

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DESHON JERMAINE NORMAN,

APPELLANT

APPELLATE CASE NO 2017-001239

RECORD ON APPEAL

RECEIVED
FEB 01 2018
SC Court of Appeals

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1 STATE OF SOUTH CAROLINA
2 COUNTY OF SPARTANBURG

) IN THE COURT OF GENERAL SESSIONS

3 The State,

4 -vs-

5 Deshon Jermaine Norman,
6 Defendant.

) TRANSCRIPT OF RECORD
) 2016-GS-42-2333

) February 27; March 2, 2017
) Spartanburg, South Carolina

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11 B E F O R E:

12 HONORABLE J. DERHAM COLE, JUDGE
13
14

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

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2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
3	S-1	Pre-interrogation Waiver Form	5	95
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Motion

1 (Proceedings February 27, 2017)

2 THE COURT: Mr. Smith, what about Mr. Norman? Where
3 is he?

4 MR. SMITH: If he's not here, he should be here
5 momentarily. I thought we were going on Wednesday. I need
6 to -- I didn't have his file. I was over here to do a
7 plea, so it's at Pat's office. So you have a copy of
8 the --

9 THE COURT: Well, do you want to go get it?

10 MR. SMITH: Yes, sir. That would be better. Thank
11 you, sir.

12 THE COURT: Okay.

13 (Whereupon, a recess was taken.)

14 (Pre-interrogation waiver form marked State's Exhibit
15 No. 1 for Identification; voluntary statement marked State's
16 Exhibit No. 2 for Identification; C.D. marked State's
17 Exhibit No. 3 for Identification; warning ticket marked
18 State's Exhibit No. 4 for Identification.)

19 THE COURT: All right. We're here in the matter of
20 Deshon Jermaine Norman -- State vs. -- charged with
21 trafficking in cocaine. Mr. -- crack cocaine.

22 Mr. Smith, you represent him?

23 MR. SMITH: Yes, sir, I do.

24 THE COURT: Mr. Maxey is here on behalf of the state.
25 Do we have any pretrial motions?

Motion

1 MR. SMITH: Yes, sir.

2 THE COURT: What are they?

3 MR. SMITH: The defense being very first a motion to
4 compel. I had requested any and all video that was created
5 in their surveillance of Andrew Smith, which is where my
6 client was originally saw by the police in the Ingles
7 parking lot on 29 on the north side of Spartanburg. And
8 there was -- I asked for anything related to their phones
9 that might have recorded anything.

10 They were doing surveillance, so I wanted any video
11 that they might have of the surveillance in an attempt to
12 get evidence from their pursuit of Mr. Smith. And I
13 haven't been provided with any video whatsoever.

14 And that goes into the motion to suppress. The motion
15 to suppress relates to the fact that Mr. -- Mr. Norman grew
16 up with Mr. Smith and he was not -- he was not there for
17 anything related to drugs.

18 There was a concert that was coming to Greenville, I
19 believe, and there was a ticket that was being exchanged.
20 So it had nothing to do with drugs.

21 But since they were hot on the trail of Mr. Smith, and
22 I believe he was the -- the person that was the subject of
23 the investigation, when he went there they assumed and, in
24 fact, it's in the records where they say that he just made
25 a drug deal.

Motion

1 well, the three vehicles followed him from that Ingles
2 parking lot, and he was being driven by someone else. They
3 had an opportunity to video the whole time while they're
4 driving behind him.

5 They allowed him to get to the outskirts of the
6 Main -- Main Street in Cowpens before it goes into a 2-lane
7 road. And the -- the main car went in the turn lane of the
8 five lanes. Went in the turn lane and cut them off.

9 You know, it's an unmarked vehicle. Cuts them off and
10 takes them into the curb, that area. And then two other
11 vehicles pull up behind them.

12 So Mr. -- Mr. Norman was concerned based on the
13 actions of the vehicle that had pulled in front of him, and
14 then of course they used the -- Mr. Cleveland, the driver,
15 was somehow wavering in the lane or what have you.

16 I don't think I've ever seen anything more pretextual
17 in my -- my career. I mean, three of them followed him.
18 They have nothing to do with traffic stops or anything of
19 this sort. They're watching Mr. Smith, watching Mr. Smith,
20 not taking any video. And they followed him. They
21 followed that car and pulled it over.

22 They don't -- they don't do that for a traffic stop.
23 They -- they had one purpose, and one purpose only, and
24 that was to deal with Mr. Smith and his -- the
25 investigation.

Motion

1 Mr. Norman was not known to them. He had not been
2 seen with him before, so they had no where he would come in
3 on Tuesdays to pick up drugs at Ingles. There's nothing
4 like that. It was one time, and they pulled him over, and
5 then he wasn't very smart and -- and agreed with what they
6 were saying. He's got five kids at home. He wanted to go
7 home.

8 He called me the next day and said I made a big
9 mistake and I want to turn myself in. He tried to turn
10 himself in and they hadn't -- they don't have any records
11 on him. So he had to wait a week or two to -- to actually
12 turn himself in.

13 Bottom line is this is -- it's as pretextual as it
14 gets. They were stopping him, no matter what. And the
15 idea that they -- I believe the ticket against the driver
16 has been dismissed. It was never even litigated.

17 So, I mean, that's of course the theory that it was --
18 well, not based on a violation. It was based on a need to
19 stop that car because they didn't know what was in there or
20 what was going on. But they never seen him before, so they
21 could have no suspicion that something was going on. They
22 have no idea about Mr. Norman.

23 THE COURT: All right. So it's a motion to compel?

24 MR. SMITH: The motion to compel was for any and all
25 video that may have resulted from their surveillance of

Motion

1 Mr. Smith in the -- in the Ingles parking lot, which would
2 of course have included my client showing up there at some
3 point and then anything that transpired on the way to
4 Cowpens, because they drove three miles -- I would think
5 about three miles -- behind him waiting for him to do
6 something, looking for something. And they could have
7 videotaped it so as to give him some credibility in their
8 searching, but there's nothing. There's nothing regarding
9 the traffic stop and whether it's a credible traffic stop.
10 And that being the case --

11 THE COURT: Well, what's the -- why are you -- why are
12 you moving to compel production of something that you say
13 does not exist?

14 MR. SMITH: Well, I'm just making sure. I -- I
15 believe it exists. I can't imagine doing surveillance and
16 not videotaping, trying to get evidence in.

17 THE COURT: Oh, I thought you said you knew that they
18 didn't video tape the -- while they were following the car.

19 MR. SMITH: Well, if I did say that I didn't mean to
20 and --

21 THE COURT: You don't know if they have or not.

22 MR. SMITH: No. They have told me they haven't.

23 THE COURT: Oh.

24 MR. SMITH: So that's -- you know, that's what I'm
25 going on. But I -- it's hard for me to believe, first of

Motion

1 all, that there's no video of the surveillance at the
2 Ingles. I mean, why wouldn't you want to get it into
3 evidence?

4 And then on top of that when they're following for
5 three miles, three different vehicles are following. No
6 one is videotaping the car and its actions or inactions,
7 whatever. And so therefore there's nothing to support that
8 he didn't have -- there was a violation.

9 THE COURT: Are you trying -- are you just trying to
10 confirm that they don't have any videos?

11 MR. SMITH: Yes, sir. I want to make sure they don't
12 have them.

13 MR. MAXEY: Your Honor, I've double and triple checked
14 this issue with everyone I can think of. I've asked
15 Captain Cooper who supervises investigation, as well as
16 anyone else at the sheriff's office, if any video exists.
17 I've confirmed several times that it does not. And if it
18 had I would have turned it over to Mr. Smith.

19 THE COURT: So no videos were made of the events he's
20 discussing?

21 MR. MAXEY: None, Your Honor.

22 THE COURT: Okay. All right. Mr. Smith, they don't
23 have videos, didn't make any.

24 All right. What's your next motion?

25 MR. SMITH: well, the motion is to suppress any and

Steve Cooper
Direct examination by Mr. Maxey

1 all evidence that resulted from the traffic stop.

2 The traffic stop was illegal in our -- in our -- in
3 our minds based on the facts I just discussed, the idea
4 that there were three cars following Mr. Norman's vehicle
5 and they were going to stop him no matter what.

6 And that's shown by the fact that they waited until
7 right before they went into Cowpens where it went down to
8 two lanes. So they had to stop them right there, and
9 that's what they did. They stopped him.

10 And they had no -- there's no reasonable suspicion.
11 They'd never -- they don't know who he was. And all he was
12 is a school friend. They both grew up, as well his mom is
13 in Spartanburg. So they know each other, have known each
14 other for a long time.

15 The idea that the traffic stop didn't go to fruition
16 underscores that contention.

17 THE COURT: All right. Mr. Maxey.

18 MR. MAXEY: Yes, Your Honor. At this time I would
19 call Steve Cooper to the stand.

20 STEVE COOPER, having been
21 first duly sworn, testified as follows:

22 DIRECT EXAMINATION BY MR. MAXEY

23 Q Please state your name for the record.

24 A Steven Cooper.

25 Q Where are you employed?

Steve Cooper
Direct examination by Mr. Maxey

1 A With the Spartanburg County Sheriff's Office.

2 Q And what's your rank at the sheriff's office?

3 A Currently I'm a captain over the investigative
4 division.

5 Q How long have you been with the sheriff's office?

6 A Twenty-eight years.

7 Q And on January 19th of 2016 were you working with the
8 sheriff's office?

9 A I was.

10 Q In what capacity?

11 A I was the lieutenant over the narcotics division.

12 Q Were you on duty on January 19th?

13 A I was.

14 Q Tell us what you were doing that day on shift.

15 A On that particular day, concerning this incident,
16 around 4:30 myself and Investigator John Schafer had went
17 by and checked an apartment out that we knew that a
18 particular individual that we had an ongoing
19 investigation -- Drew Smith -- was living at Hunt Club
20 Apartments.

21 We had went by that apartment that day to see if we
22 could catch his vehicle there. We were actually attempting
23 to put a tracking, a mobile tracking, device on his -- on
24 his vehicle, and we were having a hard time finding the
25 vehicle at that apartment.

Steve Cooper
Direct examination by Mr. Maxey

1 This particular afternoon we rode by the -- the
2 apartment complex, and we saw a vehicle that we knew that
3 Mr. Smith's accomplice, Jerry Simpson, drove. Parked
4 outside the apartment.

5 At that point we set up surveillance. We had not been
6 there too long when we observed Mr. Simpson come out of the
7 breezeway where Mr. Smith's apartment was located.

8 Mr. Simpson was carrying a gym style duffle bag. He
9 placed it in the -- in the front seat of the vehicle with
10 him and then pulled off, at which time we called some other
11 units that was actually going to help us with the
12 surveillance and notified them that we had observed
13 Mr. Simpson there and he was, in fact, leaving in his
14 Mercedes on that particular day.

15 Investigator Schafer and myself had continued to post
16 up on the apartment. A few minutes later Mr. Smith exited
17 the apartment carrying what appeared to be a couple of bags
18 of trash, looked like trash bags.

19 We gave him a few minutes. We radioed the other unit
20 and said that, indeed, Mr. Smith was leaving driving a -- a
21 white vehicle that we assumed was a rental car.

22 We gave him a few minutes before we left our post to
23 help with the tail. As we exited the apartment complex we
24 observed Mr. Smith at a trash compactor throwing two -- a
25 couple of bags of garbage over into the trash compactor.

Steve Cooper
Direct examination by Mr. Maxey

1 We exited the complex and kind of went up the road a
2 little bit and let him get -- you know, leave the area.

3 Our main goal was we wanted to obtain those two bags
4 of garbage that he discarded in that compactor. Once he
5 pulled out of the complex we went back to the -- to the
6 trash compactor and tried to retrieve those couple of bags
7 of garbage. We were unsuccessful in doing that.

8 The -- the other units that was helping us on
9 surveillance that day, they were not able to pick up either
10 Mr. Smith or Mr. Simpson.

11 Investigator Schafer and myself had prior knowledge
12 that Mr. Simpson and Mr. Smith liked to frequent parking
13 lots in the Westgate Mall area to conduct drug
14 transactions.

15 Investigator Schafer and myself continued hitting
16 parking lots that we knew that Mr. Simpson and Mr. Smith
17 utilized trying to locate them.

18 We had actually went to a couple of different parking
19 lots before we actually caught up with Mr. Simpson in the
20 parking lot of Hamricks.

21 Investigator Schafer and I drove through the parking
22 lot. We spotted Mr. Simpson pulled into a parking space
23 along -- I think it's Blackstock Road there. We got a
24 vantage point and we sat there and watched Mr. Simpson.

25 Probably ten minutes had passed. Mr. Simpson had

Steve Cooper
Direct examination by Mr. Maxey

1 exited his vehicle and he kind of bent down. From where we
2 were at it looked like he was talking to somebody in the
3 car that was parked beside him. He stayed bent down just a
4 few minutes. When he came back up he had what appeared to
5 be a white plastic bag in his hands. He sat down in his
6 vehicle and then left the parking lot.

7 At the point that he left we gave direction of travel
8 to the units, the other units in the area, and told them
9 where he was pulling out of.

10 Investigator Schafer and I then pulled over to the
11 vehicle he was parked beside only to find out that that was
12 an unoccupied vehicle. There was actually nobody in it.
13 So he couldn't have been leaning down talking to anybody.
14 We ran the tag on that vehicle and it didn't come back to
15 anybody that we recognized in the investigation.

16 At that point we -- we left the way that Mr. Simpson
17 left in attempting to find Mr. Simpson.

18 As we exited the parking lot and turned left on
19 Blackstock Road I want to say one of the next -- one or two
20 businesses down was a -- was a public self-storage
21 facility, storage unit, in which we observed Drew Smith
22 pulling out of the storage unit.

23 That kinda threw up a red flag with us with him
24 pulling out of that storage unit. Because they had lost
25 Mr. Simpson, we decided to pick up the tail on Mr. Smith.

Steve Cooper
Direct examination by Mr. Maxey

1 we followed Mr. Smith back to the parking lot of
2 Hamrick's in which he met with a little black -- I think it
3 might have been a Nissan Maxima that also had out-of-state
4 tags on it. That meeting only lasted for -- for a couple
5 of seconds. Mr. Smith pulled out in the black Nissan
6 Maxima -- followed Mr. Smith.

7 we had enough -- by this point we had enough units on
8 the scene to where we could conduct a tail. We actually
9 followed them from west Spartanburg all the way over to the
10 east side of town to [REDACTED], I believe, it's Bentwood Court
11 over off of Zion Hill Road on the east side of Spartanburg.

12 we actually put both vehicles at that residence. I
13 assigned Investigator Lorin Williams to post up and watch
14 that residence in the event that either one of those
15 vehicles had left.

16 And I don't know how much time had passed. I know
17 that it had -- it had gotten over into nighttime. It had
18 actually turned dark. I want to say it might even have
19 been around 7:00 o'clock if my memory serves me correctly.

20 we were fixing to call the surveillance because they
21 had not left yet and -- and I thought that by this point we
22 had gained enough knowledge just with the public storage
23 unit, this duplex that we didn't know about over on the
24 east side that, you know, before we burnt it, we were just
25 going to call.

Steve Cooper
Direct examination by Mr. Maxey

1 A few minutes later here come Mr. Smith. He pulled
2 into the parking lot of the Ingles where -- at the corner
3 of Zion Hill and 29 where we were all posted up at.

4 There must have been -- I don't know -- six or seven
5 different narcotics units, both from us and the City of
6 Spartanburg, posted up in that parking lot.

7 Mr. Smith actually drove right past us on down to the
8 front of Ingles where he pulls up beside a car. The car he
9 pulled up beside of, individual exited, got out of the car
10 he pulled up beside and got into the back seat of
11 Mr. Smith's car.

12 Q Is that individual present in the courtroom?

13 A Yes, he is. It's Deshon Norman.

14 Q And could you describe what article of clothing or
15 something he has?

16 A Gray sweater, black button-up shirt and glasses.

17 Q Thank you. Continue.

18 A He got into the back seat of Mr. Smith's car, where he
19 was only there for seconds. Mr. Norman then exited
20 Mr. Smith's car, returned to the passenger seat of the
21 vehicle that he was riding in. And both cars went their
22 separate ways.

23 We actually -- I gave the order for the city guys to
24 pick up Mr. Smith because Mr. Smith pulled out on Highway
25 29 and turned left back towards the city of Spartanburg.

Steve Cooper
Direct examination by Mr. Maxey

1 Mr. Norman and Cleveland Smith turned right and headed
2 toward Cowpens at which time Investigator Schafer and I
3 followed Mr. Smith and Mr. Norman, who at that time we
4 didn't know that that's who that was.

5 We wanted the two vehicles to be separate enough.
6 Mr. Smith, Cleveland Smith, was driving as if he was
7 preoccupied doing something in the front seat of his car.
8 He actually had a hard time maintaining his lane like he
9 may have been messing with his phone.

10 Once he got far enough away from the scene we
11 attempted to perform a traffic stop on Mr. Smith's vehicle.

12 When the two cars came to a stop Mr. Norman opened the
13 vehicle door and attempted to flee on foot. I jumped out
14 of the vehicle that I was riding in and gave chase. The
15 chase only lasted a little ways.

16 When I caught up to Mr. Norman -- Mr. Norman had
17 previously kicked his shoes off when he exited the vehicle.
18 When I actually caught up to him he threw a bag of what
19 appeared to be white rocklike substance down on the ground.
20 I tackled Mr. Norman, and he was restrained and the -- the
21 bag of white substance was recovered.

22 Q All right. Beg the Court's indulgence just one
23 moment.

24 (Pause.)

25 (Warning ticket marked State's Exhibit No. 4 for

Steve Cooper
Direct examination by Mr. Maxey

1 Identification.)

2 Q Captain Cooper, you mentioned that you or Schafer
3 cited the driver for failure to maintain a lane, is that
4 correct?

5 A I think he was issued a warning by either Investigator
6 Williams or Investigator Schafer.

7 Q You were present when that citation was issued?

8 A Yes. That's correct.

9 MR. MAXEY: May I approach the witness, Your Honor?

10 Q I'm handing you what's been premarked for
11 identification as State's Exhibit 4. Do you recognize that
12 document?

13 A I do.

14 Q What is that document?

15 A This is a -- a warning ticket issued to Cleveland
16 Smith by Investigator Lorin Williams for failure to
17 maintain lane. It's ticket 019102-AF.

18 Q Is that the same ticket that was issued to -- or is
19 that a fair and accurate copy of the ticket that was issued
20 to Mr. Smith that day?

21 A Yes.

22 Q Thank you.

23 MR. MAXEY: Your Honor, I can't move this into
24 evidence at this time, but for purposes of this hearing I
25 would like to publish it to the bench.

Steve Cooper
Direct examination by Mr. Maxey

1 THE COURT: Okay.

2 Q You mentioned Mr. Norman had a bag of what appeared to
3 be cocaine base. Where -- where did that bag go? What did
4 he do with it?

5 A Basically, I packaged the -- the bag up and submitted
6 it to our evidence locker for processing.

7 Q I can rephrase the question.

8 What -- what did Mr. Norman do with the bag?

9 A Oh, he threw it to the ground just before I tackled
10 him. When I tackled him we actually landed on the bag.

11 Q Captain Cooper, was your car equipped -- the car that
12 you were riding in equipped with a dash cam?

13 A No. It is not.

14 Q And why was it not equipped with one?

15 A Basically, the vehicles that the narcotics unit drive
16 are undercover vehicles. They are equipped with blue
17 lights and sirens to conduct traffic stops, just not video
18 cameras, dash cameras.

19 Q And did y'all use your blue lights to stop Mr. Norman?

20 A We did.

21 Q Did any of the other cars involved in stopping Mr.
22 Norman have dash cams?

23 A No, sir.

24 Q Were they all also narcotics vehicles?

25 A Yes, sir.

Steve Cooper
Cross-examination by Mr. Smith

1 Q And does any video of this encounter exist?

2 A No, sir.

3 Q And just -- just to be clear, did this encounter take
4 place in Spartanburg County?

5 A Yes, it did.

6 MR. MAXEY: As to the suppression issue, Your Honor, I
7 have no further questions. I imagine I'll recall him for
8 Jackson vs. Denno.

9 Q Please answer any questions Mr. Smith has for you.

10 MR. SMITH: May it please the Court.

11 CROSS-EXAMINATION

12 BY MR. SMITH

13 Q If you had taken this, the facts that you had, to a
14 magistrate would you have gotten a search warrant?

15 MR. MAXEY: Objection. That's an irrelevant question.

16 THE COURT: Well, it's very speculative. I don't know
17 if he'd know what some magistrate might do.

18 Q What did -- have you gotten a search warrant before?

19 A Absolutely.

20 Q Okay. And what are -- what are the things that you
21 need for a search warrant?

22 A Probable cause.

23 Q Did you have probable cause here?

24 A Based on what we observed and my knowledge and
25 training and experience, I would say we did.

Steve Cooper
Cross-examination by Mr. Smith

1 Q Okay. You never knew about Mr. Norman until you
2 pulled him over.

3 A That's correct.

4 Q You didn't see anything exchanged.

5 A No, sir.

6 Q So what, again, did Mr. Norman do?

7 A When he jumped out of the vehicle and fled from a
8 legal traffic stop.

9 Q Before you stopped him.

10 A Oh, he had exited his vehicle and got into the back
11 seat of Mr. Smith's vehicle.

12 Q Can you tell me what criminal act you saw?

13 A Didn't see any criminal activity.

14 Q So if you went to get a search warrant, what would you
15 tell them?

16 A I would have never went to get a search warrant for
17 that.

18 Q Because you didn't have anything, right?

19 A No, sir. That's not what a -- that's not what -- a
20 search warrant would not have applied in that situation.

21 Q Well, you got the identification, license, and you saw
22 who it was, right?

23 A Yes.

24 Q So you could get a search warrant.

25 A Mr. Smith was stopped for failure to maintain --

Steve Cooper
Cross-examination by Mr. Smith

- 1 maintain a lane. That -- that's what that vehicle stop was
2 in reference to.
- 3 Q Well, you would agree with me that all of the stuff
4 that you even talked about has nothing to do with
5 Mr. Norman.
- 6 A Up until that point that he exited the vehicle and
7 ran, no, it did not. Mr. Norman was not the subject of the
8 investigation.
- 9 Q Right. You didn't -- you didn't know him at all.
- 10 A Did not.
- 11 Q You had not seen him interact with Mr. Smith at any
12 other surveillance, right?
- 13 A None other than that night.
- 14 Q And how often do you tail a car for -- with three
15 cars?
- 16 A Often. Often more than that.
- 17 Q When the investigation -- subject, right?
- 18 A Not necessarily. If we connect a subject to the main
19 target, we do surveillance on them as well.
- 20 Q And so you're telling us that you put on your blue
21 lights?
- 22 A That's not what you asked me.
- 23 Q Oh, I'm sorry. I --
- 24 A You asked me -- you asked me how often did we use
25 three or more cars to tail a subject.

Steve Cooper
Cross-examination by Mr. Smith

- 1 Q Yes, sir. Did you tell Mr. Maxey that you had blue
2 lights on?
- 3 A I'm not -- I'm not sure what you're asking me.
- 4 Q What I'm saying is how did you stop him.
- 5 A We turned the blue lights on, that is correct.
- 6 Q What lane were you in?
- 7 A We were on the outside lane.
- 8 Q So you were not in the middle lane.
- 9 A No. We were on the outside lane next to the curb.
- 10 Q Okay. And you -- who all had blue lights? I mean,
11 did all three of you have -- the three cars have blue
12 lights, or just yours?
- 13 A No. All three cars had blue lights.
- 14 Q Well, they had them. Were they on?
- 15 A Oh, I'm not sure.
- 16 Q So who made the decision that there needed to be a
17 traffic stop there?
- 18 A At the point that we saw Mr. Smith driving erratic,
19 that was at the point we decided to stop them.
- 20 Q When did that begin, that erratic driving?
- 21 A The minute we got behind them.
- 22 Q Are you sure it didn't -- didn't happen when you left
23 that Ingles parking lot?
- 24 A No, because it took us -- it took us a little ways to
25 catch them once they pulled out of the parking lot. We

Steve Cooper
Cross-examination by Mr. Smith

- 1 didn't immediately pull out right behind them.
- 2 Q I'm not really talking about literally, but at some
- 3 point you were stopping that car, right?
- 4 A Once we -- once we got the P.C. to stop them, yes,
- 5 they were stopped.
- 6 Q And you've got no proof of that whatsoever.
- 7 A We have no video, right.
- 8 Q The citation you wrote here, what ended up happening
- 9 with the city?
- 10 A That -- that's a warning.
- 11 Q Warning. And that -- of course you're allowed to
- 12 search when it's related to a traffic stop, right?
- 13 A Allowed to search?
- 14 Q You're allowed to search cars, get the passengers out
- 15 of the car, right?
- 16 A That depends if you -- if you have probable cause.
- 17 Q And your probable cause was this alleged traffic
- 18 violation, which you gave him a warning, right?
- 19 A At the point that Mr. Norman exited the vehicle and
- 20 ran on foot, that was probable cause for us to stop and
- 21 detain him. And at the -- at the point that we gave chase
- 22 and -- and he threw the bag down, that was probable cause
- 23 enough to search that vehicle.
- 24 Q All right. I'm not questioning that, sir. But did
- 25 they -- when exactly did the swerving start?

Steve Cooper
Cross-examination by Mr. Smith

1 A I told you. Once we got behind them.

2 Q Oh, once you got behind him he just happened to do it
3 right then?

4 A Well, you're only talking about a couple of miles from
5 the Ingles. And then they exited the parking lot first.
6 Moments later we got behind them. We observed the erratic
7 driving.

8 MR. SMITH: Beg the Court's indulgence.

9 (Pause.)

10 MR. MAXEY: Your Honor, may I see that?

11 THE COURT: If you need to. It's probably a diagram
12 of a street over there from the Ingles to Cowpens, I'm
13 guessing. But you can look at it and see.

14 MR. MAXEY: Your Honor would be correct. Thank you.

15 (Diagram marked Defendant's Exhibit No. 1 for
16 Identification.)

17 Q This is a rudimentary roadmap. This is the center
18 lane, the outside or fast lanes and the slow lane. Can
19 you --

20 A Okay. Yeah. This is -- this is not an accurate
21 rendition of what that highway looks like, sir. That --
22 that's not a 6-lane highway.

23 Q One, two, three, four, five.

24 A Yeah. That -- that's not accurate.

25 Q There's five lanes.

Steve Cooper
Cross-examination by Mr. Smith

- 1 A No. I think you're mistaken.
- 2 Q I've got a video of that. You're telling us that
- 3 there's not five lanes.
- 4 A I think it's a 4-lane highway.
- 5 Q Yeah. But there's a middle lane.
- 6 A Yeah. I can't answer to that.
- 7 Q Okay.
- 8 A Do you -- do you have a photograph or something other
- 9 than that drawing? I just don't -- that's kind of
- 10 rudimentary. I'd like to see something a little more
- 11 accurate before I testify to it.
- 12 Q Does that show five lanes?
- 13 A Yeah.
- 14 Q And you're saying it's not accurate.
- 15 A I'm saying that's a 4-lane highway, Highway 29.
- 16 Q Right.
- 17 A Runs from Spartanburg to Cowpens.
- 18 Q So what would you say if it was five lanes?
- 19 MR. MAXEY: Object. Irrelevance.
- 20 THE COURT: Well, let's hear it. We'll, hear the
- 21 answer and see if it's relevant or not.
- 22 Q Where were you when you turned on the blue lights?
- 23 A We were on the outside lane.
- 24 Q There was no -- there was no vehicle in the slow lane.
- 25 Is that you're saying, or there was -- wasn't?

Steve Cooper
Cross-examination by Mr. Smith

- 1 A There -- there may have been, but I don't recall that.
2 Q What lane were they in?
3 A They were in the outside lane too directly in front of
4 us.
5 Q And the outside lane is the slow lane all the way to
6 the right?
7 A That is correct.
8 Q And you were directly behind them.
9 A That is -- once we caught up to them, that is correct.
10 Q And where did you end up -- where did he stop and
11 where did you stop? Where were you at?
12 A He stopped in the slow lane; we stopped in the slow
13 lane.
14 Q Were you in front of them or behind them?
15 A We were behind them.
16 Q So you didn't curve in front of them and so as to stop
17 his forward progress.
18 A No, sir. We -- we were behind him in the slow lane.
19 Q So it was a normal traffic stop?
20 A That is correct.
21 Q Engaged the blue lights. How long did you go with the
22 blue lights before you had to pull over?
23 A Not very far.
24 Q When did you engage those blue lights?
25 A In -- in regards to what?

Steve Cooper
Cross-examination by Mr. Smith

1 Q How long did he travel before he recognized blue
2 lights?

3 A From -- from -- from the Ingles to where the traffic
4 stop ended was only a matter of a couple of miles. Okay.
5 So somewhere toward the end of that couple-of-mile mark we
6 engaged the blue lights in the right-hand lane directly
7 behind Mr. Smith and Mr. Norman.

8 Upon turning on the blue lights Mr. Norman jumped out
9 of the vehicle and took off running on foot.

10 Q So you're saying that your car was stopped directly
11 behind Mr. Norman's car.

12 A Okay. Yes. Our vehicle, again, was directly behind
13 Mr. Norman's vehicle.

14 Q When it stopped.

15 A When it stopped.

16 Q Okay. Where were the other vehicles at again?

17 A I, honestly, I couldn't tell you. My -- my focus was
18 on the two pass -- the vehicles -- the two people in the
19 vehicle and their movements and actions.

20 Q Right. And you assumed that they had committed a
21 crime.

22 A I didn't assume anything other than the fact that they
23 failed to maintain their lane.

24 Q Right. And that's --

25 A And -- and the fact that they'd just met with a known

Steve Cooper
Cross-examination by Mr. Smith

1 drug dealer.

2 Q And that's why you needed three cars to go after them
3 for a weave that was going to happen or --

4 A No, sir. The -- whatever vehicles that were with us,
5 that was in the event that the tail -- you know, that we
6 wanted to tail them back to where they were going.

7 Basically, the decision to stop them was not made
8 until we seen them failing to maintain a lane. We could
9 have tailed them all the way back to Gaffney without ever
10 performing a traffic stop on them.

11 Q What was the reason for the problematic driving?

12 A I couldn't tell you.

13 Q Does it have anything to do with the fact that there
14 wasn't any problematic driving?

15 A No, sir. There was problematic driving.

16 Q Well, you said earlier they must have had a phone or
17 something. Wouldn't you inquire about that, gosh, why are
18 you driving --

19 A You know, at the point that Mr. Norman fled the
20 vehicle that changed. That changed things dramatically for
21 us. Yeah. The erratic driving was not the main focus at
22 that point. Officer safety come into play. Yeah. It took
23 it up to a whole nother level.

24 Q Sure did. So you had nothing until Mr. Norman ran.

25 A We had failure to maintain a lane and the fact that he

Steve Cooper
Cross-examination by Mr. Smith

- 1 had just met with a known drug dealer.
- 2 Q He just met with a friend of his. What's that -- and
- 3 how do you know any different?
- 4 A We didn't. He didn't give us the opportunity to ask
- 5 him before he jumped out of the vehicle and fled.
- 6 Q So when was the last time you had a traffic stop?
- 7 A I don't recall.
- 8 Q Do you have -- do you have a ticket book?
- 9 A I do.
- 10 Q Really? When -- when is the last time you got a new
- 11 book as you writing so many tickets?
- 12 A When is the last time what?
- 13 Q You got a new book.
- 14 A I couldn't tell you. I didn't write this particular
- 15 ticket.
- 16 Q Who did?
- 17 A Lorin Williams.
- 18 Q And where was she at?
- 19 A That's a he.
- 20 Q He. Where was he at?
- 21 A He was in one of the other vehicles that was with us.
- 22 Q Did you even have a ticket book to write?
- 23 A I wasn't in my vehicle. I was in Investigator
- 24 Schafer's vehicle.
- 25 Q Did -- did Investigator Schafer have one?

Steve Cooper
Cross-examination by Mr. Smith

- 1 A I would assume that he did.
- 2 Q Do you have one in your car?
- 3 A I do.
- 4 Q And so the three vehicles were in a line behind
- 5 Mr. Norman.
- 6 A Yeah. I've already stated that I don't know where the
- 7 other vehicles were at in relationship to us. We were
- 8 directly behind Mr. Norman.
- 9 Q Well, this's a pretty significant stop, wasn't it? I
- 10 mean, you don't remember where the cars were?
- 11 A I do not.
- 12 Q How much -- how many pictures were taken at this
- 13 scene? How many -- you didn't take any video whatsoever in
- 14 your surveillance.
- 15 A No, sir, which that's not uncommon.
- 16 Q Well, if you had any sort of footage of your pursuit
- 17 of Mr. Cleveland and Mr. Norman, that would have ended this
- 18 discussion, wouldn't it?
- 19 A Not particularly.
- 20 Q No?
- 21 A Uh-uh.
- 22 Q You don't think it would show for sure that there was
- 23 a violation or not a violation?
- 24 A Oh, oh, certainly it would have shown that.
- 25 Absolutely.

Steve Cooper
Cross-examination by Mr. Smith

- 1 Q So you don't -- no cars went past the Norman vehicle.
2 A I -- I don't recall. I don't recall that.
3 Q You just recall him running, right?
4 A I do.
5 Q So we're in agreement that you -- you wouldn't even
6 try to get a subpoena based on what you saw.
7 A A subpoena, no. We're in agreement with that.
8 Q And you don't know about any vehicles other than the
9 fact that you were behind them, is that right?
10 A No. I -- I don't know where the other officers were
11 in relationship to us, Investigator Schafer and myself.
12 Q What were you driving?
13 A I wasn't driving. I was the passenger in Investigator
14 Schafer's vehicle.
15 Q Right. And that was a -- wasn't that like a Civic or
16 something?
17 A No. It was a pickup, a pickup truck.
18 Q Oh, a pickup truck. Who was driving that? Was it a
19 Civic, a smaller car, black car?
20 A I don't really know what you're referring to.
21 Q Tell me about the three cars that were following.
22 A I -- I don't know. I know that there were some city
23 guys; there were some other narcs that were there.
24 Honestly, the only ones that I can tell you is Investigator
25 Williams, myself and Investigator Schafer.

Steve Cooper
Cross-examination by Mr. Smith

1 Q And you just told us that the city guys followed
2 Smith.

3 A Some of the city guys did, that's correct, and then
4 some of the city guys came back to the scene where we were
5 at once we had Mr. Norman flee on foot.

6 Q Right. Because the three vehicles that were pursuing
7 them --

8 A Yeah.

9 Q -- what color and what kind of vehicles?

10 A The only thing that I can tell you is that
11 Investigator Schafer and I were the lead vehicle, were the
12 ones that performed the traffic stop directly behind Mr.
13 Smith and Mr. Norman in the right-hand lane on the 4-lane
14 highway.

15 Investigator Williams was there. Where he was at in
16 relationship to us, I couldn't tell you. I don't know.

17 Q How long -- how long did Mr. Schafer travel with the
18 blue light on? And then where did he pull off the road or
19 where did -- where did he pull off?

20 A You know, it was minimal time and it was in that
21 2-mile stretch from the Ingles and where we eventually got
22 stopped.

23 Q Well, where --

24 A Northbound on Highway 29 toward Cowpens in the
25 right-hand lane.

Steve Cooper
Cross-examination by Mr. Smith

- 1 Q where -- did he pull into a parking lot or something?
- 2 A No.
- 3 Q Did he have an opportunity to pull in a parking lot?
- 4 A He pulled over to the -- to the edge of the road.
- 5 Q Have vehicles changed since that day?
- 6 A Have they changed? You have to be more specific.
- 7 Q Who were the officers there beside you and
- 8 Mr. Schafer?
- 9 A Who were the officers there?
- 10 Q Yes.
- 11 A Investigator Lorin Williams was there.
- 12 Q What does Lorin drive?
- 13 A A pickup truck.
- 14 Q You had a pickup truck?
- 15 A We were in a pickup truck, that's correct.
- 16 Q What other officers were there?
- 17 A There were some city guys there. I don't really
- 18 recall exactly who was there.
- 19 MR. SMITH: May I approach the witness, Your Honor?
- 20 THE COURT: Yes.
- 21 Q I think these are your notes. Could you tell me who
- 22 that third car was?
- 23 A This is not mine.
- 24 Q Okay.
- 25 A That's not mine. No. Doesn't say anything in my

Steve Cooper
Cross-examination by Mr. Smith

- 1 notes.
- 2 Q What about those other notes there?
- 3 A Those aren't -- those aren't my notes.
- 4 Q I understand that.
- 5 A And I can't comment on that.
- 6 Q But you can read, right?
- 7 A Yeah, no. I can't tell by these.
- 8 Q Aren't you like the lead investigator in this?
- 9 A No, sir. That would be Investigator Schafer.
- 10 Q why isn't he here?
- 11 A He is. He's sitting right there on the --
- 12 Q But you're the spokesman.
- 13 A I was the one that was called as a witness.
- 14 Q And so I'm going to read this, read all of this. Do
- 15 you think we'll find out who the other car was?
- 16 A You might. I'm not sure.
- 17 Q Okay. You didn't go over any of this information
- 18 prior to coming in here today to get ready for trial?
- 19 A I read my notes.
- 20 Q what did you tell Mr. Norman when you caught up to
- 21 him?
- 22 A Once he was detained I read him his Miranda rights.
- 23 Q Is that when you talked to him about working for you?
- 24 A I did.
- 25 Q what did you tell him?

Steve Cooper
Cross-examination by Mr. Smith

1 A I asked him if he wanted to do something to help
2 hisself out and -- and I was basically specific that he
3 would have to, in turn, set Mr. Smith and Mr. Simpson up.

4 Q That was -- that was the whole -- that was the plan,
5 right?

6 A That was -- that was the plan, that is correct.

7 Q And -- and when you had him read his statement?

8 A I had him give a statement.

9 MR. MAXEY: Your Honor, if I may interject here, this
10 is more germane towards the Jackson vs. Denno hearing. I
11 think he's sort of co-mingling the issues here.

12 THE COURT: Were you going to call him for the Jackson
13 hearing?

14 MR. MAXEY: I was going to recall him, yes, Your
15 Honor.

16 THE COURT: May as wells go ahead and let him ask him
17 then.

18 MR. MAXEY: All right.

19 Q So the statement that he read on the -- that I
20 listened to, who wrote that?

21 A I did at his request.

22 Q He asked you to do that?

23 A Sir?

24 Q He asked you to do that or he requested you do that?

25 A I gave him the option of writing it hisself or me

Steve Cooper
Cross-examination by Mr. Smith

1 writing it for him, and he asked me write it for him.

2 Q And you talked about -- in that statement you talk
3 about Simpson and Smith and Mr. Norman's relation to them,
4 didn't you?

5 A I think during the interview he made mention of what
6 his relationship was to Mr. Smith and Mr. Simpson.

7 Q At the beginning of that conversation he told you that
8 he wasn't there for drugs, isn't that right?

9 A No, sir. I don't recall that.

10 Q How much did he pick up from Mr. Smith?

11 A I think it was two ounces, three ounces.

12 Q How much did you find though?

13 A I think the report come back to 70 something grams.
14 without the drug report, I don't -- I don't have it right
15 here in front of me.

16 Q And if Mr. Norman testified that he had eight ounces,
17 what's the deal there?

18 A If he testifies he had eight ounces, then we missed
19 five somewhere. And I think that would dramatically change
20 this charge.

21 Q Yeah. So you were right behind him. You could have
22 seen where he threw something, and you did.

23 A I did.

24 Q Okay.

25 A And it matched up to what he told us.

Steve Cooper
Cross-examination by Mr. Smith

1 Q what did he tell you?

2 A I think it was three ounces.

3 Q what happened? Mr. Norman changed his mind, didn't
4 he?

5 A He did.

6 Q And he changed his mind the next day.

7 A He did. That is correct.

8 Q when did you actually charge him?

9 A It was the next day once he tried to turn hisself in.

10 Q He couldn't turn himself in because you hadn't written
11 him up yet, right?

12 A That's correct.

13 Q when did you -- when did you get around to doing that?

14 A I didn't. Investigator Schafer did. But I think it
15 was the next day. Once -- once we figured -- once we knew
16 that Mr. Norman was no longer helping or on board with us,
17 yeah, the warrants were sought for his arrest.

18 Q what did Mr. Norman actually give you that you didn't
19 create yourself?

20 A We didn't create any of this.

21 Q How many times did Mr. Norman see Mr. Smith?

22 A In regards to?

23 Q Getting drugs.

24 A I think that it's written in his statement. Says that
25 he had met Mr. Smith at at least eight different times to

Steve Cooper
Cross-examination by Mr. Smith

1 pick up dope at that Ingles.

2 Q Eight different times?

3 A I'm sorry. Yeah, yeah.

4 Q Mr. Norman told you that?

5 A And I can -- I'll be glad to read it verbatim if you'd
6 like me.

7 Q well, you can track the phone records, right --
8 Mr. Smith?

9 A I think there are records.

10 Q So therefore you'd be able to go back and see when Mr.
11 Norman was having contact with him?

12 A I -- I didn't analyze the phone records. I can't
13 testify to that.

14 Q Why wouldn't you do that? Isn't that part of your
15 investigation?

16 A I never said it wasn't done. I said that I did not do
17 it. And I cannot testify to that.

18 Q So you can't testify to that and can't testify to the
19 cars; can't testify to the people that were there.

20 A I can only testify to what I know.

21 Q Do you know -- do you know that the bag was the same
22 kind of bag that Mr. Smith distributed this stuff with?

23 A I can't tell you that.

24 Q well, wouldn't you have seen bags in your
25 investigation?

Steve Cooper
Cross-examination by Mr. Smith

- 1 A I have seen bags in my investigation.
- 2 Q Did Mr. Smith have any drugs whatsoever when he was
- 3 pulled over?
- 4 A Mr. Smith was not pulled over that night.
- 5 Q I thought you said that he -- he went left and you
- 6 sent the city police after him.
- 7 A Yeah, he did. To tail him, that's correct.
- 8 Q Do you have any of the bags that were used when you
- 9 did get him or raid his house or do whatever you did?
- 10 A Yeah. There was -- there was drugs recovered that was
- 11 connected to Mr. Smith, that is correct.
- 12 Q Okay.
- 13 A Totally different kind of bag.
- 14 Q What kind of bag was it?
- 15 A I believe this was a grocery bag. The drugs that Mr.
- 16 Smith was connected to, it was in a grocery bag.
- 17 Q And what kind of bag did Mr. Norman have?
- 18 A It was like a cellophane sandwich bag.
- 19 MR. SMITH: I have nothing further at this time, Your
- 20 Honor.
- 21 MR. MAXEY: As to the suppression hearing, I have no
- 22 further questions, Your Honor.
- 23 THE COURT: What about the statement hearing, Jackson
- 24 vs. Denno?
- 25 MR. MAXEY: I can question him right now about that,

Steve Cooper
Redirect examination by Mr. Maxey

1 Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. MAXEY

4 Q Captain Cooper, at any time during this incident on
5 January 19th of 2016 did you question the defendant?

6 A I did.

7 Q On how many occasions?

8 A On two different occasion.

9 Q All right. Let's talk about the first occasion.
10 Where did that questioning take place?

11 A After Mr. Norman was apprehended when he fled the
12 vehicle he was read his Miranda rights from memory by me.

13 Q And could you recite those rights now?

14 A Yes. I advised him that he had the right to remain
15 silent. Anything he said could and would be used against
16 him in a court of law. He had the right to an attorney
17 while being questioned, and if he could not afford to hire
18 a lawyer one would be appointed to represent him if he so
19 wished. And that he had the right to stop answering
20 questions at any point, at which I asked him did he
21 understand the rights that I read to him. He acknowledged
22 by saying yes.

23 And, basically, I explained to him, look, that Drew
24 Smith and Jerry Simpson was who we were after and he had
25 the opportunity to help hisself. He was in a -- in a good

Steve Cooper
Redirect examination by Mr. Maxey

1 position because nobody knew that he had encountered law
2 enforcement other than the officers that were out there.

3 He acknowledged to -- to me that he wanted to talk and
4 wanted to help himself out. It was our -- in our best
5 interest to the case to get him off the side of the road,
6 move to a location where we could actually sit down and
7 speak with him.

8 Q What did he tell you that first time you questioned
9 him in response to your questions?

10 A He -- he, basically, told us that he had just bought
11 that from Drew Smith.

12 Q And when we say bought that, what are you referring
13 to?

14 A Meaning the drugs that I had recovered that he had
15 thrown down.

16 Q Okay. When you explained his Miranda rights to him
17 in -- in the woods where you caught up to him, you said he
18 appeared to understand what you said.

19 A Yes.

20 Q Did he appear to you to be under the influence of
21 drugs or alcohol?

22 A No, he did not.

23 Q And he was restrained at this time?

24 A Yes, he was.

25 Q How many other officers were present when you

Steve Cooper
Redirect examination by Mr. Maxey

1 questioned him in the woods?

2 A You know, it all happened so fast there -- there might
3 have been a couple that -- that went into the woods with
4 me, but I don't recall who they were.

5 Q Okay. Was he threatened in any manner?

6 A Not at all.

7 Q Were any promises made to him?

8 A No. There weren't.

9 Q Was he -- he was -- was he coerced in any way?

10 A No, he was not.

11 Q Okay. And as to the second time you questioned him,
12 you mentioned you went to another location. Where was
13 that?

14 A That is correct. The city narcs. They had a secured
15 location that we went to that had an interview room set up
16 to where we could actually go in and talk to Mr. Norman.

17 Q Now, when you say the city narcs do you mean the
18 Spartanburg city narcs?

19 A That is correct.

20 Q Where was this location at?

21 A It was on Trade Street.

22 Q Okay. When Mr. Norman arrived at that location was he
23 restrained in any manner?

24 A At that point the handcuffs were taken and placed in
25 the front, and we sat across the table from him.

Steve Cooper
Redirect examination by Mr. Maxey

1 Q When you sat across the table from him did you explain
2 to him his Miranda rights again?

3 A I did. This time I did it off a Spartanburg County
4 Sheriff's Department Pre-interrogation Waiver Form.

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

6 THE COURT: Yes.

7 Q Showing you what's been marked as State's No. 1. Is
8 that the pre-interrogation form you're referencing?

9 A It is.

10 Q Is that a fair and accurate copy of the one that
11 Mr. Norman filled out?

12 A It is.

13 Q Does that form list Mr. Norman's Miranda rights?

14 A It does.

15 Q And what are they on the form?

16 A One is I have the right to remain silent; two,
17 anything I say can and will be used against me in a court
18 of law; three, I have the right to talk to a lawyer and
19 have him present with me while I'm being questioned; four,
20 if I cannot afford to hire a lawyer one will be appointed
21 to represent me before any questioning if I so wish; five,
22 I have the right to stop answering questions at any point
23 in the questioning.

24 And then it says, "The above rights have been read to
25 me by Lieutenant S. Cooper. I have -- I have read same --

Steve Cooper
Redirect examination by Mr. Maxey

1 I have read same and I understand my rights fully." And
2 it's signed Deshon Norman, witnessed by -- I think that's
3 Investigator Secrest with the city.

4 Q Did you also see Mr. Norman sign that statement?

5 A I did.

6 Q Did he appear to you on this occasion to understand
7 his Miranda rights?

8 A He did.

9 Q At this point was he threatened in any manner?

10 A No, he was not.

11 Q Was he coerced in any way?

12 A No, he was not.

13 Q Were any promises made to Mr. Norman?

14 A No. And actually the very next paragraph of this form
15 addresses those issues.

16 Q Okay. And when you took Mr. Norman's statement, how
17 did you do that?

18 A You know, any -- any time in the past, it's a very
19 common practice of mine that I give the person, whether
20 suspect or witness, the opportunity to either write the
21 statement themselves or have me write it for them. And --
22 and that is merely for the fact that some people don't
23 write well. Some people don't know how to spell. So I
24 always give them that option to do that. But I make sure
25 that they understand that what I write is going to be their

Steve Cooper
Redirect examination by Mr. Maxey

1 own words.

2 Q Okay. And did you give Mr. Norman that option in this
3 case?

4 A I did. And if you look at the very first page of the
5 statement that's the very first thing in the statement that
6 I addressed with him.

7 Q All right. Did you -- now, you had him write his
8 statement and sign it. Was it preserved in any other way?

9 A I believe Investigator Schafer recorded the statement.

10 Q Have you had a chance to listen to that statement?

11 A I have.

12 Q When did you listen to that statement?

13 A Prior to coming into the courtroom today.

14 Q When you listened to that statement was it a fair and
15 accurate recording of the statement you heard Mr. Norman
16 give?

17 A It was.

18 MR. MAXEY: Your Honor, at this time I would like to
19 publish that recording.

20 THE COURT: Well, is that going to help me determine
21 whether or not it was voluntarily made?

22 MR. MAXEY: Well, from his tone of voice and his
23 demeanor and his -- and the sound of his voice, you could.
24 But if Your Honor doesn't need to hear it, I don't need to
25 play it.

Steve Cooper
Redirect examination by Mr. Maxey

1 THE COURT: Well, I don't know if I need to hear it or
2 not because I've never heard it before. So I don't know
3 what you're trying to use -- I mean, I don't need to know
4 the content to find out if it's knowingly and intelligently
5 made. If you think listening to it will help me on those
6 issues, I'm happy to listen to it.

7 MR. MAXEY: I can play it for you, Your Honor.

8 THE COURT: I know you can. But do you need to?

9 MR. MAXEY: I will. It's very short.

10 (Whereupon, the C.D. was played for the Court.)

11 THE COURT: Can anybody besides me not hear that?

12 MR. MAXEY: I can move it, Your Honor. I'll start it
13 over.

14 (Whereupon, the C.D. was played for the Court.)

15 Q Just to reiterate, is that a statement that you
16 remembered Mr. Norman giving?

17 A Verbatim.

18 Q All right. And did both -- both of these interviews
19 took place in Spartanburg County?

20 A Yes, it did.

21 Q And is the gentleman sitting over there at
22 defense-counsel table, is that the same one that gave those
23 statements?

24 A Yes, it is.

25 Q Could you identify him by any article of clothing he

Steve Cooper
Recross-examination by Mr. Smith

1 is wearing?

2 A Gray sweater and a black button-up shirt.

3 Q I have no other questions for you, Captain Cooper.

4 Please answer any questions that Mr. Smith has for you.

5 MR. SMITH: May it please the Court.

6 RECROSS-EXAMINATION

7 BY MR. SMITH

8 Q So it was eight times that he'd gone to Ingles to get
9 drugs?

10 A That's what he told us.

11 Q He read that pretty fast. Why is that? I guess it
12 was right there at the tip of his tongue.

13 A I guess. Those were his words. He probably
14 understood them better than anybody.

15 Q You didn't -- you write it -- wrote that, right?

16 A That is correct.

17 Q Did you tell Mr. Norman to read it with confidence?

18 A Did I tell him to read it with confidence?

19 Q Uh-huh.

20 A No. I did not tell him that.

21 Q Little Terry. Mr. Norman has no relationship with
22 him, right?

23 A Not to my knowledge.

24 Q So it wasn't him calling that guy that he didn't know
25 who Terry was.

Steve Cooper
Recross-examination by Mr. Smith

1 A Yeah. That's -- he gave us the name Little Terry.

2 Q Are you sure he didn't show him a picture and say this
3 is Little Terry?

4 A No. There was a picture shown to him once he gave us
5 the name of Little Terry, that is correct.

6 Q Next day when he called you, what did he say?

7 A Investigator Schafer actually talked to him. And I
8 think Investigator Schafer would better be to testify to
9 that than I would.

10 Q Well, you understood that that meant the end of the
11 line for him as an -- as an operative, if you will. So
12 what was the gist of what he said?

13 A My understanding, Investigator Schafer said that
14 Mr. Norman was just going to take his little charge and go
15 on. And of course really at that point Mr. Norman was
16 not -- not our concern. Our concern was -- were the other
17 two codefendants in this case. There was other things
18 about this case that we were concerned about more so than
19 Mr. Norman.

20 Q The owing part, you added that, didn't you?

21 A The what, now?

22 Q Mr. Smith owed Mr. Norman what?

23 A Mr. Norman told us that Mr. Smith owed him --
24 Mr. Norman said that he told Mr. Smith, "I said one,
25 meaning one ounce of cocaine. I also reminded Mr. Smith

Steve Cooper
Recross-examination by Mr. Smith

1 that he still owed me one, and he said I got you." That
2 was Mr. Norman's words.

3 Q Mr. Norman told you that he wasn't getting these drugs
4 from those gentlemen, and you told him that was not going
5 to help him, right?

6 A No, sir. I'll be glad to read it for you again, what
7 he told us.

8 Q You wrote it.

9 A Yeah.

10 Q So I'm sure you can read it just like Mr. Norman
11 could, right?

12 A Yeah. Those were his words and that's what he told
13 us.

14 Q Yes, sir. So all of that right there is all
15 Mr. Norman's words.

16 A That is correct.

17 Q Thank you, sir.

18 REDIRECT EXAMINATION

19 BY MR. MAXEY

20 Q Just one question.

21 You merely transcribed Mr. Norman's words?

22 A That is correct.

23 MR. MAXEY: I have no other questions.

24 THE COURT: Step down.

25 What other witnesses do you have on the issue of the

Deshon Jermaine Norman
Direct examination by Mr. Smith

1 suppression, as well as the statement?

2 MR. MAXEY: None, Your Honor.

3 THE COURT: That's it.

4 Okay. What about you?

5 MR. SMITH: My client is going to testify.

6 THE COURT: Okay.

7 DESHON JERMAINE NORMAN, having
8 been first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. SMITH

10 Q State your name for the record, please.

11 A Deshon Jermaine Norman, Sr.

12 Q How old are you, Mr. Norman?

13 A Thirty-six.

14 Q Where do you live?

15 A [REDACTED] Barclay Avenue, Gaffney, South Carolina.

16 Q You married?

17 A No, sir. Fiancée.

18 Q Do you have any children?

19 A Five.

20 Q This incident happened in January of 2016, correct?

21 A Yes, sir.

22 Q Did you get in trouble previously with -- with selling
23 crack or something?

24 A Probably about 15 or 16 years ago, sir.

25 Q So about 2001?

Deshon Jermaine Norman
Direct examination by Mr. Smith

- 1 A Yes, sir.
- 2 Q why -- why did you suddenly return to selling drugs?
- 3 A It wasn't really no full-time thing. I had lost my
- 4 job. I have five kids, a house. A lot of bills was
- 5 building up on me. Just made a stupid mistake.
- 6 Q So -- so you understood that you could make money
- 7 doing that?
- 8 A Yes, sir. I -- I -- like I said, it's been 15 years.
- 9 I sort of ran into this -- some of the old -- some old
- 10 friends and needed the money bad.
- 11 Q Were those old friends Mr. Simpson and Mr. Smith?
- 12 A Nah, not necessarily. They was more like my friend's
- 13 friends, but it was guys that be around them that was sort
- 14 of like I was more closer to.
- 15 Q Yes, sir.
- 16 A As far as that go.
- 17 Q why were you going to Spartanburg that day?
- 18 A I was going to visit my mother.
- 19 Q And did you have a car?
- 20 A No. I called Mr. Cleveland Smith to come and pick me
- 21 up.
- 22 Q So you -- you didn't have -- you don't have an
- 23 automobile?
- 24 A No, sir.
- 25 Q Has Mr. Smith driven you to your mother's before?

Deshon Jermaine Norman
Direct examination by Mr. Smith

1 A Yes. He -- yes, on a couple of occasions he had.

2 Q Did you see your mom that day?

3 A Who? Mr. Smith?

4 Q Did you see your mom that day?

5 A No. I didn't get to see her that day. She called me
6 and told me that she had -- she was called in to work.

7 Q Well -- well, how did you end up seeing Mr. Smith?

8 A That was on the way back from seeing Mr. Smith. I had
9 talked to Mr. Smith earlier that day. He was telling me
10 that Jeezy concert was coming into town and that he could
11 get the -- he had a good deal on the tickets. So he was
12 like if I wanted to go, bring him the money and he'd give
13 me the tickets.

14 So as I was going to see my mother after I called
15 Mr. Cleveland, to see my mother, I was telling him that I
16 would be down that way. And he told me where I could meet
17 him at, which was the Ingles parking lot.

18 Q At that time was there any special plan about meeting
19 at Ingles?

20 A Nah, wasn't no special plan. It was just that I guess
21 he was closer to that way, and that was the way I always
22 come.

23 Q And do you have -- did you get in the car and get the
24 ticket?

25 A Yes. I got in the car and paid him for the ticket.

Deshon Jermaine Norman
Direct examination by Mr. Smith

- 1 Q All right. So you hadn't got the ticket yet.
- 2 A No, sir. He had -- well, we called him Plug, but the
- 3 person that can get you the ticket for cheap.
- 4 Q Did you get any -- anything other than giving the
- 5 money to him for the ticket? Did you give -- did you get
- 6 anything from that car and take it back to your car?
- 7 A No, sir.
- 8 Q Well, obviously you ended up throwing something out of
- 9 your pocket in Cowpens, right?
- 10 A Yes, sir.
- 11 Q Did you get that from Mr. Smith?
- 12 A No, sir.
- 13 Q Can you tell us about when you left Ingles? Did you
- 14 think there was any way of doing surveillance?
- 15 A No, sir. I wouldn't have no reason to.
- 16 Q How -- how did the trip back from Cowpens go?
- 17 A It went as usual.
- 18 Q To Cowpens. Excuse me.
- 19 A Well, it -- it went as usual. We -- when I left
- 20 Ingles I had got the text from my mother saying she had to
- 21 work. So we went on back toward Gaffney through Cowpens.
- 22 Just a regular drive. Mr. Cleveland Smith -- he's an uber
- 23 down there where -- where I stay at. He drives like people
- 24 to work back and forth. He wouldn't had to problem
- 25 driving, so.

Deshon Jermaine Norman
Direct examination by Mr. Smith

1 Q Were you guys doing a lot of drugs?

2 A No. That was one of the things that Mr. -- asked us
3 when he got me back to the car. He was like do y'all smoke
4 weed in there, is there any weed in there. And I was like,
5 no, sir, we don't smoke weed. He doesn't allow smoking in
6 his car. He has a heart problem.

7 Q So when did you notice that there was some car wanting
8 you to pull over?

9 A We never noticed it. As far as us going to where we
10 was going, all we realized was a car zoomed around us and
11 sort of shifted us to go to the right, because it's two
12 lanes.

13 It shifted us to go to the right, but it parked like.
14 It parked like sideways, and then a truck pulled up, and
15 then another truck pulled on the side or a car pulled up on
16 the side of us. Wasn't no lights on at that time. All you
17 could hear was doors -- tuh, tuh, tuh. And as I looked in
18 my rearview, that's when I saw Mr. Cooper.

19 Q So you -- you ran at that point.

20 A Yes, because Mr. Cleveland had already scared me. He
21 was hollering what are they trying to do, are they trying
22 to rob me or are these vigilantes. So I panicked and just
23 ran.

24 Q And there was no -- was there any -- anything
25 identifying the car as a police car?

Deshon Jermaine Norman
Direct examination by Mr. Smith

1 A No. They -- they was all dark, dark tint.

2 Q Did any of them have uniforms on -- badges?

3 A Not that I could see. Like I say, it -- it was mostly
4 moving real fast. Like I say, I remember him getting out
5 of the car after everything they pulled us over and Mr.
6 Salty went on his little rage, was like what's going on,
7 what's going on, because they really like ran us off the
8 road to get in the other lane to stop us.

9 So then they -- one car par -- pulled in the front and
10 another car pulled right there beside Mr. Cleveland, and
11 then a car pulled in the back. That's when I looked out
12 the window as he was talking. I see Mr. Cooper getting
13 outta the car. But he has a -- he has a hat on. He has a
14 hat -- hat on with his hat down. So as I see them walking
15 towards the car I jump out and run.

16 Q What lane were you in?

17 A We was in the lane right before you get to the lane
18 going back to town. We was in the right lane closest to
19 you going back to the -- going back to Spartanburg. We was
20 coming up Cowpens. It's on the -- it's a yellow line
21 separating us.

22 Q These are five lanes, and that's Cowpens and that's
23 Spartanburg. Which lane were you in -- center, fast, slow?

24 A We was in the farrest lane, which probably would be
25 the more -- more average lane instead of just going all the

Deshon Jermaine Norman
Direct examination by Mr. Smith

1 way slow. It's more like average lane. There's only four.

2 Q There's only four lanes there?

3 A Uh-huh.

4 Q There's no turning lane.

5 A It's -- yes. You can turn like once you go -- it's --

6 once you going up that road right there it's four lanes.

7 You have one in the middle; you have two on the side; one

8 in the middle; and then two more on the other side.

9 As we was coming up the road a car zoomed past us
10 because we doing average speed. Like I say, Mr. Salty, he
11 wouldn't put his life in danger. Doing average speed. A
12 car comes in front of us -- zoom. Runs us off to the side
13 of the road.

14 The car stops. Another car pulls up beside us, and
15 then a truck pulls up behind us. All you hear is tum, tum,
16 tum, tum, door shooting. That's when I see Mr. Cooper. As
17 he say, it was him.

18 He -- like I say, I couldn't tell if they was police
19 or not. They don't have -- they didn't have no things
20 around their neck. Like I said, it wasn't no lights on.
21 Wasn't no lights on until I see them bringing me outta the
22 woods.

23 Q Can you tell us when Mr. Cooper caught up to you in
24 the woods, what all did you discuss?

25 A Nothing. He just told me -- I told him I'm not going

Deshon Jermaine Norman
Direct examination by Mr. Smith

1 to run no more as he put me like in a chokehold or
2 whatever. He was like I know you're not going to run no
3 more. And then he brought me back out through the woods.

4 He said he -- if I can help him, he can help me.

5 That's as we was going towards the truck. And I was like I
6 asked him. I was like what are y'all, the feds or the
7 county. He told me the county.

8 So I said, well, you can take me to jail. He was like
9 stop the driver, stop the driver, stop the drivers. That's
10 when they stopped Mr. Smith. They stopped Mr. Smith and
11 told him, well, I'm taking the driver to jail for
12 trafficking too. That's when Mr. Smith went on his rage,
13 was, like, well, I didn't have nothing, this ain't mine,
14 you know. That's when I offered to talk to them. But my
15 rights wasn't read until I got over there.

16 Q Did he -- did he read you your rights, to you in the
17 truck?

18 A No. I talked to another officer in the truck, and I
19 was asking him different -- I was asking him questions
20 about how does this go because this is my first time going
21 to interrogation. And he was like just do whatever -- do
22 whatever Lieutenant Cooper asks you to do and you'll be all
23 right, you'll be going home tonight.

24 Q And so what happened when you got to the interrogation
25 room?

Deshon Jermaine Norman
Direct examination by Mr. Smith

1 A Well, as we got to the interrogation room there was --
2 you know, there was a bunch of joking and stuff. But
3 before we went in there he -- he -- he let me know that we
4 was going in an interrogation room and to be serious, you
5 know.

6 Q He being?

7 A Meaning be serious about Mr. Smith.

8 Q Mr. Cooper?

9 A Uh-huh.

10 Q He's the one that said be serious?

11 A Yes, sir.

12 Q All right. Did you talk to Mr. Cleveland at all?

13 A No. They had separated Mr. Cleveland until the last
14 little bit of the interrogation.

15 Q The purpose of that -- that traveling, did that have
16 anything to do with drugs?

17 A No, sir.

18 Q Did Mr. Cleveland have any idea there was drugs on
19 your person?

20 A No, sir. I added him to my statement because
21 Mr. Cooper said it'd have been safe for me to add him to my
22 statement for the simple reason that I was talking to them
23 and me might go back to where we stayed at and tell
24 everybody and I would be trouble.

25 Q All right. So you got to the interrogation room.

Deshon Jermaine Norman
Direct examination by Mr. Smith

1 what about that statement that he read? Where did that
2 come from?

3 A Most of it was Mr. Schafer and me telling a bunch of
4 lies just to go home.

5 He never asked me did he -- I want to write the
6 statement. He told me when I got in there. He was, like,
7 I'm going to write the statement for you. He said I'm
8 going to give you a bunch of -- give you some questions
9 that you can answer to me about -- answer to him. And
10 that's really how the statement go. I had presigned -- I
11 had pretty much presigned it, the statement, before it was
12 over with. He gave me like X's on the paper.

13 Q So then filled it in?

14 A Yeah. He had asked me a bunch of questions, and a lot
15 of them do -- a lot of people in there I didn't know. When
16 I got in there they asked me a bunch of questions and
17 showed me a bunch of pictures of guys, was like do you know
18 him, do you know him, this is such and such, you know he's
19 big time.

20 You know, so, as they telling me this, like I say, I
21 used a lot of it just to go in my statement because I knew
22 by me telling him whatever he wanted to hear I was going
23 home tonight because he told me he wasn't booking me.

24 He was like we're not going to book you. He was like
25 you give me what I need tonight and you'll go home, you

Deshon Jermaine Norman
Direct examination by Mr. Smith

1 don't have to worry about nothing, this charge can
2 disappear if you do a couple of jobs for us.

3 Q Did you -- did Mr. Smith owe you anything? Did you
4 owe him anything?

5 A No, I didn't owe him nothing, but I felt like if I
6 told them that maybe they would give me a little longer to
7 be out here.

8 Q Did you say it was a little charge?

9 A No. I know -- I know what I'm looking at, and I would
10 never say anything about no drug charges being a little
11 charge.

12 Q Did you -- were you offered anything? Were you
13 promised anything?

14 A Yeah. He told me as long as I could help him out and
15 talk to him that night that I could go home. He said if I
16 helped him out a little bit that the charge could dis --
17 disappear. That's why we wasn't booked. But I changed my
18 mind. I couldn't -- I couldn't do it. I prayed about it,
19 talked to my mama and my grandma. Right is right and wrong
20 is wrong.

21 You know, so I just told him when he called. I didn't
22 call him. He called me because they said they was going to
23 get in contact with me. He called me and asked me was I
24 ready, and I told him, no, I couldn't do it. He called me
25 a stupid -- well, he called me a stupid M.F. and was like

Deshon Jermaine Norman
Direct examination by Mr. Smith

1 he gotta be the dumbest -- you gotta be the dumbest guy in
2 the world to take that charge.

3 And I was like, well, I need to turn myself in. He
4 was like, you can't turn yourself in because we haven't did
5 not paperwork on you. So as he got to ranting and raving,
6 I just hung up.

7 And, like I say, for the next two days me and my mama
8 called in and we went down there. There wasn't a warrant
9 for my arrest.

10 So I just went back to -- went to back -- went back to
11 work. Like I say, about a month -- about a month and some
12 change later they picked me up. Well, they picked up Mr.
13 Cleveland, and he called me.

14 And I told him to let me speak to the arresting
15 officer. And I told him, well, I'm the one that y'all need
16 to come and get because he never -- he never knew nothing
17 about this, because Mr. Cleveland was going off the
18 instinct of them telling us, well, you help us tonight or
19 so, because we didn't know how it go, you don't have to
20 worry about going to jail. So I thought that was the
21 promise that was made to us by us talking to him, you know,
22 or by me talking to him.

23 Q So you didn't just offer on your own bash I'd like to
24 put my friend in jail?

25 A No, sir, because even after the fact they had talked

Deshon Jermaine Norman
Direct examination by Mr. Smith

1 to -- what do you call it -- the lawyer that you get for
2 \$40. They had already talked to him, and he was saying
3 that they saying all you have to do is testify against
4 these guys. No matter what, you'll walk out of here a free
5 man. So, no, I wouldn't never put myself or my family in
6 that type of position.

7 Q So you -- you totally backed out the next day?

8 A Yes, sir. It was about two days.

9 Q So just to clarify, the lane that you were in was
10 the -- considered the fast lane, inside, or the two lanes?

11 A Uh-uh. It's four lanes in all. You know, it has the
12 yellow lines that if they -- if they -- they're solid, you
13 can't pass. So we was right there. We was at that type of
14 area, where it's two on this side and two on this side, the
15 yellow.

16 Like he say, he doesn't know which one his cars. He
17 didn't know where his cars was at or whatever at the time.
18 But one of his cars speeded around us and cut us off and
19 stopped right there.

20 Q In order to do that they had to cross the --

21 A Yellow line. They had to break the law pretty much to
22 get around to make us stop the car.

23 MR. SMITH: I have nothing further at this time, Your
24 Honor.

25 CROSS-EXAMINATION

Deshon Jermaine Norman
Cross-examination by Mr. Maxey

1 BY MR. MAXEY

2 Q Mr. Norman, when you were giving your testimony just
3 now you mentioned that you spoke to Captain Cooper by the
4 side of the road, is that correct?

5 A Say what?

6 Q You -- you spoke to Steve Cooper by the side of the
7 road, correct?

8 A I -- I really didn't have to speak to him on the side
9 of the road. He talked to me pretty much all the way
10 carrying me through the woods to the truck.

11 Q But you -- that's where you talked to him.

12 A Yes, sir.

13 Q And you were already out of the car at that point.

14 A Already out, yes. They was sitting me down in the
15 truck when he came to talk to me.

16 Q Okay. So when you were already out of the car, that
17 was when he said stop the driver?

18 A No. When they got me back out of the woods and he
19 asked me would I talk. I asked him -- I asked him what are
20 y'all, feds or county. He said Spartanburg County. I said
21 take me to jail. He said stop the driver.

22 Q At that point the driver is already stopped.

23 A Yeah, nah. He was fixing to let the driver go.

24 Q Okay. But he said stop the driver. In other words,
25 stop --

Deshon Jermaine Norman
Cross-examination by Mr. Maxey

1 A Yeah, because he was getting back in the car. He was
2 letting the driver go.

3 Q All right. And you did give a statement to the
4 police, you said, right?

5 A Yes, sir.

6 Q Okay.

7 MR. MAXEY: May I approach the witness, Your Honor?

8 Q You mentioned on your direct with your attorney that
9 they pretty much just had you fill out a pre-signed form,
10 is that right?

11 A It wasn't just too much pre-signed. He let me know
12 that he was going to be writing the situation as far as him
13 asking me the questions or whatever about the statement.

14 Q But that ain't what you said a few minutes ago, is it?

15 A I said what -- where -- where he had the X's at he had
16 me mark before it was already filled out.

17 Q And that was the next topic I was going to get to.
18 This is your signature, right?

19 A Uh-huh.

20 Q Do you see an X next to that?

21 A Well, highlighted parts.

22 Q Do you see any highlighting?

23 A No, sir.

24 Q And this is the statement you signed.

25 A Well, I could be confused, but I know that it was

Deshon Jermaine Norman
Cross-examination by Mr. Maxey

- 1 already -- he was already asking me to sign them.
- 2 Q I'll move to the next part where you signed. Do you
3 see an X next to your signature there?
- 4 A No, sir. It's probably not going to be no X's nowhere
5 on there. But, like I said, at the end of the day he asked
6 me to go ahead and sign them, but he -- he had already
7 asked me to sign them when we got in there as far as the
8 statement goes.
- 9 Q All right. And the next place you signed it. Do you
10 see any X's there?
- 11 A No, sir.
- 12 Q All right. The next page. Is there an X next to your
13 signature?
- 14 A No, sir. Like I said, I could easily get confused at
15 the end of the day. He asked me to sign.
- 16 Q Is there an X there?
- 17 A No, sir.
- 18 Q Do you see any X's anywhere for you to pre-sign
19 anywhere in your statement?
- 20 A No, sir. But it's over a year old. I couldn't.
- 21 Q Oh, okay. All right. So it's over a year old?
- 22 A Yeah. This statement is. You need to look at the
23 date.
- 24 Q But that ain't the statement you gave, right?
- 25 A It -- it's the statement, yes, sir.

Deshon Jermaine Norman
Redirect examination by Mr. Smith

1 Q And that's your signature?

2 A Yes, sir.

3 Q And you mentioned you have two prior drug convictions,
4 is that correct?

5 A No. I really have just one prior. It was -- I have
6 one charge. I just got charged twice as far as the school
7 zone, and P.W.I.D.

8 Q That was for distributing crack cocaine near a school?

9 A Yes, sir.

10 Q And you had two of those charges you just pled at the
11 same time?

12 A I -- I pleaded. It was the same charge. I pleaded to
13 both of them.

14 MR. MAXEY: Nothing further, Your Honor.

15 MR. SMITH: May it please the Court.

16 REDIRECT EXAMINATION

17 BY MR. SMITH

18 Q This statement, where is your signature located in the
19 voluntary statement?

20 A Right here and right here.

21 Q All right. So the bottom line of the paper, the page,
22 is where your signature goes, is that right?

23 A Yes, sir.

24 Q That's on every single page. So was that where you
25 had to sign?

Deshon Jermaine Norman
Redirect examination by Mr. Smith

1 A Yes, sir, and then once in the back on the long line.

2 Q So while there wasn't an "X", there was a line for you
3 to write on. You're the voluntary-statement giver, right?

4 A Yes, sir.

5 Q Is there any question in your mind where you were
6 supposed to sign?

7 A No, sir.

8 MR. SMITH: Nothing further, Your Honor.

9 THE COURT: You may step down.

10 Any other witness, Mr. Smith?

11 MR. SMITH: No, sir.

12 THE COURT: Anything else regarding this issue?

13 MR. SMITH: Your Honor, the -- this is pretextual.

14 It's the very definition of pretextual where the three of
15 them went to stop that car because they needed assistance
16 in finishing up their case against Mr. Smith, and they
17 stopped him with the idea of, hey, we can use him as bait
18 or something to that effect to -- to make sure that we
19 conclude our investigation.

20 The -- I mean, Mr. Cooper doesn't remember anything
21 from that night, just knows that when they did stop him he
22 ran. There was no suspicion. There was nothing
23 suspicious. He got in the car, and they didn't see him
24 give anything or get anything. Yet three cars followed him
25 to shockingly see that there was a -- a problematic driving

1 maneuver.

2 well, they didn't do anything to record it, to --
3 to -- to make it curdle. And Mr. Cooper doesn't have any
4 recollection of the car going around and pushing him into
5 the side so as to stop him, didn't have any idea as to how
6 the cars were arranged.

7 They did not have probable cause. They did not have a
8 traffic violation, and that's why the -- the warning there,
9 I mean, it's nothing. It's just a warning. And I don't
10 even understand what -- what that meant. Did he go across
11 the line, did he -- it's nothing. It's just some vague
12 explanation of he must have been on the phone. He didn't
13 ask him, because we didn't care with that. They didn't ask
14 him if he was eating or changing the radio. Didn't ask him
15 anything because that wasn't relevant, because that didn't
16 happen.

17 Based on those -- based on that fact this evidence
18 should be suppressed.

19 MR. MAXEY: Thank you, Your Honor. May it please the
20 Court.

21 As to the suppression issue -- and I've submitted a
22 written memorandum of law to the Court for your review.
23 I'll summarize it here in an argument.

24 For the drugs to be suppressed Mr. Smith and the
25 defendant would have had to alleged some violation of the

1 Fourth Amendment. The testimony on the record here is that
2 there was -- there was no search for Fourth Amendment
3 purposes.

4 The drugs were found on the ground where the defendant
5 threw them. The defendant had no ownership interest in the
6 land where he was found and no expectation of privacy on
7 the ground where he abandoned the drugs.

8 A lot of Mr. Smith's questions earlier revolved around
9 search warrants and probable cause to search the vehicle.
10 The fact of the matter is in this case drugs weren't found
11 in the vehicle. They were found on the ground in the woods
12 after a foot chase. And so there's no Fourth Amendment
13 search here.

14 As to the seizure of the defendant by Captain Cooper,
15 he did have reasonable suspicion to seize the defendant.
16 The defendant was a passenger in a vehicle that he
17 testified that had failed to maintain its lane of travel,
18 which is a moving violation. The driver was given a
19 warning for that traffic offense. But he was stopped. And
20 the officers did have probable cause to make a traffic stop
21 on that vehicle.

22 Additionally, a lot of defense counsel's objections to
23 this stop revolve around the idea of pretext. And I know
24 this court knows that it's black-letter law that stops can
25 be pretextual. As long as there is probable cause to make

1 the traffic stop, the officer's subjected intent is
2 irrelevant. The United States Supreme Court has held that.

3 And afterwards he ran out of the car. There's case
4 law on point in the state's memorandum of law that, you
5 know, headlong flight -- in other words, running away from
6 the police in dead sprint -- he's not even the driver of
7 the car. He's the passenger taking off running. They
8 hadn't even got stopped good and he's out of -- he's out of
9 the passenger-car-side door.

10 And so Officer or Captain Cooper had plenty of
11 reasonable suspicion to detain him in the woods.
12 Especially right before he catches up to him, he throws
13 down a bag of what appears to be cocaine base.

14 And as Captain Cooper testified, he had been in
15 narcotics for an extended period of time before that to the
16 point that he could recognize those sort of narcotics on
17 sight. And so all that's required to establish reasonable
18 suspicion is a set of articulable facts tending to show
19 criminal activity.

20 You have the traffic stop, the inmate, because he did
21 didn't maintain his lane. Captain Cooper testified to
22 that.

23 And while Mr. Smith objects to the fact there's no
24 video, that's more of an issue of weight versus
25 admissibility. You know, whether the jury doesn't find

1 persuasive is one thing, but for a suppression hearing, its
2 purposes, that's not quite sufficient to render suppression
3 of the drugs proper.

4 As to the Jackson vs. Denno issue, Captain Cooper
5 testified on two different occasions that he did read the
6 defendant his Miranda rights, he did inform him of each and
7 every one of them, once from memory, once from the waiver
8 of rights form. On both occasions he understood. He did
9 not appear to be intoxicated or not understanding what was
10 going on.

11 I also played for the court a recording of his
12 statement. That is him reading his statement. But he did
13 not sound in any way distraught or otherwise not in his
14 right mind. He sounded perfectly calm, rational and
15 reasonable.

16 And the only evidence that he presented to controvert
17 that was the defendant's own testimony in which he gave,
18 you know, several inconsistencies that I went over on
19 cross-examination. And as such it's our -- it's the
20 state's position that the drugs should not be suppressed
21 and the defendant's confession should be found to be
22 voluntary. Thank you.

23 MR. SMITH: May it please the Court.

24 First of all, no question that his Miranda rights were
25 read to him. No question that he threw drugs down. But

1 the stop is what's important, not -- not him running and so
2 forth.

3 They had no -- no reason to stop him. They
4 manufactured the inability to stay in a lane or something
5 in order to have reasons to pull him over. They couldn't
6 have pulled him -- they couldn't have done anything with
7 him getting in the car and getting back into his car. And
8 that's -- there's nothing there. So they needed something,
9 and what it was is a fictitious driving maneuver. There's
10 no way to prove that -- no way to prove that.

11 They shouldn't have been following anyway. They
12 didn't do anything. And that's fruit of the poisonous
13 tree. And the tree is the stop, not the running or
14 anything of that sort. They shouldn't have stopped him in
15 the first place, and that was the only way they could pull
16 him over or the only way they could get in the car, the
17 only way they could talk to them and see what they about
18 Smith.

19 This evidence should be suppressed.

20 THE COURT: Mr. Smith, did you submit a memo also?

21 MR. SMITH: Yes, sir. I've got it clocked here too.

22 THE COURT: All right. I'll read the memo submitted
23 by the parties and issue an order in the morning.

24 END OF PROCEEDINGS FEBRUARY 27, 2017

25

1 (Proceedings March 2, 2017)

2 THE COURT: All right. We're on the record in the
3 matter of the State vs. Deshon Jermaine Smith, Indictment
4 16-GS-42-2333, wherein Mr. Norman has been charged with the
5 crime of trafficking in crack cocaine.

6 Will Maxey is here on behalf of the state; Don Smith
7 here on behalf of the defendant. The defendant is present.

8 Earlier in the week the Court heard the motions of the
9 defendant to suppress evidence and to exclude a statement
10 provided law enforcement.

11 After considering the testimony and the evidence
12 presented in that hearing, after consideration of the
13 memorandums submitted by each of the -- state and the
14 defendant and considering the applicable law, I find that
15 the defendant's motion to suppress evidence should be
16 denied and the defendant's motion to exclude a statement
17 provided to law enforcement should also be denied.

18 I have been informed by the lawyers representing each
19 side that they wish to go forward with a bench trial as
20 opposed to a jury trial. Is that true, Mr. Maxey?

21 MR. MAXEY: That's correct, Your Honor.

22 THE COURT: Is that true, Mr. Smith?

23 MR. SMITH: Yes, sir, it is.

24 THE COURT: And have you discussed that with Mr.
25 Norman, Mr. Smith?

1 MR. SMITH: Yes, I have.

2 THE COURT: Mr. Norman, have you discussed with Mr.
3 Smith your right to have a jury trial in this case?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And he tells me that you wish to waive
6 your right to have a jury trial and to have this case tried
7 by me.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And is that what you wish to do?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand the consequences of that
12 decision?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Have you had plenty of time to discuss it
15 with your lawyer?

16 THE DEFENDANT: Not really, Your Honor, but I'm -- I'm
17 ready to get it over with.

18 THE COURT: Well, I understand. But do you need more
19 time to discuss that right with your lawyer?

20 THE DEFENDANT: No, sir, Your Honor.

21 THE COURT: You don't need any more time to talk to
22 him about it?

23 THE DEFENDANT: No, sir, Your Honor.

24 THE COURT: All right. But you understand you have a
25 right to have a jury trial.

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And do you wish to give that right up and
3 have the case tried by me?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. I find pursuant to you Rule 14,
6 South Carolina Rules of Criminal Procedure, that the
7 defendant has waived his right to a jury trial and that is
8 agreed to by counsel for the state and the defense.
9 Therefore we'll proceed with the bench trial.

10 MR. MAXEY: Yes, Your Honor.

11 Before we begin I just want to put on the record as
12 part of our in-chambers discussion the state is taking life
13 without parole -- it's our position the defendant is
14 eligible for -- off the table, and we are proceeding with
15 the bench trial.

16 THE COURT: All right. So the defendant has been
17 noticed because of a prior criminal history that if he is
18 convicted of trafficking in crack cocaine as alleged in
19 this indictment that he'll be subject to a sentence of life
20 without parole?

21 MR. MAXEY: That's correct, Your Honor.

22 THE COURT: And his agreement to waive a jury trial
23 has caused the state to agree not to seek a sentence of
24 life without parole in the event of conviction for this
25 offense?

1 MR. MAXEY: That's correct, Your Honor.

2 THE COURT: Did you understand that, Mr. Norman?

3 THE DEFENDANT: No, sir. If somebody break it down a
4 little more for me.

5 THE COURT: Well, what Mr. Maxey is saying is that --
6 I don't know what your history is, so I don't know if it's
7 valid or not valid. But the solicitor says that you have a
8 prior criminal history for offenses that serve to enhance
9 any punishment you could receive for a conviction for this
10 offense. And he says that he has put you and your lawyer
11 on notice that if you are convicted of trafficking in crack
12 cocaine in this indictment that you would be subject to a
13 sentence of life imprisonment.

14 He states that in return for you waiving your right to
15 have a jury trial and proceeding to have a bench trial with
16 the Court he is agreeing to rescind that notice, which
17 means that if you are found guilty by the Court you will
18 not be subject to a sentence of life in prison.

19 Is there any other agreement?

20 MR. MAXEY: Yes, Your Honor, that this offense would
21 be treated as a second offense for purposes of sentencing
22 should the defendant be convicted, subjecting him to a
23 possible range of punishment from a minimum of seven years
24 at the department of corrections to a maximum of 30.

25 THE COURT: All right. Mr. Norman, did you hear the

1 solicitor?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: He's rescinding the notice to seek a life
4 sentence if you are convicted.

5 If you were convicted of trafficking in crack cocaine
6 in an amount greater than 28 grams for a third offense you
7 could receive a sentence -- assuming they didn't seek a
8 life sentence -- you could receive a sentence of not less
9 than 25 years and not more than 30 years.

10 The solicitor says also he agreed in addition to
11 rescinding the life-sentence notice that he also agreed to
12 allow this to be treated upon any conviction as a second
13 offense rather than a third offense, which means that the
14 maximum sentence in this case could not be more than 30
15 years, but it would require a mandatory minimum sentence of
16 not less than seven years.

17 So is that what you understood?

18 THE DEFENDANT: Yes, sir. I understand.

19 THE COURT: Okay. And do you still wish to proceed --

20 THE DEFENDANT: Yes, sir.

21 THE COURT: -- and waiving your right to a jury trial?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Thank you.

24 Anything else?

25 MR. MAXEY: Yes, Your Honor.

1 I just wanted to put on the record that another offer
2 was extended after that in-chambers conversation. The
3 state offered Mr. Norman the opportunity to plead guilty
4 and receive a 12-year -- a recommended 12-year sentence in
5 front of Your Honor, which was rejected.

6 The counter offer by his attorney, Mr. Don Smith, who
7 made a counter offer of seven years was also rejected by
8 the state. And we're ready to proceed with the bench
9 trial.

10 THE COURT: All right. Let me be sure I understand,
11 Mr. Norman.

12 The solicitor says that he agreed to offer you a
13 sentence of 12 years if you pled guilty.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And he says that you rejected that offer.
16 Do you need some additional time to talk with your
17 lawyer about that?

18 MR. SMITH: May it please the Court. I advised him
19 that pleading guilty would hamper his appeal.

20 THE COURT: That's true. It would.

21 In other words, we've had hearings on a motion to
22 suppress and a motion to exclude, and I've denied those
23 requests by your lawyer.

24 In order to preserve your right -- if I'm wrong, in
25 order to preserve your right to challenge my decision you

1 have to go to trial either with a jury or by the Court in
2 order to preserve your right to appeal my decisions in that
3 regard.

4 And so if you want to be able to challenge my
5 decisions on the defense's motions that I denied you do
6 have to go to trial by a jury or by the Court.

7 However, if you want to take advantage of the
8 solicitor's recommendation of a 12-year sentence, he says
9 he will offer that if you plead guilty.

10 Now, if you plead guilty you'll be waiving your right
11 to challenge any unlawful search or seizure if there was
12 one.

13 So what you've got to decide is do you want to reject
14 the state's offer of a 12-year sentence in return for your
15 pleading guilty and giving up your right basically to an
16 appeal or to challenge my ruling or do you want to take his
17 offer.

18 If you don't take the offer and you reject it, then if
19 you go to trial and you are convicted it'll be up to me as
20 to what the sentence is. And that's going to be between
21 seven and thirty. But whatever that sentence is, you'll
22 still be able to appeal it.

23 But the only thing you've got to consider or one of
24 the things you have to consider is if you don't prevail on
25 an appeal, then you'll be doing your sentence, whatever it

1 is. And it could be more than what the solicitor has
2 agreed to recommend.

3 So these are all things that are just up in the air,
4 but you've just got to decide in your own mind what risk
5 you want to take. You can take the known, which would be
6 to plead guilty and take the offer of 12 years, or go
7 forward with the unknown, which is having a trial, if
8 convicted receiving a sentence that could be more than 12
9 years, could be less. But I don't know what the sentence
10 would be. I have to wait until I hear everything.

11 But whatever the sentence might be if I were to find
12 you guilty, then you could appeal that and appeal my
13 decisions on the motions. But if you do not prevail, then
14 you'll be doing whatever sentence I impose.

15 So you've just got to decide if you're satisfied with
16 what the state wants to recommend or whether you'd rather
17 go forward with a trial and me determine whether or not
18 you're guilty, and if you are guilty, me decide what the
19 sentence is going to be so that you would have a right
20 to -- to appeal it.

21 Do you want to talk to your lawyer about that some
22 more?

23 THE DEFENDANT: Yes. Could you?

24 THE COURT: Okay. Yeah.

25 We'll be at ease 15 minutes.

1 You talk to Mr. Smith about it.

2 Let me ask this before we leave.

3 Mr. Norman, have you understood everything I just told
4 you?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. You talk to your lawyer about it
7 and let me know.

8 (Whereupon, a recess was taken.)

9 (Cocaine marked State's Exhibit No. 5 for
10 Identification.)

11 THE COURT: All right. Mr. Norman, you've had
12 additional time to talk with your lawyer before making your
13 decision? Have you now arrived at a decision?

14 THE DEFENDANT: Yes, sir, Your Honor.

15 THE COURT: And what decision have you reached?

16 THE DEFENDANT: I'll continue with the trial with you
17 basing it, Your Honor.

18 THE COURT: Okay. All right. Mr. Maxey, you may
19 proceed.

20 MR. MAXEY: Your Honor, the state would waive its
21 opening statement and go ahead with witness testimony. The
22 state calls Steve Cooper to the stand.

23 MR. SMITH: Your Honor, may it please the Court. I
24 would like the witnesses sequestered.

25 THE COURT: All right. Make your motion again.

Steve Cooper
Direct examination by Mr. Maxey

1 MR. SMITH: I would like to have the witnesses
2 sequestered.

3 THE COURT: Any objection?

4 MR. MAXEY: None, Your Honor.

5 THE COURT: All right. Sequester the witnesses.

6 STEVE COOPER, Having been
7 first duly sworn, testified as follows:

8 THE COURT: Mr. Smith, are any of these folks behind
9 your going to be testifying?

10 MR. SMITH: No, sir.

11 THE COURT: Okay.

12 DIRECT EXAMINATION BY MR. MAXEY

13 Q Please state your name for the record.

14 A It's Steven Cooper.

15 Q Are where are you employed?

16 A Spartanburg County Sheriff's Office.

17 Q What's your rank at the Spartanburg County Sheriff's
18 office?

19 A I am currently the captain over investigations.

20 Q How long have you been employed with the Spartanburg
21 County Sheriff's Office?

22 A Almost 28 years.

23 Q And have you worked in the past in narcotics?

24 A I have.

25 Q And for how long?

Steve Cooper
Direct examination by Mr. Maxey

1 A The first time in the early 90's I was there for
2 approximately five or six years. I went in 2008, in
3 December of '08, until September of '16, so an additional
4 eight years.

5 Q And what was your role within the narcotics division
6 on January 19th of 2016?

7 A I was the lieutenant over that division.

8 Q All right. So were you on duty on January 19th of
9 2016?

10 A I was.

11 Q And what were your doing?

12 A On that particular day we had an ongoing drug
13 investigation on two known drug traffickers, Jerry Simpson
14 and Drew Smith.

15 Approximately 4:30 that afternoon Investigator Schafer
16 and I had rode by an apartment complex to look for
17 Mr. Smith's vehicle, which I believe at that time we had a
18 tracking order to place a tracking device on that vehicle.
19 At around 4:30 we went there to that apartment complex to
20 see if we could locate that vehicle.

21 When we got there we identified Mr. Simpson's Mercedes
22 sitting in front of the building that Mr. Smith lives in.
23 We knew that Mr. Smith and Mr. Simpson were in the drug
24 trafficking business together. We used that as an
25 opportunity to set surveillance up on the apartment.

Steve Cooper
Direct examination by Mr. Maxey

1 shortly after we were there we observed Mr. Simpson
2 coming from the breezeway of Mr. Smith's apartment.
3 Mr. Simpson was carrying a duffle bag, and which he placed
4 that duffle bag inside of his vehicle and then proceeded to
5 leave the complex.

6 Moments later Mr. Smith came down. He was carrying
7 what appeared to be a couple of bags of garbage, placed
8 those into a white rental car and proceeded to leave the
9 apartment complex.

10 We gave it a few moments. We then left the apartment
11 complex only to find that Mr. Smith was at the trash
12 compactor throwing those bags of garbage into the
13 compactor.

14 We drove by Mr. Smith and exited the parking lot. We
15 put it out on the radio that Mr. Smith was fixing to pull
16 off and we were going to attempt to recover the two bags or
17 the bags of garbage that he had thrown into the dumpster.

18 Myself and Investigator Schafer moments later returned
19 to the compactor, attempted to recover the garbage. We
20 were unable to do so, and kind of asked on the radio if
21 anybody was able to pick up, any of the other investigators
22 were able to pick up, Mr. Simpson or Mr. Smith. It was a
23 negative response. Nobody was able to pick either vehicle
24 up.

25 We knew that Mr. Simpson and Mr. Smith both frequented

Steve Cooper
Direct examination by Mr. Maxey

1 several parking lots in the Westgate Mall area to conduct
2 drug transactions. We started to hit particular parking
3 lots that we knew them to frequent.

4 We were able -- Investigator Schafer and I were
5 actually able to locate Mr. Simpson in the -- in the
6 parking lot of Hamrick's. He was pulled into a parking lot
7 facing Blackstock Road and appeared to be sitting there by
8 itself.

9 Investigator Schafer and I had took a vantage point to
10 where we would watch Mr. Simpson. After seven, eight
11 minutes sitting there watching him he exited his vehicle
12 and almost kind of like you bend over at the waist.

13 At the time we saw that we thought he had bent down
14 and was speaking to somebody in the car that he was parked
15 beside.

16 He stood back up. He had what appeared to be a white
17 plastic grocery bag in his hand, got back in his vehicle,
18 at which time he backed up and left the parking lot.

19 We put it out on the radio that Mr. Simpson was
20 leaving the parking lot, gave his direction of travel, and
21 we told the surveillance units to try to pick him up.

22 Investigator Schafer and I rode over to the vehicle he
23 was parked beside only to find out that there was actually
24 nobody in it.

25 We got the tag number off of it. We actually ran it

Steve Cooper
Direct examination by Mr. Maxey

1 through commun -- the tag number through communications.

2 It wasn't anybody that we were familiar with.

3 We then exited the parking lot to pick up on the
4 surveillance. When we exited the parking lot everybody
5 said that they had lost Mr. Simpson, they couldn't find
6 him. We exited and turned left onto Blackstock Road headed
7 toward Arcadia.

8 We had went approximately two businesses down to the
9 public self storage unit where we actually saw Mr. Smith
10 exiting from behind the gate of the public storage facility
11 driving the same white vehicle.

12 Because we had lost Mr. Simpson, we had picked up the
13 tail on Mr. Smith. We followed Mr. Smith back to the
14 parking lot of Hamrick's where he, in turn, met with
15 another vehicle. It was either a black Nissan or a black
16 Toyota. I don't really recall at this time. There was two
17 people, two occupants, of that vehicle. They had a brief
18 conversation, and then Mr. Smith pulled out followed by the
19 black vehicle.

20 We had enough units there at the time that we were
21 able to conduct a tail, a surveillance tail. And we were
22 able to follow both vehicles from the west side of town all
23 the way over to, I believe it was, [REDACTED] Bentwood Drive,
24 which is in east Spartanburg off Zion Hill Road.

25 Both vehicles pulled into the driveway, and all of the

Steve Cooper
Direct examination by Mr. Maxey

1 occupants of both vehicles got out and went inside that
2 residence.

3 I asked Investigator Williams to post up on the
4 residence to see, you know, when these people would come
5 out and where would -- they would go after that.

6 At that point I had already called the Spartanburg
7 City Narcotics Division, because they were a joint
8 investigative division on this case with us, to come over
9 and assist us with surveillance because right where we were
10 at was pretty close to the city line. And I knew that if
11 this tail drug out throughout the night that we could use
12 the additional resources.

13 I want to say it might have been roughly about
14 7:00 o'clock. We were actually fixing to call the tail
15 off, call the surveillance off, because they had not moved,
16 and had called the additional units back to the parking lot
17 of the Ingles there at Zion Hill and Highway 29.

18 At that time -- about the time Lorin Williams pulled
19 back into the parking lot here come Drew Smith in the -- in
20 the white rental car that we originally seen him in pulling
21 almost in behind Investigator Williams.

22 He pulls into the parking lot right by probably six or
23 seven different narcs from our unit and the city units and
24 pulls down into -- actually in front of Ingles. And then
25 one of the city investigators actually observed Mr. Norman

Steve Cooper
Direct examination by Mr. Maxey

1 get out of the vehicle that he's in and get into the back
2 seat of Mr. Smith's vehicle.

3 Moments later Mr. Norman exits Mr. Smith's vehicle and
4 gets back in his vehicle, and then both vehicles pull off.

5 Mr. Smith's vehicle pulls out onto Highway 29 and
6 takes a left back into the city of Spartanburg, in which I
7 gave the instruction to the city narcotics to pick them up
8 because they were actually heading back into the city.

9 The vehicle that Mr. Norman was occupying pulls out of
10 the Ingles and turns right on 29 headed north toward
11 Cowpens.

12 Investigator Schafer and I picked up that tail. Once
13 we exited the Ingles parking lot we tailed the vehicle
14 approximately a couple of miles, and in those couple of
15 miles that we noticed the driver of that vehicle had
16 somewhat erratic driving behavior almost as if he was
17 preoccupied doing something inside the vehicle. He was
18 failing to maintain his lane, bumping the center line.

19 We decided -- we'd already ran the tag information and
20 gotten that off the vehicle. We had decided to do a
21 traffic stop on the vehicle.

22 As we placed the blue lights on and the car pulled
23 over Mr. Norman exited the passenger vehicle, kicked his
24 shoes off and started to run.

25 At that point I exited the vehicle that we were in and

Steve Cooper
Direct examination by Mr. Maxey

1 pursued Mr. Norman into a wood line. Once we got into the
2 edge of the woods Mr. Norman threw down a clear bag of
3 white rocklike substance, and I tackled Mr. Norman.

4 Q Based on your experience in narcotics investigation
5 what did that rocklike substance appear to be to you?

6 A At -- at that time it was either -- I knew that it was
7 either cocaine or cocaine base.

8 Q All right. And this may sound like a silly question,
9 but just for the record, did this take place in Spartanburg
10 County where you tackled him?

11 A Yes, it did.

12 Q And the man that you tackled in the woods who threw
13 down that bag, is he present in the courtroom?

14 A Yes.

15 Q Could you point him out and identify an article of
16 clothing?

17 A Yes. He's sitting at the defense table, white shirt,
18 gray tie, wearing glasses.

19 Q Once you tackled Mr. Norman in the woods, what did you
20 do next?

21 A He was handcuffed. He was gotten up off the ground.
22 I read him his Miranda rights from memory and explained
23 the -- explained to him the situation that he was in and
24 explained to him he had an opportunity to help himself if
25 he helped us.

Steve Cooper
Direct examination by Mr. Maxey

1 Q Now, when you say you read him his Miranda rights or
2 recited them from memory, what were those rights?

3 A I advised him that he had the right to remain silent.
4 Anything he said could and would be used against him in a
5 court of law. He had the right to have an attorney present
6 while being questioned. If he couldn't afford to hire a
7 lawyer, one would be appointed to represent him if he so
8 wished. I also told him he had the right to stop answering
9 questions at any point.

10 I asked him did he understand his rights, and he gave
11 me a verbal yes that he did.

12 Q Did anything about Mr. Norman's demeanor or anything
13 surrounding these circumstances give you any reason to
14 believe he did not understand those rights?

15 A Not at all.

16 Q Was Mr. Norman a target of this investigation?

17 A No. Prior to this night we didn't even know who Mr.
18 Norman was.

19 Q Had you ever seen Mr. Norman before?

20 A Had not.

21 Q Had you ever heard of Mr. Norman?

22 A Had not.

23 Q So once you explained his Miranda rights to him and he
24 indicated he understood them, what did he tell you?

25 A He acknowledged to us that he did want to do something

Steve Cooper
Direct examination by Mr. Maxey

- 1 to help himself out and that he was actually willing to sit
2 down and talk with us.
- 3 Q And were his responses the product of any intimidation
4 or threats?
- 5 A No, absolutely not.
- 6 Q Was he coerced in any manner?
- 7 A No, he was not.
- 8 Q Who all was present in the woods when you questioned
9 him?
- 10 A It was me, and I think it was a city officer, maybe
11 Cheeks.
- 12 Q And what did he say in response to your questioning?
- 13 A That he was willing to help, he was willing to do what
14 it'd take.
- 15 Q And where did you go next after that?
- 16 A We took him from the woods, and then we seated him in
17 Investigator Schafer's vehicle where we talked a little bit
18 more while we cleaned the scene up. And then we
19 transported him to a narc office that the city narcs had
20 over on Trade Street.
- 21 Q All right.
- 22 MR. MAXEY: May I approach the witness, Your Honor?
- 23 Q Handing you what's been premarked as State's Exhibit
24 No. 1. What is this document?
- 25 A This is a pre-interrogation waiver form.

Steve Cooper
Direct examination by Mr. Maxey

1 Q Did you give him that document before you began asking
2 him questions at Trade Street?

3 A I did.

4 Q Are you the one who questioned Mr. Norman?

5 A I am.

6 Q And what does that form have on it? Does it have his
7 Miranda rights?

8 A It does.

9 Q And what are those rights on the form?

10 A Says, "I have the right to remain silent. Anything I
11 say can and will be used against me in a court of law. I
12 have the right to talk to a lawyer and have him present
13 with me while I'm being questioned. If I cannot afford to
14 hire a lawyer, one will be appointed to represent me before
15 any questioning if I so wish. I have the right to stop
16 answering questions at any point in the questioning. The
17 above rights have been read to me by Lieutenant S. Cooper.
18 I have under -- I have read same and understand my rights
19 fully." Witnessed by Investigator Secrest, signed by
20 Deshon Norman.

21 And then the next paragraph is, "I waive, give up, my
22 rights as explained above and agree to talk to officer
23 Lieutenant Cooper and Investigator Schafer in reference to
24 trafficking cocaine base. And my statement that I may make
25 is of my own free will without fear, threat or promise or

Steve Cooper
Direct examination by Mr. Maxey

1 favor of reward of any kind. I am able to read and write
2 the English language and finished 13 and a half years in
3 school."

4 That was also witnessed by Investigator Secrest,
5 notarized by Investigator Williams and signed Deshon
6 Norman.

7 Q Did you witness Mr. Norman sign those documents?

8 A I did.

9 Q And is that a true and accurate copy of the form that
10 was given to him?

11 A It is.

12 Q Has it been changed or altered in any way since you
13 first gave it to him?

14 A It has not.

15 MR. MAXEY: At this time the state would move State's
16 No. 1 into evidence.

17 MR. SMITH: Without objection.

18 THE COURT: It's admitted.

19 (Pre-interrogation waiver form marked State's Exhibit
20 No. 1.)

21 MR. MAXEY: Approach the witness again, Your Honor?

22 THE COURT: Yes.

23 Q Hand you what's been premarked State's Exhibit No. 2.
24 Do you recognize that document?

25 A I do.

Steve Cooper
Direct examination by Mr. Maxey

1 Q And what is that document?

2 A That is Deshon Norman's statement from the night of
3 the 19th of January of 2016.

4 Q What is on that statement?

5 A Would you like me to read it?

6 Q Yes, please.

7 A It's got his name at the top, Deshon J. Norman, Sr.,
8 age 35, date 1/19/2016, address [REDACTED] Barclay Avenue,
9 Gaffney, South Carolina. It has a phone number, date of
10 birth and a social security number.

11 The very first line it says, "Statement is being
12 written by Lieutenant Steve Cooper of the Spartanburg
13 County Sheriff's Office Narcotics Division at my request."

14 Then it has a line, and then Deshon Norman has signed
15 his name, initialed. No. I'm sorry. Deshon Norman, Sr.
16 And he has it initialed at the beginning and signed at the
17 end of that sentence.

18 The next sentence reads, "On Thursday, January 15th, I
19 tried to call Andrew Smith who I know as Drew to buy some
20 dope from him. The call wouldn't go through, so I tried
21 texting him over and over again with no response. I texted
22 Jerry Simpson who I know as Man. I texted Man because I
23 know he controls the dope Drew gets. Man answered his text
24 and told me that I needed to keep texting Drew, that he
25 would eventually get back in touch with me. Man told me

Steve Cooper
Direct examination by Mr. Maxey

1 that Drew had went to Charlotte to see his daddy. I kept
2 texting Drew all throughout the weekend, and finally on
3 Sunday Drew texted me and said he was on his way back down
4 the road. He asked me what I needed, and I said one,
5 meaning one ounce of cocaine. I also reminded him that he
6 still owed me one, and he said I got you. On Monday,
7 January the 18th, I spoke with Drew on" -- flip over to
8 page two -- "the phone. He asked me what I needed again,
9 and I told him one and what he owed me. I also told him
10 that he was going to have to make them better than the last
11 time because last time he only gave me 41, this to mean
12 41 grams of cocaine. Drew told me all right, he would make
13 them 50. But it would be Tuesday after dark before I could
14 get them. Drew told me to be ready about 5:30 to 6:00 p.m.
15 I called Drew today 4:00 to 4:30 to see if he was ready for
16 me and he told me that he was fixing to grab it and do it
17 up. I knew this to mean he is fixing to get the cocaine
18 from somebody and go down to his homeboy's house and cook
19 it into crack. I always buy powder cocaine from Drew for
20 \$1,300 an ounce. I pay Drew \$100 an ounce to cook the
21 powder and the crack. He told me to go ahead and get my
22 ride together and once I had my ride together to come on
23 and meet him at the Ingles store. I got Salty to drive me
24 to Spartanburg to pick it up. Salty is Cleveland Smith."
25 Page three. "Salty has taken me to pick up dope from Drew

Steve Cooper
Direct examination by Mr. Maxey

1 before. He knows what I am picking up. I have met Drew at
2 the Ingles approximately eight different times to pick up
3 dope. Salty has brought me to the Ingles just about every
4 time. I give Salty \$40 to drive me to Spartanburg to pick
5 up the dope. I called Drew right before we pulled into the
6 Ingles. Drew told me to give him a second and he would be
7 up there. Drew pulled up beside us driving a white rental
8 car. I got out of our car, got into the back seat of
9 Drew's car. Drew was driving. Little Terry identified as
10 Terry Clark was in the front passenger seat. There was a
11 light-skinned black male with a tattoo of a cross under his
12 right eye sitting in the back seat. Drew told me to get
13 the dope out off the shoe box that was setting on the back
14 seat. Drew told me that mine was the one with the three,
15 meaning three ounces. There were several single ounces of
16 crack tied up in the Jordan shoe box. When I first got
17 into the car I handed Drew" -- page four -- "\$1,300 cash in
18 all \$100 bills. I got my bag of dope, put it in my pocket,
19 got out of Drew's car, got back in Salty's car and we
20 pulled off. When we pulled off is when we got stopped by
21 the police. The number I call Drew on is (404)398-1593.
22 The number I call Man on is (864)921-1033. End of
23 statement."

24 And it's initialed by Deshon Norman. Then there's a
25 line drawn through the blank portion, bottom half, of this

Steve Cooper
Direct examination by Mr. Maxey

1 page that is signed on the line, Deshon Norman. And then a
2 line drawn through the very last blank line of the
3 statement, and then initialed again by Deshon Norman.

4 And then it says, "I have read this statement
5 consisting of four pages and I swear that the statement
6 that I have just given is the truth, the whole truth,
7 nothing but the truth, so help me God. I also swear that
8 this statement was given freely and voluntarily and I have
9 received a copy of my statement."

10 This statement was completed at 9:35 p.m. on the 19th
11 of January of 2016, and it's signed Deshon J. Norman, Sr.,
12 witnessed by Lorin Williams and notarized by -- at that
13 time -- Sergeant Joe Pharis.

14 Q Did you personally see Mr. Norman sign all of those
15 signature blanks?

16 A I did.

17 Q And you mentioned that you gave him the option to have
18 you write the statement. Is that something you do as
19 standard operating procedure?

20 A It is. That is -- that is a personal -- each
21 investigator, they're different. I like doing that, giving
22 the person the option for them to write it or me to write
23 it. A lot of people feel more comfortable having me write
24 it. A lot of people have difficulty spelling and just
25 don't feel comfortable doing that. So I always like to

Steve Cooper
Direct examination by Mr. Maxey

1 give them the option. But in doing that I always start the
2 statements off that I write with the fact that I'm writing
3 this statement for them.

4 Q When Mr. Norman gave you this statement were those his
5 own words?

6 A They were.

7 Q When he gave you this statement did he appear to be
8 under the influence of alcohol or drugs?

9 A He did not.

10 Q Did he appear to you to understand what was going on?

11 A He did.

12 Q And is that statement a fair and accurate copy of the
13 one that you wrote down?

14 A It is.

15 Q Or you wrote down at his request?

16 A It is.

17 Q Has it been altered or changed in any way since that
18 day?

19 A It has not.

20 MR. MAXEY: At this time, Your Honor, the state would
21 move for State's 2 to be in evidence.

22 MR. SMITH: I would object based on that that's his
23 statement. He testified to that already. So it's
24 unnecessary bolstering.

25 THE COURT: You object to it? You object to it on

Steve Cooper
Direct examination by Mr. Maxey

1 what ground?

2 MR. SMITH: Excuse me?

3 THE COURT: You object to it on what ground?

4 MR. SMITH: Based on the fact this is bolstering. He
5 testified to what he said.

6 THE COURT: Oh, all right. Overrule the objection.

7 MR. MAXEY: Thank you, Your Honor.

8 (Voluntary statement marked State's Exhibit No. 2.)

9 Q All right. So let's go back to the incident -- or
10 actually one more thing.

11 MR. MAXEY: May I approach the witness, Your Honor?

12 THE COURT: Yes.

13 Q Hand you what's State's No. 3. Do you recognize this
14 item?

15 A I do.

16 Q What is that item?

17 A This is a C.D. of the recorded statement that I just
18 read.

19 Q Was that the defendant reading it again to be
20 recorded?

21 A That is correct.

22 Q Have you listened to that recording?

23 A I have.

24 Q Has it been changed or altered in any way since you
25 heard it?

Steve Cooper
Direct examination by Mr. Maxey

1 A No.

2 Q Is it a fair and accurate recording of that
3 conversation?

4 A That's correct.

5 MR. MAXEY: At this time the state would move State's
6 3 into evidence.

7 THE COURT: This is a recording of what, now?

8 MR. MAXEY: Of Mr. Norman's statement.

9 THE COURT: The written statement?

10 MR. MAXEY: It's him reading the written statement.

11 THE COURT: It's Mr. Norman reading the written
12 statement?

13 MR. MAXEY: Yes, Your Honor.

14 THE COURT: Okay. Mr. Smith.

15 MR. SMITH: No objection.

16 THE COURT: All right. It's admitted.

17 (C.D. marked State's Exhibit No. 3.)

18 Q So moving back into the incident in the woods, you
19 mentioned that Mr. Norman threw down a bag of white
20 rocklike substance.

21 A That's correct.

22 Q Did you see him throw that down from his hand to the
23 ground?

24 A I did.

25 Q How far were you from him when this happened?

Steve Cooper
Direct examination by Mr. Maxey

- 1 A Feet, several feet.
- 2 Q What did you do with that substance once you recovered
- 3 it?
- 4 A Placed it into the BEST bag and turned it into the
- 5 evidence locker for further testing and analysis.
- 6 MR. MAXEY: Your Honor, may I approach the witness?
- 7 THE COURT: Yes.
- 8 Q Captain Cooper, I'm handing you what's been marked as
- 9 State's 5. Is that the BEST bag that you're referencing?
- 10 A It is.
- 11 Q Is that your signature on the BEST bag?
- 12 A It is.
- 13 Q Is that the same BEST bag that you placed the white
- 14 rocklike substance you seized from Mr. Norman?
- 15 A That's correct.
- 16 Q And how do you know that?
- 17 A With my signature, the date and the case number.
- 18 Q And what did you do with that bag once -- first of
- 19 all, was that bag sealed by you?
- 20 A It was.
- 21 Q And when you sealed that bag, where did you take it?
- 22 A Placed it into the evidence drop box at the sheriff's
- 23 office.
- 24 Q Was it still sealed when you placed it in there?
- 25 A That's correct.

Steve Cooper
Cross-examination by Mr. Smith

1 Q Did you -- other than bringing it to court today, did
2 you ever touch it again after that?

3 A I did not.

4 Q What is the case number on this one if I could have
5 you read that aloud?

6 A Yeah. Be 16011005.

7 Q Is that case number unique to Mr. Norman's case?

8 A It is.

9 MR. MAXEY: Your Honor, I don't have any further
10 questions from this witness.

11 Q Please answer any questions Mr. Smith might have for
12 you.

13 MR. SMITH: May it please the Court.

14 CROSS-EXAMINATION

15 BY MR. SMITH

16 Q Mr. Norman created that whole document that you just
17 read, is that right?

18 A Those are his words, that's correct.

19 Q You talked to him Monday about the phone calls that
20 Mr. Norman was making to -- to Mr. Smith, right? Do you
21 recall that? It's been three days.

22 A Yeah.

23 Q Yeah. So I'd like to see the phone records to show
24 that there actually was phone calls between Mr. Norman and
25 Mr. Smith. You have Mr. Smith's phone records, right?

Steve Cooper
Cross-examination by Mr. Smith

- 1 A I do not have them.
- 2 Q Your unit does, right, your sheriff's department?
- 3 A I -- I cannot answer that question. I was not the
- 4 lead investigator on this case. That's something that the
- 5 lead investigator would be better off answering.
- 6 Q Right. Do you guys have different ways of doing
- 7 things? Do you, like, store stuff at your home, or do you
- 8 keep it at the sheriff's office?
- 9 A What kind of things are you referring to?
- 10 Q Talking about the phone records. Where do you keep
- 11 that stuff?
- 12 A That's at the sheriff's office.
- 13 Q It's all kept at the same place?
- 14 A It should be with the case file.
- 15 Q Oh, case file. So you do have it then.
- 16 A Sir, I've answered the question. I have no knowledge
- 17 of the phone records. That would be something Investigator
- 18 Schafer would be more apt to answer.
- 19 Q Well, why is that?
- 20 A Because he's the lead investigator on this case.
- 21 Q You're up on the stand twice now. If he's the lead
- 22 guy, why are you doing it?
- 23 A I'm not sure why you're asking that question.
- 24 Q It's not relevant. Why are you doing it?
- 25 MR. MAXEY: Objection. I agree with Mr. Smith that

Steve Cooper
Cross-examination by Mr. Smith

1 this is not relevant.

2 Q what's not relevant is him asking me or telling me he
3 doesn't understand why I'm asking the question. That's my
4 prerogative.

5 MR. MAXEY: He's essentially asking why I called
6 Captain Cooper as a witness, which isn't really the point
7 of cross-examination.

8 THE COURT: Well, I don't disagree with that, but I
9 guess the answer to be why is he on the witness stand is
10 because you called him as a witness. So that's kind of
11 obvious.

12 MR. MAXEY: Yes, Your Honor.

13 Q Does Mr. Schafer have you be a spokesman?

14 A No, sir. One reason that I'm up here is because I
15 took the statement that your client gave.

16 Q Right. How long have you been following Mr. Simpson
17 and Mr. Smith?

18 A Since early January, the same year.

19 Q This happened on the 19th?

20 A That's correct.

21 Q So a couple of weeks?

22 A That's correct.

23 Q As you said, this is the first time you saw Mr. --
24 Mr. Norman.

25 A Absolutely.

Steve Cooper
Cross-examination by Mr. Smith

1 Q You said earlier that you read him his Miranda rights,
2 and during that you said that he had the right to stop
3 talking to you.

4 A That's correct.

5 Q And he did that, didn't he?

6 A No.

7 Q Did he help you?

8 A He alluded to the fact that he did want to help
9 hisself, that's correct.

10 Q At some point did he stop talking to you?

11 A He did the next day.

12 Q And what did Mr. Smith and Mr. Simpson -- what
13 sentences did they get?

14 MR. MAXEY: Objection. That is not relevant to this
15 proceeding.

16 THE COURT: Sustained.

17 Q So -- so you believed that, that he's -- he was free
18 to stop talking to you?

19 A I do.

20 Q So you wanted him to have life without parole.

21 MR. MAXEY: Objection.

22 MR. SMITH: Goes to credibility, Your Honor.

23 MR. MAXEY: Again, it's not relevant to this
24 proceeding.

25 THE COURT: Well, you understand the decision to seek

Steve Cooper
Cross-examination by Mr. Smith

1 life without parole is solely in the solicitor's
2 discretion.

3 MR. SMITH: I do, sir. And from a credibility
4 standpoint, and so I'm asking the questions for
5 impeachment.

6 THE COURT: well, you can ask him those kind of
7 questions perhaps, but the question about seeking life
8 without parole is not for this witness to make. The
9 solicitor has to make that decision.

10 MR. SMITH: Yes, sir.

11 Q How much of a role does the sheriff's office play in
12 pursuing defendants?

13 A Pursuing them in which regard?

14 Q Prosecution.

15 A We have a say, but it's solely not left up to us.

16 Q How many charges -- how many convictions did Mr.
17 Norman have on review -- did he have?

18 A I'm not a hundred percent sure, but I know it was at
19 least two priors.

20 Q Do you know Lee -- one second please -- Lee from the
21 federal probation office?

22 MR. MAXEY: Objection. I don't see what possible
23 relevance that would have.

24 THE COURT: well, I don't know. Do you know him?

25 A Can you be more specific?

Steve Cooper
Cross-examination by Mr. Smith

1 Q Yes, sir, yes, sir. One moment please. Do you have
2 any contact with Lee about Mr. Simpson and Mr. Smith?

3 A Can you be more specific about Lee, who this Lee is
4 that you're talking about?

5 Q Federal probation. Based on what your investigation
6 what did you know going into that fateful day in January --
7 January 19th? What were you -- had you investigated or
8 learned at that point?

9 A That the whole point in -- in us going by the
10 apartment complex that day, we were trying to locate a
11 vehicle that Mr. Smith drove to install an electronic
12 tracking device on it. That -- that was our sole intent.

13 As -- as the surveillance went on and -- and the day
14 progressed we gained intelligence in regards to a storage
15 facility that we knew that Mr. Smith and Mr. Simpson were
16 using that we knew nothing about.

17 We also learned of an apartment over on Bentwood Court
18 that they were also utilizing to further their drug
19 trafficking operation.

20 Q With regard to your apprehension of Mr. Norman,
21 what -- how far did he get into the woods?

22 A It was just only inside the wood line. It wasn't very
23 far.

24 Q Did he run into a tree or --

25 A Not that I'm familiar with, no.

Steve Cooper
Cross-examination by Mr. Smith

- 1 Q What time was it?
- 2 A It was dark, around maybe 7:00 or 7:30.
- 3 Q In January.
- 4 A That's correct.
- 5 Q And where did you find the drugs?
- 6 A I saw them leave his hand. Once I tackled him, we
- 7 actually fell on top of them.
- 8 Q So Mr. Norman didn't throw it. He just dropped it by
- 9 his foot.
- 10 A No. I saw your client throw the drugs to the ground,
- 11 at which point I tackled him, and we landed on top of the
- 12 drugs.
- 13 Q So how far did he throw it?
- 14 A Just at his feet.
- 15 Q So you tackled him on it?
- 16 A We landed on it, yes, sir.
- 17 Q And that burst it?
- 18 A No, sir.
- 19 Q What kind of bag was it, again?
- 20 A It was a cellophane sandwich baggy.
- 21 Q Is that part of the BEST bag?
- 22 A Yes, sir.
- 23 MR. SMITH: May it please the Court. May I approach?
- 24 Q We talked yesterday about the bag, the bags which
- 25 Mr. Smith had. And were they the same as that bag?

Steve Cooper
Cross-examination by Mr. Smith

- 1 A No, sir.
- 2 Q Did you check that out since Monday? Because you
- 3 didn't know on Monday.
- 4 A No. I think what I told you and what my transcript
- 5 would reflect was the bag that Mr. Smith -- the drugs that
- 6 Mr. Smith is charged with, those were contained in a
- 7 grocery type bag that was recovered from the storage
- 8 facility that was different than this bag.
- 9 Q Yes, sir. So there is no -- was it like a brown paper
- 10 bag?
- 11 A No, sir. It was a white grocery bag.
- 12 Q All right. Yes, sir. So who was the focus of the
- 13 investigation?
- 14 A Jerry Simpson and Andrew Smith.
- 15 Q Did you have the opportunity to see the video that we
- 16 created going from Ingles to where you were stopped?
- 17 A I have not.
- 18 Q Have you had an opportunity to see that road since we
- 19 last spoke?
- 20 A Travel that road every day.
- 21 Q How many lanes are in that road?
- 22 A Four.
- 23 Q Is there a middle area?
- 24 A Do you mean like a median?
- 25 Q Yes, sir.

Steve Cooper
Cross-examination by Mr. Smith

1 A Yes, sir.

2 Q Is it paved?

3 A Yes, sir.

4 Q Are there painted lines?

5 A Yes, sir.

6 Q Did anybody use that, that lane, when making a stop of
7 Mr. Norman?

8 A That particular night, I can't answer that, because
9 when we did the traffic stop my focus was on the two
10 occupants inside the vehicle.

11 Q So you don't know what -- your tunnel vision isn't
12 going to allow you to see anything but the vehicle?

13 A My focus was on the two occupants inside the vehicle.
14 Officer safety was the biggest concern at that point and
15 not where other officers may or may not have pulled their
16 vehicle.

17 Q What -- what did you have on your person or on the
18 vehicle that said you were a sheriff?

19 A We had blue lights that were installed in the vehicle,
20 and I had my ballistic raid vest that said sheriff across
21 the front of it.

22 Q What time was this, 7:00 o'clock at night in January?

23 A Yes, sir.

24 Q The -- the vehicle had blue lights. Do you use those
25 blue lights just to signify to traffic that you were there?

Steve Cooper
Cross-examination by Mr. Smith

1 Isn't that right?

2 A No. We use the blue lights as a device to get your
3 client and the driver of that vehicle to pull over.

4 Q How -- when you left the Ingles, it's three and a half
5 miles from there to the point you stopped, right?

6 A No, sir. It was -- it was a couple of miles from the
7 time we left the Ingles until the traffic stop was
8 conducted.

9 Q It's not 3.5 miles?

10 A I -- I haven't measured it. My guess is it would be a
11 couple of miles.

12 Q So it was only two miles. And you weren't racing up
13 to catch up to them, right?

14 A They pulled out first, and, yeah, there was a point
15 that we accelerated to actually catch them, that is
16 correct.

17 Q And at that time, that's when he started leading?

18 A No, sir. At the point that we -- we got them in sight
19 that we could actually see them and identified it was that
20 vehicle that had left and had met Mr. Smith we -- we paced
21 them and kept an eye on them, and at which time we observed
22 him bumping the center line.

23 Q One -- one of your vehicles. Who was the vehicle that
24 was on the left side of the car?

25 A I don't know that there was a vehicle on the left side

Steve Cooper
Cross-examination by Mr. Smith

1 of the car.

2 Q How many vehicles from the sheriff's office were
3 involved with that stop?

4 A It could have been two, three. I really don't know.
5 Everybody was behind us. And, again, when the stop
6 happened my focus was the two people inside the vehicle.
7 And at the point that Mr. Norman elected to flee, that was
8 my sole focus, not who all was there, who came up after the
9 car was stopped. Mr. Norman was my sole focus at that
10 point.

11 Q Who wrote that ticket, again?

12 A That would have been Investigator Williams.

13 Q Investigator Williams. Where was that person located?

14 A Again, I can't -- I can't tell you.

15 Q You guys were in a line, right, right behind him?

16 A That is correct.

17 Q So the only person that was seen swerving would be
18 you.

19 A Yeah, but Investigator Lorin wrote that. Investigator
20 Williams wrote that ticket at my direction.

21 Q So he didn't see anything, did he?

22 A Oh, I don't know what he saw. I can't testify to what
23 he saw.

24 Q That ticket was written in what month?

25 A It would have been that night. That was in January.

Steve Cooper
Cross-examination by Mr. Smith

- 1 And it was a warning.
- 2 Q It was a warning immediately, right?
- 3 A That is correct.
- 4 Q Did you find out what he was swerving for?
- 5 A I -- I never spoke to Mr. Smith. Again, when your
- 6 client opened the door and fled that vehicle, that was my
- 7 main concern at that point.
- 8 Q And there was a car that was in -- one of your
- 9 officers was in front of that vehicle, right?
- 10 A I -- I can't answer that.
- 11 Q Didn't you bring him back to the vehicles that were --
- 12 didn't already leave?
- 13 A No. By the time -- by the time that I brought
- 14 Mr. Norman back to the vehicle there was -- there was a lot
- 15 of cars there.
- 16 Q So three plus.
- 17 A Yeah. And I -- I don't know who they were. Could
- 18 have been city officers, county officers. There was a lot
- 19 of people there.
- 20 Q where did you take them back to? where --
- 21 A To Investigator Schafer's vehicle.
- 22 Q And where was that located?
- 23 A Right behind Mr. Norman and Mr. Smith's vehicle.
- 24 Q where were you then?
- 25 A Walking with Mr. Norman.

Steve Cooper
Cross-examination by Mr. Smith

1 Q No. Where was your car?

2 A I was riding with Investigator Schafer.

3 Q Right. But didn't you say -- oh, Schafer is the one
4 you took back to his car?

5 A That's correct.

6 Q Right. Sorry. Who -- did Mr. -- Mr. Cleveland Smith
7 get out of his vehicle?

8 A I can't answer that. Again, once your client elected
9 to flee on foot my sole focus was on Mr. Norman.

10 Q So you don't know anything.

11 A I know that I chased your client.

12 Q And he threw the drugs. Right. When he got to the
13 station you had him write out a statement?

14 A After reading him his Miranda warnings there was an
15 interview conducted as to what his participation would have
16 to be in order for him to help himself out. And at the
17 point that he -- that he agreed that he was willing to do
18 that, yes, we took a statement from him.

19 Q Do we have a recording of the real statement he gave
20 you?

21 A This is the real statement he gave us.

22 Q No. That's a -- the one I'm talking about is the
23 one he did not -- you had him to the C.D. after you --
24 after you prepared a statement?

25 A After he told us what to write in the statement and he

Steve Cooper
Cross-examination by Mr. Smith

1 initialed it and signed it, we had him to read the
2 statement and recorded it to make sure that he understood
3 what he was signing.

4 Q How many times did you tell him he needed to be more
5 convincing?

6 A Never.

7 Q How many times did you alter what he was saying so as
8 to make it a better corroborating story?

9 A Not at all. Not one time.

10 Q But you don't have the phone records to show that
11 there were calls, like you say.

12 A I'm saying I have no knowledge of any phone records,
13 me personally.

14 Q Weren't you part of the Smith investigation?

15 A I was.

16 Q Is that not -- you're not privy to that?

17 A I am.

18 Q So, I mean, do you pick and choose what you know and
19 what you don't know?

20 A You've got to realize there's 15 other investigators
21 in that unit all with drug cases going on. I don't know
22 every single detail of every single investigation that's
23 going on back there in that unit at any given time. That's
24 the purpose of having a lead investigator. And the lead
25 investigator of this case is Investigator Schafer, and he

Steve Cooper
Cross-examination by Mr. Smith

1 would be more apt to answer those questions about the phone
2 records.

3 Q I thought you were on the case.

4 A Well, that's not correct.

5 Q So the ticket wasn't given at the scene, was it?

6 A As far as I know. You'd have to ask Investigator
7 Williams that. It was either given at the scene or it was
8 given at the Trade Street location.

9 Q And that of course was a warning.

10 A That is correct.

11 Q Why did you turn on the lights, again?

12 A Once we seen the infraction made by Mr. Smith and it
13 was within that two miles of leaving the Ingles location.

14 Q And the city. You directed the city to pick up
15 Mr. Smith.

16 A That is correct.

17 Q And of course when they did that they found what I
18 assume, single serving bags in the shoe box, right?

19 A No, sir. They didn't stop Mr. Smith.

20 Q Didn't you direct them to do that?

21 A No. I directed them to tail him, to surveil him.

22 Q So basically you needed to stop Mr. Norman so you
23 could pressure him into testifying against Mr. Smith,
24 right?

25 A No, sir. That's not correct.

Steve Cooper
Cross-examination by Mr. Smith

- 1 Q What's different about what I said?
- 2 A This was the thing. If Mr. Norman had never exited
3 that vehicle and fled it could have been something as
4 simple as writing him a citation, I.D.ing both the driver
5 and passenger and letting them go. Mr. Norman changed that
6 investigation when he chose to flee on foot.
- 7 Q What -- what protocol do you follow for your
8 investigation?
- 9 A In regards to?
- 10 Q Stopping someone like that.
- 11 A Depends on the circumstance.
- 12 Q You left Ingles with the purpose of stopping
13 Mr. Norman and talking to him. That's what you said on
14 Monday.
- 15 A No. That's not what I said on Monday.
- 16 MR. MAXEY: Objection. Ask Mr. Smith to ask questions
17 and stop testifying.
- 18 THE COURT: Put it in the form of a question.
- 19 MR. SMITH: Yes, sir.
- 20 Q So you didn't say that?
- 21 A No. I didn't.
- 22 Q Surveillance. When -- when is video used?
- 23 A It just all depends.
- 24 This particular situation on this date -- there are
25 times that we do use surveillance if it is -- if it is a

Steve Cooper
Cross-examination by Mr. Smith

1 direct mission that we know we're going out to do
2 surveillance, sometimes we will use it. Sometimes we
3 won't.

4 This particular investigation on this date was
5 unfolding. Our sole mission that day was to simply
6 identify a vehicle that Mr. Drew Smith was driving to
7 hopefully install a tracking device on that vehicle.
8 That -- that was our mission that day. And this thing kind
9 of unfolded with the presence of Mr. Simpson and Mr. Smith
10 being at the same location at the same time. It unfolded
11 from there, to the parking lot, to the storage unit, to a
12 house over here on Bentwood Circle. It was ever evolving
13 as we went, and it just -- video tape was not used that day
14 or video surveillance was not used that day.

15 Q How -- how big of an instrument is used for video
16 surveillance?

17 A Well, in regards to?

18 Q How big are they in size?

19 A Sometimes we use our phone; sometimes we use a
20 camcorder.

21 Q What's the largest thing you use?

22 A Camcorder.

23 Q How big is that?

24 A Probably about that big.

25 Q Not any bigger than a shoe box?

Steve Cooper
Cross-examination by Mr. Smith

- 1 A That's correct.
- 2 Q You don't keep one of those in the vehicle at all
- 3 times?
- 4 A No, sir.
- 5 Q So once you had the opportunity to see Mr. Smith, you
- 6 didn't start videoing at that point?
- 7 A No.
- 8 Q The three vehicles were necessary because why?
- 9 A What three vehicles are you referring to?
- 10 Q That were following Mr. Norman and Mr. Smith.
- 11 A There was a bunch of vehicles out there that day. I
- 12 don't know the exact number. I'm guessing there may have
- 13 been three. I don't know. Again, we were the lead
- 14 vehicle. I don't really know who was behind us.
- 15 Q You've had the opportunity to read your own notes,
- 16 right?
- 17 A Yes, sir.
- 18 Q You still don't know? And you're the -- what's your
- 19 position?
- 20 A That's correct.
- 21 Q What are you responsible for?
- 22 A At the current time or then?
- 23 Q Then.
- 24 A Over the entire narcotics and vice division,
- 25 Spartanburg County Sheriff's Office.

Steve Cooper
Cross-examination by Mr. Smith

1 Q Mr. Norman only had three ounces of crack?

2 A I'm not sure what it came out to be. I think it was
3 70 something grams.

4 Q So Lee Denton, U.S. probation, you don't know that
5 person?

6 A Yes. I know her.

7 Q What was your discussion with her about?

8 MR. (MAXEY: Objection. Irrelevant.

9 THE COURT: Well, I don't know whether it's relevant
10 or not because I don't know where we're going with it.

11 Is it relevant?

12 MR. SMITH: Honestly, I asked -- I think it's
13 relevant.

14 THE COURT: What's it relevant to?

15 MR. SMITH: Mr. Cooper's credibility.

16 THE COURT: Okay. We'll see what the question is. He
17 does know Lee Denton.

18 Q So you don't know who drove other than Mr. Schafer?

19 A No. I know Mr. Schafer drove, and I was the passenger
20 in his vehicle.

21 Q That's the -- that's to the best of your knowledge
22 about driving.

23 A That's correct.

24 Q And you don't know what vehicles were driven, just
25 yours.

Steve Cooper
Cross-examination by Mr. Smith

- 1 A Just Investigator Schafer's.
- 2 MR. MAXEY: Objection. Asked and answered.
- 3 THE COURT: Sustained.
- 4 Q The statement that you produced on behalf of
- 5 Mr. Norman, do you know if he actually called Jerry
- 6 Simpson? Do you have any record of that?
- 7 A Me personally, I do not.
- 8 Q And you know for a fact they picked up drugs that
- 9 night?
- 10 A According to what he told us, yes, that's correct.
- 11 Q Would that help with Mr. Smith's investigation?
- 12 A Him picking up drugs that night?
- 13 Q Yes, sir.
- 14 A If he had done what he said he was going to do as far
- 15 as going back and purchasing more drugs from Mr. Smith,
- 16 absolutely.
- 17 Q So the drugs he allegedly picked up, according to the
- 18 statement, on that night, that was helpful.
- 19 A No. It was not.
- 20 Q Was that a special sale that doesn't count, or what?
- 21 A Well, we weren't able to call him as a witness because
- 22 he quit cooperating.
- 23 Q But on that night he was -- he was okay, right?
- 24 A That is correct.
- 25 Q Did he tell you that he couldn't go forward with the

Steve Cooper
Cross-examination by Mr. Smith

1 statement and so forth?

2 A Not until the next day.

3 Q What -- what did he say?

4 A He talked to Investigator Schafer.

5 Q Talk to him.

6 A Yeah.

7 Q There was some hesitation in that audio. Do you
8 understand why that would be?

9 A You would have to play the audio and point the
10 hesitation out in order for me to comment on that.

11 Q Do you ever do a recording before you write a
12 statement for someone?

13 A Me, I do not, no.

14 Q So you wrote a quote from Mr. Norman then.

15 A I wrote what Mr. Norman told me.

16 Q What did Mr. Smith tell investigators was your
17 understanding?

18 MR. MAXEY: Objection. Relevance.

19 THE COURT: Is that the only objection?

20 MR. MAXEY: Also hearsay.

21 THE COURT: Sustained.

22 MR. SMITH: Your Honor, I'm not asking for the truth
23 of the matter asserted.

24 THE COURT: Well, then why is it relevant?

25 MR. SMITH: Well, I don't know what he's going to say.

Brendall Mathis
Direct examination by Mr. Maxey

1 THE COURT: Well, then you shouldn't ask it.

2 Sustained.

3 MR. SMITH: I have nothing further at this time, Your
4 Honor.

5 THE COURT: Okay.

6 MR. MAXEY: No redirect, Your Honor.

7 THE COURT: Step down.

8 We're going to take a break. The court reporter is
9 tired. We'll take ten minutes.

10 (Whereupon, a recess was taken.)

11 THE COURT: Okay.

12 MR. MAXEY: Yes, Your Honor. State calls Brendall
13 Mathis.

14 BRENDALL MATHIS, having been
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION BY MR. MAXEY

17 Q Please state your name for the record.

18 A Brendall Mathis.

19 Q Where are you employed?

20 A Spartanburg City Police Department.

21 Q What's your rank at the Spartanburg City Police
22 Department?

23 A I'm an investigator with the narcotics unit.

24 Q How long have you been with the narcotics unit?

25 A For seven years.

Brendall Mathis
Direct examination by Mr. Maxey

1 Q Were you with the narcotics unit on January 19th of
2 2016?

3 A Yes, sir.

4 Q Were you on surveillance in the Ingles parking lot on
5 Highway 29?

6 A Yes, sir.

7 Q Is that location in Spartanburg County?

8 A Yes, sir.

9 Q What did you see in that parking lot?

10 A I was actually sitting on the side that's closest to
11 the city. As we were sitting there I was notified by
12 Investigator Schafer that the target vehicle that they were
13 watching earlier had actually just pulled into the parking
14 lot and pulled over behind my vehicle and parked in the
15 parking lot.

16 Q Who was the driver of the target vehicle?

17 A It was getting dark. I couldn't say for one hundred
18 percent sure, but to me it looked like Andrew Smith.

19 Q And was he a target of y'all's investigation?

20 A Yes, sir.

21 Q Along with Jerry Simpson?

22 A Yes, sir.

23 Q Where did Mr. Smith's car go once it passed in front
24 of you?

25 A It passed -- it passed by the front of the store and

Brendall Mathis
Direct examination by Mr. Maxey

- 1 actually just pulled down towards -- towards the end of the
2 parking lot and pulled into a parking space that was
3 directly behind my vehicle.
- 4 Q Did another car pull up alongside it?
- 5 A Yes.
- 6 Q Were you able to see any of the occupants of that car?
- 7 A I was able to see the passenger get out and get into
8 the vehicle that pulled up behind me.
- 9 Q Is the passenger of that car that you saw present in
10 the courtroom?
- 11 A Yes, sir.
- 12 Q Will you point him out, please?
- 13 A That young man right there in the white shirt.
- 14 Q What color tie is he wearing?
- 15 A I guess it's like a silver tie, gray tie.
- 16 Q And where did that car go after it left the parking
17 lot?
- 18 A Both of the vehicles pulled to the bottom exit. The
19 vehicle that Drew Smith was supposed to be driving,
20 supposedly driving, went back towards the city. The other
21 vehicle went towards -- took a right and went towards
22 Cowpens.
- 23 Q Were you able to -- did you follow that car also?
- 24 A Yes.
- 25 Q And did you -- did the car in front you make a traffic

Brendall Mathis
Direct examination by Mr. Maxey

1 stop on that vehicle?

2 A Yes, sir.

3 Q what happened after Mr. Norman's car stopped?

4 A As the vehicle was stopping the passenger, who was
5 later identified as Mr. Norman, actually jumped out of the
6 car and took off running.

7 Q were you able to -- how close did you get to Mr.
8 Norman while this happened?

9 A Once -- once he took off running we went and assisted
10 with the other officers. He ran through a -- it was a
11 parking lot. I believe it was a church, but I don't recall
12 exactly, but ran through the parking lot and into the woods
13 where he was taken into custody there.

14 Q And how far into the woods did he get?

15 A I don't recall. Maybe 20 or 30 feet, I think. It
16 wasn't -- wasn't very far.

17 Q And did Mr. Norman have any narcotics in his
18 possession?

19 A Once -- once he was there I didn't see him. I didn't
20 see him drive anything. Lieutenant Cooper -- I'm sorry --

21 MR. SMITH: Objection. Hearsay.

22 THE COURT: well, what was your -- are you testifying
23 to hearsay or something you saw yourself?

24 THE WITNESS: No. I -- I saw -- I saw Lieutenant
25 Cooper at that time. He picked up an item off the ground

Brendall Mathis
Cross-examination by Mr. Smith

1 and advised that it was drugs. And he actually took those.
2 And we helped him escort Mr. Norman back to their vehicles.

3 MR. MAXEY: I don't have any other questions for this
4 witness.

5 Q Answer any questions Mr. Smith has for you.

6 A Yes, sir.

7 MR. SMITH: May it please the Court.

8 THE COURT: Yes.

9 CROSS-EXAMINATION

10 BY MR. SMITH

11 Q What were you driving?

12 A Sir?

13 Q What were you driving that night?

14 A I was driving a gray F150.

15 Q Mr. Schafer was driving what vehicle?

16 A Best I recall he was in his truck.

17 Q And there was a third vehicle, right?

18 A I mean, I'm sure there was a couple of us out there,
19 but I don't recall who was actually in what.

20 Q Don't know what you recall? What do you recall?

21 A What I -- do you want me to go back from the beginning
22 again or --

23 Q Sentences right there. That's what you recall? The
24 sentence that you offered, four sentences, that's what you
25 recall.

Brendall Mathis
Cross-examination by Mr. Smith

- 1 A Yes, sir.
- 2 Q How many cars were there at the scene?
- 3 A Maybe four.
- 4 Q Did you make a statement that Mr. Norman had just
5 participated in a drug deal with Mr. Smith?
- 6 A No. I said that he got out of his vehicle and
7 approached the other vehicle that we were watching.
- 8 Q Were you -- your car was directly in front of Mr. --
9 the vehicle Mr. Norman was in?
- 10 A Mine was directly in front of the one that Andrew
11 Smith was in. He pulled up directly beside him.
- 12 Q And you said that you thought it was Mr. Smith. Was
13 it dark?
- 14 A It was getting dark. It was -- if it wasn't -- it was
15 right at dark, but, I mean, I don't -- I don't recall
16 exactly how dark it was.
- 17 Q Well, what characteristic did you see that told you it
18 was Andrew Smith?
- 19 A I could just see through the windshield.
- 20 Q So it wasn't that dark.
- 21 A I mean, I could just -- his features were similar,
22 yes.
- 23 Q What is the purpose of this statement that you wrote?
24 Have you seen it?
- 25 A No, sir.

Brendall Mathis
Cross-examination by Mr. Smith

- 1 MR. SMITH: May I approach the witness, Your Honor?
- 2 (Pause.)
- 3 Q Basically, what is the purpose of this particular
- 4 statement?
- 5 A Just to advise of what we assisted with that night.
- 6 Q How far behind Officer Schafer's vehicle were you?
- 7 A I was right -- right next to it for most of the --
- 8 most of the time.
- 9 Q And what lane was Mr. Norman traveling in?
- 10 A Number two, the outside lane.
- 11 Q The fast lane -- the fast lane?
- 12 A The outside lane.
- 13 Q So that would be the -- this lane?
- 14 A The lane closest to the curb.
- 15 Q And no vehicles went in front of Mr. Smith and Mr.
- 16 Norman's vehicle, is that right? Didn't cut them off, or
- 17 did they?
- 18 A I don't recall anybody cutting the vehicle off, no,
- 19 sir.
- 20 Q When did you put your lights on?
- 21 A I didn't have lights in my vehicle.
- 22 Q When did the lights go on for Mr. Schafer's vehicle?
- 23 A I don't recall exactly where he cut them on. I just
- 24 know that we stopped in front of that -- that building with
- 25 that parking lot. I believe it was a church.

Brendall Mathis
Cross-examination by Mr. Smith

1 Q Was there an alert given that you -- that they were
2 pulling him over?

3 A No. I didn't -- I didn't know they were going to stop
4 him at the time, no, sir.

5 Q So it was just a sudden stop.

6 A I guess for them. We were just there. We were there
7 with them. I'm not -- I wasn't in the vehicle with them
8 when they turned the blue lights on. I'm not sure.

9 Q How often do you have three vehicles tail a vehicle?

10 A It depends on what we're trying to accomplish.

11 Q What were you trying to accomplish at this time?

12 A We were asked to follow the vehicle, so that's what we
13 were doing.

14 Q Well, you were definitely -- you were definitely side
15 by side with Officer Schafer's vehicle?

16 A Pretty much, yes, sir.

17 Q Not -- not behind.

18 A No, sir.

19 Q Did Mr. Norman have his glasses on when he ran into
20 the woods?

21 A I don't recall that.

22 Q Do you recall anything special about the running in
23 the woods?

24 A Just that he ran.

25 Q How often had you seen Mr. Norman, talked to

Brendall Mathis
Cross-examination by Mr. Smith

- 1 Mr. Norman, prior to this incident?
- 2 A Never.
- 3 Q So you believe the person you saw at Ingles was
- 4 Mr. Norman?
- 5 A Say what, now?
- 6 Q The person you saw at the Ingles, you saw that, you
- 7 thought that was Mr. Norman.
- 8 A It was the same guy that ran out of the passenger side
- 9 of the vehicle on 29.
- 10 Q Was Mr. Norman bleeding at all?
- 11 A I don't recall that.
- 12 Q How did Mr. Cooper have to take him down?
- 13 A He was on the ground when I got to him in the woods.
- 14 Q Who all was in the woods -- you, Mr. Cooper and who
- 15 else?
- 16 A There was several of us, but I couldn't tell you
- 17 exactly.
- 18 Q What did Mr. Norman say at that point?
- 19 A I don't recall him saying anything to me.
- 20 Q Where was he taken following the exit from the woods?
- 21 A Back over to the vehicles on the road.
- 22 Q Which vehicle?
- 23 A I couldn't tell you that. I don't remember.
- 24 Q What did you do after you left the woods?
- 25 A I went back over and waited until they finished doing

Brendall Mathis
Cross-examination by Mr. Smith

- 1 whatever they were doing with the vehicle, and then we
2 left.
- 3 Q where did you wait at?
- 4 A At the vehicle.
- 5 Q which vehicle? That vehicle?
- 6 A My vehicle.
- 7 Q Oh, your vehicle.
- 8 A Yes, sir.
- 9 Q And that was behind Mr. Schafer's?
- 10 A No. Beside his.
- 11 Q So you -- you weren't right next to the vehicle in
12 which Mr. Norman was riding?
- 13 A Probably once he stopped, yeah, I would have been.
- 14 Q So as to block him in?
- 15 A Once he took off running, yeah, at that point. That's
16 where we were going, to assist with them.
- 17 Q But if he ran, he wasn't moving the vehicle, right?
- 18 A He wasn't driving.
- 19 Q So then why would the -- you're parking the vehicle be
20 relevant?
- 21 A What do you mean?
- 22 MR. SMITH: I withdraw that question.
- 23 Q So you don't remember anything for the most part?
- 24 A Just what you asked me.
- 25 Q How many vehicles were there?

Brendall Mathis
Cross-examination by Mr. Smith

- 1 A I would say maybe five -- four or five.
- 2 Q Do you remember how many people were there?
- 3 A No, sir.
- 4 Q Who was in charge of this investigation?
- 5 A Sir?
- 6 Q Who was in charge -- Mr. Cooper or Mr. Schafer?
- 7 A Mr. Cooper was probably the ranking officer there at
- 8 the time.
- 9 Q Mr. Cooper can keep a tight reign on his
- 10 investigations?
- 11 A I wouldn't -- I don't even know how to answer that,
- 12 sir.
- 13 Q Yes, sir. That's vague.
- 14 Is he thorough in his investigations?
- 15 A From what I know, yes, sir.
- 16 Q You work with him?
- 17 A We work with the city. He works with the county. We
- 18 do some joint investigations together.
- 19 Q What was the -- what was the -- what type of vehicle
- 20 that was in front of the Norman vehicle?
- 21 A I don't recall the vehicle being there. You asked me
- 22 earlier if there was one that cut it off. I don't recall
- 23 that.
- 24 Q So -- so you wouldn't pull in front of him to keep
- 25 somebody from taking off?

Cleveland Smith
Direct examination by Mr. Maxey

1 A I was beside him.

2 Q Yes, sir. I understand that. But what you're saying
3 is you left a hole open in front of him, right?

4 A I pulled beside him. I don't know what happened in
5 front of him.

6 Q Well, wouldn't you want -- if you pull somebody over
7 in a situation like that wouldn't you want to have somebody
8 to pull in front so he couldn't get away?

9 A I pulled beside him.

10 Q Are you testifying that there was no one in front of
11 him?

12 A I don't recall anyone in front of him.

13 Q Okay. Thank you.

14 MR. MAXEY: No redirect, Your Honor.

15 THE COURT: Step down.

16 MR. MAXEY: The state calls Cleveland Smith to the
17 stand.

18 CLEVELAND SMITH, having been
19 first duly sworn, testified as follows:

20 MR. MAXEY: May I have one brief moment, Your Honor?

21 (Pause.)

22 MR. MAXEY: Your Honor, may we take a quick moment? I
23 need to see what this is.

24 THE COURT: So what what is?

25 MR. MAXEY: Somebody just told me I needed to go.

Cleveland Smith
Direct examination by Mr. Maxey

- 1 (Pause.)
- 2 MR. MAXEY: Okay.
- 3 DIRECT EXAMINATION BY MR. MAXEY
- 4 Q Please state your name for the record.
- 5 A Cleveland Smith.
- 6 Q And, Mr. Smith, how old are you?
- 7 A Sixty.
- 8 Q And where are you from?
- 9 A Gaffney, South Carolina.
- 10 Q On January 19th of 2016 did Mr. Norman ask you to give
- 11 him a ride to Spartanburg?
- 12 A Yes.
- 13 Q And did you do that?
- 14 A Yes.
- 15 Q Where did you take Mr. Smith or Mr. Norman?
- 16 Apologize.
- 17 A To the Ingles.
- 18 Q Which Ingles?
- 19 A On 29.
- 20 Q Is that in Spartanburg?
- 21 A Yes.
- 22 Q And did he talk to you about the purpose of that trip
- 23 at all?
- 24 A No.
- 25 Q Did he pay you to drive him over there?

Cleveland Smith
Direct examination by Mr. Maxey

- 1 A Yes, sir.
- 2 Q How much did he pay you?
- 3 A Forty bucks.
- 4 Q Is that something that you normally do?
- 5 A Yes. I give people rides to the store and stuff like
- 6 that.
- 7 Q Is that a way that you make money?
- 8 A Yes.
- 9 Q Had Mr. Norman paid to get a ride from you in the
- 10 past?
- 11 A Yes.
- 12 Q Had he paid you to take him to Spartanburg before?
- 13 A Yes.
- 14 Q Had you taken him to that Ingles before?
- 15 A Yes.
- 16 Q All right. And when you took him to this Ingles
- 17 where -- did he go inside the store?
- 18 A No.
- 19 Q Where did he go when he got to the Ingles parking lot?
- 20 A He sat in the car until the other car pulled up.
- 21 Q You mentioned another car. Did he get out of your car
- 22 and get into that car?
- 23 A Yes.
- 24 Q And how long was he in that other car?
- 25 A Two or three minutes.

Cleveland Smith
Direct examination by Mr. Maxey

- 1 Q And what did he do after those two or three minutes?
- 2 A Got back in my car.
- 3 Q Okay. Where did you drive from the Ingles parking
- 4 lot? Which way did you go?
- 5 A Towards Gaffney.
- 6 Q Is Cowpens the same direction as Gaffney?
- 7 A Yes, yes.
- 8 Q How far did you go from the Ingles parking lot after
- 9 that approximately?
- 10 A Until I got stopped.
- 11 Q And how far was that?
- 12 A Three or four miles probably.
- 13 Q And when you were stopped did the officer that stopped
- 14 you use his blue lights?
- 15 A Yes.
- 16 Q Why were you pulled over?
- 17 A Why was I pulled over?
- 18 Q Uh-huh.
- 19 A I have no idea.
- 20 Q Were you issued any sort of traffic citation?
- 21 A Yes. What was it?
- 22 MR. MAXEY: May I approach the witness, Your Honor?
- 23 A I forgot what it was.
- 24 Q Do you recognize this document, Mr. Smith?
- 25 A Yes. It was a warning.

Cleveland Smith
Direct examination by Mr. Maxey

1 Q And what was the warning for?

2 A Illegal lane change.

3 Q All right. And is that your name on that citation?

4 A Yes.

5 Q Is that a copy of the same citation you received?

6 A I guess it is. I never did really look at it.

7 Q But it's the same one that you got from what you can
8 tell?

9 A Yes.

10 Q And it has been changed in any way since when you got
11 it?

12 A No.

13 MR. MAXEY: At this time the state would move State's
14 No. 4 into evidence.

15 MR. SMITH: I have no objection.

16 THE COURT: It's admitted.

17 (Warning ticket marked State's Exhibit No. 4.)

18 Q So when you stopped after the blue lights came on,
19 what happened next?

20 A Deshon jumped out.

21 Q Deshon, the defendant in this case, Mr. Norman?

22 A Yes.

23 Q When he jumped out, what did -- what do you mean?
24 what did he do?

25 A He jumped out before the car even stopped.

Cleveland Smith
Direct examination by Mr. Maxey

- 1 Q Did he take off running after that?
- 2 A Yes.
- 3 Q Which way did he go?
- 4 A Across the field.
- 5 Q All right. Did you have -- now, are you a codefendant
- 6 in this case, Mr. Smith?
- 7 A Yes.
- 8 Q Do you have an attorney in this matter?
- 9 A Yes.
- 10 Q Who is your attorney?
- 11 A Trent Pruett.
- 12 Q Is Mr. Pruett aware that you're testifying today?
- 13 A Yes.
- 14 Q He is okay with you being here and testifying?
- 15 A Yes.
- 16 Q And were any promises or deals made with you in
- 17 exchange for your testimony?
- 18 A No.
- 19 Q Have you been promised anything?
- 20 A No.
- 21 Q What have you been asked to do here today?
- 22 A Tell the truth.
- 23 Q Did you have any narcotics or contraband in your car?
- 24 A No.
- 25 Q Did you have any reason to believe there was any in

Cleveland Smith
Direct examination by Mr. Maxey

1 your car?

2 A No.

3 Q Do you have any idea why Mr. Norman would have wanted
4 to go to the Ingles parking lot?

5 A No.

6 Q Has Mr. Norman made any attempt to contact you prior
7 to your testimony today?

8 A Yes.

9 Q When did he attempt to contact you?

10 A Last night.

11 Q And what did he say when he contacted you?

12 A He wanted me to say that -- something about illegal
13 lane -- I mean, illegal stop or something.

14 Q He asked you to say that the traffic stop was illegal?

15 A Yes. But he didn't -- he didn't call. He had a
16 friend of mine to call me.

17 Q Oh, and they asked you to lie today?

18 A Yes.

19 Q And have you told the truth today?

20 A Yes.

21 Q Has Mr. Norman attempted to contact you any other
22 times since that traffic stop?

23 A No. Since last night and today.

24 MR. MAXEY: Nothing further, Your Honor.

25 Q Please answer any questions Mr. Smith has for you.

Cleveland Smith
Cross-examination by Mr. Smith

- 1 MR. SMITH: May it please the Court.
- 2 CROSS-EXAMINATION
- 3 BY MR. SMITH
- 4 Q Mr. Smith, you're here to tell the truth, right?
- 5 A That's right.
- 6 Q If I looked at Mr. Norman's phone --
- 7 A I can't hear you, sir.
- 8 Q If I looked at Mr. Norman's phone I would only see
- 9 your number twice?
- 10 A I don't know. I mean, he called me more than twice.
- 11 Q So he did call you before yesterday -- last night.
- 12 A No. Oh, you talking about call me last night. You
- 13 wouldn't see my -- you wouldn't see my number on there.
- 14 You'd see Miller's number on there.
- 15 Q Mr. Norman has talked to you since.
- 16 A Has talked to me?
- 17 Q Yes.
- 18 A No.
- 19 Q He -- you haven't talked about the fact that your
- 20 charges are dropped?
- 21 A My charges are dropped?
- 22 Q Yeah.
- 23 A I didn't talk to him about that.
- 24 Q Did he tell you that he was sorry?
- 25 A He's sorry? No, he hasn't.

Cleveland Smith
Cross-examination by Mr. Smith

- 1 Q Mr. Pruett let you come up here and testify?
- 2 A Yes, sir.
- 3 Q But your charge still exists.
- 4 A That's right.
- 5 Q When's that going to be prosecuted?
- 6 MR. MAXEY: Objection.
- 7 A Excuse me?
- 8 MR. MAXEY: Objection. He can't answer that question.
- 9 THE COURT: Well, he can answer it if somebody's told
- 10 him when he's going to go to court, but I don't know what
- 11 difference it makes.
- 12 MR. MAXEY: Object as to its relevancy then, Your
- 13 Honor.
- 14 THE COURT: Okay.
- 15 Q Well, what do you know?
- 16 A Ask me that again. I didn't hear you.
- 17 Q What's going on with your charge?
- 18 A It's the same charge he got.
- 19 Q What's happening with it? What's the future look
- 20 like?
- 21 A It's still standing, I guess.
- 22 Q Well, what does the future look like?
- 23 A The future?
- 24 Q Yeah. What's going to happen?
- 25 A I don't know.

Cleveland Smith
Cross-examination by Mr. Smith

- 1 Q But you --
- 2 A Probably we'll go to trial if -- if -- if nothing
- 3 else, we'll go to trial.
- 4 Q Where did -- you left Ingles, is that right?
- 5 A Yes.
- 6 Q And what were you there at Ingles for?
- 7 A I don't know.
- 8 Q Mr. Norman didn't tell you about the Jeezy ticket he
- 9 had given money for?
- 10 A A G.E. what?
- 11 Q A ticket. He had purchased a ticket and gave money to
- 12 Mr. Smith. Does that sound reasonable?
- 13 A Gave it to Mr. Smith? I'm Mr. Smith.
- 14 Q So is Andrew Smith, the vehicle that was next to you.
- 15 A I don't even know Andrew Smith. I don't even know
- 16 what Andrew Smith look like.
- 17 Q So you just went down to Ingles two or three minutes,
- 18 is that right?
- 19 A Well, it was about 10 or 15 minutes. I mean, we sat
- 20 there and waited on him about ten minutes.
- 21 Q You have no idea why you drove down there for two or
- 22 three minutes.
- 23 A No.
- 24 MR. MAXEY: Objection. He already asked that
- 25 question.

Cleveland Smith
Cross-examination by Mr. Smith

1 THE COURT: Sustained.

2 Q How often do you do these drives for people where
3 there's only two or three minutes and you don't know what's
4 going on?

5 A It's according to what -- according to what they have
6 to do. If they have to go to the grocery store or
7 anything, I take them there.

8 Q How often do you take them to the grocery store and
9 they don't get out to go to the grocery store?

10 A Who? Who are you talking about?

11 Q Anybody you're driving.

12 A How often do I do what?

13 Q How often do you give people a ride to the
14 grocery store --

15 A Every day.

16 Q -- where they don't go into the grocery store?

17 A When they don't go in the grocery store?

18 Q Yes.

19 A I don't know about that one.

20 Q Is that the only time this ever happened, when
21 Mr. Norman did it?

22 A Yeah.

23 Q You don't take people to get drugs?

24 A No. No drugs.

25 Q Can you tell me about your leaving the Ingles parking

Cleveland Smith
Cross-examination by Mr. Smith

- 1 lot until you were stopped? Tell me exactly how you -- how
2 you went.
- 3 A We was -- I was going back towards Gaffney, right, so.
- 4 Q Which lane?
- 5 A Excuse me?
- 6 Q Which lane?
- 7 A I was in the right lane.
- 8 This car come up beside me, right. Deshon was looking
9 over at them like this right here. He said what, what.
10 And I said what you talking about. He said they want me to
11 stop. So I hit brakes. I saw the blue lights in the -- in
12 the -- in the mirror.
- 13 Q You don't recall screaming that are they trying -- are
14 they robbing us? Do you remember that?
- 15 A Are they what?
- 16 MR. MAXEY: Objection, objection. He's trying to
17 testify for him.
- 18 THE COURT: This is cross-examination. He can ask
19 leading questions on cross.
- 20 Q You don't remember commenting about vigilantes?
- 21 A Vigilantes?
- 22 Q Yes.
- 23 A I ain't never said that.
- 24 Q Just pulled that --
- 25 A I don't know what a vigilante -- I mean, I know what a

Cleveland Smith
Cross-examination by Mr. Smith

1 vigilante is, but I ain't never said that.

2 Q So a vehicle came up on your left side, right?

3 A Right.

4 Q And pulled in front of you.

5 A No.

6 Q No.

7 A Stayed on the side, because he was talking to him on
8 the side right there saying what, what, and I said what are
9 you talking about, because they said I swerved or
10 something. Maybe I swerved when I looked over there. See
11 what I'm saying?

12 Q Yes, sir.

13 A But I hit brakes then. Then he was out of the car by
14 then.

15 Q So are you telling me that Mr. Norman was talking with
16 somebody in the vehicle on the other of you?

17 A Yes.

18 Q What were they talking about?

19 A I don't know. He was saying what, who, me, stop,
20 something. I don't know what he was talking about. I'm
21 thinking they wanted him to stop. That's the impression I
22 got.

23 Q And no vehicle ended up in front of your vehicle.

24 A No. No vehicle was in front of my vehicle at all. It
25 was on the side.

Cleveland Smith
Cross-examination by Mr. Smith

1 Q Side. What lane were you in?

2 A Excuse me?

3 MR. MAXEY: Objection. Here asked and answered.

4 THE COURT: Well, I didn't hear the question.

5 MR. MAXEY: He asked him what lane he was in, and he
6 asked him that about ten questions ago.

7 THE COURT: Oh, sustained. He said the right lane.

8 MR. SMITH: Your Honor, I would like to play the video
9 of the travel and see if he agrees with that being the
10 route of travel.

11 MR. MAXEY: The state has several objections to that.

12 THE COURT: What?

13 MR. MAXEY: Self-serving, hearsay, relevance.

14 Mr. Norman -- the video contains several statements by
15 Mr. Norman.

16 MR. SMITH: We can do it silent.

17 THE COURT: You just want to show this is the road he
18 was on?

19 MR. SMITH: I want to show if that is -- if there's
20 anything different in the way it was traveled to what we
21 traveled.

22 THE COURT: Say that again.

23 MR. SMITH: I want to -- I want to see if the way that
24 we traveled in the car is the same as that he -- as
25 Mr. Smith traveled, or not the same.

Cleveland Smith
Cross-examination by Mr. Smith

1 THE COURT: Okay. And the purpose of that would be
2 what?

3 MR. SMITH: Well.

4 THE COURT: Since you're not charged with anything and
5 your driving over there is not relevant to anything, what
6 would be the purpose of it?

7 MR. SMITH: It's to -- to make sure everything is in
8 line. I mean, people have testified about where vehicles
9 are, and I want to make sure that that was -- that's the
10 case.

11 THE COURT: This video shows those vehicles?

12 MR. SMITH: No.

13 THE COURT: Well, then how is it going to be the case?

14 MR. SMITH: It's going to show the road.

15 THE COURT: Can't we all agree on what that road looks
16 like? I know we've talked about that a lot, but it's a
17 4-lane road. It's got a median in the middle; it's got
18 yellow lines on each side of it. Can't we just all agree
19 on that? Everybody in here has been on that road, I think.

20 MR. MAXEY: Yes, Your Honor.

21 THE COURT: Has anybody not been on that road?

22 All right. Why don't you just ask him? Do that
23 picture like you had the other day and see if he agrees
24 that that's the configuration of the road if that's
25 important.

Cleveland Smith
Cross-examination by Mr. Smith

- 1 MR. MAXEY: It's up on the thing.
- 2 Q Mr. Smith, what I have here is a very rudimentary
3 drawing of 29.
- 4 A Right.
- 5 Q Here's Cowpens in the north and Spartanburg in the
6 south, right?
- 7 A Okay.
- 8 Q All right. Where -- where were you located on these
9 lanes?
- 10 A I was in the right lane.
- 11 THE COURT: Be careful of the microphone. Push it up.
12 There you go. Push it more. That's good.
- 13 Q How fast were you traveling that day?
- 14 A 40, 45. Whatever the speed limit was.
- 15 Q Do you always follow the -- the road speeds and the
16 signs and so forth?
- 17 A I try to.
- 18 Q So you were all the way in the right lane.
- 19 MR. MAXEY: Objection. Asked and answered.
- 20 THE COURT: Overruled.
- 21 Go ahead.
- 22 Q How many -- how many vehicles were on the left side?
23 A When they stopped me?
- 24 Q Yes.
- 25 A One vehicle was over there. One vehicle was on the

Cleveland Smith
Cross-examination by Mr. Smith

1 left side.

2 Q And then where were the other vehicles?

3 A In the back.

4 Q How many were there?

5 A I couldn't see but one. One had lights on it right on
6 my bumper.

7 Q Is that why you pulled over, or did you pull over
8 because of the guy on the left?

9 A Do what?

10 Q why did you pull over?

11 A why did I pull over?

12 Q Yes. why did you pull over?

13 A Because the blue lights was flashing.

14 Q That's what you saw first?

15 A Yes.

16 Q You didn't hear -- you didn't hear a vehicle coming up
17 on your left really fast?

18 A I saw the vehicle on my left when I -- when I turned
19 like that and looked. I saw, and the blue lights were
20 right there in my mirror.

21 Q Did you say that you took Deshon down to Ingles more
22 than once?

23 A Excuse me, sir? I can't hear you back there. I'm
24 sorry.

25 Q Yes, sir.

Cleveland Smith
Cross-examination by Mr. Smith

- 1 Did you say you took Mr. Norman to Ingles more than
2 once?
- 3 A Yes.
- 4 Q About when?
- 5 A About when?
- 6 Q Yeah. When?
- 7 A I don't -- I don't -- I don't re -- I don't recall. I
8 mean, I -- I don't remember. But I -- I know I been more
9 than once.
- 10 Q Twice?
- 11 A That's probably about right.
- 12 Q About how -- how close in time was it to
13 January 19th of last year?
- 14 A About a month -- about a month.
- 15 Q So Mr. Norman called you, and he said I need a ride,
16 is that right?
- 17 A Right.
- 18 Q And you never question when people call you for a
19 ride.
- 20 A Why would I question it?
- 21 Q May have drugs.
- 22 A That's none of my business.
- 23 Q Yes, sir.
- 24 A I just pick a man -- I just pick a person up and take
25 them wherever they got to go. They pay me, and I'm gone.

Cleveland Smith
Cross-examination by Mr. Smith

- 1 Q Do you drive for Uber?
- 2 A Something like that.
- 3 Q what are you associated with?
- 4 A It's not Uber. It's just a bunch of friends and
- 5 regulars I got that goes to work and grocery store and all
- 6 of this stuff, and I just take them.
- 7 Q How many vehicles do you have?
- 8 A Four.
- 9 Q when was the last time you had a traffic violation?
- 10 A I can't recall, but it's been a long time.
- 11 Q That's because you -- you drive safely, right?
- 12 A Responsibly.
- 13 Q Responsibly. You said earlier you don't know what you
- 14 did wrong on January 19th of last year, right?
- 15 A Say that again.
- 16 Q You don't know what you did wrong when you got pulled
- 17 over.
- 18 A I didn't say that.
- 19 Q what did you say?
- 20 A Do what?
- 21 Q what did you say?
- 22 A when? I mean, you done asked me a whole lot of
- 23 questions.
- 24 Q what do you recall doing wrongfully in that driving
- 25 that day?

Cleveland Smith
Cross-examination by Mr. Smith

- 1 A Wrong that day?
- 2 Q Yes. What were you doing?
- 3 A At the incidence?
- 4 Q At the incident.
- 5 A I didn't do nothing wrong, I didn't think.
- 6 Q Yes, sir. Were you playing with the radio?
- 7 A I said I didn't do nothing wrong.
- 8 Q Okay. So there'd be no reason for you to be swerving.
- 9 A Maybe I swerved when I looked over here at this car
- 10 over here, this car that was coming up beside me.
- 11 Q Yes, sir.
- 12 A Because I can't drive and look at this car and look at
- 13 Deshon and look at this flashing light in the back of me.
- 14 Q So if you swerved it wasn't until there was a vehicle
- 15 on your left, right?
- 16 A If I swerved.
- 17 Q But you don't believe you did, do you?
- 18 A If you say I did, I did.
- 19 Q You were there. Did you swerve or not?
- 20 A Yeah.
- 21 Q No, no. Did you swerve? Yes or no.
- 22 MR. MAXEY: Objection. Asked and answered.
- 23 MR. SMITH: No. He didn't answer.
- 24 THE COURT: Go ahead.
- 25 He's given two different answers.

Cleveland Smith
Cross-examination by Mr. Smith

- 1 Q You didn't swerve, did you, to your recollection?
- 2 A I don't recall.
- 3 Q Were you paying attention out of the rear-view mirror
- 4 where you were traveling?
- 5 A I do all of the time.
- 6 Q Did you know a car was following you?
- 7 A Yes. There was five or six cars behind me.
- 8 Q Did you feel that that was odd?
- 9 A No. It's on 29, and it's about 6:00 or 7:00 o'clock
- 10 at night. How many cars be out that time of day?
- 11 Q Ever gotten a D.U.I.?
- 12 A Yeah.
- 13 Q When?
- 14 A It's been years ago. I can't recall the exact date.
- 15 Q Yes, sir. Been awhile ago.
- 16 A Yeah.
- 17 Q Speeding? What is the last time you got a speeding
- 18 ticket?
- 19 A It's been awhile back.
- 20 Q Have you -- have you had any other violations in the
- 21 last ten years?
- 22 A The last ten years, no.
- 23 Q What did you tell the police that night?
- 24 A Where I lived at.
- 25 Q Did you tell them --

Cleveland Smith
Cross-examination by Mr. Smith

- 1 A [REDACTED] West Carlisle Street.
- 2 Q Yes, sir. Did you tell them anything else?
- 3 A That's it. That's the only thing they asked me.
- 4 Q What did you talk about when they took you to the
- 5 station?
- 6 A Took me -- took you -- took me to the station?
- 7 Q To talk to them, wherever they took you to talk to
- 8 you.
- 9 A What did I do what, now?
- 10 Q What did you tell them?
- 11 A Whatever they asked me.
- 12 Q Like? What did you tell them?
- 13 A Like [REDACTED] West Carlisle Street.
- 14 Q Appreciate that.
- 15 A Where I live at. And they asked me what was going on
- 16 on Tank Branch. I told them I don't know. That's the only
- 17 thing they asked me.
- 18 Q They took you in a room by yourself, right?
- 19 A Yeah.
- 20 Q And they asked you several questions.
- 21 A Yeah.
- 22 Q What did they ask you? And, more important, what did
- 23 you say?
- 24 A Would you say that again? I done lost my
- 25 concentration on that. Say that again.

Cleveland Smith
Cross-examination by Mr. Smith

1 Q Are you on medication at all?

2 A Yeah. I take 12 pills a day. I had open heart
3 surgery.

4 Q Yes, sir. Did it affect your ability to understand
5 what I'm asking?

6 A No. I didn't think so.

7 Q What information did you tell them, give them?

8 A I told them I live at [REDACTED] West Carlisle Street.

9 Q And -- and you're not telling me that's the only thing
10 they asked you, right?

11 A I can't remember what they asked me. They asked me
12 what was going on on Tank Branch or something. They wasn't
13 asking me nothing about what was going on with Deshon. It
14 was just like a casual conversation.

15 Q So they asked you what you were planting in your
16 garden?

17 A No.

18 Q They asked you about what happened that night, right?

19 A No. They didn't ask me.

20 Q Do you text and drive?

21 A No. I don't text too much anyway.

22 Q You didn't talk to Mr. Norman, did you, last night?

23 A Miller called me for Deshon. Deshon was talking to
24 Miller. They was trying to hook me up on a 3-way or
25 something, because I asked them what's going on with the

Cleveland Smith
Cross-examination by Mr. Smith

- 1 phone, what's going on with the phone. And he -- they said
2 you need to say this, you need to say -- you need to say
3 something about the stop or something, illegal stop. Man,
4 I don't know what they were talking about. But, see, I
5 wasn't -- I'm not going to tell a lie just to get him off.
6 See what I'm saying?
- 7 Q Of course. Right.
- 8 A I'm saying this to get myself straight because I'm
9 telling the truth.
- 10 Q But you only talk about 415 Carlton, or what is that?
- 11 A Yeah. That's it.
- 12 Q Who did you talk to last night besides Mr. Miller or
13 Mr. Norman or whatever?
- 14 A I talked to my wife; I talked to Billy Jack; I talked
15 to Freddy; I talked to about ten different people on Tank
16 Branch.
- 17 Q When is the last time you talked to somebody about
18 this case?
- 19 A Today. My lawyer.
- 20 Q Did you talk to anybody from the state?
- 21 A I can't hear you.
- 22 Q Have you talked to anybody from the state?
- 23 A The state? Today?
- 24 Q The solicitor's office.
- 25 A Today?

Cleveland Smith
Cross-examination by Mr. Smith

- 1 Q At any time.
- 2 A Yes.
- 3 Q when?
- 4 A A couple of weeks ago maybe.
- 5 Q what was that about?
- 6 A It was about the case right here.
- 7 Q Specifically, what was it about?
- 8 A What was it about? color of the car that -- that came
- 9 to drop -- when we was at Ingles, the color of the car and
- 10 all of this stuff.
- 11 Q How long did you stay in the car when you got pulled
- 12 over?
- 13 A About one minute, because they pulled me out.
- 14 Q where did they place you?
- 15 A They placed me in a -- in a regular car driving to --
- 16 I mean, driving with somebody. I don't know who it was
- 17 but...
- 18 Q where was it located?
- 19 A It was driving -- I mean, just driving a regular car.
- 20 It wasn't even in a police car.
- 21 Q where was it located?
- 22 A Excuse me?
- 23 Q where was it located?
- 24 A where was it located?
- 25 Q Yes. where was it positioned -- sitting, stopped?

Cleveland Smith
Cross-examination by Mr. Smith

- 1 where was it at?
- 2 A I think it was in that church yard over there.
- 3 Q Did Deshon get out of your car and walk to a gray
- 4 vehicle with tinting?
- 5 A Did he walk to a what, now?
- 6 Q A gray vehicle with tinted windows.
- 7 A Yeah.
- 8 Q When did he do that? Was that after or before he ran?
- 9 A After or before what? Excuse me, sir. Would you come
- 10 up to me? I can't hear you, Man.
- 11 Q When did he walk to the gray car with tinted windows?
- 12 A After it pulled up, after we was at Ingles.
- 13 Q So that's back at Ingles stopped, is that right?
- 14 A You got me confused because you -- you talking about
- 15 one thing and then you saying another. That's what we're
- 16 talking about, ain't we? You got me confused. Man, I'm
- 17 serious. You got me bad confused.
- 18 Q Yes, sir. Do you remember where the vehicles were
- 19 stopped?
- 20 A Stopped?
- 21 Q Yes, sir. Can you draw an "X" where vehicles were on
- 22 29 when you stopped? Just put an "X" where each vehicle
- 23 was.
- 24 A This is my car. That's the car on the left. There's
- 25 a car in the back. There's cars -- cars over there at the

Cleveland Smith
Cross-examination by Mr. Smith

1 church.

2 Q So they were up in the church parking lot?

3 A Yeah.

4 Q When would they -- when did they get there?

5 A You -- you remember when you asked me about the stop?
6 That's when they got there, when they stopped me.

7 Q At the same time?

8 A Yes.

9 Q So there are at least four vehicles that stopped you?

10 A I don't know. I don't know how many cars it was.

11 Q According to your picture though there was four --
12 four cars.

13 A Well, according -- according to the picture, there's
14 five, right? I just said they's cars over there. That's
15 my only point, was getting across to you.

16 There was a car right here. I know there was one
17 right here. There was one behind me. I know it. But
18 there was a couple of cars behind him. I know it. But
19 there was a few cars over here.

20 Q On your right side.

21 A Yeah. There was five or six cars just stopped us.

22 Q Did -- did any cars pull in front of you so you
23 couldn't progress any more?

24 A No. No car pulled in front of me.

25 Q Were you ever on the -- in the fast lane?

Cleveland Smith
Cross-examination by Mr. Smith

- 1 A No.
- 2 Q Do you ever go in the fast lane?
- 3 A Excuse me?
- 4 Q Do you ever go in the fast lane?
- 5 A Yeah, if I'm passing a car or something. Slow car in
- 6 front of me, I go around it and get back over there, to get
- 7 back over there.
- 8 Q And you never went in the fast lane on that day.
- 9 A I don't -- I don't know. Maybe I was. I don't know.
- 10 Let me take that back. Maybe I was, because I can't
- 11 remember. I just can't remember where the car was. I just
- 12 can't remember that.
- 13 Q And you don't remember being scared by the vehicle
- 14 coming up really fast on your left?
- 15 A No. I remember Deshon talking to the man saying
- 16 something -- what, what, me, stop, what.
- 17 Q Was the window down?
- 18 A No.
- 19 Q It was dark, right?
- 20 A Yeah.
- 21 Q Could you see whoever was in the other car?
- 22 A Evidently had the light on because I could see them
- 23 when I looked over there because I could tell it was a
- 24 white man.
- 25 MR. SMITH: I have nothing further, Your Honor.

Robert Rosenberg
Direct examination by Mr. Maxey

1 MR. MAXEY: No redirect, Your Honor.

2 THE COURT: Step down.

3 MR. MAXEY: The state calls Robert Rosenberg to the
4 stand.

5 ROBERT ROSENBERG, having been
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION BY MR. MAXEY

8 Q Please state your name for the record.

9 A Robert Rosenberg.

10 Q And where are you employed?

11 A Currently I'm employed at the Spartanburg County
12 Sheriff's Office.

13 Q And what department within the sheriff's office?

14 A I'm an evidence custodian.

15 Q Were you working as an evidence custodian on
16 January 19th of 2016?

17 A I do not know. I don't have the chain.

18 Q Were you employed as such on that date?

19 A Yes, I was.

20 Q All right.

21 MR. MAXEY: Approach the witness, Your Honor.

22 Q Hand you what's been marked as State's Exhibit No. 5.

23 A Yes.

24 Q Do you recognize that document or that exhibit?

25 A Yes, sir.

Robert Rosenberg
Direct examination by Mr. Maxey

- 1 Q What -- what is that that I've handed you?
- 2 A That is a BEST bag in a plastic sealed container.
- 3 Q And what lab number does that one bear?
- 4 A Control number or lab number?
- 5 Q Lab number.
- 6 A Lab number is L16-0088.
- 7 Q All right. And what is the control number?
- 8 A S164806.
- 9 Q Whose signature is on that?
- 10 A Steve Cooper.
- 11 Q All right. And you mentioned a chain-of-custody
- 12 documents. Do y'all typically document when you receive
- 13 items?
- 14 A Yes, sir.
- 15 Q Do you remember when you received this item?
- 16 A Not right offhand, no. I do not.
- 17 Q Is there a document that would refresh your memory?
- 18 A Yes, sir.
- 19 Q Is -- y'all routinely keep form Cs?
- 20 A Yes, sir.
- 21 Q What is that document's purpose?
- 22 A It is basically a chain. It's a form -- there's a
- 23 form B that's where someone originally takes the evidence.
- 24 And when they turn it over to someone form C is then filled
- 25 out. And when we receive it, we fill out a form C.

Robert Rosenberg
Direct examination by Mr. Maxey

1 Q If I were to show you the form C in this case would
2 that help you remember?

3 A Yes, sir.

4 MR. MAXEY: May I approach the witness, Your Honor?

5 Q Take a look at that right there. Did you receive that
6 item into evidence?

7 A Yes, sir.

8 Q And where did you receive it from?

9 A This is in person -- well, not in person. From the
10 drop box.

11 Q And what's a drop box?

12 A A drop box is a secured box. It's located in an area
13 that the public does not have access to. It's a restricted
14 area where law officers can come after hours and drop off
15 evidence into the lock box. It's like a steel container
16 like a mailbox. It's locked up.

17 Q So at that time you would have been the only person
18 that had access to that drop box.

19 A Myself. And at this time two other evidence officers
20 would have keys to it, access to it.

21 Q You received this directly from --

22 A The drop box.

23 Q -- Lieutenant Cooper, now Captain Cooper, who dropped
24 it in the drop box.

25 A Yes, sir.

Robert Rosenberg
Direct examination by Mr. Maxey

- 1 Q And when you collected it from the drop box had it
2 been unsealed or tampered with?
- 3 A No, sir.
- 4 Q And what did you do next with it?
- 5 A What we do is we catalog it into the computer and
6 print out a printer bar code label, and I write the names
7 from the paperwork on the evidence envelope. And we place
8 it back into a brown Manila envelope with a copy of our
9 form that we fill out, our form C.
- 10 Q And did you -- where did you take this one once you
11 done all of that to it?
- 12 A We put it into the drug room where it's picked up by
13 the chemist.
- 14 Q And did you personally deliver that to the drug room?
- 15 A Yes, sir.
- 16 Q And when you did so it had not been tampered with in
17 any way?
- 18 A No, sir.
- 19 Q Would you be able to tell if it had?
- 20 A Yes, sir.
- 21 Q And this one had not?
- 22 A No, sir.
- 23 Q And that's the same bag that you received from
24 Lieutenant Cooper?
- 25 A Yes, sir.

Robert Rosenberg
Cross-examination by Mr. Smith

1 MR. MAXEY: No further questions of this witness, Your
2 Honor.

3 MR. SMITH: May it please the Court.

4 THE COURT: Mr. Smith.

5 CROSS-EXAMINATION

6 BY MR. SMITH

7 Q You didn't -- you didn't receive that from Captain
8 Cooper, did you?

9 A I got it from the drop box.

10 Q From the drop box.

11 A Yes, sir.

12 Q But you're not sure who put it there.

13 A No, I'm not.

14 Q And that was the 17th?

15 A I do not know when he put -- let's see. I received it
16 on the 20th. That's when I removed it from the drop box.
17 Before it arrived at the drop box I couldn't tell you. I
18 received it from the drop box on the 20th.

19 Q So it's unknown when they may have went in there, when
20 they put it in there.

21 A I do not know.

22 Q Thank you.

23 MR. SMITH: Nothing further.

24 MR. MAXEY: Brief redirect, Your Honor.

25 THE COURT: Yes.

Robert Rosenberg
Redirect examination by Mr. Maxey

1 REDIRECT EXAMINATION

2 BY MR. MAXEY

3 Q Y'all also have something known as a form B?

4 A There is a form B.

5 Q All right. And what is the purpose of form B?

6 A Form B is for when someone who takes it originally and
7 they -- that establishes the basis of the chain.

8 Q All right. And are these generated in any case where
9 something's submitted into evidence?

10 A I didn't understand. Excuse me. What was that again?

11 Q Are these made any time somebody puts something in the
12 drop box?

13 A Yes, sir.

14 Q All right.

15 MR. MAXEY: May I approach the witness, Your Honor?

16 THE COURT: Yes.

17 Q Just showing you what's the form B in this case. Does
18 that control number match the control number on the bag?

19 A Yes, sir.

20 Q And who does it say put that in the evidence box?

21 A Steve Cooper.

22 MR. MAXEY: Nothing further of this witness, Your
23 Honor.

24

25

Robert Rosenberg
Recross-examination by Mr. Smith

1 RECROSS-EXAMINATION

2 BY MR. SMITH

3 Q How do you know that's the right form B?

4 A It's a standard form that the department uses.

5 Q Yes, sir. I understand that. But how do you know
6 that's the right one?

7 A It goes -- the control number matches with the control
8 number on the bag at the top.

9 Q And that's written on the form B?

10 A Yes, sir.

11 Q And so that could be written at any time?

12 A No. Before we send it forward it has to be -- has to
13 match. We won't send it to the drug room.

14 Q Yes, sir. Could I make a form B right now that would
15 be the same as that?

16 A What you do you mean?

17 Q Write the same number down and same names and stuff?
18 Could I do that?

19 A You could, but he had it notarized on that date.

20 Q Right. Thank you.

21 A Yes, sir.

22 THE COURT: Step down.

23 MR. MAXEY: You are excused.

24 THE WITNESS: Am I done?

25 THE COURT: You can go.

Melissa Hendricks
Direct examination by Mr. Maxey

1 (Whereupon, the witness was excused.)

2 MR. MAXEY: The state calls Melissa Hendricks to the
3 stand.

4 MELISSA HENDRICKS, having been
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. MAXEY

7 Q Please introduce yourself to the Court.

8 A My name's Melissa Bennett Hendricks.

9 Q And what do you do for a living?

10 A I am the chief forensic chemist at the Spartanburg
11 County Sheriff's Office.

12 Q And how long have you been working there?

13 A I've been working there since May of 2013.

14 Q And what is your role with the sheriff's office?

15 A I analyze any type of drug evidence that comes into
16 the lab or any type of fire debris evidence that comes into
17 the lab and then write reports based on my analysis and
18 then testify to those, that report.

19 Q How long have you been analyzing drugs for Spartanburg
20 County?

21 A For Spartanburg County for about three and a half
22 years. I've been a forensic chemist for 23.

23 Q And what education or training do you have to do that
24 job?

25 A I have a bachelor's degree in chemistry from the

Melissa Hendricks
Direct examination by Mr. Maxey

1 University of --

2 THE COURT: Excuse me just a minute.

3 Do you object to her qualifications?

4 MR. SMITH: No, sir.

5 THE COURT: Okay. She's qualified.

6 MR. MAXEY: She's qualified as an expert, Your Honor?

7 THE COURT: Yes, she is.

8 MR. MAXEY: Thank you, Your Honor.

9 Q Did you analyze the drugs in this case?

10 A May I look at them?

11 Q Yes, ma'am.

12 (Pause.)

13 A Yes, I did.

14 Q And did you -- what do you do to analyze drugs? What
15 tests do you perform on them?

16 A We -- we get the drugs in in a sealed envelope, and we
17 first do a presumptive color-change test called a spot
18 test, and then we do two confirmatory tests. One is a gas
19 chromatography. Another one's mass spectrometry.

20 Q Did you perform all of those tests on these drugs?

21 A I did.

22 Q And what were the results of those tests?

23 A I found the particular substance in this case to be
24 cocaine in the form, in the base form, called crack in the
25 amount of 71.93 grams.

Melissa Hendricks
Direct examination by Mr. Maxey

1 Q Now, would you have performed analysis on these drugs
2 if that bag had been tampered with in any way?

3 A No, I would not.

4 Q How would you be able to tell if the bag had been
5 tampered with?

6 A I our BEST bags is BEST stands for best evidence
7 sample testing. This is a tamper-evident bag. It's sealed
8 at one end. We cut it open at the other.

9 We check first to make sure that it's not been
10 tampered with and that nobody's tried to open it and that
11 the seal is actually sealed. If it's not, if the seal's
12 not intact or if it's been tampered with in any way, we
13 return it back to the evidence room.

14 Q Who did you receive that BEST bag from?

15 A I received it from the evidence room on
16 January 20th of 2016.

17 Q And how do you know that?

18 A Because I write down the date that we receive it.

19 Q And what was the -- the lab number on that BEST bag?

20 A The lab number that we gave it was L160088.

21 Q And who was the officer that originally submitted it
22 to evidence?

23 A Lieutenant Steve Cooper.

24 MR. MAXEY: No further questions of this witness, Your
25 Honor.

Melissa Hendricks
Cross-examination by Mr. Smith

1 Oh, actually at this time the state would move State's
2 5 into evidence.

3 THE COURT: Any objection?

4 MR. SMITH: No, sir.

5 THE COURT: It's admitted.

6 (Cocaine marked State's Exhibit No. 5.)

7 CROSS-EXAMINATION

8 BY MR. SMITH

9 Q Ma'am, can you tell me what the three tests are again?
10 Spot test.

11 A One is a spot test. It's a color-change test,
12 chemical test. And then the gas chromatography/mass
13 spectrometry. It's actually one instrument, but it's two
14 tests.

15 Q Are you able to see the concentration?

16 A We don't quantitate in this state, no, sir.

17 Q What, now?

18 A We don't quantitate. We don't do purity in this
19 state.

20 Q So how much of the 71.9 gram was this cocaine base?

21 A As -- as long as it tested for cocaine base it's -- we
22 weigh the whole.

23 Q All right. So it's not necessarily all cocaine base.

24 A Well, to be cocaine base it has to be predominantly
25 cocaine because the hydrochloric acid is no longer there.

Melissa Hendricks
Cross-examination by Mr. Smith

- 1 Q So about how much of the 71.9 is cocaine?
- 2 MR. MAXEY: Objection. Asked and answered.
- 3 THE COURT: Sustained.
- 4 Q If you do a spot test would you need to do any more?
- 5 You don't do it any more, right, due to the concentration
- 6 any everything?
- 7 A We do a confirmatory test to make sure that -- to find
- 8 out exactly what's in the sample. The spot test is just a
- 9 presumptive test.
- 10 Q When you say exactly what's in there, I mean, is it --
- 11 is there any breakdown whatsoever of what's contributed to
- 12 that weight?
- 13 A We do the confirmatory test. We find out what the
- 14 sample is, if there's anything mixed with it. In this case
- 15 there was nothing mixed with it. It was cocaine only.
- 16 Q So it was pure then, 71.9?
- 17 A As far as I can -- from -- we don't quantitate. We
- 18 don't give a purity of it, but there was nothing mixed with
- 19 it.
- 20 Q And then were you responsible for the Andrew
- 21 Smith-Mr. Simpson cocaine that they had?
- 22 A I -- I don't know.
- 23 Q How many people do you have in your lab?
- 24 A It's me and one employee. At this time when I got
- 25 this case I was the only chemist.

Melissa Hendricks
Cross-examination by Mr. Smith

1 Q So you would have done those particular findings, is
2 that right?

3 A I don't -- I don't go by names. I go by case numbers.
4 I wouldn't know.

5 Q Where were you before here?

6 A I ran the lab at the City of Columbia.

7 Q Why did you come here?

8 A There was an opening up here, and I took it.

9 MR. SMITH: I have nothing further.

10 MR. MAXEY: Nothing further from this witness, Your
11 Honor.

12 THE COURT: Step down. Thank you.

13 MR. MAXEY: At this time the state rests, Your Honor.

14 THE COURT: All right. State rests.

15 Mr. Smith.

16 MR. SMITH: May it please the Court. We would move
17 for a directed verdict based on belief that the evidence
18 that's been put before you only supports what we brought to
19 your attention before, that being Mr. Smith, didn't have a
20 driver violation, as he stated. And if he did, it happened
21 when they ran up on him.

22 He didn't do anything wrong. And that's clear by the
23 way that they handled the case and they never talked to him
24 about what he was going, what he did wrong. They said lane
25 change, he's been weaving. And it just supports the

1 fictitious basis for the charge.

2 And now he says there were four or five cars at the --
3 when -- when he got pulled over. So, once again, we would
4 move a directed verdict based on the lack of probable cause
5 and an illegal stop.

6 MR. MAXEY: I don't think Mr. Smith quite made a
7 proper directed-verdict motion there, but I'll respond to
8 it anyway.

9 The state has proven prima facie case of trafficking
10 in cocaine base 28 to a hundred grams and proven that this
11 incident -- venue is proper in Spartanburg County, that it
12 did occur on January 19th of 2016.

13 We've presented evidence from Captain Steve Cooper
14 that the defendant in this case did possess the drugs,
15 threw them to the ground.

16 The defendant also -- his statement is in evidence
17 where he admits that he bought three, approximately three,
18 ounces of crack on that day from the Ingles.

19 With the defendant's statement and Lieutenant Cooper,
20 now Captain's Cooper's, testimony established that the
21 defendant was in possession of the drugs, which is
22 necessary to prove trafficking.

23 Additionally, we've proven the weight of the drugs
24 through Lieutenant Hendricks' testimony that they weighed
25 approximately 71 grams. And she also testified that it

1 was, in fact, cocaine base recovered from the defendant.

2 And the state, is our position that a directed
3 verdict, a motion, would be improper at this point and
4 should be denied and this -- normally I would say the
5 question for the jury, but since it's a bench trial it's a
6 question for Your Honor to answer.

7 THE COURT: Any reply?

8 MR. SMITH: No, Your Honor.

9 Once again, I was directing the -- the stop.

10 THE COURT: All right. Motion for directed verdict is
11 denied.

12 Any additional evidence you wish to offer, Mr. Smith?

13 MR. SMITH: For my case?

14 THE COURT: Yes, sir.

15 MR. SMITH: Oh, yes, sir. I gave them a list of
16 the -- the officers that were involved here that I wanted
17 to -- to examine.

18 THE COURT: Okay. Is it going to be relevant to the
19 motion to suppress or relevant to the question of whether
20 or not the defendant possessed crack cocaine?

21 MR. SMITH: I'm not sure. Depending on what their
22 involvement was.

23 THE COURT: Well, is the possession of the crack
24 cocaine in dispute? Because I realize that your client
25 hasn't testified in this particular trial, but he has

1 testified in a pretrial hearing that he did possess it.

2 So, I mean, I understand you have a motion to suppress
3 based upon an unlawful search, and/or stop, and/or seizure,
4 but that's why I asked is the question of possession
5 actually in dispute.

6 I mean, does he now dispute that he possessed it?
7 Because if he does, it will be contradictory to what he's
8 already testified to.

9 MR. SMITH: My client hasn't testified.

10 THE COURT: He testified in the suppression hearing.

11 MR. SMITH: He did testify in the suppression hearing.
12 I'm -- I'm doing my due diligence as an attorney trying
13 to --

14 THE COURT: Well, what my point is is he going to
15 testify differently now than he did in the suppression
16 hearing.

17 MR. SMITH: I don't believe so.

18 THE COURT: Okay. Well, didn't he testify at the
19 suppression hearing that the cocaine was his? I think the
20 first question he was asked was why did you start selling
21 drugs again.

22 MR. SMITH: Okay.

23 THE COURT: Well, so my question is do you need to
24 call him as a witness again or --

25 MR. SMITH: Do I need to call him? No. I don't -- I

1 don't think I'll call him. I'm not sure yet.

2 THE COURT: Okay. All right. Do you have other
3 police officers?

4 MR. SMITH: Yes.

5 THE COURT: Would they be relevant to whether or not
6 he possessed the crack cocaine in question?

7 MR. SMITH: I wish to question them, sir.

8 THE COURT: About what?

9 MR. SMITH: Their involvement.

10 THE COURT: Well, what is the relevance of their
11 testimony, is my point.

12 We've already had a suppression hearing, and that has
13 been denied. So the question before me now is whether or
14 not your client is guilty of trafficking.

15 Do you think there's going to be some testimony from
16 the officers that would tend to dispute or refute the fact
17 that he possessed the crack cocaine?

18 MR. SMITH: I'm not sure.

19 THE COURT: Because that would be in conflict to your
20 own client's testimony.

21 MR. SMITH: I understand, sir. That's why I want to
22 question them.

23 THE COURT: Have you talked to them?

24 MR. SMITH: No, sir.

25 THE COURT: All right. Well, you talk to them during

1 the overnight recess.

2 MR. SMITH: Talk to the witnesses?

3 THE COURT: Yes, sir. Well, you're going to put a
4 witness -- you mean you're not going to talk to them before
5 you put them on the witness stand?

6 MR. SMITH: No.

7 THE COURT: Oh, do you ordinarily do that as a -- as a
8 practice?

9 MR. SMITH: I'm fairly competent what they're going
10 to -- what they're going to say.

11 THE COURT: Okay. Do you think they will -- would
12 tend to establish that your client is not guilty of
13 trafficking in crack cocaine?

14 MR. SMITH: I -- honestly, Your Honor, I don't know.

15 THE COURT: You said you were confident in what they
16 were going to say.

17 MR. SMITH: Well, I'm pretty sure it's the party line
18 but that's -- I'm not sure of that.

19 THE COURT: Well, I guess -- how would they be helpful
20 to you and/or to the Court in this case if they are going
21 to corroborate the state's evidence and position?

22 MR. SMITH: I don't know how they're going to do that
23 or if they're going to do that but believe they are.

24 THE COURT: Okay.

25 MR. SMITH: But I don't -- I don't know.

1 THE COURT: All right. well --

2 MR. SMITH: It has already been -- there's been
3 differences in -- in testimony already.

4 THE COURT: All right. well, if they were -- for some
5 reason if one of them was to testify that they didn't -- or
6 they could provide some sort of evidence that would tend to
7 establish your client did not possess the crack cocaine, do
8 you think that would be convincing to me since your client
9 has already admitted to that?

10 MR. SMITH: I don't know, Your Honor. I don't know if
11 you would find it problematic or not.

12 THE COURT: Okay. All right. well, we'll resume in
13 the morning at 9:30.

14 MR. MAXEY: Your Honor, the state would ask that
15 Mr. -- now that the trial has begun would Mr. Norman be
16 held?

17 THE COURT: Mr. Norman will be in custody tonight.

18 MR. MAXEY: Thank you, Your Honor.

19 THE COURT: We'll resume in the morning at 9:30.

20 MR. MAXEY: Thank you, sir.

21 END OF PROCEEDINGS MARCH 2, 2017

22

23

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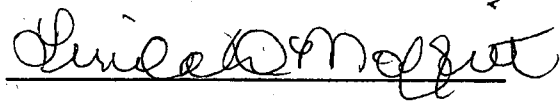
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh 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 of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 27th day of February 2017 and the 2nd day of March 2017.

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

October 25, 2017

A handwritten signature in cursive script, appearing to read "Linda D. Moffitt", is written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS
 3
 4 The State,)
 5 -vs-) TRANSCRIPT OF RECORD
 6 Deshon Jermaine Norman,) 2016-GS-42-2333
 7 Defendant.) March 3, 2017
 8) Spartanburg, South Carolina
 9

10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE
 12
 13

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

15 BARRY JOE BARNETTE, ESQUIRE
 16 WILLIAM ALTON MAXEY, ESQUIRE
 17 JAMES EDWARD HUNTER, ESQUIRE
 Attorneys for the State

18 DONALD LOREN SMITH, ESQUIRE
 19 Attorney for the Defendant
 20
 21

22 Linda D. Moffitt
 23 Circuit Court Reporter
 24
 25

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Guilty plea -- page 3.

No sworn testimony; no exhibits entered into evidence.

1 (Proceedings March 3, 2017)

2 MR. BARNETTE: May it please the Court, Your Honor. I
3 have made the 12-year offer to Mr. Smith and his client. I
4 told him. I said it'd be open. Obviously, if we go
5 forward with it, it'll be withdrawn. And that was
6 discussed yesterday. And I just want to make sure on the
7 record. It has been reoffered, but I don't know if they'll
8 accept it or not, but I've extended it to his client.

9 THE COURT: Okay. Have you talked to him about it,
10 Mr. Smith?

11 MR. SMITH: Yes, sir, I have. I just -- I would just
12 like to re-call Mr. Cooper, and that would be it.

13 THE COURT: What about the offer? Have you talked to
14 your client about it?

15 MR. SMITH: I have.

16 THE COURT: Does he reject it?

17 MR. SMITH: Against my advice, he wishes to take the
18 offer.

19 THE COURT: He wishes to accept it?

20 MR. SMITH: That's what I understand.

21 THE COURT: Is that right, Mr. Norman?

22 THE DEFENDANT: Yes, sir, Your Honor.

23 THE COURT: And you're going to plead guilty?

24 THE DEFENDANT: Yes, sir, Your Honor.

25 THE COURT: Now, you understand if you do plead guilty

1 you'll be giving up your right to challenge any ruling I
2 made in the case, wherein I declined to suppress the
3 evidence.

4 THE DEFENDANT: Yes, sir, Your Honor.

5 THE COURT: And understanding that you won't be able
6 to challenge that, do you still want to go forward and
7 accept the state's offer and plead guilty?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Okay.

10 THE DEFENDANT: Your Honor --

11 THE COURT: Sir?

12 THE DEFENDANT: -- with me pleading is it still -- is
13 it under the P.W.I.D. or is this -- was it the trafficking?

14 THE COURT: Well, I'll have to get that.

15 You and Mr. Maxey will have to explain that to me. I
16 don't know.

17 THE DEFENDANT: Okay.

18 MR. MAXEY: Your Honor, this would be for trafficking,
19 the charge that he went forward on, the 28 to a hundred
20 grams second offense.

21 THE DEFENDANT: How -- how would a P.W. -- so I would
22 have to go all the way. I would have to go all the way --
23 do I have to go all the way through for the P.W.I.D.? What
24 was the thing?

25 (Pause to confer with counsel.)

1 THE COURT: While y'all are discussing that let me --
2 I don't have that statute right in front of me. But
3 doesn't possession with intent to distribute third offense
4 in this amount -- amount to the same sentence?

5 MR. HUNTER: P.W.I.D. third offense would, Your Honor,
6 but second offense would not.

7 MR. BARNETTE: No. It's 7-25, so or --

8 MR. HUNTER: Or P.W.I.D. third offense would be ten to
9 thirty, and second is five to thirty, but it's no longer an
10 85 percenter but third offense --

11 THE COURT: Okay. Well, then they apparently need to
12 discuss that.

13 THE DEFENDANT: What did you say the second one was?

14 MR. BARNETTE: Can we discuss it in the presence of
15 his attorney?

16 THE COURT: Yeah. While -- why don't y'all do this if
17 everybody agrees? Why don't y'all just go out to a
18 conference room? And y'all discuss any kind of agreement,
19 and then y'all can come back.

20 (Whereupon, a recess was taken.)

21 THE COURT: Are we ready or not?

22 MR. MAXEY: Your Honor, it's my understanding that
23 defense counsel was unwilling to sign the sentencing sheet,
24 so is unwilling to go forward with the plea.

25 THE DEFENDANT: So with me firing him would I -- with

1 you've engaged him to represent you, and he's obligated to
2 do so. If you don't want him to, then you don't have to.
3 But if you want him to, he must.

4 (Pause.)

5 THE DEFENDANT: He's willing to sign it. He's going
6 to sign it.

7 THE COURT: Okay. All right. We're back on the
8 record with Deshon Jermaine Norman.

9 Mr. Norman -- let me ask y'all to come down here,
10 please.

11 Mr. Norman, as you know, we have been engaged in a
12 bench trial with reference to your case on Indictment
13 16-GS-42-2333 charging you with trafficking in crack
14 cocaine in an amount greater than 28 grams.

15 And, as you know, the state had rested in their
16 presentation. It was time for you to present any
17 additional evidence if you wanted to in order for me to
18 make that determination.

19 I have now been informed that you don't want to
20 continue with the trial in the case, that you want to enter
21 a plea of guilty to the charge of trafficking in crack
22 cocaine 28 grams or more. Is that true?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Now, do you understand, as we have
25 discussed before, that if you change your mind about the

1 trial and you enter a plea of guilty to this charge and I
2 accept it that you won't be able to challenge any unlawful
3 stop, search or seizure if there was one? You won't be
4 able to challenge any ruling that I made with regard to the
5 case about your motion to suppress the evidence and your
6 motion to exclude your statement, because when you plead
7 guilty you waive your right to challenge any illegalities.
8 Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. And have you had plenty of time to
11 reflect upon that decision?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And, as I understand it, your lawyer
14 doesn't agree with your decision. Is that right?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: But you understand that whether he agrees
17 or disagrees, it's always your decision. You get to make
18 the decision.

19 He can give you advice, but it's always your decision
20 as to how you want to proceed with your case.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay. And how do you want to proceed with
23 your case?

24 THE DEFENDANT: Plead guilty.

25 THE COURT: And you want to plead guilty to

1 trafficking in crack cocaine 28 grams or more but less than
2 100 grams or more and it be treated as a second offense
3 under the law?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And were you informed that that requires a
6 mandatory minimum sentence of not less than seven years and
7 a potential maximum sentence of 30 years?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And, as I understand it and based upon
10 what I see on this sentencing sheet, the state has agreed
11 that in return for you pleading guilty to recommend a
12 12-year sentence.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And you understand that's their
15 recommendation but I don't have to go along with it.

16 THE DEFENDANT: Yes, sir. I totally understand.

17 THE COURT: Do you still wish to go forward?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Now, you understand, do you not, and has
20 Mr. Smith explained to you, that you have a right to remain
21 silent? Nobody can make you testify. You don't have to
22 make any statements; you don't have to answer any
23 questions. You don't have to answer my questions right now
24 unless you want to plead guilty. But if you want to plead
25 guilty you have to answer my questions because these

1 questions are designed for me to determine whether or not
2 your decision to plead guilty is freely and voluntarily
3 made, that nobody has forced you into it, nobody's
4 pressured you into it and that you understand the
5 consequences of that decision. So, do you understand you
6 have a right to remain silent?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you wish to give that right up in order
9 to plead guilty?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And I guess Mr. Smith has also explained
12 to you that you have a right to confront and to examine
13 witnesses in court as we have done during the course of
14 this bench trial.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And you understand you have a right to
17 continue with that trial.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And you understand if you plead guilty
20 that's going to stop, there won't be any verdict rendered
21 by me because if I accept your plea of guilty you will have
22 admitted your guilt and I'll sentence you accordingly.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Is that what you wish to do?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And, as we talked earlier, you also did
2 have a right to have a jury trial, and you waived that
3 right in order to proceed with a bench trial. Did you
4 discuss your right for a jury trial with Mr. Smith?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And did you voluntarily waive that right
7 when you gave that up?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And you understood fully what you were
10 doing when you did that.

11 THE DEFENDANT: Not fully, but I understood like as
12 far as -- I didn't understand how the bench trial was and
13 the jury trial but he -- he finally explained it to me.

14 THE COURT: Okay. So you understand fully now the
15 right to a jury trial?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: As well as your agreement to the bench
18 trial?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you wish to proceed with either of
21 those?

22 THE DEFENDANT: No, sir.

23 THE COURT: Okay. So you want to waive those rights
24 to a trial?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And you want to plead guilty?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Other than the state's recommendation and
4 the change, basically the allowing you to plead guilty to a
5 second offense as opposed to a third or subsequent, and
6 their agreement to recommend a number of years -- other
7 than that have you been promised anything that induced your
8 decision to plead guilty?

9 THE DEFENDANT: No, sir.

10 THE COURT: Have you been threatened or coerced or
11 pressured by anybody in any way that resulted in your
12 decision to plead guilty?

13 THE DEFENDANT: No, sir. Just the fact that when I
14 heard the state -- the state's offering, I just thought
15 about my kids. And I know at the end of the day that you
16 make the final offer -- make the final choice. But my kids
17 came into a lot of consideration instead of just sitting up
18 here, just continuing on with the trial. Just seen a lot
19 of things that was going on that was shaking with the trial
20 so I -- I decided to go ahead and stop it.

21 THE COURT: Okay. Well, are you satisfied with your
22 decision?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. And were you promised anything
25 besides their offer to get you to plead guilty?

1 THE DEFENDANT: No, sir.

2 THE COURT: And nobody has threatened you or forced
3 you into it?

4 THE DEFENDANT: No, sir.

5 THE COURT: You made that decision on your own?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Are you satisfied with the decision that
8 you've made?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you need to talk to your lawyer about
11 it any further?

12 THE DEFENDANT: No, sir.

13 THE COURT: Do you have any questions you want to ask
14 me about it?

15 THE DEFENDANT: No, not really, Your Honor.

16 THE COURT: All right. You do understand, do you not,
17 that trafficking is classified as a violent offense under
18 the law?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you understand the significance of that
21 classification?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you also understand that trafficking is
24 classified as a serious offense under the law?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you understand the significance of that
2 classification?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Understanding that, do you still wish for
5 me to accept your plea?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You're 37 years old?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: How far did you go in school?

10 THE DEFENDANT: A year of college, Spartanburg Tech.
11 I graduated high school in '98 at Dorman.

12 THE COURT: Are you married?

13 THE DEFENDANT: Fiancée.

14 THE COURT: Do you have children?

15 THE DEFENDANT: Five.

16 THE COURT: Do you work?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Where?

19 THE DEFENDANT: Nestle in Gaffney, South Carolina.

20 THE COURT: How long have you been there?

21 THE DEFENDANT: About two years now. I left Dollar
22 Tree. I was at Dollar Tree two years and then I got the
23 offer at Nestle. I took the Nestle job for consistent
24 work.

25 THE COURT: And have you ever been treated for any

1 type of substance abuse or addiction?

2 THE DEFENDANT: No, sir.

3 THE COURT: Do you suffer from any such an addiction
4 today?

5 THE DEFENDANT: No. Just depression every now and
6 then.

7 THE COURT: Have you ever been treated for any type of
8 mental illness or emotional disturbance?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And what have you been treated for?

11 THE DEFENDANT: Depression.

12 THE COURT: Are you currently being treated for that
13 now?

14 THE DEFENDANT: No, sir.

15 THE COURT: Do you take any type of medication?

16 THE DEFENDANT: It's been a while.

17 THE COURT: Well, does that condition or whatever
18 symptoms you have, does that in any way affect your ability
19 to understand fully what you're doing right now?

20 THE DEFENDANT: No, sir.

21 THE COURT: Okay. Listen to what the solicitor tells
22 me about your case.

23 MR. MAXEY: Thank you, Your Honor.

24 This incident occurred on or about January the 19th of
25 2016 after a traffic stop in which officers with the

1 Spartanburg County narcotics unit followed Mr. Norman from
2 the Ingles parking lot on Highway 29 on the east side of
3 Spartanburg where he had met with another known drug
4 trafficker, Andrew Smith. They followed the vehicle that
5 Mr. Norman was a passenger in.

6 That vehicle weaved out of its lane. Officers made a
7 traffic stop on the car. Before the car came to a complete
8 stop Mr. Norman got out of the car, ran into the woods
9 where he was pursued by Steve Cooper with the Spartanburg
10 County Sheriff's Office. And right before Captain Cooper
11 called out to him he threw down a bag which contained
12 approximately 71 grams of crack cocaine.

13 THE COURT: All right. Mr. Norman, you heard what the
14 solicitor told me.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And you've heard the officers testify too.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Is what the solicitor said and the
19 officers testified to, is that truthful and accurate?

20 THE DEFENDANT: I wouldn't say all of it, but I'm
21 like -- I come to you today and tell you I -- I was guilty.

22 THE COURT: Okay.

23 THE DEFENDANT: But as far as -- not everything as far
24 as detail for detail, but I'm coming to you today and
25 telling you I was guilty.

1 THE COURT: Well, is there any question about you
2 possessing the crack cocaine?

3 THE DEFENDANT: No, sir.

4 THE COURT: Okay. And you understand that if you want
5 to challenge the stop and the search and the seizure, that
6 by pleading guilty you'll be giving up your right to
7 challenge those actions by law enforcement and my rulings
8 in the case.

9 THE DEFENDANT: I understand, Your Honor.

10 THE COURT: And you still want to go forward?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. What about his history?

13 MR. MAXEY: Yes, Your Honor. He does have a prior
14 criminal history.

15 He has two convictions in 2001 for distribution of
16 crack near a school. And those bear separate incident
17 dates which is the reason for Mr. Norman being served with
18 life notice in the first place.

19 He has a conviction for criminal domestic violence in
20 2005; driving under suspension in 2008 and entering
21 premises after warning in 2008.

22 THE COURT: All right. Mr. Norman, you've heard what
23 he told me about your history. Is that true?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And you were subject to life imprisonment

1 without parole if -- if you had been convicted for the
2 trafficking on the third offense. Do you understand that?

3 THE DEFENDANT: Yes, sir, I understand. Like I was --
4 explained to you earlier, that first charge, I was -- I was
5 young and stupid. And I pleaded to possession. I was
6 supposed to have been pleading to a possession, but they
7 had me plead to possession and the school zone. So they
8 gave me two charges on one. They usually throw out the
9 school zone. They do it. But I pleaded to both of them.
10 So they gave two charges off one charge. It was 15 years
11 ago. I made -- I made a dumb mistake, just like I did on
12 the 19th. At the end of the day I'm just asking for mercy.

13 THE COURT: All right. Well, let's clear that up.

14 The history, was that two charges on the same date or
15 two separate dates?

16 MR. MAXEY: No, Your Honor. Those are on two separate
17 dates.

18 THE COURT: Do we have -- do you have certified copies
19 of those?

20 MR. MAXEY: I do, Your Honor.

21 THE COURT: Show those to Mr. Smith and Mr. Norman.

22 (Pause.)

23 MR. SMITH: This appears to be a possession with
24 intent in a school zone.

25 MR. MAXEY: They're both near a school, and the

1 offense dates are different. I'll hand them up.

2 MR. SMITH: Please give them.

3 (Pause.)

4 THE COURT: The sentences were on the same date.

5 MR. MAXEY: Yes, Your Honor, but the --

6 THE COURT: Offense dates were different?

7 MR. MAXEY: Yes, Your Honor.

8 THE COURT: Do you have those?

9 MR. MAXEY: The upper right-hand corner of the
10 sentencing sheet.

11 THE COURT: February the 28th of 2001 and August the
12 17th of 2000 is what these show. Is that not correct, Mr.
13 Norman?

14 THE DEFENDANT: Not to my -- not to my occurrence,
15 Your Honor. I remember going to court for one charge, and
16 they had the school zone and what's -- you say one is the
17 22nd and one is the --

18 THE COURT: Well, what I have on these certified
19 records, certified copies of records, is one offense date,
20 which is distribution near a school is the -- the offense
21 date is August the 17th of 2000 according to this document.
22 And the other indictment is for possession with intent to
23 distribute crack cocaine near a school, and that offense
24 date was February the 28th of 2001.

25 THE DEFENDANT: I don't recall. I guess they must

1 have ran them concurrent, Your Honor, and might have
2 confused me, but, yes, I understand.

3 THE COURT: Well, I think they were run concurrently.
4 I mean, you pled guilty on the same date, but they say
5 there were two separate offense dates.

6 THE DEFENDANT: I still don't --

7 THE COURT: You don't know?

8 THE DEFENDANT: I don't remember.

9 THE COURT: Well, let me ask you this.

10 If -- if you are correct, then it might very well be
11 that you would not be subject to a life sentence without
12 parole, but you'd still be subject to a third or subsequent
13 offense on the trafficking charge if you were convicted.
14 Does that change your mind about pleading guilty?

15 THE DEFENDANT: No, sir. At the end of the day if I
16 was found guilty for them charges -- and I'm pleading
17 guilty to this charge -- and, like I say, I'm ready just to
18 get everything over with and get back home to my family.

19 THE COURT: Okay. Has anybody suggested to you or
20 given you any advice about the potential parole
21 eligibility?

22 THE DEFENDANT: No, sir.

23 THE COURT: Do you understand that you can't rely upon
24 that type of advice necessarily? Because while there are
25 statutes that provide for parole eligibility for certain

1 offenses that the fact that you -- even if you were to be
2 eligible for parole it doesn't mean you make parole. Do
3 you understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: So when you make a decision to plead
6 guilty you just have to make that decision under the
7 assumption that you've got to do whatever sentence is
8 imposed. And if you do get paroled early, then that's
9 great. But you have to make your decision under the
10 assumption that you're going to do 12 years if I give you
11 the 12 years. Do you understand?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Is that what you wish to do?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. I'll accept your pleas of
16 guilty and hear from you and Mr. Smith.

17 MR. SMITH: Your Honor, since I was his attorney I --
18 there's no question Mr. Norman had some something on him.

19 There's no question that the state has misrepresented
20 the case. Mr. Cooper said that there was -- he didn't tell
21 everybody to pull him over, that they were going to pull
22 him over. In fact, he did say that.

23 In addition, they said that no car was in front of
24 them. And, yes, there was. Someone pulled in front of
25 him. So that supports the theory that they had a

1 pretextual stop and we shouldn't be at this point. But
2 Mr. Norman is making a decision based on the potential in
3 jail, and that's a decision that he's made.

4 THE COURT: Mr. Norman, do you want to add anything?

5 THE DEFENDANT: Yes, sir.

6 Like I say, I'm not here to play with the Court today.
7 I have a family at home, and I see how the case has been
8 going. It's been back and forth, back and forth. It has
9 been long and draining. I just want to come in here today
10 and tell my mom and everybody I'm sorry -- my kids. I did
11 make a big mistake, probably one of the biggest mistakes I
12 made in my life other than 15 years ago.

13 I come to y'all today to plead for mercy on the Court
14 because I'm -- it's not my job. I'm not a known drug
15 dealer. I've been taking care of my kids.

16 I messed around and got hit by a drunk driver and
17 couldn't perform at work, so I lost my job. Just messing
18 around and ran into some old friends trying to make some
19 quick money to help pay my bills. Like I said, today if
20 I'm leaving, I'll be leaving my fiancée with house
21 payments, kids, car payment. Everything I did was for my
22 kids.

23 Like, so far as the drugs go, it wasn't no profession
24 that I was doing. I was just messing around and made a big
25 mistake. Today I'm just praying that you have mercy on me.

1 THE COURT: And you understand that in the future if
2 you commit another offense such as this that would subject
3 you again to a life-without-parole.

4 THE DEFENDANT: Yes, sir. But you will never have to
5 worry about it after today.

6 THE COURT: All right. On Indictment 2016-2333,
7 Sentence of the Court is you, Deshon Jermaine Norman, be
8 confined to the South Carolina Department of Corrections
9 for a period of 12 years. Good luck to you.

10 END OF REQUESTED TRANSCRIPT OF RECORD

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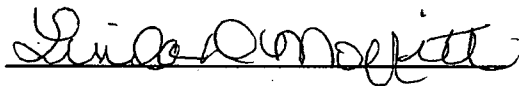
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh 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 of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 3rd day of March 2017.

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

April 1, 2017

A handwritten signature in cursive script, appearing to read "Linda D. Moffitt", written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS
3
4 The State,)
5 -vs-) TRANSCRIPT OF RECORD
6 Deshon Jermaine Norman,) 2016-GS-42-2333
7 Defendant.) March 17, 2017
8) Spartanburg, South Carolina
9
10

11 B E F O R E :
12 HONORABLE J. DERHAM COLE, JUDGE
13
14

15 A P P E A R A N C E S :
16 WILLIAM ALTON MAXEY, ESQUIRE
17 BARRY JOE BARNETTE, ESQUIRE
18 Attorneys for the State
19 DONALD LOREN SMITH, ESQUIRE
20 Attorney for the Defendant
21
22

23 Linda D. Moffitt
24 Circuit Court Reporter
25

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Motions -- page 3.

No sworn testimony; no exhibits entered into evidence.

1 THE COURT: This is Deshon Jermaine Norman.

2 Mr. Smith, you represent him.

3 Mr. Maxey is here on behalf of the state.

4 MR. SMITH: Yes, sir.

5 THE COURT: This is your motion to, what, vacate a
6 sentence?

7 MR. SMITH: Withdraw the plea and then reconsider your
8 denial of our motion to suppress.

9 THE COURT: I thought we went through all of that last
10 week. We didn't?

11 MR. SMITH: Well, we did somewhat. If you recall, we
12 started --

13 THE COURT: Somewhat?

14 MR. SMITH: Well, we started our trial on Thursday.

15 THE COURT: I know.

16 MR. SMITH: And when I came back Friday all a sudden
17 Mr. Norman had decided to plead.

18 We had no discussion whatsoever, and I didn't get a
19 chance to talk to him by myself. I was always in the
20 vicinity of the two officers that arrested him. Didn't get
21 an opportunity to talk to him, as I said. More
22 importantly --

23 THE COURT: Well, didn't I ask him if he needed any
24 more time to talk to you about his case? In fact, I think
25 y'all talked some more.

1 MR. SMITH: Well, we -- we went to the place where
2 they hold the individuals --

3 THE COURT: Right.

4 MR. SMITH: -- and the police came along with me.

5 THE DEFENDANT: I never got to talk to my lawyer. I
6 talked to him.

7 THE COURT: Okay. Did y'all ask me to make some other
8 arrangements?

9 MR. SMITH: We did not, sir.

10 THE COURT: Okay. All right. What else do you want
11 to tell me?

12 MR. SMITH: Your Honor, when we discussed the motion
13 to suppress you indicated that the idea that the stop was
14 somewhat pretextual, was something that's understood,
15 however, if there were lies associated with it that that
16 would make a difference. And the fact of the matter is the
17 discovery that was provided by the state omitted two of a
18 5-page narrative by one of the officers who was also -- the
19 name of that individual was omitted.

20 And if you recall the testimony from both Mr. Cooper
21 and Mr. Mathis, as well as that of Mr. Smith, the driver of
22 the vehicle, all indicated that there was no one in the
23 front of the car in which Mr. Norman was a passenger.

24 And, in fact, Mr. Cooper on two separate occasions
25 said that his vehicle was in the front and that no other

1 officers were ahead -- ahead of him -- they were all behind
2 him -- to illustrate that the swerving or weaving was
3 exactly a traffic stop.

4 well, the truth of the matter is the omitted officer
5 is the one that pulled in front of the Norman vehicle. And
6 the disingenuous traffic stop is illustrated by the fact
7 that the two officers that testified said that there's
8 no -- no warning of the pullover when, in fact, the omitted
9 named -- named officer stated that Mr. Cooper had told them
10 that they would pull him over. And when the gentleman
11 looked in his rear-view mirror he saw the blue lights come
12 on. Well, in order to see that in his rear-view mirror,
13 that would be Mr. Cooper's statement that he was in front
14 of everybody, would be a false statement.

15 In addition to that when Mr. Williams -- I believe it
16 was Mr. Williams -- got the call from Mr. Cooper and the
17 kind of blue lights, he went in front of the vehicle, just
18 as my client said, that vehicle went past him and pulled in
19 front of him. And there were three vehicles that boxed him
20 in.

21 However, everyone that testified said that no one
22 pulled in front of him, and that that's just -- that's a
23 blatant lie. I mean, I don't know how else to determine.
24 That's a fact.

25 They left -- they left the Ingles parking lot with the

1 idea of pulling him over. They said that he, the driver,
2 pulled over the center line.

3 Now, all of the testimony, including that of
4 Mr. Smith, the driver, testified that someone came up to
5 his left side. He would not have gone to the middle. He
6 would have gone to the right, which would have taken him
7 over the yellow line of the side of the road. He did not
8 pull toward the driver that suddenly was on his left. He
9 went to the right because of the sudden appearance of him,
10 which, once again, shows that the stop was not, according
11 to Mr. Cooper, said that he had bumped the center line.
12 That's false.

13 The way he bumped the center line is that the driver
14 pulled up next to him. That instinctively would cause you
15 to go to the right. And, more importantly, Mr. Williams
16 said that he pulled in front of him taking him to the right
17 when the yellow -- when the blue lights came on. But they
18 didn't come on until the announcement was made that he was
19 going to take him over to the side or pull him over. He
20 had no reason to pull him over other than the fact he had
21 just seen Mr. Smith in the Ingles parking lot.

22 Most importantly in all of this, they lied. I mean,
23 there's no getting around that. Oh, there's no one in
24 front of him, no one in front of him, when one of their own
25 officers testified that, in fact, or stated that he, in

1 fact, had been part of the team that had pulled over in
2 front of Mr. Smith when the -- when the initiation of the
3 stop had started.

4 I mean, they had no reason. They didn't know who he
5 was. But they did know he talked to Mr. Smith, Mr. Andrew
6 Smith, who is part of the investigation of the narcotics
7 team from both Spartanburg city and county. And three of
8 them followed him to -- nearly to Cowpens.

9 Mr. Cooper when questioned who all was there, I don't
10 recall, who all -- what all cars were there, I'm not sure,
11 what -- what colors were the cars, what makes were the
12 cars. He didn't know anything.

13 If a defendant were to come before you and state all
14 of those things that they lacked knowledge and they had
15 some convenient ignorance, they would pay for that.

16 Mr. Smith -- or Mr. Norman was owed a duty by the
17 Fourth Amendment, that being no illegal search and seizure.
18 And if they describe nothing other than that bumping the
19 center line to illustrate a justifiable reason to pull him
20 over, while at the same time they're lying about the facts
21 of the case, so that way it looks like it's a justifiable
22 stop by him, by Mr. Cooper, initiating it, because it's a
23 traffic problem, one, they did nothing about the traffic
24 stop. They didn't do a breathalyzer; they didn't do
25 anything, and talked about how long they were in behind

1 him. There's no support to justify such a stop.

2 I mean, we all -- I think it's obvious -- maybe it's
3 just me -- but I thought that before. But now recognizing
4 that they omitted two pages of the guy's narrative and also
5 the fact that they omitted his names -- that way I couldn't
6 pinpoint him and call him as a witness -- and they
7 certainly didn't call him as a witness -- was able to
8 contradict Mr. Mathis, Mr. Cooper and so forth.

9 Bottom line is there wasn't justification for stopping
10 them in the first place, and it's supported by
11 misstatements to the Court.

12 Based on that, Your Honor, the law is supposed to --
13 law enforcement is supposed to, you know, uphold the letter
14 of the law.

15 well, they got on the stand and said things that
16 weren't true, and they just justified what I was talking
17 about that it's pretextual in nature in that there was no
18 reason to stop them but in the hope that they could further
19 their investigation of Mr. Andrew Smith, and that's exactly
20 what they did when they -- when he ran, which, as we know,
21 that would have been -- he wouldn't have ran if they
22 wouldn't have stopped. But when he did -- when they did
23 catch up to him that -- they incorporated him into their
24 investigation in the hopes that he would help them in their
25 investigation. But that just supports my theory that they

1 were stopping him regardless of -- regardless of what the
2 driver did.

3 The driver was confused or however you wish to
4 determine, but when he got up here he did state that
5 someone had pulled up next to him telling him, saying that
6 Mr. Norman was talking to somebody at 7:00 o'clock at
7 night, someone, 5:43.

8 So the idea of him communicating going off 29 in the
9 dark is absurd. But the car was on his left, and he said,
10 "If I did anything, I swerved to the right because of the
11 vehicle on my left." And that goes against going over the
12 center line into that police officer.

13 Mr. Mathis also said that he was at least beside
14 Mr. Cooper's vehicle the entire time and ended up next to
15 the Smith vehicle, the Cleveland Smith-Mr. Norman vehicle.
16 Well, that is not behind Mr. Cooper, as Mr. Cooper
17 testified to, that every vehicle from the law enforcement
18 was behind him. Nobody was in front of him. Those are
19 quotes from the transcript.

20 I mean, Your Honor, they have misled the Court, and
21 they have violated Mr. Norman's right to integrity,
22 forthrightness. Your Honor said that the pretextual stop is
23 not -- was something that he didn't really have an issue
24 with. However, if there were lies to get there, well, then
25 that would be an issue. And that's all -- it's replete

1 with misstatements of fact.

2 And we would ask that, taking that into consideration,
3 the motion to suppress that I thought was solid this --
4 this underscores everything that was said in that motion to
5 suppress, but adds to it.

6 And then people got on the stand. They said things
7 that were false. And I believe that's against the
8 ordinance of the law, perhaps, but, more importantly, it
9 supports my motion. And with that in mind, the suppression
10 should have been granted or at least at this point based on
11 the circumstances should be granted.

12 THE COURT: Mr. Maxey.

13 MR. MAXEY: Thank you, Your Honor.

14 As best I understand it, there are two motions in
15 front of Your Honor today, one to withdraw Mr. Norman's
16 guilty plea and to reconsider Your Honor's decision on the
17 suppression motion.

18 As to the withdrawing the guilty plea, it's our
19 position that that would not be possible at this point.
20 This Court very thoroughly went through with the defendant
21 on the record with many of these same people present, as
22 well as Your Honor and madam court reporter, all of the
23 constitutional rights that he was waiving as part of that
24 guilt plea, all of the protections he was giving up, and,
25 most importantly, his right to challenge Your Honor's

1 decision on the suppression issue. And he knowing -- he
2 answered Your Honor that he knowingly and intelligently
3 waived all of those rights in order to enter his guilty
4 plea.

5 As to the motion to reconsider the denial of the
6 suppression motion, I suppose would be an appropriate
7 ground for appeal had the trial of Mr. Norman been
8 completed. But since he's waived his right to challenge
9 that, I don't know that this motion is germane at all.

10 As to Mr. Smith's allegations of incomplete discovery,
11 he actually made a motion to compel discovery at the outset
12 of the bench trial that Your Honor heard.

13 At that point Mr. Smith would have had an opportunity
14 to ask the state for that evidence, which he did not. The
15 state had disclosed to Mr. Smith all of the evidence in its
16 possession pertaining to Mr. Norman's case.

17 He -- in his motion to compel he asked for video
18 evidence, which he was told on at least three separate
19 occasions did not exist. In fact, he acknowledged to Your
20 Honor during that motion to compel that he had no reason to
21 believe it existed.

22 And I'm also surprised, or actually not surprised,
23 that Mr. Smith stated some of his more outlandish,
24 charitably, slanderous, more-truthfully allegations in his
25 motion in which he accused myself and our office of

1 subordinating perjury, which is absolutely outlandish and
2 false.

3 If Mr. Smith would like to withdraw the guilty plea,
4 which I don't believe is possible, no one would be more
5 happy to try Mr. Norman in front of a jury of his peers
6 than myself. But it's my opinion and the state's position
7 that would not be possible at this point and Mr. Norman
8 must be returned to serve the duration of his 12-year
9 sentence as given by the Court. Thank you.

10 MR. SMITH: May it please the Court.

11 Your Honor, part of the knowingly aspect of a plea is
12 knowing all of the good things and the bad things. And of
13 course Mr. Cooper had misled the Court. And I didn't have
14 the opportunity. I recognize that Your Honor told us we
15 could go back and talk. We went there, and we were
16 accompanied by law enforcement.

17 I think part of -- part of the issue here was the
18 solicitor, the solicitor and the assistant solicitor,
19 talking to my client through me and through you by telling,
20 gosh, he's not taking the 12 years, Your Honor, I mean, can
21 you believe that, maybe should give him more. And that's
22 the intimidation factor. And I realize that that's just
23 speaking.

24 But based on the fact Mr. Norman was facing, pursuant
25 to their request, life without parole, the idea of having

1 that over his head and continuing to speak to him through
2 me and then talking to you in an effort to put fear in him,
3 that the necessity of me being able to talk to him, and if
4 you recall, there was an issue because I wouldn't sign the
5 sentencing sheet.

6 And we ended up coming up here, and I talked about my
7 displeasure with what was going on. And Mr. Norman just
8 wanted to get it over with. He didn't want a life based on
9 his 33 years of age, did not wish to -- 36. He didn't want
10 to participate in the opportunity to do life without
11 parole.

12 The bottom line is they didn't have a right to stop
13 him. That's not the argument here. I didn't say anything
14 that the -- the state, that the solicitor's office, they
15 didn't. They were not following him. But, at the same
16 time, they provided me with the discovery I received, and I
17 don't know why there's two pages missing. And the name of
18 the driver is missing. But that's a fact. They were
19 missing. So I don't know how you want to term it, but
20 they're missing from somebody.

21 THE COURT: well, the driver testified.

22 MR. SMITH: Oh, yes, he testified, and he testified
23 that he didn't do anything wrong, but if he did it was
24 swerve to the right when the vehicle came up on his left.
25 So not to the center, which is what Mr. Cooper said, he

1 bumped the center line. That's -- I mean, the gentleman on
2 the stand, Mr. Smith, he didn't have anything to lose.
3 It's my belief that his charges have been addressed
4 already.

5 Mr. Pruett would not have allowed him to get on the
6 stand and talk freely based on the fact that there was
7 something over his head as well. I mean, that's
8 disingenuous. Maybe I'm wrong. No doubt about that. But
9 Mr. Pruett has been practicing a long time, and the idea of
10 letting his client self-inflict wounds doesn't make any
11 sense. But the stop was unjustified.

12 THE COURT: All right. Anything else?

13 MR. BARNETTE: Your Honor, if I can just briefly
14 respond to the comment he made about the solicitor and the
15 solicitor's office, what happened was in this courtroom, an
16 open courtroom of numerous people in here.

17 I just went over to his desk saying there's a 12-year
18 offer here, he's welcome to take it, and, you know, this is
19 it right now. We're going to go forward. There's not
20 going to be an offer available. And that's when I came out
21 and announced it to the Court that we'd made the offer.
22 You inquired about it. The defendant decided he wanted to
23 take that offer.

24 I'm tired of Mr. Smith making allegations against
25 officers and law enforcement, solicitors and everybody

1 else. I think he needs to state the facts of the case,
2 represent his client the way he should be representing him
3 instead of making slanderous allegations against other
4 people and other organizations. And I just want to put
5 that on the record. Thank you, Your Honor.

6 MR. SMITH: If I may, Your Honor. I used the
7 transcript about the people, what was stated by Mr. Cooper.
8 I didn't -- I didn't make that up. I offered what the
9 court reporter offered me. And I don't believe there's any
10 statement that the quotes or transcript pieces that I used
11 were created by myself.

12 So I'm not doing anything that wasn't done already.
13 I'm just offering you the truth. I mean, I guess I'm
14 offering you the transcription testimony. I didn't make
15 that up. That's what it is.

16 THE COURT: Okay. Each motion is denied.

17 MR. SMITH: May I approach? May we approach?

18 THE COURT: Yeah, sure.

19 (Bench conference held off the record.)

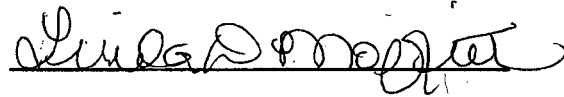
20 END OF REQUESTED TRANSCRIPT OF RECORD
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh 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 of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 17th day of March 2017.

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

April 1, 2017



Linda D. Moffitt
Circuit Court Reporter

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5) 2016-GS-42-2333
6 Deshon Jermaine Norman,)
7 Defendant.) May 15, 2017
8) Spartanburg, South Carolina
9
10

11 B E F O R E:

12 HONORABLE J. DERHAM COLE, JUDGE
13
14

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

16 WILLIAM ALTON MAXEY, ESQUIRE
17 Attorney for the State

18 DONALD LOREN SMITH, ESQUIRE
19 Attorney for the Defendant
20
21

22 Linda D. Moffitt
23 Circuit Court Reporter
24
25

INDEX

Motion -- page 3.

No sworn testimony; no exhibits entered into evidence.

1 THE COURT: All right. We're here in the matter of
2 the State vs. Deshon Jermaine Norman on Mr. Smith's motion
3 to reconsider.

4 Mr. Smith.

5 MR. SMITH: May it please the Court.

6 To begin with this motion is strictly to reconsider
7 the plea that Mr. Norman entered.

8 And the reasons for this motion are that, one, the
9 plea was not voluntary. There was contention between
10 Mr. Norman and myself, and I never had an opportunity to
11 speak to him privately from the time I got to the court
12 that morning. I never had that opportunity, never had a
13 chance to relay my thoughts or, more importantly, hear what
14 happened that changed him from what we had discussed the
15 day before.

16 I did so. I filed my motion promptly. And upon
17 receiving the transcript of the record for the hearing,
18 competent counsel could be taken into question, I guess.
19 The idea that I put him on the stand, obviously, not so
20 wise. However, I thought that was necessary for the
21 purpose of illustrating his candor in the face of the
22 opposition.

23 Withdrawal will cause prejudice. I guess that's a
24 matter that's for the eyes of the beholder. The prejudice
25 would be time or money, and of course that takes us down to

1 the inconvenience of the Court and the waste of the
2 judicial resources. It's my contention that this is of
3 great importance, the things that occurred here and, of
4 course, from my eyes.

5 If there is a waste of money or judicial resources I
6 believe that that waste is -- is necessary because the
7 constitutional principles that are involved here are far
8 greater than any dollar amount. And with that in mind
9 based on those ideals we ask that the plea be withdrawn.

10 THE COURT: All right. Am I correct in my
11 understanding today that your motion is to ask me to
12 reconsider my denial of your request for Mr. Norman to have
13 his guilty plea withdrawn?

14 MR. SMITH: May it please the Court.

15 I believe that Your Honor pointed out things that I
16 discussed perhaps more in this -- in this paper. You
17 already addressed them. And so for the purpose of today it
18 is my belief that the motion to reconsider deals with the
19 plea withdrawal which was only done in our hearing
20 March 17th.

21 The motion to reconsider the suppression and things
22 related to it had -- had been filed previous to that. So
23 you've already done a motion to reconsider and made a
24 finding on the things related to that, but the plea, of
25 course, withdraw-the-plea motion, came on the 17th, I

1 believe. So this reconsider would be ripe for today.

2 THE COURT: All right. So the motion to reconsider is
3 solely related to my denial of his motion to withdraw his
4 guilty plea.

5 MR. SMITH: Yes, sir.

6 THE COURT: All right. Mr. Maxey.

7 MR. MAXEY: Thank you, Your Honor. I'll be very
8 brief.

9 Your Honor covered all of the rights that Mr. Norman
10 was giving up very thoroughly. I do believe that the Court
11 very thoroughly conveyed the gravity and the finality of
12 the choice Mr. Norman was making. And all the evidence
13 during that plea colloquy indicated that he was making a
14 knowing and voluntary, intelligent guilty plea.

15 All of the other points that Mr. Smith just brought up
16 were covered ad nauseam during the plea colloquy, again, on
17 March the 17th. And I don't believe he's demonstrated any
18 sort of change in circumstances, new information that would
19 necessitate another ruling on this issue. So it's the
20 state's position that Mr. Norman's guilty plea and 12-year
21 prison sentence should stand.

22 THE COURT: Mr. Smith, anything in reply?

23 MR. SMITH: May it please the Court.

24 My main focus of my reply is that Mr. Norman changed
25 overnight. I don't know why. I didn't have an opportunity

1 to speak to him when you sent us out of the courtroom based
2 on my unwillingness to sign the sentencing sheet.

3 We were followed by the assistant solicitor and two --
4 the two agents that were part of this arrest. And so
5 Mr. Norman never had the opportunity to speak to me. And
6 based on that I would say that that was per se involved in
7 it.

8 MR. MAXEY: Reply briefly, Your Honor.

9 THE COURT: Okay.

10 MR. MAXEY: If I recall, one of the questions Your
11 Honor asked Mr. Norman during the plea colloquy was whether
12 or not he needed more time to speak with his lawyer, and he
13 answered in the negative if I remember correctly.

14 Also, at no point during that conversation that
15 Mr. Smith referenced did he ask to speak to his client or
16 whatever. Had he asked me or asked the officers permission
17 to speak with his client, of course we would have left the
18 room and let him do so. I just wanted to make that
19 abundantly clear.

20 THE COURT: Anything else?

21 MR. SMITH: No, sir.

22 THE COURT: Motion to reconsider the denial of the
23 motion to withdraw the guilty plea is denied.

24 END OF REQUESTED TRANSCRIPT OF RECORD

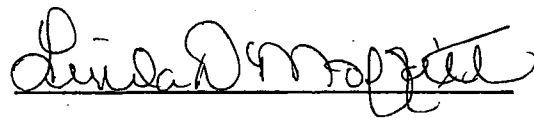
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh 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 of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 16th day of May 2017.

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

October 25, 2017

A handwritten signature in cursive script, reading "Linda D. Moffitt", written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

WITNESSES

SRTBG CO. SHERIFF'S OFFICE

ARREST WARRANT NUMBER

2016A4210100455

ACTION OF GRAND JURY

MAY 26 2016

MAY 06 2016

Foreperson of Grand Jury
Date:**True Bill**

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. -

16-GS-42-2333
The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAY 09 2016

TERM

THE STATE
vs.

DESHON JERMAINE NORMAN

Indictment for
TRAFFICKING IN COCAINE BASE

SC Code: 44-53-375

2016 MAY 16

H. HONE DEL...

178

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

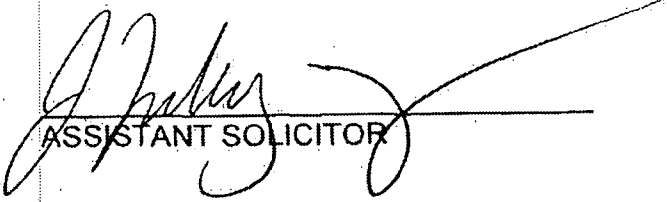
MAY 06 2016

At a Court of General Sessions, convened on _____ the
Grand Jurors of Spartanburg County present upon their oath:

TRAFFICKING IN COCAINE BASE

That Deshon Jermaine Norman did in Spartanburg County on or about January 19, 2016, knowingly sell, manufacture, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or did knowingly actually or constructively possess, or did knowingly attempt to actually or constructively possess more than (28) Twenty Eight grams of Cocaine Base and/or Crack Cocaine, a schedule II controlled substance, in violation of §44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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


ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 1st day of February, 2018.

RECEIVED

FEB 01 2018

SC Court of Appeals