

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Laurens County

Honorable Benjamin H. Culbertson, Circuit Court Judge  
\_\_\_\_\_

**RECEIVED**  
MAR 13 2018  
SC Court of Appeals

THE STATE,

RESPONDENT,

v.

KATY MCDONALD TUTTLE,

APPELLANT

APPELLATE CASE NO 2017-000883

\_\_\_\_\_  
RECORD ON APPEAL  
\_\_\_\_\_

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:  
STATE’S EXHIBIT NO. 1 (DVD)**

State of South Carolina ) In the Court of General Sessions  
 ) Eighth Judicial Circuit  
 County of Laurens ) 2014-GS-30-1771

State of South Carolina, )  
 )  
 Plaintiff, )  
 )  
 vs. ) Transcript of Record  
 )  
 Katy McDonald Tuttle, )  
 )  
 Defendant. )  
 )  
 \_\_\_\_\_ )

March 30-31, 2017  
 Laurens, South Carolina

B e f o r e:

The Honorable Benjamin H. Culbertson, Judge; and a  
 jury

A p p e a r a n c e s:

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1 TRIAL DAY 1 - 03/30/17

2 (Whereupon, the proceedings were commenced at 9:36 a.m.)

3 THE COURT: All right. These are Indictments 2017-  
4 GS-30-521 and 2014-GS-30-1771, *State of South Carolina v.*  
5 *Katy McDonald Tuttle*. Let's see. 2014-GS-30-1771 is  
6 possession with intent to distribute methamphetamine.  
7 And 2017-GS-30-521 is possession of a controlled  
8 substance, that being pregabalin, a Scheduled V  
9 controlled substance.

10 All right. Please give the court reporter your  
11 names and who you represent.

12 MR. BIXLER: Lyon Bixler, represent the State of  
13 South Carolina.

14 THE COURT: All right. Could you spell your last  
15 name for me?

16 MR. BIXLER: Bixler, B-i-x-l-e-r.

17 THE COURT: All right, Mr. Bixler. Thank you.

18 MR. BROOME: Yes, sir. Joel Broome of the public  
19 defender's office, and I represent Ms. Tuttle ---

20 THE COURT: All right.

21 MR. BROOME: --- Katy Tuttle.

22 THE COURT: All right. And could you spell your  
23 last name for me?

24 MR. BROOME: Yes, sir. It's B-r-o-o-m-e.

25 THE COURT: All right.

1 MR. BIXLER: Your -- Your Honor, also, Dale Scott  
2 will be representing the state.

3 THE COURT: All right. And what kind of pretrial  
4 matters do we need to deal with?

5 MR. BROOME: Your Honor, I've filed a motion to have  
6 a pretrial hearing, motion to suppress the drugs found,  
7 on the basis that the stop and search were a violation of  
8 my client's Fourth Amendment rights.

9 THE COURT: All right. Let me hear from you.

10 MR. BROOME: Would you like to hear the argument  
11 first or you like to hear my position on ---

12 THE COURT: Well ---

13 MR. BROOME: --- that or ---

14 THE COURT: --- I mean, if you've got a motion to  
15 suppress, let me hear your motion.

16 MR. BROOME: Essentially -- essentially, what I'm --  
17 they stopped her for speeding, Your Honor, back when this  
18 happened in 2014. They arrest her for suspicion of DUI.

19 At the time -- the -- the case law is clear: At the  
20 time of the stop, that's a seizure. And they begin --  
21 they search the -- they search her car. She's the only  
22 passenger in the car. And they claim that they find the  
23 -- they find meth in the -- somewhere in the passenger  
24 side.

25 I think, from the video, it's pretty clear that

1 she's already in custody. The -- this -- the officer --  
2 the arresting officer is the one who searches. The  
3 second officer shows up. He's the one who takes her out  
4 of the car, puts her in front of his car, attempt to do  
5 some field-sobriety tests on her, and then kind of  
6 questions her further and this makes up his mind that,  
7 you know, we're going to arrest her for DUI.

8 As he's placing my client, already in handcuffs,  
9 into her car, that's when the initial officer who stopped  
10 her for speeding says, you know, "I -- I'm searching her  
11 car. I got no choice." And then that's where the search  
12 begins.

13 So our argument would be that under *Gant*, you --  
14 you've got a stop; you've got a seizure. Because she's  
15 in custody, she presented no -- so under the *Belton*  
16 doctrine and under *Gant*, she's no threat to them at this  
17 point. There's no reasonable basis for them for officer  
18 safety for her to reach back into her car at that point,  
19 so then becomes under the second prong.

20 And the -- the state has -- now has the burden to  
21 show to the Court that -- that there were reasonable and  
22 particularized facts that there was criminal activity  
23 afoot that they knew offense, other than the -- the  
24 initial stop. So argument would be they don't -- there's  
25 -- under *Gant* it is not a per se rule that you stop them,

1 you suspect DUI, and then it doesn't fall under the  
2 automobile exception. Doesn't fall under *Belton* and its  
3 progeny, and especially *Gant*.

4 So I think the state may concede that she was in  
5 custody at the time of the search but -- because it's  
6 pretty clear on video. But now we're looking at facts to  
7 show that items that she were arrested for -- items of  
8 the offense that she was arrested for, driving under the  
9 influence, would be in the car at the time of the search.  
10 That's the first motion.

11 And then, there is a -- would Your Honor like me to  
12 address the *Miranda* -- *Jackson-Denno* hearing as --  
13 argument as well?

14 THE COURT: No. We'll get into that ---

15 MR. BROOME: Okay.

16 THE COURT: --- little bit later. All right. And  
17 so you're seeking to suppress, I guess, it's the  
18 methamphetamine in 2014-GS-30-1771, or does that all --  
19 oh, I guess that includes all of the drugs?

20 MR. BROOME: Yes, Your Honor.

21 THE COURT: So the -- the Scheduled V controlled  
22 substance and the methamphetamine were both found as a  
23 result of that search?

24 MR. BROOME: That's correct, Your Honor.

25 THE COURT: Okay. All right. Mr. Bixler, Mr.

1 Scott, who wants to argue?

2 MR. BIXLER: Your Honor, it's -- it's the state's  
3 position that it -- it was a valid search. Ms. Tuttle  
4 had been placed under arrest for DUI. The officers  
5 believed she was under the influence of narcotics. Under  
6 *Gant* they certainly can search for evidence of a crime  
7 being -- of -- of the crime committed. So we believe  
8 it's a valid search in that regard.

9 Additionally, as the -- because she was being  
10 arrested and if she was the only one in the car, there's  
11 no one else to take her car -- her car was being towed --  
12 the officers conducted an inventory search of the  
13 vehicle. And as -- under *State v. Boyd* ---

14 THE COURT: An inventory search at the scene?

15 MR. BIXLER: At the scene, Your Honor.

16 THE COURT: Okay.

17 MR. BIXLER: And under *State v. Boyd*, that is not a  
18 search, because it's not conducted for the purpose of  
19 finding and preserving evidence. It's ---

20 THE COURT: Well, I mean, what were they -- I mean,  
21 why did they search it? Was it an inventory -- to  
22 inventory what was in the car or were they searching it  
23 because of suspicion that a crime -- that it was  
24 associated with this crime? I mean, you can't have it  
25 both ways. You can't say, "We're conducting an inventory

1 to itemize what's in the car, but, oh, yes, and we also  
2 had this crime so we were searching it to see if there  
3 was evidence of the crime."

4 MR. BIXLER: I -- I ---

5 THE COURT: I mean, what was the basis for the  
6 search of the vehicle?

7 MR. BIXLER: The basis would be *Gant*; that they were  
8 searching for evidence of DUI. However, I think it's an  
9 inevitable discovery, based on the fact that they were  
10 going to inventory the vehicle, to protect her  
11 belongings.

12 THE COURT: Okay. All right. Anything in reply?

13 MR. BROOME: In reply to that, Your Honor, I think  
14 -- well, if we're going to take testimony, I'd just -- I  
15 think it's pretty clear -- and we'll get to it on the  
16 video -- that once they take her in, officers -- and I  
17 quote -- I -- I got to search this car. I have no  
18 choice; that they're looking for evidence of narcotics.

19 THE COURT: Well, that's what he's -- and I think  
20 he's ---

21 MR. BROOME: Yeah.

22 THE COURT: --- admitting that.

23 MR. BROOME: Sure.

24 THE COURT: He's saying that she was under the  
25 influence. They felt that she was under the influence of

1 narcotics and that's the reason that they searched the  
2 vehicle, as I understand your argument.

3 MR. BIXLER: That's correct.

4 THE COURT: So it really wasn't an inventory search.  
5 It was a search to discover evidence associated with the  
6 crime.

7 MR. BIXLER: Right. But I -- my -- I also would  
8 argue that it's inevitable discovery, based on the fact  
9 that they were -- would have to do an inventory search to  
10 protect her belongings.

11 THE COURT: Okay.

12 MR. BIXLER: And they ---

13 MR. BROOME: And I ---

14 MR. BIXLER: --- would have found it.

15 THE COURT: But you do not dispute or do you dispute  
16 the fact that she was stopped for speeding, arrested for  
17 DUI, and subsequent to being taken into custody, there  
18 was a search of the vehicle ---

19 MR. BIXLER: That ---

20 THE COURT: --- without a warrant ---

21 MR. BIXLER: I would not dispute that. No.

22 THE COURT: Okay. All right.

23 MR. BROOME: And so I think it -- under -- under  
24 *State v. Brown*, under that case, that they have to -- the  
25 state then has the burden, if they're going to argue

1 inevitable discovery, they have to show by preponderance  
2 of the evidence that they complied with their own  
3 inventory guidelines. I don't know what those are.

4 I -- I got a tow report that said they took  
5 miscellaneous clothing and items in bags. I don't know  
6 what their -- their guidelines are or if they're allowed  
7 to open containers or not.

8 But I think now that -- it's just back to them,  
9 based on that case that came out of Horry, showing that  
10 they can claim -- they can argue inevitable discovery if  
11 the state can show that they complied with their own  
12 regulatory guidelines, Your Honor.

13 THE COURT: All right. Well, let me hear from you  
14 on that on the inevitable discovery. What would have  
15 happened had you -- where would the car have been towed?  
16 When would the inventory have been taken place, and how  
17 would they have done the inventory?

18 MR. BIXLER: I think the testimony would bear out  
19 that officers do inventory vehicles.

20 THE COURT: But do they inventory them there at the  
21 scene, or do they tow the vehicle to a holding place and  
22 then two of them go through it or one of them or one of  
23 them goes through it? How do they log in the inventory?

24 MR. BIXLER: It's ---

25 THE COURT: I mean, what ---

1 MR. BIXLER: --- at the ---

2 THE COURT: --- is the ---

3 MR. BIXLER: --- scene ---

4 THE COURT: --- procedure?

5 MR. BIXLER: --- Your Honor.

6 THE COURT: Do what?

7 MR. BIXLER: It's at the scene.

8 THE COURT: Okay. So they never tow the vehicle and  
9 inventory after it's been towed. A vehicle is always  
10 inventoried at the scene of an arrest?

11 MR. BIXLER: That -- yes, sir.

12 THE COURT: All right.

13 MR. BIXLER: That's -- that's my understanding of  
14 the policy.

15 THE COURT: Okay. And what is the procedure for  
16 inventory? Does it -- can one single officer go through  
17 and does he log in everything that is retrieved from the  
18 car? Or does he do it by memory, or how does he produce  
19 what was inventoried and found in the car?

20 (Whereupon, Mr. Bixler and Officer Gainey  
21 conferred.)

22 MR. BIXLER: Your Honor, everything is logged in at  
23 the scene. Anything of value is seized, placed in the  
24 officer's vehicle, and it's logged in. They make a log.  
25 And in this case, they actually did it in front of the

1 video camera as well.

2 THE COURT: Okay. So every DUI, the car is  
3 inventoried at the scene following an arrest for DUI?

4 MR. BIXLER: Assuming that the vehicle would be  
5 towed.

6 THE COURT: Okay. What do you mean, assuming the  
7 vehicle would be -- oh.

8 MR. BIXLER: I mean, I'm -- I'm assuming ---

9 THE COURT: In other words ---

10 MR. BIXLER: --- there's -- there's ---

11 THE COURT: --- if it ---

12 MR. BIXLER: --- probably ---

13 THE COURT: --- was just ---

14 MR. BIXLER: --- situations in which they would  
15 release it to ---

16 THE COURT: I see.

17 MR. BIXLER: --- a -- a passenger or something.

18 THE COURT: All right. All right. Well, let's take  
19 a little break. Let me do some research, and I'll be  
20 back with you with my decision in just a minute.

21 MR. BROOME: Thank you, Your Honor.

22 THE COURT: All right.

23 (Off the record from 9:48 a.m. until 10:26 a.m.)

24 THE COURT: All right. I reviewed some case law.

25 And I'm going to deny the motion to suppress. My

1 understanding is that a warrantless search of a vehicle  
2 does not violate the defendant's Fourth Amendment right  
3 against unreasonable searches and seizures when the  
4 search of the vehicle is conducted pursuant to a lawful  
5 arrest and the search is for evidence of the crime for  
6 which the defendant was arrested.

7 So she was arrested for DUI. I think it'd be just  
8 like they found a beer can under the front seat. It's --  
9 it's the same thing. They suspected that she was under  
10 the influence, I'm assuming, of drugs or alcohol.

11 And so the way I read the case law is that's a  
12 permissible warrantless search. So I'm not going to --  
13 I'm going to deny the motion to suppress.

14 All right. Anything else?

15 MR. BROOME: Judge, we'd make our motion to suppress  
16 any statements. There's some statements that my client  
17 allegedly made. We're moving to suppress those under  
18 *Jackson v. Denno* and -- and *Miranda*.

19 THE COURT: All right. Are you going to introduce  
20 any statements made by the defendant in evidence?

21 MR. BIXLER: We would plan to, Your Honor.

22 THE COURT: Okay. Then, I guess we need to have the  
23 *Jackson v. Denno* hearing. Do we want to go ahead and go  
24 forward with that now?

25 MR. BIXLER: Okay. Thank you, Your Honor.

DIRECT EXAMINATION BY MR. BIXLER - JAMES LOGAN KANIPE 16

1 THE COURT: All right. Call your first witness.

2 MR. BIXLER: The state would call Logan Kanipe.

3 (Whereupon, the witness came forward.)

4 JAMES LOGAN KANIPE, having been first duly  
5 sworn, testified as follows:

6 THE COURT: All right, sir. If you would please  
7 give us your name and spell your first and last name.

8 THE WITNESS: James Kanipe. First name is  
9 J-a-m-e-s; last name, K-a-n-i-p-e.

10 THE COURT: All right, Mr. Bixler.

11 DIRECT EXAMINATION

12 BY MR. BIXLER:

13 Q Mr. Kanipe, where are you employed?

14 A Laurens Police Department.

15 Q Okay. And how long you been with Laurens Police  
16 Department?

17 A Little over three years.

18 Q Were you with Laurens Police Department in 2014?

19 A I was.

20 Q Okay. Were you working on July -- I'm sorry -- June  
21 30th of 2014?

22 A I was.

23 Q Did you have the opportunity to come into contact  
24 with Ms. Tuttle?

25 A Yes, sir.

DIRECT EXAMINATION BY MR. BIXLER - JAMES LOGAN KANIPE 17

1 Q And how did that come about?

2 A I was notified over the radio that Sgt. Gainey was  
3 requesting a unit to come over to the scene of traffic  
4 stop that he was on to assist him with a field sobriety  
5 -- someone who was possibly high on drugs.

6 Q And were you field-sobriety-certified?

7 A I was certified through the criminal justice academy  
8 in field sobriety.

9 Q Did you conduct field-sobriety tests?

10 A I did.

11 Q What tests did you perform?

12 A I attempted a horizontal gaze nystagmus, which is  
13 HGN, to check eyes. I also attempted the nine-step walk  
14 and turn, which was not able to be completed. And that  
15 -- that was where I stopped the tests.

16 Q Based on your observations during the tests, what  
17 did you determine?

18 A I determined that Ms. Tuttle was -- was too -- that  
19 she was impaired; that her faculties were depreciated and  
20 that she shouldn't be operating a motor vehicle.

21 Q And what did then -- what did you do then?

22 A I -- I -- I spoke briefly with Sgt. Gainey about  
23 what -- about what I had seen during those tests, and  
24 then I placed her under arrest for DUI.

25 Q Did you read her *Miranda* rights?

DIRECT EXAMINATION BY MR. BIXLER - JAMES LOGAN KANIPE 18

1 A I -- I advised her of her -- of her rights on  
2 camera.

3 Q Do you have a sheet that you read from?

4 A I -- I -- I -- typically. But I didn't read from a  
5 sheet.

6 Q You did it from memory?

7 A I did.

8 Q What were those rights that you gave her?

9 A She has the right to remain silent; anything that  
10 she said could -- could and -- and may be used against  
11 her in court; she has the right to an attorney; she has  
12 the right to have an attorney present before any  
13 questioning; and if she chooses to speak with me at that  
14 time, she could stop answering those questions and ask  
15 for an attorney.

16 Q Did she appear to understand those rights?

17 A She appeared to. She was -- she was trying to -- to  
18 go in conversation while I was reading her those rights.  
19 But I -- I read them to her, or I -- I advised her of her  
20 rights.

21 Q Even though you believed to be -- her to be  
22 impaired, she -- you ---

23 A I believed ---

24 Q --- believed ---

25 A --- the she ---

DIRECT EXAMINATION BY MR. BIXLER - JAMES LOGAN KANIPE 19

1 Q --- she understood them?

2 A --- she understood what was going on.

3 Q Did you threaten her in any way to ---

4 A No.

5 Q --- make ---

6 A No.

7 Q --- any statements?

8 Did you coerce her or ---

9 A No.

10 Q --- promise her anything?

11 A No. Absolutely not.

12 Q Did she make any statements to you?

13 A At that time she -- after -- after Miranda she was  
14 placed in the back of the -- in the back of the patrol  
15 car. I believe it was -- I believe it was post-Miranda  
16 that she asked me for a Breathalyzer, which I explained  
17 to her that she would have the opportunity to provide a  
18 breath sample. But then she was placed in the back of  
19 the patrol vehicle.

20 Q Did you ask her any other questions?

21 A No. Not -- not till we were at the police  
22 department, where she was read implied-consent procedure  
23 for the DataMaster.

24 MR. BIXLER: I don't believe I have any further  
25 questions of this witness.

CROSS-EXAMINATION BY MR. BROOME - JAMES LOGAN KANIPE 20

1 THE COURT: All right. Cross-examination.

2 CROSS-EXAMINATION

3 BY MR. BROOME:

4 Q Were you -- you're -- you're the officer that took  
5 her to the -- I call it the DataMaster room ---

6 A Yes, sir.

7 Q --- correct?

8 And there's a -- that's was at y'all's police  
9 department ---

10 A Yes, sir.

11 Q --- correct?

12 And there is a video camera in that room ---

13 A Yes, sir.

14 Q --- correct?

15 And we have that video, correct?

16 A I -- I'm not sure if the state has it or not.

17 Q Have you seen that video?

18 A I haven't reviewed the video.

19 Q Okay. Do you often review videos that -- from that  
20 room?

21 A Not typically from the ---

22 Q But you ---

23 A --- DataMaster room.

24 Q --- you advised the -- the suspects that they are  
25 being video-recorded, correct?

CROSS-EXAMINATION BY MR. BROOME - JAMES LOGAN KANIPE 21

1 A Yes.

2 Q Okay. And you testified that you Mirandized her on  
3 camera, correct?

4 A correct?

5 Q Did you Mirandize her additionally after you had  
6 arrested her and brought her into the police department?

7 A I don't recall.

8 Q You don't -- you never Mirandized her again?

9 A Not again.

10 Q Okay.

11 A I -- I don't -- I don't recall if I did.

12 Q Okay. Do you find it normal for someone who you  
13 feel is completely inebriated to understand questions  
14 that you ask them?

15 A Yes.

16 Q You do?

17 A If -- I -- I -- I didn't -- I never stated she was  
18 completely inebriated.

19 Q I think you -- you -- on the -- you're on the video  
20 -- Officer Gainey's in-car camera, I think you -- you  
21 mention that she looked like she was tweaking out?

22 A Correct.

23 Q Can you elaborate on what "tweaking out" means to  
24 you?

25 A Generally, when someone's under the influence of

CROSS-EXAMINATION BY MR. BROOME - JAMES LOGAN KANIPE 22

1 methamphetamines, their motor skills are -- are hyper and  
2 excited. They're generally not able to stand still. A  
3 lot of times they're -- they can't keep their head still.  
4 That's -- that's what -- what I meant by "tweaking out."  
5 That's generally something we see with someone on  
6 methamphetamines or some type of -- of stimulant.

7 Q Did you -- after you read her Miranda rights, did  
8 you ask her if she understood everything that you asked  
9 of her and read to her?

10 A I don't recall.

11 Q Do you have -- after you took her to the -- to the  
12 -- the police department, did you ever have her fill out  
13 a written statement?

14 A I didn't have her fill out a written statement.

15 Q Do you have written statements for witnesses that  
16 y'all keep in your office?

17 A For this case?

18 Q For any case. Sometimes you will want to interview  
19 a -- a -- doesn't have to be a defendant.

20 A Correct.

21 Q Aren't there some times you want to interview  
22 witnesses?

23 A Generally, if we interview a witness, that's then  
24 sent up with our paperwork into a -- and -- and it's  
25 placed in a file with our records clerk.

CROSS-EXAMINATION BY MR. BROOME - JAMES LOGAN KANIPE 23

1 Q Okay. And y'all took her from Anderson Drive to  
2 your police department ---

3 A Right.

4 Q --- correct?

5 Where y'all's offices are located?

6 A That's correct.

7 Q Okay. And y'all have a typical -- what we call a  
8 standard Miranda waiver form. Are you familiar with  
9 that?

10 A Yes.

11 Q Okay. And on that form it has each right listed  
12 individually.

13 A Yes.

14 Q Are you familiar with that?

15 A I am.

16 Q You have the right to an attorney.

17 A Yes.

18 Q Next to each line, there is a blank space, right,  
19 where the -- the suspect, witness, or defendant can  
20 initial, correct?

21 A Correct.

22 Q For reach right, correct?

23 A Correct.

24 Q At the bottom there is a signature block, correct?

25 A Correct.

CROSS-EXAMINATION BY MR. BROOME - JAMES LOGAN KANIPE 24

1 Q That is for the person to sign, correct?

2 A That's correct.

3 Q And that way you can ensure that if you have to come  
4 to court, you can -- this is where I read each right and  
5 this person understood it, correct?

6 A That's correct.

7 Q There's also a witness block there, correct, so  
8 someone other yourself can say they -- they witnessed  
9 this possibly, correct?

10 A That's correct.

11 Q You do any of that in this

12 A I did not.

13 Q Okay.

14 A I -- no.

15 Q After you Mirandized her on the camera at Anderson  
16 Drive -- and I think I may have asked this again, but did  
17 -- did you -- you did not Mirandize her any -- any  
18 further, correct?

19 A Not that I recall.

20 Q Do you recall anyone else Mirandizing her any  
21 further?

22 A I don't recall.

23 Q Okay. Do you recall anything else about this case  
24 after -- after she blew double zeros at the DataMaster  
25 room?

CROSS-EXAMINATION BY MR. BROOME - JAMES LOGAN KANIPE 25

1 A Sgt. Gainey spoke with her at the police department  
2 after -- after I was done with the DataMaster?

3 Q Were you present for that?

4 A I don't recall if I was present in there or not.

5 Q Then, how do you know that he talked to her?

6 A I know that he spoke with her. But I -- I -- I  
7 don't remember if I was in there. I know from -- from my  
8 report.

9 Q You wrote a report in this case?

10 A Just -- Sgt. Gainey wrote a report.

11 Q You said that you knew from your report. Did you  
12 write a report in this case?

13 A No.

14 Q Okay. So you don't have a report?

15 A No. I know from the report.

16 Q The report?

17 A Yeah. Correct.

18 Q Did you write any report in this case?

19 A No.

20 Q Okay. So you don't recall, but maybe Officer Gainey  
21 went and spoke to her one on one?

22 A That's correct.

23 Q Just the two of them?

24 A Correct.

25 Q Okay. Do you know what room that was?

1 A I don't.

2 Q Would that have been the station?

3 A It'd have been at the police department.

4 Q At the police department?

5 A Yes.

6 Q If it would've been the DataMaster room, that  
7 would've been on video?

8 A That would've been.

9 Q Okay.

10 A That's . . .

11 Q And you never asked her any questions, just to be --  
12 to be clear, after the DataMaster was ---

13 A Not that I recall, any -- any -- I didn't -- I don't  
14 recall asking her any questions ---

15 Q Okay.

16 A --- related to her crimes.

17 Q When you were in the DataMaster room, did anyone  
18 else, other than Officer Gainey, any other officers, come  
19 into that room?

20 A In the DataMaster room?

21 Q Yes.

22 A Not that I'm aware of.

23 Q Okay. So if there's someone else that -- that shows  
24 up and asks you a question that's not Officer Gainey ---

25 A I -- I don't ---

CROSS-EXAMINATION BY MR. BROOME - JAMES LOGAN KANIPE 27

1 Q --- that would ---

2 A --- recall ---

3 Q --- be ---

4 A --- I don't recall ---

5 Q --- bizarre?

6 A --- if anyone else ---

7 Q Okay.

8 A --- came in the DataMaster room.

9 Q Okay. No one else came ---

10 A No one ---

11 Q --- in there?

12 A --- would've been in the room with -- in the  
13 DataMaster room with her.

14 Q Not with -- not with her. With you?

15 A I -- I don't recall. Someone -- someone could've  
16 come in there in the -- in the interim while I was in the  
17 DataMaster room to speak with me.

18 Q Okay.

19 A But I don't recall.

20 MR. BROOME: No further questions, Your Honor.

21 THE COURT: Redirect?

22 MR. BIXLER: Briefly, Your Honor.

23 (Whereupon, Mr. Bixler and Mr. Broome conferred.)

24 (Off the record briefly.)

25

REDIRECT EXAMINATION BY MR. BIXLER - JAMES LOGAN KANIPE 28

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REDIRECT EXAMINATION

BY MR. BIXLER:

Q I'm going to hand you something.

MR. BIXLER: Let me get it marked.

(Whereupon, State's Exhibit 1 was marked for  
identification.)

Q I'm going to hand you something and see if you  
recognize it.

A That's a video from my vehicle.

Q And how do you know that's from your vehicle?

A I viewed it and initialed it.

Q And is it a fair and accurate representation?

A It is.

MR. BIXLER: Permission to publish?

THE COURT: Okay. What is that? What -- how is it  
identified?

MR. BIXLER: It's his in-car camera.

THE COURT: I mean, how is it identified?

MR. BIXLER: I'm sorry. It's State's Exhibit 1 for  
ID. Excuse me.

THE COURT: All right. Any objection to the  
publication of State's Exhibit 1?

MR. BROOME: No, Your Honor.

THE COURT: All right. Go ahead.

(Off the record briefly.)

REDIRECT EXAMINATION BY MR. BIXLER - JAMES LOGAN KANIPE 29

1 (Whereupon, the video was published in open court.)

2 (Whereupon, Mr. Bixler and Mr. Broome conferred.)

3 Q Do you recall ---

4 A I ---

5 Q --- giving her warnings?

6 A I do.

7 Q And she -- we heard her say she understood them.

8 Did you ---

9 A Yeah.

10 Q --- do you believe she understood them?

11 A I believe she understood what I was asking her.

12 Q All right. Thank you.

13 THE COURT: For *Jackson v. Denno*, any follow-up  
14 questions?

15 MR. BROOME: Not for this officer, Your Honor.

16 THE COURT: All right. You may step down. Call  
17 your next witness.

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

19 MR. BIXLER: The state calls Michael Gainey.

20 (Whereupon, the witness came forward.)

21 MICHAEL GAINNEY, having been first duly sworn,  
22 testified as follows:

23 THE COURT: Sir, if you'd please give us your name  
24 and spell your first and last name.

25 THE WITNESS: It's Michael Gainey. First name is

DIRECT EXAMINATION BY MR. BIXLER - MICHAEL GAINNEY 30

1 M-i-c-h-a-e-l; last name G-a-i-n-e-y.

2 THE COURT: All right, sir.

3 DIRECT EXAMINATION

4 BY MR. BIXLER:

5 Q All right. Mr. Gainey, where are you employed?

6 A Laurens Police Department.

7 Q How long you been with Laurens Police Department?

8 A Almost eight years.

9 Q And you had contact with Ms. Tuttle on June 30th as  
10 well?

11 A I did.

12 Q What was your contact with Ms. Tuttle?

13 A I was the initiating officer. I initiated a traffic  
14 stop on Ms. Tuttle.

15 Q Did she -- when you -- when you went up to the  
16 vehicle, did you tell her anything? say anything?

17 A That's correct. I identified myself, the agency,  
18 and the reason for the stop. I asked her to provide her  
19 driver's license, vehicle registration, and proof of  
20 vehicle insurance.

21 Q And what did you tell her the reason for the stop  
22 was?

23 A I clocked her at 57 -- or a registered speed of 57  
24 in a 45.

25 Q Did she say anything to you then?

DIRECT EXAMINATION BY MR. BIXLER - MICHAEL GAINNEY 31

1 A She just stated she -- her speech was very confused.  
2 She was offering a lot of information that wasn't being  
3 requested. She stated that she was traveling to  
4 Lancaster. She had went to Anderson and dropped her --  
5 her boyfriend's child off or -- or something. I don't --  
6 I don't recall exactly what was said, but . . .

7 Q What did -- what were your observations of Ms.  
8 Tuttle?

9 A She -- her -- she -- she displayed -- her behavior  
10 indicated to me that she was under the influence of some  
11 type of amphetamine.

12 Q And is that when you radioed for backup?

13 A That's correct. Well, I made the determination that  
14 she was under some type of amphetamine, I mean, on  
15 initial contact. Once she provided her driver's license  
16 -- I think she give me her vehicle registration. She  
17 failed to provided proof of insurance. As I walked back  
18 to my vehicle, I advised other units -- somebody to  
19 respond who was field-sobriety-certified; advised them  
20 that I believe the -- the driver of the vehicle I had  
21 stopped was under the influence of -- I think I stated  
22 1039, which is narcotics, which is our code for drugs.

23 Q And who responded?

24 A Officer Kanipe.

25 Q And that's when he performed field-sobriety tests?

1 A That's correct. When he -- when he arrived on  
2 scene, I explained to him the situation that I had and  
3 asked him would he perform field sobriety.

4 Q And ultimately, you're aware of what happened?

5 A That's correct.

6 Q What -- and that was that he -- he arrested her?

7 A Right. He -- he told me his findings and he -- he  
8 felt the same, that she was under the influence of  
9 methamphetamines, and he advised that he was placing her  
10 under arrest for driving under the influence.

11 Q Okay. And he -- he arrested her, and he left?

12 A He did.

13 Q What did you do?

14 A .. At that point I searched the vehicle. During that  
15 traffic stop -- and -- and you can it on camera -- she  
16 made a furtive movement to the passenger side, which  
17 indicated to me that she was possibly concealing  
18 something. Once I initiated a search of the vehicle, I  
19 went straight to the passenger side, where the movements  
20 that I seen and discovered there was methamphetamine  
21 located in the vehicle.

22 Q Once you completed your search, where did you go?

23 A I -- after the tow -- after the tow service had  
24 picked up the vehicle and they left, I responded back to  
25 the police department.

DIRECT EXAMINATION BY MR. BIXLER - MICHAEL GAINNEY 33

1 Q Okay. And who was there?

2 A I don't recall everybody ---

3 Q But ---

4 A --- that ---

5 Q Well, I mean ---

6 A --- was there. Officer Kanipe and Ms. Tuttle were  
7 there.

8 Q Where was -- where were they?

9 A I believe, when I first got there, they were in the  
10 DataMaster, performing the -- the DataMaster.

11 Q Did you speak to her after that?

12 A I did. Once she came out of the DataMaster, she was  
13 transferred to the booking room, where her picture was  
14 taken and she was asked all the booking questions,  
15 getting all her pertinent information. At that point I  
16 advised her -- she had already been advised she was under  
17 arrest for DUI. I advised her she was also under arrest  
18 for possession of -- or possession with intent to  
19 distribute methamphetamine, due to the weight of the  
20 methamphetamine, as well as possession of a scheduled  
21 drug.

22 Q Did you read Miranda to her?

23 A I did.

24 Q Do you do it from memory, or do you have a card?

25 A I normally -- I -- I always use a card. I just

1 don't have the card with me today. But it's actually a  
2 -- it's a hard card. It looks like a driver's license.  
3 It's given through the South Carolina P.B.A. -- or  
4 Southern States P.B.A.

5 Q And what -- what -- what did you say? What were ---

6 A I advised Ms. Tuttle of -- of the charges that she  
7 was being -- she was being charged of. I advised her  
8 that she had a right to remain silent; anything she said  
9 could be used against her in a court of law; she had the  
10 right to an attorney; if she couldn't afford one, one  
11 would be appointed by the court system. I advised her  
12 that if she decided to talk to me, at -- now without an  
13 attorney present, she could stop answering any questions  
14 and consult with an attorney. She was again asked did  
15 understand those rights, and she stated she did.

16 Q Did she -- did -- and did you believe that she did?

17 A I did.

18 Q Did you promise her anything? threaten her in any  
19 way?

20 A I didn't.

21 Q Did you coerce her in any sort of ---

22 A I didn't. And -- and -- and the interrogation that  
23 followed that was -- was brief. I don't know the exact  
24 time. But I would say I didn't speak with her no more  
25 than maybe two minutes. Once she -- once she advised --

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 35

1 once she answered a few questions, at that point, she  
2 stated that she wanted legal counsel.

3 Q What did you ask her before she ---

4 A I asked ---

5 Q --- invoked ---

6 A --- her did ---

7 Q --- her right ---

8 A --- she -- had she -- did she bring the  
9 methamphetamine from Florida originally. She said she  
10 didn't have any methamphetamine.

11 I asked her about the controlled drug. I think it  
12 was Lyrica was the controlled pills. I asked her did she  
13 have a prescription for that. She stated she did.

14 I asked her did she smoke or inject methamphetamine.  
15 She stated she smoked it. At that time I asked her did  
16 she purchase it in the states -- in -- in -- in South  
17 Carolina or did she transport it across the state line.  
18 And her response to me was: "No. We bought it here."

19 MR. BIXLER: I don't have any further questions.

20 THE COURT: All right. Cross-examination.

21 CROSS-EXAMINATION

22 BY MR. BROOME:

23 Q Can you tell us about any training you've received  
24 about interviewing witnesses or suspects?

25 A I -- I've taken several training classes. I don't

1 know the dates on them or, you know, if they were pre-  
2 this incident or post. I'm not sure.

3 Q You're not sure when you took it, if it -- before  
4 this incident, did you take any interrogation-  
5 certification classes?

6 A No.

7 Q Okay. Anyone train you on interviewing witnesses?

8 A No.

9 Q Or defendants?

10 A No.

11 Q Suspects?

12 A No.

13 Q Okay. So when you're questioning a suspect, it's  
14 just off of -- you're kind of willy-nilly?. There's no  
15 guidance there for you?

16 A No. I mean, it's -- it's based on the case that I'm  
17 investigating.

18 Q But no one's -- no officer has trained you on how to  
19 properly conduct an interrogation?

20 A I mean, I -- I received training from senior  
21 officers as I was coming up in my career. But formal  
22 training, no. I have not received any formal training.

23 Q Okay. When you took her out of the DataMaster room

24 ---

25 A I didn't take her out of the DataMaster.

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 37

1 Q Who took her out again?

2 A Officer Kanipe. He -- he -- he was in control of --  
3 of the entire DataMaster.

4 Q Okay. And you took over from there?

5 A I walked in the booking room while she was being  
6 booked.

7 Q So Officer Kanipe was present when you were asking  
8 her these questions?

9 A I don't recall if he was. He may have stepped out.  
10 The -- the booking process was being done as -- as I  
11 walked in and spoke with her.

12 Q Okay.

13 A She -- I think she had -- she had inquired about  
14 what charges she was being charged with. And at that  
15 point I came in to explain the charges.

16 Q At some point -- and it's on video -- she's -- she's  
17 asked several times to make a phone call. She's -- she's  
18 from -- did she not?

19 A That's -- yes, sir. I knew she was from Florida.  
20 The -- the vehicle displayed a Florida tag.

21 Q Okay. She said, "I wanted to call my family  
22 member," correct?

23 A That's correct.

24 Q She had family members in South Carolina, correct?

25 A That's correct.

1 Q They didn't know where she was going to be once she  
2 was arrested, correct?

3 A That's correct.

4 Q Did you let her make any phone calls?

5 A We don't. She -- she -- she is allowed to make a  
6 phone call once she get to the detention center. That's  
7 officer safety. Once -- once a defendant's placed in --  
8 in custody, they're not to make any phone calls until  
9 they're secure in the detention facility.

10 Q What about to their lawyer?

11 A They can do that once they get into -- if -- if --  
12 if they had -- once she said she wanted legal counsel,  
13 the -- I stopped talking to her.

14 Q Did you provide her a chance to call an attorney?

15 A I didn't. They ---

16 Q You ---

17 A --- do that ---

18 Q --- did not?

19 A That's the detention center.

20 Q You said -- I thought you just said that they were  
21 given an opportunity to call a lawyer ---

22 A No.

23 Q --- from your station?

24 A No. I never said that.

25 Q So if someone's arrested and in custody in your

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 39

1 station, they are not allowed to call an attorney?

2 A That's correct.

3 Q After ---

4 A If they're ---

5 Q --- they're ---

6 A --- under -- if they're in -- if they're in custody,  
7 they are not allowed to make a phone call until they are  
8 secure in a detention facility.

9 Q After they've requested one?

10 A Correct.

11 Q Okay. Is that your policy?

12 A That -- that's officer-safety issue. That -- I'm --  
13 I'm not sure if it's written in policy. But when I  
14 supervise a shift, that was the way -- that was our  
15 operating procedure.

16 Q When you questioned her, who was in charge of this  
17 -- was this -- were you the only one in charge of this  
18 interrogation?

19 A That's correct. It was my case.

20 Q And did you do anything to prepare for it?

21 A I didn't.

22 Q Okay. So you controlled everything? You controlled  
23 the questions, right?

24 A Correct.

25 Q Can you describe the room that you took her to when

1 you questioned her?

2 A It was our booking facility. She -- or our booking  
3 room. There's a desk, a computer. It's -- it's just --  
4 it's -- it's a room.

5 Q So the -- there's ---

6 A It's a big room. It's not -- I mean, it's not, you  
7 know, a small, confined space. There's a big room.  
8 There's a desk.

9 Q Are there any windows to the outside?

10 A There's not.

11 Q Okay. And this is at night when you arrested her,  
12 correct?

13 A That's correct.

14 Q Okay. What was the lighting like in that room?

15 A It's bright.

16 Q It was bright?

17 A It was bright.

18 Q Can you describe -- how -- why was it bright?

19 A There's lights in there.

20 Q What kind of lights?

21 A I -- I'm not sure.

22 Q You're not sure?

23 A There -- there's lights in the room.

24 Q Would it have been a lamp or a fluorescent ---

25 A No. It's ---

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 41

1 Q --- bulb?

2 A --- it's ceiling lights.

3 Q Okay. And there was no one else in that room?

4 A They -- she was being booked in. I was not the  
5 booking officer, so I'm sure there -- there were other  
6 people in the room. I just don't recall ---

7 Q Okay.

8 A --- who was ---

9 Q So ---

10 A --- in. There -- there were -- at that time I  
11 supervised five officers. So there -- I had five  
12 officers on my shift. I'm sure there were more people  
13 walking in and out. I'm not sure.

14 Q Okay. So there -- there may or may not have been  
15 other ---

16 A Correct.

17 Q --- officers in that room?

18 A Correct.

19 Q Okay. And it's certainly not in your report exactly  
20 where you took her to be interrogated, correct?

21 A She was interrogated in the booking room.

22 Q In the booking room?

23 A (No audible response.)

24 Q Was any of this interview placed on video?

25 A No.

1 Q Now, you said you Mirandized her again. You were in  
2 this room while I asked Officer Kanipe questions. You  
3 have standard Miranda-waiver forms in your station ---

4 A Correct.

5 Q --- correct?

6 A Correct.

7 Q And we've been through that with him. But you go  
8 through each right.

9 A Correct.

10 Q And there's a place for the suspect to initial.

11 A That's correct.

12 Q And then sign at the end.

13 A Correct.

14 Q Correct?

15 A Correct.

16 Q That way, they -- you're completely sure that they  
17 understand everything -- all of their rights ---

18 A Correct.

19 Q --- correct?

20 And that is sometimes the only proof that we have  
21 that you actually Mirandized someone, correct?

22 A Other than testimony, correct.

23 Q Correct. The only independent evidence ---

24 A Right.

25 Q --- we have ---

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 43

1 A Correct.

2 Q --- right?

3 A Correct.

4 Q Come to court is something like that?

5 A Correct.

6 Q Okay. Did you do any of that in this?

7 A I did not.

8 Q Did you ask her to write a written statement?

9 A I did not.

10 Q Okay. Anything to prevent you from doing that?

11 A Yes. I would have once -- once my questions were  
12 done -- my interrogation was done, she would've been  
13 afforded the opportunity to -- to provide a written  
14 statement. Once she advised she -- she -- she wished to  
15 retain legal counsel, my interrogation was done.

16 Q Were those -- were those her words, I -- I wish to  
17 seek ---

18 A I don't ---

19 Q --- legal ---

20 A --- remember ---

21 Q --- counsel?

22 A --- I don't remember what the exact words were. But  
23 she mentioned that she wanted to speak with an attorney;  
24 she wanted to -- I knew she was saying she -- when she  
25 said we got here, my indication was she realized what she

1 was saying and she -- she wished to speak to a lawyer at  
2 that point.

3 Q First thing you put in your report and you testified  
4 earlier is that she was rambling -- she was saying  
5 rambling and confusing phrases ---

6 A That's correct.

7 Q --- correct?

8 A That's correct.

9 Q And you didn't have no idea of what she was  
10 testifying -- or ---

11 A That's correct.

12 Q --- what she was saying, correct?

13 A That's correct.

14 Q Now, 20 minutes later you have a -- you understand  
15 everything she's saying?

16 A I know she said she wanted an attorney or she  
17 indicated that she wished to speak with an attorney.

18 Q Okay. Everything is crystal clear 20 minutes later,  
19 correct?

20 A I'm not going to say crystal clear. She was still  
21 under the influence of methamphetamine.

22 Q So she's under the influence and you decided to  
23 interrogate someone ---

24 A That's correct.

25 Q --- under the influence of methamphetamine?

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 45

1 A That's correct.

2 Q You felt like -- do you typically feel that people  
3 who are under the influence of methamphetamine can  
4 understand ---

5 A She was ---

6 Q --- everything ---

7 A --- she was coherent enough to understand what --  
8 what -- what I was saying. She -- she -- it was apparent  
9 to me that she had been read her rights before ---

10 Q Okay.

11 A --- and -- and been through this process.

12 Q You just chose not to do that in this case? Was she  
13 ---

14 A Do ---

15 Q --- left by -- left by herself for any length of --  
16 time?

17 A No. She was -- she was always in custody of an  
18 officer.

19 Q Always in handcuffs?

20 A Once -- once she -- once custody was turned over to  
21 the detention center, I'm not sure if she was left by  
22 herself or not. When she was in our custody, she was  
23 always with an officer.

24 Q Okay. And then, when you answered -- when you asked  
25 her these questions, did she fire an answer off right

1 away or were there any periods of silence?

2 A I don't recall.

3 Q Don't recall if there was any silence?

4 A I don't recall.

5 Q Where were you standing? Was she sitting down?

6 A I don't recall. She may have been. She -- if -- if

7 it was -- she could've been standing. Typically --

8 typically, she would've been sitting down.

9 Q Sitting down and ---

10 A But I don't recall exactly. This was almost three

11 years ago.

12 Q And she'd be standing up -- or you'd be standing up?

13 A Normally, I would be sitting at the desk as well.

14 Q Be sitting at the desk with her?

15 A Right.

16 Q Okay. And can you clarify what your tone of voice

17 was with her?

18 A I don't recall.

19 Q Okay.

20 A There was -- I -- I can -- I can say that I was -- I

21 -- there was no frustration. I wasn't frustrated.

22 Q Uh-huh. How was the -- do you know the pace of your

23 questions? You testified ---

24 A I don't ---

25 Q --- to three questions.

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 47

1 A Right. I don't -- I don't remember how fast I was  
2 -- I was asking the questions. I don't remember any of  
3 that.

4 Q And she's in handcuffs this whole time, correct?

5 A Yes, she would've been in handcuffs. She was in --  
6 she was in the booking facility.

7 Q And you're still in your uniform ---

8 A Correct.

9 Q --- right?

10 A Correct.

11 Q Different than way -- the way you're dressed for  
12 court, correct?

13 A That's correct.

14 Q What was her demeanor like?

15 A She was -- she was hyperactive. At -- at one point  
16 she had -- she had asked to call a family member. She  
17 started -- I could tell she was concerned. And I  
18 explained to her that she would be allowed -- she'd be  
19 afforded that opportunity to make a phone call once she  
20 got to the detention center.

21 Q Okay. And -- and I think you already testified, you  
22 didn't -- you really didn't have a plan in asking these  
23 questions ---

24 A I didn't.

25 Q --- right?

1 A I didn't.

2 Q So the first question you asked her was -- let me  
3 find it in here -- asked her if the meth came from  
4 Florida, and she stated she did not have meth, correct?

5 A That's correct. She ---

6 Q How did you handle that denial?

7 A I -- I asked her about -- I transitioned to the next  
8 question.

9 Q So immediately, you asked the second question?

10 A Correct. I don't know if it was immediately. But  
11 the next -- the next question was asking her about the --  
12 I think it was Lyrica. There was a scheduled drug that  
13 she had. I'm pretty sure it was Lyrica.

14 Q Okay. And after she said -- after she responded to  
15 that, what ---

16 A She stated she had a prescription for Lyrica.

17 Q What was your response to that?

18 A I transitioned into the next question.

19 Q Okay.

20 A And that was how she used methamphetamine.

21 Q Did you ever tell her anything that her silence or  
22 -- would be -- could be used against her?

23 A No.

24 Q Would be better to fess up?

25 A No. There was no -- there were no -- she -- she

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 49

1 inquired. This interrogation was -- was a response to  
2 her asking what she was charged with and wanting to know.

3 Q Uh-huh.

4 A Normally -- normally, I would not even have  
5 interrogated her.

6 Q You can ---

7 A And I ---

8 Q You -- sorry. Go ahead.

9 A I asked her -- the -- the next follow-up question  
10 was: "How do you use methamphetamine? Do you inject  
11 it?"

12 And her response was: "No. I smoke it."

13 Q So you asked her, "Do you have any meth?" And she  
14 says, "No."

15 A Correct.

16 Q You asked her, "What about the pills?" And she  
17 says, "I have pills I have a prescription for."

18 A Right.

19 Q And then you asked her, "How do you use meth?"

20 A Right.

21 Q Even though she's -- she's said, "I don't have any  
22 meth."

23 A She said she didn't have it. It was clear to me  
24 that she was under the influence and she used  
25 methamphetamine.

1 Q My question is: You asked her that third question,  
2 that one, two, three.

3 A Right.

4 Q And now she just confesses, right?

5 A She said she smoked methamphetamine.

6 Q She said she smoked methamphetamine?

7 A Right.

8 Q The third one's a charm?

9 A (No audible response.)

10 Q Anything to stop you from putting this -- putting  
11 her back in the DataMaster room to interview her?

12 A No.

13 Q You have body cameras in your station back then?

14 A Not -- not at that time, we didn't.

15 Q You have an iPhone?

16 A A personal phone. Yes.

17 Q You could've recorded this?

18 A No. Not on my personal phone.

19 Q No?

20 A No.

21 Q But you could've taken her back to the DataMaster  
22 room?

23 A I could have. But once the DataMaster is done, you  
24 have to have an -- a separate number -- separate case  
25 number.

REDIRECT EXAMINATION BY MR. BIXLER - MICHAEL GAINNEY 51

1 Q And you had -- you had cameras in your car?

2 A Yes.

3 Q Okay. So we've established that you have video --  
4 video-recording capabilities in your office at this time?

5 A We have it in our vehicle.

6 Q Okay. And you just chose not to do any of that?

7 A Correct.

8 MR. BROOME: I think that's all the questions I  
9 have, Your Honor ---

10 THE COURT: All right.

11 MR. BROOME: --- for this witness.

12 THE COURT: Redirect?

13 MR. BIXLER: Briefly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. BIXLER:

16 Q How big is the DataMaster room?

17 A Not very big. I mean, I don't know the exact  
18 dimensions, but it's just two -- it -- it's a room  
19 separated by a wall with a glass. One side's for the  
20 defendant; one side's for the -- the officer.

21 Q You ---

22 A It would be very tight for two people to fit in  
23 either side of -- of the wall.

24 Q Is it an ideal place to conduct interrogations?

25 A No. No.

REDIRECT EXAMINATION BY MR. BIXLER - MICHAEL GAINNEY 52

1 Q Do you typically conduct interrogations ---

2 A Never -- I never have.

3 MR. BIXLER: Nothing further.

4 THE COURT: All right. You may step down.

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

6 THE COURT: All right. You can call your next  
7 witness.

8 MR. BIXLER: That -- we don't have any further  
9 witnesses for ---

10 THE COURT: All right.

11 MR. BIXLER: --- the *Jackson* hearing ---

12 THE COURT: Anything you ---

13 MR. BIXLER: --- Your Honor.

14 THE COURT: --- want to present?

15 MR. BROOME: I'd like to call my client to the  
16 stand, Your Honor.

17 THE COURT: All right. She needs to be advised that  
18 she has the right to remain silent. Anything she says,  
19 even during the course of this *Jackson v. Denno* hearing,  
20 can be used against her.

21 MR. BROOME: Okay.

22 (Whereupon, the witness came forward.)

23 KATY TUTTLE, having been first duly sworn,  
24 testified as follows:

25 THE COURT: All right. Ma'am, if you would please

1 give us your name and spell your first and last name.

2 THE DEFENDANT: Katy McDonald Tuttle. It's K-a-t-y;  
3 T-u-t-t-l-e. Sorry.

4 THE COURT: All right. Ms. Tuttle, now, I need to  
5 remind you that these charges are pending against you.  
6 You have the right to remain silent. Anything you say  
7 can be used against you in the trial of this case. You  
8 understand that?

9 THE DEFENDANT: I do.

10 THE COURT: All right. So if the question is asked,  
11 you must assert your Fifth Amendment right that you do  
12 not wish to answer on the grounds that it might  
13 incriminate you. Otherwise, it can be used against you.  
14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: All right. Anything you want to put on  
17 the record in regard to that further ---

18 MR. BROOME: Just ---

19 THE COURT: --- about ---

20 MR. BROOME: You understand your -- the questions I  
21 ask, if you answer them, you -- you waive your right to -  
22 --

23 THE DEFENDANT: Yes.

24 MR. BROOME: --- be silent? Okay. Nothing further,  
25 Your Honor.

DIRECT EXAMINATION BY MR. BROOME - KATY TUTTLE 54

1 THE COURT: All right. Anything further the state  
2 wants on the record in that regard?

3 MR. BIXLER: Nothing further.

4 THE COURT: All right. Go ahead.

5 MR. BROOME: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MR. BROOME:

8 Q Ms. Tuttle, I'm going to -- we're just going to go  
9 right to the DataMaster room ---

10 A Uh-huh.

11 Q --- okay?

12 Officer Kanipe placed you in the DataMaster room?

13 A Yes..

14 Q Okay. And you -- you blew?

15 A (Nodded head up and down.)

16 Q Okay. After that, can you tell the Court what  
17 happened, after you're done with your -- your tests?  
18 Where did you go from there?

19 A All right. They -- he took me into a room.

20 Q Who is ---

21 A It was ---

22 Q Who is he?

23 A It was the first officer, the one that did the --  
24 the Breathalyzer. Yeah.

25 Q Officer ---

DIRECT EXAMINATION BY MR. BROOME - KATY TUTTLE 55

1 A And the one ---

2 Q --- Kanipe?

3 A --- that -- the one that actually, you know, was the  
4 arresting officer, or so I thought. He took me into a  
5 room with two other gentlemen in tow. You know, they  
6 were both ---

7 Q Were they ---

8 A --- or there was ---

9 Q --- were they officers?

10 A --- there was actually three of them, and took me  
11 into the room, into a dark room with only a lamps on --  
12 there was only a lamp on the desk. Sat down next to the  
13 desk. And Logan, the -- or -- I mean, the officer,  
14 Logan, sat in front of me. So I was facing this way, and  
15 he -- or I was facing this way -- the desk, the lamp.  
16 And he was sitting at this desk right here.

17 Then, two -- there was -- there was two other  
18 officers in there -- or two other people in there, two  
19 other men in there.

20 Q Two other men that did -- are any of those men here  
21 in ---

22 A No.

23 Q --- the courtroom?

24 A Unh-unh.

25 Q So it would've been Officer Kanipe and Gainey?

1 A They -- he -- he wasn't in there yet.

2 Q Initially?

3 A (Nodded head up and down.)

4 Q Okay.

5 A Yes.

6 Q Were they asking you any questions?

7 A No. They hadn't asked me any questions then.

8 Q Okay. Were they ---

9 A Just sat me down and sat down and then in he comes.

10 Q How long did that period -- how long did it take for  
11 him to show up?

12 A Just a few minutes.

13 Q Okay.

14 A Yeah. Just, like -- just a few minutes.

15 Q How close were they standing to you -- or sitting to  
16 you?

17 A He -- the first officer was sitting right in front  
18 of me.

19 Q Uh-huh.

20 A And then, the other two were, like, leaned up  
21 against something, the wall or maybe another desk or  
22 something. But they were right beside him. And he came  
23 walking in. He never -- he was never sat down. I mean,  
24 he -- he stood up.

25 Q Okay. So who was the first officer who spoke to

1 you?

2 A Kanipe.

3 Q Kanipe?

4 A Kanipe, yeah.

5 Q What did he say to you?

6 A He didn't really say anything. I mean, he was the  
7 first one that spoke to me, like, and -- and said that,  
8 you know, "We're going to take you over here into this  
9 room." And, you know, that's when they came in -- or he  
10 came in.

11 Q Did he -- now, when they were in there -- when  
12 Gainey -- Officer Gainey came in -- Sgt. Gainey, did he  
13 ever read you your *Miranda* ---

14 A No.

15 Q --- warnings?

16 , Okay. Did you ever -- did they give you any piece  
17 of paper ---

18 A No.

19 Q --- to sign?

20 A No form.

21 Q Did you ask to -- did they ask you to write a  
22 statement?

23 A Nope.

24 Q Okay. And you said it was dark in there?

25 A Yeah.

1 Q How -- how big was the room?

2 A It was a -- it -- it -- there was a big room.

3 Q Uh-huh.

4 A But, you know, it was dark.

5 Q Uh-huh.

6 A And I was scared to ---

7 Q Okay.

8 A --- death, really.

9 Q And you asked them to make a phone call?

10 A Yes.

11 Q Okay.

12 A Over and over.

13 Q Okay.

14 A And I told them that I had -- that medication, I had  
15 my prescriptions, everything was in the car. I mean,  
16 all's they had to do was ask me.

17 Q Did -- and I'm just going to -- so you've got four  
18 officers; one's sitting next to you?

19 A One in -- one, like, in front of me, sitting at the  
20 desk.

21 Q Uh-huh.

22 A The desk is right here. And then, there's two  
23 officers, like, right next to him, you know.

24 Q Okay. And how -- how were you feeling there? Can  
25 you describe your ---

DIRECT EXAMINATION BY MR. BROOME - KATY TUTTLE 59

1 A How I was ---

2 Q --- your mood?

3 A I was scared and I hadn't taken my medicine. So ---

4 Q Okay.

5 A --- I was in a lot of pain.

6 Q Uh-huh.

7 A And, you know, they -- I -- I -- because I was  
8 scared, because I'd just got plucked off the streets of  
9 South Carolina. I didn't know where I was. I mean, you  
10 know, it -- driving and nine o'clock at night ---

11 Q Okay.

12 A --- and I've been driving all night, you know, to --  
13 to bring his, you know, daughter and boyfriend back home.

14 Q Did -- did -- do you remember the first question  
15 once Gainey showed up, what -- what he asked you, if  
16 anything?

17 A His -- he asked me -- he sat my little pill box,  
18 which was a beige pill box ---

19 Q Uh-huh.

20 A --- down next to him on, like, I guess, on the -- it  
21 was on the desk. And I couldn't really see it. I mean,  
22 it -- I could see it. It was my beige pill box.

23 Q Uh-huh.

24 A And he asked me about, you know, this Lyrica: "And  
25 did you know that it's a Schedule V -- Scheduled V, blah,

1       blah, blah?"

2               And I'm, like, "Well, no, I didn't. But I have a  
3       prescription for my medication." I told him that. I  
4       told you that.

5       Q       Okay. Did -- did they -- did he ever -- ever  
6       confront you with meth?

7       A       Then he said something about, "Well, what is this  
8       white stuff? What is this white powder?" That's what he  
9       said, "white powder."

10              And I'm, like, "I don't know," you know.

11              And he -- I mean, he didn't put it in front of me.  
12       It was over here. It's a lamp. There's just a lamp on  
13       -- I mean, they -- I didn't even see it.

14       Q       How long ---

15       A       I said, "I don't have any meth."

16       Q       How long were you in that room with them?

17       A       Probably about -- it was probably about 30 minutes.

18       Q       Thirty minutes?

19       A       Yeah.

20       Q       Okay.

21       A       It's -- it's broke down. Let's -- it's ---

22       Q       Okay.

23       A       --- you know, the time.

24       Q       And ---

25       A       And -- but there was four -- four of them.

DIRECT EXAMINATION BY MR. BROOME - KATY TUTTLE 61

1 Q Four of them in ---

2 A Yes.

3 Q --- there the whole time?

4 A (Nodded head up and down.)

5 Q Okay.

6 A (Nodded head up and down.)

7 Q Did he ever ask you if you smoked or ingested meth?

8 A No.

9 Q Okay. You never said that?

10 A No.

11 Q Okay. Did he ever ask you if you -- did he ever say  
12 anything to you about -- did he ever suggest it might be  
13 in your benefit to ---

14 A Yes.

15 Q Okay.

16 A Oh, yeah.

17 Q What did he -- what did ---

18 A At the ---

19 Q --- he say ---

20 A --- very -- at -- yeah, at the very -- "Well, this  
21 will get a lot easier on you in court if you just go  
22 ahead and, you know, tell me."

23 But it -- it -- it was the -- not just that. It --  
24 there was four men in there. They were all putting their  
25 -- their say in. They were all coming at me, pretty

1 much, at the same time.

2 One -- one -- I mean, and trying to -- I don't know  
3 -- confuse me. I -- I just said, "Please, let me make a  
4 phone call. I mean, I -- you just took me off the  
5 street. Please."

6 Q Okay. And they never let you make that phone ---

7 A No.

8 Q --- call?

9 A No.

10 Q Did you ever ask for an attorney?

11 A Yes.

12 Q Okay. Did they let you call an attorney or call a  
13 family member to get you an attorney?

14 A Yes. That's what I -- you know.

15 Q They -- did they let you do that at ---

16 A No.

17 Q --- the Laurens ---

18 A No.

19 Q --- at the Laurens City ---

20 A No.

21 Q --- Police Department?

22 A No.

23 Q Okay. Did you ever feel -- they never threatened  
24 you, though, in any way, did they?

25 A No. They just took me straight over to -- they --

## CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE

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1 they refused me to take -- go to the hospital ---

2 Q Uh-huh.

3 A --- to take a -- a -- a blood test or a -- a urine  
4 test. You know, I agreed to -- I had no problem with it.  
5 You know, I had no problem.

6 I had just been to the doctor on the 26th. I mean,  
7 I had just been there; just had blood work done; just  
8 had, you know, I mean, it's -- it's -- but no. There was  
9 four men in that room, asking questions.

10 Q Thank you, Ms. Tuttle. Please answer any questions  
11 Mr. Bixler may have for you.

## 12 CROSS-EXAMINATION

13 BY MR. SCOTT:

14 Q Okay. Ms. Tuttle, you were driving a four-door  
15 Oldsmobile that night, right?

16 A Yes.

17 Q 2001?

18 A Yes.

19 Q And you were coming from Navarre, Florida; is that  
20 right?

21 A Yes.

22 Q Now, that -- where is that, down near Destin and ---

23 A Uh-huh.

24 Q --- Panama City ---

25 A Fort Walton ---

1 Q --- and all?

2 A --- Beach, Pensacola, right in between.

3 Q Okay. This is June 30th. You remember what day of  
4 the week that was?

5 A It was a Sunday.

6 Q Okay. Did you ---

7 A Oh. Actually, I'm sorry. It was a Monday --  
8 Monday, because I left on Sunday night. And it was -- I  
9 drove them here. So it was Monday night.

10 Q All right.

11 A I'm sorry.

12 Q Who's them that you were driving?

13 A It was my boyfriend's daughter and her boyfriend.

14 Q What's her name?

15 A Her -- her name is Destiny Conklin.

16 Q Can you spell that last name for me?

17 A C-o-n-k-l-i-n.

18 Q Okay. And her boyfriend?

19 A Yes. It's Chance Keaton or -- yeah -- Keaton.

20 Q Okay.

21 A Keaton.

22 Q Where are these guys nowadays?

23 A His daughter lives in Anderson. And I don't -- I  
24 guess he lives in Anderson too.

25 Q All right.

## CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE

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1 A I mean, the -- you know . . .

2 Q And what, were they just visiting you down in  
3 Florida?

4 A Yeah. They -- they came. It was an overnight trip,  
5 really, for them. They came down with his -- his son  
6 that was going to spend the actual ten days with -- with  
7 his -- with their father.

8 Q Is that your boyfriend?

9 A Yes.

10 Q What's his name?

11 A Kevin.

12 Q What, Conklin?

13 A Conklin. Uh-huh.

14 Q Why wasn't he with you?

15 A Because he stayed back with his son and his friend,  
16 who brought Destiny and -- and Chance there on a  
17 overnight, which they should never even been -- had come  
18 because, you know, they didn't spend the time. He needed  
19 to be back to work on Monday. So I -- I got elected to  
20 take them back because, you know, it's either that or put  
21 them on a bus or, you know, and then there's only, you  
22 know, one bus ticket. They would've had to come back  
23 separately, whatever.

24 Well, anyway, I did not find out until Saturday  
25 morning. They got there at eleven o'clock Friday night

1 with his son and his friend. His daughter rode with  
2 them. It's only the second time he's ever seen her in,  
3 like, ten years.

4 Q Okay. June 30th, what is this, about 9 p.m.?

5 A It was -- yeah, nine o'clock at night.

6 Q How long had you been awake at that point?

7 A I had just woken up, actually, at -- I was at the  
8 YMCA in the parking lot. And I slept for about three --  
9 it was about three hours I slept there. But I had not  
10 had any sleep since -- I took a nap on Sunday afternoon.

11 And then I got up and I fixed dinner and then I -- I  
12 got in the car at ten o'clock. And, see, ten o'clock  
13 there would've been eleven o'clock here.

14 Q All right. Wait a minute. Let's ---

15 A So ---

16 Q All right. So you leave Pensacola at what time?

17 A Ten.

18 Q A.m.?

19 A P.m.

20 Q P.m.?

21 A Yes.

22 Q On what day?

23 A On Sunday.

24 Q Sunday, June 29th?

25 A Yes.

## CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE

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1 Q Okay. Drive all through the night?

2 A (Nodded head up and down.)

3 Q Why'd you leave that late ---

4 A Well, early in the morning. Because it's -- you go  
5 -- go through Atlanta quick. He had to be to work at  
6 seven o'clock in the morning.

7 Q Who did?

8 A Her boyfriend.

9 Q Okay. So you drove -- left at 10 p.m.?

10 A Right.

11 Q And then you drove straight to Anderson, South  
12 Carolina?

13 A Yes.

14 Q Do you remember what time you got there?

15 A It -- it was time -- in time for him to go to work.

16 Q Seven o'clock?

17 A Yes.

18 Q Seven p.m. on ---

19 A Yeah. And ---

20 Q --- June ---

21 A --- see, and ---

22 Q --- 30th?

23 A --- I gained an -- I mean, I -- it's an hour earlier  
24 here.

25 Q Okay. So it would've been 7 p.m. here on June 30th;

1 is ---

2 A And it ---

3 Q --- that right?

4 A --- would've been 6 at -- at my house. Yeah.

5 Q Okay. So did -- why didn't you -- it occurs to me,  
6 instead of sleeping in your car, why didn't you sleep at  
7 your daughter's or daughter-in-law's home in Anderson?

8 A Because I don't know -- I don't know her. I only --  
9 that was only the second time I've ever laid eyes on her,  
10 I mean.

11 Q But you just drove -- how many hours is that from  
12 Destin up to here?

13 A It's seven hours.

14 Q You didn't get to know her in that seven hours in  
15 the ---

16 A I -- no. She ---

17 Q --- Oldsmobile?

18 A --- was asleep. Her and her boyfriend both were  
19 asleep ---

20 Q Okay.

21 A --- in the back. Her father only got to spend eight  
22 hours, and she was there for -- well, overnight, Friday  
23 night.

24 Q Okay.

25 A Yeah.

## CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE 69

1 Q So you dropped them off, Chance and Destiny, about 7  
2 p.m.?

3 A I stayed there at -- I stayed there and I did a  
4 couple favors for Destiny ---

5 Q What kind of ---

6 A --- and tried ---

7 Q --- favors?

8 A --- to get to know her ---

9 MR. BROOME: Judge, I'm going to object ---

10 A --- and so ---

11 MR. BROOME: --- at this time. We're just ---

12 A You know, it's ---

13 MR. BROOME: If we could limit it to the *Jackson v.*  
14 *Denno* part, the confession part. I think we're getting  
15 out -- out ---

16 THE COURT: Okay.

17 MR. BROOME: --- questions are ---

18 THE COURT: Let's ---

19 MR. BROOME: --- a little irrelevant, dragging this  
20 out a little bit longer than ---

21 THE COURT: What is the relevancy on the *Jackson v.*  
22 *Denno*?

23 MR. SCOTT: Just trying to get to her state of mind,  
24 how long she had been awake, and -- and really, just how  
25 she came to be in -- in that ---

1 THE COURT: All right.

2 MR. SCOTT: --- her understanding ---

3 THE COURT: Well, let's ---

4 MR. SCOTT: --- of the ---

5 THE COURT: --- let's keep it ---

6 MR. SCOTT: --- situation.

7 THE COURT: --- more to the -- to the statement and

8 the Miranda and the circumstances surrounding the police

9 department.

10 MR. SCOTT: Okay.

11 Q All right. So you -- you don't disagree that about

12 nine o'clock, you were stopped by the officers?

13 A No.

14 Q Okay. So at seven o'clock, though, you were in

15 Anderson. And then you took a nap in the ---

16 A A.m. ---

17 Q --- Laurens ---

18 A --- I was -- yeah. I got there at seven -- it was

19 right at seven o'clock.

20 Q Oh, he started his shift at 7 a.m.?

21 A Yes.

22 Q Okay. I misunderstood. I thought you said p.m.

23 Okay. And then, that day you spent in Anderson.

24 Did you nap throughout the day? I mean, how -- how do --

25 you're at Anderson at 7 a.m. and then Laurens ---

## CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE

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1 MR. BROOME: I'm -- I'm going ---

2 Q --- at ---

3 MR. BROOME: --- to object again to relevancy ---

4 THE WITNESS: I know.

5 MR. BROOME: --- Your Honor. I mean, we just --

6 just ---

7 THE COURT: Overruled.

8 MR. BROOME: --- asked the question.

9 THE COURT: I'll allow this part.

10 MR. BROOME: Okay.

11 THE COURT: Go ahead.

12 Q Seven a.m. you're in Anderson?

13 A Right.

14 Q Nine p.m. you're in Laurens?

15 A Right.

16 Q Did you nap throughout the day, or were ---

17 A Yes.

18 Q --- you awake the entire day?

19 A No. I napped. I was -- I was sleeping up there at

20 the YMCA, just right there where I had pulled out and

21 came down -- I was -- I -- you know, at that point I was

22 lost. Yes. I had pulled over and -- and took a nap.

23 And, you know, I took her to different places during

24 that day.

25 Q Okay.

1 A I had other people in my car. I'm -- I'm fine.

2 But, you know, I'm just tired. I'm -- I'm wanting to get  
3 to my sister's so I can go to sleep.

4 Q Okay. So what time was the nap?

5 A I don't know. It -- I -- I think it was about 5:30  
6 -- 5:30, something like that.

7 Q 5:30 p.m. ---

8 A Uh-huh.

9 Q --- till when?

10 A I -- right before he pulled me over while I was  
11 talking to -- to my sister at -- before that. But yeah.

12 Q So you ---

13 A Right ---

14 Q --- slept from ---

15 A --- right before that.

16 Q --- about 5:30 till -- till about 9 p.m., so about 3  
17 1/2 hours?

18 A Yeah.

19 Q Okay. So you got a -- did you feel ---

20 A But I ---

21 Q --- a little bit ---

22 A --- was still -- but I was still tired. And I was  
23 -- I was in a lot of pain. I was in a -- a lot of  
24 physical pain. I have ---

25 Q Well, you have a prescription for pain medicine,

1 don't you?

2 A It's not really, per se, for pain. But yes, I do.

3 Q Okay. Why didn't you take the pain medicine?

4 A Because it -- it -- it was that late at night. And

5 I -- before I go to bed is usually when I take that

6 medication. I didn't want to take it at that time

7 because I didn't -- first of all, I didn't have anything

8 to drink. And I wanted to get to my sister's house.

9 Q Where was the sister's house?

10 A In Lancaster.

11 Q Okay. All right. So you're tired and you're in

12 pain. Why didn't you just continue napping, instead of

13 getting on the road?

14 A I'm in a car, trying to sleep. You know, I want to

15 get to where I'm going.

16 Q All right.

17 A Or I'm going to turn around and go back to get on

18 the interstate and get a motel room and go to sleep.

19 Q Okay. So you're in a hurry to get to Lancaster?

20 A I'm not in a hurry. I -- I don't ---

21 Q I thought you just said you were trying to get there

22 to get your medicine and take a nap.

23 A Yeah.

24 Q You were in a hurry?

25 A No, I wasn't in a hurry.

1 Q Okay. All right. So -- all right. Well, I'll just  
2 -- nine o'clock you get pulled over for speeding. You --  
3 you don't dispute getting pulled over, do you?

4 A No.

5 Q Okay. And we just heard the *Miranda*. That was your  
6 voice, correct?

7 A I'm sorry?

8 Q Was that your voice that -- you remember that ---

9 A Yeah. Yes.

10 Q That wasn't ---

11 A Yeah.

12 Q --- your voice? Okay.

13 A That was my voice.

14 Q Tell me how far you got in school.

15 A I -- I got to tenth grade until I took my G.E.D.

16 Q You got a G.E.D.?

17 A Uh-huh.

18 Q Okay. You can read and write?

19 A Yes.

20 Q Fifty-six years of age?

21 A Yes.

22 Q Okay. Jobs? What kind of jobs have you had?

23 A I -- food and beverage, and I'm a mother and a  
24 grandmother.

25 Q How many children you raised?

## CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE

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1 A Two.

2 Q How many grandchildren do you have?

3 A I have altogether seven.

4 Q Okay. You help raise any of them?

5 A Well, kind of. But, you know, I'm there. I -- I  
6 can say that.

7 Q Okay. What -- what food and beverage jobs you've  
8 had?

9 A I -- I started off at Shoney's Big Boy in Rock Hill,  
10 South Carolina, when I was 15. That was my first job.

11 Q Are you from South Carolina?

12 A I am from -- I was born in England and raised in  
13 South -- in the South.

14 Q In York County?

15 A No.

16 Q But you lived in ---

17 A Columbia.

18 Q --- that area?

19 A Sumter.

20 Q Sumter?

21 A My father was stationed at Shaw Air Force Base.

22 Q Okay. All right. So -- and you -- you understood  
23 those rights. Those are easy to understand, correct?

24 You ---

25 A Yeah.

1 Q --- have the right to remain silent?

2 A Right.

3 Q And you're 56 years old. You understand that,  
4 right?

5 A Yes.

6 Q You know what a lawyer is. You have a right to a  
7 lawyer. You understand that, right?

8 A Yeah. Well, I -- I don't think they -- they  
9 understand it.

10 Q The officers don't understand ---

11 A Uh-huh.

12 Q --- that?

13 A Because they didn't let me make a phone call. They  
14 didn't let me do anything. I had no problem.

15 Q Okay. And -- and you understand that you don't --  
16 you can end the conversation whenever you want to. You  
17 understand that, right?

18 A (No audible response.)

19 Q When you're talking to officers, you understand that  
20 Miranda right?

21 A (No audible response.)

22 Q He'll stand up and object ---

23 A Yes.

24 Q --- if he needs to.

25 Okay. So you -- you remembered those rights when

## CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE 77

1 got in the DataMaster room, didn't you, or did you forget  
2 them?

3 A I remembered them.

4 Q Okay. So they're still -- you still understood that  
5 at any time, you could say, "I don't want to talk with  
6 you guys anymore. I want a lawyer." You got that,  
7 right?

8 A (No audible response.)

9 Q You understand that?

10 A Yes.

11 Q Okay. And let me tell you -- or let me ask you  
12 this: Do you watch a lot of TV?

13 A Yes.

14 Q Okay. You watch any crime shows or ---

15 A No.

16 Q --- anything like that? Law and Order?

17 A Not really. I mean, some ---

18 Q Some?

19 A Some.

20 Q And you know the interrogation room is dark and the  
21 police officer is standing and they shine the lamp on the  
22 person they interviewing. You -- you -- everybody knows  
23 that. It's in every movie that involves an interrogation  
24 scene. You know what I'm talking about, when they shine  
25 the bright light on them?

1 A Yeah. Those are in, like, the old movies.

2 Q That's right.

3 A They're not ---

4 Q And ---

5 A --- they're not -- they're not in the new things.

6 They don't take you to interrogation room.

7 Q But it's a popular scene, an interrogation scene?

8 A In the old movies.

9 Q Right.

10 A In the old movies.

11 Q Well, that's kind of what you're describing here in

12 Laurens ---

13 A Exactly.

14 Q --- Police Department.

15 Would it surprise you to know they don't have a lamp  
16 in their booking room?

17 A Uh-huh.

18 Q Would that surprise you?

19 A Yeah. Because it wasn't a booking room.

20 Q Okay. They don't have a lamp in any of these rooms  
21 in the Laurens Police Department?

22 A I wasn't in a booking room.

23 Q Where were you?

24 A In a room right outside of the courthouse where they  
25 -- they bond you out.

## CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE

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1 Q Okay.

2 A And I ---

3 Q The booking room. That's what you're describing.

4 You ---

5 A Well ---

6 Q --- understand that?

7 A No. See, I -- I would say they -- you would have a  
8 fingerprint machine. You have a -- a way of taking --  
9 they didn't take my picture, and they did not fingerprint  
10 me. They did not book me there.

11 Q You weren't booked?

12 A Nope.

13 Q You know they got to do that to put you in jail,  
14 right?

15 A Yeah. That's ---

16 Q So you ---

17 A --- what I ---

18 Q --- were ---

19 A -- thought too.

20 Q Okay. So it's your testimony you were taken to jail  
21 without ever being booked?

22 A Exactly.

23 Q Okay. And -- and you testified there were four men  
24 in there with ---

25 A Yes.

1 Q --- you at the same time?

2 A Yes.

3 Q Okay. Do you understand that shift, there would've  
4 only been five officers and two were on the road at that  
5 time?

6 A I -- well, I mean, as it said, there was four of  
7 them.

8 Q Okay. And tell me ---

9 A In the room.

10 Q --- you know, they got their name tags and  
11 everything. Did you ---

12 A And it ---

13 Q --- get any ---

14 A --- was dark.

15 Q --- of their names?

16 A It's dark in that room.

17 Q In the dark room with the lamp that shines on you?

18 A It wasn't shining on me.

19 Q Where was it shining?

20 A It was shining down on the desk ---

21 Q Okay. Had ---

22 A --- so that ---

23 Q --- had you ---

24 A --- the officer could write.

25 Q Okay. And -- and your testimony -- you were

## CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE

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1 frightened?

2 A Yes, I ---

3 Q What were ---

4 A --- was.

5 Q --- you frightened about?

6 A Well, let's see. I'm a woman. I have no idea where  
7 I am. He never -- he never said who he was ---

8 Q You didn't ---

9 A --- what he ---

10 Q --- know where you were?

11 A No, I didn't.

12 Q You just said you were at YMCA.

13 A Yeah. That's where I had -- yeah. I was at the  
14 YMCA. Yeah.

15 Q Did you know where you were or not?

16 A I was at the police department. I didn't say I was  
17 at the YMCA.

18 Q No. You didn't take a nap ---

19 A Why did ---

20 Q --- at the ---

21 A --- you just ---

22 Q --- YMCA?

23 A Why are you -- why you saying -- what are you  
24 talking about a nap? We're talking about the police  
25 station. You're asking me about ---

1 Q Did you not just testify you took a nap at the YMCA  
2 on ---

3 A Yeah.

4 Q --- Church Street?

5 A I sure did.

6 Q And now you're saying you don't know where you were.

7 A No. You are saying that I don't know what -- I  
8 didn't know where I was.

9 Q I -- I was asking you: Why were you frightened when  
10 you were in the police department?

11 A Because I didn't know where I was. I was in a  
12 police department in a room with four other men -- a dark  
13 room with four men. I did not know where Laurens was.

14 I'm not from here. I don't know anybody here. And  
15 I'm -- I got pulled over for speeding. And the next  
16 thing I know, I'm in a -- I'm in the police department,  
17 blowing a 000; have no problem going and taking a pee  
18 test. I -- I actually needed to go to the hospital  
19 because I was physically hurting.

20 Q Did you tell officers you were hurting?

21 A Oh, yes. They knew I was hurting.

22 Q And why didn't you take the pain medicine that you  
23 have?

24 A Because it wasn't time yet.

25 Q I ---

## CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE

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- 1 A You see ---
- 2 Q It occurs to me ---
- 3 A --- you see ---
- 4 Q --- if you're hurting ---
- 5 A --- you see ---
- 6 Q --- it's time.
- 7 A Yeah. Well ---
- 8 Q All right.
- 9 A --- I hadn't taken my medication yet.
- 10 Q Okay. If -- if -- you're leaving Anderson.
- 11 A But I took it before I left.
- 12 Q Okay. You're in Anderson. That's where you dropped
- 13 off Chance and Destiny, right?
- 14 A Right.
- 15 Q How did you wind up in Laurens?
- 16 A That's a good question. I have no idea.
- 17 Q You don't know?
- 18 A No. I have no idea.
- 19 Q But when you were at the YMCA in Laurens, did you
- 20 realize that the sign ---
- 21 A That it ---
- 22 Q --- said ---
- 23 A --- was ---
- 24 Q --- Laurens YMCA?
- 25 A No. Sure didn't.

1 Q You didn't even notice that?

2 A Nope.

3 Q Okay.

4 A I didn't.

5 MR. SCOTT: Your Honor, I -- I don't have anything  
6 further.

7 THE COURT: Redirect?

8 MR. BROOME: Just briefly.

9 REDIRECT EXAMINATION

10 BY MR. BROOME:

11 Q I -- I think you said you didn't know where you  
12 were. You -- you never been to Laurens County before ---

13 A No.

14 Q --- right? I think you just testified to that.

15 A Yeah.

16 Q You were going to Lancaster, right?

17 A Right.

18 Q Who lives in Lancaster?

19 A My -- my sister and my nephew.

20 Q Okay. You were coming from Anderson ---

21 A Yes.

22 Q And you -- we've gone over this case. You pulled  
23 over on Anderson Drive?

24 A Yes.

25 Q Okay. Old former highway, so you came straight from

REDIRECT EXAMINATION BY MR. BROOME - KATY TUTTLE 85

1 Anderson on your way to Lancaster?

2 A Right.

3 Q You know what part of the state Lancaster is in, in  
4 South Carolina?

5 A It -- South Carolina.

6 Q Yeah. You were following your GPS at the time?

7 A I was trying to. Yeah. I was trying to.

8 Q Uh-huh.

9 A Yeah.

10 Q And had you known anyone in Laurens County, you  
11 would've told the officers that ---

12 A Of course.

13 Q --- right? Okay.

14 A Yes.

15 Q And you told them that you were in pain and hurting,  
16 and that's on ---

17 A Yes.

18 Q --- on the video?

19 You told that ---

20 A Yes.

21 Q --- that to Officer Kanipe?

22 A Yes.

23 Q Correct?

24 A Yes.

25 Q And if -- if you'd taken your medication and driven,

1 it may not have been that smart, correct?

2 A No. I -- I mean, it -- it's -- well, because I was  
3 in a lot of pain, my tailbone, my whole leg -- I had been  
4 working at -- at my house the day before. And I -- I  
5 mean, you know, it's all just happened so quickly that  
6 I'm going to drive them. So put a few things in the car  
7 and I take them.

8 I took a nap before I left. I always take my  
9 medication at nighttime before I go ---

10 Q Before you go ---

11 A --- to bed.

12 Q --- to sleep? Okay.

13 MR. BROOME: No further questions, Your Honor.

14 THE COURT: All right. You may step down.

15 THE WITNESS: Thank you.

16 THE COURT: Defense wish to call anyone else?

17 MR. BROOME: No, Your Honor.

18 THE COURT: All right.

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

20 THE COURT: Anything in reply by the state?

21 MR. SCOTT: Your Honor, just it -- *Miranda* seems to  
22 be given. We -- we hear it on the tape. Of course,  
23 those warnings are ongoing. The -- they do extend to  
24 when she's at the -- at the police department.

25 Testimony from Gainey is that he reinstructed her on

1       *Miranda* even if they weren't still extended from the  
2 stop. She's 56 years of age; has a G.E.D.; mother of  
3 two; grandchildren of seven; has been employed --  
4 gainfully employed much of her life in the food and  
5 beverage industry.

6           Your Honor, the -- I -- I -- I believe the testimony  
7 is that -- that the -- or I assume testimony will be that  
8 those statements should be thrown out due to her being  
9 intimidated. However, the testimony would be, from our  
10 side, there is no such room that she has described.  
11 There would not have been able to have been four men on  
12 duty that night to have accompanied her in the room.

13           The state should come in due to the proper *Miranda*  
14 warnings. And, of course, that would go -- that would be  
15 a -- a question for the jury, as far as what weight they  
16 would give it -- give the statements and their validity.

17           But -- but that would be the state's position, Your  
18 Honor, as far as those statements being freely and  
19 voluntarily given.

20           THE COURT: All right. Anything from the defense?

21           MR. BROOME: Yes, Your Honor. To the room, Officer  
22 Gainey and Ms. Tuttle testified to the -- this room. Mr.  
23 Scott wanted to put her in that booking room. But Gainey  
24 said, "Yeah. Yeah. We got a big room and there's bright  
25 lights."

1           Now, there -- her testimony is different. But she  
2           said it was a room where four people could sit. And her  
3           -- her words were it was a big room.

4           And I asked her to describe the room. That's how  
5           she testified to. That's how Gained testified to. But  
6           when you consider the circumstance of she's not from this  
7           area, lack of prior involvement with law enforcement,  
8           they advised her of her rights briefly on *Miranda*.

9           And they -- they -- if you listen to that tape,  
10          they're peppering her with questions. They read it; you  
11          understand it; let's go. And they keep going on and on.  
12          And then, there's -- when they get to the DataMaster  
13          room, there's a long period of silence. And then they  
14          reinitiate questioning.

15          We don't have any of the waiver forms. We don't --  
16          all we have is their word. They didn't videotape  
17          anything. They didn't have her sign anything.

18          She's -- officer -- or Mr. Scott brought out the  
19          fact that she's been -- and she testified to this as  
20          well. She's been driving through Florida. She is tired.  
21          She's fatigued. It's late at night. She -- according to  
22          her, there are multiple officers.

23          And if we play that DataMaster room, you can see at  
24          least a third officer. He's an elderly man with salt and  
25          pepper hair. He goes into the room. And he asked her,

1 "Hey, do you have any syringes or anything? I don't want  
2 my officer getting stuck." So that's another officer  
3 right there that gives you a -- a person to corroborate  
4 what she's saying on the video, on the DataMaster room,  
5 if we want to play it.

6 I can't -- I can't speak to how many officer on  
7 duty, because I've never gotten a report about -- about  
8 that. Her testimony, she's got four people in there,  
9 repeating -- badgering her with questions.

10 And they -- and -- and I would argue, too, this is  
11 -- she's asking for phone calls. And they're not letting  
12 her make a phone call to anyone. She -- and if you play  
13 the video -- if you play the -- the -- the audio from  
14 Officer Gainey's car and in the DataMaster room, she says  
15 -- when she gets in the back of Kanipe's car, "Please  
16 just let me call someone; let them know where I am. No  
17 one knows I'm in Laurens County because I'm driving. And  
18 I'm so tired."

19 And they won't let her do that. Instead, they  
20 choose to question her in the way that they do. And that  
21 -- Officer Gainey's words were interrogate her in this  
22 room that we -- we don't have any -- any independent  
23 corroboration of. He testified that there was only him  
24 in that room. Kanipe can't remember.

25 We've got other people in that room. I -- I think,

1 based on the length -- she says 30 minutes -- the type of  
2 questioning -- they take her into this room where she  
3 doesn't know anyone. She's completely tired. She  
4 doesn't have prior experience with law enforcement; she's  
5 not been through the system.

6 I think they should be suppressed based under  
7 *Jackson v. Denno*. Obviously, she's denying them. And I  
8 understand it could be a weight issue at trial.

9 But these -- these questions were clearly meant to  
10 -- you know, reasonably likely to elicit incriminating  
11 testimony from her, if he asked those questions and if  
12 she said them: Where is the meth? It -- keep denied.  
13 I'm going to ask you another question. Denies knowledge.  
14 I'm going to keep asking you another question. Please  
15 let me make a phone call. So I think that's in violation  
16 of her Sixth Amendment right to counsel as well, Your  
17 Honor.

18 The state has its burden to prove that these  
19 statements were voluntary by a preponderance of the  
20 evidence. That's under *State v. Miller*. I don't think  
21 that they've done that, based on her testimony and based  
22 on what the officers' testimony is, since it's really  
23 just a swearing contest.

24 I don't -- I don't think they've given enough  
25 evidence that more likely than not, that they've proven

1 these states [sic] to be voluntary. And I think that  
2 they violated their -- her *Miranda* rights when they  
3 reinitiated questioning, Your Honor.

4 THE COURT: All right. All right. I'm going to  
5 deny the motion to suppress. I think it is a voluntary  
6 statement. I was not coerced. It was given after being  
7 advised of her constitutional rights to remain silent;  
8 that she could stop questioning at any time.

9 So I find that it satisfied *Jackson v. Denno* that it  
10 is admissible. All right.

11 Anything further?

12 MR. BROOME: No, Your Honor.

13 THE COURT: All right. Nothing more pretrial from  
14 the defense?

15 MR. BROOME: No, Your Honor. No other witnesses and  
16 I think that ---

17 THE COURT: Anything pretrial ---

18 MR. BROOME: --- I think that ---

19 THE COURT: --- from the ---

20 MR. BROOME: --- covers ---

21 THE COURT: --- state?

22 MR. BIXLER: Nothing from the state, Your Honor.

23 THE COURT: All right. Let's take about a ten-  
24 minute break. Bring the jury in. We'll go ahead and  
25 pull the jury and then we'll get started.

1           How long is -- well, let's see how long it takes to  
2 pull the jury. I'll see if we can get through opening  
3 charges, opening statements. I don't know if we'll get  
4 that before we break for lunch or not. But we'll go  
5 ahead and at least get the jury in here and get -- select  
6 the jury. All right.

7           (Off the record from 11:39 a.m. until 11:52 a.m.)

8           THE COURT: All right. Ladies and gentlemen,  
9 welcome back. We are getting ready to start the trial of  
10 the case of *the State of South Carolina v. Katy McDonald*  
11 *Tuttle*, Ms. Tuttle having been charged and indicted with  
12 possession of a controlled substance and possession with  
13 intent to distribute methamphetamine.

14           As I told you the other day, I have a series of  
15 questions to go over with you. Even though you've been  
16 qualified to serve as jurors, these questions, referred  
17 to as *voir dire* questioning, is to determine whether or  
18 not you're qualified to serve as jurors on this  
19 particular case. And it also gives the attorneys some  
20 additional information that assists them in the jury-  
21 selection process.

22           So if I could get all members of the jury panel to  
23 please stand and raise your right hand.

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

1 THE COURT: Thank you very much. Please be seated.

2 PROSPECTIVE JURORS: (Complied.)

3 THE COURT: All right. Is there any member of the  
4 jury panel that did not respond to the oath by saying, "I  
5 do"? If so, please stand.

6 (Whereupon, no potential juror stood.)

7 THE COURT: All right. Ladies and gentlemen, as I  
8 said, this is the case of *the State of South Carolina v.*  
9 *Katy McDonald Tuttle*, the allegations being that on or  
10 about June 30th, 2014, in Laurens County, South Carolina,  
11 this defendant -- the allegations are that she possessed  
12 with intent to distribute a quantity of methamphetamine  
13 and that she was also found in possession of a Scheduled  
14 V controlled substance, that controlled substance being  
15 -- I can't pronounce it -- p-r-e-g-a-b-a-l-i-n.

16 Is there any member of the jury panel that has heard  
17 anything, read anything, discussed anything, or knows  
18 anything about this case? If so, please stand.

19 (Whereupon, no potential juror stood.)

20 THE COURT: All right. As I said, the defendant is  
21 Katy McDonald Tuttle. Is there any member of the jury  
22 panel related by blood or marriage, have a close,  
23 personal relationship, business relationship, social  
24 relationship, or any other type of relationship with Ms.  
25 Tuttle? If so, please stand.

1 (Whereupon, no potential juror stood.)

2 THE COURT: The potential witnesses in this case are  
3 Michael Gainey, Logan -- is it Knapie (phonetic)?

4 MR. KANIPE: Kanipe.

5 THE COURT: Kanipe. Logan Kanipe, John Stankus,  
6 Shana Sorrells. Is there member of the jury panel  
7 related by blood or marriage, have a close, personal  
8 relationship, business relationship, social relationship,  
9 or any other type of relationship with any of these  
10 potential witnesses? If so, please stand.

11 (Whereupon, no potential juror stood.)

12 THE COURT: All right. Prosecuting this case on  
13 behalf of the state is Alfred Lyon Bixler and Dale Scott  
14 from the Eighth Circuit Solicitor's Office. The attorney  
15 for the defendant is Joel Thomas Broome with the Laurens  
16 County Public Defender's Office. Is there member of the  
17 jury panel related by blood or marriage, have a close,  
18 personal relationship, business relationship, social  
19 relationship, or any other type of relationship with any  
20 of these attorneys? If so, please stand.

21 (Whereupon, no potential juror stood.)

22 THE COURT: Is any member of the jury panel ever  
23 been represented by any of these attorneys? If so,  
24 please stand.

25 (Whereupon, no potential juror stood.)

1 THE COURT: Is there any member of the jury panel  
2 ever been involved in any legal action in which any of  
3 these attorneys represented another party to that action?  
4 If so, please stand.

5 (Whereupon, no potential juror stood.)

6 THE COURT: Is there any member of the jury panel  
7 who either personally has a family member or a close,  
8 personal friend employed with the Eighth Circuit  
9 Solicitor's Office or the Laurens County Public  
10 Defender's Office? If so, please stand.

11 (Whereupon, no potential juror stood.)

12 THE COURT: Has any member of the jury panel formed  
13 or expressed an opinion about any issue or matter  
14 involved in this case? If so, please stand.

15 (Whereupon, no potential juror stood.)

16 THE COURT: Is any member of the jury panel aware of  
17 any bias or prejudice towards either the State of South  
18 Carolina or the defendant in this case? If so, please  
19 stand.

20 (Whereupon, no potential juror stood.)

21 THE COURT: Is there any member of the jury panel  
22 that was a member of the grand jury that issued the  
23 indictment in this case? If so, please stand.

24 (Whereupon, no potential juror stood.)

25 THE COURT: Is any member of the jury panel a member

1 of or a contributor to any group which has as its primary  
2 concern the promotion of law enforcement or the  
3 enforcement of victims' rights? As I told you the other  
4 day, some of these organizations are Mothers Against  
5 Drunk Drivers, also referred to as MADD; Students Against  
6 Drunk Drivers; Citizen Against Violent Crime; or CASA,  
7 Citizens Against Spousal Abuse; or any similar  
8 organization.

9 Is any member of the jury panel a member of or a  
10 contributor to that organizations?

11 (Whereupon, a potential juror stood.)

12 THE COURT: Yes, ma'am. Your name and number?

13 POTENTIAL JUROR: Tori Garner, No. 64.

14 THE COURT: All right, Ms. Garner. You're a member  
15 of or a contributor to which organization?

16 POTENTIAL JUROR: Students Against Drunk Driving.

17 THE COURT: All right. Were you a member of that or  
18 a -- just contributed to it?

19 POTENTIAL JUROR: I was a member in high school.

20 THE COURT: Okay. Now, would your membership in  
21 that organization affect your ability to give both the  
22 state and the defendant in this case a fair and impartial  
23 trial?

24 POTENTIAL JUROR: No.

25 THE COURT: All right. Would you be able to

1       disregard your membership in that organization in its  
2       entirety and base your decision in this case exclusively  
3       on the testimony and evidence in this case?

4             POTENTIAL JUROR:  Yes.

5             THE COURT:  Thank you, Ms. Garner, for bringing that  
6       to our attention.

7             Anyone else?

8             (Whereupon, no potential juror stood.)

9             THE COURT:  Does any member of the jury panel know  
10       of any reason whatsoever why he or she should not serve  
11       as a juror in this case, with particular emphasis being  
12       place on your ability to be fair and impartial to the  
13       State of South Carolina and to the defendant?  If so,  
14       please stand.

15            (Whereupon, a potential juror stood.)

16            POTENTIAL JUROR:  Charlie Stinson, 166.

17            THE COURT:  All right.

18            POTENTIAL JUROR:  I'm ---

19            THE COURT:  Hold for a second.

20            POTENTIAL JUROR:  Okay.

21            THE COURT:  All right.  Mr. Stinson, if you'd come  
22       forward, please.

23            (Whereupon, the potential juror came forward.)

24            THE COURT:  Hold for one second.  Let the attorneys  
25       get up here first.

1 POTENTIAL JUROR: Oh, right. Sorry.

2 THE COURT: All right.

3 POTENTIAL JUROR: Being the director of the local  
4 alcohol and drug commission, I may or may not have had  
5 with this family or relatives -- I don't know yet. But  
6 one of my concerns is we're very pro-decriminalization of  
7 this, being treater of the addicts. And I just -- my  
8 worry is that with it being just possession and intent to  
9 distribute, my initial bias is to decriminalize that and  
10 seek treatment.

11 THE COURT: Okay. I understand. And you -- I'm  
12 sorry. You are? What's your jury number?

13 POTENTIAL JUROR: 166.

14 THE COURT: All right, Mr. Stinson. All right. Mr.  
15 Stinson, I'm going to excuse you ---

16 POTENTIAL JUROR: Okay.

17 THE COURT: --- from this particular trial.

18 POTENTIAL JUROR: Yes, sir.

19 THE COURT: Stay with us right now.

20 POTENTIAL JUROR: Yeah.

21 THE COURT: But just stay with us.

22 POTENTIAL JUROR: Okay.

23 THE COURT: All right? Okay.

24 POTENTIAL JUROR: That's no problem.

25 THE COURT: All right. Thank you.

1 (Whereupon, the potential juror returned to the jury  
2 panel.)

3 THE COURT: Anyone else know of any reason why he or  
4 she should not serve as a juror in this case, with  
5 particular emphasis being placed on your ability to be  
6 fair and impartial to both the State of South Carolina  
7 and the defendant? If so, please stand.

8 (Whereupon, no potential juror stood.)

9 THE COURT: Any additional questions from the state?

10 MR. BIXLER: None from the state, Your Honor.

11 THE COURT: Any from the defense?

12 MR. BROOME: Yes, Your Honor.

13 THE COURT: All right. Let me see what you got.

14 (Whereupon, a bench conference was held off the  
15 record in the presence of the jury panel, but out of  
16 the hearing of the jury panel.)

17 THE COURT: All right. Has any member of the jury  
18 panel ever been a witness in a criminal trial? If so,  
19 please stand.

20 (Whereupon, a potential juror stood.)

21 POTENTIAL JUROR: Oh. A witness, no.

22 THE COURT: Okay. Does any member of the jury panel  
23 have any legal action presently pending in court, whether  
24 a civil or a criminal action, presently pending in court?  
25 If so, please stand.

1 (Whereupon, a potential juror stood.)

2 THE BAILIFF: Your Honor?

3 THE COURT: Yes, sir. Your name and number?

4 POTENTIAL JUROR: Edward Prochilo, I think 131.

5 CLERK OF COURT: 141.

6 THE COURT: 141. All right. Mr. Prochilo, you  
7 currently have an action pending in what court?

8 POTENTIAL JUROR: My wife has one against her.

9 THE COURT: There is a -- currently a civil lawsuit  
10 pending against your wife?

11 POTENTIAL JUROR: Yes, sir.

12 THE COURT: Okay. Would the fact that your wife  
13 currently has an action pending against her in court  
14 affect your ability to give both the -- both the state  
15 and the defendant in this case a fair and impartial  
16 trial?

17 POTENTIAL JUROR: No.

18 THE COURT: Would you be able to disregard all the  
19 facts and circumstances regarding your wife's case and  
20 base your decision in this case exclusively on the  
21 testimony and evidence in this case?

22 POTENTIAL JUROR: Yes, sir.

23 THE COURT: All right. Thank you for bringing that  
24 to our attention.

25 Is any member of the jury panel ever been arrested?

1 If so, please stand.

2 (Whereupon, a potential juror stood.)

3 POTENTIAL JUROR: Anthony Lilly, Juror No. 109.

4 THE COURT: All right. Mr. Lilly, the fact that you  
5 were arrested, would that affect your ability to give  
6 both the state and the defendant in this case a fair and  
7 impartial trial?

8 POTENTIAL JUROR: No.

9 THE COURT: Would you be able to disregard all the  
10 facts and circumstances surrounding your arrest and base  
11 your decision in this exclusively on the testimony and  
12 evidence in this case?

13 POTENTIAL JUROR: Yes, Your Honor.

14 THE COURT: All right. Thank you for bringing that  
15 to our attention.

16 (Whereupon, a potential juror stood.)

17 THE BAILIFF: Your Honor?

18 THE COURT: Yes, sir. Your name and number?

19 POTENTIAL JUROR: Connor Gault, 69.

20 THE COURT: All right. Mr. Gault, would the fact  
21 that you have been arrested in the past affect your  
22 ability to give both the state and the defendant in this  
23 case a fair and impartial trial?

24 POTENTIAL JUROR: No.

25 THE COURT: Would you be able to disregard the facts

1 and circumstances surrounding your arrest in its entirety

2 ---

3 POTENTIAL JUROR: Yes, sir.

4 THE COURT: --- and base your decision in this case  
5 exclusively on the testimony and evidence in this case?

6 POTENTIAL JUROR: Yes -- yes, sir.

7 THE COURT: All right. Thank you very much.

8 (Whereupon, a potential juror stood.)

9 THE BAILIFF: Your Honor?

10 THE COURT: Yes, ma'am. Your name and number?

11 POTENTIAL JUROR: Tracy Caldwell, No. 27.

12 THE COURT: All right. Ms. Caldwell, would the fact  
13 that you've been arrested affect your ability to give  
14 both the state and the defendant in this case a fair and  
15 impartial trial?

16 POTENTIAL JUROR: Unh-unh. No.

17 THE COURT: Would you be able to disregard all the  
18 facts and circumstances surrounding your arrest and base  
19 your decision in this case exclusively on the testimony  
20 and evidence in this case?

21 POTENTIAL JUROR: Yes.

22 THE COURT: All right. Thank you, Ms. Caldwell, for  
23 bringing that to our attention.

24 (Whereupon, a potential juror stood.)

25 THE BAILIFF: Your Honor, one more.

1 THE COURT: Yes, sir. Your name and number?

2 POTENTIAL JUROR: I'm David Wright, 198.

3 THE COURT: All right. Mr. Wright, would the fact  
4 that you have been arrested in the past affect your  
5 ability to give both the state and the defendant in this  
6 case a fair and impartial trial?

7 POTENTIAL JUROR: No.

8 THE COURT: Would you be able to disregard all the  
9 facts and circumstances surrounding your arrest and base  
10 your decision in this case exclusively on the testimony  
11 and evidence in this case?

12 POTENTIAL JUROR: Yes.

13 THE COURT: Thank you very much, Mr. Wright.

14 Anyone else?

15 (Whereupon, no potential juror stood.)

16 THE COURT: Has any member of the jury panel either  
17 personally had a family member or close, personal friend  
18 who has been treated for alcohol or drug addiction? If  
19 so, please stand.

20 (Whereupon, potential jurors stood.)

21 THE COURT: All right. And as I said, I apologize,  
22 but each time you stand, I need you to ---

23 THE BAILIFF: Right.

24 THE COURT: --- give the court reporter your name  
25 and number.

1 POTENTIAL JUROR: Tori Garner, 64.

2 THE COURT: All right, Ms. Garner. Would the fact  
3 that either you, a family member, or close, personal  
4 friend has received alcohol and/or drug treatment, would  
5 that affect -- since this involves illegal narcotics,  
6 would that affect your ability to give both the state and  
7 the defendant a fair and impartial trial?

8 POTENTIAL JUROR: No.

9 THE COURT: Would you be able to disregard all of  
10 the facts and circumstances surrounding you, your family  
11 member, or friend that had the drug or alcohol problem --  
12 would you be able to disregard those concerns in their  
13 entirety and base your decision in this case exclusively  
14 on the testimony and evidence in this case?

15 POTENTIAL JUROR: Yes.

16 THE COURT: Thank you for bringing that to our  
17 attention.

18 (Whereupon, a potential juror stood.)

19 THE COURT: All right. Yes, sir. Your name and  
20 number again.

21 POTENTIAL JUROR: Ida Williams.

22 POTENTIAL JUROR: Connor ---

23 THE COURT: No. The gentleman over here.

24 POTENTIAL JUROR: Connor Gault, 69.

25 THE COURT: All right, Mr. Gault. Would the fact

1 that either you, a family member, or a close, personal  
2 friend has received treatment for alcohol and/or drug  
3 addiction, would that affect your ability to give both  
4 the state and the defendant in this case a fair and  
5 impartial trial?

6 POTENTIAL JUROR: No, sir.

7 THE COURT: Would you be able to disregard the  
8 dependency of you, your friend, or family member, and  
9 base your decision in this case exclusively on the  
10 testimony and evidence in this case?

11 POTENTIAL JUROR: Yes, sir.

12 THE COURT: Thank you, Mr. Gault, for bringing that  
13 to our attention.

14 Yes, ma'am. Your name and number?

15 POTENTIAL JUROR: Ida Williams, 193.

16 THE COURT: All right. All right. Ms. Williams,  
17 would the fact that you or a family member or close,  
18 personal friend has been treated for alcohol and/or drug  
19 addiction, would that affect your ability to give both  
20 the state and the defendant in this case a fair and  
21 impartial trial?

22 POTENTIAL JUROR: No.

23 THE COURT: Would you be able to disregard all of  
24 the facts and circumstances surrounding the addiction in  
25 which you were involved?

1 POTENTIAL JUROR: Yes, sir.

2 THE COURT: Would you be able to base your decision  
3 in this case exclusively on the testimony and evidence in  
4 this case?

5 POTENTIAL JUROR: Yes.

6 THE COURT: All right. Thank you very much for  
7 bringing that to our attention.

8 Yes, sir. Your name and number?

9 POTENTIAL JUROR: Dennis Birmingham, No. 14.

10 THE COURT: All right, Mr. Birmingham, would the  
11 fact that either you, a family member, or close, personal  
12 friend has received treatment for alcohol and/or drug  
13 addiction affect your ability in this case to give both  
14 the state and the defendant a fair and impartial trial?

15 POTENTIAL JUROR: (Shook head from side to side.)

16 THE COURT: Would you be able to disregard all of  
17 the facts and circumstances regarding the -- the -- the  
18 person with which you're involved and base your decision  
19 in this case exclusively on the testimony and evidence in  
20 this case?

21 POTENTIAL JUROR: Yes.

22 THE COURT: All right. Thank you, Mr. Birmingham,  
23 for bringing that to our attention.

24 Anyone else?

25 (Whereupon, a potential juror stood.)

1 THE COURT: Yes, sir. Your name and number?

2 POTENTIAL JUROR: Richard Collins, No. 33.

3 THE COURT: All right, Mr. Collins. Would the fact  
4 that either you or a family member or a close, personal  
5 friend has been treated for alcohol and/or drug addiction  
6 affect your ability to give both the state and the  
7 defendant in this case a fair and impartial trial?

8 POTENTIAL JUROR: No.

9 THE COURT: All right. Would you be able to  
10 disregard the addiction and treatment of you, your family  
11 member, or friend in its entirety and base your decision  
12 in this case exclusively on the testimony and evidence in  
13 this case?

14 POTENTIAL JUROR: Yes.

15 THE COURT: All right. Thank you for bringing that  
16 to our attention.

17 Anyone else?

18 (Whereupon, a potential juror stood.)

19 THE COURT: Yes, ma'am. Your name and number?

20 POTENTIAL JUROR: Heather Morris, and I'm not sure  
21 of my number.

22 CLERK OF COURT: 132.

23 THE COURT: All right. 132. All right. Ms.  
24 Morris, would the fact that you, a family member, or  
25 close, personal friend has received alcohol and/or drug

1 treatment affect your ability to give both the state and  
2 the defendant in this case a fair and impartial trial?

3 POTENTIAL JUROR: No, sir.

4 THE COURT: Would you be able to disregard your  
5 circumstances in its entirety ---

6 POTENTIAL JUROR: Yes, sir.

7 THE COURT: --- and base your decision in this case  
8 exclusively on the testimony and evidence in this case?

9 POTENTIAL JUROR: Yes, sir.

10 THE COURT: All right. Thank you for bringing that  
11 to our attention.

12 Is any member of the jury panel either personally or  
13 had a family member employed as a law enforcement  
14 officer? If so, please stand.

15 (Whereupon, potential jurors stood.)

16 THE COURT: All right. Yes, ma'am, on the front  
17 row. Your name and number?

18 POTENTIAL JUROR: Kathleen Hardy, No. 82.

19 THE COURT: All right, Ms. Hardy. Was this your or  
20 a family member?

21 POTENTIAL JUROR: My family member. My son is a  
22 lieutenant over at the correctional institute ---

23 THE COURT: And where ---

24 POTENTIAL JUROR: --- in Laurens.

25 THE COURT: --- is that?

1 POTENTIAL JUROR: Here in Laurens.

2 THE COURT: Okay. And what's his name?

3 POTENTIAL JUROR: Darren Hardy.

4 THE COURT: All right. Would the fact that your son  
5 is employed with the correctional institute affect your  
6 ability to give both the state and the defendant in this  
7 case a fair and impartial trial?

8 POTENTIAL JUROR: No, sir.

9 THE COURT: Would you be able to disregard your  
10 son's employment in its entirety and base your decision  
11 in this case exclusively on the testimony and evidence in  
12 this case?

13 POTENTIAL JUROR: Yes, sir.

14 THE COURT: All right. Thank you very much for  
15 bringing that to our attention.

16 Yes, ma'am? Your name and number?

17 POTENTIAL JUROR: Tori Garner, 64.

18 THE COURT: All right. Ms. Garner, is this you or a  
19 family member?

20 POTENTIAL JUROR: Family member. My dad was a  
21 officer at Greenville County, and my mom was a highway-  
22 patrol dispatch. And she just retired.

23 THE COURT: Okay. And where was she a dispatch?

24 POTENTIAL JUROR: Highway patrol. Greenville  
25 County, I'm pretty sure.

1 THE COURT: Greenville County?

2 POTENTIAL JUROR: Yes, sir.

3 THE COURT: And where was your father employed?

4 POTENTIAL JUROR: Greenville County.

5 THE COURT: All right. Would your parents'  
6 employment with law enforcement affect your ability to  
7 give the state and the defendant in this case a fair and  
8 impartial trial?

9 POTENTIAL JUROR: No, sir.

10 THE COURT: Would you be able to disregard your  
11 parents' employment in its entirety and base your  
12 decision in this case exclusively on the testimony and  
13 evidence in this case?

14 POTENTIAL JUROR: Yes, sir.

15 THE COURT: Thank you, Ms. Garner, for bringing that  
16 to our attention.

17 Yes, ma'am? Your name and number in the back?

18 POTENTIAL JUROR: Sandra Westbury, No. 189. I used  
19 to ---

20 THE COURT: All right.

21 POTENTIAL JUROR: --- be employed with the Laurens  
22 County Sheriff's Office at the teaching center.

23 THE COURT: Okay. And how long ago was that?

24 POTENTIAL JUROR: Six and a half years ago.

25 THE COURT: All right. Would your prior employment

1 affect your ability to give both the state and the  
2 defendant in this case a fair and impartial trial?

3 POTENTIAL JUROR: No.

4 THE COURT: Would you be able to disregard your  
5 prior employment in its entirety and base your decision  
6 in this case exclusively on the testimony and evidence in  
7 this case?

8 POTENTIAL JUROR: Yes, sir.

9 THE COURT: Thank you, Ms. Westbury, for bringing  
10 that to our attention.

11 Yes, ma'am? Your name and number?

12 POTENTIAL JUROR: Katherine Dutton, 51. My son-in-  
13 law works for Greenwood County.

14 THE COURT: Works for who?

15 POTENTIAL JUROR: Greenwood.

16 THE COURT: Greenwood County?

17 POTENTIAL JUROR: Police.

18 THE COURT: Sheriff's department or police?

19 POTENTIAL JUROR: The police department.

20 THE COURT: All right. All right, Ms. Dutton.

21 Would your son-in-law's employment affect your ability to  
22 give both the state and defendant in this case a fair and  
23 impartial trial?

24 POTENTIAL JUROR: No.

25 THE COURT: Would you be able to disregard your son-

1 in-law's employment in its entirety and base your  
2 decision in this case exclusively on the testimony and  
3 evidence in this case?

4 POTENTIAL JUROR: Yes, sir.

5 THE COURT: All right. Thank you for bringing that  
6 to our attention.

7 All right. The lady on the front row, your name and  
8 number?

9 POTENTIAL JUROR: Debra Barnes. My number is 10.

10 THE COURT: All right, Ms. Barnes.

11 POTENTIAL JUROR: My former son-in-law ---

12 THE COURT: Okay.

13 POTENTIAL JUROR: --- Matt Caughman, is a police  
14 officer in Greenwood.

15 THE COURT: All right. Would his employment affect  
16 your ability to give both the state and defendant in this  
17 case a fair and impartial trial?

18 POTENTIAL JUROR: No.

19 THE COURT: Would you be able to disregard his  
20 employment in its entirety and base your decision in this  
21 case exclusively on the testimony and evidence in this  
22 case?

23 POTENTIAL JUROR: Yes.

24 THE COURT: Thank you for bringing that to our  
25 attention.

1 Yes, ma'am. ? Your name and number?

2 POTENTIAL JUROR: Rachel Hawks, 85.

3 THE COURT: All right, Ms. Hawks. Is this you or a  
4 family member?

5 POTENTIAL JUROR: Family member.

6 THE COURT: All right. And who is the family  
7 member?

8 POTENTIAL JUROR: My cousin, Casey Jones.

9 THE COURT: All right. And where is your cousin  
10 employed?

11 POTENTIAL JUROR: Laurens City.

12 THE COURT: Laurens City Police Department?

13 POTENTIAL JUROR: Yes, sir.

14 THE COURT: All right. How often do you maintain  
15 contact with your cousin?

16 POTENTIAL JUROR: We probably talk about once a  
17 month or so.

18 THE COURT: Okay. Now, this case involves an arrest  
19 and a prosecution by the city police.

20 POTENTIAL JUROR: Yes, sir.

21 THE COURT: Would the fact that your cousin is  
22 employed with the city police affect your ability to give  
23 the defendant as well as the state in this case a fair  
24 and impartial trial?

25 POTENTIAL JUROR: No, sir.

1 THE COURT: Would you be able to disregard your  
2 cousin's employment in its entirety and base your  
3 decision in this case exclusively on the testimony and  
4 evidence in this case?

5 POTENTIAL JUROR: Yes, sir.

6 THE COURT: And who is your cousin?

7 POTENTIAL JUROR: Casey Jones.

8 THE COURT: Is Casey Jones involved in this case at  
9 all?

10 MR. SCOTT: No, sir. In fact, he's Clinton Police  
11 Department. This is Laurens Police Department.

12 POTENTIAL JUROR: Thank you.

13 THE COURT: Okay.

14 POTENTIAL JUROR: He changed, then ---

15 THE COURT: Okay.

16 POTENTIAL JUROR: --- recently .

17 THE COURT: All right. Thank you very much for  
18 bringing that to our attention.

19 Anyone else?

20 (Whereupon, no potential juror stood.)

21 THE COURT: All right. I've reviewed your list.  
22 Other than the ones I've asked and the ones that you've  
23 submitted, anything further from the defense?

24 MR. BROOME: No, Your Honor.

25 THE COURT: All right. Ladies and gentlemen, as I

1        advised you the other day when we selected the jury on  
2        the first trial, we follow the same procedure in this  
3        trial. Your names will be placed in the computer,  
4        generated on a list at random. Your names will be called  
5        one at a time. And when your name is called, if you'd  
6        please come to the table here, turn, and face the  
7        attorneys.

8                And the state will decide whether or not they want  
9        to accept you as a juror. And then the defense will  
10       decide whether or not they want to accept you as a juror.  
11       And we follow this procedure until we get 12 jurors and  
12       one alternate.

13               As I told you the other day, if you get stricken by  
14       either the state or the defense, please do not take it  
15       personally. It just means, for whatever reason, you do  
16       not fit a particular profile that they're looking for in  
17       this particular case.

18               But please listen up. And if the clerk calls your  
19       name, come forward; stand at the table; face the  
20       attorneys. Bring with you any pocketbooks, umbrellas,  
21       coats, whatever you might have, with you.

22               This is a five and five strike; is that correct?

23        Okay.

24                                (Off the record briefly.)

25        THE COURT: All right.

1 CLERK OF COURT: Juror No. 49, Donna P. Deshields.  
2 (Whereupon, the potential juror came forward.)  
3 CLERK OF COURT: What says the state?  
4 MR. BIXLER: Please present the juror.  
5 CLERK OF COURT: What says the defense?  
6 MR. BROOME: Please sit the juror.  
7 (Whereupon, the potential juror was seated on the  
8 jury.)  
9 CLERK OF COURT: Juror No. 33, Richard E. Collins.  
10 (Whereupon, the potential juror came forward.)  
11 CLERK OF COURT: What says the state?  
12 MR. BIXLER: Please present the juror.  
13 CLERK OF COURT: What says the defense?  
14 MR. BROOME: Please sit the juror.  
15 (Whereupon, the potential juror was seated on the  
16 jury.)  
17 CLERK OF COURT: Juror No. 85, Rachel L. Hawks.  
18 (Whereupon, the potential juror came forward.)  
19 CLERK OF COURT: What says the state?  
20 MR. BIXLER: Please present the juror.  
21 CLERK OF COURT: What says the defense?  
22 MR. BROOME: Please excuse -- please excuse the  
23 juror.  
24 (Whereupon, the potential juror returned to the jury  
25 panel.)

1 CLERK OF COURT: Juror No. 176, Bryan A. Thornton.

2 (Whereupon, the potential juror came forward.)

3 CLERK OF COURT: What says the state?

4 MR. BIXLER: Please present the juror.

5 CLERK OF COURT: What says the defense?

6 MR. BROOME: Please sit the juror.

7 (Whereupon, the potential juror was seated on the  
8 jury.)

9 CLERK OF COURT: Juror No. 102, Katonya I.  
10 Kingsborough.

11 (Whereupon, the potential juror came forward.)

12 CLERK OF COURT: What says the state?

13 MR. BIXLER: Please present the juror.

14 CLERK OF COURT: What says the defense?

15 MR. BROOME: Please sit the juror.

16 (Whereupon, the potential juror was seated on the  
17 jury.)

18 CLERK OF COURT: Juror No. 69, Connor L. Gault.

19 (Whereupon, the potential juror came forward.)

20 CLERK OF COURT: What says the state?

21 MR. BIXLER: Please excuse the juror.

22 (Whereupon, the potential juror returned to the jury  
23 panel.)

24 CLERK OF COURT: Juror No. 51, Katherine W. Dutton.

25 (Whereupon, the potential juror came forward.)

1 CLERK OF COURT: What says the state?  
2 MR. BIXLER: Please present the juror.  
3 CLERK OF COURT: What says the defense?  
4 MR. BROOME: Please excuse the juror.  
5 (Whereupon, the potential juror returned to the jury  
6 panel.)  
7 CLERK OF COURT: Juror No. 56, Mary L. Ellis..  
8 (Whereupon, the potential juror came forward.)  
9 CLERK OF COURT: What says the state?  
10 MR. BIXLER: Please present the juror.  
11 CLERK OF COURT: What says the defense?  
12 MR. BROOME: Please sit the juror.  
13 (Whereupon, the potential juror was seated on the  
14 jury.)  
15 Juror No. 193, Ida. M. Williams.  
16 (Whereupon, the potential juror came forward.)  
17 CLERK OF COURT: What says the state?  
18 MR. BIXLER: Please present the juror.  
19 CLERK OF COURT: What says the defense?  
20 MR. BROOME: Please present the juror.  
21 (Whereupon, the potential juror was seated on the  
22 jury.)  
23 CLERK OF COURT: Juror No. 109, Anthony T. Lilly.  
24 (Whereupon, the potential juror came forward.)  
25 CLERK OF COURT: What says the state?

1 MR. BIXLER: Please excuse the juror.

2 (Whereupon, the potential juror returned to the jury  
3 panel.)

4 CLERK OF COURT: Juror No. 10, Debra C. Barnes.

5 (Whereupon, the potential juror came forward.)

6 CLERK OF COURT: What says the state?

7 MR. BIXLER: Please seat -- or present the juror.

8 CLERK OF COURT: What says the defense?

9 MR. BROOME: Please excuse the juror.

10 (Whereupon, the potential juror returned to the jury  
11 panel.)

12 CLERK OF COURT: Juror No. 66, Julian E. Garrett,

13 II.

14 (Whereupon, the potential juror came forward.)

15 CLERK OF COURT: What says the state?

16 MR. BIXLER: Please present the juror.

17 CLERK OF COURT: What says the defense?

18 MR. BROOME: Please present the juror.

19 (Whereupon, the potential juror was seated on the  
20 jury.)

21 CLERK OF COURT: Juror No. 70, James L. Gault, Sr.

22 (Whereupon, the potential juror came forward.)

23 CLERK OF COURT: What says the state?

24 MR. BIXLER: Please present the juror.

25 CLERK OF COURT: What says the defense?

1 MR. BROOME: Please present the juror.

2 (Whereupon, the potential juror was seated on the  
3 jury.)

4 CLERK OF COURT: Juror No. 14, Dennis L. Birmingham.

5 (Whereupon, the potential juror came forward.)

6 CLERK OF COURT: What says the state?

7 MR. BIXLER: Please excuse the juror.

8 (Whereupon, the potential juror returned to the jury  
9 panel.)

10 CLERK OF COURT: Juror No. 192 ---

11 THE BAILIFF: I didn't hear you. Did he say  
12 excused?

13 CLERK OF COURT: Excused.

14 THE BAILIFF: All right.

15 (Off the record briefly.)

16 CLERK OF COURT: Juror No. 192, Ashlee B. Williams.

17 (Whereupon, the potential juror came forward.)

18 CLERK OF COURT: What says the state?

19 MR. BIXLER: Please present the juror.

20 CLERK OF COURT: What says the defense?

21 MR. BROOME: Please present the juror.

22 (Whereupon, the potential juror was seated on the  
23 jury.)

24 CLERK OF COURT: Juror No. 132, Heather M. Morris.

25 (Whereupon, the potential juror came forward.)

1 CLERK OF COURT: What says the state?

2 MR. BIXLER: Please present the juror.

3 CLERK OF COURT: What says the defense?

4 MR. BROOME: Please present the juror.

5 (Whereupon, the potential juror was seated on the  
6 jury.)

7 CLERK OF COURT: Juror No. 142, Kathy Putnam James.

8 (Whereupon, the potential juror came forward.)

9 THE BAILIFF: No. Right here.

10 CLERK OF COURT: What says the state?

11 MR. BIXLER: Please present the juror.

12 CLERK OF COURT: What says the defense?

13 MR. BROOME: What was her number again?

14 CLERK OF COURT: 142.

15 MR. BROOME: 142?

16 CLERK OF COURT: It came out as Putnam ---

17 MR. BROOME: Got you.

18 CLERK OF COURT: --- before the . . .

19 MR. BROOME: Please present the juror.

20 (Whereupon, the potential juror was seated on the  
21 jury.)

22 CLERK OF COURT: Juror No. 180, David W. Townsend.

23 (Whereupon, the potential juror came forward.)

24 CLERK OF COURT: What says the state?

25 MR. BIXLER: Please present the juror.

1 CLERK OF COURT: What says the defense?

2 MR. BROOME: Please excuse the juror.

3 (Whereupon, the potential juror returned to the jury  
4 panel.)

5 CLERK OF COURT: Juror No. 185, Jonathan D. Welch.

6 (Whereupon, the potential juror came forward.)

7 CLERK OF COURT: What says the state?

8 MR. BIXLER: Please present the juror.

9 CLERK OF COURT: What says the defense?

10 MR. BROOME: Please present the juror.

11 (Whereupon, the potential juror was seated on the  
12 jury.)

13 THE COURT: All right. Let's pick one alternate.  
14 The state gets one strike; defense gets two.

15 CLERK OF COURT: Juror No. 73, Cynthia D. Gothard.

16 (Whereupon, the potential juror came forward.)

17 CLERK OF COURT: What says the state?

18 MR. BIXLER: Please present the juror.

19 CLERK OF COURT: What says the defense?

20 MR. BROOME: Please present the juror.

21 (Whereupon, the potential juror was seated on the  
22 jury.)

23 THE COURT: All right. Ladies and gentlemen, you  
24 will be the jury that will preside over this next case.

25 I'm going to excuse you back to the jury room for just a

1 few minutes while I excuse the remainder of the jury  
2 panel.

3 Please do not discuss the case, even among  
4 yourselves at this point in time. Don't conduct any  
5 independent investigations. We'll bring you back in the  
6 courtroom in just a few minutes. Thank you very much.

7 (Whereupon, the jury exited the courtroom at 12:27  
8 p.m.)

9 THE COURT: All right. Any challenges to the  
10 selection or composition of the jury by the state?

11 MR. BIXLER: None from the state.

12 THE COURT: Any by the defense?

13 MR. BROOME: No, Your Honor.

14 THE COURT: All right. Ladies and gentlemen, we  
15 have our jury for this next case. Now, will that --  
16 that'll conclude for the week?

17 CLERK OF COURT: Yes, sir.

18 THE COURT: All right. So that will conclude your  
19 duty as jurors, not only for this case, but for the  
20 remainder of the week. And I'm going to excuse you for  
21 the remainder of the day and for the remainder of the  
22 week.

23 But before you go, I want to sincerely thank you for  
24 being here this week. I know some of you have served on  
25 a jury. Some of you have not served on a jury. But even

1 if you have not, please do not feel that you have not  
2 fulfilled your duty as jurors, because you have.

3 There are a great number of cases that have been  
4 resolved because you have been here, ready and willing to  
5 perform your duty as jurors. And I want to thank you for  
6 your service. I've enjoyed this week with you in  
7 Laurens.

8 I hope I get to come back. I'm not scheduled to  
9 come back as of yet, but we're going to get a new  
10 schedule soon. And hopefully, they will have me coming  
11 back because I really have enjoyed my term here.

12 You're free to go for the remainder of the day and  
13 for the remainder of the week. And thank you very much.

14 (Whereupon, the unselected jury panel exited the  
15 courtroom at 12:28 p.m.)

16 (Off the record briefly.)

17 THE COURT: All right. I think -- it's 12:30, so  
18 I'll probably bring the jury back in and let's go ahead  
19 and break for lunch and then come back. 12:30, 1:30 --  
20 I'll have them come back at -- let's see -- 12:30 to  
21 1:30. I'll have them come back at a quarter till two,  
22 and we'll try to get started at two o'clock. That sound  
23 agreeable to everyone?

24 MR. BROOME: Yes, Your Honor.

25 MR. BIXLER: That's fine with us, Your Honor.

1 THE COURT: All right. Anything from the state  
2 before we bring the jury back in?

3 MR. BIXLER: Nothing from the state.

4 THE COURT: Anything from the defense?

5 MR. BROOME: No, Your Honor.

6 THE COURT: All right. Let's go ahead and bring the  
7 jury back in.

8 (Off the record briefly.)

9 (Whereupon, the jury entered the courtroom at 12:31  
10 p.m.)

11 THE BAILIFF: All jurors present, Your Honor.

12 THE COURT: Thank you very much.

13 All right. Ladies and gentlemen, you will be the  
14 jurors presiding over this next case. But given the time  
15 of day, I think we're going to go ahead and break for  
16 lunch and let you go to lunch. I'm going to ask that you  
17 please be back in the jury room at about ten till 2.  
18 That'll give you about an hour and 20 minutes to eat  
19 lunch and get back.

20 Now, when you get back in the jury room, if you  
21 could do me a favor, and that would be to select a  
22 foreperson for this jury. I understand you might not  
23 know everyone. And if you can't select a foreperson,  
24 don't worry about it.

25 I can appoint someone to serve as foreperson. Many

1 judges appoint their own foreperson. I like to give the  
2 jury the opportunity to select one on their own accord if  
3 they're able to do so.

4 If you can select a foreperson, just write his or  
5 her name on a sheet of paper with the jury number. Give  
6 it to the bailiff. And we'll bring you back into the  
7 courtroom at that time.

8 Now, when you come back in the courtroom, the  
9 foreperson will always occupy the first seat on the front  
10 row closest to the witness stand.

11 Let's see. Ms. Gothard?

12 JUROR: (Raised hand.)

13 THE COURT: All right. You're the alternate this  
14 time. So you'll always occupy the alternate seat. And  
15 because you are an alternate, you would be the only one  
16 that is not eligible to serve as foreperson, okay?

17 And any of the rest can serve as foreperson. Now,  
18 the foreperson has no more authority, no more influence,  
19 no more importance than any other juror. The function of  
20 the foreperson is to act as a liaison between the Court  
21 and the jury. If the jury has a question, the foreperson  
22 lets the Court know. If the jury has a need, the  
23 foreperson lets the Court know.

24 When it's time to deliberate, the foreperson will  
25 preside over the deliberations and sign the verdict form.

1 But other than that, the foreperson has no more  
2 authority, no more influence, no more importance than any  
3 other juror.

4 So if you can select a foreperson, just write his or  
5 her name on sheet of paper with the jury number and give  
6 it to the bailiff. As I said, when you come back in, the  
7 foreperson will occupy the first seat on the front row.  
8 The alternate will occupy the alternate seat.

9 The rest of you are at liberty to sit in whatever  
10 seat you like, whether it be the same seat throughout the  
11 trial of the case or alternating seats throughout the  
12 trial of the case. It does not matter. The foreperson  
13 and alternate are the only ones that have designated  
14 seats.

15 I'm going to excuse you for lunch. I'm going to ask  
16 that you be back at ten till 2. Do not discuss the case  
17 with anyone, even among yourselves. Don't conduct any  
18 independent investigations. Don't go looking on the  
19 Internet or in the newspaper or trying to find out  
20 anything about the case. Everything you need to make a  
21 decision in this case will be presented to you.

22 I hope you have a good lunch. And we'll see you  
23 back in about an hour and 20 minutes. Thank you very  
24 much.

25 (Whereupon, the jury exited the courtroom at 12:34

1 p.m.)

2 THE COURT: All right. Anything from the state  
3 before we break for lunch?

4 MR. BIXLER: Nothing, Your Honor.

5 THE COURT: Anything from the defense?

6 MR. BROOME: No, Your Honor.

7 THE COURT: All right. We'll be in recess. As I  
8 said, I'll try to take the bench right at two o'clock,  
9 okay?

10 (Off the record from 12:34 p.m. until 2:01 p.m.)

11 THE COURT: All right. The jury sent out a note.  
12 They have selected Juror 185, Jonathan D. Welch, as the  
13 foreperson. So I'll go ahead and mark that as Court's  
14 Exhibit 1.

15 (Whereupon, Court's Exhibit 1 was marked for  
16 identification.)

17 THE COURT: Anything from the state before we bring  
18 the jury in?

19 MR. BIXLER: Nothing, Your Honor.

20 THE COURT: Anything from the defense?

21 MR. BROOME: Yes, Your Honor.

22 THE COURT: All right.

23 MR. BROOME: I make a motion to quash the indictment  
24 on the controlled-substance charge. If you'll notice on  
25 the -- she was not indicted until Friday on this. And

1 from my understanding, they -- she was arrested for PWID  
2 methamphetamine. They indicted her October 31, 2014.  
3 She'd requested a trial awhile ago. And the state's  
4 waited till Friday.

5 And I've received no notice that we're going forward  
6 on a controlled-substance charge. She hasn't been  
7 served. I have not been served. So it was news to me  
8 this morning when I saw that indictment.

9 So I made note of it and -- and wanted to bring it  
10 to the Court's attention. But ---

11 THE COURT: All right. Let me ---

12 MR. BROOME: --- she's ---

13 THE COURT: --- hear ---

14 MR. BROOME: --- she hasn't been arraigned or  
15 anything on that charge.

16 THE COURT: All right. Let me hear from the state  
17 on that.

18 MR. BIXLER: Your Honor, she was served with the  
19 warrant at the same time as the possession with intent to  
20 distribute methamphetamine. It was just an oversight as  
21 to the controlled substance. It was not indicted at the  
22 same time the possession with intent to distribute  
23 methamphetamine was.

24 THE COURT: Okay. But, I mean, have -- have they  
25 been served with the indictment for the possession of a

1 controlled substance? I mean, it does say on here -- it  
2 does show that it was just true-billed on March the 24th,  
3 which would've been Friday. Wasn't ---

4 MR. SCOTT: Your Honor ---

5 THE COURT: --- that Friday?

6 MR. SCOTT: --- what we could do, we -- we could  
7 sever it. Quashing it is not the appropriate response to  
8 that. We could sever it and try her later on that one if  
9 we need to.

10 THE COURT: Well, I don't know. If -- if it all  
11 arose out of one stop, one detention, one search ---

12 MR. SCOTT: Yes, sir.

13 THE COURT: --- and all of it was found at the same  
14 time, I don't think you can try her on the same set of  
15 facts twice.

16 MR. SCOTT: Would -- it wouldn't be the same set of  
17 facts. Well, the same set of facts, but different  
18 charges, separate and distinct charges.

19 I would argue, though, I think it's proper to try  
20 her today. She's been on notice. She was served with  
21 that warrant.

22 Now, I haven't been involved with the trial-notice  
23 aspect of this. So I don't know if she was noticed that  
24 these two would be tried together today. But -- but my  
25 thought would be quashing the indictment, just based on

1       trying it the Monday after a true-bill indictment -- I've  
2       done that plenty before with ink still wet on the  
3       indictment when I tried the -- the case. So I -- I don't  
4       know that quashing it is the appropriate response.

5               THE COURT: All right.

6               MR. SCOTT: But certainly, we are prepared to  
7       arraign her, Your Honor.

8               THE COURT: No. It's the same set of facts, same  
9       search, same detention. I'm going to quash the  
10       indictment on the possession of a controlled substance.  
11       We'll go ahead and we'll just proceed on the possession  
12       with intent to distribute methamphetamine. All right?

13               All right. I grant the motion to quash Indictment  
14       No. 2017-GS-30-521.

15               All right. Anything further from the defense before  
16       we bring in the jury?

17               MR. BROOME: No, Your Honor.

18               THE COURT: All right. Let's go ahead and bring the  
19       jury in. We'll bring them in; I'll do the opening  
20       charges. We'll do the opening statements and get  
21       straight -- straight into it, okay?

22                               (Off the record briefly.)

23                               (Whereupon, the jury entered the courtroom at 2:07  
24       p.m.)

25               THE BAILIFF: All jurors present, Your Honor.

1 THE COURT: Thank you very much. All right. Ladies  
2 and gentlemen, welcome back. I understand, Mr. Welch,  
3 you have been selected as foreperson; is that correct?

4 THE FOREPERSON: That's correct.

5 THE COURT: All right. Thank you for serving in  
6 that capacity. If you would always occupy the seat where  
7 you now sit; Ms. Gothard, if you'd always occupy your  
8 seat; and as I said, the rest of you are at liberty to  
9 sit in whatever seat you like, whether it be the same  
10 seat throughout the trial of the case, different seats,  
11 just whatever you prefer.

12 Now, we're getting ready to start the trial of the  
13 case of *the State of South Carolina v. Katy McDonald*  
14 *Tuttle*. And as I told you during qualifications and voir  
15 dire, jurors are constantly taking oaths. So I'll need  
16 you to stand and raise your right hand while the clerk  
17 administers the oath for you to serve as jurors on this  
18 particular case.

19 (Whereupon, the jury panel was duly sworn at 2:08  
20 p.m.)

21 THE COURT: Thank you very much, ladies and  
22 gentlemen. Is there any member of the jury that did not  
23 respond to the oath by saying "I will"? If so, please  
24 stand.

25 (Whereupon, no juror stood.)

1 THE COURT: Very well. All right. As I said, we're  
2 getting ready to start the case of *the State of South*  
3 *Carolina v. Katy McDonald Tuttle*. And some of you who  
4 have served on juries before, this will be a repeat of  
5 some of the instructions that you may have heard before.  
6 For those of you who have not heard these instructions  
7 before, I want to thank you for serving on this jury.

8 I know, from watching movies, reading books,  
9 watching trials for entertainment purposes, they're often  
10 full of a lot of action, a lot of suspense. And while  
11 that might be the case in this trial, it probably won't  
12 be.

13 The primary function interest his trial is that the  
14 has been charged with violating a criminal statute. And  
15 the state is -- bears the burden of proving the  
16 defendant's guilt beyond a reasonable doubt. And it'll  
17 be your decision to decide whether or not the state has  
18 met that burden. That's often a slow, deliberate,  
19 repetitive process, the exact opposite of what you might  
20 be accustomed to when you watch trials for entertainment  
21 purposes.

22 But I hope you do find the trial entertaining. I  
23 hope you find it educational. And I want to thank you  
24 from the outset for serving as jurors in this case.

25 The attorneys appearing before you are advocates for

1 the parties they represent. But first and foremost, they  
2 are officers of the Court. They are sworn to uphold the  
3 integrity and the fairness of their -- of our judicial  
4 system. And they will help you in a search for the truth  
5 in this case. You should expect them to be professional,  
6 competent, and ethical in the representation of their  
7 clients' interests.

8 Now, what I now say to you is intended to serve as  
9 an introduction to the trial of this case. These remarks  
10 are not a charge on the law in this case. I will  
11 instruct you on the law applicable to this case at the  
12 end of the trial before you retire to consider your  
13 verdict. This is merely an explanation of the procedure  
14 that we will follow in the trial of this case so that you  
15 can better understand what's happening.

16 Excuse me. Now, the defendant is charged by an  
17 indictment. This is the indictment. And the defendant  
18 is charged with the crime of possession with intent to  
19 distribute methamphetamine. Now, the elements of that  
20 crime, I'll explain to you at a later time.

21 This indictment is simply the charge by which this  
22 case is brought into this Court. It is not in any sense  
23 evidence of any of the allegations it contains. The  
24 defendant has pled not guilty to this indictment, and the  
25 state, therefore, has the burden of proving each of the

1 elements of the indictment beyond a reasonable doubt.

2 It will be your duty, ladies and gentlemen, to  
3 decide whether or not the state has met that burden.  
4 Your purpose as jurors is to find and determine the facts  
5 of this case. You are the sole judge of the facts of  
6 this case.

7 If, at any time, I make a comment regarding the  
8 facts of this case, you must disregard my comments. You  
9 are to determine the facts from the testimony you hear  
10 and other evidence that is introduced during the trial of  
11 this case. It'll be up to you to determine the  
12 inferences which you feel may properly be drawn from that  
13 testimony and evidence.

14 It is especially important that you perform your  
15 duty of determining the facts diligently and  
16 conscientiously. Because ordinarily, there is no way to  
17 correct an erroneous determination of the facts by a  
18 jury.

19 On the other hand and with equal emphasis, the same  
20 law that makes you the judge of the facts makes me the  
21 judge of the law. The law, as given by the Court, is the  
22 only law that you may consider. You must accept and  
23 follow the law as I give it to you, even though you may  
24 disagree with it.

25 Just as I cannot tell you what the facts of this

1 case are, you cannot disagree with me about the law to be  
2 applied in this case. Your job is to take the law as I  
3 give it to you and apply it to the facts, as you find  
4 those facts to be, from the testimony of witnesses and  
5 any other exhibits that might be introduced into  
6 evidence. After doing that, you will render your  
7 verdict, a true and just verdict under the solemn oath  
8 that you just took as jurors.

9 Now, until I advise you to begin your deliberations,  
10 you must not discuss this case with anyone, including  
11 your fellow jurors. Do not discuss it with any friends  
12 or family members or anyone involved in the case. After  
13 the case is submitted to you, you can then discuss the  
14 case but only in the jury room with your fellow jurors.

15 The attorneys and parties in the case have been  
16 instructed that they're not to speak with you about the  
17 case. So they're not being rude if they don't talk to  
18 you. They're just following the instructions of the  
19 Court.

20 Now, during the trial you are not to read or listen  
21 to or watch any news reports about the case. This  
22 includes anything that may be in the newspaper, on the  
23 Internet, radio, or television. You must not consider  
24 anything you may have read or heard about the case  
25 outside of the courtroom, whether that be before or

1 during the trial of this case.

2 It is important that you keep an open mind and not  
3 decide any issue in this case until all of the evidence  
4 has been presented to you, the parties have made their  
5 closing arguments, and I have instructed you on the law  
6 to be applied in this case. It is your solemn  
7 responsibility to determine the guilt or innocence of the  
8 defendant. And your verdict must be based solely on the  
9 evidence as it is presented to you in this trial and on  
10 the law as I instruct you during and at the close of the  
11 trial.

12 Now, in just a moment, the solicitor will make  
13 what's called an opening statement in which the solicitor  
14 will explain to you the issues in this case, or at least  
15 what the solicitor thinks the issues in this case are.  
16 The attorney for the defendant may also make an opening  
17 statement, although he is not required to do so.

18 What the attorneys tell you during their opening  
19 statements is not evidence in this case. It is simply  
20 their contention as to what the issues are. The evidence  
21 in this case will be presented to you by testimony of  
22 sworn witnesses from the witness stand and by exhibits  
23 that may be introduced into evidence.

24 Now, in determining the facts of this case, you must  
25 decide whether or not the testimony of a witness is

1 believable. It will be my responsibility to rule as a  
2 matter of law as to whether or not certain testimony is  
3 admissible at all or not. However, once testimony is  
4 entered into evidence, whether or not you believe it is  
5 solely for you to determine.

6 In determining whether to believe a witness, you  
7 have the right to consider the interests of any witness,  
8 the bias of any witness, the prejudice of any witness,  
9 the opportunity for the witness to have seen the matters  
10 and things about which the witness may testify, and the  
11 way the witness acts on the witness stand. You have the  
12 right to consider anything that is in the record that  
13 will help you evaluate the testimony of the witnesses..

14 That means that it is your duty to pay close  
15 attention to these witnesses, to observe them, to listen  
16 to them, and to pay close attention to the attorneys and  
17 to the Court. Don't let your thoughts wander, but give  
18 strict attention to the testimony in this case so that at  
19 the end of the testimony and after the arguments of  
20 counsel and a charge on the law by the Court, you will  
21 then be in a position to determine what the true facts  
22 are and to apply the law to those facts and thus render a  
23 true and just verdict.

24 All right. Is there any additional charges or  
25 challenges to the opening charges by the state?

1 MR. BIXLER: None from the state.

2 THE COURT: Any by the defense?

3 MR. BROOME: No, Your Honor.

4 THE COURT: All right. Ladies and gentlemen, we'll  
5 begin the trial of this case with the opening statements.  
6 And as I just instructed you, these opening statements  
7 are not evidence in the case. It is simply the  
8 attorneys' contention as to what they feel the evidence  
9 in this case will show.

10 All right. The state wishes to proceed?

11 MR. SCOTT: Yes, sir. Thank you, Your Honor. May  
12 it please the Court?

13 THE COURT: Yes, sir.

14 OPENING STATEMENT BY MR. SCOTT

15 MR. SCOTT: A long way from home, that's what Katy  
16 Tuttle was. June 30th, 2014, just before 9 p.m., she was  
17 a long way from home. She's from a place called Navarre,  
18 Florida. That's in the Florida Panhandle. It's near  
19 Fort Walton Beach, about 500 miles from here. But just  
20 before nine o'clock, June 30th, 2014, she was here in  
21 Laurens County in Laurens City, despite having absolutely  
22 no reason to be here, really, no contacts whatsoever  
23 here.

24 This crime happened about a quarter-mile from here,  
25 maybe less than that. You guys know if you leave the

1 courthouse and take a right and then go down to Church  
2 Street, take another right -- y'all know that Lil Cricket  
3 right there? Take a left. That's Anderson.

4 The stop in this case -- this case arises out of a  
5 traffic stop -- happened right around those railroad  
6 tracks right there. So if y'all can think about where  
7 that Lil Cricket is, that's about where this whole thing  
8 went down, 500 miles from home, just before 9 p.m. on  
9 June 30th, 2014.

10 That's where Katy Tuttle was. And she's over here  
11 in Laurens City, and she's driving her Oldsmobile. And  
12 she's speeding. And that's a 45-mile-per-hour speed  
13 zone. She's going about 57 miles per hour.

14 And Michael Gainey, sitting right here on the end of  
15 the table here, he's a police officer with Laurens City.  
16 He sees the car speed by him as he's driving. He says,  
17 That's -- that's a lot faster than 45 miles an hour. And  
18 he estimated it to be around 57 miles an hour.

19 So he turned on the car, and he stopped the car.  
20 Thought it to be a routine speeding stop, nothing really  
21 out of the ordinary, until he began to approach the car.

22 And when I say something, I hope I don't offend any  
23 of you. You're all Laurens County residents. I'm not.  
24 I drive here every day from another county. But I -- I  
25 work here in this county.

1           You guys live in one of the meth capitals of the  
2 state. And -- and there -- there's a lot of  
3 methamphetamine here. I -- I don't mean that to offend.  
4 I mean that as fact. That is fact. And the statistics  
5 bear it out.

6           So if you're law enforcement here, you have your  
7 share of run-ins with methamphetamine-related cases.  
8 Certainly, Michael Gainey has. Certainly, Logan Kanipe,  
9 sitting to his left, has.

10           And what they -- what Michael did, when he  
11 approached the car, was he observed Ms. Tuttle. He asked  
12 her for her driver's license, her proof of registration,  
13 and her proof of insurance. And all the while, he's  
14 observing her.

15           And she is engaged in rather bizarre behavior. And  
16 she's hopping around and she's rambling on incoherently.  
17 And she cannot keep still. And in his mind, he thinks  
18 this looks like familiar activity, stuff -- something  
19 he's seen before. And he makes the determine that she's  
20 under the influence of something.

21           In his experience, he -- he believes it to be  
22 amphetamine, just by her reaction. This is just hopping  
23 back and forth, cannot sit still in the seat. He goes  
24 back to the car to run her information, but keeps his eye  
25 on her the whole time.

1           And she's in the car, hopping around. He sees her  
2 reach over and bend down in the passenger seat. He makes  
3 note of that. What was she doing? Was she concealing  
4 something? Was she picking up something?

5           He calls backup. And that's Logan Kanipe. That's  
6 his partner over here, sitting in the center. And Logan  
7 was going to come over there and do some field-sobriety  
8 tests. Because again, he suspects that she's under the  
9 influence of something.

10           Logan Kanipe gets there; has her step out of the  
11 car; has her perform these field-sobriety tests. And  
12 you're going to see this. By the way, it was on video.  
13 This is on video.

14           Each one of these guys has a camera in their car  
15 that films out the front of their car. They also have  
16 one that films the backseat of their car.

17           So what you'll see is Ms. Tuttle's performing poorly  
18 on these field-sobriety tests. And she's asked to do  
19 some basic things, like walk toe to toe, stand on one  
20 leg, and -- and various other things that -- that they're  
21 trained to do if they suspect somebody to be under the  
22 influence of something. And she does poorly.

23           At -- at some point they take that into account.  
24 They take her pupils being very dilated, much more so  
25 than the average person. They take this rambling and

1 this just kind of what they call "tweaking" -- I call it  
2 just hyperactivity. She's jumping to and from and  
3 everything and -- and what they suspect to amphetamine-  
4 fueled behavior. And they decide to place her under  
5 arrest for driving under the influence.

6 You guys understand you can drive under the  
7 influence of things other than alcohol. They never  
8 really suspected her to be drunk on alcohol. But they  
9 arrested her because she's under the influence of  
10 something. Put her in handcuffs, as they have to do with  
11 every arrestee; put her in the back of the patrol car.

12 And they say, "Oh, yeah. What was that thing she  
13 was reaching over in the passenger seat? What was she up  
14 to there?"

15 They go back to the car. They find a blue bag, and  
16 it's got some pills in it. But it's also got some  
17 methamphetamine in it -- methamphetamine, about what  
18 field-tested about 1.4 grams of methamphetamine --  
19 crystal methamphetamine.

20 And the pills were something called Lyrica. Lyrica  
21 is a pain pill. She's prescribed Lyrica. You're going  
22 to hear about her being prescribed this Lyrica.

23 So she was lawfully in possession of these pills.  
24 You can never be lawfully in possession of crystal  
25 methamphetamine, though. So with her pills is the

1 methamphetamine. What Officer Gainey had seen her reach  
2 over to do was to place the methamphetamine in the bag in  
3 the passenger floorboard.

4 That's pretty much it, guys. That's the case here.  
5 Some of you, I recognize from the burglary case earlier  
6 this week. This is a drug case. Not to -- not to  
7 minimize it, but -- but probably a simpler set of facts.

8 That's it. She's alone in the car, 500 miles from  
9 home, very erratic behavior, methamphetamine in her  
10 control, in her dominion. It's called constructive  
11 possession. You understand that if I have my wallet and  
12 it's not on me -- it's sitting on that table -- I still  
13 have possession of my wallet. That's called constructive  
14 possession.

15 That's what this case is about: her having that  
16 methamphetamine in that car registered to her at arm's  
17 length, she being the only one in the car.

18 I'm trying to think. They -- they take her back to  
19 the station. She says, "Let me take a Breathalyzer. Let  
20 me take a Breathalyzer."

21 Breathalyzer detects what? Ethanol. Ethanol is  
22 derived from what? Drinking alcohol beverages.

23 She knew she hadn't been drinking alcoholic  
24 beverages. She knew she was going to zero out on the  
25 DataMaster. And that, she did.

1           But they filmed that too. And you're going to see  
2 some videos that -- that -- that have her in the back of  
3 Logan's patrol car. You're going to see the videos from  
4 her outside the patrol cars.

5           They get her to the station after the Breathalyzer.  
6 And -- and by the way, she's under *Miranda* warnings.  
7 She'd got *Miranda* at the scene, which she's 50-something  
8 years old. She's got a GED.

9           She understood her rights: I don't have to talk  
10 with you. I had a right to a lawyer. She has all that.  
11 But she does submit to some questions.

12           Back at the station, they ask her a number of  
13 questions. They say, "Did you get the meth from  
14 Florida?"

15           She says, "No. I didn't have any meth."

16           They say, "Well, do you have a prescription for the  
17 Lyrica?"

18           She says, "Yes, I do."

19           And they said, "Have you smoked or injected any meth  
20 or how do you typically use meth?"

21           And she's hopping all around. She's here and there  
22 and everywhere else. She says, "I smoke meth."

23           They say, "Did you bring the meth here from Florida?  
24 Did you transport it across state lines?"

25           She says, "No. We got it here."

1           They say, "You got what here?"

2           And she says, "Meth."

3           That's the case, guys. You've got an admission to  
4 some degree. You've got it at arm length. You're going  
5 to see her behavior on the video.

6           That's it. That's the case. We got four witnesses,  
7 okay? A couple of them are just going to say, "I took  
8 the drugs from here to SLED."

9           And then, you're going to have these two officers,  
10 and you're going to have the SLED who tested it and says,  
11 "Yeah. That was over a gram of meth."

12           She's charged with possession with intent to  
13 distribute meth. What the legislature has said is if you  
14 get caught in possession of methamphetamine over a gram,  
15 it can be inferred that you had intent to distribute that  
16 meth. So what -- officers tested it. It's over a gram.  
17 They charge her with possession with intent to  
18 distribute.

19           I submit to you, at the end of this case, you're  
20 also going to have the opportunity to find, Well, if  
21 she's not guilty of possession with intent to distribute,  
22 maybe she was just guilty of possession of meth. So  
23 those are going probably be your two options: Did she  
24 have it with intent to distribute? Did she just have it  
25 for her own use?

1           Or -- hey -- there's a third option here. You could  
2 say, "I cover my eyes. I don't want to look at the  
3 facts. I cover my ears. I don't want to hear the facts.  
4 I'm putting my common sense aside. I'm not going to use  
5 any logic today. I'm not going to use any reason. And  
6 for no reason, I'm just going to find her not guilty."

7           And that's your opportunity. That's your  
8 prerogative as citizens in this county. But I'm here to  
9 tell you -- I'm here to tell you: Common sense only has  
10 one options, and that's that that methamphetamine was  
11 hers, the only person in the car, 500 miles from home.  
12 That behavior -- you're going see all that. All right?

13           So at the end of this, we got to prove this case  
14 beyond a reasonable doubt. Some of you have heard this  
15 before. Y'all heard it from me yesterday. That means we  
16 have to leave you firmly convinced that that was her meth  
17 and that was in her possession.

18           I told you the case is going to go. That's how I  
19 foresee this case going. I foresee it being pretty  
20 short. You're going to hear from these two guys, the two  
21 officers. And you're going to hear from a third officer  
22 who transported the meth to SLED.

23           And then you're going finally hear the analyst that  
24 says, "Yeah. That was meth. And here's what it  
25 weighed."

1           That's it. And those are going to be your choices,  
2 those three choices at the end of this. But what I'm  
3 going to do is please ask you to pay attention -- brief  
4 trial. And that's the last thing I'm going to ask:  
5 common sense. What is common sense? What does common  
6 sense dictate?

7           And at the end of this trial, we're going to ask you  
8 find her guilty. Thank you.

9           THE COURT: All right. Mr. Broome?

10                           OPENING STATEMENT BY MR. BROOME

11           MR. BROOME: June 30th, 2014, Katy Tuttle was  
12 driving back from Anderson, South Carolina. She had left  
13 Navarre, Florida, earlier that weekend. This is where  
14 she lives. It's where she's been living for a long time.

15           She's born in England. Her father was in the Air  
16 Force. It's where they met his -- her mother. She  
17 transferred -- the family transferred down to Sumter when  
18 she was an infant, and she has family that live in South  
19 Carolina.

20           The weekend before she was arrested, she was with  
21 her boyfriend, Kevin Conklin, where they live in Navarre,  
22 Florida. Mr. Conklin is from South Carolina as well. He  
23 has ties to South Carolina.

24           The weekend before she was arrested, Mr. Conklin's  
25 daughter, Destiny Conklin, and her boyfriend, Chance

1 Keaton, and his son -- Mr. Conklin's son came down from  
2 South Carolina to visit Mr. Conklin and to visit Katy.  
3 They came down. And Kevin hadn't seen his family in a  
4 long time. He doesn't live here anymore and married a  
5 lady from back there and they got divorced.

6 Destiny came down. And her and her boyfriend, they  
7 had to get back to South Carolina because he had to work.  
8 Mr. Conklin wanted to visit with his son. He had ten  
9 days to see his son. He hadn't seen him in a long, long  
10 -- many years. And as a father and a parent, he  
11 naturally wanted to spend time with his son.

12 So he asked Katy to drive them back. So she did  
13 them a favor. I don't know them that well. She doesn't  
14 -- had not met Destiny before. Sure as heck didn't know  
15 Chance, her boyfriend. And these kids are about 18/19 at  
16 the time, okay? They're coming from Anderson, South  
17 Carolina. You all know where that is, about 45 minutes  
18 from here.

19 So she leaves late at night. They get in her  
20 Oldsmobile, and they drive up through Georgia. They  
21 drive up to Anderson. Had to get to Georgia from -- and  
22 -- and she lives in the Panhandle, Alabama side. So she  
23 is not near Savannah, where you might go up 26 and 95.  
24 She's in the Panhandle.

25 So she goes up 85, like if you've ever been in that

1 area, Columbus -- I've made that trip a dozen times to go  
2 to New Orleans or something like that -- all the way up  
3 through Atlanta. How do you get to Anderson from  
4 Atlanta? 85. So she goes up that way.

5 And by the way, she's -- all this is going to be on  
6 the tape, the solicitor said. She tells the officer  
7 this. They didn't really want to hear it. But they told  
8 her -- she told them. "I dropped my boyfriend's kids  
9 off." You hear it in the video.

10 "Where you going?"

11 "Lancaster."

12 "Who's in Lancaster?"

13 "My sister. I have a brother in York County."

14 Well, where is Lancaster in South Carolina? It is  
15 on the eastern part of the state. She's lost. She's  
16 confused. She's tired.

17 And you're going to hear evidence from her that  
18 after she's arrested, she's -- she's scared. No one  
19 knows, after she's been arrested, that she's in Laurens  
20 County. She didn't keep up to date with her exact route.  
21 But her GPS took her through Laurens County, of all  
22 places. And she was stopped for speeding.

23 She's going to testify -- and you're going to hear  
24 from her and you're going to hear from Kevin about how  
25 Destiny and Chance were in the car. And you're going to

1 hear from my client, Katy, about -- she didn't just go up  
2 there and drop Destiny off, the daughter. She did them  
3 some favors. She picked up the boyfriend's mom. They  
4 went and ate at McDonalds. They went to a bunch of  
5 different places.

6 They get up to Anderson in the morning. She's  
7 making her way back to Anderson, because you could stop  
8 about 9 p.m. She stops in the YMCA and she takes a nap.  
9 She takes a period of rest.

10 You're going to hear from her about -- the state's  
11 going to try and say, "Well, the way she was acting is  
12 indicative of someone who's under the influence of  
13 methamphetamine."

14 They never met her before. They don't know her.  
15 And she's going to tell you about her medical conditions.  
16 She's a lady who has fibromyalgia. It's on the  
17 videotape.

18 She tells them, "I have pain in my joints. I have  
19 pain in my hip. I suffer from fibromyalgia. I cannot do  
20 these field-sobriety tests. I can't walk in a straight  
21 line."

22 Solicitor says abnormal behavior. I don't know  
23 about y'all. I don't -- I don't walk like this every day  
24 when I go from the office. She said, "I can't balance.  
25 I can't do those tests."

1           So they take her in. They rummage around her car.  
2           And they find 1.1 gram of methamphetamine. And the  
3           solicitor just told you about 1 -- 1.0 in its possession.  
4           But as the law says, if it's anything over 1 gram, there  
5           is a permissive inference that she was trying to sell it.

6           I -- I -- I submit to you that there's -- the  
7           evidence is inconsistent with someone who was trying to  
8           sell methamphetamine, distribute it. And I'll submit to  
9           you that when you watch those videotapes and you hear the  
10          testimony from the officers -- that there are certain  
11          things that they leave out, certain things they don't  
12          tell one another, certain things that aren't on the  
13          videotape -- these are things that are inconsistent with  
14          someone who had recently used methamphetamine.

15          They're going to tell you that my client admitted to  
16          smoking it. There's going to be a lack of evidence to  
17          that. And we'll get into that at the trial. So keep  
18          your eye -- I'll ask you to keep a -- one thing I ask  
19          y'all is keep your full and fair consideration, okay?  
20          Y'all have the most important function in Laurens County.  
21          And I can say that to y'all, which y'all -- why y'all are  
22          here is the most important thing we have, okay?

23          I ask you to be critical of the evidence. Nothing  
24          is a slam dunk. Think about the things that weren't  
25          recorded, things that weren't written down, and all the

1 evidence that is lacking and inconsistent with someone  
2 who would use methamphetamine.

3 There were other people in that car. Ms. Tuttle is  
4 going to tell you about that, about that trip up to  
5 Anderson, South Carolina. And it's by -- fate would have  
6 it, she ended up in Laurens County.

7 They're going to tell you about actual versus  
8 constructive possession. And the solicitor told you a  
9 little about that. Actual -- it's really -- it's --  
10 simple example -- for example, it is illegal to possess a  
11 pen. Well, if the cops search me and they got a pen in  
12 my jacket pocket, that's actual possession, okay?

13 Constructive possession is I'm working at my desk.  
14 Solicitor's already explained that. They found a pen in  
15 my desk drawer in my room. Well, what they're trying to  
16 argue is at some point in time in the past, I put that  
17 there. Who else had an access to the vehicle? Who had  
18 access to this desk but me, other than this person? That  
19 would be constructive possession.

20 And that's what they're arguing under this case,  
21 because they're saying they found it in the floorboard.  
22 But watch that video and be critical.

23 The other thing they left out is it is not what we  
24 call a strict-liability statute, meaning one of the  
25 elements is you have to knowingly possess. She -- they

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1 have to prove knowledge, that she knew that that  
2 methamphetamine was there.

3 I submit to you that when you give all the evidence  
4 your full and fair consideration, you're critical of that  
5 evidence, consider her medical condition and the way  
6 she's behaving, to find her not guilty of possession with  
7 intent to distribute and, if it gets to that, possession  
8 of methamphetamine. Thank you.

9 THE COURT: All right. Ladies and gentlemen, we'll  
10 begin the evidentiary portion of this trial with the  
11 calling of the state's first witness. You can call your  
12 first witness.

13 MR. BIXLER: Thank you, Your Honor. I call -- the  
14 state calls Michael Gainey.

15 (Whereupon, the witness came forward.)

16 MICHAEL GAINNEY, having been first duly sworn,  
17 testified as follows:

18 DIRECT EXAMINATION

19 BY MR. BIXLER:

20 Q Please state your name.

21 A It's Michael Gainey.

22 Q Mr. Gainey, where are you employed?

23 A Laurens Police Department.

24 Q What is your title with the Laurens Police  
25 Department?

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1 A Right now I'm the lead detective over a gang unit.

2 Q And how long have you been with Laurens Police  
3 Department?

4 A It'll be eight years in October.

5 Q What type of training have you received to assist  
6 you in your employment?

7 A I received countless types of training in numerous  
8 fields of study.

9 Q Do you -- have you been to the police academy?

10 A I have.

11 Q And what does that entail?

12 A When I -- it's 12 weeks now. When I attended, it  
13 was a 9-week training course on basic law enforcement.

14 Q And what type of things did they teach you?

15 A It was everything from basic law to shooting,  
16 driving, defensive tactics.

17 Q And were you -- you've been in law enforcement eight  
18 years?

19 A Will be ---

20 Q Eight ---

21 A --- eight years in October.

22 Q Is it all with Laurens City?

23 A No. I actually worked for the sheriff's office  
24 before coming to Laurens City.

25 Q And where were you working in 2014?

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1 A Laurens City.

2 Q Were you working on June 30th of 2014?

3 A I was. During that time I was actually a supervisor  
4 over a patrol unit.

5 Q And what was your duties in that position?

6 A I was responsible for five people on my shift.  
7 Calls were dispatched through me, and I assigned calls.  
8 And any kind of questions that anybody had, you know, I  
9 was -- I was their direct supervisor.

10 Q Did you patrol?

11 A I did. I mean, I still ran calls for service. I  
12 still patrol. I was just responsible for myself and  
13 everybody else on my shift.

14 Q As part of that duty, did you conduct traffic stops?

15 A I did.

16 Q About how many traffic stops have you conducted over  
17 your career in law enforcement?

18 A I couldn't -- I couldn't guess. Thousands.

19 Q In your career in law enforcement, have you ever  
20 been in contact with people -- intoxicated individuals?

21 A I have.

22 Q Drunk?

23 A Everything: drunk, high on different types of  
24 narcotics. You name it; I've -- I've experienced it.

25 Q All right. Are you -- you been in contact with

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1 individuals high on amphetamines?

2 A Oh, yeah. Absolutely. A bunch.

3 Q Methamphetamine?

4 A Uh-huh.

5 Q On June 30th did you have an opportunity to have  
6 contact with Ms. Tuttle?

7 A I did.

8 Q And how did that contact arise?

9 A I was on routine patrol. I was driving down  
10 Anderson Drive. I observed a vehicle that I thought was  
11 traveling above the posted speed limit of 45. I then  
12 estimated its speed to be greater than 45 and initiated a  
13 traffic stop.

14 Q Did you have any type of radar equipment in your  
15 vehicle?

16 A I did.

17 Q Did you utilize it?

18 A I did. It was -- the -- the speed was confirmed  
19 through radar that she was driving above the posted  
20 speed.

21 Q And do you recall what that posted ---

22 A 57, I believe.

23 Q And what was the speed limit in the -- on the road?

24 A 45.

25 Q The stop occurred on Anderson Drive. Is that here

1 in Laurens City?

2 A It is.

3 Q And is that in Laurens County?

4 A It is.

5 Q Once you performed the stop, could you -- what type  
6 of vehicle was it?

7 A It was a Oldsmobile sedan. I believe it was white  
8 in color.

9 Q Okay. Once you had the car stopped, what did you  
10 do?

11 A So I made my approach to the vehicle. I identified  
12 myself, the agency, and the reason for the stop. At that  
13 point I asked for her driver's license, vehicle  
14 registration, and proof of vehicle insurance.

15 She -- while she was attempting to retrieve those  
16 documents, I immediately sensed something was wrong; she  
17 was under the influence of something. I further watched  
18 her as she was getting the information provided. She was  
19 talking -- just giving me more information than I was  
20 asking for. She was telling me all kind of different --  
21 different stuff.

22 At that point I -- she give me her driver's license  
23 and her -- I believe it was her registration. She didn't  
24 provide insurance at that time. I walked back to my  
25 patrol vehicle to run her driver's license. And at that

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1 point I requested another unit because I had suspicion  
2 that she was under the influence of methamphetamine.

3 Q Were you able to determine her identity by her  
4 license?

5 A I was.

6 Q And do you see the person in court today that you  
7 had contact with on ---

8 A That's ---

9 Q --- the roadside?

10 A That's correct. It's the defendant.

11 MR. BIXLER: Let the record reflect that she --  
12 Officer Gainey has identified Ms. Tuttle.

13 Q Now, what do you -- what is your process during a  
14 traffic stop?

15 A It depends on what -- what the violation for the  
16 stop is. In this particular case, it was a -- it was a  
17 speeding. Basically, identify the driver; identify  
18 myself; advise him why I've stopped him; find out if  
19 there's any reason for them traveling, you know, in  
20 excess of -- of the speed limit.

21 If there's nothing that -- that spikes my interest  
22 or suspicion, at that point, you know, it would be  
23 released -- the driver will be released.

24 Q Do you have to -- you say you go back and run their  
25 information?

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1 A That's correct. I go back to the vehicle. I run  
2 the -- the tag, as well as the driver's license through  
3 central dispatch. They look it up through DMV service.

4 They'll give me the status of the vehicle, who it's  
5 registered to, whether or not the taxes and insurance are  
6 valid on the car; as well as driver's license history,  
7 whether or not they've been charged with anything prior  
8 -- if they have any prior incidents on their driver's  
9 license and what the status is of that driver's license.

10 Q Is that an instant process? Does it take some time  
11 to complete?

12 A Yes.

13 Q And while you were running all this through central  
14 dispatch, what are you observing of Ms. Tuttle?

15 A I observed very erratic behavior. I noticed at one  
16 point she had some type of bag in her hand. And this was  
17 -- this was immediately upon me sitting back in my car  
18 and focusing my attention back at her.

19 I actually zoomed the video camera in so I could  
20 maintain contact with her. The video is actually shown  
21 in my car on a -- on a laptop screen. So as I'm running  
22 information, I can look at the laptop screen and -- and  
23 observe her.

24 She was making very hyper movements. She -- jumping  
25 around in the car. At one point she did make a furtive

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1 movement to the passenger side and -- which -- which made  
2 me think that she was possibly concealing something.  
3 Because I had already noticed she had some type of bag in  
4 her hand.

5 Q In your thousands of -- estimate of thousands of  
6 traffic stops, is that normal behavior?

7 A No.

8 Q You observed -- you -- or you decided that you  
9 needed someone -- or some backup.

10 A That's correct.

11 Q What did you do?

12 A Well, I -- I advised -- basically, I made a call  
13 over the radio and -- and it's -- it's shown on the  
14 video. You'll hear me say that the -- "I suspect the  
15 driver's under the influence of 1039," which is a code --  
16 a 10 code for narcotics.

17 At that point -- and -- and the reason for that, me  
18 being in a supervisory role, I can't take up the time to  
19 investigate that while I'm still running calls, fielding  
20 calls. So I advised for a cover unit to come and perform  
21 that investigation for me.

22 Q And someone responds to your call?

23 A That's correct. Officer Kanipe.

24 Q Did you have any conversations with him?

25 A Briefly. I -- when he arrived on scene, I just

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1 advised him, you know, what I had and what my suspicions  
2 were, for him to, you know, perform a standardized field-  
3 sobriety test.

4 Q And were you his supervisor at the time?

5 A I was.

6 Q So he followed your direction?

7 A That's correct.

8 Q Do you know what the result of his tests were?

9 A I do. He -- he -- after he performed the test, he  
10 told me that she -- she wasn't able to focus on what he  
11 was saying. She was very hyperactive; speech was very  
12 excited and confused. And he advised me that he felt she  
13 was under the influence of amphetamine as well.

14 Q What did you do then?

15 A At that point he placed the defendant under arrest  
16 for DUI, and I searched the vehicle incident to --  
17 incident to arrest.

18 Q Now, just in the vehicle, who was in the vehicle?

19 A Just the defendant.

20 Q When you ran the information to dispatch, were you  
21 able to determine who the vehicle was registered to?

22 A That's -- it was registered to the defendant.

23 Q You begin your search. Where do you search?

24 A I had already had a suspicion that she had concealed  
25 something in the passenger-side floorboard. So I started

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1 my search on the passenger side, where -- where I had  
2 seen the furtive movements. That was the first place I  
3 -- I began searching, was in the passenger side.

4 Q At what are -- what type of things did you find in  
5 the car?

6 A There was various items. I remember there being a  
7 lot of clothing items. There -- there was a lot of stuff  
8 in the vehicle. At one point on the video, you can hear  
9 me ask for another unit because of just the sheer  
10 quantity of stuff that was inside the vehicle.

11 Q Do you -- what do -- do you search containers inside  
12 the vehicle?

13 A I did.

14 Q And what did you find in those containers?

15 A I searched the -- the bag that I -- I noticed that  
16 she was having a lot of movement with. She had the bag  
17 in her hand. That was the first thing I searched.

18 I believe it was, like, a -- a book bag, maybe a  
19 purse. I want to say it was a book bag. I think it had  
20 two straps on it. But I searched in that. Inside that  
21 bag I located a blue, small pouch.

22 And it -- it contained a -- a tan container with  
23 various types of pills, as well as a -- it was just a  
24 ball of paper. It was, like, a coupon. And inside of  
25 that it -- it contained crystal methamphetamine inside

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1 of, like, Saran Wrap.

2 (Whereupon, Mr. Bixler and Mr. Broome conferred.)

3 Q I want to show you something. See if you recognize  
4 that.

5 A I do.

6 Q And what is that?

7 A It's actually the Lyrica pills that were inside that  
8 beige container, as well as the crystal methamphetamine,  
9 the coupon, or piece of paper that it was wrapped in, as  
10 well as the blue bag that -- that contained all of it.

11 Q The -- where was the beige container, or the tan  
12 container?

13 A It was inside the bag.

14 Q And the methamphetamine in the coupon was where?

15 A Inside this blue bag, just -- just laying in there.

16 Q So both of them were inside the blue bag?

17 A That's correct.

18 Q Once you found those inside the container, what did  
19 you do with them?

20 A They were secured for evidence purposes at that  
21 point. The -- there were an assortment of pills inside  
22 that tan container. I checked to make sure none of --  
23 none of the pills were controlled. That's when I  
24 discovered that Lyrica was a controlled substance. It  
25 was not in a prescription bottle. The rest of the pills

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1 were not controlled. Therefore, they were placed back in  
2 the -- the brown bag. I'm not sure if it was a book bag  
3 or what it was.

4 Q And how did you secure the pills and ---

5 A They're -- they're initially secured in my vehicle.  
6 Once I got back to the police department, we have to send  
7 any controlled substance down to SLED, which is in  
8 Columbia, to verify what the controlled substance is. We  
9 do that in a process called a "BEST pack," which is this  
10 other envelope in here.

11 The items were placed in there. Several paper --  
12 papers were filled out and placed into a manilla folder.

13 (Whereupon, Mr. Bixler and Mr. Broome conferred.)

14 Q I'm going to hand you this.

15 A Yeah.

16 Q And what is that?

17 A This is a -- a BEST pack.

18 Q So when you get the drugs, what do you -- the pills,  
19 the methamphetamine, whatever it is, what do you do with  
20 it? How do you secure ---

21 A We have ---

22 Q --- it?

23 A --- we -- we have -- we keep them like this. Inside  
24 there's several forms of paperwork, as well as an  
25 envelope, this envelope here. So the -- it's filled out.

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1 Basically, what -- what you put, where you found it, what  
2 the -- the description of the suspected controlled  
3 substance. It's placed in this bag.

4 At the time our policy was we didn't seal the bag  
5 because the -- had to make sure the paperwork was correct  
6 for our evidence custodian. So we would place it in the  
7 folder like this and seal the folder and drop it into a  
8 evidence locker.

9 Q And what is this evidence locker?

10 A It's actually an old mailbox, like the one you see  
11 at the post office. It's got a -- a lock and key. Once  
12 you drop it in there, you can't -- you can't get back in  
13 there.

14 Q You -- do you have a key to it?

15 A No.

16 Q Who has the key to it?

17 A The -- only the evidence custodian, to my knowledge.

18 (Whereupon, State's Exhibit 2 was marked for  
19 identification.)

20 Q I'm going to hand you something. See if your  
21 recognize this. This is State's Exhibit 2 for  
22 identification.

23 A I do.

24 Q And what is that?

25 A This is going to be the in-car video footage from my

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1 patrol car.

2 Q And how do you know that's from your vehicle?

3 A I've reviewed it and initialed that this is -- this  
4 is my vehicle.

5 Q And is that a fair and accurate representation of  
6 the scene ---

7 A It is.

8 Q --- on the 30th?

9 A It is.

10 MR. BIXLER: Your Honor, at this time I'd move  
11 State's Exhibit 2 into -- into evidence.

12 THE COURT: Any objection?

13 MR. BROOME: May we approach briefly, Your Honor?

14 THE COURT: All right.

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

18 MR. BROOME: No objection, Your Honor.

19 THE COURT: All right. State's Exhibit -- that's  
20 No. 2?

21 MR. BIXLER: That -- it is, Your Honor.

22 THE COURT: State's Exhibit No. 2 is admitted into  
23 evidence without objection.

24 (Whereupon, State's Exhibit 2 was entered into  
25 evidence.)

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1 MR. BIXLER: Permission to publish?

2 THE COURT: All right.

3 Q Detective Gainey, was this your -- the scene from  
4 your in-car?

5 A It is.

6 Q And what are we looking at?

7 A Okay. So you got -- the black down at the bottom is  
8 the front of my patrol car. I'm facing up Anderson  
9 Drive, coming away from Church Street. If you guys are  
10 familiar, on the right, the first driveway you see on the  
11 right, about where the headlights you see, that's going  
12 to be the entrance to the YMCA.

13 MR. BIXLER: Your Honor, permission to have Officer  
14 Gainey step down?

15 THE COURT: Okay. As long as he's near a microphone  
16 so the court reporter can pick up what's being said. Or  
17 matter of fact, it'd probably be better to let him get  
18 where you are so he'll be facing the court reporter when  
19 he gives a statement.

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

21 Q Officer, could you please show us again where ---

22 A Sure. So this -- this down here at the bottom -- I  
23 just messed it up. The black that you see down here at  
24 the bottom is the front of my patrol car. The camera is  
25 actually mounted in the windshield right beside the

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1 rearview mirror.

2 So what you're seeing down here is the front of my  
3 patrol car. The headlights you see here is the  
4 defendant's vehicle. If you look right here, this is the  
5 entrance -- the first entrance to the YMCA, which is on  
6 the right-hand side of the view that you see now.

7 Q And ---

8 A The -- and -- and then, of course, you got the time  
9 -- the date, the time, my name, and the police  
10 department.

11 Q And what is the speed limit on this section of road?

12 A 45 from where -- from everything you see here on  
13 this roadway is 45 miles per hour.

14 Q And have you already made a determination that this  
15 vehicle is speeding?

16 A I have. The -- the camera starts -- the camera goes  
17 back 30 seconds from the time the blue lights are  
18 activated. So the -- when you turn the blue lights on,  
19 it starts the camera recording, but it goes back 30  
20 seconds. You won't hear any sound until the -- after the  
21 first 30 seconds.

22 Q And what process did you use to determine that that  
23 vehicle were looking at was speeding?

24 A When I -- when I first seen the vehicle -- any --  
25 anytime I see a -- a -- a vehicle that suspect to be

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1 speeding, the first thing I do is verify the speed limit,  
2 as well as the speed that I'm traveling. If I'm  
3 traveling well below the speed limit, there's no way I  
4 can identify or estimate that vehicle traveling above the  
5 posted speed.

6 In this case I was traveling at 45, what the speed  
7 limit was, and estimated it to be considerably faster  
8 than 45 miles an hour.

9 Q Thank you.

10 A Uh-huh.

11 (Whereupon, the witness entered the witness stand.)

12 (Whereupon, a portion of video was published in open  
13 court.)

14 Q And -- and again, tell me what the 10 code was.

15 A 1039, which is narcotics.

16 Q And as we started the video, we saw, you know, the  
17 Oldsmobile. Did it -- that vehicle appear to pull out of  
18 the YMCA?

19 A Not that I seen. If -- if it -- if it pulled out of  
20 the YMCA, it would had to been the top parking lot and  
21 she would've had to come off of Oakland Heights Extension  
22 -- or -- I'm sorry -- Sunset Park Extension.

23 Q All right. And would she have been able to achieve  
24 the 57 ---

25 A I -- I wouldn't think so. If -- if -- if she did,

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1 she would have to be put on the floor. I mean, it's a  
2 short distance.

3 (Whereupon, a portion of video was published in open  
4 court.)

5 Q Let me pause it here, Officer. And what are you  
6 seeing here?

7 A At that point I'm -- I'm giving out the driver's  
8 license number, but you can actually hear me narrating it  
9 for the camera for -- for my purposes. When I said,  
10 "She's moving around a lot," I'm actually talking to the  
11 camera. At that point I zoom in. And I noticed of all  
12 of her hyperactive moment, her head movement.

13 The -- at one point she appeared just then to be  
14 talking to somebody. Like I said, she's the only one in  
15 the car. And I took note of the bag that she had, which  
16 is not where she retrieved her driver's license and other  
17 information that I asked for.

18 She -- this is a separate bag that I noticed she was  
19 messing around with. And you can see she places it in  
20 the passenger -- passenger-side compartment.

21 Q Is it typical you zoom in on traffic stops?

22 A It's -- it's according to what behavior I -- I see.  
23 If there's something that I see, a lot of times,  
24 depending on where I'm at, if it -- if it gives me a  
25 vantage point where I'm doing paperwork and I can just

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1 look at the laptop and see the suspect in the car, then  
2 -- then I will zoom in where I can see them. It just  
3 depends.

4 I -- I -- sometimes I do; sometimes I don't. In --  
5 in this particular case, I zoomed in to record her  
6 behavior.

7 (Whereupon, a portion of video was published in open  
8 court.)

9 Q Detective, who were you just talking with?

10 A That's Officer Kanipe.

11 (Whereupon, a portion of video was published in open  
12 court.)

13 Q Detective; I can't see Ms. Tuttle. Where is she  
14 currently?

15 A Officer Kanipe had taken her -- asked her out of the  
16 car to perform a field-sobriety. That actually took  
17 place on -- you can see it on his camera. It's behind my  
18 vehicle.

19 Q So there's a video of that -- of their interaction?

20 A That's correct. On his in-car camera. You're not  
21 going to see it from mine, because they're behind my  
22 vehicle, in front of his.

23 Q And you had it -- did you have any conversations  
24 with Officer Kanipe after he conducted the field-sobriety  
25 tests?

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1 A I did. That -- that was the brief conversation that  
2 I had before, just explaining to him what I had. He  
3 conducted the field-sobriety, and I spoke with him after  
4 that to determine what he -- what he had discovered  
5 during his investigation.

6 Q And ultimately, what did y'all decide to do?

7 A He advised me that he felt she was under the  
8 influence of amphetamines as well. At that point -- at  
9 -- at one point you can hear me in the video say,  
10 "There's no way she can drive to Lancaster like this."  
11 And he places her under arrest for DUI.

12 Q And then what did you do?

13 A He -- he -- he transported her to the detention  
14 center -- or to Laurens Police Department. I searched  
15 the vehicle incident to arrest.

16 Q Okay. In the interest of time, I'll go ahead and  
17 fast-forward to . . .

18 (Whereupon, a portion of video was published in open  
19 court.)

20 Q Officer, please explain to me -- or explain to us  
21 exactly what you're -- what we're seeing here.

22 A The -- I don't know if you seen it. The blue bag is  
23 sitting -- it's right under my elbow now. That's what I  
24 found the methamphetamine in. You can see me unrolling  
25 the piece of paper that it was actually wrapped up in.

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1           The radio transmission you're about to hear is me  
2 asking to find out if she is a needle user or does she  
3 smoke the meth so -- for my safety so I don't stuck by a  
4 used needle.

5           Q     And where was the blue bag?

6           A     It was located in the passenger -- I believe it was  
7 in the floorboard on the passenger side. It was on -- in  
8 another bag. You can see right before, I was taking --  
9 taking the blue bag out of that bag. And it came from  
10 either the passenger seat or the passenger floorboard.

11                   (Whereupon, a portion of video was published in open  
12 court.)

13           Q     Officer, is that the extent of the search, as far as  
14 -- or as it relates to finding any substances?

15           A     That's correct. I -- I continued to search, but  
16 that's the only substance that was discovered in the  
17 vehicle.

18           Q     From here what do you do?

19           A     So at this point I actually came -- when I walked  
20 back from the car, I went and placed the blue bag on the  
21 hood so you can see it in the camera. At that point I  
22 realized the camera was still zoomed in so you could see  
23 her behavior. I zoomed the camera back out.

24                   I'll narrate to the camera a second. And that's the  
25 end of it, other than, you know, I called for a tow truck

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1 to come get the vehicle. But as far as finding any  
2 evidence of a crime, that's the only thing that was  
3 discovered.

4 Q And tow truck' shows up?

5 A (Nodded head up and down.)

6 Q Is that correct?

7 A That's correct.

8 Q Where do you go once the vehicle has been towed?

9 A I go back to the police department, where Officer  
10 Kanipe has the defendant.

11 Q What do you do then?

12 A Once I come into -- during this time, I don't know  
13 if you could hear the radio. I've sent several officers  
14 to calls for service. I checked their status, and then I  
15 go in to determine what -- you know, where he's at in the  
16 process of the DataMaster.

17 Once they come out, she's placed into the booking  
18 room, where she's booked: all pertinent information --  
19 name, social security number, birth date -- all that  
20 stuff; pictures taken. She inquired about what she was  
21 being charged with. At that point I told her she was  
22 under arrest for DUI; possession of -- with intent to  
23 distribute methamphetamine; and possession -- well -- of  
24 a controlled substance, the Lyrica.

25 Q And you mentioned she -- she's coming out. Where is

DIRECT EXAMINATION BY MR. BIXLER - MICHAEL GAINNEY 176

1 she coming out of?

2 A Out of the B.A. room, or DataMaster room, where she  
3 was offered to give a breath sample.

4 Q And you meet her in the booking room?

5 A That's correct. After I -- once they were finished  
6 with that process and she was taken into the booking  
7 room, that's when I came in.

8 Q Can you describe that room for me?

9 A It's -- it's just a big -- it's -- it's over at the  
10 Laurens Police Department. It's just a big room: lights  
11 -- ceiling lights, a desk, a computer. There's a blue  
12 screen on the wall where you set a defendant up to take a  
13 picture, just so you have a blue background. It's a  
14 pretty generic room.

15 Q And what type of lighting is in the room?

16 A It's just ceiling lights, over -- ceiling lights  
17 that's -- the switch is motion-activated so it doesn't  
18 stay on or run the power bill up, I guess. When ---

19 Q So you ---

20 A --- you walk ---

21 Q --- don't have ---

22 A --- in -- when you walk in the room, the lights come  
23 on. It's ---

24 Q So you ---

25 A --- motion ---

DIRECT EXAMINATION BY MR. BIXLER - MICHAEL GAINNEY 177

1 Q --- don't have to flip a switch?

2 A No. It's motion-activated. Now, you can -- you can  
3 turn the switch on. But normally, it just stay -- you  
4 just walk in; the light comes on.

5 Q Is there any other lighting in the room -- floor  
6 lamps? desk ---

7 A No.

8 Q --- lamps?

9 A No. Just overhead lights.

10 Q When she asked you what she was being charged with,  
11 what -- and you told her, did you do any -- tell her --  
12 give -- tell her anything else?

13 A I did. She started -- she started asking about the  
14 meth. I advised her of her *Miranda* warning at that  
15 point. I asked her several questions. I asked her did  
16 she ---

17 Q Hold on. Let me stop you there. You advised -- you  
18 said you advised her of *Miranda* warnings. What are  
19 *Miranda* warnings?

20 A I normally read them from a card. I don't have the  
21 card with me. But the *Miranda* warning is -- basically, I  
22 told her you have the right to remain silent; anything  
23 you say can be used against you in a court of law; you  
24 have the right to an attorney; if you cannot afford one,  
25 one will be appointed to you by the court system; if you

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1 decide to speak with me without an attorney present, you  
2 can stop answering any questions and consult with your  
3 attorney. I advised her did she understand her rights,  
4 and she stated she did.

5 Q Did you believe her?

6 A I did.

7 Q And this -- did you give -- and you were in the  
8 booking room when you gave her ---

9 A That's ---

10 Q --- her *Miranda* ---

11 A --- correct.

12 Q --- rights?

13 A That's correct.

14 Q And who else was in the room?

15 A I don't recall. There was so much -- as you can  
16 tell from the video and radio traffic, there was so many  
17 calls going on. It was around 4th of July, so we were  
18 getting multiple calls for gunshots, as you heard,  
19 because of the fireworks.

20 I don't remember who was in and out of the booking  
21 room. There's a lot of -- there's a lot of, you know,  
22 day-to-day paperwork and stuff that takes place in the  
23 booking room. I know, obviously, Officer Kanipe at some  
24 point was in there. There may have been other officers  
25 passing through.

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1 Q And you're the shift supervisor?

2 A That's correct.

3 Q How many officers do you supervise?

4 A Five at -- during that time it was five.

5 Q And ---

6 A Including myself.

7 Q So you're number five?

8 A Right. So four. I supervised four.

9 Q And all of them would be at the police department?

10 A No. You -- there was at least two that I recall,  
11 just based on watching the video, that I had sent to  
12 calls for service.

13 Q So they would be out -- out on a call? They  
14 wouldn't be in the police department?

15 A That's correct.

16 Q Once you gave her *Miranda* warnings, did you ask her  
17 any questions?

18 A I did.

19 Q What'd you ask her?

20 A She -- initially, she had -- or asked about the  
21 meth. I asked her did she -- about the meth, you know,  
22 that she -- she was in possession of meth. I asked her  
23 did she purchase it in Florida. And she stated she  
24 didn't have any meth.

25 I followed that question up with did she have a

DIRECT EXAMINATION BY MR. BIXLER - MICHAEL GAINNEY 180

1 prescription for the Lyrica pills that were found. And  
2 she stated she did have a prescription for Lyrica. After  
3 that I followed up with does she inject or smoke  
4 methamphetamine. And she stated she smoked it.

5 After that question I followed it up with did she --  
6 did she transport the meth across state lines. And she  
7 stated no, she didn't. She said, "We bought it here,"  
8 was what she said.

9 Q Did you threaten her to talk to you?

10 A I didn't. She -- from what I recall, she -- she was  
11 asking about the charges. And -- and they came and got  
12 me and wanted me to explain the charges to her.

13 Q Did you promise her anything ---

14 A I didn't.

15 Q --- to talk to you?

16 A I didn't. And this exchange was very brief.

17 Q About how long?

18 A I don't know exactly. I know once -- once she said  
19 that -- she said, "We bought it here," at that point she  
20 said something about an attorney. And based on my  
21 experience, at -- the -- any questioning is over at that  
22 point. She -- she has invoked her right to counsel.

23 Q Did you ---

24 A I would ---

25 Q --- ask her ---

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 181

1 A --- say two minutes, tops -- maybe -- maybe three.

2 It wasn't long at all.

3 Q Did you ask her anything she's ---

4 A I didn't.

5 Q --- indicated she ---

6 A I ---

7 Q --- wanted an attorney?

8 A I didn't. I -- I left the police department at that  
9 point to catch calls for service up.

10 MR. BIXLER: Beg the Court's indulgence?

11 THE COURT: All right.

12 (Whereupon, Mr. Bixler and Mr. Scott conferred.)

13 (Whereupon, Mr. Bixler and Mr. Broome conferred.)

14 (Whereupon, State's Exhibit 3 was marked for  
15 identification.)

16 Q I just want to again hand you this, which has been  
17 marked as State's 3 for identification. And that is what  
18 was seized?

19 A That's correct.

20 Q Answer any questions Mr. Broome has for you.

21 THE COURT: All right. Cross-examination?

22 CROSS-EXAMINATION

23 BY MR. BROOME:

24 Q Will you please tell us your educational background  
25 and police training which led to your current position?

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 182

1 A Sure. I have -- I mean, I couldn't tell you all the  
2 classes I've attended in the -- in the time that I've  
3 been in law enforcement. I've attended numerous classes  
4 through the criminal-justice academy, you know, different  
5 types of classes.

6 I've been to school -- Columbia College for criminal  
7 justice. I didn't graduate, but I have taken probably 65  
8 credit hours through Columbia College.

9 Q What would your certifications be at -- at -- at the  
10 time when this went down in 2014? Can you tell the jury  
11 what you were certified in?

12 A I was a Class 1 officer through the academy. I made  
13 firearms qualification, defensive tactics. There was a  
14 -- you know, numerous type -- principles of supervision.  
15 At this point I -- once I got promoted to supervisor, my  
16 focuses were more on supervision and personnel-type  
17 classes at that point.

18 Q Okay. Do you take any continuing legal education,  
19 or CLEs, we call them, while you're at the Laurens City  
20 ---

21 A Yeah.

22 Q --- Police Department?

23 A We have to do that to maintain our certification.  
24 I'm not sure what the exact hour limit is. But we have  
25 to have so much continuing education. It's usually a

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 183

1 legal update every year that we have to do, along with a  
2 domestic violence update that we have to do. And it's  
3 all law pertaining -- and then, we have to carry -- you  
4 know, complete so many classes each year to maintain our  
5 certification.

6 Q Did you have any certifications at that time for  
7 narcotics detection?

8 A Not that I recall.

9 Q Did you have any training for narcotics detection?

10 A Just in-the-field training, just being exposed to  
11 it.

12 Q Did you have any training or certification in DUI  
13 detection?

14 A I -- I had, at -- at one point. I think those  
15 certifications had expired.

16 Q They would be on your personnel profile, if you had  
17 a DUI certification ---

18 A Every ---

19 Q --- field sobriety ---

20 A --- it should be on -- through the academy. Any --  
21 any training I've had should be on the academy -- I guess  
22 it would be like a transcript.

23 Q Okay.

24 MR. BROOME: May I approach the witness, Your Honor?

25 THE COURT: All right.

1 Q You recognize that?

2 A I do. This is actually the Acadis printout through  
3 the police academy.

4 Q Okay. And at the time of June 30th, 2014, can you  
5 read off of that what certifications you had that were  
6 active?

7 A Active certifications would be -- during that time,  
8 it -- it appears it's just the Class 1. But now, that's  
9 not the -- this doesn't include all of the classes that I  
10 have attended that -- that you don't -- the state doesn't  
11 mandate you require -- or you acquire a certification for  
12 numerous classes, other than there's only certain classes  
13 that are mandated.

14 Q You can take training classes through the  
15 department, but ---

16 A Sure.

17 Q --- you have to be certified to do certain things  
18 like field-sobriety tests ---

19 A Correct.

20 Q --- right?

21 A Correct.

22 Q That's why you asked Logan to come -- Officer Kanipe  
23 to come ---

24 A Correct.

25 Q --- back you up, correct?

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 185

1 A Correct.

2 Q Otherwise, you would've done it yourself, correct?

3 A Right. More -- well, if -- if -- if I wasn't in the  
4 role of supervisor, yes. I would've done it myself if my  
5 certification ---

6 Q If you had ---

7 A --- was valid.

8 Q --- if you had certification, correct?

9 A Correct.

10 Q Okay. So that's why Kanipe -- or Officer Kanipe did  
11 the test and why he operated the DataMaster ---

12 A Correct.

13 Q --- machine ---

14 A Correct.

15 Q --- correct?

16 A (Nodded head up and down.)

17 Q All right. Part of your job as well is to serve the  
18 public, correct?

19 A Correct.

20 Q Okay. And do you feel like you have an obligation  
21 to be fair to your citizens?

22 A I do.

23 Q Okay. Is it reasonable or normal for people who  
24 have been arrested to ask for copies of the evidence in  
25 their case?

1 A I don't understand the question.

2 Q Do you think it's reasonable for a person who has  
3 been arrested, such as Ms. Tuttle, to ask for the  
4 discovery, the evidence against them, in this case?

5 A Sure. It's a ---

6 Q Okay.

7 A --- Rule 5.

8 Q Okay.

9 A Yeah.

10 Q Did she make a request in this case?

11 A I -- I don't handle Rule 5s. That's not through --  
12 I don't -- I don't do that. She -- I -- I feel sure she  
13 did.

14 Q Did she make it through her attorney and then  
15 through the solicitor's office?

16 A I would assume. That's -- that's the normal  
17 process.

18 Q Okay. Did she request videos from you?

19 A Not from me, she didn't.

20 Q Did the solicitor office -- office request them --  
21 did Mr. Bixler request the videos from you?

22 A I'm sure they -- I'm sure they did. But ---

23 Q Okay.

24 A --- what -- all that goes to evidence custodian.

25 Once I'm done, my evidence is dropped and I no more have

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 187

1 care and control of that evidence. So they wouldn't  
2 request it from me.

3 Q Request it from the -- the city?

4 A Correct. The department or the evidence custodian  
5 at the time.

6 Q Did you -- ever in -- in your years in law  
7 enforcement, has a solicitor ever -- ever called you and  
8 asked for a specific piece of evidence?

9 A Yeah. I mean, if -- if they can't find it or they  
10 didn't have it, you know, "Hey, is this evidence there?"  
11 You know, or, "Do you have video of this?"

12 Sometime -- sometimes the in-car cameras  
13 malfunction. The video is not there. They call and see  
14 if -- if it's something that we forget to put in the  
15 report, you know, or ---

16 Q Okay.

17 A --- evidence log and, "Did you have that video?"

18 So yeah. I mean, I have contact with them. But as  
19 far as giving them that video, that's -- that's not me.  
20 That's the evidence custodian.

21 Q You'd give it to them, but you would have  
22 conversations with the solicitor about it, essentially,  
23 if they asked for a specific piece of evidence?

24 A Yeah. If -- if it -- if it wasn't included in a  
25 Rule 5. Yeah.

1 Q Okay. Do you remember Mr. Bixler asking you for the  
2 videos in this case?

3 A I don't.

4 Q Okay.

5 A I -- I remember at one point we changed evidence  
6 custodians. And I -- I first talked about this case  
7 maybe a -- two months ago. And I was told that -- that  
8 we didn't know if we had video. But other than that ---

9 Q Who told you ---

10 A --- no.

11 Q --- you didn't have -- if you had video?

12 A I think it was actually the investigator for the  
13 solicitor's office.

14 Q Mr. Bentley told you he didn't have any video?

15 A He said he didn't think he did.

16 Q Didn't think he did?

17 A (Nodded head up and down.)

18 Q Did you ever tell Mr. Bixler that the videos that he  
19 requested were purged or deleted?

20 A I did not. No.

21 Q That's a lie, then? You never -- you never had that  
22 conversation with them?

23 A I've never spoke with Bixler before this case ---

24 Q You've never ---

25 A --- other than ---

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 189

1 Q --- conferred with him on this case at all?

2 A I spoke with him maybe a month ago. But I've never  
3 said that the -- they were purged or deleted. That's not  
4 my job to maintain those -- those records.

5 The -- the video -- the -- the way those videos  
6 work, they -- when you pull in up to a server, they  
7 download to a server. The evidence custodian and the  
8 I.T. guy now have control over those. I have zero  
9 control over what those -- who takes those videos -- the  
10 only thing I can do is classify that video as a certain  
11 thing, and then it purges on its own.

12 But as far as me deleting videos, I have no ability  
13 to do that.

14 Q Is your testimony you have no ability to check on  
15 those things? Because it's in -- because -- because it's  
16 in the -- that's the evidence custodian's job?

17 A What do you mean, check on it?

18 Q Well, you said you had no control over things.

19 That's ---

20 A Once I ---

21 Q --- what you ---

22 A --- once ---

23 Q --- just said.

24 A --- I pull in and it downloads to a server -- the --  
25 the server, I cannot do anything with that video. I

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 190

1 cannot delete that video. I -- I don't have the access.

2 When I log in, I don't have the access to move/delete

3 anything. That's why that program and server is there.

4 Q The evidence custodian is Heath Copeland, correct?

5 A Now it is. Yes.

6 Q Okay. At the time he was not?

7 A Correct.

8 Q Now he is?

9 A Correct.

10 Q Okay. Y'all work together.

11 A That's ---

12 Q Is he ---

13 A --- right.

14 Q --- not a Laurens City Police Department officer?

15 A He is.

16 Q Do y'all have offices in the same building?

17 A We do.

18 Q You can't go and talk to him and ask if some -- a  
19 piece of evidence is in -- if you're looking for drugs,  
20 if you're looking for something and it's supposed to be  
21 in the evidence locker, can -- "Hey, Heath, can you go  
22 down there and check and see if something's in that  
23 evidence locker?" Is that ---

24 A Yes. I ---

25 Q --- out of your ---

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 191

1 A --- I have before.

2 Q Okay. That wouldn't be out ---

3 A Or he ---

4 Q --- of your ---

5 A --- comes ---

6 Q --- control ---

7 A --- to me and says, "Hey, you know, this -- this  
8 evidence -- what -- you know, what is up with this  
9 evidence?"

10 Q Okay. So it wouldn't be out of your control, then?

11 A Evidence and videos, videos would be out of my  
12 control. Evidence and -- I -- I see what you're saying.  
13 The videos are evidence, but they're not evidence that  
14 would be in my control.

15 Q Okay. You wrote an incident report in this case ---

16 A I did.

17 Q --- correct? Okay.

18 A I did.

19 Q And that's very common as -- as a police officer?

20 A Correct.

21 Q Right?

22 A (Nodded head up and down.)

23 Q You want to get all the facts that you can there, -  
24 correct?

25 A Correct.

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 192

1 Q You are supervising officer at that time, correct?

2 A Correct.

3 Q Something happens, you want to put everything that's  
4 important into the -- the incident report -- in -- into  
5 the incident report, correct?

6 A Correct.

7 Q Okay. And the reason that -- one of the reasons you  
8 do that is because you're working a lot of different  
9 cases?

10 A Right.

11 Q Multiple cases?

12 A (Nodded head up and down.)

13 Q Every day, right?

14 A Right.

15 Q And as time goes on, your memory could -- memory  
16 will fade, correct?

17 A Sure.

18 Q So you want to record things closer to an event as  
19 possible?

20 A Right.

21 Q Correct?

22 A (Nodded head up and down.)

23 Q It also helps out because you want to -- someone  
24 else -- you get tied up in a call about the gunshot or  
25 something, you go to Officer Kanipe and be, like, "Hey, I

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 193

1 -- I wrote a report. This is what's going on. Can you  
2 help me out? I got a report. Here's the case number.  
3 Can you review it?"

4 A Right.

5 Q Right?

6 A Right.

7 Q Okay. And sometimes officers will leave to go to a  
8 different department, correct?

9 A Correct.

10 Q So if another officer comes on, they want be able to  
11 pick up the report and ---

12 A --- know what's going on.

13 Q Exactly. Pick up where you left off, right?

14 A Correct.

15 Q So it's important that you are -- make a complete  
16 report, correct?

17 A Correct.

18 Q And an accurate report?

19 A (Nodded head up and down.)

20 Q Correct?

21 A Correct.

22 Q And a truthful report?

23 A (No audible response.)

24 Q Correct?

25 A Correct.

## CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINES 194

1 Q Okay. You charged Ms. Tuttle with possession with  
2 intent to distribute based on weight?

3 A Correct.

4 Q Correct?

5 A Correct.

6 Q The weight was 1.1 grams?

7 A Package weight, 1 point -- 1.4 grams, I believe it  
8 was. It was package weight. SLED result was 1.1 ---

9 Q SLED result was 1.1?

10 A Correct.

11 Q Implication is that she is a drug dealer.

12 A Based on weight.

13 Q And I think in your report you actually wrote: "We  
14 charged her with possession with intent to distribute  
15 based on weight."

16 A That's correct.

17 Q So you've worked as an officer at this point for  
18 several years, right?

19 A Correct.

20 Q You arrest people for drugs?

21 A (Nodded head up and down.)

22 Q Yes?

23 A A lot -- numerous times.

24 Q Methamphetamine?

25 A (Nodded head up and down.)

## CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 195

1 Q Right?

2 A Yes.

3 Q You know what ---

4 A Correct.

5 Q --- meth looks like?

6 A I do.

7 Q You know what marijuana looks like?

8 A I do.

9 Q You know what marijuana smells like?

10 A I do.

11 Q You know certain things that people -- drug -- let's  
12 just call them what they, drug dealers -- are suspected  
13 of doing, right?

14 A Right.

15 Q Certain pieces of -- certain items you're looking  
16 for when you arrest someone for dealing drugs?

17 A Right.

18 Q One of them -- the things that's most associated  
19 with that is digital scales.

20 A Right.

21 Q Right?

22 A (Nodded head up and down.)

23 Q You buy it from the Radio Shack or the Wal-Mart?

24 A (Nodded head up and down.)

25 Q A lot of times people will put them on their kitchen

1 counter, right?

2 A (Nodded head up and down.)

3 Q To weigh produce, for example?

4 A Right.

5 Q And it weighs it in grams and ounces, right?

6 A (Nodded head up and down.)

7 Q Right?

8 A Correct.

9 Q Typically, you'll find that if you do a search  
10 warrant of someone's house or in a car, right?

11 A Sometimes. Yes.

12 Q And the idea being that when someone is selling  
13 drugs to another individual, no one's getting ripped off,  
14 right?

15 A Right.

16 Q The -- the street currency -- it -- it's correct  
17 when they're selling it. If it's 1 point gram -- quarter  
18 of a gram of methamphetamine, if it's a half a gram, they  
19 want to sell it. They don't want to lose money, right?

20 A Right.

21 Q Okay. Did you find any scales in her car?

22 A Not that I recall. If I -- if I did, it was never  
23 noted or -- or documented.

24 Q Right. Would it be in your report if you did?

25 A If I did, it more than likely would be. Yeah.

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 197

1 Q Okay.

2 A Should be.

3 MR. BROOME: May I approach, Your Honor?

4 THE COURT: Yes.

5 Q Let me get yours. It's got my writing on it. Yeah.

6 Do you recognize that document?

7 A I do. That's ---

8 Q What are you looking at?

9 A That's going to be my incident report.

10 Q Okay. Take a moment and read through it. Let me  
11 know if you -- if it -- got any mention of scales in  
12 there.

13 A No. There's -- there's no mention of a scale.

14 Q Okay. Now, another thing that drug dealers will  
15 typically do is they will package their weight -- package  
16 the drugs, correct?

17 A Correct.

18 Q And what you're looking for is -- when I describe  
19 this as -- sometimes you'll go to a jewelry store and  
20 they'll give you a little plastic bag -- that little,  
21 tiny bag like this that you might put a bracelet in or  
22 something like that in? You'll typically find drugs in  
23 those type of packages.

24 A Right. Depending ---

25 Q Correct?

1 A Depending on what the drug is.

2 Q Sometimes ---

3 A Yes.

4 Q --- it'll be a sandwich bag, though, too, right?

5 A Sure. Sure.

6 Q Okay. Sandwich bag. I call them jewelry bags.

7 Sometimes you will find multiple -- like, a bag -- box of  
8 sandwich bags, correct?

9 A Yeah.

10 Q Same thing: a package of jewelry bags, right?

11 A Right.

12 Q Multiple ones?

13 A (Nodded head up and down.)

14 Q The idea being these people are out there, selling  
15 to people that are out around town, selling drugs, right?

16 A Right.

17 Q Okay. Did you find any jewelry bags? sandwich bags?  
18 ziplock bags?

19 A No.

20 Q Was the -- the meth was all in one -- I think you  
21 said Saran Wrap, right, and a coupon? Is that your  
22 testimony?

23 A It was some kind of plastic -- some kind of plastic  
24 wrap; and then, wrapped in a -- like, a coupon that was  
25 cut out of the newspaper or some -- some type of piece of

## CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 199

1 paper.

2 Q Right. And one big rock, right?

3 A Yeah. And then, it was a few -- it -- it was a few  
4 -- we call them shards. But it was a -- a big shard and  
5 then, several slivers. Looked like it had been broken  
6 up.

7 Q Because typically, what a drug deal would do is --  
8 and -- and again, you -- unless you watch something go  
9 down, you're just trying to guess, based on the facts,  
10 that they're -- that they're dealing drugs, right?

11 A Right.

12 Q So you will see ---

13 A I -- well, I wouldn't say guess but . . .

14 Q Trying to make a -- a conclusion that they're  
15 selling drugs?

16 A Right.

17 Q Okay. So you will find, say, a bag with a quarter-  
18 ounce of meth, another bag with a quarter-ounce of meth,  
19 another bag with a quarter-ounce of meth, etc., etc.,  
20 correct?

21 A Typically, yeah. But quarter-ounce of meth is a --  
22 is a lot of methamphetamine.

23 Q It may be a lot.

24 A Typically, the way -- the -- the way it works, a big  
25 shard is crushed into -- into a finer crystal and then

1 divvied up, as -- as what you're ---

2 Q Sure.

3 A --- talking about.

4 Q And the way you would do that is you would use a  
5 metal grinder. Sometimes drug dealers will grind up  
6 stuff. So that they way they can put it into a powder  
7 form. It's easier for them to ingest it, correct?

8 A Typically, marijuana is ground. Yes.

9 Q Okay. But you would need to grind up a crystal rock  
10 -- a piece of methamphetamine?

11 A It's normally broken. It wouldn't be ground.

12 Q Okay. But they can break it up into chunks. No  
13 one's smoking 1 gram of meth, probably, at one time; fair  
14 to say?

15 A Yeah. Absolutely.

16 Q That would not be good.

17 A No.

18 Q Okay. For that person?

19 A (No audible response.)

20 Q Did you find any grinders or hammers ---

21 A I -- I didn't.

22 Q --- a saw?

23 A (No audible response.)

24 Q No?

25 A I mean, there may have been a hammer in there. But

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 201

1 I don't -- I don't remember.

2 Q It -- it would've been in your report, right?

3 A Sure.

4 Q Okay. So we don't have any -- any scales. We don't  
5 have the meth prepackaged so it's easier for the drug  
6 dealer to sell.

7 A Right.

8 Q Right?

9 A Right.

10 Q Okay. A lot of times -- I think the solicitor said  
11 it's the meth capital of the world, a lot of meth  
12 production in Laurens County. Typically, is it uncommon  
13 for you to find items used in the manufacturing of  
14 methamphetamine on someone?

15 A Well, the -- the thing is the -- the -- the meth --  
16 the meth -- crystal meth is -- we don't see a lot of that  
17 around here, especially not in 2014. No. The type of --  
18 the methamphetamine we found was made -- it's -- it's --  
19 it's a -- a term referred to in law enforcement as  
20 "bathroom dope." It's shaken. They shake bottles. It's  
21 -- it's not crystal meth.

22 Q Oh. And you'll find things -- one of the main  
23 ingredients is Sudafed.

24 A Correct.

25 Q Okay. You have to have Sudafed to make

1 methamphetamine.

2 A That's correct.

3 Q You find any Sudafed boxes ---

4 A Or a ---

5 Q --- in the car?

6 A --- or a type of ephedrine, not necessarily Sudafed.

7 But you have to have ephedrine.

8 Q Well, not the -- not the name brand ---

9 A Right.

10 Q --- clearly. But it -- if you had a -- a Walgreens  
11 brand.

12 A Or ---

13 Q Pseudoephedrine, not ---

14 A Or -- or Claritin has ephedrine in it. So it could

15 ---

16 Q Okay.

17 A --- be Claritin.

18 Q You can make meth out of Claritin?

19 A Anything that has ephedrine in it.

20 Q Did you find any Sudafed boxes?

21 A I didn't.

22 Q Pseudoephedrine blister packs?

23 A No.

24 Q You know what I mean by "blister pack"? It's, like,  
25 when you get a bunch of Tylenol and ---

## CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 203

- 1 A Yeah.
- 2 Q --- pop it out?
- 3 A Yeah.
- 4 Q Showing that they're empty?
- 5 A Correct.
- 6 Q They've ---
- 7 A Correct.
- 8 Q --- they've used ---
- 9 A But ---
- 10 Q --- pills recently?
- 11 A Yeah.
- 12 Q Okay. Now, did you find any salt?
- 13 A I didn't.
- 14 Q Did you -- and that would be something that would be  
15 sometimes used -- and I know this isn't a manufacturing-  
16 meth case. It's ---
- 17 A Right.
- 18 Q --- something you would find in there.
- 19 A In a ---
- 20 Q Correct?
- 21 A --- in a manufacturing case.
- 22 Q Did you ---
- 23 A Correct.
- 24 Q --- find any lye?
- 25 A No.

1 Q Did you find any lithium batteries?

2 A No. Not ---

3 Q Did you ---

4 A --- that -- not that I recall.

5 Q Now, did you notice any ammonia?

6 A No.

7 Q Did you smell any ammonia?

8 A No. But as I stated before, the -- the -- what  
9 you're referring to, it -- it would be bathroom dope.  
10 That's -- that's not how crystal methamphetamine is made.

11 Q Okay. So the meth that you found in this would've  
12 had to been manufactured somewhere else in, like, a ---

13 A I wouldn't ---

14 Q --- "Breaking Bad" type of lab?

15 A Well, I'm not going to say that. But it -- it -- it  
16 definitely wasn't manufactured in a -- in a two-liter  
17 bottle ---

18 Q Okay.

19 A --- with -- with salts and lye and the -- the items  
20 that you're referring to.

21 Q A lot of times when people are driving -- and these  
22 dealers -- fortunately, we don't have a -- we've got 385,  
23 I think, that comes through Laurens. But we don't --  
24 we're not on what we call the "drug corridor." You know  
25 what I mean ---

## CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 205

- 1 A Right.
- 2 Q --- by the ---
- 3 A Yeah.
- 4 Q --- "drug corridor"?
- 5 A Yeah.
- 6 Q Drug dealers will travel down the interstate?
- 7 A (Nodded head up and down.)
- 8 Q Right?
- 9 A Yeah. 26, somewhere down ---
- 10 Q Okay.
- 11 A Yeah.
- 12 Q Was she anywhere near the interstate?
- 13 A 385.
- 14 Q How far is it? I think we all -- from here ---
- 15 A Well ---
- 16 Q --- to 385 ---
- 17 A --- yeah.
- 18 Q --- she wasn't right beside it?
- 19 A No.
- 20 Q And she told you she was coming from Anderson,
- 21 right?
- 22 A Correct.
- 23 Q To Lancaster?
- 24 A Correct.
- 25 Q Okay. She'd have to go to 385.

1 A Right.

2 Q Right?

3 A (Nodded head up and down.)

4 Q And it's very typical for people who are dealing  
5 drugs to travel in rental cars, correct?

6 A Correct.

7 Q Was her car rented?

8 A No.

9 Q Did it come back to her name?

10 A It did.

11 Q Okay. So the car -- and it was registered to her,  
12 correct?

13 A It was.

14 Q It was her license?

15 A (Nodded head up and down.)

16 Q Right?

17 A (Nodded head up and down.)

18 Q A lot of times people ---

19 A Correct.

20 Q --- are going to use fake identities, right?

21 A Sometimes.

22 Q Okay. Very often, you know, I -- I'm -- I'm John  
23 Brown, whatever, and then figured out down the road, it  
24 ain't John Brown.

25 A Right.

## CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 207

1 Q It's his brother. Right?

2 A Okay. Correct.

3 Q Right?

4 A (Nodded head up and down.)

5 Q Okay. She gave you the registration. That was  
6 clean too, right?

7 A She did.

8 Q Okay. A lot of times drug dealers will keep a --  
9 what we -- I call it -- and what you probably call it --  
10 a drug ledger, right?

11 A (No audible response.)

12 Q It's a little notebook. You can go to, what,  
13 RiteAid down the street and get one, one of those little  
14 marble covered ones. And that way they can keep a list  
15 of who they have sold to, right?

16 A Who owes them money.

17 Q Who owes them money, right?

18 A (Nodded head up and down.)

19 Q Etc.?

20 A (Nodded head up and down.)

21 Q You found a ledger?

22 A I didn't.

23 Q Okay. A lot of times dealers will travel with  
24 protection. By protection I mean weapons. If they're  
25 dealing drugs, oftentimes they'll be armed with a

1 handgun, correct?

2 A I -- I've seen it lots of times.

3 Q Yeah.

4 A Yeah.

5 Q So have I.

6 Has -- did you find a firearm anywhere in the  
7 vehicle?

8 A I didn't.

9 Q Did you find a knife anywhere in the vehicle?

10 A Not that I recall.

11 Q Okay. No firearms, no knives. She never tried to  
12 lunge at you, right?

13 A No.

14 Q She never tried to run?

15 A No.

16 Q Never threatened you?

17 A No.

18 Q Sometimes when people are traveling -- these drug  
19 dealers are traveling, they will have police radar on  
20 their car. They go beep, beep, beep, to let them know  
21 that radar detection's coming so they can slow down.

22 A Right.

23 Q Right?

24 A Right.

25 Q Idea is they don't want to get popped for some

## CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 209

1 minuscule traffic offense and then, next thing you know

2 ---

3 A Right.

4 Q Right?

5 A (Nodded head up and down.)

6 Q Did you find any radars on her?

7 A Not that I recall.

8 Q Did you find multiple cell phones on her?

9 A Not that I recall.

10 Q Pagers and beepers?

11 A No.

12 Q Okay. So we don't have any of that.

13 A (No audible response.)

14 Q And when someone uses meth, typically, they will  
15 exhibit physical symptoms, correct?

16 A More than likely, yes. It -- I mean, it's -- it's  
17 based on the person. Everybody's going to act different  
18 under the influence of certain drugs.

19 Q There are certain things that a meth user, again, is  
20 going to exhibit. One of those things -- the -- and you  
21 said -- what I mean by things that are visible to the  
22 naked eye, right?

23 A Right.

24 Q So one of the things that's most common is something  
25 called "meth mouth." Are you familiar with meth mouth?

1 A I am.

2 Q Okay. That's when the teeth start to rot out,  
3 right?

4 A Right.

5 Q Okay. Someone that's been using meth, even pretty  
6 recently, their teeth will be really black and it'll fall  
7 -- the teeth will fall out, right?

8 A Right.

9 Q Did you notice that on ---

10 A I ---

11 Q --- Ms. Tuttle?

12 A I didn't.

13 Q Okay. And Officer Kanipe checked her teeth down at  
14 the DataMaster room, right?

15 A I don't -- that -- that's -- that's typically what  
16 you do to make sure they don't have anything in their  
17 mouth ---

18 Q Did you ---

19 A --- before the ---

20 Q --- check her ---

21 A --- DataMaster. I didn't, no.

22 Q Okay. Because those -- those -- what happens is the  
23 glands -- saliva dries up. The acids start corroding the  
24 enamel. It -- it's a pretty fair indication that someone  
25 has been using meth, right?

## CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 211

1 A (Nodded head up and down.)

2 Q They also have acne appear on their face; isn't that  
3 true?

4 A I've seen it before.

5 Q Yeah.

6 A Yes.

7 Q Acne can turn into scabs, right?

8 A Right.

9 Q Scratch at the scabs and do that kind of thing?

10 A (No audible response.)

11 Q Did you notice any acne or -- or scabs or lesions  
12 that she scratched?

13 A I didn't.

14 Q Okay. A lot of times their weight, when a person is  
15 using meth recently or a long time, they'll have a  
16 suppressed appetite. Would you agree with me on that?

17 A Sometimes. Yes.

18 Q Okay. Person may look gaunt, blackened eyes,  
19 correct?

20 A Sometimes.

21 Q Okay. Did you notice ---

22 A I didn't.

23 Q --- gaunt, blackened eyes on her?

24 A (No audible response.)

25 Q Okay. Now, they're going to bring it out later.

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 212

1 It's in your report. You just watched that video. You  
2 said that she had dilated pupils. You remember that?

3 A I -- I -- I believe I said that, yes.

4 Q Okay. Do you recall where on that video you told  
5 Officer Kanipe that she has dilated pupils?

6 A I don't remember. It would've been in -- if -- if I  
7 told him, it would've been in our first exchange.

8 Q It would've been on the video, correct?

9 A Yeah. Yeah.

10 Q Okay.

11 A All of our contact, other than when we got to the  
12 booking room, would -- would've been on video.

13 Q Did you ever shine a flashlight in her eyes?

14 A I didn't. I don't even recall having a flashlight.

15 Q Okay. I think you had one on your hand when you  
16 approached the vehicle. I don't know if you shined it  
17 in. Does that sound familiar?

18 A I -- I mean, I -- I -- it's typically normal for me  
19 to carry a flashlight when it's dark outside.

20 Q Did you -- sorry -- I'm sorry. I'm sorry.

21 A I don't remember shining it in the -- in the car, in  
22 her eyes. No.

23 Q Now, did you -- when you approached the vehicle, was  
24 she wearing her seat belt?

25 A I don't recall if she was or not.

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 213

1 Q If she wasn't, would you have written her a seat-  
2 belt-violation ---

3 A More than likely ---

4 Q --- ticket?

5 A --- not. I think, in the eight years, I've written  
6 maybe two seat belt tickets. So more than likely, no.

7 Q Okay. You don't write seat belt tickets?

8 A I -- it's just not a common thing for me to write a  
9 seat belt ticket.

10 Q Just cut people breaks on that?

11 A Most of the time.

12 Q Yeah. When you first approached the car, you asked  
13 her for her license, her registration, and her insurance,  
14 correct?

15 A Correct.

16 Q She gave you her license and insurance cards?

17 A I think she gave me two insurance cards.

18 Q Okay. And it's on the video ---

19 A Or two registrations and no insurance.

20 Q You go back to the video and you say, "I need your  
21 registration." And then she gives it to you, correct?

22 A And then I -- so she must've gave me two insurance  
23 cards. She gave me three documents. That's right.

24 Q So time you zoom in, you don't have her registration  
25 card, right? So you -- let -- let me rephrase that. You

1 -- you approach her car. You spend one minute there,  
2 right?

3 A Around about.

4 Q Ask her if she's under the influence of anything,  
5 right?

6 A (No audible response.)

7 Q She's given you're her license and her two insurance  
8 cards?

9 A Right.

10 Q You go back to the car. And immediately, you are  
11 suspicious?

12 A (Nodded head up and down.)

13 Q That's why you zoom in, right?

14 A Right.

15 Q Okay. And you say she's rummaging through this bag?

16 A (Nodded head up and down.)

17 Q Right?

18 A Right. You can see it on video.

19 Q You definitely see her looking.

20 A Yeah.

21 Q I agree with you on that. She's definitely running  
22 -- and she's looking over that way ---

23 A Right.

24 Q --- right?

25 A Right.

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 215

1 Q But she didn't give you her registration yet, right?

2 A She had given me -- she -- or she -- she gave me  
3 three -- three documents. I don't remember ---

4 Q Okay.

5 A --- what it was. I'd have to refer to the video.

6 Q Fair to say she's looking for her registration in  
7 that bag?

8 A She -- she could've been.

9 Q Okay. You also said that you found -- found the  
10 meth in a blue bag, right?

11 A Correct.

12 Q On the floorboard -- passenger-floorboard side,  
13 right?

14 A I remember -- it was on the -- in the passenger  
15 compartment. I don't remember if I found on the seat or  
16 the floorboard.

17 Q You testified that it was in the passenger  
18 floorboard. Then you said it was on the seat or the  
19 floorboard.

20 A I -- I never testified that it was in the  
21 floorboard. I said it was either -- it was in the  
22 passenger side, on the floorboard or the seat. I  
23 couldn't recall.

24 Q Passenger side on the floorboard?

25 A In that -- in that area.

1 Q Or on the seat?

2 A One -- it was in the passenger-side compartment.

3 Q Okay.

4 A I don't recall if it was in the floorboard or  
5 setting on the seat.

6 Q Okay. In your report you wrote (As read): "Sgt.  
7 Gainey checked a bag located in the passenger floorboard"

8 ---

9 A Okay.

10 Q --- this is on the second page, halfway down --  
11 "where it appeared Ms. Tuttle was concealing something."

12 A Okay.

13 Q All right. You remember writing that?

14 A Yeah. I think it's safe to say that it was on the  
15 floorboard.

16 Q Okay. On the floorboard.

17 A (No audible response.)

18 Q You ever see her lean down into the floorboard on  
19 that ---

20 A I see ---

21 Q --- video?

22 A --- her lean down to where she could reach the  
23 floorboard, yes ---

24 Q Do you ---

25 A --- multiple times.

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 217

- 1 Q Multiple?
- 2 A Sure.
- 3 Q To the floorboard?
- 4 A (Nodded head up and down.)
- 5 Q Would she have to ---
- 6 A No. She -- I mean, if you -- you've been in a  
7 vehicle before.
- 8 Q Uh-huh.
- 9 A You can move and -- and definitely reach the  
10 passenger-side floorboard and not have to move much.
- 11 Q Okay. Did you tell that to Officer Kanipe? He's  
12 the first guy you called, right?
- 13 A No. My -- my -- my entire exchange with Officer  
14 Kanipe was on video. I -- I don't recall telling him  
15 that I seen any type of movements.
- 16 Q Did you -- so you'd agree with me that you didn't  
17 tell him ---
- 18 A I don't recall if I did ---
- 19 Q It'd be ---
- 20 A --- or not.
- 21 Q --- on the video, wouldn't it?
- 22 A It -- yes. It ---
- 23 Q Would it ---
- 24 A --- definitely should be.
- 25 Q Would it be important, as someone who's backing you

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 218

1 up, to tell them, "This person's making furtive moments"?

2 A He -- he -- he knew that she was under the influence  
3 -- or that I suspected her to be under the influence.

4 Q Not what I asked you. I said: Do you think it'd be  
5 important to tell a -- tell your backup officer that some  
6 person is making furtive movements in the car?

7 A I guess it could be, if I -- if I thought she was a  
8 threat to -- to her. Me or -- if it's officer-safety  
9 issue, absolutely.

10 Q But how do you know at that point that she's not --  
11 if -- if someone's reaching, if she's making these  
12 furtive movements, that they are reaching for a handgun?

13 A I didn't think she was a threat at that time. I  
14 didn't -- I mean, I don't know. I can't sit here and say  
15 that I knew she wasn't reaching for a handgun. She may  
16 -- she may have been. But ---

17 Q So you had no idea what she was doing?

18 A No.

19 Q Okay. And your view is obstructed on that video as  
20 well, correct?

21 A The -- the view of the camera may be obstructed.

22 Q Well, the view of the back of her car.

23 A When I ---

24 Q I mean ---

25 A --- zoomed ---

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 219

1 Q --- you've got ---

2 A --- in, yeah. Yeah.

3 Q Yeah. You zoomed in. You could see the back of the  
4 passenger side ---

5 A No.

6 Q --- back of her seats?

7 A Okay. Yeah.

8 Q You know what I mean?

9 A (Nodded head up and down.)

10 Q So what -- what she's doing is blocked, right?

11 A Right. Which would've been blocked whether I zoomed  
12 in or not because of the passenger seat.

13 Q I agree with that.

14 But there was another officer who showed up as well.  
15 There's a guy -- I don't know his name. It's not in your  
16 report. And we didn't get to watch him on video.

17 MR. BROOME: Maybe we could play -- can you fire  
18 this thing up? I'm sorry.

19 A That would've probably been Officer Simmons. I  
20 called somebody to help.

21 Q To help you?

22 A Inventory the car. But I don't recognize the  
23 number. They change so much.

24 Q Okay.

25 (Whereupon, a portion of video was published in open

1 court.)

2 MR. BROOME: Let me back this up, actually.

3 Q Now, the first thing ---

4 MR. BROOME: Thank you.

5 Q First thing you pull out is this backpack, right?

6 A That's what it looks like. It's some type of bag.

7 Q Some sort of blue -- it -- it looks like a backpack  
8 to me too. But that's not where you said that you found  
9 the meth.

10 A No. It was found in a -- in a separate container --  
11 I guess, the makeup container is what I said on the ---

12 Q Makeup ---

13 A --- video. It ---

14 Q --- container?

15 A --- was found -- it wasn't found in that bag.

16 Q All right. Let's watch the video.

17 (Whereupon, a portion of video was published in open  
18 court.)

19 Q Is there a makeup container? I'm -- I'm -- I'm in  
20 your way. Sorry. You see the makeup container? Is it  
21 on the back of her car yet?

22 A Not that I -- I don't -- I don't see it there. No.

23 Q Okay. I don't see it either.

24 (Whereupon, a portion of video was published in open  
25 court.)

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 221

1 Q I'm going to fast-forward.

2 A It could be behind that bag, behind that other bag.

3 I'm not sure. I don't see it right there.

4 (Whereupon, a portion of video was published in open  
5 court.)

6 Q There it goes. Looks like you lean -- you lean down  
7 and pull it out, right?

8 A Looks like from out the floorboard.

9 Q Out of the floorboard? Okay.

10 Why would you pull out the blue bag first, lean  
11 down, pull this blue bag out, take it back, and then put  
12 it on the trunk? Why did you not take the makeup ---

13 A I don't ---

14 Q --- kit out first ---

15 A I don't know.

16 Q --- and do the search?

17 A I don't know.

18 Q But you pulled that blue bag out first, right?

19 A Yes.

20 Q Okay.

21 (Whereupon, a portion of video was published in open  
22 court.)

23 Q Who's this guy?

24 A That's Officer Simmons.

25 Q Officer Simmons?

1 A (No audible response.)

2 Q He -- did you call him out there to ---

3 A That must've ---

4 Q --- help you?

5 A --- been who -- I don't remember what his number was  
6 at the time, but that must've been who I called to help  
7 inventory.

8 Q Okay.

9 (Whereupon, a portion of video was published in open  
10 court.)

11 Q Okay. So leaning down, those are your -- your  
12 words, right, lean down? You just told Officer Simmons  
13 that?

14 A Yes. She -- she was moving around in the ---

15 Q All the way ---

16 A --- vehicle.

17 Q --- to the floorboard, right?

18 A I never said that.

19 Q Said you ---

20 A She leaned ---

21 Q --- you found ---

22 A --- she ---

23 Q --- stuff in the ---

24 A --- she leaned down. She made -- she -- she made  
25 some kind of movement toward the passenger side.

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 223

1 Q Okay. I asked you some questions about what drug  
2 dealers look like. I asked you some questions about drug  
3 users, as far as meth mouth goes. Could there be any  
4 medical reasons for her behavior?

5 A I mean, I'm sure there could be. There -- there's  
6 -- different medical reasons. There -- as you said, drug  
7 users come in all shapes and sizes, I mean. I'm sure  
8 there -- I'm sure there could be for medical reasons.

9 Q Did you ever -- I know you asked her if she took  
10 prescription medication.

11 A Correct.

12 Q Did you ask her why?

13 A No.

14 Q Okay.

15 A She said that she did take prescription medication.  
16 But I think she stated at initial contact that she wasn't  
17 -- she hadn't -- she hasn't taken them, is what she told  
18 me.

19 Q One point you radio in. You're asking one of the  
20 officers to ask Sgt. Kanipe if she has any syringes in  
21 the vehicle. Do you remember that?

22 A I don't remember if it was -- if it was Kanipe I  
23 asked. I think that might've been ---

24 Q I meant -- sorry.

25 A --- the number -- I don't remember what the number

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 224

1 was. I think I said L8, which would've been Lt. Brewer.

2 Q Ask someone else to ask him?

3 A Sure. If they had -- if -- if there was any needles  
4 or anything I needed to be concerned about for my safety.  
5 I didn't want to get stuck by a used needle.

6 Q A used needle. So there are certain ways that  
7 someone could use meth that's going to ingest  
8 methamphetamine, correct?

9 A Yes.

10 Q Okay. One of those is a syringe, correct?

11 A Correct.

12 Q All right. Do you know the process of how someone  
13 injects methamphetamine?

14 A Not right off. I -- I mean, I've never seen anybody  
15 inject methamphetamine.

16 Q No one's trained you as a narcotics officer or in  
17 the -- in Laurens City Police Department? Has anyone ---

18 A I mean, I know it's melted down into a liquid form.  
19 How it's melted, I don't know. It's typically done with  
20 a spoon and a lighter.

21 Q Typically ---

22 A And then ---

23 Q --- done -- well, there is a spoon. And actually,  
24 the correct way would be not to heat it, right? Or if  
25 you ---

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 225

- 1 A I don't ---
- 2 Q --- don't know ---
- 3 A --- know if there's a -- a correct way or ---
- 4 Q You ---
- 5 A --- not.
- 6 Q --- you don't ---
- 7 A I think ---
- 8 Q --- want to ---
- 9 A --- that ---
- 10 Q --- heat it, because that's going to mess up the
- 11 purity of the crystal meth.
- 12 A Maybe.
- 13 Q Okay.
- 14 A I don't know.
- 15 Q And since this is not a -- you testified this is not
- 16 bathroom meth -- this is the -- the good stuff, right?
- 17 Is that what you ---
- 18 A It's crystal ---
- 19 Q --- testified ---
- 20 A --- meth.
- 21 Q --- earlier here? Okay.
- 22 Would you agree with me -- agree with me that it'd
- 23 be proper to put the meth in a spoon first, correct?
- 24 A I -- I mean, I don't know.
- 25 Q Okay. You just have no knowledge if they were --

1 that use ---

2 A They're going -- they're going to get in their arm  
3 the way they can get it in their arm. I don't know the  
4 process. I've never seen the process done. I've never  
5 done the process.

6 Q You just know that there's a needle ---

7 A I ask them -- no, I didn't. I asked to see if there  
8 was a needle ---

9 Q Uh-huh.

10 A --- to prevent me from getting stuck with a needle.

11 Q But did you find any needles ---

12 A I did not.

13 Q --- in the car?

14 A I did not.

15 Q Did you find any syringes in the car?

16 A I did not.

17 Q Okay. Did you find any cotton balls in the car?

18 A I did not.

19 Q Cotton balls or alcohol in the car?

20 A Not that I recall.

21 Q Okay. If someone's injecting something, they want  
22 to put alcohol on the cotton ball and wipe it on their  
23 arm, correct?

24 A Maybe. I don't know.

25 Q It's that -- so they can have a clean -- what they

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 227

1 call a clean injection site.

2 A They could.

3 Q If ---

4 A They could ---

5 Q --- you're a nurse ---

6 A They ---

7 MR. SCOTT: Your Honor ---

8 Q Yeah.

9 MR. SCOTT: --- just -- just for the sake of move  
10 on, there's been no allegation she's injected any heroin.  
11 That's -- that's not part of the case.

12 THE COURT: All right.

13 MR. SCOTT: I think we can move on from that.

14 There's no ---

15 THE COURT: All right.

16 MR. SCOTT: --- syringes.

17 MR. BROOME: If I ---

18 MR. SCOTT: We'll ---

19 MR. BROOME: --- said heroin ---

20 MR. SCOTT: --- we'll submit ---

21 MR. BROOME: --- I misspoke.

22 MR. SCOTT: --- to that.

23 MR. BROOME: It's meth.

24 THE COURT: It's cross-examination. I'll allow it.

25 Go ahead.

1 MR. BROOME: Thank you, Your Honor.

2 Q Any rubber bands where someone could -- if they're  
3 going to shoot up meth into their system, they're going  
4 to tie this thing up so they can get that good vein  
5 going. You know what I mean?

6 A (Nodded head up and down.)

7 Q You find any rubber hoses where someone -- or bands  
8 ---

9 A I didn't.

10 Q --- where they could tighten it up?

11 A I didn't.

12 Q Okay. Did you find -- typically, people don't use a  
13 syringe for meth.

14 A I -- I mean, I've seen it both ways: smoked and --  
15 and injected.

16 Q Okay.

17 A I would say -- I don't know the numbers. But I've  
18 seen -- I've had a lot of run-ins with dirty needles.  
19 And that's why I asked were there any needles in the car.

20 Q You didn't find anything that would help inject,  
21 correct? We've agreed on that part?

22 A Yeah. I didn't.

23 Q Now, the more common way to do is to smoke it,  
24 right?

25 A You -- it can be smoked or injected.

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 229

1 Q A glass pipe, right?

2 A Typically.

3 Q Okay. Like a bowl?

4 A Could be freebased on aluminum foil. I mean,  
5 there's -- there's numerous ways to smoke  
6 methamphetamine.

7 Q Did you find any aluminum foil ---

8 A I did not.

9 Q --- in there?

10 A I ---

11 Q Did ---

12 A --- did not.

13 Q --- you find any coffee filters in there?

14 A I did not.

15 Q Coffee filter is used to filter out the process of  
16 making meth?

17 A Sometimes.

18 Q And the way that a meth user will use is they put --  
19 they break up the rocks. They put it into the bowl.  
20 Correct? The pipe?

21 A I would assume.

22 Q Well, they've trained you on this, no?

23 A They trained me how to smoke methamphetamine?

24 Q No. How people ingest methamphetamine.

25 A No. It's ---

1 Q Okay.

2 A --- smoked, injected, or freebased.

3 Q Okay.

4 A That -- there's ---

5 Q So ---

6 A --- numerous process -- numerous steps that you  
7 could take to achieve in getting the methamphetamine in  
8 your body.

9 Q How many would that be?

10 A It -- as many as you can think of. I mean, I don't  
11 understand what you're asking.

12 Q I -- I'm asking: There's certain methods that  
13 someone's going to ingest/inhale methamphetamine to  
14 obtain a high. Can they -- can they stuff it up their  
15 nose and get high?

16 A Sure.

17 Q Okay. They could swallow it, couldn't they not?

18 A (No audible response.)

19 Q Okay. But the most common way -- what I'm asking  
20 you -- is if there's a glass pipe. Do you find glass  
21 pipes when you arrest people ---

22 A I do.

23 Q --- typically for ---

24 A I do.

25 Q --- methamphetamine ---

## CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 231

- 1 A And they ---
- 2 Q --- use?
- 3 A --- and that -- they would be smoking
- 4 methamphetamine.
- 5 Q Okay. Did you find a glass pipe ---
- 6 A I did not.
- 7 Q --- in this case?
- 8 A I did not.
- 9 Q Did you find a straw in this case?
- 10 A I did not.
- 11 Q Okay. If they grind up the methamphetamine, they
- 12 may use a straw to snort the methamphetamine, correct?
- 13 Or a dollar bill?
- 14 A Any -- anything to get it in their system. Yes.
- 15 Q Did you find any of that in this case?
- 16 A Not that I recall.
- 17 Q Did you find anything at all someone could be used
- 18 -- something -- method that could be used to ingest
- 19 methamphetamine?
- 20 A The -- no.
- 21 Q Okay. Let's talk about her confession. We've got
- 22 this on video. We see a video here. Now, the DataMaster
- 23 room, you were not present for ---
- 24 A That's correct.
- 25 Q --- that?

1 A That's ---

2 Q And ---

3 A --- correct.

4 Q --- Officer Kanipe was. But you did show up while  
5 he was conducting that test, correct?

6 A If I recall correctly, he was still in the  
7 DataMaster room when I arrived back at the police  
8 department.

9 Q All right. And there is a video camera -- you may  
10 not -- not have done it in this case. There's a video  
11 camera in that DataMaster room, right?

12 A There is. It's controlled by SLED.

13 Q Controlled by SLED?

14 A (No audible response.)

15 Q You have a video camera in your car. You have a  
16 video camera in the DataMaster room, correct?

17 A Correct.

18 Q Now, did you have any body cameras at that time?

19 A Not at the time, we didn't.

20 Q Do you have any other videotaping equipment in that  
21 time at your office?

22 A No -- no.

23 Q In the entire Laurens City Police Department?

24 A No.

25 Q And that is where you took her. That's where the

## CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 233

1 DataMaster room was.

2 A Right.

3 Q Okay. But there was one in the DataMaster room. So  
4 did she make those statements to you in the DataMaster  
5 room?

6 A No. She was in the booking room.

7 Q She was in the booking room?

8 A (Nodded head up and down.)

9 Q Okay. So you have the capabilities to videotape any  
10 interrogation of a suspect, correct?

11 A No.

12 Q We just said that you have a videotape in your car,  
13 for example ---

14 A Correct.

15 Q Okay. Could you not -- is there anything to  
16 prohibit you from taking her ---

17 A No.

18 Q --- to the ---

19 A I could've -- yeah. I ---

20 Q Okay. Anything to prohibit you from getting her  
21 back in that DataMaster room ---

22 A Yes.

23 Q Okay.

24 A So I'm pretty sure that's -- DataMaster is used for  
25 -- to provide a breath sample and that's it. This room

1 is small. I'm pretty sure SLED may even have policies  
2 against it. They control that video equipment, not  
3 Laurens Police Department.

4 Q Well, how do you know? You weren't SLED-certified  
5 at that time. I mean, Logan had to do the field-sobriety  
6 tests.

7 A He -- he was certified to do a field-sobriety test  
8 and a DataMaster.

9 Q Were you certified in DataMaster procedures, SLED  
10 policy ---

11 A I was ---

12 Q --- and ---

13 A --- not -- not ---

14 Q --- procedures?

15 A Not that I recall. No.

16 Q Because ---

17 A But ---

18 Q --- at the time you didn't know whether or not she  
19 could videotape -- you could go -- put that person in  
20 that room and hit record?

21 A You do for the process of DataMaster. But you can't  
22 interrogate them while you're doing DataMaster.

23 Q Typically, when you interview a witness or a suspect  
24 -- let me back up a little bit. You have talked to  
25 hundreds of witnesses in the course of your career,

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 235

1 correct?

2 A I -- that's a good estimate. I would probably say  
3 more than -- I mean, it's -- it's a lot of people I've  
4 talked to. Yes.

5 Q You -- you been working -- I know you been working  
6 for a long time.

7 A Uh-huh.

8 Q And it's hard work.

9 A (No audible response.)

10 Q And oftentimes, you will ask someone to put  
11 something down in writing, right?

12 A Right.

13 Q And it will say something like: "This is a  
14 voluntary statement" ---

15 A Right.

16 Q --- on the top, right?

17 A Right.

18 Q It's a piece of paper that your office has, correct?

19 A Right.

20 Q You were in your office, were you not?

21 A I was.

22 Q And it will have the -- you can ask the person to  
23 write down their statement. You give them a pen, right?

24 A (Nodded head up and down.)

25 Q Please tell me -- I'm asking you such and such

1 question. I can write it down this piece of paper,  
2 correct?

3 A (No audible response.)

4 Q You could write down your question on that, right?

5 A You could. Yeah.

6 Q Or you give them the pen and say please ---

7 A Typically, the way I do it, when I'm interviewing a  
8 suspect or interrogating a suspect, my questions are  
9 asked. If -- if -- if I feel like, you know, they're  
10 complying/they're wanting to talk, at that point, once  
11 I've interviewed them, then they're given the opportunity  
12 to write a statement.

13 Once -- once they say anything about an attorney or  
14 they request legal counsel, my interrogation is done.  
15 I'm not getting them to write a statement. I'm not --  
16 I'm -- my interview process with that suspect is over.

17 Q Okay. Now, before you do that, though, you  
18 testified earlier that you gave *Miranda* warnings ---

19 A That's correct.

20 Q --- to her, correct?

21 A Correct.

22 Q Now -- and they were done orally, correct?

23 A Correct.

24 Q You verbally said them out loud. But you have a --  
25 what we call a standard -- standard form. It's a piece

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 237

1 of paper. It says "Waiver of Miranda Rights" on the top  
2 of it. Do you not have that in your office?

3 A We do.

4 Q Okay. And on that it will say, obviously, that on  
5 the top. It will go through each right that the  
6 individual has.

7 A That's correct.

8 Q Each right?

9 A (No audible response.)

10 Q There is a blank space right there. Is it not -- is  
11 -- isn't ---

12 A There's ---

13 Q --- there?

14 A --- two blank spaces.

15 Q Okay. One for each person to initial?

16 A Right.

17 Q That way, after you go through each right, you can  
18 acknowledge, "Hey, I told you, you've got a right to  
19 remain silent."

20 "Yep. Understand that. Let me initial there."

21 A Correct.

22 Q Correct?

23 A Correct.

24 Q "Anything you say in court can and will be used  
25 against you" ---

1 A Correct.

2 Q --- correct?

3 It's on down the list. At the end there is a  
4 signature block ---

5 A Correct.

6 Q --- where the person can say: "Yeah. I -- I agree  
7 again that I've waived my rights to answer any questions  
8 that you ask me."

9 A Correct.

10 Q Correct?

11 That person signs it, right?

12 A (Nodded head up and down.)

13 Q You sign it, correct?

14 A Correct.

15 Q And you will grab a witness to be on the safe side  
16 to sign it as well.

17 A Typically.

18 Q Right?

19 A Right.

20 Q Did you do that in this case?

21 A I did not.

22 Q Okay. Any reason why?

23 A No. Other than, as I said, my exchange with her, as  
24 I testified before, was maybe two minutes. It -- I -- I  
25 didn't go in there to interrogate her. She -- she had

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 239

1 asked about the meth -- or asked about the charges.

2 Somebody said, "Hey, Gainey, she wants to know what  
3 she's charged with." That's -- that's why I came in ---

4 Q So she had ---

5 A --- and talked ---

6 Q --- no clue ---

7 A --- to her.

8 Q --- what she's charged with at that point?

9 A She knew ---

10 Q Other than ---

11 A --- she was ---

12 Q --- the DUI?

13 A --- charged with DUI. Right.

14 Q Right.

15 A And then that's where I go in and explain to her.

16 Q Okay. So the first question out of your mouth is --  
17 let me -- where's your report? Bear with me. I gave my  
18 copy to you.

19 The first question you testified to is -- was --  
20 first question out of your mouth was -- and I just want  
21 to set the scene. She's in that room, right? You take  
22 her to the room, right?

23 A Correct.

24 Q And it's just you and her, according to you, right?

25 A No. I didn't -- I didn't say that. I said there --

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 240

1 there was a lot going on. There -- there may have been  
2 people in and out. That room is used the entire 12-hour  
3 shift for paperwork. There's people in and out of that  
4 room.

5 Q Why would you have -- if you're trying to  
6 interrogate someone ---

7 A I -- I wasn't interrogating her.

8 Q You said interrogate.

9 A I said interview a second ago. She asked what she  
10 was charged with. I walked in. My exchange with the  
11 defendant was two -- three minutes, tops. And I left.

12 Had it been -- had it been an interrogation, I  
13 would've been in there. There would've been a witness in  
14 there. And the -- and the documentation that you're  
15 talking about would've been filled out.

16 Q If you're questioning someone at -- a witness --  
17 this important witness, let's say in a murder case, and  
18 you want to get all the facts down, would you find it  
19 efficient to have people coming and going out of the room  
20 ---

21 A And if I was investigating a murder case, there  
22 wouldn't be.

23 Q Okay. Just in this case?

24 A (Nodded head up and down.)

25 Q In this case it would be, though?

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 241

1 A Yeah. People was coming and going ---

2 Q Okay.

3 A --- while she was being explained what her charges  
4 were and asked these questions.

5 Q Are only murder cases more important in  
6 interrogation to you?

7 A What's the question?

8 Q Are murder cases -- are -- are they the only cases  
9 that are important?

10 A No.

11 Q Is that your testimony?

12 A No. I -- that's not -- nowhere near what I said.

13 Q So the first question out of your mouth is -- "Sgt.  
14 Gainey" -- this is in your report -- "I asked her if the  
15 meth came from Florida, and she stated she did not have  
16 meth." Those are ---

17 A Correct.

18 Q --- her words, right?

19 A Correct.

20 Q Okay. So she's denied meth?

21 A (No audible response.)

22 Q She's denied any meth?

23 A (No audible response.)

24 Q And the next thing you said immediately after that  
25 would be if she had a prescription for Lyrica, correct?

1 A Correct.

2 Q She stated she did not -- she did, but not with her,  
3 correct?

4 A Correct.

5 Q So you followed that up with: "How did you inject  
6 the meth? Did you smoke it or inject it." Correct?

7 A Correct.

8 Q "And she said she smoked it."

9 A Correct.

10 Q So deny, correct -- she denied your -- she denied  
11 having meth ---

12 A Right.

13 Q --- correct?

14 She denied -- she said she had a prescription for  
15 medicine, right?

16 A Right.

17 Q And a third question, she just confesses?

18 A No. She denied that she didn't have any meth. She  
19 never denied that she wasn't a meth user.

20 Q You said -- I'm -- what I'm asking is the third  
21 question. You -- initially, you asked her where the meth  
22 came from. She said, "I didn't have any meth." Right?

23 A Correct.

24 Q Then you asked her about the Lyrica. She said it --  
25 she had a prescription for that, correct?

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 243

1 A Correct. Correct.

2 Q On the -- how did you -- it's kind of a ---

3 A How did you use ---

4 Q That question, how did ---

5 A How ---

6 Q ~ --- you -- how did you -- did you smoke it or inject  
7 it, she didn't have much of a way out on that one, right?

8 That was the question?

9 A I asked did she -- if she smoke or injected  
10 methamphetamine. She stated she smoked.

11 Q So no meth; deny, deny. And that -- and then, that  
12 question, just boom. Done. She confessed to you?

13 A She stated she smoked methamphetamine.

14 Q Did you ask her where the bowls were in the car ---

15 A No.

16 Q --- to smoke it?

17 A No.

18 Q Okay. Do you think that would've been important to  
19 do?

20 A Maybe.

21 Q Maybe?

22 A (No audible response.)

23 Q Okay.

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

25 THE COURT: All right.

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINNEY 244

1 (Whereupon, Mr. Broome and the defendant conferred.)

2 Q Okay. The -- Mr. Bixler asked you earlier when you  
3 first noticed her speeding. You remember watching that  
4 on the video?

5 A I do.

6 MR. BROOME: Let's go back to that.

7 (Whereupon, a portion of video was published in open  
8 court.)

9 Q Okay. Now, that is her car.

10 A Correct.

11 Q This is your car, but you've spotted her earlier,  
12 right?

13 A Correct.

14 Q Can you show on that video where, not the first  
15 entrance to the YMCA, but the second entrance to the  
16 YMCA, the -- what's -- what's the -- Sunset Park ---

17 A Yeah. Sunset Park Extension.

18 Q Right. Can you see Sunset Park Extension ---

19 A Barely.

20 Q --- from there?

21 A It's -- it's going to be at the very top.

22 Q Okay. Can you tell the jury, in yards or feet -- I  
23 don't care which -- how far it is from here to that  
24 second entrance?

25 A I -- I mean, I wouldn't -- I wouldn't have a clue.

CROSS-EXAMINATION BY MR. BROOME - MICHAEL GAINEY 245

1 I would say maybe 500 yards -- 400 yards, maybe.

2 Q Okay. Do you know how long it took her to get --  
3 for her car to get to your car?

4 A I don't -- I don't know.

5 Q Okay. And you clocked her saying -- your -- your  
6 testimony was it'd be nearly impossible for her to get  
7 out of the second entrance up by the YMCA -- we're all  
8 familiar with it -- and hit you down here, or wherever  
9 she's at, at 57 miles an hour.

10 A To go from -- to go from the top entrance to the  
11 bottom entrance of the YMCA, that has -- that's going  
12 pretty good ---

13 Q Uh-huh.

14 A --- to be at 57 miles an hour in that short stretch  
15 of road.

16 Q But you're coming around -- it's hard to see -- if  
17 you're used, I guess it's a little bit of stretch of road  
18 and then there's a curve around there.

19 A Where I'm at.

20 Q Yeah. Right here.

21 A Yeah.

22 Q The -- back behind you, if you're facing this ---

23 A It's -- it's a mild curve. But yeah. There's a --  
24 a little bit of a curve there.

25 Q Okay. But you don't -- can't tell us a distance or

1 anything about speed, right? I know you're -- you said  
2 that you were running your radar.

3 A Well, I estimated her speed in between those -- it  
4 would've been in between about right there in front of  
5 the YMCA, in between those two driveways -- or two roads.

6 Q Uh-huh.

7 A But as far as the distance, I -- I'm not sure what  
8 the distance is.

9 Q Okay. Would you agree with me that's the basic way  
10 to calculate speed, is being able to know distance ---

11 A Yeah.

12 Q --- and time?

13 A Yeah.

14 Q All right. Final thing, this -- we didn't find any  
15 syringes, correct?

16 A Correct.

17 Q Didn't find any needles, correct?

18 A Correct.

19 Q We didn't find any glass pipes or bowls?

20 A Correct.

21 Q Right?

22 A (Nodded head up and down.)

23 Q The only thing that you found was the 1.1 gram of  
24 methamphetamine, right?

25 A I think it was 1.4, but SLED's was 1.1. But

REDIRECT EXAMINATION BY MR. BIXLER - MICHAEL GAINNEY 247

1 correct.

2 Q All right.

3 MR. BROOME: No further questions, Your Honor.

4 THE COURT: All right. Redirect.

5 REDIRECT EXAMINATION

6 BY MR. BIXLER:

7 Q While we got this up, you testified it was 500  
8 yards. And I just want to be clear. You're talking  
9 about 500 yard from the second entrance to where your  
10 vehicle is?

11 A Yes. Yes.

12 Q What's the difference between the two entrances ---

13 A And I -- I'm not -- and -- and again, I don't know  
14 what the distance is. That would be my estimation. But  
15 -- to be honest with you, I don't know what the distance  
16 ---

17 Q About five ---

18 A --- is.

19 Q --- hundred yards between the two entrances, not  
20 between ---

21 A No. Between -- I mean, I don't know. I would say  
22 from the front of my car there.

23 Q From the front of your car to the ---

24 A To the second -- to the last entrance.

25 Q Is?

REDIRECT EXAMINATION BY MR. BIXLER - MICHAEL GAINEY 248

1 A I would say about 500 yards ---

2 Q What is ---

3 A --- from ---

4 Q --- the -- can you ---

5 A I don't

6 Q --- estimate ---

7 A --- know.

8 Q --- just between the two entrances?

9 A Maybe 50 yards.

10 Q Mr. Broome asked you about the waiver forms. Where  
11 -- y'all have just a pile of them laying around?

12 A (No audible response.)

13 Q Where are they kept?

14 A Sometime -- I mean, it -- it just depends. A lot of  
15 times -- back then, I think they were in a file. I mean,  
16 it just depends.

17 Q And that file in the booking room?

18 A It'd have been in the dispatch office.

19 Q That's not in the booking room?

20 A No.

21 Q But *Miranda* was given, wasn't it, on the video?

22 A Yes.

23 Q Mr. Broome asked you about -- asked you if you found  
24 syringes, cotton balls. Would that surprise you that you  
25 didn't?

REDIRECT EXAMINATION BY MR. BIXLER - MICHAEL GAINY 249

1 A No.

2 Q Why would that surprise you?

3 A As I testified, there -- there's numerous ways to  
4 ingest methamphetamine.

5 Q And ---

6 A I mean ---

7 Q --- how did she say she ingested it?

8 A She said she smoked it.

9 Q And he asked you about drug dealers. I'm assuming  
10 that all drug dealers operate the same.

11 A No. They come in many -- I mean, there's -- you  
12 can't say that drug dealers are the same. No. They're  
13 all different. People have different ways about -- you  
14 know, it's the same way with drug users.

15 Q So all meth users look the same?

16 A No.

17 Q And you didn't ask her about any -- any bowls or any  
18 pipes?

19 A No.

20 Q Because she invoked her *Miranda* rights?

21 A She invoked her right to counsel. After -- after  
22 the questions I asked her, she made mention of an  
23 attorney. I don't remember if she exactly said, "I want  
24 an attorney." But she -- lawyer/attorney -- something  
25 came out of her mouth to make me think she wanted her

REDIRECT EXAMINATION BY MR. BIXLER - MICHAEL GAINEY 250

1 attorney. At that point my -- my interaction with the  
2 defendant was over.

3 Q So you didn't ask her any other questions?

4 A I left the building.

5 Q Nothing further.

6 THE COURT: All right. You may step down.

7 THE WITNESS: Thank you.

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

9 THE COURT: All right. Ladies and gentlemen, we've  
10 been going at it a while. We'll go ahead and take a  
11 break. Right now, let's take about a ten-minute break;  
12 give you an opportunity to stretch your legs, use the  
13 restroom, whatever the case may be.

14 Do not discuss the case, even among yourselves.  
15 Don't conduct any independent investigation. We'll take  
16 about a ten-minute break, and we'll bring you back in  
17 just a minute. Thank you very much.

18 (Whereupon, the jury exited the courtroom at 4:23  
19 p.m.)

20 (Off the record from 4:23 p.m. until 4:44 (p.m.)

21 THE COURT: All right. Anything from the state  
22 before we bring the jury in?

23 MR. BIXLER: Nothing, Your Honor.

24 THE COURT: Anything from the defense?

25 MR. BROOME: No, Your Honor.

1 THE COURT: All right. Let's go ahead and bring the  
2 jury in. I'm a let you get -- you got a short witness  
3 you're going to do now. Then after that witness, I'm  
4 going to go ahead and ask the jury -- I'm going to excuse  
5 them to make a decision whether they want to keep going  
6 tonight or whether or not they want to go late tomorrow.  
7 And we'll see what they say, okay?

8 All right. Let's bring the jury in.

9 (Off the record briefly.)

10 (Whereupon, the jury entered the courtroom at 4:47  
11 p.m.)

12 THE BAILIFF: All jurors present, Your Honor.

13 THE COURT: Thank you, sir. All right. Ladies and  
14 gentlemen, welcome back. We're ready to resume trial of  
15 the case.

16 Mr. Bixler, the state can call you next witness.

17 MR. BIXLER: Thank you, Your Honor.

18 THE BAILIFF: I'll swear them in.

19 MR. BIXLER: The state calls Shana Sorrells.

20 THE COURT: All right.

21 (Whereupon, the witness came forward.)

22 SHANA SORRELLS, having been first duly sworn,  
23 testified as follows:

24 THE COURT: All right. Ms. Sorrells, if you could  
25 please give us your name and spell your name for us,

DIRECT EXAMINATION BY MR. BIXLER - SHANA SORRELLS 252

1 please.

2 THE WITNESS: Shana Sorrells, S-h-a-n-a,  
3 S-o-r-r-e-l-l-s.

4 THE COURT: Thank you. All right, sir.

5 DIRECT EXAMINATION

6 BY MR. BIXLER:

7 Q Ms. Sorrells, where are you employed?

8 A The South Carolina Law Enforcement Division, more  
9 commonly known as SLED.

10 Q And what is your position with SLED?

11 A I am currently a forensic chemist in their drug-  
12 analysis department.

13 Q And what type of training and education do you have  
14 to perform your job?

15 A I have a bachelor's degree from the University of  
16 South Carolina in chemistry and a master's degree, also  
17 from the University of South Carolina, in analytical  
18 chemistry, which is the study of using chemical  
19 instrumentation to get numerical values out of data.

20 I did -- I have spent 11 years at SLED. The first  
21 eight years I worked as a toxicologist in the forensic  
22 labs. I did an extensive in-house toxicology training  
23 under a senior analyst, where I analyzed biological and  
24 chemical samples: blood, urine, food products. And I  
25 looked for alcohol, drugs, and poisons in biological and

DIRECT EXAMINATION BY MR. BIXLER - SHANA SORRELLS 253

1 chemical samples.

2 I have attended what's very well known among the  
3 forensic world as the Borkenstein School for Alcohol,  
4 which is the study of alcohol in blood and urine. And  
5 the Borkenstein School for Drugs.

6 I have attended multiple drugs conferences in the  
7 identification of drugs, in the system and out of the  
8 system. I have also attended the drug-recognition-expert  
9 classes that is offered to law enforcement.

10 Q Thank you. I'm going to hand you what's been marked  
11 as State's Exhibit 3 for identification. Do you  
12 recognize that?

13 A Yes, I do.

14 Q And what is that?

15 A This is -- this is a Kapak bag that I put the  
16 evidence in once it -- I am finished with the case. It  
17 contains the BEST kit, which you saw described earlier,  
18 that has been sealed; all the evidence that was submitted  
19 in the case; our SLED lab number. And it has been  
20 sealed. And I know it's mine because it has my initials  
21 and the date of the date that I sealed it and worked this  
22 case on it.

23 Q And when you worked on it, what -- what do you mean  
24 by when you said you worked on the case? What -- what  
25 did you do?

DIRECT EXAMINATION BY MR. BIXLER - SHANA SORRELLS 254

1 A When I worked on -- oh. When I actually -- we get  
2 so many cases submitted. So by the time I got to this  
3 case, I got this case on this date that I cut into the  
4 bag, opened it, worked the evidence in the case, which  
5 means I analyzed the evidence in the case, and then  
6 sealed it again on that date.

7 Q All right. And how did you analyze the evidence?

8 A First thing we do when we get evidence in is if it  
9 is not a pharmaceutical-grade tablet or capsule, we weigh  
10 it. If it is a -- a powder, a crystal, a rock, plant  
11 material, we take it out of all of the outer packaging,  
12 no matter what it's packaged in, and weigh just the  
13 substance.

14 So in this case the first item I analyzed was --  
15 there was a piece of paper. And inside it there was a  
16 plastic quarter bag containing what we describe as  
17 crystal substance. And I don't know if y'all can see it,  
18 but it's in there -- crystal substance.

19 So I -- first thing I did was take a weight of the  
20 sample. Once I get a weight, I then do what's known as a  
21 spot test or a color test. Using different chemicals,  
22 they react with certain compounds and functional groups  
23 within the chemistry of the drug of interest.

24 In this case I did an acid-base test, and it gave me  
25 an orange color. Orange is indicative of some type of

DIRECT EXAMINATION BY MR. BIXLER - SHANA SORRELLS 255

1 amine group. Usually, an amphetamine, methamphetamine,  
2 your ecstasy, that's what gives you that orange color.

3 So now I had an idea of what I was dealing with.  
4 And I knew which extraction to do. Then I take a small  
5 amount of that sample and extract it by using a liquid-  
6 solid extraction, another chemical-based extraction, and  
7 then I run it on a gas chromatography mass spectrometer.

8 Running it on that, you can get a good separation of  
9 any -- of -- if you have multiple chemicals. You can get  
10 a separation of the chemicals. And it breaks it into its  
11 individual ions. Based off of the retention time that  
12 that chemical comes out at and the ion pattern that we  
13 get, we call it a fingerprint. Based off of that  
14 fingerprint, we can identify exactly which drug we are  
15 looking at.

16 Q And were you able to determine what the crystal-like  
17 substance was?

18 A The crystal-like substance was determined to be  
19 methamphetamine.

20 Q And did you -- you said you weighed it. What did --  
21 were you able to determine what the weight of that  
22 substance is?

23 A I was. The weight that we measured without the  
24 packaging was 1.13 grams.

25 Q Was there anything else that you tested?

DIRECT EXAMINATION BY MR. BIXLER - SHANA SORRELLS 256

1 A Yes, there was. We also had several capsules. They  
2 all came in this blue bag that you see here. The  
3 capsules were separated, because we have two different  
4 types.

5 These capsules were identified based off of their  
6 markings. We ran them on the gas chromatography, just to  
7 see. Unfortunately, these -- the markings on these  
8 tablets say that it is pregabalin, which is Lyrica. We  
9 cannot detect on Lyrica on gas chromatography mass  
10 spectrometry.

11 I could tell you, though, that there was nothing of  
12 any other substance in these capsules. So we determined  
13 that they had not been tampered with and that both types  
14 of capsules were found as pregabalin, more commonly known  
15 as Lyrica.

16 MR. BIXLER: Your Honor, at this time the state  
17 would move into evidence State's Exhibit 3.

18 THE COURT: Any objection?

19 MR. BROOME: No objection, Your Honor.

20 THE COURT: All right. State's Exhibit 3 admitted  
21 into evidence without objection.

22 (Whereupon, State's Exhibit 3 was entered into  
23 evidence.)

24 (Whereupon, State's Exhibit 4 was marked for  
25 identification.)

DIRECT EXAMINATION BY MR. BIXLER - SHANA SORRELLS 257

1 Q I'm going to hand you this and see if you recognize  
2 that. This has been marked State's Exhibit 4 for  
3 identification.

4 A Yes. This appears to be a copy of my report that I  
5 generated.

6 Q And is that something that's commonly produced as a  
7 result of your testing?

8 A Yes. Every case that comes through has a report of  
9 some type generated for it.

10 MR. BIXLER: Your Honor, at this time the state  
11 would move into -- offer into evidence State's Exhibit 4.

12 THE COURT: Any objection?

13 (Whereupon, Mr. Bixler and Mr. Broome conferred.)

14 MR. BROOME: No objection, Your Honor.

15 THE COURT: State's Exhibit 4 admitted into evidence  
16 without objection.

17 MR. BIXLER: I have nothing further at this time,  
18 Your Honor.

19 THE COURT: All right. Cross-examination?

20 MR. BROOME: No cross-examination, Your Honor.

21 THE COURT: All right. You may step down.

22 THE BAILIFF: Watch your step.

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

24 THE COURT: All right. Ladies and gentlemen, this  
25 case has run a little bit longer than we anticipated.

1 And so I want to do one of two -- one of two things.  
2 We're either going to need to go later tonight or  
3 probably a little bit later than anticipated tomorrow.

4 So I'm going to excuse you back to the jury room for  
5 y'all to decide whether or not you want to continue and  
6 go a little bit later tonight or stay a little bit longer  
7 than originally anticipated tomorrow. I don't know how  
8 long it would take tomorrow. I sense that if we broke  
9 now, that we would probably go at least until five, maybe  
10 a little bit later than five, tomorrow.

11 If you're willing to go a little bit later tonight,  
12 we'll do that. But I do not like to keep a jury after  
13 five o'clock without giving them some prewarning.

14 So I'm going to excuse you back to the jury room.  
15 Do not discuss this case. But just decide whether or not  
16 you want to go ahead and -- for another hour or so here  
17 tonight and then come back tomorrow or whether or not you  
18 want to go ahead and break now and then come back  
19 tomorrow morning.

20 All right. So I'm going to excuse you back to the  
21 jury room, and everybody decide what you'd like to do.  
22 Thank you very much.

23 (Whereupon, the jury exited the courtroom at 4:56  
24 p.m.)

25 THE COURT: All right. Let's give them a few

1 minutes Let's see -- see what they decide. And if they  
2 want to go forward, we can go ahead and you can continue  
3 with your case.

4 If you -- I know you've got one more witness. Have  
5 you got another one, if they decide they want to forward,  
6 that we can go ahead and call tonight?

7 MR. BIXLER: We just have the one, Your Honor. Just

8 ---

9 THE COURT: Oh, you've ---

10 MR. BIXLER: --- the one.

11 THE COURT: --- just got one more?

12 MR. BIXLER: Right.

13 THE COURT: Okay. And how long is that witness?

14 MR. BIXLER: There's ---

15 THE COURT: Or who is that witness?

16 MR. BIXLER: Officer.

17 THE COURT: Okay. All right. That's who I --  
18 that's what I was thinking. Okay.

19 MR. BIXLER: I mean, there's a couple videos.

20 THE COURT: Yeah. All right. Well, let's check and  
21 see what they want to do. Maybe we can get -- get that  
22 testimony and evidence in if they want to stay tonight.  
23 I'd like to kind of get through that and then we'll  
24 decide. Okay? All right.

25 (Off the record from 4:58 p.m. until 5:03 p.m.)

1 (Whereupon, the jury entered the courtroom at 5:03  
2 p.m.)

3 THE BAILIFF: All jurors present.

4 THE COURT: Thank you very much. Welcome back,  
5 ladies and gentlemen. Mr. Welch, has the jury decide  
6 whether they want to continue tonight or come back  
7 tomorrow morning?

8 THE FOREPERSON: We have. We'd ---

9 THE COURT: All right.

10 THE FOREPERSON: --- like to come back tomorrow  
11 morning.

12 THE COURT: Okay. All right. Well, we're going to  
13 go ahead and break for the day, send you home for the  
14 evening. I caution you again: Do not discuss the case,  
15 even among yourselves. It's too early for deliberations.  
16 Don't conduct any independent investigation into the  
17 case.

18 I'm going to ask that you be back in the jury at  
19 about 9:15 tomorrow morning. That'll give you an  
20 opportunity to get a cup of coffee or we've the case may  
21 be. We'll try to get started as soon after that as we  
22 can.

23 Hope everybody has a good evening, and we'll see you  
24 at 9:15 tomorrow morning. Thank you very much.

25 (Whereupon, the jury exited the courtroom at 5:04

1 p.m.)

2 THE COURT: All right. Anything from the state  
3 before we recess for the evening?

4 MR. BIXLER: No, Your Honor.

5 THE COURT: Anything from the defense?

6 MR. BROOME: No, Your Honor.

7 THE COURT: All right. I've got them coming back at  
8 9:15. I'll try to take the bench at 9:30, and we'll get  
9 started then. Okay?

10 MR. BIXLER: Thank you.

11 THE COURT: All right.

12 MR. BROOME: Thank you, Your Honor.

13 THE COURT: Thank you very much.

14 (Whereupon, the proceedings were adjourned at 5:04 p.m.)

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1 TRIAL DAY 2 - 03/31/17

2 (Whereupon, the proceedings were reconvened at 9:31 a.m.)

3 (Whereupon, State's Exhibit 5 was marked for  
4 identification prior to the proceedings.)

5 THE COURT: All right. Good morning, everybody.  
6 Anything from the state before we bring the jury in?

7 MR. BIXLER: Nothing, Your Honor.

8 THE COURT: Anything from the defense?

9 MR. BROOME: Nothing, Your Honor.

10 THE COURT: All right. Let's go ahead and bring the  
11 jury in. Thank you very much.

12 (Off the record briefly.)

13 (Whereupon, the jury entered the courtroom at 9:32  
14 a.m.)

15 THE BAILIFF: All jurors present, Your Honor.

16 THE COURT: Thank you very much. Welcome back,  
17 ladies and gentlemen. I hope everybody had a good  
18 evening.

19 We're now ready to resume the trial of the this  
20 case. I appreciate again everybody being on time and  
21 returning promptly. You don't know how much of an  
22 assistance that is to the Court, and I want to thank you  
23 for that.

24 All right. Mr. Bixler, the state can call your next  
25 witness.

DIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 263

1 MR. BIXLER: Thank you, Your Honor. The state calls  
2 Logan Kanipe.

3 THE COURT: All right.

4 (Whereupon, the witness came forward.)

5 LOGAN KANIPE, having been first duly sworn,  
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. BIXLER:

9 Q Would you please state your name, please?

10 A Logan Kanipe.

11 Q And where are you employed?

12 A Laurens Police Department.

13 Q And what is your title with Laurens Police Dpt?

14 A Currently, I'm a detective.

15 Q And what are you duties as a detective?

16 A I do general investigations; includes everything  
17 from burglary to sexual investigations to narcotics  
18 investigations.

19 Q And what type of training have you had to assist  
20 with your duties?

21 A I've taken numerous course through the criminal  
22 justice academy, through secondary agencies. I've taken  
23 a 80-hour basis detective class that is kind of a general  
24 preparation for detective work. I've taken interview and  
25 interrogation classes as well; street-level-drug

1 narcotics; just various courses.

2 Q You mentioned the academy. Could -- explain a  
3 little bit more about that. What all is involved with  
4 that?

5 A The academy, when I went through, was 12 weeks.  
6 That's -- covers everything from your basic legal to  
7 defensive tactics, shooting, driving, standardized field-  
8 sobriety and DataMaster, criminal -- criminal domestic  
9 violence, a little bit of gang investigations. And it's  
10 12 weeks.

11 Q And how long have you been in law enforcement?

12 A About 3 1/2 years. I was certified November 22nd of  
13 2013.

14 Q And you spent the entire time with the Laurens  
15 Police Department?

16 A I have.

17 Q So you were working with Laurens in 2014?

18 A I was.

19 Q Were you working on June 30th of 2014?

20 A Yes, I was.

21 Q Did you have the opportunity to come in contact with  
22 Ms. Tuttle?

23 A I did.

24 Q And how?

25 A Detective Gainey, he was my sergeant at the time.

DIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 265

1 He stopped Ms. Tuttle and requested another unit come  
2 over; stated that he believed that the driver of the  
3 vehicle that he was out with may be high on 1039, which  
4 is our 10 code for drugs, and requested another unit to  
5 come over for a field-sobriety.

6 Q And did he request you?

7 A He didn't request me specifically. He just  
8 requested a unit. Me being certified in field-sobriety,  
9 just seven months out of the academy, I responded to  
10 where we -- where he was at.

11 Q And how did you determine that you would respond?

12 A I just -- I just heard the car for service -- or --  
13 or -- or call for assistance. And I -- I advised him  
14 that I was en route to him.

15 Q Okay. Once you got there, what -- what did you do?

16 A When I got there, I spoke with -- with Michael. He  
17 told me that her -- that Ms. Tuttle was -- was kind of  
18 all over the place; that he thought that she might've  
19 been -- that she might've been high on drugs; wanted me  
20 to do field-sobriety; told me to, you know, identify  
21 myself to her so that I didn't -- I think, freak her out  
22 is the -- the term he used -- startle her when I came up.

23 And that was -- I -- I -- at one point he -- he said  
24 that because she thought she may have been -- you know,  
25 he thought she may have been high under the influence of

1 -- of drugs, I mentioned, you know, maybe we ask for  
2 consent to search her vehicle. That's not something -- I  
3 didn't ask for that, though, when I got up there.

4 Q What did you do when you ---

5 A When I ---

6 Q --- got up to her?

7 A When I got up to the vehicle, I spoke with her, told  
8 her who I was. I -- that's when I started seeing kind of  
9 the same behavior that he had -- that Michael had  
10 mentioned to me.

11 I asked her if she was under the influence of -- of  
12 anything. She told me no. And then I asked her to step  
13 out of the vehicle, run her through some field-sobriety  
14 exercises.

15 Q What type of a vehicle was it?

16 A It was a -- it was a Oldsmobile. Let me refer to my  
17 notes. It was a Oldsmobile.

18 Q Do you know what year it was?

19 A 2001.

20 Q Now that you've got her out of her car, what do you  
21 do?

22 A Now that's she's out of my car, I walk her back  
23 behind Michael's car and ask him to cut his -- his blue  
24 lights off, because I have to do HGN, which is gaze  
25 nystagmus. You've seen, I'm sure, on TV a police officer

DIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 267

1 checking someone's eyes. I asked him to cut his lights  
2 off when we step in front of my car so that I can -- so  
3 that I can start my exercises.

4 Q Why did you ask him to cut the lights off?

5 A I asked him -- when I asked him to cut the lights  
6 off, that's -- that's so that someone could have -- the  
7 HGN with those blue lights flashing could impair -- or it  
8 could alter my ability to be able to see clearly what  
9 their eyes are doing from the blue lights flashing.

10 Q And did you perform that test?

11 A I did.

12 Q And what were your observations?

13 A First thing I checked for was equal pupil size and  
14 -- and equal tracking. I noticed that her pupils are  
15 very dilated; didn't -- didn't respond -- didn't have  
16 great response to my flashlight, which normally when, you  
17 know, your -- your eyes see a bright light, especially in  
18 the dark, your pupils will generally constrict. That  
19 wasn't the case here.

20 And then, as I'm -- as I'm checking her eyes for the  
21 nystagmus, it's difficult for her to keep -- keep track  
22 of my finger as I'm going back and forth, checking for  
23 each -- checking on each test.

24 Q And what do those things tell you?

25 A Those things tell me -- so-gaze nystagmus is -- is

1 natural. Each person has it. If you think about your  
2 eye, it's -- it's basically floating around and your  
3 muscles contracting will keep your eyes in front of you.  
4 Alcohol or drugs can impair -- basically impair your eyes  
5 to where your eye will actually twitch. It's involuntary  
6 jerking of the eyes.

7 So if I see that, that can -- that can tell me that  
8 somebody's under the influence of drugs or alcohol.

9 Q And you -- and you saw that?

10 A I did.

11 Q What did you do next?

12 A After I completed that, I asked her -- check here --  
13 I stopped -- I stopped at that point and I asked her what  
14 she was on or what she had taken. She said she takes  
15 Vyvanse, but she didn't say that she took the Vyvanse.  
16 She just said, you know, that she took Vyvanse -- or that  
17 she's prescribed it.

18 I went through and asked her what medications were  
19 prescribed to her. She told me what medications were  
20 prescribed to her. And then I asked her to continue with  
21 the standardized field-sobriety tests, which would've  
22 been the nine-step walk-and-turn.

23 Q And how do you perform that test?

24 A Nine-step walk-and-turn, I'll -- I'll give an  
25 instruction to place their right foot in front of their

DIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 269

1 left foot, touching heel to toe, standing with their  
2 hands down by their sides. And then I'll ask them to  
3 take nine heel-to-toe steps in a straight line, turn, and  
4 take nine heel-to-toe steps back.

5 Q Is there anything you ask them before you  
6 demonstrate the test?

7 A Prior to -- prior to any of these tests being  
8 demonstrated, I ask them, you know, "Do you have any  
9 physical -- physical impairments?" I also ask them if  
10 they're wearing glasses or contacts. If you're -- you're  
11 wearing hard contacts, I'll give you the opportunity --  
12 you know, the person, if they want to take them out, they  
13 can. But I'll ask them about physical impairments.

14 Q Did she indicate any physical impairments?

15 A She told me that -- she told me that she had a bad  
16 hip.

17 Q Okay. And did she perform the walk-and-turn test?

18 A She didn't -- she didn't complete it. She -- as I'm  
19 trying to explain it to her, she says that she -- she  
20 can't do it. But as she's telling me that she can't do  
21 it, she was doing it. At -- at least she was -- you  
22 know, she was attempting. She took a few steps and is  
23 walking, you know, heel to toe as she's telling me that  
24 she can't do it.

25 And then she basically tells me, "I -- I -- I can't

1 do these tests. I -- I can't -- I can't complete the  
2 test."

3 Q What'd you do then?

4 A At that point I stopped the test and went over to --  
5 to talk with Michael about, you know, what I had observed  
6 to that point. It -- it -- if she's unable to continue  
7 the test, she can't do the test, I have to -- I just have  
8 to base my decision at that point on the information I  
9 have.

10 Q And based on your observations, what did you  
11 determine?

12 A Based on her movements, the activity I saw with her  
13 eyes, her -- her pupils being dilated, the -- the  
14 behavior that Michael had seen, I -- I determined that  
15 she was impaired, or that she was under the influence of  
16 something, too impaired to be driving.

17 Q Did you smell any alcohol?

18 A I did not smell any alcohol.

19 Q Did you have a belief of what she may have been  
20 under the influence of?

21 A I believed she was under the influence of  
22 amphetamines, as he had discussed. And -- and then, as  
23 we discussed prior to me conducting those tests, and  
24 then, you know, also my personal observations, I believed  
25 she was under the influence of methamphetamine. You

DIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 271

1 know, based on her -- her movement and her -- and her  
2 speech, her eyes, and, you know, the fact that -- of what  
3 she was stopped for, I believed that she was under the  
4 influence of some type of amphetamine.

5 Q What did you do ---

6 A I -- I ---

7 Q --- once you determined -- made that determination?

8 A I'm sorry. Say that again?

9 Q Once -- what did you do once you made the  
10 determination she was under the influence of amphetamine?

11 A At -- after -- after we discussed it, I placed her  
12 under arrest for driving under the influence. I advised  
13 her of her *Miranda* rights. And she was seated in the  
14 backseat of my car.

15 Q Did you say anything -- did you tell her anything  
16 before you placed her in the car?

17 A Just her *Miranda* rights. And she -- at -- at one  
18 point she asked if -- she said she wanted to take a  
19 Breathalyzer. I told her that she would have the  
20 opportunity to do that.

21 Q And you gave her *Miranda* rights. Do you have a  
22 card?

23 A I didn't read -- read from a card. I -- I read from  
24 memory ---

25 Q Okay.

1 A --- or I ---

2 Q And what ---

3 A --- advised ---

4 Q --- did you tell her?

5 A --- from memory.

6 Q What did ---

7 A I told ---

8 Q --- you tell her?

9 A --- her that she had the right to remain silent;  
10 anything she said or did could be used against her in a  
11 court of law; she had the right to an attorney, to have  
12 an attorney present during any questioning; and that if  
13 she chose to speak with me, she could ask for an attorney  
14 at any time.

15 Q Did she tell you she understood?

16 A She did.

17 Q Did you believe she understood?

18 A I did.

19 Q Even though you thought she was under -- impaired?

20 A I did.

21 Q Okay. I want to show you what's been marked as  
22 State's Exhibit 1 for identification. Do you recognize  
23 that?

24 A I do. It's my in-car video.

25 Q And how do you know that's your in-car video?

DIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 273

1 A I viewed it and initialed it.

2 Q Explain a little bit about your in-car camera  
3 system, if you would, please.

4 A So our in-car -- in-car camera system activates --  
5 as you saw with Michael's video, our in-car cameras  
6 activate as soon as we hit our blue lights or hit a siren  
7 or the devices in our car that'll activate that camera.  
8 It goes back 30 seconds prior to, you know, whenever we  
9 actually activate our blue lights or siren.

10 We also have a mic box that is synced with that.  
11 That's -- that's how the audio can be heard when we're  
12 away from the vehicle.

13 Q And it is a forward-facing camera?

14 A Forward-facing. Faces out the front windshield.  
15 And then, we also have a camera inside of our vehicles  
16 that face into the backseat.

17 Q And how is that activated?

18 A That's activated when I open the rear-passenger door  
19 to place a suspect in the vehicle.

20 Q Okay. And is that a fair and accurate  
21 representation of the ---

22 A It is.

23 Q --- events?

24 A It is.

25 MR. BIXLER: Your Honor, at this time the state

1 would move into -- Exhibit 1 into evidence.

2 THE COURT: Any objection?

3 MR. BROOME: No, Your Honor.

4 THE COURT: All right. State's Exhibit 1 admitted  
5 into evidence without objection.

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

8 MR. BIXLER: Permission to publish, Your Honor?

9 THE COURT: All right.

10 (Whereupon, a portion of video was published in open  
11 court.)

12 Q Officer, where is Ms. Tuttle at right now -- at this  
13 point on video?

14 A She's in the back of my car.

15 Q So would -- would that be on video as well?

16 A There's a backseat camera. Should be -- should be  
17 on video.

18 Q Now, you've mentioned, while I talked with Officer  
19 Gainey, that she was tweaking. Could you explain that,  
20 please?

21 A Tweaking is what a lot of officers refer to as just  
22 -- it's what -- a lot of times what we see when  
23 somebody's on methamphetamines or on some type of  
24 stimulant. Their behavior -- their movements are  
25 excited. Their speech is excited.

DIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 275

1           It's hard for them to -- to stand still and keep --  
2           or follow instructions, things like that. It's -- it's  
3           hard for them to keep their arms, their legs still  
4           because they're in such an excited state.

5           Q     And, Officer, can you tell us what this is?

6           A     From the black on the screen, I would say that's my  
7           in-car video of -- of the backseat.

8           Q     And why is it black?

9           A     Because there's no one in there yet.

10          Q     And so the camera activates once somebody's ---

11          A     Camera ---

12          Q     --- in there?

13          A     --- actually -- or activates when I open that back  
14          door to put them in there.

15          Q     Is the backseat camera also synced up with your mic  
16          box?

17          A     I don't think that the backseat camera is synced up  
18          with the mic box. That -- it may be -- everything --  
19          everything on there is in sync. So it's more than likely  
20          it's actually in sync with the front camera. But that  
21          also stays on, so there should be audio with it.

22          Q     So we won't see anything until you place her in the

23          ---

24          A     Correct.

25          Q     --- vehicle?

1 A Correct.

2 (Whereupon, a portion of video was published in open  
3 court.)

4 Q Officer, as part of your training, you trained on  
5 how to place people in handcuffs?

6 A Yes.

7 Q And what is the process for that?

8 A So when we place somebody in handcuffs, a general  
9 rule of thumb is if I can get my finger between their  
10 wrist and the cuff, that's sufficient room on their  
11 wrist. And then, there's a double lock on our handcuffs  
12 that we actually click into place, and that keeps the  
13 handcuffs from tightening down any further. It -- it  
14 locks them where they're at.

15 Q And you do that ---

16 A Yes.

17 Q --- with every arrest?

18 A Yes.

19 (Whereupon, a portion of video was published in open  
20 court.)

21 Q And where are you at the time end of this video?

22 A Just pulled up at the police department. You could  
23 hear me say on the video I was 1023 echo, which means  
24 I've arrived at our police department.

25 Q And what are you doing?

DIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 277

1 A From there I take her out of the car and take her  
2 into our DataMaster room, where she'll have an  
3 opportunity to give a breath sample, which I didn't -- on  
4 scene, I didn't suspect that she was under the influence  
5 of alcohol. But she's still given that opportunity to  
6 provide a breath sample.

7 Q And tell me a little bit about the DataMaster.

8 A DataMaster is a machine that's controlled -- or it's  
9 -- it's maintained by SLED, aside from the liquid that we  
10 change out that that the machine uses. There's a video  
11 recorder inside of that room that we activate when we set  
12 somebody inside of the room.

13 We punch in all of their biographical information,  
14 read them their implied-consent rights that everyone  
15 agrees to when you get a driver's license. And then  
16 after the machine runs, it checks on itself. It -- it  
17 has internal standard checks. Then the -- I'll -- I'll  
18 put a hose through the window that separates and they'll  
19 be given the opportunity to -- to provide a breath  
20 sample.

21 Q And is that -- that room is controlled by your  
22 office?

23 A The -- it's -- it's owned by the -- by the city.  
24 But the actual video-recording equipment is -- is owned  
25 and operated by SLED. It's -- it's controlled by them.

DIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 278

1 Q I'm going to hand you what's been marked for -- as  
2 State's 5 for identification. See if you recognize that.

3 A It's my -- that's the video from the DataMaster  
4 room.

5 Q And how do you know that's what that is?

6 A I viewed it and initialed it as my video.

7 Q And is it a fair and accurate representation of the  
8 scene of DataMaster room?

9 A It is.

10 MR. BIXLER: Your Honor, at this time the state  
11 would move State's Exhibit 5 into evidence?

12 THE COURT: Any objection?

13 MR. BROOME: Briefly, Your Honor, if we can  
14 approach?

15 THE COURT: All right.

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

19 THE COURT: All right. Any objections to State's  
20 Exhibit 5?

21 MR. BROOME: None -- none, Your Honor.

22 THE COURT: All right. State's Exhibit 5 admitted  
23 into evidence without objection.

24 (Whereupon, State's Exhibit 5 was entered into  
25 evidence.)

DIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 279

1 (Whereupon, a portion of video was published in open  
2 court.)

3 MR. BIXLER: In the interests of time, I'm going to  
4 fast-forward some. But, ladies and gentlemen, if you  
5 wish to see the entire video, it is into evidence, so you  
6 will have that opportunity.

7 (Whereupon, a portion of video was published in open  
8 court.)

9 Q Officer, you mentioned about taking her to the  
10 hospital. What -- why was that for?

11 A For a urinalysis.

12 Q Why would you do that?

13 A Well, as I had stated before, I didn't -- I didn't  
14 smell any alcohol. I -- I didn't expect that there would  
15 be a readout on the machine. That -- normally, that just  
16 gives us a zero reading that there's no alcohol.

17 I believed she was under the influence of drugs.  
18 For that, we'll take them to the hospital and there  
19 they'll have the opportunity to do a urinalysis --  
20 urinalysis. They provide a urine sample, and it's  
21 tested.

22 Q And did you ultimately take her to the hospital?

23 A No. We did not take her to the hospital.

24 Ultimately, she signed a form, refusing to provide the  
25 urine sample.

DIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 280

1 (Whereupon, a portion of video was published in open  
2 court.)

3 Q I'm going to skip ahead a little bit more.

4 (Whereupon, a portion of video was published in open  
5 court.)

6 Q Officer, how does this -- ultimately, does she  
7 provide a sample?

8 A She does provide a breath sample.

9 Q And do you know what the results were of that?

10 A It was a zero readout. It's no alcohol indicated or  
11 -- or detected in her -- in her breath.

12 Q Did that surprise you?

13 A It did not.

14 Q Once you complete the sample, what do you do?

15 A After the sample is completed, the machine --  
16 machine's cut off and we leave the -- leave the  
17 DataMaster room.

18 Q Where do you go?

19 A You can see right there where that trash can is.  
20 Through that doorway to the right and then back to the  
21 left is our booking room. Right there, that's where we  
22 -- that's where it -- someone who's arrested would be  
23 taken to be processed before they go to the jail.

24 Q And you took her into that room?

25 A Yes. She would've gone into that room from there.

DIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 281

1 Q And could you describe that room for me?

2 A It's just a long -- long room. It's -- it's pretty  
3 plain. There's not a whole lot in it. Our booking desk,  
4 a computer -- there's some -- a couple of file cabinets  
5 where forms are -- victim forms and things like that are  
6 stored from previous years. And that's about it.

7 Q What's the lighting in -- in the room?

8 A It's, like, the long fluorescent -- you know, those  
9 long, fluorescent bulbs. It's just -- those kind of  
10 lights throughout it.

11 Q Where are they?

12 A The lights?

13 Q Right.

14 A All over the ceiling.

15 Q Ceiling?

16 A (Nodded head up and down.)

17 Q And what do you do in this room, the booking room,  
18 again?

19 A We'll take biographical information from -- from our  
20 suspect, from the arrestee. We'll also take a photograph  
21 of them. You know, ask for next-of-kin -- you heard me  
22 asking for some of that information already.

23 We'll fill that in on what's called our master ID  
24 file. It's their -- their file, that person's personal  
25 file. And from there, they'll be taken to -- to the

1 detention center.

2 Q And is it common to have people in this room?

3 A People come in and out of the room. It's -- it's a  
4 police department. Monday night in June is a busy time.  
5 It's warm outside. There's -- I'm sure officers may have  
6 been in and out of the police department.

7 Q So back in 2014 you were working the road?

8 A Yes. That's correct.

9 Q And currently, you are a detective?

10 A Correct.

11 Q I want to show you what's been marked State's  
12 Exhibit 3. And I want you to take a look at the white,  
13 crystal substance in there. Are you familiar with what  
14 that is?

15 A It looks like methamphetamine to me.

16 Q And are you -- how do you know that's what it looks  
17 like?

18 A Because it's a crystal -- it's kind of a -- it's  
19 actually kind of a clear, crystal-like substance. You  
20 can tell by these -- the -- the size of that shard right  
21 there. That's what we call them, are shards. Kind of  
22 looks like -- almost like frosted glass.

23 Q And ---

24 A It's -- doesn't mimic a lot of other drugs.

25 Q Have you ever seen that in your work as a narcotics

DIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 283

1 detective?

2 A I don't see that often. Most -- mostly, what I see  
3 is kind of a -- a white or an off-yellow color. It's  
4 generally a -- like, a -- it's -- it's more fine. It's  
5 more ground than -- than this is right here.

6 Q Thank you. In your work as narcotic detectives,  
7 have you ever heard the term "accommodation sale"?

8 A Yes. An accommodation -- accommodation sale is  
9 where maybe somebody you know -- you may not be a -- the  
10 person may not necessarily be a drug dealer in the  
11 traditional sense ---

12 Q Uh-huh.

13 A --- you know, that -- that you would think of, some  
14 -- someone you see on TV that's standing out on the  
15 street corner, you know, selling drugs. An accommodation  
16 sale may be someone you know that has -- that has a drug  
17 that you want and -- and they're willing to sell you some  
18 of it because they know you.

19 Q I'm going to take you back to the booking room real  
20 quickly. Do you recall any -- did you -- did you have  
21 any conversations with Ms. Tuttle?

22 A Other than maybe biographical information, I don't  
23 -- I don't recall a whole lot of conversation. It's --  
24 three years ago.

25 Q So you didn't hear her make any statements?

CROSS-EXAMINATION BY MR. BROOME - LOGAN KANIPE 284

1 A I -- I didn't hear her make any. I didn't hear her  
2 make any statements.

3 Q Thank you. Please answer any questions Mr. Broome  
4 has for you.

5 A Sure.

6 CROSS-EXAMINATION

7 BY MR. BROOME:

8 Q I saw that you were reading off of something up  
9 there. Was that a report that you wrote?

10 A This is -- this is the report that Detective Gainey  
11 wrote at the time.

12 Q Okay. Did you write a report?

13 A I did not write -- I didn't write a report.

14 Q Is there any reason why you didn't write a report?

15 A It was -- it was his case. He made the stop. I --  
16 I told him, you know, what my findings were. And that's  
17 what he included in his report.

18 Q Okay. I think you testified that -- and we just  
19 watched the video ---

20 A Uh-huh.

21 Q --- where Katy gave a Breathalyzer sample, correct?

22 A That's correct.

23 Q You testified that you asked her to give a urine  
24 test ---

25 A I did.

CROSS-EXAMINATION BY MR. BROOME - LOGAN KANIPE 285

1 Q --- correct?

2 A Correct.

3 Q And in Officer Gainey's report, it says -- let me  
4 back up a little bit. Before you read -- there's a scene  
5 in there where you're walking around and you come out  
6 from behind the glass and you had her a piece of paper.

7 A Correct.

8 Q Okay. That's the advisement of implied-consent  
9 rights?

10 A It is.

11 Q Correct?

12 A Yes.

13 MR. BROOME: Your Honor, may I approach the witness?

14 THE COURT: Yes.

15 Q Are you familiar with this form?

16 A This is our implied consent.

17 Q It's a standard form from ---

18 A It is.

19 Q --- SLED, right?

20 A It is.

21 Q Do you recognize ---

22 A That's my signature.

23 Q It's your signature?

24 A It is.

25 Q Okay. And where it says "subject" copy down there

1 ---

2 A Right. Appears to be her signature.

3 Q And you read that to any suspect on a DUI before you  
4 give them a Breathalyzer test, correct?

5 A That's correct.

6 Q Okay. And their signature is an acknowledgment on  
7 this sheet of paper that they've -- so we could -- that  
8 they've heard all their rights, correct?

9 A That's correct.

10 Q Okay. And if it's not on video -- and you -- you --  
11 or SLED requires you put it on video as well so that you  
12 can ---

13 A For the ---

14 Q --- have another piece of evidence to show that  
15 you've personally been advised of their rights?

16 A That's correct.

17 Q Correct?

18 A (Nodded head up and down.)

19 Q And the statute -- the law says that you're required  
20 to read them these rights on camera?

21 A That's correct.

22 Q Correct?

23 A (Nodded head up and down.)

24 Q Okay. Now, you've testified that she refused to  
25 provide a urine sample ---

CROSS-EXAMINATION BY MR. BROOME - LOGAN KANIPE 287

1 A She did.

2 Q --- correct?

3 And in Officer Gainey's report, which I'll go off  
4 the same one, after this one it says (As read):

5 "Patrolman Kanipe advised Ms. Tuttle that she would be  
6 transported to Laurens Hospital to provide a urine sample  
7 to test for narcotics and was read her implied-consents  
8 right -- rights again."

9 So you read her these rights a second time?

10 A They were read a second time.

11 Q Okay. Was that on video?

12 A That wasn't on video.

13 Q Did you get another advisement of implied-consent  
14 rights for the urine test?

15 A There was a -- there was already a -- another  
16 printout for the implied consents. You actually hear me  
17 in the video say that the machine timed out when Lt.  
18 Brewer asked me about it. That was the first time that I  
19 had ever had to do a urinalysis, only being out seven  
20 months.

21 So I'm not -- I'm not sure beyond that what the  
22 procedure was. At that point I was following what Lt.  
23 Brewer advised me to.

24 Q Who's Lt. Brewer?

25 A Lt. Brewer was my lieutenant at the time.

1 Q Is he that guy that pops on the screen?

2 A He's the -- he's the elderly gentleman with the gray  
3 hair.

4 Q That you're asking questions of?

5 A Correct.

6 Q So you really weren't sure how to read someone their  
7 advised ---

8 A No. I -- I know how to ---

9 Q --- implied-consent rights that time for ---

10 A No. I know ---

11 Q --- at that time?

12 A I know how -- I knew how to read three years ago.

13 Q All right. Well, how to properly advise them of  
14 their rights on the urinalysis test?

15 A That would be to -- to read through that and -- and  
16 advise them that I'm requesting a urine sample.

17 Q Okay. Anything stopping you from printing out a  
18 second sheet for the urinalysis test?

19 A No.

20 Q Would subject to copy with a line there for her to  
21 sign and -- going back to the advised -- this standard  
22 form that you read out for a typical alcohol stop, if  
23 someone refuses, down here where it says "subject  
24 signature line," what -- what is written there?

25 A I -- I'd have to look at it.

CROSS-EXAMINATION BY MR. BROOME - LOGAN KANIPE 289

1 Q Well, if anyone refuses, you can look at this one.  
2 That's going to have her signature on it. But if the --  
3 anyone says, "I'm not blowing in that machine," what  
4 would you write or what would that person write on the  
5 subject's initial block?

6 A There's a -- there's actually a button on the  
7 machine that I would hit that'd say "refusal."

8 Q Refused?

9 A And it would -- it would stop the test from there.

10 Q Any way that -- sometimes it will say -- you can  
11 write "refused" down on there ---

12 A I could ---

13 Q --- as well?

14 A --- write "refused" on there.

15 Q Okay.

16 A That's -- that's for a breath test, though.

17 Q Okay. Could you not have done that in this case?

18 A That's ---

19 Q For the urinalysis test for her?

20 A There was a form filled out, stating that she  
21 refused.

22 Q Where is that form?

23 A It was a notice-of-suspension form.

24 Q No, no. Where is the advisement of implied-consent  
25 rights ---

1 A There's not one for the urinalysis. There's not one  
2 for the urine refusal.

3 Q Okay. So there's no form for the urinalysis ---

4 A No.

5 Q --- correct?

6 A Correct.

7 Q And it's not on video?

8 A That's correct.

9 Q Okay. Even though she clearly asked you to go take  
10 the urinalysis test?

11 A That's correct.

12 Q Did you hear that on video?

13 A She said, "Can I just do it right here?"

14 Q "Can I do it right here?" What happened between  
15 that -- in those seven minutes?

16 A You'd have to ask your client. I ---

17 Q Okay.

18 A She refused it at some point from -- from there.

19 Q Okay. You testified that she had dilated pupils?

20 A Correct.

21 Q Okay. You're seven months in -- or out of the  
22 academy for the DUI detection?

23 A Uh-huh.

24 Q Correct?

25 A That's correct.

CROSS-EXAMINATION BY MR. BROOME - LOGAN KANIPE 291

1 Q Did you wrote a report -- I go -- I already asked  
2 you. You -- you didn't write a report. So did you put  
3 that down anywhere that she had dilated pupils?

4 A I -- I advised ---

5 Q On that ---

6 A --- Sgt. Gainey, and he included that in his report  
7 that she had ---

8 Q Would that ---

9 A --- dilated ---

10 Q --- been on ---

11 A --- pupils.

12 Q --- it would've been on the video maybe?

13 A You couldn't see dilated pupils on my camera.

14 Q I'm not asking could you -- would you have said that  
15 to him -- we could've heard that on the video?

16 A I ---

17 Q "I did her HGN test, Gainey, when y'all are over  
18 there, huddling"?

19 A Right.

20 Q "She's got dilated pupils." Did you tell -- did you  
21 tell him that?

22 A I don't recall telling him that, no.

23 Q Okay. If you did, it'd be on the video, correct?

24 A It would.

25 Q All right. We'd have documentation of that

1 somewhere?

2 A Sure.

3 Q Now, when you're doing this horizontal-gaze-  
4 nystagmus test, there are certain requirements that  
5 you're looking for, that -- that the National Highway  
6 Traffic Safety Administration -- they actually passed  
7 guidelines, right?

8 A Correct.

9 Q Are you familiar with them?

10 A (Nodded head up and down.)

11 Q Okay. And one of the things they're doing is  
12 they're looking for -- you talked about tracking. But  
13 they're looking for an equal number of passes -- passes,  
14 right?

15 A Correct.

16 Q Do you know the minimum number that you're supposed  
17 to do ---

18 A That would ---

19 Q --- on a suspect?

20 A --- would be two -- two -- two for each test.

21 Q Okay. Do you know what the total minimum number  
22 would be?

23 A There'd be two for equal tracking, two for nystagmus  
24 at maximum deviation, and two for nystagmus prior to 45  
25 degrees, so a total of six.

CROSS-EXAMINATION BY MR. BROOME - LOGAN KANIPE 293

1 Q What's the sum total on that?

2 A Six ---

3 Q Six ---

4 A --- on those.

5 Q Isn't the actual ---

6 A And then, I checked -- checked for equal tracking.

7 Q Isn't it actually fourteen, fourteen passes you're  
8 supposed to do?

9 A I don't know where fourteen passes would come in.

10 Q If it would come in from the National Highway  
11 Traffic Safety Administration?

12 A Okay. Well ---

13 Q Fourteen total passes?

14 A If you say so.

15 Q They also require that you do a minimum -- that when  
16 you perform this test, that you do the test for a minimum  
17 of 82 seconds; is that right?

18 A I ---

19 Q Are you ---

20 A --- I ---

21 Q --- not familiar with ---

22 A I'm not familiar with 82 seconds.

23 Q You're not familiar with the time of 82 seconds or

24 ---

25 A I -- I -- I mean, I -- I know 82 seconds exists. I

1 -- I didn't -- I don't know that there's a specific time  
2 that I'm supposed to do HGN for.

3 Q So you're trained in DUI detection ---

4 A Correct.

5 Q --- is what you're telling us?

6 A (Nodded head up and down.)

7 Q You were trained at that time, correct?

8 A That's correct.

9 Q Seven months out ---

10 A Correct.

11 Q --- correct?

12 You don't know the minimum number of passes or the  
13 minimum amount of time that you're supposed to look at  
14 someone's eyes when you're looking at tracking? You  
15 can't tell us that?

16 A Not that it's 82 seconds.

17 Q Okay. On the video you asked her if she had any  
18 contacts in, right?

19 A Yep.

20 Q Could hear it on the video. One of the things they  
21 instruct you on is, if you're doing these eye tests, make  
22 sure they remove glasses; make sure they remove their  
23 contact lenses. Did you ask her to remove her contact  
24 lenses ---

25 A No.

CROSS-EXAMINATION BY MR. BROOME - LOGAN KANIPE 295

1 Q --- on that video?

2 A She doesn't have to remove her contact lenses.

3 Q She doesn't have to remove her contact lenses?

4 A No.

5 Q Why not?

6 A Because there -- there's nothing that says that she  
7 has to remove her contact lenses. They're -- if I ask  
8 them if they're wearing glasses or contacts and they say  
9 they're -- obviously, I can see if they're wearing  
10 glasses -- I -- I can give them the option to remove  
11 their glasses.

12 Q Uh-huh.

13 A But she doesn't have to remove contacts.

14 Q Based on what knowledge?

15 A Based on the knowledge that I received in my  
16 training.

17 Q Which would be ---

18 A That she ---

19 Q Is there ---

20 A --- doesn't ---

21 Q --- is there ---

22 A --- have to ---

23 Q --- a guideline when someone just -- just -- was  
24 that said in the bathroom during a break at class or ---

25 A I didn't -- I didn't write the policies on DUI, on

1 -- on how to test for it.

2 Q Okay. So you're just not familiar with ---

3 A No. I'm familiar that she -- she doesn't have to  
4 remove her contacts.

5 Q You also testified that her speech was all over the  
6 place, couldn't understand what she was saying, right?

7 A Her speech was excited.

8 Q Excited?

9 A (Nodded head up and down.)

10 Q Didn't sound like she was speaking in Spanish or  
11 anything. I mean, you could hear what she's saying,  
12 right?

13 A She was speaking English.

14 Q Speaking English pretty clear, don't you agree?

15 A Also, excited.

16 Q I asked if she was just speaking English.

17 A She was speaking English.

18 Q Okay. She asked to take the Breathalyzer pretty  
19 quickly, actually, right, on the scene?

20 A She did.

21 Q She asked you to let her call her brother, right?

22 A Bear with me just a second. She asks to call  
23 someone.

24 Q Call ---

25 A Yes.

CROSS-EXAMINATION BY MR. BROOME - LOGAN KANIPE 297

1 Q --- someone?

2 A Yes.

3 Q Pretty repeatedly on the video, right?

4 A On -- on both videos.

5 Q Okay.

6 A Yes.

7 Q Did you ever let her call anyone?

8 A I did not.

9 Q Okay. Ever let her -- let anyone know that she was  
10 in Laurens?

11 A No, I did not.

12 Q Even though she was from Florida?

13 A Nope.

14 Q Did you ask her before you performed these tests if  
15 -- if she had any disabilities ---

16 A I did.

17 Q --- that -- you did?

18 A I did.

19 Q You asked her -- I think you said that there were  
20 some -- I know you -- I think your testimony on the video  
21 -- well, on the video you say, "I know you got something  
22 with your hip." Did you ever specifically say, "Do you  
23 have any disability?"

24 A After that I said, "Do you have any other -- other  
25 disabilities?"

1 Q Okay. Have you received any medical training?

2 A Could you -- could you be more specific?

3 Q Any medical training at all? Have you taken any  
4 classes on biology? chemistry?

5 A I've taken ---

6 Q Nursing?

7 A No. Nothing ---

8 Q Okay.

9 A Nothing that would render me able to make any kind  
10 of medical diagnosis. No.

11 Q Okay. And it's possible that she told you on the  
12 video that she had medical conditions, right?

13 A Sure.

14 Q Okay. It's possible that she has very legitimate  
15 medical reasons why she can't perform those tests,  
16 correct?

17 A It's possible.

18 Q And then, also, when you first showed up on the  
19 scene, this is on Officer Gainey's video. You were here  
20 and watched that, right?

21 A Correct.

22 Q Did he ever tell you -- when you first showed up,  
23 did he tell you, "I saw her make a furtive movement"?

24 A Not that I recall, no.

25 Q We would've heard it on the video ---

CROSS-EXAMINATION BY MR. BROOME - LOGAN KANIPE 299

1 A I -- yeah.

2 Q --- right?

3 A You would've heard it if he had said it.

4 Q Did he ever tell you, "I saw her lean down in the  
5 passenger floorboard"?

6 A No.

7 Q Not when you were there, right?

8 A No.

9 Q It would've been on the video?

10 A No.

11 Q Okay. Now, you also took her to the DataMaster  
12 room. We've watched that video. And you asked her to  
13 open her mouth?

14 A Correct.

15 Q To show you what's going on?

16 A That's correct.

17 Q What's the reason for that?

18 A Just to check if -- if they have any -- you know,  
19 any fake teeth or maybe if they're missing teeth, then  
20 alcohol can -- can get down in there. It can actually  
21 settle in there. And that's what -- that's what that 20-  
22 minute waiting period is for: to make sure that, from  
23 the time I start the test, that that has time to  
24 basically void from their mouth before they give it so  
25 they're not giving just a sample of pure alcohol from

1 inside their mouth.

2 Q It's an alcohol-based reason ---

3 A It ---

4 Q --- right?

5 A Correct.

6 Q And she leaned up in that video and ---

7 A She did.

8 Q --- showed you her mouth, right?

9 A (Nodded head up and down.)

10 Q You notice anything unusual? She ---

11 A That's ---

12 Q --- have all her teeth? Did she have ---

13 A Nothing that stood out.

14 Q Yeah. She didn't have any black teeth, did she?

15 A Not that I -- not that I saw, no.

16 Q Are you familiar with the term "meth mouth"?

17 A I -- I know what meth mouth ---

18 Q Right.

19 A --- is.

20 Q Did you ---

21 A She didn't ---

22 Q --- did you notice ---

23 A She didn't ---

24 Q --- anything ---

25 A --- appear ---

CROSS-EXAMINATION BY MR. BROOME - LOGAN KANIPE 301

1 Q --- about that ---

2 A --- to have ---

3 Q --- or her ---

4 A -- she didn't appear to have meth mouth of someone  
5 who would -- who would use meth, you know.

6 Q And -- and based on your observation of her, did she  
7 have any -- any other physical symptoms?

8 A Of -- of?

9 Q Of someone who would use meth. Acne?

10 A A -- no, not -- not that. Aside from her -- her  
11 general movements.

12 Q At one point you asked her -- I think we watched  
13 this. But if we go to ---

14 MR. BROOME: Let's go to the -- can you pull it back  
15 up?

16 (Whereupon, Mr. Broome and Mr. Bixler conferred.)

17 (Whereupon, a portion of video was published in open  
18 court.)

19 Q Did you ever go check out her GPS?

20 A No.

21 Q Okay.

22 (Whereupon, a portion of video was published in open  
23 court.)

24 Q Can you get a DUI off an energy drink?

25 A You get a DUI off of any substance that impairs your

1 ability to drive.

2 Q Well, that's not correct, is it? Because the -- the  
3 statute says you have to have -- it's alcohol or a -- a  
4 -- narcotic, a drug ---

5 A What is ---

6 Q --- that impairs your ability.

7 A I'll ---

8 Q And/or -- and/or substance ---

9 A Yeah.

10 Q So it's a combination ---

11 A So ---

12 Q --- of alcohol ---

13 A So a substance ---

14 Q --- or a drug ---

15 A --- that impairs ---

16 Q --- right?

17 A --- your ability.

18 Q That's -- that's what the -- the law says, right?

19 A (No audible response.)

20 Q So if I -- if she drinks a Red Bull -- someone  
21 drinks a Red Bull, is there any alcohol in that Red Bull?

22 A Nope.

23 Q Okay.

24 A Nope.

25 Q But according to you back then, you can be under the

REDIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 303

1 influence for an -- a Red Bull?

2 A I said she could be charged with driving under the  
3 influence for being under the influence of anything that  
4 affects her ability to operate a motor vehicle safely.

5 Q Even coffee?

6 A That's a substance.

7 Q Even coffee?

8 A I didn't bring her in for drinking coffee. I  
9 brought her in because I suspected she was under the  
10 influence of methamphetamine.

11 Q The question I asked you was: Even coffee?

12 A I suppose, if it -- if it impaired your ability to  
13 drive enough, yes.

14 Q Okay.

15 MR. BROOME: No further questions.

16 THE COURT: Redirect?

17 MR. BIXLER: Briefly.

18 REDIRECT EXAMINATION

19 BY MR. BIXLER:

20 Q Officer, Mr. Broome just showed you an advisement of  
21 implied consents. Is -- is that what he showed you?

22 A This?

23 Q It is?

24 A It is.

25 Q Okay.

REDIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 304

1 A Yeah.

2 Q Let's take a look at this one. What is that one?

3 A Same thing. But ---

4 Q What's the -- is there a difference between the two?

5 A This one has "urine" circled in it.

6 Q So you did -- did you read her -- you gave her, her  
7 implied consents ---

8 A That's my ---

9 Q --- and ---

10 A --- signature at the bottom, dated 6/30/2014 at  
11 2207, which is 10:07 in the evening. And it's asking for  
12 a urine -- or a urine sample.

13 Q So you did provide her those rights?

14 A Yeah, I did.

15 Q And did she submit to a urine sample?

16 A No. Not according to my -- not according to the  
17 refusal that was filled out.

18 Q What is that?

19 A This is a South Carolina Department of Motor  
20 Vehicles notice of suspension. The notice of suspension,  
21 it's checked, refusing to submit to a breath, blood, or  
22 urine test, dated 6/30/2014.

23 Q And does ---

24 A And it ---

25 Q --- it specify which one she ---

REDIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 305

1 A Specifies urine. Urine is circled on there.

2 Q And can you tell me who signed it?

3 A Appears to be Ms. Tuttle.

4 Q Would she have signed it in your presence?

5 A Yeah. In the presence of myself and Michael. Both  
6 of our signatures are on there as well.

7 (Whereupon, Mr. Bixler conferred with Mr. Scott and  
8 Mr. Broome.)

9 MR. BROOME: Your Honor, may -- may we approach?

10 THE COURT: Yeah.

11 (Whereupon, a bench conference was held off the  
12 record in the presence of the jury, but out of the  
13 hearing of the jury.)

14 (Off the record briefly.)

15 THE COURT: How long is it going to take to check on  
16 it?

17 MR. BROOME: Should be about a minute, Your Honor.

18 THE COURT: Okay.

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

22 THE COURT: All right. Ladies and gentlemen of the  
23 jury, I'm going to excuse you back to the jury room for  
24 just a few minutes while we address this legal matter.  
25 Do not discuss the case, even among yourselves. Don't

REDIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 306

1 conduct any independent investigation into the case.  
2 We'll -- it'll give -- it's a good time for us to go  
3 ahead and take a morning break anyway so that you can use  
4 the restroom, get something to drink, stretch your legs,  
5 whatever the case may be.

6 We'll take about a 10- or 15-minute break and bring  
7 you back in just a few seconds. Thank you very much.

8 THE WITNESS: Your Honor, may I be excused from the  
9 witness stand?

10 THE COURT: You may step -- wait just a minute. Let  
11 them . . .

12 (Whereupon, the jury exited the courtroom at 10:54  
13 a.m.)

14 THE COURT: All right. Officer Kanipe, we're still  
15 in the middle of your testimony. So you cannot discuss  
16 your testimony with anyone, even with ---

17 THE WITNESS: Yes, sir.

18 THE COURT: --- the state's attorney, whether that  
19 be what you've testified to thus far or what you  
20 anticipate testifying to in the future ---

21 THE WITNESS: Yes, sir.

22 THE COURT: --- okay? All right. You can step down  
23 off the witness stand, but do not discuss any testimony  
24 with anybody.

25 THE WITNESS: I just -- I need to ---

REDIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 307

1 THE COURT: All right.

2 THE WITNESS: --- use the restroom, if that's all  
3 right.

4 THE COURT: Yeah.

5 THE WITNESS: Thanks.

6 THE COURT: That'll be fine.

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

8 THE COURT: All right. Have we got whether or not  
9 that was produced in ---

10 MR. SCOTT: Your Honor, yeah. We -- we have an  
11 electronic means of -- we make it available in a digital  
12 file. And then, well, at least on our end, it says  
13 whether it's been viewed or not. My notes show that it  
14 was viewed and it was attached in our discovery that was  
15 provided.

16 THE COURT: All right. So if they produced it and  
17 it was viewed, Mr. Broome, you say you don't have it?

18 MR. BROOME: I -- if -- if they're showing that, I  
19 can't check because it's not downloading right now. I  
20 just -- I guess it was an oversight on my part because I  
21 -- the only thing I was going off of is I had the one  
22 circled breath. And I may -- printed off her entire  
23 file. I think that was -- when -- what date was that  
24 sent to me?

25 MR. SCOTT: The filing date was August 5th, 2014.

REDIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 308

1 How do you check to see when it was made available?

2 (Whereupon, Mr. Bixler and Mr. Scott conferred.)

3 (Whereupon, Mr. Broome and the defendant conferred.)

4 (Off the record briefly.)

5 THE COURT: All right. So when was it provided?

6 MR. SCOTT: Judge, I -- I don't -- I -- I don't know  
7 how to tell when it was provided. Certainly, it was. He  
8 has the discovery. I don't know when the date was. But  
9 one of my -- Jim Todd just went to ask our paralegal how  
10 to check on ---

11 THE COURT: Okay.

12 MR. SCOTT: --- how to find out when ---

13 THE COURT: All right.

14 MR. SCOTT: --- it was ---

15 THE COURT: Well, let's take about a five- or ten-  
16 minute break, get that information. When we come back,  
17 we'll address whether it can be used or not.

18 (Off the record from 10:58 a.m. until 11:18 a.m.)

19 (Whereupon, the witness resumed the witness stand.)

20 THE COURT: All right. Were you able to find out if  
21 the state produced the form you're looking for?

22 MR. BROOME: Yes, Your Honor. It appears they made  
23 it available prior to trial. So ---

24 THE COURT: Okay.

25 MR. BROOME: --- oversight on my part.

REDIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 309

1 THE COURT: All right. Anything from the state  
2 before we bring the jury back in?

3 MR. BIXLER: Nothing, Your Honor.

4 THE COURT: Anything from the defense?

5 MR. BROOME: No, Your Honor.

6 THE COURT: All right. Let's bring the jury back.  
7 Now, we were in redirect, correct?

8 MR. BIXLER: That's ---

9 THE COURT: Okay.

10 MR. BIXLER: --- that's correct.

11 (Off the record briefly.)

12 THE COURT REPORTER: You want these each marked  
13 separately?

14 MR. BIXLER: Yes, please.

15 THE COURT REPORTER: Okay.

16 (Whereupon, the jury entered the courtroom at 11:19  
17 a.m.)

18 THE BAILIFF: All present, Your Honor.

19 THE COURT: Thank you, sir.

20 (Whereupon, State's Exhibits 6 and 7 were marked for  
21 identification.)

22 THE COURT: All right. Ladies and gentlemen,  
23 welcome back. We're ready to resume the trial of the  
24 case. Mr. Bixler, you can continue with your redirect.

25 MR. BIXLER: Thank you, Your Honor.

REDIRECT EXAMINATION BY MR. BIXLER - LOGAN KANIPE 310

1 REDIRECT EXAMINATION BY MR. BIXLER CONTINUES.

2 Q Officer Kanipe, you have just seen this. But I want  
3 to show you again what's been marked for -- State's  
4 Exhibit 6 for identification and also State's 7 for  
5 identification.

6 A This is implied consent -- advisement of implied-  
7 consent rights; my signature; 6/30/2014, at 10:07 p.m.  
8 This is a notice of suspension for refusing to submit to  
9 a breath, blood, or urine test, dated the same date.

10 Q And what is the implied consent for?

11 A This implied consent is a request for urine.

12 Q And what was the notice of suspension for?

13 A For refusing to submit to a urine test.

14 Q Are those produced as part of your normal, everyday  
15 work?

16 A Yeah. These are produced for -- if we need  
17 additional testing to be done when we suspect someone may  
18 be under the influence of drugs or alcohol, then we'll  
19 take them to the hospital. And they're advised of these  
20 rights.

21 If they refuse, that -- then, that's it. They  
22 refuse; they're not going to do it. At that point then,  
23 we fill out the notice of suspension because of the  
24 refusal.

25 Q And -- thank you.

RE-CROSS-EXAMINATION BY MR. BROOME - LOGAN KANIPE 311

1 MR. BIXLER: Your Honor, at this time the state  
2 moves Exhibit 6 and 7 into evidence.

3 THE COURT: Any objection?

4 MR. BROOME: No, Your Honor.

5 THE COURT: All right. State's Exhibit No. 6,  
6 State's Exhibit No. 7 admitted into evidence without  
7 objection.

8 (Whereupon, State's Exhibit 6 and 7 were entered  
9 into evidence.)

10 MR. BIXLER: I don't have anything further, Your  
11 Honor.

12 THE COURT: All right.

13 MR. BROOME: Your Honor, may I have brief recross?

14 THE COURT: Brief, yes.

15 MR. BROOME: Thank you, Your Honor.

16 THE COURT: I'll allow it ---

17 MR. BROOME: I'll keep it ---

18 THE COURT: --- this case.

19 MR. BROOME: --- very limited.

20 RE-CROSS-EXAMINATION

21 BY MR. BROOME:

22 Q Earlier on the "advisement of implied-consent right"  
23 form for the -- for the breath test, you -- you told the  
24 jury that if someone refuses, that it will -- you will  
25 either mark refusal or the machine will print refusal,

1 correct?

2 A Correct.

3 Q If not, they'll have the signature on it.

4 A Correct. If -- that's ---

5 Q Okay.

6 A --- the subject copy.

7 Q Okay.

8 A Yeah.

9 Q On this one the advisement of implied-consent right  
10 for urine, does it say "refusal" anywhere on that form?

11 A No. The -- this wouldn't be -- it'd be printed on  
12 the -- the readout form. The double zeroes ---

13 Q Okay.

14 A --- where -- wherever it would show the results from  
15 the test, that's where it'll have -- it'll have "refusal"  
16 on there.

17 Q On the DataMaster reading?

18 A Correct.

19 Q For the -- when they blow?

20 A Correct. When that -- when it gives me the printout  
21 that says double, you know, zeroes ---

22 Q Uh-huh.

23 A --- or -- or whatever the readout is, if they refuse  
24 when I hit "refusal," it prints out on that.

25 Q Would you have to do that, then, in the DataMaster

REXCROSS-EXAMINATION BY MR. BROOME - LOGAN KANIPE 313

1 room?

2 A For -- for the breath test, yes.

3 Q What about for the urine test?

4 A No.

5 Q If the ---

6 A This is ---

7 Q --- printout comes up from the computer room ---

8 A Refusal for?

9 Q The urine test.

10 A No. The refusal for the urine test is right here.

11 Q Okay. That doesn't say "refusal" on there?

12 A No.

13 Q No further questions.

14 THE COURT: All right. You step down.

15 THE WITNESS: All right. Thank you.

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

17 THE COURT: All right. The state can call your next  
18 witness.

19 MR. BIXLER: Your Honor, the state rests. ☐

20 THE COURT: All right. All right. Ladies and  
21 gentlemen, the state has rested their case. And so now  
22 is the time of the trial where I have to take up some  
23 matters of law with the attorneys. So I'm going to  
24 excuse you back to the jury room.

25 And I tell you why we do that. It's not that we're

1 trying to hide anything from you. But as I told you in  
2 the opening charges, you and you alone decide the facts  
3 of this case. I decide the law. Often -- and now we're  
4 at a time of the trial where I have to discuss some of  
5 the law that we're going to apply in this case with the  
6 attorneys.

7 Well, when we discuss the law, it requires me, as  
8 the judge, and the attorneys to reference factual issues.  
9 Well, what we say is not evidence. So we don't want you  
10 to be influenced by anything that I might say or anything  
11 that the attorneys might say. When we discuss the law to  
12 be applied, we don't want that to influence your decision  
13 as to what the facts are, because you're to base your  
14 decision of the facts exclusively on the testimony of the  
15 witnesses.

16 And that's why we excuse you back to the jury room.  
17 So I'm going to excuse you back for just a few minutes.  
18 And we'll bring you back out in a just a few minutes.

19 Do not discuss the case. Do not conduct any  
20 independent investigations. We'll give you another good  
21 break here. And we'll bring you back shortly. Thank you  
22 very much.

23 (Whereupon, the jury exited the courtroom at 11:23  
24 a.m.)

25 (Off the record briefly.)

1 THE COURT: All right. Any motions at this time?

2 MR. BROOME: Yes, Your Honor. The defense moves for  
3 a directed verdict; that the state has failed to prove  
4 the elements of possession with intent to distribute.  
5 Looking at the evidence that's in this case and the  
6 testimony, the only evidence -- the only evidence in this  
7 case of intent to sell, distribute, accommodate --  
8 accommodation sale or otherwise, is the weight.

9 We went over that pretty thoroughly in cross-  
10 examination. There's no scales, no large sum of money.  
11 If they're going to claim accommodation sale, there's no  
12 one else in that car. And they're going to lean on that  
13 argument.

14 Based on that, all the -- the only evidence that  
15 they've presented is merely, I'd argue, a suspicion.  
16 There's no direct evidence. Everything is  
17 circumstantial. She's never admitted anything.

18 THE COURT: All right. Well, I note your motion.  
19 I'm going to deny it. I think the weight alone mandates  
20 that it at least becomes a jury question. And I'll --  
21 I'll -- I'll concede to you that there does not appear to  
22 be any other evidence indicating an intent to distribute,  
23 other than the weight of more than 1 gram. And that's  
24 why I'm denying your motion.

25 MR. BROOME: Yes, Your Honor.

1 THE COURT: All right. Anything further?

2 MR. BROOME: No, Your Honor.

3 THE COURT: All right. Do we want to go ahead and  
4 question your client on her right to testify?

5 MR. BROOME: (Nodded head up and down.)

6 THE COURT: All right.

7 (Whereupon, Mr. Broome and the defendant conferred.)

8 THE COURT: Ma'am, if you would please stand.

9 THE DEFENDANT: (Complied.)

10 THE COURT: If I could get you to raise your right  
11 hand, please.

12 THE DEFENDANT: (Complied.)

13 THE COURT: Do you swear or affirm to tell the  
14 truth, the whole truth, and nothing but the truth?

15 THE DEFENDANT: I do.

16 THE COURT: All right. Ma'am, your name is Katy  
17 McDonald Tuttle?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. Ms. Tuttle, at this time I'm  
20 going to explain to you certain rights that you have,  
21 okay?

22 THE DEFENDANT: Uh-huh.

23 THE COURT: If you do not understand anything I say,  
24 please let me know. If you want me to explain anything  
25 in more detail, please let me know. Do you understand

1 that?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. I need you to speak up  
4 loudly and ---

5 THE DEFENDANT: Okay.

6 THE COURT: --- clearly, okay?

7 THE DEFENDANT: All right.

8 THE COURT: All right. Because this court reporter  
9 has to take down everything. Have we got a microphone  
10 there that she can speak into or something?

11 MR. BROOME: I don't think we have a microphone  
12 here.

13 THE COURT: Okay.

14 THE DEFENDANT: Sorry.

15 THE COURT: Because I can hardly hear. You're going  
16 to ---

17 MR. BROOME: Come -- come ---

18 THE COURT: --- need to speak ---

19 MR. BROOME: --- this way ---

20 THE COURT: --- a lot ---

21 MR. BROOME: --- a little bit.

22 THE COURT: --- lot more loudly, okay?

23 (Whereupon, Mr. Broome and the defendant conferred.)

24 THE COURT REPORTER: Your Honor, would it be --  
25 could she come right here?

1 THE COURT: Okay. Yeah. Let her come around.

2 (Off the record briefly.)

3 THE COURT: All right. All right. As I said, at  
4 this time, I'm going to explain certain rights that you  
5 have. And if you do not understand anything I say, let  
6 me know. And if you want me to explain anything in more  
7 detail, let me know. You understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: Okay. Now, we've now reached the stage  
10 of the trial where you may present your defense. You  
11 have the right to claim the protections given to you by  
12 the Fifth Amendment of the United States Constitution,  
13 which states, in part, that no person shall be compelled  
14 in any criminal case to be a witness against himself.  
15 This means that you cannot be required to testify in this  
16 case.

17 You have the right to testify on your own behalf.  
18 However, no one can make you testify. This is a personal  
19 right. And no one can waive this right except for you.

20 If you decide to testify, you will be subject to the  
21 same rules that govern other witnesses. And you may be  
22 examined and cross-examined on any relevant issue in this  
23 case.

24 In addition, if you have any convictions involving  
25 dishonesty or false statement or for crimes punishable by

1 imprisonment for more than one year and this Court  
2 determines that the probative value of admitting the  
3 evidence outweighs its prejudicial effect to you, the  
4 solicitor will be able to introduce your record to attack  
5 your credibility.

6 All right. Now, are there any prior convictions  
7 that would be used to attack her credibility in this  
8 case?

9 MR. SCOTT: No, Your Honor.

10 THE COURT: Okay. So there are no prior convictions  
11 that they will use.

12 If you decide to testify, this decision on your part  
13 must be freely, voluntarily, and intelligently made, with  
14 the knowledge of the protections given to you by the  
15 Fifth Amendment and the consequences of your decision to  
16 testify.

17 If you decide not to testify, I will instruct the  
18 jurors that they cannot give the fact that you did not  
19 testify any consideration whatsoever; that there is to be  
20 absolutely no prejudice to you because you did not  
21 testify. It is left entirely up to you whether or not  
22 you testify.

23 You may talk with your attorney, your family and  
24 friends, or anyone else. But the final decision is left  
25 entirely up to you.

1 Now, do you understand what I've explained to you?

2 THE DEFENDANT: Yes, I do.

3 THE COURT: Do you have any questions about what  
4 I've explained to you?

5 THE DEFENDANT: No, sir.

6 THE COURT: All right. Have you already discussed  
7 this matter with your attorney as to whether or not you  
8 wish to testify?

9 THE DEFENDANT: Yes.

10 THE COURT: Okay. Are you ready to advise the Court  
11 now whether or not you wish to testify?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. And do you want to testify  
14 in this case?

15 THE DEFENDANT: Yes.

16 THE COURT: All right. Is this your decision?

17 THE DEFENDANT: Yes.

18 THE COURT: All right. Is there anything further  
19 you want placed on the record in that regard?

20 MR. BROOME: Nothing on that record in that regard,  
21 Your Honor.

22 THE COURT: All right. Is there anything further  
23 that the state wants placed on the record in that regard?

24 MR. SCOTT: Your Honor, not -- in -- in the same  
25 vein, but not necessarily at her. Kevin Conklin, I

1 believe, is the -- would -- would be the boyfriend who's  
2 going to testify after she. I would make a motion to  
3 sequester these two witnesses during this testimony. And  
4 -- and we don't have his information to run his rap sheet  
5 to see if -- if there's anything impeachable in regards  
6 to him.

7 But we would request that information just prior to  
8 him testifying so we could check to see if he's got any  
9 impeachable offenses on his record. But that -- that's  
10 as far as ---

11 THE COURT: Okay.

12 MR. SCOTT: --- any motions from the state.

13 THE COURT: I'm not going to sequester them. We're  
14 all the -- we're halfway through the trial. We didn't  
15 sequester any of the state's witnesses. I'm not going to  
16 order the sequestration of their witnesses either. Okay?

17 It -- it's kind of an odd -- I think -- we'll  
18 sequester everybody or we don't sequester anybody. I  
19 don't think it presents a fair trial for the state not to  
20 sequester their witnesses but the -- the defense -- force  
21 them to sequester theirs. So I'm going to deny that  
22 motion.

23 MR. SCOTT: Okay.

24 THE COURT: All right. Anything else?

25 MR. SCOTT: Nothing from the state, Your Honor.

1 MR. BROOME: Mr. Conklin is on the -- stepped out  
2 for a moment, Your Honor. He should be back briefly.

3 THE COURT: Okay.

4 MR. BROOME: I'm going to give him a call and see.  
5 He's supposed to get her something to eat before she  
6 testified. We can't presume -- I don't want to delay  
7 anything. It's not a necessary delay. That was the only  
8 reason. So I wanted to check on him.

9 THE COURT: Well, I mean, do we want to go ahead and  
10 break for lunch? I know it's early. It's 11:30.

11 (Whereupon, Mr. Broome and the defendant conferred.)

12 THE COURT: But if we're going to be ---

13 MR. BROOME: We ---

14 THE COURT: --- break ---

15 MR. BROOME: We could do that. And that way,  
16 that'll give her something to eat and it won't be ---  
17 necessarily be a long lunch ---

18 THE COURT: Okay.

19 MR. BROOME: --- break.

20 THE COURT: Any objection to going ahead and  
21 breaking for lunch?

22 MR. SCOTT: Your Honor, just -- no real objection,  
23 other than the timeliness and getting it to the jury in a  
24 timely manner. I -- I think it's just these two. I -- I  
25 agree; I don't think it's going to be a -- a lot of time.

1           But it's 11:30 right now. And I think we started at  
2           9:30. No real articulable reason, other than wanting to  
3           get this thing done before we hit up that five o'clock

4           ---

5           THE COURT: Yeah. And I understand that. But if we  
6           got at least two witnesses for the defense and then any  
7           possible rebuttal testimony from the state, then closing  
8           arguments, charges, and deliberations, I think we're  
9           going to be going on anyway.

10           So -- but we're going to have to break for lunch at  
11           some point in time. So it's either break now or break a  
12           little bit later. And it's going to be the same amount  
13           of time. So I don't think it's going to create any  
14           additional time.

15           So if this is a good time, we'll go ahead and break  
16           for lunch. All right?

17           Anything from the state before we bring the jury in?

18           MR. SCOTT: No, Your Honor.

19           THE COURT: All right. Anything from the defense?

20           MR. BROOME: No, Your Honor.

21           THE COURT: All right. Let's go ahead and bring the  
22           jury in.

23                                   (Off the record briefly.)

24                                   (Whereupon, the jury entered the courtroom at 11:33  
25                                   a.m.)

1 THE BAILIFF: All present, Your Honor.

2 THE COURT: Thank you very much. All right. Ladies  
3 and gentlemen, welcome back. As you now know before you  
4 broke -- or when we just recessed, the state has rested  
5 their case.

6 So now is the time of the trial where the defense  
7 can present her case. However, the attorneys agreed it's  
8 a good time for us to go ahead and break for lunch. It's  
9 a little early for lunch. But since the state has now  
10 rested, before we get into the defense, we're going to go  
11 ahead and break for lunch.

12 I'm going to ask that you please be back in the jury  
13 room -- let's see; it's 11:35. 12:45, please be back in  
14 the jury room. That'll give you a little bit over an  
15 hour to eat.

16 Do not discuss the case, even among yourselves.  
17 Don't conduct any independent investigation.

18 I hope everybody has a good lunch, and we'll see you  
19 back at 12:45. Thank you very much.

20 (Whereupon, the jury exited the courtroom at 11:35  
21 a.m.)

22 (Off the record briefly.)

23 THE COURT: All right. Anything from the state  
24 before we break for lunch?

25 MR. SCOTT: Nothing from the state, Your Honor.

1 THE COURT: Anything from the defense?

2 MR. BROOME: No, Your Honor.

3 THE COURT: All right. I've got them coming back at  
4 12:45. I'll try to take the bench as soon after that as  
5 we can. All right?

6 MR. BROOME: Thank you, Your Honor.

7 THE COURT: All right. Thank you.

8 (Off the record from 11:35 a.m. until 12:54 p.m.)

9 THE COURT: All right. Anything from the state  
10 before we bring the jury in?

11 MR. BIXLER: Nothing, Your Honor.

12 THE COURT: Anything from the defense?

13 MR. BROOME: No, Your Honor.

14 THE COURT: All right. Let's bring the jury in.

15 (Off the record briefly.)

16 (Whereupon, the jury entered the courtroom at 12:55  
17 p.m.)

18 THE BAILIFF: All present, Your Honor.

19 THE COURT: Thank you very much. Ladies and  
20 gentlemen, welcome back. Hope everybody had a good  
21 lunch. We're now ready to resume the trial of this case.

22 Before we broke for lunch, the state rested on their  
23 case. And so now is the time for the defense to present  
24 her case, if she chooses to present one.

25 All right, Mr. Broome. Defense can call your first

1 witness.

2 MR. BROOME: Thank you, Your Honor. Defense calls  
3 Katy Tuttle to the stand.

4 THE COURT: All right.

5 (Whereupon, the witness came forward.)

6 KATY TUTTLE, having been first duly sworn,  
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MR. BROOME:

10 Q Good afternoon. Can you -- Ms. Tuttle, can you tell  
11 the jury your name and where you live?

12 A Katy Tuttle, and I live in Navarre, Florida.

13 Q Okay.

14 THE COURT: All right, Ms. Tuttle. You're going to  
15 have to speak up a lot louder than that. All right?

16 Q Uh-huh.

17 A My name is Katy Tuttle. And I live in Navarre,  
18 Florida.

19 Q Okay. Where were you born?

20 A I was born in England.

21 Q Okay. Let me back up a second. How -- can you tell  
22 the jury how old you are?

23 A I'm 57.

24 Q Okay. When did you leave England?

25 A When I was 9 months old.

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1 Q Okay.

2 THE COURT: I'm sorry.

3 Q Speak up ---

4 THE COURT: What did ---

5 Q --- a little bit.

6 A Nine ---

7 THE COURT: --- you say?

8 A I was -- I was 9 months old.

9 Q Just make sure you -- you speak up loud so the jury  
10 can hear you, the judge can hear you, and the court  
11 reporter can hear you.

12 A Okay.

13 Q Okay?

14 A All right.

15 Q So when you're 9 months old?

16 A (Nodded head up and down.)

17 Q Okay. Do you know why you moved to -- to South  
18 Carolina?

19 A My father was in the Air Force -- United States Air  
20 Force. And he was stationed at Shaw Air Force Base in  
21 South Carolina.

22 Q Okay. Did you go to school in South Carolina?

23 A I did.

24 Q Okay. You spend some time growing -- growing up in  
25 South Carolina, then?

1 A Yes, I did.

2 Q All right. Do you have any brothers or sisters?

3 A I do.

4 Q Okay. Where do they live?

5 A Well, my brother lives in Rock Hill now. And my  
6 little sister, whom I just met when I was -- I was 28;  
7 she was 25. And she lives in Lancaster now. She also  
8 owns a home in Fort Mill.

9 Q Okay. Any other family in -- in South Carolina?

10 A My father lives in -- in South Carolina too, up at  
11 Lake Wateree, right outside of Blythewood, in that area.

12 Q Okay. Did you graduate from high school?

13 A No, I did not.

14 Q Did you get your GED?

15 A I did.

16 Q Okay. Now, how did you end up from South Carolina  
17 down to Navarre, Florida?

18 A I moved there back in 1981 with my stepparents that  
19 were -- my stepfather was a full-bird colonel in the  
20 United States Air Force and was stationed in the  
21 Pentagon. And I left South Carolina ten days before my  
22 17th birthday and moved to Washington, D.C., with two  
23 stepparents, actually ---

24 Q Okay.

25 A --- a mother that basically raised me. At that

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1 point I didn't know that, you know, my real mother ---

2 Q Okay. And how long you been in Florida, again?

3 A I been in Florida for 30-odd years, 36 years.

4 Q Okay. Do you have any children?

5 A Yes, I do.

6 Q How old are they?

7 A Thirty-seven and thirty-two.

8 Q So just two?

9 A Two.

10 Q Okay. They live down in Florida with you?

11 A No.

12 Q Okay. And ---

13 A Well, my daughter actually lives in Florida, just  
14 down the -- she's moved right over there to Pensacola.

15 Q Okay. What kind of work -- can you tell the jury  
16 what kind of work you've done over the course of your  
17 life?

18 A I've been mainly in the food and beverage industry.  
19 And while I was married, we had a heating, air-  
20 conditioning, and electrical business there in Navarre,  
21 Florida.

22 Q Take you back to -- we -- 1980. Is that year  
23 significant to you?

24 A That was the year my daughter was born.

25 Q Okay. And also, were you diagnosed with spinal

1 meningitis?

2 A Yes. After I had my daughter ---

3 Q Okay.

4 A --- very next day. Yes.

5 Q Did the doctors find anything in your spine?

6 A Two years -- two years later, I ended up with a  
7 massive tumor on my spine and my spinal cord in -- down  
8 to the nerves in my -- my spine.

9 Q Okay. Did they have to -- was that ---

10 A Uh-huh.

11 Q --- removed?

12 A It was removed, yes.

13 Q Successfully?

14 A Yes. Fourteen and a half hours under a microscope.  
15 It was removed.

16 Q Okay.

17 A Uh-huh.

18 Q Since that time have you -- I think that would've  
19 been 1982?

20 A Uh-huh.

21 Q How would you describe your -- your health since  
22 then?

23 A Well, after the tumor was removed, I -- I had nerve  
24 damage to my spine because it laid on my spine for so  
25 long. And it was actually embedded into my spine. And

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1 my spinal cord, from going and seeing a chiropractor,  
2 thinking that I -- I didn't know at that point that I had  
3 a tumor. And so he, you know, mashed it and embedded it  
4 down into my spinal cord.

5 And so in 1982 I had major surgery -- back surgery.  
6 And my daughter was 2 years old ---

7 Q Okay.

8 A --- at that time --- 2 1/2 ---

9 Q Were ---

10 A --- almost 3.

11 Q Were you ever diagnosed with fibromyalgia?

12 A Yes.

13 Q Can you tell the jury what some of the symptoms are  
14 of fibromyalgia?

15 A Fibromyalgia is a -- like, an overactive nerve  
16 damage and muscle damage. It's -- it's a horrible, bad  
17 -- just constant pain. I mean, you know, sometimes I can  
18 barely walk. You know, I'm -- got on medication. And it  
19 -- it helped, you know, a lot.

20 But at that point I -- I mean, I'm still -- you  
21 know, having problems with it. Neuropathy -- it's like  
22 walking on pins and needles or pieces of glass. And it  
23 just, you know, shoots up my legs.

24 When I had that tumor on my spine, I couldn't even  
25 stand up straight. I couldn't get out of bed. You know,

1 just even somebody sitting on the side of the bed or  
2 somebody walking up to you and trying -- and touching  
3 you, I -- I mean, it -- I just, like, would freeze up.

4 And, I mean, it's still -- you know, I -- I still  
5 can't have somebody come rushing up to me. I think I'm  
6 going to fall over. But I -- you know, my equilibrium is  
7 off. I cannot balance. I can't stand up or get down on  
8 the floor in the middle of the room and try to get up.  
9 There's just no way without somebody helping me get up.

10 Q Do you take any medications ---

11 A Yes, I ---

12 Q --- to help ---

13 A --- do.

14 Q --- with any -- any of this pain?

15 A Yes.

16 Q What do you take?

17 A I take Lyrica and Flexeril. I was taking Mobic at  
18 that -- at the time. But I no longer take that because  
19 it actually gave me a stomach bleed, because I also took  
20 NSAIDs, which is ibuprofen.

21 And the combination of those two, you know, I had --  
22 ended up with a stomach bleed the day after my birthday  
23 in October. And I was at my doctor's office the day of  
24 my birthday. And the next day -- you know, I'm lucky  
25 right now to be here because I near about bled out.

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1 Q And so you've been suffering from fibromyalgia and  
2 those symptoms for a while ---

3 A For a ---

4 Q --- and that ---

5 A --- long time. Yes.

6 Q Were you suffering from those symptoms back in 2014?

7 A Yes.

8 Q Okay. And you said nerve pain, right?

9 A Yes.

10 Q In your -- in your feet?

11 A In my feet, my legs, my back. I mean, it's my  
12 tailbone. You know, like, right now I'm -- both of my --  
13 my hips are burning. It's going down my legs.

14 Q Is that why you use that cane?

15 A Uh-huh. Well ---

16 Q Is ---

17 A --- that and I will fall over. Sometimes I just,  
18 you know, can -- what do you call it? -- fold up like a  
19 lawn chair. You know, just be walking and I can't walk  
20 on tile, anything that's shiny -- a floor that's shiny.  
21 I -- I freeze up. And I -- I just do not walk it on it  
22 then. I have to hold on to something or somebody.

23 Q Okay. And so you were taking medication at -- at  
24 that time back in 2014 ---

25 A Yes.

1 Q --- right? All this medication?

2 A (No audible response.)

3 Q Because of this -- you ever have pain in your -- in  
4 your neck?

5 A Yes.

6 Q Okay. Can you tell the jury ---

7 A Yeah.

8 Q --- about how the -- how -- what that pain is like  
9 and how it affects your -- your head?

10 A I -- yes. I don't realize that I'm doing it, but,  
11 you know, and -- it's a -- it's like -- it's a shooting  
12 pain, like electroids [sic] just going through you. And  
13 it -- my neck -- they call it, like, a horse's sway or --  
14 or -- I don't know. It -- it's ---

15 Q Like horse whip, like ---

16 A No.

17 Q --- a horse ---

18 A Like a -- no.

19 Q Did you ---

20 A Like a horse going up, you know. It ---

21 Q Right.

22 A No. And I don't know that I'm doing it. And, you  
23 know, the -- the ---

24 Q Does the medication help?

25 A It -- it ---

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1 Q With that?

2 A --- it does. It does.

3 And I have ADHD, which is, you know, hyperactive,  
4 and I get -- and when I don't take my medicine, it gets  
5 even worse.

6 Q And ---

7 A And, you know ---

8 Q Okay.

9 A --- it's ---

10 Q And -- and we talked about -- you said Lyrica and  
11 Vyvanse. Is -- Vyvanse is an amphetamine; is that  
12 correct?

13 A Yes.

14 Q Okay.

15 A That's for the ADHD. Yes.

16 Q Okay. Any other symptoms -- any other problems that  
17 -- that you've suffered ---

18 A Just to -- you know ---

19 Q --- physical symptoms?

20 A Yeah. My ankles are -- I -- I can't balance. I --  
21 you know, don't like heights. I don't really like steps.  
22 You know, if I come to a step and there's nothing to hold  
23 onto, I will -- I mean, I -- I can't go up it ---

24 Q Yeah.

25 A --- without some help.

1 Q Is that why -- when they were doing those field-  
2 sobriety tests, it was -- they wanted you to ---

3 A They wanted ---

4 Q --- walk in ---

5 A --- me to ---

6 Q --- a straight line?

7 A Yeah. Yeah. I -- I can't even get in the shower  
8 and -- and -- without having to hold onto some -- wash my  
9 hair, even putting the shampoo in my hair, I have to hold  
10 onto something to -- and close my eyes to rinse my hair  
11 off. You know, I can't -- right -- and if I close my  
12 eyes, I will fall over. I will fall over.

13 Q Okay.

14 A You know, I -- I can't -- I can't even close my eyes  
15 and not ---

16 Q Let's -- let's go back to the weekend of June 28th  
17 and 29th, 2014. Do you remember -- do you remember that  
18 weekend?

19 A Yes, I do.

20 Q Okay. Can you tell the jury why you remember that  
21 weekend?

22 A Well, it was the weekend that it's -- my boyfriend's  
23 daughter and son came down for a visit. And it ---

24 Q Okay.

25 A --- was only the second time ---

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1 Q Speak into that microphone.

2 A It was only the second time that he's seen them in

3 ---

4 Q Well, let ---

5 A --- like ---

6 Q Well, let me stop you right there.

7 A Okay.

8 Q Tell the jury where you were around then. What --

9 where were you ---

10 A I was ---

11 Q --- in 2014?

12 A I was in Florida.

13 Q Okay.

14 A And -- and on that Thursday, on the 26th, I went to

15 my doctor's office. I had blood work done and got my

16 prescriptions refilled. And, you know, that -- I didn't

17 -- and then on Friday, you know, we knew his son was

18 coming.

19 Q Let's back -- let's stop right there.

20 A Okay.

21 Q You said he. The jury doesn't know who he is.

22 A Okay.

23 Q Or -- so who were you living with back in 2014?

24 A My boyfriend, Kevin Conklin.

25 Q Kevin Conklin?

- 1 A Yes.
- 2 Q Okay. You were living with him in -- in Florida,  
3 correct?
- 4 A Yes.
- 5 Q Okay. How long had you known Kevin?
- 6 A For -- at that -- at that time, it was ten years.
- 7 Q Ten years? Where'd ---
- 8 A Uh-huh.
- 9 Q --- you -- you met him in Florida?
- 10 A I met him in Florida, yes.
- 11 Q Okay. And -- and what's your relationship to him?
- 12 A Boyfriend ---
- 13 Q Boyfriend?
- 14 A Uh-huh.
- 15 Q Y'all ---
- 16 A Uh-huh.
- 17 Q --- never married?
- 18 A No.
- 19 Q Never had any kids together?
- 20 A No.
- 21 Q Okay. But y'all have a house together?
- 22 A Yes.
- 23 Q Okay. Kevin have any children?
- 24 A Yes.
- 25 Q Okay. All right. So you're living with Kevin

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1 Conklin?

2 A (No audible response.)

3 Q In Navarre -- this is Navarre, Florida?

4 A Uh-huh.

5 Q Okay. And that's the Panhandle?

6 A Yes.

7 Q Okay. The Gulf Coast side of ---

8 A Yes.

9 Q --- Florida, right?

10 A Yes. And we claim Pensacola Beach and -- and Fort

11 -- Fort Walton Beach.

12 Q Okay. So back ---

13 A Yeah.

14 Q --- to -- you talked about 26th -- June 26th. You  
15 had gone to your doctor to get prescriptions, right?

16 A Uh-huh.

17 Q For the Lyrica, right?

18 A Yes. Two separate doctors. I have ---

19 Q Okay.

20 A --- two separate doctors for the Lyrica and the  
21 Flexeril and all that. And then, I have another one for  
22 my Vyvanse.

23 Q Okay.

24 A That's a psychologist.

25 Q Did anyone come down and visit y'all ---

1 A Yes.

2 Q --- that weekend?

3 Who would that be? Tell the jury about that.

4 A That was -- that was Kevin's son and daughter and  
5 her -- his daughter's boyfriend and one of Dakota's  
6 friends ---

7 Q So ---

8 A --- came down.

9 Q Let's tell them who they -- they -- they don't know.

10 Who ---

11 A Uh-huh.

12 Q He had a -- a daughter?

13 A And a son.

14 Q And a son?

15 A Uh-huh.

16 Q What was the daughter's name?

17 A Her name is Destiny ---

18 Q What ---

19 A --- Conklin.

20 Q Conklin?

21 A Yes.

22 Q What about the son?

23 A Dakota Conklin.

24 Q Okay. And they were young?

25 A And they were -- yeah. At that time they were

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1 young, 17 and ---

2 Q --- 18?

3 A --- and 18.

4 Q All right.

5 A Yes.

6 Q How did they get down to -- and where did they come  
7 from?

8 A They ---

9 Q Do you know?

10 A --- came from Anderson -- from here, Anderson. And  
11 they came down with Dakota and Dakota had -- with someone  
12 with a driver's license and the -- the car.

13 Q Is Kevin from South Carolina?

14 A Yes.

15 Q Okay. So y'all both happen to be from South  
16 Carolina?

17 A Yes. But I'm from Columbia. Yeah.

18 Q But y'all both -- did -- did y'all -- when you met  
19 each other, did y'all bond over that a little bit?

20 A Yes. Yes.

21 Q I'm sure ---

22 A Her ---

23 Q --- that was a surprise ---

24 A Yes.

25 Q --- to realize ---

- 1 A Yeah ---
- 2 Q --- y'all ---
- 3 A --- it was.
- 4 Q --- both had family in South Carolina.
- 5 A Yeah.
- 6 Q Right?
- 7 A Yeah.
- 8 Q Did you have any family in Anderson, South Carolina?
- 9 A No.
- 10 Q Okay. But he did?
- 11 A Yes.
- 12 Q All right. So he has a daughter, Destiny, and a son
- 13 ---
- 14 A --- Dakota.
- 15 Q --- Dakota?
- 16 A Yes.
- 17 Q And as long as you had -- had they ever come down to
- 18 visit you before?
- 19 A Just one time.
- 20 Q Okay.
- 21 A And that was ---
- 22 Q When was that?
- 23 A That was, like, in -- I think it was, like, March.
- 24 It was during a -- Dakota's spring break because Destiny
- 25 wasn't in school ---

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- 1 Q Was Dakota ---
- 2 A --- at that ---
- 3 Q --- there to visit his father?
- 4 A Yes.
- 5 Q Is -- is Kevin ---
- 6 A He had ---
- 7 Q --- was previously ---
- 8 A --- he had ---
- 9 Q --- married?
- 10 A Yes.
- 11 Q Okay. And do you know the last time you had seen
- 12 Dakota?
- 13 A It -- it had been ten years.
- 14 Q Ten years?
- 15 A Uh-huh.
- 16 Q Okay. So Destiny, Chance, and Dakota come down and
- 17 Dakota's driving?
- 18 A Uh-huh.
- 19 Q Right?
- 20 A (Nodded head up and down.)
- 21 Q And that was Friday night?
- 22 A Friday night they ---
- 23 Q Okay.
- 24 A --- got there at eleven o'clock ---
- 25 Q Okay.

- 1 A --- at night.
- 2 Q Okay. Did they stay with y'all?
- 3 A Did ---
- 4 Q Did all three of them stay with y'all?
- 5 A Well, it was four. He -- Dakota had a friend, too
- 6 ---
- 7 Q And who ---
- 8 A --- with him.
- 9 Q --- was that?
- 10 A His -- can't ---
- 11 Q Do you ---
- 12 A --- recall ---
- 13 Q --- remember -- do you ---
- 14 A --- that ---
- 15 Q --- remember his name?
- 16 A His name was Anthony.
- 17 Q Anthony?
- 18 A Yeah.
- 19 Q Okay.
- 20 A Yeah.
- 21 Q So did they stay with y'all that night, that Friday
- 22 ---
- 23 A Yes.
- 24 Q --- night?
- 25 Okay. Did they stay with you that Saturday night?

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1 A Dakota and -- I mean, Dakota and Anthony did. But  
2 Destiny and her boyfriend, Chance, stayed -- went over to  
3 a motel in Pensacola.

4 Q Okay. Did they come back? Did ---

5 A They ---

6 Q --- did Destiny and her boyfriend come back?

7 A Yes.

8 Q By the way, had you ever her boyfriend before?

9 A No.

10 Q Okay. And how old was he then, approximately?

11 A He -- he was -- I think he was like 19 or 20.

12 Q Okay.

13 A Yeah.

14 Q So they didn't stay there Saturday night. They come  
15 back -- when did they come back to y'all's house?

16 A It was in the -- it was, like, early -- probably  
17 about noon, because Dakota had to go and get her from --  
18 and him from this motel over in Pensacola, just like he  
19 had to go take them over there and drop them off because  
20 she doesn't drive -- doesn't have a driver's license and  
21 he was the only one with a car.

22 Q At some point did Destiny and Chance decide that  
23 they wanted to leave Florida?

24 A They -- I don't -- they didn't really tell Kevin  
25 until Saturday -- Saturday morning, because that's when I

1 found out that he had to be back to work on Monday  
2 morning.

3 Q Who was he? Was that Chance?

4 A Chance.

5 Q Okay.

6 A Yes.

7 Q Back in Anderson ---

8 A The ---

9 Q --- South Carolina?

10 A Uh-huh.

11 Q All right.

12 A Yes.

13 Q Now, did you -- did y'all decide how they were going  
14 to get back? Now, Dakota had driven them down there,  
15 right? Did ---

16 A Right.

17 Q --- Dakota drive them back?

18 A No.

19 Q Okay. Well ---

20 A No.

21 Q --- why not?

22 A Because I and -- and Kevin both said that he -- he  
23 wanted to spend the ten days that he had out of school  
24 with his -- him and his father. And Destiny wanted to go  
25 back with Chance and didn't say anything until -- until

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1 that Saturday. And ---

2 Q All right.

3 A --- Kevin said, "We'll get you back" -- by plane, by  
4 bus, by -- you know, however. Well, it was decided on  
5 Saturday, when we were eating dinner, that I would drive  
6 them back.

7 Q Okay. And I -- that -- and that's a good point. So  
8 Dakota was still in high school at this point, right?

9 A Yes.

10 Q Now, his senior year -- and this is June in the  
11 summertime, so he's out of school, right?

12 A (Nodded head up and down.)

13 Q So he ---

14 A Yes.

15 Q --- that's why he came and had ten days to stay ---

16 A Yes.

17 Q --- with his father?

18 A Yes.

19 Q Okay. So y'all made the decision that he was going  
20 to stay with his dad, Kevin, down in Florida, right?

21 A Right.

22 Q And so you were going to do them a favor?

23 A Yes.

24 Q All right. You were going to drive Destiny and  
25 Chance back up to Anderson?

1 A Right.

2 Q Okay. And when did you leave Florida and decided  
3 you were going to head back to Anderson?

4 A It was Sunday -- Sunday night. And it was -- it was  
5 ten o'clock, because it's an hour difference here. It  
6 was ten o'clock there in Florida. And I -- so I left  
7 then so that I could get him back to -- so he could go to  
8 work by seven o'clock in the morning.

9 Q Uh-huh. Do you know where he was working?

10 A He worked with his father.

11 Q Okay.

12 A That's all I know.

13 Q Somewhere in Anderson County?

14 A I don't know that -- where. I think it was, like,  
15 Spartanburg or somewhere. He ---

16 Q Where you -- where you worked, you mean?

17 A Where he worked.

18 Q Right.

19 A Yeah. Where he worked. I -- I have no idea.

20 Q Okay.

21 A You know, just that he needed to be back by then.  
22 And she wanted to go back with him, instead of staying,  
23 you know.

24 Q Okay.

25 A I mean, I think she probably went there just because

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1 she didn't want to spend that time with her dad.

2 Q Sure. And when you drove, you came up through the  
3 -- tell the -- tell the jury how -- which -- which route  
4 you took.

5 A I -- I come up through Brewton, Alabama. And I get  
6 on 65 to 85 through Atlanta, and then to Anderson.

7 Q Okay. And after you were going to -- where were you  
8 going to go after you had dropped them off?

9 A Well, it -- I was either -- well, if my son had been  
10 in Atlanta instead of in Africa, climbing Kilimanjaro, I  
11 would have turned around and gone straight back there and  
12 stayed the night with him and then gone back to Florida,  
13 because I actually, you know, didn't want -- I shouldn't  
14 even have been there. I did them a favor. And -- but he  
15 wasn't there.

16 And I talked -- had tried talking to my sister  
17 earlier that day. And she had, you know, just gotten  
18 back -- she was at work. So I did Destiny and, you know,  
19 her friends a favor and took them a few different places  
20 during that day.

21 Q Well, let me back -- stop right there. But your --  
22 you said your sister -- what's your sister's name?

23 A Sandy.

24 Q Sandy?

25 A Yeah.

1 Q I think you told Officer Kanipe that on the video

2 ---

3 A Yes.

4 Q --- right? You ---

5 A Uh-huh.

6 Q --- asked him to call at some point after you had  
7 been arrested?

8 A Yes.

9 Q Where does she live?

10 A She lives in Lancaster.

11 Q Lancaster, South Carolina?

12 A Uh-huh. Yes.

13 Q Okay. Do you know anyone who lives in Laurens,  
14 South Carolina?

15 A No.

16 Q Okay. Do you know where Lancaster is or in -- in  
17 part of the state?

18 A Yes.

19 Q Okay. So ---

20 A Pretty much.

21 Q --- your plan was to drop them off in Anderson  
22 County somewhere, which you weren't familiar with, and  
23 then get yourself over to Lancaster ---

24 A Yes.

25 Q --- to visit with your sister?

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1 A Yes.

2 Q And I think you made mention on the video about your  
3 mother had passed away recently?

4 A Yes.

5 Q When did she pass away?

6 A She had passed away January 9th of 2013.

7 Q And -- and I think you -- you had told Officer  
8 Kanipe about her -- her being in an urn that ---

9 A Yes.

10 Q Tell -- can you tell the jury about that?

11 A Yeah. My stepfather was coming through from  
12 Wisconsin and was going over to England with my mother's  
13 ashes. And he was bringing part of her ashes to -- to us  
14 -- well, to my sister and which she had just gotten back  
15 from Wisconsin. She moved up there to kind of like help  
16 my stepdad and while my mother was still alive too and  
17 had just recently gotten back from there.

18 And so yes. I was going over to pick up my mom's  
19 ashes. I mean, that's what -- well, you know, eventually  
20 I meant to -- when I had talked to her earlier, you know,  
21 I was ---

22 Q Okay. So let me back up a little bit. Now we're  
23 going to -- so you're driving. You leave at ten o'clock  
24 at night?

25 A (Nodded head up and down.)

1 Q Okay. Why did you leave so late?

2 A Because it's -- it -- it's a lot easier to drive.  
3 Plus, I was getting them time to visit, which, you know,  
4 that really didn't -- I mean, she spent about eight  
5 hours, if even that, the entire time she was there with  
6 her dad. And, you know, of course, the boyfriend was  
7 there too. So -- but I gave them -- all's for space.

8 I fixed dinner. And I took a nap. I went to bed --  
9 I mean, I laid down about five o'clock and they woke up  
10 me up about 9:30. And I, you know, got in the car and  
11 they got in the backseat and went to sleep and then slept  
12 all the way here.

13 Q When you got to -- where's the first place that you  
14 remember going in -- in Anderson County? Did you drop  
15 them off ---

16 A To ---

17 Q --- first?

18 A --- to where they both lived, with his father and --  
19 and girlfriend.

20 Q Who's he? You mean Chance?

21 A Chance.

22 Q Okay.

23 A Uh-huh.

24 Q This is Destiny ---

25 A Keith ---

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1 Q --- Destiny's boyfriend, Chance ---

2 A Yeah.

3 Q --- Keaton?

4 A And I had -- I don't know what his -- his father's  
5 name is.

6 Q So you're not -- you'd never -- never ---

7 A Unh-unh.

8 Q --- met these people ---

9 A Never.

10 Q --- before?

11 You're not familiar with where you necessarily are  
12 in Anderson County? You hadn't been ---

13 A No.

14 Q --- in Anderson County ---

15 A I have ---

16 Q --- before?

17 A --- no idea.

18 Q Okay. Where'd you go after that? What happened  
19 after that? After you get -- and arrived and -- and ---

20 A Chance goes off to work with his -- with his dad.  
21 And I'm sitting there. I went in; went to the bathroom.  
22 I was going to leave. But by then, soon as I, you know,  
23 got there, I went inside, went to the bathroom.

24 I sat down and, you know, trying to get to know  
25 Destiny a little bit, you know. Because she really

1 didn't like me from the get-go just because I'm with her  
2 dad, which she didn't know me, you know.

3 So -- and -- and, you know, we sat there and talked.  
4 And -- and his -- his -- her boyfriend's daughter -- I  
5 mean, boyfriend's girlfriend was there. And, you know,  
6 we were just talking and that.

7 And then, you know, she asked me to take her to the  
8 store, the girlfriend and Destiny. Took them to the  
9 store to get cigarettes. And then, it was, like, "Can  
10 you take me over here to" -- I mean, you know, then it  
11 was like ---

12 Q And the ---

13 A --- "Take me here."

14 Q And the reason you're doing this is because Destiny  
15 doesn't have a car, right?

16 A Right.

17 Q That's why she rode down with Dakota?

18 A Right.

19 Q Okay. And she was living -- Destiny was living with  
20 her mother up there?

21 A With her boyfriend's ---

22 Q Oh, she ---

23 A --- father.

24 Q --- was living with her boyfriend at the time?

25 A Yes.

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1 Q Okay. That's ---

2 A Uh-huh.

3 Q --- you went back over there?

4 A Yeah.

5 Q All right. So Destiny was in the car?

6 A Yes.

7 Q Was she ever in the front seat?

8 A Yes.

9 Q Okay. Did you ---

10 A And so was her friend.

11 Q Her friend?

12 A Uh-huh.

13 Q Who was her friend?

14 A Her -- it was Rhonda. Her name was Rhonda. I don't  
15 know what her last name is or anything else.

16 Q Right. You ---

17 A I don't ---

18 Q --- had only met her briefly?

19 A Yeah.

20 Q And you met them through Destiny?

21 A Yes. That morning.

22 Q And Chance that morning?

23 A Yes.

24 Q Okay. Took them to the store to get cigarettes,  
25 right?

1 A Yes.

2 Q Did y'all go anywhere else to get anything to eat or  
3 anything?

4 A Yes. We went -- we went to McDonalds. We went to  
5 the -- some gas station. You know, it starts with an S,  
6 Sprint or ---

7 Q Spinx?

8 A Spinx.

9 Q Spinx.

10 A Yes.

11 Q They got a lot of those in the Upstate.

12 A Yeah.

13 Q It's ---

14 A That's right.

15 Q --- a big gas -- blue gas station with yellow  
16 lettering?

17 A Yellow.

18 Q Is that ---

19 A Yeah.

20 Q --- the gas ---

21 A Yeah.

22 Q Okay.

23 A Yeah.

24 Q So you went to the gas station. You went to, you  
25 said, get something to eat. Was that McDonalds?

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1 A Uh-huh.

2 Q Didn't you already say that?

3 A Yes.

4 Q How long were you at McDonalds?

5 A Oh, God. I don't -- I don't really know the timing.

6 It just ---

7 Q Sure.

8 A --- you know ---

9 Q But y'all just -- did ---

10 A Couple hours.

11 Q --- y'all go there to eat? Yeah.

12 A Yeah. Couple hours.

13 Q And this is with Destiny and a lady named Rhonda?

14 A Yes.

15 Q Okay. And they had access to your car, correct?

16 A Yes. Uh-huh.

17 Q Okay.

18 A Yes.

19 Q Where'd you go after you ate lunch -- took them to  
20 lunch?

21 A Then it -- then she asked me to stop by and it was  
22 some ---

23 Q Who's she?

24 A Destiny.

25 Q Destiny? Okay.

1 A To stop by somebody -- some guy's house. So we  
2 stopped there. And next thing I know, I'm taking him to  
3 the gas station. And, you know, then it's, "Can you take  
4 me here?" And so, I mean, I'm just -- I'm just driving.  
5 I have no idea where I'm at. They're giving me  
6 directions. You know, I'm not being ugly or anything.  
7 I'm just trying to, you know, I mean -- at that point,  
8 she's the one -- she got in the backseat.

9 Q Who's she?

10 A Destiny.

11 Q She gets in the ---

12 A And ---

13 Q --- backseat ---

14 A --- Rhonda gets in the ---

15 Q Okay.

16 A --- front seat.

17 Q Okay.

18 A And then, you know ---

19 Q And these are -- describe to the jury, like, if  
20 you're going from McDonalds to the gas station. Is it --  
21 how long that takes, short trip?

22 A I can't -- I can't ---

23 Q Did ---

24 A --- really even remember that.

25 Q Okay. Did you go to ---

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1 A And how long ---

2 Q --- a pharmacy?

3 A Yes. Went to a pharmacy.

4 Q Okay. I think -- and was there -- you said there  
5 was another guy friend. I know you said Rhonda. Was  
6 there another guy?

7 A Yes.

8 Q You remember his name?

9 A Yeah. Marcus.

10 Q That's all ---

11 A That's all ---

12 Q --- you remember him by?

13 A Marcus.

14 Q And these ---

15 A Yeah.

16 Q --- were younger individuals?

17 A Yeah. Well, they were -- yes.

18 Q Okay. And after you left McDonalds and the  
19 pharmacy, did you -- did you go anywhere else?

20 A We went to -- I don't know. It seemed like a  
21 junkyard or some -- some junkyard. I mean, that --  
22 somebody -- I guess it was somebody's house.

23 Q Dropped somebody ---

24 A It looked ---

25 Q --- off there ---

1 A --- like -- no. We didn't drop anybody off. To --  
2 it was -- looked like a junkyard. Just pulled up in  
3 there ---

4 Q Did you ---

5 A --- dogs running around and ---

6 Q Did you go back to Marcus's house?

7 A Yes.

8 Q Okay. And where did you -- where did the last place  
9 you went when you were up in Anderson?

10 A It would've been -- it was -- it was an old gas  
11 station.

12 Q Uh-huh. And the purpose was to drop ---

13 A He got cigarettes.

14 Q Okay.

15 A At that Marcus got cigarettes.

16 Q And you dropped them off when? I mean, when ---

17 A When ---

18 Q --- you were you -- when you were done and you were,  
19 like, I'm ready go back to -- to Lancaster ---

20 A Right.

21 Q --- when was that ---

22 A I took ---

23 Q --- and where were you?

24 A --- I took that guy back to his place. I don't know  
25 where it is. It's mobile -- double-wide mobile home. It

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1 was -- it was right off the road. I mean, you know, you  
2 could see several mobile homes there. And then left  
3 there and went back to where Destiny and -- and Rhonda  
4 lived.

5 Q Okay. So you went back to Destiny and Rhonda's  
6 place?

7 A Yes.

8 Q And then you decided now to leave after that point?

9 A No. I -- I thought about going in to -- to ask them  
10 can I come in and take a shower. I wanted ---

11 Q Uh-huh.

12 A --- to take a shower and just chill, you know, rest  
13 ---

14 Q Uh-huh.

15 A --- a little bit. And that -- and it -- I went  
16 inside, but I didn't -- I never did take a shower. And  
17 that -- and I talked to Kevin and I -- I decided I'm  
18 going over to my sister's house.

19 Q So you called Kevin and told him what your plan was  
20 ---

21 A Yeah.

22 Q --- going to be?

23 A Yeah. That was -- and that was about 3:30. And I  
24 didn't even sleep then.

25 Q Okay.

- 1 A I mean, it was about 3:30, you know.
- 2 Q You'd pretty much driven through the night, right?
- 3 A Yeah.
- 4 Q Okay. You go from there. When you're done, where  
5 do you go from there when you're done in Anderson and  
6 you're leaving, which -- which route did you take?
- 7 A I can't really tell you ---
- 8 Q Did you make ---
- 9 A --- because I ---
- 10 Q --- your way to Laurens County?
- 11 A I ended up making my way to Laurens County.
- 12 Q Okay.
- 13 A I mean, because it -- it ---
- 14 Q Well, I ---
- 15 A --- that's the way the GPS was -- was telling me to  
16 go. And I guess Lancaster is -- from Laurens, I guess,  
17 Lancaster is, like ---
- 18 Q It's on the east side ---
- 19 A Yeah.
- 20 Q --- of the state? Okay.
- 21 A Yeah.
- 22 Q Did you stop anywhere in Laurens?
- 23 A No.
- 24 Q Did you ---
- 25 A Well, I stopped in the YMCA. I'm sorry. Yes, I

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1 did.

2 Q Okay. So ---

3 A And I -- I didn't know that was Laurens. There's no  
4 sign that says it's Laurens on the ---

5 Q Uh-huh.

6 A --- thing. I mean, I don't know where I was.

7 Because I -- I had stopped and was talking on the phone  
8 before that and then came down, I guess, Anderson Road,  
9 and -- and I was tired.

10 And I -- I saw the red YMCA. And I pulled up in  
11 there to -- to -- first road and came up and around. I  
12 don't know. I was -- I slept there ---

13 Q Why did you stop there to sleep?

14 A Yes.

15 Q To take a nap?

16 A Yeah.

17 Q Okay.

18 A Yeah. Because I was tired.

19 Q How long was that?

20 A It was probably 3 -- 3 1/2 hours ---

21 Q Okay.

22 A --- or so.

23 Q So that'd have been the -- in the evening time?

24 A Yeah.

25 Q Okay. And it was summertime, so the sun was still

1 out?

2 A Yeah. The sun -- yes. The sun was still out.

3 Q Okay. When you woke up, what did you do?

4 A I tried -- I called and talked to my sister. And

5 ---

6 Q The one in Lancaster?

7 A Yes. Yeah. And, you know, we talked for a few  
8 minutes. Made me upset, because it was more, like, you  
9 know, it was kind of an inconvenience to come over there  
10 at that time because she just started a job. They were  
11 tired and had just got home from work. And it was, like,  
12 the first time -- you know, she just kind of put me off  
13 and said not to come; you know, that it was an  
14 inconvenience.

15 So I was -- I was upset and I pulled out of there.  
16 And, you know, next I know, I'm getting pulled over.

17 Q You'd been arguing with your -- your sister?

18 A Well, no. I was just crying.

19 Q Crying.

20 A I didn't really argue with her ---

21 Q She said ---

22 A --- you know ---

23 Q --- not to come?

24 A She's my baby sister and ---

25 Q Yeah.

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1 A --- and ---

2 Q Okay.

3 A --- you know.

4 Q She's your baby sister?

5 A Yeah.

6 Q Okay. So after that happened, you're -- you're ---

7 A Yeah. I was ---

8 Q --- you were ---

9 A --- trying to ---

10 Q --- crying?

11 A --- get ahold of my brother. And -- and as a matter  
12 of fact, on that -- you know, we -- but -- talking like  
13 I'm talking to myself. I was actually leaving a message  
14 on the phone for my brother, you know. And I -- I know I  
15 told him, I'm sorry. I got -- I just got pulled over,  
16 but I'm trying to get ahold of you; see if you -- he  
17 wanted to see me.

18 Q Okay.

19 A You know, but he hadn't answered and so, you know, I  
20 mean, at that point my sister was thinking I was coming  
21 over there. She didn't really say don't come. She just  
22 made me feel like, you know, it was inconvenient or  
23 whatever. And so ---

24 Q So you were on the phone, talking ---

25 A I was ---

1 Q --- to her ---

2 A Yeah. I wasn't talking to anybody. I -- I was  
3 leaving a message ---

4 Q Leaving ---

5 A --- for my ---

6 Q --- a message.

7 A --- brother.

8 Q Okay. I understand.

9 A Right.

10 Q You -- you called ---

11 A Yeah.

12 Q --- and left a message, leaving a voice mail?

13 That's ---

14 A Uh-huh.

15 Q --- why you were talking?

16 A And trying to look at my GPS and figure out exactly  
17 where I was. And really thinking maybe I should just get  
18 back on the interstate and get a motel room and go home.

19 Q Get a motel room?

20 A Yeah.

21 Q Yeah. Why didn't you get a motel room in Anderson,  
22 South Carolina?

23 A Because I wasn't going to stay in Anderson. I mean

24 ---

25 Q Uh-huh.

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1 A --- if I was going to stay, I'll get back on the  
2 interstate and go back home.

3 Q Okay.

4 A You know, because I'm really -- there was no plan.  
5 I was planning on being there.

6 Q Right.

7 A You know ---

8 Q Can you tell the jury how you were -- you get pulled  
9 over for -- by Officer Gainey.

10 A Yes.

11 Q Do you remember that?

12 A Yes.

13 Q Coming down Anderson Road?

14 A Uh-huh.

15 Q Okay. And he stopped you and I think -- I think he  
16 says, "Can I get your license and" ---

17 A Yeah.

18 Q Okay.

19 A Yeah. He doesn't identify himself at all ---

20 Q Okay.

21 A --- to me. And he just says, you know, "Can I have  
22 your -- your -- well, do you know that you were going 57  
23 in a -- in a 45?"

24 And I'm, like, "Well, I" -- I said -- I said -- I  
25 don't know why I said, "I know," because I didn't know

1 that I was going 57 in a 45. But I know that, you know,  
2 it's -- it scared me because all of a sudden, I had blue  
3 lights behind me and I was being pulled over.

4 Q He told you he stopped for speeding, right?

5 A Yeah.

6 Q And then, how long before a second officer pulled  
7 up?

8 A Not very ---

9 Q Do you remember?

10 A Not very long.

11 Q Okay. And we saw that one the video, right?

12 A Right.

13 Q So now ---

14 A Uh-huh.

15 Q --- you've got two officers, two cars, right?

16 A Uh-huh.

17 Q And the sirens are flashing?

18 A Yeah.

19 Q It's getting dark, right?

20 A It is dark. Yeah.

21 Q It is dark. It's ---

22 A Yeah.

23 Q --- on the video?

24 A Yeah.

25 Q You don't know anyone in Laurens County?

DIRECT EXAMINATION BY MR. BROOME - KATY TUTTLE 369

1 A Nope.

2 Q And he asked you out of the car -- Kanipe asked you  
3 out of the car?

4 A Yeah.

5 Q Right? How are ---

6 A Yeah.

7 Q --- you feeling then?

8 A I -- I was -- I was in pain. I was hurting. You  
9 know, I -- I had my slippers on. And I couldn't put --  
10 put my shoes on. I mean, I had my slippers on. And I  
11 was in pain.

12 I had my seat belt on. You know, he came -- he  
13 came; didn't introduce himself. Got my driver's license  
14 and I ended up giving him two insurance cards. And I  
15 didn't even give him my registration, and which that's  
16 where, you know, I was trying to get out of the -- you  
17 know, glove compartment.

18 Q Did -- did you give him your registration?

19 A When he came back ---

20 Q When he ---

21 A --- the second time.

22 Q --- came back?

23 And that's on the ---

24 A Yeah.

25 Q --- video? Okay.

1 A But he had already called -- he had already called  
2 for backup. And that was the second time that I talked  
3 to him.

4 Q Okay.

5 A Then I thought they were just playing swap-a-cop or  
6 something with -- you know, because then somebody else  
7 comes up. And he introduces himself. And he's -- then  
8 wants me to get out of the car.

9 Q Right. And you did that? You complied with what he  
10 ---

11 A Yeah.

12 Q --- asked you to do, right?

13 A Yeah.

14 Q Did you try to do the pen test, right?

15 A Yeah. And I did that.

16 Q Told him ---

17 A Uh-huh.

18 Q --- you couldn't ---

19 A Balance.

20 Q --- hard -- hard for you to balance, right?

21 A Yeah.

22 Q After they take you in and arrest you -- we've --  
23 we've watched the video of you in the DataMaster room,  
24 right?

25 A Yeah.

DIRECT EXAMINATION BY MR. BROOME - KATY TUTTLE 371

1 Q And you told Officer Kanipe, "I'll submit to a  
2 breath test," didn't you?

3 A Yeah. Yes.

4 Q Okay. And we saw that, right?

5 A Yeah.

6 Q Did you ask him that you wanted to submit to the --  
7 you'd submit to a urine test?

8 A Yes.

9 Q Okay. Saw that on the video ---

10 A Yes.

11 Q --- right?

12 Okay. How were you then? Describe the jury how  
13 you're -- how you're -- how you're feeling at this point.  
14 I mean, what are -- what are you emotions? What was ---

15 A Well ---

16 Q --- your mental state like?

17 A --- I -- I was scared, first of all, because I don't  
18 know where I'm at. I have no idea. I just got plucked  
19 up off the streets. I'm somewhere in South Carolina.

20 And I -- you know, by these -- this officer -- one  
21 officer pulls me over. Another officer is taking me in  
22 and, which, you know, I have no idea where I'm at. I  
23 have no idea. No idea where Laurens is.

24 Q After you leave the DataMaster room, after they take  
25 -- he takes you off video, that video cuts off.

1 A Uh-huh.

2 Q Tell the jury what happened after that.

3 A He took -- they took me into another room, a dark  
4 room, with just a lamp on. Sat me down at this desk.

5 And ---

6 Q Who was in the room?

7 A Who was in the room?

8 Q Uh-huh.

9 A Well, it was Logan Kanipe and two other people --  
10 two other officers, I'm assuming. And then, I was sat  
11 down at this desk with just a lamp. It was dark.

12 Q Okay. And how many people were in the room? How  
13 many officers were in the room?

14 A When the -- Officer Gainey came in ---

15 Q Uh-huh.

16 A --- it was ---

17 Q Describe ---

18 A --- four.

19 Q --- that to -- to the jury.

20 A Four. The -- he came in after I was sat down with  
21 -- still handcuffed and everything. Sat down and Kanipe  
22 sat -- I was sitting right here. The desk is here. He's  
23 sitting right there. The guy and the -- that gave me the  
24 Breathalyzer and everything, sitting right here.

25 And then those two are, like, leaning up -- I don't

DIRECT EXAMINATION BY MR. BROOME - KATY TUTTLE 373

1 know if it's -- was the wall or -- I think it was part of  
2 the desk they were sitting -- and it was dark. The whole  
3 room was dark. And then in comes this -- Officer Gainey  
4 ---

5 Q Okay.

6 A --- comes in.

7 Q Did he ever read you your *Miranda* rights when you  
8 were there?

9 A No.

10 Q Okay. Did he ever have you sign a waiver for  
11 *Miranda*?

12 A No.

13 Q Okay. Did you ever sign a written statement?

14 A No. Nothing.

15 Q Okay. Did they ever ask you to?

16 A No.

17 Q Did you ever refuse to take a urine test?

18 A No. Or a blood test.

19 Q Or blood test?

20 A Neither one. I ---

21 Q Okay.

22 A --- I -- I had no problem. I mean, to -- you -- you  
23 saw on the tape.

24 Q Okay. On tape you -- you asked him ---

25 A Yes.

1 Q What did you tell -- what did ---

2 A On one ---

3 Q We watched it. But you said, "Can I do it right  
4 now?" right?

5 A Yeah. Yes.

6 Q Okay. And so after that happens, I'm just going to  
7 ask you point-blank: I mean, did -- did Officer Gainey  
8 -- did -- did you ever tell him that you smoked meth?

9 A No.

10 Q Okay. Did you ever tell him that, "We got it here"?

11 A No.

12 Q Okay.

13 A No.

14 Q What happened in that room, then?

15 A They -- it -- he came in; laid out my medication,  
16 which was in a tan container; and he laid it there. And  
17 then he laid something else, a blue something next to it.

18 And I -- I couldn't see what was in the blue bag, I  
19 guess -- it -- a bag or whatever. All's I saw was my  
20 medication and -- and then that would -- like I said, it  
21 was dark in there.

22 And he says, "Well, did you know that Lyrica is a  
23 Scheduled V narcotic?"

24 No, I didn't. I don't even -- my doctor didn't even  
25 know it was a Scheduled V.

DIRECT EXAMINATION BY MR. BROOME - KATY TUTTLE 375

1 Q Uh-huh.

2 A But I had my prescriptions in the car. I had just  
3 been to the doctor. It's all in my briefcase right  
4 behind me. You know, I had all that with me.

5 Q Okay.

6 A But they would not go get it. So instead, they  
7 charged me. Then he asked me, "Well, what is this white  
8 powder?"

9 Q Okay.

10 A It's a white powder. I'm, like, "I don't know.  
11 What is it?"

12 Q Uh-huh.

13 A It's a -- you know, then he proceeded to tell me,  
14 "Oh, well, it's crystal meth."

15 Q Uh-huh. And what was your reaction to that?

16 A And I'm, like, "Oh, I -- I don't have any crystal  
17 meth."

18 Q You ever see any crystal meth in your car?

19 A No.

20 Q Okay. Did you ever smoke any crystal meth while you  
21 were in ---

22 A No.

23 Q --- South Carolina?

24 Did he ask you any other questions while -- while  
25 you're in there that you -- that Officer Gainey ---

1 A I mean, yeah. I -- I mean, you know ---

2 Q Did he say anything else to you?

3 A Why -- why was that -- I mean, he didn't listen to  
4 why I was there or, you know, that I had my  
5 prescriptions; that I had physical, you know, problems  
6 taking those tests, you know; balancing, you know.  
7 There's a reason why I take this medication.

8 You know, I was just at my doctor's office. I mean,  
9 I -- I was, like, you know, "Here, look. I mean, I have  
10 no -- I have no -- nothing to hide."

11 I -- they could've asked me to search my car and  
12 they could've searched my car right there with me in it.  
13 They could've, you know, asked me for my -- my  
14 prescriptions.

15 They -- they didn't, you know, do any of that.

16 Q Right. So how long were you in that room?

17 A Probably about 30 minutes.

18 Q Okay. After that where'd you go?

19 A They took me straight -- he took me straight to  
20 Johnson -- this ---

21 Q To the jail?

22 A Yes.

23 Q Okay. Did ---

24 A No phone ---

25 Q --- you call -- did you call Kevin ---

DIRECT EXAMINATION BY MR. BROOME - KATY TUTTLE 377

1 A No phone ---

2 Q --- from the ---

3 A --- call ---

4 Q --- jail?

5 A --- no nothing. Nothing.

6 Q Okay. Did -- he wouldn't let you make a phone call,  
7 right?

8 A No. Not even when I got there.

9 Q Well, you didn't have any way to do that?

10 A No.

11 Q Okay. How were you feeling at that point?

12 A I was scared to -- and sick. I mean, I'm -- I was  
13 physically just -- I could hardly even move. And I was  
14 in shock. I was in shock that, you know, I -- all of it,  
15 everything, you know. You -- you just can't imagine.  
16 You know, I'm a woman, traveling. Just came here to drop  
17 them off, and I -- you know, here I am and with no phone  
18 call, no way of letting anybody know where I was.

19 My sister tried calling the highway patrol. There's  
20 no -- you know, it's -- well, without knowing her  
21 direction or where she was -- you know, I mean, it -- she  
22 really didn't know, you know, that much. Anderson, you  
23 know ---

24 Q So you were alone and -- right?

25 A I was ---

1 Q You were ---

2 A --- alone.

3 Q --- scared?

4 A Yes.

5 Q Right?

6 A Yeah. And in a -- a lot of pain ---

7 Q A lot ---

8 A --- because ---

9 Q --- of pain?

10 A --- I hadn't taken my medication, you know ---

11 Q A long way ---

12 A ADHD ---

13 Q --- from home ---

14 A --- medication, I mean, when you don't take it, you  
15 are excitable. And it's -- you know, things obvious ---

16 Q You had ---

17 A --- too much ---

18 Q You -- you had not taken your -- I think you tell  
19 the officer that ---

20 A Yeah.

21 Q --- you had not ---

22 A And so ---

23 Q --- taken your medication when they stopped you when  
24 you were in that video, right?

25 A Right. Right.

CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE 379

1 Q And ---

2 A And the reason why is because -- well, Flexeril is  
3 -- is a muscle relaxant. And it'll make you sleepy.  
4 It'll make you tired.

5 The ADHD medication, it'll make you stay up. I  
6 mean, it'll make you -- then, I was already tired. I  
7 don't take it until -- it's time release. So I don't  
8 take my medication until I'm going to bed night.

9 So I usually take it at night so that when I wake  
10 up, you know, it's -- it's kind of -- keep my pain down  
11 and I can wake up and get up and try to enjoy the day,  
12 you know. But Flexeril, it's -- and I don't take any of  
13 them like I'm supposed to. I mean; I just, you know. ---

14 Q I got you. All right. Thank you, Ms. Tuttle.  
15 Please answer any questions the state has for you.

16 A Uh-huh.

17 MR. SCOTT: Okay.

18 THE COURT: Cross-examination.

19 MR. SCOTT: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. SCOTT:

22 Q I just want to start by, Ms. Tuttle, night you left  
23 Navarre, Florida. It's going to be June 29th; is that  
24 right?

25 A No. It -- June 29th? Oh. The -- yes. June 29th.

- 1 Q Okay. And that's a Sunday?
- 2 A That's a Sunday. Yes.
- 3 Q Okay.
- 4 A Oh, it was the 29th.
- 5 Q What time did you leave?
- 6 A I left ---
- 7 Q Ten p.m.?
- 8 A --- ten o'clock. Yes.
- 9 Q Ten p.m. Alabama time?
- 10 A Florida time. I live in ---
- 11 Q Florida ---
- 12 A --- Florida ---
- 13 Q Same -- same ---
- 14 A --- okay?
- 15 Q You know what I mean, the same time zone, so ---
- 16 A Well, it's not the same -- same time zone. South
- 17 Florida is -- it's an hour -- it's -- you're on the same
- 18 time as South Florida.
- 19 Q All right. Well, how long does it take you to get
- 20 ---
- 21 A Tallahassee, you ---
- 22 Q --- to Alabama from Pensacola?
- 23 A Tallahassee, the time changes.
- 24 Q How long does it take you to get to Alabama from
- 25 Pensacola?

## CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE 381

1 A To Alabama?

2 Q Yeah. Where -- where's the line?

3 A It takes you about 45 minutes to -- to an hour ---

4 Q All right.

5 A --- depending on which way you want to go. You're  
6 going straight up to -- to Brewton, Alabama, it's 62  
7 miles.

8 Q Okay. Same ---

9 A You want to ---

10 Q --- time zone?

11 A --- go to Mobile, Alabama, it's, you know, an hour  
12 and 15 minutes.

13 Q All right. Ten p.m. Florida time -- Panhandle time,  
14 you leave. What time is that in South Carolina?

15 A It's 11.

16 Q All right. So 11 -- let's -- we'll go off that, 11  
17 p.m. S.C. time. Drive straight through the night; is  
18 that right?

19 A Yes.

20 Q That's about 500 miles, correct?

21 A It's about 450.

22 Q Well, if you look it up, it's 491 miles. Would that  
23 surprise you?

24 A It is not 491 miles.

25 Q Okay. If I pull up my phone right now and look up

- 1 Navarre, Florida, to Laurens, South Carolina ---
- 2 A Okay. To Laurens, South Carolina.
- 3 Q Okay. 450 to Anderson ---
- 4 A Okay. Yeah.
- 5 Q Is that what you mean?
- 6 A Exactly.
- 7 Q How long does it take you to drive 450 miles?
- 8 A It takes about seven hours.
- 9 Q Seven hours?
- 10 A At nighttime.
- 11 Q Okay. And ---
- 12 A Because you don't have the -- the -- the Atlanta
- 13 traffic.
- 14 Q Okay.
- 15 A Yeah. Depending on what time of day you -- you hit
- 16 Atlanta traffic, you're -- you can be sitting in Atlanta
- 17 traffic for an hour/two hours.
- 18 Q So you got to Anderson around 6 a.m.?
- 19 A About seven -- seven o'clock.
- 20 Q So it took you eight hours, so you -- you may have
- 21 stopped? Seven -- let's see -- leaves Florida. Arrives
- 22 Anderson. And 7 a.m., that's when Chance ---
- 23 A Yes.
- 24 Q --- that's when he had to be at work?
- 25 A Well, he -- he -- he had to be there to go to work.

## CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE 383

1 Yes.

2 Q You got ---

3 A At seven.

4 Q -- to speak up. Speak up.

5 A Yes. He had to be there at seven to go to work with

6 ---

7 Q You get ---

8 A --- his father.

9 Q --- to Anderson at 7. He jumps out of the car and  
10 runs to work?

11 A No. He didn't jump out of the car. He jumps out of  
12 the car and goes into his house and gets ready for work.

13 Q Was he late for work that day?

14 A No. He's with his father. His father's house.

15 Q Well, that's what I want to ask you too. Saturday  
16 morning, just he has this epiphany: I got to be at work  
17 7 a.m. on Monday with my dad. He'll have it no other  
18 way.

19 A No. It's not that he has an epiphany. It's Destiny  
20 has an epiphany and tells her father on Saturday morning  
21 that he needs to be at work on Monday.

22 Q Destiny a male or a female?

23 A A female. That's his daughter.

24 Q Okay. But ---

25 A And Chance ---

1 Q --- Chance ---

2 A --- is the boyfriend.

3 Q Boyfriend has to work, though, right?

4 A Right.

5 Q Okay. But Destiny made the decision that he needed  
6 to go to work?

7 A We didn't even know Chance was coming down there ---

8 Q Listen, I ---

9 A --- until ---

10 Q All right. Explain this to me. Who had to work 7  
11 a.m. Monday morning?

12 A Chance.

13 Q Okay. Saturday morning -- wasn't that your  
14 testimony on direct ---

15 A No.

16 Q --- Chance says, "I got to be at work Monday  
17 morning" ---

18 A That's ---

19 Q --- out of the blue?

20 A Not out of the blue.

21 Q So y'all knew about it the whole time?

22 A No.

23 Q Okay.

24 A We didn't know.

25 Q When did you first learn Chance has to be at work 7

CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE 385

1 a.m. Monday morning?

2 A Saturday ---

3 Q Okay.

4 A --- morning.

5 Q And that was the first you'd heard of it?

6 A Exactly.

7 Q Okay. And so what was it that occurred to you? Was  
8 it an inconvenience? Were you upset? What -- what  
9 occurred to you when -- why did he spring that on you  
10 Saturday morning without having to you before?

11 A He didn't spring it on me. He sprung it on his  
12 father. His father is the one that -- I mean, her father  
13 is the one that sprung it on me.

14 Q All right. So when did you learn about it?

15 A Saturday morning.

16 Q All right. How did that make you feel?

17 A Like -- like I said, don't -- tell her not to come  
18 if she's not going to spend the time with you. Well, she  
19 didn't tell him that she was going to go back with him.

20 Q Okay. And so you say right then, Saturday morning,  
21 "I'll drive them 500 miles" ---

22 A No. I didn't ---

23 Q --- "to South Carolina"?

24 A No. It wasn't until Saturday evening we're -- while  
25 we're eating dinner. We're out eating dinner. And if --

1 if he had to ride a bus or they had -- we had put him on  
2 a bus, they would've had to leave that night to get back  
3 to Anderson by Monday morning. They would've been on a  
4 bus the entire Sunday ---

5 Q Okay.

6 A --- Saturday night and Sunday night.

7 Q Okay.

8 A So, you know, I figured -- okay. We decided that  
9 because we weren't going to spend the money putting them  
10 on a plane and there was only one ticket for them to go  
11 back on a bus or -- and he would've had to -- and now I  
12 wish I -- we were -- just put him on a bus, sent him on  
13 his way, and, oh, well. She would've had to wait. She'd  
14 have had to stay there. Well, she didn't.

15 Q Okay. And at this point you -- this is the first  
16 time you'd ever met Chance and only the second time  
17 you've met his girlfriend, Destiny ---

18 A Yes.

19 Q --- your boyfriend's daughter?

20 A Yes.

21 Q And -- but you never wanted to get a hotel on the  
22 interstate, though, either?

23 A I would've gone back to my son's, like I said. He  
24 lives in Atlanta. And I would've gone back -- I would've  
25 gone there, but I wouldn't got on the interstate; see how

## CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE 387

1 I felt; or I would've pulled over and slept in a gas  
2 station, and which I've done before.

3 Q Okay. Is that common for you?

4 A Nice, lit-up place. Yes.

5 Q All right. So ---

6 A I would've never stopped in Anderson or in Laurens  
7 at nighttime.

8 Q Okay.

9 A There's no way I would've ever slept anywhere in  
10 Laurens at nighttime.

11 Q All right.

12 A Even lit up, I wouldn't have.

13 Q Not even a hotel?

14 A No. Not a -- not a hotel either.

15 Q All right. When you left out of the YMCA, did you  
16 just mash the gas? I mean, did you -- do you remember  
17 stepping on it hard?

18 A No, I don't remember. But I'm sure I probably did.

19 Q Okay. And -- and -- and then, the blue lights ---

20 A Because you can't really see -- you know, when you  
21 come down that -- that road and, you know, then it comes  
22 out kind of like over a hill and so yeah. I didn't know  
23 if it -- a car -- so I just -- I probably did mash the  
24 car -- the pedal.

25 Q Okay. And then, that's when you talk about the blue

1 lights. But you did -- I mean, you -- basically, on the  
2 video kind of confirm, "Yeah, I know I was speeding. I  
3 didn't see where the sign -- I didn't see where the  
4 speeds change" ---

5 A Yeah. He kind of caught -- caught -- caught me off  
6 guard. And, you know, he -- he -- he said he estimated  
7 -- estimated that I was going. He -- he never really  
8 said that he had radar. And he didn't say that in his  
9 testimony either. He ---

10 Q But ---

11 A --- he doesn't have a radar.

12 Q That's -- the video, you basically admit you were  
13 speeding?

14 A I -- yeah.

15 Q Okay.

16 A Because he stop -- stops me.

17 Q All right.

18 A But he ---

19 Q Just ---

20 A --- didn't ---

21 Q All right. So ---

22 A But he didn't introduce himself. He just said, "Did  
23 you know you were speeding at 57 in -- in a 45?"

24 Q Why is it so important that he introduces himself?

25 Was he polite to you?

## CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE

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1 A No.

2 Q He was not polite?

3 A Well, I mean, he -- he says in his report that he  
4 introduces himself and tells me where I am ---

5 Q Okay.

6 A --- where -- who he's -- who he is.

7 Q You know, he's got Laurens written all over his  
8 shirt.

9 A Uh-huh.

10 Q And if you watch the video, he seems very polite,  
11 does he not?

12 A I seem very polite too, don't I?

13 Q Yeah, you do. You do. You seem a little ---

14 A And I ---

15 Q --- jittery ---

16 A --- seem -- and I seem -- yeah.

17 Q Okay.

18 A Well, that's ADHD. And that's my disabilities.

19 Q Okay. And -- and I -- we're going to get to that.  
20 Even though you have these disabilities, you get on the  
21 road eight hours at a time and that's who they send up  
22 there. The Lyrica ---

23 A Uh-huh.

24 Q You were prescribed Lyrica?

25 A Right.

1 Q You don't deny that, right?

2 A No.

3 Q Okay.

4 A And I don't deny that I had my prescription with me.

5 Q Okay. And you -- you don't -- you don't do like a  
6 lot of people and keep them in the pill bottle that has  
7 your name on it, do you?

8 A Not the Lyrica, because I take it -- I'm supposed to  
9 take three a day.

10 Q Okay.

11 A And, you know, all the packages and all that stuff,  
12 but I did have my Vyvanse and my -- my Wellbutrin ---

13 Q Uh-huh.

14 A --- was in a bottle. Everything else was in a  
15 little, tan container.

16 Q That tan makeup container?

17 A No. There's no tan makeup container. It's a little  
18 box ---

19 Q What was ---

20 A --- about like ---

21 Q --- the thing ---

22 A --- this ---

23 Q --- that Gainey puts on the front of the car that he  
24 gets out of your front seat?

25 A I have no idea.

CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE 391

1 Q You don't ---

2 A Don't -- it -- it wasn't even in the car when I got  
3 back -- when I got my car back.

4 Q Okay. You don't know what that was?

5 A No.

6 Q Okay. Okay. You don't know what's in your car?

7 A I was traveling. And I was traveling with some  
8 other people. And I had a lot of -- lot of stuff, as he  
9 put it, in -- well, in my car.

10 Q Okay. And you had -- you're wearing slippers today,  
11 aren't you? Are you -- you're kind of wearing the same  
12 shoes you're wearing in that video?

13 A No. I'm not wearing the same shoes as I was wearing  
14 in the video.

15 Q They're kind of ---

16 A No.

17 Q --- like boot slippers? Is that what you're wearing  
18 today?

19 A Yeah.

20 Q Okay. Is that -- do you wear those typically?

21 A Yes.

22 Q Okay.

23 A Yes. That or -- or flat water shoes.

24 Q Okay. And that was one thing -- he -- he did give  
25 you the option of taking those things off. You said, "I

1 don't" ---

2 A I could not have put the -- those -- my -- those  
3 other shoes on.

4 Q Okay. "I don't know where I'm at. I -- I have no  
5 idea." That's what you said a number of times in direct.  
6 Why is that relevant that you didn't know you were in  
7 Laurens County? How would that have made anything  
8 different?

9 A It doesn't make anything different.

10 Q But you mentioned a number of times: "I'm a woman.  
11 I'm alone."

12 A Yeah.

13 Q "I'm in pain."

14 A Yeah. How would you feel if your mother got pulled  
15 -- and stopped and she's a woman and just got plucked up  
16 off the streets; you had no idea -- you knew she was  
17 coming, but you had no idea where she was at that point  
18 ---

19 Q Well ---

20 A --- no phone call, no nothing.

21 Q So were they supposed to let you make a phone call  
22 from the side of the road? I mean, that's not policy,  
23 right? You make your phone call once you get booked in  
24 at the jail.

25 A Well, I was never even booked in at the jail.

CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE 393

1 Q Who is this a picture of? Have you ever seen your

2 ---

3 A That's a picture. But that wasn't taken at the  
4 jail. That was taken at the Johnson, and that was just a  
5 -- a -- a picture that they took. They never  
6 fingerprinted me or took my picture until I was leaving,  
7 five minutes before I was leaving.

8 Q All right. So you're the only inmate they don't  
9 book ---

10 A Yeah.

11 Q --- in at the ---

12 A They didn't book me.

13 Q All right. And so -- but he -- he was not polite  
14 you. That's your testimony. If we watch that video,  
15 that's ---

16 A No. I'm not saying that he wasn't polite.

17 Q I mean, he just didn't introduce himself to you.  
18 That's ---

19 A No.

20 Q --- your problem?

21 A And he -- he spent all of maybe -- I don't know --  
22 not even ten minutes talking to me. He -- he first gets  
23 my -- my two insurance cards and my driver's license and  
24 goes back. And then he's -- you know, "Oh, well, she's  
25 doing something." Never comes and gets -- and see, I had

1 my registration as soon as he walked back up to the car  
2 the second time and gave it to him. But he didn't bother  
3 to get out and get -- get the registration or -- or any  
4 of that stuff.

5 Q Would that have changed the fact that you had  
6 crystal meth in your passenger seat if he ---

7 A I didn't have crystal meth.

8 Q Okay. You -- you don't deny that was pulled out of  
9 your car, though, do you?

10 A I didn't -- I didn't -- I wasn't there. Yeah. It  
11 was pulled out of my car, evidently. But I never even  
12 saw -- never even saw it. The day -- that -- that night  
13 -- even that -- that night in the jailhouse -- or the  
14 jail ---

15 Q Okay.

16 A --- or the police department. Wasn't the jail. It  
17 was the police department. I didn't even see it then.

18 Q What kind of pills are those?

19 A Lyrica.

20 Q Okay. Those are your Lyrica?

21 A Uh-huh.

22 Q Okay. And you don't deny that the officers found  
23 those in your car, the Lyrica pills?

24 A Yeah. In a beige container.

25 Q Okay.

CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE 395

1 A With some other medication, but none of that's  
2 there.

3 Q Okay. And it doesn't surprise you, or does it  
4 surprise you that crystal meth was found right in this  
5 container, the beige container with those pills?

6 A No, it was not.

7 Q How do you know?

8 A I do know. Because it -- I didn't have any meth.  
9 And that was not -- that was not in that beige container.

10 Q It wasn't?

11 A No. My medication was in that. That Lyrica was in  
12 my beige container.

13 Q So when we watch the video, when we watch the  
14 officer pull it out and ---

15 A Right.

16 Q --- throw it on the hood, our eyes are deceiving us?

17 A Watch it again.

18 Q Oh, we will.

19 A Yeah.

20 Q We'll watch it.

21 A You should.

22 Q And -- and the jury's going to watch is as many  
23 times ---

24 A I -- I would like ---

25 Q --- as they ---

1 A --- for them to watch it.

2 Q And -- all right. So then, they -- then, you get to  
3 the -- the room. And you say you didn't get booked, even  
4 though we got a booking picture of you and we got all  
5 your information. Who knows where we got that?

6 A Well -- well, you -- you heard him ask me who my  
7 next of kin is.

8 Q Uh-huh.

9 A But then, there's another sheet that says I refused  
10 to give them my next of kin, although I'm asking him to  
11 make a phone call.

12 Q And then, they take you to this room that you're --  
13 you're really -- and I know you -- you watch some crime  
14 TV. We -- we know about that, don't we? And some old --  
15 we agree ---

16 A Right.

17 Q --- that in the old police movies and old police  
18 shows, an interrogation room -- everybody's familiar with  
19 that. The police sit at one side of the table, and they  
20 shine a bright light on the person. And then ---

21 A Yeah.

22 Q --- they ask them ---

23 A Well, the ---

24 Q --- very ---

25 A --- light wasn't shining on me. It was shining on

## CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE 397

1 the desk.

2 Q Okay. And there's a ---

3 A And everything else was dark.

4 Q Would it not -- or would it surprise you if I told  
5 you there's no such room in the ---

6 A Yeah. Well, you -- have you been there?

7 Q I have.

8 A Well, then, I don't think you have.

9 Q Okay. But would it surprise you there's not a lamp  
10 in that room that you're describing?

11 A Well, I'm sure there's not one now. It's been three  
12 years ago.

13 Q Would it surprise you that those -- that room has  
14 automatic lights, motion lights, that when you enter, the  
15 lights turn on?

16 A And they can be turned off too.

17 Q Okay. But in your testimony that they have this  
18 lamp and it's dark except for this lamp and there's four  
19 guys all around you ---

20 A Yes, there is.

21 Q And Katy Tuttle ---

22 A And why -- why -- why make that up? I'm not making  
23 it up. It happened.

24 Q Just like riding around in a junkyard with Marcus  
25 and Rhonda and Destiny ---

- 1 A Yeah.
- 2 Q --- and going to McDonalds and three gas stations  
3 and driving 10 a.m. 500 miles through the night and  
4 having this excruciating pain ---
- 5 A It was ---
- 6 Q --- that makes ---
- 7 A --- 10 p.m. ---
- 8 Q --- sense to you, doesn't it?
- 9 A It was 10 p.m. ---
- 10 Q Right.
- 11 A --- eleven o'clock your time.
- 12 Q Do you agree with me that doesn't make a whole lot  
13 of sense? I ---
- 14 A I -- well, to you, maybe it doesn't. But ---
- 15 Q It makes sense to you?
- 16 A Sure.
- 17 Q All right.
- 18 A Yeah.
- 19 Q And then, we will all agree you volunteered -- "Let  
20 me take a breath test. Please let me take a breath  
21 test."
- 22 A And I can take a blood test ---
- 23 Q And you ---
- 24 A I ---
- 25 Q --- did? You ---

## CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE 399

1 A Yeah.

2 Q --- you took a breath test?

3 A Yeah.

4 Q And so we have the -- the sheet that says breath  
5 test accepted, zero-zero?

6 A Right.

7 Q And you knew you hadn't been drinking.

8 A I hadn't been drinking. No.

9 Q You have ---

10 A I don't drink.

11 Q And then, these State's 6 and 7, you have signed  
12 these where you are refusing a urine test.

13 A No. No. I -- I'm not refusing a urine test.

14 Q That's not ---

15 A This ---

16 Q --- your ---

17 A --- right here wasn't even signed until I was in  
18 court and this was signed on the 3rd, while I'm getting a  
19 bond woman that I had -- we had to get from here by way  
20 of -- of Florida.

21 Q Okay. State's Exhibit No. 6 ---

22 A This ---

23 Q --- you ---

24 A And this is all done after. He's wrote out his name  
25 and all that stuff. And this date, this isn't my -- this

1 is my signature, but it's -- it's because I'm being told  
2 to sign this.

3 Q And you didn't read it?

4 A I'm standing up in front of a -- in -- in a court,  
5 you know, and they're telling me to sign this piece of  
6 paper. They're telling me to sign this. I'm getting  
7 bonded out. I'm just -- I'm -- have no idea, you know,  
8 what -- no.

9 I -- I did ask her. I said, "Does this -- this  
10 means I'm not getting -- I'm -- I can't drive on the  
11 highway or something?" It was something -- you can't  
12 drive on the -- and -- and, you know, this isn't even the  
13 one I signed.

14 Q Okay. This is ---

15 A This isn't the one I signed.

16 Q That's your notice of suspension because you refused

17 ---

18 A Yeah.

19 Q --- your urine test.

20 A I didn't refuse it. They refused me.

21 Q All right. State's No. 6 ---

22 A They refused me.

23 Q State's No. 6, you would agree with me, that's June  
24 30th? That's 10:07 p.m. Do you ---

25 A That was ---

CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE 401

1 Q --- disagree?

2 A That was written after. I didn't get this paperwork  
3 until after I got out. This was all written after.

4 Q Can you explain to me, please ---

5 A Sure.

6 Q --- what does the Laurens Police Department have  
7 against poor Katy Tuttle that they would gang up against  
8 her in an interrogation room; that they would forge all  
9 these documents ---

10 A I don't know. But -- but when I went to the police  
11 station, he goes, "I've been here several times." And  
12 the -- the DUI was separate. Been to court -- you know,  
13 trying to get to court while he was -- he was having  
14 surgery and this and that and the other.

15 Q Uh-huh.

16 A Well, I've -- I've been told that they've been known  
17 to do this, just this right here. And they've also been  
18 known to do this paperwork and fill in the blanks.

19 Q Do you ---

20 A It wasn't -- it wasn't the 30th.

21 Q That's not your signature on there?

22 A It's my signature. But it wasn't -- it -- that --  
23 that's not my date.

24 Q All right.

25 A It's not my date. I didn't refuse. They refused

1 me. And they've refused me medical help.

2 Q There was four officers in the room with you. Would  
3 it surprise you to know that there are only five officers  
4 on shift ---

5 A I don't ---

6 Q --- during that ---

7 A --- that -- no. And I think they were all -- all  
8 five of them were right there, instead of taking care of  
9 business elsewhere. They were all right there.

10 Q Would it ---

11 A Including him ---

12 Q --- surprise you ---

13 A --- because he was the one that was writing this.  
14 You can see he's the one that's writing it.

15 Q Okay.

16 A I get stopped at 20 -- at nine o'clock. By -- by  
17 ten o'clock -- 10:07, I'm being taken over to the  
18 Johnson's place over wherever. It's in the middle of  
19 nowhere, I find out.

20 Q All right. You won't disagree with me, if we listen  
21 to that tape -- the jury gets to -- that at least two of  
22 the officers are on patrol and they're radioing in, okay?  
23 So that makes three who could only be there. And we see  
24 all three of them in the video, don't we?

25 A In -- in the video what?

CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE 403

1 Q There's only three officers in that police  
2 department while you're there.

3 A Oh. Well, what you can see. Yeah. There's only  
4 three.

5 Q And they were --, they're on radio traffic with the  
6 other two who are ---

7 A But do you ---

8 Q --- out on patrol?

9 A --- see Gainey? That would make four. And there's  
10 already one -- one guy there.

11 Q Yeah. It's Brewer ---

12 A An older man ---

13 Q --- Kanipe ---

14 A --- older man ---

15 Q --- and Gainey?

16 A Yeah.

17 Q That's Brewer.

18 A Uh-huh.

19 Q Okay. All right. So ten o'clock, you leave  
20 Navarre; drive 8 hours through the night; and then stay  
21 another 8 1/2 hours? And then you're driving all over  
22 the place? And those are your Lyrica pills, right?

23 A Yes.

24 Q And that is your white Oldsmobile, right?

25 A No. I don't have a white Oldsmobile.

1 Q What color ---

2 A Sorry.

3 Q --- what color is the Oldsmobile you're in?

4 A Silver.

5 Q You got a silver ---

6 A Oldsmobile ---

7 Q You're ---

8 A --- Alero. Yeah.

9 Q Those officers pulled that crystal meth out of the  
10 front seat of your car ---

11 A I don't know. ,

12 Q --- didn't they?

13 A I wasn't there. Not -- at that officer, you mean.

14 Q You were alone in that car, weren't you?

15 A No. I -- at that point, yes, I was.

16 Q You own ---

17 A Before that ---

18 Q --- that car, don't you?

19 A --- no, I wasn't.

20 Q You own that car, don't you?

21 A Yes, I do.

22 Q Okay.

23 A Yes, I do.

24 Q In that video I notice you were moving around on  
25 your own free will. You weren't leaning on anybody. You

CROSS-EXAMINATION BY MR. SCOTT - KATY TUTTLE 405

1 weren't using a cane. Do you disagree with me?

2 A No. It was three -- that was three years ago. No.

3 I -- on -- on that video, no. I'm not holding onto  
4 anybody. And -- and, you know, no.

5 Q Well, at least then, you didn't seem to have very  
6 much trouble moving around, did you?

7 A Yeah. Well, no. I didn't have no problem ---

8 Q All right.

9 A --- not none.

10 Q Those officers pulled the crystal meth out the front  
11 of your car?

12 A I don't know.

13 Q Out of ---

14 A I wasn't ---

15 Q --- a beige ---

16 A --- there.

17 Q --- box that belonged to you?

18 A It wasn't a beige box, just like it wasn't a white  
19 car.

20 Q And we're not going to get to hear from Marcus or  
21 Destiny or Chance, are we?

22 A No.

23 Q Thank you.

24 THE COURT: Redirect?

25 MR. BROOME: Thank you, Your Honor.

## 1 REDIRECT EXAMINATION

2 BY MR. BROOME:

3 Q He was kind of asking you some questions about why  
4 it was so crazy for you to drive, beating you up about  
5 your medical condition.

6 A Yeah.

7 Q Did -- we saw the video. Officer Gainey ran your  
8 license, right?

9 A Yeah.

10 Q Came back valid, right?

11 A Right.

12 Q Wasn't suspended?

13 A No.

14 Q Did your doctor give you any special restrictions on  
15 travel?

16 A Nope. Nope.

17 Q You had traveled back to South Carolina about a year  
18 before in the car, right?

19 A Uh-huh.

20 Q You have any restrictions on not being able to  
21 drive?

22 A Nope.

23 Q Okay.

24 A Never. I drove a full-size van before that. I -- I  
25 drive an RV.

REDIRECT EXAMINATION BY MR. BROOME - KATY TUTTLE 407

1 Q Right.

2 A You know, I -- I have no problem driving. I haven't  
3 been -- you know, haven't had an accident; haven't had  
4 any problem. I can drive ---

5 Q Right.

6 A --- fine.

7 Q And he asked you, like, spur -- this is wild, crazy,  
8 spur of the moment. And he asked why didn't you hop on a  
9 plane or why didn't you hop on a bus. Are you a rich  
10 lady?

11 A No.

12 Q You have a lot of money?

13 A No.

14 Q Does Kevin have a lot of money?

15 A No.

16 Q Solicitor Scott asked you a lot about, "Well, why  
17 don't you show me about the GPS?" He wanted you to ask  
18 him about the GPS. You remember he just asked you about  
19 that?

20 A Uh-huh.

21 Q Remember on the video when you told Officer Kanipe

22 ---

23 A Yeah.

24 Q --- "Go look at my" ---

25 A My ---

- 1 Q --- "GPS" ---
- 2 A --- GPS.
- 3 Q --- "I will show you" ---
- 4 A Yes.
- 5 Q --- "where I was trying to go"?
- 6 A Yeah.
- 7 Q And what did he say?
- 8 A He -- he ---
- 9 Q Do you remember him saying, "You're not" ---
- 10 A Uh-huh.
- 11 Q --- "under arrest for where you're trying to go"?
- 12 A Yeah.
- 13 Q "You're under arrest for DUI"?
- 14 A Right.
- 15 Q So you did tell them at that time?
- 16 A Yeah.
- 17 Q You told Officer Gainey and Officer Kanipe at that
- 18 time that you had -- you were dropping off your --
- 19 Kevin's kids?
- 20 A Yes.
- 21 Q In Anderson?
- 22 A Right.
- 23 Q Correct?
- 24 A Right.
- 25 Q And that you were going to Lancaster?

REDIRECT EXAMINATION BY MR. BROOME - KATY TUTTLE 409

- 1 A Right.
- 2 Q Right?
- 3 A (Nodded head up and down.)
- 4 Q That's all on video?
- 5 A (No audible response.)
- 6 Q He asked you a lot of questions about -- now you're  
7 trying to have this bonding moment, trying to make it  
8 sound weird.
- 9 A Yeah.
- 10 Q With Destiny?
- 11 A Yeah.
- 12 Q That's your boyfriend of ten years ---
- 13 A Yeah.
- 14 Q --- correct?
- 15 A Right.
- 16 Q Is he important to you?
- 17 A Yes. Very.
- 18 Q And he's trying to establish a relationship now with  
19 his daughter?
- 20 A Yes.
- 21 Q It'd be a nice thing for you to ---
- 22 A Yes.
- 23 Q --- do a nice thing for her?
- 24 A Right.
- 25 Q Right?

REDIRECT EXAMINATION BY MR. BROOME - KATY TUTTLE 410

1 A (No audible response.)

2 Q And he asked you -- Solicitor Scott asked you some  
3 questions about why'd it take so long and then you were  
4 just going to stop here in -- in Laurens, even though you  
5 had to drive -- you were driving eight hours all the way  
6 back -- all the way back, you have to drive eight hours?

7 A Yeah.

8 Q It wasn't eight hours from Anderson. You weren't  
9 ---

10 A Right.

11 Q --- going from Anderson. Where were you going from  
12 Anderson to?

13 A I was going to Lancaster.

14 Q Lancaster. Is that eight hours away?

15 A No.

16 Q Okay. Who was in Lancaster?

17 A My sister ---

18 Q Is that ---

19 A --- and ---

20 Q --- on the video?

21 A Uh-huh. Uh-huh.

22 Q That's ---

23 A Yes.

24 Q And he asked you about wearing your slippers.

25 A No.

REDIRECT EXAMINATION BY MR. BROOME - KATY TUTTLE 411

1 Q Well, remember -- remember, he ---

2 A Well, I ---

3 Q --- asked you about wearing your slippers to court.  
4 Why do you wear your slippers?

5 A Because I have -- I can't really wear any other  
6 shoes. I -- they -- they've got -- they're comfortable.  
7 And I -- I just ---

8 Q You ---

9 A --- can't -- I can't wear a tennis shoe. I can't  
10 wear a -- a flip-flop, even a sandal. This is it right  
11 here.

12 Q Because ---

13 A And I ---

14 Q --- of your ---

15 A --- wear them all the time, that and a water shoe.  
16 And it -- and then, but sometimes other shoes tight -- it  
17 gets -- it just feels tight. My feet swell up, you know.  
18 But neuropathy is, you know, just ---

19 Q Right.

20 A --- you can't -- you can't ---

21 Q The pain ---

22 A --- imagine, like you're walking on, you know, foot  
23 -- hot coals -- somebody walking on them hot coals. Oh,  
24 my God.

25 Q And ---

1 A I mean ---

2 Q He asked you a question about finding the Lyrica.

3 Remember ---

4 A Uh-huh.

5 Q --- that?

6 In a -- in a beige container?

7 A Uh-huh.

8 Q And that was what the officer testified to?

9 A Yep.

10 Q And then, we watched that video, right?

11 A Yeah.

12 Q It was a blue-gray makeup case. Remember that on  
13 video?

14 A Yeah. I guess, or -- what do ---

15 Q He pulls ---

16 A --- I mean ---

17 Q --- out -- we all watched it. You remember ---

18 A Uh-huh.

19 Q --- watching it?

20 A Uh-huh.

21 Q Okay. And he put the big makeup case -- and he says

22 -- and you hear him on there. He says, "This is a blue

23 -- blue-gray type of container."

24 A Yeah.

25 Q So not the beige container, right?

REDIRECT EXAMINATION BY MR. BROOME - KATY TUTTLE 413

1 A No.

2 Q Okay. So no restrictions on your license, right?

3 A No.

4 Q Okay.

5 A Except for to wearing contacts. You know, I have  
6 corrective lenses, you know. And, I mean, that's on  
7 there.

8 Q Okay.

9 A And I have, you know -- I have good driving record,  
10 so I have, you know ---

11 Q You did not know that you had crystal meth in that  
12 car?

13 A No.

14 Q No further questions.

15 A No.

16 THE COURT: All right. You may step down.

17 THE BAILIFF: Watch your step.

18 THE WITNESS: Okay.

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

20 THE COURT: All right. Defense can call your next  
21 witness.

22 MR. BROOME: The state calls Kevin Conkin to the --  
23 or the defense calls Kevin Conklin to the stand.

24 THE COURT: All right.

25 (Off the record briefly.)

DIRECT EXAMINATION BY MR. BROOME - KEVIN CONKLIN 414

1 (Whereupon, the witness came forward.)

2 KEVIN CONKLIN, having been first duly sworn,  
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BROOME:

6 Q Good afternoon, Mr. Conkin. How you doing?

7 A Fine.

8 Q Good. Can you tell the jury your full name and  
9 where you're from?

10 A My name is Kevin Wayne Conklin. I live in Navarre,  
11 Florida.

12 Q Okay. How long you lived in Navarre?

13 A For about 16 years -- about 14 years now.

14 Q Okay. Where'd you -- where did you live before  
15 that?

16 A Iva, South Carolina.

17 Q Okay. What county is that in?

18 A Anderson.

19 Q Okay. Do you have any children?

20 A Yes, I do.

21 Q How many do you have?

22 A I have two. I have a girl and a boy. Destiny Amber  
23 Conklin is my daughter. She's 21 now. And Dakota Chaz  
24 Conklin is my son. He's 18 now.

25 Q Eighteen?

DIRECT EXAMINATION BY MR. BROOME - KEVIN CONKLIN 415

1 A Nineteen.

2 Q Were you married up in South Carolina at some point  
3 before?

4 A Yes, I was.

5 Q Okay. And then got divorced?

6 A Yes.

7 Q Moved down to Florida?

8 A Yes.

9 Q You remember what year you met Ms. Tuttle -- when  
10 you met Katy?

11 A It was at the end of 2004.

12 Q All right. And y'all are -- what's your -- tell the  
13 jury again what your relationship is.

14 A We're boyfriend and girlfriend.

15 Q Have y'all lived together pretty much continuously  
16 this whole time?

17 A Yes.

18 Q All right. What kind of occupation do you have?

19 A I'm an over-the-road truck driver.

20 Q How long you been doing that?

21 A Been doing that for about 15 years.

22 Q So you've known Katy -- today, 13 years; back then,  
23 10 years from the date of her arrest, right?

24 A Right.

25 Q Go ahead -- can you describe to the jury -- I mean,

DIRECT EXAMINATION BY MR. BROOME - KEVIN CONKLIN 416

1 you've known her -- you've known her a long time. How  
2 does she appear to you? What are -- are you aware of her  
3 -- what her medical conditions are?

4 A Yes, I am. She's progressively gotten worse with  
5 her, like, fibromyalgia, the neuropathy, the ADHD. As  
6 far as her walking, it's progressively gotten worse ever  
7 since I met her. She does have a problem walking,  
8 especially, like, standing and -- and with slick floors  
9 and stuff like that. She has a problem walking on those.

10 I know a lot of times, she's in pain. Her feet, her  
11 legs, her back is all the time in pain. The -- as far as  
12 her head moving, I know, when she's tired, it moves a lot  
13 more. And she don't realize she's doing it. But it's --  
14 I make -- she makes my neck hurt just watching her. And  
15 it's just all part of her medical stuff.

16 Q Okay. And so you described that. And -- and she  
17 has pain in her -- her feet and legs. Tell ---

18 A Uh-huh.

19 Q --- us about that. How long had you known -- let's  
20 go back -- let me take you back to the summer -- June  
21 28th, 2014.

22 A Yes.

23 Q Okay. Your kids coming down to see you?

24 A Yes.

25 Q Okay. Why were they coming down to see you?

DIRECT EXAMINATION BY MR. BROOME - KEVIN CONKLIN 417

1 A Because my son had planned on coming down for ten  
2 days. He'd came down in -- earlier that year in March on  
3 his spring break. So that's really the first time I had  
4 seen him in over ten years.

5 He thought I was dead up until he was, like, 13.  
6 They finally told him the truth. So he came and seen me.  
7 Seen where -- how I was, what I was about, and he decided  
8 to come back. He wanted to stay for ten days. You know,  
9 we live right at the beach. So it's a good vacation for  
10 him.

11 My daughter was undecided whether she was going to  
12 come or not. She's -- decided at the last minute to  
13 come. And she brought her boyfriend without telling us.  
14 And my -- my son told them -- or told us he was going to  
15 bring one of his friends from school.

16 So they came down. And like I said, they got there  
17 late Friday night. And he stayed with us -- they all  
18 stayed right there at the house with us.

19 Saturday, Destiny and her boyfriend, Chance, wanted  
20 to go to Pensacola, stay in a motel. I mean, we live in  
21 a single -- live -- was living in a single-wide trailer  
22 at the time. And there wasn't a whole lot of room. So  
23 they decided to go to a motel.

24 Dakota takes them over there. And then he comes  
25 back; stays -- he goes back and picks them up Sunday.

DIRECT EXAMINATION BY MR. BROOME - KEVIN CONKLIN 418

1 They get there. Sunday afternoon, we eat dinner; spend a  
2 little time together. And then, like Katy said, Saturday  
3 morning is when they had told us that Chance needed to be  
4 back home to go to work.

5 Q Uh-huh. Them being Destiny and Chance?

6 A Yes.

7 Q Okay. So what -- what happened after that? What  
8 did y'all have planned?

9 A You talking about Saturday?

10 Q Yeah. After they told you they had to -- they --  
11 Destiny said -- they sprang it on that they got to go  
12 back -- that he's got to back to work -- Chance.

13 A We was going to get them a bus ticket. But they  
14 both wanted to ride together. She didn't want to stay.  
15 She's just kind of wishy-washy like that. If he went  
16 home, she wanted to go with him. She wasn't going to  
17 have it no other way.

18 We looked for bus tickets. Couldn't get one for  
19 them to go together. So -- looked at plane tickets; they  
20 were way too high. We went to -- talking back and forth.  
21 And we decided on Katy taking them back.

22 Q Why did you decide on Katy driving instead of you?

23 A Because my son had decided to come for ten days. I  
24 wanted him to be able to enjoy his full ten days, you  
25 know, while he could, while we could bond ---

DIRECT EXAMINATION BY MR. BROOME - KEVIN CONKLIN 419

1 Q Sure.

2 A --- get to know one another.

3 Q And you didn't have any concern -- did you have any  
4 concerns for -- with Katy driving them that ---

5 A No.

6 Q --- distance?

7 A No, sir.

8 Q And nothing stopped Destiny or Chance from taking  
9 over the wheel as well, right?

10 A Destiny didn't have a license.

11 Q Didn't have a license?

12 A Chance, I don't think, had a license either.

13 Q Okay. So Destiny didn't have a license and couldn't  
14 drive?

15 A Right.

16 Q Didn't have a car?

17 A Uh-huh.

18 Q Okay. So that's why you needed Katy?

19 A Yes.

20 Q Because she was an adult?

21 A Yes.

22 Q I mean, they -- they're adults, but they're -- how  
23 old was your daughter at the time?

24 A She was 19.

25 Q Nineteen years old?

DIRECT EXAMINATION BY MR. BROOME - KEVIN CONKLIN 420

1 A Yeah.

2 Q You met her -- how long had you known -- what was  
3 your relationship like with your daughter?

4 A We didn't have a good one. She knew I was alive,  
5 obviously. And we talked from time to time, but not very  
6 much. Her mother made it kind of hard for me to even see  
7 them when they was little. So it was kind of a -- us  
8 getting to know one another.

9 Q Uh-huh. But she didn't want to stay very long, did  
10 she?

11 A She didn't.

12 Q She was young and in love ---

13 A Yep.

14 Q --- with this new guy?

15 All right. So you decided at this point you're  
16 going to put the three of them in the car?

17 A Uh-huh.

18 Q Based on everything you've told the jury and let  
19 Katy drive them back?

20 A Yes.

21 Q Which route were they -- were they going to take?

22 A The usual route: go up through Alabama to I-65; I-  
23 65 to I-85; I-85 to Anderson.

24 Q Okay. When's the -- and then they -- they left that  
25 Sunday night; is that right?

DIRECT EXAMINATION BY MR. BROOME - KEVIN CONKLIN 421

1 A Yes.

2 Q Okay. Why did y'all decide to leave at ten o'clock  
3 that night?

4 A It's less ---

5 Q Central time.

6 A --- traffic. It's less traffic. It's easier  
7 driving. Get through Atlanta early morning before  
8 traffic gets started, everything -- it goes a lot of  
9 smoother. I drive truck for a living. I know these  
10 things. It's -- even Sunday during the day, it's a lot  
11 heavier traffic anywheres you go. But if you go -- you  
12 know, especially around Atlanta, you get through there  
13 about four or five in the morning before traffic gets  
14 started, you can usually go right through, no problem.

15 Q Atlanta's got some pretty bad traffic.

16 A Oh, yeah.

17 Q Right? Had that bridge that just fell down or fell  
18 down on, I think, 285 the other day.

19 A (No audible response.)

20 Q All right. So that's the extent of it. So they  
21 leave. And then, you're hanging out with Chance -- or  
22 Dakota?

23 A Right.

24 Q Right?

25 A (No audible response.)

DIRECT EXAMINATION BY MR. BROOME - KEVIN CONKLIN 422

1 Q Okay. When's the next time you heard from Katy?

2 A She called me about three -- I'd say three or three-  
3 thirty, something like that, the next day.

4 Q What was she telling you?

5 A Told me she was thinking about going to her sister's  
6 house because her father -- her stepdad was going bring  
7 her mother's ashes through and drop some off for her  
8 sister and her and her brother.

9 Q Uh-huh.

10 A So she was thinking about going down there.

11 Q Got you.

12 A So that ---

13 Q Was that -- was that the last time you spoke to her?

14 A Yes.

15 Q At that point?

16 A (No audible response.)

17 Q Okay. And that would've been Monday at three --  
18 three-thirty?

19 A Yes. Somewhere around that time.

20 Q Okay. When's the next time you -- when's the next  
21 time you heard from her?

22 A The next time I actually talked to her was June --  
23 July 1st.

24 Q Okay. 2014?

25 A Yes.

CROSS-EXAMINATION BY MR. SCOTT - KEVIN CONKLIN 423

1 Q She called you?

2 A Another inmate at the Laurens County Detention  
3 Center called me -- called my phone. And, you know, I'm,  
4 like, I don't know -- they called me collect. And I'm,  
5 like, I don't know anybody from Laurens, so I didn't  
6 accept it the first two times they called. And then, I  
7 think the third time, she was able to say something about  
8 Katy, and then I answered the phone. And that's when  
9 they told me that she was locked up in Laurens.

10 Q Where is -- have -- have you seen Destiny?

11 A I've seen her a few times since then.

12 Q Okay. You know where she lives?

13 A Yeah. She lives in Starr, South Carolina.

14 Q Starr, South Carolina? That's in ---

15 A Which is in Anderson County.

16 Q Okay. You ever see Chance again?

17 A I haven't seen Chance.

18 Q Yeah. They probably break up, as far as you know?

19 A As far as I know, yes.

20 Q Okay. All right. Please answer any questions that  
21 Mr. Scott has for you.

22 A All right.

23 CROSS-EXAMINATION

24 BY MR. SCOTT:

25 Q Kevin, so you're from Anderson County originally?

1 A I was born in -- in New York. My parents moved to  
2 Iva, South Carolina, when I was about 2 years old. And  
3 I've been there pretty much my whole life.

4 Q Okay. Now, Dakota, he was coming and that would've  
5 been the first time in ten years you had seen him; is  
6 that ---

7 A About ---

8 Q --- is that right?

9 A --- the second time.

10 Q Second time?

11 A Uh-huh.

12 Q And -- and he was bringing a friend?

13 A Yes, sir.

14 Q Did that bother you that he was bringing a friend?

15 A No, sir.

16 Q Okay. But you wanted to spend some time just he and  
17 you, though, didn't you?

18 A Yes. And we did.

19 Q Okay. What -- what did the friend do while you guys  
20 were bonding?

21 A Slept.

22 Q And what about Destiny, though? About the same kind  
23 of relationship with her?

24 A Yeah. It's a little bit more troubled with Destiny  
25 because she's more took after her mother and was raised

CROSS-EXAMINATION BY MR. SCOTT - KEVIN CONKLIN 425

1 pretty much by her mother, which told her that -- kept  
2 putting negative thoughts about me, you know, saying  
3 negative things about me the whole time. Dakota, on the  
4 other hand, was more raised by his grandfather and didn't  
5 hear the negativity like that.

6 Q Are they biological brother and sister?

7 A Yes, they are.

8 Q But you hadn't seen either one of them in some time  
9 -- or else ---

10 A I hadn't seen ---

11 Q --- spottily?

12 A --- no -- within about ten years.

13 Q Okay. So was -- was it also important to you to  
14 spend some time with Destiny when she was down there?

15 A Yes, it was.

16 Q Okay. Here -- here's the thing I'm -- I'm trying to  
17 do here. I want you to help me. Did you have that  
18 camper back then?

19 A We had a camper.

20 Q Okay.

21 A But it wasn't running at the time.

22 Q Okay. You didn't have this one that's out here?

23 A No.

24 Q But you were a truck driver. And -- and you -- you  
25 said Katy has just progressively gotten worse?

1 A Yes.

2 Q We witnessed a lot of testimony -- a lot of  
3 testimony regarding her pain ---

4 A Uh-huh.

5 Q --- her medications, and disabilities, and things.  
6 Help me -- I heard your explanation earlier. Why did we  
7 put her behind the wheel with two people she didn't  
8 really know and send her those 500 miles up the road in  
9 the middle of the night? Why was that the best option?  
10 Because it occurs to me -- I mean, did it ever -- you're  
11 the truck driver, right?

12 A Uh-huh.

13 Q And you're used to long-distance travel. I mean ---

14 A Right.

15 Q --- that's -- that's how you make your money. And  
16 you're ---

17 A Right.

18 Q --- very experienced in that. And -- and you talked  
19 about knowing different traffic patterns. And she's just  
20 -- she's been a waitress most of her life.

21 A But she's also traveled. I mean, she knows how to  
22 drive. I'm -- I've ---

23 Q But ---

24 A --- drove with her.

25 Q Has she done that for a living, though, like you?

CROSS-EXAMINATION BY MR. SCOTT - KEVIN CONKLIN 427

1 A No.

2 Q Okay. And -- and I'm not -- I'm -- I'm trying not  
3 to be argumentative. But I'm -- I want you to help me  
4 understand this. Why don't we put truck driver in the  
5 car and you shoot up to Anderson -- I mean, you could  
6 probably have done right there and straight back and  
7 probably done it almost while the two boys slept the  
8 whole time.

9 A Well, hindsight, I would have. But I just ---

10 Q I mean ---

11 A --- we had it -- my son and I had it in our minds we  
12 wanted to, you know, spend time at the beach and we were  
13 going to bond.

14 Q But he's there ten days. If you leave in the middle  
15 of the night, I mean, you get there. And a truck driver  
16 like you can shoot up there, drop, you know, old Chance  
17 off for work.

18 A Uh-huh.

19 Q And that way, it occurs to me, that you, Dakota, and  
20 Destiny are riding up there together and straight back.  
21 And -- and it's hardly like you missed any time at all.

22 A Right.

23 Q But y'all put Katy behind the wheel, who -- who has  
24 this crippling -- she talks about when she walks, it  
25 feels like she's on hot coals. And, you know, her neck

1 -- when you watch her, it hurts your neck to watch her.  
2 And she's had fibromyalgia and she's had all this. But  
3 we're going strap her behind the wheel of a car, and  
4 we're going make her drive eight straight hours there.  
5 And then eventually, she's going to have to make eight --  
6 or even more, if she goes to Lancaster -- eight hours  
7 back ---

8 A Uh-huh.

9 Q --- down here. I mean ---

10 THE DEFENDANT: Down here ---

11 (Whereupon, Mr. Broome and the defendant conferred.)

12 A It doesn't -- I don't know why we done it. We just  
13 -- it was kind of a spur-of-the-moment thing.

14 Q Okay. And you -- you didn't have any concern for  
15 her driving. Did ---

16 A No. She's ---

17 Q --- with Chance ---

18 A --- a fine -- no. She's ---

19 Q --- I mean ---

20 A --- a fine driver.

21 Q But what ---

22 A Chance didn't have a license.

23 Q And you weren't concerned about her being with  
24 Chance, were you?

25 A No.

CROSS-EXAMINATION BY MR. SCOTT - KEVIN CONKLIN 429

1 Q And he didn't do anything while he was down in  
2 Navarre to concern you?

3 A No.

4 Q And Destiny didn't do anything to make you think  
5 that she would Katy in trouble, did she?

6 A No.

7 Q Okay. And did -- did you call Destiny and tell her  
8 to be here today or anything like that?

9 A No.

10 Q Chance?

11 A No.

12 Q All right.

13 A My daughter's just got out of rehab a few -- a  
14 couple weeks ago. And I don't want her, you know,  
15 involved in it -- all this stuff and it going back -- her  
16 relapsing.

17 Q Okay. But, I mean, you wouldn't want her to be here  
18 to talk about what she remembered about the ride or  
19 anything?

20 A She don't remember anything about the ride, because  
21 she was sleeping the whole time.

22 Q She slept the whole time?

23 A Yes. Her and Chance both were asleep pretty much  
24 the whole time. I mean, they've told me that.

25 Q Kevin, thank you. I appreciate it.

1 A Thank you.

2 THE COURT: Redirect?

3 MR. BROOME: None, Your Honor.

4 THE COURT: All right. You may step down.

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

6 THE COURT: Defense can call their next witness.

7 MR. BROOME: Your Honor, at this point the defense  
8 rests.

9 THE COURT: All right. All right. Ladies and  
10 gentlemen, the defense has rested their case. So just  
11 like the close of the state's case, now is the time of  
12 the trial where I have to take up some matters of law  
13 with the attorneys. So I'm going to excuse you back to  
14 the jury room for just a few minutes. We'll bring you  
15 back out in just a few minutes.

16 Do not discuss the case, even among yourselves.  
17 It's too early for deliberations. It'll also give you an  
18 opportunity to stretch your legs, get something to drink,  
19 whatever the case may be. We'll take about a ten-minute  
20 break, and then we'll bring you back in just a few  
21 minutes. Thank you very much.

22 (Whereupon, the jury exited the courtroom at 2:40  
23 p.m.)

24 (Off the record briefly.)

25 THE COURT: All right. Any motions?

1 MR. BROOME: Judge, the defense will renew its  
2 directed-verdict motion; same grounds, same arguments.  
3 You've heard it. But just to -- just to reiterate, I  
4 don't -- I know the Court's feeling on -- on the weight.  
5 But without any other -- without any other evidence of  
6 intent to distribute, other than the 1.1 -- and all we're  
7 talking about is a permissive inference. I think, when  
8 you look at the combination ---

9 THE COURT: Well, I mean, do you have any appellate  
10 decision? Because I'm going to be honest with you. I  
11 was -- I'm of the impression that if it is over the  
12 presumptive weight, then I have to submit it to the jury.  
13 I can't grant a directed verdict, unless you've got  
14 something that says I'm wrong.

15 MR. BROOME: I've got no case law directly on point  
16 ---

17 THE COURT: All right.

18 MR. BROOME: --- for that.

19 THE COURT: Okay.

20 MR. BROOME: I know there's a case -- I can't cite  
21 it off the top of my head -- where I -- I -- I just --  
22 when you've got just a -- it's not a prima facie case  
23 anymore. It's just permissive inference. And that's the  
24 only thing you've got. Then, all we're doing is -- it's  
25 a mere suspicion. It's just a hunch.

1           And I -- I -- that -- there -- there is -- for --  
2       pardon the pun -- no other -- no other weight that can be  
3       given, other than the weight.

4           THE COURT: Well, I mean, are you aware of -- is  
5       there any appellate decision where a person has been  
6       convicted of possession with intent to distribute and the  
7       Court has ruled the only evidence was that it was above  
8       the presumptive amount and therefore should not have been  
9       submitted to the jury?

10          MR. BROOME: I'm not aware of any case exactly like  
11       -- exactly like that. I -- there is a case -- I did not  
12       bring my book in here in front of -- that -- when we came  
13       back -- but a case where the defendant -- I'm going to  
14       muddle it, Your Honor, without looking at the case. But  
15       there was one where the -- the officer arrested the guy.  
16       It was a traffic stop. He gets out and runs.

17          They find some -- some baggies. They never really  
18       could tell -- it was a circumstantial evidence that he  
19       had been in actually possession of it. And I believe  
20       that the weight of those baggies was under -- under 1  
21       gram. And if I -- if I mistake -- but they were in  
22       separate baggies.

23          So the indicia there was, well, they're under the  
24       weight, but they were separated. And the Supreme Court  
25       -- or the -- the -- so that's how they got the PWID

1 charge at less than 1 gram, but because they're in  
2 separate baggies, there was some -- some other residual  
3 powder in some other bags. And the Court of Appeals  
4 reversed and said they should've granted directed verdict  
5 based upon they never -- not only they see any -- they --  
6 that one was somewhat similar in that the officer  
7 testified there was no one else in that car.

8 That guy got out and ran. They never caught up with  
9 that guy right away. So an inference could've been this  
10 guy was selling it, similar to this case.

11 She's the only one in the car. There's no direct  
12 evidence where she's got in her actual possession, a  
13 constructive-possession case, just like that case. If  
14 you give me two -- if you give me two minutes, I'll go  
15 grab and -- and look at it and see what I'm trying to ---

16 THE COURT: Not unless ---

17 MR. BROOME: --- cite the ---

18 THE COURT: --- it addresses ---

19 MR. BROOME: --- case law.

20 THE COURT: --- being over the presumptive weight  
21 for possession with intent to distribute. If it ---

22 MR. BROOME: I -- I ---

23 THE COURT: If it doesn't deal with that ---

24 MR. BROOME: Well, it may ---

25 THE COURT: --- because ---

1 MR. BROOME: --- not. My argument is that that is  
2 -- just like -- just like anything else, that's -- that's  
3 one -- that would be one ---

4 THE COURT: I understand.

5 MR. BROOME: --- fact ---

6 THE COURT: I understand your argument that that's  
7 one consideration. But I am not aware of anything that  
8 says when you find more than a gram of methamphetamine  
9 and you're charged and indicted with possession with  
10 intent to distribute, that I can grant a directed  
11 verdict, even though there is evidence that there was  
12 more than a gram of methamphetamine in the constructive  
13 possession of the defendant.

14 I agree with you. They don't have anything other  
15 than it's more than a gram. And that's what creates the  
16 possession with intent to distribute. But I'm not aware  
17 of anything that says I can grant a directed verdict  
18 based upon that alone.

19 MR. BROOME: I don't have a case directly on point,  
20 Your Honor, for these specific set of facts ---

21 THE COURT: Okay.

22 MR. BROOME: --- right here.

23 THE COURT: Well, I'm denying your motion. I don't  
24 -- if she's convicted of possession with intent to  
25 distribute, that'll give you grounds for appeal and we'll

1 set some law. But I can't -- I'm not going to grant the  
2 motion.

3 All right. Anything else?

4 MR. BROOME: No, Your Honor.

5 THE COURT: All right. Are you putting up any reply  
6 or rebuttal?

7 MR. BIXLER: No, Your Honor.

8 THE COURT: Okay. Then, what we'll do, let me get  
9 these jury charges together; let you review that. We'll  
10 bring the jury back in. I'll ask if there's any reply.  
11 You can rest on the record. Then we'll go into closing  
12 arguments, charges, and deliberations. Is that correct?

13 MR. BIXLER: That's correct, Your Honor.

14 THE COURT: All right. Does that sound right to  
15 you?

16 MR. BROOME: Any -- are we allowed to submit  
17 requests for jury charges?

18 THE COURT: Well, I mean, what is it -- I was going  
19 to give you a copy of my charge ---

20 MR. BROOME: Okay.

21 THE COURT: --- just so you can take a look at them  
22 and ---

23 MR. BROOME: Review it?

24 THE COURT: --- see if you wanted anything else ---

25 MR. BROOME: Yes, sir.

1 THE COURT: --- added ---

2 MR. BROOME: That's -- that's fine.

3 THE COURT: --- added to it. Okay. All right.

4 Let's take about a ten-minute break and I'll come back.

5 (Off the record from 2:45 p.m. until 3:07 p.m.)

6 THE COURT: All right. Have you had an opportunity  
7 to look over the proposed charges? I'll give you two  
8 opposite to raise any objections, one now after you have  
9 an -- a chance to look over it. And then, after I charge  
10 the jury, I'll give you another opportunity because  
11 sometimes it does sound differently when you hear it read  
12 versus when you just read it on a sheet of paper. So  
13 I'll give you two opportunities.

14 But at this point in time, is there any challenges  
15 or additional charges from the state?

16 MR. BIXLER: None, Your Honor.

17 THE COURT: All right. Any from the defense?

18 MR. BROOME: No, Your Honor. We got mere presence  
19 in here. And I think it -- it looks like you got the  
20 lesser-included as well ---

21 THE COURT: Right.

22 MR. BROOME: --- of simple possession that we were  
23 going to ask for. Otherwise, it -- yeah. So there's no  
24 objection.

25 THE COURT: All right. Have you had an opportunity

1 to review the verdict form? I had it attached at the  
2 end. It's just for them to check guilty of possession  
3 with intent to distribute, guilty of simple possession,  
4 or not guilty.

5 Anything from ---

6 MR. BIXLER: No objection ---

7 THE COURT: --- the state?

8 MR. BIXLER: --- Your Honor.

9 THE COURT: Any objection from the defense?

10 MR. BROOME: No, Your Honor.

11 THE COURT: All right. Anything from the state  
12 before we bring the jury in?

13 MR. BIXLER: Nothing, Your Honor.

14 THE COURT: Anything from the defense?

15 MR. BROOME: None, Your Honor.

16 THE COURT: All right. As I understand under the  
17 new Supreme Court ruling, you have to close in full; then  
18 you close in full; then you can reply only as to matters  
19 that he addresses in his closing that you did not address  
20 in your first closing argument.

21 MR. SCOTT: So actually, the Supreme Court granted  
22 the rehearing for both the state and the defense. So  
23 it's not final law yet. But we have been going by the  
24 new ---

25 THE COURT: Is that what ---

1 MR. SCOTT: --- reading ---

2 THE COURT: --- y'all have been doing?

3 MR. SCOTT: We have. In fact ---

4 THE COURT: I'm ---

5 MR. SCOTT: --- that was my case. That Beaty case  
6 was the one ---

7 THE COURT: Really?

8 MR. SCOTT: --- we tried in this courtroom right  
9 here.

10 THE COURT: I'll be the first to admit, when I read  
11 the decision, I couldn't tell what they were saying. But  
12 then, our local solicitor's office said that they got a  
13 letter from Justice Beatty, saying that that's basically  
14 what they meant: that if there's no defense, the state  
15 closes in full; defense closes in full. If there is a  
16 defense, then the state closes in full; defense closes in  
17 full; then state reply only as to matters addressed in  
18 the defense's closing that were not addressed in the  
19 original closing.

20 MR. SCOTT: We have been doing it that way. And it  
21 -- it -- it hadn't been as cumbersome as I had predicted  
22 it would be. It's ---

23 THE COURT: I got you. All right. Let's go ahead  
24 and bring the jury in.

25 (Off the record briefly.)

1 (Whereupon, the jury entered the courtroom at 3:10  
2 p.m.)

3 THE BAILIFF: All present.

4 THE COURT: Thank you very much. Now, ladies and  
5 gentlemen, welcome back. We're now ready to proceed with  
6 the trial of this case.

7 Mr. Bixler, anything in reply from the state?

8 MR. BIXLER: No reply, Your Honor.

9 THE COURT: All right. All right. Ladies and  
10 gentlemen, the state has presented their case. The  
11 defense has presented their defense. The state does not  
12 have any reply. So now is the time of the trial where  
13 the attorneys will make their closing arguments to you.

14 Now, just like their opening statements, these  
15 closing arguments are not evidence in this case. It is  
16 simply the attorneys' contention as to what they think  
17 the evidence has shown, the facts in the case, and the  
18 law to be applied. If, at any time, an attorney makes  
19 reference to a factual issue that is different from the  
20 facts as you find them to be, or references the law that  
21 is different from the law as I will charge you at the end  
22 of their arguments, then you're to disregard that portion  
23 of their closing arguments, because this is not evidence.  
24 It is just their opinion as to what the evidence has  
25 shown and the law to be applied in this case.

1 All right. Mr. Bixler?

2 MR. BIXLER: Thank you, Your Honor. May it please  
3 the Court?

4 THE COURT: Yes, sir.

5 CLOSING ARGUMENT BY MR. BIXLER

6 MR. BIXLER: At the beginning of the trial  
7 yesterday, Mr. Scott stood up here and told you, you had  
8 three options: (1) You could find Ms. Tuttle guilty of  
9 possession with intent to distribute methamphetamine; the  
10 second option, she's guilty of possession of  
11 methamphetamine; or third -- and the -- as he put it, the  
12 most unlikely, unreasonable option, not guilty.

13 As you heard by now -- or as you're well aware, Ms.  
14 Tuttle is charged with possession with intent to  
15 distribute methamphetamine. And as the state, it is our  
16 burden to prove that to you. It was our burden.

17 And we -- it must be proved to you beyond a  
18 reasonable doubt. Now, ladies and gentlemen, we know  
19 there are very few things in this life we know with  
20 absolute certainty. Ben Franklin is famously quoted --  
21 and I'm probably going to paraphrase this. But he's  
22 said: There are two things -- nothing in this life is  
23 certain but death and taxes.

24 And that's not what the standard in this case is.  
25 The standard is not beyond any and all doubt. It's

1 beyond a reasonable doubt. If you are firmly convinced  
2 of the defendant's guilt, you must find her guilty.

3 So what is reasonable? What is logical? What makes  
4 good, common sense here?

5 So there is -- and possession with intent to  
6 distribute methamphetamine -- there's essentially two  
7 parts. The first is possession. And there's -- you can  
8 either be in possession -- active possession. You heard  
9 this from Mr. Scott and Mr. Broome in opening. This pen  
10 is actually on me. That's actual possession.

11 You heard Mr. Broome's pen example. If I put the  
12 pen there, I'm still in possession of the wallet. Mr.  
13 Scott's example: I'm still in possession, because I have  
14 dominion and control over this pen and over that wallet.

15 So what do we have that shows Ms. Tuttle was in  
16 possession of the methamphetamine? Once she was stopped  
17 for speeding, officers immediately -- or Officer Gainey  
18 immediately believed she was under the influence. He  
19 called on his radio, 1039. That's his -- that's the  
20 Laurens City code for narcotic intoxication.

21 He had -- he had concerns about her ability to  
22 drive. So he got on the radio and called someone to  
23 respond to provide field-sobriety tests. He didn't do  
24 them because he's a shift supervisor. He had to -- he  
25 had other people to supervise. And frankly, he wasn't

1 qualified to do it.

2           So he did what he should've done and called in for  
3 assistance. Officer Kanipe showed up. All -- he --  
4 Officer Kanipe responds. While Mr. -- or Officer  
5 Kanipe's on his way, Officer Gainey zooms in the camera.  
6 And we can see her -- I believe the term was tweaking  
7 out. Her rapid speech, her rapid movements, her dilated  
8 pupils -- well, we can't see that. But her lack of  
9 focus, we're able to see that on the video.

10           We see all that. We hear of the dilated pupils,  
11 testimony from Officer Kanipe. You know, I couldn't help  
12 but notice Ms. Tuttle was up here, testifying on direct.  
13 Her speech pattern was not the same. Go back and watch  
14 the video. And compare how she talked then to her speech  
15 pattern today.

16           You definitely can see that she was -- the excited  
17 speech pattern that is indicative of tweaking out. We  
18 see her on video making all these movements over to the  
19 passenger side. You see her pull bags over. You see her  
20 keep reaching over to the passenger side.

21           All that's on video. You can watch all this.  
22 Officer Kanipe shows up; pulls her out of the car; starts  
23 to perform the standard field-sobriety tests. She says  
24 she has a lot of pain so she can't do them. She can't  
25 complete them.

1           But based on his observations and what she has done  
2 of the field-sobriety tests, he determines she's  
3 intoxicated. He also believed she's on methamphetamine.  
4 Now, think about this: Two trained officers have  
5 determined her to be on amphetamines. This is even --  
6 well before they find methamphetamine in her car.

7           They don't search it until they arrest for driving  
8 under the influence. They don't find it until they've  
9 already decided, based on their experience and training,  
10 that she's under the influence.

11           Now, Mr. Broome got Officer Kanipe up here and was  
12 talking about the standard field-sobriety tests, how  
13 you're supposed to make 16 passes, 82 seconds -- do that  
14 for 82 seconds, which is -- all these are used. They're  
15 not -- these things themselves, the tests themselves, do  
16 not show someone under the influence. They're just --  
17 assist in the officer's determination. It's just another  
18 factor he uses in making that determination.

19           But he made a big deal about it. But don't get  
20 lost. It's not DUI. It's possession with intent to  
21 distribute methamphetamine. She's not here on DUI.

22           And truly, if she wasn't under the influence of  
23 methamphetamine, what would be the best way to determine  
24 that? Submit to the urinalysis. It was offered to her  
25 and refused.

1           She was given the opportunity. You heard her say,  
2 "I want to take one. I want to take the test. Take me  
3 to the hospital."

4           They gave her the opportunity. She refused. She  
5 didn't -- she said -- she admitted signing it. Of  
6 course, she claims it was two days later, which we'll get  
7 to that in a minute.

8           But this is not a DUI case. This is possession with  
9 intent to distribute. All right. So -- so let's get  
10 back -- let's walk it back to possession.

11           In the opening Mr. Broome mentioned that this is not  
12 a strict-liability case. You have to have knowledge that  
13 you're in possession. You have to have knowledge and  
14 intent.

15           Well, let's take -- what is reasonable? What's  
16 logical? What makes good, common sense?

17           She's in the vehicle. Officer Gainey runs the  
18 information. Ms. Tuttle doesn't deny it's her car. Car  
19 comes back registered to her. She -- she admits that.

20           She's by herself. We can see that on the video.  
21 She admits that. She's making all these movements to the  
22 passenger side. We can see that on the video.

23           Officer Gainey finds methamphetamine in the  
24 floorboard of the passenger side. She doesn't deny the  
25 meth came out of her vehicle. The bag containing the

1 meth was in a makeup case in her floorboard. It was in a  
2 blue bag. The blue bag also contained her prescription  
3 pills, which she freely admits to having.

4 Is it reasonable to believe that she didn't have  
5 knowledge and possession of those? It's in her car --  
6 she's by herself -- in her makeup case, in her bag, with  
7 her prescription pills.

8 What's reasonable? What's logical? What makes  
9 good, common sense?

10 Officer Gainey, after she's arrested, taken -- gone  
11 to the DataMaster room, he asked her a couple questions.  
12 She all but admits the meth is hers. She doesn't say,  
13 "Yeah, it's mine. It's mine." She all but admits it.

14 "How do you -- how do you do that? You smoke it or  
15 inject it?"

16 "I smoke it."

17 "Did you get -- did you bring that -- did you buy  
18 that here, or did you bring it from Florida?"

19 "We got it here."

20 "Got what here?"

21 "Meth."

22 She all but admits. She doesn't say, "Yeah. That's  
23 mine." She admits she got it here.

24 What's reasonable? What's logical? What makes  
25 good, common sense?

1 I was talking with someone earlier. And they were  
2 telling me about Occam's razor. Are you familiar with  
3 that? It's the principle that says: Among competing  
4 hypotheses, the one with the fewest assumption should be  
5 selected.

6 It's pretty simple, right? I mean, that makes  
7 common sense. That's logical. That's reasonable.

8 So what do we know here? What's reasonable? What's  
9 logical? What makes good, common sense?

10 Sending someone who has what sounds like some  
11 horrible medical conditions -- sending her eight hours in  
12 a car with individuals she does not know to drive to a  
13 place she is not familiar with, when her boyfriend, who  
14 is a long -- over-the-long -- or long-road truck driver,  
15 used to long travel, is from Anderson, but we send a lady  
16 who has excruciating pain. She -- she tells Officer  
17 Kanipe her hip hurts; she -- her back hurts; she's in  
18 terrible pain. Tells him her back hurts in the  
19 DataMaster room. She can't complete the field-sobriety  
20 tests, she's in so much pain.

21 But it makes good -- what's -- so makes sense?  
22 Sending her? Is that reasonable? Is that logical? Does  
23 that make good, common sense?

24 Again, she is in her car, her silver Oldsmobile. We  
25 even got corrected on the color. Mr. Scott said it was

1 white. She said, "No, no. It's silver." We had to get  
2 that right.

3 It's registered to her. She admits it. It's found  
4 in the passenger floorboard in a bag containing her  
5 prescription pills.

6 Or is that reasonable? Is that logical? Does that  
7 make good, common sense that it's -- she is in possession  
8 of it -- Ms. Tuttle's in possession of it? Or is it  
9 reasonable that she comes from Florida, finds herself in  
10 Laurens, and you heard Ms. Tuttle say it wouldn't  
11 surprise her to know that none of the routes on Google  
12 maps run through Laurens when you come from Anderson to  
13 Lancaster. But somehow you find your way in Laurens.

14 She has the worst luck. She ends up in dealing with  
15 crooked and dirty cops. You have -- so you have to make  
16 that assumption that cops are dirty and crooked; that  
17 they have a vendetta against her; they have some reason  
18 to be out for her. They don't know her. They -- she's  
19 -- she -- first time she's ever been to Laurens.

20 What vendetta did they have against her? But you  
21 have to assume a vendetta. You have to assume that they  
22 are wanting to frame her, want to make her look -- to put  
23 the drugs on her. Is that reasonable? Is that logical?  
24 Does that make good, common sense?

25 She wants to tell you that she didn't know it was in

1 there. Maybe we're supposed to think that in all of her  
2 trips around Anderson -- she doesn't know where she is --  
3 that someone bought a substantial quantity of  
4 methamphetamine, placed it in her car -- and now, this is  
5 not just any methamphetamine. We heard testimony that  
6 this is not the -- I think it was bathroom dope -- that  
7 we -- that they're used to seeing in Laurens.

8 This is the good stuff. It's crystal, ice-colored.  
9 You'll get -- you'll -- you'll get a chance to take that  
10 back there with you so you can see it.

11 So somebody spent money on it. It's probably more  
12 expensive than the bathroom dope. Place it in her makeup  
13 case -- you have to assume that -- next to -- and not  
14 only in a makeup case. They put it in her blue bag  
15 containing her prescription medicine. So we have to  
16 assume that.

17 So using Occam's razor, the -- that principle that  
18 among competing hypotheses with the fewest assumptions  
19 should be the -- should be the one selected. There's a  
20 lot of assumptions in those other ones. And I submit to  
21 you, the only reasonable, logical option that makes good,  
22 common sense is that she knowingly and intentionally  
23 possessed that methamphetamine.

24 The second element or part, with the intent to  
25 distribute: Distribute does not necessarily mean sale.

1 If I give it to you, I've distributed it. If it share it  
2 with you, I distribute it.

3 Mr. Broome got up here and made a -- another big  
4 deal about what drug dealers typically do. Do they have  
5 ledgers? Do they have separate packages, extra bags, so  
6 when they can sell it all?

7 A big deal about manufacturing meth: Did you have  
8 salt? Did you have Sudafed? Did you have lye? Liquid  
9 fire? Did you have all the ingredients?

10 You don't have to sell it to be guilty of  
11 distribution. You just have to share it, give it away.

12 Think of Thomas Ravenel. You know who that is?  
13 Former state treasurer. He -- he had a personal stash of  
14 cocaine. He would invite people over, share it with  
15 them, give it to them. They were all using it together.  
16 He was convicted in federal court; served 10 months in  
17 prison for possession with intent to distribute -- or  
18 conspiracy with intent -- with intent to distribute.

19 Now, the judge will charge you that under the law in  
20 South Carolina, that possession of 1 or more grams of  
21 methamphetamine creates an inference that the defendant  
22 intended to distribute it. Essentially, what the  
23 legislature has said is 1 gram -- more than 1 gram,  
24 that's not personal use. The only reason to have that is  
25 because you intend to distribute it: share it, give it

1 away, use it with somebody.

2 And we heard Shana Sorrells from SLED tell you that  
3 she weighed it and it was 1.13 grams. I -- I just want  
4 you to think Thomas Ravenel when you think possession  
5 with intent to distribute. He didn't -- he wasn't  
6 selling it. He's a millionaire. I think he's got his  
7 own TV show now, something like that.

8 But he -- he wasn't selling it. He was giving it.  
9 Nobody called him a drug dealer. I don't know -- I'm not  
10 saying she's a drug dealer. I don't know. I don't know  
11 her lifestyle.

12 But I do know that she had more than 1.13, which the  
13 legislature said you can infer the intent to distribute  
14 based on that weight. I also know that when she --  
15 Officer Gainey asked her, "Did you bring the meth from  
16 Florida?"

17 "No. We" -- we -- "got it here." We -- that's  
18 plural. That's more than one. That also tells me that's  
19 more than personal use. "We got it here."

20 Maybe she's taking it to her sister's house to share  
21 it with her sister. We've been to a sketchy places in  
22 Anderson. We heard that. Maybe she was sharing it with  
23 those folks.

24 "We got it here." I don't have to sell it. Doesn't  
25 have to be sold her. You don't have to get monetary

1 value. You don't have to get something in exchange for  
2 it.

3 Ladies and gentlemen, I submit to you that the -- it  
4 is logical, reasonable, and makes good, common sense that  
5 Ms. Tuttle was in possession of that methamphetamine.  
6 It's logical and it's reasonable and it makes good,  
7 common sense that she intended to distribute it. We got  
8 it here, the weight.

9 I don't know if she's a drug dealer. That's  
10 something y'all have to decide. But I do know without a  
11 doubt, beyond a reasonable doubt, that she was in  
12 possession of that methamphetamine. Thank you.

13 THE COURT: All right.

14 MR. BROOME: Thank you, Your Honor.

15 CLOSING ARGUMENT BY MR. BROOME

16 MR. BROOME: The state -- Mr. Bixler spent a lot of  
17 time talking about sense: common sense; use your common  
18 sense.

19 He just admitted to y'all that they don't know --  
20 they don't think she's a dealer. That's what the whole  
21 charge means. We can talk about a combination sale all  
22 we want to, okay?

23 But this is a case that makes no sense for the state  
24 under their theory. Why does it not make any sense?  
25 Well, she's stopped; they search her car. They find no

1 pipe. They find no needle. They find no way for her to  
2 use the drugs.

3 She knows no one in Laurens County. Who is she here  
4 to give the drugs to?

5 If her plan is to come up from Florida -- this is  
6 the state's theory. She gets in a car. She drives to  
7 Anderson. She's going to pick up dope -- not crappy  
8 dope, Breaking Bad dope.

9 Remember the officers testified about the -- "Man,  
10 that's rare stuff, man. I don't ever see this stuff  
11 around here. This is Laurens. And, you know, this --  
12 this is -- this is rare."

13 Does she look like a drug dealer to y'all? Does she  
14 look like someone who has access to high-quality,  
15 manufactured-in-a-lab type of meth? They're going to  
16 rely on her supposed confession. I submit to you, there  
17 is no confession.

18 We have no independent evidence -- evidence of this.  
19 She's denied this. It's not on videotape anywhere. And  
20 if we think about the confession, how much sense does  
21 that make? We're talking about common sense.

22 Let's relive this briefly. They stop her; pull her  
23 out of that car. They never tell her -- oh, we see on  
24 video that they have meth. They never confront her with  
25 it on there. They take her off of video.

1           They come up here and they say that they Mirandized  
2 her. And they did -- he did Mirandize her under the  
3 influence -- "You're being Mirandized for DUI." And this  
4 isn't a DUI case. But they're Mirandizing her for the  
5 DUI. She -- they -- they don't confront her with any mth  
6 then.

7           So they take her back to the station, where they  
8 have video cameras and they have standard waiver of  
9 Miranda forms that we don't have here in court; that they  
10 didn't bring in, even though they brought her to her own  
11 police station.

12           Gainey says, "Well, you know, I'm going to go back  
13 there and interrogate her." Remember when he said that?  
14 That's his word: "I'm going to interrogate her."

15           "And I interview her, interrogate her." Didn't ask  
16 her to write a statement. Didn't bring her back to the  
17 DataMaster room. Didn't do any of that.

18           He asked her three questions. Remember the  
19 questions? Did you get the -- first thing out of his  
20 mouth -- he testified to it -- "Where'd you get -- did  
21 you get the meth in Florida?"

22           He testified -- and again, there's no independent  
23 evidence to this. But she testified that, "I don't have  
24 any meth."

25           Okay. "Do you have any meth?"

1 "No. I don't got any." Denies it.

2 I got -- he's got his questions written down.

3 Second question out of his mouth: "Well, we found some  
4 Lyrica. What about that?"

5 "Well, yeah. I got Lyrica. I have a prescription  
6 for it. I don't have it on me."

7 "Well, did you smoke the meth, or did you inject th  
8 meth?"

9 "Oh. You got me. You got me. I smoked it." Even  
10 though there's no pipe in the car -- I'm telling y'all,  
11 if he's that good, he is wasting his talents in this  
12 town. He needs to be in counter-terrorism. He needs to  
13 be down in Guantanamo Bay if he can get people to just  
14 confess on the spot. Boom, boom, boom, confession.  
15 Never admitted to it anywhere else; it's not on video.

16 Then, as part of his interrogation, he asked,  
17 "Where'd you get it?"

18 And he says -- according to him, he alleged that my  
19 client said, "We got it here."

20 Well, wouldn't it be prudent to ask who we are, if  
21 this is such high-quality meth that we're such interested  
22 in here in Laurens County? I would think so. He doesn't  
23 ask.

24 He says that she says, "Well, who was -- you know,  
25 where'd you get it from?"

1           And then she clams up and we start talking about we.  
2           "Well, now I want a lawyer." His words are "legal  
3           counsel." She says, "I want legal counsel."

4           And then he got up here and said, "Well, attorney --  
5           I can't really remember." There's a lot of stuff he  
6           didn't remember. One of those things -- he couldn't  
7           really remember her words. It's not on videotape, so  
8           it's hard for us to remember what really happened.

9           But he's testifying to that. "Well, I'll admit that  
10          I got the meth," even though -- and -- and -- and again,  
11          if you believe their -- their theory to be true, that she  
12          smoked it, what -- how was she smoking it? They didn't  
13          find a pipe in the car.

14          They talk about the furtive movements that she's  
15          making. Keep in mind, this whole -- the whole, central  
16          theme of them is that she's under the influence of meth  
17          at the time. Don't let them fool you. It's on the  
18          video. She's tweaking out; this is what a meth user  
19          looks like.

20          Meth -- he's just seven -- seven months out of the  
21          academy. Kanipe -- he doesn't even know how to detect  
22          DUIs. Gainey don't know how to detect DUIs. He had to  
23          call his boy to come back up and help him out.

24          And they want to make a big deal about dilated  
25          pupils, and Mr. Broome made a big -- it is a big deal,

1 because they're looking for people that are under the  
2 influence of things other than alcohol. Right? So what  
3 does he do?

4 He calls his boy, Gainey -- or Gainey calls his boy,  
5 Kanipe, up here. It's in Gainey's report that her pupils  
6 are dilated. It's not on video. Go back and watch the  
7 video, if you want to watch it.

8 Gainey spends one minute -- one minute at the  
9 roadside with her. Waits on her to show up. He comes  
10 back. He's already done. She under -- she's under the  
11 influence of something.

12 This case -- he's made his mind up. We're not  
13 arguing that that ain't meth in that car. We're arguing  
14 that she didn't put it in there. I don't know who put it  
15 in there. She has no burden -- she has no burden. And  
16 -- and it's very important -- we have no burden to prove  
17 anything.

18 But she has testified that people were in that car  
19 when she drove up here to Anderson. People were in and  
20 out the car. There has been no testimony directly  
21 linking her to that meth. No money, no ledgers.

22 They want talk about how it's maybe an accommodation  
23 sale, and I've -- I beat that point up. But I -- if you  
24 don't have a pipe and they think she's under the  
25 influence, well, how's she getting it in her system?

1           And he talked a lot about -- he being Gainey --  
2 talked a lot about, "Well, she made furtive movements.  
3 She made furtive movements. She made furtive movements.  
4 She's reaching around this bag."

5           Gainey showed -- or Kanipe shows up. Didn't say  
6 anything to him about it. If he had seen that at that  
7 time, don't you think it would be reasonable to say,  
8 "Hey, by the way, I think she's tweaking out. I think  
9 she's under the influence of something. And when I  
10 walked up there, I saw her make a bunch of furtive  
11 moments. She's reaching towards something. Be careful.  
12 She might have a gun. Be careful. I think she's putting  
13 that stuff there."

14           Doesn't mention that at all. You heard from my  
15 client. She testified to her medical reasons. Her story  
16 has been consistent.

17           She is a sweet lady in her mid-50s who has a lot of  
18 medical conditions. She has a lot of -- lot of problems.  
19 That is what has led to her arrest. No one's alleging  
20 that they framed her. And I'm never saying -- they got  
21 up here, saying vendetta and they got it out to get her.  
22 No.

23           But I think they made assumptions. And I think  
24 that's reasonable. They made their mind up very early,  
25 within one minute, that she was under the influence of

1 meth. We're in Laurens. Boom. Case closed.

2 And I know it sounds crazy. And he talked a lot  
3 about Occam's razor and -- and it's a -- it's a good  
4 principle. Just the most simplest answer -- theory is  
5 the most likely one. Well, that is the case. The most  
6 -- the most likely answer in this -- in this case is that  
7 someone else, be it Destiny Conklin, whose father got up  
8 here and testified to, just gotten out of rehab; her  
9 boyfriend, these people she was doing favors for, may  
10 have dropped that in her car.

11 Remember when Gainey was up there on the video and  
12 they're doing the inventory? This isn't like -- he  
13 didn't pull up and go, "Oh, there's one -- there's one  
14 thing. There's just this one bag and I went through it  
15 and found it."

16 He calls that other guy. And he's, like, "Man,  
17 there's all this stuff in here. Please come help me."  
18 He's, like, "Man, I got a lot of stuff." Watch the  
19 video. "I got a lot of stuff. I need help inventorying  
20 this." There's a lot of stuff in her car.

21 Okay. Now, let me clarify another thing. Mr.  
22 Bixler got up here and said that they found her Lyrica  
23 pills in the blue bag. No. That is false, absolutely  
24 false. There was no testimony to that whatsoever.

25 The Lyrica was in her beige container. Okay? Beige

1 container. Watch the video. There was a beige  
2 container. You don't ever see it on the video. It's in  
3 his report.

4 What Gainey does is he -- he's zoomed in, so it's  
5 hard to see exactly what he's doing. But if you watch  
6 it, it's kind of interesting. He pulls a backpack out.  
7 He goes through that. He's rifling through it; he don't  
8 find anything.

9 Okay? Nothing -- again, he's not on camera at this  
10 point. He comes back up -- he comes back out; starts  
11 putting stuff on there. You see the backpack. And you  
12 can see the little blue case -- little blue case. That's  
13 where he said the meth came from, remember?

14 When he goes -- he goes, "But, you know, aye, oh,  
15 this is the meth. I got it. We're done. Hit the  
16 jackpot."

17 So he goes back to his car. Beep, boop. Zooms the  
18 video back out. Did you see the makeup case on there?  
19 It wasn't on the back of his car. Why did he go to her  
20 car, get down, pull out the blue bag from the makeup  
21 case, take that out, not look in the makeup case when  
22 he's down there, come back out, put it on the trunk, go  
23 through it, find it -- "Oh, no."

24 Then he comes back out. You can see it on the  
25 video. He zoomed back out, now. He goes -- he reaches

1 down. He pulls the blue -- the makeup case out; comes  
2 back. Goes to the -- now he wants to put it on the hood  
3 of this car.

4 And he goes through and then his buddy shows up.  
5 Not Logan, not -- not Officer Kanipe. He has now left  
6 the scene. Remember, he's gone. So this other guy shows  
7 up, and we don't know who this guy is. And they're,  
8 like, "What's going on?"

9 And then, for the first time, he said, "Oh, I saw  
10 her lean down here at the floorboard." He points at the  
11 floorboard. He's -- clearly, she's putting this stuff in  
12 this container.

13 It -- it doesn't make much sense to pull out a  
14 container and then he's on the video, looking at it like  
15 he's going through it for the first time. Would make  
16 sense to pull the makeup container out or search it right  
17 there and put that on the video.

18 We talked about -- they used her refusal against her  
19 and said that she refused and she refused. Watch the  
20 videos. She -- "I'll take a Breathalyzer. I'll take a  
21 Breathalyzer." It's on all the videos.

22 Now, she asked, about the 15-minute mark, when she's  
23 in that DataMaster room. We're going to go to the  
24 hospital. "Why do I got to go to the hospital?"

25 "That's where you -- that's where you got to go take

1 a urinalysis at."

2 "Can't I just do it here?"

3 "No."

4 Now, whether or not they have procedure and they  
5 need to have a nurse collect it is one thing. But she's  
6 showing a willingness right there. But magically, she  
7 comes off the camera and she now refuses. And -- and  
8 they're -- this "advisement of implied-consent right"  
9 form that has urine -- there's one for breath. You can  
10 see it on the video.

11 Now, the urine one they took off. There's a  
12 separate sheet. And it's circled, urine. One for  
13 breath, one for urine. Because you can't test for drugs  
14 through your -- that's not on video.

15 And on this sheet of paper -- remember when he  
16 testified -- I asked him -- I said, "What happens when  
17 someone refuses a Breathalyzer test?"

18 "Well, it prints out refused."

19 "Can you write refused if someone writes it down?"

20 "Absolutely. I can -- I can write refused down."

21 It's got her signature, acknowledging it. The -- it  
22 does not say "I refuse" anywhere. He testified -- Kanipe  
23 -- that the procedure is: "I write refused. It writes  
24 refused down."

25 Why -- why wouldn't it just -- why -- why doesn't it

1 say refused?

2 You heard from -- from Kevin Conklin. And you heard  
3 from my client. The state wanted to make a big deal  
4 about it seemed really weird for them to drive up to  
5 Anderson, South Carolina -- for my client to drive up and  
6 do these things.

7 But it's been -- they've been consistent the whole  
8 time. Kevin came in -- I mean, Destiny Conklin -- no.  
9 We don't have a burden to bring those people in there. I  
10 -- I -- I don't know where the drugs came from.

11 And it does sound like a crazy story. But the  
12 crazier story is the state's theory. Because I'm -- I'm  
13 telling you, if her goal was to come up here and sell  
14 drugs in Laurens County, there's an easier job skill --  
15 I'm sure there are plenty of drugs in Florida. I'm --  
16 I'm pretty sure there's a better route than: Let me  
17 drive up to Anderson, get the drugs, smoke some drugs,  
18 drive around the state -- I don't know where I am. By  
19 the way, I don't have a pipe. I guess I'll stop at the  
20 meth store and grab a pipe.

21 Because they're arguing she's either giving it to  
22 people along the way or smoking it along the way. How?  
23 These are huge holes that add up to one thing: not  
24 guilty verdict.

25 They altogether create reasonable doubt, all of

1 this. And the judge is going to instruct you on it. But  
2 that's what reasonable doubt looks like. Looks like a  
3 lady who's got no pipe in her car, no needles in her car,  
4 who has legitimate medical reasons to act the way she's  
5 acting.

6 She's quirky. I'll give her that. She's quirky.  
7 She takes prescription medications. Doesn't mean she's a  
8 meth user.

9 All of these things add up. Other people are in her  
10 car. Destiny had gotten out of rehab. Destiny's  
11 boyfriend, whoever that guy is -- you ever heard of the  
12 bible parable "no good deed goes unpunished"?

13 Think that's what happened in this case. She did  
14 some favors for her -- for her family, for her loved one,  
15 for Kevin. They love each other. They've been together  
16 for a long time.

17 And he'd just met his -- reunited with his -- his  
18 daughter. He was trying to do them a favor. Whether or  
19 not this is how she repaid her -- her -- someone else, I  
20 don't know. But we don't have to prove that to you.

21 And I want to say one more thing before I finish up.  
22 It's important to me, so I want to stress this is  
23 important to tell y'all. Each one of y'all has the power  
24 individually to say: No.

25 If there is one single doubt that remains in your

1 mind, you have the power individually to have the  
2 courage, to have the duty, the responsibility to say no.  
3 This is our community. This is our town. No.

4 I think, when you consider all of those things,  
5 everything I've gone over -- the assumptions on the port  
6 -- part of law enforcement, the lack of evidence that  
7 shows she's a user, just someone who sells drugs, uses  
8 drugs -- I think, when you add all this up, the only  
9 choice that you're going to have is to find Katy not  
10 guilty. I thank you for your time.

11 THE COURT: Anything in reply?

12 MR. BIXLER: Thank you, Your Honor.

13 REPLY ARGUMENT BY MR. BIXLER

14 MR. BIXLER: Probably been several years now, but  
15 does anyone recall -- and I can't remember the exact name  
16 of the television, but the black, masked magician? He  
17 would reveal the secrets, and he had to wear that mask so  
18 everybody wouldn't know who he was.

19 I started seeing that while Mr. Broome was up here.  
20 It just popped in my head. And I don't think it's any  
21 surprise that a lot of magicians use misdirection.

22 Look over here, over here. That's what the pretty  
23 assistant's for. Pay attention to her. Don't -- don't  
24 look what's actually going on over here, what's really  
25 happening.



1 of the trial when I will charge with the law to be  
2 applied in this case.

3 The indictment in this case -- this is the  
4 indictment -- charges the defendant with possession with  
5 intent to distribute methamphetamine. I remind you that  
6 the fact the defendant was arrested, charged, and  
7 indicted in this case is not evidence in this case and  
8 cannot be considered by you as evidence of guilt in this  
9 case. Nor does the defendant's arrest, charge, or  
10 indictment create any presumption or inference of guilt.  
11 The indictment is simply the formal written instrument  
12 which contains the charge made against the defendant. It  
13 is the formal document by which this case is brought into  
14 this court.

15 The defendant pleads not guilty to this indictment.  
16 And that plea puts the burden on the state to prove the  
17 defendant guilty. A person charged with committing a  
18 criminal offense in South Carolina is never required to  
19 prove her innocence.

20 I charge you that an important rule of the law is  
21 that the defendant in a criminal trial, no matter what  
22 the seriousness of the charge may be, will always be  
23 presumed to be innocent of the crime for which the  
24 indictment was issued, unless guilt has been proven by  
25 evidence satisfying you of that guilt beyond a reasonable

1 doubt.

2 This presumption of innocence does not end when you  
3 begin your deliberations. But it accompanies the  
4 defendant throughout the trial until you reach a verdict  
5 of guilt based on evidence satisfying you of that guilt  
6 beyond a reasonable doubt.

7 The presumption of innocence is like a robe of  
8 righteousness placed about the shoulders of the  
9 defendant, which remains with the defendant until it has  
10 been stripped from the defendant by evidence satisfying  
11 you of the defendant's guilt beyond a reasonable doubt.

12 The presumption of innocence is not a mere legal  
13 theory. It is not just a legal phrase. It is a  
14 substantial right to which every defendant is entitled,  
15 unless you, the jury, are satisfied from the evidence of  
16 the defendant's guilt beyond a reasonable doubt.

17 Now, what is a reasonable doubt in the law? A  
18 reasonable doubt is the kind of doubt that would cause a  
19 reasonable person to hesitate to act. Proof beyond a  
20 reasonable doubt is proof that leaves you firmly  
21 convinced of the defendant's guilt.

22 We know very few things in this world with absolute  
23 certainty. And in criminal cases, the law does not  
24 require proof that overcomes every possible doubt. If,  
25 based on your consideration of the evidence, you are

1 firmly convinced that the defendant is guilty of the  
2 crime charged, you must find the defendant guilty.

3 If, on the other hand, you think a real possibility  
4 exists that the defendant is not guilty, you must give  
5 the defendant the benefit of that doubt and find the  
6 defendant not guilty.

7 I remind you that during this trial, you and I have  
8 certain duties to perform. As the trial judge, my  
9 responsibility is to preside over the trial of this case.  
10 I also have the duty to rule on the admissibility of the  
11 evidence offered during this trial.

12 You are to consider only the competent evidence  
13 before you. You are to consider only the testimony which  
14 has been presented from the witness stand, any exhibits  
15 which have been made a part of the record in this case,  
16 and any stipulations of counsel.

17 I have the additional duty to charge you the law  
18 applicable to this case. As the presiding judge, I am  
19 the sole judge of the law of this case. Your duty as  
20 jurors is to accept and apply the law as I now state it  
21 to you.

22 If you have any idea as to what the law is or what  
23 the law ought to be and your idea is different from what  
24 I now tell you the law is, you must disregard your idea  
25 of what the law is or ought to be because you are sworn

1 to accept the law and apply the law exactly as I state it  
2 to you.

3 In every case tried in this Court before a jury, the  
4 jury is the sole and exclusive judge of the facts in a  
5 case. A trial judge cannot intimate, state, comment on,  
6 or make any statement to a trial jury about the facts in  
7 a case.

8 Since you, the jury, are the sole judge of the facts  
9 in this case, you are not to infer what I have said  
10 during the progress of this trial, in ruling upon the  
11 admissibility of evidence or otherwise, or anything that  
12 I say now during the course of this instruction to you  
13 that I have any opinion about the facts in this case.  
14 The law does not allow me to have an opinion about the  
15 facts in this case. This is a matter solely for you, the  
16 jury, to determine.

17 As jurors, your duty is to determine the effect,  
18 value, weight, and truth of the evidence presented during  
19 this trial. Necessarily, you must determine the  
20 credibility of witnesses who have testified in this case.  
21 Credibility simply means believability.

22 Your duty as jurors is to analyze and to evaluate  
23 the evidence and determine which evidence convinces you  
24 of its truth. In determining the believability of  
25 witnesses who have testified, you may believe one witness

1 over several witnesses or several witness over one  
2 witness. You may believe a part of the testimony of a  
3 witness and reject the remaining part of the testimony of  
4 that same witness.

5 You may believe the testimony of a witness in its  
6 entirety or reject the testimony of a witness in its  
7 entirety. You may consider whether any witness has  
8 exhibited to you any interest, bias, prejudice, or other  
9 motive in this case. You may also consider the  
10 appearance and manner of the witness while on the witness  
11 stand.

12 In order to establish criminal liability, criminal  
13 intent is required. For example, the mental state  
14 required to be proved by the state for a particular crime  
15 might be purpose, intent, knowledge, recklessness, or  
16 criminal negligence. Criminal intent must be proven by  
17 the state beyond a reasonable doubt. Criminal is always  
18 a matter that must be determined by the jury from the  
19 circumstances surrounding the situation.

20 Now, no way exists to prove intent to a mathematical  
21 certainty. There's no way medical science can dissect a  
22 person's brain to determine what the person had in mind.  
23 So the law says that criminal intent may be inferred from  
24 the circumstances shown to have existed. This is how you  
25 make a determination of whether or not the element

1 requiring intent was present.

2 It is not necessary to establish intent by direct  
3 and positive evidence. But intent may be established by  
4 inference in the same way as any other fact: by taking  
5 into consideration the acts of the parties and all of the  
6 facts and circumstances of the case.

7 Criminal intent is a mental state, a conscious  
8 wrongdoing. You must determine what the defendant  
9 intended to do, based on the circumstances shown to have  
10 existed.

11 Criminal intent can arise from an action or a  
12 failure to act. It may arise from negligence,  
13 recklessness, or an indifference to duty, or to  
14 consequences that can -- that is considered by law to be  
15 the equivalent of criminal intent.

16 Now, statements alleged to have been made by the  
17 defendant have been admitted into evidence in this case.  
18 Now, while the Court has determined that the statements  
19 are admissible, I instruct you that you make the ultimate  
20 decision of whether or not the defendant made the  
21 statements.

22 If the defendant did make the statements, you must  
23 determine whether the statements were made by the  
24 defendant voluntarily and of her own free will. This  
25 means that the statements were not caused by pressure,

1 force, fear, threats, coercion, or intimidation, or by  
2 hope or promise of leniency, or a reward of any other  
3 kind.

4 In determining whether the statements were  
5 voluntary, you should consider both the characteristics  
6 of the defendant and the details of the questioning.  
7 Some of the factors that you must consider are the age of  
8 the defendant, the defendant's education or lack of  
9 education, the defendant's mental ability or capacity,  
10 the defendant's IQ or intelligence, the defendant's  
11 background and environment, the place and length of the  
12 detention, the nature of the questioning, and the advice  
13 or lack thereof to the defendant of her constitutional  
14 rights, including but not limited to the right to remain  
15 silent; that any statement could be used against her in a  
16 court of law; the right to have a lawyer present; that if  
17 she could not afford a lawyer, a lawyer would be  
18 appointed to represent her without any cost; and that she  
19 could stop making a statement at any time. You must  
20 carefully consider all of the surrounding circumstances  
21 before you give any weight to any alleged statement.

22 The state has the burden of proving beyond a  
23 reasonable doubt that the alleged statements were  
24 voluntary. If you determine they were, you may give the  
25 statements any further consideration that you deem

1 proper. You must decide what weight, if any, should be  
2 given to the alleged statements. If you determine that  
3 either the alleged statements were not the free and  
4 voluntary statement of the defendant, you must not  
5 consider that statement at all.

6 The defendant is charged with possession with intent  
7 to distribute methamphetamine. To convict the defendant  
8 of this crime, the state must prove beyond a reasonable  
9 doubt that the defendant possessed methamphetamine with  
10 the intent to distribute it. To prove possession, the  
11 state must prove beyond a reasonable doubt that the  
12 defendant had both the power and the intent to control  
13 the disposition or use of methamphetamine.

14 Possession may be either actual or constructive.  
15 Actual possession means that the methamphetamine was in  
16 the actual physical custody of the defendant.  
17 Constructive possession means that the defendant had  
18 dominion and control, or the right to exercise dominion  
19 or control, over either the methamphetamine itself or the  
20 property on which the methamphetamine was found.

21 Mere presence at the scene where the drugs were  
22 found is not enough to prove possession. The defendant's  
23 knowledge and possession may be inferred when a substance  
24 is found on property under the defendant's control.

25 However, this inference is simply an evidentiary fact to

1 be taken into consideration by you, along with the other  
2 evidence in the case, and to be given the weight you  
3 decide it should have.

4 The state must also prove beyond a reasonable doubt  
5 that the defendant intended to distribute the  
6 methamphetamine. Distribute means to deliver other than  
7 by administering or dispensing a drug. Intent may be  
8 shown by acts and conduct of the defendant and other  
9 circumstances from which you naturally and reasonably  
10 infer intent.

11 In determining whether to -- the defendant had the  
12 intent to distribute the methamphetamine, you may  
13 consider the circumstances surrounding the defendant's  
14 alleged possession. You may consider the amount of the  
15 substance alleged to have been possessed, the manner in  
16 which it was alleged -- allegedly possessed, the place  
17 where it was allegedly possessed, and other factors which  
18 you consider to be important.

19 You must find that the defendant did not intend --  
20 excuse me -- you must find that the defendant did not  
21 intend to have the methamphetamine solely for her own  
22 use. Possession of 1 or more grams of methamphetamine  
23 creates an inference that the defendant possessed the  
24 methamphetamine with the intent to distribute it. This  
25 inference does not relieve the state from proving beyond

1 a reasonable doubt that the defendant had the intent to  
2 distribute. This inference is simply an evidentiary fact  
3 to be taken into consideration by you, along with the  
4 other evidence in the case, and to be given the weight  
5 you decide it should have.

6 If you find that the state has failed to prove  
7 beyond a reasonable doubt that the defendant is guilty of  
8 possession with intent to distribute methamphetamine, you  
9 may consider whether the state has proved beyond a  
10 reasonable doubt that the defendant is guilty of simple  
11 possession of methamphetamine. Simple possession does  
12 not require an intent to distribute the methamphetamine.

13 To convict the defendant of simple possession of  
14 methamphetamine, the state must prove beyond a reasonable  
15 doubt that the defendant knowingly or intentionally  
16 possessed methamphetamine. Knowingly means with  
17 knowledge, consciously, not accidentally. Intentionally  
18 means willfully, intending the result which actually  
19 occurs, not accidentally or involuntarily. Intent may be  
20 shown by acts and conduct of the defendant and other  
21 circumstances which you may naturally and reasonably  
22 infer intent.

23 To prove possession, the state must prove beyond a  
24 reasonable doubt that the defendant had both the power  
25 and the intent to control the disposition or use of the

1 methamphetamine. Possession may be either actual or  
2 constructive. Again, actual possession means that the  
3 methamphetamine was in the actual, physical custody of  
4 the defendant. Constructive possession means that the  
5 defendant had dominion and control, or the right to  
6 exercise dominion or control, over either the  
7 methamphetamine itself or the property on which the  
8 methamphetamine was found.

9       Mere presence at the scene where the drug was found  
10 is not enough to prove possession. The defendant's  
11 knowledge and possession must have been inferred when a  
12 substance is found on the -- may be inferred when a  
13 substance is found on the property under the defendant's  
14 control. However, this inference is simply an  
15 evidentiary fact to be taken into consideration by you,  
16 along with the other evidence in the case, and to be  
17 given the weight you decide it should have.

18       Now, there are three possible verdicts which you may  
19 find in this case. No significance should be given to  
20 the order in which I state these possible verdicts to  
21 you. I simply have to state one first, one second, and  
22 one third.

23       But the possible verdicts in this case are: We, the  
24 jury, find the defendant guilty of possession with intent  
25 to distribute methamphetamine; or we, the jury, find the

1 defendant guilty of simple possession of methamphetamine;  
2 or we, the jury, find the defendant not guilty.

3 Ladies and gentlemen, your verdict must be a  
4 unanimous one.

5 Mr. Welch, when the jury agrees on a verdict, you're  
6 -- you will check the appropriate verdict on the verdict  
7 form; then sign your name on the verdict form; then knock  
8 on the door and advise the bailiff that the jury has  
9 reached a verdict and we'll bring you back into the  
10 courtroom at the -- at that time.

11 Now, I'm going to excuse you back to the jury room.  
12 But please do not begin your deliberations at this point  
13 in time. I need to check with the attorneys to see if  
14 they have any challenges or additional charges on the  
15 law. If they do and I deem them appropriate, I'll bring  
16 you back into the courtroom and make whatever corrections  
17 or additional charges are necessary.

18 If there are none, then we will send the verdict  
19 form with the exhibits, back to the jury room and the  
20 bailiff will instruct you to begin your deliberations.  
21 But please do not begin your deliberations until the  
22 bailiff instructs you to do so.

23 All right? I'll excuse you back to the jury room  
24 for right now. Thank you.

25 (Whereupon, the jury exited the courtroom at 4:12

1 p.m.)

2 THE COURT: All right. Any challenges or additional  
3 charges from the state?

4 MR. BIXLER: None, Your Honor.

5 THE COURT: Any from the defense?

6 MR. BROOME: No, Your Honor.

7 THE COURT: All right. Let's make sure we've got  
8 all the exhibits together.

9 (Off the record briefly.)

10 THE COURT: We've got everything?

11 MR. BROOME: Yes, sir.

12 THE COURT: All right. Let's go ahead and take the  
13 exhibits with the verdict form back to the jury room.  
14 Tell them they can begin their deliberations. And please  
15 bring Ms. Gothard, the alternate, out when you come,  
16 please.

17 (Whereupon, the jury began deliberating at 4:15  
18 p.m.)

19 (Off the record from 4:15 p.m. until 5:03 p.m.)

20 THE COURT: All right. We've got several requests  
21 and questions from the jury. First of all, they say (As  
22 read): "The jury would like to view the video footage  
23 from the backseat of the patrol car, as well as the  
24 footage from the time the traffic stop started through  
25 the vehicle search."

1           So, I guess, is that both videos?

2           MR. BROOME: That'd be Officer Kanipe's backseat  
3 video. I think they showed ---

4           THE DEFENDANT: Yeah. Uh-huh.

5           MR. BROOME: It's kind of -- yeah. The search would  
6 be, I think, all on Gainey's. But if they want to watch  
7 everything in its entirety, you'd have to watch Kanipe's  
8 too because of the -- they take her out and bring her  
9 back in front of Officer Kanipe's car. If they want to  
10 watch everything -- because -- does that make sense? --  
11 through the search, because there's -- they -- he stops  
12 her -- Gainey -- pulls her out. There's that.

13           And then, when Officer Kanipe shows up and his video  
14 is behind -- so if they want to watch through the search  
15 ---

16           THE COURT: That's what they say: ". . . the  
17 footage from the time the traffic stop started through  
18 the vehicle search."

19           MR. BROOME: Yeah. I mean, they'd want to watch  
20 both, I mean.

21           THE COURT: Okay.

22           MR. BIXLER: At -- the -- and the in-car is only the  
23 -- it -- the time frame on Officer Kanipe's car is going  
24 to be -- it's a 15-minute/18-minute video.

25           (Whereupon, Mr. Broome and the defendant conferred.)

1 MR. BIXLER: The in-car is only going to start once  
2 Ms. Tuttle is placed in the video. So the first  
3 eight/ten minutes, it's just going to be a black screen  
4 also.

5 THE COURT: Okay. But that -- I don't think that's  
6 what they're talking -- I'm assuming -- "video footage  
7 from the backseat of the patrol car" -- I'm assuming  
8 that's where they're talking about she's in the patrol  
9 car, isn't it?

10 MR. BROOME: I would think so. There's -- would --  
11 because Officer Kanipe puts her in the -- his car. It  
12 drives off. And we saw so that. So that ---

13 MR. BIXLER: Right.

14 MR. BROOME: --- that seems ---

15 MR. BIXLER: And that ---

16 MR. BROOME: --- pretty clear.

17 MR. BIXLER: And ---

18 MR. BROOME: And then, I think what he's talking  
19 about is -- because it's kind of piecemeal. But they may  
20 just want to watch Gainey's car, where there's going to  
21 be a period of time where you don't see anything because  
22 they're all off camera and they're walking behind his  
23 car, getting in front of Logan's car -- Officer Kanipe's  
24 car.

25 THE DEFENDANT: Uh-huh.

1 MR. BROOME: So they could certainly ---

2 THE COURT: I mean, is that the -- is that the one  
3 that has the initial stop?

4 THE DEFENDANT: Uh-huh.

5 MR. BROOME: And then, it -- but it also shows the  
6 search too.

7 THE COURT: Okay.

8 MR. BROOME: It shows him come back on car and do  
9 that. So that -- I would think that would be the more  
10 pertinent thing they'd want to watch.

11 THE DEFENDANT: Uh-huh.

12 THE COURT: Okay. Do y'all know which ones -- I  
13 mean, well, we'll just show those to them. And if they  
14 say they want to see something else ---

15 THE DEFENDANT: Uh-huh.

16 THE COURT: --- we'll -- well ---

17 MR. BIXLER: So are ---

18 THE COURT: --- check something else.

19 MR. BIXLER: --- are we -- what are -- are we  
20 talking about doing the stop and then the -- the whole  
21 thing?

22 MR. BROOME: I'd ---

23 THE COURT: Yeah.

24 MR. BROOME: --- I'd say ---

25 THE COURT: It says ---

1 MR. BROOME: --- let them watch ---

2 THE COURT: --- from the ---

3 MR. BROOME: --- the whole thing.

4 THE COURT: --- traffic stop through the vehicle ---

5 MR. BIXLER: Okay.

6 THE COURT: --- search. So it sounds like ---

7 THE DEFENDANT: Yes.

8 THE COURT: --- they want to see the whole thing,  
9 from the time the vehicle was stopped until the search  
10 was completed.

11 THE DEFENDANT: Uh-huh.

12 MR. BROOME: That sounds accurate to me. I'd say  
13 just let them watch the whole thing.

14 THE COURT: Okay. They say (As read): "Also, was  
15 the syringe that was mentioned in the data-room footage  
16 used for medical reasons?"

17 THE DEFENDANT: It was used for ---

18 MR. BROOME: No, no.

19 MR. BIXLER: No ---

20 (Whereupon, Mr. Broome and the defendant conferred.)

21 THE COURT: And (As read): "Why was the syringe not  
22 admitted into evidence? Was it not found? Can you  
23 provide the street value of the meth in guidance?"

24 I'm just going to say as to these questions, those  
25 are factual issues that they have to determine; they are

1 the sole judge of the facts; they make those decisions  
2 based upon the evidence that was presented at trial.

3 MR. BROOME: Yeah. That sounds -- I mean, it's --  
4 that is on the DataMaster-room video. I know they didn't  
5 request to watch that, but ---

6 MR. BIXLER: Yeah. The -- there's also discussion  
7 of the syringe on Officer Gainey's camera -- the car  
8 camera.

9 THE COURT: Okay.

10 MR. BIXLER: So that -- that -- I mean, it's  
11 admitted into evidence. They can watch that.

12 THE COURT: Well, we're just going to play the  
13 videos. They want to see them. And I'm going to tell  
14 them these questions, those are factual matters that they  
15 have to determine and we can't give them any information;  
16 they just have to draw those conclusions from the  
17 evidence.

18 All right. Anything from the state?

19 MR. BIXLER: Nothing, Your Honor.

20 THE COURT: Anything from the defense?

21 MR. BROOME: No, Your Honor.

22 THE COURT: All right. Have we got this geared up  
23 where they can go ahead and watch it?

24 (Off the record briefly.)

25 THE COURT: All right. All right. Let's bring the

1 jury in.

2 What I'm going to do is tell them, on these  
3 questions, that I'm going to -- I'm going to address that  
4 first before we watch the videos.

5 And then, let's mark that Court's Exhibit --  
6 whatever it is.

7 (Whereupon, Court's Exhibit 2 was marked for  
8 identification.)

9 THE COURT: All right. Thank you.

10 THE COURT REPORTER: Yes, sir.

11 (Off the record briefly.)

12 (Whereupon, the jury entered the courtroom at 5:08  
13 p.m.)

14 THE BAILIFF: All present, Your Honor.

15 THE COURT: Thank you very much. All right.

16 Welcome back, ladies and gentlemen. I understand that  
17 I've -- or I received your request, as well as your  
18 questions. And I'll address the questions first.

19 You had several questions: "Was the syringe that  
20 was mentioned in the data-room footage used for medical  
21 reasons? Why was the syringe not admitted into evidence?  
22 Was it not found? Can you provide the street value of  
23 the meth in guidance?"

24 All right. Those questions seek facts. And as I  
25 told you, you and you alone decide the facts of this

1 case. I cannot make a comment on the facts of the case.

2 These are matters that you must determine, based  
3 upon the evidence presented at trial. Okay? So I can't  
4 answer those questions because that's a factual determine  
5 that you, the jury, must make based upon the evidence  
6 that has been presented at trial.

7 Now, your request as to the videos, you can review  
8 the videos. We've got them set up. And I think we're  
9 ready to go on that, okay?

10 Can we dim those lights some?

11 THE BAILIFF: (Complied.)

12 (Whereupon, a portion of video was published in open  
13 court.)

14 (Whereupon, a bench conference was held off the  
15 record in the presence of the jury, but out of the  
16 hearing of the jury.)

17 (Whereupon, a portion of video was published in open  
18 court.)

19 THE COURT: All right. Now, that's all of the  
20 search of vehicle?

21 MR. BIXLER: That's right, Your Honor.

22 THE COURT: Now they want to see the backseat video.

23 (Whereupon, a bench conference was held off the  
24 record in the presence of the jury, but out of the  
25 hearing of the jury.)

1 THE COURT: Do y'all want them to fast-forward it to  
2 where she gets in the car?

3 JUROR: Uh-huh.

4 JUROR: Yeah.

5 THE FOREPERSON: Yes, please.

6 THE COURT: Yes. Okay.

7 (Whereupon, a portion of video was published in open  
8 court.)

9 (Whereupon, a bench conference was held off the  
10 record in the presence of the jury, but out of the  
11 hearing of the jury.)

12 (Whereupon, a portion of video was published in open  
13 court.)

14 THE COURT: All right. All right. Is that all you  
15 needed to see?

16 THE FOREPERSON: Yes, Your Honor.

17 THE COURT: All right. I'll let you return to the  
18 jury room and continue your deliberations. Thank you  
19 very much.

20 (Whereupon, the jury exited the courtroom at 5:47  
21 p.m.)

22 (Whereupon, the jury resumed deliberations at 5:47  
23 p.m.)

24 THE COURT: All right. Anything from the state  
25 before we recess?

1 MR. BIXLER: Nothing, Your Honor.

2 THE COURT: Anything from the defense?

3 MR. BROOME: Nothing, Your Honor.

4 THE COURT: All right. We'll be in recess until we  
5 hear from the jury. Here's the Court's exhibit there.

6 THE COURT REPORTER: Yes, sir.

7 (Whereupon, marked for identification.)

8 (Off the record from 5:48 p.m. until 6:12 p.m.)

9 THE COURT: All right. I understand the jury has  
10 reached a verdict. Anything from the state before we  
11 bring the jury in?

12 MR. BIXLER: No, Your Honor.

13 THE COURT: Anything from the defense?

14 MR. BROOME: No, Your Honor.

15 THE COURT: All right. Let's go ahead and bring the  
16 jury in. Thank you.

17 (Off the record briefly.)

18 (Whereupon, the jury entered the courtroom at 6:13  
19 p.m.)

20 THE BAILIFF: All present, Your Honor.

21 THE COURT: Thank you very much. Welcome back,  
22 ladies and gentlemen. Mr. Welch, I understand the jury  
23 has reached a verdict; is that correct?

24 THE FOREPERSON: Yes, Your Honor.

25 THE COURT: Have you completed and signed the

1 verdict form?

2 THE FOREPERSON: Yes, Your Honor.

3 THE COURT: All right. If you'd please hand it to  
4 the bailiff.

5 THE FOREPERSON: (Complied.)

6 THE COURT: Thank you, sir. All right. I'll ask  
7 the clerk if she would please publish the verdict.

8 VERDICT OF THE JURY

9 CLERK OF COURT: Okay. Your Honor, in the case of  
10 the *State of South Carolina v. Katy McDonald Tuttle*, Case  
11 No. 2014-GS-30-1771 (As read): We, the jury, find the  
12 defendant guilty of possession with intent to distribute  
13 methamphetamine. Signed by the foreperson, Jonathan D.  
14 Welch, March 31st, 2017.

15 Ladies and gentlemen, if that be your verdict,  
16 please indicate by raising your right hand.

17 (Whereupon, all jurors raised their right hand.)

18 CLERK OF COURT: Thank you.

19 THE COURT: All right. Let the record reflect that  
20 all jurors raised their right hand. Any polling of the  
21 jury by the defense?

22 MR. BROOME: No, Your Honor.

23 THE COURT: All right. All right. Ladies and  
24 gentlemen, I want to thank for your service in this case.  
25 That'll not only conclude your duty as jurors for this

1 case, but for this week. And I want to thank for your  
2 service this week and in this case.

3 You've got a one-year disqualification from serving  
4 jury duty. I hope you don't -- I mean, a three-year  
5 exemption, a one-year disqualification. I hope you don't  
6 exercise your exemption because we do need good jurors.  
7 And I want to thank you for your service.

8 But as I said, you're free to go for the remainder  
9 of the day and for the week, and thank you very much for  
10 your service.

11 (Whereupon, the jury exited the courtroom at 6:15  
12 p.m.)

13 (Off the record briefly.)

14 THE COURT: All right. Any posttrial motions at  
15 this time?

16 MR. BROOME: No, Your Honor.

17 THE COURT: All right. Any reason why we cannot go  
18 ahead and impose sentencing at this time?

19 MR. BROOME: No, Your Honor.

20 THE COURT: All right. If -- you got the sentencing  
21 sheet?

22 MR. BIXLER: I -- I do, Your Honor. May I approach?

23 THE COURT: Yes. Thank you. I'm just checking to  
24 make sure we've got the right CDR code. Okay.

25 All right, Mr. Broome. Anything in mitigation?

1 MR. BROOME: Yes, Your Honor. Ms. Tuttle is 57  
2 years old. She has no prior record. This is a 2014  
3 case. I think she did three days -- two or three days in  
4 jail. We'll confirm.

5 She hasn't been in any trouble since. And she's  
6 been out on bond. She hasn't been arrested for anything  
7 else.

8 She has maintained her innocence throughout these  
9 proceedings. And I -- I think there is no -- you look at  
10 the facts of this case. This is -- we respect the jury's  
11 verdict. But I didn't see any evidence that she ever  
12 intended to sell or be a drug dealer, other than weight.

13 I know she's got a lot of time hanging over her  
14 head. If there's evidence of anything, I feel like in  
15 this case it might be of -- of someone who may have been  
16 a user, although she, again, maintains her innocence.

17 She's -- lives in Florida. She has physical --  
18 you've heard the -- this through trial. She's got  
19 physical disabilities: her fibromyalgia, her problems  
20 with her back; she uses a cane.

21 Your Honor, I -- I don't know what else to say in  
22 mitigation. I would ask to -- that -- obviously, credit  
23 for time she's served. But her -- her lack of prior  
24 record, I think, at her age in life is pretty significant  
25 and consider her physical disabilities.

1 THE COURT: All right. Thank you. Ms. Tuttle,  
2 anything you want to say?

3 (Whereupon, Mr. Broome and the defendant conferred.)

4 THE COURT: All right. Any prior record?

5 MR. BIXLER: None, Your Honor.

6 THE COURT: All right.

7 (Off the record briefly.)

8 SENTENCE OF THE COURT

9 THE COURT: All right, Ms. Tuttle. You have been  
10 found guilty by trial on the charge of possession with  
11 intent to distribute methamphetamines. Sentence of the  
12 Court is that you be confined to the State Department of  
13 Corrections for five years or pay a fine of \$10,000.  
14 That sentence will be suspended and you'll be placed on  
15 probation for four years.

16 Special terms of probation are that you pay a \$40  
17 application fee for applying for the services of the  
18 public defender, if you have not already done so. You'll  
19 be required to pay the clerk of court \$500 for Mr.  
20 Broome's service as your attorney in this case.

21 You'll receive credit for time served thus far, and  
22 I'll allow probation to be transferred to the state of  
23 Florida.

24 All right. Thank you.

25 MR. BROOME: Thank you, Your Honor.

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(Whereupon, the proceedings were concluded at 6:22 p.m.)

--- END OF TRANSCRIPT OF RECORD ---

**CERTIFICATE**

I, the undersigned Maryann S. Nevers, CVR-M-CM, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Circuit Court for Laurens County, South Carolina, on the 30th and 31st days of March, 2017.

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



---

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

Columbia, South Carolina  
October 4, 2017

**WITNESSES**

Heath Copeland Jr.  
Laurens Police Department

**THE STATE OF SOUTH CAROLINA**

COUNTY OF LAURENS

**COURT OF GENERAL SESSIONS**

October Term, 2014  
Indictment # 14GS30- 1771

**WARRANT NUMBER**

2014D3000100392

**THE STATE**

vs.

Katy Mcdonald Tuttle

*Tru Bill*  
*Willie E. DeLoach*  
Foreman of the Grand Jury  
Date: *10/31/14*

**VERDICT**

Foreman

**INDICTMENT FOR**

**Possession With the Intent to Distribute  
Methamphetamine**

§44-53-0375

CDR: 3198

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

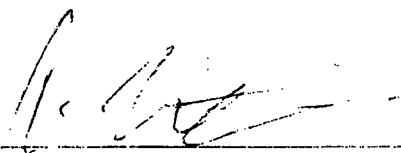
INDICTMENT FOR

Possession With the Intent to Distribute  
Methamphetamine  
§44-53-0375

At a Court of General Sessions, convened on the 31<sup>st</sup> day of October, 2014, the Grand Jurors of Laurens County present upon their oath:

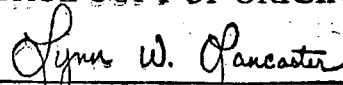
That Katy McDonald Tuttle did, on or about June 30, 2014, in Laurens County, willfully, unlawfully, and knowingly possess with intent to distribute, dispense, deliver, and/or otherwise aid, abet, attempt, or conspire to possess with the intent to distribute, dispense, or deliver methamphetamine, in violation of the provisions of Section 44-53-375 of the South Carolina Code of Laws, 1976, as amended.

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



Assistant Solicitor

A TRUE COPY OF ORIGINAL

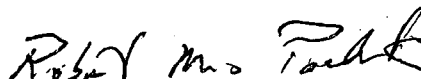


Lynn W. Lancaster  
Laurens County CCCP & GS

## 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

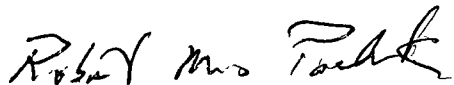
ATTORNEY FOR APPELLANT

This 13th day of March, 2018.

## 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 13th day of March, 2018.

**RECEIVED**

MAR 13 2018

SC Court of Appeals