

ORIGINAL

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENWOOD COUNTY
Thomas A. Russo, Circuit Court Judge

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Appellate Case No. 2015-000909
Opinion No. 5510 (S.C. Ct. App. Filed August 16, 2017)

S.C. SUPREME COURT

THE STATE, ...PETITIONER

v.

STANLEY LAMAR WRAPP, ... RESPONDENT.

APPENDIX

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STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY

Thomas A. Russo, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STANLEY WRAPP,

APPELLANT

APPELLATE CASE NO. 2015-000909

RECORD ON APPEAL

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State of South Carolina) In the Court of General Sessions
County of Greenwood) Eighth Judicial Circuit
2013-GS-24-0368
2013-GS-24-0369

State of South Carolina,)
Plaintiff,)
vs.) Transcript of Record
Stanley Wrapp,)
Defendant.)

July 14, 2014
Greenwood, South Carolina

B E F O R E:

The Honorable William P. Keesley, Judge

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

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Attorney for Plaintiff

Shane Goranson, Esquire
Attorney for Defendant

Maryann S. Nevers, CVR-M-CM
Circuit Court Reporter

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No Exhibits Introduced.

TRANSCRIPT OF RECORD

(Whereupon, the proceeding was commenced at 11:23 a.m.)

THE COURT: All right.

MS. WHITE: Thank you, Your Honor. This is Indictment 2014-GS-24-0369, *State v. Stanley Wrapp*, for trafficking crack cocaine, second offense, 10 to 28 grams. Mr. Wrapp was placed on trial notice on June 4th of this year for today's date on this indictment, Your Honor, by virtue of an e-mail to Mr. Goranson. It's my understanding that Mr. Wrapp is asking for a continuance. I'm not certain as to his grounds.

THE COURT: Yes, sir.

MR. GORANSON: Thank you, Your Honor. We are asking for a continuance, a brief one. I think Mr. Wrapp can explain to you part of the reasons. For my part I would like to say that we have gotten some -- Mr. Wrapp has two pending cases. Both occurred a couple months apart.

And I've -- we're waiting on some -- we've got an offer to resolve both cases. However, we have some incomplete information on the new case that I was trying to get from the solicitor's office. Apparently, the officer involved in the newer case -- which is not coming to trial now -- is out, had surgery, and could not provide us with the information on the second case, so that I could full advise Mr. Wrapp about resolving both cases with one plea.

1 Also, today some new information about this case that
2 we have just gotten concerning a potential witness, Mr.
3 Eric Ross -- Mr. Ross may have information that could lead
4 to the defense of entrapment or sentencing manipulation.
5 And I'd be asking the Court to give us some more time to
6 track down Mr. Ross and to speak with him.

7 Part of the reason I think that this would merit a
8 continuance -- or two of the reasons -- is that Mr. Wrapp's
9 case is new to our office. It's only a month or two old.
10 I did get an e-mail about trial -- about a trial coming up.
11 But Mr. Ross's name was nowhere in the incident report.
12 There was no mention of any C.I. being used in this case
13 that's coming up for trial.

14 However, that was confirmed this morning by the
15 solicitor. I think she just learned about it herself. So
16 we would be requesting more time to speak with Mr. Ross in
17 order to find out whether we do have a defense, in terms of
18 entrapment or sentencing manipulation.

19 MS. WHITE: Your Honor, going to the C.I. issues, it's
20 actually -- the state would characterize -- and I'm not --
21 Mr. Goranson actually gave me the name of Eric Ross. I
22 don't know that that's his name. Because the state was
23 looking at him as a mere tipster who called the police or
24 who was involved in letting the police know that Mr. Wrapp
25 would be driving with a quantity of drugs on him and that

1 he was driving under suspension.

2 Mr. Goranson is the one who first brought the C.I. to
3 my attention several -- probably about three weeks ago. So
4 this is not a new issue that just arose this morning.
5 They've had notice, been on notice that -- that that issue
6 was out there ever since he was noticed for trial.

7 Also, Your Honor, the case occurred back in October.
8 And I inherited the case from another prosecutor, but
9 there's a number of notes in the system where there was a
10 back-and-forth with Mr. Wrapp about getting him to bring it
11 -- to hire an attorney. It took Ms. Odom about six months
12 to get him to finally apply for the public defender -- or
13 -- excuse me -- about three months to get him to finally
14 apply for the public defender. So the delay in -- in
15 getting the services of the public defender is on Mr. Wrapp
16 -- on him himself.

17 Your Honor ---

18 (Whereupon, Ms. White and Assistant Solicitor Aaron
19 Taylor conferred.)

20 MS. WHITE: And -- and again, the -- the informant's
21 name -- or the tipster's name was given to me by Mr.
22 Goranson.

23 MR. GORANSON: And ---

24 MS. WHITE: So clearly, they had that information.

25 MR. GORANSON: That may not be the tipster, Your

1 Honor.

2 MS. WHITE: It may ---

3 MR. GORANSON: I think ---

4 MS. WHITE: --- not be.

5 MR. GORANSON: --- the -- the point is I think we need
6 more time to investigate that part of the case to find out
7 what role exactly that witness played in getting Mr. Wrapp
8 to -- to the arrest location. So I -- I do feel like
9 that's essential to -- to Mr. Wrapp's defense. These are
10 very serious charges; he's facing very serious time.

11 And I -- and I do think that Mr. Wrapp would like to
12 wrap -- would like to resolve his cases. We just need a
13 little bit more time to fully investigate this matter.

14 MS. WHITE: And just -- just to kind of put it in
15 context, Judge, the facts the state's are -- is alleging:
16 Mr. Wrapp was driving to meet -- allegedly to meet with
17 this tipster but, in the interim, was stopped by a law
18 enforcement officer. He was driving under suspension; and
19 when searched, it was in his pocket. So the only officers
20 the state intended to call -- or the only witnesses the
21 state intended to call were the actual officers on the
22 traffic stop.

23 And -- and I don't see what a -- this alleged
24 informant -- how he would have any information one way or
25 the other about whether there were drugs in Mr. Wrapp's

1 pocket at a traffic stop.

2 MR. GORANSON: I -- and, Judge, if I can just say one
3 more thing: I think this whole thing got set up by the
4 C.I. And that's why I think it's crucial that we be able
5 to talk to him. The police claim to have checked Mr.
6 Wrapp's driving history that morning. I can only imagine
7 that that was at the behest or the encouragement of this
8 C.I.

9 And I -- and -- and we don't know what messages the
10 C.I. was sending to Mr. Wrapp. That -- and there could be
11 entrapment there.

12 THE COURT: So when did you find out about Mr. Wrapp
13 -- Mr. Ross?

14 MR. GORANSON: Well, the thing about that is, Your
15 Honor, it was nowhere mentioned that there was a C.I. or
16 tipster or anything in the incident report. That was
17 completely left out. So I didn't know. I think it was
18 about a week ago Mr. Ross came to my -- or -- not -- sorry
19 -- Mr. Wrapp came to my office and mentioned that that
20 might be the case.

21 Obviously, law enforcement probably knows where to
22 find him. The suppression of that information from the
23 incident report, you know, didn't give us much -- much to
24 work with, in terms of finding Mr. Ross.

25 MS. WHITE: Your Honor, going back, Mr. Goranson sent

1 me an e-mail on July 1st, asking if I intended to call the
2 C.I. And when I got the e-mail, my first response was I
3 didn't even know there was a C.I. But I sent back that I
4 did not anticipate calling him. And that was -- July 1st
5 and July 2nd were those e-mails for the time frame.

6 MR. GORANSON: I certainly didn't mean to list the --
7 mislead the Court. I've ---

8 MS. WHITE: Oh, I ---

9 MR. GORANSON: --- got about ---

10 MS. WHITE: --- didn't think you did.

11 MR. GORANSON: --- 300 other cases.

12 THE COURT: So what's your client's name?

13 MR. GORANSON: Stanley Wrapp, Your Honor.

14 THE COURT: R-a-p-p?

15 MR. GORANSON: Yes, sir. Excuse me. W-r-a-p-p. And
16 I think he would like to address the issue, Your Honor.

17 THE COURT: He wants to talk to me about what?

18 (Whereupon, Mr. Goranson and the defendant conferred.)

19 MR. GORANSON: Okay. I think he said I've -- I think
20 he's telling me now that I've -- I've covered everything.

21 THE COURT: Trial's continued.

22 MR. GORANSON: Thank you, Your Honor.

23 (Whereupon, the proceeding was concluded at 11:31 a.m.)

24 --- END OF TRANSCRIPT OF RECORD ---
25

CERTIFICATE

I, THE UNDERSIGNED MARYANN S. NEVERS, CERTIFIED
VERBATIM REPORTER - MASTER, CERTIFICATE OF MERIT,
OFFICIAL COURT REPORTER FOR THE EIGHTH JUDICIAL
CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY
CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND
COMPLETE TRANSCRIPT OF RECORD IN THE HEARING OF THE
CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT
COURT FOR GREENWOOD COUNTY, SOUTH CAROLINA, ON THE
14TH DAY OF JULY, 2014.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



MARYANN S. NEVERS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

JULY 29, 2015

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

EIGHTH JUDICIAL CIRCUIT
IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)
PLAINTIFF,)
)
)
-VS-)
)
STANLEY LAMAR WRAPP)
)
DEFENDANT.)
_____)

2014-GS-24-0368
2014-GS-24-0369
TRANSCRIPT OF RECORD

SEPTEMBER 29-30, 2014
GREENWOOD, SOUTH CAROLINA

BEFORE:

THE HONORABLE FRANK R. ADDY, JR.

APPEARANCES:

ATTORNEY FOR PLAINTIFF:
ELIZABETH WHITE, ESQUIRE
MICAH BLACK, ESQUIRE

ATTORNEY FOR DEFENDANT:
SHANE GORANSON, ESQUIRE
PATRICIA BOLEN, ESQUIRE

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

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1 MS. WHITE: This is State of South Carolina v.
2 Stanley Lamar Wrapp, indictment 2014-GS-24-368 for driving
3 under suspension and 2014-GS-24-369 for trafficking in crack
4 cocaine.

5 THE COURT: All right.

6 MS. WHITE: And, Your Honor, Mr. Black has gone to get
7 the proposed witness list.

8 THE COURT: Okay. Thank you. Ladies and gentlemen, --

9 MS. WHITE: May I approach, Your Honor?

10 THE COURT: Yes, ma'am. Thank you. Ladies and
11 gentlemen, you've heard the Solicitor call the case of the
12 State of South Carolina v. Stanley Lamar Wrapp. Mr. Wrapp
13 is charged under indictment number 2014-GS-24-368 with
14 driving under suspension and 2014-GS-24-369 trafficking in
15 cocaine base, or what is commonly referred to as crack
16 cocaine. Now, let me just share some things with you before
17 we get started. These indictments that I referred to -- an
18 indictment, ladies and gentlemen, is simply a piece of paper
19 that carries on it the formal charge brought against a
20 person. It is not in any way evidence against the person.
21 The allegations that are contained here are not evidence
22 against Mr. Wrapp. These are simply the allegations that
23 the State has made against Mr. Wrapp. To these indictments
24 or to these charges Mr. Wrapp has plead not guilty. So that
25 plea of not guilty places upon him the presumption of

1 innocence and upon the State the burden of proof.

2 I'm going to read to you the allegations that are
3 contained in these indictments. And, as I said, this is not
4 evidence against Mr. Wrapp. It's simply -- it's merely the
5 allegations or what the State alleges has occurred. And
6 under indictment 368 the indictment alleges that Stanley
7 Lamar Wrapp did, in Greenwood County, on or about October
8 17, 2013, drive a motor vehicle on the public highway of
9 this state when his license to drive was suspended with the
10 court. Said offense in violations of Section 56-1-460 of
11 the South Carolina Code of Laws 1976 as amended.

12 Indictment 369 alleges that Stanley Lamar Wrapp did, in
13 Greenwood County, on or about October 17, 2013 did
14 willfully, unlawfully and knowingly traffic in cocaine base
15 or crack cocaine, and that the said defendant did sell,
16 manufacture, deliver, purchase or bring into this state or
17 provide financial assistance or otherwise aid, abet, attempt
18 or conspire to sell, manufacture, deliver, purchase or bring
19 into this state or was in actual or constructive possession
20 or did knowingly attempt to become in actual or constructive
21 possession of more than ten grams but less than 28 grams of
22 cocaine base or crack cocaine all in violation of Section
23 44-53-375 of the South Carolina Code of Laws 1976 as
24 amended.

25 Now, these are the allegations against Mr. Wrapp to

1 which he has pled not guilty. Based on that information
2 that I've just given you in these allegations, is there
3 anybody or any member of the jury panel who knows anything
4 about this case, other than what I just shared with you? If
5 so, please stand.

6 (Whereupon, no potential juror stood.)

7 THE COURT: Thank you. There are none. I'm going to
8 ask the attorneys to stand and introduce themselves, ladies
9 and gentlemen. If you'll just please listen carefully.
10 We'll start with the State.

11 MR. BLACK: I am Micah Black. I'm an assistant
12 solicitor here in Greenwood. I'll be prosecuting the case
13 along with Ms. Elizabeth White who is also an assistant
14 solicitor here in Greenwood.

15 THE COURT: All right. Ladies and gentlemen, is there
16 any member of the jury panel who is related by blood,
17 connected by marriage, or who has any close business or
18 personal relationship with either Mr. Black or Ms. White or
19 who has been either prosecuted by this office or have any
20 relationship with this office? If so, please stand.

21 (Whereupon, no potential juror stood.)

22 THE COURT: Thank you. There are none. All right.

23 MR. GORANSON: My name is Shane Goranson, and it is my
24 pleasure to represent Mr. Stanley Wrapp. Sitting with me
25 today is Jane Nelson. She is also with the Public

1 Defender's Office.

2 THE COURT: All right. Ladies and gentlemen, is there
3 any member of the panel --

4 MR. GORANSON: Excuse me. We may have a different
5 lawyer sitting in tomorrow to help. Her name is Patricia
6 Bolen.

7 THE COURT: All right. Okay. Ladies and gentlemen, is
8 there any member of the jury panel who is related by blood,
9 connected by marriage or who has any close business or
10 personal relationship with either Mr. Goranson, Ms. Nelson
11 or Patricia Bolen or who has been represented by these
12 folks? If so, please stand.

13 (Whereupon, no potential juror stood.)

14 THE COURT: Thank you. There are none. Now, ladies and
15 gentlemen, that question that I'm asking you, the question
16 about if you're related by blood, connected by marriage, or
17 have a close business or personal relationship with, that's
18 the question that I'm going to be asking you with regards to
19 these few names that I'm about to call out. These names
20 that I'm about to call out or potential witnesses who may
21 appear during the course of this trial. These are folks
22 that they may or may not appear. At this point, I don't
23 have any idea who's going to actually appear in the case.
24 But I'm going to call out these names, and if you hear a
25 name and that question applies to that person, go ahead and

1 stand. And don't wait until I get done calling all the
2 names out. If you hear a name and that question applies to
3 you, go ahead and stand. But if you do stand, continue to
4 listen because it may be that you know more than one
5 individual on this list, okay. The following are potential
6 witnesses that may appear during the course of this trial:
7 Jamie Lovett, Brooks Shuman, Ray Pope, Kenya Griffin, Willie
8 C. Smith, III, Amy Stephens, Marie Wearing, Bertha Phillips,
9 Eric Ross. Any member of the jury panel related by blood,
10 connected by marriage or have any close business or personal
11 relationship with any of those folks? If so, please stand.

12 (Whereupon, no potential juror stood.)

13 THE COURT: Thank you. There are none. Is there any
14 member of the jury panel who is related by blood, connected
15 by marriage or have any close business or personal
16 relationship with the defendant in this case, Mr. Stanley
17 Wrapp? If so, please stand.

18 (Whereupon, no potential juror stood.)

19 THE COURT: Thank you. There are none. Ladies and
20 gentlemen, is there any member of the jury panel -- give me
21 one second. Is there any member of the panel who is a
22 member of or a contributor to any group or organization that
23 has as its primary concern the promotion of law enforcement
24 or of victim's rights? Now, there are some -- I'm going to
25 give you an example of organizations such as those, and

1 these are just an example of some. MADD, Mothers Against
2 Drunk Drivers, SADD, Students Against Drunk Drivers, CAVE,
3 Citizens Against Violence, the Fraternal Order of Police,
4 the South Carolina Troopers Association, South Carolina
5 Sheriff's Association? Is there any member of the jury
6 panel who is a contributor either by way of volunteering
7 your time or financially a contributor to any of those types
8 of organizations? If so, please stand.

9 (Whereupon, no potential juror stood.)

10 THE COURT: Thank you. There are none. Is there any
11 member of the jury panel who has formed or expressed any
12 opinion about any issue or matter that is involved in this
13 case based on what you've heard today? If so, please stand?

14 (Whereupon, no potential juror stood.)

15 THE COURT: Folks, you can tell through my questioning
16 is, you know, what we're looking to do, and we do this in
17 all cases whether it's a criminal case or a civil case,
18 whether it's this case or any other case that comes into
19 this courtroom. Any time we draw a jury we're looking to
20 impanel folks that can be fair and impartial listening to
21 the evidence and deciding the case based solely on the
22 evidence that is presented during the course of this trial,
23 eliminating or blocking out any outside matters, okay. The
24 question as people -- if anyone were to stand and respond to
25 the questions, for example, if you knew any of the
26 attorneys, my followup question would be would that in any

1 way affect your ability to be fair and impartial, because
2 that's the ultimate question we're looking for, if there's
3 anything that would affect that ability in you to listen to
4 a case and judge a case based solely on the evidence that's
5 presented during the course of the trial, giving both the
6 State and the defense a fair and impartial trial. So maybe
7 the easiest way to do that is simply to ask is there any
8 member of the jury panel who knows of any reason why you
9 would not be able to be fair and impartial in listening in
10 the evidence, fair to the State, fair to the defense. If
11 there's any reason at all that you would not be able to do
12 so, please stand.

13 (Whereupon, a potential juror stood.)

14 THE COURT: Your name, ma'am?

15 POTENTIAL JUROR: Alvina Guillebeaux.

16 THE COURT: I'm going to get you to come forward, if you
17 would please, ma'am.

18 (Whereupon, a sidebar was held.)

19 THE COURT: This juror will be transferred to the next
20 term of civil court.

21 THE COURT: Yes, sir. Your name, sir?

22 THE WITNESS: Mike Davenport.

23 (Whereupon, a sidebar was held.)

24 THE COURT: Are there any additional voir dire questions
25 from the State?

26 MS. WHITE: No, sir, Your Honor.

1 THE COURT: Anything further from the defense?

2 MR. GORANSON: No, sir.

3 THE COURT: Folks, let me explain to you real quick how
4 we go about drawing juries in general sessions court.
5 What's going to happen now is Madam Clerk has a computer
6 program that we used to do it where -- and I don't know how
7 they did it in Greenwood, but I can remember growing up in
8 Edgefield, used to have a cigar box, and they'd put all your
9 names in that cigar box and they'd reach in and pull them
10 out one at a time, just like Bingo. We're a little bit more
11 sophisticated now. We have computers. And here's what
12 happens -- there you go, talking about Bingo. There it is
13 right there. And you know what, here's the thing about
14 that: I've been practicing law for over 27 years. I've been
15 on the bench for over ten years. That has never not worked.
16 I can tell you occasionally that thing over there doesn't
17 work. So technology is good but maybe not always. But
18 here's how we do it now. We got a computer. It takes your
19 names, and your names appear on the jury list in
20 alphabetical order. It takes this list and it completely
21 jumbles your names up just like you would twist them in that
22 Bingo thing. And then it spits out a new list. And the new
23 list is completely in random order. For example, I would be
24 Tommy Russo juror number 134 on the original list, the
25 alphabetical list, but I may appear on this new list as
26 Tommy Russo juror number 14. So it just completely reorders

1 your names.

2 What Madam Clerk will do is when she gets this new list
3 when we get ready to pull the jury she will start at the top
4 of list and take the first name on that list, and she'll
5 call out your name. If your name is called, I would ask you
6 to come forward and right over here next to the edge of the
7 bar where we were just talking with those folks right here,
8 right here where the bailiff is, just if you'll come and
9 just stand right here and you'll face the back of the
10 courtroom, just as he's doing, and if you'll just stand
11 there and be uncomfortable because everybody's looking at
12 you -- no, I'm just kidding. Just come and stand. And what
13 she'll do is she'll first inquire of the State words along
14 the lines of what say you for the State. The State has two
15 options. They can either excuse you. And if they excuse
16 you, you'll just go and have a seat back in the audience.
17 Or they can present you. And if they present you, you just
18 remain standing and then she'll inquire of the defense,
19 words along the line what say you for the defense. The
20 defense has two options. They can either excuse you, and if
21 they excuse you you'll go back and have a seat. Or they can
22 seat you. And if they seat you, you'll come around and
23 you'll have a seat in the jury box. We'll go through this
24 process until we have selected our jurors, okay. Now,
25 there's no way of knowing right now if your name is called
26 whether or not you're going to be sitting over here or going

1 back over there, because there's no way we know what they're
2 going to do. So if your name is called please bring with
3 you any items -- any personal items you brought to court,
4 whether it be a pocketbook, a book, an umbrella, jacket,
5 raincoat, whatever. Bring your personal items with you if
6 your name is called because it may be that you're not going
7 back to your seat. It may be that you're going to have a
8 seat over here, okay. So please just keep that in mind if
9 your name is called.

10 CLERK OF COURT: How many strikes?

11 THE COURT: We got five and five?

12 CLERK OF COURT: Five and five.

13 THE COURT: Is that right?

14 CLERK OF COURT: Yes, sir.

15 THE COURT: That's right. Now, is the State ready to
16 proceed?

17 MS. WHITE: Yes, sir.

18 THE COURT: Is the defense ready to proceed?

19 MR. GORANSON: Yes, we can proceed with jury selection.

20 THE COURT: All right. Folks, if you hear your name
21 called, as I said, get your personal items and come forward
22 and stand right over here.

23 CLERK OF COURT: Juror number 43, Matthew D. Gilbert.

24 (Whereupon, the potential juror came forward.)

25 CLERK OF COURT: Stand right here.

26 (Whereupon, the potential juror complied.)

1 CLERK OF COURT: What say the State?
2 MR. BLACK: Please present the juror.
3 CLERK OF COURT: What say the defense?
4 MR. GORANSON: Please seat Mr. Gilbert.
5 POTENTIAL JUROR: (Complied.)
6 CLERK OF COURT: Juror number 84, Michael C. Lewis.
7 (Whereupon, the potential juror came forward.)
8 CLERK OF COURT: What say the State?
9 MR. BLACK: Please present Mr. Lewis.
10 CLERK OF COURT: What say the defense?
11 MR. GORANSON: Please excuse Mr. Lewis.
12 CLERK OF COURT: Juror number 17, Tracy Childs.
13 (Whereupon, the potential juror came forward.)
14 CLERK OF COURT: What say the State?
15 MR. BLACK: Please present Ms. Childs.
16 CLERK OF COURT: What say the defense?
17 MR. GORANSON: Please seat Ms. Childs.
18 POTENTIAL JUROR: (Complied.)
19 CLERK OF COURT: Juror number 53, Lawrence C. Griffin,
20 Jr.
21 (Whereupon, the potential juror came forward.)
22 CLERK OF COURT: What say the State?
23 MR. BLACK: Please present Mr. Griffin.
24 CLERK OF COURT: What say the defense?
25 MR. GORANSON: Please present Mr. Griffin.
26 POTENTIAL JUROR: (Complied.)

1 CLERK OF COURT: Juror number 55, Athena Hagood.
2 (Whereupon, the potential juror came forward.)
3 CLERK OF COURT: What say the State?
4 MR. BLACK: Please present Ms. Hagood.
5 CLERK OF COURT: What say the defense?
6 MR. GORANSON: Please seat Ms. Hagood.
7 POTENTIAL JUROR: (Complied.)
8 CLERK OF COURT: Juror number 68, Debra Howard.
9 (Whereupon, the potential juror came forward.)
10 CLERK OF COURT: What say the State?
11 MR. BLACK: Please excuse Ms. Howard.
12 CLERK OF COURT: Juror number 128, Kevin Smith.
13 (Whereupon, the potential juror came forward.)
14 CLERK OF COURT: What say the State?
15 MR. BLACK: Please present Mr. Smith.
16 CLERK OF COURT: What say the defense?
17 MR. GORANSON: Please seat Mr. Smith.
18 POTENTIAL JUROR: (Complied.)
19 CLERK OF COURT: Juror number 3, Maree Anderson.
20 (Whereupon, the potential juror came forward.)
21 CLERK OF COURT: What say the State?
22 MR. BLACK: Please present Ms. Anderson.
23 CLERK OF COURT: What say the defense?
24 MR. GORANSON: Please excuse Ms. Anderson.
25 POTENTIAL JUROR: (Complied.)

1 CLERK OF COURT: Juror number 126, Luann Smeal.
2 (Whereupon, the potential juror came forward.)
3 CLERK OF COURT: What say the State?
4 MR. BLACK: Please present Ms. Smeal.
5 CLERK OF COURT: What say the defense?
6 MR. GORANSON: Please seat Ms. Smeal.
7 POTENTIAL JUROR: (Complied.)
8 CLERK OF COURT: Juror number 140, Doricha White.
9 (Whereupon, the potential juror came forward.)
10 CLERK OF COURT: What say the State?
11 MR. BLACK: Please present Ms. White.
12 CLERK OF COURT: What say the defense?
13 MR. GORANSON: Please seat Ms. White.
14 POTENTIAL JUROR: (Complied.)
15 CLERK OF COURT: Juror number 5, Patti Baldwin.
16 (Whereupon, the potential juror came forward.)
17 CLERK OF COURT: What say the State?
18 MR. BLACK: Please present Ms. Baldwin.
19 CLERK OF COURT: What say the defense?
20 MR. GORANSON: Please seat Ms. Baldwin.
21 POTENTIAL JUROR: (Complied.)
22 CLERK OF COURT: Juror number 24, Allison Cobb.
23 (Whereupon, the potential juror came forward.)
24 CLERK OF COURT: What say the State?
25 MR. BLACK: Please present Ms. Cobb.

1 CLERK OF COURT: What say the defense?
2 MR. GORANSON: Please seat the juror.
3 POTENTIAL JUROR: (Complied.)
4 CLERK OF COURT: Juror number 104, John Moore.
5 (Whereupon, the potential juror came forward.)
6 CLERK OF COURT: What say the State?
7 MR. BLACK: Please present Mr. Moore.
8 CLERK OF COURT: What say the defense?
9 MR. GORANSON: Please excuse Mr. Moore.
10 POTENTIAL JUROR: (Complied.)
11 CLERK OF COURT: Juror number 127, Dorothy Smith.
12 (Whereupon, the potential juror came forward.)
13 CLERK OF COURT: What say the State?
14 MR. BLACK: Please present Ms. Smith.
15 CLERK OF COURT: What say the defense?
16 MR. GORANSON: Please seat Ms. Smith.
17 POTENTIAL JUROR: (Complied.)
18 CLERK OF COURT: Juror number 9, Debbie Bishop.
19 (Whereupon, the potential juror came forward.)
20 CLERK OF COURT: What say the State?
21 MR. BLACK: Please present Ms. Bishop.
22 CLERK OF COURT: What say the defense?
23 MR. GORANSON: Please seat Ms. Bishop.
24 POTENTIAL JUROR: (Complied.)
25 CLERK OF COURT: Juror number 71, Christopher Jay.

1 (Whereupon, the potential juror came forward.)
2 CLERK OF COURT: What say the State?
3 MR. BLACK: Please present Mr. Jay.
4 CLERK OF COURT: What say the defense?
5 MR. GORANSON: Please seat Mr. Jay.
6 POTENTIAL JUROR: (Complied.)
7 THE COURT: One alternate.
8 CLERK OF COURT: And how many strikes?
9 THE COURT: One and two.
10 CLERK OF COURT: One state, two defense.
11 THE COURT: Yes.
12 CLERK OF COURT: Juror number 139, Ada Velez.
13 (Whereupon, the potential juror came forward.)
14 CLERK OF COURT: What say the State?
15 MR. BLACK: Please present Ms. Velez.
16 CLERK OF COURT: What say the defense?
17 MR. GORANSON: Please present Ms. Velez.
18 POTENTIAL JUROR: (Complied.)
19 THE COURT: Are there any motions from the State
20 regarding jury selection?
21 MR. BLACK: None from the State, Your Honor.
22 THE COURT: Anything from the defense?
23 MR. GORANSON: Your Honor, we would make a motion about
24 the composition of the jury.
25 THE COURT: All right. Let me do this. Let me get you

1 folks to retire back here to this jury room. And I have to
2 take up this legal matter, so I'm going to ask you folks to
3 please follow the bailiff to step across to the other room
4 where you were. This won't take very long, and I'll get you
5 back in here pretty quick, okay.

6 (Whereupon, the jury panel and remaining potential
7 jurors exited the courtroom.)

8 THE COURT: Just for the record, all of the members of
9 the jury panel that were selected have been retired to the
10 jury room and are outside the presence. And then the
11 remaining panel has been sent back to the jury assembly
12 room. So there's no jurors in the courtroom, and I'll be
13 happy to hear from the Defense with regards to their motion.

14 MR. GORANSON: Thank you, Judge. Regarding the
15 composition of this jury pool, my count shows according to
16 the list here it's 60 jurors called and present. Fifteen
17 were African-American or black, one Hispanic, 44 were white.
18 That, to me, seems out of balance with what the county
19 proportion is. I don't know if we know how those jurors are
20 summoned or which summons are followed up on, if some people
21 don't show up. So I have some concern that Mr. Wrapp, who
22 is African-American, might not have a representative jury to
23 chose from in this case. Additionally, Mr. Wrapp is
24 obviously male. I noticed that 37 females were drawn in
25 this pool and only 23 males. And when it came to selecting

1 the jury only six out of the 17 names called for selection
2 were male. And that also seems out of balance.

3 THE COURT: Do you have any figures for Greenwood County
4 that would support your position?

5 MS. WHITE: Your Honor, I just pulled that up and I'm
6 looking at -- this is Quickfacts.census.gov, Greenwood
7 County as of 2013 was looks like 65 percent Caucasian, 32
8 percent African-American and 5.7 percent Hispanic, which
9 appears to be fairly in line with the demographics of the
10 State also, Your Honor.

11 THE COURT: How are the members of this panel drawn?

12 CLERK OF COURT: Electronically through the computer.
13 The system randomly selects them.

14 THE COURT: So the computer has a list of all qualified
15 folks in Greenwood County that are qualified jurors? Is
16 that correct?

17 CLERK OF COURT: From Columbia.

18 THE COURT: And then does the random selection process
19 through the --

20 CLERK OF COURT: Yes, sir.

21 THE COURT: I haven't done the math on this. What is
22 the makeup of this pool?

23 MS. WHITE: That's what -- Mr. Black's doing that math,
24 Your Honor.

25 MR. GORANSON: Did you say 32 percent African-American

1 for the community?

2 MS. WHITE: Yes.

3 MR. GORANSON: I think it would be about 25 percent in
4 the pool. I don't have the figure -- obviously the
5 male/female ratio is skewed a little bit as well. I don't
6 have -- you know, obviously I don't have access to the
7 computer codes or access to this computer to know how they
8 draw randomly. But in order to insure a jury of your peers,
9 I would assume that those computer programs are capable of
10 drawing out proportionately or could be made capable of
11 drawing proportionately to reflect the community.

12 MS. WHITE: Your Honor, I can't imagine a more
13 prejudicial way of selecting a jury than to put in we're
14 looking for African-American jurors --

15 THE COURT: Correct.

16 MR. GORANSON: Well --

17 MS. WHITE: -- get African-American jurors.

18 MR. GORANSON: It's more about a jury of peers, Your
19 Honor.

20 THE COURT: Absolutely. But that doesn't mean that jury
21 panels have to be pulled that have the exact balance of the
22 pool that appears in this courtroom to match that of the
23 county in which a person resides. Did you do your numbers
24 on this jury panel?

25 MR. BLACK: Your Honor, I just did the African-American,

1 and that's 25 percent. I didn't do the --

2 THE COURT: And the county-wide is 32 percent?

3 MR. BLACK: Yes, sir.

4 THE COURT: That's pretty close. Based on what you
5 shared with the Court thus far with your motion, I'm going
6 to respectfully deny it. I think the -- it appears that the
7 Clerk's office pulled the jury pursuant to the statute. It
8 was a random pull out of all the folks that reside within
9 Greenwood County and it came pretty close to matching the
10 county census, but it did not match exactly, nor is that
11 expected. I think there is a representative cross section
12 of the county and of Mr. Wrapp's peers. And I think that's
13 been satisfied. Is there anything further on that issue?

14 MR. GORANSON: I just need a ruling on the issue related
15 to gender. And then the only other question I had was is
16 there a record -- and I guess this is for the Clerk. Is
17 there a record of summons that were sent out that were not
18 returned or that were followed up on or not followed up on
19 and how -- I can talk to her afterward about getting records
20 for that. We can supplement that if we need to.

21 CLERK OF COURT: 150 are sent out.

22 THE COURT: There's nothing in the record that would
23 indicate the jury panel was drawn in any other way other
24 than the appropriate way, as far as the race issue, as far
25 as the gender issue. Again, there's nothing in the record.

1 that would indicate that there was any intentional conduct
2 to draw more females than males or more males than females.
3 It simply, again, was a random selection through a computer
4 program that just randomly selects however many -- how many
5 do you select a term?

6 CLERK OF COURT: 150.

7 THE COURT: Randomly selected 150 folks from Greenwood
8 County. Now, as far as how many people return their
9 summons, how many don't, I don't have those numbers --

10 MR. GORANSON: Sure.

11 THE COURT: -- and so I'm going to respectfully deny the
12 motion.

13 MR. GORANSON: And just so I'm clear, I wasn't saying
14 that anybody was doing any of this intentionally --

15 THE COURT: No, no, I understand.

16 MR. GORANSON: -- at all.

17 THE COURT: I understand.

18 MR. GORANSON: Okay.

19 THE COURT: But I think it is a representative cross
20 section of the county. And so I'm going to respectfully
21 deny the motion.

22 MR. GORANSON: The other thing, Judge, if you want to I
23 guess dismiss the jury I can make a motion for continuance
24 or I can do that now.

25 THE COURT: Let me do that. Let me bring them in first

1 and then we'll take up that, okay. Go ahead and bring the
2 jury panel back in please, sir. We're going to let these
3 folks remain back there while I take care of these guys,
4 okay.

5 MR. GORANSON: All right.

6 (Whereupon, the jury entered the courtroom.)

7 THE COURT: Ladies and gentlemen, thank you for that --
8 for accommodating me on that. I had to take up a motion
9 regarding the jury selection process, and I was able to do
10 that. What I'm going to do, I'm going to excuse you now at
11 this time. I think you have a call in number I think that's
12 on your summons. If you would -- and if you don't have
13 that, make sure you get it before you go. But that's on
14 your summons, I believe. And if you would, I'm going to ask
15 you to call that number tomorrow night after six o'clock. I
16 don't know -- I'll be candid with you. I don't know whether
17 I'm going to need you back at all or not. It may be that
18 you'll get a message telling you that you're excused for the
19 balance of the week, or it may be that you get a message
20 saying that we need you back Wednesday. I just don't know
21 at this point, okay. So -- and I don't want you to come
22 back to find out that information. I felt it -- you know,
23 we try, as I said, minimize your inconvenience. So we have
24 a call in system. So if you would, please, call that number
25 after six o'clock tomorrow night and follow whatever

1 instructions you get on that message.

2 Now, let me just say this, and I've never really
3 addressed this before because I've never had any problem
4 with it until the last -- actually this past year and it
5 kind of -- it surfaced about three times. So I feel now
6 that I need to say this. I can't speak for other judges. I
7 can only speak for me. I'm very serious about jury service
8 and about everybody being treated fairly and being held to
9 the same standards. So please, please call that number
10 after six and follow those instructions because I've had
11 three occasions where we left instruction for the jury to be
12 back the next day and had several jurors didn't show up.
13 Come to find out, they didn't bother to call the number.
14 They kind of felt like they'd get lost in the shuffle of the
15 week, and there's so many of you out there that certainly
16 the court's not going to miss one or two. Well, we do know
17 who's here and, you know, we check you in when you come in.
18 So we know who's here, so don't try to slip through and not
19 show back up if you need to come back. I'm not saying that
20 you would. But I find -- have found myself having to make
21 this little announcement because people -- I don't know if
22 word is getting out that either some counties or some judges
23 don't check up on that or whatever, but I can assure that we
24 do here and I do. So -- and here's what you don't want to
25 happen: you don't want to take a risk and not come back and

1 then next thing you know there's a deputy showing up at your
2 work with a summons to bring you back here, because I can
3 promise you that if you're not back here and you're supposed
4 to be I will send deputies out to get you to pick you up.
5 So -- and I don't want to do that. I don't ever want to
6 embarrass anybody. So please just don't forget. If you
7 need to put it on your refrigerator, if you need to put it
8 on your mirror in your bathroom in the morning when you wake
9 up or whatever, but call that number after six o'clock and
10 whatever the instructions are on that recoding just follow
11 those instructions, okay. Thank you, ladies and gentlemen,
12 and you're free to go. Tomorrow night, six o'clock.

13 (Whereupon, the potential jury exited the courtroom.)

14 THE COURT: Mr. Goranson, I'll hear from you now with
15 regards to your motion, sir.

16 MR. GORANSON: Thank you, Your Honor. Obviously Mr.
17 Wrapp is not present. I don't have any personal knowledge
18 of why he isn't here. I don't know if his presence is -- or
19 his absence is voluntary or involuntary. What I would like
20 is a continuance to try to locate my client. First, because
21 I do feel like if I can locate him and speak with him
22 tonight or tomorrow that I do feel like we can work this
23 case out. I feel strongly about that. Additionally, Your
24 Honor, I met -- well, I was at the office yesterday and I
25 saw Ms. White and Mr. Black outside of their office. We

1 spoke briefly. I think their intention was to try -- or
2 their office's intention was to try Mr. Anderson. You heard
3 a motion about Mr. Anderson --

4 THE COURT: Correct.

5 MR. GORANSON: -- that case was continued. So the
6 information I was given was that they would get a bench
7 warrant on Mr. Wrapp if he was not present today and would
8 try his case later in the week. So I've made some reliance
9 upon that, Your Honor, and worked on some other things in
10 lieu of trying Mr. Wrapp's case today or tomorrow. So I
11 think, you know, with those two things working along with my
12 belief that we can work this case out, we request a
13 continuance in this case in order to find Mr. Wrapp and
14 bring him before the court.

15 THE COURT: Solicitor?

16 MS. WHITE: Your Honor, just by way of brief background.
17 I first noticed Mr. Goranson for trial on June 4, 2014. And
18 we were going to call that the week of July 14th. Judge
19 Keesley granted a continuance. Mr. Wrapp was present at
20 that point. There was some additional investigation that
21 Mr. Goranson wanted to do at Mr. Wrapp's request.

22 THE COURT: Okay.

23 MS. WHITE: We had a conversation right over here in the
24 courtroom after that continuance was granted. I told Mr.
25 Wrapp that his case would be called for trial the next time

1 we could get to it. I had a conversation -- a private
2 attorney, Mr. Andrew Hodges, called me about this case I
3 think about three weeks ago. And I told him it was on the
4 trial docket. I think Mr. Wrapp had gone to him asking him
5 to represent him and Mr. Hodges declined to get involved due
6 to the fact that it was up for trial. But I think there's
7 been adequate notice certainly even directly to Mr. Wrapp
8 that his case was coming up for trial. As far as working it
9 out, that week, the week of July 14th when we had a
10 conversation in here in the courtroom I told Mr. Wrapp that
11 the State would not be in any position to make deals past
12 that week, so there's no deals from the State and there
13 haven't been since the week of July 14th, and that if he
14 wanted to work it out that that was the time to do it. And
15 he has not come back to court since then. And so, Your
16 Honor, the State is ready to proceed with trial, and there's
17 already been a continuance on this.

18 MR. GORANSON: Your Honor, part of that continuance
19 motion was due to the fact that this person on their list,
20 number 9, Eric Ross, was -- I mean, he was left out
21 completely of any incident report. He's a witness that was
22 allegedly used to set up a buy and now they're saying is a
23 traffic stop. And so that was the reason for Judge
24 Keesley's continuance. I didn't know about that until
25 shortly before that hearing, so I would like for that not to

1 be counted against us --

2 THE COURT: Oh, no. I didn't get that impression that
3 was a fault thing, I think it was just it needed to be
4 continued for further investigation.

5 MR. GORANSON: Thank you. I think that's correct. And
6 regarding Andrew Hodges, I don't know whether Mr. Hodges
7 informed Mr. Wrapp of any trial date because I obviously
8 wasn't there in Mr. Hodges office. Still, even with there
9 being no offer made, I still believe that this case could be
10 worked out. There's a wide sentencing range in this case.

11 THE COURT: Let me ask this question. Now, this morning
12 a bench warrant was moved for and was issued.

13 MR. GORANSON: Yes, sir.

14 THE COURT: What efforts have been made on your office's
15 part to get him between now and -- between then and now?

16 MR. GORANSON: My investigator is out looking for him.

17 THE COURT: Well, and the difficult thing is you led off
18 with this observation that is we don't know whether his
19 absence here today is a voluntary or not voluntary absence.
20 I don't know what his situation is or why he's not here.
21 But it does appear that he was noticed to be here. For
22 whatever reason he's not here. I don't really have a valid
23 reason. I don't see any purpose that would be served in
24 continuing the case. Obviously he'd be a benefit to you to
25 have you present. For him to be present would be a benefit

1 certainly to you. But if he makes himself unavailable,
2 that's -- I just don't know that you can make yourself
3 unavailable and then use that as a basis for getting a
4 continuance granted. He's put you in an unenviable
5 position, Mr. Goranson, which I regret and hate for you.
6 But, again, if we had to wait and continue cases for every
7 defendant that didn't show up to go to court we wouldn't get
8 many cases moved. So I'm going to respectfully deny the
9 motion for a continuance. I hope your investigator finds
10 him this afternoon or this evening and then he can show up
11 and be of assistance to you. But we're going to go ahead
12 and proceed whether he's present or not.

13 MR. GORANSON: Your Honor, could we proceed with the
14 trial on Wednesday?

15 THE COURT: No, no. We're prepared and ready to go, so
16 we're going to go ahead and I'm -- unless there's a reason
17 not to, I'm going to have this jury come back at 9:30. Is
18 that when y'all typically start?

19 MS. WHITE: Yes, sir. The only potential issue we have
20 one of our chain witnesses from Columbia is in a deposition
21 in the morning. We may end up having to take her out of
22 order later in the day, but other than that we should be
23 fine.

24 THE COURT: That's fine.

25 MR. GORANSON: Your Honor, I would request that Eric

1 Ross' criminal background be provided to the Defense, along
2 with any of the charges were dismissed or anything like
3 that. Disclose the deal that they made.

4 THE COURT: All right. If there's any of that
5 information, Ms. White?

6 MS. WHITE: Your Honor, the State -- we're actually not
7 intending to call Mr. Ross unless the Defense goes there as
8 more of a rebuttal witness. I just wanted his name out to
9 the jury in case --

10 THE COURT: Potential witness?

11 MS. WHITE: Potential witness.

12 THE COURT: Absolutely. All right. But if anything
13 changes and if the State does intend to call him make sure
14 that the Defense gets that information in enough time for --

15 MS. WHITE: Yes, sir.

16 THE COURT: -- it to be useful to them. Anything else
17 at this point?

18 MR. GORANSON: One other thing I forgot to mention this
19 earlier with the continuance motion, Your Honor, is we have
20 tried to subpoena Mr. Ross. We're still looking for him and
21 we haven't been able to serve that subpoena yet. So we're
22 waiting -- if they're not going to call him, you know, we
23 would probably call him.

24 THE COURT: Do you have any information you can give
25 them on his location?

1 MS. WHITE: Our investigator has that. But we can get
2 that to him.

3 THE COURT: Get that to him. All right.

4 MS. NELSON: Can we have just one moment, Your Honor?

5 THE COURT: Yes, ma'am.

6 MR. GORANSON: For the record, just to wrap everything
7 up for this afternoon so we can all go home. I don't feel
8 like Mr. Wrapp has been adequately noticed and we object to
9 going to trial. Thank you, Judge.

10 THE COURT: All right. Well, we'll start back at 9:30
11 in the morning. The court will be in recess until that
12 time.

13 (Whereupon, the jury was released for the day.)

14 TRIAL DAY 2

15 SEPTEMBER 30, 2014

16 THE COURT: Folks, I probably should have told you
17 yesterday there's only a couple of assigned seats in the
18 jury box. At some point I'm going to ask one of you to
19 serve as the foreperson of a jury, and so that person will
20 have an assigned seat and then the alternate will have an
21 assigned seat. The rest of you, just feel to flow in and
22 flow out as you normally would and sit wherever you're
23 comfortable, okay.

24 Also, before we get started if at any time you can't
25 hear a witness or hear one of the attorneys or whatever,

1 please don't hesitate and don't be shy. Raise your hand and
2 let us know you can't hear, and we'll have them repeat it
3 and we'll have them speak up. Also, and this is a subject
4 that is important, even though people don't like to talk
5 about it. There are times when mother nature calls and
6 you've got to answer that call. And it may be right in the
7 middle of a witness' testimony. If that's the case, do not
8 hesitate to get my attention and just let me know, Judge, we
9 need to take a short break. We'll stop right in the middle
10 there. We'll take a break. We can always start right back
11 where we left off, okay. It's important that you're
12 comfortable in any way or you need a break, don't hesitate.
13 It doesn't have to be a bathroom break. It could be that
14 you've been sitting there for a while and you need to stand
15 up and let your mind relax and stretch your muscles. You
16 dictate how we proceed, ladies and gentlemen, so you just
17 don't hesitate to let me know if you need a break, okay.
18 Now, before I give you some opening remarks I'm going to ask
19 you to once again give Madam Clerk your attention, and she's
20 going to place you under oath for your role as jurors in
21 this case.

22 (Whereupon, the jury was duly sworn at 11:53 a.m.)

23 THE COURT: Folks, we're about to begin the trial of the
24 case for the State of South Carolina v. Stanley Lamar Wrapp.
25 Before we get started I want to tell you that I don't know

1 how many of you have ever served on an actual jury before,
2 but this case is more than likely going to be very different
3 from what you might expect if you've never served on a jury.
4 Most folks have never had the opportunity that you're going
5 to have to sit on an actual jury trial. Most people, the
6 only exposure they've had to jury trials is what they've
7 seen on television, what they've read in books, and what
8 they've seen on TV. And as we all know that those trials
9 are always full of high drama, intense action, and riveting
10 circumstances because those trials are Hollywood. Now,
11 during the course of this case, while any one of those
12 things may occur, what is important for you to understand is
13 that this trial is not for your entertainment. This is a
14 fundamental part of our democracy, ladies and gentlemen, and
15 it's a search for the truth in making sure that justice is
16 done between the parties. And often times that procedure
17 can be slow. It can be very deliberate. Sometimes it can
18 be repetitive. In other words, it's very different from
19 what you've seen on television, what you've read in books,
20 or seen in the movies. This courtroom is a place of honor
21 that is dedicated to the protection and to the preservation
22 of citizens' rights through what many have called the
23 greatest justice system ever created. The attorneys that
24 appear before you are advocates for the parties that they
25 represent. But first and foremost they are officers of the

1 court sworn to uphold the integrity and the fairness of our
2 judicial system. You should expect them to be professional,
3 competent, and ethical in the representation of their
4 client's interest. Now you've just taken an oath to try
5 this case and to reach a fair and a just verdict. And you
6 are also expected to be professional, reasonable, and
7 ethical in the performance of your duties, which I have
8 absolutely no doubt you will do. And I want to thank you
9 for contribution to our system of justice here in Greenwood
10 County.

11 Now, I'm going to say some remarks to you that
12 basically are an introduction to the trial of this case.
13 This is not a charge on the law. I will give you the law
14 that is applicable to this at the conclusion of the case.
15 But what I'm going to do now is basically go through the
16 procedures that we're going to follow so that you can better
17 understand what's going on as we go through the course of
18 this trial.

19 You heard yesterday when we called the case that Mr.
20 Wrapp is charged by indictments which were filed with the
21 court with the offense of driving under suspicion and
22 trafficking in cocaine base or what is commonly called crack
23 cocaine. The elements of these charges I will explain to
24 you later when I give you a charge on the law. What is
25 important for you to understand is that the indictments are

1 simply the charge by which this case is brought into court.
2 And they are not in any sense evidence of any of the
3 allegations that are contained in there. To these
4 indictments Mr. Wrap has pled not guilty and the State,
5 therefore, has the burden of proving each and every element
6 of these indictments beyond a reasonable doubt. It will be
7 your duty, ladies and gentlemen, to decide whether or not
8 the State has met that burden. Your purpose as jurors is to
9 find and determine the facts in this case. You are the sole
10 judges of the facts in this case. If at any time I make any
11 comment with regards to the testimony or any facts in the
12 case, you must disregard those comments because only you,
13 the jury, can determine the facts in the case. You
14 determine those facts from the testimony that you hear and
15 then any other evidence that may be introduced during the
16 course of the trial. It is up to you to determine what
17 inferences that you feel may be properly drawn from that
18 evidence. It is especially important that you perform your
19 duty of determining the facts diligently and consciously,
20 because ordinarily there's no way that we can correct an
21 erroneous determination of facts by a jury.

22 Now, on the other hand, but with equal emphasis, the
23 same law that makes you the judges of the facts makes me the
24 judge of the law. The law as given to you by the court is
25 the only law that you may consider. You must follow it and

1 you must apply it, even though you may disagree with that.
2 I cannot tell you about the facts of this case or make any
3 comment about the facts. And you're not allowed to disagree
4 with me about what the law is or what you think the law
5 should be. Your duty is to take the law as I give it to
6 you, apply it to the facts as you find the facts to be from
7 the testimony of the witnesses and any other evidence that
8 may be introduced, and issue a verdict in this case.

9 Now, until I advise you that you may begin your
10 deliberations you're not allowed to discuss this case with
11 anyone. And that includes your fellow jurors. During the
12 course of the trial it's important that you focus on the
13 testimony, the evidence as it's presented and during the
14 times that we take breaks or if we take a break and I excuse
15 you for lunch and those times that you're outside of the
16 courtroom you are to have no conversation with anyone about
17 the case. It is important that you keep an open mind and
18 that you do not decide any issue until all of the evidence
19 has been presented, the parties have made their closing
20 arguments to you, and I've instructed you on the law. It's
21 going to be your solemn responsibility to determine the
22 guilt or innocence of the defendant. And your verdict must
23 be based solely on the evidence as it is presented to you in
24 this courtroom during the course of your trial.

25 Now, in just a moment I'm going to recognize the

1 attorney for the State, the Solicitor. And they will make
2 an opening statement, or what we call an opening statement.
3 And in that statement, essentially, they'll explain to you
4 what the issue are in this case or at least what their
5 position is as to what the issues are in this case. Once
6 they've concluded their remarks I'll then recognize the
7 Defense for an opening statement, if they choose to give
8 one. However, they're not required to. What is important
9 for you to understand is this about opening statements. It
10 is not evidence. These folks are not under oath. They're
11 not on the stand testifying. They are simply advocates for
12 the parties and they're making opening remarks. Those
13 remarks are not evidence in this case. The evidence in this
14 case will be presented to you by witnesses who are placed
15 under oath and take this witness stand, as well as any other
16 exhibits that may be introduced during the course of this
17 trial.

18 During the course of the trial you may hear one of the
19 attorneys say something along these lines: "Judge, we have a
20 matter of law we need to take up with the Court." Or, "Your
21 Honor, may we approach the bench?" During those times,
22 ladies and gentlemen, I may have to ask you to step back
23 into your jury room. If I ask you to do that the reason I'm
24 doing that is simply this, there are times when I'm taking
25 up a matter of law with the attorneys that it requires me to

1 make some comment about the testimony or the evidence that
2 was presented in connection with a ruling that I'm required
3 to make. As I told you earlier, I'm not to have any
4 influence over you about the facts in this case or about the
5 evidence. So to protect you from those comments that I may
6 have to address during a matter of law, I may ask you to
7 step back into the jury room so that I can take up that
8 matter of law, resolve it and then bring you back out and
9 then you will continue at that point.

10 As I said, you are the fact finders in this case. In
11 determining what the true facts are in this case, you must
12 decide whether a witness' testimony is believable or not.
13 It's going to be my responsibility to rule as a matter of
14 law as to whether certain testimony is admissible at all.
15 But once a testimony is admitted into this record, whether
16 or not you believe it is solely up to you to decide. And
17 deciding whether to believe a witness, you have the right to
18 consider the interest of a witness, the bias of any witness,
19 the opportunity for the witness to have seen the matters and
20 the things about which that witness testifies. And the way
21 a witness acts on the witness stand. You have the right,
22 ladies and gentlemen, to consider anything that is in this
23 record that will help you to evaluation the testimony of
24 witnesses.

25 So what does that mean? That means it's very important

1 that you listen closely and pay close attention to the
2 witnesses, observe the witnesses, listen carefully to them.
3 Pay close attention to the attorneys and to the court. In
4 other words, don't let your mind and your thoughts wonder,
5 but pay strict attention to all of the testimony and the
6 evidence so that at the conclusion of that after the
7 attorneys have had an opportunity to address you with their
8 closing remarks and have given you the law, you'll then be
9 in position to go into the jury room. And at that time, for
10 the first time, you'll talk about the case, talk about the
11 evidence, deliberate, and arrive at a verdict.

12 Now, before I turn it over to the attorneys for their
13 opening remarks, let me first inquire of the State are there
14 any objections or exceptions to the Court's opening remarks?

15 MS. WHITE: No, sir.

16 THE COURT: Anything from the Defense?

17 MR. GORANSON: Nothing from the Defense. The only thing
18 I forgot to mention earlier was our Motion to Sequester the
19 witnesses.

20 THE COURT: All right. I don't know --

21 MS. WHITE: Your Honor, Officer Lovett is the lead
22 investigator. He can remain --

23 THE COURT: Sure.

24 THE COURT: Absolutely. Ladies and gentlemen, now I'm
25 going to turn it over and recognize the State for your

1 opening remarks.

2 MR. BLACK: Thank you, Judge. May it please the Court.
3 Like Judge Russo just said, the Defendant in this case,
4 Stanley Wrapp, has been charged with DUS, driving under
5 suspension, and trafficking crack cocaine. In a few minutes
6 you're going to hear testimony from a bunch of different
7 people. You're going to hear testimony from the officers,
8 and they're going to testify that on October 17th of last
9 year, 2013, they were working for the Drug Enforcement Unit,
10 and they were patrolling on Main Street, just up here right
11 up from the courthouse, and they say an individual driving
12 the vehicle. Now, they had previous knowledge that the
13 individual that was driving that vehicle was under
14 suspension. So they turned their car around and followed
15 that individual that was driving the vehicle. They followed
16 him to the Brewski Brother parking lot and there they turned
17 their lights on, they placed him under arrest for driving
18 under suspension.

19 Now, like any time anybody is ever arrested, the
20 officers did a search of that person. And you're going to
21 hear from the testimony and you're going to see that once
22 they placed the Defendant under arrest in his left front
23 pocket they found about ten to twelve grams of crack in his
24 left front pocket. You're also going to hear that once they
25 located that amount of crack in his pocket they also

1 searched the vehicle as well. And inside the vehicle they
2 found a little bit more crack as well as a set of digital
3 scales and a knife.

4 Now, ladies and gentlemen, like the Judge stated, in
5 any kind of criminal case there's two parts to a criminal
6 case. There's a proving part that the State has the burden
7 to do. We have to prove what the allegations are and then
8 there's the standard of proof which we have to prove it by
9 the beyond a reasonable doubt. Now, if any you guys have
10 ever watched CSI or Law and Order you've heard these terms
11 before. You know, the State has the burden to prove this
12 case beyond a reasonable doubt. That's one of the first
13 things they teach when you go to law school, that little
14 phrase, the state has the burden to prove its case beyond a
15 reasonable doubt.

16 So, ladies and gentlemen, what do we as the State have
17 to prove. For the trafficking crack there's four things
18 that we have to prove. We have to prove that Defendant was
19 in actual -- he was knowingly and in actual or constructive
20 possession of the crack. We have to prove that it was
21 between ten and 28 grams. We have to prove that it indeed
22 was crack and it happened, finally, in Greenwood County.
23 Those four things we have to prove that.

24 For the DUS it's a little bit more simple. We have to
25 prove that he was driving, he was in Greenwood County and

1 he, indeed, was under suspension. That's what we as the
2 State have to prove. Throughout the course of this trial we
3 ask that you hold us to that standard, make us prove that.
4 That's what we're going to be proving to you guys.

5 The last part is this beyond a reasonable doubt, and at
6 the end of the trial we're going to explain a little bit
7 more about what beyond a reasonable doubt is. I'll tell you
8 what's it not. Beyond a reasonable doubt is not beyond all
9 doubt. It's not beyond a shadow of a doubt. It's exactly
10 what it is. It's beyond a reasonable doubt.

11 At the close of the trial the Judge is going to read
12 you a kind of paragraph kind of explaining what reasonable
13 doubt is. And he's going to mention a phrase. He's going
14 to say firmly convinced. And I want you to remember that
15 throughout the course of this trial. A firm conviction.
16 Once everything -- the close of all the evidence, you've
17 heard testimony from all the witnesses are you firmly
18 convinced that we've proved these charges. I want to thank
19 you guys for being here. I want to thank you guys in
20 advance. I know you're going to listen to everything that
21 witnesses are going testify to, and we appreciate your
22 service. Thank you.

23 MR. GORANSON: Stan Wrapp is not guilty of trafficking
24 crack cocaine. You heard the Solicitor talk about beyond a
25 reasonable doubt, the burden of proof of course they have on

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1 that. We wouldn't be here today if there weren't some
2 question that you have to answer. He's going to make it
3 sound like it's a done deal. So if you have to answer a
4 question, it's going to be a difficult question to answer.
5 But I submit to you Stanley Wrap is not guilty of
6 trafficking crack cocaine. And when you hear the evidence
7 and you listen for what the witnesses have to say, I'll
8 believe you'll be convinced that there are many reasons to
9 doubt the evidence against Mr. Wrapp. My name is Shane
10 Goranson. This is my co-counsel, Patricia Bolen. It is our
11 pleasure to represent Mr. Wrapp. I'm going to keep this as
12 short as possible for you. I know your time is valuable.
13 So now I'm going to sit down and get the trial started.
14 Thank you for listening.

15 THE COURT: Call your first witness.

16 MR. BLACK: The State calls Jamie Lovett to the stand.

17 JAMIE LOVETT, having been first duly sworn,
18 testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BLACK:

21 Q Mr. Lovett, can you identify yourself, introduce yourself
22 to the jury?

23 A My name is Jamison Lovett. I'm a Lieutenant with the
24 Greenwood Drug Enforcement Unit here in Greenwood.

25 Q How long have you worked in law enforcement?

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1 A Approximately eight years, a little over eight years
2 now.

3 Q How long were you with the Drug Enforcement Unit?

4 A For combined, about three years.

5 Q About three years?

6 A Yes.

7 Q Can you describe your responsibilities that you have
8 with the Drug Enforcement Unit?

9 A Yes, sir. We respond to any citizen complaint, any
10 anonymous complaints, any calls that are given in to the 911
11 call center that have anything to do with drug activity,
12 prostitution, any vice, gambling, things of those nature.

13 Q And quickly can you kind of tell the jury about your
14 training in law enforcement, your education?

15 A Yeah. I went to college for two-and-a-half years and
16 decided law enforcement was the route I wanted to take. I
17 joined the Greenwood Police Department back in 2006. After
18 joining the police department I went to the Academy in
19 Columbia. It's the South Carolina Criminal Justice Academy.
20 I was down there for approximately three months, a little
21 over three months. I graduated in December '06 and come
22 back to Greenwood where we do a rigorous training,
23 on-the-job training. And it's actually field office
24 training, so once we got out on the road I trained for
25 another I believe it was about six months before I got on my

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1 own with a senior officer, which in my case the majority of
2 the time was either a captain or a sergeant that I trained
3 with.

4 Q Thank you.

5 A Yes, sir.

6 Q Let's go back about a year from now, October 17, 2013.
7 Were you working on that day?

8 A Yes.

9 Q Do you remember your shift, by any chance?

10 A I don't remember the exact hours we were working. We
11 were in during the day time. I believe we come in about ten
12 o'clock in the morning. Was going to work to six o'clock in
13 the evening.

14 Q Did you make a case against the Defendant, Stanley
15 Wrapp, on that day?

16 A Yes, sir.

17 Q Can you describe to the jury about how you went about
18 making that case?

19 A What happened is we got an anonymous complaint about a
20 gentlemen that was possibly selling marijuana and selling
21 crack in Bradley. We have jurisdiction not only in the city
22 but in the county due to the fact that it's a multi
23 jurisdictional task force. So we responded out to a house
24 in Bradley. Found a guy. He was actually in possession of
25 some marijuana, a little bit of crack. He was actually on

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1 house arrest at the time. But upon talking to him he told
2 us that he had a gentlemen that he deals with on a regular
3 basis that could bring him --

4

5 MR. GORANSON: Object to the form. Hearsay.

6 THE COURT: Sustained.

7 Q Thank you. I'll ask a couple more questions.

8 A Okay.

9 Q So after you talked to this individual did you come
10 back to Greenwood?

11 A We did.

12 Q And what did you do when you were in Greenwood?

13 A When we got back to Greenwood we looked up the
14 individual that was advised to us that was going to be --
15 that was going to bring the crack with whom is Stanley
16 Wrapp. We looked him up, found out through DMV that he did
17 not have a valid driver's license, that it was suspended for
18 failure to pay traffic tickets. Once we found out that he
19 was suspended for failure to pay traffic tickets we also do
20 a little bit more research on him to kind of see who they
21 hang out with, you know, try to find out if they're going to
22 be a dangerous person or not. But after looking that up we
23 found out who he was. We did find the car that the other
24 person had told us that he was going to be driving. Found

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1 out where it was staying. It was exactly where we were
2 told. And at that time we went out on patrol in search of
3 this vehicle and him to be driving it.

4 Q Where were you on patrol when you made contact with Mr.
5 Wrapp?

6 A On South Main.

7 Q Where is that at?

8 A It's just here. It's actually Highway 25. It runs
9 from Greenville basically down towards Aiken. But the main
10 -- the majority of it is just here through town. I would
11 say from maybe Verizon to the CVS and Rite Aid and
12 everything. It continues past there down towards Saluda and
13 Aiken.

14 Q So was that in Greenwood City? Was that in the city
15 limits --

16 A Yes, sir, that was within the city limits.

17 Q Did you identify Mr. Wrapp as driving the vehicle?

18 A I did.

19 Q Can you explain which direction you were heading and
20 which direction he was heading?

21 A I was traveling south. We were off of the four lane
22 section of South Main and on a two lane section. The two
23 lane section runs in between the north point -- I'm sorry,
24 the Hickory Point gas station here at South Main and
25 Marshall. It runs from there down to where Highway 34 cuts

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1 off. So it's that small little section there's just a
2 couple business on it. We were traveling south on that
3 road. Mr. Wrapp was traveling north on road when I
4 identified him.

5 Q Were you driving the vehicle?

6 A Yes, sir, I was.

7 Q What did you do as soon as you identified him? Did you
8 make a stop?

9 A As soon as I identified him -- we recognized the car,
10 and as soon as I identified him he was coming towards us.
11 He looked straight at me and he made a right hand turn into
12 Brewski Brothers, at which time I made a left hand into
13 Brewski Brothers behind him and initiated a traffic stop by
14 activating the blue lights in my patrol car.

15 Q After you pulled him over what was your next step?

16 A Myself and another officer that was with me at the
17 time, we exited the vehicle, approached Mr. Wrapp, both of
18 us from the driver's side. As I got up to the car he had
19 opened the drivers' side and was looking back at us, which
20 is usually a sign of danger for us. They usually call that
21 a fatal funnel that we don't want to actually step into. So
22 we made it up to his door as quick as we possibly could.
23 Once we did, we noticed he still had his hands on the
24 shifter, like he was looking around like maybe for avenue of
25 escape. So we blocked off the door. Asked him to step out.

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1 Once he stepped out he was real nervous, shaking real heavy.
2 You could actually see his heartbeat pounding through his
3 shirt. His was heart was palpating through his shirt. I
4 asked him his name and he did identify his name. At which
5 time we went ahead and placed him under arrest.

6 Q So at that point you placed him under arrest. What was
7 the reason for that again?

8 A For driving under suspension?

9 Q What did you do after you placed him under arrest? Did
10 you do anything else?

11 A Yes, sir. Once we place somebody under arrest for any
12 violation what we do is we search their person, which is
13 their clothing and their body, for any contraband, any
14 weapons, any knives, guns, you know, anything that would be
15 illegal that we wouldn't them to place into our patrol
16 vehicle.

17 MR. BLACK: Your Honor, may I approach the witness?

18 THE COURT: Yes, sir.

19 Q I'm showing you what's been marked as State's Exhibit
20 No. 2. Can you identify that individual?

21 A Yes, sir. That's Stanley Wrapp.

22 Q And is that the person that you placed under arrest on
23 that day --

24 A Yes, sir.

25 Q -- October 17th?

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1 A Yes, sir, it is.

2 MR. BLACK: Your Honor, the State offers Exhibit 2 into
3 evidence. And we would ask to publish to the jury at this
4 time.

5 THE COURT: Any objection?

6 MR. GORANSON: Yes. I do have an objection. I don't
7 think the proper foundation has been laid.

8 THE COURT: Overruled. I'll allow it.

9 MR. BLACK: Thank you, Your Honor.

10 (Whereupon, State's Exhibit 2 was entered into
11 evidence.)

12 Q Lieutenant Lovett, you stated that after you placed him
13 under arrest you searched him incident to the arrest. Can
14 you tell the jury what you found?

15 A Upon searching Mr. Wrapp we located in his front left
16 pant pocket a small clear plastic that contained an off
17 white kind of grayish-looking rocklike substance which we
18 believed to be crack cocaine. We did take the substance,
19 field test it, which we have kits in our cars that allow us
20 to field test for the presence of cocaine. We did field
21 test the substance and it did test positive for crack
22 cocaine.

23 Q Once you field tested that substance what did you do
24 with it?

25 A We take it back to the office. We place it inside a

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1 BEST Pack. Which a BEST Pack is a way for us to completely
2 seal the evidence inside of a bag which it maintains its
3 integrity, for one, and it also ensures that there's no
4 tampering with the evidence at all. Once sealed inside that
5 BEST Pack we place it into evidence at City Hall inside of a
6 locked evidence locker that there's only two people over
7 there, I believe, that can get inside these evidence
8 lockers.

9 Q Before we go there, let's go back to the scene. Was
10 there anything else found in Mr. Wrapps' vehicle?

11 A Agent Pope searched the vehicle on probable cause after
12 I found -- located the crack in his front left pocket. I
13 believe Agent Pope found right beside the driver's seat a
14 purple in color Crown Royal bag, a velvet bag with the ropes
15 on it. Inside the bag there was a set of digital scales, I
16 believe, that had a white powdery residue on it, a razor
17 knife, which is commonly used to cut up crack cocaine, and a
18 smaller quantity of a off white rock-like substance inside
19 of a plastic bag. We also field tested it. And it field
20 tested positive as well for crack cocaine.

21 Q Did he give that to you?

22 A He did.

23 Q Did you turn it over as well?

24 A I did.

25 Q Did you place it in the same BEST Pack kind of --

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1 A Yes, sir, I did.

2 MR. BLACK: Your Honor, may we approach?

3 THE COURT: Yeah.

4 (Whereupon, a bench conference took place while the
5 jury was in the courtroom.)

6 MR. BLACK: Thank you, Judge. Your Honor, may I
7 approach?

8 THE COURT: Yes.

9 Q Lieutenant Lovett, can you identify this what's been
10 marked as State's Exhibit No. 1?

11 A Yes, sir. That's a Crown Royal bag that was located in
12 the car, along with the knife, the razor and the digital
13 scales that I described that we located. The smaller bag,
14 which is just above the larger bag in the picture in between
15 the larger bag and the Crown Royal bag, the smaller bag was
16 located also inside the Crown Royal bag. And the larger bag
17 that is depicted here in the picture is the actual bag that
18 I removed from Mr. Wrapps' pocket.

19 Q And is that what you found October 17th of last year?

20 A Yes, sir, it is.

21 Q Is that a fair and accurate representation of what you
22 found?

23 A Yes, sir, it is.

24 MR. BLACK: Your Honor, at this point the State would
25 move to place State's number 1 into evidence, as well as to

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1 publish to the jury.

2 THE COURT: Any objection to the State --

3 MR. GORANSON: No objection.

4 THE COURT: Without objection.

5 (Whereupon, State's Exhibit 1 was entered into
6 evidence.)

7 Q Lieutenant Lovett, you spent some time with the Drug
8 Enforcement Unit. Can you explain to the jury kind of the
9 significance of the knife and the scales in this particular
10 picture and this particular circumstance?

11 MR. GORANSON: Objection. He's asking for an opinion
12 about evidence. I don't think this witness has been
13 qualified as an expert in that area.

14 THE COURT: Give me your question again.

15 MR. BLACK: I asked if he would explain the significance
16 of the knife, as well as the set of scales.

17 THE COURT: You can ask him -- come on up.

18 (Whereupon, a bench conference took place while the
19 jury was in the courtroom.)

20 Q Lieutenant Lovett, about how many drug cases have you
21 worked since you've been with the Drug Enforcement Unit?

22 A It's well into hundreds. It's well into the hundreds,
23 if I have to speculate. Over five to 700.

24 Q And you've made multiple arrests. Is that correct?

25 A Yes.

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1 Q In your experience when making arrests with larger
2 quantities of drugs have you ever found a knife or a set of
3 scales with that?

4 A Yes, sir.

5 Q Can you -- based on your experience, why is that?

6 A Usually they will have a knife or a set of scales, the
7 set of scales is used to weigh up the actual narcotic to a
8 customer that's going to be there to buy it. The knife is
9 actually used to cut off smaller pieces of the crack
10 cocaine. If they pull out a piece that's, you know, 1.5
11 grams and the customer may only want one gram. Instead of
12 trying to break it and break up everything they just take
13 the razor and cut it. So usually when we find these things
14 they're going to have residue of crack cocaine on them and
15 residue of crack cocaine as well. Usually when we find the
16 scales it's going to have the residue of whatever narcotic
17 they're selling. If it's marijuana, it's going to be
18 marijuana on there. If it's cocaine, it's going to be
19 cocaine. Crack cocaine, it will be crack cocaine.

20 Q So it's to get a more accurate measurement?

21 A Yes, sir.

22 Q We talked about the BEST Pack a moment ago. You placed
23 the evidence into a BEST Pack. Can you describe that to the
24 jury what it is?

25 A Well, what the BEST Pack is it's an envelope that we

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1 get. It's got three or forms that are already -- they're not
2 pre-filled out, but they're preprinted for us where we just
3 fill in the blanks for certain areas like the name, where it
4 was located, who found it, the dates, the time. It's
5 basically an affidavit that I'm signing to place inside that
6 BEST Pack stating that I did this and I'm swearing that I
7 did this and this is where it happened. But what we do is
8 it's also got inside of there it's got a clear plastic bag
9 with a seal on the top of it. And what we do is we'll place
10 the evidence inside the bag and we'll place one of the
11 forms, which will come in triplicate most of the time, place
12 one of the forms down inside the bag with it so it can be
13 seen by whoever is going to handle the narcotics at SLED.
14 So what they'll do then is they'll be able to read all the
15 information before they actually go to handle the narcotics
16 to kind of see if it's dangerous or anything like that. So
17 we'll take the evidence and the paper, put inside the --
18 it's a real thick envelope. And then we'll seal it with a
19 glue seal at the top. Once that glue seal is done it's set
20 there. If it's opened or tampered with or anything SLED or
21 our evidence would know that it had been tampered with.
22 Once we take all that we put it inside of a brown manila
23 envelope along with a evidence form, and we will take it
24 over to City Hall. If the case was made in the city we will
25 take to City Hall and place it inside of an evidence locker,

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1 which is secured. If it's made in the county -- the case
2 was made in the county we'll take it to the Sheriff's Office
3 and do the same thing, we'll place inside of an evidence
4 locker, which is secured along with an evidence form.

5 Q So going back to the BEST Pack and how it's packaged,
6 if anybody tampers with it, somebody would be able to tell
7 that it has been tampered with or opened or anything like
8 that?

9 A Sure.

10 MR. BLACK: Your Honor, may I approach?

11 THE COURT: Yes.

12 Q Lieutenant Lovett, I'm passing this up. Can you just
13 identify what this is and tell us what it is -- tell the
14 jury what it is?

15 A Well, the back part here is the actual --

16 Q Just identify it. Can you describe it?

17 A This here, the front sheet?

18 Q Yes.

19 A Well, the front sheet would have -- it's an evidence
20 form for the City. Basically what is has is it's got the
21 time and the date. It's got the area, where the incident
22 occurred. It's called the incident address. It's got the
23 officer that is in charge of the evidence, along with their
24 badge number and the case that's being made here. It will
25 have the subject's name and their address. And then it will

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1 list everything in this pack, everything that we're placing
2 into evidence is listed out individually. It will have an
3 item number and a quantity number. And it's listed down one
4 by one. After that, I'll date it, put the numbers of items,
5 which will be in this case one through six. We'll date it,
6 put the time on it that we're actually placing it into
7 evidence. Then we'll sign it and then place what locker
8 number we're placing it into evidence and label it as
9 evidence, which will be label right here. The next line,
10 this becomes a chain of custody at that time. What that
11 chain of custody does is anybody after me that handles this
12 item at all will have to sign this chain of custody form.
13 And, if you notice, it's been signed several times. On the
14 back --

15 Q While you're looking for that, Lieutenant Lovett, only
16 drugs go in the BEST Pack. Is that correct?

17 A That is correct.

18 Q The other evidence is sent on -- how is that sent out?

19 A The BEST Pack, once we fill out this information here,
20 and what we call the BEST Pack, these forms, which are the
21 forms I was telling you we would fill out inside the BEST
22 Pack that's got all the information on it, as I said they
23 come in several forms like this here. It's a duplicate copy
24 behind it. And there's also a chain of custody here, but
25 what we would take, we would take this form and place inside

JAMIE LOVETT-DIRECT EXAMINATION

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1 of an envelope here, which comes with the BEST Pack. You
2 can see the green seal that goes along here, that's our glue
3 strip. This barcode is the BEST Pack number. They're all
4 labeled different. There's no two BEST Packs that have the
5 same number in the state of South Carolina. So what we'll
6 do is this paper that we fill out has to have this BEST Pack
7 number on it, and it has to be signed by the person that's
8 placing it in there. So once it's inside of here, once the
9 drugs are inside the BEST Pack this glue is sealed. There's
10 no way to go in there and take out the evidence or move or
11 it without having me back here to fill it back out. But
12 inside of here is the actual drugs that we had found that
13 day, the crack cocaine that was found. This is all placed
14 into a manila envelope and placed into an evidence locker,
15 that being the BEST Pack. Also inside the evidence locker
16 we would have placed the bag, the Crown Royal bag, the
17 digital scales, the knife, the razor, all that would have
18 been placed inside the evidence locker as well. But not
19 inside BEST Pack, because the BEST Pack goes to SLED.

20 Q Okay. And just for clarification purposes for the
21 record, this is State's Exhibit No. 7, which is not being
22 admitted into evidence at this time. Just a couple more
23 questions, Lieutenant Lovett.

24 A Yes, sir.

25 Q Was there anybody else in the vehicle with Mr. Wrapp?

JAMIE LOVETT-CROSS-EXAMINATION

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- 1 A No, sir.
- 2 Q He was the only one?
- 3 A Yes, sir.
- 4 Q Were there any other agents that were with you during
- 5 the traffic stop?
- 6 A Yes, sir. Agent Ray Pope was inside the vehicle with
- 7 me.
- 8 Q And he assisted you on the stop?
- 9 A Yes, sir, he did.
- 10 MR. BLACK: Your Honor, may I have one moment?
- 11 THE COURT: Yes, sir.
- 12 Q Thank you. Answer any questions Mr. Goranson has for
- 13 you.
- 14 A Yes, sir.
- 15 CROSS EXAMINATION
- 16 BY MR. GORANSON:
- 17 Q You worked hundreds of drug cases?
- 18 A Yes, sir.
- 19 Q And you've been trained at the Criminal Justice Academy
- 20 of South Carolina, right?
- 21 A Yes.
- 22 Q Three months? About three months?
- 23 A Yes, sir.
- 24 Q And you were there full-time?
- 25 A For the Academy?

JAMIE LOVETT-CROSS-EXAMINATION

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- 1 Q Yes.
- 2 A Yes, sir.
- 3 Q You lived down there?
- 4 A During the week.
- 5 Q So you studied everyday, took classes everyday?
- 6 A Home on the weekend.
- 7 Q Studied at night?
- 8 A Yes.
- 9 Q And you believe in full investigations, right?
- 10 A Yes.
- 11 Q You believe in fair investigations?
- 12 A Yes, sir.
- 13 Q You believe in catching the right person for the right
- 14 crime?
- 15 A Yes, sir.
- 16 Q And you don't want anybody to be punished unjustly?
- 17 A That's correct.
- 18 Q So you want to be honest in your investigations?
- 19 A Yes, sir.
- 20 Q And I believe you testified earlier that you worked on
- 21 the road as a patrolmen?
- 22 A Yes, sir, I did.
- 23 Q With the police department?
- 24 A Uh-huh.
- 25 Q And what kind of investigations would you do as a

JAMIE LOVETT-CROSS-EXAMINATION

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- 1 patrolman?
- 2 A On the road?
- 3 Q Yes.
- 4 A Anything from criminal domestic violence, public drunk,
5 to narcotic cases. I mean, I've made trafficking cases on
6 the road, simple possession cases, assault and batteries.
7 Just it's a wide array of things that you do on the road.
- 8 Q One of the cases we hear a lot about these days, DUI
9 cases. Did you ever make any DUI cases as a patrolman?
- 10 A I'm sure I made a couple.
- 11 Q And you're familiar with patrol cars, right --
- 12 A Yes.
- 13 Q -- you've driven around in patrol cars a lot. They're
14 equipped with cameras, right?
- 15 A That's correct.
- 16 Q And so whenever the blue lights come on in your car,
17 whenever you flip the blue lights on there's a videotape?
- 18 A Most of the time. As long as it's working correctly.
- 19 Q Okay. And you did that in this case, right?
- 20 A No.
- 21 Q Okay.
- 22 A I'm not -- I wasn't in a patrol car.
- 23 Q Okay. I understand. And I think earlier you testified
24 that you work at DEU now, the Drug Enforcement Unit?
- 25 A Yes, sir.

JAMIE LOVETT-CROSS-EXAMINATION

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- 1 Q And part of your job in the DEU is to respond to
2 citizen complaints?
- 3 A Yes, sir.
- 4 Q And you will also if somebody calls 911 about a drug
5 issue you would then respond to that, right?
- 6 A Yes, sir.
- 7 Q And you also talked about investigating prostitution
8 cases, correct, and gambling cases?
- 9 A Yes, sir.
- 10 Q Maybe if there's a liquor house you would raid the
11 liquor house, too, right?
- 12 A Yes, sir.
- 13 Q So what you didn't mention there was the use of
14 confidential informants to make undercover drug buys.
15 That's also part of your job, right?
- 16 A Yes.
- 17 Q Okay. And you will from time to time arrest people for
18 drug offenses and make them an offer and say if you help us
19 out we'll help you out, right?
- 20 A That is correct.
- 21 Q And you did that in this case?
- 22 A Yes, sir.
- 23 Q You went -- you got a complaint about a gentlemen named
24 Eric Ross.
- 25 A Yes, sir.

JAMIE LOVETT-CROSS-EXAMINATION

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- 1 Q And you went to his house?
- 2 A I did.
- 3 Q You knocked on his door?
- 4 A Yes, sir.
- 5 Q He answered the door?
- 6 A Yes, sir.
- 7 Q And you talked to him. You asked him about drugs?
- 8 A Yes, sir.
- 9 Q And he told you he had drugs?
- 10 A He did.
- 11 Q He had marijuana?
- 12 A Yes.
- 13 Q And he had crack cocaine?
- 14 A Yes, sir.
- 15 Q How much crack cocaine did he have?
- 16 A It was a small amount. I don't remember the quantity
- 17 of -- I really don't even think it was a gram.
- 18 Q Okay. Did you search his house?
- 19 A The room that he was in I believe we searched. I think
- 20 he gave us consent to search his room as well.
- 21 Q But you didn't arrest Mr. Ross?
- 22 A No, sir.
- 23 Q And he was on house arrest?
- 24 A Yes, sir, he was.
- 25 Q And that was part of a sentence that he received?

JAMIE LOVETT-REDIRECT EXAMINATION

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1 A Yes, sir, I'm assuming so.

2 Q Okay. And what he did at that point was gave you
3 information about somebody else?

4 A Yes, sir.

5 Q And at that point you decided you weren't going to
6 arrest Mr. Ross?

7 A That is correct.

8 Q When I talked to you about CIs earlier, confidential
9 informants, using them to do undercover drug buys. You
10 video tape those buys, right?

11 A Some of them.

12 Q If you're going to make an arrest on somebody for
13 distribution of a drug, typically what you would do is
14 videotape that buy and then charge the person with
15 distribution?

16 A Yes.

17 MR. GORANSON: that's all the questions I have for this
18 witness. Thank you.

19 A Yes, sir.

20 MR. BLACK: Brief redirect, Your Honor?

21 REDIRECT EXAMINATION

22 BY MR. BLACK:

23 Q When you made the traffic stop was a CI in the vehicle
24 with you?

25 A No, sir.

JAMIE LOVETT-REDIRECT EXAMINATION

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- 1 Q So you didn't use a CI to make a buy or anything in
2 this case?
- 3 A No, sir.
- 4 Q Let's talk about your vehicle. What kind of vehicle
5 did you have when you were at the Drug Enforcement Unit?
- 6 A It's a 2009 Ford Explorer.
- 7 Q Is it unmarked?
- 8 A Yes, sir, it is.
- 9 Q Are there video equipment in those vehicles?
- 10 A No, sir.
- 11 Q Is that because it's unmarked, one reason --
- 12 A Yes, sir. It's supposed to be completely undercover.
- 13 Q Often times when you were with the Drug Enforcement
14 Unit did you have to go after smaller fish to get the bigger
15 fish?
- 16 A Yes. That is the general rule.
- 17 Q Is that part of the job?
- 18 A It is.
- 19 MR. BLACK: Thank you. No further questions.
- 20 THE COURT: Anything further of this witness?
- 21 MR. GORANSON: No Recross.
- 22 THE COURT: Thank you very much, sir. You may step
23 down. You may call your next witness.
- 24 (Whereupon, the witness exited the witness stand.)
- 25 MS. WHITE: Thank you, Your Honor. The State calls Ray

RAY POPE-DIRECT EXAMINATION

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1 Pope.

2 RAY POPE, having been first duly sworn, testified
3 as follows:

4 DIRECT EXAMINATION

5 BY MS. WHITE:

6 Q If you could tell us your name for the record.

7 A Agent Ray Pope of the Greenwood Drug Enforcement Unit.

8 Q Agent Pope, how long have you been in law enforcement?

9 A Approximately five years.

10 Q And you said with the Drug Enforcement Unit. How long
11 have you been doing that?

12 A About two years now.

13 Q We've already heard a little bit about what the duties
14 entail. But just what was your job with the Drug Unit?
15 What is your job?

16 A We enforce drug laws just and prosecute -- well, not
17 prosecute but charge drug offenders. We deal with a lot of
18 the vice crimes: prostitution, gambling, things of that
19 nature.

20 Q Is part of your job working with informants and working
21 under cover?

22 A Yes, ma'am.

23 Q Were you working a case on October 17, 2013?

24 A Yes, ma'am.

25 Q Who was the defendant on that case?

RAY POPE-DIRECT EXAMINATION

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- 1 A Stanley Lamar Wrapp.
- 2 MS. WHITE: May I approach the witness, Your Honor?
- 3 THE COURT: Yes, ma'am.
- 4 Q I'm going to hand you what's already been entered as
- 5 State's Exhibit No. 2. Is that a picture of Mr. Wrapp?
- 6 A Yes, ma'am.
- 7 Q When you were working the case involving Mr. Wrapp who
- 8 was working with you that day?
- 9 A Lieutenant Lovett.
- 10 Q What were y'all doing that day?
- 11 A We were patrolling. Recognized Stanley Wrapp as being
- 12 a subject that we knew that we had had drug complaints on.
- 13 We knew that Mr. Wrapp didn't have a driver's license.
- 14 MR. GORANSON: Objection.
- 15 THE COURT: Sustained.
- 16 Q To narrow it down a little bit, had you already
- 17 received a complaint or information --
- 18 A Yes, ma'am.
- 19 Q -- that morning about Mr. Wrapp?
- 20 A Yes, ma'am.
- 21 Q And so based on that information you were looking for
- 22 Mr. Wrapp?
- 23 A Yes, ma'am.
- 24 Q So you're looking for Mr. Wrapp. Where are y'all?
- 25 A We were on South Main Street within the city limits of

RAY POPE-DIRECT EXAMINATION

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1 Greenwood.

2 Q And what happened on South Main?

3 A We observed Mr. Wrapp driving a vehicle traveling
4 north. We were traveling south. Like I said, we both knew
5 Mr. Wrapp. We turned around. Mr. Wrapp -- followed Mr.
6 Wrapp until he got to Brewski Brothers. At Brewski Brothers
7 we got of our vehicle and spoke with Mr. Wrapp because he
8 was getting ready to exit his vehicle. We advised Mr. Wrapp
9 that he -- that we knew that he didn't have a driver's
10 license. At that time we arrested him for driving without a
11 license -- excuse me, driving under suspension. He was
12 placed in handcuffs at that point and searched incident to
13 arrest.

14 Q All right. Just stopping you right there. And we can
15 kind of see from the picture. Is Mr. Wrapp a fairly
16 distinctive looking individual?

17 A Yes, ma'am.

18 Q And had you seen a picture of him before?

19 A Yes, ma'am.

20 Q So you were able to recognize him when y'all passed him
21 on the highway?

22 A Yes, ma'am.

23 Q Going back to the traffic stop. You said he's in
24 handcuffs and y'all are getting to search him. What happens
25 after that?

RAY POPE-DIRECT EXAMINATION

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1 A Lieutenant Lovett searched him, like I said, incident
2 to arrest. Found a quantity of an off white rock-like
3 substance inside of his pants. It was placed inside of a
4 clear plastic bag. At that time after we found the off
5 white rock-like substance that we believe to be crack
6 cocaine. We then performed a probable cause search on his
7 vehicle. I searched his vehicle and located a purple Crown
8 Royal bag. Inside of the bag I located a set of black in
9 color digital scales. On the scale it was white in color
10 powder residue and also like a razorblade that also had
11 residue on it used for -- normally used for cutting. In my
12 experience, normally used for cutting crack.

13 Q And just to digress a little bit, approximately, and
14 you don't have to give us an exact number -- approximately
15 how many cases have you made while working with the drug
16 unit?

17 A Hundreds.

18 Q So are scales and something for cutting something you
19 would encounter fairly frequently?

20 A Yes, ma'am. Also inside of that bag there was another
21 clear plastic bag with just a small amount of off white
22 rock-like substance as well.

23 Q How -- do you recall how both sets of the off white
24 rock-like substance, how they were wrapped? What they were
25 wrapped in?

RAY POPE-DIRECT EXAMINATION

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1 A They were wrapped in, like, clear plastic sandwich
2 bags. These are normally commonly, in my experience, used
3 to package drugs.

4 Q When you say sandwich bags, I mean, is it like a full
5 ziplock or has it been cut typically?

6 A Normally it's cut. The ends of them are cut off.

7 Q Now, I'm going to show you what's already been entered.
8 I'm going to put it up here. Can you see the screen from
9 where you're sitting?

10 A Yes, ma'am.

11 Q You said you searched the vehicle and found the Crown
12 Royal bag and -- is this the smaller amount that you found?

13 A Yes, ma'am.

14 Q All right. And when you're talking about the sandwich
15 bag, that's how it was wrapped?

16 A Yes, ma'am.

17 Q All right. These are the scales that you found in this
18 picture?

19 A Yes, ma'am.

20 Q What did you do with the items that you found in the
21 car?

22 A Once I found the items I handed them over to Lieutenant
23 Lovett, who was the case agent and who was collecting all of
24 the evidence.

25 Q Did you accompany him when he turned it in or did he do

RAY POPE-DIRECT EXAMINATION

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1 that on his own?

2 A He did that on his own.

3 Q Do you recall -- And if you need your report, I can --
4 do you have your report up there?

5 A I don't.

6 Q Do you recall who -- after Mr. Wrapp was placed under
7 arrest, his vehicle was still at Brewski Brothers. What did
8 y'all do with that?

9 A Upon Mr. Wrapps' request, we contacted -- I think it
10 may have been his girlfriend and turned the vehicle over to
11 her.

12 Q Do you remember her name?

13 A Angela Wardlaw.

14 MS. WHITE: I beg the Court's indulgence.

15 Q We heard a little bit of testimony when you were in the
16 courtroom about someone named Eric Ross. Was he present
17 with you in the car when you made this traffic stop?

18 A No, ma'am.

19 Q Was he anywhere in the vicinity when you made the
20 traffic stop?

21 A Yes, ma'am, he was.

22 Q Where was he?

23 A He was -- I'm thinking he was at maybe Brewski Brothers
24 when this happened.

25 Q But he wasn't standing there with y'all while you were

RAY POPE-CROSS-EXAMINATION

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1 doing the arrest?

2 A No, ma'am.

3 Q One other question. You wrote the report on this case,
4 correct?

5 A Yes, ma'am.

6 Q When you're working with a confidential informant is it
7 typical to write a report to protect their identity?

8 A Absolutely. We, as a drug enforcement unit, we cannot
9 do our jobs without confidential informants. So in order to
10 protect and to, you know, not burn them as a CI we normally
11 write the report in a way that we don't name them or nobody
12 knows who they are because we can't do our job without them.
13 If they're burned or people that we're doing that then it's
14 impossible for us to do our job.

15 MS. WHITE: Please answer any questions Mr. Goranson
16 has.

17 CROSS EXAMINATION

18 BY MR. GORANSON:

19 Q Good morning, Agent Pope.

20 A Good morning.

21 Q You've been to the South Carolina Justice Academy,
22 right?

23 A Yes, sir.

24 Q And you spent some time, a couple months down there?

25 A Yes, sir.

RAY POPE-CROSS-EXAMINATION

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- 1 Q Studying, training?
- 2 A Yes, sir.
- 3 Q Part of your studying and training was learning how to
- 4 write incident reports?
- 5 A Yes, sir.
- 6 Q Conduct investigations?
- 7 A Yes, sir.
- 8 Q All right. And you've done hundreds of investigations
- 9 on drug cases, right?
- 10 A Yes, sir.
- 11 Q And you believe in having open, honest investigations,
- 12 right?
- 13 A Yes, sir.
- 14 Q And you believe in catching the right person for the
- 15 right crime, right?
- 16 A Yes, sir.
- 17 Q And you agree that you should be honest in incident
- 18 reports.
- 19 A Yes, sir.
- 20 Q Now, you prepared the incident report in this case,
- 21 right?
- 22 A Yes, sir, I did.
- 23 Q Let me back up just one second. Were you ever a
- 24 patrolman?
- 25 A Yes, sir, I was.

RAY POPE-CROSS-EXAMINATION

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- 1 Q Did you ever do any traffic cases?
- 2 A Yes, sir.
- 3 Q And when was that? What years?
- 4 A 2010 to 2012.
- 5 Q Okay. And so at the time you were doing this -- doing
- 6 that job, your vehicle was equipped with a video camera,
- 7 correct?
- 8 A Yes, sir.
- 9 Q And you would videotape traffic stops?
- 10 A Yes, sir.
- 11 Q Any time the blue lights came on you would then
- 12 videotape traffic stops?
- 13 A Yes, sir.
- 14 Q And that evidence would be preserved so it could be
- 15 used in court?
- 16 A Yes, sir.
- 17 Q And you testified -- well, is the video -- is the
- 18 patrol vehicle that you were using on this particular day,
- 19 is it equipped with a video camera?
- 20 A No, sir.
- 21 Q But it is equipped with blue lights?
- 22 A Yes, sir.
- 23 Q In the incident report you don't mention a CI --
- 24 A No, sir.
- 25 Q -- at all.

RAY POPE-CROSS-EXAMINATION

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- 1 A No, sir.
- 2 Q It's not just that you didn't leave out the name of the
- 3 CI, but you didn't name a CI or you didn't say anything
- 4 about a CI, did you?
- 5 A No, sir, I did not.
- 6 Q And you testified, I believe, that you were out looking
- 7 for Stanley Wrapp?
- 8 A Yes, sir.
- 9 Q And that you happened to see him on Main Street?
- 10 A Yes, sir.
- 11 Q But also that a Mr. Ross, who had been investigated
- 12 earlier in the day, was happened to be present at that
- 13 location?
- 14 A Yes, sir.
- 15 Q Looking at this incident report, there's no way to tell
- 16 at all that there was a CI involved in this case.
- 17 A That's correct.
- 18 Q Just to be clear, in the incident report, no CI and now
- 19 the testimony is that Mr. Ross just happened to be at
- 20 Brewski Brothers?
- 21 A Not that he just so happened to be there. We just --
- 22 like I said before speaking to Ms. White, we do our best to
- 23 protect our CIs.
- 24 MR. GORANSON: No more questions.
- 25 THE COURT: Redirect?

RAY POPE-REDIRECT EXAMINATION

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1 REDIRECT EXAMINATION

2 BY MS. WHITE:

3 Q Agent Pope, I think we've asked enough questions now
4 that -- Eric Ross was at Brewski Brothers?

5 A Yes, ma'am.

6 Q Why was he at Brewski Brothers?

7 A Because he was a confidential informant.

8 Q And what was your understanding of what Mr. Wrapp was
9 doing?

10 A He was delivering crack cocaine to Mr. Ross.

11 Q But you intercepted him before that could happen?

12 A Yes, ma'am.

13 MS. WHITE: No further questions, Your Honor

14 THE COURT: Thank you very much, sir. You may step
15 down.

16 MR. GORANSON: One question. I'm sorry.

17 RECROSS-EXAMINATION

18 BY MR. GORANSON:

19 Q Did you put a camera on Mr. Ross?

20 A No, sir.

21 THE COURT: All right. Thank you. You may call your
22 next witness.

23 MR. BLACK: Your Honor, may we approach?

24 (Whereupon, a bench conference was held outside of the
25 hearing of the jury.)

RAY POPE-REDIRECT EXAMINATION

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1 THE COURT: Ladies and gentlemen, we're going to take a
2 short recess while we get our witnesses lined up. If you
3 would please not have any conversation about the case. If
4 you need anything while you're back there just let the
5 bailiffs now. We'll try to provide you with something,
6 whatever. And we'll just take a short break and get you
7 back out here in just a little bit, okay.

8 BAILIFF: Will you allow smokers to go?

9 THE COURT: Here's the thing, folks. Once you're on a
10 case you have to stay together and you have to stay with one
11 of the bailiffs. If anybody would like a break to smoke a
12 cigarette or something like that, we can provide that time
13 for you. But those who want to do that, you have to go out
14 together and remain together with one of the bailiffs. Now,
15 that doesn't mean everybody has to go. In other words, some
16 of you can stay in the jury room, some of you can go out.
17 But it's just you can't have like some people go out and go
18 out and this door and some people go out and go over that
19 way. So those that want to go out, you're welcome to. You
20 just have to remain together. Those that want to stay in
21 the jury room, you're welcome to just remain there, okay.
22 All right. Everybody else remain while the jury is excused.
23 (Whereupon, the jury exited the courtroom at 10:51
24 a.m.)

25 THE COURT: All right, folks, we'll be at ease while you

KENYA GRIFFIN: DIRECT EXAMINATION

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1 check on your witnesses.

2 THE COURT: Let's bring the jury back in.

3 (Whereupon, the jury entered the courtroom at 11:27
4 a.m.)

5 THE COURT: You may call your next witness.

6 MR. BLACK: The State calls Kenya Griffin to the stand.

7 KENYA GRIFFIN, having been first duly sworn,
8 testified as follows:

9 DIRECT EXAMINATION

10 BY MR. BLACK:

11 Q Ms. Griffin, can you state your name and introduce
12 yourself to the jury?

13 A Sergeant Kenya Griffin with the Greenwood City Police
14 Department.

15 Q How long you been with Greenwood City?

16 A For eleven years.

17 Q Where do you work at in the department?

18 A I'm the crime scene and evidence technician.

19 Q What kind of job responsibilities do you have with that
20 being your job?

21 A I'm responsible for logging in evidence that officers
22 turn in on cases, taking it to SLED for testing. I also
23 process crime scenes.

24 MR. BLACK: Your Honor, may I approach the witness?

KENYA GRIFFIN: DIRECT EXAMINATION

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- 1 THE COURT: Yes, sir.
- 2 Q This is State's Exhibit No. 7, for identification
- 3 purposes. Ms. Griffin, can you take a look at that and
- 4 answer any questions I have pertaining to that document?
- 5 A Yes.
- 6 Q Was that packet turned over to you at some point?
- 7 A Yes, sir, it was.
- 8 Q Who turned it over to you?
- 9 A Jamie Lovett.
- 10 Q What day he turn it over to you?
- 11 A October 17, 2013.
- 12 Q And how did he go about turning that packet over to
- 13 you?
- 14 A He placed it into our evidence lockers. Which once
- 15 they're placed in there it's secured and only myself and
- 16 another officer have access to it.
- 17 Q So nobody else but you and some other individual?
- 18 A Right.
- 19 Q Who is that individual?
- 20 A It's Sergeant Ed Suddeth.
- 21 Q And so is your name signed on that sheet of paper?
- 22 A Yes, sir, it is.
- 23 Q When did you receive it, again?
- 24 A He turned it in on October 17th, and I removed it from
- 25 the locker on October 18th.

KENYA GRIFFIN: DIRECT EXAMINATION

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- 1 Q What did you do with it on October 18th?
- 2 A It was placed into our evidence room in our safe.
- 3 Q And who has access to that safe?
- 4 A Again, just me and Sergeant Ed Suddeth.
- 5 Q What's the next thing happens after it's in evidence?
- 6 A I then transport it into SLED.
- 7 Q What day was that?
- 8 A October 25, 2013.
- 9 Q What's the purpose of it going down to SLED?
- 10 A So it can be analyzed.
- 11 Q Who got it down to SLED?
- 12 A I did. I drove it down.
- 13 Q You drove it down?
- 14 A Yes, sir.
- 15 Q And then you gave it to?
- 16 A One of the log in girls.
- 17 Q At SLED?
- 18 A Yes, sir. I believe it was Amy Stephens.
- 19 Q Okay. Is this kind of the standard process of how
- 20 evidence is given to y'all and then sent on to other people
- 21 to get tested and that kind of thing?
- 22 A Yes, sir.
- 23 Q So you followed along with these normal procedures?
- 24 A Yes.
- 25 Q Let's talk about the evidence that's specifically in

KENYA GRIFFIN: DIRECT EXAMINATION

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- 1 the bag when turned it over. Can you identify what that --
2 what it is?
- 3 A Yes, sir. It's a BEST Pack. That's what we turn drugs
4 in.
- 5 Q Is it sealed?
- 6 A Yes, sir.
- 7 Q Is there any way to -- in looking at that BEST Pack, if
8 somebody tampers with it can you tell or anyone else tell if
9 it's been tampered with?
- 10 A Yes, sir. There's little blue lines around the seal
11 there. If you try and tamper with it, it distorts the
12 lines.
- 13 Q So if somebody that looks at it -- it's obvious to them
14 that it's been tampered with?
- 15 A Yes.
- 16 Q Okay. Now, when you got it was it tampered with?
- 17 A No, sir.
- 18 Q Looking at the lines and everything you couldn't tell
19 that it was ever tampered with?
- 20 A I could not tell it was tampered with.
- 21 Q Did you ever tamper with the evidence at all?
- 22 A No, sir, I did not.
- 23 Q And then you sent it down to SLED and it was out of
24 your hands?
- 25 A Yes, sir.

MARIE WEARING-DIRECT EXAMINATION

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1 Q When did you receive it back?

2 A It was returned to me on February 2 -- I'm sorry.

3 February 6, 2014.

4 Q So it was down there for a couple months?

5 A Yes.

6 Q And at that point it's tested and that sort of thing?

7 A Yes.

8 MR. BLACK: One moment.

9 Q And it was sealed -- was it sealed when it came to your
10 possession?

11 A Yes, it was.

12 MR. BLACK: No further questions. Answer any questions
13 Mr. Goranson has for you.

14 MR. GORANSON: No questions for this witness. Thank
15 you.

16 THE COURT: Thank you very much, ma'am. You may step
17 down.

18 (Whereupon, the witness exited the witness stand.)

19 THE COURT: You may call your next witness.

20 MS. WHITE: Your Honor, the State calls Marie Wearing.

21 MARIE WEARING, having been first duly sworn,
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MS. WHITE:

25 Q If you could state your name and spell it for the court

MARIE WEARING-DIRECT EXAMINATION

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- 1 reporter.
- 2 A Marie Wearing. M-a-r-i-e W-e-a-r-i-n-g.
- 3 Q And where do you work, Ms. Wearing?
- 4 A The South Carolina Department of Motor Vehicles.
- 5 Q What's your job title there?
- 6 A I'm a supervisor over suspension area, which is
- 7 custodian of records.
- 8 Q As custodian of records you maintain records for all
- 9 the drivers of the state?
- 10 A That's right. All the drivers in the state.
- 11 Q And those are kept in the ordinary course of business
- 12 at the Department of Motor Vehicles?
- 13 A That's correct.
- 14 Q And you're here today pursuant to a subpoena sent by my
- 15 office?
- 16 A Yes.
- 17 Q The case that you're here on today involving Stanley
- 18 Wrapp, did you pull his driver's record?
- 19 A Yes.
- 20 Q Does Mr. Wrapp have a valid current driver's license in
- 21 the state of South Carolina?
- 22 A Yes.
- 23 Q Is it -- are his privileges suspended, or were they in
- 24 October 2013?
- 25 A Yes, it's suspended.

MARIE WEARING-DIRECT EXAMINATION

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1 Q When were his privileges to drive suspended?

2 A Beginning of 2008.

3 Q And when a driver's privileges are suspended do you
4 notify them?

5 A Yes.

6 Q How do you notify them?

7 A Well, I send a notice of suspension letter to the
8 address that's on his license.

9 Q How do you send those, just regular mail?

10 A Some of it's regular mail and some is certified.

11 MS. WHITE: May I approach the witness, Your Honor?

12 THE COURT: Yes, ma'am.

13 Q I'm going to hand you what's been marked State's
14 Exhibit Nos. 3, 4 and 5 for identification. Can you
15 identify those for me, please?

16 A These are suspension notices which was generated by
17 hard drive at the Department of Motor Vehicles.

18 Q Who were those sent to?

19 A Stanley Lamar Wrapp.

20 Q When were those sent?

21 A September 15, 2009, and March 11, 2009, and July 23,
22 2009.

23 Q Are those accurate copies of the letters that you sent
24 to Mr. Wrapp?

25 A True copies, correct.

MARIE WEARING-DIRECT EXAMINATION

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1 MS. WHITE: Your Honor, the State moves to enter Exhibit
2 Nos. 3, 4 and 5 into evidence at this time.

3 THE COURT: Any objection?

4 MR. GORANSON: No objection.

5 THE COURT: Without objection Exhibit 3, 4 and 5 are in
6 evidence.

7 (Whereupon, State's Exhibits 3, 4 and 5 were entered
8 into evidence.)

9 Q Now, turning to State's Exhibit No. 5, which is a
10 letter sent on July 23, 2009 -- can you see the screen from
11 where you're sitting?

12 A Yes.

13 Q Who signed -- first of all, what is this a copy of?

14 A A certified mail -- certificate of mailing.

15 Q And this is the actual receipt where someone signed for
16 the letter?

17 A That's correct.

18 Q Who signed for the letter?

19 A Angela Wardlaw.

20 MS. WHITE: Begging the Court's indulgence.

21 THE COURT: Yes, ma'am.

22 MS. WHITE: Thank you, Ms. Wearing, please answer any
23 questions Mr. Goranson has.

24 THE COURT: Questions for this witness?

25 MR. GORANSON: No questions. Thank you.

1 THE COURT: Thank you very much for being here. Any
2 objection to Ms. Wearing being excused?

3 MS. WHITE: No, sir.

4 MR. GORANSON: None from the Defense.

5 THE COURT: Thank you so much, ma'am.

6 (Whereupon, the witness exited the witness stand.)

7 MR. BLACK: Your Honor, may I approach?

8 (Whereupon, a bench conference took place out of the
9 hearing of the jury.)

10 THE COURT: We've got a couple of witnesses that are on
11 the road, and they're not here yet. They anticipate being
12 here shortly, but they were held up and I don't know that
13 they might not get held up again. So I think what we're
14 going to go ahead and do is break early for lunch. And then
15 what I'm going to do is I'm going to excuse you at this
16 time. Ask you to be back here at let's say 1:15. Okay,
17 that gives you about an hour-and-a-half for lunch, a little
18 over an hour-and-a-half. When you leave here, as I told you
19 earlier, you're not to have any conversation with anybody
20 about the case, nor are you allowed to have anyone speak
21 with you about the case. If anybody does approach you or
22 ask you anything, you just let them know you're not talk
23 about it and that should it end it. If they persist or want
24 to talk with you, then just let me know who it is and I'll
25 make sure that that does not occur again, okay. But enjoy

1 your lunch break. Let your minds just rest and when you get
2 back those witnesses will surely will be here at that point
3 and we'll start back at that time, okay. So everyone else
4 remain where you're at. The jury is excused. And I ask you
5 to be back at 1:15, please.

6 (Whereupon, the jury exited the courtroom at 11:42
7 a.m.)

8 THE COURT: All right. Well then, we'll be at ease and
9 we'll start back at 1:15.

10 (Off the record from 11:42 a.m. until 1:15 p.m.)

11 THE COURT: Okay. Anything we need to take up before we
12 get started?

13 MS. WHITE: No, sir.

14 MR. GORANSON: Nothing from the Defense, Your Honor.

15 THE COURT: All right. If we got everybody here let's
16 get started.

17 (Whereupon, the jury entered the courtroom at 1:20
18 p.m.)

19 THE COURT: All right, folks. Let me just address a
20 matter. Ms. Debbie Bishop? Ms. Bishop, would you be so
21 kind as to serve as the forelady of the jury for me?

22 MS. BISHOP: Sure.

23 THE COURT: I'm going to get you to swap places with
24 this gentleman. And let me just address that, ladies and
25 gentlemen, and just tell you a little bit about a foreperson

1 for the jury. Any time you deal with a group of folks it's
2 just easier for the court to deal with one person on behalf
3 of the group rather than deal with everyone individually so
4 that during the course of your time here or your
5 deliberations when that starts. If anybody on the jury has
6 a question about anything or whatever, then essentially Ms.
7 Bishop, as the forelady, would write down whatever that
8 question is and pass it out to the Court. Depending on the
9 question, I may just write back my response to you or I may
10 bring you out as a panel and respond to it. But that really
11 is the main purpose of the foreperson, is just to be the
12 communicator or the contact between the jury panel and the
13 Court. Once you begin your deliberations, obviously any
14 time you got a group of folks in the room sometimes when you
15 start your deliberations it will naturally flow. You know,
16 someone will make a comment and that will start the
17 conversation. And then it will start. But if you have
18 twelve people all sitting there staring at each other and
19 nobody is talking then it's incumbent upon the foreperson to
20 start the deliberations. I'll tell you this now, any time
21 you're in the jury room once you begin your deliberations
22 everyone must be present for those deliberations. So if
23 someone needs to excuse themselves to use the restroom or
24 something like that, then Ms. Bishop you would ask that
25 their conversation cease until that person returns. And

1 then upon their return start back your deliberations.
2 What's important for you all to understand is this, in this
3 case and in all cases tried in this court, the jury's
4 verdict must be unanimous. You must all agree on the
5 verdict. And what that tells you is this, that the
6 foreperson's vote or opinion carries no more weight than
7 anyone else. You're all equal members of the jury. I tell
8 juries all the time when you begin your deliberations you
9 talk amongst yourselves, you listen to the other side. You
10 give consideration to everyone's opinion. And you think it
11 through and you evaluate your opinion versus other people's
12 opinion. It's a deliberation. It's a process. But the
13 foreperson's thoughts or comments in the jury room carry no
14 more weight, have no more authority than anyone else.
15 You're all equal members of the jury, okay. Now, if you
16 recall when we broke for lunch the State was still putting
17 up their case. And we took a lunch break. So we're going
18 got go ahead and pick up now and we recognize the State for
19 your next witness.

20 MS. WHITE: Thank you, Your Honor. The State calls Amy
21 Stephens.

22 THE COURT: Ms. Stephens, if you please come around be
23 sworn.

24 AMY STEPHENS, having been first duly sworn,
25 testified as follows:

AMY STEPHENS-DIRECT EXAMINATION

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1 DIRECT EXAMINATION

2 BY MS. WHITE:

3 Q Ms. Stephens, where do you work?

4 A I'm currently employed with the South Carolina Law
5 Enforcement Division, which is also known as SLED.

6 Q What's your job at SLED?

7 A I'm a forensic technician in the evidence control
8 department. And our daily responsibilities are to log in,
9 package and transfer evidence for forensic analysis.

10 Q In the course of logging in and transporting evidence,
11 do y'all keep a record of that?

12 A We do. Every case that enters our laboratory receives
13 a unique lab number, and every piece of evidence that is
14 submitted under that particular lab number also receives an
15 item number.

16 Q I'm going to hand you what's been marked for
17 identification as State's Exhibit No. 7.

18 MS. WHITE: May I approach the witness, Your Honor?

19 THE COURT: Yes, ma'am.

20 Q Can you tell me if you've ever handled that particular
21 piece of evidence?

22 A Yes, I have.

23 Q And how do you know?

24 A The lab number that is attached to this piece of
25 evidence corresponds with the chain of custody for this

AMY STEPHENS-DIRECT EXAMINATION

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1 particular case. And the lab number is L13-13885. And this
2 is item number one.

3 Q And what, if anything, did you do with that particular
4 piece of evidence.

5 A When I received this piece of evidence I would have
6 verified that all seals were intact. I would have also
7 verified that the number that the number that is attached to
8 this piece of evidence corresponded with all of the
9 paperwork submitted for this case. I would have then
10 entered the case information into our computer system and
11 the lab number would have been generated.

12 Q Who did you receive that from?

13 A I received this evidence from Kenya Griffin with the
14 Greenwood Police Department on October 25, 2013.

15 Q And did you open the BEST Pack in any way?

16 A No, I did not.

17 Q And did you do anything with what was actually inside
18 the BEST Pack?

19 A No, I did not.

20 Q What, if anything, did you do with that after you
21 logged it in?

22 A Once I logged it in and the lab number was created, I
23 would have then transferred the evidence to our drug
24 evidence intake storage in our secure evidence room.

25 Q Now, I'm going to hand you what's been marked for

AMY STEPHENS-DIRECT EXAMINATION

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1 identification as State's Exhibit No. 6.

2 MS. WHITE: May I approach the witness, Your Honor?

3 THE COURT: Yes, ma'am.

4 Q Can you identify for me?

5 A Yes. This is a verified chain of custody for lab
6 number L1313885.

7 Q Is that the lab number that matches this BEST Pack?

8 A Yes, it is.

9 Q Is that the chain of custody you were talking about
10 that's kept, is that kept in the ordinary course of
11 business?

12 A Yes, it is.

13 THE COURT: Your Honor, the State moves Exhibit, I
14 believe it was 6, into evidence at this time.

15 MR. GORANSON: No objection from the defense.

16 THE COURT: Without objection

17 (Whereupon, State's Exhibit 6 was entered into
18 evidence.)

19 Q Looking -- or actually, looking at this chain of
20 custody, did anyone else with SLED handle that particular
21 piece of evidence?

22 A Yes, they did.

23 Q Who was that?

24 A I logged it in October 25, 2013 and transferred it to
25 our drug evidence intake storage area. On October 30, 2013

AMY STEPHENS-DIRECT EXAMINATION

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1 forensic technician Patricia Cooks retrieved it from that
2 area and transferred it to forensic scientist Willie Smith.
3 On November 27, 2013 forensic technician Nicky Perry-Hughes
4 received the evidence from Willie Smith and transferred it
5 to the drugs for return shelf. I then received the evidence
6 from the drugs for return shelf on January 14, 2014 and
7 placed the evidence into a vault container and placed the
8 evidence back onto the drugs for return shelf on January 14,
9 2014. On February 6, 2014 forensic technician Patricia
10 Cooks retrieved the evidence from the drugs for return shelf
11 and returned the evidence to Kenya Griffin with Greenwood
12 PD.

13 Q So between when you received it and when the forensic
14 chemist, Mr. Smith, received it, the only other person to
15 touch it was Pat Cooks?

16 A That's correct.

17 Q Is she still, I believe, with SLED or has she left?

18 A She's retired.

19 Q And the evidence was sealed when it came into your
20 possession?

21 A Yes, it was.

22 Q And it was sealed when it left your possession?

23 A Yes, it was.

24 MS. WHITE: Please answer any questions Mr. Goranson
25 has.

WILLIE SMITH-DIRECT EXAMINATION

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1 MR. GORANSON: No questions for this witness. Thank
2 you.

3 THE COURT: Thank you very much, ma'am. Please step
4 down. Any objection to this witness being excused?

5 MR. GORANSON: No objection.

6 (Whereupon, the witness exited the witness stand.)

7 THE COURT: You may call your next witness.

8 MR. BLACK: The State calls Willie Smith.

9 WILLIE SMITH, having been first duly sworn,
10 testified as follows:

11 DIRECT EXAMINATION

12 BY MR. BLACK:

13 Q Mr. Smith, can you state your name for the record?

14 A My name is Willie C. Smith, III.

15 Q Where do you work?

16 A South Carolina Law Enforcement Division, also known as
17 SLED.

18 Q What capacity are you employed at SLED?

19 A I work as a special agent chemical analyst in the drug
20 analysis department.

21 Q How long have you been there?

22 A Fourteen years and three months.

23 Q What kind of duties do you have with your job?

24 A Basically what I do, I'm assigned to the drug analysis
25 department. I receive evidence from around the state and

WILLIE SMITH-DIRECT EXAMINATION

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1 determine if there's a controlled substance in there and
2 issue a report stating what the controlled substance is.

3 Q Let's talk a little bit about your education and
4 training. What kind of education do you have?

5 A I have a bachelor of science in biology and chemistry
6 from the University of South Carolina. I have taken
7 additional graduate course work from the University of South
8 Carolina for the purposes of drug analysis. I attended the
9 Criminal Justice Academy to become a sworn law enforcement
10 officer, and I attended several seminars and training
11 courses for drug analysis.

12 Q Have you ever analyzed substances and like drugs or
13 controlled substances? Do you do that in your job?

14 A Yes, every day.

15 Q About how many have you analyzed over the course of
16 your career?

17 A Over 15,000 cases.

18 Q And so you would say this is a regular part of what
19 your job responsibilities are?

20 A Yes. This is what I do every day.

21 Q Have you ever been qualified as an expert to testify in
22 court?

23 A Yes, I have.

24 Q How many times have you been qualified as an expert?

25 A Seventy times in the state of South Carolina?

WILLIE SMITH-DIRECT EXAMINATION

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1 Q Have you ever been called on to give your opinion as to
2 items that you have tested?

3 A Yes, in all 70 cases I have.

4 MR. BLACK: Your Honor, at this point the State offers
5 Mr. Willie Smith to testify as an expert in drug analysis.

6 THE COURT: Any objection or any voir dire from the
7 Defense regarding Mr. Smiths' qualifications?

8 MR. GORANSON: No objection to that qualification under
9 drug analysis.

10 MR. BLACK: Your Honor, may I approach the witness?

11 THE COURT: Yes, sir.

12 Q Mr. Smith, I'm approaching you and I'm handing you this
13 item. Can you identify this for the Court, please? And
14 can you state the number?

15 A All right. The number on this case is L13-13885. This
16 is unique SLED laboratory number that was received. And
17 every time we create a BEST kit, which we send out for
18 officers to submit evidence to SLED for testing, we include
19 a BEST kit. And this B number on the case is our B number.
20 BEST number which is B235722.

21 Q When was this item submitted to your department for
22 analysis?

23 A This item was submitted to SLED on October 25, 2013 by
24 Kenya Griffin of Greenwood Police Department.

25 Q Who did you get the item from?

WILLIE SMITH-DIRECT EXAMINATION

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1 A I received the item -- the way we receive our evidence
2 in the drug analysis department, we go down to the log in
3 department. And I went down to the log in department on
4 October 30, 2013 and retrieved the evidence from Patricia
5 Cooks.

6 Q Is she employed with SLED currently?

7 A She's not employed by SLED currently. She retired.

8 Q Now, the package that you received, you can tell if
9 it's been tampered with. Was there any tampering that was
10 done to that package when you received it?

11 A One of the first things I do when I get the BEST kit,
12 the evidence I submit for testing, is I examine the bag. I
13 write the lab number of the case. In this case the lab
14 number is L1313885. And I write the words sealed intact and
15 my initials on it. And if this evidence was tampered with
16 in any form whatsoever I return it to the agency.

17 Q In this particular case, was it with?

18 A No, this evidence was not tampered with in any way
19 whatsoever.

20 Q So you continued on with the process. Is that correct?

21 A Yes. I continued to test the substance that was
22 submitted for analysis.

23 Q Let's talk a little bit about the testing. What was
24 the weight of the substances that were tested?

25 A There were two -- when I received this evidence, this

WILLIE SMITH-DIRECT EXAMINATION

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1 BEST bag that contained the evidence, there were two plastic
2 bags inside the BEST bag that had things in them, which were
3 rock substances. Item 1.1 was the plastic bag that
4 contained the rock substance. And item 1.2 was also a
5 plastic bag that contained rock substance.

6 Q And you tested both of those items?

7 A Yes, I tested both items on a molecular level.

8 Q Explain to the jury how that works.

9 A Basically what I did is a chemical test. And what the
10 chemical test do, I identify through-- it's like a color
11 test, and it tells me which function or groups it belongs
12 to. Next I will want to identify it on a molecular level,
13 and I use two type of instrumentation. In this case, I used
14 gas chromatography and mass spectrometry to identify it on a
15 molecular level which breaks it down so that I can tell
16 exactly what it is.

17 Q Is this how you often test substances such as these?

18 A Yes. It's how every drug chemist across the world test
19 substances like this.

20 Q Did you get a weight on the substances that were
21 tested?

22 A Yes. Item 1.1 had a weight of 1.4 grams, and item 1.2
23 had a weight of 10.5 grams.

24 Q Do you have an expert opinion on what the substances
25 tested for?

WILLIE SMITH-DIRECT EXAMINATION

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1 A Yes. Item 1.1 was found to be cocaine based crack, and
2 it's a schedule 2 drug, and it had a weight of 1.2 grams.
3 And item 1.2 was cocaine based crack. It's a schedule 2
4 substance and had a weight of 10.5 grams.

5 Q Can you explain briefly what the basis of that opinion
6 is?

7 A The basis of that opinion is stating that the substance
8 that you see in these two bags right here that I tested both
9 contain cocaine based crack, or just crack is known as the
10 street name. And they are, like I said before, item 1.1 had
11 a weight of 1.4 grams and item 1.2 had a weight had a 10.5
12 grams.

13 MR. BLACK: Your Honor, at this point the State moves to
14 place this exhibit into evidence.

15 MR. GORANSON: I'm going to object, Your Honor. I don't
16 believe he's laid the proper foundation as how to he
17 identified what these substances were.

18 THE COURT: Let me get y'all to come up real quick.

19 (Whereupon, a bench conference took place while the
20 jury panel was in the courtroom.)

21 Q Mr. Smith, you were talking previously about how you
22 went about testing these items. And you used some words
23 that quite frankly I'm not very familiar with. Can you go
24 back and kind of explain those again how you tested them?

25 A First, the chemical test that I did basically is a

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1 color test. It tells me the functional groups. And in this
2 case the chemical test that I did in this case was a cobalt
3 thiocyanate standard. It gives -- I put these substance --
4 I take a sample from here of each of these items. And it
5 gives me an indication of a blue color if I have cocaine
6 present. Next I do an extraction of the samples, and the
7 way I extract these samples, due to it being crack, I need
8 to a physical test to prove what it is. I extract it in
9 Hexane. And from the extraction of Hexane I was able to
10 take that extraction and run it on our two instrumentation
11 which is gas chromatography and mass spectrometry. And
12 basically gas chromatography is what it sounds, it uses a
13 gas. It separates the item on the column. And as it
14 separates it, it give me a retention time. And from that
15 retention time that separates it, I'm able to take an
16 internal standard and match it with the known internal
17 standard that I run so I can match up the -- make sure that
18 it's coming out at the same time. The second part, which is
19 mass spectrometry breaks it down into ions. Once it gets
20 ionized in an ionization chamber and from there I'm able to
21 match it with my standard from what my unknown is and I'm
22 able to identify it on a molecular level once it breaks it
23 down to its basic form. And I'm able to identify it as to
24 being cocaine.

25 Q Do you use this procedure for all of your testing when

WILLIE SMITH-DIRECT EXAMINATION

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1 you test drugs and other items that come to you?

2 A Yes. It's the standard practice around the world for
3 identifying drugs. In identifying any substance you have to
4 use a GCMS, gas chromatography mass spectrometry.

5 Q So every agent at SLED uses the same method?

6 A That is correct.

7 MR. BLACK: Your Honor, at this point the State moves to
8 place this exhibit, and I'm not sure of the number, into
9 evidence.

10 MR. GORANSON: No objection at this time.

11 MR. BLACK: State's Exhibit No. 7.

12 THE COURT: All right. State's Exhibit 7 is in evidence
13 without objection.

14 (Whereupon, State's Exhibit 7 was entered into
15 evidence.)

16 MR. BLACK: Thank you, Your Honor. I ask to publish it
17 to the jury as well.

18 THE COURT: Yes, sir.

19 Q Mr. Smith, I'm going to just point out some things.
20 This is the larger bag that my finger is on right here.
21 What was the weight of that again?

22 A The larger bag, which should be item 1.2, has a weight
23 of 10.5 grams.

24 Q And this smaller bag which I'm pointing to right here?

25 A The smaller bag has a weight of 1.4 grams. And it's --

WILLIE SMITH-DIRECT EXAMINATION

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1 for reference as far as a gram goes, everybody knows what a
2 Sweet 'N Low packet of sugar looks like. Sweet 'N Low
3 packet of sugar is one gram.

4 Q And there's some writing on the packet as well. It
5 looks like it's red in color. Can you explain that to jury
6 what that is?

7 A Any time I touch an item, I uniquely identify it. In
8 this case it was item 1.1. I put my initial and the
9 laboratory number so that when I seal the evidence and then
10 get it -- to testify it in the court I'm able to identify
11 the evidence that I received for this BEST case.

12 Q When you get done with running all your tests what do
13 you do with the items after that?

14 A I seal it back in the bag and I put my initials and the
15 date from when I sealed it. And it should be sealed from
16 when I did my testing back on October 4, 2013.

17 MR. BLACK: I beg the Court's indulgence.

18 Q Mr. Smith, a couple more questions. Just in general
19 about this substance, can you speak to the substance of
20 crack. Does it change over time --

21 MR. GORANSON: Objection. The witness has not been
22 qualified as an expert in that area.

23 THE COURT: He's been qualified as an expert in chemical
24 analysis.

25 MR. GORANSON: Your Honor, I think that may be different

WILLIE SMITH-DIRECT EXAMINATION

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1 from what happens to chemicals over a period of time.

2 THE COURT: Overruled. I'm going to allow it.

3 Q Mr. Smith, you can answer the question. If you need me
4 to repeat it, I can.

5 A Could you repeat the question?

6 Q Can you talk a little bit about this particular
7 substance right here, this crack, does it change over time
8 based upon, like, chemical make up that's within the crack?

9 A No. Crack has a melting point of 96 to 98 degrees.
10 Depends on how you make it up. Sometimes it changes color
11 or has more moisture or less moisture or something. But
12 chemically and structurally and structurally it remains the
13 same.

14 Q So, for example, in this picture, this item that I'm
15 pointing to, the larger amount has a different color than
16 this picture. Can you explain why that's so?

17 A It's basically how they made it up and the products
18 that they used to make it up. When you make up crack, all
19 you take is cocaine in the powder form. And the way you get
20 the powder it could be different colors. Depends on if you
21 add baking soda or you add some sort of other substance to
22 it and you just put some water to it and you cook it in a
23 pan. And it's the stuff mixed together, the baking soda,
24 water and the cocaine in hydrochloric form cools down,
25 that's where they get that word crack because it makes a

WILLIE SMITH-CROSS-EXAMINATION

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1 loud cracking noise when it's cooling down. And that's how
2 you get the substance right there.

3 Q So not everything -- it doesn't always look the same?

4 A No, it varies in color all the time.

5 Q As it ages, does that change the way in how it looks
6 and kind of the makeup of what it is?

7 A No. Structurally it's still the same. That's the
8 reason why I want to test it on a molecular level because I
9 want to prove that it is what is.

10 MR. BLACK: I beg the Court's indulgence. No further
11 questions. Answer any questions that Mr. Goranson has for
12 you.

13 CROSS EXAMINATION

14 BY MR. GORANSON:

15 Q Good afternoon, Mr. Smith.

16 A Good afternoon.

17 Q You testified that the BEST kit does a good job of
18 telling you whether anybody has tampered with the evidence
19 since it's been in that bag, right?

20 A The BEST kit just -- I receive the evidence. That's
21 how I receive the evidence. Before I do an examination to
22 the evidence, I want to make sure that the bag is sealed
23 before I do any testing to the evidence.

24 Q Right. And so that can tell you if there's been any
25 tampering with the evidence between when it was put in the

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- 1 bag and when you received it, right?
- 2 A Right.
- 3 Q It doesn't tell you anything about whether the evidence
4 was tampered with before it was put in the bag?
- 5 A No.
- 6 Q You testified earlier about a weight equivalent. I was
7 going to ask you about that. About a packet of a Splenda or
8 Sweet 'N Low is one gram?
- 9 A That's correct.
- 10 Q And, for instance, would a penny, 2.5 grams, are you
11 familiar with that?
- 12 A No, I'm not familiar with that.
- 13 Q We'll stick with Splenda, then. The test you conduct
14 doesn't have anything to do with purity of the drug, right?
- 15 A No. The only thing we report out is what the substance
16 is.
- 17 Q So it could be any concentration, as long as you've
18 identified it, tested it and it shows -- the control
19 substance shows up in your test?
- 20 A Right. The substance that I tested was cocaine based.
- 21 Q But you didn't test all of that product? You didn't
22 test every molecule in that bag, did you?
- 23 A I didn't test the total sample. I took a
24 representative sample.
- 25 Q What was the sample?

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- 1 A The sample was from the evidence that was received.
- 2 Q Right. But how much did that sample weigh?
- 3 A Less than a hundredth of a gram.
- 4 Q So you test less than one hundredth of a gram that was
- 5 in that bag?
- 6 A That is correct.
- 7 Q I've seen on some SLED reports that there's a margin of
- 8 error in terms of weight. Is that correct, any time you
- 9 make a measurement there's a margin of error, right?
- 10 A There's a measurement of uncertainty. That's what
- 11 we're doing right now. But the measurement of uncertainty
- 12 for us is 0.02 percent right now.
- 13 Q Okay. Thank you.
- 14 THE COURT: Anything on re-direct?
- 15 MR. BLACK: No, sir, Your Honor.
- 16 THE COURT: Thank you very much, sir. You may step
- 17 down.
- 18 (Whereupon, the witness exited the witness stand.)
- 19 THE COURT: You may call your next witness.
- 20 MR. BLACK: Your Honor, at this point the State rests.
- 21 THE COURT: All right. Ladies and gentlemen, the State
- 22 has rested their case. And I'm required at the close of the
- 23 State's case to take up some motions -- some legal motions
- 24 with the attorneys. So I'm going to ask you if you would to
- 25 step back into your jury room. Have no conversation. I'm

1 going to take up these matters of law and then when we get
2 started -- when I've concluded that we'll bring you out and
3 continue, okay. So please retire to your jury room while I
4 take up these matters of law.

5 (Whereupon, the jury exited the courtroom at 1:49 p.m.)

6 THE COURT: Mr. Goranson, I'll be happy to take up any
7 motions you have at the close of the State's case.

8 MR. GORANSON: Thank you very much, Your Honor. At this
9 point I would move for a directed verdict in this case on
10 the grounds that Mr. Wrapp was never identified officially.
11 There is some testimony that Mr. Wrapp was identified during
12 a traffic stop. A man was stopped in his car and
13 questioned. He identified himself as Stanley Wrapp, didn't
14 have a driver's license. There's no booking photo, there's
15 no testimony from anybody who booked him at the jail.
16 There's been no fingerprints linking Mr. Wrapp up with who
17 this person says he is. People give false names all the
18 time to the police. And I just don't think that a person
19 saying, yeah, I'm Stanley Wrapp is sufficient to identify
20 him in this case as a person who possessed the drugs. And
21 as to the trafficking charge, I would move for a directed
22 verdict based on the weight. The SLED examiner said there
23 was a margin of error for the weight. That, I believe,
24 could possibly put us underneath the threshold for
25 trafficking.

1 THE COURT: All right. Solicitor?

2 MS. WHITE: Your Honor, with regard to the
3 identification issue, Officer Lovett was shown a picture,
4 identified that person as Mr. Wrapp that he had arrested on
5 that day. And he also testified that he had checked DMV
6 records and identified Mr. Wrapp from DMV records. So there
7 is evidence in the record that the State -- that the jury
8 can infer that it was Mr. Wrapp based on the DMV records and
9 then later the identification in person and in court when
10 shown the picture. Your Honor, with regard to the margin of
11 error, I think that goes more towards a weight and possibly
12 a lesser included and not to a directed verdict motion on
13 trafficking.

14 THE COURT: I'm going to respectfully deny your motion.
15 I think there was -- and, again, we're at the stage now
16 where the Court is not concerned with the weight or the
17 value given to evidence, but simply the existence of it.
18 There was testimony by both officers that they knew Mr.
19 Wrapp, personally knew him, and then there was the testimony
20 regarding the further investigation of his DMV records in
21 establishing his driving status. The weight issue, it is an
22 evidentiary issue, but I think it's a factual issue for the
23 jury to decide. There was testimony regarding a variance or
24 a tolerance. But, again, I think that's the matter for the
25 jury at this time. So I'm going to respectfully deny your

1 motions.

2 MR. GORANSON: And then the only thing I would have
3 right now, Your Honor, is I sent a subpoena out to Officer
4 Brandon Strickland who is in charge of the DEU. And there
5 were some delays. We tried to get it out Friday. We
6 couldn't get it to him until today. He's here in the
7 courtroom. If I could just have a couple of minutes to talk
8 to him.

9 THE COURT: Okay.

10 MR. GORANSON: That way I can see if I need to call him
11 as a witness and we can move on.

12 THE COURT: Take what you need.

13 MR. GORANSON: Thank you.

14 THE COURT: We'll just be at ease, ladies and gentlemen.

15 (Brief recess.)

16 THE COURT: Mr. Goranson, have you had an opportunity to
17 look into the Defense's position on presenting a Defense?

18 MR. GORANSON: We will not be presenting a case, Your
19 Honor.

20 THE COURT: If I may?

21 MR. GORANSON: Yes, sir.

22 THE COURT: And this is really just for convenience of
23 the jury so they don't feel much like a yo yo. May I
24 suggest that we go ahead and let's take up -- let you renew
25 your motions and make any motions subsequent to all of the

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1 evidence being presented. And let's take that up. But then
2 when the jury comes out I'll recognize you for the Defense.
3 You can rest on the record.

4 MR. GORANSON: Sure.

5 THE COURT: And then we can go right into the argument,
6 okay. So at this time I'll take up any -- based on the
7 information you've given the Court that the Defense is not
8 going to put up a case, let's go ahead while the jury is out
9 and take up your motion for the close of all the evidence.

10 MR. GORANSON: Thank you, Your Honor. We have no
11 problem with that. We would renew all of our objections
12 from the beginning of the trial until now, as well as our
13 motions for directed verdict. And if you need me to clarify
14 any of those objections or restate any of them, I'll be
15 happy to. Otherwise, I'll sit down.

16 THE COURT: I'm going to respectfully deny those. As I
17 said earlier, I think this is a factual issue for the jury
18 to decide. And so the record's clear, note that all of your
19 previous objections have been noted and have been renewed
20 pursuant to your motion here. Now, as far as the charge
21 goes, folks, I've prepared a charge. Now, my charge is
22 pretty basic. You know, it's got the basic boiler plate
23 type language about the presumption of innocence. I've got
24 a charge regarding reasonable doubt, the duties of the jury
25 versus the judge and they're the tryers of the facts. The

1 credibility of witnesses and their role as the fact finders.
2 I have a charge on expert witness, how that's to be viewed.
3 I have a charge under Defendant's failure to testify. I've
4 modified that. I basically put two charges kind of into
5 that one. And I've basically done with it. I've said that
6 normally if a Defendant is present I just give the regular
7 failure to testify. But there is case law that states there
8 needs to be some additional comment made on a Defendant who
9 doesn't appear. So what I've got here is I say, "I now
10 instruct you and I emphasize that the fact that the
11 Defendant, Stanley Lamar Wrapp, did not appear or testify in
12 this case is not a factor to be considered by you in any way
13 in your deliberations and in your consideration on the
14 question of guilt or innocence of Mr. Wrapp. It must not be
15 considered by you in any manner whatsoever. It is well
16 established in our law that a Defendant's failure to appear
17 at his or her trial must not be construed as an admission of
18 guilt. A Defendant has the Constitutional right to remain
19 silent, and the assertion of this right must not be
20 considered by you in your deliberations." And then the
21 balance of it is the standard failure to appear stuff.

22 MR. GORANSON: The only -- two things I can think of,
23 Your Honor, as far as the failure to appear, I think a more
24 plainly stated less negative way would just be to say he is
25 not here, he did not appear.

1 THE COURT: All right.

2 MR. GORANSON: And then the only other thing I can think
3 of is I don't know if you charge search for the truth in the
4 jury charge at the end, but we would object to that.

5 THE COURT: No, you know, that was my case.

6 MR. GORANSON: I didn't know that.

7 THE COURT: The Supreme Court beat me up over it. I took
8 all that out. But I'll double check.

9 MR. GORANSON: Thank you.

10 THE COURT: Yeah, it's all out.

11 MR. GORANSON: Thank you, Judge.

12 THE COURT: Now, and let me go a little further. And I
13 don't want to assume anything, but I did in preparing
14 charge, but I can always remove things or put things back
15 in, however we decide to go. Did you want lesser included
16 charges?

17 MR. GORANSON: Yes, sir.

18 THE COURT: All right. What I did, and I think the
19 evidence would support it, so I prepared a charge that
20 basically charges -- well, first I got the charge just
21 driving under suspension. That's the one charge. Then I've
22 got a charge trafficking in cocaine base. And then I have,
23 "If you determine, based upon the evidence presented, that
24 the State has not proven trafficking in cocaine base beyond
25 a reasonable doubt you should then consider whether or not

1 the State has proven beyond a reasonable doubt that the
2 defendant is guilty of possession with intent to distribute
3 cocaine base." Then I go through the possession with
4 intent charge. Then I've got one, "Now, if you determine
5 that the State has not proven trafficking in cocaine base or
6 possession with intent to distribute cocaine base beyond a
7 reasonable doubt, you should then consider whether or not
8 the State has proven beyond a reasonable doubt that the
9 Defendant is guilty of possession of cocaine base." So I've
10 got trafficking, PWID, and simple possession.

11 MR. GORANSON: Thank you.

12 THE COURT: Okay. Mr. Black or Ms. White, any issue
13 with that? I think the evidence supports all of those, I
14 think, depending on how the jury takes it. I mean, I think
15 you clearly have -- there is evidence in the record to
16 support trafficking if the jury views it that way. But
17 there was also evidence that the jury could find otherwise.
18 On this verdict form, I've just got -- the way I've done the
19 verdict form on the -- where we have the lesser includes an
20 there's multiple ones, again, I always think simple is best.
21 And so under the trafficking -- and the DUS is at is. It's
22 just either not guilty or guilty on DUS. On trafficking
23 I've got the jury has four options. They either can find
24 the defendant guilty of trafficking, guilty of PWID or
25 guilty of simple possession or not guilty. Is that -- and I

1 just put all those under the headings.

2 MR. GORANSON: Sounds like a simple way to do it.

3 MS. WHITE: I like simple, too, Judge.

4 THE COURT: We're going to be at ease for just a moment
5 while I get this filled out. So if anyone needs to use the
6 restroom or anything before we get started, go right ahead.
7 And then we'll get started in the next few minutes.

8 (OFF THE RECORD)

9 THE COURT: I'm obviously assuming, Mr. Goranson, you
10 want to argue last since you put up no evidence?

11 MR. GORANSON: Absolutely, Judge.

12 THE COURT: Okay. All right, please bring the jury.

13 (Whereupon, the jury entered the courtroom at 2:29
14 p.m.)

15 THE COURT: Ladies and gentlemen, thank you for
16 patience. That took a little bit longer than I anticipated
17 it would, but there's a good reason for it. I took up the
18 motions at the close of the State's case. Mr. Goranson was
19 kind enough to inform the Court at that time that the
20 Defense intended -- when you come back out that the Defense
21 intended to rest their case. And I appreciate him letting
22 me know that because what happens is I have to take up
23 motions at the close of the State's case, which I did. But
24 I also have to take up motions at the close of all the
25 evidence, which is at the close at the Defense's cases.

1 Well, he was kind enough to inform me during the break that
2 the Defense was going to rest when you came back out. So I
3 went ahead and took up those motions while we had you out,
4 rather than have you come out, sit down, recognize the
5 Defense, they rest, ask you to go back out and take up
6 motions again. So we did ahead and did that. And we also
7 went over the jury charge and everything, so we're not ready
8 to proceed. But, for the record, I want to recognize Mr.
9 Goranson on behalf of the Defense.

10 MR. GORANSON: Thank you, Judge. We will not be
11 presenting a case for the Defense.

12 THE COURT: So the Defense has rested their case, ladies
13 and gentlemen. So we're ready now to proceed to closing
14 arguments. Now, if you recall when we started this case, I
15 instructed and told you that the opening statements of the
16 attorneys is not evidence. Well, that holds true as well
17 with their closing arguments. And it's the same premise.
18 The lawyers are not under oath. They're not testifying in
19 this case. So what they're going to share with you in their
20 closing arguments is merely their belief or their contention
21 as to what the evidence in this case has shown. So it's not
22 evidence. You're not consider it as evidence, but you
23 should listen carefully to them because it's going to be
24 their opportunity to share with you what they believe the
25 evidence in this case has shown or hasn't shown. And so

1 it's important that you listen carefully as they address you
2 with their closing arguments. Once they've concluded those
3 arguments I'll then give you the charge under the law. Then
4 you will have everything you need to go back into the jury
5 room and deliberate and discuss and arrive at a verdict in
6 this case, okay. So without any further ado, I would
7 recognize the State for its closing arguments.

8 MR. BLACK: Ladies and gentlemen of the jury, when I
9 first made my opening statement I mentioned a phrase to you,
10 the State has the burden to prove its case beyond a
11 reasonable doubt. I'm sure many of y'all remember that,
12 that I said that in the very beginning of the case. And I
13 said that there were two parts to that. There was a proving
14 part and there was a reasonable doubt part. And the things
15 that the State had to prove during this case, we had to
16 prove that the Defendant was driving under suspension and
17 that he was trafficking crack cocaine.

18 Let's start with the easy one first, driving under
19 suspension. There were three elements to that charge that
20 we had to prove. We had to prove that he was driving, he
21 was under suspension and it all happened in Greenwood
22 County, those three things. Ladies and gentlemen, you heard
23 testimony from the officers that are sitting right here
24 behind us. You heard that that the defendant, Mr. Wrapp,
25 was driving his vehicle on Main Street just right up the

1 road here in Greenwood County. He was driving his car.
2 They passed. They clearly identified him. They turned
3 their car around and they went and pulled him over. So he
4 was driving the car, it happened in Greenwood County.

5 Now, the last part of that element is was he under
6 suspension or not. And you heard Ms. Wearing who got up
7 here on the stand. She came from the Department of Motor
8 Vehicles and testified that indeed he was under suspension
9 since 2008. They sent notices to his address letting him
10 know that he indeed was suspended. In fact, we know that he
11 got those because in the evidence, which you will have with
12 you when you go back to the jury room, you will that they
13 were sent via certified mail to his address. And you also
14 will notice that they were received via certified mail by
15 Angela Wardlaw. Now, who is Ms. Wardlaw? Y'all may or may
16 not remember, but Lieutenant Pope testified that Ms. Wardlaw
17 came and got the vehicle after they arrested Stanley Wrapp.
18 It was her vehicle and it was Stanley Wrapp's girlfriend.
19 So she did get the notice saying that he was under
20 suspension.

21 Now, moving on to the second charge, the trafficking in
22 crack cocaine. There are four elements to that offense, as
23 well. And they're relatively easy. The first one is
24 Greenwood County. It indeed was a cocaine based drug. It
25 was between 10 and 28 grams, and that he was in knowingly,

1 actual or constructive possession of that drug. Now, let's
2 think about what actually happened, the testimony that you
3 heard, the evidence you heard.

4 Let's start with the easy one first, Greenwood County.
5 Once again, it happened just right down the road. So that
6 takes care of that. It happened in Greenwood County. It
7 was a cocaine based drug. You heard the last individual
8 came down from SLED, Mr. Willie Smith. Willie Smith has
9 been qualified as an expert. He's testified in court
10 numerous times. He testified that he ran all these tests
11 that I'm not even going to begin to try to pronounce, and it
12 indeed came back as crack cocaine, so it was a cocaine based
13 drug. You heard his testimony. The last part -- or the
14 second -- the third part is that it was between 10 and 28
15 grams. Now, ladies and gentlemen, you heard Mr. Smith
16 testify as to the weight. There were two different bags.
17 And in a minute you're going to have a chance to go back
18 there and look at the two different bags. One of them was
19 10.5 grams, this bigger one right here, and the other one,
20 the smaller one, 1.4 grams.

21 Now, the 10.5 grams, that was found in his left front
22 pocket. You heard that testified to by both Lieutenant
23 Lovett and Lieutenant Pope. 1.4 was found in the vehicle.
24 So that -- when you do the math, that adds up to 11.9 grams.
25 That's between 10 and 28 grams. 11.9 is between 10 and 28

1 grams.

2 And the last part was that he was in knowing and actual
3 or constructive possession. That's the last element.
4 Ladies and gentlemen, it was in his pocket. He had actual
5 knowledge that the drugs was on -- it was in his left front
6 pocket. That was 10.5 grams. The other 1.4 was in the
7 vehicle. And he was the only one driving the vehicle.
8 There's nobody else that the drugs could belong to. Had to
9 belong to him.

10 Now, ladies and gentlemen, there was talk about a CI,
11 confidential informant, and you heard testimony from
12 Lieutenant Lovett and Lieutenant Pope during the course of
13 trial that being in the Drug Enforcement Unit, CIs are often
14 utilized in their investigation. They have to use the
15 smaller fish to go after the bigger fish. And in this case
16 they did use a CI. He set the whole thing up. But the CI
17 never made any contact with Defendant that day. He just
18 called and made a transaction. That's what happened.
19 Somehow he got in contact with him and set it up. But the
20 agents who are sitting over here, they saw him driving the
21 vehicle, they pulled him over because they knew that he was
22 suspended and they found the drugs on him. They also, if
23 you'll remember, that when they searched the vehicle they
24 found a couple of items. What were those items? They found
25 a knife. Found a set of digital scales. Found a razor

1 blade. What are those used for, ladies and gentlemen? Any
2 time you make a transaction you don't want to get cheated,
3 you don't want to give too much a way. So I guess what drug
4 dealers, I've never been in this position before, they
5 measure it out and make sure that what they're doing is
6 they're giving their client the right amount. It's what
7 drug dealers do. They have these items to make sure when
8 they're selling their product they're absolutely getting it
9 right. And these were all found in the vehicle the
10 defendant was driving on that day.

11 Now, that kind of deals with the first part the State
12 has to do. We have to prove that to you. The last part is
13 beyond a reasonable doubt, the standard of proof that the
14 state has to overcome when we're putting our case in your
15 hands. Like I said in the beginning of this trial, beyond a
16 reasonable doubt is not beyond all doubt, not beyond a
17 shadow of a doubt. It is beyond a reasonable doubt. And
18 the best way for me to kind of get this across to you guys
19 is by using the language that the Judge will use here in a
20 little bit. Is by that he will say that a reasonable doubt
21 is a doubt that once close of all the evidence the State has
22 presented their witnesses, testimony, you're firmly
23 convinced of those facts. That's beyond a reasonable doubt.

24 Now, I grew up on a farm in Abbeville County, so even
25 those words like firmly convinced are somewhat difficult

1 sometimes for me to understand. So I like to think in
2 examples. And the best way that I can explain this to you
3 is by giving an example. Let's say that it's March or April
4 and I get home at night, I'm trying to go to bed and I lay
5 down on my pillow and my nose -- I've got all kind of
6 congestion, can't breath at night because I have the worst
7 allergies in the world. So usually what I do is I take a
8 Benadryl in March or April because I've got to breathe. If
9 not, I'm not getting any sleep. So let's say I take a
10 Benadryl, and if any of you have ever taken a Benadryl you
11 know what it does, it makes you a little drowsy and it makes
12 you go to sleep and you don't remember anything. So let's
13 say during the course of that night I take the Benadryl and
14 I get a good night's sleep, don't wake up at all. The next
15 morning I walk outside of my house and I notice that there's
16 a puddle in the front yard and the grass is wet, the trees,
17 they're wet. I got a rain gage out back and there's rain in
18 the rain gage. Look across my neighbor's yard, same thing,
19 his grass is wet, his trees are wet, there's rain in his
20 rain gage. So I get in my vehicle and I start driving to
21 work and on the embankment over there I see some mud.
22 Ladies and gentlemen, what happened? My common sense, my
23 life experience tells me that during the course of the night
24 it rained. One hundred percent absolutely it rained. Wait,
25 I didn't see it rain. I didn't hear it rain. But my common

1 sense, my life experience says it rained, there's no doubt
2 about it.

3 Ladies and gentlemen, that's what reasonable doubt is.
4 And this particular case we have 11.9 grams of crack cocaine
5 on the defendant, ten-and-a-half in his pocket, another 1.4
6 in the vehicle. We have a set of scales in his vehicle. We
7 have a knife with residue on it that's used for cutting it
8 up when you're making transactions. There's no other
9 explanation, ladies and gentlemen. There's no other
10 explanation. Because of this reason we ask you to find the
11 Defendant guilty of driving under suspension. He was
12 driving under suspension. These agents knew that he was
13 driving under suspension. They saw him driving the vehicle.
14 They pulled him over. We're also asking for you to find him
15 guilty of trafficking cocaine -- crack cocaine, because
16 that's what he was doing. He had between 10 and 28 grams of
17 crack cocaine on him. He had a set of scales on him. He
18 had a knife for cutting it up.

19 Ladies and gentlemen, the State wants to thank you for
20 your patience. Thank you for your attentiveness to this
21 trial, and we look forward to your verdict. Thank you.

22 THE COURT: Thank you, Mr. Black. Mr. Goranson.

23 MR. GORANSON: Stan's not guilty of trafficking crack
24 cocaine. And before I get to what I had planned to say here
25 this afternoon, I would like to address briefly what Mr.

1 Black said about his reasonable doubt argument. And what I
2 would like to point out to you is that his rain gauge has
3 probably never lied before. That is something that he has
4 built in trust, okay. He's seen that day in and day out.
5 And you as jurors, fact finders, in this case have witnesses
6 from the State. And the only way that you can evaluate this
7 case is by their testimony from the witness stand, so
8 there's not this huge back history. You have to just go on
9 what you heard from the witness stand. And we'll talk some
10 more about reasonable doubt in a second.

11 But what I wanted to talk to you about first was that
12 the issue in this case is not whether he was guilty of
13 driving under suspension. The issue is was he guilty of
14 trafficking crack cocaine. And before we get to talking
15 about the facts of this case, I'd like to talk to you myself
16 a little bit about burden of proof. And the burden of proof
17 in this case, as the Judge will tell you and as the
18 Solicitor stated, is on the State. And that means that if
19 you have any questions that were unanswered by this trial,
20 any evidence that you would have liked to have heard that
21 you didn't get to hear today, that's on the State. The
22 Judge is going to tell you that, too.

23 And you might say why is that. Why is it like that? I
24 ask myself when I first started practicing law why is it
25 like that. And I read about this case in Ancient Rome there

1 was a trial going on, a trial by a jury. And the young
2 prosecutor was getting frustrated. The Defense was denying
3 the allegations and said, "Your Honor, what are we going to
4 do with all these guilty people if all they have to do is
5 deny it?" And the Judge thought about his question and he
6 said, "Mr. Prosecutor, young sir, what would become of
7 innocent people if all you had to do was accuse them?" And
8 I think that illustrates why it's important for the burden
9 to be on the State, why they have to meet the challenge
10 because each one of us might not have a reason why somebody
11 would say something about us. You might not know. It might
12 be impossible to defend. So that's why our system runs that
13 way.

14 The second thing I wanted to talk to you about is
15 beyond a reasonable doubt. Let's talk about what does that
16 standard mean, how does it fit in with the spectrum of
17 justice in this country. It takes probable cause to arrest
18 somebody for a crime. Conviction is beyond a reasonable
19 doubt. In between those, probably did it, think he did it,
20 or it's good evidence to suggest he did it. In a civil
21 case, you can get millions of dollars for somebody using a
22 much lower standard than what we have in criminal cases.
23 It's a preponderance of the evidence. Just a little bit
24 more, millions of dollars. In Family Court the standard is
25 not beyond a reasonable doubt for taking someone's kids away

1 from them, okay. This is higher than the standard used in
2 Family Court to take somebody's kids away. Beyond a
3 reasonable doubt. That's what we're talking about here.
4 Firmly convinced.

5 So with that, let's look at the facts in this case.
6 You heard the SLED analyst testify that this chemical
7 substance doesn't change, it stays the same. Look at the
8 pictures that you have in evidence compared to the evidence
9 in the bag. See what you think about that. He told you
10 that he tested .01 grams of this substance. They're saying
11 there's ten grams there. Think about that when you're
12 looking at the evidence in this case. He told you he
13 couldn't tell you what the purity of this substance was.
14 Think about that, too.

15 So let's talk about the officers. All the officers
16 testified that they believe in having open, honest
17 investigations, being honest with the citizens about what
18 they're doing, being honest in the courtroom, telling them
19 the truth about their investigation so they can get the
20 right person for the right crime. Now, Lieutenant Lovett
21 first testified that it was just a coincidence that they ran
22 into Stanley Wrapp driving down Main Street. Well, that
23 turned out not to be true. And you heard that on the stand
24 from their witnesses. They testified that they videotape
25 traffic stops. That's a common occurrence. Yet they didn't

1 videotape this one. He told you that confidential
2 informants use video cameras to document when they buy drugs
3 from drug dealers, but they don't have that in this case.
4 And the reason they said, "Oh, we don't have a camera in the
5 patrol car that we were using is because it's undercover."
6 What is a confidential informant when they go in and buy
7 drugs from somebody? Do you think they go in there with a
8 shoulder held video camera to buy -- to videotape this
9 transaction? No, they don't. They have a secret camera.
10 It looks like a button in their shirt. They can't have any
11 in the cars? They got blue lights in the car. There's
12 something that they're not showing you here. They're not
13 being open and honest with you about all the facts in this
14 case.

15 You heard Agent Pope testify that he wrote the report,
16 that he believed in writing honest reports. And he said
17 sometimes we leave out the names of CIs because we don't
18 want to disclose their identity, it could hurt them. Well,
19 I believe that everybody has a right to know who's accusing
20 them. I think we can all agree about that. But he didn't
21 just do that in this case. He wrote in his report that he
22 was driving down Main Street when he ran into Stanley Wrapp.
23 He left that out. He left an entire part out about the
24 confidential informant. And I don't know why he would do
25 that if he was being honest with us about what was going on.

1 Additionally, there was this disclosure about different
2 facts, oh, -- yeah, Mr. Ross was there and, you know, we
3 tape stuff but not always, and I put everything in the
4 incident report, but I didn't put that in this incident
5 report. When you hear -- some of you are parents. You may
6 hear a story from your child and there are facts just kind
7 of coming out one after another after you start asking
8 questions. Don't you feel like things are being hidden from
9 you? Is that the kind of justice we want in this country?

10 You know, there's three versions. There's Lieutenant
11 Lovett's version. Oh, we just ran into him. Didn't tape
12 anything. There's Agent Pope's report. There's a CI
13 involved. Then he testified there was a CI involved. So
14 that was a different story that we got once he was on the
15 witness stand. And then there's Mr. Ross -- Eric Ross'
16 testimony, the guy who supposed to set all this stuff up.
17 And they didn't present any testimony from him, either. And
18 what we did hear about him was he was on house arrest, there
19 were complaints about him dealing drugs, and they went to
20 his house and they found drugs. Why -- obviously that
21 person has great incentive to try and do whatever he can to
22 get out of the trouble that he's in. Did he lie to the
23 investigators? Did he talk to Mr. Wrapp? We don't know.
24 That's on the State. Those are questions that the State
25 should have answered for you, and they didn't do that in

1 this case.

2 When I think about this case -- any case that's tried
3 to a jury I think about the value of human dignity, the
4 value of our freedom. And this is really about the price
5 that the government has to pay if they want to take our
6 freedom from us, okay. You don't take it away by telling
7 different stories from the witness stand, by hiding things
8 from people. You know, if there's nothing wrong why are you
9 hiding things? And I think that's one of the questions that
10 really bothers me about this stuff. If you're doing
11 everything legitimately why hide it? And I don't think that
12 that's a fair way of going about this. So what I want to
13 say to you is if you have doubts about this case, if you
14 have doubts, the reasonable doubts of the different stories
15 that were told. If you have doubts, have them now, okay.
16 You're not going to be able to do anything about it after
17 you come to a decision today, okay. Each one of you has a
18 responsibility to keep an open mind and make up your own
19 mind about what you believe happened. Listen to each other.
20 But that doesn't mean that you have to believe what other
21 people tell you, okay. You can be convinced in your mind
22 about what happened. So stick to your opinion if it's your
23 opinion, okay.

24 Please, please, please beware the danger of wrongfully
25 convicting this man in trafficking in crack cocaine. I

1 don't have the last words here, you do. This is your forum
2 here. And what I would ask you do is consider all the
3 doubts that we've raised and come back with the only verdict
4 supported by this evidence, not guilty of trafficking crack
5 cocaine. Thank you.

6 THE COURT: Thank you, sir. Ladies and gentlemen,
7 during the course of the trial I told you that you were the
8 judges of the facts and I'm the judge of the law. So during
9 the course of the trial while the attorneys have been
10 presenting to you the facts in this case, it's been
11 appropriate for me to be up on the bench and out of the way.
12 But, anyway, it's been appropriate for me to be on the bench
13 out of the way because as they're presenting to you the
14 evidence, you are the folks that decide what the facts are
15 in the case. So it's been appropriate for me to be out of
16 the way. But we've now reached a portion of this case where
17 you and I are in this together; you as the judges of the
18 facts and me as the judge of the law. So I come down here
19 to be with you to give the charge on the law. And I'm going
20 to read this verbatim so that I don't leave anything out,
21 misrepresent anything. I'm going to read it just as it's
22 written, and you'll have this with you in the jury room when
23 you retire to deliberate.

24 Madam forelady and members of the jury, you've heard
25 all the evidence and the arguments of both parties. I will

1 now explain to you the law which applies to this action.
2 The indictment charges the Defendant, Stanley Lamar Wrapp,
3 with the offenses of driving under suspension and
4 trafficking in cocaine base, or what is commonly referred to
5 as crack cocaine. I remind you that the fact that the
6 Defendant was arrested, charged, and indicted in this case
7 is not evidence in this case, and it cannot be considered by
8 as evidence of guilt in this case, nor does it create any
9 presumption or inference of guilt. The indictments are
10 simply the formal written instruments which bring and
11 contain the charges made against the defendant. They're the
12 formal documents by which this case is brought into this
13 court.

14 Now, I'm going to give you a copy of these instructions
15 in written to have in the jury room with you. During your
16 deliberations you may refer to these instructions to guide
17 your decision making. You must, however, consider the
18 instructions as a whole and not follow some and ignore
19 others. Now, the Defendant, as I said, has pled not guilty
20 to these indictments. And that plea puts the burden on the
21 State to prove the defendant guilty. A person charged with
22 committing a criminal offense in South Carolina is never
23 required to prove him or herself innocent. I charge you
24 that it is an important rule of law that the Defendant in a
25 criminal trial, no matter what the seriousness of the charge

1 may be, that person will always be presumed to be innocent
2 of the crime for which the indictment was issued unless
3 guilt has been proven by evidence satisfying you of that
4 guilt beyond a reasonable doubt.

5 This presumption of innocence does not end when you
6 begin your deliberations, but it accompanies the Defendant
7 throughout the trial until you reach a verdict of guilt
8 based on evidence satisfying you of that guilt beyond a
9 reasonable doubt. The presumption of innocence is not a
10 mere legal theory. It is not just a legal phrase, but it is
11 a substantial right to which every Defendant is entitled
12 unless you the jury are satisfied from the evidence of the
13 Defendant's guilt beyond a reasonable doubt.

14 So, what is a reasonable doubt in the law? Some of you
15 may have served as jurors in civil cases where you were told
16 that it is only necessary to prove that a fact is more
17 likely true than not true such as by the greater weight of
18 the preponderance of the evidence. In criminal cases the
19 State's proof must be more powerful than that. It must be
20 beyond a reasonable doubt. Proof beyond a reasonable doubt
21 is proof that leaves you firmly convinced of the Defendant's
22 guilt.

23 Now, there are very few things in this world that we
24 know with absolute certainty. And in criminal cases the law
25 does not require proof that overcomes every possible doubt.

1 If, based upon your consideration of the evidence, you are
2 firmly convinced that the Defendant is guilty of the crimes
3 charged you must find the Defendant guilty. If, on the
4 other hand, you think there is a real possibility that the
5 Defendant is not guilty, then you must give the Defendant
6 the benefit of that doubt and find him not guilty.

7 I remind you that during this trial you and I have
8 certain duties to perform. As the trial judge it is my
9 responsibility to preside over the trial of this case. And
10 I also have the duty to rule on the admissibility of
11 evidence offered during this trial. You are to consider
12 only the competent evidence that is before you. You are to
13 consider only the testimony which has been presented from
14 the witness stand and then any exhibit which may have been a
15 part of the record in this case.

16 I have the additional duty to charge you with law that
17 is applicable to this case. As the presiding judge, I am
18 the sole judge of the law and it is your duty as jurors to
19 accept and to apply the law as I now state it to you. If
20 you already have an idea about what the law is or what the
21 law ought to be, and it does not agree with what I now tell
22 you the law is, you must abandon your idea because you are
23 sworn to accept the law and apply the law as I state it to
24 you now. In every case tried in this court before a jury,
25 the jury is the sole and the exclusive judge of the facts in

1 a case. A trial judge cannot intimate, state, comment on,
2 or make any statement about to a trial jury about the facts
3 of the case. Since you the jury are the sole judge of the
4 facts in this case, you are not to infer from I have said
5 during the progress of the trial in ruling on the
6 admissibility of evidence or otherwise, or anything that I
7 say now during the course of these instructions to you that
8 I have an opinion about the facts in this case. The law does
9 not allow me to have an opinion about the facts. That is a
10 matter solely for you, the jury, to decide. It is your duty
11 as jurors to determine the affect, value, weight, and truth
12 of the evidence presented during the course of this trail.

13 Now, under our Constitution and code of laws on you the
14 jury can make these findings of facts. To determine the
15 facts in this case you're going to have to evaluate the
16 credibility or the believability of witnesses. And, ladies
17 and gentlemen, credibility simply means that, believability.
18 It becomes your duty as jurors to analyze and to evaluate
19 the evidence and determine which evidence convinces you of
20 its truth.

21 I have already discussed with you at the beginning of
22 the trial some of the things that you may consider as you
23 decide whether or not or to believe a witness' testimony.
24 You can believe as much or as little of each witness'
25 testimony as you think is proper. You may believe the

1 testimony of a single witness against that of many or just
2 the opposite. You may believe a part of a witness's
3 testimony and disbelieve the rest. The mere fact that a
4 witness' testimony, even an expert's testimony is
5 uncontradicted does not render it undisputed. You the jury
6 should assess the credibility of each witness. You may
7 consider whether any witness has exhibited to you any bias,
8 interest, prejudice, or other motive in this case. You may
9 also consider the appearance and the manner of a witness
10 while on the witness stand.

11 Now, rules of evidence do not ordinarily allow witness
12 to testify to opinions or conclusions. There's an exception
13 to this rule that exists for witnesses that we call expert
14 witnesses. A witness, who by education and experience, has
15 become an expert in some art, science, or profession, or
16 calling may state an opinion as to the relevant and material
17 matter in which that witness claims to be an expert and may
18 also state the reasons for that opinion.

19 You should consider any expert opinion received into
20 evidence in this case, and like any other evidence, give it
21 the weight that you think it deserves. An expert witness'
22 testimony is to be given no greater weight than that of any
23 other witness simply because that witness is an expert.
24 Furthermore, you're not required to accept that expert's
25 opinion even though it's not contradicted. Now, I instruct

1 you and I emphasize that the fact that the Defendant, Stanley
2 Lamar Wrapp, did not appear or testify in this case is not a
3 factor to be considered by you in any way in your
4 deliberations and in your consideration on the question of
5 the guilt or innocence of Mr. Wrapp. It must not be
6 considered by you in any manner whatsoever. It is well
7 established in our law that a Defendant not appearing at his
8 or her trial must not be construed -- that this must not be
9 construed as an admission of guilt. A Defendant has the
10 Constitutional right to remain silent. And the assertion of
11 that right must not be considered by you in your
12 deliberations. I repeat, under your oath you are to draw no
13 conclusion whatsoever from the fact that Mr. Wrapp did not
14 appear or testify in this case. The fact that Mr. Wrapp did
15 not testify should not even be discussed in the jury room.
16 The burden of proof, as I told you, is on the State. The
17 Defendant is not required to prove his innocence. The
18 burden of proof remains on the State to prove guilt beyond a
19 reasonable doubt.

20 Generally, ladies and gentlemen, there are two types of
21 evidence presented during a trial: direct evidence and
22 circumstantial evidence. Direct evidence is the testimony
23 of a person who claims to have actual knowledge of a fact,
24 such as an eye witness. It's evidence which immediately
25 establishes the main fact to be proven. Circumstantial

1 evidence is proof of a chain of facts and circumstances
2 indicating the existence of a fact. It's evidence which
3 immediately established collateral facts from which the main
4 fact may be inferred. Circumstantial evidence is based upon
5 inference and not on personal knowledge or observation.
6 It's proof that does not actually establish the fact in
7 question, but that asserts or describes something else in
8 which you may either reasonably infer the truth of the fact
9 or at least reasonably infer an increase in the probability
10 that the fact is true. For circumstantial evidence to be
11 sufficient to warrant the finding of the fact, the
12 circumstances must lead to that fact with reasonable
13 certainty.

14 The facts and circumstances, ladies and gentlemen,
15 should be considered in light of ordinary experience and
16 common sense. The existence of a fact cannot be based upon
17 speculation, surmise, or conjecture. Now, the law makes
18 absolutely no distinction between the weight or value to be
19 given to either direct or circumstantial evidence, nor is a
20 greater degree of certainty required of circumstantial
21 evidence than of direct evidence.

22 Now, Mr. Wrapp is charged with driving under
23 suspension. The State must prove beyond a reasonable doubt
24 that the Defendant drove a motor vehicle on the public
25 highways in this state during the time that his driver's

1 license was cancelled, suspended, or revoked. To be guilty
2 of driving under suspension, the Defendant must have been
3 notified by the Department of Public Safety that his
4 driver's license had been cancelled, suspended, or revoked.

5 Now, he is also charged with trafficking in cocaine
6 base. The State must prove beyond a reasonable doubt that
7 the Defendant knowingly sold, manufactured, delivered,
8 purchased, provided financial assistance, or otherwise
9 aided, abetted, attempted or conspired to sell, manufacture,
10 deliver, purchase or was knowingly in actual or constructive
11 possession of or knowingly attempted to become in actual or
12 constructive of cocaine base.

13 Actual possession means that the cocaine base was in
14 the actual physical custody of the Defendant. Constructive
15 possession means that the Defendant had dominion and control
16 over the -- or had the right to exercise the dominion and
17 control over either the cocaine base itself or the property
18 on which the cocaine base was found. Actual knowledge of
19 the presence of the cocaine base is strong evidence that the
20 Defendant's intent to control it's disposition or use was
21 present. The Defendant's knowledge and possession may be
22 inferred when a substance is found on the property under the
23 Defendant's control. However, this inference is simply an
24 evidentiary fact to be taken into consideration by you along
25 with other evidence in the case. And it's to be given

1 whatever weight you decide it should have.

2 Now, the State must also prove beyond a reasonable
3 doubt that the amount of the cocaine base was ten grams or
4 more, but less than 28 grams. If you determine, based upon
5 the evidence presented, that the State has not proven
6 trafficking cocaine base beyond a reasonable doubt you
7 should then consider whether the State has proven beyond a
8 reasonable doubt that the Defendant was guilty of possession
9 with intent to distribute cocaine base. Possession with
10 intent to distribute contains all of the elements of
11 trafficking except the amount or the weight of the cocaine
12 base.

13 In addition, the State must prove beyond a reasonable
14 doubt that the Defendant had the intent to distribute the
15 cocaine base. Intent may be shown by acts and conduct of
16 the Defendant and other circumstances from which you may
17 naturally and reasonably infer intent. In determining
18 whether the Defendant had the intent to distribute the
19 cocaine base you may consider circumstances surrounding the
20 Defendant's alleged possession. You may consider the amount
21 of the substance alleged to have been possessed. The manner
22 in which it was allegedly possessed. The place where it was
23 allegedly possessed and other factors which you consider to
24 be important. You must find that the Defendant did not
25 intend to have the cocaine base solely for his own use.

1 Now, the law provides that possession of more than one
2 gram of cocaine base creates an inference that the Defendant
3 possessed the cocaine base with the intent to distribute it.
4 This inference does not relieve the State from proving a
5 reasonable doubt that the defendant had the intent to
6 distribute. It is simply an evidentiary fact to be taken
7 into consideration by you along with other evidence in the
8 case and to be given whatever weight you think it should
9 have.

10 Now, if you determine that the State has not proven
11 trafficking in cocaine base or possession with intent to
12 distribute cocaine base beyond a reasonable doubt then you
13 should consider whether or not the State has proven beyond a
14 reasonable doubt that the defendant is guilty of possession
15 of cocaine base. To prove possession the State must prove
16 beyond a reasonable doubt that the defendant had both the
17 power and the intent to control the disposition or use of
18 the cocaine base. Possession may be either actual or
19 constructive.

20 Now, Madam Forelady and ladies and gentlemen of the
21 jury, as you retire to begin your deliberations, I want to
22 express to you the hope that each of you will be mindful of
23 the importance of your responsibility. You're not called
24 upon to serve as jurors very often. And the proper
25 performance of the duty requires each of you to reach the

1 height of freeing your minds of any and all improper
2 influences.

3 As the presiding officer of this court, I am vitally
4 concerned that whatever verdict you find will be the result
5 of your going into the jury room, confining your
6 consideration to the evidence and to the law that you have
7 heard in this courtroom, weighing it fairly and impartially,
8 as I have every confidence you will do. Your verdict in
9 this case cannot be based on sympathy, compassion, prejudice
10 or emotion, or some other consideration that's not found in
11 the evidence. And, remember, as I told you earlier, your
12 verdict in this case must be unanimous.

13 Now, when you go back and you deliberate and it comes
14 time when you've reached your decision in the front
15 notebook, Ms. Bishop, is the verdict form in the front of
16 this notebook. And it will be in there and it's a simple
17 verdict form. The first -- and you can take these charges
18 up in any order you want to do them in. I just listed them
19 numerically based on their indictment number.

20 So the first indictment number was the driving under
21 suspension charge. There's two options there. You either
22 would find that the Defendant was not guilty or guilty of
23 driving under suspension. And then this other indictment
24 was the trafficking indictments. And in that case you have
25 four options to choose between one of those four. You can

1 either find that the Defendant was guilty of trafficking in
2 cocaine base, or that the Defendant was guilty of possession
3 with intent to distribute cocaine base, or that the
4 Defendant was guilty of possession of cocaine base, or that
5 the Defendant is not guilty. And those are your four
6 options with regards to that charge. And whatever verdict
7 the jury reaches, ma'am, you'll just note the one that the
8 jury considers. And then you'll just sign it as the
9 forelady of the jury. When you've reached a unanimous
10 verdict, you just knock on the door and let the bailiff know
11 and we'll bring you out and receive your verdict.

12 Now, what I'm going to do is I'm going to ask you to
13 retire back to your jury room. But before you do that let
14 me just state I have to take -- I have to discuss with the
15 attorneys to make sure that I've included everything that
16 needed to be included. If there's anything that I left out
17 or if there's anything I need to alter or change, I'll bring
18 you out and I'll make that correction. If the charge is
19 good as is, we'll then gather the exhibits and we'll send
20 them back into the jury room. When you get these exhibits
21 and the notebook, that's your cue to begin your
22 deliberations. So please go into the jury room and await
23 these items before you begin your deliberations.

24 (Whereupon the jury exited the courtroom at 3:11 p.m.)

25 THE COURT: All right. Are there any objections or

1 exceptions to the Court's charge from the State?

2 MR. BLACK: No, sir, Your Honor.

3 THE COURT: Anything from the Defense?

4 MR. GORANSON: No, sir, Your Honor.

5 (Whereupon, the jury began deliberations.)

6 THE COURT: Folks, I had the jury pass up -- pass out a
7 question. And it says here, this is their question, I'll
8 read it verbatim, "Is the only difference between
9 trafficking and possession the amount of the drugs?" Now,
10 my initial response when I first saw that was, yeah, I think
11 it is. But I don't know that I can just say yes to that
12 question. And so I was going to refer them to the charge.
13 And when you read the charge, the charge says, "Possession
14 with intent to distribute contains all the elements of
15 trafficking except the amount or weight of the cocaine
16 base." So I think what I'm going to refer them -- I think
17 I'm just going to refer them to the charge since I have a
18 copy of the charge back there and not necessarily just
19 answer the question. I'm afraid if I just answer -- I mean,
20 I think the appropriate answer is that's correct, but I
21 don't think I need to tell them that. They need to come up
22 to that. And when I respond back -- because I think what
23 they meant was possession with intent. They just wrote
24 possession. But I think they meant possession with intent.
25 But I'm not even going to address that because it's not

1 clear. I think the only thing I'm going to do is respond
2 back and say I have given you a copy of the charge. Please
3 refer to the charge regarding the drug offenses. That work?

4 MS. WHITE: Yes, sir.

5 MR. GORANSON: Yes, sir.

6 (Whereupon, Court's Exhibits 2 was entered into
7 evidence.)

8 (Whereupon, deliberations resumed.)

9 THE COURT: I have a message from the jury. It says --
10 I'll just read it verbatim, "We have a hung jury. Cannot
11 come to agreement." So I think what I need to do is bring
12 them out and give them an Allen charge. Any objection by
13 the State for doing that?

14 MS. WHITE: No, sir.

15 THE COURT: Anything from the Defense regarding that?

16 MR. GORANSON: Yes. We would object to the Allen
17 Charge.

18 THE COURT: What's your basis for the objection?

19 MR. GORANSON: I think they've already made a decision.
20 The Allen charge may make them think that they have to
21 change their mind or change their opinion.

22 THE COURT: I use the charge approved by the Supreme
23 Court that basically instructs them to not give up their
24 strongly held convictions. So I'm going to overrule the
25 objection. I'll note your exception to that, but I'm going

1 to give them an Allen Charge. I think it is appropriate.
2 We'll go from there.

3 (Whereupon, Court's Exhibit 3 was entered into
4 evidence.)

5 THE COURT: Before I do that, though, Mr. Black, do you
6 want to go ahead and let's deal with this issue on -- well,
7 I tell you what. We'll do this afterwards so we don't mess
8 up the record.

9 (Whereupon the jury entered the courtroom.)

10 THE COURT: All right. Folks, I got your message. And
11 in response to that, I have an instruction that I want to
12 share with you. I just ask that you listen carefully and to
13 this instruction. As with the other charge, I'm going to
14 read it to you verbatim.

15 Ladies and gentlemen, you have stated that you've been
16 unable to agree on the unanimous verdict in this case. As I
17 instructed you earlier, the verdict of the jury must be
18 unanimous. Now, when a matter is in dispute it isn't always
19 easy for even two people to agree. So when twelve people
20 must agree, it becomes even more difficult. In most cases
21 absolute certainty cannot be reached, nor is expected.
22 However, you have a duty to make every reasonable effort to
23 reach a unanimous verdict.

24 So to do this, I have some things to share with you
25 what you should do. First, I think you should consult with

1 one another, express to your own views. But most
2 importantly listen to the opinions and the views of your
3 fellow jurors. Tell each other how you feel and why you
4 feel that way. Discuss your differences and do so with an
5 open mind trying to understand each other's position.

6 Now, although the verdict of the jury must be
7 unanimous, every one of you has the right to your own
8 opinion. The verdict that you agree on must be your own
9 verdict. And it must be the result of your own convictions.
10 And you should not give up your firmly held beliefs merely
11 to be in agreement with your fellow jurors. However your
12 vote breaks down, the majority of you should consider the
13 minority's opinion, and the minority of you should consider
14 the majority's opinion. You should carefully consider and
15 respect the opinions of each other, but then reevaluate your
16 position for reasonableness, correctness, and impartiality.
17 You're not to be stubborn or unmoving, but make sure that
18 your position is reasonable and correct under the law as
19 given to you by the Court. You're to not allow your
20 decision to be made based on just a feeling that you have,
21 but it must be grounded in the law as given by the Court.
22 You must lay aside all outside matters and reexamine the
23 questions before you based on the law and the evidence in
24 this case. Your verdict, as I told you earlier in this
25 case, cannot be based on anything outside of the evidence

1 such as sympathy, compassion, prejudice, or other any type
2 -- any other type of emotion.

3 If you do not agree on the verdict in this case, I must
4 declare a mistrial. Now, in that case it does not mean that
5 anybody wins. What it means is that -- it simply means
6 this, that at some point in the future we'll try this case
7 again with another jury sitting where you're sitting right
8 now. The same participants will come in and the same
9 lawyers will ask basically the same questions, and more than
10 likely will get basically the same answers. And then we'll
11 go through this whole process again. Now, you were selected
12 in the same manner and from the same source as any future
13 jury will be selected. And there's no reason for me to
14 suppose that this case will ever be submitted to twelve more
15 intelligent, impartial, consciousness, and competent jurors
16 than you, or that a more clearer presentation of the
17 evidence will be produced by either side.

18 If, after going back into the jury room and considering
19 these instructions and following them to the best of your
20 ability, you are hopelessly deadlocked then, Madam Forelady,
21 you let me know that. But I would ask that for the time
22 being that you go back into the jury room, keeping these
23 instructions in mind, and return to your deliberations with
24 the hope that you can reach a unanimous verdict within a
25 reasonable period of time, okay. Thank you.

1 (Whereupon the jury exited the courtroom to resume
2 deliberations.)

3 THE COURT: Are there any objections or exceptions from
4 the State?

5 MS. WHITE: No, sir.

6 THE COURT: From the Defense?

7 MR. GORANSON: Yes, sir. I believe that the charge as
8 given, though it may be approved by the Supreme Court, does
9 do things to belittle jurors who may be in the minority,
10 don't be stubborn or unmoving. It also references several
11 times what could happen in the future with this case.
12 That's all speculation that I don't really believe is
13 relevant to their determination of what happens in this
14 case. First all, we don't know if the case is going to be
15 tried again or whether a plea or it may get dismissed. I
16 don't know. And so I think it's unfair for them to think
17 that they're wasting everybody's time by not coming to an
18 unanimous verdict or that there's some burden on the system.
19 In fact, I think that's the system working. And I think the
20 challenge makes them believe that not coming to an unanimous
21 verdict is a burden on the system and is a result of
22 stubbornness or inalcitrance. And I don't think that's
23 fair to Mr. Wrapp.

24 THE COURT: All right. I certainly would note your
25 objection, Mr. Goranson, and have the record reflect that.

1 Let me also, so that the record is clear, when the jury
2 passed out their note regarding being hung up, they -- and I
3 had a little -- I always do a little stopwatch when the jury
4 goes back to deliberate. They had only been deliberating an
5 hour and two minutes. So I think -- I'm not -- I think it
6 was important to give them an Allen charge. This wasn't a
7 lengthy case, so I don't expect them to be back there
8 forever. But I do think that it was appropriate under this
9 circumstance. So I will certainly note your exception and
10 we'll let them proceed and see what happens.

11 MR. GORANSON: Thank you, Judge.

12 (Off the record.)

13 THE COURT: Folks, it's my understanding that the jury
14 has reached a verdict. Is the State ready to receive the
15 verdict?

16 MS. WHITE: Yes, sir.

17 THE COURT: Defense ready?

18 MR. GORANSON: Yes, sir.

19 THE COURT: All right. Let's bring them in, please.

20 (Whereupon the jury entered the courtroom at 4:46 p.m.)

21 THE COURT: Ms. Bishop, has the jury reached a unanimous
22 verdict now?

23 FOREPERSON: We have.

24 THE COURT: If you would please pass that to the
25 bailiff. Thank you very much.

1 FOREPERSON: (Complied.)

2 VERDICT OF THE JURY

3 THE COURT: Madam Clerk, if you would please publish the
4 jury's verdict.

5 CLERK OF COURT: In the Court of General Sessions, state
6 of South Carolina, County of Greenwood, State of South
7 Carolina v. Stanley Lamar Wrapp indictment numbers
8 2014-GS-24-368 and -369, we the jury find the Defendant,
9 Stanley Lamar Wrapp, guilty of driving under suspension. We
10 the jury find the Defendant, Stanley Lamar Wrapp, guilty of
11 possession with intent to distribute cocaine base. Signed
12 by Madam Forelady, Debbie Bishop, dated September 30, 2014.

13 THE COURT: Ladies and gentlemen, you've heard Madam
14 Clerk read out your verdict. If that verdict which was read
15 by the Clerk is in fact your verdict, please signify by
16 raising your right hand.

17 (Whereupon, all jurors raised their hands.)

18 THE COURT: All right. Thank you ladies and gentlemen.
19 Anything further for this jury from the State?

20 MS. WHITE: No, sir, Your Honor.

21 THE COURT: Anything further from the Defense?

22 MR. GORANSON: No, sir, Your Honor.

23 THE COURT: Ladies and gentlemen, I want to thank you
24 for service in this case. Now, here's what I think I'm
25 going to have to send you with an instruction to call -- you

1 still have your summons with the phone number? You need to
2 call that number tomorrow. You don't need to do it tonight.
3 Everyone else is calling tonight. But since you're here I'm
4 going to go ahead and tell you what their message is going
5 to say. I need you to call that number tomorrow between
6 11:30 and 12:30. 11:30 in the morning to 12:30 in the
7 afternoon. It's a little bit of a one hour window there.
8 You may have another case that we need to pull a jury on. I
9 just won't know until sometime tomorrow. So if you would,
10 I'm going to excuse you now and ask that you call that
11 number between 11:30 and 12:30. And whatever the
12 instructions on that recording follow those instructions,
13 okay. I want to thank you again for your service on this
14 case. And I may or may not see you tomorrow. All right.
15 Thank you, ladies and gentlemen. Everyone else please
16 remain seated while the jury is excused.

17 (Whereupon, the jury exited the courtroom at 4:50 p.m.)

18 THE COURT: At this time I'm going to take up any
19 motions at the close of the reading of the verdict.

20 MR. GORANSON: No, sir. I would like to note for the
21 record I think the jury was out for about ten minutes after
22 the Allen charge. I don't know if you kept record.

23 THE COURT: It was about twelve minutes.

24 MR. GORANSON: Twelve minutes, thank you.

25 THE COURT: Now, Solicitor, have you gotten any

1 sentencing sheets prepared?

2 MS. WHITE: Yes, sir.

3 THE COURT: Y'all correct me if I'm mistaken, now, but
4 my understanding is what I'm going to go do is I'm going
5 recognize the State to whatever position you take. And then
6 I'll recognize the Defense to address the court as far as
7 any mitigation or anything of that nature. And then I'll
8 impose whatever sentence I believe to be appropriate after
9 hearing from everybody. And then we'll seal that. And I
10 think the bench warrant is still in place for Mr. Wrapp. If
11 at any point he is, in fact, picked up on that bench warrant
12 then he'll be brought back and then it doesn't have to be
13 me, but any judge is here then can unseal this sentencing.

14 So let me hear from the State as to if you have any
15 position regarding sentencing or if there's any prior
16 record.

17 MR. BLACK: Your Honor, I'll start by going over the
18 criminal history of Mr. Wrapp. In 2003 he was charged with
19 pointing and presenting a firearm at a person. Received
20 three years suspended to three years probation. 2006,
21 pointing and presenting a firearm. He was convicted 18
22 months. That was a violation of his probation, Your Honor.
23 He has a CDV from 2011. He was convicted. It looks like he
24 did ten days. Possession of controlled substance in 2012.
25 That looks like that was a violation of his probation as

1 well. Your Honor, with regard to sentencing I believe he
2 was convicted the -- the jury found he was guilty on the
3 DUS. I believe that's his second. I think that carries up
4 to 60 days in jail. The other charge that he was convicted
5 of, I believe that carries the same time. Your Honor, we
6 spoke to Mr. Wrapp in July. He came up to court. He told
7 us that day that he was going to be searching for another
8 lawyer. He indicated to us that he was considering looking
9 for another lawyer. We told him that, you know, that's
10 fine, that's the case after the judge granted the
11 continuance on the case that particular day. We told him
12 that we would be trying the case soon thereafter. We didn't
13 make it to the next term in August. But we did come around
14 to trying it this term. He -- we informed his lawyer. We
15 informed Mr. Wrapp to be here. I think him not being here
16 shows kind of an unwillingness to take responsibility for
17 his actions on that day. And we ask you to serve him
18 appropriately. Thank you, Judge.

19 THE COURT: Thank you. Mr. Goranson?

20 MR. GORANSON: Thank you, Judge. I would just like to
21 point out that Mr. Wrapp, although he does have a couple of
22 convictions on his record, this is certainly not the worst
23 record I've ever seen. And Mr. Wrapp, of course, doesn't
24 have to be for the trial. We are still trying to locate
25 him. He's got a girlfriend, Your Honor, that he's been with

1 for 11 years. He's got four kids. He washes cars everyday.
2 He details cars for Ballentine. It's a car dealership here
3 in town. Basically just trying to make ends meet, keep --
4 support his family and keep the lights on that way. His
5 kids are 12, twins, 14 and 16 years old. I think I have
6 that right. So I just ask that you take all that into
7 consideration and be as lenient as you can.

8 THE COURT: Just to clarify for the record, when you
9 said he had prior conviction for controlled substance. This
10 would be a second offense then?

11 MR. BLACK: That's correct, Your Honor.

12 MS. WHITE: Your Honor, the prior was a possession of
13 ecstasy, I believe, in 2008. And the prior DUS was 2011.

14 MR. GORANSON: And the sentence on the prior possession
15 of a controlled substance was six months suspended to a year
16 probation, PTUP after six months probation.

17 THE COURT: Had he served any time in jail?

18 MS. WHITE: The Clerk had his bond -

19 THE COURT: When did he bond out?

20 MR. GORANSON: I don't know offhand, Your Honor. I
21 haven't made that calculation.

22 THE COURT: Have you got his bond paperwork? I've got
23 his paperwork that says he bonded out on the 18th of
24 October.

25 MS. WHITE: So that would be one day?

1 THE COURT: Hold on a minute. It had the appearance
2 date as December 6, 2013. I think that's when his first
3 appearance is. Is \$25,000 wrong, this surety bond?

4 MS. WHITE: Yes, sir. It looks like the warrant was --
5 I guess he was booked in on the 17th and then it was
6 actually served and he made bond on the 18th.

7 THE COURT: All right.

8 (End of requested transcript of record)

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Certificate of Reporter

I, the undersigned, Tara T. Scott, CVR, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenwood County, South Carolina, on the 29th-30th day of September, 2014.

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

July 27, 2015

s/ Tara T. Scott
Circuit Court Reporter

State of South Carolina	)	
	)	Court of General Sessions
County of Greenwood	)	2014-GS-24-368, 369

State of South Carolina	)	
vs.	)	Transcript of Record
	)	
Stanley Wrapp	)	
<u>DEFENDANT</u>	)	Sentencing

March 30, 2015
Greenwood, South Carolina

B E F O R E:

Honorable Eugene C. Griffith, Jr., Judge.

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

Micah Black, Assistant Solicitor
Attorney for the State

Patricia Bolen, Assistant Public Defender
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

1 (No Exhibits were introduced.)

2 THE COURT: Are you Stanley Wrapp?

3 MR. WRAPP: Yes, sir.

4 THE COURT: Raise your right hand.

5 STANLEY WRAPP, being
6 first duly sworn, testified as follows:

7 THE COURT: On September 30th of 2014 you were tried
8 in your absence. Judge Russo tried you, sentenced you,
9 all I am doing is reading the sentence. To DUS second, 60
10 days, credit one day, time served. Trafficking,
11 possession with intent to distribute crack second offense,
12 20 years. Good luck.

13 MR. BLACK: Thank you, Judge.

14 THE COURT: Okay.

15 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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1 CERTIFICATE OF REPORTER
2
34 State of South Carolina)
5 County of Newberry)
6
78 I, Joy E. Holston, Official Court Reporter for the
9 Eighth Judicial Circuit of the State of South Carolina, do
10 hereby certify that the foregoing is a true, accurate and
11 complete transcript of record of the proceedings had and
12 evidence introduced in the trial of the captioned case,
13 relative to appeal, in the County of Greenwood, South
14 Carolina on the 30th day of March, 2015.15 I do further certify that I am neither of kin,
16 counsel nor interest to any party hereto.
1718 June 2, 2015
1920 *Joy E. Holston*
21

22 Joy E. Holston, Court Reporter

23 My Commission expires: March 13, 2016
24
25

BAIL PROCEEDING
FORM II

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS GREENWOOD

COUNTY OF GREENWOOD

STATE OF SOUTH CAROLINA

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

v.

STANLEY LAMAR WRAPP
NAME OF DEFENDANTOffense Charged: DRUGS/TRAF CRACK, ICE, CRANK/10 G OR MORE LESS 28 G (2ND) DRIVING UNDER SUSPENSION 3RD +

At a bail proceeding conducted by the undersigned judge, for the defendant named above, it was determined by the court (check one or both):

- ☒ The release of the defendant on recognizance will not reasonably assure his appearance as required.
- ☒ The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact: DUE TO THE NATURE OF THE CHARGES

(Considerations: Nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.)

THEREFORE, IT IS HEREBY ORDERED:

1. That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
2. That the above named defendant be released from custody provided as follows (check all that apply):

CASH IN LIEU OF BOND

- ☐ The defendant, acknowledges himself to be indebted to the State of South Carolina in the sum of _____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

- ☐ The defendant, acknowledging himself to be indebted to the State of South Carolina in the full amount of _____, his release to be obtained by payment to the court of _____ % (not to exceed 10%) of the full amount of the bond, deposits _____ to secure his release from custody. Should the defendant fail to perform the conditions of this Order, the full amount shall be levied on his real and personal property for the use of the State.

APPEARANCE RECOGNIZANCE WITH SURETY

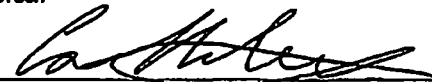
- ☒ The defendant will provide good and sufficient surety approved by the court, in the form hereinafter set forth in this Order, acknowledging an indebtedness to the State in the amount of \$25,000.

3. That the defendant shall appear at (check one):

- ☒ the term of COURT OF GENERAL SESSIONS beginning on Friday December 6, 2013
at 9:00 o'clock, AM, at MAIN COURT ROOM, COURT HOUSE, 528 MONUMENT STREET GREENWOOD SC
and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.
- ☐ the session of THE MUNICIPAL COURT OF GREENWOOD beginning on _____
at _____ o'clock, _____ at _____
If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

INITIALS OF DEFENDANT

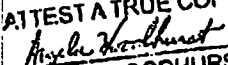
4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described hereinafter in the Order.


SIGNATURE OF JUDGE
October 18, 2013
DATE

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.

Form Approved by SC Attorney General
Section 17-15-40
March 21, 2012

ATTEST A TRUE COPY

ANGELA WOODHURST
CCCP AND GS
GREENWOOD COUNTY
S. C.
SCCA/511A (Revised 3/2012)

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

ADDRESS GREENWOOD, SC 29646 CITY/STATE/ZIP TELEPHONE October 18, 2013 DATE
NUMBER DRIVER'S LICENSE OR ID NUMBER ATTORNEY REPRESENTING ACCUSED (IF KNOWN)

SPECIAL CONDITIONS OF RELEASE

a. ☐ Placement in custody. The defendant is placed in the custody of: _____
 NAME OF PERSON OR ORGANIZATION

ADDRESS _____ CITY/STATE _____ ZIP _____ TELEPHONE _____
 who agrees (1) to supervise the defendant as set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

SIGNATURE OF CUSTODIAN (IF APPROVED)

DATE

b. ☐ Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions:

c. ☐ Part-time Release. The defendant will be released from custody from _____ o'clock, _____ o'clock, _____
 TIME AM/ PM TIME AM/ PM
 on _____ on condition that he return to the custody of _____
 DATE(S) NAME OF PERSON OR ORGANIZATION
 at _____ as designated.
 LOCATION

d. ☐ Other Conditions. The defendant will comply with the following other conditions of release:

APPEARANCE RECOGNIZANCE WITH SURETY

On the 18TH day of OCTOBER, 2013, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of \$25,000, such sum to be levied on his real and personal property for the use of the State, should named defendant fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

AI BONDING 864-229-3847
 NAME OF SURETY BONDSMAN COMPANY TELEPHONE

419 EDGEFIELD STREET
 ADDRESS OF SURETY BONDSMAN

GREENWOOD SC 29646
 CITY/STATE/ZIP

American Surety Co.
 NAME OF INSURANCE COMPANY

ADDRESS OF INSURANCE COMPANY

CITY/STATE/ZIP

Denise L. Evans
 SIGNATURE OF SURETY BONDSMAN

[Signature]
 SIGNATURE OF JUDGE

October 18, 2013
 DATE

WITNESSES

Jeffery B Crisp
Greenwood Police Department

WARRANT NUMBER

87654GH

True BILL

W. J. Dye

Foreman of the Grand Jury

Date: 2/21/14

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

February Term, 2014

Indictment # 14GS24- 0368

THE STATE

VS.

Stanley Lamar Wrapp

INDICTMENT FOR

DRIVING UNDER SUSPENSION

56-01-0460

CDR: 0175

ATTEST A TRUE COPY
Angela Woodhurst
ANGELA WOODHURST
CCCP AND GS
GREENWOOD COUNTY
S. C.

RECEIVED
APR 17 2015
SC Court of Appeals

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

INDICTMENT FOR

DRIVING UNDER SUSPENSION

56-01-0460

At a Court of General Sessions, convened on the 21st day of February, 2014, the Grand Jurors of Greenwood County present upon their oath:

That Stanley Lamar Wrapp, in Greenwood County, on or about October 17, 2013 drive a motor vehicle on a public highway of this State when his/her license to drive was suspended, with this court having jurisdiction over the said offense, in violation of Section 56-1-460 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.


Assistant Solicitor

WITNESSES

Jeffery B Crisp
Greenwood Police Department

WARRANT NUMBER

2013A2420101079

TRUE BILL

Shirley Dye

Foreman of the Grand Jury

Date: 2/21/14

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

February Term, 2014

Indictment # 14CS24- 0369

THE STATE

VS.

Stanley Lamar Wrapp

INDICTMENT FOR

**TRAFFICKING IN COCAINE BASE
(CRACK COCAINE)
44-53-0375**

CDR: 0451

ATTEST A TRUE COPY
Angela Woodhurst
ANGELA WOODHURST
CCCP AND GS
GREENWOOD COUNTY
S.C.

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

INDICTMENT FOR
TRAFFICKING IN COCAINE BASE
(CRACK COCAINE)
44-53-0375

At a Court of General Sessions, convened on the 21st day of February, 2014, the Grand Jurors of Greenwood County present upon their oath:

That Stanley Lamar Wrapp, in Greenwood County, on or about October 17, 2013 willfully, unlawfully, and knowingly traffic in cocaine base (crack cocaine), in that the said defendant(s) did sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was in actual or constructive possession or did knowingly attempt to become in actual or constructive possession of more than 10 grams, but less than 28 grams of cocaine base (crack cocaine), in violation of Section 44-53-375 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.


Assistant Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Greenwood

VS.

Stanley Lamar Wrapp

AKA:

Race:

Sex: M

Age:

28

DOB:

SS#:

Address:

City, State, Zip:

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Possession With Intent to Distribute Crack Cocaine, 2nd Offense

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 14GS24-0369

A/W#: 2013A2420101079

Date of Offense: 10/17/2013

S.C. Code § : 44-53-0375

CDR Code #: 0451

SENTENCE SHEET

ATTORNEY AT LAW
ANGELA WOODHURST
CCCP AND GS
GREENWOOD COUNTY
S.C.

in violation of § 44-53-0375 of the S.C. Code of Laws, bearing CDR Code # 3015

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS(CSC
w/minor 1st or Lewd Act)☐ §17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

White, Elizabeth

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,for a determinate term of 20 months/years or☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public De/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(I) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

\$

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_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code:

Sentence Date:

2141

9-30-2014

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Kayla Inger

Mary Ann Nevers

COUNTY OF Greenwood
 STATE VS.
Stanley Lamar Wrapp
 AKA: _____
 Race: _____ Sex: M Age: 28
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: _____
 DL#: _____ SID#: _____

INDICTMENT/CASE#: 14GS24-0368
 A/W#: 87654GH
 Date of Offense: 10/17/2013
 S.C. Code §: 56-01-0460
 CDR Code #: 0174

ATTEST A TRUE COPY
Angela Woodhurst
 ANGELA WOODHURST
 CCCP AND GS
 GREENWOOD COUNTY
 S.C.

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
 In disposition of the said indictment comes now the Defendant who was
 TO: DUS / Driving under suspension, license not suspended for DUI - 2nd offense

☒ CONVICTED OF or ☐ PLEADS

in violation of § 56-01-0460 of the S.C. Code of Laws, bearing CDR Code # 0174
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 71182
 White, Elizabeth SC Bar# _____ Defendant Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☒ County Detention Center,
 for a determinate term of 60 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2014-GS-24-369
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. Credit for 1 day time served
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Crimes of Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
☐ Set by SCDPPPS _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

_____ days/hours Public Service Employment
 Obtain GED ☐
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling ☐
 Random Drug/Alcohol testing ☐
 Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge _____
 Judge Code: 2141
 Sentence Date: 9-30-2014

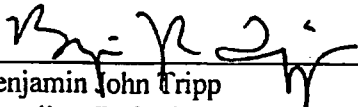
Clerk of Court/ Deputy Clerk: Kayla Inye
 Court Reporter: Mary Ann Nevers
 SCCA/217 (03/2011)

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 GREENWOOD, SC

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

March 1st, 2016


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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenwood County
Thomas A. Russo, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STANLEY WRAPP,

APPELLANT

APPELLATE CASE NO. 2015-000909

FINAL BRIEF OF APPELLANT

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenwood County

Thomas A. Russo, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STANLEY WRAPP,

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APPELLATE CASE NO. 2015-000909

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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial judge err trying Appellant in his absence where he made no specific findings of fact as to whether Appellant had notice of the trial date or whether his absence was voluntary?

STATEMENT OF THE CASE

On February 2, 2014, the Greenwood County Grand Jury indicted Appellant Stanley Lamar Wrapp for driving under suspension and trafficking cocaine base. R. 172-175. On September 29, 2014, Appellant's case proceeded to trial in absentia before The Honorable Frank R. Addy and a jury. Shane Goranson and Patricia Bolen represented Appellant, and Elizabeth White and Micah Black represented the State. R. 11; R. 36, lines 16-17. The jury found Appellant guilty as charged, and Judge Addy entered a sealed sentence. R. 160, lines 5-12; R. 162, lines 3-9. On March 30, 2015, Appellant appeared before The Honorable Eugene C. Griffith, who unsealed Appellant's sentence of sixty days' incarceration for the driving under suspension charge and twenty years concurrent for the crack cocaine charge. R. 167; R. 168, lines 7-12.

ARGUMENT

THE TRIAL JUDGE ERRED IN DENYING THE MOTION TO CONTINUE TRIAL BECAUSE THE RECORD DOES NOT SUPPORT FINDINGS THAT APPELLANT KNOWINGLY AND VOLUNTARILY WAIVED HIS RIGHT TO BE PRESENT.

STATEMENT OF FACTS

The State alleged that October 17, 2013, police officers pulled Appellant over while driving his car knowing his license was suspended. The officers found crack cocaine in his pocket and crack and a scale in the car. R. 51, line 2—R. 53, line 3. Prior to trial, counsel for Appellant moved for a continuance, stating that he had no personal knowledge of why Appellant was not present. R. 36, lines 16-20. In response, Solicitor White told Judge Addy that Appellant's trial was continued on July 14, 2014 so that counsel for Appellant could conduct additional investigation.¹ R. 37, lines 16-21. She then explained her understanding of Appellant's notice of the second trial date:

We had a conversation right over here in the courtroom after that continuance was granted. I told Mr. Wrapp that his case would be called for trial the next time we could get to it. I had a conversation -- a private attorney, Mr. Andrew Hodges, called me about this case I think about three weeks ago. And I told him it was on the trial docket. I think Mr. Wrapp had gone to him asking him to represent him and Mr. Hodges declined to get involved due to the fact that it was up for trial. But I think there's been adequate notice certainly even directly to Mr. Wrapp that his case was coming up for trial. . . . And so, Your Honor, the State is ready to proceed with trial, and there's already been a continuance on this.

R. 37, line 23—R. 38, line 17. Trial counsel then responded that the he was not aware whether Mr. Hodges informed Appellant of any trial date. R. 39, lines 5-10. Judge Addy

¹ The same attorneys represented the parties at the prior hearing in front of another judge. July 14, 2014 R. 1.

then commented, “I don’t know what his situation is or why he’s not here. But it does appear that he was noticed here. For whatever reason he’s not here. . . . I just don’t know that you can make yourself unavailable and then use that as a basis for getting a continuance granted.” R. 39, line 17—R. 40, line 4. He then denied the motion for a continuance. R. 40, lines 8-9.

DISCUSSION

Judge Addy erred in denying the motion to continue trial because the record does not support findings that Appellant knowingly and voluntarily waived his right to be present. “[T]he Sixth Amendment of the U.S. Constitution guarantees the right of the accused to be present at every stage of his trial, and is applicable to the States by reason of the Fourteenth Amendment.” *Ellis v. State*, 267 S.C. 257, 260, 227 S.E.2d 304, 305 (1976) (per curiam); see also *State v. Patterson*, 367 S.C. 219, 229, 625 S.E.2d 239, 244 (Ct. App. 2006) (“Apodictically, a criminal defendant has a constitutional right guaranteed by the Confrontation Clause of the Sixth Amendment to be present at trial.”).²

The State has a very stringent burden to prove a valid waiver of this right.

[C]ourts indulge every reasonable presumption against waiver of fundamental constitutional rights and . . . do not presume acquiescence in the loss of fundamental rights. A waiver is ordinarily an intentional relinquishment or abandonment of a known right or privilege. The determination of whether there has been an intelligent waiver of right to counsel must depend, in each case, upon

² See generally *Snyder v. Com. of Mass.*, 291 U.S. 97 (1934) (Accused has a right under “Fourteenth Amendment to be present in his own person whenever his presence has a relation, reasonably substantial, to the fullness of his opportunity to defend against the charge,” and “defense may be made easier if the accused is permitted to be present at the examination of jurors or the summing up of counsel, for it will be in his power, if present, to give advice or suggestion or even to supersede his lawyers altogether and conduct the trial himself.”).

the particular facts and circumstances surrounding that case, including the background, experience, and conduct of the accused.

Johnson v. Zerbst, 304 U.S. 458, 464 (1938) (internal quotations omitted). Thus, “[t]he right at issue is the right to be present, and the question becomes whether that right was effectively waived by his voluntary absence.” *Ellis* at 260-61, 227 S.E.2d at 305-306 (quoting *Taylor v. U.S.*, 414 U.S. 17 (1973)). See also *Patterson* at 229, 625 S.E.2d at 244 (“While Rule 16 permits a knowing and intelligent waiver of the right to be present, such a waiver is permitted only in limited circumstances. A trial judge must determine a defendant voluntarily waived his right to be present at trial in order to try the case in absentia.” (internal quotations omitted)).

“A defendant's knowing and voluntary waiver of a . . . constitutional right must be established by a complete record; and may be accomplished by colloquy between the court and the defendant, between the court and defendant's counsel, or both.” *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993). “The judge must make findings of fact on the record that the defendant (1) received notice of his right to be present; and (2) was warned he would be tried in his absence should he fail to attend.” *State v. Castineira*, 341 S.C. 619, 623, 535 S.E.2d 449, 451 (Ct. App. 2000).

In this case, Judge Addy never made the required findings of fact to continue the trial in Appellant's absence, nor could the record have supported such findings. First, Judge Addy was required to find that Appellant received notice of the date of his trial. The only information provided to Judge Addy on the matter was Solicitor White's claim—during her argument and not given in testimony under oath—that she told Appellant's prior attorney the case was on the trial docket and that she “[thought] there's

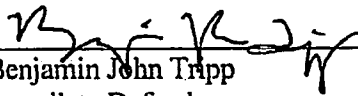
been adequate notice certainly even directly” to Appellant. Her argument is a far cry from a complete record showing Appellant had notice of the trial date. Indeed, the record strongly supports the opposite due to a communication breakdown with his attorney. Mr. Hodges was involved to an unknown degree in representing Appellant prior to trial, and during this time trial counsel was also representing Appellant. Trial counsel did not know the nature of their interactions and could not say whether Mr. Hodges did or should have notified Appellant of the trial date.

Secondly, Judge Addy made no finding as to the requirement that Appellant be warned that he would be tried in his absence. In the pre-trial colloquy, neither Judge Addy nor the attorneys even mentioned such a warning. Accordingly, the record cannot support a finding that Appellant knew he would be tried in his absence as required to conclude he knowingly waived his constitutional right to be present. Finally, no discussion or findings existed as to whether Appellant’s absence from the courtroom was voluntary. Judge Addy therefore committed reversible error in failing to make the findings required to deny Appellant’s motion to continue the trial.

CONCLUSION

For the foregoing reasons, Appellant requests that this Court reverse his conviction and remand for a new trial.

Respectfully submitted,


Benjamin John Tripp
Appellate Defender

ATTORNEY FOR APPELLANT

This 4th day of March, 2016.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

March 4, 2016



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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenwood County

Thomas A. Russo, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

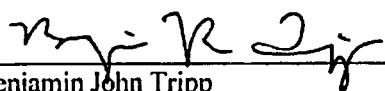
STANLEY WRAPP,

APPELLANT

APPELLATE CASE NO. 2015-000909

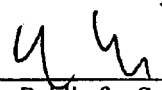
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Benjamin Aplin, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 4th day of March, 2016.


Benjamin John Tripp
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 4th day of March, 2016.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: May 12, 2025.

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Thomas A. Russo, Circuit Court Judge

Appellate Case No. 2015-000909

THE STATE, ...RESPONDENT,

v.

STANLEY LAMAR WRAPP, ...APPELLANT.

FINAL BRIEF OF RESPONDENT

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RESPONDENT'S STATEMENT OF ISSUE ON APPEAL

1. Whether, to the extent Appellant is challenging his trial in absentia based on the trial court's failure to make certain factual findings, the issue is not preserved for appellate review where Appellant raised no objection to the trial court failing to make findings on the record before proceeding in his absence, and whether, regardless of issue preservation, the trial court properly denied Appellant's continuance motion and proceeded with the trial in absentia where Appellant was aware of his right to be present for trial and the fact the trial would proceed without him. Finally, whether any error was harmless in light of the overwhelming evidence of Appellant's guilt and the lack of prejudice.

STATEMENT OF THE CASE

Stanley Lamar Wrapp (Appellant) was indicted at the February 2014 term of the grand jury for Greenwood County for driving under suspension (2014-GS-24-0368) and trafficking in cocaine base (crack) (2014-GS-24-0369). He was represented by Assistant Public Defender Shane Goranson, of the Eighth Circuit Public Defender's Office. Respondent (the State) was represented by Assistant Solicitors Elizabeth White and Micah Black, of the Eighth Circuit Solicitor's Office. On September 29-30, 2014, the case proceeded to a jury trial in absentia before the Honorable Frank R. Addy, Jr., pursuant to which Appellant was found guilty of driving under suspension and possession with intent to distribute crack as a lesser included offense of trafficking. (R.p.11; p.159-p.160).

On March 30, 2015, Appellant and Assistant Public Defender Patricia Bolen appeared before the Honorable Eugene C. Griffith, Jr., where the previously sealed sentence was unsealed and imposed. Appellant was sentenced to twenty (20) years' imprisonment for possession with intent to distribute cocaine base – second offense, and sixty (60) days' concurrent imprisonment for driving under suspension – second offense. (R.p.167-p.169). He timely filed a notice of intent to appeal his conviction and sentence and subsequently submitted a Brief in support of his appeal. This Brief of Respondent follows.

STATEMENT OF FACTS

Appellant was arrested for trafficking in crack – 10 grams or more but less than 28 grams – second offense, and driving under suspension – third offense. On October 18, 2013, he appeared at a bail proceeding before a Greenwood County magistrate judge who set an appearance recognizance bond with surety in the amount of \$25,000, ordered that Appellant appear in the Greenwood County Court of General Sessions beginning on December 6, 2013, and ordered that, “If no disposition is made during that term, the [Appellant] shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.” Appellant signed an acknowledgement stating in part: “I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.” On the day of the bail proceeding, Appellant was released from custody when A1 Bonding Company posted a surety bond on his behalf. (R.p. 170-171) (emphasis added).

On July 14, 2014, Appellant’s case was called for trial before the Honorable William P. Keesley. Appellant was present and was represented by Assistant Public Defender Shane Goranson. The State was represented by Assistant Solicitor Elizabeth P. White. At the call of the case Appellant moved for a continuance, arguing he needed more time to track down a potential witness named Eric Ross who may have information on the possible defense of entrapment or sentencing manipulation. The State responded that Ross was not a newly discovered witness and that Appellant had been on notice of the possible issues regarding Ross since he had first been noticed for trial. The solicitor then described the difficulties her office had in going back and forth with Appellant about whether he was going to hire an attorney or apply for a public defender. She noted this

had resulted in a three-month delay that was caused by Appellant himself. Ultimately, Judge Keesley granted Appellant's motion and continued the trial. (R.p.1-p.10).

On September 29, 2014, Appellant's case was re-called for trial, this time before the Honorable Frank R. Addy, Jr. (R.p.11-p.14). After the trial court qualified the jury pool and the parties selected a jury, Counsel for Appellant moved for another continuance. He explained his client was not present for trial and said he had no personal knowledge as to why. Counsel said he did not know whether Appellant's absence was voluntary or involuntary and requested a continuance so he could try to locate Appellant. (R.p.33, lines 22-25; p.36, line 14-p.37, line 14). The solicitor responded that she had first noticed Counsel for trial on June 4, 2014, and was going to try the case the week of July 14th; however, Judge Keesley granted a continuance. The solicitor noted Appellant was present and that she personally had a conversation with him in the courtroom after the continuance was granted. During that conversation she told Appellant his case would be called for trial the next time they could get to it. The solicitor further noted she had received a telephone call from a private attorney, Andrew Hodges, Esquire, three weeks before the current trial date and she told him the case was on the trial docket. She explained Appellant had contacted Hodges about possible representation but Hodges ultimately declined to get involved. The solicitor argued there had been adequate notice to Appellant that his case was coming up for trial and said the State was ready to proceed. (R.p.37, line 16-p.38, line 17).

Counsel responded that he did not know whether Hodges had actually informed Appellant of a trial date or not and said Counsel's investigator was out looking for Appellant as they spoke. (R.p.39, lines 5-16). The trial judge acknowledged he did not

know whether Appellant's absence was voluntary or not, but found "he was noticed to be here." The judge said he did not see any purpose to be served in continuing the case, denied the motion for a continuance, and ruled the trial would proceed whether Appellant was present or not. (R.p.39, line 17-p.40, line 12). Counsel argued he did not feel that Appellant had been adequately noticed and objected to proceeding with the trial. The trial judge announced the trial would resume at 9:30 the following morning and the jury was released for the day. (R.p.42, lines 6-13).

The next day the jury was sworn and the case proceeded as a trial in absentia. The trial judge gave brief preliminary instructions and the parties made opening statements. The solicitor said the jury would hear testimony from several witnesses who would explain why Appellant was charged with driving under suspension and trafficking crack. He said that on October 17, 2013, several officers were patrolling Main Street when they saw an individual they knew had a suspended license driving a vehicle. Based on this knowledge, the officers followed the vehicle into a parking lot, activated their blue lights, and placed the driver under arrest for driving under suspension. During a search of his person incident to arrest, the officers discovered ten to twelve grams of crack in the individual's pocket. During a subsequent search of the vehicle, the officers found more crack, a set of digital scales, and a knife. Counsel responded that Appellant was not guilty of trafficking crack because at the end of the case the jury would have many reasons to doubt the evidence presented by the State. (R.p.42-p.54).

The State proceeded to elicit testimony from Lieutenant Jamie Lovett and Agent Ray Pope of the Greenwood Drug Enforcement Unit, the two officers who arrested Appellant for driving under suspension and then discovered crack during the ensuing

search. In the search incident to arrest, Lovett discovered a small clear plastic bag containing an off-white rock-like substance in Appellant's front pocket. In the search of the vehicle, Pope discovered a purple Crown Royal bag containing a set of digital scales, some white powdery residue, a knife, and a smaller quantity of an off-white rock-like substance. The rock-like substances were field tested as positive for cocaine. Lovett bagged the evidence collected at the scene and placed it in the evidence locker. (R.p.54-p.70; p.75-p.83; p.87).

Next, the State presented testimony from the individuals responsible for securing and testing the suspected drugs from the scene to confirm they were crack. Sergeant Kenya Griffin, the crime scene and evidence technician for the Greenwood City Police Department, retrieved the evidence Lovett placed in the evidence locker on the date of the incident and moved it to a safe in the evidence room. Griffin later transported that evidence to the South Carolina Law Enforcement Division (SLED) for testing. (R.p.89-p.93). Amy Stephens, a forensic technician for SLED, logged the evidence submitted by Griffin and transferred it for forensic analysis. (R.p.100-p.105). Willie Smith, a chemical analyst for SLED, was admitted as an expert in drug analysis. He tested the rock-like substances and determined they were both crack. (R.p.105-p.115). The State also called Marie Wearing, a Department of Motor Vehicles employee, to the stand. She testified Appellant's driving privileges were suspended at the time of the incident and he had been given written notice of the suspension. (R.p.93-p.96).

After the State rested and the trial judge denied Appellant's motion for a directed verdict, Counsel renewed all objections that had been made throughout the trial and those objections were also denied. During a brief charge conference, the trial judge advised he

would charge the jury on Appellant's failure to appear or testify and that this was not a factor the jury could consider in determining guilt or innocence. (R.p.120-p.123).

During closing arguments, the solicitor went through the evidence that had been presented and the elements of the charged offenses. (R.p.127-p.133). Appellant's closing argument focused on reasonable doubt and the things Counsel argued the police failed to do during their investigation. (R.p.133-p.140). The trial judge then charged the jury on the respective roles of the judge and jury, the State's burden of proof, the presumption of innocence, reasonable doubt, credibility of witnesses, the defendant's right not to appear and testify, direct evidence and circumstantial evidence, and the elements of the crimes. (R.p.140-p.153). Specifically in regard to Appellant's absence, the trial judge charged:

Now, I instruct you and I emphasize that the fact [sic] that the Defendant, Stanley Lamar Wrapp, did not appear or testify in this case is not a factor to be considered by you in any way in your deliberations and in your consideration of the question of the guilt or innocence of Mr. Wrapp. It must not be considered by you in any manner whatsoever. It is well established in our law that a Defendant not appearing at his or her trial must not be construed – that this must not be construed as an admission of guilt. A Defendant has the Constitutional right to remain silent. And the assertion of that right must not be considered by you in your deliberations. I repeat, under your oath you are to draw no conclusion whatsoever from the fact that Mr. Wrapp did not appear or testify in this case. The fact that Mr. Wrapp did not testify should not even be discussed in the jury room.

(R.p.145, line 25-p.146, line 15).

The jury found Appellant guilty of driving under suspension and possession with intent to distribute crack. Following the verdict, the solicitor described Appellant's criminal history, which included prior charges and convictions in 2003, 2006, 2011, and 2012. Counsel then presented facts in mitigation, and the trial judge reviewed

Appellant's bond paperwork before issuing a sentence under seal. (R.p.160-p.165)
(emphasis added).

On March 30, 2015, Appellant and Assistant Public Defender Patricia Bolen appeared before the Honorable Eugene C. Griffith, Jr., to have the sealed sentence unsealed and read. Appellant was sentenced to twenty (20) years' imprisonment for possession with intent to distribute crack – second offense, and sixty (60) days' concurrent imprisonment for driving under suspension – second offense. (R.p.167-p.169).

ARGUMENT

I.

To the extent Appellant is challenging his trial in absentia based on the trial court's failure to make certain factual findings, the issue is not preserved for appellate review because Appellant raised no objection to the trial court failing to make findings on the record before proceeding in his absence. Regardless of issue preservation, the trial court properly denied Appellant's continuance motion and proceeded with the trial in absentia because Appellant was aware of his right to be present for trial and the fact the trial would proceed without him. Furthermore, any error was harmless in light of the overwhelming evidence of Appellant's guilt and the lack of prejudice.

Appellant argues the trial judge erred in denying his motion for a continuance and holding his trial in his absence because the record does not support the required findings of fact that he knowingly and voluntarily waived his right to be present. He contends his right to be present at all critical stages of the proceedings against him, as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution, was violated when the trial court, over Counsel's objection, proceeded with the trial in absentia. Specifically, Appellant argues the trial judge "never made the required findings of fact" that Appellant (1) received notice of his right to be present and (2) was warned he would be tried in his absence should he fail to attend. He further claims, "nor could the record have supported such findings." (Brief of Appellant p.7). Appellant's challenge to the trial court's failure to make specific factual findings regarding whether Appellant knowingly waived his right to be present is not preserved for appellate review because it was never raised to the trial court. In any event, even if preserved the trial court did not err in denying Appellant's continuance motion and proceeding with the trial in absentia because the judge did make a factual finding that Appellant had received adequate notice.

Furthermore, Appellant's acknowledgement and signature on the bond court's "Order Specifying Methods and Conditions of Release" shows he had notice of when his trial would begin and was warned of the consequences of his failure to appear. Finally, even if the trial court somehow erred in proceeding with the trial, any error was harmless in light of the overwhelming evidence of Appellant's guilt and a lack of prejudice from the trial proceeding in his absence. For all of these reasons, Appellant's convictions should be affirmed.

Issue Preservation

Initially, the State submits Appellant's arguments are not preserved for appellate review because they were not specifically raised to and ruled upon by the trial court. State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003). If an error is not presented to and ruled upon by the trial court, it cannot be raised for the first time to the appellate court. State v. Freiburger, 366 S.C. 125, 135, 620 S.E.2d 737, 742 (2005). Indeed, the appellate court will not consider any issues that were not presented to or passed upon by the trial court. State v. Fleming, 254 S.C. 415, 421, 175 S.E.2d 624, 627 (1970). In regard to trials in absentia, this Court has instructed:

In order to claim the protection afforded by the rule of law that a criminal defendant may be tried in his absence only upon a trial court's finding that the defendant has received the requisite notice of his right to be present and advisement that the trial would proceed in his absence if he failed to attend, a defendant or his attorney must object at the first opportunity to do so, and failure to so object constitutes waiver of the issue on appeal.

State v. Ravenell, 387 S.C. 449, 456, 692 S.E.2d 554, 558 (Ct. App. 2010) (emphasis added).

Here, Appellant's primary claim is that the trial court erred in denying his continuance motion and proceeding with a trial in absentia because it did not make

specific factual findings regarding his waiver of his right to be present for trial. However, because Appellant raised no objection to the trial court's failure to make specific factual findings, Appellant is precluded from raising such an objection for the first time on appeal. See State v. Patterson, 324 S.C. 5, 19, 482 S.E.2d 760, 767 (1997) ("Appellant is limited to the grounds raised at trial."); State v. Adams, 354 S.C. 361, 380, 580 S.E.2d 785, 795 (Ct. App. 2003) ("[A] defendant may not argue one ground below and another on appeal."). As this Court instructed in Ravenell, Appellant was required to object at his first opportunity to do so in order to preserve any challenge to his trial in absentia based on the trial court's failure to make factual findings. Where, as here, Appellant failed to do so, the issue should not be considered for the first time on appeal. The trial court was not given the opportunity to address the alleged deficiency. Appellant should not be permitted to seek reversal of his conviction based on the trial court's failure to make specific factual findings Appellant never asked the trial court to make. Appellant's issue on appeal is not preserved for review and his conviction should be affirmed.

Standard of Review

A decision on whether to grant or deny a motion for continuance rests in the sound discretion of the trial court. State v. Yarborough, 363 S.C. 260, 266, 609 S.E.2d 592, 595 (Ct. App. 2005). Appellate courts in South Carolina typically show great deference to the trial court regarding these decisions. State v. Colden, 372 S.C. 428, 435, 641 S.E.2d 912, 916 (Ct. App. 2007). The denial of a motion for continuance will not be disturbed on appeal absent a clear abuse of discretion. Morris v. State, 371 S.C. 278, 283, 639 S.E.2d 53, 56 (2006); Ravenell, 387 S.C. at 455, 692 S.E.2d at 557. "The

granting or refusal of a motion for continuance is within the discretion of the trial judge and his disposition of such a motion will not be reversed on appeal unless it is shown that there was an abuse of discretion to the prejudice of appellant. . . . [R]eversals of refusal of continuance are about as rare as the proverbial hens' teeth." State v. Lytchfield, 230 S.C. 405, 409, 95 S.E.2d 857, 859 (1957).

Waiver of Right to be Present for Trial

"A criminal defendant has the right to be present at any stage of the criminal proceeding that is critical to its outcome if his presence would contribute to the fairness of the procedure." State v. Shuler, 344 S.C. 604, 624, 545 S.E.2d 805, 815 (2001) (citations omitted). However, this right may be waived. Ellis v. State, 267 S.C. 257, 260, 227 S.E.2d 304, 305 (1976). The South Carolina Rules of Criminal Procedure provide that a defendant "may voluntarily waive his right to be present and may be tried in his absence upon a finding by the court that such person has received notice of his right to be present and that a warning was given that the trial would proceed in his absence upon a failure to attend the court." Rule 16, SCRCrimP. "A defendant's exclusion, or absence, will be reviewed in light of the whole record." Shuler, 344 S.C. at 624, 545 S.E.2d at 815. Although the right to be present is a substantial one, no presumption of prejudice arises from a defendant's exclusion. Id.; State v. Williams, 292 S.C. 231, 232, 355 S.E.2d 861, 862 (1987) (absence from trial is subject to harmless error analysis). "The deliberate absence of a defendant who knows that he stands accused in a criminal case and that his trial will begin during a specific period of time indicates nothing less than an intention to obstruct the orderly process of justice." Ellis, 267 S.C. at 261, 227 S.E.2d at 306.

Discussion / Analysis

First, the State submits that contrary to Appellant's claim on appeal, the trial judge did make a factual finding that Appellant received sufficient notice for the trial to proceed in his absence. Indeed, the trial judge found Appellant "was noticed to be here," a conclusion which encompasses the findings that Appellant had notice of when his trial would begin and that Appellant was warned he could be tried in his absence. When both longstanding precedent and the Rules of Criminal Procedure in South Carolina require such findings, and the trial court specifically finds that notice to the defendant was sufficient and proceeds with a trial in absentia, it necessarily constitutes a finding that the defendant made a voluntary waiver of his or her right to attend trial. This is particularly true where the defendant makes no objection to the adequacy of the court's finding at the time it is made.

Second, the State submits the trial court's finding that Appellant received adequate notice is supported by the record. In State v. Wright, 304 S.C. 529, 531, 405 S.E.2d 825, 826 (1991), Wright was not present for his trial on a charge of distributing cocaine. At the outset of trial, Wright's defense counsel moved for a continuance, asserting he had recently been in contact with Wright and believed Wright could be located. Id. at 532, 405 S.E.2d at 827. The trial court denied the continuance motion and proceeded with a trial in absentia. Id. Following his conviction, Wright appealed, arguing the trial court erred in denying the continuance motion. Id. On appeal, the Supreme Court affirmed the trial court's ruling, finding the trial court did not abuse its discretion in denying Wright's continuance motion because the record reflected Wright

was aware of the term of court in which he was set to be tried and knew he would be tried in his absence if he failed to appear. Id.

Here, the trial court likewise did not abuse its discretion in denying Appellant's continuance motion and proceeding with the trial in Appellant's absence because the record shows Appellant knowingly waived his right to be present for trial by not appearing at trial when he had awareness of the fact he had a right to be present, his trial was scheduled to begin, and he would be tried in his absence if he failed to appear. See State v. Goode, 299 S.C. 479, 481, 385 S.E.2d 844, 845 (1989) ("[T]he right to be present at trial can be waived if done knowingly and voluntarily."). The solicitor, an officer of the court, advised the trial judge that she personally had a conversation with Appellant in the courtroom the day the first continuance was granted and told Appellant his case would be re-called for trial the next term it could be called. The solicitor further noted that three weeks before the trial she called a private attorney Appellant was attempting to retain and told that attorney the case was on the trial docket. (Tr.p.27, line 16-p.28, line 17). These statements alone constitute sufficient evidence to support the trial court's finding. Yet, the solicitor's comments did not stand alone.

Instead, the trial court was also aware that Appellant received written notice of when his trial would begin and of his right to be present. On October 18, 2013, the magistrate who set Appellant's bond ordered that Appellant appear in the Greenwood County Court of General Sessions beginning on December 6, 2013, and further ordered that "[i]f no disposition is made during that term, the [Appellant] shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court." Appellant signed an acknowledgement stating in

part: “I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.” (October 18, 2013 Order Specifying Methods and Conditions of Release) (emphasis added). This bond form was before the trial court and was reviewed by the trial judge during the sentencing proceedings. (R.p.160-p.165). Through his signature on the acknowledgement form, Appellant unequivocally demonstrated his full understanding of the consequences of his failure to appear at the scheduled time of his trial. See State v. Fairey, 374 S.C. 92, 101, 646 S.E.2d 445, 449 (Ct. App. 2007) (“A bond form that provides notice that a defendant can be tried in absentia may serve as the requisite notice.”). Additionally, the form demonstrates Appellant was aware he was expected to appear in court each weekly term until otherwise notified rather than simply wait for additional notification from the court or the State before appearing.

Also supporting the trial court’s finding was Appellant’s substantial prior experience with the criminal justice system, which included four prior convictions over the course of a ten-year criminal career. This experience provided him with sufficient knowledge to understand the consequences of his failure to attend his trial. Cf. Graves v. State, 309 S.C. 307, 310, 422 S.E.2d 125, 127 (1992) (considering Graves’ “extensive criminal background” when reviewing a determination of whether Graves validly waived his right to counsel); State v. Cash, 309 S.C. 40, 43, 419 S.E.2d 811, 813 (Ct. App. 1992) (listing the factors different courts have considered in determining whether a defendant had a sufficient background to waive his right to counsel, which included whether the defendant was previously involved in criminal trials).

In light of the representations of the solicitor regarding Appellant's awareness of when his trial was set to begin, Appellant's act of signing the acknowledgement form before he was released on bond, and Appellant's prior criminal experience, it is clear Appellant was fully aware of his right to be present for his trial, the scheduled date and time of his trial, and the consequences of his failure to appear for trial. Accordingly, the trial court did not abuse its discretion in denying Appellant's continuance motion and proceeding with the trial in absentia after Appellant failed to appear at the courthouse for the beginning of his trial. See Wright, 304 S.C. at 532, 405 S.E.2d at 827 (1991) (finding no abuse of discretion in the denial of Wright's continuance motion raised before Wright's trial in absentia because the record reflected Wright was aware of the term of court in which his case was set to be tried and was aware the trial would proceed in his absence); Ellis, 267 S.C. at 261, 227 S.E.2d at 306 ("In our courts of general sessions, defendants are generally only given notice of the term of court in which they will be tried and do not know the exact date and time of their trial until shortly before the trial begins. We think such notice is sufficient to enable a defendant to make an effective waiver of his right to be present at his trial."); see also State v. Williams, 321 S.C. 455, 459, 469 S.E.2d 49, 51 (1996) ("The trial court's refusal of a motion for continuance in a criminal case will not be disturbed absent a clear abuse of discretion."). Appellant's conviction should be affirmed.

Harmless Error

Appellate courts will generally not set aside a judgment based on insubstantial errors not affecting the result. State v. Sherard, 303 S.C. 172, 176, 399 S.E.2d 595, 597 (1991). "No definite rule of law governs this finding; rather, the materiality and

prejudicial character of the error must be determined from its relationship to the entire case.” State v. Wiley, 387 S.C. 490, 497, 692 S.E.2d 560, 564 (Ct. App. 2010). Error is harmless beyond a reasonable doubt if it does not contribute to the verdict. State v. Fletcher, 379 S.C. 17, 25, 664 S.E.2d 480, 484 (2008). “When guilt has been conclusively proven by competent evidence such that no other rational conclusion can be reached, the Court should not set aside a conviction because of insubstantial errors not affecting the result.” State v. Bailey, 298 S.C. 1, 5, 377 S.E.2d 581, 584 (1989). Thus, when overwhelming evidence of guilt has been presented, any trial error may be harmless. State v. Gathers, 295 S.C. 476, 480-81, 369 S.E.2d 140, 143 (1988).

In Appellant’s case, even if the trial court erred in conducting the trial without Appellant in attendance, any error was entirely harmless in light of the overwhelming evidence of Appellant’s guilt. See State v. Williams, 292 S.C. 231, 233, 355 S.E.2d 861, 862 (1987) (finding errors resulting from a trial in absentia are subject to a harmless error analysis). Even if Appellant had been present for trial, the result would have been no different. Thus, any error from the trial proceeding without Appellant does not warrant reversal of Appellant’s conviction and resulted in no actual prejudice to Appellant. See Shuler, 344 S.C. at 625, 545 S.E.2d at 815 (“Although the right to be present is a substantial one, no presumption of prejudice arises from a defendant’s exclusion.”) For all of these reasons, Appellant’s conviction should be affirmed.

CONCLUSION

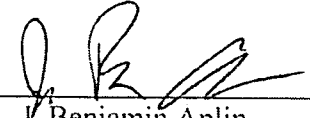
For all of the foregoing reasons, the State respectfully requests that the conviction and sentence of the lower court be affirmed.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

Columbia, South Carolina
March 10, 2016

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Thomas A. Russo, Circuit Court Judge

Appellate Case No. 2015-000909

THE STATE,.....RESPONDENT

v.

STANLEY LAMAR WRAPP, ...APPELLANT.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies the Final Brief of Respondent complies with rule
211(b), SCACR.

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STATE OF SOUTH CAROLINA
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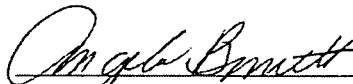
STANLEY LAMAR WRAPP, ...APPELLANT.

PROOF OF SERVICE

I, Angela Bennett, Administrative Assistant, hereby certify that I have served the within *Final Brief of Respondent* dated March 10, 2016, on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney of record:

Benjamin J. Tripp, Appellate Defender
S.C. Commission on Indigent Defense
Division of Appellate Defense
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I further certified that all parties required by Rule to be served have been served.
This 10th day of March, 2016.


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**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Stanley Lamar Wrapp, Appellant.

Appellate Case No. 2015-000909

Appeal From Greenwood County
Thomas A. Russo, Circuit Court Judge

Opinion No. 5510
Heard May 4, 2017 – Filed August 16, 2017

REVERSED AND REMANDED

Taylor Davis Gilliam, of Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General John Benjamin Aplin,
of Columbia; and Solicitor David Matthew Stumbo, of
Greenwood, for Respondent.

MCDONALD, J.: Stanley Lamar Wrapp appeals his convictions for possession with intent to distribute (PWID) cocaine base and driving under suspension (DUS), arguing the circuit court failed to make the required findings that he had proper notice of his trial date and that his absence was voluntary before trying him *in absentia*. We reverse and remand for a new trial.

Facts and Procedural History

On October 17, 2013, Greenwood County Drug Enforcement (GCDE) officers initiated a traffic stop and arrested Wrapp for driving with a suspended license. When Wrapp was searched incident to the arrest, the officers found crack cocaine in his pocket. A subsequent search of Wrapp's vehicle uncovered more crack, a set of digital scales, and a razor knife like those commonly used to cut crack cocaine. Wrapp was charged with DUS and trafficking in crack cocaine.

On October 18, 2013, Wrapp signed bond paperwork showing his court date was December 6, 2013, and providing "[i]f no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case." The paperwork also stated, "I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence."

On July 14, 2014, Wrapp's case was called for trial before the Honorable William P. Keesley. Wrapp's trial counsel asked for a continuance, in part, so he could have more time to investigate an issue regarding a confidential informant (the CI). Judge Keesley granted the continuance.

On Monday, September 29, 2014, Wrapp's case was re-called for trial before the Honorable Thomas A. Russo. After jury selection, trial counsel moved for a continuance because Wrapp was not present. Trial counsel stated, "I don't have personal knowledge of why he isn't here. I don't know if . . . his absence is voluntary or involuntary." In response, the State asserted that following the July 2014 continuance, the solicitor told Wrapp "that his case would be called for trial the next time we could get to it." The State also contended that during this conversation the solicitor told Wrapp he would not make any deals after the week of July 14. Finally, the State asserted it was contacted three weeks prior to trial by a private attorney whom Wrapp had asked to represent him. Subsequently, this attorney "declined to get involved due to the fact that [the case] was up for trial." Upon inquiry, trial counsel responded that he did not know whether this attorney had informed Wrapp of his upcoming trial date.

The circuit court noted a bench warrant had been issued for Wrapp, and trial counsel confirmed that the public defender's office had an investigator looking for him. In response, the circuit court stated,

[T]he difficult thing is you led off with this observation that is we don't know whether his absence here today is a voluntary or not voluntary absence. I don't know what

his situation is or why he's not here. But it does appear that he was noticed to be here. For whatever reason[,] he's not here. I don't really have a valid reason. I don't see any purpose that would be served in continuing the case. . . . [I]f he makes himself unavailable, that's—I just don't know that you can make yourself unavailable and then use that as a basis for getting a continuance granted. . . . So I'm going to respectfully deny the motion for a continuance. I hope your investigator finds him this afternoon or this evening and then he can show up and be of assistance to you. But we're going to go ahead and proceed whether he's present or not.

Trial counsel asked for a delay until Wednesday, October 1, but the circuit court declined, stating it would begin Wrapp's trial at 9:30 a.m. on Tuesday, September 30. Trial counsel objected, stating, "For the record . . . I don't feel like Mr. Wrapp has been adequately noticed and we object to going to trial." The circuit court responded, "Alright. Well, we'll start back at 9:30 in the morning."

The trial took place on September 30, 2014, and the jury convicted Wrapp of DUS and possession with intent to distribute cocaine base. Wrapp was sentenced to twenty years' imprisonment on the PWID charge and sixty days' imprisonment for DUS. These sentences were sealed and later read to Wrapp in court on March 30, 2015.

Standard of Review

"In criminal cases, the appellate court sits to review errors of law only." *State v. Ravenell*, 387 S.C. 449, 454, 692 S.E.2d 554, 557 (Ct. App. 2010). "An appellate court is bound by the trial court's factual findings unless they are clearly erroneous." *Id.*

Law and Analysis

"The trial court's denial of a motion for a continuance will not be disturbed on appeal absent a clear abuse of discretion." *Id.* at 455, 692 S.E.2d at 557. "It is well established that, although the Sixth Amendment of the United States Constitution guarantees the right of an accused to be present at every stage of his trial, this right may be waived, and a defendant may be tried in his absence." *Id.* "A trial judge must determine a criminal defendant voluntarily waived his right to be present at

trial in order to try the defendant in his absence." *Id.* at 455, 692 S.E.2d at 557–58. "The judge must make findings of fact on the record that the defendant (1) received notice of his right to be present and (2) was warned he would be tried in his absence should he fail to attend." *Id.* at 456, 692 S.E.2d at 558.

Rule 16, SCRCrimP, also outlines the required process:

Except in cases wherein capital punishment is a permissible sentence, a person indicted for misdemeanors and/or felonies may voluntarily waive his right to be present and may be tried in his absence upon a finding by the court that such person has received notice of his right to be present and that a warning was given that the trial would proceed in his absence upon a failure to attend the court.

We hold the circuit court erred in trying Wrapp *in absentia* without making specific findings that Wrapp (1) received notice of his right to present, and necessarily, of the term of court for which he needed to be present, and (2) was warned he would be tried *in absentia* if he failed to attend. Initially, we are not persuaded by the State's argument that this issue is unpreserved. Although trial counsel did not specifically object to the circuit court's failure to make these factual findings, he moved for a continuance and objected to the trial proceeding due to the lack of adequate notice to Wrapp. *Cf. Ravenell*, 387 S.C. at 456–57, 692 S.E.2d at 558 (addressing the merits when trial counsel moved for a continuance but did not specifically object to a trial *in absentia* and never asserted that his client failed to receive adequate notice or warnings).

In determining the trial would proceed in Wrapp's absence, the circuit court stated, "I don't know what his situation is or why he's not here. But it does appear that he was noticed to be here. For whatever reason he's not here. I don't really have a valid reason. I don't see any purpose that would be served in continuing the case. . . ." Even if we were to construe this as a finding that Wrapp received notice of his right to be present, there was no finding that Wrapp was informed he could be tried *in absentia*.¹ Thus, Wrapp cannot be said to have voluntarily waived his right to be present at trial. *See State v. Ritch*, 292 S.C. 75, 76, 354 S.E.2d 909, 909

¹ We acknowledge Wrapp was provided the "*in absentia*" notice on his bond form. But the circuit court made no such finding and acknowledged that it had no information as to whether Wrapp's absence was voluntary.

(1987) (finding error and reversing when a trial court failed to make required findings that an appellant received notice of his right to be present at trial and a warning that he would be tried in his absence should he fail to attend).

In addition to the circuit court's failure to make the requisite factual findings, the record is devoid of any fact indicating Wrapp had actual notice of the term of court in which his trial would occur. *See Ravenell*, 387 S.C. at 456, 692 S.E.2d at 558 ("[N]otice of the term of court in which a defendant will be tried is sufficient notice to enable the defendant to make an effective waiver of his right to be present at his trial."); *see also Ellis v. State*, 267 S.C. 257, 261, 227 S.E.2d 304, 306 (1976) (stating a defendant will not know the day and time of trial until shortly before trial begins). Neither the solicitor's July 2014 statement to Wrapp that he would be tried "the next time [the State] got to it" nor the language in the bond form notified Wrapp of the term of court in which he would be tried. Further, neither party presented any direct evidence—such as a subpoena or a statement from trial counsel—indicating Wrapp had notice of the term of court in which his case would be tried. In fact, the parties were unclear as to that circuit's normal procedure for noticing defendants. *See City of Aiken v. Koontz*, 368 S.C. 542, 547, 629 S.E.2d 686, 689 (Ct. App. 2006) ("If the record . . . does not include evidence to support a finding that the defendant was afforded notice of his trial, the resulting conviction *in absentia* cannot stand."). It seems logical that for one to voluntarily fail to attend trial or otherwise waive his trial appearance, one must actually know when the trial is to occur.

The State urges us to find any error in this process was harmless. However, we need not undertake a harmless error analysis when, as here, the trial court erred in failing to make the requisite findings and the record is devoid of facts allowing us to discern whether Wrapp had notice of the term of court. *See State v. Jackson*, 290 S.C. 435, 436–37, 351 S.E.2d 167, 167 (1986) (remanding for a new trial because there was no evidence in the record that the defendant was given notice of his trial and neither defendant nor his counsel were present at trial); *State v. Simmons*, 279 S.C. 165, 166–67, 303 S.E.2d 857, 858–59 (1983) (remanding for a new trial because the record was devoid of facts showing defendants had notice of their trial); *see also Ritch*, 292 S.C. 75, 354 S.E.2d 909; *State v. Fleming*, 287 S.C. 268, 335 S.E.2d 814 (1985). Accordingly, we reverse and remand for a new trial.

REVERSED AND REMANDED.

GEATHERS and HILL, JJ., concur.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions

Frank R. Addy, Jr.,¹ Circuit Court Judge

Opinion No. 5510 (S.C. Ct. App. filed August 16, 2017)

Appellate Case No. 2015-000909

RECEIVED

AUG 31 2017

SC Court of Appeals

THE STATE, ...RESPONDENT

v.

STANLEY LAMAR WRAPP, ...APPELLANT.

PETITION FOR REHEARING AND
SUGGESTION FOR REHEARING *EN BANC*

On August 16, 2017, this Court issued a published opinion that reversed Appellant Stanley Lamar Wrapp's convictions for possession with intent to distribute (PWID) cocaine base and driving under suspension (DUS), and remanded for a new trial. *State v. Wrapp*, Op. No. 5510 (S.C. Ct. App. filed August 16, 2017). In regard to the remainder of the procedural history,

¹ The caption of this Court's published opinion indicates the trial was held before the Honorable Thomas A. Russo. The recitation in the Court's "Facts and Procedural History" does the same by stating: "On Monday, September 19, 2014, Wrapp's case was re-called for trial before the Honorable Thomas A. Russo." The State now takes this opportunity to respectfully note this was a mistake and that the trial *in absentia* was actually held before the Honorable Frank R. Addy, Jr. The State would also like to apologize for its part in contributing to this error. Although the "Statement of the Case" in the Final Brief of Respondent correctly identified Judge Addy as the trial judge, the cover of that Brief mistakenly references Judge Russo. It appears the same mistake was made in the Final Brief of Appellant and on the cover of the Record on Appeal, and unfortunately it carried over to the opinion filed by this Court.

the "Statement of the Case" in the Final Brief of Respondent is hereby incorporated by reference. Respondent (the State) respectfully petitions the Court for rehearing and suggests rehearing *en banc* pursuant to Rules 219 & 221(a), SCACR.

The State hereby seeks rehearing on the grounds that the Court may have misapprehended, overlooked, or failed to address several crucial points raised by the parties which bear directly upon this Court's ultimate conclusions that: (A) "the circuit court erred in trying Wrapp *in absentia* without making specific findings that Wrapp: (1) received notice of his right to [be] present, and (2) was warned he would be tried *in absentia* if he failed to attend"; and (B) "we need not undertake a harmless error analysis when, as here, the trial court erred in failing to make the requisite findings and the record is devoid of facts allowing us to discern whether Wrapp had notice of the term of court." Specifically, this Court may have misapprehended or overlooked well-established precedent in three specific respects. First, the Court appears to have misapprehended existing precedent on error preservation in finding: "We are not persuaded by the State's argument that his issue is unpreserved," where Wrapp made no objection to the alleged error during trial and then raised it for the first time on appeal. Second, the Court appears to have misapprehended or overlooked existing precedent on trials *in absentia* and the purpose and function of this State's bond forms in providing the requisite notice when it concluded: "[T]he record is devoid of any fact indicating Wrapp had actual notice of the term of court in which his trial would occur." The bond forms gave the requisite notice. Finally, the Court appears to have compounded these two mistakes and overlooked existing precedent on harmless error when it declined to engage in a harmless error analysis to determine if Wrapp suffered prejudice due to his absence from trial.

Rehearing En Banc

The State further suggests rehearing *en banc* on grounds that: (1) consideration by the full court may be necessary to secure or maintain uniformity of the Court's decisions, and (2) the proceeding involves a question of exceptional importance. First, the State submits our appellate courts have a long and consistent history of affirming convictions where the trial courts of South Carolina proceeded with trials *in absentia* based on the "actual notice" given in bond forms which are effectively identical to the ones that were before the trial court in Wrapp's case. In addition to the published opinions referenced in the Final Brief of Respondent, this history is also reflected in a number of unpublished opinions issued by various panels of this Court. *See, e.g., State v. Barnette*, Op. No. 2014-UP-146 (S.C. Ct. App. filed Apr. 2, 2014) (citing *State v. Ravenell*, 387 S.C. 449, 457, 692 S.E.2d 554, 558 (Ct. App. 2010) (finding that a bond form that informed the defendant of his obligation to appear "at such other times and places ordered by the court" and which provided notice that a defendant can be tried *in absentia* may serve as the requisite warning that he may be tried in his absence should he fail to appear)); *State v. Myers*, Op. No. 2016-UP-123 (S.C. Ct. App. filed Mar. 2, 2016) (citing *State v. Ravenell*, 387 S.C. 449, 457, 692 S.E.2d 554, 558 (Ct. App. 2010) (finding that notice of the term of court in which a defendant will be tried is sufficient notice and a bond form that provides notice that a defendant can be tried *in absentia* may serve as the requisite warning that he may be tried in his absence should he fail to appear)); *State v. Kimble*, Op. No. 2016-MO-011 (S.C. Sup. Ct. filed Apr. 13, 2016) (citing *State v. Fairey*, 374 S.C. 92, 646 S.E.2d 445, 449-50 (Ct. App. 2007) (finding that a bond form providing notice that the defendant can be tried *in absentia* may serve as the requisite notice)); *State v. Bell*, Op. No. 2008-UP-249 (S.C. Ct. App. filed May 7, 2008) (finding it is well-settled a bond form that provides notice that a defendant can be tried *in absentia* may

serve as the requisite notice and citing *State v. Goode*, 299 S.C. 479, 385 S.E.2d 844, 846 (1989); *State v. Fairey*, 374 S.C. 92, 646 S.E.2d 445, 449-50 (Ct. App. 2007); and *City of Aiken v. Koontz*, 368 S.C. 542, 547-49, 629 S.E.2d 686, 689-90 (Ct. App. 2006)); *State v. O'Donald*, Op. No. 2008-UP-007 (S.C. Ct. App. filed Jan. 2, 2008) (finding that in addition to appearing in court and telling the judge he did not wish to be present, the bond order Appellant signed acknowledged he had been informed he had a right and obligation to be present at trial and if he failed to attend, the trial would proceed in his absence, and quoting *Fairey*, 374 S.C. at 101, 646 S.E.2d at 449 ("A bond form that provides notice that a defendant can be tried *in absentia* may serve as the requisite notice.")); *State v. Johnson*, Op. No. 10210-UP-373 (S.C. Ct. App. filed July 21, 2010) (citing *State v. Ravenell*, 387 S.C. 449, 457, 692 S.E.2d 554, 558 (Ct. App. 2010) (finding defendant waived his constitutional right to be present at trial after he was notified of his right to attend and instructed his failure to appear would result in being tried in his absence, as well as noting defendant's bond form sufficiently warned him of being tried in his absence for failing to appear)). Because the opinion here appears to be a departure from the historically consistent application of *Ravenell* and other trial *in absentia* cases, consideration by the full court is needed in an effort to maintain uniformity.

Second, the State submits this opinion involves a question of exceptional importance because magistrates, judges in the courts of general sessions, solicitors, and other participants in the criminal justice system in South Carolina routinely use and rely on the standard bond forms for the specific purpose for which this Court, in what is essentially the announcement of a new rule,² now discounts out-of-hand. Based primarily on the historically consistent case law

² This Court states: "It seems logical that for one to voluntarily fail to attend trial or otherwise waive his trial appearance, one must actually know when trial is to occur." Standing alone, the State takes no issue with this statement. However, to the extent it means this Court has concluded Wrapp did not "actually know" when his trial was to occur despite his signing and acknowledging a bond order which directed him to appear in the Greenwood

described above, all parties in the criminal justice process, including the defendant, have come to understand and rely on the knowledge that the actual written notice given to a defendant in the standard bond forms is sufficient to notify a defendant: that when he is released on bond he has a right and obligation to be present at trial; of the term or terms of court for which he needs to be present; and that if he fails to attend, the trial might proceed in his absence. If, as this Court has now decided, the bond form is insufficient to provide the requisite notice, then the advisement about the term of court only serves a purpose if the defendant's trial actually goes forward on the particular term of court identified. This Court is effectively declaring the additional language on the form that: "If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case," to be pointless. Indeed, it appears this Court concludes a defendant must be given specific notice of the particular date of the term of court in which the trial will actually proceed or his waiver of the right to be present is invalid, and a trial *in absentia* always constitutes reversible error. *But see State v. Jackson*, 290 S.C. 435, 436, 351 S.E.2d 167, 167 (1986) ("Notice of the term of court for which the trial is set constitutes sufficient notice to enable a criminal defendant to make an effective waiver of his right to be present."); *Ellis v. State*, 267 S.C. 257, 261, 227 S.E.2d 304, 306 (1976) ("In our courts of general sessions, defendants are generally only given notice of the term of court in which they will be tried and do not know the exact date and time of their trial until shortly before the trial begins. We think such notice is sufficient to enable a defendant to make an effective waiver of his right to be present at his trial."). Not only is this conclusion not supported by existing precedent, it also would create a system that encourages defendants who

County Court of General Sessions beginning on December 6, 2013, and that, "If no disposition is made during that term, [Wrapp] shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court," this statement and the conclusion for which it stands announces a new rule which heretofore did not exist in South Carolina. Announcing a new rule with far-reaching implications raises an issue of exceptional importance.

are released on bond to abscond in order to avoid trial and avoid receiving notice of subsequent terms of court. A defendant who could not be located after release on bond would never face the prospect of a trial unless his case was called for trial at the first term of court. This result would be absurd and would lead to intentional obstruction of the orderly process of justice. The effects of such a ruling would be profound and would require criminal courts in South Carolina to alter the way they do business, not only in regard to trying to give notice to every defendant of each and every term of court, but also in regard to whether the State would seek higher bond amounts in an attempt to curb the number of defendants released on bond in the first place. The State respectfully submits these potential consequences render this proceeding exceptionally important and particularly compelling for *en banc* review.

For these reasons, the State respectfully requests that this Court grant this petition for rehearing, reconsider and rehear this matter, and issue an order affirming Wrapp's convictions and sentence. Alternatively, the State requests that the Court reconsider and rehear this matter and suggests that it be reheard *en banc*.

Statement of Facts

Wrapp was arrested for trafficking in crack cocaine—10 grams or more but less than 28 grams—second offense, and driving under suspension - third offense. On October 18, 2013, he appeared at a bail proceeding before a Greenwood County magistrate judge who set an appearance recognizance bond with surety in the amount of \$25,000, ordered that Wrapp appear in the Greenwood County Court of General Sessions beginning on December 6, 2013, and ordered that, **"If no disposition is made during that term, [Wrapp] shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court."** Wrapp signed an acknowledgement stating in part: "I

understand and have been informed that I have a right and obligation to be present at trial and **should I fail to attend the court, the trial will proceed in my absence.**" On the day of the bail proceeding, Wrapp was released from custody when A1 Bonding Company posted a surety bond on his behalf. (R.p. 170-171) (emphasis added).

On July 14, 2014, Wrapp's case was called for trial before the Honorable William P. Keesley. Wrapp was present and was represented by Assistant Public Defender Shane Goranson. The State was represented by Assistant Solicitor Elizabeth P. White. At the call of the case Wrapp moved for a continuance, arguing he needed more time to track down a potential witness named Eric Ross who may have information on the possible defense of entrapment or sentencing manipulation. The State responded that Ross was not a newly discovered witness and that Wrapp had been on notice of the possible issues regarding Ross since he had first been noticed for trial. The solicitor then described the difficulties her office had in going back and forth with Wrapp about whether he was going to hire an attorney or apply for a public defender. She noted this had resulted in a three-month delay that was caused by Wrapp himself. Ultimately, Judge Keesley granted Wrapp's motion and continued the trial. (R.p.1-p.10).

On September 29, 2014, Wrapp's case was re-called for trial, this time before the Honorable Frank R. Addy, Jr. (R.p.11-p.14). After the trial court qualified the jury pool and the parties selected a jury, Counsel for Wrapp moved for another continuance. He explained his client was not present for trial and said he had no personal knowledge as to why. Counsel said he did not know whether Wrapp's absence was voluntary or involuntary and requested a continuance so he could try to locate Wrapp. (R.p.33, lines 22-25; p.36, line 14-p.37, line 14). The solicitor responded that she had first noticed Counsel for trial on June 4, 2014, and was going to try the case the week of July 14th; however, Judge Keesley granted a continuance. The

solicitor noted Wrapp was present and that she personally had a conversation with him in the courtroom after the continuance was granted. During that conversation she told Wrapp his case would be called for trial the next time they could get to it. The solicitor further noted she had received a telephone call from a private attorney, Andrew Hodges, Esquire, three weeks before the current trial date and she told him the case was on the trial docket. She explained Wrapp had contacted Hodges about possible representation but Hodges ultimately declined to get involved. The solicitor argued there had been adequate notice to Wrapp that his case was coming up for trial and said the State was ready to proceed. (R.p.37, line 16-p.38, line 17).

Counsel responded that he did not know whether Hodges had actually informed Wrapp of a trial date or not and said Counsel's investigator was out looking for Wrapp as they spoke. (R.p.39, lines 5-16). The trial judge acknowledged he did not know whether Wrapp's absence was voluntary or not, but found "he was noticed to be here." The judge said he did not see any purpose to be served in continuing the case, denied the motion for a continuance, and ruled the trial would proceed whether Wrapp was present or not. (R.p.39, line 17-p.40, line 12). Counsel argued he did not feel that Wrapp had been adequately noticed and objected to proceeding with the trial. He did not object to the trial court's failure to make specific findings of fact about the adequacy of the notice. The trial judge announced the trial would resume at 9:30 the following morning and the jury was released for the day. (R.p.42, lines 6-13).

The next day the jury was sworn and the case proceeded as a trial *in absentia*. In regard to the specific evidence presented at trial, the "Statement of Facts" in the Final Brief of Respondent is hereby incorporated by reference.

At the conclusion of trial, the jury found Wrapp guilty of DUS and PWID crack. Following the verdict, the solicitor described Wrapp's criminal history, which included prior

charges and convictions in 2003, 2006, 2011, and 2012. Counsel then presented facts in mitigation, and the trial judge reviewed Wrapp's bond paperwork before issuing a sentence under seal. (R.p.160-p.165).

On March 30, 2015, Wrapp and Assistant Public Defender Patricia Bolen appeared before the Honorable Eugene C. Griffith, Jr., to have the sealed sentence unsealed and read. Wrapp was sentenced to twenty (20) years' imprisonment for possession with intent to distribute crack cocaine – second offense, and sixty (60) days' concurrent imprisonment for driving under suspension – second offense. (R.p.167-p.169).

Argument

In its published opinion, this Court reversed Wrapp's convictions and remanded for a new trial. *State v. Wrapp*, Op. No. 5510 (S.C. Ct. App. filed August 16, 2017). For the reasons noted above and argued in more detail below, the State respectfully requests that this Court grant this petition for rehearing, reconsider and rehear this matter, and issue an order affirming Wrapp's convictions and sentence. Alternatively, the State suggests that this Court rehear this matter *en banc*.

In this appeal, Wrapp argued the trial judge erred in denying his motion for a continuance and holding his trial in his absence because the record does not support the required findings of fact that he knowingly and voluntarily waived his right to be present. He contended his right to be present at all critical stages of the proceedings against him, as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution, was violated when the trial court, over Counsel's objection, proceeded with the trial *in absentia*. Specifically, Wrapp argued the trial judge "never made the required findings of fact" that Wrapp (1) received notice of his right

to be present and (2) was warned he would be tried in his absence should he fail to attend. He further claimed, “nor could the record have supported such findings.” (Brief of Appellant p.7).

The State argued Wrapp’s challenge to the trial court’s failure to make specific factual findings regarding whether Wrapp knowingly waived his right to be present was not preserved for appellate review because it was never raised to the trial court. The State further argued that even if preserved the trial court did not err in denying Wrapp’s continuance motion and proceeding with the trial *in absentia* because the judge did make a factual finding that Wrapp had received adequate notice. The State also argued Wrapp’s acknowledgement and signature on the bond court’s “Order Specifying Methods and Conditions of Release” showed he had notice of when his trial would begin and was warned of the consequences of his failure to appear. Finally, the State argued that even if the trial court somehow erred in proceeding with the trial, any error was harmless in light of the overwhelming evidence of Wrapp’s guilt and a lack of prejudice from the trial proceeding in his absence. The State continues to stand by the arguments and submits that for all of these reasons, Wrapp’s convictions should have been affirmed.

Issue Preservation

Initially, the State submitted Wrapp’s arguments were not preserved for appellate review because they were not specifically raised to and ruled upon by the trial court. *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003). If an error is not presented to and ruled upon by the trial court, it cannot be raised for the first time to the appellate court. *State v. Freiburger*, 366 S.C. 125, 135, 620 S.E.2d 737, 742 (2005). Indeed, the appellate court will not consider any issues that were not presented to or passed upon by the trial court. *State v. Fleming*, 254 S.C. 415, 421, 175 S.E.2d 624, 627 (1970). In regard to trials *in absentia*, this Court has instructed:

In order to claim the protection afforded by the rule of law that a criminal defendant may be tried in his absence only upon a trial court’s finding that the

defendant has received the requisite notice of his right to be present and advisement that the trial would proceed in his absence if he failed to attend, a defendant or his attorney must object at the first opportunity to do so, and failure to so object constitutes waiver of the issue on appeal.

State v. Ravenell, 387 S.C. 449, 456, 692 S.E.2d 554, 558 (Ct. App. 2010) (emphasis added).

Here, Wrapp's primary claim was that the trial court erred in denying his continuance motion and proceeding with a trial *in absentia* because it did not make specific factual findings regarding his waiver of his right to be present for trial. However, because Wrapp raised no objection to the trial court's failure to make specific factual findings, Wrapp was precluded from raising such an objection for the first time on appeal. See *State v. Patterson*, 324 S.C. 5, 19, 482 S.E.2d 760, 767 (1997) ("Wrapp is limited to the grounds raised at trial."); *State v. Adams*, 354 S.C. 361, 380, 580 S.E.2d 785, 795 (Ct. App. 2003) ("[A] defendant may not argue one ground below and another on appeal."). As this Court instructed in *Ravenell*, Wrapp was required to object at his first opportunity to do so in order to preserve any challenge to his trial *in absentia* based on the trial court's failure to make factual findings. Where, as here, Wrapp failed to do so, the issue should not have been considered for the first time on appeal. The trial court was not given the opportunity to address the alleged deficiency. Wrapp should not have been permitted to seek reversal of his conviction based on the trial court's failure to make specific factual findings Wrapp never asked the trial court to make. Wrapp's issue on appeal was not preserved for review and his conviction should have been affirmed.

In its opinion, when finding it was not persuaded by the State's argument that the issue was unpreserved, this Court equated Wrapp's circumstances to those in *Ravenell* and found that in *Ravenell* the Court "[addressed] the merits when trial counsel moved for a continuance but did not specifically object to a trial *in absentia* and never asserted that his client failed to receive adequate notice or warnings." However, in *Ravenell*, counsel moved for a continuance due to his

client's absence and the trial court specifically "found Ravenell was given notice the trial would proceed without him and he would be tried *in absentia* if he failed to appear." *Ravenell*, 387 S.C. at 453, 692 S.E.2d at 556. Here, Wrapp's counsel similarly moved for a continuance due to Wrapp's failure to appear, but, as complained about by Wrapp in this appeal, the trial judge "never made the required findings of fact." Thus, the circumstances are quite different. In *Ravenell* counsel would have had no basis to object to the trial court's failure to make the required findings of fact because the trial court actually made those findings. Here, Wrapp had every reason and every opportunity to object if he believed the trial court's factual findings were not sufficient. He failed to do so at the first opportunity; thus, under basic issue preservation principles, his argument is not preserved. A defendant should not be permitted to seek reversal of his conviction based on the trial court's failure to make specific factual findings that he never asked the trial court to make. *See State v. Vang*, 353 S.C. 78, 84-85, 577 S.E.2d 225, 228 (Ct. App. 2003) (finding that to preserve an issue of juror misconduct for appellate review a party must object at the first opportunity at trial).

Standard of Review

A decision on whether to grant or deny a motion for continuance rests in the sound discretion of the trial court. *State v. Yarborough*, 363 S.C. 260, 266, 609 S.E.2d 592, 595 (Ct. App. 2005). Appellate courts in South Carolina typically show great deference to the trial court regarding these decisions. *State v. Colden*, 372 S.C. 428, 435, 641 S.E.2d 912, 916 (Ct. App. 2007). The denial of a motion for continuance will not be disturbed on appeal absent a clear abuse of discretion. *Morris v. State*, 371 S.C. 278, 283, 639 S.E.2d 53, 56 (2006); *Ravenell*, 387 S.C. at 455, 692 S.E.2d at 557. "The granting or refusal of a motion for continuance is within the discretion of the trial judge and his disposition of such a motion will not be reversed on

appeal unless it is shown that there was an abuse of discretion to the prejudice of appellant. . . . [R]eversals of refusal of continuance are about as rare as the proverbial hens' teeth." *State v. Lytchfield*, 230 S.C. 405, 409, 95 S.E.2d 857, 859 (1957).

Waiver of Right to be Present for Trial

"A criminal defendant has the right to be present at any stage of the criminal proceeding that is critical to its outcome if his presence would contribute to the fairness of the procedure." *State v. Shuler*, 344 S.C. 604, 624, 545 S.E.2d 805, 815 (2001) (citations omitted). However, this right may be waived. *Ellis v. State*, 267 S.C. 257, 260, 227 S.E.2d 304, 305 (1976). The South Carolina Rules of Criminal Procedure provide that a defendant "may voluntarily waive his right to be present and may be tried in his absence upon a finding by the court that such person has received notice of his right to be present and that a warning was given that the trial would proceed in his absence upon a failure to attend the court." Rule 16, SCRCrimP. "A defendant's exclusion, or absence, will be reviewed in light of the whole record." *Shuler*, 344 S.C. at 624, 545 S.E.2d at 815. Although the right to be present is a substantial one, no presumption of prejudice arises from a defendant's exclusion. *Id.*; *State v. Williams*, 292 S.C. 231, 232, 355 S.E.2d 861, 862 (1987) (absence from trial is subject to harmless error analysis). "The deliberate absence of a defendant who knows that he stands accused in a criminal case and that his trial will begin during a specific period of time indicates nothing less than an intention to obstruct the orderly process of justice." *Ellis*, 267 S.C. at 261, 227 S.E.2d at 306.

Discussion / Analysis

First, the State submitted that contrary to Wrapp's claim on appeal, the trial judge did make a factual finding that Wrapp received sufficient notice for the trial to proceed in his absence. Indeed, the trial judge found Wrapp "was noticed to be here," a conclusion which

encompasses the findings that Wrapp had notice of when his trial would begin and that Wrapp was warned he could be tried in his absence. When both longstanding precedent and the Rules of Criminal Procedure in South Carolina require such findings, and the trial court specifically finds that notice to the defendant was sufficient and proceeds with a trial *in absentia*, it necessarily constitutes a finding that the defendant made a voluntary waiver of his or her right to attend trial. This is particularly true where the defendant makes no objection to the adequacy of the court's finding at the time it is made. In its opinion, this Court narrowly interpreted the trial court's findings to hold that even if they constituted a finding that Wrapp received notice of his right to be present, there was no finding that Wrapp was informed he could be tried in his absence. Under the standard of review, this Court should have given greater deference to the trial court's factual findings by giving them a broad interpretation that encompassed all required aspects of notice where the court found "[Wrapp] was noticed to be here."

Second, the State submitted the trial court's finding that Wrapp received adequate notice was supported by the record. In *State v. Wright*, 304 S.C. 529, 531, 405 S.E.2d 825, 826 (1991), Wright was not present for his trial on a charge of distributing cocaine. At the outset of trial, Wright's defense counsel moved for a continuance, asserting he had recently been in contact with Wright and believed Wright could be located. *Id.* at 532, 405 S.E.2d at 827. The trial court denied the continuance motion and proceeded with a trial *in absentia*. *Id.* Following his conviction, Wright appealed, arguing the trial court erred in denying the continuance motion. *Id.* On appeal, the Supreme Court affirmed the trial court's ruling, finding the trial court did not abuse its discretion in denying Wright's continuance motion because the record reflected Wright was aware of the term of court in which he was set to be tried and knew he would be tried in his absence if he failed to appear. *Id.*

Here, the trial court likewise did not abuse its discretion in denying Wrapp's continuance motion and proceeding with the trial in Wrapp's absence because the record shows Wrapp knowingly waived his right to be present for trial by not appearing at trial when he had awareness of the fact he had a right to be present, his trial was scheduled to begin, and he would be tried in his absence if he failed to appear. *See State v. Goode*, 299 S.C. 479, 481, 385 S.E.2d 844, 845 (1989) ("[T]he right to be present at trial can be waived if done knowingly and voluntarily."). The solicitor, an officer of the court, advised the trial judge that she personally had a conversation with Wrapp in the courtroom the day the first continuance was granted and told Wrapp his case would be re-called for trial the next term it could be called. The solicitor further noted that three weeks before the trial she called a private attorney Wrapp was attempting to retain and told that attorney the case was on the trial docket. (Tr.p.27, line 16-p.28, line 17). These statements alone constitute sufficient evidence to support the trial court's finding. Yet, the solicitor's comments did not stand alone.

Instead, the trial court was also aware that Wrapp received written notice of when his trial would begin and of his right to be present. On October 18, 2013, the magistrate who set Wrapp's bond ordered that Wrapp appear in the Greenwood County Court of General Sessions beginning on December 6, 2013, and further ordered that "[i]f no disposition is made during that term, [Wrapp] shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court." Wrapp signed an acknowledgement stating in part: "I understand and have been informed that I have a right and obligation to be present at trial and **should I fail to attend the court, the trial will proceed in my absence.**" (October 18, 2013 Order Specifying Methods and Conditions of Release) (emphasis added). This bond form was before the trial court and was reviewed by the trial judge

during the sentencing proceedings. (R.p.160-p.165). Through his signature on the acknowledgement form, Wrapp unequivocally demonstrated his full understanding of the consequences of his failure to appear at the scheduled time of his trial. *See State v. Fairey*, 374 S.C. 92, 101, 646 S.E.2d 445, 449 (Ct. App. 2007) (“A bond form that provides notice that a defendant can be tried in absentia may serve as the requisite notice.”). Additionally, the form demonstrates Wrapp was aware he was expected to appear in court each weekly term until otherwise notified rather than simply wait for additional notification from the court or the State before appearing.

In its opinion, this Court finds “the record is devoid of any fact indicating Wrapp had actual notice of the term of court in which his trial would occur.” This finding flies in the face of the specific notice given to Wrapp in the bond form that his case would be called at the December 6, 2013, term of court and that if no disposition was made, it would be called at each succeeding term of court until final disposition was made. How this does NOT constitute a fact indicating Wrapp had actual notice of the term of court in which his trial would occur is beyond comprehension.

Also supporting the trial court’s finding was Wrapp’s substantial prior experience with the criminal justice system, which included four prior convictions over the course of a ten-year criminal career. This experience provided him with sufficient knowledge to understand the consequences of his failure to attend his trial. *Cf. Graves v. State*, 309 S.C. 307, 310, 422 S.E.2d 125, 127 (1992) (considering Graves’ “extensive criminal background” when reviewing a determination of whether Graves validly waived his right to counsel); *State v. Cash*, 309 S.C. 40, 43, 419 S.E.2d 811, 813 (Ct. App. 1992) (listing the factors different courts have considered in

determining whether a defendant had a sufficient background to waive his right to counsel, which included whether the defendant was previously involved in criminal trials).

In light of the representations of the solicitor regarding Wrapp's awareness of when his trial was set to begin, Wrapp's act of signing the acknowledgement form before he was released on bond, and Wrapp's prior criminal experience, the record was replete with facts indicating Wrapp had notice of the term of court in which he was going to be tried. He was fully aware of his right to be present for his trial, the scheduled date of his trial, and the consequences of his failure to appear for trial. Accordingly, the trial court did not abuse its discretion in denying Wrapp's continuance motion and proceeding with the trial *in absentia* after Wrapp failed to appear at the courthouse for the beginning of his trial. *See Wright*, 304 S.C. at 532, 405 S.E.2d at 827 (1991) (finding no abuse of discretion in the denial of Wright's continuance motion raised before Wright's trial *in absentia* because the record reflected Wright was aware of the term of court in which his case was set to be tried and was aware the trial would proceed in his absence); *Ellis*, 267 S.C. at 261, 227 S.E.2d at 306 ("In our courts of general sessions, defendants are generally only given notice of the term of court in which they will be tried and do not know the exact date and time of their trial until shortly before the trial begins. We think such notice is sufficient to enable a defendant to make an effective waiver of his right to be present at his trial."); *see also State v. Williams*, 321 S.C. 455, 459, 469 S.E.2d 49, 51 (1996) ("The trial court's refusal of a motion for continuance in a criminal case will not be disturbed absent a clear abuse of discretion."). Wrapp's convictions should have been affirmed.

Harmless Error

Appellate courts will generally not set aside a judgment based on insubstantial errors not affecting the result. *State v. Sherard*, 303 S.C. 172, 176, 399 S.E.2d 595, 597 (1991). "No

definite rule of law governs this finding; rather, the materiality and prejudicial character of the error must be determined from its relationship to the entire case.” *State v. Wiley*, 387 S.C. 490, 497, 692 S.E.2d 560, 564 (Ct. App. 2010). Error is harmless beyond a reasonable doubt if it does not contribute to the verdict. *State v. Fletcher*, 379 S.C. 17, 25, 664 S.E.2d 480, 484 (2008). “When guilt has been conclusively proven by competent evidence such that no other rational conclusion can be reached, the Court should not set aside a conviction because of insubstantial errors not affecting the result.” *State v. Bailey*, 298 S.C. 1, 5, 377 S.E.2d 581, 584 (1989). Thus, when overwhelming evidence of guilt has been presented, any trial error may be harmless. *State v. Gathers*, 295 S.C. 476, 480-81, 369 S.E.2d 140, 143 (1988).

In Wrapp’s case, even if the trial court erred in conducting the trial without Wrapp in attendance, any error was entirely harmless in light of the overwhelming evidence of Wrapp’s guilt. *See State v. Williams*, 292 S.C. 231, 233, 355 S.E.2d 861, 862 (1987) (finding errors resulting from a trial *in absentia* are subject to a harmless error analysis). Even if Wrapp had been present for trial, the result would have been no different. Thus, any error from the trial proceeding without Wrapp does not warrant reversal of Wrapp’s conviction and resulted in no actual prejudice to Wrapp. *See Shuler*, 344 S.C. at 625, 545 S.E.2d at 815 (“Although the right to be present is a substantial one, no presumption of prejudice arises from a defendant’s exclusion.”).

In its opinion, this Court found it did not need to undertake a harmless error analysis because “the trial court erred in failing to make the requisite findings and the record is devoid of facts allowing [the Court] to discern whether Wrapp had notice of the term of court.” As noted above, the State contends the record is not devoid of facts showing Wrapp had the requisite notice; therefore, the Court’s reason for declining a harmless error analysis is not supported by

the record. In any event, the precedent determining this issue is subject to a harmless error analysis does not suggest such analysis hinges solely on the defendant's absence from trial and the absence of notice. Instead, it depends on whether that absence was prejudicial. Thus, regardless of whether the trial court failed to make the requisite findings or the record failed to include evidence of adequate notice, this Court should have conducted a harmless error analysis to determine if Wrapp was in fact prejudiced by his absence from trial. For the reasons above, the State submits he was not, and that his conviction should have been affirmed.

Conclusion

WHEREFORE, based on the foregoing argument and the arguments raised in the Final Brief of Respondent, the State respectfully requests that this Court grant this petition for rehearing, reconsider and rehear this matter, and issue an order affirming Wrapp's convictions and sentence. Alternatively, the State requests that the Court reconsider this matter and suggests that it be reheard *en banc*.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

Columbia, South Carolina
August 31, 2017

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions

Frank R. Addy, Jr., Circuit Court Judge

Opinion No. 5510 (S.C. Ct. App. filed August 16, 2017)

Appellate Case No. 2015-000909

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SC Court of Appeals

THE STATE, ...RESPONDENT

v.

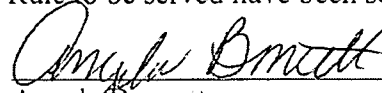
STANLEY LAMAR WRAPP, ...APPELLANT.

PROOF OF SERVICE

I, Angela Bennett, Legal Assistant, hereby certify that I have served the within *Petition for Rehearing and Suggestion for Rehearing En Banc*, dated August 31, 2017, on Appellant by depositing a copy of the same in the United States mail, postage prepaid, addressed to his attorney of record:

Taylor D. Gilliam, Appellate Defender
S.C. Commission on Indigent Defense
Division of Appellate Defense
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I further certified that all parties required by Rule to be served have been served. This 31st day of August, 2017.


Angela Bennett
Legal Assistant

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The South Carolina Court of Appeals

The State, Respondent,

v.

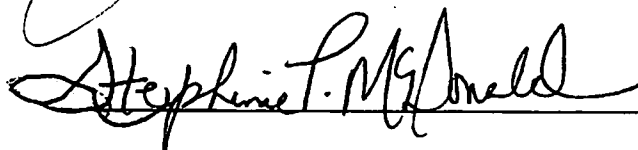
Stanley Lamar Wrapp, Appellant.

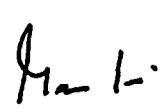
Appellate Case No. 2015-000909

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing.¹ Accordingly, the petition for rehearing is denied.



J.


J.


J.

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire
John Benjamin Aplin, Esquire

¹ The petition for rehearing set forth concern that the opinion misidentified the circuit court judge who presided in this matter. Additional review of the record confirmed no basis to amend the listing of the circuit court judge on the opinion.

David Matthew Stumbo, Esquire
Taylor Davis Gilliam, Esquire
The Honorable Thomas A. Russo
