indulgence?

18 THE COURT: Yes, ma'am.

19 MS. FORD: No further questions.

20 THE COURT: Any redirect?

21 MR. COOPER: Briefly.

22 THE COURT: You may proceed.

23 REDIRECT EXAMINATION

24 BY MR. COOPER:

25 Q. Detective Goode, Ms. Ford was asking

1 you about how you would consider things such as
2 phones or scales or ledgers. If someone was found
3 to be in possession of marijuana in the jail, for
4 example, would you expect to find things like
5 scales, ledgers, and phones?

6 A. No, sir, I would not.

7 MR. COOPER: Beg the Court's
8 indulgence?

9 No further questions of this witness,
10 Your Honor.

11 THE COURT: Sir, you're excused subject
12 to being recalled.

13 THE WITNESS: Thank you.

14 THE COURT: You're welcome.

15 You may proceed?

16 MR. COOPER: The State would like to
17 recall at this time Deputy John Mizner.

18 THE COURT: Sir, please take the stand.
19 I would remind you that you are still under oath.

20 THE WITNESS: Yes, ma'am.

21 THE COURT: State your name for the
22 record and spell your last for the court reporter.

23 THE WITNESS: Yes, Your Honor. John
24 Mizner, M-I-Z-N-E-R.

25 REDIRECT EXAMINATION

1 BY MR. COOPER:

2 Q. Deputy, thank you for coming back.
3 Will you explain for the jury the process by which
4 when you took -- when you took evidence from the
5 jail and deposited it into evidence?

6 A. It's placed in a bag and it's entered
7 into our forensics services -- our system, our
8 evidence system, where it's actually logged in with
9 paperwork. I don't know if you have it; I would be
10 able to verify.

11 MR. COOPER: May I approach the
12 witness?

13 THE COURT: You may.

14 THE WITNESS: That's my handwriting.

15 THE COURT: You may proceed.

16 MR. COOPER: Thank you, Your Honor.

17 BY MR. COOPER:

18 Q. And then, Deputy, can you tell the jury
19 what the description was of the item that you
20 submitted?

21 A. Clear bag containing approximately nine
22 bags of green plant material.

23 Q. And when you submit an item into
24 evidence, is there any kind of unique identifying
25 number that corresponds with that item?

1 A. Once it's entered into the system, it's
2 all actually done with these numbers across the
3 top. (Indicating)

4 Q. Showing you what was marked as State's
5 Exhibit 10 for identification purposes only. Does
6 that package match the number on your evidence
7 submission document?

8 A. It does.

9 Q. And then once you place that envelope
10 into the evidence cabinet, what was the next step
11 of the process?

12 A. That would be with forensics services.
13 They would be the ones that log in and also do
14 testing from there. And that's also in there, as
15 far as where it's being done right there, with the
16 chain of custody, and also where Detective Meyer
17 did her chemical and microscopic test of it.

18 Q. Deputy, if you could look inside the
19 envelope State's Exhibit 10 for identification
20 purposes only, and tell the jury whether that
21 appears to be in the same or substantially similar
22 condition as when you placed it into evidence?

23 A. Approximately, the same. It was in the
24 bags and then it was taken out, each one, in those
25 clear bags, and then one giant clear plastic bag.

1 Q. Except for the testing that was done to
2 it, it looks like the same --

3 A. Right. That's the bag.

4 MR. COOPER: Beg the Court's
5 indulgence.

6 BY MR. COOPER:

7 Q. When you took it from the jail and took
8 it to be deposited into evidence, was it in your
9 possession and control the entire time?

10 A. Yes, it was.

11 Q. When did it leave your possession and
12 control?

13 A. When it was placed into the evidence
14 bin at 3505 Pine Haven Drive.

15 Q. Did you place it in that bag or a bag
16 similar to that?

17 A. A bag similar to that. It's actually a
18 brown plastic bag that said Evidence on the top of
19 it.

20 Q. Would that have had the number, the
21 unique identifying number?

22 A. That label was put on there by our
23 Forensic Services Unit. The only thing I did was
24 staple this form right here -- these three forms to
25 the bag.

1 Q. And that's how the validating officer
2 and the analyzer would know --

3 A. That's assigned to them and attached
4 with that.

5 Q. And then that evidence locker you
6 submitted into that is locked; is that correct?

7 A. Correct.

8 Q. Who has access to that locker?

9 A. Only the Forensic Services Unit.

10 MR. COOPER: The State has no further
11 questions.

12 THE COURT: Any questions of the
13 witness?

14 MS. FORD: No, Your Honor.

15 THE COURT: Any objection to the
16 witness being excused? From the State?

17 MR. COOPER: No, ma'am.

18 THE COURT: From the defense?

19 MS. FORD: No, Your Honor.

20 THE COURT: Sir, you're excused.

21 THE WITNESS: Thank you, Your Honor.

22 THE COURT: You're welcome.

23 Call you're the next witness.

24 MR. COOPER: Your Honor, at this time
25 the State would like to recall Mr. Chris

1 Hochreiter.

2 THE COURT: I would remind you that
3 you are still under oath. Please take the stand
4 and state your name and spell your last name for
5 the record.

6 THE WITNESS: Christopher Hochreiter,
7 H-O-C-H-R-E-I-T-E-R.

8 THE COURT: You may proceed.

9 MR. COOPER: Thank you, Your Honor.

10 REDIRECT EXAMINATION

11 BY MR. COOPER:

12 Q. Mr. Hochreiter, do you still have your
13 OCM report that you brought with you last time?

14 A. Yes, sir.

15 Q. Can you tell by that document who would
16 have entered the evidence or the item into evidence
17 originally?

18 A. Yes, sir.

19 Q. Can you tell the jury who that was?

20 A. I validated it. It was originally
21 entered by Deputy Mizner.

22 Q. How would you have received the bag and
23 known what item of evidence corresponded with what
24 case when you take it out of the locker?

25 A. When the evidence is originally entered

1 by the deputy or investigator, whoever enters it, a
2 paper will print out and that is attached to the --
3 whatever container the evidence is in.

4 Q. That would contain the unique
5 identifying number of the specific item of
6 evidence?

7 A. That's correct.

8 Q. I'm showing you what has been marked
9 for identification purposes as Exhibit 10. Does
10 that label and item number correspond to the number
11 that's on your OCA evidence list for this case?

12 A. Yes, sir, it does.

13 Q. If you can look inside the bag and take
14 the contents out, could you tell the jury that the
15 contents in that bag are the same or substantially
16 the same condition as the last time you saw it?

17 A. It appears that --

18 Q. Other than Investigator Meyer having
19 tested the --

20 A. Yes, sir, I feel confident this is what
21 was in there originally.

22 Q. When you removed the item from the
23 lockbox, can you describe for the jury what
24 condition the item was in?

25 A. I don't feel comfortable saying

1 100 percent what it was in originally. What I can
2 say is that these envelopes are not available to
3 the deputies to put items in -- or at that time
4 they were not available. I could only speculate
5 what it came in, but I -- I put it in one of these.

6 Q. Would it have -- when you received it,
7 would it have the identifying number?

8 A. Yes.

9 Q. And you would have kept it with that
10 identifying number?

11 A. Yes, sir.

12 Q. When you removed the item and the
13 container it came in from the lockbox and took it
14 to the secure drug room, was it at all times in
15 your possession and control?

16 A. Yes, sir.

17 Q. Was there any time it wasn't in your
18 possession or control?

19 A. No. No.

20 Q. Where did you leave the bag when you
21 were finished validating it?

22 A. It goes straight to a pending box in
23 the drug vault to be tested.

24 Q. And is that also locked?

25 A. Yes, sir.

1 Q. And from that point, who would go into
2 the vault to remove the items?

3 A. There -- are you referring to who would
4 be testing it or --

5 Q. Who would go in and retrieve that?

6 A. This was something that -- it generally
7 was whichever investigator would be available to go
8 in, but in this case, I was -- I was the individual
9 that retrieved it for Investigator Hawks.

10 Q. Were you able to tell by your OCA list
11 who removed the evidence to test it?

12 A. Yes.

13 Q. Could you tell the jury who that was?

14 A. Investigator Meyer.

15 Q. Was it returned by her or is that on
16 the list?

17 A. No. It only specifies marijuana
18 analysis. I have no reason to believe it wouldn't
19 have left that room.

20 Q. But she would have access, being the
21 investigator, to the secured room?

22 A. Yes.

23 MR. COOPER: Beg the Court's
24 indulgence?

25 THE COURT: Yes, sir.

1 MR. COOPER: Your Honor, at this time
2 given the chain testimony the State would offer
3 State's Exhibit 10 into evidence.

4 THE COURT: Any objection?

5 MS. FORD: No objection, Your Honor.

6 THE COURT: Marked and admitted
7 without objection.

8 (DFT. EXH. 10 in evidence.)

9 MR. COOPER: At this time, the State
10 has no further questions.

11 THE COURT: Any questions for the
12 witness?

13 MS. FORD: No, Your Honor.

14 THE COURT: Any objection to the
15 witness being excused? From the State?

16 MR. COOPER: No, Your Honor.

17 THE COURT: From the defense?

18 MS. FORD: No, Your Honor.

19 THE COURT: You're excused, sir.

20 THE COURT: State may proceed.

21 MR. COOPER: At this time, Your Honor,
22 the State would rest.

23 THE COURT: Madame Forelady, ladies
24 and gentlemen, the State has rested their case.
25 There is -- there are some brief matters of law

1 that I need to take up with the attorneys. Do not
2 discuss the case and leave your notepads in your
3 seats. We appreciate your patience.

4 (Jury out, 3:05 p.m.)

5 THE COURT: You may be seated. The
6 State has rested. Are there any motions?

7 Actually, I need to take up State's
8 Number 8, which is the report of the chemist or
9 investigator forensic services individual. I only
10 took it under advisement because the chain had not
11 been completed.

12 It's not hearsay and it is not
13 bolstering. The objection is overruled and the
14 document is admitted.

15 (PLF. EXH. 8 in evidence.)

16 THE COURT: Bolstering is when you
17 vouch for someone else's credit. Bolstering is not
18 when you provide a document that supports your
19 testimony, especially when you performed the
20 testing.

21 All right. Are there any motions?

22 MR. COOPER: Nothing from the State,
23 Your Honor.

24 THE COURT: From the defense?

25 MS. FORD: Yes, Your Honor. At this

1 time, we would renew all of our prior motions. We
2 would also ask for a directed verdict. In
3 particular, Your Honor, the possession with intent
4 to distribute, the presumptive amount is 28 grams
5 and this case is well below at 7 1/2 grams, Your
6 Honor. The only evidence is the fact that --

7 THE COURT: There's not a presumptive
8 amount in South Carolina. There's an amount that
9 creates an inference which, is only an evidentiary
10 fact, so I think that's a misstatement of what the
11 statute says.

12 MS. FORD: Yes, Your Honor.

13 THE COURT: I don't think you have to
14 prove an amount to prove --

15 MS. FORD: No, I understand that. In
16 this case the only circumstance is the fact that
17 there are multiple baggies; however, I think the
18 evidence the only thing logical is that he found
19 the drugs in this van and so he did not package
20 these drugs himself.

21 He had been an inmate at the jail.
22 Officers testified he didn't smell of marijuana on
23 the way to the van. He didn't smell like marijuana
24 at court. I don't see how there's any other
25 logical conclusion.

1 And if he found the drugs and they were
2 like this, there's no evidence that he intended to
3 distribute the drugs. I think the evidence shows
4 that his intent was to turn it in to a supervisor,
5 and so that's why we've asked for a directed
6 verdict on the contraband case as well, Your Honor.

7 THE COURT: Is that the extent of your
8 argument?

9 MS. FORD: Yes, Your Honor.

10 THE COURT: Would the State like to
11 respond?

12 MR. COOPER: Yes, Your Honor. As the
13 Court is concerned with just the existence, not the
14 weight of the evidence, in the light most favorable
15 to the non-moving party, the State has presented
16 evidence that Mr. Ratliff was in possession of the
17 marijuana with intent to distribute based upon the
18 way -- the packaging of the marijuana in the
19 opinion of the charging officer.

20 The State has presented testimony by an
21 expert witness that would corroborate that. The
22 possession with intent to distribute charge is not
23 required that Mr. Ratliff package it himself.

24 Furthermore, the State has presented
25 evidence that Mr. Ratliff was in possession of

1 marijuana, which is contraband, inside the county
2 jail. I think that determination of possession
3 versus possession with intent to distribute is a
4 factual matter for the jury since South Carolina
5 does not require a specific weight for PWID.

6 I think there is ample evidence to go
7 to the jury and let them decide.

8 THE COURT: Anything further from the
9 defense?

10 MS. FORD: No, Your Honor.

11 THE COURT: Considering the evidence
12 in the light most favorable to the State, the Court
13 is concerned with the existence or nonexistence of
14 evidence and not its weight. The Court is not the
15 finder of fact. It is not for me to weigh
16 evidence; it's not for me to determine the
17 credibility of evidence.

18 The State is required to prove the
19 existence of direct and/or substantial
20 circumstantial evidence reasonably tending to prove
21 the defendant guilty. They do not have to prove
22 his guilt to the exclusion of every other
23 reasonable hypothesis, but they must produce
24 evidence that fairly and logically -- from which
25 the jury is able to fairly and logically deduce

1 guilt.

2 The arguments that have been made by
3 the defense to support their motion for directed
4 verdict are all factual in nature. I don't know
5 what is reasonable or what is -- what's the word
6 that I'm looking for -- the word that you used
7 before and I can't remember.

8 We all know that contraband is
9 available in the jail. I think it would be foolish
10 for us all to say there are no drugs in the jail
11 because we know there are.

12 How he came into possession of these
13 drugs I'm really not certain, but if I were to look
14 at the rationality of this, I'm hard pressed to see
15 factually how someone in that small confined space
16 shackled would be able to then procure baggies of
17 drugs and secure them in his underwear.

18 So if I were to look at it from a
19 rational aspect and you were to ask me to be the
20 finder of fact, your argument would not be
21 persuasive.

22 So I think it's enough room for you
23 both to argue your contentions factually regarding
24 how he came into these drugs, whether he was in
25 actual or constructive possession of these drugs.

1 And the State's point is well taken, our statute
2 does not have any presumption as to weight. It
3 merely creates inferences. And as we know,
4 inferences are merely an evidentiary fact for the
5 jury to give the weight, value, and effect they
6 believe it deserves.

7 So there is no presumptive amount in
8 our statute. There are amounts that the jury can
9 consider that create an inference as well as how
10 things are packaged which looks at the totality of
11 the circumstances.

12 So all of these evidentiary facts are
13 for a jury to resolve, not for the Court;
14 therefore, there is direct and substantial
15 circumstantial evidence reasonably tending to prove
16 the defendant's guilt and the motion for directed
17 verdict is denied.

18 Sir, if you would stand for me and
19 raise your right hand to be sworn.

20 RONALD DAVID RATLIFF,
21 being first duly sworn, testified as follows:

22 THE DEFENDANT: Yes, Your Honor.

23 EXAMINATION

24 BY THE COURT:

25 Q. Sir, state your full name for the

1 record.

2 A. Ronald David Ratliff.

3 Q. Sir, at this time I'm going to explain
4 to you certain of your rights. If you do not
5 understand something that I say, please make me
6 aware of that so I can make a better attempt at
7 explaining it to you or if you have any questions,
8 make me aware of that so that I can answer any
9 questions that you may have.

10 We've now reached the stage of the
11 trial where you may present your defense. You have
12 the right to claim the protections given to you by
13 the Fifth Amendment to the Constitution of the
14 United States and that amendment reads in part;
15 that no person shall be compelled in any criminal
16 case to be a witness against himself. That means
17 that you cannot be required to testify in this
18 case.

19 You have the right to testify on your
20 on behalf; however, no one can make you testify.
21 This is a personal right and no one can waive this
22 right except you. If you decide to testify you
23 will be subject to the same rules that govern other
24 witnesses and you maybe examined and cross-examined
25 on any relevant issue in this case.

1 In addition, if you have any
2 convictions involving dishonesty or false statement
3 or for crimes punishable by imprisonment for more
4 than one year and this court determines that the
5 probative value of admitting this evidence
6 outweighs its prejudicial effect to you, the
7 solicitor will be able to introduce your record to
8 attack your credibility.

9 If you decide to testify this decision
10 on your part must be made freely, voluntarily and
11 intelligently with knowledge of the protections
12 give to you by the Fifth Amendment and the
13 consequences of your decision to testify.

14 If you decide not to testify, I will
15 instruct you the jury they cannot give that fact
16 that you did not testify any consideration
17 whatsoever. In fact, I will instruct them that it
18 cannot be discussed in the jury room at all, that
19 you have no burden of proof in this case, that the
20 burden remains on the State to prove your guilt
21 beyond a reasonable doubt, and that you have no
22 burden to prove that you are not guilty.

23 Sir, it is left entirely up to you
24 whether you want to testify. You may speak with
25 your attorney, your family members, or friends or

1 anyone else, but the final decision is yours. Sir,
2 do you understand your rights as I have just
3 explained them to you?

4 A. Yes.

5 Q. Do you have any questions about what I
6 have just explained to you?

7 A. No.

8 Q. Have you discussed with your lawyers
9 whether you should or should not testify?

10 A. Yes.

11 Q. Do you need to speak with them any
12 further at this time?

13 A. No.

14 Q. Sir, do you wish to testify?

15 A. Yes, ma'am.

16 THE COURT: Okay. You can take your
17 seat. Do you have any other witnesses, Ms. Ford?

18 MS. FORD: No, Your Honor.

19 THE COURT: Now, he has several
20 convictions and, to my recollection, the only
21 conviction the State would be seeking to introduce
22 to impeach his credibility would be a 2013
23 conviction for false information to the police; is
24 that correct?

25 MR. COOPER: That's correct.

1 THE COURT: And, Ms. Ford, is that
2 your understanding as well?

3 MS. FORD: Yes.

4 THE COURT: And you've fully advised
5 your client of impeachable offenses?

6 MS. FORD: I did, Your Honor.

7 THE COURT: For the record, he was
8 convicted of giving false information to law
9 enforcement in 2013 pursuant to Rule 609. That
10 would be admissible to impeach his credibility.

11 All of his other offenses would be
12 inadmissible to impeach his credibility.

13 All right. Are we ready to proceed --
14 you said you're not calling any other witnesses
15 other than your client?

16 MS. FORD: Yes, Your Honor.

17 THE COURT: Are you ready to proceed?

18 MR. COOPER: Your Honor, the State
19 would ask for -- with him being the last witness
20 for a brief 15-minute recess.

21 THE COURT: I'm sorry?

22 MR. COOPER: The defendant being the
23 last witness to testify, the State would ask for a
24 brief recess.

25 THE COURT: I'm confused. You want it

1 now?

2 MR. COOPER: Ma'am?

3 THE COURT: Are you asking about a
4 recess now?

5 MR. COOPER: Yes, ma'am.

6 THE COURT: What do you need a recess
7 for?

8 MR. COOPER: Just to get squared away
9 with the defendant's cross-examination.

10 THE COURT: I'll give you a few
11 minutes. I'm not giving you 15 minutes to prepare
12 for a cross-examination that you should have
13 already prepared for.

14 MR. COOPER: Yes, ma'am.

15 THE COURT: I think you would have had
16 some inclination if he was testifying, but even if
17 he wasn't, I would imagine that you would have
18 anticipated that. We'll be at ease for a brief
19 restroom break.

20 MR. COOPER: Thank you.

21 (A recess transpired.)

22 THE COURT: State ready to proceed?

23 MR. COOPER: Yes, ma'am.

24 THE COURT: Defense ready to proceed?

25 MS. FORD: Yes.

1 THE COURT: Okay. You're going to
2 have to sit over there because the deputy has to
3 sit there while you're testifying. And I need you
4 to get the jury for me.

5 But I want the defendant to be standing
6 at the jury box when they come in.

7 (Jury in, 3:29 p.m.)

8 THE BAILIFF: All jurors are present.

9 THE COURT: You may be seated, ladies
10 and gentlemen. We appreciate your patience while
11 we disposed of those matters.

12 We will now resume trial testimony.
13 Defense may proceed.

14 MS. FORD: Your Honor, the defense
15 calls Ronald David Ratliff.

16 THE COURT: Please swear the witness.

17 RONALD DAVID RATLIFF,
18 being first duly sworn, testified as follows:

19 THE CLERK: Please have a seat, and for
20 the record, state your full name and spell the
21 last.

22 THE WITNESS: Ronald Ratliff,
23 R-A-T-L-I-F-F.

24 THE COURT: You may proceed.

25 MS. FORD: Thank you.

1 DIRECT EXAMINATION

2 BY MS. FORD:

3 Q. Mr. Ratliff, what name do you go by?

4 Do you go by your first name?

5 A. My middle name is David. I go by

6 David, yes, ma'am.

7 Q. David, were you incarcerated in

8 December of 2014?

9 A. Yes, ma'am, I was.

10 Q. And back then was there an occasion

11 that you had marijuana on your person on the

12 occasion we have been discussing all day?

13 A. Yes.

14 Q. And where had you gotten the marijuana

15 from?

16 A. I found it in the van, the transport

17 van.

18 Q. I want to go over that day in more

19 detail. Why were you in the transport van?

20 A. They were transporting me to traffic

21 court.

22 Q. And which court is that; do you know?

23 A. I think it's down near city court.

24 Q. On Lockwood Drive?

25 A. Yes, ma'am.

1 Q. And had you been incarcerated before
2 that day?

3 A. Yes, ma'am.

4 Q. Did you notice anything when you got in
5 the van?

6 A. Absolutely. As soon as we opened the
7 doors to get into the van, it smelled like someone
8 had just smoked one in there. It was very strong
9 it was -- it was very strong and on the way, while
10 we were driving, the -- we had a conversation, me
11 and two of the transport officers. We were joking
12 about it as if they had just smoked one in there
13 and...

14 Q. Just to be clear they didn't say --

15 A. Of course not, no.

16 Q. Okay.

17 A. Of course not.

18 Q. And by smoked one, what are you
19 referring to?

20 A. The marijuana.

21 Q. Okay.

22 A. The marijuana smell in there.

23 Q. So what was your understanding after
24 talking to them?

25 A. Well, he told me that they had found

1 some earlier that day, and that they couldn't find
2 the rest. They had somebody clean it out, but
3 there was still some stuck somewhere in there they
4 hadn't found it. They had ripped up the cushions.
5 They said they couldn't find it.

6 Q. And so what did you decide to do?

7 A. I told the officers, playing around,
8 I'm going to look for it, not thinking that I would
9 find anything. They had already said they had
10 looked for it. So, lo and behold, it was literally
11 right behind my back, right where I was sitting.

12 Q. Did you have handcuffs on you?

13 A. Yes.

14 Q. And how were they positioned; do you
15 remember?

16 A. In the front.

17 Q. So were you able to do anything with
18 your hands?

19 A. Yes, ma'am.

20 Q. So, again, where was the marijuana?

21 A. If I'm sitting in the transport van, it
22 is literally right here behind the cushion.

23 Q. Was it hard for you to find?

24 A. Not at all.

25 Q. Did you indicate anything to the

1 officers about finding the marijuana?

2 A. No.

3 Q. Why not?

4 A. I didn't understand why they would lie
5 to me about saying -- about the marijuana smell.
6 Like we had just talked about it and they said they
7 tore the cushions up, they had searched the van,
8 and I looked -- my first thought that I looked,
9 it's right behind me, it's there. Something just
10 didn't add up and it was -- I wasn't too
11 trustworthy of them after that.

12 Q. Okay. Was there any other reason that
13 you had to be concerned about why marijuana was in
14 there with you?

15 A. Yes, ma'am.

16 Q. Tell us about that.

17 A. My mother had a civil suit with the
18 police department.

19 MR. COOPER: Objection.

20 THE COURT: Basis?

21 MR. COOPER: Relevance.

22 THE COURT: Sustained; relevant.

23 Unless you can prove the connection.

24 MS. FORD: Yes, Your Honor. May we
25 approach?

1 (Bench conference)

2 THE COURT: Sustained.

3 MR. COOPER: Thank you, Your Honor.

4 BY MS. FORD:

5 Q. David, so when you found the marijuana,
6 was this on the way to court or from court?

7 A. On the way to court.

8 Q. And so after you found it, what did you
9 do?

10 A. After talking with the police and
11 everything and the situation that had been going on
12 with my mom and --

13 MR. COOPER: Objection, Your Honor.

14 THE COURT: I didn't hear what he said.

15 MR. COOPER: He said --

16 THE COURT: I didn't ask you to repeat
17 it. I need you to repeat the question. He wasn't
18 able to complete his answer so I don't know if
19 there would be a valid objection or not. I'm
20 listening.

21 MS. FORD: Your Honor, I simply
22 asked --

23 THE COURT: I need you to restate the
24 question as you stated it. If you don't remember,
25 I can have the court reporter read it back.

1 BY MS. FORD:

2 Q. My question was, what did you do with
3 the marijuana at this point?

4 A. I had left it there at that point.

5 Q. And did you know how many baggies were
6 present?

7 A. No, ma'am, not at all.

8 Q. Did you have an opportunity to examine
9 the marijuana?

10 A. No. Besides knowing that it was right
11 there, I left it there. I left it there.

12 Q. Did you package this marijuana
13 yourself?

14 A. No.

15 Q. Okay. When you were in the jail, did
16 you have access to baggies like the marijuana was
17 packaged in?

18 A. No, ma'am.

19 Q. David, what time was court?

20 A. It was supposed to be at 9:00 in the
21 morning.

22 Q. And were you taken to court at 9:00?

23 A. I was not.

24 Q. When were you taken to court?

25 A. Later that day at 2:00, by myself.

1 Q. By yourself. You're referring to the
2 amount of inmates --

3 A. Yes, ma'am.

4 Q. And at what point did you find out
5 about the time change?

6 A. That morning when I went to be
7 transported at 9:00 with everybody else, they made
8 me go back to the unit for some reason. I'm not
9 sure why. They told me it would be later that day.

10 Q. And while you were at court, did you
11 talk to anyone other than the judge and officers?

12 A. No.

13 Q. Did you see anyone that you knew there?

14 A. No, ma'am.

15 Q. When you were at court, did you have
16 access to anyone other than the police?

17 A. Not at all.

18 Q. And do you know how long you were there
19 in court?

20 A. An hour, sometime around there.

21 Q. On your way back to the jail, were you
22 by yourself in the van?

23 A. No.

24 Q. And did you know the other person in
25 the van?

1 A. Yes, ma'am. There was another guy they
2 picked up from the courthouse and were bringing
3 back to the jail.

4 Q. Did you know him?

5 A. Oh, no. No, ma'am.

6 Q. Did the two of you -- or did -- on the
7 way back to the jail, was marijuana ever mentioned
8 in the van?

9 A. No, ma'am.

10 Q. When you got back in the van from
11 court, did they have you in the same place where
12 you had been on the way to court?

13 A. Yes.

14 Q. And did you at any point find the
15 marijuana again?

16 A. Yes, ma'am.

17 Q. And what did you decide to do with the
18 marijuana at that point?

19 A. I knew I was going to be bringing it in
20 with me to turn it in as soon as I got to the jail.

21 Q. If you didn't -- did you want to give
22 it to the officers, Lewis and Gibbs?

23 A. No, absolutely not.

24 Q. Okay. If you didn't want to give it to
25 them, why didn't you just leave it in the van?

1 A. Well, usually, you get -- you get
2 charged with something that's left behind in those
3 vans, in those paddy wagons. They search them all
4 the time and I was not trying to be charged, and
5 with everything going on -- something wasn't right,
6 and I probably should have left it.

7 Who knows? Maybe I wouldn't be in this
8 situation now I'm in. I made a poor decision
9 obviously, but I was not -- I didn't want to get
10 charged with it at that time.

11 Q. Okay. So once you got to the intake
12 area, what did you do?

13 A. As soon as we walked in to intake, I
14 immediately starting asking to speak with the
15 captain. Immediately.

16 Q. Okay. And did you see the video that
17 we all watched earlier today?

18 A. Yes, ma'am. I wish it had audio.

19 Q. At several points you were seen
20 talking. What were you asking --

21 A. I was asking several COs to speak with
22 the captain. Not a lieutenant, not any other
23 people, just the captain. Yes, ma'am.

24 Q. Were you -- did anyone let you speak to
25 the captain?

1 A. No. It wasn't until Officer Salters
2 that was here earlier, we started talking. I asked
3 him several times, he asked me what for. I finally
4 asked him if we could speak in private. He said,
5 okay, and we went into the room and I immediately
6 handed him over the marijuana and told him I found
7 this in the van.

8 Q. And was the marijuana easy to get out?
9 Where was the marijuana on you?

10 A. Right on my waistband. Right -- easy
11 access where I could give it to him and not have
12 the other transport officers know that they weren't
13 going to get me in trouble.

14 Q. David, you told us that you were
15 incarcerated at the time of this incident. Have
16 you been convicted of a crime before?

17 A. Yes, ma'am.

18 Q. How about convicted of giving false
19 information to police before?

20 A. Yes, sir.

21 Q. David, are you telling the truth today?

22 A. Yes, absolutely.

23 Q. David, while you're in the jail -- I
24 want to talk a little about being an inmate at the
25 jail. Do you have access to friends and visitors?

1 A. No.

2 Q. Physical access?

3 A. Not at all. They have visitations over
4 a monitor, a TV monitor, video monitor.

5 Q. So are you able to have physical access
6 to anyone other than jail employees?

7 A. No.

8 Q. Are you -- at the time of this
9 incident, were you aware of searches, how they
10 conducted searches at the jail through your
11 experience there?

12 A. Yes, ma'am, all of the time.

13 Q. And on this day before getting into the
14 van, had you been searched at all?

15 A. Probably three times.

16 Q. Okay. And by searched, what does that
17 entail? How were you searched at that point?

18 A. Before you leave the unit, when you
19 step out of the unit, sometimes depending on the
20 officer, depending if they do their job the way
21 they're supposed to. Some don't, some do. That
22 day I was, and also I was searched again before --
23 like while they're putting the shackles and cuffs
24 on before I was transported to go to court.

25 Q. And had you been to court before? Had

1 they taken you to court before?

2 A. Yes.

3 Q. More than once?

4 A. Yes, ma'am.

5 Q. And were you aware of what kind of
6 searches would be conducted when you got back to
7 the jail?

8 A. Yes.

9 Q. In your experience at that time, did
10 they search you -- did you believe that you would
11 be searched when you got back to the jail?

12 A. Yes.

13 Q. When you got out of the transport van
14 that day, did you think you would be searched?

15 A. Yes.

16 MS. FORD: Beg the Court's indulgence?

17 THE COURT: Yes, ma'am.

18 BY MS. FORD:

19 Q. David, two things I forgot. Is there a
20 reason you wanted to speak to the captain in
21 particular?

22 A. Yes, ma'am. Back when I had the false
23 info to a police, I had to do 30 days in jail. And
24 they offer things to get time off where you work
25 inside the jail, like clean up the -- clean up the

1 units and the floors and stuff and booking and --
2 well, I happened to find marijuana then and turned
3 it into a captain and got five extra days off my
4 sentence.

5 So I was hoping -- that was another
6 reason why. There were several and that's it.

7 Q. And as far as the transport officers,
8 do you believe you had a reason to distrust them?

9 A. Yes. They -- our conversation in the
10 van about the marijuana was that they had -- they
11 had found everything they could, you know. They
12 had searched the van, specifically ripped up the
13 cushions, sprayed it, and it's right behind my back
14 so...

15 Q. Did you trust them?

16 A. Not at all. Absolutely no, ma'am.

17 MS. FORD: Beg the Court's indulgence?

18 THE COURT: Yes, ma'am.

19 MS. FORD: No further questions, David.

20 THE COURT: Any questions for the
21 witness?

22 MR. COOPER: Yes, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. COOPER:

25 Q. So, Mr. Ratliff, you want this jury to

1 believe that this whole scenario was a conspiracy
2 by Officers Lewis and Gibbs to get you in trouble?

3 A. I didn't say that.

4 Q. Well, you said that you didn't trust
5 them and you said they lied to you and you said
6 they left it there?

7 A. Yeah.

8 Q. What --

9 A. It's a possibility. I'm not saying
10 they did it on purpose.

11 Q. That's exactly what you said. You said
12 you didn't trust them.

13 A. Something's not right here.

14 Q. So your solution is to say, you know
15 what, I'm going to put it in my pants and take it
16 with me? That's your solution to the situation?

17 A. Or get charged with it.

18 Q. So leave it and maybe get charges or
19 put it in your pants and absolutely get charged?
20 That doesn't sound like a good decision.

21 You said you didn't trust them. You
22 said you think they had lied to you.

23 A. I hope.

24 Q. You spoke about the conviction you had
25 about lying to the police?

1 A. Yeah. . Okay.

2 Q. So you just left it in the van at CPD
3 when you went to your hearing, then you decided to
4 take it with you into the Sheriff's Office?

5 A. Yes.

6 Q. If you were so concerned about Officers
7 Lewis and Gibbs, why were you not concerned Officer
8 Lewis was in the strip search room with you?

9 A. I was.

10 Q. But you still handed it over?

11 A. He was -- he came in right behind
12 Officer Salters. Read my statement, I asked why.
13 Why are they even in here?

14 Q. Because you were so concerned that they
15 were going to try and frame you, you thought they
16 had nothing better to do than leave marijuana in a
17 van and risk their own jobs all at the expense of
18 trying to get you charged?

19 A. I know what -- with our conversation
20 that we had and the odor that I smelled and them
21 saying that they had searched the entire van.

22 Q. So you --

23 A. And it's right behind my back.

24 Q. Because they just missed it. They
25 searched the van before and after their shift, but

1 they just missed a bag of nine baggies of
2 marijuana?

3 A. Or they didn't search the van or
4 someone else left it there, I don't know. I know
5 what exactly why I brought it into the jail and I
6 turned it in before any search was asked of me.

7 Q. You turned it in before you got caught
8 with it in your pants?

9 A. No, that's not what happened.

10 Q. That's exactly what happened?

11 A. I turned it into Officer Salters that
12 -- he admitted earlier that I asked to speak with
13 him in private before any search.

14 Q. You only asked to speak to a captain or
15 lieutenant once he went through the pat-down
16 process?

17 A. No, that's not true. I had been asking
18 for a captain ten minutes prior to that.

19 Q. And Office Salters testified that he
20 gave you two chances to give him a reason why to
21 get an audience. Why not give him a reason?

22 A. And I went and told him, let's speak in
23 private, like he admitted.

24 Q. He said give him a reason. He said you
25 never gave him a reason?

1 A. Yeah. I gave it to him as soon as we
2 walked in to speak in private.

3 Q. You decided you didn't want a captain
4 or lieutenant at that point?

5 A. He would not give it to me.

6 Q. -- found it on your person?

7 A. That's not -- you're trying to trap me
8 into something here, man.

9 Q. I'm not trying to trap --

10 A. You're not like --

11 THE COURT: Sir, please answer the
12 question yes or no and you may explain your answer.

13 THE DEFENDANT: I asked officer --

14 THE COURT: Sir. Sir.

15 THE DEFENDANT: What's the question?

16 THE COURT: Sir, I need you to take a
17 deep breath. You need to answer the question yes
18 or no, then you may --

19 THE DEFENDANT: What's the question?

20 THE COURT: Don't direct questions to
21 counsel -- then you may explain your answer.

22 Mr. Cooper, restate your question.

23 MR. COOPER: I -- the Court Reporter --
24 I don't remember the question, Judge.

25 (The Court Reporter read the question

1 commencing on page 233 line 3.)

2 THE COURT: Sir, do you understand the
3 question?

4 THE WITNESS: They wouldn't give me
5 one.

6 BY MR. COOPER:

7 Q. Because you didn't give them a reason,
8 right? He said, give me a reason. You didn't give
9 him a reason; isn't that correct?

10 A. I wanted to speak with him in private.
11 I asked that.

12 Q. You testified that they don't let you
13 have any physical visitation with anybody outside
14 of the jail, correct?

15 A. No.

16 Q. So you couldn't get marijuana or
17 anything passed through to you from anybody outside
18 of the jail, correct? There's no visitation?

19 A. It would be through video.

20 Q. So your only chance to get marijuana in
21 the jail is going through intake. That's the only
22 chance you had to get it in there and you saw an
23 opportunity and you took it; isn't that right?

24 A. Not at all. I know we get searched
25 three times prior to getting back into the unit. I

1 wasn't trying to do that, sir.

2 Q. If you knew all that, why was it a
3 better decision to put it in your pants and --

4 A. I just explained that.

5 Q. And that's what you want this jury to
6 believe?

7 A. That's the truth. That is the truth,
8 sir.

9 Q. That you were just a good Samaritan
10 that said, you know what, I found it, I'm going to
11 turn it in?

12 A. I did three years ago, got time off.
13 That should be in the record somewhere.

14 Q. You just wanted to have marijuana in
15 the jail because as Salters and them said, that's
16 currency. It's something that you can use to
17 barter with, something you can use for the
18 canteen --

19 A. How am I going to get that into the
20 jail?

21 Q. You tried. You almost had it. You
22 tried.

23 A. We get searched. The marijuana smelled
24 so bad, it smelled like a blunt hit me as soon as I
25 opened the van. How am I going to get that through

1 ten officers patting me down?

2 Q. And that makes it still a great idea
3 instead of leaving it in the van, because they
4 hadn't found it yet? So what makes you think
5 they'd find it this time?

6 A. I thought they might have been setting
7 me -- there were several different reasons that
8 something wasn't right. I wanted more time off,
9 like I was trying to get out of trouble. I'd
10 already been in there. I had court coming up. I
11 was being a good Samaritan. I am innocent here,
12 sir.

13 Q. So you want the jury to believe that
14 Transport Officers Lewis and Gibbs put their job at
15 risk just to get you in trouble?

16 A. Maybe, I don't know. I don't know.
17 I'm asking.

18 Q. That's what we're asking.

19 A. I don't know why the weed was behind
20 me, and they said they searched the van and did all
21 this stuff and it was right literally behind me.
22 Why are they leaving marijuana in the van? I mean,
23 why is anybody -- I mean, it smelled. It was
24 horrible. It wasn't just a little scent.

25 Q. You just did what any regular person

1 would do and took it into the jail?

2 A. What happens when they searched the van
3 like they say they do and --

4 Q. Well, judging by your testimony, they
5 hadn't searched the van. That's your testimony;
6 they hadn't searched the van. They didn't search
7 it that morning, they didn't search it at CPD.

8 A. Didn't seem like they did.

9 MS. FORD: Objection, Your Honor. The
10 Solicitor is arguing with --

11 THE DEFENDANT: Do you see this --

12 THE COURT: Sir, there's an objection
13 pending. What's the basis of the objection?

14 MS. FORD: Just arguing with the
15 witness.

16 THE COURT: I need the witness to
17 answer yes or no, then he may explain.

18 Mr. Cooper, allow him to answer fully
19 before you ask another question.

20 MR. COOPER: Yes, Your Honor.

21 THE COURT: You may proceed.

22 MR. COOPER: Thank you, Judge.

23 BY MR. COOPER:

24 Q. So you get into the van and you find
25 this marijuana, it magically appeared behind you

1 and you get to the city and don't tell anybody,
2 correct?

3 A. Hold on a second.

4 Q. You don't tell anybody at the jail,
5 correct? I mean, at the city court. You didn't
6 tell anybody there was marijuana in the van at city
7 court; is that correct?

8 A. No, because they wouldn't be able to
9 tell me.

10 Q. Is that, no, you didn't tell them or --
11 did you or did you not tell them?

12 A. No, I didn't tell anybody.

13 Q. So your concern, if I understand your
14 testimony, was that they would frame you for
15 leaving it in the van, correct?

16 A. One, yeah.

17 Q. Okay. So instead of finding some
18 officer at the City of Charleston Police
19 Department, the station, the courthouse, all at
20 that same complex, you decided not to say a word
21 and to get back into the van with the marijuana?

22 A. Yes, sir.

23 Q. That was your decision?

24 A. Yes, sir.

25 Q. Instead of telling somebody?

1 A. I wanted to get out of more trouble
2 that I was already in. There were several reasons
3 why I did what I did. There was no possible way I
4 would try to bring marijuana in through the jail
5 when I had court in two weeks.

6 I had been in there for 15 months. I
7 was ready to get out of there. I wanted to look
8 good in court. You're trying to put me back in
9 jail. I'm innocent here.

10 Q. I'm not trying to do anything. I'm
11 trying to ask you a question. Why did you not keep
12 it in your hand? Why was your first inclination
13 let me put it in my underwear?

14 A. Look at that -- because we had the
15 conversation with the transport guys and like they
16 -- they were lying. They were lying about
17 searching the van. They did no search. If they
18 did, if they tore the cushions up like they said,
19 then it wouldn't have been behind me. Something
20 didn't seem right.

21 Q. You volunteered to find the marijuana
22 and Officer Gibbs said, no, no, don't move, sit
23 there, but you took it upon yourself anyway, your
24 testimony is, to put it in your --

25 A. And get told that it's mine? Have you

1 not seen like what's been happening? Like really?

2 Sir, I'm not trying to argue with you anymore.

3 Like --

4 Q. I'm just trying to understand what you
5 want this jury to believe --

6 A. You want me to believe that I'm trying
7 to take marijuana in the jail to sell when I've
8 leaving in two weeks? There's no possible way that
9 I would be able to bring weed through everything
10 that the jail makes you go through.

11 Q. But you tried, didn't you?

12 A. How did I try when I turned it in as
13 soon as I got into the jail? How did I try?

14 Q. You only turned it --

15 A. As soon as I got into the jail, I
16 asked --

17 Q. Not on the video. We watched the
18 video. The video showed --

19 A. Why don't you get the audio?

20 Q. -- three or four minutes so why did you
21 wait until --

22 A. I had been begging for the captain the
23 entire time. The two transport guys weren't --
24 the first thing I said -- we can pull the video out
25 -- when we walked through, I looked over at them

1 and I said I need a captain.

2 Q. Your mannerisms on the video didn't
3 look like somebody trying to get somebody's
4 attention. If that's what you're trying to do, why
5 don't -- why not get somebody's attention?

6 A. I did. I'd been asking several times,
7 several, several times.

8 Q. After the pat-down, after the strip
9 search was announced.

10 A. No. Salters finally came over and I
11 told you him -- I already told you, man. I don't
12 know why it's so hard to believe.

13 MR. COOPER: No further questions.

14 THE COURT: Any redirect for the
15 witness?

16 MS. FORD: Beg the Court's indulgence?

17 REDIRECT EXAMINATION

18 BY MS. FORD:

19 Q. David, a few more questions.

20 A. Yes, ma'am.

21 Q. The Solicitor was asking you a lot of
22 questions about this -- what he's calling a
23 conspiracy. Did you know why the marijuana was
24 there in the van that day?

25 A. No, I didn't know.

1 Q. Are you saying for certain that the
2 officers were trying to frame you?

3 A. No.

4 Q. Is that just one thing that went
5 through your head; is that fair to say?

6 A. Yes. Yes, ma'am.

7 Q. And you're very emotional today, David;
8 is that fair to say?

9 A. Yes, ma'am.

10 Q. And why are you emotional?

11 A. I've -- I've dealt with a lot of
12 unnecessary heart trauma and the police -- I was --
13 I had a situation that happened.

14 MR. COOPER: Objection, Your Honor.

15 THE COURT: Approach.

16 (Bench conference.)

17 THE COURT: Stand back.

18 Madame Forelady, ladies and gentlemen,
19 I have a brief matter of law to take up. During
20 the break, do not discuss the case and please leave
21 your notepads in your seats.

22 (Jury out, 4:02 p.m.)

23 THE COURT: You can take your seats.

24 Ms. Ford, ask your client the question.

25 I need to see what his answer is going to be.

1 jury, how long does the State plan to -- how long
2 do you think your opening -- I mean, your closing
3 will be?

4 MR. COOPER: Fifteen or so, less than
5 20 absolutely.

6 THE COURT: What about you, Ms. Ford?

7 MS. FORD: I assume about the same
8 amount, 20 minutes, Your Honor.

9 THE COURT: Okay. All right.

10 (Jury in, 4:42 p.m.)

11 THE BAILIFF: All jurors are present.

12 THE COURT: Thank you. You may be
13 seated.

14 Ladies and gentlemen, we appreciate
15 your patience. We had some matters of law to work
16 through, please know we don't take your time for
17 granted.

18 You may resume questioning of the
19 witness.

20 BY MS. FORD:

21 Q. David, without giving any details, is
22 there a reason that you don't trust the police?

23 A. Just a past incident with my mother. A
24 past incident that occurred with family matters.

25 Q. Okay. And based on your conversation

1 with Officers Gibbs and -- with the two -- Gibbs
2 and Lewis, do you feel like you could trust them in
3 particular?

4 A. No, ma'am.

5 Q. And, ultimately, though, you did talk
6 to Officer Salters, correct?

7 A. Yes, ma'am.

8 Q. Can you talk a little --

9 A. Yes, ma'am.

10 Q. Okay. Why did you ultimately decide to
11 talk to him?

12 A. He wouldn't give me the captain that I
13 had asked for.

14 Q. Okay.

15 A. So I had no other option.

16 Q. Okay. And was it your intent to get
17 the marijuana beyond the intake area?

18 A. No. No.

19 MS. FORD: Beg the Court's indulgence?

20 THE COURT: Yes, ma'am.

21 MS. FORD: No further questions.

22 THE COURT: All right. Sir, you may
23 step down.

24 MR. COOPER: Beg the Court's

25 indulgence? May I have one or two more questions?

1 THE COURT: Only if it's new.

2 MR. COOPER: Yes, ma'am.

3 THE COURT: Sir, you may take your
4 seat.

5 RECROSS-EXAMINATION

6 BY MR. COOPER:

7 Q. Mr. Ratliff, you said it wasn't your
8 intent to bring the marijuana past intake, but it
9 was your intent to at least bring it inside the
10 detention center, correct?

11 A. Yes, sir.

12 MR. COOPER: Thank you. No further
13 questions.

14 THE COURT: Any further questions?

15 MS. FORD: No, Your Honor.

16 THE COURT: Sir, you may step down.
17 Any further witnesses, Ms. Ford?

18 MS. FORD: No, Your Honor. At this
19 point the defense rests.

20 THE COURT: We'll reserve motions. Is
21 there going to be any rebuttal testimony?

22 MR. COOPER: The State doesn't have
23 any, Judge.

24 THE COURT: Madame Forelady, ladies and
25 gentlemen, both the State and defense have rested

1 their cases in this matter. I have some matters of
2 law to take up with the attorneys that will take us
3 beyond 5:00, so we will have closing argument and
4 instructions in the morning regarding this case. I
5 need you to return to your jury room at 9:30 for
6 that purpose.

7 During this break, please do not
8 discuss the case among yourselves or with anyone
9 else. Please don't -- while I know it may seem,
10 you know, nocuous to talk about what you heard, to
11 do that is deliberation. So please strictly abide
12 by that instruction.

13 You are only to deliberate about this
14 case only among your 12 in your jury room in the
15 privacy of those deliberations. So to begin to
16 talk about the evidence and testimony before then
17 would be a part of the deliberative process because
18 it requires you to draw conclusions based upon what
19 you've already heard.

20 So, again, please refrain from talking
21 about the case with anyone, or among yourselves.
22 Please don't do any independent research of any
23 type on the Internet. That includes anything that
24 would deal with location, anything that deals with
25 any substances we've heard about today or any other

1 evidence that has been presented in the court.

2 As the finders of the facts, you are
3 bound to decide this case according to the
4 testimony that you have heard from the witnesses
5 and the other evidence and no other basis outside
6 of the evidence. So please strictly adhere to that
7 instruction as well.

8 As you return to the courthouse, please
9 don't have any contact with anyone in or about the
10 courthouse. We would not want an innocent
11 conversation to be observed and misinterpreted. If
12 you would leave your notepads in your seats --
13 well, actually if you could stack them up for me on
14 the bannister. You can put your pens in the --
15 probably easier just to set them next to your pad
16 as you exit. If you could stack the pads on the
17 end of that bannister, it would allow us to secure
18 them during the evening recess.

19 I hope that you have a great evening.
20 We will see you in the morning at 9:30.

21 (Jury out, 4:51 p.m.)

22 THE COURT: You may be seated. The
23 defense has rested. Any motions?

24 MS. FORD: Just to renew all of my
25 prior motions.

1 THE COURT: Okay. State have any
2 response?

3 MR. COOPER: The State would just raise
4 the same argument that was raised for motion for
5 directed verdict and note the defendant's admission
6 as far as intent to bring the contraband inside the
7 jail, but no motions from the State.

8 THE COURT: Court would reincorporate
9 its previous ruling into this portion of the record
10 and stand by the earlier ruling that there is no
11 basis to grant a motion for directed verdict as
12 there is direct as well as substantial
13 circumstantial evidence reasonably tending to prove
14 the defendant's guilt in this case.

15 I will give the jury a general
16 instruction regarding their responsibility and my
17 responsibility; how they are to judge witness
18 credibility and believability. I will also give
19 them a general instruction regarding a prior
20 conviction by the defendant that the -- only be
21 used -- only to be used to judge his credibility if
22 they believe the conviction to be true.

23 I will give the general instruction
24 regarding expert witness testimony and an
25 instruction on direct and circumstantial evidence.

1 I'll also give general instruction
2 regarding the charge, arrest, and the indictment
3 not being evidence as well as on the presumption of
4 innocence. I will charge Victor v. Nebraska on
5 reasonable doubt.

6 I will then instruct on the elements of
7 possession with the intent to distribute marijuana,
8 and I think we know those without me having to
9 belabor the time of going through that.

10 MS. FORD: Your Honor, just the charges
11 that the State gave --

12 THE COURT: I'm not using their
13 charges. I'm using my standard instructions. I
14 will take exceptions in a moment.

15 MS. FORD: Okay.

16 THE COURT: Which would include the
17 inference language, as well as the way it's
18 packaged, but instructing that those are
19 evidentiary facts and it's for the jury to
20 determine the effect, value and weight it should
21 receive.

22 My general instruction includes a very
23 brief instruction regarding mere presence.

24 I will instruct 27-7-155, which is
25 possession of contraband in a county jail, and that

1 instruction will provide that, first, the State
2 must prove beyond a reasonable doubt that the
3 defendant was an inmate of a facility, next that
4 they must prove beyond a reasonable doubt that the
5 defendant possessed a substance declared to be
6 contraband, or a matter declared to be contraband.

7 I will then instruct that marijuana is
8 considered contraband within the meaning of South
9 Carolina Code Annotated 24-7-155 and published by
10 the Department of Corrections as Regulation 331.

11 I will instruct the facility or the
12 facility manager of a local detention center --
13 detention facility may designate additional items
14 as contraband. I will then instruct the elements
15 of possession, actual and constructive as well as
16 mere presence.

17 I will instruct that -- sort of in a
18 curative nature that the fact the defendant was in
19 custody of a county detention center, or a house,
20 that the county detention center is not offered to
21 prove that the defendant has bad character or to
22 prove that he committed the offense on those
23 occasions.

24 His presence at the county detention
25 center may be considered by them only for the

1 purpose of determining whether or not it satisfies
2 that element of the offense that makes it
3 possession of contraband in the county jail and for
4 no other purpose.

5 They may consider evidence of the
6 defendant's housing location at the county
7 detention center as evidence of one of the
8 circumstances, which would make this possession of
9 contraband in a county jail and for no other
10 purposes, and that there are simply evidentiary
11 facts for them to consider.

12 I'm also going to give a general
13 instruction on punishment because the defendant
14 testified that they were trying to put him back in
15 jail and that's not a relevant factor for the jury
16 to consider. It's not an element of the offense,
17 so I need to give a curative instruction that any
18 potential punishment is not appropriate for the
19 jury's consideration or in them determining a fair
20 and impartial verdict.

21 I will also instruct that he has
22 multiple charges pending and that each of those are
23 separate and distinct, and that the State must
24 prove each one beyond a reasonable doubt and that
25 they have to decide each one uninfluenced by their

1 decision as to the other Indictments. And then I
2 will instruct on the form of the verdict.

3 Are there any exceptions to the charges
4 as proposed from the State?

5 MR. COOPER: Nothing from the State.

6 THE COURT: From the defense?

7 MS. FORD: Your Honor, we would ask for
8 possession of marijuana as a lesser included since
9 only seven-and-a-half-grams were found and we
10 believe that would be an appropriate charge.

11 In addition, I know that you're not
12 reading from their proposed orders, but one of the
13 cases they refer to is Solomon v. State --

14 THE COURT: I'm not using their stuff.
15 I'm using my stuff which is subject to Supreme
16 Court scrutiny.

17 MS. FORD: Yes, Judge.

18 THE COURT: I looked at it, I glanced
19 at it, I have them marked as a Court's exhibit.
20 Let me see what they are.

21 MS. FORD: One thing the --

22 THE COURT: She can't write when you're
23 -- which instruction are you referring to?

24 MR. COOPER: Both actually. They both
25 cite to Solomon v. State.

1 THE COURT: I don't know for what
2 proposition they're being cited for.

3 I don't know what the holding in
4 Solomon v. State is. Based on its caption it's a
5 PCR case. I would have to look at it and see if
6 this exact language is used, but that standard
7 language is still used in our instruction and cited
8 in many other cases.

9 MS. FORD: Your Honor, State v. Cheek,
10 from 2013, which I provided a copy --

11 THE COURT: I think it might. I don't
12 want to misspeak. Go ahead. I'm listening.

13 MS. FORD: It overrules that. So only
14 because it was in this, I just wanted to make sure
15 that wasn't going to be read, Your Honor. But
16 State v. Cheek, which is 401 SC 322, I just wanted
17 to make sure, Your Honor --

18 THE COURT: I'll double check and make
19 sure.

20 MS. FORD: I just want to make sure,
21 Your Honor, it doesn't affect your general
22 instruction. It's just an instruction on criminal
23 intent, Your Honor.

24 THE COURT: And what else?

25 MS. FORD: That's it, Your Honor.

1 THE COURT: Does the State have any
2 exception to the request of a lesser included
3 instruction of simple possession?

4 MR. COOPER: No, Your Honor.

5 THE COURT: I had that included, but I
6 didn't know whether you were going to request it so
7 I've already included tat.

8 And does the State have any exception
9 to the request for a -- I guess I'm trying to
10 figure out exactly what sort of instruction are you
11 looking for. My general instruction includes
12 intent. It deals with what we standard -- what we
13 normally charge is that intent may be shown from
14 acts and conduct from surrounding circumstances,
15 the amount, how it was possessed, where it was
16 possessed and other factors that they considered to
17 be important, but I generally don't instruct
18 anything more than that on intent with PWID.

19 MS. FORD: Well, I'm referring to Ralph
20 King Anderson, Your Honor, just the definition.
21 Criminal intent is the state of mind which operates
22 jointly with act or omission in the commission of a
23 crime. Criminal intent is a mental state of
24 conscious wrongdoing. Criminal intent includes
25 those consequences which represent their purpose

1 for which an act is done, or are known to be
2 substantially certain to result regardless of one's
3 desire.

4 Intent may be shown by acts and conduct
5 of the defendant and other circumstances from which
6 he may naturally and reasonably infer intent.
7 Criminal intent must be proven by the State beyond
8 a reasonable doubt.

9 THE COURT: Any exception from the
10 State?

11 MR. COOPER: Your Honor, I believe your
12 usual charge with intent would be sufficient. And
13 I believe even with -- cited in Ms. Ford's
14 rendition of that charge, I think what you had said
15 was also in there so I think that's sufficient what
16 you already had, Judge.

17 MS. FORD: And I have a copy of this if
18 you would like it, Your Honor.

19 THE COURT: If I were to instruct
20 anything more than that, I would use my standard
21 instruction, and I don't know that you would want
22 me to do that because it specifically says it's not
23 necessary to establish intent by direct and
24 positive evidence, but may be established by
25 inference. Which is sort of restating what this

1 already says.

2 And that it's a mental state of
3 conscious wrongdoing, but it's also still based on
4 the surrounding circumstances and can arise from
5 action or failure to act.

6 MS. FORD: Yes, Your Honor. That would
7 be fine.

8 THE COURT: Any exception from the
9 State?

10 MR. COOPER: To include what you just
11 read, Judge?

12 THE COURT: My standard instruction on
13 intent which elaborates on this instruction within
14 the PWID instruction.

15 MR. COOPER: No, ma'am, that's fine.

16 THE COURT: Any other exceptions from
17 the defense?

18 MS. FORD: No, Your Honor.

19 THE COURT: If you all will give me one
20 moment, I will allow to you review the verdict
21 form.

22 If you would approach for me please and
23 look at the verdict form.

24 (Complies)

25 THE COURT: Any exception to the form

1 (The following proceedings were had
2 June 8, 2016, Charleston County Circuit Court,
3 Charleston County, at 9:46 a.m.)

4 THE COURT: State ready to proceed?

5 MR. COOPER: Yes, ma'am.

6 THE COURT: Defense ready to proceed?

7 MS. FORD: Yes, Your Honor.

8 THE COURT: You can bring in the jury.

9 MR. COOPER: Your Honor, the State is
10 not going to elect to open.

11 THE COURT: Any exception from the
12 defense?

13 MS. FORD: No, Your Honor.

14 (Jury in, 9:47 a.m.)

15 THE BAILIFF: All jurors are present,
16 Your Honor.

17 THE COURT: You may be seated.

18 If you would pass the notebooks out to
19 them.

20 Morning, ladies and gentlemen. I hope
21 everyone had a pleasant evening. As we indicated
22 on yesterday, both the State and defense have
23 rested their cases. We have now reached the stage
24 of the trial where the parties will present their
25 closing arguments and then I will instruct you on

1 the law. I would ask that you give the attorneys
2 your undivided attention.

3 Ms. Ford, you may proceed.

4 MS. FORD: Thank you, Your Honor. May
5 it please the Court.

6 THE COURT: Yes, ma'am.

7 MS. FORD: Morning. What was David's
8 intent? Did he act with conscious wrongdoing.
9 That is the real thing you're here to determine,
10 not if marijuana was present. Many of the facts
11 are not even in dispute. That's why intent is so
12 important here.

13 So what are the facts in this case that
14 we've heard? David came from the jail where he had
15 been incarcerated for some time, at the jail where
16 he had very limited access to anything. On his way
17 to the transport van, he was patted down numerous
18 times. Nothing was discovered on his person at any
19 time all the way from his unit through the jail to
20 the van.

21 No odor of marijuana was coming from
22 his person at any time from his unit to the
23 transport van. He had a conversation with officers
24 Lewis and Gibbs in the van about the odor of
25 marijuana, and the officers acknowledged this

1 conversation. The van had had an issue of smelling
2 of marijuana for awhile.

3 David told the officers he was going to
4 search for the marijuana. When they got to court
5 no odor of marijuana was coming from his person at
6 that time. He was taken to court at a time not
7 even known to him; court had been changed from
8 earlier that morning. He was separated from the
9 outside public while at court. He was even taken
10 to the court, the officers explained, through a
11 tunnel and completely segregated from the public at
12 large. So he had no access to anyone other than
13 the officers at court.

14 He was taken back to the van from
15 court, again not smelling like marijuana. In the
16 van he was by himself in his compartment. There
17 was another person, but in a separate compartment,
18 and there was no access to each other in the van.
19 He did not know that person, the two had no
20 physical contact at any time. The marijuana was
21 not discussed by anyone on the way back to the
22 jail.

23 When David got into intake, he asked to
24 speak to the Captain. He was told, no, not unless
25 you tell us why. He asked again, that he wanted to

1 speak to the captain, and again he was told, no,
2 not unless he told them why. Even though Officer
3 Salters could smell the marijuana on him, he
4 admitted that he did not confront him with smelling
5 this odor before David asked to speak to the
6 captain.

7 David took out the marijuana on his own
8 and the marijuana was right in front, just sitting
9 in his waistband in a very obvious place. So what
10 do all of these facts lead to? They lead to the
11 conclusion that David found this marijuana in the
12 van and that his intent was to turn it over to a
13 supervisor.

14 David is charged with two crimes. The
15 first is possession with intent to distribute
16 marijuana. Sometimes we refer to this as PWID,
17 easier to say because it's so long otherwise.
18 There can be inference of intent if someone is
19 found with 28 grams or more of marijuana. Here
20 there were only a little over seven grams, well
21 below the 28 games; however, the law does allow you
22 to look at other circumstances to determine if
23 someone was intending to distribute.

24 The State had people testify that they
25 can look to the amount of baggies. Detective Goode

1 testified that they look for the weight, amount of
2 baggies and other things, like a lot of cash,
3 multiple phones, ledgers, scales. None of those
4 things existed here.

5 Now, to be fair, they wouldn't exist
6 here, and the State asked that question, because
7 David was in jail, but to be fair, it also --
8 baggies don't exist in jail just throughout the
9 unit for people to bag marijuana.

10 If you're looking at packaging to
11 determine intent, you have to look to who did the
12 packaging; and in this case, there is no way that
13 David could have done the packaging. So to charge
14 David with PWID, well, they did that just because
15 they could.

16 You heard from Deputy Mizner that the
17 reason David was charged is because multiple
18 baggies were found; however, he admitted that the
19 standard for an arrest is much lower than the
20 standard before you today. The standard here in
21 court is beyond a reasonable doubt. The judge will
22 explain that standard in more detail, but basically
23 it's like it sounds. If you have reasonable doubt
24 to David's guilt, then you have to find him not
25 guilty. So that is why you are here.

1 And we are not here just to look at the
2 PWID but also the contraband charge. With the
3 contraband, it's not just literally did someone
4 take it inside the jail. The State may get up and
5 read to you the law -- the contraband law, because
6 our legislature -- most of our crimes are written
7 in laws called statutes. And so when someone is
8 charged, there are elements to be met; however,
9 when determining someone's guilt you have to look
10 at the law as a whole that the Judge will read to
11 you, and one thing to determine is intent. Was
12 there wrongdoing?

13 For example, obviously -- if an officer
14 had found marijuana on the ground outside and
15 picked it up and walked it inside, obviously, he
16 would not be guilty of possessing marijuana.

17 So did David had criminal intent? Did
18 he have some type of malice? To determine that you
19 have to look at the circumstances and his reasoning
20 for doing what he did. The facts do not support
21 that David had criminal intent.

22 There's been some dispute over exactly
23 when David asked to speak to the captain. From the
24 video, it's clear that he's talking to people a
25 lot. They're just -- they're not concerned about

1 him at all. He's off to the side by himself, but
2 you can clearly see him talking to people.
3 Unfortunately, we don't have the sound to
4 corroborate anybody's story, one way or the other.

5 But you heard from three officers in
6 this case, Officers Lewis, Gibbs, and Salters.
7 Those are the officers that have any knowledge
8 about the crime itself.

9 Now, I asked both Officers Lewis and
10 Gibbs about report writing, and they got kind of
11 defensive saying, they don't have to write a
12 report. My point was not to suggest that they did
13 something wrong by not writing a report. It was to
14 point out that there is a reason that police
15 officers learn to write reports and learn how
16 important it is to write reports. It's because
17 they deal with hundreds and hundreds of people and
18 they need reports to help them remember things,
19 because they write the report at the time the
20 incident took place where a trial, for example,
21 could be a year-and-a-half later as in this case.

22 You learned the importance of a report
23 actually from Officer Salters. I also asked him
24 about report writing and he agreed again, yes, you
25 know, writing reports help them with their memory.

1 And he admitted just recently he had told the
2 Solicitor, look, I don't have that much independent
3 recollection about this case without reviewing my
4 report. And even when I confronted him with his
5 report, he changed some of his answers. So that's
6 why it's important.

7 Because officers think that they --
8 when they're experiencing things, it's not
9 necessarily important to them at that time. It's
10 not about anyone lying. It's about memory. And
11 when people -- we've all experienced this. When
12 you're thinking back to things that happen, a lot
13 of times we fill in gaps. Do you really think that
14 Officers Lewis and Gibbs, to them, the timing of
15 when David was asking to speak to the captain was
16 important?

17 No, it wasn't important to them at the
18 time. At the time he was just an inmate asking to
19 speak to someone in charge. That wasn't important
20 to them at all. So their memory of that,
21 especially without a report, is not the most
22 credible.

23 Again, I'm not saying they're lying,
24 but there is no way that that was ever important to
25 them. David remembered because this case was very

1 important to him as you saw -- you saw him on the
2 stand getting very emotional about this whole case.

3 So what else do we know? We know that
4 David was not confronted with the odor of marijuana
5 before he asked to speak to a captain. Officer
6 Salters told us that. You can also look to where
7 the marijuana was located to determine David's
8 intent. It was in a very obvious place. You heard
9 from the officers -- all of the officers about how
10 important searches are and how routine pat-downs
11 are. They happen all the time. The officers know
12 it, inmates know it, and David, in particular, knew
13 it.

14 David told you how he was familiar with
15 pat-downs. The marijuana would have been
16 discovered in a basic pat-down. Officer Salters
17 told us that when people come back from court this
18 is the policy, they do two pat-downs. One is just
19 a general, not too invasive pat-down, but then
20 there's a second one; they actually take off the
21 shackles and they specifically go in someone's
22 waistband. David knew this.

23 He told us all how he had been
24 incarcerated for quite some time. He had been
25 taken to court on numerous occasions. The fact

1 that David placed it in such an obvious place,
2 coupled with the fact that he was most definitely
3 asking to speak to the captain, that means that his
4 intent all along was to turn it in. While David
5 can be emotional, he's not slow. He knew it would
6 be discovered.

7 Now, the State of course is going to
8 say he should have told the transport officers.
9 Perhaps he should have, but perhaps they would have
10 charged him as well at that point. He didn't know
11 and that's what he told you, he didn't trust them.
12 He didn't want to take that chance.

13 And so why didn't he leave it in the
14 van? Well, he explained that as well. He, in his
15 experience and to his knowledge, when marijuana or
16 drugs are found in a van, a police car, the last
17 person out is going to be charged. That's just
18 routine. And so he didn't want that to happen to
19 him either.

20 Now, in this case there has been some
21 suggestion that -- the State might suggest that
22 perhaps David didn't find it in the van. That
23 makes no logical sense. Did he bring it with him
24 from the jail? Again, how could it have been
25 packaged that way if he brought it with him from

1 the jail? How could he have gotten past all of the
2 correctional officers, the employees of the jail,
3 all the way through the jail without anyone
4 smelling this marijuana.

5 And you heard from Officer Salters how
6 very strong this odor was. No one smelled anything
7 on David's -- on his way to court at all, no one
8 smelled anything on him at court. So did he get it
9 from court? Are they going to suggest that? Well,
10 that makes no sense because the officers were very
11 clear that he didn't have access to the public.
12 Again, they were taken through a tunnel to get to
13 court; they're completely segregated.

14 David didn't know he had court at that
15 time. There couldn't have been an arrangement for
16 him to meet someone because court was postponed
17 from earlier in the morning. When the other guy
18 was put in the van who was in a completely part
19 totally blocked off from David -- and the officers
20 testified there was no way that the two could have
21 had access to one another and that there was no
22 physical contact between the two. And, also, David
23 didn't know this man at all. And the officers --
24 everyone testified there was no conversation of
25 marijuana or no mention of that from court to the

1 jail.

2 And so what about the conversation that
3 David had with the officers about the marijuana
4 smell on the way to the jail? The officers freely
5 admit that this conversation took place. If David
6 had somehow brought marijuana with him, would he
7 have brought it to their attention at that point?
8 That makes no sense.

9 You heard testimony also about not only
10 are people searched, but the van is searched. The
11 officers testified that as a matter of routine,
12 it's searched first thing in the morning and then
13 at the end of the shift. Well, the officers
14 admitted that David was not the first person in the
15 van.

16 There had been a transport to and from
17 court earlier that day, and that they didn't search
18 the van afterwards. They looked in, but they
19 didn't search. So it's very possible that if they
20 had missed the marijuana from searching it that
21 morning or from before, it's very possible that
22 someone left it in the van from earlier that
23 morning. Because, ultimately, that is the only
24 thing that makes sense, that David got this
25 marijuana from the van.

(

1 So I want to go back, I guess, to David
2 not trusting Officers Lewis and Gibbs. David had a
3 legitimate reason to be suspicious of them. He
4 told them about the odor of marijuana, they acted
5 like it was no big deal, and they told him they
6 searched for it also and nothing was there, but he
7 found it quite easily. So, to him, something
8 wasn't making sense.

9 Either these officers were lying to
10 some capacity, he didn't know, or that they weren't
11 very good at doing their jobs, something just
12 wasn't right to him. Of course, he didn't know for
13 sure, he didn't know if it was possibly some type
14 of setup. He didn't know if he would be charged
15 because there was no one else to charge. He was
16 very clear on the stand.

17 The Solicitor got up there and really
18 tried to get David -- to make him sound crazy, like
19 there was some big giant conspiracy. But David was
20 adamant, no, I'm not saying that, is what he said.
21 He said, I just don't know, I just knew that
22 something wasn't right.

23 And while the State may say he had the
24 opportunity to tell other people, well, the real
25 world doesn't work that way. Was he supposed to go

1 to court and say, excuse me, Judge, let's stand
2 down, I have to tell you something. No, the world
3 doesn't work that way. And David did also mention
4 that his reasoning -- it wasn't just because he
5 didn't trust the officers, he was hoping that there
6 was a possibility maybe he could help himself out.

7 He told you several years ago when he
8 was in a work camp essentially, or doing work in
9 the jail, he found a little marijuana and turned it
10 in, he got time off. Well, the transport officers
11 obviously have no authority to do anything for
12 David in that capacity. So clearly they were not
13 the right guys to go to. And it's not like he
14 could turn it into him and then say, can I speak to
15 a supervisor now? Yeah. Yeah, we'll turn it in,
16 or we'll charge you.

17 Either way, whether David was turning
18 it in to help himself out or turning it in to try
19 to avoid maybe getting arrested because he didn't
20 trust the officers, either way there is no criminal
21 intent there. There is no wrongdoing there. His
22 intent was not to do wrong. It was to not get in
23 trouble and to help himself out.

24 The bottom line is that the transport
25 officers messed up somewhere along the line. The

1 fact that the marijuana was not discovered
2 beforehand, that means without a doubt that
3 somewhere in their searches they messed up. And
4 since they messed up, it's reasonable for someone
5 to assume that they would do what they had to do to
6 cover themselves to an extent. That's what all of
7 this is about. Marijuana was found and someone had
8 to be charged. So David was charged and now you
9 are here.

10 And, as I said in the beginning,
11 perhaps his decision was unwise. Perhaps not
12 necessarily because somehow he still would have
13 been charged. But his intent -- his decision was
14 not criminal.

15 Now, people have different experiences
16 with law enforcement, some positive, some negative,
17 some neutral. When David testified, he clearly had
18 some issues with the police, trusting them, for
19 reasons we couldn't get into, but he doesn't in
20 general trust the police. He's not the only one
21 with that opinion, and his gut was simply not to
22 trust Officers Lewis and Gibbs.

23 So is that a crime not trusting
24 particular officers? Should that result in a
25 guilty conviction just because he didn't want to

1 trust his fate to these two officers who didn't --
2 to him they couldn't even find the marijuana in the
3 van?

4 Not trusting them should not lead to a
5 guilty conviction. That's not justice. It's not
6 justice because David's intent was not to do
7 anything wrong. David's intent at the end of the
8 day is not criminal and that's why you were here.

9 Again, we're not asking you to
10 determine if David had marijuana in his boxers; he
11 did. He admitted that from the very beginning.
12 You are here to determine what was David's
13 reasoning. And the State is not going to be able
14 to present you with anything to suggest otherwise
15 other than them speculating, oh, well, you know, in
16 the jail marijuana can be currency.

17 Well, there is no evidence that he was
18 going to use it as currency. Again, he was very
19 passionate on the stand. He was about to get out.
20 He was not about taking chances. He didn't need
21 currency in the jail. We are going to ask you to
22 find David not guilty on both counts because David
23 is not guilty. David simply made an unwise choice.
24 Thank you.

25 THE COURT: Mr. Cooper, you may proceed

1 when you're ready.

2 MR. COOPER: Thank you, Judge.

3 THE COURT: You're welcome.

4 MR. COOPER: Thank you, Your Honor.

5 May it please the Court.

6 THE COURT: Yes, sir.

7 MR. COOPER: Ms. Ford, Mr. Mack, ladies
8 and gentlemen of the jury.

9 Ms. Ford talked about in her opening
10 statement -- she asked you to focus on what makes
11 sense. So I want to start off by going through
12 what doesn't make sense, what part of the
13 defendant's stories doesn't make sense.

14 The first thing is he insinuated there
15 was this conspiracy between Officer Gibbs, Officer
16 Lewis, and maybe even Deputy Salters to somehow
17 leave marijuana in the van or frame the defendant
18 because they didn't search it. None of that makes
19 sense.

20 You heard from Officer Lewis and
21 Officer Gibbs that it wasn't, as Ms. Ford
22 described, a routine, it was procedure. They
23 searched the van at the beginning of the shift,
24 they searched the van at the end of the shift.
25 They searched the van after each new arrest

1 transport. Office Lewis did testify that after
2 each inmate transport, they don't search the van.
3 They're inmates, they are coming from the jail;
4 they are patted down before they leave.

5 That morning they were two inmates
6 transported before Mr. Ratliff. Now, Ms. Ford
7 would have you believe that the defendant didn't
8 leave with marijuana because he was patted down and
9 searched, but she wants to flip that logic on you
10 and say that the two inmates that left before Mr.
11 Ratliff must have left the jail with marijuana and
12 that's why it was in the van. She can't have it
13 both ways.

14 They search the van as a matter of
15 procedure. They told you that they search it not
16 just to find drugs, but to find weapons, officer
17 safety. There is no reason they wouldn't search
18 it. They have a vested interest in doing that. So
19 this conspiracy theory just doesn't make sense.

20 The defendant wants you to believe that
21 he wouldn't trust Officer Lewis and Officer Salters
22 -- or Officer Lewis and Gibbs and neither should
23 you. The problem with that is, there is only one
24 person that is actually guilty of lying and that is
25 the defendant for giving false information to the

1 police three years ago.

2 Now, one of the other things that
3 doesn't make sense that the defendant told you, was
4 that he was at city court. He found the marijuana
5 supposedly on the way to city court, downtown,
6 Lockwood Boulevard, that he went in, spoke to the
7 judge, had his hearing, came back and didn't tell
8 anybody.

9 He could have told the judge, he could
10 have told anybody there. Ms. Ford says the real
11 world doesn't work that way where you can't tell a
12 judge. Well, he wants you to believe that he was
13 just going to walk into the detention center and
14 tell the supervisor. What's the difference? It's
15 still law enforcement. It's still somebody that he
16 had a bad experience with.

17 She can't have it both ways. That is
18 the problem with a lot of their defense; it's
19 circular logic. You can't have it one way and then
20 not have it that way the other way.

21 So he finds it on the way to city
22 court, doesn't take it out, leaves it in the van.
23 And if he didn't trust the officers, he gets back
24 in the van? The same van? With the marijuana
25 still there? Doesn't tell anybody? If he's so

1 concerned about what they're going to do, why does
2 he get back into the van? Why does he get back in
3 the van with the marijuana? Why does he not tell
4 somebody? That doesn't make sense.

5 He says the marijuana was just sitting
6 on the cushion in the back of -- in the compartment
7 of the van. Well, that's -- that's the compartment
8 that he was in. So he says it was either on top of
9 the cushion on top of the bench, or stuck between
10 the cushions and he dug it out for the officers.

11 Well, you didn't get to see it, but
12 we'll put the video back up, the way he was
13 restrained, he didn't just have handcuffs. And
14 you'll see it as he walks in; his hands are in
15 front of him with handcuffs, but he's got what's
16 called a belly shackle. And you will see a belt
17 around his waist as he walks by that restricts the
18 movements.

19 So you've got the handcuffs that
20 restricts the movement anyway. The belly shackle
21 keeps them at his waist. He doesn't have the
22 freedom of movement to reach behind him. He has to
23 turn and contort his body. And, presumably, if
24 they're between the cushions, he has to turn around
25 and get on the cushion or do whatever he has to do

1 to get it.

2 That's a lot of work. That's a lot of
3 effort just to be a good Samaritan and turn the
4 marijuana in. That seems like a lot of work for
5 you to believe that he found it in the van and he
6 was just going to turn it in. Why go through all
7 of that? And how would the officers not have
8 noticed? He would basically have to turn around to
9 get on the cushion to do that. The way that he was
10 restrained makes it very difficult to get the
11 marijuana from where he said it was.

12 Now, with regards to him asking for a
13 captain or lieutenant, I think that we've
14 established the fact that he did ask. He asked
15 twice, but he didn't ask until after the pat-down.
16 You heard it from Deputy Salters, you heard that
17 from Officer Lewis. There was some discrepancy
18 about whether it was before or after he was going
19 to be strip-searched, but it was after the
20 pat-down.

21 The defendant had been through intake
22 before, he had been through the process, he knew
23 how the pat-downs worked, and you get two
24 pat-downs. As Deputy Salters described, you get
25 one with cuffs on and one with cuffs off. So when

1 Deputy Salters stepped back, the defendant knew
2 something was up. He knew he had been caught, so
3 he didn't have to hear he was going to be strip
4 searched.

5 So they walk in the jail, as you just
6 saw, and for about three-and-a-half-minutes as we
7 waited and watched the video in the courtroom
8 yesterday, he waited about three-and-a-half-minutes
9 before Deputy Salters comes for the pat-down. Now,
10 he does talk to Officer Lewis once or twice while
11 he's waiting, but most of the time he's standing
12 there shuffling around, kicking his feet, not
13 talking to anybody.

14 (Vide played in open court.)

15 He's not talking to anybody. So he
16 talked to Officer Lewis for a few seconds. Officer
17 Lewis testified that the first time he asked for a
18 captain or lieutenant was after the pat-down. If
19 he was truly bringing it in, truly trying to get
20 somebody's attention, why for
21 three-and-a-half-minutes is he not making a scene
22 or trying to get somebody to come to him. You can
23 watch the video. You can watch the
24 three-and-a-half-minutes in length back in your
25 deliberations.

1 He's walking around just shuffling,
2 waiting for Deputy Salters. That doesn't seem like
3 somebody who is desperate to speak to a captain or
4 lieutenant, and that's because he hasn't been
5 caught yet.

6 So, you see Officer Salters begin the
7 pat-down in the video, pauses a little bit, goes
8 through the legs, but he doesn't go through the
9 full pat-down, steps back. And Officer Lewis is
10 going to remove the shackles and the handcuffs so
11 they can strip search him. He didn't get a full
12 pat-down, he didn't get a second pat-down. He knew
13 something was wrong and he knew why. He had been
14 caught and that's why he started asking for a
15 captain or lieutenant.

16 He asked for a captain or lieutenant
17 twice. Again, that's pretty much established.
18 Deputy Salters said, okay, well, tell me why. You
19 don't just get to get an audience with supervisors.
20 This isn't the grocery store and you go and ask for
21 a manager and one comes out and takes care of your
22 problem. You have to give a reason. He asked for
23 a reason, he didn't give a reason.

24 He asked again, can I speak to a
25 captain or lieutenant? Again, you have to give us

1 a reason. Why do you want to talk to him? For a
2 second time he denied to give a reason. And you
3 can see that the defendant did not want to go into
4 the strip search room. He did not want to be strip
5 searched, and we know why, because he had the
6 marijuana inside his jumpsuit in this underwear.

7 He made it sound like he wanted to talk
8 to Deputy Salters in private, wanted to go back
9 there and talk to him. That's somebody who's not
10 wanting to go in there and we know why he didn't
11 want to go in there. For 40 seconds when Deputy
12 Salters opens that door until he goes in, he
13 doesn't look like somebody that wants to go in
14 there and talk. He's trying to figure out a way
15 out of it.

16 When he doesn't get to speak to a
17 captain or lieutenant, he goes in there and gives
18 it to Deputy Salters because, again, he had been
19 caught. His plan to get it into the jail hadn't
20 worked. This wasn't somebody that came in from the
21 front door trying to find somebody, trying to get a
22 captain or lieutenant. Nobody testified to that
23 except the defendant.

24 Officer Lewis doesn't have a reason to
25 lie to you. What possible reason could he have to

1 lie? Officer Gibbs in his testimony, what possible
2 reason would he have to lie to you? Deputy
3 Salters, the same way. What possible reason would
4 they have to lie? Because they want to charge
5 somebody else?

6 You get no benefit from charging
7 somebody else. You get no reward for arresting
8 somebody. What benefit did they have? The only
9 person that has a benefit to lie is the man that
10 was charged, the man who stands before you today at
11 trial. The man who has done it before, lied to the
12 police, lied to the authorities.

13 And you can watch the video again in
14 your deliberations. His mannerisms when he was
15 waiting for the strip search or when he was waiting
16 for the initial pat-down, watch his mannerisms. I
17 don't know if you get a smaller screen back in
18 deliberations, but watch his mannerisms. Somebody
19 that was desperate to talk to a supervisor,
20 desperate to show them what they had found trying
21 get time off, that's not what that looks like.

22 And we don't have sound. If we'd had
23 sound, we probably would have heard every single
24 person in that room. So you have to go on the
25 evidence that we have, and that's not what it looks

1 like. Their story is not what it looks like.

2 And with regard to his contention that
3 he was going to take it in and try to get time off,
4 Ms. Ford said he was about to get out. I think he
5 testified yesterday he had two weeks left. He
6 thought he was about to get out. He just said he
7 didn't take chances. So why in the world would you
8 put illegal contraband in your pants, knowing the
9 risk, just to turn it in to get out quicker than
10 two weeks? That also doesn't make sense. Focus on
11 what makes sense. That doesn't.

12 Now, we talked about some of the things
13 that don't make sense. Let's talk about some of
14 the things that we do know. Unequivocally, the
15 defendant entered the jail and on his person,
16 inside his one piece jumpsuit, in his underwear, he
17 had a bag that contained nine different bags of
18 marijuana. The bag it came in, and one by one,
19 nine separate bags of marijuana on his person.
20 (Indicating)

21 I want to talk to you about possession.
22 The judge will instruct you as part of the law on
23 both crimes is possession. Possession of
24 contraband in the jail, possession of the intent to
25 distribute starts with possession. The judge will

1 tell you about actual and constructive possession,
2 whether it's under the defendant's dominion and
3 control. It's on his person. It's in his
4 underwear. And by his own testimony he put it
5 there. It doesn't get -- there's not a better
6 showing of possession. There's not. There's no
7 better showing of possession than in his clothing
8 on his person by his own hand. That's textbook,
9 actual possession.

10 Officers Lewis and Salters told you
11 that he had it on his person. The defendant told
12 you he had it on his person. The video you just
13 watched showed him coming into the jail. We all
14 know he took it out in the search room; possession
15 by an inmate of a matter deemed to be contraband.
16 And you heard Officer Salters testify that
17 marijuana is contraband. The judge will instruct
18 you on the law at the end and she's also going to
19 instruct you that marijuana is contraband.

20 He was inside the jail, which is one of
21 the requirements, and he was an inmate returning
22 from being transported out as an inmate going to
23 jail, and coming back. He was an inmate;
24 possession by an inmate of contraband in the jail.

25 The defendant told you he knew it was

1 marijuana. He knew the smell, he knew it when he
2 saw it in the van. He knew it was marijuana and he
3 intended to bring it inside the jail. I asked him
4 that on cross yesterday point blank. Did you
5 intend to bring it into the jail? His answer, yes
6 sir. Yes, sir.

7 Now, regarding the two charges he's
8 charged with, possession of contraband inside the
9 county jail -- again, we just went over those
10 elements. Did the defendant testify that he
11 intended to bring it into the jail? Ms. Ford wants
12 to talk about criminal intent. He said he intended
13 to bring it into the jail. Intended to bring it
14 into the jail, by his own words.

15 Now, Deputy Salters told you why they
16 pat down an inmate, pat him down twice, and why on
17 occasion they strip search them. It's important,
18 it's imperative to try to prevent the introduction
19 of weapons and contraband in the county jail. It's
20 imperative. Officer safety, the safety of the
21 detention officers, the safety of the defendant and
22 the safety of other inmates.

23 Who knows what, if anything, could have
24 been mixed with that marijuana. And if he hands it
25 out to inmates, then you have inmates who could --

1 who knows what can happen. It's about the safety
2 of everyone involved, and weapons as well. But
3 that's why they searched.

4 Now, granted, it's not a perfect
5 process. Even though as Ms. Ford would have it,
6 the pat-downs are not a perfect process. The strip
7 searches are not a perfect process. How do we know
8 that? Because there's contraband in the jail. It
9 happens despite the officers best efforts, it gets
10 in. It happens. And the defendant thought it
11 could happen this time. He thought it could
12 happen.

13 The jail is a controlled environment,
14 secured environment, and it's important that it be
15 kept that way, but like I said, sometimes things
16 get in. You can infer his intent. Besides that he
17 told you he intended to bring it into the jail, you
18 can infer it from his actions, infer it from his
19 conduct. Conduct like picking up marijuana,
20 intentionally picking it up from the van, if that's
21 where you believe he found it. He intended to pick
22 it up in the van.

23 He intended to put it not just in his
24 uniform, but in his underwear. If he had found it
25 and wanted to turn it in, he could have walked in

1 with it in his hands. Now that may sound a little
2 ridiculous, but it also sounds ridiculous to say I
3 might be charged if it stays in the van, maybe, but
4 if I put it in my pants, it's on my person, I know
5 what is going to happen.

6 The inmate thinks they can convince a
7 captain or a lieutenant, but they're going to see
8 the same thing. It was on his person, concealed.
9 The concealed adds an extra layer to it. He walks
10 in with it in his hands and says, I found this, I
11 found this, it's a tougher case. It's concealed.
12 And the only reason it was found is because
13 Department Salters smelled it.

14 Regarding the second charge, possession
15 with intent to distribute marijuana, as Ms. Ford
16 said, PWID marijuana, the defendant was in
17 possession of marijuana with the intent to
18 distribute. We have established possession. I
19 have established it, the defendant has established
20 it, possession is established.

21 Marijuana -- Investigator Meyer
22 testified yesterday that the items that you saw
23 were marijuana; nine separate baggies of marijuana,
24 a total of 7.28 grams in each bag, and you'll have
25 the worksheet with you. Each bag contained just

1 under one gram, and the weight was within about a
2 tenth of a gram of being similar to each other. So
3 you've got consistent weight in those nine bags,
4 marijuana.

5 So the question is, is it with the
6 intent to distribute? Now, Detective Goode in his
7 expert testimony yesterday testified on some ways
8 that you can determine if it's simple possession of
9 marijuana or if it's possession with the intent to
10 distribute.

11 Now, Ms. Ford talked about the
12 inference weight, 28 grams. It's true, the law
13 provides what's called an inference, which means if
14 somebody has 28 grams in their possession, you can
15 infer from the weight, the weights alone, that it's
16 not just for personal use. It doesn't have to
17 happen. The law just says -- the law does not
18 require a specific weight. It charges possession
19 with intent to distribute.

20 Intent to distribute can be established
21 in a variety of different ways. Weight is one of
22 them, and it provides that, but that's not the only
23 way. If that was the only way, he wouldn't be
24 charged with it, we wouldn't be here today on that
25 charge. It's not the only way. The law does not

1 require a specific weight.

2 Detective Goode talked about the
3 packaging. Nine separate bags; he said that the
4 common person typically would not distribute their
5 own personal marijuana into separate baggies if
6 it's for their personal use. Why would they? That
7 doesn't make sense. Maybe they just put it in the
8 second bag. Okay. Maybe in the third bag.

9 You have nine bags of 7 grams, which
10 isn't the biggest amount anyway. That's why the
11 inference weight is 28 grams. That's only seven.
12 That by itself is not a lot of marijuana. Why
13 would you then take that and separate it into
14 smaller bags.

15 The common person does not separate it
16 into smaller bags for personal use. It was
17 separated for distribution. It was separated
18 because he knew the value of the marijuana in jail.
19 He had been there for a while. He testified
20 yesterday he knew the value of the marijuana in
21 jail. And wherever he found it, he found an
22 opportunity.

23 He thought he could take it into the
24 jail -- he knew the process, the pat-down
25 procedure. He thought he could get in there. He

1 thought he could -- that's what he thought he could
2 help himself with, in turning it in and getting
3 five days off 14 more days, whatever he was
4 thinking. It was the currency in the jail, the
5 money in the canteen. That's what he was trying to
6 do.

7 Now, the law does not require that he
8 package it himself. Ms. Ford mentioned that to
9 you; the law does not require that he package it
10 himself. The charge is possession with the intent
11 to distribute. It requires possession and it
12 requires the requisite intent to distribute. It
13 does not matter who put it in the bags.

14 Now, Ms. Ford also asked Detective
15 Goode and mentioned today about multiple phones and
16 ledgers and scales. That's true, law enforcement
17 on the streets, when they're in houses, or if they
18 do a traffic stop and see all these different
19 things, multiple phones, ledgers, scales for
20 weighing drugs. Those are different indicators
21 that they can also use in charging PWID. Just like
22 the weight, that doesn't have to be there.

23 And in the jail, granted you also would
24 not expect to find marijuana, they're not typically
25 going to have multiple phones, ledgers, scales on

1 their person in the jail. So you take the
2 situation as it comes to you, case by case. And in
3 this case, nine separate bags of marijuana,
4 basically evenly packaged, wasn't for personal use.
5 That just doesn't make sense.

6 Distribution does not mean sell. It
7 just means distribute. So if you think, well,
8 there was no cash in the jail, he couldn't get paid
9 for it, distribution means giving it to somebody
10 else. It does not mean he got cash in return, even
11 though that's usually how that works. The charge
12 and the law requires distribution, which is not the
13 same thing as receiving something in return.

14 Deputy Salters told you about currency
15 in the jail, about how illegal contraband,
16 marijuana in this case, is currency in the jail
17 because there is no money. And in an environment
18 like that where it's as best as it can be, it's
19 controlled and secured, there shouldn't be drugs in
20 there. Again, we know that there are, it happens.
21 No system is perfect, but in a situation -- in an
22 environment where it's not like the streets where
23 it's easy to get access to drugs, easy to get
24 access to marijuana, supply and demand.

25 So when Officer Goode testified that

1 the typical transaction is 3.5 grams, or an eighth
2 of an ounce, or 7 grams is a typical transaction
3 weight, that is less than the typical transaction
4 weight. It's jail, supply and demand. There's no
5 marijuana in there? A small little bit of
6 marijuana makes a big difference, supply and
7 demand. It's better than nothing for people that
8 want it.

9 The defendant found an opportunity,
10 whether he found it in the van or wherever he got
11 it from, he saw an opportunity. Not to get time
12 off with 14 days left, but to make life easier for
13 himself in the jail. He just got caught. He had
14 been to intake before. He had been to intake
15 before. He had been in the jail before so he'd
16 been through booking, he knew the process, he knew
17 there were two quick pat-downs and all he had to do
18 is make it through.

19 He could conceal the marijuana as best
20 he good, in his underwear. He didn't come in with
21 it in his hand, didn't come in hollering for a
22 supervisor. He only asked for a supervisor once he
23 was caught after the pat-down. He concealed the
24 marijuana, but he couldn't conceal the smell.
25 Officer Salters smelled it on him. Had it not been

1 for that, maybe he wouldn't have felt it in the
2 pat-down. Again, it's not perfect. They do the
3 best they can. They don't want to mess up in the
4 jail, it makes life harder for them.

5 But he smelled it and that ruined the
6 defendant's claims so the defendant had to come up
7 with something. And that's why that's the first
8 time that he said, oh, I have to speak to a captain
9 or a supervisor, trying to get out of it.

10 Don't get distracted by all the things
11 that he told you that don't make sense, the
12 conspiracies and whether or not he could trust
13 these officers. You saw them testify; you can
14 decide for yourself if they're trustworthy or not.

15 Don't get distracted by the circular
16 logic and different stories he said. At the end of
17 the day, on video and by testimony of our witnesses
18 and the defendant, he walked into the jail with
19 marijuana, not just on his person, but inside his
20 underwear. By his own admission he intended to do
21 that.

22 Don't get distracted by the different
23 stories he told you. Focus on the facts and focus
24 on, like Ms. Ford said, what makes sense. Once you
25 take the law as the judge gives it to you and you

1 apply it to these facts, you will arrive at only
2 one logical conclusion, you'll arrive to what makes
3 sense; he's guilty. Thank you.

4 THE COURT: Does anyone need to use the
5 restroom? Stand up, and stretch a little bit and
6 get the circulation going on.

7 During this trial, ladies and
8 gentlemen, you and I have certain duties to
9 perform. As the trial judge, it is my
10 responsibility to preside over the trial of this
11 case. I also have the duty to rule upon or pass
12 upon the admissibility of the evidence offered
13 during this trial.

14 You are to consider only competent
15 evidence before you. You are to consider only
16 testimony which has been presented from the witness
17 stand, together with the other exhibits which have
18 been made part of the record in this case.

19 I have the additional duty to charge or
20 instruct you on the law applicable to this case.
21 As the presiding judge, I'm the sole judge of the
22 law of this case, and it is your duty as jurors to
23 accept and apply the law as I now state it to you.

24 If you have a preconceived idea as to
25 what the law ought to be in a case, or in this

1 case, and it should not agree with what I now tell
2 you the law is, you are obligated under your oath
3 to abandon this preconception on your part because
4 you were sworn to accept the law and apply the law
5 precisely as I now state it to you.

6 In every case tried in this court
7 before a jury, the jury becomes the sole and
8 exclusive judges of the law -- I mean, of the
9 facts, I'm sorry. I will restate that. I want to
10 make sure I'm accurate.

11 In every case tried in this court
12 before a jury, the jury becomes the sole and
13 exclusive judges of the facts in the case. You,
14 the jury, are the judges of the facts in this case.
15 This court is the judge of the law.

16 The constitution of our state has
17 declared a trial judge shall not intimate, state,
18 comment upon, or make any statement to a trial jury
19 about the facts in the case. I'm not allowed to
20 have an opinion about the facts in any case before
21 a jury.

22 Since you, the jury, are the sole
23 judges of the facts in this case, you are not to
24 infer anything from what I have said during the
25 progress of this trial in ruling upon the

1 admissibility of evidence, or otherwise, or
2 anything that I say to you now during the course of
3 this instruction, that I have any opinion about the
4 facts. The law does not allow me to have an
5 opinion about the facts. This is a matter solely
6 for you, as the jury, to determine.

7 As jurors, then, it is your duty as
8 I've instructed to determine the effect, the value,
9 the weight, and the truth of the evidence presented
10 during this trial. Necessarily, you must assess
11 the credibility of witnesses who have testified.

12 Credibility is simply a legalistic term
13 meaning believability. It becomes your duty as a
14 juror to analyze and evaluate the evidence and
15 determine that evidence which convinces you of its
16 truth.

17 Some of the things you may consider,
18 ladies and gentlemen, as you decide whether or not
19 to believe a witness's testimony about a particular
20 matter include, what was the manner and appearance
21 of the witness who testified? Was he or she
22 straightforward or hesitant in answering? Was the
23 testimony of a witness consistent or inconsistent?
24 How did the witness come to know the facts that he
25 or she testified to or what was his or her ability

1 to know these facts? Is there some reason a
2 witness would want to give testimony that would
3 help or hurt one side or the other; in other words,
4 was the witness biased or prejudiced? And was the
5 testimony of a witness strengthened or weakened by
6 other testimony or evidence?

7 I further instruct you that in
8 determining the question of the credibility or
9 believability of witnesses who have testified, you
10 may believe one witness against several witnesses
11 or several witnesses against one witness. You may
12 believe a part of the testimony of a witness and
13 reject the remaining part of the testimony of that
14 same witness. If you have a good and sound reason,
15 you may believe the testimony of a witness in its
16 entirety or reject the testimony of a witness in
17 its entirety. You may consider the demeanor of the
18 witness, that is the manner and appearance of the
19 witness from the witness stand.

20 Again, ladies and gentlemen, you can
21 believe as much or as little of each witness's
22 testimony as you think proper. Throughout this
23 process, ladies and gentlemen, you have but one
24 objective, to seek the truth regardless of its
25 source.

1 You have heard evidence that the
2 defendant was convicted of a crime, other than the
3 one for which he is now on trial. This evidence
4 may be considered by you if you conclude it is
5 truth only in deciding whether the defendant's
6 testimony is believable and for no other purpose.
7 You must not consider the defendant's prior record
8 as any evidence of the defendant's guilt of the
9 charges we are trying today.

10 Our rules of evidence ordinarily do not
11 permit witnesses to testify to opinions or a
12 conclusion. An exception to this rule exists for
13 witnesses we call expert witnesses. A witness who
14 by their education, training and experience has
15 become an expert in some art, science, profession
16 or calling may state an opinion as to relevant and
17 material matters in which the witness claims to be
18 an expert and may state the reasons for that
19 opinion.

20 You should consider any expert pinion
21 received in evidence in this case like any other
22 evidence. Give it the weight you think it
23 deserves. If you decide that the opinion of an
24 expert witness is not based on sufficient
25 education, training, and experience, or if you

1 conclude that the reasons given in support of the
2 opinion are not sound, or that the opinion is
3 outweighed by other evidence, you may disregard the
4 opinion entirely.

5 An expert witness's testimony is to be
6 given no greater weight than that of other
7 witnesses simply because the witness is an expert,
8 and you are not required to accept an expert's
9 opinion even though it is not contradicted.

10 Ladies and gentlemen, there are two
11 types of evidence which are generally presented
12 during a trial, direct evidence and circumstantial
13 evidence. Direct evidence is the testimony of a
14 person who asserts or claims to have actual
15 knowledge of a fact, such as an eyewitness.
16 Circumstantial evidence is proof of a chain of
17 facts and circumstances indicating the existence of
18 a fact.

19 The law makes absolutely no distinction
20 between the weight or value to be given to either
21 direct or circumstantial evidence, nor is a greater
22 degree of certainty required of circumstantial
23 evidence than of direct evidence.

24 Crimes may be proven by circumstantial
25 evidence. Again, the law makes no distinction

1 between the weight or value to be given to direct
2 or circumstantial evidence; however, to the extent
3 the State relies on circumstantial evidence, all of
4 the circumstances must be consistent with each
5 other and, when taken together, point conclusively
6 to the guilt of the accused beyond a reasonable
7 doubt. If these circumstances merely portray the
8 defendant's behavior as suspicious, the proof has
9 failed.

10 The State has the burden of proving the
11 defendant guilty beyond a reasonable doubt. This
12 burden rests with the State regardless of whether
13 the State relies on direct evidence, circumstantial
14 evidence, or some combination of the two.

15 Ladies and gentlemen, you should weigh
16 all of the evidence in this case. After weighing
17 all of the evidence if you are not convinced of the
18 guilt of the defendant beyond a reasonable doubt,
19 you must find the defendant not guilty.

20 Conversely, if you are convinced of the guilt of
21 the defendant beyond a reasonable doubt, you must
22 find him guilty.

23 I instruct you that the fact that the
24 defendant was arrested, charged, and indicted in
25 this case is not evidence in this case and cannot

1 be considered by you as evidence of guilt in this
2 case, nor does it create any presumption or
3 inference of guilty. This documentation are simply
4 the formal written instruments which contain the
5 charge or charges made against a defendant. They
6 simply serve as the formal documentation by which
7 the case is processed or brought into the court.

8 The defendant has pled not guilty to
9 the Indictments and that plea casts the burden on
10 the State to prove the defendant guilty, because a
11 person charged with committing a criminal offense
12 in South Carolina is never required to prove
13 himself innocent.

14 I instruct you, ladies and gentlemen,
15 that it is a cardinal and important rule of the law
16 of evidence that the defendant in a criminal trial,
17 no matter what the seriousness of the charge or
18 charges made against him may be, will always be
19 presumed to be innocent of the crime for which he's
20 been indicted unless guilt has been proven by
21 evidence satisfying you of that guilt beyond a
22 reasonable doubt.

23 This presumption of innocence does not
24 cease when you retire to deliberate, but
25 accompanies the defendant from the time of his

1 arraignment throughout the trial until you reach a
2 verdict in this case. Our supreme court has said
3 the presumption of innocence is like a robe of
4 righteousness placed about the shoulders of the
5 defendant and remains with him and assigns him to
6 that class, the innocent, until that presumptive
7 robe of righteousness has been stripped from his
8 person by evidence satisfying you of that guilt
9 beyond a reasonable doubt.

10 Madame Forelady, ladies and gentlemen,
11 the presumption of innocence is not mere legal
12 theory. It is not just a legal phrase. It is the
13 substantial right to which every defendant is
14 entitled unless you, the jury, are satisfied from
15 the evidence of his guilt beyond a reasonable
16 doubt.

17 The State has the burden of proving the
18 defendant guilty beyond a reasonable doubt. Some
19 of you may have served as jurors in civil cases
20 where you were told that it was only necessary to
21 prove a fact is more likely true than not true,
22 such as by the greater weight, or the preponderance
23 of the evidence.

24 In criminal cases, the State's proof
25 must be more powerful than that; it must be beyond

1 a reasonable doubt. Proof beyond a reasonable
2 doubt is proof that leaves you firmly convinced of
3 the defendant's guilt. They are very few things in
4 this world that we know with absolute certainty,
5 and in criminal cases the law does not require a
6 proof that overcomes every possible doubt.

7 If based on your consideration of the
8 evidence you are firmly convinced that the
9 defendant is guilty of the crime charged, you must
10 find the defendant guilty. If, on the other hand,
11 you think there is a real possibility that the
12 defendant is not guilty, you must give the
13 defendant the benefit of that doubt and find him
14 not guilty.

15 The defendant is charged with
16 possession with the intent to distribute marijuana.
17 The State must prove beyond a reasonable doubt that
18 the defendant possessed marijuana with the intent
19 to distribute it. To prove possession, the State
20 must prove beyond a reasonable doubt that the
21 defendant had both power and intent to control the
22 disposition or use of the marijuana.

23 Possession may be either actual or
24 constructive. Actual possession means that the
25 marijuana was in the actual, physical custody of

1 the defendant. Constructive possession means that
2 the defendant had dominion and control, or the
3 right to exercise dominion or control, over either
4 the marijuana itself or the property on which the
5 marijuana was found.

6 Mere presence at the scene where drugs
7 were found is not enough to prove possession. The
8 defendant's knowledge and possession may be
9 inferred when a substance is found on property
10 under the defendant's control; however, ladies and
11 gentlemen, this is simply an evidentiary fact.
12 This inference is simply an evidentiary fact to be
13 taken into consideration by you, along with the
14 other evidence in this case, and to be given the
15 weight, value and effect you decide it should
16 receive.

17 Two or more persons may have joint
18 possession of a drug. The state must also prove
19 beyond a reasonable doubt that the defendant
20 intended to distribute the marijuana. Distribute
21 means to deliver, other than by administering or
22 dispensing a drug.

23 Intent may be shown by acts and conduct
24 of the defendant and other circumstances from which
25 you may naturally and reasonably infer intent. In

1 determining whether the defendant had any intent to
2 distribute the marijuana, you may consider the
3 circumstances surrounding the defendant's alleged
4 possession. You may consider the amount of the
5 substance alleged to have been possessed, the
6 manner in which it was allegedly possessed, the
7 place where it was allegedly possessed and other
8 factors which you consider to be important.

9 You must find that the defendant did
10 not intend to have the marijuana solely for his own
11 use. Possession of more than 28 grams, or 1 ounce
12 of marijuana, creates an inference that the
13 defendant possessed the marijuana with intent to
14 distribute it.

15 This inference, however, does not
16 relieve the State from proving beyond a reasonable
17 doubt that the defendant had the intent to
18 distribute. It is simply an evidentiary fact to be
19 taken into consideration by you, along with the
20 other evidence in the case, and to be given the
21 weight, value, and effect you decide it should
22 receive.

23 Included within the intent of
24 possession with the intent to distribute, is the
25 lesser included offense of simple possession.

1 Simple possession does not require an intent to
2 distribute the marijuana. The State must prove
3 beyond a reasonable doubt that the defendant
4 knowingly or intentionally possessed marijuana.
5 Knowingly means with knowledge, consciously, not
6 accidentally. Intentionally means willfully
7 intending the result which actually occurred, not
8 accidentally or involuntarily.

9 Intent may be shown by acts and conduct
10 of the defendant and other circumstances from which
11 you may naturally and reasonably infer intent.

12 To prove possession, the State must
13 prove beyond a reasonable doubt that the defendant
14 had both the power and the intent to control the
15 disposition or use of marijuana. Possession again
16 may be either actual or constructive.

17 Actual possession means that the
18 marijuana was in the actual physical custody of the
19 defendant. Constructive possession means that the
20 defendant had dominion and control, or the right to
21 exercise dominion or control over either the
22 marijuana itself or the property on which the
23 marijuana was found.

24 Mere presence at the scene where drugs
25 were found is not enough to prove possession. The

1 defendant's knowledge and possession may be
2 inferred when a substance is found on the property
3 under the defendant's control; however, this
4 inference is simply an evidentiary fact to be taken
5 into consideration by you, along with the other
6 evidence in the case and to be given the weight,
7 value and effect you decide it should receive.

8 Two or more persons may have joint
9 possession of a drug. Possession of marijuana is a
10 crime unless the marijuana was obtained directly
11 from or through a valid prescription or order of a
12 practitioner acting in the course of professional
13 practice.

14 A practitioner is a physician, dentist,
15 veterinarian, podiatrist, scientific investigator,
16 pharmacy, hospital or other person or institution
17 licensed, registered or otherwise permitted to
18 distribute, dispense, conduct research with respect
19 to or administer a controlled substance in the
20 course of professional practice or research in this
21 State.

22 The defendant is charged with
23 possession of contraband in a county jail. First,
24 the State must prove beyond a reasonable doubt that
25 the defendant was an inmate of a facility. Next,

1 the State must prove beyond a reasonable doubt that
2 the defendant possessed a matter or substance
3 declared to be contraband. Marijuana is considered
4 contraband within the meaning of South Carolina
5 Code Annotated Section 24-7-155 and published by
6 the Department of Corrections as Regulation 33-1.

7 The facility manager of a local
8 detention facility may also designate additional
9 items as contraband.

10 To prove possession, the State must
11 prove beyond a reasonable doubt that the defendant
12 had both the power and intent to control the
13 disposition or use of the marijuana. Possession
14 may be either actual or constructive. Actual
15 possession means that the marijuana was in the
16 actual physical custody of the defendant.

17 Constructive possession means that the
18 defendant had dominion and control or the right to
19 exercise dominion or control over either the
20 marijuana itself or the property on which the
21 marijuana was found.

22 Mere presence at the scene where drugs
23 are found is not enough to prove possession. The
24 defendant's knowledge and possession may be
25 inferred when the substance is found on the

1 property under the defendant's control; however,
2 again, ladies and gentlemen, this is simply an
3 inference. This is simply an evidence -- an
4 inference and simply an evidentiary fact to be
5 taken into consideration by you, along with the
6 other evidence in the case, and to be given the
7 weight, value, and effect you decide it should
8 receive.

9 I instruct you that evidence that the
10 defendant was in the custody of the county
11 detention center or housed at the county detention
12 center is not offered to prove that the defendant
13 has bad character. His presence at the county
14 detention center may be considered by you only for
15 the purpose of determining whether or not it
16 satisfies that element of the offense that makes it
17 possession of contraband in the county jail and for
18 no other purpose.

19 You may consider the evidence of the
20 defendant's housing location at the county
21 detention center as evidence of one of the
22 circumstances that would make it a possession of
23 contraband in a county jail and for no other
24 purpose.

25 These are all evidentiary facts for

1 you, the jury, to determine the effect, value and
2 weight it should received.

3 In order to establish criminal
4 liability, criminal intent is required. For
5 example, the mental state required to be proven by
6 the State for a particular crime might be purpose,
7 intent, knowledge, recklessness, or criminal
8 negligence.

9 Criminal intent must be proven by the
10 State beyond a reasonable doubt. Criminal intent
11 is always a matter that must be determined by the
12 jury from the facts and circumstances surrounding
13 the situation. There is no way to prove intent to
14 a mathematical certainty. There is no way medical
15 science can dissect a person's brain and determine
16 what the person had in mind.

17 The law says that criminal intent may
18 be inferred from the facts and circumstances shown
19 to have existed. This is how you make a
20 determination whether or not the element requiring
21 intent was present. It is not necessary to
22 establish intent by direct and positive evidence,
23 but intent may be established by inference in the
24 same way as any other fact by taking into
25 consideration the acts of the party and all of the

1 facts and circumstances of the case.

2 Criminal intent is a mental state, a
3 conscious wrongdoing. It is up to you to determine
4 what the defendant intended to do based on the
5 facts and circumstances shown to have existed, and
6 for you to give the effect, value and weight to
7 that evidence as you determine appropriate in your
8 fact-finding providence.

9 Criminal intent can arrive from action
10 or a failure to act. It may arise from negligence,
11 recklessness, or indifference to duty, or to
12 consequence that is considered by the law to be the
13 equivalent of criminal intent.

14 Ladies and gentlemen, you have heard
15 testimony concerning the potential penalty a person
16 can serve for the crimes alleged in the
17 Indictments. In determining your verdict in this
18 case, you cannot consider any possible penalty for
19 any particular crime. The potential punishment for
20 the crime is a matter for the Court to determine
21 and should never be considered by you in any way
22 whatsoever in arriving at a fair and impartial
23 verdict in this case.

24 There are two separate Indictments in
25 this case that each allege different offenses

1 against the defendant. They are Indictment
2 2015-GS-10-1375 and 1376, which are possession with
3 the intent to distribute marijuana and possession
4 of contraband in a county jail.

5 I instruct you, ladies and gentlemen,
6 if each Indictment charges a separate and distinct
7 offense, you must decide each indictment separately
8 on the evidence and the law applicable to it
9 uninfluenced by your decision as to any other
10 indictment.

11 The defendant may be convicted or
12 acquitted on any or all of the offenses charged and
13 you will be asked to write a separate verdict for
14 guilty or not guilty for each indictment.

15 Ladies and gentlemen, there are two
16 potential verdicts -- well, actually there's more
17 than two on one. There are three potential
18 verdicts on one indictment and two on one
19 indictment, and I will go through those with you.
20 You don't have to try to write it down.

21 I emphasize there's no significance
22 whatsoever to the order in which I state any
23 potential verdicts in this case, it is simply that
24 one must be stated first. Those options are as
25 follows: On Indictment 1375, which is possession

1 with the intent to distribute marijuana, we, the
2 jury, by unanimous consent find the defendant
3 guilty of possession with the intent to distribute
4 marijuana, or as to the lesser included offense
5 guilty of simple possession marijuana, or not
6 guilty.

7 And as to Indictment 2015-GS-10-1376,
8 possession of contraband in a county jail, we, the
9 jury, by unanimous consent find the defendant
10 guilty of possession of contraband in a county
11 jail, or not guilty.

12 Again, there is no significance
13 whatsoever to the order in which I state these
14 potential verdicts. It's simply that one must be
15 stated first.

16 Ladies and gentlemen, in order to reach
17 a verdict, your verdict must be unanimous, which
18 means that all 12 of you must agree before a
19 verdict can be reached on each indictment.

20 Madame Forelady, once the jury reaches
21 a unanimous verdict, it's your responsibility to
22 fill out the verdict forms, to sign and date the
23 forms and advise the bailiff that the jury has
24 reached a unanimous verdict on each indictment.

25 If the jury has any questions during

1 deliberations, it's also your responsibility to
2 write out those questions on the notebook that you
3 have and to sign it and date any note and follow
4 the same procedure by knocking on the door and
5 advising the bailiff that the jury has a question.

6 Also, any notes that you provide to the
7 court should never specify any numerical breakdown,
8 as jury deliberations are private and they should
9 never be disclosed publicly. Make sure that any
10 notes do not include any numerical breakdowns.

11 Ladies and gentlemen, if you have any
12 questions during jury deliberations, please know
13 that there will be a delay in our response and that
14 is because there is a procedure that we must follow
15 in answering your questions. So know if you have a
16 question we're not ignoring you, we're simply
17 following that procedure before we respond to you.

18 Also, I'm going to start another case
19 once you begin your deliberations so that may also
20 cause some delay in switching out the Court
21 Reporter files and switching out juries in the
22 event that I need to respond to you directly other
23 than just by a note. So know if you have any
24 questions, there may be a short delay in the
25 response.

1 Again, ladies and gentlemen, your
2 verdict must be unanimous, which means all 12 of
3 you must agree. I'm going to ask that you return
4 to your jury room, but do not yet begin your
5 deliberations. I have some very brief matters of
6 law to take up with the attorneys that may require
7 further instruction or clarify of an instruction.

8 If there are no further instructions,
9 we will send in your notepads, along with the
10 evidence and verdict forms, and at that time we
11 will excuse the alternate and you will be allowed
12 to begin your deliberations. We have ordered your
13 lunch. We anticipate that it should arrive around
14 11:30, and I tell you that for your planning
15 purposes.

16 If anyone wants to go get air after
17 you've eaten, let the bailiffs know. They will
18 take you downstairs. Just know that you cannot
19 deliberate when all 12 are not present. So if you
20 all need to go get air or otherwise, just let the
21 bailiffs know and they will accommodate you.

22 If you will stack your notepads on the
23 bannister as you exit the courtroom. And, again,
24 do not yet begin your deliberations.

25 (Jury out, 10:59 a.m.)

1 THE COURT: You may be seated. Any
2 exceptions from the State?

3 MR. COOPER: I have one question and
4 one exception. You mentioned yesterday that you
5 were going to charge on -- as far as the PWID
6 packaging, and I just wanted --

7 THE COURT: I did instruct on the
8 packaging. I said they could consider how it was
9 packaged. I may not have used those exact words,
10 but what I said was -- I will tell you exactly what
11 I said.

12 MR. COOPER: I think it was the same
13 one that I had in my jury charge. I just wanted to
14 make sure the manner in which it was discussed.

15 THE COURT: Give me one second, I need
16 to go back. I said, that in determining whether
17 the defendant had the intent to distribute the
18 marijuana, you may consider the circumstances
19 surroundings the defendant's alleged possession.
20 You may consider the amount -- consider the amount
21 of the substance alleged to have been possessed,
22 the manner in which it was allegedly possessed, the
23 place where it was allegedly possessed, and other
24 factors.

25 So manner is the same as packaging.

1 MR. COOPER: Yes, Your Honor. Thank
2 you.

3 The only exception the State has is
4 when you discussed the inference weight, the State
5 would request that you add a portion that the law
6 does not require a specific weight.

7 THE COURT: You should have asked me
8 before. It's a little late now. I don't think
9 it's appropriate for me -- that's more, to me, a
10 comment on the facts. When I instructed that it's
11 an inference and they can give it the weight,
12 value, and effect they decide it -- I can't talk
13 this morning.

14 What I instructed them is that the law
15 provides that inference and they can draw whatever
16 they want from that inference and that they are to
17 look at all the facts and circumstances of the case
18 and give the evidence the weight, value and affect
19 they decide it should receive.

20 It's for you to argue that you're not
21 required to prove it. For me to go any farther
22 than what I instructed, to me, is an impermissible
23 comment on the fact of the case, and I think that's
24 for you to argue and not permissible for the Court
25 to comment.

1 I will note your exception for the
2 record.

3 MR. COOPER: Thank you, Your Honor.

4 THE COURT: From the defense?

5 MS. FORD: No, Your Honor.

6 THE COURT: All right. Can you please
7 make sure that all -- and I know I ask this over
8 and over again, that all the evidence is in with
9 the court reporter so that the bailiff can take it
10 back.

11 And also we have a laptop in there. Is
12 there any special software to play that disk?

13 THE BAILIFF: It doesn't need anything.

14 THE COURT: So if you would make sure
15 that the Court Reporter has all the evidence and
16 it's accounted for so the bailiffs can collect it,
17 along with the notepads and verdict form so they
18 can take it back and I can excuse the alternate. I
19 would ask that you stay in place while I excuse the
20 alternate.

21 MR. COOPER: Just to note, I think the
22 video itself was admitted, but I only played a
23 certain portion. Do you want me to give the Court
24 Reporter --

25 THE COURT: You should have prepared a

1 THE CLERK: Indictment 2015-GS-10-01375
2 State of South Carolina v. Ronald David Ratliff,
3 we, the jury, by unanimous consent, find the
4 defendant guilty of simple possession of marijuana.
5 Signed and dated Miss Foreperson, June 8, 2016.

6 Ladies and gentlemen of the jury, if
7 this is your verdict, please raise your right hand.

8 THE JURY: (Raised hands.)

9 THE CLERK: Please let the record
10 reflect that all jurors raised their right hands.

11 Indictment 2015-GS-10-01376, State of
12 South Carolina v. Ronald David Ratliff, we, the
13 jury, by unanimous consent, find the defendant
14 guilty of possession of contraband in the county
15 jail. Signed Miss Foreperson, June 8th, 2016.

16 Ladies and gentlemen of the jury, if
17 this is your verdict please raise your right hands.

18 THE JURY: (Raised hands)

19 THE CLERK: Please let the record
20 reflect that all jurors raised their right hands.

21 THE COURT: Is there any request to
22 poll the jury? From the State?

23 MR. COOPER: Not from the State.

24 THE COURT: From the defense?

25 MS. FORD: Yes, Your Honor.

1 you not do that until the entire panel is excused
2 on Friday. And if you don't want to talk about it,
3 you don't have to. If someone should exceed your
4 comfort level, call the clerk's office so that we
5 can take the appropriate action to assist you.

6 You are welcome to stay for sentencing
7 if you would like. You are also, likewise, welcome
8 to leave. I feel that you have satisfied your
9 obligation to us and I'm excusing you for the
10 remainder of the week. If you need a work excuse,
11 you can get that on the first floor of -- the
12 circuit court side of the courthouse on the first
13 floor. Any of the deputy clerks can provide you
14 with a work excuse. We will mail your checks at
15 the conclusion of the week once everyone has been
16 dismissed from jury service.

17 Is there anyone that wishes to remain
18 for sentencing? If so, raise your right hand for
19 me.

20 That's the whole panel. Well, stick
21 around with us.

22 All right. Are there any posttrial
23 motions from the State?

24 MR. COOPER: Nothing from the State,
25 Your Honor.

1 THE COURT: From the defense?

2 MS. FORD: No, Your Honor.

3 THE COURT: Do we have sentencing
4 sheets?

5 MR. COOPER: Ms. Newman is back here
6 with them.

7 THE COURT: The State provided a
8 pretrial memoranda that indicated the defendant had
9 -- the defendant's criminal history was a 2007
10 possession of marijuana, a 2009 assault and battery
11 of a high and aggravated nature and trespassing, a
12 2011 criminal domestic violence, 2012 possession of
13 marijuana, and two failure to appear, a 2013 giving
14 false information to law enforcement, and
15 possession with the intent to distribute cocaine,
16 and driving under suspension, and 2015, assault and
17 battery, second degree, and leaving the scene of an
18 accident.

19 Is that the accurate criminal history,
20 Ms. Ford, and Mr. Cooper?

21 MS. FORD: Yes, ma'am.

22 MR. COOPER: Yes, ma'am.

23 THE COURT: How long has he been in
24 jail, Ms. Ford?

25 MS. FORD: Your Honor, he did 147 days

1 suspended, it was also the case I believe in 20 --
2 2013, with the PWID, he also had a suspended
3 probationary sentence, Your Honor.

4 So something in the neighborhood of two
5 to three years active sentence and then obviously
6 if you wanted to suspend that, or split it with a
7 probationary sentence so he could get the help that
8 he needs. The State thinks he is deserving of some
9 sort of active time before you do allow him to get
10 the help that he needs..

11 MS. FORD: Just so you know, my client
12 since he's been on probation, he hasn't been in any
13 additional trouble since he was released from jail
14 in May in 2015 on this charge, Your Honor.

15 THE COURT: Sir, stand for sentencing.
16 As regards to possession of marijuana second, I
17 sentence you to one year, suspended to 149 days
18 time served, because as a practical matter you have
19 already maxed out that one-year sentence and I
20 don't see anything to be benefitted by you paying a
21 fine.

22 As regards to the possession of
23 contraband, you're sentenced to the State
24 Department of Corrections for a period of five
25 years, that is suspended to two years and three

1 years of probation. There are several requirements
2 that I'm going to have regarding your probation;
3 one being that you successfully complete substance
4 abuse counselling. Whether that's inpatient or
5 outpatient, I will leave that up to Probation.

6 You are to have random drug and alcohol
7 tests. I have ordered the ATU at the Department of
8 Corrections if you are eligible for that program.
9 You're to have intensive probation for a period of
10 six months. You're to be evaluate by the
11 Department of Mental Health within 30 days of your
12 release for PTSD and any other related issues, and
13 successfully comply with all requirements of that
14 assessment. Your probation is tolled during your
15 active sentence.

16 Thank you very much.

17 MR. COOPER: Thank you.

18 THE COURT: Madame Forelady, we are
19 going to need you as you all exit to be at the
20 bannister right outside so we can have you sign the
21 verdict -- the actual Indictments.

22 Ladies and gentlemen, we appreciate
23 your service and you are excused with the Court's
24 profound thanks.

25 (These proceedings were concluded at

274
SEL 20140212639

WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER

2014021094B

ARREST WARRANT NUMBER

2014A1010206485

DATE OF ARREST

December 19, 2014

ACTION OF GRAND JURY

TRUE BILL

Nancy McKrown
Foreperson of Grand Jury
Date:

MAR 2 2015

VERDICT

Guilty of Simple
Possession of Marijuana
Frank Hardy 6-8-16
Foreperson of Petit Jury Date:

INDICT

DOCKET NO. 2015GS1001375

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

March Term 2015

THE STATE

vs.

RONALD DAVID RATLIFF

DOB: [REDACTED]
W/M

Indictment for

Possession With Intent To Distribute
Marijuana

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on March 2, 2015 the Grand Jurors of Charleston County present upon their oath:

Possession With Intent To Distribute Marijuana

That in Charleston County, South Carolina, on or about December 18, 2014, the Defendant, RONALD DAVID RATLIFF, did manufacture, distribute, dispense, deliver, purchase; or did aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase; or did possess with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue, to wit: Marijuana; in violation of 44-53-370 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SHANNON ELLIOTT
ASSISTANT SOLICITOR

276
SEL 2014 212639

WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER

2014021094B

ARREST WARRANT NUMBER

2014A1010206486

DATE OF ARREST

December 18, 2014

ACTION OF GRAND JURY

TRUE BILL

Nancy McKeown
Foreperson of Grand Jury

MAR 2 2015

Date:

VERDICT

Gentry
Foreperson of Petit Jury

6-8-16

Date:

INDICT

DOCKET NO. 2015GS1001376

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

March Term 2015

THE STATE

vs.

RONALD DAVID RATLIFF

DOB: [REDACTED]

W/M

Indictment for

Possession Of Contraband In County Jail

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

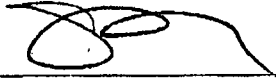
INDICTMENT

At a Court of General Sessions, convened on March 2, 2015 the Grand Jurors of Charleston County present upon their oath:

Possession Of Contraband In County Jail

That in Charleston County, on or about December 18, 2014, the Defendant, RONALD DAVID RATLIFF did possess, furnish or attempt to furnish in any county or municipal jail, prison, work camp or overnight lockup facility, any matter declared to be contraband as designated by the Department of Corrections, to wit: marijuana. This is in violation of Section 24-7-155 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

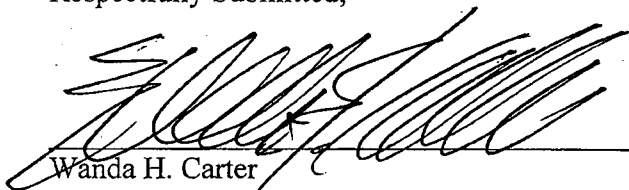


SHANNON ELLIOTT
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Wanda H. Carter", is written over a horizontal line.

Wanda H. Carter
Deputy Chief Appellate Defender

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

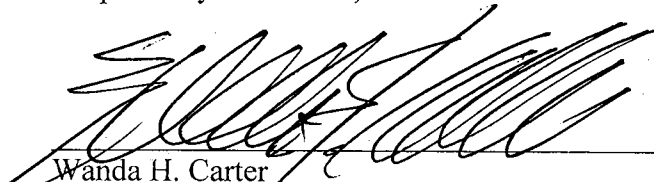
ATTORNEY FOR APPELLANT

This 21st day of June, 2017.

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 21st day of June, 2017.

RECEIVED

JUN 21 2017

SC Court of Appeals

RECEIVED

JUN 21 2017

SC Court of Appeals

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

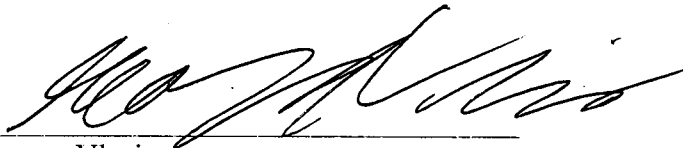
V.

RONALD DAVID RATLIFF,

APPELLANT

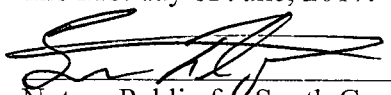
CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon Deborah R.J. Shupe, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 21st day of June, 2017.



George Vlasis
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 21st day of June, 2017.


_____(L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022.