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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

J. Cordell Maddox, Circuit Court Judge

ORIGINAL

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DETRICK L. STENHOUSE,

APPELLANT

APPELLATE CASE NO 2016-000154

RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT # 4 (DVD-TRAFFIC STOP)**

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
)
 -VS-)
)
 DETRICK L. STENHOUSE,)
)
 DEFENDANT.)
 _____)

2012-GS-23-00206 - 00207

TRANSCRIPT OF RECORD

JANUARY 14 - 15, 2016
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE J. CORDELL MADDOX, JR.

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

BARBARA TIFFIN
ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

WILLIAM GROVE, ESQ.

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

Thursday, January 14, 2016:

2 (Whereupon court convened at 10:21 am)

3 MS. TIFFIN: Good morning, Your Honor.

4 THE COURT: Good morning.

5 MS. TIFFIN: Barbara Tiffin from the solicitor's office. This is the case of State versus Detrick L. Stenhouse.

8 THE COURT: Right.

9 MS. TIFFIN: And I believe we are ready to go. And ---

10 THE COURT: Well, y'all come up here a minute because I was told something different.

12 (Whereupon a bench conference was held off the record)

13 (Whereupon court was in recess at 10:21 am)

14 (Whereupon court reconvened at 11:26 am)

15 THE COURT: Thanks. Have a seat. Sorry to make y'all wait, again. Okay. Did y'all say there was a motion in this case?

18 MR. GROVE: That's right, Your Honor.

19 THE COURT: Okay. Hold on just a second. And this is the State versus Detrick Stenhouse, possession of a weapon of a person convicted of a violent crime and unlawful carrying of a handgun, is that correct?

23 MR. GROVE: That is correct, Your Honor.

24 THE COURT: Okay. And he's been indicted. And I've got the indictments here: Okay. Yes, sir.

1 **MS. TIFFIN:** And, Your Honor, just for the record,
2 beforehand we had talked about the possibility of Mr.
3 Stenhouse entering a plea. We have sixteen charges. And we
4 had offered for him to plead to ten of them with no
5 recommendation.

6 It is my understanding that that has -- that he has
7 said he does not want to do that. He has refused that. So
8 I just wanted to put on the record that the State will go
9 forward at this point and that offer is withdrawn in regard
10 to this trial and any other trials thereafter.

11 **THE COURT:** All right. Well, let me ask you this
12 because I asked you, but I didn't write it down. What's the
13 maximum sentence he's looking at if he's convicted today?

14 **MS. TIFFIN:** Your Honor, there are a couple of ---

15 **THE COURT:** On these two, yeah. Well, just the two
16 that we'd be trying.

17 **MS. TIFFIN:** On these two it's five and one, so six.
18 But he has other charges that go up to fifteen. And there
19 are also some drug charges that could be considered more
20 than a first.

21 **THE COURT:** And you were willing to wipe away all
22 twelve of -- twelve of those and just go on these two?

23 **MS. TIFFIN:** No, Your Honor. We were willing to have
24 him plead to ten ---

25 **THE COURT:** Oh, I see.

1 **MS. TIFFIN:** --- out of the sixteen.

2 **THE COURT:** I've got you.

3 **MS. TIFFIN:** And we had reduced -- we had offered to
4 reduce some -- oh, I'm sorry. Correction on the drug
5 charges. We had offered to reduce assault and battery and
6 wrap all of it into a no recommendation plea. And I just
7 wanted to make sure that that was on the record that Mr.
8 Stenhouse has refused our offer and does wish to go forward
9 on his trials.

10 **THE COURT:** And that's correct?

11 **MR. GROVE:** I've talked with him this morning, Your
12 Honor, and he understands that. And we're ready to go
13 forward.

14 **THE COURT:** Okay. All right. I'll be happy to hear
15 your motion.

16 **MR. GROVE:** Thank you, Your Honor. Yesterday I filed a
17 motion to suppress the evidence that was seized based on a
18 violation of the Fourth Amendment.

19 **THE COURT:** All right. I don't have that in front of
20 me, but if you've got a copy. It may just be that I don't
21 know where it is. And my law clerk has the -- has a part of
22 the file.

23 **MR. GROVE:** If it please the Court. If I could
24 approach, Your Honor, I'll be glad ---

25 **THE COURT:** Yeah. Oh, yeah.

1 **MR. GROVE:** --- to hand you a copy of the motion.

2 **THE COURT:** Yeah. I'm sorry about that. I just
3 overlooked it. That's my fault. All right. Yes, sir.
4 I'll be happy to hear you.

5 **MR. GROVE:** Thank you, Your Honor. The Defense would
6 make an allegation that the traffic stop was in violation of
7 the Fourth Amendment. It was both an unreasonable search
8 and an unreasonable seizure.

9 **THE COURT:** And what -- factually, why?

10 **MR. GROVE:** Well, factually, Your Honor, I mean, I'd be
11 happy for you to take some testimony or watch the video. I
12 did -- I received a copy of the video on Tuesday. I've made
13 basically a transcript of it.

14 At the time, as best I can measure, Your Honor, the
15 traffic stop began, blue lights were activated 4:59 and 39
16 seconds in the morning of July of 2011 on Main Street in
17 Mauldin. A call to dispatch to check the license plate was
18 made and confirmed at exactly 5:00 in the morning.

19 A traffic stop began. He received -- Officer --
20 Corporal Herron, pardon me, received a driver's license,
21 registration and insurance from my client. He also received
22 an identification card from a passenger.

23 What I can tell you, Your Honor, is at five am, 4
24 minutes and 13 seconds, which is about four and a half or
25 five minutes into the traffic stop, Corporal Herron on his

1 way back to his vehicle places driver's license,
2 registration, insurance, items collected from Mr. Stenhouse
3 onto the trunk of Mr. Stenhouse's vehicle.

4 The vehicle is registered in Mr. Stenhouse's name. He
5 has a valid driver's license. None of those things have
6 been checked at this point.

7 My position is essentially, Your Honor, the purpose of
8 the traffic stop, which was identified by Corporal Herron at
9 the beginning for speeding 54 in a 40 as well as not using a
10 turn signal, at that point his original purpose for the
11 traffic stop has been abandoned. My position is ---

12 **THE COURT:** Because he laid the stuff on the trunk?

13 **MR. GROVE:** Five minutes -- yes, Your Honor. Five
14 minutes into the traffic stop he has made no effort to run a
15 driver's license check, run registration information. Had
16 he done any of those things he would have found out that Mr.
17 Stenhouse had an active driver's license that was not under
18 suspension, the car was validly registered and updated in
19 Mr. Stenhouse's name.

20 He eventually did those things. At about seventeen
21 minutes into the traffic stop he finds out after he has
22 searched through the vehicle that Mr. Stenhouse has no
23 warrants, Mr. Rhodes, the passenger, has no warrants, Mr.
24 Stenhouse has an active driver's license and registration.
25 And, essentially, the original purpose of the stop, speeding

1 54 in a 40, and a failure to use a turn signal, should have
2 been issued a citation at that point.

3 From calling dispatch regarding Mr. Stenhouse's
4 driver's license to receiving information that his driver's
5 license was clear lasted about seven minutes, I think, seven
6 minutes and one second according to the video.

7 When Corporal Herron decided to begin searching the
8 vehicle, and according to the video, which we can certainly
9 play for Your Honor if you'd like, that was at five am, 8
10 minutes and, I believe, 13 seconds if you'll ---

11 **THE COURT:** Okay.

12 **MR. GROVE:** --- beg my indulgence. I apologize, Your
13 Honor. Backup, who I don't believe is here today, was
14 Corporal Patton, I believe is his name, also arrived on the
15 scene. Long story short, again, it might be easier if we
16 just watched the video. Corporal Herron conducts a pat-down
17 search of Mr. Rhodes.

18 Based on his incident report and based on the video, it
19 appears as though he conducts a pat-down search outside of
20 the vehicle with Mr. Rhodes because Mr. Rhodes appears
21 nervous and because Mr. Rhodes was moving around in the car
22 a little bit. He conducts a pat-down search of Mr. Rhodes.

23 Mr. Rhodes issues consent for Corporal Herron to go
24 through his pockets. Corporal Herron in his incident report
25 and in the video identifies what he calls a bulk in the

1 right pant's pocket of Mr. Rhodes. He eventually pulls that
2 out. I cannot distinguish from the video what it is. It
3 looks like a rag.

4 Suffice it to say, Mr. Rhodes is free to go a few
5 minutes later. I'm left to presume that that was not
6 contraband, it was not a weapon, it was not drugs, it was
7 not anything illegal. And, again, Mr. Rhodes consented to
8 that search of his person.

9 While Corporal Herron was searching Mr. Rhodes, back-up
10 arrived, searched Mr. Stenhouse very briefly outside of his
11 vehicle, patted him down. He was wearing -- he had no shirt
12 on, and slippers and a pair of gym shorts or something like
13 that.

14 It was very clear that he didn't have any weapons on
15 him or any contraband or anything of that nature. He's
16 patted down. He is taken off camera by the back-up
17 corporal, and I'm left to presume, handcuffed and placed
18 into a patrol car, but certainly away from the vehicle at
19 this time.

20 It is then, Your Honor, at five am, 7 minutes and 43
21 seconds Corporal Herron remarks to passenger Rhodes, and I'm
22 quoting here from a homemade transcript, I'll readily admit
23 that, put your hands behind your back. I'm going to detain
24 you right now, okay? We're going to frisk the car for
25 weapons since we don't know if there's one in there or not,

1 all right? And handcuffs Mr. Rhodes and takes him away from
2 the vehicle.

3 And then at ---

4 **THE COURT:** What did he say when he said all right?

5 **MR. GROVE:** It's an undistinguishable remark from Mr.
6 Rhodes, who is, again, a passenger in the vehicle, not a
7 licensed or registered owner. Officer Herron at five am, 7
8 minutes and 56 seconds asks Mr. Rhodes, is there any weapons
9 in the car? Passenger responds one second later, not that I
10 know of, sir. Herron instructs him about ten seconds after
11 that, turn around and stand right here and positions Mr.
12 Rhodes in front of the patrol vehicle, handcuffed, again,
13 behind his back well outside reach of the vehicle.

14 At five -- five am, 8 minutes and 12 seconds Corporal
15 Herron begins searching the passenger door. He starts where
16 passenger Rhodes was seated. He gets down on his hands and
17 knees, he leans into the vehicle, he searches around there.

18 Then at five am, 10 minutes and 32 seconds he walks
19 around the front of the vehicle and then, again, I'm left to
20 presume, remembers that there's a driver's license and
21 registration on the trunk of the car. We're now eleven
22 minutes into the stop.

23 He, at that point, goes back to the registration and
24 driver's license. Calls in passenger Rhodes' ID number and
25 calls in Mr. Stenhouse's driver's license number.

1 Eventually both of those are clear of warrants and clear of
2 any driving offenses and active at the time.

3 Then at five am, 11 minutes and 58 seconds after
4 Corporal Rhodes [sic] has searched the front driver's seat,
5 he searches the back driver's seat, stands up and remarks
6 off camera either to passenger Rhodes or to Mr. Stenhouse,
7 I'm not sure, is that why you were reaching under the seat?
8 What do you know about that? And eventually puts on gloves
9 and removes what turns out to be a .380 from what appears,
10 again, to be under the back of the driver's seat of the
11 vehicle.

12 Your Honor, I believe the case is on point regarding
13 the facts of the case. And if those are at all in dispute,
14 I'm happy to present testimony or the video. I believe the
15 cases on point would be the Fourth Circuit Court of Appeals
16 case Foster as well as a local case Tindall.

17 In Tindall -- and ultimately those are both, obviously,
18 about reasonable, articulable suspicion to extend a stop.
19 My position is, Your Honor, at the time at 5:08 or 5:07,
20 whatever it was, Officer Rhodes [sic] had no reasonable,
21 articulable suspicion to prolong the stop any farther than
22 it had already gone and was at that point under a duty to
23 resume investigating the driver's license, registration and
24 ID information from passenger Rhodes and Defendant Detrick
25 Stenhouse.

1 He did not do that, obviously. He began searching the
2 car. And when he began searching the car, he did not have
3 probable cause and he certainly did not have consent. He'd
4 never gotten consent from either party to search the
5 vehicle.

6 There is plenty of case law, Your Honor, I believe,
7 specifically coming from Foster, United States v. Foster,
8 again, which is a Fourth Circuit Court of Appeals case.
9 Talking about reasonable, articulable suspicion they quote
10 United States v. Sprinkle, which identifies that reasonable,
11 articulable suspicion does not require probable cause,
12 essentially establishing that that is a lower standard than
13 probable cause. The court in both Foster and in Tindall
14 said nervousness, moving about the vehicle, those types of
15 things in and of themselves do not rise to the level of
16 reasonable, articulable suspicion.

17 Corporal Herron at no time in his incident report and
18 at no time in the video identifies contraband that is in
19 plain sight. He does not identify an odor of marijuana or
20 any other drug. He has a K-9 in the back of his car at the
21 time. He does not begin using the K-9 to search the vehicle
22 until after the gun has been found and ultimately finds
23 nothing other than a .380. He doesn't find any contraband,
24 any drugs, anything else that he would at least mention in
25 his report or put in property and evidence.

1 Given those factors, Your Honor, all I am left to
2 presume is when the search began, this is, again, what I
3 have established, are the facts known to Corporal Herron at
4 the time the search began, which would have been at five am,
5 8 minutes and 12 seconds that the passenger had moved around
6 inside the vehicle.

7 And after Corporal Herron brought the passenger outside
8 of the vehicle, he spoke with him and said, why are you
9 reaching into your pocket? And he said, I was trying to put
10 my ID back. And ultimately he did search inside that pocket
11 and found what looks like a sweat rag or something like
12 that.

13 It's a -- it appears to be a piece of fabric. It is
14 not a weapon. It is not drugs. It is not contraband. The
15 issue that Corporal Herron would have had with whatever
16 bulge or bulk was in the right pant's pocket of passenger
17 Rhodes was certainly dissipated by him removing whatever it
18 was and finding out that it was something innocuous.

19 He also noted that the passenger was nervous. He said
20 that he was breathing heavily. He said that he could see
21 his chest pounding, that he was visibly shaking. And,
22 again, the court has said that's not enough, that's not
23 enough for reasonable, articulable suspicion and that's
24 certainly not enough for probable cause.

25 He also has that -- and this would be testimony from

1 Corporal Patton or that might not be exactly his name, I'd
2 have to look it up, but the backup responding officer said
3 that he spoke with Detrick Stenhouse and there's no --
4 there's no identification that Miranda had been given. He
5 was certainly in detention at the time. I believe he was
6 handcuffed in the back of a patrol car. Asked him if there
7 were any drugs or weapons in the car and he says Detrick's
8 response was I don't know.

9 It is after that when Corporal Herron identifies or
10 says to the passenger, we're going to frisk the car for
11 weapons since we don't know if there's one in there or not,
12 all right? At that point the information that Corporal
13 Herron has is the driver has said he doesn't know whether
14 there are drugs or weapons in the car, that the passenger
15 has moved around inside.

16 He can't say that he sees his hands. He says he's
17 moving towards the bulge in his pocket. And that,
18 obviously, any issue he would have with that is erased. And
19 the passenger was acting nervous.

20 What he doesn't have, Your Honor, is rental vehicle.
21 This is a car registered to my client, had an active
22 registration. He doesn't have any information that my
23 client's driver's license is under suspension. He doesn't
24 identify any arrestable offense at that time that he could
25 have arrested my client for.

1 He doesn't have any inconsistent stories about where
2 the parties were or were not going. It's not in a high
3 crime area. It's on Main Street. Albeit early in the
4 morning, they're at a very well lit gas station on Main
5 Street in Mauldin.

6 There are no signs of contraband. There's no --
7 there's no indication that anything is within plain view.
8 No sign of weapon. No listed air fresheners. No odor of
9 drugs. And no consent. That's ultimately the biggest point
10 here, Your Honor.

11 I will submit to the Court that a warning was issued, I
12 believe I have a photocopy of it, for July the 21st, 2011.
13 It's listed as a public contact warning for speeding. I
14 don't know when that was actually written.

15 And certainly courts have held that the traffic stop
16 doesn't end until the citation has been issued, but I would
17 draw Your Honor's attention to State v. Rivera, a Court of
18 Appeals case from the State of South Carolina.

19 Footnote 21 lists that Judge Peepers' dissent would
20 find that consent was obtained prior to any unlawful
21 detention because Lane had not yet issued a warning citation
22 and returned Rivera's driver's license and registration
23 documents. The record, however, indicates the citation was
24 never issued, at least during the stop.

25 Applying the dissent's reasoning to this case one could

1 argue the lawful traffic stop continued until Rivera
2 received his property after being released from jail.
3 Although we find the issuance of a citation and the return
4 of a driver's license and registration are factors, the
5 trial court may consider in determining at what point the
6 purpose of a lawful traffic stop ends and the stop becomes
7 unlawful. Such factors are not determinative.

8 So I would say it's an unlawful seizure because it's
9 prolonged without reasonable, articulable suspicion. And I
10 would certainly also submit to Your Honor that it's an
11 unlawful search because there's no probable cause at the
12 time the search begins. There's no exigency. Both the
13 Defendant and his passenger are away from the vehicle, in
14 custody, and there's no consent.

15 **THE COURT:** Okay. Thank you. And -- yes, ma'am. Any
16 response?

17 **MS. TIFFIN:** Yes, sir. Your Honor, this isn't an
18 extension case. This is a case where the officer developed
19 his concerns about the driver reaching down for a weapon
20 immediately upon approaching the vehicle.

21 Unlike Tindall and State v. Williams, the original
22 purpose for the stop was not concluded. There was no ticket
23 written. There was no warning written. That had not been
24 presented to the Defendant. And his documents had not been
25 returned to him. They were continuing to investigate.

1 The stop occurred at approximately five am. The search
2 began at 5:08, which is eight minutes after the car was
3 stopped. And United States Court of Appeals case, United
4 States versus Linckus (phonetics), the court held that the
5 length of detention there was a total of nineteen minutes,
6 but the parties were not delayed more than seven or eight
7 minutes from the time the officer radioed for assistance
8 until the dog completed the sniff of the van. That was
9 ruled as a length of detention that was not unreasonable.

10 **THE COURT:** Yeah, I actually thought your argument was
11 going to be that they had kept him out there too long, but I
12 understand ---

13 **MS. TIFFIN:** I'm sorry?

14 **THE COURT:** I thought his argument was going to be that
15 this was an extensive, long -- never mind.

16 **MS. TIFFIN:** Right.

17 **THE COURT:** Okay.

18 **MS. TIFFIN:** Right. So it wasn't a long time that he
19 was stopped. It's also not a State v. Williams or State v.
20 Tindall situation because the ticket had not been written,
21 he had not concluded the original purpose for the stop. And
22 if you would like, I could have Sergeant Herron testify and
23 let you know his indicators for reasonable suspicion ---

24 **THE COURT:** Yeah, let's do that ---

25 **MS. TIFFIN:** Okay.

RYAN HERRON - DIRECT EXAMINATION BY MS. TIFFIN

1 **THE COURT:** --- if you don't mind. I mean, I don't
2 mind watching it, but let's ---

3 **MR. GROVE:** It's -- and it's a -- for all practical
4 purposes, Your Honor, it's a relatively short video.

5 THE COURT: Okay.

6 **MS. TIFFIN:** The State would call Sergeant Herron,
7 Sergeant Ryan Herron to the stand.

8 **THE COURT:** You know, just on another subject, with
9 that plea, why don't we pick the jury 'cause we won't start
10 til one, right?

11 MS. TIFFIN: Yes, sir.

12 **THE COURT:** And then I'll do the plea after I pick the
13 jury. Y'all okay with that?

14 MS. TIFFIN: That would be excellent.

15 **MR. GROVE:** That'd be fine.

16 **THE COURT:** Otherwise, we're just going to chop it up.

17 MS. TIFFIN: Yes, sir.

18 **THE COURT:** I'm juggling a little bit. Okay, go ahead.

19 **Ryan Herron**, being duly
20 sworn testified as follows;

21 **MADAME CLERK:** Please be seated and state your name for
22 the record.

23 **MR. HERRON:** My name is Ryan Herron.

24 Direct Examination by Ms. Tiffin:

25 Q. Sergeant Herron, where are you employed?

RYAN HERRON - DIRECT EXAMINATION BY MS. TIFFIN

22

1 A. The City of Mauldin Police Department.

2 Q. All right. And how long have you been employed by the
3 Mauldin Police Department?

4 A. Approximately eleven years.

5 Q. All right. Would you please describe for His Honor
6 your experience with the department.

7 A. Yes, ma'am. I started as a patrolman. From patrolman,
8 then I went to the Traffic Team. I was then selected for
9 interdiction followed by selection for a K-9 handler and
10 then promoted to sergeant over road patrol.

11 Q. All right. And have you had any special training in
12 law enforcement?

13 A. I have. I've been through the basics of radar, lidar.
14 I've been through several interdiction courses, Desert Snow,
15 K-9 certification, K-9 trainer's course, drug recognition
16 expert, things like that.

17 Q. All right. And are you actually the supervisor for the
18 K-9 handlers?

19 A. I'm the K-9 coordinator. And I maintain the training
20 records and supervise the training, things like that.

21 Q. And have you made arrests for weapons that you have
22 found during traffic stops?

23 A. I have.

24 Q. And have you made arrests for drugs that you have found
25 in ---

RYAN HERRON - DIRECT EXAMINATION BY MS. TIFFIN

23

1 A. I have.

2 Q. --- routine traffic stops? How many would you
3 estimate, if you can, in the eleven years?

4 A. Drug cases, probably hundreds.

5 Q. Okay.

6 A. Firearms cases, maybe fifty total. I'm not sure.

7 Q. All right. Were you employed by the Mauldin Police
8 Department on July the 24th, 2011 at approximately 5:00 in
9 the morning?

10 A. Yes, ma'am.

11 Q. Were you in a marked car?

12 A. I was.

13 Q. Were you in uniform?

14 A. I was.

15 Q. And did you have your K-9 with you?

16 A. I did.

17 Q. All right. What, if anything, unusual did you observe
18 on that day and time?

19 A. I was traveling on North Main Street in the City of
20 Mauldin. I observed a gold in color vehicle in front of me,
21 appeared to be traveling faster than the speed limit.
22 Estimated the speed of that vehicle at approximately 55
23 miles an hour and then confirmed it with the dash mounted
24 radar at 54. And also observed the vehicle begin to turn
25 without a turn signal into the Pumpers parking lot.

RYAN HERRON - DIRECT EXAMINATION BY MS. TIFFIN

24

- 1 Q. All right. And what was the speed limit there?
- 2 A. 40.
- 3 Q. All right. So he was 55, 54 in a 40?
- 4 A. 54 in a 40, ---
- 5 Q. All right.
- 6 A. --- yes, ma'am.
- 7 Q. And you said he did not use his turn signal when he
- 8 turned into Pumpers?
- 9 A. Correct.
- 10 Q. Okay. As a result of that what did you do?
- 11 A. I initiated a traffic stop on the vehicle to address
- 12 the moving violations.
- 13 Q. All right. And did you turn on your blue lights?
- 14 A. I did.
- 15 Q. And you pulled in behind him?
- 16 A. I did.
- 17 Q. All right. And did you activate your camera?
- 18 A. I did. It activates automatically when I turn my blue
- 19 lights on.
- 20 Q. Okay. Did you approach the driver's door?
- 21 A. I did.
- 22 Q. All right. And what happened when you started to walk
- 23 up to the driver's door?
- 24 A. When I approached the driver's door, the driver
- 25 actually opened the door, and I observed his left hand

RYAN HERRON - DIRECT EXAMINATION BY MS. TIFFIN

25

1 reaching down towards the floor in the front seat driver's
2 area.

3 Q. What did you do as a result?

4 A. He -- as I approached he was bringing his hand back up.
5 I observed nothing in his hand at that time. I then asked
6 him to close the vehicle door or told him to close the door
7 and roll his window down.

8 Q. All right. And did he roll his window down?

9 A. He did.

10 Q. Is it still dark outside at five am?

11 A. It was.

12 Q. Okay. And did you talk to him about the reason that
13 you stopped him?

14 A. I did.

15 Q. And were you able to identify the driver?

16 A. I did.

17 Q. And who was the driver?

18 A. Detrick Stenhouse.

19 Q. And did you ask for license and registration?

20 A. Yes, ma'am.

21 Q. And were you able to determine the owner of the
22 vehicle?

23 A. Yes, ma'am.

24 Q. And who ---

25 A. It was Detrick Stenhouse.

RYAN HERRON - DIRECT EXAMINATION BY MS. TIFFIN

26

1 Q. All right. So the Defendant was the owner of the
2 vehicle?

3 A. Correct.

4 Q. Did you notice anything unusual about the driver while
5 you were speaking with him?

6 A. While I was speaking with him, I asked him certain
7 questions. I asked him what the speed was. His response
8 was that his turn signal didn't work. He was wearing
9 nothing but boxers, which was a little out of the ordinary.
10 That's all I observed from the driver at that time.

11 Q. Okay. Did you have any concern about his reaching down
12 towards the floorboard of the vehicle? And if so, why?

13 A. I did. It's a known place for individuals to place
14 firearms or carry firearms unlawfully is under the driver's
15 seat, which is an immediate concern for me being out there
16 at nighttime on a traffic stop.

17 Q. All right. Were you by yourself?

18 A. I was.

19 Q. All right. Were there any other individuals in the
20 vehicle?

21 A. There was one passenger.

22 Q. All right. In the front seat?

23 A. Front seat, yes, ma'am.

24 Q. Okay. What, if anything, unusual did you notice about
25 the passenger?

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1 A. The passenger was extremely nervous. He was tremoring
2 noticeably. He had lit up a cigarette upon the stop. You
3 could see his abdomen bouncing as his heart was beating,
4 which was out of the ordinary as well. He appeared
5 extremely nervous.

6 Q. All right. Was he perspiring?

7 A. He was noticeably.

8 Q. Okay. Were you able to identify the passenger?

9 A. I was.

10 Q. All right. Did he provide an ID?

11 A. He provided an identification card, yes.

12 Q. All right. Did you obtain the documents from the
13 driver that you had asked for?

14 A. I believe initially he provided his driver's license
15 and insurance. And then I had to request the registration
16 again, but I did obtain all three.

17 Q. All right. And what happened when you started going
18 back towards the rear of the Defendant's vehicle? What
19 caught your attention?

20 A. Well, initially I observed a bulge in the driver or
21 passenger's right pocket, pant's pocket. So as I went to
22 the back of his vehicle I decided to maintain a visual to
23 make sure that they weren't reaching for anything. I had
24 already radioed for backup. So backup was on the way.

25 Q. And why did you radio for backup? What caused you to

RYAN HERRON - DIRECT EXAMINATION BY MS. TIFFIN

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1 radio for backup?

2 A. The initial furtive movements from the driver, the
3 reaching down in front of the driver's seat as well as the
4 extreme nervousness for a simple moving violation.

5 Q. Now is that based on your training and experience?

6 A. Yes. It's something I commonly see.

7 Q. All right. So in regard to cases that -- arrests that
8 you've previously -- in regard to weapons and/or drugs, have
9 you found that to be an indicator?

10 A. Yes, ma'am.

11 Q. All right. So what happened as you were maintaining
12 eye contact when you were walking towards the back of the
13 vehicle?

14 A. I continued to see the passenger moving noticeably,
15 reaching towards his right pant's pocket.

16 Q. As a result of that what did you do?

17 A. I ---

18 Q. Well, let me ask you this. Were you headed back to run
19 the information of the driver?

20 A. No, ma'am, not at that time. Based on everything I had
21 observed, there was a safety concern.

22 Q. Okay.

23 A. So I maintained that position behind the vehicle until
24 backup arrived. And then as soon as backup arrived I
25 immediately addressed the passenger, who continued to reach

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1 for that bulge in his pant's pocket.

2 Q. Okay. Now as a result of what you saw, what did you
3 do?

4 A. Backup officer arrived. And then I went to the
5 passenger's side and asked the driver [sic] to step out so I
6 could -- I was going to frisk him for weapons.

7 Q. All right. And did you find any weapons on the
8 passenger?

9 A. I did not.

10 Q. Were you able to determine what the bulge was?

11 A. It was some sort of a rag in his pant's pocket.

12 Q. Okay. Who responded? You said you asked for backup?
13 What officer responded?

14 A. It was Corporal Riley Patton.

15 Q. All right. And what did he do?

16 A. He -- once he arrived on scene he went to the driver's
17 side of the vehicle to keep an eye on the driver.

18 Q. And let me ask you this. You said you had already told
19 the Defendant to close the door and stay in the car when you
20 first approached, correct?

21 A. Correct.

22 Q. All right. When you asked the passenger to step out of
23 the car when you were on the passenger's side of the
24 vehicle, did the Defendant do anything?

25 A. He did. He opened the door again and attempted to

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1 exit.

2 Q. As a result of that what did you do?

3 A. I told him to stay in the car. And then, I believe,
4 Corporal Patton ensured the door was secure again.

5 Q. All right. Did that cause you concern?

6 A. It did.

7 Q. Did Patrolman Patton ultimately have the driver step
8 out of the car?

9 A. He did.

10 Q. All right. And where did he take him?

11 A. Initially to the front of the vehicle, fully stepped
12 out and conducted a pat-down. Then he took him from the
13 front of the -- and then to the front of Patton's vehicle,
14 and they stood in front of that vehicle.

15 Q. All right. Was he placed in handcuffs?

16 A. No, ma'am.

17 Q. Was he placed under arrest?

18 A. No, ma'am.

19 Q. Okay. And as he was standing there you were still with
20 the passenger, is that correct?

21 A. That is correct.

22 Q. All right. What did Patrolman Patton tell you in
23 regard to what the Defendant said about the possibility of
24 weapons being in the vehicle?

25 A. He stated that he asked if there was a gun in the car,

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1 and the driver stated he did not know.

2 Q. All right. Did he ask him any further questions? And
3 if so, what did he do?

4 A. Did Corporal Patton ask him any further questions?

5 Q. Right.

6 A. I don't believe so.

7 Q. After Patrolman Patton told you that the Defendant said
8 he did not know if there were any weapons in his own
9 vehicle, and the other indicators that you've stated in
10 regard to the furtive movements, and the nervousness, and
11 the inexplicable answer about the gun, and the driver
12 continuing to try to get out of the vehicle, and the driver
13 reaching down into the floorboard of the car, what did you
14 do?

15 A. I asked the passenger -- I believe I placed him in
16 handcuffs. I asked him if there were any weapons in the
17 car. He stated not that he knows of.

18 And then at that time I believed there was a firearm in
19 the vehicle. So I conducted a -- we've already frisked
20 them. So I frisked the vehicle for firearms before I
21 conducted any further business.

22 Q. All right. Now you're a K-9 handler. So you had your
23 K-9 with you.

24 A. Correct.

25 Q. Okay. So you were not waiting or trying to extend the

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1 stop in order to wait for a K-9, correct?

2 A. No, ma'am.

3 Q. All right. So the basis for you continuing your
4 investigation was your concern about officer safety and a
5 weapon in the car, correct?

6 A. That is correct.

7 Q. All right. And so you frisked the driver's portion of
8 the vehicle, correct?

9 A. I started with the passenger's side because that was
10 the closest side to the Defendant and the officer.

11 Q. Um-hum (affirmative).

12 A. So that was the closest area. And then I continued to
13 the driver's side.

14 Q. All right. Now was Mr. Stenhouse in a position where
15 if he had wanted to he could have gotten to the vehicle?

16 A. Yes.

17 Q. All right. Were you concerned about that?

18 A. Yes.

19 Q. Okay. Were you concerned about having Mr. Stenhouse
20 and the passenger placed back into the vehicle without
21 knowing if there were weapons in the vehicle?

22 A. Absolutely.

23 Q. All right. And in regard to the indicators that you've
24 already testified to did you feel you also had, in addition
25 to the frisk, you also had probable cause to search ---

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- 1 A. Yes, ma'am.
- 2 Q. --- based on what you'd observed? All right. And is
- 3 that why you conducted the search?
- 4 A. Yes, ma'am.
- 5 Q. And this was in Greenville County?
- 6 A. It was.
- 7 Q. Now, when you conducted the search what did you seize?
- 8 A. It was a Hi-Point .380 pistol with a magazine and eight
- 9 rounds in it.
- 10 Q. Okay. And where was it in the vehicle?
- 11 A. It was to the rear of the driver's seat, underneath the
- 12 driver's seat.
- 13 Q. All right. And is that in the area where the driver
- 14 was reaching?
- 15 A. Yes, ma'am.
- 16 Q. All right. And was it loaded?
- 17 A. It was.
- 18 Q. And fully loaded?
- 19 A. Had eight rounds in it, yes.
- 20 Q. Eight rounds of ammunition?
- 21 A. Yes.
- 22 Q. So it was in a place of dominion and control of the
- 23 driver?
- 24 A. Yes, ma'am.
- 25 Q. And did you place the Defendant under arrest for

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1 unlawful carrying of a weapon?

2 A. I did. I advised Corporal Patton to place him under
3 arrest for the firearm at that time.

4 Q. All right.

5 **MS. TIFFIN:** Those are all the questions I would have,
6 Your Honor.

7 **THE COURT:** All right. Anything?

8 **MR. GROVE:** Yes, Your Honor. If it please the Court.
9 Thank you.

10 **THE COURT:** Sure.

11 **Cross Examination by Mr. Grove:**

12 Q. Sergeant -- I called you corporal earlier. I guess
13 it's just a long time ago.

14 A. I was a corporal then, yes, sir.

15 Q. Just a moment ago you testified that the passenger was
16 extremely nervous.

17 A. Yes, ---

18 Q. Is that correct?

19 A. --- sir.

20 Q. And you testified that you received paperwork from Mr.
21 Stenhouse, is that correct?

22 A. That is correct.

23 Q. You testified that you got three items from him, is
24 that correct?

25 A. That is correct.

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- 1 Q. A driver's license, correct?
- 2 A. Correct.
- 3 Q. Insurance card, correct?
- 4 A. Yes.
- 5 Q. Registration, correct?
- 6 A. Yes.
- 7 Q. You said you may have had to ask for one of them twice.
- 8 A. Correct.
- 9 Q. Would you otherwise describe him as compliant?
- 10 A. Yes.
- 11 Q. What you asked him to do, he did?
- 12 A. Correct.
- 13 Q. In fairly short order, is that correct?
- 14 A. Yes.
- 15 Q. You also said on direct that you found it unusual that
- 16 when you approached the passenger's side that -- and asked
- 17 the passenger out of the vehicle that Mr. Stenhouse also
- 18 opened his door and attempted to exit the vehicle, is that
- 19 correct?
- 20 A. Yes.
- 21 Q. Would it surprise you to know that on direct you
- 22 actually said you approached the passenger's side and asked
- 23 the driver to get out of the vehicle?
- 24 A. Say that again.
- 25 Q. On direct you misspoke. You said that you had asked

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1 the driver out of the vehicle, but I know that you meant you
2 asked the passenger out of the vehicle.

3 A. Yes, I asked -- if I was on the passenger side, I asked
4 the passenger out of the vehicle.

5 Q. That's right. What I'm telling you is would it
6 surprise you to know that on direct you actually said
7 driver? I know you meant passenger, but you said driver.
8 Would that surprise you?

9 A. That would surprise me.

10 Q. Okay.

11 MR. GROVE: We can -- do we have an audio that we can
12 play back?

13 THE COURT: No, but ---

14 MS. TIFFIN: We have the video. If we ---

15 THE COURT: Why don't I -- why don't you ask your
16 questions. I'll watch it.

17 Q. My point is this, sergeant, I'm not suggesting that you
18 actually on the scene asked Mr. Stenhouse out of the
19 vehicle. My point is is it easy to understand how it might
20 be confusing? You didn't call Mr. Rhodes by name, did you?

21 A. I don't believe so.

22 Q. You just approached the car and said, I believe, come
23 on out the car, I want to talk to you for a minute, is that
24 correct?

25 A. Sounds right.

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1 Q. Do you have any reason to suspect that's not correct?

2 A. No.

3 Q. And you got Mr. Rhodes out of the vehicle, correct?

4 A. Yes.

5 Q. Because you were suspicious about the bulge in his
6 pants, correct?

7 A. That was one of the reasons, yes.

8 Q. All the while you also testified that you were
9 suspicious of Mr. Stenhouse in that he had a gun under his
10 seat, correct?

11 A. Correct.

12 Q. So you isolated the passenger and left the driver
13 sitting above the seat where you suspected he -- already
14 suspected he had a firearm?

15 A. No, I didn't leave the driver.

16 Q. Is it ---

17 A. I left the driver, however, I had a backup officer take
18 my position to observe the driver at that time.

19 Q. Would it surprise you to know that the backup officer
20 was walking up as you were getting Mr. Rhodes out of the
21 vehicle?

22 A. It wouldn't surprise me.

23 Q. Would it surprise you that he wasn't already in
24 position, standing over Mr. Stenhouse?

25 A. No.

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1 Q. And he -- Mr. Stenhouse remained in the vehicle for
2 some time after that, correct?

3 A. I don't know the length of time.

4 Q. Would it surprise you that Mr. Stenhouse stayed in his
5 vehicle for about another minute and ten seconds?

6 A. I don't know the time.

7 Q. Would it surprise you?

8 A. Not a lot surprises me.

9 Q. Is that a no?

10 A. That's a no.

11 Q. Thank you. One of the issues you just testified to was
12 that there was a bulk or a bulge in Mr. Rhodes' pocket,
13 correct?

14 A. That's correct.

15 Q. And so you got Mr. Rhodes out of the car, correct?

16 A. I did.

17 Q. And then you had him place his hands on the rear area
18 of the vehicle, correct?

19 A. I believe he tried to walk away. And at that point I
20 put my hands on him and ensured that he placed his hands on
21 the vehicle, yes.

22 Q. Okay.

23 MR. GROVE: Your Honor, may I?

24 THE COURT: Sure. I'm going to step down and watch it
25 from there, I guess.

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1 (Whereupon the video was playing)

2 Q. Sergeant, I just started playing the video on this
3 screen over here. Can you see that from where you're
4 sitting?

5 A. I can.

6 Q. Do you recognize this video?

7 A. I do.

8 Q. What do you recognize this video to be?

9 A. Appears to be the traffic stop for this case.

10 Q. Have you reviewed this video before?

11 A. I have.

12 Q. Did you submit this video to the solicitor's office?

13 A. We did.

14 Q. Can you note the time on this video?

15 **MADAME Court Reporter:** I can't hear both at the same
16 time.

17 (Whereupon the video was stopped)

18 **MR. GROVE:** Sorry. And if it please the Court. The
19 sound for several minutes will not be relevant for about --
20 I'll just allow it to play ---

21 **THE COURT:** Yeah, you'll just have to stop and let the
22 court reporter know because ---

23 **MR. GROVE:** That's fine.

24 **THE COURT:** --- she'll go schizophrenic.

25 **MADAME COURT REPORTER:** Can you repeat your answer?

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1 A. Yes. 04:59 and 52 seconds.

2 Q. Five am?

3 A. Yes.

4 Q. That's when the traffic stop begins, correct?

5 A. Yes, sir.

6 Q. Okay.

7 MR. GROVE: And I don't particularly need sound for
8 this next part. So I beg the Court's indulgence.

9 Q. And if you'll bear with me for just a moment, sergeant,
10 I'm going to fast-forward to the relevant portions, okay?

11 MS. TIFFIN: Your Honor, we would object to ---

12 THE COURT: Fast-forwarding?

13 MR. GROVE: I'm happy to play the entire thing. I was

14 ---

15 MS. TIFFIN: Yeah. Maybe just play the video ---

16 MR. GROVE: That's fine.

17 MS. TIFFIN: --- without asking ---

18 THE COURT: I was afraid you were going to say that,
19 but go ahead. Yeah, play it. Let's just watch it. How
20 long is it?

21 MS. TIFFIN: Well, the pertinent parts are not long.

22 MR. GROVE: Shall I play it in its entirety now and
23 then ---

24 THE COURT: How long is it in its entirety?

25 MR. GROVE: Well, what I would ---

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1 **THE COURT:** If we just watch it at speed?

2 **MR. GROVE:** At speed from where we are right now,
3 because the blue lights come on in one second, to the end of
4 my relevant portion would be five am, 22 minutes and 22
5 seconds. So ---

6 **THE COURT:** I can stand that, okay.

7 **MR. GROVE:** So 23 minutes. And if it please the Court,
8 I will play until that point unless the solicitor has an
9 objection. And then ---

10 **THE COURT:** Do you want that played at speed through
11 all this?

12 **MS. TIFFIN:** Your Honor, in the interest of time, from
13 the time that he stopped at 5:00 until the search is
14 complete and the weapon is obtained is probably about 11
15 minutes.

16 **THE COURT:** Why don't we do that? Is that okay?

17 **MR. GROVE:** I have to object, Your Honor. I can't
18 fast-forward because she wants to play the whole thing, but
19 she also doesn't want to play the video to its entirety to
20 my satisfaction, which is ---

21 **THE COURT:** Play it. Just play it. We'll play it.

22 **MR. GROVE:** --- 11 more minutes.

23 (Whereupon the video was continued)

24 **THE COURT:** Officer Stenhouse, you want to come over
25 here and watch it?

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1 A. I can see it.

2 THE COURT: I mean, if you can't, you're welcome over
3 here.

4 A. I can see it.

5 MR. GROVE: Your Honor, I'm satisfied to stop the video

6 ---

7 THE COURT: Okay.

8 MR. GROVE: --- at this point ---

9 THE COURT: All right.

10 MR. GROVE: --- if there's no objection.

11 MS. TIFFIN: No objection.

12 THE COURT: All right. Without objection.

13 (Whereupon the video was stopped)

14 MR. GROVE: Your Honor, I'd also ask that this be made
15 a Court's exhibit.

16 THE COURT: Any objection to that?

17 MS. TIFFIN: None at all, Your Honor.

18 THE COURT: Okay.

19 MR. GROVE: Your Honor, may I approach?

20 THE COURT: Sure.

21 MR. GROVE: I'm going to hand this to the court
22 reporter so that she can ---

23 THE COURT: All right.

24 MR. GROVE: --- tag it as a Court's exhibit.

25 (Whereupon Court's exhibit 1 was marked)

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1 Cross Examination by Mr. Groves Continued:

2 Q. Sergeant, we were talking about passenger Rhodes when I
3 started playing this. And now that we have seen this -- the
4 relevant portions of this video in its entirety, I'd like to
5 talk to you about that. Earlier you testified when
6 passenger Rhodes exited the vehicle he tried to walk away,
7 is that correct?

8 A. It appeared he tried to walk away.

9 Q. And that wasn't the testimony, I believe, that you gave
10 on direct at all, that was the testimony you gave on cross,
11 is that correct?

12 A. I think you asked a question about how he exited. So I
13 answered yes.

14 Q. But that was not one of the factors that you listed
15 when you were discussing this traffic stop on direct
16 examination, is that correct?

17 A. That's correct.

18 Q. And I'm going to ask you to pay specific attention to
19 the video when it gets around the 5:04 and 25 mark, if you
20 will, right about now. And at this point, I apologize,
21 there's no sound. You're instructing Mr. Rhodes to stand
22 against the vehicle, is that correct?

23 A. I believe I told him to place his hands on our vehicle.

24 Q. And at this point when you've approached the
25 passenger's side of the vehicle with passenger Rhodes, your

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1 backup, Corporal Patton, is also on the passenger's side of
2 the vehicle, is that correct?

3 A. That's correct.

4 Q. And it is not until a few seconds after this when you
5 are exiting passenger Rhodes out of the vehicle that he goes
6 and stands on the driver's side door, is that correct?

7 A. That's correct.

8 Q. And is that the action that you're suggesting he was
9 walking away?

10 A. Yes.

11 Q. Is it -- is it also possible that he was going to the
12 rear of the vehicle where he's standing now?

13 A. I didn't ask him to walk to the rear of the vehicle.
14 So I didn't know what he was thinking.

15 Q. You asked him to place his hands on the vehicle,
16 correct?

17 A. Correct.

18 Q. Are his hands on the vehicle at this point?

19 A. His right hand is actually down by his right front
20 pant's pocket. And I had to secure that hand and place it
21 on the vehicle.

22 Q. And his left hand is on the vehicle, correct?

23 A. That is correct.

24 Q. Okay. You asked him -- and in just a second, we
25 watched this a minute ago, we can watch it again, but in

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1 just a second his left hand is on the trunk and his right
2 hand is on the rear windshield, is that correct?

3 A. I believe so.

4 Q. 'Cause you've asked him to put his hands on the car,
5 correct?

6 A. Correct.

7 Q. Would you describe that as compliant?

8 A. (No response).

9 Q. Has he done something other than what you asked him to
10 do?

11 A. Initially, yes.

12 Q. What was that?

13 A. Until I physically placed his hands on the vehicle for
14 him.

15 Q. How long did you -- do you think that took?

16 A. Half a second, second.

17 Q. So in -- within one second he was compliant of your
18 request, is that correct?

19 A. Yes.

20 Q. You begin to give him what I would describe as a
21 thorough search, is that correct?

22 A. Yes. Could I explain?

23 Q. Certainly.

24 A. I initially attempted to pat him down and he
25 volunteered to let me go into his pockets and check the

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1 items. So I did.

2 Q. But that's a thorough search, right?

3 A. That is a thorough search, yes.

4 Q. And you emptied his pockets and you went through the
5 things in his pockets, correct?

6 A. Correct.

7 Q. And as you were doing this you also had his hands, not
8 handcuffed behind his back, but you would've secured with
9 one of your hands both of his hands, is that correct?

10 A. Yes.

11 Q. You also felt around the crotch area and his buttocks,
12 is that correct?

13 A. I believe so, yes.

14 Q. Okay. So in addition to searching his pockets, you
15 searched him thoroughly?

16 A. I did.

17 Q. And in the way of contraband, weapons, drugs or
18 otherwise illegal items what did you find?

19 A. Nothing on him.

20 Q. Okay. While you were doing that, you watched this
21 video just a moment ago, Corporal Patton has Mr. Stenhouse
22 exit the vehicle, is that correct?

23 A. That is correct.

24 Q. And Mr. Stenhouse is wearing no shirt, and what
25 appeared to be slippers or something, some sort of shoe and

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1 gym shorts, boxers or otherwise, is that correct?

2 A. That's correct.

3 Q. And you saw on the video, Corporal Patton gave him a
4 pat-down, is that correct?

5 A. That's correct.

6 Q. And presumably, because he wasn't placed under arrest
7 immediately, didn't find anything on him, is that correct?

8 A. Yes, sir.

9 Q. At the very least Corporal Patton did not notify you
10 that he had found anything unusual on Mr. Stenhouse, is that
11 correct?

12 A. That is correct.

13 Q. And they walk off-screen, is that correct?

14 A. That is correct.

15 Q. Okay. It's after that -- it's after you search through
16 a very compliant passenger Rhodes and his pockets and about
17 his person and find no items of contraband or illegal
18 substances and after Mr. Stenhouse has exited the vehicle
19 and you found no items of contraband or illegal substances
20 on him as well that Officer Patton approaches you and tells
21 you what he heard from Mr. Stenhouse, correct?

22 A. That is correct.

23 Q. And your testimony earlier was that Corporal Patton,
24 who's not here to testify, says he asked are there any -- at
25 the very least he said weapons. He may have said drugs or

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1 weapons. I don't remember. But he asked him if there was
2 any contraband in the car, and he said I don't know,
3 correct?

4 A. He said he asked if there was a gun in the vehicle.
5 And he -- the driver said he didn't know.

6 Q. Okay. And you asked Mr. Rhodes if there were any
7 weapons in the car shortly thereafter, correct?

8 A. Correct.

9 Q. And he said -- earlier you had asked him if he had any
10 weapons on him, correct?

11 A. I believe I asked that as soon as I was having him come
12 out of the car, yes.

13 Q. That's standard protocol, right?

14 A. Not necessarily.

15 Q. When you're asking a person out of the car who you
16 believe -- to conduct a Terry frisk on, it's not standard
17 protocol to ask them if they have any weapons on them?

18 A. If I believe they have weapons on them, then I'm going
19 to ask, yes, that would be standard. But just simply asking
20 someone to step out of their car, I'm not going to ask that.

21 Q. I'm talking about in this situation in regards to Mr.
22 Rhodes specifically. It was standard for you to ask him if
23 he had any weapons?

24 A. Absolutely. Yes, sir.

25 Q. Okay. And he said no?

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1 A. Something to that nature.

2 Q. I believe at 5:04 and 30 seconds in the morning he said
3 no, sir, is that correct?

4 A. Yes.

5 Q. And you found no weapons on him, is that correct?

6 A. That is correct.

7 Q. Okay. And then at 5:07 am and 56 seconds you asked
8 passenger Rhodes right before you begin searching the
9 vehicle, you ask him is there any weapons in the car, is
10 that correct?

11 A. I'm not sure of the time, but I did ask him, yes.

12 Q. And he said not that I know of, sir, is that correct?

13 A. Correct.

14 Q. On direct you testified that you were concerned for
15 officer safety, is that correct?

16 A. That is correct.

17 Q. And that at the point when you begin searching the
18 vehicle, which again, I can play it for you or you can take
19 my word for it, is 5:08 and about 10 or 12 seconds -- you
20 start searching the car at 5:08 am, will you agree with
21 that?

22 A. Yes.

23 Q. At that point you have both Mr. Stenhouse and Mr.
24 Rhodes away from the vehicle for officer safety, correct?

25 A. Yes.

RYAN HERRON - CROSS EXAMINATION BY MR. GROVE

50

1 Q. Prior to beginning the search of the vehicle you put --
2 you testified on direct that Corporal Patton was standing
3 with Mr. Stenhouse, correct, but he didn't have him in the
4 patrol car, correct?

5 A. That's correct.

6 Q. Didn't have him handcuffed, correct?

7 A. That's correct.

8 Q. But prior to beginning the search you placed Mr. Rhodes
9 in handcuffs, is that correct?

10 A. That's correct.

11 Q. 'Cause you wanted to detain him, correct?

12 A. Yes. Can I explain?

13 Q. Your exact words were, I'm going to detain you.

14 A. Correct.

15 Q. Okay.

16 A. Would you like me to explain why?

17 Q. That's all right.

18 **MS. TIFFIN:** Your Honor, we would ask that the witness
19 be allowed to explain.

20 **THE COURT:** Yeah, you can explain. I mean, this is
21 without -- go ahead.

22 A. I didn't want to leave the two individuals out free to
23 -- break free from one officer that would be watching them
24 at the same time. So I did detain the passenger because of
25 that reason.

RYAN HERRON - CROSS EXAMINATION BY MR. GROVE

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1 **THE COURT:** Didn't you also say if you run my
2 partner'll be after you?

3 A. That's true.

4 Q. Were you referring to the K-9 in the back of your car?

5 A. Yes, sir.

6 Q. Okay. I don't -- I don't suppose that Corporal Patton
7 was going to do much running.

8 **THE COURT:** I actually looked at that, quite frankly.
9 I figured you were talking about the dog.

10 A. Yes, sir.

11 **THE COURT:** No offense intended, but ...

12 Q. But you decided not to place Mr. Stenhouse in
13 detention?

14 A. That's correct.

15 Q. When you certainly could have?

16 A. Yes.

17 Q. For officer safety?

18 A. Yes.

19 Q. Because on direct you testified that he was within a
20 lunging range of the vehicle, is that correct?

21 A. That is correct.

22 Q. Because you -- and you started searching the passenger
23 front door because that was the closest area to him,
24 correct?

25 A. That's correct.

RYAN HERRON - CROSS EXAMINATION BY MR. GROVE

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1 Q. And you were worried that he might go for something
2 that might be there, correct?

3 A. That is correct.

4 Q. But you didn't detain him, correct?

5 A. That's correct.

6 Q. Okay. And you didn't find anything there, did you?

7 A. I did not.

8 Q. Okay. 'Cause at this point -- will you take my word
9 for it that we're at 5:09 am give or take by that point?

10 A. Yes, sir.

11 Q. And you have found no contraband, weapons, drugs or
12 otherwise on Mr. Stenhouse, correct?

13 A. That is correct.

14 Q. No contraband, drugs or otherwise on Mr. Rhodes,
15 correct?

16 A. That's correct.

17 Q. No contraband, drugs or otherwise are in plain view at
18 this point, correct?

19 A. That's correct.

20 Q. You don't smell an odor of drugs?

21 A. No, sir.

22 Q. Okay. And so far as the front passenger area of the
23 vehicle is clear for contraband, weapons and otherwise,
24 correct?

25 A. Could you repeat that?

RYAN HERRON - CROSS EXAMINATION BY MR. GROVE

53

1 Q. The front passenger area where passenger Rhodes was
2 sitting, you have already checked that at this point and you
3 have found nothing, correct?

4 A. That's correct.

5 Q. Okay. If at this point when you have both the driver
6 and the passenger secured, and you're on the roadside and
7 you could detain them both if you wanted to for officer
8 safety, if you were to call a judge right now and ask for a
9 search warrant for the vehicle, what would you list as your
10 probable cause?

11 A. I would list initial furtive movements from the driver
12 ---

13 Q. Okay.

14 A. --- reaching down to an area commonly known to carry or
15 for someone to carry a firearm. I would list the fact that
16 he attempted to exit the vehicle twice, both times being
17 told to stay inside the vehicle. I would list the extreme
18 nervous behavior. I would list the fact that the driver and
19 the owner of the vehicle has no idea if there's a weapon or
20 a gun in his car. I would list that the passenger, who's
21 also in the vehicle, has no idea if there's a gun in the
22 car. And I would list that those indicators are commonly
23 seen with individuals that are carrying firearms illegally.

24 Q. Are those all of them?

25 A. I'm sure I could sit longer and think of more. If you

RYAN HERRON - CROSS EXAMINATION BY MR. GROVE

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1 want to allow me that time, I can.

2 Q. For right now that's what you can come up with, right?

3 A. For right now that's what's -- yes.

4 Q. Sure. And this case is four and a half years old?

5 A. It is.

6 Q. And you've had an opportunity to review this case prior
7 to today?

8 A. Yes.

9 Q. Okay. Ultimately your testimony on direct, is it safe
10 to say, that the search is based on officer safety?
11 Correct?

12 A. Yes. I believe I said frisk.

13 Q. Sorry. The Terry frisk of the vehicle, right, is, I
14 believe y'all call it a 49, is for officer safety, correct?

15 A. Correct.

16 Q. But Mr. Stenhouse is not detained?

17 A. The traffic stop is still ongoing.

18 Q. Okay.

19 A. So at that time he's not free to go, no.

20 Q. He's not free to go, but he's also not handcuffed, he's
21 not secured in a vehicle or anything like that?

22 A. Correct.

23 Q. And as of 5:08 am and 12 seconds when you begin
24 searching the car, the passenger door, to what lengths have
25 you gone to further the original purpose of the traffic

RYAN HERRON - CROSS EXAMINATION BY MR. GROVE

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1 stop, which was 54 in a 40 and no turn signal?

2 A. At that point I haven't. It's not my main focus at
3 that point.

4 Q. Okay. And over the course of that nine minutes you
5 have also collected no evidence of contraband, no physical
6 evidence of contraband, drugs or otherwise, correct?

7 A. You talking about before I get to the driver's side?

8 Q. At 5:08 and 12 seconds when you start at the front
9 passenger's seat you haven't seen any contraband in the car,
10 you haven't collected any contraband, weapons, drugs or
11 otherwise from either persons who have already been
12 searched, correct?

13 A. Not at that point, no.

14 Q. Okay. You also haven't asked for or obtained consent,
15 is that correct?

16 A. That's correct.

17 Q. Okay. At 5:11 am and 40 or 45 seconds, and we can play
18 it if necessary, and this is prior to you entering the back
19 driver's side area where you locate a .380. So that is at
20 5:11 and 58 seconds. At 5:11 and 45-ish seconds, and I can
21 play it if you need an exact time, Corporal Patton leaves
22 his post, standing next to Mr. Stenhouse, who you say is
23 standing by the patrol vehicle unsecured and walks over to
24 the vehicle. Do you recall that ---

25 A. I do.

RYAN HERRON - CROSS EXAMINATION BY MR. GROVE

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1 Q. --- from watching the video? How did that ensure
2 officer safety?

3 A. Well, he was still in a position between the suspect
4 and the vehicle. So ---

5 **MS. TIFFIN:** Your Honor, I hate to object, but it feels
6 like we're going a little bit further than a motion to
7 suppress into maybe the trial of the case. And ---

8 **THE COURT:** I understand. And if you can, I mean, I
9 get all of this. I've seen it, but go ahead. I'll allow
10 him to ask the questions. We're going to have to figure out
11 our timing anyway. So I understand.

12 **MR. GROVE:** Your Honor, she's raised the issue of
13 officer safety. I'm just covering that.

14 **THE COURT:** Yeah, go ahead.

15 **Cross Examination by Mr. Grove Continued:**

16 Q. And at five am, 13 seconds or 13 minutes and about 30
17 seconds the gun has already been recovered and it is out on
18 the trunk of the car.

19 A. Correct.

20 Q. And Corporal Patton enters the frame again without Mr.
21 Stenhouse and there is a gun loose on the trunk of the car
22 at this point, is that correct?

23 A. I believe -- I believe I've already advised Corporal
24 Patton -- we say 46, which means arrest.

25 Q. Um-hum (affirmative).

RYAN HERRON - CROSS EXAMINATION BY MR. GROVE

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1 A. And I believe at that point when I secured the firearm,
2 I said 46, which is -- and that's what time Corporal Patton
3 placed Stenhouse in handcuffs so he was no longer free.

4 Q. Okay. And on direct you testified that ---

5 **MR. GROVE:** I beg the Court's indulgence.

6 Q. I believe the firearm was in the vehicle prior to your
7 search, is that correct? That was your testimony.

8 A. Say that again.

9 Q. Your testimony on direct with the solicitor was that,
10 prior to your search, I believed a firearm was in the
11 vehicle.

12 A. Yes.

13 Q. You also stated after, presumably, Mr. Stenhouse had
14 been arrested after the gun had been seized from the back
15 driver's seat area do you recall Corporal Patton at 5:15 am
16 saying has he got -- has this one got dope? Do you remember
17 that?

18 A. I don't remember that, no.

19 Q. Would it surprise you if that was something that he had
20 commented?

21 A. Doesn't sound like something he would say.

22 **MS. TIFFIN:** Your Honor, I object to the relevance.

23 **THE COURT:** Yeah, how is that, I mean, I heard that. I
24 heard somebody say did he have dope? I don't know who -- I
25 couldn't tell who it was. But how is that ...

RYAN HERRON - CROSS EXAMINATION BY MR. GROVE

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1 **MR. GROVE:** Your Honor, it goes -- it goes to an issue
2 of is this really officer safety? Now they're on a dope
3 hunt.

4 **THE COURT:** Okay. Well, go ahead. Move on on that. I
5 mean, I get it and you're on the record.

6 **MR. GROVE:** It's as an exhibit. And, Your Honor, ---

7 **THE COURT:** Sure.

8 **MR. GROVE:** --- states that he heard it, I won't play
9 it back.

10 Q. And at five am and 22 minutes and 5 seconds you were
11 searching the car with your K-9, who, I presume, is a drug
12 dog, is that correct?

13 A. She is a patrol dog.

14 Q. And your, quote, while the K-9 was searching the
15 vehicle was find my dope. Do you remember that?

16 A. Would you -- yes. Would you like me to explain?

17 Q. But that is something you said? And feel free to
18 explain afterwards.

19 A. Yes.

20 Q. Okay. Go ahead.

21 A. That is my dog's search command ---

22 Q. Um-hum (affirmative).

23 A. --- for detecting a controlled substance. So any time
24 I deploy my dog to sniff for a controlled substance, that
25 command to do so is find my dope.

RYAN HERRON - CROSS EXAMINATION BY MR. GROVE

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1 Q. Right. But that is what you instructed your dog to do?

2 A. That is correct.

3 Q. Because now you're looking for dope?

4 A. No. Would you like me to explain?

5 Q. At this point when you have the drug dog searching the
6 car and you're instructing her to find your dope, you are
7 not looking for dope, is that your testimony?

8 (Pause)

9 **THE COURT:** What was she -- was she for guns and other
10 contraband?

11 A. No. She detects drugs, Your Honor. But at that point,
12 if you'll allow me to explain, the driver's been arrested,
13 the vehicle will be towed, and I'm going to deploy the dog
14 on the vehicle regardless to ensure there's nothing in there
15 that could harm anyone later on. So that's why the dog's at
16 the car at that point. The vehicle's not going anywhere.

17 Q. Sure. And do you recall a response from dispatch at
18 5:17 am and 57 seconds, 822, that was, at least at the time,
19 your call number, correct?

20 A. That's correct.

21 Q. They said -- whomever was working dispatch on the
22 video, 5:17 and 57 seconds says, 822, your subject is clear
23 for warrants. Was that in reference to Mr. Stenhouse?

24 A. I don't recall.

25 **MR. GROVE:** I don't think I have anything further at

RYAN HERRON - REDIRECT EXAMINATION BY MS. TIFFIN

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1 this time, Your Honor.

2 **THE COURT:** Okay. Anything on behalf of the State?

3 **MS. TIFFIN:** Just a few questions, Your Honor.

4 **Redirect Examination by Ms. Tiffin:**

5 Q. Sergeant Herron, you said -- you started a pat-down of
6 the passenger, correct? You were patting him down for
7 weapons?

8 A. That is correct.

9 Q. And then he said -- he gave you permission to do a full
10 search of his pockets, correct?

11 A. Yes, ma'am.

12 Q. You were only planning to pat him down?

13 A. That's correct.

14 Q. Okay. And Patrolman Patton told you on the side there
15 that he asked the Defendant and the Defendant said he did
16 not know if there was a gun in the vehicle, correct?

17 A. That is correct.

18 Q. All right. And it was his vehicle?

19 A. That is correct.

20 Q. All right.

21 **MS. TIFFIN:** Those are all the questions I have, Your
22 Honor.

23 **THE COURT:** Okay. Thank you, sir. You can step down.

24 **MS. TIFFIN:** Your Honor, just for the record, I'm not
25 going to extend the testimony of this officer, but my

1 understanding is that the basis of this motion doesn't have
2 anything to do with any of the other elements in regard to
3 that it wasn't properly secured, it wasn't in the console
4 and he wasn't a salaried police officer, he wasn't any of
5 the other -- that we were just talking about the Fourth
6 Amendment issue.

7 **MR. GROVE:** That's correct, Your Honor.

8 **THE COURT:** Right. Okay. Well, interestingly while I
9 was watching it every judge has their case that they kind of
10 go to. And I'm the judge who is embroiled in the felony
11 stretch Supreme Court case that I wanted out of quick. But
12 my case on these things is U.S. versus DeJuviani
13 (phonetics), which is -- ironically was issued on the 25th
14 of July, 2011, which really focuses everything for me.

15 And, you know, look, I've been stopped by the highway
16 patrol and I get nervous. And then I think that's what
17 DeJuviani says, you know, that the point of what we're
18 trying to do is figuring out what is innocent driver's
19 nervousness and the objective standards the police officers
20 have to use and, you know, goes to scope and duration. And
21 it also says that there's no real neat set of rules and that
22 you've got to use common sense and reasonable objective
23 standards.

24 I hate these kinds of things. Every judge does because
25 in hindsight balancing officer safety with the rights of

1 citizens under the Fourth Amendment is pretty serious
2 business. So I understand your motion, and I'm going to
3 deny it.

4 Quite frankly, I would urge you to read that case
5 because it may help you. It appeared to me based upon what
6 I saw and based upon his testimony that there was an
7 articulable right, and it's based upon, I suspect, his
8 experience and common sense. And there were some other odd
9 things there that would probably cause me to wonder, too.
10 But you're protected for the record. And ...

11 **MR. GROVE:** Your Honor, may I, very briefly?

12 **THE COURT:** Yeah.

13 **MR. GROVE:** And I won't take much of the Court's time.
14 I would just pose it to the Court that without probable
15 cause there can't be a search. And when questioned about it
16 the sergeant said furtive movements, nervousness, driver
17 saying he didn't know and what he described as an attempt to
18 exit the vehicle twice is what he would establish for
19 probable cause.

20 There are cases, Tindall, Foster and plenty of others
21 that say that's not even reasonable, articulable suspicion,
22 which is a lower standard than probable cause, which is why
23 I would suggest to you that he didn't have probable cause to
24 search the vehicle. And I would note that in Foster they
25 say we also note our concern about the inclination of the

1 government toward using whatever facts are present, no
2 matter how innocent as an indicia of suspicious activity.

3 **THE COURT:** Right.

4 **MR. GROVE:** And officer ---

5 **THE COURT:** That's what's always concerned me.

6 **MR. GROVE:** An officer and the government must do more
7 than simply label behavior as suspicious to make it so.
8 That's what I would suggest is happening here, Your Honor.

9 **THE COURT:** Well, I agree with you totally. And then
10 that's the hard part for me. And I've kicked them out
11 before as you probably all well know. And it hasn't made a
12 lot of people happy, but in this case I think the
13 circumstances given what he knew at the time and given my
14 viewing of the videotape, I'm going to deny the motion.

15 And I would urge you to read that case just because
16 it's odd that it came out the day afterwards. And it makes
17 sense to me. Okay.

18 We've got a time issue now. What do y'all want to do?
19 I've got to take that plea. That's what worries me. I can
20 stay til eleven tonight or tomorrow. So, I mean, we're not
21 -- I'm not going to worry about the end time. But I can't
22 keep them for too much longer. They've been sitting down
23 there since, what, 9:30?

24 **MADAME CLERK:** Yes, sir.

25 **MS. TIFFIN:** Your Honor, I don't think the actual trial

1 minutes so that -- I just don't want you to think that me
2 blowing through this has anything to do with the importance
3 of this trial 'cause I'm literally going to tell them that
4 it's the State and your only time before them, and they need
5 to treat it just as if it's a ten day trial. Okey doke.
6 You can bring them in.

7 (Whereupon the jury entered the courtroom at 3:37 pm)

8 **THE COURT:** Okay. Can you swear them in.

9 **MADAME CLERK:** Please stand and raise your right hand.
10 And the correct response to the oath is I will. You shall
11 well and truly try the case 2012-GS-23-0207, the State
12 versus Detrick L. Stenhouse, indicted for unlawful carrying
13 of a handgun and 0206 for possession of a pistol by a person
14 convicted of a violent crime and a true verdict rendered
15 according to the law and the evidence so help you God.

16 **THE JURY:** I will.

17 **MADAME CLERK:** Okay. You can be seated. Thank you.

18 **THE COURT:** All right. Ladies and gentlemen, as a
19 proof of how important this is I'm going to tell you again
20 something I just told you. I am holding two indictments.
21 These indictments charge the Defendant, Mr. Stenhouse, with
22 possession of a pistol by a person convicted of a violent
23 crime and unlawful carrying of a handgun.

24 And you will have these indictments with you in the
25 jury room, but I cannot stress strongly enough that these

1 indictments mean nothing, should not be considered by you in
2 your deliberations as evidence of guilt. In this system,
3 the process starts with the issuance of an indictment. And
4 they are literally just pieces of paper that start the
5 process and lay out the allegations.

6 Mr. Stenhouse has pled not guilty. And not to be too
7 detailed about it or old school, but the best way I've
8 always thought about it as a lawyer and as a judge is that
9 Mr. Stenhouse has pled guilty [sic], he's put the burden on
10 the State to prove each and every element of this case
11 beyond a reasonable doubt and the way judges in the 1800s
12 said it's the best way to do it.

13 Mr. Stenhouse has a robe of righteousness or innocence
14 about his shoulders. He carries that into this courtroom
15 today. He will have that robe of righteousness or innocence
16 about his shoulders throughout the trial and will only have
17 that stripped from him if you deliberate and do your duty
18 and determine that the State has proved their case beyond a
19 reasonable doubt and then strip him of that robe of
20 righteousness or that presumption of innocence as it's
21 called.

22 And as I tell juries and have been for many years,
23 presumption of innocence is a phrase that gets thrown around
24 a lot. It is a very important right that we have as
25 Americans. And everyone here, State and Defense, treats it

1 very seriously.

2 So please don't discuss the fact -- the judges get
3 concerned that jurors are so conditioned to believe that
4 anyone charged, must be a problem. An indictment should
5 not, and I'm ordering you not to discuss when you begin your
6 deliberations.

7 What I want to do now is give you a very short overview
8 of how this case is going to go. I know you've all served
9 on juries before, most of you. You've probably heard
10 exactly what I'm getting ready to tell you in different
11 ways.

12 But while I'm going to talk fast and try to move a
13 little quicker, please don't assume that that means that
14 this case is not important. This case will be over
15 sometime, I suspect, tomorrow morning. We've got a time
16 issue at the end of the day. So I suspect we'll have to
17 come back tomorrow morning about ten, but most likely
18 tomorrow you -- in the morning, you'll get this case and be
19 finished when you finish.

20 So there's not a lot of evidence. And there's not a
21 lot of testimony that you're going to hear, but this is a
22 very important case for the Defendant and the State because
23 this is the only time that these parties will be in front of
24 a jury to make this determination. So please don't assume
25 that my abbreviated charge means that this is not important.

1 I know you don't, but I want to make sure you understand
2 that.

3 As you know, you and I have very different roles during
4 the course of this trial. You're the judge of the facts.
5 You'll listen to these witnesses testify. You'll view any
6 evidence that has been introduced into evidence. And you'll
7 have to determine what the facts are in this case.

8 You have to do that by determining the credibility or
9 believability of witnesses. You watch the witnesses
10 testify. You determine if you believe them. And then you
11 look at the evidence and you determine what the facts are.

12 If I give you any impression during the course of this
13 trial that I have an opinion about a fact, disregard it. If
14 I turn red, if I get mad, if I make a face and you think
15 that I believe somebody or don't believe them, it just
16 doesn't matter what I believe. You are the only twelve
17 people and one alternate who can determine what the facts
18 are in this case. So when you begin your deliberations you
19 will have to be the people that determine what the facts
20 are.

21 I will be making rulings on evidence during the course
22 of the trial because I'm the judge of the law. I also have
23 to put together a charge that I will literally read to you
24 at the end of this trial, which is the law that is
25 applicable in this case. And you'll take the law as I give

1 it to you, apply it to the facts as you determine them to be
2 and you'll reach your verdict.

3 Our roles never cross. My opinion about the facts
4 should mean nothing to you. My opinion about the
5 believability of witnesses should mean nothing to you.
6 Likewise, you have to take the law as I give it to you at
7 the end of this trial and apply it to the facts. That's
8 your oath and that's your obligation.

9 You can't wish the law was different or think that it's
10 different or hope that it's different. I will tell you what
11 law applies, and then you apply that. And, again, our roles
12 don't cross.

13 In just a few minutes the lawyers are going to give you
14 their opening statement. That opening statement is not
15 evidence. The only evidence in this case will come from the
16 witness stand right here and any documents or other material
17 that are introduced into evidence.

18 If at any time during the course of this trial there's
19 an objection made, and there always is and there should be,
20 that's what lawyers are supposed to do, I'll send you out of
21 the courtroom and rule on the objection and bring you back
22 in. Because of the brevity of this trial I suspect that
23 we're not going to have a situation where you go out and
24 come back in and then are sent immediately back out, which
25 happens in longer trials, but that may happen.

1 If you start to feel like you're -- been out of the
2 courtroom too long and if things are going too slow and you
3 want to blame somebody and you just are frustrated, don't
4 blame the lawyers for making objections. That's their job.

5 The additional duty I have, which I've not done very
6 good -- well today is to move this case along and to manage
7 it. And so if you get mad at anybody because you sit back
8 there too long and get hot and tired, be mad at me. Don't
9 get mad at the lawyers. Their job is to make objections,
10 and that's what they're supposed to do.

11 After you've heard all the testimony, the lawyers will
12 give you their closing statements. Again, that's not
13 evidence. The only evidence will come from the witness
14 stand and also from exhibits. But the opening and closing
15 are chances for the attorneys to outline their case and tell
16 you what they intend to prove. And then the closing is
17 specifically so that they can argue their position and try
18 to persuade you.

19 I don't think there's going to be any publicity. I do
20 think that we will -- I'm sure that we'll finish this case
21 tomorrow. Most likely we'll finish all the testimony today
22 and then bring you back tomorrow and do the charge.

23 You've been very patient downstairs waiting. And one
24 of the things I don't want to do is hand you a case at 4:30
25 after, you know, you've been sitting all day. So most

1 likely we'll finish the testimony today if it goes the way I
2 think it will and then bring you back tomorrow and let the
3 jury or let the lawyers argue, and I'll charge you and we'll
4 get this to you.

5 One thing you need to do, and I will, again, you'll get
6 tired of me saying it if you leave, but please don't discuss
7 this case at all until you've heard all the witnesses and
8 until you've heard the opening and closing and my jury
9 charge. For obvious reasons it's only fair to never discuss
10 this case until both sides have had their chance.

11 The other thing -- I just finished a three week long
12 trial in Conway. And the jury -- and there was a lot of
13 publicity. And I told the jury at the beginning of that
14 three week trial, I said, you really can't talk about this
15 case at home. And I said, I know how hard that's going to
16 be because somebody's going to want to know what's going on.

17 Y'all are going to have to go home tonight without
18 resolution in this case. And surprisingly at the end of
19 that three week trial the one thing the jurors said to me
20 was that none of them had talked to their spouses about this
21 case. And I believed them because they were very anxious to
22 get home.

23 And one foreman who was a Marine sergeant down there
24 and could have thrown me through the wall said, my wife's
25 going to kill me if I don't tell her about this case. And I

1 learned something, that jurors listen to you when you say
2 that.

3 The reason you can't tell anybody about this case is
4 because there is a chance, a very good chance that somebody
5 will respond to you and say either I know something about
6 that or they'll say something that might sway you one way or
7 the other. You have just taken an oath to listen to the
8 testimony in this case and reach a verdict based only on
9 what you hear in this courtroom. And that is a serious
10 oath.

11 This is Mr. Stenhouse's day in court and the State's
12 day in court. So tonight when your significant other, your
13 children, or mother or someone says what's your case about?
14 I'm asking you to say I can't tell you until tomorrow, and
15 I'm ordering you to do that.

16 The last thing I'm going to tell you is please don't do
17 any internet research on this case. I find it unbelievable
18 that after fifteen years of being on the bench that I've had
19 to tell jurors that now in the last five years, but it's one
20 thing that jurors have started doing.

21 And, quite frankly, if I find out you did it, I have to
22 put you in jail. It is a bad thing to do. You're only
23 going to get misinformation. And in a couple of
24 jurisdictions jurors have gone home, mainly in longer cases,
25 done some research on their own and judges have had to deal

1 with it.

2 You will know more about this case than anybody in the
3 world by tomorrow. So there's nothing you can find out
4 outside this courtroom. So if you will give us one more
5 afternoon and one more morning, you will have performed your
6 once every three years worth of jury service and you'll have
7 done it well.

8 Now, let me repeat one thing. In criminal court, which
9 is where we are, General Sessions, the State has the burden
10 of proving their case, each and every case, as I said,
11 beyond a reasonable doubt. And I want to read to you a very
12 short sentence about reasonable doubt.

13 At the end of this case I will tell you more. But
14 reasonable doubt is evidence which proves -- which firmly
15 convinces you of the Defendant's guilt. I'm sorry.
16 Reasonable doubt is evidence which firmly convinces you of
17 the Defendant's guilt.

18 If you've ever served on a civil jury, that's a
19 preponderance threshold. This is much greater. And the
20 State understands their burden. They have to prove each and
21 every element beyond a reasonable doubt.

22 You got very good lawyers in this case. We have spent
23 a lot of time sort of honing this down to the necessary
24 information that we're going to give you. And we're going
25 to move through it as quick as we can, but this is

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1 important. So we'll go as slow as we have to.

2 Mr. Foreman, if you -- if there's a problem in the jury
3 room for whatever -- any kind of problem or any kind of
4 issue that you need to communicate with me, you're the one
5 that does that. Just write out on a piece of paper, put the
6 time and date and let me know what problem you're having or
7 what issue you have.

8 Once you begin your deliberations I'll tell you you've
9 got a extra duty. But basically from this point forward
10 you're the person that I'll communicate with the jury with
11 this afternoon and tomorrow morning. So just let me know if
12 there's a problem. And you have to do that in writing. All
13 right.

14 The last thing I want to tell you is we're going to try
15 to get through everything this afternoon, but if you need a
16 break for any reason whatsoever, raise your hand, get my
17 attention, and no questions asked, we'll take a break. As I
18 said, I understand your patience. All right. Thank you
19 very much.

20 **MS. TIFFIN:** May it please the Court, Your Honor.

21 **THE COURT:** Yes, ma'am.

22 **MS. TIFFIN:** Mr. Grove. Good afternoon, Mr. Foreman,
23 and ladies and gentlemen of the jury. As I've already told
24 you, my name is Barbara Tiffin, and I'm with the solicitor's
25 office, but it really doesn't matter who I am. I'm just a

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1 public servant. What matters is you, the jury, because,
2 you, the jury, will determine the verdict in this case.

3 And I know you'd rather be anywhere else in the world
4 but here today, you know, with your families, at your jobs,
5 gardening, golfing, whatever you enjoy doing. And if it
6 weren't for jurors like you, our system of justice just
7 simply would not work. It might not be a perfect system,
8 but it's definitely the best system in the world.

9 And on behalf of the citizens of Greenville County, I
10 would like to personally thank you for your service here
11 today. Other than possibly military service, this is the
12 most honorable duty that you could give to your country.

13 So we're here today on a case of utmost importance.
14 You guys, as the Judge has indicated, are the fact-finders.
15 So you'll listen to the testimony, you'll look at the
16 evidence and you'll determine the facts. You're the only
17 fact-finders in this case.

18 And you do that just by using your common sense that
19 you do every day when you interact with your spouses, or
20 your children or co-workers in order to determine the
21 believability or the credibility of the witnesses. And
22 you'll just use your same skills you do every day in order
23 to determine who you believe.

24 Now, Judge Maddox will be the judge of the law. And he
25 will rule on motions and different objections during the

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1 course of the trial. But more importantly he will charge
2 you at the close of the case on the law.

3 So I'm going to briefly talk about the law. But if I
4 ever say anything that seems different from what he says,
5 you take what he says instead of what I say. So he will
6 give you a complete charge.

7 In addition to the testimony that you'll consider when
8 you consider the demeanor of the witnesses and all of that,
9 there may be some physical evidence for you to view.
10 Physical evidence can be in videos or photographs, that type
11 of thing.

12 But some of you might like to watch shows like CSI and
13 that type of thing. You know, this is real life. And we
14 have to operate in the parameters of real life. We're, you
15 know, not able to pull up a screen in the middle of the room
16 and play the event from years ago. And DNA testing can't be
17 done in two hours. And not every case can have full
18 forensics because we don't have the resources to do that.

19 And another thing I will say is if this were
20 television, I would look like Angelina Jolie.

21 (Laughter)

22 **MS. TIFFIN:** So you know we're in real life here.

23 The Defendant was indicted for unlawful carrying of a
24 handgun and possession of a pistol by a person convicted of
25 a violent crime. As Judge Maddox explained, we have to

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1 prove these elements to you beyond a reasonable doubt.

2 We have to prove that in Greenville County on or about
3 July the 24th, 2011 the Defendant had in his actual or
4 constructive possession, actual would be like holding it,
5 constructive would be to exercise dominion and control over
6 it, which the Judge will explain further, a handgun, that
7 did not fall into the exceptions that are allowed by the
8 statute.

9 I won't go into all of them, but I'll give you an
10 example. If you're a law enforcement officer you can have a
11 weapon. You know, if you're active military, you can have a
12 weapon. The statute gives lots of exemptions.

13 One of them concerns how you can have a weapon in your
14 vehicle. And it states that it has to be secured in a
15 closed glove compartment, closed console, closed trunk or in
16 a closed container secured by an integral fastener and
17 transported in the luggage compartment of the vehicle. The
18 Judge will give you a little bit more instruction on that.
19 So that's one of the charges.

20 The other charge is that the Defendant was in
21 possession of a handgun after having been convicted of a
22 crime of violence, which does not allow him to have a gun.

23 So we have to prove those elements to you beyond a
24 reasonable doubt. We do plan to do that. We wouldn't be
25 here if we didn't.

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1 The term reasonable doubt, the Judge touched on a
2 little bit, and really it's just that if you have been
3 presented evidence where you're firmly convinced of the
4 Defendant's guilt, then you would find the Defendant guilty.
5 Obviously, nothing in this world can be proved with any
6 absolute certainty. That would be an impossibility. But we
7 do plan to carry our burden.

8 After we've satisfied our responsibility, I will come
9 back to you in the closing argument at that time, and I will
10 ask you to find the Defendant guilty. Thank you.

11 **THE COURT:** Yes, sir.

12 **MR. GROVE:** Thank you, Your Honor.

13 In sixteen days I'm getting married right here in
14 Greenville. And I have been planning with my fiancé for a
15 while. We've been going through every little detail.

16 We've gotten the little bubble -- bubble things to run
17 through the bubble hoop. We went to Hobby Lobby and we
18 bought a bunch of ribbon to tie around the little things on
19 the bubble ribbon.

20 We've gone to the venue to follow up with them. We've
21 talked with the caterer. We've done a tasting. We've
22 covered every possible detail that there can possibly be. I
23 know what kind of candelabras are going to be on the alter
24 when we get married in sixteen days. I know more about this
25 wedding than you could possibly imagine.

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1 And almost every night for the last three months I've
2 had some version of the same nightmare where I get to the
3 church, and I'm not wearing my pants. Or I get to the
4 church and my dad, who's my best man, is not there, and we
5 can't find him. Or I get to the church, and we've forgotten
6 the rings.

7 And I have this nightmare over, and over, and over
8 again, but my alarm goes off at 6:45 and my nightmare is
9 over. On July 24th of 2011 Detrick's nightmare started. He
10 got arrested on these two charges. You can wake him up. He
11 can't wake himself up at this point. We're here and you can
12 wake him up.

13 Ms. Tiffin's right. She said this isn't going to be
14 CSI. She says the DNA can't come back in two hours. And
15 that's right. July 24th, 2011, four and a half years ago.

16 She can say nothing can be proved beyond all doubt,
17 nothing can be known with absolute certainty, and she's
18 right, but you can try. You can try to prove it.

19 Effort, ladies and gentlemen, that's why we're here
20 today. All of this will make sense before we're done. I'm
21 asking you to keep an open mind and think about those
22 things, okay? Thank you.

23 **THE COURT:** All right. Yes, ma'am.

24 **MS. TIFFIN:** The State would call Sergeant Ryan Herron.

25 **MADAME CLERK:** Sergeant Herron, please place your left

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1 hand on the Bible and raise your right hand.

2 **Ryan Herron**, being duly
3 sworn testified as follows;

4 **MADAME CLERK:** Please be seated and state your name for
5 the record.

6 **MR. HERRON:** My name is Ryan Herron.

7 **Direct Examination by Ms. Tiffin:**

8 Q. Sergeant Herron, where are you employed?

9 A. I'm employed with the City of Mauldin Police
10 Department.

11 Q. And how long have you been employed by the Mauldin
12 Police Department?

13 A. Approximately eleven years.

14 Q. All right. Would you please explain to the jury your
15 experience with that department.

16 A. Yes, ma'am. I started with the department in October
17 of 2004 as a patrol officer. I was then assigned to the
18 Traffic Safety Team. From there I was selected for a
19 position with the Interdiction Team with the department.
20 After that I was selected as a K-9 handler and then promoted
21 to sergeant over a road patrol shift.

22 Q. All right. And when you say K-9, you have a dog?

23 A. I do. Yes, ma'am.

24 Q. All right. And what's your dog's name?

25 A. Chica.

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1 Q. Chica. And how old's Chica?

2 A. She'll be eight in April.

3 Q. All right. Now, when you say interdiction, that's drug
4 interdiction?

5 A. Yes, ma'am.

6 Q. Okay. Have you had any special training in law
7 enforcement?

8 A. I have. I've gone through speed measuring device
9 training, which would be radar operator, lidar operator.
10 I've been through the National Highway Traffic Safety
11 Administration's drug recognition expert school. I've been
12 through numerous interdiction classes, advanced K-9 courses,
13 law enforcement supervision, things like that.

14 Q. All right. And were you so employed with the Mauldin
15 Police Department on July 24th, 2011 at approximately 5:00
16 in the morning?

17 A. I was.

18 Q. All right. And were you in a marked vehicle?

19 A. I was.

20 Q. All right. And was it your K-9 vehicle?

21 A. It was.

22 Q. Were you in uniform?

23 A. Yes, ma'am.

24 Q. All right. And did you have your K-9 with you?

25 A. Yes, I did.

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1 Q. Okay. What, if anything, unusual did you observe at
2 about 5:00 in the morning on that date?

3 A. I was traveling northbound on North Main Street in the
4 City of Mauldin at which time I observed a gold vehicle in
5 front of me, which appeared to be driving faster than the
6 posted speed limit, which was 40 miles an hour. I estimated
7 the speed of that vehicle at 55 miles an hour. And then
8 using my dash-mounted radar, confirmed the speed of that
9 vehicle at 54 miles an hour in a posted 45 zone.

10 Q. All right. And did you follow the vehicle?

11 A. I did.

12 Q. All right. And did you observe any other traffic
13 violations other than the speeding?

14 A. As it approached the Pumpers Gas Station, initiated a
15 left turn into the Pumpers Gas Station parking lot without a
16 turn signal and at which time I initiated my blue lights to
17 conduct a traffic stop.

18 Q. All right. And did you pull up behind the vehicle?

19 A. Yes, ma'am.

20 Q. And were you at the pumps there?

21 A. Yes, ma'am.

22 Q. And where did you -- what side did you approach?

23 A. I pulled up behind the vehicle and I had to reposition
24 my camera because my vehicle was pointed slightly to the
25 right. As I exited my vehicle I approached the Defendant's

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1 vehicle on the driver's side.

2 Q. Did you notice anything before you got all the way up
3 to the door?

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

5 Q. What happened?

6 A. As I approached and near the driver's door, the driver
7 had opened the door and appeared to attempt to exit. I also
8 observed the driver's left hand reaching down towards the
9 floorboard on -- underneath the driver's seat area.

10 Q. All right. And in your training and experience of
11 eleven years did that cause you any concern?

12 A. Yes, ma'am, it did.

13 Q. What?

14 A. That area is a location that's known to be where people
15 may carry firearms.

16 Q. All right. And was the driver able to exit the
17 vehicle?

18 A. No, ma'am. I instructed him to stay inside the vehicle
19 and close the door and roll his window down.

20 Q. All right. Were you concerned about him trying to
21 exit?

22 A. Yes, ma'am.

23 Q. Why?

24 A. In my experience several things happen when someone
25 attempts to exit on a traffic stop. It could be that the

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1 individual may attempt to flee. They may be trying to take
2 me or get themselves away from the vehicle so that I can't
3 get close enough to observe anything that may be going on
4 inside or that they may attempt to cause me harm.

5 Q. And have you had those experiences before?

6 A. Yes, ma'am, I have.

7 Q. So after you closed the door did he roll his window
8 down?

9 A. Yes, he did.

10 Q. All right. And did you speak with the driver?

11 A. I did.

12 Q. Were you able to identify him?

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

14 Q. And what was his name?

15 A. His name was Detrick Stenhouse.

16 Q. All right. And is that the gentleman sitting over here
17 beside his attorney in the courtroom?

18 A. Yes, ma'am.

19 Q. All right. And were you able to request his documents,
20 his license, and registration and insurance?

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

22 Q. Okay. And then what happened?

23 A. I asked him for his documentation. And during that
24 exchange I had to call for a backup officer based on what I
25 had observed so far as well as observing some extreme

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1 nervousness from the passenger that was in the vehicle.

2 Q. All right. Where was the passenger?

3 A. The passenger was in the front passenger's seat.

4 Q. Okay. Can you describe the nervousness and what you
5 observed about the passenger?

6 A. The passenger, he was tremoring noticeably. I could
7 see him shaking. He lit up a cigarette upon initiation of
8 the traffic stop. He was sweating noticeably. And I could
9 also see his belly bouncing as his heart was pounding.

10 Q. All right. Did you notice anything about his clothing
11 that caused you concern?

12 A. Yes, ma'am, I did. I observed an irregular bulge in
13 the right pocket area, pant's pocket.

14 Q. All right. Was the Defendant able to produce his
15 documents?

16 A. Yes, ma'am, he was.

17 Q. All right. And were you able to identify the owner of
18 the vehicle?

19 A. Yes.

20 Q. And who was it?

21 A. Detrick Stenhouse.

22 Q. All right. So it's his vehicle?

23 A. That is correct.

24 Q. Now in regard to the passenger, did you identify him?

25 A. I did.

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1 Q. All right. And did he provide his ID?

2 A. He did.

3 Q. Okay. Now after you got the documents from the driver,
4 where did you go?

5 A. After I obtained the documents from the driver, I had
6 gone back to the rear of the vehicle at which time I
7 observed more movement inside the vehicle. And I maintained
8 a position behind the vehicle to observe the passenger
9 continue to reach down towards his right pant's pocket area.

10 Q. Okay. Now when you were walking back, were you keeping
11 eye contact on the passenger and the driver?

12 A. Yes, ma'am. I was attempting to.

13 Q. And why were you continuing to watch?

14 A. Based on the red flags initially upon the stop and then
15 the extreme nervousness from the passenger, I felt that
16 there may be a firearm in the vehicle.

17 Q. All right. Were you concerned for officer safety?

18 A. I was.

19 Q. And was that concern based on your training and
20 experience?

21 A. Yes, ma'am.

22 Q. All right. As a result of what you saw happen in the
23 car after you walked back, what did you do?

24 A. I immediately went to the passenger's side of the
25 vehicle to address the movement from the passenger. From

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1 there I asked the passenger to step out of the vehicle to
2 conduct a pat-down for weapons.

3 Q. All right. And did you pat him down for weapons?

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

5 Q. Now when you asked the passenger to step out what did
6 the Defendant do, the driver?

7 A. When I asked the passenger to step out, the driver
8 again opened the driver's door and appeared to attempt to
9 exit the vehicle.

10 Q. And what did you say to him?

11 A. I instructed him to stay in the vehicle again.

12 Q. All right. At that time had your backup arrived?

13 A. Yes, ma'am, he did.

14 Q. And who was your backup?

15 A. Corporal Robbie Patton.

16 Q. All right. Is he still with the department?

17 A. No, ma'am, he's not.

18 Q. All right. Is he within the subpoena power of our
19 State?

20 A. No, ---

21 **MR. GROVE:** Objection, ---

22 A. --- ma'am.

23 **MR. GROVE:** --- Your Honor. I don't know that he's
24 qualified to answer that question.

25 **THE COURT:** Well, ask him if he knows.

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1 Q. Do you know if he's in this State?

2 A. I believe he's in North Carolina.

3 Q. Now when you searched the passenger, when you patted
4 down the passenger for weapons were you just doing a frisk
5 just ---

6 A. Yes, ma'am.

7 Q. --- for officer safety? And what -- did you have
8 permission to further search the passenger?

9 A. I did.

10 Q. Were you able to determine what the large bulge was in
11 the passenger's pocket?

12 A. It was some sort of a rag or a cloth that was in his
13 pocket.

14 Q. All right. In regard to the -- your backup that pulled
15 up, where did he go when he approached the vehicle?

16 A. Initially he walked up near my location, which was on
17 the passenger's side of the vehicle. And then he
18 repositioned himself to the driver's side of the vehicle.

19 Q. And did he ultimately get the Defendant out of the
20 vehicle?

21 A. He did.

22 Q. All right. And where did they go?

23 A. Initially the driver was asked out of the vehicle by
24 Corporal Patton. Corporal Patton conducted a frisk of his
25 person immediately outside the driver's door. And then they

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1 walked around the front of the Defendant's vehicle and back
2 to the front of Corporal Patton's patrol vehicle.

3 Q. All right. Did you ask the passenger if there were any
4 weapons in the vehicle?

5 A. Yes.

6 Q. All right. And was he able to tell you if there were
7 or were not?

8 A. No, he was not.

9 Q. All right. Did you then have a conversation with
10 Patrolman Patton ---

11 MR. GROVE: Objection, Your Honor, for previously
12 stated reasons.

13 THE COURT: Okay. And subject to that, go ahead.

14 MS. TIFFIN: Okay.

15 THE COURT: Overruled.

16 MS. TIFFIN: Thank you.

17 Q. Did you have a conversation with Patrolman Patton at
18 that point?

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

20 Q. All right. And based on your conversation with
21 Patrolman Patton what did you determine that you needed to
22 do?

23 MR. GROVE: Objection, Your Honor, end around the
24 hearsay.

25 THE COURT: Okay. Overruled. Go ahead. I understand.

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- 1 You're protected for the record subsequent or ---
- 2 Q. Based on your ---
- 3 THE COURT: --- based upon our ---
- 4 Q. --- discussions with the other officer ---
- 5 MS. TIFFIN: I'm sorry, Your Honor.
- 6 THE COURT: No, that's okay. Go ---
- 7 MS. TIFFIN: I started ---
- 8 THE COURT: --- ahead.
- 9 MS. TIFFIN: --- before you were finished.
- 10 THE COURT: No, that's okay. Go ahead.
- 11 Q. What did you determine that you needed to do in regard
- 12 to the vehicle?
- 13 A. After the conversation I believed that I needed to
- 14 frisk the vehicle for weapons.
- 15 Q. All right. So where did you start the frisk?
- 16 A. Initially I started on the passenger's side, which was
- 17 the closest side to where Corporal Patton and the driver
- 18 were. And then I moved to the driver's side of the vehicle.
- 19 Q. All right. And did you search the driver's side of the
- 20 vehicle?
- 21 A. I did.
- 22 Q. And did you search all the way under the driver's seat?
- 23 A. Yes, ma'am, I did.
- 24 Q. All right. And what did you seize?
- 25 A. I seized ---

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1 **MR. GROVE:** Objection, Your Honor. Renewing the
2 objection for the record.

3 **THE COURT:** Okay. Subject to our previous discussions,
4 overruled.

5 A. I seized a Hi-Point .380 caliber pistol from underneath
6 the driver's seat.

7 Q. All right. Was it secured like the statute requires?

8 A. No, ma'am, it was not.

9 Q. All right. It was just under the seat free?

10 A. It was just lying under the seat on the carpet.

11 Q. All right. Was it fully loaded?

12 A. It was loaded with eight rounds inside the magazine,
13 yes, ma'am.

14 Q. All right. Was it in the area where the Defendant was
15 reaching down when you pulled up?

16 A. Yes, ma'am, it was.

17 Q. Was it under his dominion and control?

18 A. Yes, ma'am, it was.

19 Q. Were you able to determine if that -- if the Defendant
20 had that weapon in his vehicle pursuant to any of the
21 exemptions, being a law enforcement officer, active military
22 or any other conditions of the statute?

23 A. No, ma'am.

24 Q. What did you do with the pistol and the ammunition?

25 A. The pistol and the ammunition were removed from the

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1 vehicle. Ammunition was removed, the weapon was cleared.

2 And then it was taken into custody by myself and then placed
3 into the property and evidence locker for storage ---

4 Q. All right.

5 A. --- at the police department.

6 Q. So now I know we have a video of this, but at some
7 point did you feel like you needed to secure the passenger
8 in handcuffs ---

9 A. Yes, ma'am.

10 Q. --- before you searched the vehicle?

11 A. I did.

12 Q. All right. But was the Defendant ever secured in
13 handcuffs?

14 A. Not prior to finding the pistol.

15 Q. All right. So he was still standing around out there
16 around the car?

17 A. Yes, ma'am.

18 Q. All right. Now what was the purpose for you having one
19 of them secured?

20 A. Secured the passenger in handcuffs subsequent to the
21 conversation with Corporal Patton. I didn't believe that
22 leaving both of them unrestrained under control of the one
23 officer while I conducted the frisk for weapons was a safe
24 idea.

25 Q. All right. And was Patrolman Patton speaking with the

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1 Defendant at that time?

2 A. Yes.

3 Q. So after you seized the weapon did you place the
4 Defendant under arrest for unlawful carrying?

5 A. Once I located the firearm I did advise Corporal Patton
6 to place the Defendant under arrest, yes, ma'am.

7 Q. All right. And did you secure the weapon and the
8 ammunition in your vehicle?

9 A. Yes, ma'am.

10 Q. All right. And did you then take it to the property
11 and evidence department at Mauldin?

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

13 Q. All right. Is there a drop-box there or do you hand it
14 straight to an evidence custodian? How does that work?

15 A. There is a drop-box. Where the drop-boxes, when
16 they're empty, they'll have a key. We'll place the evidence
17 into the drop-box. And then we'll drop the key so there's
18 no access to the drop-box from the exterior until the
19 property and evidence custodian comes into work and empties
20 the lock-boxes from the other side, which is inside the
21 property and evidence room.

22 Q. All right. So that's the procedure that you follow.

23 And then the evidence custodian comes in when they come in
24 that morning and remove the evidence, is that ---

25 A. Yes, ma'am.

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1 Q. All right. And that's what happened in this case?

2 A. That is correct.

3 Q. All right.

4 MS. TIFFIN: Your Honor, I believe the weapon has been
5 secured according to courtroom policy. And I'll just
6 retrieve it. We would ask that the weapon be marked as
7 State's exhibit 1 and the ammunition be marked as State's
8 exhibit 2.

9 THE COURT: Any objection?

10 MR. GROVE: None that haven't already been made, Your
11 Honor.

12 THE COURT: Okay.

13 MS. TIFFIN: And, Your Honor, it's my understanding
14 that there's no objection to the chain.

15 THE COURT: Okay.

16 MR. GROVE: That's correct, Your Honor.

17 MS. TIFFIN: Unfortunately, it's pointed at you right
18 now.

19 THE COURT: Huh?

20 (Whereupon State's exhibits 1 and 2 were marked and
21 admitted into evidence)

22 Q. I'll show you what's been marked as State's exhibit
23 number 1 or actually introduced as State's exhibit number 1
24 and ask you if you recognize it?

25 A. Yes, ma'am.

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1 Q. All right. And how do you recognize it?

2 A. It's the same make, the same caliber and the same
3 serial number as the firearm that I retrieved from the
4 Defendant's vehicle.

5 Q. All right.

6 MS. TIFFIN: Your Honor, it's my understanding that
7 this is in evidence, correct?

8 THE COURT: Is that correct?

9 MR. GROVE: Over objection, but, yes, Your Honor.

10 THE COURT: All right. It's in.

11 Q. And let me show you what's been marked or introduced as
12 State's exhibit number 2 and ask you if you recognize that?

13 A. I do.

14 Q. All right. And what is that?

15 A. This is the magazine and the bullets that were inside
16 the firearm inside the Defendant's vehicle.

17 Q. All right. And how do you know that that was what you
18 put into evidence?

19 A. It's sealed and initialed by myself with the date and
20 the case number.

21 Q. All right. In regard to State's exhibit number 1 and
22 number 2, do either one of them appear to be altered in any
23 way from the time you seized them?

24 A. No, ma'am.

25 Q. Now after you entered those into evidence what did you

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1 do?

2 A. After I placed them into evidence -- normally our
3 dispatch will print a criminal history report for the
4 subject. At that time I reviewed the criminal history
5 report.

6 Q. All right. You reviewed his criminal history?

7 A. Yes.

8 Q. All right. And you have a way to do that?

9 A. Yes, ma'am.

10 Q. And what is that called? Do you know what your system
11 is called?

12 A. NCIC.

13 Q. Is that the Federal Bureau of Investigation?

14 A. It's the National Crime Information Center.

15 Q. All right.

16 **MS. TIFFIN:** Permission to approach, Your Honor.

17 (Whereupon a bench conference was held off the record,
18 in the presence of the jury, but out of their hearing)

19 (Whereupon the bench conference was ended)

20 Q. Let me show you this certification of conviction.

21 There's a stipulation -- let me show you -- who was charged
22 in regard to this case in Greenville County?

23 A. Detrick Lamar Stenhouse.

24 Q. All right. And what was the charge?

25 A. Assault and battery with intent to kill.

RYAN HERRON - DIRECT EXAMINATION BY MS. TIFFIN

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1 Q. All right. And let's see. And what was the date of
2 the charge?

3 A. December 28th, 1999.

4 Q. All right.

5 MS. TIFFIN: And, Your Honor, it's my understanding
6 that counsel has agreed to stipulate to the conviction from
7 August the 23rd of 2000 for assault and battery with intent
8 to kill.

9 MR. GROVE: That's correct, Your Honor.

10 THE COURT: That is correct. All right. That's
11 stipulated.

12 MS. TIFFIN: And I ask that that be marked.

13 (Whereupon State's exhibit 3 was marked and admitted
14 into evidence)

15 Q. And after you found that conviction for assault and
16 battery with intent to kill did you make another charge in
17 this case?

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

19 Q. All right. What charge did you make?

20 A. It was for possession of a firearm by a prohibited
21 person under South Carolina statute.

22 Q. All right. That charge is a crime of violence, a
23 violent crime?

24 A. Yes, ma'am.

25 Q. Now since the Defendant does have that prior conviction

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1 is he permitted in South Carolina to have possession of a
2 weapon?

3 A. No, ma'am.

4 Q. Did this stop occur in Greenville County?

5 A. Yes, it did.

6 Q. And did you arrest this Defendant in Greenville County

7 ---

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

9 Q. --- for those two charges?

10 MS. TIFFIN: Your Honor, at this time we would seek to
11 play the video of the stop for the jury.

12 THE COURT: Any objection?

13 MR. GROVE: No, none that haven't already been made,
14 Your Honor.

15 THE COURT: Right.

16 MR. GROVE: And for simplicity sake, can we approach
17 just a moment?

18 THE COURT: Sure.

19 (Whereupon a bench conference was held off the record,
20 in the presence of the jury, but out of their hearing)

21 (Whereupon the bench conference was ended)

22 MS. TIFFIN: And, Your Honor, I believe at this point
23 it's just a Court's exhibit. So we would seek to move it
24 into evidence.

25 THE COURT: And I understand subject to any other

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1 objection, that's stipulated to, right?

2 MR. GROVE: That's right, Your Honor. Thank you.

3 THE COURT: All right. Without objection.

4 MR. GROVE: Well, in the event that I didn't make that
5 clear, subject to any objections I haven't already raised
6 regarding ---

7 THE COURT: Right.

8 MR. GROVE: But, yes.

9 (Whereupon State's exhibit 4 was marked and admitted
10 into evidence)

11 MS. TIFFIN: Your Honor, it's Murphy's Law. It worked
12 perfectly earlier ---

13 THE COURT: Oh, I know.

14 MS. TIFFIN: I think it's in ---

15 THE COURT: Do you ---

16 MS. TIFFIN: --- sleep mode.

17 THE COURT: --- need a minute? You want five minutes
18 to work on it? It's not a problem.

19 MS. TIFFIN: There it goes.

20 THE COURT: It's easier to see in the dark, quite
21 frankly. Yeah, thank you.

22 (Whereupon the DVD, State's exhibit 4, was played for
23 the jury)

24 (Whereupon the DVD was ended)

25 Q. Sergeant Herron, is Chica trained to sniff out

RYAN HERRON - DIRECT EXAMINATION BY MS. TIFFIN

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1 narcotics, drugs?

2 A. Yes. She's trained to detect the odor of the drugs.

3 Q. All right. And when you ran her around the car did she
4 alert?

5 A. No, ma'am, she did not.

6 Q. What does she do when she alerts?

7 A. She will sit at the source.

8 Q. Okay. And when you were -- when she was working, when
9 you were pulling her around the car, you said find my dope,
10 let's go. Why were you saying that?

11 A. Just trying to motivate her, keep her focused on what I
12 was asking her to do.

13 Q. Okay. What are your usual commands with her as far as
14 searching cars?

15 A. Commands to sniff for a controlled substance is,
16 regardless of where we're at, a vehicle or a building, would
17 be find my dope. That was the command that she was
18 imprinted with when she came from the vendor where we got
19 her from.

20 Q. Okay. So she knows that's your command to work?

21 A. Yes.

22 Q. All right. I wanted to ask you in regard to the
23 handgun, ---

24 **THE COURT:** Are y'all through with the video?

25 **MS. TIFFIN:** I have -- I wanted to ask one more

RYAN HERRON - DIRECT EXAMINATION BY MS. TIFFIN

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1 question about the video, ---

2 **THE COURT:** Okay.

3 **MS. TIFFIN:** I'm sorry ---

4 **THE COURT:** That's okay.

5 **MS. TIFFIN:** --- we're in the dark.

6 Q. In regard to State's exhibit number 1 is that a firearm
7 that expels a projectile and is designed to be fired from
8 the hand?

9 A. Yes, ma'am, it is.

10 Q. All right. And I want to just play this one last
11 section here on the video, and I'm going to ask you a
12 question about it. Right here, ---

13 (Whereupon the video was played)

14 Q. --- were you walking back? What are you looking -- why
15 are you looking ---

16 **THE COURT:** Hold on a second. She can't hear the
17 question.

18 (Whereupon the video was stopped)

19 **THE COURT:** Okay. Ask that again, if you would.

20 Q. All right. Right there when you're walking towards the
21 back of the car you're continuing to look at both the driver
22 and the passenger. Why are you doing that?

23 A. I'm observing for any out of the ordinary movements.

24 Q. All right. Were you concerned at that point putting
25 your back to the car?

RYAN HERRON - CROSS EXAMINATION BY MR. GROVE

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

2 Q. All right. When you see you put your hand there on the
3 back of the car when you walk around to the passenger's
4 side, why are you doing that?

5 A. Well, at that point I was laying the documentation down
6 that I had in my hand in case I needed to use my hands.

7 Q. But when you put your hand up there on the window right
8 before you go to the passenger, is that what you're doing?

9 A. On the window, I'm marking the vehicle.

10 Q. All right. And why are you marking the vehicle?

11 A. In case something happens and the vehicle leaves, my
12 fingerprints will be on the vehicle and on the window.

13 Q. Okay. Thank you. Those are all the questions I have.

14 **THE COURT:** Shield your eyes, I think we're going to
15 turn the lights back on. Okay. All right. Yes, sir.

16 **MR. GROVE:** Thank you, Your Honor.

17 **Cross Examination by Mr. Grove:**

18 Q. Sergeant, the last couple of questions you were asked
19 about marking the vehicle. That's standard protocol,
20 correct?

21 A. Yes, it is.

22 Q. When you -- during a traffic stop when you approach a
23 vehicle you place your hand somewhere on the back of that
24 vehicle typically on the driver's side, whichever side you
25 approach, correct?

RYAN HERRON - CROSS EXAMINATION BY MR. GROVE

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1 A. They teach that at the academy, yes.

2 Q. That's a standard thing that you do with every traffic
3 stop, right?

4 A. I'm sure at some point you don't, but normally you'd
5 try to do that.

6 Q. The idea is to try and do it as often as possible,
7 right?

8 A. Correct.

9 Q. And you explained on direct that the reason to do that
10 is to leave a signal that you were there in the event that
11 something should occur, correct?

12 A. Correct.

13 Q. If that -- maybe that vehicle flees and gets recovered
14 later, you could say it was definitely that vehicle, there's
15 my fingerprint on the driver -- right rear taillight or
16 whatever it is, right?

17 A. As long as that works out, yes.

18 Q. Sure. Because when you touch stuff you leave
19 fingerprints, is that correct?

20 A. Sometimes. Would you like me to explain further?

21 Q. Sure.

22 A. It depends on the surface, condition of the surface,
23 moisture, things like that. Sometimes you'll leave
24 fingerprints. Sometimes you'll leave fingerprints that are
25 unidentifiable.

RYAN HERRON - CROSS EXAMINATION BY MR. GROVE

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1 But the objective is hopefully your fingerprints will
2 transition on the vehicle, and they'll maintain that status
3 in case something happens and the vehicle doesn't get wet or
4 somebody else touches it and damages those fingerprints and
5 removes them from the vehicle.

6 Q. Right. The idea being that they can recover your
7 fingerprints, possibly, right?

8 A. Possibly.

9 Q. Sure. Right before you recovered this .380 -- and it
10 appears as though you opened the driver's side rear door and
11 looked in the floorboard area there, is that correct?

12 A. I did.

13 Q. And that's where you ultimately recovered the gun, is
14 that correct?

15 A. I recovered it from the rear because it was closer to
16 the rear. That's correct.

17 Q. Right. But you didn't recover it from the front door,
18 you didn't recover it from the passenger's side, it was that
19 back left door, right behind the driver, correct?

20 A. That is correct.

21 Q. Okay. Before you -- you dug down in there for a
22 minute. I reckon at some point you saw a weapon and then
23 you stood back up and you put on gloves and you went in
24 there and you got the weapon, is that correct?

25 A. That is correct.

RYAN HERRON - CROSS EXAMINATION BY MR. GROVE

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1 Q. Okay. Why would you do that?

2 A. Do what?

3 Q. Put on gloves before you took custody of the weapon?

4 A. Carbon, I don't want to get my hands dirty.

5 Q. Okay. Anything to do with fingerprints?

6 A. Possibly.

7 Q. Okay. A little bit at the very end of your testimony
8 through Ms. Tiffin -- at the beginning of the traffic stop
9 when you headed back to your vehicle you stopped and then
10 you re-approached to the passenger's side, correct? Strike
11 that. I apologize. That's a confusing question. You got
12 the documentation from Mr. Stenhouse, you were headed back
13 to your patrol vehicle, you stopped and then you re-
14 approached the vehicle to the passenger's side, correct?

15 A. That is correct.

16 Q. Okay. And you did that because you saw the passenger
17 moving around in the car, correct?

18 A. That is correct.

19 Q. And I believe you also testified, or if you disagree,
20 certainly, disagree with me. There was a bulge or a bulk in
21 the front right pocket of a person identified to be Mr.
22 Rhodes, is that correct?

23 A. Yes. There was something in his pocket that was not
24 anatomically correct. And it was a very noticeable bulge,
25 yes.

RYAN HERRON - CROSS EXAMINATION BY MR. GROVE

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1 Q. Okay. And you saw him moving in that direction. And
2 that's what drew your attention to him and brought you back
3 to the vehicle, correct?

4 A. He was reaching down to the right side by his right
5 pant's pocket, yes.

6 Q. Where that bulge was, correct?

7 A. Correct.

8 Q. Sure. And ultimately we saw on the video you got him
9 out of the car and you searched him and that bulge was a rag
10 or something relatively simple, right?

11 A. Correct.

12 Q. Brian Rhodes was ultimately released that evening,
13 correct?

14 A. Yes, he was.

15 Q. It sounded like you had some issues with Mr. Rhodes' ID
16 card? He didn't look quite like whomever it was on the ID
17 card, is that correct?

18 A. That is correct.

19 Q. And so you asked him a handful of questions about his
20 address and his date of birth and other things that you
21 would expect a person to know if it's authentically them,
22 correct?

23 A. Yes, sir.

24 Q. And, Chica, I don't know if we covered this yet
25 already, she's a drug dog, correct?

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1 A. That is her detection field is narcotics.

2 Q. Sure.

3 A. She's not exclusive or anything like that.

4 Q. Right. But that's her area of expertise, so to speak?

5 A. Yeah. She's a patrol dog.

6 Q. And she did not recover anything from the car, correct?

7 A. She did not indicate to the presence of the odor of
8 controlled substance in the vehicle.

9 Q. You also identified on direct that -- and when you hear
10 a little bit of this, your discussion on the video, I
11 believe you were talking to Corporal Patton about Mr. Rhodes
12 appeared to be nervous? Is that correct?

13 A. Which portion?

14 Q. Towards the end, I believe, you were speaking with him.
15 You said he was so nervous, man, he was trying to smoke a
16 cigarette and ---

17 A. Yes.

18 Q. --- shaking everywhere.

19 A. Yes.

20 Q. Right?

21 A. Sure.

22 Q. But ultimately without a pending warrant for him
23 without, you know, he wasn't identified as the driver of the
24 vehicle, so he wouldn't be subject to any sort of a driving
25 offense, and it was as though he was who it was on the

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1 driver's license or the identification card, you let him go
2 that evening, correct?

3 A. Once I was satisfied that he was the individual on the
4 identification card, yes, he was released.

5 Q. Sure. I also believe I heard on that video a response
6 from dispatch at 5:17 and 57 seconds, 822, that's your call
7 number, correct?

8 A. That's my call sign, yes, sir.

9 Q. 822, your subject is clear for warrants, is that
10 correct?

11 A. I believe they did come back with clear for warrants
12 and they also advised of priors.

13 Q. Sure.

14 MR. GROVE: I beg the Court's indulgence.

15 THE COURT: All right.

16 (Pause)

17 Q. Are you familiar with what touch DNA is?

18 A. Touch DNA?

19 Q. That's right.

20 A. No, sir.

21 Q. You're not familiar that there is a forensic analysis
22 where if you touch something you might leave your DNA behind
23 the same way you might leave a fingerprint?

24 A. I'm not a crime scene tech. I'm not a detective. So
25 I'm not familiar with the term.

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1 Q. You've never heard of that?

2 A. I'm familiar with fingerprints.

3 Q. You've never heard of touch DNA?

4 A. No, sir.

5 **MR. GROVE:** I beg the Court's indulgence.

6 **THE COURT:** All right.

7 (Pause)

8 Q. You also testified on direct that when you approached
9 the vehicle -- and we saw on the video Mr. Stenhouse opened
10 his door a little bit, correct?

11 A. He opened his door, yes.

12 Q. And you testified on direct that you could see his left
13 hand was near the bottom of his driver's seat, is that
14 correct?

15 A. That's correct.

16 Q. And it was empty, is that correct?

17 A. That is correct.

18 Q. You listed -- you gave throughout the course of this
19 traffic stop several, what you might call, requests or
20 commands of step out of the car, stand over here, give me
21 your information, that sort of stuff, correct?

22 A. That is correct.

23 Q. You asked each Mr. Rhodes and Mr. Stenhouse both things
24 of that nature, correct?

25 A. Yes, sir.

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1 Q. And you may have had to ask a time or two I saw. At
2 one point Mr. Rhodes, I think, spit out a cigarette when he
3 was standing on the side and you had to tell him a couple of
4 times to reach over and step on it to extinguish the
5 cigarette. So you may have had to ask for it a couple of
6 times, but ultimately they complied with all of your
7 requests, is that correct?

8 A. Ultimately they -- the requests were complied with,
9 yes.

10 Q. Mr. Stenhouse opened his door. At one point you said,
11 hey, close that door for me and roll down your window. And
12 he closed the door and rolled down the window, correct?

13 A. That's correct.

14 Q. And later when you approached the passenger door, said,
15 hey, step out of the car for me, and you saw Mr. Stenhouse
16 go to step out of the car, you said, not you, you stay put.
17 And he closed his door and stayed there, correct?

18 A. That is correct.

19 Q. Okay. And, again, ultimately, you got Mr. Rhodes out
20 of the vehicle and you were in charge of searching Mr.
21 Rhodes and you yielded no weapons, no contraband, no drugs
22 or anything of that nature, correct?

23 A. That is correct.

24 Q. And I believe we saw on the video Corporal Patton
25 searched Mr. Stenhouse. And Mr. Stenhouse got out of the

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1 vehicle and he was wearing what looked like maybe gym shorts
2 or boxers or something like that and he was patted down and
3 yielded no results, is that correct?

4 A. That is correct.

5 Q. You pulled this Hi-Point out of the vehicle. And on
6 direct you testified that you secured it in your vehicle,
7 correct?

8 A. Ultimately, yes.

9 Q. And that would essentially be unloading it, separating
10 the magazine and the gun, bagging them and at some point
11 just being in charge of that stuff, is that correct?

12 A. That's correct.

13 Q. And we've already gone over it. Sitting over there in
14 front of you is a Hi-Point .380 and a clip with bullets in
15 it. That's the stuff that you put in a bag that night and
16 put in the drop-box at property and evidence, correct?

17 A. Yes, sir.

18 Q. And it sat there until today, correct?

19 A. Yes.

20 Q. In the custody of Mauldin Police Department?

21 A. Correct.

22 Q. Since July 24th, 2011, sometime probably before
23 breakfast?

24 A. That is correct.

25 Q. And, again, ultimately there was talk of drugs towards

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1 the end of this video, but no drug charges were ever sought
2 against anybody in this, is ---

3 A. No, sir.

4 Q. --- that correct?

5 **MR. GROVE:** I beg the Court's indulgence.

6 **THE COURT:** Okay.

7 (Pause)

8 **MR. GROVE:** No further questions at this time, Your
9 Honor.

10 **THE COURT:** Anything on redirect?

11 **MS. TIFFIN:** Just a few.

12 **Redirect Examination by Ms. Tiffin:**

13 Q. Sergeant Herron, you were asked about -- a lot of
14 questions about this passenger, Mr. Rhodes.

15 A. Yes, ma'am.

16 Q. Were you only concerned about Mr. Rhodes moving around
17 or did you have concerns about the driver?

18 A. I had concerns about the driver as well.

19 Q. All right. And tell us why.

20 A. The initial furtive movements, the reaching near the
21 floorboard near the front of the driver's seat and the two
22 times he attempted to exit the vehicle without being asked
23 to.

24 Q. All right. Did you also have concerns based on your
25 conversation with Patrolman Patton?

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1 A. Yes, ---

2 MR. GROVE: Objection, Your Honor, for the same
3 standing reasons.

4 THE COURT: Okay. Overruled. Go ahead.

5 Q. And counsel also asked you if the dispatch told you the
6 Defendant was clear for warrants. Would that be outstanding
7 warrants that haven't been served?

8 A. Yes, ma'am. They have advised of any active warrants.
9 So when they say they're clear, that means they don't have
10 anything active at the time.

11 Q. Okay. But that doesn't include warrants that have been
12 served, correct?

13 A. Correct.

14 Q. Now did you put in for any type of DNA testing or any
15 follow-up forensics in regard to this weapon?

16 A. No, ma'am.

17 Q. Why not?

18 A. At the time it's the Defendant's vehicle, he's driving
19 it, it's underneath his seat, I didn't feel the need to do
20 so. And at the time it was simple unlawful carrying of a
21 pistol charge. And then the other charge generated later on
22 because we had the criminal history in hand.

23 Q. Okay. Was there ever a time where you observed the
24 passenger reach over on top of the driver and shove a gun up
25 under his seat on the other side?

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1 A. No, ma'am.

2 Q. All right. Were you watching the passenger? Were you
3 observing the car from the time you stopped?

4 A. I was observing both individuals in the car attempting
5 to keep an eye on their hands during the encounter, yes,
6 ma'am.

7 Q. Okay. Thank you.

8 MS. TIFFIN: Those are all the questions I have, Your
9 Honor.

10 THE COURT: Okay. You can step down. Thank you.

11 Y'all approach for a minute and let me ask you something.

12 (Whereupon a bench conference was held off the record,
13 in the presence of the jury, but out of their hearing)

14 (Whereupon the bench conference was ended)

15 THE COURT: All right. Ladies and gentlemen, -- any
16 other witnesses on behalf of the State?

17 MS. TIFFIN: No further witnesses, Your Honor.

18 THE COURT: Okay. Ladies and gentlemen, I'm going to
19 let you go today. Tomorrow morning -- is 10:15 too late for
20 y'all? I've got that appointment at nine in Anderson. I
21 will be here. I'm going to need you to be here at 10:15. I
22 know that's a little late.

23 I suspect that you will get this case fairly early
24 tomorrow. We've got a couple of things we have to do
25 outside your presence. So be here about 10:15. We'll get

1 you.

2 (Whereupon the jury entered the courtroom at 11:10 am)

3 **THE COURT:** Good morning, ladies and gentlemen. Let me
4 explain how we're going to have to proceed here this
5 morning, which is going to seem very odd to you. And also
6 let me tell you something, at the end of this trial, after
7 you've rendered your verdict, I'm going to take five minutes
8 to come back and off the record talk to you personally. At
9 that time I try to explain to juries why things are slow and
10 why you have to do some of the things you do. And I also
11 will let you ask any questions you want off the record.

12 But let me tell you two things. Number one, the reason
13 we're late here is because I could not make a doctor move
14 faster this morning than I wanted him to, would not hurry my
15 examination. So I am the reason you sat back there.

16 The other thing is we are getting this case to you in
17 about fifteen minutes, but there are two procedural moves
18 that have to be made that require you to leave the courtroom
19 in successive times. You're going to have to leave for
20 about five minutes in about two minutes. And then you're
21 going to have to come back in literally for about two
22 minutes and leave for another five minutes and then we'll
23 get this case.

24 Again, I will explain all that to you because I think
25 you have a right to know why it -- what's going on. But I

1 can promise you that it's normal, it's the process and it
2 has to be done. So forgive me for making you wait. Do not
3 blame these lawyers. They have been waiting on me, too.
4 And I apologize. All right. Yes, ma'am. Anything further?

5 **MS. TIFFIN:** Your Honor, at this time the State rests.

6 **THE COURT:** All right. Ladies and gentlemen, you've
7 heard all the testimony that you're going to hear from the
8 State. I have to send you out for five minutes. I will
9 bring you back in in about five minutes and then we'll move
10 forward very quickly at that point. (

11 So please don't discuss the case. I hope you had a
12 good night. And if at any point again today if you need a
13 break, raise your hand, but we're going to be moving real
14 quick. All right. Don't talk about the case. I'll bring
15 you back in literally as soon as I can.

16 (Whereupon the jury exited the courtroom at 11:12 am)

17 **THE COURT:** All right. Any motions?

18 **MR. GROVE:** Thank you, Your Honor. If it please the
19 Court. At this time I'd renew all of my previous motions
20 and I also move for a directed verdict at this time.

21 **THE COURT:** All right. I understand your motion. I
22 have heard all of the testimony. I think you've both done a
23 good job. I'm going to deny your motion, but you're
24 protected for the record.

25 Sir, if you would come up here. I like doing it in

1 person right here. I need to put you under oath, too.

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

5 **MR. STENHOUSE:** I do.

6 **THE COURT:** Sir, come back around here. I just wanted
7 to be able to talk to you man to man. All right. At this
8 point in the trial we've reached a point where normally you
9 have to make a decision about whether you're going to
10 testify or not. Do you understand that?

11 **MR. STENHOUSE:** Yes, sir.

12 **THE COURT:** Okay. This right to testify is protected
13 by the Fifth Amendment. It's a very serious right. And I
14 take it very seriously. It is a right that only you can
15 make. Your lawyer can advise you about whether or not you
16 should testify, but he can't make that decision for you. So
17 have you had time to talk to him about whether or not you
18 should testify and waive your Fifth Amendment rights or
19 whether or not you will not testify? Have you talked to him
20 about that?

21 **MR. STENHOUSE:** Yes, sir.

22 **THE COURT:** And what's your decision?

23 **MR. STENHOUSE:** I don't want to testify.

24 **THE COURT:** All right. Do you understand that if you
25 do not testify I'm going to explain to this jury that they

1 cannot hold that against you, that they should not infer
2 anything by the fact that you haven't testified because the
3 State still has the burden? Do you understand that?

4 **MR. STENHOUSE:** Yes, sir.

5 **THE COURT:** You also understand that you can't be
6 compelled to testify against yourself, but if you did the
7 State could bring in any relevant and admissible evidence to
8 cross examine you? You understand that?

9 **MR. STENHOUSE:** Yes, sir.

10 **THE COURT:** All right. Now, again, I want to just read
11 the words because they're very important on appeal if this
12 happens to be appealed. But are you freely, voluntarily and
13 intelligently making the decision not to testify today?

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

15 **THE COURT:** Do you have any questions at all of your
16 lawyer right now about this right?

17 **MR. STENHOUSE:** No, sir.

18 **THE COURT:** Do you have any questions of me?

19 **MR. STENHOUSE:** No, sir.

20 **THE COURT:** Okay. And, again, you have talked to your
21 lawyer about this issue?

22 **MR. STENHOUSE:** Yes, sir.

23 **THE COURT:** Do you need to talk to him again?

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

25 **THE COURT:** Okay. And do you want to testify today?

1 **MR. STENHOUSE:** No, sir.

2 **THE COURT:** All right. And do you feel like you've had
3 plenty of time to speak with him?

4 **MR. GROVE:** I'm satisfied, Your Honor.

5 **THE COURT:** And you think he is freely, voluntarily,
6 intelligently and knowingly making his decision not to
7 testify?

8 **MR. GROVE:** I believe he is.

9 **THE COURT:** All right. Thank you, sir.

10 **MR. STENHOUSE:** Yes, sir.

11 **THE COURT:** Okay. Do you have any objection to
12 bringing -- are y'all ready to close?

13 **MS. TIFFIN:** Yes, sir.

14 **MR. GROVE:** I'm prepared -- and if I can anticipate
15 your question, I've got no objection to renewing my motions
16 now, resting on the record to save them the trouble of back
17 and forth.

18 **THE COURT:** I'll do that. I'll tell them that you have
19 rested, they've heard all the testimony, we've reached a
20 point where we're going to do closing arguments.

21 **MR. GROVE:** Sure.

22 **THE COURT:** If that's okay with you.

23 **MR. GROVE:** And then I guess for record's purposes,
24 Your Honor, we're -- obviously, we're not putting up any
25 witnesses including Mr. Stenhouse. And I'd renew those

1 motions again ---

2 **THE COURT:** Sure.

3 **MR. GROVE:** --- at this time.

4 **THE COURT:** All right. And, again, you're protected
5 for the record. And I'm assuming that you're incorporating
6 any and all arguments you made prior in this current motion.

7 **MR. GROVE:** That's correct, Your Honor.

8 **THE COURT:** All right. That's denied, but I am
9 assuming that any and all arguments have been made and
10 incorporated in your motion. Okey doke. You can bring them
11 back in.

12 (Whereupon the jury entered the courtroom at 11:18 am)

13 **THE COURT:** All right. Yes, sir. Anything?

14 **MR. GROVE:** Thank you, Your Honor. At this time the
15 Defense would rest.

16 **THE COURT:** All right. Ladies and gentlemen, you've
17 heard all the testimony that you're going to hear in this
18 case. We've now reached the point in this trial where
19 you're going to hear the closing arguments. As I told you
20 yesterday, closing arguments are not evidence, but they are
21 -- it is an opportunity for the lawyers to argue their case
22 and try to persuade you.

23 Depending on the length of the closing arguments it's
24 possible that I will take another break to let you stretch
25 and use the restroom. The reason for that is I will be

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1 required, and I'll explain it a little bit more to you, to
2 read this to you.

3 This is the charge on the law. It takes some period of
4 time. And as I've told many jurors, in my life I've read to
5 people twice, once to my children to make them go to sleep
6 and for many jurors when I'm trying to keep them from going
7 to sleep. It's very important that you listen to my charge.
8 So I'll sort of assess that.

9 If any of you think that you really need to stretch
10 before I start this, just raise your hand. It's not a
11 problem. It will take me twenty-five to thirty minutes to
12 read this to you, quite frankly. So we'll cross that bridge
13 when we come to it.

14 But at this point we'll hear the closing arguments,
15 then make a decision about breaking, and then we'll get this
16 case to you. Again, thank you for your patience. All
17 right.

18 **MS. TIFFIN:** May it please the Court. Mr. Foreman,
19 ladies and gentlemen of the jury, it's July 24, 2011, it's
20 5:00 in the morning. A car flies by Main Street, Mauldin
21 going fifteen miles over the speed limit, fourteen, fifteen
22 miles over the speed limit. It's dark. No way to tell
23 who's driving the car, how many people are in the car,
24 what's going on. Pulls up beside some gas tanks at a
25 Pumpers.

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1 Sergeant Herron will tell you that that was his
2 situation. He's by himself, gets out of his car. He
3 approaches the vehicle. He's a seasoned officer, eleven
4 years been doing this. He's done drug interdiction,
5 traffic. He's done pretty much whatever officers can do.

6 As he walks up he sees that the driver's reaching down
7 underneath his seat. Experience, training tells him that's
8 a problem. He starts to be concerned. The door opens,
9 driver tries to get out, he walks up, nope, nope, let's
10 close the door, let's just put the window down. Already
11 knows that the driver's reaching for something under the
12 seat, calls for backup. He's already concerned.

13 Then he looks over at the passenger and the passenger
14 also is very nervous, shaking with his cigarette. Passenger
15 has a bulge in the front pocket. Concerned again.

16 So he grabs the license and registration from the
17 driver and he starts to walk back to his car, but he's not a
18 rookie, he's a seasoned officer. So he keeps watching the
19 car. He watches from behind. He's watching both the driver
20 and the passenger.

21 He starts to see the passenger moving around over
22 towards his pocket. He had already ID'd the passenger. So
23 he knew who that was. But he had given the ID back. Starts
24 to be concerned.

25 And you will notice when he first approaches the car,

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1 he doesn't put his hand print on the back of the car. He's
2 just talking to them. Then he says, by himself, backup
3 hadn't gotten -- he said, I'm going to go around here and
4 I'm going to talk to this passenger. So he talks to the
5 passenger, wants to know why is he nervous, wants to know
6 what the bulge is.

7 Gets the passenger out, pats the passenger down just
8 for officer safety to make sure there's not a hard flap or
9 anything on it. The passenger says, go ahead, you can
10 search in my pockets. So he does. He finds out the bulge
11 was just a rag or something, puts that on top of the car and
12 he pulls him to the back of the car.

13 But when he asks the passenger to step out, the
14 Defendant opens the door again to get out. And you can
15 watch this on the video. He says, no, no, no, you stay in
16 the car. So he does.

17 So it's a good thing he found out that the passenger
18 was apparently just putting his ID back in his pocket and he
19 just had a rag there. So no problem. But it's a good thing
20 he did pat him down. It gave him an opportunity to talk to
21 the patrolman. It gave him some information that he knew he
22 needed to search the car.

23 So he does. He goes and searches the car. And sure
24 enough, as he suspected, right where that driver was moving
25 his hand down, underneath the seat is a weapon. This weapon

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1 right here. This is what's under the seat. And it was
2 fully loaded with these bullets.

3 Now, the Defendant has admitted and he had agreed that
4 he has a conviction for assault and battery with intent to
5 kill. And that conviction prohibits him from having that.
6 And he knows that.

7 Also, when you take it upon yourself to have a weapon
8 in South Carolina you have to follow the law about weapons
9 in South Carolina. So the Judge will charge you on the law
10 and the elements.

11 Now, this could have ended up in a whole different
12 situation if we'd had a rookie officer that just turned his
13 back to the car and walked back to his car to call in the
14 information from the license, but that didn't happen. So
15 that's good. It could have also been a problem if he hadn't
16 continued to watch both of them.

17 And let me tell you, this is the time that I have to
18 speak with you. But after I get to speak with you, the
19 Defense attorney will have the last opportunity to speak
20 with you. And I have no idea what the Defense attorney is
21 going to say.

22 But let me point this out to you. What you have to
23 consider in this case is the evidence that has been
24 presented in this courtroom, the testimony that you've
25 heard, the gun, the ammunition and this video here. What

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1 Mr. Groves says is not evidence. So the evidence that we
2 have is the testimony that this Defendant had this gun under
3 his seat, that he has a prior conviction for a crime of
4 violence and that it was not secured the way it was supposed
5 to be according to the law.

6 Now, the Judge will charge you on the law, but I just
7 briefly want to go over the law with you. And he'll also
8 tell you it doesn't matter what you think the law should be,
9 if you think someone should be able to have a gun on their
10 hip or they should be able to have a gun in access to them
11 in a car. You have to follow the law as it's presented to
12 you.

13 And in South Carolina the Legislature, in order to keep
14 officers and other citizens safe, has said it's unlawful for
15 anyone to carry about the person any handgun, whether
16 concealed or not, except as follows. Now it talks about
17 some things like if you're an officer you can have one, if
18 you're in the military you can have one, that type of thing.
19 There are other exemptions that we're not talking about
20 today.

21 In this case we're talking about section 8(a), a person
22 in his home or upon his real property or a person who has
23 the permission of the owner or the person in legal
24 possession of the person in legal control of the home or
25 real property -- I'm sorry, 9.

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1 A person in a vehicle, if the handgun is (a) secured in
2 a closed glove compartment, closed console, closed trunk or
3 in a closed container secured by an integral fastener and
4 transported in the luggage compartment of the vehicle. The
5 gun was not in any of those. There's no dispute about that.
6 The gun was freely under the seat accessible to the driver.

7 Now, in regard to the other charge, it is unlawful for
8 a person to knowingly sell, offer to sell, deliver, lease,
9 rent, barter, exchange or transport for sale into this State
10 any handgun to, one, a person who has been convicted of a
11 crime of violence in any court of the United States, several
12 states, common wealth, territories, possessions or the
13 District of Columbia, or who is a fugitive from justice, or
14 a habitual drunkard, or a drug addict or who has been
15 adjudicated mentally incompetent. All right.

16 The statute I read you says you can't barter, sell, et
17 cetera. The rest of that statute says it is unlawful for a
18 person enumerated in subsection (a) to possess or acquire
19 handguns within this State. So those elements are already
20 satisfied. This law says you can't possess a handgun if you
21 have a prior crime of violence. And we know that the
22 Defendant does have a prior crime of violence.

23 So the only other one I want to mention to you is a
24 handgun, the definition, is any firearm designed to expel a
25 projectile and designed to be fired from the hand, which,

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1 obviously, this gun right here is. And the officer
2 explained that. So that's the law.

3 So some things that I want you to keep in mind are,
4 first of all, this was the Defendant's vehicle. So he owned
5 it. You're going to hear phrases like actual or
6 constructive possession, dominion and control. These are
7 things that lawyers and people in our profession deal with
8 every single day. The case law is all about what this
9 means. The Judge will charge you about what this means.
10 And please listen very carefully.

11 Actual possession is basically if he had it in his hand
12 or he was wearing it in his pocket, right? Constructive
13 possession means he had dominion or control over it. And
14 the Judge will charge you about dominion and control.

15 And he will tell you that knowledge and possession may
16 be inferred if it was found on premises under his control.
17 It's his car. All right. The gun's in his car under his
18 seat. He has access to it. It wasn't over on the
19 passenger's side. It wasn't in reach of the passenger.
20 Dominion and control of the driver, right underneath his
21 seat where he was reaching all along.

22 So he was trying to continue to get out of the car. He
23 knows he's not supposed to possess a weapon because he has a
24 crime of violence. Knows the gun is not supposed to be
25 freely accessible to him. Trying to get out.

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1 So after I sit down and Mr. Grove comes up here I want
2 you to try to stick to thinking about the evidence that's
3 presented and what actually was happening in regard to the
4 driver sitting there with the gun under his seat instead of
5 things like having your attention drawn to something about
6 touch DNA or, you know, the passenger or, you know, there's
7 no evidence that the passenger reached over and somehow
8 magically put this gun underneath the other person's seat or
9 anything like that. So keep in mind and try to just
10 consider the testimony and the video and the evidence when
11 Mr. Grove talks to you.

12 Obviously, nothing that we know -- we can't know
13 anything with any absolute certainty. We just have to have
14 you firmly convinced of the Defendant's guilt.

15 I was going to show you the video and go through
16 certain portions of it. I wanted to show you when the
17 officer walked up and the Defendant tried to get out of the
18 car. And when the officer was continuing to watch them just
19 so you know that he had his eyes on them the whole time that
20 he stopped them before he got to his car. I wanted to show
21 you how far away the car was, how fast the car was going,
22 all that, but this machine is so tedious, it would just take
23 forever and it would be painful for you guys.

24 So just know that all that is in evidence. You could
25 watch that video again as much as you want. You can look at

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1 certain parts of it. It is completely at your disposal to
2 watch. And I hope you will so that you will see what
3 actually happened and what the officer was facing that
4 night.

5 We have proven to you the elements of both charges,
6 which is what we intended to do in regard to unlawful
7 carrying of a pistol and possession of a weapon by a person
8 who has a previous conviction of a crime of violence. Keep
9 in mind this was his car. Keep in mind he was the only one
10 that had access to the gun. Keep in mind that his actions
11 showed that he knew that gun was there and that he was
12 reaching down for it all along.

13 And thank goodness we had a seasoned officer that had
14 instincts and knew that was happening. And keep in mind
15 that our Legislature has these laws in order to keep police
16 officers like Sergeant Herron and citizens safe so that he
17 doesn't have to put his fingertips on the back of that car
18 like that in case he ends up being hurt or killed and nobody
19 knows what happened. So we ask you to find the Defendant
20 guilty. Thank you.

21 **THE COURT:** Yes, sir.

22 **MR. GROVE:** Thank you, Your Honor. I understand what
23 Ms. Tiffin's saying. And I hear her saying these laws are
24 here to make people safe, and that's absolutely right. And
25 I'd encourage you folks, if you want to, to take another

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1 look at the video and tell me one time where anybody in that
2 video is anything other than compliant. I don't know what
3 anybody had to worry about.

4 Several commands were made. And every last one of them
5 was followed. She's going to tell you that Mr. Stenhouse
6 tried to open the door and that he's trying to run or he's
7 trying to get away. He's trying to open the door because
8 the window's not down. You can watch that video and you can
9 hear Sergeant Herron say, hey, shut that door for me and
10 roll down your window. And so what happens? Shuts that
11 door, rolls down the window.

12 And then walks over to the other side and eventually
13 says -- doesn't say, hey, Mr. Rhodes, get out of the car and
14 then Mr. Stenhouse gets out. He says, hey, get out of the
15 car for a minute and let me talk to you. Mr. Stenhouse
16 opens his door. Get out of the car? All right, let me get
17 out of the car. Not you. Shut the door. Stay right where
18 you are. Okay. Shut the door. Stay right where I am.
19 Compliant.

20 Hey, get out of the car, stand over here, spread your
21 legs. Okay. Put your arms behind your back. Okay. Stand
22 over here. Okay. Got it.

23 What we're also going to remind you of from the Defense
24 side that you might not have been reminded of a few moments
25 ago is there was testimony over here that one person was

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1 nervous. One person was sweating and shaking. And I think
2 the quote from the video was you look like you're about to
3 have a heart attack. This is just a routine traffic stop.
4 That person was not Detrick Stenhouse.

5 There's no testimony that he was nervous. There's no
6 testimony that it was anything other than a routine traffic
7 stop for Detrick Stenhouse. That's all I'm asking you to
8 consider. That's all I want you to think about.

9 There's testimony that Detrick's left hand -- left hand
10 was on direct testimony. I asked Sergeant Herron again, it
11 was his left hand? That's right. Left hand was coming from
12 underneath his seat. When I watch that video I see his left
13 hand on the car door handle opening the door, which he's
14 been told to shut, which then he uses his left hand to shut
15 the door. That's what I saw.

16 You also see on the video Sergeant Herron searches
17 around everywhere and searches the front driver's seat. He
18 searches there where Detrick was. Then he keeps searching.
19 Goes into the backseat. It's not until then that he stands
20 up, puts on gloves before he goes in and pulls out a .380.

21 And, ladies and gentlemen, let me tell you, if you
22 think we're here today 'cause I'm saying this isn't a
23 firearm, you have missed the point of this whole thing. If
24 you think we're here today because I'm saying that Detrick
25 Stenhouse doesn't have a conviction from about fifteen,

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1 sixteen years ago, you've missed the point of this whole
2 thing. That's not the point.

3 This is a firearm, okay? Nobody's disputing that.
4 This is a conviction, okay? Possession is what we're here
5 about, ladies and gentlemen. Possession.

6 Officer says -- I guess their theory is that Detrick
7 would have put a handgun right here under the seat when the
8 officer walks up. But then when the officer searches the
9 car, he either can't see it, can't get to it or both 'cause
10 then he has to go into the backseat before he bothers
11 putting on gloves.

12 If he could have seen it and gotten to it -- if it
13 could have been in his dominion and control he would have
14 been in that front seat putting on gloves and pulling a
15 weapon out. And that's not what happened.

16 The Judge is also going to charge you on a thing called
17 intent. And that's going to say that possession is an
18 intent crime. There's a specific intent that you have to be
19 knowingly in possession of something. I can't -- I can't be
20 in possession of something if I don't know it's there. I'm
21 going to leave it at that. And I think you, ladies and
22 gentlemen, are pretty smart.

23 The Judge is also going to tell you about credibility
24 of witnesses, you can believe some, all or none of
25 testimony. And I will just leave you with this, ladies and

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1 gentlemen, as far as this is concerned and move on to
2 another point. I was asking Sergeant Herron why he put on
3 gloves. And he said something about carbon. And then he
4 said he didn't want to get his hands dirty.

5 Now, maybe that's true. I'd like to think it's because
6 he didn't want to taint the evidence. He wanted to preserve
7 the evidence so that they could find fingerprints. And
8 furthermore, if you're on your hands and knees in the
9 Pumpers parking lot on Main Street in Mauldin at 5:00 in the
10 morning in July, the last thing you're worrying about is
11 getting dirty.

12 If you've been digging around in a car using your
13 hands, you've been touching the outside of the car with your
14 hands, you didn't mind leaving your fingerprints there
15 because that's what you're supposed to do because when you
16 touch stuff, you leave fingerprints behind. Didn't want to
17 get his hands dirty. That was his testimony.

18 I also -- there was also some testimony, I believe,
19 from Ms. Tiffin or from Sergeant Herron through Ms. Tiffin
20 about why he didn't follow up. July the 24th of 2011,
21 ladies and gentlemen. Why didn't you follow up?

22 And I think I'm quoting here, I didn't feel the need.
23 It was just a simple charge. This one's important to me.
24 This is important to Detrick. It might be just a simple
25 charge to the Government. They might not feel the need to

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1 test their evidence and prove things to you beyond a
2 reasonable doubt and make an effort, but it's worth it to
3 me. And I hope it's worth it to you.

4 Ms. Tiffin's right. She says nothing can be proved
5 with an absolute certainty. And I will agree with that a
6 hundred percent. What I will tell you is that that doesn't
7 get you off the hook from trying. You have to make an
8 effort. You just can't assume.

9 What's happening, ladies and gentlemen, is the
10 Government's prosecuting on probably. That's what I call
11 it. Huh? I don't know. Seems good enough for me.
12 Prosecute on probably. They want you to convict on close
13 enough. And I don't think that that's what the law says.
14 And I think that the Judge will tell you that. You don't
15 have to settle for the case that they present to you, ladies
16 and gentlemen. You can tell them that that's not good
17 enough.

18 And Ms. Tiffin told you a little bit about how you've
19 got to focus on the evidence that comes from the witness
20 stand. And that's absolutely right. You're also allowed to
21 consider evidence that's not presented. You can tell them
22 it's not good enough.

23 There's a fellow named Brian Rhodes that had his ID,
24 they've got his information. You want to prove it, why
25 don't you bring Mr. Rhodes in here and ask him some

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1 questions? Maybe that'd be -- maybe that'd be a nice thing
2 to hear.

3 Corporal Patton, he's on the scene. Maybe you ought to
4 give him a phone call and see if he wants to bother -- see
5 if it's important to him. Maybe it's just a simple charge
6 to him, too. It's not just a simple charge to me.

7 Prosecuting on probably, ladies and gentlemen. One
8 thousand, six hundred and thirty-five days passed between
9 July the 24th of 2011 and Tuesday of this week. One
10 thousand, six hundred and thirty-five days. They had one
11 thousand, six hundred and thirty-five chances to make an
12 effort to prove this case to you beyond a reasonable doubt.
13 They had one thousand, six hundred and thirty-five
14 opportunities, everything that they could to try and prove
15 this case to you.

16 The investigation for this case stopped on July the
17 24th of 2011 at about 5:30 in the morning. They were done.
18 That's all they needed. It was good enough for them. I
19 hope it's not good enough for you.

20 I have -- I have two grandparents still living, my
21 mother's parents, grandmother and granddaddy are still
22 alive. And today is actually my grandmother's ninety-second
23 birthday. And I can't get her to talk to me on the phone.
24 I can't get her to email or text. We write letters back and
25 forth every once in a while. I'll visit with her as often

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1 as I can. She lives in North Carolina. But I'll get a
2 sweet little note from her every once in a while, maybe once
3 a month.

4 And she wrote me one a couple of weeks ago telling me
5 how excited she was for the wedding that's in a couple of
6 weeks and how much she was looking forward to coming up
7 here. And she reminded me of the Summers that I used to
8 spend at my grandparents' house.

9 I've got three -- I've got two older sisters. And the
10 three of us when we were growing up would each get one week
11 by ourselves with grandmother and granddaddy, which was the
12 pinnacle of childhood. They had a big yard. They had --
13 granddaddy had a four wheeler. It was the best time you
14 could imagine in the Summer.

15 And I loved going because granddaddy would drop me off
16 at the Twin Lakes Country Club every morning, it's a little
17 public course between Tanger City, North Carolina and lower
18 South Carolina. And he'd drop me off. And I'd get little
19 group golf lessons with a handful of other little kids. And
20 he'd come and pick me up around lunchtime. And we'd go home
21 and grandmother would have lunch ready for us.

22 And he'd say, William, what did you learn at golf camp
23 this morning? And I'd be eating my sandwich and I'd tell
24 him, well, they were teaching us how to keep your elbows
25 straight and teaching you to -- teaching us to bend your

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1 knees and all this.

2 And I'd start explaining to him what had happened. And
3 he'd interrupt me and smile and say, come on now, William,
4 don't just tell me, show me. And he'd grab a golf club, and
5 I'd grab a golf club, and we'd go outside and we'd practice
6 the things that I had learned that day because telling him
7 about it wasn't enough. He wanted to watch me do it. He
8 wanted to help me through it. He wanted to see for himself
9 what I had learned.

10 That's the standard you've got to hold the State to,
11 ladies and gentlemen. It's called a burden of proof because
12 it's hard. And there wasn't any effort exerted here, and
13 they could have. They could have eliminated other suspects.
14 They could have identified Mr. Stenhouse as a suspect. They
15 could have tested their evidence. And they chose not to.

16 Between -- I've got fifteen more days before my
17 wedding. And I will probably at least once or twice have
18 another dream about how I've forgotten one thing or another
19 or I can't find one of my groomsmen or I can't find my way
20 to the church.

21 But my alarm clock's going to go off, and I'm going to
22 wake up. And then January the 30th is going to come and go
23 and I'm going to stop having that nightmare. It's going to
24 end on January the 30th of this year. You can end Detrick's
25 nightmare today. And the way you do that is with a verdict

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1 of not guilty.

2 **THE COURT:** All right. Anything else?

3 **MS. TIFFIN:** Nothing further from the State, Your
4 Honor.

5 **THE COURT:** All right. Ladies and gentlemen, if any of
6 you need a break before I start reading, raise your hand.

7 (No response)

8 **THE COURT:** All right. Thank you. All right.

9 Ladies and gentlemen, as I told you at the beginning,
10 at this point in the trial you've heard all the testimony
11 that you're going to hear. You have viewed some of the
12 evidence. You will have all the evidence in the jury room
13 with you for you to review. It's now my duty and obligation
14 to charge you on the law in this case.

15 Unfortunately, because of rules in South Carolina, I
16 have to read it to you. The reason for that, quite frankly,
17 is so that you don't make a small mistake and there's some
18 consistency between charges. So I apologize.

19 But it's very important for you to listen to me because
20 as I told you, you and I have very different roles. You
21 have to go back in that jury room and determine what the
22 facts are. And you're going to have to apply this law as I
23 give it to you as the law of the case. You cannot go back
24 there and wish the law were different, think that it should
25 be different or hope that it's different. You have to apply

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1 the law as I give it to you. So please pay attention.

2 If for some reason you just can't stand it and have to
3 leave the courtroom, I respect you and understand that y'all
4 have listened carefully for two days and I'll do that. But
5 if you can get through it, please do. All right.

6 Ladies and gentlemen, I charge you that the indictment
7 in this case, two indictments, charges the Defendant with
8 unlawful carrying of a handgun and an unlawful possession of
9 a pistol by a person convicted of a crime of violence. The
10 parties have stipulated that the Defendant has been
11 convicted of a crime of violence.

12 I remind you that the fact that the Defendant was
13 arrested, charged and indicted in this case is not evidence
14 and should not be discussed by you at all during the course
15 of this trial or during the course of your deliberations.

16 You will actually have these indictments in the jury
17 room with you because that, Mr. Foreman, I'll explain at the
18 end, is where you write your verdict. But I think you will
19 see that these are literally just pieces of paper that set
20 out the allegations. At no time during your deliberations
21 should someone say, well, he got arrested, he was indicted,
22 there's something there. That is not the way it works. So
23 I know you understand what I'm saying, but please don't do
24 that.

25 I also want to tell you, as I said, and I want to

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1 charge you that the Defendant has pled not guilty to this
2 indictment. And the plea puts the burden of proof on the
3 State to prove the Defendant guilty.

4 A person charged with committing a criminal offense in
5 South Carolina is never required to prove himself innocent.
6 He's also never required to testify. The Fifth Amendment of
7 the Constitution prohibits anyone forcing him to testify.
8 Again, he does not have to testify. He is not required to.
9 And you should not discuss the fact that he has not
10 testified during your deliberations.

11 The burden is on the State. The solicitor understands
12 that. She's told you that. I've told you that. He doesn't
13 have to disprove anything. And he does not have to testify.
14 So you should not also or you should also not discuss the
15 fact that he has not testified in your deliberations. He is
16 protected from that by the Fifth Amendment.

17 I charge you that it is an important rule of law that
18 the Defendant in a criminal trial, no matter what the
19 seriousness of the charge may be, will always be presumed
20 innocent of the crime for which the indictment was issued
21 unless guilt has been proven by evidence satisfying of you
22 -- you of that guilt beyond a reasonable doubt.

23 This presumption of innocence does not end when you
24 begin your deliberations, but it accompanies the Defendant
25 throughout the trial until you reach a verdict of guilt

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1 based on evidence satisfying you of that guilt beyond a
2 reasonable doubt. I know that it's old timey, but it makes
3 sense.

4 As I told you yesterday, this Defendant had a robe of
5 innocence about his shoulders. He still has that robe of
6 innocence about his shoulders. When you begin your
7 deliberations he will still have that robe of innocence
8 about his shoulders. That robe of innocence is only taken
9 from him when you reach a verdict and deliberate and
10 determine that the State has met their burden of proof of
11 every element by -- beyond a reasonable doubt.

12 I also told you earlier that I would tell you a little
13 bit more about reasonable doubt. I will tell you simply as
14 I said that a reasonable doubt is the kind of doubt that
15 would cause a reasonable person to hesitate to act. That is
16 the best description I know. I understand it's somewhat
17 vague, but I know that you'll understand what it is.

18 Now, I want to repeat something again. But I'm going
19 to charge you and remind you that during the course of this
20 trial that you and I have had very different roles. You are
21 the only judge of the facts. There can be no appeal of any
22 factual determination you make while you're in the jury
23 room.

24 If I've made a mistake of law, the parties can appeal
25 it to the Supreme Court, and they can tell me I've made a

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1 mistake. Your decision in the jury room is something that
2 is in private, will remain in private between the twelve of
3 you and is not appealable. You have to determine what the
4 facts are.

5 And to do that, as I've told you also, you have to
6 determine the credibility of the witnesses who testified in
7 this case. Credibility in South Carolina simply means
8 believability. You heard the witnesses testify. You
9 watched the witnesses testify. And you have to make a
10 determination about whether or not you believe those
11 witnesses.

12 You can believe everything that a witness said or you
13 can believe nothing that they say. You can take a portion
14 of a witness' testimony and believe it and disregard the
15 rest. That's up to you. You have to determine individually
16 and as a group whether or not the witnesses were credible.

17 And you have to determine what the facts were based
18 upon your examination of the evidence, the testimony
19 presented and your own common sense.

20 Now, ladies and gentlemen, I charge you that there are
21 two types of evidence which are generally presented during a
22 trial. There's direct evidence and there's circumstantial
23 evidence. Direct evidence directly proves the existence of
24 a fact and does not require deduction. Circumstantial
25 evidence is proof of a chain of facts and circumstances

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1 indicating the existence of a fact. Crimes may be proven by
2 circumstantial evidence.

3 The law makes no distinction between the weight or
4 value to be given to either direct or circumstantial
5 evidence. However, to the extent that the State relies on
6 circumstantial evidence, all of the circumstances must be
7 consistent with each other and when taken together point
8 conclusively to the guilt of the accused beyond a reasonable
9 doubt.

10 If these circumstances merely portray the Defendant's
11 behavior as suspicious, the proof has failed. The State has
12 the burden of proving the Defendant guilty beyond a
13 reasonable doubt as I've said and will say again. This
14 burden rests with the State regardless of whether the State
15 relies on direct evidence, circumstantial evidence or some
16 combination of the two.

17 Circumstantial evidence is proof of a chain of facts
18 and circumstances indicating the existence of a fact. It is
19 evidence which immediately establishes collateral facts from
20 which the main fact may be inferred. Circumstantial
21 evidence is based on inference and not on personal knowledge
22 or observation.

23 I want to charge you that the law makes absolutely no
24 distinction between the weight or value to be given either
25 direct or circumstantial evidence. Nor is a greater degree

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1 of certainty required of circumstantial evidence than of
2 direct evidence.

3 You should weigh all the evidence in this case. And
4 after weighing all the evidence if you are not convinced of
5 the guilt of the Defendant beyond a reasonable doubt, you
6 must find the Defendant not guilty.

7 Now, ladies and gentlemen, I charge you that in order
8 to establish criminal liability, criminal intent is
9 required. For example, the mental state required to be
10 proven by the State for some crimes might be purpose,
11 intent, knowledge, recklessness or criminal negligence.

12 Criminal intent must be proven beyond a reasonable
13 doubt. Criminal intent is always a matter that must be
14 determined by you, the jury, from the circumstances
15 surrounding the situation.

16 There is no way to prove criminal intent to a
17 mathematical certainty. There's no way that medical science
18 can determine what was going on in a person's brain and
19 determine what the person had in mind. So the law says that
20 criminal intent may be inferred from the circumstances shown
21 to have existed at the time of the alleged crime. This is
22 how you make a determination of whether or not the required
23 element, intent, was present.

24 It is not necessary to establish intent by direct and
25 positive evidence, but intent may be established by

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1 inference in the same way as other facts by taking into
2 consideration the facts of the parties -- the acts of the
3 parties and all the facts and circumstances of the case.
4 Criminal intent is a mental state, a consciousness of
5 wrongdoing. It's up to you, the jury, to determine what the
6 Defendant intended to do based on the circumstances shown to
7 have existed.

8 Criminal intent can also arise from a failure to act.
9 It may arise from negligence, recklessness or an
10 indifference to duty or to consequences that is considered
11 by the law to be equivalent of criminal intent.

12 Now, ladies and gentlemen, specifically I charge you
13 that the Defendant is charged with the unlawful carrying of
14 a handgun. The State must prove beyond a reasonable doubt
15 that the Defendant carried a handgun about his person,
16 whether it was concealed or not.

17 A handgun is about the Defendant's person if it is
18 readily accessible and convenient for immediate use. The
19 handgun need not actually be touching the person of the
20 Defendant.

21 Unlawful possession of a handgun -- he's also charged
22 with unlawful possession of a handgun by a person convicted
23 of a crime of violence. That is 16-23-30 of the South
24 Carolina code of laws. As I told you, the parties have
25 stipulated this Defendant has been convicted of a crime of

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1 violence.

2 The Defendant is charged with unlawful possession of a
3 handgun. A person convicted of -- by a person convicted of
4 a crime of violence. The State must prove beyond a
5 reasonable doubt that, one, the Defendant has been convicted
6 of a crime of violence in any court of the United States of
7 America. And, again, the parties have agreed that that has
8 been done.

9 Two, the Defendant was in possession of a handgun.
10 Possession can be either actual possession or constructive
11 possession. To prove possession the State must prove beyond
12 a reasonable doubt that the Defendant had both the power and
13 the intent to control the disposition or use of the handgun.

14 Possession may be either actual or constructive.
15 Actual possession means that the handgun was in the actual
16 physical custody of the Defendant. Constructive possession
17 means that the Defendant had dominion and control or the
18 right to exercise dominion and control over either the
19 handgun itself or the property on -- in which the handgun
20 was found.

21 Mere presence at the scene where the gun was found is
22 not enough to prove possession. The Defendant's knowledge
23 and possession may be inferred when a thing is found on the
24 property under the Defendant's control. However, this
25 inference is simply an evidentiary fact to be taken into

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1 account and in consideration by you along with all the other
2 evidence in this case and it should be given the weight that
3 you believe that it should be given. Constructive
4 possession may also be established by circumstantial or
5 direct evidence..

6 Now, ladies and gentlemen, and Mr. Foreman, at this
7 point I'm going to tell you some things, and specifically to
8 you, but also to the jury. There are four possible verdicts
9 in this case because you have two different charges.

10 And what will happen is you will be sent back in a few
11 minutes with all the evidence and both indictments. And you
12 will see on the outside -- and there's a place, verdict.
13 You can write on there the verdict on each of these, but you
14 have two separate indictments. So there's four possible
15 verdicts. There's guilty or not guilty on each indictment.

16 And you have to take each one separately. In other
17 words, deal with one, reach a verdict, and then deal with
18 the other. And then just write guilty or not guilty and
19 sign your name and put the date on there. And then knock on
20 the door and that's the verdict form. There's no separate
21 form that you have to sign. It's actually done on the
22 indictment.

23 Your verdict has to be unanimous. In other words, all
24 of you have to agree on the verdict.

25 Mr. Foreman, when you begin your deliberations, if

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1 there's any problem during the deliberations, if you need me
2 to further instruct you, if you need me to bring you back in
3 and answer a question, I need you to write out on a piece of
4 paper whatever question or problem you have, sign it and put
5 the time on it and the date. Knock on the door, the bailiff
6 will bring it to me.

7 And let me just be honest with you, there are some
8 questions I can answer very readily. I can charge you on
9 the law partially or I can read this to you again in its
10 entirety. Whatever you need me to do, I want to help you.

11 Some questions can't be answered. And if I can't
12 answer a question, I'm going to literally bring you in here,
13 sit you down and tell you I can't answer that question. But
14 any question or issue that occurs from this point forward
15 while you're in deliberations should be communicated
16 directly to me through the Foreman. And that's the role you
17 have in addition to filling out the indictment form as to
18 guilty or not guilty.

19 Again, your verdict has to be unanimous. It is 12:00.
20 I'm going to let you deliberate a while and then we'll see
21 what we're going to do time-wise. But I cannot -- I can't
22 say it too many times, please let me know if there's a
23 problem or if you need me to recharge this case or a portion
24 of this case because we'll be here. That is the reason,
25 quite frankly, for reading it so that when I recharge it to

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1 you, if you ask me to, it'll be exactly the same.

2 Now, at this point in the trial I have to send you
3 back, but I can't send the evidence or the indictments to
4 you. I give the lawyers a chance to ask me to recharge
5 something, to object to some charge that I've given.

6 If I'm not going to recharge or if I'm not going to
7 take something away from the charge or add something to the
8 charge, in about three minutes you'll be delivered all the
9 evidence and at that point you can begin your deliberations.
10 If I am going to make some change or if I've read something
11 erroneously, I'll bring you back in and recharge it.

12 But at this point what I need for you to do is go back
13 to the jury room, don't start talking about the case. Leave
14 the alternate in the hall, I'll come and talk to him. Let
15 me give these lawyers a chance to argue with me for a
16 minute. And I suspect in about two minutes we'll get this
17 to you. All right. Thank you.

18 (Whereupon the jury exited the courtroom at 12:01 pm)

19 **THE COURT:** Okay. Any objections, additions,
20 subtractions from the charge from the State?

21 **MS. TIFFIN:** Nothing from the State, Your Honor.

22 **MR. GROVE:** No, Your Honor. Thank you.

23 **THE COURT:** Okay. Y'all make sure -- here are the
24 indictments. Send them back. Make sure everything's going
25 back that's going back.

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1 **MR. GROVE:** Am I right that it's pistol, magazine and
2 bullets, ---

3 **THE COURT:** And the disk.

4 **MR. GROVE:** --- computer and disk and indictments? I
5 mean, ---

6 **THE COURT:** Are you going to give them the computer?

7 **MS. TIFFIN:** I don't know that they're going to
8 actually ---

9 **MR. GROVE:** Or maybe just give them ---

10 **THE COURT:** I tell you what, I'm going to bring them
11 back in and I'm going to tell them that if they need to. ---

12 **MS. TIFFIN:** Watch it.

13 **THE COURT:** --- review this again, we'll bring them
14 back in.

15 **MR. GROVE:** And I forgot to mention, I think that
16 that's exactly the right thing to do if for no other reason
17 that we stop this video at 5:23 am and that's the only
18 relevant portion and ---

19 **THE COURT:** Well, ---

20 **MR. GROVE:** I'm happy for them ---

21 **THE COURT:** --- the other thing is I want to tell them
22 not to take that gun out of that if -- I'm going to tell
23 them it's completely safe, but as I've said, I've had
24 problems with guns. If they don't have to take it out of
25 that plastic box, I'd rather they not. So bring them back

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1 in real quick.

2 **COURTROOM OFFICER:** Judge?

3 **THE COURT:** Yes, sir.

4 **COURTROOM OFFICER:** As a matter of safety policy, if
5 they need to see the gun, the ammo, they can see them at
6 separately times.

7 **THE COURT:** That's perfect. And I'm going to take --
8 is the ammo out of that thing? I think it's still in it.

9 **MR. GROVE:** It's all in the box.

10 **THE COURT:** Let's take the ammo out. And I'm going to
11 tell them if they need to look at it, they can come back in.

12 (Whereupon the jury entered the courtroom at 12:04 pm)

13 **THE COURT:** All right. Thanks, ladies and gentlemen.

14 Not going to change the charge, so relax. Let me tell you
15 two things. Apparently this disk is very hard to pull up
16 just because of the mechanics of it. If you need to review
17 the video either in its entirety or some portion of it, I'm
18 going to have to bring you back in here to do that. And I'm
19 happy to do it.

20 But my choice is to send a computer back there. And
21 apparently it's so hard to do that -- and that's just
22 because of the interfacing systems. So if you want to look
23 at the video again, Mr. Foreman, just let me know, we'll
24 bring you back in, turn the lights out and look.

25 The second thing is, that gun is completely safe. I'm

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1 not worried about you opening that plastic box and handling
2 it. I will tell you that the ammo for that gun is in here.

3 (Whereupon a juror entered the courtroom)

4 **THE COURT:** Oh, I'm sorry about that. That's okay.

5 What I was telling them, is if you need to review the
6 videotape, just let us know. And you are welcome to pull
7 that gun out and look at it. It is safe. If you need to
8 look at the ammo, what I'll do is send you the ammo in and
9 take the gun out. It's not that I don't trust you, but you
10 cannot believe what I've had happen to me before. So for
11 your safety, and mine, and everybody else's, we just
12 separate them. All right.

13 In about ten seconds you're going to get all this stuff
14 and you can begin your deliberations. You can take them
15 out. And I'll come and talk to the alternate in just a
16 second.

17 (Whereupon the jury exited the courtroom at 12:06 pm)

18 **THE COURT:** Okay. Y'all get that ready. I'm going to
19 make a decision about lunch in about twenty minutes. Okay.
20 Y'all make sure it's back and you can take that together and
21 you can send it back. Y'all did a good job. Sir, thank you
22 for showing back up. I knew you were, but it was a little
23 bit of a risk on my part. All right.

24 **MS. TIFFIN:** Your Honor, will the Defendant be taken
25 into custody at this time?

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1 **THE COURT:** Yeah. Actually, at this point he has to
2 be. I'm sorry about that, but -- I know. That's just the
3 way it works. Okay. I'll be back.

4 (Whereupon the jury began deliberating and court was in
5 recess at 12:09 pm)

6 (Whereupon court reconvened at 1:26 pm)

7 **THE COURT:** I've got -- they want to see the tape
8 again. And also I've got this question. Clarification of
9 the definition of possession under South Carolina law. They
10 wrote it on a napkin. So I'm going to make that an exhibit.

11 (Whereupon Court's exhibit 2 was marked)

12 **THE COURT:** And what I'm going to do is bring them back
13 in and just charge them exactly the way I did on possession.
14 That's the only thing I know to do. And then what I'll do
15 is then let them watch the videotape. We've ordered them
16 lunch and we'll go from there.

17 **MS. TIFFIN:** Do you mind -- I'm sorry, Judge.

18 **THE COURT:** No, don't worry about it.

19 **MS. TIFFIN:** Do you mind telling me where you're
20 starting on the possession?

21 **THE COURT:** To prove possession, right at the
22 beginning. I'm going to do that. It's just a page. To
23 prove possession the State must prove beyond a reasonable
24 doubt the Defendant had both the power and intent to control
25 the disposition or use of the handgun.

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1 Possession may be actual or constructive. Actual means
2 that the gun was in his physical custody. Constructive --
3 and then I'll end at found right before mere presence
4 because they're not -- I don't think that's an issue. You
5 know what, though, I'm going to charge the whole page.
6 That's the safest thing to do.

7 **MR. GROVE:** Your Honor, we talked about -- oh, go ahead
8 if you've got ---

9 **MS. TIFFIN:** There was a -- in the beginning you
10 charged the statute on possession of a weapon.

11 **THE COURT:** Um-hum (affirmative).

12 **MS. TIFFIN:** We would ask that you charge that statute.
13 You remember at the beginning of your charge?

14 **THE COURT:** Yep. The Defendant is charged with
15 unlawful possession of a handgun. That's all it says. That
16 you have to prove that they've been convicted and that the
17 Defendant was in possession of a handgun. Possession can be
18 either actual possession or constructive. I don't mind
19 charging that, but I think what they really want is to hear
20 again this portion, but I don't mind doing it. I mean, I'd
21 rather do it ---

22 **MS. TIFFIN:** I think ---

23 **THE COURT:** --- than not do it.

24 **MS. TIFFIN:** --- it was actually before that. I'm
25 sorry. I thought you started off with -- do you mind if I

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1 glance at it? Do you mind?

2 **THE COURT:** No, Uh-uh (negative). But it's -- I read
3 off the indictment. You'd better look. I'm not sure ---

4 **MS. TIFFIN:** I thought that's what they were talking
5 about, but I might be wrong.

6 **MR. GROVE:** There was a portion in there, Your Honor,
7 you read about unlawful carrying and then defined about the
8 person and then read ---

9 **THE COURT:** That's from the statute.

10 **MR. GROVE:** Right.

11 **THE COURT:** I just read the statute. I think what they
12 want is this actual and constructive possession, which is
13 that last portion the solicitor's office gave me that I sort
14 of combined.

15 **MR. GROVE:** Sure. And I'm fine with that, Your Honor.
16 Judge, while she's doing that, she and I talked about this a
17 few minutes ago when we understood that they wanted to re-
18 watch the video. I'm fine with that, and I don't have any
19 problem with that and she doesn't either. I would ask that
20 you let them know they don't have to watch the entire thing,
21 that they ---

22 **THE COURT:** I'll just tell the Foreman to raise his
23 hand when they want to stop ---

24 **MR. GROVE:** Right.

25 **THE COURT:** --- because ---

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1 **MR. GROVE:** So that they're not obligated to watch it
2 in its entirety if that's not what they're interested in.

3 **THE COURT:** I'm afraid to recharge that whole thing.

4 **MS. TIFFIN:** No, no, no. I was just talking about
5 right here where you talk about unlawful carrying of a
6 handgun. And it says it's readily accessible and convenient
7 for immediate use. A handgun need not be actually touching
8 the person of the Defendant. I thought that's what they
9 were asking as far as the ---

10 **THE COURT:** That's actually from the statute.

11 **MS. TIFFIN:** Yes, sir.

12 **THE COURT:** All right.

13 **MR. GROVE:** Your Honor, ---

14 **THE COURT:** I tell you what, I'm going to charge both
15 statutes and this possession. We'll let them have
16 everything. Bring them in.

17 **MS. TIFFIN:** That would be great. Thank you, Judge.
18 And do you want to do that before we play the video?

19 **THE COURT:** Yeah.

20 **MS. TIFFIN:** And it's cued up, Judge, but sometimes if
21 it sleeps, it takes a minute. So I'll try to not let it go
22 to sleep.

23 (Whereupon the jury entered the courtroom at 1:31 pm)

24 **THE COURT:** Okay. Ladies and gentlemen, the question
25 was, and I don't have it here, but it was -- hand that to me

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1 just so I can make sure I'm exactly right. Do y'all have a
2 pad back there?

3 **THE JURY:** We do now.

4 **THE COURT:** Okay. Good. Clarification of the
5 definition of possession under South Carolina. Mr. Foreman,
6 that's what you want?

7 **MR. FOREMAN:** Yes, sir.

8 **THE COURT:** Okay. What I'm going to do, just to make
9 sure that I cover everything, there are references to
10 possession and definitions of possession in the statute.
11 And then there's also a definition that I gave you. I'm
12 going to read all three.

13 And then we've got the videotape ready to go. Now, you
14 are perfectly -- you're within your rights to watch the
15 entire video. If there is a portion you want to see and you
16 see that portion, and, Mr. Foreman, if you know what people
17 are looking for, if you raise your hand, we'll stop that
18 video then or you can watch the entire thing. It doesn't
19 matter a bit to us. I want to give you that option. All
20 right.

21 Ladies and gentlemen, let me charge you first. As I
22 said, the Defendant's charged with unlawful possession of a
23 handgun by a person convicted of a -- a crime of violence.
24 A person convicted of a crime of violence in this State
25 cannot possess a handgun. We have agreed and stipulated

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1 that he has had -- been convicted of a crime of violence.

2 The State must prove beyond a reasonable doubt that the
3 Defendant, one, has been charged or been convicted of a
4 crime of violence in any court in the United States. And as
5 I said, that has been agreed to and stipulated. That's a
6 fact.

7 And, two, the Defendant was in possession of a handgun.
8 Possession can either be actual possession or constructive
9 possession under that statute.

10 The Defendant's also been charged with unlawful
11 carrying of a handgun, which is a separate statute. The
12 State must prove beyond a reasonable doubt that the
13 Defendant carried a handgun about his person, whether
14 concealed or not.

15 Now, in regard to possession, to prove possession the
16 State must prove beyond a reasonable doubt that the
17 Defendant had both the power and the intent to control the
18 disposition of the handgun. Possession may be either actual
19 or constructive.

20 Actual possession means that the handgun was in the
21 actual, physical custody of the Defendant. Constructive
22 possession means that the Defendant had dominion and control
23 or the right to exercise dominion or control over the
24 handgun itself or the property in which the handgun was
25 found. That is the definition of possession.

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1 And just to be safe, let me go ahead, presence at the
2 scene where the gun was found is not enough to prove
3 possession. The Defendant's knowledge and possession may be
4 inferred when a thing is found on the property under or in
5 the property under the Defendant's control.

6 However, this inference is simply an evidentiary fact
7 to be taken into consideration by all of you along with all
8 the other evidence in the case. And it should be given the
9 weight you decide it should have. Constructive possession
10 may also be established by circumstantial or direct
11 evidence.

12 So that was the charge I gave you and the two statutes.
13 And since there was a reference to possession in both of
14 them, I went ahead and gave you maybe more than you want.

15 And, again, we're going to turn the lights out and
16 start this. Mr. Foreman, I'll be watching you. If there's
17 a portion that you know that everybody wants to see, and you
18 don't want to watch the rest of it, just raise your hand.
19 If you want to watch it all, that's fine. All right.

20 (Whereupon the video, State's exhibit 4, was started
21 for the jury at 1:35 pm)

22 **THE COURT:** Okay. Thank you. You can cut that off.

23 (Whereupon the video was ended at 1:55 pm)

24 **THE COURT:** Thank you, Mr. Foreman. I appreciate it.

25 Again, you did that exactly right except we've got you a pad

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1 now. Lunch will be here in a minute. If you have another
2 question, you did it exactly right. You can begin your --
3 continue your deliberations.

4 (Whereupon the jury exited the courtroom at 1:56 pm)

5 **THE COURT:** Okay. I'll let you know. I wouldn't go
6 too far because who knows?

7 **MS. TIFFIN:** Your Honor, just to make a point about the
8 recharge for unlawful carrying.

9 **THE COURT:** Sure.

10 **MS. TIFFIN:** I believe you stopped after about his
11 person and you didn't carry on to the next part of that
12 charge. The State is just concerned that that would leave
13 the jury feeling that he had to have the gun actually on his
14 person. Do you want me to show you what I'm talking about?

15 **THE COURT:** You want a handgun is about the Defendant's
16 person if it's readily accessible ---

17 **MS. TIFFIN:** Yes, sir.

18 **THE COURT:** --- and convenient? I didn't -- to be
19 honest with you, those pages got screwed up. Bring them --
20 and I should have ---

21 **MS. TIFFIN:** Sorry.

22 **THE COURT:** I understand. You object.

23 (Laughter)

24 **THE COURT:** Literally, I mean, literally ---

25 **MS. TIFFIN:** You're never coming back here, 'are you?

CHARGE OF THE COURT

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1 **THE COURT:** Oh, no, this is normal. But the page was
2 behind another page and that's why I sort of stopped.

3 **MS. TIFFIN:** Sorry.

4 **THE COURT:** No, that's okay.

5 (Pause)

6 **THE COURT:** If you -- I stopped because I thought there
7 was something else, but it was up under another page.
8 That's my fault. I'm getting tired of blaming myself,
9 though, with this jury. And that's under 16-23-20.

10 (Whereupon the jury entered the courtroom at 1:59 pm)

11 **THE COURT:** I'm not trying to torture you by letting
12 you look at your food and then pulling you back out, but as
13 I told you yesterday, some things are slow and frustrating.
14 I want to make sure that I -- I did not charge you the
15 entire statute. I left out a sentence on the unlawful
16 carrying of a handgun.

17 I'm going to recharge that entire portion, which is a
18 very short portion. Please do not put any importance on the
19 fact that I brought you in to read this to you. It should
20 have been read a while ago. It's on a separate piece of
21 paper. It was just a mistake.

22 In addition to the other charge the Defendant is
23 charged with unlawful carrying of a handgun. The State must
24 prove beyond a reasonable doubt that the Defendant carried a
25 handgun about his person whether concealed or not.

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1 And this was the portion left out. A handgun is about
2 the Defendant's person if it is readily accessible and
3 convenient for immediate use. The handgun need not be
4 actually touching the person of the Defendant.

5 I promise you I'm not bringing you back in unless you
6 need me to. You can continue deliberations.

7 (Whereupon the jury exited the courtroom at 2:01 pm)

8 **THE COURT:** Now, that's probably going to confuse them
9 even more because -- wasn't the gun behind the backseat?

10 **MS. TIFFIN:** No. It was underneath the seat.

11 **MR. GROVE:** In the front of the back, yeah.

12 **THE COURT:** The problem is I just told them that it has
13 to be readily accessible and convenient for immediate use.
14 I mean, I know they all -- cuts both ways.

15 (Whereupon court was in recess at 2:02 pm)

16 (Whereupon court reconvened at 3:00 pm)

17 **THE COURT:** Okay. We've got a verdict. What I'm going
18 to do here is, what I always do, I'll bring them in, let
19 them hand up the verdict, announce it and then depending on
20 what it is, no matter what it is, I'm going to go back and
21 talk to them personally before I let them go.

22 I let them ask me anything. I've been doing that. If
23 they tell me something that I think will help either lawyer
24 in the future, I'll tell you. I mean, I do that every week.
25 Call people and say, you know, wear black shoes instead of

VERDICT OF THE JURY

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1 brown. Okay? You can bring them in.

2 (Whereupon the jury entered the courtroom at 3:03 pm)

3 **THE COURT:** All right. Mr. Foreman, I understand you
4 have a verdict?

5 **MR. FOREMAN:** Yes, sir.

6 **THE COURT:** If you would hand it to the bailiff,
7 please. Thank you. Okay. You can publish it.

8 **MADAME CLERK:** Your Honor, in the case -- in the case
9 2012-GS-23-00206, the State versus Detrick L. Stenhouse, the
10 verdict is guilty. In the case 2012-GS-23-00207, the
11 verdict is not guilty.

12 Ladies and gentlemen, if you agree that this is your
13 verdict, please raise your right hand.

14 (Whereupon all jurors raised their right hand)

15 **MADAME CLERK:** Thank you.

16 **THE COURT:** All right. Ladies and gentlemen, for the
17 last time I'm going to send you back. I'll be back to speak
18 with you personally in just a minute. And I promise you,
19 it's not going to take too long for me to get back there and
20 we'll get you out of here. You can take them back. I'll be
21 right back, literally, within two minutes.

22 (Whereupon the jury exited the courtroom at 3:04 pm)

23 **THE COURT:** Okay. Just briefly, what I'm going to do
24 is go back and talk with them. What's the -- what's the --
25 and y'all are going to -- I really am juggling. What is the

SENTENCE OF THE COURT

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1 tougher than I would normally do, but the sentence is a
2 straight four years. I'm not putting you on probation or
3 anything like that.

4 What I'm hoping is that that will allow some movement
5 toward resolving everything. I know where y'all's position
6 is, but let's face it, he needs to get everything tied up.
7 You're getting too old to be doing this stuff.

8 **MR. STENHOUSE:** I'm not doing anything no more.

9 **THE COURT:** I know. And that's why I want to try to
10 allow you to get it all resolved. This makes a difference
11 on those charges no matter whether the solicitor's office or
12 defense lawyers think so, it does to judges if you've got
13 pending charges and you've done some period of time. Those
14 charges carry much more. And I'm really -- believe it or
15 not, you won't believe it, I'm trying to help you out a
16 little bit here.

17 So the sentence is a straight four years, no probation.
18 I don't think that -- any point in doing that. I'm giving
19 you credit for the time. And it is my sincere hope that you
20 can wrap all those other things up and get it done.

21 **MR. GROVE:** Thank you, Your Honor.

22 **MS. TIFFIN:** Thank you, Your Honor.

23 **THE COURT:** Good luck to you, man. Appreciate it. And
24 I appreciate you coming back.

25 (Hearing Ended at 3:30 pm)

1

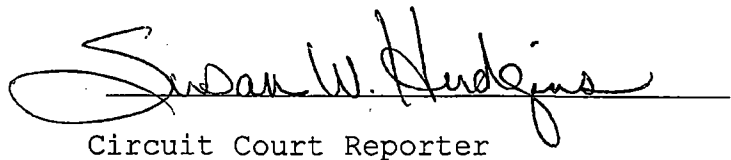
(End of Requested Transcript of Record)

Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 14th - 15th day of January 2016.

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

April 15, 2016

A handwritten signature in cursive script, reading "Susan W. Hudgins", is written over a horizontal line.

Circuit Court Reporter

WITNESSES

R. Herron

Mauldin Police Department

7/25/2011

ARREST WARRANT NUMBER
K347695

ACTION OF GRAND JURY
TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty

Foreperson of Petit Jury

Date: 1/15/2016

DOCKET NO. 2012-GS-23-
BHT

000206

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

February

2015
TERM 2012

THE STATE

vs.

DETRICK L. STENHOUSE

Indictment for

2364

POSSESSION OF A PISTOL BY A PERSON
CONVICTED OF A VIOLENT CRIME

VIOLATION § 16-23-0030

ENTERED
ACCT. JOP

RECEIVED
JAN 27 2016
SC Court of Appeals

RECEIVED

JAN 26 2012

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
POSSESSION OF A PISTOL BY A PERSON CONVICTED OF A
VIOLENT CRIME

At a Court of General Sessions, convened on **FEB 24 2015** the Grand Jurors of Greenville
County present upon their oath:

That DETRICK L. STENHOUSE did in Greenville County, on or about the 24th day of July 2011,
possess or acquire a pistol, within this State, the defendant having been convicted of ASSAULT AND
BATTERY WITH INTENT TO KILL. This is in violation of § 16-23-30 of the South Carolina Code of
Laws (1976) as amended.

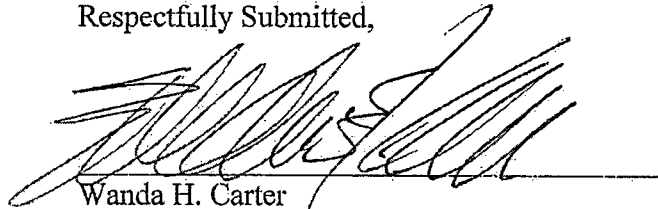
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Wanda H. Carter", written over a horizontal line.

Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

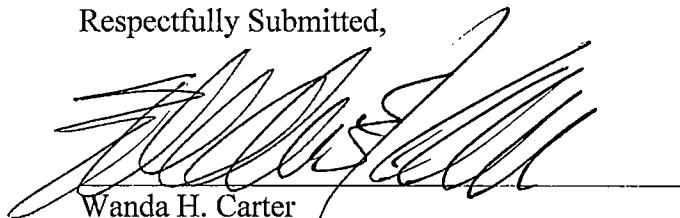
ATTORNEY FOR APPELLANT

This 6th day of March, 2017.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 6th day of March, 2017.

RECEIVED

MAR 06 2017

SC Court of Appeals