THE STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM NEWBERRY COUNTY
Court of General Sessions

The Honorable Eugene C. Griffith, Jr., Circuit Court Judge

Indictment No.: 2012-GS-36-0267

The State,.....Respondent,

v.

Toaby Alexander Trapp,.....Petitioner.

APPENDIX
Volume 1 of 2

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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v.

Toaby Alexander Trapp,.....Appellant.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
COUNTY OF Newberry) IN THE COURT OF GENERAL SESSIONS
STATE VS.)
Tonby Alexander Tripp) INDICTMENT/CASE#: 12GS36-0267
AKA:) A/W#: M481160
Race: Sex: M Age: 44) Date of Offense: 10/8/2011
DOB: [redacted] SS#: [redacted]) S.C. Code § : 44-53-0375
Address: 90 Tittle Ranches Road) CDR Code #: 0452
City,State,Zip: Newberry, SC 29108)
DL#: [redacted] SID#:) SENTENCE SHEET 25 yrs - 30 yrs and 50K
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Drugs/ Trafficking in ice, crank or crack - 10 g or more, but less than 28 g -

in violation of § 44-53-0375 of the S.C. Code of Laws, bearing CDR Code # 0452
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory CPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

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

Daniel Taylor	100582			
	SC Bar#	Defendant	Attorney for Defendant	SC Bar#

WHEREFORE, the Defendant is commited to the ☒ State Department of Corrections, ☐ ~~County Detention Center~~,
for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and it to pay a fine of $ 50,000.00 ; 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: _____ $ _____ _____ days/hours Public Service Employment
Payment Terms: Obtain GED ☐
☐ Set by SCDPPPS Attend Voc. Rehab. or Job Corp. _____
SCANNED May serve W/E begining _____
Recipient: Substance Abuse Counseling ☐
Random Drug/Alcohol testing: ☐

*Fine:		$ 50,000.00
§ 14-1-206 (Assessments 107.5 %)		$ 53,750.00
§ 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	$
Proviso 47.9 Public Def Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$ 150.00
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ 3,022.50
TOTAL		$ 104,150.00

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: 10-31-14

Clerk of Court Deputy Clerk
Court Reporter:

SCCA/217 (03/2011)

WITNESSES

Nick Bonknight

Newberry County Sheriff

WARRANT NUMBER

M481160

TRUE BILL

Marie M. Hickman SCANNED

Foreman of the Grand Jury

ate: 3-16-12

VERDICT

Guilty

Elizabeth A. Hedgepeth

oreman 10-31-14

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

March Term 2012

Indictment # 12GS36-0267

THE STATE

vs.

Toaby Alexander Trapp

INDICTMENT FOR

TRAFFICKING CRACK COCAINE
44-53-0375C

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

INDICTMENT FOR

TRAFFICKING CRACK COCAINE
44-53-0375

At a Court of General Sessions, convened on the 15th day of March, 2012 the Grand Jurors of Newberry County present upon their oath:

That Toaby Alexander Trapp, did in Newberry County, state aforesaid, on or about the 8th day of October, 2011 willfully, unlawfully, and knowingly traffic in cocaine base (crack cocaine), to wit: that the said defendant(s) did sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was in actual or constructive possession or did knowingly attempt to become in actual or constructive possession of ten (10) grams or more of cocaine base (crack cocaine), in violation of Section 44-53-375 of the South Carolina Code of Laws, 1976, as amended

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

Solicitor

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of General Sessions

The Honorable Eugene C. Griffith, Jr., Circuit Court Judge

RECEIVED
NOV 05 2014
SC Court of Appeals

Case No.: 2012-GS-36-0267

The State,.....Respondent,

v.

Toaby Alexander Trapp,.....Appellant.

NOTICE OF APPEAL

Toaby Alexander Trapp appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Eugene C. Griffith, Jr. on October 31, 2014. This appeal is taken from an order on the record of the Honorable Eugene C. Griffith, Jr. on October 31, 2014, which denied Appellant's motion for a new trial and Judgment Notwithstanding the Verdict (JNOV).

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Attorney for Appellant

November 5, 2014

FILED
NEWBERRY COUNTY
2014 NOV 5 PM 12 51
JACKIE S. BOWERS
CLERK OF COURT

Other Counsel of Record

Dale Scott
Taylor Daniel
Assistant Solicitor
Eighth Circuit Solicitor's Office
PO Box 516
Greenwood, SC 29648-0516

THE COURT: All right, folks. I got another Jury working in the Jury Room which is the waiting room in Family Court. It's right over there. They'll probably be finished here shortly. I don't know, it may take longer. When y'all come back after lunch at 1:30, we're going to try to get started with this trial. What I want you to do is come right to this metal detector. Y'all just walk through and there will be a Bailiff there and they will show you to either go in this room or put you in another room depending on whether or not this Jury Room is empty. Until then, don't begin discussing the case even though you don't know much about it. I'll have y'all back and ready to go about 1:30. See you after while. All right.

(Whereupon, a short break was taken.)

THE COURT: All right. And, Solicitor, you ready for these pre-trial matters?

MR. SCOTT: I think so, yes.

THE COURT: Mr. Lake, you ready?

MR. LAKE: Yes, Your Honor.

THE COURT: All right. These are your matters.

MR. LAKE: Thank you, Your Honor. First, the Defendant would ask to move to suppress the search warrant that was issued in this particular case, Your Honor. The basis of that is that it's our contention that the affidavit or basis for the, I guess, probable cause for

the search warrant contains essentially what would be false information and that was the basis of it. I think within the body of that affidavit, it basically says or that basically the probable cause is that, that it's upon going to this particular location, they observed a pill bottle in plain view. And based upon that, they get a search warrant and then come back and execute a search warrant. And they allege that they find some additional information in that, Your Honor. We are contesting that when they went to that particular location, there was actually no pill bottle there. But then there are some later pictures that illustrate that. Just for the record, Your Honor, I think I have a number of photographs that I'd like to show the Court prior to, packets of photographs provided to me. Could I get them marked?

THE COURT: We want those as the State's, Defense?

MR. SCOTT: I can take a look at them.

THE COURT: We are just going to mark them Defense 1, 2, whatever, however many there are?

MR. LAKE: Yes, sir.

(Whereupon, Defendant's exhibits 1, 2, 3, 4, 5, 6, and 7 were marked for identification only.)

MR. LAKE: Your Honor, I'm going to hand these up to you, but I just kind of wanted to slowly kind of go through them. And I don't know exactly which one is which

that I'm referring to.

THE COURT: All these are interior rooms of the house?

MR. LAKE: Yes, sir.

THE COURT: Okay.

MR. LAKE: Now, what we have is, again, is the question where they -- the law enforcement is actually responding to a call for a burglary. When they go to the scene, they actually start photographing and kind of responding to it as a burglary. There were a number of photographs that were taken of Mr. Trapp's home. Now, there were photographs that were taken before anything was disturbed or anything on those lines was in the condition that it was in prior to this alleged location of the drugs. They are actually indicating and I'll pass this up to the Court, you have Defendant's exhibit number 1 and 2 which show the entranceway into that particular location. And you can see at that particular time it's in the same condition as the burglary, because there are a number of boxes that are located in that particular area. I think, Your Honor, what's important is when you look at pictures number 3, 6 and 7. And also just showing you 4 and 5 also shows additional photographs of that same location. Well, 3, 6 and 7, Your Honor, are important. Because they have photographs of this particular dresser as it looked, you

know, prior to the search and -- and right at the burglary. And as you look at that photograph, Your Honor, you get a chance to see what's on that particular dresser at that particular time, and there is of course, no pill bottle.

(Whereupon, State's exhibit 8, 9 and 10 were marked for identification only.)

MR. LAKE: Thank you, Your Honor. And then when you get a little bit closer and they take some additional photographs. And you can tell they've kind of, law enforcement has kind of disturbed the scene again. When you look at photographs 8, 9 and 10, then all of a sudden something new has been added to the photograph. Okay. It is our contention, Your Honor, and with not even addressing, I guess, what would later on be the chain-of-custody issue, we believe just based upon the photographs alone we have shown, I guess, a substantial showing that there was false information that was added into the search warrant. Your Honor, if you look at the search warrant -- and I'll provide you with a copy of that. Your Honor, if you look at the affidavit for the search warrant, the basis of that search warrant, essentially it shows that the scene of the, that once arriving at, the officer stated processing the scene, a bottle containing a quantity of a white rock-like

substance believed to be crack cocaine and a razor blade with residue on it was observed in plain view in a bedroom of the residence. I guess, you will hear testimony from Defense and I don't think there is going to be any dispute that we're talking about what would be Mr. Trapp's bedroom. And the basis of that search warrant is this allegation that, of course, this was in plain view. But, Your Honor, we present photographs showing pre-search or pre-whatever you want to do that, there is actually no pill bottle that was located on that dresser. And I'm not sure whether Deputy Spreng, whose going to testify or not, because he's not listed as a witness in this particular case. But as far as the initial report goes, Your Honor, that was done by Sergeant Bouknight at the time. You know, there again, and it's basically, it's hearsay information. The Court basically says that the -- once the pill bottle contained a quantity of white, cookie-like substance believing to be crack cocaine was observed, Spreng called the reporting officer and the reporting officer advised Spreng that the reporting officer would get a search warrant and not to go any further processing. Spreng stopped processing the scene and placed Trapp into, I guess, investigative detention. So I don't know whether Spreng, he didn't touch anything after that of discovery. But we know for a fact, Your Honor, that when the scene is

not disturbed and there are boxes all over everywhere and one of the things that Deputy Epps will testify and I hope he testifies at this particular hearing, he testified that one of the reasons why he actually didn't go into Mr. Trapp's room was because of the number of boxes that were actually located in that particular room and everything like that. But if you can see, if you look at those photographs, Your Honor, it's clear that there is no pill bottle on that dresser. And then suddenly, there is a pill bottle on the dresser. So based upon that, Your Honor, we think that we have met the burden of showing some falsity in that particular affidavit. Now it's up to, I guess, the State in this particular case to, I guess, explain the falsity within that particular document. But I think that if we can establish that there is a preliminary showing, we're entitled to a hearing on the issue of whether the Magistrate in this particular case was given what's -- was given substantial information to make a determination of probable cause. So I think we're entitled to a hearing, Your Honor. And if we prove by a preponderance of the evidence that there is a false statement, then we are entitled to have that information suppressed.

THE COURT: All right. What you got, Mr. Scott?

MR. SCOTT: I guess I could proffer Robert's

testimony. He might be able to explain it. My understanding is the, I guess the motion is that there was a false statement in the affidavit. And that, I guess, the pill bottle was actually not on the dresser. Is that what your understanding is?

THE COURT: Well, that's what the photographs -- well, there's photographs of the dresser without the pill bottle and photographs with it. The timing of the photographs, I have no idea.

MR. SCOTT: Right.

THE COURT: But that's what Mr. Lake is arguing.

MR. SCOTT: All right. Let me call Robert Dennis then.

THE COURT: All right. Come around to be sworn, Mr. Dennis.

MR. LAKE: Your Honor, at this particular time we would object to Lieutenant Dennis testifying in this particular case.

THE COURT: He's Captain Dennis now.

MR. LAKE: Captain Dennis. I'm sorry.

THE COURT: Captain Dennis.

MR. LAKE: Captain. I apologize. To him testifying in this particular case for several reasons. One he wasn't involved in the determination of probable cause. This is the information that was passed on, I assume, from

Spreng to Investigator Bouknight and Investigator Bouknight testified as to the Magistrate. Captain Dennis was not a party to that conversation. And I don't think he's allowed to testify to that. Also, Your Honor, we have been provided no discovery that he has in any way, played any kind of role in the obtaining that search warrant at all.

THE COURT: All right. Well, what's Captain Dennis' involvement?

MR. SCOTT: I'm kind of learning this as we go. I'm going to have to proffer some testimony from him, Judge.

THE COURT: All right. Come around and be sworn. I understand your objection.

MR. LAKE: Thank you.

THE COURT: If he doesn't have sufficient knowledge for proffer, this is an in-camera anyway.

ROBERT DENNIS, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SCOTT:

Q All right. Captain Dennis, October 8, 2011, did you respond to Mr. Trapp's home at 91 Little Ranches Road?

A I did.

Q And what was the -- why'd you go there?

A The first call I received was from Investigator

Robert Spreng at the time who was the on-call investigator. One of my job duties and roles during that period of time was I was over the Investigations Unit. I scheduled the on-call investigators. The on-call investigators, once they're called out, they make us aware and notify us that they're responding to whether it's a burglary or whatever the case may be. So he had made us aware of that he was responding to a burglary at 91 Little Ranches Drive. The second call I received was from Investigator Nick Bouknight who had been summoned by Investigator Spreng. And his discovery after being there for a burglary, he had discovered what he thought was some controlled substance. And was asking, you know, what he needed to do from that point. He was advised by Bouknight to hold his position, not letting anyone go back in the residence or anything like that until he could secure a search warrant. I was notified of that as well and that's what prompted me to respond to the scene.

Q Okay. So when you went to the scene, did you observe the pill bottle?

A Once I got there to the scene, I was pretty much briefed of what was going on. And then was advised through Robert Spreng by, we have digital cameras. So he could actually show you the pictures through the digital process.

Q Okay. And where was the pill bottle when you got there?
A The pictures I looked at, they were on a dresser that was in the bedroom.
Q All right. I'm not talking about pictures. What did you actually observe yourself?
A The actual pill bottle was still left on the dresser in Mr. Trapp's room or what was identified as Mr. Trapp's room. And as a matter of fact, they still had him, they were sitting in the front living room.
Q And did you get to talk with Mr. Trapp?
A I did. I mirandized Mr. Trapp and---
MR. LAKE: Objection. I think he's going out the scope of this particular hearing. What we're here to testify to only relates to probable cause for the search warrant.
THE COURT: Okay. But, I mean, I think he's still there. I mean, I understand, but let's get it all out there so I can kind of get an understanding of what's going on.
MR. SCOTT: Yes, sir. And really the testimony goes to probable cause as well.
Q Okay. So you did talk with Mr. Trapp?
A I did.
Q And what did he say to you?

A The first thing I asked him about was the, we were just kind of like talking about the break-in. And then I advised him the reason why I was there for the call of there was alleged drugs there in the room. And during that conversation, Mr. Trapp advised that it would be determined to be crack cocaine. That he basically forgot it was in there. That whenever he notified our dispatch that his home had been broken into, the dispatcher advised him don't touch anything, don't move anything, we have officers responding. So he said he didn't do anything. He waited until law enforcement got there.

Q Okay. So you responded to a burglary. He says his home has been broken into and he gives you consent to come inside and investigate. At that point, your agency located this pill bottle. You said he then admitted to you that it was crack. He said that he admitted that he had forgotten it was there?

A That is correct.

Q All right. Well, let's, I guess, look at these pictures Mr. Lake was talking about. This is Defense exhibit 8. And what are we looking at there?

A This is a closeup of a picture of the dresser, the top of the dresser with the pill bottle and a razor blade. Looks like a perfume bottle and some Alka-Seltzer on there, an ashtray on top.

Q All right. Is that what you observed when you got there?
A This is what I observed when I got there, yes.
Q Okay. And then again, I guess---
A That's exhibit 8.
Q 3, and then 9, is pretty much the same thing with the pill bottle, and you can see it's kind of in front of like the little cable box, whatever that is?
A That is correct. In picture 9, the difference between picture 9 and 8 is just, you know, a distant shot as far as number 8 being a close-up. Number 9 being just a little bit further back.
Q I think what Mr. Lake is talking about if you look at Defense 6 and 3. You can see the cable box and you can see the T.V. How do you explain why the pill bottle is not in that picture?
A The only thing that, you know, we would have to look at the individual pictures on the disc to look at the time that they were taken to see if anything had been removed. I'll be honest with you, we stepped on boxes, we stepped on clothes and different things to move in and around that room.
Q And his room had been ransacked?
A It had drawers pulled out, shoeboxes thrown all over the place. At one point, I crawled across the bed to get

into the room to where the dresser was at.
Q Did you put that pill bottle there? Did you put that pill bottle on his dresser?
A No sir, I did not.
Q That pill bottle was there on the dresser when you arrived?
A It was.
Q Okay. I mean, is it possible that when these pictures were taken it had already been seized and, I guess, taken into evidence?
A That is correct.
MR. LAKE: Objection, Your Honor. That calls for speculation. He has no personal knowledge. I think he's testified to that.
MR. SCOTT: Judge, I think that's probably as far as establishing probable cause with a search warrant.
Q At that point when you see the pill bottle, what do you do, what's your next step?
A Well, that information had already been relayed between Officer Spreng to Bouknight as far as what was going on. I pretty much just confirmed with Bouknight who was, had already met with the Judge and was in route back to the scene. And that's whenever I had shared with him the information of what I'd learned through talking with Mr. Trapp.

Q Okay. So initial entry is by consent. And then once you found the pill bottle you apply for a search warrant and you list that pill bottle in your affidavit?
A That is correct.
Q And then do you return to the home with a search warrant?
A Well, I never left the home once I got there.
Q Oh.
A Officer Bouknight is the one that retrieved the warrant and returned with the warrant. I was on the scene the majority of the time until Spreng, not Spreng, Bouknight got there.
Q Okay. And then did you search the house further after that?
A I was. I actually was the executor on the search warrant and explained that to Mr. Trapp once Bouknight got there.
Q Did you seize any additional evidence?
A I would have to look at the search warrant just to refresh. I'm sorry. I've got it right here.
Q Okay.
A Thank you. On the return of the search warrant, we listed pictures taken by Robert Spreng. Two plastic bags with white solid substance found on the floor in bedroom in front of dresser. A pill bottle on dresser with white

solid substance. A CD case scale, a spoon and razor blade with residue and a straw.

Q Okay.

A And those items were seized on October the 9th, 2011 around 1:24 a.m., which that's the time we started the search warrant and execution of it.

Q Okay.

MR. SCOTT: Okay. Judge, I think Captain Dennis has explained that he personally observes the crack on the dresser, that Mr. Trapp admits to it. I think what Mr. Lake has to do, I believe it's Franks v. Delaware. If he's alleging a false statement in the affidavit he's got to, a), show there is a false statement. I contend there is none.

MR. LAKE: Your Honor, I haven't had a chance to even question him.

THE COURT: Yeah. All right. Let him question him and then we can argue it.

MR. SCOTT: Okay.

THE COURT: I agree with that. Let me Mr. Lake have an opportunity to cross-examine Captain Dennis.

CROSS-EXAMINATION

BY MR. LAKE::

Q Captain Dennis, you played absolutely no role in providing any information to the Magistrate, did you?

A No, I did not. No.
Q Did you ever talk to the Magistrate after that night?
A Not that night, no.
Q And were you present when Investigator Spreng actually took the photographs?
A Not at that moment, no.
Q So you weren't present when he took the photographs and you played no role in the search warrant itself. And actually, in fact, you arrived at the scene almost the same time that Investigator Bouknight arrived at the scene with the search warrant, correct?
A He was probably maybe four or five minutes behind me pulling in.
Q He already has the warrant at this particular point, correct?
A That is correct.
Q And this would have been before you go into the house and before you even see anything that you allege is there, correct?
A Ask it again, Mr. Lake.
Q Have you had a chance to read Investigator Bouknight's report?
A I have.
Q And I think in his report he indicates that you got there just right before he did?

A That's correct.
Q But he doesn't distinguish how many minutes---
A No. No.
Q ---whether it was at the same time or anything along those lines, correct?
A I was there long enough for Investigator Spreng to brief me on what he had as well as phone conversation of Investigator Bouknight explaining to me what Spreng had explained to him. And he was going to get the search warrant which prompted me to come on out.
Q Okay.
A So once I got there on scene, it was there -- I was there long enough for Investigator Spreng to explain to me what was going on up to the point of going up to your client, Mr. Trapp, and then talking with him before Mr. Bouknight pulled in.
Q So it's fair to say that before you actually went in the house and saw what you alleged to be the drugs, I mean, the search warrant is there at this particular point, correct?
A Yes, sir. But if you remember, I clarified that -- in direct testimony that Investigator Spreng visually showed me what he had taken pictures of prior to my arrival. So that way, he was giving me an indication of what he had seen and what testimony he had given to

Investigator Bouknight to be explained to the Magistrate.
Q Do you have any personal knowledge as to whether Investigator Spreng actually spoke with the Magistrate in this particular case to give any supplemental type of testimony regarding the affidavit that was given at that time?
A I cannot answer that.
Q So you don't have any knowledge about that, correct?
A No, sir.
Q Okay. And the only thing that you know about the search warrant is that the basic premise of the probable cause is solely based upon the container that is alleged to be on the dresser at that particular time?
A That is correct.
Q And so you were -- when he took these particular photographs, you don't know what -- at what point this was, do you?
A No sir, I do not. Give me just a moment, please. On Defendant's exhibit 2, 5, 4 and 1, after being there that is what I visually observed once the search warrant had arrived on scene and after talking with Mr. Trapp. In Defense exhibit 8, 9 and 10 is the bottle, the razor blade, of what I actually saw with my eyes on the dresser before actually going and making any type of contact with the evidence. And then in 7, 3 and 6, without further

investigation of these pictures as far as timestamp, I cannot tell you if this was before your claim of the bottle being there or not being there or after it was seized as evidence.

Q Well, who would have moved it?

A It would have been picked up---

Q The question is, do you have personal knowledge as to who moved it, within those photographs and then who moved it before or after in relation to those pictures?

A The search warrant would have been issued or executed by me which would have been the documentation of it. And to maintain that chain, Investigator Nick Bouknight would have been the one collecting that bottle of evidence.

Q Do you have any personal knowledge as to when anyone moved it at that particular time, whether it's moved before or after or anything on those lines?

A I believe my testimony was just--

Q Before you give the, expound upon your answer--

A -- if you would allow me to answer the first question, then I can elaborate.

THE COURT: Now, hang on. Don't talk all over each other.

Q Captain Dennis, answer my question first and then you'll get a chance to explain it. The question that I asked you is a yes or no question. I asked you did you

have any personal knowledge yourself as to when that bottle was moved and by who it was moved?

THE COURT: That's not yes or no. When and who is not yes or no, so when and who.

Q Yes or no? I've added two questions, but do you have any personal knowledge?

(Whereupon, Defendant's Exhibit 8, 9, and 10 were marked for identification only.)

A I will answer that the same way I answered it earlier in the explanation. In Defendant's exhibit 2, 5, 4 and 1, that is what the scene depicts as I entered personally and viewed the room. Defendant's exhibit 8, 9 and 10, that is what I viewed on the Defendant's dresser of his room. Defendant's pictures 6, 3 and 7, without the timestamp of those pictures I cannot give you any time or who or when that evidence was moved until we're able to view that.

Q Is there anything up until today that has prevented you from learning that information as to time, who, when, or if these pictures were derived?

A There is nothing that has prevented me from doing that other than being able to look at what the disc on where these pictures were given to you under Rule 5.

Q And it will be fair to say that Deputy Epps at the time indicated that he couldn't go into the room because, if you look at his report, because of the number of

shoeboxes that were on the floor, correct?
A I think it would be fair to say that he probably didn't want to make entry into the room due to that.
Q And would it be fair to say that in these particular photographs, specifically number 3, that it's the same kind of condition in terms of shoeboxes that are all over the place, correct? That is consistent with what he described in his report?
A That is correct.
Q And in this particular photograph and Deputy Epps is actually the responding officer, correct?
A That's correct.
Q And in that particular photograph, do you see a pill bottle on that particular dresser, yes or no?
A No.
Q And you're not listed on the return in this particular case either, are you? The return for the items that were found on the warrant?
A I believe I am. That is my signature on the search warrant executed on October the 9th, 2011 at 1:24 a.m.
Q Okay.
A That is my handwriting.
MR. LAKE: Beg the Court's indulgence.
Q In this search warrant that Investigator Bouknight got at the time, in that particular affidavit that was

done, it also doesn't mention anything or makes any allegations about any kind of confession or statement or anything along those lines, does it? That's not contained in this affidavit, is it?

A No, sir.

Q And did you ever provide any type of report at all in this particular case?

A Investigator Bouknight who was the lead documented in his report which is listed as case number 11-9364 of supplemental report, Lieutenant Dennis did read Trapp his Miranda warnings after deputies found the substance. Trapp did tell Bouknight and Dennis that he had forgot the crack was in the bedroom and just didn't think about it once he seen his house had been broken into. Trapp said the dispatcher and his friend told him, don't touch anything before law enforcement get there.

Q Did you actually -- I guess would the answer be no, that you did not provide a report yourself. That's the question I was asking you.

A No, I did not.

Q And so there is no report of this alleged statement that you assert that my client made, other than what you're saying Investigator Bouknight alleged in his report?

A What he has reported, and I do not dispute what he

just typed and what I just read.

Q Is there anything that prevented you from doing any type of supplemental report?

A No.

Q Have you given any statements to any law enforcement officers about your role that particular night other than what you've testified to today? Did you provide any type of statements or anything along those lines?

A No, sir.

Q And just so I can be clear, a lot of this information that you have gotten about what happened that particular night, it's either based upon what either Investigator Spreng provided to you and gave you or what Investigator Bouknight told you?

A And Mr. Trapp, yes.

MR. LAKE: No further questions, Your Honor, at this particular time.

THE COURT: Okay. You can step down.

MR. LAKE: Your Honor, this is a lot to argue with. I renew my argument that Captain Dennis is not qualified to testify on the issue of the affidavit. You know, he is basically testifying that he really had no personal knowledge. The affidavit has been provided or done based upon information that Investigator Spreng provided to Investigator Bouknight. I think we made a prima facie

case that those photographs, you know, as described by the conditions of Deputy Epps, that there was boxes all over everywhere. And we didn't show all of the photographs, that showed later on that the area had been cleared out and moved. And if you watch those photographs, that some of the items had been moved. But you clearly see that there is no photographs. I think we've met our burden in terms of showing that. It's the State's burden at this particular point to have a qualified witness that can testify essentially that the Magistrate's basis for probable cause was done on substantial evidence. I don't think that they can do that, because of none of the witnesses are here will be able to testify.

THE COURT: Correct me if I'm wrong, did Captain Dennis not testify he arrived on the scene, was briefed, went inside and spoke with Trapp and observed the pill bottle himself on the dresser. Did he not say that?

MR. LAKE: No, Your Honor, the issue is the search warrant.

THE COURT: No, I'm going to forget the search warrant for a second. You may be right on the search warrant. But if he walked in, spoke with Trapp and saw the pill bottle, there's no need for a search warrant, is it?

MR. LAKE: No, Your Honor, the search warrant is

actually based upon the probable cause that was alleged by this pill bottle as being there.

THE COURT: What I'm saying, let's suppose there was no search warrant. If Trapp calls the police, the County goes out there, road deputy, then Spreng and then Dennis and then Bouknight. And all of them see the pill bottle, that's all that's picked up and they talk to him. There's no need for a search warrant. Now, the scale, the straw and all that stuff that I haven't heard a whole lot about, that may be suppressible because that was gathered in the search warrant. But why is the search warrant an issue with the pill bottle if this police officer saw it with his own eyes?

MR. LAKE: Well, your Honor, how did it get there. And we are really talking about speculation, conjecture.

THE COURT: But he said he saw it.

MR. LAKE: No, we're not arguing that there is not a photograph of the pill bottle being there.

THE COURT: I'm not talking about a pill bottle. I'm talking about his testimony when he got there. When he got there, he walked in and spoke to this guy in the front room, walked in the bedroom and he saw it.

MR. LAKE: The problem is, Your Honor, you have photographs that contradict what he has listed as the -- the testimony or basically their case is on. They're

basically saying we get there, I know what you're trying to say, because it's in plain view they can discover the pill bottle and things of that sort. But that's also the basis of their search warrant. Our contention is that that bottle was never there. I mean, that's what our whole bone of contention is in this particular case.

THE COURT: But this officer saw it. Did I misunderstand him, I mean I may have. I thought he said, I walked in the house, spoke with the accused and walked in the back bedroom, it was cluttered up and I saw the pill bottle sitting there. I thought he said that. How are you, how do you get around him?

MR. LAKE: Your Honor, the question would be, I understand your question. But I think we're looking at it from a different viewpoint. I think the sole issue is, of course, they've got to show possession, they've got to show knowledge in this particular case.

THE COURT: And do you not do that, too?

MR. LAKE: He didn't show possession. He showed that he found a bottle but that necessarily hadn't got to the particular point where it could be attributed to Mr. Trapp in this particular case.

THE COURT: Maybe I misunderstood what he said. But I thought he said I talked to Mr. Trapp and Mr. Trapp told me that you going to find crack back there. Did he not

say that too?

MR. LAKE: Your Honor, that's not what I understood the testimony to be. That's not consistent with what the report said they kind of written. The problem is in this particular case, Your Honor, in terms of trying to go forward with this search warrant and the issue of suppression, you're really talking about trying to get a lot of hearsay information in.

THE COURT: All right. I understand there's two officers that aren't here. One of them can't come. That they were out there, but this guy has firsthand I, I viewed this, I talked to the accused, I saw this. Whether there is a picture or not, he can testify to all that, can't he?

MR. LAKE: Your Honor, he has to be lawfully there. I mean, at this particular point, I mean, the---

THE COURT: The police were called for a burglary and he's not lawfully there? I'm baffled. I mean, you know, if they just knocked on the door to see what's going on and busted in there yeah, I'm with you, but they were called out there.

MR. LAKE: I understand, but you're looking at it through a, I think the vacuum of saying, okay, throw all of there other issues out in terms of how they come to be out there. I can only look at the issues of what

precipitated the search, the recovery, the search warrant and things of that sort.

THE COURT: Spreng's out there lawfully, because he was called to investigate another crime. He sees something that causes him concern, calls Bouknight who calls Dennis. A search warrant is in progress. Let's suppose they couldn't find a Magistrate and there was never a search warrant issued and all facts are the same, Dennis goes out there, Mr. Trapp, what's going on? Y'all going to find some crack back there. And sure enough, Dennis walks back and looks, there it is. Why is that search warrant relevant to those facts? I understand the search warrant comes in and the pictures are contradictory. But how do you get around Dennis' firsthand knowledge of those facts just as I laid them out?

MR. LAKE: Your Honor, but I think that, but the Court is supposing that this conversation occurred with Mr. Trapp before he actually goes into the location and gets this particular information. You know, if the Court, Mr. Trapp doesn't have to testify in this particular case. But when there is variances in terms of where things started off to where they would eventually become and how things kind of transpired. But the contact with, Captain Dennis testified, I guess, it was initially Mr. Trapp was

outside. That's where he encounters Mr. Dennis. He said that, you know, and from there they go in there and particularly locate this, these alleged to be drugs and things of that sort. Any conversations and my client, like you say, he didn't have any conversations with Captain Dennis or with Lieutenant Dennis at that particular time. The only conversation that he had was with the Investigator Bouknight at that particular time. And he testified that's going to be his only -- you know, that would be his testimony. He had no communications. I know Captain Dennis has, you know, testified, but we have no report. That's the problem. What you are relying upon, Your Honor, is a hearsay -- you're relying upon a hearsay statement by Investigator Bouknight that Investigator Dennis read him his Miranda and that Investigator Dennis got this information before going in there.

THE COURT: It's not hearsay when he comes in and says it.

MR. LAKE: His testimony is actually based upon would be hearsay. I mean, because he said, well, this is what it said in the report. I'm his supervisor. I review the things. I'm the person that decides who goes out there and makes these decisions. But it's not his case individually.

THE COURT: All right. I mean, here's where you're losing me, I guess, is Dennis going out there not knowing that the police officer was going to be unavailable later on. So you got at least three police officers out there and he has firsthand knowledge of the condition of the house and can describe it. It was ransacked. It looked like it'd been burglarized. There's boxes everywhere. He went in that house himself. Bouknight may have told him oh, the house is a mess. Well, that doesn't matter. He has firsthand knowledge of walking in the house and looking at it and describes the condition. If he saw the pill bottle there, why is that not just as good as any testimony you can get? Suppose you suppress the pictures, can he come and testify just to that? And suppose I grant you that your pictures don't come in, can't he testify to that?

MR. LAKE: Well, Your Honor, then I think you have an issue of scope and lawfulness of being there. And I know it sounds like I'm parceling and things that I'm trying to dance around. I'm really not. I can only deal -- address the issue of what actually happened that particular night in terms of what law enforcement was deciding based upon their, the records that were provided to me. But our understanding, you know, is that it's seen, you know, it's alleged to be seen in plain view.

THE COURT: And he testified consistent with the testimony that Bouknight provided to the Magistrate, didn't he, or did he or did he not? I mean, I may be wrong.

MR. LAKE: Well, the question -- I mean, Your Honor, I would say there's a different question that needs to be asked. And you're talking about what Captain Dennis saw after that particular, you know, once he got to the scene. We're referring to the issue of what occurred before he got to the scene. Now, I wasn't there. I don't know what he saw. I can only deal with the issues of as the scene is described.

THE COURT: Now, here's where you're losing me is, you're working on the assumption that your exhibits, 1 through 7, were taken beforehand. And 8, 9 and 10 were taken after hand. How do you know that?

MR. LAKE: Your Honor, I inquired as to that fact from the Solicitor's Office. And they told me, yes, they were taken in order. They have the burden of proof, Your Honor. I asked Captain Dennis on the record, is there anything that prevented you from getting that information? I mean there is nothing that prevents them from bringing that camera in here and going straight through it to figure out what the progression of those photographs are. There was nothing that prevented them from doing that, not

one single thing. I asked the Solicitor's Office. I sent them that in an email. I asked him that on the stand and he said, no, there was nothing. Well, today, Your Honor, we're here for trial. I mean, I think the ship has passed.

THE COURT: I know but you've chosen the order of the pictures.

MR. LAKE: No, Your Honor, they just gave me the pictures. I mean, they just gave me the pictures. I was just able to print them last night.

THE COURT: I mean, I'm with you on that. I understand that.

MR. SCOTT: Your Honor, that's not true. That's not true.

THE COURT: Captain Dennis doesn't even need the pictures to testify to what he testified to just now. From what I can tell, he went out there, he spoke, he went in the house, he can describe the house without the benefit of a picture. The pictures help, certainly, showing the condition of the house. But if he has firsthand knowledge of being called out there, dispatched by county control, an investigator that he supervises called and he asked for his assistance and makes the decision to go out there. And he goes on the scene and he observed everything, it seems to me that the State would

be prevented from just calling him as a witness of what'd you see, when'd you get there, what'd you do next. All the pictures don't have to come in.

MR. LAKE: No, Your Honor, I mean the fact of the matter is, I mean, the Defendant would want some of the photographs to come in. The issue that, I mean, I think that the Court is looking at a different issue from what our argument is to the Court. Our argument to the Court regarding this particular matter was that because we have shown a prima facie, you know, evidence that it appeared that the affidavit was false at that particular time, because he hadn't gotten there at that particular time.

THE COURT: How is it false? If he saw stuff like it looked---

MR. LAKE: Well, Investigator -- neither Investigator Bouknight, neither was Investigator or Captain Dennis there at the time, because he doesn't know when the photographs were taken.

THE COURT: What difference do the photographs make? I mean, you're making a big difference. Here's where you're losing me. And I have got to address the Jury so I'm going to stop arguing with you.

MR. LAKE: Okay.

THE COURT: Here's what Dennis said, I got on the scene after receiving a call from one of the people I

supervise. When I got out there, Mr. Trapp was on the scene somewhere. Went in the house, the house was a wreck, and I saw the pill bottle on the dresser. Sometime after that, it was removed and he's not sure when. What difference does it make what the pictures look like if he can testify to those facts and didn't he just testify to that?

MR. LAKE: But, Your Honor, you made the assumption like I said, I didn't introduce all of the photographs when they started going through here. You're making the assumption that the pill bottle was moved after he was there, but he didn't testify to that. He has no clue when those photographs were taken. He has no clue where.

THE COURT: But he has a clue when he walked in and saw the pill bottle sitting on the dresser.

MR. LAKE: I understand.

THE COURT: He has firsthand knowledge of that. So, doesn't that just end it?

MR. LAKE: Well, Your Honor, I disagree with it in terms of the argument that is in this particular case. He is there based upon a search warrant. That is why he is there.

THE COURT: No, he's not. No, he's not. He went out there to assist the investigators on the burglary. He just happened to be there and see the house ransacked and

the pill bottle and he's qualified to testify to what he saw. He didn't go out there for the search warrant. Now, he could have gone out there and done the exact same thing Bouknight did and driven to see the Magistrate and got the exact same thing. But it seems to me that the search warrant was sought to see what else they'd find in addition to the pill bottle. The pill bottle was a given. It was what else is there. That's why they had to go get the search warrant.

MR. LAKE: And, Your Honor, I mean, but that's why we're making the suppression. Because we're saying essentially he's not qualified to testify to that particular fact as it relates to the probable cause.

THE COURT: All right. I need to stop. I'm not saying I'm ruling yet. I need to deal with the other Jury.

MR. LAKE: Thank you, Your Honor.

THE COURT: I've got a question from the other Jury and I'd like to send an answer to them, okay?

MR. LAKE: Yes, sir.

(Whereupon, the Court answers a question for the prior trial for the Jury.)

THE COURT: All right. Mr. Scott, I want to hear from you, and then I'm going to come back to Mr. Lake before I issue a ruling. What is your position? I've

been sitting here really enjoying my discussion with Mr. Lake.

MR. SCOTT: And, all right, let me see if I can cover it as much as I can. Judge, some of that conversation, it would be my argument that the assumption there is that the pictures with the pill bottle in them were taken after the pictures that don't show the pill bottle there. Why don't we just for the sake of argument, I'm going to play devil's advocate and say Mr. Lake is correct. Well, why does that matter? Why does that matter as far as probable cause? It's in the house. Robert Dennis goes and sees it in the house. Toaby Trapp, according to his testimony, admits to it to some degree. They ask him, what is this pill bottle. And he says, well, you're going to -- it's going to be crack. I forgot it was there. I get these cases all the time where they take a bunch of evidence from the house and put it on the bed and then take a picture of it right there. I don't understand how that affects probable cause. They find the crack in the house. Mr. Trapp to some degree admits to it, takes ownership of it, claims that that's his bedroom. That's what the search warrant was based on. That being the probable cause, I can't really wrap my brain around Mr. Lake's argument. I guess the insinuation is that law enforcement planted it there. I don't know. He can argue that to the

Jury, I think, but as far as probable cause if he's arguing that there's a false statement, I think he has to make, he has to find three things and that being that there was a false statement made in the affidavit and that the officer made it recklessly or intentionally. And then third, that it was material to the finding of probable cause. Obviously, the pill bottle was material to probable cause. But the argument is that the, it's not a false statement. And so I can't, I hope I've addressed what his argument was, but that's essentially it. Robert Dennis gets on the scene and personally observes it, personally hears Mr. Trapp. He tells me it's a one-on-one conversation between he and Mr. Trapp as far as yeah, it's going to test positive for crack and I forgot it was there. So I think, Your Honor, it's a pretty clear-cut case of probable cause being present for the search warrant.

THE COURT: Okay. Let me hear from Mr. Lake again.

MR. LAKE: Thank you, Your Honor. And I'll just point to and I'll provide the case, the case of State v. Lorenzo Jones. It's cited at 500 S.E.2d 499 where it basically says the only thing, that once a Defendant makes a substantial preliminary showing that a false statement knowingly and intentionally or with reckless disregard for the truth is included, why they didn't have it in the

warrant affidavit. It is necessary to a finding of probable cause that a hearing is required at the Defendant's request. I mean, that's my only essential allegation is that because there is an issue as to when those photographs, you know, were taken and when those -- the photographs depict that at the time that he first got there. Because right now we don't know when, what Spreng did because he hadn't testified. All we're hearing is hearsay testimony. Speculative type testimony as to when Spreng took the photographs, whether he took them before, after. Well, that's the sole purpose of these kind of hearings, Your Honor, that we can't decide evidence based upon conjecture or speculation as to whether this was taken before or whether it's taken after, during or anything along those lines. What we're saying is that because there is some photographs that show that in certain photographs where the scene is still kind of disruptive. And we don't see the pictures, I mean see the container and then in other pictures we do see the pictures, I mean do see the container. The only thing we're saying is that we are entitled to a hearing regarding the probable cause regarding the other items that were found. Because they are alleging that they found additional items subsequent to the search warrant.

THE COURT: All right. I tend to agree with that

argument. But here's what I disagree, is that Captain Dennis can testify what he saw when he walked in the house. He can also utilize one of those photographs or any of those photographs and answer the question, do these photographs actually depict what you saw there in your presence. Affirmatively or negatively, he can testify to that. If the pictures come in, if he can make that statement, then the pictures could come in. But of his own testimony, sworn testimony in this hearing which you've got, he can testify to what he saw that night on the scene, a conversation with your client if he had any, and what that room looked like without regard to the pictures. Now, my guess is that there's something else in the search warrant you may want suppressed and that may be another argument. But Detective Dennis can testify without regard to the search warrant to what he saw when he got there that night and do these pictures accurately depict what he saw that night. I think that comes in. So whether something is suppressed on the search warrant other than that, but his testimony is consistent -- and it's just by happenstance that he didn't go get the search warrant, that Detective Bouknight did. But it seems to me they would be interchangeable affiants in front of the Magistrate. Either one of them could have gone and said the same thing as to what they saw. It just happened to

be Detective Bouknight went. So without the benefit of the search warrant, Detective Dennis could have seized that pill bottle any way, in my opinion. I mean, he had firsthand knowledge. He wasn't -- it wasn't hearsay. He walked in and there it is. I mean, in fact, he was briefed on it ahead of time.

MR. LAKE: Is it my understanding that the Court will then allow Captain Dennis to testify insofar as the probable cause for the search warrant. Because I mean that's ultimately what the issue and that I'm referring to is, that I'm suppressing, I made a motion to suppress the search warrant based upon, you know, again the lack of probable cause at that particular time. Because I can only deal with the issue that that's what the additional searches were based on.

THE COURT: All right. Well, what else is inconsistent about what Captain Dennis has said if he were the affiant on the search warrant? What is inconsistent with Detective Bouknight's representation to the Magistrate Halfacre?

MR. LAKE: I would argue if Spreng had direct communications with Captain Dennis and Captain Dennis talked to Halfacre, then this issue -- this is a moot point and things of that sort. Because he's within the loop of that conversation and then probable cause to the

Magistrate can be based upon hearsay type of testimony. But we're talking about things of which he had no knowledge of the conversation between Spreng and Investigator Bouknight as to what he found, when he found, the condition or anything along those lines. And Investigator Bouknight, based upon whatever Spreng has told him goes to Judge Halfacre and gets a warrant which only alleges that the allegation is based upon the pill bottle. Okay. Because they're not making -- they're not saying it's based upon any kind of -- any other evidence. They're just basically saying this item was found in plain view so that is the basis of their probable cause. They chose not to search or anything along those lines. They didn't even arrest him that night. So we're not even talking about searches to arrest.

THE COURT: Tell me why the search warrant is necessary for Detective Bouknight or Detective Dennis to seize that pill bottle other than the additional evidence they may have been looking for.

MR. LAKE: Your Honor, we're talking about the additional evidence. That's what I'm specifically referring to, additional evidence that they were looking for.

THE COURT: What is it? I mean, what are you trying to, what are you trying to suppress. Because I am kind of

confused.

MR. LAKE: Well, Your Honor, they're alleging essentially that based upon the search warrant they find some additional drugs that were right there in front of the dresser but on the floor.

THE COURT: See, that's where I been missing. I been wondering what the hell you care about that pill bottle.

MR. LAKE: And sometimes, Your Honor, I mean that's what the essential allegation is that there is some additional drugs that are found. One right there, I think one directly in front of, I think they're basically both of them were directly in front of this dresser but on the floor. And my argument again was just the fact that because we're -- we made at least a prima facie showing of a little preliminary investigation that says, hey, those photographs, one depicts one thing and the other depicts something else.

THE COURT: I disagree with you on that. Detective Dennis gives consistent testimony firsthand of the exact representation made to Magistrate Halfacre. It looks spot on to me. What is the difference.

MR. LAKE: Well, he -- he never had a conversation with Halfacre.

THE COUET: Well, so what? I mean, but all I'm saying is, so what?

MR. LAKE: Well, that's the basis of the probable cause is what the -- the sworn affidavit that you provide to the Magistrates. Without that sworn affidavit, then you lack the probable cause--

THE COURT: All right. Well, where's the falsity in the affidavit if his testimony is consistent with it, because he says identical information.

MR. LAKE: But what I'm saying is that he's -- he would be essentially testifying based upon limited information. Because he's testifying I have no clue when these photographs were taken, one, whether the item had been moved before or after.

THE COURT: All right. That's where you are losing me. Why is it necessary, these photographs keep coming in. If he went in that house and saw the condition of the house, the pill bottle sitting there, spoke with the Defendant, there to investigate a burglary, what's false about that? That's all true according to the State's version right now based upon the sworn testimony of Detective Dennis. He was called out to investigate a burglary. Went in, spoke to the victim, now the Defendant. Observed the house in terrible disarray and observed a pill bottle sitting there. What is in that affidavit that Detective Bouknight told Magistrate Halfacre that would be different than what Detective

Dennis says he saw firsthand right there himself?

MR. LAKE: Well, Your Honor, when you look at the totality.

THE COURT: Okay. Well, tell me what's different?

MR. LAKE: Okay. When you look at the totality of it, I'm looking more from the standpoint of what would be their testimony essentially as to the condition of the location when they first got there. When they first got there, the condition of the location, there were boxes everywhere. And they take photographs of -- you saw some of the photographs is just when he has just entered into the room to take photographs of what the burglary is.

THE COURT: You keep working on that, the photographs look identical to me, just different vantage points. The only different thing, the pill bottle missing from some of the photographs. I don't have any idea what timing is on how the pictures were taken and I don't really see that it makes a difference.

MR. LAKE: It would make a difference if those photographs that were taken earlier in the process, you know, if you got a photograph that is taken earlier and if you took a picture of that same area and something is not there. And then in later photographs somewhere down the road that's taken subsequent, all of the sudden you see that item there. Then there has to be some explanation as

to how that item got there.

THE COURT: You see, you keep putting that order and I disagree with that.

MR. LAKE: But, Your Honor, they have never shown any other order. They have never, they have had the opportunity to come in here and say no, Judge, this is how it happened. These are the sequence of photographs. This is when the events occurred. This is how the photographs were taken.

THE COURT: But see, the photographs weren't part of the representation made to the Magistrate. You're bringing them into the Magistrate and Magistrate Halfacre was not provided photographs.

MR. LAKE: He wasn't, he would not have been provided with the photographs. But what, well see, Your Honor, again, we don't know what he told Investigator, what Investigator Bouknight told Judge Halfacre.

THE COURT: What he told him is in his sworn statement, isn't it?

MR. LAKE: I would assume that he -- they get information that he responded to a burglary. And he testifies to that on his affidavit that there was a burglary, that they responded to. But the question becomes then is, are these photographs that Investigator Spreng, that he took, did they predate the warrant, did

they come after the warrant?

THE COURT: That doesn't show falsity. I understand your argument, I am going to deny it. I am not going to suppress that search warrant because it's consistent with sworn testimony that Detective Dennis has given, that the Magistrate did not rely on the photographs, he relied on the affidavit that Bouknight provided them. Detective Dennis then participated in the execution of the search warrant. He was present the entire time. And I think that just completes the loop as the fairness of the probable cause required to get a search warrant. That's just what I see. I understand your argument but that's just what I see.

MR. LAKE: And I just kind of state my objection for the record.

THE COURT: Okay.

MR. LAKE: I also do have a motion to suppress based upon lack of chain.

THE COURT: All right, Mr. Scott, what you got on that?

MR. SCOTT: Well, I'm going to produce, we've got Robert. I've got Ben Chapman who's the Evidence Custodian. Within the chain would be Patricia Crooks, let's see, Selena Kinard would have been the intake person at SLED. She's no longer with SLED. I think she's moved

out-of-state. Patrician Crooks would be another internal SLED chain witness and she's retired. Ultimately, or the next person in that chain would be Lynn and she's going to be here to testify. I believe it's State v. Hatcher case has relaxed some of the---

THE COURT: I thought it was Valentine or something like Hart. It had something to do with Hart. What is it?

MR. SCOTT: Hatcher is the one I'll, that may be some of its progeny, prodigy? But Hatcher was the first one that I'm aware of.

THE COURT: All right. And I'll look at that case first before we try to seek, I want to study that. I am hungry, I want to get something to eat. Is that your last motion, is the chain?

MR. LAKE: There was a few other things but we can go ahead.

THE COURT: That's all right. You get to argue.

MR. SCOTT: But just as far as practical that the chain can be established as long as you -- I mean, you can even have missing links. But as long as you can establish.

THE COURT: I thought there was some argument or---

MR. LAKE: You can't have a missing link.

THE COURT: ---suggestion that the gaps could be filled in if reasonably can or something along, language

along those lines.

MR. SCOTT: Yeah, but that's the one right there that I would offer for my proposition.

THE COURT: All right. The court reporter needs a break as bad as I do. We'll stand at ease.

(Whereupon, a lunch break was taken.)

THE COURT: All right, who are the chain witnesses or some of them were, piece it together for me. What have we got and what are we missing?

MR. SCOTT: We got Robert seizing the dope. And it would have been Ben Chapman as the Evidence Custodian. It would have been checked in there.

CAPTAIN DENNIS: It would be myself, Nick Bouknight. At the time, it would have been Jerry Wright who's retired. Now, Ben Chapman, and then whoever you got at SLED.

MR. SCOTT: Okay. And so then at SLED it would have been, it would have been checked in with Selena Kinard?

CAPTAIN DENNIS: Yes.

MR. SCOTT: Patricia Crooks, so here's who we're missing. Obviously Nick, Mr. Wright, who substitutes, as the new Evidence Custodian, Ben Chapman in his place. Selena Kinard has moved out of state. She is the intake person at SLED and Patricia Crooks is retired. Again, these are just internal chain people, Patricia Crooks and

Selena Kinard and ultimately, Lynn Blackmon will illicit testimony from her that it comes to her in one of the Best Kits. And it's sealed and she'll be able to establish a chain of all of the people who came before her. Of course, we'll have Robert testifying, and then we call Ben if we need to. I think to me the important people in this is the ones who seize it and then, ultimately, the one who tests it. And I think my understanding of the Patrick case, I think those internal chain people, as long as we can establish the links in the chain, their absence is not necessary or their presence is not necessary.

THE COURT: All right, Mr. Lake.

MR. LAKE: Oh, thank you, Your Honor. Again, we would move to suppress the chain-of-custody. I don't believe they can make sufficient, the chain-of-custody. And I'll kind of work my way back from what would be, I guess, the beginning of when these drugs are actually taken into possession till eventually when they are, I guess, turned in at some point. You know, again, I'll start back with the fact that the photograph shows that the drugs have been moved, at least some of the drugs have been moved. Now, who moved them, when they moved, they don't have anybody that could testify to that. And so it's really -- we really just got to speculate and conjecture as to what happened during that timeframe until

Investigator Bouknight took control of the item. And then eventually turned it over to what would be Captain Dennis. Your Honor, I'll point out a few things that I think is critical in determining that this item is, that were put into the investigation should be suppressed. If you look at the return, Your Honor, and I'm not sure whether you have a copy of it in front of you.

THE COURT: I did, but I don't have it in front of me now.

MR. LAKE: I'm sorry. I actually have it on my desk. I apologize for that.

THE COURT: All right. I knew it was up here, because I thought I had handed it back to somebody else.

MR. LAKE: Now, if you look at the items that were seized by Investigator Bouknight, you know, it points out that only two people participated in that search, Investigator Spreng and Bouknight. And there were two plastic bags and a white solid substance found on the floor. There was a pill bottle on a dresser with a white solid substance on there. There's a CD case with a scale and there is a spoon and a razor blade with residue and there was a straw. I think that's important because, Your Honor, when you go look at it, the only thing that I've been given in terms of the evidence log, and I provided a copy of it to the Court. And when I got a copy of the

evidence log, it was things that were submitted to, I guess, the Evidence Custodian who is not identified on the only form that I have. They only indicate that Investigator Bouknight had it. They indicate now there's two razor blades. And now all of the sudden, the straw is actually missing. Now, I'll hold this up to the Court. If you look at the, what was taken from the beginning, you go from one razor blade till now, all of the sudden, there's two razor blades that were somehow taken into custody in this particular case and those are the only things that are kind of ID'd. And, Your Honor, when you go to -- on October the 21st what would be the information that was submitted to SLED, neither of the razors were submitted even though they are indicated they're in -- in the Best Evidence case. They're not in there, because they're not tested. I don't think she's going to be able to testify that there are razor blades in there. There is no evidence that the straw made it, because it didn't -- somehow it didn't make it into evidence. Didn't make it to be tested. And, Your Honor, the thing that's a little bit more troubling, is if you look at the Form 8, Rule 6 form that was signed, all of the sudden, there is a new item that's on this item. Apparently, there is a quantity of a white residue that is actually, was submitted. But if you look on that return, Your Honor, there is nothing

that indicates that there is some separate residue that is actually found. What you have is they say residue on the scale and when we look at the analysis, then the analysis will discuss that on the alleged scale, which would be item 1.4. There is a powder type substance which is already tested. And then you'll also find there is, again, another substance that has been submitted to them with no idea as to where this substance came from. And so we know that at some point the razors have disappeared, the straw has disappeared. If all of these items are placed in the Best Evidence Bag and now all of the sudden, we've got a new item that has been introduced. We don't know the condition that it was in when it was -- throughout this entire time, the condition in which Investigator Bouknight received it from Captain Dennis, the condition in which Investigator Bouknight turned it over to the Evidence Custodian. And even on the form that I've been given and the only form that I've been given, they don't even identify the person that it was given to, when they got the form, when he -- what they do with it, the condition that it was in, when did he get it back, how long did he keep it. And, you know, where did he take it when he got the item back, who did he give it to. I mean, Your Honor, I think it's clear that this is more than just a person that's actually missing and then things of that

sort. We've now got things that are in addition to what was recovered and things that were recovered and things that were recovered that are now not listed -- I mean that are now not on the, that weren't tested or weren't submitted in terms of the, to SLED. Even though on the evidence log, it indicated these items were on there. I mean, where did the extra blade come from when the return only mentions one blade.

THE COURT: You were referencing something else, some other form. Where is that form?

MR. LAKE: Which form are you referring to?

THE COURT: That's what I don't know. You kept talking about like there was another form and I don't have it.

MR. LAKE: I made reference to the chain-of-custody, I mean for not the chain-of-custody but the drug analysis. But the drug analysis doesn't mention the straw or the razors and they were all allegedly put in the Best Evidence Kit at the first time by Investigator Bouknight back on October the 9th. So they're not even in this item so the question becomes if they are placed in the Best Evidence Kit, where are they now?

THE COURT: All right. Mr. Scott, what have you got? I thought there was a document that generally followed the evidence around that was a chain-of-custody document that

kind of memorializes, it who took it from where to where to where. Does that document exist?

MR. SCOTT: Yeah, it's probably going to be stapled to the Best Kit.

MR. LAKE: I asked for that, Your Honor. I have not been provided that to date. So, of course, if it's something he produces now, we would object to present discovery, but I did ask for it. There is an internal chain with the Richland County Sheriff's Department and that is what, the form that I provided to you is what Solicitor---

MR. SCOTT: Probably what he's handed to you is the evidence log-in sheet.

THE COURT: He did.

MR. SCOTT: Okay. So that's the chain I've got. It's, let me show, here is the certified chain from SLED. So you see here that Nick drives it up and Selena Kinard---

THE COURT: Yeah, that's what I've been looking for.

MR. SCOTT: Okay.

THE COURT: Does he not have that?

MR. SCOTT: He's got it. Selena would have checked it in.

THE COURT: I want a copy of that and then let me look at it. I can't follow y'all's argument without

having something to go by, a little roadmap.

MR. SCOTT: You don't need the final analysis, though, do you?

THE COURT: No, I just want to see that little chain.

MR. SCOTT: Okay.

THE COURT: That document that showed it, so I can just see, I want to see the gaps.

MR. LAKE: Your Honor, not only is there gaps but---

THE COURT: All right. Now, hang on. I want to see it, then hear you. It helps me to listen when I have something to follow. Mr. Lake, go through that again.

MR. LAKE: Yes, sir.

THE COURT: I mean, you had to be following it somehow or maybe you weren't. I don't know. I got lost in the rapid delivery you were giving me.

MR. LAKE: I apologize, Your Honor.

THE COURT: It's okay.

MR. LAKE: It's kind of two-fold. One relates to the pill bottle in terms of the movement of that. There has been no testimony. I don't think there can be any testimony as to when it was moved, how it was moved, who touched those, that pill bottle during the timeframe. We see photographs of it there, then it not being there, but there's no testimony as to who moved it during that timeframe. We do know that at some point, Investigator

Bouknight does come into possession. But if you look at the return, Your Honor, the return specifically lists the items that were recovered, allegedly recovered from this location. There was two plastic bags, a pill bottle, a scale and a spoon and a razor blade with residue. Now, those were the items that were submitted to Investigator, I'm sorry, Captain Dennis. Okay. At some point, we don't know when, we don't know in what condition, whether it had been something had changed or not. We do know at some point Investigator Bouknight comes back into possession of these documents because he has logged it down into the property. But now you can see that now once it is logged, I think, Your Honor, in looking here at my document, I think now the straw is now not, wasn't included in the evidence. Okay. And now there are two razor blades that have now been entered into, I guess, what they would call a Best Evidence Bag and things of that sort. Your Honor, the discovery they provided to me does not identify the person that the drugs were handed to, in what condition, whether they were sealed, unsealed. We know that something had to be, the minimal had to been taking out of the initial envelope that Investigator Dennis handed over to Bouknight because the straw is no longer in there. So we know there has been some tampering to a certain degree regarding the items. Okay. And but even if you look at

the items that were actually submitted to the Sheriff's Department without identifying who and they didn't tell us when and all these other kind of conditions. But when it makes its way to SLED, now you're missing those razor blades. And now, all of the sudden, you have an extra powdery substance. If you look at the scale, I mean if you look at the search warrant, it mentions that there is a scale with a powdery residue. And she identifies it as, that she found some, I guess, residue or determined there was a certain amount on the scales. But now, all of a sudden, there is an extra powder that cannot be explained. I think he's listed as item 6 on his Form 6. Now, that is something new from what was recovered initially at the scene and there is no one to essentially testify how that got there in the chain-of-custody surrounding that, those particular items. Because, I mean, it's clear evidence that now there's something new, because that's not mentioned on the return at all that there is some extra powder or residue out there. Asked what he has already identified on the spoon and on the razor blade.

THE COURT: What about it, Mr. Scott?

MR. SCOTT: Judge, I'm having a lot of trouble following the argument. I'm going to produce Robert Dennis, Brad Epps who would be in the chain. And I'm going to produce Ben Chapman if we need to and the SLED

chemist. As far as items showing up, I'm not following what Mr. Lake's noting.

MR. LAKE: Your Honor, it's clear that when you put something in the bag, the same items should make it to SLED. If those same items don't make it to SLED, then someone has opened the bag, moved the bag, tampered with the bag to a certain degree. So again you're speculating as to the, what's happening during the chain. So based upon that, a suppression is warranted. I think the case law is clear, that suppression is warranted when you have no way of identifying or explaining how things appeared and then disappeared.

MR. SCOTT: I think Robert can testify why SLED or he wouldn't submit razor blades to SLED.

THE COURT: Well, do y'all have the evidence in the courtroom yet?

MR. SCOTT: Sir? Where is the evidence? Where is Ben?

MR. DENNIS: He's on his way. I mean, we had to immediately call him and take him away from some other priorities.

MR. LAKE: Your Honor, he cannot testify to that. He didn't put those items into--

THE COURT: No, I don't care. If he's got the bag, would it not help us to see it. Because this is just what

somebody else is saying was part of the evidence.

MR. LAKE: This is what Investigator Bouknight himself has put down there in terms of the items that he's indicated were put into the Best Evidence.

THE COURT: I understand that. But what if the bag got something else in it. I mean, wouldn't it help to look at it today?

MR. SCOTT: Yeah, he's on his way now. Let's call the case and if the SBED agent gets up there and says, well, you know, I remember when the bag, it came to me, the Best Kit was tampered with but I tested it anyway. I think then you can challenge at that point.

MR. LAKE: My client is entitled to a preliminary hearing on this particular matter. I don't think he is required to wait during the trial and have someone who had no, didn't, other than I guess turn it over to Investigator Bouknight. I don't even think he testified that he had any contact with the drugs. Trying to testify to something that Investigator Bouknight did. I just don't think that is proper testimony. I don't think he is allowed, the rules of evidence don't allow him to testify.

THE COURT: Well, I mean, all right. Now, why is it that these ancillary items, the razor blade and straw residue, well, I don't know whether that is included in any of the weight or analysis of the drugs that are

allegedly at issue here.

MR. LAKE: But that's not the issue, Your Honor.

THE COURT: Well, it is the issue, isn't it?

MR. LAKE: No, the issue is whether these drugs, they're supposed to be in the same condition in which they were collected. All of these items are placed into the Best Evidence. So if these items are placed into the Best Evidence Bag, Your Honor, the same items should come out of the bag.

THE COURT: Well, I mean, shouldn't Detective Dennis be able to provide testimony as to what he sees, what was given to him?

MR. SCOTT: Yes, sir. That's why I think this is premature at this point, we are speculating to what these people are going to testify to.

MR. LAKE: Your Honor, he is not, he had no contact with this bag after he gave it to Investigator Bouknight. I have never been given any discovery that he has done anything else with this bag or anything like that other than when he gave it to Investigator Bouknight. After that, Investigator Bouknight took control of the items and I would bet that his testimony will be he had no other contact with this particular case, other than that particular time. To allow him to testify to hearsay as to what condition it was in at the time that he gave it to

him.

THE COURT: All right. Well, now all right, you keep running off before and get in front of me. If Dennis can testify as to what condition it was in when he gave it and it's essentially the same condition now, doesn't it follow that the gap that Investigator Bouknight gives us perhaps could be filled in with the case law? I don't know. I mean, you keep going on the supposition that if anything's modified then everything is tampered with and, therefore, suppressed. I'm not sure I follow that.

MR. LAKE: Well, Your Honor, at that particular point the Court is speculating as to whether it is or whether it's not.

THE COURT: Well, you're speculating and wanting a preliminary hearing on it and I'm trying to do that. But I can't look at these two documents and then say, you know what, you're right, it's been tampered with, case over. That doesn't seem fair to me. I think we got to do something more than -- I agree with you, that's kind of an inconsistency. I'll grant that, but that's not enough to say motion granted.

MR. LAKE: Your Honor, I mean that's why the pretrial motions so they can proffer this testimony.

THE COURT: Well, let's get on with it. Call him.

MR. SCOTT: All right. Robert Dennis.

THE COURT: Again, come on back up, Captain. Captain, you're already placed under oath from the hearing we had just before lunch.

DIRECT EXAMINATION

BY MR. SCOTT:

Q Robert, again on October 8, 2011, when you arrived at 91 Little Ranches Road address, who was there?

A Whenever I arrived on the scene, it was Robert Spreng and Deputy Brad Epps. When I arrived on the scene and then shortly after being there, Investigator Nick Bouknight arrived on the scene.

Q Okay. And let me just kind of move to the pill bottle. You observed that where?

A Once I was brought up to speed on pretty much double information from receiving a phone call from Spreng, from receiving a phone call from Investigator Bouknight, I was then walked through the scene. The pill bottle was sitting on top of the dresser in the -- what I would call the master bedroom which was identified as Mr. Toaby Trapp's bedroom.

Q Okay. And that's what we see in Defendant's ID number 9, the pill bottle there on the dresser, that's how it appeared when you saw it?

A That is correct.

Q Okay. So then you talked about it a little bit

earlier in the other hearing. Well, there was a search warrant obtained.

A In my process of coming to the scene, Investigator Bouknight had had the phone call prior to me advising what Investigator Spreng had seen and he was going to get the search warrant based off of Investigator Spreng's testimony and then that to the Magistrate. And then like I said, as soon as I had gotten there to be oriented to the scene, Investigator Bouknight showed up with the search warrant.

Q All right. So then what else did you find after you began executing the search warrant?

A As before the search warrant was executed, Mr. Trapp, who had been outside, we did come into the living room area. Sitting on the couch, he was given his Miranda warning by me which he acknowledged he understood. We began talking about what had been seen, what had been found in his room. He acknowledged that it was crack and that he had forgot it was in there. So once we started the actual search warrant going through the bedroom of where the initial pill bottle was found on top of the dresser, we began moving boxes and clothes and picking up the dresser drawers. And there on the floor was a plastic bag containing a substance, a white substance that we call it kind of like in cookie formation. It looks like a

cookie but it's all white.
Q Okay. So it was on the floor. Did you say, was it near that dresser where the pill bottle was?
A It was right in front of that dresser on the floor.
Q So again Defendant's exhibit 9, we see the dresser and we see the pill bottle. You saying that the crack was down here in front of the dresser?
A That was straight down.
Q All right. And did you seize that cookie of crack?
A It was photographed and it was seized.
Q Okay.
A And subsequently turned over to Investigator Bouknight.
Q Okay. Well, who is doing the seizing? Do you recall who actually picked up the pill bottle and actually picked up the crack cookie?
A I know I am sitting on the couch with a flashlight looking at the evidence. As far as picking it up, I cannot say which one of us picked it up.
Q You're the supervising---
A -- but sitting there on the bed was me. If you got pictures.
Q I think I do. But you were the highest ranking deputy there at the time, is that correct?
A That's correct.

Q Would you have been supervising the -- I guess the execution of the search warrant, the investigation that was going on?

A That's correct. Just there as assisting role capacity.

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

Q State's ID 1, can you tell what that is?

A This is one of our old forms of evidence log-in for Newberry County Sheriff Office. It has the case number, Officer Bouknight. It has the -- it actually has two dates on it, 10/8/11, 10/9/11, the case number, Mr. Trapp's information, two razor blades, a pill bottle containing a quantity of white substance, a pipe, two plastic baggies containing a quantity of white cookie-like substance, a spoon with a white residue, scale with a quantity of white residue on it. And then the chain-of-custody is Bouknight and the date is 10/9/2011. Now, that's the first pack. And it has a brown envelope attached to it. Do you have a pair of scissors? I can't see and read. This evidence form that I read off of is sealed in a heat-sealed bag. But also in that heat-sealed bag is a envelope that has the case number written on it, 91 Little Ranches Road collected 10/9/2011. And the description of the items: Plastic baggies, razor blade,

pill bottle. And then there is an additional heat-sealed bag that has a spoon; a Bill Cosby, it looks like CD type but it's the scale. And there are some other envelopes in there that I can't readily see. And then there is a SLED drug analysis secure envelope in there. Control number B215834, date sealed 10/10, sealing envelope Nick Bouknight. That's all I can see on that one.

Q Probably Nick's the one who seized it if he's the one who signed the sealed---

MR. LAKE: Objection.

THE COURT: What?

MR. LAKE: Not only is he leading the witness, but he's speculating as to who seized it.

THE COURT: I know, but it's, we're in-camera.

MR. LAKE: I understand.

THE COURT: Sit down. I mean, we're proffering. I'm going to rule.

MR. LAKE: Okay. All right. I apologize.

THE COURT: You going overboard for me. I'm going to give you a chance to argue.

MR. LAKE: Thank you, Your Honor.

THE COURT: I promise. And you can say Judge, he walked him around by his nose, okay?

Q Captain, what is this?

A That is what is classified as the SLED, what we

classify as the Best Kit. That is what we would actually send drugs down to SLED to be further analyzed and testing.

Q All right. And who's it signed by?

A Nick Bouknight.

Q Is that relevant in any way who signed the heat-sealed Best Kit?

A At the time during this case, Investigator Bouknight was the narcotics officer for the Newberry County Sheriff's Office. And he would be handling and dealing with all the narcotics evidence that would have come in during that time-period.

Q Okay. But you can't specifically recall whether it was you or Nick who collected the evidence from the scene?

A Not at this time, I can't say which one. I can say that all three of us were there.

Q Okay. All right.

MR. SCOTT: I think the answer to this was right under our nose the whole time. Judge, do you have that Form 8, Rule 6 up there?

THE COURT: I do.

MR. SCOTT: Well, just, I guess read it into the record.

THE COURT: Let's mark it as an exhibit.

MR. SCOTT: Yeah.

(Whereupon, State's exhibit 2 and 3 was marked for identification only.)

MR. SCOTT: All right. Judge, I'm just going to read it into the record. We all have a copy. But the Form B, Rule 6, this is the Certificate of Proof of Chain of Physical Custody. It reads, This is to certify that I, Nick Bouknight, an employee by Newberry County Sheriff's Office, and that on 10/9/11, I seized from Toaby Trapp pursuant to search warrant at or near 91 Little Ranches Road, Newberry, South Caroline, 29108.

And then it lists the items that were seized. I think this indicates Nick was the one who actually seized it. He lists on here, plastic baggy containing quantity of white cookie-like substance. Plastic baggy containing quantity of white cookie substance. And then, 3), orange pill bottle containing quantity of white cookie substance. 4), scale containing quantity of white residue. 5), the spoon with a quantity of white residue. And 6), quantity of white residue. So I think, I guess, that was under our nose the whole time. It seems to answer that particular question.

Q So deputy or, excuse me, Captain Dennis, you were the supervising agent over, I guess, Nick at the time? You were the -- you were a lieutenant at the time?

A That's correct.

Q And what was his rank?
A He was a sergeant.
Q Okay. And so you were -- you would have been the higher ranking deputy at the time?
A That is correct.
Q This looks like there's a counter or a bed that you were sitting on?
A It was actually the bed in the master bedroom.
Q Okay. And this is State's ID number 3. Who is this in the picture?
A That is myself sitting on the edge of the bed with a flashlight. The floor in front of me is -- has been cleaned from the boxes and the dresser drawers and locating the white plastic bag or the white substance in the plastic baggies on the floor in front of the dresser.

MR. SCOTT: And, Judge, this is just a picture. As Robert was saying, that's him sitting on the bed and pointing at the crack that was located in front of the -- oh, okay.

Q Well, why weren't razors sealed in the Best Kit if you can, and to your knowledge?
A One of the reasons why SLED would not want razors to come down in the Best Kit, because it is plastic, and there could be the chance of someone cutting themselves on these razors. So it is a safety issue of not packaging

those razors or sharp objects in a plastic bag.

MR. SCOTT: Okay. You know, I think that's probably the extent of my questions.

THE COURT: Mr. Lake has the opportunity to question.

CROSS-EXAMINATION

BY MR. LAKE:

Q Captain Dennis, you would agree that on this particular evidence log, it does not indicate who Investigator Bouknight gave whatever items he had to?

A And because we have gone through a transition and because of this being -- and Nick Bouknight being the narcotics officer at the time. I believe he would have been the Evidence Custodian of all narcotics regardless of whether you just have his name here. So if he took it, he would maintain control and put it in his evidence log. That has since been changed to where -- at the retirement and Bouknight moving on, Investigator Ben Chapman and Richie Moore are sole custodians of all the evidence that comes into the Sheriff's Office.

Q Well, but aren't you speculating as to that?

A I don't -- speculate to what?

Q When you turn in -- this right here it says the evidence log-in, correct? Is there, does this particular document right here show who he gave that particular document to on October the 9th or what condition that

document was in on October the 9th? That's a yes or no question.

A I don't think it is.

Q Okay.

A Because the first thing I--

Q Captain Dennis -- Captain Dennis, hold on. Before you answer the question, you have to answer my question first and then you can expound. I asked you a simple yes or no question. Does that form indicate the name who Investigator Bouknight provided that form to on October the 9th, 2011. Yes or no?

A Yes, it does.

Q Who does it -- whose name is listed on there besides Investigator Bouknight?

A Investigator Bouknight. If it had been anyone else that he had given it to, then they would have been in the chain listed as number two, three, four or five.

Q So he kept it the entire time up until time -- is it your testimony that he took it and kept it?

A That would be the indication of this evidence log-in report until you go to Form B and then whatever evidence log that you get from SLED.

Q And do you know what condition he would have had it in during this entire time from October the 9th till October the 21st when it was turned over to SLED?

A That would be -- that would be a question for SLED on how they received it.
Q That will be a question for SLED. And you received the evidence on that, from the return, correct?
A I did what to it?
Q From the return from the search warrant.
A I documented it on the search warrant. That is correct.
Q If you look at that on the search warrant and then compare it to the Form 6, there appears to be a quantity of white residue which will be item number 6. Where did that particular item come from or where was it found?
A I've got what's classified on the return of the search warrant, CD case scale. On the from B it says, Scale containing a quantity of white residue on it. So I would say that the white residue was on the scale.
Q Okay. If you listen to the question that I asked you. The Form B represents a scale containing a quantity of white residue on it.
A Yes.
Q Which is number 4.
A Yes, sir.
Q And then there is a number 5 which is a spoon with a quantity of white residue on it, correct?
A But, Mr. Lake, that's not what, that's not the

question you asked me. The question was, was the scale and then the white residue. And now you're asking me about a spoon.

Q Okay. Well, I apologize, that was poorly worded. The question I was asking you is that there is a mention that there was a scale containing a quantity of white residue on it. And there's a spoon with a quantity of residue on it which is number 5. The question I asked you is number 6 that was submitted to, on the Form B, the quantity of a white residue. I'm asking you, where did that item come from?

A Number 6 on Form B?

Q Correct.

A Okay. I cannot answer that.

MR. SCOTT: Judge, it seems like we're getting outside the scope of just the chain issue. We're back to suppression-type argument.

MR. LAKE: You know, that's what a chain-of-custody is a suppression issue.

MR. SCOTT: Well, it sounds like it's suppression of the evidence. We are tracking the drugs, is that what the chain--

MR. LAKE: Your Honor, if you can't make a sufficient chain then, of course, it's suppression of the drugs.

MR. SCOTT: It's all seized by Nick, and then it's

taken to SLED. We've identified everybody in the chain.

THE COURT: We going to take a break.

(Whereupon, a short break was taken.)

CONTINUE CROSS-EXAMINATION

BY MR. LAKE:

Q Captain Dennis, again, you have no knowledge whether between October the 9th of 20011 and October 21st of 2011 the condition of the items that were submitted into evidence?

A No, sir.

Q And in fact do you have any knowledge, any condition as to how they were on the date that they were submitted on October the 9th, 2011?

A I am not sure I am following what you are asking.

Q Let's kind of back up a little bit. How did you provide, you indicated I guess on the return that you were actually given the items, certain items on the return, correct?

A What I do is I document what items we are collecting. And then those items were given to Investigator Bouknight for his secure control, access to, for as evidence log-in and then to SLED.

Q Were you present, other than the fact that you signed off on the document. Were you present when, I guess, he took control of the items and put them in a bag or did

anything with them?
A I was present when he secured those from the residence to his vehicle.
Q And after that you have no knowledge what happens to them at that particular point, do you?
A I can't testify to that, no.
Q Okay. And so you don't know what condition they were in from the time they left on October 9th up until the time today, correct?
A Only knowing that they would be in his custody and control until he takes it to SLED. And whatever he takes to SLED as indicated on the Form B.
Q And do you recall what even type of container or whatever he had the items in, would he place the items in, do you have any personal knowledge.
A What we use would be the envelopes, the manila envelopes is what we use or if we, we now have what we call integrity bags. We use those now.
Q Those manila envelopes, can you heat seal those items?
A No, we actually use tamper proof tape, evidence tape to seal over the actual seals where the envelopes are taped together so to speak or posted together. You can see the tape that would come around on it.
Q And were these items sent to SLED together or how

were they sent to SLED?
A Without seeing the actual intake form I can only say this is what was submitted to SLED on the Form B.
Q You have no knowledge as to whether they were sent separately together or anything like that, do you?
A No.
Q And I know you had indicated that, you know, these items, I guess the pill bottle wasn't submitted to SLED. But does that right here, on this particular item indicates that the pill bottle was submitted to SLED?
A As I said earlier, I can only read what I am looking at and what you are giving me as far as the Form B which is the Best Kit Certificate of Proof of Chain of Physical Custody of Control. And then once that is taken down, as you see in the paragraph of what is there on that. And then if you look at the intake form which is when Investigator Bouknight takes it to SLED and logs it into SLED laboratory forensic request and evidence log-in, he is turning it in as what is classified as a one, one item Best Kit Evidence. So, if I had to, without having SLED testify for you, everything that you see that is outside in the back as well as this would have been sealed in this packet. And all of it would have been in here as one item but yet broken down on Form B which SLED would also have a copy of once that packet is open.

Q Do you know that for sure or are you speculating on that?
A I can say with a one-hundred precent surety that is how it would have been sent down and collected and received by SLED during their protocol as being in twenty plus years of taking evidence down to SLED.
Q And you mentioned, I guess testified earlier that a razor blade wasn't submitted down there. But this appears, I guess, the plastic baggies, the razor blade and pill bottle are all in the same?
A And if you look, these are two separate heat sealed bags. This one still has the evidence form on it for Newberry County Sheriffs office for Mr. Bouknight. So that would have probably stayed in his evidence control where as this bag contains the Evidence Best Pack from SLED with all the evidence--
Q -- you say they didn't receive a pill bottle or they did receive the pill bottle?
A Right there is the pill bottle with the Best Kit and if you read on Form B which is item 3, orange pill bottle containing a quantity of white cookie substance.
Q And on this particular item right here, what are the items that were submitted to SLED for testing or analysis for this particular item?
A I would have to open this up and this would be some

testimony that you would have to receive from Ben Chapman because these are new stickers of labels that he is utilizing for the evidence log-in. And although it says here, description, plastic baggies, razor blade, pill bottle. I can't see through that envelope to tell you what is in there.

Q So would that mean Mr. Chapman is, I guess, moved the items around or something?

A The only way I can explain this is go back as I testified earlier. And I don't know if maybe we need to put it down on a board or something so that everyone can understand it. Back during 2011 Investigator Bouknight would have been in control as well as the Evidence Custodian for all narcotics. Investigator Bouknight is not here with us any longer. So therefore Chief Wright who is now retired was the overall evidence control for other items outside of narcotics. Now that Chief Wright has retired Lieutenant Ben Chapman and Lieutenant Richie Moore are the Evidence Custodians for the Newberry County Sheriffs Office. We have moved probably three times to different locations. From Main Street, we had to move evidence to 520 Wilson Road and utilize a building where Chief Wright maintained that control up until his retirement, turning over and counting all evidence and turning that chain of command to Lieutenant Chapman.

Since then we have moved from 520 Wilson Road to 550 Wilson Road which is right next door. Lieutenant Ben Chapman has taken all of that evidence from the 520 address and moved it to the 550 address in which he has now set up a system in order to maintain the evidence control when it is logged in from deputies or narcotics. And then placed in a specific location in the evidence room.

Q With regards to this specific item right here, do we know whether it was moved?

A Yes, it was moved. And we know that it is moved because he now has the bar code items on it which are listed on both bags separately.

Q Do we know whether, I think you said Chief Wright, whether he specifically moved this particular item himself?

A Chief Wright was retired when this item was moved.

Q Who specifically moved this particular item here?

A Lieutenant Ben Chapman.

Q And when did he move it?

A You would have to ask him.

Q And when you have like normal evidence that you take into custody who actually, did y'all have like a Evidence Custodian person?

A I am not sure I understand. I have answered that.

Q What I am asking you is on typical evidence, whether it be drugs or not, is there an Evidence Custodian that is at the Newberry County Sheriffs Department. If you don't understand that question then ask me to rephrase it. The question is a yes or a no.

A Yes.

Q Who was that person at that timeframe?

A Which timeframe.

MR. SCOTT: Objection, Your Honor.

THE COURT: He just told you that Jerry Wright was the Chief Evidence Custodian until he retired and now it is Chapman. He spent ten minutes explaining that. Can we excuse the jury until in the morning. Do y'all have any problem with that?

MR. LAKE: No, Your Honor.

THE COURT: I am growing low, my sugar is dropping or maybe I have had too much sugar from eating a lot of candy. But I don't know, I am not going to make much more this afternoon. I am getting very candid with you.

MR. LAKE: Your Honor, I would rather for the Court to take a break for the afternoon.

THE COURT: That is why I took a break a moment ago. Let's send the jury home until 9:30 in the morning. I have got a 9:00 o'clock conference call on some civil case that I have been assigned out of Lexington. Does that

suit y'all.

MR. SCOTT: Yes, sir.

THE COURT: Please bring the jury in here for me, please.

(Whereupon, the jury came into open court at approximately 3:07 p.m.)

THE COURT: I have been dealing with some pretrial matters and they have gotten a little more extensive than I anticipated. I told you to be back at 1:30 and I had to deal with that and a jury verdict from another trial. I am going to excuse y'all until 9:30 in the morning. Okay. So, you can't discuss the case. See you in the morning.

(Whereupon, the jury was excused from open court for the day.)

THE COURT: Let's take a break and let's see if y'all can find some common ground on what exactly we are arguing over. I have got a firm grasp of it. I understand Detective Bouknight not being here is a problem for everybody. But y'all see what y'all can find out and let's take a couple of minutes.

(Whereupon, a short break was taken.)

THE COURT: Okay, where are we.

MR. LAKE: Your Honor, I think we are where we were prior to trial. Again, I will continue to have conversations regarding--

MR. SCOTT: He is asking for a conditional discharge. Back there he said he would maybe tow me into a PWID with probation. We are worlds apart, Judge, I don't see it. I had offered a trafficking second with a minimum which is a five year sentence. That is substantially down from what he is facing should he be convicted. The problem is is his prior record and he has been picked up a couple of times since this charge. I can't possibly do probation. All right, come on up here.

(Whereupon, a bench conference was held with the Court and the attorneys.)

THE COURT: Let's start in the morning at 9:30.

(Whereupon, the trial will continue the next morning at 9:30 a.m.)

OCTOBER 31, 2014

THE COURT: Where had we left off yesterday?

MR. SCOTT: You had just ruled in our favor on all of the pretrial motions.

THE COURT: Well, Mr. Lake was telling me just the opposite.

MR. LAKE: Well, Your Honor, yesterday I think we had stopped right there at Mr. Dennis' testimony. I actually didn't even finish the question. Today if the Court is satisfied with the testimony, I was actually just going to make an argument regarding that matter.

THE COURT: I remember where I interrupted you. It was the Evidence Custodian question, because he described that Bouknight was the narcotics Evidence Custodian. And the entire time, Jerry Wright, until his retirement was the supervising and non-narcotic Evidence Custodian. And upon his retirement, Ben Chapman now is the Evidence Custodian for the Sheriff's Department.

MR. LAKE: And, Your Honor, what I was trying to get at and Mr. Dennis is not here. It is like Richland County where you actually not turning it into a supervisor per se, you're actually turning it into like a tech or somebody like that. So that's, I guess I didn't ask that question as good as I could have.

THE COURT: All right. Now, as I understand it and I interrupted the question. I thought he had already answered your question as to the Evidence Custodian earlier. I understand the sequence of events that occurred that evening and the follow up after the evidence was taken into possession of the Sheriff's Department. Tell me what further arguments you'd like to make on, what have I got to rule on that you've made? So far we're looking at sufficiency and the probable cause of the search warrant. And I think I ruled in favor of the State on that and we were on the next issue as to the chain-of-custody issue you are asking about. Let's hear

you on that.

MR. LAKE: Your Honor, and I provided the Court with, you know, a case yesterday I cited. It's actually a case that would, you know, kind of showed you but not only what the standard was for, you know, accepting a proper chain but also shows the things that didn't apply in this particular case. Within the case of State v. Taylor, it cites a case of, I am sorry, it cites the case, the Benton Case. Your Honor, this is where you had an issue of a party that collected some blood. And there they kind of held with, you know, if the identity of the person who is handling the evidence is unknown. The Courts have consistently held that evidence as inadmissible. And if you go through the remaining part of that paragraph, it also goes on to say that although there was testimony of the hospital's customary practice regarding the mailing of the blood, there was no evidence that the technologist who drew the blood had sealed the vials and otherwise taken any precautions against tampering which is really the ultimate litmus test for any type of chain. That's the reason why you need a chain is just to kind of remove any evidence of bampering. And so the record did not disclose who had possession of the package containing the vial of blood for several days and it left the identity of those who handled the vials in a manner in transportation to

conjecture. And I think, Your Honor, that's what we have in this particular case. We have a situation where drugs were taken at some point. Initially, we don't know who touched them. We do know that the return lists certain items, specific items actually that were, I guess, inventoried, provided, I guess, to Captain Dennis. And I think it's Captain Dennis' testimony that he provided to -- back then to Investigator Bouknight. At that time, you know, it's Captain Dennis' testimony that it was not sealed. It was just in a regular envelope. We don't know at this particular point who he turned this in to. I know there is testimony that he is the custodial inventory for drugs. But there has been no testimony as to the condition or location of actually where the drugs were actually kept. Is there any type of testimony that would, you know, show that there was in no way that the evidence could have been tampered from the time that it was placed in, on October the 9th up until the 21st when it is actually taken to SLED. Now, Your Honor, also take note that, when those items were placed in the envelope, certain items were placed in there. But, however, by the time that we got to the Form 6, which was I guess, sent along with SLED, there are additional items that were in there. Some additional residue which no one has been able to kind of testify as to where that came from and at what

point it got into, I assume, that Best Evidence Kit. We have a straw that was collected that was initially placed -- supposed to have been placed in the envelope according to Captain Dennis' testimony. That is now all of the sudden not included within the Best Evidence. And also we've gone from one razor to two razors now. And so we know at some point that there was testimony that, okay, well, we don't send razors. Well, then we know that there is a point where somebody has gone into that bag and at least removed some items and only sent certain things to SLED to be tested and certain things apparently remained, but remained with who and when and upon what conditions? More importantly, Your Honor, we know that Investigator Bouknight took the items on the 21st and they were tested but the technicians are not even here to testify as to what condition they actually received the bag and whether they were complete.

THE COURT: I thought they were going to be here.

MR. LAKE: I think the only person that's going to be here is just the chemist that's going to testify. But, Your Honor, even as far as that is concerned, you know, when you look at the evidence sheet that they had even after the testing, there is no evidence of where the drugs went after that. We know that Investigator Bouknight got the drugs back, I guess, sometime after the drugs had

been, you know, tested. And then all of the sudden, they are returned to him, but where do they go from there. I have seen nothing. There has been no testimony as to where they were at during this timeframe up until the day that we're here for trial. Now, I know at some point they said that Investigator Chapman took control of it and now he's got to separate it again and inventoried now a little bit better than what they used to. But there is nobody here that's going to testify as to, you know, I guess from that point from when Chapman got involved until, you know, Investigator Bouknight picked up those drugs. Where they were at the entire time and in what condition? Was there any evidence of tampering at any time. All of this is left to conjecture which I think our courts have ruled we can't do in these, in these particular cases. And I don't think the State can show that there has been no evidence of tampering and that they can identify all of the potential parties that may or may not have tested these drugs during this timeframe.

THE COURT: All right. I think the State's made a showing that the evidence was lawfully taken into possession of the Sheriff's Department by Detective Bouknight. And, obviously, him being a participant in the handling of the evidence and being the narcotics Evidence Custodian and he's not here, that is an issue for the

State to deal with. But I think that's a preliminary -- I mean it's an issue that the State runs that risk at trial as to whether they can sufficiently establish the chain. But part of the case you asked me to read, the Taylor case, there's certainly evidence to establish who handled the evidence and if there's -- I mean it's Detective Bouknight. Detective Bouknight, he carried it to SLED and if SLED, whoever deals with that evidence at SLED, they've got, I think I'm speculating as to what the State can prove or not prove because I hadn't heard that. So I don't think I can rule either way. I mean the State's got an opportunity to prove it but they don't have to prove it at a pretrial motion.

MR. LAKE: Your Honor, I do think they have to pass through the preliminary test.

THE COURT: Well, I think they passed the preliminary test. That's not the only test. But it's kind of like a motion in limine. You have raised the issue. I think sufficiently if they get past the motion, they can identify who had it, they got a chain showing the list of people who have handled it. And, you know, whether they can sufficiently keep that chain together at trial is going to be the issue. I don't know, I mean speculating right now, I can't. I can't say they can or they can't. I understand your aimed at it.

MR. LAKE: Yes, sir.

THE COURT: And so respectfully, I'll decline to dismiss on that basis.

MR. LAKE: Now, I wasn't asking to dismiss. I was asking to suppress the drugs.

THE COURT: Oh, well now I don't think that's, I think they've got to try to establish the chain under the law. And the burden of proof is on the State and if they fail then, the drugs don't come in. If they meet that burden during trial and the drugs come in, then that's what they get.

MR. LAKE: Yes, sir.

THE COURT: I guess what I'm saying is they've shown me enough they get an opportunity to try to establish the chain and get the drugs into trial. If they fail and you're successful in beating the link so be it. But that's not, we haven't gotten that far yet.

MR. LAKE: Yes, sir. Just can I state my objection for the record also?

THE COURT: Okay. Yeah, you're protected.

MR. LAKE: Your Honor, I want to address the issue of this alleged statement that was made. I think I'm required to have a Jackson v. Denno on this particular matter they're alleging. And, I assume, will try to put this statement into evidence indicating that my client

stated, oh, so these are my drugs. I knew there were drugs or something to that affect.

THE COURT: Okay. They can do that. All right. While we're doing this, I don't want the jury locked in the room. If they want to come and go and meander and be comfortable, let them be relaxed until I need them. There is no reason to hold them back there and then we get ready for them and oh, we got to run to the bathroom. That's what kept happening to us yesterday. Just as long as they don't come in here, they can stand outside and use their telephone or use the restroom or whatever. If they want to sit back there fine, but don't lock them down in the room, because that's of no benefit for us. Because this may take me 15 minutes to do this.

MR. SCOTT: And just so we, is this the last motion? Are there anymore?

MR. LAKE: No, I do have just, also just, Your Honor, on the motion in limine just to make sure that they don't try to bring up anything about prior record or anything along those lines. I don't think that would be proper in this particular case to show any type of intent. I do think it's not relevant to this particular case and I do think if the Court did find that it was relevant, I think it's sufficient, would be prejudice to my client.

THE COURT: Okay. The prior record is not coming in

unless you open the door.

MR. SCOTT: I don't see how I could do that.

MR. LAKE: Or anything, Your Honor, about any pending charges also.

MR. SCOTT: All right. Well, Judge, I'm going to proffer Captain Dennis' testimony for the purpose of Jackson v. Denno.

THE COURT: All right. Come forward, Captain Dennis. You were placed under oath yesterday and you're still under oath today.

DIRECT EXAMINATION

BY MR. SCOTT:

Q Okay. So, Captain Dennis, just to pick up from yesterday, October 8, 2011 when you respond to the 91 Little Ranches Road, when you get there has it turned into a drug investigation or is it still a home, a burglary type investigation?

A It's still a kind of twofold burglary investigation and then narcotic investigation.

Q Okay. So you had already been notified that there was that pill bottle found in the bedroom?

A Yes, sir. That is correct.

Q All right. And then yesterday you talked about the search warrant being obtained and then searching the home further after the search warrant was obtained. When were

you able to speak with Mr. Toaby Trapp?
A Probably immediately once getting there. I know Mr. Trapp and, you know, once I was briefed by Sergeant Spreng, Investigator Spreng, I had made contact with Mr. Trapp.
Q Where was that?
A It started out in the front yard of his mobile home, and then up to the porch and then finally, into the living room.
Q Okay. So what you mean you encountered him in the front yard and that's when you began speaking with him?
A That's correct. He had already been placed in handcuffs, investigative detention. And so we kind of moved our way into the house, because we knew we were going to be there for a little bit once the search warrant got there. So we moved inside the living room of the trailer.
Q Okay. So you're still waiting for the search warrant to arrive at this point?
A I believe it had already gotten there about the, I'd say five to six minutes after I arrived. It wasn't long.
Q But this is before you began executing the search warrant?
A That is correct.
Q All right. So he is in custody. Now, did you begin

questioning him?
A Yes, sir. One of the first things we do is -- because I was going to talk to him about evidence being found in the house such as narcotics, he was given his Miranda rights.
Q And how do you administer Miranda rights?
A Sometimes I do them off the top of my head. Other times I have my card which I carry in my wallet.
Q All right. Do you recall, did you read them off the card?
A I believe it was probably kind of twofold and starting to read him his Miranda rights, and then making sure that I had the card accessible to make sure I completely, you know, advised him of his Miranda warnings.
Q Tell the Court how you advised him on that day, that being October 8, 2011?
A He was advised that he had the right to remain silent. That anything you say or did could be used against him in a court of law. That he had the right to an attorney, to have him or her present with him during any type of questioning. He also was advised if he did not have any money for questioning, that the Court would provide an attorney to him without cost to him. I always stop at that point and advise, you know, at some point they could possibly end up paying $40.00 dollars or

whatever later on down the road for an attorney if they so desire to get one. And then the last thing that I advise them is, is that anytime during the questioning if they don't want to answer any more questions, they can say Robert, I don't want to talk to you anymore until I talk with my attorney. And then the final question is, do you understand these rights. And he replied, yes. And then the next statement I asked is, are you willing to talk to me about the drugs that's been found in the house. And he advised an affirmative, shaking his head yes he would talk to me.

Q All right. Now, have you known Mr. Trapp prior to this?

A Yes.

Q And have you spoken with him before?

A Yes sir, I have.

Q Have you ever had any trouble communicating with him?

A No, sir. No, sir. We've always communicated very well together.

Q All right. And on this specific occasion, did he appear to have any trouble whatsoever in understanding the rights that you read to him?

A No, sir. I think he was, I mean, his appearance, he was upset. He was upset.

Q But did he have any trouble understanding your rights

or his Miranda rights?
A No, sir.
Q Did he appear intoxicated?
A No, sir.
Q Do you know his education level?
A No, I do not.
Q Okay. But you've never had any trouble communicating with him in the past?
A No sir, I have not.
Q Okay. And so you said he did agree to speak with you about the drugs?
A He did. Yes, he did.
Q All right. And what statement did he make to you regarding the drugs?
A He made the statement, and I asked him, I said, you know, what about the drugs that we found in your room.

And he was like, Man, I forgot about those.

And I said, Well, how could you forget about something like that.

And he said, well, he said, whenever I called 911 the dispatcher told us, you know, don't touch anything, don't go back in the house, wait for law enforcement.

And he said, that's what I did.

So we, you know, during that time we just pretty much continued to talk kind of back and forth. And then

explained to him the search warrant and why we stopped doing what we were doing investigating the burglary. Then the search warrant was read and given to him and explained what was taken.

Q Did he say anything about what type of drugs they were that was in the pill bottle?

A He advised that it would be crack.

Q This is State's 3. I think yesterday you testified, that's some additional crack that was found on the front of that dresser that the pill bottle was on?

A That is correct.

Q Okay. Now at this point when you're speaking with Mr. Trapp, had y'all located those drugs?

A No.

Q Okay. Did you ever have a chance to speak with him about these drugs?

A We did talk with him afterwards about those drugs that we'd found. And, you know, he acknowledged the drugs. But we began to talk with him and try to work with him a little bit.

Q Okay. That was the sole statement, though. And where was that statement made, was that in the yard or inside of his own home?

A That was made inside his home in the living room. He was sitting in a single chair, cushioned chair and I was

sitting on the couch.
Q Okay. Did you make any threats in order to get that statement?
A No, sir. I did not.
Q And did you tell him you might be able to help him out if he would admit to the drugs?
A No sir, not at that time, no.
Q Okay. Thank you, Captain Dennis.
THE COURT: Mr. Lake.

CROSS-EXAMINATION

BY MR. LAKE:
Q Captain Dennis, do you know what a report is?
A Do I know what a report is?
Q Yeah, what is a report?
A A report is a incident report documenting the information on the scene of an incident for an investigation.
Q And what is the importance of a report?
A To document information.
Q For what reason?
A For recall.
Q When did this incident happen?
A It happened on October the 9th, 2011.
Q And did you prepare a report in this particular case?
A No sir, I did not.

Q And did you prepare any documents that stated what rights you read Mr. Trapp at the time of this incident?
A I did not, no sir.
Q And did you provide any statement to Investigator Bouknight that you had talked to Mr. Trapp again and that he had acknowledged somehow the second set of drugs that you found?
A Investigator Bouknight was present during the entire talking of Mr. Trapp.
Q Is that a memorized, memorialized in his report that you talked to Mr. Trapp again and that he had acknowledged those second set of drugs?
A That is not in the, in the first note.
Q But you just happened to recall that now, some three years later?
A It's not happened now to recall it. That stood in my mind for three years.
Q But you never prepared a report saying any of those things?
A No, sir. At the time the most important was, what was visibly found that he acknowledged that was on his dresser.
Q And isn't it true that y'all did promise him something?
A I don't understand what you are saying.

Q Was Mr. Trapp arrested that night?
A No, Mr. Trapp was not arrested that night due to he wanted to cooperate and help buy drugs from other people.
Q Did you put that in a report?
A It was placed in there that he was not arrested the night of the incident due to he stated that he wanted to cooperate. And that if he went to jail, many suspects who he would be able to assist with cooperating with law enforcement would find out and it would hinder Trapp's cooperation.
Q Did you write that down?
A A warrant for Trapp's arrest will be issued at a later time.
Q Captain Dennis, did you actually write that?
A That was documented by Investigator Nick Bouknight.
Q Then the answer to that will be, no?
A Did I do that?
Q Correct.
A No, I did not write that.

MR. SCOTT: And, Judge, probably that particular, we don't intend to illicit that at trial. But if the door is opened, then we would probably step through it at that point if Mr. Lake undertook that line of questioning.

THE COURT: I would guess he probably would not but that's his decision.

MR. LAKE: That will be my decision, Your Honor.
Q And so at this particular point, when is he actually arrested?
A He was arrested on 11/21, well, a warrant was issued for him on 11/21 of 2011.
Q But he actually turned himself in, correct?
A That is correct.
Q No one actually went out looking for him, did they?
A Do what now?
Q No one actually went out looking for him on November the 21st or anytime subsequent?
A No, sir. He was contacted and he turned himself in.
Q He turned himself in when y'all told him. And so even though the warrant was issued, no one still went out there to go looking for him, did they?
A The warrant was issued. The warrant was effected by either calling him to turn himself in or if we had to go look for him. Either way, the warrant was issued and served on Mr. Trapp.
Q And wasn't Mr. Trapp's son present at the time? Was he out there at the scene?
A There was another male out there. But he was out there at the vehicle.
Q And at this particular time, Mr. Trapp's son was actually staying with him, correct?

A I can't answer that. I know he has a room there. Now, there is a difference between saying someone's staying there or someone lays their head there night after night. So we would need to qualify whether he's full-time staying there or he just comes to lay his head.

Q So it would be fair to say Mr. Trapp is out there with cuffs on and is there anybody else out there besides Mr. Trapp and his son?

A Just those two.

Q Okay.

A If that is who that was.

Q If that's who that was. Do you have any evidence that it wasn't his son?

A No, I do not.

MR. LAKE: Beg the Court's indulgence. No further questions, Your Honor.

THE COURT: All right.

MR. LAKE: We do have a motion to suppress this alleged statement. Your Honor, this statement, there is really no record of this right here. Now, there's something added into this, you know, this statement is allegedly made. You're really talking about, you know, him trying to really piggyback something that, you know, is really hearsay. I mean, this is what it all really kind of stems down from hearsay from what Investigator

Bouknight, I mean all of his testimony really essentially is reading the reports off this right there. To say he's not promised anything, Your Honor, I mean is not even believable in this particular case. I mean he's not even arrested and he's allowed, I mean even when the warrant is issued let's say back on -- in November, he's still not called and allowed to turn himself in till sometime in December. So to say that for whatever, you know, whatever communications that they had with him that particular night, if they had these kind of communications, to say that nothing was promised to him, he sure really got a good gift if nothing was promised. Because most people, Your Honor, if drugs are found in their house, they're arrested then, that night. Even if someone cooperates, that cooperation would come later. But to sit there and say, you know, some kind of event occurs and you don't turn yourself in till two months later but there is no promises to you. Your Honor, I think in this particular case for whatever allegation or statement they're trying to allege to him, clearly there's been some promises made to him or assurances made to him that he wouldn't be arrested that particular night, because he wasn't arrested that night. I do think there is some, be some admissibility issues as to whether this statement is free and voluntarily or was it guided from a point of, hey,

you've got your son here, you go to jail, what's going to happen to him? I mean that's what you essentially, they know his son is there. I think even the reports mention that his son is there but they don't arrest him.

THE COURT: Mr. Scott?

MR. SCOTT: Judge, of course, the Court can inquire of Captain Dennis while he's under oath. But my understanding was this statement was given and then he asked, you know, can I cooperate? Can I, can you do anything to help me? This was after the statement was given. I've heard no testimony the son and his presence there, how it, well, I didn't quite follow that argument. I had no understanding of how that affected his statement.

THE COURT: It seems to me that the rights were read, a conversation started. There was some familiarity with the parties, Dennis, Mr. Trapp, Bouknight, everyone. The drugs that they were asking about, the Sheriff's Department already knew about it, so tell me about it. I forgot about them. That's the statement we're looking for.

MR. SCOTT: Yes, sir.

THE COURT: It sounds like a voluntary statement to me. Certainly, there's cross-examination to go in, but this wasn't the first meeting between Mr. Trapp and the Sheriff's Department.

that effect. So I think any type of testimony in that realm would be improper.

THE COURT: I'll agree. But, you know, being that they can say, it's a small community. I've known Mr. Trapp because I grew up in Newberry and he did, too. That's allowed. But I knew him because he'd been to the Sheriff's Department and interrogated five times is not going to be allowed. So I'm certain Captain Dennis is experienced enough to understand the difference as to what comments he should steer clear of so as not to poison the testimony. But rights are read, the statement was voluntary, it will be allowed.

MR. LAKE: And I'd just state my objection for the record.

THE COURT: Okay.

MR. LAKE: I think that's it right now, Your Honor.

THE COURT: All right.

MR. LAKE: Oh, Your Honor, there was one additional thing, Your Honor. I think my client did, because I guess because the Court had inquired and he wanted a little more opportunity, he did want me to, I guess, make a request that this matter be continued and held over to another timeframe that will give me an opportunity as his attorney I guess to counsel him a little bit more in this particular case. As I advised the Court, you know, Mr.

Trapp has been represented, I guess, from the time of this incident back in 2011 up until, I guess, whenever this Court relieved Mr. Bolt.

THE COURT: Yes, about what, four, five, six months ago?

MR. LAKE: No. I think he just relieved him in September.

MR. SCOTT: In July.

MR. LAKE: July.

THE COURT: I thought it was in the summertime. Mr. Bolt came to Newberry and it was, we had an informal conference in my chambers is what I remember. Mr. Bolt came up because he closed his practice and had some health issues and what not.

MR. LAKE: Yes, sir.

THE COURT: And I remember noticing Mr. Bolt was missing the normal amount of hair he normally used to carry.

MR. LAKE: And it's just that, I mean from my understanding from him and there may have been an Order. I think the Order wasn't signed until maybe September or something along those lines, I believe. I don't know if the Court has a copy of it or not but that's when he retained me on October the 1st. And so, you know, he wants me to kind of make this motion to continue this

matter to give me a little bit more time to make sure that I've done it thoroughly, explained everything to him and things of that sort. So that's my motion.

THE COURT: I think this case of the age that it needs to get moved. I understand you're new, but you're experienced. Mr. Trapp is not new to the case. I wish everything could get resolved, the new charges or whatever it is that's out there because I'm not really familiar with what there is out there. And that's not relevant to this trial at all. But, respectfully, I'm going to deny your motion to continue the thing. We're going to move on forward. All right. Y'all want a short break, because I need to step back and get another cup of coffee and we'll start in a few minutes?

MR. LAKE: Yes, sir.

THE COURT: All right.

(Whereupon, a short break was taken.)

THE COURT: Let's bring the jury in.

(Whereupon, the jury came into open court at approximately 10:21 a.m.)

THE COURT: All right, folks, good morning. My pleasure to have y'all here. Thank y'all for being patient with me yesterday. As y'all heard yesterday, the State of South Caroline has an indictment for trafficking crack cocaine against Toaby Alexander Trapp. Mr. Trapp is

will get what y'all need to decide this case from these parties and from the Court. All right. All that being said, we'll start with opening introductions, opening statements by both parties. Mr. Taylor Daniel goes first for the State, and then Mr. Dietrich Lake goes second for Mr. Trapp.

MR. LAKE: Your Honor, can we approach for one second?

THE COURT: Yes.

(Whereupon, a bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: All right. Ms. Folk, will you place the jury under oath for me?

(WHEREUPON, the jury was sworn at 10:21 a.m.)

THE COURT: All right. Mr. Daniel?

MR. DANIEL: Thank you, Your Honor. May it please the Court?

THE COURT: Yes, sir.

MR. DANIEL: Ladies and gentlemen, I apologize if I start coughing or sneezing. My allergies activated because of the weather. It's, you know, 40 degrees in the morning, 80 degrees in the day. It's been a long week. We've already had a trial, one trial. Deputy Solicitor Dale Scott and I just wrapped up a four-day trial

yesterday and now today, we summoned you back in to be on a jury for this case. I appreciate you coming in on a Friday. I know it's an inconvenience. You may have children, trick-or-treating, Halloween, but this is going to be a brief case, at least from the State's perspective, three to four witnesses in this case. But just because it's a brief case does not, you know, it's not a trivial matter. It's never a trivial matter when there's a trial, particularly a criminal trial. It's important for all parties concerned. It's important for the State of South Caroline. It's also important, obviously, for Mr. Toaby Trapp. He deserves his day in court. He's getting that. The U.S. Constitution, the Constitution of the State allows people to be tried by a jury of their peers. That's you guys. Newberry County residents, that's why you're on this jury and we didn't pick you by accident, we picked you because we felt like you'd be good jurors from different walks of life, men, women, white, black, different occupations. So just a cross-section of the community is why you're on this jury. Briefly, I'll give you the facts of this case and kind of a roadmap. Keep in mind, I don't know what's going to play out at trial, so I can't be too presumptuous. But the Newberry County Sheriff's Office investigated this case and you have a terrific Sheriff's Office. Robert Dennis is our lead

investigator, Captain Robert Dennis. That's why he's sitting at the table with us. But they're involved in this case. The charge against Mr. Toaby Trapp is trafficking in crack cocaine. And trafficking, what that means is it's all weight-based. Ten grams or more of crack cocaine means that's trafficking amounts. Think of this, Sam's club amount, it's bulk, it is bulked out as crack cocaine. It's not buy one bag of chips at a convenience store, it's you buy a six-month supply of chips is essentially trafficking. That's what you got and it's all based on weight. You got to have ten grams or more and in this case, the weight of the crack cocaine found in Mr. Toaby Trapp's house on October 8th of 2011 was more than 10 grams. It was twice that. About 21 grams of crack cocaine was seized at Mr. Trapp's house on the evening of October 8th or early morning hours of October 9th of 2011. Mr. Trapp resided at 91 Ranches Drive. That's out in the county. I'm not exactly certain where. I can't describe it, but it is here in Newberry County. Mr. Trapp and how this came about, when I tell you this, you just got to listen, because these things happen. We're all human beings. We make a mistake. Mr. Trapp told on himself. Unwittingly, inadvertently told on himself about having crack cocaine. Because Mr. Trapp arrives homes on the evening on October 8th, comes in his

house and notices things are scattered about, ransacked. Sees things on his floor, sees shoeboxes taken out of his closet in his bedroom, the bedroom is ransacked. Sees the backdoor open. The backdoor was closed when Mr. Trapp was home earlier. Now, it's open. It was pried. Now, the shoeboxes in the bath, or excuse me, in the bedroom, $7,000.00 dollars is missing. Toaby Trapp called 911 and reports my home has been burglarized, you know send the police. The police come. Deputy Brad Epps who's sitting right there is first on the scene to take the initial report or being he's the first responding deputy I should say. Toaby Trapp tells him about what happened and says, you know, $7,000 cash was taken out of my bedroom along with maybe some jars of change I think and, you know, I'm making a report. And see, Toaby didn't touch anything because he wanted to preserve the crime scene for the police to investigate. So he didn't touch anything. He wanted to make sure the police could investigate properly, perhaps fingerprints, take photos. Brad Epps is just a road deputy at that time. Now, I believe he's in investigations. But he then calls, Deputy Brad Epps calls Robert Spreng, the on-call investigator that night, to come by and process the scene so to speak. So while they're processing the scene, when Investigator Spreng comes out there, that's when they stumbled upon the crack

cocaine in a orange pill bottle in Mr. Trapp's bedroom. So then the burglary investigation transforms into a drug investigation all because Mr. Trapp didn't remember to clean up his crack, essentially what happened. Probably more concerned with the $7,000.00 dollars in cash that was taken is why. And Mr. Trapp later on gives a statement to that effect that it was kind of oops, I was more concerned about reporting a burglary, I forgot to clean my crack cocaine up, forgot to put that away. So that's essentially why this case is here before you today. And Investigator Robert Dennis will talk to you about that, the statement that was made to him. They obtain a search warrant once it becomes a drug investigation to find further drugs and they do. Right underneath that orange pill bottle, they find more crack in two separate plastic baggies. That's seized. I want to talk about how evidence is preserved, the integrity of it just to make sure no one tampers with the evidence. The police don't want anyone tampering with the evidence, obviously, they're the police. They want to preserve this. So we'll talk about the process of how we know that nothing was added or taken away from these drugs. That drugs are then sent to SLED or state law enforcement agency and they analyze drugs. You'll hear testimony from a drug analyst, Lynn Black. She tested the drugs just to make sure that

they were indeed crack cocaine and yes, they were. She generated a report and she will testify to that effect. She weighed the drugs. A lab weight of, like I said, 21.3 grams is what she is going to testify to in her report. You'll hear that testimony. It's trafficking now. That's twice as much as you need. And so that's the Costco amount of crack cocaine. And all we have to prove is that that crack cocaine was Mr. Toaby Trapp's crack cocaine and he possessed it and he possessed at least 10 grams of it. That's all this case is. So we'll talk about the evidence that was seized. You may see some pictures but that's essentially the case. The statement he makes acknowledging that I forgot to clean up the crack cocaine, I was more concerned about my house being broken into. So that's briefly the facts of his case. Now, I don't know what, Mr. Dietrich Lake represents Toaby Trapp. I don't know if he's going to present a case. He doesn't have to. The burden is solely on the State to prove Mr. Trapp's guilt beyond a reasonable doubt. Mr. Trapp doesn't have to prove it. He does not have to prove one thing and you may say to yourself, you know, a case like this seems pretty open and shut. But in this country, it doesn't matter, you get your day in court and that's why, you know, only in America, that's why that it's kind of good to live in this country because even with these kind of

facts, we're still going through the process and that's what matters. You want it to be fair, but you can't ignore the true. So that's why when you go to your jury room, you're going to return a verdict that speaks the truth and the Judge will tell you that. You're the finder of facts. You have to tell us guilt or innocence and that's your job. You have to determine somebody accused of a crime in Newberry County is actually guilty or innocent. But the verdict has to be based on the truth is what we're here for. Why do people -- why are they sworn under oath when they testify, because we want them to speak the truth, we want them to tell the truth, we want things to be accurate, so use your common sense. Don't be fooled by misdirection. I don't know the line of questioning that Dietrich Lake may pursue in this case, but I ask you to pay attention to what makes sense. If you heard these facts outside of this courtroom before you are sworn in as a juror, what would you think? You would think yeah, that's Toaby Trapp's crack. You would think that. So don't let that common sense that you've had out there, don't suspend that. Keep that with you while you're a juror in this case, because that's what it is, it's a common sense approach. And the facts in evidence from the witness stand will bear that out what happened, that that was Mr. Toaby Trapp's crack and he possessed and

we'll see it as found in his bedroom. Thank you.

THE COURT: Thank you, Mr. Daniel.

MR. LAKE: Here's a famous quote, and I want to make sure that I get it right, "That an injustice anywhere is a threat to justice everywhere." And that's what we have in this particular case, an injustice. I know the prosecutor has kind of focused their attention on me. Well, I'm not the focus of the case. I'm not going to misdirect you. I'm not going to try to change anything. As he indicated, the facts and the evidence will speak for themselves. And for eight years, that's what I did. I was a prosecutor. And ladies and gentlemen of the jury, I'm not going to waste your time on a Friday just to be doing it. I'm not. He talked about rights that we have. He's right. We have a right to a jury trial. He has a right to the jury trial because one thing, he says that he is innocent of this particular event. And that's what law enforcement wants you, they want you to believe, oh, let's take a look at this right here. Use your common sense and just listen to what you hear from us and that he should be found guilty. Well, that's not how the law works. What happened was on October 8th, 2011, Mr. Trapp comes back home, because this case starts off as a burglary. He calls law enforcement to come out there and respond. He's there with his son. Investigator, I mean I guess now, Epps arrives at the

scene and that's where things go bad and they go horribly wrong for Mr. Trapp. And do you ask him does he know why? He's going to tell you no, he doesn't know why. Because Investigator Spreng comes out there and Investigator Spreng comes out there because you will hear Investigator Epps now tell you that, well, I'm just a responding officer at this particular time. This is a little bit more than I can handle, so now I'm bringing in the investigator and he is solely the investigator, I guess, for the scene. So he comes out there and he takes photographs. And ladies and gentlemen of the jury, I'm going to say one thing, because you're not going to hear from Investigator Spreng who came out there. You're not going to hear from him at all. There's Investigator Bouknight who came out there to the scene. You're not going to hear from him at all either. But thank God, that when Investigator Spreng came out there, that he started taking pictures because if he did not take a picture of the scene before the narcotics people got there, ladies and gentlemen of the jury, you all would never know the truth of what happened. The only thing that you would see is a pill bottle on a dresser and you would automatically think that my guy is guilty, but he's not. Because what you're going to see is photographs. They're not my photographs. They're law enforcement's photographs and

they were digital photographs that were taken in order. And you're going to see photographs where you see the entryway to Mr. Trapp's room. And you're going to go in there and you're going to see boxes spread everywhere, all over the floor, because they've ransacked. Whoever robbed this place has ransacked it. And they talk about fingerprints. Ladies and gentlemen of the jury, I challenge them because I didn't get any information of where they did any fingerprints on anything where there was a burglary or whether it was a drug case. They did nothing. But the one thing that was beneficial is that you see those photographs as he's coming into the room and that's where Mr. Trapp gets lucky, and you're going to get a chance to see that but again, they're not my photographs. You're going to see photographs of the area where they allege these drugs were at, because you're going to see the boxes as to the condition of the place where it was located. You're going to see the T.V. and you're going to see the dresser. And you're going to see in that area, and I'm going to call it alleged pill bottle is not there. You will not see it in those photographs. Then somehow later, and I'm waiting to get information because, you know, again two of the people you're not going to hear from. So I want to hear Captain Dennis explain to us how all of the sudden that one pill bottle

ended up being there later on because then as he comes in all of the sudden, now there are up-close pictures and so now, oh, now we got drugs here. And based upon that, they claim they going to get a search warrant and then based upon those search warrants, they come back to the scene, oh, we found drugs in here. Oh, he just admits. Oh, I forgot about it. I forgot about the drugs. But where is the statement at? You won't see not one written statement. You won't see no video. The only person that you going to hear from is Investigator Dennis, he's not even going to tell you that he even did a report. For something that happened three years ago -- if this guy has confessed, wouldn't you think you'd write a report saying that he confessed, if you are saying that he confessed to you? That's 101 law enforcement. That's what you do reporting for so that you can memorialize and come back and testify later. But now all of the sudden years later, now it's oh, this is what he confessed to. But again, ladies and gentlemen, that's what I say to you sometimes things are not quite what they appear. And thank God we do live in this system, because he has at least another buffer, another layer of protection and that's you because you're the jury in this particular case. You get an opportunity to hear the facts of the case and determine whether they have met their burden of proof and that is a

proof beyond a reasonable doubt. And what that means, you have to be firmly convinced that those drugs were there and the drugs was there before law enforcement got there, because that's what the issue is. And, ladies and gentlemen of the jury, I submit to you when you see these photographs, it's going to be clear that those drugs were not there. But again we'll never know why we're at this particular stage. But one thing that you need to be aware of when it relates to Mr. Trapp, and I think this Judge has talked about it. He's going to instruct you what the law is in this particular matter but there is a presumption of innocence in this particular case. But, you know, more so it's more than just a presumption. Mr. Trapp is innocent of this particular crime. That's why we are here and that's why we're not wasting your time. When they get up here and testify, the one thing that I'm going to do is I'm going to do a couple of things. I'm going to make sure they testify as to what they personally knew, what they personally have knowledge of, because that's what the only thing you're supposed to testify in the first place. They give us Captain Dennis who basically did nothing in this particular case. While the investigator that took the photographs and collected the evidence, we don't hear from him at all. You're going to hear from Investigator Dennis. They are going to try to

bring in the person that actually did the testing. We're not going to sit here and deny that it was crack cocaine. What we're saying is that it wasn't his. But they're going to bring that person in. They are going to bring the responding officer to just testify to what it looks like and that's it. And I think they may bring in one other person who wasn't even doing the job back in 2011 that has any relevance to this particular case. That's all you are going to hear from, but they want you to convict him and call him a trafficker based upon that. That's what annoys me and that is also scary. But again, that's why we have jury trials in this particular case. So I ask that you all take your role seriously and which I know you will. I appreciate your time. This has been hanging over Mr. Trapp's head, you know, for some time. They've had an opportunity to have their witnesses here, but they're not here. They call the cases, they decide when cases are going to be called. And so they decided that they were going to call this case today, Friday morning. So we're here and we're happy to be here. I just ask that you listen to the facts and pay close attention to those photographs. Those photographs that show when Investigator Spreng gets there and you see -- have an opportunity to see that dresser. That is where you need to look for, that particular dresser. And I am

telling you that there is no pill bottle. Ladies and gentlemen of the jury, again my name is Dietrich Lake. Even though I don't live here in Newberry anymore, I was born and raised here. My parents are still here and the majority of my family is here. Mr. Trapp is a resident of Newberry County. I still consider this, even though I live down there in the Irmo/Ballentine area, this is still home for me. And so you all, each of you, you are his peers and my peers. So I just ask you take your role seriously and we look forward to this particular day in court. Thank you.

THE COURT: Thank you, sir. Call your witness.

MR. DANIEL: Your Honor, we call Brad Epps.

THE COURT: All right.

BRAD EPPS, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DANIEL:

Q Deputy Epps, how long have you been employed with the Newberry Sheriff's Office?

A Four years and a few months.

Q And what is your current position or rank with the Sheriff's Office?

A I'm a sergeant/investigator.

Q How long have you been an investigator?

A Maybe almost a year now.
Q Prior to that, what was your rank?
A I was just a road deputy.
Q Okay. So October 8th of 2011, you would have just been a road deputy?
A Yes.
Q Okay. Were you on duty October 8th of 2011?
A Yes, I was.
Q Did you have an occasion to respond to a call located 91 Little Ranches Drive in Newberry?
A Yes, I did.
Q And that is in the county?
A Yes.
Q And what was that call in reference to?
A It was a burglary.
Q And who made -- who was the complaining witness?
A Toaby Trapp.
Q So you arrive at 91 Little Ranches Road that evening?
A Yes.
Q About what time?
A My arrival time was about 10:19.
Q Is that military time, wouldn't that be about 8:00 p.m.?
A That's 22:19 so that's 10.
Q Oh, I thought you said 20:19 or 22:19?

A 22:19 is 10:19.
Q Okay. So 10:00 p.m., okay, roughly. When you arrived on the scene, what do you observe, who do you meet with?
A When I got on the scene, I spoke with Mr. Trapp. He told me that he had came home, went through the front door and noticed some items on the floor and his house had been broken into. He said he had about $7,000.00 dollars missing and a few other items. And then I looked around and went in the bedroom. The bedroom was ransacked, shoeboxes everywhere, which is where he said he had the $7,000.00 dollars. So I backed out and called for the on-call investigator which was Investigator Spreng's at the time.
Q And let me back up. Mr. Trapp is taking you through the house?
A Yes.
Q And he reported that, you said $7,000.00 dollars?
A Yes.
Q In cash?
A Yes.
Q And where was that located?
A According to Mr. Trapp, it was in a shoebox in his closet.
Q In his bedroom closet?

A Yes.
Q Okay. And he said things were kind of scattered about?
A Yes, sir. There was numerous shoeboxes all over the floor.
Q Was it just the bedroom that had been ransacked, are any other rooms in disarray?
A As far as I can remember, there wasn't any other room that was ransacked, just his bedroom.
Q How about signs of forced entry?
A The rear door was pried open.
Q Pried open?
A Yes.
THE COURT: Speak up a little bit for me, please.
Q What other items did Mr. Trapp report to you that had been taken? You said some other items.
A A piggy bank filled with miscellaneous coins, maybe pennies, dimes, quarters, nickels. And a large beer bottle filled with quarters and dollars.
Q Did Mr. Trapp indicate, had he moved anything around himself before you got there?
A No.
Q So Mr. Trapp is reporting that his house was ransacked by some unknown individual?
A Yes.

Q I'm going to show you a series of photos, Deputy Epps. And you said you did call an investigator?
A Yes.
Q And who was that investigator?
A Investigator Sprengs.
Q And where is Investigator Sprengs?
A Currently?
Q Currently.
A As far as I know he's working in Florida somewhere.
Q Okay. So he is no longer with the Sheriff's Office?
A No longer with the Sheriff's Office.
Q When did Investigator Spreng leave the Sheriff's Office?
A I believe it's almost two years ago if not two years ago.
Q Okay. So he's in Florida right now?
A Yes.
Q Is he still in law enforcement, do you know?
A I have no idea.
Q Okay. So what was, so your role was just you were the first responding deputy?
A Yes.
Q You observe all of these items you said that had been ransacked?
A Yes.

Q And then you called Investigator Spreng?
A Yes.
Q At that point is that the extent of your role?
A For the most part, yes sir. I mean I photographed the backdoor and that was pretty much my role once Investigator Sprengs got there.
Q Okay. You did take some photographs?
A Yes, of the backdoor.
Q What kind of camera did you have?
A A little Canon camera. I don't know the name brand of it.
Q Is it like a digital camera?
A Yes, it was a digital camera.
Q Okay. I know a lot of days people just take pictures with their phone. Did Investigator Spreng, did he take pictures as well?
A Yes, he did.
Q Okay. Well, I'm going to show you a series of photos that's been marked for ID purposes, State's number 10, just tell me do you recognize that?
A That's the rear of the residence where entry was made.
Q Okay. So the rear of the backdoor?
A Yes.
Q And you said that's where entry was made?

A Yes.
Q Okay. I'm going to show what's been marked as State's number 11. You recognize that?
A Yes, sir. That's the pry marks where the door was pried open.
Q Okay. It looks like pry marks?
A Yes, sir.
Q The door was pried open?
A Yes.
Q Did you suspect a tool or anything had been used?
A It could have been anything.
Q Okay. State's number 12, you recognize that?
A Yes, sir. This is another photograph of the pry marks on the door.
Q Okay. State's number 14?
A That's the living room.
Q Was the living room ransacked?
A No, sir.
Q Okay. State's number 15, you recognize that?
A I don't know what area of the house it's in, but I remember Mr. Trapp telling me that there were CDs on the floor.
Q Okay.
A I want to say that's the first thing he noticed when he walked in.

Q That the CDs were scattered on the floor?
A Yes.
Q Okay. State's number 16, you recognize that?
A More CDs on the floor.
Q Okay. State's number 17, what is that?
A That's Mr. Trapp's bedroom.
Q That's Toaby Trapp's bedroom?
A Yes.
Q Okay. And that appears to be a lot on the floor there. What is that?
A Shoeboxes.
Q Okay. Is that where you said shoeboxes were scattered about. Is that where certain things were taken that were in shoeboxes?
A Yes, sir. He said the $7,000.00 dollars was in the shoebox in his closet.
Q Okay. State's number 18?
A More pictures of the shoeboxes on the floor.
Q And then State's number 19?
A More pictures of the bedroom with the shoeboxes.
Q All right. Did you take these photos?
A No sir, I did not.
Q But you were, were you present when the photos were being taken?
A Yes.

MR. DANIEL: Your Honor, I'd offer these exhibits for admission into evidence.

THE COURT: Any objection?

MR. LAKE: Can I see the photographs? Your Honor, may I approach?

(Whereupon, a bench conference was held in the presence of the jury but out of the hearing of the jury.)

Q Do these photographs are, do they represent, I guess, a clear and accurate depiction of what you observed on the night of October 8th, 2011?

A Yes.

Q Now, you said you had taken some photos yourself?

A Yes, of the rear door.

Q Did you take any other photos?

A No, sir.

Q Who would have taken these photos, do you know?

A Investigator Sprengs.

Q Now, was that the extent of your role in this case?

A Once Investigator Sprengs got there, I passed the information along that was given to me. I told him what the bedroom looked like and he went in and started looking around.

Q Okay. Any other deputies arrive?

A Not at that time.

Q Did you discover any drugs in the house?
A I did not. Not until Investigator Sprengs got there.
Q Did you see -- was Toaby Trapp, was he a suspect in your investigation for anything?
A No, sir. His house was broken into. He was a victim of a burglary.
Q Okay. At what point did you leave that residence? Did you clear the scene at some point?
A I did because we had another call like right down the road at the skating rink.
Q Do you recall Investigator Captain Robert Dennis being on the scene?
A Yes.
Q Do you recall any search warrants being issued?
A I don't recall it. No but -- no, I don't.
Q And you said you were responding to a call later on?
A Yes. Once Investigator Sprengs and I believe Captain Dennis was there and I want to say the narcotics officer was there, too. We had another call down the road at the skating rink and I left and came back once I cleared from that call.
Q And why again -- why was a narcotics officer involved in a break-in?
A Because once Investigator Sprengs got there, he walked in the bedroom where everything was ransacked,

looking around the room and looked on the dresser which I believe was to the right of the door and noticed a large amount of crack in a pill bottle.

Q Did you observe this crack in the pill bottle?

A Yes, I did.

Q Okay. And at that point other -- you said other officers arrived?

A I don't know when Investigator Sprangs calls either Captain Dennis or the narcotics officer, Bouknight. I don't know when he called them.

Q Okay. But you did clear the scene after that?

A Yes.

Q And you were not in investigations at that time?

A I was not.

MR. DANIEL: And, Your Honor, I would offer these into evidence now at this point.

THE COURT: Any objection?

MR. LAKE: No objection.

THE COURT: All right. Proper foundation has been laid, they'll be admitted.

(Whereupon, State's Exhibits 10, 11, 12, 14, 15, 16, 17, 18 and 19 were admitted into evidence.)

MR. DANIEL: No further questions. Please answer any questions Attorney Lake has for you.

CROSS-EXAMINATION

BY MR. LAKE:
Q Investigator Epps, how are you doing today?
A I'm all right. How are you doing?
Q Just fine. You said you got there about 10:19?
A Yes, sir.
Q Who was with you when you arrived?
A I was by myself.
Q And you indicated that I guess -- describe for the jury this trailer once you kind of walked into it?
A When you walk up on the porch and you walk in the front door which is the living room. And I don't know how many rooms are on off to the right. After you go through the living room to the left there is a kitchen. And then is the master bedroom which is where Mr. Trapp said his bedroom was.
Q And are you the first officer there?
A I was.
Q And how long was it that you're there actually at the scene before either backup arrives or you call Investigator Spreng?
A I couldn't tell you.
Q And more than 5 minutes, more than 30 minutes?
A I don't know. I couldn't tell you. I don't want to guess and be wrong.
Q Other than Investigator Spreng, did anybody else come

out there?
A Yes.
Q What other officers came out there?
A Captain Dennis and the narcotics officer, Bouknight.
Q And when they -- when you first arrived, describe the encounter between you and Mr. Trapp at this particular time?
A He gave me a brief rundown of what he saw when he entered the residence which was CDs on the floor and showed me where everything was in the house, where his bedroom was and told me what he had missing.
Q And did he actually physically walk you through the scene?
A Yes.
Q Okay. And I know you testified earlier he didn't touch anything, is that right?
A Prior to me getting there, I don't know. But when I was there, no.
Q You never personally observed him touch anything---
A I did not.
Q ---attempt to move anything, attempt to conceal anything?
A I did not.
Q And he never said to you, man, I got some drugs over here that I forgot about?

A No sir, he didn't.

Q That entire time, now did you ever get a statement from him or anything along those lines?

A I did not.

Q And you -- just a few minutes ago you were shown some photographs that have been admitted into evidence. And I think which is State's exhibit number 15 and 16. Were these the CDs that you're referring to that got displaced?

A Yes.

Q And these particular CDs, they weren't in Mr. Trapp's bedroom, correct?

A I don't think they were. I want to say they were in somewhere close to the kitchen and the living room area.

Q Okay. So there was another part of the area that had been disturbed along with prying the door open, correct?

A Yes.

Q And let me show you some better photographs and what I would mark as Defendant's number 3, Defendant's number 2, Defendant's number 4, Defendant's number 6 and Defendant's number 7. Just get you to take a look at these photographs and just kind of let me know whether those, I mean they are almost identical same photographs, but are they in the same condition as how you found the scene when you got there?

A Yes, sir. That's how it was when I got there.

Q That fairly and accurately depicts that?
A Yes.
Q And at this particular time, what it fairly and accurately depicts, is this when you are with Mr. Trapp as he is walking you through?
A Yes.
MR. LAKE: Your Honor, at this time, Defendant's would admit into evidence, Defendant's number 2, 3, 4, 7 and 6 into evidence.
MR. DANIEL: I'll stipulate, Your Honor, they can come into evidence.
THE COURT: All right. They're in.
(Whereupon, Defendant's Exhibits 2, 3, 4, 6 and 7 were admitted into evidence.)
Q Okay. Just for the record, go through each one starting with exhibit number two and describe what you see in each particular photograph.
A That's a picture taken from, what looks like the hallway going into Mr. Trapp's bedroom.
MR. LAKE: Your Honor, may I stop the witness for just a second. Do you mind if I get him to step down maybe in front of the jury and just kind of illustrate or would you prefer him here?
THE COURT: All right.
MR. LAKE: I'm not technically savvy, Your Honor, so

I'm going to need some assistance. Your Honor, I may just have him to stand up. It's easier for me to do this way or here, I don't want to be leaning over the jurors. I just need you to stand up and speak as loud as possible, okay?

DEPUTY EPPS: Okay.

Q Using State's exhibit number 2, describe for the jury what you see and get a little bit closer so they can see it also.

A This appears to be the hallway leading up to Mr. Trapp's bedroom.

Q And can you see some of the items that you were describing?

A Yes, shoeboxes.

Q And this is how you found it when you first got there, correct?

A Yes.

Q And just starting off with State's exhibit number -- I mean, I'm sorry, Defendant's exhibit number 3, what is this?

A Mr. Trapp's bedroom again with the shoeboxes and the drawers being pulled out.

Q Again, this is the same condition that it was in at the time that you walked through with him, correct?

A Yes.

THE COURT: All right. I'm want a sidebar real quick.

(Whereupon, a bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: I need to put something on the record, ladies and gentlemen. Y'all step to the jury room. We'll take a short break.

(Whereupon, the jury was excused from open court for a break.)

THE COURT: We will take a break.

(Whereupon, a break was taken.)

THE COURT: Come to order, please. All right. I expressed a concern I didn't want to trap a witness knowing there's some distinguishing marks on those pictures. Y'all ask questions whatever y'all feel appropriate in cross-examination or on redirect. However y'all want to do that, and I think y'all have studied those pictures more than I have after the sidebar, so do whatever you like.

MR. LAKE: All right. Thank you.

THE COURT: All right. We ready to continue on?

MR. LAKE: Yes, Your Honor.

MR. DANIEL: Yes.

THE COURT: All right. Bring the jury in please,

ma'am.

(Whereupon, the jury came into open court at approximately 11:15 a.m.)

THE COURT: All right. Mr. Lake, continue on.

MR. LAKE: Thank you, Your Honor.

CONTINUE CROSS-EXAMINATION

BY MR. LAKE:

Q I think that, Investigator, I've shown on 2 and 4. I think you've already identified what was in number 4.

A 4.

Q And I think you've already identified what was in number 3, correct? I think you looked at them chronologically?

A I believe I did.

Q Okay. Well, just again briefly, just kind of make sure that 3 is in the condition in which you found it when you got to that location?

A Yes.

Q Okay. And photograph 6, is that the condition that you found it?

A Yes.

Q Let me show you two other photographs that I didn't show you initially which would be Defendant's exhibit number 7 and 13 and ask you do they fairly and accurately depict what the scene looked like at that particular time?

A Yes.

MR. LAKE: Your Honor, at this time the Defendant would offer Defendant's exhibit number 7 and 13 into evidence.

THE COURT: Any objection?

MR. DANIEL: No, sir, Your Honor.

THE COURT: All right. They're in, too, also.

(WHEREUPON, Defendant's Exhibits 7 and 13 were entered into evidence.)

MR. LAKE: Permission to publish to the jury?

THE COURT: Sure.

Q And at the time that you walked through with Mr. Trapp, did he step -- did he go all the way up in there and step over the boxes, step on any boxes or do anything when he went over there?

A No.

Q And all of the things that you did that particular night, did you memorialize that in a report?

A Yes, sir.

Q Did you put all that, everything that you did that night in a report?

A Yes.

Q Could you explain to the jury---

A With the---

Q I'm sorry.

A The only thing that---
Q Make sure you stay over--
A Let me read back over it real quick.
Q Just let me know when you're ready, okay?
A The only thing that's not on here that I can see is where I took the pictures of the backdoor.
Q No, I wasn't asking you, I was asking did you do a report?
A Yes.
Q Okay. And what's the purpose of doing a report?
A To tell what happened.
Q For purposes of what?
A Whoever's calling. I mean to report whatever crime has occurred.
Q And so also do they serve the purpose of also allowing you to testify?
A Yes.
Q And how does that help you when it comes time to testify?
A Well---
Q How do your reports assist you in testifying?
A In being able to recall what I done that, what I did in the, when I arrived on the scene.
Q And why is that important for a trial?
A It shows everything that was done.

Q And will that help you remember a whole lot more about what was said and done by having a report generally?
A Yes.
Q Does it make it tougher to testify if you don't have those reports if a significant period of time has gone by?
A Yes. Well, I mean, there is some stuff that you don't remember also.
Q That the report kind of will, refreshing your memory, correct?
A Yeah.
Q And in this particular report that you did, you indicated that you couldn't enter Trapp's room because of the number of shoeboxes and everything that was on the floor?
A Correct.
Q And also I know you testified that his room was damaged, but also this report indicates that there was -- they had also went into his son's room, correct?
A It says that Mr. Trapp said they went in his son's room as well.
Q And you personally observed, I guess, the kitchen cabinets were open?
A Let's see. Yes.
Q And you need to look at your report to remember everything you did, am I right?

A Yes.
Q If you didn't have that report you wouldn't know that you had saw the kitchen doors open, correct?
A Correct.
Q You wouldn't have known it indicated that someone else that went into his son's room, correct?
A That's correct.
Q Because this happened, when did this happen?
A 2011.
Q Almost three years ago?
A Yes, it has been three years.
Q And I don't know whether you had answered this question before but at what point do you decide that you need to call in for additional assistance?
A Due to the severity of the room. It was, stuff was everywhere.
Q And how long, do you recall how long you were out there before Investigator Spreng showed up?
A I can't recall.
Q It is a significant amount of time or a short period of time?
A I can't recall.
Q Did you actually personally see Investigator Spreng yourself?
A Once he got on the scene, yes sir, I did.

Q How did he come to be out there. I know you called, who did you call?
A Normally what we do is we call dispatch, communications, and have them to get the on-call to respond to what we have.
Q And you are the initial reporting officer, would you have the responsibility, I guess, of kind of gathering reports to know exactly when people are coming and going as it relates to the scene?
A Gather a report as in?
Q Knowing when additional officers came out there, knowing who came out there and when they came out there?
A You mean like another log or something, is that what you are asking?
Q Either a supplemental report or log or anything along those lines?
A Once the investigator arrived that is when he would take over the scene.
Q And what was your role at that particular time, after the investigator arrived and you briefed him in terms of what happened?
A To assist him with whatever he needed.
Q Did you have to provide him with any assistance or anything along those lines?
A I didn't that night, no sir.

Q And where were you at when he went back into the home?
A I was behind him.
Q And where is Mr. Trapp at this particular time?
A He was outside.
Q And who is out there with him?
A The best I can remember I believe his son was there.
Q Do you recall how old his son was?
A Anywhere between maybe 15 and 18.
Q And I think it was your testimony, if I am correct, correction, was there anybody else out there besides the son?
A Not that I can recall.
Q And when you are walking back into the house with Investigator Spreng, where all do y'all go?
A We go throughout the house. I take him to Mr. Trapp's room, he walks through and looks around. And that is when he noticed the crack on the dresser or nightstand.
Q And at this particular point where is this crack alleged to be at?
A It was either a dresser or nightstand. I am not real sure, it was on a piece of furniture in the bedroom.
Q You have no clue where it was at?
A What do you mean by where?
Q Where in the house?

A It was in his bedroom.
Q It is your testimony that you were with him as y'all walked through the house and he found this, exactly where did he find it at?
A Where in the bedroom I couldn't remember. It has been three years ago.
Q That is why you should memorialize those kinds of things? Did you memorialize that in your report that you observed him, Investigator Spreng, find any quantity of drugs?
A I did not.
Q That is not in your report, is it?
A No sir, it is not.
Q That is very important, isn't it?
A I would agree.
Q That is more important than whether the kitchen doors are open, correct?
A I would say it is about the same.
Q So you equate having kitchen doors open the same as--
A -- it is part of what I am looking at.
Q Just answer the question. So you equate having kitchen doors open, which you memorialize in this report, versus not putting into this report that I found a whole bunch of crack.
A Well, I didn't find it.

Q Well, you observed it with him as y'all were working through. But you didn't put it down as important.
A It is not in my report.
Q And it is not in your report where these actual drugs were found either, were they?
A No sir, it is not.
Q But that is important too, isn't it. Don't you think that would have allowed the jury to know exactly what you saw at that particular time?
A Yes, sir.
Q And those photographs, again, show what you look like when you and Mr. Trapp were walking up through there, correct? The photographs that we have already entered into evidence?
A Yes.
Q And did you ever touch whatever this, well actually, you said you saw it. What did you actually see?
A A large quantity of crack in a pill bottle.
Q And did you know what that was when you first saw it?
A Yes. Well, that's what it appeared to be.
Q Okay. And what kind of pill bottle was it?
A It was -- I don't remember what color it was. I just know it was a clear pill bottle.
Q It's a clear pill bottle?
A Yes. Clear as in you can see through it. I don't

know what, I don't remember what color it was.
Q Okay.
A I mean, when I mean clear, I mean you could see through it but as far as if it had a color, I couldn't tell you what color the bottle was.
Q Okay. So you couldn't tell me where it was located. You can't tell me whether it's a clear, plastic type or do you know whether it had a name on it?
A I can't recall.
Q You can't recall that either? Wouldn't that have been important if Mr. Trapp's name was actually on this pill bottle that y'all alleged to have found crack in it?
A It would have been, yes sir.
Q And that would have been something that needed to be in a report also, correct?
A Yes.
Q And do you know -- have any personal knowledge as to where that's in anybody's report that this alleged pill bottle had Mr. Trapp's name on it?
A Not to my knowledge. I mean, I had to look over the original report to refresh my memory.
Q Do you -- did you ever touch that pill bottle?
A No.
Q Did anyone ever touch it in your possession while it was in your presence?

A Not that I can recall.
Q Not even Investigator Spreng?
A Not that I can recall.
Q And you said that you left the scene. How long did you leave the scene?
A I couldn't tell you.
Q But you ended up coming back?
A Yes.
Q Why'd you come back?
A Because I still, I was still, had to do everything as far as the report.
Q Well, what did you do as far as, I guess you would have been the person with the burglary, right?
A Yes.
Q So did you order anyone out to do any fingerprints?
A Did I order anyone to do any fingerprints?
Q Yeah, of the door or anything? Did you order anybody to do the fingerprints of the bottle?
A No.
Q Okay. Did you order anybody to do fingerprints of anything within that house?
A No.
Q Did you do any DNA swabs of anything that may have been touched---
A No.

Q ---whether it might have been the pill bottle, whether it might have been a door, whether it'd been anything?
A No.
Q So exactly what did you do when you came back then?
A I stood around.
Q You stood around. And while, as you're standing around, where is Mr. Trapp?
A I don't know. He may have been inside. He may have been outside. I don't know.
Q Would that be important to put in that report where he was at?
A He on the scene. I do know that much because there were three other people there.
Q Was he in custody at the time you saw him or the next time you saw him?
A I don't remember.
Q Did he ever confess to you at any point while you were out there, either to you or in your presence that somehow these drugs were his and that he admitted responsibility for it?
A Not in my presence, no.
Q If you had to kind of -- I'm looking at your report and it indicates that you arrived at 22:19 which is 10:19, but you departed at 2:44 in the morning?

A Yes, sir.
Q Okay. And is that 2:44 when you left for the first time and then came back?
A No, that's when I left for good.
Q So you're out there for how many hours, almost five hours or something like that?
A That's pretty close.
Q Four or five hours? But you don't know where Mr. Trapp was that entire time?
A He was on the scene.
Q Was Investigator Spreng in your presence that entire time?
A No.
Q What about Investigator Bouknight, was he in your presence the entire time?
A Like I say, because I left.
Q What about Captain Dennis?
A No sir, he wasn't.
Q When did Captain Dennis arrive at the scene?
A He got there a little bit after Investigator Sprengs got there.
Q And did he take control of the scene or was Investigator Sprengs still in control?
A As far as I know, Investigator Sprengs was still in control of the scene, because he was the on-call

investigator.
Q And what did you observe Captain Dennis do out there?
A I don't recall.
Q Did you ever at any point see Captain Dennis read Mr. Trapp his Miranda rights?
A I can't recall that.
Q You can't recall that. So you can't recall any Miranda. Do you recall any conversation between Captain Dennis and Mr. Trapp in your presence?
A I can't recall that either. And he may have spoken with him, he may not. I don't remember.
Q Do you know where those photographs that you took of the area?
A Do I know where they are?
Q Yeah, where they are?
A Where they are?
Q Did you turn them in or turn them over to anyone?
A They were attached to the report.
Q Which report was that?
A This one for the burglary, the report for the burglary.
Q Did you ever make any arrests on the burglary?
A Did I? No, sir. I wasn't the investigator.
Q You wasn't the investigator. Well, you said something about Investigator Sprengs is no longer here?

A Yes. He's no longer here.
Q And do you know exactly where -- I'm sorry, go ahead.
A He's no longer here.
Q Do you know when he left?
A It's been at least two years or maybe a little under two years.
Q A little bit, possibly a little bit under. And this happened back in 2011, correct?
A Yes.
Q Have you had any communications or conversations with him since he left the Sheriff's Department?
A I have not.
MR. LAKE: No further questions.
THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. DANIEL:
Q Deputy Epps, why did you respond to 91 Ranches Drive that evening?
A For a burglary.
Q For a burglary and crack cocaine investigation?
A Well, it started out as a burglary. Then once the drugs were discovered, that's when everything else progressed from there.
Q Now, when you got there to the scene, you just saw Toaby Trapp and his son, is that correct?

A Yes.
Q And Toaby Trapp, what did he -- exactly what report did he report?
A He told me that his house was broken into. He said he had approximately $7,000.00 dollars and a few other items missing of monetary value, money-wise.
Q So he only told you what items he was missing?
A Yes.
Q Did he say he if he had any new items that he never had before?
A No.
Q Did he report that someone had left a pill bottle that contained a white substance?
A No.
Q All right. And you said the drugs or what you thought appeared to be drugs on -- you said on a piece of furniture?
A Yes.
Q What kind of furniture did you observe the drugs on?
A It was either a dresser or a nightstand.
Q All right. So are you using that kind of interchangeably or are you saying--
A -- it was a large piece of furniture.
Q Okay. I'm going to show you some photos already been admitted to evidence. And where is that?

A That is the nightstand to the left of the bed if you are standing beside it.
Q The night, is that---
A -- it's a nightstand or either a dresser.
Q Okay. There is a nightstand and where is the nightstand?
A That's either the dresser or the nightstand. I can't really tell for sure. That's either a dresser or a nightstand.
Q What's the T.V. on?
A It looks like a dresser, just based on the number of drawers that I can see.
Q Okay. And you did -- you said you did observe drugs in a pill container, correct?
A Yes.
Q Were the drugs in that pill container, were they on the same piece of furniture as the T.V. or a different piece of furniture?
A I couldn't remember. I do remember it being on a dresser or either a nightstand. I don't remember on what piece of furniture it was on.
Q When you first arrived, you said you observed the shoeboxes in Mr. Trapp's bedroom?
A Yes.
Q Did you go in, did you go into the bedroom any

further?
A I did not.
Q When did you go into the bedroom?
A Once Investigator Sprengs got there.
Q And who was it that discovered the drugs?
A Investigator Sprengs.
Q He saw it first? Investigator Spreng saw it first?
A Yes.
Q And then when did you see it?
A When he said, oh, that's crack.
Q How, were you standing close by?
A Yes. I was behind him but when he said, oh, that's crack. I turned and looked around his shoulder and looked at it.
Q And, Deputy Epps, do you recognize this?
A Yes.
Q What is that?
A A pill bottle with what appears to be crack in it.
Q And was that in the bedroom?
A Yes.
Q And you said you were behind Investigator Spreng?
A Yes.
Q And then you did go to observe the drugs at that point?
A Yes.

Q And is this what you observed?
A Yes.
MR. DANIEL: Your Honor, I'd offer Defense number 8 for admission into evidence or it's been marked as I think number 8.
MR. LAKE: That's State's evidence.
MR. DANIEL: Can we mark it as State's?
THE COURT: You may. We'll remark it.
MR. LAKE: No, it's not.
THE COURT: Did you tell me it's Defense 8. Be any objection to it?
MR. LAKE: Well, Your Honor, I do not have any objection.
THE COURT: 8 is admitted without objection as Defense 8. Ladies and gentlemen of the jury, just so you know, the exhibits get moved State, some are State's and some are Defense. But right now, it's the State's case and they are putting in evidence what's been marked as Defense exhibits.
(Whereupon, Defendant's Exhibit 8 was admitted into evidence.)
MR. DANIEL: Your Honor, permission to publish Defense 8?
THE COURT: And for the record, these do not count as evidence offered by the Defense for the purposes of

motions.
Q All right. Now, let's describe that again. What are we looking at?
A A pill bottle containing what appears to be crack.
Q And that pill bottle, do you think that appears to you to be crack?
A Yes.
Q Have you made cases before or been a part of any cases where you observed crack in a pill bottle?
A Yes.
Q Did those have people's names on them generally that you found?
A Not all the time, no sir.
Q Can you get a prescription of crack cocaine?
A No sir, you cannot.
Q Okay. All right. And I'm going to show you again this picture that we've already published to the jury. Can you see the pill bottle in that picture?
A No sir, I cannot.
Q Okay. Oh, I apologize, small amount of space. I don't know if the jury saw that previous picture, Your Honor. I am going back, describe again what is in that photo.
A A pill container containing what appears to be crack.
Q And was there a name on that?

A Based on the picture, no.
Q All right. And you see that orange pill bottle that you said contained -- contained crack in the previous exhibit, can you see it in this photograph?
A No.
Q Can you see everything that's on that dresser from that vantage point?
A No sir, you cannot.
Q What is that right there where my pen's on, what is that?
A I don't know.
Q What is that?
A It looks like a piece of paper.
Q Well, that's a piece of paper you think?
A That's what it looks like.
Q And that's right near that orange pill bottle?
A Yes.
Q What is that again, my pen, can you tell?
A It looks like a sheet of paper just based on the previous picture from this one.
Q Okay. But those are two, these two pictures, are they the same camera angle, are these the same shot?
A Not the same camera angle, no.
Q Is this a closer shot?
A Yes.

Q Okay. And you worked -- you said in 2011, October 2011, you were just a road deputy?
A Yes.
Q Do you still have to generate reports as a road deputy?
A Yes.
Q How detailed are those reports supposed to be?
A As much as the victim or a complainant tells us.
Q But you called Robert Spreng, the investigator on call?
A Yes.
Q Why'd you call him?
A Due to the severity of the room, which everything being tossed around the room was ransacked.
Q Okay. But as a road deputy, would you take fingerprints, DNA, things like that?
A At that time, no sir.
Q Okay. And you said you took photographs, right?
A I did.
Q Do you recognize this?
A Yes, I do.
Q What is this?
A Photographs that I took of the backdoor.
Q So those are the photographs you -- that you took?
A Yes.

Q Were those all the photographs you took?
A Yes.
Q So the rest of these photographs we're looking at, you didn't take?
A No sir, I did not.
Q Who took those?
A Investigator Sprenga.
Q Did he take a lot of photos, to your knowledge?
A Yes, because normally they do the outside, all four corners, back side and the inside.
Q Why was he more thorough in taking pictures than you?
A Because he knows what he's looking for. He's an investigator.
Q Detective, is that another word that's used?
A Yes.
Q Okay. And why didn't you mention the crack cocaine in your report? Why did you leave that out?
A Because I called out the investigator and that was discovered after he was there. And my initial call was for the burglary.
Q And at the time who was doing drug investigations?
A The narcotics officer.
Q Who was that?
A Nick Bouknight.
Q And where is Nick Bouknight?

A Where is he now? He's no longer with us.
Q Okay.
MR. DANIEL: No further questions.
THE COURT: All right. Clarify something. Was the question and I thought early on this address was Little Ranches Road, not Ranches Road, am I correct on that?
MR. DANIEL: Yes, sir. I'm sorry.
THE COURT: All right.
MR. DANIEL: Little Ranches. Yes sir, Your Honor.
THE COURT: Little Ranches Road. Okay.
MR. DANIEL: I may have just said Ranches. I'm sorry.
THE COURT: I thought I knew about where this was.

RECROSS-EXAMINATION

BY MR. LAKE:
Q Deputy Epps, was there anything else that prevented you from requesting that fingerprints be done?
A Requested that be done?
Q Yes. Have you ever requested fingerprints before?
A Have I ever requested?
Q That someone did fingerprints.
A No sir, I haven't.
Q You ever been trained in fingerprints?
A Trained?
Q Yes, sir.

A Not at that time. No sir, I was not.
Q But subsequently have you been trained?
A Yes.
Q And you know the importance of fingerprints sometimes, correct?
A I do.
Q And why is that?
A You may get a hit on a fingerprint based on AFIS.
Q For DNA, right?
A That's right.
Q If a person touches an object like a bottle, either their fingerprint or their DNA could be on there, correct?
A Potentially if they weren't wearing gloves or something over their hands.
Q And that would -- could give you an idea of the person that potentially at some point, maybe can't tell exactly when, had contact with that particular bottle?
A If their DNA or fingerprints are in the system.
Q And was that option explored in this particular case or do you have any personal knowledge?
A I have no personal knowledge, no I don't.
Q Now, I think the prosecutor showed you I think two photographs and let me make sure I'm correct. Are these the two that he showed you?
A Yes.

Q Okay. And in this particular photograph right here, what's been marked as Defendant's exhibit number 8, you see that pill bottle, correct? Describe that pill bottle.
A It's a orange-color, clear with a cap on the top containing a, what appears to be crack.
Q Okay. And describe the items that aren't that crack bottle.
A An ashtray. There is a sheet of paper behind the pill bottle. Looks like two or three bottles of cologne, maybe four. A container of change and some Alka-Seltzer Plus.
Q Okay.
A And a DVD player.
Q Okay. I guess it'd be this particular photograph right here, correct?
A Yes.
Q Now, explain to me in Defendant's exhibit number 8 where you see that same orange type of pill bottle in front of that piece of white paper?
A I don't see it.
Q And, but you do see some of the same other items that were in that photograph, correct?
A Yes.
Q Now, everything is there except for this crack bottle, correct?

BY MR. SCOTT:

Q Captain Dennis how long have you been in law enforcement?

A I've been in law enforcement since 1991. Started with the City of Newberry, progressed to getting out of law enforcement for about six or seven months doing some construction work. Getting back in law enforcement at the Prosperity Police Department and then finally in '99, continued my career here at Newberry County Sheriff's Office.

Q So law enforcement since '91 and then the Sheriff's Department since '99?

A That's correct, yes sir.

Q So you have 20 years and some change as law enforcement stands?

A Yes, sir.

Q And you're a captain now, correct?

A That's correct.

Q In 2011 you were a lieutenant?

A I was.

Q And did you have an occasion to respond to this home at 91 Little Ranches Road?

A I did.

Q Do you know who owned that residence or lived there?

A I do. The owner of the residence was Toaby Alexander

Q All right. And then Deputy Bouknight, Nick Bouknight was the narcotics agent at the time. It's been testified to that he arrived on the scene as well at some point. And where is Nick Bouknight now?
A (No response.)
Q Well, let -- Nick Bouknight passed away, is that correct?
A That's correct.
Q And he was a deputy that worked with you for years, is that right?
A That is correct.
Q Okay.
A I apologize. Just a minute.
Q Okay. Well, we just needed to cover that. That's why he's not here, is that correct?
A That is correct.
Q Okay. Captain, whenever you get to the scene, you had been briefed on the fact that some quantity of crack has been located?
A Yes, sir. I received actually two phone calls. The first phone call was from Investigator Spreng of what he had located and that he had contacted Investigator Bouknight for his assistance. Spreng advised that Investigator Bouknight had told him that he needed to pretty much stop what he was doing until we got a search

warrant, because it was, in finding the, what they said was drugs in plain view, we wanted to protect the integrity of the scene as well as the officers and Mr. Trapp. So he pretty much just stopped doing what he was doing until Investigator Bouknight could use what information he gathered from Spreng and go to the magistrate of Newberry County and obtain a search warrant.

Q All right. So did you get on the scene before the search warrant had arrived?

A I probably arrived maybe five to six minutes prior to Investigator Bouknight arriving on the scene with a search warrant.

Q All right. And then were you shown the pill bottle in question?

A I was, yes.

Q Okay. And where was it?

A The pill bottle was located in the -- what I would call the distant room, master bedroom belonging to Toaby Trapp.

Q And, well, how did you know that was his bedroom?

A That was what was indicated by Spreng as well as Investigator Epps during that conversation with Mr. Trapp.

Q Okay.

MR. SCOTT: This is State's 7, 8, 9.

Q Okay. What are those, Captain?

A These are photographs depicting a dresser, the top of the dresser basically. It looks like there is hats, remote control, the pill bottle, cologne, some medicine packets, ashtray. And there are three pictures and each picture is from just a kind of a different vantage point of zooming out then in to what was on the dresser. And that's of State's Exhibit 7, 8 and 9.

MR. SCOTT: And, Your Honor, we would offer State's 7, 8 and 9 for admission into evidence.

THE COURT: Any objection?

MR. LAKE: I think at least 8 has been already entered. I know it has.

THE COURT: 8 is in.

MR. SCOTT: Oh, has it?

MR. LAKE: That's the same exact picture, so I don't know why they want to--

MR. SCOTT: Okay. Well, I'll use yours. I'll use yours. Where is that one?

THE COURT: Defense 8.

MR. LAKE: Without objection, Your Honor.

THE COURT: Yeah, just let them in, 7, 8, 9 are in even though the State's 8 and Defense 8 may be the same one and one's glossy and one is not. I'll let them in.

(WHEREUPON, State's Exhibits 7, 8 and 9 were admitted into evidence.)

Q All right. And, Captain Dennis, this is State's number 7. You were just previously describing it. But does that fairly and accurately represent what you personally observed?
A Yes, it does.
Q And you walked into Mr. Trapp's room and that's what you saw with your own eyes?
A Yes, sir.
Q Okay. State's number 30, what is this?
A This appears to be the pill bottle that is depicted in the photograph of State's number 7.
Q All right. After you arrive on the scene, you're shown the pill bottle, what do you do next? Where is Mr. Trapp?
A Mr. Trapp had been outside. Then we moved up to the porch and then finally moved inside the living room of his residence. He had already been placed in what we classify as investigative detention. So he had handcuffs on whenever I arrived. Once we got into the living room he was given his Miranda Rights which is a warning that we give whenever we're getting ready to talk to an individual about a particular crime. In this case it would have been the drug charges.
Q And did you intend to question him?
A I did. Once I read him his Miranda rights, making

sure that he understood what I was saying and asking him if he would speak to me he clearly advised he would.

Q And kind of all hear about them on T.V., but what are the Miranda rights?

A The Miranda rights are a warning given to individuals. It starts off, you have the right to remain silent. Anything you say or do can and will be used against you in a court of law. You have the right to an attorney to have him or her present with you during questioning. If you have no money for lawyer fees, the Court will appoint one to represent you without cost to you. Whenever I tell them that I always throw in, because not everything is free. At some point they may end up having to pay some amount of money for representation even though it could be a public defender. And then my next line is that, at anytime during the questioning you have the right to stop answering questions at any time until you talk with your attorney. And I ask if they understand those rights. Mr. Toaby Trapp advised he did. And then I asked him having those rights in mind, are you willing to talk to me without the presence of an attorney. Understanding that, you know, I'm not threatening you or promising you anything. And he agreed to talk to me without an attorney.

Q All right. Did he appear to understand all those

rights as you read them to him?
A Yes, he did.
Q Or as you recounted them to him. Newberry is a fairly small community, would you agree?
A It is.
Q You've lived here, you grew up in Newberry, right?
A That's correct, all my life.
Q All right. And was this the first time you got to meet Toaby Trapp?
A No, sir. I know Mr. Trapp.
Q All right. And y'all communicated before?
A Yes, sir.
MR. LAKE: Your Honor?
Q Have you ever had difficulties communicating with one another?
MR. LAKE: Your Honor, we would object to this line of questioning in this particular case. Trying to insinuate that.
MR. SCOTT: No, I'll move on. I'll move on.
THE COURT: Well, I don't think he's insinuating anything. It's a small community.
Q He understood what you were talking with him about?
A Yes. Mr. Trapp appeared alert and oriented to where he was at and who I was and what was going on.
Q Did he appear intoxicated in any way?

A No sir, he did not.
Q All right. Did you threaten him in any way?
A No sir, I did not.
Q All right. And at that time, did you offer him any kind of, I don't know, reward or hope or promise of any kind of hope that you'd be lenient on him if he would talk to you?
A No, sir.
Q All right. What was the line of questions I guess that you submitted to him?
A I guess the one thing that was puzzling to us is, you know, although not taking away that the house was burglarized was the fact that we did find what appeared to be crack cocaine still in the room on the dresser. And I asked him, I was like, you know, what's the deal with this, Toaby. I mean, there's drugs in there. And Mr. Trapp admitted that he if--
MR. LAKE: Objection.
THE COURT: All right. Hang on a second.
MR. LAKE: Your Honor, again, I would like to renew my objection in reference to any statement for the reasons that we asserted in the--
THE COURT: Jackson v. Denno hearing.
MR. LAKE: --preliminary type hearing.
THE COURT: And your record and objection is

protected and we'll hear the response now.
Q Okay. You were saying that -- you were confused that he had called you here. And you said, what's going on with the dope. Go on.
A He admitted that if it was crack in the medicine bottle that he had pretty much forgot it was in there. And that whenever he called 911 the dispatcher advised him to, you know, don't go any further in the house, don't do anything, don't touch anything, we'll have a deputy responding there to take the report. And that's pretty much all he could offer was is he forgot it was in there.
Q Okay. The search warrant, you said that arrived to the home shortly after you got there?
A Yes, sir.
Q Were you involved with the execution of the search warrant?
A I was. I was actually the officer that signed off on the search warrant, what we classify as the return. It is given to me. I log-in the time that I receive it and then the items that we take from that home based off of the information provided to the search warrant.
Q Okay. Were you able to find any other items of evidentiary value?
A We did. When we began the process of looking not only for additional drugs and evidence of drugs, but also

anything that we could use to find who broke into the home. We discovered two bags of white substance on the floor in front of the dresser of where we found the pill bottle on top of the dresser. We had to move some drawers and some clothes to actually get to the floor where we discovered that.

Q And but it was directly in front of that dresser in State's number 7?

A That is correct.

Q I'm going to show you State's number 3, do you recognize that?

A Yes, I do. It's State's 3. I am sitting on the bed with a flashlight aiming down at the floor directly in front of the dresser where there are two bags of white substance.

MR. SCOTT: The State offers States number 3 for admission into evidence.

MR. LAKE: Without objection.

THE COURT: And without objection.

(WHEREUPON, State's Exhibit 3 was admitted into evidence.)

Q All right. That's you who took that?

A That's correct, yes sir.

Q And this is the same dresser that we just saw in State's number 7?

A That is correct.
Q And what is it that you're shining your flashlight on down here?
A Directly under, under my light which is kind of washing it out because of the flashlight and then the camera flash, there are two white plastic bags. And inside those plastic bags is a white hard substance, kind of a cookie formation. And that's what we normally refer as a cookie of crack.
Q Okay. This is State's number 20, you recognize that?
A Yes, sir. In State's 20, it is just a closer picture of the crack bag.
Q Okay. It's just a closer picture where you're shining your light on in this picture?
A That's correct.
MR. SCOTT: Your Honor, the State offers number 20 for admission into evidence.
MR. LAKE: Without objection.
THE COURT: 20 is admitted without objection.
(WHEREUPON, State's exhibit number 20 was entered into evidence.)
Q What is this here?
A Just below what that blue item is, is the bag of crack cookie.
Q All right. And it was your testimony that was

directly in front of that dresser where the pill bottle was?
A That is correct.
Q I'm reaching into the plastic bag ID'd as State's 30, I'm pulling this out. What is that?
A That appears to be one of the bags that was discovered on the floor in front of the dresser.
Q Okay. And this is labeled, is that SLED's labeled 1.2?
A I would say so, yes. With the LEI number and that is how they document.
(Whereupon, State's Exhibit 30 was marked for identification only.)
Q Okay. Another baggie I'm pulling out of a bag, the larger bag but labeled State's number 30. What is that?
A This is another bag and again, it's appearance is different from the night we found it either from deterioration or the way it was made. But it's turned a brown color. But the night that we photographed, it was a white substance.
Q And this is, is that SLED number 1.1?
A That is correct.
Q Okay. In twenty something years, about how many times have you come across crack?
A Quite a few times.

Q I mean does it come in different colors?
A It could depend on how it's made or how long it's had, you know, most of the time you find it it's either in a white to off-white type color. And it can be anywhere from maybe the size of your pinky to what you would have in this type picture or even bigger.
Q You can't tell it's crack just by looking at it, though, can you?
A No, sir. That's the reason why we rely on SIED. Once we find evidence such as narcotics, we would send down to SIED for it to be analyzed and give us the true potency of the drug.
Q Okay. So you saw these bags and this pill bottle. Who would have seized it from the scene and packaged it?
MR. LAKE: Objection, Your Honor. I don't think he has any personal knowledge as to who seized these items at the time.
THE COURT: Well, he didn't answer the question yet. I mean, he was on the scene.
MR. LAKE: And he needs to lay a foundation for it. He has not laid a foundation for that type of evidence.
Q Do you have personal knowledge of who would have seized it that day?
A The person that would have seized it that day would have been Investigator Nick Bouknight with me documenting

as I did on the return for the search warrant.
Q And specifically just these three items, the pill bottle and two baggies of what we think is crack. He would have seized these three items?
A Yes. He would have seized those items and any other items that would have been associated with the investigation of the narcotics.
Q Okay. And he was the lead narcotics officer at the time in 2011?
A That is correct.
Q And what was the practice as far as seizing narcotics, that being drug evidence? What was the practice at that time as far as evidence and care and custody of those items?
A During that time, the narcotics officer was responsible for the collection as well as the storage and then the submission of those drugs to SLED. And then once they came back from SLED, the narcotics officer would pick that up as well as resubmit that into his narcotics evidence locker.
Q Okay. So at the time, he kind of had, I guess, a two-part system. Drug evidence was kept over here in one locker and then other evidence was kept elsewhere?
A That is correct.
Q And Nick, Nick Bouknight at the time was the

narcotics agent. So he was responsible for the care and keep, upkeep of the narcotics evidence?

A That is correct.

Q Okay. And was it policy for him to transport the drug evidence down to SLED for testing?

MR. LAKE: Your Honor, I would object again. I mean, this is really speculative-type questioning as to what someone else would have done. We're talking about one specific incident where we're saying this person needs to have done these particular things at this particular time. He's trying to backdoor in--

THE COURT: All right. Hang on.

MR. LAKE: I think we need to---

THE COURT: Hang on. Hang on. All right. Let's take a break. Y'all step to the jury room and go to the bathroom until your food gets here. And then go ahead and eat. I've got a probation matter I need to deal with and I want to hear Mr. Lake a little further on this issue. So y'all can't begin to discuss the case, but step back there. Use the restroom. Make yourself comfortable. Enjoy your lunch, and then we'll get started back as soon as we can.

(Whereupon, the jury is excused from open court for a lunch break, lunch was served to the jury in the jury room.)

THE COURT: All right. Rephrase that question for me, Mr. Scott. Do that question again. I want to hear that. I think you had a question that was somewhere along the lines of what was the policy of the Sheriff's Department at that time, type leading---

MR. SCOTT: We covered that and that was testified to without objection. Then I got to the, you know, it may not be the exact question. But at the time, we covered that Nick would have kept up with his own drug evidence. I asked something to the effect of who would have transported the drug evidence to SLED at that time? This was, the policy has changed since then as far as all narcotics evidence is stored with general evidence now. But at the time, Nick just kind of kept his own stuff.

THE COURT: All right. Well, ask that question, what was the policy at that time?

Q What was the policy at that time as to the transportation of narcotics evidence to SLED?

A At that time, it was the responsibility of the narcotics officer for the labeling and packing of that narcotics in a Best Kit to be submitted to SLED and then transported to SLED.

Q Okay.

MR. SCOTT: And then it will probably, will be testified to through---

THE COURT: I mean, you keep proffering it. I want Mr. Lake to be able to hear it. That's why we got the jury out.

MR. SCOTT: Okay. Well, as far as chain type stuff, I think that's as far as I was going to go with that. And then we were going to kind of move into some of the other evidence collected at the scene.

THE COURT: And that's what Mr. Lake was wanting to be heard on.

MR. LAKE: Yeah, but that is the sole issue in this particular case. You're trying to backdoor evidence in through Captain Dennis. But they'll sit there and admit Nick Bouknight was the sole person that collected it, responsible, maintained, can tell you what happened to these items during all of these different times and in what conditions, things are in all these items. You know, he's the sole, only person that can do that. I mean they are admitting in one sense he's the only person and know specifically what happened in this incident. But yet, they're trying to backdoor information in through Captain Dennis and try to establish a chain-of-custody. The problem they have with that, Your Honor, is not only do you have to establish who would have had it for a period of time, but you got to, someone has to testify as to the condition and show that there is no evidence that there

was any tampering or anything along those lines. And the only person that could do that is Investigator Bouknight or if there was an investigaton custodial person that he would have turned it into that particular day that could say, okay, this is how it came to me. Nick Bouknight brought it to me and it stays in storage and then when he came and got it back. He picked it up on this particular day. He took it to SLED. You've established the chain. Even if some of those witnesses don't testify and you at least have had someone testify as to the condition of the drugs prior to them getting to SLED.

MR. SCOTT: How about this?

Q Who else would have had access to the narcotics evidence locker?

A At that time, no one, only Nick Bouknight.

MR. SCOTT: And, Judge, really that -- he can argue all he wants to the jury that those drugs were tampered with. We don't know what happened those five days they were in the locker room. You know, somebody else could have gone in there and added something or taken something from them. But I think we've done our part in establishing the chain. And then when Lynn gets up there, she'll be able to testify as to who dropped it off and what her chain on her SLED end says. I think it's a question for the jury.

MR. LAKE: No. Your Honor, he just made the argument for me. He said if someone could have come in there and done this. Well, that's the sole purpose of why you have these type of hearings so that it doesn't come in, because if someone could have---

MR. SCOTT: Make the jury believe that.

MR. LAKE: If someone could have come in there and tampered with the drugs. That is the sole reason why you have fungible type evidence and you have chain-of-custodies for that. They have no one. There will be no one could, that can testify as to when Nick Bouknight put it into the locker as to time, what locker he put it into, what condition it was in when he got it, when he actually took it out. Did he take it out on the 21st or did he take it out sometime between October the 9th and the 21st before he actually took it to SLED. What was the condition?

MR. SCOTT: But what's ironic to me---

MR. LAKE: I mean, there is nobody there could, there is not one single person that will testify to that. I mean, that is the very reason why fungible type evidence, you need to acknowledge with the persons that have touched it but also to ensure that there has been no evidence of tampering. But his own argument says yes, someone could have came there but that should go to the jury. Well, the

law doesn't say that.

THE COURT: All right. All right. Enough. I understand your argument. What else were you going to say?

MR. SCOTT: Didn't in his opening he said we're not going to contest the fact that it's crack cocaine?

MR. LAKE: Saying that it's not crack cocaine. I said we're, I said we're letting it into evidence. We're not saying that. That's a total, that's a totally different argument.

MR. SCOTT: Judge, I've got this Brockmeyer case. I've got the U.S. v. Lot and, of course, the Hatcher case. It is the obligation of the prosecution to establish chain-of-custody. This does not mean that everyone who laid hands on the evidence must be called. Gaps in the chain-of-custody normally go to the weight of the evidence rather than it's admissibility. That's what I'm arguing, it goes to the weight. He can make these arguments all he wants to them and if we hadn't proven it beyond a reasonable doubt, then they're going to find him not guilty.

MR. LAKE: Your Honor, again, I will take the Court to State v. Carla Taylor which was decided back in 2004.

THE COURT: Okay. I want to read that case, when I see if my lunch is here. Didn't y'all have another, I

don't remember what form it was. It was some form I saw yesterday.

MR. LAKE: 63 or 6, Your Honor.

THE COURT: It's something like that. What relevance is that?

MR. DANIEL: Your Honor, that indicates the seizure date, October 9th, 2011, and that indicates the day that Officer Bouknight transported it to SLED on the 21st. So you only have that gap of time between the seizure date and the date it was sent to SLED that it was in the custody of Newberry Sheriff's Office prior to being tested at SLED. So and roughly what, a twelve-day period.

MR. SCOTT: I think we ID'd that yesterday.

MR. DANIEL: But we did recognize that as the document.

THE COURT: I'm checking that. I want to read this case and I want to see what the status of my lunch, and I also want to go ahead and do that Department of Corrections matter and get them out of here.

MR. LAKE: Yes, sir.

THE COURT: So let's stand at ease for this. I want to get those couple of things done while we have the jury eating. So, y'all stand at ease for a minute.

(WHEREUPON, a lunch break was taken.)

MR. LAKE: I think we have a pending matter. I guess

we had made an argument about his testimony. I renew my objections for suppression based upon, from what he can and cannot testify to and along with what the Solicitor indicated while he was addressing the Court, that there was a possibility, yes there is a possibility that someone could have potentially tampered with those items for probably about nine days or so.

MR. SCOTT: That was not how I termed it.

MR. LAKE: It sounded like that. If I misquoted it I apologize, Your Honor.

MR. SCOTT: The purpose of the pretrial, I thought we have kind of covered all of this.

THE COURT: All right. I thought and my base of my pretrial ruling was that the return, Captain Dennis' testimony as well as the Form B Rule 6 that Investigator Bouknight filled out showing the evidence which he had custody, possession of. Can we make that an exhibit.

MR. SCOTT: Judge, I---

THE COURT: I mean, that was my pretrial ruling I thought. I thought we had identified who had the stuff reasonably. I'm reading part of this case. The identity of each person in the chain handling evidence is established, the manner of the handling is reasonably demonstrated.

MR. LAKE: Your Honor, if you look at that case that

I gave you, it kind of addresses that issue.

THE COURT: I mean, what paragraph are you reading from?

MR. LAKE: I'm sorry?

THE COURT: I'm following you.

MR. LAKE: You know where it has the discussion page? I apologize. It's a little bit different than, it is right there at the discussion portion where they start talking about the, where the identity of the person is.

THE COURT: Hang on a minute. Okay. I've got you.

MR. LAKE: And I think it, that next sentence.

THE COURT: All right. And this is discussing the unidentified handlers. But it's been identified by the employee, investigator at the Sheriff's Department that Detective Bouknight was the Evidence Custodian for narcotics at that time. There's this Form B which looks like a business record to me of some type. It's a transmittal. I don't know the control number. If I see Exhibit 30.

MR. SCOTT: 30 is the, let's see.

THE COURT: This control number at the top of the form indicates it's the max to this scanning B215834 is this scan code. It identifies it, and I think it goes to weight. I think that it's been identified. It's been described as that's the protocol from the Sheriff's Office

is a narcotics officer takes into custody and he's custodian.

MR. LAKE: Your Honor, but if you look at that Benton case, if you go through the rest of that paragraph which is almost kind of analogous facts right here. It says although there was testimony of the customary practices which, is what Captain Dennis is trying to testify to even though, again, I don't think that we even laid the foundation that he would have that particular knowledge regarding the mailing of the blood. There was no evidence that the technologist who drew the blood and sealed the vials had otherwise taken any precautions against tampering. That's kind of what we have in this particular case. I think from yesterday's preliminary hearing or hearing, pretrial hearing and Investigator Dennis said that he gave it to him in an envelope and that it wasn't sealed and that was the last time essentially that he saw it. And now we have other testimony yesterday that basically says there were some things in terms of some residue that was found that wasn't on the return. There was a straw that was found on the return that didn't somehow make it to the Best Evidence Bag. And then there is also two razor blades versus one razor blade that is identified in the return. So, I mean, it has to be someone that could testify to essentially that in this

particular case that, you know, there is no evidence of the testimony. I think it goes on and basically says, it addressed the issue about unrecorded, the record did not disclose who had possession of the package containing the vial of bloods for several days. The only thing that you have in this particular case is that on October the 9th, 2014, Investigator Bouknight did a document saying that he put it in the evidence locker or and put it in, I don't even know where he put it at, because there is no testimony as to where he put it.

MR. SCOTT: That was testified to by Captain Dennis.

MR. LAKE: But Captain Dennis was not present, Your Honor, when he placed it anywhere.

MR. SCOTT: It's office policy. It's agency policy. He can testify to that as a supervising agent.

MR. LAKE: Your Honor, again, they're trying to backdoor things and basically say we have no clue how it got where it was. We have no clue when it left. We don't know whether Investigator Bouknight took it out on November the 10th and kept it until the 21st and took it in. He could have taken it out on the 19th and took it or he could have did it on the 20th and taken it or the 21st and taken it.

THE COURT: Well, this form is a memorandum prepared by the Evidence Custodian who coincidentally was also the

narcotics officer. And it appears to be, I want to classify it almost as a business record. But it's a form that describes a control number of the Best Evidence package itself. It describes who it was seized from, how it was received and where it was received, search warrant at 91 Little Ranches. And has a detailed list of the items that are placed within the bag and then it tells when he delivered it to SLED.

MR. LAKE: But who's going to testify to that, Your Honor?

THE COURT: I think it's self-authenticated.

MR. SCOTT: I've got a Supreme Court case right here that calls it a business record.

MR. LAKE: Your Honor, that is not a business record.

THE COURT: Why isn't it?

MR. SCOTT: Look at Brockmeyer. It's a Supreme Court case, a 2013 case.

THE COURT: I thought that was the reason that they started using these forms.

MR. SCOTT: Why would we have Rule 6? Why would we have the Best Kits if you had to have every single person--

THE COURT: Let me see page, where you're talking about the case.

MR. DANIEL: Your Honor, and if I may and this also

has a place to be notarized and a signature.

MR. LAKE: It's not even notarized.

MR. SCOTT: That's Brockmeyer. That's a 2013 case and I think it kind of matches up with Hatcher and here's State v. Carter as well.

THE COURT: All right. I mean part of the statement signed by Detective Bouknight on 11/21/11. I made delivery of the above-describe substance, four containers, which references the Best Kit to SLED of SLED, in substantially the same condition as when I received it. And his signature. I don't know how that doesn't comply with identifying the person who handled it.

MR. LAKE: Your Honor, but that also goes into play of right of confrontation that we get an opportunity to confront the witness about the voracity of that particular document and statement. I mean it's clearly hearsay, that document is, because he's using it for the truth of the matter asserted that, in fact, what's alleged in that document is accurate. Well, then Mr. Bouknight would have to be the person would, again authenticate that that is a record that was kept in the normal course of his business and that's what he would normally do and those kind of things.

THE COURT: He's an investigator. I mean, he can testify that, I assume, I mean to his knowledge. He

hadn't been asked that question, I don't believe. Proffer some of that if you got it, Mr. Scott. I don't know that you have it.

PROFFER TESTIMONY

BY MR. SCOTT:

Q And, Captain Dennis, you've been with the Sheriff's Department since 1999?

A That's correct.

Q All right. And in 2011, you were a lieutenant?

A That is correct.

Q And were you familiar with office policy regarding the care and maintenance of evidence seized from crimes?

A Yes.

Q Okay. Were you aware of any differences in the treatment of narcotics compared with other sorts of evidence from other non-narcotic crimes?

A The non-narcotic crimes were turned into a locker with a evidence form attached to it describing that evidence. And then Chief Wright, who was the Evidence Custodian for evidence other than narcotics at that time would remove it from the locker and put it in a larger storage area for evidence which was maintained under lock and key by him as well as a alarm system that would activate if someone came into that evidence locker/storage area.

Q Okay. Let's say you seized a gun from a shooting or something and you needed to go take a look at it one day, what would you have to do to go take a look at that evidence that you had previously seized?
A I would schedule with Chief Wright at that time to retrieve that evidence from evidence, the gun from evidence and he would go and get it and then bring it to us or to me.
Q Why wouldn't you just go to the evidence locker yourself to go check it out?
A Because we maintain the control of evidence through that chain of Chief Wright being the Evidence Custodian.
Q Okay. Now, narcotics evidence in 2011, how would that have been handled and how is that different than non-drug related evidence?
A During that time, Nick Bouknight was the narcotics officer as well as the narcotics Evidence Custodian. If he made a case, he would take charge of that evidence doing the chain-of-evidence form as well as logging it into his evidence locker area, which also was under lock-and-key, him only having the key as well as an alarm system on that. Both alarm systems were set up into the communications room so if someone went in there without permission the alarm would be activated. Prior to either Chief Wright going into his separate or Investigator

Bouknight going into his separate, they would have to notify our dispatch that they were making entry into that room.

Q After hours or anytime?

A That's anything, 24/7.

Q Okay. So if Nick wanted to go check out some of his own drugs, he'd have to inform dispatch and then he would use his own key to go in there and check it out?

A That's correct. He would make entry into his storage area evidence locker.

Q Anyone else to your knowledge have keys to narcotic evidence at that time?

A No. Not at that time, no.

Q Okay. And who was responsible for the transportation of the narcotics evidence to SLED for testing?

A During that time, the transportation would have been done by Investigator Bouknight. He would have removed any evidence from his evidence locker, prepared it through the Best Kit. And then secured that Best Kit with whatever he was going to be sending down meaning if there were three or four items that arose out of the same event he would normally store those three items in one Best Kit. And those would be listed on that Form, Rule(b) or, excuse me, Form B, Rule 6 and then that would be packaged in what's called an integrity bag and then sealed. And then

transported to SLED and then turned over to their evidence log-in.

Q How many years did you work with Nick, Nick Bouknight?

A Probably a good 10 years.

Q Did you ever have a chance to see his handwriting?

A Yes, I have.

Q How many times?

A Multiple times.

Q I'm showing you State's number 2. First of all, do you recognize what that is?

A Yes, sir. State's number 2 is a copy of Form B, Rule 6. Control number listed at the top is B215834. It is certified information that Nick Bouknight has documented in his writing as well as his signature at the bottom right.

Q Okay. You say that's his writing. Do you recognize that to be Nick Bouknight's handwriting?

A I do recognize that as Nick Bouknight's writing.

Q Okay.

A All of it.

Q And what does it say, who seized it? Who seized the drugs?

A It starts off at the top, this is to certify that I, Nick Bouknight, am employed by Newberry County Sheriff's

Office. That on 10/9/11, and just prior to that, he had scratched out and put "NB" above it. I can't tell you what was before that date. I seized from Toaby Alexander Trapp pursuant to a search warrant at or near 91 Little Ranches Road, Newberry, South Caroline 29108 the following substance or containers. Describe substance or container with sufficient particularity to distinguish it: 1) plastic bag containing a quantity of white rock, or white cookie-like substance; 2) plastic bag containing a quantity of a white cookie substance; 3) orange pill bottle containing a quantity of white cookie substance; 4) scale containing a quantity of white residue on it; 5) spoon with a quantity of white residue on it; and 6) quantity of a white residue. On 10/21/11, I made delivery of the above-described substance or containers to SLED, of SLED in substantially the same condition as when I received it. And it is signed Nick Bouknight.

MR. SCOTT: Okay. Your Honor, again, I think we've established that Nick was the one who seized it, and then he made delivery on 10/21. It was testified to that he was the narcotics Evidence Custodian at the time. It was further testified to that he was the only one who had keys to that locker. Additionally, it was testified to that there would have had to been permission gained for any -- or would have to notify to dispatch anytime he intended on

opening up those lockers and going in. I guess I could ask the additional question.

Q To your knowledge, do you have any record that dispatch was notified in between? October 9th, 2011 and October 21st, 2011 that these particular drugs were checked out? Do you have personnel knowledge?

A Rephrase the question, please.

Q All right. You testified that dispatch would have had to have been notified should Nick, I guess, open up the locker and check out any drug evidence?

A That's correct.

Q All right. To your knowledge, do you have any -- well, do you have any knowledge of any records that would indicate that anybody had checked out these drugs, these particular drugs in question in between October 9th, 2011 and October 21st, 2011?

A I have no knowledge that anyone other than Nick Bouknight would have checked out evidence.

Q Okay.

MR. SCOTT: Judge, I think that's all the questions we have and the same questions we'd gone over during the prelim or the pretrial.

THE COURT: All right.

THE COURT: Mr. Lake gets to -- he gets to ask questions if he likes.

CROSS-EXAMINATION

BY MR. LAKE:

Q You testified, I guess, earlier that, you know, I guess between -- from the time that it went from, to SLED that the items would have had to been placed into an integrity bag. Was that your testimony?

A I kind of hear what you're saying, but can you speak up, Mr. Lake?

Q In your testimony you indicated that once the items were collected, at some point they were placed in an integrity bag and then sealed and then delivered to SLED at some point, correct?

A That's correct.

Q Do you have any personal knowledge as to when they were placed into the integrity bag?

A Other than what's documented on the Form B, Rule 6.

Q Do you have any personal knowledge as to the condition of this item before it was placed into the integrity bag?

A No.

Q Do you have any personal knowledge as to whether anyone else could have came into contact with this drug before it's placed into the integrity bag?

A I have no knowledge of anyone other than Investigator Bouknight would have made contact with that drug or

evidence.
Q Do you have any personal knowledge as -- I know you indicated that it'd have to be taken out of this bag. Did you ever call to confirm whether that even, there is a record of him contacting dispatch on the 21st?
A No.
Q Did you check?
A The only way that I would check would be if they would notify either one of the Evidence Custodian officers that there was a unlawful entry into the evidence storage area.
Q And just so I can have some clarifications, how many envelopes did you have when you gave it to Investigator Bouknight?
A I don't understand what you're asking.
Q You were the only---
A ---there are envelopes that were there.
Q And I guess I'll rephrase that question and just so I can --when you did the return, there were a number of items, I think about roughly about five items that were taken, correct?
A On my return, I have pictures taken by Robert Spreng; two plastic bags with white solid substance found on floor in bedroom in front of dresser, a pill bottle on dresser with white solid substance, a CD case scale, spoon and

razor blade with residue and straw. So you would look at seven items outside of the number of pictures that were taken.

Q Did the straw make it into the Best Evidence Bag?

A I believe I read off everything that would have been itemized on Form B, Rule 6 of what had been itemized in the Best Kit, integrity Best Kit to go to SLED.

Q So the answer would be no, correct?

A Your question is did the straw go into the Best Kit?

Q Correct.

A No.

Q Okay. But it was with the items, total items that you gave him into that envelope, correct?

A It was what was seized from the residence.

Q And I guess you indicated, testified earlier that it came into your possession. And then you gave it back to Investigator Bouknight and then the last time that you saw it was when you saw him put it into a car?

A Well, it would be in his possession for me to look at and document as I did on the return and for him to maintain the custody and control of it, leaving the scene to his vehicle to his evidence locker and then to SLED.

Q Did you ever see him seal the particular items that you gave him?

A No.

Q Did you ever see him actually put it in a particular locker?
A No.
Q Did you ever see him take it out of the locker?
A No.
Q How many lockers did he have that he would potentially use?
A And I, I think---
Q Is there more than one?
A Well, herein lies the issues where the question needs to be kind of directed. We have lockers for all evidence other than narcotic evidence. For narcotic evidence, there was one locker and control that Investigator Bouknight would have had access to if there were cases made by the road deputies and he would get that. However, if Investigator Bouknight was the controlling officer and seizing officer and officer to maintain that evidence, then he would bypass his one locker or drop locker and put it directly into evidence.
Q And do we know in this particular case which locker he put it in? Do you have any personal knowledge?
A He has one storage locker that he would have gained access to put it in.
Q Well, I guess what I'm asking you, are you speaking -- when you say that are you speaking from personal

knowledge in this particular case or you specifically trying to refer to some type of common practice?

A I am speaking of the common practice and policy of the Newberry County Sheriff's Office at that time for maintaining narcotic evidence.

MR. SCOTT: Judge, we got to move on. He's asking the same questions over and over. That was not what was elicited from direct examination. He testifies to office policy at the time.

MR. LAKE: Your Honor, I just asked him a question about whether that was office policy.

MR. SCOTT: Asked and answer.

THE COURT: I thought that was a newer question. I was interested in listening to the answer.

MR. LAKE: Again, Your Honor, and I'm not going to, I don't want to keep going over the same, I'm obliged to, of course, because this is my client and you know what he's facing. We still take the position and I take the position that I think the law is clear in this particular case that one, Captain Dennis is not in a position to testify as to what happened that particular date. Now, we learn now that there's two particular lockers and he's testified as to common practice about what Nick may have done and which locker he may have put it into. Now, we are not exactly sure.

THE COURT: Here's what I believe I'm confined to is this. If the identity of the person in the chain handling evidence is established and I think that's been done, the manner of handling is reasonably demonstrated and is not as showing of abusive discretion, proof of tampering, bad faith and real motive. I don't believe those have been shown. It's investigation. Drugs were seized. Captain Dennis was on the scene when they were seized. Detective Bouknight took possession of them. He then also following the procedure time filed a Form 6 which references the evidence seized at the scene. It referenced the Best evidence Bag and delivered to SLED. So whichever locker it would be in would be of no consequence, because both of them Detective Bouknight had control of. I thought it was if you didn't know who had it. We know who had it. We just don't have him here.

MR. LAKE: No, Your Honor, I have never argued and maybe I wasn't clear. I've never argued that if you could not identify every particular person -- what my argument is essentially is that even if you identified every person that is in the chain, you still have to basically show that there, that someone has to testify that there was no evidence of tampering. Now, what we've got is just one person up here that says I saw the drugs at the initial beginning and then nobody else but the chemist and that is

a huge gap in time and tested.

THE COURT: Well, I'm going to read the words to you, absent proof of tampering. Not proof of non-tampering, absent proof of tampering. That's the words in the Supreme Court case. Absent proof of tampering. So that doesn't mean the State's got to disprove tampering.

MR. LAKE: But that is why, Your Honor, I continue to stress the point that there were items that somehow made their way into the Best Evidence Bag that weren't somehow collected.

THE COURT: I think that goes to weight. I agree with you, there is conflicting lists on the return versus the Form 6 of Detective Bouknight. I agree with you they are distinguishable. There's some different items there. There's two razors versus one razor. I agree with your reading of those. I don't think that proves tampering.

MR. LAKE: Well, I guess what that does prove, Your Honor, there has been something that occurred between the time that he gave the item to Investigator Bouknight up until the time it is actually testing.

THE COURT: All right. But your client is not on trial for those items. They're distinguishable items, the straw and the razor blades and the residue. He's not charged with any of those items in this case. I would probably suppress the State from referencing those.

MR. LAKE: Your Honor, I believe those items -- and at least one of them, I think, is mentioned on the drug analysis. I think the additional residue.

THE COURT: Well, I understand your argument.

MR. LAKE: Yes, sir.

THE COURT: I've read Taylor fairly closely. And I think the State barely gets by it, but they get by it and it gives you the opportunity to argue your weight or credibility of the chain but not admissibility. I'm going to allow it. I may be wrong, because it, I mean, I agree it's tenuous. But I think that goes to the weight of the credibility of the chain. All right. And you've made a very good record of it. All right. Bring the jury in, please.

(Whereupon, the jury came into open court at approximately 1:54 p.m.)

CONTINUE DIRECT EXAMINATION

BY MR. SCOTT:

Q Okay. After the initial, the pill bottle, I think we got to where you were executing a search warrant and what did you find in front of the dresser that the pill bottle was on?

A Located in front of the dresser on the floor after moving some of the clothes and the boxes and the dresser drawers, we located two plastic bags containing a rock,

off-white cookie-like substance.
Q Okay. And how many bags did you say?
A There were two.
Q Okay. And we've talked about those earlier from the two -- these two bags that are in State's number 30?
A That is correct.
Q Okay. And then who would have collected -- who from your agency would have collected the evidence that day?
A Officer/Investigator Nick Bouknight.
Q Okay. And he was the narcotics agent at the time?
A He had actually two roles. He was the narcotics officer who investigated narcotics activities as well as he was the narcotics officer in control of the evidence.
Q Okay. So when drug evidence was seized, who would keep up with it?
A Investigator Nick Bouknight.
Q And what were the procedures that he would undertake in his duties as the Evidence Custodian of the drug evidence?
A Investigator Nick Bouknight had a closet or room that was designated as his evidence room where he secured all the evidence. But he also, we had a single locker that was a drop box that if a road deputy made an arrest, whether it was pills or marijuana or cocaine, they would fill out the proper chain-of-custody form, attach it to

whatever they placed it in whether it was a bag, a plastic bag or whatever, and then drop it in that evidence drop box. There was only one person that had access to that drop box and the narcotics evidence room which was Nick Bouknight at that time.

Q Okay. So if you wanted to check out some drug evidence to analyze it or to take a look at something that was seized, what would you have to do?

A I would have to schedule an appointment. If it was drugs, I would have to make that appointment with Nick Bouknight for him to go into his evidence locker and get the item in question.

Q Okay. So it's your testimony that October 8th, 2011, you were in Tosby Trapp's house and you see the pill bottle on the dresser and you see the two bags of white rock-like substance in front of the dresser on the floor and Nick Bouknight seized all three of those items?

A Nick Bouknight seized those items and I documented them on the search warrant.

Q All right. And do you have personal knowledge of who would have transported those items to SLED for further analysis?

A That would have been Investigator Nick Bouknight. That was one of his job functions as the narcotic officer.

Q Okay. Now, what is a Form B, Rule 6. What is that?

A That is a form that is produced by SLED that they use for what is classified as a kit for transporting the evidence. It has this form in it to where you certified who the officer is that actually collected/seized the evidence and then what type of arrest it was seized from as well as the individual it was seized from. And then it is listed as far as what evidence is going to be sealed in that bag to be transported to SLED for testing.
Q Have you ever filled one of these out?
A I have, yes sir.
Q And now is this something that you do in the ordinary course of your line of work?
A If I come in contact with drugs, yes.
Q Okay. And what about other -- would you use that for other pieces of evidence like blood?
A This particular form we would not, no.
Q That's specifically for drugs?
A This is dealing with drugs.
Q And those are ordinarily filled out in the seizure of drugs when they are transported to SLED?
A That is correct.
Q And did your office maintain copies of those records?
A They do, yes.
Q Okay. Let me show you State's number 2. Do you recognize that?

A Yes. This is a copy of the Form B, Rule 6. At the very top it has a control number which is B215834. That control number would be the number used for identification of the kit that would be used to send the drugs down to SLED.

Q State's number 30, can you see that control number listed anywhere on that package?

A On package, and this is, the real clear bag that's holding everything that's on the inside is a heat-sealed bag. The actual bag that I call an integrity bag that is inside is blue and white. It has a control number at the very top that says B215834, SLED's logo and then SLED Drug Analysis Security Envelope. It has the agency, Newberry County, date sealed 10/10/11. The printed name on the envelope -- sealing envelope is Nick Bouknight and then he signs underneath his printed name.

Q All right. Now, referring back to State's number 2, this is the control number that is referenced in that form?

A That is correct, in the top left-hand corner.

Q Okay. So Nick indicate in that form what he did with this piece of evidence?

A On this form he indicates, this is to certify that I, Nick Bouknight, am employed by Newberry County Sheriff's Office 10/9, excuse me, and that on 10/9/11, in front of

that is scribbled out with his initials. I received from Toaby Alexander Trapp pursuant to search warrant at or near 91 Little Ranches Road, Newberry, South Caroline 29108. The following substance or containers. Describe substance or container with sufficient particularity to distinguish it: 1) plastic bag containing a quantity of white cookie-like substance; 2) plastic baggie containing a quantity of white cookie substance; 3) orange pill bottle containing a quantity of white cookie substance; 4) scale containing a quantity of white residue on it; 5) spoon with a quantity of white residue on it; and 6) quantity of white residue. On 10/21/11, I made delivery of the above-described substance or container to SLED of SLED in substantially the same condition as when I received it. And his signature is at the bottom right, Nick Bouknight.

Q Okay. So he indicates that he seized the drug evidence and then on the 21st, he delivered it to SLED?

A That is correct.

Q You said something, what is this, it's another item that's in there?

A It's actually a scale but it looks as if it is a CD of Bill Cosby is a Very Funny Fellow, Right.

Q But it's your testimony that's actually a scale?

A Yes, sir. If you actually open it up like you would

open up a CD, it's actually a digital scale.
Q Well, you can show us. Would you open that up?
A If you don't mind, I'd like to put some gloves on real quick.
MR. LAKE: Your Honor, this hasn't even been entered into evidence. And I'm not sure if he's trying to publish this to the jury. I mean, there has not been sufficient chain-of-custody for him to try to publish anything.
MR. SCOTT: I can introduce it now. I can attempt to lay some more foundation.
THE COURT: All right. Attempt to lay some more foundation. Mr. Lake is probably right on that.
Q When was the last time you saw that?
A The last time I saw that would have been on the night we were at Mr. Trapp's office on October the 8th, 2011 and early morning of October the 9th.
Q And where was that located in the house?
A I believe that was located on the counter there in the kitchen.
Q And is that how it appeared October the 8th of 2011?
A With the exception of some writing that was on it looks like was done by SLED.
Q I'm going to show you State's number 26. What is that a picture of?
A State's 26 is a picture in the kitchen area looking

back toward the living room and there is a kind of a little nutch that sticks out that's going from the kitchen into the living room. And it's like a little recessed calendar area and that is the area in which we located the scale, a spoon and a razor.

Q Okay. And likewise State's number 24, is that the same thing, just a different kind of angle?

A State's 24 is just a closer shot of State's 26.

Q That's what you personally observed with your own eyes October 8th, 2011?

A Yes, it is.

MR. SCOTT: All right. At this time, Judge, we would offer State's number 24 and 26 for admission into evidence.

MR. LAKE: Without objection.

THE COURT: Without objection, 24 and 26.

(Whereupon, State's exhibit 24 and 26 were admitted into evidence.)

Q All right. That item that's, did you notice that it was in those pictures?

A That is correct.

Q Okay. Is that back there?

A The top right, yes sir.

Q Okay.

A Right there at this -- it's in between that orange

and the black in the corner. So, right in the middle.
Q Am I pointing directly at it?
A That's correct.
Q And did your office seize that piece of evidence that day?
A It was seized, yes.
Q And it's notified in that form that you just read from?
A Yes, it is.
MR. SCOTT: Your Honor, the State would offer the digital scale for admission into evidence.
MR. LAKE: We'd object to that, Your Honor. He hasn't laid the proper foundation for a chain, for that particular item.
MR. SCOTT: Yeah. It's non-fungible evidence, Judge, and the foundation has been laid at this point.
MR. LAKE: Your Honor, could we?
THE COURT: Yeah, you may. Come on up here.
(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury.)
THE COURT: All right. For the record, the scale will be admitted as State's exhibit 31. 31, because this is non-fungible and that will be the extent of its admission. And it's subject to an objection from Mr. Lake

which was done pretrial and pre-admission.

(Whereupon, State's exhibit 31 was admitted into evidence.)

THE COURT: Hang on, Mr. Scott. I mean, you don't need to mark that. Make sure you've got Mr. Lake's objection as noted on the record as admitted subject to his objection which we've previously made an extensive record of.

MR. LAKE: Yes. My objection to the admission to that particular item. A proper foundation hadn't been laid or a chain-of-custody been established for this particular item.

THE COURT: All right. Admitted subject to the objection.

Q All I want you to do with State's number 31 is you just open it up and show the jury what that is.

A Yeah. Like I said it appears to be a CD case but whenever you actually open it up, it is actually a digital scale.

Q Okay. That home, what's the address again?

A The address that we were at was 91 Little Ranches Road, Newberry County. It's off of Highway 34 out past the skating rink.

MR. SCOTT: Okay. Please answer any questions Mr. Lake has for you.

CROSS-EXAMINATION

BY MR. LAKE:

Q Captain Dennis and again, how long have you been captain?

A Since May of 2013.

Q And what are your responsibilities as captain?

A I still oversee and supervise the Investigations Unit, also the Victim's Advocate Program, as well as the COPS program, which is our Community Oriented Policing unit.

Q And how many officers are you over?

A There are nine of them.

Q And do you have your own set of cases?

A Yes, I continue to work cases at the Sheriff's Office as well.

Q Was this your particular case?

A This was assigned -- which part?

Q Were you the assigned investigator on this particular case or did you assign it to someone else?

A I was the assigned investigator for the burglary. Nick Bouknight was the assigned case officer for the trafficking cocaine.

Q And you understand the importance of, I guess, doing reports, don't you?

A Yes, sir.

Q What's the importance of doing reports?
A It tracks what the victim or the complainant or the subject would actually tell us as to what the crime is, if anything, or it could just be an information report. So it would be a documentation of those individuals for us to look into and further investigation.
Q And could you tell the jury about the report you did in this particular case?
A On the burglary, I documented that Mr. Trapp--
Q Wait.
A You asked me to document or talk about my documentations of my case.
Q Investigator -- Captain Dennis, what I asked you did you -- maybe I'll rephrase this. Did you prepare your own report in this particular case?
A Yes, I prepared my own report in this case.
MR. LAKE: Your Honor, may we take a moment?
THE COURT: You got a legal matter?
MR. LAKE: Yes.
THE COURT: Okay. All right. Ladies and gentlemen of the jury, y'all step in the jury room for a few minutes. We got a issue that needs to go on the record and don't begin discussing the case.
(Whereupon, the jury was excused from open court.)
MR. LAKE: Your Honor, Captain Dennis has just

testified that he prepared his own report. I certainly don't have a copy of any kind of report that he has prepared and he's testified before in preliminary type testimony in terms of pretrial testimony. I think at those particular times, he admitted that he did not provide any type of report or anything along those lines and he essentially relied upon Investigator Bouknight's report. Now, he just before this jury testified that he prepared a report.

THE COURT: Well, let him finish answering the question. He said, yes. I want to hear his explanation. What about it?

CAPTAIN DENNIS: Yes, sir. I prepared a report on case number 11-9319, burglary. My supplemental report was dated 12/21/2011. My officer number is 064, Robert Dennis. Detailed statement of investigation: Trapp called and advised that he had heard Chaplain is the one who broke into his house but there is no evidence to support this. This case is clear until more information comes available.

THE COURT: So that's the incident report regarding to burglary.

MR. LAKE: Your Honor, he clearly knew what, I mean, he's trying to parse the words.

MR. SCOTT: He asked him if he generated a report

with, involving this case.

THE COURT: You've been very particular with how you've made him answer questions yes or no. And he answered your question. I think you may want to recharacterize your next question. All right. Is that all you want from him because understandable, I know there is two different cases and he was here on the burglary and he participated in and assisted in the narcotics investigation. His primary investigation was on a burglary and he prepared a report. That's not relevant to this trial. It's not going to be admissible. I mean, unless you, if you want it in, you can put it in.

MR. LAKE: Well, Your Honor, if that's the case then that it's not admissible, then I would move to strike that answer.

THE COURT: Well, you asked him did he prepare a report of his investigation and yes, he did. I don't think it's relevant to this trial and you can't have it both ways.

MR. LAKE: Yes, sir.

THE COURT: I mean you are not going to, I'm not going to strike an answer. I think he can explain his answer, but you've tried to prevent him from explaining his answers while asking yes or no questions the whole time you've been asking him questions or at least that's

my observation.

MR. SCOTT: And also I think he can require him to answer yes or no, but then he's got to give him an opportunity to explain.

THE COURT: My suggestion would be the report you prepared was just for burglary. Did you prepare a report in regard to the, what we're on trial now. And then he can answer that question. Let's proffer that right now, if you were going to ask him that question.

MR. LAKE: I mean, Your Honor, I mean he can clarify that when he testifies that it was just related to a burglary and nothing related to the drugs.

THE COURT: Okay. Fair enough. All right. I want to take a short break so.

(WHEREUPON, a short break was taken.)

THE COURT: Let's bring the jury in.

(Whereupon, the jury came into open court at approximately 2:28 p.m.)

THE COURT: All right. Folks, we're ready to continue.

MR. LAKE: Thank you.

BY MR. LAKE:

Q Mr. Dennis, you can finish up your response.

A Yes, sir. On the report that you were asking about, there's actually two reports. I actually -- I worked the

case that was involving the burglary for which I did a supplemental report closing that report out based on some insufficient evidence to prosecute someone for breaking into Mr. Trapp's residence. So I did generate a report on the burglary.

Q So you're an investigator on the, so Spreng was no longer the investigator on the burglary?

A What happens, Mr. Lake, is when we're on call, although you're on call, you may not be assigned to investigate that burglary. You come out to investigate, taking pictures or photographing the scene, collecting evidence and different things like that to help discover who did it. So although he played that part that night, I actually started the investigation of the burglary.

Q Okay. And as part of the investigation of that burglary, how much fingerprints did you request in this particular case?

A There were no fingerprints obtained there at the scene that we could use.

Q Did you attempt to obtain any fingerprints?

A As far as me no, but I know Investigator Spreng did dust.

Q And that's, when did he do that?

A While I was there on scene.

Q And is that memorialized in either your report or

Investigator -- well, actually did Investigator Spreng do a report?
A I don't think he did a report, no. No, I do not see one in here.
Q And so did he report regarding either the burglary or the drug case for which we're here today, Investigator Spreng that is?
A No.
Q And the only thing that you gave a report of is really more supplemental just saying the fact that you essentially heard that this person was the person that might have broke into the house, correct?
A That was relayed by Mr. Trapp.
Q So, Mr. Trapp still reached out to you to try to provide y'all with some information about who robbed his house, correct?
A That is correct.
Q Even after October 6, 2011?
A That is correct. That is one of the things that we try to do is stay in contact with individuals about their cases and ask that they do the same.
Q Did y'all ever reach out to him about anything that y'all turned up or ask him any additional questions about that burglary?
A None that I remember, no.

Q Take any DNA swabs or do anything else regarding that?
A No.
Q And you were testifying essentially about the necessity for a report when you documented that he called you. But wouldn't it have been just as important for you to document this alleged statement that you attribute to Mr. Trapp?
A Although it was not done by my hand, it was documented by Investigator Bouknight who was there with me whenever the Miranda rights were given to him and the statement was made. I would only be duplicating what Investigator Bouknight put down.
Q And at any point during this timeframe, did you document that you gave the Miranda?
A As I said earlier, it was documented by Nick Bouknight in his supplemental of me doing that. So there was no need for me to duplicate what had already been said and in reviewing his report.
Q And so you actually reviewed his report, correct?
A Yes, sir.
Q Let me just show you some additional pictures just to make sure what's been marked in Defendant's exhibits number 14 and 15 and ask you do you recognize those items again?

A In Defendant's 14 and 15, they depict the pictures that I had talked about earlier of the bedroom with some disarray on the floor, as well as the two packets of white plastic bags containing the cookie-like substance. And the only difference between the two is the type of paper it's on.

Q And let me show you what's marked as State's exhibit number 13 and ask you do you recognize that?

A This is actually Defendant's exhibit 13.

Q I'm sorry, 13.

A Yes, sir. It's another picture of kind of looking between the bed and dresser in the Defendant's or in Mr. Trapp's room.

Q And all of those photos fairly and accurately depict the area that particular night?

A Yes, they do.

Q What number is that of again?

A 13, 14, and 15, Defendant's.

MR. LAKE: Your Honor, at this time we'd move those exhibits into evidence.

THE COURT: Any objection?

MR. SCOTT: No, sir.

THE COURT: No objection.

MR. LAKE: Okay.

THE COURT: 13, 14, 15?

MR. LAKE: Correct, Your Honor.
THE COURT: They're in without objection.
(WHEREUPON, Defendant's exhibit numbers 13, 14 and 15 were admitted into evidence.)
Q Now, you indicated that you kind of followed with Mr. Bouknight on his reports. Did you ever have any communications with the magistrate that night who provided the search warrant?
A No, I did not.
Q Did you ever have any communications with Investigator Bouknight before he obtained that search warrant that night?
A Not before he had gone to the Judge, no.
Q Do you have any personal knowledge yourself about any information that was, I guess, given from Investigator Spreng to Investigator Bouknight that would then be given to Judge Halfacre in this particular case?
A Investigator Spreng had called and notified me of the burglary, of the drugs that were found, of notifying Investigator Bouknight of the drugs that were found. Pretty much asking him what should he do next, where Investigator Bouknight instructed him that he was going to go get a search warrant, stop what you're doing, let me get the search warrant then we'll come back and continue.
Q Did you have personal knowledge of that or you're

reading off what would be Investigator Bouknight's report?
A That was what was relayed to me personally by Investigator Spreng.
Q But there is no document of that conversation either, is there?
A No, that's my recollection of that night.
Q Let's go over your recollection again of a few other things. On October the 9th, 2011, you signed off on the return, correct?
A That is correct.
Q And at that particular time you indicated some photographs that were taken?
A That's correct.
Q And there were two plastic bags with a white solid substance found on the floor in the bedroom, correct?
A That is correct.
Q Now, also there was a pill bottle on a dresser with solid substance, correct?
A Actually, that is a pill bottle on dresser with white solid substance.
Q With white solid substance. And there was a CD case scale?
A That's correct.
Q And a spoon and a razor blade with residue on it, correct?

A Correct.
Q And there was a straw?
A That's correct.
Q And those were the items that you specifically gave to Investigator Bouknight?
A Bouknight, yes sir.
Q Did you personally observe him pick up any of these items?
A He was personally handed those items for, after being documented on the return and then he would secure those.
Q Who were they handed to him by?
A Do what now?
Q Who handed it to him?
A Well, he had control of them. But I had to look at them to document them on the return so he would have had control of them.
Q I'm guess what I'm asking you is, was each item in these particular photographs as they were found that particular night?
A I still don't understand.
Q The photographs depicted, you've testified that those photographs depict what it looked like that particular night. And what I'm asking you is, when these drugs are located in a specific spot, do you have personal knowledge or did you observe Investigator Bouknight pick up each one

of these items?
A Yes. Each of these items were picked up and then transferred for me to look at and document on this report.
Q And you saw him do that personally yourself?
A Yes, sir.
Q Okay. And you know what a evidence log is, correct?
A I do.
Q And there was one done in this particular case, correct?
A That is correct.
Q It was done on October the 8th, 2011, right?
A That's correct.
Q And Investigator Bouknight would have done that, correct?
A That's correct.
Q And on Investigator Bouknight's report, he indicates there's two razor blades?
A Okay.
Q And but you indicated in the return that you kind of checked it behind, where did the extra razor blade go to?
A The pictures depict a razor blade on the dresser next to the pill bottle which is in number 9 which is a State's exhibit.
Q So is the return incorrect? You've indicated there is only one razor blade?

A And that's what was given to me from, with the spoon and the razor blade that would have been next to the kitchen counter.
Q This right here represents everything that y'all alleged to have collected, right?
A Yes.
Q And I think the prosecutor in this case was talking to you about a Form B and you also kind of just -- you went over the items specifically. You indicated there was a plastic baggie containing a quantity of a white cookie-like substance with this, what was on the return, correct?
A That is correct.
Q And you indicated that number 2 was a plastic baggie containing a quantity of a white cookie-like substance which is also indicated on here, correct?
A That's correct.
Q And also on that Form 6 indicates there's an orange pill bottle containing a quantity of white cookie substance, correct?
A That was which number?
Q That would be number 3.
A 3, yes, yes.
Q And that's also identified on your return, correct?
A That is correct.

Q And number 4 you indicated now there is a scale containing a quantity of a white residue on it, correct?
A On Form B, yes.
Q And that's also indicated in the return?
A The return indicates a CD type scale.
Q Then all of the sudden, now there is something new on here that there is a spoon with a quantity of white residue on it, yet it is not on this return.
A Yes, it is.
Q I'm sorry. It is. I apologize. It's done with the white razor blade residue on it, correct?
A That's correct.
Q And then number 6, I apologize, is a quantity of a white residue which is separate and distinct from the residue that was on the spoon or alleged on the scale?
A That is correct.
Q Where did that come from?
A I cannot answer that.
Q That's not one of the items that you gave Investigator Bouknight according to your return or that he gave you and you returned back to him?
A No.
Q And you have no clue where this thing was actually even found either, do you?
A Do what now?

Q This number 6. You have no clue where this quantity of white substance residue, where that even came from, do you?
A Not without looking at the SLED report, no.
Q And, in fact, the last time you actually saw the items that you gave him which would be the items on this return which was when he left to go, when he left the scene? When is the last -- strike that. Explain to the jury when the last time you saw the evidence in this particular case before this trial?
A The last time with seeing the evidence was when we cleared the scene, packaging up everything, putting it in the vehicles and then leaving the scene, would have been the last time.
Q And Investigator Bouknight would have been the person that did that, correct?
A That is correct.
Q And he would not have put it in a sealed enveloped and you didn't observe him put it in a sealed envelope, did you?
A And he put it in the envelope.
Q I guess what I'm saying is not one of the Best Evidence Kit.
A Oh, not in that.
Q Where you can actually seal it and make sure that

nothing has been added or taken away?
A That's right. Actually, I believe the containers that he used to package the stuff is still in the Best Evidence Kit there.
Q And after that last time you saw him, again, you didn't see it until trial, correct?
A Until today, yes.
Q And I know you testified as to practices and things of that sort. But do you have any personal knowledge as to once it left your view what happened to those drugs?
A Once it left my view, it would have been relied on Investigator Bouknight to place it in his evidence storage until it would have been checked out to go to SLED for testing.
Q And so it would have been relied upon. So you would have expected him to do that, but you never saw him do it or anything along those lines, correct?
A No.
Q And so other than what you allege that Mr. Trapp said that night, you've had no other further work on that drug case, did you?
A No sir, I did not.
Q Other than you got a call from Mr. Trapp about the burglary?
A About the burglary and dealing with the burglary.

Q Did y'all ever at any point, as you're a supervisor, ever attempt to get fingerprints off these particular items?
A I did not, no.
Q Sir?
A I said, I did not, no.
Q You did not know what?
A N-O.
Q Oh, you said no?
A I did not, no. N-O.
Q Okay. Do you know where that came from? Do you know or have any personal knowledge as to whether anyone at any point has ever done any fingerprints, done any DNA analysis or anything on this particular item?
A I would not.
Q Okay. And those kind of things are possible in this particular case, because, you know, fingerprints will leave, you know, once you touch a particular item along with DNA, correct?
A They could be.
Q And in this case right here, there is no identifying markers on this particular type of container?
A There is no identifying markers on the container.
Q And after it actually leaves, I guess after Investigator Bouknight takes control of the items that you

gave him, I know you are testifying as to best practice. But do you have any personal knowledge as to when he may have, I guess, separated things out from, I guess, what was sent to be tested or what wasn't sent to be tested?

A No, I would not other than the, what's indicated on the Form B, Rule 6.

Q Okay. And because I know there is actually, there were two specific items that, I guess were attached at one point. And you don't have any personal knowledge as to what items went to SLED and what didn't go to SLED?

A Yes, sir. With the information that I'm looking at on this packet which has been marked State's Exhibit 30, inside this heat-sealed bag is SLED's Best Kit with the control log and number. On the outside of it is also SLED's label maker that they use to indicate the lab number which references this Best Kit. So I would say what was ever in this kit is what went to SLED. This would have been evidence maintained at the Sheriff's Office which has been marked State's exhibit number 1, based off of the old form now that was used then and then the envelope that was packaged inside.

Q And was this the envelope that you gave Investigator Bouknight on that particular night?

A Whether I gave it to him or not, that would be one like we use.

Q And this particular document, it lists plastic baggies, razor blade and pill bottle as items being contained in this particular envelope?
A That is what it says on the new evidence sticker, yes.
Q Is there an evidence sticker for this particular bag?
A Yes, it is.
Q This is it right here?
A Yes.
Q Where is the thing that has that label right there on it?
A What do you mean?
Q That right there is a label, are any of these other documents labeled that same way?
A No.
Q Do you know who would have labeled that?
A This new label that is put on this bag is what our new Evidence Custodian officer uses as well as on the SLED bag.
Q Were the razor blades sent to, from your own personal knowledge, from what you have looked at, were the razor blades sent to be tested?
A No, not according to this, both of the razor blades are in this packet along with, I don't know if that is some type of pipe or what is in there.

Q There is a pipe on there also?
A I don't know what it is to be honest with you.
Q Is that on the Form B?
A If it didn't go to SLED it was not put on Form B.
Q Is that listed on that particular envelope too, I see you have got it sealed and it is kind of, what is the purpose of having this right here on the item, this tape and everything like that?
A That tape would be, once they seal that bag to protect it from either coming open or being tampered with.
Q That is the purpose of it, just to make sure, the chain-of-custody really has to do with tampering, correct?
A That's correct.
Q And do you know who put this particular type of taping on that?
A The initials are NB which would be for Nick Bouknight which are his initials and handwriting.
Q And was the pill bottle sent to SLED?
A On Form B, Rule 6 and in this packet, yes. And also in this packet is the form that Nick would have tore off for his tracking number for that SLED packet which is B215834. And then on the back he has got Trapp written on it and it was in this envelope.
Q And so you have got one thing in there and then you have got another set of items, I mean at some point did

either Investigator Bouknight or someone, I guess, separate these items into separate envelopes?
A I am sure they would have to since we have two separate packets.
Q Do you know who did that?
A As far as firsthand, no.
Q Do you know when it was done?
A Other than looking at the evidence form, 10/9/2011.
Q Are you speculating as to when that was separated or do you have any personal knowledge yourself?
A I am reading what is written on both the packet as well as the evidence form.
Q And do you have any personal knowledge as to the condition of the items at the time that they were separated?
A No, I do not.
Q Do you know who all may have been present at the time these items may have been separated?
A No.
Q Do you know how long they had been sitting out separated before they were actually placed back together at some point?
A No.
Q Would it be fair to say that you basically have no other knowledge after you saw Bouknight with it that

particular night?
A Other than the paper trail of what I have visibly been seeing today, no.
Q You yourself created no paper trail yourself, correct?
A Although I don't create the paper trail there is a paper trail created so that we can show from one hand to another.
Q And this alleged statement that you attributed to Mr. Trapp, did you ever attempt to memorialize that in written form and get him to sign it or anything like that?
A No, I did not.
Q Did you ever get him to even sign up on a Miranda form where he acknowledged that you read him his rights or that you even had a conversation with him?
A No sir, I did not.
Q Can you agree that it would be important that if you say that a person confessed that you actually either write a report or at least attempt to get a statement in this particular matter, wouldn't you?
A It would depending on the individual.
Q Since this trial has started have y'all made any attempts to get any fingerprints on that pill bottle?
A Not to my knowledge.
Q And I know that you testified that Investigator

Spreng, I think you said he was in Puerto Rico or Florida or anything along those lines, is there anything that prevented you all from reaching out to him and having him to come in here and do what you are doing and testify and ask him what happened?

A When Mr. Spreng left Newberry Sheriffs Office there was no forwarding address or numbers left to us. Although we know he has family in Florida he also has family in Puerto Rico that he goes back and forth to visit.

Q There was nothing that prevented you all from calling this case before he left, was it?

A That would be a question for the solicitor's office since they are the ones that schedule the trials and different things that come through the court.

Q Has anyone on your behalf or the Solicitor's behalf, do you have any personal knowledge, that anyone ever tried to get Investigator Spreng or anyone else here to testify regarding the facts of this case. I mean, when I say this case, I mean the drug case.

A As far as I am aware, I know they contacted me about forwarding information of where he might be as far as a phone number. But as far as the direct contact from Mr. Spreng, no.

Q And, again, so we can be clear, he never provided any report that said the same things that you said in

reference to, that Mr. Trapp gave a statement to you that those were his drugs?

A He did not, no.

Q There is no reports from him saying he met you and Mr. Trapp had a conversation at all, is there?

A From who?

Q Investigator Spreng?

A No, he did not document one.

Q That is all.

REDIRECT EXAMINATION

BY MR. SCOTT:

Q To your knowledge how many times have you attempted to call this case to trial?

MR. LAKE: Objection.

THE COURT: That is not relevant, I will not allow that.

Q Why wouldn't you fingerprint that medicine bottle?

A After the Miranda rights were given to Mr. Trapp, from his own admission stating that was his drugs.

Q He admitted that pill bottle was his and the drugs inside of it?

A That's correct.

Q Was there any need to fingerprint?

A Not at that time.

Q Thank you.

THE COURT: Any recross?

MR. LAKE: No, sir.

THE COURT: You may step down.

MR. SCOTT: The State calls Lynn Black.

LYNN BLACK, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SCOTT:

Q Ms. Black, where are you employed?

A I work for the South Caroline Law Enforcement Division commonly known as SLED in the forensics services laboratory.

Q What is your title in the forensics laboratory?

A I am a forensic chemist in the drug analysis section.

Q What does the term, forensics, describe in your line of work?

A Forensics means as applied to the law. And when you put forensics and science means science has applied to the law.

Q Okay. Specifically what kind of items do you analyze?

A I receive substances that law enforcement personnel bring in and I analyze them to determine whether they are controlled substances or not.

Q So you primarily deal with, I guess, narcotics?

A I wouldn't classify them all as narcotics, no sir. But substances, powders, plant material, paper, liquids, anything that someone suspects could be a drug.
Q So SLED would have a DNA section that would analyze DNA evidence but there is also, I guess, a generic term, but the drugs section to analyze drugs?
A Controlled substances, yes sir.
Q How long have you worked in that particular capacity?
A I have worked for SLED for a little over 6 years but I have been a drug chemist for 14 years. I worked previously at the Georgia Bureau of Investigations in Atlanta for 8 years.
Q And where did you get your undergraduate degree?
A I have a Bachelor of Science Degree in Chemistry from Kentucky, Wesleyan College. I also have a certificate of medical technology from the University of Louisville and I have a Master of Science Degree in Forensic Science from Marshall University.
Q As a drug chemist with SLED are you required to, I guess, get continuing education, continuous training.
A It is not a requirement but they do provide for us that we can do that. At least once a year we get the opportunity to go to a class or a conference where we can take some different training classes and things but it is not a requirement, no.

Q Do you have any idea approximately how many samples you would test on a monthly basis?
A On a monthly basis, probably anywhere from 80 to 100 cases I would say. And a case can be one sample or a case could be ten samples. It just depends. So, I know that I sampled approximately, probably about 4,400 cases since I have been at SLED, in the six years that I have been there.
Q Have you ever testified in General Sessions court before?
A Yes, sir.
Q Do you know how many times?
A Here in the State of South Caroline I have testified 17 times, overall I have testified 117 times.
Q And do you know, have you ever been qualified as an expert?
A Yes.
Q How many times?
A All of those times.
Q So 117 times in General Sessions court?
A Well, in Georgia, they don't call it that. But, you know, in their court system I testified 100 times but here in South Caroline 17.
Q Okay. And what were you qualified as an expert in?
A Drug chemistry.

MR. SCOTT: Your Honor, at this time we would offer Lynn Black as an expert in drug chemistry.

THE COURT: Any voir dire?

MR. LAKE: No, sir.

THE COURT: She is so qualified. Ladies and gentlemen, what that means is that Ms. Black has some expertise in the field of drug chemistry. She is able to offer opinions in addition to factual testimony in that field. You may continue.

Q Ms. Black, did you have an occasion to test some evidence submitted to you in a SLED lab number L11-11974?

A Yes sir, I did.

Q And who was your listed suspect in that case?

A Toaby Trapp.

Q And when did you receive or when did you test this evidence?

A I tested it on October the 25th, 2011.

Q We have been talking about, what is a chain-of-custody in regards to drug cases?

A The chain-of-custody is a record of who handles evidence, like for SLED we have our own internal chain-of-custody. And what we use is a bar code that is scanned from person to person. Every person has a bar code for themselves as well. So we scan the evidence to us. When I receive evidence and it gets scanned to me and

then that generates, in our computer system, a record that that evidence is in my custody and what date and what time. So the chain-of-custody is very important to keep track of where the evidence is and who touches it.

Q And are those records kept in the ordinary course of business at SLED as far as drug evidence?

A Yes sir, they are.

Q You keep a chain-of-custody on all the samples you test?

A Yes, sir. All the evidence, excuse me, all the cases.

Q Do you have your records of the chain-of-custody in this case?

A I do.

Q As far as the samples you received in this particular case when did they arrive at SLED?

A According to my records they arrived, they were submitted on October 21st, 2011.

Q By whom?

A This says Investigator Nick Bouknight of the Newberry County Sheriffs Office.

Q Would you spell that last name.

A B-O-U-K-N-I-G-H-T.

Q Ms. Black, do your records indicate when Mr. Bouknight delivered them to SLED?

A October 21st, 2011.
Q What time?
A 10:54.
Q Who did he transmit the evidence to?
A According to my records, Selena Kinard.
Q Who is Selena Kinard?
A At that time she was a forensic technician in the log-in department at SLED.
Q So, what does somebody in the log-in department do?
A They typically receive evidence from law enforcement personnel, they will record, excuse me, they will use whatever paperwork that the submitting agency brings in and type in the information into our computer system, suspect names, incident dates, officers names and what type of evidence it is. And then they will generate what we call a unique crime lab case number which will be associated with that case from then on. And they will also generate that case number in a bar code fashion and place that on the evidence. And then as I said before, that is what we would scan, excuse me, in this case the log-in person would scan that evidence to themselves. So then our records would show that that evidence was in her possession.
Q And this bag, State's number 30. Inside of it is another bag, what is this?

A That is what we call the Best Kit Bag, the tamper evident bag that comes in a Best Kit that SLED supplies to law enforcement personnel for the submission of drugs.
Q Is this how you typically receive the items that you end up testing?
A Actually it comes in a manila envelope. The kit itself comes in a manila envelope that has this bag in it and then all the paperwork that the agency would need to submit drug evidence. And typically that is what the log-in person would put the crime lab sticker on. So when I receive it I take this bag out of that envelope and that envelope actually gets destroyed because I put this bag inside another bag. And then on that bag has, I also print out the crime lab case number, bar code and stick it on there.
Q Who would have generated that bar code?
A That is the Best Kit bar code that is already on there, that comes on that bag and it is also on the envelope, the big manila envelope that that comes in. That is just how the law enforcement agency can keep track of what there evidence is in. That is called the Best number or the control number. I think some people have spoke about that in this trial. But that is just basically, we can look up cases by that number too but generally we use the unique crime lab case number.

Q What was the bar code that you said Selena Kinard would have generated?
A As I said, it was on the big manila envelope but that is also, it too, just like that, that yellow sticker right here was also on a big manila envelope.
Q What does tamper evident mean?
A That means if somebody were to try to open up the seal at the top of that bag which is green, it is sticky stuff, that it would be obvious. You know, some of the graphics would be distorted and it would be, it says evident that somebody had tampered with it.
Q Do you have any particular policy, as far as when you receive a Best Bag or a Best Kit or whatever you call it, what is your policy, do you observe there has been some tampering involved in that?
A It it had been tampered with or it was open we would not keep it, we would send it back to the agency.
Q Okay. Did you ultimately test items in this case?
A Yes, I did.
Q Did that indicate to you that the bag had not been tampered with as far as you could tell when you received it?
A That's correct. And I even write on the bag itself that the seal was intact and my initials and the date whenever I open up evidence.

Q Okay. Selena Kinard, she received it at 10:54, that is a.m., from Nick Bouknight?
A Yes, sir.
Q On October 21st, so she gives it all the identifying features that we talked about. And then what does she do, takes it to like an evidence storage bin there?
A Yes. After she puts the information in the computer system and then she generates the bar code and she scans it to herself. And at some point she will put it in the evidence vault and then she will scan it to the vault. And I think they will scan it to a particular shelf too so they know exactly where it is in the vault because it is rather large and there is lots of evidence back there. So, she would have done that and I think on our chain-of-custody it says drug evidence intake storage so that is a particular place in the vault.
Q And she received it at 10:54, when did she transfer to the evidence vault?
A At 10:55.
Q So not, certainly don't want to minimize her job. But she kind of takes it from the officers and gives it an identifying feature and then takes it to the storage room?
A Correct.
Q She doesn't test it or anything?
A No, sir. She just transferred it to the vault.

Q When is the next time this package moves?
A And then on October 25 of 2011 another forensic technician, Patricia Crooks, retrieved it from the drug evidence intake storage area and then she gave it to me.
Q According to the chain she just checked it out and transported it to you?
A That's correct.
Q And did she do any testing or anything with this evidence?
A No, sir.
Q Where is Selena Kinard now?
A I am not sure if she is still living in South Caroline, as far as I know she is. But I have no personal knowledge. She left SLED several years ago.
Q She is no longer employed with SLED?
A That's correct.
Q And Pat Crooks?
A She just retired this year earlier and so she is enjoying herself at home.
Q Okay. These would have been people who would have transported the drugs from one spot to another, they didn't perform any analysis?
A That's correct. They just transport it.
Q I want to ask you about specific items that you would have tested. State's number 32. Do you recognize that?

A I do.
Q And how do you recognize that?
A This is a plastic bag that has brownish rock kind of substance in it and it has got, it has a piece of tape on here that has the lab number, L11-11971. And then the item number that is my item number is 1.1 and my initials. So this was item 1.1 in this case.
Q Okay. And did you perform any test on that sample?
A Yes, I did.
Q And did you render, what were the results of item 1.1?
A This was cocaine base or also known as crack was found and it weighed 10.0 grams.
Q And that would have been lab number associated with the case you talked about earlier with the suspect being Toaby Trapp?
A That's correct.
Q Let me ask you, why is the crack brown. Do you have an explanation for that?
A It can change colors because, you know, of how it is made, if it wasn't a very complete reaction when they made it. If this was kept in a hot place or, you know, exposed to extreme temperatures that could cause because the different chemicals that make this up, you know, you just never know. And they could have put in some different

cutting agent or something that can cause that. But, yes, because it was not this color when I tested it because I would have noted it on my sheet because generally crack comes in, it can be white, off white. I have seen it this color but usually it is off white or white. But it could be just be from deterioration or just because of the nature of whatever else they put in there.

Q But that is a phenomenon you are familiar with?

A Yes, sir.

MR. SCOTT: Your Honor, State would offer State's 32 for admission into evidence.

THE COURT: Any objection.

MR. LAKE: The Defendant would object. He hasn't laid the proper foundation for the admission of this item.

THE COURT: Consistent with my prior analysis and ruling under the Taylor case, I think it should be admitted subject to your objection.

MR. LAKE: The only reason I say that, Your Honor, there is an additional witness that has not been called in this particular case. I think that is one of the reasons why, for the objection. Should be part of the chain, I assume.

THE COURT: I want to hear you on that. Y'all step in the jury room, don't begin discussing the case.

(Whereupon, the jury was excused from open court.)

THE COURT: Let me hear you, I think I know where you are going.

MR. LAKE: Yes, Your Honor. I mean, there has been no testimony from Investigator Chapman. And she has no knowledge.

THE COURT: I think you are right. Some foundation has been laid but not the full foundation.

MR. SCOTT: And, Judge, he would not have been in the chain leading up to Lynn Black.

THE COURT: He is still in the chain but he hasn't gotten there yet.

MR. SCOTT: He would have been in the chain if we are going to bring it to the Court House today ultimately establishing the chain up to Lynn testing it, Ben wasn't going to be in it.

THE COURT: She can provide testimony she tested it.

MR. SCOTT: Yes, sir. That is fine.

MR. LAKE: I don't have an objection to her testifying as what she found was crack. I am saying the admissibility of the actual drugs into evidence. That is what I am objecting to.

MR. SCOTT: We have identified it, we have established the chain to the chemist and she is ultimately talking about what her opinion is regarding the sample. It has got to come in if she has already testified to what

it is. She has ID'd it, we tracked it all the way to her.

MR. LAKE: Investigator Chapman is a link in the chain, Your Honor.

MR. SCOTT: Not prior to testing.

THE COURT: I think he is right. I think she has to test it, she can testify as testing it but once she sent it back then your chain goes away from her.

MR. SCOTT: The point, you said tampering was the basis of the chain-of-custody.

MR. LAKE: The chain is all the way up to the trial.

MR. SCOTT: Who cares if we tamper with it now. We need to get it to her testing it. This is getting ridiculous at this point. This is just getting ridiculous at this point.

THE COURT: Don't you have to have him?

MR. LAKE: Yes.

MR. SCOTT: He is not in the chain leading up to her.

THE COURT: I agree. I agree, she can testify she tested it and what she found.

MR. SCOTT: We can have him talk about bringing it here today but I don't see how that, we have had evidence or testimony seizing it there. We have tracked it all the way to the chemist and now she is talking about what it is. We have identified it and Ben will say, yes, I brought it over here in a bag. I mean, that is about all

he can say.

THE COURT: I think Mr. Lake is right on that one. She can testify exactly like she has. I think he is correct on this part of the chain.

MR. SCOTT: I typically introduced the drugs into evidence. But if she is already going to testify to what it is and the jury gets to hear that.

THE COURT: I am not going to argue with either of you.

MR. SCOTT: I will continue along with this line of questioning and we will have Mr. Chapman here.

THE COURT: Let's take a break.

(Whereupon, a short break was taken.)

THE COURT: Let's bring the jury in.

(Whereupon, the jury came into open court at approximately 3:40 p.m.)

CONTINUE DIRECT EXAMINATION

BY MR. SCOTT:

Q Ms. Black, let me show you State's number 33. Do you recognize that?

A Yes, I do.

Q And how are you able to do so?

A This is a plastic bag with the white rock like substance in it and it has got a piece of tape on it that has the lab number on it which is L11-11971 and the item

number 1.2 and my initials on it.
Q Did you find a result regarding that sample?
A Yes sir, I did.
Q And what was that result?
A This is cocaine base also known as crack, was found 7.3 grams.
Q 1.1 was 10 grams and that item right there, 1.2 is 7.3 grams?
A Yes, sir.
Q All right. Let me show you State's number 34. Do you recognize that?
A Yes sir, this is a orange plastic bottle, also kind of a prescription bottle that has got a white rock like substance inside. It has got the lab case number, L11-11971 and hidden by the State's exhibit tag, 1.3 and my initials.
Q And did you test the substance inside of that?
A Yes, I did.
Q And what was your finding?
A Cocaine base also known as crack was found, 4.0 grams.
Q Okay. So those three items we have, what is it, about 21.3 grams, was that your finding of crack?
A That's correct.
Q How do you weigh these things. Like that, plop them

on a scale and you see what number comes up?
A No, sir. Generally I will take the substance out of the bag and weigh it. What I do is I have a piece of weighing paper that I will place on the balance and tear it which is also called zeroing out so the weight, the weight and the paper doesn't register. And then I took the substance out, out of the bag, and placed it on that balance and took the measurement from that.
Q Okay. So the weight you came up with would clear these plastic bags or this bottle?
A That's correct. They were net weight.
Q So, what is your opinion as to all three of those items, what they contain?
A They were all cocaine base, also known as crack.
Q Okay. Would you refer back to your chain-of-custody. After you tested those items what path did they take?
A After I tested them and placed them back into or actually placed them into another plastic bag, not the bag that they originally came in which is the Best Kit tamper evident bag but a plastic bag that we call a KPac, I think that is just the manufacturer's name for it. It is just a plastic bag that is able to be heat sealed. So I place it in there and then I print out a bar code sticker and place it on there and heat seal the bag with my initials and the date. And then I think at this time I probably just put

it, if I look at the dates here, I have just placed it back in our drug vault. There is a main drug vault at SLED where all evidence is kept. But in my laboratory on the forth floor we have a drug vault that is just for drug evidence. So I placed it in my area in there until November the 2nd of 2011 when I took it back downstairs to log-in and gave it back to Patricia Crooks.

Q What was the, do you see the bag that you put it back in?

A Yes. This outer bag right here, it is called KPac. I put the sticker on here and it has the case number on it, the lab case number and then my initials and the date that I sealed it which was October the 25th of 2011 is on the bottom. We just opened this up earlier today here.

Q I was going to ask you, were you present when we opened this up today?

A Yes, I was.

Q So you watched this bag being cut into?

A Yes, sir.

Q And what was its condition before we cut into it?

A It was sealed and nothing tampered with.

Q And so it would have, I guess, would have been evident had it been broken into after you put it in there but before we broke into it today?

A Yes, sir.

Q So you said Pat Crooks and then what, returned to Newberry Sheriffs Department?
A Yes, eventually it was returned to Newberry County Sheriffs Department on November 30th, 2011.
Q And there was Nick Bouknight, Newberry, drugs for return?
A Yes, sir.
Q Does that mean he picked it up and returned it?
A That's correct. Yes, on this chain-of-custody it has a signature that, also with his name.
Q Thank you. Please answer any questions Mr. Lake has for you.

CROSS-EXAMINATION

BY MR. LAKE:
Q Ms. Black, your testimony, I mean you readily come in on the tail end, correct, of typically a case?
A Correct.
Q And so you have no knowledge as to the underlying facts which led up to you eventually testing these items, do you?
A No, I do not.
Q And you don't know where, where they have been, who had them or who was in custody of them before they make it to SLED, correct?
A That's correct.

Q I think you said something, you testified about you have seen this right here turn brown before?
A Yes, sir.
Q Have you seen it turn brown after you examined it or usually before you get to it?
A I have seen both.
Q How often would you say you have seen that?
A A handful of times.
Q Under what circumstances do you see that at times, that change from, I guess, what you testified earlier to would be the white or off tan to the, what color would you describe this?
A Kind of tan, brown. Yes, it is just kind of deteriorating. It is kind of wet too. It depends how they make it, what else they put in it. If it is exposed to extreme temperatures. All of those can play a part to what happens.
Q When you say exposed to extreme temperatures, would this have been before it got to you or after it got to you?
A It could be either one, I mean it could have been deteriorating, you know, from the getgo.
Q Do you have any personal knowledge in this case whether the process had started to deteriorate?
A No, sir.

Q But you said if it had of started deteriorating you would have noted that in your records, correct?
A If it had been a different color, yes, I would have noted.
Q And did you note that at that particular time?
A No, sir.
Q So any kind of condition that would have affected it would have affected it after it left your custody, correct?
A Temperature wise, yes. But, you know, the fact of however it was made and what it was made with or in, that could have happened beforehand.
Q And you indicated temperature wise, where did you have it stored, what kind of temperature are you showing it in?
A Typically about 70 degrees.
Q And is there any type of polices and procedures as to how these particular items should be stored?
A I don't believe we have anything specific to, you know, a particular temperature.
Q I guess the question is, is there a way to prevent, I guess, erosion or, you know, degrading of any item that you may have found at any given time or tested it at some point?
A Just to keep it in a sealed condition and then in a,

you know, not an extreme temperature environment. But, you know, we can't control how it is brought in. Officers can keep it in their hot trunks in the summertime or hot buildings. I don't know, we see that a lot.

Q And are you familiar with like the Form B Rule 6 that they addressed?

A Yes, sir.

Q And what are those documents?

A The Form B is one of the documents that comes in a Best Kit that we provide, that SLED provides to law enforcement personnel and it is kind of starts the chain-of-custody for us. That is what they submit to us, we don't keep it, we give it back to them but we make a copy of it or, excuse me, we scan it into our computer system. And then we use that information to confirm the person who brought it in and also sometimes the evidence. There is also a request that comes with that that we--

Q You can make a request sometimes before they actually bring it in to get this form and fill it out. Is that possible?

A I am not sure I understand.

Q I guess what I am asking you, this Form B, Rule 6, that is what gets you started. Is this only when they actually physically bring it to that location or are they able to fill this out and then at some point bring it to

you? Do you have any personal knowledge?
A That form is old now and we have a newer form so I, if I can look at the form maybe I can recall.
Q Okay. This is the thing that kicks off when y'all get it and I want to show you that particular document.
A As I said, this is the form that comes in the Best Kit and there is also a Form C so if more than one person, like for instance in this case, Nick took this drug and then he gave it to somebody else who took it back to the sheriffs office then he would sign this to them and then they would have to fill out the Form C that would say where they took it. Now we have one form that has got many blanks and stuff, instead of multiple pieces of paper now we have one form where everybody can write it on there. So sometimes it is one piece of paper but like in this case, but other times it is multiple, it can be multiple pieces.
Q And in this particular case item 1 was a plastic bag containing a quantity of rock, could be a substance that you tested, correct?
A Correct.
Q And it was a plastic baggie containing a quantity of white substance that you took, tested, correct?
A Correct.
Q There is a orange pill bottle containing a quantity

of white cookie substance, correct?
A Yes, sir.
Q And it was a scale and a spoon that contained a white residue type items on both items, correct?
A Yes, sir.
Q And you tested those, correct?
A That's correct.
Q And then there is number 6 where it says a quantity of a white residue. Did you test that?
A Yes, I did.
Q Where is that listed in your report?
A That is item 1.6 on my report.
Q And your report, you describe item 1.6 as a ziplock bag, containing a rock substance?
A Yes, sir.
Q You agree a rock substance is different than residue, correct?
A Correct but different people have different opinions as to what is residue and what is an actual rock.
Q And what is residue?
A Residue would be something, say if you had a bag and you could see something is in there but you can't dump it out or something. And you would like need a Qtip or something to wipe it out with or you would have to rinse it out.

Q And what is a rock, a rock is what is here, right?
A Correct.
Q Something that is substantially bigger, correct?
A In some cases. In this particular case it wasn't a whole lot but it wasn't up to weight. I did consume it all in my analysis though. So there wasn't anything left, there is nothing left in that evidence bag to show it. It was a very small amount.
Q Does that item right there, number 6, does it indicate that it was in a plastic bag?
A No, sir.
Q So it goes to the question, how does it get to a ziplock bag?
A The officer could have placed it in there, it happens a lot. They don't necessarily put exactly what they put in the Best Kit on, either the request or this B form.
Q Do you have any knowledge as to whether it was personally placed in here or not?
A I do not.
Q Is that the best practice for an officer who touched the drugs, especially residue and put it into a bag or anything along those lines?
A We would prefer they put it in a bag, yes.
Q They would use their hands or something like that?
A Well, gloves would be preferable.

Q When the drugs come to you you actually prefer to be the one that opens it up, does the testing just to avoid any argument or any accusations that there could be tampering, correct?
A I am not quite sure what you are asking.
Q What is the basis for you all doing the chain-of-custody?
A To keep track of the evidence.
Q And also to prevent what?
A Tampering.
Q Well, tampering is very important, correct?
A That's correct.
Q Because if you tamper with the drugs you can have, actually manipulate weight, type of drugs or whether there were any drugs at all, correct?
A That's correct.
Q And you have no knowledge as to what happened with these drugs before they got to you?
A No, sir.
Q And your testimony is that when you got it it is in a bag but then on the Best Evidence form completed by Investigator Bouknight is no reference to a bag or anything like that, correct?
A Not for item 1.6, no.
Q And are all these items together or what, are they in

one manila envelope or what are they in?
A They were in several manila envelopes. The first four items were in a manila envelope. The last two were not.
Q Do you have any idea what happened to those drugs, what condition they were in prior to they got into that envelope?
A No, sir.
Q And you don't know whether they were separated and if so who may have separated them, do you?
A No, sir.
Q And so you are saying you have got four separate manila envelopes?
A Yes, sir.
Q And where was item 1.5 and 1.6, were those separate items, were they in separate envelopes or were they not in an envelope?
A They were each in a separate ziplock bag.
Q A ziplock bag.
A Bags.
Q Was that bag sealed when it came to you?
A It was closed, yes sir.
Q Like heat sealed or along those lines?
A No, sir. No, sir.
Q If anybody wanted to get in that ziplock bag they

could open it up and close it, correct?
A Yes, sir.
Q Aside from the items that you list on this report did you test a straw or anything like that?
A No, sir.
Q Did you test any type of pipe or anything along those lines?
A No, sir.
Q Did you test any razor blades or anything like that to see whether they had shown evidence that someone had been cutting or cooking or whatever with those razor blades?
A No sir, it was not submitted.
Q Do you know where they were at at the time?
A No, sir.
Q So they never came to you?
A I have no knowledge of those items. So, no they did not come to me.
Q I guess the reason that I ask you that, on this Newberry County Sheriffs log, it list the items, plastic baggies, razor blades and it says pill bottle. Is there another pill bottle that we haven't discussed?
A Not to my knowledge. I tested the one that came in the Best Kit.
Q So, was the pill bottle with the razor blade when it

came to you?
A There were no razor blades, no sir.
Q Now, according to this particular report here, they are now together?
A I have never seen that package before. I have no knowledge of it, no sir.
Q Did they, on the date it was sealed was on October the 10th of 2011? Is it your testimony that it was placed in this particular bag on October 10th of 2011?
A That is what the bag, what was written on the bag, yes.
Q But you don't know whether that is accurate or not?
A I do not.
Q Were you aware between, I guess, would be October the 9th until what was in this bag on that particular day or any other day, do you know the condition of those drugs or those items at any time from October the 9th until this particular timeframe of October the 10th, the first time it was actually sealed?
A No sir, I have no personal knowledge.
Q Now, when you say the envelopes that came to you, these were the actual envelopes that you are referring to?
A Yes, sir.
Q And these envelopes were not sealed?
A No sir, they were not.

Q So anybody could just open them up at any time?
A Yes, sir. Prior to them giving me--
Q Prior to them giving you this right here, correct?
A Yes, sir.
Q That is all I have.

MR. SCOTT: Nothing from the State, Your Honor.

THE COURT: You may step down. I need to give the jury a break. Don't discuss the case.

(Whereupon, the jury was excused from open court for a break.)

(Whereupon, a short break was taken.)

THE COURT: Let's bring the jury in.

(Whereupon, the jury came into open court at approximately 4:05 p.m.)

MR. SCOTT: The State calls Ben Chapman.

BEN CHAPMAN, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SCOTT:

Q Mr. Chapman, October of 2011 were you with the Sheriffs Department?
A Yes.
Q What was your duties then?
A I was the Evidence Custodian over the, everything but the narcotics.

A I took it back and logged it back into evidence.
Q And then again this morning, did you bring that back over here today?
A I did, I checked it back out and delivered it this morning.
Q And did it appear that it had been tampered with when you took control of it?
A No. The evidence was just as this morning as it was yesterday afternoon.
Q And would anybody have had contact with that since Nick passed away and then since you brought it over yesterday?
A No, I am the Evidence Custodian. I have someone that helps me with the evidence. But we are the only two that has any access to any of that.
Q Were all those substances inside of that in that condition when you checked them out of your evidence locker?
A Yes, they looked just as they do today.

MR. SCOTT: Judge, at this time I think we are going to again offer State's 33, 34 and 32 for admission into evidence.

MR. LAKE: Your Honor, I would object again, I would renew that same objection. There has been testimony from the forensic, I am sorry, the analyst essentially that one

of the documents was indicated that the pill bottle was in, she didn't recognize that. Now, now they have somehow put this bottle back into this right here when it was actually contained in that particular form right there where she indicated and testified to essentially that she did now know what it was, had never seen it before. And this thing clearly indicates a plastic baggy, razor blade and pill bottle. Now he is testifying that, this right here, all of this was in this particular bag right here. I don't think, again, that they layed the proper foundation as to who has touched all of these items at various times to the part that we actually get here to the courtroom today. Especially based upon her testimony that she doesn't even recognize this right here at all. And this right here was actually attached to this.

MR. SCOTT: The testimony was that that was never sent to SLED for testing. She further did identify this and she noted that I put the sticker over her label, her handwriting.

THE COURT: I thought that Captain Dennis says that this bag did not go to SLED and the bag that was fuller went to SLED and he noted that because of the forms that were attached to them.

MR. LAKE: The problem with that, Your Honor, is that this bag right here says that contained within this

particular bag was the pill bottle. I mean, I specifically asked the chemist that. So, he may have testified to that but, I mean this is their own documents. So it is clearly something that she says she was not familiar with. Again, Your Honor, not been established the proper chain on this particular case as it relates to any of these items and the Defendant would object to the entry of these items.

MR. SCOTT: Judge, this was not sent to SLED, we don't intend to introduce this. We are talking about this bag which has been identified by numerous witnesses. This is all we are talking about, this bag right here. This is the one that Mr. Lake continues to talk about and I believe that is the one that he elicited testimony that it had some sort of pipe and some razor blades in it. We are not concerned with this. Furthermore, we would argue it is non-fungible evidence, the chain is not required. This particular, State's number 30 and its contents is what we are trying to elicit testimony.

MR. LAKE: Your Honor, can we have a sidebar.

THE COURT: Sure.

(Whereupon, a bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: Please go to the jury room, I have to

make a record.

(Whereupon, the jury was excused from open court.)

THE COURT: Are you going to proffer something?

MR. SCOTT: Yes, might as well do that.

PROFFER TESTIMONY

BY MR. SCOTT:

Q Now, State's 30, I am going to handle that first, tell me about, this is on the outside of this bag? And what is that?

A This sticker, it is a sticker that I placed on this bag when I transferred this evidence into the new building using our new computer system. So I would have been the one that put this description on it here.

Q That would have been after you would have taken over Nick's locker and transferred it to the new building, y'all are in a new office now?

A Yes.

Q Why is it on the outside of the bag, why wouldn't you put it on the inside of the bag like you did on this one?

A I sealed that bag. This bag was sealed when I received it and it was sealed until today, this morning when y'all cut it open.

Q Okay. This has been broken into, it has got a bar code on it with the same case number?

A That's right.

Q Because these were taped together this morning, correct?
A Right. I mean I moved the evidence and I matched everything up. I went through everything and when I found this here and that there I labeled them each as different items in our system with these stickers and put them together and put then in a centralized place.
Q Because they were seized together and they are part of the same case?
A They are part of the same case.
Q Now, you wouldn't be able to put this sticker on the inside but for having to torn it open, I guess, right?
A Well, I sealed that.
Q Where was this prior, was this in the manila envelope?
A This sheet, that sheet was wrapped around this. And we needed to get a copy of that. So I took it off and made a copy of it and put it back in the bag, put this in there and sealed it off.
Q This is the one question, I guess, is generating all of the confusion. We open this up earlier and a plastic bag and razor blade. You have listed pill bottle here but the pill bottle was in this bag?
A This description was based off of what I read here which says, pill bottle. But this evidence form would

have been the evidence form originally made for all of this evidence. But SLED and she is gone now. SLED doesn't want this.

Q Razor blades and plastic baggies?

A That's right unless they intend to get a residue off of it. But all of this, this form originally generated on the 8th and the 9th was the form for everything you have.

Q Is there any reason you just didn't go ahead and list all of the items right here?

A Well, if you will look, this is the Best Kit and it is coded with the SLED number which is what is here. And there may be more and it would be on my evidence sheet that I brought over yesterday.

Q You listed three items?

A The sticker only prints one line. So if there is more down here and I am not saying there is, but if there is more down there it would be on the other form.

Q As far as these stickers, you are just--

A It is an abbreviation.

Q Okay.

A Of what I got off of here and put on here.

Q This pill bottle, when you delivered this to us which bag was it in?

A This right here.

Q Okay. So, it is just, a labeling type procedure is

the way I understand.

MR. LAKE: I recall the State coming out of, I have never seen testimony where you ask what the Best Evidence of something is. This is the Best Evidence. I hear them testifying to things that aren't in evidence but the Best Evidence of what is actually in this document is what is on this particular form.

MR. SCOTT: He just said it was an abbreviation from the long list of what is in there. These were taken together, these were all taken from the same scene.

THE COURT: I specifically remember Captain Dennis holding up the pill bottle in the bigger bag yesterday during the pretrial because they were talking, where is the pill bottle, where is the pill bottle. He said, I will show you, right there. And he pointed at it and I happened to observe it at this angle. And I don't disagree with you. The label on the smaller bag says that. But I remember without question the pill bottle as being in the bigger bag.

MR. LAKE: Again, I go back what is the Best Evidence in this particular case. Is the actual documents that have been, could actually state what it is. As I recall, Your Honor, I actually thought they had opened this thing yesterday and not today but I could be incorrect. I think the Best Evidence of this issue is what is on the label.

I go right back to the same point again, I hate to keep, they probably heard me say it a thousand times about chain-of-custody and the inconsistencies of the documents, the evidence, the relied upon documents that are inaccurate. I mean, they want to use the hearsay statements when they, when it suits them. But when it doesn't suit them then all of a sudden then just ignore it. Just listen to what the officers testify. I mean, you are talking about me having it both ways. They are trying to have it both ways. And the problem is I have no right or my client has no right to confront any of this. I mean he basically has no right, has not been afforded the right to confront any of the witnesses that this information has come in on. So, I don't think you can have it both ways in terms of saying, okay, these hearsay documents are fine and ignore these other ones. And, so again those documents, those items should not come into evidence. I don't think they have established a proper chain in this particular case. They relied upon hearsay documents.

THE COURT: I thought exhibit number 2 which was the Form B, Rule 6 Form, Detective Boukhight listed the pill bottle on that form as what he took to SLED, did he not? I am speaking from memory, I didn't see that form, I thought it did.

MR. LAKE: But the problem with that, Your Honor, when you go back to the testimony of the chemist, she says basically investigator Bouknight has it down as just residue. But then she indicates when it comes to her it is in a baggie, it is listed down there as a baggie in her testimony. And she could not explain how it came to be in that baggie. You are really talking about residue. He distinctly described it as residue. I am not quite sure how you can get residue and then put it into a baggie. And then say, what is the means by which you get that residue.

MR. SCOTT: There was a scale seized, there was a spoon or a razor blade. We are not seeking to introduce any of that.

THE COURT: I am looking at his inventory of what he took to SLED in control bag 2115, I mean 215834 which is the clear plastic bag's scan number, what I call it, whatever you call that, UPC scanner, control number. 1)plastic white baggie, white cookie like substance; 2) plastic baggie with white cookie like substance; that should be 1.1 and 1.2. And 1.3 would be the orange pill bottle containing a quantity of white cookie substance. Then you have got the scale, which I presume number 4 is the CD scale containing residue on it. The scale was introduced but not the residue. Then there is a spoon

with residue, not introduced as of yet. And then what you are talking about is a quantity of white residue that she recollects was in a baggie but testing exhausted all the residue.

MR. LAKE: There is actually a baggie in there. I mean the point that I make is that the testimony from her was that it was in a baggie as far as she got but his report doesn't say that this was in a baggie. She could not testify to the condition that it was prior to it. But the ones where he had a baggie he specifically stated, now you have got testimony from her in terms of her testimony, the item is a rock and that is a bag. He has described it as a residue, she described it as a rock. And those are clearly two different things, Your Honor, in terms of a rock and residue. There is definitely a distinction between those two in terms how she labeled so. So, where did this extra rock come from.

THE COURT: I don't know that she gave any weight for any rock. She had a bag, a bag and a bottle.

MR. LAKE: Your Honor, in her report she testified to and provided a weight and she identified the particular--

THE COURT: I mean, I am going to grant that motion to suppress that piece. From what I was looking at was State's 32, 33, 34, SLED number 1.1, 1.2 and I don't know what the pill bottle was numbered, 1. what.

MR. DANIEL: 1.3, Your Honor.

MR. SCOTT: Yes, sir.

THE COURT: 1.3, those were the ones that the weight testimony came from.

MR. LAKE: She testified, Your Honor, I guess what would be 1.6 and she testified that was a .01 gram. That is important, Your Honor, I don't think you could separate the items in terms of, I know the Court is kind of, can I separate it and keep certain things in and keep certain things out. But if you are talking things that went into the Best Evidence Bag, they all should be the same. And what is on the report should be what is in the documents. I mean, again, they chose to call this case to do it without having the witnesses available. And I hate that Investigator Bouknight is not here. But it puts us in a tough spot as far as, you know, there is just significant issues, Your Honor, with these documents in allowing the witnesses to testify based upon these documents as to the condition of these items. Again, I just, I would ask this Court to exclude all of these items because I don't think there has been a proper foundation. I will tell you one thing, Your Honor. I think if one part of the Best Evidence fails, one item in there fails I think it all fails.

THE COURT: Okay. You have been very clear on that.

MR. LAKE: Thank you, Your Honor.

THE COURT: All right. I think it comes in, I think it is the totality. I think it comes in. I understand your argument, I am very clear on it. I think it comes in. The three pieces, 32, 33, 34, those numbers.

MR. SCOTT: 32, 33 and 34.

THE COURT: These are SLED evidence numbers 1.1, 1.2 and 1.3.

MR. SCOTT: Yes, sir.

THE COURT: I may have it wrong, you may be right, Mr. Lake.

MR. LAKE: Your Honor, my only concern, the Court is aware of what my client is facing. And so, you know, I think the type of issues we have and the penalties that is facing this particular situation and I just again, I would state my objection for the record and I have kind of stated it. I just ask the Court--

THE COURT: Certainly you can argue it, I mean argue it but I am going to decline to suppress those three pieces of evidence. But I understand and you made a record on that issue. All right, do y'all want to continue, is the jury ready?

MR. SCOTT: Yes, sir.

THE COURT: All right, go get them.

(Whereupon, the jury came into open court at

approximately 4:45 p.m.)

THE COURT: All right, Mr. Scott.

CONTINUE DIRECT EXAMINATION

BY MR. SCOTT:

Q Mr. Chapman, you did testify earlier that this bag and its contents were taken over by you from Investigator Bouknight's locker room when he passed away, is that correct?

A That's correct.

Q And then have they remained under your care and custody since then?

A They have.

Q And did you check these out of your evidence locker yesterday morning?

A I did.

Q And was this bag sealed then?

A It was.

Q And when you brought it here to the courtroom?

A Yes, sir.

Q And yesterday afternoon you took it back to your locker?

A That's correct.

Q And it was still sealed?

A Yes, sir.

Q And when you brought it over this morning was it

still sealed?
A Yes.
Q In fact, we broke it open today for use in court, it was outside of your presence, were you here when we opened it?
A I was not.
Q Okay.
MR. SCOTT: Your Honor, at this time the State would offer State's 32, 33 and 34 for admission into evidence.
THE COURT: Subject to the objection placed on the record by Mr. Lake on behalf of Mr. Trapp, they will be admitted.
(Whereupon, State's Exhibits 32, 33 and 34 were admitted into evidence.)
Q Thank you, Mr. Chapman, answer any questions Mr. Lake has for you.

CROSS-EXAMINATION

BY MR. LAKE:
Q Mr. Chapman, do you have any knowledge about these items before they ever got into the Best Evidence Bag?
A I do not.
Q You don't know if they were manipulated, changed or added or anything along those lines prior to getting into a Best Evidence Bag, do you?
A No, I do not.

Q And you weren't involved in any way at all in this particular case, correct?
A No, sir.
Q Never went out to the scene?
A No, sir.
Q Never had any discussions with Investigator Bouknight?
A No.
Q Do you have any clue, I think it was said there was a room where these items were located. Do you have any idea where in this room that these items were?
A When I took custody of them they were in a location as noted on the evidence.
Q And this particular form it just says, it really doesn't say where it is at, where are these drugs?
A They are in the evidence room.
Q Where at in the evidence room?
A I don't recall exactly what box they were in or what shelf they were in.
Q Are they in a box or are they in a shelf?
A Everything is on a shelf in a box.
Q Everything is on a shelf in a box. Is it a lockbox?
A The building is, I am trying to explain it real quick. You walk in the door it has shelves that go all the way around the wall. And on the shelves are a box

indicating the case, what case it is. And I don't recall exactly where in the room it was.

Q So, when you are saying box you mean like a cardboard box or something along those lines?

A Yes.

Q Not like a lockbox or anything along those lines?

A No. The room is locked.

Q The room is locked but they are not itself in a lockbox?

A No.

Q And back in 2011 who had keys to that particular building?

A Nick Bouknight.

Q Was he the only person that could go back to this particular room?

A Yes.

Q And what restrictions were placed on in terms of going back there to that building?

A Nick Bouknight was the Evidence Custodian at that time so he would have been the one who cared for the evidence and signed it in and out and took it to SLED.

Q Did he have to get approval to take anything out or go back there or anything along those lines?

A No, he was the Evidence Custodian.

Q So he didn't have to contact dispatch or anybody like

that to get authority to go?
A The room was protected by an alarm, he had to contact dispatch when he entered the room because the alarm would go off.
Q Would that prevent him from actually going into the room?
A No.
Q Okay. And this document right here, State's exhibit number 1, what type of document is that?
A This is a evidence log-in form we were using at that time.
Q And on this particular document, just by looking at that document alone, can you tell where Investigator Boukmight put the items that he had secured from the defendant?
A No.
Q Can you tell by looking at that document right there what condition those items were in dated on October the 9th?
A Nothing other than the description.
Q Can you tell when he may have taken those drugs out?
A No.
Q Can you tell when he actually returned the drugs?
A Not according to this form, no.
Q Can you tell what condition they were in when he

turned those items in?
A According to this, no.
Q And was there any type of technician or anybody that worked back in the area in that timeframe that may have assisted Chief Wright or anyone else or was Nick Bouknight the sole person that had access?
A Yes, up until I took control of the narcotic evidence, Nick was the only one.
Q So he could have come in and got it at any time, it is not documented on that form, is it?
A No.
Q And does that document indicate when he took the items from Investigator, I am sorry, Captain Dennis and separated it into several different envelopes?
A No.
Q Does that document indicate the conditions those items were in when he took them from, I guess when he separated them and put them in an envelope?
A No.
Q No further questions.
THE COURT: Any redirect?
MR. SCOTT: No, Your Honor, the State rest.
THE COURT: You may step down. Folks, I hate to take you out of the courtroom again but I have take up a couple of motions. Now that the State has rested you have heard

instructions from the State?

MR. SCOTT: No, sir.

THE COURT: Mr. Lake, any exceptions?

MR. LAKE: No, sir.

THE COURT: Look at the evidence and we will take that in to the jury.

MR. SCOTT: Judge, about the drugs, we can get some baggies or we can tell them if they need to see it.

THE COURT: Let's hold it and if they want to see it send it to them.

MR. SCOTT: If somebody will just inform them of that.

(Whereupon, the jury started deliberations at approximately 6:14 p.m.)

(Whereupon, the alternate was excused from the trial of the case.)

THE COURT: I understand we have a verdict. Bring the jury in.

(Whereupon, the jury came into open court with the verdict at approximately 7:08 p.m.)

THE COURT: All right, Madam Foreplay, you have a verdict?

Yes.

THE COURT: Is it unanimous?

Yes.

THE COURT: Please hand it to the bailiff. All right, you may publish the verdict, Ms. Folk.

Indictment 12-GS-36-267, the State versus Toaby Alexander Trapp indicted for trafficking in crack cocaine, 44-53-375(c). The verdict is guilty. Signed Elizabeth A. Hedgepath, Foreperson. Madam Forelady, ladies and gentlemen, if this is your verdict please indicate by raising your right hand.

(Whereupon, all jurors raised their hands.)

THE COURT: Any issues for the jury, Mr. Lake?

MR. LAKE: No, Your Honor.

THE COURT: All right. Folks, we are done and can I speak with y'all briefly in the jury room and thank y'all.

(Whereupon, the Court speaks to the jury in the jury room.)

(Whereupon, the jury was excused.)

THE COURT: Mr. Lake, y'all ready for sentencing?

MR. LAKE: Your Honor, we do have some posttrial motions.

THE COURT: I am happy to hear from you.

MR. LAKE: Your Honor, we ask for a new trial based on the jury's verdict. Your Honor, we renew our motion that there was no substantial circumstantial evidence that which was presented in this particular case. In fact, Your Honor, I would also bring, there was no sufficient

chain-of-custody that was established in this particular case. And I think about that, Your Honor, in light of the fact that the testimony was, after the Court allowed the evidence to come in to the record, while the State was in their case and when I got a chance to actually question Investigator Chapman about it then learn now that this has never been in a safe, secure box but just a cardboard box the entire time with no assurances of anything, no testimony by anybody from the State which is required in this particular case to, illustrated that, there was no evidence of tampering. The defendant has no burden in this particular case. They can't shift the burden to the defendant to prove that there wasn't tampering. The State has the burden of proving it all along that there was no tampering throughout this entire process. I think Investigator Chapman's testimony was in direct contradiction to Captain Dennis' testimony about, it was placed in a lockbox. It is either in this lockbox right here, just for the drugs only or this lockbox where it has something related to other cases that were not Bouknight cases. And then we heard the officers, no, there is no lockbox, nothing is secured, just in a plain old card box. And I specifically asked them that, Your Honor. I think my client deserves a new trial based upon the fact that this is testimony that came in after the Court had allowed

this, drugs to come in. I don't think there was a sufficient chain-of-custody. I will also point out, Your Honor, you know again, the statement against my client doesn't meet the test that it wasn't done under any form promises or duress or anything along those lines. Again, he was not arrested at that time. Your Honor, I also point out that the Court failed to allow the defendant a hearing on the issue of the search warrant. I think that we presented, you know, preliminary evidence that met the burden to show that there was some falsity to the document. I think some of the testimony to all of the part, through all of the witnesses that testified was that certain things were on certain documents weren't on other documents, certain things were on the search warrant and wasn't on these things. So, I think we have got to establish, you know, a standard for which would allow us to have a hearing in this particular matter. We did not get a hearing in this particular matter. The only hearing that we had was whether Investigator or Captain Dennis was qualified to testify in this particular case. So, again, we renew those motions and we ask that you set aside this verdict, allow my client to, I guess, remain on bond. I am not sure if this is qualified for an appeal bond or anything along those lines. But I think some of the issues in this particular case, Your Honor, really warrant

additional scrutiny in light of that additional testimony from Mr. Chapman that now we know this is not a secure box that this item is kept in.

THE COURT: I think I remember the testimony regarding the secured area was that it was a drop box, the road deputies drop drugs seized at traffic stops and small things in a drop box for which the narcotics custodian would then retrieve and then put it into evidence, secure area. And that Mr. Chapman described the former area as a room within a room that was locked and only had one key to it. You are calling it a lockbox, I think it was drop box in a secure room with shelves. And that is what I heard and I understood there was only one key, one custodian, one person and that was Bouknight then, now Chapman. I see that distinguishes, consistent with my ruling, I allowed the chain to come in, I allowed the search warrant and I found it to be consistent with what Detective Dennis observed on the scene consistent with the affidavit Bouknight presented to the Magistrate, the search warrant was properly issued, properly executed. And there was a reasonable basis for that search warrant to be issued. And I am not going to disturb the jury verdict. I believe it was a factual dispute, once the admissibility was ruled on it is admissible, it goes to weight. That is my ruling and I am not going to disturb the jury's verdict and set

it aside because that would be reversing all of the admissibility and chain rulings that I have made thus far. So, respectfully I decline to grant you a new trial or grant your client a new trial. Anything else?

MR. LAKE: Nothing.

THE COURT: Solicitor, the prior record of the defendant, is this a true third?

MR. DANIEL: Yes sir, Your Honor, I have certified copies of the indictments, sentencing sheets. Have got four prior drug convictions, two of them would constitute just one conviction, they are the same offense dates. But distribution of crack cocaine conviction in '95 in Fairfield County; another distribution of crack cocaine conviction in 1995 out of Fairfield County; the same incident date so that is really just one conviction, I think, is how the Court would interpret that. I will pass this up, Your Honor. We can make that a part of the record as well. And then we have two more convictions. One is a distribution of crack cocaine in 2005 and that is here in Newberry. The offense date on that is February 20th, 2004. So there would be a second conviction, I will pass that up to the Court. And then we have a possession with intent to distribute crack cocaine conviction, offense date is February 20th, 2004. That is a PWID conviction, different offense date. What Mr. Trapp was

convicted on today would be a true third offense for trafficking crack cocaine. It carries essentially the harshish penalty under the drug code, mandatory minimum of 25 years. I hate to see Mr. Trapp do this kind of time but we tried to work this case out. But, law enforcement, he was picked up in that roundup that was recently conducted in June and he has continued just to be involved in drug activity since that October 8th, 2011 charge originated. So, the case is what it is, Your Honor, it is very simplistic from the State's point of view.

THE COURT: Okay. Any challenge to the prior record, Mr. Lake?

MR. LAKE: I know, Your Honor, one of the convictions goes beyond the 10 years. So, they have kind of changed the laws, I haven't had a chance to look at that particular portion of it. And I don't know whether the Court would consider something beyond the 10 years requirement as being part of the enhancing penalty. I would just ask the Court, if that is not, if that is a consideration that this Court treats this matter as a true second and only consider the conviction from, I guess, 2005. And I think the other one is 1994 which would be almost 20 years ago.

MR. DANIEL: The 10 year limitation, that is for DUI's, I know. I am not so sure that same rule applies

for drug conviction purposes, enhancement.

MR. SCOTT: It doesn't for second and subsequent.

MR. DANIEL: Second and subsequent is what I am told, Your Honor.

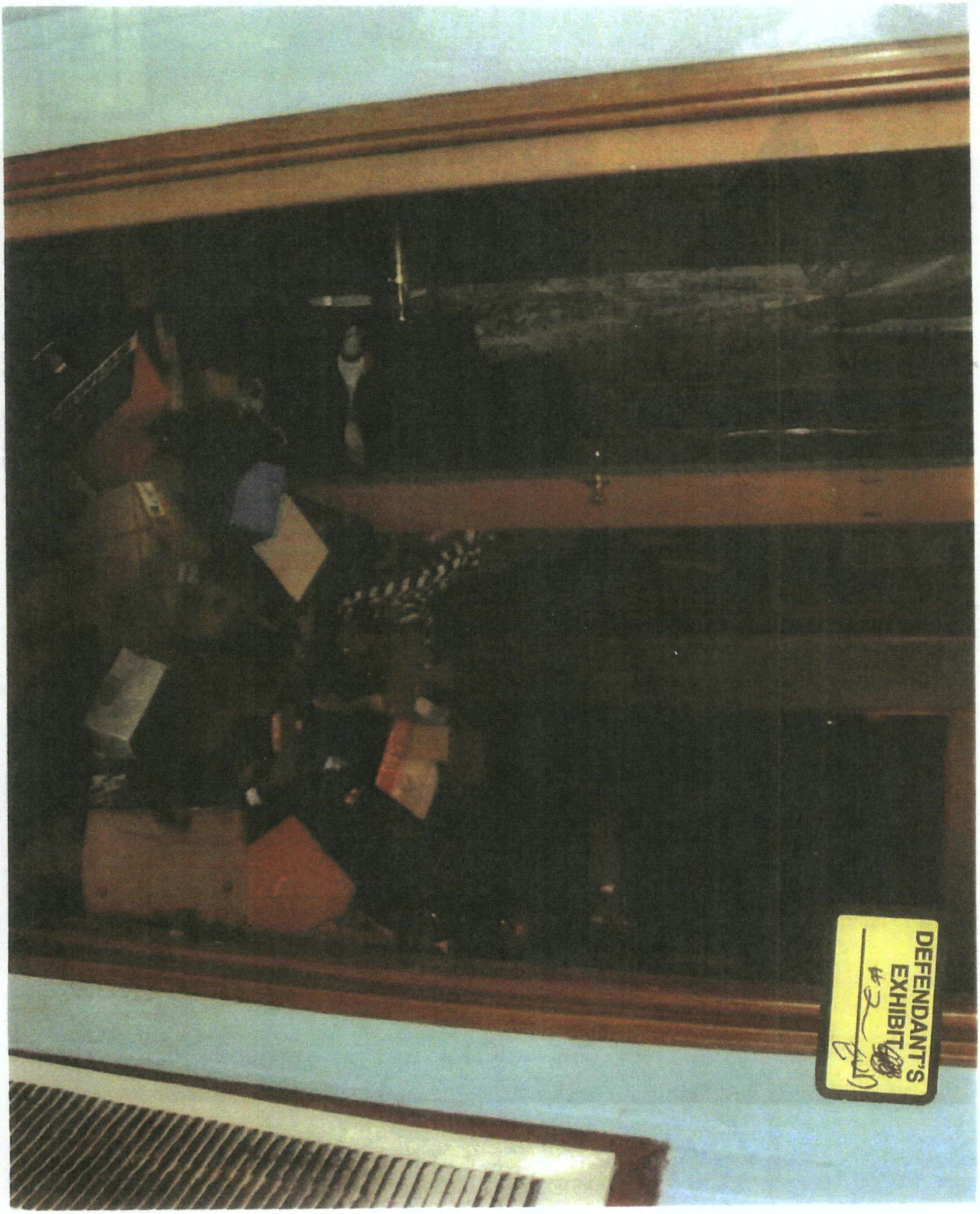
THE COURT: I do know that the sentence on the 2004, both indictments was for distribution second, possession with crack second. All right. That will make this a third. Unfortunately, Mr. Trapp, that really kind of confines the range of the sentence dramatically. It is not my job to write the laws. Anything else you would like to say, Mr. Lake?

MR. LAKE: Your Honor, I would ask in this particular case that you sentence my client to the minimum of 25 years. That is not something I even want to ask for.

THE COURT: I will grant that request, I will give him the minimum of 25 and $50,000.00 dollars. I think that is mandatory also. And I have checked the box, give him credit for whatever time he served. I am not certain what days he earned but he has earned some so he would be entitled to those.

MR. LAKE: Your Honor, I know this is in the Court's discretion and the Court may not be inclined, but would the Court allow him a certain amount of time to kind of get his affairs in order. You are talking about really a significant sentence. He doesn't have any family right

DEFENDANT'S
EXHIBIT
#1 ID



300

306

301

SAO
RJ COLT
DEFENDANT'S
EXHIBIT
#4
CVP

303

308

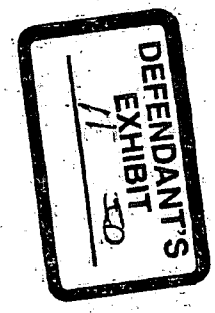
DEFENDANT'S
EXHIBIT
#6

305

310

DEFENDANT'S
EXHIBIT
Alka-Seltzer
plus

DEFENDANT'S
EXHIBIT
#9 ID



STATE OF SOUTH CAROLINA

County/Municipality of NEWBERRY

SEARCH WARRANT

Date 10/09/2011

Officer INV. NICK BOUKNIGHT

308

313

00000000320

Date Printed: 10/09/2011 01:06:50 AM

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

SEARCH WARRANT

Form Approved by S.C. Attorney General Section 17-13-160 March 15, 1978

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF NEWBERRY

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

THE RESIDENCE TO BE SEARCHED IS A BEIGE SINGLE WIDE TRAILER THAT IS LOCATED AT 91 LITTLE RANCHES ROAD IN NEWBERRY, SOUTH CAROLINA. THE RESIDENCE HAS GREEN TRIM ON TOP AND BOTTOM. THERE IS A WOOD FRONT PORCH ON THE RESIDENCE. THE FRONT DOOR HAS A SILVER STORM DOOR WITH A GOLD COLOR 91 ON THE TOP LEFT CORNER OF THE DOOR. BEHIND THE RESIDENCE THERE IS A OUTBUILDING MADE OF PLYWOOD. THE VEHICLES LOCATED ON THE PROPERTY ARE A WHITE AND GREEN EL CAMINO WITH SOUTH CAROLINA TAG NUMBER HFX891 WHICH ALSO HAS A GRAY PRIMER IN REAR PANEL, BLACK HONDA ACCORD WITH SOUTH CAROLINA TAG NUMBER 290, A BLACK TRAILBLAZER WITH SOUTH CAROLINA TAG NUMBER HKE 289, A GREEN AND GRAY CHEVY TRUCK WITH SOUTH CAROLINA TAG NUMBER DWC 351, A GRAY TOYOTA COROLLA WITH SOUTH CAROLINA TAG NUMBER HKU 7957, PRIMER GRAY CHEVY TRUCK WITH NO TAG, A VEHICLE THAT IS COVERED ON THE REAR OF THE PROPERTY WITH A TARP, AND A PONTIAC GREEN VAN WITH SOUTH CAROLINA TAG NUMBER DQG 305.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

ANY AND ALL QUANTITIES OF ILLEGAL NARCOTICS TO INCLUDE BUT NOT LIMITED TO MARIJUANA, COCAINE, CRACK COCAINE, OR ANY OTHER ILLEGAL NARCOTICS. THIS SEARCH SHALL INCLUDE PARAPHERNALIA TO INCLUDE BUT NOT LIMITED TO ANY EQUIPMENT, PRODUCT, OR MATERIAL OF ANY KIND WHICH IS PRIMARILY INTENDED OR DESIGNED FOR USE IN MANUFACTURING, COMPOUNDING, CONVERTING, CONCEALING, PRODUCING, PROCESSING, PREPARING, INJECTING, INGESTING, INHALING, OR OTHERWISE, INTRODUCING, INTO THE HUMAN BODY A CONTROLLED SUBSTANCE. THIS SEARCH IS ALSO TO INCLUDE ANY CURRENCY, PAPERS, OR DOCUMENTS COMMONLY ASSOCIATED WITH THE UNLAWFUL SALE OR BUYING OF PRODUCTS USED TO MAKE ILLEGAL NARCOTICS. THIS SEARCH SHALL INCLUDE ALL VEHICLES ON THE PROPERTY AND ANY STORAGE TYPE BUILDINGS OR SAFES ON THE PROPERTY. THIS SEARCH SHALL INCLUDE ALL TELEPHONES LOCATED ON THE PROPERTY AND THE DATA THAT IS ON THE PHONES SUCH AS ALL INCOMING/OUTGOING CALLS OR TEXT MESSAGES AND ANY OTHER INFORMATION ON THE PHONES. ALSO INCLUDED IN THE SEARCH SHALL BE ANY FIREARMS OR AMMUNITION.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

MAGISTRATE RON HALFACRE

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Newberry, S.C.

10-9-11

Ron Halfacre (L.S.)

Signature of Judge

SCAA/513 (3-78)

Date Printed: 10/09/2011 01:06:50 AM

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

AFFIDAVIT

Personally appeared before me, one INVESTIGATOR NICK BOUKNIGHT who, being duly sworn, says that there is probably cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

ANY AND ALL QUANTITIES OF ILLEGAL NARCOTICS TO INCLUDE BUT NOT LIMITED TO MARIJUANA, COCAINE, CRACK COCAINE, OR ANY OTHER ILLEGAL NARCOTICS. THIS SEARCH SHALL INCLUDE PARAPHERNALIA TO INCLUDE BUT NOT LIMITED TO ANY EQUIPMENT, PRODUCT, OR MATERIAL OF ANY KIND WHICH IS PRIMARILY INTENDED OR DESIGNED FOR USE IN MANUFACTURING, COMPOUNDING, CONVERTING, CONCEALING, PRODUCING, PROCESSING, PREPARING, INJECTING, INGESTING, INHALING, OR OTHERWISE, INTRODUCING, INTO THE HUMAN BODY A CONTROLLED SUBSTANCE. THIS SEARCH IS ALSO TO INCLUDE ANY CURRENCY, PAPERS, OR DOCUMENTS COMMONLY ASSOCIATED WITH THE UNLAWFUL SALE OR BUYING OF PRODUCTS USED TO MAKE ILLEGAL NARCOTICS. THIS SEARCH SHALL

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

THE RESIDENCE TO BE SEARCHED IS A BEIGE SINGLE WIDE TRAILER THAT IS LOCATED AT 91 LITTLE RANCHES ROAD IN NEWBERRY, SOUTH CAROLINA. THE RESIDENCE HAS GREEN TRIM ON TOP AND BOTTOM. THERE IS A WOOD FRONT PORCH ON THE RESIDENCE. THE FRONT DOOR HAS A SILVER STORM DOOR WITH A GOLD COLOR 91 ON THE TOP LEFT CORNER OF THE DOOR. BEHIND THE RESIDENCE THERE IS A OUTBUILDING MADE OF PLYWOOD. THE VEHICLES LOCATED ON THE PROPERTY ARE A WHITE AND GREEN EL CAMINO WITH SOUTH CAROLINA TAG NUMBER HFX891 WHICH ALSO HAS A GRAY PRIMER IN REAR PANEL, BLACK HONDA ACCORD WITH SOUTH CAROLINA TAG NUMBERGQU 290, A BLACK TRAILBLAZER WITH SOUTH CAROLINA TAG NUMBER HKZ 289, A GREEN AND GRAY CHEVY TRUCK WITH SOUTH CAROLINA TAG NUMBER DWC 351, A GRAY TOYOTA COROLLA WITH SOUTH CAROLINA TAG NUMBER HKU 7957, PRIMER GRAY CHEVY TRUCK WITH NO TAG, A VEHICLE THAT IS COVERED ON THE REAR OF THE PROPERTY WITH A TARP, AND A PONTIAC GREEN VAN WITH

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

1.) THAT THE AFFIANT IS A POLICE OFFICER CERTIFIED IN SOUTH CAROLINA, EMPLOYED BY THE NEWBERRY COUNTY SHERIFF'S OFFICE, AND IS AUTHORIZED TO MAKE SEARCHES AND SEIZURES; 2.) THAT THE AFFIANT HAS NUMEROUS HOURS OF TRAINING AND EXPERIENCE IN THE AREA OF NARCOTICS AND NARCOTIC INVESTIGATIONS; 3.) THAT ON 10/08/2011 OFFICERS WITH THE NEWBERRY COUNTY SHERIFF'S OFFICE RESPONDED TO 91 LITTLE RANCHES ROAD IN NEWBERRY COUNTY FOR A COMPLAINANT OF A BREAK IN TO THE RESIDENCE AND A LARCENY OF APPROXIMATLEY SEVEN THOUSAND DOLLARS OF U.S. CURRENCY; 4.) ONCE ARRIVING AND OFFICERS STARTED PROCESSING THE SCENE A BOTTLE CONTAINING A QUANTITY OF A WHITE ROCK LIKE SUBSTANCE BELIEVED TO BE CRACK COCAINE AND A RAZOR BLADE WITH A WHITE RESIDUE ON IT WAS OBSERVED IN PLAIN VIEW IN A BEDROOM OF THE RESIDENCE; 5.) THAT TOABY ALEXANDER TRAPP IS THE COMPLAINANT OF THE BREAK AND CLAIMS THE BEDROOM WHERE THE SUBSTANCE WAS LOCATED IS HIS; 6.) THAT TRAPP DOES HAVE A PRIOR CRIMINAL HISTORY FOR ILLEGAL NARCOTICS.

Sworn to and Subscribed before me
this 9 day of Oct, 2011.

Ron Halfacre (L.S.)
Signature of Judge

Affiant

Address P.O. BOX 247

NEWBERRY SC 29108

Phone 321-2211

Date Printed: 10/09/2011 01:06:50 AM

RETURN

I received the attached Search Warrant 10/09/11 0124, and have executed it as foll.

On 10/09/11 at 0124 o'clock AM, I searched

(the person) described in the warrant and (the premises)

I left a copy of the warrant with Toby Trapp
Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

- Pictures taken by Robert Spreng.
- 2 plastic bags with white solid substance found on floor in bedroom in front of dresser.
- Pill bottle on dresser with white solid substance.
- CD case scale.
- Spoon & razor blade w/ residue.
- straw

This inventory was made in the presence of Robert Spreng
AND Nick Bouknight

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this _____
day of _____, _____

_____ (L.S.)
Signature of Judge

_____
(Signature of Officer Executing Warrant)

Date Printed: 10/09/2011 01:06:50 AM

Additional Printouts for Search Warrant 000000000320

Description of Premises:
THE RESIDENCE TO BE SEARCHED IS A BEIGE SINGLE WIDE TRAILER THAT IS LOCATED AT 91 LITTLE RANCHES ROAD IN NEWBERRY, SOUTH CAROLINA. THE RESIDENCE HAS GREEN TRIM ON TOP AND BOTTOM. THERE IS A WOOD FRONT PORCH ON THE RESIDENCE. THE FRONT DOOR HAS A SILVER STORM DOOR WITH A GOLD COLOR 91 ON THE TOP LEFT CORNER OF THE DOOR. BEHIND THE RESIDENCE THERE IS A OUTBUILDING MADE OF PLYWOOD. THE VEHICLES LOCATED ON THE PROPERTY ARE A WHITE AND GREEN EL CAMINO WITH SOUTH CAROLINA TAG NUMBER HFX891 WHICH ALSO HAS A GRAY PRIMER IN REAR PANEL, BLACK HONDA ACCORD WITH SOUTH CAROLINA TAG NUMBER 290, A BLACK TRAILBLAZER WITH SOUTH CAROLINA TAG NUMBER HKZ 289, A GREEN AND GRAY CHEVY TRUCK WITH SOUTH CAROLINA TAG NUMBER DWC 351, A GRAY TOYOTA COROLLA WITH SOUTH CAROLINA TAG NUMBER HKU 7957, PRIMER GRAY CHEVY TRUCK WITH NO TAG, A VEHICLE THAT IS COVERED ON THE REAR OF THE PROPERTY WITH A TARP, AND A PONTIAC GREEN VAN WITH SOUTH CAROLINA TAG NUMBER DQG 305.

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ANY AND ALL QUANTITIES OF ILLEGAL NARCOTICS TO INCLUDE BUT NOT LIMITED TO MARIJUANA, COCAINE, CRACK COCAINE, OR ANY OTHER ILLEGAL NARCOTICS. THIS SEARCH SHALL INCLUDE PARAPHERNALIA TO INCLUDE BUT NOT LIMITED TO ANY EQUIPMENT, PRODUCT, OR MATERIAL OF ANY KIND WHICH IS PRIMARILY INTENDED OR DESIGNED FOR USE IN MANUFACTURING, COMPOUNDING, CONVERTING, CONCEALING, PRODUCING, PROCESSING, PREPARING, INJECTING, INGESTING, INHALING, OR OTHERWISE, INTRODUCING, INTO THE HUMAN BODY A CONTROLLED SUBSTANCE. THIS SEARCH IS ALSO TO INCLUDE ANY CURRENCY, PAPERS, OR DOCUMENTS COMMONLY ASSOCIATED WITH THE UNLAWFUL SALE OR BUYING OF PRODUCTS USED TO MAKE ILLEGAL NARCOTICS. THIS SEARCH SHALL INCLUDE ALL VEHICLES ON THE PROPERTY AND ANY STORAGE TYPE BUILDINGS OR SAFES ON THE PROPERTY. THIS SEARCH SHALL INCLUDE ALL TELEPHONES LOCATED ON THE PROPERTY AND THE DATA THAT IS ON THE PHONES SUCH AS ALL INCOMING/OUTGOING CALLS OR TEXT MESSAGES AND ANY OTHER INFORMATION ON THE PHONES. ALSO INCLUDED IN THE SEARCH SHALL BE ANY FIREARMS OR AMMUNITION.

Reason for Affiant's Belief:
1.) THAT THE AFFIANT IS A POLICE OFFICER CERTIFIED IN SOUTH CAROLINA, EMPLOYED BY THE NEWBERRY COUNTY SHERIFF'S OFFICE, AND IS AUTHORIZED TO MAKE SEARCHES AND SEIZURES; 2.) THAT THE AFFIANT HAS NUMEROUS HOURS OF TRAINING AND EXPERIENCE IN THE AREA OF NARCOTICS AND NARCOTIC INVESTIGATIONS; 3.) THAT ON 10/09/2011 OFFICERS WITH THE NEWBERRY COUNTY SHERIFF'S OFFICE RESPONDED TO 91 LITTLE RANCHES ROAD IN NEWBERRY COUNTY FOR A COMPLAINANT OF A BREAK IN TO THE RESIDENCE AND A LARCENY OF APPROXIMATLEY SEVEN THOUSAND DOLLARS OF U.S. CURRENCY; 4.) ONCE ARRIVING AND OFFICERS STARTED PROCESSING THE SCENE A BOTTLE CONTAINING A QUANTITY OF A WHITE ROCK LIKE SUBSTANCE BELIEVED TO BE CRACK COCAINE AND A RAZOR BLADE WITH A WHITE RESIDUE ON IT WAS OBSERVED IN PLAIN VIEW IN A BEDROOM OF THE RESIDENCE; 5.) THAT TOABY ALEXANDER TRAPP IS THE COMPLAINANT OF THE BREAK AND CLAIMS THE BEDROOM WHERE THE SUBSTANCE WAS LOCATED IS HIS; 6.) THAT TRAPP DOES HAVE A PRIOR CRIMINAL HISTORY FOR ILLEGAL NARCOTICS.

Inventory Taken:

RETURN

I received the attached Search Warrant 10/09/11 0124 and have executed it as follows:

On 10/09/11 at 0124 o'clock AM. I searched

(the person) described in the warrant and (the premises)

I left a copy of the warrant with Toby Trapp
Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

7 Pictures taken by Robert Spreng.
2 plastic bags with white solid substance found on floor in bedroom in front of dresser
1 pill bottle on dresser with white solid substance.
1 CV case scale.
1 spoon a razor blade w/residue.
1 straw

This inventory was made in the presence of Robert Spreng
AND Nick Bourkright

I swear that this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 10th day of Oct. 2011.

[signature] (L.S.)
Signature of Judge

[signature]
Signature of Officer Executing Warrant)

Date Printed: 10/09/2011 01:06:59 AM

DEFENDANT'S
EXHIBIT
#13
EVD

315

320

CONTROL NO. B215824

STATE'S EXHIBIT # 12

PRINT ALL INFORMATION EXCEPT WHERE SIGNATURE IS REQUIRED

FORM B (RULE 6)

CERTIFICATE OF PROOF OF CHAIN OF PHYSICAL CUSTODY OR CONTROL

(Initial Custody)

This is to certify that I Nick Beckwith (Name) am employed by Newberry County Sheriffs office (Name of Agency or Department) and that on 10-9 (Date), 11, I seized from Tooby Alexander Troop (Name) pursuant to Search Warrant (State Whether Subject to a Warrant, Lawful Arrest or Otherwise) at or near 91 Little Ponds Road Newberry SC 29108 (Place Where Seized) the following substance(s) or container(s):
(Describe substance or container with sufficient particularity to distinguish it.)

① plastic baggy containing a quantity of a white coarse like substance ② plastic baggy containing a quantity of a white coarse substance ③ orange pill bottle containing a quantity of white coarse substance ④ Scale containing a quantity of a white residue on it ⑤ Spoon with a quantity of white residue on it ⑥ quantity of a white residue

On 10-21 (Date), 11, I made delivery of the above described substance(s) or container(s) to SLED (Name) of SLED (Law Enforcement Agency) in substantially the same condition as when I received it.

Nick Beckwith (Signature)

Place: _____

Date: _____

Sworn before me on this _____ day of _____, _____

_____
Notary Public for South Carolina
My Commission expires: _____

EXHIBIT FORM 1 (6/98)

Initial Custody Form
Please Start with this Form

317

322

STATE'S
EXHIBIT
#5

STATE'S
EXHIBIT
#6

320

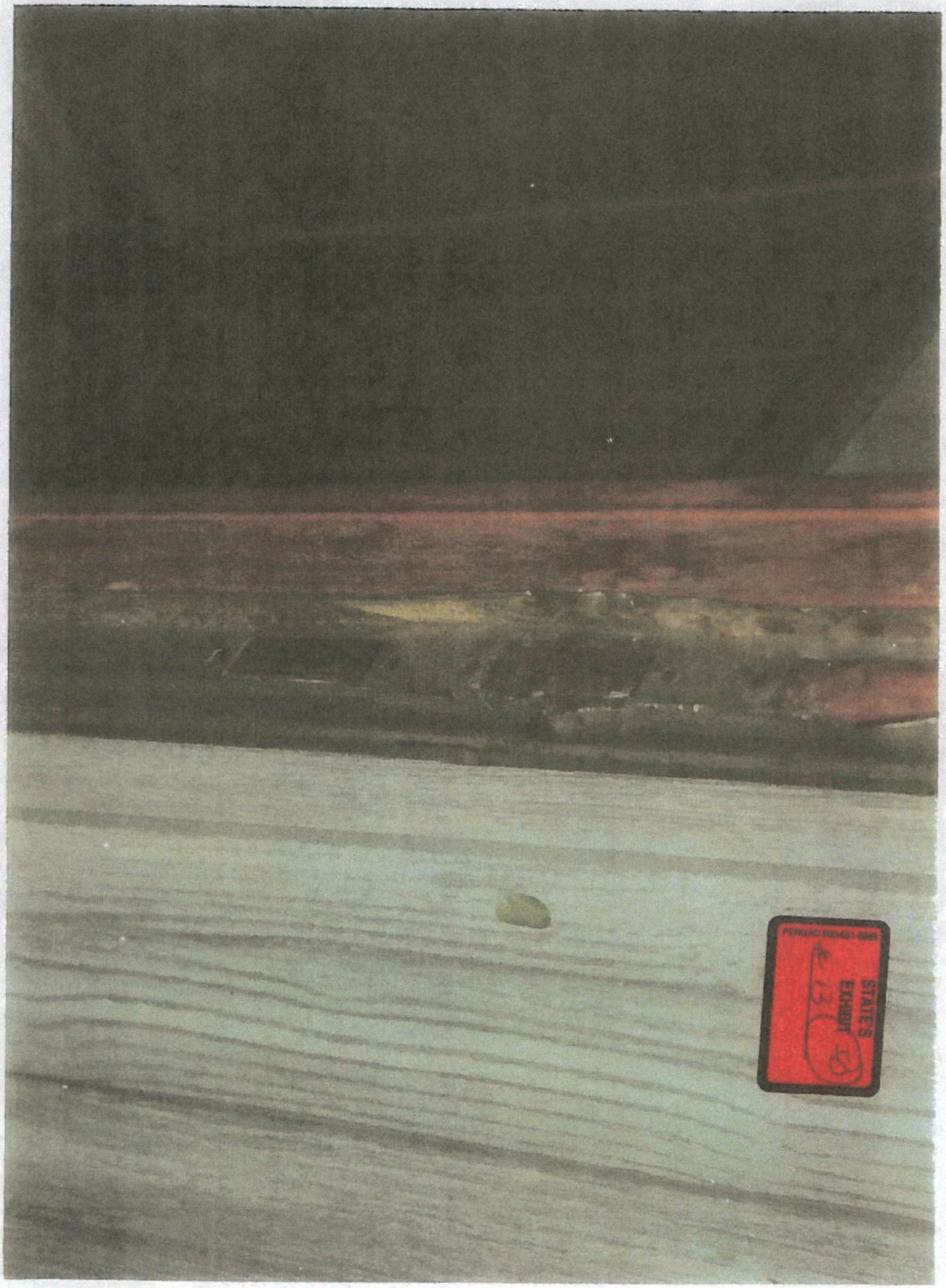
325

321

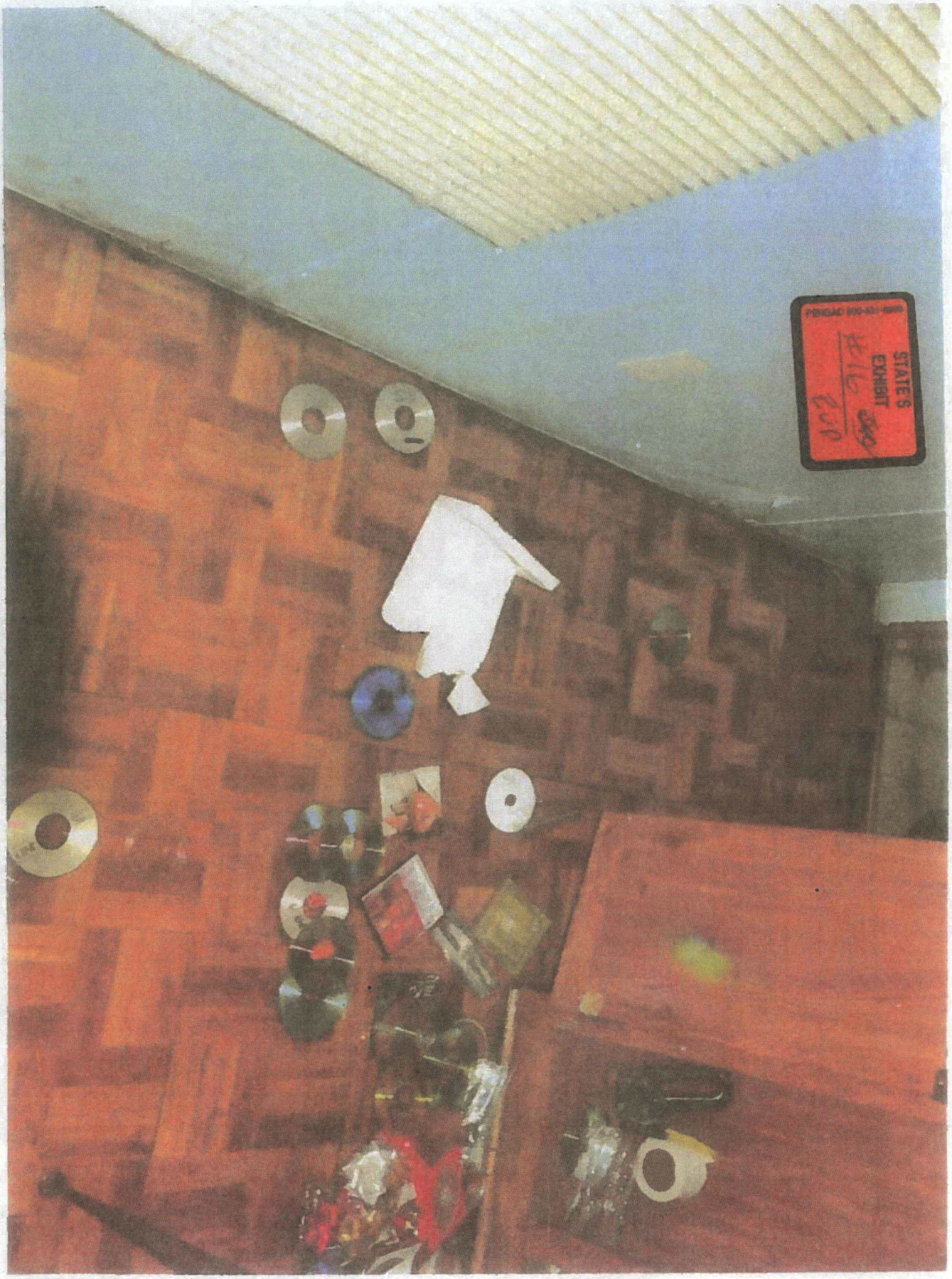
326

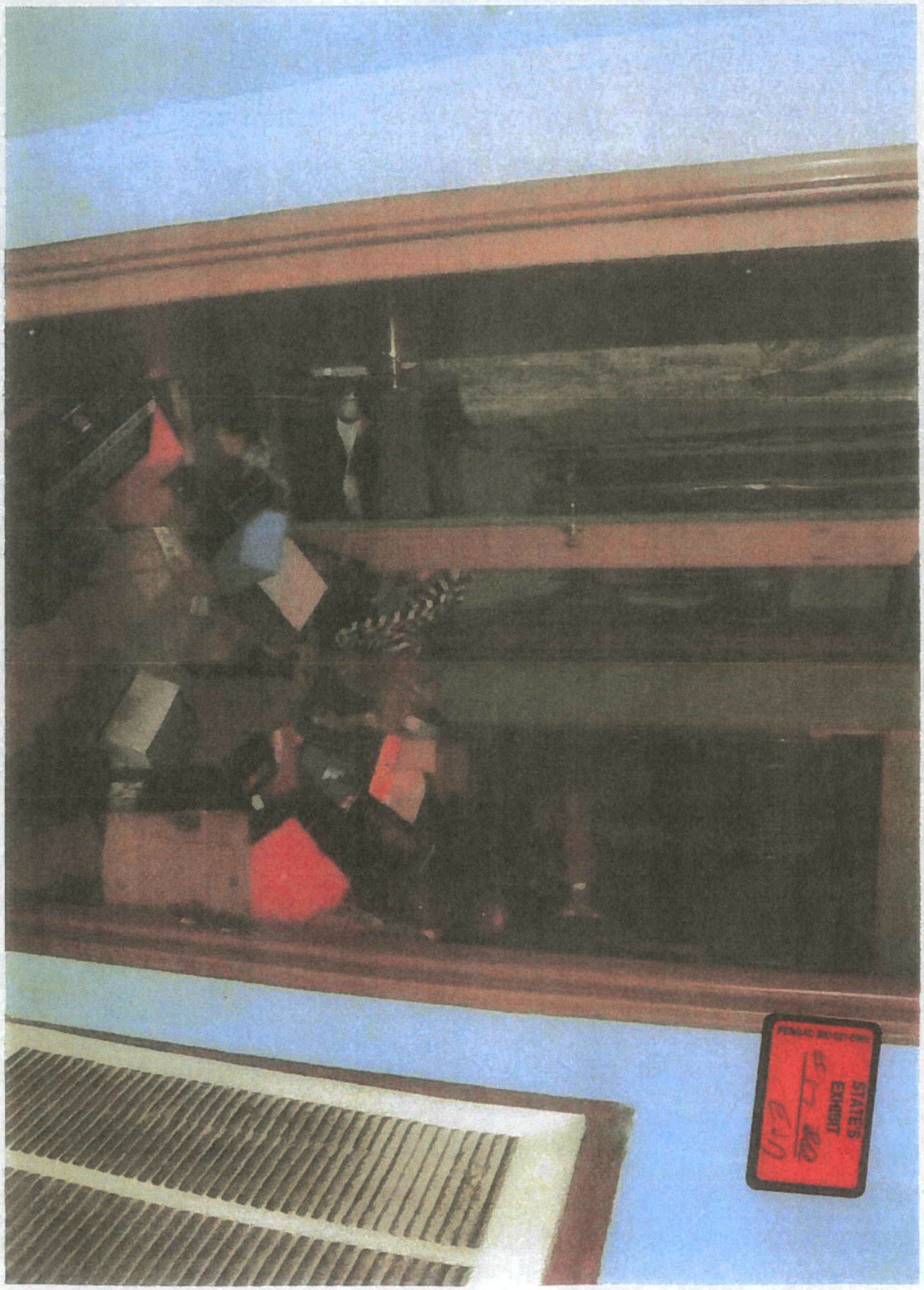
322

327



323


STATE'S
EXHIBIT


UNITED STATES

326

331

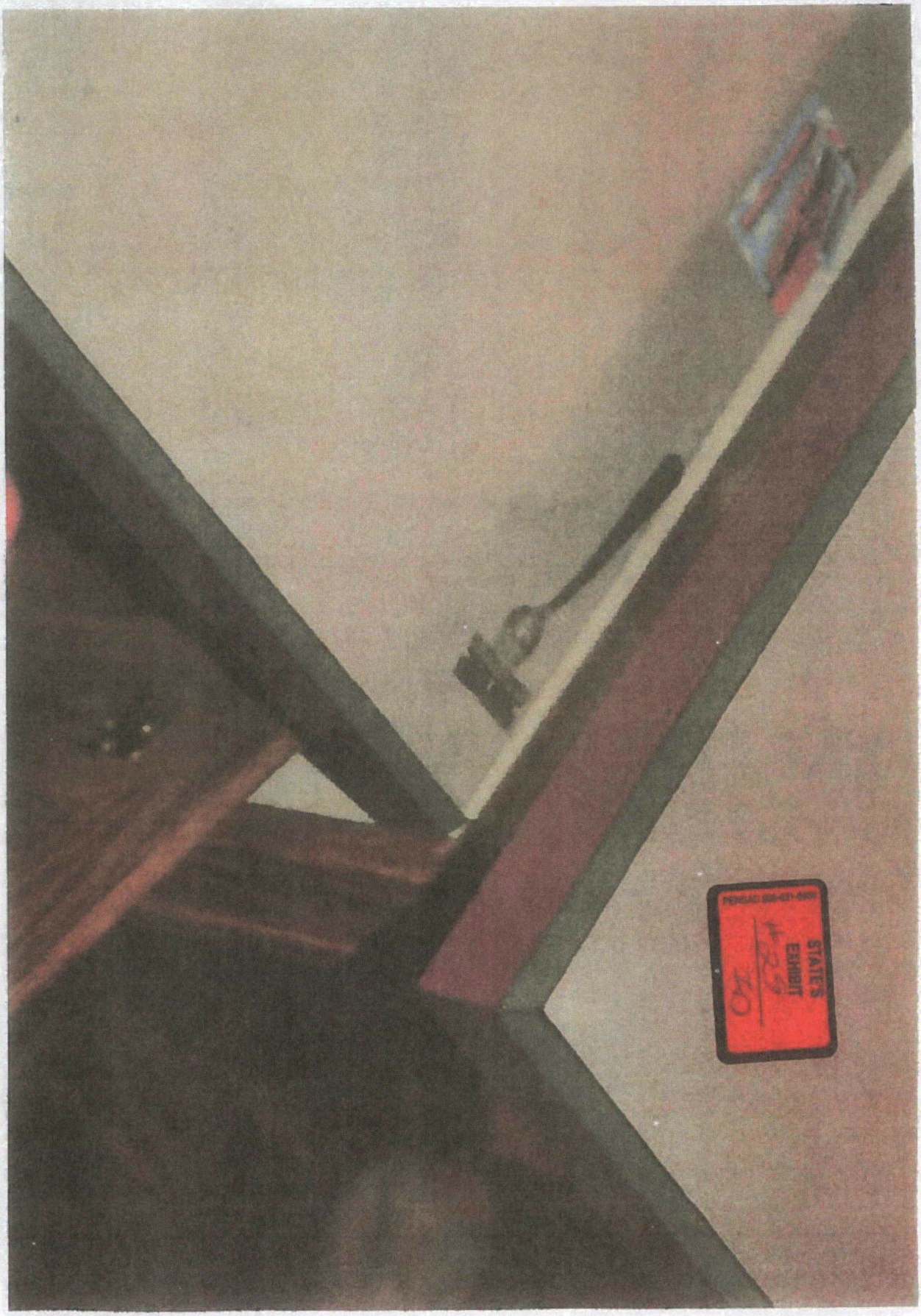
STATE'S
EXHIBIT
#19 4/30
END

STATE'S
EXHIBIT

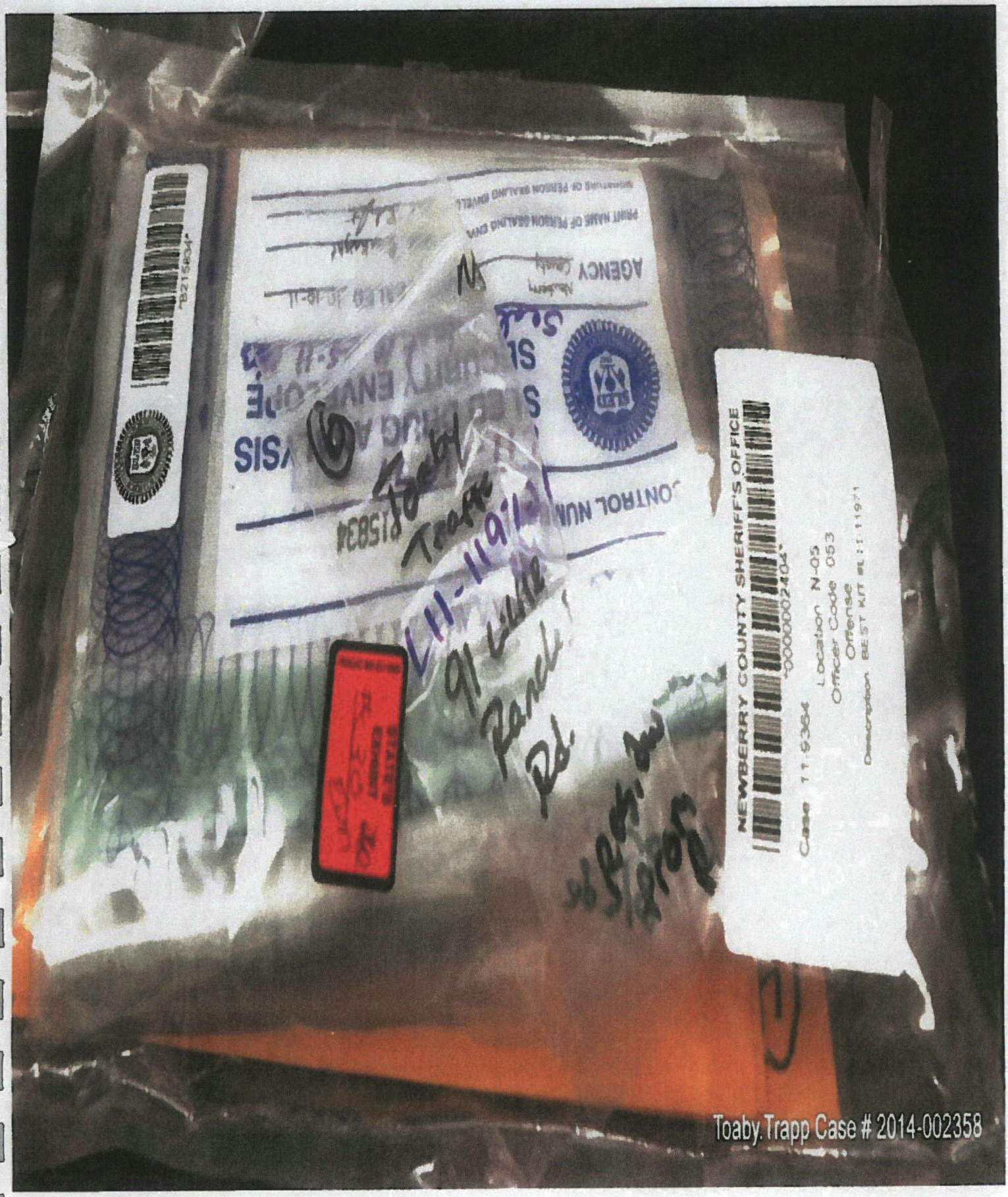
STATE'S
EXHIBIT

330

335



331


NEWBERRY COUNTY SHERIFF'S OFFICE
Case 11-6364
Location N-05
Officer Code 053
Offense
Description BEST KIT
Toaby Trapp
11-11971
91 Little Ranch Rd
Toaby.Trapp Case # 2014-002358

NEWBERRY COUNTY SHERIFF'S

EVIDENCE LOG IN

STATE COURT EX 1 50

Evidence Data

Incident Date: 10/8/11/10/9/11	Officer: BOUKNIGHT		
Location in Evidence Room:	Case #: 11-9364	Type Of Crime: Traff. Crack Cocaine	
Suspect / Victim:	Last Name: Trapp	First Name: Toaby	Middle Initial: A
Suspect / Victim:	Last Name:	First Name:	Middle Initial:
Suspect / Victim:	Last Name:	First Name:	Middle Initial:

Description of Evidence

-2 razor blades -pill bottle containing a quantity of a white substance -pipe -2 plastic baggies containing A quantity of a white cookie like substance -spoon with a white residue -scale with a quantity of a white Residue on it

Toaby.Trapp Case # 2014-002358

EXHIBIT
Court's #1

STATE OF SOUTH CAROLINA)
COUNTY OF NEWBERRY)
STATE VS.)
TOMMY ALEXANDER TRAPP)
AKA:)
Race: B Sex: M Age: 35)
DOB: [redacted] SS#: [redacted])
Address: 91 LITTLE APPLE RD)
City, State, Zip NEWBERRY, SC 29108)
DL# _____ SID# _____)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:
2004 -GS- 36 - 150
A/W#: 1-31F331
Date of Offense: 2/20/2004
S.C. Code §: 44-53-375
CDR Code #: 0 1 1 1 1 3
☐ CASE RESTORED
SENTENCE
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: GUILTY, 2ND OFF 0-25 YRS AND
in violation of §44-53-375 of the S.C. Code of Laws, bearing CDR Code # 0 1 1 1 1 3
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 25 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: 6/28/05
☒ 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.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
Total: $ _____ plus 20% fee: $ _____
Payment Terms:
☐ set by SCDPPPS

Recipient:
*Fine: MAY 14 201
§14-1-208 (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 $
§ 35.13 (Public Def/Prob) $500 $
§73.3, 1B TP (Law Enforce. Funding) $25 $25.00
§33.7, 1B TP (Drug Court Surcharge) $100 $100.00
§50-21-114(BUI Breath Test Fee) $50 $
§56-5-2942(J) (Vehicle Assessment) $40/ea $
3% to County (if paid in installments) $6.75
TOTAL $231.75

PTUP _____ 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: Δ to report - Friday 1, 2005

☐ Appointed PD or appointed other counsel, §35.13 TP Requires $500 be paid to Clerk during probation.

Elizabeth P Hall
Clerk of Court/ Deputy Clerk
Court Reporter: Dawn Kyzer

PRESIDING JUDGE
Judge Code: 0 1 0 1 6 1 2
Sentence Date: 6/28/05

White – Clerk *Green* – Corrections *Canary* – Probation *Pink* – Defendant SCCA/217 (7/2003)

WITNESSES

urett Lominack

WARRANT NUMBERS

-316331 I-316334 I-316332 I-316333

Foreman of the Grand Jury

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

April Term, 2004

Indictment # 04GS36- 150

THE STATE

vs.

a) TOBY ALEXANDER TRAPP
b) SHAWN SIMS

Commitment 7/6/05 (a)

INDICTMENT FOR

1) POSSESSION OF ICE/CRANK/CRACK COCAINE WITH INTENT TO DISTRIBUTE
2) POSSESSION OF COCAINE WITH INTENT TO DISTRIBUTE

I, TOBY ALEXANDER TRAPP, THE DEFENDANT, IN MY OWN PROPER PERSON, COME TO THE BAR OF THIS COURT, WAIVE GRAND JURY ACTION, AND FREELY AND VOLUNTARILY PLEAD _____ GUILTY TO THE CHARGE(S) OF:

THIS 29th DAY OF June A.D 2005

ATTEST:

DEFENDANT'S SIGNATURE

CLERK OF COURT, NEWBERRY, S.C

I, SHAWN SIMS, THE DEFENDANT, IN MY OWN PROPER PERSON, COME TO THE BAR OF THIS COURT, WAIVE GRAND JURY ACTION, AND FREELY AND VOLUNTARILY PLEAD _____ GUILTY TO THE CHARGE(S) OF:

THIS _____ DAY OF _____ A.D. _____

ATTEST

DEFENDANT'S SIGNATURE

CLERK OF COURT, NEWBERRY, S.C.

I, Jackie S. Bowers, Clerk of Court, Newberry, South Carolina, do hereby certify that this is a true copy of the original on file in this office.

MAY 14 2014

Clerk of Court

THE STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

INDICTMENT FOR

1. POSSESSION OF ICE/CRANK/CRACK COCAINE WITH INTENT TO DISTRIBUTE
2. POSSESSION OF COCAINE WITH INTENT TO DISTRIBUTE

At a Court of General Sessions, convened on the 5th day of April, 2004, the Grand Jurors of Newberry County present upon their oath:

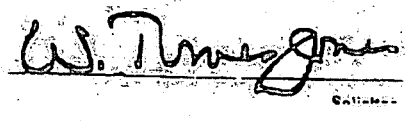
COUNT ONE

That TOBY ALEXANDER TRAPP, and SHAWN SIMS, aiding, abetting, and assisting one another, did in Newberry County, state aforesaid, on or about the 20th day of February, 2004, wilfully, unlawfully and knowingly possess with intent to distribute a quantity of Ice/Crank/Crack Cocaine, to wit: Crack, a Schedule II controlled substance under provisions of Title 44, Chapter 53, Article 3 of the South Carolina Code of Laws, 1976, as amended

COUNT TWO

That TOBY ALEXANDER TRAPP, and SHAWN SIMS, aiding, abetting, and assisting one another, did in Newberry County, state aforesaid, on or about the 20th day of February, 2004, wilfully, unlawfully and knowingly possess with intent to distribute a quantity of Cocaine, a Schedule II controlled substance under provisions of Title 44, Chapter 53, Article 3 of the South Carolina Code of Laws, 1976, as amended

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



Solicitor

STATE OF SOUTH CAROLINA)
)
COUNTY OF NEWBERRY)
STATE VS.)
TOMMY ALEXANDER TRAPP)
AKA:)
Race: B Sex: M Age: 35)
DOB: [redacted] SS#: [redacted])
Address: 91 LITTLE RANCHES RD)
City, State, Zip NEWBERRY, SC 29108)
DL# SID#)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:
2004 -GS- 36 - 149
A/W#: 1-316330
Date of Offense: 2/20/2005
S.C. Code §: 44-53-375
CDR Code #: 0 1 1 1 1 1 2
☐ CASE RESTORED
SENTENCE
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: DIST CRACK, 2ND CO-25Y
in violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 0 1 1 1 1 1 2
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 25 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 25 days/months/years and/or payment of $ 555; plus costs and assessments as applicable*; the balance is suspended with probation for 25 months 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: 6/28/05
☒ 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.

I, Jackie S. Bowers, Clerk of Court, Newberry, South Carolina, do hereby certify that this is a true copy of the original on file in this office.
MAY 14 2014
Clerk of Court

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
Total: $ plus 20% fee $
Payment Terms:
☐ set by SCDPPPS
Recipient:

SPECIAL CONDITIONS:
PTUP _____ 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: Restitution - July 1, 2005

*Fine:		$
§14-1-206 (Assessments 107.5%)		$ 00
§14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§56-5-2995 (DUI Assessment)	$12	$
§ 35.13 (Public Def/Prob)	$500	$ 00
§73.3, 1B TP (Law Enforce. Funding)	$25	$ 25 00
§33.7, 1B TP (Drug Court Surcharge)	$100	$ 100 00
§50-21-114(BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$ 75
3% to County (if paid in installments)		$ 6 75
TOTAL		$ 231 75

☐ Appointed PD or appointed other counsel, §35.13 TP Requires $500 be paid to Clerk during probation.

Elizabeth P Hall
Clerk of Court/ Deputy Clerk
Court Reporter: Shera Byers

PRESIDING JUDGE Marvin Dukes III
Judge Code: 0 1 0 1 6 1 2
Sentence Date: 6/28/05

White – Clerk *Green* – Corrections *Canary* – Probation *Pink* – Defendant SCCA/217 (7/2003)

343

338

WITNESSES

Garrett Lominack

WARRANT NUMBERS

318130

Date

TRUE BILL

Foreman of the Grand Jury

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

April Term, 2004

Indictment # 04GS36-149

THE STATE

VS

TOBY ALEXANDER TRAPP

Commitment 7/6/05

INDICTMENT FOR

DISTRIBUTION OF CRACK COCAINE

I, TOBY ALEXANDER TRAPP, THE DEFENDANT, IN MY OWN PROPER PERSON, COME TO THE BAR OF THIS COURT, WAIVE GRAND JURY ACTION, AND FREELY AND VOLUNTARILY PLEAD GUILTY TO THE CHARGE(S) OF.

THIS 28th DAY OF June AD 2005

ATTEST

DEFENDANT'S SIGNATURE

CLERK OF COURT, NEWBERRY, S.C.

I, Jackie S. Bowers, Clerk of Court, Newberry, South Carolina, do hereby certify that this is a true copy of the original on file in this office.

MAY 14 2014

Clerk of Court

THE STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

INDICTMENT FOR

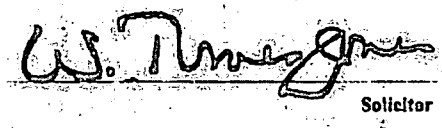
DISTRIBUTION OF CRACK COCAINE

At a Court of General Sessions, convened on the 5th day of April, 2004, the Grand Jurors of Newberry County present upon their oath:

COUNT ONE

That TOBY ALEXANDER TRAPP, did in Newberry County, state aforesaid, on or about the 20th day of February, 2004, wilfully, unlawfully and knowingly distribute a quantity of Crack Cocaine, a Schedule II controlled substance under provisions of Title 44, Chapter 53, Article 3 of the South Carolina Code of Laws, 1976, as amended

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



Solicitor

WITNESSES

Keith Lewis

ARREST WARRANT NO. D332172

ACTION OF GRAND JURY

True bill

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury *Date:*

DOCKET NO. 93-GS-20- 446 NA

The State of South Carolina,

County of FAIRFIELD

COURT OF GENERAL SESSIONS

SEPTEMBER **TERM** 1993

THE STATE

vs.

Toby A. Trapp

10, 2w ° for /

B W 9.28.93

B W 2/6/95

Indictment for Unlawful Drugs

CDR - 294

2-24-93 Hood

20th Sept

Dist Crack Cocaine

1st

THIS 7th DAY OF Dec A.D. 19 95

DEFENDANT Toby Trapp

ATTEST: Dessa Anderson

CLERK OF COURT, FAIRFIELD COUNTY, S.C.

I, Betty Jo Beckham, Clerk of Court, Fairfield County, South Carolina, do hereby certify this is a true copy of the original on file in this office.

5/20/14 Betty Jo Beckham

Clerk of Court

345

340

FORM 6 (12/87)

STATE OF SOUTH CAROLINA)
) INDICTMENT FOR UNLAWFUL DRUGS
COUNTY OF FAIRFIELD)

At a Court of General Sessions, convened on September 27, 1993, the Grand Jurors of Fairfield County present upon their oath:

COUNT ONE — POSSESSION

That _____ did in _____ County on or about _____, knowingly and intentionally possess a quantity of _____, a controlled substance under provisions of §§ 44-53-110, *et. seq., Code of Laws of South Carolina* (1976), as amended, such possession not having been authorized by law.

COUNT TWO — POSSESSION WITH INTENT TO DISTRIBUTE

That _____ did in _____ County on or about _____, possess with intent to distribute a quantity of _____, a controlled substance under provisions of §§ 44-53-110, *et. seq., Code of Laws of South Carolina* (1976), as amended, such possession not having been authorized by law.

COUNT THREE — DISTRIBUTION

That Toby Trapp did in Fairfield County on or about January 28, 1993, distribute to one undercover ~~officer~~ informant a quantity of crack cocaine (0.07 grams), a controlled substance under provisions §§ 44-53-110, *et. seq., Code of Laws of South Carolina* (1976), as amended, such distribution not having been authorized by law.

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

SOLICITOR

STATE OF SOUTH CAROLINA
VS

Toby TRAPP

COUNT NO: _____
CASE NO: 93 GS-20- 446
WARRANT NO: D332172
CHARGE: DIST. CRACK COCAINE 1st.

State recommends concurrent

The sentence of the Court is that Toby TRAPP, the defendant named in this indictment be confined to the State Board of Corrections/Fairfield County Detention for a term of 13 years (and) ~~(or)~~ pay a fine of $25,000.00 : ~~provided that upon the service of _____ (and) (or) payment of~~ $_____ plus (pay) ~~(waive)~~ cost and assessments as applicable *, ~~the balance is suspended and the defendant is placed on probation for~~ _____ (months) (years).

RESTITUTION: (Yes) (No)
HEARING HELD OR WAIVED ON _____
PAYABLE TO CLERK FOR (VICTIM) _____

PHYSICAL INJURY $ _____
(and) (or)
PROPERTY DAMAGE $ _____
TOTAL$ _____

SPECIAL CONDITIONS OF PROBATION AND/OR SENTENCE: _____

Concurrent to 93-364

DATE: Feb 7, 1995
WINNSBORO, S.C.

Paul E. Short, Jr.
Presiding Judge

*COST AND ASSESSMENTS:
FINE $ 25,000.00
NON WAIVABLE $ _____
NOT WAIVED $ _____
TOTAL $ 41,715.00

Dora G. Anderson
Clerk of Court
Date of Birth [redacted]
Social Security [redacted]
Drivers License [redacted]
ATTORNEY FOR DEF: Bates
ADDRESS: Rt 1 Box 42
Blair SC 29015
(M) F
B/W

COPY RECEIVED BY: _____

I, Betty Jo Beckham, Clerk of Court, Fairfield County, South Carolina, do hereby certify this is a true copy of the original on file in this office.
5/20/14 Betty Jo Beckham
Clerk of Court

WHITE - Clerk PINK - Detention YELLOW - Probation Dept. BLUE - Defendant's Copy

WITNESSES

J. Keith Lewis

Darryl Burnett

ARREST WARRANT NO. D332171

ACTION OF GRAND JURY

True bill

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury Date:

DOCKET NO. 93-GS-20-364 BP

The State of South Carolina,

County of FAIRFIELD

COURT OF GENERAL SESSIONS

JULY TERM 1993

THE STATE

vs.

A.
Toby Trapp

B.W 9-28-93

Indictment for
Unlawful Drugs

CDR - 294

348

343

HOW COMES THE DEFENDANT(S) Toby Trapp
IN Her OWN PROPER PERSON TO THE BAR OF THIS COURT
AND ENTERS THE FOLLOWING PLEA G PLEAD GUILTY
Distribution Crack 1st
Cocaine
THIS 1 DAY OF Dec A.D. 19 93
DEFENDANT X Toby Trapp
ATTEST:
Donna Goodman
CLERK OF COURT, FAIRFIELD COUNTY, S.C.

I, Betty Jo Beckham, Clerk of Court, Fairfield County, South Carolina, do hereby certify this is a true copy of the original on file in this office.

5/20/14 Betty Jo Beckham
Clerk of Court

FORM 6 (12/87)

STATE OF SOUTH CAROLINA)
) INDICTMENT FOR UNLAWFUL DRUGS
COUNTY OF FAIRFIELD)

At a Court of General Sessions, convened on July 26, 1993, the Grand Jurors of Fairfield County present upon their oath:

COUNT ONE — POSSESSION

That _____ did in _____ County on or about _____, knowingly and intentionally possess a quantity of _____, a controlled substance under provisions of §§ 44-53-110, *et. seq., Code of Laws of South Carolina* (1976), as amended, such possession not having been authorized by law.

COUNT TWO — POSSESSION WITH INTENT TO DISTRIBUTE

That _____ did in _____ County on or about _____, possess with intent to distribute a quantity of _____, a controlled substance under provisions of §§ 44-53-110, *et. seq., Code of Laws of South Carolina* (1976), as amended, such possession not having been authorized by law.

COUNT THREE — DISTRIBUTION

That Toby Trapp did in Fairfield County on or about January 28, 1993, distribute to one ~~undercover officer~~ informant a quantity of crack cocaine (0.20 grams), a controlled substance under provisions §§ 44-53-110, *et. seq., Code of Laws of South Carolina* (1976), as amended, such distribution not having been authorized by law.

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

SOLICITOR

STATE OF SOUTH CAROLINA
VS
Toby TRAPP

COUNT NO: _____
CASE NO: 93 GS-20- 364
WARRANT NO: D332171
CHARGE: DIST CRACK COCAINE 1st

State recommends concurrent

The sentence of the Court is that Toby TRAPP the defendant named in this indictment be confined to the State Board of Corrections/Fairfield County Detention for a term of 13 years (and) ~~(or)~~ pay a fine of $25,000.00 ~~provided that upon the service of~~ _____ (and) ~~(or) payment of~~ $ _____ plus (pay) ~~(waive)~~ cost and assessments as applicable *, ~~the balance is suspended and the defendant is placed on probation~~ for _____ ~~(months) (years).~~

RESTITUTION: (Yes) (No)
HEARING HELD OR WAIVED ON: _____
PAYABLE TO CLERK FOR (VICTIM) _____

PHYSICAL INJURY $ _____
(and) (or)
PROPERTY DAMAGE $ _____
TOTAL$ _____

SPECIAL CONDITIONS OF PROBATION AND/OR SENTENCE: _____

Concurrent to 93.446

DATE: Jul 7 1995
WINNSBORO, S.C.

Paul E. Short, Jr.
Presiding Judge

*COST AND ASSESSMENTS:
FINE $ 25,000.00
NON WAIVABLE $ _____
NOT WAIVED $ _____
TOTAL $ 41,715.00

Clerk of Court
Date of Birth [redacted]
Social Security [redacted]
Drivers License [redacted]
ATTORNEY FOR DEF: P.D.
ADDRESS: Rt 1 Box 46 Blair

COPY RECEIVED BY: _____

I, Betty Jo Beckham, Clerk Defendant Fairfield County, South Carolina, do hereby certify this is a true copy of the original on file in this office.
5/29/14 Betty Jo Beckham
Clerk of Court

MJF
BJW

WHITE - Clerk PINK - Detention YELLOW - Probation Dept. BLUE - Defendant's Copy

NEWBERRY COUNTY

EVIDENCE

Evidence Data

Incident Date: 10/8/11/10/9/11	Officer: BOUKNIGHT		
Location In Evidence Room:	Case #: 11-9364	Type Of Crime: Traff. Crack Cocaine	
Suspect ☒ / Victim ☐ Last Name: Trapp	First Name: Toaby	MI: A	
Suspect ☐ / Victim ☐ Last Name:	First Name:	Initial:	
Suspect ☐ / Victim ☐ Last Name:	First Name:	Initial:	

Description of Evidence

-2 razor blades -pill bottle containing a quantity of a white substance –pipe -2 plastic baggies con a A quantity of a white cookie like substance –spoon with a wh e residue –scale with a qua tity of a wh e Residue on it

Chain Of Custody

	Name		Date
1)	BOUKNIGHT		10-9-2011
2)			
3)			
4)			
5)			
6)			

Court Information

Magistrate Court Yes ☐ No ☐ Date

Circuit Court Yes ☒ No ☐ Date

Family Court Yes ☐ No ☐ Date

Comments

NCSO – Evidence Log In

ev. 05/25

USE BALLPOINT PEN AND PRESS FIRMLY, PRINT ALL INFORMATION

EXCEPT WHERE SIGNATURE IS REQUIRED

SLED DRUG ANALYSIS REQUEST

LAB NO. _____ CONTROL NO. B215834

COUNTY. Newberry WARRANT NO. _____

INCIDENT

Contributing Agency ORI SC0 [illegible] Contributing Agency Case No. 14-9364

New Case [X] Additional Evidence [ ] Case No. _____

Type of Crime Trafficking Crack Cocaine

Incident Date 10-8-11 & 10-9-11

Incident Address 91 Little Ranches Road

Newberry SC 29108

Report should be mailed to:

Nick Bouknight Investigator

Name of Individual Receiving Report Rank

Newberry County Sheriff's Office 803-321-2111

Department Telephone No.

520 Wilson Road

Street Address or Post Office Number

Newberry SC 29108

City State Zip Code

SUBJECTS

Troop Teddy Alexander

LAST FIRST MIDDLE

Race B Sex M DOB 1-6-70

DL, SS or FBI No. 250-11-0928

_____ _____ _____

LAST FIRST MIDDLE

Race _____ Sex _____ DOB _____

DL, SS or FBI No. _____

_____ _____ _____

LAST FIRST MIDDLE

Race _____ Sex _____ DOB _____

DL, SS or FBI No. _____

EVIDENCE

The items submitted below will be examined with your assurance that the submitted specimens have not been nor will be submitted to any other laboratory or agency for Technical or Scientific examination.

Specimens submitted for examination:

(A) plastic baggy containing a quantity of a white rocky substance (B) plastic baggy containing a quantity of a white rocky substance (C) orange pill bottle containing a quantity of white rocky substance (D) scale containing a quantity of a white residue on it (E) spoon with a quantity of white residue on it (F) quantity of a white residue

Nick Bouknight

PRINT Name of Requesting Officer

SIGNATURE Of Requesting Officer

EVSSLED: DAR.1 3/09

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor

MARK A. KEEL
Chief

Inv. Nick Bouknight
Newberry County Sheriff's Office
P.O. Box 247
Newberry, SC 29108

DRUG ANALYSIS
October 28, 2011
SLED LAB: L11-11971
Your Case No: 119364
Incident Date: 10/9/2011
[S] Toaby Trapp

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under our assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE:

Sub # 1 — On October 21, 2011, items were received in B215834 from Inv. Nick Bouknight of the Newberry County Sheriff's Office.

Item: 1.1 — Manila envelope (1) containing plastic bag containing rock substance.
RESULTS:
Cocaine Base (Crack) (C-II) found. 10.0 grams (154.3 grains).

Item: 1.2 — Manila envelope (2) containing plastic bag containing rock substance.
RESULTS:
Cocaine Base (Crack) (C-II) found, 7.3 grams (112.6 grains).

Item: 1.3 — Manila envelope (3) containing orange plastic bottle containing rock substance.
RESULTS:
Cocaine Base (Crack) (C-II) found, 4.0 grams (61.7 grains).

P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-7351

Item: 1.4 Manila envelope (4) containing black plastic digital balance containing:

Item: 1.4.1 Powder substance.
RESULTS:
Cocaine (C-II) found, less than 0.1 grams.

Item: 1.4.2 Plant substance.
RESULTS:
Marijuana (C-I) found, less than 0.1 grams.

Item: 1.5 Ziploc bag (5) containing silver metal spoon containing powder substance.
RESULTS:
Cocaine (C-II) found, less than 0.1 grams.

Item: 1.6 Ziploc bag (6) containing rock substance.
RESULTS:
Cocaine Base (Crack) (C-II) found, less than 0.1 grams.

Chemical Analyst

Lynn D. Black

cc: Newberry County Solicitor's Office

P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-7351

FORM A

REPORT OF ANALYSIS FOR CONTROLLED DANGEROUS SUBSTANCES
(Substance Found)

I, Lynn D. Black, am a Chemical Analyst employed by the South Carolina State Law Enforcement Division (SLED), certified by SLED as a chemist or analyst qualified to perform testing and analysis for controlled dangerous substances prohibited by law in this State by Title 44, Chapter 53 of the Code of Laws and Rule 61-4 of the Department of Health and Environmental Control.

I have 11 years and 8 months experience as a Chemical Analyst. During that period, I have been qualified as an expert witness and testified in court no less than 105 times. I have received the following training as a chemical analyst.

B.S. Chemistry, Kentucky Wesleyan College, Owensboro, KY, 1984
Certificate of Medical Technology, University of Louisville, Louisville KY, 1986
M.S. Forensic Science, Marshall University, Huntington, WV, 1998
Training in Forensic Drug Analysis, Georgia Bureau of Investigation, 1999
Forensic Chemist, Georgia Bureau of Investigation, Decatur, GA, 1998-2007
Drug Enforcement Administration, Forensic Chemists Seminar, 2000
Training in Forensic Drug Analysis, South Carolina Law Enforcement Division, 2009
SC Law and Legal Training, South Carolina Criminal Justice Academy, 2009

Sub # 1 On October 21, 2011, items were received in B215834 from Inv. Nick Bouknight of the Newberry County Sheriff's Office.

I tested the above item(s) using the following legally reliable forensic laboratory procedures approved by SLED:

[X] Chemical Test
[X] Microscopic Exam
[X] Infrared Spectroscopy
[ ] Ultraviolet Spectroscopy
[ ] Visual Examination
[X] Gas Chromatography
[X] Mass Spectroscopy
[ ] Liquid Chromatography
[X] Physical Test
[ ] Published Literature

See Drug Analysis Report L11-11971 for Results.

Chemical Analyst.

Lynn D. Black

Lynn D. Black
Date: October 28, 2011

P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-7351

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED
NOV 16 2015
SC Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of General Sessions

The Honorable Eugene C. Griffith, Jr., Circuit Court Judge

Indictment No.: 2012-GS-36-0267

The State,.....Respondent,

v.

Toaby Alexander Trapp,.....Appellant.

CERTIFICATE OF COUNSEL

The undersigned counsel for the Appellant hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully submitted,

Dietrich A. Lake
The Lake Law Firm
1034 Briargate Circle, Ste. 201
Columbia, SC 29210
(803) 750-8311
Attorney for Appellant