

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Pickens County

Alexander S. Macaulay, Circuit Court Judge

Opinion No. 2012-UP-493 (S.C. Ct. App. filed 8/22/2012)

09-GS-39-1775, 09-GS-39-1776

THE STATE,

RESPONDENT,

V.

TRAVIS TEASLEY,

PETITIONER

APPELLATE CASE NO. 2012-213213

APPENDIX

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S.C. Supreme Court

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**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Travis Teasley, Appellant.

Appellate Case No. 2011-184486

Appeal From Pickens County
Alexander S. Macaulay, Circuit Court Judge

Unpublished Opinion No. 2012-UP-493
Submitted August 1, 2012 – Filed August 22, 2012

AFFIRMED

Appellate Defender Kathrine H. Hudgins, of Columbia,
for Appellant.

Attorney General Alan Wilson, Chief Deputy Attorney
General John W. McIntosh, Senior Assistant Deputy
Attorney General Salley W. Elliott, and Assistant
Attorney General Christina J. Catoe, all of Columbia; and
Solicitor W. Walter Wilkins, III, of Greenville, for
Respondent.

PER CURIAM: Affirmed¹ pursuant to Rule 220(b), SCACR, and the following authority: *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) ("In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial judge. . . . A party may not argue one ground at trial and an alternate ground on appeal.").

AFFIRMED.

HUFF, THOMAS, and GEATHERS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

THE STATE,

RESPONDENT,

v.

TRAVIS TEASLEY,

APPELLANT

Appeal from Pickens County

Alexander S. Macaulay, Circuit Court Judge

Opinion No. 2012-UP-493

PETITION FOR REHEARING

Pursuant to Rule 221(a), SCACR, counsel for Travis Teasley petitions the Court for rehearing. Counsel respectfully submits that the Court overlooked the fact that the issue raised on appeal, whether the trial judge erred in qualifying an Easley police officer as an expert in drug investigation when the qualification was not necessary and appellant was prejudiced by the improper expert qualification, was raised to and ruled upon by the trial judge.

At trial the State moved to qualify Agent Hamby, an Easley police officer, as an expert in drug investigation. (R. p. 138, lines 20-22). Trial counsel for appellant Teasley objected stating, "I don't believe the extent of his experience and the fact that he took the courses on narcotics makes him an expert in the field of drug investigation." (R. p. 140, lines 9-13). The judge overruled the

objection stating, "I understand. However, ours [sic] rules provides if the witness does have particular experience by reason of his background or training in a certain area that would be helpful to those who don't have that training being members of the jury that they would be - - could be qualified as an expert." Trial counsel generally objected to allowing the officer to testify as an expert in drug investigation.

On appeal petitioner argued that the judge erred in allowing the officer to testify as an expert in drug investigation. Specifically, petitioner argued that the judge failed to make a specific finding in regard to Agent Hamby's qualification as an expert in drug investigation and the judge failed to make the first required key preliminary finding that the subject matter of the officer's testimony was beyond the ordinary knowledge of the jury and required expert explanation. Trial counsel's general objection to allowing the officer to testify as an expert in drug investigation sufficiently preserves the issue raised on direct appeal that the trial judge erred in qualifying the police officer as an expert in drug investigation, when the qualification was not necessary and appellant was prejudiced by the **improper** expert qualification.

Once trial counsel made the general objection to the officer testifying as an expert in drug investigation, the trial judge, as gatekeeper, was required to make three findings pursuant to Rule 702, SCRE: 1.) that the subject matter is beyond the ordinary knowledge of the jury, thus requiring an expert to explain the matter to the jury; 2.) that the proffered expert has indeed acquired the requisite knowledge and skill to qualify as an expert in the particular subject matter; 3.) that the substance of the testimony is reliable. Watson v. Ford Motor Co., 389 S.C. 434, 699 S.E.2d 169 (2010). The judge failed to make those findings. Rule 702, SCRE, provides, "If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the

evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.

In Watson v. Ford Motor Co., 389 S.C. 434, 445 – 447, 699 S.E.2d 169, 175 (2010), the South Carolina Supreme court wrote:

Expert testimony may be used to help the jury to determine a fact in issue based on the expert's specialized knowledge, experience, or skill and is necessary in cases in which the subject matter falls outside the realm of ordinary lay knowledge. Stated differently, expert evidence is required where a factual issue must be resolved with scientific, technical, or any other specialized knowledge. Expert testimony differs from lay testimony in that an expert witness is permitted to state an opinion based on facts not within his firsthand knowledge or may base his opinion on information made available before the hearing so long as it is the type of information that is reasonably relied upon in the field to make opinions. See Rule 703, SCRE. On the other hand, a lay witness may only testify as to matters within his personal knowledge and may not offer opinion testimony which requires special knowledge, skill, experience, or training. See Rules 602 and 701, SCRE.

For these reasons, expert testimony receives additional scrutiny relative to other evidentiary decisions. Specifically, in executing its gatekeeping duties, the trial court must make three key preliminary findings which are fundamental to Rule 702 before the jury may consider expert testimony. First, the trial court must find that the subject matter is beyond the ordinary knowledge of the jury, thus requiring an expert to explain the matter to the jury. See State v. Douglas, 380 S.C. 499, 671 S.E.2d 606 (2009) (holding that the witness was improperly qualified as a forensic interviewing expert where the nature of her testimony was based on personal observations and discussions with the child victim). Next, while the expert need not be a specialist in the particular branch of the field, the trial court must find that the proffered expert has indeed acquired the requisite knowledge and skill to qualify as an expert in the particular subject matter. See Gooding v. St. Francis Xavier Hosp., 326 S.C. 248, 252-53, 487 S.E.2d 596, 598 (1997) (observing that to be competent to testify as an expert, a witness must have acquired by reason of study or experience such knowledge and skill in a profession or science that he is better qualified than the jury to form an opinion on the particular subject of his testimony). Finally, the trial court must evaluate the

substance of the testimony and determine whether it is reliable. See State v. Council, 335 S.C. 1, 20, 515 S.E.2d 508, 518 (evaluating whether expert testimony on DNA analysis met the reliability requirements).

Expert testimony is not admissible unless it satisfies all three requirements with respect to subject matter, expert qualifications, and reliability. Thus, only after the trial court has found that expert testimony is necessary to assist the jury in resolving factual questions, the expert is qualified in the particular area, and the testimony is reliable, may the trial court admit the evidence and permit the jury to assign it such weight as it deems appropriate. See State v. White, 382 S.C. 265, 676 S.E.2d 684 (2009) (observing that the “familiar evidentiary mantra that a challenge to evidence goes to ‘weight, not admissibility’ may be invoked only after the trial court has vetted the matters of qualifications and reliability and admitted the evidence”).

The objection at trial was to Agent Hamby’s qualification as an expert in drug investigation, the second required key preliminary finding discussed above in Watson v. Ford. During voir dire, the officer testified as to courses he attended but also testified that he had never been qualified as an expert. (R. p. 139, lines 2 – p. 203, lines 1-13). While the judge notes that the rules allow expert testimony “if the witness does have particular experience by reason of his background or training in a certain area,” the judge failed to make a specific finding in regard to Agent Hamby’s qualification as an expert in drug investigation.

Additionally, the judge failed to make the first required key preliminary finding that the subject matter of the officer’s testimony was beyond the ordinary knowledge of the jury and required expert explanation. The majority of the officer’s testimony involved his personal knowledge and involvement in the undercover operation, testimony appropriate from a lay witness rather than an expert witness. At one point the officer testified that the most common denomination when buying crack is the \$20 rock and the amount purchased during the undercover operation was a large amount. (R. p. 164, lines 9-19). This might be important if

there was an issue as to intent to distribute. In the present case, however, appellant was charged with distribution, not possession with intent to distribute. Intent to distribute was not an issue the jury needed to decide.

In State v. Douglas, 380 S.C. 499, 671 S.E.2d 606 (2009), the South Carolina Supreme Court held that it was not necessary to qualify, as an expert in forensic interviewing, the victim assistance officer who interviewed the child alleging sexual abuse. The Court in Douglas wrote, "We find the testimony given by Herod [the victim assistance officer] in the present case simply was not required to be presented by an expert witness. Herod testified only as to her personal observations and experiences, and her interview with the Victim in this case. Accordingly, we find it was unnecessary for the trial court to have qualified her as an expert." 380 S.C. at 502-503, 671 S.E.2d at 608. As in Douglas the testimony given by Agent Hamby simply was not required to be presented by an expert.

The present case differs from Douglas because the improperly qualified expert witness police officer was also an eye witness to the undercover transaction as opposed to an interviewer. In Douglas the Court found no prejudice from the interviewer's testimony or her qualification as an expert. The prejudice in the present case comes from the fact that the improperly qualified expert was also a witness and his credibility a crucial issue. The judge instructed the jury, "But again, as I've mention [sic] in other instance in this case, all witnesses, experts as well as lay witnesses, the weight of their testimony and value of their testimony even as to credibility is for your determination." (R. p. 140, lines 22 – p. 141, line 1). The instruction does not cure the prejudice and is confusing to the jury as the police officer's testimony did not involve any subject matter requiring expert testimony.

The judge failed to make the three required preliminary findings before allowing expert testimony. First, the judge failed to find that the subject matter of the proposed expert testimony was beyond the ordinary knowledge of the jury. Second, the judge failed to specifically find that the officer was qualified as an expert in drug investigation. Third, the judge made no finding as to reliability. The judge erred in allowing the officer to testify as an expert.

In affirming the sentence and conviction this Court wrote, "Affirmed pursuant to Rule 220(b), SCACR, and the following authority: *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) ("In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial judge. . . . A party may not argue one ground at trial and an alternate ground on appeal."). *State v. Teasley*, Op. No. 2012-UP-493, filed August 22, 2012.

State v. Dunbar is distinguished from the present case. In *Dunbar* the defense challenged a search warrant based on the Fourth Amendment of both the United States and South Carolina Constitutions. In vacating a portion of the Court of Appeals decision finding that the search warrant did not comply with the statutory affidavit requirement found in S.C. Code §17-13-140 and remanding the case to the Court of Appeals for a decision based on the constitutional arguments raised at trial, the South Carolina Supreme Court wrote, "The Court of Appeals addressed the search warrant, and its underlying affidavit, by analyzing the issue under S.C. Code Ann. § 17-13-140 (2003), even though the statute was not argued during the trial. The State now contends the Court of Appeals erred by basing their decision to reverse the trial court on the warrant statute. We agree." *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693 (2003). In *Dunbar* there were two distinct grounds to support challenges to the search warrant, the constitutional ground raised at trial and the unpreserved statutory ground pursuant to the affidavit requirement of S.C. Code §17-13-140.

In the present case petitioner objected to the officer's testimony on the one ground that the officer should not be allowed to testify as an expert. Once this objection was made, the trial court and the appellate court must analyze the challenge pursuant to Rule 702, SCRE, and the three requirements for admission of expert testimony found in Watson v. Ford Motor Co., 389 S.C. 434, 699 S.E.2d 169 (2010). The specific challenge outlined in the brief, citing Rule 702 and Watson v. Ford, that the trial judge erred in qualifying the police officer as an expert in drug investigation when the qualification was not necessary and appellant was prejudiced by the improper expert qualification is fairly within the general challenge to allowing the officer to testify as an expert. It is not as if petitioner objected at trial that the officer's testimony was inadmissible as improper hearsay and then on appeal argued that the officer should not have been allowed to testify as an expert.

Based on the above argument, petitioner respectfully requests rehearing.

Respectfully submitted,


Kathrine H. Hudgins
Appellate Defender

This 6th day of September, 2012.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Pickens County

Alexander S. Macaulay, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TRAVIS TEASLEY,

APPELLANT

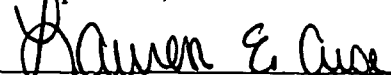
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon Christina J. Catoe, Esquire, this 6th day of September, 2012.


Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 6th day
of September, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: August 23, 2014.

The South Carolina Court of Appeals

The State, Respondent,

v.

Travis Teasley, Appellant.

Appellate Case No. 2011-184486

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

Thomas C. Hoff

J.

Paul C. Thomas

J.

John D. DeLoach

J.

Columbia, South Carolina

cc: Alexander S. Macaulay
Kathrine H. Hudgins
Alan Wilson
John W. McIntosh
Salley W. Elliott
Christina J. Catoe
W. Walter Wilkins, III

FILED

September 20, 2012

RECEIVED

STATE OF SOUTH CAROLINA

DEC 21 2012

In The Court of Appeals

S.C. Supreme Court

APPEAL FROM PICKENS COUNTY

Alexander S. Macaulay, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TRAVIS TEASLEY,

APPELLANT

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

COURT OF GENERAL SESSIONS
2009-GS-23-1775; 1776

ORIGINAL

STATE OF SOUTH CAROLINA)

PLAINTIFF)

vs.)

TRANSCRIPT OF RECORD

TRAVIS TEASLEY AND)

SUNEDRA JONES)

DEFENDANTS)

June 22-23, 2010
Pickens, South Carolina

B E F O R E:

THE HONORABLE ALEXANDER S. MACAULAY, Judge; and a
jury.

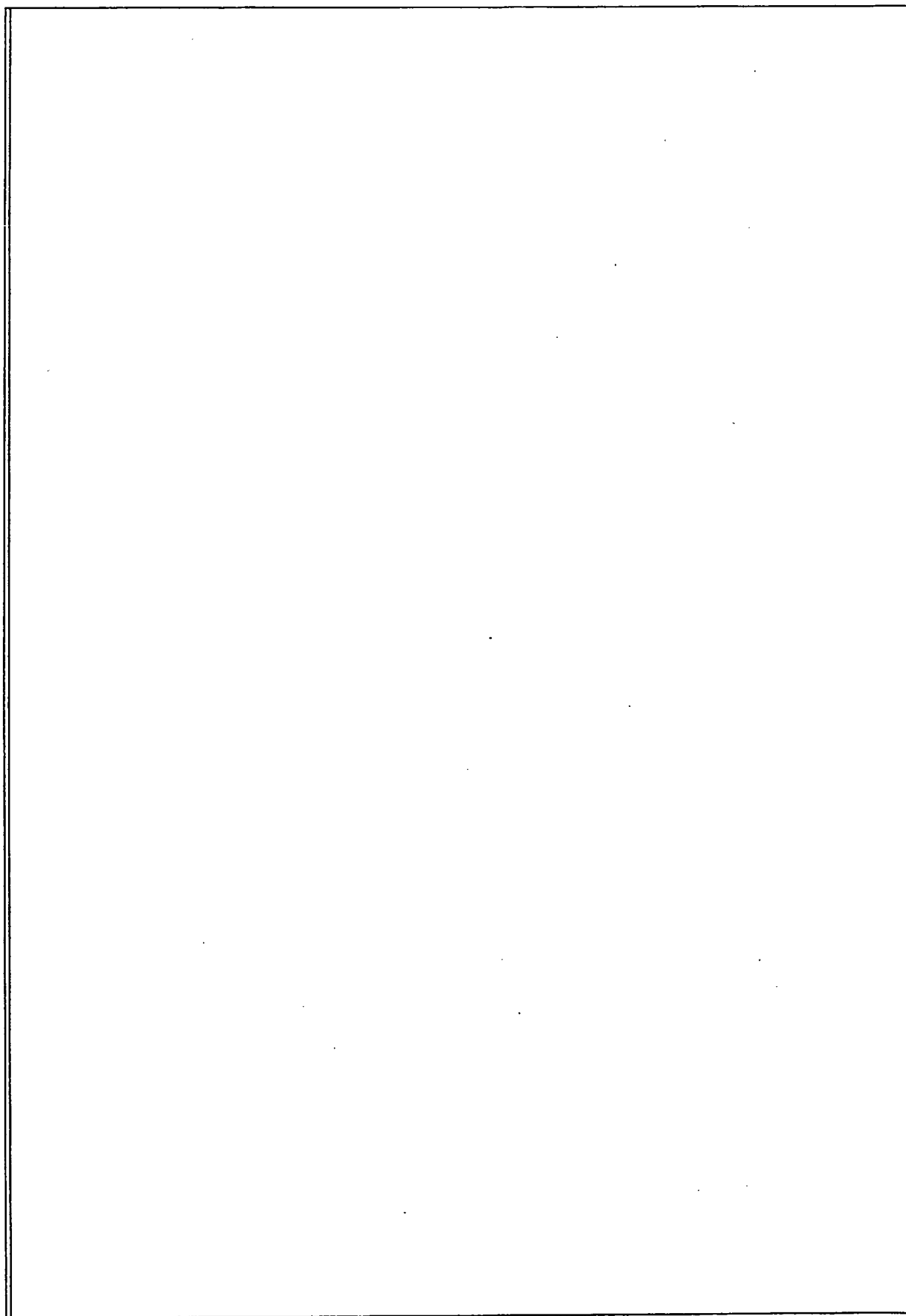
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OFFICIAL COURT REPORTER



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1 THE COURT: All right, is the State ready?

2 MS. HAMAKER: Yes, Your Honor.

3 THE COURT: Is the defense ready, Ms. Jones?

4 MR. ERWIN: Yes, sir.

5 THE COURT: Mr. Teasley?

6 MR. ALEXANDER: Yes, sir.

7 THE COURT: All right, Mr. Teasley has three
8 names, doesn't he? I noticed I think it was on the bond
9 he had three names.

10 MR. ALEXANDER: It's Travis Lamar Teasley, Your
11 Honor.

12 THE COURT: Spell that middle name, please.

13 MR. ALEXANDER: L-A-M-A-R.

14 THE COURT: Lamar?

15 MR. ALEXANDER: Yes, sir.

16 THE COURT: All right, very good.

17 Well the State's here.

18 And Ms. Jones is here?

19 MR. ERWIN: Yes, sir.

20 THE COURT: Is Mr. Teasley here?

21 MR. ALEXANDER: He is not, Your Honor. I was
22 unable to contact him last night on the phone numbers that
23 I had for him. Didn't get an answer at any of them. Some
24 were disconnected. It's my understanding that Ms. Jones
25 and her family attempted to locate him last night through,

1 I think, some of his family members. And was
2 unsuccessful.

3 THE COURT: All right, very well.

4 Ms. Hamaker, what's the position of the State?

5 MS. HAMAKER: The State's wishes to go forward
6 with the trial, Your Honor.

7 THE COURT: In his absence?

8 MS. HAMAKER: Yes, sir Your Honor.

9 THE COURT: All right, what do you have to
10 establish notice and advice of his rights to be present
11 and notice of the consequence?

12 MS. HAMAKER: Your Honor, we have a certified
13 copy of his bond paper work from the Clerk's Office. We
14 also have Tracy Littleton from the Solicitor's Office who
15 is prepared to testify that notice was sent before to that
16 address.

17 THE COURT: All right, let me -- have you shown
18 that to the defense?

19 MS. HAMAKER: No, sir, Your Honor, I will.

20 THE COURT: Let's do that and have it marked as
21 Court's Exhibit. We'll go off the record while that's
22 being done.

23 (WHEREUPON, Court's Exhibit No. 1 was marked for
24 identification and received into evidence.)

25 MS. HAMAKER: Your Honor, one is the bond, one

1 is a list of dates and addresses to which Ms. Littleton
2 send the bond card.

3 THE COURT: So those would be two. Do the bond
4 first as Court's Exhibit 1 or A, whichever. And the
5 mailing list, the notice list as 2.

6 MS. HAMAKER: And, Your Honor, the final one,
7 the third one passed up are copies of the actual bond
8 cards.

9 THE COURT: Very good.

10 (WHEREUPON, Court's Exhibit Nos. 2 & 3 were
11 received into evidence.)

12 THE COURT: All right, have the Bailiff also to
13 call Travis Lamar Teasley.

14 THE MR. CLEVELAND: Okay, Your Honor. He's not
15 there, Your Honor.

16 THE COURT: Just a second, we'll have -- once
17 we're ready to proceed we'll get all this on the record.

18 All right, we're about to begin the trial of the
19 cases of The State vs. Sunedra Thororia Jones,
20 2010-GS-39-1123. The State is represented by Ms. Hamaker
21 and Mr. Cleveland. Mr. Erwin represents the defendant in
22 The State vs. Travis Lamar Teasley, 2010-GS-39-11 -- or
23 1776 and 2010-GS-39-2081. Ms. Hamaker also represents The
24 State in that case as well as Mr. Cleveland. And
25 Mr. Alexander represents the defendant, Mr. Teasley.

1 I've inquired of the counsel and I'm informed
2 that Ms. Jones is here with her attorney. And that
3 Mr. Alexander advises me that Mr. Teasley is not here and
4 has not been able to be located. I've called the cases
5 for trial. And I understand the Bailiff has called for
6 the defendant.

7 If you'd come forward, please, sir.

8 THE MR. CLEVELAND: Yes, sir.

9 THE COURT: All right, if you would, sir, give
10 us your name for the record.

11 THE MR. CLEVELAND: Wayne H. Smith, Jr., sir.

12 THE COURT: All right, Mr. Smith, raise your
13 right hand.

14 WAYNE SMITH, after being duly sworn, testified
15 as follows:

16 THE COURT: What is your position here at the
17 Pickens County Courthouse?

18 MR. SMITH: I'm a Bailiff at the courthouse,
19 sir.

20 THE COURT: All right, your were instructed to
21 call the name of Travis Lamar Teasley?

22 MR. SMITH: Yes, sir.

23 THE COURT: Did you do that?

24 MR. SMITH: Yes, sir, three times.

25 THE COURT: And that was here at the courthouse

1 door?

2 MR. SMITH: Yes, sir.

3 THE COURT: Did you have any response?

4 MR. SMITH: No, sir.

5 THE COURT: All right, very good.

6 Anything from the State?

7 MS. HAMAKER: Your Honor, I believe you read out
8 the indictment numbers off the docket that was published.
9 And just as a matter of correcting that, I believe it's
10 written incorrectly on the docket. So if I can pass up
11 the actual indictments.

12 THE COURT: I thought that's where I got them.
13 Maybe I made a mistake. I see there's a 2000-47, which is
14 that? That's -- I mean, 2010-0047.

15 MS. HAMAKER: Your Honor, that was -- that would
16 be Sunedra Thororia Jones.

17 THE COURT: All right, so there's two
18 indictments as to Ms. Jones?

19 MS. HAMAKER: They're correct, Your Honor.

20 THE COURT: All right, but there are two. So
21 the 1123 is the first one and then 47 is the second one?

22 MS. HAMAKER: Yes, sir, Your Honor.

23 THE COURT: All right, very good.

24 MS. HAMAKER: And for Mr. Teasley those are the
25 ones. Those are the correct ones, Your Honor.

1 THE COURT: Well you got -- what is the 2081?

2 MS. HAMAKER: Your Honor, that would have been a
3 warrant that was never indicted.

4 THE COURT: All right, so the 2081 is not one?

5 MS. HAMAKER: That's correct.

6 THE COURT: Mr. Alexander, I want to be sure
7 that you got yours too.

8 MR. ALEXANDER: Yes, sir.

9 THE COURT: All right, as I say, the cases that
10 we are beginning trial of and have been called for trial
11 are State vs. Sunedra Thororia Jones, 2006-GS-39 -- excuse
12 me, 2010-GS-39-0047, distribution of crack cocaine within
13 proximity of a school. And then 2010-GS-39-1123,
14 distribution of crack cocaine.

15 Is that correct, Mr. Erwin?

16 MR. ERWIN: Your Honor, if your addressing
17 Ms. Jones'.

18 THE COURT: Yes, sir.

19 MR. ERWIN: This is the first notice that I've
20 received that she's faced with a prox charge, Your Honor.
21 The only information I have was the warrant which
22 apparently was true billed and was indicted June 15th.
23 They direct presented the prox charge apparently,
24 according to what I just looked at at the bench, on
25 June 15. None of my correspondence, my discovery

1 THE COURT: But in other words, you're saying
2 she can continue on the bond?

3 MR. CLEVELAND: Yes, sir, Your Honor.

4 THE COURT: All right, very good. Thank you.

5 All right, anything else?

6 All right, on the case of State vs. Travis Lamar
7 Teasley, 2010-GS-39-1775 and 1776, Ms. Hamaker.

8 MS. HAMAKER: Yes, Your Honor.

9 THE COURT: Do you want to proceed?

10 MS. HAMAKER: Yes, sir, Your Honor.

11 THE COURT: You're moving to try him in his
12 absence?

13 MS. HAMAKER: Yes, sir, Your Honor.

14 THE COURT: All right.

15 MS. HAMAKER: At this time the State would like
16 to present as its witness, Tracy Littleton, to the stand.

17 THE COURT: All right, let's see first of all, I
18 have marked as exhibits -- Court's Exhibit No. 1 which is
19 the bail form to Travis Lamar Teasley dated May the 21st,
20 2009. And Court's Exhibit No. 2, the bail bond cards that
21 Travis Teasley appeared in court showing the addresses
22 mailed to. And Court's Exhibit No. 3, the mailing notices
23 by the solicitor for this term of court.

24 Any objection to those Exhibits, Mr. Alexander?

25 MR. ALEXANDER: No Your Honor.

1 THE COURT: Mr. Erwin?

2 MR. ERWIN: None, Your Honor.

3 THE COURT: All right, very good. All right,
4 they're admitted into evidence without objection.

5 Yes, ma'am.

6 MS. HAMAKER: The State calls Tracy Littleton to
7 the stand.

8 THE CLERK: Place your left hand on the Bible,
9 raise your right.

10 TRACY LITTLETON, after being duly sworn,
11 testified as follows:

12 THE CLERK: State your full name for the record.

13 THE WITNESS: Tracy Littleton.

14 THE COURT: All right, you may proceed.

15 MS. HAMAKER: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MS. HAMAKER:

18 Q Ms. Littleton, did you mail Travis Teasley a bond
19 card for the trial to appear the week of June 21st,
20 2010.

21 A I did.

22 Q And where did you mail those bond cards too?

23 A The bond cards were mailed to 115 Belle Air Drive in
24 Greenville, South Carolina 29611. And he also had a
25 bond card mailed to 11 Drapper Street in Greenville,

1 South Carolina 29609.

2 Q Are either of those addresses the address that he
3 provided on his bond?

4 A I don't have the bond in front of me but my
5 understanding is that the 115 Belle Air Drive,
6 Greenville, South Carolina 29611 is the address on
7 the bond.

8 Q Okay.

9 THE COURT: Excuse me, that would be Court's
10 Exhibit No. 1, do you want to review it?

11 THE WITNESS: Yes, that is correct. 115 Belle
12 Air Drive, Greenville, South Carolina 29611.

13 BY MS. HAMAKER:

14 Q Have you mailed bond cards to those two addresses
15 that you've already read to Mr. Teasley before?

16 A I have.

17 Q And has he appeared for all of those?

18 A According to the list I typed up this morning, I
19 mailed a bond card for him to appear on November the
20 12th, 2009 to the same addresses that he appeared.
21 February the 18th 2010, to the same addresses and he
22 appeared. February 25th, 2010, to the same addresses
23 and he did appear. March 23rd, 2010, to the same
24 addresses and he did appear.

25 THE COURT: All right, I think that's Court's

1 Exhibit 2, you want to review that?

2 MS. HAMAKER: Yes, sir, Your Honor.

3 BY MS. HAMAKER:

4 Q Is that the list you typed up this morning?

5 A Yes, it is.

6 Q And that's Court's Exhibit number?

7 THE COURT: Two.

8 THE WITNESS: Two.

9 BY MS. HAMAKER:

10 Q Ms. Littleton, are you familiar with Mr. Teasley's
11 prior record?

12 A Somewhat but I would have to look at it.

13 Q Do you recall if Mr. Teasley's ever had a failure to
14 appear before?

15 MR. ALEXANDER: I object. She's already
16 testified that he's -- regarding this case. I don't know
17 what relevance something in prior to this litigation would
18 be relevant to the issue of a trial in his absence, Your
19 Honor.

20 THE COURT: Are you getting in reputation or
21 what?

22 MS. HAMAKER: Your Honor, I'm getting into
23 actually his intent on not being here.

24 THE COURT: I understand.

25 All right, I'm going to overrule your objection.

1 THE WITNESS: Okay, he does have a failure to
2 appear back in April, on April 7th, 2005.

3 BY MS. HAMAKER:

4 Q Did you say 2005, Ms. Littleton?

5 A Yes.

6 Q And if you were to look at his bond paper work, would
7 you be able to read for the Court the conditions of
8 that bond?

9 A I would.

10 Q And the one of those conditions of that bond that he
11 appear in court, if he doesn't he will be tried in
12 his absence?

13 A Yes, it does. Would you like me to read it?

14 Q Yes, if you would, publish it for the record.

15 A It states, I understand that if I violate any
16 condition of this Order a warrant for my arrest will
17 be issued. I understand and have been informed that
18 I have a right and obligation to be present at trial.
19 And should I fail to attend the court, the trial will
20 proceed in my absence.

21 MS. HAMAKER: That's all the State has for this
22 witness, Your Honor.

23 THE COURT: All right, cross-examine?

24 CROSS-EXAMINATION

25 BY MR. ALEXANDER:

1 Q Ms. Littleton, regarding this prior failure to appear
2 in 2005, it appears he was simply arrested and
3 charged for that but there was never any conviction
4 for failure to appear?

5 A According to his wrap sheet, that is correct.

6 Q And -- and did you bring -- do you have a copies of
7 the bond cards that you mailed previously to these
8 addresses?

9 A Not the previous bond cards, I do have the bond cards
10 that were mailed for the 21st, which was yesterday.

11 Q The ones that you mailed for this term of court, were
12 any of those bond cards returned?

13 A Yes, sir, there was. There was one bond card
14 returned. The one mailed to 115 Belle Air Drive in
15 Greenville, South Carolina 29611 was returned. With
16 the label stating, Returned to sender, not
17 deliverable as addressed, unable to forward.

18 Q And that address was the address that was listed on
19 his bond form, is that not correct?

20 A That is correct.

21 Q And you testified that he has made every court
22 appearance prior to this term of court, correct?

23 A To my knowledge, according to what is written in the
24 file on each bond card, it states that he was
25 present.

1 Q And that address was used to mail bond cards to him
2 on prior to court term, correct?

3 A That is correct.

4 Q Based on his appearance regarding this case and these
5 charges, him not appearing, is out of character based
6 on his appearance to prior terms of court, correct?

7 A Correct. According to his past appearances he has
8 appeared according to notes in the file.

9 MR. ALEXANDER: Thank you, that's all the
10 questions I have.

11 THE COURT: Re-examine?

12 REDIRECT EXAMINATION

13 BY MS. HAMAKER:

14 Q Ms. Littleton, is this the first time that he's been
15 bond carded for trial?

16 A To my knowledge, yes.

17 MS. HAMAKER: That's all the State has for this
18 witness, Your Honor.

19 MR. ERWIN: Your Honor, may I?

20 THE COURT: Certainly.

21 MR. ERWIN: Thank you, very much.

22 CROSS-EXAMINATION

23 BY MR. ERWIN:

24 Q Ma'am, are you aware that he moved subsequent to the
25 last bond card of March 25th term or 23rd term, I

1 believe.

2 A I did search the file and searched through all my
3 unfiled paper work to make sure I did not have a
4 change of address for him and I have a change of
5 address for him.

6 Q I understand that. And you may not have received
7 notice of a new address but he was present in the
8 March term.

9 MS. HAMAKER: Your Honor, I'm going to object,
10 there no relevance. It doesn't matter whether he moved or
11 not. It matters whether or not he came in and changed his
12 address form which she just testified he didn't.

13 THE COURT: I'll overrule your objection.
14 Go ahead.

15 MR. ERWIN: Thank you, very much.

16 BY MS. HAMAKER:

17 Q He was present at the March term?

18 A Yes.

19 Q Are you aware that he moved subsequent to that?

20 A I am not personally aware of that, no.

21 Q Would you agree with me that if he had moved from his
22 residence, from his address, that it's possible that
23 he did not get notice of this trial date?

24 A It is possible but he is also aware that he needs to
25 keep us updated of current addresses. We have no way

1 That's the address that I also used to contact
2 Mr. Teasley. I've not had any issues regarding failure to
3 response from him. At that address. He has appeared at
4 every court appearance prior to this date. There was --
5 from the March term of Court where he appeared to this
6 term of court, I haven't had much communication with him.
7 But that is simply because we were waiting for the case to
8 be called for trial. And once it was called for trial I
9 have talked to my client on the phone multiple times. The
10 last time being on Friday. Sometime during the day on
11 Friday. And at every conversation I have had with him,
12 once he was informed he was on the trial docket, was that
13 he gave every indication he planned to be here. He's not
14 here. I don't have any inclination as to why he's not
15 here, Your Honor.

16 We don't know the reason why. Frankly, it could
17 be something out of his control. We simply do not know,
18 Your Honor. I believe it's unfair to my client for him to
19 be tried in his absence. Especially given that there is
20 past appearance records regarding these charges, Your
21 Honor. That if he had failed to appear in the past, I
22 believe there would be some indication that he would
23 intentionally not appear in this case.

24 I would submit that that is not the case, Your
25 Honor. And I would respectfully request a continuance in

1 this matter. There's certainly other avenues that the
2 Court avail itself of to try to ensure that he would be at
3 any future hearing regarding bond. And I noticed on the
4 court documents that his bonding company was provided
5 notice as well. And I assume that nobody from there --
6 they're hear. I have not seen anybody from that bonding
7 company here today. And don't know what efforts they have
8 made to ensure--

9 THE COURT: Well I'm sure if the bond's
10 estreated they will be noticed.

11 MR. ALEXANDER: Yes, sir. But I would
12 respectfully request a continuance on that basis, Your
13 Honor. I think it's unfair to my client.

14 THE COURT: All right, anything from you,
15 Mr. Erwin, since we're trying the cases together?

16 MR. ERWIN: Yes, sir. Your Honor, I -- if I can
17 limit -- let me put it this way. My client has
18 information concerning the change of location of
19 Mr. Teasley subsequent to that March appearance in court..
20 I would like to offer that through my client if -- I don't
21 want to waive her Fifth Amendment rights. Obviously, in
22 terms of self-incrimination in the trial of this case but
23 limit that testimony solely to notice. And since we
24 haven't started the trial yet, I don't believe that we
25 would be in jeporady of that. But I can certainly proffer

1 what that testimony will be if I may do that.

2 THE COURT: You want to stipulate it? If they
3 accept it?

4 MR. ERWIN: If the State will stipulate it.

5 MS. HAMAKER: I'd be interested to know what
6 you're wanting to stipulate to.

7 MR. ERWIN: Certainly. Subsequent to that March
8 appearance, that they were living together at the time at
9 the 115 Belle Air. Subsequent to that she kicked him out.
10 She changed -- she moved to 40 Jones Street in Greenville
11 which is her present address. She doesn't know where he
12 went to stay. She's had phone numbers for him and that's
13 how she contacted him. He has come to her residence to
14 visit with the children. Certainly she has attempted, as
15 I informed the Court before, to contact him concerning
16 this trial. But they no longer resided at the 115 Belle
17 Air.

18 THE COURT: All right, is that would be what you
19 would stipulate the to as to the statement?

20 MR. ERWIN: Yes, sir.

21 THE COURT: All right, any objection?

22 MS. HAMAKER: Your Honor, the State wouldn't
23 mind stipulating to it but if we're going to get her per
24 say testimony on the record, the State would like to ask
25 her some questions about Mr. Teasley having notice as

1 well. Because the State has information that it goes
2 beyond that. In stipulating to what Mr. Erwin has said,
3 the State is not going to stipulate that the State had
4 notice of the change of address.

5 THE COURT: No, there's no question about that.
6 That stipulates limited to what it is. I'd rather than
7 put the defendant in a jeporady situation, that that's
8 going to be the extent of your stipulation. And then
9 unless you have some objection I'll accept the
10 stipulation. But it goes only as far as it goes.

11 MR. ERWIN: Thank you, Your Honor.

12 THE COURT: All right, anything else?

13 MR. ERWIN: (Mr. Erwin shakes his head.)

14 All right, anything else from the State?

15 MS. HAMAKER: Yes, sir, Your Honor, the State
16 would just move that we go ahead with the trial. Notice
17 has been give to Mr. Teasley several times. As
18 Mr. Alexander had said repeatedly, the defendant has shown
19 up every single time that he's been bond carded. The one
20 time that he has been bond carded that he has not shown up
21 has been this day, this week, when he's facing at least
22 five years in prison. This is the first time he's facing
23 prison time. And he has chosen not to be here.

24 THE COURT: All right, anything, Mr. Alexander?

25 MR. ALEXANDER: Just that my last conversation

1 with my client, he was -- he was -- he has been well aware
2 of the potential punishment all along and has showed up in
3 court dates and discussed plea offers and chosen not to
4 avail himself of those at that time. But he -- but like I
5 said, he had given every indication to be here and simply
6 don't know why he is not here. And, I guess, otherwise
7 would be speculating.

8 THE COURT: All right, anything else from the
9 State?

10 MS. HAMAKER: No, sir, Your Honor.

11 THE COURT: All right. I do on reviewing the
12 record here on this matter, I find that bail proceeding
13 form two of Travis Lamar Teasley provides on the front of
14 the first page that the defendant will provide good and
15 sufficient surety and that the defendant shall appear at
16 Court of General Sessions beginning when notified at
17 Pickens County Courthouse, remain throughout that term of
18 court. No disposition is made at term the defendant shall
19 appear and remain throughout each succeeding term of court
20 until final disposition is made unless otherwise ordered
21 by the Court. And initials of the defendant are
22 subscribed thereto.

23 And further, on page two of the bail form
24 acknowledgment by defendant, I understand that if I
25 violate any condition of this Order a warrant for my

1 arrest will be issued. Two, I understand and have been
2 informed that I have the right and obligation to be
3 present at trial and should I fail to attend the trial
4 that the trial will proceed in my absence. It has been
5 explained to me that if I fail to appear before the court
6 as required, the warrant for my arrest will be issued.
7 And it is signed Travis Teasley, Sr., May 21st of 2009.
8 The address is 115 Belle Air Drive, Greenville, South
9 Carolina 29611.

10 I further find that apparently he had been
11 notified of the other terms of court and made appearance
12 from the Court's Exhibit No. 3, the mailing list to the
13 defendant which had two addresses. 115 Belle Air Drive,
14 Greenville, as well as 11 Drapper Street, Greenville. On
15 the third, Court's Exhibit No. 3 does reflect the mailings
16 for this term of court for both of those addresses, 11
17 Drapper Street as well as 115 Belle Air Drive.

18 Moreover, it is the testimony or not the
19 testimony but again, it is a parties bound by those
20 statements -- bound by the statements of those who are
21 authorized to speak for them to include their attorney.
22 And the attorney does advise that he has discussed the
23 trial with the defendant Teasley and doesn't know he's not
24 here. He had every indication he would be here this week.
25 I have heard nothing that would suggest that he did not

1 know that he had actual notice. Moreover, it is the duty
2 of the defendant to not only to appear at each substantive
3 term of court until his case is disposed of but also to
4 keep the State aware of his current address.

5 In as much as the record is replete in this
6 case, I determine that the defendant had voluntarily
7 waived his right to be present at trial and that he is --
8 I find that he has received notice of his right to be
9 present and was warned that the trial would proceed in his
10 absence. Having so find then a trial in his absence will
11 be conducted according to the terms of his bond as well as
12 the finding by this Court. Also, I direct that a bench
13 warrant be issued for his arrest.

14 All right, anything else on the matter of trial
15 in absence from the State?

16 MS. HAMAKER: No, sir, Your Honor.

17 THE COURT: Subject to the objections of the
18 defendant anything else?

19 MR. ALEXANDER: Not regarding that issue, Your
20 Honor.

21 THE COURT: All right, very good.

22 Now what's the next thing?

23 MS. HAMAKER: Your Honor, the next wish would be
24 to amend the Indictment for Mr. Teasley from distribution
25 of crack cocaine third offense down to second offense as

1 we discussed yesterday.

2 THE COURT: All right, Mr. Alexander.

3 MR. ALEXANDER: I oppose that amendment, Your
4 Honor. It's my understanding is that the amendment is
5 from a third offense to a second offense. And would be my
6 position that the State is required to re-present that
7 issue for the grand jury as he was indicted in November, I
8 believe, 2009. And had ample opportunity to do that and
9 have not. I would oppose the amendment and request that
10 the matter be -- or that this Indictment be squashed and
11 re-presented to the grand jury, Your Honor.

12 THE COURT: All right, Madam Solicitor.

13 MS. HAMAKER: Your Honor, I don't have the case
14 law in front of me, I apologize, but case law does say
15 that the State is allowed to amend the Indictment at trial
16 if one of three things are present. One of the three
17 things that are present in this case, Your Honor, is that
18 it does not substantially change the offense. And the
19 other, Your Honor, is that it's a lesser-included offense.
20 Based on those two grounds the State would move to amend
21 the Indictment.

22 Your Honor, enhancement level is something the
23 jury never gets to here at any point in time. Therefore,
24 it's not an element. By reducing it down from a third
25 offense to a second offense, it does not substantially

1 change the charge. And secondly, second offense is a
2 lesser-included third offense.

3 THE COURT: All right, anything else,
4 Mr. Alexander?

5 MR. ALEXANDER: No, Your Honor.

6 THE COURT: Anything from you, Mr. Erwin, since
7 it's being tried together?

8 MR. ERWIN: Nothing on that issue, Your Honor.

9 THE COURT: All right, very good. First of all,
10 the matter of prior convictions is not an element of the
11 crime in this particular case. It is in certain crimes, I
12 think burglary, of course, required one of the elements
13 required prior convictions that has to be determined. But
14 it's merely a -- not merely because it's an important
15 enhancement at the time if there is a conviction of the
16 sentence. Moreover, I don't know if there's any reason to
17 amend your Indictment anyway. Because you go forward on
18 the Indictment as a third offense but you never mention
19 the third offense. And if there is a conviction, again,
20 you'd have to establish it was a third offense. If you
21 couldn't, you'd have to establish it was a second offense.
22 And if you couldn't then it would be a first offense. So
23 that becomes not as an element of the offense of the
24 charge. But whether or not what the sentence would be.

25 And in relying in the case of Clair vs. State of

1 South Carolina, 324 S.C. 144 478 54, for the proposition
2 that it -- an Indictment may be amended and the trial may
3 proceed as if amended. Indictment had been originally
4 returned by the Grand Jury if the amendment does not
5 change the nature of the offense charged.

6 All right. Again, subject to the objection of
7 the defendant, we will proceed with the Indictment.

8 MS. HAMAKER: Thank you, Your Honor.

9 THE COURT: All right. Next, Jackson v. Denno?
10 What else do we have? I'm sorry, I don't mean to...

11 MS. HAMAKER: Your Honor, I know you told the
12 jury to be here at 10:30 today. The Jackson v. Denno,
13 Brewton hearing both will not come up until later on in
14 the trial and we can get through a few witnesses--

15 THE COURT: Very well. I think that would be
16 the better thing to do. Now, if -- all right, very good.
17 I do understand there is another motion.

18 Mr. Erwin.

19 MR. ERWIN: Yes, sir, as I understand your
20 ruling -- your ruling that the trial against Mr. Teasley
21 will proceed in his absence.

22 THE COURT: Yes, sir.

23 MR. ERWIN: And issuing a bench warrant for his
24 arrest. Your Honor, at this time, I would move for a
25 continuance of trial against my client. He is a material

1 witness as his statements are exculpatory. Your Honor, we
2 were unable to subpoena him because we didn't know his
3 location. We have no idea of his whereabouts and
4 obviously that's a issue that we've addressed in this
5 court. In addition, Your Honor, I would move to sever
6 these trials--

7 THE COURT: Well, first of all, let's take up
8 the matter of unavailability of a witness. Of course,
9 Rule 7, Rules of Criminal Procedure provides the procedure
10 for granting continuance in General Sessions Court. And
11 have certain requirements. A motion for continuance shall
12 be granted on a count of absence of a witness without oath
13 of the party, his counsel or agent, that the testimony of
14 a witness is material to the support of the action or the
15 defense of the party moving. Motion is not intended for
16 delay but is made solely because he cannot go forward or
17 safely to trial without such testimony. And has made use
18 of due diligence to procure the testimony of the witness
19 or of such other circumstances as will satisfy the Court
20 that the motion is not intended to delay.

21 A party applying for such postponement on
22 account of the absence of a witness must set forth under
23 oath in addition to the foregoing matter what fact or
24 facts he believes the witness, if present, would testify.
25 And moreover, in order for good cause to be shown, a

1 MR. ALEXANDER: The Jackson v. Denno and Burton
2 (sic) motion.

3 THE COURT: Okay, very good.

4 All right, ready to proceed from the State?

5 MR. CLEVELAND: State's ready, Your Honor.

6 THE COURT: All right, ready to proceed from the
7 Defendant Teasley?

8 MR. ALEXANDER: Yes, sir, we are.

9 THE COURT: For the Defendant Jones?

10 MR. ERWIN: Yes, sir.

11 THE COURT: All right. Well first of all, what
12 we're dealing with first, Jackson v. Denno?

13 MS. HAMAKER: Yes, sir, Your Honor.

14 THE COURT: All right.

15 MS. HAMAKER: And they're three statements that
16 are in question. State's going to have to call two
17 different witnesses for that. We'll start with Agent Jon
18 Hamby.

19 THE CLERK: Place your left hand on the Bible,
20 raise your right hand.

21 JON HAMBY, after being duly sworn, testified as
22 follows:

23 THE CLERK: State your full name for the record.

24 THE WITNESS: Jonathan Hamby.

25 THE COURT: You may proceed.

DIRECT EXAMINATION

1
2 BY MS. HAMAKER:

3 Q Agent Hamby, did Travis Teasley give a statement in
4 regards to this case?

5 A Yes, he did.

6 Q When did he give that statement?

7 A Immediately after being arrested.

8 Q Where was the location?

9 A It was in the motel room where he was arrested at.

10 Q And before he gave the statement, was he in custody?

11 A Yes.

12 Q Did you advise him of his Miranda rights?

13 A I did.

14 Q Do you have that card available?

15 A I have a copy of it.

16 Q Did you read the card to him stating all his Miranda
17 rights?

18 A Yes.

19 Q Did he seem to understand his Miranda rights?

20 A Yes.

21 Q Did he appear to be under the influence of any
22 anything, controlled substance, alcohol?

23 A Not that I'm ware of.

24 Q Did you threaten him in any way?

25 A No.

1 Q Did he voluntarily give his statement?

2 A Yes.

3 Q Did he ask for counsel or food or water or bathroom
4 break at any time?

5 A No.

6 Q Did you give him any promises or anything if he were
7 to talk with you?

8 A No.

9 Q Officer Hamby, I'm going to show you a CD that's been
10 marked as State's Exhibit 1 through 6. Do you
11 recognize that?

12 A Yes.

13 Q Is Mr. Teasley's statement on that CD?

14 A Yes.

15 MS. HAMAKER: Your Honor, would you like to hear
16 that CD at this point?

17 THE COURT: Yes, please. How long is it?

18 MS. HAMAKER: Your Honor, I believe the
19 statement's about two minutes.

20 THE COURT: Very good.

21 MS. HAMAKER: Maybe three.

22 THE COURT: Which track is this?

23 MR. CLEVELAND: These are, Your Honor, there's
24 digital files, they actually have names instead of tracks.

25 THE COURT: Very well.

1 MR. CLEVELAND: The title of this track is
2 Teasley interview with Miranda waiver. As it appears on
3 the disk.

4 MS. HAMAKER: And, Your Honor, it's State's
5 Exhibit No. 5.

6 (WHEREUPON, State's Exhibit No. 5 was
7 played.)

8 BY MS. HAMAKER:

9 Q Mr. Hamby -- Agent Hamby, I'm sorry, was that his
10 statement as given?

11 A Yes.

12 MS. HAMAKER: Your Honor, that's all the State
13 has for this witness as far as Miranda.

14 THE COURT: All right, very good.

15 Mr. Alexander.

16 MR. ALEXANDER: May it please the Court, Your
17 Honor.

18 CROSS-EXAMINATION

19 BY MR. ALEXANDER:

20 Q Agent Hamby, at the -- after you Mirandized
21 Mr. Teasley, you started questioning him about
22 Ms. Jones?

23 A I believe that was the first question that was
24 leading up to it, yes.

25 Q All right. And he seemed concerned that you might

1 charge her with some offense because she was outside
2 in the car, fair to say?

3 A Well reason why we start off with her is immediately
4 after he was arrested, prior to that recording
5 started, there was another recording, and he was
6 mentioning her. So therefore, after Miranda we got
7 back to what he mentioning before about Ms. Jones...

8 Q All right, there some other recorded statements where
9 he mentions Ms. Jones?

10 A Involved in the deal audio, yes, sir.

11 MS. HAMAKER: Your Honor, we were also -- the
12 State was also going to have a Jackson v. Denno on that
13 one too, we just haven't got into that other statement.

14 THE COURT: Okay.

15 BY MR. ALEXANDER:

16 Q All right, are you referring to the recording inside
17 the room leading up to the control purchase and
18 ultimately his arrest?

19 A Referring to that as -- what are you talking about?

20 Q The recording that he -- that Ms. Jones was mentioned
21 on before the one we just heard?

22 A Yes.

23 Q Are you -- is the recording you're referring to the
24 one that has the control purchase on it from inside
25 the hotel room?

1 A Yes and his arrest. Then immediately after that was
2 his Miranda and interview.

3 Q Okay. Okay. All right. At the end of -- right
4 after got arrested he made a comment that his girl or
5 quote, Baby momma didn't have anything to do with it?

6 A Yes.

7 Q Okay. So my question is, he seemed -- his overrule
8 concern at that point was that she not get wrapped up
9 in this, is that correct?

10 A He was just asking what was going to happen to her.

11 Q His -- you would agree that his initial statement,
12 right after you arrested him, was that she didn't
13 have anything to do with it; right?

14 A That was one of his initial statements, yes.

15 Q So he was clearly concerned about her being arrested,
16 correct?

17 A If you guess.

18 Q And then after that is when he talked to you or made
19 these statements about -- made the statements on the
20 recording, correct?

21 A After that, yes.

22 MR. ALEXANDER: That's all I have, Your Honor.

23 THE COURT: Mr. Erwin.

24 MR. ERWIN: I have no questions for the witness,
25 Your Honor.

1 THE COURT: All right, very well.

2 Re-examine?

3 MS. HAMAKER: The State doesn't have anything
4 further for Agent Hamby on that recording. We would like
5 to move to the other recording. But we would request that
6 the recording that, Your Honor, just heard be entered into
7 evidence. I'm sorry, that it be allowed to be submitted
8 before the jury.

9 THE COURT: Well let's take them all up since
10 you got one Exhibit.

11 MS. HAMAKER: Yes, Your Honor.

12 BY MS. HAMAKER:

13 Q Agent Hamby, did Mr. Teasley give a statement when
14 the take down occurred?

15 A Yes.

16 Q And did you ask him any questions to elicit that
17 statement?

18 A No.

19 Q Was he custody?

20 A He was being placed in custody and right after that
21 is when he started making the statements.

22 Q But you didn't ask -- did anyone else ask in any way,
23 any questions to Mr. Teasley to elicit that response?

24 A No.

25 THE COURT: Which one is that? Is that this No.

1 5 or?

2 MS. HAMAKER: No, Your Honor. It's going to be
3 State's Exhibit No. 4 which is also on the CD. And with
4 your permission the State would like to play it.

5 THE COURT: Please do.

6 MR. CLEVELAND: Your Honor, this is a rather
7 lengthy recording. The purpose for this hearing is to get
8 to the statement. I know that --

9 Does the defense mind if we fast forward it to
10 get to the actual statement instead of listening to the
11 entire recording?

12 MR. ERWIN: No objection to that.

13 THE COURT: All right, without objection then.

14 MR. ALEXANDER: No objection.

15 MR. ERWIN: I think what he's talking about is
16 just those last moments right when -- before the tape
17 stops.

18 MR. CLEVELAND: That's correct, Your Honor.

19 MR. ERWIN: It's very short.

20 THE COURT: All right, very good.

21 (WHEREUPON, State's Exhibit No. 4 was
22 played.

23 MS. HAMAKER: Your Honor, at this time the State
24 has nothing further as far as Agent Hamby and this
25 statement goes.

1 THE COURT: Cross-examination?

2 MR. ALEXANDER: I don't have any questions for
3 Agent Hamby.

4 THE COURT: Mr. Erwin?

5 MR. ERWIN: None, Your Honor.

6 THE COURT: All right, you may proceed.

7 BY MS. HAMAKER:

8 Q Agent Hamby, did you happen to get a statement from
9 Ms. Sunedra Jones as well?

10 A Yes.

11 Q And when was that statement given?

12 A It was a another recorded statement. It was taken
13 later at the police department after the motel room
14 being cleared and we returned to the police
15 department.

16 Q The same day?

17 A The same day.

18 Q Was she in custody?

19 A At that time, no.

20 Q At the police department?

21 A At the police department. She was with us but she
22 agreed to come back and be interviewed at the police
23 department.

24 Q When she was interviewed at the police department,
25 did you advise her of her Miranda rights?

1 A I did.

2 Q Did she seem to understand them?

3 A She did.

4 Q Did she seem to be under the influence of any
5 substance?

6 A Not as far as I could tell.

7 Q Did she ask for food or water or bathroom?

8 A No.

9 Q Did you threaten or promise her.

10 A No?

11 MS. HAMAKER: Your Honor, that's all the State
12 has for this witness regarding this statement. And the
13 State would like to publish that as well.

14 THE WITNESS: Very well. Which one is this?

15 MS. HAMAKER: Your Honor, it's State's Exhibit
16 No. 6. It's on the same CD.

17 (WHEREUPON, State's Exhibit No. 6 was
18 played.)

19 MS. HAMAKER: Your Honor, the State doesn't have
20 anything for Agent Hamby in regards to this statement.

21 THE COURT: Any questions, cross-examination?

22 MR. ALEXANDER: No, Your Honor.

23 THE COURT: Mr. Erwin?

24 MR. ERWIN: Just briefly, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. ERWIN:

2 Q Agent Hamby, she was not in custody at the time she
3 gave this statement?

4 A No, she was with us at the police department but was
5 not arrested.

6 Q She had been with y'all since you were at the hotel
7 and you asked her to come back to the police
8 department?

9 A I didn't personally but yes. She was asked to come
10 to the police department.

11 Q And she was charged in this case when?

12 A I believe it was the next morning. She agreed to
13 turn herself in on warrants due to her having kids
14 and stuff and cooperating. And she agreed to come
15 back up the next morning to take care of the warrant
16 issue.

17 Q Did you tell her then at the station that she needed
18 to come back the next morning?

19 A Before she left, yes. Because we had the car up
20 there also and we made arrangements for her to turn
21 herself in the next morning.

22 Q Did you tell her before she gave a statement or after
23 she gave the statement?

24 A I personally didn't talk to her until the statement.
25 Other officers had already -- when the arrangements

1 were made to come to the police department, told
2 her -- actually when they asked her to come to the
3 police department.

4 Q Okay.

5 A Me personally, no.

6 Q So to your knowledge, prior to leaving the Comfort
7 Inn and going to the police department, some officer
8 had told her that she needed to come to the station
9 the next morning, turn herself in for a warrant?

10 A I'm not sure if the time frame was made. I made a
11 time frame with her when I let her go from the police
12 department.

13 Q So after your statement, you then had a conversation
14 with her about when to turn herself in?

15 A About when an appropriate time to turn herself in.
16 That's when I had the conversation with her.

17 Q So at the time that you took the statement from her,
18 had you made the decision to charge her in this case?

19 A The decision was already made to charge her, yes.
20 But the decision was already made that she would be
21 allowed to leave because she was cooperating with us
22 and she had the kids to take care of. And we had
23 Mr. Teasley in jail. Which was enough paper work for
24 up to do that day. And we could follow up with her
25 the next day.

1 Q Did -- who made the decision to charge her when that
2 decision was made?

3 A It was a combined decision but myself and Agent
4 Lovell. He was the one that spoke to her on the
5 scene and I was dealing with Mr. Teasley. And when
6 we got together, we come to that joint decision.

7 Q Okay. Did you know at the time the statement was
8 taken, I think you answered this, but you knew at the
9 time you took the statement from her that you were
10 going to charge her with something?

11 A We knew that she had -- there was a possibility of
12 her being charged, yes.

13 Q But you hadn't made the final determination yet as to
14 whether or not to charge her?

15 A As of what charge it would be, no.

16 Q Okay. So when did you make the determination as to
17 what her charge would be?

18 A The actual charge when we got together after we
19 booked Mr. Teasley in, took statements from
20 everybody.

21 Q So that evening some time?

22 A Later that evening, afternoon.

23 Q After Ms. Jones had already left the police
24 department?

25 A Yes. The actual charge, yes.

1 Q Then some time between then and the next morning you
2 submitted a warrant?

3 A Yes.

4 Q Okay. To the Magistrate?

5 A Yes.

6 Q And then she turned herself in on that warrant?

7 A Correct.

8 Q And what did you end up charging her with?

9 A At the time we charged her with conspiracy to sell
10 crack cocaine.

11 Q Had Ms. Jones been informed prior to giving the
12 statement that she was facing criminal charges in
13 this case or could be?

14 A I don't know what she was told out on the scene. But
15 before, when I met with her, that was the purpose of
16 the interview was to get her side of the story and
17 see what happened. I don't know what she was told
18 out on the scene.

19 Q Well excluding what may have been told to her by
20 other officers prior to arriving at the police
21 department, did you at any time, prior to her giving
22 the recorded statement, notify her that she maybe
23 charged in this case?

24 A My only conversation is what was on the recording
25 there.

- 1 Q So the answer would be no?
- 2 A Right.
- 3 Q Okay. Had she been informed at the time -- let me
4 ask you this. By way of foundation, was she present
5 in the hotel room during this transaction?
- 6 A At the time Mr. Teasley was arrested she was not
7 inside the motel room.
- 8 Q Okay. Now we've heard the last -- before her
9 statement we've heard a snippet of the in-room audio
10 that was resulted in the arrest of Mr. Teasley, is
11 that correct?
- 12 A That is correct.
- 13 Q And so that is part of a longer recording that goes
14 on for a period of time that includes the arrival of
15 Mr. Teasley inside the hotel room and a transaction
16 which takes place, is that correct?
- 17 A That is correct.
- 18 Q So at no time during that was Ms. Jones present
19 inside that room, correct?
- 20 A No.
- 21 Q Okay. And was she aware at the time she gave the
22 statement at the police department, as to what had
23 transpired in the hotel room?
- 24 A Yes.
- 25 Q How did she find that out?

1. A Well she was asking what was the problem with her
2. boyfriend, husband whatever she was calling him.. And
3. we told her that he was arrested for selling crack
4. cocaine to us.

5. Q So y'all informed her at some point that he had gone
6. in there and done that and that's what y'all charged
7. him with?

8. A Yes.

9. Q And that was as a result of a question from her, what
10. happened, what went on?

11. A Exactly. Again, I don't know how it come up, I
12. wasn't the one there with her. Outside the motel
13. room. But she already knew what went on when I dealt
14. with her.

15. Q By the time you talked with her at the police
16. department, somebody had made her aware of what
17. happened?

18. A Yes.

19. MR. ERWIN: I have no further questions, Your
20. Honor.

21. THE COURT: Re-examine?

22. MS. HAMAKER: Nothing further from the State,
23. Your Honor. The State would just move that all three
24. statements are entered into evidence. They were all done
25. voluntarily. Two of the statements, which were actually

1 statements from Mr. Teasley and Ms. Jones on recording,
2 they're both advised of their Miranda rights and they
3 wished to continue. The statement that Mr. Teasley made
4 about Ms. Jones had nothing to do with this, Your Honor,
5 that was done without any questioning from the officers
6 and was not as a result of and interrogation. So
7 therefore, the State moves that all three are admissible.

8 THE COURT: All right, Mr. Alexander.

9 MR. ALEXANDER: Thank you, Your Honor. Under, I
10 guess under Jackson v. Denno portion of this, that the
11 separate interviews that we heard first, I think it was
12 number 5, I believe of Mr. Teasley, just say that it
13 wasn't voluntarily made on the basis that he was giving a
14 statement trying to ensure that his girlfriend or mother
15 of his children would not be arrested, Your Honor. In
16 regards to Ms. Jones' statement, under the Burton (sic)
17 case, Your Honor, they're charged as conspirators, Your
18 Honor -- and are we dealing with that issue at the point
19 in time, Your Honor?

20 THE COURT: No, we're dealing with the
21 admissibility of the statements under Jackson v. Denno.

22 MR. ALEXANDER: I apologize.

23 THE COURT: Whether they're voluntarily,
24 knowingly and intelligently made.

25 MR. ALEXANDER: That's all I have regarding that

1 issue.

2 THE COURT: All right, Mr. Erwin.

3 MR. ERWIN: May it please the Court, Your Honor.
4 I have nothing to add concerning those statements under
5 Jackson v. Denno.

6 THE COURT: All right, obviously I am only
7 concerned with whether or not there's a preponderance of
8 evidence to establish whether or not they were freely and
9 voluntarily given without duress, without coercion or
10 without any undue influence, without reward, promise or
11 hope of reward. And that the alleged incriminating
12 statements or confessions were the voluntary product of
13 free and unrestrained will of the defendant. I do find
14 that it was, I find that beyond a reasonable doubt.

15 The first -- well not the first -- well it's the
16 first statement, I think number 4, was apparently the
17 result of voluntary or statement made at the time of the
18 arrest being concerned about girl not knowing -- my girl
19 don't no nothing about what's going on was voluntary and
20 exculpatory. Then, of course, the number 5 statement was
21 given after the Miranda rights and the Miranda seem to be
22 complete. Number 6 of, course, Ms. Jones and she
23 apparently also was -- her statement was voluntary in the
24 sense she asked to talk to the officers. So I find that
25 all three of those statements are admissible.

1 All right, very good. Anything else?

2 MS. HAMAKER: Your Honor, we have one more
3 statement and it would have to come in through Agent Jason
4 Lovell.

5 THE COURT: All right.

6 MS. HAMAKER: State calls Jason Lovell to the
7 stand.

8 THE CLERK: Place your left hand on the Bible,
9 raise your right hand, please.

10 JASON LOVELL, after being duly sworn, testified
11 as follows:

12 THE CLERK: State your full name for the record.

13 THE WITNESS: David Jason Lovell.

14 THE CLERK: Please be seated.

15 DIRECT EXAMINATION

16 BY MS. HAMAKER:

17 Q Agent Lovell, did Ms. Sunedra Jones give you a
18 statement that has not already been played for the
19 court regarding this incident?

20 A Yes.

21 Q Where was that statement given?

22 A In the parking lot of the Comfort Inn.

23 Q When was it given?

24 A Immediately after the take down of Mr. Teasley.

25 Q And what did she tell you?

1 A I was one of the initial officers that approached the
2 vehicle. And took her out of the vehicle and I read
3 her her Miranda rights. And she asked what was going
4 on. And I explained to her it was a undercover drug
5 investigation. And at that point I asked her what
6 part she was playing in this transaction. She said
7 she didn't know what was going on that she just road
8 with her, I don't know how she identified Mr. Teasley
9 at the time, if it was boyfriend or whatever it was,
10 how she identified him led me to believe that it was
11 her boyfriend.

12 Said she road with him there because she didn't
13 trust him with her car. I explained to Ms. Jones
14 that there was several phone calls placed with
15 Mr. Teasley and one of them being at the beginning of
16 this transaction that appeared to be her voice in the
17 background as the transaction was being set up. I
18 also explained to her that what had to be during the
19 ride there, there was other phone calls placed and
20 she had to be present. And she agreed that the phone
21 calls had taken place but said she didn't attention
22 to what was being said.

23 Then she expressed a concern about her kids.
24 That she was the primary care giver for, I forget how
25 many kids she had, it was a couple of small children.

1 Young. And I explained to her that she was part of
2 the investigation. That I was going to step inside
3 and speak with my partner and find out what was going
4 on inside and I would be back out with her. I done
5 so. I stepped inside to speak with Agent Hamby. And
6 at that time he advised me that the phone that
7 Mr. Teasley had on him was not the phone that was
8 being used to make these phone calls. And also
9 explained to him that at that time that she expressed
10 some concern for some small children that she would
11 be responsible for taking care of in a few hours.

12 I returned back outside to Ms. Jones. And when
13 I got her out of the car she had a pink cell phone in
14 her hand along with a book. I told her that the
15 phone calls was not placed to the phone that
16 Mr. Teasley had on him, that I believe they was
17 placed on her phone. And she said that Mr. Teasley
18 had used her phone. And I asked her could I look it
19 in? She handed the phone to me, allowed me to look
20 through the phone to see where we had been calling
21 the phone.

22 Q Agent Lovell, before any of this conversation
23 happened with Ms. Jones, is that when you read her
24 the Miranda?

25 A My initial communication with her after I took her

1 out of the car was to read her Miranda rights off my
2 card.

3 Q Did she seem coherent?

4 A Yes.

5 Q Did she seem to understand what you were telling her?

6 A Yes.

7 Q Did she appear to be under the influence of any
8 substance?

9 A No.

10 Q Did she ask for an attorney?

11 A No.

12 Q Did she ask to use the bathroom, to get something to
13 drink or perhaps get food?

14 A No.

15 MS. HAMAKER: Your Honor, that's all the State
16 has for this witness.

17 THE COURT: Cross-examine?

18 MR. ERWIN: May it please the Court, Your Honor?

19 CROSS-EXAMINATION

20 BY MR. ERWIN:

21 Q Did you prepare a written incident report concerning
22 this case?

23 A No, sir, it would have been my partner, Agent Hamby.

24 Q You and he were working in conjunction with each
25 other?

1 A Yes, sir.

2 Q Did you review the incident report written by Agent
3 Hamby in this case?

4 A No, sir, I haven't read over the incident report.

5 Q Okay. Would you be surprised to learn that nowhere
6 in this incident report does it reference this
7 statement to which you just testified?

8 A No, sir, I have no way of knowing.

9 Q Well that's -- I'm looking at a incident report
10 consisting of one, two, three, four, five, six, seven
11 pages, appears to be authored by J. Hamby on 5/20/09.
12 And I can show you the incident report Agent Lovell,
13 if I may?

14 A I take you at your word. He was not present during
15 this--

16 Q During this statement?

17 A Correct.

18 Q Okay. But just for the record I want you to look at
19 that and just...

20 A Okay, I forgot where you're talking about.

21 Q You're at the end?

22 A Yes, towards the end. He mentioned that the phone
23 was, that she had in her possession, was a cell phone
24 was used to arrange the transactions.

25 Q Yes, sir.

1 A That was gathered during my first discussion with
2 Ms. Jones.

3 Q The ones to which you just referred?

4 A Yes, sir.

5 Q So you would have actually had to have a conversation
6 with Agent Hamby in order for him to prepare this
7 report?

8 A Correct.

9 Q And, of course, that's the standard procedure is that
10 y'all -- in fact, Agent Hamby referred to that
11 earlier when he said, We made the decision to charge
12 her later because we had enough paper work to do
13 concerning Mr. Teasley.

14 A Correct.

15 Q Okay. So y'all, at some point after you got back to
16 the police department, Agent Hamby had talked with
17 her there, you had already taken her -- taken a
18 recorded statement from Mr. Teasley, y'all compared
19 notes, one of you was assigned the responsibility of
20 preparing the official incident report, correct?

21 A Correct.

22 Q Then one of you may have had to present a warrant or
23 do other part of the paper work?

24 A Yes, sir.

25 Q So would you agree with me that there's nothing in

1 this incident report that references the statements
2 to which you just testified?

3 A Nothing that actually references the statements.

4 Q Okay.

5 A Just some of the parts from the statement.

6 Q Okay. Just -- in fact, it wasn't really the
7 statement, it was that she had the phone?

8 A Correct.

9 Q So that was something that you actually observed with
10 your own eyes, correct?

11 A That's correct.

12 Q When you pulled her out of the vehicle, she had the
13 pink phone?

14 A Yes.

15 Q And so would you agree with me that there's nothing
16 in this incident report that would lead one who read
17 it to believe that you had taken a statement from her
18 at the time you pulled her out of the vehicle?

19 A Yes, sir.

20 Q You would agree with?

21 A Yes, sir.

22 Q So you would agree with me that there was no way for
23 us to know that you had taken some statement about
24 which you were going to testify?

25 A Well, the solicitors would have been notified of the

1 statement. And I assume you would have had
2 communication with the solicitors. Other than that.

3 Q So you told them?

4 A Yes.

5 Q About it. Okay. And so if I had asked the
6 Solicitor's Office if I had been produced everything
7 that they were going to use in discovery, you would
8 believe that they would tell me that statement,
9 correct?

10 A I'm confident that would furnish you the information
11 they had.

12 Q Okay. Now, you were present with Agent Hamby at the
13 police department during the recorded statement from
14 Ms. Jones that we just listened to, correct?

15 A Yes.

16 Q Now you had -- that statement I think lasted just a
17 few minutes?

18 A That's correct.

19 Q You certainly had the opportunity in that recorded
20 statement to question her about the same discussion
21 you had with her at the vehicle, correct?

22 A Yes, sir.

23 Q Okay. And, in fact, I believe agent Hamby asked you
24 if there were any other questions that you wanted to
25 ask at the conclusion of that recorded statement, we

1 assume your answer is no because the tape ends?

2 A Yes, sir, she had already answered the other
3 questions.

4 Q Well, and at no time during that recorded statement
5 did you step in and say, Now wait a minute, you're
6 telling me something totally different than you told
7 me in the vehicle?

8 A What part are you saying that she answered
9 differently?

10 Q Let me back up. My understanding is that you're
11 telling us that at the hotel, she told you that she
12 agreed that she was with him when all those phone
13 calls were made, is that going to be your testimony?

14 A I'm not saying she was with him during all the phone
15 calls.

16 Q Okay.

17 A I said a female's voice was in the background on the
18 first one that sounded like Ms. Jones. And then some
19 of them had to be placed during their in route to the
20 motel which she was in the car.

21 Q Okay. Well you were testimony, I believe, was she
22 agreed -- you prefaced--

23 A And she did agree to that.

24 Q She agreed that the phone calls were placed?

25 A But I can't say that she agreed to being present

1 while every phone call was being made.

2 Q Okay. I guess that's my question. To which phone
3 calls were you referring when you say she agreed that
4 phone calls took place, which ones are you referring
5 to?

6 A Well I didn't ask her each individual phone call. I
7 explained to her about my observation during the
8 transaction set up. She just agreed to it. She
9 didn't say I was here during this phone call or this
10 one or this one. So I guess to answer your question,
11 I'm not sure which ones she was agreeing to.

12 Q Okay. Certainly, however, you had the opportunity at
13 the police department during the recorded interview
14 to clarify any -- any misunderstanding about where
15 she was or what she was present for or what she may
16 have overheard?

17 A Yes, sir, that's correct.

18 Q You did not do that?

19 A You're correct.

20 Q Okay. And certainly you had the opportunity and, in
21 fact, did record a statement from Mr. Teasley at the
22 hotel?

23 A My partner, Agent Hamby did, yes, sir.

24 Q I didn't mean you personally but one was conducted
25 there at the hotel?

1 A Yes, sir. He had the recorder in the hotel room. I
2 did not have a recorder on the outside.

3 Q So certainly y'all had the opportunity to take
4 Ms. Jones in and record her interview with her right
5 there at the hotel?

6 A Due to the man power being tide up there, no, sir we
7 could not spend that extra time at the motel. We had
8 to clear things up because we had road guys tide up,
9 also.

10 Q Shift change coming on?

11 A Well shift change wasn't coming on, that would have
12 helped but.

13 Q Okay. But y'all made a decision to actually do a
14 recorded statement with her at the police department
15 some time later?

16 A Yes, sir.

17 Q Okay. And you would agree with me that the only
18 indication, only evidence of this statement, to which
19 you just testified, the statement made after you
20 pulled her out of the vehicle, the only indication of
21 its existence in the official record is your
22 testimony here on the stand today?

23 A Yes, sir.

24 Q Okay.

25 MR. ERWIN: I have no further questions at this

1 time, Your Honor.

2 THE COURT: Re-examine?

3 MS. HAMAKER: Your Honor, the only part of
4 Ms. Jones' statement that the State is seeking to get into
5 evidence is the statement where she allowed Mr. Lovell --
6 Agent Lovell to go through her phone. She claimed the
7 phone is hers. She claimed the person in the hotel room
8 being Mr. Teasley. And that she road along not knowing
9 anything about it. Your Honor, all of those things have
10 been provided to the defense. And Agent Lovell has said
11 that the pink cell phone, it is mentioned in the incident
12 report and there would be no way to figure out the number
13 belonging to that pink cell phone if somebody hadn't asked
14 her about it.

15 At this point, Your Honor, the State would ask
16 that those statements be allowed in just to the extent of
17 she came over there, she didn't know anything about it,
18 they were over at the house. That's been given to the
19 defense all along, they knew that was her statement. The
20 general gist of her statement to law enforcement.

21 THE COURT: Mr. Alexander.

22 MR. ALEXANDER: I don't have any questions for
23 Agent Lovell. But, I mean, I think -- we didn't know that
24 this verbal statement existed. It's not in the discovery,
25 anything of that nature. As far as the State's -- that

1 the only way they could get the number, they had the
2 number. They had the phone, they had their own phone.
3 All they had to do was dial the number and see if it rang.
4 I don't know why they would need to verify it some other
5 way. But as far as -- I don't have anything further as
6 far as Jackson issue on that.

7 MR. ERWIN: And I do, Your Honor, if I may?

8 THE COURT: Certainly.

9 MR. ERWIN: Briefly. And I appreciate the
10 Solicitor's comments just now about limiting the purpose
11 of that statement. Because as I understood it from Agent
12 Lovell's testimony, the -- it seemed the emphasis of what
13 he was trying to get in is that she concurred or agreed
14 that she was there when these phone calls were made. And
15 I appreciate him clarifying for us that he didn't know
16 which parts of that she was agreeing to. But, Your Honor,
17 again, that's a very, very big thing. And for us to first
18 learn about this statement today, at this moment, is a bit
19 surprising to say the least. Nothing in the incident
20 report --

21 THE COURT: What part of the statement is
22 surprising?

23 MR. ERWIN: The conversation where she agrees --
24 well first of all, we didn't know a conversation took
25 place when she was detained. The only conversation that

1 we knew about is the recorded statement. That we've
2 already heard in this Jackson v. Denno hearing. And now
3 we're being told that she was Mirandized and questioned
4 again at length and was asked about look, A woman was
5 present when the phone calls were first made to set up
6 this deal, phone calls were made later in route and then
7 she agreed that she was there.

8 THE COURT: I didn't hear that. The only thing
9 I heard was that there was some phone calls made during
10 the ride to the motel. I guess from Greenville. And she
11 couldn't hear anything.

12 MR. ERWIN: Well he testified about that part.

13 THE COURT: Well then the other one was don't
14 know when they were made. She wasn't there when they were
15 made.

16 MR. ERWIN: Well he did say--

17 THE COURT: I'm just saying what I heard.

18 MR. ERWIN: Well I don't -- the conversation--

19 THE COURT: I haven't heard anything
20 incriminating yet. From what this officer said or the
21 other one. As to Ms. Jones. I mean, apparently she was
22 more concerned about getting the car back so she could
23 take the children to church that night. And that was the
24 only reason she went along and nobody's challenged that.

25 MR. ERWIN: The part that concerns me, Your

1 Honor, is there was reference, and I may be wrong, but I
2 believe Agent Lovell referred to an initial phone call in
3 which he heard a female's voice in the background.

4 THE COURT: That was true.

5 MR. ERWIN: And that --

6 THE COURT: But he said that never -- there was
7 never anything that tied it to her and her pink phone.
8 The pink phone was only used on the trip. I mean, that's
9 what I heard.

10 MR. ERWIN: I think his testimony's going to be
11 the pink phone was the phone used to set up the whole
12 deal.

13 THE COURT: Well, is that right?

14 AGENT LOVELL: Yes, sir, he's correct on that.
15 The pink phone was used to set up the whole transaction.

16 THE COURT: In other words, it was used at the
17 house?

18 AGENT LOVELL: Yes, sir.

19 THE COURT: Well now see I heard that -- I heard
20 it differently. I heard that they couldn't be so sure
21 about that.

22 MR. ERWIN: And what they couldn't be sure about
23 is whose voice it was. And from his -- in the initial
24 call there was a woman in the background. And what I'm
25 concerned about--

1 THE COURT: Well that's what I'm talking about.

2 MR. ERWIN: Yes, sir. What I'm concerned about
3 is they are going to try to imply--

4 THE COURT: Is that what y'all are going to try
5 to do? Trying to say she was involved in the telephone
6 calls?

7 MS. HAMAKER: Your Honor, if I may?

8 THE COURT: Please.

9 MS. HAMAKER: What the State is going to do,
10 because Mr. Lovell had this conversation with her, is not
11 a matter of the content of the conversation, is that he
12 had a conversation with her and had the ability to hear
13 what her voice sounded like. Then on the audio tape --

14 THE COURT: Well I just heard him say he
15 couldn't say who it was.

16 MS. HAMAKER: He could say it sounded like her.

17 THE COURT: Well I thought he just said he
18 couldn't. I mean, again, we look like we're dancing with
19 shadows. He's going to testify that, Yes, he heard that
20 lady's voice on the telephone and he had a conversation
21 with her and he could identify her beyond a reasonable
22 doubt, then I'll --

23 MS. HAMAKER: He's not going to be able to say
24 beyond a reasonable doubt--

25 THE COURT: Well, then it's not going to come.

1 MR. ERWIN: Thank you.

2 THE COURT: If there's confusion about
3 identification then that has no value.

4 MS. HAMAKER: Your Honor, can I ask Jason Lovell
5 some questions.

6 THE COURT: You can do whatever you'd like. But
7 I got to get to -- at some point I'm going to try this
8 case rather than he said, she said and I don't know what
9 she said.

10 REDIRECT EXAMINATION

11 BY MS. HAMAKER:

12 Q Agent Lovell, did you hear the voice on the other
13 line of the telephone while the phone call was made
14 from the house?

15 A I heard the play back on the recording.

16 Q Yes, sir. Did you hear a female's voice in the
17 background?

18 A Yes.

19 Q After the conversation that you had with Ms. Jones at
20 the hotel, were you able to say 100 percent if it was
21 to Ms. Jones on the other end of that cell phone
22 call?

23 A I can say 97 percent it was Ms. Jones.

24 Q But you're not positive?

25 A I can't.

1 THE COURT: All right, I think you stepped over
2 the line there because--

3 MS. HAMAKER: Your Honor, it's for the jury to
4 determine--

5 THE COURT: It's not the jury to determine. Did
6 you advise the defendants that you had such a statement?

7 MS. HAMAKER: No, sir, I did not advise them.

8 THE COURT: All right, then that's -- I don't
9 want to go there.

10 MR. ERWIN: Thank you, Your Honor.

11 THE COURT: All right, I'm going to disallow the
12 statement about -- I guess that would be number -- which
13 one were you using on that one?

14 MS. HAMAKER: Your Honor, it's not written and
15 it's not on audio recording. The State couldn't hand it
16 over to the defense. The State could have advised the
17 defense but we could not have handed over an actual
18 document --

19 THE COURT: Well that's not it, you could have
20 advised them. That's what they wanted to know. All
21 written or oral statements.

22 MS. HAMAKER: Yes, sir, Your Honor.

23 THE COURT: I haven't looked at the Rule 5 but
24 I'm sure it's in there.

25 MR. ERWIN: I sent a Brady, Your Honor. I

1 wanted all statements.

2 THE COURT: I mean, if you're not going to
3 cooperate with them, I'm not going to wait to try it at
4 the last minute.

5 MS. HAMAKER: Yes, sir Your Honor. The State--

6 THE COURT: So I disallow anything about the
7 conversation with Ms. Jones.

8 MS. HAMAKER: Yes, sir, Your Honor.

9 MR. ERWIN: If I may, just for the sake of the
10 record, as an additional ground, Your Honor, any voice
11 identification from a recording--

12 THE COURT: Well obviously, that's going to come
13 out too because that came up -- because I listened to it,
14 his testimony, today and I didn't hear that. I didn't
15 hear 97 percent, I didn't hear any percent. I couldn't
16 identify is what I heard.

17 MR. ERWIN: Yes, sir. Thank you.

18 THE COURT: Okay. Excuse me, I'm sorry, I don't
19 want to confuse the jury with something they haven't
20 heard.

21 MS. HAMAKER: Your Honor, just so I'm clear on
22 your ruling, Mr. Lovell was also present for the audio
23 recorded statement that Ms. Jones gave and he would be
24 able to identify her from that statement as well.

25 THE COURT: Identify what? He was looking at

1 her, I guess he could.

2 MS. HAMAKER: Voice, Your Honor.

3 THE COURT: Well he hadn't -- that's not what he
4 said, please. He said he did it from the audio. All
5 right, please, I'm sorry, you're trying a little bit too
6 hard here. You got a case, try the case. Let's don't it
7 the last minute. I don't like trials by ambush, I'm
8 sorry. If you had it, you should have let them have it.

9 MS. HAMAKER: Yes, sir.

10 THE COURT: Then we couldn't be talking about
11 it.

12 All right, next.

13 MR. ALEXANDER: Just the Burton (sic) issue,
14 Your Honor.

15 THE COURT: Brewton?

16 MR. ALEXANDER: Yes, Your Honor.

17 THE COURT: All right. Well I haven't heard
18 anything in these statements that Mr. Teasley has said
19 that was that's inculpatory.

20 MR. ALEXANDER: Right, yes, sir. I believe from
21 Mr. Teasley's point of view it's Ms. Jones' statement
22 that's being used against him that's at issue with
23 Brewton. I don't think, Mr. Erwin can correct me, but I
24 don't think he's opposing Mr. Teasley's statements coming
25 in.

1 THE COURT: All right, what we have from
2 Ms. Jones I've already excluded the testimony about--

3 MR. ALEXANDER: Her recorded conversation, Your
4 Honor and recorded interviews.

5 THE COURT: It is one of these I've listened to?

6 MR. ALEXANDER: Yes, sir, Your Honor.

7 THE COURT: Which one?

8 MR. ALEXANDER: It was --

9 THE COURT: We got 6, number 6 during the next
10 day.

11 MR. CLEVELAND: State's Exhibit No. 6, Your
12 Honor.

13 MR. ALEXANDER: Yes, it was done where she makes
14 statements regarding that he was the one in the car with
15 her, he used the phone, he had her phone. It was multiple
16 different statements like that.

17 THE COURT: Really, what's the inculpatory
18 statement she made? The only thing I've heard is the that
19 she was -- if she was going to use her car he had to
20 quote, Tendency not to bring it back. So she was riding
21 with him for that reason. She had no idea where he was
22 going, what he was going to do.

23 MR. ALEXANDER: She made statements that he had
24 the phone during the day which is during the period of
25 time that I believe the officers will testify that phone

1 calls were made, they're going to be presented as well, to
2 a male that -- with that phone --

3 THE COURT: Well, let me again, I don't know
4 what you're trying to do. You're going to try to say that
5 he cannot testify that telephone calls were made to the
6 Defendant Teasley.

7 MR. ALEXANDER: No, sir. No, sir.

8 THE COURT: I mean, that doesn't come in through
9 a pink phone, it comes in through the fact that it was
10 somebody apparently the State's going to produce that said
11 I had a telephone conversation setting it up.

12 MR. ALEXANDER: I'm asking that the recorded
13 statement of Sunedra Jones be excluded under Burton (sic)
14 on that it's a co-conspirator statement after the
15 conspiracy has already terminated.

16 THE COURT: Well, wait a minute. Brewton is
17 confrontational question.

18 MR. ALEXANDER: Yes, sir.

19 MR. CLEVELAND: Your Honor, if I may? State's
20 position that these statements don't -- that Ms. Jones'
21 statement doesn't implicate Mr. Teasley and vice versa in
22 the background.

23 THE COURT: No anything's going to be testifying
24 to comes from this witness, not from what Ms. Jones says.

25 MR. ALEXANDER: Ms. Jones' statement, Your

1 Honor, the officers asked her on the statement, whose
2 phone is that, who had it during the day? And she said on
3 the statement that Mr. Teasley had it during the day but
4 he gave it back to her later. That during the day period
5 is when he had it. Obviously the officers can testify
6 about the content of those phone conversations. But
7 under -- Ms. Jones can't testify, they can't use her
8 statement to say that he was the one had the phone.
9 Because it's -- the statement was given after--

10 THE COURT: Well is that all on that -- what
11 you're looking at is exclude No. 6?

12 MR. ALEXANDER: Yes, sir. Just not to exclude
13 the telephone calls, simply to exclude Ms. Jones' recorded
14 statement. Because it's a co-conspirator statement.

15 THE COURT: Well what do you say about that?
16 Who's handling this? I only want one at a time on each
17 issue.

18 MR. CLEVELAND: I am, Your Honor.

19 THE COURT: All right, Mr. Cleveland.

20 MR. CLEVELAND: Your Honor, I mean, Brewton is a
21 confrontation issue. And if the statement's incriminating
22 Mr. Teasley, if Ms. Jones' statement did then, you know,
23 he would have a point. But we, on its face we say it
24 doesn't incriminate him at all. The way I understand--

25 THE COURT: Well it does in the sense that

1 they've identified the pink phone as the one that was
2 used. At least he's saying was used the whole time. The
3 first time I heard it was only used during the car ride,
4 all right.

5 MR. CLEVELAND: It's State's position, Your
6 Honor, that Travis Teasley actually answered that phone in
7 setting up the deal. As evidence will be presented
8 throughout the trial is going to place him with that fact
9 that--

10 THE COURT: I think that definitely was that --
11 I don't know which agent, either of these agents it was
12 that talked to the Defendant Teasley. But whoever does
13 they're going to have to identify him and not her.
14 Already ruled that her identification, Ms. Jones, is not
15 appropriate because it came in a little bit too late when
16 discovery was complete. But no, he can testify to it. I
17 don't know what is -- as far as these recorded statements,
18 I mean--

19 MR. ALEXANDER: I'm reading from looks like it's
20 South Carolina case 40 S.C. 330 and 88 S.C. 229--

21 THE COURT: I'm not worried about that, I'm
22 worried what you want to keep out.

23 MR. ALEXANDER: Only Ms. Jones' recorded
24 statement.

25 THE COURT: In other words, that's number 6?

1 MR. ALEXANDER: Yes, sir.

2 THE COURT: All right.

3 MR. ALEXANDER: And that's based on the rule
4 that a co-conspirator statement is admissible but only
5 if --

6 THE COURT: Only as to the declarant.

7 MR. ALEXANDER: Only if it's in furtherance of
8 the conspiracy while it's still on-going.

9 THE COURT: Well that's where the statement
10 comes in. All right, I'm going to -- I don't find
11 anything probative in number 6. Against Ms. Teasley in as
12 much as you got the witness that actually talked to him.

13 MR. CLEVELAND: To clarify just as far as the
14 recording--

15 THE COURT: I'm going to disallow number 6.

16 MR. CLEVELAND: Disallow number 6?

17 THE COURT: Yes, number 6. That's the one with
18 Ms. Jones, isn't it? That he cross-examined--

19 MR. CLEVELAND: Your Honor --

20 THE COURT: -- about the pink phone and all of
21 that.

22 MR. CLEVELAND: There's other parts of that
23 statement that the State would like to be heard. If
24 anything that's not probative we'd like --

25 THE COURT: It's not such much that it's not

1 probative, it's a fact that you didn't let them know that
2 you had it.

3 MR. ERWIN: No, number 6, they told us about.
4 Six is the recorded statement. You excluded the
5 unrecorded statement for Agent Lovell.

6 THE COURT: Well that's the one that I'm
7 concerned about. The one that we've been--

8 MR. ERWIN: Six is the one taken from my client.

9 THE COURT: So, in other words, that's when the
10 97 percent was done?

11 MR. CLEVELAND: Yes, Your Honor.

12 THE COURT: Today.

13 MR. CLEVELAND: No -- well right.

14 THE COURT: All right, so six is okay. But
15 let's don't talk about anything that you hadn't talked
16 about before. All right. I mean, you talked about it but
17 apparently they didn't relay it. All right. When I say
18 them I'm talking about the State.

19 What else?

20 MR. ALEXANDER: I just want to make sure my
21 motion is--

22 THE COURT: I granted it.

23 MR. ALEXANDER: Maybe, Your Honor, misunderstood
24 me. I was moving to -- I understand you excluded the
25 unrecorded, unwritten statement. I was moving to exclude

1 the recorded statement that, Your Honor, listened to from
2 Ms. Jones. That is number 6, I believe. State's Exhibit
3 No. 6.

4 THE COURT: The only thing is, if it doesn't
5 have anything do with the phone, and I know they asked
6 about whose pink phone is this? And she goes on to talk
7 about he has a black phone and this is a pink phone.

8 MR. ALEXANDER: And in the recorded statement,
9 State's Exhibit No. 6, she makes statements in that about
10 him having -- that Mr. Teasley had the phone during the
11 day when these phone calls about the deal were made.
12 There -- it's incriminating statements against my client
13 made by the co-conspirator.

14 THE COURT: I'm not exactly sure if I understand
15 what the pink and black phone have to do with the offense
16 in the sense that it's not an element. They were asking
17 about telephone calls. And those telephone calls are
18 going to be authenticated by the witness who made the
19 phone calls and talked to the individual.

20 MR. ALEXANDER: I understand that.

21 THE COURT: The one thing I didn't like is when
22 I started hearing a 97 percent identification on the
23 witness at the last moment. He knew that -- and that's
24 not your objection, your objection is -- I don't find that
25 that is so prejudicial that -- to identify who had a pink

1 phone and who had a black phone.

2 MR. ALEXANDER: I'm not making the--

3 THE COURT: And there's nothing in there that
4 says that they weren't together in the car ride to the
5 Comfort Inn in Easley when the phone calls were made.

6 MR. ALEXANDER: But there's the statement about
7 that he had her phone. The pink phone during the day.

8 THE COURT: Well it doesn't make any difference
9 whose phone he had. It's who they were talking to.

10 MR. ALEXANDER: Exactly, Your Honor.

11 THE COURT: All right. No, the identification
12 is going to be who they were talking to, not the implement
13 they were using.

14 MR. ALEXANDER: I understand that, Your Honor.
15 But they can use Ms. Jones' recorded statement to connect
16 that Mr. Teasley had the phone--

17 THE COURT: That's not going to -- that's not
18 going to do it. He could have had a green phone. That's
19 not the crime. The crime is setting up a buy. And that's
20 the conversation that is going to be used. Don't care
21 what -- he could be talking on paper cups and a string.

22 MR. ALEXANDER: I understand that, Your Honor.

23 THE COURT: All right, well then you do so I'm
24 not going to exclude the six then. I guess that -- so
25 y'all did provide the oral -- all right so No. 6 is coming

1 in but not the conversation that you had unrecorded.
2 Because even Mr. Hamby said he wasn't sure what was said.
3 Said he had a conversation with her sometime outside and
4 he prepared the incident report.

5 MR. CLEVELAND: Thank you, Your Honor.

6 THE COURT: So it should have been included and
7 wasn't included.

8 MR. CLEVELAND: Thank you.

9 THE COURT: All right, anything else?

10 MR. CLEVELAND: Not from the State, Your Honor.

11 THE COURT: All right, now we're ready to go
12 forward at 2:00?

13 MR. CLEVELAND: Yes, sir.

14 THE COURT: Thank you.

15 MS. HAMAKER: Yes, sir, Your Honor.

16 THE COURT: All right.

17 (WHEREUPON, a lunch break was taken.)

18 THE COURT: All right, State ready to proceed?

19 MS. HAMAKER: Yes, Your Honor.

20 THE COURT: The defense ready to proceed from
21 Teasley?

22 MR. ALEXANDER: Yes, Your Honor.

23 THE COURT: Ms. Jones?

24 MR. ERWIN: Your Honor, there's one matter I
25 feel compelled to address, I apologize for this. I was

1 MS. HAMAKER: Yes, sir, she is under subpoena.

2 THE COURT: All right.

3 Yes, sir.

4 MR. CLEVELAND: I just might need about two
5 minutes to set up the projector.

6 THE COURT: All right, let's do that.

7 MR. CLEVELAND: Slipped my mind, I apologize,
8 Your Honor.

9 THE COURT: Anything from the State before we
10 bring the jury?

11 MS. HAMAKER: No, Your Honor.

12 THE COURT: From the defense?

13 MR. ALEXANDER: No, sir, Your Honor.

14 THE COURT: All right, now please understand in
15 as much as Ms. Jones is no longer a co-defendant on trial
16 in this particular trial, then, of course, anything that
17 would have been ruled on as concerns the Brewton objection
18 would not apply. Because she would be subject to
19 examination as such as are to the rules to do with
20 hearsay.

21 All right, ask the jury to join us.

22 (WHEREUPON, the jury came into open court at
23 approximately 3:15 p.m.)

24 Madam Clerk, if you would, please swear the
25 jury.

1 THE CLERK: Please raise your right hand, after
2 I finish please say, I will.

3 (WHEREUPON, the jury was sworn.)

4 THE COURT: Very good, thank you, very much.

5 Mr. Foreman, ladies and gentlemen of the jury,
6 I'm sure that each of you now appreciate that this court,
7 the Court of General Sessions for Pickens County exists
8 for the purpose of resolving questions of alleged criminal
9 conduct arising between The State of South Carolina
10 and the Defendant. It is a guaranteed right of every
11 citizen that is charged with criminal conduct be present in
12 open court according to certain rules and procedure. The
13 State has not only an equal right but the duty to present
14 and charge of criminal conduct in open court according to
15 the same rules of procedure. Each of the parties
16 therefore, both the State and the Defendant, in having a
17 equal right to the opportunity to this judicial
18 proceeding. And to have you as the jury selected now
19 sworn for the trial of this case.

20 One of the most important aspects of your duty
21 lies essentially in the oath that you have now taken. To
22 well and truly try to determine the facts of the case.
23 That oath in a very essential way says that you are the
24 sole judges of the facts in this case. Obviously any case
25 tried in court will involve a question of whether -- or

1 excuse me, will involve a question about what happened or
2 how something came to happen or whom, if anyone, did
3 anything in a particular occurrence or circumstance. From
4 this point forward then no one concerned with this trial
5 has a right to decide any question of fact in the trial or
6 the truth of it except you, the jury.

7 The facts then are for your resolution and your
8 decision and yours alone. And after you hear all the
9 evidence in the case, then it would be your duty by your
10 mutual and joint discussion to determine the truth of this
11 case by decided the weight and the believability of each
12 part of the evidence and by applying the law of the case
13 thereto.

14 As the trial Judge, I am the judge of the law in
15 this case. Also, it is my responsibility among other
16 things to preside over this trial. To rule on the
17 admissibility of evidence offered during the progress of
18 the trial and to state to you, the jury, the law
19 applicable to the case. The Constitution of South
20 Carolina mandates that I, as the trial Judge, cannot
21 directly or indirectly comment about the facts of the
22 case. The process of a verdict it is simply that you, the
23 jury, first determine what the truth the of the facts.
24 And then apply to that true state of facts the principle
25 of law applicable.. And by that process determine and

1 report to this court your final verdict in the case.

2 Speaking the truth of the case as you determine it.

3 The Court -- I will more fully and completely
4 state to you the principles of law applicable to the
5 issues in this case before it is submitted to you for your
6 decision. However, there are certain principles of law
7 applicable to the frame work of every case in General
8 Sessions Court. I will outline several of these basic
9 principles to you for your guidance. As I mentioned
10 earlier, the defendant has a Constitutional right to
11 remain silent and also to waive his right to be present at
12 trial. The assertion of these rights must not be
13 considered by you in any manner. I repeat, under your
14 oath you're to draw no conclusion whatsoever from the fact
15 that the defendant in this case may not testify, present
16 evidence or even attend the trial.

17 The defendant has entered a plea of not guilty
18 to the charges contained in the Indictment. The
19 Indictment in a case is not evidence, it is simply the
20 written instrument that contains the charge or charges
21 against the defendant. And it serves as a formal document
22 by which this case is to proceed or processed into court.
23 A plea of not guilty places upon the State the burden of
24 proof in this case. As for what is meant by the term
25 burden of proof, the defendant is presumed in law innocent

1 of all charges contained in the Indictment. The burden of
2 proof requires the State to prove guilt beyond a
3 reasonable doubt. And therefore, consistent with that
4 burden the defendant or the accused party shall be
5 presumed innocent. That presumption of innocence is
6 sufficient to compel the verdict of not guilty or a verdict
7 of acquittal unless you, the jury, conclude that the State
8 has satisfied its obligation to prove the defendant guilty
9 beyond a reasonable doubt.

10 Now, the term reasonable doubt means that kind
11 of doubt that would cause a reasonable person to hesitate
12 to act. Now the case will be open by the Solicitor after
13 which the same opportunity will be afforded the defendant
14 to make an opening statement. When all the evidence has
15 been received by the Court, counsel for the State and
16 counsel for the defendant will state to the jury their
17 respective positions. After which the Court will fully
18 state the applicable law in this case. Obviously all
19 parts of the case are important. Do not know which
20 witness in the case will most impress you. Whether the
21 first witness or the last witness. In reaching your final
22 conclusion you will need the guidance and judgment of
23 other jurors. You will need the guidance and principles
24 of the law that will be stated to you by the Court.

25 For all these reasons then, if we have any

1 recess periods, when you retire to the jury room or during
2 an overnight recess, the Court instructs you that you must
3 not undertake the discussion or to discuss this case among
4 yourselves until the case is finally given to you for your
5 deliberations. Nor are you to discuss this case with
6 anyone or permit anyone to discuss the case with you. If
7 they should try to do so, report them and I will take the
8 appropriate action.

9 Now the verdict in this case must be unanimous
10 verdict of all 12 members of the jury. Now they're two
11 other things I need to mention before we begin. As I said
12 earlier, although, I am the only person who can tell you
13 what the law is, you and you alone are the only ones who
14 can determine the facts in the case. I do not have the
15 right to indicate how I may feel about the evidence
16 presented. And throughout this trial my intention will be
17 to act impartially toward each party. Second, from time
18 to time an attorney will object or may object to a bit of
19 testimony or evidence which the other side is seeking to
20 present. As in sports or business or any other structured
21 activity, there are certain rules that both sides must
22 obey in presenting evidence. These rules have a definite
23 purpose. They ensure that the information you receive is
24 the most trustworthy and reliable evidence available. An
25 objection is the procedure we use for an attorney to call

1 a possible violation of those rules to the Court's
2 attention. For this reason you should not hold an
3 attorney's objection against his or her client. Nor
4 should you conclude from my ruling on those objections
5 that I favor one side or the other.

6 Finally, I would ask that you pay the closest
7 attention possible to the evidence presented to you. I'll
8 ask that you do not take notes because if the note taker
9 makes an error, those notes can be more detrimental than
10 helpful during your deliberations. I ask that each of you
11 to listen careful and I'm sure you will do that. The
12 reason I suggest that jurors do not take notes is that
13 it's been my experience if you're taking notes you have a
14 tendency to concentrate on the note to be sure you
15 accurately write down what you think you heard. Or also
16 just to have words spelled correctly or semantics or
17 anything else, some structure even. The point is by
18 concentrating on the note you're distracted from the
19 testimony from this witness stand, exhibits or other
20 evidence produced in the courtroom. And it's more
21 important that you find out and listen and see what is
22 happening.

23 Also, as I say, if you make an error in those
24 notes, those notes can be more detrimental than helpful
25 because it changes a lot of time what a note actually

1 means. For example, if you just miss one word it can
2 change entirely what you're relying on. That you use the
3 word not. If you miss the word not, it changes entirely
4 the meaning of what you've written down. So therefore, I
5 say and I suggest that you concentrate on what's
6 happening. And if a question comes up, what was the
7 testimony or what did occur, rely on the other members of
8 the jury to determine from your joint discussions you will
9 be able to find where the truth lies.

10 Now, having said that, I do take notes. And
11 it's not one of those things do as I say, not as I do. We
12 have entirely different purposes in this courtroom. You
13 are the only ones who can determine the facts. In other
14 words, weigh the evidence, determine the value of the
15 evidence. I am not concerned with the weight or the value
16 of the evidence or what's said or done. I am only
17 concerned about certain things occurring that are required
18 under our procedures. So I'm jotting down what is
19 happening, not the significance. That is for you.

20 And with that, I will turn the trial over to the
21 attorneys.

22 Madam Solicitor.

23 Mr. Solicitor, you may begin your trial.

24 OPENING STATEMENT

25 MS. HAMAKER: Mr. Alexander.

1 Your Honor.

2 Jury. This trial is about payday. It's about
3 payday. Not the type of payday that most of us are use to
4 where you go to work, you get your work done, you come
5 home, you get paid maybe once a week, maybe once every two
6 weeks, sometimes once a month. It's not that kind of
7 payday at all. No. This trial is about the type of
8 payday for Mr. Travis Teasley, who also goes by the name
9 of Trip, drove from Greenville all the way over to Easley
10 to disburse poison into society for profit. And when I
11 say poison, I mean crack cocaine.

12 The evidence is going to show you the following.
13 On May 20th, 2009, an arrangement was set up by a woman
14 named Donna Bobb. Donna Bobb set up this transaction to
15 take place between Mr. Travis Teasley, the defendant, and
16 Jeremy, the truck driver. What actually occurs on that
17 day was that Mr. Travis Teasley sold but later tested
18 positive as 4.4 grams of crack cocaine for \$375.00 to
19 Officer Jeremy Mills, an undercover police officer with
20 the Easley Police Department.

21 Now you're going to hear four audio tapes of
22 these phone calls. Phone calls were placed between
23 Mr. Teasley and the undercover officer to set up this
24 transaction. Each of the phone calls takes them from
25 Greenville all the way to Easley. And you're also going

1 to hear the recording of the hotel room where the
2 transaction took place. It's at Comfort Inn. One half
3 mile away from Easley Christian school.

4 The defendant has been charged with two crimes.
5 Distribution of crack cocaine and distribution within
6 proximity of a school. You will hear audio tape where the
7 defendant actually confesses, Yes I sold this crack
8 cocaine. Officers went through the door -- the evidence
9 will show that the officer went through the door and
10 actually busted the defendant right then and there before
11 he even had a chance to escape, before any questions came
12 as to his identity and he identified himself as Mr. Travis
13 Teasley. This case a about payday. It's not the kind of
14 payday that Mr. Travis Teasley had in mind. Instead of
15 getting paid, he got arrested. At the end of this trial,
16 the State is going to come back to you and ask you to also
17 give him a conviction.

18 This is Mr. Baker Cleveland, seated right here
19 at the State's table. My name is Jenny Hamaker. We're
20 both assistant solicitors for the 13th Circuit. Our job
21 is to represent the State of South Carolina. The people
22 of South Carolina and its prosecution of criminals. We
23 thank you for your time. We certainly appreciate your
24 service and we apologize for any weight or inconvenience
25 this may have been to you. But the State is confident

1 that at the end of this trial, you're going to find that
2 Mr. Teasley is a criminal and did attempt to disburse
3 poison onto our community of these streets. But luckily
4 there was an officer to interfere with that attempt.
5 Thank you for your time.

6 THE COURT: Mr. Alexander.

7 OPENING STATEMENT

8 MR. ALEXANDER: May it please the Court.

9 Mr. Cleveland.

10 Ms. Hamaker.

11 Ladies and gentlemen, as I introduced myself
12 earlier, I'm Stephen Alexander. I represent Travis
13 Teasley. And as you can see we're now at trial and
14 Mr. Teasley is not here today. As the Judge told you
15 earlier, the burden in this case, in any criminal case, is
16 on the State. The fact that Mr. Teasley has the right to
17 remain silent, has the right to offer no defense in the
18 case, has the right to waive his appearance, cannot be
19 held against him. Doesn't lessen the State's burden in
20 any way whatsoever.

21 And the fact that an arrest warrant was issued,
22 the fact that an Indictment was issued, was brought to
23 trial here today, is not relevant in the sense of guilt.
24 It's not proof of guilt. And the State's burden is still
25 the same. Beyond a reasonable doubt. And that's all

1 based on the evidence that will be presented here today.
2 What me and Ms. Hamaker and Mr. Cleveland say is directly
3 to y'all in opening and closing, that's not evidence
4 either.

5 So I ask you to keep an open mind, listen to the
6 evidence carefully as the case is presented. And hold the
7 judgment determination until the end of the case. We
8 thank you for your service. Jury service is something
9 that we have in this country, a lot of people don't have.
10 It is a great inconvenience but we thank you for your
11 attention.

12 THE COURT: All right, you may call your first
13 witness.

14 MR. CLEVELAND: Thank you, Your Honor. The
15 State calls Officer Jeremy Mills to the stand, please.

16 THE CLERK: Place your left hand on the Bible,
17 raise your right.

18 JEREMY MILLS, after being duly sworn, testified
19 as follows:

20 THE CLERK: Please state your name for the
21 record.

22 THE WITNESS: Jeremy Mills.

23 DIRECT EXAMINATION

24 BY MR. CLEVELAND:

25 Q Thank you, Officer Mills and please tell the jury who

1 you work for?

2 A I work for the Easley Police Department.

3 Q How long have you been with the Easley Police
4 Department?

5 A About four years.

6 Q Is that you're total career in law enforcement or did
7 you do anything before that?

8 A That's my total career.

9 Q What is your current title with the Easley Police
10 Department?

11 A Master Patrol Officer.

12 Q And describe briefly for the jury what your duties as
13 a Master Patrol Officer entails.

14 A Respond to calls, work traffic wreck, stuff like
15 that.

16 Q In your line of duty do you ever encounter illegal
17 drugs?

18 A Yes.

19 Q About how often would you say on something like that?

20 A Probably several times a month.

21 Q So over the last four years, what would be safe to
22 say, how many times you encounter illegal drugs?

23 A I couldn't -- I couldn't give you a number, it been a
24 lot though. Deal with them a lot.

25 Q Thank you, Officer Mills. Now, with the Easley

1 Police Department have you ever done any undercover
2 work?

3 A This was my first time actually undercover.

4 Q How many times have you worked undercover with the
5 Easley Police Department?

6 A Just once.

7 Q And as you said that's?

8 A This time.

9 Q Why we're here today?

10 A Yes, sir.

11 Q Have you ever testified in General Sessions Court
12 before?

13 A No, sir.

14 Q So this again, is your first time today?

15 A Yes, sir.

16 Q All right. Should be pretty easy to get through.
17 Let's go to May 20th, 2009. Were you part of a
18 undercover operation on May 20th, 2009?

19 A Yes, I was.

20 Q And how did you get to be involved in that since it's
21 not part of your daily routine?

22 A I was at the police department on my day off. And
23 talking with Agent Hamby and Agent Lovell. And this
24 is just something that popped up that day and they
25 asked me if I wanted to be a part of it and I agreed

1 to it.

2 Q All right. You said you wanted to be a part of it,
3 what, this undercover operation, what was the goal of
4 this operation?

5 A To purchase a quantity of crack cocaine from an
6 individual.

7 Q What was your role?

8 A I was going to be the undercover officer, the one
9 that actually set up the deal, made the phone calls,
10 arranged the meeting place and actually purchase the
11 crack cocaine.

12 Q Was it successful?

13 A Yes, it was.

14 Q Now, you hit on it a little bit but briefly describe
15 to the jury how this operation was planned to go
16 down.

17 A We had received a tip from Donna Bobb and she had
18 provided us with a phone number of a individual from
19 Greenville who stated that he would be willing to
20 come to Easley and sell crack cocaine to us. I made
21 several phone calls to the individual with the number
22 that was provided. Talked with him on the phone
23 about how much I wanted to purchase. And set up the
24 meeting place with him. He did come to the hotel.
25 And where he did sell me the crack cocaine. And then

1 he was arrested on the scene after that.

2 Q Let's go back real quick with the those phone calls.

3 You said you made about how many, could you recall?

4 A About four phone calls were made. I think I made
5 about three.

6 Q Okay. So did you receive any phone calls from the
7 suspect?

8 A I did.

9 Q Were the phone calls documented or recorded in any
10 way?

11 A Yes, sir, they were recorded using a digital
12 recorder.

13 Q On those recordings was it both just your voice or
14 was it the suspect's and your voice?

15 A It was my voice and the subject's.

16 Q I'm going to show you what I have marked here, it's a
17 disk, it's marked State's Exhibit 1 through 6. If
18 you would look at that disk for me, please. Have you
19 ever seen the disk before, Officer Mills?

20 A Yes, sir.

21 Q When have you seen that disk before?

22 A Saw it last week and earlier this week.

23 Q Have you ever reviewed the contents of that disk?

24 A Yes, I have.

25 Q What does that disk contain?

1 A It has the recorded phone conversations and has the
2 take down on it as well. From the actual deal.

3 Q You say take down. In addition to the telephone
4 conversations are there additional recordings made?

5 A Yes, sir.

6 Q What was that recording of?

7 A That was the actual recording of the hand-to-hand
8 where I purchased the cocaine from the subject, where
9 he came in the hotel room.

10 Q So just to be clear, you were present when all these
11 recordings were made?

12 A Yes, sir.

13 Q You reviewed the items on that disk. Were the
14 recordings on the disk, have they been edited,
15 altered, tampered with in any way from the original
16 recording that was made on May 20th, 2009?

17 A No, sir.

18 MR. CLEVELAND: Your Honor, at this time the
19 State would move, request to move Exhibits 1 through 4,
20 these are four recordings located on this disk that
21 Officer Mills testified -- he testified to, he was present
22 with and recorded --

23 THE COURT: All right, that would be State's No.
24 1, 2, 3 and 4?

25 MR. CLEVELAND: That's correct, Your Honor.

1 THE COURT: Any objections?

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

3 THE COURT: All right, without objection,
4 State's Exhibits No. 1, 2, 3 and 4 of a CD that has six
5 such items on it.

6 MR. CLEVELAND: Thank you, Your Honor.

7 (WHEREUPON, State's Exhibit Nos. 1 through 4
8 were admitted into evidence.)

9 BY MR. CLEVELAND:

10 Q Now, you said made a group of phone calls?

11 A Yes.

12 MR. CLEVELAND: At this time the State would
13 move to go ahead and publish those phone calls that
14 Officer Mills testified were made.

15 THE COURT: Very well.

16 (WHEREUPON, State's Exhibits 1 through 4
17 were played.)

18 BY MR. CLEVELAND:

19 Q All right, Officer Mills, just for a little bit of
20 clarification, who's the other voice on that tape?
21 That was your voice we could hear on this tape, is
22 that correct?

23 A Yes.

24 Q Who's the other voice on that tape?

25 A Travel Teasley.

1 Q How about at the beginning of the recording, seemed
2 like there was another voice?

3 A There was a female voice.

4 Q Okay.

5 A Officer Hamby or Agent Hamby was on there as well.

6 Q All right. Now, did you dial the same number, I
7 believe, 787-7579 each time you made one of those
8 phone calls?

9 A Yes, we did.

10 Q And when you received a call, like you said on the
11 tape a missed call, was that from 787-7579?

12 A Yes, it was.

13 Q Just to hit a couple of things, who were you
14 referring to -- we heard a reference to a heifer and
15 old girl, someone being crazy, who was that?

16 A That was Donna Bobb, the one that gave us the phone
17 number.

18 Q And just for the juries sake, if I say there's some
19 pretty bad language on there, you're dealing with
20 drugs, is that pretty typical of drug users?

21 A Yes, sir.

22 Q Also, there's some talk about meeting your girl at
23 the hotel and on the way and this that and the other,
24 that seems pretty complicated. Was there any reason
25 behind any of that story?

1 A I was trying to buy some time so we could get set up
2 in the hotel rooms. And get everything situated and
3 get the recorders in places.

4 Q So stop me if I putting words in your mouth. 1:54
5 the first call was made, there wasn't a set up yet?

6 A No, sir.

7 Q Let's talk a little bit about some of the terms that
8 we heard on that phone call. What is a spoon?

9 A A spoon--

10 MR. ALEXANDER: Your Honor, I'm going to object,
11 a proper foundation hasn't been laid.

12 THE COURT: All right, sustained.

13 BY MR. CLEVELAND:

14 Q Are you familiar with some of the terminology that's
15 used on those phone calls?

16 A Yes, sir.

17 Q What -- in what context is that terminology used?

18 A With the dealings of crack cocaine.

19 Q Now, in the dealings of crack cocaine, have you ever
20 heard the term spoon being used?

21 A Yes, sir.

22 Q Could you please explain to the jury what your
23 understanding of, giving your dealings with crack
24 cocaine, a spoon is?

25 A Be 7-grams of crack cocaine.

- 1 Q Now, when you said on that phone call 10, what did
2 you mean when you said I believe it was you got 10
3 for me or something like that? Correct me if I'm
4 wrong.
- 5 A In the first phone call he had asked me if I wanted a
6 spoon. And I said that if he had more I would buy
7 it, I had the money. And he offered to bring me
8 10-grams. So when I referred to 10, I was just
9 making sure that he had the 10 grams that he said he
10 was going to bring me.
- 11 Q All right. And when you said 475, what were you
12 referring to when you said 475?
- 13 A That's how much I agreed to pay him for the 10 grams
14 of crack cocaine which was \$475.00.
- 15 Q \$475.00. Now, this Trip on the other end of the
16 phone, did you ever meet with an individual named
17 Trip that day in person?
- 18 A Yes.
- 19 Q When was it that you met with the person named Trip?
- 20 A When he showed up at the room at the Comfort Inn.
21 That's what he went by was Trip. His real name is
22 Travis Teasley.
- 23 Q Did he say his name? Did he ever say his name when
24 he got to the hotel room?
- 25 A I don't recall, I'd have to listen to the recording.

1 Q All right. Now, you said there was a recording in
2 the hotel room, just set it up. What events were
3 captured by that recording in the hotel room?

4 A I believe when it first starts I'm getting some last
5 minute instructions from Agent Hamby and Agent Lovell
6 as far as how to proceed with the deal since this was
7 my first time. And then there's probably small wait
8 period until he gets to the hotel room. And you'll
9 hear him knock on the door, you'll hear him come in,
10 you'll hear us talking about the crack cocaine that
11 he brought me.

12 Q Are there any other phone calls or any other contact
13 with this Trip on that recording or during that time?

14 A Yeah, there should be one last phone call that Trip
15 made to me asking for directions. He was in the
16 Easley area and just wasn't exactly sure where the
17 Comfort Inn was at. He was getting last minute
18 directions.

19 Q To the best of your recollection was that the same
20 phone number that you'd been calling that you
21 received a call from?

22 A Yes, sir.

23 MR. CLEVELAND: Thank you, Your Honor. At this
24 time the State would like to publish the audio during in
25 the hotel room.

JEREMY MILLS-DIRECT BY MR. CLEVELAND

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1 THE COURT: Any objection? This would be 4 or
2 5?

3 MR. CLEVELAND: This is number 4, Your Honor.

4 THE COURT: Number 4, any objection?

5 MR. ALEXANDER: No, Your Honor.

6 THE COURT: Without objection.

7 (WHEREUPON, State's Exhibit No. 4 was
8 played.

9 BY MR. CLEVELAND:

10 Q Now, Officer Mills, that's your voice on that tape we
11 just heard, correct?

12 A Yes, sir.

13 Q It sounded like there was some negotiations going on
14 on that tape, could you describe for the jury?

15 A He had agreed to bring me 10-grams, he brought me, I
16 think, it was around 4-grams or so of crack cocaine.
17 So we're trying to negotiate the price with him.

18 Q How did you know how much it weighed?

19 A I had a set of scales that I brought with me to the
20 to hotel room and I had him place the crack on the
21 scales for me so I could see how much it weighed.

22 Q Now, during this transaction, do you actually hand
23 over the money to the suspect Trip?

24 A I did.

25 Q Did you actually receive a white substance that he

1 reported to be crack cocaine?

2 A Yes, sir.

3 Q Now, at the end of that there was a kind of loud bang
4 and everything, where were the police or folks that
5 came in the room during the transaction?

6 A The other officers were in the adjoining room. We
7 had gotten adjoining rooms and they came in through
8 the door between the two rooms.

9 Q You being undercover, were you taken down as well as?

10 A Yes, sir, I was.

11 Q Where were you taken after?

12 A At that point, after both of us were taken down I was
13 removed and placed in the other room, separate from
14 Mr. Teasley.

15 Q Thank you, Officer Mills. I'm going to show you now
16 some photographs. This is what is pre-marked as
17 State's Exhibits 12, 11, 10, 8 and 7. Would you take
18 a moment to look at those photographs, please.

19 A (The witness complies.)

20 Q Does those photographs truly and accurately depict
21 items and people that were in that hotel room on that
22 day as you observed them?

23 A Yes, sir, they do.

24 Q All five of them?

25 A Yes, sir.

1 Q Now --

2 MR. CLEVELAND: At this time, Your Honor, the
3 State would like to move the five photographs into
4 evidence.

5 MR. ALEXANDER: No objection.

6 (WHEREUPON, State's Exhibit Nos. 7, 8, 10, 11
7 and 12 were admitted into evidence.)

8 BY MR. CLEVELAND:

9 Q Now, Officer Mills, how much money did you actually
10 give--

11 THE COURT: Without objection Plaintiff's
12 Exhibits what -- or State's Exhibits.

13 MR. CLEVELAND: Seven, eight, 10, 11 and 12,
14 Your Honor.

15 THE COURT: Seven, eight, 10, 11 and 12 are
16 admitted into evidence.

17 MR. CLEVELAND: Thank you, Your Honor.

18 BY MR. CLEVELAND:

19 Q How much money did you actually give Trip in the
20 hotel room?

21 A \$400.00.

22 Q How much where you supposed to give him?

23 A 375.

24 Q Why the extra \$25.00?

25 A Because I was a little bit nervous.

JEREMY MILLS-DIRECT BY MR. CLEVELAND

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1 Q Miscounted the money, I guess?

2 A Yes, sir.

3 Q Is this part of the money?

4 A Yes, it is.

5 Q That you gave Trip at the hotel room?

6 A Yes?

7 Q How do you know that's part of the money?

8 A We recorded the serial numbers off of the bills prior
9 to the deal going down.

10 Q And this money never left the hotel room?

11 A No, sir.

12 Q Since you brought it in?

13 A Correct.

14 Q Also, this photograph here, is that part of the
15 money?

16 A Yes, sir.

17 Q And need your help close up showing the serial
18 numbers. Totaling \$400.00, correct?

19 A Yes, sir.

20 Q Now, is this the white substance?

21 A That would be the crack cocaine.

22 Q Who brought -- how did that get in the hotel room?

23 A That's what Mr. Teasley brought into me.

24 Q And you actually -- that's -- where did the scales
25 come from?

JEREMY MILLS-DIRECT BY MR. CLEVELAND

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1 A Those were ones that I brought to the hotel room.

2 Q And lastly, is that the individual that brought you
3 the white rock substance?

4 A Yes, sir.

5 Q Is that the individual that you paid the \$400.00 to?

6 A Yes, sir.

7 Q Thank you.

8 MR. CLEVELAND: No further questions for Officer
9 Mills at this time, Your Honor.

10 THE COURT: Cross-examine.

11 CROSS-EXAMINATION

12 BY MR. ALEXANDER:

13 Q Officer Mills, did you have any prior knowledge of
14 who you were speaking to on the phone when you made
15 those phone calls.

16 A No, sir.

17 Q You just knew the individual as Trip?

18 A That's correct.

19 Q And you never met the individual when he arrived at
20 your hotel room?

21 A I hadn't met him prior to him arriving no, sir.

22 Q Okay. Now, on the phone y'all discussed a 475 price?

23 A Yes, sir.

24 Q For 10-grams, I guess?

25 A Yes, sir.

1 Q Okay. And but you only had \$400.00 in the room, is
2 that correct?

3 A I believe I had -- I believe there was 480. Four
4 hundred is what I turned over to him for the amount
5 of crack that he brought me.

6 Q Okay. So the additional 80 is not documented in
7 these photographs?

8 A Not in photographs it's not. Just the 400 that used.

9 Q All right.

10 MR. ALEXANDER: That's all the questions I have,
11 Your Honor.

12 THE COURT: Re-examine?

13 MR. CLEVELAND: None on redirect, Your Honor.

14 THE COURT: All right, you may step down.

15 MR. CLEVELAND: Your Honor, we request Officer
16 Mills to be excused at this time.

17 THE COURT: Any objection?

18 MR. ALEXANDER: No objection.

19 THE COURT: Without objection, you may be
20 excused. Thank you, sir.

21 Call your next witness.

22 MR. CLEVELAND: Thank you, Your Honor. The
23 State calls Brian Cowan.

24 THE CLERK: Place your left hand on the Bible,
25 raise your right hand, please.

1 BRIAN COWAN, after being duly sworn, testified
2 as follows:

3 THE CLERK: State your name for the record.

4 THE WITNESS: Robert Brian Cowan.

5 DIRECT EXAMINATION

6 BY MR. CLEVELAND:

7 Q Thank you, Brian. What's your rank and title at the
8 Easley Police Department?

9 A I'm currently a Sergeant with the Easley Police
10 Department in the forensics division in the police
11 department.

12 Q Sergeant Cowan, how long have you been in law
13 enforcement?

14 A Since January 1994.

15 Q Now, what -- you said forensics, what educational
16 background do you have to prepare you for your job in
17 your current capacity?

18 A I've been through several SLED certified classes
19 through the South Carolina Criminal Justice Academy,
20 photography classes, basic fingerprint classes, crime
21 scene investigative classes, basic detective classes,
22 my education has been through the South Carolina
23 Criminal Justice Academy.

24 Q Do you maintain evidence that's collected during
25 various operations by the Easley Police Department?

1 A Any evidence that's turned over to me, I do maintain
2 the chain of custody on it and hold it until it is
3 needed for court.

4 Q Does that include drug evidence?

5 A Yes, it does.

6 Q Now, when evidence is collected by various officers
7 and agents of the Easley Police Department, how does
8 it end up in your hands?

9 A There's several ways, actually two ways that it can
10 end up in my hands. One of them is hand-to-hand when
11 the officers comes to me with his paper work and the
12 evidence and he hands it to me. The other way is
13 through a evidence drop locker. And it's -- to give
14 you an idea of what a drop locker is, it's kind of
15 like a post office box. The officers put the
16 evidence in one side of it with their paper work,
17 close the door lock it. And then when I come in I
18 retrieve it from the back side where I'm the only one
19 that has the key for it. I retrieve it from the back
20 side at which time I double check the paper work to
21 make sure everything's documented and sealed
22 correctly. Then place it in it's appropriate place
23 in the evidence room.

24 Q Who else has access to the evidence locker, to the
25 locked box that you're talking about?

1 A I'm the only one that has the key for the evidence
2 lockers, for the lock boxes.

3 Q And when you say paper work, just briefly, what do
4 you mean?

5 A Any time any evidence is turned into me there has to
6 be a evidence property report done on it. Basically
7 it states what the evidence is, where the officer got
8 it from, the case number and it has a chain of
9 custody listed which is basically where it's
10 transferred from person to person to person. And
11 that way it can be documented as far as who it goes
12 to and what time it goes to them and for what reason.

13 Q Does that go for drug evidence as well as other types
14 of physical evidence?

15 A Yes, it does.

16 Q Now, when you receive drug evidence, in particular,
17 what do you do with it?

18 A There are -- we have -- if it's a -- okay. Marijuana
19 evidence which is plant material, it stays in house
20 for me to process. Any other drug material has to be
21 transferred over to Greenville for it to be processed
22 by a certified lab technician.

23 Q Those items you have sitting in front of you.

24 A Yes, sir.

25 Q Would you, please, open that bag and look at those

1 items briefly.

2 A (The witness complies.)

3 Q Now, that ziplock bag directly in front of you, I
4 believe it looks like it has a pink and black item
5 and other various items in there. When did that bag
6 come into your possession?

7 A This bag came in my possession May 22nd of 2009 at
8 10:54 a.m.

9 Q Now, who gave you that bag?

10 A I retrieved that bag from the evidence drop locker.

11 Q Could you tell, because it was put in the drop
12 locker, can you tell who put it in there?

13 A The officer that's showing recovered it was Officer
14 J.C. Hamby.

15 Q Is that standard protocol, you testified, for the
16 officer who recovered it to write their name like
17 that and drop it in the drop box with the items?

18 A Yes, it is.

19 Q Have those items left your custody since May 21st,
20 2009 when you testified they were dropped in there?

21 A No, they have not.

22 Q In that package, did you package the items like that
23 or were they packaged like that when you received
24 them?

25 A They were packaged like that when I received them.

1 Q Has anyone else had access to them since they've been
2 in your possession like that?

3 A No, they have not.

4 Q Have they been tampered -- could you tell if they'd
5 been tampered with or accessed in any manner?

6 A They have not been tampered with.

7 Q How can you tell?

8 A There is a -- this piece of tape right here is the
9 evidence tape. It's a tampered resistant tape. If
10 you pull it off it will leave pieces of it behind.
11 It also has a signature on it. And the signature is
12 based -- it covers the tape and on the plastic so if
13 it ever removed and if someone was to able to
14 actually remove it, it would be hard press for them
15 to put it back in the exact position in which it
16 would match up with lines and everything for the
17 signature.

18 Q Thank you.

19 MR. CLEVELAND: Your Honor, at this point in
20 time I would like to at least pre-mark the three items in
21 that bag at State's Exhibits 14, 15 and 16. We're not
22 going to enter them into evidence just yet.

23 THE COURT: Just for identification?

24 MR. CLEVELAND: For identification purposes and
25 noting the testimony that Mr. Cowan has given, we'd like

1 to mark them. For the court's possession.

2 THE COURT: All right for identification State's
3 Exhibits 14, 15 and 16 are admitted. Only for
4 identification.

5 (WHEREUPON, State's Exhibit Nos. 14 through 16
6 were marked for identification only.)

7 THE COURT: Let's do it the same way as we did
8 with the CD. Just put it on the bag. The bag hasn't been
9 opened, has it?

10 MR. CLEVELAND: No, Your Honor.

11 THE COURT: All right, let's do that.

12 MR. CLEVELAND: The evidence list refers to each
13 item by the number. So what that's worth.

14 THE COURT: That will work.

15 MR. CLEVELAND: Thank you, Your Honor.

16 THE COURT: All right, before you open the bag
17 advise the Court, might have to take up some other matters
18 as far as identification.

19 MR. CLEVELAND: Thank you, Your Honor, I don't
20 know that it's necessary to open the bag or not. We'll do
21 that when the time comes.

22 BY MR. CLEVELAND:

23 Q Now Sergeant Cowan, that other bag you have in front
24 of you, when did that item come into your possession?

25 A On May 21st of 2009 at 15:43.

1 Q Could you repeat that date for me, I apologize?

2 A May 21st of 2009 at 15:43.

3 Q And who did you receive that evidence from?

4 A That was also received from the evidence drop locker.

5 Q And was there any accompanying paper work to let you
6 know what officer?

7 A Yes, there was.

8 Q And what officer -- where did you -- who did you
9 receive that evidence from?

10 A Officer J.C. Hamby.

11 Q Now, did that package appear to have been tampered
12 with when you received it on that day?

13 A No, it did not.

14 Q Going back to your earlier testimony, did you
15 ultimately transfer that package to someone else?

16 A Yes, I did.

17 Q Why did you transfer it?

18 A This is considered to be what was listed as a
19 rock-like substance. And there's also an
20 accompanying Greenville County Analysis Request Form
21 with it. Therefore, it let me know no that the
22 officer requested this item to be processed or to be
23 and analyzed by the Greenville Laboratory Analysis
24 Team. So I knew it needed to be taken over to
25 Greenville Property and Evidence Section where it

1 needed to be dropped off.

2 Q Did you personally take it over to Greenville
3 Property and Evidence?

4 A Yes, I did.

5 Q And what did you do with it once you got it to
6 Greenville Property and Evidence?

7 A Once I arrived at Greenville Property and Evidence
8 they had -- Greenville has to assign it a case
9 number. Once they assign it their case number then a
10 individual in the Greenville Property and Evidence
11 Section will sign for it. He will also check and
12 make sure that it is sealed, that it's properly
13 documented. At which time I turn it over to him.

14 Q If it's not sealed and properly documented, what
15 then?

16 A Then it is noted on the form that it is not sealed --
17 or it will be noted that it is not sealed and...

18 Q Did you have any indication that that item was not
19 sealed properly?

20 A It's noted on here the item was sealed when it was
21 received by Greenville?

22 Q When you say received by Greenville, was it a
23 specific person that received it by Greenville?

24 A Yes, it was.

25 Q Who in Greenville received that item of evidence?

1 A Israel Flounders.

2 Q Did you ever receive that evidence back in your
3 possession after you transferred it to Mr. Israel
4 Flounders?

5 A Yes, I did.

6 Q What date did you receive that evidence back in your
7 possession?

8 A On July 17th of 2009 at 9:37 in the morning.

9 Q Now, on that date, did you receive it back from
10 Greenville, the same place you dropped it off to?

11 A Yes, I did.

12 Q Who did you receive that evidence back from?

13 A At that time I received it back from Renee Pruitt.

14 Q Did you go pick it up personally from Ms. Pruitt or
15 did Ms. Pruitt bring it to you?

16 A She brought it from me from the area that they placed
17 all of our evidence into.

18 Q Brought it to Easley or brought it to you?

19 A Brought it to me. I was at the -- I was at the
20 counter of the -- their evidence section. What
21 happens is when I bring over I also take evidence
22 back. So that day I was dropping evidence off. And
23 they checked and said, Okay you have stuff ready to
24 go back. So they brought it up to the counter and I
25 signed for it then.

1 Q They being?

2 A Ms. Pruitt, yes.

3 Q And what did you do with the evidence after you
4 received it back from Renee Pruitt?

5 A Once I received it back I brought it back to the
6 Easley Police Department, I noted it in the computer
7 system that I had it back. And then I placed it into
8 a storage area. At which time it stayed until it's
9 been brought into court today.

10 Q So as anyone unless had access to that evidence since
11 you picked it up from Renee Pruitt other than
12 yourself?

13 A No, nobody else has.

14 Q Up until this very moment has anyone else every had a
15 chance to tamper with or alter evidence in any way to
16 your knowledge?

17 A No, they have not.

18 Q By looking at package, is that package show any
19 indication of it being tampered with other than what
20 Greenville County Lab has done to it?

21 A No. It's in the condition which I received it from
22 the Greenville Property and Evidence Section.

23 Q However can you tell, just briefly.

24 A Whenever I get it back I always look at it and it's
25 in the seal that Greenville Laboratory Services

1 provides it. They put their initials on it and once
2 it's sealed the only way you can gain entry into is
3 to tear it open. And this package has not been torn
4 opened or modified in any way.

5 Q Thank you.

6 MR. CLEVELAND: No further questions at this
7 time.

8 THE COURT: All right.

9 MR. CLEVELAND: Real briefly, Your Honor, I do
10 want to mark that item as for identification as well.
11 State's Exhibit No. 13.

12 THE COURT: Any objection for identification
13 State's Exhibit 13?

14 MR. ALEXANDER: Not for identification purposes
15 only.

16 THE COURT: Very good.

17 (WHEREUPON, State's Exhibit No. 13 was marked
18 for identification only.)

19 THE COURT: Cross-examination.

20 MR. ALEXANDER: I don't have any questions for
21 Sergeant Cowan.

22 THE COURT: All right, you may step down. Thank
23 you, sir.

24 MR. CLEVELAND: Your Honor, may Sergeant Cowan
25 be excused?

1 THE COURT: Any objection?

2 MR. ALEXANDER: No.

3 THE COURT: Without objection, you may be
4 excused.

5 All right, you may call your next witness.

6 MR. CLEVELAND: Thank you, Your Honor. The
7 State Israel Flounders.

8 THE CLERK: Place your left hand on the Bible,
9 raise your right.

10 ISRAEL FLOUNDERS, after being duly sworn,
11 testified as follows:

12 THE CLERK: State your full name for the record.

13 THE WITNESS: Israel Stephen Flounders.

14 THE CLERK: Pleas be seated.

15 DIRECT EXAMINATION

16 BY MR. CLEVELAND:

17 Q Mr. Flounders, you do you work for?

18 A Greenville County Department of Public Safety
19 Forensics and Property and Evidence.

20 Q How long have you worked in your current capacity at
21 Greenville County?

22 A My hire date was February of 2006, approximately four
23 years.

24 Q And what educational background do you have for the
25 job that you're in right now?

- 1 A I received on-the-job training and some training with
2 NCPAT, it's an organization out in California that
3 teaches evidence custodian.
- 4 Q And evidence custodian, what type evidence do you
5 handle on a daily basis with your job with Greenville
6 County?
- 7 A Narcotic evidence, weapons, cover property. We also
8 take stuff for testing from Easley.
- 9 Q And do you follow certain protocols calls and
10 procedures when handling evidence of those types
11 within your office?
- 12 A Yes, we do.
- 13 Q Turning specifically towards drug evidence, what
14 procedure do you typically follow in your capacity
15 when you receive some drug evidence?
- 16 A All evidence have a chain of custody with it.
17 Narcotic evidence, it must be sealed for us to take
18 it. We do not take unsealed evidence.
- 19 Q Why not?
- 20 A There's risk of tampering or it's our policy that it
21 must be sealed to protect the believability of the
22 evidence.
- 23 Q Continue with the procedure that you were describing,
24 please.
- 25 A The officer will bring a -- the evidence to the

ISRAEL FLOUNDERS-DIRECT BY MR. CLEVELAND

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1 counter with a chain of custody. He will have a
2 description of the evidence on the chain of custody
3 and we will check the description over and make sure
4 that the item is sealed. And then I will sign for it
5 on the sheet.

6 Q You sign for it on the sheet?

7 A Yes, sir.

8 Q I'm going to show you what's been marked for
9 identification as State's Exhibit 13. Do you
10 recognize that piece of evidence?

11 A Yes, sir.

12 Q No, sir?

13 A Yes, sir.

14 Q Thank you. Have you ever handled that evidence
15 before?

16 A Yes, I have.

17 Q Pardon me. Repeat the answer to your last question,
18 I was a bit distracted, I'm sorry.

19 A Yes, sir, I have. I can see the chain of custody
20 confirm what date and time.

21 MR. CLEVELAND: Any objection to showing the
22 report?

23 MR. ALEXANDER: Not for recollection, no.

24 THE WITNESS: I received this evidence on
25 June 11th, 2009 at 12:26.

1 BY MR. CLEVELAND:

2 Q How do you know that?

3 A That's how I signed for it.

4 Q And your signature refreshed your memory on that
5 point?

6 A Yes.

7 Q What did you do with the evidence once you received
8 it?

9 A Once I received it, I make sure it's packaged up with
10 the lab request and the chain of custody. It goes
11 into a box and a secured fault in our area until it's
12 time for the lab to pick it up.

13 Q And you didn't physically see the lab pick it up, can
14 you tell if the lab actually ever did pick that
15 evidence up?

16 A The lab did pick it up, yes.

17 Q Thank you. Now, that, I think, pretty well covers
18 when officer drops evidence off at your job. What
19 happens typically when a sample is tested or goes
20 through analysis before -- between the test and when
21 the officer picks it back up? Could you tell us
22 about that procedure real quick, please?

23 A When a lab personnel will return the evidence to the
24 counter to one of us, we'll take it over just like we
25 would from another police officer and place it into

1 the box go back to Easley or whatever agency it
2 belongs to.

3 Q Thank you. When you say you place it in a box, is
4 that a secured location?

5 A The box is inside the vault.

6 Q Who has access to the vault?

7 A Only the P&E employees.

8 Q Now, regarding that specific evidence marked for
9 identification as State's Exhibit 13, did you deviate
10 from the procedure that you said in any manner when
11 handling that evidence?

12 A No.

13 MR. CLEVELAND: Beg the Court's indulgence for a
14 moment. The State doesn't have any further questions for
15 Mr. Flounders.

16 THE COURT: Cross-examine.

17 MR. ALEXANDER: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. ALEXANDER:

20 Q May I see the chain of custody, Mr. Flounders?

21 A Yes, sir.

22 Q Now did you identify this by the numbers written on--

23 A Case number, yes, sir.

24 Q Case number. And looks like James Armstrong was the
25 only person from the lab that handled it after you

1 placed it in the box?

2 A That's correct, sir.

3 MR. ALEXANDER: Thank you, that's use all the
4 questions I have.

5 THE COURT: Re-examine.

6 MR. CLEVELAND: Just briefly, Your Honor.

7 RECROSS-EXAMINATION

8 BY MR. CLEVELAND:

9 Q One question. You say the chain of custody is placed
10 in the box with the evidence. So as only Greenville
11 County, who else has access to the chain of custody
12 form?

13 A Just P&E employees is all.

14 MR. CLEVELAND: Thank you, no further questions,
15 Your Honor.

16 THE COURT: Very well, you may step down.

17 MR. CLEVELAND: State ask Mr. Flounders be
18 excused.

19 MR. ALEXANDER: No, objection.

20 THE COURT: All right, without objection the
21 witness may be excused.

22 Thank you, sir.

23 Call your next witness.

24 MR. CLEVELAND: Thank you, Your Honor, the State
25 calls James Armstrong.

ISRAEL FLOUNDERS-RECROSS BY MR. CLEVELAND

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1 THE CLERK: Place your left hand on the Bible,
2 raise your right.

3 JAMES ARMSTRONG, after being duly sworn,
4 testified as follows:

5 THE CLERK: State your full name for the record.

6 THE WITNESS: James William Armstrong.

7 THE CLERK: Please be seated.

8 DIRECT EXAMINATION

9 BY MR. CLEVELAND:

10 Q Thank you, Mr. Armstrong, tell the jury who you work
11 for, please.

12 A Employed with Greenville County Department of Public
13 Safety Forensics Division Crime Laboratory.

14 Q How long have worked for the Greenville Crime Lab?

15 A A little over 14 years and three months.

16 Q What's your title?

17 A I'm a criminalist.

18 Q Could you describe what a criminalist is briefly for
19 the jury, please?

20 A I have a dual responsibility. I'm a forensic drug
21 chemist and a firearm examiner. On the forensic drug
22 chemist side I analyze suspected controlled substance
23 whether it be white powder, plant materials, pieces
24 of paper or whatnot to determine if a substance is or
25 is not a controlled substance and report my findings

1 of that. And firearms I identify firearms and their
2 components and go from there.

3 THE COURT: You're going to have to slow just
4 down just a bit.

5 THE WITNESS: Yes, sir.

6 THE COURT: Thank you.

7 BY MR. CLEVELAND:

8 Q That's okay, Mr. Armstrong. Educational wise, what
9 education do you have to...

10 A I have a Bachelors of Science Degree in Chemistry
11 from Erskin College. I've trained in the area of
12 drug identification for approximately one year under
13 the direction of our lab supervisor. I've attended
14 the Forensic Chemist Seminar sponsored by the Drug
15 Enforcement Administration in Washington, D.C. I've
16 attended numerous instrumental analysis schools
17 concerning the instruments I used in my analysis.
18 And I've testified in the area of drug identification
19 no fewer than 130 times as an expert in Federal and
20 local courts.

21 Q You answered my next question for me. I was going to
22 ask if you'd ever testified as an expert in the
23 courts of this State?

24 A Yes, sir.

25 MR. CLEVELAND: At this time, Your Honor, the

1 State would like to present Mr. James Armstrong as an
2 expert in the field of drug identification for a lack of a
3 better term.

4 THE COURT: Any voir dire?

5 MR. ALEXANDER: No, Your Honor.

6 THE COURT: All right, very well.

7 Mr. Foreman, ladies and gentlemen of the jury,
8 normally witnesses must testify to things that they know
9 of their own knowledge. In other words, what they see,
10 here, touch or taste. Now whether by reason of background
11 training and experience a witness be can qualified in a
12 particular area. And when a witness is qualified as an
13 expert in a particular area then they are permitted to
14 give their opinions as well as what they is known to them
15 by reason of the exercise of their senses. And in this
16 particular case the witness is a qualified in drug
17 identification and will be able to give his opinion and
18 the basis for that opinion based on his particular
19 training and background and experience in this area.
20 However, all witnesses, expert witnesses or lay witnesses
21 testimony is for your evaluation.

22 You may have proceed.

23 MR. CLEVELAND: Thank you, Your Honor.

24 BY MR. CLEVELAND:

25 Q Briefly, Mr. Armstrong, describe to the jury what's

1 involved, how the substances are tested.

2 Specifically white rock substances?

3 A Any substance that comes into the office we have to
4 sign for it by way of the Property and Evidence Sheet
5 to establish the chain of custody. Once we have
6 signed for the item we take it to our office and we
7 then inventory the contents of the sealed container.
8 Once we inventory it we weigh the substance to get
9 actual weight of just the substance, not any of the
10 packaging. We then perform a chemical spot test
11 which gives us an idea of what we may or may not
12 have. This is a presumptive test that doesn't tell
13 us exactly what it is, we try to find out what it is.
14 Then from there we do a instrumental analysis to do a
15 confirmational test to confirm the presence or
16 absences of a controlled substance. Then once we
17 complete that test we general a report of our
18 findings.

19 Q Mr. Armstrong, I'm going to show you what's been
20 marked for identification as State's Exhibit 13. Do
21 you recognize that evidence?

22 A Yes, I do.

23 Q Did you perform any tests, as you described, on that
24 evidence located in that bag?

25 A Yes, sir, I did.

1 Q How do you know that that's the evidence that you
2 performed the test on?

3 A The outer most bag has my initials and the date which
4 I sealed it in between a double head seal. The inner
5 bag has my initials and date where I opened the
6 sealed container along with my writing to establish
7 the lab case number. And I also have the item number
8 with my initials and the weight of the substance
9 sealed inside of another bag.

10 Q Between the time you opened that inner bag and sealed
11 that outer bag, did that substance ever leave your
12 possession?

13 A No, sir, did not.

14 Q Now, as far as the testing procedures go that you
15 testified to earlier, did you follow those procedures
16 to the letter in this case?

17 A Yes, sir, I did.

18 Q Now, could you tell if that substance had been
19 tampered with? Mainly speaking to the package before
20 you received it?

21 A When I received it I received a sealed, the inner
22 bag, which is sealed from the Easley Police
23 Department as evidence tamper resistant tape on the
24 top seal. And I actually cut the side of the bag to
25 verify that it was sealed at the time.

1 Q You said Easley Police Department, who did you
2 receive it from specifically?

3 A I received it from my property and evidence room in
4 the basement at the Law Enforcement Center.

5 Q Do you and only analyst have access to that drug
6 evidence in that room?

7 A When it comes into the office I'm the only person
8 that has control of any of the evidence in my
9 custody. We have individual lockers, they're only
10 three of us that work there, have individuals locker
11 with combination locks we store evidence in when
12 we're not in the room at the time with it.

13 Q Did you test that evidence for the presences of
14 illegal narcotic drugs?

15 A Yes, sir, I did.

16 Q What were the results of that test?

17 A Found this as my item 1, found to be rock substance
18 in a bag. I found it to contained cocaine base with
19 a weight of 4.45-grams.

20 MR. CLEVELAND: Beg the Court's indulgence one
21 moment, Your Honor.

22 BY MR. CLEVELAND:

23 Q Did you memorialize those findings in a report.

24 A Yes, sir, I did.

25 Q Handing up what's been pre-marked a State's Exhibit

1 17, do you recognize that piece of paper?

2 A Yes, sir, I do.

3 Q What is that piece of paper?

4 A This is a copy of my report going along with this
5 case.

6 Q Does it reflect what you just testified to the jury
7 that substance was identified as?

8 A Yes, sir, it does.

9 Q Does it reflect the quantity of that substance as it
10 was identified?

11 A Yes, sir, it does.

12 Q And how can you tie that piece of paper you're
13 holding in your hand that bag sitting in front of you
14 right now?

15 A The case number which I generated -- or which was
16 generated by the property and evidence section is
17 112009000192. It's also the same number which I'd
18 written on the bag which I opened from the Easley
19 Police Department, 1109192. It also has the Easley
20 Police Department case number 20091929. And I also
21 assigned that number as well on my report.

22 Q Thank you. May I see that real quick.

23 MR. CLEVELAND: Your Honor, at this time the
24 State would move State's Exhibit 17, forensic analysis
25 report into evidence.

1 THE COURT: Any objection?

2 MR. ALEXANDER: I object until the actual
3 substance is in evidence. I don't believe the report
4 should be introduced until then.

5 MR. CLEVELAND: Your Honor, it's the State's
6 position the chain has been completed up until this point
7 in time when the report was generated. That's why we're
8 introducing the report and when it's appropriate we'll
9 introduce the drugs. Or at least move to.

10 MR. ALEXANDER: I would submit the chain hasn't
11 been completed, Your Honor. Officer -- Sergeant Cowan
12 testified he got it out of a box. No testimony offered
13 from the individual that placed it there. Then the
14 individual that he received it from either.

15 THE COURT: The testimony has been that the
16 control number was generated by the Easley Police
17 Department and then followed through Greenville Forensic
18 Lab. I'm going to find -- I'm going overrule your
19 objection as far as the report. The report will be
20 admitted.

21 MR. CLEVELAND: Thank you, Your Honor.

22 (WHEREUPON, State's Exhibit No. 17 was admitted
23 into evidence.)

24 BY MS. HAMAKER:

25 Q Mr. Armstrong, you testified that you heat sealed

1 that bag, what did you with that evidence after you
2 sealed it and you completed your test?

3 A Once my analysis was complete, I did put it in my
4 locker. Which it was the kept there overnight then
5 the next day I generated my report and transported
6 the evidence back to the property and evidence room
7 so they could return it to the Easley PD.

8 Q Who did you -- is there a person in particular that
9 you left it with at the property and evidence room?

10 A I do not recall without seeing a chain of custody.

11 Q If I show you a report would that refresh your
12 memory?

13 A Yes, sir. I returned the items to Renee Pruitt on
14 July 14th, 2009 at 3:05 in the afternoon.

15 Q Now you referred to that form as the chain of
16 custody, is your signature on that form as well?

17 A Yes, sir, it is.

18 Q In between what two people is your signature just for
19 demonstration purposes?

20 A Israel Flounders and Renee Pruitt.

21 Q Thank you.

22 MR. CLEVELAND: Your Honor, the State has no
23 further questions for this witness.

24 THE COURT: Cross-examine.

25 MR. ALEXANDER: No questions, Your Honor.

1 THE COURT: All right, you may step down.

2 MR. CLEVELAND: State request Mr. Armstrong be
3 excused, Your Honor.

4 MR. ALEXANDER: No objection.

5 THE COURT: All right, without objection, you
6 may be excused.

7 Counsel approach, please.

8 (WHEREUPON, a bench conference was held in the
9 presence of the jury but out of the hearing of
10 the jury.)

11 THE COURT: All right, Mr. Foreman, ladies and
12 gentlemen of the jury, I'm going to break for the day.
13 It's been my experience that usually we have two days.
14 One starts early in the morning and goes to about five
15 o'clock and then the other starts at five o'clock and goes
16 a little bit -- well sometimes we never now how long it
17 goes. The point is rather than carry you beyond
18 five o'clock I don't like to start a new witness that
19 might go beyond to five o'clock hour. However, sometimes
20 on occasion, if we're with a witness, I'll finish the
21 testimony. In other words, not split the testimony or
22 cross -- or direct then cross on different days, like to
23 complete the testimony if I can. So today, I'm going to
24 break. It's 10 of 5:00, at least that's what I have
25 there. And excuse you until tomorrow morning.

1 Wednesday, June 23, 2010

2 THE COURT: All right, is there anything from
3 the State before we proceed?

4 MS. HAMAKER: No, sir, Your Honor.

5 THE COURT: The defense?

6 MR. ALEXANDER: No, sir, Your Honor.

7 THE COURT: I might note that at the close of --
8 before we receded yesterday, I was advised that one of the
9 jurors, maybe y'all noticed it too, wife teaches, I
10 believe at the Christian School which is the school in the
11 proximity Indictment. He said, I think she formally
12 taught there. And now doesn't. But I think, if I
13 remember the jury information, he was the one whose
14 occupation is laborer but he has a Bachelor's Degree,
15 whatever that means. But the point is he brought that to
16 the Bailiff's attention, the Bailiff brought it to mine.
17 I haven't talked to him or anything, I just needed to know
18 what the thoughts of counsel might be.

19 From the State?

20 MS. HAMAKER: Your Honor, during the
21 qualifications the juror made the Court aware that his
22 wife does teach at that school. That's the reason the
23 state did not strike her -- I'm sorry, that juror. We
24 figured he would be able to help in visualizing the
25 location.

1 MR. ALEXANDER: I was aware of that. I saw it
2 on the juror form. And did remember that. It was -- I
3 didn't strike him as part of my strategy to be able to
4 strike some other jurors so.

5 THE COURT: Right. Well, as I say, it was
6 recorded on the jury information. And even I remembered
7 it. Not because of the school, I don't realize what the
8 school was going to be but because of his background and
9 activities now.

10 So no obligation from the State?

11 MS. HAMAKER: No, sir, Your Honor.

12 THE COURT: The defense?

13 MR. ALEXANDER: No, Your Honor.

14 THE COURT: All right, very good. I might just
15 mention when the jury comes out that I've discussed all
16 matters that might have been brought to the Court's
17 attention and there's no exception. Very good.

18 Ask the jury to join us.

19 (WHEREUPON, the jury came into open court at
20 approximately 9:20 a.m.)

21 THE COURT: All right, let the record reflect
22 that the jury and alternate are in the jury box.

23 Mr. Foreman, ladies and gentlemen of the jury, a
24 certain matter was brought to the Court's attention by one
25 of the Bailiff's I think from one you who might have had

1 some information they wanted to bring to the Court's
2 attention. I have discussed it with the attorneys and
3 that information had been available to us in the jury
4 information. So both parties agree that there's no
5 problem with it, they knew it and you continue serving as
6 juror. All right, with that Mr. Foreman, ladies and
7 gentlemen, I recognize the Solicitors for their next
8 witness.

9 MS. HAMAKER: State would call Agent Jon Hamby
10 to the stand.

11 THE CLERK: Place your left hand on the Bible,
12 raise your right hand.

13 JON HAMBY, after being duly sworn, testified as
14 follows:

15 THE CLERK: Please state your name for the
16 record.

17 THE WITNESS: Jonathan Hamby.

18 THE CLERK: Thank you, please be seated.

19 DIRECT EXAMINATION

20 BY MS. HAMAKER:

21 Q Agent Hamby, where do you work?

22 A I work at the Easley Police Department.

23 Q And long have you worked there?

24 A I worked there about 12 years.

25 Q What's your position?

1 A Currently I'm assigned to the narcotics unit of the
2 Easley Police Department.

3 Q What are your duties with that unit?

4 A We investigate narcotics complaints along with drug
5 and alcohol and vice complaints.

6 Q What kind of training or education have you had in
7 narcotics?

8 A Had the basic certification through the academy from
9 the Criminal Justice Academy in Columbia. Since then
10 several advance narcotic classes to specialize in the
11 field.

12 Q About how many drug cases, if you could just estimate
13 for the jury, do you think you have worked since you
14 have been in the narcotics division of the Easley
15 Police Department?

16 A Just a guess, I would say 150, 200.

17 Q How many times have you testified in General Sessions
18 Court?

19 A Actually testified, approximately four.

20 MS. HAMAKER: Your Honor, at this time the State
21 would like to move Agent Jon Hamby as an expert in drug
22 investigation.

23 THE COURT: Any voir dire?

24 VOIR DIRE EXAMINATION

25

1 BY MR. ALEXANDER:

2 Q Agent Hamby, other than your experience in the field
3 you mentioned the classes or courses that you have
4 done, what other than on-the-job experience in your
5 initial training at the academy have you had?

6 A I've had courses through the DEA and clandestine
7 laboratories investigation. Also had courses in
8 narcotics investigations through the academy. Also
9 through the Southeastern Regional Information Center.
10 There was a command workshop, narcotics command
11 workshop at the Tri-County Tech in Pendleton here.

12 Q And a course through the DEA?

13 A As update every year. Original course and every year
14 we get an update.

15 Q How long is the original course?

16 A The original course was a 40 hour course.

17 Q Forty hours?

18 A A week, yes, sir.

19 Q So you did it for a week?

20 A Yes, sir. That was the initial certification.

21 Q And how much is the, update how often?

22 A Every year it's a eight hour course.

23 Q And the two other courses, how long were those
24 courses?

25 A The one through Tri-County Tech was a three day

1 course, 24 hours. And then the other one is through
2 the academy, it's teleconference, about a four hour
3 course, probably.

4 Q You ever been qualified as an expert before?

5 A No.

6 MR. ALEXANDER: Your Honor, that's all the voir
7 dire I have.

8 THE COURT: Any objection?

9 MR. ALEXANDER: I would oppose him being
10 qualified as an expert, Your Honor. I don't believe the
11 extent of his experience and the fact that he took the
12 courses on narcotics makes him an expert in the field of
13 drug investigation. I think is what they asked.

14 THE COURT: I understand. However, our rules
15 provides if the witness does have particular experience by
16 reason of his background or training in a certain area
17 that would be helpful to those who don't have that
18 training being members of the jury that they would be --
19 could be qualified as an expert. Now, again, I am going
20 to, over the objection of the defendant, find that the
21 Officer Jonathan Hamby is qualified as an expert quote in
22 drug investigation. But again, as I've mention in other
23 instance in this case, all witnesses, experts as well as
24 lay witnesses, the weight of their testimony and value of
25 their testimony even as to credibility is for your

1 determination.

2 Very well, you may proceed.

3 MS. HAMAKER: Thank you, Your Honor.

4 BY MS. HAMAKER:

5 Q Did you in your duties as a narcotics officer for the
6 Easley Police Department participate in a drug
7 transaction that occurred May 20th of 2009?

8 A Yes.

9 Q And can you tell the jury how that transaction was
10 set up?

11 A This particular transaction was set up using an
12 informant that was cooperating with our department in
13 assisting us in the drug investigations. She called
14 the morning of the 20th telling myself and Officer
15 Lovell that she had information on a gentleman that
16 would sell us crack cocaine. We were particularly
17 interested in it because she said he would sell it
18 directly with an officer. Therefore, she provided a
19 phone number to us. And at that point we started
20 making the phone calls ourselves talking with the
21 gentleman, arranging the drug deal.

22 Q What's the name of the informant?

23 A Donna Bobb.

24 THE COURT: Would spell the name for us, please?

25 THE WITNESS: Donna, D-O-N-N-A, Bobb, B-O-B-B.

1 THE COURT: BOBB?

2 THE WITNESS: Yes, sir.

3 THE COURT: Thank you.

4 BY MS. HAMAKER:

5 Q Was that call made to that number that Ms. Bobb gave
6 you?

7 A Yes.

8 Q And who called that number initially?

9 A Initially it was Officer Mills who made the phone
10 calls to Trip as he was called.

11 Q And did Officer Mills tell Trip -- what's his correct
12 name?

13 A Trip's?

14 Q Yes, sir.

15 A It was later he was identify as Travis Teasley.

16 Q Mr. Teasley -- how did Officer Jeremy Mills
17 identified himself to Mr. Teasley?

18 A Originally Donna give the information to Mr. Teasley
19 as a gentleman called Jeremy, a truck driver. Once
20 it was determined that Officer Mills was going to be
21 doing undercover, his first name happened to be
22 Jeremy, he didn't want to use his first name. So
23 during the phone call he started using just Jay as
24 the name he was using.

25 Q And how did Jeremy communicate, Jeremy Mills or Jay,

1 the officer, how did he communicate with Mr. Teasley
2 as far as his occupation?

3 A How did he communicate?

4 Q What did he say his occupation was?

5 A The story was he was a truck driver and he was in
6 town on a short delay, was wanting some drugs.

7 Q Why did you have Ms. Bobb call Mr. Teasley
8 originally?

9 A Originally she had called and said that she knew of a
10 guy that--

11 MR. ALEXANDER: Objection to anything Ms. Bobb
12 said, Your Honor.

13 MS. HAMAKER: Just -- I understand, Your Honor,
14 I'll rephrase it.

15 BY MS. HAMAKER:

16 Q Don't tell me what was said, explain why you had
17 Ms. Bobb make the initial phone call and not
18 Mr. mills.

19 A To see if we could deal directly with Mr. Teasley
20 instead of having a third party involved. Sometimes
21 in an investigation, depending on who is bring the
22 drugs or selling the drugs, we have to have a CI
23 there with us or an informant there with us.

24 Q Can you explain to the jury what a CI.

25 A A CI is a confidential informant is what we normally

1 refer to. Whoever is helping us, it's abbreviated.
2 Just a confidential informant. Deals happen
3 different ways every time. Most of the time the
4 dealer is not comfortable dealing with a stranger.
5 So a lot of times the informant will have to be there
6 with an officer or the informant would have to do the
7 deal without the officer there. So each case would
8 be a little different.

9 Q Did you trust Ms. Bobb to be the one to get this deal
10 actually done?

11 A We would prefer in any case to have an officer do the
12 deal because it's a better deal, to have an officer
13 do the hand-to-hand, transaction with the target of
14 the investigation. The second scenario would be to
15 have the officer there while the informant does the
16 deal. And the last case scenario would be to have
17 the informant there by themselves. Just makes
18 better -- the case better.

19 Q When you say makes the case better, what do you mean?

20 A It takes the informant out of the chain of custody,
21 it takes any question about whether the informant had
22 something on them before they arrived there. It just
23 takes them out of the loop all together and leaves it
24 in our hands totally.

25 Q Was the deal actually set up this day?

1 A Yes.

2 Q How was it set up?

3 A Through phone calls with Mr. Teasley. We arranged to
4 get two motel rooms, adjoining motel rooms at the
5 Comfort Inn. Officer Mills was set up in one with a
6 few items, making it look like he was staying there.
7 And then other officers, including myself, Lieutenant
8 Lovell and Officer Usef (sp) Kelley with the Easley
9 Police Department was in an adjoining. And then
10 there were other officers on the outside in the
11 perimeter area in case -- for whoever was in the
12 parking lot.

13 Q And what hotel was this?

14 A Comfort Inn.

15 Q What county is that located?

16 A In Pickens County.

17 Q Are there any schools within one half mile of the
18 Comfort Inn?

19 A Yes.

20 Q Which school?

21 A It would be Easley Christian School on Saco Lowell
22 Road.

23 Q Let me show you what's been marked as State's Exhibit
24 No. 22. Is this a clear and accurate depiction of
25 the surrounding area of the Comfort Inn?

1 A Yes.

2 MS. HAMAKER: Your Honor, at this time the State
3 would like to enter into evidence State's Exhibit No. 22.

4 THE COURT: Any objection?

5 MR. ALEXANDER: Object, Your Honor. There's
6 some markings on the exhibit, there's a blue circle on it,
7 that the proper foundation needs to be laid regarding...

8 THE COURT: All right, I'm not -- I don't see
9 it.

10 MS. HAMAKER: Your Honor, there are circles that
11 have been added but the State would want Agent Hamby to
12 explain it to the jury--

13 THE COURT: Well let's do it for demonstrative
14 purposes now. And in the event that any marks can be ones
15 made testimonial then, of course, we can reconsider.

16 MS. HAMAKER: Yes, sir, thank you, Your Honor.

17 BY MS. HAMAKER:

18 Q Agent Hamby, if you'd come down here.

19 THE COURT: But that be will for demonstrative
20 purposes identified as State's No. 22 for identification.

21 BY MS. HAMAKER:

22 Q I don't know if the jury will be able to see it but
23 can you show the radius, the half mile radius around
24 the Comfort Inn?

25 A Yes. The half mile radius is indicated by the blue

1 line, it goes around the perimeter in the back.

2 Q Can you show the jury where the Comfort Inn is?

3 A The Comfort Inn is located here. This is a set of
4 buildings here, this one comes off 92 --

5 THE COURT: Keep your voice up, please.

6 Q If you'll just speak up a little louder, Madam Court
7 Reporter --

8 THE COURT: I tell you, it might help if you
9 would swap places so he's facing back this way. And by
10 doing that, of course, facing back looking at the Court
11 Reporter at the same time. All right, very good.

12 BY MS. HAMAKER:

13 Q If you will point to Easley Christian School on this
14 map.

15 A Easley Christian is located toward the top on Saco
16 Lowell Road, right here.

17 Q And if you'll keep one finger on Easley Christian
18 School and one finger on Comfort Inn for the jury?

19 A (The witness complies.)

20 Q And according to your map -- according to the map and
21 according to your own recollection, is that Easley
22 Christian School within half mile of the Comfort Inn?

23 A Yeah, half mile radius.

24 MS. HAMAKER: Your Honor, at this time the State
25 would like to introduce exhibit No. 22 into evidence?

1 THE COURT: All right, any voir dire as to that
2 particular --

3 MR. ALEXANDER: Briefly, Your Honor.

4 VOIR DIRE EXAMINATION

5 BY MR. ALEXANDER:

6 Q Agent Hamby, how did you determine that radius
7 circle.

8 A This map is received from the county, Magistrate's
9 Office.

10 THE COURT: All right, again, gentleman, let's
11 get on either side so the Court Reporter --

12 The reason I have to do that is because
13 witnesses and attorneys are not always aware of anything
14 else other than what they're trying to do doing and doing
15 at the time. But our Court Reporter takes down everything
16 that is said. And as good as her hearing might be or his
17 hearing depending, if they can see the lips of the
18 testimony of the witness, then it's easier to be accurate
19 in what they record. So that's why I ask you to do that.
20 Very well.

21 Now you may proceed.

22 BY MR. ALEXANDER:

23 Q So, you didn't determine and make this blue circle on
24 the map?

25 A I personally did not. It was made by the mapping

1 department as indicated in the -- alleging here the
2 blue lines represents the radius.

3 MR. ALEXANDER: Thank you, that's all the voir
4 dire I have, Your Honor. I would object, I don't think
5 Agent Hamby can testify that that's within one half mile
6 of the school -- or that that circle is the one half mile
7 radius.

8 THE COURT: Madam Solicitor.

9 BY MS. HAMAKER:

10 Q Agent Hamby, you said that this map was made by who?

11 A The county GIS mapping division.

12 Q What does GIS stand for?

13 A I don't know.

14 Q Okay. What does that division normally do?

15 A They're the mapping and parcels and land survey of
16 the county.

17 Q And are you familiar with this area?

18 A Yes, that area in Easley, yes.

19 Q Is that blue circle to the best of your knowledge,
20 through your own common experience, the half mile
21 radius around Comfort Inn?

22 A Yes.

23 MS. HAMAKER: Your Honor, at this time the State
24 would like the introduce State's Exhibit No. 22 into
25 evidence.

1 THE COURT: All right.

2 MR. ALEXANDER: Objection.

3 THE COURT: All right, I've overruled the
4 objection. I would find that as the Court's understanding
5 this was prepared by a county department?

6 MS. HAMAKER: Yes, sir, Your Honor.

7 THE COURT: And under the public records or
8 reports and it's on file -- would be on file at the county
9 department?

10 MS. HAMAKER: Yes, sir, Your Honor.

11 THE COURT: All right, I find that under Rule
12 901(d)7, that it would be admitted.

13 MR. ALEXANDER: Your Honor, just for the record
14 I want to put on the record that I believe that the map
15 is -- the photo would be a public record. But I don't
16 know that the map with the circle drawn is a public
17 record.

18 THE COURT: Well let me ask --

19 MR. ALEXANDER: If I hear the testimony
20 correctly, this map was prepared specifically for this
21 trial. And therefore, the map with the circle on it
22 wouldn't be a public record. I would concede that the
23 photograph as shown without the circle on it would be a
24 public record. But not in addition to the circle.

25 THE COURT: Well, as I understand it, the circle

1 was done in the department.

2 MS. HAMAKER: Yes, sir, Your Honor.

3 THE COURT: County department?

4 MS. HAMAKER: Yes, sir, Your Honor.

5 THE COURT: And at one time it -- so it was
6 prepared by the department.

7 MS. HAMAKER: Yes, sir, Your Honor.

8 THE COURT: And as I say, I'm going to overrule
9 your objection because not only does it apply to writings
10 or evidence in -- filed, in fact, with court at all filed
11 in the public office dealing with data compilation in any
12 form, is from the public office where items of this nature
13 are kept. So it would be admissible.

14 MS. HAMAKER: Thank you, Your Honor.

15 THE COURT: So I overrule your objection.

16 MS. HAMAKER: Thank you, Your Honor.

17 THE COURT: And your objection's noted.

18 MS. HAMAKER: Is it entered into evidence, Your
19 Honor?

20 THE COURT: Yes, ma'am. Would be State's
21 Exhibit No. 22.

22 (WHEREUPON, State's Exhibit No. 22 was admitted
23 into evidence.)

24 BY MS. HAMAKER:

25 Q About Hamby, did you do anything at the hotel room to

1 prepare for this drug transaction?

2 A Yes. In the motel room where Officer Mills would be
3 located, I set up audio recording device. We put a
4 couple of pieces of bags and stuff in there to make
5 it look like he was actually staying there. We
6 changed the locks on the adjoining rooms, reversed
7 those so they wouldn't lock us out. We tried to set
8 up a video surveillance piece of equipment but the
9 battery didn't work in it. Just to get the room
10 prepared to be able to use.

11 Q You said the video wasn't working?

12 A It would work -- well the video would work but the
13 battery in it was dead.

14 Q The digital scales that Officer Mills spoke about
15 yesterday, where did those come from?

16 A I gave them to him to use during the deal.

17 Q And where did you have them from?

18 A They're in my office.

19 Q Okay. Did you see Mr. Teasley enter the parking lot?

20 A I saw Mr. Teasley as he drove up, he was in an
21 Explorer. In the adjoining room I was looking out
22 the blind area of the window there. As he come up
23 and parked directly in front of the motel room
24 Officer Mills was in. He was driving, there was a
25 black female passenger in the car with him. He got

1 out and knocked on Officer Mills door.

2 Q When an undercover deal is going down such as this
3 one, how does it end? How do you know when it's time
4 to come into the room and make the bust?

5 A We have equipment to where, it's not only recording
6 as it's capturing the audio, what's going on but we
7 also have a piece of equipment that receives it and
8 we can listen to it as it's going on. Therefore, we
9 go over the scenario like we want it to happen. And
10 when certain elements are done to where the case is
11 complete, there's a certain phrase that Officer Mills
12 was given. In this case it was, Looks good. And
13 that way we know that everything that was done or
14 should have been done that we wanted to get done, he
15 had completed. And therefore, he thought it was time
16 for us to come in, take the bad guy down. At that
17 time that's when you hear us on the tape coming
18 through the adjoining door.

19 Q Who all was in tat room adjoining to the room that
20 you were in watching or listening to everything
21 happening?

22 A It was myself, Agent Lovell and another uniformed
23 officer, Usef Kelley?

24 Q And in the room that your undercover officer, Officer
25 Mills was in?

1 A In that room was just Officer Mills and Mr. Teasley.

2 Q Nobody else in the room?

3 A No one else there.

4 Q When you did the take down, did y'all also take down
5 Officer Mills?

6 A Initially, yes. We come in and took Mr. Teasley down
7 to the ground. As soon as he was handcuffed, on the
8 tape you can hear me, I'm ordering someone else to
9 get down, that's Officer Mills. We make him get down
10 on the floor. Make it look like we're putting him in
11 handcuffs and we lead him into the adjoining room
12 where we were originally.

13 Q Let's get back to what I was going to do once that
14 thing warms up. Who's that person on State's Exhibit
15 No. 7?

16 A That is Mr. Teasley. Just after we arrested him.
17 And as he entered the room he identified himself as
18 Trip. And then once we arrested him he was
19 identified as Travis Teasley.

20 Q And how do you know that he is, in fact, Travis
21 Teasley?

22 A Well that's the name that he provided along with a
23 birthdate. And also, once we got back to the police
24 department, we were able to pull records, including
25 his driver's license information and a driver's

1 license photo and it matched up.

2 Q So it matched up?

3 A Yes.

4 Q I know you mentioned that he went by the name of
5 Trip. Is it common in your experience as a narcotics
6 agent for people who deal in drugs to use aliases or
7 nicknames?

8 A Yes, almost everyone has a nickname that they use.

9 Q Why do they do that?

10 A In an attempt to hide their identity from people
11 they're dealing with but also law enforcement.

12 Q When you entered the room and arrested Mr. Teasley --
13 or when he was placed under arrest, was anything
14 found on his person?

15 A At the time that we took him into custody, our
16 documented money that we had -- I had provided
17 Officer Mills was found in his pockets. Along with a
18 black cell phone. And I think he had extra two one
19 dollar bills along with what we had given him.

20 Q When you say documented money, how do you document
21 money before you allow it to be used in a drug
22 transaction?

23 A We record the serial numbers in a couple different
24 ways. One way is to make a photo copy of all the
25 bills we're using. Or if we're not at the police

1 department at that time then we have a form that we
2 can fill our notes out on and we record serial
3 numbers by hand. Just record the serial numbers on
4 it.

5 MS. HAMAKER: Your Honor, at this time the State
6 would like to open this package that was already entered
7 into evidence -- I'm sorry, it was not entered into
8 evidence yesterday it was marked for identification
9 yesterday as exhibits 14 through 16.

10 THE COURT: Approach, please.

11 (WHEREUPON, a bench conference was held in the
12 presence of the jury but out of the hearing of
13 the jury.)

14 THE COURT: All right, you may proceed.

15 BY MS. HAMAKER:

16 Q As far as State's Exhibit No. 15 which has already
17 been pre-marked, do you recognize that black cell
18 phone?

19 A Yes.

20 Q How do you recognize it?

21 A For one it has my handwriting attached to this note
22 on the back of it. Also, it has any handwriting and
23 my signature on the seal on top of the bag along with
24 the case number and the date that it's associated
25 with.

1 Q Where did you get that black cell phone from?

2 A This black cell phone was on Mr. Teasley at his time
3 of arrest.

4 Q What did you do with the black cell phone once you
5 had it in your possession?

6 A After I had it in my possession, I asked for consent
7 to search the phone from Mr. Teasley. With which he
8 gave me consent to search. When I tried to use the
9 phone it had a lock code, a lock feature on it.
10 Therefore, I had to get the lock code, pin code is
11 what it's referred to this phone from Mr. Teasley.
12 He provided a pin code as 87455. I used that pin
13 code to unlock the cell phone, to search the cell
14 phone. And went to call history. And when I went to
15 call history I realized that phone was not the phone
16 that we used during the drug deal to set it up
17 because it didn't have Agent Lovell's cell phone
18 number it.

19 Q When you say Agent Lovell's cell phone number, why
20 would it have Agent Lovell's cell phone number it?

21 A That was the cell phone that we were using that day
22 to set the deal up that Officer Mills had during the
23 entire time that we were setting the deal up.

24 Q And once you got this cell phone and you searched
25 through it, as far as chain of custody, what did you

1 do with it?

2 A I kept it in my possession and then later on sealed
3 it in this bag with it taped, my initials and the
4 date, case number. And later placed it into
5 evidence.

6 MS. HAMAKER: Okay, Your Honor, at this time the
7 State would like to introduce State's Exhibit No. 15 into
8 evidence.

9 THE COURT: Fifteen is just that one phone, is
10 that right?

11 MS. HAMAKER: No, sir, Your Honor, that bag
12 contains exhibits 14, 15 and 16.

13 THE COURT: All right.

14 MS. HAMAKER: We can do it at a later time if
15 you would like.

16 THE COURT: Well the thing is I would like to
17 just, if they're in a package, I just would like to keep
18 the packages together.

19 MS. HAMAKER: Yes, sir, Your Honor.

20 THE COURT: So this is 15 which is the black
21 cell phone in a package containing two other items.

22 MS. HAMAKER: Yes, sir, Your Honor.

23 THE COURT: All right, very good.

24 Any objection?

25 MR. ALEXANDER: No objection.

1 THE COURT: Without objection the Plaintiff's
2 Exhibit -- or State's Exhibit No. 15, with a black cell
3 phone in a package is introduced.

4 (WHEREUPON, State's Exhibit No. 15 was admitted
5 into evidence.)

6 BY MS. HAMAKER:

7 Q Did you collect the white rock substance from the
8 room?

9 A Yes.

10 Q After the arrest?

11 A Yes, I did.

12 Q Did you do it immediately?

13 A Yes.

14 Q And what did you do with it once you got it?

15 A Once I got it it was kept in my possession, taken
16 back to the office where he was later sealed in a
17 evidence baggy. Also put the same kind of tape on
18 the top, signed it, sealed it and delivered it to
19 evidence control.

20 Q When you say deliver it evidence control, where did
21 you actually deliver it to?

22 A Back in our evidence section they have a series of
23 lockers, it's actually delivered into one of those
24 lockers and locked from the outside.

25 Q The one that Sergeant Cowan spoke about yesterday?

1 A Yes.

2 Q I'm going to show you what's been pre-marked as
3 State's Exhibit No. 13, can you identify that?

4 A Yes. This was the -- what was sold to Officer Mills
5 that day as crack cocaine on May 20th, 2009 from
6 Travis Teasley?

7 Q How can you tell that that's the same crack cocaine
8 that you picked up.

9 A On the bag it has my handwriting and information
10 including the date, the case number, what was in it,
11 the suspect's name and then on the seal at the top on
12 the tape it also has the date and my signature as
13 well.

14 MS. HAMAKER: Your Honor, at this time the State
15 would move in State's Exhibit No. 13.

16 THE COURT: All right, now that's a separate
17 items?

18 MS. HAMAKER: Yes, sir, Your Honor.

19 THE COURT: All right, any objection?

20 MR. ALEXANDER: Object, Your Honor. I believe
21 there was one other individual at the Greenville office
22 that handled the package that has not testified about her
23 or his involvement, Mr. or Ms. Pruitt, I believe it was.

24 THE COURT: Yes, ma'am.

25 MS. HAMAKER: Your Honor--

1 THE COURT: That's Renee Pruitt.

2 MS. HAMAKER: Yes, sir, Your Honor. Agent Hamby
3 has just testified that he had it and he handed it into
4 evidence. Sergeant Cowan said he got it out of evidence.
5 Sergeant Cowan said he drove it over to Greenville.
6 Sergeant Cowan said he gave it to Israel Flounders.
7 Mr. Israel Flounders said he put it in a sealed lock box.
8 At this point James Armstrong --

9 THE COURT: Am I correct, though, that the --
10 what was returned to the individual Renee Pruitt was the
11 substance after examined?

12 MS. HAMAKER: Yes, sir, it was sealed and
13 tested.

14 THE COURT: I'm going to overrule the objection.
15 Obviously the chain of custody does not have to be
16 absolutely or complete in the sense that it comes down to
17 credibility of the chain of custody being such as would
18 suggest that it is what is represented. Of course, that
19 comes down also to a question of credibility for the jury
20 to decide. I think it's under Department of Social
21 Service vs. Cochran, chain of custody need not be perfect
22 but has to be sufficient to satisfy the credibility
23 question. That it is something to be decided. All right,
24 so I'm going to overrule the objection and admit State's
25 Exhibit No. 13.

1 But again, Mr. Foreman, ladies and gentlemen,
2 this is something for you to decide what has been
3 interposed as an objection destroys the credibility of
4 testimony of the witnesses and the evidence as has been
5 offered.

6 Very good, you may proceed.

7 (WHEREUPON, State's Exhibit No. 13 was admitted
8 into evidence.)

9 BY MS. HAMAKER:

10 Q Agent Hamby, were you here yesterday when
11 Mr. Armstrong testified that that was 4.45 grams of
12 crack cocaine?

13 A I was.

14 Q In your opinion, how much would 4.45 grams of crack
15 cocaine sell for on the street?

16 A That would be, depending on the quality of the crack
17 cocaine, there's different quality, prices depending
18 on the purity of it. You're looking anywhere from
19 300 as high as \$400.00.

20 Q And can you please tell the jury, because they may or
21 may not understand, how many times could an average
22 user get high on 4.45 grams of crack cocaine?

23 A Usually an individual--

24 MR. ALEXANDER: Your Honor, I object. He's
25 qualified as an expert in drug investigation, not drug use

1 or anything --

2 THE COURT: Well I mean, if he can testify of
3 his own personal knowledge as far as his experience. I'm
4 not sure if you have that expertise, do you? Have you
5 ever used drugs?

6 THE WITNESS: No, sir. I can testify an
7 individual that we arrested, how much a single hit would
8 usually weigh why once it comes back.

9 THE COURT: You can testify to the size of the
10 components or whatever the commodity is. But I don't
11 think you can testify how much it takes.

12 Go ahead, restate your question.

13 BY MS. HAMAKER:

14 Q Have you dealt with crack users before?

15 A Yes, numerous times.

16 Q Numerous times?

17 A Yes.

18 Q How much crack cocaine would it take the people that
19 you have dealings with for -- how much crack cocaine
20 would it take to get them high? The ones that you've
21 dealt with?

22 MR. ALEXANDER: Your Honor, I object.

23 THE COURT: Again, he can testify -- his
24 expertise is in drug investigation. Not in pharmacology
25 or physiology.

JON HAMBY-CONTINUED DIRECT BY MS. HAMAKER

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1 MS. HAMAKER: Yes, sir, Your Honor.

2 THE COURT: So if he wants to testify that crack
3 cocaine is usually sold in certain increments or packages
4 then he can do that. If he knows.

5 BY MS. HAMAKER:

6 Q Agent Hamby, in your experience as a narcotics agent,
7 what's the smallest amount of crack cocaine you have
8 seen sold on the streets?

9 A The amount can vary but the common denominations of,
10 they call them crack rocks, they're commonly broke
11 down to 20 dollar crack rocks. And that is usually
12 about a tenth of a gram when it comes back from the
13 lab. So you can buy \$20.00 worth or \$40.00. They'll
14 sell you \$10.00 worth. But the most common
15 denomination is a \$20.00 crack rock.

16 Q So would you consider that large in comparison to
17 what the average is?

18 A Yes. This would be a large amount for -- compared to
19 that.

20 Q Did you have a chance to speak with Mr. Teasley?

21 A I did.

22 Q Before you spoke with him, did you advise him of his
23 Miranda rights?

24 A I did.

25 Q Once you advised him of his Miranda rights did he

1 seem to understand them?

2 A Yes.

3 Q Did he seem to be under the influence of any
4 substance?

5 A Not as far as I can tell.

6 Q Did he -- did you -- did he ask for an attorney at
7 any point?

8 A No.

9 Q Did he ask for water or food or bathroom break?

10 A No.

11 Q Did you threaten him or did you promise him in any
12 way?

13 A No.

14 MS. HAMAKER: Your Honor, at this time the State
15 would like to introduce Mr. Teasley's statement and it's
16 marked as State's Exhibit No. 5.

17 MR. ALEXANDER: Renew my previous objections to
18 the statement.

19 THE COURT: All right, ladies and gentlemen of
20 the jury, I have made an initial finding that the
21 statement as to voluntariness and that is only as to the
22 warnings given and the waiver of those rights are given.
23 And no alleged confessional admission on the part of the
24 defendant may be considered in evidence against the
25 defendant making it unless the State has satisfied you

1 beyond a reasonable doubt that the same is freely and
2 voluntarily made. Without any threats or inducement to
3 duress to hope or fear. In other words, before any
4 alleged confession can be considered by the jury as
5 evidence, it must have been introduced no promises not
6 extorted by fear, voluntary in every respect. And even
7 then it must be believed by you.

8 Now, as I say, I've made an initial
9 determination as to the admissibility. But in order for
10 you to consider it, of course, have to be determined --
11 established by the witness that the defendant did make the
12 statement, that he was warned of his Constitutional rights
13 and that he knowingly and intelligently waived his
14 Constitutional rights. And the statement was given
15 voluntarily. So until that is established, then I was --
16 weight on it's admissibility to the jury.

17 (WHEREUPON, State's Exhibit No. 5 was
18 played.)

19 THE COURT: What Exhibit is that? What's the
20 number on that Exhibit?

21 MS. HAMAKER: Five, Your Honor.

22 THE COURT: State's Exhibit No. 5 very good,
23 thank you.

24 (WHEREUPON, State's Exhibit No. was
25 continued to be played.)

1 MS. HAMAKER: Your Honor, would like to
2 introduce State's Exhibit No. 5 into evidence.

3 THE COURT: All right, very well.

4 (WHEREUPON, State's Exhibit No. 5 was admitted
5 into evidence.)

6 MS. HAMAKER: Your Honor, the State has no
7 further questions for Agent Hamby.

8 THE COURT: All right, Mr. Foreman, ladies and
9 gentlemen of the jury, the fact that the Court has
10 admitted a statement into evidence should not be
11 considered by you as any evidence whatsoever. That the
12 defendant made such a statement or that the required
13 Constitutional safeguards were, in fact, provided and
14 waived by the defendant. Or that the statement was
15 voluntarily given. Because these issues are for you, the
16 jury, to determine. The State must prove beyond a
17 reasonable doubt that each of the four requirements that I
18 just stated to you before you may consider the statement
19 as evidence for any purpose whatsoever.

20 If you conclude that the defendant did not make
21 the statement then you must then completely and totally
22 disregard the statement. If you determine that a
23 defendant was not warned of his Constitutional rights that
24 include the right to remain silent, the right to have any
25 statement that would be used -- that any statement he made

1 would be used against him and a right to select a lawyer
2 of his choice or have one appointed to him at the State's
3 expense. That he has a right to consult with a lawyer
4 before answering any questions or making any statement.
5 Or that his right to a lawyer be present at all times
6 during all the interviews and interrogations. You
7 determine these Constitutional warnings were not given to
8 the defendant prior to the interrogation in the taking of
9 the statement or that the defendant was not afforded the
10 opportunity to exercise these rights, you must completely
11 disregard the statement and deny its entry and cannot
12 consider the statement as evidence in any manner
13 whatsoever.

14 Or a defendant unknowingly and intelligently
15 waived his Constitutional rights must be determined. You
16 find if the defendant did not knowingly and intelligently
17 waive his Constitutional rights, then any answer given by
18 him or any statement made by him cannot be used against
19 him. You must completely disregard all of the testimony
20 concerning any such answers or alleged statement. As far
21 as was the statement given voluntarily, the statement is
22 not voluntary and may not be used against the defendant
23 unless it is the product of an essentially free and
24 unconstrained choice by its maker. The true test to be
25 applied is whether a statement is freely and voluntarily,

1 understandably and made without compulsion or inducement.

2 With regard to the alleged statement of the
3 defendant, the State must prove by evidence each and every
4 requirement about which I've instructed you beyond a
5 reasonable doubt before you may consider the alleged
6 statement as evidence in this case. Absence any one of
7 those requirements about which I've instructed you, the
8 alleged statement must be disregarded completely. In that
9 event you will afford no evidentiary weight whatsoever to it
10 or any part of it.

11 You may proceed, cross-examination.

12 MR. ALEXANDER: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. ALEXANDER:

15 Q Mr. Hamby, so this whole alleged deal was initially
16 set up by a confidential informant you had by the
17 name of Donna Bobb?

18 A She initially gave us the information to start the
19 investigation, yes, sir.

20 Q All right. And how did she become an informant for
21 you?

22 A She was charged by one of our road patrol officers
23 with driving under suspension. And at the time she
24 had some of her medication in the wrong bottle, so
25 she also had a controlled substance violation. But

1 she was able to prove with her prescriptions that the
2 controlled substance violation was actually hers. So
3 therefore, she was wanting help to work off -- to get
4 help on the driving under suspension charge. So she --
5 was actually helping us to get help on her driving
6 under suspension charge.

7 Q All right. Now, so set up the hotel rooms, you say
8 you were the one that set up the equipment?

9 A Yes, sir.

10 Q And it was just audio equipment, no video, correct?

11 A Yes.

12 Q And you were involved in documenting the funds to be
13 used?

14 A Yes, sir.

15 Q Now, did you document -- there was some testimony
16 that \$400.00 was the amount exchanged, is that right?

17 A Yes.

18 Q But the -- in the phone calls made between the
19 officer and the man on the phone, the initial price
20 was 475, right?

21 A Yes. Well, if I can correct you. The initial price
22 was 375.

23 Q Okay.

24 A When the transaction first started because it was
25 four, what they consider a quarter spoon or spoon.

1. During the first phone call I believe it was is when
2 they started talking about a different weight and
3 initially settled on 10 grams for 475. And
4 therefore, we got the money up for 475. We had
5 \$480.00. Then he showed up he actually had less
6 weight. Therefore, we had to come back down on
7 price.

8 Q But the 480 is not documented in any of the
9 photographs, correct?

10 A In those photographs, no.

11 Q Do you have any photographs of the 480 document?

12 A I have some Xerox copies of 480.

13 Q All right. So had 480 but 400 was exchanged then?

14 A Yes.

15 Q All right. So they're in the hotel room and at one
16 point Officer Mills, I guess the individual that
17 says, I don't have the 10 grams I got 7 grams; is
18 that correct?

19 A That's what he presented. He said he had a spoon
20 which is common terminology for 7 grams.

21 Q And Officer Mills weighed it and confirmed that it
22 was 7 grams, correct?

23 A No, actually Mr. Teasley is the one who put it on the
24 scale. When Officer Mills said, Let's put it on the
25 scales, Mr. Teasley took it out of the plastic bag

1 that's in the picture and placed it on the scales.

2 And it actually weighed less than what he was saying.

3 It was supposed to be the 7 grams so that's when they
4 started discussing price again.

5 Q But he paid, what was it 375 for--

6 A That was the final price they agreed on.

7 Q Seven grams --

8 A That was the final price they agreed on and he
9 actually exchanged 400.

10 Q Okay. And when Mr. Teasley gave this recorded
11 statement that we just heard, it was pretty clear
12 that he was concerned about his wife outside in the
13 vehicle, is that correct?

14 A He was concerned about her, yes.

15 Q And then he proceeded to give that statement to you,
16 correct?

17 A Well he was talking and during the end of the actual
18 deal audio, you can hear him start saying stuff in
19 reference to what was going on. And at that time is
20 when I stopped him, made sure I read his rights to
21 him about having a lawyer and right to remain silent
22 and that's when he gave the statement.

23 Q And all the -- what he was saying was talking about
24 his baby momma or his girl, is that correct?

25 A That's what he referred to her as.

1 MR. ALEXANDER: Okay, that's all the questions I
2 have, Your Honor.

3 THE COURT: Re-examine.

4 MS. HAMAKER: Nothing further from the State,
5 Your Honor.

6 THE COURT: Very good, you may step down, sir.
7 Thank you.

8 You may call your next witness.

9 MS. HAMAKER: State would call Agent Jason
10 Lovell to the stand.

11 JASON LOVELL, after being duly sworn, testified
12 as follows:

13 THE CLERK: State your name for the record.

14 THE WITNESS: David Jason Lovell.

15 THE CLERK: Please be seated.

16 DIRECT EXAMINATION

17 BY MS. HAMAKER:

18 Q Agent Lovell, who do you work for?

19 A City of Easley Police Department.

20 Q How long have you worked there?

21 A A little over 15 years.

22 Q What division do you work in?

23 A Narcotics.

24 Q What do your duties include?

25 A We investigate drug complaints, do undercover drug

1 buys. We do these buy bust, do control purchases.
2 Then we investigate other crimes that involves
3 undercover capacity.

4 Q I'm going to show you what's been pre-marked as
5 State's Exhibit Number 14. Do you recognize that
6 pink cell phone?

7 A Yes, I do.

8 Q How do you recognize it?

9 A I collected this from Sunedra Jones on this incident
10 date.

11 Q And was Ms. Jones in the vehicle that Mr. Teasley
12 arrived in?

13 A Yes. As soon as we took Mr. Teasley down, I went
14 outside to secure the occupants of the vehicle and
15 Ms. Jones was the only occupant. And I took her out
16 of the vehicle and read her her Miranda rights and
17 took this.

18 Q As far as that pink cell phone goes, did you have a
19 chance to inspect it?

20 A Yes.

21 Q And did you discover anything through inspecting it?

22 A Yes, I discovered it contained my cell phone number
23 in its call history.

24 Q Did it contain the records showing that all the phone
25 calls used in this transaction were made with that

1 phone?

2 A Yes. Which was my cell phone that was used by
3 Officer Mills to call this phone during all the calls

4 Q Your number was in the call history?

5 A Yes, it was.

6 MS. HAMAKER: Your Honor, at this time the State
7 would like to move State's Exhibit Number 14 into
8 evidence.

9 THE COURT: Any objection?

10 MR. ALEXANDER: No objection.

11 THE COURT: All right, without objection,
12 State's Exhibit No. 14 is admitted.

13 (WHEREUPON, State's Exhibit No. 14 was admitted
14 into evidence.)

15 MS. HAMAKER: Your Honor, the State has no
16 further questions for this witness.

17 MR. ALEXANDER: I don't have any questions for
18 Agent Lovell, Your Honor.

19 THE COURT: You may step down, thank you, sir.

20 MS. HAMAKER: Your Honor, at this time the State
21 rests.

22 THE COURT: All right, Mr. Foreman, ladies and
23 gentlemen of the jury, I need to take some matters up with
24 the attorneys before we proceed. So I'm going to ask you
25 to retire to the jury room for a few minutes. Now again,

1 you've not heard the entire case so do not undertake the
2 discussion of the case among yourselves in any way. Very
3 good, if you'd please retire to the jury room.

4 Everyone remain seated until the jury retires
5 from the courtroom.

6 (WHEREUPON, the jury left open court at
7 approximately 10:15 a.m.)

8 THE COURT: All right, anything further from the
9 State?

10 MS. HAMAKER: No, sir, Your Honor.

11 THE COURT: All right, from the defense?

12 MR. ALEXANDER: Thank you, Your Honor. I move
13 for a directed verdict at this time on the basis that the
14 State has not met the elements of the two charges. He is
15 indicted on distribution of crack cocaine and distribution
16 of proximity of a school. Proximity charge and I believe
17 there's been insufficient evidence to establish that it
18 was within a half mile of a school. Even if there is
19 sufficient evidence for distribution, Your Honor.

20 THE COURT: Madam Solicitor, Mr. Solicitor,
21 whoever, whichever.

22 MS. HAMAKER: Your Honor, the State has
23 presented ample evidence. The State's case couldn't be
24 anymore strong. The defendant was caught on audio setting
25 up the drug deal. He was caught walking up to the hotel

1 room. He was caught immediately in the bust. No one else
2 was in the room except for Officer Mills and the
3 defendant. The defendant admitted to bringing the drugs
4 to the room on audio tape after Miranda had been giving.
5 And Agent Hamby knows the area very well. He has
6 testified that it's his own personal knowledge that the
7 school is witness one half mile of the Comfort Inn. And
8 there's a tax assessors map to prove it.

9 Your Honor, the State would move that --
10 actually the State wouldn't move, the State would ask that
11 you not direct a verdict, Your Honor.

12 THE COURT: Usually we do give the defendant an
13 opportunity to present a case. So -- but you in other
14 words you think there's sufficient evidence to go to the
15 jury on the two Indictments, that the Court is not to
16 weight the testimony and evidence but just determine
17 whether or not there is sufficient evidence and the Court
18 does so find.

19 All right, motion for directed verdict, motion
20 on both Indictments is denied.

21 All right, now, Mr. Alexander.

22 MR. ALEXANDER: I don't have any witnesses. I
23 guess -- I don't know if -- I know we started the trial
24 yesterday, I don't know if there would be the bailiff
25 would need to call my client for today.

1 THE COURT: Well let's do that, if you would,
2 please.

3 MR. ALEXANDER: I have not seen him.

4 THE COURT: All right, Travis Lamar Teasley.

5 THE BAILIFF: All right, sir, be glad to. No,
6 sir, I called him three times, he's not out there.

7 THE COURT: All right, if you would, please,
8 sir.

9 THE BAILIFF: Your Honor, I--

10 THE COURT: All right, just a moment. Your name
11 for the record.

12 THE BAILIFF: William H. Smith, Jr, sir.

13 THE COURT: All right and you were put under
14 oath yesterday as a Bailiff here in the Pickens County
15 Courthouse.

16 THE BAILIFF: Yes, sir.

17 THE COURT: And did on today you call the name
18 Travis Lamar Teasley?

19 THE BAILIFF: I did so, sir, three times.

20 THE COURT: Any response?

21 THE BAILIFF: No, sir.

22 THE COURT: Very good, thank you, very much,
23 sir.

24 Let me ask, any questions from the State?

25 MR. CLEVELAND: No questions from the State.

1 All right, anything from the State before we
2 proceed?

3 MR. CLEVELAND: Not from the State, Your Honor.

4 THE COURT: From the defense?

5 MR. ALEXANDER: Nothing from the defense, Your
6 Honor.

7 THE COURT: All right, I would suggest that when
8 we come back out, before the jury comes back out, that the
9 defense rests on the record. I will instruct the jury as
10 to the right of the defendant to exercise his -- not to
11 testify. As well him to be present during trial can't be
12 considered. Then I'll recognize the State for --

13 By the way, you have renewed your motion for a
14 directed verdict.

15 MR. ALEXANDER: Yes, Your Honor.

16 THE COURT: And they are denied on the same
17 grounds as before.

18 Then the State would close. Now the State how
19 many arguments does the State want to make? You can split
20 your argument. You can't do an opening and closing but
21 you can do two arguments, one be made, they can be. As
22 long as cumulative does not exceed two hours.

23 MR. CLEVELAND: One argument shouldn't be more
24 than one hour. Fifteen minutes, Your Honor.

25 THE COURT: All right, okay. All right, again,

1 anything from the State?

2 MR. CLEVELAND: No, Your Honor.

3 THE COURT: From the defense?

4 MR. ALEXANDER: No, sir.

5 THE COURT: All right, bring the jury, please.

6 (WHEREUPON, the jury came into open court at
7 approximately 10:40 a.m.)

8 THE COURT: All right, let the record reflect
9 that the jury and alternate are in the jury box.

10 Mr. Foreman, ladies and gentlemen of the jury,
11 the State has now completed its case and rests. I will
12 recognize the defendant for his case.

13 Mr. Alexander.

14 MR. ALEXANDER: Thank you, the defendant would
15 rest at this time.

16 THE COURT: All right. Now, Mr. Foreman, ladies
17 and gentlemen of the jury, the defendant has the
18 Constitutional right to remain silent. And to also waive
19 his right to be present at trial. The assertion of these
20 rights must not be considered by you in any manner. I
21 repeat, under your oath you are to draw no conclusion
22 whatsoever from the fact that the defendant in this case
23 may not testify or present evidence or even attend the
24 trial. I instruct you and emphasize that the fact that
25 the defendant did not testify, put up evidence or even

1 appear are not factors to be considered by you in any way
2 in your consideration on the question of whether the State
3 has proven the defendant guilty beyond a reasonable doubt.

4 The defendant has no duty to prove his innocence
5 and the burden rests upon the State to prove the defendant
6 guilty beyond a reasonable doubt. Failure to do so would
7 result in a verdict of not guilty of the charge in the
8 Indictments. It must not be considered by you in any
9 manner whatsoever.

10 With that I'll recognize the Solicitor for
11 closing argument.

12 MR. CLEVELAND: Thank you, Your Honor, may it
13 please the Court.

14 Mr. Alexander.

15 THE COURT: Mr. Cleveland.

16 CLOSING STATEMENT

17 Ladies and gentlemen of the jury, May 20th, 2009
18 supposed to be payday for Mr. Travis Teasley. Because
19 Travis Teasley's line of work he gets paid if he makes a
20 sale. And I assure you that pay is 100 percent
21 commission. On that day he stocked up on his product, he
22 had customer fall into his lap. His payday was on the
23 horizon. Unfortunately for Mr. Teasley that payday never
24 came because his product was crack cocaine. And his
25 customer was a undercover officer with the Easley Police

1 Department.

2 Now, ladies and gentlemen, you had the chance to
3 see all the evidence in this case. We showed you the cell
4 phone that the deal was set up on. You heard that tapes
5 of the phone calls made to that cell phone to set up the
6 deal. Photographs taken after the deal took place.
7 Analysis showing that the drugs were actually crack
8 cocaine. And a map illustrating that where Mr. Teasley
9 sold that crack cocaine was just about a quarter of a
10 mile, according to this scale, from Easley Christian
11 School.

12 Let's talk a little bit about the actual crack
13 cocaine. Now y'all all will get a chance to look at this
14 but crack cocaine is a special kind of evidence. The law
15 typically (inaudible) evidence but basically what the
16 means is just by looking at it itself, you can't tell that
17 that is what is actual crack cocaine that was sold on that
18 day. Unlike something else we'd call non (inaudible) like
19 my ring for instance. My ring has my name on the inside
20 of it, it's got the year I graduated on it. It's got
21 other nicks and marks that is I would recognize. I could
22 throw this ring down to street and find in a month later
23 and if I picked it up, even having no idea what happened
24 to it during that month, I would know that this is my ring
25 because it had uniquely identifying characteristics. That

1 crack cocaine on the other hand is just a blank,
2 brownish-white substance.

3 So law enforcement has built a way to track that
4 substance to make absolutely sure that the substance that
5 was delivered to that hotel room that day is the exact
6 same substance that's sitting there and the exact same
7 substance that was tested positive as crack cocaine. I
8 know you might have been wondering why we had witnesses
9 come up to testify as to I took position of it, I did
10 this, I did that. That's what we call the chain of
11 custody and you heard some discussion about that earlier.

12 What the State has done by putting that chain of
13 custody together is to show that when Agent Hamby took
14 that crack cocaine, he put it in this bag. That's the
15 same bag that's sitting in front of you right now. It's
16 got his name on it, got the seal. He took that to the
17 person that's specified to obtain that evidence within the
18 Police Department and that was Sergeant Brian Cowan. He
19 testified that once it was dropped in that box that no one
20 else but him could get a hold of it. The same crack
21 cocaine traced up until that point. Sergeant Cowan kept
22 it in his exclusive possession until he took it personally
23 to the Greenville Crime Lab. You heard him say he handed
24 it over to Israel Flounders. Who's the man that testified
25 he took the evidence and put it in the lock box where no

1 one else but him or anybody in their department could get
2 to it. If anybody did they had to sign off on it. His
3 signature is on that board.

4 That evidence sitting in front of you right now,
5 was taken by James Armstrong, the lab technician. Same
6 evidence that was tested positive as crack cocaine. It
7 never left his sight. When he got done with it, he put it
8 in this bag that I'm holding in my hand right now. He put
9 his initials on it, he heat sealed it and he put the date
10 on it and the case number. The date matches up to the
11 report, the case number matches up to the drugs. Now, at
12 that point in time the chain of custody is completely and
13 100 percent accounted for and you heard it on the stand.
14 The only thing from then to right now is Ms. Renee Pruitt
15 who you didn't hear from. But you heard testimony from
16 Mr. Armstrong that he gave it to Renee Pruitt and then a
17 short time later it was picked up by Mr. Brian Cowan.

18 And according to the form and their procedure in
19 the office, no one else outside the Greenville Crime Lab
20 had access to that crack cocaine. No one was but Renee
21 Pruitt never touched it in that small window. And a
22 chemist of over 10 years experience testified that this
23 bag, right now as it is, is in the exact same condition
24 that it was when he sealed it after he tested it and it
25 tested positive for crack cocaine. Ladies and gentlemen,

1 that's what we call the chain of custody. That to assure
2 you, to prove beyond a reasonable doubt, which is my
3 burden as the State, that this substance the Travis
4 Teasley sold is crack cocaine.

5 Now, all of this evidence, you're going to have
6 time to review during your deliberations. And all of this
7 evidence I submit to you is tied together by the sworn
8 testimony of the officers which actually handled this deal
9 in person. Face to face with the defendant, Mr. Travis
10 Teasley. Before you begin that deliberation, the Judge
11 behind me is going to instruct you on the law in this
12 case. I want you to pay very close attention to that law
13 because there's two distinct and separate offenses that
14 Mr. Travis Teasley is charged with. The first offense is
15 distribution of crack cocaine. Guilty of distribution of
16 crack cocaine, that's simply what it says, selling crack
17 cocaine. Evidence points to the Comfort Inn on that day,
18 Travis Teasley sold crack cocaine to the undercover
19 officer.

20 Now, the second offense is distribution of crack
21 cocaine within proximity of a school. And while it may
22 sound redundant at this time, the laws in South Carolina
23 provide that is a complete, separate and distinct offense
24 of a crime for me to prove that he sold that crack cocaine
25 within proximity of a school. Two separated offenses, two

1 things that I submit to you that Travis Teasley is guilty
2 of. He didn't have to drive past the school. He didn't
3 have to walk across the school. He didn't have to see the
4 sign. He had to be within a half mile of that school to
5 be guilty and sell that crack cocaine to be guilty of
6 distribution of crack cocaine. Period. And I submit to
7 you that he guilty of that.

8 Payday, ladies and gentlemen, as we discussed
9 earlier. Travis Teasley wanted to earn his money for
10 selling crack cocaine. After the testimony and everything
11 you heard today, I submit to you he earned something else.
12 He didn't earn his pay but today he was paid what he
13 earned. He earned a guilty verdict for distribution of
14 crack cocaine and he earned a guilty verdict for
15 distribution of crack cocaine within proximity of a
16 school. Thank you for your attention and I ask again to
17 return a verdict of guilty.

18 THE COURT: Mr. Alexander.

19 CLOSING STATEMENT

20 MR. ALEXANDER: May it please the Court.

21 Mr. Cleveland.

22 Ms. Hamaker.

23 Ladies and gentlemen, thank for your service and
24 patience throughout this trial. I'll try to be brief and
25 not go over all the evidence again. You heard the

1 evidence. As the Judge told you and tell you again,
2 you're the trier of facts in this case. You decide what the
3 facts are. And once you do that you apply it to the
4 State's burden and determine whether they meet their
5 burden beyond a reasonable doubt. There's a few things I
6 want you to consider. We talked a little bit about
7 credibility. Credibility of the chain of custody. And
8 ask when you're looking at the evidence, look at some of
9 the things that they don't have in this case.

10 We never heard from the CI, Donna Bobb. She
11 wasn't here. She didn't testify. The -- no money was
12 ever introduced into evidence. Money supposedly exchanged
13 hands, that wasn't introduced. The pink phone that was
14 supposedly used to set up this deal was found in somebody
15 else's possession. Mr. Teasley gave a statement to the
16 officers. Look at it. It's pretty clear his main concern
17 was he was worried about his girlfriend out in the car.
18 Decide whether that statement was voluntarily or not. If
19 it wasn't voluntarily you can't consider that statement.

20 But look at -- Mr. Cleveland talked to you about
21 the chain of custody, what has been presented as crack
22 cocaine. And you got to decide whether the chain of
23 custody is credible. If you determine that it's not
24 credible, then you return a verdict of not guilty. You
25 heard from multiple people that handled the drugs. You

1 didn't hear from Ms. Renee Pruitt who took the drugs from
2 the lab and gave it to Sergeant Cowan.

3 And I mention that, you heard testimony from
4 Officer Mills that he was buying -- that they was
5 supposedly buying 10 grams, the individual got at the
6 hotel said it was 7 grams. And some testimony about
7 weighing it at the scene, that he paid 375 or went to pay
8 375 and actually paid 400. And for what they called 7
9 grams. Well the lab report which is in evidence says 4.45
10 grams. So there's some discrepancy there about the
11 weight. And, you know, Officer Mills testified about
12 that. That he did weigh it there. But you got to
13 consider all that. And if don't find these things
14 credible then you have to take that into consideration.

15 And keep in mind that Mr. Teasley, he's presumed
16 innocent in this case. Started with a veil of innocence
17 surrounding him. Starts from the time he's arrested, goes
18 throughout the litigations, start of this trial and it's
19 still on today. Follows you into the jury room and in
20 your deliberations. So if you were to find him guilty
21 they have to prove beyond a reasonable doubt in order to
22 pierce that veil of innocence. So I ask you to take that
23 all that into consideration. The credibility of the
24 evidence and ask you to return a verdict of not guilty.
25 Thank you.

1 THE COURT: Mr. Foreman, ladies and gentlemen of
2 the jury, as jurors in this case you have certain function
3 and responsibilities to perform which are entirely
4 separate and distinct from mine as the trial Judge. I am
5 prohibited by the Constitution of our State from charging
6 you on the facts of this case. I'm also prohibited from
7 discussing the facts of the case with you or any way
8 intimating what my feelings, if any, are about the facts
9 of this case. It is your responsibility and yours alone
10 to pass upon all issues of fact presented in this case.

11 I would therefore charge you that if during the
12 course of the trial or during my charge, you have been
13 given or left with an impression or feeling that I do have
14 a personal feeling about the facts of case, I would
15 specifically instruct you that you're to disregard that
16 feeling or that impression. Moreover, you're the sole
17 judges of what the testimony was and not the argument of
18 counsel. It is also your duty and yours alone to weigh
19 the testimony and evidence of the case and to pass upon
20 the credibility of the witnesses. In this connection you
21 have the right to believe all that a witness tells you or
22 disbelieve all that a witness tells you. You have the
23 right to believe a part of what a witness tells you or
24 disbelieve a part of what a witness tells you. You have
25 the right to take into consideration any bias or prejudice

1 or interest you feel a witness might have in the case.

2 I say this to merely emphasize that the weight
3 you see fit to give to the testimony to the credibility of
4 the witnesses as well as all issues of fact are for your
5 sole determination. As judges of the facts you are the
6 sole judges of the credibility. That's the believability
7 of the witnesses. Who have testified in this case. In
8 passing upon their credibility you may take into
9 consideration many things. Such as the appearance and
10 manner of the witness on the stand. Sometimes referred to
11 as the demeanor of the witness. Was the witness
12 forthright or hesitant? Was the witnesses testimony
13 consistent or did it contain discrepancies? What the
14 ability of the witness to know the facts about which he
15 testified? Did the witness have a cause or reason to be
16 bias or prejudice in favor of testimony he gave? Was the
17 testimony of the witness corroborated or made stronger by
18 other testimony and evidence? Or was it made weak or
19 impeached by such other testimony and evidence.

20 As jurors you have the right to believe a small
21 portion of a witness' testimony and disregard the larger
22 or vice versa. You can believe all of a witness'
23 testimony or not. Now the rules of evidence ordinarily do
24 not permit witnesses to testify to opinions or
25 conclusions. Exceptions to this rule is for witnesses we

1 call expert witnesses. A witness who by education,
2 experience become an expert in some art, science,
3 profession or calling may state an opinion as to the
4 relevant and material matter in which a witness claims to
5 be an expert. And may also state the reasons for those
6 opinions.

7 You should consider any expert opinions received
8 into evidence in this case and like any other evidence,
9 give it the weight you think it deserves. If you decide
10 the opinion of an expert witness is not based on
11 sufficient education and experience, or you conclude that
12 the reasons given in support of the opinion are not sound
13 surround or that the opinion is outweighed by other
14 evidence you may have disregard the opinion entirely. An
15 expert witness' testimony is to be given no greater weight
16 than that of other witnesses simply because of the fact
17 the witness is an expert. Further, you're not required to
18 accept an expert witness' opinion even though it's
19 uncontradicted. Through this entire process you have but
20 one single objective and that is to speak the truth
21 regardless from what witness the testimony may have come.

22 Now the same Constitution and laws which makes
23 you the finders of facts of the evidence as I've discussed
24 with you, I am as the Judge made the sole and only
25 instructor on the law. You must accept as correct the law

1 which I charge and apply to it the evidence as you find it
2 and reach your verdict. If I should make an error in the
3 law as I instruct it to you there's another time and place
4 that error can be considered and if necessary corrected.
5 But for the purposes this case, today, you must accept the
6 law as I charge it to you to be the correct law.

7 The defendant has pled not guilty to this
8 Indictment. That plea puts the burden on the State to
9 prove the defendant guilty. A person charged with
10 committing a criminal offense in South Carolina is never
11 required to prove his innocence. I charge you that it is
12 an important rule of law that the defendant in a criminal
13 trial, no matter what the seriousness of the charge may
14 be, will always be presumed innocent of the crime for
15 which the Indictment was issued unless that guilt has been
16 proven by evidence satisfying you of that guilt beyond a
17 reasonable doubt. This presumption of innocence does not
18 end when you begin your deliberations. But it accompanies
19 the defendant throughout the trial until you reach a
20 verdict of guilt based upon the evidence satisfying you of
21 that guilt beyond a reasonable doubt.

22 The presumption of innocence is like a robe of
23 righteousness placed about the shoulders of the defendant
24 which remains with the defendant until it has been
25 stripped from the defendant by evidence satisfying you of

1 the defendant's guilt beyond a reasonable doubt. The
2 presumption of innocence is not a mere legal theory, it's
3 not just a legal phrase. It is a substantial right which
4 every defendant is entitled to unless you, the jury, are
5 satisfied that the evidence of the defendant's guilt is
6 beyond a reasonable doubt. Now what is a reasonable
7 doubt? A reasonable doubt is a kind of doubt that would
8 cause a reasonable person to hesitate to act.

9 Now there's two types of evidence which are
10 generally presented during a trial. Direct evidence and
11 circumstantial evidence. Direct evidence is the testimony
12 of a person who claims to have actual knowledge of a fact
13 such as an a eye witness. It is evidence which
14 immediately establishes the main fact to be proven.
15 Circumstantial evidence is proof of a chain of facts and
16 circumstances indicating the existence of a fact. It is
17 evidence which immediately establishes collateral facts
18 from which the main fact may be inferred. Circumstantial
19 evidence is based on inference. Not on personal knowledge
20 or observation. It is proof that does not actually
21 establish the fact in question but that asserts or
22 describes something else from which you may reasonably
23 infer the truth of the fact or at least reasonably infer
24 the probability that the fact is true. Circumstantial
25 evidence to be sufficient to warrant the finding of a

1 fact, the circumstances must lead to the fact the reason
2 asserted.

3 The facts and circumstances should be considered
4 in light of ordinary experience and common sense. The
5 existence of a fact cannot be based on speculation,
6 surmise or conjecture. The law makes absolutely no
7 distinction between the weight or value to be given to
8 either direct or circumstantial evidence. Nor is a
9 greater degree of certainty required of circumstantial
10 evidence than that of direct evidence. You should weigh
11 all of the evidence in the case. After weighing all of
12 the evidence you're not convinced of the guilt of the
13 defendant beyond a reasonable doubt, you must find the
14 defendant not guilty.

15 I charge you that suspicion, however strong, is
16 not enough to sustain a conviction. The evidence
17 presented by the State must be substantial evidence that
18 tends to prove the guilt of the defendant beyond a
19 reasonable doubt. In order to establish criminal
20 liability, criminal intent is required. Criminal intent
21 must be proven by the State beyond a reasonable doubt.
22 Criminal intent is always a matter that must be determined
23 by the jury from the circumstances surrounding the
24 situation. There's no way to prove intent to a
25 mathematical certainty. There's no medical science -- or

1 there's no way medical science can dissect a person's
2 brain to determine what the person had in mind. So the
3 law says that criminal intent may be inferred from the
4 circumstances shown to have existed.

5 This is how you make a determination of whether
6 or not the element requiring intent is present. It's not
7 necessary to establish intent by direct evidence but
8 intent may be established by inference the same way as any
9 other fact by taking into consideration the acts of the
10 parties and all facts and circumstances of the case.
11 Criminal intent is a mental state, a conscious wrong
12 doing. It is up to you determine what the defendant
13 intended to do based to the circumstances as shown to have
14 existed. A criminal intent is a state of mind that
15 operates jointly with an act or omission in the commission
16 of a crime. Criminal intent is a mental state. Criminal
17 liability is normally based upon the concurrence of two
18 factors. An evil meaning mind and a evil doing hand.
19 Proof of intent necessarily rests on inferences from
20 conduct.

21 The Indictments in this case allege two separate
22 offenses against the Defendant, Travis Lamar Teasley. The
23 charges are Indictment No. 2009-GS-39-1775, distribution
24 of crack cocaine or cocaine base crack cocaine.
25 Indictment No. 2009-GS-39-1776, distribution of crack

1 cocaine or cocaine base crack cocaine within one half of a
2 mile of a school. And in Indictment No. 2009-GS-39-1775,
3 the Defendant, Travis Teasley, is charge with distribution
4 of crack cocaine under section -- South Carolina Code
5 Section 44-53-370. Which provides in pertinent part that
6 it shall be unlawful for any person to manufacture,
7 distribute, dispense, deliver, purchase, aid or abet,
8 attempt or conspire to manufacture distribute, dispense,
9 deliver or purchase or possess with the intent to
10 manufacture distribute, dispense, deliver or purchase a
11 controlled substance or a controlled substance analogue.

12 Crack cocaine is defined as a controlled
13 substance pursuant to section -- South Carolina Code
14 Section 44-53-110. Each of the two Indictment charges a
15 separate and distinct offense. You must decide each
16 Indictment separately on the evidence and the law
17 applicable to it. Uninfluenced by your decision as to the
18 other Indictment. The defendant may be convicted or
19 acquitted on one or all the offenses charged. You will be
20 asked to write a separate verdict of guilty or not guilty
21 for each Indictment.

22 I remind you that the fact that the Defendant,
23 Travis Teasley, was arrested, charged and indicted in this
24 case is not evidence in this case and cannot be considered
25 by you as evidence of guilt in this case. Nor does it

1 create any presumption or inference of guilt. The
2 Indictments are simply the formal written instruments
3 which contain the charges made against the defendant.
4 They are the formal documents which case are brought into
5 this court.

6 The Defendant, Travis Teasley, is charged
7 separately with distribution of crack cocaine. The State
8 must prove beyond a reasonable doubt that the defendant
9 distributed crack cocaine. Distribute means to deliver or
10 to actually construct or attempt to transfer a drug other
11 than by administering or dispensing. Delivery means to
12 actually constructive or attempt to transfer a drug. A
13 transfer can involve an exchange for money or barter or
14 gift. It does not have to be anything given in exchange
15 for the drug for a transfer to constitute distribution.
16 To prove possession the State must prove beyond a
17 reasonable doubt that the defendant had both the power and
18 the intent to control the disposition or use of the crack
19 cocaine. Possession may be either actual or constructive.
20 Actual possession means the crack cocaine was in the
21 actual, physical custody of the defendant. Constructive
22 possession means that the defendant had dominion and
23 control or the right to exercise dominion or control over
24 either the crack cocaine itself or the property in which
25 the crack cocaine was found.

1 Mere presence at the scene where the drugs was
2 found is not enough to prove possession. Actual knowledge
3 of possession -- presence, excuse me, actual knowledge of
4 the presence of the crack cocaine is strong evidence of
5 the Defendant's attempt to control its disposition or use..
6 The defendant's knowledge and possession may be inferred
7 on the substance found in the property under the
8 Defendant's control. However, this inference is simply an
9 evidentiary fact to be taken into consideration by you
10 along with other evidence in the case and to be given the
11 weight you decide it should have. Two or more persons may
12 have joint possession of the drug.

13 Now, the Defendant, Travis Teasley, is also
14 charged with distribution of crack cocaine within
15 proximity of a school or park. The State must prove
16 beyond a reasonable doubt that the Defendant distributed,
17 sold, purchased, manufactured or unlawfully possessed and
18 intended to distribute crack cocaine while in, on or
19 within one half mile of the grounds of a public or private
20 elementary, middle or secondary school. A public
21 playground or park or other location of trade school or
22 technical education center or a public or private college
23 or university.

24 Now, while the Court generally determines the
25 admissibility of evidence, I instruct you that in regards

1 to any alleged statement made by the Defendant, the
2 members of the jury make the ultimate determination of
3 whether or not the defendant made the said statement. If
4 he did make the statement, whether the statement was made
5 by the Defendant voluntarily and of his own freewill and
6 accord, this is to be determined by you. And finally,
7 just what weight, if any, should be given to any alleged
8 statement. I charge you that you must determine that the
9 alleged statement was a product of an essentially free and
10 unconstrained choice by its maker. If you determine that
11 it was made and the burden is upon the State to prove the
12 fact of all other factors beyond a reasonable -- as of all
13 other factors beyond a reasonable doubt. Then you may
14 give the statement such further consideration as you deem
15 proper.

16 If you determine the alleged statement was not
17 made with free and voluntary willed expression of the
18 Defendant, then you should not consider the statement at
19 all. In determining whether the Defendant's will was
20 overcome in obtaining the statement, you should consider
21 both the characteristics of the accused and the details of
22 the interrogation. Which is referred to in the law as the
23 totality of the circumstances. Some of the factors that
24 you must consider are the age of the accused, his
25 education or lack thereof, his mental ability, capacity,

1 his IQ or intelligence, his background and environment.
2 The advice or lack thereof to the accuse of his
3 Constitutional rights including but not limited to the
4 procedure safeguards known as the Miranda warnings
5 concerning the right to remain silent. That the statement
6 could be used against him in a court of law, the right to
7 have a lawyer present. And if indigent, that is he could
8 not afford a lawyer, then a lawyer would be appointed to
9 represent him without any costs. And that he could stop
10 making the statement had any time.

11 Other factors to be considered are the place and
12 length of detention and the nature of the questions. You,
13 the jury, must carefully scrutinize all the surrounding
14 circumstances before you can give any weight to an alleged
15 statement. You must be satisfied beyond a reasonable
16 doubt that the statement was made by the accused
17 uninfluenced by promise or reward, threaten or injury to
18 the diminution of his rights.

19 I instruct you and emphasize the fact that the
20 Defendant did not testify, put up any evidence or even
21 appear are not factors to be considered by you in your
22 deliberations and in your considerations of the questions
23 as to whether the State has proven the defendant is guilty
24 or not guilty of the charges in the Indictments. It must
25 not be considered by you in any manner whatsoever. The

1 defendant has the right to remain silent and the assertion
2 of this right may not be considered by you in your
3 deliberations. The defendant may also waive his right to
4 be present at trial. I'll repeat, under your oath that
5 you are to draw no conclusion whatsoever from the fact the
6 Defendant in this case did not testify, present evidence
7 or attend the trial. The fact that this Defendant did not
8 testify should not even be discussed with you in the jury
9 room.

10 The burden of proof as I have stated to you is
11 on the State. The defendant is not required to prove his
12 innocence. The burden of proof remains on the State to
13 prove guilt beyond a reasonable doubt. The State has the
14 burden of proof, it must be -- the burden of proof must
15 establish each element of the charge of each offense
16 beyond a reasonable doubt. You enter your verdict based
17 upon whether or not you are satisfied that the State has
18 established beyond a reasonable doubt all of the elements
19 of the offense. If you, as jurors, have a reasonable
20 doubt as to whether the State has met its burden of proof,
21 shown all the elements of the charged offense, you should
22 find the Defendant not guilty under that Indictment.

23 Mr. Foreman, ladies and gentlemen of the jury,
24 you've been selected as fair and impartial jurors sworn to
25 impartially try to determine the facts of this case. When

1 you comply with your oath to do so no one has the right to
2 criticize your verdict. And you will fully discharge your
3 duty as jurors. You should not be influenced by opinions
4 or expressions of opinions, if any, that you may have
5 heard on the outside. But you're to decide this case
6 according to the testimony you've heard from the lips of
7 the sworn witnesses along with other evidence that may
8 have been introduced.

9 As I said earlier, you are the judges of the
10 facts in this case. And you are to determine only if the
11 Defendant is guilty or not guilty based upon the testimony
12 and the evidence presented in the trial after applying the
13 law as I have given it to you. If from the evidence you
14 have a reasonable doubt as to whether or not the Defendant
15 is guilty, it is your duty to acquit him and write the
16 words not guilty. Under the oath you took you swore to
17 try this case based solely and only on the testimony and
18 evidence of law presented and heard in this courtroom. It
19 is your duty to lay aside all bias or prejudice or
20 sympathy you may have in reaching your verdict. You have
21 no friends to reward or enemies to punish in this case. I
22 might note that the word verdict comes from the Latin
23 word, Veredicto which means to speak the truth. Abide by
24 your oath and return a verdict which does, in fact, speak
25 the truth.

1 Now, Mr. Foreman, I have prepared a verdict form
2 for you to use.

3 If you'd give this to the Mr. Foreman.

4 A verdict form for you to use in this case. As
5 you will note it says, The State of South Carolina vs.
6 Travis Teasley, Defendant, verdict. You have two
7 Indictments so there will be two verdicts you must reach.
8 Indictment No. 2009-GS-39-1775. And remember whatever
9 verdict that you reach it has to be unanimous. In other
10 words, the verdict of all 12 members of the jury. So
11 therefore, you have two potential verdicts under the first
12 Indictment. We, the jury, unanimously find that the
13 Defendant, Travis Teasley, is guilty of distribution of
14 cocaine base crack cocaine or not guilty. Whichever is
15 your unanimous verdict, Mr. Foreman, man you will check
16 the appropriate space in front of verdict.

17 Then on Indictment No. 2009-GS-39-1776, we, the
18 jury, unanimously find that the Defendant, Travis Teasley,
19 is guilty of distribution of cocaine base crack cocaine
20 within one half mile of a school or not guilty. Whatever
21 is your verdict, again, you would check the appropriate
22 block. And once you've completed the verdict form, if
23 you'd sign on the line provided, knock on the door and
24 return to receive your verdict. Get the verdict form,
25 please.

1 Now, I'm going to ask you to retire to the jury
2 room one more time. Without beginning your deliberations.
3 Just take a few minutes, I have some matters to take up
4 with the attorneys but I'll send in all the exhibits
5 together with the verdict form. And once you receive that
6 from the Bailiff you should then begin your deliberations.
7 And as I say, once you reach your verdict on both
8 Indictments and the verdict form has been completed, knock
9 on the door and we'll return to receive your verdict.
10 With that I ask you to retire to your jury room.

11 The two alternates stay with us.

12 Others please retire.

13 (WHEREUPON, the jury left open court at
14 approximately 11:15 a.m.)

15 THE COURT: All right, are there any exceptions
16 or requests, additional requests, from the State?

17 MR. CLEVELAND: Nothing additional from the
18 State.

19 THE COURT: From the Defendant?

20 MR. ALEXANDER: Nothing, Your Honor.

21 THE COURT: Very good. All right, if you would
22 please, go through the exhibits, be sure that everything
23 that goes back is supposed to go back and nothing that is
24 not to go back.

25 MR. CLEVELAND: Judge, I understand your general

1 stance on video/audio, we're going --

2 THE COURT: Keep them in here, if they want to
3 hear the testimony or the exhibit, we'll play it out here
4 for them.

5 MR. CLEVELAND: I would just ask, just because
6 the length of some of these recordings, like the deal and
7 stuff, if I they want us to fast forward, maybe ask them
8 if they have any particular portion of the audio. I have
9 time stamps, I know what parts I can play. If they say
10 just play the part in the hotel room at the end, I can
11 fast forward straight to that if they want to do that
12 instead of listening to the whole 18 minutes.

13 THE COURT: Very well, we'll see. Okay.
14 Anything else?

15 MR. CLEVELAND: No, Your Honor.

16 MR. ALEXANDER: No, Your Honor.

17 THE COURT: Very good. All right, got it all
18 together?

19 Mr. Bailiff, give you the verdict form. All
20 right.

21 All right, ladies and gentlemen, I think you
22 understand why you were selected. That was in case
23 anything should happen --

24 Can you get in there?

25 THE BAILIFF: I just wanted to make sure I

1 didn't open the door while--

2 THE COURT: No, this is fine.

3 (WHEREUPON, the deliberations began at
4 approximately 11:16 a.m)

5 THE COURT: All right, I think you do understand
6 that if anything should have happened to any of the other
7 jurors then you would sit in their place. And also,
8 although it looks like I'm doing everything else except
9 paying attention up here, I have a manner or knack to
10 keeping up with what goes on in the courtroom. And I
11 noticed that both of you paid very careful and close
12 attention to all of the testimony. And exhibits and other
13 evidence in this courtroom. So I'm satisfied that if you
14 had been asked to serve, then I'm certain you would have
15 made excellent jurors. However, that's not necessary so
16 I'm going to excuse you. In fact, I'm going to excuse you
17 for the balance of the week. We have one more trial but
18 we have enough jurors for that trial. So I'm going to
19 excuse you.

20 Now, I hope that your experience has not been
21 without some benefit and that you do understand how the
22 jury system and the system of justice works. Because if
23 we did not have citizens participation it would not be
24 what it is. And I want to thank for that. About the only
25 thing I can say is that I can do for you or remind you,

1 I'm sure that Judge Welmaker when he qualified the jury on
2 Monday, the whole panel, he probably asked if jurors had
3 served in the last three years. At least now you will not
4 have to serve for another three years. So with that you
5 will be excused. And I do thank you for you service.

6 Madam Clerk, if they need any sort of statement
7 or anything.

8 THE CLERK: They can get it downstairs in the
9 Clerk's Office.

10 THE COURT: All right, if you need a statement
11 for work or anything like that that you've been here, you
12 can get it from the Clerk's Office on the first floor.
13 All right, very good. Again, thank you so much. You will
14 be excused.

15 (WHEREUPON, the alternates were
16 excused.)

17 THE COURT: All right, anything from the State
18 before we take our brief recess?

19 MR. CLEVELAND: Nothing from the State.

20 THE COURT: Anything from the defense?

21 MR. ALEXANDER: No, Your Honor.

22 THE COURT: All right, we stand at ease awaiting
23 a jury verdict. I do want to say that, I ought to have
24 Mr. Erwin here too. This case gave me as many challenges
25 as I could possibly find.

1 MS. HAMAKER: No, sir, Your Honor.

2 THE COURT: I'll have the Bailiff do it.

3 (WHEREUPON, Court was in recess awaiting a
4 verdict.

5 THE COURT: All right, are ready?

6 MR. CLEVELAND: State's ready, Your Honor.

7 THE COURT: All right, we have a question from
8 the jury. If we can't come to a unanimous decision on the
9 second Indictment what will happen? Sign the Foreman.
10 What's the State's thoughts?

11 MR. CLEVELAND: I mean, I would allow a little
12 more time to continue. Ultimately the State would request
13 an Allen charge before--

14 THE COURT: Well I'm going to give them a Allen
15 charge. This is the first part of it, yes.

16 MR. ALEXANDER: I would ask for instruction that
17 if they cannot -- well obviously cannot reach a unanimous
18 verdict with a Allen charge but ultimately based on your
19 previous instruction, if you can't reach a unanimously
20 verdict you must return a not guilty verdict.

21 THE COURT: Well they're entitled --

22 MR. ALEXANDER: Just with your previous
23 instruction.

24 THE COURT: Well not guilty is unanimous too.

25 MR. ALEXANDER: You're right, Your Honor, I

1 apologize. I'm thinking --

2 THE COURT: That's why we the hang jury, thing.

3 MR. ALEXANDER: Yes.

4 THE COURT: So what I will do is -- and the
5 thing is if they come out a second time and they can't get
6 a verdict then I have to discharge them.

7 MR. CLEVELAND: I would like to request that,
8 just because the charge was similar that they have a brief
9 recharge just on the prox charge.

10 THE COURT: Not unless they ask it.

11 MR. CLEVELAND: An Allen charge.

12 THE COURT: Yeah, I'll give them the Allen
13 charge.

14 MR. CLEVELAND: That's fine.

15 THE COURT: All right, ask the jury join us,
16 please.

17 (WHEREUPON, the jury came into open court at
18 approximately 11:40 a.m.)

19 (WHEREUPON, Court's Exhibit No. 6 was marked for
20 identification and received into evidence.)

21 THE COURT: Mr. Foreman, ladies and gentlemen of
22 the jury, I've been provided with your note.

23 If we can't come to a unanimous decision on the
24 second Indictment, what will happen?

25 Ladies and gentlemen, you have stated that

1 you've been unable to agree on a verdict in this case as
2 to one Indictment. As I instructed you earlier, the
3 verdict of the jury must be unanimous. But when a matter
4 is in dispute it isn't easy for even two people to agree.
5 So when 12 people must agree it becomes even more
6 difficult. In most cases absolute certainty cannot be
7 reached or expected. However, you have a duty to make
8 every reasonable effort to reach a unanimous verdict.
9 During this you should consult with one another and
10 express your own views and listen to the opinions of your
11 fellow jurors. Tell each other how you feel and why feel
12 that way. Discuss your differences with open minds.

13 Although the verdict of the jury must be
14 unanimous, everyone of you has the right to your own
15 opinion. The verdict you agree to must be your own
16 verdict. The verdict of your own convictions. And you
17 should not give up your firmly held beliefs merely to be
18 in agreement with your fellow jurors. The majority should
19 consider the minorities position and the minorities should
20 consider the majorities position. You should carefully
21 consider and respect the opinions of each other and
22 re-evaluate your position for reasonableness, correctness
23 and impartiality. You must lay aside all outside matters
24 and re-examine the questions before you base on the law
25 and evidence in the case.

1 If you do not agree on a verdict in this case I
2 must declare a mistrial as to Indictment. In that case it
3 does not mean anybody wins. Just means that at some
4 future time I will try the case with some other jury
5 sitting where you now sit. The same participants will
6 come and the same lawyers will ask basically the same
7 questions and get basically the same answers and we will
8 go through the whole process again. You were selected in
9 the same manner and from the same sources as any future
10 jury would be. And there's no reason for me to suppose
11 that the case will ever be submitted to 12 more
12 intelligent, impartial and conscientious and competent
13 jurors than you. Or that more clear evidence will be
14 produced on one side or the other.

15 I therefore ask you to return to your
16 deliberations with the hope that you can arrive at a
17 verdict within a reasonable time. Very good. Thank you.

18 Is there any particular charge or anything that
19 the Court could help you with?

20 MR. FOREMAN: I think that helped a lot.

21 THE COURT: All right, okay, very good, thank
22 you.

23 (WHEREUPON, the jury left open court at
24 approximately 11:42 a.m.)

25 (WHEREUPON, deliberations were continued at

1 approximately 11:43 a.m)

2 (WHEREUPON, court was in recess awaiting a
3 verdict.)

4 THE COURT: All right, any exceptions or
5 requests from the State?

6 MR. CLEVELAND: None from the State, Your Honor.

7 THE COURT: From the defendant?

8 MR. ALEXANDER: None from the defendant, Your
9 Honor.

10 THE WITNESS: Very good, we'll continue
11 awaiting. All right, I understand the jury has a verdict.
12 All right, anything from the State before we bring the
13 jury in?

14 MR. CLEVELAND: Nothing from the State, Your
15 Honor.

16 THE COURT: From the defense?

17 MR. ALEXANDER: Nothing, Your Honor.

18 THE COURT: All right, ask the jury to join us,
19 please.

20 (WHEREUPON, the jury came into open court at
21 approximately 12:00 p.m.)

22 THE COURT: All right, Mr. Foreman, I understand
23 the jury reached a verdict.

24 MR. FOREMAN: Yes, sir.

25 THE COURT: If you would, please, hand it up to

1 the Bailiff.

2 If you would, Madam Clerk, publish the verdict.

3 THE CLERK: In the case of The State vs. Travis
4 Teasley, Indictment No. 2009-GS-39-1775, we, the jury,
5 unanimously find that the Defendant, Travis Teasley, is
6 guilty of distribution of cocaine base crack cocaine.
7 Indictment No. 2009-GS-39-1776, we, the jury, unanimously
8 find that the Defendant, Travis Teasley is guilty of
9 distribution of cocaine base within half a mile of a
10 school.

11 Charles Griffin, Foreperson.

12 If this is your verdict and still your verdict,
13 please raise your right hand.

14 THE COURT: All right, let the record reflect
15 that all 12 members affirmed the verdict.

16 All right, is there anything from the State
17 before I dismiss the jury?

18 MR. CLEVELAND: Nothing from the State, Your
19 Honor.

20 THE COURT: The defense?

21 MR. ALEXANDER: Nothing, Your Honor.

22 THE COURT: All right, Mr. Foreman, ladies and
23 gentlemen of the jury, the Court's never interested in the
24 verdict but only how that verdict is reached. And
25 although it looks like I'm doing everything else but

1 paying attention up here, I developed a certain ability to
2 just keep up with what's going on in the courtroom. And I
3 can assure you that I am satisfied that you have given
4 both to State and the Defendant a fair and impartial
5 trial. Moreover, I noticed that it was that you very paid
6 very careful and close attention to all the evidence and
7 the testimony as well as the exhibits in this case. And
8 you having exercised your desecration as jurors and
9 reached -- rendered a verdict in accordance with your
10 conscious, you have served your duty as jurors well. And
11 I thank you for it. Not only Pickens County but also the
12 judicial system of our State or justice system of our
13 State.

14 I might note that one time the former Prime
15 Minister of Great Britain or World War II, Winston
16 Churchill once said, No greater service can a citizen
17 perform in peace time than that as a jury. And that is
18 truly the basis and backbone of our system. System of
19 justice is citizen participation.

20 Now, we're going to probably draw another jury
21 but you're going to be excused. I think you served well.
22 And but I do hope that your service has not been without
23 some benefit. As I say, it is so important that we do
24 have citizen participation. In fact, about the only thing
25 I can do for you is I'm sure that Judge Welmaker when he

1 qualified the entire panel on Monday asked if any member
2 of the jury panel had served in the last three years. At
3 least you want have to serve for another three years.

4 But I do want to thank you for your service.
5 And that will conclude your service this week. I do thank
6 you for being here and your patience with the Court. And
7 it has been a privilege to serve with you. Thank you,
8 very much, you may be excused. Now, Mr. Foreman, I do
9 need to see you though to sign some papers.

10 (WHEREUPON, the jury left open court and was
11 excused at approximately 12:05 p.m.)

12 THE COURT: All right, got sentencing sheets?

13 MS. HAMAKER: Yes, sir, Your Honor.

14 THE COURT: Let's see wait until I get the
15 verdicts back. Understand you have the sentencing sheets.
16 All right, what is the maximum sentence or the range of
17 sentences on distribution of crack cocaine?

18 MR. CLEVELAND: Distribution of crack cocaine
19 ranges from five to 30 years for second offense, Your
20 Honor. No suspensions, no probation of that sentence,
21 Judge.

22 THE COURT: Five to 30 straight time?

23 MR. CLEVELAND: Straight time, Your Honor.

24 THE COURT: And \$50,000.00?

25 MR. CLEVELAND: Yes, I believe that's correct,

1 Your Honor.

2 THE COURT: The fine can be suspended?

3 MR. CLEVELAND: I'm not sure, I think so.

4 THE COURT: I think so. All right, and
5 distribution within half mile proximity of a school?

6 MR. CLEVELAND: Crack cocaine within proximity
7 of a school is a 10 to 15 year crime. That may be
8 suspended to a \$10,000.00 fine.

9 THE COURT: All right, any prior record?

10 MR. CLEVELAND: Yes, Your Honor. Just going
11 back 10 years in 2001 Mr. Teasley was convicted of breach
12 of trust with fraudulent intent. He was sentenced to 60
13 days and three years probation. 2002, he was convicted of
14 possession of crack cocaine, 60 days, also probation again
15 was his sentence. Two counts of criminal domestic
16 violence, one count of malicious injury to personal
17 property and one charge of possession of marijuana. In
18 2003, he was convicted of hindering -- or interference or
19 hindering with officers, loitering to engage in drug
20 activity and giving false information. He was given a
21 time served sentence on all of those charges. In 2004, he
22 got his third or subsequent criminal domestic violence
23 conviction within the previous two years. In 2005, he had
24 a failure to appear for that criminal domestic violence
25 charge. In 2007, he was found to be violation of his

1 parole and he also was found to be nonsupport for children
2 which he did some time on that, I don't know how much.

3 THE COURT: All right, do you have his
4 conviction? You got a crack conviction, I think?

5 MR. CLEVELAND: He a possession of crack --

6 THE COURT: Do you have a record?

7 MR. CLEVELAND: In 2002.

8 Do we have the NCIC?

9 Yes, sir.

10 THE COURT: Well we need to make it part of the
11 record since we are going to be using it for enhancement.

12 MR. CLEVELAND: Your Honor, the court date was
13 October--

14 THE COURT: Was it here in Pickens?

15 MR. CLEVELAND: It was in Greenville County,
16 Your Honor. The warrant number was G, as in Gary, 865--

17 THE COURT: What am I supposed to be doing with
18 that?

19 MR. CLEVELAND: I'm just putting it on the
20 record, Your Honor.

21 THE COURT: Okay, all right.

22 MR. CLEVELAND: 865629. Court charge for
23 possession of less than one gram of ice crack cocaine,
24 first offense. Convicted four years suspended to 60 days.

25 THE COURT: Okay, very good. I would suggest in

1 the future though if you're going to use it for
2 enhancement, you might get a certified copy of the
3 sentencing sheet.

4 MR. CLEVELAND: Yes, Your Honor.

5 THE COURT: It helps.

6 All right.

7 MR. ALEXANDER: Your Honor, on behalf of
8 Mr. Teasley, I would -- I would request that you first
9 defer sentencing, issue a warrant based on the juries
10 verdict and defer sentencing until he's picked up on that
11 warrant. I don't have the bond sheet in front of me but I
12 know it said -- talked about trial in absence. I don't
13 remember anything on it about trial and then being
14 sentenced as well.

15 THE COURT: Well the thing it is it says if he
16 doesn't appear a warrant will be issued from him.

17 MR. ALEXANDER: Yes, sir.

18 THE COURT: And that he will be tried in his
19 absence. Once you have a trial in absence it also means
20 you'll be sentenced in his absence.

21 MR. ALEXANDER: All right--

22 THE COURT: I understand though for the record.

23 MR. ALEXANDER: Yes, sir. I just note for the
24 record I believe it's implied, not necessarily understood
25 by the signer in that situation. But I would -- we would

1 request the minimum mandatory sentence, Your Honor, on the
2 distribution charge, five years. And that the proximity
3 charge, concurrent sentence on the proximity charge, some
4 amount suspended down where he's doing the same amount of
5 time. He only has one other real serious prior conviction
6 as stated. The possession of crack and that was going
7 back eight years. Or the plea date was eight years ago.
8 And has some other things during that interim.

9 He -- the co-defendant in this State is his long
10 time girlfriend, common law wife. They have two children
11 together, Your Honor. And they were together, I believe,
12 up until shortly before this trial. Don't know anything
13 about his employment situation. In the past or present.
14 And I would just note for the record, I believe, based on
15 the statutes, any sentence on these would -- or at least
16 the distribution charge would be an 85 percent sentence so
17 he's going to be doing significant time. Even on the five
18 year minimum, Your Honor. So we would request the minimum
19 mandatory sentences, Your Honor.

20 THE COURT: Very good.

21 All right, anything further from the State?

22 MR. CLEVELAND: Nothing factually, Your Honor.

23 Just the fact that Mr. Teasley's been in trouble, he's
24 received convictions over the last 10 years. And he's
25 ever done significant jail time but he hasn't learned his

1 lesson. We just ask the Court to provide a fair sentence
2 based on the facts and testimony they've heard today for
3 the offenses he's been convicted of.

4 THE COURT: All right.

5 MR. CLEVELAND: I've also prepared a bench
6 warrant.

7 THE COURT: Sir?

8 MR. CLEVELAND: I also prepared a bench warrant.

9 THE COURT: You didn't do it yesterday?

10 MR. CLEVELAND: I think we did it yesterday but
11 didn't hand it up, Your Honor. Just to cover our basis.

12 THE COURT: All right.

13 MR. CLEVELAND: Here's the bench warrant.

14 MR. ALEXANDER: That's going to be a sealed
15 sentence, Your Honor?

16 THE COURT: Yes, sir.

17 All right, Madam Clerk, you're want to write on
18 the back outside of this what we have?

19 THE CLERK: Yes, sir.

20 THE COURT: All right, we're in recess then
21 until 2:00.

22 MR. CLEVELAND: Thank you, Your Honor.

23 THE COURT: Again, I want to thank both of you
24 for a well tried case. It's just not one of those easy
25 ones.

1 MR. CLEVELAND: Thank you, too, Your Honor.

2 MS. HAMAKER: Thank you, Your Honor.

3 MR. ALEXANDER: Thank you, Your Honor.

4 THE COURT: All right, thank you.

5 (WHEREUPON, the proceedings were concluded.)

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STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,

PLAINTIFF,

-VS-

TRAVIS TEASLEY,

DEFENDANT.

2009-GS-39-1775 and 1776

January 20, 2011

TRANSCRIPT OF RECORD

BEFORE:

THE HONORABLE EDWARD W. MILLER, JUDGE

APPEARANCES:

BAKER CLEVELAND, ESQUIRE
ATTORNEY FOR THE STATE

STEVEN ALEXANDER, ESQUIRE
ATTORNEY FOR THE DEFENDANT

DANETTE P. HANKS
CIRCUIT COURT REPORTER

State of South Carolina -vs- Travis Teasley (2009-GS-39-1775 and 1776)
Index

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1

INDEX**PAGE**

Sentencing

3

Certificate of Reporter

8

EXHIBITS

(NONE)

1 **JANUARY 20, 2011**

2 (WHEREUPON, court convened with all parties present
3 and the following proceedings were had.)

4 THE CLERK: If you would come forward and be
5 sworn, please. If you'll place your left hand on the bible
6 and raise your right hand, please.

7 Do you solemnly swear or affirm the testimony you give
8 the Court to be the truth, whole truth and nothing but the
9 truth, so help you God?

10 MR. TEASLEY: I do.

11 THE CLERK: Please be seated.

12 THE COURT: Okay.. You understand that you had a
13 trial and you didn't show up.

14 MR. TEASLEY: My trial card was sent to the wrong
15 address.

16 THE COURT: Well, ---

17 MR. ALEXANDER: I talked to him about that issue,
18 Your Honor, and that that's something that he could appeal
19 if he chose to appeal it.

20 THE COURT: All right. Where was it sent?

21 MR. CLEVELAND: I tried the case, Your Honor. We
22 verified all the addresses, everything we had on file. As
23 a matter of fact, it was a co-defendant case. And the co-
24 defendant showed up. Also, it's my understanding that Mr.
25 Alexander had, up until the days before the trial, had

1 actually talked to Mr. Teasley. So the State -- there was
2 a finding on the record that he was notified for trial and
3 the trial should proceed in his absence.

4 THE COURT: Okay. Well, you got convicted at
5 trial. Anything you want to tell me?

6 MR. TEASLEY: Well, Your Honor, first, I just
7 made a mistake. And I've got four kids and one kid on the
8 way in a month and a half. And I just really just made a
9 mistake. I done been working like for eight months now.
10 You know, I don't do drugs or none of that. I wake my kids
11 up every morning, send them to school, wait until they get
12 home, fix them something to eat. I'm not no, you know, no
13 street person or nothing like that. You know, I'm a family
14 type person.

15 THE COURT: Okay.

16 MR. TEASLEY: And I just really just made a
17 mistake and I just ask the Court, you know, just please
18 don't take my life for no mistake.

19 THE COURT: Well, I'm not taking your life. I'm
20 just reading the sentence to you that Judge Macaulay gave
21 you and that's fifteen years on each of them.

22 MR. ALEXANDER: Your Honor, it's my understanding
23 that you do have -- at your discretion could reconsider the
24 sentence.

25 THE COURT: Yeah. But I'm not going to. Judge

1 Macaulay is an experienced Judge and ---

2 MR. ALEXANDER: Well, if I could just put on the
3 record, Your Honor, his only drug priors are from 2002 and,
4 frankly, I don't know if Judge Macaulay was aware of any of
5 that one way or the other.

6 THE COURT: What were his drug convictions?

7 MR. ALEXANDER: He had a simple possession of
8 marijuana in 2002 and then a possession of crack in 2002.
9 And then this incident occurred, I think, maybe in 2008 or
10 something, 2009. And it happened before they changed the
11 law, obviously. The trial was after they changed the law,
12 the end of June 2010. And we certainly understand that
13 Judge Macaulay was the trial Judge and he heard the
14 evidence, but I will say -- I mean, to be frank, Mr.
15 Teasley had always planned to plead guilty to this charge
16 because the evidence was pretty solid against him and he
17 was aware of that. But he was looking at the mandatory
18 minimum of five years under the old law and he was pretty
19 much holding out hope that the Solicitor would kind of back
20 off, let him plead to a first offense distribution where he
21 might be eligible for some type of probation instead of
22 five years mandatory under the old law. And that, of
23 course, never happened. And we had the trial ---

24 THE COURT: You need to explain to him when you
25 negotiate, you should negotiate from a position of

1 strength, not weakness.

2 MR. ALEXANDER: Yes, sir.

3 MR. CLEVELAND: For the record, Your Honor, the
4 plea offer had expired before the law was changed. It was
5 for five years.

6 MR. ALEXANDER: Obviously, not, I mean, but ---

7 THE COURT: Well, what do you think? You want
8 them to eat that whole fifteen? He does. What's his other
9 record. Tell me all about his record.

10 MR. CLEVELAND: 2001 breach of trust, 2002
11 possession of crack, CDV two counts, malicious injury to
12 personal property and possession of marijuana. 2003
13 hindering officers and loitering to engage in drug activity
14 and false information to police. 2004 CDV third or
15 subsequent. 2004 probation violation. He had a prior
16 failure to appear in 2005 and then 2007 he had a parole
17 violation.

18 MR. ALEXANDER: And he tells me he's been -- he
19 hasn't been -- since the trial, he says he's been living at
20 the same address 115 Bel Aire Drive in Greenville with his
21 fiancé. So -- and been employed as he's stated. Has kids.
22 We would ask Your Honor to consider a lesser active
23 sentence. Under the old law there's a mandatory minimum
24 five years. If you're sentencing under that we would ask
25 for the minimum.

State of South Carolina -vs- Travis Teasley (2009-GS-39-1775 and 1776)
Sentencing

7

1 THE COURT: Well, I mean, and I don't find that
2 this case is one that would call for the mandatory minimum.
3 And Judge Macaulay heard it. I'm just going to go along
4 with the sentence that he imposed. Okay? All this stuff
5 about a family man, not hanging out on the streets, just
6 doesn't ring true when I hear his record.

7 MR. CLEVELAND: Thank you, Your Honor.

8 MR. ALEXANDER: Thank you, Your Honor.

9 THE COURT: All right. Good luck to you.

10

11 (END OF REQUESTED TRANSCRIPT OF TESTIMONY)

1 CERTIFICATE OF REPORTER

2

3 I, the undersigned Danette P. Hanks, Official Court
4 Reporter for the Thirteenth Judicial Circuit of the State
5 of South Carolina, do hereby certify that the foregoing is
6 a true, accurate, and complete transcript of record of all
7 the proceedings had and evidence introduced in the
8 trial/hearing of the captioned case, relative to appeal, in
9 the Circuit Court for Pickens County, South Carolina, on
10 the 20th day of January, 2011.

11 This transcript may contain quoted material. Such
12 material is reproduced as read by the speaker.

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

15 March 25, 2011

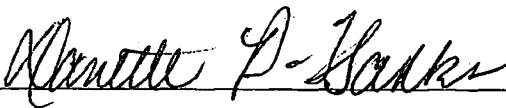
16

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Circuit Court Reporter

230

WITNESSES

Jonathan Hamby

Easley Police Department

5/21/2009

ARREST WARRANT NUMBER

DIRECT PRESENTMENT

DOB: 09-11-81

SS# 247-49-4542

ACTION OF GRAND JURY

TRUE BILL

Date NOV 10 2009

Mark A. Smith
Foreperson of Grand Jury

VERDICT

Guilty

Clara H. Duff
Foreperson of Petit Jury

Date: 6/23/10

DOCKET NO. 2009-GS-39-

JLH

1775

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

TERM 2009

THE STATE

vs.

TRAVIS TEASLEY

Indictment for

3039

DISTRIBUTION OF COCAINE BASE (CRACK
COCAINE) - 3RD OFFENSE

VIOLATION § 44-53-0375(b)

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
DISTRIBUTION OF COCAINE BASE (CRACK COCAINE)
THIRD OFFENSE

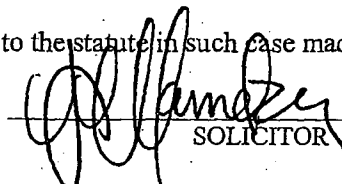
At a Court of General Sessions, convened on

the Grand Jurors of Pickens

County present upon their oath:

That TRAVIS TEASLEY did in Pickens County, on or about the 20th day of May, 2009, distribute, dispense, deliver, or aid, abet, or conspire to distribute, dispense or deliver to an undercover operative a quantity of Cocaine Base (Crack Cocaine), a controlled substance, such distribution not having been authorized by law. This is in violation of §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 case made and provided.


SOLICITOR

232

WITNESSES

Jonathan Hamby

Easley Police Department

5/21/2009

ARREST WARRANT NUMBER

K360606

ACTION OF GRAND JURY

TRUE BILL

Date NOV 10 2009

Mary A. Smith
Foreperson of Grand Jury

VERDICT

Guilty

Charles H. Duffin
Foreperson of Petit Jury

6/23/10
Date:

DOCKET NO. 2009-GS-39-

JLH

1776

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

TERM 2009

THE STATE

vs.

TRAVIS TEASLEY

Indictment for

0108

DISTRIBUTION OF COCAINE BASE WITHIN 1/2
MILE OF A SCHOOL

VIOLATION § 44-53-0445(B)(2)

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
DISTRIBUTION OF COCAINE BASE WITHIN 1/2 MILE OF A
SCHOOL

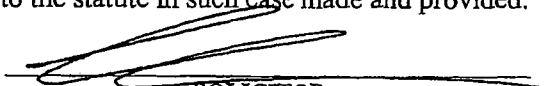
At a Court of General Sessions, convened on

the Grand Jurors of Pickens

County present upon their oath:

That TRAVIS TEASLEY did in Pickens County, on or about the 20th day of May, 2009, distribute a quantity of Cocaine Base (Crack Cocaine), a controlled substance, while being within one-half (1/2) mile proximity of Easley Christian School. This is in violation of §44-53-445 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

234

COUNTY OF Pickens
 STATE VS.
Travis Teasley

INDICTMENT/CASE#: 2009GS3901776A/W#: K360606Date of Offense: 5/20/2009S.C. Code § : 44-53-0445(B)(2)CDR Code #: 0108

AKA: _____

Race: _____ Sex: M Age: 28

DOB: _____ i42

Address: _____

City, State, Zip: Greenville, 29609

DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Drugs / Distribute, sell, purchase, manuf. crack cocaine, or pwid, near schoolin violation of § 44-53-0445(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0108

☒ NON-VIOLENT ☐ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: [Signature] 70128 [Signature] 71164

Hawker, Jenny

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

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

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

~~months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.~~☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 47.12 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§ 14-1-213 (Drug Court Surcharge) \$100 \$ 100.00

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

§ 90.7 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 6.90TOTAL \$ 236.90Clerk of Court/ Deputy Clerk Harold P. Weiborn, Jr.Court Reporter: Danette HanksPresiding Judge [Signature]Judge Code: C23Sentence Date: 6/28/11SENTENCE SHEET 10-15yrs
\$10K+

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Pickens

VS.

Travis Teasley

AKA:

Race: Sex: M Age: 28

DOB: SS#:

Address:

City, State, Zip: Greenville, 29609

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: DRUGS/MANUFACTURE, DISTRIBUTION, ETC. COCAINE BASE, 2ND OFFE

in violation of § 44-53-0375(b)(2) of the S.C. Code of Laws, bearing CDR Code # 3015

☐ NON-VIOLENT ☐ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSCw/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Hannaker, Jenny

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years

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

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

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

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

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

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine: \$

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

§ 47.12 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$

§ 14-1-213 (Drug Court Surcharge) \$100 \$ 25.00

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ 100.00

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

§ 90.7 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 6.90

TOTAL \$ 236.90

Clerk of Court/ Deputy Clerk

Court Reporter:

IN THE COURT OF GENERAL SESSIONS

235

INDICTMENT/CASE#: 2009GS3901775

A/W#: 2009GS3901775

Date of Offense: 5/20/2009

S.C. Code § : 44-53-0375(b)(2)

CDR Code #: 3015

SENTENCE SHEET

5.30yrs

10r 80-50k

☒ CONVICTED OF or ☐ PLEADS

in violation of § 44-53-0375(b)(2) of the S.C. Code of Laws, bearing CDR Code # 3015

☐ NON-VIOLENT ☐ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSCw/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Hannaker, Jenny

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years

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

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

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

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

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine: \$

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

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§ 14-1-213 (Drug Court Surcharge) \$100 \$ 25.00

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ 100.00

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

§ 90.7 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 6.90

TOTAL \$ 236.90

Clerk of Court/ Deputy Clerk

Court Reporter:

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☒Random Drug/Alcohol testing ☒

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

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

Presiding Judge

Judge Code:

Sentence Date:

Ca3

6/23/16

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

February 29th, 2012


Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

S.C. Supreme Court

Appeal from Pickens County

Alexander S. Macaulay, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TRAVIS TEASLEY,

APPELLANT

FINAL BRIEF OF APPELLANT

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent Defense
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STATEMENT OF ISSUE ON APPEAL

Did the trial judge err in qualifying an Easley police officer as an expert in drug investigation when the qualification was not necessary and appellant was prejudiced by the improper expert qualification?

STATEMENT OF THE CASE

On November 10, 2009, the Pickens County Grand Jury indicted Teasley for distribution of crack and distribution of crack within one half mile of a school, indictments #2009-GS-23-1775, 1776. On June 22, 2010, the State called the case for trial before the Honorable Alexander S. Macaulay. Teasley did not appear at trial and was tried in his absence. Attorney Stephen Alexander represented Teasley at trial. The jury returned verdicts of guilty and Judge Macaulay sealed the sentence.

On January 20, 2011, Teasley appeared before the Honorable Edward W. Miller for pronouncement of the sealed sentence. Judge Macaulay sentenced Teasley to 15 years concurrent for each charge. Judge Miller declined to reconsider Judge Macaulay's sentence. A timely notice of intent to appeal was filed on January 27, 2011. This appeal follows.

ARGUMENT

The trial judge erred in qualifying an Easley police officer as an expert in drug investigation when the qualification was not necessary and appellant was prejudiced by the improper expert qualification..

Officers with the Easley Police Department received information from an informant that an individual by the name of Trip would sell cocaine to an undercover officer. The informant provided Trip's telephone number and Officer Mills, acting undercover, called Trip and made arrangements to buy 10 grams of crack for \$475. (R. pp. 93-95; p. 100). Trip met the undercover officer at a hotel room and sold him crack. Immediately after the sale, officers, including Agent Jon Hamby, entered from an adjoining hotel room and arrested the appellant. (R. pp. 153-154).

At trial the State moved to qualify Agent Hamby as an expert in drug investigation. (R. p. 138, lines 20-22). Trial counsel for appellant Teasley objected stating, "I don't believe the extent of his experience and the fact that he took the courses on narcotics makes him an expert in the field of drug investigation." (R. p. 140, lines 9-13). The judge overruled the objection stating, "I understand. However, ours [sic] rules provides if the witness does have particular experience by reason of his background or training n a certain area that would be helpful to those who don't have that training being members of the jury that they would be - - could be qualified as an expert." (R. p. 140, lines 14 - 19). The judge erred.

Rule 702, SCRE, provides If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.

In Watson v. Ford Motor Co., 389 S.C. 434, 445 – 447, 699 S.E.2d 169, 175

(2010), the South Carolina Supreme court wrote:

Expert testimony may be used to help the jury to determine a fact in issue based on the expert's specialized knowledge, experience, or skill and is necessary in cases in which the subject matter falls outside the realm of ordinary lay knowledge. Stated differently, expert evidence is required where a factual issue must be resolved with scientific, technical, or any other specialized knowledge. Expert testimony differs from lay testimony in that an expert witness is permitted to state an opinion based on facts not within his firsthand knowledge or may base his opinion on information made available before the hearing so long as it is the type of information that is reasonably relied upon in the field to make opinions. *See* Rule 703, SCRE. On the other hand, a lay witness may only testify as to matters within his personal knowledge and may not offer opinion testimony which requires special knowledge, skill, experience, or training. *See* Rules 602 and 701, SCRE.

For these reasons, expert testimony receives additional scrutiny relative to other evidentiary decisions. Specifically, in executing its gatekeeping duties, the trial court must make three key preliminary findings which are fundamental to Rule 702 before the jury may consider expert testimony. First, the trial court must find that the subject matter is beyond the ordinary knowledge of the jury, thus requiring an expert to explain the matter to the jury. *See State v. Douglas*, 380 S.C. 499, 671 S.E.2d 606 (2009) (holding that the witness was improperly qualified as a forensic interviewing expert where the nature of her testimony was based on personal observations and discussions with the child victim). Next, while the expert need not be a specialist in the particular branch of the field, the trial court must find that the proffered expert has indeed acquired the requisite knowledge and skill to qualify as an expert in the particular subject matter. *See Gooding v. St. Francis Xavier Hosp.*, 326 S.C. 248, 252-53, 487 S.E.2d 596, 598 (1997) (observing that to be competent to testify as an expert, a witness must have acquired by reason of study or experience such knowledge and skill in a profession or science that he is better qualified than the jury

to form an opinion on the particular subject of his testimony). Finally, the trial court must evaluate the substance of the testimony and determine whether it is reliable. See State v. Council, 335 S.C. 1, 20, 515 S.E.2d 508, 518 (evaluating whether expert testimony on DNA analysis met the reliability requirements).

Expert testimony is not admissible unless it satisfies all three requirements with respect to subject matter, expert qualifications, and reliability. Thus, only after the trial court has found that expert testimony is necessary to assist the jury in resolving factual questions, the expert is qualified in the particular area, and the testimony is reliable, may the trial court admit the evidence and permit the jury to assign it such weight as it deems appropriate. See State v. White, 382 S.C. 265, 676 S.E.2d 684 (2009) (observing that the “familiar evidentiary mantra that a challenge to evidence goes to ‘weight, not admissibility’ may be invoked only after the trial court has vetted the matters of qualifications and reliability and admitted the evidence”).

The objection at trial was to Agent Hamby’s qualification as an expert in drug investigation, the second required key preliminary finding discussed above in Watson v. Ford. During voir dire, the officer testified as to courses he attended but also testified that he had never been qualified as an expert. (R. p. 139, lines 2 – p. 203, lines 1-13). While the judge notes that the rules allow expert testimony “if the witness does have particular experience by reason of his background or training in a certain area,” the judge failed to make a specific finding in regard to Agent Hamby’s qualification as an expert in drug investigation.

Additionally, the judge failed to make the first required key preliminary finding that the subject matter of the officer’s testimony was beyond the ordinary knowledge of the jury and required expert explanation. The majority of the officer’s testimony involved his personal knowledge and involvement in the undercover operation, testimony

appropriate from a lay witness rather than an expert witness. At one point the officer testified that the most common denomination when buying crack is the \$20 rock and the amount purchased during the undercover operation was a large amount. (R. p. 164, lines 9-19). This might be important if there was an issue as to intent to distribute. In the present case, however, appellant was charged with distribution not possession with intent to distribute. Intent to distribute was not an issue the jury needed to decide.

In State v. Douglas, 380 S.C. 499, 671 S.E.2d 606 (2009), the South Carolina Supreme Court held that it was not necessary to qualify, as an expert in forensic interviewing, the victim assistance officer who interviewed the child alleging sexual abuse. The Court in Douglas wrote, “We find the testimony given by Herod [the victim assistance officer] in the present case simply was not required to be presented by an expert witness. Herod testified only as to her personal observations and experiences, and her interview with the Victim in this case. Accordingly, we find it was unnecessary for the trial court to have qualified her as an expert.” 380 S.C. at 502-503, 671 S.E.2d at 608. As in Douglas the testimony given by Agent Hamby simply was not required to be presented by an expert.

The present case differs from Douglas because the improperly qualified expert witness police officer was also an eye witness to the undercover transaction as opposed to an interviewer. In Douglas the Court found no prejudice from the interviewer’s testimony or her qualification as an expert. The prejudice in the present case comes from the fact that the improperly qualified expert was also a witness and his credibility a crucial issue. The judge instructed the jury, “But again, as I’ve mention [sic] in other instance in this case, all witnesses, experts as well as lay witnesses, the weight of their

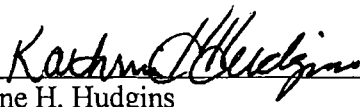
testimony and value of their testimony even as to credibility is for your determination.” (R. p. 140, lines 22 – p. 141, line 1). The instruction does not cure the prejudice and is confusing to the jury as the police officer’s testimony did not involve any subject matter requiring expert testimony.

The judge failed to make the three required preliminary findings before allowing expert testimony. First, the judge failed to find that the subject matter of the proposed expert testimony was beyond the ordinary knowledge of the jury. Second, the judge failed to specifically find that the officer was qualified as an expert in drug investigation. Third, the judge made no finding as to reliability. The judge erred in allowing the officer to testify as an expert.

CONCLUSION

Based on the above argument, the appellant's sentence and conviction should be reversed and the case remanded for a new trial.

Respectfully submitted,


Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

This 20th day of March, 2012.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

March 20th, 2012


Kathrine H. Hudgins
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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Pickens County

Alexander S. Macaulay, Circuit Court Judge

THE STATE,

RESPONDENT,

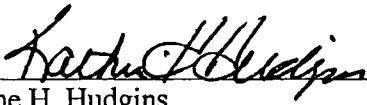
V.

TRAVIS TEASLEY,

APPELLANT

CERTIFICATE OF SERVICE

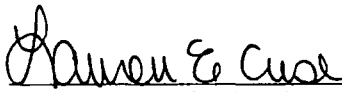
The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Christina J. Catoe, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 20th day of March, 2012.



Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 20th day of March, 2012.



Notary Public for South Carolina
My Commission Expires: August 23, 2014.



SCCID

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March 20, 2012

Christina J. Catoe, Esquire
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Re: The State v. Travis Teasley

Dear Christina:

Enclosed are two copies of the Final Brief of Appellant in the above entitled case, which I have filed today with the South Carolina Court of Appeals.

Please call me if you have any questions.

Sincerely,

Kathrine H. Hudgins
Appellate Defender

KHH:lec

Enclosure

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Pickens County

The Honorable Alexander S. Macaulay, Circuit Court Judge

THE STATE OF SOUTH CAROLINA

RESPONDENT

TRAVIS TEASLEY

APPELLANT

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<u>State v. Wiley</u> , 387 S.C. 490, 692 S.E.2d 560 (Ct. App. 2010)	8

STATEMENT OF ISSUE ON APPEAL

The issue raised on appeal is not preserved for review; however, in any event, Appellant suffered no prejudice from Agent Hamby's qualification as an expert in drug investigation where there was overwhelming evidence of Appellant's guilt.

STATEMENT OF THE CASE

Appellant was indicted in Pickens County in November 2009 for distribution of crack cocaine and distribution of crack cocaine within one half-mile of a school. (R. p. 230-33). On June 22-23, 2010, Appellant was tried in his absence before the Honorable Alexander S. Macaulay. The jury found Appellant guilty of both charges, and Judge Macaulay issued a sealed sentence. On January 20, 2011, Appellant appeared before the Honorable Edward W. Miller for pronouncement of the sealed sentence, which was fifteen years, concurrent, on each charge. (See R. p. 224-28). A timely notice of appeal was served and filed.

ARGUMENT

The issue raised on appeal is not preserved for review; however, in any event, Appellant suffered no prejudice from Agent Hamby's qualification as an expert in drug investigation where there was overwhelming evidence of Appellant's guilt.

Issue Preservation

Appellant now argues that the trial judge erred in qualifying Agent Hamby as an expert in drug investigation because the qualification was not necessary and Appellant was prejudiced by the improper expert qualification. However, this argument was never made to the trial judge. The only argument advanced by Appellant to the trial judge was that Appellant "would oppose him being qualified as an expert, Your Honor. I don't believe the extent of his experience and the fact that he took the courses on narcotics makes him an expert in the field of drug investigation." (See R. p. 140, lines 9-13). After the judge indicated that he would overrule Appellant's objection and qualify the witness as an expert, no further arguments or objections were raised. (See R. p. 140-41).

Appellant essentially concedes in his Brief that the only issue that is arguably preserved is regarding Agent Hamby's expert qualifications. (See Brief of Appellant, p. 7; see R. p. 140, lines 9-13). However, Appellant makes no argument on appeal regarding whether Hamby's qualifications were actually insufficient.¹ (See Brief of Appellant, p. 7). Instead, Appellant presents arguments on appeal regarding whether the trial court erred in failing to make specific findings on the three required preliminary findings with respect to expert testimony, and whether it was necessary to qualify Agent

¹ In any event, the trial court's implicit finding that Agent Hamby had acquired particular experience that would be helpful to the jury, by reason of his background or training the area of drug investigations, is supported by the record and was not erroneous. (See R. p. 140, lines 14-19). See *State v. Goode*, 305 S.C. 176, 177-78, 406 S.E.2d 391, 392-93 (Ct. App. 1991). Agent Hamby had worked on 150-200 drug cases in his twelve years with the Easley Police Department, and had taken several advanced narcotics courses in order to specialize in the field. (See R. p. 137-39). The fact that Agent Hamby had never before been qualified as an expert did not necessarily preclude him from being qualified as an expert in this case. (See R. p. 140, lines 4-5).

Hamby as an expert. (See Brief of Appellant, p. 5-9). The issues argued on appeal are not preserved for appellate review since these issues were not raised to the trial court. See, e.g., State v. Stahlnecker, 386 S.C. 609, 617, 690 S.E.2d 565, 570 (2010) (“For an issue to be properly preserved it has to be raised to and ruled on by the trial court.”) (emphasis added) (citation omitted); State v. Adams, 332 S.C. 139, 144-145, 504 S.E.2d 124, 126-27 (Ct. App. 1998) (argument not preserved for appeal where precise issue not presented to the trial court) (citations omitted); State v. Caldwell, 378 S.C. 268, 283, 662 S.E.2d 474, 482 (Ct. App. 2008) (a party may not argue one ground at trial and another on appeal).

Argument

Assuming the issues raised on appeal were properly preserved, there is no reversible error based upon Agent Hamby’s qualification as an expert. First, even if it was unnecessary to qualify Agent Hamby as an expert, Appellant did not suffer prejudice since the jury was not required to give any additional weight to Hamby’s testimony simply because he was qualified as an expert. See State v. Douglas, 380 S.C. 499, 502-503, 671 S.E.2d 606, 608-609 (2009). The jury was instructed both contemporaneously and in the final jury instructions that the credibility, weight, and value of an expert witness’s testimony are matters for the jury to determine; that an expert witness’s testimony is judged in the same manner as that of any other witness; and that the jury was free to accept or reject the expert’s testimony as it saw fit. (See R. p. 140, line 22 – p. 141, line 1; p. 190-91). The judge also specifically told the jury that “[a]n expert witness’s testimony is to be given no greater weight than that of other witnesses just because of the fact that the witness is an expert.” (R. p. 191, lines 14-17). Therefore, the

jury was fully aware that the credibility of Agent Hamby's testimony was to be evaluated just the same as that of any other witness at trial. The fact that Agent Hamby was also an eyewitness to some of the events does not change the analysis under State v. Douglas in this case, particularly where Agent Hamby was not the critical eyewitness who actually purchased the drugs from Appellant, and where the most damaging evidence - the audiotapes of the phone calls and the audiotape of the actual drug transaction - did not come into evidence through Hamby's testimony. (See R. p. 91-106; p. 137-72).

In that vein, there was no prejudice to Appellant from Hamby's qualification as an expert because there was overwhelming evidence of Appellant's guilt such that no other rational conclusion could have been reached. As mentioned previously, the jury heard audiotapes of the phone calls between Appellant and the undercover officer setting up the drug transaction, and also heard an audiotape of the drug transaction itself. (See R. p. 91-106). The cell phone used to set up the drug buy was found in the possession of Appellant's girlfriend, who was outside waiting in the car while the drug transaction took place. (R. p. 174-75). Officer Mills, the undercover officer involved in the drug transaction, testified at trial and described the phone calls setting up the drug deal and described his hand-to-hand drug transaction with Appellant. (See R. p. 91-106). Furthermore, Appellant was apprehended immediately after the transaction and had the buy money on his person. (R. p. 154-55). Thereafter, after being given Miranda warnings, Appellant gave a taped statement in which he admitted his guilt regarding distribution of crack cocaine. (See State's Exhibit # 5, see R. p. 164-66). In addition, the jury had in evidence a map prepared by the county department reflecting the proximity of the drug distribution location to a nearby school. (See R. p. 146-51). Finally, the

substance Officer Mills received from Appellant was tested and found to be 4.45 grams of cocaine base. (R. p. 130, lines 13-19).

Accordingly, considering the overwhelming evidence of guilt, Appellant suffered no prejudice from any error with respect to Agent Hamby's qualification as an expert. See State v. Douglas, supra; see, e.g., State v. Bailey, 298 S.C. 1, 5, 377 S.E.2d 581, 584 (1989) (a conviction should not be set aside because of insubstantial errors not effecting the result when the defendant's guilt has been conclusively proven by competent evidence such that no other rational conclusion could be reached). Appellant's counsel acknowledged the overwhelming evidence of guilt at the sentencing hearing when he stated, "[T]o be frank, Mr. Teasley had always planned to plead guilty to this charge because the evidence was pretty solid against him and he was aware of that." (See R. p. 226, lines 14-17). In addition, Appellant admitted his guilt in open court at the sentencing proceeding. (See R. p. 225, lines 6-18). Therefore, any trial error was harmless beyond a reasonable doubt. See State v. Sroka, 267 S.C. 664, 665, 230 S.E.2d 816, 817 (1976) (alleged trial error is not prejudicial, and further review of the record is unnecessary, where appellant admits guilt in open court during the pre-sentence inquiry); see also State v. Wiley, 387 S.C. 490, 496, 692 S.E.2d 560, 564 (Ct. App. 2010).

CONCLUSION

For the reasons discussed above, Respondent requests that this Court affirm Appellant's convictions and sentences.

Respectfully submitted,

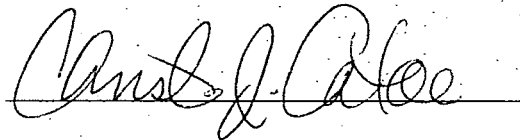
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A handwritten signature in black ink, appearing to read "Christina J. Catoe", written over a horizontal line.

CHRISTINA J. CATOE

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ATTORNEYS FOR RESPONDENT

March 20, 2012

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Pickens County
The Honorable Alexander S. Macaulay, Circuit Court Judge

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

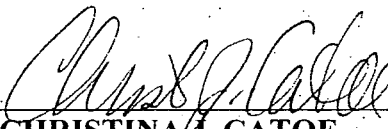
v.

TRAVIS TEASLEY,

APPELLANT.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the **Final Brief of Respondent** complies with Rule 211(b), SCACR, and also complies with the South Carolina Supreme Court's August 13, 2007 **Order on Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings**.



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March 20, 2012

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Pickens County
The Honorable Alexander S. Macaulay, Circuit Court Judge

THE STATE OF SOUTH CAROLINA,

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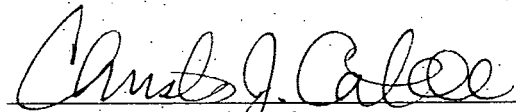
v.

TRAVIS TEASLEY,

APPELLANT.

AFFIDAVIT OF SERVICE

The undersigned attorney hereby certifies that the **Final Brief of Respondent** in the above-referenced case has been served upon **KATHRINE H. HUDGINS**, Division of Appellate Defense, South Carolina Commission on Indigent Defense, Post Office Box 11589, Columbia, South Carolina 29211-1589, this **20th day of March, 2012**.

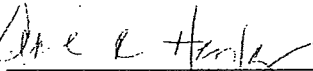


CHRISTINA J. CATOE

Assistant Attorney General

Office of Attorney General
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(803) 734-3737

SWORN to before me this 20th day of March, 2012.



Notary Public for South Carolina.

My Commission Expires: 7/18/2017