

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of General Sessions

Honorable Roger E. Henderson, Sixth Circuit Court Judge

Appellate Case No.: 2016-000193

The State,

Respondent

v.

Charles David Hayes

Appellant

RECORD ON APPEAL
Volume 1 of 3

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In Circuit Court of the
Fourth Judicial Circuit
2014-GS-12-00650, 00651
2016-GS-12-00065

Defendant.

(VOLUME I)

Lisa Carter
Circuit Court Reporter

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1 JANUARY 25, 2016- Day 1

2 THE COURT: Okay, Mrs. Fryar?

3 MRS. FRYAR: Thank you, Your Honor. If it please the
4 Court, sir? We're here today in the matter of the State
5 versus Charles Hayes. Mr. Hayes has been indicted for the
6 offenses of possession with intent to distribute crack
7 cocaine, as well as the offense of possession with it
8 intent to distribute marijuana.

9 Your Honor, following the arrest for these offenses in
10 the indictment by the Chester County grand jury, I reviewed
11 the case and a direct presentment was made to the grand
12 jury for the offense of possession of a stolen pistol. A
13 witness to the incident, Mr. Al Crawford, from the Chester
14 Sheriff's Department took this matter up with the grand
15 jury on January 14th and he was indicted for possession of
16 a stolen pistol.

17 He is today represented by his attorneys, Mr. Brian
18 Grier and Mr. Nick Cotten. I informed Mr. Grier that I was
19 going to be doing this. This case was set for court last
20 term, Your Honor, at that time Mr. Hayes was represented by
21 other counsel and he obtained the services of Mr. Grier
22 following our last term of court. So Mr. Grier has only
23 been in the case for about a month and I've shared with him
24 all of the information that I have in the discovery in the
25 case and indicated to him that we were going to present

1 this case to the grand jury for possession of stolen pistol
2 and would let him know if his client was truly indicted for
3 that. Upon the indictment being returned by the grand
4 jury, I notified Mr. Grier of that and I emailed him a copy
5 of the indictment but I have a hard copy here in my hand.
6 We had come to court on January 14th for another purpose
7 and the grand jury did not meet until after Mr. Grier and
8 his client had left and so I was not able to serve him at
9 this time but he's been aware of it all of this time. And
10 he had been originally charged with firearms charges that
11 the State is dismissing. Nothing has changed in the facts.
12 I'm sure Mr. Grier if gotten a continuance for any reason
13 he wouldn't, there's nothing new that would be changed
14 because of this indictment and so at this time I would just
15 like to put it on the record that we have served this
16 gentleman with the indictment for possession of a stolen
17 gun as well.

18 Secondly, Your Honor, we're here to go forward with
19 pretrial motions. I've received from Mr. Grier two
20 pretrial motions that he would like to take up today. The
21 first one being, a question of the search, Your Honor. He
22 has submitted, as have I, memorandum in support of the
23 motion to suppress evidence for the search, unlawful search
24 is what he contends to be, the State has issued, and given
25 to the Court, a memorandum in support of the admissibility

1 of the evidence pursuant to the lawful search and we're
2 ready to proceed with the pretrial motion on that
3 particular issue at the Court's leisure.

4 THE COURT: Okay.

5 MR. GRIER: Your Honor, I have my hard copy supporting
6 the cases.

7 THE COURT: Yes, sir.

8 (Whereupon, the Court takes a moment to read
9 documents)

10 THE COURT: All right, Mr. Grier, ready on your first
11 motion?

12 MR. GRIER: Yes, Your Honor, I thought we would be
13 taking testimony of the law officers? If you've got
14 another way - - the way Ms. Fryar was going to do that
15 or....

16 MRS. FRYAR: I'm prepared to respond to the motion to
17 suppress, Your Honor, by calling a witness or two to
18 testify regarding that. And, Your Honor, I have copies of
19 this, I know Mrs. Carpenter can replace these, but here are
20 the three indictments in the case, 2014-GS-12-651, charge
21 offense of possession of with intent to distribute
22 marijuana; 2014-GS-12-650, the offense of possession with
23 intent to distribute cocaine base, and; 2016-GS-12-065,
24 possession of a stolen pistol.

25 The State would call Lieutenant Johnny Neal.

1 COURT REPORTER: Johnny who? I'm sorry?

2 MRS. FRYAR: Neal. N-e-a-l.

3 CLERK: Please raise your right hand and place your
4 left hand on the Bible. State your full name?

5 MR. NEAL: Johnny Neal.

6 CLERK: Do you solemnly swear to tell the truth, the
7 whole truth, and nothing but the truth so help you God?

8 MR. NEAL: Yes, ma'am.

9 JOHNNY NEAL, first being duly
10 sworn, testified as follows:

11 DIRECT EXAMINATION BY MRS. FRYAR:

12 Q. Lieutenant Neal, where are you employed, sir?

13 A. Chester County Sheriff's office.

14 Q. And how long have you been there?

15 A. Eight years.

16 Q. What is your position, sir?

17 A. I'm the lieutenant over narcotics.

18 Q. All right, sir. Were you working on the day of August
19 27, 2014?

20 A. Yes, ma'am.

21 Q. If you could tell Judge Henderson, what did y'all do
22 that morning and how did you procedure your day?

23 A. That morning we got information about Patrick Simpson?

24 Q. Yes, sir. Tell me about that. What kind of
25 information were you looking for regarding Mr. Simpson?

1 A. He was a fugitive wanted out of North Carolina.

2 Q. Okay. You learned that there was a fugitive warrant
3 for him for what offense in North Carolina?

4 A. I want to say it was for an armed robbery. I'm not
5 hundred percent sure.

6 Q. Armed with a deadly weapon or - - -

7 A. Yes, ma'am.

8 Q. - - - whatever their version of armed robbery is, is
9 that correct?

10 A. Yes, ma'am.

11 Q. Was he in the NCIC?

12 A. Yes, he was.

13 Q. All right. And that is the national databank, right?

14 A. Yes, ma'am.

15 Q. And so when y'all learned of this, did you have any
16 information that he may be in our town of Chester?

17 A. Yes, ma'am. We had information that he may have been
18 at his grandmother's house on Fifth Street.

19 Q. Okay. Who is his grandmother, sir?

20 A. Excuse me?

21 Q. Ms. Pauline Hayes?

22 A. Pauline Hayes, yes, ma'am.

23 Q. All right. And where was she residing?

24 A. On Fourth Street.

25 Q. Was it Fifth Street, perhaps?

1 A. I'm sorry, Fifth Street.

2 Q. That's okay. It's here in Chester though, in any
3 event, is that correct?

4 A. Yes, ma'am.

5 Q. All right. And so y'all had information that, that
6 was his grandmother and so were y'all looking for the
7 fugitive at that time?

8 A. Yes, ma'am.

9 Q. What did y'all do in furtherance of trying to locate
10 him?

11 A. We went to the address that we had the address and Ms.
12 Pauline Hayes, I made contact with her.

13 Q. And what did you do when you made contact with Ms.
14 Hayes?

15 A. I let her know who we were looking for and I asked her
16 -- I asked her was he here and she said, "No, he was here
17 the day prior."

18 Q. And did she indicate whether or not he resided there?

19 A. No, ma'am. He didn't live there. He was just down
20 visiting because of a funeral.

21 Q. So following that knock and talk at Ms. Pauline
22 Hayes's house and she indicated that he was not there, what
23 did y'all do after that?

24 A. We left.

25 Q. All right. And then following your lead, did you

1 return to the home?

2 A. Yes, ma'am. We met with the sheriff and Randy Marsh
3 at the sheriff's office.

4 Q. And that being Major Marsh who sitting here in the
5 courtroom, is that correct?

6 A. Yes, ma'am.

7 Q. And what decision was made at that time to try to
8 further pursue this fugitive?

9 A. We wanted to go back and talk with Ms. Hayes.

10 Q. So y'all go and do another knock and talk with Ms.
11 Hayes, is that correct?

12 A. Yes, ma'am.

13 Q. What happened when you arrived at the house?

14 A. When we arrived at the house, Major Marsh and Al
15 Crawford went to the back of the residence, at that time,
16 Major Marsh said, that's him right there.

17 Q. Okay.

18 A. That being Patrick Simpson.

19 Q. And y'all have been provided a photograph of him and
20 he was recognized by law enforcement, is that correct?

21 A. Yes, ma'am.

22 Q. And once he was recognized, what happened with Mr.
23 Simpson?

24 A. He was immediately took into custody, put in
25 handcuffs and transported to the detention center.

1 Q. And he was held there until he was extradited to North
2 Carolina to face his offenses, is that correct?

3 A. Yes, ma'am.

4 Q. Was there any more decisions made that day to try to
5 locate the weapon that was used in an armed robbery in
6 North Carolina?

7 A. Yes, ma'am. We got permission to search - - -

8 Q. All right, sir.

9 A. - - - from Ms. Hayes.

10 Q. And so y'all obtain permission to search the home from
11 Ms. Hayes and she - - did you tell her what you were
12 searching for?

13 A. Yes, ma'am. I believe we did. We just said we're
14 trying to locate the weapon that was involved in the crime.

15 Q. Okay. And is it your policy when you know of evidence
16 that possibly in a particular location to see if you can
17 locate the evidence?

18 A. Yes, ma'am.

19 Q. And would you say that a firearm is a dangerous
20 instrument?

21 A. Yes, ma'am.

22 Q. All right, sir. Did you, indeed, obtain permission to
23 search from Ms. Hayes?

24 A. Yes, we did.

25 Q. And was that done in writing?

1 A. Yes, ma'am.

2 MRS. FRYAR: And I believe you have a copy of this,
3 Mr. Grier?

4 MR. GRIER: I do.

5 Q. If you could, I'm going to show you what's been marked
6 as Court's Exhibit Number One, if you could read it out
7 loud for the Court and notify who the people who were
8 there?

9 A. "I Pauline Hayes has been informed by Trey Hunter and
10 Johnny Neal," which is me, "who have made proper
11 identification and authorized law enforcement officers of
12 my constitutional rights not to have a search made of these
13 premises and/or property owned by me and/or under my care,
14 custody, control without a search warrant. I'm willingly
15 give my permission to these officers to conduct a complete
16 search of this premises and/or property including all
17 buildings, vehicles, both inside and outside the property
18 located at 557 Fifth Street, Chester, South Carolina. The
19 above-named officers further have my permission to take
20 from these premises or vehicles any property letters,
21 papers, material, or other property in effects which they
22 desire as evidence for criminal prosecution in cases under
23 investigation. This written permission is given by me
24 voluntary without threats or promises of any kind. This
25 being the 27th day of August, 2014 at 9:20 a.m."

1 Q. All right.

2 A. "Witnesses would be Brad Bowers, and I believe that
3 would be, Matt Faile."

4 Q. So she gave permission to y'all to search her home, is
5 that correct?

6 A. Yes, ma'am.

7 MRS. FRYAR: Your Honor, I'd like to provide this as
8 Court's Exhibit to the Court at this time, mark this as
9 Court's Exhibit One.

10 THE COURT: All right. Thank you.

11 (Whereupon, the Permission to Search has been marked
12 and entered into evidence as Court's Exhibit No. 1)

13 Q. So once you obtain permission from Ms. Hayes to search
14 her home, what did you do?

15 A. We went in and we started searching the home.

16 Q. What officers were with you at the time, lieutenant?

17 A. Al Crawford.

18 Q. Okay. He's here in the courtroom, is that correct?

19 A. Yes, ma'am.

20 Q. All right.

21 A. And Brad Bowers.

22 Q. He's in the courtroom as well?

23 A. Yes, ma'am.

24 Q. All right, sir.

25 A. David Ford.

1 Q. Yes, sir. He's in the courtroom as well, is that
2 correct?

3 A. Yes, ma'am. And Major Randy Marsh.

4 Q. Yes, sir. Was Matt Faile there?

5 A. Yes, Matt Faile was there.

6 Q. Was Trey Hunter there?

7 A. Yes, ma'am.

8 Q. Is Trey Hunter available to testify?

9 A. As of right now he can possibly.. He's out on surgery
10 right now.

11 Q. He just recently had surgery, is that correct?

12 A. Yes, ma'am.

13 Q. All right. So y'all began the search of the house?

14 A. Yes, ma'am.

15 Q. Did you notice anything regarding your senses when you
16 arrived in the home?

17 A. You could smell, I know Crawford had brought to my
18 attention, that you could smell marijuana, straight up, not
19 burnt marijuana but, you could smell smoked marijuana at
20 first, when you first walked into the house.

21 Q. Mmm, hmm.

22 A. That was just as if somebody had been smoking it
23 recently.

24 Q. Mmm, hmm.

25 A. Once we entered the bedroom, if I'm not mistaken, you

1 could smell like pure marijuana that hasn't been burnt.

2 Q. Raw marijuana?

3 A. Raw, yes, ma'am.

4 Q. Okay. So y'all began to search - - you and your team,
5 began to search this home and all the areas of this home?

6 A. Yes, ma'am.

7 Q. And what were you searching for?

8 A. We were searching for a gun.

9 Q. Once you located this fragrance, did y'all continue
10 the search?

11 A. Yes, ma'am.

12 Q. Do you know if anything was found during the search,
13 the initial search?

14 A. Yes, ma'am.

15 Q. What was found?

16 A. The initial search we seen a jar containing marijuana.
17 I want to say two, two jars, I'm not sure I don't have it
18 in front of me.

19 Q. Mmm, hmm.

20 A. And once we seen that somebody else, I think it was
21 Major Marsh kind of seen, not kind of, seen some crack
22 cocaine - - -

23 Q. Okay.

24 A. - - - I believe crack cocaine. At that time we were
25 told to stop. We stopped. Hold the search until we get a

1 search warrant. Brad Bowers went and got a search warrant.

2 Q. And where were y'all in the house where y'all found
3 these drugs?

4 A. In the back bedroom.

5 Q. And did Ms. Hayes indicate whose room that was?

6 A. Yes, ma'am.

7 Q. Who's was it?

8 A. She said it was her son, Charles Hayes.

9 Q. And so at that time everybody froze, right,
10 discontinued the search?

11 A. Yes, ma'am.

12 Q. And what happened after that? And you're telling me
13 that Lieutenant Bowers left?

14 A. Yes, ma'am.

15 Q. And where did he go?

16 A. He went to the sheriff's office to type up a search
17 warrant.

18 Q. And was he able to obtain a search warrant?

19 A. Yes, ma'am.

20 Q. Did he come back to the home with a search warrant?

21 A. Yes, ma'am.

22 Q. During all of this period of time when you first
23 arrived who was the person at the house?

24 A. When I first arrived?

25 Q. Yes, sir.

1 A. Ms. Pauline Hayes.

2 Q. When you - - when Mr. Patrick Simpson was taken into
3 custody, do you know if he had any marijuana or anything on
4 him?

5 A. Yes, ma'am. He had a small bag of marijuana.

6 Q. And he was taken into custody immediately?

7 A. Yes, ma'am.

8 Q. Did not retain there or was not detained there at the
9 home?

10 A. No, ma'am.

11 Q. And so then following that, did anyone else arrive
12 after Ms. Pauline Hayes was there, initially?

13 A. Yes, ma'am.

14 Q. Who arrive next?

15 A. Quinton Feaster.

16 Q. Who is Mr. Feaster?

17 A. I want to say he's the boyfriend of Ms. Pauline Hayes.

18 Q. Did you help search this house?

19 A. Yes, ma'am.

20 Q. Did it appear that two people shared a bedroom?

21 A. Yes, ma'am.

22 Q. And whose bedroom would you say that was?

23 A. Pauline Hayes.

24 Q. And who would've share that bedroom with her?

25 A. Quinton Feaster.

1 Q. And so following that, did somebody else arrive?

2 A. Following?

3 Q. Mr. Feaster's arrival?

4 A. Yes. Sometimes toward the end Mr. Charles Hayes came
5 home.

6 Q. Had y'all already begun to initiate your search
7 warrant?

8 A. Yes, ma'am. The search what was already completed.

9 Q. Already completed the search warrant?

10 A. Yes, ma'am.

11 Q. And then Mr. Hayes came home, is that correct?

12 A. Yes, ma'am. The only reason why he came home because
13 Ms. Pauline Hayes actually called him on the cell phone and
14 said, that he needed to get home now.

15 Q. And so when he arrived at the house, what did y'all do
16 with him and Ms. Hayes and Mr. Feaster?

17 A. Everybody was set on the porch.

18 Q. Okay.

19 A. David Ford, who is in the courtroom right now, he read
20 them their Miranda rights.

21 Q. And did he read them off of a card?

22 A. Yes, ma'am.

23 Q. I'm going to show you what's been marked as Court's
24 Exhibit Number Two and ask you is this the document that
25 Mr. Ford used in reading the rights to the folks detained

1 on the porch?

2 A. Yes, ma'am.

3 Q. Could you please read for the judge what Sergeant Ford
4 read?

5 A. "You have the right to remain silent. Anything you
6 say can and will be used against you in a court of law.
7 You have the right speak to an attorney and to have an
8 attorney present during any questioning. If you cannot
9 afford a lawyer, one will be provided for you at government
10 expense. Knowing and understanding your rights as I have
11 explained them to you, are you willing to answer my
12 questions without any attorney present?"

13 Q. So at this point, were y'all investigating who was the
14 owner or who exercised dominion and control of these drugs?

15 A. Yes, ma'am.

16 Q. And so once those rights were read to the three folks
17 on the porch, what occurred next?

18 A. Each individual was asked, are they willing to talk?
19 Do you understand your rights, first of all? Everybody
20 said, yes. Charles - - Ms. Pauline Hayes, said it's not
21 important but I remembered - - Pauline Hayes was asked,
22 "Would you like to talk to us?, and she stated, "Yes."
23 Quinton Feaster, he stated, "Yes," as well and Charles
24 Hayes stated, "Yes," they would like to talk to us.

25 Q. And following that, did they give you statements?

1 A. Did they give - - yes - - -

2 Q. They gave you verbal statements?

3 A. Verbal statements.

4 Q. And what did Ms. Pauline Hayes say?

5 A. Pauline Hayes said that the drugs that were found were
6 not hers.

7 Q. All right.

8 A. Quinton Feaster, as well, said that as well. They
9 were not his as well.

10 Q. All right.

11 A. Charles Hayes said they weren't his as well.

12 Q. Yes, sir.

13 A. Once we - - in the State of South Carolina it's called
14 constructive possession and that's when nobody claims
15 ownership of the drugs, everyone goes to jail.

16 Q. All right.

17 A. Once we stated the law on that Ms. Pauline Hayes
18 turned to Charles Hayes and looked at him and said, she's
19 not going, that's not her stuff, she's not going to jail,
20 he needs to go ahead and claim them.

21 Q. All right.

22 A. Charles Hayes then said, it's mine. He's claiming
23 them.

24 Q. All right. And so at that point, what did you do?

25 A. At that point, he was placed in handcuffs.

1 Q. All right.

2 A. And he was transported to the Chester County Detention
3 Center.

4 Q. And this was done in your presence, is that correct,
5 Lieutenant Neal?

6 A. Yes, ma'am.

7 Q. And it was done at 12:06 p.m., is that correct? Is
8 there a time on that document?

9 A. Yes, ma'am.

10 Q. What is the time?

11 A. 12:06 p.m.

12 Q. All right. And besides yourself was there any other
13 witness from law enforcement?

14 A. Yes, Agent Al Crawford, who is in the courtroom.

15 MRS. FRYAR: At this time I'd like to admit this as
16 Court's Exhibit Number Two.

17 THE COURT: All right. Admitted into evidence.

18 (Whereupon, the Miranda Rights Card has been marked
19 and entered into evidence as Court's Exhibit No. 2)

20 Q. All right. Lieutenant Hayes following this, excuse
21 me, I'm very sorry, very sorry, Lieutenant Neal.

22 A. That's all right.

23 Q. Following this, did Mr. Charles Hayes get taken to the
24 detention center?

25 A. Yes, ma'am.

1 Q. All right, sir. And once he was down there, did he
2 have his rights read to him again?

3 A. Yes, ma'am.

4 Q. You had already read his rights to him one time,
5 right?

6 A. Yes, ma'am.

7 Q. But he's getting his rights read again, is that
8 correct?

9 A. Yes, ma'am.

10 Q. And was that done in your presence?

11 A. Yes, ma'am.

12 Q. Tell the judge how this happened?

13 A. Once he came - - once he came to the detention center
14 he wanted to talk with us so we took it back to the lawyer/
15 visitation room in the jailhouse. I believe he knew
16 exactly where we was talking about because I walked him
17 through. Once he was back there we wanted to talk to him
18 again so we went ahead and read him his rights.

19 Q. And I want to show you what's been marked as Court's
20 Exhibit Number Three, could you tell the judge what this
21 is?

22 A. This is a Chester County Sheriff's Office Right's Form
23 and this is issuance of your rights. Do you want me to
24 read them?

25 Q. Please, sir.

1 A. The first thing is, name: Charles David Hayes.
2 Address: 557 Fifth Street. Social security number. Date
3 of birth: 9/2/90. Location of Miranda: Chester County
4 Sheriff's Office Detention Center. The date: 8/27/2014.
5 The time: is 14:00 which is 2:00 p.m.

6 Q. And were his rights read to him all in one flush like
7 we had heard that officer David Ford did it or were they
8 done sentence by sentence?

9 A. No, ma'am. It's broken down by six different
10 sentences.

11 Q. And what was the first sentence that was read to Mr.
12 Hayes?

13 A. Number one is, "Before we ask you any questions you
14 must understand your rights." And then at the end of it,
15 we ask you to put your initials which is, CH. Right here
16 is CH which stands for Charles Hayes.

17 Q. All right, sir.

18 A. Number two, "you have the right to remain silent." He
19 signed it, CH. Number three, "anything you say can be used
20 against you in court." CH, he signed it. Number four,
21 "you have the right to talk to a lawyer for advice before
22 any questioning and to have him or her with you during any
23 questioning." He signed it, CH. "If you cannot - - number
24 five, "if you cannot afford a lawyer, one may be appointed
25 for you before any questioning if you wish." He signed it,

1 CH. Number six, if you decide to answer the questions now
2 without a lawyer present, you would still have the right to
3 stop answering at any time until you talk to a lawyer."

4 CH, he signed it. At the bottom of it is your waiver of
5 rights. "I have read the statement of my rights and I
6 understand that, I understand what my rights are. I'm
7 willing to make a statement and answer questions. I do not
8 want a lawyer at this time. No promises or threats have
9 been made to me and no pressure or coercion force of any
10 kind has been used against me," and his signature, Charles
11 Hayes. This date: 8/27/2014. Witness: Brad Bowers, same
12 day witness: Johnny Neal, myself, the same day.

13 MRS. FRYAR: I think Mr. Grier has a copy of this.
14 I'd like to enter this - - it's the rights form, Mr. Grier.

15 MR. GRIER: Yes.

16 MRS. FRYAR: I'd like to enter this as a Court's
17 Exhibit.

18 THE COURT: All right. Admitted into evidence.

19 (Whereupon, the Chester County Sheriff's Office Rights
20 Form has been marked and entered into evidence as Court's
21 Exhibit No. 3).

22 MRS. FRYAR: Thank you.

23 Q. When you were talking with Mr. Hayes at the house, you
24 were present throughout this whole experience, when you
25 were there at the house, Mr. Ford read him his rights, did

1 he seem to understand them?

2 A. Yes, ma'am.

3 Q. Was he drunk or high or anything that you could tell?

4 A. No, ma'am.

5 Q. Seem pretty knowledgeable and reasonable at that time?

6 A. Yes, ma'am. He just came from school.

7 Q. He just came from school so he was coherent, right?

8 A. Yes, ma'am.

9 Q. Obviously, has a bit of education if he was at school.

10 You know what school he was that?

11 A. York Technical College.

12 Q. And so he seemed to understand those rights, is that
13 correct?

14 A. Yes, ma'am.

15 Q. When Mr. Ford first read them to him?

16 A. Yes, ma'am.

17 Q. All right. Did he -- was he under any stress from
18 y'all? Did y'all do anything physically to him to harm him
19 or threatened to do anything to him?

20 A. No, ma'am.

21 Q. And then he gave that statement to Mr. Ford at first
22 voluntarily and of his own free will, is that correct?

23 A. Yes, ma'am.

24 Q. At the date, time, and place where it says on the
25 document that is now in evidence, is that correct?

1 A. Yes, ma'am.

2 Q. When you got to the detention center to give him an
3 opportunity to give his statement, did he appear to
4 understand his rights?

5 A. Yes, ma'am.

6 Q. Did he - - did y'all keep anything from him like the
7 ability to go to the bathroom or get a drink of water or
8 anything like that?

9 A. No, ma'am.

10 Q. Did he, in any way, appear to be physically or
11 mentally disabled and unable to understand what you were
12 talking about?

13 A. No, ma'am.

14 Q. Did you threaten or promise him anything in exchange
15 for his statement?

16 A. No, ma'am.

17 Q. So at that time, he said he would commit a statement
18 to writing, is that correct?

19 A. Yes, ma'am.

20 Q. I am going to show you what's been marked Court's
21 Exhibit Number Four, Mr. Grier, it is the initial statement
22 given by your client, if you could tell Judge Henderson
23 what this is?

24 A. Yes, Your Honor, this is a voluntary statement by
25 Charles David Hayes. Do you want me to read it?

1 Q. Yes, please.

2 A. "My name is Charles. My address is 557 Fifth Street.
3 My date of birth is 9/02/1990. My Social Security number
4 is, which I will not call. My phone number is 803-374-
5 4004. I completed college grade in school and I cannot - -
6 and I can read and write. Before answering any questions
7 would you like to make statements?" and he answered, "Yes."
8 "A person who identified themselves as Lieutenant Johnny
9 Neal, duly warned and advised me and I know and understand
10 that I have the following rights, that I have the right to
11 remain silent and I don't have to answer any questions or
12 make any statements at all. That any statement I make can
13 and will be used against me in court for the offenses or
14 offense concerning which the following statement is made.
15 That I have a right to consult with a lawyer of my own
16 choice before or at any time during any questioning or
17 statements I make. That if I cannot afford to hire a
18 lawyer I may request and have a lawyer appointed for me by
19 the proper authority before or at any time during any
20 questioning or statements that I make without cost or
21 expense to me. That I can stop answering any questions or
22 make any statements or not. I have already answered some
23 questions or made some statements. I do not want to talk
24 to a lawyer and I hereby knowingly and purposely waive my
25 right to remain silent and my right to have a lawyer

1 present while I make a following statement to that after
2 said person. Knowing that I have the right and privilege
3 to terminate any interview at any time hereafter and have a
4 lawyer present with me before answering any more questions
5 or making any more statements if I choose to do so. I
6 declare that the following voluntary statement is made of
7 my own free will without promise or hope of reward without
8 fear or threat or physical harm without coercion or favor
9 or offer of a favor without leniency or offer of leniency
10 by any person or persons whomsoever."

11 Q. All right.

12 A. And at the end of that he write his statement. "I'm
13 claiming up - - -

14 Q. Hold up Lieutenant Neal before you go there. So did
15 you or Mr. Bowers read that statement along with him as he
16 read it?

17 A. Yes, ma'am.

18 Q. And so he orally heard it and was able to read it at
19 the same time, is that correct?

20 A. Yes, ma'am.

21 Q. And then was he provided with this piece of paper to
22 write on?

23 A. Yes, ma'am.

24 Q. And is that the piece of paper Mr. Hayes wrote on?

25 A. Yes, ma'am.

1 Q. And what did Mr. Hayes say in that statement?

2 A. In this statement, "I'm claiming up to what was found
3 in the house in order to keep the parents from going to
4 jail. So the weed, gun, and I think crack is mines.
5 Therefore there's no need to go back and arrest anyone else
6 there. My reason for saying that was I didn't see none of
7 this come out the house but, I, myself did have in my
8 possession a black gun and some weed in jars," and that's
9 the end of his statement. We put a line through it and he
10 initialed it, CH, CH, CH.

11 Q. So at this point he has changed what he is told you
12 orally at the scene in front of officers and now he is
13 saying that not all of the drugs was his but admitted to a
14 portion of the drugs being his and the gun being his, is
15 that correct?

16 A. Yes, ma'am.

17 Q. Did you or Mr. Bowers present a question and answer
18 after this statement was read by y'all?

19 A. Yes, ma'am, Brad Bowers did.

20 Q. So let's look at this document. This is the document
21 that Mr. Hayes signed and wrote personally himself, is that
22 correct?

23 A. Yes, ma'am.

24 Q. With no other markings by police officers other than
25 the date and time, is that correct?

1 A. Yes, ma'am.

2 MRS. FRYAR: Your Honor, at this time, I'd ask the
3 Court to admit this as Court's Exhibit Number Four.

4 THE COURT: Okay. Admitted into evidence.

5 (Whereupon, the Voluntary Statement has been marked
6 and entered into evidence as Court's Exhibit No. 4)

7 Q. I'm to show you what's been marked as Court's Exhibit
8 Number Five, because Mr. Hayes had changed his story at the
9 jail and was only admitting to partial breaches of the law,
10 what questions were posed to him on an additional piece of
11 paper?

12 A. We brought him another voluntary statement,
13 supplemental?

14 Q. Yes, sir.

15 A. Charles Hayes was asked several different questions.

16 Q. Who prepare those questions?

17 A. Lieutenant Brad Bowers.

18 Q. And with the lieutenant prepared those questions, did
19 he prepare them all and handed them to Mr. Hayes to answer?

20 A. No, ma'am. Well, I really can't - - no, he did.

21 Q. If you know the answer - - -

22 A. I really can't - - it was 2014 but I'm looking at the
23 two different, blue ones and the answers are going to be
24 black.

25 Q. So the question is Lieutenant Bowers posed to him were

1 written in blue?

2 A. Yes, ma'am.

3 Q. And then Mr. Hayes was able to respond to the
4 questions in black ink, is that correct?

5 A. Yes, ma'am.

6 Q. All right. If you could read the questions posed to
7 him by Lieutenant Bowers in your presence and the answers
8 that are on that piece of paper?

9 A. The first question is, "Where did the gun come from,
10 the stolen gun found in your bedroom?" Answer, "Charles."
11 That's the only answer he gave us.

12 Q. All right.

13 A. "Did you know the gun was stolen?" "No." Question
14 number three, "How much weed is in your bedroom?" "Two
15 ounces and a quarter". Question number four - - -

16 Q. Did you take that to mean a quarter pound or a quarter
17 ounce?

18 A. No, ma'am. Quarter - - -

19 Q. Well, do you know what he meant?

20 A. Quarter pound.

21 Q. Quarter pound, okay.

22 A. Number four, "How much crack was in your bedroom?"

23 "Don't know."; "Where was the weed stored, kept?" "Behind
24 my bed."; "Where was the crack - - where was the crack
25 kept or stored? "Don't know."; "How long have you had the

1 gun in your possession, when did you buy it?" "I think
2 about three years or more."; "Did you write this statement
3 on your own free will?" "Yes." That's the end of the
4 statement.

5 MRS. FRYAR: Your Honor, at this time I would offer
6 this as Court's Exhibit Number Five if the Court will
7 accept it?

8 MR. GRIER: We're not having these admitted into
9 evidence, correct?

10 MRS. FRYAR: These are all Court Exhibits.

11 MR. GRIER: Okay. Just exhibit's. Okay.

12 (Whereupon, lawyers discuss off the record about
13 exhibits)

14 (Whereupon, the Voluntary Statement- Supplemental has
15 been marked and entered into evidence as Court's Exhibit
16 No. 5)

17 MRS. FRYAR: I don't have any further questions from
18 Mr. Neal at this time.

19 THE COURT: Mr. Grier?

20 MR. GRIER: Thank you, Your Honor.

21 CROSS EXAMINATION BY MR. GRIER:

22 Q. Lieutenant Neal, you stated that you went into the
23 house on Fifth Street in order to arrest Patrick Simpson,
24 is that correct?

25 A. Yes, sir.

JOHNNY NEAL- CROSS EXAMINATION BY MR. GRIER:

1 Q. Who contacted you that he may be at that residence

2 A. We had information out of North Carolina.

3 Q. Did they actually send you a hard copy of an arrest
4 warrant?

5 A. I want to say, yes, but I'm not hundred percent sure.
6 I know it was in NCIC.

7 Q. Did you have access to produce an actual hardcopy of
8 an arrest warrant?

9 A. We can get it from North Carolina.

10 Q. Was that ever provided to the State, the prosecution?

11 A. I'm not sure.

12 Q. As part of that arrest warrant that was basically for
13 you to take Mr. Simpson into custody, is that correct?

14 A. Yes, sir.

15 Q. That doesn't give you the authority to search anyone
16 house, did it not?

17 A. No, sir. We were going to look for him.

18 Q. So you went to Mrs. Pauline Hayes's house looking for
19 Mr. Simpson, correct?

20 A. Yes, sir.

21 Q. And what is their relation - - they're what relation?

22 A. Grandson.

23 Q. And you went a first-time, who was with you at the
24 first trip?

25 A. Agent Crawford, David Ford, Brad Bowers, Matt Faile,

1 and Trey Hunter.

2 Q. Sheriff Underwood, himself, was never with you,
3 correct?

4 A. He wasn't with us on the first trip.

5 Q. Was he with you on the second trip?

6 A. Yes, sir.

7 Q. How much time passed between the first trip and the
8 second trip?

9 A. About ten to fifteen minutes, if I'm not mistaken.

10 Q. So fifteen minutes?

11 A. About ten to fifteen minutes. I can't remember.

12 Q. And by the time that you were provided notice from
13 North Carolina that he was there, how long did it take
14 y'all to respond to go to this house?

15 A. North Carolina didn't say that he was there. Had a
16 possible address that he may be there so, therefore; we
17 wanted to go and check out that address.

18 Q. Did you do so immediately upon learning this or did
19 you do this the next day or day after?

20 A. The morning that we got the information is the morning
21 that we went.

22 Q. Before going out there, you did not try to approach
23 the local magistrate to get a search warrant of the house?

24 A. Negative. No. No, sir.

25 Q. So on the second time, you approach the house and

1 Major Marsh notices Mr. Simpson in the yard, is that
2 correct?

3 A. Yes, sir.

4 Q. At that time he's taken into custody, correct?

5 A. Yes, sir.

6 Q. So your purposes for being at the house are therefore
7 complete, is that correct?

8 A. Our purposes - - yes, sir. Major Marsh actually was -
9 - he was in the backyard just coming out - - if you look at
10 the house it's like a door that leads out to the outside,
11 he was walking out there and that's where he noticed him
12 coming out from the porch area, coming back down. So we
13 was in the yard, but seen him walking down in that area and
14 that's when they said, "that's him."

15 Q. All of your involvement with Mr. Simpson was done
16 outside Mrs. Hayes's house, correct?

17 A. That's where he was located at, yes, sir.

18 Q. And when he was taken into custody, you said he had a
19 quantity of marijuana on his person?

20 A. A small quantity.

21 Q. Was it contained in a Ziploc bag?

22 A. I think it was in a small plastic bag. I'm not sure
23 if it was a Ziploc bag.

24 Q. And at that time he was immediately taken to the
25 detention center?

1 A. Yes, he was.

2 Q. You didn't keep him there for purposes of doing the
3 search of the home?

4 A. Say that one more time.

5 Q. You didn't keep him on the premises when you were
6 doing the search of the home?

7 A. No, sir.

8 Q. So once y'all had him in custody, why did y'all not
9 leave Mrs. Hayes house?

10 A. Once we had in custody - - the reason why we did not
11 leave because we were going to try to locate the gun that
12 was involved in an armed robbery.

13 Q. And why did you believe the gun was in the house?

14 A. Because when we talked to Ms. Pauline Hayes she said
15 he was there the day prior, that he was not there. Then we
16 pulled up and the Major seen him outside, he was walking
17 from the back door, outside. We didn't say he came
18 directly out of the house but he was in that back area of
19 the house walking out, there's two parts to it.

20 Q. Just to be clear, you had no search warrant to go into
21 Ms. Hayes's house, is that correct?

22 A. No, sir.

23 Q. You had no suspicion of any other activity of a crime
24 that's going on in her house other than him being there,
25 correct?

1 A. Other than him being there, no.

2 Q. So at that time did you ask her for permission to
3 search?

4 A. Yes, we did.

5 Q. And you informed her of her right to refuse the
6 search?

7 A. We gave her the form and she signed it and she
8 understood it.

9 Q. You didn't tell her that if you got a search warrant
10 and found the gun later that you would charge her with
11 that?

12 A. No, we did not.

13 MS. HAYES: Yes, you did.

14 Q. So after her signing the form, you went in the house
15 and started the search?

16 A. Yes, we started the consent search.

17 Q. And where was Ms. Hayes at that time?

18 A. Ms. Hayes was at the front door and that she came into
19 the living room area.

20 Q. And where did you begin your search?

21 A. Where did I began my search?

22 Q. Yes.

23 A. Okay. I was in the living room.

24 Q. Did y'all, basically, all split up and go to certain
25 areas?

1 A. Yes, there was - - we started in the living room and
2 the back bedroom.

3 Q. Was there any indication that Mr. Simpson actually
4 stayed in the back bedroom?

5 A. No, sir.

6 Q. So you would dispute if it's actually listed in your
7 report that he would've stayed in the back bedroom?

8 A. Mr. Simpson?

9 Q. That he actually spent time staying in the back
10 bedroom?

11 A. I didn't say he stayed in the back bedroom. Where his
12 clothes were found was in the living room.

13 Q. So with his clothes being in the living room and no
14 gun found there, why did you continue to search?

15 A. After the search was completed that's when we located
16 his clothing, everybody's clothing once we had the search
17 warrant but at first we were looking for the gun.

18 Q. So once you get in the back bedroom where Mr. Hayes
19 stays, when did you find the drugs?

20 A. That's when they entered the room they seen the glass
21 jar of marijuana.

22 Q. Where?

23 A. I'd have to look at the report because I do not know
24 because I wasn't the one who found it.

25 Q. But the report had said they were behind a couch or in

1 a closed area, they were not out in the open, were they
2 not?

3 A. If I can see that report I can probably confirm what
4 you're saying.

5 MR. GRIER: May I approach the witness, Your Honor?

6 THE COURT: Yes, sir.

7 A. Thank you, sir.

8 Q. That's the packet that has been provided to us, our
9 office.

10 A. I'm reading on the report, the initial report, "Agent
11 located a large amount of, a large amount of drugs in a
12 rear bedroom belonging to Charles Hayes. Agent stopped
13 searching - - stopped searching and obtained a search
14 warrant. During that search, more drugs and a stolen
15 firearm was found in the same bedroom. Charles Hayes and
16 Patrick Simpson were both arrested at the scene and charged
17 accordingly. Both subjects were transported to the
18 detention center for booking." That's on the initial
19 report. That was actually written by Deputy Al Crawford.

20 Q. And you don't know exactly the location the drugs were
21 found in the room?

22 A. I can read it from the case file - - -

23 MRS. FRYAR: Your Honor, we can put up - - for the
24 Court's information so you can make a intelligent and
25 knowing ruling, we can put up Mr. Crawford to provide that

1 information since he has no personal knowledge.

2 THE COURT: All right.

3 MRS. FRYAR: Thank you, sir.

4 MR. GRIER: Thank you.

5 Q. So once the drugs were found in the room that's when
6 y'all stopped the search and got a search warrant, is that
7 correct?

8 A. Yes, once they were in plain view, we went ahead and
9 stopped everything. And we went ahead, Lieutenant Brad
10 Bowers, went and obtained a search warrant.

11 Q. What magistrate signed off on the warrant?

12 A. Judge Underwood.

13 Q. And you, not to go into too much, but you said her,
14 Sheriff Underwood, is actually her husband, was also a part
15 of this arrest, is that correct, as said earlier?

16 A. That had nothing to do with that. What are you
17 insinuating?

18 MRS. FRYAR: Your Honor, - - -

19 THE COURT: Just answer his questions.

20 A. Okay, what's your question?

21 Q. I just asked if he's married to the - - -

22 MRS. FRYAR: Your Honor, I would just asked him to
23 maintain what we're here to determine as whether this was a
24 valid search and was this a valid statement made by the
25 defendant.

1 THE COURT: Let's stay focused on that, Mr. Grier.

2 MR. GRIER: Well, Your Honor, my question though on
3 that was a warrant must be signed by a mutual detached
4 magistrate. That's the one thing I wanted to bring to the
5 Court's attention.

6 MRS. FRYAR: Is that a question?

7 MR. GRIER: I was clarifying where I was going with
8 that questioning as part of the legal search.

9 MRS. FRYAR: We can argue that later. Let's get
10 through the testimony.

11 Q. Once you got the other search warrant, you finished
12 the search, located the rest of the drugs in the room, is
13 that correct?

14 A. Yes, sir.

15 Q. And also you found a pistol, where was the pistol
16 located, do you know?

17 A. You look in the back bedroom, I can tell you that, but
18 I'm gonna go ahead and read the report since I wasn't the
19 one who did the report. I don't have firsthand knowledge.

20 MRS. FRYAR: Or Your Honor, you can just hold that in
21 abeyance and hear from the witness who does have firsthand
22 knowledge.

23 THE COURT: Well, wait to hear from the other witness.

24 - - -

25 MRS. FRYAR: Thank you.

*who wrote the
report - yf
he didn't have
1st-hand knowledge?*

1 THE COURT: - - - in regards to that issue.

2 Q. Your purpose for going in the home was searching for
3 the gun that was used in the armed robbery, did you
4 actually know what kind of gun that was used in the armed
5 robbery?

6 A. I'm not sure they knew what gun was actually - - the
7 North Carolina detective, I'm not sure if they were sure of
8 what - - they knew it was a gun. I'm not a hundred percent
9 sure.

10 Q. So they're looking for a gun that was used in an armed
11 robbery and you didn't charge Mr. Simpson but you charge
12 Mr. Hayes, is that correct?

13 A. Mr. Hayes was the one who stated that it was his gun.

14 Q. And then once you got them outside and started
15 questioning everybody, they all denied that the drugs was
16 theirs, is that correct?

17 A. Say that one more time.

18 Q. When questioned them about the drugs, whose drugs they
19 were, they all denied, Mr. Feaster, Ms. Hayes and Mr. Hayes
20 all said that they're not their drugs, correct?

21 A. Yes, sir.

22 Q. And that's when you told them about the constructive
23 possession that if someone doesn't claimed them that they
24 all would be going to jail, is that correct?

25 A. They were advised of that.

*leave
showing
not see*

*did a
change story*

1 Q. Did they also tell you that the drugs belonged to Mr.
2 Simpson?

3 A. No, sir.

4 Q. None of them ever said that?

5 A. No, sir.

6 Q. Did you ever tell Mr. Hayes, at any point during the
7 questioning, that he's going to claim this, this is his
8 responsibility?

9 A. Did I ever tell him that?

10 Q. Yes.

11 A. No, sir.

12 Q. And so Mr. Hayes, at that point, once was advised of
13 constructive possession that everybody would be arrested,
14 that's when he claim responsibility?

15 A. No, sir. He - - Ms. Pauline Hayes, which is his
16 mother, looked at him and said, "This is not mine, you need
17 to claim your stuff," that's what she said. So guess what
18 Mr. Charles Hayes did, "He said, it's mine." So he was
19 arrested for that.

20 Q. And then he gave a different statement once he got
21 back to the detention center, is that correct?

22 A. Yes, he did.

23 Q. And after he finished writing that statement, did you,
24 yourself, became very angry with how he worded the
25 statement?

1 A. No, sir.

2 Q. And you said the interview was done at the lawyer/
3 visitation room, is that correct?

4 A. Yes, sir.

5 Q. At the detention center isn't there a room where you
6 normally interview suspects that also has video/monitoring
7 equipment?

8 A. Well, we would take them to the other side if Mr.
9 Hayes wanted to help himself out so, therefore; we wouldn't
10 take him through that way because we didn't want anybody
11 to see him talking to us. So from the jail he walked
12 straight to a secured location with the jailer standing out
13 and two officers on the inside.

14 Q. So there's no audio or video of this statement?

15 A. No, sir.

16 Q. Then after he gave the statement where he said he
17 claimed it only to keep his parents from going to jail, is
18 that when y'all did the other statement where you wrote out
19 the questions and he answered?

20 A. He did his statement, the first statement I read to
21 you, and then the second statement followed right after
22 that. Am I answering your question?

23 Q. I just want to make sure, there's three separate
24 statements, correct?

25 A. Three separate statements that he had written?

1 Q. Total. Between the verbal - - -

2 A. The verbal, then the one he wrote, and then the
3 questions and answers, so that would be three.

4 Q. At any point, did you talk to Patrick Simpson about
5 the drugs in the house?

6 A. I didn't talk to Patrick Simpson.

7 Q. And you are aware of no other activity going on in the
8 house besides Mr. Simpson being supposedly located there?

9 A. Do I know of any other activities at that house prior
10 to that house?

11 Q. Yes.

12 A. Yes, sir.

13 Q. But you didn't have a search warrant based on that
14 activity?

15 A. No. The activity was that Mr. Charles Hayes was
16 selling dope out of that house, drugs.

17 MR. GRIER: No further questions, Your Honor.

18 THE COURT: Anything else, Mrs. Fryar?

19 MRS. FRYAR: I have no further questions for
20 Lieutenant Neal. Thank you.

21 THE COURT: All right. You can step down, sir.

22 MR. NEAL: Thank you.

23 MRS. FRYAR: Your Honor, at this time we like to call
24 Agent Al Crawford to the stand.

25 THE COURT: If you could come forward please, sir.

1 CLERK: Raise your right hand. State your full name.

2 MR. CRAWFORD: Alford Crawford, Jr.

3 CLERK: Do you solemnly swear or affirm to tell the
4 truth, the whole truth, and nothing but the truth so help
5 you God?

6 MR. CRAWFORD: I do.

7 ALFORD CRAWFORD, first being
8 duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MRS. FRYAR:

10 Q. Hello Agent Crawford, how are you?

11 A. I'm okay.

12 Q. Good. Where are you employed, sir?

13 A. Chester County Sheriff's Office.

14 Q. How long have you been there?

15 A. Since, 2000 - - four, about four years.

16 Q. All right, sir. And what are your duties there?

17 Where are you?

18 A. I'm a narcotics investigator.

19 Q. Did you have occasion to be at the house of Ms.
20 Pauline Hayes when this incident occurred on August 27,
21 2014?

22 A. Yes, ma'am, I was.

23 Q. Were you made aware that Ms. Hayes had given
24 permission and consent for her home to be served?

25 A. Yes, ma'am, I was.

1 Q. Did you participate in the search that house?

2 A. Yes, ma'am, I did.

3 Q. Please tell the judge what you did?

4 A. When we were able to get permission to go into the
5 house, I was actually the first person in, once I entered
6 the house I could smell, it smelled of burnt marijuana. I
7 started continuing on toward the back room. As I walked
8 into the room you could smell marijuana in the room but it
9 wasn't burnt marijuana.

10 Q. Were you looking for something in the house?

11 A. We were looking for gun.

12 Q. Why were you looking for a gun?

13 A. We had arrested a suspect, a subject who had a
14 fugitive warrant out of North Carolina for a armed robbery
15 or some kind of, whatever North Carolina calls it - - -

16 Q. Yes, sir.

17 A. - - - armed robbery.

18 Q. Mmm, hmm.

19 A. Or a dangerous weapon or something like that.

20 Q. Yes, sir. That is correct. Did you - - did officers
21 go throughout the house?

22 A. Everybody spread out.

23 Q. There were many of you, at least five, is that
24 correct?

25 A. As far as I remember.

1 Q. All right, sir. And so where did you proceed?

2 A. I went to the back bedroom to the back corner of the
3 bedroom?

4 Q. Who was with you?

5 A. Major Marsh was with me and I think, I want to say,
6 Brad.

7 Q. Maybe one other officer?

8 A. Another officer, yes, ma'am.

9 Q. Definitely Major Marsh - - -

10 A. Definitely Major Marsh was standing right next to me.

11 Q. And y'all are looking for this gun, right?

12 A. Yes, ma'am.

13 Q. Tell the judge what you did.

14 A. When I do searches I try to do grids. I'll pick a
15 part of the room and I'll start in a corner, usually in a
16 corner, back corner that way if you do a grid you won't
17 miss anything. So I started in the left back corner and as
18 I did I looked to the left, there's a futon up against the
19 wall, there's a futon there and behind the futon I can see
20 the top of two jars. As I got down a little further I saw
21 there was marijuana inside the jars.

22 Q. All right.

23 A. About the same time, Major Marsh said, "Well, that
24 looks like crack cocaine right there." So I stood up and
25 turned to my right, there's a desk, and underneath the desk

1 in the bottom - - underneath the desk there was a plastic
2 bag, baggy, that look like it had crack cocaine in it.

3 Q. It was on the floor?

4 A. It was on the floor.

5 Q. Plain view?

6 A. Yes. Oh, it was definitely in plain view.

7 Q. All right, sir. And so what happened after that, once
8 y'all spotted the jars, I believe it was a mason jar and a
9 pickle jar behind the futon - - -

10 A. Yes, ma'am.

11 Q. - - - in the bedroom? And then the crack cocaine on
12 the floor under the desk, is that correct?

13 A. Yes, ma'am.

14 Q. It's an open desk, is it not?

15 A. It's an open desk.

16 Q. And so once you saw these items you and Major Marsh,
17 what happened after that?

18 A. I informed Lieutenant Neal, who's my supervisor, what
19 we found, made a decision to just stop everything now that
20 we found drugs and Brad Bowers went and obtained a search
21 warrant.

22 MRS. FRYAR: I don't have any questions further
23 regarding that. Thank you.

24 THE COURT: Mr. Grier?

25 MR. GRIER: Thank you, Your Honor.

CROSS EXAMINATION BY MR. GRIER:

1
2 Q. Mr. Crawford, were you the lead investigator on this
3 case?

4 A. Yes, I was.

5 Q. And in the report did you ever indicate that Mr.
6 Simpson was staying in the same room as Mr. - - -

7 A. Yes, I did.

8 Q. Okay. I just wanted to make sure. And you talked
9 about you found some jars of marijuana that were behind a
10 futon, correct?

11 A. Yes, sir.

12 Q. Would you consider that in plain view?

13 A. If you stand - - it's not out in the open but because
14 I was doing a grid search I looked to my left, it was right
15 there. I didn't have to move anything. Basically, what I
16 was saying I didn't have to move anything in order to see
17 it. I didn't have to pull the couch out or lift a towel up
18 or with a box. As soon as you hit the corner, I like to
19 start in the corner, and looked left and right and then
20 made by a certain width, you look to your left the
21 marijuana was on the right. It was right there in plain
22 sight. You couldn't help but see it. As a matter fact, I
23 didn't move the couch on purpose, I got down on my knees to
24 look and when you looked down you could actually see the
25 marijuana in the jar from there. And like I said, at the

*Was the
to plain
seen?*

1 same time, that's when Major Marsh informed me that he
2 found, what he thought was, crack cocaine on the floor.

3 Q. And that was under a desk, correct?

4 A. It was under a desk, yes, sir.

5 Q. And you had already obtained a consent to search from
6 the mother, is that correct?

7 A. I didn't obtain it. There was a consent to.

8 Q. Well, the consent to search gave you the authority to
9 search the house, what was the need to go get a search
10 warrant?

11 A. Because once we found the drugs which is what we
12 weren't looking for initially, we wanted to make sure that
13 if we wanted to continue the search which I think at that
14 time we probably had enough probable cause to continue
15 searching, we decided to go ahead and get a magistrate to
16 read the information that we had gathered and let that
17 magistrate make that determination whether or not we should
18 continue our search.

19 Q. And that information that you had gathered you would
20 not been able to get unless you maintain entry to that
21 home, is that correct?

22 A. Yes, sir.

23 MR. GRIER: No further questions.

24 THE COURT: Mrs. Fryar?

25 REDIRECT EXAMINATION BY MRS. FRYAR:

needed to rely on photos view?
why did you need to go get a search warrant?
you had consent to search?

Q. Investigator Crawford, you indicated that you had written that down Mr. Simpson was in that bedroom, can you explain that?

A. When we initially went to the house I was under the impression that he was staying in that back bedroom. When I got back to the office and was riding my report that's what I indicated. I was informed later that I had made a mistake that his clothes were actually found on the couch but I had already turned everything in and I didn't go back and try, you know, change stuff.

Q. Did you find the identification in Mr. Charles Hayes's room, did you find his identification in that room?

A. Yes, ma'am.

Q. Did he give a statement saying that's my bedroom? Did he say in my bedroom there is jars of weed?

A. In his statement, yes, ma'am, in his statement he did.

Q. And so that's his bedroom?

A. Yes, ma'am.

Q. Did you look at his clothes?

A. He had a drawer and in the drawer was his ID that was sitting on some pants and that's - - -

Q. Mmm, hmm.

A. - - - and that would be it.

Q. And were there some paperwork in the room?

A. There was paperwork all over the room and there were

(Should consent to search - nothing found - no papers in room - no evidence found)

1 some things that had his name on it.

2 Q. And when you - - you were not participating in the
3 living room search, is that correct?

4 A. No, ma'am.

5 Q. Were items belonging to Mr. Simpson found in the
6 living room search?

7 A. There was a plastic bag that had his clothes in them
8 and they were taken out. I think we have a photograph of
9 them.

10 Q. And is a minimum amount of clothes, a pair of
11 underwear, some jeans maybe?

12 A. A pair - - yeah, I think it was a pair of jeans and
13 some - - -

14 Q. And isn't it also true you found his identification in
15 the living room?

16 A. Yes, ma'am.

17 Q. All in one pile, is that correct?

18 A. Yes, ma'am. His Social Security card, his wallet. I
19 think it was found there.

20 Q. Okay.

21 A. I personally did not find it although it was pointed
22 out to me and I collected it but I wasn't the person who
23 actually found it.

24 Q. I understand.

25 MRS. FRYAR: All right, sir. I don't have any further

1 questions. Thank you.

2 THE COURT: Anything else, Mr. Grier?

3 RE-CROSS EXAMINATION BY MR. GRIER:

4 Q. At any point with your conversation with Ms. Hayes,
5 did she not indicate that Mr. Simpson was staying in that
6 room?

7 A. I'm sorry.

8 Q. Ms. Hayes did indicated that Mr. Simpson had also - -

9 -

10 A. Conversation with who?

11 Q. Pauline Hayes, the owner - - -

12 A. Had a conversation with me?

13 Q. Yes.

14 A. The only conversation I had with Ms. Hayes is when she
15 was standing in the doorway asking could she watch as we
16 were searching. Other than that I really didn't say much
17 to Ms. Hayes.

18 MR. GRIER: No further questions.

19 THE COURT: All right. You can step down.

20 MRS. FRYAR: Your Honor, the State would call
21 Lieutenant Brad Bowers.

22 CLERK: Please state your full name?

23 MR. BOWERS: Brad Bowers.

24 CLERK: Do you solemnly swear or affirm the testimony
25 you're about to give be the truth, the whole truth, and

1 nothing but the truth so help you God?

2 MR. BOWERS: Yes, ma'am, I do.

3 BRAD BOWERS, first being
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MRS. FRYAR:

6 Q. Lieutenant Bowers, where you employed?

7 A. Chester County Sheriff's Office.

8 Q. Were you involved in the incident that occurred at the
9 home of Ms. Pauline Hayes on August 27, 2014?

10 A. I was.

11 Q. Could you please tell the Court what your involvement
12 was?

13 A. I was assisting the other narcotics officers there.
14 We received information on a fugitive from justice that was
15 wanted out of North Carolina attempting to locate him.

16 Q. At some point, were you aware and witness to the fact
17 that MR. MITCHELL: s. Pauline Hayes signed a document
18 giving you consent to search her home?

19 A. Yes.

20 Q. And were you there during the search of that home?

21 A. Yes.

22 Q. Can you tell us, if anything, unusual happened during
23 the search of the home?

24 A. During the search of the home there was a substantial
25 amount of illegal narcotics found in the home and typical

1 to our procedures even if we have consent to search the
2 home we back out and go in obtained a search warrant to
3 continue further searching.

4 Q. Okay. What were you searching for? What were the
5 officers searching for originally?

6 A. Initially the search was for a firearm that could have
7 possibly been used in the armed robbery that took place in
8 North Carolina.

9 Q. And so were you alerted that a large amount of
10 narcotics had been found in the home?

11 A. Yes, ma'am.

12 Q. And where had they been found to your knowledge?

13 A. To my knowledge they were in the back bedroom.

14 Q. And so did you leave the scene at that time?

15 A. Around that time, yeah. At some point during
16 everybody leaving the house the decision was made to go and
17 obtain a search warrant.

18 Q. All right.

19 A. I did leave to obtain that.

20 Q. You were the person that went to the judge?

21 A. Yes, ma'am.

22 Q. I want to show you what's been marked - - I want to
23 show you what's been marked as Court's Exhibit Number Six,
24 and ask you if you can identify it?

25 A. Yes, ma'am. This is the original copy of the search

1 warrant that I drafted and got signed that day.

2 Q. How long have you been in narcotics, Lieutenant
3 Bowers?

4 A. Five years.

5 Q. How many narcotic buys or bust have you think you been
6 involved with?

7 A. Close to a hundred, I guess.

8 Q. And so even though you had consent of the home owner,
9 Ms. Pauline Hayes, do you believe you could've continue to
10 search, is that correct?

11 A. Based on the consent form that we had gotten signed by
12 the person claiming ownership of the home or the domain of
13 the residence, yes.

14 Q. But out of abundance of caution, you got a backup
15 search warrant, is that correct?

16 A. Yes.

17 Q. And that's what you're holding in your hand?

18 A. Yes.

19 MRS. FRYAR: Your Honor, let me let him testify.

20 Q. What did - - did you make an affidavit in this case,
21 Lieutenant Bowers?

22 A. Yes.

23 Q. For the judge?

24 A. Yes.

25 Q. And please tell the judge what you did in order to

1 obtain the search warrant?

2 A. Basically, just type of our probable cause, the
3 reasons that we believe that there is a need to further
4 search the residence. Within the past seventy-two hours -
5 - do you want me to read all of what I typed, what I typed
6 and presented to the judge, our probable cause?

7 Q. Yes, sir.

8 A. Okay. "That within the past seventy-two hours the
9 Chester County Sheriff's Office Narcotics Unit conducted a
10 search for a suspect wanted in an armed robbery. That
11 warrant was entered into NCIC. During the course of that
12 search the subject was located at the residence of his
13 grandmother's, Pauline Hayes, who resides at 557 Fifth
14 Street in Chester, South Carolina, 29706, who also shares
15 the home with her - - I typed the husband, but I guess at
16 that time I was under the impression it was her husband but
17 it's her boyfriend, I believe, Charles Hayes and her son
18 during a lawful consensual search. A consent form was
19 signed by Ms. Hayes and agent with the narcotics unit while
20 searching for that weapon believed to have been used
21 during, while searching for the weapon believe to have been
22 used during the armed robbery as stated in the warrant.
23 Discovered upon it, marijuana and what is believed to be
24 crack cocaine inside the home. There's your affiant belief
25 that there could possibly be more evidence in the narcotics

1 violation or to discover and they just wish to conduct a
2 more thorough search of the residence and also continue to
3 search for the weapon believed to have been used in the
4 armed robbery. This search is to include all outbuildings
5 and the xxxxx surrounding the home."

6 Q. Did you get a search warrant based on that?

7 A. I did.

8 Q. And then what did you do after you obtained the search
9 warrant?

10 A. I left the sheriff's office and return to the address,
11 557 Fifth Street.

12 Q. And when you return to that residence of Ms. Hayes
13 were they, did they continue their search at that time?

14 A. Once I arrived I read the entire search warrant to Ms.
15 Hayes. Advised her of what was going to take place and
16 basically what the search warrant meant. We have the right
17 to go in and search thoroughly throughout her home. A
18 little more in depth than what a consensual search form
19 would get us. I advised her that anything that left her
20 residence would be notated on a return and a copy of that
21 would be left with her.

22 Q. And once the items were collected from the home, did
23 you prepare a return?

24 A. Yes.

25 Q. Did you leave the return with Ms. Hayes?

1 A. Yes.

2 Q. Would you please, for the Court, reading from the
3 document what items you got from the home.

4 A. The following is the inventory of the property taken
5 personally to the search warrant; glass mason jar
6 containing marijuana; a second glass mason jar containing
7 marijuana; a Ziploc bag containing marijuana; a separate
8 plastic bag containing marijuana; plastic baggie containing
9 crack cocaine; another plastic bag containing marijuana; a
10 black Forest .38 serial number XB75476; another plastic bag
11 containing marijuana; there's \$1,650 of US currency removed
12 from the home; and a black digital scale.

13 MRS. FRYAR: At this time, I'd like to enter this as
14 Court's Exhibit Number Six.

15 (Whereupon, the Search Warrant has been marked and
16 entered into evidence as Court's Exhibit No. 6)

17 Q. Once the search was completed, Lieutenant Bowers, did
18 you go to the detention center and have an opportunity to
19 have a conversation with Mr. Hayes?

20 A. I did.

21 Q. Please tell the judge about that. Where were you?

22 A. There's an interview room that's adjacent to the
23 booking area at the jail.

24 Q. Yes, sir.

25 A. That's located at the sheriff's office.

1 Q. Yes, sir.

2 A. It's more of a convenient location if you're trying to
3 keep people from being seen by everybody that works at the
4 sheriff's office or inmates that may be working in the
5 sheriff's office, walking around, you don't have to take
6 them all the way through the entire sheriff's office to get
7 to the interview rooms where the audio, video recording
8 capabilities are. This is just a lawyer/visitation room is
9 technically what is called, that's what is labeled, but we
10 use it for interviews on regular basis.

11 Q. Were you questioning Mr. Hayes about further, any kind
12 of further investigation or were you just going to take
13 down the statement that he had already given you on the
14 scene?

15 A. We hadn't concluded our investigation into what was
16 found in the home so we were there to question him about
17 the items that were removed from the house that he had, at
18 some point during the conversation being on the porch or,
19 you know, at the house, after all that was discovered he
20 claimed ownership of which was the reason for his arrest
21 and transported to the jail.

22 Q. And how would that have happened that he - - you heard
23 previous testimony that the rights were read to all three
24 people on the porch, Ms. Pauline Hayes, Mr. Quinton Feaster
25 and Mr. Charles Hayes, once the rights were read to all of

1 them, would anybody would have said or did anybody say to
2 your knowledge, somebody needs to take this or how does - -
3 how does that explain?

4 Q. I don't know exactly recall how that particular
5 incident happened but accustomed to how we traditionally do
6 things, I mean, we have separate procedures the way we
7 operate as far back in narcotics unit. We do things a
8 certain way just so we do them consistent. I'll ask, if
9 it's a traffic stop search warrant, it really doesn't
10 matter, whoever's involved, the suspect involved, we ask to
11 claim ownership or ask if they own whatever the illegal
12 items that are found. If there are multiples involved
13 they're each asked individually. If they all three denied
14 ownership of those items then we simply quote them the
15 state law which says, basically, the hand of one, is the
16 hand of all. If nobody claims ownership of it and
17 everybody has access to it then everybody is going to be
18 charged accordingly.

19 Q. That's not said in a threatening way, is it?

20 A. No.

21 MRS. FRYAR: I don't have any more questions for
22 Lieutenant Bowers.

23 THE COURT: Mr. Grier?

24 MR. GRIER: Thank you, Your Honor.

25 CROSS EXAMINATION BY MR. GRIER:

1 Q. Investigator Bowers, Mr. Simpson was taken into
2 custody at the scene?

3 A. Yes, he was.

4 Q. And was he questioned?

5 A. At the scene?

6 Q. Yes.

7 A. I don't recall. If he was I don't recall it being by
8 me. I handled the search warrant that was kind of my
9 assigned duty at that point, was to handle the search
10 warrant and getting the return done and back to Ms. Hayes.

11 Q. Well, to go into the house to look for the gun, he was
12 a question about the gun being located at the house?

13 A. I wouldn't have any knowledge of that.

14 Q. And once again you don't even know what kind of gun
15 you are looking for, do you?

16 A. At the - - during the search warrant?

17 Q. Yes.

18 A. No, sir.

19 Q. You just stated that, basically, is the hand of one,
20 the hand of all type situation in this case?

21 A. Correct.

22 Q. And they were four people there and three charged,
23 correct?

24 A. If I recall correctly, yes, sir.

25 Q. So Mr. Simpson was, for some reason, not charged with

1 these crimes?

2 A. It wasn't my decision. As far as - - to my knowledge
3 he was not charged with what we are here today for.

4 Q. Who's decision would it have been?

5 A. The case agent.

6 Q. That would be Mr. Crawford?

7 A. As far as to my knowledge, yes, sir.

8 Q. And considering that he was supposed to have been
9 staying at the home for several days he wasn't questioned
10 about any kind of activity that Mr. Hayes was involved in
11 with the drugs?

12 A. By me, no, he wasn't.

13 Q. To your knowledge, looking at the case file, was he
14 ever questioned?

15 A. Not to my knowledge. I haven't been through the case
16 file.

17 MR. GRIER: No further questions.

18 THE COURT: Mrs. Fryar?

19 REDIRECT EXAMINATION BY MRS. FRYAR:

20 Q. Was there any indication that Mr. Simpson lived at
21 this home?

22 A. No, other than from what I recall my initial entry
23 into the home, other than his small amount of belongings
24 that were located in the den area which was concentrated on
25 the couch specifically, grocery bags filled open with a

*Why would you think
gave us them
initially?*

1 pair of pants probably a boxers and a wallet. I don't
2 believe anything else in that home belonged to him.

3 Q. Right. And there were two bedrooms, one where Ms.
4 Hayes and Mr. Feaster slept and one, where Mr. Hayes,
5 Charles Hayes, slept, is that correct?

6 A. Correct.

7 Q. They were occupants of the home, is that correct?

8 A. Yes.

9 Q. They're close were everywhere, right?

10 A. Yes.

11 Q. All kinds of their things were there, is that correct?

12 A. Yes.

13 Q. And Mr. Simpson was on the run from Charlotte, is that
14 correct?

15 A. Correct.

16 MRS. FRYAR: I don't have any further questions.

17 THE COURT: Anything else, Mr. Grier?

18 **RE-CROSS EXAMINATION BY MR. GRIER:**

19 Q. Mr. Bowers, you were previously questioned that you
20 participated in over a hundred drug investigations,
21 correct?

22 A. Roughly. Yes, sir.

23 Q. And you've done many investigations where you had
24 multiple defendants, isn't that correct?

25 A. Yes.

1 Q. Whenever you would go to a location and there's a
2 quantity of drugs that aren't claimed, don't you charge
3 everybody there?

4 A. It's hard to summarize that, every case is different.

5 MR. GRIER: No further questions.

6 THE COURT: You can step down. Thank you, sir.

7 MRS. FRYAR: Your Honor, the State does not have any
8 further witnesses.

9 THE COURT: Do you wish to argue?

10 MR. GRIER: Yes, Your Honor. You want me to go first
11 or the State to go first?

12 THE COURT: It's your motion to suppress - - -

13 MR. GRIER: Yes, Your Honor.

14 THE COURT: - - - so you are the first one.

15 MR. GRIER: Your Honor, through the testimony of law
16 enforcement, Your Honor, Investigator Neal stated that
17 aside from going to arrest Mr. Simpson they had no other
18 suspicion that any criminal activity was going on in the
19 home which really gives them no basis to enter that home to
20 continue any further search. Mr. Simpson was wanted on an
21 arrest warrant. That was accomplished. It was done do on
22 outside of the home. There was no basis to go into that
23 home to search any further. They even testified that there
24 was limited evidence that he even stayed in the home other
25 than a bag containing a pair of pants and his wallet. They

1 didn't know what kind of gun they were looking for. They
2 could've found Ms. Hayes personal gun. They don't know
3 what they were looking for except it was a gun. Many
4 people have ten guns in their home. They couldn't tell
5 what gun they were looking for. It appears to me that this
6 was put together rather quickly, went out there and law
7 enforcement use this opportunity to go into the home to
8 kind of see what else they could do on a fishing expedition
9 which is exactly what our constitutional rights, the fourth
10 amendment, protects us from is that an illegal search and
11 seizure and as my former boss, John Justice, used to say
12 "the fruit of the poison is free includes any evidence that
13 was obtained in an unlawful search," and this is a clear
14 case, Your Honor, of the police overstepping their bounds
15 going into a home trying to see what else they can find and
16 they hit the jackpot. They found evidence of drugs in the
17 home but, Your Honor, they had no basis to go into that
18 home and search for that. Mr. Simpson, once it was done
19 and in our motion, Your Honor, in supporting case law we
20 have that, "once the arrest is complete, the subject is
21 confined", it's over. They can search his person or the
22 area in his immediate control. He was outside of the
23 house. They had no basis to go in this house to look for
24 this gun. They didn't have a search warrant. If they
25 wanted one, they could've gone to get one and Ms. Hayes,

1 who's actually in the courtroom, Your Honor, they went up
2 to her and ask her to search the home and it's our
3 understanding that they told her that if she didn't consent
4 to a search and they later found the gun that she would be
5 arrested.

6 MRS. FRYAR: There's no evidence of that, Your Honor.

7 MR. GRIER: Okay. We would contend that her consent
8 was not given voluntarily. She wasn't given a right to
9 refuse and she wasn't really given much more of a basis in
10 order to do this search and she was told to stay outside of
11 the home in the doorway and the first thing they do is go
12 back to Mr. Hayes's back bedroom when they can clearly,
13 supposedly, see that his belongings were in the living
14 room. So they basically extended the scope of their
15 search. They didn't have a rational basis to be in there
16 and, therefore; we believe that this evidence should be
17 suppressed.

18 As far as the statements, Your Honor, they basically
19 set them out there and say either y'all all are going to go
20 to jail or one of you is going to jail. In our supporting
21 documents we have case law that shows you cannot use the
22 threat of walking up to someone's mother as a basis to
23 coerce a statement which is basically what happened in this
24 case. And if you look at Mr. Hayes's own signed statement
25 he basically spells that out as to why he stated that. We

1 have three separate statements, Your Honor, from him
2 because they were not getting what they were looking for
3 and he didn't understand where the crack cocaine came from.
4 They basically just tried to pin all of this on Mr. Hayes
5 and they didn't have a rational basis to be there. His
6 statement was not voluntarily and freely made. It was made
7 under coercion of a threat of charging his mother while he
8 was at the detention center trying to make the statements
9 they went and locked up his mother and you could hear her
10 out in the hallway, therefore; we feel that coercion was
11 used in getting a statement that should also be suppressed.

12 THE COURT: Mrs. Fryar?

13 MRS. FRYAR: Your Honor, first of all let's talk about
14 the search warrant. The police were looking for a
15 fugitive, Your Honor, and they had the right to go to Ms.
16 Pauline Hayes's home to do what we called a knock and talk
17 which is talked about extensively in State versus Counts
18 which I've handed a copy up to you and to defense counsel,
19 and when they went to her home she indicated that Mr.
20 Simpson, the fugitive, was not there and then they decided
21 to go back and do another knock and talk. Well, lo and
22 behold when they go back, there is Mr. Simpson in the
23 backyard so he is arrested on that charge. Then being good
24 police officers, they determined that perhaps since the
25 charge is arm robbery and since the man is at that house at

1 that time the gun is there and so they decided that they
2 would ask Ms. Pauline Hayes can they have consent to search
3 the home. At that time she provided consent for them to
4 search the home and they were in the home legally.

5 Following that, Your Honor, you know, they were looking for
6 this dangerous firearm on the premises and they had the
7 written consent of Ms. Pauline Hayes, as you know, consent
8 is an exception to the warrant requirement and was given in
9 this case. The police look for the firearm in places that
10 you normally think you might have a firearm, behind the
11 couch, on the floor, under a chair, anywhere they can see,
12 anywhere they can look for a search warrant, plus the smell
13 of unburnt marijuana was in the house as well which would
14 have given them the right to continue to search even if
15 they didn't have a search warrant at that time. Even if
16 they hadn't had - - if they were in there illegally, they
17 could have kept on going at that point because they can
18 tell they were illegal drugs in the house. They saw the
19 jars of marijuana. They saw the crack cocaine and out of
20 abundance of caution they went and got a search warrant.
21 You know, it's good police work to asked if we can look in
22 your house ma'am to see if we can find this gun that we
23 think was used, could have been used in an armed robbery in
24 Charlotte, and once she gave consent, then yes, they did
25 hit the jackpot, Your Honor, and that's what I have to say

1 regarding the search.

2 All right. Regarding the statement, Your Honor, law
3 enforcement has testified before you, sir, and said that
4 they read off the card, the Miranda rights card, so that it
5 was clearly understood by the three people on the porch.
6 They all live in this house. This is all under their
7 control and domain. They all sleep in the beds in that
8 house and they are asking these people are these your
9 drugs? Are these your drugs? Are these your drugs? And
10 when this Ms. Pauline Hayes says they are not my drugs, you
11 need to tell him who's it is, to her son and he says they
12 are my drugs, that is not coercion, Your Honor, that is no
13 form of coercion. But the fact that if, indeed, he had not
14 confessed to having those drugs would they all three be
15 able to be arrested, yes. They are legally able to be
16 arrested because they all exercise control and domain over
17 the property and, quite frankly, using our senses it would
18 be impossible basically, for somebody not to know at least
19 that marijuana was in the house. So they did nothing
20 inappropriate to that degree.

21 When they got to the jail they gave the defendant an
22 opportunity to reduce this to writing. It was at that time
23 that he said the first time, oh it's not all of mine. I'm
24 just saying that to protect my parents. He never said I
25 did that to protect Patrick Simpson. I'm just doing this

1 to protect my parents. But when they do the question and
2 answer with him he does admit that the possession of the
3 firearm is his and I'll prove in court that it was stolen
4 and that he knew or should have known that it was stolen
5 and also that he had a quantity of marijuana. And so the
6 statements were voluntarily, freely given and the search
7 was perfectly legitimate and legal.

8 THE COURT: Yes, Mr. Grier?

9 MR. GRIER: Your Honor, they went into look for the
10 gun that was used in the armed robbery but they didn't know
11 what gun that was. I think that really goes to a very
12 telling point. You're going into a house to look for
13 something and you don't know what it is. Are you looking
14 for a .45?; Are you looking for a .38?; A .22?; They
15 didn't know. It could have been any gun. Basically, they
16 went into this house on a fishing expedition. This is why
17 we have the rights that are protected to us to prevent
18 against the searches and, therefore; this evidence should
19 be excluded.

20 THE COURT: All right. Counsel, let's take a short
21 break.

22 MRS. FRYAR: Yes, Your Honor.

23 THE COURT: I'll be back in just a few minutes.

24 (Whereupon, the Court took a short break)

25 THE COURT: All right. Counsel, anything else before

1 I rule on these issues?

2 MRS. FRYAR: No, Your Honor.

3 MR. GRIER: No, Your Honor.

4 THE COURT: All right. First, with regards to the
5 motion to suppress the evidence, law enforcement was
6 carrying out their responsibilities and duties in looking
7 for a fugitive from the State of North Carolina and they
8 had reason to believe this gentleman was at the home of
9 Pauline Hayes and once this gentleman was located at the
10 home of Pauline Hayes it's reasonable to believe that a
11 weapon used in an armed robbery may very well be located in
12 the place where the suspect or, in this case, the fugitive
13 had been in. The officers obtained consent from the owner,
14 as a matter of fact, had it reduced to writing before they
15 entered the home to conduct a search initially for a weapon
16 so they were in the home legally exercising or carrying out
17 a legal search at the time they noticed or found the
18 marijuana and cocaine in plain view. As you'll note from
19 the testimony, they stop at that point in time, went got
20 another search warrant, quite frankly, I don't know that
21 they even needed to do that. I think they were being
22 overly cautious in going and getting the actual search
23 warrant from the magistrate. So I clearly find that the
24 evidence seized as a result of the consensual search, as
25 well as that pursuant to a search warrant, was legal and,

needing
small paper view?
view
not
feeling
any
a window
not quite
view?

1 therefore; I deny your motion to suppress, Mr. Grier, with
2 regards to that.

3 With regards to the statement, is clear to me that the
4 defendant was Mirandized actually more than once and the
5 statement he gave was given freely and voluntarily so,
6 therefore; I deny your motion to suppress the statement as
7 well. I mean, s obviously there are things that you can
8 argue to the jury. I understand your people dispute
9 whether or not there was a threat that the parents would be
10 arrested and that's an issue that you can raise to the jury
11 on that, but as to the motion that's my ruling. Any
12 questions?

13 MR. GRIER: No, Your Honor.

14 THE COURT: I understand you have been put on notice
15 about the State's intent to impeach the defendant based on
16 prior convictions, we'll deal with that I guess at the
17 time.

18 MRS. FRYAR: We'll deal with that at the time, Your
19 Honor. I just want to put him on notice so he can be
20 prepared and so the Court can be - - -

21 THE COURT: You got the notice, obviously?

22 MR. GRIER: I did, Your Honor.

23 THE COURT: Okay. All right. This is the one that's
24 first for trial in the morning?

25 MRS. FRYAR: Yes, Your Honor.

1 THE COURT: What time is the jury coming in?

2 MRS. FRYAR: Ten o'clock, Your Honor.

3 THE COURT: Ten o'clock. So we will qualify them at
4 ten?

5 MRS. FRYAR: Yes, sir.

6 THE COURT: Okay. Anything else?

7 MRS. HALL: Yes, I believe there is one plea. It's
8 not for this case necessarily but let me - - -

9 THE COURT: I'm - - I'm just - - we're through with
10 this matter. See y'all in the morning.

11 (CONCLUSION OF THE HEARING OF DAY 1 ON JANUARY 25, 2016)

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January 26, 2016- Day 2

(Whereupon, the jury enters the courtroom at 2:13 pm)

CLERK: Ladies and gentlemen of the jury please stand.
Raise your right hands. You shall well and truly try this
cases number, 2016-GS-12-065; 2014-GS-12-651 and 650. The
State versus Charles Hayes and a true verdict render
according to the law and the evidence, so help you God.
You do?

(Jury indicates to Clerk they do by the nod of a head)

CLERK: Thank you.

(Jury was sworn)

INSTRUCTIONS TO THE JURY

THE COURT: Mrs. Katherine Walters, I am going to
appoint you to serve as foreperson of this jury. So when
we come back in the next time around she'll sit right here
on the very end, all right?

MRS. WALTERS: Okay.

THE COURT: Where this gentleman is sitting. All
right. Ladies and gentlemen, we're about to begin the
trial of the case of The State of South Carolina versus
Charles David Hayes. What I am getting ready to say to you
is, is intended to serve as an introduction to the trial of
this case. These remarks that I make are not a charge on
the law at this point in time. I'll instruct you on the

1 law that applies to this case at the end of the trial
2 before you retire and consider your verdict. This is
3 merely an explanation of the procedure that we will follow
4 from the trial of this case so you may understand what may
5 be happening.

6 Now, I do allow note taking during the course of the
7 trial. However, I want you to know that those notes will
8 be for your purposes only and you shouldn't discuss your
9 notes during the course of the trial with somebody else but
10 I caution when you taking notes you sometimes may miss
11 something that is being presented as far as the case is
12 concerned in testimony. So if you do decide that you want
13 to take notes be mindful of that and remember these notes
14 are purely for your memory sake in the deliberation later
15 on.

16 Now, the defendant, Charles David Hayes, he has been
17 charged by these three indictments with the crimes of
18 possession of a stolen pistol, possession with intent to
19 distribute marijuana, possession with intent to distribute
20 cocaine base. The elements of these crimes will be
21 explained to you later on. These indictments are simply
22 the charge by which this case is brought into court and it
23 not in any sense, any evidence of any of the allegations
24 that contains. The defendant has pled not guilty to these
25 indictments. The State of South Carolina, therefore, has

1 the burden of proving each one of the elements in the
2 indictment beyond a reasonable doubt. It would be your
3 duty, ladies and gentlemen, to decide whether the state has
4 met that burden. Your purpose as jurors is to find and
5 determine the facts. You are the sole judges of the facts.
6 If at any time I make some comment regarding the facts you
7 disregard it because that's your burden. You are to
8 determine the facts from the testimony you hear and any
9 other evidence introduced in court. It's up to you to
10 determine the emphasis which you feel may properly draw
11 from the evidence. It is especially important that you
12 perform your duty in determining the facts diligently and
13 conscientiously because ordinarily there's no way to correct
14 an erroneous determination of the facts by a jury.

15 On the other hand with equal emphasis it's the same
16 law that makes you the judges of the facts, makes me the
17 judge of the law. The law is given by the court is the
18 only law that you may consider. You must accept and follow
19 it even though you may disagree with it. I cannot tell you
20 what the facts are and you cannot disagree with me about
21 what the law is or should be. Your job is to take the law
22 as I give it to you and apply it to the facts as you find
23 them from the testimony of the witnesses and any other
24 evidence that is introduced. After doing that, you'll
25 render your verdict, a true and just verdict, under the

1 solemn oath that you just took as jurors. Until I advise
2 you to begin your deliberations you must not discuss this
3 case with anyone. That includes each other, friends,
4 family, anyone involved in the case, you just can't talk
5 about this at all until the very end when I send you in to
6 deliberate.

7 Now, this includes discussion not by just speaking to
8 one another but also involves, you know, stuff on Facebook
9 or email or text or blogs or anything else. We have all
10 kinds of ways of communicating these days but you can't use
11 any of those methods. You may not use a computer, a cell
12 phone, or any other electronic device that has
13 communication capabilities at any time while you're in this
14 courtroom or during your deliberations. During your
15 breaks, or meals, or overnight if necessary you may use
16 these devices, however; you may not at any time use these
17 devices to get or send information about the case. This
18 includes trying to get information about any of the
19 parties, a witness, an attorney, court officer, news
20 accounts if there were to be any, do any research on the
21 topics that are raised during the course of the trial. You
22 might think you can do some research and it will be helpful
23 in determining what happens, as I told you earlier, you
24 make your determination solely from the evidence that is
25 presented in this courtroom. I doubt seriously if they'll

1 be any media coverage of this trial but in the event there
2 were, you're not to listen to any news reports or read any
3 news reports that maybe on the Internet, the radio, TV, or
4 whatever.

5 After the case is submitted to you, you must discuss
6 it only in the jury room with your fellow jurors. The
7 attorneys and parties in this case have been advised that
8 they are not to talk to you at all. So if you see anyone
9 involved in the case and they do not even say hello don't
10 be offended. They're not being unfriendly to you there
11 just following my instructions. If they were allowed to
12 talk or you would talk to them somebody might get the wrong
13 impression so rather than have anyone get the wrong
14 impression they won't approach you, they won't speak to
15 you. Again, they're not being unfriendly but just
16 following my instructions but don't be offended by that in
17 any way.

18 Now, ladies and gentlemen, it's important that you
19 keep an open mind and not decide any issue in the case
20 until all of the evidence has been presented. The parties
21 have made their closing arguments and I have instructed you
22 on the law in this case. It is your solemnly
23 responsibility to determine the guilt or innocence of the
24 defendant and your verdict must be based solely on the
25 evidence as it is presented to you during this trial and in

1 this courtroom and on the law as I instructed at the close
2 of the trial. In just a moment, the solicitor will make
3 what is called an opening statement in which she will
4 explain to you the issues in this case or at least what she
5 thinks the issues are in this case. The attorney for the
6 defendant, may also make an opening statement although he
7 is not required to do so. What the attorneys tell you
8 during their opening statement is not evidence. It is only
9 their contention as to what the issues are in this case.
10 The evidence in this case will be presented to you by the
11 testimony of sworn witnesses from this witness stand and
12 any other exhibits that might be introduced during the
13 course of the trial.

14 Now, from time to time during the trial you may hear
15 one of the lawyers say, "Your Honor, we need to take up the
16 matter of law. We have a question of law that we need to
17 discuss." If that happens and they asked to approach the
18 bench or asked that the jury be sent back to the jury room,
19 you know, they're discussing a matter of law. Since I'm
20 the judge of the law you don't need to be involved with
21 that or hear that so I don't want you to be influenced in
22 any way. So we're not trying to inconvenience you anymore
23 that we have to but sometimes those matters come up and we
24 have to ask you to retire to the jury room.

25 Now, I'm not suppose to tell you what the facts are so

1 you'll be excused from the courtroom during those
2 discussions as I said with the attorneys. In determining
3 what the true facts are in this case, you must decide
4 whether or not the testimony of the witnesses is
5 believable. It would be my responsibility to rule as a
6 matter of law as to whether certain testimony is admissible
7 or not. But once the testimony is admitted whether or not
8 you believe it is solely up to you. In deciding whether to
9 believe a witness you have the right to consider the
10 interest of any witness, the bias of any witness, the
11 prejudiced of any witness, the opportunity for the witness
12 to have seen the matter and things about which the witness
13 may testify and the way the witness acts the witness stand.
14 You have the right to consider anything that is in the
15 record that will help you evaluate the testimony of the
16 witnesses. That means it is your duty to pay close
17 attention to these witnesses, to observe the witnesses, to
18 listen to the witnesses, and to pay close attention to the
19 attorneys and to the Court. Don't let your thoughts
20 wonder. It's easier said than done, I know sometimes,
21 particularly in the course of a trial but please do your
22 best not to let your thoughts wonder. Give strict
23 attention to the testimony in this case so that at the end
24 of all of the testimony, after the arguments of the
25 lawyers, and the charge of the law by the Court you would

1 then be in a position to determine what the true facts are
2 and to apply the law to those facts and thus render a true
3 and just verdict. It is your admin duty, madam,
4 foreperson, to preside in the jury room and you're to be
5 the jury's spokesperson here in court. It will also be
6 your duty to write the verdict later on and I'll give you
7 further instructions on that at the conclusion of the
8 trial.

9 Now, in order to preserve everyone's rights I'll give
10 the attorneys for each of the parties an opportunity to
11 object to anything that I've said at this point in time.

12 Any exceptions, counsel?

13 MRS. FRYAR: No, Your Honor.

14 MR. GRIER: No, Your Honor.

15 THE COURT: Okay. All right. We will now begin the
16 trial. Mrs. Fryar?

17 (Whereupon, this is where the opening statements were made)

18 *****

19 MRS. FRYAR: May it please the Court, Your Honor?

20 THE COURT: Yes, ma'am.

21 MRS. FRYAR: Your Honor, the State would call
22 Lieutenant Johnny Neal the stand.

23 CLERK: Please raise your right hand. State your full
24 name.

25 MR. NEAL: Johnny Neal.

1 CLERK: Do you solemnly swear or affirm the testimony
2 you give to be the truth, the whole truth, and nothing but
3 the truth so help you God?

4 MR. NEAL: Yes, I do.

5 JOHNNY NEAL, first being
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION BY MRS. FRYAR:

8 Q. Good afternoon Lieutenant Neal, how are you today?

9 A. I'm doing pretty good. How about you?

10 Q. I'm doing well, thank you. I want to talk with you
11 about, sir, what you do for a living?

12 A. I'm the lieutenant over the narcotics unit in Chester.

13 Q. And so that you work for?

14 A. I worked for Sheriff Alex Underwood.

15 Q. And how long have you been law enforcement, Lieutenant
16 Neal?

17 A. Eight years.

18 Q. How long have you been in narcotics?

19 A. Six and half years.

20 Q. And so you have been involved with a lot of defendants
21 charged with drug charges, is that correct?

22 A. Yes, ma'am.

23 Q. I want to draw your attention to August 27, 2014, if
24 you could just tell this jury what you did when you got to
25 work that day?

1 A. When I got to work that day I got called into the
2 office about a fugitive running from justice out of North
3 Carolina, a Patrick Simpson.

4 Q. And so what did you learn about Mr. Patrick Simpson
5 being a fugitive out of North Carolina?

6 A. He was wanted for a armed robbery involving a weapon.

7 Q. And so what was it your business to do that day?

8 A. To locate Mr. Patrick Simpson.

9 Q. What did you do to further that along?

10 A. We had a known - - well, we had a known address of his
11 grandmother's house that lived here in Chester.

12 Q. Okay.

13 A. So we went to the address.

14 Q. Who was Mr. Simpson's grandmother? Is it Ms. Pauline
15 Hayes?

16 A. Ms. Pauline Hayes.

17 Q. All right, sir. And did she live at ~~██████████~~
18 here in Chester?

19 A. Yes, ma'am.

20 Q. That is in Chester County?

21 A. Yes, ma'am.

22 Q. And so your responsibilities in looking for this
23 fugitive was to check out her house, basically, is that
24 correct?

25 A. Yes, ma'am. Yes ma'am, to make contact with her to

1 see if he was there.

2 Q. And so did you do that?

3 A. Yes, ma'am.

4 Q. Tell the jury what you did.

5 A. On that day I knocked on the door, Ms. Pauline Hayes
6 came to the door. I stated who I was and what I was there
7 for and ask her if Patrick Simpson was there. She said he
8 was not there but he was there the day prior for a funeral.

9 Q. So she said he had been there the day before but he
10 wasn't there at this time and he had been there for a
11 funeral, is that correct?

12 A. Yes, ma'am.

13 Q. Did she say he lived there?

14 A. No, ma'am.

15 Q. He had been there for a funeral?

16 A. Yes, ma'am.

17 Q. And so following and getting this information, what we
18 call that in law enforcement when you knock on somebody's
19 door to talk to them?

20 A. Do a knock and talk.

21 Q. Knock and talk. So you did a knock and talk on Ms.
22 Pauline Hayes's door, you ask her Mr. Simpson was there,
23 you got the response you got, then what did you do?

24 A. Then we left and we met with the sheriff and Randy
25 Marsh, lieutenant, major over patrol.

1 Q. And this is Major Marsh sitting in the courtroom,
2 correct?

3 A. Yes, ma'am.

4 Q. So following your meeting what did you decide to do
5 next?

6 A. We decided to go back and talk to Ms. Hayes.

7 Q. You're going to try another knock and talk?

8 A. Yes, ma'am.

9 Q. And so - - how many people were involved in this
10 looking for this fugitive?

11 A. Quite a few. There was about six or seven of us. I'm
12 not sure of the numbers.

13 Q. Several officers though, right?

14 A. Yes, ma'am.

15 Q. And so when you go back over to Ms. Hayes's house
16 again what, if anything, did you see?

17 A. When we got there, Major Marsh and Agent Al Crawford,
18 they went to the back of the residents and they spotted
19 Patrick Simpson.

20 Q. So the fugitive you were looking for was, indeed, at
21 the house of Ms. Hayes, is that correct?

22 A. Yes, ma'am.

23 Q. And so what happened to Mr. Simpson at that point?

24 A. He was immediately taken into custody, handcuffed and
25 transported to the detention center.

*doesn't say
where arrested*

1 Q. And so what, if anything, did y'all do after that?

2 A. We went ahead and talk to Ms. Hayes and ask for a
3 consent to search the residence, looking to try to locate a
4 handgun.

5 Q. Are you trying to help law enforcement in another
6 state?

7 A. Yes, ma'am.

8 Q. And you've apprehended the fugitive they've been
9 looking for that's the been on the run, is that correct?

10 A. Yes, ma'am.

11 Q. And so his charge was what, again, sir?

12 A. It was armed robbery, high and aggravated nature, I'm
13 not sure what they call it in North Carolina but - - -

14 Q. It's our version of armed robbery - - -

15 A. Yes, ma'am.

16 Q. - - - is that correct?

17 A. Armed robbery.

18 Q. And so y'all wanted to look for the gun that was used
19 in that armed robbery, is that correct?

20 A. Yes, ma'am.

21 Q. And so did you obtain permission to search Ms. Pauline
22 Hayes's house?

23 A. Yes, ma'am.

24 Q. Does she consent to have you come in there and search
25 that?

JOHNNY NEAL- DIRECT EXAMINATION BY MRS. FRYAR:

1 A. Yes, she did. She actually filled out a

2 Q. I'm going to show you what's been marked as CC
3 Exhibit Number One and ask you if you recognize it?

4 A. Yes, ma'am. It's our form that gives us permission to
5 search.

6 Q. If you could please publish that to the jury.

7 A. It reads, "Chester County Sheriff's Office Narcotics
8 Task Force permission to search. I, Pauline Hayes, have
9 been informed by Trey Hunter and Johnny Neal, which is
10 myself, who have made proper identification as law
11 enforcement officers as to my constitutional right not to
12 have a search made of these premises and/or property owned
13 by me and/or under my care, custody, control without a
14 search warrant. I willingly give my permission to these
15 officers to conduct a complete search of this premises
16 and/or property including all buildings, vehicles both
17 inside and outside of the property located at 557 Fifth
18 Street, Chester, South Carolina. The above-named officers
19 further have my permission to take from these premises or
20 vehicles any property, letters, papers, materials or other
21 property and effects which they desire as evidence for
22 criminal prosecution in this case or cases under
23 investigation. This written permission is given by me
24 voluntary without threats or promises of any kind. This
25 being the 27th, day of August, 2014 at 9:20 a.m." Witness

1 would be Brad Bowers and the other witness would be Matt
2 Faile and the seized general person giving consent is
3 Pauline Hayes of her own signature.

4 Q. And so once Ms. Hayes said, y'all can search my house
5 for that gun that might've been used in the robbery up in
6 North Carolina, what did y'all do?

7 A. We went ahead and started searching the house.

8 MRS. FRYAR: Your Honor, at this time I'd like to
9 enter this into the record as State's Exhibit Number One.

10 MR. GRIER: I'd object, Your Honor. I'd object, Your
11 Honor.

12 THE COURT: What's your objection?

13 MR. GRIER: I object to the voluntariness of the
14 consent to search and also to the probable cause to the
15 search and reasonableness to the search. *presume*

16 THE COURT: All right. I'll respectively overrule the
17 objection. It's admitted into evidence.

18 MRS. FRYAR: Thank you, Your Honor.

19 THE COURT: What number is that?

20 MRS. FRYAR: It's going to be number one, Your Honor.

21 THE COURT: Number one.

22 MRS. FRYAR: It's Court's Number One and it's now
23 going to be State's Number One. Thank you.

24 (Whereupon, the Permission to Search has been marked
25 and entered into evidence as State's Exhibit No. 1)

1 Q. Lieutenant Neal, once you obtain the consent from Ms.
2 Hayes that you can search her property, what did y'all do?

3 A. Yes, ma'am. We conducted a search.

4 Q. And so did you enter the home and began to search it?

5 A. Yes, ma'am. I - - I did, as well as Agent Crawford,
6 Lieutenant Brad Bowers, David Ford, I believe, Major Marsh
7 was there as well and several of the other officers. —

8 Q. And other officers? — *underwood?*

9 A. Yes, ma'am.

10 Q. We're going to find that gun, is that kind of what
11 y'all are thinking?

12 A. Yes, ma'am.

13 Q. And so when you go in there, do you know where Mr. or
14 Major Randy Marsh went and agent Al Crawford went?

15 A. They went to the back, the back bedroom.

16 Q. And what happened when they were in there?

17 A. When we entered the house we could smell marijuana had
18 been freshly smoked so that's what really got our
19 attention. Major Marsh and Al Crawford went to the back
20 bedroom and I went to the living room. Once they entered
21 the bedroom they seen jars containing marijuana when they
22 were looking for the gun. And then also Major Marsh he
23 seen crack cocaine.

24 Q. And you've been in narcotics investigations for six
25 and half years, that's your testimony, is that correct?

1 A. Yes, ma'am.

2 Q. Is there a certain smell that is admin when someone
3 smokes marijuana?

4 A. Yes, ma'am.

5 Q. Is there a another different smell when it is raw
6 packaged marijuana?

7 A. Yes, ma'am.

8 Q. Could you smell that role packaged marijuana as well?

9 A. Yes, ma'am. Once I entered - - once I entered the
10 room but Al Crawford had already smelted and Major Marsh.

11 Q. So once you entered that back bedroom that was
12 determined to be Charles Hayes bedroom, is that correct?

13 A. Yes, ma'am.

14 Q. Did Ms. Pauline Hayes tell you that's Charles's _____
15 bedroom?

16 A. Yes, ma'am.

17 Q. So once you enter that room you're familiar with the
18 smell of raw marijuana, unsmoked marijuana, smell that
19 fragrance, is that correct, or that odor?

20 A. Yes, ma'am.

21 Q. So as the officer was looking for the weapons, do you
22 know what they located in that room?

23 A. First they seen the jars of marijuana and then crack
24 cocaine. At that point, everybody stop what we were doing,
25 and we went ahead and got a search.

1 Q. You were within your rights to continue to search this
2 house because you had the consent to search house, right?

3 A. Yes, ma'am.

4 Q. But out of abundance of caution, what did y'all do?

5 A. We went ahead and backed out and got a search warrant.

6 Q. So everybody just stopped what they were doing and
7 tell the jury what you do when you go to get a search
8 warrant?

9 A. Once we go get a search warrant we present what we
10 have to the judge and the judge gives us a search warrant.
11 She may give us one or she may not.

12 Q. And in this case, were you able to obtain a search
13 warrant to continue the search?

14 A. Yes, ma'am.

15 Q. And this time to continue to search for narcotics as
16 well as the gun, right?

17 A. Yes, ma'am.

18 Q. And so as you continue the search, what was found?

19 A. The marijuana, of course, the crack cocaine and a gun
20 that was in the cushion of the chair, if I'm not mistaken.

21 Q. And were many items of evidence gathered from this
22 home?

23 A. Yes, ma'am.

24 Q. And were all the items of guns or drugs obtained from
25 the home or to the room where Ms. Pauline Hayes said that's

1 Charles Hayes's bedroom?

2 A. Yes, ma'am.

3 Q. Was Mr. Charles Hayes home at the time?

4 A. No, ma'am. He was at school at York Tech in Rock
5 Hill.

6 Q. And so who was home when you first got there,
7 Lieutenant?

8 A. Ms. Pauline Hayes.

9 Q. Did anyone else come before Mr. Hayes to the
10 residence?

11 A. Yes, Mr. Quinton Feaster.

12 Q. And who is Mr. Feaster, if you know?

13 A. I believe him to be Ms. Pauline Hayes's boyfriend.

14 Q. Did he live in the residence?

15 A. Yes, ma'am.

16 Q. Tell us - - the area that you specifically search was
17 the living room, is that correct?

18 A. Yes, ma'am.

19 Q. Did you notice any other bedrooms in the house?

20 A. Yes, ma'am. There was another bedroom on the right,
21 on the right-hand side of the house.

22 Q. So other than the one that you found all the marijuana
23 and the crack cocaine and the gun in, there's another
24 bedroom, is that correct?

25 A. Yes, ma'am.

1 Q. Could you tell who lived or share that bedroom?

2 A. Yes, ma'am.

3 Q. Who was that?

4 A. That's Pauline Hayes and Quinton Feaster.

5 Q. And so were you able to - - were you part of the
6 arrest of Mr. Simpson before all of this happened outside?

7 A. Was I apart, physically put him in handcuffs, no,
8 ma'am.

9 Q. So once Mr. Quinton Feaster arrived at the home, did
10 Mr. Charles Hayes come?

11 A. No, ma'am. He didn't come until later on, a little
12 bit later.

13 Q. Who had gone to obtain the search?

14 A. Lieutenant Brad Bowers.

15 Q. And when Lieutenant Bowers had gone to obtain the
16 search warrant you said the y'all just all froze, is that
17 correct?

18 A. Yes, ma'am.

19 Q. When he arrived back you said you continued the
20 search, when did Mr. Charles Hayes arrive at the house?

21 A. He arrived at the house right after we got done with
22 the search.

23 Q. Had someone contacted him?

24 A. Yes, ma'am.

25 Q. Tell the jury about that.

1 Q. Pauline Hayes called him and said he needed to get
2 home.

3 Q. Did you hear anything more of what she said to him
4 about why he needed to get home?

5 A. I can't remember but I know she just told he needed to
6 get home.

7 Q. You need to get home?

8 A. Yes, ma'am.

9 Q. That's all you can remember?

10 A. Yes, ma'am.

11 Q. And so he did arrive, is that correct?

12 A. Yes, ma'am.

13 Q. When he came to the residence, what did y'all do?

14 A. When he came to the residence, he set on the porch
15 with Pauline Hayes and Quinton Feaster and his rights were
16 read to him and the rest of them on the porch by Agent
17 David Ford.

18 Q. Do you see Agent David Ford in the courtroom?

19 A. Yes, ma'am.

20 Q. And would you please point them out to us?

21 A. He's in the white shirt with blue tie with sunglasses
22 on top of his head.

23 Q. He's part of the narcotics unit in Chester's Sheriff's
24 Department?

25 A. Yes, ma'am.

1 Q. And I hand you what has been marked as Court's Exhibit
2 Number Two and ask you, can you tell me what this is?

3 A. Yes, ma'am. It's a Miranda card.

4 Q. What is a Miranda card?

5 A. These are your rights.

6 Q. And so what - - do most officers carry a Miranda card
7 around them?

8 A. Yes, ma'am.

9 Q. What is it used for?

10 A. It's used to advise you of your rights.

11 Q. And did Agent Ford, in your presence, read that card?

12 A. Yes, ma'am.

13 Q. And can you please read it to the jury?

14 A. Yes, ma'am. The card, it doesn't show on this
15 picture, but it's blue in color. It says, Miranda on top.
16 "You have the right to remain silent. Anything you say can
17 and will be used against you in a court of law. You have
18 the right to speak to an attorney and to have an attorney
19 present during any questioning. If you cannot afford a
20 lawyer one will be provided for you at government expense.
21 Knowing and understanding your rights as I have explained
22 them to you, are you willing to answer my questions without
23 an attorney present."

24 Q. And so, is it documented as to that being read to
25 whom?

1 A. Yes, ma'am.

2 Q. Please tell the jury.

3 A. This document has been read Charles Hayes, Pauline
4 Hayes, and Quinton Feaster.

5 Q. All right.

6 A. It was also read by Agent David Ford and - - -

7 Q. And other than yourself, does it list somebody else as
8 being present?

9 A. Yes, ma'am. And the witness on it would be Agent Al
10 Crawford.

11 Q. All right, sir.

12 MRS. FRYAR: Your Honor, at this time I'd like to
13 enter this as State's Exhibit Number Two. It is the advice
14 of rights, Your Honor.

15 THE COURT: All right. Received without objection.

16 MRS. FRYAR: Thank you.

17 THE COURT: Admitted into evidence.

18 MRS. FRYAR: Thank you.

19 (Whereupon, the Miranda Rights Card has been marked
20 and entered into evidence as State's Exhibit No. 2)

21 Q. And so once you read - - excuse me, Agent Ford read
22 the rights to these individuals sitting on the front porch,
23 how did he go about doing that?

24 A. Once he read it to everyone he pointed at each
25 individual and ask them, "Do they understand their rights?"

1 "yes." They stated, "Yes."

2 Q. So each person Mr. Charles Hayes, Mr. Quinton Feaster
3 and Ms. Pauline Hayes, each individually said, I understand
4 my rights?

5 A. Yes. And they were willing to talk with us at that
6 time.

7 Q. And they said I'm willing to talk to you?

8 A. Yes, ma'am.

9 Q. And did they?

10 A. Yes, ma'am.

11 Q. And what was said?

12 MR. GRIER: Objection, Your Honor. I believe that the
13 officer that participated, Officer Ford, is the one who
14 actually did the questioning. He would be saying hearsay.
15 Also I object to the statements as to voluntary made, they
16 were made under coercion and duress.

17 THE COURT: Well, - - -

18 MRS. FRYAR: It's already been entered into evidence,
19 Your Honor.

20 THE COURT: Was this gentleman present when the
21 defendant responded, Your Honor?

22 MRS. FRYAR: He was, Your Honor.

23 THE COURT: I'll let him answer the question with
24 regard to that defendant.

25 Q. Were you there when Ms. Pauline Hayes answered the

1 question?

2 A. Yes, ma'am.

3 Q. What did she say?

4 A. She said she was willing to talk to us.

5 Q. Then what did she say?

6 A. She said that the drugs were not hers.

7 Q. And what else did she say?

8 A. After that then she - - well, after everybody else
9 said - - -

10 Q. Well, let's go forward. Tell the jury exactly what
11 happened.

12 A. Once we asked Ms. Pauline Hayes, she said, the drugs
13 wasn't hers. Quinton Feist had said the drugs wasn't his
14 and Charles Hayes said, the drugs wasn't his.

15 Q. Mmm, hmm.

16 A. At that point, they were advised of the constructive
17 possession with the State of South Carolina law "the hand
18 of one, is the hands of all." Once that statement was made
19 Ms. Pauline Hayes looked and said, these are not my drugs
20 and she looked at her son which is Charles Hayes and said
21 you need to claim your drugs.

22 Q. And so then did Mr. Charles Hayes admit that these
23 were his drugs?

24 A. Yes, he did. He said, they're mine.

25 Q. They're mine. And so - - I'm claiming them as mine?

1 A. Yes, ma'am. I'm claiming them.

2 Q. And so at that point, did you determine that Mr.
3 Charles Hayes was exercising dominion and control over the
4 drugs and the gun in the bedroom that he had slept in, in
5 his bedroom?

6 A. Yes, ma'am.

7 Q. And so what did y'all do after that?

8 A. Once we did that, we collected all the evidence that
9 was already collected, we went ahead and placed them under
10 arrest and transported them to the detention center.

11 Q. And so when you got to the detention center, what did
12 you do?

13 A. When we got to the detention center we were still
14 doing our investigation, of course, but Mr. Hayes wanted to
15 talk and we were going to talk to him again. We didn't
16 take him through the sheriff's office because we didn't
17 want everybody to see who we had in case he wanted to help
18 himself out.

19 Q. Did you say, help himself out, What does that mean?

20 A. Help himself out. If he wanted to, normally, when
21 people get in a jam with drugs they actually want to help
22 themselves out as far as trying to work off charges, being
23 a snitch.

24 Q. And so you don't generally parade these people through
25 the sheriff's department, is that correct?

1 A. No, ma'am.

2 Q. Is there a little tiny room right outside the jail
3 where you take them?

4 A. Yes, ma'am. It's called the lawyer/visitation room.

5 Q. Is called the lawyer/visitation room. Okay. You and,
6 I believe, Lieutenant Bowers were in that lawyer/visitation
7 room?

8 A. Yes, ma'am.

9 Q. And y'all were there with Mr. Charles Hayes?

10 A. Yes, ma'am.

11 Q. And did you review Mr. Charles Hayes rights with him
12 again?

13 A. Yes, ma'am. I was there.

14 Q. And I'm going to show you now what's been marked as
15 Court's Exhibit Number Three and I ask you if you can
16 identify what this is?

17 A. This is our rights form.

18 Q. It's an advice of rights form, is that correct?

19 A. Yes, ma'am.

20 Q. And what is it used for?

21 A. It's used to, before we talked to anyone, we go ahead
22 and give them this piece of paper, we have it, and we go
23 ahead and fill it out. We read them the questions, the six
24 questions on there and then they sign it and their initials

25 - - -

1 Q. All right, sir.

2 A. - - - before we talk to them.

3 Q. And did you read these rights to Mr. Hayes?

4 A. Yes, ma'am.

5 Q. Hadn't you already read him his rights?

6 A. Yes, ma'am.

7 Q. Why did you read them again?

8 A. Because we were talking to him there, so we wanted to
9 go ahead, it's just the way that we do things, we go ahead
10 and fill out another form while we were talking to him.

11 Q. You didn't have to advise him again, did you?

12 A. No, ma'am.

13 Q. But you didn't out of abundance of caution, is that
14 correct?

15 A. Yes, ma'am.

16 Q. Please tell the jury, now, you're going to read these
17 same rights to him that you've already read and he's
18 already waived, but do you do it a different way this time?

19 A. Yes, ma'am.

20 Q. Tell the jury how you do it this time.

21 A. This time we go ahead and number it before we ask you
22 any questions, we go ahead number it, one through six.

23 Q. What does that mean? Is there six - - was there six
24 of - - -

25 A. It's six different questions.

1 Q. And if you could read that to the jury?

2 A. The first, number one would be, "Before we ask you any
3 questions you must understand your rights," and at the end
4 of that it has a line where you can initial and Mr. Charles
5 Hayes initials are CH and he initialed that. So he
6 understood his rights at that time.

7 Q. And if you would just go through and let us know, did
8 he initial, did he initial several times on that document
9 that you're holding in your hand?

10 A. Yes, ma'am, all six.

11 Q. And let's go through it again.

12 A. Okay.

13 Q. Was the first thing you told him again?

14 A. The first thing we told him was, "Before we ask you
15 any questions you must understand your rights," and he did,
16 he initial it, that he understood his rights.

17 Q. All right.

18 A. The second, "You have the right to remain silent." He
19 initialed it, CH. Number three, "Anything you say can be
20 used against you in court." He initialed it, CH. Number
21 four, "You have a right to talk to a lawyer for advice
22 before any questioning and to have him or her with you
23 during questioning." He initialed it, CH. Number five,
24 "If you cannot afford a lawyer one would be appointed for
25 you before any questions if you wish." He initialed it,

1 CH. Number six, "If you decide to answer questions now
2 without a lawyer present you will still have the right to
3 stop answering at any time until you talk to a lawyer." He
4 initialed it, CH.

5 Q. Did he ever ask for a lawyer?

6 A. No, ma'am.

7 Q. Once he - - did you read those to him or did he read
8 them himself?

9 A. He had a copy of it and we read it to him.

10 Q. So he could read along - - -

11 A. He could read alone - - -

12 Q. - - - as you read them to him?

13 A. - - - as we read it and then the second part of the
14 form is, your waiver of rights.

15 Q. All right, sir.

16 A. And I'll go ahead and read that. "I have read the
17 statement of my rights and I understand what my rights are.
18 I'm willing to make a statement and answer questions. I
19 don't want a lawyer at this time. No promises or threats
20 have been made to me and no pressure or coercion force of
21 any kind has been used against me." He signed it Charles
22 Hayes. He dated it 8/27/2014. The witness was Brad
23 Bowers. He signed it the same date 8/27/2014 and myself,
24 Johnny Neal, signed it, date 8/27/2014.

25 Q. And so when you read him these rights - - first of

1 all, let's look at this first exhibit that we've already
2 had into evidence. What time was it that he was first read
3 his Miranda rights at the scene?

4 A. It was 12:06 p.m.

5 Q. Now when you saw him there at the scene and then again
6 when you saw him they are at the jail, did he seem to
7 understand these rights?

8 A. Yes, ma'am.

9 Q. Did you - - did he seem intoxicated or impaired in any
10 way?

11 A. No, ma'am. He just came from school.

12 Q. He just come from school?

13 A. Yes, ma'am.

14 Q. Did he seem to totally understand what you were
15 talking about both times?

16 A. Yes, ma'am.

17 Q. Did he seem to have any physical or mental impairments
18 that would keep him from understanding his rights?

19 A. No, ma'am.

20 Q. And so he voluntarily - - did y'all withhold him from
21 going to the bathroom or anything like that?

22 A. No, ma'am.

23 Q. If he wanted a drink of water would you - - did you
24 withhold anything from him?

25 A. No, ma'am. If he wanted something he could've had

1 whatever he needed.

2 Q. And so then he did sign this document, is that
3 correct?

4 A. Yes, ma'am.

5 MRS. FRYAR: At this time, I would like to enter this
6 as State's Number Three, sir. It's the same one.

7 MR. GRIER: Objection, Your Honor. The voluntariness
8 of the statement given that was given under coercion?

9 THE COURT: I respectfully overrule your objection.
10 He testified to the voluntariness of it.

11 MRS. FRYAR: Thank you, sir.

12 THE COURT: Admitted into evidence.

13 (Whereupon, the Chester County Sheriff's Office Rights
14 Form has been marked and entered into evidence as State's
15 Exhibit No. 3)

16 Q. And so then did you give Mr. Hayes an opportunity to
17 write down a statement?

18 A. Yes, ma'am.

19 Q. And I am going to hand you this document that's been
20 marked as Court's Exhibit Number Four and ask you, what is
21 this?

22 A. Yes, ma'am. This is a voluntary statement from Mr.
23 Charles David Hayes.

24 Q. What time was that given? Does it have a time?

25 A. This was given at 2:26 p.m.

1 Q. So he had given the first statement at 12:06, I
2 believe, was your testimony, and he's given the statement
3 at 2:26, is that correct?

4 A. Yes, ma'am, on the same day.

5 Q. On the same day?

6 A. Mmm, hmm.

7 Q. Within close proximity of each other, obviously, is
8 that correct?

9 A. Yes, ma'am.

10 Q. And this includes transporting him down to the jail
11 and booking into the jail and then taking this statement,
12 reading his rights, before he actually starts to write on
13 this piece of paper, is that correct?

14 A. Yes, ma'am.

15 Q. When he got to the jail and you gave him this piece of
16 paper for him to write down his statement, did he change
17 his statement?

18 A. Yes, ma'am.

19 Q. What did he say at the house?

20 A. He said that he it was all, it was his drugs - - -

21 Q. Okay.

22 A. - - - at the house.

23 Q. Can you please read from the beginning that document
24 to the jury? Publish that to the jury.

25 A. Do you want me to read what he wrote in the statement?

1 Q. Read the top all the way through please, Lieutenant
2 Neal.

3 A. Okay. The State of South Carolina. County of
4 Chester. The person appeared before me, Charles David
5 Hayes, who states my name is Charles. My address is 557
6 Fifth Street. My date of birth is 9/2/1990. My Social
7 Security number, which we won't call. My phone number is
8 803-374-4004. I completed the college grade in school and
9 I can read and write. "Before answering any questions or
10 making any statements and he, said yes." He said a person -
11 - I'm sorry I was just reading over it. "Lieutenant Neal,
12 duly warned and advised me and I know and I understand that
13 I have the following rights: That I have the right to
14 remain silent and I don't have to answer any questions or
15 make any statements at all. That any statement I make can
16 and will be used against me in court or courts of law for
17 the offenses or offense concerning which the following
18 statement is made. That I have the right to consult with a
19 lawyer of my own choice before or at any time during any
20 questioning or statements I make. That if I cannot hire a
21 lawyer I may request and have a lawyer appointed by me by
22 the proper authority before or at any time during any
23 questioning or statements that I make without cost or
24 expense to me. That I can stop answering any questions or
25 making any statements at any time that I choose and I call

1 for the presence of a lawyer to advise me before continuing
2 any more questioning or making any more statements rather
3 or not I have already answer some questions or made some
4 statements. I do not want to talk to a lawyer. I hereby
5 knowingly and purposely waive my right to remain silent and
6 my right to have a lawyer present while I make the
7 following statement to the person. Knowing that I have the
8 right and privilege to terminate any interview at any time
9 hereafter and have a lawyer present with me before
10 answering any more questions or making any more statements
11 if I choose to do so. I declare that the following
12 voluntary statement is made of my own free will without
13 promise or hope or of reward without fear or threat or
14 physical harm without coercion or favor or offer of a favor
15 without leniency or offer of leniency by any person or
16 persons whomsoever." And at the end of that he write his
17 statement. "I'm claiming up to what was found in the house
18 in order to keep my parents from going to jail so the weed,
19 gun, and I think crack is mine. Therefore, there's no need
20 to go back and arrest anyone else there. My reason for
21 saying that was, I didn't see none of this come out of the
22 house but I myself did have in my possession a black gun
23 and some weed in jars." End of statement. He signed it,
24 CH, CH, for the end of the statement and it was at 2:26
25 p.m., 27th of August, 2014. Signed by Mr. Charles Hayes.

1 Witness by Brad Bowers and witness by myself, Johnny Neal."

2 Q. So when it came down to writing it down on a piece of
3 paper this is what he wrote instead, is that correct?

4 A. Yes, ma'am.

5 Q. Indicating that he was lying to you earlier when he
6 said it was all he is, is that correct?

7 A. Yes, ma'am.

8 MRS. FRYAR: Your Honor, I'd like to introduce this as
9 State's Number Four please, sir.

10 MR. GRIER: Judge, we hereby object as to the
11 voluntariness of the statement as well as coercion.

12 THE COURT: Again, I respectively overrule your
13 objection. I find that it's been testified to as a
14 voluntary statement. It's admitted into evidence.

15 MRS. FRYAR: Thank you, Your Honor.

16 (Whereupon, the Voluntary Statement has been marked
17 and entered into evidence as State's Exhibit No. 4)

18 Q. So now you and Lieutenant Bowers are hearing a
19 different story, is that correct?

20 A. Yes, ma'am.

21 Q. And so all of a sudden they're not all of his drugs
22 just some of them are his drugs, is that right?

23 A. Yes, ma'am.

24 Q. But he does say that gun is he is, is that right?

25 A. Yes, ma'am.

1 Q. And he does say all of this was in his bedroom, is
2 that correct?

3 A. Yes, ma'am.

4 Q. Did y'all determine at that time that y'all needed
5 little bit more clarity from Mr. Hayes?

6 A. Yes, ma'am.

7 Q. Tell the jury what a Q and A is?

8 A. Its questions and answers. We write down the
9 questions and we write down his answers.

10 Q. And so did you write down some questions for Mr.
11 Hayes?

12 A. Yes, ma'am.

13 Q. All right. I'm going to show you what's been marked
14 as Court's Exhibit Number Five and asked that you publish
15 it to the jury.

16 A. Yes, ma'am. This is a voluntary statement,
17 supplemental, fro Charles Hayes it's a Q and A, questions
18 and answers. The first question, "where did the gun - -
19 "Where did the gun come from, the stolen gun was found in
20 your bedroom?" His answer was, "Charles." That's the only
21 answer he gave. "Did you know the gun was stolen?" His
22 answer was, "No." "How much weed was in your bedroom?" He
23 said, "Two ounces and a quarter." "How much crack was in
24 your bedroom?" He said, "Don't know." Question, "Where
25 was the weed stored, (kept)?" "Behind my bed." "Where was

1 the crack kept/stored?" His answer was, "I do not know."

2 "How long have you had the gun in your possession, when did
3 you buy it?" "I think about three years or more."

4 Q. About three years or more?

5 A. Yes, ma'am.

6 Q. All right, sir.

7 A. The next question, the final question, "Did you write
8 this statement on your own free will?" His answer was,
9 "Yes." He signed at the bottom, Charles Hayes.

10 Q. When y'al,l were at the house and y'all gave him his
11 Miranda rights was he aware of what you had found in the
12 house?

13 A. Yes, ma'am.

14 Q. Was he aware that you had found marijuana in the
15 house?

16 A. Yes, ma'am.

17 Q. Large quantities of marijuana?

18 A. Yes, ma'am.

19 Q. Was he aware of the crack cocaine that you had found
20 in the house?

21 A. Yes, ma'am.

22 Q. As well as the gun, is that correct?

23 A. Yes, ma'am.

24 Q. And at the house all of it was he is?

25 A. Yes, ma'am.

1 Q. He had knowledge of what you had taken from the house
2 and he said all of it was he is, is that correct?

3 A. Yes, ma'am.

4 Q. Now he's just protecting his parents, is that correct?

5 A. Yes, ma'am.

6 Q. And only part of it is his?

7 A. Yes, ma'am.

8 MRS. FRYAR: Your Honor, I'd like to enter the
9 statement as State's Exhibit Five please?

10 MR. GRIER: Once again I renew my objection as to the
11 voluntariness and given under coercion.

12 THE COURT: Again I respectfully overrule the
13 objection. It's admitted into evidence.

14 MRS. FRYAR: Thank you, Your Honor.

15 (Whereupon, the Voluntary Statement- Supplemental has
16 been marked and entered into evidence as State's Exhibit
17 No. 5)

18 Q. What was your goal in determining who own these drugs
19 or possessed these drugs on this particular day when y'all
20 found them, Lieutenant Neal?

21 A. You said what was our goal?

22 Q. Yes.

23 A. Our goal was to charge the right person with whoever
24 committed this crime.

25 Q. Right. And in constructive possession cases anybody

1 who exercised dominion over and control over drugs can
2 constructively possess the drugs, is that correct?

3 A. Yes, ma'am.

4 Q. And once you receive this new statement from Mr. Hayes
5 that he was only protecting his parents, what did y'all do?

6 A. Once he said he was only protecting his parents, we
7 did the Q and A, had him do the answers to clarify what he
8 was saying. And then I believe there were - - I'm not
9 hundred percent sure what happened after because that
10 wasn't my fault.

11 Q. Did someone go and arrest his parents?

12 A. I believe so, yes, ma'am.

13 Q. And it was the home of Ms. Pauline Hayes, right?

14 A. Yes, ma'am.

15 Q. Under her dominion and under her control?

16 A. And under her control, yes, ma'am.

17 Q. And Mr. Quinton Feaster lived there as well?

18 A. Yes, ma'am.

19 Q. They were arrested as well?

20 A. Yes, ma'am.

21 MRS. FRYAR: I beg the Court's indulgence for just a
22 moment.

23 Q. Lieutenant Neal, when Charles Hayes arrive back at the
24 house that day, did he ever enter the house?

25 A. No, ma'am.

1 Q. Y'all kept him on the front porch the whole time, is
2 that correct?

3 A. Yes, ma'am.

4 Q. So there is no way that he would know that some
5 marijuana was found in jars behind his, behind his bed as
6 he's indicated, is that correct?

7 A. Not at that time, he didn't.

8 Q. So when he said where was the weed is stored?, And he
9 answered behind my bed, he had not been back into the house
10 to discover where the weed had been found, is that correct?

11 A. No, ma'am.

12 Q. So the only way he could have known here it was is
13 because he knew where he was?

14 A. Yes, ma'am.

15 Q. All right, sir.

16 MRS. FRYAR: I don't have any further questions for
17 Lieutenant Neal at this time. Thank you, Your Honor.

18 THE COURT: Thank you, ma'am. Mr. Grier?

19 MR. GRIER: Thank you, Your Honor.

20 CROSS EXAMINATION BY MR. GRIER:

21 Q. Lieutenant Neal?

22 A. Yes, sir.

23 Q. On the, I think in August, you went to Ms. Hayes house
24 you were not going to speak to Charles Hayes, were you?

25 A. No, sir.

1 Q. Who were you going to get?

2 A. We were going to get Patrick Simpson.

3 Q. And why were you getting him again?

4 A. He was a fugitive of justice from North Carolina,
5 wanted out of North Carolina for an armed robbery.

6 Q. And on your second attempt at going to the house,
7 where did you find Mr. Simpson?

8 A. He was in the backyard.

9 Q. He was not in the house, is that correct, at that
10 time?

11 A. No, sir.

12 Q. But after placing him under arrest y'all decided y'all
13 wanted to go into the house to do a search, is that
14 correct?

15 A. Yes, sir. To locate, to try to locate the gun that
16 was used in the armed robbery.

17 Q. And the information you received from North Carolina,
18 they sent you a picture of Mr. Simpson, correct?

19 A. Yes.

20 Q. But they did not send you the make and model of a gun
21 that was used in the crime, is that correct?

22 A. That is correct. They didn't send it because they
23 didn't know what type of gun was used.

24 Q. So you went in to this home to look for a gun not
25 knowing if it was a .38 caliber, a .40 caliber, .45

1 revolver, pistol, if it's black, if it was silver or what,
2 is that correct?

3 A. We were going to look for a handgun.

4 Q. Is there anything illegal about someone having a
5 handgun in their home?

6 A. No, sir. There's nothing illegal unless you're
7 prohibited by law.

8 Q. So assuming that Ms. Hayes had her own personal gun,
9 you would of seized that as well saying that, that could
10 have possibly been the gun used in this crime?

11 A. We would've taken it into evidence at that time until
12 we could prove that it wasn't used in the crime.

13 Q. And when you placed Mr. Simpson under arrest, was he
14 frisked?

15 A. He was searched.

16 Q. What was found on his person?

17 A. He had a small bag of marijuana.

18 Q. So he had a bag of marijuana on his person at that
19 time?

20 A. Yes. A small bag.

21 Q. And it's y'all's believe that he had been staying at
22 that house, is that correct?

23 A. He was there visiting for a funeral.

24 Q. And so after getting, questioning Ms. Hayes to go into
25 the house, y'all went into the house and you said you smelt

1 marijuana, is that correct?

2 A. Yes, we did.

3 Q. When talking to Ms. Hayes to go into the house, did
4 she give any kind of hesitation about wanting you to go
5 into her house?

6 A. No, she did not.

7 Q. There were no comments made that if you don't let us
8 into this house and we find something then we'll take you
9 to jail?

10 A. I never told her anything like that and I didn't hear
11 anybody else tell her anything like that.

12 Q. So upon going in, you testified earlier, that you
13 smelt freshly smoked marijuana, is that correct?

14 A. You could smell the marijuana that had been smoked,
15 yes, sir.

16 Q. Freshly, you said?

17 A. Smoked marijuana.

18 Q. I believe, you testified that it was freshly smoked
19 marijuana?

20 A. Okay, freshly smoked marijuana.

21 Q. Once again Mr. Hayes was not there that morning, was
22 he?

23 A. No, he wasn't but I never said he was smoking weed at
24 his house either.

25 Q. You testified that he had already gone off to Rock

1 Hill and was in class at York Tech, is that correct?

2 A. Yes. I did testify to that.

3 Q. And that the gentleman that you were looking for is
4 Patrick Simpson who's wanted out of North Carolina for a
5 violent felony, is that correct?

6 A. Yes, sir.

7 Q. He was there, correct?

8 A. He was outside in the backyard.

9 Q. But it was y'all's belief that he had been in the
10 house, correct?

11 A. Yes, sir.

12 Q. Did you find belongings of his inside the house?

13 A. We did find belongings of his inside the house, inside
14 the living room, actually.

15 Q. Did you find clothes?

16 A. Inside the living room in a small plastic bag with his
17 social security card and a wallet in the living room. Yes,
18 I did, not in the bedroom.

19 Q. And so once Mr. Simpson was placed into custody and
20 y'all were searching the house, he was gone, he was taken
21 to the detention center, correct?

22 A. Yes, he was.

23 Q. So when you started finding all of these drugs and
24 other guns in the house, you didn't question him about any
25 of those?

1 A. No, sir. The reason being is Ms. Pauline Hayes s
2 he did not live there and he was not there so, therefore;
3 when we located him in the backyard we went ahead and
4 transported him at that time.

5 Q. Once again you found evidence in there that he was
6 actually in the house, with clothes and the wallet,
7 correct?

8 A. Yes. He was in the living room.

9 Q. And once Mr. Hayes arrived you said you kind of lined
10 them all up outside of the porch, is that correct?

11 A. Actually, there wasn't a line, they were already
12 sitting down, Pauline Hayes and Mr. Feaster were already
13 sitting down so he set on the porch as well.

14 Q. Were they all handcuffed?

15 A. I'm not sure.

16 Q. Are you sure they were ever handcuffed while they were
17 questioned?

18 A. I'm not sure. I can't say yes and I cannot say no
19 because I can't recall about that.

20 Q. And upon questioning them, none of them indicated that
21 the drugs belonged to Patrick Simpson?

22 A. No, sir.

23 Q. But you did inform them that the hand of one, is the
24 hand of all, that you would take them all to jail if no one
25 claimed them, is that correct?

1 A. Stated constructive possession, they stated the state
2 law. I'm not sure, I believe, Brad Bowers, may have stated
3 it, if nobody claims it, everybody goes to jail, the hand
4 of one, is the hand of all. It wasn't that we were - - we
5 were just stating the law.

6 Q. So, basically, you're saying that if Mr. Hayes didn't
7 claim the drugs that you would take his mother to jail,
8 correct?

9 A. No, sir.

10 MRS. FRYAR: Your Honor, I would just object.

11 A. I never said that.

12 MRS. FRYAR: He's asked and answered it.

13 THE COURT: When there's an objection don't say
14 anything - - -

15 A. Oh, I'm sorry.

16 THE COURT: - - - so we can keep the record clear.
17 Mrs. Fryar?

18 MRS. FRYAR: Investigator Neal or Lieutenant Neal has
19 already answered that question.

20 THE COURT: I'll overrule your objection. I assume
21 that was an objection so you can ask the question again. I
22 don't have a problem with that.

23 Q. So when Mr. Hayes claimed the drugs he had been told,
24 basicially, by law enforcement that if he didn't claim them
25 that his mother would be going to jail, correct?

1 A. No, sir, I didn't say that. I didn't tell Mr. Hayes,
2 "Hey, if you don't claim these drugs you're going to jail."
3 We stated the statute for the constructive possession. It
4 wasn't pointed towards him, just specifically or anything
5 like that, his mother was the one who said, "This is not my
6 drugs, they're yours." "You need to claim them," and he
7 claimed them. His mother said that.

8 Q. And so at this point you take him to the detention
9 center, is that correct?

10 A. Yes, sir. Once he said, "They're mine."

11 Q. And that was at twelve o'clock, is that correct, based
12 on the signed statement?

13 A. I'm not gonna say it was definitely stating - - which
14 signed statement?

15 Q. Let's see.

16 A. That's when his rights were read at 12:06.

17 Q. So State's Exhibit Two - - -

18 A. Yes, sir. That's when the rights were read. This was
19 before we talked to him. Yes, sir, at 12:06.

20 Q. And that was at the house?

21 A. That was at the house sitting on the porch.

22 Q. And then at 14:00 hour, on Exhibit Three, is the next
23 time you talked to him, correct?

24 A. Fourteen hundred hour is when we filled out the rights
25 form, yes, sir.

1 Q. During these two hours, it took you that long to take
2 him from Fifth Street to the detention center?

3 A. No, sir. Well, until we talked to him, yeah, there
4 was a time lapse between there but we were at the house and
5 we left the house we took him to the jail and that time was
6 two o'clock.

7 Q. Is it your testimony that before him writing this
8 statement, you never discussed what was found in the house
9 with him?

10 A. No, sir.

11 Q. So for two hours he just sat alone without any
12 conversation with you or any other officers?

13 A. We were still, we didn't, whatever time we left the
14 house, I'm not one hundred sure what time we left the house
15 but when he went to the jail we left the house shortly
16 prior to however long it takes us, five or ten minutes
17 maybe at the most, from the house to the jail, getting him
18 into the jail, they have to book him in, and then we'd
19 talked to him. We can't just take him in there without
20 them knowing that he's there.

21 Q. Now, the sheriff's office is separate from the
22 detention center, correct?

23 A. They're separate - - what you mean by separate, the
24 building or - - -

25 Q. In the building? They're separated and you have to

1 have an access card to get in to the sheriff's office, is
2 that correct?

3 A. Yes. At the sheriff's office you can walk through the
4 jail through the lobby to get to the sheriff's office side.

5 Q. Correct. But to get into the actual office space of
6 the sheriff's office, you'd have to have an ID badge to get
7 in, correct?

8 A. You have to have an ID badge to get into any doors at
9 the law enforcement center.

10 Q. And everybody works behind those doors, is employed by
11 the Chesterfield County Sheriff's office, correct?

12 A. No, sir.

13 Q. They're not. Who else works back there?

14 A. The magistrate - - behind the doors of the law
15 enforcement center?

16 Q. Behind the sheriff's office?

17 A. Okay. The sheriff's office doors, yes, they work for
18 the sheriff's office.

19 Q. It would be just - - normal people can't just walk
20 back there, correct?

21 A. Normal people cannot walk back there without being
22 escorted by law enforcement officer or somebody that works
23 with the sheriff's office.

24 Q. And when you go into the sheriff's office and you walk
25 through the little maze back there, isn't there a room that

1 you normally take people to interview that has a one-way
2 mirror where you video people, when they give confessions
3 or statements?

4 A. Yes, sir.

5 Q. And you did not take Mr. Hayes to that room, did you?

6 A. No, sir. The reason being is because we're not going
7 to let everybody see who we're talking to because he may
8 potential wanted to work his charges off.

9 Q. But the people that would've seen him behind that door
10 were other employees of the sheriff's office, isn't that
11 correct?

12 A. To get to that door you have to walk through the lobby
13 which is a public area, anybody can come through there.
14 This is the reason why we took him to the lawyer/visitation
15 which is in a secure location where nobody knows he's there
16 but law enforcement officers.

17 Q. Isn't that right next to the detention center were,
18 basically, every body in the holding cell is where they
19 been charged are, walking around cleaning up the detention
20 center?

21 A. You walked through the sally port, you go into the
22 jail, he goes to the booking counter. Once he's at the
23 booking counter all cells are closed so nobody sees whose
24 coming in. The doors, to access, of the jail is closed so
25 there's no inmates walking around. This is the reason why

1 we took him from the booking area to the lawyer/visitation,
2 it's all secure right there.

3 Q. Isn't it also true that since it's the
4 lawyer/visitation room that there is no recording devices
5 in that room, correct?

6 A. Yes, sir. There's no recording.

7 Q. So there's no way to tell other than who was in that
8 room as to what was discussed when a statement was given,
9 correct?

10 A. Mr. Charles Hayes was in there, Lieutenant Brad
11 Browsers was in there, and myself was in there so you can
12 ask me, you can ask Lieutenant Brad Bowers and you can ask
13 your client, Charles Hayes.

14 Q. So if Mr. Hayes wrote his statement, basically, saying
15 he only claimed it to keep his parents from going to jail,
16 you did, at that point, grabbed the paper and snatch it up
17 and stormed out and said, "I can't use this!"

18 A. No, sir.

19 Q. You didn't say that?

20 A. No, I did not.

21 Q. So at that point y'all went and got a third statement,
22 is that correct?

23 A. A third statement, a continuation of the first
24 statement was a questions and answers so I don't say it was
25 a third statement, I'd say is a continuance of the first

1 statement, of the second statement, rather.

2 Q. On that statement you asked, "How long you had the
3 gun?" Correct?

4 A. Yes. He said, "Three years."

5 Q. Is that possible?

6 A. Is that possible he had the gun for three years?

7 Q. Yes.

8 A. No. It's not possible that he had the gun for three
9 years.

10 Q. The gun hadn't been stolen that long, had it?

11 A. No, sir.

12 Q. You said your interest in this is to charge the right
13 person, correct?

14 A. Whose ever breaking the law that's whose gonna get
15 charged.

16 Q. In this case you charge three out of four people,
17 correct?

18 A. Three out of four people, yes, sir.

19 Q. But you didn't charge the one who actually had the
20 drugs on that person?

21 A. He was charged with drug that was on his person.

22 Q. Just those drugs?

23 A. The drugs that was on his person.

24 MR. GRIER: Court's indulgence.

25 THE COURT: Yes, sir.

1 MR. GRIER: No further questions, Your Honor.

2 THE COURT: Mrs. Fryar?

3 MRS. FRYAR: Briefly, Your Honor.

4 REDIRECT EXAMINATION BY MRS. FRYAR:

5 Q. First of all, Mr. Grier ask you about any belongings
6 found in Ms. Pauline Hayes's of Mr. Patrick Simpson, is
7 that correct?

8 A. Yes, ma'am.

9 Q. And you told this jury earlier that you were the
10 person who searched the living room portion of the house,
11 is that correct?

12 A. Yes, ma'am.

13 Q. I'm going to show you what's been marked as State's
14 Number Sixteen for Identification and State's Exhibit for
15 Number Seventeen for Identification, having showed them to
16 Mr. Grier, he's had copies of these for quite some time.

17 MR. GRIER: I don't believe I've ever seen those
18 pictures until just now.

19 MRS. FRYAR: Shall we take a recess, Your Honor,
20 because he has?

21 THE COURT: All right. Ladies and gentlemen, we've
22 got one of those issues that I just told you about when we
23 first started. I'm going to have to ask you to retire to
24 the jury room until we can clear this matter up.

25 (Whereupon, the jury exits the courtroom at 3:23 p.m.)

1 THE COURT: Yes, ma'am?

2 MRS. FRYAR: I believe that Mr. Grier has figured out
3 what I'm talking about on the documents that I provided
4 him. I gave him a non-colored layout of these documents.
5 I invited him to my office where he was able to look
6 through my file and look at the color documents that I had
7 and so he's been aware of these photographs and had these
8 photographs at his disposal for some weeks.

9 MR. GRIER: Your Honor, with these pictures you can't
10 really tell exactly what it is. I can see - - with what I
11 see, I can't - - -

12 THE COURT: He's agreeing that I did show him the
13 pictures.

14 MR. GRIER: I agree that I got black and white copies.

15 THE COURT: Okay. All right. Why don't we all just
16 take a quick restroom break.

17 MRS. FRYAR: Okay.

18 THE COURT: That way we can keep going after we bring
19 them back in.

20 MR. NEAL: I can leave from down here?

21 THE COURT: Yes, sir. You can't talk to anybody.

22 MR. NEAL: I don't want to talk to nobody, I just want
23 to use the restroom.

24 THE COURT: Don't talk to anybody while you're still
25 on the stand.

1 MR. NEAL: Well, I will just sit right here how about
2 that?

3 THE COURT: No, sir. If you have to go to the
4 restroom go ahead. You just can't talk to anybody.

5 (Whereupon, the court took a short break)

6 THE COURT: Bring the jury in.

7 (Whereupon, the jury enters the courtroom at 3:34 p.m.)

8 THE COURT: Mrs. Fryar?

9 MRS. FRYAR: Thank you, Your Honor. May I approach
10 the witness, Your Honor?

11 THE COURT: Yes, ma'am.

12 Q. Lieutenant Neal, I'm gonna show you what's been marked
13 for State's Identification Exhibit Number Seventeen and
14 Exhibit Number Sixteen. Did you find anything in this
15 house at 557 Fifth Street that belonged to Patrick Simpson
16 or indicated that he lived there?

17 A. Yes, ma'am.

18 Q. What did you find?

19 A. I found a plastic bag containing some jeans, some
20 boxer shorts, earbuds, a wallet with Patrick Simpson's
21 social security card in the living room.

22 Q. So the only area you searched was the living room?

23 A. Yes, ma'am.

24 Q. And that's what you got from the living room, is that
25 correct?

1 A. Yes, ma'am.

2 Q. And y'all took photographs of this, is that correct?

3 A. Yes, ma'am.

4 Q. And this is the only identification of Mr. Simpson's
5 in the entire house, is that correct?

6 A. Yes, ma'am.

7 Q. And this is the only indication of his clothing being
8 in the entire house, is that correct?

9 A. Yes, ma'am.

10 Q. Where were they found in relation to one another?

11 A. They were in a plastic bag.

12 Q. Was this on the couch? Was this on the couch? If you
13 could, I'm referring now to Number Seventeen which appears
14 to be a bag with some jeans and a pair of boxer underwear
15 and some earbuds in a plastic bag, where was that found?

16 A. The plastic bag, I want to say it was either - - I
17 want to say the couch but I'm not hundred percent sure but
18 I know it was found in the living room.

19 Q. And regarding this identification of number sixteen,
20 what are you looking at in this photograph?

21 A. It's a wallet, it's actually a North Carolina driver's
22 license where Mr. Simpson you can see the last part of his
23 name as Simpson. You can see his social security card as
24 Patrick Simpson in his wallet.

25 Q. And you found that on the arm of the couch in the

1 living room, is that correct?

2 A. No. It all came out of the bag but - - -

3 Q. Oh, it all came out of the bag?

4 A. Yes, ma'am.

5 Q. Everything was in that one bag?

6 A. Everything was in that one bag, yes, ma'am and we just
7 laid it out so we could take pictures of it.

8 MRS. FRYAR: At this time I like to enter this into
9 evidence as State's Number Six and Seven.

10 MR. GRIER: No objection.

11 THE COURT: All right. Received without objection.
12 All of them are admitted into evidence.

13 MRS. FRYAR: Thank you, Your Honor.

14 (Whereupon, the Photo has been marked and entered into
15 evidence as State's Exhibit No. 6)

16 (Whereupon, the Photo has been marked and entered into
17 evidence as State's Exhibit No. 7)

18 THE COURT: Six and Seven, Madam, court reporter?

19 COURT REPORTER: Yes, sir.

20 Q. I'm going to show you again what has been entered into
21 evidence as State's Exhibit Number Four.

22 MRS. FRYAR: I beg the Court's indulgence.

23 THE COURT: Yes, ma'am.

24 Q. Lieutenant Neal, in looking at State's Number Four,
25 was this the original document that was written by Mr.

1 Charles Hayes and signed by yourself and Lieutenant Bowers?

2 A. Yes, ma'am.

3 Q. Does it appear to be wrinkled in any way?

4 A. No, ma'am.

5 Q. Does it appear to be pretty flat and straight?

6 A. Yes, ma'am.

7 Q. I want to talk to you now, Lieutenant Hayes, if I can,
8 excuse me, Lieutenant Neal, if I can.

9 A. Yes, ma'am.

10 Q. Let's talk about and educate the jury in regard to how
11 people go to jail. Okay. When you take someone to jail,
12 you had said to Mr. Grier that you drive in a sally port?

13 A. Yes, ma'am.

14 Q. Describe to the jurors how someone is escorted into
15 the jail upon arrest?

16 A. You come into the sally port, if you look back there
17 some, like those doors, when you come into the doors of the
18 courtroom, this would be the sally port. They come in and
19 you park right where the evidence guy is right there - - so
20 can you hold your hand up for me? Right there is where we
21 would park right there. Where the court reporter is this
22 would be the entrance to the jail. We walked through this
23 door, we come up to where the judge is seated at, this
24 would be the booking counter. We get them booked in. The
25 judge asked him some questions, or not the judge, I'm

1 trying to explain the jail. She'll ask him or he'll ask
2 some questions, did they spray tase you? Spray you? All
3 kinds of questions. Do you want medical attention? All
4 kinds of stuff. Once they sign and say okay, yes I didn't
5 get tased or I got tased or whatever, once they get past
6 that part then we go ahead and say, hey, we would like to
7 talk to them. They will stop at that point. Get all of
8 his property, make sure he signs for everything so nobody
9 can say we took anything from him. And we take them
10 straight back to the back which this would be the door
11 right here, if you can walk out that door to the right is
12 the lawyer/visitation room.

13 MRS. FRYAR: Let the record reflect that Investigator
14 Neal has referred to item, places within the framework of
15 the courthouse all of the close proximity of one another.

16 Q. So, Investigator Neal, nobody sees when people really
17 go into the jail, right?

18 A. Nobody really sees except for the control office which
19 is on camera, he sees you or she sees you, the jail
20 personnel that's was working in booking, the officers who
21 brought him in and there's no inmates walking around at
22 that time, cleaning or doing anything like so we can
23 actually walk them securely straight to that room.

24 Q. Let's suppose that to the sheriff's department, if you
25 go to the sheriff department, you've already indicated to

1 Mr. Grier, that you have to go through the lobby?

2 A. Yes, ma'am.

3 Q. Who sits in the lobby?

4 A. Citizens of Chester County.

5 Q. Anybody - - -

6 A. Anybody.

7 Q. - - - who needs to come see the sheriff, is that
8 correct?

9 A. Anybody who needs to come see the sheriff, anybody
10 that needs to get any type of permits at the sheriff's
11 office, you have to come to the Sheriff's office for.
12 Anybody comes there.

13 Q. Okay.

14 A. And at that time the city was actually in the
15 building, at that time, as well.

16 Q. So you're saying the Chester Police Department - - -

17 A. The police department was there as well.

18 Q. - - - were there as well?

19 A. Yes.

20 Q. And you had indicated to the jurors that you have to
21 have a certain badge to get back into the office space, is
22 that correct?

23 A. Yes, ma'am.

24 Q. And so in order to go back to the back area where
25 y'all's offices are, you have to be escorted by a sheriff's

1 deputy or someone employed at the sheriff's department?

2 A. Someone who has a badge that can get back there has
3 to, you know, and you actually if you're coming to visit
4 you're going to get a badge as well but that's just a
5 visitor's badge and you're coming in with somebody
6 escorting you.

7 Q. And so people who can be in the back would be where
8 you would take to an interrogation room or the back area
9 would be, could it be victims of crime back there?

10 A. Yes, ma'am.

11 Q. Could it be witnesses to crimes back there?

12 A. Yes, ma'am.

13 Q. Could it be defendant's of other crimes back there?

14 A. Yes, ma'am.

15 Q. A whole slew of people can be back there, right?

16 A. And they - - yes, ma'am, and they can also be others,
17 you know, trying to help themselves out.

18 Q. Yes, sir.

19 A. We don't want them to know who's trying to help
20 themselves out at the same time.

21 Q. Very well then. Okay. Don't you have like custodians
22 walking around cleaning up, stuff like that too? Do you
23 have inmates - - -

24 A. We have inmates - - -

25 Q. Who does your cleaning?

1 A. Inmates, they cleanup.

2 Q. But you didn't take this gentleman back there, Mr.
3 Hayes?

4 A. No, ma'am.

5 Q. Now, let's talk about Mr. Grier was saying regarding
6 this statement during the question and answer portion of
7 the statement, that one of the questions posed to Mr.
8 Charles Hayes was, how long have you had the gun in your
9 possession, when did you buy it? Is that correct?

10 A. Yes, ma'am.

11 Q. And he said I think about three years or more.

12 A. Yes, ma'am.

13 Q. And Mr. Grier listen to the testimony from you that,
14 that couldn't be possible, is that correct?

15 A. It couldn't be possible.

16 Q. Because the gun was stolen about one month before from
17 a lady named Leticia Chisholm on Second Street, is that
18 correct?

19 A. I believe, it was Leticia Chisholm on Second Street
20 which is three streets over from Fifth Street.

21 Q. So the gun was not stolen about three years or more
22 ago the gun was stolen within the last two months, is that
23 correct?

24 A. Yes, ma'am.

25 Q. Within three blocks of where the defendant lived, is

1 that correct?

2 A. Yes, ma'am.

3 Q. So this can't be true, is that correct?

4 A. No, ma'am.

5 MRS. FRYAR: Thank you, Lieutenant Neal, I don't have
6 any further questions.

7 THE COURT: Mr. Grier?

8 RE-CROSS EXAMINATION BY MR. GRIER:

9 Q. I'm going to show you the Q and A form about the
10 crack.

11 A. Thank you, sir.

12 Q. Y'all ask about the crack, how much there was, is that
13 correct?

14 A. Asked the question again, I didn't hear you.

15 Q. What was the question about the crack cocaine that
16 y'all all asked?

17 A. Where was the crack, the crack kept/stored? Mr. Hayes
18 answered, "Don't know."

19 Q. And his other written statement that he provided, does
20 that address the crack cocaine as well?

21 A. I'm to read his statement over again. "I am claiming
22 up to what was found in the house in order to keep my
23 parents from going to jail so the weed, the gun, and I
24 think, crack is mines, therefore; there's no need to go
25 back and arrest anyone else there. My reason for saying

1 that was I didn't see none of this come out of the house
2 but I myself did have in my possession a black gun and some
3 weed in jars." I will give this one back.

4 Q. So it's your testimony that you did not speak with him
5 before him giving that statement, is that correct?

6 A. The with him, questioning him - - -

7 Q. Prior to the written statement, the first - - -

8 A. The written statement, which written statement, right
9 there?

10 Q. The one that he wrote.

11 A. The first one, second one or the Q and A? No, we
12 talked at the house with everybody, reading the rights as
13 in the exhibit, I don't know the number, right before that
14 one.

15 Q. I thought you testified that you took him to a
16 lawyer/visitation room to question him about wanting to
17 work for y'all as an undercover?

18 A. I didn't say anything about wanting to work for us as
19 an undercover. When we were talking with him he has signed
20 that before we had talked to him so, yes, I didn't talk to
21 him until he signed that paper so we could talk to him.
22 And if we were going to talk to him I can - - let me give
23 you the protocol. I'll give you our protocol when we
24 talked to snitches, okay, undercover.

25 Q. Okay.

1 A. If we're talking about the case we're going to read
2 you your rights, everything. Once that case is done then
3 at that time they're going to say they want to help
4 themselves out or whatever. Okay, we're talking right now,
5 we don't put his name down saying Charles Hayes is working
6 for us, he's given a number. It is a number, he can be
7 given number one. That's it. That's the only thing that
8 we're going to put on paperwork, number one, number one.
9 This is why we don't - - if we're talking to somebody who
10 may wants to work we're not going to record him. So we
11 can't say hey we got you, you gotta do this. No, we're
12 given him, hey, there's no recording, it's you and me. So
13 therefore, to answer that question, no I did not talk to
14 him before he did that statement.

15 Q. What's the purpose of having the interview room with a
16 video camera if you don't use it?

17 A. If you are investigating a crime - - I'm not an
18 investigator, well I'm an investigator with drugs. I don't
19 do the crime where you have a victim, like a person, like
20 someone broke into your house, no, I'm not that - - I'm not
21 that one. So investigators actually would do that. The
22 detectives they have to use that when their questioning
23 people before they make charges to get them on tape and all
24 that stuff. In narcotics we use it, if need be, at that
25 point. Even if we we're still doing investigation we

1 couldn't take them through the Sheriff's office because
2 there's people out there so everybody would know you'd be
3 talking to us so that's the reason why he went to the
4 lawyer/visitation room.

5 Q. So you're saying as a narcotics officer, you do not
6 use that interview at all?

7 A. No, not saying that I don't use it at all. I don't
8 use it as much as the next person that use it as an
9 investigator or a detective.

10 Q. You wouldn't agree that it would be more helpful to
11 have captured the entire event on video so they can be no
12 discrepancy as to what was said and why someone gave a
13 statement?

14 A. Ask that - - can you ask that question will more time?
15 I want to answer it correctly for you.

16 Q. Don't you think it would be better to capture the
17 entire interview with someone if their giving a statement
18 on video so that it can show that they did it and not what
19 was said before or any promises made, things of that
20 nature, so that you can verify that they given the
21 statement of their own free will?

22 A. He was given - - there were three times he was read
23 his rights. At any time he didn't want to speak to a
24 lawyer, okay. The reason why he wasn't recorded at that
25 point is because we were talking, we were wanting to finish

1 the investigation and then talk to him about possibly
2 working and we're pulling him through where people can see
3 him in the public that he would be no use for us and we'd
4 be no use for him.

5 Q. And you also didn't have him sign any other forms
6 before this one, like a forfeiture of money form?

7 A. Yes, we did.

8 MRS. FRYAR: Your Honor, this is beyond the scope of
9 direct. We've beat this to death and it's beyond the scope
10 of my redirect.

11 MR. GRIER: Your Honor, he was asked - - -

12 THE COURT: I'm going to let you. I don't think he
13 ever really answered your question. I don't think he ever

14 answered the question directly with regard to - - -

15 MRS. FRYAR: Can we approach, Your Honor? Can we just
16 approach?

17 (Whereupon, a bench conference was held off the record)

18 MR. GRIER: No further questions, Your Honor.

19 MRS. FRYAR: I have nothing further, Your Honor.

20 THE COURT: Okay. You can step down.

21 MRS. FRYAR: The State calls Major Randy Marsh.

22 CLERK: Please state your full name?

23 MR. MARSH: Randall Scott Marsh, Sr.

24 CLERK: You do solemnly swear or affirm the testimony
25 you give to be the truth, the whole truth, and nothing but

1 the truth so help you God?

2 MR. MARSH: Yes, ma'am.

3 RANDALL MARSH, first being
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MRS. FRYAR:

6 Q. Major Marsh, how are you doing today?

7 A. Good.

8 Q. Good. Where you employed sir?

9 A. Chester County Sheriff's office.

10 Q. And, obviously, are the major?

11 A. Yes, ma'am.

12 Q. How long of you working at the sheriff department?

13 A. Total of twenty-three years.

14 Q. Yes, sir. And how long have you been law enforcement?

15 A. I've been eighteen years with the county. I started
16 off with the city and a total of twenty-three years.

17 Q. Were you working on August 27, 2014?

18 A. Yes, ma'am.

19 Q. When you went to work that day, did you have any
20 particular thing that you were going to do?

21 A. I was - - yes, ma'am, when I got to work I was
22 contacted about a fugitive from North Carolina might be in
23 our county.

24 Q. And did you know what the fugitive was wanted for?

25 A. Yes, ma'am.

1 Q. What was that?

2 A. Armed robbery of a theft with a weapon.

3 Q. And where was he wanted out of, what state?

4 A. North Carolina.

5 Q. Did y'all have any leads or did y'all gather - - was
6 it entered into NCIC?

7 A. Yes, ma'am.

8 Q. And can you tell the jury what that is?

9 A. Is the National Crime Databases it's where they put
10 your information and it goes across the whole United
11 States.

12 Q. And so this information looking for this fugitive has
13 gone out to anybody who wants to look at throughout United
14 States, is that correct?

15 A. Yes, ma'am.

16 Q. And it's available for law enforcement officers, is
17 that correct?

18 A. Yes, ma'am.

19 Q. And so who were you looking for in particular?

20 A. Mr. Simpson.

21 Q. And what particular lead did you have on where he
22 might be in our town, our County?

23 A. When I got involved I was told he might be at the
24 Eureka which would be the Fifth Street area which is
25 located off of Saluda Street.

1 Q. Did he have any relatives in that area?

2 A. A grandmother.

3 Q. And was her name Pauline Hayes?

4 A. Yes, ma'am.

5 Q. And did you go to the home of Ms. Pauline Hayes?

6 A. I did.

7 Q. Did you see Mr. Simpson there?

8 A. I did.

9 Q. Tell the jury when you saw Mr. Simpson?

10 A. When I arrived, myself and Sheriff Underwood was
11 riding together I drive an unmarked vehicle, pulled up in
12 front of the residence which is the grandmother's house. I
13 got out of my vehicle and I went to the left side of the
14 residence. Two officers were behind me, one was Crawford
15 and the other one Ford. As soon as we reached the back of
16 the house and spotted the male subject that did appear to
17 be the description of the picture that we were shown and it
18 was confirmed it was Mr. Simpson.

19 Q. And so you looked at him and what did you say?

20 A. That's him.

21 Q. So now that you see him, where is he exactly?

22 A. At the rear of the house.

23 Q. And so what did you do when you saw him?

24 A. I think Agent Crawford was the one who put the
25 handcuffs on him and he was placed under arrest.

1 Q. Was he - - was he by the back door or where was he,
2 sir?

3 A. He was at the rear of the - - well, say the back of a
4 house there's like a utility shed and he's between the shed
5 in the back of the house.

6 MRS. FRYAR: May I approach the witness, Your Honor?

7 THE COURT: Yes, ma'am.

8 Q. Major Marsh, I'm showing you this and ask you, can you
9 tell us what this is?

10 A. This is the front picture of the house where the
11 subject was found.

12 MRS. FRYAR: Can I have a major step down, sir?

13 THE COURT: Yes, ma'am.

14 Q. And is this the house - - what is the address of this
15 house?

16 A. I think it's 547 or 537, it's five hundred block of
17 Fifth Street.

18 Q. And this is the home that was going to be searched in
19 the backyard where you found Mr. Simpson, is that correct?

20 A. Right.

21 MRS. FRYAR: Your Honor, at this time I would like to
22 enter States Exhibit Number Eight.

23 MR. GRIER: No objection.

24 MRS. FRYAR: And Mr. Grier has that photograph.

25 THE COURT: Received without objection. Admitted into

1 evidence as Exhibit Number Eight.

2 (Whereupon, the Photo of House has been marked and
3 entered into evidence as State's Exhibit No. 8)

4 Q. Major Marsh, if you would approach the jurors and show
5 them the photograph of the house in question. If you could
6 tell them where you saw Mr. Simpson at that time?

7 A. This is the front of the house. I pulled straight
8 this way in my patrol car and the way that we're looking at
9 this house, Saluda Road would be up here, Sixth Street
10 would be behind us. Well, this vehicle was parked here is
11 where me and the other two officers went on that, the left
12 side of this house. If you go down there like where this
13 car is or straight back and as soon as we got to the rear
14 of the house that's where we had site on the suspect.

15 Q. And so where were you approximately in this photograph
16 where you actually apprehended Mr. Simpson?

17 A. Would be probably back here at the back of this house.

18 THE COURT: Can those jurors at the end of the box
19 see?

20 Q. And Major Marsh, if you will, can you make an 'x' on
21 the approximate mark where you found Mr. Simpson?

22 A. I put an arrow pointing right there were that would
23 be.

24 Q. And this is accurately where you saw Mr. Simpson?

25 A. Yes, ma'am.

1 MRS. FRYAR: Thank you. You can have a seat.

2 Q. What happened once Mr. Simpson was apprehended?

3 A. I called for a deputy, a road deputy with a cage and
4 Mr. Simpson was placed in the back of the car. We also had
5 another officer there that actually had a finger, I mean, a
6 reader I think they contacted Charlotte and let them know
7 that we had him and he was taken to the detention center.

8 Q. And so it was confirmed he was wanted and y'all took
9 him to the detention center for what purpose?

10 A. So he can be held there for Charlotte to come and do
11 their investigation.

12 Q. And that is normal business, is that not correct?

13 A. Yes, ma'am.

14 Q. Happens all the time, right?

15 A. Yes, ma'am.

16 Q. So then after that, was there some indication that you
17 wanted to go into the house to possibly look for a weapon
18 involved in the robbery in North Carolina?

19 A. Yes, ma'am.

20 Q. Tell the jury about that.

21 A. We was told that he had a weapon involved in the
22 crime, I think, an Agent Crawford was the one who patted
23 him down and there was no weapon on him at that time
24 because I was told earlier that the Task Force Team had
25 been there and the grandmother had denied him being there

1 except for a funeral and because he was found in the
2 proximity of that area we was trying to see if the weapon
3 might be in the area so we were going to ask for permission
4 to search for the weapon.

5 Q. And Ms. Hayes, the owner of the home, gave you
6 permission to search in the house?

7 A. She did, yes, ma'am.

8 Q. And did you participate in that search?

9 A. I did.

10 Q. Tell the jurors what your participation in the search
11 was?

12 A. When they - - when they got permission and they signed
13 it so we could go in and do a search, we went in and like I
14 said I'm in uniform so they needed some help, we was going
15 to look for the weapon. I actually walked to the back of
16 the house with two more officers which was Crawford and
17 Ford, other officers, was started, you know, it's a small
18 mill house so everybody went different directions.

19 Q. And when you first walked into the house was that the
20 living room portion of the house?

21 A. Yes. Yes, ma'am.

22 Q. Could you smell recently smoked marijuana there?

23 A. I smelled a strong odor as you got to the back of the
24 house, yes, ma'am.

25 Q. As you continued to walk, what did you smell?

1 A. Marijuana.

2 Q. And so when you got to the back room what did y'all
3 find?

4 A. It's kind of a messy bedroom but when we went in, we
5 do a search, you know, everybody usually takes one corner
6 so you don't overlook an officer Crawford had got on his
7 knees I believe looking underneath like a black couch and
8 says there's a jar that appeared to be marijuana because
9 we, you know, see it all the time you can visual tell what
10 it is and over in the area where I was standing there was
11 like a desk and there was a plastic container, with a
12 yellow material to me to be crack cocaine. And in the
13 searches you got a person who is the evidence intake and I
14 let them know that I thought I felt something to be
15 narcotics.

16 Q. So basically - - what did you see and where did you
17 see, Major Marsh?

18 A. Probably three foot from where I was standing there's
19 a desk and on the floor, in plain view, was a plastic bag
20 containing a yellow crack, look like I said earlier like a
21 crack rock substance.

22 Q. And at that time you alert that you found something?

23 A. I alerted Agent Crawford right there.

24 Q. And did he view the item as well lying on the floor?

25 A. Yes, ma'am.

1 Q. And what happened after that?

2 A. After that and he found the other one, he notified his
3 supervisor that, you know, stop the search for the gun and
4 they decided they were going to back out and go get a
5 search warrant.

6 Q. All right.

7 A. Everything was left as is. Everybody exited the house
8 and stayed on the porch.

9 Q. Major Marsh, I'm going to show you what's been marked
10 as State's Exhibit Number Eleven and ask you do you
11 recognize it?

12 A. Yes, ma'am.

13 Q. What is it?

14 A. It's the plastic bag containing the crack, what
15 appeared to be crack cocaine.

16 Q. In this photograph was taken on that day, is that
17 correct?

18 A. Yes, ma'am.

19 Q. And had the crack cocaine been moved prior to the
20 photograph being taken?

21 A. No, ma'am.

22 Q. Is that exactly where the crack cocaine was located?

23 A. Yes, ma'am.

24 MRS. FRYAR: Your Honor, I'd like to enter this into
25 evidence, State's Number Nine.

1 MR. GRIER: My objection would be that law enforcement
2 had no probable cause to be in the house and the consent to
3 search was given involuntarily.

4 THE COURT: I've already rule on that so it's an
5 admitted evidence. Number nine?

6 MRS. FRYAR: Number nine, Your Honor.

7 (Whereupon, the Photo has been marked and entered into
8 evidence as State's Exhibit No. 9)

9 MRS. FRYAR: I don't have anything further from Major
10 Marsh. Thank you.

11 THE COURT: Mr. Grier?

12 CROSS EXAMINATION BY MR. GRIER:

13 Q. Major marsh?

14 A. Yes, sir.

15 Q. Can you give me the names of everybody that was with
16 you at the initial time when y'all went out to the house?

17 A. Going to look for the suspect?

18 Q. Correct.

19 A. If my memory is right it was me, Sheriff Underwood,
20 Agent Crawford, Agent Neil, Ford, Faile, and I believe
21 Hunter, Trey Hunter.

22 Q. And what is your role with the sheriff's department?

23 A. I'm the major over the patrol division. Anybody that
24 wears a uniform, I mean, a gray uniform I'm over that
25 division.

1 Q. And Mr. Underwood is the actual sheriff, correct?

2 A. Yes, sir.

3 Q. And the remaining officers, what unit are they with?

4 A. The - - -

5 Q. Investigator Crawford, Neil, Ford, Faile and Hunter,
6 what division are they with?

7 A. There with the narcotic or we say special task force.

8 Q. What is special task force?

9 A. The narcotics and most of the command staff it's - -
10 like if a fugitive or anything that another agency we're
11 all the ones who get called because we mostly salary
12 instead of calling people with overtime they usually call
13 us and we come out. So we're the ones that always get
14 called out anytime, like today they got an inmate who
15 escaped from York County besides the ones here in court
16 this team is out looking for that fugitive right now.

17 Q. Other officers besides the narcotics division included
18 with that?

19 A. Yes, sir.

20 Q. Who are they?

21 A. It's like the ones that are off, the ones that wants
22 to be on it. I'm really gonna say it's the whole uniform
23 division because at night time if a shift is off that other
24 shift comes in and to help. So it's not a particular team
25 but it's usually led by Lieutenant Neal because he's the

1 one in plainclothes.

2 Q. Okay. And when you went out there to look for a gun
3 you had no information from the state of North Carolina
4 what kind of gun it was, correct?

5 A. No, sir. We was just told it was a crime involving a
6 pistol.

7 Q. And did you actually get to speak with Mr. Simpson?

8 A. Only when I made contact with him, yes, sir.

9 Q. Did you ask him about the gun?

10 A. I just ask him what was his name.

11 Q. Did you ever ask him about the gun, though?

12 A. No, sir. I didn't want to get involved because
13 Charlotte was the one doing their investigation and I
14 didn't feel like it was my point to get into their
15 investigation so, no, sir, I only ask him his name and that
16 was it.

17 MR. GRIER: No further questions.

18 MRS. FRYAR: Nothing further from the State, Your
19 Honor.

20 THE COURT: All right. You can step down.

21 MR. MARSH: Thank you, sir.

22 MRS. FRYAR: Your Honor, at this time the State would
23 call Investigator Al Crawford.

24 THE COURT: All right.

25 CLERK: Please state your full name.

1 MR. CRAWFORD: Alford Crawford, Jr.

2 CLERK: Do you solemnly swear to tell the truth, the
3 whole truth, and nothing but the truth so help you God?

4 MR. CRAWFORD: I do.

5 Alford Crawford, first being
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION BY MRS. FRYAR:

8 Q. Good afternoon Investigator Crawford, how are you?

9 A. Fine. Cold.

10 Q. Yes, sir. It is a little brisk in here. Where do you
11 work Investigator Crawford?

12 A. Chester County Sheriff's office.

13 Q. What is your position there?

14 A. I'm an agent, narcotics agent.

15 Q. How long have you been in narcotics?

16 A. At this sheriff's office?

17 Q. Yes, sir.

18 A. About three years.

19 Q. Where were you before that?

20 A. I was with the city of Chester and then I was with
21 Chester County back in the 90's and before that I was in
22 Georgia.

23 Q. What else have you done? Were you in the military?

24 A. I was in the military, yes, ma'am.

25 Q. And so how long have you been in the narcotics for the

1 sheriff department presently?

2 A. About three years.

3 Q. Were you working on August the 27th of this year?

4 A. Yes, ma'am, I was.

5 Q. What did you do on that day?

6 A. I was called to the office by my Lieutenant Johnny
7 Neal, he was telling us that we had a fugitive that we had
8 to go look for which is one of our many jobs at the
9 sheriff's office because we're such a small agency. We got
10 there, had a discussion they showed us pictures and we went
11 and looking for him.

12 Q. Where did you go to look for him?

13 A. Fifth Street.

14 Q. And why did you go there to look for him?

15 A. Because we were told by Charlotte Meck that his
16 grandmother lived at that address on Fifth Street.

17 Q. And so that's why they contacted y'all, is that
18 correct?

19 A. Yes, ma'am.

20 Q. Charlotte Mecklenburg County, is that correct?

21 A. Yes, ma'am.

22 Q. When you got there, what happened?

23 A. We always - - when we get into a situation like that
24 we kind of surround the house in case a person tries to
25 escape. So Lieutenant Neal went to the door, I went to the

1 left side, other people went different directions it's kind
2 of automatic for us now we do is so much but I can't tell
3 you who else went where but I went to the left side of the
4 house.

5 Q. And you say Lieutenant Neal went to the door?

6 A. Yes, ma'am.

7 Q. And did he perform a knock and talk at the door?

8 A. I heard him knocking - - -

9 Q. Yes, sir.

10 A. - - - from my vantage point I could not see what went
11 on at the front because I was on the side of the house.

12 Q. Did you learn anything - - what did you learn
13 regarding the knock and talk?

14 A. We were called back by Lieutenant saying that he was
15 told that she wasn't there so we left, excuse me, I'm sorry
16 that he wasn't there so we left.

17 Q. Yes, sir. So what did you do then?

18 A. The lieutenant said we were going to meet up with the
19 sheriff. The sheriff asked the question about did he may
20 contact any told the sheriff did. The sheriff decided he
21 wanted to go back.

22 Q. Did y'all go back and did you see Mr. Simpson?

23 A. I was following behind Major Marsh and David Ford and
24 when we got out the car myself, Major Marsh and David Ford
25 went toward the back of the house. When we did we saw Mr.

1 Simpson, he actually had his head down. He looked up and
2 saw us and kind of froze and as soon as I saw his face I
3 think me and Major Marsh said at the same time that's him.

4 Q. And what did y'all do it that time?

5 A. Major Marsh grabbed him. I put him - - placed him
6 handcuffs and we walked him toward the front of the house.

7 Q. Did you do a pat down for him at that time?

8 A. Yes, ma'am. I patted him down and found a small bag,
9 a small baggie of marijuana.

10 Q. And when you say small baggie of marijuana, I mean, I
11 really want you to show the jurors how big was the bag?

12 A. It was about that big.

13 Q. Very small, is that correct?

14 A. Yes, ma'am.

15 Q. And where was it located?

16 A. I think it was in his left front pocket.

17 Q. Do you know if he had any money on him?

18 A. I was informed later that he had \$18.00 that they took
19 from him when he got to the jail. They just put into his
20 property. We didn't seize it or anything so he got it
21 back.

22 Q. So the only thing found on Mr. Patrick Simpson was a
23 small bag of marijuana and \$18.00, is that correct?

24 A. Yes, ma'am.

25 Q. So once y'all detain the fugitive and took him in the

1 car and took him to jail, what did y'all do after that?

2 A. When they were loading him up it just dawned on me,
3 you know, this guy was down here, she already lied to us
4 one time, that he was down here maybe by some stroke of
5 luck he brought the weapon down here with him. So I talked
6 to the lieutenant I said, you know, maybe we should try to
7 get a consent to search to see if they, you know, if he had
8 gone in and left the weapon inside the house.

9 Q. And did you obtain a consent to search?

10 A. They obtained a consent to search.

11 Q. And did you - - did you participate in the search of
12 this home?

13 A. Yes, ma'am, I did.

14 Q. What was your job, Major Marsh told the jury that
15 people have different jobs when y'all search homes, what
16 was your job in this home?

17 A. I was made the case agent on this by default when I
18 found the marijuana on Mr. Simpson. Since I found drugs,
19 anything that we find that becomes my case.

20 MRS. FRYAR: Sorry, Your Honor.

21 Q. I'm sorry, I apologize for that. So what were you
22 doing?

23 A. I became the case agent because I found the initial
24 drugs on Mr. Simpson.

25 Q. So, basically, it's your case at this point, is that

1 correct?

2 A. Yes, ma'am.

3 Q. So once you knew you had consent to enter into Ms.

4 Pauline Hayes is home, what did you specifically do?

5 A. I was the first officer in. As I walked to the front
6 door I could smell the smell of burnt marijuana.

7 Q. And was that in the living room area?

8 A. That was from - - that was at the front door as soon
9 as I stepped in, you could smell it.

10 Q. Okay.

11 A. As I walked toward the back the smell of burnt
12 marijuana starting fading out, you could still smell it but
13 it wasn't as strong. When I got into the back bedroom you
14 could smell, it smelt like, you know, fresh marijuana or
15 unsmoked marijuana.

16 Q. Have you had an opportunity to smell smoked marijuana
17 before in your duties as a narcotics officer?

18 A. Many times.

19 Q. And have you had the opportunity to smell unsmoked
20 marijuana?

21 A. Many times.

22 Q. Is there a distinct difference between the two?

23 A. Very distinct.

24 Q. Did you smell any smoked marijuana inside the bedroom
25 of Mr. Charles Hayes?

1 A. I did not smell - - the odor of the marijuana that was
2 in there was so overpowering I didn't smell any of the
3 burnt marijuana. I could only smell the marijuana that we
4 found in the room so, basically, it was there.

5 Q. So describe the odor to the ladies and gentlemen of
6 the jury when you first walked in that room?

7 A. There's a - - I don't know if you know what marijuana
8 smells like, but there's a, it's more of a earthly smell
9 and it's pretty strong. Once you smell one time, you never
10 forget what it smells like.

11 Q. And so did y'all began to search throughout the home
12 for the gun that you hoped to find?

13 A. Yes, ma'am. Everybody spread out. Myself, Major
14 Marsh and I think, David Ford, went the back bedroom and
15 the way that I search I always find a corner of the room
16 and a work out a grid and that way, if you work out a grid
17 you don't miss anything. So went to the left back corner.
18 I looked to my right. I looked to my left. When I looked
19 to my left, you could see behind the couch the top of two
20 jars.

21 Q. So when you first entered the home, what door did you
22 go through?

23 A. I went through the front door.

24 Q. And if you could come - - can I have the witness step
25 down, Your Honor?

THE COURT: Yes, ma'am.

Q. Could you please draw a diagram of the home's layout when you first went in?

A. So I can embarrass myself in front of everybody.

Q. I am going to asked Investigator Crawford to do his best to draw a diagram, a layout of the house.

A. Okay. You come in the front door - - -

Q. Hold on Investigator Crawford I'm not sure everybody can see.

A. You come through the front door, there was a couch here and this is where we found, well, I think Lieutenant Neal found some pants. This is the door to the back bedroom. When you walk into the bedroom there's a dresser standing right here facing the bedroom. There's another dresser here in this corner with a chair and that's where we found the gun. Up against the wall here is a futon. Marijuana was found right here in this back corner. There is a computer desk that sat right here and the crack cocaine was found there. In the corner here, it was a freezer or refrigerator and it had t.v., a flat screen t.v. that was laying on its side on top of it right here, there was miscellaneous boxes and stuff everywhere, it wasn't in a very neat room.

Q. And that's the layout of the house. So this is the area that you referred to as the living room, is that

1 correct?

2 A. Yes, ma'am.

3 Q. And did you take pictures of everything that was
4 documented, did you document by photos of everything that
5 was found in the location?

6 A. Yes, ma'am, of all of the evidence that we took.

7 Q. And I'm going to show you what's been marked as
8 State's Number Six and State's Number Seven and ask you if
9 you can tell the jurors where this item was found?

10 A. Right here on this couch and the picture, this picture
11 right here was taken - - -

12 Q. He's referring to State's Number Six, Your Honor.

13 A. I took the wallet and I laid it on this armrest so I
14 could take a better picture of it.

15 Q. Was everything that you found in that contained in
16 this plastic bag?

17 A. When I took this picture it was like this. I think
18 Lieutenant Neal had taken everything out of the bag so I
19 took the picture as I saw it.

20 Q. And then do you remove this further?

21 A. Yes ma'am. I pulled that out so I could take a
22 picture of it.

23 Q. Where did you pull it out of?

24 A. Out of - -

25 Q. The wallet?

1 A. Mr. Simpson's wallet.

2 Q. And where did you find the wallet?

3 A. The wallet was laying in this pile of stuff right
4 here, they had taken it out and laid it down.

5 Q. And is that typical when they find evidence to be
6 photographed that you take a photograph and then you take
7 another photograph where you lay it out?

8 A. I try to as much as possible.

9 Q. Let's talk about the rest of the house real quick. So
10 you go in the living room, what's on the side?

11 A. There's a bedroom here. Now, because there was no
12 evidence gathered in this side I never went over here.

13 Q. But some officers did search this bedroom - - -

14 A. Some officers went into the bedroom. I think there
15 was a bathroom here and the kitchen was here.

16 Q. Okay.

17 A. I never entered any of these parts right here because
18 my focus was collecting the evidence. Nobody came to me
19 and told me of any evidence or anything that was found in
20 this portion, so I had no reason to go over there.

21 Q. Okay.

22 A. So the only places I went were here and here.

23 Q. Because that's the only place y'all found any
24 evidence, is that correct?

25 A. Yes, ma'am.

1 Q. And in this bedroom, this other bedroom, y'all didn't
2 find any evidence?

3 A. Nobody informed me of any evidence being found.

4 Q. You didn't find anything in the bathroom?

5 A. No, ma'am.

6 Q. You didn't find anything in the kitchen area or other
7 areas, is that correct?

8 A. No, ma'am.

9 Q. I'll take this down and give you another board. This
10 time I would like for you to draw the room and if it needs
11 to be more like this then tilted so it's more appropriate.
12 Draw the room and write the words down of the furniture
13 that you had? The furniture and all the places that you
14 just told the jurors, let's be more detailed about it so
15 they have a better understanding.

16 (Whereupon, the witness is drawing on a board for the
17 jurors)

18 A. This is the door.

19 Q. That's a door, all right.

20 A. That's the dresser.

21 Q. Do you see it when you first enter the room?

22 A. When you first enter the room and this is not the
23 same, of course, it's probably a whole lot bigger than it
24 actually was so everything won't be - - -

25 COURT REPORTER: You have to speak up just a little

1 bit for me.

2 A. Okay.

3 THE COURT: Speak up please.

4 A. There was another dresser here.

5 Q. Let's put dresser number two.

6 A. There was a chair that was in the front of it.

7 Q. Describe the chair?

8 A. It was - - -

9 Q. What kind of pattern did it have on it?

10 A. It was blue and I guess what you call beige and had
11 some design on it.

12 Q. Was it flowers?

13 A. Yeah. I guess, that's what you call it, flowers.

14 Q. Okay.

15 A. And it was facing this way and underneath the seat
16 cushion I found a black handgun.

17 Q. All right.....

18 A. In this area right here was that futon.

19 Q. Is there any other thing to lay on or sleep on in that
20 room?

21 A. I just remember the futon. I don't remember seeing
22 any bed or anything like that just this futon.

23 Q. And the chair?

24 A. Well, you can sleep on the chair if you want to.

25 Q. But this is the only thing that you can lay on or

1 sleep on?

2 A. Yes, ma'am.

3 Q. All right.

4 A. And right here on this corner side-by-side were two
5 glass jars with marijuana in them. Right here on this back
6 wall - - well, there's a window here and then the desk was
7 right here, desk, and crack cocaine was found, you know,
8 when you're sitting at a desk you have the part where you
9 can roll the chair underneath, right there to the right of
10 that the crack cocaine was found.

11 Q. In plain view?

12 A. In plain view. You couldn't miss it.

13 Q. Yes, sir.

14 A. In this corner was a freezer and they had a t.v. on
15 it, no evidence was found there. There were boxes and bags
16 and all kinds of other debris in this area, shoes, clothes,
17 trash, mail, all kinds of things throughout the rest of the
18 house. We had to really step over stuff to get around in
19 there without tripping over stuff.

20 Q. So when you first entered this room to look for the
21 gun, what's the first item of evidence you found?

22 A. The first thing I did was like I said I go to, I try
23 to find a corner, I went to this corner and I stood,
24 basically, right here, which this is not really, this is
25 not the best - - so there was less room than this. What I

1 did was I looked down to my right I could see the desk. I
2 looked out to my left there was space between the wall and
3 the futon. When I looked - - and you look down you could
4 see the gold tops of the jars. After I did that I dropped
5 down to my knee and I looked and I could see the green
6 marijuana inside the jar.

7 Q. I'm going to show you what's been marked, what's been
8 marked as State's Exhibit Number Two for identification and
9 State's Number Three that's been marked for identification
10 and ask you do you recognize it?

11 A. Those of the jars of marijuana that I found.

12 MRS. FRYAR: Your Honor, at this time I'd like to
13 enter them into evidence as number ten and eleven.

14 MR. GRIER: Once again I renew my objection as to that
15 they were a product of an unlawful search.

16 THE COURT: All right, sir. As I previously stated
17 I've already ruled on that. It's admissible. Please admit
18 them into evidence, Madam, court reporter.

19 MRS. FRYAR: Thank you, Your Honor.

20 (Whereupon, the Photo has been marked and entered into
21 evidence as State's Exhibit No..10)

22 (Whereupon, the Photo has been marked and entered into
23 evidence as State's Exhibit No. 11)

24 Q. Investigator Crawford, I'm gonna to show you what's
25 now been admitted into evidence as State's Number Ten and

1 ask you to publish it to the jury so that they may see it.

2 A. These are the doors. I actually took the picture as I
3 saw them. So if you were standing in my spot where I was
4 standing this is what you would've seen there. You
5 would've been able to see the top of the mason jar.

6 Q. And then this is number eleven, what is that, sir?

7 A. This is a picture of the marijuana after we moved the
8 couch so that we could collect the evidence and I took the
9 picture before I picked it up.

10 COURT REPORTER: I didn't get that last part you just
11 said.

12 A. I said this is the pictures I took after we moved the
13 couch so that I can collect the evidence.

14 Q. I'm going to show you - - okay, I'm gonna show you
15 what has been marked as evidence number two and evidence
16 number three and if you can tell the jury what that says it
17 is?

18 A. Just a second. Item number two is a glass mason jar
19 containing marijuana. It was located in Hayes's bedroom
20 behind the futon on the floor. It was found on 8/27/2014
21 at 9:20 a.m.

22 Q. And is that your signature on that bag?

23 A. Yes, it is.

24 Q. And what is the second thing?

25 A. A pickle jar containing marijuana that was found in

1 Hayes bedroom behind the futon on the floor. It was
2 collected on 8/27/2014 at 9:20 a.m.

3 MRS. FRYAR: And at this time, Your Honor, I'm going
4 to asked the clerk to mark them for identification. We're
5 going to asked that evidence number to be marked first and
6 then evidence number three been marked second and give the
7 court reporter a moment to do this. The State for
8 identification purposes number thirty-one and thirty-two,
9 Your Honor.

10 (Whereupon, the Bag of Evidence- Marijuana has been
11 marked for Identification Purposes Only as State's Exhibit
12 No. 31)

13 (Whereupon, the Bag of Evidence- Marijuana has been
14 marked for Identification Purposes Only as State's Exhibit
15 No. 32)

16 MRS. FRYAR: Thank you, sir.

17 Q. All right. At this time, Investigator Crawford, would
18 you please open the package that contains what's been
19 marked the State's Number Thirty-One for identification
20 purposes only. You had to tear that open, is that correct?

21 A. Yes, ma'am.

22 Q. Why is that?

23 A. Because it's actually sealed with tampered proof tape.

24 Q. Would you please publish the item to the jury?

25 THE COURT: You need to speak so we can hear you, Mr.

1 Crawford.

2 Q. What is that, Investigator Crawford?

3 A. This is one of the jars of marijuana that was located.

4 Q. And why is it difficult for you to hold it?

5 A. Because we dusted for fingerprints.

6 Q. And so that stuff on there is part of the procedure
7 for dusting something for fingerprints, is that correct?

8 A. Yes, ma'am.

9 Q. If you could open number three please and that too,
10 had a seal on it, is that correct, sir ?

11 A. Yes.

12 Q. And you had to break that seal, is that correct, sir?

13 A. Yes, ma'am.

14 Q. This is State's for identification purposes only
15 Number Thirty-Two. And are you having a difficult time
16 holding that as well, sir?

17 A. Yes, ma'am.

18 Q. And what is the reason for that?

19 A. Because it has the same dust on it for fingerprints.

20 Q. And what is in your hand at this time?

21 A. This is actually the marijuana that was in this jar,
22 it was removed and sealed, secured, because when we, when
23 they dust for fingerprints it would get inside.

24 Q. So it was just loosely in this jar, is that correct?

25 A. Yes, ma'am, it was in this jar.

1 Q. And show the jury again where you found these items?

2 A. Right there behind the futon.

3 THE COURT: Make sure these other jurors can see, you
4 may be blocking the view.

5 Q. Now, was investigator - - was Major Marsh in the room
6 with you as well, is that correct?

7 A. Yes, ma'am, he was.

8 Q. Did he alert on seeing something?

9 A. Yes, ma'am. He was standing, basically, next to me in
10 this area when I got down on my knees to look at the, in
11 the jars, Major Marsh said, "That looks like crack right
12 there." And I kind of just stood up and he said, "it's
13 right there," pointed out to me. I walked over to it and
14 took a look.

15 Q. Now, I'm going to show you what's been entered into
16 evidence as State's Number Nine, excuse me, - - yes, was
17 entered into evidence as State's Number Nine and can you
18 tell the jury what that is?

19 A. Right in this area right here is the plastic baggie
20 containing what we, at the time, believed to be crack
21 cocaine.

22 Q. And I'm going to show you what's - - in looking at
23 these items that have been marked for identification number
24 Thirty-One and number Thirty-Two, please tell the jury
25 there some words on the bag, who wrote those words?

1 A. I - - well, I filled it out.

2 Q. You filled it out and did you sign it?

3 A. Yes ma'am, I did.

4 Q. And then what did you do once you signed it?

5 A. Dropped it into evidence. I put it in the evidence
6 locker.

7 Q. Did you seal it?

8 A. Yes. I sealed it and my initials would have been on
9 the original.

10 Q. So your initials was on this bag, you sealed up in
11 this bag, - - -

12 A. Yes.

13 Q. - - - and you placed it where?

14 A. Into evidence.

15 Q. What did you do with the next item for identification
16 Number Thirty-Two?

17 A. Same thing. Sealed it....

18 Q. Signed it?

19 A. Actually that's my initials. That's my initials right
20 there. My signature right there where I sealed it. And
21 these are tampered proof - - it's actually stuck to my
22 finger now. Once you break that seal it can't be resealed.

23 Q. So what is the procedure when y'all gather evidence
24 from scenes, Investigator Crawford? Tell the jury what you
25 do with the evidence to make sure that it's kept - - -

1 A. The first thing that I do when somebody's find or
2 discover something or somebody find something or I find
3 something I placed rubber gloves, Playtex gloves on.

4 Q. Yes, sir.

5 A. Take photographs best we can. Take that evidence and
6 put it in one of these bags, it may be smaller bags or it
7 may be larger bags, it may be plastic bags, it may be
8 plastic containers. It's according to whatever the
9 evidence is. It could be a box. And once we do that, we
10 write all the information down on the front, sign it, date
11 it, seal it, take it to the evidence room, place it into a
12 secure wall locker type apparatus, placed the key inside
13 and close it. Once it's closed I can't have no more access
14 to it.

15 Q. And so once you have secured it, sealed it, and put
16 your initials on it, tape it up and sealed it, you put it
17 in the locker, then no one can get to that except the
18 evidence custodian?

19 A. Except the evidence custodian.

20 Q. And so you indicated to the jury that these items had
21 been fingerprinted, is that correct?

22 A. Yes, ma'am.

23 Q. As part of the investigation, did y'all fingerprint
24 these jars?

25 A. We had one of our detectives fingerprint them.

1 Q. And were we able to get any fingerprints off these
2 drugs?

3 A. I don't think we got any prints off the jars. I think
4 I should say any usable prints off the jars.

5 Q. Right.

6 A. That would be something that he would have to talk
7 about.

8 Q. We'll get into that. Okay, sir. And looking at the
9 bag Investigator Crawford, does it have a date on it that
10 you dropped it in the secured locker?

11 A. Yes, ma'am.

12 Q. And what was that date?

13 A. 8/27/2014 at 3:00 p.m.

14 Q. And the other one?

15 A. 8/27/2014 at 3:00 p.m.

16 Q. Drop them in together?

17 A. Yes, ma'am. All the evidence was put in the same, in
18 the same locker.

19 Q. Now, you talk with the jury about this photograph
20 which is the photograph of the crack cocaine in State's
21 Exhibit Number Nine. I'm going to show you this and ask you
22 if can you identify it?

23 A. Yes, ma'am. This is the envelope inside of the, a
24 secured envelope, vacuum sealed envelope, with the crack
25 cocaine that I collected at the scene.

1 Q. Did you have an opportunity to test or weigh the
2 marijuana or the crack cocaine?

3 A. I did an initial, we have these little swabs that
4 indicate the presence of the cocaine or cocaine, well
5 cocaine, they turned blue, if you touch the drug with it
6 and it will turn blue and I did that. I also weighed it
7 with the scales that we have available.

8 Q. Did you weigh the marijuana?

9 A. I think I did, yes, ma'am.

10 Q. And did you weigh this?

11 A. Yes, ma'am.

12 Q. Did you weigh it in the jars or out of the jars?

13 A. I weighed it out of the jars.

14 Q. And then you also - - what did you do with this?

15 A. Okay. Once this was collected, I filled out this
16 envelope that's on the inside here it's part of a BEST kit.
17 A BEST kit is a kit that we send with the evidence down
18 SLED, South Carolina Law Enforcement Division, for a
19 chemical analysis. Then when they return it after they've
20 finished their analysis, they seal it in this vacuum seal
21 bag - - -

22 THE COURT: Wait a minute. What's the matter court
23 reporter?

24 COURT REPORTER: You've got to - - -

25 MRS. FRYAR: I'm so sorry.

1 Q. Your Honor, I'd like to mark this as State's for
2 identification purposes Number Thirty-Three.

3 THE COURT: I think she can't hear.

4 COURT REPORTER: He's got his back to me and there's
5 certain things I can't hear.

6 MRS. FRYAR: I'm sorry.

7 THE COURT: You need to stand so the court reporter
8 can hear you. You've got your back to her.

9 MR. CRAWFORD: I'm messing you all up.

10 COURT REPORTER: It's okay.

11 MR. CRAWFORD: That's the first time somebody told me
12 they couldn't hear me.

13 THE COURT: You have a deep voice but it's going in
14 the wrong direction.

15 MRS. FRYAR: If this can be marked, Your Honor, for
16 identification purposes only State's Number thirty-three.

17 (Whereupon, the Bag of Crack Cocaine has been marked
18 for Identification Purposes Only as State's Exhibit No. 33)

19 Q. And those are the only two things that you found
20 before what happened?

21 A. Once I saw - - once I saw that amount of crack cocaine
22 I alerted Lieutenant Neal and I said I think we need to
23 stop and he agreed that we should stop and get a search
24 warrant.

25 Q. What you mean when you say by that amount of crack

1 cocaine?

2 A. That's a large quantity of crack cocaine.

3 Q. Does it have a nickname for when you find large
4 quantities of crack cocaine or do y'all have a terminology
5 that you use?

6 A. A cookie.

7 Q. A cookie or biscuit - - -

8 A. A cookie - - yes.

9 Q. And then y'all go and get a search warrant, is that
10 correct?

11 A. Yes, ma'am. What happened was everybody left - -
12 everybody left the house but me. I actually stayed in the
13 doorway of the bedroom and that was just to make sure
14 nothing, nothing came and nothing left. I think after a
15 while, I don't want to say this wrong, after a while
16 Lieutenant Neal might have came in to check, you know, the
17 doors were opened. I stayed in the doorway of the bedroom
18 and you could see me from the front door, everybody was
19 standing at the front door, anybody can look in there at
20 any time and see me standing in the doorway.

21 Q. So all the officers left all the rooms and just stood
22 there in place until a search warrant was secured, is that
23 correct?

24 A. Yes, ma'am.

25 Q. And that was secured by Lieutenant Bowers, is that

1 correct?

2 A. Yes, ma'am.

3 Q. Everybody just stood there and waited for Lieutenant
4 Bowers to get back with the search warrant, is that
5 correct?

6 A. Yes, ma'am.

7 Q. When Lieutenant Bowers returned with the search
8 warrant did y'all continue the search?

9 A. Yes, ma'am, we did.

10 Q. And was it during that period of time that you found
11 the items in the living room that we've talked about
12 earlier?

13 A. I didn't find the items in the living room, Lieutenant
14 Neal did. They just alerted me as I was collecting the
15 evidence that they had located that stuff so I don't know
16 when, as far as the search warrant is concerned, when he
17 actually found that, those items.

18 Q. But the only two things that we found before we went
19 to get the search warrant was the pieces of evidence was
20 the jars, pickle jar and the mason jar and the crack
21 cocaine?

22 A. Yes, ma'am.

23 Q. That's when we said freeze let's go get a search
24 warrant?

25 A. Yes, ma'am.

1 Q. And so then did you resume your search?

2 A. Yes ma'am, I did.

3 Q. I'm going to show you what's been marked as State's
4 Exhibit Number Four and if you could tell the jury what
5 this is?

6 A. This is a Ziploc bag - - this is a Ziploc bag with a
7 quarter of a brick of pressed marijuana.

8 Q. And what's the significance of it being a brick of
9 marijuana?

10 A. The way that this is - - the way that this is packaged
11 - - the way that we found it somebody took a press and they
12 squeezed it together so that it will stay together.
13 Normally, when we find marijuana it's usually loose like
14 what was in the jar, but in this - - but in this occasion
15 it was actually pressed together to form this brick.

16 Q. Was it sealed in there?

17 A. It was in this Ziploc bag.

18 Q. It was found in the Ziploc bag just like you're
19 presenting it today - - -

20 A. Yes, ma'am.

21 Q. - - - is that correct?

22 A. Yes, ma'am.

23 Q. And where did you find this piece of evidence?

24 A. It was in this cardboard box in the floor.

25 Q. Was it a shoe box?

1 A. I think it was a shoe box.

2 Q. Something like a shoe box?

3 A. Yes, ma'am.

4 Q. So did you take that into evidence?

5 A. Yes, ma'am, I did.

6 Q. Let's show the jury on the diagram here where you
7 found it?

8 A. It would've been among all the other boxes and
9 miscellaneous items found, toward the middle of the room.

10 MRS. FRYAR: And I would like to enter this into
11 evidence at this time, Your Honor.

12 MR. GRIER: Renew my objection as previously.

13 THE COURT: All right. Objection is overruled.
14 Admitted into evidence.

15 MRS. FRYAR: And this is going to be State's Exhibit
16 Number Twelve.

17 (Whereupon, the Photo has been marked and entered into
18 evidence as State's Exhibit No. 12)

19 MRS. FRYAR: I would like to have this piece of
20 evidence marked as State's identification Thirty-Four, Your
21 Honor, it is evidence piece number four.

22 (Whereupon, the Evidence- Marijuana has been marked
23 for Identification Purposes Only as State's Exhibit No. 34)

24 Q. I hand you what's been marked as State's Exhibit
25 Number Thirty-four and ask you can you identify what this

1 is?

2 A. Yes, ma'am, this is item number four, a Ziploc bag
3 containing marijuana. It was found in Mr. Hayes's bedroom
4 in a shoe box that was on the floor.

5 Q. And is it the same thing that you have shown the jury
6 earlier the brick marijuana that was found in State's
7 Exhibit Number Twelve?

8 A. Yes, ma'am.

9 Q. And what did you do with it when you got it?

10 A. Collected it, sealed it in this envelope, and dropped
11 it in the evidence.

12 Q. And put your name on the outside?

13 A. Yes, put my name on the outside. I signed it at the
14 bottom and I also put my initials on the tape after I
15 sealed it.

16 Q. What did you do with it?

17 A. I dropped it into evidence -- I put it into evidence,
18 put into evidence locker with the rest of the evidence.

19 Q. At the same time?

20 A. Yes, ma'am, the same time.

21 Q. All right.

22 A. The time is 3:00 p.m. on 8/27/2014.

23 Q. And that's your signature on the back of it?

24 A. Yes, ma'am.

25 Q. And if you could open it and I want to publish it to

1 the jury. And is there a dusting powder on there as well,
2 a white substance on that bag as well?

3 A. Whatever the detective use to raise fingerprints on it
4 is what's on it.

5 Q. Well, do you know if fingerprints were collected on
6 that bag?

7 A. I think there were fingerprints collected on this bag.

8 Q. And do you know who those fingerprints belong to?

9 A. Charles Hayes. The sticker was coming off of it.

10 THE COURT: You can't - - anything you say has got to
11 be taken down loud and clearly.

12 A. I understand, Your Honor.

13 MRS. FRYAR: I'm going to present what's been marked
14 as evidence number five on this back and have it marked as
15 State's for identification Number Thirty-Five.

16 THE COURT: All right.

17 (Whereupon, the Bag of Evidence- Marijuana has been
18 marked for Identification Purposes Only as State's Exhibit
19 No. 35)

20 Q. Investigator Crawford, I'm showing what's been marked
21 as State's for identification purposes Number Thirty-five
22 and can you determine what that is?

23 A. It's a bag - - it's item number five, a bag containing
24 marijuana found in Hayes's bedroom in a computer desk.

25 Q. And you would've written this down where you found it,

1 is that correct?

2 A. Yes, ma'am.

3 Q. So you're just reading back where you found it and
4 wrote it down and put it in that bag, is that correct?

5 A. Yes, ma'am.

6 Q. And where would that be in relation to this room?

7 A. The computer desk is here.

8 Q. So where did you find this in the computer desk?

9 A. It would've been in the little cubbyhole.

10 Q. And if you can, open it. I'm going to show you what
11 has been marked as State's Exhibit Number Eight and ask you
12 what is this a picture of?

13 A. That's a picture of this trash, this bag here, this
14 gray bag.

15 Q. And what was found in the gray bag?

16 A. Inside the gray bag was this piece of plastic and
17 marijuana.

18 Q. And is that two partially in brick form?

19 A. Yes, ma'am. This is actually trying to fall apart but
20 it's still pressed marijuana.

21 Q. And when you say the desk hutch, I'm showing you this
22 picture of State's Number Eight, did you find it in that
23 bag that you presented to the jury at this time?

24 A. Yes, I did.

25 Q. So you took it out of the gray bag and put it in, the

1 bag, into evidence as well as the marijuana and you put it
2 all in an envelope, is that correct?

3 A. Yes, ma'am. There's actually another picture of the
4 showing - - there should be another picture of it showing
5 it being opened. That's it right there.

6 Q. I'm going to show you picture number nine and what is
7 this a picture of?

8 A. This is a picture of marijuana and if you can look in
9 the left corner you can actually see the blue plastic bag.

10 Q. And so can you identify this for us?

11 A. That's the bag of marijuana. That's this bag right
12 here.

13 Q. And it was found where, sir?

14 A. It was found on the - - this one was found on the
15 desk, the computer desk, in the hutch area of the computer
16 desk.

17 MRS. FRYAR: I'd like to enter this into evidence.

18 MR. GRIER: Renew the same objections, Your Honor.

19 THE COURT: All right. And I overrule the objection.
20 Admitted into evidence.

21 MRS. FRYAR: And the other one as well, Your Honor,
22 that Mr. Grier's saying - - -

23 MR. GRIER: Same objection.

24 THE COURT: Same objection. Same ruling. It's
25 admitted into evidence.

1 MRS. FRYAR: This is going to be - - this going to be
2 State's Number Thirteen and this is going to be State's
3 Number Fourteen.

4 (Whereupon, the Photo has been marked and entered into
5 evidence as State's Exhibit No. 13)

6 (Whereupon, the Photo has been marked and entered into
7 evidence as State's Exhibit No. 14)

8 MRS. FRYAR: Your Honor, I would like to have evidence
9 number, evidence number seven on this envelope I'd like to
10 have it marked as State's identification Thirty-Six.

11 (Whereupon, the Evidence- Marijuana has been marked
12 for Identification Purposes Only as State's Exhibit No. 36)

13 Q. I am showing you an envelope that has been marked as
14 State's identification number Thirty-Six, can you tell the
15 jury what it is?

16 A. A plastic bag containing - - it says item number
17 seven, plastic bag containing marijuana found in Hayes
18 bedroom dresser shelf.

19 Q. I'm going to show you what's been marked as State's
20 Exhibit Number Eighteen for identification purposes only,
21 can you tell us what that is a picture of?

22 A. That's a picture of the shelf on the dresser and in
23 the corner right there is the marijuana that's in this
24 envelope, this envelope.

25 MRS. FRYAR: I would like to place this into evidence

1 as State's Number Fifteen, Your Honor.

2 MR. GRIER: Same objection, Your Honor.

3 THE COURT: Overruled. It's admitted into evidence as
4 number fifteen.

5 (Whereupon, the Photo has been marked and entered into
6 evidence as State's Exhibit No. 15)

7 Q. So tell us about this bag, what did you do with this
8 bag?

9 A. Once again I placed it in the envelope, fill out the
10 appropriate information, signed my name, sealed it with
11 evidence tape, wrote my initials on the back of it, and
12 dropped it into evidence.

13 Q. And can you please open it for us and publish it to
14 the jury.

15 (Whereupon, the witness was showing the jury the
16 evidence)

17 Q. All right. Investigator Crawford, I'm going to show
18 you photographs that have been identified as State's
19 Exhibit Number Twenty-Five and Twenty-Six, I'm asking you
20 to tell us what they are?

21 A. That is another press block of marijuana.

22 Q. Are these of the same piece of marijuana?

23 A. Yes, ma'am. That is a further view than this one.
24 This is a close-up view of it.

25 MRS. FRYAR: All right. I'd like to enter these into

1 evidence, Your Honor.

2 MR. GRIER: Same objection, Your Honor.

3 THE COURT: All right. Overruled. Admitted into
4 evidence.

5 MRS. FRYAR: Thank you, Your Honor. And these are
6 going to be State's Exhibit Number Fifteen and Sixteen.

7 THE COURT: Number sixteen and seventeen?

8 MRS. FRYAR: Excuse me, sixteen and seventeen.

9 (Whereupon, the Photo has been marked and entered into
10 evidence as State's Exhibit No. 16)

11 (Whereupon, the Photo has been marked and entered into
12 evidence as State's Exhibit No. 17)

13 MRS. FRYAR: And, Your Honor, I would ask that the
14 piece of evidence number nine been marked for State's
15 identification at this time and it's going to be State's
16 Number Thirty-Seven, Your Honor, for identification
17 purposes only at this time.

18 (Whereupon, the Evidence- Marijuana has been marked
19 for Identification Purposes Only as State's Exhibit No. 37)

20 Q. And if you could tell us what is in this bag?

21 A. This is item number nine. It's a bag containing
22 marijuana found in Hayes bedroom on the floor under the
23 chair.

24 Q. And that is the floral chair that we discussed
25 earlier?

1 A. Yes, ma'am.

2 Q. What else did you find under the chair?

3 A. Under the cushion of the chair was the black handgun.

4 Q. Can you open the bag? Did you seal it and put your
5 initials on it?

6 A. Yes, ma'am. I sealed it and put my initials on it
7 like I did all the other evidence.

8 Q. And you placed it in the same locker at the same time?

9 A. Same locker, yes, ma'am, same time.

10 Q. And where was that found in our diagram?

11 A. The chair is right here, it would've been under the
12 chair once we lifted the chair and searched.

13 Q. Investigator Crawford, I'm going to show you what's
14 been marked as State's Exhibit for identification purposes
15 only, Number Twenty-Two, Twenty-Three, and Twenty-Four. If
16 you could look at those photographs and tell us, do you
17 recognizes them?

18 A. Yes, ma'am, excuse me, yes, ma'am, I do.

19 Q. What are they?

20 A. Photographs of the firearm that I found under the
21 cushion of the chair.

22 MRS. FRYAR: And if we could have these marked for
23 State's in evidence, Your Honor.

24 MR. GRIER: Same objection, Your Honor.

25 THE COURT: All right. I overrule your objection.

1 They'll be admitted into evidence.

2 THE COURT: Were there two or three?

3 MRS. FRYAR: They were three, Your Honor.

4 THE COURT: Eighteen, nineteen and twenty?

5 MRS. FRYAR: Yes, Your Honor.

6 (Whereupon, the Photo has been marked and entered into
7 evidence as State's Exhibit No. 18)

8 (Whereupon, the Photo has been marked and entered into
9 evidence as State's Exhibit No. 19)

10 (Whereupon, the Photo has been marked and entered into
11 evidence as State's Exhibit No. 20)

12 Q. I'm going to show you what's been marked as State's
13 item number eight, I would like to have it marked for
14 identification purposes.

15 (Whereupon, the Gun has been marked for Identification
16 Purposes Only as State's Exhibit No. 38)

17 Q. Can you look at this piece of evidence, can you tell
18 us what it is?

19 A. It's the handgun recovered from the residence.

20 Q. And I'm showing you now and I'm publishing to the jury
21 State's Exhibit Number Eighteen, what is this a photograph
22 of?

23 A. That's the photograph that I took when I initially
24 picked the cushion up off the chair before I moved any of
25 the paperwork to take better pictures.

1 Q. And now number twenty-four, what is that a photograph
2 of?

3 A. This is a photograph of a handgun, close-up shot after
4 I moved some of the papers out of the way.

5 Q. And you took this photograph as well?

6 A. Yes, ma'am.

7 Q. What kind of handgun is this, Investigator Crawford?

8 A. It is a Taurus .38 Special.

9 Q. And where did this .38 Special get stolen from?

10 A. I believe - - I'm trying to remember her name, the
11 name of - - -

12 Q. Was it Ms. Chisholm?

13 A. Ms. Chisholm.

14 Q. Yes, sir. And when had it been stolen?

15 A. 7/10/2014.

16 Q. July 10, 2014, is that correct?

17 A. Yes, ma'am.

18 Q. And where had it come from?

19 A. Second Street.

20 Q. How far is Second Street from Fifth Street?

21 A. It's about three streets over.

22 Q. If you could show us what's in the box there, sir.
23 Now, was this gun loaded at the time that you found it?

24 A. Yes, it was.

25 Q. Was it fully loaded?

1 A. It had three or four - - it had four bullets in it and
2 one shell, one casing where it had been fired, one empty
3 casing.

4 Q. One empty casing. What kind of bullets are these,
5 investigator?

6 A. They're hollow point .38's.

7 Q. What do you know about hollow point bullets.

8 A. Just the center of it is hollow so it has a better
9 mushroom action when it hits its target.

10 Q. Is it meant to kill people?

11 A. All bullets are meant to kill people.

12 Q. Yeah, but is it more deadly than say a cutter, wad
13 cutter?

14 A. I would hate to say because it's according to what
15 part of the body is hit. There's so many different
16 variables in there. It's a danger if it's around, I can
17 say that much, but if it's more deadly or less deadly it's
18 according to what part of the body it hits.

19 Q. Yes, sir. What are these?

20 A. Okay. Can you see it? Please are the bullets that
21 were in the handgun.

22 Q. So what happens when these bullets hit the body,
23 Investigator Crawford?

24 A. Most bullets are designed when they hit the body to
25 inflint as much damage as possible. Some bullets are

1 designed to mushroom and do more damage, some bullets are
2 designed to be completely devastating. It's according to
3 what type of bullet it is and also what part of the body it
4 hits. If it hits soft tissue it's going to react
5 differently than if it hits bone.

6 Q. And these bullets are designed to mushroom inside
7 somebody, is that right?

8 A. Well, they mushroom as they hit the target.

9 Q. As soon as they hit the target they mushroom?

10 A. Yes, ma'am.

11 Q. So when you were on the scene and you located that gun
12 while you were still there, how did you determine that it
13 was stolen and where it was stolen from?

14 A. I called - - I called dispatch, our 911 system, and
15 gave them the model number and the serial number.

16 Q. All right.

17 A. And they came back with a response that it was
18 reported stolen.

19 Q. Is that - - where do they run it through?

20 A. NCIC.

21 Q. And is that the same thing that Major Marsh spoke of
22 earlier the National Information Center - - -

23 A. Information Center, yes, ma'am.

24 Q. And it came back as a hit being stolen somewhere in
25 America?

1 A. Yes, ma'am.

2 Q. And it turned out that it was stolen three streets
3 over?

4 A. Yes, ma'am.

5 Q. A month before this incident?

6 A. Yes, ma'am.

7 Q. I'm going to show you what's been marked as State's
8 Number Five for identification purposes.

9 A. Okay.

10 Q. And ask you can identify this?

11 A. Yes, ma'am. This is a digital scale.

12 Q. And where did you find it in the home, up here?

13 A. Among all the boxes and things that I described
14 earlier - - I'm sorry, can you see? Among all these boxes
15 that I described earlier. They were more boxes and other
16 things here that I'm able to draw but if you look at this
17 picture, these are some of the boxes and stuff that were
18 located inside the bedroom and it was on top of these boxes
19 right here.

20 MRS. FRYAR: Your Honor, at this time I like to enter
21 it into evidence as State's Exhibit - - -

22 MR. GRIER: Same objection.

23 THE COURT: Okay. All right. It's overruled.

24 Admitted into evidence.

25 (Whereupon, the Photo has been marked and entered into

1 evidence as State's Exhibit No. 21)

2 Q. And I hand you this, sir, wait just a moment if I
3 could have this marked, Your Honor, this is a piece of
4 evidence number twelve and I'm asking that it be marked as
5 State's identification purposes at this time as number
6 Thirty-Eight.

7 Q. And what is this in this bag?

8 A. This is a digital scale.

9 Q. And you found it and Mr. Charles Hayes bedroom, is
10 that correct?

11 A. Yes, ma'am.

12 Q. And it was sitting on one of these boxes in the little
13 room, right?

14 A. Yes, ma'am.

15 Q. And what did you once you confiscated that?

16 A. Took a picture of it, placed it an envelope, and
17 sealed it.

18 Q. Put your name on the outside?

19 A. Yes, ma'am.

20 Q. And did you put your initials on the seal?

21 A. Yes, ma'am.

22 Q. Please open it for the jury. And let's show this to
23 the jurors. You found this in Mr. Hayes's bedroom?

24 A. Yes, ma'am.

25 Q. Do you - - have you found scales like this before?

1 A. Yes, ma'am.

2 Q. What's it commonly used for?

3 A. The weighing of drugs.

4 Q. And I see white powder on that as well?

5 A. Yes, ma'am. It was - - it was dusted for
6 fingerprints.

7 Q. All right.

8 A. Or whatever process they use pull prints.

9 Q. And that's what the white stuff is on it?

10 A. Yes, ma'am.

11 Q. And do we know if we have a print match on that?

12 A. Not to my knowledge.

13 Q. Or if anything was identifiable from it?

14 A. Nothing identifiable.

15 MRS. FRYAR: This is State's Exhibit Number Thirty-
16 Nine for ID, Your Honor.

17 (Whereupon, the Ditigal Scales has been marked for
18 Identification Purposes Only as State's Exhibit No. 39)

19 Q. I'm going to show you what's been marked as State's
20 Exhibit that's been marked for identification Number
21 Thirty-Three again, Investigator Crawford, if you could or
22 Agent Crawford, if you could look at this and explain to
23 the jurors when something has to go to SLED that has to be
24 tested, what do y'all do with that kind of evidence? What
25 is this and what is the procedure?

1 A. Okay. What happens is once we determine the weights
2 as best of our knowledge, with the equipment that we have
3 we use what I explained early is a BEST kit. A BEST kit is
4 an envelope that we put the evidence in and send it down to
5 SLED for a chemical analysis. They have all these big
6 alphabet machines that they use, spectrometer or whatever,
7 you know, to find out if there is evidence of cocaine or
8 cocaine base or whatever pills or whatever drugs that we
9 send down and then they seal it and send it back to us for
10 court.

11 Q. With this size of crack cocaine cookie, could you put
12 it in a pipe and smoke it?

13 A. No.

14 Q. Tell me what someone would do with that?

15 MR. GRIER: Objection, Your Honor, it calls for
16 speculation.

17 THE COURT: If you'll lay a foundation for that.

18 MRS. FRYAR: Yes, sir.

19 Q. Investigator Crawford, how long have you been involved
20 in narcotics?

21 A. A total of probably sixteen years.

22 Q. Have you been trained in the field of narcotics?

23 A. Yes, ma'am, I have.

24 Q. Have you been trained in the field of crack cocaine?

25 A. Yes, ma'am.

1 Q. Have you participated in many crack cocaine arrest?

2 A. Yes, ma'am.

3 Q. How many would you say?

4 A. I couldn't even begin to count.

5 Q. And in the course of your training, have you learnt
6 how large rocks of cocaine are used by people?

7 A. Yes, ma'am.

8 MRS. FRYAR: And at this time I'd asked that he be
9 qualified as an expert in the field of narcotics.

10 THE COURT: I think you build a big enough foundation,
11 he can answer the question.

12 Q. What do they do with the, Investigator Crawford?

13 A. What they would do with this particular size of crack
14 cocaine, cookie, is take a razor blade or whatever cutting
15 instrument they wanted to use and they would cut it into
16 10s, 20s or 50s however they want to cut it up and they
17 would sell it that way. Most dealers won't sell a cookie
18 this size unless they are a big dealer because you can make
19 more money cutting it up and sell it individual pieces that
20 you can sell in this whole piece because the price is going
21 to be different.

22 Q. Do you know - - do you know how much this is a gram?

23 A. It's just like anything else there's a market, it
24 fluctuates. But I would say the standard average is about
25 a \$100.00 a gram.

1 Q. And while we are talking about it, do you know how
2 much marijuana is per ounce?

3 A. Per ounce it depends on the grade. It depends on if
4 it's high-grade or if it's California Bud. It's a lot of
5 different variables in there. I couldn't even begin to
6 tell you.

7 Q. All right.

8 A. Some person - - I might walk up to you and buy an
9 ounce for \$600.00 and turn right around and somebody wants
10 to sell me some that's higher grade of \$1,600.00. It's
11 just too much of a variable in there.

12 Q. Agent Crawford, if you could tell us - - this is
13 called - - what is this thing called? Tell us the whole
14 procedure and what all you do with this, this piece of
15 evidence?

16 A. As far as

17 Q. You putting it in a BEST bag and sealing it and
18 putting your name on it - - -

19 A. Yes ma'am.

20 Q. - - - how it is this - - -

21 A. There are different forms inside the BEST kit - - the
22 BEST kit comes in a manila envelope or a brown envelope.
23 Inside that envelope is a tampered proof bag which is what
24 you see right here, that bag right here is called a
25 tampered proof bag. Once that cocaine is put inside that

1 along with the paperwork that was filled out, chain of
2 custody and those types of things, it is sealed. Once it
3 sealed is no different than the red tape, he cannot be
4 opened unless - - if you do open it you can't just reseal
5 it, it's tampered proof. The only person that would open
6 it would be the evidence technician down at SLED when they
7 do their analysis. Once they finish their analysis, they
8 will package it up the way you see right here and they will
9 ship it back to our department.

10 Q. And who put it in there, Agent Crawford?

11 A. SLED initially put - - what you mean?

12 Q. Who put it in to begin with?

13 A. I did.

14 Q. And how do you know that?

15 A. Because I signed it.

16 Q. And how do you know you sealed it?

17 A. Because I put my initials on - - well, you know, when
18 you seal it, it's tampered proof, you can't do anything on
19 it but on the bag itself you put your name, date, the date
20 and time that you sealed it and you sign it and that's
21 where my signature is right here at the bottom saying that
22 I sealed it. That's my signature at the bottom right
23 there.

24 Q. And did you put it inside that manila envelope and
25 sign it?

1 A. Yes, ma'am, I did.

2 Q. And you then put it into the evidence locker?

3 A. Yes, ma'am.

4 MRS. FRYAR: I beg the Court's indulgence, Your Honor.

5 THE COURT: Yes, ma'am.

6 MRS. HALL: Your Honor, may we approach?

7 (Whereupon, a bench conference was held)

8 THE COURT: All right. Ladies and gentlemen, good
9 news for you, I think. The attorneys have agreed that we
10 are at a good stopping point right now so we can break for
11 the evening. I know some of you have to travel home. I've
12 got to drive an hour and a half myself to get back home so
13 we will resume tomorrow morning. As I instructed you
14 earlier, you can't discuss this with anybody. Not each
15 other, not when you go home, to your girlfriend, boyfriend,
16 husband, wife, don't talk to anybody about this case.

17 Now, is 9:30 a good time for you to be back tomorrow
18 morning? Can all of y'all be back by 9:30? Why don't we
19 plan to resume at 9:30 tomorrow morning. Hopefully, I will
20 be here. I will be here at least by a quarter till ten. I
21 hope I can be here by 9:30 so we can start on time. I
22 apologize for being late after lunch but where they sent me
23 to eat took forever to get waited on. I won't tell you
24 where was.

25 All right. Y'all have a good evening and will see you

1 back at 9:30 tomorrow morning.....

2 FOREPERSON: Come back to the same room or come in
3 here?

4 THE COURT: Come back to the same room where you came,
5 the jury room, okay? Thank y'all.

6 (Whereupon, the jury exits the courtroom at 5:22 p.m.)

7 THE COURT: All right. Mr. Crawford, I know you have
8 heard these instructions before but since you are in the
9 mist of your testimony you cannot talk to anyone about your
10 testimony or about the case. Don't talk to the solicitors
11 or anybody else, any of your fellow officers about anything
12 about what you have testified to or what is anticipated you
13 will testify to.

14 MR. CRAWFORD: Yes, sir.

15 THE COURT: I suggest you go straight home yourself.
16 You be isolated, all right?

17 MR. CRAWFORD: No problem.

18 THE COURT: You can step down.

19 MR. GRIER: Your Honor, I would like to request and I
20 know you previously mentioned my client to remain in
21 custody. My client would like - - he lives in the
22 community. He's been here. He has obeyed all court
23 appearances for him to go home to get a fresh set of
24 clothes and a shower. I don't see the need to have him at
25 the detention center. He's come every time he's been

1 asked.

2 MRS. FRYAR: Your Honor, I would ask that he remain in
3 custody overnight. We're in the middle of this trial. It
4 would be a mistrial if something happens and we cannot get
5 a hold of this man tomorrow and I think that he is not bond
6 returnable and he should remain in custody overnight.

7 THE COURT: I respect your request, Mr. Grier, but
8 under the circumstances and the nature of these offenses
9 I'm going to order that he remain in custody.

10 MRS. FRYAR: Yes, Your Honor.

11 THE COURT: Somebody can bring him some clothing and
12 whatnot. They'll make sure he gets a show. Anything else
13 counsel?

14 MRS. FRYAR: Not from the State, Judge.

15 MR. GRIER: No, Your Honor.

16 THE COURT: All right. We'll plan to start back at
17 9:30 tomorrow morning.

18 MRS. FRYAR: Thank you, Your Honor.

19 THE COURT: Thank you.

20 (CONCLUSION OF THE HEARING OF DAY 2 ON JANUARY 26, 2016)
21
22
23
24
25

January 27, 2016- Day 3

MRS. FRYAR: Would you like have Agent Crawford back on the stand at this time when the jurors enter?

THE COURT: Yes.

MRS. FRYAR: Yes, sir.

THE COURT: You understand Agent Crawford you're still under oath?

MR. CRAWFORD: Yes, sir.

THE COURT: Even though we had this break over night. Is everybody ready?

MRS. FRYAR: Yes, Your Honor.

THE COURT: Bring the jury in.

(Whereupon, the jury enters the courtroom at 9:42 a.m.)

THE COURT: Good morning, ladies and gentlemen. I hope you all had a restful night. We are ready to resume the testimony of Mr. Crawford. Mrs. Fryar?

MRS. FRYAR: May it please the Court, Your Honor?

THE COURT: Yes, ma'am.

MRS. FRYAR: Thank you.

DIRECT EXAMINATION BY MRS. FRYAR- CONTINUED:

Q. How are you doing this morning, Agent Crawford?

A. Fine.

Q. Good. You may recall that yesterday we were talking about items that you found in the room of Charles Hayes at 557 Fifth Street here in Chester, is that correct?

1 A. Yes, ma'am.

2 Q. All right. I'm going to show you a photograph that
3 has been marked as State's Exhibit Number Fifteen and ask
4 you, can identify what this is?

5 A. Yes, ma'am. These are empty jars that we saw that had
6 marijuana residue in them.

7 Q. And where were these jars located?

8 A. They were located in the bedroom amongst the other
9 boxes and other things that were in there.

10 MRS. FRYAR: Your Honor, at this time I like to enter
11 it into evidence State's Exhibit Number Twenty-Two.

12 MR. GRIER: Your Honor, I'd renew my objection as they
13 were previous testimony.

14 THE COURT: All right, sir. And I overrule the
15 objection. It's admitted into evidence.

16 MRS. FRYAR: Thank you.

17 (Whereupon, the Photo has been marked and entered into
18 evidence as State's Exhibit No. 22)

19 Q. And so what jars are these?

20 A. Mason jars.

21 Q. Are they similar to the one that you found with the
22 marijuana behind, in it behind the - - -

23 A. Somewhat similar.

24 Q. Somewhat similar. When you say marijuana residue what
25 does that mean?

1 A. Just little pieces of marijuana that was not taken out
2 with the other marijuana if it had been stored in there.

3 Q. And then I'm going to show you next what's been marked
4 as State's Exhibit Number Twenty-One and ask if you can
5 identify this?

6 A. That's the - - this part right here is the chair that
7 I found under the cushion. That is a pamphlet from York
8 Tech College in this back part is the dresser that was
9 behind the chair.

10 Q. And this is the flowered chair - - -

11 A. The flowered chair - - -

12 Q. - - -that we've been discussing where the gun was
13 found?

14 A. Yes, ma'am.

15 MRS. FRYAR: And at this time I'd like to enter it is
16 Number Twenty-Three.

17 MR. GRIER: Same objection, Your Honor.

18 THE COURT: All right. I again overrule the
19 objection. It's admitted into evidence.

20 (Whereupon, the Photo has been marked and entered into
21 evidence as State's Exhibit No. 23)

22 MRS. FRYAR: And we'll publish it to the jury.

23 Q. And when Mr. Hayes came to the home that day, had he
24 come from York technical college?

25 COURT REPORTER: I didn't hear. I didn't hear what

1 you said.

2 Q. Mr. Hayes came to the home that day, had he come from
3 York technical College?

4 A. That's what I was told.

5 Q. And you did find the papers, his papers, in his room
6 as well, is that correct?

7 A. Yes, ma'am.

8 Q. If I could ask you to step down, Agent Crawford, if we
9 could review with the jurors the bedroom scene, you
10 indicated that this was the doorway and you explained that
11 there was a dresser or two dressers in the bedroom, could
12 you please remind the jury of the layout of the room?

13 A. This was a doorway - - this is the doorway, this is
14 the dresser - - is more like a a Chester drawer I guess
15 that's the correct word for it, the chair. There's another
16 dresser here that's indicated in that picture. The futon.
17 The computer desk. The freezer and then the miscellaneous
18 boxes and other items in the middle of the room and all
19 over the room.

20 Q. I'm going to hand you what's been marked as State's
21 Exhibit Number Fourteen and ask you if can identify it?

22 A. Yes, ma'am. That's the South Carolina identification
23 of Mr. Charles David Hayes.

24 Q. And did you make this photograph?

25 A. Yes, ma'am, I did.

1 MRS. FRYAR: At this time I'd like to mark it and
2 enter it as State's Exhibit Number Twenty-Four.

3 MR. GRIER: Same objection, Your Honor.

4 THE COURT: All right. Same ruling. It's overruled
5 and admitted into evidence.

6 (Whereupon, the Photo has been marked and entered into
7 evidence as State's Exhibit No. 24)

8 Q. Where did you find this Charles David Hayes, not a
9 drivers license, identification card?

10 A. It was in the top drawer of the chester drawers when
11 you first walk in.

12 Q. So after obtaining the search warrant, you searched
13 this dresser drawers, is that correct?

14 A. I did.

15 Q. And you located this item, where, sir?

16 A. In the top drawer.

17 Q. And where does it say the address of this individual
18 lived?

19 A. 557 Fifth Street, Chester, South Carolina.

20 Q. Did you continue to search that dresser drawers, Agent
21 Crawford?

22 A. Yes, ma'am, I did.

23 Q. What else did you find in the dresser drawers?

24 A. I took the I.D. out, I put it up on top of the drawer,
25 I took a picture of it. I continued to search. There were

1 miscellaneous clothes. There were a pair of jeans in that
2 drawer and as I was searching the jeans, I found money in
3 the jeans.

4 Q. And did you, actually, take the jeans out of the
5 drawer?

6 A. I just took the money out of his jeans.

7 Q. Just took the money out of his jeans. I'm going to
8 show you what's been marked as State's Exhibit Number
9 Twenty-Nine and Thirty for Identification Purposes and ask
10 you, can you identify those?

11 A. It's kinda of dark but you can actually see the
12 outline of the pocket of the jeans. I took the money half
13 way out. I didn't want to take it all the way out until I
14 took a picture of it.

15 Q. Yes, sir.

16 A. So I took it out just a little bit, I took a picture
17 of the money folded up in the jeans and then I took a
18 picture of me holding the money - - -

19 Q. All right.

20 A. - - - spread out.

21 MRS. FRYAR: At this time, I'd like to enter these
22 into evidence.

23 MR. GRIER: Your Honor, we renew the same objection.

24 THE COURT: All right. And I'll overrule the
25 objection. Admitted as State's Twenty-Five and Twenty-Six.

1 MRS. FRYAR: Yes, sir, Your Honor.

2 (Whereupon, the Photo has been marked and entered into
3 evidence as State's Exhibit No. 25)

4 (Whereupon, the Photo has been marked and entered into
5 evidence as State's Exhibit No. 26)

6 Q. I want to talk to you about photograph Number Twenty-
7 Six, what can you tell me about this photograph the
8 denomination of the money in this photograph?

9 A. Hundreds - - hundreds and twenties. There may have
10 been a fifty dollar bill in there but is mostly hundreds
11 and twenty dollar bills.

12 Q. What's indicative of twenty dollars bills? In your -
13 - are you've been declared an expert in the field of
14 narcotics, when you find the denominations of those twenty
15 dollar bills on folks that you arrest, what's that
16 indicative of?

17 MR. GRIER: Objection, Your Honor. It call for
18 speculation.

19 MRS. FRYAR: He's been named an expert he can tell how
20 drug - - -

21 THE COURT: I don't know if I actually found him to be
22 an expert but you did lay a foundation as to that earlier
23 based on that foundation I do find him to be an expert.
24 I'll make that finding on the record in the field of
25 narcotics investigation so he can answer the question.

1 MRS. FRYAR: Thank you, Judge.

2 Q. Hundreds and twenties?

3 A. It's indicative of sales of drugs, I mean, people by
4 twenty dollars worth of crack cocaine or twenty dollars
5 worth of marijuana. They buy less sometimes and more
6 sometimes but twenties and hundreds stacked together
7 usually - - well, in my field - - -

8 Q. Yes, sir.

9 A. - - - it's indicative of drug money.

10 Q. People by twenty dollar rocks of crack cocaine, is
11 that correct?

12 A. Yes, ma'am.

13 Q. And twenty dollars bits of marijuana?

14 A. Yes.

15 Q. Is that how it is generally sold, well, often sold?

16 A. Often sold, yes, ma'am.

17 Q. Did you count the money?

18 A. I counted it, yes, ma'am.

19 Q. And was it, \$1,650?

20 A. Yes, ma'am.

21 Q. I'm gonna show you this diagram one more time, I'm
22 sorry, I should've done this earlier Agent Crawford, please
23 come back down, sir, I'm sorry. Now having found the
24 identification and the money in this drawer here. Tell the
25 jury again what this item represents?

1 A. This is the futon.

2 Q. And what is this?

3 A. This is the desk, the computer desk.

4 Q. And this is where you were standing when you first
5 entered the room to search?

6 A. In that corner somewhere, you know, this is not the
7 scale and things were a little bit more compact than that
8 but, generally, in that area right there.

9 Q. What did you indicate that this was?

10 A. A window.

11 Q. All right.

12 A. There's a window here, and there was a window there.

13 Q. I'm to write the word window right here. So on the
14 back side of the house is a window?

15 A. Yes.

16 Q. And where, sir, if you would mark, was the other
17 window?

18 A. Top right in here. I mean, it's not exactly where the
19 locations were - - -

20 Q. Right.

21 A. - - - but in those general areas.

22 Q. But the window was beside the desk?

23 A. Yes.

24 Q. And on the other side of the futon?

25 A. Yes.

1 Q. Now, once you arrested - - once Mr. Charles Hayes was
2 placed under arrest, who actually placed him under arrest?

3 A. I don't remember.

4 Q. Do you know if he was searched when he was arrested?

5 A. I wasn't - - I wasn't out there - - -

6 Q. Okay.

7 A. - - - during this time. I think I was still handling
8 the evidence and stuff. I don't recall being out there
9 when he was actually placed under arrest.

10 Q. You're the head investigator in this case, correct?

11 A. Yes, ma'am, I am.

12 Q. Do you know how much money was found in Mr. Charles
13 Hayes's pocket upon arrest?

14 A. It was two hundred and something, something dollars.

15 Q. Was it \$215.00?

16 A. Yes.

17 Q. If that's what you mark down as entered into evidence
18 the amount, would that be what it is?

19 A. Yes, ma'am.

20 Q. Agent Crawford, I'm going to show you this and ask you
21 if you recognize what this is?

22 A. This is an evidence form.

23 Q. And if you could look at the reverse side of that
24 evidence form.

25 A. Okay.

1 Q. What is the evidence form used for?

2 A. It's a way to keep track of the evidence once it's
3 collected, turned in, whose touched it, whose seen it,
4 whose handling it, just keep a track of whose had the hands
5 on the evidence.

6 Q. And all the evidence that you show the jury yesterday
7 you have logged that in and have that by your name as the
8 person who collected the evidence, is that correct?

9 A. Yes, ma'am.

10 Q. And you also have on there that you have collected
11 some monies, is that correct?

12 A. Yes, ma'am.

13 Q. Can you tell the jury where you found the monies and
14 the correct amounts?

15 A. Let me put my glasses on so I can see.

16 Q. Yes, sir.

17 A. It - - \$1,650.00 of US currency was collected from Mr.
18 Hayes's bedroom in the pants pocket that was in the dresser
19 drawer. Um, \$216.00 of US currency was in the front right
20 shorts pocket that he was wearing.

21 Q. So Mr. Hayes had on a pair shorts?

22 A. Yes, ma'am.

23 Q. And had \$216.00 in the pocket?

24 A. Yes, ma'am.

25 MRS. FRYAR: I don't have any further questions. Hold

1 on one minute, I got one more.

2 Q. Do you recognize Mr. Charles Hayes in the courtroom?

3 A. Yes, ma'am, I do.

4 Q. Would you please point him out for the jury?

5 A. He's sitting right there.

6 MRS. FRYAR: Please let the record reflect that he's
7 identified Mr. Charles Hayes as the person sending with
8 counsel.

9 Q. And this all happened in Chester County, right?

10 A. Yes, ma'am, Chester County.

11 MRS. FRYAR: I don't have any more questions.

12 THE COURT: Mr. Grier?

13 MR. GRIER: Thank you, Your Honor.

14 CROSS EXAMINATION BY MR. GRIER:

15 Q. Agent Crawford, on this date in question y'all went
16 out to Mr. Hayes's residence for what purpose?

17 A. To locate a fugitive.

18 Q. What was that fugitive's name?

19 A. Simpson, is the last name.

20 Q. Is his first name Patrick?

21 A. Patrick Simpson, yes, sir.

22 Q. You know what his relationship is to Charles Hayes?

23 A. I guess, he's a relative.

24 Q. Do you know if he's related to Pauline Hayes?

25 A. I was told it was his grandmother.

1 Q. And was he located at the residence?

2 A. He was located in the backyard, I think he said he
3 was feeding the dogs, he was feeding the dogs.

4 Q. Did you actually speak with him?

5 A. Just in the actual arrest of him and when I found the
6 marijuana. That was, basically, been a very short, brief
7 conversation, if any, conversation.

8 Q. So you are the one who actually placed him under
9 arrest and searched him?

10 A. The handcuffs were placed on him by Major Marsh. I
11 was the one who patted him down.

12 Q. And where was the marijuana located?

13 A. Left front pocket as far as I can remember.

14 Q. Do you know what kind of clothing he was wearing, was
15 it pants or shorts?

16 A. I think he was wearing shorts.

17 Q. And how much marijuana was taken off his person?

18 A. I want say three grams, somewhere around three grams.

19 Q. And after you took him into custody, what did y'all do
20 next?

21 A. I made a suggestion that we should try to gain consent
22 to search the house because this guy was apparently staying
23 in the house. I mean, the first time we went there she
24 told us he wasn't. Now, we find him at the residence that
25 made me to believe he has some clothes and stuff or maybe

1 how long - - I didn't ask any questions at all.

2 Q. But based on that brief interaction with him, y'all
3 then decide to go and search Ms. Hayes house?

4 A. We decided to go and see if he had any items in the
5 house including the gun. I think the main focus was try to
6 locate the gun that was used in a series of crimes and
7 since he was in that location and we were told in the first
8 place that he wasn't there, they lied about that and they
9 may have lied about a gun being in the house.

10 Q. But you never asked him if he had a gun or - - -

11 A. I never ask him a question other than whose marijuana
12 it was, if anything, just very brief conversation.

13 Q. And where was Mr. Simpson secured?

14 A. He was put in a patrol car, I think, Deputy April
15 Miller was called by Major Marsh who is the major over
16 patrol, to come and pick them up. He was placed in that
17 vehicle and sent to the detention center.

18 Q. Was he gone before y'all made entry into the house?

19 A. As far as I remember he was gone.

20 Q. And who is the one who approached Ms. Hayes about
21 getting a consent to search the house?

22 A. I want to say Lieutenant Neal and possibly Major Marsh
23 or Sheriff Underwood, I'm not sure.

24 Q. So you're not sure which one of the three talked to
25 him?

1 the gun in the house.

2 Q. When y'all saw him and approached him, did he attempt
3 to flee?

4 A. No. He had his head down. By the time he looked up
5 we were already on him.

6 Q. Did you ever see him exit the house?

7 A. No. Never saw him exit the house.

8 Q. But he was in the back of the house, you were saying?

9 A. He was in the backyard. There is a shed. There is a
10 space between the shed in the backyard, in the back porch,
11 and he was in that area there.

12 Q. Is there a doorway there?

13 A. In the back of the house?

14 Q. Yes.

15 A. As far as I know there is.

16 Q. When you were talking with him and wanted to go into
17 the house - - -

18 A. Talking with - - talking with who?

19 Q. Patrick Simpson.

20 A. I didn't - - -

21 Q. I thought you patted him down?

22 A. Yeah. When I say briefly talk to him, I'm talking
23 what's your name? Is this your marijuana? Yes, it is.

24 That's as far as I went with my conversation with Mr.

25 Patrick Simpson. I did not question him, did not ask him

*Did ask
Patrick
Washington*

1 A. Because when I have the marijuana in my hand I walked
2 back to my truck, I had to get an envelope, placed the
3 drugs in an envelope, I was doing other things. I wasn't
4 involved in that part of it at all.

5 Q. Before entry was made into the house, were you up
6 there with everybody else? Were you the first ones in, is,
7 basically, what I'm asking?

8 A. When I got back to where they were, they were, I guess
9 continuing, they were finishing talking or she was
10 finishing signing, they said, "okay, we got the written
11 consent," so I walked into the house.

12 Q. And you went immediately to that bedroom?

13 A. Not immediately. What I did was, when I first walked
14 in the door I could smell the marijuana. As I got close to
15 that bedroom the smell of burnt marijuana was kind of
16 fading out. When I went into the bedroom I could smell
17 strong marijuana. Went into the bedroom and that's what I
18 did I searched that bedroom.

19 Q. When you were in the house did you ever smell
20 cigarette smoke?

21 A. I don't recall smelling cigarette smoke, only smelt
22 marijuana.

23 Q. And you're the one who, basically, did most of the
24 searching of the bedroom, is that correct?

25 A. No. We all searched the bedroom. I had a little grid

1 that I chose to search. Other people were searching and if
2 they found something they would notify me that they found
3 it and I would tell them to leave it and I'd photograph it
4 and collect it.

5 Q. Who from law enforcement was in that bedroom?

6 A. As far as I remember myself, Major Marsh, and I think
7 it was David Ford that was in there.

8 Q. So all the evidence that's been introduced that was
9 all collected and signed off on by you, is that correct?

10 A. Yes.

11 Q. But your testimony now is that other people did
12 actually locate some of that besides yourself?

13 A. Absolutely. They located it - - anybody located
14 anything they would notify me. I'd walk over to the
15 evidence, take pictures of it, and collect the evidence.

16 Q. And you found the marijuana in jars, is that correct?

17 A. Yes, I did.

18 Q. Those jars were sealed?

19 A. Yes.

20 Q. And you found marijuana in plastic bags, is that
21 correct?

22 A. There was marijuana in a Ziploc bag. There was
23 marijuana that was in a shoe box that was opened and then
24 there was marijuana located on that shelf that we presented
25 in the pictures.

1 Q. All the marijuana was in some kind of Ziploc bag of
2 some sort, right?

3 A. No.

4 Q. It was just laying out loose with no container
5 whatsoever?

6 A. There was one - - there was marijuana located in a
7 Ziploc bag. There was marijuana located in a plastic bag.
8 There was marijuana located in a, the bags, he had from a
9 grocery store, the little thin plastic bags, and there was
10 marijuana located in a shoe box in a plastic bag but that
11 was actually opened, that's the first brick, I think, the
12 first brick that was shown. And then there was also the
13 marijuana that was found next to the baby shoe, I think we
14 show a of picture that.

15 Q. And you said when you entered the house you smelt
16 freshly smoked marijuana, correct?

17 A. Yes.

18 Q. And you went in the house at approximately 9:00 a.m.,
19 what time of day was it?

20 A. If I can find the form that she signed because it was
21 soon after she signed - - -

22 MRS. FRYAR: Your Honor, the witness is not going to
23 be able to find the form because it's an evidence. Perhaps
24 Mr. Grier can refresh his recollection.

25 THE COURT: Yeah. Show it to him, sir.

1 A. So she signed it at 9:20 so it would've been soon
2 after 9:20.

3 Q. And while you were in the house, you know that Ms.
4 Pauline Hayes was present, correct?

5 A. Yes.

6 Q. What about Quinton Feaster?

7 A. Yes, he was there.

8 Q. He didn't arrive later?

9 A. You asked me when I was in the house.

10 Q. Yes. When you went into the house, did he - - -

11 A. You're talking about the first time?

12 Q. Yes.

13 A. Oh, no. The only person there was Ms. Hayes as far as
14 I know.

15 Q. So he drove up at some point later, is what you
16 testifying to?

17 A. Yeah, I think that's what happened. He could have
18 been there. I'm just saying I don't, I don't recall
19 because like I said I was doing other things. I don't know
20 when he got there. He could've been standing there.

21 Q. And you collected all the evidence that was located in
22 the bedroom and sealed it in those bags, is that correct?

23 A. I collected all the evidence and put it in the brown
24 envelopes.

25 Q. Envelopes.

1 A. They weren't sealed until after I weighed them, if I
2 did any field testing of them, and then submitted them,
3 then they were sealed.

4 Q. Where would you have done that?

5 A. At the sheriff's office, at my desk.

6 Q. Have you have been trained to do that?

7 A. Trained in?

8 Q. Weighing and testing?

9 A. Yes.

10 Q. Where did you receive training?

11 A. South Carolina Law Enforcement, I mean, South Carolina
12 Academy, basic narcotic classes. Also in Brent, Alabama in
13 advance narcotics and supervising class.

14 Q. Was the weight of the crack cocaine that you had
15 different from the one that SLED had?

16 A. Yes, sir.

17 Q. By approximately three grams?

18 A. I don't remember what the difference is but there was
19 a difference between the two.

20 Q. And you're the one who weighed the crack cocaine?

21 A. Yes, sir.

22 Q. What document would that have been on?

23 A. What do you mean?

24 Q. Where would you have written that down?

25 A. It would've been in - - it would've been in the report

1 itself.

2 Q. Do you have that with you, by chance, up there?

3 A. Yeah. Mmm, hmm. If you look at the back of the last
4 page at the bottom it says, "seized" and it says,
5 "marijuana" and then it says, "crack cocaine" and it says,
6 "9.5 grams."

7 Q. Do you know offhand or do you have the SLED report
8 that shows the weight they have was?

9 A. Their weight was 6.7 grams.

10 Q. Did you ever speak with any of the defendants in this
11 case, yourself, personally?

12 A. I think the only person I spoke to was Ms. Hayes. I
13 think she was standing, she wanted to watch as I was
14 searching the bedroom or then I told her it was all right
15 she could stand, she stood in the doorway. I just wouldn't
16 let her come into the - - -

17 Q. The doorway of the house?

18 A. The doorway of the bedroom while I - - Mr. Hayes's
19 bedroom, she was standing there a couple times.

20 Q. So she came into the house to what you search the
21 bedroom you say?

22 A. She was standing at the bedroom door.

23 Q. Okay. Did anyone ever ask for permission to use the
24 restroom?

25 A. I have no idea.

1 Q. Is it typical that you let people use the restroom
2 while you're searching the house?

3 A. They can. They most definitely, as long as we checked
4 the area before they go in there and if they have been
5 searched. Most of the time I don't have a problem with you
6 using the bathroom.

7 Q. Did you have any discussion with Ms. Hayes about whose
8 drugs were in the bedroom?

9 A. I don't remember having any discussion with Ms. Hayes.

10 Q. And did you take any part in the statements provided
11 by Mr. Hayes at the detention center?

12 A. Never spoke with him at all.

13 Q. And you talked about the money that you found in Mr.
14 Hayes's room, is that correct?

15 A. Yes, sir.

16 Q. And that was roughly a little over \$1,800.00?

17 A. Sixteen hundred and fifty dollars in the bedroom.

18 Q. And then some off his person?

19 A. Off his person, yes, sir.

20 Q. And you said that it was a lot of twenties?

21 A. Twenties and hundreds.

22 Q. You know the breakdown of how many hundreds and how
23 many twenties?

24 A. I don't think I have that. I think that would've been
25 in his seizure form, I mean, seizure folder. I don't

1 actually have the breakdown. I don't think it would be in
2 this folder.

3 Q. Are you saying someone who has a lot of twenties in
4 their possession is indicative of being a drug dealer?

5 A. No, what I said was, in my field, in the narcotics
6 field and only in the narcotics field whenever I deal with
7 a person in narcotics their breakdowns are usually
8 twenties, hundreds, fifties, and sometimes tens. I never
9 said that person who has twenties and hundreds is
10 indicative to narcotics. I never said that.

11 Q. I would assume that you've used an ATM before, is that
12 correct?

13 A. Yes, sir, but I'm not a drug dealer.

14 Q. Right. But what denomination is given at a ATM?

15 A. Twenties and hundreds.

16 Q. You get hundreds out of ATM's?

17 A. Out of the ATM machine?

18 Q. ATM machine?

19 A. I'm assuming you get hundreds out of the ATM machine,
20 maybe twenties, I don't know, all twenties.

21 Q. And part of your report, you did a little summary of
22 your investigation, correct?

23 A. Yes, sir.

24 Q. And in your summary, did it include where you stated
25 that Mr. Simpson was - - -

1 A. In the back bedroom?

2 Q. That's correct.

3 A. Yes, sir. Mmm, hmm.

4 Q. So in your, basically, in your report and in your
5 investigation that you do know that Mr. Simpson spent time
6 in that back bedroom?

7 A. No. What happened was, when I initially started
8 writing my report I was under the understanding that,
9 that's where he was staying. I had already wrote the
10 report then and submitted it but I was informed that, that
11 was incorrect that he had been staying in the other, living
12 room couch, but I had already submitted it and like I
13 explained before I wasn't going to go and try to change it
14 once it has already been submitted.

15 Q. Ms. Hayes never told y'all that he came out of the
16 back bedroom?

17 A. She didn't tell me anything.

18 Q. But you were in the house at that time when you were
19 searching when Ms. Hayes gave you the consent to search,
20 correct?

21 A. I'm sorry. Repeat that please.

22 Q. You were in the house right after Ms. Hayes gave
23 consent to search, correct?

24 A. Yes, I was.

25 Q. You spent a lot of time in that back bedroom, correct?

1 A. Yes, I did.

2 Q. And you said they're windows in that back bedroom?

3 A. Yes, they are.

4 Q. What do they look out at?

5 A. As far as I remember in the backyard and then the
6 other one, pointed to the side of the house but I mean - -

7 -

8 Q. So if you were in that back bedroom looking out the
9 window that person could have seen you and Major Marsh in
10 the backyard approaching the house, correct?

11 A. If they were looking out the side of the bedroom they
12 probably would've saw us come up.

13 Q. So aside from, basically, searching the room and
14 documenting the evidence in this case that would be,
15 basically, the most you do with the case, correct?

16 A. Yes, sir. Like I said earlier this case was mine by
17 default but everybody played a part.

18 Q. And I noticed when you were going through a lot of the
19 evidence, you had said there was a powdery substance on
20 everything, what was that?

21 A. I don't know if it was powder or if it was the residue
22 from the, they use, what you call it, super glue but I'm
23 not an expert, I know absolutely nothing about that. All I
24 know is when I took it out that's what - - I know they had
25 dusted for prints so I don't know anything about that

1 stuff.

2 Q. You have no background of fingerprinting?

3 A. No. No, sir.

4 Q. But the items were sent to be fingerprinted, correct?

5 A. I don't know if they were sent or if they were done
6 local. I'm not sure. That person who did it would have to
7 explain that to you.

8 Q. So when you took those into evidence, you didn't send
9 those off initially to be fingerprinted, did you?

10 A. No.

11 Q. That wasn't done until this month, isn't that correct?

12 A. Yes.

13 Q. And out of all of the items that were fingerprinted
14 only one container contained prints?

15 A. Yes. The Ziploc bag with the brick of marijuana - -
16 well, let me answer that correctly. There were prints or
17 they were smudges on some of the other items that did not
18 have usable prints so that doesn't mean they weren't any
19 fingerprints on it, they were just not usable. The only
20 usable prints came off a Ziploc bag with a little brick of
21 marijuana.

22 Q. And that was on the outside of the Ziploc container,
23 correct?

24 A. Yes. And I think that's the only - - that's the only
25 item that had usable prints on it.

1 Q. And that was for two fingers, is that correct?

2 A. I just know two prints. I wasn't aware if they were
3 different fingers or not. I was told it was two prints.

4 Q. And are you aware they were tested twice?

5 A. I - - I - - no. I just can tell you that they were
6 sent and the results were that they had two usable prints
7 that came back from Mr. Hayes.

8 Q. And none of the glass jars had fingerprints, correct?

9 MRS. FRYAR: Your Honor - - -

10 A. It had no usable - - I'm sorry.

11 THE COURT: Go ahead.

12 MRS. FRYAR: It's been asked and answered but he ask
13 and answer it again.

14 A. They had no usable prints is what I was informed of
15 and you'll probably get more information about that from
16 the person who actually did the prints. I can only tell
17 you what I was told.

18 Q. But you were the lead investigator on the case,
19 correct?

20 A. Yes, I was.

21 Q. And so you would have knowledge of what was done
22 involving this case, correct?

23 A. I was - - I would have knowledge of the stuff being
24 sent off. The person who did the fingerprinting as far as
25 their work of itself I have no knowledge of that. I just

1 know what the results were of what I was told.

2 Q. But you would know what the results were, correct?

3 A. Yes, sir. And they were no usable prints taken off
4 the things that were done except for the bag and they were
5 two usable prints on the plastic Ziploc bag that came back
6 to Mr. Charles Hayes.

7 Q. Do you know if the gun was fingerprinted?

8 A. The gun was not fingerprinted as far as I know. I
9 never submitted it to be fingerprinted.

10 Q. The digital scale was, correct?

11 A. The digital scale was.

12 Q. And no prints on that either?

13 A. No usable prints.

14 MR. GRIER: I beg the Court's indulgence for a minute.

15 Q. Whose decision was it to send the evidence to be
16 fingerprinted?

17 A. Whose decision it was?

18 Q. Yes.

19 A. It was a joint decision to have it done.

20 Q. Between who?

21 A. Myself and the prosecution.

22 Q. And the gun was not sent, is that correct?

23 A. Was not sent.

24 Q. Whose call was that?

25 A. That was me. I'm the lead investigator.

1 MR. GRIER: No further questions.

2 THE COURT: Mrs. Fryar?

3 MRS. FRYAR: Thank you.

4 REDIRECT EXAMINATION BY MRS. FRYAR:

5 Q. Agent Crawford, is it uncommon for weights to be
6 different from what you weigh something as and something
7 that SLED weighs it as?

8 A. Not at all.

9 Q. Does it happen all the time?

10 A. Yes, ma'am.

11 Q. What kind of scales do you use?

12 A. Cheap little tater store scales that we usually take
13 from suspects. We don't have anything that sophisticated
14 like SLED has.

15 Q. And so do you defer to the weight that SLED comes back
16 as the correct weight?

17 A. Yes, ma'am.

18 Q. Mr. Grier ask you about the gun, the gun was not
19 fingerprinted, is that correct?

20 A. Nah. No, ma'am, it wasn't fingerprinted.

21 Q. Are you aware - - were you aware that Mr. Charles
22 Hayes had given a statement regarding the gun?

23 A. Yes, ma'am.

24 Q. And had he said that was his gun?

25 A. Yes, ma'am.

1 Q. So was there any other gun in the house found?

2 A. No, just that one gun.

3 Q. So that had to be the gun that he was talking about,
4 correct?

5 A. Yes, ma'am.

6 MRS. FRYAR: Thank you.

7 THE COURT: Anything else, Mr. Grier?

8 RE-CROSS EXAMINATION BY MR. GRIER:

9 Q. As far as the scales, with you being an expert in
10 narcotics investigations, isn't the weight of the drugs a
11 very crucial factor in what you charge people with?

12 A. Absolutely. They are certain levels of drugs that
13 inference certain things. The problem that we run into is
14 we're not equipped to weigh drugs in the way that SLED is.
15 SLED can take the drugs out and use whatever they use, we
16 have to weigh our drugs in the packaging. There is no way
17 that we can put a bunch of marijuana in a jar on a scale
18 and then give you that weight. Marijuana is a little
19 easier than crack cocaine and then there are other factors
20 that causes it to change too.

21 Q. Well, with crack cocaine is it, basically, anything
22 under a gram is just possession, is that correct?

23 A. Anything under a gram can be possession, yes, sir.

24 Q. So, basically, once you pass that gram point is when
25 you get into kind of a distribution type charge, is that

1 correct?

2 A. Yes, sir.

3 Q. And so that fine line could mean the difference
4 between some being charged with distribution as well as
5 possession, correct?

6 A. Well, not distribution because you can distribute a
7 gram. You can distribute less than a gram. That's not
8 what it would be. It would be an inference of possession
9 with intent to distribute or possession. There's a
10 difference. If you sold me a half a gram of crack cocaine
11 you would be charged with distribution.

12 Q. Correct.

13 A. Regardless of the weight but if I caught you with a
14 half a gram I would charge you with possession with intent.
15 It would usually take quite a bit more than that for me to
16 charge you or even the way it's packaged if it be three
17 grams but if it's packaged for individual sales I can
18 charge you with possession with intent to distribute.

19 Q. With going to the weight, what's the time frame
20 between you testing it yourself and when you get the
21 results back from SLED, how long does that take?

22 A. It's up to SLED. It could be months. It could be
23 weeks. It's up to SLED and their caseload.

24 Q. Do they typically have a pretty good backlog though?

25 A. They sometimes do.

1 MR. GRIER: No further questions.

2 MRS. FRYAR: No, sir.

3 THE COURT: All right, sir. You can step down.

4 MRS. FRYAR: Your Honor, just really briefly. I've
5 got just a brief question for him.

6 REDIRECT EXAMINATION BY MRS. FRYAR:

7 Q. You indicated that you waited to determine what to
8 charge a person with, correct?

9 A. Yes.

10 Q. And the inference of the law is that if you have over
11 one gram of crack cocaine then you intend to distribute it,
12 right?

13 A. That's what the inference of the law is.

14 Q. And when you weighed the crack cocaine it was well
15 over a gram, is that correct?

16 A. Yes, ma'am. And what I weighed was packaged weight.
17 That includes the package that it's in. When SLED weighs
18 it they take it out and do whatever it is that they do in
19 their fancy lab and their fancy equipment. We don't have
20 anything close to that stuff.

21 Q. Okay. And if it was a close call and got sent to SLED
22 and came back less than a gram, you could reduce the charge
23 to possession?

24 A. That's been done. That's been done many times.

25 Q. Yes, sir. If you have somebody who has less than a

1 gram, if they have scales and money is that indicative of
2 their possibly selling drugs?

3 A. If they have money and scales and less than a gram?

4 Q. Yes, sir.

5 A. Possibly but what I charge them with possession with
6 intent to distribute if they have less than a gram, money,
7 and scales, probably not. It's just not worth the hassle
8 with just that little bit of weight. They could be - -
9 they could be weighing, um, having a scale because they
10 want to make sure they're not getting shorted whenever they
11 buy their gram because they weigh theirs package just like
12 I weigh mine packaged.

13 Q. And so - - if you - - the rock that you found or the
14 cookie that you found and you show the jury, is that a
15 large amount of cocaine?

16 A. Yes, ma'am, it was.

17 MRS. FRYAR: Thank you.

18 THE COURT: Mr. Grier, anything else?

19 MR. GRIER: No, Your Honor.

20 THE COURT: All right. You can step down, sir.

21 MRS. FRYAR: Your Honor, the State calls Barbara
22 Cameron to the stand.

23 CLERK: Please raise your right hand. Place your left
24 hand on the Bible. State your full name.

25 MS. CAMERON: My name is Barbara H. Cameron.

1 CLERK: Do you solemnly swear or affirm the testimony
2 you'll give be the truth, the whole truth, and nothing but
3 the truth so help you God?

4 MS. CAMERON: Yes, ma'am.

5 BARBARA CAMERON, first being
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION BY MRS. HALL:

8 Q. Good morning. Can you state your name for the record
9 please?

10 A. My name is Barbara H. Cameron.

11 Q. Where are you currently employed?

12 A. I'm currently employed as the summary court judge for
13 Chester County Magistrate.

14 Q. And back on August 27, 2014, where were you employed?

15 A. Chester County Sheriff's Office.

16 Q. And what were your duties as your employment with the
17 Chester County Sheriff's Office?

18 A. I was the evidence tech.

19 Q. Tell the jury what that means please, ma'am?

20 A. Evidence tech means any type of evidence or any type
21 of crime I walk it into evidence. The officer gives it to
22 me with the paperwork. I walk it into a catalog type of
23 thing, to where it can be found for court.

24 Q. And can you tell the jury what - - explain about the
25 evidence locker or the evidence room and those types of

1 things and how stuff comes to you and what you do with it
2 once you get it, with the exception of logging which you've
3 already explained?

4 A. Okay. Normally, the officer, we have what we call
5 lockers, they have keys hanging in them that are empty at
6 the time. The officer because they work twenty-four hours
7 it could be night shift, it could be day shift, they drop
8 their evidence and normally their evidence is either in a
9 brown paper enveloped with a description, case number, and
10 all on it or either a drug kit which will be plastic and
11 have the identification on it. They will put the paperwork
12 stating the case number, who the individual was they got it
13 off of, what contents of the evidence is, the time that
14 they took the evidence, the time they are dropping the
15 evidence and put that paperwork in the locker and drop a
16 key in it so it's secure.

17 Q. And with regard - - I'm going to show you - - and is
18 it safe to say that it's your job to keep the evidence
19 secure until it's time to go to court or until it's time
20 for somebody else to come pick it up and do something with
21 that?

22 A. Yes, ma'am.

23 Q. And if somebody else is to come pick it up and do
24 something with it, what is the process for them to sign it
25 out or for you to hand it over to them?

1 A. The process is an evidence sheet which shows on it the
2 trail of who checked it out, who had it in their
3 possession. Then when they bring it back to me, I check it
4 back in and, you know, at times an officer if they want to
5 open it will open it in my presence, we normally do a two-
6 man person to cover the other one to where when we open at,
7 yeah, I know I see it, he sees it and, you know, you kinda
8 cover yourself.

9 Q. I'm just going to show you just to help you through
10 because normally if you were still - - you're not the
11 evidence technician anymore, the evidence custodian
12 anymore?

13 A. No.

14 Q. Is this something that you keep normally?

15 A. It is. This is your evidence inventory sheet.

16 Q. And so is that something had you still been the
17 evidence custodian today, would you have brought that to
18 court with the evidence when you came to court?

19 A. Yes, ma'am.

20 Q. But since you're not you don't have access to that
21 because you have a different job, correct?

22 A. Correct.

23 Q. Looking at that I'm going to show you what's been
24 marked as State's Thirty-One which - - is this the brown
25 envelope that you were talking about?

1 A. Right.

2 Q. And you said the police officer would put the name on
3 it and whose name is on thirty-one?

4 A. Suspects name?

5 Q. No - - well, the suspects name is fine? Go ahead.

6 A. It has the suspects name. It has the officer who
7 recovered it on the package. It has the date and time that
8 he recovered it. It has the offense on it and even he has
9 the place where it was found.

10 Q. With State's Thirty-One which is your item number two,
11 your evidence to item number two, was that turn into the
12 evidence locker you're speaking of?

13 A. Yes, it was.

14 Q. And was it retrieved by you from the evidence locker?

15 A. Yes, it was.

16 Q. And what date did you retrieve it?

17 A. I retrieved it on 8/28/14 at 8:45 in the morning.

18 Q. And subsequent to that, was there any activity, did
19 you turn that over to somebody else or did you do anything
20 with it?

21 A. On 1/5 I turned it over to - - well, excuse me, on
22 9/16 I checked out to Joy Smith which is the individual who
23 is certified to test marijuana on that day to test it.

24 Q. Okay. And did she return it to you on the same day?

25 A. She did.

1 Q. And you placed it back into the evidence locker - - -

2 A. Yes, ma'am.

3 Q. - - - or evidence locker, is that correct/

4 A. Yes, ma'am.

5 Q. Okay.

6 A. And when it comes to me the officer seals it here with
7 the red tape. He puts his initials on it and dates it and
8 that's all it is when it's checked in. When the individual
9 test it, so this would stay intact, she cuts the bottom and
10 takes it out and then she reseals it and puts her initials
11 on it where you can see where both people have taken it.

12 Q. Okay. And you're certified to test marijuana too, is
13 that correct?

14 A. I was. Mine expired late June of this year.

15 Q. But at the time this - - -

16 A. Yes, I was certified.

17 Q. But at the time this happened you were certified?

18 A. Yes, ma'am.

19 Q. But Joy Smith was also certified as she was the person
20 who is designated to test this marijuana on that day?

21 A. She was.

22 Q. And from the time that you received it in the evidence
23 locker until the time you turned it over to Joy Smith was
24 it in your care, custody and control during that entire
25 time?

1 A. It was.

2 Q. And no one else had access to it, is that correct?

3 A. Correct. And it has a location of Room 3, Bin 18 in
4 my evidence locker where it was located.

5 Q. Thank you. I want to show you what's been marked as
6 State's Thirty-Two which is your evidence item number
7 three. Could you just real quick tell us where - - did
8 that at some point come into your evidence locker?

9 A. It did. Came into my evidence locker, it came in on
10 the same day 8/28/14 at 8:45.

11 Q. And who put it there?

12 A. Well, it came into my evidence locker on 8/27 at 3:00
13 p.m. and I took it into evidence on 8/28, 8:45.

14 Q. And what did you do with it?

15 A. I located it in the evidence bin.

16 Q. At some point in time, did you turn it over to
17 somebody else?

18 A. I did. I turned it over to Joy Smith for testing on
19 9/16/14.

20 Q. And from the moment it came into your possession it
21 was placed in that bin until the time you turned it over to
22 Joy Smith, it was in your constant care, custody, and
23 control and no one else had access to it?

24 A. Correct.

25 Q. And once Joy Smith tested it, did she give it back to

1 you?

2 A. Correct.

3 Q. You placed it back in that same bin, is that correct?

4 A. Yes, ma'am.

5 Q. And it was in your care, custody, and control until
6 you changed jobs and went to work for sheriff's department,
7 I mean, for the magistrate's office, is that correct?

8 A. Yes, ma'am.

9 Q. Thank you.

10 A. Your welcome.

11 Q. Let me show you State's Thirty-Four and it's your
12 evidence number four.

13 A. Okay.

14 Q. Did that at some point, come into your possession as
15 evidence custodian?

16 A. Correct.

17 Q. What day?

18 A. That was checked - - well, he dropped it on 8/27/14 at
19 3:00. I took it out of the evidence locker and put it in
20 my evidence vault on 8/28/14 at 8:45 with the location of
21 3/18.

22 Q. And did you, at some point, take it out of that
23 evidence bin and give it to someone else?

24 A. I did. On 9/16 I turned it over to Joy Smith which
25 did the marijuana testing and she returned it back to me on

1 that same day from that location.

2 Q. Before you gave it to Joy Smith it was in your
3 constant care, custody and control, no one else had access
4 to it?

5 A. Correct.

6 Q. And once you got it back to Joy Smith it was also in
7 your constant care, custody, and control until you left the
8 sheriff department to go to work for the magistrate office,
9 is that correct?

10 A. Correct.

11 Q. Thank you. I'm going to show you State's Thirty-Five
12 which is your evidence number, your sticker number five.

13 A. Okay.

14 Q. When did that come into your possession, if ever?

15 A. The same day 8/27/14 at 3:00.

16 Q. And what did you do with it?

17 A. I took it out of the evidence locker, I checked into
18 my vault on 8/28/14 at 8:45 in the morning with the
19 location.

20 Q. And, at some point in time, did you give it to Joy
21 Smith?

22 A. I did on 9/16.

23 Q. Up until the time you gave it to Joy Smith was it in
24 your constant care, custody and control?

25 A. Yes, ma'am.