

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM LAURENS COUNTY
Court of General Sessions**

**The Honorable Donald Hocker, Circuit Court Judge
Appellate Case No.2015-002206**

The State of South Carolina, ... Respondent,

vs

Timothy Artez Pulley, ... Appellant.

RECORD ON APPEAL

C. RAUCH WISE
Attorney at Law
305 Main Street
Greenwood, SC 29646
(864) 229-5010
SC Bar #006188

ATTORNEY FOR THE APPELLANT

ALAN WILSON
Attorney General

WILLIAM B. BLITCH, JR.
Assistant Attorney General
SC Bar #15608

PO Box 11549
Columbia, SC 29211
(803) 734-3727

DAVID M. STUMBO
Solicitor, Eighth Judicial Circuit

**ATTORNEYS FOR THE
RESPONDENT**

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WITNESSES

J. THIBODEAU

Laurens Police Department

WARRANT NUMBER

2013D3000100248

Tim Bell
Randall St. Paul
Foreman of the Grand Jury

Date: 9-6-13

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

September Term, 2013

Indictment # 13GS30- 1581

THE STATE

vs.

Timothy Artez Pulley

INDICTMENT FOR

Drugs / Trafficking in crack cocaine- 10g or more, but less
than 28g 44-53-0375(C)

CDR: 0452

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

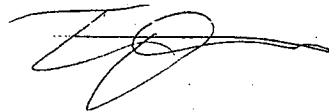
INDICTMENT FOR

**Drugs / Trafficking in crack cocaine- 10g or more,
but less than 28g
44-53-0375(C)**

At a Court of General Sessions, convened on the 6th day of September, 2013,
the Grand Jurors of Laurens County present upon their oath:

That Timothy Artez Pulley, did in Laurens County, on or about June 23, 2013 willfully, unlawfully, and knowingly traffic in cocaine base (crack cocaine), in that the said defendant(s) did sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was in actual or constructive possession or did knowingly attempt to become in actual or constructive possession of 10 grams or more of cocaine base (crack cocaine), in violation of Section 44-53-375(C) 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 cases made and provided.



Solicitor / Assistant Solicitor

1 (The following excerpt of proceedings were held
2 July 29, 2015.)

3 **BAILIFF:** Let's all rise and come to order, please.

4 **THE COURT:** Thank you. Y'all have a seat.

5 All right. We're back on the record and, Mr. Wise,
6 it's my understanding that you have one or maybe more
7 pre-trial motions?

8 **MR. WISE:** Just one.

9 **THE COURT:** Just one?

10 **MR. WISE:** Yeah.

11 **THE COURT:** Okay.

12 **MR. WISE:** It's just gonna take a while.

13 **THE COURT:** Okay.

14 **MR. WISE:** My pre-trial motion is moving to suppress
15 the evidence in this case on the grounds that it's -- the
16 alleged inventory search that I don't think complies with
17 the Laurens statute as far as -- not the Laurens statute,
18 but the Laurens regulations as far as there's a vehicle
19 inventory procedure and towing policy they have. And since
20 it's a search without a warrant, the burden then shifts to
21 the State to justify compliance with the regulations.

22 **THE COURT:** Okay. All right. The Laurens Police
23 Department has a particular internal regulation that --

24 **MR. WISE:** They do, Your Honor. I have a copy that
25 was provided to me in discovery that I can hand up to the

1 Court as a Court's exhibit if the State doesn't have any
2 objection.

3 **THE COURT:** All right. Do you want to have it marked
4 and --

5 **MR. WISE:** Right. And I should have stapled it and
6 didn't.

7 **THE COURT:** For purposes right now, I'm just gonna
8 have it marked as Court's Exhibit Number 2 and if it --
9 depending upon how this motion goes, if it's something
10 that's gonna be a trial exhibit, then it can be re-marked.

11 **MR. WISE:** I don't think it's gonna be a trial
12 exhibit. I can't imagine -- I'm not planning on
13 introducing it anyway.

14 **THE COURT:** All right. Okay. Anything from the
15 State? I guess -- I see where you've got a video that
16 you're gonna want me to watch as part of this motion?

17 **MR. SCOTT:** Yes, sir. I am unfamiliar with the
18 burden-shifting to the State just because of a warrantless
19 search, but I have no problem proffering some testimony.
20 What I would ask from Mr. Wise is a little more specificity
21 as far as how they -- they violated their own provisions.

22 **THE COURT:** Okay. Give a little bit more detail on
23 where you believe that they violated their regulation.

24 **MR. WISE:** I don't know if I'm required to do that
25 because some of that may impinge upon my cross-examination

1 that they could prepare for, but basically --

2 **THE COURT:** Well, I guess for my benefit in order to
3 make an appropriate ruling on your motion I guess I'm gonna
4 need kind of from where you're coming from.

5 **MR. WISE:** I will get there before we're through, I
6 assure you.

7 **THE COURT:** Excuse me?

8 **MR. WISE:** I'll get there before we're through, I
9 assure you.

10 **THE COURT:** Okay.

11 **MR. WISE:** But I think -- I mean, they have a copy of
12 it. Well, basically, Your Honor, I don't think it complies
13 with it because there's a requirement, one, that the
14 inventory be complete, which it wasn't in this case. Two,
15 there's a requirement that the tow truck operator sign off
16 on it, which it wasn't in this case. And, three, they took
17 it from a private parking lot at the McDonald's.

18 **THE COURT:** All right. Can you refer me to the --
19 it's a three-page document. Can you refer me to those
20 portions that you're concentrating on to just help me?

21 **MR. WISE:** All right. 731.2 where impounded vehicles
22 is listed.

23 **THE COURT:** Okay.

24 **MR. WISE:** 731.3.1. 731.3.2.2.

25 **THE COURT:** Okay.

1 **MR. WISE:** And I believe that's it.

2 **THE COURT:** Okay. All right. Everybody be at ease
3 for just a moment and let me kind of take a look at this.

4 **MR. WISE:** And I do have the Towed Vehicle Report,
5 which was provided in discovery, which probably ought to be
6 Court's Exhibit 2.

7 **THE COURT:** All right. That will be Court's Exhibit
8 Number 3.

9 **MR. WISE:** All right.

10 **THE COURT:** All right. Mr. Wise, you had indicated
11 that there were three points that you were emphasizing.
12 One, you maintain that the inventory is not complete, that
13 the tow operator did not sign something, and I'm trying to
14 find where that is located in this regulation. Can you
15 help me there?

16 **MR. WISE:** It's in 731.3.2.2.

17 **THE COURT:** Okay. Let me look.

18 **MR. SCOTT:** What's the last one? I'm sorry.

19 **MR. WISE:** 731.3.2.2.1. And then there's also -- let
20 me find the other one. And also 731.3.2.1.

21 **THE COURT:** And then your last point, that if the
22 vehicle was towed from private property, where would that
23 be?

24 **MR. WISE:** It's not in there.

25 **THE COURT:** Okay. That's -- okay.

1 **MR. WISE:** There is no policy on that --

2 **THE COURT:** I got you. I got you. All right.

3 **MR. WISE:** -- which is part of the problem.

4 **THE COURT:** Okay. Solicitor, are you ready to proffer
5 some testimony?

6 **MR. SCOTT:** Yes, sir. We can do that. Just so I'm
7 clear though, is the suppression hearing the -- I guess the
8 thrust of it is that the search is illegal because they
9 didn't follow their internal policies?

10 **MR. WISE:** That would be correct.

11 **MR. SCOTT:** Okay. But no other, I guess --

12 **MR. WISE:** Well, if they don't follow procedure, it
13 violates the Fourth Amendment of the Constitution of the
14 United States and the same provision of the state
15 constitution.

16 **THE COURT:** There are several cases, I think, that are
17 on point on that. Colorado versus Bertine.

18 **MR. WISE:** Correct, and Opperman versus -- I forgot
19 the --

20 **THE COURT:** South Dakota versus Opperman, Illinois
21 versus Lafayette.

22 **MR. WISE:** Let me -- let me hand up to the Court, too,
23 a case that I've run across that is probably the best
24 synopsis of those two, and that's State versus Fair, which
25 is an Indiana case, but it does a good job of distilling

1 the pertinent points of those.

2 **THE COURT:** Before we go any further, let me go ahead
3 and get marked, Madam Court Reporter, 2 and 3, as Court's
4 exhibits, please.

5 (Court's Exhibit Numbers 2 and 3 were marked for
6 identification.)

7 **THE COURT:** Okay, Solicitor. Let's go ahead and get
8 started and I'll just have to, whenever I can, take a look
9 at what you guys have handed me.

10 **MR. SCOTT:** Okay. Your Honor, I'd call Officer
11 Patrick Craven first. Judge, I'm sorry. I apologize.
12 I really should have done this a few minutes ago. I'm
13 marking a couple of exhibits here real quickly.

14 **MR. WISE:** They've given me several pictures that I've
15 already seen that I have no objection to.

16 **THE COURT:** All right. Let's go off the record for
17 just a moment.

18 (Discussion off the record.)

19 (State's Exhibit Numbers 1, 2 and 3 were marked for
20 identification.)

21 **THE COURT:** All right. Back on the record.

22 PATRICK CRAVEN,

23 having been duly sworn, testified as follows:

24 DIRECT EXAMINATION (In-Camera)

25 BY MR. SCOTT:

1 Q. All right. Officer Craven, June 23, 2013, about
2 3:20 AM, were you on patrol that night?

3 A. I was.

4 Q. And that specific time I just referenced, were you
5 patrolling North Harper Street?

6 A. I was.

7 Q. Okay. And you were in a marked unit?

8 A. I was.

9 Q. I'm gonna go ahead and put the picture up here.

10 All right. This is State's 1 here. To help orient
11 the Court, this particular road right here, what is that?

12 A. That's North Harper.

13 Q. Okay. And you can kind of see it here, my page is
14 curling up, but this road right here?

15 A. That's Fleming Street.

16 Q. Fleming?

17 A. Yes, sir.

18 Q. Is that the road that eventually goes out in front of
19 the courthouse here?

20 A. It turns into Hillcrest.

21 Q. Okay. But it's the same stretch of road?

22 A. Yes, sir.

23 Q. And then this intersection, that's like a Pavan or --

24 A. Yes, it's a gas station.

25 Q. And you can't see it, but on the other side is a

1 Rite Aid and then a KFC. Is that the same intersection?

2 A. Yeah.

3 Q. I'm just trying to orient the Court with the
4 State's 1 here, but what direction are you travelling at
5 about 3:20 AM?

6 A. I'm travelling southbound back toward the
7 intersection.

8 Q. Southbound would be this general area coming from I-26
9 towards Fleming?

10 A. Yes, sir.

11 Q. All right. And what happens while you're driving down
12 North Harper in your patrol car?

13 A. At that time, myself and Lieutenant Brewer, we were
14 on patrol. We were behind a kind of purple-blue in color
15 Dodge Charger travelling southbound. We began pacing the
16 vehicle.

17 Q. All right. Tell the judge what pacing a vehicle
18 means.

19 A. Pacing a vehicle is basically you're behind the
20 vehicle and while behind our speed was maintained with his
21 speed. We weren't gaining any ground, weren't losing any.
22 At the time we were pacing it at approximately 50 miles an
23 hour in a 35 mile an hour zone.

24 Q. All right. So the speed limit's 35. You're in your
25 patrol car going 55 and the Charger is -- you're not

1 gaining on them and -- and you're not -- he's not passing
2 you, so you can deduce that he's travelling about 55 miles
3 an hour?

4 A. 50, 55, yes, sir.

5 Q. All right. And so at that time what did you do? Did
6 you determine you were gonna stop the vehicle?

7 A. Yes, sir. At the time we were travelling down South
8 Harper, myself and Lieutenant Brewer, he was in the vehicle
9 in front me, we both initiated our blue lights. The --
10 right past there is a TD Bank.

11 Q. Right past where? Do you want to use this?

12 A. All right. There's a TD Bank here. There's a -- like
13 a driveway right here. We initiated a traffic stop,
14 activated blue lights, and at the time the vehicle turned
15 into here and continued around McDonald's into a parking
16 spot on the side of McDonald's.

17 Q. All right. It moved around the parking lot of
18 McDonald's?

19 A. Yes, sir.

20 Q. And why did you activate your blue lights again?

21 A. To stop the vehicle for speeding. A speeding
22 violation.

23 Q. Okay. And so it didn't come to an immediate stop,
24 you're saying it just circled the parking lot and kind
25 of came back around the same area where it pulled into

1 McDonald's?

2 A. Yes, sir.

3 Q. Were there other -- did you notice any other people
4 or any other vehicles at McDonald's at 3:20 AM?

5 A. There were a lot of vehicles on the right side of
6 the parking lot here. I don't really recall as many on
7 the left side.

8 Q. Okay. Did you note that -- did he have an
9 opportunity to pull over anywhere else before he circled
10 the McDonald's?

11 A. He did. There's --

12 Q. I'm sorry.

13 A. This whole area here there's actually parking spots.
14 It's actually empty here and a few parking spots here, but
15 there's also parking spots along this side of McDonald's as
16 well.

17 Q. Okay. And we're probably gonna watch it in a little
18 bit, but did you videotape the incident?

19 A. We did.

20 Q. How do your cameras work in your patrol cars?

21 A. The cameras work -- once the blue lights are
22 activated, it starts recording thirty seconds prior to --
23 to the lights coming on. So the camera started thirty
24 seconds before actually activating the blue lights.

25 Q. All right. So you hit the blue lights, it activates

1 the camera, but then it also somehow backtracks thirty
2 seconds to incorporate the video that --

3 A. Yes, sir.

4 Q. Okay. All right. What happened when he finally came
5 to a stop?

6 A. When he came to a stop, he actually kind of pulled up
7 onto the curb, the sidewalk there at McDonald's, jumped out
8 of the vehicle and shut the door kind of abruptly to exit
9 the vehicle.

10 Q. All right. Is that something that -- never mind that.
11 Did you recognize the driver at that time?

12 A. I did. When he exited the vehicle, I identified
13 Mr. Pulley from a previous incident involving him.

14 Q. You were familiar with him?

15 A. Yes, sir.

16 Q. All right. And what is he doing when he jumps out of
17 the car?

18 A. As soon as he jumps out, he shuts the door and stands
19 in front of the car wanting to know why we stopped him.

20 Q. Okay. Did you explain to him why you had stopped
21 him?

22 A. At that time, yes, we did. We advised him that he
23 was speeding.

24 Q. All right. What did you do? Did you ask for his
25 license or anything like that?

1 A. We did. We asked him for his license. He advised
2 Lieutenant Brewer at the time that he didn't have a
3 license.

4 Q. Okay. And what did you guys do as far as like --
5 once you had his identity, once he got out of the car and
6 you recognized who it was, what did you do? Did you call
7 dispatch or anything?

8 A. I was under -- from previous dealings with him, I knew
9 Mr. Pulley was driving under suspension at that time.

10 Q. Did you confirm it?

11 A. At that time, no, he -- but he advised us that he did
12 not have a driver's license.

13 Q. Okay.

14 A. So we advised him he was gonna be placed under arrest
15 at that time.

16 Q. For the -- what's the offense? Driving without a
17 license?

18 A. Yes, sir, until we could confirm it through dispatch.

19 Q. All right. Well, then did you confirm through
20 dispatch?

21 A. Yes, sir.

22 Q. What did you confirm?

23 A. That he was -- his license was actually suspended due
24 to driving under suspension.

25 Q. Okay. So what happened? Did y'all put him under

1 arrest at that point?

2 A. We attempted to. Lieutenant Brewer was able to get
3 one handcuff on his left arm. He continued to resist with
4 his right arm at that time.

5 Q. Okay. How long did that go on?

6 A. For a short while. We actually had to apply a TASER,
7 drive-stun, in order to get him to comply, to get his right
8 arm to place in handcuffs.

9 Q. All right. Well, eventually you got both hands in the
10 handcuffs?

11 A. Yes, sir.

12 Q. Did y'all search his person?

13 A. We did search his person. We found marijuana in one
14 of his front pockets and approximately -- over \$800 as
15 well.

16 **THE COURT:** How much, Officer?

17 **THE WITNESS:** Over \$800. I believe it was \$862.

18 BY MR. SCOTT:

19 Q. All right. Were you able to put him in the patrol car
20 at that time?

21 A. After another struggle, we were able to get him into
22 the back of one of the patrol cars at that time.

23 Q. Okay. Did you get to -- eventually, I guess, what
24 this is all about, did you get into his car at some point?

25 A. We did. We were gonna do an inventory of the vehicle.

1 We were -- he was under arrest. We were gonna go ahead and
2 tow the vehicle so we could get an inventory at that time.

3 Q. Okay. And you had decided not to just leave it at the
4 McDonald's?

5 A. That's correct. Since the offense actually took place
6 on a public highway, we did tow the vehicle.

7 Q. I don't know any relevance to it, but McDonald's isn't
8 a public highway, is it? That's true, isn't it?

9 A. That's correct.

10 Q. It's a private restaurant, private --

11 A. That's correct.

12 Q. Did he indicate who that car belonged to?

13 A. He indicated it belonged to his girlfriend, I believe.

14 Q. Okay. Did you have the keys to it or was it unlocked?
15 How did you get into the car?

16 A. It was unlocked.

17 Q. Is it standard procedure whenever you make a traffic
18 stop such as this and there's a lone occupant in the car
19 that you would perform an inventory search like that before
20 it gets towed?

21 A. Yes, sir.

22 Q. Okay. Do you know the reasons that y'all do that?

23 A. To make sure all the valuables are accounted for, make
24 sure that when the vehicle does get towed that if anything
25 that's in it is accounted for before it -- it left our

1 custody.

2 Q. Well, I mean, if he had some money in there and later
3 he challenged it, disputed where's my money when he comes
4 to pick his car up, it's kind of to protect you guys, too,
5 isn't it, for liability?

6 A. Yes. Correct.

7 Q. Likewise, if he truly did have some valuables or
8 perishable items or something, even though he is a suspect,
9 even though he's under his arrest, he has rights to be --
10 to have his property protected by you guys?

11 A. Correct.

12 Q. Is that how you understand it?

13 A. Yes, sir.

14 Q. There's always the potential that there could be
15 dangerous items in there as well; isn't that true?

16 **MR. WISE:** Your Honor, he's leading the witness a
17 little bit.

18 **THE COURT:** Okay. I'll allow some leading since we're
19 outside the presence of the jury. You may continue.

20 BY MR. SCOTT:

21 Q. Isn't that true, that there's a possibility that
22 sometimes these cars when they're stopped could have
23 potentially dangerous items in them --

24 A. That's correct.

25 Q. -- that could be harmful to other people?

1 A. Yes, sir.

2 Q. So anyway, you are familiar that your agency has
3 implemented what we're just gonna call an inventory search
4 policy?

5 A. Correct.

6 Q. Okay. And that's something that you guys are taught
7 to abide by that's common practice what you did in this
8 case; is that right?

9 A. Yes, sir.

10 Q. All right. So when you -- and I should have listened
11 to your answer. Did you say the doors were unlocked when
12 you went into it?

13 A. Yes, they were unlocked.

14 Q. Okay. And -- so you just opened the door because
15 you already said he had slammed it behind him when he got
16 out?

17 A. Yes, sir.

18 Q. A two-door or a four-door car?

19 A. Two-door.

20 Q. Tell me what you found in the -- I guess behind the
21 driver's seat.

22 A. At that time we had another officer arrive on the
23 scene to -- to assist while we were kind of struggling
24 with Mr. Pulley. We both opened -- he opened the driver's
25 side door, I opened the passenger side door. As he was

1 lifting the back seat -- raising the back seat up, he
2 shined a flashlight and there was a yellow plastic bag
3 sitting on the floorboard.

4 Q. Tell me about this plastic bag.

5 A. In the plastic bag, we actually located three clear
6 plastic bags that contained at the time what we believed to
7 be crack cocaine.

8 Q. All right. Was this something that you could hit the
9 flashlight with and see the contents of?

10 A. Yes, sir.

11 Q. All right. Was it -- was it sealed in any way?

12 A. No, sir. The bag was open, sitting on the floor.

13 Q. What kind of plastic bag? Are you talking like a
14 grocery bag or what?

15 A. Yes, sir. It was just a yellow plastic bag. Inside
16 of -- it had three smaller bags inside of it.

17 Q. And these were in plain sight when you hit it with the
18 flashlight?

19 A. Yes, sir.

20 Q. Okay. So you did indicate that that automobile he
21 told you belonged to his girlfriend. Just so I'm clear,
22 you indicated that there were a lot of other people in that
23 parking lot?

24 A. Yes, sir.

25 Q. It was 3:20 AM?

1 A. Yes, sir.

2 Q. All right. Okay. Did y'all arrest him for the drugs
3 that night?

4 A. We did.

5 Q. And he was also under arrest for resisting?

6 A. Resisting and driving under suspension.

7 Q. And at the time y'all arrested him for marijuana, too?

8 A. Correct.

9 Q. Tell me about the -- you said it was a two-door car.
10 Where the -- from the driver's seat, would that plastic bag
11 have been within arm's reach?

12 A. Yes, sir. If you put your arm around the back of the
13 seat, you'd be able to put your hand on it.

14 Q. All right. Okay. You did say this whole exchange was
15 recorded with the in-dash camera?

16 A. Yes, sir.

17 **MR. SCOTT:** Could you mark the jacket? You can put a
18 sticker on --

19 **MR. WISE:** I have no problem with that. We've seen
20 it.

21 **MR. SCOTT:** I need to mark it.

22 **MR. WISE:** We'll stipulate that is --

23 **MR. SCOTT:** What's the next exhibit?

24 **THE COURT REPORTER:** It will be 4.

25 **MR. SCOTT:** We're gonna call this Exhibit 4, Your

1 Honor. We're gonna mark the jacket. That's how we're
2 gonna --

3 **MR. WISE:** Yeah.

4 (State's Exhibit Number 4 was marked for
5 identification.)

6 **MR. SCOTT:** I'm gonna go ahead and publish it right
7 now.

8 **MR. WISE:** That will be fine.

9 **MR. SCOTT:** Thanks, Rauch.

10 BY MR. SCOTT:

11 Q. State's Number 4, do you recognize that?

12 A. I do.

13 Q. How do you recognize that?

14 A. It's the video from the incident in -- in question.

15 Q. All right. And you've got your initials on it, right?

16 A. Yes, sir.

17 Q. You just watched it this morning?

18 A. Yes, sir.

19 Q. And does that accurately reflect what you observed
20 June 23rd of 2013?

21 A. Yes, sir.

22 **THE COURT:** Solicitor, are you gonna be asking this
23 officer questions while the video's being played?

24 **MR. SCOTT:** No, sir.

25 **THE COURT:** Okay. All right.

1 (Whereupon, State's Exhibit Number 4 was played for
2 the Court.)

3 **MR. SCOTT:** Judge, I just want to back up for just a
4 second here. I said I wasn't gonna talk, but right here at
5 this time mark they kind of show the plastic bag I was
6 referencing.

7 (Whereupon, State's Exhibit Number 4 was played for
8 the Court.)

9 (State's Exhibit Number 5 was marked for
10 identification.)

11 BY MR. SCOTT:

12 Q. Officer Craven, the tow truck that was in the video,
13 that was the one that towed the vehicle away?

14 A. Yes, sir.

15 Q. Who was that that got in the Charger to drive it up on
16 the tow truck?

17 A. I'm not sure, but I believe it was the tow truck
18 driver.

19 Q. What was the name of the company?

20 A. Northside Towing.

21 Q. Let me show you --

22 (Discussion between counsel.)

23 Q. Let me show you State's Number 5. What is that?

24 A. This is a Towed Vehicle Report.

25 Q. All right. And what is a Towed Vehicle Report?

1 A. It has all the information about the vehicle, who was
2 operating the vehicle. It indicates over here on the --
3 on the right side if there was any damage to the vehicle
4 before it was towed and the inventory of what was inside
5 the vehicle.

6 Q. Okay. Tell us, State's 5, what does that show the
7 inventory being?

8 A. Various clothing items and books.

9 Q. Clothing items and books?

10 A. Yes, sir.

11 Q. Now why didn't you state in the inventory section the
12 drugs you found?

13 A. It's not a personal item.

14 Q. That was something you seized though?

15 A. Yes, sir.

16 Q. Now is that common practice that you don't list seized
17 items on the inventory?

18 A. I haven't. I said I haven't.

19 Q. You haven't?

20 A. No, sir. Not that I've ever seized.

21 Q. Okay. So what is that -- you're making an inventory
22 of things you intend to return to that person?

23 A. Yes, sir, things that were left in the vehicle when it
24 left the scene with the tow truck.

25 Q. Okay. Well, does it have a section on there for

1 seized items?

2 A. No, sir.

3 Q. All right. These are just -- the inventory would be
4 things you leave in the vehicle as it sits at the tow --
5 the impoundment lot; is that right?

6 A. Correct.

7 Q. All right. Did you fill this out?

8 A. I did.

9 Q. At the very bottom -- and it was mentioned earlier,
10 but where's the tow truck driver's signature?

11 A. It's not on there.

12 Q. Do you recall why he wouldn't have signed that?

13 A. This document was actually printed off -- it was
14 filled out after the incident and printed off after the
15 incident had taken place. We don't actually print these
16 out in the patrol car.

17 Q. Oh, okay. Well, that makes sense, but what do you
18 typically do? Do you go find the tow truck driver and get
19 him to sign it later or something? Or how would he ever
20 fill out that bottom section?

21 A. It can be done that way. There's various different
22 ways to have them do that.

23 Q. Okay. Do you recall why y'all didn't do it on this
24 case?

25 A. At the time, no. I know on this particular night we

1 were very busy, had -- steadily having calls come in and we
2 just got out and went back and did the report.

3 Q. You mentioned that it was the night of the super moon.
4 Is that what you said?

5 A. Super moon, yes, sir.

6 Q. All right. So you just recall that why?

7 A. Because of how busy we were. We -- we had various
8 other incidents that had taken place before that had taken
9 time. We had, I believe, another incident where another
10 officer had -- had a guy run from him, chased him, just
11 right before this happened.

12 Q. Okay. And you mentioned right before this weren't you
13 coming from another call?

14 A. Yeah, earlier around -- just before midnight, I guess,
15 there was another incident that had taken place on North
16 Harper where we had a -- where we towed another vehicle
17 where some individuals that were inside that had open
18 containers and stuff like that and they wound up running
19 from the scene and we towed the vehicle after they jumped
20 out of the car and ran.

21 Q. Okay. But it's your testimony that was a particularly
22 busy night for you?

23 A. Yes, sir.

24 **MR. SCOTT:** All right. Answer any questions Mr. Wise
25 has for you, please.

CROSS-EXAMINATION (In-Camera)

BY MR. WISE:

Q. Mr. Craven is it?

A. Yes, sir.

Q. You're the one that conducted the actual search of this vehicle?

A. Inventory. Myself and Officer --

THE COURT: Officer, sit a little closer to the microphone, please. I'm having a little hard time hearing you with me sitting right here.

MR. WISE: I thought it was me.

BY MR. WISE:

Q. You and another officer?

A. Yes, sir.

Q. And y'all were -- you were in visible contact with him the whole time?

A. Yes, sir.

Q. Thank you. And you say you have this inventory search procedure because you want to make sure that whatever property is in there is accounted for?

A. Yes, sir.

Q. And if there's anything valuable you want to make sure it's accounted for, correct?

A. Correct.

Q. And you filled this one out sometime later?

1 A. It was right there around shift change or right after
2 the incident we went back and did the report then.

3 Q. Well, you went back to the -- back to the city police
4 department?

5 A. Yes, sir.

6 Q. And you got one of these inventory report forms and
7 filled it out?

8 A. Yes, sir.

9 Q. Did you make any notes at the time that you were doing
10 your -- your search of what you were seeing in the car?

11 A. No, sir, just taking it down in my head.

12 Q. Just remembering it?

13 A. Yes, sir.

14 Q. All right. And so -- and that's why you put down
15 books instead of listing individual books?

16 A. Yes, sir.

17 Q. All right. And that's why you put clothes rather than
18 list individual clothes?

19 A. Just various clothing items, yes, sir.

20 Q. Right. And because you observed books and you
21 observed clothes, but you didn't observe how many or
22 anything like that or didn't remember?

23 A. Correct.

24 Q. All right. So when you go back and fill out the form,
25 you're doing the best that you can do from your memory at

1 that time?

2 A. Yes, sir, at the time.

3 Q. And you're aware that your -- are you familiar with
4 the policy for inventory seizure and towing?

5 A. It's been a while.

6 Q. All right.

7 MR. WISE: Have you got the exhibit with the towing
8 regulations?

9 THE COURT: This?

10 MR. WISE: This one, right.

11 BY MR. WISE:

12 Q. I hand you what's been marked as Court's Exhibit 2.
13 If you would, please, look at --

14 THE COURT: Mr. Wise, let's do this. Let's make a
15 copy of that so I can have something to follow.

16 MR. WISE: All right.

17 THE COURT: And I've circled some stuff, but don't pay
18 any attention to that.

19 MR. WISE: Okay. You've got a copy?

20 THE WITNESS: Yes.

21 THE COURT: Let me have mine back because I've marked
22 on it.

23 MR. WISE: I'll give you the one you circled back.

24 BY MR. WISE:

25 Q. And this is a copy of the vehicle inventory seizure

1 and towing, which is Court's Exhibit 2, and if you'd hold
2 on to that. Are you familiar with -- look at 731.3.2. Do
3 you see that?

4 A. Yes, sir.

5 Q. All right. And it generally says that officers are to
6 comply with 731.3.1, and we'll get to that in a minute, and
7 to ensure that tow operators taking custody of any vehicle
8 for tow purposes sign the motor vehicle tow and inventory
9 report to acknowledge receipt of the impounded vehicle, its
10 contents and condition, correct?

11 A. Yes, sir.

12 Q. So you are required to have the -- according to your
13 procedure, you're required to having the officer sign what
14 is State's Exhibit 5; is that correct?

15 A. Yes, sir.

16 Q. And the reason you do that is that that tow truck
17 operator can look at your inventory and see what's on it
18 and then he can look in the car and make sure that's in it,
19 correct?

20 A. Correct.

21 Q. So that he knows that he gets what you say is on
22 there?

23 A. Correct.

24 Q. And if he doesn't sign it, then he has no clue that
25 what he's taking is what's on your list, correct?

1 A. It could be.

2 Q. Correct?

3 A. Correct.

4 Q. Thank you. So it's done for your protection and the
5 protection of the tow truck operator, correct?

6 A. Correct.

7 Q. But you didn't comply with that in this particular
8 case; is that correct?

9 A. It doesn't appear that way, sir.

10 Q. All right. Did you notice any CD's in that car or do
11 you remember?

12 A. I don't recall.

13 Q. You don't recall?

14 A. No, sir.

15 Q. What about anything in the trunk? What do you recall
16 being in the trunk?

17 A. At this time, I can't recall.

18 Q. You can't recall?

19 A. No, sir.

20 Q. All right. What about -- did you look in the glove
21 compartment?

22 A. Like I said, I can't recall. It's been over two
23 years.

24 Q. I understand that. Did you -- did you look in the
25 glove compartment? Do you remember looking in the glove

1 compartment?

2 A. I specifically don't remember looking in the glove
3 compartment.

4 Q. You don't remember looking in the glove compartment?

5 A. (Shakes head.)

6 Q. Is it normal to look in the glove compartment when you
7 conduct a thorough check?

8 A. It's normal, yes, sir.

9 Q. All right. And it's normal to also look in the center
10 console if it has one?

11 A. Yes, sir.

12 Q. All right. Do you know if this one had one?

13 A. I would assume so.

14 Q. All right. Did you see any children's toys in that
15 car, do you remember?

16 A. I don't recall.

17 Q. You don't recall?

18 A. No, sir.

19 Q. Now this particular car was parked at the McDonald's
20 parking lot, correct?

21 A. Yes, sir.

22 Q. All right. You had gotten behind it on the public
23 road?

24 A. Correct.

25 Q. What is the policy and procedure of Laurens Police

- 1 Department for impounding a car stopped for speeding?
- 2 A. Stopped for speeding?
- 3 Q. Correct.
- 4 A. If there's an arrestable offense, it can be towed in.
- 5 Q. If it's an arrestable offense?
- 6 A. Yes, sir.
- 7 Q. All right. So if -- regardless of whether it's on
- 8 public property or private property?
- 9 A. This was on -- this was on a public -- on a public
- 10 road.
- 11 Q. You got behind him on a public road?
- 12 A. Yes, sir.
- 13 Q. It was towed from private property?
- 14 A. Correct.
- 15 Q. All right. And at the time it was towed, it was not
- 16 an obstruction to any traffic?
- 17 A. No, sir.
- 18 Q. All right. It wasn't impeding traffic in the
- 19 McDonald's parking lot?
- 20 A. No, sir.
- 21 Q. All right. Did you consider calling the owner of the
- 22 car and asking her to come get it?
- 23 A. No, sir, not at the time.
- 24 Q. Excuse me?
- 25 A. Not at the time. Not that I recall.

1 Q. Is that something you could have done?

2 A. I could have.

3 Q. All right. What is the Laurens Police Department's
4 policy then on actually towing an impounded vehicle?

5 A. I'd have to look through it. I don't --

6 Q. Well, it's in -- it's in 731.2, if you want to look at
7 it.

8 **THE COURT:** Which section are you asking him to look
9 at?

10 **MR. WISE:** 731.2, definitions. It's on Page 1.

11 **THE COURT:** All four definitions?

12 **MR. WISE:** It's on Page 1.

13 **THE COURT:** Right. All four?

14 **MR. WISE:** Just the impound really. The others don't
15 apply. I was getting to that in a minute, but I don't
16 think those would apply.

17 **THE COURT:** Got you.

18 **THE WITNESS:** Okay. What are you -- what are you
19 asking for?

20 BY MR. WISE:

21 Q. All right. You'll agree that this was an impounded
22 vehicle under those definitions?

23 A. Correct.

24 Q. All right. What is the Laurens policy concerning the
25 impounding of vehicles that are found on private property?

1 A. It doesn't say. It just says about impounded
2 vehicles. It doesn't say anything about private property.

3 Q. All right. So is it your contention that you can just
4 take a vehicle from private property and tow it in if
5 someone were arrested for speeding on a public highway?

6 A. If the offense happened on a public highway.

7 Q. Right. And so if a person is speeding and pulls into
8 that driveway, you take the position you could tow the car
9 in from there?

10 A. If the offense happened on a public highway, yes.

11 Q. And have you done that before?

12 A. Yes, sir.

13 Q. All right. So is the policy of the Laurens Police
14 Department, at least from what you're taught, that if an
15 offense occurs on a public highway, regardless of where
16 the car actually stops, that you would tow it pursuant to
17 731.2?

18 A. Yes, sir.

19 Q. All right. And you never differentiate between
20 private property and public property in those policies,
21 correct?

22 A. No, sir, not at the time.

23 Q. Thank you. And your policy does not have anything in
24 there about impounding vehicles that may cause a problem
25 with traffic or be -- something like that?

1 A. There's nothing in here, no.

2 Q. Nothing in there. All right. And you did not get
3 Mr. Pulley to sign off on this inventory either, did you?

4 A. No, sir.

5 Q. You didn't ask -- carry it up to him and ask him if
6 it's accurate?

7 A. No, sir.

8 Q. You didn't carry it up to him and say do you agree
9 this is all that's in the car?

10 A. No, sir, we didn't.

11 Q. And you didn't go up to him with it and say do you
12 agree that nothing else is in the car other than what I
13 listed?

14 A. No, sir.

15 Q. Thank you. And one of the reasons you say for having
16 an inventory though is to protect the Laurens Police
17 Department from being sued for -- for a false claim? Or a
18 claim, whether true or false; is that correct?

19 A. Right.

20 Q. All right. But, in fact, without your giving a copy
21 of that inventory to Mr. Pulley, Mr. Pulley could say he
22 had a gold watch in that car, couldn't he?

23 A. He could have.

24 Q. And you wouldn't have any way of disputing it at the
25 time other than his word and your word?

1 A. Correct.

2 Q. So the inventory doesn't -- the inventory policy that
3 you have really doesn't serve to protect you from a claim
4 by the driver of a car, does it?

5 A. I believe it does.

6 Q. All right. Well, let me -- well, if Mr. Pulley were
7 to claim that -- or any driver were to claim that an item
8 -- a valuable item was in the car and you do not give a
9 copy of that inventory to the driver of the car, can you
10 explain to us exactly how that would protect the City of
11 Laurens?

12 A. It's already been documented in our system.

13 Q. Right, but it's not been documented -- but the driver
14 of the car has never acknowledged that that's an accurate
15 inventory, has he?

16 A. I guess not.

17 Q. All right. And in order to protect yourself from a
18 claim by the driver of the car, he would have to agree --
19 or the driver of the car would have to agree that's an
20 accurate inventory?

21 A. He could.

22 Q. That would be certainly helpful?

23 A. Yes, sir.

24 Q. All right. But y'all didn't do it in this case and
25 your policy doesn't do it?

1 A. No, sir, we didn't do it in this case.

2 Q. Okay. And this -- the crack cocaine you found in
3 there was in a yellow bag in the back seat?

4 A. In the floorboard, yes, sir.

5 Q. The floorboard of the back seat?

6 A. Yes, sir.

7 Q. All right. Is it a yellow laundry -- I mean, not
8 laundry, a grocery bag?

9 A. A plastic bag.

10 Q. Like you get in a grocery store?

11 A. Yes, sir.

12 Q. Okay. Have you got that yellow plastic bag?

13 A. I don't.

14 Q. Okay.

15 **MR. WISE:** Thank you. That's all I have.

16 **THE COURT:** Solicitor, anything in redirect?

17 **MR. SCOTT:** Your Honor, just briefly a couple of
18 things. Let me have these marked, too. I'm sorry.

19 (State's Exhibit Numbers 6 and 7 were marked for
20 identification.)

21 REDIRECT EXAMINATION (In-Camera)

22 BY MR. SCOTT:

23 Q. Officer Craven, let me show you State's 6 and 7. Let
24 me start with State's Number 7. What's that?

25 A. This is a -- a property listing.

1 Q. Okay. And how is that property listing relevant to
2 this case?

3 A. This is what was seized from the vehicle.

4 Q. Okay. So on State's Number 5, the inventory list,
5 this would be things in the vehicle you did not seize?

6 A. Correct.

7 Q. And then Number 7, which is an incident report
8 property list; is that right?

9 A. Correct.

10 Q. That would list the things that you did seize?

11 A. Correct.

12 Q. And just for the judge, and he'll have that to review,
13 but what did you seize that's listed on the property list?

14 A. Three bags of off-white, rocklike substance believed
15 to be crack cocaine and one bag of green leafy substance
16 believed to be marijuana.

17 Q. Okay. Marijuana was in the pocket and crack was in
18 the car?

19 A. Yes, sir.

20 Q. And State's 6, what's that one?

21 A. This is Form B from a BEST pack.

22 Q. And, again, what does that -- what does that list on
23 it?

24 A. What's in the BEST bag.

25 Q. What was in the BEST bag? Or what did you put in the

1 BEST bag?

2 A. Three plastic bags containing an off-white, rocklike
3 substance, which appeared to be crack cocaine.

4 Q. Okay. So you did document the items seized, just on
5 different forms?

6 A. Correct.

7 Q. That's what I was trying to ask you earlier. I just
8 couldn't put my hands on it.

9 A. Correct.

10 **MR. SCOTT:** Okay. Your Honor, that's all I have.

11 **THE COURT:** Anything in follow-up to that, Mr. Wise?

12 **MR. WISE:** Nothing in follow-up on that, Your Honor.

13 **THE COURT:** All right. Thank you, Officer, for your
14 testimony.

15 (Witness excused.)

16 **THE COURT:** Solicitor, anything further for purposes
17 of this in-camera hearing?

18 **MR. SCOTT:** No, sir.

19 **THE COURT:** Mr. Wise, do you intend to put up anything
20 other than argument?

21 **MR. WISE:** No, Your Honor, other than argument.

22 **THE COURT:** All right. Mr. Wise, I'll be glad to hear
23 your argument in support of your motion to suppress the
24 evidence.

25 **MR. WISE:** All right. First of all, they have no

1 policy on what to do with -- how you do an impound vehicle.
2 They just -- they have it. According to him, he's been
3 taught, although it's not specifically in their policy,
4 that if you impound a vehicle on private -- if you see an
5 offense that occurs on a public highway such as speeding
6 and you impound the vehicle on private property, or the
7 vehicle ends up on private property, you can tow it without
8 discretion or you can just tow it. That's not, I don't
9 think, in keeping with the law. One thing we have to
10 understand is that when you impound a vehicle that is a
11 seizure of that vehicle, all right? When it's on the
12 public road and blocking traffic, it's indisputable you've
13 got to get it off the public road, it's a danger, it's a
14 problem, you've got to do something with it. That's not
15 the case here. It's not the case here at all. We have a
16 vehicle on private property that no one has told them to
17 move it. No one.

18 **THE COURT:** When do you -- when do you claim,
19 Mr. Wise, that the impounding took place? Would it be
20 at the time that the tow truck hook got the vehicle or
21 sometime prior to that or after that?

22 **MR. WISE:** Well, the impounding took place at -- at
23 the McDonald's parking lot. Obviously when the tow truck
24 took it, it was impounded --

25 **THE COURT:** Right.

1 **MR. WISE:** -- but the question is, and I assume --
2 it's a good question. I don't know if it's really --
3 I don't know if impounding is a precise moment or a
4 continuation of things, to be frank with you.

5 **THE COURT:** At least it's fair to say that the
6 impounding took place when the tow truck operator got
7 there?

8 **MR. WISE:** No question about that, yeah.

9 **THE COURT:** Right.

10 **MR. WISE:** Now the question is did they have a right
11 to call the tow truck operator to take the vehicle, and
12 under their policy they argue they do, even though it's on
13 private property.

14 The case I handed up to the Court, I think that's one
15 of the better synopses of the law in this area, referring
16 to the U.S. Supreme Court cases, too, and that case clearly
17 involved the case of private property, which was the
18 person's own house, and the court said basically you can't
19 take a car from the person's house if it's on their land,
20 even if the crime occurred or the speeding occurred on the
21 public highway, when you're dealing with an impound
22 situation.

23 **THE COURT:** Let me just stop you just a second, and
24 I'll give you all the time you need, but I'm just curious
25 -- I can follow your argument if the drugs were recovered

1 once the impounding took place. Let's say the tow truck
2 operator took it -- and I don't know where he took the car,
3 but let's say he took it to the police department over on
4 West Laurens and Church Street and then the inventory
5 search was conducted at that time or some search was
6 conducted and they found the drugs, then I'm getting a
7 little bit closer to what your argument is, but the drugs
8 were found long before the impounding took place as a
9 result of the -- the finding of the marijuana and the
10 arrest.

11 **MR. WISE:** I understand your question.

12 **THE COURT:** Help me. Clear me up on it.

13 **MR. WISE:** I will. The search occurred because they
14 were going to impound the car.

15 **THE COURT:** Well, how do we know that?

16 **MR. WISE:** Because that's what the procedure was,
17 that's what their policy said. They don't have a right to
18 search it otherwise. There's no probable cause to search
19 this car independent of their impounding and carrying it
20 in. It's not like, you know, that they have a tip that
21 there was drugs in this car or something like that by which
22 they could search it, so there's no probable cause to
23 search it beyond their policy here with their impounding
24 vehicles.

25 So they searched it because they were gonna impound it

1 I think answers your question more precisely and that's
2 what they intended to do because they have always contended
3 this search was pursuant to their policy and it wasn't
4 pursuant to anything else. So if they don't have a right
5 to impound this vehicle, then I contend they don't have a
6 right to search it or to do an inventory search because the
7 first thing they have to have is -- they have to answer is
8 do we have a right to impound this vehicle, all right, and
9 I don't think they do on private property.

10 Secondly, getting past that point briefly, this
11 inventory they did simply does not comply with their own
12 rules and regulations. They are required to get the tow
13 truck operator to sign off on it. They didn't do it.

14 **THE COURT:** All right. Let me stop you there and
15 help me on this. Are you suggesting that the tow truck
16 operator signing the -- the form to confirm what is in the
17 -- what is in the vehicle, okay, would also include illegal
18 substances in the vehicle?

19 **MR. WISE:** No, of course not. No.

20 **THE COURT:** Okay. All right. So would it not be you
21 get the tow truck operator to sign solely for the purpose,
22 and you were kind of going in the direction with the
23 officer, to confirm what is in there to avoid or to deal
24 with claims later on; hey, I had a gold watch in the car
25 and now it's no longer in there?

1 **MR. WISE:** Right. You have the tow truck operator
2 sign because it's part of their policy of vehicle inventory
3 seizure and towing. If they don't follow their policy of
4 inventory -- vehicle inventory seizure and towing, then
5 they have no right to be in that car in the first place,
6 all right? The courts have said --

7 **THE COURT:** Okay. Let me just stop you again. I
8 want to make sure I understand where you're coming from.
9 So are you suggesting that before they search the car they
10 get the tow truck operator there to sign to confirm what's
11 in there? I'm just trying to figure out the tow truck -- I
12 realize it's in the policy, but what relevancy -- to have
13 the tow truck operator sign off on this, what relevancy
14 does it have to the seized drugs?

15 **MR. WISE:** It has to do with this. The courts have
16 upheld and set forth in the Fair case, which I handed up --
17 which I say there's many cases that uphold -- say that
18 searches are illegal, but Fair I thought did the best
19 analysis of this whole area I've seen. To search a vehicle
20 pursuant to an inventory search has been upheld by the
21 courts if you follow the procedure. If you don't follow
22 the procedure, then the courts say you've got a procedure
23 but there's no teeth to it or no substance to it, it
24 doesn't mean anything. You can't have a procedure and then
25 not follow it and claim every search is pursuant to an

1 inventory search because, otherwise, if you don't follow
2 your procedure, your search is bad.

3 In this particular case, in addition to not following
4 procedure by the tow truck operator, we really don't
5 have the thorough and complete search that the policy
6 contemplates. What else was in the car? I don't remember,
7 I don't know. Were any CD's in the car? I don't know.
8 What was in the glove compartment? I don't know. What
9 was in the trunk? I don't know. That is not a thorough
10 and complete inventory as contemplated by their rules and
11 regulations and they have to follow these rules and
12 regulations in order to have a valid search, regardless of,
13 you know, when in the process they don't follow their rules
14 and regulations. Otherwise, you can have a nice four,
15 five, six-page rules and regulations, not follow them and
16 tell the court we have a policy. Well, if you don't follow
17 the policy, you don't have a policy, I guess the point is,
18 and in this particular case they didn't follow the policy,
19 so that's the equivalent of not having a policy. And if
20 they don't have a policy, then the courts clearly say you
21 can't do an inventory search because it is a search without
22 probable cause in many, many cases and it is, you know, a
23 violation of a person's privacy.

24 So the courts have said okay, there's situations
25 you're gonna need to do an inventory search for obvious

1 reasons, but if you do it, you've got to have a policy to
2 do it by and you've got to follow that policy. If you
3 don't follow that policy, then the search is no good, and
4 that's what Fair said.

5 **THE COURT:** Let me ask you this. So you maintain
6 that they did not follow the policy because the tow truck
7 operator did not sign off. Where else did they not follow
8 the policy?

9 **MR. WISE:** They didn't do a thorough and complete
10 inventory. They also have a policy that's defective.

11 **THE COURT:** Okay. Where is a thorough and complete
12 inventory? Just point me to the section.

13 **MR. WISE:** All right. That is -- it is under 731.31.

14 **THE COURT:** Okay. Starting on the first page?

15 **MR. WISE:** Right.

16 **THE COURT:** Okay.

17 **MR. WISE:** All right. Secondly, I think the policy
18 here is defective. In order -- you know, one of the
19 reasons to have -- and I think it's pretty clear the reason
20 you have some sort of inventory search or inventory policy
21 is to protect Laurens County from a false claim and
22 protect, of course, any property that the driver may have.
23 Well, when you have a policy that does not require the
24 driver to say yes, that's all that's in my car, you have a
25 policy that just doesn't even come close to achieving its

1 purpose.

2 I mean, if you're gonna do an inventory of -- if
3 someone's gonna do an inventory of your house, you're
4 certainly gonna be there and sign off on it for whatever
5 purpose. If the insurance company comes in and says I want
6 to do an inventory of your house, you're gonna be there and
7 sign off on it because the insurance company could leave
8 off some valuable item and then if you have a loss say it
9 wasn't on there. So the purpose -- so if they're gonna
10 achieve the purpose of their policy, then they have to have
11 a policy that tells the driver is there anything else and
12 the driver says no and the driver signs off on it, too, and
13 they don't have that here. They have some protection for
14 the driver when they get the tow truck operator to sign off
15 on it, but -- although I think in reality that's more for
16 the protection of the tow truck operator than maybe the
17 driver of the car, but still that is some policy that's
18 helpful in this situation, but they didn't follow that
19 either.

20 So we have a policy that was not followed and the fact
21 it wasn't thorough and complete, we have a policy that was
22 defective to begin with because it affords no protection
23 from -- to the Department from a claim if someone says
24 something was stolen out of my car, you know, when they
25 took it because they didn't sign off on it and, of course,

1 they didn't follow the policy when they didn't get the tow
2 truck operator also.

3 So when you look at all these things in totality, they
4 have a policy that's probably defective, that I think is
5 defective, and they also have a policy that they didn't
6 follow, and between a defective policy and a policy you're
7 not following, you have no policy. And if you have no
8 policy, then you have no basis to search the vehicle in
9 this particular case and, therefore, it violates the Fourth
10 Amendment and the state constitution on illegal search and
11 seizure also and, of course, the privacy section of our
12 state constitution also.

13 **THE COURT:** What if we look at this search and seizure
14 as being totally unrelated to an inventory search and
15 impound the vehicle?

16 **MR. WISE:** Okay.

17 **THE COURT:** A search incident to a lawful arrest,
18 you know, maybe your automobile exception, and if we look
19 at it in that way, then the -- the argument of either a
20 defective policy of Laurens Police Department or the policy
21 not being followed, that would be totally irrelevant; would
22 it not?

23 **MR. WISE:** That would be.

24 **THE COURT:** Assuming that it would be correct to say
25 this search and seizure was related to other warrantless --

1 or exceptions to warrantless searches.

2 **MR. WISE:** Correct.

3 **THE COURT:** All right.

4 **MR. WISE:** The problem with that is he was not in the
5 vehicle.

6 **THE COURT:** Okay.

7 **MR. WISE:** He was outside the vehicle when the -- when
8 the arrest -- because if you listen to the tape and the
9 officer's testimony, as soon as he pulled in he got out of
10 the car and shut the door --

11 **THE COURT:** Okay.

12 **MR. WISE:** -- so I think that eliminates that
13 argument.

14 **THE COURT:** Thank you, Mr. Wise.

15 **MR. WISE:** Thank you.

16 **THE COURT:** Solicitor.

17 **MR. SCOTT:** Okay. Judge, I kind of made some of my
18 thoughts already known, but the way I understand the
19 arguments, they don't have a policy for a vehicle on
20 private property. I don't -- I don't know any legal
21 precedent that says they have to have a policy that shows
22 it's on private property. The testimony was this happened
23 on a public highway. Are we to reward him because he zips
24 into McDonald's and says I'm at home base? Wouldn't you
25 agree it's a little bit different? I mean, I leave my car

1 at a parking meter too long, it gets towed, that's a
2 seizure. I leave it at McDonald's too long, it gets towed,
3 that's a seizure. They are legally justified under the
4 law. Wouldn't you agree it's a different situation that he
5 leave it in a McDonald's parking lot teaming with loiters,
6 teaming with people at 3:20 AM, leaving it there in the
7 middle of the night? Isn't that a little bit different
8 than if he was in his own driveway as the case that
9 Mr. Wise presented to you? I would say that's a little bit
10 different and I don't see any -- any relevance that would
11 have if it's McDonald's and they towed it from there after
12 witnessing illegal activity.

13 The procedures, I agree, they should be followed
14 substantially. I think that's what the law says when they
15 have these inventory searches. What that is to prevent
16 is a warrantless investigative foray. I think that's
17 what the law says. In other words, if they've got these
18 procedures, but if they don't follow them, then the courts
19 are worried about just a ruse in order to provide a
20 warrantless search and just have at it whenever they have
21 any inventory search, but if you'll look, the only, I
22 think, defect in that inventory or tow report is just the
23 lack of a signature of the tow truck operator.

24 And Your Honor was hitting on the points. I can't
25 figure out how a tow truck driver's signature after the

1 fact has any effect on a search that occurred, you know,
2 fifteen minutes earlier. How's that prejudice Mr. Pulley
3 in any way? I can't figure out how that affects the
4 legality of the search. When I reviewed their vehicle
5 inventory search and seizure policy or inventory search
6 policy, it's pretty by the book everything they've done.
7 And I tried to follow Mr. Wise's argument and I just for
8 the life of me couldn't see how they went astray of it.
9 He's got him on the lack of the tow truck driver's
10 signature, but, again, I just can't follow him how that
11 affects a search that happened some fifteen minutes
12 earlier.

13 I don't know. That probably would be something
14 I would talk to Laurens about. Like, well, from now on
15 maybe y'all ought to review this with the man sitting in
16 the back in handcuffs saying you had jeans in there, you
17 had, you know, a couple of CD's, would you agree with that,
18 but even that would have faults, I mean, because he could
19 always sit in there and go no, I had a million dollars in
20 there, what did y'all do with it? If he's gonna lie, he's
21 gonna lie.

22 This is just not -- I can't think of a perfect
23 situation, but these policies across the country are in
24 place for these three reasons; to protect the safety of law
25 enforcement, to protect him from lost items that somebody

1 later could abscond with when the car is impounded, but
2 also to protect law enforcement from liability later on
3 claiming that I did have a million bucks in there, where
4 is it, man? They documented it at the time and that's
5 about the best they can do. In Wise's scenario, they
6 could always show it to Pulley and he can lie right then
7 and there. I mean, if he's gonna lie, he's gonna lie, but
8 the best thing you can do is document it and try to make a
9 record at the time.

10 But, Judge, there's just a number of warrantless
11 exceptions that happened here. A search incident to a
12 lawful arrest. He's speeding. No question they had a
13 right to stop him for speeding. He jumps out of the car
14 and, again, are we gonna reward him because he jumps out
15 and confronts the police right after? I submit to you
16 that's because he knew what was in the car and he's trying
17 to get away from them and trying to block them off from
18 what's in the car, but he is a recent occupant, they saw
19 him in the car, they saw him get out. They catch him with
20 marijuana, driving under suspension. Completely justified
21 in arresting him right then and there. In my mind, I think
22 just being a recent occupant of that car, watching him with
23 their own eyes get out, that subjects him to a search
24 incident to a lawful arrest.

25 And I think the law -- I've got that Arizona v. Gant

1 case presented. If the police believe that a car contains
2 evidence of the arrest, they suspected him of DUI at first,
3 they talked about smelling alcohol on his breath, they
4 found weed in his pocket, who's to say there isn't more
5 weed in there? Who's to say there isn't open containers
6 in there, evidence of -- or a bowl that's still -- or a
7 couple of joints in there still smoking? Wouldn't they be
8 justified in thinking that there's evidence of that arrest
9 still in there? That's that Arizona v. Gant case I gave
10 the Court. Automobile exception's important here because
11 there's such a -- and the courts have recognized this
12 through the Carroll Doctrine, that there's such a lower
13 expectation of privacy in an automobile and it's because
14 of the readily mobile nature of a car.

15 Furthermore, and I kept pointing it out because it was
16 kind of odd to me, but apparently everybody goes to the
17 McDonald's at three in the morning to hang out after the
18 club, but did you see how crowded that parking lot was?
19 Did you hear him say that it was his girlfriend's car? So
20 the readily mobility of that car is important because
21 Lakendra Anderson could have come with her key to that car
22 and taken off with it at any moment. Any one of those
23 loiters could have compromised the scene if they just
24 abandoned the car right then and there. I think the
25 automobile exception fully applies in this particular case.

1 Plain view exception would apply, Judge. They hit it
2 with a flashlight. It's not like it's in a locked glove
3 compartment, it's not like it's in a locked chest or
4 anything like that. The plain view exception would apply
5 in this case, which leads me to inevitable discovery. I
6 mean, the tow truck driver gets in the car. Wouldn't we --
7 there's no argument that he wasn't legally justified in
8 getting in the car to put it on the tow truck. Who's to
9 say he wouldn't have found it? It's just right there in
10 plain view. I'm still not gonna back down though that the
11 inventory search itself was perfectly in line with the
12 Laurens vehicle inventory seizure and towing policy.

13 The line of cases, I think, for the most part, and
14 that's not argued here certainly, but where inventory
15 searches end up being defective and where policies aren't
16 followed to the T typically involve closed containers
17 and the courts have basically said that maybe this isn't a
18 true inventory search that leads to inevitable discovery.
19 It's kind of a warrantless investigative foray and that
20 involves, you know, maybe somebody getting stopped for this
21 and then ends up -- even though it's not in their policy,
22 you've got cops looking through the trunk, looking through
23 locked boxes and whatnot. That's certainly not what we
24 have here. I think it is a warrantless search, but I think
25 it does fall under a number of these exceptions, Your

1 Honor. I think it's a legal search.

2 **THE COURT:** All right. Thank you very much.

3 Mr. Wise, if you want to add something to it, I need
4 to -- just hold that thought. I have a phone conference
5 scheduled at one and I just need -- hold that thought.

6 **MR. WISE:** I think I can do it in about thirty
7 seconds.

8 **THE COURT:** Okay.

9 **MR. WISE:** All right. Plain view, it was in a yellow
10 bag in the back seat. It wasn't in plain view unless you
11 opened the bag and looked at it. It was towed from
12 McDonald's. If McDonald's had towed the car -- had the
13 car towed, it would have been government action, the
14 government would have been involved in it. If it was found
15 by McDonald's or found by whoever towed it for McDonald's,
16 it would have been a totally private action, and that's
17 another issue entirely. So I think, you know, basically
18 we're down to the inventory search and I think it's got
19 problems.

20 **THE COURT:** Okay. Thank you very much. I appreciate
21 your hard work on both sides and I'll take it under
22 advisement and let you know something when we -- when we
23 regroup at 2:30, okay?

24 All right. We'll be in recess until 2:30.

25 (Whereupon, a luncheon recess taken at 1:05 PM.)

1 **BAILIFF:** Let's keep your seats and come back to
2 order, please. Keep your seats and come back to order.

3 **THE COURT:** Okay. We're back on the record and I have
4 carefully reviewed, Mr. Wise, your motion for suppression
5 and I'm gonna deny it. And let me give you some basis for
6 my denial. And even though it's par for the course, you're
7 always able to make some very creative and novel arguments
8 that certainly causes the court considerable pause in
9 making a ruling on it, I don't necessarily consider this to
10 be an inventory search. However, if it were an inventory
11 search, the fact that the policy was not followed insofar
12 as having the tow truck operator's signature on there would
13 have any applicability to the seizure of the drugs in the
14 car and the fact that the policy may not be as detailed or
15 complete as it might otherwise should be, again, I don't
16 think that has any bearing on the validity of the search.
17 Again, I'm not quite certain that this is an inventory
18 search.

19 And you indicated there was not a thorough inspection
20 done. There's no evidence to say that there was not a
21 thorough inspection. Even though the officer said I don't
22 recall there being CD's in the car and maybe some other
23 things doesn't mean that he did not conduct a thorough
24 search. So with that said, I'm gonna deny your motion on
25 your basis that it was an inventory search and, therefore,

1 violated the Fourth Amendment because of a violation of the
2 internal policy and regulation. I find it is more akin to
3 a warrantless search of a vehicle incident to an arrest.
4 I think what is key in this case that I'm really hanging
5 my hat on is the fact that marijuana was found on the
6 defendant's person prior to the search ever being
7 conducted. Here we have speeding creating probable cause
8 to stop the vehicle, he gets out of the vehicle, the
9 officer knows that he's driving under suspension, makes
10 an arrest and in the course of making the arrest the
11 marijuana was found on his person, which I believe would
12 give justification to, therefore, search the vehicle to
13 see if there were further -- further drugs there. If
14 there were no drugs found on the person and it was just a
15 DUS situation, and even a resisting arrest situation, I
16 don't think that they would necessarily have been justified
17 in searching the vehicle, but the fact that drugs were
18 found on his person before -- before the search under Gant,
19 the Gant v. -- the United States Supreme Court case of Gant
20 versus Arizona or Arizona versus Gant, in this situation it
21 was reasonable to believe the evidence in the vehicle that
22 -- as a result of the arrest, then the warrantless search
23 would be proper. So based upon all of that I respectfully
24 deny your motion for suppression.

25 Anything else that we need to put on the record before

1 we bring the jury out?

2 **MR. WISE:** I can't find it right now, but I'll look
3 for it later, but I think even the testimony was that they
4 found marijuana in his pocket after they arrested him and
5 before -- after they searched the car.

6 **THE COURT:** I'm gonna have to --

7 **MR. WISE:** I'll check again, too.

8 **THE COURT:** Well, if you believe that that's what he
9 testified to, even though my recollection is completely
10 different, I want to make sure that I am correct because I
11 think that is significant as a basis for my ruling. I'm
12 gonna just take a peek at my notes here.

13 **MR. WISE:** I was going by the incident report. The
14 order of the things that occurred in the incident report.

15 **THE COURT:** All right. Here's what I've got in my
16 notes and, Solicitor, you chime in if you feel compelled
17 to. Of course, the vehicle finally makes a stop. He jumps
18 out of the vehicle quickly, the defendant is recognized,
19 he stands in front of his car, is asked for a driver's
20 license, the defendant said he had none. The driver's
21 license -- the officer knew that the driver's license had
22 been suspended, so they attempt to get the handcuffs on,
23 got them on one hand, but couldn't get them on the other
24 because of some resisting. They placed him under arrest
25 for the DUS and then in the course of that they searched

1 the person, found pot and found \$800 plus in cash. And
2 then the search was conducted afterwards, after they were
3 able to, I guess, get control of the defendant, possibly
4 even getting him in the patrol car.

5 That's what my notes indicate. But, again, if you
6 have reason to believe that that is not correct, then I
7 want to make sure we're correct before we proceed any
8 further.

9 **MR. WISE:** Well, I guess I'm going by the order of
10 things listed in the incident report and the incident
11 report lists that while conducting an inventory search of
12 the vehicle, the officers found three bags containing
13 off-white rock material believed to be crack cocaine, a
14 scale inside of a yellow -- a plastic bag behind the
15 driver's seat. When officers searched Mr. Pulley incident
16 to the arrest, they located the bag of green material
17 indicating the reverse order in that incident report
18 anyway.

19 **MR. SCOTT:** And Mr. Wise is reading an incident report
20 that's not in evidence. What we are to base the ruling on
21 is what came -- the evidence from the witness stand. My
22 recollections are the same as yours, Your Honor. That it
23 was a search of the person, they find the cash, they find
24 the marijuana. This was only after they get control of the
25 guy. And the video bears that out as well. You can kind

1 of see the struggle and hear him in the back and then he
2 shows -- he's in the back of the car whenever they're
3 showing the camera the items.

4 **THE COURT:** Let's do this since we're still in-camera,
5 we've not sworn the jury in. Officer Craven, would you
6 come back to the stand, please. I remind you that you're
7 still under oath.

8 **PATRICK CRAVEN,**

9 having been previously sworn, testified as follows:

10 **EXAMINATION (In-Camera)**

11 **BY THE COURT:**

12 **Q.** Sir, when you testified earlier, did you testify that
13 the marijuana was found on the defendant's person at a
14 point in time prior to conducting a search of the vehicle?

15 **A.** Yes, sir.

16 **Q.** Okay. And is that correct, that the marijuana was
17 found on his person prior to any police officer doing any
18 search of the vehicle?

19 **A.** Yes, sir.

20 **THE COURT:** Okay. All right, Mr. Wise. And certainly
21 now you can -- when he testifies in the State's case in
22 chief, if the incident report -- and, of course, I can only
23 base my ruling on what has been put into evidence, whether
24 testimony or any exhibits that were put in for purposes of
25 the -- the in-camera hearing, but in the State's case in

1 chief if you want to; you know, cross-examine him on the
2 incident report if it states something different, then
3 certainly you have the right, but I can only base my ruling
4 in-camera on what has been brought into evidence at this
5 in-camera hearing.

6 **MR. WISE:** Just let me ask one question.

7 **FURTHER CROSS-EXAMINATION (In-Camera)**

8 **BY MR. WISE:**

9 Q. Did you find the marijuana on Mr. Pulley or another
10 officer?

11 A. I believe I did from the front pocket, yes, sir.

12 Q. You believe you did or you're sure you did?

13 A. Yes, I did.

14 Q. Have you got the --

15 **MR. WISE:** I do not see the chain of custody report
16 on the marijuana in front of me, but I'll look -- I'll
17 look for it later. Thank you.

18 **THE COURT:** All right. Thank you. You can step
19 down.

20 (Witness excused.)

21 **THE COURT:** Okay. Anything further we need to put
22 on the record?

23 **MR. SCOTT:** Nothing from the State, Your Honor.

24 **THE COURT:** Okay. From the defense? Anything
25 further?

1 **MR. WISE:** Nothing further. No, sir.

2 **THE COURT:** Okay. One other thing, this Court's
3 exhibit, the procedures, I've marked on it, and it's a
4 Court's exhibit. Do you want a clean copy as the Court's
5 exhibit?

6 **MR. WISE:** It -- well, she's got some notes on the
7 back and that's probably a better idea, a clean copy. The
8 handwritten stuff really doesn't relate to it.

9 **THE COURT:** I just underlined and circled some parts
10 on it.

11 **MR. WISE:** Oh, that's no problem. She has -- they
12 have an inventory that we probably need to get my copy of
13 the inventory.

14 **MR. SCOTT:** That's fine. What Rauch's talking about,
15 State's 5, as I was putting the sticker on it, there were
16 some notes that Margaret put on the back. We can --

17 **MR. WISE:** And they've got a clean copy of that.

18 **THE COURT:** Let's go ahead and get a clean copy of
19 that and get that marked and then you can take that back.

20 **MR. WISE:** Your Honor, we also should put on the
21 record that there were several photographs that we've
22 looked at they we've agreed to admit without objection.

23 **MR. SCOTT:** Yes, thank you. And I think, Mr. Wise --

24 **MR. WISE:** And the video, right?

25 **MR. SCOTT:** That's gonna be State's 3, 2, State's 4

1 and then State's Number 1.

2 **THE COURT:** Okay. Tell me what they are so I don't
3 have to ask if there's any objection. 1 is what?

4 **MR. SCOTT:** This aerial right here, Your Honor.

5 **THE COURT:** Okay. Aerial view, and that's without
6 objection?

7 **MR. WISE:** Correct.

8 **THE COURT:** Okay. 2?

9 **MR. SCOTT:** 2's gonna be a still shot from the video.

10 **THE COURT:** Okay. A photo. Okay. 3?

11 **MR. SCOTT:** 3, I don't know if we're gonna use it,
12 but it's a street view shot of McDonald's.

13 **THE COURT:** A photo, 3. 4 is the video?

14 **MR. SCOTT:** Yes, sir.

15 **THE COURT:** 5 is the Towed Vehicle Report. The -- 6
16 is the BEST kit, 7 is the property list. Is that all
17 right? Am I correct?

18 **MR. SCOTT:** Yes, sir.

19 **THE COURT:** Are all of those without objection?

20 **MR. SCOTT:** Well, I'm sorry. Those last three that
21 you named, those are really just gonna be for pre-trial.

22 **THE COURT:** Okay. That's not --

23 **MR. SCOTT:** Right.

24 **MR. WISE:** Correct.

25 **THE COURT:** All right. But 1 through 4, Mr. Wise,

1 that's without objection?

2 **MR. WISE:** That's correct.

3 **THE COURT:** Okay. Thank you very much.

4 (End of excerpt of proceedings.)

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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter
for the Eighth Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a true,
accurate and transcript of record of the proceedings had
and the evidence introduced in the hearing of the captioned
case in Circuit Court on the 29th day of July, 2015.

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I do further certify that I am neither of kin,
counsel, nor have an interest to any party hereto.

January 6, 2016

s/ Stacy S. Johnson
STACY S. JOHNSON, RPR
CIRCUIT COURT REPORTER

State of South Carolina
County of Laurens

)
) Court of General Sessions
)

2013-GS-30-1581

State of South Carolina
vs.

)
) Transcript of Record
)

Timothy Artez Pulley

Defendant

October 6, 2015
Laurens, South Carolina

B E F O R E:

Honorable, Donald B. Hocker, Judge.

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

David Stumbo, Solicitor
Dale Scott, Deputy Solicitor
Margaret Boykin, Assistant Solicitor
Attorney for the State

C. Rauch Wise, Esq.
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

1 THE COURT: We are going to pick a jury, we may start
2 the trial later on this afternoon or in the morning. But
3 it will be the State of South Carolina versus Timothy
4 Artez Pulley. Mr. Pulley, would you please stand and face
5 the jury. That is fine. Mr. Pulley has been indicted
6 with the offense of trafficking in crack cocaine. I am
7 going to read what the indictment says, an indictment just
8 contains allegations. The fact that a person has been
9 indicted for a criminal offense is not proof of guilt as
10 concerns of the criminal offense. The indictment serves
11 as the charging paper to get the case to where it is today
12 for trial. But, please, do not give the indictment any
13 consideration or weight as to the guilt or innocence of
14 Mr. Pulley. But the allegations, and again, they are
15 merely just allegations and the indictment reads as
16 follows. Timothy Artez Pulley did in Laurens County on or
17 about June 23, 2013 willfully, unlawfully and knowingly
18 traffic in cocaine base which is referred to as crack
19 cocaine. And that said defendant did sell, manufacture,
20 deliver, purchase or bring into this State or provide
21 financial assistance or otherwise, aid, abet, attempt or
22 conspire to sell, manufacturer, deliver, purchase or bring
23 into this State or was in actual or constructive
24 possession or did knowingly attempt to become in actual or
25 constructive possession of ten grams or more of cocaine

1 base, crack cocaine, in violation of section 44-53-375
2 section (c) of the code of laws for South Carolina. Is
3 anyone on the jury panel related by blood or marriage,
4 either currently or formerly, to Mr. Pulley, Timothy Artez
5 Pulley. And let me just mention too, I want to give you
6 an opportunity like I did a few moments ago that if you
7 want to speak with me privately as it relates to this case
8 or relates to any of the questions that I ask you, I will
9 give you that opportunity to do so. But, again, is anyone
10 related by blood or marriage, now or formerly to Mr.
11 Timothy Artez Pulley. If so please stand.

12 (No response.)

13 THE COURT: Is anyone on the jury panel have or had
14 in the past a close personal or social relationship with
15 Timothy Artez Pulley. If so please stand.

16 (No response.)

17 THE COURT: I am going to read a list of potential
18 witnesses in this case. I say potential because they may,
19 in fact, may not testify, don't know. The following list
20 of potential witnesses are, Patrick Craven, David Brewer,
21 John Stankus, Scott Satterfield, all of those are related
22 to Laurens Police Department. Marybeth McCormack, Doris
23 Yarborough, Amy Stephens, Patricia Crooks, those are with
24 SLED. Lakendra Anderson, Walter Bentley, Matt Veal, James
25 Powers, James Fuller. Anyone on the jury panel related by

1 blood or marriage to, now or formerly, to any of those
2 people I have just named or anyone on the jury panel have
3 or had or currently a close personal or social
4 relationship with any of those individuals. If so, please
5 stand. Yes, sir. For the record state your name and
6 juror number, please.

7 JUROR: Harry, Agnew, juror number 2. I know most of
8 them, on a social or personal basis.

9 THE COURT: The fact that you know most of them and
10 have somewhat of a social or personal relationship would
11 that prevent you from being fair and impartial to both the
12 State and the defense in this case?

13 JUROR: No, sir.

14 THE COURT: Thank you very much. Yes, sir. Give us
15 your name.

16 JUROR: Number 3, Michael Aiken. I do know Mr.
17 Pulley by association of a relative of his.

18 THE COURT: You know Mr. Pulley by what?

19 JUROR: A relative of his.

20 THE COURT: You know him through a relative of his?

21 JUROR: Right.

22 THE COURT: And the fact that you know Mr. Pulley
23 through a relative of his, would that prevent you from
24 being fair and impartial to both the State and the defense
25 in this case?

1 JUROR: No, sir.

2 THE COURT: You can have a seat. Now I am going to
3 give the attorneys an opportunity to introduce themselves
4 to you and I will tell you that we have excellent
5 attorneys, both sides, in this case. I will start with
6 the State.

7 MR. STUMBO: Thank you, Your Honor, if it please the
8 Court. I am David Stumbo, I am your elective Solicitor of
9 the Eighth Judicial Circuit. We cover Newberry, Laurens,
10 Greenwood and Abbeville. We have a number of attorneys to
11 assist me in prosecuting this case. Here in Laurens
12 County two of our attorneys here to help me try this case.
13 To my far left, Margaret Boykin. And here to my immediate
14 left is Dale Scott and he is the Deputy Solicitor for
15 Laurens and Newberry Counties. Here to my left is Walter
16 Bentley, Walter is one of our investigators. I will
17 probably be in and out of the courtroom during the week.
18 Mr. Scott and Ms. Boykin are trying this case.

19 THE COURT: Thank you, Solicitor. Mr. Wise.

20 MR. WISE: I am Rauch Wise, my office is primarily in
21 Greenwood, South Carolina.

22 THE COURT: Any member of the jury panel ever been
23 represented by any of the attorneys involved in this case
24 or anyone in their respective offices. If so, please
25 stand.

1 (No response.)

2 THE COURT: Is there anyone on the jury panel related
3 by blood or marriage, either now or formerly, or have had
4 or currently have a close personal or social relationship
5 with any of the attorneys involved in this case or anyone
6 in their respective offices. If so, please stand.

7 (No response.)

8 THE COURT: While you know very little about this
9 case, other than what I read to you from the indictment, I
10 have to ask you, is there any member of the jury panel
11 formed or expressed an opinion about any issue or matter
12 involved in this case. If so, please stand.

13 (No response.)

14 THE COURT: While I don't believe this is the case, I
15 still have to ask it anyway. Is there any member of the
16 jury panel that was a member of the Grand Jury which
17 issued the indictment in this case on, back on September
18 6th of 2013. If so, please stand.

19 (No response.)

20 THE COURT: Is there any member of the jury panel
21 have an opinion concerning the use or possession of drugs
22 that would make it difficult for you sitting as a juror in
23 this case, let me rephrase this question. Is there any
24 member of the jury panel have such an opinion of the use
25 or possession of drugs that you would have difficulty

1 sitting on this case where the possession of drugs is an
2 issue. If that applies to you, please stand.

3 (No response.)

4 THE COURT: The next question. Would the fact that
5 the defendant is an African American and the charge is
6 illegal possession of drugs concern you if you were
7 selected to sit as a juror in this case.

8 (No response.)

9 THE COURT: Any member of the jury panel have a
10 belief or opinion that a driver of an automobile that is
11 not his should have knowledge of items found in the
12 automobile. If that applies to you, please stand.

13 (No response.)

14 THE COURT: Is there any member of the jury panel
15 aware of any biased or prejudiced towards either the State
16 or the defendant in this case. If so, please stand.

17 (No response.)

18 THE COURT: Is there any member of the jury panel who
19 is a member of or a contributor to any group which has as
20 its primary concern with promotional law enforcement or
21 victims rights. These would include but not limited to
22 and I will give you just the acronyms, MADD, SADD OR CAVE.
23 If that applies to you, please stand.

24 (No response.)

25 THE COURT: Is there any member of the jury panel

1 know of any reason whatsoever why he or she should not
2 serve as a juror in this case with particular emphasis
3 being placed on your ability to be fair and to be
4 impartial to both the State and the defendant.

5 (No response.)

6 THE COURT: Now, does anybody want to speak with me
7 privately. If so we will have the same process, form a
8 line in the middle aisle.

9 (No response.)

10 THE COURT: Not seeing none. Does the State have any
11 additional voir dire?

12 MS. BOYKIN: No, Your Honor.

13 THE COURT: Any objection from the State as to the
14 voir dire conducted by the Court?

15 MS. BOYKIN: None, Your Honor.

16 THE COURT: And does the defense have any additional
17 voir dire questions other than what we discussed
18 previously?

19 MR. WISE: No we don't, Your Honor.

20 THE COURT: And other than what we discussed
21 previously, does the defense have any objection or
22 exceptions to the voir dire?

23 MR. WISE: No, we do not.

24 THE COURT: Okay. Thank you very much. Ladies and
25 gentlemen of the jury panel, what will now take place is

1 that your name will be called out, if your name is called
2 out, and you will come down to the front, turn and face
3 towards the doors and the State and the defense will have
4 an opportunity to decide whether or not they want you to
5 sit as a juror in this case. Now, you may hear the words,
6 swear the juror or present the juror or strike the juror
7 or excuse the juror, words to that effect. The bottom
8 line, if you are not selected after your name is called,
9 don't take it personally. Okay. They have certain
10 reasons for accepting jurors or not accepting jurors. And
11 so, again, don't take it personally. If you are wanting
12 to serve you may be disappointed and I can understand
13 that. If you were not wanting to serve then you may be
14 glad that you were not selected. But don't take it
15 personally.

16 MR. WISE: Can we approach for a minute.

17 THE COURT: Sure.

18 (Whereupon, a bench conference was held in the
19 presence of the jury panel but out of the hearing of
20 the jury panel.)

21 THE COURT: Okay, Madam Clerk, if you will please
22 proceed.

23 CLERK OF COURT: Number 99, David M. King. What says
24 the State?

25 MS. BOYKIN: Please present the juror.

1 CLERK OF COURT: What says the defense?

2 MR. WISE: Swear the juror.

3 CLERK OF COURT: Number 80, Teri B. Griffin. What
4 says the State?

5 MS. BOYKIN: Please present the juror.

6 CLERK OF COURT: What says the defense?

7 MR. WISE: Swear the juror.

8 CLERK OF COURT: Number 85. Michael K. Hawkins.
9 What says the State?

10 MS. BOYKIN: Please present the juror.

11 CLERK OF COURT: What says the defense?

12 MR. WISE: Excuse this juror from this trial.

13 CLERK OF COURT: Number 10, David M. Arscott. What
14 says the State?

15 MS. BOYKIN: Please present the juror.

16 CLERK OF COURT: What says the defense?

17 MR. WISE: Swear the juror.

18 CLERK OF COURT: Number 181, Susan J. Turman. What
19 says the State?

20 MS. BOYKIN: Please present the juror.

21 CLERK OF COURT: What says the defense?

22 MR. WISE: Excuse the juror from this trial.

23 CLERK OF COURT: Number 156, Cathy D. Snow. What
24 says the State?

25 MS. BOYKIN: Please present the juror.

1 CLERK OF COURT: What says the defense?

2 MR. WISE: Excuse this juror from this trial.

3 CLERK OF COURT: Number 144, Gregory A. Robinson.

4 What says the State?

5 MS. BOYKIN: Please present the juror.

6 CLERK OF COURT: What says the defense?

7 MR. WISE: Swear the juror.

8 CLERK OF COURT: Number 100, Harry E. Knight. What
9 says the State?

10 MS. BOYKIN: Please present the juror.

11 CLERK OF COURT: What says the defense?

12 MR. WISE: Swear the juror.

13 CLERK OF COURT: Number 187, Billy R. Walker. What
14 says the State?

15 MS. BOYKIN: Please present the juror.

16 CLERK OF COURT: What says the defense?

17 MR. WISE: Swear the juror.

18 CLERK OF COURT: Number 26, Michelle D. Brooks. What
19 says the State?

20 MS. BOYKIN: Please excuse the juror.

21 CLERK OF COURT: Juror number 147, Michael W. Sharp.

22 What says the State?

23 MS. BOYKIN: Please present the juror.

24 CLERK OF COURT: What says the defense?

25 MR. WISE: Swear the juror.

1 CLERK OF COURT: Number 198, Emmanuel D. Young. What
2 says the State?

3 MS. BOYKIN: Please present the juror.

4 CLERK OF COURT: What says the defense?

5 MR. WISE: Swear the juror.

6 CLERK OF COURT: Number 124, Brian A. Oakes. What
7 says the State?

8 MS. BOYKIN: Please present the juror..

9 CLERK OF COURT: What says the defense?

10 MR. WISE: Swear the juror.

11 CLERK OF COURT: Juror number 92, Shanna W. Jones.
12 What says the State?

13 MS. BOYKIN: Please present the juror.

14 CLERK OF COURT: What says the defense?

15 MR. WISE: Excuse the juror from this trial.

16 CLERK OF COURT: Number 117, David B. Moore. What
17 says the State?

18 MS. BOYKIN: Please present the juror.

19 CLERK OF COURT: What says the defense?

20 MR. WISE: Swear the juror.

21 CLERK OF COURT: Number 101, Tony J. Lamb. What says
22 the State?

23 MS. BOYKIN: Please excuse this juror.

24 CLERK OF COURT: Number 2, Edgar Agnew, III. What
25 says the State?

1 MS. BOYKIN: Please present the juror.

2 CLERK OF COURT: What says the defense?

3 MR. WISE: Swear the juror.

4 CLERK OF COURT: Number 195, Merry R. Wood. What
5 says the State?

6 MS. BOYKIN: Please present the juror.

7 CLERK OF COURT: What says the defense?

8 MR. WISE: Excuse the juror from this trial.

9 CLERK OF COURT: Number 54, Shelia D. Deitz. What
10 says the State?

11 MS. BOYKIN: Please excuse the juror.

12 CLERK OF COURT: Number 70, Julian E. Garrett, II.
13 What says the State?

14 MS. BOYKIN: Please present the juror.

15 CLERK OF COURT: Would the defense challenge for
16 cause?

17 MR. WISE: No challenge.

18 CLERK OF COURT: Please be seated.

19 THE COURT: One alternate.

20 CLERK OF COURT: Number 154. Darren M. Sineath.
21 What says the State?

22 MS. BOYKIN: Please present the juror.

23 CLERK OF COURT: What says the defense?

24 MR. WISE: Swear the juror.

25 THE COURT: Okay, ladies and gentlemen,

1 congratulations, lady and gentleman, congratulations.
2 What we are going to do, I am going to ask Mr. Bolt to
3 take you back to the jury room in just a moment. And, as
4 I mentioned to the panel early on, is Judge Eugene
5 Griffith is going to come and the jury will be picked in
6 the case he is going to try. The Court Reporter that was
7 assigned to me, was having some difficulties getting out
8 of Columbia. As we all know, Columbia as well as the
9 lower part of the State has experienced a real tragic
10 situation. I am not sure if she is here yet or not. If
11 she is here then what will happen is that we will start
12 the trial in this case probably in the next half hour.
13 But we will do in the, what we call the smaller courtroom.
14 If she is not here yet, we will have to sit and wait, I am
15 not going to leave you waiting very long but we will have
16 to make some, until the second jury is picked and then we
17 may start the trial here in this courtroom. So things are
18 a little bit uncertain. We will try to get a good handle
19 on it here shortly. Now, I am going to tell you something
20 that you will hear me say throughout this whole trial. Do
21 not discuss anything about this case, anything that you
22 have seen, anything that you have heard, anything related
23 to the case, even among yourselves. Discussions cannot
24 take place among yourselves until I tell you to at the end
25 of the case, when you have received all of the evidence,

1 closing arguments have been made, I have given you the
2 final instructions on the law and then I will tell you you
3 can begin your deliberations then that is when the
4 discussions can take place. Even though you know very
5 little about this case I don't want you talking among
6 yourselves about anything that you have seen or heard.
7 That is something I will remind you about throughout this
8 entire proceeding. So, go back to the jury room, and we
9 will either bring you back in this courtroom or bring you
10 into the other courtroom. Okay. Thank you.

11 (Whereupon, the jury was excused from open court for
12 a break.)

13 THE COURT: Does the State have any exceptions or
14 objections to jury selection?

15 MS. BOYKIN: No, Your Honor.

16 THE COURT: Defense?

17 MR. WISE: None from the defense.

18 THE COURT: Okay. Ladies and gentlemen of the jury
19 panel, what I am going to do is let you take a break for
20 about ten minutes. Be back in here in about ten minutes.
21 I would have to assume that Judge Griffith will be ready
22 to pick the jury in the second case. So, ten minute
23 break. And everyone on the panel will need to leave.

24 (Whereupon, the jury panel was excused from open
25 court for a break.)

1 THE COURT: We will be over there, Maryann is here.

2 MR. WISE: In the small courtroom?

3 THE COURT: Yes.

4 (Whereupon, a short break was taken.)

5 (Whereupon, juror number 198, Emmanuel Young came
6 into the courtroom.)

7 THE COURT: Can I see the Solicitors and Mr. Wise.
8 We have a juror issue.

9 (Whereupon, a bench conference was held.)

10 THE COURT: Mr. Young, Mr. Bolt has informed me that
11 you have stated to him that you don't believe that you can
12 be fair and impartial, because one, your religious
13 beliefs. And two, a position you have related to drugs,
14 is that correct?

15 JUROR: Yes, sir.

16 THE COURT: Let me just stop you. Why did you not
17 come up front and talk with me because that was a specific
18 question, can you be fair, can you be impartial. And now
19 what we are going to have to do, I am going to excuse you
20 but what we are going to have to do is when the panel
21 comes back in we are going to have to pick another juror.
22 So why didn't you tell me that when I was going through
23 the questions.

24 JUROR: I apologize, I was, if, I didn't know if I
25 would be picked or not. This is my first time, I

1 apologize and I didn't mean to get any problems for
2 anybody but I just, I just wanted to--

3 THE COURT: On the one hand I do appreciate your
4 honesty, a little bit late. But I do appreciate your
5 honesty and I am going to go ahead and excuse you. If you
6 are picked again and you feel like you can't be fair and
7 impartial then you need to let the Judge know before the
8 jury is picked. Okay. Good luck to you, you are excused.
9 Everyone be at ease for a few moments.

10 (Whereupon, Mr. Emmanuel Young was excused from the
11 jury.)

12 THE COURT: I know what you are thinking, I just told
13 you about 10 or 15 minutes that Judge Griffith, the
14 younger, better looking Judge was going to come out here.
15 Well, what has happened, we had to go ahead and excuse,
16 right off the bat, one member of the jury that we picked.
17 Consequently that alternate that we picked will now be on
18 the main twelve, we need a new alternate. Okay. So, if
19 your name is called out come down to the front and it is
20 going to be the same process. Once we get that alternate
21 selected then I will be leaving this courtroom going down
22 to the other courtroom to start the trial in this case.
23 Madam Clerk.

24 CLERK OF COURT: Juror number 164, Sandra Stutes.
25 What says the State?

1 MS. BOYKIN: Please present the juror.

2 CLERK OF COURT: What says the defense?

3 MR. WISE: Excuse the alternate from this trial.

4 CLERK OF COURT: Number 111, James L. McGowan. What
5 says the State?

6 MS. BOYKIN: Please excuse this juror.

7 CLERK OF COURT: Number 58, Ashley N. Edwards. Will
8 the State challenge for cause?

9 MS. BOYKIN: Please present the juror.

10 CLERK OF COURT: What says the defense?

11 MR. WISE: Swear the juror.

12 THE COURT: Mr. Bolt, if you would escort Ms. Edwards
13 back to the jury room and explain to the jury that she is
14 the new alternate.

15 (Whereupon, the juror was escorted to the jury room.)

16 THE COURT: Does the State have any exceptions or
17 objections to that jury selection, for the alternate?

18 MS. BOYKIN: No, Your Honor.

19 THE COURT: The defense?

20 MR. WISE: None, Your Honor.

21 THE COURT: Okay. Thank you very much. Now, ladies
22 and gentlemen of the remaining jury panel, if you will be
23 patient and Judge Griffith should be out in just a few
24 minutes to talk with you and go through the process of
25 selecting a jury in the second case of this week. And

1 then for those who will not be selected on that case, if
2 you would, you have been provided a number to call in
3 after 6:00, call in this evening after 6:00 o'clock and it
4 will give you instructions on what to do. More than
5 likely it will tell you to call back after 6:00 tomorrow,
6 more than likely. But and don't forget to call. Judge
7 Griffith will give you instructions on those of you who
8 are selected in the jury for the second trial, on when to
9 report back, whether the case is started today or some
10 other time. Thank you very much.

11 (Whereupon, the trial will resume in the next
12 courtroom with Court Reporter, Maryann Nevers.)

13 *** END OF REQUESTED PARTIAL TRANSCRIPT OF RECORD ***
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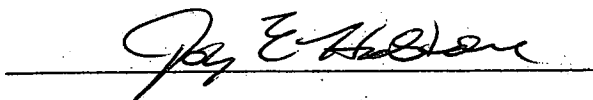
CERTIFICATE OF REPORTER

State of South Carolina)
County of Newberry)

I, Joy E. Holston, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and partial transcript of record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the County of Laurens, South Carolina on the 6th day of October, 2015.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

August 27, 2016



Joy E. Holston, Court Reporter

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF LAURENS	)	Case No.(s) : 2013GS3001581
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	(Volume 1 of 2)
Timothy Artez Pulley,	)	
	)	
Defendant.	)	
	)	

October 06 - 07, 2015
Laurens, South Carolina

B E F O R E:

HONORABLE DONALD B. HOCKER, Judge.

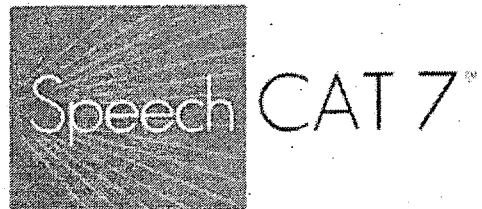
A P P E A R A N C E S:

DALE SCOTT, Esquire
MARGARET BOYKIN, Esquire
Attorney for the Plaintiff

RAUCH WISE, Esquire
Attorney for the Defendant

Teresa B. Johnson, CVR-M
Certified Court Reporter
P.O. Box 2812
Greenville, S.C. 29602

Records are
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P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 6th day of October, 2015 at approximately 12:04 p.m.)

(WHEREUPON, State's Exhibits 1 through 4 are marked for identification purposes.)

(WHEREUPON, Defendant's Exhibits 1 through 5 are marked for identification purposes.)

THE COURT: We're on the record this afternoon in the State versus Timothy Artez Pulley. We have picked a jury. They've not been sworn in yet. I understand there is a pretrial matter that we need to deal with?

MR. WISE: There is, Your Honor. As last time, I move to suppress the evidence on the grounds that it was the product of an illegal search and that it didn't follow the procedures and policies of the inventory search promulgated by the City of Laurens.

THE COURT: All right. I think -- to protect the record, I denied your motion in the last trial and I'm denying your motion in this trial. I think in order for there to be a good record in this case, and without putting everything on the record that we put on the record last time, could we not incorporate

1 everything in that prior record into this
2 record, if that makes any sense?

3 **MR. SCOTT:** I would ask to incorporate,
4 Your Honor. If you care to look over it, it
5 covers everything, the law and everything.

6 **THE COURT:** Mr. Wise seen that yet?

7 **MR. WISE:** No, I haven't. I take the
8 position of the State versus Woods that we've
9 got to do it again.

10 **THE COURT:** Okay.

11 **MR. WISE:** Because that case -- I'm
12 highlighting the applicable portion. In that
13 case says, uh, a mistrial is equivalent of no
14 trial and leaves the case pending in circuit
15 court. It cites that case of State versus Smith.
16 It leaves the parties as though no trial has
17 taken place and cites Grooms versus Zander, a
18 civil case. In parenthesis, it says rulings of
19 trial judge in a proceeding ending in a mistrial
20 represents no binding application of the parties
21 as the mistrial leaves the parties in status --
22 status quo ante.

23 **MR. SCOTT:** Judge, that case has really
24 little to do with what we're dealing with. That
25 was the case, if I recall, a change of venue. In

1 that case, there was a mistrial, where in the
2 first case, the State consented to a change of
3 venue that resulted in a mistrial.

4 In the second case, the State refused to
5 consent to that change in venue and wanted to
6 move to hold the trial in the county where the
7 incident occurred. The defense in that case
8 attempted to make the State's prior consent
9 binding. In that case, the judge said, no, it
10 would not be binding. That was more -- it was a
11 State's consent. It was an agreement between the
12 parties in the first one. It was not a judge's
13 ruling. I've got this -- one of these. I may
14 need to make a copy for Mr. Wise. But this is a
15 motion to incorporate.

16 **THE COURT:** Go ahead and let him look at
17 it right now and then we can certainly make
18 copies. (Pause.)

19 I think probably let's do this so we can
20 devote a little time to this particular issue.
21 It seems like to me there was a recent case that
22 came out that dealt with this. Let's go ahead
23 and bring the jury out and go ahead and excuse
24 them. Then, let's break for lunch because
25 they've already been back there now probably a

1 good 45 minutes. Then we will devote sufficient
2 time for this particular issue. Let's do that.
3 We certainly won't swear the jury in until they
4 come back after lunch.

5 If you will, bring the jury back out.

6 (WHEREUPON, the jury enters at approximately
7 12:10 p.m.)

8 THE COURT: Ladies and Gentlemen of the
9 jury, we've got some pretrial matters that we're
10 working on and that we will continue to work on.
11 I've kept you back in that jury room for some
12 time now. I think this would be a good
13 opportunity to break for lunch. That would give
14 us enough time to finish up all of our pretrial
15 discussions that I will have with the lawyers.

16 Then we will go ahead and start on the
17 case. And to give us enough time, we're going to
18 break until 2 o'clock. So if you will, be back
19 promptly at 2:00. Allow yourself enough time.
20 Things unexpected come up. Allow yourself enough
21 time to get here. If we're missing a juror at 2
22 o'clock, we can't get started.

23 Okay. Now if you are out, and about and
24 around town, a restaurant or stores or whatever,
25 I know you may not want to wear your juror

1 button, but wear it. Because the lawyers,
2 witnesses, parties, whatever, may not recognize
3 you and may be talking about the case or
4 whatever. So if you are out and around, keep
5 your button on. If you go home, certainly, you
6 don't have to wear it at home.

7 Also, whoever you come into contact with
8 over lunch may ask you what you're doing. You
9 can say I've been selected on a jury but leave
10 it at that. Don't tell them anything, the little
11 bit that you know about this case. Don't talk to
12 them about this case and we'll get you back at 2
13 o'clock. Okay. Have a good lunch.

14 (WHEREUPON, the jury exits at approximately
15 12:13 p.m.)

16 **THE COURT:** Okay. Let's go ahead and give
17 both sides an opportunity to do whatever
18 research. We're going to do our own research. If
19 there's anything you've got right now that you
20 want me to look at concerning this issue of
21 whether or not we incorporate what was done in
22 the first trial into this trial or whether or
23 not we have to kind of start over from scratch,
24 you can give it to me now and we'll look at it
25 or wait until we come back after lunch. Let's --

1 us -- kind of reconvene at about 1:30.

2 **MR. WISE:** I'm going to give you State
3 versus Woods.

4 **THE COURT:** Yeah, what's that cite, South
5 Carolina cite?

6 **MR. WISE:** South Carolina cite is 382 S.C.
7 153, 2009.

8 **THE COURT:** Okay. All right.

9 **MR. SCOTT:** Let me give him this copy.
10 I'm going to give you this copy. Judge, I'm
11 going to make Rauch another one just so you can
12 take it back to chambers.

13 **MR. WISE:** While we're passing stuff
14 around in anticipation that I was going to have
15 to educate another judge, and I know you've
16 ruled on this too, but I put together a little
17 brief on the inference charge that we argued
18 about last time.

19 **THE COURT:** The constructive --

20 **MR. WISE:** Right.

21 **THE COURT:** All right. Good. Thank you.

22 **MR. SCOTT:** We may defer to Rauch on that.
23 I think I'm privy to some of the stuff he's
24 going to say.

25 **THE COURT:** Okay. Well, take a look at

1 that too. If you go along with that, you can let
2 me know. Okay. Very good. We'll get back
3 together at 1:30.

4 **MR. WISE:** Okay.

5 **THE COURT:** All right. Have a good lunch.

6 **MR. WISE:** All right.

7 **(WHEREUPON, a lunch recess is taken.)**

8 **(WHEREUPON, State's Exhibit 5 is marked for**
9 **identification purposes.)**

10 **THE COURT:** Okay. We're back on the record
11 in the State versus Timothy Artez Pulley. And
12 we're -- before we broke for lunch, we had the
13 issue of the motion to suppress, which is being
14 renewed in this case.

15 Mr. Wise, while the rule is direct or the
16 case law which states that one judge's ruling
17 certainly does not bind another judge on a
18 particular issue when there is a mistrial in the
19 first case, and I agree that is a correct
20 statement of law, but I think what you're asking
21 that we do is to go through the full suppression
22 hearing again insofar as I think a couple of
23 police officers testified last time. We may have
24 even looked at the video portions of it and I'm
25 not sure what else went on. But as a practical

1 matter, since it's the same judge, unless you
2 have something new, either side have something
3 new to put on the record in this case, why could
4 we not incorporate the prior suppression
5 hearing?

6 Let's say, for example, you appeal. If
7 there is a conviction and you appeal, you can
8 get that transcript from Stacey Johnson who was
9 the court reporter in the first case back in
10 July. Why couldn't you do that?

11 **MR. WISE:** I agree I could. I don't think
12 I'm required to. That's the simple answer. I
13 think it all goes back -- to get philosophical
14 for a moment. We do not have, and have never had
15 in South Carolina since I've been practicing
16 law, an adequate motion practice in criminal
17 court. That's what really creates this problem.

18 We have regular set terms of civil court
19 where you have motions heard. Those clearly are
20 covered by the rule. It just seems to me
21 ironical that as some lawyers do; you swear the
22 jury; you introduce the evidence; they raise the
23 objection of suppression; then you have your
24 suppression hearing in the middle of the trial.
25 You know, if that's a new trial, then you do the

1 whole thing over again too.

2 But I think, first of all, whether or not
3 we can -- whether or not the testimony would be
4 different would depend upon what the officer
5 said when they testify. We would not know until
6 they do testify.

7 To point out one little thing too, Your
8 Honor, uh, Mr. Pulley was in my office Saturday
9 and we were going over this again and again and
10 again. And we noted at about three minutes and
11 forty-something or maybe three minutes and forty
12 -- at 3:41.4 or somewhere in that range on the
13 video, you would have Officer Craven actually
14 being shown -- you would hear the lieutenant who
15 found the marijuana say I found marijuana and
16 Officer Craven says really. Well, that obviously
17 indicates that's the first time Officer Craven
18 had seen the marijuana.

19 One of the premises of your prior ruling
20 was, uh, that, uh, that the marijuana was found
21 first. I think that's pretty strong proof that
22 it wasn't found first.

23 **THE COURT:** Isn't this an issue that was
24 raised in the first case as far as the exact
25 timing of when that statement was made and I

1 think we got into that and possibly sent the
2 jury out?

3 **MR. WISE:** This is an additional statement
4 in listening to the tape very closely. We ran it
5 again in preparation for this trial.

6 **THE COURT:** Okay. All right. The State
7 want to add anything further on this particular
8 issue?

9 **MR. SCOTT:** No, Your Honor.

10 **THE COURT:** Okay. All right. Well, to make
11 sure we have a clean record, even though I think
12 it probably is a matter of judicial economy, uh,
13 with the right to put anything new on this
14 issue, the matter of judicial economy would be
15 to incorporate everything done there. But to
16 make sure we have a clean record, I'm going to
17 allow the -- or require, in light of the motion
18 for suppression being renewed, that we have an
19 in camera hearing at some point in time. Would
20 it be -- do we need to do it at the outset now
21 like we did the first time around or can we kind
22 of get started into this case and then have an
23 in camera hearing?

24 **MR. WISE:** Well, good question. I hadn't
25 thought about that.

1 **THE COURT:** Otherwise, we're going to -- I
2 keep looking at that clock. It's kind of glary.
3 That's not even the right time.

4 **MR. WISE:** It seems to me that the most
5 practical thing -- I mean, it's not going to
6 take long once this case starts anyway. At
7 least, I don't think so, but don't hold me to
8 it, as you know -- that we have that suppression
9 hearing this afternoon and just start back at
10 9:30 in the morning. I've got one witness that I
11 told to be here by 4:00. But I can just call him
12 and tell him to come back at lunch tomorrow. So
13 it's not a big deal on that one. I think we'll
14 probably finish up 4 o'clock, 3:30 or something
15 like that.

16 **MR. SCOTT:** That really puts us behind the
17 eightball with witnesses.

18 **THE COURT:** Yeah. I don't want to just do
19 the suppression hearing and that's it. I want to
20 do more than that. As a matter of scheduling, it
21 would be nice if we can finish this case up by
22 the end of tomorrow and then allow Judge
23 Griffith to, uh, start his case on Thursday.

24 **MR. SCOTT:** I hate to back up. It sounds
25 like the writing may be on the wall. But the

1 Rules of Criminal Procedure seem to clearly
2 state that after that ruling -- and I understand
3 it was a mistrial. But also the case that Mr.
4 Wise relies on, I don't think that proposition
5 that he's now relying on was brought up in that
6 particular case. In that case, you were dealing
7 with a consent issue. Okay. That was the sole
8 issue in that particular case.

9 This exact ruling was heard by Your Honor.
10 This is not -- again, you noted that. We're not
11 talking about another judge incorporating some
12 other circuit court judge's ruling. This is Your
13 Honor's ruling. You will hear no new testimony.
14 You will hear no new recordings. There will be
15 absolutely nothing new presented to you that
16 wasn't presented in the first hearing.

17 Even what Mr. Wise anticipates bringing up
18 to Your Honor, that was brought up in the first
19 case. It was explained by Officer Craven as well
20 as Officer Brewer.

21 **THE COURT:** Mr. Wise, you want to take a
22 position with respect to Rule 4(b) of the
23 criminal rules?

24 **MR. WISE:** All I can tell you was that
25 Rule 4 was in existence when State versus Woods

1 was filed. It didn't seem to create any problem
2 with, uh, the court in that case. They didn't
3 even cite it in Woods. I think that's the
4 difference between a true, well-in-advance-of
5 trial pretrial motion and the situation we're at
6 here to be frank with you. Again, that's because
7 we don't really have a pretrial motion practice
8 in criminal court, which I think we desperately
9 need.

10 **MR. SCOTT:** Judge, the situation in Woods
11 is wholly just separate and apart from what
12 we're dealing with here. Again, that was a
13 change of venue situation. The judge said the
14 State's consent was not binding, not a judge's
15 ruling.

16 **THE COURT:** Let me just read Rule 4 here.
17 Everybody be at ease just a moment.

18 **(WHEREUPON, there is a pause.)**

19 **THE COURT:** Okay. Here's what I'm going to
20 do after further reflection, I'm going to
21 incorporate in full the suppression hearing that
22 was done in camera in the last trial in July and
23 allow either side to supplement the record in
24 any manner it wishes to supplement. If there's
25 anything new on the issue of suppression that

1 the State wants to put forth, I will allow the
2 State too.

3 And then if the defense wants to have any
4 of the officers testify as far as cross-
5 examining them on any new matters, you said you
6 come across something in the video that maybe
7 was not discovered last time, I'll allow you to
8 do that. So anything new that either side wants
9 to put in. I just again, upon further
10 reflection, since I was the trial judge, I
11 certainly have notes concerning the suppression
12 hearing. We have a record of the suppression
13 hearing that could be obtained from that court
14 reporter, if necessary. But I will be glad if
15 either side wants to put in anything new. Okay.

16 So does the State have anything in addition
17 that they want to put forth on this issue?

18 **MR. SCOTT:** In regards to the suppression
19 hearing, I do not, Your Honor.

20 **THE COURT:** Okay.

21 **MR. SCOTT:** I read a brief, I think, in
22 regards to the suppression hearing last time
23 that we could certainly incorporate in this
24 particular trial, but nothing new, Your Honor.

25 **THE COURT:** All right. Mr. Wise, is there

1 any witnesses you want to have called to cross-
2 examine?

3 **MR. WISE:** Yes, I would. I would like to
4 -- first of all, I would like to sequester the
5 witnesses.. I would like to cross-examine Mr.
6 Brewer.

7 **THE COURT:** All right. Okay. Any position
8 on sequestration by the State?

9 **MR. SCOTT:** I don't, Your Honor, only that
10 it be reciprocal. I don't know who all these
11 people are.

12 **THE COURT:** Okay.

13 **MR. WISE:** They are all relatives. They're
14 not witnesses.

15 **THE COURT:** Okay. All right. Okay. And the
16 only witness you want to cross-examination for
17 this purpose is Officer Brewer?

18 **MR. WISE:** Right now. I want to cross-
19 examine ---

20 **THE COURT:** Sure...

21 **MR. WISE:** --- Officer Craven also.

22 **THE COURT:** All right. Solicitor, if you
23 will take care of that. Just leave Officer
24 Brewer in here. He evidently will be the first
25 one.

1 All right, Madam clerk, will you swear
2 Officer Brewer in please?

3 **DAVID BREWER**

4 having first been duly sworn, testifies as follows:

5 **DIRECT EXAMINATION**

6 **BY MR. WISE:**

7 Q Officer Brewer, we've been over this one
8 other time. I'm sure you're well aware.

9 A Yes, sir.

10 Q Is that working?

11 A I believe it is.

12 Q Yeah. Very good. Very good. At this
13 point on the night of that arrest, you see the car
14 door open on Officer Craven's car. Did you see him --
15 when we were showing it before you got on the stand,
16 did you see him walk over towards your car?

17 A Yes, sir. I'm not sure if that was his car.
18 There was also another officer there.

19 Q Okay. But he was walking toward that car?

20 A I'll be honest with you, I didn't pay
21 attention to it.

22 Q All right. Well, let me go back here.
23 Please go back about 10 or 15 seconds.

24 (WHEREUPON, the video is played.)

25 **BY MR. WISE:**

1 Q Stop it right there.

2 All right. Now that was you and Officer
3 Craven?

4 A Craven. Yes, sir.

5 Q He was going off camera toward the car?

6 A Yes, sir.

7 Q And you were coming around to get in the
8 car?

9 A That's correct.

10 Q You were with Mr. Pulley at that point?

11 A I believe I walked back to my patrol car,
12 yes.

13 Q And you and Mr. Pulley were in the car
14 together?

15 A At some point in time. I can't -- without
16 seeing that entirely, I can't tell you exactly when I
17 got in the vehicle.

18 Q Okay. In a minute, we're going to hear you
19 and Mr. Pulley have a conversation. Do you remember
20 that conversation?

21 A Yes.

22 MR. WISE: Okay. Crank it back for me.

23 (WHEREUPON, the video is played.)

24 BY MR. WISE:

25 Q Now, that's Officer Craven going down

1 toward --

2 A That's correct.

3 MR. WISE: All right. Go ahead.

4 (WHEREUPON, the video is played.)

5 BY MR. WISE:

6 Q All right. Now, you just said I found a
7 bunch of pot in here, whose is this.

8 A That was found in his pocket ---

9 Q Correct.

10 A --- prior to him being put in my patrol
11 car.

12 Q Do you know who found it?

13 A No, sir.

14 Q All right. Did you have it with you in the
15 car?

16 A No, sir.

17 Q So you had no marijuana in the car?

18 A No, sir.

19 MR. WISE: All right. Keep going.

20 (WHEREUPON, the video is played.)

21 BY MR. WISE:

22 Q All right. That was Officer Craven coming
23 back towards your car, correct?

24 A I apologize. I was trying to listen to the
25 tape so I wasn't looking at it. But I assume, yes,

1 sir.

2 Q The same person with gloves on?

3 A That's correct.

4 MR. WISE: Okay. Go ahead.

5 (WHEREUPON, the video is played.)

6 BY MR. WISE:

7 Q Did you hear -- you mentioned something
8 about showing some marijuana or mentioning marijuana
9 to Officer Craven?

10 A No, sir.

11 MR. WISE: All right. Go back about 10
12 seconds.

13 And listen carefully. We may have to get
14 the volume up.

15 (WHEREUPON, the video is played.)

16 BY MR. WISE:

17 Q Let me ask you this, when Officer Craven
18 came back to the car, did you discuss any marijuana
19 with him?

20 A I don't recall. Like I said, he began to
21 struggle when we took him out the car, but he was
22 definitely patted down and searched before he went
23 into the car. So any marijuana that was found was
24 found prior to him entering in my car.

25 Q Do you know who did that? You don't know

1 who patted him down and searched him?

2 A Well, we were both holding him up. He was
3 struggling the whole time.

4 Q I understand. You don't know who patted
5 him down and found it?

6 A I believe it was Patrick.

7 Q All right. Whoever found it would have
8 submitted a document with the City of Laurens is the
9 person who found it, wouldn't they?

10 A That's correct.

11 Q Do you have any of those documents with
12 you?

13 A I don't.

14 Q Okay. In fact, do they still exist?

15 A They should be in evidence, yes, sir.

16 Q They what?

17 A When he -- the officer that found the
18 marijuana should have dropped it as evidence.

19 Q All right. And should sign something on
20 it?

21 A That's correct.

22 Q All right. We're nonjury so I'm going to
23 ask you this. When I requested those documents, the
24 chief informed me they had been a destroyed when the
25 case was dismissed. Would that be consistent with

1 your policy?

2 A I don't know what case.

3 Q The marijuana possession charge.

4 A That's not -- that's beyond my pay grade.

5 Q All right. All right. Play that again.

6 (WHEREUPON, the video is played.)

7 BY MR. WISE:

8 Q You don't recognize that as saying
9 marijuana and Officer Craven saying for real?

10 A No, sir.

11 Q All right. And so you didn't turn in the
12 marijuana?

13 A No, sir.

14 Q All right. Thank you. That's all I have.

15 THE COURT: Solicitor, any questions?

16 CROSS-EXAMINATION

17 BY MR. SCOTT:

18 Q Once he was stopped, uh, he was driving
19 under suspension, correct?

20 A That's correct. That's the reason he was
21 placed under arrest.

22 Q That was the initial reason you placed him
23 under arrest?

24 A That was the prior knowledge from Officer
25 Craven's personal dealings with him in the past.

1 Q In fact, he admitted he was driving under
2 suspension, correct?

3 A Yes, he did.

4 Q It was your testimony that Craven found the
5 marijuana in the pants?

6 A Yes, sir. Like I said, when he got out of
7 the car, he basically trying to run into the store.
8 Once we stopped him, even after the handcuffs was on,
9 there was a struggle. It's been my professional
10 experience that when someone struggles, especially
11 after the handcuffs have been on, that he is trying
12 to prevent you from finding something. So -- and it
13 was located in his pants pocket, the marijuana,
14 incident to arrest.

15 Q And at some point after he found it, Craven
16 indicated to you that he had found the marijuana?

17 A That is correct.

18 Q Then at some point after that, that was
19 when you sat in the car and spoke with Mr. Pulley
20 about the marijuana?

21 A Right. And I don't recall. But like I
22 said, if it was placed in my car, Craven might've put
23 it in my front seat -- my vehicle was the first one
24 there -- for security reasons, if he even put it in
25 there. I don't recall him putting it in my patrol

1 car.

2 Q Okay. I think one of the issues -- let me
3 just ask the question. What was the order? Was the
4 marijuana found first or was the crack cocaine found
5 first?

6 A The marijuana was found first.

7 Q All right. Thank you.

8 THE COURT: Mr. Wise, anything?

9 **RECROSS EXAMINATION**

10 **BY MR. WISE:**

11 Q Just a couple of questions. You've seen
12 this video, haven't you?

13 A It's been since July, yes, sir.

14 Q All right. Do you know if the marijuana
15 was ever shown on camera on this video like the crack
16 cocaine was?

17 A It was not.

18 Q It was not? So whoever found the
19 marijuana, they would show it on the video?

20 A Not necessarily. Like I said, due to the
21 struggle and due to us -- matter of fact, one of our
22 patrol cars is still damaged because of his struggle
23 with Mr. Pulley up against the car even after he had
24 his handcuffs on.

25 Q All right. But the struggle by Mr. Pulley

1 didn't prevent the crack cocaine from being shown on
2 camera?

3 A He was already placed in my patrol car in
4 the back seat at that particular time.

5 Q All right. Do you know who found the money
6 in the pocket?

7 A No, sir.

8 Q All right. Do you recall the crack cocaine
9 being shown on camera on this very early in the
10 video?

11 A I do. It was placed upon the hood of my
12 patrol car.

13 Q At about 3:30 -- three minutes -- well,
14 roughly 3:30 on the video tape?

15 A I don't remember exactly what time it was.

16 Q Okay. And he -- when Officer Craven found
17 the marijuana, when did he tell you?

18 A I don't recall. It was found during the
19 initial pat down of Mr. Pulley prior to him being put
20 in my patrol car.

21 Q Okay. All right. When we look at this,
22 who's mic are we listening to? Whose video is this?

23 A It could be a combination of both. If he
24 -- if Officer Craven was there, it could be picking
25 up his body mic.

1 Q What I am saying is what we have here is a
2 camera from a car?

3 A That's correct.

4 Q Who's car?

5 A That's my car.

6 Q That's your car?

7 A Yes.

8 Q You are wearing the body mic?

9 A Yes, sir.

10 Q So we hear your voice clearer than some
11 other voices?

12 A That's because there's a microphone in the
13 vehicle also, in the rear of the vehicle.

14 Q But when you are outside the vehicle, we
15 hear your voice better than others because the body
16 mic is on you?

17 A The body mic is on me, Yes, sir.

18 Q Okay.

19 A It's receiving into my car.

20 Q If you were to have the body mic on and I
21 were talking to you on this video, your voice would
22 be more distinct and louder than mine?

23 A Most of the time.

24 Q Okay. All right. You could still hear
25 people talking to you?

1 A That's correct.

2 Q You don't recall at what moment that
3 Officer Craven ever told you that he found marijuana
4 on Mr. Pulley?

5 A No, sir.

6 Q You don't know if Mr. Craven actually found
7 the marijuana because you said you didn't know who
8 found it?

9 A I didn't find it. The only officers that
10 were there were me and Officer Craven.

11 Q One of the officers earlier?

12 A At that particular time, there was only two
13 officers.

14 Q One officer leaves after the cocaine is
15 found?

16 A That's correct.

17 Q So there were three officers there when the
18 initial stop occurred?

19 A No, sir. There were only two officers
20 there at the initial stop.

21 Q All right. And one shortly thereafter?

22 A That's correct. Because we assisted or we
23 asked for assistance because Mr. Pulley was
24 struggling. We were trying to control him and we
25 requested additional officers.

1 Q You and Officer Craven was right next to
2 Mr. Pulley when he was struggling and arguing with
3 y'all.

4 A And when he was fighting with us, yes, sir.

5 Q All right. Correct?

6 A Yes, sir.

7 Q Thank you.

8 THE COURT: Solicitor, anything?

9 MR. SCOTT: No, Your Honor.

10 THE COURT: Officer Brewer, I think this
11 was asked of you last time. The marijuana was
12 found by police officers prior to the search of
13 the car; is that correct?

14 THE WITNESS: That is correct.

15 THE COURT: All right. Thank you, sir.
16 Anything further?

17 MR. WISE: Nothing further of this
18 witness.

19 THE COURT: All right.

20 MR. WISE: Like to call Officer Craven.

21 THE COURT: Okay. Would you get Officer
22 Craven?

23 Come on up, Officer Craven, to the stand.

24 **PATRICK CRAVEN**

25 having first been duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. WISE:

Q Officer Craven, you are no longer with Laurens Police Department?

A That's correct.

Q I assume you haven't had a chance to really review this since we were in court last time?

A Correct.

Q Tell us, if you could or would -- go back to about -- let me ask the question first. When you found the crack cocaine, you put it on camera in front of -- you put it on the hood in front of the camera?

A Yes, sir.

Q Held it up in front of the camera and described the contents?

A Yes, sir.

Q Is that correct?

A As far as I can remember, yes, sir.

Q Okay. Is that something you are trained to do?

A For the most part, we try to do that.

Q You don't want anybody accusing you of finding something that wasn't there?

A Correct.

1 Q You put it on camera soon as you found it?

2 A Yes.

3 Q Did you ever put any marijuana on camera in
4 this video?

5 A No, sir.

6 Q You did not?

7 A No, sir, not that I can remember.

8 Q Okay. You found the crack cocaine in the
9 car?

10 A Yes, sir. Do you recall discussing the
11 marijuana with Officer Craven shortly after you came
12 back to the car from going down and talking to the
13 tow truck operator?

14 A No, sir. I don't.

15 Q You don't?

16 A No, sir. Okay. Did you fill out any
17 paperwork on the marijuana?

18 A As far as I remember, there was paperwork
19 done.

20 Q Excuse me.

21 A As far as I remember, there was paperwork.

22 Q You haven't got any of that; do you?

23 A No.

24 Q When do you say that you found the
25 marijuana?

1 A If I recall, I believe it was during the
2 struggle when Mr. Pulley have been taken back to the
3 ground after he tried to get away from us.

4 Q You had the marijuana in your hand at that
5 point?

6 A That I can recall, yes.

7 Q All right. When you bought the crack
8 cocaine up to the car and showed what you found, are
9 you saying that you had the marijuana at that point?

10 A At that point, no, I don't believe so.

11 Q You don't believe so.

12 (WHEREUPON, the video is played.)

13 BY MR. WISE:

14 Q That was you with the crack cocaine?

15 A Yes, sir.

16 Q Keep going forward a little bit.

17 (WHEREUPON, the video is played.)

18 BY MR. WISE:

19 Q That is you with the crack cocaine?

20 A Yes.

21 Q Your testimony is at that point you don't
22 think the marijuana had been found otherwise you
23 would have shown it to the camera too?

24 A I'm not saying that.

25 Q What are you saying?

1 **A** I'm saying the crack cocaine was obviously
2 put on camera. I don't recall putting the marijuana
3 on the camera.

4 **Q** At that point, you found the marijuana?

5 **A** As far as I can recall, yes, sir.

6 **Q** Do you know where it was on your person at
7 that point?

8 **A** My person, no, I don't recall.

9 **Q** All right. Did you find money in the
10 pocket?

11 **A** Money in the pocket?

12 **Q** Do you know who did?

13 **A** I don't recall.

14 **Q** It was found by somebody?

15 **A** Yes, sir.

16 **Q** But you don't know who found the money?

17 **A** I believe it was around the same time.

18 **Q** Excuse me?

19 **A** I believe it was around the same time.

20 **Q** Around the same time. But there you are
21 with basically three bags of crack cocaine?

22 **A** Yes, sir.

23 **Q** All right. And you don't know where the
24 marijuana is at that point; is that what you are
25 telling me?

1 A If I had to recall, if memory serves me
2 right, I do believe that it was probably left still
3 in his pocket during the struggle.

4 Q Excuse me?

5 A It was placed back in his pocket during the
6 struggle if my memory calls.

7 Q Placed back in his pocket?

8 A Yes.

9 Q After y'all found it, you put it back in
10 Mr. Pulley's pocket?

11 A Yes, sir. Because of the struggle if I
12 remember correctly.

13 Q Okay. Then it was found later by somebody
14 else?

15 A I don't know. I couldn't tell you.

16 Q All right. Thank you.

17 **CROSS-EXAMINATION**

18 **BY MR. SCOTT:**

19 Q Let me ask you this. What do you mean you
20 put it back in his pocket?

21 A If memory serves correctly, we struggled
22 with Mr. Pulley initially when we first met him, when
23 we encountered him. He pulled away from us. We had
24 to struggle with him again. He was taken to the
25 ground because of the struggle.

1 At that time, we really hadn't had a chance
2 to search him prior to that time. If I remember
3 correctly, we were searching him while he was on the
4 ground. It was found and placed back in his pockets
5 because he was still struggling with us.

6 Q The man's pants came off; didn't they?

7 A They were down to his ankles.

8 Q He was struggling so hard his pants came
9 down to his ankles?

10 A Yes.

11 Q Okay. Did they ever come off all the way?

12 A No, sir.

13 Q Okay. All right. So he is struggling so
14 hard he won't comply and his pants fall off and you
15 finally subdue him. Is it at that point that you
16 check his pockets for marijuana?

17 A Yes, sir. If I recall, we searched him
18 incident to arrest when he was taken to the ground
19 the second time.

20 Q Okay.

21 A That was the only time we had due to the
22 struggle with him.

23 Q What was it -- I'm trying to figure out.

24 I'm not trying to trick you. What was the answer you
25 gave to Wise about putting the marijuana back in his

1 pocket. Surely, you wouldn't have put it back in his
2 pocket before --

3 **MR. WISE:** Objection. Leading the
4 witness a little bit.

5 **THE COURT:** This is in camera. I will
6 allow a little leading to get through this.

7 **BY MR. SCOTT:**

8 **Q** Surely you wouldn't have put the marijuana
9 in his pocket and then put him in your patrol car.
10 That's not what you're saying, is it?

11 **A** As far as I recall, no. But it was --
12 where it was at, to get him back up on the ground
13 between me and Officer Brewer -- he's a relatively
14 large man compared to myself and Officer Brewer.

15 **Q** Okay. Mr. Wise asked you why you didn't
16 show the marijuana on the video. But you also found
17 some digital scales.

18 **A** Yes, sir.

19 **Q** You didn't show that on the video?

20 **A** No, sir.

21 **Q** You found 862 bucks, right?

22 **A** Yes, sir.

23 **Q** You didn't show that on the video?

24 **A** No, sir.

25 **Q** Bottom-line question, did you find the

1 marijuana before you found the crack?

2 A Yes, sir.

3 Q Okay. Thank you.

4 (WHEREUPON, the video is played.)

5 **REDIRECT EXAMINATION**

6 **BY MR. WISE:**

7 Q Do you know who that is?

8 A That?

9 Q Right.

10 A Can you start it back up?

11 (WHEREUPON, the video is played.)

12 **BY MR. WISE:**

13 Q Do you know who said there's no telling how
14 much money is in there?

15 A It sounds like Lieutenant Brewer.

16 Q Excuse me?

17 A It sounds like Lieutenant Brewer.

18 Q Brewer?

19 A That's what it sounds like.

20 Q All right. Keep going.

21 (WHEREUPON, the video is played.)

22 **BY MR. WISE:**

23 Q All right. The money was shown on there,
24 right?

25 A I couldn't see.

1 Q They mentioned the money?

2 A Yes, sir.

3 Q The mentioned the scales?

4 A Uh-huh.

5 Q And they mentioned the marijuana?

6 A Uh-huh.

7 THE COURT: You need to answer verbally.

8 BY MR. WISE:

9 Q That's well after Mr. Pulley has left the
10 scene at that point?

11 A Yes, sir. I'm not sure if he is still on
12 the scene at this point or not.

13 Q Did you tell Mr. Craven that you found --

14 A I'm Craven.

15 Q Excuse me. Did you tell Mr. Brewer that
16 you found marijuana on Mr. Pulley?

17 A As far as I can recall.

18 Q When you first found it?

19 A As far as I can recall.

20 Q Thank you.

21 THE COURT: Anything further, Solicitor?

22 MR. SCOTT: No, Your Honor.

23 THE COURT: Mr. Craven, and I'll ask you
24 the same question I asked Officer Brewer. The
25 marijuana was found prior to the finding of the

1 crack, correct?

2 **THE WITNESS:** As far as I can recall, yes.

3 **THE COURT:** And the marijuana was found
4 prior to the search of the defendant's vehicle?

5 **THE WITNESS:** Yes, sir, from what I can
6 recall. Yes, sir.

7 **THE COURT:** You can step down, sir.

8 Mr. Wise, anything further concerning this
9 suppression hearing?

10 **MR. WISE:** One moment.

11 **THE COURT:** Sure.

12 **MR. WISE:** Your Honor, we would like to
13 call Mr. Pulley for the limited purposes -- I
14 forgot what the name of the case is, but there
15 is obviously a case where except for perjury, he
16 can't be questioned about this later.

17 **THE COURT:** That's right. It is for a
18 limited purpose.

19 **MR. WISE:** Right. Right.

20 **THE COURT:** Come around please, sir.

21 **TIMOTHY PULLEY**

22 having first been duly sworn, testifies as follows:

23 **THE COURT:** It's for the limited purpose
24 of the suppression hearing.

25 **DIRECT EXAMINATION.**

1 BY MR. WISE:

2 Q Mr. Pulley, I'm going to ask you some very
3 brief questions about a very short statement in this
4 particular video. You have looked at this video
5 several times?

6 A Yes, sir.

7 Q We spent a great deal of time Saturday
8 looking at it?

9 A Yes, sir.

10 Q All right. Tell us, if you would, when was
11 the marijuana found in your possession?

12 A At the moment when I was placed in the
13 truck, Lieutenant Brewer come back and asked me what
14 that strong smell in the truck. I told him don't
15 worry about the smell, pull up my pants. And then at
16 that time, he went and grabbed my pants and pull them
17 up and said who's marijuana is this.

18 Q Before that point, had any marijuana been
19 found by anybody?

20 A No, sir.

21 Q All right. Was this before or after the
22 crack cocaine was shown for the first time on that
23 video?

24 A That footage there?

25 Q Right.

1 **A** Is that footage there after or before?

2 **Q** When they found the marijuana on you.

3 **A** Uh-huh.

4 **Q** Let me see if I can refresh your memory.

5 Did we make some notes on this video?

6 **A** Yes, sir.

7 **Q** About when was the crack cocaine found?

8 **A** The crack cocaine was found first when they
9 pulled me over and they struggled with me and they
10 put me in the patrol car. They shut the door and
11 they went straight to my car -- well, Lakendra
12 Anderson car and searched the car. After they
13 searched the car, they found the crack cocaine.

14 **Q** About what time did they find the crack
15 cocaine? You can use those notes to refresh your
16 memory.

17 **A** I want to say around 28:13. Somewhere
18 around in there.

19 **Q** We're going by three something, three colon
20 whatever. It is 3 o'clock in the morning.

21 **A** Around about 3:40, I guess.

22 **Q** 3:40 is the marijuana or the cocaine?

23 **A** The marijuana was found at 3:40. The
24 cocaine was found around about 3:30.

25 **Q** Okay. Before the cocaine was shown, not

1 found, but shown -- when it was shown on that, had
2 any marijuana been found?

3 A No, sir.

4 Q Did Officer Craven -- and you listened to
5 the video and you were there in the car?

6 A Uh-huh.

7 Q Correct?

8 A Yes, sir.

9 Q Did Officer Craven say anything about the
10 marijuana to Officer Brewer while you were in the car
11 after it was taken out of your pocket at about 3:40?

12 A Yes, sir. After the marijuana was taken
13 out of my pocket, Lieutenant Brewer told Officer
14 Craven I just found marijuana. Officer Craven reply
15 was you did.

16 Q Or words to that effect? Did he say you
17 did or exactly what did he say?

18 A He said really, you did.

19 Q You heard that on the video?

20 A Yes, sir.

21 Q Thank you.

22 THE COURT: Solicitor.

23 CROSS-EXAMINATION

24 BY MR. SCOTT:

25 Q Mr. Pulley, you don't deny you were driving

1 under suspension that night?

2 A No, sir.

3 Q You knew you weren't supposed to be
4 driving?

5 A Yes, sir.

6 Q What was your license suspended?

7 A I think driving under suspension. Not
8 having a license, South Carolina drivers license.

9 Q Okay. You don't -- how many times do you
10 think you watch the video, dozens, right?

11 A Yes, sir.

12 Q You listened very closely and tried to
13 figure out whose voices was whose?

14 A What I knew whose voices. I knew the whole
15 situation as it occurred because it occurred the
16 night that I was there. I didn't really need the
17 video.

18 Q You were able to tell which one is Brewer
19 and which one is Craven by listening to the voice?

20 A Not by listening to the voice, knowing what
21 happened at the time. Knowing who was there with me
22 at the time that this event took place.

23 Q Wasn't your lawyer just asking you about
24 the video and listened to the video?

25 A He just asked me about the video. Yes, sir.

1 Q Y'all listened to it a bunch of times?

2 A Yes, sir. We done listened to it a bunch of
3 times, but I was at the scene when all that happened,
4 sir. So I know exactly what happened.

5 Q All right. So you remembered driving under
6 suspension?

7 A Yes, sir.

8 Q You remembered that you had been drinking?

9 A No, sir.

10 Q I thought you said something about -- where
11 had you been?

12 A Where have I been?

13 Q Where had you been before that?

14 MR. WISE: Your Honor, I think he's going
15 beyond the scope, the limited purposes.

16 MR. SCOTT: I'm getting to something.

17 THE COURT: If you lay the foundation, I
18 will allow it.

19 THE WITNESS: I been to the Waffle House.

20 BY MR. SCOTT:

21 Q Okay. Did you do a breathalyzer that
22 night?

23 A Yes, sir.

24 Q It had a result, didn't it?

25 A I passed it.

1 Q I know, but it had some alcohol.

2 A 0.01.

3 Q You don't deny that you had marijuana on
4 you?

5 A No, I did not deny.

6 Q Okay. You don't deny struggling with those
7 officers?

8 A I won't deny struggling, but I would say I
9 kept my hands from going back to them. I restrained
10 my hands.

11 Q Okay.

12 A I didn't listen to them directly.

13 Q Eventually, your pants fell down?

14 A Yes, sir.

15 Q You had to be tased at some point?

16 A Yes, sir.

17 Q And so they informed you you were under
18 arrest at some point, right?

19 A They informed me I was under arrest after
20 the whole event took place. That's when I was
21 informed I was under arrest. They read my Miranda --
22 asked me could they read my Miranda after the whole
23 thing took place.

24 Q One of those reasons was you were driving
25 under suspension, right?

1 **A** Yes, sir.

2 **Q** All right. Did you plead to that?

3 **A** Did I plead to it?

4 **Q** Yes.

5 **A** Actually, I started off with a not guilty
6 plea to all of it and then they dismissed all of it.
7 Then they bought it back. Then, they plead some sort
8 of situation with Rauch with driving without a
9 license.

10 **Q** You had a ticket, conviction of that? So
11 you did get arrested and you did get convicted of a
12 driving offense.

13 **A** Driving without a license. The marijuana
14 charge, they dismissed it.

15 **Q** Okay. They got to arrest you for you to
16 eventually get that conviction. And that car, was
17 there anybody else with you that night?

18 **A** Yeah, other people were with me prior to
19 the time.

20 **Q** No, no. Who was in the car?

21 **A** Not at the moment.

22 **MR. WISE:** Your Honor, this is going
23 beyond the --

24 **THE COURT:** I think it is going beyond
25 what I need to hear concerning suppression of

1 the evidence.

2 **BY MR. SCOTT:**

3 **Q** The car was towed, correct?

4 **A** Yes, sir.

5 **Q** Officers had to take the car to tow it,
6 correct?

7 **A** I reckon.

8 **Q** You can see through those windows in the
9 car?

10 **A** I see those windows?

11 **Q** Can you see through those windows in that
12 Dodger?

13 **A** I don't think you can.

14 **Q** You can't see through it?

15 **A** It's got tinted windows. I ain't never
16 looked at it and tried to see if I can see through or
17 not.

18 **Q** You drove it; didn't you?

19 **A** I never tried to see if I can see inside
20 the car. I never took the time out to see whether I
21 could see in it or whether I couldn't see in it.

22 **Q** You just drove to Rauch's office not too
23 long ago, right?

24 **A** No, I didn't drive to Rauch's office.

25 **Q** Who drove it?

1 **A** Ms. Anderson drove it.

2 **Q** Where is she now?

3 **A** I can't tell you where she is. I'm right
4 here.

5 **MR. SCOTT:** Your Honor, I am prepared to
6 argue.

7 **THE COURT:** Mr. Wise, anything further?

8 **MR. WISE:** No.

9 **THE COURT:** You can step down, sir.
10 I'll be glad to listen to very brief
11 arguments.

12 **MR. WISE:** Not to rehash the law on
13 everything, but to go with what I think had been
14 just brought out. I think it defies logic to
15 think that marijuana was found in his pocket by
16 an officer who was no further away from Mr.
17 Pulley and myself, which is probably less than
18 three feet or right at three feet, and no one
19 ever says I found marijuana. The first time
20 marijuana was mentioned on that video is some 10
21 minutes after the cocaine was first shown on the
22 video. I think it justifies logic to think that
23 the marijuana was found first.

24 **THE COURT:** Solicitor?

25 **MR. SCOTT:** Judge, what defies logic is a

1 man who is essentially a Tasmanian devil. So,
2 you're trying to tell me these officers are
3 going to pat him down before they put him in the
4 back of the patrol car? Of course, they will.
5 And that's when they found the marijuana.

6 I want to take this a step further and
7 that's what I was getting at there. Let's just
8 take marijuana out of the equation. We are
9 focusing on the automobile exception. I think
10 we are focusing on that and losing sight of all
11 of these other exceptions that come into play
12 here. We've got plain sight. We've got
13 pictures over here. Your Honor can see it.
14 There's going to be pictures of this that come
15 into evidence.

16 The officers can see within the car.
17 There is a yellow bag that's open, that's crack,
18 visible. You heard that in the last hearing.
19 What you have got is a search subject to arrest.
20 There was a valid arrest. He was driving under
21 suspension. He doesn't deny that. He's
22 resisting arrest. He doesn't deny that. There
23 is a valid arrest and a valid search subsequent
24 to that arrest.

25 Finally, Your Honor, there is an inventory

1 search. That car ain't getting towed without
2 somebody getting behind the wheel and putting it
3 up there. Policy dictates, Your Honor, for the
4 protection of Mr. Pulley, for protection of law
5 enforcement, that they do an inventory search in
6 order to secure values or contraband before they
7 tow that automobile. It was going to be an
8 inevitable discovery. Even if we take this
9 whole marijuana issue out of play, we still have
10 an abundance of other exceptions that come into
11 play.

12 I stand by the fact that that marijuana was
13 found before the crack. That is undisputed
14 testimony. Aside from Mr. Pulley's version, law
15 enforcement has been very consistent with the
16 fact that that marijuana was found before the
17 crack. Again, what defies logic is officers who
18 have training to put this man, after he is
19 behaving how he is behaving, in the back of that
20 patrol car without patting him down. That's
21 what defies logic, Your Honor.

22 **THE COURT:** Thank you very much. Based
23 upon the evidence and arguments made in the last
24 -- in the first case back in July 29th -- I saw
25 that date somewhere?

1 **MR. SCOTT:** Yes, sir.

2 **THE COURT:** -- and based on what is been
3 presented today, I do find that there was
4 probable cause to search the vehicle. I will
5 deny the motion for suppression of the cocaine
6 found.

7 Again, for purposes of the record of this
8 case, in total, everything bought out in the
9 first case concerning the suppression hearing
10 and everything presented in the in camera
11 hearing and the court's ruling is incorporated
12 in total in this proceeding. Okay. Anything
13 further before we get the jury out?

14 **MR. WISE:** Before the jury was selected,
15 I advised the Court I wanted to make my motion
16 concerning the jury strikes.

17 **THE COURT:** That's right.

18 **MR. WISE:** Again, I would point out that
19 Mr. Pulley, due to his record, is looking at a
20 very, very serious 25 years mandatory minimum on
21 this case. To say he only gets five strikes
22 while somebody for grand larceny, which carries,
23 like, 10 years, and perjury, which carry seven
24 years, and several others that are just
25 literally paled in comparison get 10 strikes, is

1 simply denying Mr. Pulley equal protection of
2 the law as far as jury strikes are concerned. I
3 just want to put that on the record.

4 I also want to put on the record too that
5 in seating the jurors in this case, had I had 10
6 strikes, I would've definitely struck jurors 99,
7 80 and 70 had I had 10 strikes. Due to the fact
8 I only have five strikes, I had to use the
9 strikes more sparingly, of course, than if you
10 have five. While I seated 99 and 80, it was
11 solely because of the fact that I had five
12 strikes. Not because I thought they were great
13 jurors for this case.

14 **THE COURT:** Right. As I told you at the
15 last trial, Mr. Wise, I think you make an
16 excellent point, but it would be a matter for
17 the legislature to make some improvements to
18 that statute.

19 **MR. WISE:** Why they won't just pass a law
20 that says if it's a class blank felony, you get
21 10 and anything else you get five and let it go?
22 But they haven't -- you know, they haven't
23 called me and asked me either.

24 **THE COURT:** I'm gonna leave it up to the
25 legislature or the Supreme Court to make a

1 decision in your favor, but I'm going to deny
2 the motion. Anything further before we bring
3 the jury out?

4 **MR. SCOTT:** Two quick things, Your Honor.
5 If we can look at some of the evidence, I think
6 some of these pictures have been stipulated to
7 and possibly the video.

8 **MR. WISE:** Right.

9 **MR. SCOTT:** Just to avoid having to go
10 through them.

11 **MR. WISE:** We made it through the tow
12 truck leaving last time. There was a little
13 subtlety in there that's not relevant in there
14 now because we got it out in this pretrial
15 motion. If you want to cut it off sooner than
16 that, it suits me too. It just doesn't add
17 much.

18 **MR. SCOTT:** Aside from that, we've got
19 some pictures that were pre-marked. I'll have
20 to lay the foundation and everything. I guess
21 it's three pictures.

22 **MR. WISE:** We have no objection to those
23 pictures.

24 **MR. SCOTT:** Judge, finally, I don't know
25 who these people are.

1 **MR. WISE:** Family members.

2 **MR. SCOTT:** They very clearly are close to
3 Mr. Pulley. I see a lot of reaction whenever
4 Mr. Wise makes a point. I see a lot of reaction
5 whenever a video is played.

6 The lady in the checker, I recall her
7 specifically. The jury met with us after the
8 mistrial. They indicated that she was making a
9 lot of gestures toward them, a lot of eye
10 contact, and a lot of, I don't know, just
11 inappropriate like body gestures. I would ask
12 you to inform them that that's inappropriate.
13 If we need to sit them over there, we can do
14 that if they can't refrain. But I don't want
15 them tanking this jury.

16 I ask them also not to be in touch with any
17 of jury members. It appeared to me that they
18 had a list of the jurors. I could be wrong with
19 that. It appears that they were furnished a
20 list of the jury panel today.

21 **MR. WISE:** Yeah.

22 **MR. SCOTT:** I just want to avoid any of
23 that. We've had that happen from time to time. I
24 want to nip that in the bud.

25 **MR. WISE:** For the record, I gave one --

1 I think, the sister, a copy of the jury list to
2 say who they liked and didn't like on the jury.
3 After the jury was qualified, I went and got the
4 list and I still have it.

5 **THE COURT:** Certainly, I don't have any
6 problems with whatever assistance Mr. Wise
7 needed concerning jury selection from family
8 members or whoever you wanted to solicit some
9 help from. I don't have a problem with that,
10 but let me just caution them.

11 I would just make a blanket cautionary
12 statement to everybody in this courtroom that
13 there should be no reaction to anything that is
14 said or done throughout this entire proceeding.
15 If anybody feels like they cannot control their
16 emotions that may be displayed through facial or
17 body damage or anything of that nature, then I
18 would go ahead and instruct you maybe to
19 consider not being in this courtroom.

20 You have a right to be in here. Everyone
21 has a right to be in here other than sequestered
22 witnesses. But I don't want to see anybody
23 making any -- doing anything that would in some
24 way have any affect, positive or negative, on
25 the jury. Okay?

1 All right. With that said, are we now ready
2 to bring the jury out?

3 MR. WISE: Can we take about a five-
4 minute break?

5 THE COURT: We will take no more than a
6 five-minute break..

7 (WHEREUPON, a recess is taken.)

8 THE COURT: Okay. We're back on the
9 record. Let's just make sure we are clear.

10 Mr. Wise, you have no objections to the
11 video and the three photographs coming into
12 evidence?

13 MR. WISE: That's correct.

14 THE COURT: There may be some other
15 exhibits that have been pre-marked that we'll
16 just have to deal with.

17 MR. WISE: And I think we're going to
18 stop the -- we agreed to stop the video --
19 actually anywhere before the tow truck that you
20 want to stop it, you can stop it. That was
21 something involving last time that is not an
22 issue anymore.

23 THE COURT: Okay. All right. Very good.

24 MR. WISE: Because of the way the
25 testimony went last time, I don't anticipate it

1 going this way this time.

2 **THE COURT:** All right. Let's bring the
3 jury out.

4 **(WHEREUPON, State's Exhibits 1 through 4 are**
5 **admitted into the record.)**

6 **(WHEREUPON, the jury enters at approximately**
7 **2:45 p.m.)**

8 **THE COURT:** Thank you very much. Let the
9 record reflect the jury is back in.

10 Ladies and Gentlemen, thank you for your
11 patience. We have been working on some pretrial
12 matters. As a matter of fact, I didn't even go
13 to lunch today working on some things that the
14 lawyers have presented to me. But we are ready
15 to start the trial of this case. Two things we
16 have to do. First thing is have you sworn in as
17 the trial jury.

18 So, Madam clerk, if you would, take care of
19 that please.

20 **THE CLERK:** Please raise -- stand and
21 raise your right hand. If you accept the oath
22 that I'm about to administer, please respond by
23 saying "I will". You shall well and truly try
24 the case of the State versus Timothy Artez
25 Pulley, case Number 2013-GS-30-1581, and a true

1 verdict render according to the evidence and
2 law, so help you God?

3 (WHEREUPON, each juror responds.)

4 THE COURT: All right. The second matter
5 we need to deal with is I need to appoint a
6 foreperson of the jury. If it is a man, it's
7 foreman. If it's a lady, it is a forelady.

8 Now, the foreperson of the jury wears
9 several hats. One hat that they wear is that
10 they need to be the one to monitor the jury to
11 make sure that everyone on the jury has followed
12 the instruction and is following the
13 instructions from me, such as the instruction of
14 not discussing this case among yourselves or
15 anybody that you come into contact with during
16 break.

17 Second hat that the foreperson wears is, if
18 there is a matter involving the jury that some
19 communication needs to be given to the court,
20 then I need someone to serve as spokesperson for
21 the jury. The third hat that the foreperson
22 wears is that when you are given this case to
23 deliberate and make a decision in the case, I
24 need someone to organize those deliberations and
25 monitor those deliberations and see that those

1 deliberations are running as smoothly as they
2 possibly can. I'm confident that all of you
3 would make excellent forepersons, but I can't
4 have all of you being the quarterback so to
5 speak so I'm going to appoint Ms. Griffin.

6 You are the sole female of the 12. I'm
7 going to appoint you as forelady of this jury.
8 What you will need to do the next time you come
9 in after a break, you will have that first seat
10 right there, okay?

11 Now, Ms. Edwards, you are the alternate.
12 Now, your role as alternate is very, very
13 important. It's not unusual -- even though we
14 don't anticipate the trial taking very long,
15 it's not unusual that because of illness or an
16 emergency at home or for some other reason that
17 I have to excuse a person on the jury. I've
18 already done that already. Then if that
19 happens, I need someone to take the role of one
20 of the 12 because you have heard all of the
21 testimony and evidence presented. Your role is
22 very, very, very important. Certainly, if you
23 remain an alternate and no one is excused then
24 you would not participate in the deliberations.
25 Your function here is very important. You will

1 always maintain the last seat on the back row.

2 Okay?

3 Everybody else, you can sit where you like.

4 I know Mr. Agnew needs to kind of keep that seat

5 there. But everybody else, you can sit wherever

6 you want to or you can sit in the same seat if

7 you'd like. Okay?

8 Now, I need to give you a preliminary

9 instruction to kind of get you on board with

10 what we'll be doing here today. Again, we're

11 starting the trial of the case of the State of

12 South Carolina versus Timothy Artez Pulley.

13 Now before we actually began, I want to

14 tell you that this trial probably will be

15 different from what you might expect. Many

16 people do not have the chance to attend actual

17 court sessions as you're doing right now; and

18 they think from watching television or movies or

19 reading books that trials always full of high

20 drama and intense action and riveting

21 circumstances. And while all of these things

22 may be true at times, this trial is not for

23 anyone's entertainment. It is a fundamental part

24 of our democracy, a search for the truth and an

25 effort to make sure that justice is done between

1 the parties before the court. Searching for the
2 truth and making sure that justice is done is
3 often slow, deliberate and repetitive. The
4 opposite of what you may have seen on television
5 or seen in movies or read in books.

6 This courtroom is a place of honor
7 dedicated to the protection and preservation of
8 citizens' rights, to what many have called to be
9 the greatest justice system ever created. The
10 attorneys appearing before you are advocates for
11 the parties they represent. First and foremost,
12 they are officers of the court sworn to uphold
13 the integrity and fairness of our judicial
14 system and to help you in a search for the
15 truth. You should expect them to be
16 professional, competent and ethical in the
17 representation of their clients' interests,
18 which I'm confident that they will be. And you,
19 as jurors, are expected as well to be
20 professional, reasonable and ethical. I'm going
21 to take this opportunity to thank you for
22 accepting this responsibility for jury service
23 and for your contribution today and for the
24 remainder of the week to our justice system.

25 Now, I will not charge you at this stage on

1 the law in this case. I will instruct you on
2 the law applicable to this case at the end of
3 the trial before you retire to consider your
4 verdict. I just want to explain a little bit of
5 the procedure that will follow so that you may
6 better understand what may be happening as we
7 get started.

8 First of all, you're not permitted to take
9 any notes. Consequently, that means that you
10 must be very attentive to everything that goes
11 on during the course of this case. Don't let
12 your mind or your thoughts wonder. Listen very
13 attentively to everything that goes on during
14 this trial.

15 Now, as I told you before you were actually
16 selected, I told the panel that the indictment
17 filed in this court charges Mr. Pulley with a
18 crime, Trafficking in Crack Cocaine. As I told
19 you, there are only just allegations in the
20 indictment. It is not proof of any guilt on the
21 part of Mr. Pulley. It is just the mechanism,
22 the document that gets us to where we are today.

23 The defendant, Mr. Pulley, has pled not
24 guilty to this charge. Therefore, the State has
25 the burden of proving each and every element of

1 the indictment beyond a reasonable doubt. It
2 will be your duty at the conclusion of this
3 case, Ladies and Gentlemen, to decide whether or
4 not the State has met that burden.

5 Your purpose as jurors is to find and
6 determine the facts. You are the sole judge of
7 the facts. If, at any time, I make any comment
8 regarding the facts, you must disregard it.

9 You are to determine the facts from the
10 testimony you hear and any other evidence
11 introduced in court. It is up to you to
12 determine the inferences which you feel may
13 probably be drawn from the evidence. It is
14 especially important that you perform your duty
15 of determining the facts diligently and
16 conscientiously. The reason for this is because
17 ordinarily, there is no way to correct an
18 erroneous determination of facts by a jury.
19 Now, you are the sole judge of the facts.

20 The same law that makes you the sole judge
21 of the facts makes me the sole judge of the law.
22 The law as given by the court is the only law
23 that you can consider. Again, I will do that at
24 the conclusion of this case. You must accept
25 and follow it even though you may disagree with

1 it. I can't tell you what the facts are; and
2 you can't tell me what the law is or what the
3 law should be. Your job is to take the law as I
4 give it to you and apply it to the facts as you
5 find them from the testimony of the witnesses
6 and any other evidence that may be introduced in
7 this trial. After doing that, you will then
8 render your verdict, the verdict under the
9 solemn oath that you just took as jurors.

10 Again, and I can't overemphasize this, is
11 that you cannot discuss this case, anything
12 about this case, any of the facts about this
13 case between yourselves or anybody else until I
14 tell you to begin your deliberations. Now, what
15 is also equally important is that you cannot
16 conduct any independent research about this
17 case, about the particular charge involved or
18 anything related to this case on your own. Your
19 verdict must be based 100 percent on what is
20 presented in this courtroom.

21 We have ready access to a wealth of avenues
22 to obtain information, the Internet and the
23 like. You cannot engage on your own any
24 independent research on any computers, cell
25 phones, anything of that nature. I don't think

1 there would be any media account of this in
2 newspapers or on TV or on the radio. But if
3 that were the case, you cannot consider that as
4 well. Again, your verdict must be based 100
5 percent on what is presented in this courtroom.

6 Now, there may be times that one of the
7 lawyers may say I have an objection or, Judge, I
8 have a matter of law to take up with the court.
9 It may require me to excuse you from this
10 courtroom to your jury room. I understand that
11 they are working on the air conditioner and it's
12 not very pleasant back there. Hopefully, they
13 can get that fixed soon for you. But the reason
14 for that is for me to make a particular ruling
15 on whatever objection or legal issue that the
16 lawyers have, I may have to comment on the
17 facts. I don't want to do that in your
18 presence. We'll try to do the best we can to
19 have conferences, what we call sidebar at the
20 bench, to discuss those matters and we will use
21 that as much as we possibly can.

22 It is so important, Ladies and Gentlemen,
23 to keep an open mind and not decide any issue in
24 this case until all the evidence is in; and I
25 have instructed you on the law; and the lawyers

1 have made their closing arguments. It is your
2 solemn responsibility to determine the guilt or
3 innocence of the defendant. Your verdict must
4 be based, and it will have to be a unanimous
5 verdict, solely on the evidence as it is
6 presented to you and the law as I instruct you.

7 The State will go first and present their
8 case. Then the defendant has the right to put
9 up a case but has the right not to put up a
10 case. And then after that is done, the lawyers
11 will make the closing arguments to you and I
12 will instruct you on the law.

13 I will ask the State any objections to the
14 court's preliminary charge.

15 **MR. SCOTT:** No, Your Honor.

16 **THE COURT:** And from the defense?

17 **MR. WISE:** Can we approach?

18 **THE COURT:** Sure.

19 (WHEREUPON, a bench conference is held off the
20 record.)

21 **THE COURT:** Okay. Other than what was
22 noted by the defense, any other objections or
23 exceptions?

24 **MR. WISE:** Other than those, no, Your
25 Honor.

1 **THE COURT:** Okay. Thank you very much.
2 Is the State ready to start with opening
3 argument?

4 **MR. SCOTT:** We are, Your Honor.

5 **THE COURT:** Thank you very much. You may
6 proceed.

7 **MR. SCOTT:** May it please the court?

8 **THE COURT:** Sure.

9 **MR. SCOTT:** Accountability.
10 Accountability. That's going to be the theme of
11 this case. All right? This is a drug case. It
12 is about crack cocaine. It is trafficking, but
13 accountability is really what this case is
14 about. I want y'all to remember that as the
15 central theme here. Okay?

16 Imagine, for me, if you will, this
17 scenario. You've got a son. His name is
18 Johnny. Little Johnny loves cookies. You just
19 baked a dozen cookies. You put them in the
20 proverbial cookie jar; and you put it in the
21 kitchen; and you told little Johnny don't touch
22 those cookies until after dinner. I know you
23 want them. I know they smell good, but don't
24 touch those cookies until after dinner. That's
25 the only thing I'm asking of you.

1 You leave the kitchen. And a short while
2 later, you realize you must've left something in
3 there. For whatever reason, you go back into
4 the kitchen. As you approach the door, you hear
5 some scrambling. You open the door just in time
6 to see little Johnny perched up there on the
7 countertop right beside the cookie jar. The
8 lid's off the jar. There's a chocolate chip
9 cookie sitting right here within arm's reach of
10 little Johnny. And just before you can grab him
11 on the shoulder, he jumps off the counter,
12 scurries to the next room.

13 You chase after him. Why is he running? I
14 think we know why he's running. You catch him
15 in that next room. As you grab a hold of his
16 shoulder to take him back to the scene of the
17 crime, he is resisting. He is fighting you for
18 all it's worth. Just like a scolded puppy, he's
19 digging his heels in. He doesn't want to go
20 back in there and face what he's done.

21 You take him back in there. Johnny,
22 explain this. Cookie right on the counter. The
23 jar with the lid off of it. What is going on
24 here? All he can do is muster a look at you
25 with those sheepish little eyes and say I didn't

1 do it. But Johnny, it's just you and me in this
2 house. Your sister isn't even home. It's just
3 you and me. I didn't do it. It wasn't me.
4 Accountability. Little Johnny, that's a trait
5 he lacked.

6 I think as the evidence unfolds, you're
7 going to find that is a trait that Mr. Pulley
8 lacks. Consider this set of facts, the night of
9 July 23rd, 2015, at 3:20 a.m., all right? North
10 Harper Street. Do y'all know where that is?
11 Come out of here take a left on Hillcrest.
12 There is a McDonald's and some kind of gas
13 station. There is a KFC. Take a left there.
14 That's that North Harper extension.

15 Coming back this way -- I guess that's
16 southbound -- Officer Craven -- that's him right
17 there with the tie -- and then Brewer, who is
18 sitting right next to him, those are Laurens
19 Police Department officers. That night, they
20 are on routine patrol. Again, it's 3:20 a.m.
21 Some people say nothing good happens after
22 midnight. Probably even less happens around
23 3:20 a.m. that's good.

24 But what they see is a blue Charger and
25 it's speeding. So they get behind it. They

1 follow it and it continued to speed. I reckon
2 him doesn't realize the police are behind him.
3 They hit the blue lights.

4 The Charger pulls into that McDonald's I
5 just referenced right there. It doesn't stop
6 immediately like a lot of people would do and
7 like law enforcement would hope you would do
8 when you hit the blue lights. It circles around
9 the McDonald's. It passes, I don't know, a
10 dozen or so empty parking spots before it
11 finally pulls up sort of radically, that it hits
12 the curve and comes to a stop.

13 The driver is Mr. Pulley here. He ain't
14 sitting in the car. He is getting out. He is
15 putting some distance between he and that car as
16 officers tell him, hey, where are you going?
17 Stop. We need to talk to you about something.
18 You're speeding. Just let us investigate this a
19 little bit. He's trying to put some distance
20 between he and that Charger though, to the
21 extent that they finally have to stop him at the
22 door of the McDonald's and say come on back
23 here.

24 He ain't coming back there. Just like
25 Johnny, little Johnny who knows that he had done

1 something wrong and knows he is about to be
2 confronted with the evidence of his crime, Mr.
3 Pulley is digging his heels in. He ain't going
4 back over there to that car. He's going to put
5 some distance between he and that car.

6 Officers have to struggle with him about
7 seven or eight minutes. They have to struggle
8 with him so hard that the pants come off. They
9 struggle with him so hard they must say stop
10 resisting twenty-something times. I'm going to
11 let y'all count. By the way, we've got all this
12 on video. Did I mention that? They eventually
13 have to tase the man. They put him in the
14 patrol car. He's under arrest. He's the only
15 person in that Charger, okay?

16 Here is where we get to the meat of this
17 case. After they get him in the patrol car,
18 they go back to the car and say what in the
19 world is going on here. What is this man
20 fighting us so hard for? Why is he acting like
21 this Tasmanian devil -- is what came to my
22 earlier for me.

23 The reason becomes clear pretty quick.
24 There was a yellow plastic bag just right behind
25 him, within arm's reach behind the driver's seat

1 of the car he was driving. It's open. It has
2 three bags. They are full of crack cocaine.

3 Officers go, oh, that's why he didn't stop
4 immediately when we pulled into the McDonald's.
5 That's why he was running from the car. That's
6 why he was resisting. But they do find that
7 crack cocaine.

8 That's the case, guys. It's on the
9 officer's video. But just like little Johnny,
10 Mr. Pulley is saying it wasn't me. That's not
11 mine. It didn't make sense with little Johnny.
12 It doesn't make sense with Mr. Pulley either.

13 The charge he has that he is facing that
14 we're presenting to you guys of trafficking
15 crack. That is a legal term.

16 Judge, do we have an indictment?

17 **MR. WISE:** It's right there.

18 **MR. SCOTT:** A legal term in the statute is
19 crack trafficking crack cocaine between 10 grams
20 or more but less than 28 grams. The evidence is
21 going to be that he had about 16 and a half
22 grams of crack. Square in the middle of that
23 threshold. When I say threshold, that's what
24 trafficking is.

25 There is a bunch of different ways you can

1 be guilty of trafficking in drugs. You can
2 distribute them. You can possess them. You can
3 buy them. The key thing is a threshold weight.
4 That's what separates it from mere possession of
5 crack. That's what bumps it up to trafficking
6 crack.

7 Once you reach a threshold weight -- with
8 crack cocaine, it is 10 grams. If I possess
9 nine and a half grams of crack, I'm merely just
10 in possession of crack cocaine. Once it gets to
11 be 10 grams or higher, I am a trafficker of
12 crack cocaine. That's just a legal term of art.
13 That is all it means is he was in possession of
14 more than 10 grams of crack. We're going to have
15 SLED analysts here that weighed it, tested it,
16 found it to be 16 and a half grams of crack.

17 We're going to have another person here I
18 intend to have testify to the street value of
19 that kind of dope. I expect him to say it was
20 about \$1000 a gram, so about \$1600 of crack
21 cocaine sitting in the back of his car. \$100 a
22 gram. I'm sorry.

23 Those are the facts, guys. You know, I
24 mean much like -- there's going to be some other
25 legal issues. That's trafficking. I hope y'all

1 understand that. The judge is going to describe
2 that later. We're going to have a closing.
3 We'll probably have another shot at describing
4 that to you.

5 That's all it means though. He possessed
6 crack in excess of 10 grams. The evidence is
7 going to be that it was 16 and a half grams.
8 He is going to say it wasn't mine. I'm driving
9 this car. I'm clearly behind the wheel. The
10 keys are in my hand. You saw me driving it, but
11 it wasn't mine.

12 The theory is something called constructive
13 possession. You remember little Johnny? You
14 didn't catch him with that cookie in his hand
15 eating it. He had taken it out of a jar and it
16 was sitting within arms -- arms -- I keep
17 wanting to say arm's length -- arm's reach of
18 him. That's in his constructive possession.

19 Much like this cup you've probably seen me
20 carrying around today. That's mine. It's not
21 in my hand right now, but it's within my control
22 and dominion. Another legal term of art that
23 y'all are going to have to talk amongst
24 yourselves about and get more instruction on
25 later.

1 But when you are operating a car and you
2 have your purse and you put it in the driver's
3 seat right beside you, it's in your constructive
4 possession. It's not on your shoulder. If you
5 have a concealed weapons permit or something and
6 you put your pistol in your center console, it's
7 not in your hand, it's in your constructive
8 possession. That's what this case is about.

9 It's a trafficking crack cocaine case. The
10 theory is it is in his constructive possession.

11 That's going to be the facts of the case,
12 guys, 3:30 a.m., speeding, not stopping
13 immediately. Turns out he's driving under
14 suspension. Resist -- you're going to hear this
15 -- for something like six, seven minutes. He's
16 resisting with these two officers to the extent
17 that he's gotta get tased. \$1600 worth of crack.
18 He had over \$800 in his pocket. That's what
19 we're going to present to you guys.

20 Accountability. That is the theme of this
21 case. It sounds like the defense in this case
22 is it's not mine. Does that make any sense to
23 you guys? The judge said one of your duties is
24 going to be that you're going to have to take
25 this oath. You're going to be professional --

1 professional, reasonable and respectful.

2 Reasonable, what does your reason tell you?
3 What does your reason tell you about little
4 Johnny, the only one in the house caught right
5 there with the cookie with the jar open. What
6 will your reason and logic tell you about Mr.
7 Pulley? At the end of this case, that is going
8 to be what we're going to ask you to do, find
9 him guilty of trafficking. That is the only
10 reasonable outcome. That is the only reasonable
11 verdict.

12 I just ask you guys to be patient. This is
13 going to be a pretty quick trial. We're going
14 to be done probably mid-afternoon tomorrow, I
15 suspect. We're not going to waste your time.
16 We're going to get through this as quick as we
17 can. Please be attentive. Please just -- I
18 know I said accountability is the theme of the
19 case, but the theme for the jury always should
20 be common sense and reasonable. At the end of
21 this case, I'm going to ask you to find Mr.
22 Pulley guilty of that crime, trafficking crack
23 cocaine. Thank you.

24 **THE COURT:** Thank you, Solicitor.

25 Mr. Wise.

1 **MR. WISE:** Madam Forelady and Lady and
2 Gentlemen of the jury, this is what we call a
3 constructive possession case. At the end of the
4 case, the judge is going to charge you basically
5 what the requirements are. This is it. This is
6 what you need to pay attention to in this trial.

7 A judge friend of mine used to always say
8 the purpose of a trial is just one purpose,
9 that's to find out if the State can prove the
10 case. That's it. The trial serves no other
11 purpose. Can the State prove the case?

12 Here is what the State has taken --
13 undertaken to prove when they talk about
14 constructive possession. Three things. If any
15 one of these three are missing, then the state's
16 case is not there. If any one of these three
17 haven't been proven beyond a reasonable doubt,
18 the state's case is not there.

19 Number 1, knowledge that the drugs were
20 there.. The State has to prove that Mr. Pulley
21 knew the drugs were there. Second, they have to
22 prove intent, that he intended to use those
23 drugs or not necessarily use them or take them,
24 but intended to exercise some dominion and
25 control. And thirdly, the right to exercise

1 those things.

2 Let me give you some examples of that. If
3 someone gave you a box that was sealed and said
4 carry this across the street, you may have had
5 the intent to control that box because that's
6 what you agreed to do. You may have had the
7 right because the person told you to take that
8 box across the street. If that box contained an
9 illegal drug, you would not have the knowledge
10 required to make you guilty of possession of an
11 illegal drug. That's one thing the State has to
12 prove.

13 By the same token, that is Mr. Scott's cup
14 there on the table. I have knowledge that that
15 cup is on the table. All right. I have -- I
16 may want to grab that cup because I like it. I
17 have the intent to possess that cup. But
18 because I have not been given the authority to
19 grab that cup from Mr. Scott, I do not exercise
20 dominion and control over that cup and the case
21 has not been proven.

22 By the same token, I see the cup on the
23 table. Dale looks at me and says you like my
24 cup, you can have it. I say I don't like your
25 cup. I don't want it. I have the knowledge

1 that the cup is on the table. I have the right
2 to exercise dominion and control because he gave
3 it to me, but I do not have the intent because I
4 don't want to. That's why all three elements
5 have to be established before the State has
6 proven its case.

7 Let's talk about little Johnny. First of
8 all, being caught with your hand in the cookie
9 jar is not a crime in the state of South
10 Carolina as far as I know; and it doesn't have
11 to be proven beyond a reasonable doubt. That's
12 the first thing you need to know.

13 Secondly, it illustrates some things that I
14 think you need to remember too during this
15 trial. There is no other reasonable explanation
16 other than little Johnny had his hand in the
17 cookie jar. His mother put the cookies in the
18 jar. Johnny knew the cookies were in the jar --
19 in the jar, so he had knowledge.

20 She comes back in there. His sister is not
21 there. His brother is not there. His father is
22 not there. There is no one else in the house.
23 There is a cookie on the counter. The only, the
24 only reasonable explanation is little Johnny
25 took that cookie out of the jar. So therefore he

1 had knowledge, he had the intent and, probably,
2 you know, arguably didn't have the right because
3 the mother didn't give it to him, but he
4 intended to take that cookie and eat it. But
5 that's the only reasonable explanation.

6 What you are looking at here is whether or
7 not the State has proven its case. One of the
8 factors you need to know is this was not Mr.
9 Pulley's car. If you recall, you were asked by
10 the judge in opening questions, do you believe a
11 person is responsible for everything found in
12 somebody's car that they are not the owner of.
13 If you had stood up and said yes I do, you
14 wouldn't be sitting here. All right?

15 The question is can the State -- has the
16 State proven at the end of the testimony the
17 three elements required for constructive
18 possession. I think you will find when it's
19 over that they haven't. Therefore, they haven't
20 met that burden of proof. And the State -- the
21 proper verdict in the case should be not guilty.
22 Thank you.

23 **THE COURT:** Okay. Thank you very much,
24 Mr. Wise.

25 Ladies and Gentlemen of the jury, we're

1 going to take a very short break before we start
2 in with the state's case. I got you some candy
3 that you can take back to the jury room. The
4 Kit Kats and all of the Lifesavers are not
5 sugar-free. Everything else is sugar-free. You
6 can take that back with you. We'll get you back
7 out shortly.

8 Again I remind you don't begin any
9 discussions related to this case among
10 yourselves. I'll see you in just a few moments.

11 (WHEREUPON, the jury exits at approximately
12 3:16 p.m.)

13 THE COURT: All right. We will be in
14 recess about 10 minutes.

15 (WHEREUPON, a recess is taken.)

16 THE COURT: Okay. We're back on the
17 record.

18 All right. Mr. Wise, you want to -- uh, at
19 the conclusion of the court's preliminary
20 charge, we had a brief sidebar conference and,
21 uh, you made objection to -- I guess you are
22 referring to the very first part of the
23 preliminary charge regarding the use of the word
24 searching for the truth or something to that
25 effect. Anyways, put on the record whatever you

1 feel like you need to put on there.

2 **MR. WISE:** On at least two occasions, I
3 think it's three, the Court used the phrase
4 search for the truth.

5 **THE COURT:** Right.

6 **MR. WISE:** That phrase has been disfavored
7 by courts of this state in State versus Daniel,
8 which is 401 S.C. 251, 737 S.E.2d 473, 2012.
9 Seeking searches -- seeking charges -- telling
10 the jury to seek things, which this would be
11 equivalent to the same thing. It's also
12 disapproved by our Supreme Court in State versus
13 Needs 333 S.C. 134, 508 S.E.2d 857, a 1998 case.
14 I was going to request a curative instruction in
15 which you simply instructed the jury that when
16 you instructed them to -- that their duty is to
17 search the truth, that was an error. That their
18 duty is to determine whether or not the State
19 has proven the case beyond a reasonable doubt.
20 I think that would --

21 **THE COURT:** I'm really interested in
22 reading those two cases because the charge that
23 I give and, as you know, is given by most
24 circuit court judges simply because the Chief
25 Justice herself, uh, has highly recommended that

1 we charge that additional charge. So when I
2 take -- get a recommendation from the chief, I
3 take that as a mandatory directive to do that.
4 With that said, give me those cites again
5 please, sir.

6 **MR. WISE:** State versus Daniel, 401 S.C.
7 251.

8 **THE COURT:** Okay.

9 **MR. WISE:** 737 S.E.2d 4--

10 **THE COURT:** I don't need the Second. Just
11 give me the South Carolina.

12 **MR. WISE:** And then State versus Needs
13 333 S.C. 134.

14 **THE COURT:** Okay. Got you.

15 **MR. WISE:** The interesting thing about
16 that -- I understand. I read the charges on the
17 judicial website. I understand. In State
18 versus Daniel, the concurring opinion, Justice
19 Toal said, thus I join Justice Pleicones'
20 admonition to the trial courts to restrict his
21 jury instruction to matters of the law and
22 refrain from issuing instructions which runs the
23 risk of depriving defendants of their right to a
24 fair trial. The issue in Daniels was that
25 search for the truth or seek the truth.

1 **THE COURT:** All right. All right. Very
2 good.

3 Solicitor, you want to put anything on the
4 record?

5 **MR. SCOTT:** No. I just think it's wild.
6 How do you try a case anymore? What is verdict?
7 That's the Latin term for speak the truth. Is
8 that what a verdict is in Latin?

9 **THE COURT:** I'm going to deny your motion,
10 but I will read those two cases. I can always
11 decide with you, but, right now, your motion is
12 denied.

13 Let me just put on the record you had one
14 request for voir dire. I'm just going to read
15 that into the record the voir dire question that
16 I did not charge at your request was do, I
17 guess, you hold the belief that African-
18 Americans use or process drugs in greater
19 percentages than other groups. Your other
20 request I did voir dire, but that one I declined
21 to. So just for purposes of the record. Okay.

22 **MR. SCOTT:** Just briefly, Your Honor, for
23 scheduling purposes, I'd like to get these three
24 guys done today and really just two other
25 witnesses after that. Matt -- Sergeant Veal has

1 a doctor's appointment 10:30 or so tomorrow.
2 Would it be possible, just looking ahead right
3 now, for us to start at 9 o'clock tomorrow?

4 **THE COURT:** No, I need to mention to you I
5 won't be able to start until 10:30.

6 **MR. SCOTT:** Okay.

7 **THE COURT:** I've got to speak at a probate
8 judges conference in Greenville.

9 **MR. SCOTT:** Okay.

10 **THE COURT:** It's supposed to be from 9:00
11 to 9:30; and I just tell you that for the sole
12 reason of why I can't start until 10:30. I will
13 go as long as we need to today.

14 **MR. SCOTT:** Okay.

15 **THE COURT:** Even though I understand
16 there's a reception for the law clerks in
17 Greenwood that the Young Lawyers division of the
18 bar is putting on.

19 **MR. WISE:** I don't get invited to those
20 anymore.

21 **THE COURT:** We'll go as long as we need
22 to here and we'll go to that if we can.

23 **MR. SCOTT:** Again, Mr. Stankus has
24 something tomorrow. If we get done with these
25 four, that might push us a little bit pass where

1 we normally work.

2 MR. WISE: 5:30 is fine too, if we're not
3 going to start until 10:30.

4 THE COURT: That's fine. Okay.

5 MR. WISE: Let me send one text out to a
6 guy. (Pause.)

7 Okay.

8 THE COURT: Okay. Let's bring the jury
9 out.

10 (WHEREUPON, the jury enters at approximately
11 3:16 p.m.)

12 THE COURT: All right. Let the record
13 reflect the jury is back in.

14 The State ready to proceed?

15 MS. BOYKIN: We are, Your Honor.

16 THE COURT: Okay.

17 MS. BOYKIN: Thank you, Your Honor. The
18 State calls Patrick Craven.

19 PATRICK CRAVEN

20 having first been duly sworn, testifies as follows:

21 THE CLERK: Thank you.

22 DIRECT EXAMINATION

23 BY MS. BOYKIN:

24 Q What's your full name?

25 A Patrick Craven.

1 Q Were you working with the Laurens Police
2 Department back in 2013?

3 A I was.

4 Q What was your title there?

5 A Patrol officer.

6 Q How long had you been a patrol officer?

7 A Two and a half years there.

8 Q What was your duties as a patrol officer?

9 A Patrol the city limits of Laurens, uh,
10 traffic enforcement, check property, those kind of
11 things.

12 Q What shift were you working?

13 A At that time, I was working a straight
14 night shift, from 7:00 at night until 7:00 in the
15 morning.

16 Q Okay. Were you working with the Laurens
17 Police Department on June 23rd, 2013?

18 A I was.

19 Q Were you working your normal shift that
20 night?

21 A I was.

22 Q So from 7 p.m. till 7 a.m.?

23 A Yes, ma'am.

24 Q Did you happen to become involved in the
25 case regarding Timothy Pulley?

1 A I was.

2 Q Okay. If you don't mind, tell us a little
3 bit about how you came involved.

4 A On the night in question, myself and
5 Lieutenant Brewer, who was here, we went to a call
6 off of North Harper Street, somewhere out there. As
7 we were coming back from North Harper, we observed a
8 blue in color Dodge Challenger come past at a high
9 rate of speed. We came in behind it and began pacing
10 the vehicle. The speed limit at the time was 35
11 miles an hour. We paced him down the road at over 50
12 miles an hour.

13 Q If you don't mind, could you please explain
14 what pacing is?

15 A Pacing is when the vehicle in front of you
16 is doing a speed and we were doing the exact same
17 speed. We weren't gaining any ground. We weren't
18 losing any ground. We were maintaining the exact same
19 distance between both the cars.

20 Q What was the speed that you determined that
21 this car was going?

22 A 50.

23 Q 50 in a 35?

24 A Yes, ma'am.

25 Q Did you activate your blue lights?

1 **A** Yes, ma'am. Myself and Lieutenant Brewer
2 both did.

3 **Q** When you activate your blue lights, do you
4 have a camera system that comes on?

5 **A** Yes, ma'am. We do.

6 **Q** Does that camera system work before the
7 blue lights come on?

8 **A** Yes, ma'am. The camera system was inside
9 the car. They actually continuously record. But once
10 the blue lights come on, it starts a silent period.
11 The video comes on for 30 seconds before the blue
12 lights actually activate.

13 **Q** Officer Craven, I want to show you a
14 picture that has been marked as State's Exhibit 3.
15 Do you recognize that?

16 **A** Yes, ma'am.

17 **Q** What is that?

18 **A** This is a picture looking over North Harper
19 and Fleming Street and the McDonald's.

20 **Q** Okay. Now, if you wouldn't mind helping me
21 out. I have -- here is the laser pointer. Where is
22 North Harper Street?

23 **A** North Harper would be --

24 **Q** Okay. Is this North Harper Street?

25 **A** Yes, ma'am.

1 Q What is that street?

2 A That's Fleming Street.

3 Q Okay. Were you -- what is this right here?

4 A That's McDonald's.

5 Q If I understand correctly, you were going
6 southbound on North Harper Street?

7 A Yes, ma'am. Back towards Fleming Street.

8 Q You were going in this direction?

9 A Yes, ma'am.

10 Q Once you activated your blue lights, what
11 happened next?

12 A Once I activated the blue lights, there is
13 a back entrance that comes into McDonald's. It's up a
14 little more. Back towards -- before that.

15 Q Over here?

16 A Yes, ma'am.

17 Q Okay.

18 A That's the back entrance to the McDonald's.

19 Mr. Pulley pulled in there, and then proceeded to
20 take the right there. Came all the way around the
21 right side of McDonald's in front of McDonald's
22 through the little cut there to the other side of the
23 parking lot and then parked in one of the very last
24 parking spots right there.

25 Q Okay. Let's go back a little slower to the

1 left here.

2 A Yes, ma'am.

3 Q Did he stop anywhere over in this area?

4 A No, ma'am.

5 Q Were your lights on at this point?

6 A Yes, ma'am.

7 Q And he continued this way?

8 A Yes, ma'am.

9 Q Did he stop anywhere in here?

10 A No, ma'am.

11 Q Was the parking lot empty at this time?

12 A There were people in the parking lot. There
13 were some empty parking spots. But there were
14 numerous people in the parking lot at the time.

15 Q What time was this exactly; do you
16 remember?

17 A Between 3:00 and 3:30 in the morning.

18 Q So he continued around and he went around
19 this way, you said?

20 A Yes, ma'am.

21 Q Okay. And did he stop right here?

22 A No, ma'am.

23 Q Okay. And then he continued on?

24 A Yes, ma'am.

25 Q About where did he park?

1 **A** One of the last two parking spots there on
2 the left ---

3 **Q** Okay.

4 **A** --- before you get to the drive-through.

5 **Q** Okay. About right there?

6 **A** Yes, ma'am, somewhere around in a there.

7 **Q** Did he, -- did the way he stop, was that
8 strange to you?

9 **A** The initial not stopping was a little
10 strange. When we took the curve to come around the
11 front of McDonald's, he kind of sped up. When he
12 pulled to the parking spot, if the curb wasn't there,
13 he would have run through the building. I mean, the
14 curb stopped him and kind of stopped the car.

15 **Q** Now when you turn on your blue lights, do
16 your sirens automatically come on?

17 **A** No, ma'am.

18 **Q** At what point did you turn on your siren?

19 **A** We begin to activate the sirens on the
20 right side of McDonald's. Facing this way, it would
21 have been on the left side. Once we came through the
22 front, our sirens are activated to try to get him to
23 recognize us and to stop.

24 **Q** So about right here?

25 **A** Yes, ma'am. Around that area.

1 Q So once he stopped the car, what happened
2 next?

3 A At that time, Mr. Pulley, he exited the car
4 and began walking on the sidewalk back towards the
5 door to McDonald's..

6 Q Was that strange to you?

7 A A little bit. Most people decide they are
8 going to sit in the car once police officers --

9 Q Is that standard for someone to sit in the
10 car?

11 A Yes, ma'am.

12 Q Does it make your suspicion go up if they
13 don't stay in the car?

14 A It does.

15 MR. WISE: Objection, Your Honor. That's
16 a conclusion.

17 THE COURT: Rephrase please.

18 BY MS. BOYKIN:

19 Q If someone were to get out of the car, what
20 would you then do?

21 A I would ask them to either stay in the car,
22 stay right there. Uh, Mr. Pulley's case, we were
23 trying to get him to stay near the car because he was
24 trying to move away from it..

25 Q When the person that was driving the

1 vehicle got out of the car, did you recognize him?

2 A Yes, ma'am, I did.

3 Q Who was that?

4 A Mr. Pulley.

5 Q Can you point to Mr. Pulley?

6 A He is there in the orangish-looking shirt.

7 Q How did you know him?

8 A I actually had a previous dealing with
9 him ---

10 Q Okay.

11 A --- several months prior.

12 Q Okay. When he was walking up to
13 McDonald's, did you eventually make contact with him?

14 A Yes, ma'am.

15 Q Lieutenant Brewer kind of pulled in before
16 I did. I had to go around him. I immediately
17 identified him as, hey, Mr. Pulley, stop, come back
18 to us. He was just trying to move away.

19 Q What happened next?

20 A At that time, we got him back to the car.
21 We advised him he was going to be under arrest for
22 driving under suspension. I knew at that time he was
23 already under suspension for driving under
24 suspension. We attempted to place him under arrest
25 and place him in handcuffs and he began struggling

1 with us at that time.

2 Q Did he advise you he didn't have a license?

3 A Yes, ma'am.

4 Q Were you able to confirm that through
5 dispatch?

6 A Yes, ma'am.

7 Q Is that an immediate arrest, driving under
8 suspension?

9 A Yes, ma'am.

10 Q All right. After you told him he was under
11 arrest, what happened?

12 A Myself and Lieutenant Brewer, we had him
13 against the car trying to place him in handcuffs.
14 Lieutenant Brewer was able to get a handcuff on his
15 left arm. While I was trying to bring his right arm
16 around behind him, he wouldn't give it to us. He
17 struggling and wouldn't comply.

18 MS. BOYKIN: Okay. Your Honor, at this
19 time, with the Court's permission, I ask for
20 Officer Craven to step down and demonstrate on
21 Investigator Bentley how Mr. Pulley was
22 resisting arrest that night.

23 THE COURT: As you do that, be sure when
24 you are away from the microphone and may be
25 facing away from the court reporter that you

1 speak a little louder do you normally do. Okay?

2 **THE WITNESS:** Yes, sir.

3 Like I said, this is the driver's side of
4 the car where Mr. Pulley was. We had him
5 against the car. Lieutenant Brewer actually had
6 his hand behind him with a handcuff on. I was
7 trying to bring his right arm behind him. At
8 that time, he was pulling his arm in, wouldn't
9 give it to us.

10 He was advised numerous times if he did not
11 comply that he was going to be tased. At that
12 time, I moved my taser from my belt, took the
13 end off, and placed it into his back, and
14 activated it, which brought him down to the
15 ground right there to the car. We were able to
16 get both of the handcuffs on that time.

17 **BY MS. BOYKIN:**

18 **Q** Was he saying anything while this was
19 happening?

20 **A** He kept saying he wasn't resisting.
21 Clearly, he was. Otherwise, we would not have had to
22 tase him or tell him to stop resisting.

23 **Q** Did you ask him to stop resisting?

24 **A** Yes, ma'am. Numerous times.

25 **Q** Numerous times. Okay.

1 **A** Yes, ma'am.

2 **Q** And during this struggle -- would you
3 explain a little bit about what happened during the
4 struggle?

5 **A** Once we were able to get Mr. Pulley to his
6 feet -- after tasing him and taking him to the
7 ground, we got him up. He pulled away and began
8 walking away from us again. By that time, we had to
9 grab him and, you know, restrained him again. He
10 actually slammed into one of the patrol cars over
11 there. We had to take him back down to the ground
12 because he was still not complying even after he had
13 handcuffs on.

14 **Q** Were you eventually able to get him in the
15 car?

16 **A** Yes, ma'am. It took a -- we struggled a
17 while, but we were able to.

18 **Q** Where were his pants?

19 **A** At that time, they were around his ankles.
20 They had completely come off during the struggle.

21 **Q** Did you happen to find anything on Mr.
22 Pulley's person during this struggle?

23 **A** Yes, ma'am. While we were on the ground, I
24 was able to find marijuana in one of his front
25 pockets.

1 Q Anything else?

2 A We also found over \$800 in cash.

3 Q Does 862 sound about right?

4 A Yes, ma'am.

5 Q Did you advise Mr. Pulley he was under
6 arrest?

7 A Yes, ma'am. We advised him beforehand that
8 he was being placed under arrest during the time that
9 we initially make contact with him.

10 Q At this point, what's he under arrest for?

11 A At that time, he is under arrest for
12 driving under suspension initially. Once we were able
13 to get the handcuffs on, that's what the initial
14 arrest was for, was driving under suspension.

15 Q Resisting arrest?

16 A Yes, ma'am.

17 Q Based on that, what would happen to the
18 police car?

19 A At that time, it would be towed from the
20 scene.

21 Q Okay. Actually, let me step back for a
22 second. Was this Mr. Pulley's car?

23 A No, ma'am. It was actually in someone
24 else's name.

25 Q Do you know who that someone else was?

1 **A** I believe he said it was his girlfriend's
2 car.

3 **Q** Was his girlfriend in the car?

4 **A** No, ma'am. There was nobody else in the car
5 with him.

6 **Q** So he was all alone in the car?

7 **A** Yes, ma'am.

8 **Q** When you walked up to the car because he is
9 going to jail, what did you observe next?

10 **A** We had another officer arrive on the scene.
11 Once we walked up to the car, we were able to observe
12 a yellow plastic bag behind the driver's seat. It
13 was open. Inside of it, you could see the crack
14 cocaine inside the bag.

15 **Q** Was it clear to you what it was?

16 **A** Yes, ma'am.

17 **Q** I want to show you what's been marked as
18 State's Exhibit 5. Do you recognize this?

19 **A** Yes, ma'am. That is the --

20 **MR. WISE:** Subject, Your Honor, to our
21 position.

22 **THE COURT:** Sure.

23 **THE WITNESS:** That was the crack cocaine
24 from the evidence out of the bag.

25 **BY MS. BOYKIN:**

1 Q How do you recognize that?

2 A The three bags were in these clear bags
3 that were wrapped up that were inside the yellow bag.

4 Q There were inside of a yellow bag. What
5 kind of bag was it?

6 A I believe it was a Dollar General bag.

7 Q At this time, you mentioned earlier that
8 your car was equipped with video equipment; is that
9 right?

10 A Yes, ma'am.

11 Q I just want to show you State's Exhibit 1.
12 Do you recognize that?

13 A Yes, ma'am.

14 Q What is that?

15 A That is the in-car video from the incident
16 in question.

17 Q Have you reviewed that?

18 A Yes.

19 MS. BOYKIN: Your Honor, permission to
20 publish to the jury?

21 THE COURT: Certainly.

22 (WHEREUPON, State's Exhibit 1 is played.)

23 BY MS. BOYKIN:

24 Q Officer Craven, was the car towed after
25 that?

1 **A** Yes, ma'am.

2 **Q** Who's heavy breathing was that?

3 **A** That was Mr. Pulley's.

4 **Q** Where was he at that time?

5 **A** He was in the back of the patrol car.

6 **Q** When I asked you about these drugs
7 beforehand, you said this was North Harper Street; is
8 that correct?

9 **A** Yes, ma'am.

10 **Q** What county is that in?

11 **A** Laurens County.

12 **Q** Mr. Pulley was arrested in Laurens County?

13 **A** Yes, ma'am. In the jurisdiction of Lauren
14 city, yes, ma'am.

15 **Q** I want to show you what has been marked as
16 State's Exhibit 2. Do you recognize that?

17 **A** Yes, ma'am.

18 **Q** What is it?

19 **A** That's one of the bags in front of the
20 camera.

21 **Q** So are these the drugs right here?

22 **A** Yes, ma'am.

23 **Q** That bag, if you wouldn't mind, just
24 explain to us a little bit. You already mentioned it
25 was a grocery bag. Was it open?

1 A Yes, ma'am.

2 Q Okay. Was it clear, kind of see-through?

3 A Yes, ma'am. It was that yellowish tint. You
4 could see through it.

5 **THE COURT:** You need to speak up a little
6 bit, Mr. Craven, please, sir.

7 **BY MS. BOYKIN:**

8 Q Where was this bag found?

9 A It was in the driver's seat in the floor.

10 Q Okay. About how -- arm's reach?

11 A Yes, ma'am.

12 Q Behind where Mr. Pulley would be sitting?

13 A Yes, ma'am.

14 Q Was it covered up with anything?

15 A No, ma'am.

16 Q The bag was open?

17 A Yes, ma'am.

18 Q Could you see what was inside of the bag?

19 A Yes, ma'am.

20 Q Was it in plain sight to you?

21 **MR. WISE:** Objection, Your Honor, she's
22 leading the witness.

23 **THE COURT:** Try to rephrase please.

24 **BY MS. BOYKIN:**

25 Q How did the bag appear to you?

1 **A** The bag appeared to be open. You could see
2 through. Once the driver's door was open, it was
3 plain. It was right there behind the seat.

4 **Q** Can you clearly see what was inside the
5 bag?

6 **A** Yes, ma'am. When you put a flashlight on
7 it, it was plain as day there in the floor.

8 **Q** What did you do with these drugs after you
9 found them?

10 **A** They were placed in evidence inside the
11 Laurens Police Department.

12 **Q** If you don't mind, just kind of go through
13 a little bit of that process.

14 **A** Yes, ma'am. We take the evidence --
15 there's two evidence lockers that are upstairs at the
16 Laurens Police Department. They are like the old
17 mailbox now when you pull the handle and you a drop
18 stuff inside of it. They've got a padlock on the
19 bottom. The only person at the time that had the key
20 to it was John Stankus. Once the drugs were placed
21 in there, he's only person that would be able to get
22 them in and out for evidence purposes.

23 **Q** Okay. That night, did you arrest Mr. Pulley
24 for possession of those drugs?

25 **A** Yes, ma'am. He was also arrested for that.

1 Q Please answer any questions Mr. Wise has
2 for you.

3 THE COURT: Cross-examination.

4 CROSS-EXAMINATION

5 BY MR. WISE:

6 Q Mr. Craven, let's clear one thing real
7 quick. You took Mr. Pulley down to do a DataMaster?

8 A Yes, ma'am.

9 Q He registered .02?

10 A Yes, sir.

11 Q He wasn't charged with driving under the
12 influence?

13 A No, sir.

14 Q Now, you shine the flashlight in the car to
15 see what was in it?

16 A Yes, sir.

17 Q That's when you saw the sack on the back
18 floorboard of the car?

19 A Yes, sir.

20 Q Of course, this was at night. Without a
21 flashlight, you wouldn't be able to see it?

22 A Yes, sir.

23 Q It was in a yellow bag?

24 A Yes, sir.

25 Q I noticed in the video that you had gloves

1 on your hands?

2 A Yes, sir.

3 Q Is that part of your training?

4 A I put gloves on all the time during that
5 time, yes, sir.

6 Q Is that part of your training though?

7 A Some people decide to wear gloves; some
8 decide not to.

9 Q Is it part of your training to wear gloves?

10 A No, sir. Not everybody has to wear them.

11 Q What training did you have in this type of
12 area?

13 A As far as what?

14 Q As far as seizing evidence.

15 A I put my gloves on any time I would search
16 anybody or anything like that.

17 Q What training had you had as far as how to
18 seize evidence?

19 A It was standard procedure. We take them,
20 place them into evidence.

21 Q What school had you been to on seizing
22 evidence?

23 A I went to South Carolina Criminal Justice
24 Academy.

25 Q They taught you techniques of seizing

1 evidence?

2 A Yes, sir.

3 Q You don't seize it with your bare hands?

4 A They don't always tell you that.

5 Q It's a good idea not to.

6 A Yes, sir.

7 Q And it's part of your training to know not
8 to, correct?

9 A Can be.

10 Q One of the reasons is that if you seize it
11 with your bare hands, you can contaminate some
12 evidence and lose possible evidence?

13 A Yes, sir. You could.

14 Q You learned at police academy what you can
15 get off of different items?

16 A To a degree. But they don't really go into
17 that in the basic class.

18 Q Still, you know you can get fingerprints
19 off a plastic bag?

20 A They don't really teach us that, but I
21 guess you probably could.

22 Q You know you can get some DNA off of
23 plastic bag?

24 A It's possible. I don't really know.

25 Q That's one reason you wear gloves, correct?

1 **A** To a degree.

2 **Q** When you sent these items in, did you
3 request that the SLED people test them for either
4 fingerprints or DNA?

5 **A** No, sir.

6 **Q** Didn't at all?

7 **A** No, sir.

8 **Q** In fact, you have listened to that video,
9 correct, before today?

10 **A** Right.

11 **Q** You sat down and talked to Mr. Pulley at
12 some length in the DataMaster room?

13 **A** Yes, sir.

14 **Q** Mr. Pulley never admitted owning these
15 drugs, correct?

16 **A** Not that I can recall.

17 **Q** All right. He admitted only the marijuana;
18 didn't he?

19 **A** I don't remember the DataMaster. I don't
20 have that video.

21 **Q** You don't remember questioning him about
22 that in the video in the DataMaster room?

23 **A** No, I haven't watched the video.

24 **Q** All right. Let me get -- let me see if
25 this refreshes your memory too. You don't have to

1 play all of it.

2 MR. SCOTT: It might need to be marked,
3 Your Honor, and some foundation laid on this. I
4 think it is a separate video.

5 MR. WISE: It's a separate video. I
6 would ask him if he recognize it in a minute.

7 THE COURT: We probably need to have it
8 marked after it's played, marked for
9 identification.

10 MR. WISE: We will mark it for
11 identification right now.

12 THE COURT: Just mark the envelope.

13 MR. WISE: Just mark it for identification.

14 (WHEREUPON, Defendant's Exhibit 6 is marked for
15 identification purposes.)

16 BY MR. WISE:

17 Q If you run it to, uh, 4:04 and about 30
18 seconds. Why don't we do this, run it a few seconds
19 first. You recognize that as the video from the
20 DataMaster?

21 A Yes, sir. It looks like it.

22 Q All right. Run to 4:04 and about 30
23 seconds.

24 MR. SCOTT: Judge, my only thing, I think
25 before he publishes it, it's going to have to

1 come in as some sort of evidence before he
2 publishes it to the jury.

3 **THE COURT:** Come up here, lawyers.

4 (WHEREUPON, a bench conference is held off the
5 record.)

6 **BY MR. WISE:**

7 **Q** You recognize this is the video?

8 **A** Yes, sir.

9 **MR. WISE:** Your Honor, I move to admit
10 it.

11 **THE COURT:** Okay. That's without
12 objection. It is Defendant's Exhibit 1.

13 **COURT REPORTER:** Your Honor, that's
14 Defendant's Exhibit 6.

15 **THE COURT:** Oh, I'm sorry.

16 **MR. WISE:** We've already had some others.

17 **THE COURT:** Okay. I didn't know that. It
18 is 6 then.

19 (WHEREUPON, Defendant's Exhibit 6 is admitted
20 into the record.)

21 (WHEREUPON, Defendant's Exhibit 6 is played.)

22 **BY MR. WISE:**

23 **Q** Does that refresh your memory that he
24 denied the crack was his, but the marijuana was his?

25 **A** Yes, sir.

1 Q Okay. And that's basically the only
2 conversation you had with him about it?

3 A Yes, sir.

4 Q Y'all had some 20, 30 minutes there in that
5 video room to talk?

6 A Yes, sir.

7 Q Y'all talked about a bunch of stuff?

8 A Yes.

9 Q That's pretty -- you know, to have had the
10 disagreement y'all had earlier, y'all had a pretty
11 civil conversation in the DataMaster room; didn't
12 you?

13 A As far as I can recall.

14 Q All right. Thank you. That's all.

15 THE COURT: Anything, Solicitor, in, uh,
16 redirect?

17 MS. BOYKIN: No, Your Honor.

18 THE COURT: Thank you for your testimony,
19 Mr. Craven. You can step down.

20 MS. BOYKIN: Your Honor, we would ask that
21 Officer Craven be excused.

22 THE COURT: Any objection, Mr. Wise?

23 MR. WISE: I don't anticipate needing him
24 back. I assume if we really did, we can get a
25 hold of him. Yeah. No objection.

1 **THE COURT:** All right. Mr. Craven, you
2 are free to leave the courthouse. You are
3 welcome to remain with us. Just make sure that
4 the State were to be able to get a hold of you
5 if for some reason you're needed to be called
6 back, okay, sir?

7 **THE WITNESS:** Yes, sir.

8 **THE COURT:** The State want to call the
9 next witness?

10 **MR. SCOTT:** Yes, Your Honor. Officer
11 David Brewer.

12 **THE CLERK:** Place your left hand on the
13 Bible and raise your right hand please.

14 **DAVID BREWER.**

15 having first been duly sworn, testifies as follows:

16 **DIRECT EXAMINATION**

17 **BY MR. SCOTT:**

18 **Q** Officer Brewer, June 23rd, 2013, you worked
19 with the Laurens Police Department; is that right?

20 **A** That's correct.

21 **Q** You still are employed with that agency,
22 correct?

23 **A** Yes, sir. I am.

24 **Q** What were you doing that night? Was that
25 just routine patrol?

1 **A** Yes, sir. Like I said, we do building
2 checks. We do traffic enforcement. Generally, at
3 that time in the morning, the traffic is at a light
4 pace. Normally, we concentrate on the building
5 checks that we do and answering calls that are given
6 to us.

7 **Q** Okay. You were in the courtroom when we
8 just watched that video?

9 **A** I was.

10 **Q** I assume your testimony largely will be
11 similar to what Craven's was?

12 **A** Yes, sir. It is.

13 **Q** Were you there on the North Harper Street?

14 **A** Yes, sir. We were clearing up a call just
15 north of there when I observed the vehicle coming at
16 a high rate of speed, not knowing that Mr. Craven had
17 already also made that observation. We got behind
18 the vehicle and noticed that the vehicle was
19 continuing at a high rate of speed southbound on
20 North Harper.

21 **Q** Okay. So you and Craven were in two
22 different patrol cars?

23 **A** That's correct.

24 **Q** The video we watched, that's out of your
25 patrol; is that right?

1 **A** Yes, I was the lead vehicle.

2 **Q** I'm calling it a Charger. That's what I
3 said in opening. That's a Challenger? What kind of
4 car was that?

5 **A** I believe it was a Challenger.

6 **Q** Okay. Do you know about how long you
7 followed behind it on North Harper before it turned
8 into that McDonald's?

9 **A** You can see the video where it starts. And
10 just a brief explanation about the video, once you
11 initiate the blue lights, this particular system is
12 set up for like 30 seconds prior to the initiation of
13 blue lights. So around where -- if anybody was old
14 enough to remember where the old Honda shop, Marv's
15 Kitchen closer to the Mill Street side of North
16 Harper.

17 **Q** Okay. So you continued on down North
18 Harper pacing in the vehicle; is that correct?

19 **A** That's correct.

20 **Q** Do you recall the speed you were pacing it
21 at?

22 **A** It was in the -- marked 50 to 53 miles an
23 hour.

24 **Q** Okay. In looking at the video, it seems
25 like the blue lights come on right about the entrance

1 of the McDonald's.

2 **A** That's correct. At that particular point,
3 I felt like that when I noticed that he was turning,
4 that was an area that would be clear from other
5 traffic which would provide safety for him as well as
6 the officers that were stopping.

7 **Q** Okay. To your knowledge, was there any
8 reason he didn't stop immediately right there at the
9 McDonald's?

10 **A** No, sir. That brought the awareness up.
11 Anytime somebody -- and these are brand-new patrol
12 cars which have the halogen lights on them. So not
13 to be able to see us, I mean, they actually blind
14 people. We had complaints of officers. And we've
15 actually been asked to turn the front lights off
16 during traffic stop because they are so bright.

17 **Q** Okay. All right. So, he didn't stop right
18 there once he pulled into the McDonald's. He swings
19 right?

20 **A** That's correct. He made a right. If you
21 will see, there are several pedestrians that walked
22 across the roadway as well as other vehicles leaving
23 the driveway as far as picking up the food that they
24 had ordered. He liked to have clipped one of those
25 also.

1 on your hands?

2 A Yes, sir.

3 Q Is that part of your training?

4 A I put gloves on all the time during that
5 time, yes, sir.

6 Q Is that part of your training though?

7 A Some people decide to wear gloves; some
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9 McDonald's?

10 **A** No, sir. That brought the awareness up.
11 Anytime somebody -- and these are brand-new patrol
12 cars which have the halogen lights on them. So not
13 to be able to see us, I mean, they actually blind
14 people. We had complaints of officers. And we've
15 actually been asked to turn the front lights off
16 during traffic stop because they are so bright.

17 **Q** Okay. All right. So, he didn't stop right
18 there once he pulled into the McDonald's. He swings
19 right?

20 **A** That's correct. He made a right. If you
21 will see, there are several pedestrians that walked
22 across the roadway as well as other vehicles leaving
23 the driveway as far as picking up the food that they
24 had ordered. He liked to have clipped one of those
25 also.

1 Q I was a little surprised. 3:20 a.m.,
2 there's that many people at that restaurant?

3 A McDonald's is a very -- I believe I talked
4 with the manager. That's the heaviest McDonald's in
5 this area.

6 Q Okay. But anyway, there was some people
7 over there. There was a lot of empty parking lots
8 over there. Is that what you recollect?

9 A Most of the customers they have at that
10 particular morning are drive-through customers.

11 Q He didn't pull into those spots?

12 A No, sir. And there were several on the
13 right-hand side if you noticed in the video that he
14 failed or did not choose to use those parking spaces.

15 Q Then it's kind of like a horseshoe. He
16 kind of bears left and then goes to the other side of
17 the restaurant?

18 A There is a cut-through that you can go from
19 the right side to the left side. If you'll notice on
20 the video, he actually accelerated and got out of my
21 camera view for a brief period of time before I
22 caught back up with him. The reason the video is not
23 clear -- I apologize. But if anybody's ever been to
24 McDonald's, they will notice that parking is on the
25 left and right. So there is a very narrow driveway

1 that goes through. That particular time, the patrol
2 car was unable to make that swing to put the video
3 camera on the door or on the position of the vehicle.

4 Q All right. Tell what you observed whenever
5 he finally comes to a stop at that parking spot.

6 A Well, it's like Officer Craven explained to
7 you, the sidewalk kind of stopped him. He went into
8 the sidewalk. You can see the vehicle bounce back on
9 the sidewalk. It's not normal -- a normal-sized
10 sidewalk. This is approximately 6 to 8 inches from
11 the pavement height-wise on the concrete sidewalk.
12 But as soon as the vehicle started rocking or stopped
13 rocking, he exited the vehicle with what appeared to
14 be a fast pace, which actually elevated my
15 observation even more so. He headed straight to the
16 front door of McDonald's.

17 Q The first thing you talked about
18 heightening your awareness was him not stopping
19 immediately. Then you say, once the car hit the
20 curb, he's immediately out of the car?

21 A Yes, sir.

22 Q It's a brisk kind of pace?

23 A Almost a run, and he's a big fella. It was
24 almost a run. Matter of fact, there was a car parked
25 to his left. I had to go between to the car to his

1 left and the sidewalk to cut him off and get into the
2 door of McDonald's first.

3 Q Okay. And what's he saying?

4 A At first, what is it; what you want; what
5 you need. By that time, Craven had pulled up. He
6 had also met us on the other side of him. That's
7 when he told me -- he identified Mr. Pulley by name.
8 He also said I just dealt with him very recently. He
9 had prior knowledge that his driver's license were
10 under suspension. At that particular time, he was
11 told that he was being placed under arrest for
12 driving under suspension.

13 Q Well, by the way, you talked about the blue
14 lights. Y'all have sirens too, right?

15 A Yes, sir.

16 Q Did y'all cut them on at any point?

17 A The sirens, as you notice, were -- I
18 believe, is right there what you explained as a
19 horseshoe. I believe that's when the initial sirens.
20 In my mind, at that particular point, I thought he
21 was going to go back out the rear exit and not stop
22 at all.

23 Q All right. You got the blue lights on, the
24 sirens on and he is briskly walking towards the
25 restaurant. Are y'all telling him to stop right

1 then?

2 **A** Yes, sir.

3 **Q** Is he stopping or what's he doing?

4 **A** Well, at that particular point, he had to.
5 I was in between him and the door. Then Craven had
6 caught up with us on the backside to the rear of
7 McDonald's.

8 **Q** You know, we hear it, but when does the
9 resisting start? You put hands on him after you
10 telling him he's driving under suspension?

11 **A** Yes, sir. I asked him to place his hands
12 behind his back. I got a handcuff on him before he
13 even realized that the handcuff was on his left hand.
14 That's when the struggle began.

15 **Q** He confirmed -- he knew he was driving
16 under suspension, right?

17 **A** That's correct.

18 **Q** You got the left hand back here. What's he
19 doing? Kind of this move right here?

20 **A** More or less like what I explain as a
21 washing machine motion, back and forth, back and
22 forth, trying to keep us from bringing this right arm
23 around.

24 **Q** Okay. If you're going to distinguish
25 resisting arrest. This is sort of a passive kind of

1 resisting. He's not complying, I guess. Would that
2 be fair to say?

3 A It was a little bit pass passive. Someone
4 passively, they just say, no, I'm not gonna put my
5 hands behind my back. He actually took action
6 against the implement -- implement of the handcuffs
7 on his hands.

8 Q You got the one behind his back. He's sort
9 of thrashing back and forth, whatever he can do to
10 keep it off his right hand?

11 A At this point, he is pulling this arm too.

12 Q Okay. You and Craven were trying to subdue
13 him and get the arm back behind him?

14 A Yes, sir.

15 Q Okay. All right. So what happened? Do y'all
16 go to the ground at any point?

17 A We go to the ground. Yes, sir. Like I
18 said, just because of the weight of Mr. Pulley, Mr.
19 Pulley took us to the ground. Once you get on the
20 ground, it's very unsafe for officers. Patrolman
21 Craven, what they called dry stunned -- he did not
22 tase him. He dry stunned on him.

23 Q What's the difference?

24 A Tasing is when you actually discharge
25 cartilage or prongs into the individual ---

1 Q Okay.

2 A --- and they stick in an individual. He
3 took the prongs off.

4 Q Okay.

5 A And he just supplied the taser to him, and
6 it gives a brief shock to the individual. So he did
7 not ride the lightning bolt, as we say, the five-
8 second lightning bolt.

9 Q All right. Well, how long did he have to
10 resist before y'all did do the dry stun? Dry stun or
11 drive stun?

12 A Dry stun.

13 Q How long did he resist before y'all did the
14 dry stun?

15 A It was only a matter of minutes after the
16 dry stun was initiated that he finally gave the arm
17 back around. But then, once the cuffs were put on,
18 he started again when we were trying to put him in
19 the patrol car. There was a brief struggle up
20 against the patrol car. One of the patrol cars still
21 have damage on the side of the vehicle to where he
22 struggled against the patrol car.

23 Q I think we can see it in the video. The
24 camera kind of shakes at some point.

25 A The camera shakes.

1 Q The struggle kind of brings all of y'all
2 against the car or something?

3 A At that particular point, we're trying to
4 pat him down to make sure he don't have any weapons
5 or anything to harm us. Then we're trying to get him
6 clear in order to go in the back seat of the patrol
7 car.

8 Q Okay. All right. So at some point, after
9 this done and after he further resists, you were able
10 to get him in the back of the car?

11 A We were.

12 Q All right. What did y'all find on his
13 person? In other words, was it something in his
14 pants that y'all recovered?

15 A Yes, Lieutenant -- correction, Officer
16 Craven located the marijuana in his pocket.

17 Q All right. What else did he have in his
18 pocket?

19 A He had a large sum of money.

20 Q All right. The testimony was \$862. Does
21 that sound about right?

22 A That's what I was told. I didn't personally
23 have any contact with the money.

24 Q Okay. Uh, and then that wasn't you, I
25 guess, that took the yellow bag out of the back of

1 the car?

2 **A** No, sir. Like I said, once Patrolman
3 Craven located that, we generally try to keep it to
4 one officer as far as possession of the narcotics or
5 any other things that's found on him.

6 **Q** But you saw it; is that right?

7 **A** I think I was sitting in the patrol car
8 when it was placed on the hood of the car.

9 **Q** All right. Anything else that you recall
10 from that night?

11 **A** No, sir, not offhand.

12 **Q** These are flimsy little plastic bags we're
13 talking about, right?

14 **A** Yes, sir. It was -- and I believe Craven is
15 right. It's a Dollar General. It is not see-
16 through, but it is transparent enough that you can
17 see it inside of it.

18 **Q** This whole thing, that McDonald's, that's
19 in Laurens County?

20 **A** Yes, in the city limits.

21 **Q** That's -- oh, was anybody else in the car?
22 Did you witness anybody else in the car with Mr.
23 Pulley?

24 **A** No, sir. There was nobody in the car with
25 him.

1 Q Answer any questions Mr. Wise has for you.

2 THE COURT: Cross-examination.

3 CROSS-EXAMINATION

4 BY MR. WISE:

5 Q Mr. Brewer, did you take the drugs from the
6 scene?

7 A No, sir.

8 Q Who did?

9 A Normally, like I said, I can't -- the
10 officer in which made the charges took possession of
11 the drugs.

12 Q So what you're saying is Officer Craven
13 took possession of the drugs?

14 A That's correct.

15 Q And you never touched them again?

16 A Based on my recollection, I didn't take the
17 drugs. Like I said, there was another officer on the
18 scene. It was either Officer Craven or the second
19 officer that responded to the scene for backup
20 officer.

21 Q Now you have seen that video?

22 A Yes, sir. I have.

23 Q We've looked at a good portion of it.

24 A Yes, sir.

25 Q After Officer Craven left the scene, aren't

1 the drugs still at the scene?

2 **A** I don't recollect. Like I said, there was
3 another officer there. An officer that is no longer
4 employed with the city, he was there also.

5 **Q** All right. Who was that?

6 **A** Andrew Ashley.

7 **Q** All right. He left kind of early on though;
8 didn't he?

9 **A** No, sir. I believe he was there when the
10 drugs were found.

11 **Q** All right. So you are telling us that
12 Officer Craven left the scene with Mr. Pulley and the
13 drugs in his possession?

14 **A** No, sir. I said normally, that's what
15 happens. Like I said, I don't recollect as far as how
16 the drugs got from there to the patrol office.

17 **Q** You don't know how they got -- all right.
18 But you've seen the drugs at the scene on the video
19 after Officer Craven has left, haven't you?

20 **A** Yes, sir. I believe that was Craven that
21 pulled away.

22 **Q** He pulled away with Mr. Pulley?

23 **A** Right.

24 **Q** Then someone else put the drugs in the
25 front of your car?

1 A That's correct.

2 Q So Mr. Craven didn't have them then?

3 A I'm assuming he didn't.

4 Q Excuse me?

5 A I'm assuming he didn't have them.

6 Q He obviously couldn't have had them if he
7 was on his way to the detention center with Mr.
8 Pulley?

9 A Right.

10 Q Okay. What training have you had in
11 handling evidence?

12 A Uh, Just the basic courses that they
13 provide as far as academy courses.

14 Q All right. And when you -- when you send in
15 -- when someone sends in something to SLED, you can
16 request that SLED do things with it?

17 A That's correct.

18 Q You can request that SLED test it for
19 fingerprints?

20 A I think they are getting away from
21 fingerprints on plastic bags. Like I said, there
22 again, that's not my area of expertise.

23 Q But you can request it?

24 A I'm sure you could.

25 Q You can request it be tested for DNA?

1 **A** Yes, sir.

2 **Q** Which is probably more popular now than
3 fingerprints?

4 **A** Yes, sir.

5 **Q** It's a little more easier to get?

6 **A** In this case, it wouldn't be -- you are
7 talking about a Dollar General bag that was probably
8 touched by thousands of customers.

9 **Q** What about the bags that the crack cocaine
10 was in? That would only be touched by whoever had it;
11 wouldn't it?

12 **A** Whoever put them in the bags and they gave
13 them to somebody else.

14 **Q** Who ever touched them would have had it?

15 **A** I'm sure. But it has been my -- it's been
16 my knowledge that most people that deal with drugs on
17 a regular basis, they're smart. They wear gloves so
18 their fingerprints or DNA wouldn't be on the bags.

19 **Q** Did anybody try in this case?

20 **A** No.

21 **Q** You say, I believe, some scales were found?

22 **A** I noticed that they were on the video. I
23 personally did not find.

24 **Q** We don't know whether they could be tested
25 for fingerprints or DNA?

1 **A** Like I said, I saw it on the video. I have
2 no personal knowledge.

3 **Q** So you don't know if anybody tried to get
4 any identification off of the scales?

5 **A** No, sir. No.

6 **Q** Now, actually, I believe Mr. Pulley went
7 out of the sight of your car on two occasions going
8 through that McDonald's parking lot?

9 **A** I'm sorry. Can you repeat the question?

10 **Q** I think Mr. Pulley went out of your sight
11 on two occasions going through the McDonald's parking
12 lot?

13 **A** I know of at least one when he did the
14 horseshoe.

15 **Q** All right. When you came in here and made
16 that right turn here, you lost sight of him there?

17 **A** That could have been a brief second.

18 **Q** Then you lost sight of him up at the top of
19 McDonald's?

20 **A** I didn't lose sight; the video camera did.
21 The video camera won't, but my head will -- my eyes
22 will.

23 **Q** Okay. All right. But right there when he
24 made the right turn coming in --

25 **A** A video camera lost sight of him, yes, sir.

1 Q And, uh, -- and also up here at the top is
2 an exit out of McDonald's back onto a major highway?

3 A That's correct.

4 Q He made no attempt to get out onto a major
5 highway and run away from you?

6 A That's correct.

7 Q He just didn't stop as quick as you thought
8 he should?

9 A He didn't stop as quick as 99 percent of
10 the people that I pull over.

11 Q He made no attempt to get out on the major
12 highway?

13 A No, sir.

14 Q He came in and stopped?

15 A At that point.

16 Q Okay. You talked to Mr. Pulley at some
17 length in that video too?

18 A That's correct. I think that even though
19 we had a brief struggle, for some reason or another,
20 he connected to me better than he did Craven.

21 Q You didn't tase him?

22 A He didn't know who tased him.

23 Q Okay. He said on the video --

24 A He might have found out later who tased
25 him. At the time, I'm sure he couldn't tell who was

1 sticking it to his back.

2 Q In your discussions with Mr. Pulley, you
3 asked him about the marijuana in his pocket?

4 A That's correct.

5 Q He admitted it was his?

6 A That's correct.

7 Q He never admitted the crack cocaine was
8 his?

9 A Not to me, no, sir.

10 Q Okay. Thank you.

11 THE COURT: Anything on redirect,
12 solicitor?

13 MR. SCOTT: Your Honor, just briefly.

14 REDIRECT EXAMINATION

15 BY MR. SCOTT:

16 Q Nobody else in that Challenger?

17 A No, sir. Nobody else in the car.

18 Q Okay. Arms -- sorry, arm's reach of Mr.
19 Pulley?

20 A From either arm, yes, sir, left or right.

21 Q Directly behind the driver seat?

22 A That's correct.

23 Q Did you feel a real need to fingerprint
24 that bag right there?

25 A No, sir. There was nobody else in the car.

1 There was no other reason to fingerprint it. Like I
2 said, to my understanding, especially the Dollar
3 General bags, there's so many people done handled
4 that. And like I said before, it's been my
5 experience that people who deal with drugs, they even
6 got smart enough where they keep the money and the
7 drugs -- if they usually carry the money and the
8 drugs, it's usually in a separate pocket so money
9 doesn't -- is not contaminated by the drugs. So if
10 they wear gloves, there is no reason to do a DNA
11 test.

12 Q Were you presented with any evidence that
13 night that that crack belonged to anyone other than
14 the person in the car with it?

15 A No, sir. That's the reason we didn't do a
16 DNA. There's no reason to do DNA if that was the
17 only person that had an opportunity to possess that
18 narcotic.

19 Q Okay. All right. Thank you.

20 THE COURT: Any cross?

21 RECROSS EXAMINATION

22 BY MR. WISE:

23 Q You found out that night that car belonged
24 to a third party?

25 A I believe Mr. Pulley's words, it belonged

1 to a friend girl.

2 Q I believe he actually told you at one point
3 that it belonged to Lakendra Anderson?

4 A I believe that's correct.

5 Q You don't know, because you have no
6 information, how long that stuff had been on the back
7 floorboard of that car; do you?

8 A No, I do not.

9 Q It could have been there two weeks, two
10 days, two minutes?

11 A That's correct.

12 Q You have no clue how long?

13 A That's correct.

14 Q All right. If it had been there two weeks,
15 good reason to test it since it's not his car; isn't
16 it?

17 A No, sir. Like I said, he is not charged
18 with -- he's the only one in the car. He's only one
19 had possession at the time.

20 Q Right.

21 A At the time.

22 Q But you don't know how long the drugs been
23 in the car either; do you?

24 A I'm sure that a drug dealer is not going to
25 leave \$1600 worth of drugs --

1 Q You don't know how long the drugs --

2 A No, sir. I do not.

3 Q Thank you.

4 THE COURT: Thank you, Officer Brewer.
5 Thank you for your testimony. You may step down.

6 MR. SCOTT: Sergeant Matt Veal, Your
7 Honor.

8 THE CLERK: Place your left hand on the
9 Bible and raise your right hand please.

10 MATT VEAL

11 having first been duly sworn, testifies as follows:

12 DIRECT EXAMINATION

13 BY MR. SCOTT:

14 Q Everybody wants to know what's going on
15 with your leg.

16 A I had a incident with another suspect where
17 we had to chase him and I ended up getting hurt and
18 tore my ACL.

19 Q Okay. So you are in law enforcement.
20 You're with the Sheriff's Department; is that right?

21 A Yes, sir, the Laurens County Sheriff's
22 office.

23 Q Okay. What are your primary duties with the
24 Sheriff's office?

25 A I am a narcotics investigator.

1 Q Okay. That's all you do pretty much is
2 drug cases?

3 A Yes, sir.

4 Q How long have you been in that position?

5 A Seven years this month.

6 Q Okay. About how many -- we're talking
7 about all the illegal narcotics; is that what you
8 investigate?

9 A Yes, sir.

10 Q Illegal pills?

11 A From prescription medication to crack
12 cocaine to methamphetamine, heroin, ---

13 Q Okay.

14 A --- powder cocaine, marijuana.

15 Q About how many -- in seven years, about how
16 many drug cases you think you've been involved with?

17 A Wow. Over 1000.

18 Q Okay. Part of your job is, I guess,
19 explain what a CI is. That's something that us
20 prosecutors and you law enforcement know about. But
21 explain to the jury what a CI is.

22 A A CI is a confidential informant. It's who
23 we, as law enforcement -- there's only three of us in
24 narcotics. We use people that is familiar with the
25 drug trade to actually purchase, you know, purchase

1 illegal narcotics for us in a controlled environment.
2 They're confidential because we try to keep them --
3 we try to keep them confidential. We don't want
4 anybody to know that we are actually using them. If
5 they were buying drugs for themselves, they would do
6 the same exact trade. We're actually watching so
7 nothing would deviate from it. We use those folks to
8 help us catch the drug dealers.

9 Q Would you say you gain a lot of local drug
10 knowledge from talking with these CIs?

11 A I learned a lot.

12 Q As far as local drug culture, you would
13 learn things like who the big dealers are and how
14 much cocaine, crack or marijuana is going on the
15 street at any time?

16 A Yes, sir. We have to know that. Like I
17 said, we pay for it. We have to know how much
18 quantity they would be purchasing and, in turn, give
19 them the correct amount of money to purchase the
20 narcotics that they would be accustomed to buying.

21 Q Tell me if you agree with this. Let's just
22 say, I guess, a scenario here. If you arrested a guy
23 with a little bit of marijuana and he came to you and
24 said, hey, if you can reduce my charge or if you can
25 help me out with this charge, I will go and buy some

1 dope from you. You would give him government funds
2 and he would go to a drug dealer and buy, you know,
3 crack cocaine or heroin or something like that. He
4 would help you make arrests on, I guess, a bigger
5 fish. That's kind of the idea, right?

6 **A** Yes, sir. I mean, in this scenario, if we
7 found someone with a little bit of marijuana,
8 normally, we could give him the option of helping
9 with -- what we term helping himself out. If he
10 would tell us who his supplier is and make a purchase
11 from his supplier, we would then, you know, if he
12 made that buy, we would ask the solicitor's office to
13 help him with the charges as in dismissing the
14 charges or a lighter sentence for helping us to get
15 the next step up the ladder, as you would say.

16 **Q** Okay. So you would be more interested in
17 getting the dealer than the guy who is possessing a
18 small amount or something?

19 **A** Always looking for the bigger person.

20 **Q** Okay. How many CIs do you think you've
21 dealt with in seven years?

22 **A** Several hundred.

23 **Q** My point is through these people, and
24 that's what we were talking about a minute ago, but
25 you gain a lot of specialized drug knowledge?

1 **A** That's right. We learned the lingo that
2 they would call it, how much we would pay for a gram
3 or how much he would pay for a kilo, kilogram, which
4 is 2.2 pounds. We would learn all of those different
5 lingo that the street level, that they would call it
6 versus the legal term.

7 **Q** Okay. And you've testified in General
8 Sessions cases before, correct?

9 **A** Yes, sir, numerous times.

10 **Q** You have been qualified as an expert in
11 multiple drug fields; is that right?

12 **A** Yes, sir. Crack cocaine and
13 methamphetamine.

14 **MR. SCOTT:** Okay. Your Honor, I think at
15 this time, we're going to have Sergeant Veal
16 qualified as an expert on the street value of
17 crack cocaine.

18 **THE COURT:** Okay.

19 **MR. WISE:** No objection.

20 **THE COURT:** Without objection. Give me
21 one moment.

22 Madam Forelady, Ladies and Gentlemen of the
23 jury, normally a person cannot give opinion
24 testimony. Normally when a person testifies,
25 they must testify to what they either saw or

1 heard or sensed by smell or something of that
2 nature.

3 However, there is an exception, when
4 someone is qualified because of education or
5 experience, they are permitted to give their
6 opening in certain areas if the Court qualifies
7 them in that way. I do find that Officer Veal
8 is qualified in the area of determining street
9 value of illegal drugs and can give opinion
10 testimony in the area.

11 That does not mean that you must accept his
12 opinion. It is evidence for you to use in any
13 way you see fit and give it the weight and
14 credibility that you believe is appropriate.

15 You may proceed, Solicitor.

16 **BY MR. SCOTT:**

17 **Q** I just want to be clear. Your testimony --
18 the reason for your testimony is really solely that,
19 to talk about the value of street drugs; is that your
20 understanding?

21 **A** Yes, sir. That's what I understand.

22 **Q** You had nothing to do with Mr. Pulley's
23 situation. That's correct, isn't it?

24 **A** I was not there at the time. Didn't know
25 anything about it.

1 Q Let me ask you, from year-to-year over the
2 last four or five years, have you seen much of a
3 change as far as the street value of crack?

4 A No, sir. I haven't.

5 Q Okay. So what is the current, I guess,
6 street value for a gram of crack cocaine?

7 A On average -- and when I say average, we
8 will find a confidential informant that may be able
9 to get it just a little bit cheaper than what some
10 other person would. But on average, we would say
11 it's \$100 a gram.

12 Q Okay. And now, this case we're talking
13 about was 2013, June 2013. Is that substantially
14 what the crack would have gone for in the streets of
15 Laurens back then?

16 A Yes, sir.

17 Q About \$100 a gram?

18 A About \$100 a gram on average.

19 Q Thank you. Please answer any question Mr.
20 Wise may have.

21 THE COURT: Mr. Wise?

22 CROSS-EXAMINATION

23 BY MR. WISE:

24 Q There has been a such thing as volume
25 discount too, isn't it?

1 A Yes, sir.

2 Q Somebody comes in and buys a kilo of
3 cocaine or crack cocaine, it's substantially under
4 \$100 a gram?

5 A It is usually anywhere from \$26,000 to
6 \$28,500 for a kilo. If you were to do the math, I
7 mean, you probably would get it much cheaper.

8 Q The big guy brings in the kilos. So if
9 somebody brought in a large quantity of crack
10 cocaine, they are priced per ounce to be
11 substantially less than \$100?

12 A Yes, sir. They are trying to make money.

13 Q Isn't it kind of a rule of thumb that it
14 kind of doubles every time it is sold?

15 A I've never heard of doubling. You going to
16 make money off of it.

17 Q Right.

18 A I don't think anybody, from selling drugs
19 to, uh, selling items at Walmart, is not making
20 money.

21 Q So if someone went and sold an individual
22 ounce of crack cocaine, they would get \$100?

23 A Not an ounce, a gram.

24 Q A gram. Excuse me.

25 A Yes, sir.

1 Q Yeah, it's a big difference.

2 A Yes, sir.

3 Q If a person had 10 ounces and was selling
4 10 ounces, 10 grams, they wouldn't expect to get \$100
5 per gram. They would get a little less than that,
6 correct?

7 A Depending on how much many times a person
8 made buys from the individual. If it's a first time,
9 probably not. Maybe if it's the 15th or 16th time
10 that he has purchased it, I would say so.

11 Q The fact that he sold \$100 a gram doesn't
12 mean that the person who owns it paid \$1600 for that?

13 A No, sir.

14 Q Probably paid less, correct?

15 A I would say no less than \$80. I wouldn't
16 think that he would pay any less than that.

17 Q He could have. Then again, depending on how
18 much he bought and how much he's got left over.

19 A That's exactly right.

20 Q Now, when -- you deal with a lot of things
21 that drugs come in, right?

22 A Yes, sir.

23 Q Occasionally, you would ask SLED to do
24 tests on these different things that come in?

25 A Yes, sir.

1 **Q** Sometimes for fingerprints, sometimes for
2 DNA?

3 **A** I have never done DNA, but we've asked for
4 -- we've taken fingerprints before.

5 **Q** Okay. Thank you.

6 **THE COURT:** Anything in redirect,
7 Solicitor?

8 **MR. SCOTT:** Just briefly.

9 **REDIRECT EXAMINATION**

10 **BY MR. SCOTT:**

11 **Q** Give me the approximate value -- let's say
12 I am driving in my blue Challenger down North Harper
13 and I've got 16 grams of crack right behind me.

14 **A** Yes, sir.

15 **Q** What is the approximately value of that
16 merchandise that I am carrying with me?

17 **MR. WISE:** Objection, Your Honor. That's
18 asked and answered.

19 **MR. SCOTT:** We talked about different
20 weights.

21 **THE COURT:** I overrule. You may proceed.

22 **THE WITNESS:** If it is 16.5 grams, you would
23 multiply it by 100. I would say it is \$1650
24 worth of crack cocaine in street value.

25 **BY MR. SCOTT:**

1 **Q** All right. To your knowledge, have you
2 ever attempted to get DNA, in seven years of drug
3 cases off, off a grocery bag?

4 **A** No, sir. I have not.

5 **Q** Have you ever tried to get fingerprints off
6 of one?

7 **A** Not a grocery bag, no, sir.

8 **Q** Okay. Is it your experience that certain
9 surfaces are more conducive to picking up
10 fingerprints?

11 **A** Yes, sir.

12 **Q** I don't know. Something with folds in it
13 and something like that, would that be conducive to a
14 fingerprint?

15 **A** It could have. Maybe -- in this situation,
16 maybe a plastic bag, if it was open or closed rather,
17 it could possibly sweat and have moisture inside that
18 would tamper with a fingerprint. Or someone else
19 actually touching the same -- if you and I were to
20 pick up the same cup, mine and your fingerprints
21 would interrelate with each other. It would be hard
22 for them to identify those fingerprints.

23 **Q** Okay. But is it safe to say -- see, in my
24 thinking, something like a smooth hard surface like
25 this or like Mr. Wise's computer screen, that would

1 be more conducive to a fingerprint. Is that safe to
2 say?

3 A Yes.

4 Q All right. Thank you. That's all I have.

5 THE COURT: Recross.

6 MR. WISE: Just one briefly.

7 **RECROSS EXAMINATION**

8 **BY MR. WISE:**

9 Q They get fingerprints off of plastic -- by
10 putting the plastic in a container with superglue;
11 don't they?

12 A I've never actually done it with superglue,
13 but I've heard that they --

14 Q You heard you can do it that way?

15 A Yes, sir.

16 Q Okay. Thank you.

17 THE COURT: Thank you, sir, for your
18 testimony. You can step down.

19 Let me see the lawyers for just one quick
20 second.

21 (WHEREUPON, a bench conference is held off the
22 record.)

23 THE COURT: Ladies and Gentlemen of the
24 jury, the State, for purposes of today, has one
25 more witness, which they indicate will be

1 relatively short. We're going to try to get
2 that witness up and out and then we will go
3 ahead and break for the day. So just to kind of
4 give you an idea of what we're doing this
5 afternoon. I know you have been sitting for a
6 long time. I don't think there's really any
7 need to break when we have just one more short
8 witness. Okay?

9 **MR. SCOTT:** Your Honor, Captain John
10 Stankus.

11 **THE CLERK:** Place your left hand on the
12 Bible and raise your right hand please.

13 **JOHN STANKUS**

14 having first been duly sworn, testifies as follows:

15 **DIRECT EXAMINATION**

16 **BY MR. SCOTT:**

17 **Q** All right, Mr. Stankus. I guess, it's Mayor
18 Stankus now?

19 **A** That's correct.

20 **Q** Back in 2013 though, you were with the
21 Laurens Police Department?

22 **A** Yes, sir.

23 **Q** You were in the, uh, -- I guess you were
24 the evidence custodian, right?

25 **A** At that particular time, yes, sir.

1 Q All right. Explain the duties of an
2 evidence custodian.

3 A Exactly what it says, evidence custodian. I
4 take care of the evidence. I oversee it. I make sure
5 it's properly packaged, sent to SLED. I am generally
6 the one that takes it down there, unless there is
7 some unorthodoxed reason that I can't go. I am the
8 one that logs it in, logs it out, make sure it gets
9 to court and this type of stuff.

10 Q Once the evidence is seized and it gets to
11 the evidence locker room, it's under your control?

12 A Absolutely.

13 Q It all runs through you at that point?

14 A Once it's deposited in the drop box, it's
15 locked. I have the only key. I'm the one that
16 removes it. I'm the one that logs it in the evidence
17 room. I'm the one that prepares it to go to SLED.

18 Q All right. Tell me if this is accurate as
19 far as the drop box. I'm a police officer. I make
20 an arrest 3:30 a.m. You're not going to be in the
21 office at 3:30 a.m.; is that right?

22 A Not hardly.

23 Q All right. So I have seized an amount of
24 drugs. I going to take it back to the department and
25 I'm going to put in the lock box.

1 A Correct.

2 Q If it's just normal business hours, I'm
3 going to hand it to you?

4 A Normally they would. Sometimes they'll
5 still drop it in the box if I'm busy or I'm not in
6 the building.

7 Q You say you're the only one with a key to
8 that lock box?

9 A I'm the only one that has a key to it.

10 Q I think it was Craven that was talking
11 about it's like a mailbox?

12 A Yes, sir.

13 Q It's kind of like that when you open the --

14 A If you go back in time, and you see the old
15 street mailboxes that you pull it down and put it in
16 and close it? We have two of them. One for weapons
17 and one for other contraband. They are padlocked. I
18 have the only key to the padlock. I have the only
19 key to the evidence room.

20 Q You're familiar with the case we're trying
21 today?

22 A Sir?

23 Q You're familiar with the case we are trying
24 today?

25 A From what I heard, yes, sir.

1 Q All right. And do you recall how State's
2 number -- State's Number 5, do you recall how that
3 came in your possession?

4 A It was probably deposited in the lock box.
5 I probably got it -- well, I know I got it out that
6 same morning and prepared it to go to SLED. On
7 6/24/13, I sealed this envelope. I think also I went
8 to SLED that day with some other evidence.

9 Q Can you tell from the package there who
10 would have dropped it off in the lock box?

11 A Not unless I had the other paperwork with
12 it.

13 Q The paperwork you're talking about is the
14 chain of custody, right?

15 A I need the chain of custody.

16 Q You don't have it with you?

17 A No. And I asked -- it was here before, but
18 I don't have it.

19 Q Explain to everybody what that is that you
20 are talking about.

21 A Chain of custody is simply this. The
22 officer gets the evidence. He will bring it into the
23 bay room or the lock box or the drop box. He will
24 take what is called a BEST pack once he does all the
25 paperwork with the BEST pack. He will put it in that

1 lock box, the drop box, lock box. Same deal.

2 I will remove it. I will take it back to
3 the office. I will assign it an evidence number. I
4 will log it in. That process tells what time it was
5 put in, who took it, where I got it from. Then, I
6 take that and I assign it a -- if necessary, in this
7 particular case, it was probably not placed in the
8 evidence room because I went straight to SLED that
9 morning if I remember correctly.

10 Once I get to SLED, I turn it into SLED.
11 They gave me a receipt for it. I come back to the
12 office. I take that receipt and put it in the
13 evidence or the file that the officers started. Then
14 SLED takes it and analyzes it. They send a report
15 back to the officer.

16 Q The whole idea of the chain of custody is
17 to be able to count --

18 A What hands it has gone through. Who has
19 control of it at any given time.

20 Q Let me show you a couple of things here.

21 A This right here is a SLED drug analysis
22 request that Officer Craven filled out. It says --
23 can I read it? This is what he's putting down, three
24 plastic bag containing an off-white substance which
25 appears to be crack cocaine total rate 24.7 grams.

1 That goes to SLED. This right here is the control as
2 far as me taking control of it and what happened to
3 it.

4 Q That shows you ---

5 A It shows --

6 Q --- how the drugs will come your way?

7 A It shows that on the morning of the 24th,
8 that I took control of this at a particular time. It
9 also shows that I gave it to the Evidence Detective
10 Riggett to do an iLab. That is simply a request that
11 we pre-log stuff with SLED to save time when we go to
12 SLED. We don't have to stick around and do all of
13 this paperwork. We fill it out. And on that, we
14 request what we want done with it.

15 Q So it already had it a SLED assigned --

16 A It already has a SLED number. It already
17 has a BEST pack number. When I walk into SLED, I
18 sign it. I go into evidence intake. I give the girl
19 the BEST pack. She scans it. The information is on
20 the computer because we have already done it
21 electronically. She gives me a receipt for it, and I
22 move on.

23 Q My question is can you tell in your chain
24 of custody who would've dropped the crack off in the
25 drop box?

1 **A** Not with this right here. I just got it
2 out of the box. It doesn't say that Craven put it in
3 the box. It didn't say who put it in the box.

4 **Q** Continue to look through the pages.

5 **A** Sir?

6 **Q** Continue to look through the pages.

7 **A** All right. Riggett got it. She iLabed it.
8 Gave it back to me. I took it to SLED on the same
9 day in the same sequence. I got it out of a lock
10 box. I gave it to her to iLab because I was getting
11 other stuff ready. There were only two at that time
12 that were trained to do iLab. Basically, it went to
13 SLED.

14 **Q** Okay.

15 **A** It never went in the evidence room per se.

16 **Q** I'm looking for who dropped it off in the
17 drop box.

18 **A** It doesn't say. It may have been in the
19 incident report. Generally speaking, it is the
20 arresting officer that does this. I wasn't there so
21 I couldn't tell you put it in there.

22 **Q** What's this?

23 **A** This right here is a statement that the
24 cash, \$862 was placed in the -- it says officer
25 initially signed, Craven. With that, he was probably

1 the one that dropped it in there.

2 Q Craven would have taken it from the scene.
3 Put it in the lock box. You would have taken it out
4 of the lock box and had an iLab number assigned to
5 it. You would have taken it --

6 A That's what that says. That's what that
7 chain of custody says.

8 Q Okay. Whenever they put -- what is a BEST
9 bag?

10 A A BEST pack is a brown envelope that has
11 instructions for the officer to prepare this
12 envelope, the one with the green around it.

13 Q Uh-huh.

14 A On that, it usually have -- well, it does
15 have on it, not usually. All this has on it is what
16 tests he want performed. In this case, we just
17 requested that the white rocklike substance be tested
18 for what it was.

19 Q Now, when an officer puts drug evidence in
20 a lock box, does he put it in that brown envelope
21 that you are describing?

22 A If he BEST packs it. In this case, it was
23 in the BEST pack.

24 Q Okay. All right. Thank you. Please answer
25 any questions Mr. Wise may have for you.

1 **THE COURT:** Cross-examination.

2 **CROSS-EXAMINATION**

3 **BY MR. WISE:**

4 **Q** Mr. Stankus, you got this from Officer
5 Craven?

6 **A** I got it out of the lock box. I got it out
7 of the drop box lock box.

8 **Q** Is that your signature on that document?

9 **A** Sir?

10 **Q** Is that your signature on that document?

11 **A** Yes, it is.

12 **Q** What does that document say?

13 **A** It says that -- certified that John Stankus
14 the Lauren City Police Department Captain on 6/24/13
15 -- I received in person from Patrick Craven, Lauren
16 City Police.

17 **Q** That says you got it in person?

18 **A** Yeah, it says -- yeah, it does, but that
19 was the standard procedure.

20 **Q** In person doesn't mean in person?

21 **A** Yeah, it does mean in person. In this
22 case, it was put in the box. A lot of times, I'm not
23 there to receive it in person.

24 **Q** That says you received it in person but
25 that's not right?

1 **A** Well, it came out of the drop box.

2 **Q** Is that statement not correct?

3 **A** This statement, as it's written, would not
4 be correct.

5 **MR. WISE:** All right. I would like to
6 introduce this, Your Honor.

7 **THE COURT:** Okay. What says the state?

8 **MR. SCOTT:** I'm sure it's without
9 objection. I just want to see what it is. No
10 objection.

11 **THE COURT:** Without objection would be
12 Defendant's --

13 **COURT REPORTER:** Defendant's 7, Your Honor.

14 **THE COURT:** -- 7 into evidence.

15 (WHEREUPON, Defendant's Exhibit 7 is marked for
16 identification and admitted into the record.)

17 **BY MR. WISE:**

18 **Q** All right. So when you say in person, it
19 really doesn't mean in person?

20 **A** Not in this particular case.

21 **Q** Okay.

22 **A** It came out of the drop box.

23 **Q** And sometimes you put I got it out of the
24 drop box?

25 **A** No. I always put the officer that filled

1 out the report.

2 Q Right. Sometimes you say officer so-and-so
3 filled out the report and I picked it up out of the
4 drop box?

5 A Right.

6 Q In this case, you didn't --

7 A I didn't put that on there, no.

8 Q All right. Did you get, from Officer
9 Craven, a chain of custody involving him as to who he
10 got it from?

11 A No, no. No, sir. I did not.

12 Q You did not?

13 A No.

14 Q And if it's gone through several hands
15 before you, do you get a chain of custody?

16 A No. No, sir. I don't.

17 Q You don't know what happened --

18 A I don't know where it went. All I know is
19 I get it out of the box or they handed to me.

20 THE COURT: Hold on just one second.

21 They're talking over each other?

22 COURT REPORTER: Yes, sir. I can't hear.

23 THE COURT: Mr. Wise and Ms. Stankus, if
24 you would, be very careful in not talking over
25 one another please.

1 **BY MR. WISE:**

2 **Q** All you can testify to is here is what
3 happened after I got it?

4 **A** Right.

5 **Q** You have no documentation as to what
6 happened to it before you got it?

7 **A** No, sir. I don't.

8 **Q** And you don't ask for any?

9 **A** No, I've got no reason to.

10 **Q** Thank you.

11 **THE COURT:** Any redirect from the state?

12 **MR. SCOTT:** I don't think so, Your Honor.

13 **THE COURT:** Okay. Thank you for your
14 testimony, sir. You can step down.

15 Okay. Ladies and Gentlemen, as I indicated
16 a few minutes ago, we're going to go ahead and
17 break for the evening. Again, I remind you, uh,
18 you may have some family members, friends that
19 want to quiz you as far as what you have done
20 today. You can tell them that you have been
21 selected on a jury, but leave it at that. Don't
22 discuss anything about this case with them.

23 We're going to start back a little later.
24 The only reason for that in the morning is I've
25 got a commitment in Greenville that I've got to

1 attend to. I won't be able to get back here
2 until about 10:30. We're going to try to get
3 started -- be back here no later than 10:30. We
4 will try our very, very best to get started
5 promptly at 10:30. I hope you have a real good
6 evening. See you in the morning.

7 (WHEREUPON, the jury exits at approximately
8 5:09 p.m.)

9 THE COURT: All right. Anything we need to
10 put on the record before we adjourn for the
11 evening?

12 MR. SCOTT: No.

13 MR. WISE: No, sir.

14 THE COURT: The State has how many more
15 witnesses?

16 MR. SCOTT: Well, I'm thinking just one.

17 THE COURT: SLED?

18 MR. SCOTT: Yes, sir.

19 MR. WISE: I've got one that's going to
20 be real short too.

21 THE COURT: Okay.

22 MR. WISE: They've got the analysis
23 people. I'm just not -- I would say, between
24 the two of us, 45 minutes at the most.

25 THE COURT: All right. In the morning, I

1 will go on the record. I want to address the
2 issue of the defense objection to the
3 preliminary charge, specifically with respect to
4 seeking the truth obligations. But I will just
5 do that in the morning. All right. We'll
6 adjourn until 10:30 or close thereto. Everybody
7 have a good evening.
8 **(WHEREUPON, the Court recesses for the day.)**

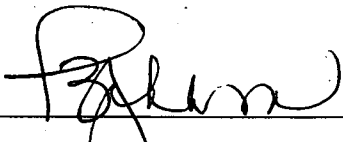
CERTIFICATE

161

STATE OF SOUTH CAROLINA)
)
COUNTY OF LAURENS)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record, Volume 1 of 2, of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Laurens, South Carolina, on this 6th day of May, 2016.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.



Teresa B. Johnson
Official Court Reporter

P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 7th day of October, 2015 at approximately 10:52 a.m.)

THE COURT: All right. Thank you very much. Have a seat. That juror did show up.

We are back on the record.

Let me just address one thing that was raised yesterday by you, Mr. Wise, about the preliminary charge where two or three places in the very first part of the preliminary charge, it mentions speak the truth. And you referred me to the State versus Daniel's case. I appreciate that. You are the first lawyer in connection with making that objection that has referred me to the State versus Daniel's case.

However, under that case, that dealt with a final charge on the law, not a preliminary charge. Basically, the court held -- and it was a different charge that was objected to. The objected charge was whatever verdict you reach will represent the truth and justice of all parties involved in this case. It's a little bit different twist on what is in the preliminary charge that I read.

The final analysis, so long as the charge

1 concerning burden of proof beyond a reasonable
2 doubt is incorporated in that, they didn't find
3 that this created -- released a reversal. Chief
4 Justice Toal, in her concurring opinion, alluded
5 to the phrase seeking the truth by a US Supreme
6 Court case that used that phrase.

7 With all of that said, I think that by
8 virtue of not using that in the final
9 instruction seeking the truth, I don't think
10 really we need to give a curative instruction.
11 I may even mention in my preliminary charge, I
12 used the phrase seeking the truth, but your
13 responsibility, Ladies and Gentlemen, is to make
14 a determination of whether or not the State has
15 met its burden of proof. I think we're okay
16 there. My final statement is I'm going to think
17 very carefully from now on whether I use that
18 phrase in the preliminary charge notwithstanding
19 the fact. Yes, sir.

20 **MR. WISE:** To further clarify, the
21 problem I have with it is this. When you tell
22 the jury to seek the truth, it's too much of all
23 or nothing. If the jury does not know what the
24 truth is, the State has not met its burden.

25 **THE COURT:** It's a valid point, but I

1 appreciate you making me aware of the State
2 versus Daniels.

3 **MR. WISE:** And, of course, State versus
4 Needs too in a little bit of context, but again
5 you will see search for the truth.

6 **THE COURT:** Okay. All right. Very good.
7 Solicitor, you've got one more witness, you
8 think?

9 **MR. SCOTT:** Judge, I think we might have
10 two.

11 **THE COURT:** Okay. That's fine.

12 **MR. SCOTT:** Just brief.

13 **THE COURT:** That's fine. All right.
14 Anything else before we bring the jury out?
15 Okay.

16 Bring the jury out please.

17 **(WHEREUPON, the jury enters at approximately**
18 **10:56 a.m.)**

19 **THE COURT:** Let the record reflect the
20 jury is back in.

21 Solicitor, you ready to proceed?

22 **MR. SCOTT:** Yes, Your Honor. The State
23 calls Lakendra Anderson.

24 **THE CLERK:** Place your left hand on the
25 Bible and raise your right please, ma'am.

LAKENDRA ANDERSON

having first been duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. SCOTT:

Q Okay. Lakendra, how old are you?

A I'm 30.

Q And are you married?

A Say that again?

Q Are you married?

A No.

Q How many children do you have?

A Three.

Q And how many children do you have with Timothy Pulley?

A Two.

Q Where are you currently working?

A I currently work at Span-America.

Q What is that?

A A mattress company in Greenville.

Q In Greenville? And how long --

THE COURT: Ms. Anderson, can you bend that microphone down just a little bit and sit a little bit closer. Thank you. Thank you.

BY MR. SCOTT:

Q How long have you been with that company?

1 **A** Two weeks.

2 **Q** Where were you employed before that?

3 **A** I was with Teach For America.

4 **Q** And Teach For America, was that a job or
5 were you a student in training with Teach For
6 America?

7 **A** It was both. It was like an organization
8 that help out with disadvantaged students. Once you
9 train during the summer, you come and you interview
10 with teachers -- well, with the principal and then
11 they will give you a position.

12 **Q** You're a teacher, right?

13 **A** My degree is in education.

14 **Q** From USC Upstate?

15 **A** Yes.

16 **Q** You graduated from Laurens District 55?

17 **A** Uh-huh.

18 **Q** You are from this area, right?

19 **A** Yes.

20 **Q** What degree did you get from USC Upstate?

21 **A** A degree in elementary education.

22 **Q** Was that a four-year program?

23 **A** Yes.

24 **Q** And you've been employed pretty much the
25 whole time since you graduated college, right?

1 A Yes.

2 Q How long were you with Timothy Pulley?

3 A For off and on for about two years.

4 Q Okay.

5 A Three years.

6 Q And you still maintain at least a friendly
7 relationship with him?

8 A Yes.

9 Q You had to do some training in Oklahoma for
10 Teach For America; is that right?

11 A Yes.

12 Q Mr. Pulley actually went with you; didn't
13 he?

14 A Yeah. He went about two weeks.

15 Q So he went with you?

16 A Uh-huh.

17 Q You've spoken with him -- you speak with
18 him regularly; is that fair to say?

19 A Yeah.

20 Q You were speaking with him this morning
21 about the case; weren't you?

22 A I talked to him, yes.

23 Q About the case, right?

24 A Yeah.

25 Q In the hallway out there?

1 A Uh-huh.

2 Q Do you still -- was that blue Challenger
3 your car?

4 A Yes.

5 Q Do you still own that car?

6 A Yes.

7 Q Okay. And you met with Mr. Wise before;
8 haven't you? The lawyer?

9 A No, I've never met with him.

10 Q Did you take the blue Challenger to his
11 office?

12 A Yes, but it was photographed. Me and the
13 kids took a walk.

14 Q So you never talked to the lawyer?

15 A No.

16 Q Okay. June 23rd, 2013, the blue Challenger
17 was your automobile during that time, right?

18 A Yes.

19 Q At that point, were you still dating Mr.
20 Pulley?

21 A Yes.

22 Q Okay. You remember what you were doing that
23 night about 3:20 a.m.?

24 A 3:20 a.m., I spent the night at my
25 grandmother's house.

1 Q You were probably asleep right about then?

2 A Uh-huh.

3 Q Where were the kids?

4 A I'm pretty sure they were with me. But that
5 was two years ago, so I really don't remember.

6 Q You remember being at your grandmother's
7 house?

8 A Yes.

9 Q You remember why you were there?

10 A I don't remember why I were there. I just
11 remember when they -- I don't know why I was there.
12 But it was two years ago, so I don't remember.

13 Q You just remember you were there that
14 night?

15 A Yes. Because when they called me that
16 morning to pick my car out of the pound, my cousin
17 went with me to go pick it up.

18 Q Okay. Do you recall letting Mr. Pulley
19 borrow the car that day?

20 A He didn't borrow the car. He went and
21 picked it up from a paint shop.

22 Q Did you give him the keys?

23 A No. I didn't give him the keys. He got
24 the paint shop from -- he got the keys from the paint
25 shop. They were fixing my car.

1 Q Did he get a ride to the paint shop?

2 A I don't know. I was at work.

3 Q Okay, but you told him to go get the car?

4 A Yes.

5 Q Was it a car that you two shared?

6 A Huh-uh.

7 Q Was it -- did he have his own car at the
8 time?

9 A Yes, he had his own car.

10 Q Did you know his license was suspended when
11 you asked him to get the car?

12 A No, I didn't.

13 Q But you two lived together?

14 A Yes, but if you see somebody driving, you
15 don't assume that they don't have a license.

16 Q He never told you his driver's license was
17 suspended?

18 A No, I never asked him.

19 Q But he never told you?

20 A Uh-huh.

21 Q That wasn't something that -- okay. What
22 was it doing at the body shop or paint shop you said?
23 Just getting a whole nother paint job done?

24 A No, we was in Anderson going to the
25 Goodwill; and I took a left too early; and a suburban

1 hit the back of my car.

2 Q Okay. You know what day he picked it up
3 from the paint shop?

4 A It was a Saturday.

5 Q Was it the same day he got arrested?

6 A Yes.

7 Q So do you know what time he picked it up?

8 A No, I don't know what time he picked it up.
9 I was at work.

10 Q What time did you get off?

11 A Back then, I would get off around 11:45.

12 Q Did you see him after he picked the car up?

13 A No.

14 Q Do you know where he went?

15 A No, cause I had two cars at the time.

16 Q So you had another car you were driving
17 while he was driving the Challenger?

18 A Yes, while I drove that car to work, he was
19 going to pick up my other car.

20 Q You don't know his whereabouts between the
21 time he picked the car up and 3:20 a.m.?

22 A No, I don't know his whereabouts.

23 Q Okay. All right. So you are probably
24 aware that a 16 and a half grams of crack were found
25 in the back of that Challenger. Are you aware of

1 that?

2 **A** That's what you are saying. I don't know
3 -- I wasn't there, so I don't know what was found.

4 **Q** Have you heard that was an allegation?

5 **A** No, when they first pulled it up, they
6 pulled up meth and something else on the computer
7 when they first pulled up what he had. Then I think
8 it might have changed. I don't know exactly what it
9 was.

10 **Q** Do you know why the husband of your
11 children is on trial here today?

12 **A** Yeah. Allegedly, they found drugs in the
13 back of my car.

14 **Q** That's what I'm asking. It was 16 and a
15 half grams of crack. Are you familiar with that at
16 all?

17 **A** I'm not familiar with how much.

18 **Q** Okay. All right. Let me ask you this. 16
19 and a half grams of crack in the back of your --
20 there is no question that was your Dodge Challenger;
21 is that fair to say?

22 **A** Yeah, I paid on it.

23 **Q** Okay. Were you with him that night when he
24 got arrested?

25 **A** No, I wasn't with him.

1 Q You weren't in the car?

2 A No, but I'm sure I would've been arrested
3 if I was with him.

4 Q Let me ask you, was the 16 and a half grams
5 of crack in the back of that car, where they yours?

6 A No.

7 Q Thank you. Answer any questions Mr. Wise
8 has for you.

9 THE COURT: Mr. Wise, any cross-
10 examination?

11 CROSS-EXAMINATION

12 BY MR. WISE:

13 Q I want you to look through one, two, three,
14 four -- look through these five pictures, and I ask
15 you if you recognize those.

16 A Yes.

17 Q Okay. Those pictures of your car?

18 A Yes.

19 Q And it's roughly the same condition it was
20 a few years ago?

21 A It's a little roughed up now.

22 Q Basically the color is the same and all of
23 that?

24 A Yes.

25 MR. WISE: I would move to introduce

1 these, Your Honor.

2 **MR. SCOTT:** Without objection.

3 **THE COURT:** Those are not already into
4 evidence?

5 **MR. WISE:** No.

6 **THE COURT:** Okay.

7 **MR. WISE:** Okay.

8 **THE COURT:** Without objection. They are
9 in evidence.

10 **MR. WISE:** Thank you.

11 You can take off now.

12 We excused a witness.

13 **(WHEREUPON, Defendant's Exhibits 1 through 5 are**
14 **admitted into the record.)**

15 **BY MR. WISE:**

16 **Q** Now, you have been living with Mr. Pulley
17 for about two years?

18 **A** Two to three years.

19 **Q** Two to three years. During this period of
20 time, he's been enrolled in school for heating and
21 air conditioning?

22 **A** Yes.

23 **Q** That's what he is doing now?

24 **A** Yes.

25 **Q** During this time that he was enrolled at

1 heating and air conditioning school, he had student
2 loans?

3 A Yes.

4 Q That's how he paid for the school?

5 A Right.

6 Q That's how he got his spending money?

7 A Yes.

8 Q And this car of yours had been in this
9 paint shop for about three weeks?

10 A Probably about three weeks to a month. It
11 was a long time.

12 Q A good while. Do you know the reputation
13 of everybody in this paint shop?

14 MR. SCOTT: Objection to that, Your Honor.

15 THE WITNESS: Well, it's --

16 THE COURT: Don't answer it.

17 THE WITNESS: Okay.

18 THE COURT: I've got to deal with an
19 objection.

20 Solicitor, state your objection.

21 MR. SCOTT: The objection is as to the
22 reputation of a body shop and the reputation of
23 everyone there.

24 MR. WISE: The people.

25 THE COURT: I guess you need to first ask

1 if she know any of the individuals that work in
2 this body shop, whatever body shop it is.

3 **BY MR. WISE:**

4 **Q** Let me back up. Do you know how many
5 people work in this body shop?

6 **A** It was different people. Every time we
7 showed up, it was somebody different working on my
8 car.

9 **Q** They turned over a lot?

10 **A** Yeah.

11 **Q** All right.

12 **A** Well, I don't know if they turned over a
13 lot. But when I come, it would be different people
14 working on it. They was off while somebody else was
15 working on it.

16 **Q** Would you go in there periodically while
17 they were working on your car and check on it?

18 **A** Yeah, cause they were taking a long time.

19 **Q** Longer than you thought that it should?

20 **A** Yes.

21 **Q** They finally called you and told you it was
22 ready?

23 **A** Right.

24 **Q** You sent Mr. Pulley to pick it up sometime
25 that day?

1 A Yes.

2 Q Now, you and Mr. Pulley lived where?

3 A We lived in an apartment in Greenville.

4 Q Okay. You had been up there about two
5 years?

6 A Uh-huh.

7 Q But you worked on the -- brought the car
8 down here to have it worked on?

9 A Right.

10 Q Okay. And he attended school regularly?

11 A Yeah.

12 Q Did he graduate?

13 A Yes.

14 Q Is he working in heating and air
15 conditioning now?

16 A Right.

17 Q During the two years that you lived with
18 him or two or three years that you have been living
19 with him, had you ever seen any crack cocaine in his
20 possession?

21 A No.

22 Q Had you seen it, would you have hung
23 around?

24 A If I did what?

25 Q Had you seen crack cocaine in his

1 possession, would you have hung around?

2 **A** To be honest, I don't know what it looked
3 like. I never did crack before, so I don't know.

4 **Q** Okay. But you never seen him use it?

5 **A** No.

6 **Q** Okay. Thank you.

7 **THE COURT:** Anything in redirect,
8 Solicitor?

9 **MR. SCOTT:** No, sir. No, Your Honor.

10 **THE COURT:** You can step down. Thank you,
11 ma'am, for your testimony.

12 Call your next witness.

13 **MS. BOYKIN:** Thank you, Your Honor. The
14 State calls Maribeth McCormick.

15 **THE CLERK:** Place your left hand on the
16 Bible and raise your right hand please.

17 **MARIBETH MCCORMACK**

18 having first been duly sworn, testifies as follows:

19 **DIRECT EXAMINATION**

20 **BY MS. BOYKIN:**

21 **Q** Ms. McCormick, where do you work?

22 **A** I work at the South Carolina State Law
23 Enforcement Division, commonly known as SLED.

24 **Q** How long have you worked there?

25 **A** For seven and a half years.

1 Q What's your position?

2 A I'm a forensic scientist in the drug
3 analysis department.

4 Q What education do you have in order to do
5 that?

6 A I have a Bachelor of Science in chemistry
7 and a Masters in teaching chemistry and physics.
8 Those are both from the University of South Carolina.

9 Q Have you gone to any classes in order to
10 have your position?

11 A Yes, I was trained at SLED in-house in the
12 drug analysis department.

13 Q About how many -- about how many cases do
14 you think you have been involved in?

15 A Over 4000.

16 Q All right.. What's your main duty at SLED?

17 A My main duty is to analyze evidence for the
18 presence of controlled substances.

19 Q So narcotics?

20 A Yes.

21 Q About how many drugs do you think you have
22 tested?

23 A Thousands. A lot.

24 Q Okay. And have you ever testified in court
25 before?

1 **A** Yes.

2 **Q** Have you ever been qualified as an expert
3 before?

4 **A** Yes.

5 **Q** How many times?

6 **A** 25 times.

7 **Q** 25 times. What were you qualified as an
8 expert in?

9 **A** In forensic science and drug analysis.

10 **MS. BOYKIN:** Okay. Your Honor, at this
11 time, we would offer Ms. McCormick as an expert
12 of forensic science and drug analysis.

13 **THE COURT:** Mr. Wise, any examination of
14 this witness concerning qualifications?

15 **MR. WISE:** None, Your Honor.

16 **THE COURT:** You have any objection to her
17 being qualified ---

18 **MR. WISE:** No objection.

19 **THE COURT:** --- as a drug -- an expert in
20 drug analysis, is that what you're offering her
21 for?

22 **MS. BOYKIN:** Yes, Your Honor.

23 **THE COURT:** All right. She is found to be
24 an expert in the area of drug analysis. You may
25 proceed.

1 **MS. BOYKIN:** Thank you, Your Honor.

2 **BY MS. BOYKIN:**

3 **Q** Ms. McCormick, did you happen to become
4 involved in the case of State versus Timothy Pulley?

5 **A** Yes.

6 **Q** How did you become involved?

7 **A** I was assigned this case by my lieutenant.

8 **Q** I'm going to show you what's been marked as
9 State's Exhibit 5. Do you recognize that?

10 **A** Yes, I do.

11 **Q** What is that?

12 **A** This is a heat-sealed pouch containing what
13 we refer to as a BEST kit containing evidence.

14 **Q** Are there any markings on there?

15 **A** Yes, I do see my initials in four different
16 places, several dates and OKAY, which if I write OKAY
17 on the bag, that means it was sealed when I received
18 it.

19 **Q** If you could, who did you receive this bag
20 from?

21 **A** May I --

22 **Q** Yes.

23 **A** I received it from Amy Stephens in the log-
24 in department.

25 **Q** What department did this come from, the

1 drugs initially?

2 **A** From the Laurens Police Department.

3 **Q** Do you know who the evidence custodian
4 there was that brought the drugs?

5 **A** Based on the chain of custody, Captain John
6 Stankus.

7 **Q** You mentioned when you received the
8 narcotics, they were sealed?

9 **A** Yes.

10 **Q** Does that mean they were not tampered with?

11 **A** Yes.

12 **Q** What did you do when you received these
13 drugs?

14 **A** The first thing I do is make sure the bag
15 had not been tampered with, which it had not. I will
16 open the bag, inventory the evidence and weigh the
17 evidence and then proceed with my testing.

18 **Q** What did you test for?

19 **MR. WISE:** Your Honor, if you may, I have
20 a matter I would like to have brought up outside
21 the presence of the jury.

22 **THE COURT:** Okay. All right. Ladies and
23 Gentlemen, we need to take up a matter of law. I
24 need for you to be excused to the jury room. It
25 should not take long. Get you back shortly.

1 Again, don't start any discussions concerning
2 this case.

3 (WHEREUPON, the jury exits at approximately
4 11:13 a.m.)

5 THE COURT: Okay, Mr. Wise.

6 MR. WISE: Your Honor, she is preparing
7 to testify about the analysis she did on these
8 -- on those particular items. The problem I
9 have is I don't think the State has established
10 a chain of custody on these items. If you go to
11 the video on the initial stop, at 3:46.46, we
12 see Officer Patrick Craven leaving the scene as
13 was discussed earlier. That came in in the
14 pretrial motion. We see him leaving the scene.

15 We then see the drugs placed on top of the
16 car, which is Officer Brewer's car. So that Mr.
17 Craven has left the scene without the drugs. We
18 now have in the evidence an affidavit from Mr.
19 Stankus must saying he personally received these
20 drugs from Officer Craven. We have no testimony
21 as to how Officer Craven got them back.

22 THE COURT: Did not Craven testify -- and
23 I understand because I know when you were
24 examining Officer Brewer about the bags being on
25 the car. But didn't Craven -- even though he may

1 not have said how he got the drugs. But didn't
2 Craven himself say he turned them over to the
3 evidence locker? I realize your argument about
4 what Stankus testified to what's on the
5 affidavit. Help me out a little bit, Solicitor.

6 **MR. SCOTT:** He did. That's the first time
7 I recall him testifying about the old-timey mail
8 boxes and the drop box, explaining how it works.
9 Stankus further testified about the old post
10 office mailbox. I think we got one out in front
11 of the courthouse where you open it, put
12 something in the slot, and you can't reach down
13 in it. That was his testimony that he had taken
14 it to the drop box and put it there.

15 Regardless, I think the provisions of
16 Hatcher, we have identified everybody in the
17 chain to the extent necessary. The testimony so
18 far was that Craven seized them; Craven took
19 them to the drop box. Stankus took them out of
20 the drop box; had an iLab number assigned to
21 them by Detective Riggett; and then Stankus
22 himself took them to SLED. Everybody in the
23 chain has been identified.

24 **THE COURT:** Mr. Wise?

25 **MR. WISE:** There has simply been no

1 testimony from the time those drugs were seen on
2 the hood of that car as to how Craven ever got
3 them again.

4 **THE COURT:** Would you agree that Craven
5 did testify that he -- I understand what you're
6 saying that he did not say how he got them off
7 the hood of the car but that he did put them in
8 the lock box?

9 **MR. WISE:** When Mr. Scott mentioned the
10 lock box, I do remember him talking about the
11 lock box.

12 **THE COURT:** So what we have got is this
13 period in time from the time that the bag was on
14 the hood of Brewer's car to whenever Craven got
15 the bag or got the drugs. You're saying that
16 breaks the chain.

17 Solicitor, you are saying that does not
18 under Hatcher. What's that cite under Hatcher?
19 Do you have one quickly?

20 **MR. SCOTT:** I don't, Your Honor. What it
21 stands for is so long as the State can identify
22 -- to the extent that they can identify who is
23 involved in the chain, it is not necessary to
24 really call the internal links. That's kind of
25 how we operated. The person who seized it and

1 the person who tested it are the ones we really
2 focus on getting testimony from.

3 **THE COURT:** All right. Let's do this --
4 let's take about a 10-minute break and let me
5 take a look at this issue.

6 **MR. WISE:** I would give a case for the
7 Court to refer to is Benton versus Pelham which
8 is 232 S.C. 26. It dealt with the chain of
9 custody of blood, which I think fits pretty
10 close to this analysis because blood was taken
11 and it was kind of a limbo as to what happened
12 to it before it finally got to some other point;
13 and they held it was not admissible.

14 **THE COURT:** Okay. Before we go off the
15 record, Solicitor, would you agree whether this
16 supports Mr. Wise's objection or not that we
17 have no testimony from the time of the bag with
18 the drugs on Brewer's car whenever Craven got
19 possession of them? We don't have that in
20 evidence? You agree with that? Whether that
21 helps him or not. But I'll just want to make
22 sure we're in agreement on what's been testified
23 to.

24 **MR. SCOTT:** I had heard that. Your Honor,
25 honestly, until Mr. Wise stated it with some

1 witness yesterday, I'd never noticed what he's
2 talking about. I don't think it's ever really
3 been really demonstrated to us the part of the
4 video that he's talking about. However, I would
5 stipulate that we have not produced any evidence
6 as far as when Craven leaves the scene and what
7 happened with the drugs. I do have a cite for
8 Hatcher, Your Honor.

9 **THE COURT:** I think I've already found it,
10 but go ahead and give me the cite.

11 **MR. SCOTT:** 384 S.C. 372.

12 **THE COURT:** Okay. If I recall correctly
13 when Officer Brewer was on the stand on cross,
14 Mr. Wise had the video showing the bag. I think
15 maybe Officer Brewer did acknowledge that's the
16 bag with the drugs on top of the hood. I think
17 that's -- okay. We're going to take a 10-minute
18 break. Everybody be at ease and I'm going to
19 study on this.

20 **(WHEREUPON, a recess is taken.)**

21 **THE COURT:** Okay. We're back on the
22 record. I'm going to find that there was or has
23 been sufficient showing of chain of custody.
24 Based upon Hatcher -- and it would be Supreme
25 Court Hatcher and not the Court of Appeals

1 Hatcher that's cited by the state. Basically,
2 Hatcher holds -- well, made several holdings.
3 But, one, the State is not required to
4 specifically identify every individual who
5 handled drug evidence in order to establish
6 chain of custody sufficient for admissibility in
7 drug prosecution. Rather, the standard was
8 whether in the discretion of the trial judge,
9 the State has established a chain of custody as
10 far as practical.

11 The way I view this is even though Officer
12 Brewer did not testify that he handed the bag to
13 Craven at some point in time, the logical
14 assumption is that he did. Officer Brewer is
15 the last officer on the scene. I would be very
16 surprised that Officer Brewer would have driven
17 off from McDonald's with the bag of drugs on his
18 hood. Presumably, he had to take possession of
19 it and then turn it over to Craven at some point
20 in time that evening. So I'm going to find that
21 there was a sufficient chain of custody
22 established and deny the objection insofar as
23 the evidence concerning the drugs coming in.

24 I did read Benton, Mr. Wise, the case that
25 you offered. And the facts are somewhat

1 different than the facts that we have here.
2 That was even -- not even a criminal case. But
3 nonetheless, you are protected on the record.

4 **MR. WISE:** I do think it raises the
5 question as the Court says -- the South Carolina
6 Supreme Court said in many cases it goes to the
7 weight and not the admissibility. I think I
8 would be entitled to a jury charge on chain of
9 custody.

10 **THE COURT:** Okay.

11 **MR. WISE:** Which I have prepared one.

12 **THE COURT:** Okay.

13 **MR. WISE:** State versus Carter, which,
14 unfortunately, is a case that I lost on appeal,
15 they talk about it going to the weight to the
16 jury.

17 **THE COURT:** Once we get to the point of
18 charges, give me what you got.

19 **MR. WISE:** I will.

20 **THE COURT:** I certainly will give it every
21 consideration.

22 **MR. WISE:** While we're at this break, I'm
23 going to reiterate again. I would also at this
24 point renew my objection of the admissibility of
25 the drugs based upon the pretrial search issues

1 that we raised today -- yesterday and --

2 **THE COURT:** Certainly. So noted for the
3 record.

4 **MR. WISE:** I guess I have to start with a
5 basis of in case the judge changes his mind
6 since the ruling previously.

7 **THE COURT:** All right. Judges can always
8 be educated, correct?

9 Bring the jury out.

10 (WHEREUPON, the jury enters at approximately
11 11:37 a.m.)

12 **THE COURT:** Thank you very much. Let the
13 record reflect the jury's back in.

14 Solicitor, you want to proceed?

15 **MS. BOYKIN:** Thank you, Your Honor. Your
16 Honor, at this time, the State would offer
17 State's Exhibit 5 for admission into evidence.

18 **THE COURT:** Okay. Noted previously ---

19 **MR. WISE:** Subject --

20 **THE COURT:** --- to the matter we took up,
21 you are protected on the record. It will be
22 admitted.

23 **MR. WISE:** Thank you.

24 (WHEREUPON, State's Exhibit 5 is admitted into
25 the record.)

1 BY MS. BOYKIN:

2 Q Ms. McCormick, what did you test for when
3 you received this evidence right here?

4 A I tested for controlled substances.

5 Q Okay. And what did you find?

6 A I found cocaine base, crack.

7 Q What was the total weight of the cocaine
8 base?

9 A 16.5 grams.

10 Q Cocaine base means just crack cocaine?

11 A Yes.

12 Q Please answer any questions Mr. Wise has
13 for you.

14 CROSS-EXAMINATION

15 BY MR. WISE:

16 Q You weren't asked to perform -- you don't
17 perform any other tests on any items other than
18 chemical analysis?

19 A Correct.

20 Q You weren't asked to send it to any other
21 department with SLED to perform any other test?

22 A No, sir.

23 Q Would that had been done before you got it
24 or afterwards?

25 A It depends on the case.

1 **Q** Sometimes you get it first and it goes to
2 the place for DNA or fingerprints?

3 **A** Yes.

4 **Q** Sometimes it goes to them first and then
5 comes to you?

6 **A** Yes, sir.

7 **Q** Okay. Thank you.

8 **THE COURT:** Anything in redirect,
9 Solicitor?

10 **MS. BOYKIN:** No, Your Honor.

11 **THE COURT:** Thank you, ma'am, for your
12 testimony. You are free to leave. You are
13 certainly welcome to stay with us, but I imagine
14 you have other matters to attend to.

15 **MR. SCOTT:** Judge, briefly we would ask
16 the Court to recall David Brewer for a small
17 amount of testimony.

18 **THE COURT:** Okay.

19 **MR. SCOTT:** The State calls David Brewer.

20 **THE COURT:** Officer Brewer, I would remind
21 you are still under oath from yesterday.

22 **THE WITNESS:** Yes, sir.

23 **DAVID BREWER**

24 having previously been sworn, testifies as
25 follows:

DIRECT EXAMINATION

BY MR. SCOTT:

Q Two years ago, June 23rd, 2013, you were testifying to your involvement with a traffic stop that led to a drug charge on Timothy Pulley?

A That's correct.

Q And just a minor part of your testimony was the drugs seized and what happened to them after Mr. Pulley was taken from the McDonald's?

A Yes, sir.

Q Now, you recall the testimony was that Mr. Craven seized the drugs?

MR. WISE: Objection, he's leading the witness.

MR. SCOTT: Okay.

THE COURT: Try to restate, rephrase, Solicitor.

BY MR. SCOTT:

Q Who seized the drugs?

A Officer Craven.

Q Okay. And, uh, they were placed on the hood of your car? Was that your car in the video that we saw?

A That's correct.

Q Mr. Wise was asking you some questions

1 about what happened to them after Mr. Craven left the
2 scene. Do you remember him asking those questions?

3 A I do.

4 Q And watching the video, he clearly leaves
5 the scene with Mr. Pulley while the drugs are on the
6 hood of your car; is that fair to say?

7 A Yes, sir. It is.

8 Q During that window of time after he seized
9 the drugs and then he put the drugs in the lock box,
10 where was the crack cocaine?

11 A After having an opportunity to review the
12 video -- because, like I said, it had been two years
13 -- the drugs were left with me. And I turned them
14 back over to Craven prior to the end of the shift.

15 Q All right. Just to recap, he seized the
16 drugs. He left with Pulley. Do you know where he
17 went with Mr. Pulley?

18 A Yes, sir. He took him to the Laurens Police
19 Department where a DataMaster was offered to him.

20 Q At that time, he left the crack with you;
21 is that your testimony?

22 A Yes, sir. It is.

23 Q You took the crack cocaine from McDonald's
24 to where?

25 A To the police department.

1 Q Okay. And then what did you do with the
2 crack cocaine?

3 A I put it in Officer Craven's possession.

4 Q Okay. Then he would've taken them to the
5 drop box?

6 A Yes, sir.

7 Q Thank you.

8 **CROSS-EXAMINATION**

9 **BY MR. WISE:**

10 Q Did you sign any paperwork when you
11 transferred the drugs back and forth?

12 A No, sir. I did not.

13 Q All right. And you didn't put them in a
14 lock box?

15 A No, sir.

16 Q Didn't you testify yesterday that another
17 officer handled these drugs and you didn't touch
18 them?

19 A No, sir. I don't think that was the
20 testimony. I think I said I can't remember whether
21 the other officer took possession.

22 Q You couldn't remember who took possession?

23 A Sir?

24 Q I'm sorry. I interrupted you. Go ahead.

25 A I said I couldn't remember whether the

1 other officer -- the other officer that was there
2 Officer Andrew ---

3 Q Uh-huh.

4 A --- or myself took possession of them.

5 Q You testified yesterday you couldn't
6 remember who took possession?

7 A That's right.

8 Q Today, you do remember who took possession?

9 A I had an opportunity to look at the video.
10 Like I said, it's been two years.

11 Q But you had a chance to look at the video
12 yesterday?

13 A No, sir. You stopped it yesterday at a
14 particular point. We ran it past that and I was able
15 to determine from the video that I took possession of
16 it.

17 Q All right. All it shows on the video was
18 you and another officer looking at it on the hood of
19 your car?

20 A That's correct.

21 Q Thank you.

22 THE COURT: Anything on redirect?

23 MR. SCOTT: No, Your Honor. At this time,
24 the State rests.

25 THE COURT: Okay. You can step down,

1 Officer Brewer.

2 Ladies and Gentlemen of the jury, this is a
3 stage in the proceeding, since the State has
4 rested, that there are several legal issues that
5 the Court will need to deal with. So I will have
6 to ask that you go back to your jury room. And
7 hopefully, we won't be long and we'll get you
8 back out and see where we are in the case.

9 If you will, go back to the jury room.
10 Again, I'll remind you don't get into any
11 discussions among yourself related to this case.
12 Hopefully, we'll get you back out shortly.
13 Okay. Thank you.

14 (WHEREUPON, the jury exits at approximately
15 11:43 a.m.)

16 THE COURT: Okay, Mr. Wise. You have any
17 matters for the court?

18 MR. WISE: Your Honor, I would, at this
19 time, move for directed verdict on the grounds
20 of taking the evidence in the light most
21 favorable to the State. There's been no
22 substantial circumstantial evidence that's
23 required in the state of South Carolina to show
24 that the drugs in the car belonging to a third
25 person, but driven by Mr. Pulley, were, in fact,

1 Mr. Wise, I need to, of course, give the
2 instruction to your client about testifying.

3 MR. WISE: Right.

4 THE COURT: You had mentioned yesterday
5 that you possibly may have a witness?

6 MR. WISE: Well, I took care of my
7 witness with their last witness when we
8 introduced those pictures. I excused them.

9 THE COURT: All right.

10 MR. WISE: So we would not have any
11 witness testimony.

12 THE COURT: All right. (Pause.)

13 Mr. Pulley, I need to advise you concerning
14 your rights to testify or not. If you will,
15 please stand.

16 Madam clerk, would you swear Mr. Pulley in
17 please.

18 THE CLERK: Raise your right hand please.

19 (WHEREUPON, the defendant is first duly sworn.)

20 THE COURT: Okay. Mr. Pulley, at this
21 time, I'm going to explain to you certain of
22 your rights. If you do not understand anything
23 I say, please let me know. If you want me to
24 explain anything in more detail, please let me
25 know. Do you understand that, sir?

1 knowingly possessed by him. Knowing -- they've
2 not proven that he intended to possess the drugs
3 and not proven that he had the right to exercise
4 dominion or control. On any one of those three,
5 the case should not go to the jury.

6 **THE COURT:** Thank you very much.
7 Solicitor, any response?

8 **MR. SCOTT:** Your Honor, in the light most
9 favorable to the State, what we have introduced
10 is the fact that he was the sole occupant of the
11 car and had complete dominion of the car and its
12 contents. Furthermore, we have got his, uh, --
13 the circumstantial evidence of him avoiding
14 stopping the blue lights and sirens. Further,
15 resisted arrest. We have got the crack cocaine
16 within arm's reach of Mr. Pulley. We have got
17 testimony that he had \$860 in his pocket. I
18 think under a theory of constructive possession
19 that based on the weight of the evidence
20 produced that this would survive directed
21 verdict, Your Honor.

22 **THE COURT:** All right. Viewing the
23 evidence in the light most favorable to the
24 state, I would deny the defense's motion for
25 directed verdict.

1 more probably maybe like about 1:30 or something
2 like that.

3 MR. WISE: Okay.

4 THE COURT: All right. Bring the jury back
5 out please.

6 I will ask you Mr. Wise if you are ready to
7 proceed. You can rest on the record.

8 MR. WISE: All right.

9 (WHEREUPON, the jury enters at approximately
10 11:52 a.m.)

11 THE COURT: Let the record reflect the
12 jury is back.

13 Is the defense ready?

14 MR. WISE: The defendant rests, Your
15 Honor.

16 THE COURT: All right. Thank you very
17 much.

18 Ladies and Gentlemen of the jury, what that
19 leaves for us is lawyers will make their closing
20 arguments; and then I will give you the final
21 instruction on the law. We're going to go ahead
22 and break for lunch. Because we have some work
23 to do, me and the lawyers, we're going to take a
24 little bit longer lunch break than we
25 customarily do. It's about 10 til 12:00; is

1 **MR. PULLEY:** No, sir.

2 **THE COURT:** Have you had ample time to
3 discuss this issue with your attorney and any of
4 your family or friends?

5 **MR. PULLEY:** Yes, sir.

6 **THE COURT:** Are you prepared now to tell
7 the Court whether or not you want to testify?

8 **MR. PULLEY:** I won't testify.

9 **THE COURT:** You do not want to testify.
10 Has that decision been made freely, voluntarily
11 and intelligently?

12 **MR. PULLEY:** Yes, sir.

13 **THE COURT:** Okay. Thank you very much,
14 sir. You may have a seat.

15 Well, we going to go ahead and then I'll
16 bring the jury out; break for lunch; give enough
17 time for us to deal with charges; and give
18 everybody enough time because I want to take a
19 lunch break today. I didn't get one yesterday.
20 So I'm thinking about bringing the jury back at
21 2 o'clock. That's a little over two hours.

22 **MR. WISE:** We're going to work now and
23 then go to lunch?

24 **THE COURT:** Well, we will work a little
25 bit now concerning the charge and then work some

1 MS. BOYKIN: (No audible response.)

2 THE COURT: At least not at this time?

3 MS. BOYKIN: Your Honor, last time, uh, in
4 the jury charge, the word "or" was left out of
5 the trafficking statute. We would just ask that
6 that be put in there.

7 THE COURT: Okay.

8 MS. BOYKIN: I think that was an issue the
9 last time the jury had a question.

10 MR. SCOTT: I think that was just a
11 scrivener's error.

12 MS. BOYKIN: We don't have any proposed
13 charges though, Your Honor.

14 THE COURT: All right. All right,
15 Solicitor Boykin, I see some ors. I'm not
16 exactly sure which line -- I guess you're
17 looking at what was Page 10 in that particular
18 charge?

19 MS. BOYKIN: Yes, Your Honor. If I may
20 approach?

21 THE COURT: Yeah.

22 (WHEREUPON, a bench conference is held off the
23 record.)

24 THE COURT: Now, let me ask, Mr. Wise, if
25 -- you had, kind of at the outset, handed me a

1 that right? Yesterday, it was -- yeah, that's
2 right.

3 We're going to break until 2 o'clock.

4 Okay. So you'll have a little over two hours for
5 lunch break. Now, allow yourself enough time to
6 get here promptly. Who is the juror that got
7 here about 15 or 20 minutes late? Okay.

8 All right. You understand the importance of
9 being here on time? We couldn't start until you
10 got here.

11 Everybody leave yourself enough time to
12 take care of anything that unexpectedly may come
13 up. Again, I instruct you don't begin any
14 instructions related to this case either among
15 yourselves or anybody that you come into contact
16 with over your lunch. We'll see you at 2
17 o'clock. Have a good lunch.

18 (WHEREUPON, the jury exits at approximately
19 11:53 a.m.)

20 **THE COURT:** Mr. Wise just handed me some
21 requests for charge that I certainly will
22 review. The State hadn't had the opportunity to
23 review them.

24 Do you have anything in particular,
25 Solicitor, concerning charge?

1 every right, in my opinion, to argue to the jury
2 that, you know, it's not credible, you know,
3 they should not give it any weight because of
4 what you maintain that there was some break in
5 the chain. So I did not go along with that
6 request to charge. Certainly, put your requests
7 for charge as a Court's Exhibit in the record so
8 we've got a clean record on this.

9 Then, concerning your inference, look at
10 State versus King which is a case that came out
11 this year. I realize it is Court of Appeals.
12 Nonetheless, it's the law in the land at the
13 present time, as well as State versus Jackson.
14 They state the inferences allowed. Certainly, I
15 have read several times your brief, but I'm
16 going to go ahead and stay with the charges. I
17 did take out State versus Cheeks prohibits. I
18 did take out that. But that's where we are.
19 Now, before I hear from you, let me hear from
20 the state.

21 Anything with respect to the charge that
22 the State has any problems with?

23 **MR. SCOTT:** No, Your Honor. The only
24 minor, maybe just scrivener's error, if you look
25 starting at knowledge under possession. --

1 **THE COURT:** Okay. Let's go on the record
2 and talk about the charge a little bit. Let me
3 kind of give you a little bit of explanation and
4 then I'll certainly hear from both sides.

5 Mr. Wise, you wanted the State versus
6 Edwards charge. I think we discussed last time
7 State versus Logan is pretty much, for all
8 practical purposes, kind of -- simplicity over
9 the rule there. That's a broad way of saying it.
10 So I did not use your State versus Edwards
11 charge.

12 The charge on possession -- my charge
13 basically says that. It does not say it in the
14 same format as yours, but it basically says the
15 same thing that you're saying. I'm going to
16 stay with what I've got.

17 Concerning a chain of custody, I don't know
18 if that is necessarily a charge. It's a legal
19 determination made by the court. I found that
20 there was sufficient change of custody to allow
21 admissibility. However, I did add a little bit
22 in the credibility of witnesses/evidence to say
23 they have the right to determine the credibility
24 of any evidence, whether it's witness testimony
25 or anything else. Certainly, you would have

1 **THE COURT:** Tell me what page.

2 **MR. SCOTT:** 11 of 12, Your Honor.

3 **THE COURT:** Okay.

4 **MR. SCOTT:** Under the constructive
5 possession section, I guess the sentence we
6 substituted for the Cheek sayings that we took
7 out. It starts with knowledge. Knowledge can
8 be proven by evidence of fact, declarations of
9 conduct of the defendant.

10 **THE COURT:** Or conduct.

11 **MR. SCOTT:** I thought that should be an or
12 there.

13 **THE COURT:** Yeah, or conduct. That
14 language actually comes out of State versus
15 Jackson.

16 **MR. SCOTT:** What's the cite on that, Your
17 Honor. I was going to ask where that language
18 come from.

19 **THE COURT:** State versus Jackson is 395
20 S.C. 250. It is a 2011 case. And then State
21 versus King is 776 S.E.2d 374. That's a case
22 that recently came out this year.

23 **MR. SCOTT:** Thank you, Your Honor.

24 **THE COURT:** Is that all from the State?

25 **MR. SCOTT:** That's all, Your Honor.

1 **THE COURT:** Okay. Now, Mr. Wise.

2 **MR. WISE:** I would also request that the
3 brief that I gave the Court be a Court's Exhibit
4 too.

5 **THE COURT:** I'm going to do that in just a
6 second. Your request for charge, I've kind of
7 written on some of it. Do you have a clean copy?

8 **MR. WISE:** I should. I should.

9 **THE COURT:** If you want to, we can make
10 copies at the appropriate time.

11 **MR. WISE:** I've got it.

12 **THE COURT:** You okay?

13 **MR. WISE:** I'm okay.

14 **THE COURT:** All right. I'll get those when
15 we take a little break. Anything else
16 concerning the charge?

17 **MR. WISE:** First of all, let's go back to
18 Page 10 of 11.

19 **THE COURT:** Okay.

20 **MR. WISE:** The first full paragraph at the
21 top of the page, criminal intent can arise from
22 action or failure to act.

23 **THE COURT:** Right.

24 **MR. WISE:** I don't know how that relates
25 to this case ---

1 **THE COURT:** Okay.

2 **MR. WISE:** --- first. And second, this is

3 not even a criminal negligence-type case. You
4 can't negligently possess drugs. You either
5 knowingly do it or you don't.

6 **THE COURT:** Okay. All right. That
7 probably -- that was picked up from the first
8 trial. I'm not exactly sure of the reasoning
9 behind that. I don't have a problem taking that
10 paragraph out.

11 **MR. WISE:** Okay.

12 **THE COURT:** The State have any problem
13 with that?

14 **MR. SCOTT:** No, Your Honor.

15 **MR. WISE:** All right. Secondly, while
16 you say you tracked my request to charge in
17 defining possession, you do not define knowledge
18 in there. You don't say that the State is
19 required to prove knowledge. You go with prove
20 possession, the State must prove beyond a
21 reasonable doubt that the defendant has both the
22 power and intent to control the drugs. You
23 don't say anything about the State doesn't prove
24 that he had knowledge of the drugs, plus the
25 power and the intent.

1 **THE COURT:** Okay. Well, I do discuss
2 knowledge down the third paragraph. I don't
3 necessarily have a problem with adding
4 reasonable doubt that the defendant had
5 knowledge of the drugs and the power and intent
6 to control, et cetera, et cetera. I don't have
7 a problem with that.

8 Does the State have a problem with that?

9 **MR. SCOTT:** No, Your Honor.

10 **THE COURT:** Okay. The defendant had
11 knowledge.

12 **MR. SCOTT:** Where will that be included?

13 **THE COURT:** That would be on Page 11,
14 first paragraph. That the defendant had
15 knowledge of the drugs, and take out both and
16 put and the power of intent to control the
17 disposition or use of the crack cocaine.

18 **MR. WISE:** Secondly --

19 **THE COURT:** Hold that thought just one
20 second, Mr. Wise. (Pause.)

21 Okay, Mr. Wise.

22 **MR. WISE:** Now that you have given me
23 that in that paragraph, I think you take it away
24 later where you say constructive possession
25 means that the defendant had dominion and

1 control or the right to exercise dominion or
2 control over either the crack cocaine itself or
3 the property on which crack cocaine was found.
4 So if you tell the jury that you are guilty of
5 constructive possession by having dominion and
6 control over the property where the crack
7 cocaine is found, you've just negated knowledge
8 in the previous paragraph.

9 Unless the jury -- the jury easily, under
10 the charge, could say you knowingly control the
11 property where it's found. They would say,
12 okay, you knowingly control the property. That
13 would get around any knowledge requirement that
14 the defendant knows drugs are there if all you
15 have to do is control the property where it's
16 found.

17 **THE COURT:** The State want to chime in on
18 that? Do you need a minute?

19 **MR. SCOTT:** Yeah, I'm just looking at the
20 standard language that is set forth in the
21 judicial, the proposed possession instructions I
22 found on the judicial website. That's standard
23 language, Your Honor.

24 **THE COURT:** What Mr. Wise is arguing is
25 that that would tend -- and I'm not necessarily

1 saying I agree with Mr. Wise. But he is saying
2 that would negate -- if we added knowledge of
3 the drugs in the first paragraph, then --
4 (Pause.)

5 I mean, that is constructive possession.
6 That's a pretty standard. If you have the right
7 to control the property, then that can
8 constitute constructive possession.

9 **MR. WISE:** What this instruction tells
10 this jury is that if I leave here, go borrow a
11 friend's car and it has drugs in it, I'm in
12 possession of those drugs. It's not an
13 inference that I'm in possession. It's telling
14 them because I'm in control of that car, I'm in
15 control of those drugs.

16 **(WHEREUPON, Court's Exhibit 1 is marked for**
17 **identification purposes.)**

18 **MR. SCOTT:** Judge, I don't mind if, uh,
19 just at the risk of even you ruling with the,
20 uh, -- the, uh, -- the language that is in the
21 judicial website and the standard, in our
22 particular case -- I don't intend to argue and I
23 don't want the jury and I don't think they would
24 be confused with Mr. Wise's analogy, but I don't
25 mind us taking out the part. I would propose

1 constructive possession means the defendant had
2 dominion and control or the right to exercise
3 dominion or control over the crack cocaine. We
4 can take out --

5 **THE COURT:** Stop there and take out or the
6 property on which the crack cocaine was found?

7 **MR. SCOTT:** Yes, sir. I don't believe
8 this jury would go along with the proposed
9 analogy of Mr. Wise. I certainly don't want to
10 mislead them. At the risk of them doing that, I
11 would propose we take out the -- because I agree
12 that is the law. But in our particular case on
13 these specific facts, we're not arguing that he
14 didn't have knowledge of the drugs. The whole
15 argument is he had knowledge that the drugs were
16 back there.

17 **THE COURT:** I think what you are wanting,
18 Mr. Wise, and the solicitor is in agreement, or
19 the property in which the crack cocaine was
20 found. That would be line 3 and part of 4.
21 That's what you are wanting out?

22 **MR. WISE:** Correct.

23 **THE COURT:** Just look how congenial the
24 solicitor is to you?

25 **MR. WISE:** I know. By the way, I read

1 those charges on the website. I understand what
2 they say.

3 **THE COURT:** Okay. I got you. All right.

4 **MR. WISE:** Then they can (Indiscernible)
5 the subject of my brief.

6 **THE COURT:** Excuse me?

7 **MR. WISE:** They can (Indiscernible) the
8 subject of my brief which is a sentence that
9 says the defendant's knowledge and possession
10 may be inferred when the substance is found on
11 property under the defendant's control.

12 **THE COURT:** Wait a minute now. Let me find
13 that.

14 **MR. SCOTT:** I would say that's still
15 proper. There is a proper inference there.

16 **THE COURT:** All right. Right. I think
17 that's not the same thing as what was at least
18 agreed to be taken out. I think that's a
19 different -- I think you're mixing apples and
20 oranges here now.

21 **MR. WISE:** That's the subject of my
22 brief.

23 **THE COURT:** I got you. The only reason
24 I'm ruling against you on that, Mr. Wise, again
25 in State versus King, which just came out this

1 year, and State versus Jackson, a whole progeny
2 of cases all allow for inferences
3 notwithstanding what you argued in your brief.

4 **MR. WISE:** I want to be articulate -- be
5 very specific on my objection in this particular
6 case.

7 **THE COURT:** Okay.

8 **MR. WISE:** If the judge charges the jury
9 that, for example, I have a desk at my office.
10 And if you were to charge a jury where the jury
11 can infer that I know everything that's in that
12 desk over which I do have exclusive control,
13 that may have some merit. Now, if that desk is
14 locked and I'm the only one with a key, while I
15 still think it is a charge on the facts, it is a
16 perfectly logical thing for the jury to
17 conclude. I don't think it is a proper charge,
18 but it's perfect for the jury to conclude.

19 But when you take the facts of this case
20 where a person is driving a car that does not
21 belong to them and he hadn't been in, according
22 to the testimony, a month until the day of this
23 incident, to tell the story they can infer
24 simply because he is driving that car that he
25 possessed the drugs I think is a basis --

1 there's not a basis in the world to draw that
2 conclusion. I don't think there is a basis in
3 the world to draw the conclusion that if I'm
4 driving a third person's car, I'm in
5 constructive -- there is a basis for saying you
6 can infer I'm in constructive possession of
7 everything in the car.

8 There are cases that state -- US versus
9 Leery, which is cited in my brief, points out
10 when you draw these inferences, there has to be
11 some basis for it. We have a .08 blood alcohol
12 rating because -- I think you can argue this,
13 but there is some basis in science for saying
14 the person's under the influence at .08 and
15 there is a scientific basis for it.

16 There is absolutely no study, there has
17 been no logic to it to say that because a person
18 is driving another person's car, from that fact
19 alone, a jury can infer that person knows
20 everything that's in the car.

21 **THE COURT:** Here's where this case is a
22 little different, in my opinion. I'm able to
23 agree with you that if I get in your car, I've
24 never seen your car, never ridden in it, don't
25 know what it looks like or whatever and I get in

1 your car and there's drugs in it. This situation
2 that the defendant, Mr. Pulley and the owner of
3 the car, had been living together for two years
4 during this period of time. I'm not -- I don't
5 think it was brought out exactly how much time
6 prior to, but two years is kind of a rough
7 amount of time that they had been living
8 together. There were two automobiles to this
9 family. It's a little different than you just
10 happen to get in somebody's car for the very
11 first time.

12 **MR. WISE:** I don't think it's really
13 different. I mean, if a parent gets in their
14 child's car, I don't think that parent -- you
15 can infer that that parent knows everything
16 that's in the child's car if they have a 17 or
17 18-year-old kid. I think there's no logic to
18 say that. No one, even if you are married to
19 them or it's your kids, gets in a car and
20 inspects it before they drive off. They get in
21 the car and drive off.

22 An inference to me has to have some, what I
23 call, commonsense logic behind it. It is simply
24 not here. To me, it is even questionable if
25 it's your own car. Certainly, when it's a third

1 person's car, there is no basic commonsense
2 logic to such an inference. Plus, as I pointed
3 out in my brief, it's been -- charging an
4 inference has been declared, in several civil
5 cases, to be a charge on the facts. I think if
6 you'll go read the brief, you will find that the
7 issue wasn't raised right in those briefs.

8 As I like to tell people, now the courts
9 only know what we tell them. If we don't tell
10 them, they don't always rule that way. I
11 understand the hierarchy of the decisions that
12 Supreme Court binds the Court of Appeals; the
13 Court of Appeals binds you.

14 **THE COURT:** Right.

15 **MR. WISE:** I understand all of that. But
16 the point is I just don't think there's any real
17 logic and I want to be clear on the record to
18 such an inference.

19 **THE COURT:** Okay. Thank you. Does the
20 State want to --

21 **MR. SCOTT:** Just he says no common sense
22 logic in it, but the facts are, you know, this
23 is a car that he would presumably be familiar
24 with. Somebody, as Your Honor noted, whom he
25 shared -- they have kids together. He was

1 trusted to go pick the car presumably during the
2 regular business hours of a body shop. And then
3 his, uh, -- the mother of his children, Ms.
4 Anderson, testified she never saw him again.

5 At 3:20 a.m. -- presumably, he's in that
6 car from normal business hours until 3:20. I
7 don't know how many stops he made, how many
8 times he was in and out of the car, but the
9 testimony from officers were they immediately
10 saw this bag once they opened the door to the
11 car, so it would have been readily a visible.

12 I will tend to agree, under different
13 facts, possibly an inference charge wouldn't be
14 appropriate. However, I think in this one, it's
15 wholly appropriate. There is a precedent in
16 inference charges. Had this case been one that,
17 let's say, there was seven grams less of crack
18 cocaine, we would've had inference charges on
19 the weight. Likewise, we would've had inference
20 charges should there be a large amounts of cash,
21 which there were, or the way the drugs were
22 packaged or scales. So inference charges are
23 rooted in precedent. I think it would be
24 appropriate in this case, Your Honor.

25 **THE COURT:** I'm going to leave it in. But

1 I done -- on your brief and all your requests
2 for charge, I just had it marked as one Court's
3 exhibit if that's okay.

4 MR. WISE: That's fine.

5 THE COURT: Okay. What we will do is we'll
6 take a break between closing and the charge.
7 I'll print out the final draft and give it to
8 you. Certainly, as I tell you in the past,
9 after I charge, if you think of something else
10 you want to take exception to, certainly, your
11 hands aren't tied.

12 MR. WISE: The other request I would make
13 is that the State --

14 THE COURT: Oh, I thought you were
15 finished.

16 MR. WISE: With the jury charge, yeah.

17 THE COURT: Okay.

18 MR. WISE: This is another matter. I
19 would request that the State be required to open
20 fully on the law and the facts and then respond
21 only to the new matters that I bring up in my
22 argument and not have new matters brought up in
23 their reply. I understand that the -- we've
24 been through this before.

25 THE COURT: I know.

1 **MR. WISE:** I understand the history in
2 South Carolina. But there's absolute -- I think
3 it's a denial of due process that's guaranteed
4 by both the state and federal constitution for
5 the State to be able to save the guts of their
6 argument for the final argument and I have no
7 possibility of opportunity to respond to
8 anything they say.

9 They have the opportunity to listen to my
10 argument in full. I lay out everything I think
11 is relevant. They have an opportunity to refute
12 everything that I say is relevant. I do not have
13 an opportunity to refute their theory of the
14 case because they don't lay it out until after I
15 speak.

16 **THE COURT:** You know, there's nothing
17 wrong with that argument at all. Certainly, if
18 I was in your position, I would be arguing the
19 same thing. It is what it is. Maybe you'll be
20 successful in getting our appellate courts to go
21 along with you.

22 **MR. WISE:** Well, we had the, uh, --
23 interestingly, we had the hearing on proposed
24 rule changes a couple of weeks ago.

25 **THE COURT:** Is that one of the items

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2 South Carolina. But there's absolute -- I think
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20 successful in getting our appellate courts to go
21 along with you.

22 **MR. WISE:** Well, we had the, uh, --
23 interestingly, we had the hearing on proposed
24 rule changes a couple of weeks ago.

25 **THE COURT:** Is that one of the items

1 discussed?

2 **MR. WISE:** Right. I think the rule is
3 going to be changed.

4 **THE COURT:** Good. We're going to stay with
5 where we are right now, but you are certainly
6 noted on the record. Thank you very much.

7 All right. Let's bring the jury out please.

8 **MR. WISE:** Let me mention real quick.

9 Under State versus Carter, you've got to tell
10 the jury how to weigh evidence on the chain of
11 custody issue. State versus Carter goes to the
12 weight. That's all.

13 **(WHEREUPON, the jury enters at approximately**
14 **2:10 p.m.)**

15 **THE COURT:** Thank you very much. Let the
16 record reflect the jury is back in.

17 Ladies and Gentlemen, we're now at the
18 stage where the lawyers will make their closing
19 arguments to you. We'll probably take a short
20 break before you are brought out to receive the
21 final instructions from me on the law.

22 I want you to give these lawyers your very
23 close and undivided attention. They've worked
24 very hard in his case. Listen very carefully to
25 what they have to say to you.

1 You may proceed.

2 **MR. WISE:** Madam Forelady and Ladies and
3 Gentlemen of the jury, if you go into the jury
4 room and you say to yourself or among
5 yourselves, you know, Tim Pulley is probably
6 guilty, he probably knew that crack cocaine was
7 in that car, he probably had an intent to
8 possess it and he probably had the ability to
9 exercise dominion and control, what should your
10 verdict be? Your verdict should be not guilty.
11 Because in this court, when we talk about proof
12 beyond a doubt, it's the highest standard known
13 to man short of an absolute certainty. It
14 doesn't mean what probably happened, what could
15 have happened, what might have happened or what
16 possibly happened out there in June of 2013.

17 It is that thing when we talk to other
18 people about our judicial system will brag most
19 highly about. It is literally -- legal scholars
20 over the years have bragged about it and talked
21 about how important it is for the protection of
22 the defendant. It's not only for the protection
23 of the defendant. It's for the protection of
24 the jurors in a case.

25 If we had to go out on a street corner and

1 ask for volunteers to come in here and serve on
2 a jury, unless some of you are not working, we
3 wouldn't have you. Nobody wants to volunteer.

4 So the State has, in essence, said to you,
5 look, your job is really simple; it's really
6 simple. If we haven't proven this case beyond a
7 reasonable doubt, no matter what you think or
8 believe or what you think is probable, if we
9 haven't proven beyond a reasonable doubt, you
10 vote not guilty. That way, when you go home,
11 you don't wake up a week from now, a month from
12 now and say did we make the right decision. So
13 It's protection of the defendant, sure. But
14 it's also a protection for the jury itself who
15 has to sit and hear these cases.

16 Now, let's talk about proof beyond a
17 reasonable doubt. We're in football season.
18 There's one example I think that's so clear to
19 me as to how to explain reasonable doubt. We've
20 all have seen instant replay. You see a pass or
21 you say fumble, what's called a pass or called a
22 fumble and they say it's under review. While it
23 is being reviewed, announcers keep saying, well,
24 there has to be irrefutable evidence to overturn
25 the call on a field. It has to be irrefutable.

1 While they're going through this process,
2 they're showing the play again and again and
3 again and again from as many different angles as
4 you can imagine. As you watch these plays, you
5 say to yourself, I don't know if you got it
6 right. That looks like a fumble to me. Looks
7 like he really fumbled or it looks like he
8 didn't fumble or looks like he did catch the
9 pass. You look at and you say I don't know if
10 he got it right.

11 But then you say to yourself, you hear the
12 announcer say it, but it must be irrefutable
13 evidence to overturn the call on the field! No
14 matter how much you think, if you have been the
15 official, you may have called it differently,
16 you come to the conclusion, you know, it's not
17 irrefutable. That is a close call, but it's not
18 irrefutable.

19 In this case, the call on the field is not
20 guilty. That's the call on the field. Your
21 function basically is to determine whether or
22 not the State has produced, not some evidence,
23 but irrefutable evidence that the call on the
24 field is wrong. That's the standard of beyond a
25 reasonable doubt.

1 This is also what we call a circumstantial
2 evidence case. A direct evidence case consists
3 of somebody coming and saying I saw so-and-so
4 with a gun. I saw the cocaine in his hands. I
5 brought the cocaine from him. That's direct
6 evidence, what an eyewitness saw with their own
7 eyes.

8 Circumstantial evidence case is different.
9 The judge will charge you while you are to
10 consider them the same, in some sense, you
11 don't. Here's what the judge will charge you,
12 the judge will charge you that circumstances
13 taken together must point conclusively,
14 conclusively to the guilt of the accused.
15 Conclusively. Not strongly, not suspicious, not
16 more than likely. Conclusively. Not probably.
17 Conclusively. There is a reason for that in a
18 circumstantial evidence case.

19 We have a jurist that's been out, been dead
20 for a number of years named John Wigmore, who
21 wrote a treatise on evidence. It's about like
22 this if you can believe evidence can go in that
23 many volumes. But it's been rewritten over the
24 years too. But he used to have a saying he was
25 most famous for. He said that cross-examination

1 is the strong -- is the greatest engine ever
2 invented for determining the truth. When you
3 are dealing with a direct evidence case where
4 you have a witness that's lying, he is so true.
5 Because good cross-examination can bring out any
6 inconsistencies in that lying witness.

7 But when you have a circumstantial evidence
8 case, it doesn't work. A circumstantial
9 evidence case is the only case tried in this
10 country in which everybody can tell the truth,
11 everybody can tell the truth, and an innocent
12 person go to jail. That's why the judge charges
13 you to look conclusively to guilt of the
14 accused.

15 Now, as I said in my opening, the State has
16 raised their hand in this case and volunteered
17 to prosecute it. They've said, when they
18 volunteered to prosecute it, we're going to
19 prove three things. We're going to prove Tim
20 Pulley knew those drugs were in the car, he had
21 knowledge they were in the car. We're going to
22 prove he had the intent to possess those drugs
23 that were in the car. And we're going to prove
24 he had the right to exercise dominion and
25 control or power to use those drugs.

1 Let's go back to the first one. Knowledge.
2 Where is the proof beyond a reasonable doubt of
3 knowledge? Here's what the State says, well, of
4 course, there's knowledge he had the drugs. Of
5 course, there's knowledge. He didn't stop for
6 the police and he got out of the car.

7 You know, Mr. Pulley admittedly was driving
8 under suspension. Mr. Pulley admittedly had a
9 little bit of marijuana in his pocket. Did he
10 really try to evade the police or just not stop
11 as quick as they want? He didn't pull back onto
12 the main highway and take off down the road at a
13 high rate of speed. He went around McDonald's,
14 pulled in the McDonald's, got out of the car.

15 They testified, if you recall, they were
16 standing about right here and said he was this
17 far from his car when they tased him. This far.
18 All right. That's not fleeing from the car,
19 getting away from the car. That's not two to
20 three feet from his car. That's what their
21 testimony was.

22 Where does the fact that any of those
23 things mean he knew drugs were there? You can
24 speculate that he knew drugs were there. But
25 that's not the burden of proof that the

1 government has. You can assume. That's not a
2 proper standard in this courtroom. You can
3 believe that is not a proper standard in this
4 courtroom. You have to have some proof that he
5 knew the drugs were there. There isn't any.

6 In fact, we know for a fact that in the
7 DataMaster room, when asked about the drugs, he
8 said I didn't know they were in there. Yeah,
9 the marijuana is mine. All right. Yeah, I was
10 driving under suspension. I didn't know they
11 were in there.

12 Now, the State was on notice early on,
13 early on that he is saying I didn't know those
14 drugs were in the car. Very clear and very
15 emphatically. So what steps do they take to
16 say, oh, we think he knew they were in the car
17 and we're going to prove it in court? Nothing.
18 They took no step after receiving that
19 information. Nothing.

20 Did they have steps? Yes, they did. The
21 lady from SLED came in here and testified
22 sometimes she gets these drugs after they've
23 been to the DNA lab. Sometime she gets them
24 before and carries them over there. They didn't
25 do it. Sometimes she gets these drugs before

1 they go to fingerprints. Sometimes they go to
2 fingerprints afterwards. They didn't do it.
3 It isn't so much that they didn't do it. They
4 didn't even try. They didn't even try. That
5 was their choice not to try. It wasn't Tim
6 Pulley's choice not to try.

7 So where is this proof of knowledge? It's
8 simply speculative. You can say, well, we can
9 infer knowledge, yeah. He was in this car of
10 his girlfriend. We can proof that. Where's the
11 proof of it? Inferring is not proof. Where's
12 the proof of it? That's what you have to ask
13 yourself in this case.

14 Now, the State will say, well, he had \$862
15 in his pocket, and he did. He has a student
16 loan. According to his girlfriend, he had a
17 student loan. He had been going -- at this
18 time, he had been going to tech school for
19 heating and air conditioning. There's nothing
20 illogical about having cash in his pocket. He
21 has now graduated and doing heating and air
22 conditioning.

23 You heard her testify they been together
24 two, maybe three years. Now, has never had -- I
25 asked her if she ever seen him use drugs. You

1 can tell by her answer she hasn't. She said
2 emphatically, no. You get the impression from
3 her with her background that, well, perhaps if
4 she thought he had been, they may not still be
5 living together.

6 So the State is going to say, well, where
7 did the drugs come from. First of all, it's not
8 our obligation to prove anything. It's their
9 obligation to prove those three things they
10 raised their hand and volunteered to tell you or
11 prove to you, with something more than just an
12 inference or an allegation. They didn't do it.

13 This car had been in a shop, repair shop
14 for about three to four weeks. I would dare say
15 that no human being is going to assume that a
16 person who carries a car to a repair shop that
17 that car is never going to be driven by someone
18 in that repair shop and may be even done some
19 other things with. Are we to assume that?

20 No one would assume that. We don't know
21 what had happened to this car for three to four
22 weeks before Mr. Pulley picked it up on that
23 day. Then, the State is going to argue, well,
24 who would leave \$1600 worth of cocaine or crack
25 cocaine in the back floorboard of a car? Well,

1 that's an interesting question.

2 There are some other aspects of this case
3 that the State doesn't want admit to. Who,
4 knowing they had \$1600 worth of crack cocaine,
5 enough for trafficking offense, in the back
6 floorboard of that car would get in that car
7 without a driver's license at 3 o'clock in the
8 morning and drive through the streets of
9 anywhere? Who would do that?

10 The State's going to say, well, that
11 doesn't matter because it doesn't fit their
12 scenario. It doesn't fit their facts. It
13 doesn't fit their theory so that doesn't matter.
14 That's irrelevant. Well, it is relevant. It is
15 relevant.

16 If you're sitting there with this much
17 crack cocaine, you would think that if he knew
18 it was in there, there would've been some
19 attempt to evade the police other than just
20 slowly driving through a McDonald's parking lot.
21 If you recall on the slide, you can go out the
22 front of it onto a major highway. Didn't do
23 that. Didn't do any of that. Drove around and
24 parked knowing he was going to get arrested for
25 driving under suspension.

1 So who leave stuff in cars all the time?
2 We leave stuff in cars all the time. People do.
3 We see incidences in the newspaper where people
4 leave stuff in taxis all the time. Who knows?
5 But the problem is the State has the burden of
6 proving not that the items were in the car, but
7 that he knew it was in the car. He has to prove
8 that he knew it was in the car beyond any and
9 all reasonable doubt. Without that first
10 knowledge, you don't even get to intent and
11 dominion and control. The State hasn't proven
12 to satisfaction that he, in fact, knew on the
13 back floorboard of that car was there.

14 You will have all of these in the courtroom
15 -- in the jury room with you. When you look at
16 the car, this is in broad daylight. All right?
17 If you see a folded over yellow bag on the back
18 floorboard, even if you could see it, and you
19 pick the car up, who's going to think anything
20 about it? Who's going to think anything about
21 it if you could see it? Not from the position
22 you would get into the car from, but you still
23 can't see that much on the back floorboard. You
24 get up right on it, even less visible. If all
25 you see is yellow Dollar General bag, what have

1 you seen? A yellow Dollar General bag. They
2 have the burden of proving it. They haven't
3 proven it. Haven't proven it at all.

4 What, in essence, the State is trying to
5 sell you in this case is an unfortunate
6 proposition. It's the proposition that if you
7 ever -- if anyone ever drives another person's
8 car and that car happens to have drugs in it,
9 they are guilty, not that they knew drugs were
10 in it, they're guilty without proven knowledge.
11 That is, in essence, what the State is saying
12 here. That's, in essence, what they are
13 arguing. That's, in essence, the entire case.
14 That's it.

15 Now, another aspect of this case that you,
16 as jurors, will be entitled to consider. That
17 gets a little away from circumstantial evidence
18 case. But another thing in this case that is
19 confusing or uncertain. We know, according to
20 the evidence custodian, that either Mr. Brewer
21 -- Mr. Proctor -- Gosh, I can't remember --
22 Craven, Mr. Craven either gave it to the
23 evidence custodian or put it in a lock box.
24 Now, that should be relatively easy to establish
25 in a very routine matter. All right.

1 You fill out a form that says I came to
2 work this morning; in so-and-so's lock box was
3 this; and you make a note of it. You don't sign
4 an affidavit saying he gave it to me personally
5 if, in fact, it was put in a lock box anymore
6 than you get on the stand and testify it was in
7 the lock box if he gave it to you personally.

8 One question I have for you, and this deals
9 with whether or not the substance analyzed was
10 what happened to it in the process. The
11 question is this, were the items put in a lock
12 box or given to him personally? It should be an
13 easy answer. If you have a question about that,
14 then there's a question about what happened in
15 this case. That creates a reasonable doubt.
16 Which is it? Did he get it from the lock box or
17 get it personally?

18 Then let's do another thing. If you come
19 back in and look at the movie -- the film of the
20 stop, if you look at it at three minutes, 46 --
21 3:46.46, 3:46 in the morning and 46 seconds, you
22 see something. Right at that point or shortly
23 before that, you see Officer Craven leaving the
24 scene. Right after he leaves, you see all the
25 stuff they said they seized on the hood of the

1 car. All right?

2 Officer Craven never testified he got these
3 items from Mr. Brewer. Mr. Brewer said, well,
4 yeah, I said earlier that I didn't know who got
5 them but the video refreshed my memory and I
6 remember I got them. Well, again, how do you go
7 from one day saying I don't know what happened
8 to them to the next day saying, well, I know
9 what happened to them because the video
10 refreshed my memory?

11 The video does not show him giving these
12 items to Mr. Craven. The video shows Mr. Craven
13 leaving with items on the front hood of his car.
14 Mr. Craven has never testified he got them from
15 Mr. Brewer or anyone else. In fact, if you go
16 with Mr. Craven's testimony, you would think
17 that he drove off with them and put them in the
18 lock box or him personally to the evidence
19 custodian later. Who knows? I don't know.
20 That's the problem. If all of that is confusing
21 and uncertain, then the State's case is
22 confusing and uncertain because you simply don't
23 know.

24 When you have proof beyond a reasonable
25 doubt of any aspect of the case, you're not

1 talking about I don't know. You're talking
2 about clarity. You're talking about certainty.
3 You're talking about what is the highest
4 standard known to man short of an absolute
5 certainty when we talk about proof beyond a
6 reasonable doubt. This is what it is.

7 Unfortunately, the rules in our state do
8 not allow me to get back up and reply to what
9 they have to say. But I know during my
10 discussion with you, you have raised questions.
11 I, in many respects, wish we could do a show of
12 hands or let people raise hands and ask
13 questions and let me answer them, but they don't
14 do that.

15 But when the State gets up and argues, do
16 with them what you've done with me. With these
17 questions that you know that I would raise if I
18 had a chance to come back, which I,
19 unfortunately, do not. Raise those questions.
20 Ask yourselves in the state's argument where is
21 proof of knowledge. Where is proof that he, in
22 fact, knew that there was crack cocaine in a
23 yellow bag on the floor board.

24 One thing too about the yellow bag. The
25 State has testified, talked about a great deal

1 that you don't expect to find DNA or
2 fingerprints on a Dollar General bag, do you?
3 No. The state's probably right on that. I will
4 give them that. But there were three bags in
5 there that whoever put that crack cocaine in
6 that bag had to hold it, touch it, and leave
7 some trace evidence, which no one,
8 notwithstanding the fact that they knew that Tim
9 Pulley was telling them those are not my drugs,
10 no one even tried to do anything with.

11 When you look at the facts of this case,
12 the State has not met its burden that it
13 volunteered for. It has not proven that Tim
14 Pulley, in fact, knew those drugs were in the
15 back seat of that car. They have not proven
16 that Tim Pulley had any intent to deal with
17 those drugs. They have not proven that he even
18 had the right to exercise dominion and control
19 over them. When the State has failed at any one
20 of those three things, it has failed in its
21 case. The proper verdict should be not guilty.
22 Thank you.

23 **THE COURT:** Thank you, Mr. Wise.
24 Solicitor?

25 **MS. BOYKIN:** Thank you, Your Honor.

1 Mr. Wise just got up here and told you guys
2 that the State would come up here and tell you
3 that your job is simple. I disagree. But what
4 is simple is this case. This case is
5 straightforward and easy to understand. There's
6 no reason to make things complicated. What do
7 we have? We have Timothy Pulley caught red-
8 handed with a bunch of cash in his pocket and a
9 lot of crack cocaine in his possession at 3:00
10 in the morning.

11 You might even ask what are we debating
12 over, why are we even in trial. Our judicial
13 system affords everyone the right to have the
14 case heard in front of a jury of their peers.
15 Mr. Pulley has that right. That's why we're
16 here. Your job --

17 **MR. WISE:** Your Honor, I'm going to object
18 to that. It's attempting to minimize the role
19 of Mr. Pulley in electing a jury trial.

20 **THE COURT:** I didn't exactly -- I was
21 looking at some notes. I didn't exactly hear
22 what she said that you are objecting to. Would
23 you repeat that, Mr. Wise?

24 **MR. WISE:** She is saying that everybody
25 has the right to come here and have a jury trial

1 if they wanted, which is correct, but she seems
2 to be minimizing the importance of it.

3 **THE COURT:** Okay. Well, I didn't
4 necessarily take it that way. But certainly
5 everybody does have a right to a jury trial; and
6 that's a very important right that we all have
7 allowed under the Constitution.

8 You may proceed.

9 **MS. BOYKIN:** Thank you, Your Honor. For a
10 jury trial, as a jury, your job is to weigh the
11 facts and determine if Mr. Pulley is guilty. I
12 submit to you that he is.

13 When you look at the facts, I want you to
14 use your common sense in what's reasonable.
15 These facts are straightforward. It's straight
16 as an arrow the point directly to Timothy
17 Pulley. Let's go over what we've heard in this
18 case.

19 June 23rd, 2013 around 3:20 in the morning,
20 officers with the Laurens Police Department get
21 behind a blue Dodge Challenger, Charger, I think
22 that there was a misunderstanding with that,
23 going down Harper Street. Now, this is around
24 the McDonald's area. They're going southbound.
25 They see this car going about 50 in a 35. They

1 determined that based on pacing. That's what
2 you've have heard. That's when officers get
3 behind the vehicle and go the same speed.

4 They initiate their blue lights right here
5 around McDonald's where the entrance is. Common
6 sense would tell you that when the blue lights
7 are activated, you pull over. Does the driver
8 do that? No. He could've pulled over right
9 here. But does he do that? No. I'm sorry. I
10 had it backwards. Right here. There are open
11 spots right here; and he doesn't pull over.

12 He continues around. There's some cars in
13 this parking lot that these spots are open. Does
14 he stop? No. He gets right here. The police
15 officers initiate the sirens. You would think
16 he would stop. Actually, he increases his speed
17 and goes around the corner.

18 Again, doesn't stop. He finally pulls into
19 a parking spot so abruptly that he runs up on
20 the curb. Right man, he gets out of that
21 vehicle and tries to run to McDonald's, trying
22 to put as much space as he can between him and
23 that vehicle. Luckily, officers with the
24 Laurens Police Department were able to stop him
25 before he gets inside. They bring him back

1 towards the car.

2 They ask Mr. Pulley, well, do you have a
3 license. He says no. They are able to confirm
4 it. That's an immediate arrest. The moment
5 they told Mr. Pulley he's under arrest, what
6 does he do? Does he comply? No, he becomes
7 combative. He starts resisting arrest.

8 Multiple times, they told him stop
9 resisting, stop resisting. You'll hear it in
10 the video. They eventually have to dry stun him
11 for officer safety, for the pedestrians outside
12 and even for Timothy Pulley's safety. They have
13 to get him in the back of the car to ensure that
14 he can be properly detained. The struggle
15 doesn't end there. You heard testimony that say
16 they go to the ground up against the car,
17 actually put a dent in the car. He is
18 struggling so hard. Minutes later, they get
19 them in the vehicle.

20 During the struggle, they find marijuana in
21 a pocket and cash. Not just a little amount but
22 actually \$862 worth of cash in his pocket at
23 3:00 in the morning.

24 Well, Mr. Pulley is alone in that car.
25 There's no one else there. The car has to get

1 towed. Before that, they have to do a search.
2 Right when they begin their search, in fact, it
3 doesn't end up being a search because in plain
4 sight, they see a bag, clear as day, opened
5 there. There's narcotics right there for
6 officers to see. Sitting right behind Mr.
7 Pulley, within arm's reach both ways. This close
8 in proximity to Mr. Pulley.

9 Officers testify they clearly could tell it
10 was narcotics. So they do arrest Mr. Pulley
11 that night for these drugs. You heard testimony
12 from lead analyst Maribeth McCormick that this,
13 in fact, is crack cocaine and it's 16.5 grams.
14 Your testimony from Sergeant Veal that the
15 street value of this drug is about \$1650. Okay?

16 Now, as for who seized it, we have
17 testimony that Officer Craven seized it. Officer
18 Brewer then took it to Officer Craven at the
19 DataMaster. And then Officer Craven put it into
20 evidence. They might have been some
21 misunderstanding there. But we have a clear
22 chain of evidence here where the drugs were in
23 police custody at all times.

24 So what you have, based on these facts, is
25 a man running from cops at three in the morning,

1 becoming combative, with a lot of cash in his
2 pocket and a lot of crack cocaine in his
3 possession. You have Timothy Pulley committing
4 the crime of trafficking crack cocaine.

5 Now, as I just said, Mr. Pulley is charged
6 with trafficking 10 to 28 grams of cocaine. My
7 job as a prosecutor for the state of South
8 Carolina is to prove that he is guilty of that
9 crime. My job, Ladies and Gentlemen, is not to
10 prove that this man is a bad man. He's not.
11 What my job is as to ensure that justice
12 prevails and to find the truth.

13 As a juror, that should be your job as
14 well. You are here to seek the truth and to
15 hold him accountable for his actions and find
16 him guilty if you feel that I've proven my case
17 beyond a reasonable doubt, which I submit to you
18 I have.

19 To prove the case beyond a reasonable
20 doubt, I have to prove to you the elements of
21 the offense. There are two elements for the
22 offense of trafficking cocaine. The first is
23 the weight, 10 to 28 grams. You have testimony
24 this is 16.5, clearly within the threshold of 10
25 to 28. There you have it.

1 The second element is possession. You
2 heard when the judge read off the indictment at
3 the beginning of the trial and Mr. Scott got up
4 here and talked about trafficking crack, there
5 are different ways you can be found guilty of
6 trafficking crack cocaine. There's
7 manufacturing, distribution, selling, buying.
8 What we are concerned with here is the
9 possession aspect of the trafficking statute.
10 Okay. What we have to prove is that Mr. Pulley
11 was, in fact, in possession of these drugs.

12 As Mr. Scott stated in his opening
13 statement, the possession we are concerned with
14 is constructive possession. The key to
15 constructive possession is dominion and control.
16 Those are important words to remember. Mr.
17 Pulley has to have dominion and control over
18 those drugs.

19 Knowledge and intent can be inferred when
20 Mr. Pulley has control over the property in
21 which these drugs were found. Mr. Wise has
22 discussed with you in opening and closing about
23 knowledge and intent. That's true. We do have
24 to prove that. I submit to you that we have.

25 I wish that I could open up Mr. Pulley's

1 head right now and show you what he was thinking
2 that night, but I can't do it. Okay. The same
3 thing with little Johnny. Were we able to read
4 his mind to see that he wanted to take that
5 cookie and took it? No, but we were able to
6 determine, based on the facts and circumstances,
7 that he took that cookie. We all agree to that.
8 Mr. Wise even conceded to that.

9 What you can do to prove knowledge and
10 intent are acts and conduct. That's what we
11 have here. We have an inference that he was in
12 control of that car, but we also have the
13 speeding, driving illegally, we have failing to
14 stop, running away from officers, trying to get
15 out of -- as far away from that car as he
16 possibly could. We also have becoming
17 combative, and not just once, but continually
18 becoming combative after he was even dry
19 stunned. I submit to you that Mr. Pulley was in
20 constructive possession of those drugs that
21 morning on July 23rd.

22 Now, I mentioned to you that I have to
23 prove these elements beyond a reasonable doubt.
24 Now, the judge is going to instruct you on this
25 momentarily, but I wanted to give you an example

1 of how I take it. Reasonable doubt is proof
2 that leaves you firmly convinced of someone's
3 guilt. It does not mean you can't have any
4 doubts. You can have doubts. I submit to you
5 there are very few things in this world we are
6 absolute 100 percent certain of.

7 The key here is reasonable. Okay. So
8 let's say that somebody walks through the door.
9 He has an umbrella in his hand and he is shaking
10 water off. Another person comes in. He's wearing
11 a trench coat and rubber boots both covered in
12 water. Third person comes in. His clothes and
13 shoes are drenched. Hair is soaked. What would
14 you reasonably conclude? That it's raining
15 outside. That's a reasonable conclusion.

16 Is that the only possibility? No. I say
17 to have a crazy man in front of the courthouse
18 spraying everybody down with a water hose or a
19 waterfall that activates when someone walks
20 through that door. Are those possible? Yes.
21 Are they reasonable? No. They are far-fetched.
22 They are as far-fetched as the story that Mr.
23 Pulley is trying to give you. The reasonable
24 conclusion is that it is raining. The
25 reasonable conclusion in this case is that he

1 possessed trafficking amounts of crack cocaine
2 that morning.

3 This brings me to another point. Mr. Wise
4 talked about circumstantial evidence. He is
5 completely right. This is a circumstantial
6 evidence case. The judge will instruct you that
7 in the eyes of the law, circumstantial evidence
8 and direct evidence are equal. Not one should
9 be given greater weight.

10 Take the story of little Johnny. Direct
11 evidence would be say the mother walks into the
12 kitchen and sees little Johnny sitting on the
13 counter eating the cookie, cookie in hand just
14 taking a bite. That would be direct evidence.
15 Do we have that? No. We were able to
16 reasonably conclude that he, in fact, took that
17 cookie based on the circumstances and evidence
18 that we have.

19 Circumstantial evidence is like a jigsaw
20 puzzle. You have to take pieces to form one big
21 picture. So what pieces do we have in this
22 case? We have 3 o'clock in the morning,
23 speeding, driving illegally, failing to stop for
24 cops, not once, but multiple times, running away
25 from the vehicle, resisting arrest. In the end,

1 big jigsaw puzzle piece is the \$862 worth of
2 cash in his pocket and \$1600 worth of crack in
3 his session. That forms one giant picture that
4 Mr. Pulley was trafficking crack cocaine.

5 Now I submit to you the story behind that
6 picture is Mr. Pulley was biding time that
7 night. He was not stopping because he was
8 trying to hide the drugs. Right behind him. He
9 didn't not stop for all those spots right there
10 because he's frantically trying to put drugs
11 somewhere so he won't get caught. That's why he
12 runs away and tries to get away from the
13 vehicle. He doesn't want to get caught with all
14 that drugs -- all those drugs in that car. I
15 submit to you that that cash in his pocket were
16 funds from a drug sale or possibly buying some
17 crack. I submit to you that that's what happened
18 that night.

19 Mr. Wise mentioned DNA and fingerprinting.
20 I'm only going to say a couple of things about
21 this, because I don't think much more is
22 warranted. You heard testimony from law
23 enforcement. Mr. Pulley was the only person in
24 that vehicle. It was clear to them whose drugs
25 those were. There was no reason to test those

1 items when it was clearly this man's dope.

2 Okay. You heard testimony from the owner
3 of the vehicle, Lakendra Anderson, that those
4 drugs were hers. The only person that had
5 possession of that vehicle, even if he picked it
6 up from that body shop, which would have been
7 businesses hours, for hours on end he had that
8 vehicle. Those were his drugs. There is no
9 other explanation for that.

10 That brings me to what the defense is
11 trying to argue, that there is some mysterious
12 person out there. Some mysterious person left
13 16.5 grams of crack cocaine in the back seat of
14 the car that morning. You know what? I would
15 love to meet that person. Someone that would
16 leave \$1600 worth of merchandise in the back
17 seat of a stranger's car. You know when that's
18 happened? No. Have you ever known anyone to
19 get \$1600 worth of stuff just left in the car at
20 a body shop? No.

21 Ladies and Gentlemen, we'll never meet that
22 mysterious person because he doesn't exist. The
23 person that had the 16.5 grams of crack cocaine
24 that morning is in this courtroom. The person
25 that had \$1600 worth of merchandise at 3:00 in

1 the morning and \$862 of cash in his pocket is
2 sitting right there. His name is Timothy
3 Pulley. He possessed these drugs that night.

4 Now, Mr. Wise said who would be driving
5 around with a suspended license and running from
6 cops if he had all of this -- knowingly had all
7 of this in the back seat? Well, someone that
8 wanted to buy drugs or someone that wanted to
9 sell drugs, I will submit to you.

10 Ladies and Gentlemen, this is where
11 accountability comes in. You heard about this
12 in Mr. Scott's opening. Don't let the "it's not
13 mine" defense be sufficient in this case. We
14 all know whose drugs these were. It just -- it
15 boggles my mind that something this clear could
16 even be at issue. Don't lose sight of the big
17 picture. Don't lose sight of the clear
18 reasonable conclusion.

19 I would ask that you please go back in the
20 jury room and begin deliberations. When you are
21 back there, use your common sense. I know I
22 keep saying that. I don't want to beat a dead
23 horse. But this case really is about common
24 sense and reasonableness. If you take all the
25 facts together, there's only one conclusion.

1 There's only one thing you can find. I ask that
2 you go back there and you find Mr. Pulley guilty
3 of trafficking crack cocaine and hold him
4 accountable for his actions that morning. Thank
5 you.

6 **THE COURT:** Thank you, Solicitor.

7 Madam Forelady, Ladies and Gentlemen of the
8 jury, we're going to take a short break before
9 we go into the final phase, before you begin
10 your deliberations, that being my final
11 instruction on the law. Again, I remind you
12 don't begin your deliberations. Don't begin any
13 discussion whatsoever concerning related to this
14 case. We'll get you back out shortly, and I'll
15 give you the final instruction on the law. So,
16 uh, go back to your jury room and take a little
17 short break. Okay?

18 (WHEREUPON, the jury exits at approximately
19 2:50 p.m.)

20 **THE COURT:** All right. We will be in
21 recess for about 10 minutes.

22 **MR. WISE:** Can I put something on the
23 record real quick?

24 **THE COURT:** Sure.

25 **MR. WISE:** I think I'm required to. Had

1 the Court required the State to open fully on
2 the law and the facts, I would have replied to
3 several of the state's arguments. First of all,
4 I would have told the jury that they are not
5 here to seek the truth, they are here to
6 determine whether or not the State has, in fact,
7 proven the case if they had made that in their
8 opening argument.

9 They went back to the little Johnny story
10 which they said in their opening. I also
11 replied to the little Johnny story. I had no
12 way of knowing they were going to do that. The
13 umbrella story, I would've replied to by simply
14 pointing out that that is a fully fanciful
15 scenario that someone's on the top of the
16 building with a hose. I would have pointed out
17 that when they said the pieces of the puzzle or
18 being out at 3 a.m., speeding, \$853 in cash and
19 \$1600 in crack cocaine fit the piece of the
20 puzzle together, I would have pointed out that
21 they were forcing the \$1600 to be the last
22 completing piece. They talked about when he was
23 running from the police or allegedly running
24 from the police, not stopping as quick as he
25 sure that he was trying to hide the drugs, I

1 would point out that that's a total fanciful
2 argument because the drugs weren't his. If he
3 were trying to hide the drugs, they would've
4 been hidden somewhere.

5 Then, they said the mysterious person does
6 not exist. I would have pointed out that the
7 State really has the burden of proving this
8 mysterious person does not exist. Those are
9 things I would have responded to had they been
10 required to open.

11 **THE COURT:** Very good. So noted for the
12 record.

13 We'll be in recess for about 10 minutes.
14 We'll get a final copy of the charge printed out
15 for everyone. I did add, and you will see this
16 under the credibility of witnesses and evidence,
17 I just said concerning witness testimony and
18 evidence submitted in this case, it is up to you
19 to give it the weight all of it deserves. That
20 will go to -- I didn't identify the chain of
21 custody, but I did add that. Okay. We'll be in
22 recess for about 10 minutes.

23 (WHEREUPON, a short recess is taken.)

24 **MR. WISE:** One little thing.

25 **THE COURT:** Okay.

1 **MR. WISE:** When we went back and put in
2 knowledge, I think we should have put it in in
3 several other places. Otherwise, it doesn't
4 quite flow.

5 **THE COURT:** Let me get to the -- okay.

6 **MR. WISE:** On 11 and 12, we have the
7 defendant had knowledge of the drugs and power
8 and intent.

9 **THE COURT:** Okay.

10 **MR. WISE:** In several other places you put
11 power and intent, you put knowledge with it. It
12 just seems knowledge ought to be put there to be
13 consistent with everything. And in particular--

14 **THE COURT:** I've found one additional
15 place. Let me see if I can find power and
16 intent. I see it in only one other place.

17 **MR. WISE:** All right. I've got it in the
18 third paragraph.

19 **THE COURT:** Right.

20 **MR. WISE:** I think it should read the
21 defendant had knowledge, dominion and control or
22 knowledge and the right to exercise dominion and
23 control. Particularly there because if you put
24 the "or" there, it kind of eliminates knowledge.

25 **THE COURT:** Tell me again now. I'm not

1 following you, Mr. Wise.

2 MR. WISE: Third paragraph down.

3 THE COURT: I've got third paragraph.

4 MR. WISE: Constructive possession means
5 -- I'm reading it the way I think it should
6 read. Constructive possession means the
7 defendant had knowledge, dominion and control or
8 knowledge and the right to exercise dominion or
9 control.

10 THE COURT: Stop right there. What says
11 the State?

12 MR. SCOTT: I don't think I have a problem
13 with that. Initially, possession -- for
14 possession, we have -- to prove possession, the
15 State must prove beyond a reasonable doubt that
16 the defendant had both the power, knowledge and
17 intent to control.

18 THE COURT: Add constructive possession
19 means that the defendant had the knowledge and
20 dominion and control.

21 MR. WISE: Or knowledge and the right to
22 exercise. Actually, we have dominion or control
23 in one place and dominion on the other. It
24 probably ought to be --

25 THE COURT: Or knowledge ---

1 **MR. WISE:** And the right.

2 **THE COURT:** --- and the right to exercise
3 dominion or control. Okay.

4 **MR. WISE:** Then the sentence that reads
5 possession of drugs may be inferred from
6 circumstances --

7 **THE COURT:** Wait a minute now.

8 **MR. SCOTT:** Where is that?

9 **MR. WISE:** About halfway down the same
10 paragraph.

11 **THE COURT:** Okay. Possession of drugs may
12 be inferred from the circumstances and may be
13 imputed.

14 **MR. WISE:** Anyone who have knowledge.

15 **THE COURT:** Knowledge and power and
16 intent.

17 You have a problem with that, Solicitor?

18 **MR. SCOTT:** No, sir.

19 **THE COURT:** All right.

20 (WHEREUPON, there is a pause.)

21 **MR. WISE:** It was supposed to eliminate
22 the word either. I missed that in the third
23 paragraph.

24 **THE COURT:** Third line?

25 **MR. WISE:** Third line, yeah. At one

1 time, he had something else after it.

2 **THE COURT:** I'm going to cross it out on
3 my copy. All right.

4 Let's bring the jury out please.

5 **(WHEREUPON,** the jury enters at approximately
6 3:19 p.m.)

7 **THE COURT:** The jury is back in.

8 Madam Forelady and Ladies and Gentlemen of
9 the jury, I now will charge you the law
10 applicable to this case. You must consider the
11 charge as a whole and not focus on some portion
12 to the exclusion of other portions.

13 The indictment charges the defendant with
14 trafficking in crack cocaine 10 grams or more
15 but less than 28 grams. I remind you that the
16 fact that the defendant was arrested, charged
17 and indicted in this case is not evidence in
18 this case and cannot be considered by you as
19 evidence of guilt in this case, nor does it
20 create any presumption or inference of guilt.
21 This document, the indictment that I'm holding
22 in my hand, is simply the formal written
23 instrument, as I told you yesterday, which
24 contains the charge made against the defendant.
25 It is the formal document by which this case is

1 brought into this court.

2 Now, I will remind you once again that
3 during this trial, you and I have had certain
4 duties to perform. As the trial judge, it's
5 been my responsibility to preside over the trial
6 of this case. I also have the duty to rule on
7 the admissibility of evidence offered during
8 this trial. You are to consider only the
9 competent evidence before you. If there's any
10 testimony ordered stricken from the record in
11 this case during the course of this trial, which
12 I do not believe that there was, but if there
13 was, you are to disregard that testimony. You
14 are to consider only the testimony which been
15 presented from the witness stand, any exhibits
16 which have made a part of the record in this
17 case and any stipulations of counsel.

18 I have the additional duty, Ladies and
19 Gentlemen, to charge you the law applicable to
20 this case. As the presiding judge, I'm the sole
21 judge of the law in this case. It is your duty
22 as jurors to accept and apply the law as I now
23 state it to you. As I told you yesterday as
24 well, if you already have any ideas as to what
25 the law is or what the law ought to be and it

1 does not agree with what I now tell you what the
2 law is, you must abandon your idea because you
3 are sworn to accept the law and apply the law
4 exactly as I state it to you.

5 In every case tried in this court before a
6 jury, the jury becomes the sole and exclusive
7 judge of the facts in the case. A trial judge
8 cannot intimate, state, comment on or make any
9 statement to a trial jury about the facts in
10 this case. Since you, the jury, other sole
11 judge of the facts in this case, you are not to
12 infer, from what I said during the progress of
13 this trial in ruling upon the admissibility of
14 evidence or otherwise or anything I say now
15 during the course of this instruction to you,
16 that I have any opinion about the facts in this
17 case. I do not have an opinion about the facts
18 in this case because the law does not allow me
19 to have an opinion about the facts in this case.
20 This is a matter solely for you, the jury, to
21 determine. As jurors, it is your duty to
22 determine the effect, value and weight and truth
23 of the evidence presented during this trial.

24 Now, as I indicated to you yesterday, the
25 defendant has pled not guilty to this

1 indictment. Therefore, that plea of not guilty
2 puts the burden on the State to prove the
3 defendant guilty. A person that is charged with
4 committing a criminal offense in South Carolina
5 is never required to prove himself innocent.

6 I charge you that it is an important rule
7 of law that a defendant in a criminal trial, no
8 matter what the seriousness of the charge may be
9 will always be presumed innocent of the crime
10 for which the indictment was issued unless guilt
11 has been proven by evidence satisfying you of
12 that guilt beyond a reasonable doubt. Now, this
13 presumption of innocence does not end when you
14 begin your deliberations, but it accompanies the
15 defendant throughout the trial until you reach a
16 verdict or unless you reach a verdict of guilt
17 based on evidence satisfying you of that guilt
18 beyond a reasonable doubt.

19 This presumption of innocence is like a
20 robe of righteousness placed about the shoulders
21 of the defendant which remains with the
22 defendant until it is been stripped from the
23 defendant by evidence satisfying you of the
24 defendant's guilt beyond a reasonable doubt.

25 I tell you the presumption of innocence is

1 not mere legal theory. It is not just a legal
2 phrase that we use. It is a substantial right
3 to which every defendant is entitled unless you,
4 the jury, are satisfied from the evidence of the
5 -- are satisfied from the evidence of the
6 defendant's guilt beyond a reasonable doubt.

7 Now, as we've stated, and I will state once
8 again, the State has the burden of proving the
9 defendant guilty beyond a reasonable doubt.

10 Some of you have may have served as jurors in
11 civil cases where you were told by the judge
12 that it is only necessary to prove that a fact
13 is more likely true than not true, such as by
14 the greater weight or the preponderance of the
15 evidence. In criminal cases, the State's proof
16 must be more powerful than that. It must be
17 beyond a reasonable doubt.

18 Proof beyond a reasonable doubt is proof
19 that leaves you firmly convinced of the
20 defendant's guilt. There are very few things in
21 this world that we know with absolute certainty.
22 In criminal cases, the law does not require
23 proof that overcomes every possible doubt. If,
24 based on your consideration of evidence, you are
25 firmly convinced that the defendant is guilty of

1 the crime charged, you must find the defendant
2 guilty. If, on the other hand, you think there
3 is a real possibility the defendant is not
4 guilty, you must give the defendant the benefit
5 of the doubt and find him not guilty.

6 Madam Forelady, Ladies and Gentlemen of the
7 jury, there are two types of evidence which are
8 generally presented during a trial, direct
9 evidence and circumstantial evidence. Direct
10 evidence directly proves the existence of a
11 fact. It does not require a deduction.
12 Circumstantial evidence, however, is proof of a
13 chain of facts and circumstances indicating the
14 existence of a fact.

15 Crimes may be proven by circumstantial
16 evidence. The law makes no distinction between
17 the weight or value to be given to either direct
18 or circumstantial evidence. However, to the
19 extent the State relies on circumstantial
20 evidence, all of the circumstances must be
21 consistent with each other and, when taken
22 together, point conclusively to the guilt of the
23 accused beyond a reasonable doubt. If these
24 circumstances merely portray the defendant's
25 behavior as suspicious, the proof has failed.

1 The State has the burden of proving the
2 defendant guilty beyond a reasonable doubt.
3 This burden rests with the State regardless of
4 whether the State relies on direct evidence,
5 circumstantial evidence or some combination of
6 the two.

7 Necessarily, you must determine the
8 credibility of witnesses who have testified in
9 this case and any evidence submitted.
10 Credibility simply means believability. It
11 becomes your duty as jurors to analyze and to
12 evaluate the evidence and determine which
13 evidence convinces you of its truth.

14 In determining the believability of
15 witnesses who have testified in this case, you
16 may believe one witness over several witnesses
17 or several witnesses over one witness. You may
18 believe a part of the testimony of a witness and
19 reject the remaining part of the testimony of
20 that same witness. You may believe the
21 testimony of a witness in its entirety or reject
22 the testimony of a witness in its entirety.

23 You may consider whether any witness has
24 exhibited to you any interest, bias, prejudice
25 or other motive in this case. You may also

1 consider the appearance and manner of a witness
2 while on the witness stand. Concerning witness
3 testimony and evidence submitted in this case,
4 it is up to you to give it whatever weight you
5 think it deserves.

6 Now, as I told you, I think it was
7 yesterday, concerning expert witnesses, the
8 rules of evidence ordinarily do not permit
9 witnesses to testify to opinions or conclusions.
10 An exception to this rule exists for witnesses
11 we call expert witnesses. A witness, who by
12 education or experience, has become an expert in
13 some art, science, possession or calling may
14 state an opinion as to relevant and material
15 matter in which the witness claims to be an
16 expert. They may also state the reasons for
17 that opinion.

18 You should consider any expert opinion
19 received into evidence in this case and, like
20 any other evidence, give it the weight you think
21 it deserves. If you decide that the opinion of
22 an expert witness is not based on sufficient
23 education or experience or if you conclude that
24 the reasons given in support of the opinion are
25 not sound or that the opinion is outweighed by

1 other evidence, you may disregard the opinion
2 entirely.

3 An expert witness' testimony should be
4 given no greater weight than that of other
5 witnesses simply because the witness is an
6 expert. Further, you are not required to accept
7 an expert's opinion, even though it is not
8 contradicted.

9 Now, I instruct you and emphasize the fact
10 that the defendant did not testify is not a
11 factor to be considered by you in any way in
12 your deliberations and in your consideration on
13 the question of guilt or innocence of the
14 defendant. It must not be considered by you in
15 any manner whatsoever.

16 A defendant has the constitutional right to
17 remain silent; and the assertion of this right
18 must not be considered by you in your
19 deliberations. I repeat. Under the oath that
20 you have took as jurors yesterday, you are to
21 draw no conclusion whatsoever from the fact that
22 the defendant in this case did not testify. The
23 fact that this defendant did not testify should
24 not even be discussed in the jury room. The
25 burden of proof, as I have stated to you, is on

1 the State. The defendant is not required to
2 prove his innocence. The burden of proof
3 remains on the State to prove guilt beyond a
4 reasonable doubt.

5 Now, in order to establish criminal
6 liability, criminal intent is required. For
7 example, mental state required to be proven by
8 the State for a particular crime might be
9 purpose, intent, knowledge, recklessness or
10 criminal negligence. Criminal intent must be
11 proven by the State beyond a reasonable doubt.
12 Criminal intent is always a matter that must be
13 determined by the jury from the circumstances
14 surrounding the situation.

15 Now, there's no way to prove intent to a
16 mathematical certainty. There's no way medical
17 science can dissect a person's brain and
18 determine what the person had in mind. The law
19 says criminal intent may be inferred from the
20 circumstances shown to have existed. This is
21 how you make a determination or whether or not
22 the element requiring intent is present. It's
23 not necessary to establish intent by direct and
24 positive evidence. Intent may be established by
25 inference the same way as any other fact, by

1 taking into consideration the acts of the other
2 parties and all the facts and circumstances in
3 the case.

4 Criminal intent is a mental state of
5 conscious wrongdoing. It is up to you to
6 determine what the defendant intended to do
7 based upon the circumstances shown to have
8 existed at the time.

9 As I already stated to you, the defendant
10 is charged with trafficking crack cocaine more
11 than 10 grams but less than 28 grams. The State
12 must prove beyond a reasonable doubt that the
13 defendant knowingly sold, manufactured,
14 cultivated, delivered, purchased, brought into
15 this state, provided financial assistance or
16 otherwise aided, abetted, attempted to conspire,
17 sell, manufacture, cultivate, deliver, purchase
18 or bring into this state or was knowingly in
19 actual or constructive possession, knowingly
20 attempt to become in actual or constructive
21 possession of crack cocaine. The State must
22 also prove beyond a reasonable doubt that the
23 amount of crack cocaine was 10 grams or more but
24 less than 28 grams.

25 Madam Forelady and Ladies and Gentlemen of

1 the jury, to prove possession, the State must
2 prove beyond a reasonable doubt that the
3 defendant had knowledge of the drugs and the
4 power and intent to control the disposition or
5 use of the crack cocaine. Possession may be
6 either actual or constructive.

7 Actual possession means that the crack
8 cocaine was in the actual physical custody of
9 the defendant. Constructive possession means
10 that the defendant had knowledge, dominion and
11 control or knowledge and the right to exercise
12 dominion or control over the crack cocaine
13 itself.

14 Mere presence at the scene where the drugs
15 were found is not enough to prove possession.
16 Knowledge can be proven by evidence of acts,
17 declarations or conduct of the defendant for
18 which the inference may be drawn that the
19 defendant knew the existence of the drugs.
20 Possession of drugs may be inferred from the
21 circumstances and may be imputed to anyone who
22 has the knowledge, power and intent to control
23 the disposition or use of the drugs. The
24 defendant's knowledge and possession may be
25 inferred when a substance is found on the

1 property under the defendant's control.

2 However, these inferences are simply evidentiary
3 facts to be taken into consideration by you
4 along with all the other evidence in this case
5 and to be given the weight you decide it should
6 have. You are free to accept or reject these
7 permissive inferences of knowledge and
8 possession depending upon your own view of the
9 evidence.

10 Now, Madam Forelady and Ladies and
11 Gentlemen of the jury, I realized that was a
12 mouthful I just gave you. What I'll do is I
13 will give you for your use, however you want to
14 use it, a copy of what I just read to you to
15 carry back to the jury room.

16 Now, there are only two possible verdicts
17 in this case, that is, either not guilty or
18 guilty. Your verdict must be unanimous by all
19 12 of you.

20 Now, here is what we're going to do. I'm
21 going to send you back to your jury room. Do
22 not begin your deliberations. Do not start your
23 discussions about this case.

24 Either two things will happened. After I
25 discuss with the attorneys concerning my

1 instructions on the law, if I need to make a
2 correction or make a change or make an addition,
3 then the 13 of you will be bought back for that.
4 If I do not do that and then when the bailiff
5 brings to you all of the exhibits, a copy of the
6 charge that I read to you and a copy of the
7 verdict form, which you would have to sign,
8 Madam Forelady, which indicates either mark
9 guilty or not guilty, and the order on the
10 verdict form is of no significance, and you will
11 sign it and dated.

12 When those documents are bought to you,
13 that will be your cue for, Ms. Edwards, you will
14 need to leave the jury room and come back in
15 here for further instruction.

16 Secondly, Madam Forelady, you will then
17 begin your deliberations. When you have reached
18 a unanimous verdict, you just knock on the door
19 let the bailiff know that you have reached a
20 verdict; and then we will bring you back out to
21 receive that verdict. Okay?

22 Now, with that said, all 13 of you go back
23 to the jury room and something should happen
24 here very shortly. Okay. Do not start your
25 deliberations.

1 (WHEREUPON, the jury exits at approximately
2 3:36 p.m.)

3 THE COURT: Okay. Mr. Wise, other than
4 what is been noted previously while we discussed
5 the charge, is there any additional objections
6 or exceptions?

7 MR. WISE: There's one I should've
8 mentioned earlier. I don't know what it is, but
9 when you were talking about criminal intent on
10 Page 9, uh, you mentioned reckless or criminal
11 negligence. There is really no reckless or
12 criminal negligence that was defined. I don't
13 know if it really hurts, but it may be a little
14 confusing.

15 THE COURT: Okay. Probably when we took
16 out -- I read it. Then as soon as I read it, I
17 realized we had taken that out later on in the
18 paragraph. Probably let's go ahead and bring
19 them out and I'll reread that and say I
20 indicated recklessness or criminal negligence
21 and that should've been left out.

22 MR. WISE: Then, of course, my objection
23 to not charging the chain of custody charge
24 which I gave the court.

25 THE COURT: Right. I think that already

1 has been put on the record. So what I'm going
2 to do then is, on their copy, I'm just going to
3 mark through it instead of printing something
4 out. Since I will be telling them that that
5 should not have been in there.

6 **MR. WISE:** And, of course, my basic
7 inference objection too.

8 **THE COURT:** All of that's on the record.
9 You're covered.

10 **MR. WISE:** May get corrected one day.

11 **THE COURT:** Does the State have any
12 additional objections or exceptions?

13 **MS. BOYKIN:** No, Your Honor, we don't.

14 **THE COURT:** All right. Let's go ahead and
15 get the exhibits together. We will be off the
16 record for just a moment.

17 (WHEREUPON, the Court goes off the record.)

18 **THE COURT:** Let's bring the jury out and
19 make that one correction and then I will go
20 ahead and I'll give them everything they need to
21 start.

22 (WHEREUPON, the jury enters at approximately
23 3:40 p.m.)

24 **THE COURT:** Let the record reflect the
25 jury is back in.

1 Nobody said you can't get your exercise
2 serving on a jury, right? One slight
3 correction. When I charged you on intent, in
4 order to establish criminal liability, criminal
5 intent is required. For example, the mental
6 state required to be proven by the State for a
7 particular crime might be purpose, intent,
8 knowledge. I also added recklessness or
9 criminal negligence. That should've been taken
10 out. So on your copy, I've just marked through
11 those words. Okay?

12 Now, with that said, I'm going to go ahead
13 and ask the bailiff to hand you the exhibits,
14 the verdict form and the copy of the charge.
15 You're now directed to go back to the jury room
16 and begin your deliberations.

17 Ms. Edwards, you remain with us please.
18 Okay?

19 (WHEREUPON, the jury exits at approximately
20 3:41 p.m.)

21 **THE COURT:** Ms. Edwards, you are free to
22 leave, if you want to, or you are free to say
23 and wait on the verdict. Whatever you would
24 like to do is fine. You are excused for the
25 rest of the week. We have no further work for

1 this jury. You're free to go. You will be
2 mailed a check.

3 Madam clerk, sometime here in the near
4 future?

5 **THE CLERK:** End of the week.

6 **THE COURT:** End of the week?

7 **THE CLERK:** Yes, sir.

8 **THE COURT:** You will be mailed a check.

9 Don't make big plans for the check. If you want
10 to stay with us, you just have a seat out there
11 or you're free to go. We appreciate your
12 service very much.

13 (WHEREUPON, alternate juror is excused.)

14 **MR. WISE:** Your Honor, you want to put on
15 the record my objection to you not sending 12
16 copies.

17 **THE COURT:** Right. That's on the record.

18 **MR. WISE:** And not instructing them to --
19 everybody to read it to.

20 **THE COURT:** Right. Okay. Everybody be at
21 ease.

22 (WHEREUPON, deliberation of the jury begins at
23 approximately 3:45 p.m.)

24 (WHEREUPON, the Court resumes at approximately
25 4:58 p.m.)

1 **THE COURT:** Okay. We are back on the
2 record.

3 Mr. Easley has informed me that the jury
4 has reached a verdict. Let me caution those in
5 the courtroom that if anybody feels like you're
6 going to have any difficulties controlling your
7 emotion, whether it's a not guilty verdict or
8 whether it's a guilty verdict, then I would ask
9 that you exit the courtroom at this time.

10 If, in fact, any outburst, any outward sign
11 of emotion is shown, whether it's a not guilty
12 verdict or a guilty verdict, I will hold you in
13 contempt. We have to maintain order in this
14 courtroom and that includes no outburst or other
15 signs of any sort of emotion. So here is your
16 opportunity now to exit the courtroom.

17 All right. Bring the jury out please.

18 **(WHEREUPON, the jury enters at approximately**

19 5:01 p.m.)

20 **THE COURT:** All right. Let the record
21 reflect that the jury is back in.

22 Madam forelady, it has been my -- at least
23 the information I have received is the jury has
24 reached a verdict?

25 **THE JUROR:** Yes.

1 **THE COURT:** Without telling me what the
2 verdict is, was and is the verdict unanimous?

3 **THE JUROR:** Yes.

4 **THE COURT:** Okay. Would you hand the
5 verdict form to Mr. Easley please.

6 **(WHEREUPON, the verdict form is passed to the**
7 **Court.)**

8 **THE COURT:** All right. Madam clerk, would
9 you publish the verdict please.

10 Mr. Pulley, would you please stand.

11 **THE CLERK:** In the case of the State of
12 South Carolina versus Timothy Artez Pulley as to
13 indictment number 2013-GS-30 -- excuse me --1581
14 which charges the defendant with trafficking
15 crack cocaine between 10 grams and 28 grams, we,
16 the jury, find the defendant guilty. Signed by
17 the foreperson of the jury.

18 Ladies and Gentlemen of the jury, if this
19 be your verdict, please indicate by your
20 upraised right hands.

21 **(WHEREUPON, each juror responds.)**

22 **THE COURT:** Does the defense request
23 individual polling?

24 **MR. WISE:** We would request individual
25 polling.

1 **THE COURT:** Okay. Madam clerk, could you
2 handle that?

3 **THE CLERK:** As I call your name, I'm going
4 to ask you a question and you answer that
5 question.

6 Teri Griffin, was that your verdict and is
7 it still your verdict?

8 **THE JUROR:** Yes.

9 **THE CLERK:** David M. King, was that your
10 verdict and is it still your verdict?

11 **THE JUROR:** Yes, ma'am.

12 **THE CLERK:** David Arscott, was that your
13 verdict and is it still your verdict?

14 **THE JUROR:** Yes, ma'am.

15 **THE CLERK:** Gregory Robinson, was that
16 your verdict and is it still your verdict?

17 **THE JUROR:** Yes.

18 **THE CLERK:** Harry E. Knight, was that your
19 verdict and is it still your verdict?

20 **THE JUROR:** Yes, ma'am.

21 **THE CLERK:** Billy R. Walker, was that your
22 verdict and is it still your verdict?

23 **THE JUROR:** Yes, ma'am.

24 **THE CLERK:** Michael W. Sharp, was that
25 your verdict and is it still your verdict?

1 **THE JUROR:** Yes, ma'am.

2 **THE CLERK:** Brian A. Oakes, was that your
3 verdict and is it still your verdict?

4 **THE JUROR:** Yes, ma'am.

5 **THE CLERK:** David B. Moore, was that your
6 verdict and is it still your verdict?

7 **THE JUROR:** Yes, ma'am.

8 **THE CLERK:** Edgar H. Agnew, III, was it
9 your verdict and is it still your verdict?

10 **THE JUROR:** Yes, ma'am.

11 **THE CLERK:** Julian E. Garrett, II, was
12 that your verdict and is it still your verdict?

13 **THE JUROR:** Yes, ma'am.

14 **THE CLERK:** Thank you, Madam clerk.

15 Madam Forelady and Ladies and Gentlemen of
16 the jury, let me take this opportunity now to
17 thank you for your jury service. As I mentioned
18 to you, I think on Monday, service on a jury is
19 a very high civic responsibility that we all
20 have; and your service this week is most
21 appreciated.

22 There is no further work that we need from
23 you. So you are excused for the remainder of
24 the week. Now, I understand the clerk's office
25 will be mailing you a check for your service.

1 It will not be a very large check. But,
2 nonetheless, you will be compensated to the
3 amount that is allowed by law.

4 You are free to discuss this case with
5 anybody if you so choose to. If you do not want
6 to, then you don't have to. I'm not suggesting
7 this is going to happen, but if someone were to
8 approach you who wants to discuss the case and
9 you don't want to and they are persistent, which
10 makes you very uncomfortable or something of
11 that nature, then please contact the court
12 immediately and we can take care of it. I'm not
13 saying that's going to happen. I just want you
14 to know we protect our jurors and if someone
15 wants to talk to you and you don't want to talk
16 to them, you certainly don't have to. Okay?

17 I'm just going to come down and shake your
18 hand and thank you for your service again. You
19 are free to leave. Mr. Easley will escort you
20 out. Okay.

21 You need to stay because you need to sign
22 something.

23 All right. The rest of you are free to
24 leave.

25 (WHEREUPON, the jury exits at approximately

1 5:06 p.m.)

2 **THE CLERK:** Mr. Griffin, I failed to tell
3 the jury that the jury is welcome to stay for
4 sentencing. I don't know if you want to go out
5 that door and catch anybody. Anybody that would
6 like to stay, they are welcome to.

7 Is the State ready to proceed with
8 sentencing?

9 **MS. BOYKIN:** Yes, Your Honor.

10 **THE COURT:** Is the defense?

11 **MR. WISE:** Yes.

12 **THE COURT:** Okay. Okay. You can just
13 remain at the table since we are not set up
14 really well.

15 Mr. Pulley, if you will, please stand.

16 Solicitor, I will go to you first for
17 purposes of sentencing.

18 **MS. BOYKIN:** Thank you, Your Honor. Please
19 the court, I would like to hand up certified
20 convictions.

21 **THE COURT:** Okay. Show them to Mr. Wise
22 first to make sure that he's good with that.

23 **MS. BOYKIN:** Your Honor, if I may, I would
24 like to read off Mr. Pulley's record.

25 **THE COURT:** Okay.

1 **MS. BOYKIN:** 1992, two counts of
2 Distribution of Crack Cocaine.

3 **THE COURT:** You said that's 1992, ma'am?

4 **MS. BOYKIN:** Yes, Your Honor.

5 **THE COURT:** Okay.

6 **MS. BOYKIN:** 1993, Armed Robbery and Grand
7 Larceny, Failure to Stop for a Blue Light,
8 Driving under Suspension second, Distribution
9 Crack Cocaine second offense; 1997, Possession
10 of Marijuana; 1998, Distribution of Crack
11 Cocaine second offense, Distribution near a
12 school; 2000, CDV; 2007, DUI, DUS second,
13 Resisting Arrest, Giving False Information;
14 2009, Possession of Cocaine; 2007, Driving Under
15 Suspension; 2009, Failure to Stop for Blue
16 Light; and 2009, Possession with Intent to
17 Distribute Marijuana.

18 Your Honor, the sentencing range is 25 to
19 30 years completely to your discretion.

20 **THE COURT:** Right, and a fine of \$50,000.

21 **MS. BOYKIN:** Yes, Your Honor.

22 **THE COURT:** Thank you very much.

23 Mr. Wise, I'll be glad to hear from you.

24 **MR. WISE:** While the sentence is in your
25 discretion, it's quite obvious the legislature

1 has not left much discretion to exercise.

2 **THE COURT:** Right. I understand.

3 **MR. WISE:** The only thing I will tell the
4 Court is that the only time I represented Mr.
5 Pulley is on this charge. We started about a
6 year ago, so last year about this time. I will
7 tell the Court and I can honestly represent to
8 the Court the Timothy Pulley I've known for the
9 last year or so is not the Timothy Pulley with
10 that record. I don't know why. I don't know
11 what changed his life.

12 He has been, without a doubt, as
13 cooperative and as nice a client as I have ever
14 dealt with. He has maintained the same cell
15 phone number, which is not an everyday
16 occurrence with some of the people that I
17 represent. He has always been available to meet
18 with me. He has met with me on several
19 occasions. He has been cooperative in doing
20 things I asked him to do.

21 I told him this -- we were meeting last
22 Saturday. He commented about -- we had been
23 meeting in my office for about two hours. He
24 said something to me about my sitting down and
25 talking to him this long. I turned to him and I

1 said, Tim, let me tell you something. If I
2 didn't like you, I would not have been down here
3 for two hours with you. I kind of like him.
4 That's why I say I can not understand, for the
5 life of me, his record compared to the Timothy
6 Pulley that I have gotten to know. It really is
7 a shocker.

8 I have talked to him on more than one
9 occasion. He will tell you this. On that
10 video, he had a bad attitude. No question about
11 it. He admits that. But as I say, you don't
12 have much discretion. The minimum sentence is
13 obviously a gracious punishment in this case for
14 what he is accused of doing.

15 **THE COURT:** Thank you very much, Mr. Wise.
16 Mr. Pulley, you certainly don't have to say
17 anything. But if there is anything you would
18 like to tell me? I know you've had a family
19 member sitting behind you throughout this trial.
20 I will be glad to hear from any of them. You
21 may want to discuss that with Mr. Wise first.
22 But if there is anything you would like to tell
23 me, I will be glad to hear from you, sir.

24 **MR. PULLEY:** Well, Your Honor, the only
25 thing I can say is that through this trial and

1 everything that I have been through in life,
2 it's a time in life when you have to say you are
3 guilty. And you have to go for what you know in
4 life. Any other time, I'd say guilty and go on
5 about my business. But I know I have change in
6 life as a person doing heating and air,
7 finishing school and whatever going on.

8 I would say the things in my past wasn't in
9 my present or future. Anything else that the
10 court had built up on me, got against me or
11 whatever, that ain't me. I just ask the Court
12 for leniency and mercy to the court.

13 **THE COURT:** Okay.

14 **MR. WISE:** As the court, did -- maybe
15 heard in testimony, he did go complete a heating
16 and air course. That's what he's been doing for
17 the last year.

18 **THE COURT:** Well, as everybody recognizes,
19 there's very little discretion here. There's
20 some, but it's nominal with the mandatory
21 minimum of 25 years. (Pause.)

22 Mr. Pulley, of course, I don't think
23 there's any question that your prior record is
24 pretty significant. However, it appears that it
25 has been some time since you, uh, 109, you

1 had a Possession of Marijuana, but there has
2 been some time since any significant drug
3 activity. I can tell you that along with the
4 fact that the mandatory minimum is a pretty
5 stiff sentence.

6 I will make a finding for the record that
7 based upon the statute that -- the number
8 escapes me at this time -- that is related to
9 the prohibition against --

10 Will you look that up?

11 Everybody be at ease for just one moment.

12 (Pause.)

13 Pursuant to the statute that prohibits --
14 because this is a violent offense, it prohibits
15 future ownership or possession of firearms. I
16 do note that and place that on the record.

17 Mr. Pulley, you will be committed to the
18 State Department of Corrections for a period of
19 25 years and pay a fine of \$50,000. That is so
20 ordered.

21 Sheriff, take him into custody please.

22 (WHEREUPON, the proceedings conclude at
23 approximately 5:15 p.m.)
24
25

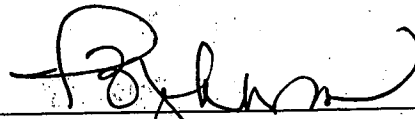
CERTIFICATE

295

STATE OF SOUTH CAROLINA)
)
COUNTY OF LAURENS)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record, Volume 2 of 2, of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Laurens, South Carolina, on this 6th day of May, 2015.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.



Teresa B. Johnson

Official Court Reporter



Vehicle Inventory, Seizure and Towing

Policy Number 731

731.1 Policy

Vehicles impounded, seized or towed at the direction and authority of a Laurens Police Officer shall have an itemized inventory made of the vehicle's contents, either by or at the direction of the impounding officer. The *Motor Vehicle Tow and Inventory Report* must be completed in its entirety.

731.2 Definitions

Impounded Vehicles Those vehicles which are removed from the owners/drivers possession incident to arrest from that vehicle. Generally, impounding requires that the owner/driver provide some type of official documentation to recover the vehicle such as insurance or ownership papers.

Seized Vehicles Those vehicles which are removed from the owners possession incident to arrest for any offense for which a penalty exists whereby the vehicle can be forfeited to the City of Laurens in any subsequent Civil Action.

Towed Vehicles Those vehicles which are removed from any location for conditions such as parking violations, traffic accidents, etc. Generally, these vehicles require no special instructions to the Tow Operator and are not held for any other reason than to satisfy the towing bill.

Crime Scene Vehicles Those vehicles which are themselves crime scenes and require special detailed examination of the vehicle interior, exterior and contents and inspection for trace evidence.

731.3 Procedure

731.3.1 Inspection and Inventory

731.3.1.1 Motor Vehicle Tow and Inventory Report Upon implementation of this policy all officers impounding, seizing or towing vehicles shall make a complete and thorough inspection of the vehicle, either at the location from which the vehicle is to be impounded, or another location specified by the impounding officer or supervisor.



Vehicle Inventory, Seizure and Towing

Policy Number 731

The contents of impounded vehicles shall be itemized on the *Motor Vehicle Tow and Inventory Report*. In the event that no articles and inventory are contained within the vehicle, the *Motor Vehicle Tow and Inventory Report* shall reflect this fact.

731.3.1.2 Disposition of Property Property and inventory found within the vehicle shall be taken into protective custody or locked in the vehicle by, or at the discretion of the impounding officer. In the event the officer decides to place the contents of the vehicle, or portions thereof, into protective custody those items shall be handled in accordance with § 730.2.2 et al.

731.3.1.3 Miscellaneous Owners shall be directed to contact the Evidence Custodian Monday through Friday between the hours of 10:00 Am and 4:00 PM for the return of their property.

731.3.2 Officer Responsibility

731.3.2.1 Generally Officers are to comply with 731.3.1 and to ensure that Tow operators, taking custody of any vehicle for tow purposes, sign the *Motor Vehicle Tow and Inventory Report* to acknowledge receipt of the impounded vehicle, its contents and condition. Completed *Motor Vehicle Tow and Inventory Reports* shall be attached to the incident report and turned in through proper channels.

731.3.2.2 Impounded Vehicles

731.3.2.2.1 Officers are to comply with 731.3.1, denoting on the *Motor Vehicle Tow and Inventory Report* any special instructions to the Tow Truck Operator, such as requiring proof paperwork, etc., and all items located within the vehicle.

731.3.2.2.2 No officer is to direct a tow operator or allow a tow operator to tow any impounded vehicle to the Laurens Police Department.

731.3.2.3 Seized Vehicles

731.3.2.3.1 Officers are to comply with 731.3.2 denoting on the *Motor Vehicle Tow and Inventory Report* any and all items located within the vehicle.

731.3.2.3.2 A Chain of Custody shall be initiated on the vehicle and its contents. The Chain of Custody shall be attached to the Incident Report and distributed through proper channels.



Vehicle Inventory, Seizure and Towing

Policy Number 731

731.3.2.3.3 No item contained within the vehicle shall be release to anyone except as authorized by officers in the Investigative Division.

731.3.2.3.4 All seized vehicles shall be towed to the Laurens Police Department and placed in a location where proper security may be maintained. Officers shall remove the vehicles coil wire to disable the vehicle.

731.3.2.3.5 Incident Reports shall be made on all vehicle seizures or, may be mentioned on the incident report outlining the events of whatever arrest resulted in the vehicle seizure.

731.3.2.4 Towed Vehicles

731.3.2.4.1 Officers are to comply with 731.3.1, denoting on the *Motor Vehicle Tow and Inventory Report* any and all items located within the vehicle.

731.3.2.4.2 Vehicles classified as Towed Vehicles are not to be towed to the Laurens Police Department or any other City of Laurens facility.

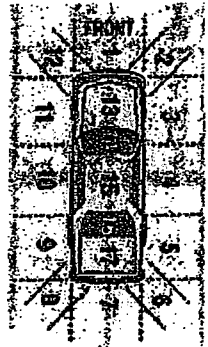
731.3.2.5 Crime Scene Vehicles

731.3.2.5.1 Officers are to treat Crime Scene Vehicles as Seized Vehicles.

731.3.2.5.2 Only Command Staff, Shift Supervisors, or Investigative officers shall be authorized to classify a vehicle as a Crime Scene Vehicle.

731.3.2.5.3 Crime Scene Vehicles are to be towed to the Laurens Police Department and placed in the No Parking Zone directly in front of the main entrance in the rear. Crime Scene Barriers are to be erected to warn all personnel to stay away from the vehicle.

TOWED VEHICLE REPORT

DATE 06/23/2013		TOWED FROM MCDONALDS				Towing Company: 1 / NORTHSIDE TOWING		CASE NUMBER 2013-2907	
VEHICLE OPERATOR'S NAME TIMOTHY ARTEZ PULLEY							ARRESTED? ☒ YES ☐ NO		
VEHICLE OPERATOR'S ADDRESS / PHONE 201 BELMONT STAKES					CLINTON SC 29325			(864) 340-9265	
MAKE DODGE	MODEL CHALLENGER	YEAR 2010	TAG JDL810	VIN 2B3CJ4DV6AH189646				STATE SC	
OWNER'S NAME / ADDRESS LAKENDRA NICOLE ANDERSON				402 FLANDERS CT LAURENS SC 29360					
LIEN HOLDER INFO									
INVENTORY VARIOUS CLOTHING ITEMS, BOOKS								INDICATE DAMAGE 	
NOTES									

THE INVENTORY IS AN ACCURATE ACCOUNTING (TO THE BEST OF MY KNOWLEDGE) OF THE ITEMS LEFT IN THE VEHICLE AND TURNED OVER TO THE TOW TRUCK OPERATOR. ANY OTHER ITEM(S) FOUND WITH OR IN THE VEHICLE WHICH ARE NOT LISTED ON THIS FORM HAVE BEEN TAKEN INTO CUSTODY AS EVIDENCE AND ARE LISTED AS SUCH ON AN EVIDENCE CHAIN OF CUSTODY FORM IN ACCORDANCE WITH POLICE DEPARTMENT PROCEDURES. A LISTING OF THESE ITEMS (IF APPLICABLE) IS AVAILABLE TO THE OWNER UPON REQUEST. ALL SIGNIFICANT DAMAGE HAS BEEN NOTED.

OFFICER'S SIGNATURE / ID NUMBER / DATE

Patric Carter 615 6/23/13

I AGREE WITH THE INVENTORY OF THE VEHICLE AND THE DAMAGE AS LISTED BY THE OFFICER. I ACCEPT THE VEHICLE WITH THE ITEMS INDICATED AND IN THE CONDITION SPECIFIED ABOVE.

TOW TRUCK OPERATOR'S SIGNATURE / PHONE / DATE

AGENCY I.D.
SC0300100

LAURENS POLICE DEPARTMENT

PROPERTY LISTING

CASE NUMBER

2013-2907

NCIC

INQ. ENTD.

☐ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIES ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY

PAGE 1

6 SEIZED

3 BAGS OF OFF WHITE ROCK LIKE SUBSTANCE BELIEVED TO BE CRACK COCAINE (24.7G). 1 BAG OF GREEN LEAFY SUBSTANCE BELIEVED TO BE MARIJUANA (2.5G) 0.00

A "Crack" Cocaine 24.700 GM

E Marijuana 2.500 GM

TOTAL GROUP 0.00

TOTAL PROPERTY

0.00

ADMINISTRATIVE	SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		☐ ACTIVE ☐ ADM. CLOSED	☐ ARRESTED UNDER 18 ☒ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY						
	REPORTING OFFICER(S) MPTL PATRICK ADAM CRAVEN		DATE 06/23/2013	UNIT NUMBER 615	APPROVING OFFICER LT W. DAVID BREWER		DATE 06/23/2013
	LT W. DAVID BREWER		DATE 06/23/2013	UNIT NUMBER 305	FOLLOW UP / INVESTIGATION OFFICER ☐ YES 383		UNIT NUMBER 306

CONTROL NO. B206049

PRINT ALL INFORMATION EXCEPT WHERE SIGNATURE IS REQUIRED

FORM B (RULE 6)

**CERTIFICATE OF PROOF OF CHAIN OF PHYSICAL
CUSTODY OR CONTROL**

(Initial Custody)

This is to certify that I PATRICK CRAVEN am employed by
(Name)

LAURENS P.D. and that on
(Name of Agency or Department)

6-23, 13, I seized from TIMOTHY A. PULLEY
(Date) (Name)

pursuant to LAWFUL ARREST
(State Whether Subject to a Warrant, Lawful Arrest or Otherwise)

at or near 105 FLEMING ST. LAURENS, SC
(Place Where Seized)

the following substance(s) or container(s):

(Describe substance or container with sufficient particularity to distinguish it.)

(3) PLASTIC BAGS CONTAINING AN OFF WHITE LIKE SUBSTANCE,
WHICH APPEARS TO BE CRACK COCAINE. TOTAL WEIGHT 24.7 GRAMS

On 6-24, 13, I made delivery of the above described
(Date)

substance(s) or container(s) to JOHN STANKUS of
(Name)

LAURENS CITY POLICE in substantially the same condition
(Law Enforcement Agency)

as when I received it.

Patrick Craven
(Signature)

Place: _____

Date: _____

Sworn before me on this 24th day of JUNE, 2013

Julie B. Alexander
Notary Public for South Carolina
My Commission expires: Dec. 17, 2014

CONTROL NO. B206049

PRINT ALL INFORMATION EXCEPT WHERE SIGNATURE IS REQUIRED

FORM C (RULE 6)

**CERTIFICATE OF PROOF OF CHAIN OF PHYSICAL
CUSTODY OR CONTROL
(Subsequent Change of Custody)**

This is to certify that I John STANKUS am employed by
(Name)

Laurens City Police as Captain and that on
(Name of Agency or Department) (Capacity of Employment)

0624, 13, I received in Person
(Date) (Specify Whether by Mail or in Person)

from Patrick Craven of Laurens City Police
(Name of Person) (Law Enforcement Agency)

the following substance(s) or container(s) which were originally seized by

Patrick Craven :
(Name of Person Making Original Seizure)

(Describe substance or container with sufficient particularity to distinguish it.)

(3) PLASTIC BAGS CONTAINING AN off white like
Substance, which appears to be Crack Cocaine
Total weight 247 grams

On 06-24-13, I made delivery of the above described
(Date)

substance(s) or container(s) to SLED of
(Name)

SLED in substantially the same condition
(Law Enforcement Agency)

as when I received it.

John J. Stankus
(Signature)

Place: _____
Date: _____

Sworn before me on this 24th day of June, 2013

Gulin B. Alexander
Notary Public for South Carolina
My Commission expires: Dec. 17, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of General Sessions

The Honorable Donald Hocker, Circuit Court Judge

Appellate Case No 2015-002206

RECEIVED

JUL 24 2017

SC Court of Appeals

The State of South Carolina, ... Respondent,

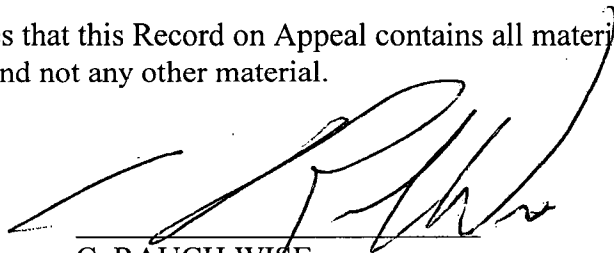
vs.

Timothy Artez Pulley, ... Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

July 5th, 2017



C. RAUCH WISE
Attorney at Law
305 Main Street
Greenwood, SC 29646
(864) 229-5010
S.C. Bar No. 00188

Attorney for Appellant