

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Perry H. Gravely, Circuit Court Judge

RECEIVED
SEP 29 2017
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JIMMY EDWARD DUNCAN,

APPELLANT

APPELLATE CASE NO 2016-002126

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)	COURT OF GENERAL SESSIONS
)	
COUNTY OF GREENVILLE)	Case No(s)::2015GS4700007
)	
State of South Carolina,)	
)	
Plaintiff,)	
)	
-VS-)	TRANSCRIPT OF RECORD
)	
Jimmy Edward Duncan,)	
)	
Defendant.	-)	
)	

October 03-06, 2016
 Greenville, South Carolina

B E F O R E:

HONORABLE PERRY H. GRAVELY, Judge.

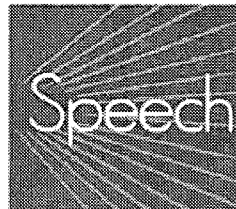
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(No exhibits offered.)

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P R O C E E D I N G S

1
2 (WHEREUPON, the proceedings begin on the 3rd day
3 of October, 2016 at approximately 11:50 a.m.)

4 (WHEREUPON, State's Exhibits 1 through 6 are
5 marked for identification purposes.)

6 THE COURT: All right. Before we go and
7 bring the jury up, I understood the... (Pause.)

8 All right. Mr. Warder, I'll be glad to hear
9 from you. I understand you had a motion.

10 MR. WARDER: Your Honor, if it please the
11 Court, at pretrial conference, Your Honor had
12 -- I had inquired about the number of strikes.
13 Your Honor said that you thought it would be
14 five strikes for the defense and five for the
15 prosecution. Your Honor, I would respectfully
16 move for 10 strikes. I think that I understand
17 the statute lists crimes for which it provides
18 for 10 strikes, and this is not one of them.
19 However, Your Honor, the crimes that you do 10
20 strikes for include Grand Larceny, Breach of
21 Trust. I think Forgery's in there. The maximum
22 on those crimes is just 10 years. My client is
23 facing a maximum of 30 years, and I would
24 respectfully propose that is a denial of equal
25 protection with a man that's facing up to 30

1 years gets no more strikes than a crime that
2 carries much less.

3 **THE COURT:** It's an interesting and novel
4 argument, Mr. Warder. But I believe, from
5 looking at the statute, I guess, the fact that
6 you have the same number of strikes as the
7 prosecutor -- and I'm not sure what the basis
8 that they -- that the, uh, -- our legislature,
9 at some point, decided that there was a basis
10 for having certain crimes set out in giving
11 more strikes. It's clearly -- this crime does
12 not fall within the statutory -- which is 14-7-
13 1110. If not one of those enumerated there,
14 then it clearly states that all other ones
15 shall have five strikes. I understand your --

16 **MR. WARDER:** Yes, sir. I just say it's a
17 denial of equal protection.

18 **THE COURT:** Right. I think based on the
19 statute, I'm going to deny your motion. Both
20 sides will get five strikes. All right. All
21 right. They'll be coming up in just a minute,
22 the jury. We're going -- we'll have two
23 alternates just since we have several days
24 here. Any other voir dire from the defendant?

25 **MR. WARDER:** No, Your Honor.

1 **THE COURT:** Just the standard. Okay. And
2 I've got -- have you seen the State's -- you
3 seen the State's witness list?

4 **MR. WARDER:** Yes, I have, Your Honor.

5 **THE COURT:** All right. Anything else
6 before we bring the -- we have the jury come
7 in?

8 **MR. WARDER:** Nothing from the defense,
9 Your Honor.

10 **THE COURT:** All right.

11 **MR. UNDERWOOD:** Nothing from the State,
12 Your Honor.

13 **(WHEREUPON,** the jury panel enters at
14 approximately 12:03 p.m.)

15 **THE COURT:** All right. Ladies and
16 Gentlemen, thank y'all for being here. I feel
17 like some of y'all have been juggled around a
18 couple of times already this morning. That's a
19 typical Monday morning when we have a lot of
20 court going on. We do appreciate your patience.
21 What we plan to do here this morning is select
22 a jury. This is a criminal case. You may have
23 heard --

24 Oh, first of all, I'm Judge Perry Gravely.
25 I'm a 13th Circuit Judge, which my circuit is

1 Pickens and Greenville. I'm actually from
2 Pickens, but I spend a lot of my time in
3 Greenville. I always like being over here.

4 You may have heard two terms kind of going
5 on. We have Common Pleas. That means civil.
6 That's when usually one party has filed a
7 lawsuit against another party. We also have
8 General Sessions court, and that is criminal
9 court. That is what we'll be selecting, uh, a
10 -- today.

11 Y'all have the indictments actually? Sorry.
12 Didn't realize I haven't gotten them.

13 But anyway, we'll be selecting a jury for
14 this case. I'm not sure what they advised as
15 far as the remainder of the jury panel, but I
16 think that both -- if you are selected for the
17 jury, we'll be releasing you for lunch; and if
18 you are not selected on the jury, I assume they
19 are probably going to release you for lunch as
20 well. I'll give you further instructions on
21 that.

22 Our goal is not to keep you very long here.
23 We have very specific questions that we have to
24 ask you. I'm going to ask the general questions
25 before -- which relate to your qualifications.

1 These are specific questions which the
2 attorneys on this case and the Court will ask
3 you. The goal is so that we have 12 people on
4 the jury panel that are fair and impartial,
5 that don't have any ties to either party.

6 So, first of all, this is the case of State
7 of South Carolina versus Jimmy Edward Duncan.
8 He is, what has been referred to as, the
9 defendant. Now, the fact that he's been charged
10 will not need to be considered by anybody until
11 the -- that's just the formal process which
12 this matter is before the court. Mr. Jimmy
13 Edward Duncan in his -- I want to make sure.

14 Count 1 on the indictment here?

15 **THE CLERK:** Yes, Your Honor.

16 **THE COURT:** Okay, which is Trafficking
17 Methamphetamine Conspiracy. That is the charge
18 against Mr. Duncan. So at this time, now listen
19 very carefully to the questions that I ask you.
20 It's very important that you respond to any of
21 the questions that you need to. You were
22 previously put under oath downstairs when you
23 were doing the qualification process. You are
24 still under oath at this time.

25 All right. Mr. Duncan, if you would, stand

1 please. Just face the jury just so they can --
2 All right. Thank you.

3 Is any member of the jury panel or their
4 immediate family related by blood or marriage
5 to Jimmy Edward Duncan? If so, please stand.

6 (No audible response.)

7 All right. No response.

8 All right. Any member -- is any member of
9 the jury panel or their immediate family a
10 friend, a coworker or acquaintance in any way
11 with Jimmy Edward Duncan? If so, please stand.

12 (No audible response.)

13 All right. No response.

14 Is any member of the jury panel or member
15 of immediate family -- let me identify the
16 attorneys in this matter.

17 If you will, stand up and introduce
18 yourself. The State?

19 **MR. UNDERWOOD:** My name is Joshua
20 Underwood. I'm an Assistant Attorney General
21 with the Attorney General's Office for the
22 State of South Carolina headquartered out of
23 Columbia.

24 **MR. FERNANDEZ:** David Fernandez, also with
25 the Attorney General's Office.

1 **MR. WARDER:** I'm Richard Warder. I
2 practice law here in Greenville. Seated at the
3 table with me is Wayne Christian, my
4 investigator.

5 **THE COURT:** All right. Has any juror or
6 member of your family or your family friends
7 associated in any way or an employee with any
8 of the attorneys involved in this matter? If
9 so, please stand.

10 (No audible response.)

11 All right. No response.

12 Any member of the jury panel or their
13 immediate family ever been represented by the
14 attorneys involved in this trial? If so, please
15 stand.

16 (No audible response.)

17 Not only represented, but if you been on a
18 case where the attorney was on the other side.
19 If so, please stand.

20 (No audible response.)

21 All right. No response to those questions.

22 Any juror or member of their immediate
23 family ever been employed or work for Richard
24 Warder, Josh Underwood or Mr. Fernandez from
25 the state? If so, please stand.

1 (No audible response.)

2 All right. No response..

3 Has any member of the jury panel or a
4 member of their immediate family ever been
5 employed in a federal, state or local public
6 defender's office or by any lawyer or law firm
7 that represents individuals charged with
8 criminal offenses? If so, please stand.

9 (No audible response.)

10 All right. No response.

11 All right. Now this is going to be -- this
12 is a very extensive witness list, and these are
13 potential witnesses. It does not mean that
14 everyone will be called. These are potential
15 witnesses for this case, so listen carefully.
16 I'm just going to break them into about three
17 lists so you won't be overwhelmed. And what
18 we're looking for is if you are related by
19 blood or marriage to any of these witnesses, if
20 you have any close social or personal
21 relationship with these witnesses or you have
22 business dealings with them.

23 All right. Investigator Charlie Cunningham
24 of the Greenville County Sheriff's Office --
25 and when you hear somebody's name that you

1 recognize or that you need to respond to, if
2 you will, stand. Investigator Charlie
3 Cunningham of the Greenville County Sheriff's
4 Office; Special Agent Tyrel Woodring of SLED;
5 Lynn Black of SLED; Willie Smith, III, of SLED;
6 Douglas Robinson of SLED; Amy Stephens of SLED;
7 Doris Yarbrough of SLED; Jenny Aycock of SLED;
8 Jackie Davis of SLED; Lieutenant Brett Barwick;
9 Pickens County Sheriff's Office; Chet Anthony,
10 Pickens County Sheriff's Office; Deputy Corey
11 Baker, Pickens County Sheriff's Office; Andy
12 Robinson, Pickens County Sheriff's Office;
13 Kevin Durham, Pickens County Sheriff's Office;
14 Tommy Blackenship, Pickens County Sheriff's
15 Office; Officer Jessica Nix, Pickens County,
16 uh, --

17 **MR. UNDERWOOD:** Supposed to be the
18 detention center, Your Honor.

19 **THE COURT:** Okay. Pickens County Sheriff's
20 Office. Sergeant Roman Fricks, Pickens County
21 Sheriff's Office; Deputy Jeff Bolde -- Bolden
22 -- is it Bolden?

23 **MR. UNDERWOOD:** Bolde, Your Honor.

24 **THE COURT:** Okay. Pickens County Sheriff's
25 Office. Deputy Van Massingill, Pickens County

1 Sheriff's Office; Bryan Langston, Pickens
2 County Sheriff's Office; and Tony Robinson,
3 Pickens County Sheriff's Office.

4 Anybody on the jury panel related by blood
5 or marriage or have any social or personal
6 relationship or business relationship with any
7 of these witnesses? If so, please stand.

8 (No audible response.)

9 All right. No response.

10 All right. Here's the second part of the
11 list. Again, listen carefully. J.T. Albrecht,
12 Pickens County Sheriff's Office; Brian Gibson,
13 Pickens County Sheriff's Office; John Ross,
14 Pickens County Sheriff's Office; Henry
15 Campbell; Nicole Sunshine Hogue; Kimberly
16 Turner; Jeffery Shane Mauldin; Jorge David
17 Martinez; Karen Collins; Timothy Ross; Teresa
18 Davis; Matthew Melton; Matthew Carter; Tracy
19 Rumsey; Larry Bubba Coleman; Stacey Lynn
20 Kelley; and Brandi O'Bryant.

21 All right. Any member of the jury panel
22 know these individuals, related by blood or
23 marriage or have any social, personal or
24 business relationship with any of these
25 individuals? If so, please stand.

1 (No audible response.)

2 All right. No response.

3 All right. Has any -- does any juror know
4 of any bias or prejudice for any reason against
5 the defendant or the state or any reason why
6 they do not feel that they can give a fair and
7 impartial trial in this matter? If so, please
8 stand.

9 (No audible response.)

10 All right. No response.

11 Has any juror or member of your immediate
12 family or close personal friend ever advocated
13 that marijuana or other illegal narcotics
14 should be legalized? If so, please stand.

15 (No audible response.)

16 All right. No response.

17 Has any juror or member of your immediate
18 family ever been arrested, charged, indicted or
19 merely accused of a drug-related offense? If
20 so, please stand. Okay. We will -- All right.
21 Okay. We will start right here on the front
22 row.

23 First, you'll give your name and your
24 number.

25 **THE JUROR:** Mark Roberts, 168.

1 **THE COURT:** All right. And how do you
2 respond to that question?

3 **THE JUROR:** My nephew was -- something --
4 he had to wear an ankle bracelet. Something to
5 do with some kind of drug. I don't know what it
6 was.

7 **THE COURT:** All right. Does that factor --
8 could you still give a fair and impartial trial
9 in this matter relating to the charges to both
10 the State and the defendant?

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

12 **THE COURT:** Thank you. You may be seated.

13 All right. We'll start over here to the far
14 right. Your name and number?

15 **THE JUROR:** I'm Sally Marsh, number 127.

16 **THE COURT:** All right. Hold on just a
17 second. (Pause.)

18 All right. How do you respond to that
19 question?

20 **THE JUROR:** My daughter has been charged
21 with selling cocaine.

22 **THE COURT:** All right. Does that fact --
23 could you still give a fair and impartial trial
24 to both the State and defendant in this matter?

25 **THE JUROR:** Yes, I can.

1 **THE COURT:** All right. Thank you. You may
2 be seated.

3 Yes, your name and number?

4 **THE JUROR:** Nadiyah Neal, 140.

5 **THE COURT:** All right. And how do you
6 respond to that question?

7 **THE JUROR:** My brother is on house arrest
8 for drugs.

9 **THE COURT:** Okay. Does that fact -- could
10 you still give a fair and impartial trial to
11 both the State and defendant in this matter?

12 **THE JUROR:** Yes.

13 **THE COURT:** Okay. Thank you.

14 All right. Now, the gentleman in the green
15 shirt.

16 **THE JUROR:** 27, Lewis Bowers. My stepson
17 has been charged with possession before.

18 **THE COURT:** All right. Would that fact
19 keep you from being able to give a fair and
20 impartial trial to both the State and defendant
21 in this matter?

22 **THE JUROR:** No.

23 **THE COURT:** Okay. Thank you.

24 All right. Lady in the back.

25 **THE JUROR:** For the past --

1 **THE COURT:** No. I'm sorry. Name and
2 number.

3 **THE JUROR:** Barbara Clark, 49.

4 **THE COURT:** All right.

5 **THE JUROR:** My brother and sister had
6 been --

7 **THE COURT:** Hold on. Let's find your
8 number. Then we'll...(Pause.) Okay.

9 **THE JUROR:** Years ago, but they're no
10 longer here, but they had been charged with
11 selling heroin.

12 **THE COURT:** Who was that?

13 **THE JUROR:** Sister and brother.

14 **THE COURT:** Okay. Would that fact keep you
15 from being able to give a fair and impartial
16 trial to both the State and the defendant in
17 this matter?

18 **THE JUROR:** No.

19 **THE COURT:** All right. Thank you.
20 All right, and yes.

21 **THE JUROR:** Amy Butell, number 38.

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

23 **THE JUROR:** My son was charged with
24 possession of marijuana.

25 **THE COURT:** All right. Would that fact

1 keep you from being able to give a fair and
2 impartial trial to both the State and defendant
3 in this matter?

4 **THE JUROR:** No.

5 **THE COURT:** All right. Thank you.

6 Any member of the jury panel formed or
7 expressed an opinion about any issue about the
8 matter involved in this case? If so, please
9 stand.

10 (No audible response.)

11 All right. If there's any member of the
12 jury panel who knows of any reason whatsoever
13 why they could not give a fair and impartial
14 trial to both the State and the defendant in
15 this matter? If so, please stand.

16 (No audible response.)

17 All right. Any other questions from the
18 State?

19 **MR. UNDERWOOD:** No, Your Honor.

20 **THE COURT:** Any other questions from the
21 defendant?

22 **MR. WARDER:** No, Your Honor.

23 **THE COURT:** All right. We'll draw -- we'll
24 have -- like I said, we'll select two
25 alternates. At this time, I'd ask the clerk to

1 proceed. They can just stand in your -- in
2 their place.

3 **THE CLERK:** Okay. Juror number 170,
4 Nathaniel Ruff. Please stand.

5 What says the State?

6 **MR. UNDERWOOD:** Please present the juror.

7 **THE CLERK:** What says the defendant?

8 **MR. WARDER:** Please swear the juror.

9 **THE CLERK:** You may bring your things and
10 have a seat in the jury box.

11 Juror number 74, Brandon Franks.

12 What says the State?

13 **MR. UNDERWOOD:** Please present the juror.

14 **THE CLERK:** What says the defendant?

15 **MR. WARDER:** Please swear the juror.

16 **THE CLERK:** You may bring your things and
17 have a seat in the jury box.

18 Juror number 95, Herman Hill.

19 What says the State?

20 **MR. UNDERWOOD:** Please excuse the juror.

21 **THE CLERK:** You may take your seat.

22 Juror number 49, Barbara Clark.

23 What says the State?

24 **MR. UNDERWOOD:** Please excuse the juror.

25 **THE CLERK:** You may take your seat.

1 Juror number 135, James Miller.
2 What says the State?
3 **MR. UNDERWOOD:** Please present the juror.
4 **THE CLERK:** What says the defendant?
5 **MR. WARDER:** Please swear the juror.
6 **THE CLERK:** You may bring your things and
7 have a seat in the jury box.
8 Juror number 84, Erika Grace.
9 What says the State?
10 **MR. UNDERWOOD:** Please present the juror.
11 **THE CLERK:** What says the defendant?
12 **MR. WARDER:** Please excuse the juror from
13 the trial of this matter.
14 **THE CLERK:** You may take your seat.
15 Juror number 28, Michael Brannon.
16 What says the State?
17 **MR. UNDERWOOD:** Please present the juror.
18 **THE CLERK:** What says the defendant?
19 **MR. WARDER:** Please excuse the juror from
20 the trial of this matter.
21 **THE CLERK:** You may take your seat.
22 Juror number 81, William Godfrey.
23 What says the State?
24 **MR. UNDERWOOD:** Please present the juror.
25 **THE CLERK:** What says the defendant?

1 **MR. WARDER:** Please excuse the juror from
2 the trial of this matter.

3 **THE CLERK:** You may take your seat.
4 Juror number 159, De Reasonover-Winjobi.
5 What says the State?

6 **MR. UNDERWOOD:** Please present the juror.

7 **THE CLERK:** What says the defendant?

8 **MR. WARDER:** Please swear the juror.

9 **THE CLERK:** You may bring your things and
10 have a seat in the jury box.

11 Juror number 164, Robbie Rehberg.

12 What says the State?

13 **MR. UNDERWOOD:** Please present the juror.

14 **THE CLERK:** What says the defendant?

15 **MR. WARDER:** Please swear the juror.

16 **THE CLERK:** You may bring your things and
17 have a seat in the jury box.

18 Juror number 72, Jarvis Foster.

19 What says the State?

20 **MR. UNDERWOOD:** Please excuse the juror.

21 **THE CLERK:** You may take your seat.

22 Juror number 99, Andrew Hunter.

23 What says the State?

24 **MR. UNDERWOOD:** Please present the juror.

25 **THE CLERK:** What says the defendant?

1 **MR. WARDER:** Please excuse the juror from
2 the trial of this matter.

3 **THE CLERK:** You may take a seat.
4 Juror number 185, Kayla Smith.
5 What says the State?

6 **MR. UNDERWOOD:** Please present the juror.

7 **THE CLERK:** What says the defendant?

8 **MR. WARDER:** Please swear the juror.

9 **THE CLERK:** You may bring your things and
10 have a seat in the jury box.

11 Juror number 38, Amy Butell.

12 What says the State?

13 **MR. UNDERWOOD:** Please excuse the juror.

14 **THE CLERK:** You may take your seat.

15 Juror number 126, Jimenez Marcos.

16 What says the State?

17 **MR. UNDERWOOD:** Please present the juror.

18 **THE CLERK:** What says the defendant?

19 **MR. WARDER:** Please swear the juror.

20 **THE CLERK:** Bring your things and have a
21 seat in the jury box.

22 Juror number 191, Damien Stevens.

23 What says the State?

24 **MR. UNDERWOOD:** Please present the juror.

25 **THE CLERK:** What says the defendant?

1 **MR. WARDER:** Please swear the juror.

2 **THE CLERK:** You may bring your things and

3 have a seat in the jury box.

4 Juror number 184, Debra Singleton.

5 What says the State?

6 **MR. UNDERWOOD:** Please present the juror.

7 **THE CLERK:** What says the defendant?

8 **MR. WARDER:** Please swear the juror.

9 **THE CLERK:** You may bring your things and

10 have a seat in the jury box.

11 Juror number 50, Peter Cleveland.

12 What says the State?

13 **MR. UNDERWOOD:** Please present the juror.

14 **THE CLERK:** What says the defendant?

15 **MR. WARDER:** Please excuse the juror from

16 the trial of this matter.

17 **THE CLERK:** You may take your seat.

18 **THE COURT:** That's five, Mr. Warder.

19 **THE CLERK:** Juror number 168, Mark

20 Roberts.

21 What says the State?

22 **MR. UNDERWOOD:** Please excuse the juror.

23 **THE CLERK:** You may take your seat.

24 **THE COURT:** That's five on the State.

25 **THE CLERK:** Juror number 19, Anna Bellew.

1 What says the State?

2 **MR. UNDERWOOD:** Please present the juror.

3 **THE CLERK:** What says the defendant?

4 **MR. WARDER:** Swear the juror please.

5 **THE CLERK:** You may bring your things and
6 have a seat in the jury box.

7 Juror number 178, Stacey Sexton.

8 What says the State?

9 **MR. UNDERWOOD:** Please present the juror.

10 **THE CLERK:** What says the defendant?

11 **MR. WARDER:** Please swear the juror.

12 **THE CLERK:** You may bring your things and
13 have a seat in the jury box.

14 Juror number 188, Carl Spady.

15 What says the State?

16 **MR. UNDERWOOD:** Please present the juror.

17 **THE CLERK:** What says the defendant?

18 **MR. WARDER:** Please swear the juror.

19 **THE CLERK:** You may bring your things and
20 have a seat in the jury box.

21 **THE COURT:** All right. Two alternates.

22 **THE CLERK:** Juror number 54, Allison Cook.

23 What says the State?

24 **MR. UNDERWOOD:** Please present the juror.

25 **THE CLERK:** What says the defendant?

1 **MR. WARDER:** Please swear the juror.

2 **THE CLERK:** You may bring your things and
3 have a seat in the jury box.

4 Juror number 68, Stacie Evans.

5 What says the State?

6 **MR. UNDERWOOD:** Please present the juror.

7 **THE CLERK:** What says the defendant?

8 **MR. WARDER:** Please excuse the juror from
9 the trial of this matter.

10 **THE CLERK:** You may take your seat.

11 Juror number 16, Gregory Bearden.

12 What says the State?

13 **MR. UNDERWOOD:** Please excuse the juror.

14 **THE CLERK:** You may take your seat.

15 Juror number 15, Dawn Beard.

16 What says the State?

17 **MR. UNDERWOOD:** Please present the juror.

18 **THE CLERK:** What says the defendant?

19 **MR. WARDER:** Please swear the juror.

20 **THE CLERK:** Please?

21 **MR. WARDER:** Swear.

22 **THE CLERK:** You may bring your things and
23 have a seat.

24 **THE COURT:** All right. Any objection to
25 the selection process by the State?

1 **MR. UNDERWOOD:** None, Your Honor.

2 **THE COURT:** Any by the defendant?

3 **MR. WARDER:** Reserving my prior objection.

4 **THE COURT:** Okay. Yes. Other than that?

5 **MR. WARDER:** No, sir.

6 **THE COURT:** All right. Okay. Let me -- I'm

7 going to send this group out and then we'll

8 talk to y'all.

9 All right. Send them back downstairs?

10 **THE CLERK:** Yes, sir.

11 **THE COURT:** All right. For the remaining

12 panel, y'all are to go back to your room that

13 will be home for the next couple of days. If

14 you will, go back downstairs, and thank you

15 again for your patience.

16 **(WHEREUPON,** the jury panel exits at approximately

17 12:32 p.m.)

18 **THE COURT:** All right. We'll let them get

19 out of here. (Pause.)

20 All right. Ladies and Gentlemen, y'all have

21 been selected. But because of some preliminary

22 matters and some other matters that we have to

23 go over this afternoon, we'll start this case

24 in the morning at 9:30. So you get the

25 afternoon off. Hopefully, you've already let

1 your employer know that you can't come in today
2 so that you can -- in the afternoon if you're
3 working second shift. I'm sorry we didn't work
4 that out better. But anyway, we will start at
5 9:30 in the morning. This case should last a
6 couple of days, so plan accordingly.

7 A couple of things that I'm going to tell
8 you now, and I'll tell you this every time you
9 broke -- every time you take a break. Number 1,
10 you are not to discuss this case among you,
11 among your spouses, friends, anybody, in any
12 way. The only time you are to discuss this case
13 is after -- at the end of the trial when you
14 get all the law and all the evidence presented
15 -- that's been presented to you. It's not
16 proper to discuss this case in any way, in any
17 fashion, even like, "Wonder what the defendant
18 did" or "What is the prosecutor doing?". It's
19 just not appropriate until the end of the case.

20 Number 2, you are not to do any research
21 whatsoever on your own about the parties, about
22 the charges. Everything that you're supposed to
23 consider in this trial is the evidence that's
24 presented, that's properly presented before
25 you. Therefore, it's important that you do not

1 do any independent research.

2 Number 3, I'm not sure if there's any news
3 coverage or social media or anything like that,
4 but it is not appropriate for y'all to consider
5 anything like that in the news, newspaper, TV,
6 social media. Anything that you see like that,
7 please disregard it. Do not read it. Again,
8 that's not evidence that's been properly
9 presented before you.

10 The 4th thing -- again, these are four
11 things I'm going to tell you every time you
12 break. The 4th thing is I don't expect that
13 you'll be contacted by anyone. It's not proper
14 for you to talk to the attorneys or the
15 attorneys to talk to you, but I don't believe
16 that you'll be contacted by anyone except the
17 Clerk's office. If the Clerk's office should
18 contact you, that's okay. Other than that,
19 please get as much information that you can
20 about the person contacting you and let the
21 bailiffs know. The bailiffs are your main
22 contact person with the court. They'll be with
23 you and direct you.

24 Just for your planning purposes, I will let
25 you know this trial is to start at 9:30 in the

1 morning. Normally, we go to -- we'll have a
2 lunch break at a logical time. We can't always
3 pick that because it kind of depends on where
4 the witnesses kind of fold out or something
5 like that. We usually break 5:00 or 5:30. 5:30
6 at the latest, unless there's something unusual
7 going on. That, again, depends on kind of the
8 witnesses and where they are. If we need to
9 break -- if we're going to go beyond 5 o'clock,
10 I will let you know in enough time so you can
11 make sufficient, uh, arrangements, if needed.
12 This is not something that's going to go into
13 next week or anything like that.

14 For your planning purposes, I will let you
15 know that we will not be here on Wednesday
16 afternoon. One of my dear friends on the bench
17 passed away last week. Her funeral services are
18 Wednesday afternoon. So that is -- we will --
19 that's just for your planning purposes. So we
20 will be Wednesday morning til lunchtime.

21 So with all of that, I'm going to ask that
22 you follow the bailiff. He'll take you to your
23 jury room where you have to report in the
24 morning. Like I said, be here before 9:30. It's
25 our, uh, -- our aim is to get started right at

1 9:30 so we can go forward.

2 Again, thank you for serving. This is very
3 important. The jury process is a very important
4 process for both the State and defendant. We
5 appreciate your serving this week. So at this
6 point, if you will, follow the bailiff back to
7 your jury room, and then you'll dismissed for
8 the afternoon. See y'all in the morning.
9 Everybody have a good day.

10 **(WHEREUPON,** the jury exits at approximately
11 12:36 p.m.)

12 **THE COURT:** All right. Mr. Warder, I know
13 that -- sorry if I didn't let y'all know that
14 we may be -- we will not be here on Wednesday
15 afternoon. I know that that's a State Grand
16 Jury. I notified the clerk. I just was letting
17 y'all know. You know, I guess we can work until
18 about 12:30 or even closer to 1:00. I think I
19 need to be down in Columbia at 3:15.

20 All right. Anything else on this particular
21 matter before we break for lunch?

22 **MR. UNDERWOOD:** Yes, Your Honor. It's my
23 understanding that Mr. Warder does not have any
24 motions prior to swearing the jury. However, I
25 did want to bring to the Court's attention that

1 there were some custodial statements -- I
2 believe they were custodial -- post-Miranda
3 statements made by the defendant. I wasn't sure
4 if the defense was going to stipulate to the
5 voluntariness of those statements or not or
6 whether we needed to have a Jackson v. Denno
7 hearing.

8 **THE COURT:** Okay. Mr. Warder?

9 **MR. WARDER:** I'm not aware of what the
10 statements are going to say. I guess I need
11 some kind of hearing, I guess.

12 **THE COURT:** All right. You want to just
13 have it then at 2 o'clock?

14 **MR. UNDERWOOD:** We've got some other
15 hearings at 2 o'clock. We can add this to the
16 list, Your Honor.

17 **THE COURT:** Okay. All right. Y'all discuss
18 them. If we need to hear any motions, we'll
19 hear them in whatever line we need to hear
20 them. Let's hear this one first so they can be
21 released. Anything else?

22 **MR. UNDERWOOD:** Also I don't know if there
23 were any objections to the chain of custody
24 involving the drug evidence.

25 **THE COURT:** Well, y'all discuss that. If

1 we need to have any motions at 2 o'clock, we
2 will. All right. That good enough?

3 **MR. WARDER:** Yes, sir. I'm not sure. When
4 he say any objections to the chain of custody,
5 usually, I don't object until I've heard
6 something objectable.

7 **THE COURT:** That's what I'm saying. Y'all
8 talk and if we need a hearing -- well, I'm
9 going to be here at 2:00. Mr. Underwood is
10 going to be here at 2:00. If you have anything
11 you want to address the Court with, then you be
12 here at 2:00. All right. We'll be adjourned
13 until 2 o'clock.

14 **(WHEREUPON,** the Court recesses for the day at
15 approximately 12:39 p.m.)

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P R O C E E D I N G S

(WHEREUPON, the Court resumes on the 4th day of October, 2016 at approximately 9:46 a.m.)

THE COURT: Thank you. Please be seated.

All right. Are we ready? State ready?

MR. UNDERWOOD: Yes, Your Honor.

THE COURT: Defense ready?

MR. WARDER: Yes, Your Honor.

THE COURT: All right. Anything before we bring the jury in?

MR. UNDERWOOD: Your Honor, just if we can just put on the record, we've spoken with Mr. Warder. It appears that he is going to consent to the voluntariness of the two statements, so we do not need to add a Jackson v. Denno hearing.

THE COURT: Okay. Is that correct?

MR. WARDER: There is two interviews. There's Miranda waivers signed. We're fine on both of them, Your Honor. We might have other objections to them, but there's no objection as to the --

THE COURT: All right. If the jury is ready, bring them in.

(WHEREUPON, the jury enters at approximately

1 9:48 a.m.)

2 **THE COURT:** Can counsel approach? Counsel,
3 can y'all approach just a second? I want to
4 verify one thing before I talk to them.

5 Good morning, Ladies and Gentlemen. Thank
6 you for your patience. We had a couple of
7 things to go over. Let me check with them.

8 **(WHEREUPON, a bench conference is held off the**
9 **record.)**

10 **THE COURT:** All right. I hope everybody had
11 a good evening. We're now ready to begin the
12 trial of this case. As I told you yesterday,
13 this is the State versus Jimmy Edwards Duncan.
14 I'm going to give you some preliminary remarks.
15 Before I do that, we need to swear you in for
16 this particular case.

17 **THE CLERK:** Ladies and Gentlemen of the
18 jury, if you would, please stand. Please raise
19 your right hand. If you accept this oath,
20 please, at the conclusion of the oath, indicate
21 by saying, "I do."

22 **(WHEREUPON, the jury panel is first duly sworn.)**

23 **THE COURT:** All right. Ladies and
24 Gentlemen, now I'm going to give you some
25 preliminary remarks before we actually start

1 the case. As indicated, this is the case
2 against Jimmy Edward Duncan. He had actually
3 been charged and indicted for Trafficking
4 Methamphetamine 400 grams or more under
5 conspiracy throughout various times and
6 throughout various counties in the Upstate of
7 South Carolina.

8 Now, I want to first tell you that the fact
9 that he was charged and the fact that he was
10 indicted, it does not -- he has come in here
11 and pled guilty -- the State has the burden of
12 proof to you all, the jury, beyond a reasonable
13 doubt of these charges. You are not to consider
14 the fact that he's been charged with this and
15 he's indicted. Those are merely the formal
16 papers that brings this matter into court.

17 It's up to you, the jury, to decide the
18 facts of this case. You are to disregard the
19 fact that he was actually charged. That is not
20 something for you to consider as far as
21 deliberation. The State still has the burden of
22 proof.

23 As indicated, just so you know some of the
24 terms here, we refer to defendant and
25 defendant's attorney, that's Mr. Warder and Mr.

1 Duncan. On this side, the prosecutor in this
2 matter or sometimes -- that's the person
3 bringing the case on behalf of the State and
4 that is the Assistant Attorney General who is
5 here on behalf of the State.

6 Your role in this is very important because
7 you are to determine what the facts are. Okay.
8 As the judge, I'm not -- I'm not to have any
9 opinion on the facts. I'm supposed to be the
10 one who makes sure to enforce the rules. When I
11 say "the rules", I mean the rules that we have
12 before the courtroom, criminal court, Rules of
13 Criminal Procedure, and also the Rules of
14 Evidence, which are somewhat technical. But
15 they are the rules that we have to go by, both
16 sides. Therefore, sometimes you'll hear
17 objections that are based on the rules. That's
18 -- my job is to rule on those evidence. It's
19 your job to rule on the facts as presented.

20 Sometimes it just makes sense -- when we
21 have objections, just so that we don't have the
22 arguments in front of you, so we can talk some
23 of the technical matters, it makes sense to ask
24 you to go back to your jury room so that we can
25 kind of sort things out, so it can be more

1 efficiently presented to you and more properly
2 presented to you.

3 The procedure for trial, we kind of have
4 several stages. The first stage is opening
5 statements. That's where the lawyers give you
6 their summary of what they believe the case is
7 going to be about. That's not evidence. The
8 evidence you will hear will be by way of
9 witness testimony and documents, pieces of
10 evidence or things like that.

11 And then we will have the trial of the
12 case, which we'll present -- the parties will
13 present the evidence to be heard by you. At
14 the completion of the case, the attorneys will
15 have closing arguments. All right. At the
16 closing arguments, at that point, I will charge
17 you what the law is that you must apply to the
18 facts.

19 All right. So it's very important that you
20 don't discuss the case or begin any kind of
21 deliberation until you've heard everything.
22 It's not fair to either side to even be
23 thinking about what the facts are until you've
24 heard everything and you've heard the law that
25 I give you in which applies to this case. Then,

1 at that point, you'll go back and you'll
2 determine whether the defendant is guilty or
3 not guilty based on the facts and the evidence
4 and the law that I give you.

5 As indicated though, it's very important. A
6 criminal defendant comes to this trial and has
7 pled not guilty and he has no burden of proof
8 whatsoever. It's up to the State to prove to
9 you beyond a reasonable doubt that he's guilty
10 of those charges presented. The defendant has
11 no burden whatsoever. That's not to be
12 considered by you, any burden like that.

13 As I told you before, I'm not aware of any
14 media involved. But again, throughout the case,
15 you are not to consider any media whatsoever,
16 not do any type of independent research.

17 Also, we'll take breaks from time to time,
18 normally like an hour to an hour and a half.
19 Okay. That's kind of our general rule. A lot of
20 times, that depends on, you know, we have
21 something that we need to talk of with the
22 attorneys, where the actual witness -- where we
23 are, as opposed to any particular witness, you
24 know, in the middle of testimony. We don't want
25 to break unless there's a good, clear place to

1 break, so we try to do from an hour to an hour
2 and a half.

3 Now, anybody -- I realize this is -- you
4 know, we want to make y'all as convenient as
5 possible. If, for some reason, you need to take
6 a break, then, by all means, indicate to me --
7 the bailiff or to myself, and we will take a
8 break as soon as possible with that in mind.
9 Again, as I told you yesterday, we try to break
10 as close to 5:00 as possible. Sometimes it will
11 be earlier than 5:00; sometimes it will be a
12 little after 5:00, kind of depending on where
13 we are with the witnesses.

14 If we have to go much longer, because of a
15 particular witness, than 5:00, then we will
16 allow you to make whatever arrangements. We're
17 not talking about into the darkness. But
18 sometimes, because a witness is here and can't
19 be back tomorrow, we do have to make
20 adjustments. We'll let you make any kind of
21 arrangements you need or let people know if you
22 need to be somewhere.

23 Your duty -- as I said, your duty is to
24 determine what the facts are, that's to use
25 your own common sense and your own experiences

1 to determine the believability and credibility
2 of witnesses. That's one of the things that
3 you'll be doing.

4 When we take a -- your first break, I'm
5 going to ask that the 12 original, not the
6 alternate -- the alternates are very important
7 because if something happens to one of the
8 jurors, which happens quite frequently, for
9 whatever reason, then you would stand in as the
10 backup quarterback, you know.

11 But, right now, the 12 of you will need to
12 determine who your foreperson is. That person
13 is the one who will lead discussions,
14 communicate with the court. They don't get paid
15 any more. You know, I'm not sure it's anything
16 you need to put on your resume, but it is a
17 very important job to kind of lead discussions
18 there. That's just somebody, when y'all take
19 your first break, decide among yourselves who
20 would be the foreperson.

21 Anything -- any exception on behalf of the
22 State?

23 **MR. UNDERWOOD:** None, Your Honor.

24 **THE COURT:** Any from the defendant?

25 **MR. WARDER:** No, Your Honor.

1 **THE COURT:** All right. At this time, I'm
2 going to turn it over to the attorneys for
3 their opening statements.

4 **MR. FERNANDEZ:** Thank you, Your Honor. May
5 it please Court.

6 Now, methamphetamine in Greenville County,
7 that's why we're here today. This case involves
8 an investigation that's been conducted
9 throughout multiple counties and spanning
10 multiple years. Most folks living in Greenville
11 County went about their daily lives for the
12 past few years and wouldn't think twice about
13 whether or not there was a methamphetamine ring
14 going on right near Greenville County. But all
15 the while, law enforcement was hard at work
16 identifying and disrupting, and ultimately
17 arresting members of Jimmy Duncan's
18 methamphetamine trafficking ring.

19 I'm going to introduce myself again. My
20 name is David Fernandez. I, along with Joshua
21 Underwood, represent the State of South
22 Carolina in the case against Jimmy Duncan for
23 Trafficking Methamphetamine 400 grams or more
24 by conspiracy.

25 I want to begin by thanking y'all for your

1 service. I know you've heard it a lot. The
2 judge has repeated, but I sincerely want to
3 thank you, because our system of justice
4 completely depends on our citizens showing up
5 for jury service. We can not -- we can not even
6 function in a society without y'all who've just
7 dedicated your time, energy and attention to
8 cases like this, important cases.

9 This is a -- we're the prosecution. As the
10 judge said, it's our job to prove this case to
11 you beyond a reasonable doubt. We're doing that
12 today in the way of trial. In a trial, Ladies
13 and Gentlemen, in its most basic form, is
14 simply to search for -- the search for the
15 truth. That's what a trial is. Evidence is
16 presented to y'all. Y'all are the judges of
17 those facts, and you all decide what the truth
18 is in this case.

19 Now, Trafficking Methamphetamine 400 grams
20 or more by conspiracy is the charge.
21 Trafficking methamphetamine is, put simply,
22 drug dealing. It's dealing meth. When you deal
23 a certain amount up to -- above 400 grams or
24 more, we call that trafficking. It's drug
25 dealing. It's called trafficking when it's

1 above 400 grams.

2 To give you a point of reference, 400 grams
3 is almost a pound. That's how much we're
4 dealing with. The State will present evidence
5 in the form of drugs and historical information
6 that talks about how much meth Jimmy Duncan was
7 dealing.

8 Now, conspiracy is, very simply, an
9 agreement between two or more people to
10 accomplish a criminal objective. An agreement
11 between two or more people to accomplish a
12 criminal objective. In this case, the agreement
13 is between Mr. Duncan and many other people,
14 more than two. Their objective is to deal
15 methamphetamine in this area. The State's
16 burden is to prove to you that the defendant
17 did this. It's a burden we accept. We wouldn't
18 have it any other way.

19 Now, reasonable doubt, as you heard the
20 judge discuss, is the highest burden in our
21 judicial system. It's a burden that is met
22 regularly across the states in this county.
23 That doesn't mean the --

24 **MR. WARDER:** Objection, Your Honor. That's
25 beyond the scope of opening argument.

1 **THE COURT:** I'm going to allow him to go
2 on with that.

3 **MR. FERNANDEZ:** It's a burden that's met.
4 It doesn't mean the case has to be 100 percent
5 perfect. It doesn't have to be beyond all
6 doubt. It simply means it has to be beyond a
7 reasonable doubt. Put another way, if -- after
8 hearing the evidence we present to you, if that
9 evidence leaves you firmly convinced of Mr.
10 Duncan's guilt, firmly convinced, then we have
11 met our burden.

12 **MR. WARDER:** Objection, Your Honor.

13 **THE COURT:** I believe this is appropriate.
14 Denied. Overruled, I mean.

15 **MR. FERNANDEZ:** It's a burden that we
16 gladly accept in this case because the evidence
17 is compelling. There is a volume of evidence.

18 Ladies and Gentlemen, this is a very
19 straightforward case. You're going to hear
20 evidence about Mr. Duncan's drug trafficking
21 ring. Now, that evidence will come in the form
22 of testimony, testimony from law enforcement,
23 testimony from other witnesses. It will come in
24 the form of videos. It will come in the form of
25 pictures. It will come in the form of

1 methamphetamine itself, actual methamphetamine.

2 Now, most folks know nothing about what a
3 drug trafficking ring is. Most folks know
4 nothing about the drug world. Most folks know
5 nothing about methamphetamine in particular. In
6 this trial, you'll know a lot about all of
7 this.

8 Drug dealing is a business, right? It's a
9 business just like any other business. There
10 are manufacturers; there are distributors;
11 there are retailers; and there are customers.
12 Except, in this case, we're not talking about
13 TVs or any other product you sell at the mall,
14 we're talking about drugs.

15 An example I like to use to talk about the
16 general makeup of a drug trafficking ring is a
17 motor vehicle, a car. When you think of a car,
18 a car is a very complicated piece of machinery
19 and many different pieces go together to make
20 that car. You have tires, you've got glass,
21 you've got an engine, you've got upholstery,
22 you've got electronics, computer. All sorts of
23 different things are put together to make that
24 car.

25 Now, some fellow in Greenville makes the

1 tires. Some other guy in Michigan makes the
2 engine. Some other person in Ohio makes the --
3 all those pieces are collected in some
4 manufacturing plant and they are put together.
5 Another person puts those pieces together. Now,
6 that person that puts the car together, he's
7 probably never met the person who made the
8 tires. He probably never met the person that
9 created the glass. He's probably never met the
10 person that created the sound system. But they
11 all got together for one purpose. They got
12 together and they -- they got together and
13 created a motor vehicle, right?

14 Same thing. So when that motor vehicle's
15 created, just like a drug is created, the next
16 step is to send it to your wholesalers. What do
17 you do with the drug? You send it to your
18 wholesalers. They send the car to all of the
19 various dealers, and the dealer never crosses
20 the United States. Those dealers take the car.
21 They receive the car. They sell it to
22 customers. The drug business is the same exact
23 way. You have everyone at different levels of
24 the conspiracy doing their part for the greater
25 good of selling drugs.

1 Mr. Duncan -- you'll hear a lot about where
2 Mr. Duncan falls in this conspiracy. He would
3 be the distributor. He would be the person that
4 would receive the drugs and would distribute it
5 to his network of other dealers who would then
6 ultimately get that to the street for the
7 customers.

8 As I said before, you'll hear from a lot of
9 witnesses in this trial. Some of them are law
10 enforcement who spent many years investigating
11 this ring. Some of them are fellow co-
12 conspirators who worked with Mr. Duncan. Now,
13 these are folks that were identified in the
14 same investigation. Law enforcement will tell
15 you something about them. They'll tell you
16 about their role. They were identified in this
17 investigation. There was evidence against them.
18 They chose to cooperate with law enforcement,
19 and that's why you will hear from them today.

20 Now, their motivations vary. Sometimes,
21 they are looking for leniency. Sometimes, it's
22 just the right thing on a long journey to try
23 to get clean. But they are going to tell you
24 all about their motivations when they take the
25 stand.

1 We wish we could always -- we always wish
2 we could present preachers and teachers as our
3 witnesses. It would be nice. But unfortunately,
4 preachers and teachers aren't involved in the
5 meth trafficking world.

6 **MR. WARDER:** Your Honor, I hate to keep
7 interrupting, but this is just so improper.

8 **THE COURT:** Well, overruled.

9 **MR. WARDER:** As I was saying,
10 unfortunately, preachers and teachers aren't in
11 the meth trafficking world. We have folks --
12 and the people that are in the meth trafficking
13 world, people that know about the meth
14 trafficking business are drug dealers and drug
15 users. Those are the folks you will hear from
16 in this case.

17 As I said before when I introduced myself
18 in this case, you'll hear a volume of evidence
19 proving the guilt of Mr. Duncan. When the State
20 rests its case, when we hand the case to you,
21 the truth will be proven, the truth that Mr.
22 Duncan trafficked methamphetamine, 400 grams or
23 more, in a conspiracy. Thank you for your time
24 and attention in this very important case.

25 **THE COURT:** Mr. Warder.

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MR. WARDER: Good morning. I represent 46-year-old Jimmy Duncan. Jimmy Duncan has lived his life in Pickens, South Carolina. Jimmy is a logger. He's been a logger for 33 years. He has a 7th grade education.

My client was injured in an accident. He went from pain pills to methamphetamine. He used methamphetamine. He had friends that used methamphetamine. He had girlfriends living with him that used methamphetamine.

The State has created the Jimmy Duncan drug trafficking ring. He uses an example of the drug trafficking ring like building a car, that the gentleman that makes the seating up in Michigan is somehow in the production of an automobile. If it was beer that was illegal, then the people that drank a beer would be conspiring.

You know, the example the Solicitor gives you is ridiculous. He talks about legitimate enterprises and that everybody intended or purposed for a Mercedes to be a good car. We're talking about illegal conduct. It's different. Everybody that touches marijuana is not a distributor. Every kid that's in college that

1 smokes a joint is not guilty of trafficking
2 because somebody grows more than a trafficking
3 amount of marijuana.

4 This is the case where I'll ask you to use
5 your common sense. Use your every day
6 experience. I think there's a difference
7 between somebody smoking a joint or having in
8 possession of more than an ounce of marijuana
9 and trafficking. Jimmy Duncan grew and, in some
10 cases, shared with his friends methamphetamine.
11 This is not a Jimmy Duncan trafficking ring.
12 Jimmy Duncan is not a methamphetamine -- put
13 together, a ring manufacturer or distributor,
14 importer or exporter. Jimmy Duncan is somebody
15 that's on the fringes of drug activity.

16 I ask you to listen to the evidence. Use
17 your common sense. Listen to more about Jimmy
18 Duncan, a man with a 7th grade education and
19 the very thing that he's going to engineer. Who
20 knows what kind of financial case they are
21 going to make for the distribution ring? This
22 is not a drug distribution. This is a man that
23 worked hard and was still working hard on his
24 living cutting trees in Pickens County for a
25 logging company. Thank you very much.

1 **THE COURT:** All right. The State may call
2 the first witness.

3 **MR. FERNANDEZ:** Thank you, Your Honor. The
4 State would call Tyrel Woodring.

5 **TYREL WOODRING**

6 having first been duly sworn, testifies as follows:

7 **THE CLERK:** Please state your full name.

8 **THE WITNESS:** Tyrel Alan Woodring.

9 **THE CLERK:** Please have a chair.

10 **THE WITNESS:** Thank you.

11 **DIRECT EXAMINATION**

12 **BY MR. FERNANDEZ:**

13 **Q** Agent Woodring, please tell me your title
14 and with whom you're currently employed.

15 **A** Yes, sir. I'm a special agent with SLED,
16 also known as the State Law Enforcement Division of
17 South Carolina.

18 **Q** Okay. And Agent Woodring, would you please
19 give the jury a little brief synopsis of your law
20 enforcement career.

21 **A** My career started in the year 2000 when I
22 graduated from Tri-County Technical College in
23 Pendleton with a degree in criminal justice. In 2000,
24 I was hired by the Oconee County Sheriff's Office,
25 where I served as a patrol deputy patrolling

1 neighborhoods and meeting people and investigating
2 local crimes. In 2003, I was promoted to Sergeant of
3 Investigations and Narcotics and Vice. After that, I
4 served until 2012 as a narcotics investigator. I was
5 hired by SLED. I serve in the same capacity today at
6 SLED as a narcotics and vice investigator.

7 **Q** And have you received -- throughout your
8 law enforcement career, have you received any
9 additional training?

10 **A** I did. I started -- in 2000, before I was
11 hired, I started with the South Carolina Criminal
12 Justice Academy where I retained my certification as
13 a law enforcement officer. I received additional
14 training by the Academy in narcotics investigations,
15 also advanced training by the Federal Law Enforcement
16 Training Center in narcotics investigations, and the
17 United States Department of Justice in narcotics
18 investigations.

19 **Q** And are you aware of the case you're here
20 for today ---

21 **A** Yes, sir.

22 **Q** --- to talk about?

23 **A** Yes, sir.

24 **Q** And what would you -- how would you
25 designate yourself as far as this investigation is

1 concerned? How would you describe your role in it?

2 **A** I'd be the co-case agent. SLED often
3 partners with local law enforcement officers to
4 investigate these types of crimes. I'm partnered
5 with Greenville County and Pickens County and those
6 guys. They have a co-case agent also.

7 **Q** And who would be your Pickens County co-
8 case agent?

9 **A** It would be Lieutenant Brett Barwick.

10 **Q** And who was your Greenville County co-case
11 agent?

12 **A** Investigator Charlie Cunningham.

13 **Q** Thank you. And please tell us the amount of
14 cooperation that's needed in order to conduct this
15 sort of investigation with your local law enforcement
16 partners?

17 **A** It takes a lot of cooperation. We could
18 never get to where we are today without the
19 assistance with local law enforcement. They are the
20 people that are taking complaints from citizens.

21 **MR. WARDER:** Objection. Bolstering the
22 witness.

23 **THE COURT:** Overruled.

24 **BY MR. FERNANDEZ:**

25 **Q** Please continue.

1 **A** The local law enforcement are taking
2 complaints from citizens, meeting with ordinary folk
3 about possible illegal activity and, again,
4 investigating that activity. We often travel through
5 different counties investigating narcotics cases and
6 hearing about these dealers that are possibly working
7 together across county lines. That's where SLED comes
8 in where we partner with local law enforcement and
9 try to find out where the source of the drugs are
10 coming from and put a stop to it before it affects
11 our community.

12 **Q** Thank you. Now, are you familiar with the
13 narcotic, methamphetamine?

14 **A** I am.

15 **Q** And have you received training on that
16 particular narcotic?

17 **A** I have.

18 **Q** What kind of training have you received for
19 that narcotic in particular?

20 **A** I attended a, uh, -- methamphetamine
21 investigations by the DEA where I traveled to
22 Quantico, Virginia, to, actually, their headquarters
23 and was put through clandestine. Clandestine is just
24 a legal operation where they manufacture
25 methamphetamine. I was trained on how methamphetamine

1 is made, what chemicals go into it and how to safely
2 enter a meth lab and dismantle it before it affects
3 the community. Meth labs are very dangerous.

4 Q Thank you. Would you please describe for
5 the jury an overview of what methamphetamine is, what
6 it looks like and what kind of weights you might see
7 at typical street level.

8 A Methamphetamine is a powerful stimulant.
9 DEA considers it to be a Schedule II controlled
10 substance. It can be manufactured locally. It can
11 also be imported from different countries. During the
12 manufacture, they combine dangerous chemicals to form
13 the stimulant. Most of these people that utilize
14 methamphetamine, the high lasts for several hours,
15 maybe into days, whereas other types of drugs, like
16 crack cocaine, is just a few seconds.
17 Methamphetamine, they experience the high for a very
18 long amount of time.

19 Q And physically, what does methamphetamine
20 look like?

21 A It comes in different forms, a powder; it
22 can be crystalized, also called ice; and it also can
23 be in a liquid solution.

24 Q What's the typical weights you would see?
25 How are they -- are they in grams? How is it

1 typically measured, I guess, is the question.

2 **A** Typical users will weigh this type of drug
3 in grams. Based on people I've interviewed, a typical
4 user would use like a quarter gram a day of
5 methamphetamine.

6 **Q** What sort of investigative techniques will
7 you use in order to conduct a conspiracy, a drug
8 conspiracy investigation?

9 **A** It starts with our local partners who
10 received information from citizens about illegal drug
11 activity. They take these complaints in. We'll
12 actually start doing some surveillance. They will
13 give us the names of possible people involved in the
14 distribution of the drugs. We're able to identify
15 them through the names they give us, through witness
16 statements, through surveillance, electronic
17 surveillance. We actually start making controlled
18 purchases of drugs from these people.

19 **Q** And did you utilize those techniques in
20 this investigation?

21 **A** Yes, sir.

22 **Q** Did you also utilize an entity called the
23 State Grand Jury?

24 **A** Yes, sir.

25 **Q** Very briefly, tell us an overview of what

1 that is.

2 **A** State Grand Jury consists of a body of
3 jurors much like the jurors here today. Being in
4 Columbia, they come from all different parts of the
5 state. They are there for a certain amount of time,
6 most of the time, about a year. During the course of
7 our investigation, we're able to meet with these
8 jurors and tell our story about the evidence that
9 we've found. We would show them pictures.

10 **MR. WARDER:** Once again, I object, Your
11 Honor.

12 **THE COURT:** Yes. I'm going to ask the jury
13 to go out. Like I said, this is one of those
14 times we need to discuss matters. This will be
15 an opportunity for you to select your
16 foreperson. Again, it must be one of the 12
17 primary. The alternates would not be eligible.

18 **(WHEREUPON, the jury exits at approximately**
19 **10:17 a.m.)**

20 **THE COURT:** All right.

21 **MR. WARDER:** Your Honor, when you charge
22 the jury, the first thing you'll do is tell them
23 that the fact that an indictment has no weight.
24 He's presumed innocent. This agent sits up here,
25 bolsters the Grand Jury, the process it comes

1 from, the importance of that indictment, how
2 neutral they are to give the presumption of
3 guilt. It's completely improper for this witness
4 to say I'm talking about the Statewide Grand
5 Jury, how it come -- how it's formatted, if they
6 returned an indictment. Local partners who fight
7 crime and give us -- he's bolstering the
8 witnesses before they come in. It's all to
9 prejudice and diminish the State's burden.

10 **THE COURT:** All right. Mr. Fernandez, I'll
11 hear from you on why does this witness need to
12 be talking about the Grand Jury.

13 **MR. FERNANDEZ:** Well, Your Honor, it's
14 simply to explain how we get here. This is
15 obviously a case that's unique in that it covers
16 multiple counties and multiple districts. They
17 use the State Grand Jury because that gives them
18 authority to investigate things they normally
19 wouldn't be able to under normal law enforcement
20 methods. That's the only point I asked.

21 **THE COURT:** I think you can get that in
22 through general business. They are not as
23 worried about jurisdiction as the Court is.

24 **MR. FERNANDEZ:** Okay.

25 **THE COURT:** I think I'm going to sustain

1 the ---

2 **MR. FERNANDEZ:** Fair enough.

3 **THE COURT:** --- objection. I'm going to
4 give them a curative instruction that they must
5 disregard anything regarding the Grand Jury. All
6 right. Anything else before we bring the jury
7 back in? I guess we will need to probably wait a
8 second because they are going to vote and
9 probably take a bathroom break.

10 Just when they are ready, just let us know.

11 (Pause.)

12 The foreperson is Damian Stevens, number
13 191.

14 **(WHEREUPON,** the jury enters at approximately
15 10:22 a.m.)

16 **THE COURT:** All right. It's my
17 understanding that Mr. Damian Stevens has been
18 selected as the foreperson. Ladies and
19 Gentlemen, while you were out -- I want to
20 instruct you that there was a mention of State
21 Grand Jury. That's not to be considered by you
22 in any way, except as used to determine the
23 facts of this case as you've heard here today.
24 So any evidence about a State Grand Jury is to
25 be disregarded by you as you make your decision

1 at the close of the case.

2 You may proceed.

3 **MR. FERNANDEZ:** Thank you, Your Honor.

4 **BY MR. FERNANDEZ:**

5 **Q** Agent Woodring, going back, you mentioned
6 that a quarter gram was essentially a user level
7 amount. You have any analogy you can give the jury
8 about what they might be able to visualize a gram by?

9 **A** I started drinking unsweet tea. I have to
10 use a lot of sweeteners to get it sweet. But a gram
11 of methamphetamine is like the sweetener packet that
12 you might put in unsweet tea.

13 **Q** Thank you. All right. Agent Woodring, would
14 you tell the jury a little bit about what a
15 controlled buy is?

16 **A** Yes, sir. We utilize controlled buys to
17 make purchases of narcotics from these dealers. A lot
18 of times, we'll meet with a witness who can purchase
19 the drugs from these people, or a cooperating
20 witness, if you will.

21 **MR. WARDER:** Your Honor, these
22 hypotheticals are not testimony at this point.
23 This is inappropriate as to what the usual
24 practice is.

25 **THE COURT:** I think he can explain --

1 define what a controlled buy is, so overruled.

2 **BY MR. FERNANDEZ:**

3 **Q** Please continue.

4 **A** We'll meet with this individual at a
5 meeting location. The person has already made phone
6 calls to a dealer or is going to make phone calls to
7 a dealer. We'll meet with this person and review the
8 phone calls or actually record the phone calls to
9 establish a drug deal on that day. Identify the
10 person that they'll be buying from, what type of drug
11 and how much money they might need to purchase the
12 drug. We'll provide the money, of course.

13 At that point, we will search the person to
14 make sure they have no illegal drugs on them, any
15 type of contraband, any type of weapons, any type of
16 currency. We'll search their vehicle for the same
17 thing. We will actually put a hidden device on them.
18 It's a recording device that records everything that
19 happens after they leave us to go meet with these
20 people.

21 A lot of times, we will put a video
22 recorder on them also. A lot of times, these
23 recorders will also transmit the audio or the video
24 about what's going on so agents can see almost real
25 time what is occurring for their safety, the safety

1 of the person that is cooperating with law
2 enforcement, and also is to gain evidence.

3 We'll also provide them with documented
4 funds. Documented means we record the serial numbers
5 that's on the funds. This is provided by SLED, or a
6 local agency is providing them with the funds to use
7 in this drug purchase. The person will identify who
8 they're buying from. A lot of times, we will already
9 know about this person. And we'll have surveillance
10 conducted at the location of the buy.

11 After all these things are done, we will
12 actually surveil the person to go meet with the
13 dealer to make the drug -- drug purchase. A lot of
14 times, of course, we can't be there. Sometimes we'll
15 have an undercover officer with them. And sometimes,
16 it's not feasible to have an under cop -- officer
17 with them because they might know the undercover
18 officer.

19 **MR. WARDER:** Your Honor, I object. Can I
20 be heard on this too?

21 **THE COURT:** What is your objection?

22 **MR. WARDER:** Your Honor, it's not that --
23 I don't have -- my arguments might prejudice the
24 jury, out of abundance of caution.

25 **THE COURT:** All right. Out of abundance of

1 caution, I'm going to ask that you go back to
2 your jury room. So don't discuss the case in any
3 way. We'll bring you right back out.

4 **(WHEREUPON,** the jury exits at approximately
5 10:26 a.m.)

6 **MR. WARDER:** Your Honor, if this trial
7 continues in the manner we started off, we won't
8 even need the witnesses. We'll just have the
9 officers tell about a typical sale and all the
10 safeguards that they use on a typical sale, then
11 these witnesses will come in and say we did it,
12 and the jury will presume that all these things
13 are done that he's talked about. Save the
14 proving of a great deal of facts because the
15 story will say we find people and then we
16 corroborate that they are going to buy drugs,
17 then we verify they are going to buy drugs. We
18 know the people they are going to buy drugs
19 from. We record that and check into that. Then
20 these people go and buy.

21 And all the testimony that what they
22 usually do will be imported to the witnesses who
23 will testify. And many of these things might not
24 have been done. But they will be presumed by the
25 jury because this officer has laid "this is how

1 we do everything" to these people out. It
2 decreases the State's burden. This is all to set
3 a story line to say the State does these things
4 in all cases and we did it in that case. It
5 creates the presumption in the jury's mind that
6 they did things in that way in this case.

7 It will minimize the testimony because the
8 witness will need to say very little. He'll say
9 I went out and made a call. It will all be
10 presumed that that was part of an investigation
11 that was somehow validified.

12 **THE COURT:** So your cross-examination will
13 show any points that they didn't properly
14 follow. I'm going to overrule. I think it's
15 totally proper for them to lay a foundation and
16 say what the normal procedure is, so overruled.
17 And we're not going to keep sending the jury
18 out. I mean, my ruling is that this is proper
19 testimony and you are overruled.

20 All right. Bring the jury in.

21 **MR. WARDER:** Can I have a continuing
22 objection?

23 **THE COURT:** It's fine.

24 **(WHEREUPON, the jury enters at approximately**
25 **10:32 a.m.)**

1 **THE COURT:** All right. You may proceed.

2 **MR. FERNANDEZ:** Thank you, Your Honor.

3 **BY MR. FERNANDEZ:**

4 **Q** Agent Woodring, as you were saying before,
5 I believe we left off where you were discussing when
6 you actually send a person to conduct a controlled
7 purchase. Please pick up where you left off.

8 **A** When the cooperating individual leaves our
9 location, undercover officers will surveil that
10 person to that location. That means we just follow
11 them, make sure they don't stop anywhere or talk to
12 anybody else, to the location of the pre-setup
13 purchase of drugs.

14 At that time, the cooperating individual
15 will meet with the person, buy their drugs from the
16 person and leave the location. We'll follow them back
17 to the meeting location where they will turn over the
18 drugs that they had purchased to the agent. We'd
19 search them again, their person and their vehicle,
20 for things like I said before, any type of illegal
21 drugs, contraband, currency in their vehicle.

22 Also -- well, actually, the agent that
23 takes that evidence will actually put it in the
24 container, sealed container called a BEST kit. This
25 is a tamper-proof package. Later, that agent will

1 turn it in to the laboratory for analysis.

2 We'll then take a statement from the
3 person. It's just his or her accounting for what had
4 happened. We'll take that device that we put on the
5 person earlier, and we will download it, all the
6 information, whether it be an audio file or a video
7 file, to a CD. We'll turn that in to evidence also.

8 Q Will you please tell the jury a little bit
9 about what a confidential informant is.

10 A A confidential informant can be a couple of
11 different types of people. It can be a person that --
12 an ordinary citizen is willing to work along with law
13 enforcement. We start calling them confidential
14 informants just to protect their identity. Or it can
15 be a person that we have approached, a possible
16 suspect that we have approached, whether we have
17 charges on them or if we have an idea if they are
18 involved in illegal activity. After we speak with
19 them, we gain their cooperation and they consider
20 working or partnering on with law enforcement to
21 invest -- to help us as a tool to investigate these
22 narcotics cases.

23 Q And in similar vein, who would a
24 cooperating co-conspirator or cooperating co-
25 defendant be?

1 **A** That is somebody that law enforcement is
2 already aware of that we possibly have charges on or
3 do have charges on that we have approached and they
4 are willing to work with law enforcement.

5 **Q** Now, you mentioned in your -- when you were
6 discussing your investigative techniques, one of the
7 things you mentioned was when you conduct historical
8 interviews. Would you please tell us what those are
9 and what the purpose of them would be?

10 **A** We'll sit down with a person, a lot of
11 times alongside with their attorney. We'll read them
12 the Miranda rights as to the rights that they have
13 before law enforcement talked with them. After they
14 agreed to speak with us, it's just kind of like a
15 get-to-know-you. I ask them where they grew up, where
16 they were born, what kind of school they went to, how
17 far in school did they go, did they graduate, what
18 type of work did they do, who their family is, are
19 they married, do they have children.

20 A lot of times, that will lead into a lot
21 of these people are being affected by drugs. When did
22 their drug use start? Was it recreational, or was it
23 just they were doing it to make money? Who first
24 interviewed them -- introduced them to the drug? How
25 it affected them personally and their family life?

1 Then we'll figure out -- they'll tell us
2 who they are currently getting their drugs from or
3 who they have purchased their drugs from and what
4 about the weights that they had purchased from these
5 type of people and also if they sold drugs and the
6 weights and type of drugs that they had sold and also
7 what area, what county was this, what state was this.

8 **Q** Specifically relating to the conspiracy we
9 are here for in this trial, what is the overall date,
10 range or scope of this conspiracy?

11 **A** This is a large conspiracy. Within this
12 conspiracy, and there are several different smaller
13 conspiracies, but the overall --

14 **MR. WARDER:** Your Honor, I object to his
15 analysis and opinions in this case.

16 **THE COURT:** Overruled.

17 **THE WITNESS:** This conspiracy is 2011 til
18 2015.

19 **BY MR. FERNANDEZ:**

20 **Q** Would you please give us a general sense of
21 the investigation, the targets of this investigation
22 and the allegations surrounding it?

23 **A** All right. Earlier in the year 2014, I was
24 meeting with several different law enforcement
25 counties and local law enforcement partners and

1 identifying who was bringing drugs into the area, and
2 mainly methamphetamine. The law enforcement agencies
3 had some common names in effect.

4 The main source identified bringing
5 methamphetamine into the Upstate of South Carolina
6 was a Hispanic male known as Cheese, who later we
7 identified as Jorge David Martinez. Ultimately, it
8 was determined that the methamphetamine was being
9 imported from Mexico into the Atlanta, Georgia, area
10 and from Atlanta, Georgia, into Greenville. And
11 Greenville became a hub for methamphetamine in the
12 Upstate area.

13 **MR. WARDER:** Your Honor, I object to all
14 the stuff that's been determined. It's improper.

15 **THE COURT:** All right. Objection noted.
16 Overruled.

17 **THE WITNESS:** Then it was identified the
18 people that Martinez would work with to
19 distribute methamphetamine into the Upstate area
20 of South Carolina.

21 **BY MR. FERNANDEZ:**

22 **Q** And was the defendant one of those people
23 that Mr. Martinez would work with?

24 **A** Yes, sir.

25 **Q** How did you identify that?

1 **A** We identified that through interviews with
2 witnesses who identified Mr. Duncan as being
3 associated with Mr. Martinez, also known as Cheese;
4 that he was introduced to Cheese; began purchasing
5 smaller amounts of methamphetamine. When I say
6 smaller, I mean ounces and, later on, began buying
7 pound amounts and distributing that in the Pickens
8 area after obtaining it from Greenville.

9 **Q** And who were some of the folks that you
10 identified as part of the Jimmy Duncan part of the
11 conspiracy?

12 **A** Of course, you'll have Mr. Martinez. You
13 have Nicole Hogue, who introduced Mr. Duncan to Mr.
14 Martinez, where Mr. Duncan would then distribute this
15 methamphetamine to Jeff Mauldin, to Kimberly Turner,
16 to Stacey Kelley. You hear of Karen Collins, Kimberly
17 Turner, Randy O'Bryan and Teresa Davis as actually
18 purchasing large amounts of methamphetamine from Mr.
19 Duncan.

20 **MR. WARDER:** Your Honor, my continuing
21 objection, does it cover all of this?

22 **THE COURT:** What specifically?

23 **MR. WARDER:** All the things that have been
24 determined that they are attributing to my
25 client that they told that they've determined,

1 SLED determined all the facts he just related.
2 The testimony, I object to all of that.

3 THE COURT: On what grounds?

4 MR. WARDER: Well, it's -- obviously, we
5 have no factual basis. This witness didn't
6 observe it, so it's hearsay.

7 THE COURT: I will sustain on hearsay.
8 That's the first time I heard the word
9 "hearsay". So sustained on any hearsay
10 objection.

11 BY MR. FERNANDEZ:

12 Q You mentioned that Mr. Martinez was the hub
13 in Greenville County. Where was his address located?

14 A Piedmont, in Greenville County.

15 Q Was that within the county of Greenville?

16 A Yes, sir.

17 Q Who were some of the other folks who were
18 identified as a member of the -- as distributing --

19 MR. WARDER: Your Honor, there's nothing
20 in his personal knowledge here except what he's
21 determined.

22 THE COURT: You need to tie this in to --
23 not based on hearsay.

24 MR. FERNANDEZ: Beg the Court's indulgence.

25 THE COURT: Yes.

1 **BY MR. FERNANDEZ:**

2 **Q** To be clear, Agent Woodring, who were the
3 targets of this overall investigation?

4 **A** The targets were anybody deemed by law
5 enforcement or complaints that we heard that were
6 dealing methamphetamine in the Upstate of South
7 Carolina.

8 **Q** All right. Was there any individuals in
9 particular involved with Mr. Martinez that were
10 targets of this investigation?

11 **A** Yes.

12 **MR. WARDER:** Your Honor, I object to that.
13 Your Honor, his testimony is that some person
14 that's not here, not testifying, determined them
15 to be. Now, he says who do you determine them to
16 be.

17 **THE COURT:** I'm going to allow him to go
18 into that.

19 **BY MR. FERNANDEZ:**

20 **Q** People associated with the David Martinez
21 distribution ring, who were the targets of that
22 investigation?

23 **A** The targets of that investigation are Larry
24 Coleman, Tracy Rumsey; and out of Greenville County,
25 Nicole Hogue, Jimmy Duncan, Jeff Mauldin, Kimberly

1 Turner, Stacey Kelley, Brandy O'Bryan, Teresa Davis,
2 Kim Turner.

3 **MR. FERNANDEZ:** Beg the Court's indulgence
4 one moment. (Pause.)

5 **BY MR. FERNANDEZ:**

6 **Q** When you mentioned the targets of your
7 investigation, you mentioned identifying Cheese as
8 David Martinez; what is the allegation or the scope
9 of the weight that we're talking about concerning
10 those parties? The weight of methamphetamine being
11 trafficked?

12 **A** Pounds.

13 **MR. FERNANDEZ:** I have no further
14 questions, Your Honor.

15 **THE COURT:** Cross-examination.

16 **CROSS-EXAMINATION**

17 **BY MR. WARDER:**

18 **Q** You personally didn't make all these
19 determinations, did you?

20 **A** No, sir.

21 **Q** They were made by some other people at some
22 other place, at some other time?

23 **A** Interviewing many people, yes.

24 **Q** And what you're trying to tell us is a
25 composite result of all your interviews of other

1 people?

2 **A** Additional evidence also, not just
3 including the people we spoke with. That, combined
4 with many different evidence in this case.

5 **Q** Did you do all these investigations
6 yourself?

7 **A** No, sir. Thank goodness, no.

8 **Q** So this is what -- other people told you
9 their investigations. So what you're telling us is
10 the things other people did and said and told you?

11 **A** Correct. I worked with many different law
12 enforcement agencies, many different cooperating
13 individuals that --

14 **Q** Okay. And your testimony is your evaluation
15 of what information they gave you?

16 **A** Yes, sir.

17 **MR. WARDER:** Move to be stricken, Your
18 Honor.

19 **THE COURT:** Overruled.

20 **MR. FERNANDEZ:** Nothing further from this
21 witness, Your Honor.

22 **THE COURT:** All right. You may step down.
23 You're through?

24 **MR. WARDER:** (Nods head.)

25 **THE COURT:** You may step down.

1 All right. You may call your next witness.

2 **MR. UNDERWOOD:** Your Honor, the State calls
3 Nicole Hogue.

4 **NICOLE HOGUE**

5 having first been duly sworn, te stifies as follows:

6 **THE CLERK:** Please state your full name.

7 **THE WITNESS:** Nicole Hogue.

8 **THE CLERK:** Okay. Please have a seat.

9 **DIRECT EXAMINATION**

10 **BY MR. UNDERWOOD:**

11 **Q** Good morning, Ms. Hogue. Ms. Hogue, are you
12 a co-defendant in this case?

13 **A** Yes, sir.

14 **Q** And is that the reason for your current
15 attire?

16 **A** Uh, yes, sir.

17 **Q** Have you already pled guilty in this case?

18 **A** Yes, sir.

19 **Q** Was that yesterday?

20 **A** Yes, sir.

21 **Q** And as part of that, did you enter into any
22 kind of agreement with the prosecution?

23 **A** Just a plea agreement.

24 **Q** As part of that agreement, were your
25 charges reduced?

1 **A** Yes.

2 **Q** What's your understanding of that agreement
3 as far as your charges are concerned?

4 **A** They dropped from 400 grams to 28 to 100
5 grams.

6 **Q** And as part of the sentence reduction, were
7 you also getting a recommendation for what your
8 possible sentence would be?

9 **A** Yes, sir.

10 **Q** What's that recommendation?

11 **A** A cap of 15.

12 **Q** So you're looking at a cap of 15 years?

13 **A** Yes, sir.

14 **Q** So you have other criminal convictions as
15 well, don't you?

16 **A** Yes, sir.

17 **Q** Were you convicted of criminal conspiracy
18 prior to this case?

19 **A** Yes, sir.

20 **Q** That's a felony?

21 **A** Yes, sir.

22 **Q** Based on your criminal history -- you
23 actually pled guilty to multiple trafficking charges;
24 is that correct?

25 **A** Yes, sir.

1 **Q** Or multiple drug distribution charges as
2 well as trafficking?

3 **A** Yes, sir.

4 **Q** Based on the charges that you were facing
5 and your history, at one point in time, were you
6 facing a very significant mandatory sentence?

7 **A** Yes, sir.

8 **Q** As part of this agreement, are you now
9 facing a lower sentence?

10 **A** Yes, sir.

11 **Q** What are you expected to do in exchange for
12 that reduction?

13 **A** Just hold up my end of the plea agreement,
14 and if I'm needed or anything, to be willing to give
15 everything I know.

16 **Q** When you say hold up your end of the plea
17 agreement, what does that mean?

18 **A** Mean, like, uh, -- like right now, I'd be
19 willing to testify if I needed to testify.

20 **Q** Are there any stipulations as to what your
21 testimony is supposed to be?

22 **A** Just the truth.

23 **Q** Are you here today to testify to the
24 truth ---

25 **A** Yes, sir.

1 Q --- about what you know involving this drug
2 trafficking organization?

3 A Yes, sir.

4 Q Ms. Hogue, how old are you?

5 A 32.

6 Q How far did you go in school?

7 A I have two years of college.

8 Q Did you finish with a degree?

9 A No, sir.

10 Q Do you have any children?

11 A Yes, sir.

12 Q How many?

13 A Four.

14 Q Are you married?

15 A No, sir.

16 Q How old are your children?

17 A My oldest is 16, then I've got 15, then 10
18 and 7.

19 Q You mentioned a moment ago that you didn't
20 finish college. What happened?

21 A I caught a felony charge.

22 Q As a result of that, did you get kicked out
23 of school?

24 A Yes, sir.

25 Q Did you have any trouble finding a job

1 after that?

2 A Yes, sir.

3 Q When did you start getting involved with
4 illegal drugs, particularly methamphetamine?

5 A A young age.

6 Q How old were you?

7 A Uh, probably 16, 17.

8 Q At that time, were you already -- were you
9 using the drug or selling the drug?

10 A Just using it.

11 Q Have you continued to use it up until you
12 were incarcerated?

13 A Off and on, yes, sir.

14 Q How did you get involved with selling it?

15 A Just hanging out with the people that was,
16 you know, seeing how much money you could make off of
17 it.

18 Q Was your interest to get involved with
19 selling methamphetamine just so you could have it to
20 use or were you trying to make money?

21 A I was trying to make money.

22 Q Did you continue to use it at the same
23 time?

24 A Yes.

25 Q So you were using meth and you were making

1 money selling meth?

2 **A** Yes.

3 **Q** How old were you when you started selling?

4 **A** Probably 20.

5 **Q** I'd like to fast-forward just a little bit
6 to around 2010 or 2011. In that time frame, who did
7 you begin getting your methamphetamine from?

8 **A** A black guy named T.

9 **Q** Do you know T's real name?

10 **A** Tavarus Downs.

11 **Q** When did you start buying from him?

12 **A** When I was about 6-- well, I was about 17.
13 16 or 17.

14 **Q** Was that just user amounts at that time?

15 **A** Uh-huh.

16 **Q** Did he eventually start selling you enough
17 that you could resell it?

18 **A** Yes, sir.

19 **Q** Is that 2010, 2011?

20 **A** Yes, sir.

21 **Q** How much would you buy from Tavarus Downs
22 at a time?

23 **A** Two ounces.

24 **Q** Two ounces of methamphetamine?

25 **A** Yes, sir.

1 **Q** What form of methamphetamine? Was it
2 powder? Was it --

3 **A** Crystal meth.

4 **Q** Crystal meth.

5 **A** It was ice.

6 **Q** Ice? How often would you buy two ounces of
7 ice from Tavarus Downs?

8 **A** One to two times a week.

9 **Q** Two ounces, one to two times a week?

10 **A** Yes, sir.

11 **Q** How much would you pay per ounce?

12 **A** About \$800.

13 **Q** How long did you continue to buy from
14 Tavarus Downs at that level?

15 **A** For about a year or two.

16 **Q** Did you ever meet his supplier?

17 **A** Yes.

18 **Q** Who was that?

19 **A** Larry Coleman.

20 **Q** Does Larry Coleman have any nicknames?

21 **A** Papi.

22 **Q** Papi?

23 **A** Yeah, Bubba.

24 **Q** And Bubba?

25 **A** Yeah.

- 1 Q He's known as both Bubba and Papi?
- 2 A Uh-huh. Yes, sir.
- 3 Q Do you know where he got those nicknames?
- 4 A I don't know where he got Bubba from, but
5 I'm the one that created Papi.
- 6 Q So that was your nickname for him?
- 7 A Uh-huh.
- 8 Q How did you meet Larry Coleman?
- 9 A Through -- I was -- through T. I was at his
10 house.
- 11 Q At T's house?
- 12 A Uh-huh.
- 13 Q Tavarus Downs?
- 14 A Yes, sir.
- 15 Q What were you doing over there?
- 16 A Arguing with him.
- 17 Q About what?
- 18 A About the fact that he didn't have enough
19 drugs that I needed.
- 20 Q What was the solution?
- 21 A That I went over his head to Papi.
- 22 Q At that point, did you begin to buy your
23 ice from Larry Coleman?
- 24 A Yes, sir.
- 25 Q How much would you buy from Larry Coleman

1 at that point?

2 **A** About four ounces.

3 **Q** At a time?

4 **A** Uh-huh.

5 **Q** How often?

6 **A** About twice a week.

7 **Q** Four ounces twice a week?

8 **A** Uh-huh.

9 **Q** How much did you pay for that?

10 **A** I'd say probably about \$2500.

11 **Q** \$2500?

12 **A** Yes, sir.

13 **Q** For the whole four ounces?

14 **A** Yes, sir.

15 **Q** Did you continue to buy from Tavarus Downs

16 as well?

17 **A** Yes, sir.

18 **Q** How much were you buying from Tavarus

19 Downs?

20 **A** Ounce.

21 **Q** I'm sorry?

22 **A** One ounce.

23 **Q** One ounce? How often would you buy the one
24 ounce at that point?

25 **A** One, two times a week.

1 **Q** So you are buying from both Larry Coleman
2 and Tavarus Downs at the same time?

3 **A** Yes, sir.

4 **Q** Four ounces from Larry Coleman at a time,
5 one ounce at a time from Tavarus Downs.

6 **A** Yes, sir.

7 **Q** How long did that arrangement last?

8 **A** About a year.

9 **Q** What changed after a year?

10 **A** The amount that I needed.

11 **Q** Did you find another supplier?

12 **A** Yes, sir.

13 **Q** How did you meet this supplier?

14 **A** Through Larry Coleman.

15 **Q** Please tell the jury how you met this other
16 supplier.

17 **A** I met the supplier through Larry Coleman at
18 his house.

19 **Q** At Larry Coleman's house?

20 **A** Yes.

21 **Q** What was going on at Larry Coleman's house?

22 **A** I was picking up drugs.

23 **Q** Did Larry Coleman introduce you to this
24 other supplier?

25 **A** Well, yeah and no. He did, but then didn't

1 want me to communicate with him, but I did anyway.

2 Q Okay. Why didn't Larry Coleman want you to
3 communicate with -- was this Larry Coleman's
4 supplier?

5 A Yes, sir.

6 Q Why didn't Larry Coleman want you to
7 communicate with his supplier?

8 A Basically, because I was his money.

9 Q Meaning he made money off selling drugs to
10 you?

11 A Yeah, I guess I was his biggest or
12 something.

13 Q And by biggest person, you mean you were
14 his biggest customer?

15 A Yes, sir.

16 Q What would happen if you started dealing
17 with his supplier?

18 A I wouldn't be dealing with him.

19 Q And that's why he was trying to keep you
20 from meeting him?

21 A Yes, sir.

22 Q But you met him anyway?

23 A Yes, sir.

24 Q Who was that supplier?

25 A Cheese.

1 Q Is that the name that was introduced to
2 you?

3 A Uh-huh.

4 Q Who told you that name Cheese?

5 A Uh, Bubba, Papi, Larry Coleman, whatever
6 y'all want to call him.

7 Q Larry Coleman introduced this individual to
8 you as Cheese?

9 A Yes, sir.

10 Q You know Cheese's real name?

11 A No.

12 Q Did you begin to have a business
13 relationship with this individual Cheese?

14 A Yes, sir.

15 Q I'm sorry. Before we get to that, can you
16 describe Cheese? What does he look like?

17 A Hispanic, kind of chunky.

18 Q Tall, short?

19 A About medium.

20 Q Was he clean-shaven? Did he have ---

21 A He has ---

22 Q --- facial hair?

23 A --- real close cut hair cut and usually
24 keeps his face shaved. Yeah.

25 Q How long has it been since you've seen

1 Cheese?

2 **A** 2012, 2013. 2013.

3 **Q** 2013?

4 **A** Yes, sir.

5 **Q** When you met Cheese at Larry Coleman's
6 house, how soon was it before you started having a
7 business relationship with Cheese?

8 **A** A week.

9 **Q** Within a week?

10 **A** Uh-huh.

11 **Q** What was your first transaction with
12 Cheese?

13 **A** My first transaction was cell phones. I
14 bought the cell phones for him and put it in my name.

15 **Q** What was the purpose of those cell phones?

16 **A** They were his personal phones. I have no
17 idea what he used them for.

18 **Q** How many phones were there?

19 **A** Three.

20 **Q** So he had three different phones that he
21 got from you?

22 **A** Yes, sir.

23 **Q** Is that the only time you saw the phones?

24 **A** Yes, sir.

25 **Q** Did you begin to buy drugs from him?

1 **A** Yes, sir.

2 **Q** How long was it before that happened?

3 **A** Not long. A couple of days. He pretty much
4 knew that I was Bubba's main money. So it was just an
5 easy transaction to move forward with because I
6 needed more than what he had, so...

7 **Q** You needed more than what Larry Coleman
8 had?

9 **A** Yeah.

10 **Q** The first time you bought drugs from
11 Cheese, how much did you buy?

12 **A** Four or five ounces, the first time.

13 **Q** How many grams are in an ounce?

14 **A** 28.

15 **Q** 28 grams in an ounce. And you bought four
16 of those?

17 **A** Uh-huh.

18 **Q** Four or five of those?

19 **A** Yes, sir.

20 **Q** How much did you pay for those?

21 **A** \$2000.

22 **Q** Did you pay cash or did you get the drugs
23 on credit?

24 **A** Cash.

25 **Q** How long was it before you bought from

1 Cheese again?

2 A A couple of days.

3 Q How much did you buy from him the second
4 time?

5 A About a half a pound.

6 Q How much did he charge you for a half a
7 pound?

8 A Uh, about \$6000.

9 Q About \$6000?

10 A Uh-huh.

11 Q While you were buying from Cheese, what was
12 your relationship with Tavarus Downs and Larry
13 Coleman?

14 A I had quit talking to Tavarus Downs, and
15 Larry Coleman, I continued to talk to and get an
16 ounce here and there from him.

17 Q Did Larry Coleman know that you were buying
18 from Cheese?

19 A No.

20 Q So you continued to buy from Larry Coleman
21 as well?

22 A Uh-huh.

23 Q Why did you still go to both of them?

24 A That's the way Cheese wanted me to do it.

25 Q Cheese wanted you to buy from both?

1 **A** Uh-huh.

2 **Q** Why?

3 **A** I guess he didn't want, you know, him to
4 know any of his business as far as me dealing with
5 him and not him.

6 **Q** So were you dealing behind Larry Coleman's
7 back?

8 **A** Yeah.

9 **Q** You going over his head?

10 **A** Pretty much.

11 **Q** After you bought that first half pound from
12 Cheese, how often did you continue to buy drugs from
13 him?

14 **A** Twice a week.

15 **Q** Twice a week?

16 **A** Once, twice a week. At least once a week.

17 **Q** At least once a week, sometimes twice?

18 **A** Uh-huh.

19 **Q** How much would you buy at a time?

20 **A** About a half a pound.

21 **Q** Each time?

22 **A** Yes, sir.

23 **Q** Is this all methamphetamine?

24 **A** Yes, sir.

25 **Q** Did your price remain the same, about

1 \$6000?

2 A Yeah, for about six months.

3 Q So for about six months, you would buy at
4 least a half a pound a week, sometimes a whole pound?

5 A Yes, sir.

6 Q And you would pay about \$6000 for a half a
7 pound?

8 A Yes, sir.

9 Q What happened after that six months?

10 A He dropped the price.

11 Q When you say he jumped the price, what does
12 that mean?

13 A He dropped the price.

14 Q Dropped the price. I'm sorry.

15 A Yes, sir, to about \$4500.

16 Q Why did he do that?

17 A I guess because I had been buying from him.

18 Q So were you getting it at a discount?

19 A Yes, sir.

20 Q Did you continue to buy at that reduced
21 price?

22 A Yes, sir.

23 Q For how long?

24 A For about four months. Then I got
25 incarcerated, so I didn't see him after that.

1 **Q** While you were dealing with Cheese, what
2 were you doing with all the drugs that he sold to
3 you?

4 **A** Selling them.

5 **Q** Who were you selling them to?

6 **A** Different people, a couple of people that
7 are dead, Jeff Mauldin, Jimmy Duncan.

8 **Q** Who else?

9 **A** Charles Ladeeee', he's in prison.

10 **Q** Who else?

11 **A** That's about it.

12 **Q** Did you ever sell drugs to Matthew Carter?

13 **A** Yeah, Matt Carter. Actually, Matt worked
14 for me. I don't really say I'd sell it to him. He
15 just did work and then I -- he would receive drugs in
16 payment.

17 **Q** So you weren't selling it to him. You were
18 giving it to him because he was working for you?

19 **A** Right.

20 **Q** Who else was working for you?

21 **A** That's about it. Leroy Lacey, but he's
22 dead.

23 **Q** What about Timothy Ross? Did he work for
24 you?

25 **A** For a short period of time, yes.

1 Q How long did he work for you?

2 A About six months.

3 Q What did he do for you?

4 A Sold drugs.

5 Q He sold for you?

6 A He attempted to sell drugs, yes.

7 Q He attempted? What do you mean by that?

8 A He was not a very good drug dealer.

9 Q And what makes someone not a very good drug
10 dealer?

11 A Well, when they don't come back with the
12 money they supposed to come back with. I lost more
13 money than I gained with him.

14 Q What about Matthew Carter? Was he a good
15 drug dealer or worker for you?

16 A He was a good worker. He was never a good
17 drug dealer.

18 Q What other things would he do for you in
19 addition to trying to sell drugs for you?

20 A Collect money when it was due. There would
21 be times people would trade automobiles and stuff
22 like that. He would be responsible for taking care of
23 that stuff.

24 Q What dealings did you have -- you mentioned
25 the name Jeffrey Mauldin. What dealings did you have

1 with him?

2 **A** I sold to him about four times maybe.

3 **Q** How much did you sell to him each time?

4 **A** Two ounces two times and he was with -- his
5 money was on a half a pound two times.

6 **Q** Explain that for me. You sold the two
7 ounces first.

8 **A** Right. There was a couple of times I sold
9 him directly two ounces of dope or he would come and
10 put an ounce of dope on front and he would pay the
11 money. But the half a pound, he would have like \$1000
12 and his money would go in with our money and he would
13 receive drugs after I got the quantity of it.

14 **Q** Let me break a couple of those things you
15 just said.

16 **A** Uh-huh.

17 **Q** First, you said something about he would
18 get an ounce on front. What does that mean to get an
19 ounce on front?

20 **A** Come and get it and not pay for it until he
21 sells it and brings me some money.

22 **Q** And how many times did you front
23 methamphetamine to him?

24 **A** Twice.

25 **Q** Was it an ounce each time?

1 **A** Yes, sir.

2 **Q** And then were there two other occasions
3 then that you actually sold him cash two ounces each?

4 **A** Yes, sir.

5 **Q** What was his price?

6 **A** He paid \$800.

7 **Q** Per ounce?

8 **A** Per ounce.

9 **Q** \$100 per ounce?

10 **A** 800.

11 **Q** 800?

12 **A** Yes, sir.

13 **Q** Speak up just a little bit. I want to make
14 sure. If I'm having trouble hearing you, then the
15 jurors are probably having trouble, so I need you to
16 speak up.

17 **A** Yes, sir.

18 **Q** Did you ever sell more than just the two
19 ounces directly to Jeff Mauldin?

20 **A** No.

21 **Q** You mentioned there were other times that
22 he would combine money with other people.

23 **A** Right.

24 **Q** How does that arrangement work?

25 **A** I collect money from a couple of different

1 people. Then I go and get the drugs and come back and
2 give them back what they paid for it.

3 Q Who would he combine his money with?

4 A Me and Jimmy Duncan.

5 Q When you, Jimmy Duncan and Jeffrey Mauldin
6 would combine your money together, how much
7 methamphetamine would you get?

8 A About a half a pound.

9 Q And that half a pound would be divided
10 amongst the three of you?

11 A Yes, sir.

12 Q How many times did you do that arrangement?

13 A Three.

14 Q So three times the three of you went in
15 together to get a half pound?

16 A Uh-huh.

17 Q For a total of a pound and a half?

18 A Yes, sir.

19 Q Where did that methamphetamine come from?

20 A Cheese.

21 Q Is all of this meth that we've been talking
22 about so far coming from Cheese?

23 A Yes, sir.

24 Q After you went in these three times with
25 Jeff Mauldin and Jimmy Duncan, did you have any other

1 dealings with Jimmy Duncan?

2 **A** Yes.

3 **Q** What were those?

4 **A** I picked up dope for him twice.

5 **Q** You picked up dope for him twice?

6 **A** Uh-huh.

7 **Q** Please elaborate what you mean by that.

8 **A** He would give me the money. I would go get
9 it or either I would spend my money and go get it and
10 bring it to him. Meet him somewhere.

11 **Q** Where would you go to get it?

12 **A** On the side of the road to meet Cheese.

13 **Q** So you would meet Cheese on the side of the
14 road?

15 **A** Yes, sir.

16 **Q** How much meth would you get from Cheese
17 each time?

18 **A** About a half a pound.

19 **Q** And you would then give that pound to Jimmy
20 Duncan?

21 **A** About half of that, yes, sir.

22 **Q** So you would split it with Jimmy Duncan?

23 **A** Yes, sir.

24 **Q** How many times did you do that?

25 **A** Twice.

1 Q In that arrangement, were you combining
2 money or were you reselling to Jimmy Duncan?

3 A Combining money, reselling.

4 Q To you, is that the same thing?

5 A Yes, sir.

6 Q He would give you money before you went to
7 Cheese?

8 A Yes, sir.

9 Q So he would give you money, then you would
10 go to Cheese. You would give the money to Cheese.
11 Then come back and give Jimmy Duncan his share.

12 A Yes, sir.

13 Q Other than those two times -- well, when
14 you would get the meth, where did you meet Jimmy
15 Duncan to give him his share?

16 A At a guy named Mule's house, where I was
17 staying at. He would come there or either he's took
18 me to go get it. It was right there. I would just
19 give it to him right there in the car. One was at
20 Lowe's in Easley and one was on the side of the road.

21 Q And these are two times that you went to
22 get from Cheese that Jimmy Duncan went with you?

23 A Yeah. Yes, sir.

24 Q Were there times that you went to get meth
25 for Jimmy Duncan that Jimmy did not go with you?

1 **A** Yes.

2 **Q** How many times?

3 **A** Twice.

4 **Q** So there was twice that you went without
5 him and twice that you went with?

6 **A** Yes, sir.

7 **Q** Was it for a half pound of methamphetamine
8 each time?

9 **A** Uh, the first two times, no. The first two
10 times, it was two ounces. The second time, it was a
11 half pound.

12 **Q** You said that's the total amount, not just
13 your share?

14 **A** No, that's his.

15 **Q** His share was two ounces the first time?

16 **A** Yeah.

17 **Q** And then it was a half pound after that?

18 **A** The first two times, I bought -- picked up
19 four ounces.

20 **Q** Okay. And that was split evenly between you
21 and Jimmy?

22 **A** The first two was -- one would go to Jeff,
23 one went to me, two went to Jimmy.

24 **Q** And then you got a half pound after that?

25 **A** Yeah. Yes, sir.

1 **Q** Were there other times that you would
2 supply Jimmy Duncan with methamphetamine after that?

3 **A** No, sir. I connected him when I got locked
4 up to the person -- to Cheese. I'm assuming they did
5 business after that. I'm not sure. I can't testify to
6 that.

7 **Q** When you said --

8 **MR. WARDER:** Your Honor, objection to the
9 assumptions she made.

10 **THE COURT:** Sustained. Please disregard
11 that evidence. That's not proper evidence.

12 **BY MR. UNDERWOOD:**

13 **Q** When you testified that you connected them,
14 what do you mean by that? What did you do?

15 **A** I called Cheese and give him Jimmy's number
16 and told him to call him.

17 **Q** Where were you at the time?

18 **A** Pickens County LEC.

19 **Q** You were already arrested at that point?

20 **A** Yes, sir.

21 **Q** Now, prior to this, as mentioned, Jimmy
22 Duncan had gone with you to meet Cheese when you were
23 getting the drugs?

24 **A** Uh-huh.

25 **Q** Was there a reason that Jimmy Duncan went

1 with you?

2 **A** He drove me.

3 **Q** He drove you there?

4 **A** Yes, sir.

5 **Q** At that time, were you aware that you were
6 about to be arrested?

7 **A** Yes, sir.

8 **Q** Did you have any plans for Jimmy Duncan at
9 that time?

10 **A** Just to connect him with the people he
11 needed to be connected with.

12 **Q** And who were the people he needed to be
13 connected with?

14 **A** Cheese.

15 **Q** This is before you were arrested?

16 **A** Right. No, this was after I was arrested.

17 **Q** After you were arrested. Why did you want
18 Jimmy Duncan and Cheese to be connected?

19 **A** I connected Jimmy Duncan and Cheese
20 because, at the time, I had -- I had been buying from
21 Cheese for a minute and wanted to make sure if he was
22 going to be dealing with people, he would be dealing
23 with people that was -- would be loyal, you know what
24 I'm saying, to that. So...

25 **Q** So what was the purpose of the introduction

1 of Jimmy Duncan to Cheese?

2 **A** So Jimmy Duncan can get the things that he
3 needed and Cheese would get his money.

4 **Q** What were the things that he needed?

5 **A** Meth.

6 **Q** So the purpose of introducing Jimmy Duncan
7 to Cheese was for Jimmy Duncan to buy meth from
8 Cheese?

9 **A** Right.

10 **Q** At the time you were making the phone calls
11 to connect Jimmy Duncan and Cheese, you mentioned you
12 were already incarcerated?

13 **A** Yes, sir.

14 **Q** Are you aware that phone calls made from
15 the jail are recorded?

16 **A** Yes, sir.

17 **Q** Were the calls that you made to Jimmy
18 Duncan and the calls that you made to Cheese
19 recorded?

20 **A** Yes, sir.

21 **Q** Have you had an opportunity to review those
22 recordings?

23 **A** Yes, sir.

24 **Q** Do you remember Jimmy Duncan's phone number
25 off the top of your head?

1 **A** 508-2801.

2 **Q** And did you make phone calls to Jimmy
3 Duncan at that number on April 26th, 2014?

4 **A** Yes, sir.

5 **Q** Was one of them at 11:35 in the morning?

6 **A** Yes, sir.

7 **Q** And another at 1:25 that afternoon?

8 **A** Yes, sir.

9 **Q** Did you then make another call at 5:56 that
10 day?

11 **A** Yes, sir.

12 **Q** What was the purpose of those calls to
13 Jimmy Duncan?

14 **A** To make sure they had gotten connected with
15 each other. I had to give Cheese his number and give
16 him Cheese's number. They were supposed to have met
17 so Jimmy could buy the dope.

18 **Q** Did you have another conversation with
19 Jimmy Duncan two days later on April 28th, 2014?

20 **A** Yes, sir.

21 **Q** Was that at 1:54 p.m.?

22 **A** Yes, sir.

23 **Q** What was the purpose of that call?

24 **A** To make sure he got the drugs he needed.

25 **Q** As far as Cheese is concerned, the first

1 date you were discussing, April 26th, 2014, you
2 called Jimmy Duncan several times. Did you also call
3 Cheese that day?

4 **A** Yes, sir.

5 **Q** Then, a month later, did you call Cheese
6 again to follow up on May the 24th, 2014?

7 **A** Yes, sir.

8 **Q** At this point, how long had you been
9 incarcerated, starting at the end of April? How long
10 had you been in jail at that point?

11 **A** About a month.

12 **Q** While you were in jail, did you have
13 Jeffrey Mauldin doing errands for you in relation to
14 your drug business?

15 **A** Yes, sir.

16 **Q** What were those errands that Jimmy -- I'm
17 sorry -- that Jeffrey Mauldin was doing for you?

18 **A** Picking up money and taking it to Cheese,
19 taking the drugs where they needed to be took to sell
20 drugs.

21 **Q** So the operation was continuing even after
22 you had been incarcerated?

23 **A** Yes, sir.

24 **Q** Were you coordinating some of those efforts
25 through phone calls?

1 **A** Yes, sir.

2 **Q** And were you discussing those with both
3 Cheese and Jimmy Duncan?

4 **A** Yes, sir.

5 **Q** Was the purpose of those calls to further
6 the drug dealing activities?

7 **A** Yes, sir.

8 **Q** Were there any problems that developed
9 between Jeffrey Mauldin and Jimmy Duncan?

10 **A** Yes, sir.

11 **Q** What were those problems?

12 **A** Apparently, Jimmy Duncan gave --

13 **MR. WARDER:** Objection to the --

14 **THE WITNESS:** I'm sorry. Jimmy Duncan
15 gave --

16 **THE COURT:** Hold on. Hold on. Let me hear
17 the objection.

18 **MR. WARDER:** Objection. She's saying
19 conclusions. Obviously, she was not there when
20 it happened. It's hearsay as to what happened
21 between the two of them.

22 **THE COURT:** That will be based on hearsay
23 when she said apparently, it's not her direct
24 knowledge. Sustained.

25 **BY MR. UNDERWOOD:**

1 **Q** Based on your direct knowledge, only what
2 you actually know, what was taking place on the
3 outside?

4 **MR. WARDER:** Objection, Your Honor.

5 There's no way how she could know what was ---

6 **THE COURT:** That's still leading.

7 **MR. WARDER:** --- taking place on the
8 outside by direct knowledge.

9 **THE COURT:** Yeah, that's sustained.

10 **BY MR. UNDERWOOD:**

11 **Q** What were your instructions to Jeff Mauldin
12 to do?

13 **A** My instructions to Jeff Mauldin was to pick
14 up money and take it to Cheese. The money got messed
15 up because when I talked to Jimmy Duncan on the
16 phone, he informed me that Jeff Mauldin had taken
17 about \$2400 of his money and didn't return with any
18 drugs or money.

19 **Q** As a result, did they have a falling out?

20 **A** Yes, sir.

21 **Q** And that's based off of Jimmy Duncan
22 telling you that he thought he was ripped off by
23 Jeffrey Mauldin?

24 **A** Yes, sir.

25 **Q** And was that money that was delivered to

1 Cheese?

2 **A** Yes, sir.

3 **Q** Do you know, from your own knowledge, how
4 that money was credited to Cheese?

5 **A** Jeff Mauldin had given it to him.

6 **Q** Did Cheese know that that was Jimmy
7 Duncan's money?

8 **A** No, sir.

9 **Q** Did he think it was your money?

10 **A** Yes, sir.

11 **Q** Did you discuss that with Jimmy Duncan?

12 **A** Yes, sir.

13 **Q** Is that on one of the recorded phone calls?

14 **A** Yes, sir.

15 **Q** Again, the purpose of those calls that we
16 discussed so far, was that to further the drug
17 dealing enterprise?

18 **A** Yes, sir.

19 **MR. UNDERWOOD:** Court's indulgence?

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

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

22 **MR. UNDERWOOD:** May I approach the witness,
23 Your Honor?

24 **THE COURT:** Yes.

25 **BY MR. UNDERWOOD:**

1 **Q** Ms. Hogue, I'm handing you what's been
2 marked for identification as State's Exhibit Number
3 1. Do you recognize that?

4 **A** Yes, sir.

5 **Q** What is it?

6 **A** It's a phone call.

7 **Q** Is it a disk of one of the recordings?

8 **A** Yes, sir.

9 **Q** Have you had an opportunity to listen to
10 the recording on that disk?

11 **A** Yes, sir.

12 **Q** Was that recording a full, accurate
13 recording of the phone call?

14 **A** Yes, sir.

15 **Q** Have you marked that disk to show that you
16 have reviewed it and it was accurate?

17 **A** Yes, sir.

18 **Q** How did you mark it?

19 **A** I initialed it.

20 **Q** Now handing you State's Exhibit Number 2.
21 Do you recognize that one?

22 **A** Yes, sir.

23 **Q** What is that?

24 **A** That is a disk of a recorded phone call.

25 **Q** Is that the phone call that took place on

1 April 26th, 2014 at 13:25?

2 A Yes, sir.

3 Q Have you reviewed that disk as well?

4 A Yes, sir.

5 Q Is that a fair and accurate recording of
6 that phone call?

7 A Yes, sir.

8 Q And did you initial it as well?

9 A Yes, sir.

10 Q And the first exhibit, Number 1, was that
11 the phone call on April 26th, 2014 at 11:35?

12 A Yes, sir.

13 Q Handing you State's Exhibit Number 3. You
14 recognize that one?

15 A Yes, sir.

16 Q What is that?

17 A That is a recorded phone call on a disk.

18 Q All right. And you listened to that
19 recording?

20 A Yes, sir.

21 Q Is that the recording of a call that you
22 made on April 28th, 2014 at 13:54?

23 A Yes, sir.

24 Q Is that a fair and accurate recording?

25 A Yes, sir.

1 Q And you initialed it as such?

2 A Yes, sir.

3 Q Are all three of these calls to the same
4 phone number?

5 A Yes, sir.

6 Q What phone number did you call?

7 A [REDACTED].

8 Q Whose phone number is that?

9 A Jimmy Duncan.

10 Q One more. State's Exhibit Number 4.

11 A Yes, sir.

12 Q Is that another recorded phone call that
13 you listened to?

14 A Yes, sir.

15 Q Was it a fair and accurate, complete
16 recording?

17 A Yes, sir.

18 Q Is that a recording of another call to
19 Jimmy Duncan at the same number?

20 A Yes, sir.

21 Q Is that the recording on April 26th, 2014
22 at 17:56?

23 A Yes, sir.

24 Q And did you initial that as true and
25 accurate?

1 **A** Yes, sir.

2 **Q** Now, I'm going to hand you State's Exhibit
3 Number 5. Do you recognize that?

4 **A** Yes, sir.

5 **Q** Is that another recorded phone call disk?

6 **A** Yes, sir.

7 **Q** Have you had an opportunity to listen to
8 that and confirm that it was complete and accurate?

9 **A** Yes, sir.

10 **Q** What phone number did you call on that
11 particular call?

12 **A** ██████████.

13 **Q** Whose phone number was that?

14 **A** Cheese's.

15 **Q** And was that call on April 26th, 2014?

16 **A** Yes, sir.

17 **Q** Finally, State's Exhibit Number 6, do you
18 recognize that?

19 **A** Yes, sir.

20 **Q** What is that?

21 **A** It's a recorded phone call.

22 **Q** Who was that call made to?

23 **A** Cheese.

24 **Q** What phone number?

25 **A** It's 901-692-8597.

1 Q Was that on May 24th, 2014?

2 A Yes, sir.

3 Q Was that a true, accurate, complete
4 recording of the call?

5 A Yes, sir.

6 Q And did you initial that disk as such?

7 A Yes, sir.

8 MR. UNDERWOOD: Your Honor, at this time, I
9 would move to admit State's Exhibits 1 through 6
10 into evidence.

11 THE COURT: All right. Mr. Warder?

12 MR. WARDER: No objection.

13 THE COURT: All right. 1 through 6 are in
14 without objection.

15 (WHEREUPON, State's Exhibits 1 through 6 are
16 admitted into the record.)

17 MR. UNDERWOOD: Your Honor, may I publish?

18 THE COURT: You may.

19 (WHEREUPON, there is a pause.)

20 (WHEREUPON, State's Exhibit 1 is played, and then
21 paused.)

22 BY MR. UNDERWOOD:

23 Q Who is Sunshine?

24 A Me.

25 Q Is that your nickname?

1 **A** Yes, sir.

2 **Q** Is that what everyone in the drug world
3 would peg you by?

4 **A** Yes, sir.

5 **Q** Who's the other voice in this recording?

6 **A** Jimmy Duncan.

7 **Q** The defendant in this case?

8 **A** Yes, sir.

9 **(WHEREUPON, State's Exhibit 1 is resumed, and**
10 **then paused.)**

11 **BY MR. UNDERWOOD:**

12 **Q** Who is he talking about?

13 **A** Jeff Mauldin.

14 **Q** What is he talking about Jeff Mauldin
15 doing?

16 **A** He took \$2400 of his money.

17 **Q** And what did he do with it?

18 **A** He ran off with it. He didn't come back
19 with nothing he was supposed to come back with, drugs
20 or the money.

21 **Q** When he mentioned meeting up with someone
22 in a parking lot, who was he talking about?

23 **A** Cheese.

24 **(WHEREUPON, State's Exhibit 1 is resumed until**
25 **completed.)**

1 BY MR. UNDERWOOD:

2 Q Did Jeff Mauldin have your phone while you
3 were incarcerated?

4 A Yes, sir.

5 Q How did he get it?

6 A I released it to him.

7 Q You released it from your property at the
8 jail?

9 A Yes, sir.

10 Q Was there any other property that he had
11 possession of that was yours?

12 A Yes, sir. My vehicle.

13 Q Did he have permission to have your vehicle
14 at that time?

15 A Yes, sir.

16 Q What was he supposed to be using the
17 vehicle for?

18 A To traffic drugs.

19 Q What ever happened to that vehicle?

20 A He ended up scrapping it.

21 Q He scrapped it?

22 A Yes, sir.

23 Q Did you get the money for that?

24 A No, sir.

25 Q I'm now going to move to State's Exhibit

1 Number 2. It's the phone call at 1:25.

2 (WHEREUPON, State's Exhibit 2 is played, and then
3 paused.)

4 BY MR. UNDERWOOD:

5 Q Whose voices are on this recording?

6 A Mine and Jimmy Duncan's.

7 (WHEREUPON, State's Exhibit 2 is resumed, and
8 then paused.)

9 BY MR. UNDERWOOD:

10 Q When you asked if he got in touch with
11 someone, who were you asking about?

12 A Cheese.

13 (WHEREUPON, State's Exhibit 2 is resumed, and
14 then paused.)

15 BY MR. UNDERWOOD:

16 Q What's that part of the conversation about?

17 A Jeff Mauldin.

18 Q More specifically, what are these -- what
19 are you saying about Jeff Mauldin?

20 A Jimmy Duncan is saying that Jeff Mauldin
21 had already got him for -- he got him for \$2400 and
22 he already had owed him \$600 and he must be passed
23 out asleep with what they consider shard whores,
24 females that have sex for dope.

25 Q And when you say shard, what's that in

1 reference to?

2 **A** Meth.

3 **Q** Is that because the ice meth looks like ice
4 shards?

5 **A** Yes, sir.

6 **Q** And that's in reference again to the same
7 \$2400 that was discussed in the other call?

8 **A** Yes, sir.

9 **(WHEREUPON, State's Exhibit 2 is resumed, and**
10 **then paused.)**

11 **BY MR. UNDERWOOD:**

12 **Q** When he says bust one in him with a nine
13 millimeter, what does that mean?

14 **A** I'm assuming that means --

15 **MR. WARDER:** Objection to anything she
16 assumes, Your Honor.

17 **THE COURT:** All right. Sustained.

18 **THE WITNESS:** Sorry.

19 **(WHEREUPON, State's Exhibit 2 is resumed, and**
20 **then paused.)**

21 **BY MR. UNDERWOOD:**

22 **Q** When he's talking about cut, what is that?

23 **A** To be honest with you, I can't hear what
24 he's saying. Can you rewind that?

25 **(WHEREUPON, State's Exhibit 2 is resumed, and**

1 then paused.)

2 **BY MR. UNDERWOOD:**

3 Q When he's making reference to someone
4 giving him cut, what is he talking about?

5 A Fake dope, fake meth.

6 Q And is that from another possible supplier
7 that he's not dealing with?

8 A I have no idea.

9 Q I know it's hard to hear. Is he talking
10 about another supplier that he did not want to deal
11 with because they would get cut?

12 **MR. WARDER:** Objection, leading.

13 **THE WITNESS:** Yes, sir.

14 **THE COURT:** Yeah, I'm going to sustain.

15 Please disregard the answer.

16 **(WHEREUPON, State's Exhibit 2 is resumed, and**
17 **then paused.)**

18 **BY MR. UNDERWOOD:**

19 Q When he's talking about another 2300 that
20 night, what is that in reference to?

21 A The 2300 he's supposed to give Cheese.

22 Q So that's additional money on top of the
23 other \$2400?

24 A Yes, sir.

25 Q And what is that money for?

1 **A** Meth.

2 **(WHEREUPON, State's Exhibit 2 is resumed, and**
3 then paused.)

4 **BY MR. UNDERWOOD:**

5 **Q** Who is the Jamie that's being talked about?

6 **A** Jamie Marchbanks.

7 **Q** What was his role in your organization?

8 **A** He was -- he's sold meth for me for a
9 little bit and then went on his own.

10 **Q** So at this time, was he also acting in a
11 similar function as Jeff Mauldin?

12 **A** Yes, sir.

13 **(WHEREUPON, State's Exhibit 2 is resumed, and**
14 then paused.)

15 **BY MR. UNDERWOOD:**

16 **Q** When he was talking about pulling up next
17 to someone in a car, who was he talking about?

18 **A** Cheese.

19 **Q** And was that in reference to trying to
20 connect with Cheese for a drug deal?

21 **A** Yes, sir.

22 **(WHEREUPON, State's Exhibit 2 is resumed, and**
23 then paused.)

24 **BY MR. UNDERWOOD:**

25 **Q** When you were talking about people messing

1 things up, was that in reference to Jeff and Jamie
2 messing up the business while you were in jail?

3 A Yes, sir.

4 Q And talking about how you're going to try
5 to fix it?

6 A Yes, sir.

7 (WHEREUPON, State's Exhibit 2 is resumed, and
8 then paused.)

9 BY MR. UNDERWOOD:

10 Q When you reference "your people", who is
11 that?

12 A Cheese.

13 Q So are you telling him that you're going to
14 give him Cheese's number?

15 A Yes, sir.

16 Q And that he's supposed to tell Cheese that
17 you are making the referral?

18 A Yes, sir.

19 Q And what's the purpose of that referral?

20 A To buy methamphetamine.

21 (WHEREUPON, State's Exhibit 2 is resumed, and
22 then paused.)

23 BY MR. UNDERWOOD:

24 Q When he's asking he has 1000 in his pocket,
25 what is he talking about?

1 **A** \$1000 cash.

2 **Q** What does he mean when he says will that do
3 anything?

4 **A** He's asking if I can get him a deal for
5 \$1000.

6 **Q** A deal for what?

7 **A** Meth.

8 **(WHEREUPON, State's Exhibit 2 is resumed, and**
9 **then paused.)**

10 **BY MR. UNDERWOOD:**

11 **Q** That number that you just gave, whose phone
12 number is that?

13 **A** Cheese.

14 **Q** And again, who are you talking to here?

15 **A** Jimmy Duncan.

16 **(WHEREUPON, State's Exhibit 2 is resumed until**
17 **completed.)**

18 **MR. UNDERWOOD:** All right. Now, I'm going
19 to play State's Exhibit Number 4. This is the
20 phone call on April 26th at 17:56.

21 **(WHEREUPON, State's Exhibit 4 is played, and then**
22 **paused.)**

23 **BY MR. UNDERWOOD:**

24 **Q** Whose voices are we hearing?

25 **A** Mine and Jimmy Duncan.

1 (WHEREUPON, State's Exhibit 4 is resumed, and
2 then paused.)

3 **BY MR. UNDERWOOD:**

4 Q Why didn't he want to call Cheese from that
5 phone?

6 A Cause they were recording.

7 (WHEREUPON, State's Exhibit 4 is resumed, and
8 then paused.)

9 **BY MR. UNDERWOOD:**

10 Q Whose that other dude you're referencing?

11 A Cheese.

12 (WHEREUPON, State's Exhibit 4 is resumed until
13 completed.)

14 **BY MR. UNDERWOOD:**

15 Q Just before the call happened, he said hold
16 on, that might be him calling. Who was he talking
17 about?

18 A Cheese.

19 Q So is the reason the call ended because he
20 switched lines?

21 A Yes, sir.

22 Q Now we're going to move on to State's
23 Exhibit Number 5. This is a call later that night to
24 8 [REDACTED]. Whose phone number is that again?

25 A Cheese.

1 **(WHEREUPON, State's Exhibit 5 is played, and then**
2 **paused.)**

3 **BY MR. UNDERWOOD:**

4 **Q** Whose voice is that in addition to yours?

5 **A** Mine and Cheese's.

6 **(WHEREUPON, State's Exhibit 5 is resumed, and**
7 **then paused.)**

8 **BY MR. UNDERWOOD:**

9 **Q** Whose the guy in the black car?

10 **A** Jamie Marchbanks.

11 **(WHEREUPON, State's Exhibit 5 is resumed, and**
12 **then paused.)**

13 **BY MR. UNDERWOOD:**

14 **Q** Whose the old guy that you are referring
15 **to?**

16 **A** Jimmy.

17 **Q** Jimmy Duncan?

18 **A** Yes, sir.

19 **Q** Now, did you say Jimmy?

20 **A** No.

21 **Q** What did you say?

22 **A** Jerry.

23 **Q** Why?

24 **A** I had so much going on at the time.

25 **Q** Who is the person that you were referring

1 to?

2 **A** Jimmy Duncan.

3 **(WHEREUPON, State's Exhibit 5 is resumed, and**
4 then paused.)

5 **BY MR. UNDERWOOD:**

6 **Q** When you mentioned the money that was given
7 was actually some other guy's money, who was that
8 other guy?

9 **A** Jimmy Duncan.

10 **(WHEREUPON, State's Exhibit 5 is resumed, and**
11 then paused.)

12 **BY MR. UNDERWOOD:**

13 **Q** When you say Greenville, are you talking
14 about the city?

15 **A** No.

16 **Q** What do you mean by Greenville?

17 **A** I'm talking about an individual.

18 **Q** Who?

19 **A** Larry Coleman.

20 **Q** Why do you call him Greenville?

21 **A** Just was a code name.

22 **Q** Did you use code names when you were
23 talking about selling drugs?

24 **A** Yes, sir.

25 **Q** Why did you use code names?

1 **A** To hide the real names.

2 **Q** So you avoided using real names whenever
3 possible?

4 **A** Yes, sir.

5 **(WHEREUPON, State's Exhibit 5 is resumed, and**
6 **then paused.)**

7 **BY MR. UNDERWOOD:**

8 **Q** Who did you tell to take around \$600?

9 **A** Matt Carter.

10 **(WHEREUPON, State's Exhibit 5 is resumed until**
11 **completed.)**

12 **BY MR. UNDERWOOD:**

13 **Q** Ms. Hogue, the phone number that you gave
14 to Cheese in that call, 907-6050, whose number is
15 that?

16 **A** That's my mom's number.

17 **Q** Did you give that number to Jimmy Duncan?

18 **A** Yes, sir.

19 **Q** And are you known as Shine?

20 **A** Yes, sir.

21 **Q** As well as Sunshine?

22 **A** Yes, sir.

23 **Q** So Shine for short?

24 **A** Yes, sir.

25 **Q** Jimmy Duncan had that number?

1 **A** Yes, sir.

2 **Q** What was your phone number at that time? Do
3 you remember?

4 **A** 986-7860 maybe.

5 **Q** Did you have more than one phone number?

6 **A** Yes, sir.

7 **Q** How many phone numbers did you have?

8 **A** Three.

9 **Q** You remember what the other two were?

10 **A** No, sir.

11 **Q** Ms. Hogue, now we're going to do State's
12 Exhibit 3, phone call (to [REDACTED] on April 28th.

13 **(WHEREUPON, State's Exhibit 3 is played, and then**
14 **paused.)**

15 **BY MR. UNDERWOOD:**

16 **Q** Who are you talking about that Jimmy was
17 supposed to call back?

18 **A** Cheese.

19 **Q** Do you know what he meant by Cheese was
20 acting sketchy?

21 **A** Yes, sir.

22 **Q** What does that mean?

23 **A** Sketchy means just paranoid.

24 **Q** Why would Cheese be paranoid at that time?

25 **A** Because there was so much going on with

1 Jeff and Jamie.

2 Q Are you incarcerated at that point again?

3 A Yes, sir.

4 Q Are these people doing things in your name?

5 A Yes, sir.

6 Q Was that causing a lot of confusion on the
7 street?

8 A Yes, sir.

9 (WHEREUPON, State's Exhibit 3 is resumed, and
10 then paused.)

11 BY MR. UNDERWOOD:

12 Q Is this a continuing discussion of the same
13 \$2400 from Jeff Mauldin?

14 A Yes, sir.

15 Q So it's not a new 2400; it's the same 2400?

16 A No, sir. It's the same 24.

17 (WHEREUPON, State's Exhibit 3 is resumed, and
18 then paused.)

19 BY MR. UNDERWOOD:

20 Q When he says one of his girls, what is he
21 talking about?

22 A A female he knows.

23 Q Did he have a lot of girls?

24 A I don't know.

25 Q What -- what did he use his girls for?

1 **A** I don't know.

2 **(WHEREUPON, State's Exhibit 3 is resumed until**
3 **completed.)**

4 **BY MR. UNDERWOOD:**

5 **Q** After that call discussing continued
6 efforts to connect Jimmy Duncan and Cheese, did you
7 talk to Cheese one more time?

8 **A** Yes.

9 **Q** Is that this call that's been entered in as
10 State's Exhibit Number 6?

11 **A** Yes, sir.

12 **(WHEREUPON, State's Exhibit 6 is played, and then**
13 **paused.)**

14 **BY MR. UNDERWOOD:**

15 **Q** Is the difference in the prompt here
16 because it's a collect call versus a paid jail call?

17 **A** Yes, sir. Yes, sir.

18 **Q** So this is still at the same Pickens County
19 Jail?

20 **A** Yes, sir.

21 **(WHEREUPON, State's Exhibit 6 is resumed, and**
22 **then paused.)**

23 **BY MR. UNDERWOOD:**

24 **Q** Whose voices are these?

25 **A** Mine and Cheese.

1 **(WHEREUPON, State's Exhibit 6 is resumed, and**
2 then paused.)

3 **BY MR. UNDERWOOD:**

4 **Q** You said him, who is that?

5 **A** Larry Coleman.

6 **(WHEREUPON, State's Exhibit 6 is resumed, and**
7 then paused.)

8 **BY MR. UNDERWOOD:**

9 **Q** You were pretty angry at that time?

10 **A** Yes, sir.

11 **Q** Because your car had been scrapped?

12 **A** Yes, sir.

13 **Q** In your mind, did that mean it was stolen
14 from you?

15 **A** Yes, sir.

16 **(WHEREUPON, State's Exhibit 6 is resumed, and**
17 then paused.)

18 **BY MR. UNDERWOOD:**

19 **Q** When you said you talked to him yesterday,
20 who were you referring to?

21 **A** Jeff.

22 **Q** Jeff Mauldin?

23 **A** Yes.

24 **(WHEREUPON, State's Exhibit 6 is resumed, and**
25 then paused.)

1 **BY MR. UNDERWOOD:**

2 **Q** Whose Rico?

3 **A** My child's father.

4 **(WHEREUPON, State's Exhibit 6 is resumed, and**
5 **then paused.)**

6 **BY MR. UNDERWOOD:**

7 **Q** The person, Jimmy, that you're talking
8 about, is that Jimmy Duncan?

9 **A** Yes, sir.

10 **Q** The defendant in this case?

11 **A** Yes, sir.

12 **(WHEREUPON, State's Exhibit 6 is resumed, and**
13 **then paused.)**

14 **BY MR. UNDERWOOD:**

15 **Q** Jimmy Duncan had called Cheese about money.
16 Is that the same money that was being discussed in
17 the earlier calls?

18 **A** Yes, sir.

19 **Q** What's the settlement that was just
20 mentioned?

21 **A** Jimmy was in a settlement. I'm not sure
22 what for.

23 **Q** A big financial lump sum payment ---

24 **A** Yeah.

25 **Q** --- of some kind?

1 **A** Yes, sir.

2 **Q** What kind of car did Jimmy drive at that
3 time?

4 **A** It was a white car. It was a small white
5 car.

6 **(WHEREUPON, State's Exhibit 6 is resumed, and**
7 **then paused.)**

8 **BY MR. UNDERWOOD:**

9 **Q** When you said Jamie was supposed to take
10 Cheese 35, 35 what?

11 **A** Thousand.

12 **Q** \$35,000?

13 **A** Yeah.

14 **Q** Is that your proceeds from selling meth?

15 **A** Yes.

16 **Q** Is that money that was owed to Cheese?

17 **A** Yes, sir.

18 **(WHEREUPON, State's Exhibit 6 is resumed, and**
19 **then paused.)**

20 **BY MR. UNDERWOOD:**

21 **Q** Is this in reference to the vehicle that
22 was scrapped?

23 **A** Yes, sir.

24 **Q** Did you get that vehicle for Cheese?

25 **A** No, sir, but he had the title.

1 Q Why did he have the title?

2 A Certain things of mine that I needed
3 someone to hold, he had hold of it.

4 Q So the title wasn't in his name, he just
5 had physical possession of it?

6 A No, the title is in my name.

7 (WHEREUPON, State's Exhibit 6 is resumed, and
8 then paused.)

9 **BY MR. UNDERWOOD:**

10 Q So did you call the person you know as
11 Cheese "Grits" as well as Cheese?

12 A Yes, sir.

13 Q Where did that name come from?

14 A I made that name up. It was a joke to him,
15 but...

16 Q What was the joke?

17 A I eat cheese in my grits.

18 Q So you made that connection for another
19 nickname. That would be a code name?

20 A Yes.

21 Q So if you were to refer to Cheese, did you
22 refer to him always as Cheese, also as Grits, or did
23 you use it interchangeably?

24 A Interchangeably.

25 (WHEREUPON, State's Exhibit 6 is resumed, and

1 then paused.)

2 **BY MR. UNDERWOOD:**

3 Q Did you say that was Jimmy Duncan? Is that
4 what you just said?

5 A Yes, sir.

6 (WHEREUPON, State's Exhibit 6 is resumed, and
7 then paused.)

8 **BY MR. UNDERWOOD:**

9 Q What does Cheese need to talk to Jimmy
10 about?

11 A Meth.

12 Q Buying and selling meth?

13 A Yes, sir.

14 (WHEREUPON, State's Exhibit 6 is resumed, and
15 then paused.)

16 **BY MR. UNDERWOOD:**

17 Q Whose Papi again?

18 A Larry Coleman.

19 Q Who is "they" that went into his house?

20 A The police.

21 (WHEREUPON, State's Exhibit 6 is resumed until
22 completed.)

23 **BY MR. UNDERWOOD:**

24 Q So after you made that call, did you remain
25 incarcerated for some time?

1 **A** Yes, sir.

2 **Q** When did you finally get out of jail?

3 **A** September 17th of last year.

4 **Q** After you got out of jail, did you go back
5 to selling meth?

6 **A** Yes, sir.

7 **Q** Who was giving you that meth to sell?

8 **A** Greenville, Larry Coleman.

9 **Q** Did you contact him or did he contact you?

10 **A** He contacted me.

11 **Q** Do you know where he was getting that
12 methamphetamine from?

13 **A** At the time, I think Papi.

14 **Q** So that meth was different meth?

15 **A** Yes, sir.

16 **Q** But all the meth you had gotten from him
17 before, was that from Cheese?

18 **A** Yes, sir.

19 **Q** Now, earlier you were talking about going
20 to pick up drugs from Cheese. Where would you go to
21 get the meth from Cheese?

22 **A** On the side -- I met him at Lowe's a couple
23 of times.

24 **Q** Which Lowe's?

25 **A** In Easley on 123. Then I would meet him on

1 the side of the road behind Wel -- not Welcome.

2 What's the name of that church? Uh, it's right off
3 White Horse Road, Fishtrap Road.

4 Q Okay. Is that in Greenville County or
5 Pickens County?

6 A Greenville County.

7 Q That's in Greenville County?

8 A Yes.

9 Q The Lowe's in Easley, is that in Pickens
10 County?

11 A Yes.

12 Q So you would get drugs from Cheese in
13 Greenville County and in Pickens County?

14 A Yes, sir.

15 Q Where would you sell your drugs?

16 A Greenville County, Pickens County, Anderson
17 County, North Carolina, Georgia.

18 Q So you sold drugs in all those different
19 places?

20 A Yes, sir.

21 Q Were those all Cheese's drugs that you were
22 selling?

23 A Yes.

24 Q Do you know where Cheese lives?

25 A No, sir.

1 Q Do you know what town he lived in?

2 A Greenville.

3 Q And was Larry Coleman, known to you as
4 Papi, also called Greenville by you -- was he called
5 Greenville because he lived in Greenville?

6 A Yes, sir.

7 Q Did he sell his drugs in Greenville?

8 A Yes.

9 Q And those were drugs that came from Cheese?

10 A Yes.

11 Q After you got out of jail in September of
12 2015, did you have any further dealings with Jimmy
13 Duncan?

14 A No, sir.

15 Q The Jimmy Duncan that we've been talking
16 about throughout your testimony, the person that you
17 sold methamphetamine to, the person that you
18 introduced to Cheese, your supplier, so that he could
19 get methamphetamine, is that all the same Jimmy
20 Duncan?

21 A Yes, sir.

22 Q Is there only one Jimmy Duncan as far as
23 you are concerned?

24 A Yes, sir.

25 Q Is that person in the courtroom here today?

1 **A** Yes, sir.

2 **Q** Would you point him out please?

3 **A** (Indicating.)

4 **Q** Would you describe what he was wearing?

5 **A** A white shirt and a tie.

6 **MR. UNDERWOOD:** Your Honor, I'd ask the
7 record to reflect that she identified the
8 defendant, Jimmy Duncan.

9 **THE COURT:** So noted.

10 **MR. UNDERWOOD:** Thank you. No further
11 questions, Your Honor.

12 **THE COURT:** Can y'all approach?

13 **(WHEREUPON,** a bench conference is held off the
14 record.)

15 **THE COURT:** Ladies and Gentlemen, we're
16 going to take a short break. I was trying to
17 figure out whether we needed to break for lunch
18 or not now. But we're going to take a short
19 break right now and then I'll bring y'all back
20 in. After that, we'll be going to lunch probably
21 about one o'clock. Do not discuss the case among
22 yourselves or anything like that. We'll bring
23 you right back out in just a few minutes.

24 **(WHEREUPON,** the jury exits at approximately
25 12:08 p.m.)

1 **THE COURT:** All right. Ms. Hogue, I would
2 advise you that since you're in the middle of
3 your testimony, you can not discuss your
4 testimony with anyone.

5 **THE WITNESS:** Yes, sir.

6 **THE COURT:** All right. We'll be back in
7 five minutes.

8 **MR. UNDERWOOD:** Five minutes?

9 **THE COURT:** Or whenever the jury is ready.

10 **(WHEREUPON, a recess is taken from approximately**
11 12:09 p.m. to 12:19 p.m.)

12 **THE COURT:** Mr. Warder, you ready for the
13 jury?

14 **MR. WARDER:** Ready as I'll ever be, Your
15 Honor.

16 **THE COURT:** All right. Let's get everybody
17 -- let's get all the other parties back in
18 place.

19 All right. Come on back up, Ms. Hogue.

20 I always get the bailiffs to either jack
21 the heat way up or be real cold so that you're
22 more inspired to be brief. It didn't work on the
23 State's side.

24 **MR. WARDER:** That may work, Your Honor.

25 **THE COURT:** All right. We ready for the

1 jury?

2 **MR. UNDERWOOD:** Yes, Your Honor.

3 **THE COURT:** All right. Bring the jury in.

4 **(WHEREUPON,** the jury enters at approximately
5 12:20 p.m.)

6 **THE COURT:** All right. Mr. Warder, you may
7 proceed.

8 **CROSS-EXAMINATION**

9 **BY MR. WARDER:**

10 **Q** Did you live in Pickens?

11 **A** Yes, sir.

12 **Q** How long have you lived in Pickens?

13 **A** All my life.

14 **Q** How long have you known Jimmy Duncan?

15 **A** About four -- three or four years.

16 **Q** Did you know he's a logger over there?

17 **A** Did I know what now?

18 **Q** Did you know he was a logger for

19 profession?

20 **A** No, sir.

21 **Q** Cut down trees?

22 **A** No, sir.

23 **Q** You ever been to his house?

24 **A** Yes, sir.

25 **Q** Okay. Was he a mechanic up there? Did he

1 work on cars?

2 A I know of him working on cars, yes, sir.

3 Q Did you live at his house?

4 A No, sir.

5 Q How often would you go there?

6 A I been there a few times.

7 Q Was Jimmy a user of meth?

8 A Yes, sir.

9 Q How long did he use meth that you know of?

10 A I'm not sure.

11 Q When you were dealing with him all the time
12 that you'd known him, has he used meth?

13 A I sold meth to him; I didn't use meth with
14 him.

15 Q Okay. Did you see him use meth?

16 A No, sir. Yeah. Actually, yes, sir, I did
17 see him use meth at his home.

18 Q Now, you got your meth from Cheese?

19 A Yes, sir.

20 Q And you sold the meth in Pickens?

21 A Pickens County, yes.

22 Q How long had you been getting, buying and
23 selling?

24 A For a while. For about 10 years.

25 Q Okay. And you come in contact with a lot of

1 people over 19 years?

2 **A** Yes, sir. 10. I'm going to correct that.
3 It's been about 10.

4 **Q** Okay. How many people have you sold meth
5 to?

6 **A** A few -- a good bit. About 15.

7 **Q** Okay. You sell it to street level people?

8 **A** No, sir.

9 **Q** You've always been a big meth dealer?

10 **A** Yes, sir.

11 **Q** And you used meth?

12 **A** Yes, sir.

13 **Q** So you use and sell meth?

14 **A** Yes, sir.

15 **Q** You get high on meth?

16 **A** Usually, no. I'm ADHD, which prevents me
17 from getting high on meth.

18 **Q** Okay. Do you hang out with other people
19 that are use -- users of meth?

20 **A** Yes.

21 **Q** Do they get high?

22 **A** Yes, sir.

23 **Q** Were all of your friends taking meth?

24 **A** Yes, sir.

25 **Q** Most of them?

1 **A** No, sir.

2 **Q** You were able to run your meth organization
3 from in jail; is that right?

4 **A** Yes, sir.

5 **Q** And there's been some phone calls here. How
6 often did you make phone calls?

7 **A** Two or three times a day.

8 **Q** Every day?

9 **A** No.

10 **Q** Do you have unlimited access to the phones,
11 in jail?

12 **A** When I put money on it, yes, sir.

13 **Q** Can anyone call you in or do you have to
14 call out?

15 **A** I have to call out.

16 **Q** How long have you known Cheese?

17 **A** Four years, almost five years.

18 **Q** And you -- you controlled who could buy
19 from Cheese?

20 **A** When it come to my people, yes, sir.

21 **Q** Okay. And Jimmy was one of your people?

22 **A** Yes, sir.

23 **Q** And remained your person after you went to
24 jail?

25 **A** Yes, sir.

1 Q How many other people were your people?

2 A Same time as him, four.

3 Q Did they remain your people after you went
4 to jail?

5 A Yes, sir.

6 Q When you got back out, were they your
7 people again?

8 A Yes, sir.

9 Q So you maintained control of them before
10 you went to jail, when you were in jail, and after
11 you got out of jail?

12 A I maintained control of the drugs and the
13 money, not of them.

14 Q Okay. And Jimmy's the exception. When you
15 got out, he didn't have anything to do with you?

16 A By the time I got out, he was locked up.

17 Q How many dollars worth of meth did you
18 sell?

19 A I don't know the exact amount, sir. Good
20 bit.

21 Q What'd you do with the money?

22 A Bought property, stuff with it, cars, spent
23 it, blowed most of it.

24 Q You buy any real estate when you say you
25 bought property?

1 **A** No.

2 **Q** What kind of car did you have?

3 **A** I had a motorcycle. I had several vehicles,
4 but you buy and sell motorcycles, I mean, vehicles
5 through that business. Selling meth, cars come and
6 go.

7 **Q** You making -- you have an idea of what you
8 made a week, a month?

9 **A** Around \$10,000 a week.

10 **Q** Profit?

11 **A** Profit.

12 **Q** And for how many years did you make \$10,000
13 a week?

14 **A** Five.

15 **Q** So for five years, for 60 months, you made
16 \$10,000 a week and you have nothing?

17 **A** I wouldn't say I don't have nothing.

18 **Q** What do you still own out of \$600,000?

19 **A** Me, personally? Nothing.

20 **Q** Okay. When I said you had nothing, you said
21 that wasn't correct.

22 **A** Physically in my name, no, I have nothing.

23 **Q** Okay. Do you have things in anybody else's
24 name?

25 **A** No, sir. I have GCDC stuff is what I have

1 right now.

2 Q Which is what?

3 A Shackles.

4 Q Okay.

5 A And orange jumpsuits.

6 Q You made \$600,000; is that right?

7 A Roughly.

8 Q And you can't tell me a thing that you own.

9 What's the biggest purchase you ever made?

10 A Of what?

11 Q Anything. What's the highest dollar amount
12 you spent on any item?

13 A We spent about \$15,000 on a cruise.

14 Q Okay.

15 A But we roughly spent that much on motel
16 rooms every week, all week.

17 Q When you say you spent that much, you spent
18 \$10,000?

19 A Well, we spent a lot. When we rented hotel
20 rooms selling drugs, we'd rent the whole hotel room.
21 Not just one, all of them. Paid for security.

22 Q You rented motel rooms and paid for
23 security. Where did you do that at?

24 A Red Roof Inn, Motel 6, a lot of motel
25 rooms, Best Western.

1 Q Who'd you hire for security?

2 A Different people.

3 Q Security agents?

4 A Not professional, no, but enough to get the
5 job done.

6 Q When you go to a Motel 6 and hire security
7 agents, how many rooms would you get?

8 A Well, we had access to every room.

9 Q What Motel 6 did you rent all the rooms in?

10 A Augusta Road.

11 Q How many rooms are there in there?

12 A I have no idea to be exact. We'd just pay a
13 large amount down to be able to rent whatever room we
14 wanted. If any of our people came there to rent a
15 room, they just checked in.

16 Q What kind of down payment would you give
17 the motel?

18 A 10, \$15,000, drugs, whatever they wanted.

19 Q Can you rent motel rooms for drugs?

20 A Yeah. You can do a lot with drugs.

21 Q Motel 6 on Augusta Road take drugs for
22 rooms?

23 A They took drug money.

24 Q That's part of the 10,000?

25 A Yeah.

1 Q And when you said you can do it with drugs,
2 did you ever trade drugs for rooms?

3 A Yeah.

4 Q For a whole motel full of rooms?

5 A For at least a whole hallway full.

6 Q Who did that?

7 A University Inn in Clemson. The guy don't
8 work there no more. We moved. He quit.

9 Q Who did you have for security down there
10 when you had the room in Clemson?

11 A Just different friends. They have their own
12 security guards there. Of course, we'd pay them and
13 pay our people.

14 Q How much did the motels charge for their
15 security guards?

16 A I don't know, sir.

17 Q When you were making \$10,000 a week, where
18 did you keep the money at?

19 A In my pocket, in the ground.

20 Q There's none left today?

21 A Sure. There's money.

22 Q Buried?

23 A Buried.

24 Q How much?

25 A Don't know.

1 Q Where's it at?

2 A Don't know.

3 Q Whose got it buried?

4 A Friends of friends of friends.

5 Q And all of this is truthful as everything
6 else you said?

7 A Yes, sir.

8 Q And there's all this money of friends of
9 friends of friends and you don't know where it's at
10 or who has it?

11 A Well, I know where to start, but I don't
12 know exactly where it ended.

13 Q And it's waiting for you someday?

14 A Hopefully. Only two or three or four people
15 know, you know. There's no telling. Not too worried
16 about the money to be honest with you.

17 Q Thank you.

18 **THE COURT:** All right. Any redirect?

19 **REDIRECT EXAMINATION**

20 **BY MR. UNDERWOOD:**

21 Q Ms. Hogue, when you were arrested and went
22 to jail, why did you introduce Jimmy Duncan to
23 Cheese?

24 A So that he would have a connect --

25 **MR. WARDER:** Objection. Beyond the scope.

1 **THE COURT:** I believe that was beyond the
2 scope of his cross-examination.

3 **BY MR. UNDERWOOD:**

4 **Q** You mentioned that you weren't concerned
5 about the money that other people have hidden.

6 **A** Right.

7 **Q** Why aren't you worried about it?

8 **A** I fixing to do time. I'm locked up. I'm not
9 really concerned about any of that anymore.

10 **Q** Has all your testimony here today been the
11 truth?

12 **A** Yes, sir.

13 **Q** All truth?

14 **A** All truth.

15 **Q** Nothing but truth?

16 **A** Nothing but truth.

17 **MR. UNDERWOOD:** No further questions, Your
18 Honor.

19 **THE COURT:** All right. Ladies and
20 Gentlemen, we are now going to break for lunch,
21 and you're going to be on your own for lunch.
22 But let me give you my --

23 You can step down.

24 You want her to step down.

25 **MR. UNDERWOOD:** Yes.

1 **THE COURT:** Get ahead of myself sometimes.

2 All right. Like I said, we're going to
3 break for lunch and you're on your own. We're
4 going to -- again, my four rules. Don't discuss
5 the case among yourselves or anyone else. Okay.
6 Spouses, friends or anything like that. That's
7 not proper to discuss.

8 Don't do any type of independent research.
9 Don't pay any attention to any news media,
10 newspaper, TV, social media, anything like that
11 that relates to this case. Finally, if you're
12 contacted by anyone other than somebody from the
13 clerk's office, please get any kind of
14 information you can and provide that information
15 to the bailiff.

16 Start back at 1:40. Does that give y'all
17 enough time? Well, I don't want y'all to be kind
18 of rushed. Let's -- 2:00. All right. I'll let
19 y'all come back at two o'clock. Be back in your
20 jury room at two o'clock so we can be ready to
21 go. Thank you very much.

22 **(WHEREUPON, the jury exits at approximately**
23 12:34 p.m.)

24 **THE COURT:** All right. We'll be at ease
25 until two o'clock.

1 **(WHEREUPON,** a recess is taken, from approximately
2 12:34 p.m. to 2:07 p.m.)

3 **(WHEREUPON,** State's Exhibits 7 through 15 are
4 marked for identification purposes.)

5 **THE COURT:** All right. Are we ready to
6 proceed?

7 **MR. UNDERWOOD:** Yes, Your Honor.

8 **THE COURT:** All right. Anything from the
9 defense?

10 **MR. WARDER:** (No audible response.)

11 **THE COURT:** Anything from y'all's side?

12 **MR. WARDER:** (No audible response.)

13 **THE COURT:** Mr. Warder, anything -- y'all
14 prepared for the jury?

15 **MR. WARDER:** Yes.

16 **THE COURT:** All right. Bring them in.

17 **(WHEREUPON,** the jury enters at approximately
18 2:08 p.m.)

19 **THE COURT:** All right, Ladies and
20 Gentlemen. I hope everybody had a good lunch.
21 You went outside and got to come back in. It's
22 nice out there today. We've got all that weather
23 down on the coast coming, but anyway, we'll now
24 be -- continue with the afternoon testimony.

25 **MR. FERNANDEZ:** Thank you, Your Honor. The

1 State would call Stacey Kelley.

2 THE CLERK: Please step forward and be
3 sworn in. Place your left hand on the Bible, if
4 you would. Raise your right hand.

5 STACEY KELLEY

6 having first been duly sworn, testifies as follows:

7 THE CLERK: Please state your full name.

8 THE WITNESS: Stacey Kelley.

9 THE CLERK: Please have a seat.

10 DIRECT EXAMINATION

11 BY MR. FERNANDEZ:

12 Q Stacey, would you please state your name
13 for the record.

14 A Stacey Kelley.

15 Q And Stacey, how old are you?

16 A 31.

17 Q And where did you grow up, Stacey?

18 A In Anderson, mostly.

19 Q Okay. Tell us a little bit about -- where'd
20 you go to high school?

21 A I went to four different high schools.

22 Q All right.

23 A I went to BHP, Hannah, Daniel and Crescent.

24 Q Okay. And did you get your GED from
25 anywhere?

1 **A** Yes, sir.

2 **Q** Where did you obtain your GED?

3 **A** Simpson Academy in Easley.

4 **Q** And what kind of job do you do? What kind
5 of work do you do?

6 **A** I work at 2 Bros in Easley. It's a pizza
7 place.

8 **Q** What other kind of jobs have you had?

9 **A** I've worked at Cracker Barrel, OWT in
10 Pickens. That's pretty much it.

11 **Q** And Stacey, do you have any children?

12 **A** I have five kids.

13 **Q** And how old are they?

14 **A** 12, 11, 8, 7 and 6.

15 **Q** Stacey, tell us a little bit about your
16 personal drug use. When were you first introduced to
17 drugs?

18 **A** When I was 13.

19 **Q** And what drug was that?

20 **A** Meth.

21 **Q** And who introduced you to drugs?

22 **A** My biological mom.

23 **Q** Tell us why -- what were the circumstances?

24 **A** She said if I was going to do it, she'd
25 rather me do it with her than anybody else.

1 Q How long have you used meth?

2 A On and off since I was 13.

3 Q At its peak, some time after 2010, how
4 frequently were you using meth?

5 A Probably about a gram to a half eight a
6 day.

7 Q And how -- what did -- you said a half
8 eight? Explain to us what quantity of methamphetamine
9 is that.

10 A 1.7.

11 Q 1.7 what?

12 A A gram and 7 -- .7.

13 Q And who -- during this time when you were
14 using, who were you obtaining your meth from?

15 A Which time?

16 Q When you -- back in 2010.

17 A 2010?

18 Q Uh-huh.

19 A My kids' daddy.

20 Q And who is he?

21 A Anthony Burello.

22 Q Okay. And you obtaining from him, and what
23 was he doing? Was he selling to other people?

24 A Yeah.

25 Q Tell us about Mr. Burello. Did he go to

1 prison for something?

2 **A** Yeah, he's in prison for eight years.

3 **Q** What year was that? What date -- what month
4 and year did he go to prison?

5 **A** I don't remember.

6 **Q** You remember the year?

7 **A** It was two years ago, I believe.

8 **Q** So 2014?

9 **A** Uh-huh.

10 **Q** Okay. And let me -- before I begin, now Ms.
11 Kelley, you have been charged in this same
12 investigation; is that correct?

13 **A** Yes, sir.

14 **Q** And have -- you have been charged for
15 trafficking methamphetamine 400 grams or more?

16 **A** Yes, sir.

17 **Q** You've been charged for distribution of
18 methamphetamine, two counts?

19 **A** Yes, sir.

20 **Q** And you've been charged with possession
21 with intent to distribute methamphetamine?

22 **A** Yes, sir.

23 **Q** And also, I believe, possession of
24 methamphetamine?

25 **A** Yes, sir.

1 **Q** And have you had -- have you ever had an
2 opportunity to meet with the prosecution about those
3 charges?

4 **A** Yes, sir.

5 **Q** And you entered in any agreement with the
6 prosecution at this point?

7 **A** No, sir..

8 **Q** And what -- why would you want to cooperate
9 with law enforcement for this case?

10 **A** To better my life. To put this behind me.
11 It's a part of my life I don't want to go back to.

12 **Q** And Ms. Kelley, Stacey, you actually have a
13 record as well, prior convictions; is that right?

14 **A** Yes, sir.

15 **Q** Do you remember a 2011 conviction for
16 possession of meth?

17 **A** Yes, sir.

18 **Q** And there's also a gun charge along with
19 that as well as another possession charge?

20 **A** Yes, sir.

21 **Q** What was your sentence for that? Do you
22 remember?

23 **A** I got 15 years suspended to three years
24 probation.

25 **Q** Okay. And there was also a more recent

1 conviction; is that right?

2 **A** Yes, sir.

3 **Q** When did that occur?

4 **A** Two weeks ago.

5 **Q** How do you know it was two weeks ago?

6 **A** It was ---

7 **Q** You remember the date?

8 **A** --- the 21st of September.

9 **Q** How do you remember it was the 21st?

10 **A** Cause I went to court.

11 **Q** All right. What was your sentence for that
12 charge?

13 **A** I got two years probation.

14 **Q** Was that another drug charge?

15 **A** Possession of meth, less than a gram.

16 **Q** And that was from 2015?

17 **A** Yes, sir.

18 **Q** Okay. In 2014, when Mr. Burello went to
19 prison, did you receive a phone call from Jimmy
20 Duncan?

21 **A** Yes, sir.

22 **Q** Did you know him prior to that phone call?

23 **A** Yes, sir.

24 **Q** How did you know him?

25 **A** He was just a friend.

1 Q Did you ever know him -- did you ever know
2 him in a drug-related way before that phone call?

3 A No, sir.

4 Q Was he a friend of yours or a friend of
5 your husband's?

6 A Mine and his.

7 Q Tell us a little bit about that phone call
8 when he called you after your husband went to prison.

9 A He told me to come see him, that he had a
10 way to help me. I didn't go see him for days. Then I
11 finally went.

12 Q Okay. I'm going to ask you to speak up a
13 little bit if you could. He asked you -- he said he
14 had a way to help you. Why would you need help?

15 A Because I had five kids to take care of and
16 their daddy just went to prison.

17 Q Was, uh, -- was money a concern for you at
18 this point?

19 A Yes, sir.

20 Q All right. You said you ignored it for two
21 days or a handful of days; is that correct?

22 A Yes, sir.

23 Q All right. And then what happened? Did you
24 eventually go see him?

25 A Yes, sir.

1 Q All right. Tell me about that encounter
2 with Mr. Duncan.

3 A I went and he gave me an ounce and told me
4 to see what I could do with it.

5 Q He just handed it to you?

6 A Yes, sir.

7 Q Did you have to pay for that?

8 A No, sir. Not then.

9 Q Did he exact payment for that ounce that he
10 gave you?

11 A Yes, sir.

12 Q What's that called when someone gives you
13 the drugs in advance?

14 A Front.

15 Q To front. Explain what fronting drugs is.

16 A Getting it on credit.

17 Q How much would that ounce cost you?

18 A \$1000.

19 Q Where did you meet him when he gave you
20 this ounce of meth?

21 A His house.

22 Q Where is his house located?

23 A In Pickens.

24 Q Do you know the address?

25 A No, sir.

1 Q Could you describe how to get there?

2 A It's near Fred's in Pickens, back behind
3 there.

4 Q And how many times did you go there?

5 A A bunch.

6 Q How many times? Give a guess.

7 A I honestly couldn't even tell you. It was a
8 lot.

9 Q All right. All right. And how long did it
10 take you to sell that ounce of meth?

11 A A few days. A coup --

12 Q And who did -- I'm sorry.

13 A A couple of days.

14 Q And how long -- who did you sell it to?

15 A Just different individuals.

16 Q These people you already knew?

17 A Yes, sir.

18 Q Were they random people?

19 A People I already knew.

20 Q Okay. After you sold that first ounce from
21 Mr. Duncan, did you go back and get more from him?

22 A Yes, sir.

23 Q All right. From April -- when did your
24 relation -- your drug relationship with Mr. Duncan
25 begin and end, timewise?

1 **A** Right after Tony went to prison and then
2 around the time that I ran from the police.

3 **Q** Okay. And when was that?

4 **A** August, maybe.

5 **Q** So Mr. Burello went to prison. So August of
6 that same year. How much did you end up getting from
7 Mr. Duncan at a time? How much meth?

8 **A** Anywhere from a half ounce to an ounce at a
9 time.

10 **Q** Okay. And how many times a week would you
11 go for that half ounce to an ounce?

12 **A** Three to four.

13 **Q** Three to four times a week. And how much
14 would he charge for an ounce of meth?

15 **A** \$1000.

16 **Q** That was how many months through that
17 summer of 2014? How many months was that over -- this
18 over?

19 **A** (No audible response.)

20 **Q** Can you think about how many months you
21 would have done -- you would have gone to his house
22 for that much meth?

23 **A** No.

24 **Q** Was it three months?

25 **A** Three or four. Something like that.

1 **Q** Okay. And why -- why did you decide to deal
2 drugs in that quantity? What was your motivation? Why
3 were you doing it?

4 **A** To take care of my kids. To eat. Cause I
5 had prior felonies and it was almost impossible to
6 get a job.

7 **Q** And where would you primarily pick up the
8 meth? Was it at his house or was it elsewhere?

9 **A** Yes, sir.

10 **Q** At his house?

11 **A** Yes, sir.

12 **Q** Did you ever exchange it anywhere else?

13 **A** No, sir.

14 **Q** Did you ever go inside Mr. Duncan's house?

15 **A** Yes, sir.

16 **Q** Do you know where he stored the meth inside
17 his house?

18 **A** Yes, sir.

19 **Q** Where did he store it?

20 **A** In a safe.

21 **Q** I'm -- you'll need to speak up.

22 **A** In a safe.

23 **Q** And where was this safe?

24 **A** In his room.

25 **Q** Did you actually get to look inside the

1 safe?

2 **A** I got a glance.

3 **Q** And what did you see inside the safe?

4 **A** Money.

5 **Q** How much money?

6 **A** A lot.

7 **Q** And did you -- did you see that's where he
8 retrieved the drugs?

9 **A** Yes, sir.

10 **Q** Did anyone else in his house have access to
11 that safe?

12 **A** Yes, sir.

13 **Q** Who else had access?

14 **A** Karen.

15 **Q** Who's Karen?

16 **A** A girl that lived there.

17 **Q** Was she in a relationship with Mr. Duncan?

18 **A** Yes, sir.

19 **Q** Did she stay in the same room as him?

20 **A** Yes, sir.

21 **Q** Mr. Duncan ever tell you where he got his
22 meth from?

23 **A** Just from some Mexican guy that sold them.

24 **Q** I'm sorry. Say that again.

25 **A** All I know is some Mexican guy.

- 1 Q Is that what he said?
- 2 A Yes, sir.
- 3 Q Did he ever tell you about this Mexican
4 guy?
- 5 A No.
- 6 Q Did you ever meet this Mexican guy?
- 7 A No, sir.
- 8 Q Did you ever meet any -- did you ever know
9 anyone else that would buy meth from Mr. Duncan and
10 then sell it? Did you know any of his other dealers?
- 11 A Just Jeff.
- 12 Q I'm sorry.
- 13 A Just Jeff.
- 14 Q Who's Jeff?
- 15 A Mauldin.
- 16 Q And who is he?
- 17 A Just --
- 18 Q Are you friends with him?
- 19 A I used to be.
- 20 Q Okay. Tell us about him.
- 21 A He's a drug addict.
- 22 Q Okay. And you knew him to be around Mr.
23 Duncan as well?
- 24 A Yes, sir.
- 25 Q What was their relationship like?

1 **A** They were friends.

2 **Q** Okay. Did you see drugs exchanged between
3 the two of them?

4 **A** Not personally, no.

5 **Q** Did you have conversations with Mr. Mauldin
6 before?

7 **A** Yeah.

8 **MR. WARDER:** Objection. Hearsay.

9 **MR. FERNANDEZ:** I didn't ask what, Your
10 Honor.

11 **THE COURT:** Okay.

12 **MR. FERNANDEZ:** I just asked did she have
13 conversations.

14 **THE COURT:** Sustained as far as any
15 hearsay. Make sure you limit your question.

16 **BY MR. FERNANDEZ:**

17 **Q** Stacey, why did your relationship or the
18 drug dealing relationship with Mr. Duncan end in
19 August of 2014?

20 **A** Because I got robbed for \$2000 of his
21 money.

22 **Q** Okay. And how did he react to that?

23 **A** He wasn't happy.

24 **Q** What did he tell you?

25 **A** He was just upset about it.

1 Q Would he sell to you anymore after that?

2 A No.

3 Q Did he tell you why?

4 A No. I owed him money.

5 Q I'm sorry?

6 A I owed him that money.

7 Q Did you ever come up with the money to pay
8 him?

9 A No.

10 Q Did he ever accuse you of working with law
11 enforcement?

12 A No.

13 Q Around the same time, did police do a
14 controlled purchase of drugs on you?

15 A Do what?

16 Q Did the police do a purchase of drugs on
17 you? Did they buy drugs from you? Law enforcement?

18 A I didn't know about it 'til the other day,
19 but yeah, they did.

20 Q And it was around that same time?

21 A Yeah.

22 Q Who were some of the other folks that you
23 would see come into Mr. Duncan's house for meth?

24 A I don't know.

25 Q Do you remember some folks being there?

1 **A** No.

2 **Q** Okay. You know any of the other people that
3 were buying from him?

4 **A** Just Jeff, Karen.

5 **Q** You remember your phone number back during
6 those months ---

7 **A** Yes, sir.

8 **Q** --- in 2014?

9 **A** Yes, sir.

10 **Q** And do you remember the type of phone that
11 Mr. Duncan was using back then?

12 **A** Just a flip phone.

13 **Q** Just a flip phone? What color was it?

14 **A** Either blue or black. I don't know.

15 **Q** Dark colored?

16 **A** Yeah.

17 **Q** And what your phone --

18 **MR. FERNANDEZ:** Permission to approach the
19 witness, Your Honor.

20 **THE COURT:** Yes.

21 **BY MR. FERNANDEZ:**

22 **Q** Ms. Kelley, I'm handing you what's been
23 marked State's Exhibit Number 7. (Pause.)

24 Stacey, I'm handing you what's been marked
25 as State's Exhibit Number 7. Take a look at that

1 number. Do you recognize the number?

2 **A** That's my number.

3 **Q** Okay. Can you --

4 **A** My old number.

5 **Q** -- can you tell us what that number was?

6 **A** ██████████.

7 **Q** Stacey, I'm handing you what's been marked
8 as State's Exhibit Number 8. Is that a text message
9 that you sent to Mr. Duncan?

10 **A** Yes, sir.

11 **Q** Okay. And what does that text message
12 reference?

13 **A** You got it? You got drugs? You got dope?

14 **Q** Is that why you were sending him that text
15 message?

16 **A** Yeah.

17 **Q** Okay. Stacey, I'm handing you State's
18 Exhibit Number 9. Did you send that text message to
19 Mr. Duncan?

20 **A** Yeah.

21 **Q** And what does that text message discuss?

22 **A** It says I've got somebody with cash needing
23 a half O.

24 **Q** What does that mean?

25 **A** Half ounce.

1 **Q** Okay. A half O means a half ounce. And what
2 does I got somebody with cash mean?

3 **A** I have a customer.

4 **Q** Why would you be sending him that text?

5 **A** Cause I needed it.

6 **Q** You were looking for meth?

7 **A** Yes, sir.

8 **Q** I'm showing you State's Exhibit Number 10.
9 Is that also your information?

10 **A** Yes, sir.

11 **Q** Showing you State's Exhibit Number 11. Is
12 that your phone number or another phone number?

13 **A** Yes, sir.

14 **Q** Okay. Are you familiar with it? What number
15 is it?

16 **A** It's the same number.

17 **Q** Okay. I'm showing you State's Exhibit
18 Number 12. Is that the same number?

19 **A** Yes, sir.

20 **Q** And that is your number?

21 **A** Yes, sir.

22 **Q** Okay. State's Exhibit Number 13 is another
23 text. Could you tell us the context of that text?

24 **A** It says I have about 2000 right now. Need
25 pickup more.

1 Q What does that mean? What does 2000 mean?

2 A \$2000.

3 Q And what are you picking up -- what do you
4 need to pick more up of?

5 A Meth.

6 Q And why did you send that text to Mr.
7 Duncan?

8 A Cause I needed more.

9 Q Did he have the meth for you to buy from
10 him?

11 A That time, I don't remember if he had it or
12 not. But yeah.

13 Q Okay. Was that the reason you would send
14 him a text is to purchase meth?

15 A Yeah.

16 MR. FERNANDEZ: Your Honor, at this time,
17 we would move to admit State's Exhibit 7 through
18 13.

19 THE COURT: Any objection?

20 MR. WARDER: No, Your Honor.

21 THE COURT: All right. Then those -- 7
22 through 13 of State's Exhibits are in without
23 objection.

24 (WHEREUPON, State's Exhibits 7 through 13 are
25 admitted into the record.)

1 **MR. FERNANDEZ:** Your Honor, and permission
2 to publish for the jury as well.

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

4 **BY MR. FERNANDEZ:**

5 **Q** Now, Stacey, I know it's awkward for you,
6 but if you could, just take a look at these when I
7 present them. This is State's Exhibit Number 7.
8 Technology, huh? All right. Stacey, is that your
9 number there?

10 **A** Yes, sir.

11 **Q** The number you already talked about?

12 **A** Yes, sir.

13 **Q** Okay. This is State's Exhibit Number 8. Is
14 this the text that you just referenced?

15 **A** Yes, sir.

16 **Q** And in that text, you say you got it. Are
17 you referring to meth?

18 **A** Yes, sir.

19 **Q** And you texted that to him?

20 **A** Jimmy.

21 **Q** Okay. All right. Stacey, again, this is
22 another text from you. Is that correct?

23 **A** Yes, sir.

24 **Q** And you say I've got somebody with cash
25 needing a half O. Do you mean you have a customer

1 with money who wants a half ounce of meth?

2 **A** Yes, sir.

3 **Q** And you sent this to who?

4 **A** Jimmy.

5 **Q** This is State's Exhibit Number 10. Again,
6 that's your information in there, in this phone?

7 **A** Yes, sir.

8 **Q** State's Exhibit Number 11. This is your
9 phone number?

10 **A** Yes, sir.

11 **Q** State's Exhibit Number 12. Is that your
12 phone number as well?

13 **A** Yes, sir.

14 **Q** State's Exhibit Number 13. Is that a text
15 from you as well?

16 **A** Yes, sir.

17 **Q** And when you say you have about \$2000 right
18 now, you have 2000, that means dollars?

19 **A** Yes, sir.

20 **Q** And you need a pickup for more. Do you --
21 are you referring to methamphetamine?

22 **A** Yes, sir.

23 **Q** And who did you send this text to?

24 **A** Jimmy.

25 **MR. FERNANDEZ:** Beg the Court's indulgence

1 one moment. (Pause.)

2 **BY MR. FERNANDEZ:**

3 **Q** Now, Stacey, are you happy to be here
4 today?

5 **A** No.

6 **Q** Are you nervous?

7 **A** Yes.

8 **Q** Has what you've said been the truth?

9 **A** Yes, sir.

10 **Q** And why are you cooperating with law
11 enforcement again?

12 **A** Cause I have a pile of kids that I've hurt
13 too much and put through too much and I -- I just
14 want to put this behind me.

15 **Q** And are you happy to come here and testify
16 against Mr. Duncan?

17 **A** No.

18 **Q** And is Mr. Duncan here today?

19 **A** Yes, sir.

20 **Q** Would you please tell us what he's wearing?

21 **A** A white shirt.

22 **Q** Is he seated at defense counsel over there?

23 **A** (Nods head.)

24 **Q** Thank you.

25 **MR. FERNANDEZ:** No further questions, Your

1 Honor.

2 **THE COURT:** Cross-examination.

3 **MR. WARDER:** Thank you, Your Honor.

4 **CROSS-EXAMINATION**

5 **BY MR. WARDER:**

6 **Q** Stacey, when you said that Jimmy Duncan
7 called you after your husband went to prison and you
8 went over there, was there anything improper about
9 that? Was he asking for you for sex or something?

10 **A** No, sir.

11 **Q** Was he asking to take advantage of you?

12 **A** No, sir.

13 **Q** Do you think he was genuinely concerned
14 about you?

15 **A** Yeah. He just wanted to help make sure I
16 took care of my kids.

17 **Q** Did Jimmy continue to try and help you?

18 **A** Yes, sir.

19 **Q** In fact, the day you were arrested, he
20 loaned you a car, didn't he?

21 **A** Yes, sir.

22 **Q** To try and get a job?

23 **A** And to go to my daughter's game.

24 **Q** He gave you what?

25 **A** So I could go to my little girl's game.

1 **Q** What kind of game did your little girl
2 have?

3 **A** Volleyball.

4 **Q** Now, did you know Jimmy to be a fellow that
5 was in the logging business?

6 **A** Yes, sir.

7 **Q** Worked in his family's business. Also
8 worked as a mechanic at his house?

9 **A** Yes, sir.

10 **Q** Was he a kind individual?

11 **A** Yes, sir.

12 **Q** Honest?

13 **A** Yes, sir.

14 **Q** Thank you.

15 **THE COURT:** All right. Any redirect?

16 **MR. FERNANDEZ:** Beg the Court's indulgence
17 just one moment. (Pause.)

18 Permission to approach?

19 **THE COURT:** Yeah.

20 **(WHEREUPON, a bench conference is held off the**
21 **record.)**

22 **MR. FERNANDEZ:** No further questions, Your
23 Honor.

24 **THE COURT:** All right. You may step down.

25 **MR. FERNANDEZ:** And permission to release

1 this witness from her subpoena.

2 **THE COURT:** Any objection?

3 **MR. WARDER:** No, Your Honor.

4 **THE COURT:** All right. You may be -- you
5 may be released.

6 **MR. UNDERWOOD:** Your Honor, the State calls
7 Jeffrey Mauldin.

8 **THE CLERK:** Please step over here to be
9 sworn in. Place your left hand on the Bible.
10 Sir, left hand on the Bible. Raise your right
11 hand as best you can.

12 **JEFFREY MAULDIN**

13 having first been duly sworn, testifies as follows:

14 **THE CLERK:** Please state your full name.

15 **THE WITNESS:** Jeffrey Shane Mauldin.

16 **THE CLERK:** Please have a chair.

17 **DIRECT EXAMINATION**

18 **BY MR. UNDERWOOD:**

19 **Q** Good afternoon, Mr. Mauldin.

20 **A** Afternoon.

21 **Q** Are you a co-conspirator in the same drug
22 trafficking organization that included the defendant
23 in this case, Jimmy Duncan?

24 **A** Yes, sir.

25 **Q** Have you already pled guilty in this case?

1 **A** Yes, sir.

2 **Q** And you had two charges that you pled
3 guilty to; is that right?

4 **A** Yes, sir.

5 **Q** You were charged with trafficking
6 methamphetamine and conspiracy?

7 **A** Yes, sir.

8 **Q** You were charged with possession of
9 methamphetamine?

10 **A** Yes, sir.

11 **Q** Did you enter into a plea agreement with
12 prosecution in this case?

13 **A** Yes, sir.

14 **Q** What is your understanding of your
15 obligations of that plea agreement?

16 **A** That I must be honest and tell the truth if
17 anybody took it to a trial.

18 **Q** So your understanding is that you have to
19 tell the truth whenever you're asked?

20 **A** Yes, sir.

21 **Q** In exchange for your guilty plea, did the
22 State agree to reduce your trafficking charge?

23 **A** Yes, sir.

24 **Q** So it's down to a lower level trafficking?

25 **A** Yes, sir.

1 **Q** What's your understanding of the sentence
2 recommendation that you're facing?

3 **A** Seven years.

4 **Q** That's significantly lower than what you
5 would have been facing, correct?

6 **A** Yes, sir.

7 **Q** You have a prior criminal history, don't
8 you?

9 **A** Yes, sir.

10 **Q** And that involves some burglary crimes?

11 **A** Yes, sir.

12 **Q** And some property crimes, stealing things?

13 **A** Yes, sir.

14 **Q** When you were involved with those
15 activities, were they drug-related?

16 **A** To a certain degree.

17 **Q** How old are you, Mr. Mauldin?

18 **A** 30.

19 **Q** How far did you go in school?

20 **A** I got my GED.

21 **Q** When did you get that?

22 **A** 2004, 2005.

23 **Q** How long have you been involved with
24 methamphetamine?

25 **A** I grew up and it was in the household.

1 Q When you say you grew up with it, what does
2 that mean?

3 A My dad was -- he got a conspiracy charge in
4 2001.

5 Q So your dad was involved with
6 methamphetamine?

7 A Yes, sir.

8 Q How old were you then?

9 A 7, 8, 9, 10, 11, 12, something like that.
10 Up to them ages.

11 Q Were you being exposed to meth at that
12 early age?

13 A Yeah.

14 Q Were you around people who were buying and
15 selling it?

16 A Yeah.

17 Q Were you around people who were
18 manufacturing it?

19 A Yeah.

20 Q So when you said you grew up around the
21 meth business, you literally grew up around the meth
22 business?

23 A Yes, sir.

24 Q How old were you when you first started to
25 use meth?

1 **A** 14, 15, something like that.

2 **Q** Who gave it to you?

3 **A** Just different people at different times.

4 **Q** The first time you used meth, who gave it
5 to you?

6 **A** I think I slipped some from my pops.

7 **Q** So the first time you got meth, you took it
8 from your dad?

9 **A** (Nods head.)

10 **Q** When you would use methamphetamine, how
11 would you use it?

12 **A** I would snort it, eat it. Some points, I
13 inject it.

14 **Q** Did you ever -- you said you snorted it,
15 you injected it and you ate it?

16 **A** Yeah, and smoked it.

17 **Q** And smoked it?

18 **A** Yeah.

19 **Q** When did you become involved with selling
20 methamphetamine?

21 **A** Just I might have knew somebody and took
22 somebody to somebody else at the point in time. You
23 know what I'm saying? Just whatever I was doing. Like
24 I said, I was mostly my best customer. You know what
25 I'm saying?

1 Q If you could lean forward a little bit.

2 A I said I was mostly my best customer at
3 most points in times. I may take somebody else's
4 money to somebody else to try to get some.

5 Q So did you consider yourself to have been
6 an addict?

7 A Yes, sir.

8 Q When you said you were your best customer,
9 you mean you were using a lot of your own product?

10 A Yes, sir.

11 Q Was it common for you to take people's
12 money and give it to other people? Explain that.

13 A I mean, I might know somebody with it and
14 then I might know somebody looking for it. You know
15 what I'm saying? I'd just make two ends meet. You
16 know what I'm saying? And there were beneficial
17 rewards just in the process.

18 Q You would put somebody that was looking to
19 buy with somebody that was willing to sell so you
20 could get a little piece?

21 A Yes, sir.

22 Q Did you ever sell meth trying to make
23 money?

24 A I wasn't trying to go broke but I wasn't
25 trying to make no money like that either. I was

1 really just supporting a habit.

2 Q Are you familiar with a woman named Nicole
3 Hogue?

4 A Yes, I am.

5 Q She have any nicknames?

6 A Sunshine.

7 Q How do you know Nicole Hogue?

8 A We had a history together. We used to talk
9 a long time ago and then we had some rocky years.
10 Then we ended up running back into each other.

11 Q Let's fast-forward to where you ran back
12 into each other. Did it have anything to do with
13 meth?

14 A Yeah.

15 Q What was the nature of your relationship
16 with her at that time?

17 A I just knew her from some different
18 friends. You know what I'm saying? We kept running
19 back into each other at different spots. Finally, we
20 ran into each other at a mutual friend's house. She
21 fronted me a half ounce of meth.

22 Q Okay. When was that?

23 A Sometime in 2014, I'm thinking.

24 Q Whose house was it?

25 A (Indiscernible.)

1 Q And you said she fronted you how much?

2 A A half ounce.

3 Q Tell the jury what it means for her to
4 front you a half an ounce.

5 A To give it to me for no money and then I
6 give them money for it if I sell it.

7 Q So you would get the meth and you wouldn't
8 pay for it. You're supposed to sell it and then give
9 her the money afterwards. Is that the only time
10 you've ever gotten meth from Nicole Hogue?

11 A No, there was more than one time.

12 Q When was the other time you would get meth
13 from her?

14 A She came to Jimmy's when I was staying with
15 Jimmy and she was short on her money. So she wanted
16 us to go with hers so she would have enough money so
17 she could get some more meth.

18 Q Okay. Let's talk about Jimmy. Why were you
19 at Jimmy's house?

20 A I was staying with Jimmy.

21 Q So you were living there?

22 A Yeah.

23 Q When were you living at Jimmy's house?

24 A Probably March, April, May of 2014.

25 Q When you say Jimmy, what's Jimmy's last

1 name?

2 **A** Duncan.

3 **Q** Is he in the courtroom right now?

4 **A** Yeah.

5 **Q** Where is he?

6 **A** Right there.

7 **Q** What's he wearing?

8 **A** A shirt and a tie.

9 **MR. UNDERWOOD:** Your Honor, I'd just ask
10 the record to reflect he identified the
11 defendant.

12 **BY MR. UNDERWOOD:**

13 **Q** Mr. Mauldin, did you ever sell drugs for
14 Jimmy Duncan?

15 **A** No.

16 **Q** Did you ever buy drugs from Jimmy Duncan?

17 **A** No.

18 **Q** Did you ever get drugs from Jimmy Duncan?

19 **A** No.

20 **Q** Did you ever see Jimmy Duncan with drugs?

21 **A** I seen him with drugs a couple of times.

22 **Q** Did you ever go with him when he would get
23 drugs?

24 **A** We went to get drugs together once or
25 twice.

1 Q - Where did you go?

2 A To Greenville.

3 Q Where in Greenville?

4 A At the Waffle House across from the Walmart
5 on 25.

6 Q Where else?

7 A Same spot. Oh, and Lowe's parking lot in
8 Easley.

9 Q And who did you go to get those drugs from?

10 A Sunshine.

11 Q Sunshine, and what did you get?

12 A She gave me the same thing she gave me the
13 first time.

14 Q Which was how much?

15 A A half ounce.

16 Q Did she give drugs to Jimmy Duncan as well?

17 A I think so, yeah.

18 Q Do you know how much?

19 A I'm not 100 percent positive. But I know
20 they had a deal. I think he gave her some money, like
21 I said, to cover what she was short. Then they worked
22 out the ends on that.

23 Q Was his deal separate from your deal at the
24 time?

25 A Yes.

1 **Q** So he would pay with his money and you were
2 getting your own?

3 **A** Yeah, I was getting mine on front.

4 **Q** Did you ever work for Nicole Hogue?

5 **A** Elaborate.

6 **Q** Did you ever sell drugs for Nicole Hogue?

7 **A** Just them two occasions.

8 **Q** Did you ever pick up money for Nicole
9 Hogue?

10 **A** Yes, I did.

11 **Q** What was that money for?

12 **A** That's -- she had me go pick up -- she had
13 got locked up on a conspiracy or something like that.
14 Solicitation to a felon. And she had me go pick up
15 all the money to take to the dude that she owed money
16 to.

17 **Q** Who was the dude that she owed money to?

18 **A** Some guy named Cheese.

19 **Q** What did Cheese look like?

20 **A** Spanish guy.

21 **Q** Did you actually meet with him in person?

22 **A** (Nods head.)

23 **Q** Did you give him the money?

24 **A** (Nods head.)

25 **Q** How much money was it?

1 **A** Close to like 2600, 2700. Something like
2 that. 2800.

3 **Q** Where did you collect that money from?

4 **A** I had \$500, Matt had a little bit of money
5 and then she had left some money in a box where she
6 got locked up at.

7 **Q** You collected all that money and gave it to
8 the person you knew as Cheese?

9 **A** The person I knew as Cheese, yeah.

10 **Q** Is that the only time you ever seen Cheese?

11 **A** No.

12 **Q** What other times had you seen Cheese?

13 **A** I seen Cheese on another occasion when I
14 took his money back to him. There was another
15 occasion I seen him when I took his money back to
16 him. On that occasion, he wanted me to -- he kept
17 telling me he had a job for me to do. This is where
18 we fought out. He was wanting me to --

19 **Q** We don't need to get into that. But was
20 that job related to selling drugs?

21 **A** Yeah.

22 **Q** Okay. And that was a job that Cheese wanted
23 you to do?

24 **A** Yeah.

25 **Q** Did he want you to sell drugs for him?

1 **A** This was not a job for me to go out and
2 sell drugs for him, sir. But yeah, I was already
3 selling drugs for him at the time.

4 **Q** You were selling drugs for Cheese?

5 **A** Yeah.

6 **Q** How much drugs had Cheese given you to sell
7 at that point?

8 **A** An ounce at a time.

9 **Q** An ounce at a time?

10 **A** That's it.

11 **Q** How much were you paying him for an ounce?

12 **A** \$1000.

13 **Q** \$1000 per ounce?

14 **A** Yeah.

15 **Q** Did he give it to you on front or did you
16 have to pay cash?

17 **A** On front.

18 **Q** How many times did you get drugs directly
19 from Cheese?

20 **A** Four, five tops.

21 **Q** Was it the same amount? An ounce each time?

22 **A** Yes.

23 **Q** You ever get more than an ounce from him?

24 **A** No.

25 **Q** How long did you live with Jimmy Duncan?

1 **A** About three months.

2 **Q** You know who lived with him before
3 yourself?

4 **A** It was just him, I believe.

5 **Q** You know if anybody lived with him after
6 you moved out?

7 **A** My old lady was there on house arrest.

8 **Q** Who is that?

9 **A** Karen.

10 **Q** I'm sorry?

11 **A** Karen.

12 **Q** Karen who?

13 **A** Collins.

14 **Q** You know if Karen Collins was involved in
15 selling drugs?

16 **A** I'm not sure exactly what they had going
17 on.

18 **Q** Do you know if Jimmy Duncan ever had
19 contact with Cheese?

20 **A** He took me -- he took me -- each time that
21 I went, he took me.

22 **Q** He took you to see Cheese?

23 **A** (Nods head.)

24 **Q** How many times?

25 **A** He only took me, like, twice.

1 **Q** On those two occasions, did he buy meth
2 from Cheese?

3 **A** There was an exchange made, yeah.

4 **Q** When you say there was an exchange made,
5 what does that mean?

6 **A** That mean they had their own deal going on.

7 **Q** Do you know how much meth Jimmy bought from
8 Cheese?

9 **A** It was a good bit.

10 **Q** What's a good bit?

11 **A** Probably a pound.

12 **Q** You said a pound? A pound of
13 methamphetamine? How many times would Jimmy buy that
14 amount from Cheese that you were aware of?

15 **A** All I know for a fact is one time.

16 **Q** Have you ever seen Jimmy with that amount
17 of meth on other occasions?

18 **A** I mean, I seen him with meth on other
19 occasions. I don't know exactly the amount for a fact
20 or if it was that same amount, but I know I seen him
21 with it on other occasions.

22 **Q** Was it a similar amount that you'd seen on
23 other occasions?

24 **A** Yes, sir.

25 **Q** How were you able to see it?

1 **A** I came to his house. I mean, the police was
2 looking for me.

3 **Q** So you were hiding from the police at
4 Jimmy's house?

5 **A** No, I wasn't. They was looking for me at
6 Jimmy's house. I was gone. Then I might come in. You
7 know what I'm saying?

8 **Q** So you would come in. Would you see Jimmy
9 with meth?

10 **A** Yeah, I seen him with some meth.

11 **Q** And it was about the same amount as the
12 pound?

13 **A** It was close to it.

14 **Q** How many different times did you see him
15 with that amount of meth?

16 **A** Maybe three or four.

17 **Q** Did he tell you where he got it from?

18 **A** No, I didn't ask. I mean, I could make an
19 assumption, but I mean I could say it was the same
20 person we been getting it from but I don't know for a
21 fact.

22 **Q** Did he tell you he got it from anywhere
23 else?

24 **A** Nah, we didn't talk about it too much like
25 that.

1 **Q** Was it the exact same packaging of meth or
2 was it a different package on each of those
3 occasions?

4 **A** I'm not quite sure. I wouldn't want to lie
5 on it and say it was the exact same. Probably
6 different, given the circumstance of time or
7 whatever. Like I said, in his case too, he was
8 probably one of his biggest customers also.

9 **Q** So he used meth as well?

10 **A** Yes, sir.

11 **Q** But he sold it as well as used it?

12 **A** He never sold it to me, no.

13 **Q** Did he sell it to other people?

14 **A** I mean, like I said, I wasn't there for all
15 of that. Like I said, I was staying there, but when I
16 went on the run, I was in and out so much that -- I
17 mean, I wasn't there every day directly to say he for
18 sure sold this to anybody or for sure sold that to
19 anybody. Much of what I see was him being his biggest
20 customer.

21 **Q** Are you aware of Jimmy Duncan ever getting
22 a large sum of money?

23 **A** Yeah, he had got a settlement back.

24 **Q** Were you around when he got that
25 settlement?

1 **A** That's when his meth habit went from one
2 level to the next. You know what I'm saying? That's
3 all I seen was he was using just here and there
4 sporadically. Mostly, I was just giving it to him
5 really at that point just because he was letting me
6 stay there. Then when he got his money, he started
7 buying more. I don't know if it was the quantity at a
8 cheaper price. But like I said, he was his biggest
9 customer.

10 **Q** Did you ever see other people come to his
11 house to buy meth?

12 **A** I seen a bunch of people over there. I seen
13 different girls over there and stuff.

14 **Q** Who are these different girls you'd see
15 over there?

16 **A** He had a lot of little girlfriends on the
17 side.

18 **Q** Who were they?

19 **A** One was this girl named Cricket, I think.
20 She had a daughter that come over there. Some other
21 girl named Jessica, I'm thinking. But as far as any
22 transactions, I didn't see any transactions. Like I
23 say, he mostly just liked to do what he did and get
24 high and be with them girls.

25 **Q** What other girls would you see come over

1 there?

2 **A** Brandy O'Bryant, Stacey Kelley.

3 **Q** Is it your understanding they were coming
4 there for meth?

5 **A** I mean, I know they come over there to get
6 high. I know that. You know what I'm saying? Like I
7 said, he had a lot of down low business with the
8 girls. You know what I'm saying? He wasn't trying to
9 let this one know that he was with this one kind of
10 thing. It wasn't nothing just blankly out there in
11 nobody's face. You know what I'm saying? It wasn't
12 like he was trying to do nothing out there in front
13 of me or nothing like that.

14 **Q** Did you ever see Stacey Kelley buying meth
15 from Jimmy Duncan?

16 **A** No, Stacey bought meth from me a couple of
17 times. And when I got locked up, just looking back at
18 -- you know what I'm saying -- just looking back at
19 the paperwork, I seen that she said she was buying
20 from him.

21 **Q** Did you ever see her go over there to buy
22 meth when you were there?

23 **A** When she was coming over there when I was
24 there, it was mostly to see me. Like I said, the
25 allegations from the motion that I read, I know that

1 she was coming over there after the fact. But that's
2 more or less hearsay.

3 Q I don't want you to talk about what you
4 heard from other people. I'm asking about what you've
5 seen. Have you ever seen Stacey Kelley come over
6 there to buy meth?

7 A I seen her -- yes, I seen her come over
8 there and she had meth. You know what I'm saying? I
9 didn't see her go into the room and buy it from him,
10 no.

11 Q You saw her at Jimmy's house with meth?

12 A I seen her at Jimmy's house with meth.

13 Q Did you and Jimmy Duncan ever have a
14 falling out?

15 A We never actually had words. But to hear
16 everybody tell it, we did. But we never had words. He
17 was always sort of like a father figure really. I
18 mean, there was allegations out there saying Jimmy
19 said this or Jimmy said that, but me and Jimmy never
20 had words. We never had an actual falling out. No.

21 Q What's the largest amount of
22 methamphetamine you ever saw Jimmy Duncan with?

23 A Like I said, it was -- it could have been
24 that same bag. It could have been less or bagged up
25 different. I wouldn't never see over that.

1 **Q** How much was it?

2 **A** A pound.

3 **Q** One pound?

4 **A** Yes.

5 **Q** You said you lived in Jimmy Duncan's house
6 for about three months?

7 **A** Yes, sir.

8 **Q** Did you ever know him to have a safe?

9 **A** Yeah, he had a safe.

10 **Q** Where was the safe kept?

11 **A** It was in his bedroom.

12 **Q** Do you know what he kept in the safe?

13 **A** Well, I never actually went in the safe
14 myself, nothing like that. But I mean...

15 **Q** Were you ever around when he would open it?

16 **A** Yeah, I was, but I wasn't just, like,
17 trying to pry in there and look at it. You know what
18 I'm saying?

19 **Q** Did you have access to the safe?

20 **A** No, I didn't have no access to the safe. I
21 didn't know the combination or nothing.

22 **Q** Did he give access to the safe to just
23 anybody?

24 **A** I wouldn't think so.

25 **Q** Do you know anyone else that had access to

1 the safe?

2 **A** Like I said, I wasn't there. But, I mean, I
3 don't know 100 percent for a fact either way yes or
4 no. So I can't really just answer that without
5 feeling like -- you know what I'm saying? I know that
6 there was some occasions when maybe there was some
7 stuff left out or something like that.

8 **Q** When you say there was some stuff left out,
9 what are you talking about?

10 **A** You know what I'm saying? The only time
11 after that -- to do anything was my ex-girlfriend or
12 whatever, she had gave me -- she had went in -- she
13 had got into his stuff somehow. So I know she could
14 have had some type of access to it. She gave me some
15 of his stuff. You know what I'm saying?

16 **Q** Did you actually see her get it out of the
17 safe?

18 **A** No, I didn't see her get it out of the
19 safe.

20 **Q** Was it out of somewhere else?

21 **A** She had it on her possession.

22 **Q** Who is your ex-girlfriend?

23 **A** Karen Collins.

24 **Q** This was at Jimmy's house?

25 **A** Yeah, that was at Jimmy's.

1 Q How much meth was it?

2 A She just gave me a half ounce. I think she
3 actually might have took it from him. She might have
4 had access to the safe, too.

5 Q It was a half an ounce that she gave you?

6 A Yes.

7 Q Please answer any questions opposing
8 counsel has for you.

9 THE COURT: Cross-examination.

10 CROSS-EXAMINATION

11 BY MR. WARDER:

12 Q Wouldn't you tell us that you entered a
13 plea deal that was quite a bit better, it was 23
14 years better, wasn't it?

15 A Yes, sir.

16 Q What you were charged with carries a
17 mandatory minimum of 30 years?

18 A 25 to 30.

19 Q Okay. And you pled to 7?

20 A I pled to 7.

21 Q So you got a 23-year benefit or possible
22 23-year benefit?

23 A Yes, sir.

24 Q Now, you knew Jimmy for how long?

25 A A year, two years maybe.

1 Q Was Jimmy a kind individual?

2 A Yeah. Yeah.

3 Q Pleasant to be around?

4 A Yes, sir.

5 Q Was Jimmy selfish?

6 A No, sir.

7 Q You pled guilty to conspiracy; is that
8 right?

9 A Yes, sir.

10 Q Who did you conspire with?

11 A I felt like that doing what I was doing was
12 conspiring. I mean, I was trying -- I was supporting
13 a habit, really.

14 Q Did you ever sit down and agree with
15 anybody that you guys were going to traffic drugs?

16 A I mean, we talked about it on a level that
17 we went and got drugs together.

18 Q And you -- did you all agree you were going
19 to help each other do this thing?

20 A It was sort of, I did my thing, he did his
21 thing.

22 Q I don't just mean with Jimmy. Did you
23 conspire with anybody else? Was there a conspiracy,
24 is what I'm really asking.

25 A I'm not sure the full statute or whatever

1 I'm pleading to on that, but I felt like I was in a
2 bind. They was offering me 7, so I went ahead and
3 took the 7 on the conspiracy charge. Yes, sir. So I
4 mean, did I conspire? Yes. There was points in time
5 that I did sell methamphetamine, yes. I sold
6 methamphetamine.

7 Q Did you plead guilty because it was a
8 better deal?

9 A I mean, that's the real reason I pled was I
10 was trying to get a good deal.

11 Q Better than taking a chance?

12 A I felt like I was guilty.

13 Q Now, you've talked about a pound. The State
14 kept asking you was it different. Could have been the
15 same pound all the time?

16 A I mean, it's a possibility, yeah. A
17 possibility. I mean, I don't know for sure sure. I
18 can't say one way or another. You know what I'm
19 saying?

20 Q And you said that it was your ex-girlfriend
21 that gave you the half ounce and that was who?

22 A That was Karen.

23 Q Okay. And you don't know whether she got
24 out it out of the safe when he didn't know what
25 happened?

1 **A** She said -- she pretty much told me she had
2 stole it from him, somehow, some way, shape, form or
3 fashion.

4 **Q** Okay. She had stole it and gave it to you?

5 **A** Yeah.

6 **Q** Okay. Did Jimmy use as much as you did?

7 **A** If not more.

8 **Q** And you told us Jimmy got a settlement out
9 of an injury?

10 **A** To the best of my knowledge, I think he had
11 -- a tree had fell on him. He had a workmans' comp
12 settlement back for, I think, about 67,000.

13 **Q** Okay. And when that \$67,000 settlement came
14 to Jimmy, he became his best customer?

15 **A** Yes, sir.

16 **Q** And you said that Jimmy had a lot of
17 girlfriends?

18 **A** Yeah, he had a lot of girlfriends.

19 **Q** Jimmy wasn't doing anything wrong, was he?

20 **A** No, he wasn't married. He wasn't obligated
21 to neither one of the girls, so no, sir. Not in my
22 eyes.

23 **Q** Okay. And did everybody come to the house
24 to use drugs and get high?

25 **A** That's what they were coming over there

1 for. They was just trying to get in for free. You
2 know what I'm saying?

3 Q Jimmy always treat you fair?

4 A More than fair.

5 Q Thank you.

6 THE COURT: Any redirect?

7 MR. UNDERWOOD: Court's indulgence, Your
8 Honor. (Pause.)

9 Nothing further, Your Honor.

10 THE COURT: All right. You may step down.
11 Call your next witness.

12 MR. UNDERWOOD: Your Honor, the State calls
13 Kimberly Turner.

14 THE COURT: Come around, Ms. Turner.

15 THE CLERK: Please step forward and be
16 sworn in. Place your left hand on the Bible and
17 raise your right hand.

18 KIMBERLY TURNER

19 having first been duly sworn, testifies as follows:

20 THE CLERK: Please be seated. Thank you.

21 DIRECT EXAMINATION

22 BY MR. UNDERWOOD:

23 Q Good afternoon, Ms. Turner.

24 A Afternoon.

25 Q Ms. Turner, are you charged in this same

1 conspiracy that we are here for trial today?

2 **A** I am.

3 **Q** You have an additional charge as well or
4 were you just charged in the conspiracy?

5 **A** I have some possession charges.

6 **Q** At this point, have you pled guilty to
7 those charges?

8 **A** No, sir.

9 **Q** You've agreed to cooperate with
10 prosecution?

11 **A** Yes, sir.

12 **Q** Why is that?

13 **A** I have a 13-year-old daughter at home and I
14 really don't want to miss her life. She needs me in
15 her life, cause when I was 13 is when I started. I
16 didn't have the lady that raised me in my life. And
17 that's when my life changed.

18 **Q** Let's talk about that. Is that how old you
19 were when you were introduced to drugs?

20 **A** It was around that age.

21 **Q** What kind of drugs were you introduced to?

22 **A** Crank.

23 **Q** You said crank? Is that a type of
24 methamphetamine?

25 **A** It is.

1 Q Who introduced you to that?

2 A She was my best friend at the time, but
3 she's passed away now.

4 Q And did you start using methamphetamine on
5 a regular basis?

6 A Not when I was that young.

7 Q When you got a little bit older?

8 A Yeah.

9 Q How old were you when you started using it
10 on a regular basis?

11 A I used it on and off. Pretty much when I
12 graduated high school and went to college, I was on
13 it a little more then. And then I was on and off
14 again after that.

15 Q You mentioned going to college. Did you
16 graduate?

17 A I did not graduate college. I did graduate
18 high school.

19 Q What happened to college?

20 A I got to hanging out with the wrong people
21 and laying out of school to go have fun, what I
22 thought was fun, and I ended up quitting.

23 Q Who are the people you were hanging out
24 with?

25 A Brandy O'Bryant and my friend -- a couple

1 of other friends from back then.

2 Q Were you smoking methamphetamine with them?

3 A Yes.

4 Q Ms. Turner, how old are you?

5 A 30.

6 Q So what time frame are we talking about?

7 About 8, 10 years ago?

8 A This was about 2005.

9 Q When did you get involved with selling that
10 methamphetamine?

11 A Not until way later. I just used for years.

12 Q You used for a long time. Would you
13 consider yourself to have been an addict?

14 A Yeah, but I didn't know that at the time. I
15 was in denial.

16 Q Looking back now, would you say you were an
17 addict?

18 A Yeah.

19 Q Since you got in trouble for this case,
20 have you had an opportunity to go into any kind of
21 rehabilitation programs?

22 A I did. I signed up and I went to Faith
23 Homes and completed the program, and that program
24 changed my life.

25 Q In what way?

1 **A** I got saved while I was there. I got clean.
2 I got the NA and AA teachings, Christian teachings. I
3 got my real dad back in my life, which I never knew.
4 And I'm home with my daughter now. So it changed
5 everything. And I have a full-time job now.

6 **Q** How long have you been clean?

7 **A** A little over 100 days.

8 **Q** Where are you working?

9 **A** Ryobi OWT.

10 **Q** What do you do there?

11 **A** I'm an inspector.

12 **Q** What do you inspect?

13 **A** Lawn mowers.

14 **Q** Okay. Is that part of their refurbishing
15 operation?

16 **A** Yes.

17 **Q** Are you familiar with the defendant in this
18 case, in this trial, Jimmy Duncan?

19 **A** Yes.

20 **Q** How do you know him?

21 **A** He was a friend of the family ever since I
22 was younger.

23 **Q** What kind of relationship have you had with
24 him throughout your life?

25 **A** He's always been someone who was there. If

1 I ever needed anything, if I didn't have groceries,
2 he would help me get groceries. He worked on our
3 cars.

4 Q So you've known Jimmy Duncan for a good
5 part of your life. Have you ever been to his house?

6 A Yes.

7 Q Where did he live?

8 A In Pickens.

9 Q You've been a close friend of Jimmy
10 Duncan's, do you know if he's ever sold
11 methamphetamine?

12 A Yes.

13 Q When did you first know that he was selling
14 methamphetamine?

15 A 20 -- 2014.

16 Q How do you know starting in 2014 he was
17 selling methamphetamine?

18 A I got methamphetamine from him.

19 Q How much methamphetamine did you get from
20 him that first time?

21 A Like a quarter ounce.

22 Q A quarter of an ounce?

23 A Yeah.

24 Q Is that seven grams?

25 A It is.

1 **Q** Is that the only time you got
2 methamphetamine from him?

3 **A** No.

4 **Q** Did he make you pay for it that time, that
5 first time?

6 **A** No.

7 **Q** Did you ever pay him for it?

8 **A** I got it on front.

9 **Q** What does that mean to get it on front?

10 **A** It means you pay for it later.

11 **Q** Do you remember when in 2014 it was you got
12 that first quarter ounce?

13 **A** I don't remember what exact time it was.

14 **Q** Do you remember if it was the beginning of
15 the year, the end of the year?

16 **A** It might have been around the end of the
17 year before that. I think 2014 is when I went to
18 jail.

19 **Q** So it would have actually been 2013?

20 **A** Yeah.

21 **Q** How long was it after that first time you
22 got a quarter ounce on front from Jimmy Duncan that
23 you got more methamphetamine from Jimmy Duncan?

24 **A** Months.

25 **Q** I'm sorry?

1 **A** It was months.

2 **Q** It was months before you got it again?

3 **A** I mean, it happened for a few months.

4 **Q** It happened for a few months. After you got
5 that first quarter ounce, that first seven grams, how
6 long did it take you to pay him back?

7 **A** Probably a couple of days.

8 **Q** Was that because you sold it?

9 **A** Mostly, probably I did it, but yeah.

10 **Q** So you used some of it and sold some of it?

11 **A** Yeah.

12 **Q** And you paid him back. What happened when
13 you paid him back?

14 **A** I would get a little bit more.

15 **Q** How much did you get that time?

16 **A** I went up to a half ounce.

17 **Q** You went up to a half ounce after the
18 quarter ounce? How often would you -- what was your
19 price for a half ounce?

20 **A** I think it was \$450.

21 **Q** \$450 for a half ounce? How often -- is that
22 right? \$450 for a half ounce?

23 **A** Yeah.

24 **Q** How often would you get half an ounce from
25 Jimmy Duncan?

1 **A** Probably once a week.

2 **Q** So half an ounce for once a week. Did you
3 ever get more than once a week?

4 **A** There might have been a couple of times I
5 did.

6 **Q** Did you ever get more than half an ounce?

7 **A** There was probably a time I did. One time.

8 **Q** How much did you get that time?

9 **A** An ounce.

10 **Q** A full ounce?

11 **A** (Nods head.)

12 **Q** Could you speak out loud please?

13 **A** Yes.

14 **Q** Is that 28 grams roughly?

15 **A** Yes.

16 **Q** How much did he charge you for the whole
17 ounce?

18 **A** 900.

19 **Q** \$900?

20 **A** Uh-huh.

21 **Q** From the time that you started buying the
22 half ounce a week or so, how long did that last that
23 you were getting at least half an ounce a week from
24 Jimmy Duncan of methamphetamine?

25 **A** Several months.

1 **Q** What's several months? How long did this
2 last until?

3 **A** Eight months maybe.

4 **Q** So for about eight months, you would get
5 half an ounce a week, every week?

6 **A** I mean, there were some times when I -- you
7 know, I didn't do every single week.

8 **Q** Generally, an ounce a week for eight
9 months?

10 **A** A half ounce.

11 **Q** I'm sorry. A half an ounce a week for eight
12 months?

13 **A** (Nods head.)

14 **Q** Did you always have the same price of \$450
15 per half ounce?

16 **A** Yeah.

17 **Q** Did you always get it on front or did you
18 have to pay cash?

19 **A** I usually got it on front.

20 **Q** You know anybody else that would come to
21 Jimmy's house to get methamphetamine?

22 **A** I was in and out.

23 **Q** When you say you were in and out, what do
24 you mean?

25 **A** I mean, I would just go there and I

1 wouldn't stay very long. There would be people there
2 working on cars and stuff, but I don't know what
3 their business was there.

4 Q Did you want to know what their business
5 was there?

6 A No.

7 Q Do you know where Jimmy Duncan kept his
8 drugs?

9 A I -- I assume.

10 Q Did you ever see where he kept his drugs?

11 A I would think he kept them in the safe.

12 Q Did you ever see a safe in his house?

13 A I seen the safe.

14 Q Where was the safe?

15 A It was in his room.

16 Q Where in his room?

17 A In the floor.

18 Q Did you ever see him with more
19 methamphetamine than what he gave you?

20 A Yes.

21 Q How much methamphetamine would you see him
22 with at a time?

23 A I don't know. I know he would have more
24 than what I got.

25 Q How much more?

1 **A** (No audible response.)

2 **Q** In comparison to the half ounce you were
3 getting, how much more did he have?

4 **A** Probably more than that. Double that maybe.
5 I don't know.

6 **Q** Did you ever see him measure out the drugs
7 for you?

8 **A** No.

9 **Q** Tell the jury how a typical transaction
10 would take place when you would go there for drugs.

11 **A** I would just get them and leave and pay him
12 later.

13 **Q** Did you ever call ahead or did you just
14 show up unannounced?

15 **A** I would call and make sure he was home or
16 make sure somebody was there.

17 **Q** Did you ever get drugs from anyone else
18 there at Jimmy's house?

19 **A** Yes, I did.

20 **Q** Who?

21 **A** Brandy O'Bryant.

22 **Q** Anyone else?

23 **A** Karen Collins.

24 **Q** Anyone else?

25 **A** No.

1 Q Do you know whose drugs you were getting?

2 A (No audible response.)

3 Q When you would get drugs from Brandy
4 O'Bryant or Karen Collins, was it their drugs or was
5 it Jimmy's drugs?

6 A That didn't really matter to me.

7 Q Who did you pay the money to?

8 A Jimmy.

9 Q When did you stop selling methamphetamine?

10 A When I went to jail.

11 Q And have you been out of that game ever
12 since?

13 A Yeah, but I did still use it every once in
14 a while after that. I only been clean for a little
15 over 100 days.

16 Q And are you -- are you still close with
17 Jimmy Duncan?

18 A Uh --

19 Q You still think fondly of him?

20 A I mean, I think he's a good person.

21 Q Does that change the fact that he used to
22 sell you methamphetamine?

23 A No.

24 Q Is the Jimmy Duncan we've been talking
25 about in the courtroom here today?

1 **A** Yes.

2 **Q** Where is he?

3 **A** (Indicating.)

4 **Q** What is he wearing?

5 **A** White shirt and a tie.

6 **MR. UNDERWOOD:** Your Honor, again, for the
7 record, I'd ask the record to reflect that she
8 identified the defendant.

9 **THE COURT:** So noted.

10 **BY MR. UNDERWOOD:**

11 **Q** Ms. Turner, is everything you've testified
12 here to today been the truth?

13 **A** Yes.

14 **Q** Please answer any questions opposing
15 counsel has for you.

16 **THE COURT:** Mr. Warder.

17 **CROSS-EXAMINATION**

18 **BY MR. WARDER:**

19 **Q** You said that Jimmy bought groceries if you
20 needed them and that kind of thing?

21 **A** Yes.

22 **Q** How would he know you needed something or
23 how would -- would you just show up or would he ask
24 you if you needed help? How would that work out?

25 **A** If I asked him.

1 **Q** Did there come an occasion that you did ask
2 him?

3 **A** Yes.

4 **Q** Was he generous when he bought your
5 groceries?

6 **A** Always.

7 **Q** When you went to his home in Pickens, were
8 you ever there on social or was it strictly to drop
9 in and out to get drugs?

10 **A** Well, I usually was in and out there. Well,
11 I did hang out with him sometimes. We'd go to LKQ and
12 stuff like that.

13 **Q** Okay. Was Jimmy nice to other people when
14 he met other people?

15 **A** He was nice to everybody.

16 **Q** Kind and polite? Was he kind and polite?

17 **A** Kind and polite?

18 **Q** Yes.

19 **A** Yes.

20 **Q** If Jimmy hadn't sold you the meth, would
21 you have went somewhere else and got it?

22 **A** Yeah.

23 **Q** Thank you.

24 **THE COURT:** Any redirect?

25 **MR. UNDERWOOD:** Nothing further, Your

1 Honor.

2 **THE COURT:** All right. You may step down.

3 All right. I think that's a good point for
4 a break. We've been at it about an hour and a
5 half. So I'm going to ask that you go back to
6 your jury room. Again, don't discuss the case
7 amongst yourselves. We'll bring you right back
8 out.

9 (WHEREUPON, the jury exits at approximately
10 3:24 p.m.)

11 **THE COURT:** All right.

12 **MR. UNDERWOOD:** Your Honor, we just ask
13 that Ms. Turner be released from her subpoena.

14 **THE COURT:** All right. Any objection?

15 **MR. WARDER:** No, Your Honor.

16 **THE COURT:** All right. Mr. Warder, I have
17 previously ruled that I was not going to allow
18 any character in, but you are trying awful hard
19 to get his character in the record. I'm just
20 saying, you're trying awful hard to get the
21 character in the record and if it gets in the
22 record, you know what happens. So it sounds like
23 that's a possibility. So I'm just warning you.
24 All right. That's all I've got to say.

25 **MR. WARDER:** Just trying to paint the true

1 pictures.

2 **THE COURT:** Sounds like they want to paint
3 a true picture as well. I'm just saying. I ruled
4 in their way. I'm just saying. All right. We'll
5 take a 10-minute break.

6 **(WHEREUPON,** a recess is taken from approximately
7 3:26 p.m. to 3:46 p.m.)

8 **THE COURT:** All right. Y'all ready? The
9 jury's coming in.

10 **(WHEREUPON,** the jury enters at approximately
11 3:47 p.m.)

12 **THE COURT:** All right. Ladies and
13 Gentlemen, we will now proceed with additional
14 testimony.

15 Mr. Underwood?

16 **MR. UNDERWOOD:** Your Honor, the State calls
17 Timothy Ross.

18 **THE CLERK:** Please step forward and be
19 sworn in, sir. Step over here, if you would.
20 Place your left hand on the Bible. Raise your
21 right hand.

22 **TIMOTHY ROSS**
23 having first been duly sworn, testifies as follows:

24 **THE CLERK:** Please state your full name.

25 **THE WITNESS:** Timothy Ross.

1 **THE CLERK:** Okay. Please be seated.

2 **DIRECT EXAMINATION**

3 **BY MR. UNDERWOOD:**

4 **Q** Good afternoon, Mr. Ross. How old are you?

5 **A** 28.

6 **Q** How far did you go in school?

7 **A** GED.

8 **Q** Where are you originally from?

9 **A** Pickens County.

10 **Q** You lived in Pickens County your whole
11 life?

12 **A** Yes.

13 **Q** You married?

14 **A** No, sir.

15 **Q** You have any children?

16 **A** Yes, sir.

17 **Q** How many?

18 **A** Two.

19 **Q** How old are they?

20 **A** 10 and 7.

21 **Q** Where are they now?

22 **A** They are with their mother in Georgia.

23 **Q** Mr. Ross, based on your attire, you're
24 currently incarcerated?

25 **A** Yes, sir.

1 **Q** And are you actually in the Department of
2 Corrections right now?

3 **A** SCDC, yeah.

4 **Q** And why are you in the Department of
5 Corrections?

6 **A** Assault and Battery High and Aggravated
7 Nature and Discharging a Firearm into a Dwelling.

8 **Q** And you are currently serving time on that?

9 **A** Yes, sir.

10 **Q** Do you have other charges as well? Drug-
11 related charges?

12 **A** Conspiracy to traffic 400 grams,
13 Trafficking 10 to 28 grams, Possession of a Weapon
14 during a Violent Crime.

15 **Q** And is that from a separate case from this
16 trial here today?

17 **A** Yes, sir.

18 **Q** Have you already pled guilty to those
19 charges?

20 **A** Yes, sir.

21 **Q** Are you awaiting sentencing on that case?

22 **A** Yes.

23 **Q** Am I the one prosecuting that case?

24 **A** Yes.

25 **Q** Prior to pleading guilty in that case, did

1 you agree to cooperate with law enforcement?

2 **A** Yes.

3 **Q** As part of that cooperation, did you do an
4 interview with them?

5 **A** Yes.

6 **Q** Where you told them about all the different
7 people that you knew about?

8 **A** Yes.

9 **Q** Why did you agree to cooperate with law
10 enforcement?

11 **A** Part of the plea bargain that I took stated
12 that if I did not cooperate with law enforcement that
13 my plea would be null and void and I would go to
14 trial. And I did not want to go to trial.

15 **Q** Is that because you were guilty of being a
16 drug dealer?

17 **A** Yes.

18 **Q** And as part of that plea agreement, did you
19 get a favorable sentence recommendation?

20 **A** Yes.

21 **Q** And what is that?

22 **A** 12 years.

23 **Q** And is that to run concurrent with the time
24 you're already serving in the Department of
25 Corrections?

1 **A** Yes.

2 **Q** How old were you when you first got
3 involved with drugs?

4 **A** Probably about 13 or 14 years old.

5 **Q** What kind of drugs did you first get
6 involved with?

7 **A** Marijuana.

8 **Q** How did that happen?

9 **A** I guess it's the neighborhood I grew up in.
10 It was just a regular thing, you know. Where I grew
11 up at, marijuana is not a big deal. A lot of people
12 smoke pot, I guess.

13 **Q** Did you move on to other harder drugs?

14 **A** Yes.

15 **Q** How old were you when that happened?

16 **A** About 18 -- 17 or 18 years old.

17 **Q** What drugs did you move on to?

18 **A** Cocaine, methamphetamines.

19 **Q** When you would get methamphetamine, how
20 would you use it?

21 **A** Smoke it, inject it, anyway I could really.

22 **Q** How often would you use methamphetamine?

23 **A** Daily.

24 **Q** Would you consider yourself an addict?

25 **A** Yes.

1 Q At some point, did you start selling drugs?

2 A Yes.

3 Q How old were you then?

4 A I was probably about 18, maybe younger.

5 Q What kind of drugs were you selling?

6 A Marijuana, cocaine. Started selling meth
7 when I was about 24.

8 Q Move to the methamphetamine when you were
9 24, so that would have been four years ago?

10 A Yeah.

11 Q Who were you getting the methamphetamine
12 from that you were selling?

13 A Adonis Parker (phonetic spelling).

14 Q Is that somebody from your case, not
15 related to this trial?

16 A Yes, sir.

17 Q At some point, did you stop getting
18 methamphetamine from Adonis Parkerr?

19 A Yes.

20 Q And why was that?

21 A He had gotten in a lot of trouble and he
22 quit selling, so I had to find somewhere else.

23 Q Who did you find?

24 A Nicole Hogue.

25 Q When was that, to the best you can

1 remember?

2 **A** I think it was around March 2013.

3 **Q** Okay. Now, how did you meet Nicole Hogue?

4 **A** I knew her previously. She used to buy
5 drugs from me.

6 **Q** She used to buy drugs from you?

7 **A** Yeah.

8 **Q** And she then get above you on the totem
9 pole, so to speak?

10 **A** Yeah.

11 **Q** So starting March 2013, were you buying
12 drugs from Nicole Hogue or did you just meet her
13 then?

14 **A** I was buying -- I was buying from her then.

15 **Q** How much would you buy from her at a time,
16 starting in March 2013?

17 **A** Anywhere from a quarter ounce to an ounce.

18 **Q** All right. So that's 7 grams to 28 grams?

19 **A** Yeah.

20 **Q** How often would you buy from her?

21 **A** Every day.

22 **Q** Every day?

23 **A** Every day.

24 **Q** So a quarter ounce to an ounce every day?

25 **A** Yeah.

1 Q How much did she charge you?

2 A Anywhere from \$400 for a quarter ounce to
3 \$1000 for an ounce.

4 Q How often would you buy quarter ounces?

5 A I mean, I would buy something every day. It
6 varied on how much money I had or whatever I needed,
7 you know, that's what she'd give me. So it would go
8 up and down between a quarter ounce and an ounce.

9 Q So it varied depending on the day?

10 A Yeah.

11 Q Were you using all that methamphetamine?

12 A Was I using all of it?

13 Q Yes, were you using all of it?

14 A No.

15 Q Okay. You seemed surprised when I asked you
16 that. Why?

17 A Cause that's a lot of meth to be using.

18 Q When you would use meth, how much would you
19 use at a time?

20 A Some times up to three and a half grams a
21 day.

22 Q You ever use a half a pound a day or
23 anything like that?

24 A No.

25 Q So would you say that an ounce a day is

1 much more than anyone would use?

2 **A** Yes.

3 **Q** How long were you buying a quarter ounce to
4 an ounce a day from Nicole Hogue?

5 **A** From March up until January 2014.

6 **Q** And was it at that same rate the whole
7 time?

8 **A** Yes.

9 **Q** So from March 2013 til January of 2014?

10 **A** Yes.

11 **Q** Through her, did you meet any other
12 methamphetamine dealers?

13 **A** Yes.

14 **Q** Who?

15 **A** Larry Coleman.

16 **Q** Who's Larry Coleman?

17 **A** That was her supplier. That was where she
18 was getting the meth from.

19 **Q** What does Larry Coleman look like?

20 **A** He's a heavy-set, black male.

21 **Q** Have you ever met Larry Coleman in person?

22 **A** Yes.

23 **Q** Did you ever deal with Larry Coleman?

24 **A** Yes.

25 **Q** What was the nature of your dealings?

1 **A** Nicole had got locked up. I couldn't get
2 anything from her. She gave a couple of people his
3 phone number and told us just to call him. So that's
4 what we did.

5 **Q** Was Larry Coleman known by any other names?

6 **A** Yes, his name was Bubba.

7 **Q** What did you call him?

8 **A** Bubba. I called him Bubba.

9 **Q** So when you made contact with Bubba to buy
10 methamphetamine, did he accommodate you?

11 **A** Yes.

12 **Q** How much methamphetamine did you buy from
13 him?

14 **A** Anywhere from a quarter ounce to an ounce.
15 The same as I was getting from her.

16 **Q** When did that begin?

17 **A** I don't remember the exact date. She had
18 went to jail in Anderson. For the little bit of time
19 she was in jail, I dealt with Bubba and I dealt with
20 him a few times after that. I don't remember the
21 date.

22 **Q** Tell me roughly how many times did you deal
23 with him.

24 **A** 15 times.

25 **Q** And each of those transactions were

1 somewhere between a quarter ounce and an ounce?

2 **A** Yes.

3 **Q** What was Bubba's price?

4 **A** Bubba's price was 650 on a half ounce and
5 900 on an ounce.

6 **Q** Now, the kind of methamphetamine that you
7 were getting from Bubba and Nicole Hogue, what type
8 of methamphetamine was it?

9 **A** Ice.

10 **Q** Ice? Crystal ice form?

11 **A** Yes.

12 **Q** Do you know if they had the same suppliers?
13 Was it the same meth?

14 **A** It was the same meth, yeah.

15 **Q** Did you ever meet Larry Coleman's supplier?

16 **A** I never met him.

17 **Q** What do you know about his supplier?

18 **A** I know that his name's Cheese. He's a
19 Mexican named Cheese. That's all I know about him.

20 **Q** You ever dealt with him personally?

21 **A** (Shakes head.)

22 **Q** When you would buy from Larry Coleman,
23 Bubba, where did you go to get the meth?

24 **A** To his house.

25 **Q** Where is that?

1 **A** Off Highway 25 in Greenville.

2 **Q** What -- what kind of house does he live in?

3 **A** Two story house.

4 **Q** How often would you go there? Every time?

5 Sometimes?

6 **A** Every time.

7 **Q** Do you know if he lived anywhere else other
8 than that house?

9 **A** Before he lived there, he lived in a
10 trailer. I don't remember exactly where it was. It
11 was in Greenville, too. I know he had moved out of
12 the trailer and bought that house. That was about the
13 time that I started dealing with him.

14 **Q** So by the time you were dealing with him,
15 he always lived in the house?

16 **A** Yeah.

17 **Q** When you would buy from Nicole Hogue, where
18 would you go to get the meth?

19 **A** Usually in a hotel room or anywhere. She
20 stayed from place to place, so I would just meet her
21 wherever she was at. A lot of times, she would drive
22 around and come to wherever we were at. Wherever I
23 was.

24 **Q** What town or county are you talking about?

25 **A** Pickens County, Greenville County.

1 Q So you would buy from her in both counties?

2 A Yes.

3 Q Was it at hotels? Any point in particular?

4 A The Best Western.

5 Q Which Best Western?

6 A Red Roof -- Red Roof Inn was where we were

7 at most of the time. That's where she was at.

8 Q Which Red Roof Inn?

9 A On Laurens Road.

10 Q On Laurens Road?

11 A Yeah. Greenville.

12 Q Is that common practice for people selling

13 meth to use hotels?

14 A Yes.

15 Q Why is that?

16 A Cause traffic -- it's easier to hide the

17 traffic in a hotel.

18 Q When you say traffic, you mean foot

19 traffic?

20 A Car traffic.

21 Q So people coming and going?

22 A Yes.

23 Q Have you ever met the defendant in this

24 case, Jimmy Duncan?

25 A I met him today on the way to the

1 courthouse.

2 Q But you never had any dealings with him?

3 A No, sir.

4 Q Do you know if Nicole Hogue sold drugs to
5 anyone other than yourself?

6 A Yes, sir.

7 Q How do you know that?

8 A Well, she'd have us collect -- I'd collect
9 money for her sometimes or I'd ride with her whenever
10 she sold the drugs, you know.

11 Q When you say collect money for her, is that
12 money for drug debts?

13 A Yes.

14 Q Who would you collect money from?

15 A Whoever owed her money, you know, usually
16 it wasn't -- it wouldn't be a bad thing. A lot of
17 times, it was just she didn't want to go get the
18 money herself so she would send somebody out to get
19 the money. A lot of times, we didn't even know who
20 the people were. She'd just tell us where to go.

21 Q You say "us". Who is us?

22 A There'd usually be two or three of us.

23 Q Who else was with you?

24 A It'd be different people at different
25 times. It would be me, her boyfriend, whoever her

1 boyfriend was at the time. It's usually somebody,
2 different.

3 Q Was there anybody else particularly that
4 you remember that would go with you?

5 A I don't remember. When she was staying at
6 the Red Roof Inn, there was so many people staying
7 there. It was always 15 or 20 people staying there.
8 It's hard to keep track of names.

9 Q Thank you. Please answer any questions
10 opposing counsel has for you.

11 MR. WARDER: I'd have no questions for
12 this witness.

13 THE COURT: All right. You may step down.

14 MR. FERNANDEZ: Your Honor, the State would
15 call Teresa Davis.

16 THE COURT: All right.

17 THE CLERK: Please step forward and be
18 sworn in. Place your left hand on the Bible if
19 you would. Raise your right hand as best you
20 can.

21 **TERESA DAVIS**

22 having first been duly sworn, testifies as follows:

23 THE CLERK: State your full name.

24 THE WITNESS: Teresa Annette Davis.

25 THE CLERK: Okay. Please have a chair.

DIRECT EXAMINATION

BY MR. FERNANDEZ:

Q Teresa, your full name again for the record if you would.

A Teresa Annette Davis.

Q Teresa, judging by your attire, are you currently incarcerated?

A Yes, sir. I am.

Q And what are you serving time for?

A A First degree Burglary charge and a Trafficking charge for methamphetamine.

Q And Teresa, are you also charge in the conspiracy that we're here for today?

A Yes, sir. I am.

Q And you had a -- your charge was actually a Possession with Intent to Distribute charge of meth?

A Yes, sir.

Q And you entered a plea to that charge yet?

A No, sir.

Q Do you -- have you intended and cooperated with law enforcement prior to being here today?

A Yes, sir. I have.

Q And is it your intentions to continue to cooperate with law enforcement?

A Yes, sir. It is.

1 **Q** And why would you decide to cooperate with
2 law enforcement?

3 **A** Because I'm trying to get my life together.
4 I'm in a class in prison right now that's called Jump
5 Start. It's to try to get my life in order. That's
6 what I was planning on doing. I don't intend to spend
7 the rest of my life in prison behind my addiction.

8 **Q** And is part of cooperating with law
9 enforcement, are you actually hoping for some
10 leniency on your charge?

11 **A** Yes, sir.

12 **Q** And what are you hoping for, exactly?

13 **A** Just for it to run with the time that I'm
14 doing already. I deserve to do some time.

15 **Q** And you said -- you mentioned the Jump
16 Start program. Tell us a little about that.

17 **A** It's a program that helps you get your life
18 together when you return to society. A gentleman
19 that's over it, Steve Harbin, he's very -- it's a
20 very good class. It teaches me a lot that I didn't
21 know before on how I could actually return to society
22 and be a productive member of it instead of returning
23 to what I'm used to doing. I've been selling drugs
24 most of my life. That's what most of my charges are
25 and that's what I've always done. I needed to change.

1 So that's what I intend to do. I take a welding class
2 while I'm in prison, too, now. And I work at the
3 plant. And I'm a hospice volunteer. I tried to do
4 everything positive that I can.

5 Q And Teresa, how old are you?

6 A I'm 50 years old.

7 Q Tell us a little bit about your drug, your
8 personal drug use. When were you first introduced
9 to --

10 A My junior year of high school.

11 Q And what drug was that?

12 A Methamphetamine. Well, before I had smoked
13 marijuana when I was like 13, 14 and did acid. But on
14 methamphetamine, I got introduced to it my junior
15 year of high school. I've been -- that was my drug of
16 choice for the last 32 years. The only time I didn't
17 do it was when I was incarcerated. So I was hoping to
18 -- or actually, I am going to make sure I do the
19 right thing this time when I get out.

20 Q Okay. And you consider yourself, throughout
21 pretty much all your life, to be an addict?

22 A Yes, sir.

23 Q Where did you grow up, Teresa?

24 A I grew up in Kansas.

25 Q And did you actually have a nickname,

1 coming from Kansas, around here?

2 A Yes, sir.

3 Q What did they call you?

4 A Kansas City.

5 Q Kansas City?

6 A Uh-huh.

7 Q And what brought you to South Carolina?

8 A My dad was originally from here. I wanted
9 something different so I came down here in 2003. I
10 got transferred. I used to work at J.C. Penney's for
11 years, and they transferred me down here. And plus, I
12 had a brother that was living down here already. And
13 so I moved down here.

14 Q So since 2003?

15 A Uh-huh.

16 Q Are you familiar with the reason why you're
17 here? You know why you're here, right?

18 A Yes, sir.

19 Q And tell me what was the first time you met
20 or were introduced to Jimmy Duncan.

21 A It was April of 2014.

22 Q Okay. And who introduced you?

23 A A friend of mine, Tracy.

24 Q And why did Tracy introduce you to Jimmy?

25 A I needed a new hookup. So she introduced me

1 to Jimmy.

2 Q What was the purpose of the introduction?

3 A To meet him to get his product, his drugs,
4 so I could sell them to make money, of course, and to
5 supply my habit.

6 Q Okay.

7 A I had a habit. So that was my way of making
8 sure it was taken care of.

9 Q And what you're saying, when you were
10 addicted to drugs and selling, were you selling
11 mostly to feed your habit?

12 A Yes, sir.

13 Q And that first time you met Mr. Duncan, did
14 he sell you methamphetamine?

15 A Yes, sir. He did.

16 Q How much did he sell you at that time?

17 A It was an ounce or two.

18 Q Okay. And do you remember how much you paid
19 for an ounce?

20 A I had to take him the money back. I didn't
21 have the money to give him up front. So he fronted it
22 to me, and then when I took him the money back, I
23 gave him \$1100 for each one, so \$2200.

24 Q And you just mentioned the word fronted.
25 What does that mean?

1 **A** That meant that I didn't have money to pay
2 him right then, so he would give me it and then I
3 would have to pay him his money back.

4 **Q** Do you remember where -- where did this
5 transaction occur?

6 **A** His house at Lois Lane in Pickens.

7 **Q** And have you been to his house many times
8 since then?

9 **A** Oh, yes.

10 **Q** How frequently would you go over to Mr.
11 Duncan's house?

12 **A** Me and Jimmy knew each other for a year.
13 Quite often. If he didn't stop by my house on the way
14 back from picking it up.

15 **Q** You said you knew each other for a year, so
16 if you were introduced in April of 2014, when did the
17 drug relationship end?

18 **A** April 2015.

19 **Q** Okay. At its peak, and I'm asking you for
20 numbers, at its peak when you were purchasing drugs
21 from Mr. Duncan, how frequently would you purchase
22 drugs? How many times a week?

23 **A** Probably two or three times a week.

24 **Q** Okay.

25 **A** Two or three ounces at a time.

1 **Q** So two to three times a week, two to three
2 ounces each time?

3 **A** Yes, sir.

4 **Q** And how much would he charge you per ounce?

5 **A** In between 900 and \$1100.

6 **Q** And do you know where Mr. Duncan kept his
7 meth stored?

8 **A** In a safe.

9 **Q** And where was that safe located?

10 **A** In the closet area, kind of, under a little
11 shelf thing.

12 **Q** Was that in -- what room was that in?

13 **A** His bedroom.

14 **Q** Okay. What's the most methamphetamine you
15 seen Mr. Duncan having possessing -- possession of at
16 a time?

17 **A** A half a pound or more.

18 **Q** Okay. And of that half a pound or more, was
19 that the same half pound you would have seen
20 throughout the year or was that different half
21 pounds?

22 **A** It was different ones.

23 **Q** How do you know it was different ones?

24 **A** Because he -- if he sold enough of it, he
25 wouldn't have the same one.

1 **Q** Okay. Did you ever meet Mr. Duncan's
2 source, where he was getting his methamphetamine
3 from?

4 **A** I never met him directly, but I would go
5 with him to meet him. I would watch the car or
6 something. I didn't actually meet the guy.

7 **Q** When you say go with, would you ride along
8 with Mr. Duncan?

9 **A** Yes, sir.

10 **Q** How many times would you ride along with
11 Mr. Duncan to pick up his methamphetamine?

12 **A** Several times.

13 **Q** Several. You have any kind of guess?

14 **A** 20 more times maybe.

15 **Q** Okay. And you -- how did he refer his
16 source as? What did he describe him as?

17 **A** He was a Mexican guy is all I knew, a
18 Hispanic guy.

19 **Q** Did you ever find out his name or did you
20 ever learn his name?

21 **A** I learned it today.

22 **Q** Okay. But not before. You didn't know his
23 name before?

24 **A** No, sir. I didn't really care to know, I
25 just cared about getting high.

1 **Q** And each time that you would accompany Mr.
2 Duncan to his Mexican source, how much was he picking
3 up from that source? How much methamphetamine was he
4 picking up?

5 **A** Like a half a pound or a pound at a time.

6 **Q** And do you know how much money he was
7 paying that Mexican source per visit?

8 **A** Not per se, but probably around -- I mean,
9 I know at one time it was like \$15,000 for the pound.

10 **Q** And that's \$15,000 in cash that he would
11 bring?

12 **A** Yes, sir.

13 **Q** Do you know a gentleman named Jeffrey
14 Mauldin?

15 **A** Yes, I do.

16 **Q** How do you know him?

17 **A** I've known him through a roommate of mine
18 that used to date him.

19 **Q** And who is that?

20 **A** Amber McCallister.

21 **Q** And did you know him through the meth world
22 or just as a personal acquaintance?

23 **A** The meth world.

24 **Q** And did you know him to be a user?

25 **A** Yes, he was.

1 Q Did you know him to be a dealer?

2 A Not very often, but yes, he did.

3 Q And did you know him to have any kind of
4 friendship or relationship with Mr. Duncan?

5 A I think he lived with Jimmy at one time,
6 him and Karen. At that time, it was Jeff's
7 girlfriend. Karen Collins was his girlfriend. They
8 used to live with Jimmy.

9 Q And tell us who Karen Collins is.

10 A She used to live with Jimmy. Then she went
11 to jail and she went and stayed with him after that.
12 She started dating Jimmy at the time.

13 Q And would you call her a friend?

14 A Yes.

15 Q Of yours?

16 A Yes.

17 Q And what was her role in this? Was she a
18 user also?

19 A Yes, she was.

20 Q Was she addicted as well?

21 A Yes, sir.

22 Q And did she deal meth herself?

23 A I don't know if she did herself, but she
24 would for him when he was at work, him meaning Jimmy.

25 Q And while he was at work, she would be at

1 Mr. Duncan's house?

2 A Yes, sir.

3 Q You know a woman named Kimberly Turner?

4 A Yes, I do.

5 Q And how do you know her?

6 A Through Jimmy's house and through her
7 boyfriend, Scottie.

8 Q And what would you see her do -- would she
9 go to Mr. Duncan's house for methamphetamine?

10 A Yes, sir.

11 Q And what would you see her do there?

12 A He would hand her some to, I guess, sell
13 for him.

14 Q Okay. Do you know how much quantity they
15 would exchange each time?

16 A Maybe an ounce, I would assume.

17 Q Would that be your best guess as to what
18 you saw?

19 A Yes.

20 Q And do you know a woman named Brandy
21 O'Bryant?

22 A Yes, I do.

23 Q And how do you know her?

24 A Through Jimmy.

25 Q And was she at Mr. Duncan's house quite a

1 bit?

2 **A** Yes, she was.

3 **Q** How frequently would you say?

4 **A** Quite often.

5 **Q** And was she a user?

6 **A** Yes, she was.

7 **Q** And what was her relationship with Mr.
8 Duncan?

9 **A** I'm not sure. I think they were just
10 buddies of some sort. He would take her often with
11 him to Greenville.

12 **Q** What would he do in Greenville?

13 **A** That's when he was picking up.

14 **Q** And what -- speaking of the pickup points
15 that you did when you went to meet the Mexican
16 source, where were those locations? Where would y'all
17 go?

18 **A** The road beside the Spinx station and --
19 off 183 and the car wash off of 183 and 25 and some
20 little road off of 183 there.

21 **Q** Those would be within Greenville County?

22 **A** Yes, sir.

23 **Q** Okay. And do you know a gentleman named
24 Bubba or Papi?

25 **A** I know of him, yes. No, I do know him.

1 Q You know his real name?

2 A No.

3 Q What do you know him as?

4 A Bubba and Papi.

5 Q And physically, what does he look like?

6 A He's a heavysset black guy, older gentleman.

7 Q Okay. And how do you know him?

8 A I went and got drugs from him before, too.

9 Q And the drugs that you obtained from Bubba
10 or Papi, were they the same drugs that you would
11 obtain from Mr. Duncan?

12 A They always looked similar or they were
13 similar, yes. They came from the same person.

14 Q Okay. And would you also run errands for
15 Mr. Duncan, dropping off and picking up money?

16 A Yes, sir. I would.

17 Q And tell me what kind of -- what that
18 involved.

19 A He would either -- he would give me the
20 stuff to take to whatever person and I would drop it
21 off and they would give me the money that he owed him
22 -- that they owed him and I would take it back to
23 him.

24 Q And how often did you do that?

25 A I did that several times for him because I

1 would always be out running the road, of course. If
2 he knew I was going somewhere and he needed me to
3 drop it off or needed to drop it off, he would ask me
4 to do it for him.

5 Q I'm going to ask you to scoot over a little
6 bit. (Pause.)

7 Teresa, did you ever get a --

8 I'm not going to put anything up there just
9 yet.

10 Did you ever get a look at the phone that
11 Mr. Duncan would have used?

12 A Oh, yeah.

13 Q Okay. And describe it very briefly.

14 A It was either a little flip phone or it was
15 like a Droid; Android phone.

16 Q I'm going to hand you --

17 MR. FERNANDEZ: Permission to approach,
18 Your Honor?

19 THE COURT: Yeah.

20 BY MR. FERNANDEZ:

21 Q I'm going to hand you a document that's
22 been marked as State's Exhibit Number 14. Would you
23 please take a look at that for me.

24 A (Reviewing.) Yes, sir.

25 Q Okay. Are you familiar generic -- generally

1 with that phone in the picture?

2 **A** Yes, sir.

3 **Q** And what is it?

4 **A** It's a little LG flip phone. I think the
5 front of it would be silver.

6 **Q** Okay. And do you remember sending text
7 messages to Mr. Duncan?

8 **A** Yes, sir.

9 **Q** Okay. And again, what was your nickname
10 that you would have been called by some folks?

11 **A** Kansas City.

12 **Q** Okay. And what does that text message read?

13 **A** I always count my money before I hand over
14 anything.

15 **Q** You always count your money before you hand
16 over anything. What does that refer to?

17 **A** Some money I had given him. This must mean
18 that maybe he had the wrong amount that I gave him or
19 whatever. But I let him know that I always count it
20 before I hand it over, so what I gave him had to be
21 what he asked me for.

22 **Q** Would that be a drug-related transactions
23 that you were referring to?

24 **A** Absolutely.

25 **Q** I'm handing you State's Exhibit Number 15.

1 Would you take a look at that please for me?

2 A (Reviewing.) Uh-huh.

3 Q And again, what's the incoming message
4 from? Who's the title of the incoming message?

5 A It was from me, Kansas City.

6 Q And what does the text message read?

7 A It says oh, I did, but not to a dope man.

8 Q All right. Do you have any idea what that's
9 in reference to?

10 A Was it right after -- around the same time
11 that one was sent?

12 Q I'll hand it back to you if you'd like to--

13 A Yes, please. You know, I did a lot of drugs
14 in my years. (Reviewing.)

15 I'm not -- it's right after this. I'm -- I
16 -- maybe it was like -- I don't know. I can't assume
17 what the message was that was sent, you know what I'm
18 saying?

19 Q Do you -- do you specifically remember
20 sending that message?

21 A Yes, I do.

22 Q Okay. Do you specifically remember what you
23 were sending it about?

24 A I was sending it about maybe I don't fuck
25 anybody over, especially a dope man.

1 **Q** Okay. And would that be a drug-related type
2 message?

3 **A** Yes, sir.

4 **MR. FERNANDEZ:** At this point, Your Honor,
5 the State would move to enter into evidence
6 State's Exhibit Number 14 and 15 and then
7 publish for the jury.

8 **THE COURT:** All right. Any objection?

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

10 **THE COURT:** All right. In without
11 objection.

12 **MR. FERNANDEZ:** Thank you.

13 **(WHEREUPON, State's Exhibits 14 and 15 are**
14 **admitted into the record.)**

15 **BY MR. FERNANDEZ:**

16 **Q** All right. Again, Teresa, I'm putting on
17 here State's Exhibit Number 14. It's a message that
18 you just authenticated for us. Can you read it for us
19 again?

20 **A** It's from me, Kansas City, I always count
21 my money before I hand over anything.

22 **Q** And then number 15, State's Exhibit Number
23 15.

24 **A** It says oh, I did, but not to a dope man.

25 **Q** And you were saying the context of those

1 messages would have been related to meth dealing
2 activities?

3 **A** Yes, sir.

4 **Q** Thank you.

5 **MR. FERNANDEZ:** Beg the Court's indulgence
6 one moment. (Pause.)

7 **BY MR. FERNANDEZ:**

8 **Q** All right. Teresa, you were -- were you
9 present at Mr. Duncan's when law enforcement executed
10 a -- or came in with a search warrant?

11 **A** Yes, sir.

12 **Q** Do you remember that day?

13 **A** Yes, sir.

14 **Q** Okay. Tell us about -- you can scoot over
15 now.

16 **A** Okay.

17 **Q** Tell us what happened that day and what you
18 were doing there.

19 **A** Yes, I was there getting some dope from
20 Jimmy. When I was getting ready to leave, I opened
21 the door. The dog was scratching on the door, so I
22 opened the door. All the police were there. That's
23 what I was doing there. I didn't remember where I put
24 it. When they searched me, they found the dope that
25 he had given me.

1 **Q** Okay. And we'll walk that back just a
2 little bit. When you say they searched you, are you
3 referring to police?

4 **A** Yes, sir.

5 **Q** And when they found the dope, they found it
6 on your person?

7 **A** Yes, sir.

8 **Q** Okay. And is that why you're in trouble in
9 this case?

10 **A** Yes, sir.

11 **Q** How much -- how much -- what was the
12 quantity that they found on you?

13 **A** Three and a half grams.

14 **Q** Is that the same quantity you had just
15 purchased from Mr. Duncan?

16 **A** Yes.

17 **Q** And how much did you pay for that?

18 **A** I think it was \$200.

19 **Q** And when you say just purchased, how long
20 had you just bought those drugs before police came
21 in?

22 **A** Like seconds.

23 **MR. FERNANDEZ:** Beg the Court's indulgence.

24 (Pause.)

25 **BY MR. FERNANDEZ:**

1 **Q** All right. Teresa, the gentleman we spoke
2 about, Jimmy Duncan, throughout your testimony, is he
3 present in the courtroom today?

4 **A** Yes, he is.

5 **Q** Will you please tell me where he's seated
6 and what he's wearing?

7 **A** He's seated next to Richard Warder.

8 **Q** Okay.

9 **A** His lawyer right there.

10 **Q** And what is Mr. Duncan wearing?

11 **A** A white shirt and tie.

12 **Q** Thank you.

13 **MR. FERNANDEZ:** No further questions, Your
14 Honor.

15 Thank you, Teresa.

16 **THE COURT:** Cross-examination.

17 **MR. WARDER:** Your Honor, I have no
18 questions for this witness.

19 **THE COURT:** All right. Thank you, Ms.
20 Davis. You may step down.

21 **MR. UNDERWOOD:** Can we approach, Your
22 Honor?

23 **THE COURT:** Yes.

24 **(WHEREUPON, a bench conference is held off the**
25 **record.)**

1 **THE COURT:** All right. Ladies and
2 Gentlemen, looks like we're at that point. It's
3 a little bit early, so I'm sure y'all are not
4 disappointed about that. But it's at that point
5 where just because of shuffling of witnesses,
6 the next one is going to be long. We're just
7 going to go ahead and break now.

8 We will start back at 9:30 in the morning.
9 As you may recall, tomorrow is a short day
10 because unfortunately one of our fellow judge's
11 funeral service is tomorrow in Columbia. So
12 we'll probably run 'til about 12:30 or maybe one
13 o'clock and then we'll break for the day.

14 Just kind of let y'all know, the update on
15 the storm is that evidently now, the governor's
16 calling for an evacuation on our coast sometime
17 tomorrow or Thursday. So that's kind of what's
18 been going on a little bit today, too.

19 Anyway, again, we'll break for the day. My
20 four rules, do not talk, discuss the case among
21 yourselves or anybody. It's very tempting to go
22 home and tell your spouse or your friends or
23 your neighbors what you've been doing, but it's
24 really not appropriate to have any discussions.
25 Don't do any research on your own about the law,

1 about any portion of this trial. You would only
2 consider what you hear from this courtroom.
3 Don't pay any attention to any kind of social
4 media or media or television coverage or
5 newspaper..

6 Finally, if you are contacted by anyone,
7 please let the bailiff know first thing in the
8 morning. Get as much information as you can.
9 Other than that, have a pleasant evening. I will
10 see y'all at 9:30 in the morning.

11 **(WHEREUPON, the jury exits at approximately**
12 **4:26 p.m.)**

13 **THE COURT:** All right. Anything else from
14 the State?

15 **MR. UNDERWOOD:** Nothing, Your Honor.

16 **THE COURT:** Anything else from the
17 defense?

18 **MR. WARDER:** No, Your Honor.

19 **THE COURT:** All right. I know -- let's be
20 ready to go at 9:30. I know our ability to start
21 on time this morning was not your fault. I think
22 they had some transportation issues.

23 **THE DEPUTY:** He was here and ready to go
24 this morning.

25 **THE COURT:** Oh, okay. I thought there was

1 some issue on getting him here.

2 **THE DEPUTY:** No.

3 **THE COURT:** All right. Well, let's be
4 ready to go -- since we're going to be a short
5 day tomorrow and we're moving along slowly,
6 let's be ready to go at 9:30.

7 **(WHEREUPON,** the Court recesses for the day at
8 approximately 4:27 p.m.)

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P R O C E E D I N G S

(WHEREUPON, the Court resumes on the 5th day of October, 2016 at approximately 9:35 a.m.)

(WHEREUPON, State's Exhibits 16 through 23 are marked for identification purposes.)

THE COURT: All right. Are we ready to proceed?

MR. UNDERWOOD: Yes, Your Honor.

THE COURT: All right. Mr. Warder, you ready?

MR. WARDER: Yes, sir.

THE COURT: All right. Bring the jury in.

(WHEREUPON, the jury enters at approximately 9:38 a.m.)

THE COURT: Good morning, Ladies and Gentlemen. I hope everybody's okay this morning. We will now continue with the State's case.

Mr. Underwood or Mr. Fernandez?

MR. FERNANDEZ: Thank you, Your Honor. The State calls David Martinez.

THE COURT: All right.

THE CLERK: Please step forward and be sworn in. Place your left hand on the Bible. Raise your -- your left hand please. Thank you. Raise your right hand.

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DAVID MARTINEZ

having first been duly sworn, testifies as follows:

THE CLERK: Please state your full name.

THE WITNESS: Jorge David Martinez.

THE CLERK: Good. Please have a chair.

DIRECT EXAMINATION

BY MR. FERNANDEZ:

Q David, would you state your name for the record please.

A Jorge David Martinez.

Q And you go by David?

A Yes.

Q Thank you. And Mr. Martinez, are you of Mexican nationality or descent?

A Yes.

Q And did you grow up here in South Carolina?

A I grew up in Atlanta.

Q Grew up in Atlanta? When did you move to South Carolina?

A About four or six years ago.

Q And David, you were a drug dealer; is that correct?

A Yes.

Q And do you know why you're here today about this investigation?

1 **A** I'm here for a trial for the defendant.

2 **Q** And do you have -- you actually have one
3 charge on your record, Receiving Stolen Goods from
4 November of 2015?

5 **A** Yes, I do.

6 **Q** And what was the sentence there for that?

7 **A** Time served.

8 **Q** And David, you have been charged in this
9 same conspiracy; is that your understanding?

10 **A** Yes.

11 **Q** And have you entered into any formal
12 agreement with the State of South Carolina?

13 **A** No.

14 **Q** And even though you have not entered into a
15 formal agreement with the State of South Carolina, do
16 you intend to cooperate with law enforcement?

17 **A** Yes.

18 **Q** And what is your understanding of what that
19 cooperation involves?

20 **A** Testifying at trial if needed.

21 **Q** And have you provided information to law
22 enforcement?

23 **A** Yes.

24 **Q** And why -- why did you decide to cooperate
25 with law enforcement? What are you looking for?

1 **A** A better sentence.

2 **Q** And have you had a chance to review the
3 evidence that law enforcement has on you as part of
4 this case with your attorneys?

5 **A** Yes.

6 **Q** And after reviewing that evidence, did you
7 decide that there was a significant amount against
8 you?

9 **A** Yes.

10 **Q** Do you intend to accept responsibility for
11 the drug dealing that you had done?

12 **A** Yes.

13 **Q** Now, David, do you actually use drugs
14 yourself or did you use drugs?

15 **A** No, I didn't. I don't and I didn't.

16 **Q** Tell me when you first began to obtain
17 drugs in order to deal. When did it first begin?

18 **A** It began back in 2011.

19 **Q** Okay. How did that happen?

20 **A** That happened through a friend of mine that
21 I knew. Then it stopped after a couple of months and
22 then started back in 2014.

23 **Q** Okay. And I'm going to -- let's start over
24 in 2014. What -- specifically regarding
25 methamphetamine, where was your source for obtaining

1 large quantities of methamphetamine?

2 **A** Atlanta, Georgia.

3 **Q** And who was your source in Atlanta?

4 **A** Hispanic male known as Campadre.

5 **Q** And was he someone that you were introduced
6 to through a network of friends?

7 **A** Yes.

8 **Q** And tell us what you would do -- how would
9 you pick up the drugs from Atlanta or how would you
10 arrange for obtaining the drugs from Atlanta?

11 **A** I would drive down to Atlanta and pick them
12 up and bring them to South Carolina.

13 **Q** And how much -- on these trips, how much
14 would you typically get each trip?

15 **A** It would start off as getting a couple of
16 ounces, then a pound. Then it ended up a kilo.

17 **Q** Okay. And the kilo, we're talking about
18 meth?

19 **A** Yes.

20 **Q** And how much would you pay for a kilo of
21 meth?

22 **A** An average -- around -- anywhere from 12 to
23 16,000 or somewhere. It depended.

24 **Q** And would you actually be the one that
25 would physically go pick up the drugs from Atlanta or

1 would you have people that would do that for you?

2 **A** I would do it myself.

3 **Q** And after you would -- how often, how many
4 times a week would you do this? How many times a week
5 would you travel to Atlanta for drugs?

6 **A** Once or twice.

7 **Q** Once or twice a week?

8 **A** Yes.

9 **Q** And you said you began in 2014, and when
10 did you -- when did this end?

11 **A** 2015.

12 **Q** And that was when law enforcement
13 eventually approached you about it?

14 **A** Yes.

15 **Q** And after you would obtain the drugs from
16 Atlanta and bring them, you would bring them back to
17 where?

18 **A** Greenville, South Carolina.

19 **Q** Okay. And what's in Greenville? Did you
20 have a network of people you would then distribute
21 those drugs to?

22 **A** Yes.

23 **Q** All right. We're going to go through a few
24 folks in your network. Okay. To first begin, did you
25 have the nickname Cheese on the streets?

1 **A** Yes.

2 **Q** Okay. Who gave you that nickname?

3 **A** An older lady that went by Ma.

4 **Q** Did you know her real name or did you only
5 know her by Ma?

6 **A** I believe her real name was Sandra Duncan.

7 **Q** Okay. And was Sandra Duncan a part of your
8 distribution network for meth?

9 **A** Yes.

10 **Q** And you did sell her various quantities of
11 meth?

12 **A** Yes.

13 **Q** And who is the individual that went by the
14 name of Country? Are you familiar with him?

15 **A** An individual that used to deal with Ma.

16 **Q** And did you also sell meth to him as well?

17 **A** Yes.

18 **Q** Are you familiar with a gentleman named
19 Larry Coleman?

20 **A** Yes.

21 **Q** And did he purchase drugs from you as well?

22 **A** Yes.

23 **Q** All right. And specifically concerning Mr.
24 Coleman, did you know him as Larry Coleman or did you
25 know him by a nickname?

1 **A** A nickname.

2 **Q** What did you know him as?

3 **A** Bubba.

4 **Q** And did Bubba -- how often would Bubba buy
5 drugs from you? How many times a week?

6 **A** He used to buy it once or twice a week.

7 **Q** And within those once or twice a week, how
8 much quantity would he buy from you?

9 **A** Two or three ounces.

10 **Q** Two or three ounces once or twice a week,
11 and how much would you charge him per ounce?

12 **A** 700.

13 **Q** \$700 an ounce?

14 **A** Yes.

15 **Q** Do you know a woman named Tracy Rumsey?

16 **A** Yes.

17 **Q** Did she also buy meth from you?

18 **A** Yes.

19 **Q** How many times a week would she buy meth
20 from you?

21 **A** About two or three times.

22 **Q** What quantities would she buy?

23 **A** It varied. Anywhere from between two to
24 four ounces.

25 **Q** I'm sorry?

1 **A** Anywhere from two to four ounces.

2 **Q** Two to four ounces. And how much would you
3 charge her per ounce?

4 **A** Same thing, 700.

5 **Q** Okay. Did you become acquainted with a
6 woman named Nicole Hogue?

7 **A** Yes.

8 **Q** Did she -- did you know her by a nickname?

9 **A** Sunshine.

10 **Q** Okay. And how often -- how did you first
11 become introduced to Sunshine?

12 **A** I was introduced to her.

13 **Q** Did you understand that she had been buying
14 drugs from Mr. Coleman?

15 **A** That was my understanding.

16 **Q** Okay. Did she -- how did it go down to
17 where you started selling to her directly rather than
18 go through Bubba?

19 **A** Well, I mean, she approached me one time.
20 She talked to me and she gave me her phone number and
21 I started talking to her.

22 **Q** And when she talked to you, did you all
23 arrange to sell drugs to her then? Was that the
24 purpose of that discussion?

25 **A** Yes.

1 **MR. WARDER:** Your Honor, I object to this
2 leading.

3 **THE COURT:** Yeah. Rephrase your question.

4 **BY MR. FERNANDEZ:**

5 **Q** When you were dealing with Ms. Hogue, what
6 did you ultimate -- how many times a week did you
7 ultimately deal with her?

8 **A** Two or three times a week.

9 **Q** Okay. And within those two to three times a
10 week, how much would you sell her each time?

11 **A** Anywhere from three to four ounces.

12 **Q** Okay.

13 **A** Each time.

14 **Q** And three to four ounces, how much would
15 you charge her per ounce?

16 **A** It was \$800.

17 **Q** And was there a time when Ms. Hogue or
18 Sunshine went to jail?

19 **A** Yes.

20 **Q** And what did she -- what did you all do
21 when she went to jail? Did y'all have any
22 conversations?

23 **A** Well, she called me. She made a phone call
24 from the jail and told me to -- gave me people's
25 names and numbers who she dealt with to call.

1 **Q** And who were some of the people that she
2 told you to call, or who are the persons she told you
3 to call?

4 **A** It was an individual named Jeff and an
5 older guy that went by Jimmy Duncan.

6 **Q** And specifically concerning Mr. Duncan, did
7 you ultimately get in touch with him?

8 **A** Yes.

9 **Q** And what was the purpose of your
10 conversations?

11 **A** To sell him meth.

12 **Q** And did you come to an agreement to sell
13 meth with Mr. Duncan?

14 **A** Yes.

15 **Q** And how often -- how soon after Ms. --
16 Sunshine was incarcerated did you begin selling to
17 Mr. Duncan?

18 **A** Probably a couple of weeks after she got
19 incarcerated.

20 **Q** And the arrangement that was between you
21 and Mr. Duncan, how frequently -- how many times a
22 week would he come and buy meth from you?

23 **A** Once or twice a week.

24 **Q** And at its peak, how much would he buy from
25 you each time?

1 **A** It started off as ounces and then
2 eventually it went up to a pound.

3 **Q** So a pound once or twice a week at its
4 peak?

5 **A** It was a pound a week, roughly.

6 **Q** A pound a week?

7 **A** Yes.

8 **Q** How much would you charge Mr. Duncan for
9 one pound of meth?

10 **A** \$11,000, I believe.

11 **Q** \$11,000? And, David, is Mr. Duncan here in
12 the courtroom today?

13 **A** Yes.

14 **Q** All right. Would you please identify him
15 for us? Where is he sitting?

16 **A** At a table.

17 **Q** And what's he wearing?

18 **A** A white shirt.

19 **MR. FERNANDEZ:** Beg the Court's indulgence.

20 (Pause.)

21 No further questions, Your Honor.

22 Thank you, David. Please answer any
23 questions the defense counsel may have for you.

24 **THE COURT:** Mr. Warder.

25 **CROSS-EXAMINATION**

1 **BY MR. WARDER:**

2 **Q** How long have you been dealing meth?

3 **A** Since 2014.

4 **Q** Did you deal meth before then?

5 **A** Dealt meth in 2011, but it was for a short
6 period of time.

7 **Q** Okay. And how much meth have you dealt
8 since 2014?

9 **A** Since 2014? I don't know that answer.

10 **Q** Didn't keep any records?

11 **A** No, there was no records kept.

12 **Q** Where would you keep your meth at?

13 **A** It depended.

14 **Q** Where'd you store it at?

15 **A** It was never stored. I mean, as soon as I
16 got it here, it was distributed.

17 **Q** So you would go down, get it and then sell
18 it immediately?

19 **A** Yes.

20 **Q** Okay. You never kept any on hand?

21 **A** No.

22 **Q** When you get back, how soon would you sell
23 it?

24 **A** The same day I got back.

25 **Q** Okay. How many people would you sell it to?

1 **A** A couple of people.

2 **Q** Did you take orders before you went down
3 there? How did you do it?

4 **A** No, I didn't take orders. I didn't need to
5 take orders.

6 **Q** Was it profitable for you?

7 **A** Yes.

8 **Q** How much money did you make at it?

9 **A** I don't know that answer.

10 **Q** Did you double or triple your money or do
11 you know?

12 **A** I don't know that answer.

13 **Q** How can you not know whether you were
14 doubling your money?

15 **A** There's profit. Exactly -- you mean the
16 exact amount, I don't know that.

17 **Q** On a pound, what did you pay for it?

18 **A** It depended. It was different prices every
19 time.

20 **Q** You don't know what you paid for it?

21 **A** It depends. It wasn't the same price every
22 time. It varied anywhere from 7 or 8 or 9,000. It
23 depended.

24 **Q** Okay. Did you change your prices based on
25 what you had to pay for it?

1 **A** No, I didn't change it.

2 **Q** You didn't?

3 **A** No, I didn't need to change it.

4 **Q** Okay. Tell me, did you have any records you
5 turned over to the police to show what you paid or
6 how much you bought or anything?

7 **A** No.

8 **Q** When were you arrested on these charges?

9 **A** September 1st, 2015.

10 **Q** Okay. And what -- were you charged just
11 with the trafficking in this case?

12 **A** I was charged with conspiracy trafficking,
13 methamphetamine.

14 **Q** Had you been charged in other cases?

15 **A** Yes.

16 **Q** How many times you been charged?

17 **A** Once.

18 **Q** How many pending cases do you have?

19 **A** This one.

20 **Q** Okay. And you sold to 12 people?

21 **A** To how many?

22 **Q** How many people did you sell to?

23 **A** I didn't say 12. I said a couple of people.

24 **Q** Now when you -- did you call Jimmy Duncan
25 or did he call you?

1 **A** The phone call from Nicole Hogue, she gave
2 me his number to call him.

3 **Q** Okay. She gave you a number. Did you call
4 him?

5 **A** Yes.

6 **Q** Did he know who you were?

7 **A** I called Jeff. I knew him. Dealt through
8 Jeff, then dealt with him.

9 **Q** Okay. Where did you sell to him the first
10 time at? Where were you at when you did that?

11 **A** I was on Laurens Road.

12 **Q** And how much did he buy the first time?

13 **A** A couple of ounces.

14 **Q** How long before he came back again?

15 **A** I did say I used to deal with him like once
16 or twice a week. A couple of days later.

17 **Q** Where were you at when you sold this stuff?

18 **A** Where was I at?

19 **Q** Yeah.

20 **A** On White Horse Road.

21 **Q** You sell at your house?

22 **A** No, on White Horse Road. I don't live on
23 White Horse Road.

24 **Q** You sell it out of your car?

25 **A** Yes.

1 Q Meet on the road? Is that what you did?

2 A No, just met at any specific location on
3 White Horse Road.

4 Q You're facing 30 years; is that right?

5 A Yes.

6 Q Have they told you what they were going to
7 do for you when you were done testifying?

8 A No.

9 Q What do you think is going to determine
10 what they are going to do?

11 A What do I think?

12 Q Yeah.

13 A I'm not thinking nothing right now. I mean,
14 I don't know. I can't answer that question.

15 Q Well, are they going to do something for
16 you because you testified?

17 A I don't know. I can't answer that question.

18 Q You haven't asked them?

19 A No.

20 Q You have a lawyer?

21 A Yes.

22 Q Has he been negotiating with you or for
23 you?

24 A No, not yet.

25 Q I'm sorry. I didn't understand you.

1 **A** I said no.

2 **Q** So no one is negotiating for you. You're
3 just down here testifying; is that right?

4 **A** Right.

5 **Q** And you're hoping that you get something
6 good?

7 **A** I'm just here telling the truth, basically.

8 **Q** Pardon?

9 **A** I'm just here telling the truth.

10 **Q** Okay. Are you hoping to get something in
11 return?

12 **A** I hope so.

13 **Q** Okay. And you have to help them get people
14 convicted, is that what you think, to get the favor
15 at the end?

16 **A** That's not what I think. That's not what
17 they told me.

18 **Q** Well, I wasn't asking what they told you. I
19 was asking what you thought, what your state of mind
20 was.

21 **A** I really can't answer that question right
22 now.

23 **Q** You don't know what you're thinking of why
24 you're testifying? You don't know your reason right
25 now? Is that what you're saying?

1 **A** I already explained my reason in the
2 beginning.

3 **Q** You didn't start this testifying or talking
4 to the police until after your arrest; is that right?

5 **A** Right.

6 **Q** Thank you.

7 **THE COURT:** Any redirect?

8 **MR. FERNANDEZ:** No, Your Honor. Nothing
9 from the State.

10 **THE COURT:** All right. You may step down.

11 **MR. FERNANDEZ:** We ask permission to
12 release Mr. Martinez of his subpoena.

13 **THE COURT:** All right. Any objection?

14 **MR. WARDER:** No.

15 **THE COURT:** All right. You're released.

16 Next witness.

17 **MR. UNDERWOOD:** Your Honor, the State calls
18 Brandy O'Bryant.

19 **THE CLERK:** Please step forward to be
20 sworn in. If you would, place your left hand on
21 the Bible. Raise your right hand.

22 **BRANDY O'BRYANT**

23 having first been duly sworn, testifies as follows:

24 **THE CLERK:** Please state your full name.

25 **THE WITNESS:** Brandy Nicole O'Bryant.

1 **THE CLERK:** Please be seated.

2 **DIRECT EXAMINATION**

3 **BY MR. UNDERWOOD:**

4 **Q** Good morning, Ms. O'Bryant.

5 **A** Good morning.

6 **Q** Ms. O'Bryant, how old are you?

7 **A** 32.

8 **Q** How far did you go in school?

9 **A** I graduated. Went to Tech.

10 **Q** Did you graduate from Tech?

11 **A** No.

12 **Q** How far did you get at Tech?

13 **A** I done two years.

14 **Q** Why didn't you graduate?

15 **A** I just got out of the swing of going to
16 school. There was other things.

17 **Q** What were those other things?

18 **A** Drugs.

19 **Q** What kind of drugs?

20 **A** Methamphetamine.

21 **Q** When did you start using methamphetamine?

22 **A** About 2011, somewhere around in there.

23 **Q** Who got you using meth?

24 **A** Myself. But it was introduced to me by my
25 husband and few of his acquaintances.

1 Q So you mentioned husband, are you married?

2 A Yes, sir.

3 Q You have children?

4 A Yes, sir.

5 Q How many?

6 A Three.

7 Q How old are they?

8 A Mackenzie will be 14, Brett is 11 and Mylie
9 is 8.

10 Q Do they live with you?

11 A No, sir.

12 Q Where do they live?

13 A They live with my parents.

14 Q Is that because you've had a problem with
15 drugs since 2011?

16 A That's part of the reason, but that's not
17 the full reason.

18 Q Ms. O'Bryant, are you currently charged
19 with any crimes involving this case?

20 A I don't have any charges, no.

21 Q Have you entered into any agreements with
22 the State?

23 A I was arrested in 2014. That's when I
24 agreed to be a CI.

25 Q So since 2014, you've been a confidential

1. informant?

2. **A** Yes, sir.

3. **Q** And at this time, you don't have any
4 pending charges?

5. **A** No, sir.

6. **Q** The charge that you were arrested for, was
7 that by the Attorney General's office or was that
8 prior to our involvement?

9. **A** The charge?

10. **Q** Yes.

11. **A** I'm not sure. I mean, I was pulled over and
12 searched and charged.

13. **Q** Did you have any dealings with myself or
14 Mr. Fernandez involving that charge?

15. **A** No.

16. **Q** That was in 2014?

17. **A** Right.

18. **Q** After that, you agreed to be a confidential
19 informant?

20. **A** Yes, sir.

21. **Q** What agency did you work with?

22. **A** Pickens County.

23. **Q** Sheriff's office?

24. **A** Yes, sir.

25. **Q** You mentioned that you started using meth

1 in 2011 and you were introduced to it by your husband
2 and some friends. Did your use of methamphetamine
3 escalate where you were getting it more often?

4 **A** Yes, sir.

5 **Q** When did that happen?

6 **A** Shortly after.

7 **Q** Who would you get the methamphetamine from?

8 **A** It all depended.

9 **Q** What did it depend on?

10 **A** Who was available.

11 **Q** Did you ever get methamphetamine from Jimmy
12 Duncan?

13 **A** Yes, sir.

14 **Q** How do you know Jimmy Duncan?

15 **A** Met him through a mutual friend.

16 **Q** Who was that?

17 **A** Kimberly Turner.

18 **Q** Do you remember when you met him?

19 **A** 2014.

20 **Q** Why did you meet him?

21 **A** I went over there with Kimberly for
22 Kimberly to re-up.

23 **Q** You say re-up, what do you mean by that?

24 **A** Re-up as in to get more drugs.

25 **Q** So she went over there to buy drugs and you

1 went with her?

2 **A** Yes, sir.

3 **Q** Did she get the drugs from Jimmy Duncan?

4 **A** Yes, sir.

5 **Q** What kind of drugs?

6 **A** Methamphetamine.

7 **Q** How much methamphetamine did she get?

8 **A** It all depended on how much money she had.

9 **Q** Do you remember how much she got that first
10 time?

11 **A** Might be an ounce.

12 **Q** Did she go over to Jimmy Duncan's house
13 often to get drugs?

14 **A** Yeah, on a regular basis.

15 **Q** From that point where you met Jimmy Duncan,
16 did you ever get drugs from Jimmy Duncan?

17 **A** It was shortly after that, after I met him.

18 **Q** This was in 2014?

19 **A** Yes, sir.

20 **Q** The first time you got drugs from Jimmy
21 Duncan, how much did you get from him?

22 **A** A ball.

23 **Q** You say a ball. What is a ball?

24 **A** A ball is 3.5 grams.

25 **Q** Is that -- is ball short for an eightball?

1 **A** Yes.

2 **Q** Is it called an eightball because it's an
3 eighth of an ounce?

4 **A** Yes, sir.

5 **Q** You said that's three and a half grams?

6 **A** Yes, sir.

7 **Q** How much did Mr. Duncan charge you for an
8 eightball?

9 **A** 200? I don't remember exactly.

10 **Q** Was that the only time you bought drugs
11 from him?

12 **A** No, I bought them multiple times.

13 **Q** How often would you buy drugs from him?

14 **A** A couple of times a week.

15 **Q** You said a couple. Is that two?

16 **A** It might be two. It might be three. It just
17 varied.

18 **Q** How much would you get each time?

19 **A** That varied as well.

20 **Q** Did it vary up or did it vary down?

21 **A** Sometimes it would go up and I would get
22 more. Sometimes it would go down and I would get
23 less. It all depended on my cash.

24 **Q** So depending on how much money you had, you
25 could get more?

1 **A** Yes, sir.

2 **Q** Did you ever go to Jimmy Duncan, to get
3 methamphetamine and he didn't have any?

4 **A** Yes, sir.

5 **Q** How often would you say he didn't have any?

6 **A** Not very often.

7 **Q** On the occasions that he didn't, how long
8 would it take him before he did have meth to give
9 you?

10 **A** At the most, a day.

11 **Q** You mentioned that you normally would start
12 off getting eightballs or an eighth of an ounce and
13 sometimes that would vary up. What's the largest
14 amount of methamphetamine you bought from Jimmy
15 Duncan?

16 **A** I'd say no more than an ounce.

17 **Q** So you would buy up to an ounce from him?

18 **A** Uh-huh.

19 **Q** How much would he charge you for an ounce?

20 **A** A grand.

21 **Q** \$1000?

22 **A** Yes, sir.

23 **Q** How often would you buy an ounce from him?

24 **A** Not very often. It's usually less.

25 **Q** Is that because he didn't have more or

1 because you didn't have the money?

2 **A** It's because of my cash flow.

3 **Q** Did you always have to pay Jimmy Duncan up
4 front to get his methamphetamine?

5 **A** No.

6 **Q** What other arrangements did you have with
7 him?

8 **A** I could have it fronted to me.

9 **Q** When you say fronted, what does that mean?

10 **A** That means I'd get it, you know, without
11 cash and then pay him when I get cash after selling
12 it.

13 **Q** You mentioned that Kimberly Turner
14 introduced you to Jimmy Duncan when she went there to
15 buy drugs. You ever see other people at Jimmy
16 Duncan's house buying drugs?

17 **A** Yes, sir.

18 **Q** How often?

19 **A** There was people there all the time.

20 **Q** Were they there to buy drugs?

21 **A** Sometimes, yes.

22 **Q** What other people do you remember seeing
23 there?

24 **A** Besides myself and Kimberly, there would be
25 -- Teresa was one person. There's another person,

1 Donald. There were multiple people.

2 Q Does Donald have a nickname?

3 A Yes, he does.

4 Q What is it?

5 A Duck.

6 Q Is there anyone else that you remember off
7 the top of your head that would go to Jimmy's to buy
8 drugs?

9 A Karen.

10 Q Karen who?

11 A Collins.

12 Q Anyone else?

13 A Yeah, there was plenty of people.

14 Q Plenty of people but you can't think of any
15 names?

16 A Yeah, I mean, I don't know everybody's
17 name. It's been -- it's been a while.

18 Q Were they your friends or were they just
19 people that were there?

20 A They was just acquaintances.

21 Q What was your relationship like with Jimmy
22 Duncan? Was it strictly business or were you friends?

23 A Yeah, I'd say we were friends.

24 Q When you would go to Jimmy Duncan's house,
25 did you ever see where he kept his drugs?

- 1 **A** Yes, sir.
- 2 **Q** Where did he keep them?
- 3 **A** In the safe.
- 4 **Q** Where was the safe?
- 5 **A** It was located in the floor.
- 6 **Q** You remember what room?
- 7 **A** In his bedroom.
- 8 **Q** Did you ever see inside the safe?
- 9 **A** Yes.
- 10 **Q** How did you see inside the safe?
- 11 **A** When he would open it.
- 12 **Q** Why was he opening the safe?
- 13 **A** To pull out drugs.
- 14 **Q** Did you see him pull drugs out of the safe?
- 15 **A** Yes, sir.
- 16 **Q** How much drugs would he keep in the safe?
- 17 **A** It all depended on how much he had on him
- 18 at the time.
- 19 **Q** What's the largest amount that he would
- 20 see?
- 21 **A** Quart size ziploc bag.
- 22 **Q** A quart size ziploc bag?
- 23 **A** Uh-huh.
- 24 **Q** Was the bag full?
- 25 **A** Not completely, no.

1 Q How full would you say it was?

2 A At the most, three-fourths of the way.

3 Q So three-quarters of a quart size ziploc
4 bag, and that was full of methamphetamine?

5 A Yes, sir.

6 Q Did he keep anything else in the safe?

7 A He would keep money in there, car titles,
8 just various items like that.

9 Q When you would go to this house to buy the
10 drugs, how would the transactions take place?

11 A I would call him up. I'd tell him what I
12 needed. I'd go over there. I'd hand him the money if
13 I had the money on hand. He'd open the safe, get it
14 out, weigh it and hand it to me.

15 Q When he would weigh it for you, where did
16 he go to do that?

17 A Right there at the entertainment center.

18 Q How far is the entertainment center from
19 the safe?

20 A Like two steps.

21 Q He would allow you to stand there while he
22 would get it?

23 A Yes, sir.

24 Q Do you know where Jimmy Duncan got his
25 methamphetamine?

1 **A** He would just meet a person at a certain
2 location.

3 **Q** Do you know who that person was?

4 **A** I never knew him by name, no.

5 **Q** Did you know him some other way?

6 **A** I mean, I could -- I mean I've seen him,
7 but I didn't know -- I mean, I never met him in
8 person.

9 **Q** You said you seen him. How did you see him?

10 **A** Sitting in the vehicle.

11 **Q** Did you go with Jimmy to get drugs?

12 **A** Yeah, I rode with him.

13 **Q** Where did you go?

14 **A** To Greenville..

15 **Q** You remember where in Greenville?

16 **A** It was a Spinx or at the car wash.

17 **Q** What did the individual look like that he
18 got the drugs from?

19 **A** Mexican nationality.

20 **Q** Do you know how much money Jimmy would pay
21 for the drugs?

22 **A** No, sir.

23 **Q** What's the largest amount of money you
24 would see him with?

25 **A** I don't know an exact amount. It's a pretty

1 good amount.

2 Q Hundreds? Thousands?

3 A Thousands.

4 Q How many times did you go with Jimmy Duncan
5 for him to pick up drugs?

6 A Not very many. Maybe twice.

7 Q Did you go to the same place both times?

8 A I believe so.

9 Q The Spinx or the car wash?

10 A Uh-huh.

11 Q Let's talk about how you became a
12 confidential informant. You mentioned that, earlier.
13 What happened?

14 A I was arrested in August of 2014 and was
15 charged with possession of methamphetamine, less than
16 a gram.

17 Q And did you have another incident as well
18 where you were pulled over by the police?

19 A Yes, sir.

20 Q The second time after you were pulled over,
21 what did you agree to do as a confidential informant?

22 A To purchase drugs from Jimmy Duncan.

23 Q Did you do that?

24 A Yes, sir.

25 Q How did that take place? Did you go and do

1 it by yourself?

2 **A** No, sir.

3 **Q** Tell the jury what was the process that you
4 went through to buy drugs.

5 **A** I would meet them at a specific location.
6 They would put the wire on me. I would make the phone
7 call to go over to Jimmy Duncan's house. Once I got
8 the okay to go to Jimmy's, I would get in the car. I
9 was also followed by the detectives. I would go to
10 Jimmy's. The detectives would go to a different
11 location but close by in case anything was to happen.
12 I'd go to Jimmy's. I'd purchase the methamphetamine
13 and I would leave Jimmy's. The detectives would be
14 back behind me. We'd meet back at the designated
15 location. Once I got back there, I would hand over
16 the methamphetamine. They would search me and my car.
17 And that was it.

18 **Q** How many times would you go through that
19 general scenario to buy drugs from Jimmy Duncan?

20 **A** I think four.

21 **Q** Was the first one that night that you were
22 pulled over?

23 **A** Yeah, the second time I was pulled over.

24 **Q** You remember who pulled you over?

25 **A** Yes, sir.

1 Q Was it a detective?

2 A It was a county cop.

3 Q County cop. What county?

4 A Pickens.

5 Q At that time, you agreed to do a controlled
6 purchase?

7 A Yes, sir.

8 Q What time of day was this?

9 A It was in the evening.

10 Q Was it early evening or late evening or
11 somewhere in between?

12 A It wasn't too late. It was probably 9:30
13 maybe. I don't know exactly.

14 Q Was it just you and that deputy that did
15 the controlled buy that night?

16 A No. We had to meet at the designated
17 location with the detectives.

18 Q How many detectives were there? Do you
19 remember?

20 A Three, I think.

21 Q And when you got to that location, did one
22 of them search you?

23 A Yeah, I was searched.

24 Q And why did they -- did they tell you why
25 they were searching you?

1 **A** Yeah, they told me why.

2 **Q** Why were they searching you?

3 **A** To make sure I didn't have anything on my
4 possession.

5 **Q** By anything, what are you referring to?

6 **A** Anything illegal.

7 **Q** Did they find anything on you?

8 **A** When I was first pulled over.

9 **Q** As far as the controlled purchase was
10 concerned?

11 **A** Oh, no. They never found anything on me.

12 **Q** Did you have any drugs on you?

13 **A** No.

14 **Q** Did they give you any special equipment
15 that night?

16 **A** Yeah, I had a wire hooked on me.

17 **Q** When you say wire, just explain what
18 exactly did that do as far as you know.

19 **A** Audio.

20 **Q** Then what did you do next after you were
21 searched and wired up?

22 **A** Made the phone call.

23 **Q** Was that call recorded?

24 **A** Yes, sir.

25 **Q** Who did you call?

1 **A** Jimmy Duncan.

2 **Q** You remember his phone number?

3 **A** ██████████.

4 **Q** Did Jimmy Duncan always use that phone
5 number?

6 **A** Yes, sir.

7 **Q** When you called that number, who answered
8 the phone?

9 **A** Jimmy Duncan.

10 **Q** -And what was the nature of the call?

11 **A** Purchase methamphetamine.

12 **Q** Would you arrange a purchase?

13 **A** Yes, sir.

14 **Q** When did the purchase happen?

15 **A** Shortly after the phone call.

16 **Q** After you made the call, where did you go?

17 **A** To Jimmy Duncan's house, Lois Lane in
18 Pickens.

19 **Q** Is this under the scenario you described
20 earlier where you would drive yourself and another
21 officer would follow you?

22 **A** Yes, sir.

23 **Q** What happened when you got to Jimmy's
24 house?

25 **A** Mainly talking. He always talked. I would

1 always hand over the money, get the product, probably
2 talk some more and then leave.

3 Q Was anyone else there?

4 A Sometimes.

5 Q What about that night? Did someone else --
6 was someone else there?

7 A I do believe so.

8 Q You know who it was?

9 A I vaguely remember, but I think it was
10 Melissa somebody. I don't know her last name.

11 Q What was Melissa doing there?

12 A Purchasing methamphetamine.

13 Q Did she purchase methamphetamine while you
14 were there?

15 A Yes, sir.

16 Q Who did she purchase it from?

17 A Jimmy Duncan.

18 Q Do you remember how much she purchased?

19 A An ounce.

20 Q How much were you there to buy?

21 A I think I was there to get an eightball.

22 Q Did you pay Jimmy Duncan for that eightball
23 that night?

24 A I don't remember if I paid him that night
25 or if I went back and paid him.

1 Q After you got the eightball from Jimmy
2 Duncan, what did you do?

3 A I would leave Jimmy Duncan's house and go
4 back to the designated location.

5 Q And what happened when you got there?

6 A I would hand over the methamphetamine to
7 one of the detectives. They would search me and the
8 vehicle I was in.

9 Q Do you remember who you handed the drugs
10 to?

11 A No, not on that specific night. Maybe one
12 of the detectives.

13 Q You've done this scenario four times?

14 A Uh-huh.

15 Q To your knowledge, was the phone call that
16 you made recorded?

17 A Yes, sir.

18 Q And the transaction itself?

19 A Yeah, everything was recorded.

20 Q Was that audio recording?

21 A Yes.

22 **MR. UNDERWOOD:** Approach the witness, Your
23 Honor?

24 **THE COURT:** Yes.

25 **BY MR. UNDERWOOD:**

1 **Q** Handing you what's been marked for
2 identification as State's Exhibit Number 16. You
3 recognize that?

4 **A** Yes, sir.

5 **Q** What is it?

6 **A** That is a recorded phone call that I made
7 to Jimmy Duncan.

8 **Q** Have you had an opportunity to listen to
9 that disk?

10 **A** Yes, sir, I have.

11 **Q** Is it a fair, accurate and complete
12 recording of that phone call?

13 **A** Yes, sir. It is.

14 **Q** How do you know that that is the same disk
15 that you reviewed?

16 **A** My initials are on it.

17 **Q** Now handing you State's Exhibit Number 17
18 for identification. Do you recognize that Exhibit?

19 **A** Yes, sir. I do.

20 **Q** What is that?

21 **A** It is a recording for one of the buys.

22 **Q** Is that the buy from October 16th, 2014?

23 **A** Yes, sir.

24 **Q** Is that the night that you were pulled
25 over?

1 **A** I believe so.

2 **Q** And have you had an opportunity to listen
3 to that recording?

4 **A** I have.

5 **Q** Is a fair, complete and accurate recording
6 of that transaction?

7 **A** Yes, sir.

8 **Q** How do you know this is the same recording?

9 **A** My initials are on it.

10 **MR. UNDERWOOD:** Your Honor, at this time, I
11 would move to admit State's Exhibit 16 and 17
12 into evidence.

13 **THE COURT:** All right. Any objection?

14 **MR. WARDER:** No, Your Honor.

15 **THE COURT:** All right. What number was
16 this?

17 **MR. UNDERWOOD:** 16 and 17, Your Honor.

18 **THE COURT:** All right. 16 and 17 are
19 entered without objection.

20 **(WHEREUPON, State's Exhibits 16 and 17 are**
21 **admitted into the record.)**

22 **MR. UNDERWOOD:** Permission to publish, Your
23 Honor.

24 **THE COURT:** Yes, you may.

25 **MR. UNDERWOOD:** First, this is Exhibit 16.

1 **(WHEREUPON, State's Exhibit 16 is played.)**

2 **BY MR. UNDERWOOD:**

3 **Q** Whose voice was on that call?

4 **A** Mine and Jimmy Duncan's.

5 **Q** Now, did you explicitly talk about buying
6 drugs in the call?

7 **A** He asked me if I could come see him.

8 **Q** And did you have regular discussions with
9 Jimmy Duncan on a frequent basis?

10 **A** Uh-huh.

11 **Q** When you had asked if you could come see
12 him, what did that usually mean?

13 **A** Come purchase methamphetamine.

14 **MR. UNDERWOOD:** This is State's Exhibit
15 Number 17.

16 **(WHEREUPON, State's Exhibit 17 is played, and**
17 **then paused.)**

18 **BY MR. UNDERWOOD:**

19 **Q** Ms. O'Bryant, did it take you several
20 minutes in order to drive from the arranged location
21 to Jimmy Duncan's house?

22 **A** Yes.

23 **Q** Did you stop anywhere else along the way?

24 **A** Yes, sir.

25 **MR. UNDERWOOD:** Your Honor, with the

1 Court's permission, in the interest of time,
2 could I fast-forward through some of the driving
3 time if there's not objection from the defense?

4 **MR. WARDER:** Any objection, Mr. Warder?

5 **MR. UNDERWOOD:** I can play the whole thing,
6 Your Honor. I was just looking to save time.

7 **MR. WARDER:** I don't know how long. I
8 would like -- let me talk to my client.

9 **(WHEREUPON, Mr. Warder consults with Mr. Duncan.)**

10 **MR. WARDER:** If they could get it to the
11 beginning of the conversation, we don't object.

12 **THE COURT:** Okay.

13 **(WHEREUPON, State's Exhibit 17 is resumed, and**
14 **then paused.)**

15 **BY MR. UNDERWOOD:**

16 **Q** Ms. O'Bryant, that short exchange right
17 there, what were you talking about with Mr. Duncan?
18 Do you remember?

19 **A** No.

20 **Q** You remember where you asked if he was
21 going to get stuck in that thing, do you remember
22 what he was doing?

23 **A** Surveillance camera.

24 **Q** Did he have surveillance cameras?

25 **A** Yes, sir.

1 Q Do you know how many?

2 A No. Just one, I think. Might have been two.
3 I don't remember.

4 Q Do you remember exactly what he was looking
5 at?

6 A Driveway. Pointed down the road as well.

7 Q Do you know why he was looking at
8 surveillance cameras?

9 A Anybody that done methamphetamine and had a
10 surveillance camera always got stuck watching their
11 camera.

12 (WHEREUPON, State's Exhibit 17 is resumed, and
13 then paused.)

14 BY MR. UNDERWOOD:

15 Q Ms. O'Bryant, do you know who owned the dog
16 you were talking about?

17 A At first, I didn't know whose dog it was.
18 But I think it belonged to some little girl that come
19 over there named Hannah.

20 Q It wasn't Jimmy Duncan's dog?

21 A I don't think so.

22 Q During this period, after you had some
23 interaction with the dog, what's going on?

24 A I mean, I think I just took his dog out for
25 him.

1 Q You were outside by yourself with the dog
2 at this point?

3 A I don't remember if he walked outside with
4 me or not. I can't remember.

5 Q Was anyone else there at that time?

6 A I don't think so.

7 Q Did someone else come in later?

8 A Might have.

9 (WHEREUPON, State's Exhibit 17 is resumed, and
10 then paused.)

11 BY MR. UNDERWOOD:

12 Q Is this where you were discussing your deal
13 for the eightball?

14 A Yes, sir.

15 Q And did -- was it agreed that you would get
16 it on front and get the money to him when you could?

17 A Yes, sir.

18 Q You mentioned something silver. What were
19 you talking about?

20 A What he asked me to google earlier.

21 Q He asked you to google silver?

22 A Yeah, he had some -- I think it was like
23 sterling silver silverware or something. I think
24 that's what it was.

25 Q He had some silver that he wanted you to

1 look up the value?

2 **A** I think so.

3 **(WHEREUPON, State's Exhibit 17 is resumed, and**
4 then paused.)

5 **BY MR. UNDERWOOD:**

6 **Q** Ms. O'Bryant, was there any other
7 conversation after this point separate and apart from
8 the drug transaction?

9 **A** No.

10 **Q** I'm sorry?

11 **A** No.

12 **Q** Did you discuss drugs any further?

13 **A** I don't think so.

14 **MR. UNDERWOOD:** Your Honor, if there's no
15 objection from defense counsel, I'd like to end
16 playing unless there's an objection.

17 **THE COURT:** I think that's your
18 prerogative.

19 **MR. WARDER:** Yes, sir, Your Honor. If
20 we're going to just stop it, I really am going
21 to object. Certainly for all the questions --
22 quite frankly, his questions don't sound to me
23 like --

24 **THE COURT:** I think the matter that's
25 currently before us is do you have a problem if

1 he stops the tape at this point.

2 **MR. WARDER:** I guess we stipulate that it
3 goes on, but nothing of any relevance.

4 **THE COURT:** I don't know. Do you have an
5 objection to him stopping it?

6 **MR. WARDER:** (No audible response.)

7 **THE COURT:** Do you have an objection to
8 him stopping it?

9 **MR. WARDER:** No.

10 **THE COURT:** Okay.

11 **BY MR. UNDERWOOD:**

12 **Q** Ms. O'Bryant, after this transaction is
13 completed, did you go back to the meet location?

14 **A** Yes, sir.

15 **Q** And did you give the eightball you
16 purchased to law enforcement?

17 **A** Yes, sir.

18 **MR. UNDERWOOD:** Your Honor, I think at this
19 point, it might be a good time for a break.

20 **THE COURT:** All right. Yeah, we've been
21 going about an hour and a half. Ladies and
22 Gentlemen, I'm going to ask that -- this is our
23 morning break. Again, don't talk about the case
24 at all amongst yourselves. You'll have an
25 appropriate time to talk about it when you begin

1 deliberations. So please retire back to your
2 jury room. We'll bring you right back out when
3 y'all are ready.

4 **(WHEREUPON, the jury exits at approximately**
5 10:59 a.m.)

6 **THE COURT:** All right. We'll be at ease
7 for 10 minutes.

8 **(WHEREUPON, a recess is taken from approximately**
9 10:29 a.m. to 11:14 a.m.)

10 **(WHEREUPON, State's Exhibits 24 through 28 are**
11 marked for identification purposes.)

12 **THE COURT:** All right. Are we ready? Just
13 looking at schedule-wise.

14 **MR. UNDERWOOD:** Your Honor, we have at
15 least one other witness after this witness,
16 possibly two depending on how much time we have
17 left.

18 **THE COURT:** How long -- you've got a bunch
19 more of these real interesting tapes?

20 **MR. UNDERWOOD:** Your Honor, I am going to
21 have most of them admitted, but not published.
22 The only one I want to publish is the video. The
23 audio recording, we're just going to admit.

24 **THE COURT:** That's fine. I don't mean to
25 discourage you.

1 **MR. UNDERWOOD:** I think one was enough for
2 the jury, Your Honor.

3 **THE COURT:** I mean, you do what you need
4 to do. All right.

5 Ready to bring the jury in, Mr. Warder?

6 **MR. WARDER:** Yes, sir.

7 **THE COURT:** All right. Bring them if
8 they're ready.

9 (WHEREUPON, the jury enters at approximately
10 11:17 a.m.)

11 **THE COURT:** All right. Ladies and
12 Gentlemen, we'll proceed.

13 **MR. UNDERWOOD:** Thank you, Your Honor.

14 **BY MR. UNDERWOOD:**

15 **Q** Ms. O'Bryant, the following day after that
16 controlled purchase, which would be October 17th,
17 2014, did you make arrangements with Jimmy Duncan for
18 making payment for the drugs you got?

19 **A** Yes, sir.

20 **MR. WARDER:** Objection, leading.

21 **THE COURT:** All right. Yeah, rephrase the
22 question.

23 **BY MR. UNDERWOOD:**

24 **Q** Did you have any contact with Jimmy Duncan
25 that day?

1 **A** Yes, sir.

2 **Q** Why?

3 **A** To pay him for the methamphetamine that I
4 had purchased.

5 **Q** What arrangements were made?

6 **A** I could drop the money off with Parker, the
7 next door neighbor.

8 **Q** Was that call to Jimmy Duncan done with law
9 enforcement?

10 **A** I think it may have been recorded. I think
11 all the calls I had with Jimmy Duncan were recorded.

12 **Q** Did you contact law enforcement about
13 making arrangements to have an escort to that
14 payment?

15 **A** Yes.

16 **Q** Do you remember which agent you dealt with?

17 **A** I don't remember what the agent's name was
18 that drove me.

19 **Q** Did you have a recording device during that
20 transaction?

21 **A** Yes.

22 **Q** I'm handing you what's been marked as
23 State's Exhibit 18. Do you recognize that?

24 **A** Yes, sir.

25 **Q** What is it?

1 **A** It's the very next day. It's the recording
2 of the payment.

3 **Q** Okay. And have you listened to that disk to
4 confirm that it's a complete, fair and accurate
5 recording?

6 **A** Yes, sir.

7 **Q** And have you marked it in some way?

8 **A** My initials.

9 **MR. UNDERWOOD:** Your Honor, at this time, I
10 would seek to admit State's Exhibit 18 into
11 evidence.

12 **THE COURT:** Any objection?

13 **MR. WARDER:** No, sir.

14 **THE COURT:** All right. It's in without --
15 Exhibit -- State's Exhibit 18 is in without
16 objection.

17 **MR. UNDERWOOD:** Thank you, Your Honor.

18 **(WHEREUPON, State's Exhibit 18 is admitted into**
19 **the record.)**

20 **BY MR. UNDERWOOD:**

21 **Q** Later that day, did you make arrangements
22 to do another controlled purchase?

23 **A** Yes, sir.

24 **Q** Tell the jury how that took place.

25 **A** About like the first time. I made the phone

1 call to see if I could come over. Met the agents at
2 the designated location. Had the wire put on. Left
3 from the designated location with the agents behind
4 me. Went to Jimmy Duncan's house. Purchased
5 methamphetamine. Left there. The agents followed me
6 back to the designated location. Handed the
7 methamphetamine over to the agents. They searched me.
8 Searched the vehicle and then the wire was taken off.

9 Q During that controlled buy, did you see
10 Jimmy Duncan with a gun?

11 A Yeah, he had a gun.

12 Q You know what kind of gun it was?

13 A Nine millimeter.

14 Q Where did you see it?

15 A I think it was like tucked in his waist.

16 Q Was there anyone else there during that
17 purchase?

18 A Possibly. It was the same person as the day
19 before.

20 Q Is that Melissa?

21 A Uh-huh.

22 Q Did Melissa purchase any methamphetamine on
23 that occasion?

24 A Made a purchase or paid. One of the two.

25 Q During that controlled buy, what happened

1 when you got to Jimmy's house? Tell the jury what
2 happened once you got there.

3 **A** Jimmy was watching the camera as usual. Had
4 the gun tucked in his waist, for what reason, I don't
5 know. That's basically it.

6 **Q** Were you able to purchase methamphetamine
7 from him?

8 **A** Yes.

9 **Q** Where did he get the methamphetamine from?

10 **A** Safe located in the floor.

11 **Q** Did you see him take it out of the safe?

12 **A** Yes.

13 **Q** Did you pay him for it?

14 **A** I believe -- I think I paid him for that
15 transaction.

16 **Q** Was that with your own money?

17 **A** No.

18 **Q** Where did the money come from?

19 **A** The agents.

20 **Q** You remember how much meth you bought?

21 **A** An eightball, I think.

22 **Q** Again, an eightball is an eighth of an
23 ounce?

24 **A** Yes.

25 **Q** At the end of the buy, did you give the

1 drugs to law enforcement?

2 **A** Yes, sir.

3 **Q** Did you give them all of the drugs?

4 **A** All of the drugs.

5 **Q** Were you searched both before and after you
6 did the controlled buy?

7 **A** Yes, sir.

8 **Q** To your knowledge, was that recorded?

9 **A** Yes.

10 **Q** Handing you State's Exhibit 19. You
11 recognize that?

12 **A** Yes, sir.

13 **Q** What is it?

14 **A** Audio recording of the buy.

15 **Q** Is this the buy we were just discussing on
16 October 17th?

17 **A** Yes, sir.

18 **Q** Have you had an opportunity to listen to
19 that recording?

20 **A** Yes, sir.

21 **Q** Is it a complete, fair and accurate
22 recording?

23 **A** Yes, sir.

24 **Q** Have you marked the disk in some way to
25 show that?

1 **A** My initials.

2 **MR. UNDERWOOD:** Your Honor, at this time, I
3 would move to enter State's Exhibit 19 into
4 evidence.

5 **THE COURT:** All right. Any objection?

6 **MR. WARDER:** If we're going to just enter
7 them and not publish them, then I object to them
8 because I can't cross-examine her about them.

9 **THE COURT:** All right.

10 **MR. UNDERWOOD:** Your Honor, once they are
11 in evidence, if Mr. Warder wishes to publish
12 them, he can publish them during his cross-
13 examination.

14 **THE COURT:** I believe he's laid the proper
15 foundation. You can publish whatever. I will
16 allow the evidence in over your objection.

17 **(WHEREUPON, State's Exhibit 19 is admitted into**
18 the record.)

19 **BY MR. UNDERWOOD:**

20 **Q** Ms. O'Bryant, did you do another controlled
21 purchase on October 30th, 2014?

22 **A** Yes, sir.

23 **Q** How did that purchase take place?

24 **A** Same way as before.

25 **Q** Do you remember what happened when you got

1 to Mr. Duncan's house?

2 **A** Not exactly. I believe the same process.

3 **Q** Were you able to purchase methamphetamine?

4 **A** Yes, sir.

5 **Q** You remember how much you went there to
6 buy?

7 **A** It might have moved up to a quarter spoon.

8 **Q** You say a quarter spoon, what is that?

9 **A** That's two eightballs.

10 **Q** Is that then a quarter of an ounce?

11 **A** Yes.

12 **Q** That's about seven grams?

13 **A** Yes, sir.

14 **Q** On one of your purchases, did you buy a
15 quarter ounce?

16 **A** I believe so.

17 **Q** For your other purchases, you bought an
18 eightball?

19 **A** Yes.

20 **Q** During the transaction on October 30th,
21 2014, were you successful in buying drugs from Jimmy
22 Duncan?

23 **A** Yes.

24 **Q** Was anyone else there when you got there?

25 **A** Probably, but as of right this minute, I

1 don't remember who. There was usually somebody there
2 all the time.

3 Q When you got there to get the
4 methamphetamine, did you see where Mr. Duncan got it
5 from?

6 A From the safe.

7 Q Was it prepackaged or did he weigh it out
8 for you?

9 A Weighed it.

10 Q What did you do with the methamphetamine
11 that you got from him?

12 A Handed it over to the agents.

13 Q Was that recorded?

14 A Yes.

15 Q Prior to the buy, did you do a recorded
16 phone call to set it up?

17 A Yes.

18 Q Was that recorded as well?

19 A Yes.

20 Q Handing you what's been marked as State's
21 Exhibit Number 20. Do you recognize that?

22 A Yes, sir.

23 Q What is that?

24 A It's the audio recording of the 30th.

25 Q Is it of the buy or of the call?

1 **A** The call.

2 **Q** Have you had an opportunity to listen to
3 that recording?

4 **A** Yes, sir.

5 **Q** Is it a fair and accurate recording?

6 **A** Yes, sir.

7 **MR. UNDERWOOD:** Your Honor, at this time, I
8 would seek to move State's Exhibit Number 20
9 into evidence.

10 **THE COURT:** All right. Mr. Warder?

11 **MR. WARDER:** Your Honor, we'd object to
12 that. Same objection.

13 **THE COURT:** All right. I overrule your
14 objection and admit it over your objection.

15 **(WHEREUPON,** State's Exhibit 20 is admitted into
16 the record.)

17 **BY MR. UNDERWOOD:**

18 **Q** Now, State's Exhibit Number 21, you
19 recognize that exhibit?

20 **A** Yes, sir.

21 **Q** What is that?

22 **A** That's the audio recording of the buy on
23 the 30th.

24 **Q** Is it a fair and accurate recording of that
25 transaction?

1 **A** Yes, sir. It is.

2 **Q** Have you had an opportunity to listen to it
3 to confirm that?

4 **A** Yes, sir.

5 **Q** Have you marked the disk in some way to
6 recognize it?

7 **A** My initials are on it.

8 **MR. UNDERWOOD:** Your Honor, at this time, I
9 seek again to move now Exhibit 21 into evidence.

10 **THE COURT:** All right. And Mr. Warder?

11 **MR. WARDER:** Same objection.

12 **THE COURT:** All right. Same ruling.

13 Admitted without objection -- over your
14 objection.

15 **(WHEREUPON, State's Exhibit 21 is admitted into**
16 **the record.)**

17 **BY MR. UNDERWOOD:**

18 **Q** Ms. O'Bryant, in all of these recordings
19 that we just put into evidence, who are the primary
20 voices on those recordings?

21 **A** Mine and Jimmy Duncan's.

22 **Q** Ms. O'Bryant, did you have a chance to do
23 another controlled buy from Jimmy Duncan several
24 months later?

25 **A** Yes, sir.

1 Q Is that on February 23rd, 2015?

2 A Yes, sir.

3 Q How did that transaction take place?

4 A It was a little different.

5 Q What was different about it?

6 A I got video footage that time.

7 Q Was everything else the same as far as
8 setting up a ---

9 A Yes, sir.

10 Q --- predetermined location? Were you
11 searched prior to the transaction?

12 A Yes, sir.

13 Q Were you searched after the transaction?

14 A Yes, sir.

15 Q Were you successful in purchasing
16 methamphetamine during that transaction?

17 A Yes, sir.

18 Q Who did you buy the methamphetamine from?

19 A Jimmy Duncan.

20 Q Was it audio recorded, as well as video
21 recorded?

22 A Yes.

23 Q Have you had an opportunity to listen to
24 both recordings?

25 A Yes.

1 **Q** Handing you State's Exhibit Number 22. Do
2 you recognize that?

3 **A** Yes.

4 **Q** What is that?

5 **A** It's a video of the buy on the 23rd.

6 **Q** And you had an opportunity to review that
7 video?

8 **A** Yes, sir.

9 **Q** Is it a complete recording of that
10 transaction?

11 **A** Yes, sir.

12 **Q** Have you marked that disk in some way?

13 **A** My initials.

14 **MR. UNDERWOOD:** Your Honor, at this time, I
15 seek to move State's Exhibit 22 into evidence.

16 **THE COURT:** All right. Mr. Warder?

17 **MR. WARDER:** Same objection, although I
18 think we're going to publish this one.

19 **MR. UNDERWOOD:** The State does intend to
20 publish this one.

21 **THE COURT:** All right. All right.

22 **MR. WARDER:** No objection.

23 **THE COURT:** All right. Then 22 is in
24 without objection.

25 **(WHEREUPON,** State's Exhibit 22 is admitted into

1 the record.)

2 **BY MR. UNDERWOOD:**

3 Q And Ms. O'Bryant, State's 23, do you
4 recognize that?

5 A Yes, sir.

6 Q What is that?

7 A That's the audio recording of the buy on
8 the 23rd.

9 Q Is that the same transaction as the video
10 we just put in?

11 A Yes.

12 Q Have you had a chance to listen to that
13 entire recording?

14 A Yes.

15 Q Is it a fair, complete and accurate
16 recording of the transaction?

17 A Yes.

18 Q Have you marked the disk?

19 A With my initials.

20 **MR. UNDERWOOD:** Your Honor, at this time,
21 the State seeks to admit Exhibit 23 into
22 evidence.

23 **THE COURT:** All right. Mr. Warder?

24 **MR. WARDER:** If we're going to publish it
25 so the jury has the benefit, I have no

1 objection.

2 **THE COURT:** That one is going to be
3 published?

4 **MR. UNDERWOOD:** Your Honor, we're only
5 going to publish the video, which has sound as
6 well.

7 **THE COURT:** Which is number 22?

8 **MR. UNDERWOOD:** 22 is the video, 23 is the
9 audio that we're seeking to admit now.

10 **THE COURT:** Are they both the same?

11 **MR. UNDERWOOD:** Same transaction, yes, Your
12 Honor.

13 **THE COURT:** You object then to 23?

14 **MR. WARDER:** Yes, Your Honor.

15 **THE COURT:** I'm going to allow it in over
16 your objection.

17 (WHEREUPON, State's Exhibit 23 is admitted into
18 the record.)

19 **MR. UNDERWOOD:** Permission to publish
20 Exhibit 22, Your Honor.

21 **THE COURT:** Yes, you may publish.

22 (WHEREUPON, State's Exhibit 22 is played.)

23 **BY MR. UNDERWOOD:**

24 **Q** I am now showing you -- now showing you
25 State's Exhibits 24, 25, 26, 27 and 28. Would you

1 examine those for a moment please?

2 **A** (Reviewing.)

3 **Q** What are those exhibits?

4 **A** Pictures of Jimmy Duncan.

5 **Q** Are they pictures from the video we just
6 watched?

7 **A** Yes, sir.

8 **Q** Are those accurate still shots from that
9 video?

10 **A** Yes, sir.

11 **MR. UNDERWOOD:** Your Honor, I now seek to
12 admit State's Exhibits 24 through 28.

13 **THE COURT:** Any objection?

14 **MR. WARDER:** No, Your Honor.

15 **THE COURT:** All right. In without
16 objection, State's Exhibits 24 through 28.

17 **MR. UNDERWOOD:** Thank you, Your Honor.

18 **(WHEREUPON, State's Exhibits 24 through 28 are**
19 **admitted into the record.)**

20 **BY MR. UNDERWOOD:**

21 **Q** Ms. O'Bryant, in the video we just watched,
22 who is the other woman present?

23 **A** Sarah.

24 **Q** Do you know Sarah's last name?

25 **A** Pace? I think it's Pace.

1 Q Do you know what her relationship is to
2 Jimmy Duncan?

3 A Acquaintance.

4 Q Do you know if she ever buys
5 methamphetamine from him?

6 A I don't know.

7 Q Who was the man in the video that sold you
8 methamphetamine?

9 A Jimmy Duncan.

10 Q Is that the same Jimmy Duncan that was in
11 all of the audio recordings that we put into
12 evidence?

13 A Yes, sir.

14 Q Is that the same Jimmy Duncan that you
15 testified earlier about having frequent dealings
16 with ---

17 A Yes, sir.

18 Q --- concerning methamphetamine?

19 A Yes, sir.

20 Q Is Jimmy Duncan in the courtroom at this
21 time?

22 A Yes, sir. He is.

23 Q Would you identify him please?

24 A Over there in the white shirt.

25 **MR. UNDERWOOD:** Your Honor, I would ask the

1 record to reflect that she identified the
2 defendant, Jimmy Duncan.

3 **THE COURT:** All right. So admitted.

4 **MR. UNDERWOOD:** Thank you. Please answer
5 any questions Mr. Warder may have.

6 **THE COURT:** Mr. Warder, cross-examination.

7 **CROSS-EXAMINATION**

8 **BY MR. WARDER:**

9 **Q** The hearing device you wore, where was that
10 located on your body?

11 **A** It was a wire that went up my leg.

12 **Q** Where was the actual --

13 **A** It was like taped right here at my waist or
14 whatever.

15 **Q** Okay. And then there was a microphone --

16 **A** There was a wire that went down my leg.

17 **Q** Okay. Did that have any device where you
18 could hear the officer monitoring you?

19 **A** I couldn't hear the officers, no.

20 **Q** Okay. It just transmitted one way?

21 **A** I do believe so.

22 **Q** Did you ever have any other relationship
23 with Jimmy outside of the drugs?

24 **A** I helped him work on cars, cleaned his
25 house for him.

1 Q You cleaned his house for him?

2 A Yes.

3 Q Did you live there?

4 A At one time, for a short time.

5 Q How long did you live with Jimmy?

6 A A couple of weeks.

7 Q Okay. When was that in relationship with
8 the events that we're talking about?

9 A I wasn't living there during the time I was
10 doing any work for the agents.

11 Q You were living with him before or after
12 these events?

13 A I think it was before.

14 Q Are you sure about that?

15 A I'm not sure, no.

16 Q Thank you.

17 THE COURT: Any redirect?

18 MR. UNDERWOOD: No, Your Honor.

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

20 THE WITNESS: Thank you.

21 MR. UNDERWOOD: Your Honor, we'd ask that
22 she'd be released from her subpoena.

23 THE COURT: Any objection?

24 MR. WARDER: No.

25 THE COURT: All right. You may be

1 released.

2 All right. Next witness.

3 **MR. FERNANDEZ:** Your Honor, the State calls
4 Deputy Bryan Langston.

5 **THE CLERK:** Please step forward to be
6 sworn in, sir. If you would, place your left
7 hand on the Bible. Raise your right hand.

8 **BRYAN LANGSTON**

9 having first been duly sworn, testifies as follows:

10 **THE CLERK:** Please state your full name.

11 **THE WITNESS:** Bryan Langston.

12 **THE CLERK:** Please be seated.

13 (WHEREUPON, there is a pause.)

14 **THE COURT:** Y'all need a break? All right.

15 While we get situated here, we're going to
16 take a short break. If you will, retire back to
17 your jury room and do not discuss the case.

18 (WHEREUPON, the jury exits at approximately

19 11:57 a.m.)

20 (WHEREUPON, a recess is taken at approximately

21 11:57 a.m.)

22 (WHEREUPON, State's Exhibits 29 through 62 are
23 marked for identification purposes.)

24 (WHEREUPON, the Court resumes at approximately

25 12:08 p.m.)

1 **(WHEREUPON,** the jury enters at approximately
2 12:10 p.m.)

3 **THE COURT:** All right. Ladies and
4 Gentlemen, thank you for your patience. Now, we
5 are ready to proceed.

6 **MR. FERNANDEZ:** Thank you, Your Honor.

7 **DIRECT EXAMINATION**

8 **BY MR. FERNANDEZ:**

9 **Q** Deputy Langston, would you please state
10 your name for the record.

11 **A** Bryan Langston, Pickens County Sheriff's
12 Office.

13 **Q** If you would, please tell us how long --
14 give us a general overview of your law enforcement
15 career.

16 **A** I've been in law enforcement almost 14
17 years now. The last four of which, I've been working
18 with the forensics unit.

19 **Q** Okay. And speaking about the forensic unit,
20 would you please tell us what your current duties and
21 assignments and responsibilities are with the Pickens
22 County Sheriff's Office.

23 **A** Sure. With forensics, we do all crime
24 scenes. We do all property and evidence. We do
25 securing of those -- that evidence in a secure

1 location. Pretty much any photography or anything
2 that has to do with evidence.

3 Q And are you familiar -- are you aware of
4 why you're here today?

5 A I am. Yes.

6 Q And specifically concerning Pickens County
7 Sheriff's Office case number 2015-4395, are you
8 familiar with that case as well?

9 A Yes, I am.

10 MR. FERNANDEZ: Your Honor, permission to
11 approach the witness.

12 THE COURT: Yes.

13 BY MR. FERNANDEZ:

14 Q Deputy Langston, I'm handing you a packet
15 of papers there. Are you familiar with what that
16 packet is?

17 A Yes, it is one of our evidence and property
18 sheets.

19 Q Is that a property sheet that you in fact
20 were the scribe for and received the items listed in
21 that property sheet?

22 A Correct.

23 Q Are you aware of -- the items that you
24 received, are you aware from where they came?

25 A I am. I got them from Agent Blankenship.

1 review those photographs.

2 **A** (Reviewing.)

3 **Q** Okay. And are you familiar with those
4 photographs?

5 **A** I am.

6 **Q** And would you please tell us what they are
7 pictures of?

8 **A** They are pictures of an LG-like flip phone.
9 We had to tape it down to a little backing and take
10 pictures of them. I had an officer take the pictures.

11 **Q** Okay. And are those photographs a true and
12 accurate representation of the cell phone you
13 received and of the images that you took a picture
14 of?

15 **A** Yes, they are.

16 **Q** And the images would be of the cell phone
17 itself and the text messages within?

18 **A** Correct.

19 **MR. FERNANDEZ:** Your Honor, at this time,
20 we move to place exhibit -- State's Exhibits
21 number 30 through 39 into evidence.

22 **THE COURT:** All right. Any objection?

23 **MR. WARDER:** Yes, sir. I don't think
24 proper foundation has been laid to go into
25 evidence.

1 **MR. FERNANDEZ:** I'll ask a few other
2 questions, Your Honor.

3 **BY MR. FERNANDEZ:**

4 **Q** The cell phone that you took pictures of,
5 who did you receive that cell phone from?

6 **A** From Agent Blankenship on a search warrant,
7 I believe.

8 **Q** And was it -- was the cell phone that you
9 took pictures of also listed in your detailed log of
10 all items received?

11 **A** Correct. It's listed on the property sheet
12 by serial number. And also in the photographs there
13 is -- I took a picture of the opened cell phone where
14 the battery case is that contains the serial number.

15 **Q** And would you please, for the record, state
16 which exhibit you are referring to that has the
17 serial numbers listed on it?

18 **A** All right. Hang on just a second. (Pause.)

19 It is an LG cell phone, Item Number 78 on
20 my property sheet. The serial number is
21 408CYGW294095.

22 **MR. FERNANDEZ:** At this time, Your Honor,
23 we again move to place the photographs into
24 evidence.

25 **THE COURT:** Mr. Warder?

1 **MR. WARDER:** Same objection.

2 **THE COURT:** I'm not sure that the -- I
3 mean, I'm going to sustain the objection. We've
4 got the pictures, but I'm not sure we've tied it
5 to anything yet. So I'm going to sustain the
6 objection.

7 **(WHEREUPON,** State's Exhibits 63 through 79 are
8 marked for identification purposes.)

9 **BY MR. FERNANDEZ:**

10 **Q** Deputy Langston, in reviewing your email
11 log -- I'm sorry -- your property log, would you
12 please tell us the items that you collected for items
13 listed as number 1 and then covering 1A, B, C and D?

14 **A** Number 1 is a SLED BEST pack. That's
15 actually an evidence pack provided by SLED for their
16 analysis. It's a form inside of it that the officer
17 fills out for proper analysis by the SLED. So they
18 fill that sheet out and put it inside the SLED BEST
19 pack. And they seal it where it can not be tampered
20 with anymore.

21 **Q** And if I can ask you a question concerning
22 that, when you received that package, is it -- is the
23 BEST kit in a tamper evident bag?

24 **A** It was. It was already sealed where you can
25 not tamper with it.

1 Q And when you received it, was it in a
2 sealed state?

3 A Yes, it was.

4 Q And did you open it at any point?

5 A No.

6 Q And when you logged it into evidence, was
7 it in the same kit that you received it?

8 A Correct. It was.

9 Q All right. Please continue.

10 A Items 1A, B, C and D are -- on the evidence
11 sheet, he went ahead and itemized all those items
12 inside the BEST pack. So those items were contained
13 inside the BEST pack.

14 Q I am going to hand up to you, Deputy,
15 State's Exhibit 54 through 58. Would you please take
16 a moment to review these and then tell me if you
17 recognize what they would be.

18 A All of these are BEST packs, which were
19 properly filled out and sealed by each agent or
20 deputy that turned them in.

21 Q And were those BEST packs that were
22 delivered to your custody?

23 A BEST kit -- let me see which number this
24 one is -- 228591 was. All of these I saw in custody.
25 But this one was the one that came in to me.

1 Q Okay. I'm sorry please tell me which
2 exhibit number, the one that you personally took into
3 custody is.

4 A It is -- the BEST pack is 228591. It is
5 Item Number 1 on the property sheet 2015-04395.

6 Q Okay. And the State's Exhibit on that
7 particular item is?

8 A Is Exhibit 58.

9 Q Thank you. All totaled, how many items were
10 delivered into your custody from this particular
11 seizure?

12 A From the seizure, I have 80 items on the
13 search warrant.

14 Q Now, I'm handing you another package marked
15 State's Exhibit Number 59. Could you please take a
16 look at that and tell me if you recognize the items?

17 A I do. It's a glass smoking pipe, which
18 would be Item Number 6 and -- on my sheet, and
19 digital scale which is Item Number 7. It's marked
20 Number 59 on the State's Exhibit.

21 Q And were those items that were -- you
22 received into your custody?

23 A I did.

24 Q I'm handing you what has been marked
25 State's Exhibit Number 60. Would you please take a

1 look at those two items and let me know if you
2 recognize them.

3 **A** Yes, I do. They were also handled -- they
4 were also in the evidence that was handed in and
5 documented on the sheets. With State's Exhibit 60, I
6 have items -- let me be sure and tell you exactly
7 which ones. The blue notebook is Number 20.

8 **Q** Thank you.

9 **A** And there's two other scales in there,
10 which is item 23, I believe.

11 **Q** Thank you.

12 **A** Yes.

13 **Q** And again, the same as the other questions.
14 Were these items that you received into your custody
15 from the officers who seized them?

16 **A** Correct. They were.

17 **Q** Handing you another package of items, would
18 you please take a look at them and tell me if you
19 recognize those items.

20 **A** I do. They were also included. They were
21 items Number 24 and 25 on my sheets and State's
22 Exhibit 61.

23 **Q** And items 24 and 25, would you please tell
24 us what the description was when you logged those
25 items?

1 **A** Yes, one of them -- 24 contained spoons
2 with crystal substance residue still in them. There's
3 actually a dollar bill in there, too. And the other
4 one is a Sheryl Crow CD case.

5 **Q** And again, the same as before, are these
6 items that you collected that you received from
7 officers who had seized them?

8 **A** Yes, they are.

9 **Q** Thank you. And I am handing you State's
10 Exhibit Number 62. Please take a look at that and let
11 me know if you recognize it.

12 **A** —(Reviewing.)—

13 Number 28, I do recognize this. It's a
14 large digital scale that was turned in. It was
15 actually annotated as number 26 -- I'm sorry --
16 number 28 on my evidence sheet and it's your number
17 62.

18 **Q** Thank you. Deputy Langston, I'm going to
19 ask you a few other questions concerning the items.
20 If you would, please tell me the item -- I'm going to
21 give you an item number. If you would, please tell me
22 what that item was that was seized.

23 **A** Okay.

24 **Q** Item Number 8.

25 **A** Item Number 8 was a Motorola cell phone. It

1 has an ID number of ID HT56NG1.

2 Q Thank you. Item Number 9, what is that?

3 A Item Number 9 is another cell phone. It's
4 an LG cell phone with serial number 004CYSF0922206.

5 Q And Item Number 78.

6 A It's an LG cell phone. The serial number is
7 408CYGW294095.

8 Q And Item Number 79.

9 A It's another LG cell phone, serial number
10 312CYCV989059.

11 Q And Item Number 80.

12 A It is a Samsung cell phone. It's number was
13 990004827496195.

14 Q Please tell me what items number 2, 3 and 4
15 were.

16 A 2, 3 and 4 were United States currency.

17 Number 2 was \$873, Item 3 was \$1240, and number 4 was
18 \$2000 even, of US currency.

19 Q Thank you. Would you please tell me what
20 items number 12 through 15 were.

21 A Item Number 12 was two pistol magazines, 13
22 was a box of .380 caliber bullets, 36 rounds, number
23 4 was a box of 7.62 by 39 bullets, 40 rounds, number
24 15 was a box of 12 gauge shells.

25 Q Number 17, Item Number 17?

1 **A** 17 was just assorted loose shotgun shells.

2 **Q** Item Number 18 and 19.

3 **A** 18 was a Kel-Tec nine millimeter pistol,
4 serial number 135507, model P-11. Number 19 was a
5 Butler 22 caliber short pistol, serial number 10574.

6 **Q** Items number 26 and 27, if you will.

7 **A** 26 is a box of .40 caliber bullets, 30
8 rounds. Number 27 was an assortment of loose
9 ammunition.

10 **Q** And finally, would you please tell me what
11 items number 32 through 35 were?

12 **A** Okay. 32, a Springfield pump shotgun, 12
13 gauge, serial number A241769. 33 was a Remington
14 model 700, 7 millimeter, serial number 6216081. Item
15 Number 34 was a Stoeger 12 gauge over and under
16 shotgun, serial number 1666007 -- 07. I'm sorry.
17 Correction. And number 35 was a Bay State 410
18 shotgun, serial number 631512.

19 **Q** Thank you.

20 **A** Sure.

21 **MR. FERNANDEZ:** Beg the Court's indulgence
22 one moment. (Pause.)

23 **BY MR. FERNANDEZ:**

24 **Q** And Deputy Langston, going back to the cell
25 phone photos which you previously reviewed, the ones

1 you testified you took pictures of, were those
2 relating to a cell phone that was seized at [REDACTED]
3 Lane in Pickens?

4 **A** Yes, they were. They were for that search
5 warrant.

6 **MR. FERNANDEZ:** No further questions, Your
7 Honor.

8 **THE COURT:** All right. Any cross-
9 examination?

10 **CROSS-EXAMINATION**

11 **BY MR. WARDER:**

12 **Q** Deputy Langston, I take it you have no
13 knowledge of where this stuff comes from that would
14 be based upon your personal observation; is that
15 right?

16 **A** That would be a correct statement. Only
17 from the documentation that was given to me.

18 **Q** Okay. And you received it all from Deputy
19 Langston? I mean, sorry, from Deputy Blankenship,
20 Agent Blankenship?

21 **A** Correct.

22 **MR. WARDER:** Okay. That's all the questions
23 I have.

24 **THE COURT:** Thank you. Any redirect?

25 **MR. FERNANDEZ:** Nothing further, Your

1 Honor.

2 **THE COURT:** All right. You may step down.
3 How long is your next witness?

4 **MR. UNDERWOOD:** Your Honor, we can probably
5 get it done before one o'clock.

6 **THE COURT:** All right.

7 **MR. UNDERWOOD:** Your Honor, the State calls
8 Deputy Corey Baker.

9 **THE CLERK:** Please step forward to be
10 sworn in. Place your left hand on the Bible and
11 raise your right hand.

12 **COREY BAKER**

13 having first been duly sworn, testifies as follows:

14 **THE CLERK:** Please state your full name.

15 **THE WITNESS:** Corey Baker.

16 **THE CLERK:** Please be seated.

17 **DIRECT EXAMINATION**

18 **BY MR. UNDERWOOD:**

19 **Q** Good afternoon, Deputy Baker.

20 **A** How you doing?

21 **Q** Please introduce yourself to the jury and
22 give them a summary of your law enforcement training
23 and experience.

24 **A** My name is Corey Baker. I started at the
25 Pickens County Sheriff's Office in 2006. I been at it

1 just a little over 10 years now. I worked for the
2 Community Action Team for the Pickens County
3 Sheriff's Office. We work directly under the
4 lieutenant for the narcotics division, Special
5 Operations. We report directly to him. We work very
6 closely with him.

7 We handle any complaints that come in from
8 the community. We try to make the community a better
9 place by doing that. We are pretty much sent into any
10 areas where they're having a problem, be it drugs,
11 larcenies, whatever, to try to alleviate that
12 problem.

13 I have just a -- over the 10 years, I've
14 received assorted drug training, and traffic stops,
15 locating hidden compartments. I'm certified in
16 clandestine laboratory clean up, all that stuff. I'm
17 very familiar with the drug methamphetamine from my
18 numerous dealings with it on this team.

19 **Q** Deputy Baker, have you been on the
20 community action team your entire time with Pickens
21 County?

22 **A** I actually started out working in the jail.
23 I worked in there for about four months. I moved to
24 road patrol, answering regular calls for service. I
25 did that for about four years. Went to the traffic

1 division. Worked that for about four more years. When
2 the community action team started, I went into it in
3 its infancy and been on it ever since, so for about
4 getting close to three years now.

5 Q Does the community action team also serve
6 as an extension of the patrol unit other than traffic
7 stops?

8 A We do. We're actually under the detective
9 division. But we're in marked patrol cars. We wear
10 uniform just like patrol does. We go -- we work
11 speeding complaints, school zones, make traffic
12 stops.

13 Q Were you on duty October 16th of 2014?

14 A I was.

15 Q Did you have an opportunity to conduct a
16 traffic stop on one Brandy O'Bryant?

17 A Yes, sir.

18 Q Please tell the jury how that stop took
19 place.

20 A I was on patrol. I was inside Pickens
21 County on Hampton Avenue, which is in Pickens. I
22 observed the car pass by. It was approximately 9:30
23 at night. The car did not have a working taillight on
24 one side. So I stopped the vehicle. Made contact with
25 the occupant, which I identified as Brandy O'Bryant

1 as the driver. And she also had a female passenger
2 with her.

3 Q During that traffic stop, did you have an
4 opportunity to conduct any searches?

5 A The passenger ended up being wanted out of
6 Easley City on a warrant. So after placing her under
7 arrest, I asked for consent to search the vehicle,
8 which ultimately was granted. There was
9 methamphetamine located in the trunk of the vehicle,
10 which Brandy admitted was hers.

11 Q After Brandy admitted possession or
12 ownership of that methamphetamine, what was your
13 interaction with her concerning any other
14 investigation?

15 A At that time, she indicated that she would
16 like to become a cooperating individual and wanted to
17 speak with me further about that. She was not in
18 custody. We decided that -- I asked her what she
19 could offer, you know, what would be -- what kind of
20 information she would have. That was when she
21 notified me of a subject by the name of Jimmy Edward
22 Duncan that was on a run to pick up a large amount of
23 narcotics at that exact time. We discussed a possible
24 way that he would be coming back into Pickens County
25 from Greenville County to attempt to intercept. There

1 were some factors that were going to make that hard
2 to do, being numerous different vehicles and taking
3 different paths. So that was when I notified the
4 narcotics division so we could move into more of an
5 undercover purchase role.

6 Q And who did you contact in the narcotics
7 unit for that?

8 A At the time, it was Agent Barwick, but
9 Lieutenant Brett Barwick.

10 Q What decisions were made to further the
11 investigation that night?

12 MR. WARDER: Objection to that, Your
13 Honor, about decisions the police made.

14 THE COURT: Well, I think it would be
15 alright for him to -- overruled.

16 THE WITNESS: We decided to leave the
17 location of the traffic stop and move to a
18 remote location to wait on a couple of the
19 narcotics agents to be able to get up and come
20 in to work and interview the CI and figure out
21 what we could do that night.

22 BY MR. UNDERWOOD:

23 Q That night, was it determined that you
24 could do a controlled purchase of methamphetamine on
25 Jimmy Duncan?

1 **A** It was.

2 **Q** Was a controlled purchase done that night?

3 **A** Yes, sir.

4 **Q** What was your role in that controlled
5 purchase?

6 **A** My role on scene of when she was being
7 wired up to go make the purchase was I searched the
8 vehicle before the purchase. Then I rode along during
9 the deal to be just an extra -- just extra man power
10 in case something were to go wrong and we did have to
11 move in for the protection of the CI. And then upon
12 the completion of the deal and returning to the
13 predetermined location, I searched the CI and --
14 along with Deputy Anthony, I searched the CI and the
15 vehicle again.

16 **Q** Beginning with the search prior to the buy,
17 what was the purpose of that search?

18 **A** To make sure that there was no illegal
19 substances, no weapons and no currency in the
20 vehicle.

21 **Q** How would the presence of those things
22 affect the investigation?

23 **A** Because during the buy, we would use
24 prerecorded serial numbers on money. And any
25 narcotics that we received back after the buy, we

1 need to know came from the target.

2 Q And when you conducted that search, did you
3 find any drugs, money, contraband, et cetera?

4 A No.

5 Q During the controlled purchase, you
6 mentioned that you accompanied the team for
7 surveillance. Do you remember where you went?

8 A We went to -- the target went to [REDACTED]
9 Lane. We, myself and Lieutenant Barwick, we went to a
10 parallel street within range of the transmitter to be
11 able to monitor the transaction.

12 Q Were you able to monitor the transaction
13 via the wire transmitter?

14 A Yes, sir.

15 Q Was there any need to rush in for safety
16 concerns and stop the deal?

17 A No.

18 Q Were you able to follow the confidential
19 informant or cooperating individual as you call it
20 and bring them right back to another predetermined
21 location?

22 A Yes.

23 Q How did you conduct the search at that
24 location?

25 A I conducted a search of the upper person to

1 make sure there was nothing in her pockets, all that
2 as well as I could, you know, myself and Deputy
3 Anthony. And then, in searching the vehicle, we
4 searched everything, the inside, under the hood,
5 trunk, underneath, you know, pretty thorough.

6 Q And during those searches, did you find any
7 additional narcotics or money?

8 A No.

9 Q Did Brandy O'Bryant return to that location
10 with drug evidence?

11 A Yes..

12 Q Who did she give it to?

13 A Lieutenant Barwick.

14 Q And was that the conclusion of that
15 transaction?

16 A That was all.

17 Q Did you take part in another controlled
18 purchase of methamphetamine?

19 A The following day, yes.

20 Q That would be October 17th, 2014?

21 A Yes, sir.

22 Q Who was your cooperating individual or CI
23 that day?

24 A Brandy O'Bryant.

25 Q How did that transaction take place?

1 **A** We met at a predetermined location. She was
2 wired up. I searched the vehicle while they were
3 doing that, while they were just getting everything
4 ready to make the purchase. I searched the vehicle.
5 Again, I rode along just to be an extra set of hands
6 just in case for manpower purposes and to help
7 monitor the transaction. After it was over, we
8 returned to the predetermined location. I searched
9 her person and the vehicle.

10 **Q** Did she return with drug evidence?

11 **A** She did.

12 **Q** Who was that given to?

13 **A** Agent Robinson.

14 **Q** Agent Andy Robinson at the Sheriff's
15 Office?

16 **A** Yes.

17 **Q** Did you play a role in any other controlled
18 purchases against Jimmy Duncan?

19 **A** No, I did not.

20 **Q** Did you have any other interaction in this
21 investigation against Jimmy Duncan?

22 **A** I assisted in the search warrant.

23 **Q** When was that search warrant executed?

24 **A** I don't remember the date right off.

25 **Q** Did you participate in a search warrant at

1 Jimmy Duncan's house?

2 **A** At [REDACTED] Lane inside Pickens County,
3 yes, sir.

4 **Q** Several months later from the last
5 controlled purchase you talked about?

6 **A** Yes, sir.

7 **Q** What was your role during the execution of
8 that search warrant?

9 **A** Initially to assist in taking subjects --
10 we had warrants, arrest warrants on Jimmy Duncan, so
11 we knew that he would be taken into custody. But we
12 didn't know how many other people may be there. So
13 upon entering the house, you know, we -- I took Mr.
14 Duncan into custody.

15 **Q** Were you one of the first officers to enter
16 the residence?

17 **A** I was the first, yes, sir.

18 **Q** Who was with you?

19 **A** Inside the house, who was with him?

20 **Q** No, who was with you as far as other
21 officers?

22 **A** Right behind me was Deputy Bolde. In the
23 hustle, I'm not sure what order everybody was in
24 there. But I know that Deputy Massingill, Agent
25 Blankenship and there was others there.

1 **Q** It's fair to say there was a plethora of
2 officers there?

3 **A** Yeah, there was -- there was about five or
4 six or so.

5 **Q** Who entered the house directly with you?

6 **A** Deputy Bolde.

7 **Q** Deputy Bolde? What did Deputy Bolde do --
8 what was his role when you entered the home?

9 **A** He actually detained the female, which was
10 identified as Teresa Davis, which was standing in the
11 kitchen with Jimmy Duncan.

12 **Q** Was Ms. Davis searched?

13 **A** She was.

14 **Q** Was anything found?

15 **A** I observed him pull a bag of what appeared
16 to be methamphetamine, crystal-like substance off of
17 her.

18 **Q** Did she have a second bag in her purse?

19 **A** I believe so, yes.

20 **Q** What did Deputy Bolde do with that
21 evidence?

22 **A** I'm not sure. I was dealing with Mr. Duncan
23 at that time.

24 **Q** Was all of the evidence, as far as you
25 know, from that search warrant, turned into Agent

1 Blankenship?

2 **A** Yes.

3 **Q** What was his role? Was he the -- what was
4 his role during that search warrant?

5 **A** He was actually recording everything, so he
6 was the scribe.

7 **Q** And what does the scribe at a search
8 warrant do?

9 **A** They are the one that's keeping track of
10 where everything was found, who found it and getting
11 it logged in, just making sure all the paperwork is
12 straight and that nothing gets lost in all the chaos,
13 I guess, of serving a search warrant because you have
14 so many things going on.

15 **Q** After you initially entered the home to
16 serve the search warrant and you took Mr. Duncan and
17 Ms. Davis into custody, what did you do next?

18 **A** I just -- at the time, we were in a very --
19 the house was very small, so there wasn't much room
20 for anybody to move around. So we were kind of --
21 myself and Deputy Bolde and a few others, we were
22 kind of just there to help, but mostly trying to stay
23 out of the way because of the tight quarters. So just
24 making sure the scene was secure at that time.

25 **Q** Was Mr. Duncan taken outside or did he

1 remain in the house?

2 **A** He was taken outside shortly after we took
3 him into custody and explained what was going on.

4 **Q** Did you explain to him that there was a
5 search warrant and give him all of that information?

6 **A** And that he was under arrest on the arrest
7 warrants.

8 **Q** Did you personally transport Mr. Duncan
9 away from the scene?

10 **A** I did not.

11 **Q** Did someone transport him after he was
12 placed under arrest?

13 **A** Shortly after he was arrested, he was
14 transported by another deputy on my team.

15 **Q** Did you play any further role in the
16 execution of that search warrant?

17 **A** As far as taking anything and locating any
18 illegal substances or anything like that, no. I was
19 there to assist in any way as needed to -- pretty
20 much anything man power-wise.

21 **Q** When you placed Mr. Duncan under arrest,
22 did you conduct a search of him?

23 **A** I did.

24 **Q** Did you find any United States currency on
25 him?

1 **A** \$1240 of United States currency.

2 **Q** And what did you do with that money?

3 **A** I turned it over to Agent Blankenship.

4 **Q** Did you find anything else on Mr. Duncan?

5 **A** I did locate a dark-colored flip phone in
6 his pocket.

7 **Q** You remember what kind of flip phone it
8 was?

9 **A** It was an LG.

10 **Q** What did you do with that phone?

11 **A** Also turned it over to Agent Blankenship.

12 **Q** The individual that you've been referring
13 to as Jimmy Duncan that you interacted with that
14 night, is he in the courtroom?

15 **A** Yes, sir.

16 **Q** Could you identify him please?

17 **A** He's in the white shirt with the tie at the
18 table over here.

19 **MR. UNDERWOOD:** Your Honor, I'd ask the
20 record reflect that he identified the defendant,
21 Jimmy Duncan.

22 **THE COURT:** Okay. So noted.

23 **BY MR. UNDERWOOD:**

24 **Q** Deputy Baker, is that the extent of your
25 involvement with this investigation?

1 **A** Yes, sir.

2 **Q** Thank you. Please answer any questions Mr.
3 Warder has.

4 **THE COURT:** Cross-examination.

5 **MR. WARDER:** Your Honor, if it pleases the
6 Court, I have no questions.

7 **THE COURT:** All right. Thank you. You may
8 step down, Officer.

9 Ladies and Gentlemen, as I indicated to
10 y'all at the beginning, unfortunately, we have
11 to break this afternoon at this time. This is a
12 good spot for that. So again, my four rules:
13 Don't talk about the case among yourselves,
14 family, friends or anybody. Don't do any
15 independent research of anything related to this
16 case. Don't pay any attention to any social
17 media, any newspapers, any television, anything
18 whatsoever about any coverage about this trial
19 or this matter. And lastly, if you are contacted
20 by anyone, please get as much information as you
21 can and provide that information to the bailiff.

22 Like I said, y'all are free this afternoon.
23 Be back in your jury room at 9:30 in the
24 morning. So thank you and have a good evening.

25 **(WHEREUPON,** the jury exits at approximately

1 12:44 p.m.)

2 **THE COURT:** All right. Anything from the
3 State before we break?

4 **MR. UNDERWOOD:** Not at this time, Your
5 Honor.

6 **THE COURT:** All right. Anything from the
7 defendant before we break?

8 **MR. WARDER:** (No audible response.)

9 **THE COURT:** Anything from the defendant
10 before we break?

11 **MR. WARDER:** I'm sorry. No, Your Honor.

12 **THE COURT:** Again, what's your schedule
13 look like tomorrow?

14 **MR. UNDERWOOD:** Your Honor, it will mainly
15 be law enforcement witnesses and then getting
16 into the forensics. So we should wrap up quickly
17 tomorrow.

18 **THE COURT:** You think we can be through
19 with testimony on your side by lunch time?

20 **MR. UNDERWOOD:** It's possible.

21 **THE COURT:** Okay. I'm just trying -- just
22 for planning. That's fine.

23 **MR. UNDERWOOD:** If not, it will be shortly
24 after lunch.

25 **THE COURT:** Okay. All right. So what I'm

1 trying to decide here -- there's a possibility
2 this could go to the jury tomorrow. So let's
3 make sure of any jury charges that -- make sure
4 you get them to my law clerk either this evening
5 or first thing in the morning. All right.
6 Anything else? If not, we'll be ready to go at
7 9:30 in the morning.

8 **MR. UNDERWOOD:** Thank you, Your Honor.

9 **THE COURT:** Thank you.

10 **(WHEREUPON,** the Court recesses for the day at
11 approximately 12:46 p.m.)

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P R O C E E D I N G S

(WHEREUPON, the Court resumes on the 6th day of October, 2016 at approximately 9:50 a.m.)

(WHEREUPON, State's Exhibits 80 through 90 are marked for identification purposes.)

THE COURT: Good morning. All right. Ready to proceed?

MR. UNDERWOOD: Yes, Your Honor.

THE COURT: You ready? Defendant ready?

MR. WARDER: Yes, Your Honor.

THE COURT: All right. Is the jury ready?

THE BAILIFF: Yes.

THE COURT: Rough looking crowd back there.

(WHEREUPON, the jury enters at approximately 9:52 a.m.)

THE COURT: Good morning, Ladies and Gentlemen. I hope everybody had a good evening. It was a short day so y'all had a good restful rest of the day, so we will now continue with the State's case.

Mr. Underwood.

MR. UNDERWOOD: May it please the Court. Your Honor, the State calls Agent Andy Robinson.

THE CLERK: Please step forward to be

1 sworn in. If you would, place your left hand on
2 the Bible and raise your right hand.

3 **ANDY ROBINSON**

4 having first been duly sworn, testifies as follows:

5 **THE CLERK:** Please state your full name.

6 **THE WITNESS:** Andrew Robinson.

7 **THE CLERK:** Please be seated.

8 **THE COURT:** All right. The bailiff had
9 instructed me that some of y'all are having
10 trouble hearing, so I will adjust the volume. If
11 y'all are still having trouble hearing, just let
12 us know. All right. If it's coming from here or
13 y'all talking about the videotape or stuff like
14 that?

15 **THE BAILIFF:** Witnesses. Witnesses.

16 **THE COURT:** Okay. All right. So if y'all
17 can't hear, just raise your hand and I'll adjust
18 the mic up here.

19 **DIRECT EXAMINATION**

20 **BY MR. UNDERWOOD:**

21 **Q** Good morning, Agent Robinson. How are you
22 today?

23 **A** Good morning. Good.

24 **Q** Please introduce yourself to the jury, tell
25 them where you worked and how long you worked in law

1 enforcement.

2 **A** Yeah, I'm Agent Andy Robinson. I've been
3 working for the Pickens County Sheriff's Office for
4 11 years. The first year of my career was spent in
5 the detention center in the jail. And then the next
6 five years, I was on road patrol, answering calls for
7 service. The next five years after that, I been in
8 the special operations division where we worked
9 mostly narcotics and gang-related cases.

10 **Q** What kind of specialized training do you
11 have in the field of narcotics investigations?

12 **A** Normally, street-level drug recognition.
13 I'm an instructor when it comes to clandestine
14 laboratory, site safety officers and then just every
15 year is an experience dealing with methamphetamine.

16 **Q** In your experience as a narcotics
17 investigator, have you worked on what is known as
18 controlled purchases or controlled buys in narcotics?

19 **A** That's correct.

20 **Q** If you could, briefly explain the
21 procedures that you use when you perform one of those
22 operations.

23 **A** Yeah, a controlled purchase is basically we
24 will -- a CI will contact us or we will contact the
25 CI. They normally have already made a brief contact

1 with the suspect, whoever we are targeting in that
2 investigation. We'll set a time to meet up with them
3 at a predetermined location, make a recording of the
4 phone call confirming that the suspect will be at
5 home.

6 Then we would search that CI's person and
7 vehicle that they would be driving. We would then
8 wire them with a hidden transmitter and recorder and
9 give them documented funds that we would document the
10 serial numbers with. Once we provide them with those,
11 we would then follow them to their scene or to the
12 location where the deal is going to take place,
13 whether it be a residence or parking lot or wherever
14 it's determined at. From there, we will monitor from
15 a close location, close distance for the CI's safety.

16 Then once the deal is done, we will then
17 follow the CI back to the predetermined location. The
18 drugs will then be turned over to whoever is going to
19 be the case agent in that case. The CI is then
20 searched again to make sure there's no contraband
21 additionally. We will then search the CI's vehicle
22 again for the same reason. Then the wire, transmitter
23 and recorder will be removed.

24 Q Agent Robinson, did you become involved in
25 an investigation of the defendant in this case, Jimmy

1 Edward Duncan?

2 **A** Yes, I did.

3 **Q** When did you first become involved in that
4 investigation?

5 **A** My first involvement was, I believe, on the
6 17th of October, 2014. That was my first involvement.

7 **Q** How did you become involved?

8 **A** I became involved.-- I was notified that we
9 had obtained a confidential informant the night
10 before or the night of and then we had other agents
11 that did that deal before at a different location
12 doing some different things. So I was contacted to
13 get in touch with the confidential informant and make
14 a payment to Mr. Duncan.

15 **Q** Who was the confidential informant that you
16 were utilizing?

17 **A** That would be Brandy O'Bryant.

18 **Q** Tell the jury how the payment operation
19 took place.

20 **A** The payment operation, the CI was contacted
21 by the suspect earlier in the day requesting \$50 be
22 brought to a neighbor's residence because they
23 weren't home at the time. So we then did the same
24 operation that we did as a controlled purchase. It's
25 just that we weren't expecting any sort of narcotics

1 in return, but we documented the \$50, the serial
2 numbers on those. We had an undercover officer drive
3 the confidential informant over to the neighbor's
4 residence, met with the neighbor, delivered the \$50
5 and then we came back.

6 Q Again, the confidential informant was still
7 Brandy O'Bryant?

8 A That is correct.

9 Q Who is the officer that took her?

10 A That would be Deputy John Rice.

11 Q And was that operation audio recorded?

12 A It was audio recorded.

13 Q Did you have any other interaction or any
14 other operations utilizing that same confidential
15 informant later that day?

16 A Yes. Later that evening after 9:00 p.m., we
17 met back with the confidential informant, recorded a
18 phone call to Mr. Duncan. He advised that the
19 confidential informant could come see him. Then from
20 there, we did the normal routine. I documented the
21 funds, gave them to the CI. I searched the CI's
22 person. The CI's vehicle was also searched. Then
23 wired with a wireless hidden transmitter and we then
24 followed the CI to the residence. Once the deal was
25 completed, followed them back. And then the

1 methamphetamine that was purchased at that time was
2 handed over to me.

3 Q That operation, was it successfully
4 recorded on audio?

5 A It was. That's correct.

6 Q And during the prebuy search, was anything
7 found on the confidential informant?

8 A Negative. No contraband was found.

9 Q That would include any drugs?

10 A Yes, sir.

11 Q Who was the confidential informant you used
12 in that controlled buy?

13 A That would be Brandy O'Bryant.

14 Q And she handed you the suspected drug
15 evidence at the conclusion?

16 A Yes, that's correct.

17 Q What did you do with it?

18 A I think put it in a sealed SLED BEST kit.
19 That's a way that we could send it to SLED and get it
20 tested. Once it was sealed into the SLED BEST kit, I
21 then locked it into a locker with a lock on it.

22 Q If you could elaborate a little bit for the
23 jury, what exactly is a BEST kit and why do you use
24 that particular container?

25 A A BEST kit is just an easy way to -- it's

1 also SLED approved. The way they do it is we can put
2 the drugs in, we can document that they came from me
3 so basically the chain of custody is complete. It
4 shows that it went from me and then it went to the
5 next location. The next person that gets it signs for
6 it. But it's in the sealed tamper proof bag so that
7 if it was to be torn open, you could tell that it had
8 been torn open.

9 Q And how is it made tamper evident?

10 A It has a real sticky seal. It is very, very
11 sticky. You've got to be careful when you are doing
12 it. But it also has, I guess what you call printed
13 patterns on the edge. So if you were to try to remove
14 that seal, it would destroy those patterns.

15 Q And did you mark that BEST kit in any way?

16 A I did. You have to print your name and then
17 you also sign your signature on the outside of the
18 bag.

19 Q Agent Robinson, who was the target of that
20 controlled purchase?

21 A Jimmy Duncan.

22 MR. UNDERWOOD: May I approach the witness,
23 Your Honor?

24 THE COURT: Yes, you may.

25 BY MR. UNDERWOOD:

1 **Q** Agent Robinson, I'm handing you what's been
2 marked as State's Exhibit Number 54. Do you recognize
3 that exhibit?

4 **A** Yes, I do.

5 **Q** And what is that?

6 **A** That is the SLED BEST kit that I prepared
7 after the deal on the 17th.

8 **Q** Does that bear the markings that you
9 indicated earlier?

10 **A** Yes, it does.

11 **Q** And again, after you placed the suspected
12 drug evidence into that BEST kit, what did you do
13 with it after you sealed it?

14 **A** It was then placed into a secured locker
15 upstairs where our forensics unit come in. They only
16 have access to those lockers.

17 **Q** What is the reason that they're the only
18 ones that have access?

19 **A** Just to make sure the chain of custody is
20 complete so we know who unlocked that locker and who
21 obtained those into evidence and forensics. Normally,
22 we would hand it off to someone, but it was later in
23 the evening and I believe they was on another call.
24 In that case, we'd just go ahead and secure them in a
25 locker.

1 **Q** And where is that locker located?

2 **A** It is upstairs in the Pickens County Law
3 Enforcement Center.

4 **Q** So is it at a secure location?

5 **A** That's correct.

6 **Q** And the box itself is secured with a lock?

7 **A** Yes, that's correct.

8 **Q** How limited is the access to that locker?

9 **A** The outside of the building has a punch
10 code that only people that work there have. And then
11 also inside there, you have the mail lockers with
12 steel locks.

13 **Q** And is it limited access who has the key to
14 get into that locker?

15 **A** Yes, to my knowledge, just our forensics
16 people have keys to those lockers.

17 **Q** After you placed it in the locker, did you
18 have any more physical contact with this BEST kit?

19 **A** I did not, until now.

20 **Q** Again, what was the purpose of putting it
21 into a SLED BEST kit?

22 **A** To send it off to SLED so they can analyze
23 it and just confirm that it is the controlled
24 substance we believe it to be.

25 **Q** Does SLED typically perform the clinical

1 analysis on drug evidence for Pickens County?

2 **A** Yes.

3 **Q** Agent Robinson, after that operation was
4 concluded, did you have the opportunity to take part
5 in another controlled purchase of Jimmy Duncan?

6 **A** Yes. I assisted on the -- on the deal on
7 the -- I believe it was October 30th, 2014 with Agent
8 Barwick.

9 **Q** What was your role in that controlled
10 purchase?

11 **A** That role, I -- the only thing I believe I
12 did was searched the confidential informant before
13 the deal happened.

14 **Q** Again, what's the purpose of searching the
15 confidential informant?

16 **A** Just to make sure there's no contraband,
17 controlled substance or anything like that on them
18 before --

19 **Q** Why is that important?

20 **A** Just to make sure that the controlled
21 substance that we get at the end of the deal, just to
22 make sure it could not have come from anywhere else.

23 **Q** While the transaction was taking place,
24 where were you?

25 **A** I was riding in the vehicle with Agent

1 Barwick. We were monitoring the transmitter, the
2 wire.

3 Q At the conclusion of the operation, did the
4 confidential informant return with drug evidence?

5 A Yes, that's correct.

6 Q Who was your confidential informant in that
7 operation?

8 A That would be Brandy O'Bryant.

9 Q What did Ms. O'Bryant do with the suspected
10 drug evidence at the conclusion of that operation?

11 A To my knowledge, at the time, I believe she
12 gave it to Agent Brett Barwick.

13 Q Did you take part in any other controlled
14 purchases against Jimmy Duncan?

15 A Yes, sir. That was the last controlled
16 purchase I was involved with.

17 Q Were you involved with any other parts of
18 the investigation into Jimmy Duncan?

19 A Yes, I was involved in the search warrant
20 at Mr. Duncan's residence.

21 Q Who obtained that search warrant?

22 A The agent, Brett Barwick.

23 Q When was that search warrant executed?

24 A February 26th, 2015.

25 Q And where did the search take place?

1 **A** █ -- I believe it's Lois Lane in Pickens,
2 South Carolina.

3 **Q** Who lives there?

4 **A** Jimmy Duncan.

5 **Q** Were you the only officer that was there?

6 **A** No, I was not.

7 **Q** Who else was there?

8 **A** I have -- let's see, I believe Lieutenant
9 Campbell was there, Agent Tommy Blankenship, myself,
10 Agent Kevin Durham, Sergeant Fricks, Deputy Baker,
11 Deputy Bolde, Deputy Anthony and Deputy Massingale
12 was on the scene.

13 **Q** What part did you take in that search
14 operation?

15 **A** My main thing that I was responsible for is
16 after we entered the residence -- it's a pretty small
17 or confined residence -- Mr. Duncan and Ms. Teresa
18 Davis was already being detained by the first few
19 deputies inside the doorway. I then cleared the rest
20 of the residence. I turned into the main bedroom, Mr.
21 Duncan's bedroom. Cleared it. Made sure no one else
22 was in the residence. From there, I started searching
23 the bedroom once everyone was secured on scene.

24 **Q** How -- how large of a home was this?

25 **A** It was, I would consider, smaller. I

1 wouldn't really venture to guess on the square
2 footage. 800, 900 square feet, I would guess.

3 Q Was it open space on the inside or was it
4 cramped?

5 A It was pretty closed off. Smaller rooms,
6 multiple rooms.

7 Q How many people were searching each room?

8 A Most time, at the most, probably two.

9 Q Was that due to the size of the room?

10 A Yes. I mean, we may have had a third person
11 kind of rotating in and out between taking pictures
12 and all that, but, yeah, mainly two.

13 Q Explain the standard procedure when you're
14 executing a search warrant.

15 A When you go and execute a search warrant,
16 you have to keep everything as organized as possible
17 so you try to designate rooms that people search, you
18 try to designate people to those rooms. And then from
19 there, we have a central person who we call the
20 scribe, who actually writes down where things came
21 from, who retained them, where they were retained
22 from and then from there, that gets transferred onto
23 what we call search warrant return. It's a lot easier
24 to read than just hand writing.

25 So basically, we just designate -- each

1 person just gets designated a job, whether it be, you
2 know, three or four people searching outside the
3 residence, a couple of people searching vehicles. You
4 know, I would search the bedroom. Another person
5 would search the living room. Another person would
6 search the bathroom and so forth.

7 **Q** And I believe you stated earlier that your
8 job on this particular search was to search the
9 bedroom?

10 **A** That's correct.

11 **Q** Who was the scribe?

12 **A** That would be Agent Tommy Blankenship.

13 **Q** During the execution of the search warrant,
14 is it commonplace to take photographs of things where
15 they are found?

16 **A** Yes. Ideally, we try to -- it seems we find
17 something that we would deem evidence or possible
18 evidence, we try to photograph it where it's at as
19 long as it's safe to do. Sometimes with firearms,
20 it's not necessarily possible. We want to clear
21 those before we can -- we have anyone else around as
22 far as making sure they are not loaded and make sure
23 they are in a safe way where nobody -- where they can
24 accidentally discharge, but yeah, we photograph items
25 normally where they are located in the residence.

1 Q During your search, did you find any
2 firearms?

3 A Yes, we did. We found, I believe it was two
4 handguns, a couple of shotguns and a rifle.

5 Q Did you personally observe all those
6 firearms?

7 A I did.

8 Q Did you locate any drug-related evidence?

9 A Yes, we did. There was methamphetamine
10 located on Jimmy Duncan's per -- well, I take that
11 back. There was methamphetamine located on Ms. Davis'
12 person. Then we also located methamphetamine inside
13 Jimmy Duncan's room and also inside the safe in his
14 bedroom.

15 Q Did you find any other items that are --

16 **MR. WARDER:** Your Honor, I object to what
17 would be found if that was the officer's first
18 encounter with the evidence. What was found was
19 inappropriate.

20 **THE COURT:** All right. Just maybe rephrase
21 your question.

22 **BY MR. UNDERWOOD:**

23 Q Agent Robinson, all the items that you just
24 described, did you personally observe them as they
25 were found?

1 **A** I personally observed the methamphetamine
2 that came out of the safe and also the
3 methamphetamine that was in -- I guess you would call
4 it the entertainment center slash dresser drawers in
5 Mr. Duncan's bedroom.

6 **Q** Did you personally observe the firearms
7 that you mentioned earlier?

8 **A** Yes, I did.

9 **Q** Did you have an opportunity to see the
10 other items that you described as they were found by
11 others?

12 **A** I did. I noticed the methamphetamine that
13 came from Ms. Davis' pocket after it was found. It
14 was right there in the kitchen with her other
15 belongings as they were trying to get that together
16 and organize it.

17 **Q** Did you find -- did you personally find any
18 other items of a drug-related nature, commonly
19 referred to as paraphernalia?

20 **A** Yes, I did.

21 **Q** What did you find?

22 **A** There was a couple of sets of digital
23 scales. There was a spoon with residue, I believe
24 methamphetamine residue. There was a CD case that had
25 lines of what we believe to be methamphetamine

1 already lined out, ready to smoke. There was also a
2 large amount of plastic baggies, the little small, I
3 guess you would call them jewelry baggies, in
4 different sizes. And then -- let's see -- there was
5 also what looks to be a drug ledger.

6 Q As far as the jewelry baggies were
7 concerned, what's the significance of those?

8 A The significance of those is it's very
9 common that we see that. That's just the common way
10 to transport, especially methamphetamine. There are
11 multiple different sizes. The bags you buy these in,
12 normally, you buy them by the hundreds. It's not
13 something we normally find in just any average
14 everyday person's home.

15 Q During the search, did you observe any
16 sighting of flip phones?

17 A Yes, I did.

18 Q Where were those?

19 A There were several. I believe one was on
20 Mr. Duncan's person. Then there was a few on what we
21 would call the entertainment center dresser drawer in
22 Mr. Duncan's room, on the shelves.

23 Q Were you able to view those personally
24 where they were found?

25 A Yes, that was one of the main areas I was

1 searching.

2 **Q** Agent Robinson, I'm now handing you what's
3 been identified as State's Exhibits 30 through 39.
4 Would you please take a moment to review those?

5 **A** (Reviewing.)

6 **Q** Do you recognize those photographs?

7 **A** I do.

8 **Q** And what do those photographs show?

9 **A** Those photographs show multiple text
10 messages, multiple contact information from one of
11 the flip phones that was located during the search
12 warrant at Jimmy Duncan's residence.

13 **Q** Do you recognize the phone in that picture
14 as one of the phones that you found at Jimmy Duncan's
15 residence during the search warrant?

16 **A** Yes, that's correct.

17 **Q** And what was done with those phones after
18 you found them?

19 **A** Once we found them, they were placed into
20 evidence. Then I obtained a written search warrant
21 for the, what we call the digital data off the search
22 warrants. Most of the time, on smart phones nowadays,
23 we can obtain that digitally. But with flip phones,
24 it's hit or miss. Sometimes we have to obtain the
25 photographs specifically of the screen themselves.

1 **Q** Did you personally obtain the search
2 warrant to search these flip phones?

3 **A** Yes, that's correct.

4 **Q** And were those flip phones later
5 photographed?

6 **A** Yes, they were.

7 **Q** Are you the one who personally took the
8 photographs?

9 **A** I did not.

10 **Q** All right. But have you had a chance to
11 observe them and they are of the same phone?

12 **A** Yes, I reviewed the disks later on after it
13 was returned to us.

14 **Q** And this is the same phone that you found
15 and obtained a search warrant for?

16 **A** Yes, that's correct. That's one of the
17 phones from the search warrant.

18 **MR. UNDERWOOD:** Your Honor, at this time, I
19 seek to admit into evidence State's Exhibit 30
20 through 39.

21 **THE COURT:** All right. Mr. Warder, any
22 objection?

23 **MR. WARDER:** No, Your Honor.

24 **THE COURT:** All right. 30 through 39; is
25 that correct?

1 **MR. UNDERWOOD:** Yes, Your Honor.

2 **THE COURT:** All right. State's Exhibit 30
3 through 39 are in without objection.

4 **(WHEREUPON,** State's Exhibits 30 through 39 are
5 admitted into the record.)

6 **MR. UNDERWOOD:** Permission to publish, Your
7 Honor?

8 **THE COURT:** Yes.

9 **BY MR. UNDERWOOD:**

10 **Q** Beginning with Exhibit Number 30 -- we've
11 got a glare. Can you see that alright Agent Robinson?

12 **A** Yes, I believe I can make it out.

13 **Q** All right. If you would, would you please
14 read what's on that text message?

15 **A** Yeah. It's an inbox message from -- the
16 contact info says Crick. And it is says: Are you at
17 home? Can I come by? Get me a 20, question mark. It
18 would be a little bit before my friend from work
19 calls.

20 **Q** Agent Robinson, in your experience as a
21 narcotics investigator, are you familiar with terms
22 that are used by people in the drug trade?

23 **A** Yes.

24 **Q** Do you understand what that message means?

25 **A** Yeah. That would normally be a message from

1 a, uh, -- someone wanting to buy what we would call a
2 20 bag, which would be \$20 worth of methamphetamine.

3 Q State's Exhibit Number 31, read that for
4 the record please.

5 A All right. For the record: I want some more
6 shit. Please call or text me.

7 Q And what is that generally in reference to?

8 A That is normally a -- believe it or not, a
9 slang term for methamphetamine.

10 Q I'm moving to State's Exhibit 33. Is that
11 from, I believe, the same phone number?

12 A Yes, I believe so.

13 Q And what does this text message say?

14 A I got money so you ain't got to pay for it.

15 Q What is that in reference to?

16 A Basically that they would go ahead and pay
17 for the methamphetamine instead of having it fronted.

18 Q State's Exhibit Number 32, can you read
19 that please?

20 A Yes. It is from a contact -- inbox message
21 from the contact of Greg O. It states: It's Greg.
22 Checking to see you got half O for cash.

23 Q What does that mean?

24 A Half O is normally a half an ounce of
25 methamphetamine.

1 Q State's Exhibit Number 34. Do you recognize
2 this?

3 A Yes, that's the photograph of the back --
4 with the back cover open and the battery out showing
5 the serial number to the cell phone.

6 Q Is that so that you can tell that this is,
7 in fact, the same phone that was located at the
8 scene?

9 A Yes, that's correct. That just shows it
10 matches our documentation.

11 Q State's Exhibit Number 35. Can you make out
12 who the contact is on this scene?

13 A Yeah, it says Cheese, with an extra E.

14 Q And what's the phone number?

15 A It would be [REDACTED].

16 Q State's Exhibit Number 36. If you could, do
17 the same again.

18 A That would also be Cheese and the phone
19 number, [REDACTED].

20 Q State's Exhibit 37. Can you read that?

21 A I believe that says Chiefster is the
22 contact, 828-490-0251.

23 Q Agent Robinson, is it common practice for
24 people who deal narcotics to use multiple phones at
25 the same time?

1 **A** Yes, that's very common.

2 **Q** Why is that?

3 **A** That would be so they could, you know,
4 alternate their phone numbers. A lot of times,
5 they'll just use one phone number or one phone for
6 what you would call their business, their
7 methamphetamine business, and the others they would
8 use for personal or work, different things.

9 **Q** I'm now showing you State's Exhibit 38. Can
10 you read that contact?

11 **A** Yeah, that's a contact for Sunshine, phone
12 number [REDACTED].

13 **Q** Are you aware of who Sunshine is?

14 **A** Yes, I am.

15 **Q** And who is that?

16 **A** Nicole Hogue.

17 **Q** Now, State's Exhibit 39.

18 **A** That states: Shine's mom at [REDACTED].

19 **Q** Agent Robinson, first, I'm going to show
20 you State's Exhibits 77, 78 and 79. Do you recognize
21 those?

22 **A** Yes, I do.

23 **Q** What are those?

24 **A** Those are photographs from the search
25 warrant at Mr. Duncan's residence.

1 Q And what do those photographs detect?

2 A These photographs, the first one marked 77,
3 shows the open -- what we would call a drug ledger.
4 It has multiple customer names and amounts of money.

5 MR. WARDER: Objection to him classifying
6 it as a drug ledger, Your Honor.

7 THE COURT: All right.

8 BY MR. UNDERWOOD:

9 Q Do you have -- is it a page with writing on
10 it?

11 A Yes, it's a page with people's names with
12 numbers beside them.

13 Q And the next exhibit?

14 A The one marked 78 shows the same notebook,
15 blue notebook, with a digital scale with
16 methamphetamine residue on top with one of the smart
17 phones, cell phones. And the one marked 79 is a
18 further back view of the same shelf that shows other
19 cell phones as well as the DVR recording system.

20 Q Now, I'm going to hand you State's Exhibits
21 74, 75 and 76. Do you recognize those items?

22 A Yes, I do. Those are photographs from Mr.
23 Duncan's residence during the search warrant. The one
24 marked 74 shows the -- what is the top left shelf of
25 the entertainment system or center we've been talking

1 about. That has -- showing the plastic baggies,
2 syringes, digital scales, spoons, residue. The one
3 marked 75 is showing other items as far as drug
4 paraphernalia and bagged up rubber bands, cut straws.
5 And then the item marked 76 is a large digital scale
6 that was underneath the bed.

7 Q Agent Robinson, are all these photographs
8 true and accurate depictions of those items as you
9 found them during your search?

10 A Yes, the digital scale obviously was pulled
11 out from underneath the bed just a little bit before
12 the photograph was taken.

13 Q Was that just so that your camera could
14 catch it?

15 A That, and just to confirm what it was
16 because it had a styrofoam protector on the top as
17 well.

18 MR. UNDERWOOD: Your Honor, at this time, I
19 would move State's Exhibits 74, 75, 76, 77, 78
20 and 79 to be admitted into evidence.

21 THE COURT: Any objection?

22 MR. WARDER: No, Your Honor.

23 THE COURT: All right. State's Exhibits 74
24 through 79 are in without objection.

25 (WHEREUPON, State's Exhibits 74 through 79 are

1 admitted into the record.)

2 **MR. UNDERWOOD:** Permission to publish, Your
3 Honor?

4 **THE COURT:** Yes.

5 **BY MR. UNDERWOOD:**

6 **Q** State's 76, Agent Robinson, again, what is
7 that?

8 **A** Yes, that's the larger digital scale that
9 was underneath the bed, Mr. Duncan's bed.

10 **Q** Number 74?

11 **A** That is the top left drawer on the
12 entertainment center with the multiple baggies,
13 syringes, other drug paraphernalia, a spoon.

14 **Q** Agent Robinson, if you could, kind of point
15 out what the different items are. It's a little bit
16 hard to see. You could explain what each --

17 **A** Yeah. Sorry. Here, you'll see the spoon
18 with methamphetamine residue. That's consistent with
19 people who use syringes. You also see the open bag of
20 syringes, the bags with the Apple logo on them, those
21 are what we call jewelry bags. Those are just the
22 small plastic baggies.

23 Then you'll see, I believe, the blue --
24 well -- I don't believe you can see the digital scale
25 on that picture. You can see it on top. On the top

1 shelf, there's one of the digital scales. Beside it,
2 on the blue notebook, is one of the smartphones.
3 Beside -- those are harder to see because they are
4 dark. There's another phone. The blue notebook was
5 the blue notebook we read first earlier.

6 Q Agent Robinson, I'm handing you State's
7 Exhibit Number 60. Do you recognize this?

8 A I do.

9 Q What is that?

10 A That is the blue notebook and digital
11 scales from Jimmy Duncan's bedroom.

12 Q Are these items that you collected?

13 A Yes.

14 MR. UNDERWOOD: Your Honor, at this time, I
15 move for State's Exhibit 60 to be admitted into
16 evidence.

17 THE COURT: All right. Any objection?

18 MR. WARDER: None, Your Honor.

19 THE COURT: All right. 60 is in without
20 objection.

21 (WHEREUPON, State's Exhibit 60 is admitted into
22 the record.)

23 BY MR. UNDERWOOD:

24 Q Agent Robinson, now State's Exhibit Number
25 79. What are we seeing here?

1 **A** Yeah, that's the same entertainment center.
2 That's the left side bottom shelf. You can see on the
3 top shelf a little bit, too. Same thing, blue
4 notebook with digital scales, phone. There's a couple
5 of phones over there. And then the top is the DVR
6 system for the surveillance cameras.

7 **Q** State's Exhibit 75, what are we seeing
8 here?

9 **A** Yeah. Those are items as they are being
10 bagged up. The styrofoam over there, that's the large
11 digital scale with the styrofoam lid on top of it
12 still. Then you'll have a bag of rubber bands. Then
13 you'll have a bag of -- there's a cut red straw over
14 there.

15 **Q** What's the significance of the cut red
16 straws?

17 **A** Normally, that's usually with people that
18 may snort methamphetamine.

19 **Q** State's Exhibit Number 78?

20 **A** Yes, that's a closer view of the blue
21 notebook with the digital scale, cell phone beside it
22 on the right, the digital scale, the white flakes and
23 specs, that would be methamphetamine residue that was
24 along the majority of the entertainment center.

25 **Q** State's Exhibit 77.

1 **A** That is a notebook with multiple different
2 names beside it and numbers beside those names.

3 **Q** Do you recognize any of the names on this
4 paper through your contacts with the community?

5 **A** Yes, I recognize several of the nicknames
6 as well, Boogie, Baby Boo, Teresa, Stacey, Scott,
7 Brandy, Sammie, outside of having the last name.

8 **Q** Are those names that you recognize? How do
9 you know those individuals?

10 **A** Just from complaints from the community,
11 regular interaction with them.

12 **MR. WARDER:** Objection. Hearsay, Your
13 Honor.

14 **THE COURT:** All right. Can you rephrase
15 your question then?

16 **BY MR. UNDERWOOD:**

17 **Q** Have you had interaction with those
18 individuals that you just named?

19 **A** Yes, that's correct. I've interviewed
20 several. I've arrested several.

21 **Q** What was the nature of those arrests?

22 **A** I believe Boogie's was a -- that was more
23 of an assault and battery situation. I was on the
24 road --

25 **MR. WARDER:** That's not relevant, Your

1 Honor, what these people were arrested for.

2 **THE COURT:** Overruled.

3 **THE WITNESS:** Ms. Davis, I interviewed her
4 after she was arrested for trafficking
5 methamphetamine. And then, the same thing with
6 Stacey, we talked to her after she was arrested
7 for trafficking methamphetamine.

8 **BY MR. UNDERWOOD:**

9 **Q** Is that Stacey Davis? I'm sorry. Stacey --
10 what's Stacey's last name?

11 **A** It'd be Stacey Kelley.

12 **Q** Stacey Kelley, is that the same Stacey
13 Kelley who testified in this trial?

14 **A** I would venture to guess.

15 **MR. WARDER:** Objection.

16 **THE COURT:** I think he said he didn't
17 know.

18 **BY MR. UNDERWOOD:**

19 **Q** But you've had -- as a narcotic's officer,
20 you've had contact with several of the individuals on
21 this list?

22 **A** Yes, that's correct.

23 **Q** I'm now handing you State's Exhibit 70 and
24 71. You recognize those items?

25 **A** Yes, that is a -- a further back view of

1 the same CD case and the item marked 71. The item
2 marked 70 is an up-close photograph of the Sheryl
3 Crow CD with the methamphetamine lines on top.

4 Q Now, are these photographs true and
5 accurate depictions of what you saw during your
6 search?

7 A Yes, that's correct.

8 MR. UNDERWOOD: All right. At this time,
9 I'd move for State's Exhibits 70 and 71 to be
10 admitted into evidence.

11 THE COURT: Any objection?

12 MR. WARDER: No, Your Honor.

13 THE COURT: All right. 70 and 71 are in
14 without objection.

15 MR. UNDERWOOD: Thank you, Your Honor.

16 (WHEREUPON, State's Exhibits 70 and 71 are
17 admitted into the record.)

18 BY MR. UNDERWOOD:

19 Q I'm now handing you State's Exhibits 63,
20 64, 65, 66, 67, 68 and 69. If you will, take a moment
21 to review those items.

22 A Sure. (Reviewing.)

23 Q Do you recognize each of those exhibits?

24 A Yes, I do.

25 Q What are those exhibits?

1 **A** Those are photographs from Jimmy Duncan's
2 residence the night of the search warrant.

3 **Q** And in particular, what do those
4 photographs depict?

5 **A** Firearms.

6 **Q** Are those photographs that we just reviewed
7 all true, accurate depictions of what you saw during
8 your search?

9 **A** Yes, that's correct.

10 **MR. UNDERWOOD:** Your Honor, at this time, I
11 would move State's 63 through 69 to be admitted
12 into evidence.

13 **THE COURT:** Any objection?

14 **MR. WARDER:** No, Your Honor.

15 **THE COURT:** All right. State's Exhibit 63
16 through 69 are in without objection.

17 **MR. UNDERWOOD:** Thank you, Your Honor.

18 **(WHEREUPON, State's Exhibit 63 through 69 are**
19 **admitted into the record.)**

20 **BY MR. UNDERWOOD:**

21 **Q** Agent Robinson, now I want to show you
22 State's 72 and 73. Do you recognize those items?

23 **A** Yes, I do. These are photographs from Jimmy
24 Duncan's residence during the search warrant.

25 **Q** And what do those photographs depict?

1 **A** There are pictures of the safe that are --
2 that was on the floor in Mr. Duncan's bedroom.

3 **Q** Do those photographs truly and accurately
4 depict the safe as you found it during your search of
5 his bedroom?

6 **A** Yes, they do.

7 **MR. UNDERWOOD:** All right. At this time, I
8 move for State's Exhibit 72 and 73 to be
9 admitted into evidence.

10 **THE COURT:** Any objection?

11 **MR. WARDER:** No.

12 **THE COURT:** All right. State's Exhibits 72
13 and 73 are in without objection.

14 **(WHEREUPON, State's Exhibits 72 and 73 are**
15 **admitted into the record.)**

16 **MR. UNDERWOOD:** Permission to publish, Your
17 Honor?

18 **THE COURT:** Yes.

19 **BY MR. UNDERWOOD:**

20 **Q** Again, that's State's Exhibit Number 71.
21 What are we seeing here, Agent Robinson?

22 **A** That's one of the further back view of one
23 of the shelves on the entertainment center that just
24 shows a -- shows the CD case a little bit more in the
25 background.

1 Q Exhibit 70.

2 A Yes, that's a closer view of the CD case
3 with the lines of methamphetamine.

4 Q State's Exhibit Number 63.

5 A That is the rifle from Jimmy Duncan's
6 residence.

7 Q 64?

8 A That is, I believe, the same rifle that was
9 behind the kitchen door.

10 Q Is that where it was actually found?

11 A Yes. It was actually found there. One of
12 the first things we do when we do a search warrant is
13 make sure we clear any weapons and make them as safe
14 as we possibly can. So that being right there in the
15 kitchen as we come in, that was one of the first
16 things we noticed. Then, we took it into Mr. Duncan's
17 bedroom away from Mr. Duncan and Ms. Davis, cleared
18 the firearm from there.

19 Q State's Exhibit 66.

20 A Those are shotguns that were -- I believe
21 they were underneath the bed.

22 Q Exhibit 67.

23 A That is a Derringer-style .22 short pistol
24 that was in the same top left drawer that we saw
25 earlier, but it was buried underneath the plastic

1 baggies and everything.

2 Q 68?

3 A That is the same Derringer-style pistol.
4 It's hard to see, but we've opened it up and removed
5 the shell from the chamber.

6 Q And 69?

7 A That's the same pistol. That is a before
8 picture showing the shell inside the chamber once we
9 broke it apart.

10 Q State's Exhibit 65.

11 A That is a nine millimeter pistol that was
12 in the upper right-hand drawer. As soon as you opened
13 it, it was there right beside the one on the left
14 with all the paraphernalia.

15 Q Agent Robinson, in your experience, is
16 there a connection between drug traffickers and
17 firearms?

18 A Yes, absolutely.

19 Q What is that connection?

20 MR. WARDER: Objection, Your Honor.

21 THE COURT: Basis?

22 MR. WARDER: First of all, relevance.
23 Second of all, Your Honor, his opinion -- what
24 they are asking for is his opinion between the
25 relationship of these two items. I think that's

1 inappropriate.

2 **THE COURT:** I think that based on his
3 experience, he's laid the foundation, so
4 overruled.

5 **BY MR. UNDERWOOD:**

6 **Q** Again, Agent Robinson, in your experience,
7 what's the connection between drug traffickers and
8 firearms?

9 **A** Yeah, it's normally protection from other
10 drug dealers, thieves or law enforcement.

11 **Q** Agent Robinson, to your knowledge, at the
12 time of this search warrant, was Jimmy Duncan
13 permitted to possess firearms?

14 **MR. WARDER:** Objection.

15 **THE COURT:** Sustained.

16 **BY MR. UNDERWOOD:**

17 **Q** I'm showing you State's Exhibit Number 72.

18 **A** Yes, that's a photograph of the safe. As
19 soon as you walk in Mr. Duncan's bedroom, it's on the
20 left-hand on the floor kind of about middle of the
21 room up against the wall.

22 **Q** Is 73 a close-up of the same safe?

23 **A** Yes, that's correct.

24 **Q** I'm now showing you what's been marked as
25 State's Exhibit 40, 41, 42 and 43. If you would,

1 please examine those exhibits.

2 **A** (Reviewing.)

3 **Q** Do you recognize each of those?

4 **A** Yes, those are photographs taken from, one
5 being inside, the others being the outside of Jimmy
6 Duncan's residence that night.

7 **Q** What do those photographs depict?

8 **A** One depicts a photograph of the television
9 screen that's on the top of the entertainment center.
10 It shows the different views of the multiple
11 surveillance cameras.

12 **Q** Is that Exhibit 40?

13 **A** Yes, I believe so.

14 **Q** And State's Exhibit 41?

15 **A** That shows one of the surveillance cameras
16 that was on the outside of the residence.

17 **Q** State's 42?

18 **A** That's another picture of a surveillance
19 camera on the outside of the residence.

20 **Q** And State's 43?

21 **A** Another surveillance camera outside of the
22 residence.

23 **Q** Do these exhibits truly and accurately
24 reflect what you saw during your search?

25 **A** Yes, that's correct.

1 **MR. UNDERWOOD:** Your Honor, at this time, I
2 would seek for admittance of State's Exhibits 40
3 through 43 into evidence.

4 **THE COURT:** All right. Any objection?

5 **MR. WARDER:** No, Your Honor.

6 **THE COURT:** All right. State's Exhibits
7 40, 41, 42 and 43 are in without objection.

8 **(WHEREUPON, State's Exhibits 40 through 43 are**
9 **admitted into the record.)**

10 **MR. UNDERWOOD:** Permission to publish?

11 **THE COURT:** Yes.

12 **BY MR. UNDERWOOD:**

13 **Q** Exhibit 40?

14 **A** Yes, that's the television screen just
15 showing the multiple angles from the surveillance
16 cameras.

17 **Q** 41?

18 **A** That's one of the Night Owl surveillance
19 cameras mounted on the outside of the residence.

20 **Q** 42?

21 **A** That would be the same thing, the other
22 surveillance camera outside the residence.

23 **Q** 43?

24 **A** That is a surveillance camera mounted on
25 the outside of the residence.

1 **Q** In your experience, Agent Robinson, is it
2 common for a drug trafficker to have surveillance
3 equipment?

4 **A** Yes, that's correct.

5 **Q** Why do they have that?

6 **A** Most of the time, just to monitor traffic
7 around the residence while they're doing deals and
8 also to -- if they see any sort of law enforcement
9 coming towards the residence.

10 **Q** Agent Robinson, I'm going to show State's
11 Exhibit 29. Do you recognize that?

12 **A** Yes, that's an overhead view, Google
13 satellite image of West Lee Street going down towards
14 Lois Lane in Pickens, South Carolina.

15 **Q** Is that an aerial view of the defendant's
16 residence?

17 **A** That's correct.

18 **Q** Is that a fair and accurate view?

19 **A** Yes, that's correct.

20 **MR. UNDERWOOD:** Your Honor, at this time, I
21 would seek the exhibit to be admitted into
22 evidence.

23 **THE COURT:** And that was what number?

24 **MR. UNDERWOOD:** 29, Your Honor.

25 **THE COURT:** All right. Any objection?

1 **MR. WARDER:** No, Your Honor.

2 **THE COURT:** All right. 29 is in without
3 objection.

4 **(WHEREUPON,** State's Exhibit 29 is admitted into
5 the record.)

6 **MR. UNDERWOOD:** Permission to publish?

7 **THE COURT:** Yes, you may.

8 **BY MR. UNDERWOOD:**

9 **Q** Agent Robinson, where in this image is
10 Jimmy Duncan's residence?

11 **A** Showing -- I don't know whether y'all can
12 see, but the red dot, like when you punch in an
13 address location, shows up. It's at the very end of
14 -- it's at the very end of what is West Lee Street,
15 but Lois Lane actually comes around there.

16 **Q** When you would conduct your controlled
17 purchases at that location, where did you typically
18 come from as your surveillance?

19 **A** A lot of time -- you'll see the -- being in
20 more of a city layout, we can get on parallel streets
21 close to the residence. It would normally depend on
22 the weather and the terrain trees -- sometimes
23 affects the transmission so sometimes we have to move
24 around to make sure it doesn't get too staticky. Most
25 of the time, we would kind of ride around near

1 parallel streets because we had information that the
2 surveillance cameras were pointing all the way down
3 West Lee Street a fairly good distance. That kind of
4 limited where we could go in that area, in that
5 direction.

6 Q I'm now showing you State's Exhibit, first,
7 number 59. Do you recognize that?

8 A Yes, that's a digital scale and
9 methamphetamine pipe.

10 Q Is that -- sorry.

11 A Oh, sorry.

12 Q Are those items that you found during your
13 search?

14 A Yes, those were found during the search of
15 Jimmy Duncan's house.

16 MR. UNDERWOOD: Your Honor, at this time, I
17 would seek for Exhibit 59 to be admitted into
18 evidence.

19 THE COURT: Any objection?

20 MR. WARDER: No, Your Honor.

21 THE COURT: All right. 59 is in without
22 objection.

23 (WHEREUPON, State's Exhibit 59 is admitted into
24 the record.)

25 BY MR. UNDERWOOD:

1 Q Now, State's Exhibit 62.

2 A Yes, that's the larger digital scale.

3 Q Was that found --

4 A From Mr. Duncan's residence that night of
5 the search warrant.

6 Q Is that the scale that you found under the
7 bed in the styrofoam?

8 A Yes.

9 MR. UNDERWOOD: Your Honor, at this time, I
10 seek to admit State's Exhibit 62.

11 MR. WARDER: No objection.

12 THE COURT: All right.

13 (WHEREUPON, State's Exhibit 62 is admitted into
14 the record.)

15 BY MR. UNDERWOOD:

16 Q Now showing you State's Exhibit Number 61.
17 You recognize the contents of that bag?

18 A Yes, that's the CD case that had the
19 methamphetamine residue in a line, which it still has
20 inside; metal spoons with residue that was located
21 inside the drawer of Mr. Duncan's residence that
22 night.

23 Q Are these the same items that you described
24 earlier?

25 A That's correct.

1 **MR. UNDERWOOD:** Your Honor, at this time, I
2 would move State's Exhibit 61 to be admitted
3 into evidence.

4 **THE COURT:** All right. Any objection?

5 **MR. WARDER:** No, Your Honor.

6 **THE COURT:** Okay. 61 is in without
7 objection.

8 **(WHEREUPON,** State's Exhibit 61 is admitted into
9 the record.)

10 **BY MR. UNDERWOOD:**

11 **Q** Agent Robinson, at the conclusion of the
12 search warrant, did you have any interaction with the
13 defendant in this case, Jimmy Duncan?

14 **A** Yeah, that's correct. I spoke with him at
15 the detention center later that evening.

16 **Q** Was he in custody at that time?

17 **A** He was.

18 **Q** Was that because he was arrested for a
19 previous warrant?

20 **A** Yes, that's correct.

21 **Q** Did you have an occasion to actually speak
22 with him and have a conversation?

23 **A** Yes, I did.

24 **Q** Prior to having the conversation with him,
25 did you advise him of his Miranda rights?

1 **A** Yes, that's correct.

2 **Q** How did you do that?

3 **A** We have a form that goes over it word-by-
4 word that we go over with them, and they will
5 actually initial beside each section basically
6 stating they understand. We also -- after they sign
7 it, we also sign and witness it as well.

8 **Q** What's the purpose of going through that
9 process?

10 **A** Just to show that they understood their
11 rights, that they didn't have to speak with us, that
12 we're not coercing them to talk to us at any time and
13 that they have the right to an attorney.

14 **MR. WARDER:** No objection, Your Honor.

15 **MR. UNDERWOOD:** This is State's Exhibit 90,
16 Your Honor.

17 **THE COURT:** All right. State's Exhibit 90
18 in without objection.

19 **(WHEREUPON, State's Exhibit 90 is admitted into**
20 **the record.)**

21 **MR. UNDERWOOD:** Permission to publish, Your
22 Honor?

23 **THE COURT:** Yes.

24 **BY MR. UNDERWOOD:**

25 **Q** Agent Robinson, what is this exhibit?

1 **A** Yeah, that's our Miranda form that we fill
2 out when we speak and interview with people. It shows
3 the date of the interview, the time. It's showing
4 2/26 of '15. The time is showing 10:29 p.m. Then it
5 goes into the Miranda warning showing the rights
6 beside each section as Mr. Duncan's initials.

7 Then down there below, it basically states
8 they understand they are not being coerced, there's
9 no pressure or anything like that to speak with us.
10 They have the right to a lawyer at any time. Then we
11 have Mr. Duncan's signature here on the top along
12 with printing at the bottom, date of birth below
13 that, and then that would be my signature and
14 Lieutenant Henry Campbell's signature as witnesses.

15 **Q** Following the advisement of those rights,
16 were you able to interview Jimmy Duncan?

17 **A** Yes.

18 **Q** What did he tell you?

19 **A** He -- his main concern was if we were there
20 to talk to him about the contents of the safe. He
21 advised that that would be Ms. Karen Collins' safe
22 and that he did not have access to it and did not
23 know what was inside. We then advised him that we
24 found an amount of methamphetamine inside. He stated
25 it did not belong to him, that he's just a user of

1 methamphetamine. Obviously, if you're using
2 methamphetamine, you have to get it from somewhere,
3 so we asked who his supplier of methamphetamine was.
4 And all he advised was that it was a young, short
5 Mexican and could not advise us his name.

6 Q After that, did you end the interview?

7 A That's correct.

8 Q The individual whose home you searched that
9 night and then interviewed, Jimmy Duncan, is he in
10 the courtroom?

11 A Yes, that's correct.

12 Q Can you identify him please?

13 A He's in the white shirt with the tie and
14 glasses.

15 MR. UNDERWOOD: Your Honor, I'd ask the
16 record to reflect that he identified the
17 defendant.

18 THE COURT: So noted.

19 BY MR. UNDERWOOD:

20 Q Thank you, Agent Robinson. Please answer
21 any questions opposing counsel has.

22 A Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. WARDER:

25 Q You showed this Miranda form. Do you take a

1 form from the informants when you work with an
2 informant that advises them of what's going to
3 happen, their rights and what you expect, things like
4 that.

5 **A** We have an informant packet that we fill
6 out with them basically just stating our rules for
7 someone to be an informant.

8 **Q** Okay. And do you keep in that packet what
9 they do so you can remember and give them credit for
10 what they do?

11 **A** Yeah, we normally document any sort of time
12 they do a controlled purchase with us and the case
13 number to go along with.

14 **Q** And did you bring that form with you today?

15 **A** I did not. I did not sign Ms. O'Bryant up
16 as a confidential informant.

17 **Q** Okay. But that would have been a report
18 that would have been given to the informant to sign,
19 kind of a contract with them?

20 **A** It's just showing that they agreed to the
21 rules that we stipulate.

22 **Q** I guess when somebody agrees to the rules
23 in writing, that's kind of a contract, isn't it?

24 **A** For that form, that would not be my wording
25 for that, no, sir.

1 **MR. WARDER:** Okay. Your Honor, I have a
2 matter of law to take up.

3 **THE COURT:** All right. Ladies and
4 Gentlemen, I'm going to ask that you step out of
5 the -- back in your jury room again. Do not
6 discuss the case. We'll bring you right back in.

7 **(WHEREUPON, the jury exits at approximately**
8 10:52 a.m.)

9 **THE COURT:** All right. Yes.

10 **MR. WARDER:** Your Honor, I am entitled to
11 that as discovery before I examine these
12 witnesses. Certainly what the person was
13 agreeing to, the rules they were going to abide
14 by, what they were going to do, notations of
15 what they've done in other cases and what the
16 results of it was, all of that is both
17 discoverable -- Brady and discoverable under the
18 Rules of Criminal Procedure in South Carolina.
19 I've filed the motions and I need that stuff
20 before I can proceed.

21 **THE COURT:** All right. And Mr. Underwood?

22 **MR. UNDERWOOD:** Your Honor, I am not aware
23 of -- this is the first I've heard that there
24 was such a document. I'm not aware that it
25 existed prior to his testimony. Your Honor, if

1 we could take a recess, I can inquire from law
2 enforcement as to where such a document would be
3 and I would be happy to give it to Mr. Warder if
4 it exists. I wasn't aware of it until just now.

5 **THE COURT:** Well, I believe he said he
6 didn't do, was not involved in this document
7 with any confidential informants; is that
8 correct?

9 **MR. UNDERWOOD:** Yes, Your Honor.

10 **THE COURT:** That's what I heard. I'll give
11 you just a few minutes and we'll see.

12 You can step down, but you can not discuss
13 your testimony in any way.

14 **(WHEREUPON,** the Court goes off the record at
15 approximately 10:52 a.m.)

16 **(WHEREUPON,** the Court goes on the record at
17 approximately 11:01 a.m.)

18 **THE COURT:** Your motion has nothing to do
19 with this witness.

20 **MR. WARDER:** Your Honor, this witness --
21 his testimony early on, as I recall, was that he
22 helped prepare the informant in this particular
23 case.

24 **THE COURT:** Well, first of all, is there
25 such a document?

1 **MR. UNDERWOOD:** Your Honor, I inquired with
2 the Sheriff's Office. I was handed at this point
3 a blank document that they use as a standard
4 document. They're making inquiries to see if
5 there is anyone back at the Sheriff's Office
6 who'd have access to those confidential files --
7 confidential informants. Those are boxed within
8 the narcotics office and all the narcotics
9 officers are here. Your Honor, I'd be happy to
10 show the Court a blank document for the Court's
11 edification to see what the nature of the
12 document is. But I don't have any document at
13 this time that pertained to this particular
14 confidential informant.

15 **THE COURT:** Let me see what we've got
16 here. Have you shown it to Mr. Warder?

17 **MR. UNDERWOOD:** No, sir. I was just getting
18 ready to.

19 **THE COURT:** Go ahead and show it to him.

20 (WHEREUPON, there is a pause.)

21 **MR. WARDER:** Your Honor, I'd ask, of
22 course, that this be made part of the record in
23 this case. I'd like to move this copy into
24 evidence because it's a form that --

25 **THE COURT:** Yeah, let me see what we're

1 talking about here.

2 (WHEREUPON, Mr. Underwood passes the document to
3 the Court.)

4 THE COURT: I mean, I -- it's -- I've
5 reviewed it. If you want to mark it as an
6 exhibit -- do you have any objection to him
7 marking it as an exhibit?

8 MR. UNDERWOOD: No objection, Your Honor.

9 THE COURT: Or do we need -- I guess it
10 needs to be a Court's Exhibit. Do you plan to
11 use it or just want it marked for purposes of
12 your, I guess, appeal?

13 MR. WARDER: No, the information is -- I'd
14 like to now be able to examine officers about
15 how completely the informant followed those
16 instructions that they were given. That's
17 certainly relevant.

18 THE COURT: You want to -- okay. I'm just
19 trying to determine if it's a Defendant's
20 Exhibit or Court Exhibit. If you want to --

21 MR. WARDER: Well, a Court's Exhibit is
22 fine. Just so that we have a record.

23 THE COURT: Well, I mean --

24 MR. UNDERWOOD: Your Honor, I would point
25 out that it's my understanding as a general

1 practice that these are not normally turned
2 over. They are documents about confidential
3 informants to remain confidential. It's not a
4 general practice, really anywhere, to turn these
5 particular documents over.

6 **THE COURT:** All right. Well, as far as the
7 blank, do you have any objection to him...

8 **MR. UNDERWOOD:** Your Honor, I have no
9 objection to the blank form.

10 **THE COURT:** Okay. It will be Defendant's
11 Exhibit 1 in without objection.

12 **MR. WARDER:** Your Honor, procedurally --
13 of course, the Court's -- that's not going
14 before the jury, the blank form. If I put an
15 exhibit in, then I change my position on closing
16 argument.

17 **THE COURT:** Well, I'll -- well, then it
18 doesn't -- I guess it needs to be marked for
19 identification then?

20 **MR. WARDER:** Well, if --

21 **THE COURT:** Well, you can just use it
22 how --

23 **MR. WARDER:** But if -- certainly one of
24 the appellant issues is liable to be that that
25 wasn't turned over to me. And so I want it in

1 the record so that an appellant court can review
2 what documents they wouldn't turn over.

3 **THE COURT:** Okay. Well, I mean, that's a
4 blank form. Whatever you want to do with it.
5 However you want to -- I mean, you can use it to
6 cross-examine. I think we've got on the record
7 that --

8 **MR. WARDER:** I want to get the -- of
9 course, I want to get the real form.

10 **THE COURT:** I think you've got on the
11 record here what information is normally kept
12 and what -- those matters have not been turned
13 over. I don't know what else -- I'm not sure
14 that a blank form does you any --

15 **MR. WARDER:** No, it would give us some
16 idea. I can't put the real form in the record
17 because I can't get it.

18 **THE COURT:** All right. You want to do
19 whatever you want to do with that one. Cross-
20 examination. If you don't want to put it in as
21 an exhibit, you don't have to. It's up to you.

22 **MR. UNDERWOOD:** Your Honor, as to the
23 pertinent form of this confidential informant, I
24 have agents searching for that now over in
25 Pickens County. I will defer to the Court's

1 instructions concerning whether or not to turn
2 that over. I'd be happy to turn it over In
3 Camera to the Court for review.

4 **THE COURT:** All right.

5 **MR. WARDER:** Your Honor, I just think
6 everything on this checklist is something I need
7 to have and I don't have. I want to put this in
8 -- I want to put it in the record.

9 **THE COURT:** All right. Well, get her to
10 mark it then. (Pause.)

11 Because of this issue, I am going to mark
12 it -- because I don't want to penalize him for
13 -- because this is a discovery issue and not --
14 so I'm going to -- I'll mark it as a Court's
15 Exhibit so that it doesn't change any decision
16 he needs to make.

17 **MR. WARDER:** Thank you, Your Honor.

18 **THE COURT:** I wasn't trying to do that. So
19 it will be Court's Exhibit 1. I guess -- did we
20 mark another one? The juror list? You didn't
21 mark that? Okay. So that will be Court's Exhibit
22 1 and I'm not -- my ruling is that does not
23 penalize the defendant from any procedural
24 matters.

25 **MR. UNDERWOOD:** Yes, Your Honor.

1 **THE COURT:** All right.

2 **MR. UNDERWOOD:** Your Honor, as to the other
3 form, do you still wish to review that actual
4 form from this case, Your Honor?

5 **THE COURT:** I don't think it's -- let me
6 consider that. I don't think it's -- I mean, I
7 think we can still go forward with this witness
8 because -- I mean, he's obviously not the
9 confidential informant. You can have questions
10 along those lines. We'll proceed forward with
11 this witness. All right. Ready to bring the jury
12 in?

13 **MR. UNDERWOOD:** Yes, Your Honor.

14 **THE COURT:** All right. Anything else from
15 the defendant?

16 **MR. WARDER:** Not right now, Your Honor.

17 **THE COURT:** All right. Bring the jury in
18 if they're ready.

19 **(WHEREUPON,** the jury enters at approximately
20 11:13 a.m.)

21 **THE COURT:** All right. You may proceed
22 with cross-examination.

23 **BY MR. WARDER:**

24 **Q** Officer, did your investigation of the
25 house, when you were conducting your search, did it

1 reveal how many people lived there?

2 **A** Not that I can recall. It was just a one
3 bedroom. One bedroom and the other bedroom was full
4 of tools and whatnot, things for storage.

5 **Q** Okay. Were there clothes in the house?

6 **A** There were some clothes on the racks.
7 Specifically what kind, it looked like most of them
8 in that front row right there obviously belonged to
9 Mr. Duncan.

10 **Q** Okay. Were there woman's clothing in the
11 house?

12 **A** None that I can specifically recall, but
13 there could have been.

14 **Q** Okay. You mentioned there were both a man
15 and a woman that were retained that night, my client
16 and...

17 **A** Yes, Teresa Davis.

18 **Q** Did your search review which individual had
19 been using which phone?

20 **A** The phone that -- one phone came out of Mr.
21 Duncan's pocket. Then the other phones came from the
22 entertainment center inside Mr. Duncan's room. They
23 were also just attributed to Mr. Duncan. I can not
24 recall if Ms. Davis had a phone on her person. I can
25 check real fast. It wasn't anything that I recovered.

1 It looks like Ms. Davis had a Motorola cell phone. I
2 assume it was smartphone.

3 Q Okay. So they both had a telephone on them
4 and then there was a group of other phones that you
5 don't know who they belonged to?

6 A They were on the shelf in Mr. Duncan's
7 room.

8 Q Was that the room occupied by the both of
9 them?

10 A No, they were both in the kitchen when we
11 entered the residence.

12 Q Okay. Did they both sleep in the kitchen or
13 did they both sleep in the bedroom?

14 A I can't advise that.

15 Q Okay. Is the phone that you got the numbers
16 that you read for us here, was that the phone that
17 was in either Mr. Duncan's pocket or Ms. Davis'
18 pocket?

19 A I believe it would be -- one of the flip
20 phones was in Mr. Duncan's pocket and there was a
21 couple on the shelf. I believe that was the one in
22 Mr. Duncan's pocket.

23 Q And how did you determine -- well, you took
24 it out of his pocket, did you mark it any way so that
25 you could be sure of that?

1 **A** I did not remove anything from Mr. Duncan's
2 person. I just removed items from the bedroom. Those
3 are then sealed in plastic bags with the item number
4 and the room they came from.

5 **Q** Okay. You told us that a scribe writes down
6 where items are found, in your statement. Can you
7 look on your records and see if whether those phones
8 were taken and wrote down, as a scribe?

9 **A** Yes. On the search warrant return showing
10 Item Number 9, there was an LG phone from Jimmy
11 Duncan's pocket.

12 **Q** Okay.

13 **A** There were other phones. There were two LG
14 phones that are marked 79 and 78 that come from the
15 bedroom. There was a Samsung. I believe that was the
16 smartphone that was in the bedroom all in the same
17 spot on the shelf.

18 **Q** Okay. And by looking at the photographs,
19 can you tell which LG phone they came from?

20 **A** From the photographs, no, cause I can't see
21 the serial number.

22 **Q** How do you know that that was the phone,
23 then, that the pictures were taken of the screen?

24 **A** Those would be -- I believe they are
25 documented -- the serial numbers are documented on

1 the search warrant -- on the cell phone for the
2 search warrants. Let me see if I -- the biggest issue
3 is there was three LG flip phones that were --
4 basically looked identical. I don't have the document
5 showing the serial numbers, specifically, for the
6 phones, as relation to the search warrant return. I
7 don't have that document.

8 Q Okay. So you can not tell us, today, for
9 sure that that's what phone that came from?

10 A I can not. No, not with these documents.

11 Q Okay. Where would the documents that would
12 clear up for us which one, whether it was the one in
13 his pocket or whether it was the one on the table?

14 A Without reviewing it, I would assume it
15 would be a property form as far as when it was
16 actually turned in to evidence.

17 Q Okay. Now the notebook was found -- could
18 you tell who was writing in the notebook?

19 A I just can say there were names and numbers
20 beside it.

21 Q Okay. It was on -- I think, from the
22 photographs, am I correct, it was on the -- one of
23 the shelves that you showed us on the stand?

24 A Yeah, it was on the shelf and had a digital
25 scale on top with a cell phone on top of it as well.

1 **Q** Okay. Thank you very much.

2 **A** Okay.

3 **THE COURT:** Any redirect?

4 **MR. UNDERWOOD:** Nothing, Your Honor.

5 **THE COURT:** All right. You may step down.

6 All right. Call your next witness.

7 **MR. FERNANDEZ:** Thank you, Your Honor. The
8 State would call Tommy Blankenship.

9 **THE CLERK:** Please step forward to be
10 sworn in. Place your left hand on the Bible and
11 raise your right hand.

12 **TOMMY BLANKENSHIP**

13 having first been duly sworn, testifies as follows:

14 **THE CLERK:** Please state your full name.

15 **THE WITNESS:** It's Thomas Blankenship.

16 **THE CLERK:** Please be seated.

17 **THE WITNESS:** Thank you.

18 **DIRECT EXAMINATION**

19 **BY MR. FERNANDEZ:**

20 **Q** Agent Blankenship, good morning. Would you
21 please tell the jury a little bit about yourself and
22 your law enforcement career?

23 **A** Sure. I'm Tommy Blankenship. I work for the
24 Pickens County Sheriff's Office. I've been there a
25 little over 11 years. A little over nine of that has

1 been in the Special Operations Unit. My main goal is
2 to investigate vice crimes, including but not limited
3 to, drug investigations, prostitutions and murder-
4 for-hire. I served in the capacity of case agent,
5 undercover, as well as assisting agent in each one of
6 those capacities.

7 Q And are you familiar with the investigation
8 into the metham trafficking -- methamphetamine
9 trafficking ring involving Jimmy Duncan?

10 A Yes, sir. I am.

11 Q Were you involved in that investigation?

12 A For a part of it, yes, sir.

13 Q And tell the jury, if you will, a little
14 about your general involvement in this investigation.

15 A I have, of course, knowledge of the
16 investigation through the workings inside of the
17 office. We discussed targets that are within our
18 county and ways that we can go about eliminating the
19 methamphetamine trade in the county. Mr. Duncan has
20 been a target for some time.

21 MR. WARDER: Objection. First of all, it's
22 hearsay.

23 THE COURT: I'm going to sustain that.

24 BY MR. FERNANDEZ:

25 Q Without discussing what other people said,

1 just please tell a little bit about your own personal
2 involvement in this investigation.

3 **A** Yes, sir. Mr. Duncan, as far as my own
4 personal information, was not derived from other
5 agents, as I was provided a search warrant to be
6 served at his residence at [REDACTED] Lane within
7 Pickens.

8 **Q** Concerning that search warrant, do you
9 remember the incident date?

10 **A** I believe it was February 26th, 2015.

11 **Q** Thank you. And what was your role there at
12 the search warrant at [REDACTED] Lane?

13 **A** I was the scribe.

14 **Q** And please tell the jury a little bit about
15 what a scribe is and what their responsibilities are.

16 **A** Yes, sir. Depending on the size of the
17 residence, generally a scribe will go to a
18 centralized location where we can document each and
19 every piece of evidence that's brought to us as well
20 as bag it and identify it so that whatever we bag it
21 in corresponds with the Item Number that's going to
22 be listed on the search warrant return as well as my
23 property sheet.

24 With this particular search warrant, the
25 residence was fairly small. We were scrapped for

1 space. I remained in the kitchen for the majority of
2 the time when the individual would -- one of our
3 officers would locate an item that they deemed either
4 to be evidence or an item that needed seizing based
5 on the case. They would notify me. I would come in
6 the room and photograph it and take possession of it,
7 take it back into the kitchen. I would write out in
8 my notes what was found, where it was found, who
9 found it, and then I would put it in a plastic bag
10 and label the plastic bag with an item number.

11 Q All total, how many items did you document
12 from that -- from the search warrant on February
13 26th?

14 A There were 85 items.

15 Q And --

16 MR. FERNANDEZ: Your Honor, permission to
17 approach?

18 THE COURT: Yes.

19 BY MR. FERNANDEZ:

20 Q Agent Blankenship, I'm handing you what's
21 been marked and entered into evidence as State's
22 Exhibit Number 60. Would you please review this for a
23 moment and let me know if you recognize it.

24 A I do.

25 Q Are those the -- is that the package -- are

1 those items that you received during the search
2 warrant?

3 **A** Yes, they are.

4 **Q** Do you recall or do you have documents
5 indicating from whom you received them?

6 **A** I do. I have not only a search warrant
7 return, but also a property sheet here that would
8 correlate with the numbers on the bag, Items 20 and
9 23. Item Number 20 is going to be a blue notebook,
10 which is located here on this bag. Item Number 23 is
11 going to be two sets of digital scales. Both of those
12 were located in the defendant's bedroom by Agent
13 Robinson.

14 **Q** Thank you. And those -- is that the
15 packaging that you sealed those items into from that
16 evening?

17 **A** Yes, it is. This is my handwriting on the
18 bags as well as the case number.

19 **Q** Agent Blankenship, I'm also handing -- I'm
20 now handing you State's Exhibit Number 59 that's been
21 entered into evidence. If you would, please just take
22 a moment to review that and tell me if you recognize
23 the contents.

24 **A** I do.

25 **Q** And were these items that were -- that you

1 were just describing took into custody?

2 **A** Yes, sir. The bag is listed Items 5, 6 and
3 7 and, according to search warrant, returned. Number
4 5 was a knife, which is no longer inside of the
5 package. Number 6 is a glass smoking pipe, which is
6 located here. Number 7 is a set of DigiWeigh digital
7 scales.

8 **Q** And is that -- the packaging that these
9 items are in, are you familiar with the packaging and
10 the handwriting on the labels?

11 **A** Yes, sir. That's my handwriting.

12 **Q** I'm now handing you State's Exhibit Number
13 61. There's some handwriting at the top of the item.
14 Please review and let me know if you recognize those
15 items.

16 **A** I do.

17 **Q** And what are those items and how do you
18 know it?

19 **A** Item Number 24 and 25. 24 is a metal spoon
20 with residue, 25 is a Sheryl Crow CD case with
21 crystal substance. Both of those items are contained
22 within this bag that has my handwriting.

23 **Q** And lastly, State's Exhibit Number 62. If
24 you would please, same as before, review and let me
25 know if you recognize it.

1 **A** Yes, I do.

2 **Q** And what is that item?

3 **A** This is going to be Item Number 28, which
4 is a large set of digital scales that were located in
5 the bedroom by Agent Robinson packaged in a bag that
6 has my handwriting with Items 26, 27, and 28 as well
7 as case number written on the outside.

8 **Q** Thank you. Agent Blankenship, as part of
9 your responsibilities during the course of this
10 search warrant as a scribe, did you also additionally
11 encounter a safe?

12 **A** Yes, I did.

13 **Q** Okay. Please describe to us how that came
14 about and what your role was in opening the safe.

15 **A** Okay. One of our agents located a safe
16 inside of a bedroom. At that point in time, our
17 search warrant does cover locked items, what's in
18 them and within a residence. We always ask the
19 individual that is what we believe to be the owner,
20 if they would give us permission or give us the keys
21 to open it so that we could avoid destruction of any
22 property. At this point in time, Mr. Duncan refused
23 to allow us into the safe. So using what is deemed a
24 Halligan tool, which is a tool, an entry tool for
25 SWAT team, we forcibly opened his safe.

1 **MR. FERNANDEZ:** Beg the Court's indulgence
2 one moment. (Pause.)

3 **BY MR. FERNANDEZ:**

4 **Q** When you attempted to affect entry into the
5 safe, did the defendant ever make any additional
6 comments about willingness to open it?

7 **A** There was a comment made by the defendant
8 that he stated to us that if we would let him go that
9 evening, he would give us the keys to open the safe.
10 But at that point in time, we were not going to
11 release him, so he refused to allow us to open it.

12 **Q** Did you also identify a motor vehicle in
13 the front of the defendant, Jimmy Duncan's residence?

14 **A** There were more than one motor vehicle at
15 his residence, but I personally am not the one that
16 identified any of the vehicles.

17 **Q** Agent Blankenship, I'm handing you what's
18 been marked as State's Exhibits 44 through -- 44
19 through 52. If you would, kindly review those for me.
20 Take a moment to look through those and then I'll
21 have a few additional questions concerning them.

22 **A** (Reviewing.)

23 **Q** Are you familiar with the images on those
24 photographs?

25 **A** Yes, sir.

1 Q Okay. And what day were they taken from?

2 A February 26th, 2015.

3 Q And what location would those have been
4 taken from?

5 A [REDACTED] Lane in Pickens, the location
6 where we served the search warrant.

7 Q Okay. Thank you. Concerning your entry into
8 the safe, were you able to open the safe?

9 A Yes, sir.

10 Q And upon opening the safe, what were the
11 contents within the safe that you found?

12 A There were some ammunition, some U.S.
13 currency, as well as a quantity of methamphetamine.

14 Q Did you document the items that you located
15 within that safe on your search warrant returns?

16 A Yes, I did. On the search warrant return,
17 there would be items, from the safe, 12 through 17,
18 two pistol magazines, a box of .380 caliber bullets,
19 .36 rounds, two boxes of 762 by 39 bullets .40
20 rounds, a box of 12 shotgun shells and a silver
21 dollar coin album. There were also two different bags
22 of crystal substance believed to be methamphetamine.

23 Q And concerning the U.S. currency you
24 located, did you note the quantity?

25 A Yes, sir. It's going to be \$2000.

1 **Q** And what did you do with the bag of crystal
2 substance that you located within the safe?

3 **A** I bagged it up in a SLED BEST bag to be
4 sent to be analyzed and then stored for evidence.

5 **Q** If you would, very briefly describe to the
6 jury what the SLED BEST kit is and why you would have
7 looked -- why you would have put the crystal
8 substance into that kit.

9 **A** Yes, a SLED BEST kit is a plastic tamper-
10 evident bag that we can put controlled substances in.
11 It has an extremely sticky residue closure that is
12 also colored so that if anyone attempts to open the
13 bag, it's very obvious. It also has a chain of
14 custody form that goes along with it that we fill out
15 so that we can document where, when and who we
16 received these controlled substances from as well as
17 who we turned them over to. It also has an analysis
18 request form where we document exactly what we put in
19 the pack, and there is a carbon copy that goes within
20 the plastic bag that goes along with the controlled
21 substance.

22 **Q** And the 80-plus items that you collected
23 from the scene and documented, who did you turn them
24 into at Pickens County?

25 **A** I turned them all into Bryan Langston.

1 **Q** I'm going to ask you, concerning these
2 pictures, I'm going to take one by one, if we could.
3 Let's go in chronological order, if you would please.
4 And without showing the jury the pictures, would you
5 please describe beginning with 44 what the pictures
6 shows.

7 **A** Yes, in picture 44, it's actually a
8 photograph of myself attempting to open the safe.

9 **Q** Okay. And is that a true and accurate
10 reflection of what was going on that evening and of
11 yourself and the safe?

12 **A** Yes, it is.

13 **Q** Okay. Concerning picture 45, State's
14 Exhibit 45, what does that reveal?

15 **A** 45 is a photograph of the safe just prior
16 to being able to get it opened, photographing some of
17 the damage that had taken place.

18 **Q** Is that a true and accurate representation
19 of the safe as it looked prior to opening it?

20 **A** Yes, sir. That's correct.

21 **Q** Please proceed on to State's Exhibit 46.

22 **A** 46 is a photograph into the safe just after
23 the door was removed and some of the items that you
24 could see without manipulating them.

25 **Q** And again, does that image show a true and

1 accurate reflection of what you observed when opening
2 the safe?

3 **A** Yes, it does.

4 **Q** State's Exhibit Number 47 please.

5 **A** 47 is the same photograph, just zoomed in a
6 little more so that you could get a better idea of
7 what was actually in the safe prior to being
8 manipulated.

9 **Q** Thank you. State's 48.

10 **A** 48 is a photograph of the door and the
11 damage that took place.

12 **Q** Is that all?

13 **A** As well as the tool that was used to open
14 it.

15 **Q** And is that a true and accurate reflection
16 of the tool you used and the safe itself?

17 **A** Yes, that's correct.

18 **Q** Thank you. And 49?

19 **A** 49 is a photograph of the crystal substance
20 believed to be methamphetamine laid out on the ground
21 as well as the U.S. funds that were located inside of
22 the safe.

23 **Q** And was that -- are the contents of that
24 image true and accurate reflections of the items you
25 found within the safe?

1 **A** Yes, they are.

2 **MR. FERNANDEZ:** At this time, Your Honor,
3 the State would move to admit State's Exhibits
4 44 through 49.

5 **THE COURT:** Any objection?

6 **MR. WARDER:** No, Your Honor.

7 **THE COURT:** All right. 44 through 49 are
8 in without objection.

9 **(WHEREUPON, State's Exhibits 44 through 49 are**
10 **admitted into the record.)**

11 **MR. FERNANDEZ:** Thank you, Your Honor.

12 **BY MR. FERNANDEZ:**

13 **Q** Additionally, Agent Blankenship, you have
14 items 50 through 52 ---

15 **A** Yes, sir.

16 **Q** --- in your possession, would you please
17 outline those images and what they revealed.

18 **A** Those are very similar to 49. They are just
19 up close photographs of the items that were located
20 in the safe containing the U.S. currency, crystal sub
21 -- the crystal substance believed to be
22 methamphetamine.

23 **Q** And again, are those true and accurate
24 reflections of the items that you found within the
25 safe, personally?

1 **A** Yes, they are.

2 **MR. FERNANDEZ:** Additionally, Your Honor,
3 State's Exhibit 40 -- I'm sorry, 50, 51 and 52,
4 the State would move to admit those into
5 evidence.

6 **THE COURT:** Any objection?

7 **MR. WARDER:** No, Your Honor.

8 **THE COURT:** All right. They are in without
9 objection.

10 **(WHEREUPON,** State's Exhibits 50 through 52 are
11 admitted into the record.)

12 **MR. FERNANDEZ:** Your Honor, at this time,
13 we'd move to -- the State would move to publish
14 for the jury.

15 **THE COURT:** You may proceed.

16 **BY MR. FERNANDEZ:**

17 **Q** All right. Agent Blankenship, if you would,
18 please describe -- this is State's Exhibit 44, please
19 describe to the jury what we're looking at.

20 **A** That's a photograph of myself. I attempted
21 to gain entry into the safe. In my right hand, it's
22 kind of hard to make out, but that is a tool we used
23 called a Halligan.

24 **Q** Agent Blankenship, this is State's Exhibit
25 Number 45. If you would, please describe what we're

1 looking at.

2 **A** That's a photograph of the safe door prior
3 to gaining entry. Just a photograph of the damage
4 that took place in an attempt to open.

5 **Q** This would be State's Exhibit Number 46.
6 Please tell us what we're looking at here.

7 **A** That's a photograph of the safe with the
8 door removed. You can see the items that are in the
9 safe prior to us manipulating or pulling anything
10 out. All of the white that is inside of there is the
11 fire retardant -- the walls of the safe.

12 **Q** State's Exhibit Number 47. If you would,
13 please describe what we're looking at.

14 **A** Very similar to the last one. It's just a
15 zoomed in photograph so you can get a better idea of
16 the items that were in the safe prior to
17 manipulation.

18 **Q** State's Exhibit Number 48, what is that?

19 **A** That is the door of the safe after it was
20 removed from the body.

21 **Q** State's Exhibit 49. Please tell us what
22 these are.

23 **A** That is the U.S. currency as well as the
24 crystal substance believed to be methamphetamine that
25 was located in the safe.

1 Q State's Exhibit 50, Agent Blankenship.

2 A The same as the last. Zoomed in photographs
3 so that you can see the crystalline substance, as
4 well as the large crystal in the other bag, and U.S.
5 currency, all located in the safe.

6 Q State's Exhibit Number 51.

7 A A zoomed-in attempt to photograph the
8 larger bag of crystal substance believed to be
9 methamphetamine. It was located in the safe.

10 Q And lastly, Agent Blankenship, State's
11 Exhibit Number 52.

12 A That's a zoomed-in photograph of the
13 crystalline chard that was located in the safe.

14 Q Agent Blankenship, concerning the crystal
15 substance that you secured after opening the safe,
16 please say again what you did with that substance.

17 A I packaged it in a SLED BEST pack and then
18 turned it over to our forensics unit.

19 Q And do you have any documentation
20 indicating what the SLED BEST kit number was?

21 A Yes. It was B, as in boy, 228591.

22 Q All right. I am -- Agent Blankenship, I'm
23 handing you State's Exhibit Number 28. If you would
24 please take a moment to review this. Are you familiar
25 with what State's Exhibit Number 58 is?

1 **A** Yes, I am.

2 **Q** Please tell us what that is.

3 **A** This is the SLED BEST pack that I filled
4 out and sealed on February 26th, 2015.

5 **Q** And how do you know it is the SLED BEST kit
6 that you filled out and put the substance into.

7 **A** It has the items that were in there along
8 with my handwriting similar to how I do the other
9 evidence bags, like with 1A, B and C, which
10 corresponds with my property form. Also has my
11 handwriting and signature on the front side of the
12 bag.

13 **Q** Thank you.

14 **MR. FERNANDEZ:** Beg the Court's indulgence.

15 (Pause.)

16 **BY MR. FERNANDEZ:**

17 **Q** Agent Blankenship, would you please review
18 the process -- after placing the item into the BEST
19 kit, what would be the process you did to seal the
20 bag?

21 **A** There is a plastic strip that covers the
22 sticky residue. You would remove that and fold it
23 over. At that point in time, I would put it inside of
24 a manilla envelope that has the corresponding BEST
25 pack number, control number. Then, I would sign over

1 the contents along with all the other evidence to the
2 evidence custodian. At that point in time, he'll also
3 sign the chain of custody.

4 Q And for that particular piece of evidence,
5 who was the evidence custodian that you turned it
6 over to?

7 A Bryan Langston.

8 MR. FERNANDEZ: Nothing further, Your
9 Honor.

10 Agent Blankenship, please answer any
11 questions that opposing counsel may have.

12 **CROSS-EXAMINATION**

13 **BY MR. WARDER:**

14 Q Agent Blankenship, Item 38 is the circular
15 saw, and you give the serial number. What was the
16 relevance of the circular saw and my client?

17 A It would be -- would be -- would be two-
18 fold. The first reason is because it's general
19 practice for drug dealers to take in stolen items. So
20 we want to seize those items and make sure -- run the
21 serial numbers through NCIC, and we're not always
22 available to do so at the time of the search warrant
23 entry. Also, it's not unusual for those items to be
24 stolen.

25 Q You don't just take them to deprive a

1 fellow of a chance to work or things like that?

2 **A** No, sir.

3 **Q** The next item you took was DeWALT drill.

4 What was that -- why was that seized?

5 **A** It would be the same reason. There's reason
6 to believe that -- and has proven in the past that
7 drug dealers take these things on trade and,
8 oftentimes, they're stolen.

9 **Q** And the DeWALT impact wrench was for the
10 same reason?

11 **A** Absolutely. Anything that's not drug-
12 related would be taken for those reasons, the
13 possibility of being stolen or traded to the
14 defendant for drugs.

15 **Q** The DeWALT jigsaw too?

16 **A** Yes, sir.

17 **Q** And the two battery chargers?

18 **A** Yes, sir.

19 **Q** And the 18-volt batteries that went into
20 some power tools?

21 **A** Yes, sir.

22 **Q** His tool bag?

23 **A** Yes, sir.

24 **Q** His eight-piece GearWrench set, that was
25 for the same reason?

1 **A** Yes, sir.

2 **Q** His socket set, Kobalt socket set?

3 **A** Yes, sir.

4 **Q** Wasn't those tools brand new tools?

5 **A** Some of them were fairly new. Some were
6 older, but some were new.

7 **Q** His 10-piece Hex wrench set?

8 **A** Yes, sir.

9 **Q** Those are little Allen wrenches?

10 **A** Uh-huh.

11 **Q** Did you check the serial number of the
12 Allen wrenches?

13 **A** They would have been run through -- if
14 there was a serial number, it would have been run
15 through with our forensics guys. They always check
16 our serial numbers for us if we're unable to do it on
17 scene.

18 **Q** If there's no serial number, can I assume
19 there was no serial number on the item?

20 **A** Yes, sir. That would be a fair assumption.

21 **Q** Okay. Three sets of pliers?

22 **A** Yes, sir.

23 **Q** A Torx bit set, I take it those are
24 screwdrivers with the interchangeable bits. Is that
25 what it was?

1 **A** Yes, sir.

2 **Q** He had a Husky wrench set that you took?

3 **A** Yes, sir. If it's on the list, we took it.

4 If it's not drug-related, those are the two reasons
5 we would have taken it.

6 **Q** The next item was a Blue Hawk socket bit
7 set. I guess --

8 **A** Blue Hawk would have been the brand. It
9 would have been a socket set.

10 **Q** Okay. And that -- those weren't drug-
11 related, were they?

12 **A** In and of themselves alone, no. A socket set
13 is not drug-related.

14 **Q** And the same for the 10-piece socket set,
15 if those were drug-related, they're not?

16 **A** No, they would not be considered drug-
17 related.

18 **Q** Now, you have a serial number down for when
19 you took his nail gun, did that serial number reveal
20 anything of significance? Stolen, traded or anything?

21 **A** By looking at the property sheet when those
22 were run through NCIC, I would say no, they weren't
23 stolen at the time. Excuse me. They weren't reported
24 stolen.

25 **Q** Well, I guess there are a lot more socket

1 sets that aren't stolen than the few that are stolen.
2 We can easily assume it wasn't stolen; would you
3 agree?

4 **A** Yes, sir. That would be a fair assumption,
5 yes, sir.

6 **Q** You have another four sets of screwdrivers.
7 A RIDGID saw, what kind of saw was that? Do you know?

8 **A** Which one? What number are you -- what
9 number are you referring to?

10 **Q** Number 56.

11 **A** 56 would be a reciprocating saw.

12 **Q** Reciprocating?

13 **A** Yes, sir.

14 **Q** It has a serial number. Did that turn up
15 stolen or anything?

16 **A** To my knowledge, no, sir.

17 **Q** You had a sander, RIDGID sander, 57.

18 **A** Uh-huh.

19 **Q** It has a serial number. Did that turn up
20 stolen or anything?

21 **A** To my knowledge, no, sir.

22 **Q** A RIDGID jigsaw. It's got a serial number.
23 Jigsaw was okay too?

24 **A** As far as not being stolen, to my
25 knowledge, I do not know it to be stolen.

1 Q Not stolen or drug-related?

2 A Sir?

3 Q Not drug-related or stolen?

4 A No, sir.

5 Q This drill, it's got a serial number. It's
6 an electric drill, was it --

7 A To my knowledge, no, sir.

8 Q Not stolen and not drug-related?

9 A No, sir.

10 Q This PORTER-CABLE finishing nail gun, was
11 that either stolen or drug-related?

12 A No, sir.

13 Q We have another tool bag. Then we have a
14 Poulan weed pruner. Anything wrong with that? Not
15 stolen or drug-related?

16 A No, sir.

17 Q You took his air compressor. It has a
18 serial number. Was it stolen or drug-related?

19 A Not to my knowledge, no, sir.

20 Q RIDGID planer, was that an electric planer?

21 A Yes, sir.

22 Q Was it stolen?

23 A To my knowledge, no, sir. From what I can
24 tell from documentation here, sir, nothing we had
25 recovered with a serial number, at this time, has

1 been reported or recovered as stolen.

2 Q Okay. You took his stealth chainsaw.

3 A STIHL.

4 MR. DUNCAN: They returned the chainsaw.

5 He --

6 MR. WARDER: Thank you.

7 BY MR. WARDER:

8 Q I understand you returned one of his
9 chainsaws.

10 A If the defendant states we did. The form
11 that I have, I'm not showing what was returned at
12 this time.

13 Q Okay. You took two chainsaws, did you
14 return them both or did you end up --

15 A I don't know.

16 Q Okay. You have a Bostitch finish nailer?
17 You took two of his finish nailers. I guess they were
18 different sizes. Anything wrong with them?

19 A No, sir.

20 Q You took his Husky finish nailer. Had a
21 serial number as well as a Husqvarna chainsaw.
22 Another Weed Eater. Nothing wrong with any of that
23 stuff, is it?

24 A No, sir.

25 Q How about a kerosene heater? Kerosene

1 heater, was there anything wrong with his kerosene
2 heater?

3 **A** No, sir.

4 **Q** You took his Weed Eater. How about when you
5 got to his Ford Mustang that was sitting next door?
6 Anything wrong with it?

7 **A** In and of itself, no, sir. There was
8 nothing wrong with the Ford Mustang.

9 **Q** Okay. You have the VIN number and
10 everything?

11 **A** Yes, sir. There was a VIN.

12 **Q** Okay. And you took a '96 Toyota?

13 **A** Avalon? Yes, sir.

14 **Q** Anything wrong with it?

15 **A** In and of itself, no, sir.

16 **Q** You have a '92 Chevy pickup. Nothing wrong
17 with it either?

18 **A** No, it was not stolen.

19 **Q** You took his motorcycle. Anything wrong
20 with that?

21 **A** Other than not starting, no, sir.

22 **Q** Is it fair to say you took everything of
23 value out of there?

24 **A** Everything? No, sir. But a fair amount,
25 yes, sir.

1 **MR. WARDER:** Thank you.

2 **THE COURT:** Any redirect?

3 **MR. FERNANDEZ:** Yes, Your Honor. Very
4 briefly.

5 **REDIRECT EXAMINATION**

6 **BY MR. FERNANDEZ:**

7 **Q** Agent Blankenship, is it the practice, and
8 speaking generally to your experience in narcotics
9 and narcotics investigations, is it your practice to
10 return items if they no longer -- if you determine at
11 some point that they are not drug-related, either
12 stolen, not stolen or purchased from drug proceeds?

13 **A** Absolutely. If we can -- if they can give
14 us some sort of evidence to prove that the items that
15 they have they didn't either purchase with drug money
16 or trade -- get on trade for drugs, then we
17 absolutely return those items.

18 **Q** Do you have any specific knowledge of
19 whether or not -- what items were returned or not
20 returned to the defendant in this case?

21 **A** I do not.

22 **Q** Specifically concerning the motor vehicles,
23 is it -- while perhaps not stolen, is it certainly
24 possible that these vehicles were used during the
25 transactions of narcotics?

1 **A** It could absolutely be possible.

2 **Q** And if they were used during the
3 transaction of narcotics, does that make them become
4 drug-related in some way?

5 **A** Yes, that makes them seizable under state
6 statute.

7 **Q** Thank you. Agent Blankenship, I'm handing
8 you State's Exhibit Number 53. Would you please
9 review and let me know if you recognize the context
10 of that photograph?

11 **A** (Reviewing.)

12 It appears to be a photograph of a white
13 Toyota Avalon.

14 **Q** And Number 75 on your list of items seized,
15 is there a -- what is indicated under Item Number 75?

16 **A** A 1996 Toyota Avalon showing a VIN of
17 4T1BF12B9TU116012.

18 **Q** Does that vehicle in that picture reflect
19 the same motor vehicle referenced in your list of
20 items seized?

21 **A** It looks very similar. I would make the
22 assumption that this is how the photograph is of the
23 vehicle in our impound lot.

24 **Q** That was my next question. Are you familiar
25 with the surroundings of the vehicle?

1 **A** Yes, that's where any vehicles that we
2 either seize or tow that are stored at the Sheriff's
3 Office.

4 **MR. FERNANDEZ:** Thank you.

5 At this point, Your Honor, we'd move to
6 place State's Exhibit Number 53 into evidence.

7 **THE COURT:** Any objection?

8 **MR. WARDER:** No, sir.

9 **THE COURT:** All right. In without
10 objection.

11 (WHEREUPON, State's Exhibit 53 is admitted into
12 the record.)

13 **MR. FERNANDEZ:** And no further questions,
14 Your Honor.

15 **THE COURT:** All right. You can step down.
16 All right. Call your next witness.

17 **MR. FERNANDEZ:** The State would call Tony
18 Robinson, Your Honor.

19 **THE CLERK:** Please step forward and be
20 sworn in. Place your left and on the Bible.
21 Raise your right hand.

22 **TONY ROBINSON**

23 having first been duly sworn, testifies as follows:

24 **THE CLERK:** Please state your full name.

25 **THE WITNESS:** Tony Robinson.

1 **THE CLERK:** Please be seated.

2 **DIRECT EXAMINATION**

3 **BY MR. FERNANDEZ:**

4 **Q** Lieutenant Robinson, would you please
5 identify yourself for the record.

6 **A** I'm Tony Robinson with the Pickens County
7 Sheriff's Office.

8 **Q** And what is your current rank at the
9 Pickens County Sheriff's Office?

10 **A** I'm a lieutenant over the Forensic and
11 Evidence Section.

12 **Q** Thank you. Please give the jury a brief
13 overview of your law enforcement career.

14 **A** I've been in Forensics and Property and
15 Evidence for 27 years. I served for three and a half
16 years prior to that as a reserve officer on patrol.

17 **Q** And -- thank you. Lieutenant Robinson, are
18 you familiar with the reason you're here today?

19 **A** I am.

20 **Q** What are some of your day-to-day
21 responsibilities for forensic services? Describe for
22 us what some of your day-to-day responsibilities
23 would include.

24 **A** We respond to crime scenes throughout the
25 county and we also maintain all property and evidence

1 that is seized by other officers within the
2 department. It is turned over to us for safekeeping
3 or transport into the laboratory for analysis.

4 Q And in receiving certain items, what is the
5 process you go through in order to secure the items
6 and ensure that they are not tampered with?

7 A We receive the items. We inspect to make
8 sure -- in cases such as this, we inspect the
9 packaging to make sure it's not been tampered with in
10 any way, and then we secure it in our evidence room
11 where it stays until either court or transport to the
12 lab for analysis. We also sign any chain of custody
13 forms to show that we have custody of the evidence.

14 Q And do you have in your possession chain of
15 custody forms related to this investigation?

16 A I do.

17 Q And specifically concerning, referencing
18 your case number, 2014-26133, are you familiar with
19 that log?

20 A Yes, I am.

21 Q And please tell the jury, if you would,
22 what the evidence you received was and from whom you
23 received it.

24 A Agent Brett Barwick turned in a SLED sealed
25 BEST pack, number B247029. I received it on October

1 16th of 2014 at 1:22 p.m.

2 Q And did it indicate what that item was?

3 A It indicates that it is a SLED BEST pack
4 containing a plastic bag of crystal substance.

5 Q And did you, in fact, fill out that form?

6 A Agent Barwick actually filled out this form
7 and I signed for the evidence.

8 Q And what is -- are you indicated as the
9 receiving officer?

10 A Yes.

11 Q I'm handing you --

12 MR. FERNANDEZ: Permission to approach the
13 witness, Your Honor?

14 THE COURT: Yes.

15 BY MR. FERNANDEZ:

16 Q Lieutenant Robinson, I'm handing you what's
17 been marked as State's Exhibit Number 55. Would you
18 please take a moment to review this and let me know
19 if you recognize that item.

20 A (Reviewing.)

21 I do.

22 Q And what is that item of?

23 A This is the package I just referred to that
24 Agent Barwick submitted to me on October 16th of --

25 Q And how do you know that is the same item?

1 **A** Because it has the SLED control number and
2 it also has our case number, which is 14-26133 on the
3 package.

4 **Q** And the SLED BEST kit number would be what
5 again?

6 **A** B247029.

7 **Q** And upon receiving that item from Agent
8 Barwick, what container was it located in?

9 **A** The inner container, the package with the
10 writing on it and the blue around the trim, that's
11 the original container that the evidence comes in.

12 **Q** And when you -- when you had received this
13 item, was it, in any way, opened or manipulated?

14 **A** No, sir.

15 **Q** And did you, in any way, open or manipulate
16 that item?

17 **A** No, sir.

18 **Q** Upon placing it into -- and what kind of
19 secure measures are taken to ensure that it is not
20 touched by anyone else?

21 **A** It is placed in the evidence room. Only
22 forensic officers have access to the evidence room.
23 We're the only ones allowed in there. And it stays in
24 there until transported to SLED for analysis.

25 **Q** And where is the evidence room located?

1 **A** At the Law Enforcement Center.

2 **Q** And is the Law Enforcement Center a secured
3 center?

4 **A** It is.

5 **Q** And does your log indicate who would have
6 checked out that item to take to SLED?

7 **A** It does.

8 **Q** What does it reveal?

9 **A** Officer Albreicht checked it out on October
10 21st of 2014 to transport it to SLED.

11 **Q** And was it eventually returned?

12 **A** It was.

13 **Q** And what date was it returned?

14 **A** It was returned by the same officer.

15 Officer Albreicht returned it on February 23rd ---

16 **Q** Thank you.

17 **A** --- of 2015.

18 **Q** Lieutenant Robinson, I'm handing you what's
19 been marked as State's Exhibit Number 57. If please
20 would review that and let me know if you recognize
21 the contents of that item.

22 **A** (Reviewing.)

23 This is also a SLED BEST pack.

24 **Q** Do you recognize the SLED BEST pack serial
25 number?

1 **A** It is B248612. Yes.

2 **Q** And were you the intake officer, the
3 receiving officer for that item?

4 **A** I did. I received that on February 23rd of
5 2015.

6 **Q** And who was the officer who turned that
7 item over to you?

8 **A** Agent Barwick.

9 **Q** Upon receiving this item into custody, was
10 it in any way manipulated or opened?

11 **A** No, it was not.

12 **Q** And upon placing this item into your
13 evidence log, did you, in any way, manipulate or open
14 that item?

15 **A** No, sir.

16 **Q** And would the same steps that you had
17 previously testified to ensure the safety and
18 security of these items, were they utilized for this
19 State's Exhibit Number 57?

20 **A** Yes, sir.

21 **Q** Does your property log indicate who
22 retrieved the item from your custody in evidence and
23 transported to SLED?

24 **A** Yes, this item was retrieved by Deputy
25 Brian Gibson on March 13th of 2015 to transport to

1 SLED.

2 Q Does your log also indicate who brought the
3 items back from SLED to the Pickens County Sheriff's
4 Office?

5 A Yes, Deputy Albreicht returned it on July
6 the 29th of 2015.

7 MR. FERNANDEZ: Beg the Court's indulgence.

8 (Pause.)

9 BY MR. FERNANDEZ:

10 Q I'm going to direct your attention to the
11 Pickens County property report concerning case number
12 2015-43595.

13 A Yes, sir.

14 Q Are you indicating that -- having received
15 any items from this list of items that were turned
16 over to the evidence room?

17 A Some currency was turned into evidence to
18 Deputy Langston. I retrieved that currency.

19 Q And what did you do with it?

20 A I pla -- we have a bank account set up for
21 confiscated drug money. I deposited that money on May
22 14th of 2015.

23 MR. FERNANDEZ: Beg the Court's indulgence.

24 (Pause.)

25 No further questions for this witness, Your

1 Honor.

2 **THE COURT:** Any cross-examination?

3 **MR. WARDER:** Your Honor, if it pleases the
4 Court, I have no questions for this witness.

5 **THE COURT:** Ladies and Gentlemen, we're
6 going to take a --

7 You may step down.

8 We'll take a very short break. I'll let you
9 go back to your jury room. Do not discuss
10 anything in this case. At this time, return to
11 the jury room.

12 **(WHEREUPON, the jury exits at approximately**
13 12:00 p.m.)

14 **THE COURT:** Mr. Warder and Mr. Underwood,
15 y'all look and see if you can resolve any chain
16 of custody issues. Because if we have to go
17 through all these chain of custodies, we'll be
18 here until Saturday. This case is moving very
19 slowly. I mean, we're into -- probably, well
20 into tomorrow. If they all have issues, then
21 y'all, you know, talk about them. If you don't
22 have issues and you can resolve some of those
23 chain of custody issues, then why don't y'all do
24 that. I know you have the right to make them.
25 But if there are not any issues and we've just

1 got a lot of witnesses, we'll be here. I'll ask
2 that y'all at least talk. Thank you.

3 **MR. WARDER:** Your Honor, is somebody
4 getting that filled out form so that I can
5 understand what the status is now?

6 **THE COURT:** I don't understand.

7 **MR. WARDER:** Our informant interview
8 contract.

9 **THE COURT:** I don't know. Y'all talk. I'm
10 just sitting up here.

11 **(WHEREUPON, the Court goes off the record at**
12 **approximately 12:02 p.m.)**

13 **(WHEREUPON, the Court goes on the record at**
14 **approximately 12:07 p.m.)**

15 **THE COURT:** Before we took the break, one
16 of the requests he had was regarding
17 discoverability and production of certain
18 documents which were completed -- there's been a
19 reference and allegation that they were
20 completed -- hand me that -- a little packet for
21 confidential informants which we have marked as
22 Court's Exhibit 1, which is a blank document. My
23 review of Rule 5 under the criminal -- Rules of
24 Civil Procedure and a case that discusses Brady,
25 I do -- you know, I rule that that -- I don't

1 think that that is discoverable information. And
2 even if it was at this point, I don't believe
3 it's material to the matters at hand. I don't
4 believe it falls within the category. So if
5 you've got that information as far as the blank
6 form, I'm going to rule that that is not
7 discoverable. There's not been any violation of
8 the discovery rules and we will proceed
9 accordingly. All right. Anything else before we
10 bring the jury back in?

11 **MR. UNDERWOOD:** No, Your Honor.

12 **THE COURT:** All right. Anything else from
13 the defendant?

14 **MR. WARDER:** No, sir.

15 **THE COURT:** All right. All right. If the
16 jury is ready...

17 **(WHEREUPON, the jury enters at approximately**
18 **12:10 p.m.)**

19 **THE COURT:** Ladies and Gentlemen, what --
20 Okay. It's 12:10 now. We may take a little bit
21 later lunch than normal so your stomachs,
22 everybody stomachs will grumble. I know that.
23 But we're trying to get as much of the testimony
24 in this morning as possible. If it looks like
25 it's going too long, we will break. I'm going to

1 see how it goes. It won't be real late, but I
2 did want to kind of give you an idea of what
3 we're looking at here.

4 All right. The State may proceed.

5 **MR. FERNANDEZ:** Thank you, Your Honor. The
6 State calls Brian Gibson.

7 **THE CLERK:** Please step forward to be
8 sworn in. Place your left hand on the Bible.
9 Raise your right hand if you would please.

10 **BRIAN GIBSON**

11 having first been duly sworn, testifies as follows:

12 **THE CLERK:** Please state your full name.

13 **THE WITNESS:** Brian Edward Gibson.

14 **THE CLERK:** Please have a chair.

15 **DIRECT EXAMINATION**

16 **BY MR. FERNANDEZ:**

17 **Q** Deputy Gibson, what is your current rank
18 with the Pickens County Sheriff's Office?

19 **A** I'm a forensic officer with the Pickens
20 County Sheriff's Office.

21 **Q** Thank you. Please give the jury a brief
22 overview of your law enforcement career.

23 **A** I've been with the Pickens County Sheriff's
24 Office for 24 years total. 21 years of those, I've
25 been with the Forensics Unit.

1 **Q** And what are your day-to-day
2 responsibilities in the Forensic Unit?

3 **A** Responsibilities, we answer any kind of
4 calls such as malicious damage calls to burglary
5 calls to homicides, suicides, assisting with our
6 Special Operations Unit, recovering vehicles.
7 Anything that is a crime scene that we are called out
8 to by our units and our specialized units, we go and
9 process those for any kind of evidence that we need
10 to make a case.

11 **Q** When fellow agents collect evidence at a
12 scene and turn them into the forensic services, have
13 you ever been responsible for being the receiving
14 officer of those items?

15 **A** Yes, we also have responsibilities for
16 collecting evidence, receiving evidence and keeping
17 custody and control of those evidence as well as
18 getting them to correct areas for analysis, such as
19 different labs, and getting them to court.

20 **Q** Are you familiar with the safeguards and
21 secure measures taken to ensure the safety and
22 security of items that are collected into evidence?

23 **A** Yes, sir. I am.

24 **Q** And you heard testimony from Lieutenant
25 Robinson. Do you -- are you familiar with those

1 procedures within the Pickens County Sheriff's
2 Office?

3 **A** Yes, I am.

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

5 **MR. FERNANDEZ:** Permission to approach the
6 witness, Your Honor?

7 **THE COURT:** Yes, you may.

8 **BY MR. FERNANDEZ:**

9 **Q** Deputy Gibson, I am handing you items that
10 have been marked State's Exhibit 56, 57 and 58. Would
11 you please take a moment to review the serial numbers
12 on those items and let me know if you recognize them,
13 and we're going to take them one by one.

14 **A** Yes, sir. I know what they are, yes, sir.

15 **Q** Thank you. And specifically concerning the
16 item marked as State's Exhibit Number 56, would you
17 please read into the record what the SLED BEST kit
18 number is on that item?

19 **A** SLED BEST kit control number is Bravo-2-4-
20 7-0-3-9.

21 **Q** And do you have documentation with you
22 indicating whether or not you received that item into
23 evidence?

24 **A** (Reviewing.)

25 **Q** I'll direct your attention to your case

1 number 2014-27375.

2 **A** Yes, sir.

3 **Q** And what does that form indicate?

4 **A** This is a Pickens County evidence form. It
5 was filled out by Agent Brett Barwick where he had
6 collected it. The item he collected was one SLED BEST
7 pack, control number Bravo-2-4-7-0-3-9, containing
8 crystal substance. I did receive that item from Agent
9 Barwick.

10 **Q** And what measures did you take to ensure
11 that the item was secured safely and not tampered
12 with?

13 **A** The first thing we look at is we look at
14 the red sticky seal that goes with it -- it's
15 basically a self-destruct mechanism -- to make sure
16 that it is not in any way damaged or altered. Then,
17 we just basically check the pack in general to make
18 sure that everything is still intact and nothing has
19 been messed with.

20 **Q** Concerning that item, did you open the item
21 or in any way tamper with the seal?

22 **A** No, sir. We did not.

23 **Q** And after placing that item into evidence
24 at Pickens County Sheriff's Office, does your log
25 indicate who retrieved that item?

1 **A** Yes, sir. It was retrieved by Deputy
2 Albreicht, taken to SLED on 11/12 of 2014.

3 **Q** Thank you. All right. And Deputy Gibson,
4 we'll refer your attention to State's Exhibit Number
5 57. I'll refer you to your case number 2015-04141.

6 **A** Yes, sir.

7 **Q** Does your log indicate what you did with
8 that item?

9 **A** Yes, sir. I received one SLED BEST pack,
10 control number Bravo-2-4-8-6-1-2, containing plastic
11 bag with crystal substance. It was turned in to me
12 from Agent Brett Barwick. Correction. My mistake. It
13 was turned in to Lieutenant Tony Robinson by Agent
14 Barwick.

15 **Q** And you actually -- who did you receive
16 that item from?

17 **A** I received it from the evidence storage and
18 took it to SLED on 3/13 of 2015.

19 **Q** And after retrieving that item from Pickens
20 County evidence, did you, in any way, open or
21 manipulate the packaging on that item?

22 **A** No, sir. The package was not opened. Again,
23 no, sir.

24 **Q** When you dropped it off at SLED, did you at
25 all open or manipulate the package?

1 **A** No, sir. The packages were still intact.

2 **Q** Thank you. And Deputy Gibson, specifically
3 referencing State's Exhibit 58, I'd draw your
4 attention to case number -- your case number 2015-
5 4395.

6 **A** Yes, sir.

7 **Q** Please tell the jury, if you would, what
8 you did with that package there.

9 **A** This package is one SLED BEST pack number
10 Bravo-2-2-8-5-9-1, which is the same control number,
11 which is actually on the BEST pack. It was turned in
12 to Deputy Brian Langston by Agent Tommy Blankenship.
13 I retrieved that item from our evidence storage and
14 took it to SLED on 3/13/2015.

15 **Q** Upon retrieving that item, had it been
16 manipulated, opened or in any way tampered with?

17 **A** No, sir, the packages were still intact and
18 no damage or tampering had taken place.

19 **Q** And by dropping it off with SLED, did you,
20 in any way, open or tamper with the package?

21 **A** No, sir. I did not.

22 **MR. FERNANDEZ:** Beg the Court's indulgence,
23 Your Honor. (Pause.)

24 No further questions, Your Honor.

25 **THE COURT:** All right. Any cross-

1 examination?

2 **MR. WARDER:** Your Honor, if it pleases the
3 Court, I have no questions for this witness.

4 **THE COURT:** All right. You may step down.
5 All right. You may proceed.

6 **MR. UNDERWOOD:** Your Honor, the State calls
7 J.T. Albreicht.

8 **THE COURT:** All right. Officer Albreicht,
9 if you will, come forward.

10 **THE CLERK:** Please step forward to be
11 sworn in, if you would. Place your left hand on
12 the Bible. Raise your right hand.

13 **J. T. ALBREICHT**

14 having first been duly sworn, testifies as follows:

15 **THE CLERK:** Please state your name.

16 **THE WITNESS:** J.T. Albreicht.

17 **THE CLERK:** Thank you.

18 **DIRECT EXAMINATION**

19 **BY MR. FERNANDEZ:**

20 **Q** Deputy Albreicht, would you please give the
21 jury a brief overview of your law enforcement career?

22 **A** I worked for the Sheriff's Office since
23 2001. 2006, I went into Forensics.

24 **Q** And within Forensics, what are your day-to-
25 day responsibilities?

1 **A** Crime scene investigations, documentation,
2 evidence custodian.

3 **Q** And Deputy Albreicht, are you familiar with
4 why you are here today to testify?

5 **A** I am.

6 **Q** Deputy Albreicht, would you please explain
7 to the jury what a SLED BEST kit is and the
8 safeguards that Pickens County utilizes to ensure
9 that items you retrieve are not manipulated or
10 tampered with in any way.

11 **A** SLED BEST packs are provided obviously by
12 SLED. They are what's required for evidence to go
13 back down to SLED for them to test it for their
14 chemical analysis to be done. As far as the safety
15 measures, it's got a tamper-resistant seal at the
16 very top. You've heard about that already. Try and
17 peel it apart, it will break, it will come apart, it
18 will discolor. It's very evident when somebody has
19 sealed one and tried to pull it back apart.

20 **Q** Thank you.

21 **MR. FERNANDEZ:** Permission to approach,
22 Your Honor?

23 **THE COURT:** You may.

24 **BY MR. FERNANDEZ:**

25 **Q** Deputy Albreicht, I am handing you State's

1 Exhibits 54 through 58. We're going to go through
2 them one by one. If you would, please take 54. If you
3 would, let me know if you recognize the SLED number
4 -- the SLED pack number on that as well as the
5 Pickens County case number.

6 **A** (Reviewing.)

7 Yes, I do.

8 **Q** Concerning your case number 2014-26307,
9 were you the receiving officer of that item?

10 **A** I was.

11 **Q** And please tell us who you received the
12 item from.

13 **A** That was received out of an evidence
14 locker.

15 **Q** Does your form indicate who you turned in
16 the item to at the evidence locker?

17 **A** It was turned in by Agent Robinson.

18 **Q** And upon retrieving this item, was it in
19 any way tampered with or manipulated?

20 **A** No.

21 **Q** And how do you know that?

22 **A** Well, if it had been, I wouldn't have
23 signed for it.

24 **Q** Upon receiving that item, what is the next
25 step that you would do for receiving an item?

1 **A** Well, after I take it out of the locker, I
2 log it into our computers and then place it in the
3 secured evidence room.

4 **Q** Okay. And after -- does this form also
5 indicate what you did with the item after that?

6 **A** Yes, on the 21st of October, I took the --
7 this BEST pack down to SLED.

8 **Q** And did you also retrieve the item from
9 SLED back to Pickens County?

10 **A** I did, the following February.

11 **Q** And by taking it to SLED and you retrieved
12 the evidence, was it in any way manipulated or
13 opened?

14 **A** No, sir.

15 **Q** And did you in any way manipulate it or
16 open it before dropping it off at SLED?

17 **A** No, sir.

18 **Q** Thank you. Deputy Albreicht, I'm going to
19 shift your attention to State's Exhibit Number 55.
20 That would be Pickens County case number 2014-26133.
21 What was the role you played on State's Exhibit 55?

22 **A** October, I took the BEST pack to SLED. The
23 following February, I returned it from SLED.

24 **Q** And who was the receiving officer for this
25 item?

1 **A** The receiving officer was Lieutenant
2 Robinson.

3 **Q** And the same question. Was the package in
4 any way manipulated or open when you retrieved it
5 from Pickens County evidence?

6 **A** No, sir.

7 **Q** Did you in any way manipulate or open the
8 package when dropping it off at SLED?

9 **A** No, sir. I did not.

10 **Q** State's Exhibit 56, Pickens case number
11 2014-27375, what was your role in the collection of
12 evidence for that item?

13 **A** Again, I transported this item to SLED in
14 November. And the following month, which would have
15 been December, I picked it back up from SLED, brought
16 it back, put it back into evidence.

17 **Q** And the same questions as before, when
18 picking up the item from Pickens County evidence, was
19 it in any way opened or manipulated?

20 **A** No, sir. It was not.

21 **Q** And did you, in any way, open or manipulate
22 the item on transport to SLED?

23 **A** No, sir. I did not.

24 **Q** Thank you. Shifting your attention to
25 State's Exhibit Number 57, Pickens County case number

1 2015-4141, what was your role in that item -- for
2 that item's exchange?

3 **A** On this particular case, it was the month
4 of July. I brought the evidence back from SLED.

5 **Q** Thank you. And lastly, shifting your
6 attention to State's Exhibit Number 58, Pickens case
7 number 2015-4395, what was your role in the transfer
8 of that item?

9 **A** Returned from SLED, July.

10 **Q** That would be Item Number 1, SLED BEST pack
11 B228591?

12 **A** That is correct.

13 **Q** Thank you.

14 **MR. FERNANDEZ:** Beg the Court's indulgence?

15 **THE COURT:** Yes.

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

17 **BY MR. FERNANDEZ:**

18 **Q** Deputy Albreicht, had one of the packages
19 been tampered with when you came into contact with
20 them, whether it was when you were retrieving it from
21 evidence or as intake officer, had that BEST kit been
22 tampered with in any way, what would you have done?

23 **A** If it had been tampered with --

24 **Q** Had it been. Had it been.

25 **A** When I took it in from evidence or --

1 **Q** Correct. When you were retrieving it or --

2 **A** I wouldn't have signed for it on the
3 evidence sheet and it would have been returned to the
4 deputy that turned it in.

5 **Q** And when you were retrieving the items from
6 evidence and transporting them to SLED for analysis,
7 had the items -- had SLED noticed that the items had
8 been tampered with, what would they have done?

9 **A** They would have not taken them and returned
10 them to us.

11 **MR. FERNANDEZ:** I have no further
12 questions, Your Honor.

13 **THE COURT:** All right. Cross-examination?

14 **MR. WARDER:** Your Honor, if it pleases the
15 Court, I have no questions.

16 **THE COURT:** All right. You may step down.

17 **MR. UNDERWOOD:** Your Honor, the State calls
18 Lieutenant Brett Barwick.

19 **THE CLERK:** Please step forward and be
20 sworn in. If you would, place your left hand on
21 the Bible and raise your right hand.

22 **BRETT BARWICK**

23 having first been duly sworn, testifies as follows:

24 **THE CLERK:** Please state your full name.

25 **THE WITNESS:** Brett Barwick.

1 **THE CLERK:** Please be seated.

2 **DIRECT EXAMINATION**

3 **BY MR. UNDERWOOD:**

4 **Q** Good afternoon, Lieutenant Barwick.

5 **A** Good afternoon, sir.

6 **Q** Please introduce yourself to the jury and
7 give a very brief summary of where you work and what
8 you do.

9 **A** My name is Brett Barwick. I'm employed by
10 the Pickens County Sheriff's Office. I'm a Lieutenant
11 over the Special Operations Division. I've been with
12 the Sheriff's Office since 2000. I've been in
13 Narcotics or Special Operations since 2005.

14 **Q** And what are your job responsibilities
15 within that unit?

16 **A** As I said, I'm the Lieutenant over the
17 division so I supervise the division, being the
18 agents that are assigned to it, work with them on the
19 narcotics investigations that they take part in. And
20 I also have -- the Community Action Team works
21 directly under the Lieutenant for Special Operations,
22 which is a group of marked units, uniformed deputies
23 that work within the county under our direction, and
24 they also work for special projects such as CID,
25 burglaries or problems in a certain area. And they

1 will kind of saturate that area and work it as well.

2 Q How long have you been the Lieutenant over
3 Special Operations?

4 A About a year, a little less than a year,
5 actually. Prior to that, I was just an agent in the
6 division investigating cases.

7 Q What did just an agent in the division do?

8 A As I said, just primarily investigating
9 cases.

10 Q Did you have an opportunity to become
11 involved in the investigation against Jimmy Duncan?

12 A I did.

13 Q How did you become involved?

14 A It originated probably, I think, September,
15 October. Our agency started developing information
16 about a drug trafficking ring. We conducted several
17 interviews which outlined --

18 MR. WARDER: Objection to whatever the
19 interviews outlined, Your Honor.

20 THE COURT: All right. As far as any
21 knowledge -- his knowledge.

22 BY MR. UNDERWOOD:

23 Q Were you able to identify any targets for
24 your investigation?

25 A Yes, sir. We were. Our investigation led to

1 multiple targets, primary source being a Hispanic
2 male in Greenville known as Cheese. Another target
3 was Mr. Jimmy Edward Duncan who is the defendant
4 here. Larry Coleman. At the time, I only knew him as
5 Bubba. He wasn't identified yet. Nicole Hogue was
6 targeted in the investigation. Karen Collins,
7 Kimberly Turner and Stacey Kelley, all of these
8 people became targets of our investigation based on
9 where we began with this. Started doing research on
10 these particular individuals as we developed them as
11 targets and I found --

12 **MR. WARDER:** Objection.

13 **THE COURT:** Based on hearsay?

14 **THE WITNESS:** No, sir. These are actual
15 drug cases.

16 **BY MR. UNDERWOOD:**

17 **Q** Agent Barwick, what individual --

18 **MR. WARDER:** Your Honor, that doesn't
19 change it. The fact that they think it's
20 developed on drug users doesn't mean it's
21 admissible evidence.

22 **THE COURT:** Right. I sustain that. Ask and
23 rephrase your question.

24 **BY MR. UNDERWOOD:**

25 **Q** Agent Barwick, what steps did you take as

1 part of your investigation, in general terms?

2 **A** In general terms, we took the people that
3 we had targeted and we conducted background on those
4 and also coordinated with SLED, which is Agent
5 Woodring, who does a lot of work in the Upstate. He
6 conferred with Investigator Charlie Cunningham from
7 the Greenville County Sheriff's Office to identify
8 some of these people that were involved. We began
9 working towards this investigation as the conspiracy.

10 **Q** Was this a joint investigation among those
11 three agencies?

12 **A** Yes, sir. It was.

13 **Q** Agent Barwick, did you have an opportunity
14 to conduct any controlled purchases against Jimmy
15 Duncan?

16 **A** Yes, sir. We did.

17 **Q** When was the first one?

18 **A** The first controlled purchase we made on
19 Mr. Duncan was on October 16th of 2014.

20 **Q** Were you a part of that opportunity?

21 **A** I was.

22 **Q** What was your role?

23 **A** I was one of the responding agents after
24 Deputy Baker had made a traffic stop and spoke with
25 an individual about their willingness to come forward

1 as a cooperating individual or a CI. Myself and
2 Lieutenant Campbell responded to that location and
3 met with Ms. O'Bryant. We spoke with her about her
4 situation with Mr. Duncan and then we proceeded from
5 there.

6 Q What procedures did you use to do the
7 controlled purchase?

8 A We made an undercover phone call to Mr.
9 Duncan, which we recorded, which asked him to come to
10 the residence. After that phone call was complete, we
11 began our protocol for a controlled purchase, which
12 is the confidential informant was wired. They were
13 searched first. Their vehicle was searched and they
14 were wired with a hidden recorder and transmitter.
15 They were provided with documented -- actually, in
16 this case, they weren't provided with documented
17 funds.

18 Then they were surveilled from our meeting
19 location to [REDACTED] Lane, which was the defendant's
20 residence. We monitored the transaction over the
21 audio wire. Once the transaction ended, we followed
22 the confidential informant back to the meeting
23 location where they had turned over the
24 methamphetamine and I took possession of it.

25 Q And did the confidential informant give it

1 directly to you?

2 **A** Yes, she did.

3 **Q** And who was the confidential informant?

4 **A** That would be Brandy O'Bryant.

5 **Q** What did you do with that drug evidence?

6 **A** After the drug evidence was turned over to
7 me and I completed what's known as a SLED BEST
8 evidence bag or BEST evidence kit, in which it
9 labeled -- it was sealed in the tamper-proof
10 container that SLED provides and all the proper
11 documentation, meaning chain of custody and request
12 for it to be analyzed. After that, the BEST evidence
13 kit was turned into Lieutenant Tony Robinson.

14 **Q** What was the manner that you turned it in?

15 **A** That was in person. I handed it to him.

16 **Q** Lieutenant Barwick, I'm now handing you
17 State's Exhibit Number 55. You recognize that?

18 **A** Yes, sir. I do.

19 **Q** What is it?

20 **A** It is the SLED BEST evidence kit that I
21 completed and turned in.

22 **Q** At that time during this transaction?

23 **A** Uh-huh. Correct.

24 **Q** And how do you know that that's the same
25 BEST kit?

1 **A** It has my name and signature on it from
2 where I turned it in.

3 **Q** Is it also dated?

4 **A** It is.

5 **Q** Is there a BEST kit serial number attached
6 to it?

7 **A** It is. There's a control number, is how
8 it's referred to, and it is B247029.

9 **Q** After you sealed that, you gave it to
10 Lieutenant Robinson?

11 **A** That is correct.

12 **Q** Were you able to take part in another
13 controlled purchase?

14 **A** Yes, sir. I was.

15 **Q** When was that?

16 **A** The next controlled purchase that I took
17 part, took part of was October 30th of 2014. Again,
18 that was another controlled purchase from Mr. Duncan
19 that took place in much the same fashion. Agents met
20 with the confidential informant. The CI was searched.
21 She was wired. She was provided with documented
22 funds. Her vehicle was searched.

23 She then went to [REDACTED] Lane in Pickens,
24 South Carolina. She was followed by agents to that
25 location. She went into the location, made contact

1 with Mr. Duncan, methamphetamine transaction occurred
2 and we followed the confidential informant, once they
3 left, back to the original meeting location where
4 they turned the methamphetamine over to me again.

5 Q And that was handed to you from the
6 confidential informant?

7 A Yes, sir, that is correct.

8 Q Who was the confidential informant?

9 A That confidential informant was Ms. Brandy
10 O'Bryant as well.

11 Q I'm now handing you State's Exhibit Number
12 56. Do you recognize that?

13 A Yes, sir. I do.

14 Q What is it?

15 A It is a SLED BEST evidence pack that I
16 completed on October 30th, 2014.

17 Q Does it contain the drug evidence that you
18 received from Brandy O'Bryant on that date?

19 A Yes, sir.

20 Q What did you do with the evidence once you
21 placed it in that?

22 A After it was sealed and the evidence
23 paperwork was completed, I turned it in to Officer
24 Brian Gibson at the Sheriff's Office.

25 Q Was the seal still intact when both of

1 these were turned in?

2 **A** Yes, sir.

3 **Q** Did you have an opportunity to do a third
4 controlled purchase from Jimmy Duncan?

5 **A** Yes, sir. We did.

6 **Q** When was that?

7 **A** That deal took place on February 23rd of
8 2015.

9 **Q** And briefly, what transpired during that
10 transaction?

11 **A** It was very similar to the first
12 transaction that I described. The agents met with the
13 confidential informant at a predetermined location.
14 The CI was searched and wired with a hidden
15 transmitter recording device. In this incident, she
16 was also provided with a video recording device. The
17 vehicle was searched. Agents then followed the CI to
18 Mr. Duncan's residence. Another methamphetamine
19 transaction took place between Mr. Duncan and the CI.
20 When the CI departed, agents then followed her back
21 to the meeting location and she turned over a
22 quantity of methamphetamine to myself again.

23 **Q** Again, was that confidential informant
24 Brandy O'Bryant?

25 **A** Yes, she was.

1 Q She handed the drug evidence directly to
2 you?

3 A Yes, sir. That's correct.

4 Q What did you do with it at that point?

5 A At that point, I filled out another SLED
6 BEST evidence pack and sealed it. I filled out the
7 appropriate paperwork and turned that BEST pack in to
8 Lieutenant Tony Robinson.

9 Q I'm now handing you State's Exhibit 57. You
10 recognize that?

11 A Yes, sir. I do.

12 Q What is it?

13 A It is the SLED BEST evidence pack that I
14 filled out on February 23rd of 2015 from the
15 controlled purchase of Mr. Jimmy Duncan.

16 Q And did you seal and date that pack?

17 A I did.

18 Q What is the best control number?

19 A Best control number is B-248612.

20 Q And what did you do with it once you sealed
21 the envelope?

22 A Once it was sealed and all the paperwork
23 was filled out, I turned it in to Tony Robinson, the
24 Pickens County Sheriff's Office ID Lieutenant.

25 Q And to your knowledge, was it subsequently

1 transported by others to SLED for analysis?

2 **A** Yes, sir. That's correct.

3 **Q** Agent Barwick, did you participate in the
4 search of Jimmy Duncan's house on February 26th?

5 **A** No, sir. I was not there. This was a large
6 investigation. I was in Greenville at that time on
7 another aspect of the case.

8 **Q** Agent Barwick, to your knowledge, were any
9 of the items that were seized during that search
10 returned to Jimmy Duncan?

11 **A** Yes, sir. There were some items returned.

12 **Q** What were the circumstances of that?

13 **A** Mr. Duncan had contacted myself and
14 requested that a few items be returned. He said that
15 they were work items for him and he needed them to
16 try and make a living. So I met with Mr. Duncan and
17 we returned the items that he stated he needed for
18 his job.

19 **Q** Thank you. Please answer any questions Mr.
20 Warder has for you.

21 **A** Yes, sir.

22 **THE COURT:** Cross-examination.

23 **CROSS-EXAMINATION**

24 **BY MR. WARDER:**

25 **Q** What items were returned?

1 **A** If I remember correctly, it was several
2 chainsaws.

3 **Q** Okay. And he's a logger in Pickens?

4 **A** Uh-huh. That is my understanding that his
5 family does have a logging business.

6 **Q** Thank you.

7 **THE COURT:** Any redirect?

8 **MR. UNDERWOOD:** No, Your Honor.

9 **THE COURT:** All right. You may step down.

10 **THE WITNESS:** Thank you.

11 **THE COURT:** All right. Next witness.

12 **MR. UNDERWOOD:** Your Honor, the State calls
13 Douglas Robinson.

14 **THE CLERK:** Please step forward and be
15 sworn in. If you would, sir, place your left
16 hand on the Bible. Raise your right hand.

17 **DOUGLAS ROBINSON**

18 having first been duly sworn, testifies as follows:

19 **THE CLERK:** Please be seated.

20 **DIRECT EXAMINATION**

21 **BY MR. UNDERWOOD:**

22 **Q** Good afternoon, sir. If you would, please
23 tell the jury where you are employed and what you do
24 for a living.

25 **A** I'm employed with the State Law Enforcement

1 Division, commonly known as SLED. Specifically, I'm
2 with the Drug Analysis department.

3 Q What do you do there?

4 A My primary job is to -- I analyze and
5 identify evidence submitted and suspected to be
6 controlled substances.

7 Q And what is your job title?

8 A Forensic chemist.

9 Q What do you do specifically as a forensic
10 chemist? Your day-to-day duties?

11 A The main thing is just to analyze the cases
12 that are submitted statewide from various local law
13 enforcement agencies that are -- have seized evidence
14 and are looking for chemical confirmation to either
15 approve or disprove the presence of controlled
16 substances.

17 Q How long have you been a forensic chemist?

18 A A little over eight and a half years.

19 Q What training and education have you had to
20 be a forensic chemist?

21 A I received my Bachelor of Science and
22 Chemistry from the University of South Carolina.
23 After completing the degree, I spent approximately
24 three years performing instrumental analysis in the
25 environmental chemistry field. Upon being hired at

1 SLED, I received law and legal training through the
2 South Carolina Criminal Justice Academy as well as
3 in-house training through the SLED drug analysis
4 department on the analysis of controlled substances.
5 I've also attended the Drug Enforcement
6 Administration's Forensic Chemist Seminar.

7 Q You have any guess as to how many different
8 substances you have tested over the years?

9 A Many different substances. Drugs can vary.
10 There are various classes of drugs. Number of cases
11 is well into the thousands.

12 Q Have you ever been qualified as an expert
13 in General Sessions Court before?

14 A Yes, sir.

15 Q In what field?

16 A Drug analysis.

17 Q How many times?

18 A 24.

19 MR. UNDERWOOD: Your Honor, at this time,
20 the State would present Mr. Robinson as an
21 expert in drug analysis.

22 THE COURT: All right. Mr. Warder?

23 MR. WARDER: I have no voir dire. I have
24 no questions.

25 THE COURT: All right. Well, I will

1 qualify him then as a -- in the field of drug
2 analysis. Ladies and Gentlemen, normally a
3 person can only testify to what they directly
4 observed either through smell, sight, hearing,
5 stuff like that. An exception to that is
6 somebody can give an opinion testimony if they
7 qualify as an expert in their particular field,
8 either by education or experience. In this case,
9 this witness has been designated an expert in
10 drug analysis. Now, when you -- you would
11 consider that and give that the weight that you
12 feel is appropriate just like any other witness.

13 At this time, you may proceed.

14 **BY MR. UNDERWOOD:**

15 **Q** Mr. Robinson, did you have an opportunity
16 to test suspected drug evidence in this case
17 concerning Jimmy Duncan?

18 **A** Yes, sir.

19 **Q** How did you receive that evidence?

20 **A** Any case that's submitted to SLED is going
21 to go from the submitting agency directly into our
22 evidence intake or evidence control department. That
23 evidence is submitted in person to one of our
24 evidence control technicians. They would then create
25 a SLED lab case for this evidence and what we refer

1 to as log it in, they would enter it into our system.

2 From there, a chain of custody would be
3 created and initialized within SLED. The evidence
4 would start with that evidence technician and then be
5 transferred to a secured location within their
6 department for storage. When I request the evidence,
7 that evidence would be retrieved from the location.
8 It would be tracked back through whichever evidence
9 technician retrieved the evidence and then be
10 transferred directly to myself.

11 Q And would you go over the process of how
12 that chain of custody documentation is maintained?

13 A It's an electronic chain of custody. We
14 rely on key entry or bar code scanning. It's
15 maintained real time electronically through our LIM
16 system, or Laboratory Information Management system.

17 Q And is there an entry made into the system
18 every time someone accesses the evidence?

19 A Any time the evidence is transferred from
20 person to place, place to place, it is tracked.

21 Q And through that bar code scanning system,
22 does it identify the individuals who are doing so?

23 A That's correct.

24 Q Was a lab number assigned to the evidence
25 in this particular case concerning BEST kit control

1 number --

2 Court's indulgence, Your Honor. (Pause.)

3 -- concerning BEST pack control number B as
4 in Bravo 247029?

5 **A** May I refer to my notes?

6 **Q** Yes, please.

7 **A** (Reviewing.)

8 For the evidence contained in the BEST kit
9 B-247029, the lab number -- lab case number L14-13424
10 was created when it was logged into our system.

11 **Q** And as the evidence went through the
12 system, was one of those chain of custody systems put
13 in place?

14 **A** Any time any case is logged in, there's a
15 chain of custody created, yes.

16 **MR. UNDERWOOD:** Approach the witness, Your
17 Honor?

18 **THE COURT:** Yes, you may.

19 **BY MR. UNDERWOOD:**

20 **Q** I'm now showing you State's Exhibit Number
21 81. Do you recognize that document?

22 **A** (Reviewing.)

23 This is a copy of the chain of custody that
24 was released for report for today.

25 **Q** All right. And is that pertaining to the

1 BEST kit we've been talking about and the same lab
2 number?

3 **A** Yes, sir. The lab number matches the lab
4 number I just spoke of, L14-13424.

5 **Q** And again, these copies, are they produced
6 in the ordinary course of business at SLED?

7 **A** Yes, sir. It is a business document.

8 **MR. UNDERWOOD:** Your Honor, at this time,
9 the State seeks to admit Exhibit Number 81 into
10 evidence.

11 **THE COURT:** All right. Any objection?

12 **MR. WARDER:** No, Your Honor.

13 **THE COURT:** All right. 81 is in without
14 objection.

15 **(WHEREUPON, State's Exhibit 81 is admitted into**
16 **the record.)**

17 **BY MR. UNDERWOOD:**

18 **Q** Mr. Robinson, if you would, could you
19 please advise, based on that document, from the time
20 it was brought to SLED, who handled it and when,
21 before it got to you?

22 **A** Certainly. The evidence was submitted on
23 October 21st, 2014 from Sergeant John Albreicht of
24 the Pickens County Sheriff's Office. It was submitted
25 to Forensic Technician Doris Yarborough of the SLED

1 drug and -- I'm sorry -- the Evidence Control
2 department on 10/21/14. Doris transferred the
3 evidence to the drug evidence intake storage one
4 minute later, according to the time stamp. It would
5 have been stored in that location until the date of
6 January 22, 2015 when the chain of custody shows it
7 was transferred back into her custody. Again, this
8 was Doris Yarborough. She directly transferred the
9 evidence to me.

10 Q And when that evidence was brought to you,
11 did you have an opportunity to examine it and analyze
12 it?

13 A Yes, sir.

14 Q What was the condition of the BEST kit when
15 you received it?

16 A The seals were intact at that time. This
17 would have been noted on the actual physical evidence
18 as well as in our documentation in the case work.

19 Q Was there any indication whatsoever that
20 the evidence had been tampered with prior to getting
21 to you?

22 A No, sir.

23 Q And were you able to do an analysis to
24 determine whether it was a controlled substance?

25 A Yes, sir.

1 **Q** Did you produce a report showing the
2 results of your analysis?

3 **A** I did.

4 **Q** In the ordinary course of business at SLED,
5 whenever you do an analysis, do you always produce a
6 report?

7 **A** Yes, sir. Any time a case is completed, a
8 report is generated and is accessible by the
9 submitting agency and the Solicitor's office.

10 **Q** Now handing you State's Exhibit Number 80.
11 Do you recognize that?

12 **A** This would be a copy of the report I issued
13 for this case.

14 **MR. UNDERWOOD:** Your Honor, at this time,
15 the State moves for the admittance of State's
16 Exhibit 80 into evidence.

17 **THE COURT:** All right. Any objection?

18 **MR. WARDER:** No, Your Honor.

19 **THE COURT:** All right. It is in without
20 objection.

21 **(WHEREUPON, State's Exhibit 80 is admitted into**
22 **the record.)**

23 **BY MR. UNDERWOOD:**

24 **Q** Mr. Robinson, if you would, briefly
25 summarize to the jury what you did to test that

1 substance and what your conclusions were.

2 **A** Certainly. Once I retrieved the evidence
3 from evidence control, it would be brought up and
4 stored in a secured vault within our department until
5 actual analysis takes place. At that time, the case
6 is removed from the outer envelope. It is removed
7 from the BEST kit. Evidence is immediately itemized
8 so we can generate a report that's easily
9 understandable and readable. So we separate out the
10 item.

11 Once the items are separated, each one is
12 tested individually and separately from the others.
13 Each item individually would be removed from all
14 exterior packaging, all packaging. An initial weight
15 will be taken of the item. After that weight has been
16 established, we do an initial test. Based on the
17 results of that test, we follow with a confirmatory
18 test that can identify the substance to the exclusion
19 of all other, chemically.

20 **Q** What were your conclusions after conducting
21 an analysis on this evidence?

22 **A** This evidence was described as Item 1.1,
23 Ziploc bag containing -- Ziploc bag containing
24 plastic quarter bag containing crystal substance.
25 Results: methamphetamine C-2 found in the sample

1 tested. One tested. Net weight 3.69 plus or minus
2 0.01 grams. 56.94 plus or minus 0.15 grams.
3 Confidence level for the weight, 99.7 percent.

4 **Q** In non-forensic chemist terms, can you say
5 what that plus or minus stuff means?

6 **A** The plus or minus is a reference to our
7 measurement of uncertainty. We take into factors from
8 our mental factors to human error to anything else
9 associated with the weight. We develop a measurement
10 of uncertainty. So for this case, when we talk about
11 the confidence level of 99.7, we're saying that out
12 of 1000 weights, 999 of them will fall in that type
13 range of plus or minus 0.01 grams.

14 **Q** Do you have any doubt about the analysis
15 that you conducted?

16 **A** No, sir.

17 **Q** Or the conclusion you made?

18 **A** No, sir.

19 **Q** I'm now handing you State's Exhibit Number
20 55. You recognize that?

21 **A** I do.

22 **Q** What is that?

23 **A** There's several things I'm holding as one
24 package. The outer packaging is what we refer to as a
25 KPAK. It is simply a heat-sealed bag. We use this to

1 store all the evidence after analysis. Across the
2 bottom, there is a heat-seal, bearing my initials and
3 the date of February 2nd, 2015 when the seal was
4 made. The seal would have been made as soon as
5 initial analysis was completed. So as soon as I took
6 all the sample I needed for my testing, the evidence
7 would have been put back in here and sealed.

8 Inside of this, you have a plastic bag with
9 the blue swirl pattern as well as a light pink strip
10 across the top. This is the BEST kit. It stands for
11 Best Evidence Sample Testing. This is the tamper-
12 evident bag. The pink strip across the top is where
13 the glue strip would be. So all evidence is placed
14 inside, backing of the blue strip is removed and the
15 evidence is sealed. All four sides are tamper
16 evident. So if the evidence were approached, anyone
17 tried to get into by stretching or ripping, it would
18 be very obvious.

19 There's also a Ziploc bag. There's actually
20 a large Ziploc bag, a small Ziploc bag and a small
21 plastic quarter bag. Inside the smaller Ziploc bag,
22 there's a quantity of crystal substance that was
23 confirmed to be methamphetamine.

24 **Q** Now, all of your seals are still intact?

25 **A** They are.

1 **MR. UNDERWOOD:** Your Honor, at this time,
2 the State to admit into evidence State's Exhibit
3 Number 55.

4 **THE COURT:** Any objection?

5 **MR. WARDER:** No, Your Honor.

6 **THE COURT:** All right. 55 is in without
7 objection.

8 **(WHEREUPON,** State's Exhibit 55 is admitted into
9 the record.)

10 **BY MR. UNDERWOOD:**

11 **Q** Did you also have an opportunity to examine
12 other evidence that came in from a transaction that
13 occurred on October 17th, 2014 from Pickens County
14 Sheriff's Office involving BEST kit number B-247035?

15 **A** B-247035?

16 **Q** Yes.

17 **A** I did.

18 **Q** Handing you State's Exhibit Number 83. Do
19 you recognize that?

20 **A** This would be a copy of the chain of
21 custody for that particular case.

22 **Q** Again, is that kept in the regular course
23 of business at SLED?

24 **A** That's correct. Yes, sir.

25 **MR. UNDERWOOD:** Your Honor, at this time,

1 I'd move for State's Exhibit Number 83 to be
2 admitted into evidence.

3 **THE COURT:** Any objection?

4 **MR. WARDER:** No, Your Honor.

5 **THE COURT:** All right. 83 is in without
6 objection.

7 **(WHEREUPON, State's Exhibit 83 is admitted into**
8 **the record.)**

9 **BY MR. UNDERWOOD:**

10 **Q** If you would, please summarize the chain of
11 custody from the time it arrived at SLED until it
12 reached you, please.

13 **A** Certainly. The evidence was submitted by
14 Sergeant John Albreicht of the Pickens County
15 Sheriff's Office and received by Doris Yarborough.
16 This transaction took place on October 21st, 2014. On
17 that same date, evidence was transferred to the drug
18 evidence intake storage. The evidence was retrieved
19 by Doris Yarborough and transferred directly to me on
20 January 22nd, 2015.

21 **Q** And at that time, were you able to conduct
22 an analysis on that substance?

23 **A** I did.

24 **Q** Did you produce a report?

25 **A** Yes, sir.

1 **Q** Handing you State's Exhibit Number 82. Do
2 you recognize that?

3 **A** This would be a copy of the report issued
4 for this case.

5 **MR. UNDERWOOD:** Your Honor, at this time, I
6 would move for the admittance of Exhibit 82 into
7 evidence.

8 **THE COURT:** All right. Any objection?

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

10 **THE COURT:** All right. 82 is in without
11 objection.

12 **(WHEREUPON,** State's Exhibit 82 is admitted into
13 the record.)

14 **BY MR. UNDERWOOD:**

15 **Q** And what were the conclusions of your
16 analysis?

17 **A** Item 1.1 in this case was a Ziploc bag
18 containing crystal substance. Results were
19 methamphetamine C-2 found in the sample tested. One
20 tested. Net weight 3.42 plus or minus 0.01 grams.
21 52.77 plus or minus 0.15 grams.

22 **Q** So the substance tested positive for
23 methamphetamine?

24 **A** That's correct.

25 **Q** Now handing you State's Exhibit Number 54.

1 Do you recognize that?

2 **A** Again, the inner packaging is the BEST kit
3 and the drug evidence submitted in the case. Outer
4 packaging is the KPAK I resealed the evidence in.

5 **Q** And that is the evidence that you just
6 testified about from your report?

7 **A** Correct.

8 **Q** And all your seals are still intact?

9 **A** That's correct.

10 **MR. UNDERWOOD:** Your Honor, at this time,
11 the State moves for admittance of Exhibit Number
12 54 into evidence.

13 **THE COURT:** All right. Any objection?

14 **MR. WARDER:** No objection.

15 **THE COURT:** All right. 54 is in without
16 objection.

17 **(WHEREUPON, State's Exhibit 54 is admitted into**
18 **the record.)**

19 **BY MR. UNDERWOOD:**

20 **Q** Mr. Robinson, did that conclude your
21 involvement with this case?

22 **A** To my knowledge.

23 **MR. UNDERWOOD:** Thank you. No further
24 questions, Your Honor.

25 **THE COURT:** All right. Cross-examination.

1 **MR. WARDER:** I have no questions, Your
2 Honor.

3 **THE COURT:** Thank you. You may step down.

4 **MR. UNDERWOOD:** Your Honor, the State calls
5 Willie Smith.

6 **THE CLERK:** Step forward to be sworn in.
7 Place your left hand on the Bible and raise your
8 right hand.

9 **WILLIE SMITH**
10 having first been duly sworn, testifies as follows:

11 **THE CLERK:** Please state your full name.

12 **THE WITNESS:** My name is Willie C. Smith,
13 III.

14 **THE CLERK:** Thank you.

15 **DIRECT EXAMINATION**

16 **BY MR. UNDERWOOD:**

17 **Q** Good afternoon, Mr. Smith. Would you please
18 tell the jury where you're employed and what you do?

19 **A** I'm currently employed at the South
20 Carolina Law Enforcement Division. I work in the drug
21 analysis department. I'm a forensic chemist in the
22 drug analysis department.

23 **Q** What training and education do you have in
24 forensic chemistry?

25 **A** I have a Bachelor of Science degree in

1 Biology and Chemistry from the University of South
2 Carolina. I attended the Criminal Justice Academy to
3 become a sworn law enforcement officer within the
4 state of South Carolina. I went through a year of
5 training at SLED to become a certified analyst and
6 I've taken additional courses for drug analysis.

7 Q How long have you been a forensic chemist
8 in the field of drug analysis?

9 A 16 years and 3 months.

10 Q You ever been qualified as an expert in
11 court before?

12 A Yes, I have.

13 Q How many times?

14 A 80 times.

15 Q Is that through General Sessions court?

16 A General Sessions court, city court and in
17 the state of New York.

18 Q And what field were you qualified as an
19 expert?

20 A In the field of drug analysis.

21 MR. UNDERWOOD: Your Honor, at this time,
22 the State would offer Mr. Smith as an expert in
23 drug analysis.

24 THE COURT: All right. Any objection or
25 additional questions?

1 **MR. WARDER:** No, sir, Your Honor.

2 **THE COURT:** All right. So, uh, -- so
3 granted. Again, as I told you before, a person
4 can not normally testify about an opinion; only
5 what they directly observed through their
6 senses, unless somebody has been qualified as an
7 expert. This witness has been qualified as an
8 expert in the field of drug analysis and
9 therefore can give his opinion based on his
10 education and experience. And you are to give it
11 the weight that you feel is appropriate. Thank
12 you.

13 You may proceed.

14 **MR. UNDERWOOD:** Thank you, Your Honor.

15 **BY MR. UNDERWOOD:**

16 **Q** Mr. Smith, did you have an opportunity to
17 examine evidence contained in BEST kit control number
18 B-247039?

19 **A** Yes, I did.

20 **Q** And how did you become involved with that
21 case?

22 **A** I received evidence from an agency. It was
23 in a BEST kit. I analyzed the evidence.

24 **Q** And during the normal course of business at
25 SLED, are chain of custody documents maintained to