

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Richland County

Honorable Alison Renee Lee, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

SOLEIMAN H. HATTAR,

APPELLANT

APPELLATE CASE NO 2016-002246

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT (Dated October 24-26, 2016)	1
 <u>JACKSON V. DENNO HEARING</u>	
TESTIMONY	
 CHRISTOPHER KADERLY	
Direct Examination by Solicitor	5
Cross Examination by Mr Simmons	16
Redirect Examination by Solicitor	20
 ROBERT DALE	
Direct Examination by Solicitor	22
Cross Examination by Mr. Simmons	36
Redirect Examination by Solicitor	43
 OPENING STATEMENT BY SOLICITOR	61
 OPENING STATEMENT BY MR. SIMMONS	65
 TESTIMONY	
 CHRISTOPHER KADERLY	
Direct Examination by Solicitor	67
Cross Examination by Mr. Simmons	79
Redirect Examination by Solicitor	82
 ROBERT DALE	
Direct Examination by Solicitor	83
Cross Examination by Mr. Simmons	96
Redirect Examination by Solicitor	98
 ANDREW ELLISON	
Direct Examination by Solicitor	100
Cross Examination by Mr. Simmons	107
Redirect Examination by Solicitor	107
 DAVID FAIRBANKS	
Direct Examination by Solicitor	108

JASON HERBERT	
Direct Examination by Solicitor	110
Cross Examination by Mr. Simmons	113
CINNAMON WRIGHT	
Direct Examination by Solicitor	114
Cross Examination by Mr. Simmons	117
Redirect Examination by Solicitor	121
DAVID RUSHER	
Direct Examination by Solicitor	121
Cross Examination by Mr. Simmons	127
Redirect Examination by Solicitor	128
ALLISON RIKARD	
Direct Examination by Solicitor	130
Cross Examination by Mr. Simmons	165
Redirect Examination by Solicitor	170
MELODY GALINSKI	
Direct Examination by Solicitor	172
CHRISTINE BARRICKMAN	
Direct Examination by Solicitor	176
TARA KINNEY	
Direct Examination Solicitor	179
INDICTMENTS	198
CERTIFICATE OF COUNSEL	208

1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF RICHLAND) COURT OF GENERAL SESSIONS
 3 No. 2016 GS 40 5685; 5686;
 5689; 5692; 5695

4 STATE OF SOUTH CAROLINA)
 5)
 6 versus) TRANSCRIPT OF RECORD
 7)
 8 SOLEIMAN H. HATTAR)
 9 Defendant)

10 Columbia, South Carolina
 11 October 24-26, 2016

12 B E F O R E :

13 HONORABLE ALISON R. LEE, Judge Presiding, and a Jury
 14

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

16 For the State: R. CATHCART, Esq.
 17 J. BERRY, Esq.
 Assistant Solicitors
 18 For the Defendant: C. LAWRENCE SIMMONS, Esq.
 19 Reporter Present: CRYSTAL HOLMES
 20

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 24
 25

1 would not be able to conclude by Friday?

2 MR. SIMMONS: If we start when?

3 THE COURT: Tomorrow.

4 MR. SIMMONS: I have to be in Federal Court at ten in
5 the morning.

6 THE COURT: For what?

7 MR. SIMMONS: Pre-trial, so I don't think I'll be in
8 there long.

9 (Discussion not heard on the record between Mr. Simmons
10 and the Court, together with Mr. Simmons' paralegal)

11 (Brief pause)

12 THE COURT: What other pre-trial issues do we have?

13 SOLICITOR: I believe there will be a Jackson-Deno,
14 Your Honor.

15 THE COURT: Tell me the specifics of -- I understand
16 you have not been able to review all of the material but it
17 appears to be related to the sentencing issues.

18 What about -- are there any other issues other than
19 the Indictments and the California records?

20 SOLICITOR: In relation to sentencing . .

21 THE COURT: Yeah, that's the primary thing as I un-
22 derstand it.

23 MR. SIMMONS: Correct.

24 SOLICITOR: Nothing else as it relates to sentencing.

25 THE COURT: Are there other issues?

1 SOLICITOR: Beside the Jackson-Deno, Your Honor, there
2 may be brought up a matter of one of the witnesses hav-
3 ing been charged with being under the influence in Columbia,
4 the City of Columbia, but it is not being prosecuted by
5 our office.

6 A surety bond was set and the bond form was written and
7 it was signed by a Judge who gave the instructions to the
8 person, but something happened. There was a miscommunica-
9 tion with the Clerk's Office but I don't know what happened
10 at that point.

11 We went to Mr. Simmons and explained what needed to
12 happen regarding that.

13 (Brief pause)

14 MR. SIMMONS: Your Honor, . .

15 THE COURT: Yes, sir.

16 MR. SIMMONS: That was recently discussed in a case,
17 the Sheppard case,

18 THE COURT: Mr. Simmons, with the exception of that
19 point and what we've discussed, are you ready to proceed
20 with trial?

21 MR. SIMMONS: Yes, maam.

22 THE COURT: All right, is the State ready to proceed
23 to pick a jury?

24 SOLICITOR: Yes, Your Honor. Our witnesses are here
25 with the exception stated. There was some confusion as to

1 that, as was stated.

2 THE COURT: Then are we ready to proceed?

3 MR. SIMMONS: Yes, maam.

4 THE COURT: Then we will pick the jury and have them
5 come back tomorrow.

6 MR. SIMMONS: We are ready to pick a jury in the case,
7 Your Honor. That is within the Court's discretion.

8 THE COURT: I believe the new information was with re-
9 gard to sentencing, and based upon what I have seen and
10 heard I would deny the motion for continuance.

11 I understand there was some information provided be-
12 fore the new Indictments came out and I do not believe the
13 new Indictments provided information that was not known
14 to the parties before October.

15 So there is nothing to keep us from going forward now
16 with the trial. What I would suggest we do is select a
17 jury and have the jury come back tomorrow.

18 We can do the Jackson v Deno and on any statements
19 and go forward from there.

20 Anything else before we get started?

21 SOLICITOR: Nothing from the State.

22 MR. SIMMONS: Your Honor, I believe there would be a
23 motion to suppress evidence but I will need Sergeant Dale
24 here.

25 THE COURT: We will take that up.

C. KADERLY IN CAMERA

1 That is the same way you will come in tomorrow morning. As
2 you go out into the hallway go all the way around to the
3 jury room.

4 I hope you have a very pleasant evening and we'll see
5 you tomorrow morning at eleven o'clock. Thank you.

6 (Jury excused from Courtroom at 3:58 P.M.)

7 THE COURT: Do you have your witnesses for our motion,
8 the Jackson v. Deno? Is that correct?

9 SOLICITOR: Yes, Your Honor. The State calls Officer
10 Kaderly.

11 CHRISTOPHER KADERLY, being duly
12 sworn, testified as follows:

13 CLERK: Please be seated and state your name for the
14 record.

15 WITNESS: Christopher Kaderly.

16 CLERK: Please spell your last name.

17 WITNESS: K A D E R L Y.

18 DIRECT EXAMINATION, out of the presence of the jury:

19 BY SOLICITOR:

20 Q. Officer, where do you currently work?

21 A. For the Irmo Police Department.

22 Q. And what are your responsibilities there?

23 A. To patrol the Town of Irmo and enforce all State laws
24 and Town ordinances, and answer calls for service.

25 Q. How long have you been working there?

C. KADERLY IN CAMERA

1 A. Since June of 2014.

2 Q. Were you working there in November of 2014?

3 A. Yes, sir.

4 Q. Were your responsibilities then the same as they are
5 now?

6 A. Yes, sir.

7 Q. Were you still in training at that time?

8 A. I had recently graduated from the Academy in Septem-
9 ber of 2014, and I was completing the training officer pro-
10 gram in November of 2014.

11 Q. So you were patrolling at that time in Irmo?

12 A. That is correct.

13 Q. Were you by yourself in your vehicle?

14 A. No, sir. I was with Sergeant Dale, my TO at that
15 time.

16 Q. Your Department TO in your department-issued vehicle?

17 A. Yes, sir.

18 Q. Did you have an opportunity to see the Defendant that
19 night?

20 A. I did, Your Honor. I mean, I did, sir. Excuse me.

21 Q. That's fine. Is this your first time testifying?

22 A. In this room, yes, sir.

23 Q. All right, that's okay. Now, so you were patrolling
24 that night, is that correct, and you came upon the Defen-
25 dant?

C. KADERLY IN CAMERA

1 A. I did.

2 Q. Why did you initiate that traffic stop?

3 A. Uh, because Mr. Hattar failed to yield the right of
4 way.

5 Q. Was he driving or was he a passenger?

6 A. He was a passenger in a vehicle that failed to yield
7 the right of way.

8 Q. So tell me, where was this?

9 A. The intersection of Lavery Boulevard and Columbiana
10 Drive.

11 Q. Okay, and what time of night was it?

12 A. Eleven o'clock that night.

13 Q. Okay, and where were you in the car at the time?

14 A. I was driving and Sergeant Dale was in the front pas-
15 senger seat of the patrol car.

16 Q. So you were driving or were you stopped?

17 A. We had a green light and on the Boulevard going toward
18 the dam, and I was behind a truck that was also going in
19 the same direction. The truck made a left on Columbiana
20 Drive and there was another car coming the opposite way as
21 he did on Lavery Boulevard that also had a green light and
22 as it approached the intersection the driver of the vehicle
23 Mr. Hattar was in turned in front of me in the path of peo-
24 ple coming that had the right of way.

25 So they had to apply their brakes to avoid hitting

C. KADERLY IN CAMERA

1 them, and so the vehicle Mr. Hattar was in could complete
2 his turn.

3 Q. Can you tell us how far the vehicles were from each
4 other?

5 A. I couldn't tell you the exact distance but less than
6 four car lengths.

7 Q. And how fast roughly?

8 A. Not overly fast.

9 Q. But it was clear that traffic was close?

10 A. Yes, sir.

11 Q. So what did you do?

12 A. I initiated my blue lights and proceeded to pull the
13 truck over.

14 Q. Do you recall the model of the truck?

15 A. I do not recall make and model. I just remember it --
16 I believe it was a blue truck.

17 Q. Once you pulled the truck over -- the truck pulls over?

18 A. Yes, sir.

19 Q. Okay.

20 A. It pulls into the median of Columbiana Drive.

21 Q. Okay, and what do you do next?

22 A. I pulled into the traffic stop myself and proceeded to
23 introduce myself after approaching the driver of the ve-
24 hicle and stated the reason for the stop.

25 Q. Did both of you approach the driver?

C. KADERLY IN CAMERA

1 A. Yes, sir. I approached the driver's side and Sergeant
2 Dale approached the passenger side.

3 Q. And when you talked to the driver, what did he have
4 to say?

5 A. . . .

6 Q. Do you recall what that was?

7 A. I do.

8 Q. What did he say?

9 A. He was very . . . (inaudible)

10 REPORTER: I'm sorry. I didn't get that.

11 (Brief pause).

12 BY SOLICITOR:

13 Q. Did you make any arrests that night?

14 A. I personally did not make an arrest.

15 Q. Did you detain the driver?

16 A. I did.

17 Q. Why?

18 A. Due to the fact that -- I did make an arrest of Mr.
19 Shealy for driving under suspension, and Mr. Hattar was de-
20 tained.

21 Q. Okay. So you talked to Mr. Shealy and found he was
22 under suspension.

23 A. Yes, that's correct.

24 Q. So you detained him and arrested him for that?

25 A. That's correct.

C. KADERLY IN CAMERA

1 Q. What does that look like or how do you do this? What
2 did you do at that point?

3 A. Our procedure would be that after placing him under
4 arrest is to complete our tickets, inventory the vehicle,
5 tow the vehicle, and then transport him to jail.

6 Q. So what was the first thing you did. Step by step.

7 A. . .

8 Q. Did you take him out of the car?

9 A. We did take him out of the car and brought him in be-
10 hind his truck to our police car and began to inquire about
11 the vehicle at that point due to what Sergeant Dale had
12 discovered.

13 Q. What was Sergeant Dale doing during this time?

14 A. Sergeant Dale was talking to Mr. Hattar on the pas-
15 senger side of the truck.

16 Q. And did anything come out of that?

17 A. Yes, it did.

18 Q. What happened next?

19 A. I'm sorry.

20 Q. What happened next?

21 A. Mr. Hattar was being talked to by Sergeant Dale, and
22 while Sergeant Dale was talking to him he discovered what
23 appeared to be a . . .

24 MR. SIMMONS: Objection, Your Honor. Sergeant Dale
25 should be the witness to testify as to what he and Mr.

C. KADERLY IN CAMERA

1 Hattar talked about and what was found.

2 SOLICITOR: I didn't ask him what they talked about.

3 I just asked him what was going on.

4 THE COURT: I think he can answer as to what he heard
5 or saw.

6 BY SOLICITOR:

7 Q. So what do you know that occurred next?

8 A. When I was talking to Mr. Shealy I could tell Ser-
9 geant Dale noticed something out of the ordinary and he
10 began to inquire of Mr. Hattar what that was under his feet.

11 I could hear his side of the conversation going on. I
12 can't say what the exact words were but I do know what in-
13 evitably came from it.

14 Q. And what was that?

15 A. It was later found out to be one pot to cook meth in
16 it.

17 Q. And what is that one pot?

18 A. My understanding is a bottle that is used to cook one
19 time, and that's its purpose.

20 Q. Okay. So after detaining and arresting Mr. Shealy,
21 Sergeant Dale is finding this drug pot, is that correct?

22 A. Yes, sir.

23 Q. What do you do next?

24 A. After Sergeant Dale discovered what he did in Mr.
25 Hattar's vehicle, which is where Mr. Shealy was as well,

1 because we didn't know what that was at the time we had
2 to ask questions to figure out exactly what it was.

3 Q. Okay, and so did you speak with the Defendant during
4 this time of questioning him with all that was going on?

5 A. Yes, sir, I did.

6 Q. What did you say to him?

7 A. I asked Mr. Hattar what was in the car.

8 Q. Did he respond?

9 A. Yes, he did.

10 Q. What did he say?

11 A. Please excuse my language but Mr. Hattar said it's
12 fucking meth; it's not that big of a deal.

13 Q. What did you all do with Mr. Shealy and then with the
14 Defendant?

15 A. They were both placed in handcuffs and placed in the
16 back seat of our patrol car.

17 Q. And did you take them to jail?

18 A. No, sir, I did not.

19 Q. What happened then?

20 A. That night as I was in training we had a lot of paper-
21 work to do after this, Sergeant Dale and myself, not only
22 from just this traffic stop but other things as well, and
23 Officer Ellison decided to transport for us due to him not
24 having to complete that paperwork.

25 Q. Was Officer Ellison out there that night?

C. KADERLY IN CAMERA

1 A. He was not in the car with me. He responded at a
2 later time while we were at the vehicle.

3 Q. Was he part of the back-up?

4 A. Yes, sir.

5 Q. Who else do you recall being there?

6 A. Sergeant Dale also called Deputy Fairbanks with the
7 Richland County Sheriff's Office and numerous of the EMS
8 and the Fire Department also responded as well.

9 Q. And the person you arrested that night, do you recog-
10 nize him here in the Courtroom today?

11 A. . . .

12 Q. As the passenger in that car?

13 A. Yes, sir, I do.

14 Q. Could you describe what he's wearing?

15 A. He's wearing a -- what appears to be a flannel shirt
16 and glasses.

17 Q. And where is he seated?

18 A. To the left of his attorney.

19 Q. To your left?

20 A. Right.

21 SOLICITOR: Let the record reflect he has identified
22 the Defendant.

23 THE COURT: It will so reflect.

24 (Brief pause)

25 BY SOLICITOR:

C. KADERLY IN CAMERA

1 Q. So did you ever see the won pot?

2 A. I personally did not, no, sir. Not until afterward
3 when I saw pictures.

4 Q. So at that moment you did not actually see it?

5 A. No, sir. No, sir. I was advised not to go further
6 next to the car.

7 Q. Did you . . .

8 A. Us not knowing what it was. I was -- sorry.

9 Q. Are you told not to go next to something if you don't
10 know what it is?

11 A. Correct.

12 Q. Why? If you think something is a suspicious device
13 or if you are investigating something?

14 A. The reason I did not go and get this device was due
15 to the fact that Sergeant Dale thought it could possibly
16 be . . .

17 MR. SIMMONS: Objection, Your Honor.

18 THE COURT: What is your objection?

19 MR. SIMMONS: It's not of his personal knowledge.

20 SOLICITOR: It is only to explain his actions while he
21 did not go over to it.

22 THE COURT: What it does is it calls for him to say
23 what someone else thought. Rephrase the question, please.

24 BY SOLICITOR:

25 Q. I'll try. So you never saw the device?

C. KADERLY IN CAMERA

1 A. No, sir.

2 Q. Why did you personally not go over and look at the
3 device?

4 A. Because our field training officer, Sergeant Dale, ad-
5 vised me to not go . . .

6 MR. SIMMONS: Objection.

7 THE COURT: I will overrule that objection.

8 BY SOLICITOR:

9 Q. In your training were you taught what meth is?

10 A. We might have touched on it briefly but it wasn't
11 something we went into in any depth.

12 Q. Were you told about the process of manufacturing meth
13 and whether or not it could be a dangerous process?

14 A. Yes, I do understand that.

15 Q. So you did know that out in the field that night?

16 A. Yes, that it could be very dangerous, yes, sir.

17 Q. And this was at nighttime, correct?

18 A. Yes, sir. It was dark out and extremely cold.

19 Q. All right, and so you said you all backed away from
20 the vehicle, is that right?

21 A. Yes, sir.

22 Q. Did you end up . . .

23 SOLICITOR: Beg the Court's indulgence.

24 (Brief pause)

25 Q. Please answer any questions the Defense has for you.

C. KADERLY IN CAMERA

1 Well, let me ask you what you were trying to do before he
2 asks you questions.

3 What were you trying to do or what were your options?

4 A. Trying to understand what we were dealing with, whe-
5 ther it was something that could hurt us or something it
6 could hurt them or anybody else that was around due to us
7 being near a major intersection as well as a neighborhood.

8 Q. Just to avoid any further trouble?

9 A. Yes, sir.

10 Q. Thank you. Please answer any questions Defense Coun-
11 sel may have.

12 THE COURT: Mr. Simmons.

13 CROSS EXAMINATION out of the jury's presence:

14 BY MR. SIMMONS:

15 Q. Was there a video, say, in the car that you were driv-
16 ing -- a video camera in the car that you were driving that
17 night?

18 A. Yes, sir.

19 Q. And you said this other vehicle was approaching bas-
20 ically from the dam side and you didn't turn or tap your
21 brakes or hit your blue lights or your video recorder, did
22 you?

23 A. No, sir. The way our system works when I activate my
24 blue lights in that vehicle it is a VHS system and it does
25 not automatically rewind. There is a slight delay from

C. KADERLY IN CAMERA

1 the time the blue lights are activated and when the camera
2 is activated.

3 Q. Well, under our Statutes the blue light and the camera
4 must be activated at the same time?

5 A. Yes, sir, that's correct.

6 Q. So should your vehicle be equipped so that when you
7 turn the camera on the lights come on as well?

8 A. Which it does, yes, sir.

9 Q. It does do that, doesn't it?

10 A. Yes, sir.

11 Q. You could have turned your camera lights on right when
12 you say you saw a failure to yield right of way. Correct?

13 A. Yes, sir.

14 Q. You didn't do that, did you?

15 A. No, sir.

16 Q. In fact, you waited until you took the left turn onto
17 Columbiana Boulevard to activate your camera and lights.
18 Correct?

19 A. No, sir.

20 Q. You have the video tape with you?

21 A. I personally do not. I do not know if the Solicitor
22 has a copy.

23 Q. Yes, sir. Now, this car was approaching from the
24 other side, and it had not yet reached the intersection,
25 had it?

C. KADERLY IN CAMERA

- 1 A. Define had not reached.
- 2 Q. Well, you know where the intersection is. Correct?
- 3 A. Correct.
- 4 Q. And when you have to stop for a red light. Correct?
- 5 A. Correct.
- 6 Q. And you said the car was some four lengths or more
- 7 back. Correct?
- 8 A. I said four car lengths or less.
- 9 Q. Four car lengths or less back from that line, is that
- 10 correct?
- 11 A. Yes, sir.
- 12 Q. And that is when the truck that Mr. Hattar was in took
- 13 a left hand turn. Correct?
- 14 A. Yes, sir.
- 15 Q. Nobody collided with anybody, did they?
- 16 A. No, sir.
- 17 Q. This other car going down Columbiana Boulevard didn't
- 18 have to swerve into the other lane or off the road, did it?
- 19 A. No, sir. They just had to apply their brakes.
- 20 Q. They didn't have to come to a complete stop, did they?
- 21 A. No, sir.
- 22 Q. Now, once you got the car stopped, Sergeant Dale was
- 23 the one who was talking to Mr. Hattar, is that correct?
- 24 A. Yes, sir.
- 25 Q. And you were dealing with Christian Shealy?

C. KADERLY IN CAMERA

1 A. Yes, sir.

2 Q. And it was a little bit noisy on the road that night,
3 wasn't it?

4 A. At that time of night, no, sir. I would not say it
5 was.

6 Q. So if the tape showed it was really noisy you would
7 say that's not correct?

8 A. I'm sorry. Say it again.

9 Q. I'll withdraw that question.

10 Now, did you see your Sergeant, Sergeant Dale, reach
11 into the truck and remove a towel from Mr. Hattar?

12 A. I did not see that. No, sir.

13 Q. Did you see a towel?

14 A. No, sir, I never was on the passenger side.

15 Q. So you couldn't see what was going on in the passenger
16 side?

17 A. All I could see is Mr. Hattar. I could not see -- the
18 way that we are trained to stand, I could see Sergeant Dale
19 but a portion of his body I didn't because of the way we
20 are trained. I could see Mr. Hattar standing there, but
21 again I was letting Sergeant Dale deal with him while I was
22 doing with Mr. Shealy.

23 Q. That's all I have.

24 THE COURT: Any Redirect?

25 (Brief pause)

C. KADERLY IN CAMERA

1 REDIRECT EXAMINATION

2 BY SOLICITOR:

3 Q. Can you tell me what you actually did turn on in your
4 vehicle?

5 A. In this case when my blue lights are activated there
6 is a slight delay, and I believe the first thing you will
7 see when the camera is on is as we were actually on Colum-
8 biana Drive.

9 Q. So when exactly do you turn your video camera on? As
10 you turn your blue lights on is the camera automatically
11 activated?

12 A. We do not manually turn on our camera unless it is
13 something where our lights are not activated. The way our
14 system works is when your blue lights are initiated if it
15 is the front, which in this case it was, the camera will
16 automatically cut on.

17 However, there was a delay because it was a VHS sys-
18 tem. We did not have the DVD system then which the DVD
19 system has an automatic rewind of from thirty seconds to
20 one minute.

21 This one was a VHS and did not have that so it was up
22 to me and our policy, so it was not in violation of any-
23 thing.

24 Q. And you wouldn't have had your lights on before a
25 violation occurred, would you?

C. KADERLY IN CAMERA

1 A. No, sir. We are trained to activate our blue lights
2 at the same time for both violators and other people who
3 are around, other officers.

4 THE COURT: Anything further?

5 SOLICITOR: No, Your Honor.

6 THE COURT: You may step down, sir.

7 Do you have any other witnesses besides Officer Dale?

8 (Witness excused from stand)

9 SOLICITOR: That would be it, Your Honor, for today.

10 (Discussion off the record concerning scheduling be-
11 tween counsel and the Court)

12 SOLICITOR: We would have Officer Dale in the morning.
13 He is in Myrtle Beach doing some training today.

14 THE COURT: All right. The other thing pre-trial,
15 Your Honor, has to do with our witness who was stopped for
16 a DUI. As I said, this is being prosecuted by the City,
17 not by the State.

18 She is no longer with the Sheriff's Department. She
19 resigned her job. She had also worked for the federal
20 government.

21 THE COURT: So where did this occur, this charge?

22 SOLICITOR: Richland County, Your Honor.

23 THE COURT: Is it still pending?

24 SOLICITOR: It is.

25 THE COURT: I'll let you know my decision in the morning.

R. DALE IN CAMERA

1 (The matter came back before the Court on October 25,
2 2016)

3 THE COURT: Thank you, good morning.

4 (Responses of good morning)

5 THE COURT: We will continue with the pre-trial matter
6 and I believe we have a witness to testify on the Jackson
7 v. Deno. Is that correct?

8 SOLICITOR: That's correct, Your Honor.

9 THE COURT: And then Mr. Simmons has a motion to sup-
10 press.

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

12 THE COURT: All right. You may call your witness.

13 SOLICITOR: State calls Sergeant Dale.

14 ROBERT DALE, being duly sworn,
15 testified as follows out of the presence of the jury:

16 CLERK: Please have a seat and state your name for
17 the record.

18 WITNESS: My name is Robert Dale.

19 THE COURT: Spell your last name, please.

20 WITNESS: D A L E.

21 DIRECT EXAMINATION

22 BY SOLICITOR:

23 Q. Sergeant Dale, where are you employed?

24 A. The Irmo Police Department.

25 Q. And in what capacity are you employed there?

R. DALE IN CAMERA

1 A. I am currently assigned as the victim advocate and code
2 enforcement sergeant. It's a dual role in the police de-
3 partment.

4 Q. Was that your job back in 2014?

5 A. No, it wasn't.

6 Q. What were you doing in 2014?

7 A. I served as squad two patrol supervisor. The police
8 department consists of four squads that rotate. I was the
9 patrol supervisor and there are two to three -- usually
10 two to three other officers assigned to each squad, and us-
11 ually there is a field training officer for each shift
12 which was Corporal Degnan at that time but he was out sick
13 so I was serving as a field training officer in 2014.

14 Q. When you serve as a field training officer, what do
15 you do as a field training officer, or what were you doing
16 on that day as field training officer?

17 A. Well, basically each officer when they are hired by
18 the department and after they go to the Academy you go
19 through on the job training which is -- which can consist
20 of four to eight months after the Police Academy.

21 During that time you are assigned with the field
22 training officer who has a number of years of experience
23 and has the certification to train other officers, and I'd
24 gone through that training and certification to do so.

25 So does Corporal Degnan but, like I said, he was out

1 sick, so I provided the training for Officer Kaderly at the
2 time.

3 Q. And Officer Kaderly -- do you recall about how long
4 you had been on patrol with Officer Kaderly at that point?

5 A. I would have had to be with him a couple or a few
6 months that he was still within the training period.

7 Q. Okay, and on the night of November second of 2014 --
8 excuse me -- the third of November of 2014 were you working
9 on that day?

10 A. I was.

11 Q. And what were you doing on that evening?

12 A. I was serving as Kaderly's training officer, riding
13 along in the passenger seat observing his patrol operation.

14 Q. Okay, and at some point did you all come in contact
15 with Mr. Hattar?

16 A. Yes, we did.

17 Q. Would you describe for the Judge how that contact came
18 to be?

19 A. Well, my contact with him consisted of the passenger
20 side contact after a traffic stop. Basically, we were at
21 the intersection of Lavery Boulevard and Columbiana Drive
22 which is within the corporate limits of the Town of Irmo.
23 It is within the county section. The Town of Irmo is within
24 both counties, but that intersection itself is in the Town
25 of Irmo and in Richland County.

R. DALE IN CAMERA

1 As we were sitting behind the blue pickup truck where
2 the Defendant, Mr. Hattar, was a passenger as we found out
3 later, nothing really brought our attention to the vehicle
4 other than as we were proceeding he made a left-hand turn
5 directly behind the Defendant and the Co-Defendant's ve-
6 hicle.

7 When they made -- when they went to make a left turn
8 going to Columbiana Drive from Lavery Boulevard, there was
9 an oncoming car that had to slam on brakes to prevent from
10 crashing into the Defendant, basically where the Defendant
11 would be sitting.

12 So when they made the left turn the oncoming car -- I
13 saw it was very close and they had to slow down to prevent
14 crashing into the Defendant and the Defendant's car.

15 Q. Did the car he was in -- did they have the right of
16 way or the car coming up across . .

17 A. The car coming across had the right of way. There was
18 no green arrow where the Defendant's car or bus directly
19 behind our patrol car -- if we had the green arrow, we
20 would have had the right of way, but it was just a solid
21 green light beamed at us. Oncoming traffic had the right
22 of way. We had to yield before we could turn.

23 Q. And when you say yield before you turn, what does that
24 mean to do for the persons coming in this lane?

25 A. That means to wait for them to go through the

R. DALE IN CAMERA

1 intersection before you make your turn.

2 Q. Thus, they had the right of way?

3 A. Correct.

4 Q. Okay. This -- does there have to be a collision be-
5 fore you turn on a blue light?

6 A. No, there does not.

7 MR. SIMMONS: Objection, Your Honor, as calling for a
8 conclusion.

9 THE COURT: Rephrase.

10 BY SOLICITOR:

11 Q. In this case would you be allowed to stop someone who
12 nearly causes an accident because of what they do?

13 A. Yes, there are exceptions.

14 Q. Is that -- that's widely acceptable. Is that cor-
15 rect?

16 A. That's correct.

17 Q. So after you saw them almost get into a wreck, what
18 did you all do?

19 A. Well, we ended up waiting for the other car to clear
20 the intersection. Obviously they slowed down to prevent a
21 collision but they continued on, and Officer Kaderly -- I
22 remember him looking up at me and asking should I stop him,
23 which is typical.

24 I've trained several officers and I think he was just
25 wanting reassurance at that point, and I said absolutely;

R. DALE IN CAMERA

1 that something -- they committed a violation of the fail-
2 ure to yield the right of way. So he initiated the blue
3 lights on the car and pulled into the median in about the
4 six hundred block and called it in.

5 Q. Okay, when you all put on blue lights on this car back
6 in 2014, was the video tape playing? Is there a tape on
7 the blue light at all?

8 A. Yeah, once the blue lights are activated -- this is a
9 VHS system and it actually is one of many that we have in
10 our inventory that was provided by the UPS, that of VHS,
11 but there is no backup feature to it. I just started once
12 the blue lights are activated. It knows that is when the
13 camera is supposed to start at that point.

14 Q. Okay, so it is not according to what you're doing a
15 big thing. Correct?

16 A. No, it's not.

17 Q. In fact, because of that it did not see the violation
18 of that vehicle or that the driver did. Correct?

19 A. That's correct.

20 Q. It was only after the violation occurred that it is
21 shown that it shows blue lights?

22 A. Correct.

23 Q. It was only after the violation occurred that blue
24 lights were turned on?

25 A. Correct.

1 Q. When you all stopped the vehicle what occurred?

2 A. So we stopped the vehicle and pulled into the median.

3 Typically, when the trainee stops a vehicle and approaches
4 a vehicle he is the main contact. My job was to make sure,
5 first of all, that he is safe and typically listen to him
6 to critique him, if he is questioning correctly, asking the
7 right questions.

8 And I could do that from the passenger side -- in most
9 situations I can hear them and would maybe step back from
10 the truck. I hear the conversations between the driver
11 and the contact officer.

12 The other part of my job is to provide backup, and in
13 this situation with two people in a car I was primarily
14 focused on backing him up, watching the passenger of the
15 vehicle, and trying to multi-task in critiquing him on what
16 is being said to the driver and what his reaction is with
17 the driver.

18 Q. So you are paying attention to what the officer is
19 doing because you are training him. Correct?

20 A. Correct.

21 Q. Was it dark or light out there?

22 A. It was dark.

23 Q. Okay, so it was late -- what time of night was it?

24 A. I think it was around ten thirty.

25 Q. So you all approached the vehicle but it is not very

R. DALE IN CAMERA

1 relevant?

2 A. Correct.

3 Q. When you go up to the passenger side what was going
4 on?

5 A. So I specifically recall a conversation with Officer
6 Kaderly and Mr. Shealy, who is a CoDefendant or the vio-
7 lator of the traffic stop, about a driver's license issued
8 and possibly not having a driver's license.

9 While they are having that conversation, the Defen-
10 dant, Mr. Hattar, was basically speaking out of turn. It
11 wasn't his turn to answer questions that Officer Kaderly
12 was asking the driver. That was between Officer Kaderly
13 and the driver.

14 I was trying to get his attention because I'm shining
15 a light in the passenger compartment area and I see in the
16 floorboard an item with a towel covering it up.

17 So I start questioning Mr. Hattar, asking him what is
18 under your feet.

19 Q. Let me ask you this. Can you describe the demeanor
20 of Mr. Hattar as you're asking him what's under your feet
21 or what was his demeanor when you are asking him about this
22 traffic stop?

23 A. Well, I noticed immediately that both of them were
24 sweating profusely because it's some maybe thirty-two de-
25 grees or less outside, and both of them were extremely

R. DALE IN CAMERA

1 nervous.

2 Like I said, Mr. Hattar was talking out of sequence
3 and coupled with my questions about what's in the floor-
4 board under his legs -- so at one point I asked him again
5 what's in the floorboard under your legs and at the same
6 time and me explaining it slow but a lot of it was happen-
7 ing really fast.

8 At the same time Officer Kaderly was trying to deter-
9 mine does he need to remove the driver from the vehicle be-
10 cause there is a licensing issue because typically if there
11 is a licensing issue we would detain the driver until we
12 figure out what's the issue; are we going to end up arrest-
13 ing him or are we just going to do a ticket or what.

14 And so while Mr. Hattar was appearing very nervous and
15 me not knowing what is under the towel, this object -- if
16 it was a can of beer, no big deal, but I felt like he was
17 escalating it with his nervousness, his actions, his talk-
18 ing out of sequence.

19 So simultaneously I decided I didn't want him making
20 any further movements and going for the item, and I detained
21 him while he still sat in the car which is way out of the
22 norm.

23 Normally we get somebody out of a car and we put hand-
24 cuffs on them and then we go from there. I was so scared.
25 I didn't know what his next action was going to be so I

R. DALE IN CAMERA

1 decided -- I think I've only done that three times in my
2 fifteen year career where I was actually hand-cuffed some-
3 body in the car, and at the same time I lifted up the towel
4 and noticed this two liter bottle that has what I would
5 describe as gold beads on top of a layer of (inaudible),
6 and they appear to be rolling. I see that . .

7 Q. Can you describe what that means?

8 A. Rolling, boiling -- just not normal for it to be sit-
9 ting there. I see that and it's one of the things where I
10 have not extensive training for active meth labs, but I
11 guess I have enough to know a little bit about them, and
12 it was one of those things where is that what I'm seeing
13 because if it is everybody needs to get out of the way.

14 But a part of me was like I need some reassurance be-
15 cause I haven't had that much training on it so we -- while
16 Mr. Hattar is handcuffed that's when we bring him back to
17 the car. Officer Kaderly was able to get the driver to get
18 out of the car and come back to the car as well -- back to
19 the truck.

20 Q. Now, when you took him out of the car did you pat him
21 down for weapons or anything at that time?

22 A. Yes.

23 Q. Okay. Did you find anything on him in envelopes?

24 A. Yes. I located a bag that was in his jacket that had
25 several pills.

R. DALE IN CAMERA

1 Q. Okay, describe the bag.

2 A. It was like a clear plastic baggie that -- a sandwich
3 bag type thing.

4 Q. When you say pills in a bag, what kind of pills were
5 they?

6 A. I mean, they -- I guess they probably would look like
7 prescription pills but it was obviously noticeable what
8 they were because they were just in a bag by themselves.

9 Q. Okay, and no prescription bottle?

10 A. No.

11 Q. Once you all get them back to the truck again, what
12 do you do then?

13 A. I can remember Officer Kaderly being the main -- I
14 guess you would say -- interviewer with Mr. Hattar.

15 At this point my job was to make sure everybody on
16 the scene was safe because not only am I going from the
17 training officer role to critiquing the officer, but now
18 I am a supervisor where normally I would show up to this
19 after an incident like this happens and then make these
20 kinds of calls but being there I had to kind of step back
21 and figure out a plan on what we needed to do and part of
22 that was making some contact with other agencies to give
23 them reassurance on what to do and get a plan on how to
24 process what was there.

25 Q. Okay. You said you had limited knowledge as to meth

R. DALE IN CAMERA

1 labs?

2 A. Right.

3 Q. But that's what it appeared to be to you?

4 A. Absolutely.

5 Q. Okay, what was the purpose for backing away from the
6 car?

7 A. If it were to explode we would have some distance to
8 prevent any injuries.

9 Q. So based on your experience meth labs can explode?

10 A. Absolutely.

11 Q. And explode in what

12 A. If it is confined in the passenger -- if confined in a
13 compartment like that I know that the car can -- some win-
14 dows can bust out and fly all over the place. I guess it
15 depends on the extent of the meth lab, the size of it, how
16 much it would actually blow up, but I figured that we needed
17 to back up far enough that we were outside of that, to a
18 safety area.

19 Q. And did you tell Officer Kaderly what was going on?

20 Did you explain why you needed to back up?

21 A. Yes.

22 Q. You explain what you found in the passenger compart-
23 ment?

24 A. Yes. I told him I thought that's what it was but I
25 was making some calls to see if I could get some reassurance.

R. DALE IN CAMERA

1 Q. So you were actively trying to determine what this
2 thing was?

3 A. Yes.

4 Q. While you were holding the Defendant?

5 A. Yes.

6 Q. Okay, and you did that by doing what?

7 A. Well, I contacted -- first I contacted dispatch over
8 the radio to ask if there were any Lexington County nar-
9 cotics agents that were available. They said there weren't,
10 so we contacted Richland County and I think contemporan-
11 eously I was able to call Deputy Fairbanks with the Richland
12 County Sheriff's Department.

13 He was the deputy working that evening and he and I
14 have a pretty close relationship because in that region of
15 the County he works that area and we talk to each other
16 about calls pretty often.

17 Q. Based upon what he told you, were you reassured or not
18 reassured as to what was going on?

19 A. I was absolutely reassured. He -- I described it to
20 him, the rolling, the beads, and he said that . .

21 MR. SIMMONS: Objection.

22 THE COURT: Sustained.

23 BY SOLICITOR:

24 Q. Without saying what he said, what did you all do?
25 What did you all do?

R. DALE IN CAMERA

1 A. After I talked to him we backed away from the truck.

2 Q. You said backed away. Do you mean you just stepped
3 back a little bit?

4 A. No, we put both people into the patrol cars and we
5 backed the patrol cars up toward Lavery Boulevard. I'd say
6 five hundred to seven hundred feet.

7 Q. And you were doing that why?

8 A. We were doing that in case the truck exploded because
9 of the meth lab.

10 Q. And did you all -- you said you called Richland County
11 and did Richland County come?

12 A. Yes.

13 Q. And what did they do?

14 A. Well, first the on-duty deputies arrived. They saw
15 what we had described to them. Then after communications
16 with their Hazmat and narcotics agents they were able to
17 call the Hazmat and narcotics agents to come out and basic-
18 ally process the scene and do whatever steps they take in
19 deactivating the meth lab.

20 Q. Did the driver of the vehicle -- was he driving under
21 suspension?

22 A. Yes, we did determine that he was suspended.

23 SOLICITOR: That's all we have as to the issue of
24 Jackson v. Deno as to the statement made to Officer Kaderly
25 as to what was bubbling in the car.

R. DALE IN CAMERA

1 THE COURT: Any Cross?

2 MR. SIMMONS: We would renew our motion to suppress,
3 Your Honor. I can go further into it now or . .

4 THE COURT: Since he's on the stand you may cross
5 examine him and then we'll take up the suppression argu-
6 ments.

7 MR. SIMMONS: I would just have questions to ask on
8 suppression.

9 THE COURT: Okay, go ahead.

10 CROSS EXAMINATION out of the presence of the jury

11 BY MR. SIMMONS:

12 Q. Simply, you -- tell the Judge exactly why you felt
13 the need to handcuff Mr. Hattar?

14 A. Well, as I stated, this was one of those rare situa-
15 tions where I'm dealing with a passenger or a driver in a
16 vehicle. Typically we would ask them to come out of the
17 vehicle or stand up next to the car, and in a routine ar-
18 rest we would handcuff them and ask them to turn around.

19 This was a situation where I did not feel comfortable
20 with Mr. Hattar making any movements whatsoever because of
21 his reluctance to tell me what was under the towel or to
22 pick up the towel -- look, it's a beer -- no big deal.

23 I just didn't want that. I did not feel comfortable.
24 I didn't want it to be a shotgun, a gun, so I made the de-
25 termination and as he sat in that car he was handcuffed.

R. DALE IN CAMERA

1 Q. What were you afraid of?

2 A. What was under the towel.

3 Q. That it was a weapon?

4 A. Yes. It could have been a gun or a shotgun. I just

5 -- I didn't feel comfortable with it, going for it.

6 Q. Was the towel on him or just on the floorboard?

7 A. No, it was over the object that was sitting on the
8 floor between his legs.

9 Q. And it was not covering his body?

10 A. No.

11 Q. Okay, no further questions.

12 MR. SIMMONS: Just a moment, please. Sorry.

13 (Brief pause)

14 BY MR. SIMMONS:

15 Q. There is a video of this towel, is that correct?

16 A. Yes.

17 Q. And it is cued up on this projector, is that correct?

18 A. I don't know.

19 SOLICITOR: Judge, would you like us to bring in . . .

20 (Brief pause)

21 THE COURT: It needs to be a little closer to our
22 microphone.

23 (Brief pause)

24 Q. Mr. Dale, you would agree with me that at the time you
25 put Soleiman Hattar in handcuffs in the truck that Mr.

R. DALE IN CAMERA

1 Shealy was not under arrest?

2 A. At that specific time maybe not under arrest but un-
3 der detention.

4 Q. In fact, in your report you said investigative deten-
5 tion, didn't you?

6 A. Maybe.

7 Q. And at the time you opened the passenger door to that
8 truck Mr. Shealy was not under arrest, was he?

9 A. Um, just because we didn't tell him he was under ar-
10 rest doesn't mean he wasn't under arrest.

11 Q. So he was on arrest?

12 A. Well, yeah, he was in a traffic stop and being detained
13 right then.

14 Q. He was being detained, correct?

15 A. Correct.

16 Q. Was he handcuffed inside the truck?

17 A. Mr. Shealy was not.

18 Q. Okay. So Mr. Shealy was not yet under arrest, cor-
19 rect, sir?

20 A. I'm trying to follow up where you're going here with
21 the technicality of an arrest because there were two dif-
22 ferent people we were dealing with and at the time Hattar
23 handcuffed for what I saw to be an active meth lab in the
24 car, then you could say that Mr. Shealy was part of that
25 active meth lab too, being arrested for it.

R. DALE IN CAMERA

1 Q. But he wasn't under arrest, was he?

2 A. He was part of the entire situation where Hattar was
3 charged with the meth lab that was in the same car that
4 Hattar was.

5 Q. At the time you put your hand through the window of
6 the truck, was anyone under arrest?

7 A. Well, first of all, I never put my hand into the win-
8 dow. The door was open and then I put my hand into the
9 door to prevent Hattar from making any further movements of
10 what I thought was no more than a beer can and hopefully
11 not a gun that he was going to go for which turned out to
12 be a bottle under his leg.

13 Q. Were you carrying your flashlight to the truck?

14 A. I did.

15 Q. You didn't?

16 A. I did.

17 Q. And you could see everything inside the truck?

18 A. I wouldn't say everything but what was in my view,
19 yeah.

20 Q. You could see Hattar's hands, couldn't you?

21 A. Yes.

22 Q. You also had the lights from the cruiser that were
23 illuminating the area, is that correct?

24 A. The headlights?

25 Q. Yes.

R. DALE IN CAMERA

1 A. They illuminated the back of the truck, not the inside
2 of the compartment of the truck.

3 Q. Did it help you to see anything?

4 A. Not exactly. A lot of times those blue lights will
5 make it worse.

6 Q. Okay. Do you recognize this document?

7 A. I do.

8 Q. And is this a document that was drafted by you?

9 A. Yes, it was.

10 Q. Would you read it into the record for us, please?

11 A. On eleven two 2014 reporting officer, Sergeant Dale,
12 was serving as field training officer for recruit Officer
13 Kaderly during the shift. Officer Kaderly initiated a
14 traffic stop on a blue Chevy pickup, South Carolina License
15 Number (inaudible) poppa seven seven one.

16 The driver of the pickup turned left from Lavery Boule-
17 vard onto Columbiana Drive without yielding to an oncoming
18 vehicle.

19 Q. All right, stop right there for a moment. Okay?

20 A. Okay.

21 Q. How far away was this vehicle from the intersection
22 whenever the truck turned left in front of him?

23 A. I'd say one or maybe two car lengths at most.

24 Q. And how fast was that oncoming vehicle going?

25 A. Are you asking me to guess that?

R. DALE IN CAMERA

1 Q. Well, if you don't know just tell me you don't know.

2 A. The speed limit for that area is forty miles an hour.

3 I don't feel like he was exceeding that speed but forty
4 miles an hour is a pretty decent speed. I'd say around
5 forty miles an hour.

6 Q. Okay, and at that point in time Officer Kaderly then
7 looked at you and says can I stop him. Correct?

8 A. Correct.

9 Q. He didn't know, did he?

10 A. No, that's typical for somebody who is in training.
11 He asked me when he had to go to the bathroom.

12 Q. So did he reach over and turn the blue lights on at
13 that point?

14 A. . . .

15 Q. Whenever you said yes?

16 A. Yes.

17 Q. Well, that taping does not start until you are be-
18 hind the truck on Columbiana Drive, is that correct?

19 A. It did what it was supposed to do.

20 Q. But my question was did the tape start whenever you
21 all were behind the truck on Columbiana Drive?

22 A. It started after the violation happened and we came
23 into the median. That's when the tape starts, yes.

24 Q. Would you read the second paragraph on your report,
25 please?

R. DALE IN CAMERA

1 A. Yes, sir. The vehicle pulled over into the median in
2 the six hundred block of Columbiana Drive. Officer Kaderly
3 approached the driver and reporting officer approached the
4 passenger. While Officer Kaderly spoke to the driver re-
5 porting officer noticed the passenger to be generally ner-
6 vous and speaking out of turn.

7 Reporting officer observed in plain view a large item
8 in the floorboard area between the passenger's legs. The
9 item was being covered by a towel.

10 Q. How long -- when you approached that person, how often
11 is it that they are not nervous?

12 A. The passenger isn't very often. The driver -- there
13 usually is some nervousness there. They are thinking they
14 are going to get a Two Hundred Dollar ticket for not stop-
15 ping for an oncoming vehicle.

16 The passenger -- that's not normal.

17 Q. All right. Read the next paragraph for me, please?

18 A. Reporting officer asked the passenger in the car what
19 was under the towel and he stated nothing. Reporting offi-
20 cer asked if the item was an open beer and he said no. The
21 passenger became even more noticeably nervous and would no
22 answer any questions of reporting officer -- excuse me --
23 would not answer any of reporting officer's questions about
24 the item. For safety reasons and not knowing if the item
25 was a weapon, the reporting officer requested Hattar to

R.. DALE IN CAMERA

1 exit the vehicle.

2 Simultaneously Officer Kaderly was attempting to place
3 the driver into investigative detention because the driver
4 told him he did not have a driver's license.

5 Q. Okay, and can you now tell me that since you've read
6 your report whether or not Mr. Shealy was -- whether he was
7 under arrest whenever you opened the door to the truck?

8 A. Um, again, the technical version of arrest I -- you
9 know, the car was not going anywhere and he's not free to
10 go. We are still investigating him possibly not having a
11 driver's license and then the meth lab that's in the car.

12 Q. Okay. Thank you.

13 THE COURT: Any Redirect?

14 SOLICITOR: Thank you, Your Honor.

15 REDIRECT EXAMINATION, out of the presence of the jury

16 BY SOLICITOR:

17 Q. After the stop, was the driver free to go?

18 A. No.

19 Q. When Mr. Shealy drove in front of that oncoming car
20 did that constitute an immediately hazard?

21 A. Absolutely.

22 Q. Is that a violation of the statutes?

23 A. Yes.

24 Q. And you saw that violation. Correct?

25 A. Yes.

R. DALE IN CAMERA

1 Q. And the vehicle was stopped?

2 A. Yes.

3 Q. Did the driver of the vehicle eventually become under
4 arrest?

5 A. . . .

6 Q. Or charged with driving under suspension?

7 A. Yes.

8 Q. When you pulled Hattar out Mr. Shealy was being pulled
9 out of the car at the same time. Correct?

10 A. Yes.

11 Q. He was also placed in handcuffs, was he not?

12 A. Yes.

13 Q. What was the reason to look under the towel?

14 A. . . .

15 Q. What was the reason to look under the towel that was
16 not on his person but in front of him? Why did you feel
17 the need to do that?

18 A. I think the easiest way to explain that is because I
19 couldn't get an answer out of him as to what it was, and
20 had it been a gun that would have escalated the entire
21 scene. We wouldn't have been playing patty-cake and I'd
22 have gone into a mode where he would have been looking at
23 my gun at that point.

24 So that was the entire reason, for me to figure out
25 what it was that he did not want to show me, and once we

R. DALE IN CAMERA

1 figured that out it was time to get out of the way of it.

2 Q. And that scene had already been escalated, hadn't it?

3 Mr. Shealy didn't have a driver's license after there was
4 the traffic stop. Right?

5 A. Right.

6 Q. If you drive without a driver's license you are liable
7 to be arrested. Correct?

8 A. Correct.

9 Q. No further questions.

10 THE COURT: Anything further?

11 MR. SIMMONS: No, Your Honor.

12 THE COURT: You may step down, sir.

13 WITNESS: Thank you, Your Honor.

14 (Witness excused from stand)

15 SOLICITOR: Your Honor, that's all we have. As to
16 suppression, I'm not sure how far he wants to go into the
17 suppression. If he is just talking about the initial stop
18 that is all we have, and all as to Jackson-Deno.

19 THE COURT: Let's go ahead and break unless you have
20 something to add?

21 MR. SIMMONS: No, Your Honor.

22 THE COURT: What else do you have?

23 MR. SIMMONS: On the suppression?

24 THE COURT: No, just anything else.

25 MR. SIMMONS: Nothing.

1 THE COURT: As I understand the statement that was made
2 the Defendant was in investigatory detention and then was
3 placed under arrest. He was already handcuffed.

4 I have no information as to his advisement of Miranda
5 Rights. The statement that was testified to was something
6 about it's meth; no big deal.

7 SOLICITOR: Your Honor, if I may?

8 THE COURT: Yes.

9 SOLICITOR: There is some further testimony as to the
10 . . .

11 THE COURT: That's why I asked if there was anything
12 more.

13 SOLICITOR: I apologize. Basically the State's theory
14 on that is -- do you wish me to go on, Your Honor?

15 THE COURT: Yes.

16 SOLICITOR: Miranda's purpose is to suppress statements
17 that are made by a Defendant and to protect his rights, and
18 when they have not been advised of their rights when offi-
19 cers are trying to get evidence. That's the base purpose of
20 Miranda, to advise them of their rights.

21 Here we have something different. Here officers were
22 not simply trying to get evidence from the Defendant but had
23 found something that caused them concern. That was an excep-
24 tion to Miranda. That's the position of the State, and
25 there is a line of case law in this regard.

1 Under Quarles -- this is a United States Supreme Court
2 case. In Quarles where there is a concern for public safety
3 the ...

4 THE COURT: Are you reading from something?

5 SOLICITOR: I'm reading from the summary. I apologize,
6 Your Honor, but it says the need for public safety outweighs
7 the requirement for the rights and this is an objective test
8 here.

9 There was a gun that was missing and they hadn't miran-
10 dized the subject before they asked where's the gun. He
11 told them where the gun was and they recovered the gun.

12 They were not trying to get the gun for evidence but
13 were trying to protect the public. For their safety and the
14 safety of others.

15 This is very similar. The officers were trying to pro-
16 tect the public so Miranda was not required. This meets
17 the exception. It is an objective test here since they did
18 not know what the object was that was involved.

19 THE COURT: Okay.

20 SOLICITOR: Here they were not trying to gain informa-
21 tion for their safety and the safety of others. The object
22 was right there in the vehicle. What is it? They had to
23 call for backup.

24 Under Miranda it is to protect the Defendant's rights
25 when officers are looking for evidence, but that was not

1 what they were doing here or what was going on. They were
2 clearly trying to ascertain what was going on.

3 In Quarles the officers asked where is that gun and
4 they were told and recovered it. That was allowed because
5 they were looking for the gun for evidence but to protect
6 others and themselves.

7 So in this case Miranda was not required as they did
8 not know what the substance was, and the substance did turn
9 out to be unstable. It was a danger to them and to any pas-
10 sers-by. This was an explosive device that was right in
11 front of them.

12 THE COURT: Mr. Simmons?

13 MR. SIMMONS: In Quarles there was an unknown. There
14 was a gun and they don't know where it is. In this case
15 . . .

16 (Brief pause due to noise in Courtroom)

17 THE COURT: Yes, sir, go ahead.

18 MR. SIMMONS: This item is right there and they can
19 see it. They are saying -- according to Officer Dale's tes-
20 timony they back up. They get in the cruiser and they back
21 up from it, so it is not a public safety concern.

22 So Miranda would apply.

23 THE COURT: Yes.

24 SOLICITOR: Briefly, Your Honor, they weren't certain
25 what they were dealing with so they are taking precaution.

1 They weren't sure what it was. Was it a meth lab?
2 They are not quite sure what was going on but they are
3 acting with caution. It was not a search incident to an
4 arrest but for safety concerns.

5 THE COURT: I am not sure if there is a significant
6 difference there. It was there in the car and there were
7 comments made as well about what was in the car. The offi-
8 cer asked him what was it and he said what he did, that it
9 was meth.

10 MR. SIMMONS: Miranda would apply since from the tes-
11 timony there was no public safety concern.

12 SOLICITOR: Your Honor, they don't know it's a meth
13 lab or what it is. They don't know. It is a situation
14 where they are confronted with what is out there on the
15 highway.

16 THE COURT: There was what was in the car as well as
17 the comments made. There was testimony that the officer
18 asked what it was and he said something at first like it's
19 beer; no big deal.

20 SOLICITOR: Sergeant Dale testified the other officer
21 was talking to Shealy as he was trying to determine what
22 it was, and it was after that that the towel was pulled
23 back, which is when they all moved back.

24 MR. SIMMONS: Your Honor, in Quarles the testimony was
25 that it was necessary to secure the weapon that they knew

1 was there, but here they were just addressing what he had
2 under the towel. They were still addressing that.

3 THE COURT: Let's take a moment.

4 (Brief pause)

5 THE COURT: All right, what we have here from the
6 facts presented is that Officer Kaderly was on the driver's
7 side interacting with the driver of the vehicle. He as-
8 certained that the driver of the vehicle did not have a
9 driver's license and he was preparing to take him into
10 custody for detention.

11 Officer Dale had gone over to the Defendant who was
12 a passenger in the vehicle and in their conversation the
13 officer noticed something under a towel in plain view on
14 the floorboard where the passenger was seated.

15 Officer Dale also indicated that the Defendant was
16 nervous, speaking rapidly or erratically, and out of turn.

17 Officer Dale testified he asked him what the item was
18 that was on the floorboard beneath the towel and at first
19 the Defendant didn't reply, I believe, or said it was no-
20 thing or it was just a beer.

21 So with the combination of the nervousness of the De-
22 fendant and the item that was seen on the floorboard that
23 he became concerned as to what the item was so he decided
24 to detain him while he was sitting in the car.

25 The officer said he was concerned that the item there

1 in the vehicle could pose a danger to them or to anyone in
2 the vicinity.

3 So the officer placed the Defendant in detention and
4 he was handcuffed. The towel was removed and the item on
5 the floorboard was seen. I believe he testified that they
6 then all moved away from the car for their safety.

7 According to the officer, the item was a bottle con-
8 taining a substance. I believe Sergeant Dale gave a de-
9 scription of what the officer and the bottle looked like
10 in his testimony.

11 He said other officers and other agencies also came
12 to the scene. I believe Sergeant Dale testified the Defen-
13 dant was patted down and that is when the baggie with the
14 pills was found on the Defendant. I believe Officer Kaderly
15 testified that he tried to ascertain what the pills were
16 by going on his phone with a description of what he saw
17 there in the baggie.

18 I skipped the Quarles case which was talked about be-
19 fore, a Supreme Court case which I have read. It indicated
20 that perpetrators or perpetrator had gone into a super mar-
21 ket with a gun, and when a perpetrator was found and patted
22 down no gun was found on him. A witness had indicated a
23 perpetrator had gone in with a gun, so when the defendant
24 in that case was located and when no gun was located on a
25 pat-down the officer asked him where's the gun. The Defendant

1 in this case, Quarles, told them where the gun could be lo-
2 cated.

3 The Supreme Court, considering Miranda, indicated that
4 there was a public safety factor that required that Miranda
5 warnings be given before a substance can be taken in to evi-
6 dence. They went on to mention the fact that the officers
7 had the person in custody and that he was contained.

8 (Brief pause)

9 THE COURT: Of course, the Defendant did make a state-
10 ment that it was meth, which certainly made it a safety
11 issue. I would allow the statement.

12 I will be glad to hear from you further if you wish
13 to add anything.

14 SOLICITOR: No, Your Honor.

15 MR. SIMMONS: I would just like to cite some other
16 cases. McCann versus State and also State versus Ricardo.
17 Both of those cases say that nervousness is not enough
18 to in a traffic stop and pull a passenger out of the car.

19 In McCann, they went a little further than nervous-
20 ness. There I believe people were moving around in the
21 passenger compartment of the vehicle and the officer didn't
22 know what was going on.

23 In this situation, there were two officers and one was
24 talking to the driver. It was not a search incident to
25 arrest in this case. All we have is someone you can see

1 in there and you can see on the film that -- it was a very
2 short time period that my client was addressed by Officer
3 Dale.

4 When my client was brought out of the truck he was
5 wearing a jacket and it was cold outside.. It's not like
6 he was sweating as was testified to earlier. On the video
7 tape it shows something quite different or on the camera.

8 There is no testimony about any unusual smell, no
9 testimony about an alcoholic beverage smell. We can go
10 on and talk about what else he spoke to Mr. Hattar about
11 but it was very quickly that he reached in, taking the
12 towel that was in the truck and pulled Mr. Hattar out.

13 So pursuant to the United States Constitution and our
14 State Constitution that was a search and it wasn't reason-
15 able:

16 Even the stop of the vehicle when you look at the stat-
17 utes it says if another vehicle is in the intersection or
18 so close thereto as to constitute an immediate hazard you
19 cannot turn left.

20 Now, if they had turned on the lights and the camera
21 had come on we may have been able to identify that vehicle
22 and go get that person to talk to and to see exactly what
23 happened.

24 You can see the vehicle was a ways down Columbiana
25 Boulevard so we don't think the stop was proper, that the

1 search wasn't proper and that any evidence obtained from
2 the stop and search should be suppressed.

3 THE COURT: Anything further?

4 SOLICITOR: Yes, Your Honor. As far as the stop we
5 heard evidence that the driver of the truck did turn and
6 create a hazard on the roadway. There was clear testimony
7 as to that, that his turn caused someone to have to slam
8 on brakes or stop quickly.

9 As to the search of the car if we look at McCann ver-
10 sus State which was cited . .

11 (Brief pause)

12 SOLICITOR: First, the occupants of the car had to
13 quickly come to a stop so that's strike one. The driver
14 of the truck had to use reasonable caution.

15 THE COURT: Tell me that again. The occupants . .

16 SOLICITOR: The occupants of the car had to quickly
17 stop and the driver of the truck did not use reasonable
18 caution. They would not have to quickly stop if he had
19 used reasonable caution.

20 McCann gets into that briefly, Your Honor, and then
21 from the testimony then the car had to brake quickly. When
22 the officer approached the car there were further acts of
23 inconsistency as he asked for a license and registration.
24 There were two officers but instead of just reaching for a
25 license we've got nervousness, inconsistency in speech.

1 Here in addition to having all of that there is the
2 rag covering an object on the floor. What Officer Dale
3 did was for officer safety and to find out what was there.
4 He was faced with exigent circumstances to find out what
5 was going on for officer safety.

6 From a traffic stop it became obvious that dangerous
7 factors were in play, so there is much more here than just
8 non-responsive answers from the Defendant, nervousness,
9 manner of talking.

10 So there is much more here that is at play than in
11 McCann.

12 (Statement by the Court not audible)

13 SOLICITOR: Beg your pardon.

14 THE COURT: What more here is at play than in McCann?

15 SOLICITOR: Well, the camera video was shown yesterday,
16 and the driver was shown on the video to be non-responsive
17 and the Defendant was speaking toward the officer who was
18 asking questions of the driver. The officer would ask
19 questions and the Defendant would answer rather than the
20 driver.

21 I believe you could hear all of those behaviors, but,
22 again, the fact is that that towel was down below in the
23 floorboard right there at the time of the stop before Of-
24 ficer Dale reached in and removed the towel. They had a
25 right to open the door and get him out of the car.

1 As well, although we probably don't need to go there,
2 the driver was DUS and placed under arrest after which the
3 car would have been searched incident to being towed.

4 To be clear, the towel covering the object was there
5 in plain view on the floorboard of the truck. Sergeant
6 Dale was clearly concerned about what was under that towel
7 and the exigent circumstances as has been shown by the evi-
8 dence.

9 The Defendant also had constructive possession of the
10 item in the truck as well as items on his person.

11 THE COURT: Anything further?

12 MR. SIMMONS: Briefly, Your Honor. In the case of
13 McCann under the facts in the second paragraph, that's where
14 the statement appears (inaudible).

15 Here we have a situation where Officer Dale had walked
16 up to the passenger side and he did not ask my client for
17 anything. My client didn't have to tell him anything.
18 He was not the object of the investigation into the stop.

19 He walked from the patrol car in the dark to the truck
20 and he says he can see a towel covering an object. He may
21 have been nervous because of being approached by an officer
22 but that would not be enough to take him out of the ve-
23 hicle. It was not a search incident to an arrest, Your
24 Honor.

25 (Brief pause)

1 THE COURT: What would occasion the search of the ve-
2 hicle?

3 MR. SIMMONS: I would say that the moment Officer Dale
4 saw the object on the floor that that started the search.
5 According to the testimony, at a minimum, he reached in and
6 grabbed the towel.

7 SOLICITOR: Officer Dale observed his nervousness and
8 talking out of turn as he saw the object under the towel,
9 and I would say . .

10 THE COURT: I'm sorry. I can't hear you.

11 SOLICITOR: I'm sorry. The reason he pulled the De-
12 fendant out of the vehicle was concern for his safety. The
13 officer didn't know what was under the towel and he was
14 afraid it was a gun or something of that nature.

15 It is our position that the search was reasonable and
16 whatever the object was it was a reasonable concern for the
17 safety of the officers.

18 The question is was it reasonable, and it was reason-
19 able for him to be taken from the car. The officer said
20 he didn't know what was under that towel so it was reason-
21 able to search the vehicle.

22 He said he didn't know what was under the towel so he
23 became concerned for their safety, which is reasonable.

24 THE COURT: What about opening the car door and taking
25 him out of the car?

1 SOLICITOR: The item had been seen on the floorboard and
2 he didn't know what it was, so the question is what is reason-
3 able. What is reasonable, right?

4 Here it was in plain view. There was no digging in
5 bags, nothing like that. This was purely about what was
6 under the towel, at that point.

7 They came back later and searched the Defendant and
8 the car and sent the items for testing.

9 (Brief pause)

10 SOLICITOR: Just briefly, Your Honor, and in addition,
11 a search would have been done of the car as it was to be
12 towed.

13 THE COURT: On the search and opening the car door
14 we can further address that point. The basis for opening
15 the car door -- I believe the testimony was that it was
16 opened when the Defendant was taken out of the car or when
17 the officer was securing the Defendant for the officer's
18 safety.

19 You have discussed officer safety and the issue of
20 securing the Defendant. Most of the cases discuss the fact
21 that officer safety is paramount in the actions of the of-
22 ficer or officers.

23 I understand that the approach was justified and there
24 was probable cause for it. I think based upon what I heard
25 that there were two officers and the situation evolved

1 into something other than a mere traffic stop.

2 We heard Officer Dale's testimony as to the interac-
3 tions between Dale and the Defendant and those must be con-
4 sidered. The man's nervousness and actions are to be con-
5 sidered but the Courts have said that is not a sufficient
6 cause for a traffic stop.

7 The officer said an item was there covered up in plain
8 sight caused him concern and a reasonable person in the
9 same circumstances would also be concerned.

10 There could have been nothing there or there could
11 have been something in the spot that would not cause con-
12 cern but there was no way to know that at the time the item
13 was seen.

14 Given the Defendant's behavior and the conversation at
15 the time of the stop, I think the actions of the officers
16 were reasonable under the circumstances.

17 Even though the Defendant was not the driver but a
18 passenger in the vehicle I find the actions of the offi-
19 cer concerning the Defendant were reasonable, and I will
20 allow the testimony. Your objection is noted in the record.

21 All right, anything else?

22 (Brief pause)

23 THE COURT: I believe the circumstances of this case
24 satisfy the decisions in the various cases. (Portion
25 inaudible)

1 Additionally, as far as the search of the individual
2 when he was taken out of the vehicle, I believe that ac-
3 tion by the officer also was reasonable after he had seen
4 what was under the towel. I believe it was a valid search.

5 Under those circumstances I believe the officer had
6 sufficient reason for the stop as well; that it was a valid
7 stop.

8 MR. SIMMONS: Thank you, Your Honor. My next motion
9 is that the two EMS workers -- as I understand it, their
10 testimony is going to be that my client admitted to using
11 methamphetamine hours prior to the arrest, and that has no
12 relevance.

13 He was riding down the road in a truck that was then
14 stopped by the police for a traffic offense some hours la-
15 ter. I believe it was something like five hours.

16 THE COURT: Would you like to be heard?

17 SOLICITOR: Yes, Your Honor.

18 As far as that is concerned, we believe that would cor-
19 roborate the testimony concerning his actions at the stop
20 of the truck.

21 He told the EMS workers that day that he had had it
22 some hours before, and we believe it should be admissible.

23 As well, it would go to his knowledge concerning meth
24 which is right there in the truck at his feet. He knows
25 what it is, and that also may have been why he had it with

1 and while the witnesses are testifying.

2 I ask that you not take notes. It has been found that
3 some jurors in taking notes miss a lot of information or
4 may miss something that is being presented throughout the
5 course of a trial. So I ask that you try not to take notes
6 and I do understand, however, that sometimes people take
7 notes to help them remember information. I understand it.
8 If you feel you need to take notes to help you remember
9 what is going on, we would like to accommodate you, but we
10 are hoping the information you hear will be relatively
11 straight-forward and you will be able to keep up with the
12 information. It is not always coming in chronological or-
13 der and we hope it is simple enough for you to be able to
14 keep up with the information.

15 However, if you feel that you need some assistance in
16 the form of taking notes I will be happy to accommodate you
17 in that regard.

18 At this time, ladies and gentlemen, I believe we are
19 ready to hear the opening statements of the attorneys and
20 perhaps get in some testimony before we take lunch.

21 Would you like to make an opening statement?

22 SOLICITOR: Yes, Your Honor. May it please the Court?

23 Driving around town cooking meth, the device on the
24 floor manufacturing meth. Possessing heroin to distribute,
25 possessing meth and possessing a controlled substance,

1 and schedule two substances.

2 This happened on November second of 2014 at the inter-
3 section of Laverly Boulevard and Columbiana Drive. The
4 Defendant was in a pickup truck. They reached the intersec-
5 tion and they pull out in front of another vehicle.

6 Failure to yield the right of way at the intersection
7 when they pulled out in front of another vehicle and right
8 in front of a Nissan which had police officers in it who
9 then initiated a driver's stop.

10 From there Officer Kaderly approaches the driver and
11 talked to the driver, Mr. Shealy, and finds out he is driv-
12 ing under suspension.

13 Meanwhile, Sergeant Dale goes to the passenger side of
14 the truck. Two people were in it, a driver and a passenger,
15 and the passenger was the Defendant.

16 Sergeant Dale talks to the Defendant and in doing so
17 he sees him acting erratically and not being responsive in
18 answers. What's more, he sees an object at his feet that
19 is covered by a towel.

20 He asks the Defendant about it, asks him what is un-
21 der the towel; what is the object. So he reaches in the
22 door and removes the towel. When he does that, he sees an
23 active device, a two liter bottle with liquid in there and
24 bubbling happening and taking place.

25 At that point they back up and gets the Defendant and

1 the driver out of the car -- the passenger and the driver
2 out of the car and proceed to detain and arrest them.

3 They search the person seated in the passenger side
4 where the device is located and located in his pockets, on
5 his person, they find heroin, they find meth and they find
6 all sorts of pills, illegal substances, schedule two sub-
7 stances.

8 Ladies and gentlemen, my name is Joe Berry, and I am
9 one of the prosecutors here in Columbia, along with Richard
10 Cathcart.

11 We are here today to prove to you that the Defendant
12 is guilty of those crimes. You will hear about manufactur-
13 ing meth, possessing meth, possessing heroin with intent
14 to distribute and possessing controlled substances.

15 Under the laws of our State it is unlawful to manu-
16 facture or attempt to manufacture meth. Additionally, it
17 is illegal also under the laws of our State to possess her-
18 oin with intent to distribute, and what is the intentention
19 to distribute?

20 You will hear more about that. What is that intent?
21 Well, that can be determined on a case by case basis. There
22 are ways to weigh the drugs or if they are separately pack-
23 aged in something like a little baggie. If I give you her-
24 oin in that form that is distribution because I'm distri-
25 buting the drug.

1 You will see evidence of that. You will see how the
2 drugs were packaged. The facts of this case will be very
3 clear that he was intending to distribute that.

4 In addition, you cannot possess certain controlled sub-
5 stances without a doctor's permission. Certain drugs, right?
6 Including schedule two oxycodone and schedule four drugs.

7 We are going to prove this to you by evidence during
8 the course of this trial, evidence that will be both testi-
9 monial and physical. We will show you the drugs and you
10 will also hear testimony of those who responded to the
11 scene and what they heard and saw and did.

12 Their testimony is evidence. You will hear from the
13 officers who responded to the scene and made the stop and
14 what they saw.

15 They had to secure the scene as well as investigate
16 the matter for the safety of Richland County residents and
17 those investigators are specialized by Richland County.

18 You will hear from those officers and investigators who
19 came to the scene. They will testify to the best of their
20 ability to what they saw and did. You will also hear from
21 other persons who came to the scene, the fire fighters, who
22 came to assist in protecting the safety of the public and
23 secured the scene which is a big deal.

24 EMS came to check on the Defendant to make sure he was
25 okay. Also a private company that specializes in disposing

1 of hazardous waste. You will hear from those persons.

2 Like I said, you will see the drugs, see what was re-
3 covered at the scene, and you will hear from the drug anal-
4 ysts or forensic scientists who tested the drugs and deter-
5 mined that they were in fact -- the pills that were on his
6 person were in fact oxycodone, were in fact diazepam; that
7 also on his person was methamphetamine material.

8 At the end of this case, we will ask that you return
9 verdicts of guilty, guilty of manufacturing meth, guilty of
10 possessing heroin for distribution, guilty of possessing
11 meth, guilty of possession schedules two and four drugs.

12 Thank you.

13 THE COURT: Mr. Simmons.

14 MR. SIMMONS: May it please the Court and counsel, mem-
15 bers of the jury.

16 As we were introduced to each other yesterday, I am
17 Lawrence Simmons. I am a private attorney. I've been prac-
18 ticing some twenty-eight years. Seated at the table with
19 me is my paralegal, Diane Buckley, and to the right is the
20 Defendant, Soleiman Hattar.

21 Now, first, I want to make sure you all understand that
22 this is an opening statement. You all have been listening
23 to the Solicitor and I would have sworn he was arguing his
24 case at the end in closing argument.

25 Closing arguments is when we come back and we tell you

1 what you have heard and what you have not heard.

2 Now, first I would like to thank you all for being here
3 today. Granted this isn't voluntary, but Winston Churchill
4 once said that the greatest civic duty you can perform for
5 your fellowman is to serve in the military, and second to
6 that is to serve on a jury. Second is to serve upon a jury.
7 So your service here today is as important to us as it is
8 to the State of South Carolina.

9 A criminal case is different from a civil case. This
10 is where they are trying to say that my client did these
11 crimes. Well, they have to prove every element of what
12 they said beyond a reasonable doubt. It's not to a reason-
13 able doubt but beyond a reasonable doubt.

14 At the end of the case, the Judge is going to explain
15 to you and instruct you on what these elements are and what
16 the State has to prove.

17 The reasonable doubt standard means that if you hesi-
18 tate to act that that is a reasonable doubt.

19 Now, there are other aspects in a criminal case that
20 wouldn't apply to other cases. For example, should my
21 client decide not to testify at the end of the case then
22 the Judge will instruct you that you cannot -- you cannot
23 cannot hold that against him.

24 It is important at this point to know that the State
25 has the sole burden of proof. We don't have to prove

1 anything. When you come in here sometimes it is just im-
2 possible to prove your innocence. How to prove a negative?

3 Well, the State will put witnesses up here and after
4 they question them I will cross-examine them. I am going
5 to show you that Soleiman Hattar did not do what they are
6 saying he did.

7 Folks, it is important that you listen to the witnes-
8 ses during direct and cross-examination; that you watch
9 their demeanor. You are the persons who have to make the
10 decision in this case. You all have the hard job.

11 You all are the sole tryers of the facts in this case,
12 and so what I ask you right now is to sit back and listen
13 to the case but don't even attempt to form an opinion un-
14 til after the Judge tells you to deliberate.

15 Thank you.

16 THE COURT: All right, you may call your first wit-
17 ness.

18 SOLICITOR: The State would call Christopher Kaderly.

19 CHRISTOPHER KADERLY, being
20 duly sworn, testified as follows:

21 CLERK: Please be seated and state your name for the
22 record.

23 WITNESS: Christopher Kaderly.

24 DIRECT EXAMINATION

25 BY SOLICITOR:

C. KADERLY ON DIRECT

1 Q. Good afternoon, sir. How are you?

2 A. Fine, sir. How are you?

3 Q. Okay. Where do you currently work?

4 A. Irmo Police Department.

5 Q. And what are your responsibilities there?

6 A. To patrol the Town of Irmo, enforce all State laws
7 and Town ordinances, answer calls.

8 Q. Please tell the jury how long you've been working
9 there?

10 A. Since June of 2014.

11 Q. And were you working there in November of 2014?

12 A. Yes, that's correct.

13 Q. What were your responsibilities at that time?

14 A. At that time I was in the field training officer pro-
15 gram. I had graduated from the Police Academy and was com-
16 pleting the training program.

17 On that night I was on patrol with Sergeant Dale.

18 Q. And do you recall coming in contact with the Defen-
19 dant on the night of November 2, 2014, in a traffic stop?

20 A. Yes, sir, I do.

21 Q. What were you doing prior to that traffic stop?

22 A. Prior to that traffic stop we were patrolling the Town.
23 We were on Laverly Boulevard, and if you are famliliar with
24 the area it is a major intersection with Columbiana Drive.

25 Q. Did you have a green light or red light?

C. KADERLY ON DIRECT

1 A. We had a green light. Not a green arrow but a green
2 light.

3 Q. Okay, and did you see 2003 Chevy Silverado pickup
4 truck make a turn violation that night?

5 A. Yes, sir.

6 Q. What was his violation? Traffic violation?

7 A. He failed to give the right of way to an oncoming ve-
8 hicle.

9 Q. And can you describe for the jury kind of how that
10 went down as it appeared to you?

11 A. If you're familiar with the area, there is one direc-
12 tion that comes from the dam and one that comes from the
13 Interstate.

14 We were coming from the Interstate toward the dam and
15 there was another vehicle coming from the dam toward the
16 Interstate. As I said, we had the green light and we were
17 behind the vehicle that the Defendant was a passenger in.

18 That vehicle the Defendant was in made a left hand
19 turn in front of the oncoming vehicle which caused the ve-
20 hicle to have to slam on his brakes in order to avoid a
21 collision.

22 At that time I initiated a traffic stop.

23 Q. So the other vehicle had the right of way?

24 A. Yes, sir, that's correct.

25 Q. And so you initiated a traffic stop. What does that

C. KADERLY ON DIRECT

1 mean? How do you initiate a traffic stop?

2 A. That's when we turn on our siren and turn on our blue
3 light behind them. There are three switches that turn on
4 your front lights and your rear lights.

5 Q. Now, did you have a dash cam in your car at the time?

6 A. Yes, sir, I did.

7 Q. How would that be operated? How does that get turned
8 on?

9 A. There are two ways, either manual or automatic. The
10 manual can be turned on by pressing a button or if you turn
11 your blue lights on in the front that will automatically
12 initiate the camera but at that time with the VHS system
13 there was a slight delay in the camera from the time the
14 blue lights are turned on to the time the camera starts re-
15 cording.

16 Q. And so when did you actually activate both your blue
17 lights and your camera?

18 A. The blue lights come on and right after the blue lights
19 come on the camera turns on. It's automatic. You don't
20 have to press anything, but as soon as the violation occurs
21 or is committed which was when he turned in front of the
22 vehicle, that's when my lights came on and the camera turned
23 on.

24 Q. So what happens next?

25 A. At that time I advised dispatch by radio what was going

C. KADERLY ON DIRECT

1 on. I exited my vehicle and approached the driver's side.

2 Q. When they pulled over, where did they pull over?

3 A. They had pulled over into the median on Columbiana
4 Drive.

5 Q. Okay, so now you are approaching the driver's side.
6 What is Sergeant Dale doing?

7 A. Sergeant Dale, my field training officer, approached
8 the passenger's side.

9 Q. So when you get to the driver's side you talked to the
10 driver?

11 A. Yes, sir.

12 Q. What did you advise him?

13 A. I advised him of the reason for the stop which was the
14 failure to yield right of way, and then I advised him that
15 I needed his driver's license, registration and proof of
16 insurance.

17 Q. And did he have those items?

18 A. He had a South Carolina ID card but not a license. He
19 had his registration and did not have proof of insurance.

20 Q. How did you find that out?

21 A. That he didn't have insurance?

22 Q. Yes.

23 A. He stated that he didn't have insurance.

24 MR. SIMMONS: Objection, Your Honor.

25 THE COURT: Sustained.

C. KADERLY ON DIRECT

1 BY SOLICITOR:

2 Q. So what did you do next?

3 Did you find out that he didn't have -- say that again,
4 what you found out?

5 A. When he handed me his South Carolina identification
6 card I'm sure he got that in South Carolina. The driver's
7 license is red and his was green. The purpose of that was
8 to show -- red is for a driver's license and green is for
9 the ID card.

10 I asked him if he had a driver's license.

11 Q. How did you find that out?

12 A. I asked if he had a driver's license. He stated he
13 did and . . .

14 MR. SIMMONS: Objection.

15 THE COURT: I sustain the objection. You cannot say
16 what he told you.

17 BY SOLICITOR:

18 Q. What did you do next? Not what he said but what were
19 your next actions?

20 A. My next action was to check the status of his South
21 Carolina ID card with the South Carolina Department of
22 Motor Vehicles.

23 Q. So you can do that -- do you go back to your vehicle
24 to do that?

25 A. We can do that using our radio.

C. KADERLY ON DIRECT

1 Q. What did you find out?

2 A. . .

3 MR. SIMMONS: Objection, Your Honor. It calls for
4 hearsay.

5 THE COURT: Rephrase the question.

6 BY SOLICITOR:

7 Q. What would be the purpose of calling dispatch again?

8 A. The purpose is to let them know what's going on. For
9 example, normally and routinely what we are supposed to do
10 is to get a license check status. The purpose of that is
11 to check if someone is wanted or suspended or it will let
12 us know it is clear.

13 A part of our training is at the dispatch center where
14 they show you what all they can do and how they check the
15 status of driver's licenses and how they can check to see
16 if somebody is wanted.

17 What they do is get you more information. When I make
18 a traffic stop I advise them who I stop and why I stopped
19 them and if I write a ticket or anything like that.

20 Q. Okay.

21 THE COURT: So you can ask your question.

22 Q. And what did you find out as far as his driver's
23 license?

24 A. . .

25 MR. SIMMONS: Objection. Still calls for hearsay.

C. KADERLY ON DIRECT

1 SOLICITOR: It's based on training and experience.

2 It goes to his actions.

3 THE COURT: Why not just ask him what his actions were.

4 You can't ask him what someone said.

5 SOLICITOR: Thank you, Your Honor.

6 BY SOLICITOR

7 Q. So after speaking with dispatch what were your next
8 actions?

9 A. My next actions as far as dealing with the driver?

10 Q. That's right.

11 A. Placed him under arrest for his charge.

12 Q. So what did you do after that?

13 A. We had to get him out of the vehicle in order to ef-
14 fect his arrest.

15 Q. And what was happening with the passenger at the time?

16 A. Sergeant Dale was speaking with him.

17 Q. Okay, and was he taken out of the vehicle as well?

18 A. I'm sorry.

19 Q. Was he taken out of the vehicle as well? Was the De-
20 fendant taken out of the vehicle as well?

21 A. Not at this time. Not while I was dealing with Mr.
22 Shealy. At a later time he was.

23 Q. But he was ultimately taken out of the vehicle?

24 A. Yes, sir.

25 Q. Okay, that person taken out of the vehicle by Sergeant

C. KADERLY ON DIRECT

1 Dale do you recognize him here in the Courtroom today?

2 A. Absolutely.

3 Q. Would you describe what he's wearing?

4 A. A checkered shirt and tie and with glasses.

5 Q. And where is he sitting?

6 A. At the end of the table next to the female with the
7 blond hair.

8 SOLICITOR: Let the record indicate that Officer Kaderly
9 identified the Defendant, Soleiman Hattar.

10 BY SOLICITOR:

11 Q. Okay, so now we've got both the driver and the pas-
12 senger out of the vehicle. While this is happening what
13 is going on? What's happening right now?

14 A. While I was dealing with him Sergeant Dale was dealing
15 with Mr. Hattar and it was discovered that something was in
16 the floorboard under Mr. Hattar's feet. At the time Mr.
17 Hattar was removed from the vehicle as well, and Mr. Hattar
18 was brought to the back of his vehicle.

19 Because I didn't know what was in the car, I asked Mr.
20 Hattar what was in the car.

21 Q. And what does he tell you?

22 A. . .

23 MR. SIMMONS: Objection.

24 THE COURT: I'm going to overrule the objection.

25 Q. And what did he tell you?

C. KADERLY ON DIRECT

1 A. You'll have to excuse my language but his exact words
2 were it's fucking meth; it's not that big a deal.

3 Q. So Mr. Hattar was the person who answered you?

4 A. Yes, sir, he was.

5 Q. And was he searched in that process?

6 A. Yes, sir, he was.

7 Q. Did you search him?

8 A. I did not, sir.

9 Q. Who did search him?

10 A. Officer Ellison.

11 Q. Officer Ellison was there as well?

12 A. Yes, sir.

13 Q. Do you know if they found anything on his person?

14 A. Yes, sir.

15 Q. Do you know what they found?

16 A. A number of different . . .

17 MR. SIMMONS: Objection, Your Honor

18 SOLICITOR: He's testifying to what he saw.

19 THE COURT: If it's of his own personal knowledge.

20 SOLICITOR: Yes.

21 BY SOLICITOR:

22 Q. And can you tell us what you saw?

23 A. A number of different pills were taken off him, off
24 his person. They were placed in a layer.

25 Q. Did you look at the layer?

C. KADERLY ON DIRECT

1 A. Yes, sir.

2 Q. What were you doing when you looked at them?

3 A. I attempted to identify the pills.

4 Q. How?

5 A. There is a web site called pill identifier which bas-
6 ically gives the characteristics, if it's round, blue or yel-
7 low, has any kind of marking on it, and it will tell you
8 what it is.

9 Q. And what did you do with the pills and drugs after-
10 wards?

11 A. Once we got all of them off of Mr. Hattar they were
12 placed on the hood of my car, and then they were placed in
13 a bag and put inside of my vehicle.

14 Q. And what happened to them that night?

15 A. Later on I turned it over to Ms. Ricard.

16 Q. And who is that?

17 A. Ms. Rikard is standing behind you and it was a later
18 period of time. The reason for the delay in it was because
19 after Mr. Hattar was taken out of the car we were still
20 trying to figure out what it was and I told you what he
21 said, that it was meth, and my supervisor was there as well.

22 In smaller agencies we do not get trained as intensely
23 in how to deal with something that is very dangerous, and
24 so he called for assistance and he said . . .

25 MR. SIMMONS: Object, Your Honor.

C. KADERLY ON DIRECT

1 BY SOLICITOR:

2 Q. Sergeant Dale did?

3 A. Yes, sir.

4 SOLICITOR: I'm sorry.

5 THE COURT: What's the objection?

6 MR. SIMMONS: He can't testify to what someone else
7 did.

8 THE COURT: He can testify as to what he observed,
9 what he saw.

10 Q. So you all called for backup to secure the scene, and
11 we left off that the drugs were in the bag?

12 A. Yes, sir.

13 Q. Did you damage them in any way?

14 A. Absolutely not. We have a very strict policy as far
15 as the chain of custody.

16 Q. So you bagged them and you gave them to Ms. Rikard?

17 A. Yes.

18 Q. And it was that evening?

19 A. Yes, sir.

20 Q. And what did you charge the driver with?

21 A. Driving under suspension, no proof of insurance and a
22 failure to yield the right of way.

23 Q. Thank you. Please answer any questions Defense Counsel
24 may have.

25 A. Yes, sir.

C. KADERLY ON CROSS

1 CROSS EXAMINATION

2 BY MR. SIMMONS:

3 Q. You said you were in training at the time this oc-
4 curred, is that correct?

5 A. Yes, sir.

6 Q. And when was the first time you had taken evidence
7 and placed it in a bag in your car?

8 A. I do not know if that was the first time I had done
9 that or not.

10 Q. The incident you all said took place on November the
11 second or third, is that correct?

12 A. It was in the night shift so it was over into the
13 night. Yes, sir.

14 Q. And you did not transfer this evidence to Ms. Rikard
15 until -- what? Two weeks later?

16 A. No, sir. What happened that night for Mr. Berry was
17 that once the pills were taken off Mr. Hattar and placed
18 onto the hood and I identified them, they were placed in a
19 bag, one bag to keep them all together so nothing would
20 get lost.

21 Once Ms. Rikard came two hours later -- I say two hours
22 because we didn't finish two hours later. I'm not sure
23 exactly what the time was but when we arrived we were going
24 to turn the scene over to her because of her training and
25 experience.

C. KADERLY ON CROSS

1 At that time, I took the bag that was inside my locked
2 police car and gave them to Ms. Rikard.

3 Q. And did Ms. Rikard sign a receipt showing what she
4 got from you?

5 A. I do not know. I do not know, sir.

6 Q. Now, whenever you said that the vehicle that my client
7 was riding in failed to yield the right of way to another
8 vehicle you didn't turn your camera lights right on while
9 you were still on Laverly Boulevard, did you?

10 A. I did turn my blue lights on after the infraction was
11 committed. However, as I said, when he cut the vehicle off
12 that he turned in front of we, even though my blue lights
13 were activated, had to still yield to the oncoming traffic
14 so we had to let that vehicle pass before we made our turn,
15 and, again, as I said, there is a slight delay on the video
16 from the time the lights are activated to when the camera
17 picks up.

18 Q. And how much is a slight delay?

19 A. I cannot tell you in exact time, sir.

20 Q. The video you provided us shows that your patrol car
21 was on Columbiana Boulevard and not Laverly Boulevard. Is
22 that correct?

23 A. I was on Columbiana Drive, yes, sir, when the camera
24 starts to recover.

25 Q. Did you have to ask your training officer if you could

C. KADERLY ON CROSS

1 stop the vehicle or the truck, didn't you?

2 A. Yes, sir, I did.

3 Q. You weren't sure if you could or not, were you?

4 A. I wanted to make sure I was justified in doing so,
5 due to myself being in training.

6 Q. Now, you never saw my client hold or possess any meth-
7 amphetamine, did you?

8 A. I am not sure entirely what all the pills that he had
9 were, so I saw the pills on his person, but again I cannot
10 tell you exactly what every single one of those pills were.
11 There were quite a few of them.

12 Q. But you said you were using an app on your telephone,
13 correct?

14 A. At one time, yes, sir.

15 Q. So there was a web site on your telephone?

16 A. Yes, sir.

17 Q. Were you taking photographs of these pills?

18 A. No, sir. The way I would explain it you can go to the
19 web site and if it's a round pill -- there is a box and you
20 say round, oval, whatever, and you select the color, blue,
21 purple, as well as the markings if there are any.

22 Then from there it tells you what it was.

23 Q. And you didn't record any of this but you just did
24 this for your own personal knowledge?

25 A. No, we needed to know that for the charges, but we

C. KADERLY ON CROSS

1 again turned the charges over to the Richland County Sher-
2 iff's Office.

3 Q. Did you ever hear my client talking to Sergeant Dale
4 while you were still there and my client was still in this
5 truck?

6 A. I heard a conversation but I could not tell you ex-
7 actly what words were said because I was dealing with the
8 driver and my responsibility was the driver, not Mr. Hattar.

9 Q. And you didn't talk with Mr. Hattar while he was still
10 in the truck, did you?

11 A. Correct.

12 Q. And you couldn't tell anything that he said while he
13 was still in the truck, could you?

14 A. Correct.

15 Q. He was only talking to Sergeant Dale, is that cor-
16 rect?

17 A. He was talking to Sergeant Dale. I was listening to
18 the driver.

19 MR. SIMMONS: No further questions, Your Honor.

20 THE COURT: Any Redirect?

21 SOLICITOR: Briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY SOLICITOR:

24 Q. Did Mr. Hattar attempt to speak with you while he was
25 in the vehicle?

C. KADERLY ON REDIRECT

1 A. . .

2 Q. Did he attempt to speak to you while you were talking
3 with the driver?

4 A. Yes. All I was asking Mr. Shealy for was his driver's
5 license, insurance, registration. Mr. Hattar would at-
6 tempt to speak to me while I was doing that, but, again,
7 I couldn't tell you what his words were.

8 Q. Your focus was on the driver?

9 A. Yes. I could hear him speaking but I don't know what
10 he said. Again, my responsibility was the driver. I let
11 my supervisor deal with the passenger.

12 Q. Thank you, sir.

13 THE COURT: You may step down, sir.

14 (Witness excused from stand)

15 THE COURT: Call your next witness.

16 SOLICITOR: Sergeant Dale.

17 ROBERT DALE, being duly sworn, tes-
18 tified as follows:

19 CLERK: Please be seated and state your name for the
20 record.

21 WITNESS: Robert Dale, D A L E.

22 DIRECT EXAMINATION

23 BY SOLICITOR:

24 Q. Sergeant Dale, where are you employed?

25 A. I'm with the Irmo Police Department.

R. DALE ON DIRECT

1 Q. How long have you been there?

2 A. Going on -- November is fourteen years.

3 Q. In what capacity are you employed there?

4 A. Currently in victim advocacy and code enforcement.

5 It's a dual position within the department. Code enforce-
6 ment is about twenty percent, and the victim advocate is
7 dealing with victims of crimes.

8 Q. Is that what you were doing back in November of 2014?

9 A. No.

10 Q. What were you doing back then?

11 A. I was assigned as patrol supervisor for squad two as
12 sergeant and was a field training officer as well at that
13 time in 2014.

14 When new officers come on a shift they are assigned a
15 training officer after they come out of the Academy for on
16 the job training.

17 I acted as field training officer and filled in for
18 an officer who was out sick at the time.

19 Q. So you were the one with the patrol officer with Offi-
20 cer Kaderly?

21 A. That's correct.

22 Q. Do you recall at some point during the evening of No-
23 vember 2 of 2014 coming in contact with the Defendant?

24 A. I do.

25 Q. Please describe for the jury how that happened?

R. DALE ON DIRECT

1 A. I was in the passenger seat of Officer Kaderly's pa-
2 trol vehicle and we were on Laverly Boulevard near the in-
3 tersection with Columbiana Drive which is in the Town of
4 Irmo and in Richland County. You make a left turn to go
5 onto Columbiana Drive.

6 Q. And were you intending to turn left?

7 A. That's correct, and as we came to the intersection
8 there we were behind a blue pickup truck. We were going
9 to make a left turn behind the pickup truck to go on Colum-
10 biana Drive. We were waiting for oncoming traffic and we
11 had a green light but no green arrow. The pickup truck is
12 first in line to make the turn.

13 The driver of the pickup truck made the left turn but
14 there was an oncoming vehicle that had to slam on brakes
15 as I noticed immediately so that it -- so the oncoming car
16 would not crash into the pickup truck.

17 At that time Officer Kaderly looked at me which is
18 pretty typical and asked if he should stop him. I mean,
19 you know, he . .

20 MR. SIMMONS: Objection, Your Honor, to speculation.

21 BY SOLICITOR:

22 Q. Did you tell him to go ahead and stop him?

23 A. Yeah, absolutely, since it was a violation.

24 Q. What violation was it?

25 A. Failure to yield the right of way on the turn.

R. DALE ON DIRECT

1 Q. Okay.

2 A. Traffic violation. Basically when he made his turn
3 the car oncoming was forced to slam on brakes. Then we
4 waited for the intersection to clear again and we activated
5 the blue lights. Then the driver pulled into the median
6 on Columbiana Drive.

7 Q. So you all didn't go very far?

8 A. No.

9 Q. And where you all stopped the pickup truck was it in
10 Richland County?

11 A. It was.

12 Q. What occurred after you all stopped the vehicle?

13 A. Officer Kaderly being the driver and me being the train-
14 ing officer it was his job to approach the driver and make
15 contact and my job to be his backup. I was the field train-
16 ing officer but the backup for safety reasons, as well as
17 I'm critiquing him in his interaction with the driver, to
18 hear his questions and reaction to their answer and if it
19 was proper.

20 So I'm playing kind of a dual role while the traffic
21 stop is going on. I recall Officer Kaderly and the driver
22 having a conversation and there being an issue with the
23 driver's license. He didn't appear to have a driver's li-
24 cense.

25 This is all going on pretty quickly as I'm telling it

R. DALE ON DIRECT

1 here. I'm at the passenger side of the vehicle with my
2 flashlight and I noticed that Mr. Hattar, the Defendant,
3 was basically answering questions for the driver and talk-
4 ing out of turn which is not typical for a passenger.

5 Usually if the officer is approaching the driver at
6 the driver's side door the passenger is still and does not
7 interrupt what's going on.

8 I also noticed that Mr. Hattar, the Defendant, was
9 sweating profusely. It was cold out and I had a jacket on.
10 From my years in law enforcement, that is not the way the
11 passenger in a vehicle that was stopped would be. At that
12 point as I shined my light into the car I could see an ob-
13 ject in between the Defendant's feet or through his legs
14 where he's sitting and that object was covered by a towel.

15 So I started questioning Mr. Hattar about what was
16 under the towel. I was hoping it was not a weapon, but I
17 wasn't getting anything from the Defendant. He was very
18 erratic in answering questions.

19 So I decided to open the passenger door and continued
20 to ask him what was under the towel. Typically I was
21 thinking about my safety and he would not answer.

22 Q. What was your purpose for opening the passenger door?

23 A. I felt like I needed to have a grasp on the situation
24 because if there was a beer can under the towel, no big
25 deal, but if there was a weapon under that towel, with the

R. DALE ON DIRECT

1 way he was acting with whatever was under the towel and him
2 not wanting to tell me, I wanted to have control of that
3 entire situation. I did not want him to get the better of
4 me in the situation if there was a weapon there.

5 Q. But he didn't give --- when you asked him what was un-
6 der the towel did he ever say anything was under the towel?

7 A. To that time he had said nothing, but it was obvious
8 there was something there on the floorboard and that height-
9 ened my -- I got scared. He's telling me nothing was there
10 and there was something there, and with his demeanor . .

11 Q. So at that point you opened the door?

12 A. That's correct.

13 Q. What happened then?

14 A. I opened the door and there was still conversation
15 going on on the driver's side. I was trying to get an an-
16 swer from him, trying to critique the officer in training.

17 Q. When you say critique him, . .

18 A. Watching him and listening to make sure he -- he was
19 fresh out of the Academy and going through training. I'm
20 giving him first-hand experience and constructive criticism
21 if needed on whatever he was doing.

22 So at that point I felt like instead of the Defendant
23 being able to reach for whatever the object was under the
24 towel that I would put him at a disadvantage while he sat
25 in the passenger seat. So I handcuffed him while he sat in

R. DALE ON DIRECT

1 in the passenger seat, a very rare thing to do. In my
2 years in law enforcement I have not had to do that but two
3 or three times.

4 The fact is I was that scared at that moment so I put
5 him in handcuffs in the car.

6 Q. Okay. What happened then?

7 A. Once he was handcuffed he was removed from the car.
8 Just before I removed him from the car I lifted up the
9 towel and noticed there was a two liter bottle that was
10 under the towel and it had a liquid probably halfway of the
11 bottle and it had these golden beads. The top lawyer of
12 it was actively boiling, actively bubbling, laying there.

13 Q. Had you dealt with anything like that before?

14 A. In my limited training I had an idea of what it was.

15 Q. Did you actively see it bubbling?

16 A. Yes, sir.

17 Q. Okay, you saw this bottle on the floor and tell us
18 what you saw as it was on the floorboard?

19 A. The liquid was actually boiling like you could have
20 with a pot on the stove as if you were boiling water or
21 whatever. You could see the bubbling at the top.

22 Q. It looked to be boiling?

23 A. Yes, the top layer was actively boiling.

24 Q. When you saw this what did you think?

25 A. My first thought was that it was -- it was one of

R. DALE ON DIRECT

1 those things like is that what I think it is, and I had
2 some training but not a lot. That was my thought. I felt
3 like there is no way that is what I think it is, but I was
4 very concerned.

5 What I did at that point was think of what I should do
6 at that point and I knew I needed to contact some other
7 resources.

8 Q. Had you been trained in what to do in that kind of
9 situation?

10 A. Well, because I had heard that . .

11 MR. SIMMONS: Objection, hearsay.

12 THE COURT: Sustained.

13 BY SOLICITOR:

14 Q. Don't say what you heard but just what your training
15 had been as far as what to do?

16 A. I called for help.

17 Q. So what did you do?

18 A. Well, I thought I needed backup and I contacted Rich-
19 land County Deputy David Fairbanks who I had worked closely
20 with in the past. In law enforcement you work with differ-
21 ent agencies. So we get to know each other on calls and
22 talk and call each other from time to time. We can talk to
23 each other about looking out for a certain car or something
24 like that.

25 I made a call and described what I saw in the car

R. DALE ON DIRECT

1 to him at that point.

2 Q. To avoid hearsay, without saying what he said, and
3 based on your conversation, what did you do next?

4 A. We backed our cars up probably a good five hundred feet
5 before the intersection of Columbiana and Laverly to pre-
6 vent any cars going up Columbiana Drive and cars coming
7 from the mall area.

8 Q. Where were the Defendant and the driver of the vehicle
9 at that time?

10 A. They were behind the patrol cars.

11 Q. So everybody was away from the pickup truck?

12 A. At least five hundred feet or so. We wanted to keep
13 everybody safe, and I didn't know if we could be hit by
14 shattered glass or something coming out of the car or what
15 would happen if the car exploded.

16 Q. So you pulled everybody away from the car to see what
17 might actually develop?

18 A. In case something happened but we didn't know.

19 Q. What did you do then with Mr. Hattar?

20 A. Basically frisked him to make sure he didn't have any
21 weapons based on his interaction inside the car and all
22 of that. I wanted to make sure he didn't have any weapon
23 on him.

24 Q. Did you find any weapons?

25 A. No.

R. DALE ON DIRECT

1 Q. What did you find?

2 A. We found several pills located in his jacket
3 in a small plastic bag like a sandwich type bag.

4 Q. Okay, and was there a prescription for any of these
5 pills?

6 A. No.

7 Q. Did he have a prescription bottle?

8 A. No, they were in a baggie.

9 Q. What did you do with the a bag at that time?

10 A. I believe I handed them over to another officer, Of-
11 ficer Ellison, who was gathering some other items that
12 were located after that.

13 Q. What did you do with Mr. Hattar at that point?

14 A. At some point he was placed into the back of a patrol
15 car.

16 Q. Do you recall whose car that was?

17 A. I believe Officer Ellison.

18 Q. When you found out -- did you stay with Mr. Hattar the
19 whole time?

20 A. No, I was -- I was the training officer and that was
21 my first priority, to take care of that duty, but I was
22 also the supervisor on the shift so I had to make several
23 phone calls.

24 I had to inform several people and there was a lot
25 that was going on.

R. DALE ON DIRECT

1 Q. So who was with the Defendant? What officer?

2 A. It was Kaderly and Officer Ellison. Officer Ellison
3 ended up transporting him to Richland County.

4 Q. Did you ask him any questions or anything after you
5 patted him down?

6 A. No.

7 Q. After he was handcuffed did you ask him any more
8 questions after that?

9 A. No.

10 Q. You talked about making notifications. Who did you
11 call?

12 A. Well, it is policy that we have to make certain noti-
13 fications. There is an investigator who is on call for
14 our police department as well as our police chief at the
15 time. It was required for me to notify him as well.

16 Q. Was HazMat notified or experts in that field?

17 A. Yes, we had to look for outside resources to call. A
18 lot of times we -- whichever county we're in we will ask
19 for their help. We deal a lot with Lexington County and so
20 one of the first things I did was ask our dispatch to not-
21 ify Lexington County that we needed a team to come out and
22 they attempted to do that but there was a conflict there
23 with Lexington County so we ended up with Richland County
24 and asked them.

25 Richland County responded as well as the Richland

R. DALE ON DIRECT

1 HazMat team because of what we were dealing with.

2 Q. Who from Richland County responded? Do you recall?

3 A. Deputy Fairbanks, those from the HazMat team, Officer
4 Rikard who is part of the drug and narcotics unit for Rich-
5 land County. Those who were working the road that night.

6 Q. Do you recall what she did -- what you saw her do
7 when she got there?

8 A. I saw her doing some things but it is not in my ex-
9 pertise so I trusted her to do whatever it was she was
10 doing. I didn't have anything to do with that kind of
11 thing. It looked pretty convoluted, dealing with all that
12 stuff. The road guys were out there as well in uniform and
13 the experts collected what they needed to collect with the
14 resources they had to determine what charges to make.

15 Q. Did you have the facilities to take those things in?

16 A. No.

17 Q. I show you what's been marked as State's Exhibit Num-
18 ber 34. Do you recognize that?

19 A. Yes.

20 Q. What is that?

21 A. The video from the stop.

22 Q. The video from the patrol car you were a passenger in?

23 A. Yes.

24 Q. How did he do that?

25 A. He activated the blue light, hit the switch and the

R. DALE ON DIRECT

1 camera came on.

2 Q. That is the video taken at that time?

3 A. Yes.

4 Q. And have you viewed it?

5 A. Yes.

6 SOLICITOR: Your Honor, at this time I would move to
7 admit State's 34 into evidence and publish it to the jury.

8 THE COURT: Any objection.

9 MR. SIMMONS: No.

10 THE COURT: All right.

11 SOLICITOR: This is a video taken from inside the
12 patrol car.

13 (Whereupon, the video was admitted without objection
14 as State's Exhibit 34, and was published to the jury)

15 BY SOLICITOR:

16 Q. Is that your flashlight we see shining there?

17 A. Yes.

18 Q. And what are you doing now?

19 A. Officer Shealy was with the driver of the vehicle and
20 I was with the passenger, trying to get a grasp of what the
21 item is. I still don't know what it is.

22 (Questioning during showing of video)

23 Q. Where is the item?

24 A. Under the towel at the Defendant's feet.

25 (Small portion inaudible)

R. DALE ON DIRECT

1 Q. What are you doing now?

2 A. Just getting away from the back of the truck.

3 (End of video)

4 BY SOLICITOR:

5 Q. This camera didn't start up after the blue lights were
6 activated for a tenth of a second or so?

7 A. Yes. There is technology now to where it starts up at
8 that very second. It would capture anything after the blue
9 lights go on.

10 Q. This system was with VHS. Correct?

11 A. Correct.

12 Q. Thank you. Nothing further at this time.

13 THE COURT: Mr. Simmons.

14 CROSS EXAMINATION

15 BY MR. SIMMONS:

16 Q. You didn't notice anything unusual when you approached
17 the truck, did you?

18 A. No, I wouldn't have noticed anything out of the ordi-
19 nary.

20 Q. Did you notice an unusual smell when you approached
21 the truck?

22 A. No, I couldn't say I did.

23 Q. On the video we couldn't hear you and Mr. Hattar talk-
24 ing which is real convenient, isn't it?

25 A. . .

R. DALE ON CROSS

1 SOLICITOR: Objection, Your Honor.

2 THE COURT: You may answer the question.

3 A. I would say it's inconvenient but some of it has to do
4 with finances and not being able to get new equipment right
5 away.

6 This was designated for one microphone only and would
7 go to the primary control unit.

8 Q. If you had been miked up we could have heard the con-
9 versation between you and Mr. Hattar. Is that correct?

10 A. Yeah, absolutely.

11 Q. And because you weren't, we don't know what was said
12 exactly, do we?

13 A. No, and I wish it were the other way around.

14 Q. Did you talk with Mr. Shealy that night?

15 A. I don't know that I had much conversation with Mr.
16 Shealy. My interaction was more with Mr. Hattar. If I had
17 any interaction with Mr. Shealy it would have been after
18 HazMat got there and right before they were transported to
19 the jail.

20 Q. But in your presence did Mr. Shealy claim that the
21 drugs were his?

22 A. I could not testify to that at all. I don't know
23 anything about that.

24 Q. My question is, do you know that Mr. Shealy said the
25 drugs were his?

R. DALE ON CROSS

1 A. . .

2 SOLICITOR: Your Honor, that asks for hearsay.

3 MR. SIMMONS: I'm on Cross, Your Honor.

4 SOLICITOR: That doesn't -- I'm sorry.

5 BY MR. SIMMONS:

6 Q. Mr. Shealy pled guilty to possession of methampheta-
7 mine, didn't he?

8 A. I don't know.

9 Q. You don't know?

10 A. No.

11 Q. That's all I've got.

12 THE COURT: Any Redirect?

13 SOLICITOR: Briefly.

14 REDIRECT EXAMINATION

15 BY SOLICITOR:

16 Q. You spoke to Mr. Hattar?

17 A. Yes.

18 Q. And who spoke to Mr. Shealy?

19 A. Officer Kaderly.

20 Q. So you know what Mr. Hattar said that night, is
21 that correct?

22 A. Yes.

23 Q. And you've testified to that, correct?

24 A. Yes.

25 Q. Nothing further.

1 THE COURT: You may step down.

2 (Witness excused from stand)

3 THE COURT: Ladies and gentlemen, we'll take our lunch
4 break at this time.

5 I need to remind you of the previous instructions I
6 have given you. Do not begin to discuss this matter among
7 yourselves or with anyone else. As you leave the Court-
8 house please do not listen to any conversations that may
9 take place in the hallway.

10 You will have to make your decision based upon the
11 evidence that is presented to you in this Courtroom and
12 not from any conversations that you may overheard.

13 If anyone approaches you and tries to discuss this
14 matter with you, please tell them you are on the jury and
15 you cannot discuss it. I would ask that you report that
16 as soon as possible to the bailiff or to me.

17 Ladies and gentlemen, please report back at two thirty
18 when we will continue this matter.

19 Have a good lunch and we'll see you back here at two
20 thirty. Thank you.

21 (Jury excused from the Courtroom)

22 (Whereupon, the Court stood in recess for the lunch
23 period, after which the case resumed)

24 THE COURT: Is there anything we need to take up be-
25 fore we bring in the jury?

1 THE COURT: Please bring in our jury.

2 (Jury returned to the Courtroom)

3 THE COURT: Please call your next witness.

4 SOLICITOR: The State would call Officer Ellison.

5 ANDREW ELLISON, being duly

6 sworn, testified as follows:

7 CLERK: Please be seated and state your name for the
8 record.

9 WITNESS: Andrew Ellison.

10 DIRECT EXAMINATION

11 BY SOLICITOR:

12 Q. Where are you employed?

13 A. The Irmo Police Department.

14 THE COURT: Please pull that microphone a little bit
15 closer to you.

16 WITNESS: Yes, maam.

17 Q. How long have you been there?

18 A. Over three years.

19 Q. And in what capacity are you employed there?

20 A. I'm a patrolman.

21 Q. Have you been doing that the whole time?

22 A. Yes, sir.

23 Q. On November second and going into the third of 2014,
24 did you have an opportunity to make contact with Mr. Hattar?

25 A. I did.

A. ELLISON ON DIRECT

1 Q. Would you tell the jury how that contact was made?

2 A. I was on a different traffic stop when I was asked to
3 go and assist Sergeant Dale at his stop with the pickup
4 truck.

5 Q. And did you do so?

6 A. Yes, sir.

7 Q. And tell the jury what you saw when you went to that
8 traffic stop?

9 A. When I arrived on the scene Sergeant Dale asked me to
10 take a look at the vehicle that was stopped.

11 Q. And after speaking with Sergeant Dale what did you do?

12 A. I went to the front passenger side of the vehicle, at
13 which time I looked at the floorboard where I observed a
14 two liter bottle with some liquid in it and I could see the
15 beads on top of it and it almost looked like boiling water.

16 Q. Where was it?

17 A. In the floorboard on the passenger side in the front.

18 Q. And did you have the experience to know what that was?

19 A. Not at first glance as my training was limited in that
20 area.

21 Q. What else did you did after seeing that item in the
22 vehicle?

23 A. I stayed with the Defendant who was with Sergeant
24 Dale and we searched the Defendant and found the bag of
25 pills.

A. ELLISON ON DIRECT

1 I then stayed ...

2 Q. I'm sorry. I need you to speak up and talk a little
3 slower.

4 A. Sergeant Dale gave me a small bag which contained pills
5 that he got off the Defendant.

6 MR. SIMMONS: Objection, Your Honor. Calls for hear-
7 say.

8 THE COURT: Overruled.

9 A. He gave me a bag that contained some pills.

10 BY SOLICITOR:

11 Q. And what did you do then?

12 A. We had searched the Defendant and at that point in
13 time the Defendant was placed in custody. He was placed
14 in the back of my patrol car which is our policy. Any
15 time we place a suspect in custody we search them and then
16 place them in a patrol vehicle.

17 Q. So he was placed in the patrol car?

18 A. Correct.

19 Q. And when he was placed in the car was he able to get
20 out?

21 A. He was placed in a patrol car where the doors were
22 locked and he was not able to get out at that point.

23 Q. And he was in handcuffs?

24 A. Correct. Doors and windows locked so he was not able
25 to get out from the back seat.

A. ELLISON ON DIRECT

1 Q. He was placed in the back of the car for security?

2 A. Correct.

3 Q. He was secured?

4 A. Correct.

5 Q. You said he was searched before he was put in the back
6 of the car?

7 A. Yes.

8 Q. Describe how you did that?

9 A. Usually we stand to one side of the body of the person
10 and another officer is on the other side.

11 Q. Did you do that with him?

12 A. Yes.

13 Q. What did you find?

14 A. In his left pants pocket there was what looked like an
15 old change purse or something like that. We continued the
16 search and didn't find anything else on him.

17 He was taken from the back of the truck to the patrol
18 vehicle.

19 Q. You said it looked like a change purse?

20 A. Yes, a change purse. Like a little small purse-type
21 bag.

22 Q. Okay, and when you put him in the patrol vehicle did
23 you then look at the change purse?

24 A. Yes, I did.

25 Q. And what did you find?

A. ELLISON ON DIRECT

1 A. I looked in it to see what we had in our possession
2 at that time.

3 Q. What did you see?

4 A. A variety of pills and something that looked like
5 heroin.

6 Q. How were the pills packaged? Do you recall?

7 A. In little square type . . .

8 MR. SIMMONS: Object, Your Honor. He had no way to
9 determine it was heroin.

10 THE COURT: Sustained.

11 BY SOLICITOR?

12 Q. The thing you thought was heroin, how was it packaged?

13 A. In little square like paper that was folded down. It
14 looked like powder in the paper.

15 Q. Let me show you what's been marked as State's Exhibit
16 Number 14. Do you recognize this?

17 A. I do.

18 Q. What is this?

19 A. That is the package I pulled out of the bag.

20 MR. SIMMONS: I would object at this point.

21 THE COURT: What's your objection?

22 MR. SIMMONS: It's a photograph, not the actual item.

23 THE COURT: Lay a foundation.

24 BY SOLICITOR:

25 Q. Is this the actual items we're talking about?

A. ELLISON ON DIRECT

1 A. A photograph of the items.

2 Q. Is this how the actual items you pulled out of the
3 baggie -- is this how they appeared?

4 A. Yes.

5 MR. SIMMONS: Object, Your Honor, again. He has not
6 told us who took the photograph or where the items came
7 from. We don't know what items those are.

8 SOLICITOR: I just asked him if what is shown in Ex-
9 hibit 14 -- if they appear to be the same items he pulled
10 off of the Defendant.

11 THE COURT: I will let him answer. Restate your ques-
12 tion.

13 BY SOLICITOR:

14 Q. How were the packages -- how did they appear?

15 A. . . .

16 MR. SIMMONS: Objection, Your Honor.

17 Q. The items you found in the bag, is this how they ap-
18 peared?

19 A. Yes.

20 Q. How was it packaged?

21 A. Small plastic bags.

22 Q. The items that appeared to be pills, how were they
23 packaged?

24 A. In clear plastic.

25 Q. Were they in individual plastic bags?

A. ELLISON ON DIRECT

1 A. I don't recall but I believe they were in the same
2 package.

3 Q. Do you recall if you found any prescriptions for any
4 of these pills?

5 A. I did not.

6 Q. Did you find any prescription bottles for any of these
7 pills?

8 A. I did not.

9 Q. What did you do with all the items you took off the
10 Defendant? What did you do with them next?

11 A. As I took them out of the initial bag they were in I
12 put them on the hood of the patrol vehicle.

13 Q. Do you normally do that?

14 A. Yes. You can see on the video where I pulled stuff
15 out and put them there. Officer Dale was there looking at
16 them as well, and from there all of the items taken out of
17 the bag were put in another bag and a tag was put on that
18 and it was handed to Officer Kaderly.

19 Q. Did you see what he did with them?

20 A. Yes, sir. He handed them over to Officer Rikard.

21 Q. After you took all of these items from the Defendant's
22 body and until you handed them to Officer Rikard, did you
23 tamper with them in any way? Change them in any way?

24 A. I did not.

25 Q. Did you see anybody else tamper with them in any way?

A. ELLISON ON DIRECT

1 A. I did not.

2 Q. Please answer any questions Defense Counsel may have.

3 A. Yes, sir.

4 THE COURT: Mr. Simmons.

5 CROSS EXAMINATION

6 BY MR. SIMMONS:

7 Q. Do you actually have a video of you searching my client
8 on your car?

9 A. I believe it was Officer Kaderly's car that did the
10 video.

11 Q. That's all I have.

12 THE COURT: Any Redirect?

13 SOLICITOR: Just briefly.

14 REDIRECT EXAMINATION

15 BY SOLICITOR:

16 Q. Have you seen the video that has been shown to the
17 jury?

18 A. I have.

19 Q. Was it the same video that shows the actual stop of
20 the vehicle as well?

21 A. Yes.

22 THE COURT: You may step down.

23 (Witness excused from the stand)

24 (Colloquy between counsel and the Court at the bench
25 off the record)

1 THE COURT: Call your next witness.

2 SOLICITOR: The State calls David Fairbanks.

3 DAVID FAIRBANKS, being duly sworn,
4 testified as follows:

5 CLERK: Please be seated and state your name for the
6 record.

7 WITNESS: David Fairbanks.

8 DIRECT EXAMINATION

9 BY SOLICITOR:

10 Q. Plase tell the jury what your job is?

11 A. I've been with Richland County for almost nine years.

12 Q. And you were with the Sheriff's Department on November
13 3, 2014?

14 A. I was.

15 Q. November second going into the third of 2014?

16 A. Yes, sir.

17 Q. Do you know a Sergeant Dale with the Irmo Police De-
18 partment?

19 A. I do. Sergeant Dale and I have been friends for a
20 very long time, as well as we have been working together on
21 different cases when the occasion arose.

22 Q. Did you get a call from him that night?

23 A. I did.

24 Q. And based upon what he told you, what did you do?

25 A. Based on what he told me I assumed what he was looking

D. FAIRBANKS ON DIRECT

1 at was a dangerous substance. He described what he was
2 looking at. I told him to make everyone back off from the
3 vehicle in case it was dangerous as I thought.

4 Q. And what did you do then?

5 A. I went to where he was which was only four or five
6 miles. I drove to the scene.

7 Q. And when you got to the scene, what did you do?

8 A. When I got to the scene he gave me a quick rundown as
9 to what was going on and then I approached the vehicle. I
10 saw it for myself, what was inside the vehicle.

11 Q. And what did you see in the vehicle?

12 A. There was a bottle on the passenger side floorboard
13 that appeared to be kind of boiling. There was a smell
14 around the area, and from my training I believed it to be
15 a dangerous substance.

16 On the way back to my car I had the on-call investiga-
17 tor called to the scene. I had him come to the scene.

18 Q. And did you stay or what did you do after that?

19 A. After that I stayed around to be there if they needed
20 any assistance. I mainly just stood around the area for
21 whatever I was needed to do.

22 Q. You stayed on the scene to offer assistance?

23 A. Yes, sir.

24 Q. Please answer any questions Defense Counsel may have.

25 MR. SIMMONS: I have no questions.

1 THE COURT: You may step down.

2 (Witness excused from stand)

3 THE COURT: Call your next witness.

4 SOLICITOR: The State calls Jason Herbert.

5 JASON HERBERT, being duly sworn,
6 testified as follows:

7 CLERK: Please be seated and state your name for the
8 record.

9 WITNESS: My name is Jason Herbert. I'm a Captain
10 with the Columbia Fire Department.

11 DIRECT EXAMINATION

12 BY SOLICITOR:

13 Q. How long have you been with the Columbia Fire Depart-
14 ment?

15 A. With Columbia for eleven years.

16 Q. You said you're a Captain there?

17 A. Yes, sir.

18 Q. What are your responsibilities in that job?

19 A. I'm assigned to an engine company downtown, engine
20 company one, which also acts as HazMat One. We are respon-
21 sible for responding to all incidents that deal with hazard
22 materials, chemicals. We respond to those type calls.

23 Q. You have been trained in how to deal with those situa-
24 tions?

25 A. Yes, sir.

J. HERBERT ON DIRECT

1 Q. Describe briefly for the jury your training?

2 A. I'm a certified HazMat Responder. I've been with Haz
3 Mat all my eleven years with the Department. I've had mul-
4 tiple out of state classes on HazMat response, highway re-
5 sponse, and I have several certifications.

6 Q. Were you working for the Department on the night of
7 November 2 going into November 3 of 2014?

8 A. Yes.

9 Q. And did you respond on that night or morning to a
10 scene on Columbiana Boulevard?

11 A. Yes, sir. We were requested by the City of Irmo Po-
12 lice to respond out there with the HazMat unit.

13 Q. And so they called and you responded. What were you
14 asked to do when you arrived out there?

15 A. We went out there to advise them as a HazMat response
16 to something that they became involved with involving chem-
17 icals.

18 When there is a need for a HazMat response they will
19 call for us.

20 Q. All right.

21 A. Sometimes it is just to act as advisers and sometimes
22 it is to actually go in there and deal with something.

23 Q. And what did you actually do that night?

24 A. When we got out there we were -- when we arrived on
25 the scene we were briefed by officers on the scene. They

J. HERBERT ON DIRECT

1 advised us of the situation and we were asked to provide
2 the decontamination or decon to remove the hazardous mate-
3 rials from the potential suspects or people involved with
4 what was happening.

5 Q. And so what did you do?

6 A. We provided a decontamination shower and washed down
7 or removed any decontaminants that might be on that person
8 or on any equipment.

9 Persons are able to be taken for treatment or to get
10 transported as needed for treatment.

11 Q. And is that what you did out there?

12 A. Yes, sir.

13 Q. How long would you say you all were there?

14 A. . . .

15 Q. How long were you on the scene?

16 A. I don't know exactly but I would say an hour and a
17 half to two hours.

18 Q. Did you have a chance to view what was in the vehicle?

19 A. After I was briefed by the two officers I did approach
20 the vehicle and shined a flashlight at it on the floorboard.
21 They had described to me that it was a potential . . .

22 MR. SIMMONS: Objection, hearsay.

23 THE COURT: I will sustain as to hearsay.

24 BY SOLICITOR:

25 Q. What did you do?

J. HERBERT ON DIRECT

1 A. I shined a light on the floorboard and saw what ap-
2 peared to be a two liter bottle with questionable liquid
3 material on the floorboard of the truck.

4 Q. And did you proceed to decontaminate the individuals
5 who were in the vehicle?

6 A. There were two individuals in the vehicle.

7 Q. Please answer any questions that Defense Counsel may
8 have.

9 THE COURT: Mr. Simmons.

10 MR. SIMMONS: Just a few questions.

11 CROSS EXAMINATION

12 BY MR. SIMMONS:

13 Q. You said you decontaminated the people that might be
14 contaminated. Correct?

15 A. Yes, sir.

16 Q. So you don't actually go and check for contamination
17 prior to any decon. Is that correct?

18 A. It depends on the circumstances. If there is any rea-
19 sonable suspicion that there is any equipment or people on
20 the scene that are contaminated, yes, we will decontaminate
21 them before they leave the scene or they get medical care
22 before they leave the scene.

23 Q. Thank you. No further questions.

24 THE COURT: You may step down.

25 (Witness excused from stand)

1 THE COURT: Call your next witness.

2 SOLICITOR: The State would call Cinnamon Wright.

3 CINNAMON WRIGHT, being duly sworn,
4 testified as follows:

5 CLERK: Please be seated and state your name for the
6 record. Spell your last name.

7 WITNESS: Cinnamon Wright, W R I G H T.

8 DIRECT EXAMINATION

9 BY SOLICITOR:

10 Q. How are you?

11 A. I am fine.

12 Q. Would you tell the jury what your job is? What your
13 primary job is?

14 A. I work at Richland County EMS. I'm a health care pro-
15 fessional and I work on an ambulance providing advanced
16 life support to patients in Richland County.

17 Q. How long have you been doing that?

18 A. Nine years.

19 Q. Nine years?

20 A. Yes.

21 Q. In Richland County?

22 A. Yes.

23 Q. And please tell the jury about your training with
24 EMS?

25 A. I went to a school for paramedics, during that time

C. WRIGHT ON DIRECT

1 taking numerous classes and hours of training given to us.

2 Q. And were you working on the night of November second
3 going into the morning of November third of 2014, if you
4 remember?

5 A. Yes.

6 Q. You were working on this job at that time?

7 A. Yes.

8 Q. And do you remember getting a call to respond to a
9 scene on Columbiana Drive that evening?

10 A. Yes.

11 Q. So how did that come about? Were you with someone or
12 were you by yourself? Please tell the jury about that.

13 A. We were assigned to station one.

14 Q. Who is we?

15 A. My partner and I, Michael Menger.

16 Q. Okay.

17 A. We were at the base when we got the call and we went
18 in response. When we arrived on the scene we found out
19 that we may be seeing someone who had been in contact with
20 a meth lab.

21 Q. So when you got to the scene tell the jury what you
22 did next?

23 A. We made patient contact and spoke to the patient.

24 Q. Who was the patient you spoke to?

25 A. I believe his name was Hattar.

C. WRIGHT ON DIRECT

1 Q. Do you see the person you spoke with that night in
2 the Courtroom?

3 A. Yes.

4 Q. Can you tell us where he is seated?

5 A. He's right there.

6 MR. SIMMONS: Your Honor, could I ask to be provided
7 a copy of what she is referring to?

8 THE COURT: Yes.

9 (Brief pause)

10 BY SOLICITOR:

11 Q. So the patient was Soleïman Hattar who is seated in
12 the Courtroom, is that right?

13 A. Yes.

14 Q. Where was he at the time?

15 A. He was seated in the back of the patrol unit. He was
16 in handcuffs.

17 Q. And what did you do?

18 A. At that time I asked him if he had any medical com-
19 plaints and he said no. So I checked him -- I checked his
20 vitals, and I inquired about the substance.

21 Q. And what did he tell you about that?

22 A. He did tell us that he had meth.

23 Q. What did he say exactly?

24 A. He admitted to using meth several hours ago and he re-
25 fused EMS transport. He did allow us to check his vitals.

C. WRIGHT ON DIRECT

1 Q. What did yo do next?

2 A. Checked his vitals, his blood pressure and blood sugar
3 levels, and did a twelve B EKG.

4 Q. What is that?

5 A. An electrocardiogram. Since he had used drugs it was
6 to make sure he was not having a heart problem or a coron-
7 ary issue at that moment.

8 Q. And did you find out he wasn't having a heart problem
9 at that time?

10 A. Correct, and then he proceeded to refuse transport so
11 we did not transport him. We got signatures and then we
12 left the area. I called our supervisor and reported that.

13 Q. Please answer any questions Defense Counsel may have
14 for you.

15 THE COURT: Cross examination.

16 CROSS EXAMINATION

17 BY MR. SIMMONS:

18 Q. Ms. Wright, would you please turn to page two of your
19 report?

20 A. Okay.

21 Q. Under assessment, there is a portion where you noted
22 my client's skin. What did you find and what did you write
23 in your report?

24 A. That his skin was warm and dry.

25 Q. So he was not swearing profusely, was he?

C. WRIGHT ON CROSS

1 A. No, that's not in my report.

2 Q. Okay, and if you look on page one down at the bottom
3 under history what was it you wrote? Under medical hist-
4 ory?

5 A. HDC, psychiatric disorder.

6 Q. Okay, so you noted he had HDC, a psychiatric disorder.
7 Correct?

8 A. Yes.

9 Q. Did you really know if he was telling you the truth
10 as you were talking to him that night?

11 A. We asked him a few questions to find out if he was
12 alert as to time and place. We asked him the date and the
13 year, who the president was, and where he was at that point
14 in time. He knew that at that moment.

15 Q. You noted a psychiatric disorder. What exactly is his
16 psychiatric disorder?

17 A. We got that answer from him. We asked him about his
18 mental condition and his answer was HDC and a psychiatric
19 disorder.

20 Q. And your employment is what?

21 A. A paramedic.

22 Q. Shouldn't you have asked him exactly what his psychia-
23 tric disorder was?

24 A. That was the extent of it. That was all he would give
25 us.

C. WRIGHT ON CROSS

1 Q. And you noted in the record he was a 47 year old male
2 basically C 8 0 times three, which means that he's alert?

3 A. Yes.

4 Q. Without complaints, so he wasn't complaining of any-
5 thing, was he?

6 A. No.

7 Q. Okay, and are you qualified to read an EKG or does
8 it have to be sent in for a doctor to read it?

9 A. I'm qualified to read it.

10 Q. Okay, and tell me about the EKG. Did you have to
11 shave spots off his chest to place the pads?

12 A. I don't recall shaving anything off his chest to
13 place the pads.

14 Q. But you looked at the EKG and it was completely nor-
15 mal, is that correct?

16 A. Yes. At the time it was not showing he had had or was
17 having a heart attack or any coronary event.

18 Q. Well, it can show heart attack, it can show supra-ven-
19 tricular tachycardia. It can show all sorts of other things
20 can't it?

21 A. It can.

22 Q. And if you're using meth, wouldn't that show an ab-
23 normal . . .

24 SOLICITOR: Objection.

25 THE COURT: What's your objection?

C. WRIGHT ON CROSS

1 SOLICITOR: Object to the form of the question.

2 THE COURT: I'll allow the question unless you have
3 something else. She can testify to what she has knowledge
4 of. If she can't answer the question she can say she can't
5 answer the question.

6 BY MR. SIMMONS:

7 Q. If someone is using methamphetamine wouldn't it show
8 an elevated heart rate on an EKG?

9 A. That I'm not sure of. He had a heart rate of ninety-
10 eight which is normal. That is what was shown, and that
11 is regular . . .

12 Q. Okay. Explain to the jury what sinus rhythm is?

13 A. It just means that the (inaudible) sinus apart from
14 the normal sinus is . . .

15 Q. In other words, it just means that the heart is beat-
16 ing at the right times?

17 A. Yes.

18 Q. No sputters, no skips. Correct?

19 A. Correct.

20 Q. So not abnormal, correct?

21 A. Yes.

22 Q. All right.

23 MR. SIMMONS: No more questions, Your Honor.

24 THE COURT: Any Redirect?

25 SOLICITOR: Beg the Court's indulgence, Your Honor.

C. WRIGHT ON REDIRECT

1 REDIRECT EXAMINATION

2 BY SOLICITOR:

3 Q. So at the time you saw him he was in the back of the
4 patrol car?

5 A. Right.

6 Q. He was not in the truck at the time?

7 A. No.

8 Q. He was in the patrol car sometime after you arrived?

9 A. Correct.

10 Q. His heart rate was normal at that time?

11 A. Absolutely.

12 Q. Thank you very much.

13 THE COURT: Anything further?

14 MR. SIMMONS: Nothing further.

15 THE COURT: You may step down.

16 (Witness excused from stand)

17 SOLICITOR: The State calls David Rusher.

18 DAVID RUSHER, being duly sworn,

19 testified as follows:

20 CLERK: Please be seated and state your name.

21 WITNESS: David Rusher.

22 DIRECT EXAMINATION

23 BY SOLICITOR:

24 Q. Mr. Rusher, how are you?

25 A. I'm fine.

D. RUSHER ON DIRECT

1 Q. Would you please tell the jury who you work for and
2 what you do?

3 A. I work for a company called (inaudible) Recovery that
4 at one time contracted with the DEA, and now with SLED, the
5 South Carolina Law Enforcement Division.

6 My job is mainly to recover hazardous materials and
7 to make sure they are properly disposed of.

8 Q. And you were assigned to do that throughout the State?

9 A. Absolutely.

10 Q. How long have you been working in that capacity?

11 A. In that capacity I've been working for over twenty-
12 eight or nine years now.

13 Q. How many meth labs have you had to deal with at this
14 time?

15 A. Last time I checked it was between seventeen hundred
16 and eighteen hundred. Somewhere in there, me personally.

17 Q. And can you briefly tell the jurors about your certi-
18 fication, qualification and training?

19 A. I have a firefighter background where I was trained in
20 hazardous material. We were trained through the DEA as
21 well on the manufacture of meth, treatment of meth.

22 We were also trained by SLED and have a certification
23 from SLED that we renew from time to time on meth and other
24 things.

25 SOLICITOR: Your Honor, I would offer Mr. Rusher as

D. RUSHER ON DIRECT

1 an expert in the recovery of meth.

2 MR. SIMMONS: No objection.

3 THE COURT: Then without objection he is so quali-
4 fied.

5 BY SOLICITOR:

6 Q. So back in November of 2014, were you working for the
7 same recovery company and working in the same capacity?

8 A. That's correct.

9 Q. Do you recall being called to a meth lab on the even-
10 ing of November second and going into the morning of the
11 third on the west side of Columbiana Drive?

12 A. I do.

13 Q. Please tell us how that process went down. Do you
14 recall where you were when you got the call and when you
15 responded to the location what you did there?

16 A. We lived on that side of town so we responded rather
17 quickly. When we arrived on the scene we took care of the
18 paper work and then went to the truck.

19 Q. Please tell the jury what you did when you got to the
20 scene.

21 A. Usually the first thing we do is take care of the pa-
22 per work so that is done before we get caught up in our
23 work of processing the lab.

24 Q. So after you did that you went to the vehicle?

25 A. That's correct.

D. RUSHER ON DIRECT

1 Q. Tell the jury what you did when you got to the ve-
2 hicle.

3 A. When we got there we actually were able to look in the
4 truck and we located the container that was obviously in
5 the process of manufacturing meth. We . .

6 MR. SIMMONS: I would object to that unless he has
7 personal knowledge as to what was in the container.

8 THE COURT: Sustained unless he has personal knowledge
9 of what was in the container.

10 BY SOLICITOR:

11 Q. Did you see the container with the substance?

12 A. Yes, it was a fifty-four ounce bottle and we placed
13 that into another container.

14 Q. And what was in the container that you put in your
15 container?

16 A. It was what we call a shake and bake and what we were
17 able to recognize as a container used to process and manu-
18 facture methamphetamine.

19 Q. So when you saw that what did that mean to you? I
20 mean, how did it look?

21 A. . .

22 Q. Did it look dangerous?

23 A. Very dangerous. It has explosive potential, and we
24 have two types of containers to handle that particular
25 substance. We have one that we call an active response

D. RUSHER ON DIRECT

1 container where we put an active substance. We are pre-
2 pared for what could happen, for any reaction from the con-
3 tainer. It can react very violently, can explode, and so
4 from an explosion you can have a fire. As a result of that
5 you can have contamination.

6 Q. And tell us about the material that you recovered and
7 put in your container?

8 A. It could be shaking to a point when the substance is
9 shaking in a rolling manner where the two chemicals come
10 together. We handle the material in a way to be able to
11 control it.

12 We put it in what's called a hazpack which is a na-
13 tionally certified way of doing so. The hazpack is manufac-
14 tured for that reason.

15 Q. And were you able to handle this substance in a manner
16 to control it?

17 A. Yes, we were.

18 Q. And tell the jury what else you did at the scene?

19 A. . .

20 Q. What did you do next?

21 A. Well, the material you take away from a meth lab has
22 to be secured and transported. It has to be disposed of in
23 such a way that would dispose of it safely.

24 In this particular case, it was taken away and dis-
25 posed of properly, as well as the clothing persons were

D. RUSHER ON DIRECT

1 wearing who came in contact with the meth.

2 The process was deemed a hazard but it was not a ha-
3 zard that had to be handled other than hauling it away in
4 our vehicle.

5 Q. Do you recall how much hazardous material you had there?

6 A. I believe we had twenty-five pounds that we took away
7 from the location.

8 Q. Did that include the clothing that came from the per-
9 sons there?

10 A. Yes, that was all taken away.

11 Q. Okay.

12 A. Anything that was in the vicinity of the substance we
13 take away. We don't want that stuff laying around on the
14 street so that little kids could get their hands on it.

15 We take all of that away for the safety of the public
16 in the area.

17 Q. How long does it normally take to deal with hazardous
18 material from a meth lab? How long does the process nor-
19 mally take?

20 Well, it depends upon the size of what you're dealing
21 with. In a mobile lab we use a different process.

22 A. How long did it take you in this case?

23 A. It was somewhere between fifteen to thirty or forty-
24 five minutes. It wasn't a long time.

25 Q. When you get called to a meth lab, what is it that

D. RUSHER ON DIRECT

1 you generally do?

2 A. Well, first is the safety factor. We don't want that
3 laying around, as I said. We don't want someone finding
4 it and re-using it to make something else.

5 The method is not for publication generally but basic-
6 ally we are responsible for getting it transferred for SLED for
7 their requirements.

8 It goes to somewhere in West Virginia and then event-
9 ually it goes to a facility in Cincinnati, Ohio, for incin-
10 eration there.

11 Q. Thank you. Please answer any questions the Defendant
12 may have for you.

13 A. Yes, sir.

14 CROSS EXAMINATION

15 BY MR. SIMMONS:

16 Q. Do you have clothing that you take off of individuals
17 that you say make up hazardous material?

18 A. No, we don't.

19 Q. You don't do that, do you?

20 A. No. We dispose of anything that is a hazard or that
21 is contaminated, but we don't take clothing. The individ-
22 ual is taken away.

23 Q. If something may be contaminated you take it and you
24 actually destroy it. Is that correct?

25 A. That's correct.

D. RUSHER ON CROSS

1 Q. Thank you.

2 A. Yes, sir.

3 THE COURT: Any Redirect?

4 SOLICITOR: Just briefly, Your Honor.

5 REDIRECT EXAMINATION

6 BY SOLICITOR:

7 Q. You did see this device?

8 A. Absolutely.

9 Q. And you disposed of that device?

10 A. Absolutely.

11 Q. Thank you.

12 THE COURT: You may step down, sir.

13 (Witness excused from stand)

14 THE COURT: You may call your next witness.

15 (Conference at the bench between counsel and the Court
16 off the record)

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1 SOLICITOR: Your Honor, our next witness will be an
2 investigator.

3 THE COURT: Why don't we go ahead and take a break at
4 this time. Ladies and gentlemen, I would ask you to recall
5 the instructions previously given to you. You are not to
6 discuss the case with each other or with anyone. Do not
7 allow anyone to speak to you about it. You have not yet
8 heard all of the evidence in the case.

9 Please come back at two o'clock. Thank you.

10 (Jury excused from Courtroom)

11 (Discussion between counsel and the Court concerning
12 scheduling of witnesses off the record)

13 (Court stood in recess for the lunch period, after
14 which the matter was resumed)

15 THE COURT: Anything from either side before we bring
16 the jury back?

17 SOLICITOR: Nothing from the State.

18 MR. SIMMONS: Nothing from the Defense.

19 THE COURT: Please ask our jury to come in.

20 (Jury returned to the Courtroom)

21 THE COURT: You may call your next witness.

22 SOLICITOR: Your Honor, at this time the State calls
23 Allison Rikard.

24 ALLISON RIKARD, being duly
25 sworn, testified as follows:

A. RIKARD ON DIRECT

1 CLERK: Please state your name for the record and
2 spell your last name.

3 witness: Allison Rikard, R I K A R D.

4 DIRECT EXAMINATION

5 BY SOLICITOR:

6 Q. Ms. Rikard, where are you employed at this time?

7 A. I am currently an investigator for federal investiga-
8 tion for security experts.

9 Q. For federal security?

10 A. Yes, sir. Correct.

11 Q. Were you formerly with the Sheriff's Office?

12 A. Yes.

13 Q. You used to work for the Sheriff's Department?

14 A. I did.

15 Q. How long did you work for the Sheriff's Department?

16 A. Approximately seven years.

17 Q. As a police officer?

18 A. Yes.

19 Q. Describe for the jury approximately when you left?

20 A. February. February of 2014.

21 Q. So a few months?

22 A. Yes.

23 Q. Back in November of 2014 what were you doing?

24 A. I was a narcotics investigator and specifically I was
25 working methamphetamine investigations.

A. RIKARD ON DIRECT

1 Q. How long had you been working on methamphetamine in-
2 vestigations at the time of this occurrence?

3 A. At the time of this incident I had been certified for
4 four years at that time.

5 Q. And when you say certified, what do you mean?

6 A. By SLED and with a private company in a forty hour
7 class certifying investigators on what to look for and how
8 to deal with meth, how it is processed, how to dispose of it.

9 Q. Okay, and after that certification did you have an
10 opportunity to investigate meth or a math lab before or to
11 participate in such an investigation?

12 A. Absolutely. Over a four year period in that position
13 many times.

14 Q. So you had been trained how to recognize a meth lab?

15 A. Absolutely.

16 Q. And to process these labs?

17 A. Yes, sir.

18 Q. And you have investigated those matters? Experienced it?

19 A. Yes, sir.

20 SOLICITOR: Your Honor, at this time the State would
21 move to declare the witness an expert on methamphetamine
22 labs and how to recognize meth labs.

23 MR. SIMMONS: No objection.

24 THE COURT: The witness is so qualified.

25 BY SOLICITOR:

A. RIKARD ON DIRECT

1 Q. On November second into the third were you working at
2 that time? That evening?

3 A. I was actually off duty but I was the investigator on
4 call.

5 Q. And when you say on call, that means what?

6 A. That means that whenever a lab is located in Richland
7 County I am the one called to the scene.

8 Q. And this was in the evening time?

9 A. Correct. I was notified that evening.

10 Q. And on that evening did you receive a call?

11 A. Correct.

12 Q. Please continue.

13 A. I received a call from our department where I was
14 told that . . .

15 MR. SIMMONS: Objection.

16 THE COURT: Sustained.

17 BY SOLICITOR:

18 Q. Based upon that call what did you do?

19 A. I responded to the intersection of Lavery Boulevard
20 and Columbiana Drive in response to a possible meth lab.

21 Q. And when you show up there -- do you just show up?
22 What do you do when you show up?

23 A. We are required to wear HazMat suits and to call the
24 fire department to respond as well.

25 Q. Okay, and when you arrived on the scene what did you

A. RIKARD ON DIRECT

1 do there?

2 A. . .

3 Q. What did you do when you arrived?

4 A. I received a briefing and an assessment concerning what
5 other officers had seen and collected, and I was concerned
6 with safety. The Fire Department was contacted. I had to
7 see they had their items that were necessary.

8 Q. Not what they said but was what you did based on what
9 they told you?

10 A. That's right. I looked at a bag of pills and drugs
11 they had collected off a subject who was there on the
12 scene. I secured the drugs.

13 Q. Okay.

14 A. After that point I put the pills and drugs in one of
15 our evidence bags in my trunk.

16 Q. Was the trunk secured?

17 A. Yes, it was.

18 Q. And after you secured the drugs what did you proceed
19 to do then?

20 A. I approached the vehicle after speaking with the of-
21 ficers and after putting on Hazmat attire. When you are in
22 the vicinity of meth you have to do that, be completely en-
23 capsulated.

24 Q. After you put on the suits, what did you all do at
25 that time?

A. RIKARD ON DIRECT

1 A. That's when we approached the vehicle that had been
2 pulled over, a blue truck. At this point after the door
3 was opened I observed a plastic two liter bottle that had
4 some sludge on the bottom and there were beads on the top.

5 All of this indicated that it was a meth lab, as I
6 had seen before.

7 Q. What are the beads you saw?

8 A. Copper beads that you typically see when meth is being
9 processed, with the sludge on the bottom of it. There was
10 white sludge on the bottom, and the white has a clear li-
11 quid in it. Then there are tiny little flakes. (Portion
12 inaudible)

13 Q. And after seeing what you saw there in the car?

14 A. It was vigorously boiling. A lot of people refer to
15 it as cooking. It contained bubbles which is typical in
16 the manufacturing process.

17 When I arrived it was still rolling, still boiling in
18 the bottle. It is pretty rare to find a bottle in that
19 stage of processing. That only occurs for about twenty-
20 five minutes or so.

21 Q. As you observed the bottle boiling, what did you do
22 next?

23 A. In that particular situation there is not much to do
24 because it is so volatile. It is a type of gas. It is a
25 very dangerous situation.

A. RIKARD ON DIRECT

1 we had contacted the fire department because
2 there is a danger of fire even though it is only on two
3 liter bottle. The fire hazard is tremendous, so you need
4 to stay a safe distance away. To be close at that point
5 is not safe. We moved to a safe distance until that boil-
6 ing action had died down.

7 Q. What does that action in the bottle look like?

8 A. It's actually like a tornado. When water is added to
9 the contents of the bottle and hydrogen peroxide the reac-
10 tion starts.

11 Q. What is in the bottle the water is added to?

12 A. Several things may be. Sodium nitrate generally and
13 (inaudible) are added to the bottle.

14 Q. So you wait until the action in the bottle dies away
15 and then you can process it?

16 A. Yes, after the reaction calms down.

17 Q. And after that time comes, what are you doing next?

18 A. After the bottle was taken from the vehicle there was
19 a search of the vehicle at which time several items were
20 taken out. There are several items in the car, all con-
21 sistent with this type of methamphetamine.

22 Q. Let me show you what's been marked as State's Exhibit
23 Number 2 and State's Exhibit Number 13, and ask you if
24 you recognize what these are?

25 A. I do.

A. RIKARD ON DIRECT

1 Q. What are they?

2 A. These are photographs I took on the scene that night.

3 These are -- I took one of the bottle after the action or
4 the boiling had stopped in the vehicle.

5 Q. You took these pictures after the action stopped and
6 a picture in the vehicle?

7 Q. This is the bottle that you processed?

8 A. Yes.

9 SOLICITOR: Your Honor, at this time the State would
10 move to introduce State's Exhibit 2 and State's Exhibit
11 Number 13.

12 MR. SIMMONS: No objection.

13 THE COURT: Admitted without objection.

14 (Photos of vehicle and bottle in vehicle admitted with-
15 out objection as State's Exhibits 2 and 13 in evidence)

16 SOLICITOR: Move to publish to the jury.

17 THE COURT: All right.

18 (Exhibits 2 and 13 shown to the jury)

19 BY SOLICITOR:

20 Q. And as you processed the car were you continuing to
21 take pictures as well as you are processing?

22 A. Yes.

23 Q. Showing you what's been marked as State's Exhibit 7.
24 Do you recognize what that is?

25 A. I do.

A. RIKARD ON DIRECT

1 Q. What is that?

2 A. It's a photo inside the vehicle showing filters with
3 white powder residue and paper towels.

4 Q. Are those things used in the process of the manufacture
5 of meth?

6 A. Yes.

7 Q. How are they used?

8 A. They use the filters or coffee filters to extract the
9 methamphetamine in the final stages.

10 SOLICITOR: Move to admit State's Exhibit 7.

11 MR. SIMMONS: No objection.

12 THE COURT: Admitted without objection.

13 (Photo inside vehicle admitted in evidence without ob-
14 jection as State's Exhibit 7)

15 BY SOLICITOR:

16 SOLICITOR: If I can go ahead and publish it to the
17 jury.

18 Q. , Showing you State's Exhibit 8. Do you recognize what
19 that is?

20 A. Yes. This is a cooler that was found in the back seat
21 of the vehicle including several coffee filters, labels,
22 plastic tubing, several other objects, plastic baggies.

23 Q. Now, do the items found in the vehicle include a pre-
24 scription bottle with the prescription ripped off?

25 A. Yes.

A. RIKARD ON DIRECT

1 Q. Are the items you found used in the manufacture of
2 methamphetamine?

3 A. There were several items along with other drugs in the
4 vehicle that are commonly associated with methamphetamine,
5 yes.

6 SOLICITOR: At this time the State would move to ad-
7 mit State's Exhibit 8.

8 MR. SIMMONS: No objection.

9 THE COURT: Admitted without objection.

10 (State's Exhibit 8 admitted without objection into
11 evidence)

12 BY SOLICITOR:

13 Q. I show you what's been marked as State's Exhibit Num-
14 ber 6. Do you recognize what this is?

15 A. I do.

16 Q. What is that?

17 A. This is a photograph showing a coffee filter with the
18 crystal form of meth, the second stage to produce meth.

19 SOLICITOR: Move to introduce State's Exhibit 6.

20 MR. SIMMONS: No objection.

21 THE COURT: Admitted without objection.

22 (Photograph admitted without objection as State's
23 Exhibit 6 in evidence)

24 (Photographs being shown to the jury)

25 Q. Showing you what's marked State's Exhibit Number 9

A. RIKARD ON DIRECT

1 and 3, describe what those are and where you got them?

2 A. Yes, these are syringes and appear to be used. One
3 actually has a small amount of blood and was sent to our
4 lab for testing.

5 SOLICITOR: Your Honor, we would seek to introduce
6 Number 9 and 3.

7 MR. SIMMONS: No objection.

8 THE COURT: Admitted without objection.

9 (State's Exhibits 9 and 3, photos of syringes found
10 in truck admitted without objection in evidence)

11 BY SOLICITOR:

12 Q. I show you what has been marked as State's Exhibit
13 Number 11. Describe what that is?

14 A. This was an item we found in the passenger door com-
15 partment. It had some clear liquid and it was sent to our
16 laboratory.

17 Q. And that was found in the passenger side of the ve-
18 hicle?

19 A. The passenger side door.

20 SOLICITOR: Your Honor, the State would move State's
21 Exhibit 11 in evidence.

22 MR. SIMMONS: No objection.

23 THE COURT: Admitted without objection.

24 (Photo admitted without objection as State's Exhibit
25 11)

A. KINARD ON DIRECT

1 BY SOLICITOR:

2 Q. And would you describe what State's Exhibit Number 10
3 is?

4 A. Yes, this was a pill grinder that was located in the
5 vehicle.

6 Q. And that was used to grind the pills in making the
7 meth?

8 A. Yes.

9 SOLICITOR: Move State's Exhibit 10 in evidence.

10 MR. SIMMONS: No objection.

11 THE COURT: Admitted without objection.

12 (State's Exhibit 10 admitted in evidence without
13 objection)

14 Q. State's Exhibit 9, what is that?

15 A. This is another of the same sort of thing that was lo-
16 cated on the passenger side.

17 SOLICITOR: Move State's Exhibit 9 in evidence.

18 MR. SIMMONS: No objection.

19 THE COURT: Admitted without objection.

20 (State's Exhibit 9 admitted in evidence without ob-
21 jection)

22 Q. So you processed this vehicle and these items were
23 found?

24 A. Yes.

25 Q. And what did you do with these items that were found?

A. RIKARD ON DIRECT

1 A. These items were all collected and put into evidence
2 bags. When you process a scene, you have to make sure all
3 the materials can be collected. There are some items we
4 are not allowed to take into our evidence room so they are
5 recovered differently.

6 Q. Why are some items not allowed to be put into the evi-
7 dence room?

8 A. Because of the hazardous nature of the items and poten-
9 tial for explosiveness. So they are recovered by another
10 agency, HazMat. They have procedures for those.

11 Q. So they are not taken back to your evidence room?

12 A. No, those items are not.

13 Q. Okay. Going back to State's Exhibit Number 13, you
14 have said that it was bubbling when you saw it or boiling?

15 A. Yes.

16 SOLICITOR: I apologize, Your Honor. May I approach
17 the witness?

18 THE COURT: Yes.

19 Q. What did you do with this bottle then?

20 A. The actual reaction had started to occur and it still--
21 once we opened it, the reaction had started to occur and it
22 still had a small bubbling effect down here.

23 The copper beads you could see on the top was actually
24 meth in boiling form so at this point we took a sample of
25 the bottle, trying to get some of each of the layers, the

A. RIKARD ON DIRECT

1 sludge, the clear liquid, the copper beads to get the full
2 effect.

3 Q. Sure. How do you get it out of the bottle? Do you
4 pour it out?

5 A. No, you use a long device to extract it.

6 Q. Okay, and you did put it in a vial?

7 A. A glass vial.

8 Q. And that is what you took into evidence as to what
9 was inside this bottle?

10 A. Yes.

11 Q. And what happened to the rest of the bottle?

12 A. It was recovered by HazMat.

13 Q. Let me show you what's been marked as State's Exhibit
14 Number 12. Can you tell me what that is?

15 A. That is all of the items that we actually submitted
16 to our evidence room along with other items that were col-
17 lected from the truck.

18 Q. And those items were found in the vehicle?

19 A. They were.

20 SOLICITOR: At this time the State would move to in-
21 troduce State's Exhibit Number 12 in evidence.

22 MR. SIMMONS: No objection.

23 THE COURT: Admitted.

24 (Photo of items taken from bottle admitted in evidence
25 without objection as State's Exhibit 12)

A. RIKARD ON DIRECT

1 BY SOLICITOR:

2 Q. Let me show you what's been marked as State's Exhibit
3 Number 26. Can you describe what that is?

4 A. Yes, this is the glass jar located in the back seat
5 of the vehicle.

6 Q. Is that the one that is shown in picture that is Ex-
7 hibit 6?

8 A. Yes.

9 Q. And is that consistent with the manufacture of meth?

10 A. It is.

11 Q. Thank you.

12 SOLICITOR: Your Honor, the State would move to admit
13 State's Exhibit 26 in evidence.

14 MR. SIMMONS: No objection.

15 THE COURT: Admitted.

16 (Glass jar from vehicle admitted in evidence without
17 objection as State's Exhibit 26)

18 Q. Showing you what's marked as State's Exhibit 29,
19 can you tell us what that is? Do you recognize that?

20 A. I do.

21 Q. What is it?

22 A. This is a prescription or pill bottle that was in the
23 vehicle with the other items.

24 Q. And you said it had no prescription, but did you find
25 any other prescriptions?

A. RIKARD ON DIRECT

1 A. No.

2 Q. Either in this vehicle or on the Defendant?

3 A. No, although such bottles can normally be found in
4 these situations.

5 SOLICITOR: We would move State's 29 into evidence.

6 MR. SIMMONS: No objection, Your Honor.

7 THE COURT: Admitted.

8 (Pill bottle entered in evidence without objection as
9 State's Exhibit 29)

10 BY SOLICITOR:

11 Q. Showing you what's been marked as State's Exhibit
12 Number 31 and ask can you recognize that?

13 A. Yes.

14 Q. What is it?

15 A. It's a pill identifier. It was located with other items.

16 SOLICITOR: Move to admit State's 31 in evidence.

17 MR. SIMMONS: No objection.

18 THE COURT: Admitted.

19 Q. And is that shown in the picture of items located in
20 the vehicle?

21 A. Yes.

22 (Brief pause. Colloquy between counsel and Court Re-
23 porter)

24 Q. Does that show a classification of pills?

25 A. It does. It has actual different drug names and the

A. RIKARD ON DIRECT

1 appearance of the different pills.

2 Q. So it would show what different pills are that some-
3 one may come across?

4 A. Correct.

5 Q. It would show someone what the pills are?

6 A. Correct, and it is commonly used by street dealers in
7 the drug trade.

8 Q. And did you find this item among items you found in
9 the truck?

10 A. I did, along with some pills that were also found in
11 the truck.

12 Q. So after processing the truck, getting the bottle,
13 what was next? I'm sorry. To go to the next item, I'd
14 show you what's been marked as State's Exhibit Number 28.
15 Do you recognize what that is?

16 A. Yes.

17 Q. What is it?

18 A. A bottle of crystal drain cleaner with some of the
19 white sludge you saw.

20 Q. Is this used in the manufacture of meth?

21 A. Yes.

22 Q. And is it also shown in the picture that is Number
23 12?

24 A. Yes..

25 Q. With items found in the truck?

193

A. RIKARD ON DIRECT

1 A. Yes.

2 SOLICITOR: Move to admit State's Exhibit 28 in evi-
3 dence.

4 MR. SIMMONS: No objection, Your Honor.

5 THE COURT: It's admitted.

6 (Bottle with contents admitted in evidence without
7 objection as State's Exhibit 28)

8 BY SOLICITOR:

9 Q. I show you what's been marked as State's Exhibit 32.
10 Do you recognize what these are?

11 A. Yes.

12 Q. What are they?

13 A. Batteries.

14 Q. Where were these found?

15 A. In the truck. In the glove compartment.

16 Q. And are these in the photograph pointed out before
17 that is State's Exhibit Number 12?

18 A. Yes.

19 Q. Tell the jury what these are used for in the manufac-
20 ture of methamphetamine?

21 A. (Inaudible) used with bolt cutters to get it to powder.

22 Q. And they are used in the manufacture of meth?

23 A. Yes.

24 Q. And let me show you State's Exhibit 30. Do you recog-
25 this?

A. RIKARD ON DIRECT

1 A. Yes.

2 Q. What are these?

3 A. These are bolt cutters that were in the glove compart-
4 ment. Bolt cutters or wire cutters.

5 Q. Is that the same area as the batteries?

6 A. Yes.

7 Q. Could they be used to open up State's Exhibit 32?

8 A. Yes.

9 SOLICITOR: Your Honor, the State would move to intro-
10 duce State's Exhibits 30 and 32.

11 THE COURT: Any objection?

12 MR. SIMMONS: No, Your Honor, but they are actually
13 called (inaudible).

14 SOLICITOR: Called what?

15 MR. SIMMONS: Company appliances.

16 SOLICITOR: Thank you.

17 THE COURT: Admitted.

18 (State's Exhibits 30 and 32 admitted in evidence with-
19 out objection)

20 BY SOLICITOR:

21 Q. Do you recognize State's Exhibit 33?

22 A. I do.

23 Q. What are they?

24 A. Coffee filters. These are commonly used in multi-
25 ple stages through out the meth cooking in filtering or

A. RIKARD ON DIRECT

1 straining the substance.

2 Q. And, again, are they pictured in State's Exhibit 12?

3 A. Yes.

4 SOLICITOR: Your Honor, the State would move to admit
5 State's Exhibit 33 into evidence.

6 MR. SIMMONS: No objection.

7 THE COURT: Admitted.

8 (Coffee filters admitted without objection as State's
9 Exhibit 33 in evidence)

10 SOLICITOR: Thank you, Your Honor.

11 BY SOLICITOR:

12 Q. So basically inside that cooler was a kit to make meth,
13 correct?

14 A. Yes.

15 Q. And so what did you do after processing the car?

16 A. The HazMat recovery company responded to the scene as
17 they had been notified and they took the more hazardous
18 stuff, more toxic stuff.

19 Q. Okay.

20 A. I also finished with the car and it was taken. I also
21 identified Mr. Hattar and the CoDefendant and had them
22 checked out before they were taken to jail. A Deputy took
23 them to the jail and they were notified of the hazardous
24 nature of their charges so that they were put in isolation
25 and given showers and clean clothes.

A. RIKARD ON DIRECT

1 Q. And did you take their clothes?

2 A. Yes.

3 Q. And when HazMat took the bottle and stuff from the
4 scene, that was after you had already taken your samples?

5 A. Yes.

6 Q. And did you take all of the evidence that was recovered
7 in the case other than what HazMat took?

8 A. I did.

9 Q. So you got your sample and you got the evidence which
10 you have stated. What did you do with it then?

11 A. All the evidence was put into boxes and bags and taken
12 to the evidence room. After that I spoke with Mr. Hattar.

13 Q. What did you do after that?

14 A. That's when I started the paperwork involved with the
15 case.

16 Q. So at some point you took the evidence you had recov-
17 ered to the Sheriff's Department?

18 A. I did.

19 Q. Describe the process of that?

20 A. Yes. All of the evidence had been put into boxes and
21 bags and sealed after they had all been laid out.

22 Q. So all of that was sealed?

23 A. Yes. Everything.

24 Q. Did you identify each thing to show what they were?

25 A. Yes.

A. RIKARD ON DIRECT

1 Q. How did you do that?

2 A. Specifically, the things were separated into individ-
3 ual envelopes. The items that had to be tested were kept
4 together until they were submitted and returned.

5 Q. And did you also do that with the pills?

6 A. I did.

7 Q. Let me show you what's marked as State's Exhibit 15.
8 Do you recognize what that is?

9 A. I do.

10 Q. And were these submitted into evidence as well?

11 A. Yes.

12 SOLICITOR: I would move to admit State's Exhibit
13 15 into evidence.

14 MR. SIMMONS: Object, Your Honor. No foundation.

15 BY SOLICITOR:

16 Q. Do you recall which officer you received this from?

17 A. Yes, from Officer Ellison gave them to me in a brown
18 paper bag which contained all the items that were collected
19 from Mr. Hattar.

20 MR. SIMMONS: No objection, Your Honor.

21 THE COURT: Admitted.

22 (State's Exhibit 15 admitted without objection in
23 evidence, photograph of pills)

24 Q. Showing you what's marked as State's Exhibit 18. Do
25 you recognize what these are?

A. RIKARD ON DIRECT

1 A. I do. Another photograph of the pills given to me by
2 Officer Ellison.

3 MR. SIMMONS: No objection.

4 THE COURT: Admitted.

5 SOLICITOR: Thank you.

6 (Photograph admitted in evidence without objection as
7 State's Exhibit 18)

8 BY SOLICITOR:

9 Q. I show you what's been marked State's Exhibit Number
10 16. Do you recognize what that is?

11 A. A photograph of a crystal-like substance.

12 SOLICITOR: Move to admit State's Exhibit 16.

13 MR. SIMMONS: No objection.
THE COURT: Admitted, without objection.

14 (Photograph admitted in evidence without objection as
15 State's Exhibit 16.

16 Q. I show you what's marked State's Exhibit 17. Do you
17 recognize what at is?

18 A. Yes, it's a photograph of white powder substance.

19 SOLICITOR: Move to admit State's 17.

20 MR. SIMMONS: No objection.

21 THE COURT: Admitted.

22 (Photograph admitted in evidence without objection as
23 State's Exhibit 17)

24 Q. And State's Exhibit 1, can you tell us what that is?

25 A. It is an overview of all the drugs that were submitted

A. RIKARD ON DIRECT

1 after being collected. Given to me by Officer Ellison.

2 SOLICITOR: Move State's Exhibit 1 into evidence.

3 MR. SIMMONS: No objection.

4 THE COURT: Admitted.

5 SOLICITOR: Thank you, Your Honor.

6 (Photograph of drugs admitted in evidence without ob-
7 jection as State's Exhibit 1)

8 BY SOLICITOR:

9 Q. Showing you State's Exhibit Number 14.

10 A. Yes, these are plastic bags containing white powder
11 substance. They were packaged in a way drugs usually are
12 packaged for distribution.

13 Q. In a way that would normally mean they were for sale
14 or distribution?

15 A. Yes.

16 SOLICITOR: Move into evidence State's Exhibit 14.

17 MR. SIMMONS: No objection.

18 THE COURT: Admitted.

19 (Plastic bags admitted into evidence as State's Ex-
20 hibit 14 without objection)

21 Q. And when you submitted these plastic bags into evi-
22 dence, how were they submitted? How were the drugs . .

23 A. They were in evidence bags or placed in evidence bags.

24 Q. When they were put in evidence bags tell us what you
25 did?..

A. RIKARD ON DIRECT

1 A. All the drugs were individually packaged in separate
2 envelopes, sealed and then placed into the Richland County
3 evidence bags to be sent to the lab for testing.

4 Q. You say sealed but is that how it was sealed?

5 A. It is not sealed the same way by the lab.

6 Q. But you put them in sealed bags which were taken to
7 the lab for testing?

8 A. Yes.

9 Q. Did you alter the drugs, mess with the drugs, change
10 the drugs in any way whatsoever before you sealed them?

11 A. I did not.

12 Q. Do you recognize what this is?

13 A. Yes, this is the bag it was sealed in after testing.

14 SOLICITOR: Your Honor, may I take off my jacket?

15 THE COURT: Yes.

16 SOLICITOR: Thank you.

17 BY SOLICITOR:

18 Q. So the bag is sealed in some way after testing?

19 A. Yes.

20 Q. I show you what is marked State's Exhibit Number 35.

21 Do you recognize what this is?

22 A. I do. This is the original evidence bag that I placed
23 all of the drugs in.

24 Q. And this is how it was submitted to evidence?

25 A. Yes.

A. RIKARD ON DIRECT

1 SOLICITOR: Your Honor, at this time I would move to
2 admit State's Exhibit 35.

3 MR. SIMMONS: Your Honor, I'd like to take a look at
4 it.

5 (Brief pause)

6 MR. SIMMONS: No objection.

7 THE COURT: Admitted.

8 (Original evidence bag entered without objection in
9 evidence as State's Exhibit 35)

10 BY SOLICITOR:

11 Q. I show you what's marked as State's Exhibit 36. Do
12 you recognize what this is?

13 A. I do. This was one of the envelopes that I submit-
14 ted for testing. It was burned when it was collected and
15 it was tested by the lab.

16 Q. And is that what you pointed out in State's Exhibit
17 11?

18 A. Yes.

19 Q. That was found at the door of the passenger side?

20 A. Yes.

21 Q. All right, I show you what's been marked as State's
22 Exhibit Number 37. Do you recognize what this is?

23 A. I do.

24 Q. What is it?

25 A. Syringes that were found in the vehicle in the pocket

A. RIKARD ON DIRECT

1 of the door.

2 Q. And you recovered this from the car as shown in State's
3 Exhibit 3 and State's Exhibit 5?

4 A. Yes.

5 SOLICITOR: Your Honor, I think we have introduced -- I
6 would move to introduce State's Exhibits 36 and 37.

7 MR. SIMMONS: No objection.

8 THE COURT: Admitted.

9 BY SOLICITOR

10 Q. I show you what's been marked as State's Exhibit 38.
11 Do you recognize what that is?

12 A. I recognize it as bags of light brown powder, the ac-
13 tual bags the powder was in when recovered.

14 Q. And was that shown in Exhibit 14?

15 A. Yes.

16 Q. And that would be consistent with the bags as they were
17 at the time?

18 A. Correct.

19 Q. And is that unusual or something you have seen before?

20 A. It is a certain brand. Suppliers put their brand on
21 heroin.

22 Q. So that is a brand of heroin?

23 A. Yes.

24 SOLICITOR: Move to admit State's Exhibit 38.

25 MR. SIMMONS: No objection.

A. RIKARD ON DIRECT

1 THE COURT: Admitted.

2 (State's Exhibit 38 admitted without objection, being
3 bags of powder)

4 BY SOLICITOR:

5 Q. I show you what's marked State's Exhibit 39. Do you
6 recognize what those are?

7 A. Yes, they are light green pills, approximately four-
8 teen in count, taken from the Defendant. Some are partial.

9 Q. That's what you received from Officer Ellison?

10 A. Right. I did.

11 Q. And is this what's shown in State's Exhibit 15?

12 A. It is.

13 SOLICITOR: Move State's Exhibit 39 in evidence.

14 MR. SIMMONS: No objection.

15 THE COURT: Admitted.

16 (State's Exhibit 39 admitted without objection)

17 Q. And I show you State's Exhibit 40. Do you recognize
18 what that is?

19 A. I do.

20 Q. What is State's Exhibit 40?

21 A. A green pill.

22 SOLICITOR: Move State's Exhibit 40 in evidence.

23 MR. SIMMONS: No objection.

24 THE COURT: Admitted.

25 (State's Exhibit 40 admitted without objection)

A. RIKARD ON DIRECT

1 BY SOLICITOR:

2 Q. Showing you State's Exhibit 41. Do you remember what
3 that is?

4 A. Five white pills.

5 SOLICITOR: Move into evidence State's 41.

6 MR. SIMMONS: No objection.

7 THE COURT: Admitted.

8 (State's Exhibit 41 admitted without objection)

9 Q. Let me ask you if those are in the same condition
10 as when you submitted them?

11 A. They are not, from testing.

12 Q. Showing you what's marked State's Exhibit 42. Do you
13 recognize what that is?

14 A. These are two blue pills that I received from Ellison
15 again. One is a partial pill.

16 SOLICITOR: At this time the State would move to ad-
17 mit State's Exhibit 42.

18 MR. SIMMONS: No objection.

19 THE COURT: Admitted.

20 (State's Exhibit 42 admitted in evidence without ob-
21 jection)

22 Q. Showing you State's Exhibit 43. Do you recognize
23 what that is?

24 A. Several bags containing a white powder substance.

25 Q. Are those the items that were shown in State's Exhibit

A. RIKARD ON DIRECT

1 Numbers 17 and 16?

2 A. Yes.

3 Q. And which is what you believe to be methamphetamine,
4 correct?

5 A. Yes.

6 SOLICITOR: Move to admit State's Exhibit 43.

7 MR. SIMMONS: No objection.

8 THE COURT: Admitted.

9 (State's Exhibit 43 admitted without objection)

10 BY SOLICITOR:

11 Q. Showing you what's been marked as State's Exhibit 44.

12 Do you recognize what this is?

13 A. This is a cut of plastic tubing that was collected at
14 the same time that had an amount of white powder inside of
15 it.

16 Q. Have you seen this type of tubing before?

17 A. That is what we see quite often, yes.

18 Q. How is it used? This type of tubing is consistent
19 with what?

20 A. Consistent with many types of meth manufacture.

21 Q. How is it used?

22 A. It is used to gas the liquid in the two liter bottle
23 into meth in the boiling form. When the liquid is taken
24 out of the two liter bottle in the second stage, what they
25 call gasing it. They put sulphuric acid and sulphur in

A. RIKARD ON DIRECT

1 there and cook it. That is how the meth actually gets in
2 the form that you just saw.

3 Q. Again showing you State's Exhibit 45. Do you recog-
4 nize that?

5 A. I do.. This is the little pouch that was found which
6 contained various materials that were collected.

7 SOLICITOR: The State would move to admit State's Ex-
8 hibits 44 and 45 into evidence.

9 MR. SIMMONS: No objection.

10 THE COURT: Admitted.

11 (State's Exhibits 44 and 45 admitted into evidence
12 without objection)

13 BY SOLICITOR:

14 Q. Showing you what is marked State's Exhibit 45, do you
15 recognized that? That would be 46.

16 A. This is a plastic bag containing a white rock like sub-
17 stance.

18 SOLICITOR: Move into evidence State's Exhibit 46.

19 MR. SIMMONS: No objection..

20 THE COURT: Admitted.

21 (State's Exhibit 45 admitted without objection)

22 Q. Those are all items that you submitted, controlled sub-
23 stances, the pills, the meth, the powder; all of that you
24 received from Ellison. Correct?

25 A. The pills and the finished meth, yes. The other items

A. RIKARD ON DIRECT

1 I collected from the vehicle.

2 Q. You collected the syringes, Number 37. Correct?

3 A. Yes.

4 Q. And as a part of your training, are you trained in
5 how to make meth, how this works?

6 A. I am.

7 Q. Can you explain to the jury exactly what was happen-
8 ing that day in that bottle?

9 A. Sure. Basically, meth is referred to as cooked and
10 the way it is done does not require outside heat. Items
11 are placed in the two liter bottle. Items that are gen-
12 erally placed in the bottle include ammonium nitrate. It
13 has sudafed of some sort, sulphur generally, (Portion inaud-
14 ible), and all of these are confined in this one two liter
15 bottle.

16 Then a small amount of water and hydrogen peroxide is
17 put in there, and that initiates this boiling action and
18 through that it is converted into methamphetamine.

19 Once the meth is produced it sits on top of the bottle,
20 on top of liquid in the bottle, and comes out in copper
21 beads that is almost like marbles.

22 That reaction normally occurs in forty-five minutes
23 to an hour.

24 Q. And that is shown in State's Exhibit 2, the bottle
25 you took a picture of?

A. RIKARD ON DIRECT

1 A. Yes.

2 Q. Do you see copper beads in this bottle?

3 A. They are on top of the liquid layer.

4 Q. And what do they call it?

5 A. Meth oil.

6 Q. And then what?

7 A. At that point the liquid is all extracted from the
8 bottle. That's the first phase.

9 The second phase is when they start gasing it. You
10 mix surphuric or myriatic acid with sale and attach the
11 plastic hose to it and that is lowered into the liquid
12 portion in the two liter bottle.

13 Q. So you use -- you mix it with salt, common salt?

14 A. Correct.

15 Q. Did you find in the items in State's Exhibit 12 some
16 common salt?

17 A. Yes, two bottles of salt.

18 Q. Okay, please continue.

19 A. At that point the meth is extracted from the liquid,
20 the meth at that point turning into a salt form that can be
21 absorbed . .

22 Q. So the vapors come up through the gas?

23 A. Correct.

24 Q. And that makes the meth?

25 A. It does. It also places powder there on the bottom in

A. RIKARD ON DIRECT

1 cooked form.

2 Q. Then what occurs?

3 A. Generally, that solution is obtained, the powder on
4 the bottom of it.

5 Q. And then what occurs?

6 A. It generally is mixed with epsom salt and acetone
7 which makes it cleaner and it is turned into crystal form
8 at times which is called crystal meth rather than the pow-
9 der form.

10 Q. Okay. Is that shown in State's Exhibits 16 and 17?

11 Is that the forms it comes in? Not saying that is crystal
12 meth but is that a form like it?

13 A. Yes. It is actually a crystal form of meth and a salt
14 like powder form of meth. The only difference is that the
15 powder form can be smoked or it can be inhaled. It often
16 is injected. The crystal form is smoked.

17 Q. And that is pictured in State's Exhibit 43. Is that
18 correct?

19 A. Correct.

20 Q. And when you say injected you are talking about what
21 is shown in State's Exhibit 37?

22 A. Yes.

23 Q. And shown in State's Exhibit 3 and 9?

24 A. Yes.

25 Q. Did you also along with these items submit a sample

A. RIKARD ON DIRECT

1 that you took from the bottle itself?

2 A. Correct. The actual liquid or actual water from the
3 bottle.

4 SOLICITOR: Beg the Court's indulgence.

5 (Brief pause)

6 MR. SIMMONS: May we approach, Your Honor?

7 THE COURT: Yes..

8 (Conference at the bench between counsel and the
9 Court off the record)

10 THE COURT: Ladies and gentlemen, this would be a good
11 to take our break for the evening. I want to remind you
12 of the directions I've made to you, that you are not to
13 discuss this matter among yourselves.

14 Do not allow anyone to discuss it with you, and do
15 not begin any deliberations as the evidence has not been
16 completed.

17 If anyone approaches you and wishes to discuss the
18 matter with you, tell them you are on the jury and you can-
19 not discuss the case. Then please report the matter as
20 soon as possible.

21 I ask that you not listen to any conversations in the
22 hallway as you leave or return. You have to make your
23 decision based upon the evidence you hear in this Court-
24 room and not based upon anything you may overhear.

25 I would again ask that you not do any investigation

1 concerning anything you may have heard in this matter and
2 do not do any research on the internet or any other source
3 there might be.

4 You will have to base your decision as I said on the
5 evidence you hear in this Courtroom and any exhibits that
6 are admitted.

7 I want to make sure your verdict is based on what you
8 hear and see here and not on any discussions with anyone
9 or any other source. We will complete the testimony tomor-
10 row.

11 Ladies and gentlemen, I ask that you return to your
12 jury room at nine thirty, the same jury room you were in
13 today. Nine thirty in the morning. We will continue then
14 with the trial of the case.

15 Have a good evening and we'll see you tomorrow morn-
16 ing at nine thirty.

17 (Jury excused for the evening)

18 THE COURT: Anything to take up before we break for
19 the evening?

20 SOLICITOR: No, Your Honor.

21 MR. SIMMONS: Nothing from the Defense.

22 THE COURT: Ms. Rikard, I ask that you not discuss
23 your testimony during the break with anyone, including the
24 attorneys. You may step down from the stand.

25 (Court stood in recess for the evening)

1 (The matter was continued on October 26, 2016)

2 THE COURT: Is there anything we need to take up be-
3 fore we bring in the jury?

4 SOLICITOR: Nothing from the State.

5 THE COURT: Are you ready to go?

6 MR. SIMMONS: Ready to go.

7 THE COURT: Witness Rikard resumed the witness stand.

8 THE COURT: Bring the jury in.

9 (Jury returned to the Courtroom)

10 THE COURT: Good morning, ladies and gentlemen.

11 We will continue at this time with the testimony of
12 Ms. Rikard in the trial of this particular case.

13 Mr. Simmons.

14 CROSS EXAMINATION

15 BY MR. SIMMONS:

16 Q. Now, Ms. Rikard, I show you what's been admitted as
17 State's Exhibit Number 3. I believe you testified yester-
18 day that a syringe had blood in it. Correct?

19 A. Yes. This is common with users of meth to have a
20 small amount of blood at the injection site.

21 Q. Well, actually when someone takes a shot of any kind
22 they pull back on the syringe and get a little blood no
23 matter what kind of shot it is, as a result of going into
24 a vein. Correct?

25 A. I . . .

A. RIKARD ON CROSS

1 Q. You're not familiar with that?

2 A. Not really.

3 Q. Okay. Did you all remove any of the blood from this
4 syringe to be analyzed?

5 A. I did not do that myself.

6 Q. But you were the lead investigator on this case, is
7 that correct?

8 A. I was.

9 Q. Do you know if any analysis was performed of the blood
10 on this syringe?

11 A. I'm not aware of any, no, sir.

12 Q. And if you as lead investigator you could have re-
13 quested a DNA sample from the Defendant. Is that correct?

14 A. I did not.

15 Q. You did not request a DNA sample from this Defendant,
16 did you?

17 A. No.

18 THE COURT: Could you speak a little closer into the
19 microphone? We're having trouble hearing you.

20 BY MR. SIMMONS:

21 Q. In fact, you don't know if anybody extracted any DNA
22 from either Defendant, do you?

23 A. No.

24 Q. You never saw Soleiman Hattar ingest anything, did
25 you?

A. I did not.

A. RIKARD ON CROSS

1 Q. Everything that you've testified to you you have
2 basically gathered from a police officer. Correct?

3 A. No, sir.

4 Q. Or from what you gathered in the truck?

5 A. Yes.

6 Q. Is that correct?

7 A. Correct.

8 Q. Were any of the items checked for fingerprints?

9 A. No, sir.

10 Q. So you all on that night figured that since this was
11 a truck it must belong to somebody. Correct?

12 A. Based upon the circumstances that were present at the
13 time I believe what was done was appropriate.

14 Q. Well, actually, you were in charge of obtaining the
15 arrest warrants, correct?

16 A. Correct.

17 Q. And you obtained an arrest warrant for Christian
18 Sheaaley. Is that correct?

19 A. I did.

20 Q. And he was charged with manufacturing methamphetamine,
21 is that correct?

22 A. He was.

23 Q. And do you remember what the final disposition of that
24 case was?

25 A. I don't remember.

A. RIKARD ON CROSS

1 (Brief pause)

2 BY MR. SIMMONS:

3 Q. Did you ever know what the final outcome was with re-
4 gard to Christian Shealey?

5 A. . .

6 SOLICITOR: Your Honor, I object to this.

7 MR. SIMMONS: I'm just asking for her recollection.

8 A. Did you ever know the final outcome for Christian
9 Shealey in his case?

10 A. No, sir.

11 Q. So you weren't in Court for the case against Mr.
12 Shealey?

13 A. I was not there for his case.

14 Q. You testified to what this photograph is in State's
15 Exhibit Number 14. Correct?

16 A. I did.

17 Q. You didn't?

18 A. I did.

19 Q. Okay. When is the last time you've seen this item?

20 A. Yesterday when I was testifying.

21 Q. That picture of the items?

22 A. Yes.

23 Q. Okay, and the pills and everything you testified to,
24 were they still intact?

25 A. When the items were tested there were small portions

A. RIKARD ON CROSS

1 taken and I believe I testified to that.. When they were
2 submitted for testing they were all intact, to answer your
3 question.

4 Q. So when did you submit any items for analysis?

5 A. That would have actually been I believe on the third.

6 Q. November third?

7 A. Right.

8 Q. So you only had these items in your possession for
9 less than a day, correct?

10 A. Correct.

11 Q. And then where did they go?

12 A. To our laboratory.

13 Q. Okay, and you are not over the evidence room. Cor-
14 rect?

15 A. I am not.

16 Q. And did you ever go back and look at the evidence
17 again?

18 A. I did not.

19 Q. You left the Sheriff's Department in February of 2015,
20 correct?

21 A. That's right.

22 Q. You resigned, correct?

23 A. I did.

24 Q. Did you resign for fear of being terminated?

25 A. No.

A. KINARD ON CROSS

1 SOLICITOR: Objection, Your Honor.

2 MR. SIMMONS: May we approach, Your Honor?

3 THE COURT: Yes.

4 (Conference at the bench between counsel and the Court
5 off the record)

6 BY MR. SIMMONS:

7 Q. You didn't retire from the Sheriff's Department, did
8 you?

9 A. I didn't retire.

10 Q. I have nothing further.

11 THE COURT: Any Redirect?

12 SOLICITOR: Yes, Your Honor.

13 REDIRECT EXAMINATION

14 BY SOLICITOR:

15 Q. How many years were you with the Sheriff's Office?

16 A. Seven years.

17 Q. And have you ever used DNA or asked for DNA?

18 A. I have not.

19 Q. Do you understand the purpose for using DNA on ob-
20 jects?

21 A. I do.

22 Q. So to find DNA on a filter, would that tell you where
23 it came from?

24 A. Correct.

25 Q. In this case did you know where it came from?

A. KINARD ON CROSS

1 A. We did.

2 Q. All of these drugs and the methamphetamine were re-
3 moved from the Defendant's body?

4 A. Correct.

5 Q. And the meth lab was boiling next to the Defendant's
6 feet?

7 A. Correct.

8 Q. And when asked what it was, he told the officers no
9 big deal; it's a meth lab?

10 A. Correct.

11 Q. So we're not having any problem figuring out who was
12 in possession of these items. Correct?

13 A. Correct.

14 Q. So DNA is not an issue?

15 A. No.

16 Q. No further questions.

17 THE COURT: Anything further?

18 MR. SIMMONS: No, Your Honor.

19 THE COURT: You may step down.

20 (Witness excused from stand)

21 THE COURT: You may call your next witness at this
22 time.

23 SOLICITOR: Your Honor, the State would call Melody
24 Galkinski.

25 THE COURT: Ms. Galinski.

1 MELODY GALINSKI, being duly sworn,
2 testified as follows:

3 CLERK: Please state your name and spell your last
4 name.

5 WITNESS: Melody Galinski, G A L I N S K I.

6 DIRECT EXAMINATION

7 BY SOLICITOR:

8 Q. Good morning. How are you?

9 A. I'm fine.

10 Q. Please tell the jury what you do as far as your job
11 for the Richland County Sheriff's Office?

12 A. I'm the . . .

13 THE COURT: I'm sorry. Please put the microphone up
14 closer to your face and speak into it.

15 A. I'm the evidence custody for . . .

16 REPORTER: I'm sorry.

17 A. I'm the evidence custodian for Richland County.

18 Q. And how long have you been in that capacity?

19 A. I've been in that capacity for almost two years.

20 Q. And what did you do before that?

21 A. I was an evidence technician.

22 Q. For Richland County?

23 A. Yes.

24 Q. And as evidence technician what do you do or what did
25 you do?

M. GALINSKI ON DIRECT

1 A. As an evidence technician take the property in that
2 is given us by investigators. We log it in and store it.

3 Q. You say you log it in and store it. Can you tell us
4 a little about that process? What does that mean?

5 A. We take it in and seal it in an evidence box or bag,
6 log it into our evidence system with a bar code, and then
7 store it and lock it in the evidence property section.

8 Q. And how long did you work in that capacity?

9 A. I've been in the department for three and a half years
10 and in that capacity for more than one.

11 Q. In November of 2014 where were you?

12 A. I was a technician.

13 Q. Pardon?

14 A. I was a technician for the Department.

15 Q. In the property room?

16 A. Yes.

17 Q. And do you recall on November third of 2014 receiving
18 what is marked here as State's Exhibit 35, this evidence
19 bag?

20 A. Yes, sir.

21 Q. And who did you receive that from?

22 A. I received that from Allison Rikard.

23 Q. And do you have notes to reflect that in this whole
24 process?

25 A. Yes.

M. GALINSKI ON DIRECT

1 Q. Is that what you have with you right now?

2 A. Yes.

3 Q. And you need that to refresh your memory?

4 A. Yes.

5 Q. Because you see a lot of evidence, is that correct?

6 A. Yes, hundreds of items.

7 THE COURT: I'm sorry. I'm still having difficulty
8 hearing her. If you will speak more slowly and speak up
9 louder. If I can't hear you, I'm sure the jury can't as
10 well.

11 WITNESS: Yes, maam.

12 BY SOLICITOR:

13 Q. You guys receive a lot of evidence in what you do, is
14 that correct?

15 A. Yes.

16 Q. So how do you know that you received this from Ms.
17 Rikard?

18 A. When we take an item and put it into the system it
19 shows what item we receive, the property number, and who
20 we receive it from.

21 Q. And when you got that bag you logged it into evidence,
22 is that correct?

23 A. Yes.

24 Q. And you have that listed in your log?

25 A. Yes, sir.

M. GALINSKI ON DIRECT

1 Q. Do you mind just briefly reading that?

2 A. Okay. (Portion inaudible), two cell phones -- in this bag?

3 Q. That item you have in front of you, yes, maam.

4 A. Seven bags with light brown powder, plastic tub with
5 white powder, five bags with crystal-like powder, white
6 capsule with white powder, five white pills, twenty green
7 pills, two blue pills, liquid sample from pipe, pill bottle
8 with liquid, two syringes.

9 Q. And are there numbers associated with each of those?

10 A. Item numbers?

11 Q. Yes, maam.

12 A. Four, five, six, seven, eight, nine, ten, eleven,
13 twelve different . . .

14 Q. Now, when you received all of this what did you do
15 with it?

16 A. When I receive it, I make sure that all of the inform-
17 ation that we need is on the bag such as the case number,
18 the items. I take and log it into the system and it is
19 placed in our evidence section.

20 Q. Was it sealed?

21 A. Yes. It has to be sealed when it is logged in.

22 Q. Did you tamper with it in any way?

23 A. No, sir.

24 Q. Did you follow standard procedures and protocol when
25 you received it?

M. GALINSKI ON DIRECT

1 A. Yes, sir.

2 Q. And once you received and stored it, did you have
3 anything else to do with it?

4 A. No, sir. It was placed in the evidence section.

5 Q. Thank you very much. Please answer any questions the
6 Defense Counsel may have.

7 MR. SIMMONS: No questions.

8 THE COURT: You may step down.

9 (Witness excused from stand)

10 SOLICITOR: Your Honor, the State calls Christine
11 Barrickman.

12 CHRISTINE BARRICKMAN, being duly
13 sworn, testified as follows:

14 CLERK: Please state your name and spell our last
15 name.

16 WITNESS: My name is Christine Barrickman, B A R R I
17 C K M A N.

18 DIRECT EXAMINATION

19 BY SOLICITOR:

20 Q. Please tell the jury what you do for the Richland
21 County Sheriff's Department?

22 A. I am currently a technician in the drug identification
23 section of the Sheriff's Department.

24 Q. How long have you been with the Sheriff's Department?

25 A. Ten and a half years.

C. BARRICKMAN ON DIRECT

1 Q. What did you do prior to that?

2 A. Prior to this I was a supervisor in the evidence sec-
3 tion.

4 Q. Were you a supervisor there in 2014?

5 A. I was.

6 Q. Describe what you did in that capacity?

7 A. The supervisor of the evidence section is responsible
8 for maintaining the inventory of evidence taken in by the
9 Sheriff's Department.

10 Q. And is it a secure facility?

11 A. It is.

12 Q. Tell us about that.

13 A. We have a key lock and we have a card access, and the
14 evidence section is only accessible by personnel and upper
15 management.

16 Q. And do you recall receiving on April 8 of 2015 what's
17 marked as Exhibit 35?

18 A. Yes.

19 Q. And did you guys create a report in this matter?

20 A. This is called a property report and it tells you all
21 the property that is connected to this case that was in the
22 evidence bag.

23 Q. And does that refresh your memory? Looking at it?

24 A. Yes, this is the evidence that I was involved with on
25 April 8, 2015.

C. BARRICKMAN ON DIRECT

1 Q. At that time what did you do with what you received?

2 A. This evidence was already in the evidence property
3 section. It was on a shelf in the evidence room, and I
4 got it from the evidence room and turned it over to be taken
5 for drug analysis.

6 Q. And did it have the evidence inside the bag?

7 A. It did.

8 Q. It had all the pills listed on there?

9 A. It did. It was in a sealed condition the whole time
10 it was in the evidence room.

11 Q. Could you just briefly list the numbers of items that
12 were in the bag?

13 A. Yes, it was was items four, five, six, seven, eight
14 nine, ten, eleven, twelve, thirteen.

15 Q. You said it was sealed and you didn't tamper with it?

16 A. The evidence bag was sealed and secured the whole time.
17 it was there.

18 Q. Were all procedures and protocols followed?

19 A. Yes.

20 Q. And what did you do with it again?

21 A. I took it from the shelf in the evidence room and it
22 was checked out of the computer to go for testing.

23 Q. Please answer any questions the Defense Counsel may
24 have for you.

25 A. Yes, sir.

1 MR. SIMMONS: No questions, Your Honor.

2 THE COURT: You may step down.

3 (Witness excused from stand)

4 TARA KINNEY, being duly sworn,
5 testified as follows:

6 CLERK: State your name for the record.

7 WITNESS: Tara Kinney, K I N N E Y.

8 DIRECT EXAMINATION

9 BY SOLICITOR:

10 Q. Where are you currently employed?

11 A. The Richland County Sheriff's Department.

12 Q. What is your job with Richland County?

13 A. To test substances that the officers or investiga-
14 tors submit as controlled substances.

15 Q. And were you doing that job back in November --- excuse
16 me, back in 2014 and 2015, and specifically on November
17 second and third of 2014?

18 A. Yes.

19 Q. Please tell the jury about your training and education
20 that you have in order to do your job?

21 A. Sure. I have a Bachelor of Science in forensic chem-
22 istry from Washington State University, and I have training
23 with the Washington State Patrol in their drug analysis
24 section.

25 I have participated in doing research experiments

T. KINNEY ON DIRECT

1 on various methods of manufacturing methamphetamine.

2 I have had extensive training from the Richland County
3 Sheriff's Department, chemical analysis section, and it
4 was through the Sheriff's Department that I received a cer-
5 tificate of competency in drug analysis.

6 I have training from the Drug Enforcement Administra-
7 tion and I have attended numerous conferences and taken
8 courses in the testing of various drugs.

9 I also have been a member of various professional
10 associations having to do with drugs and drug analysis.

11 Q. Have you testified in the Courts of this State be-
12 fore?

13 A. Yes.

14 Q. And have you been qualified as an expert in those
15 Courts of this State?

16 A. Yes.

17 Q. Have you also had training in the manufacture of meth-
18 amphetamines and the types of manufacture?

19 A. Correct.

20 SOLICITOR: Your Honor, at this time the State moves
21 to introduce Ms. Kinney as an expert in the chemical analy-
22 sis of drugs as well as the manufacture of methamphetamine.

23 MR. SIMMONS: No objection.

24 THE COURT: Without objection, she is so qualified.

25 SOLICITOR: Thank you, Your Honor.

T. KINNEY ON DIRECT

1 BY SOLICITOR:

2 Q. Pursuant to your job and your expertise, have you had
3 an opportunity to come into contact with what has been
4 marked as State's Exhibit 35?

5 A. Yes.

6 Q. What was the purpose of that contact?

7 A. These items were submitted for testing.

8 Q. Okay, and did you write a report after you did the
9 testing as well?

10 A. I did.

11 Q. And when you received this item -- how did you receive
12 it, first of all?

13 A. . .

14 Q. How did you come by this item?

15 A. I received this evidence from the evidence property
16 room when I was downstairs. When I do drug testing I go
17 down to the evidence room and secure the items. I then take
18 them back up to the lab where they are to be tested.

19 Q. So you pick them up and take them to the lab, and what
20 do you do next?

21 A. The first thing I do is read the information on the
22 front of the label and on the bag. I need to make sure all
23 the information is correct and that included are all the
24 items that I was given in the evidence room.

25 Q. And after you do that, what do you do?

T. KINNEY ON DIRECT

1 A. After I see that I have all the items I'm supposed to
2 have then I'm ready to begin my analysis. I see that the
3 evidence bag has been sealed multiple times in our process
4 so I then open the evidence bag and remove the items.

5 I start with them by the way they are stated in the
6 report.

7 Q. In this case what did you do in removing the items?

8 A. In our laboratory I placed the items in our chemical
9 storage location just because of the nature of the items.

10 Q. Okay, and describe for the jury what that is?

11 A. Sure. It is just an enclosed sort of cabinet which
12 is vented so that it pulls air through it so that any fumes
13 that may be coming off the items are directed away from us
14 in the lab.

15 Q. Does it also protect you from any splash or spatter
16 in your work?

17 A. Yes, it has a sash that we can pull down to provide
18 protection from anything like a splash or spatter.

19 Q. Are you wearing anything or is there anything else to
20 protect yourself?

21 A. Yes, I have (inaudible) and a face mask.

22 Q. And, again, based upon what this case was you had to
23 take all of these measures?

24 A. Yes, because of the items and there was also a bottle
25 of an unknown liquid.

T. KINNEY ON DIRECT

1 Q. I show you what's been marked as State's Exhibit 19.

2 Do you recognize what this is a photograph of?

3 A. Yes. When I first open the bag I lay them out in the
4 separate containers to document them by photograph.

5 Q. Did you take this picture?

6 A. I did.

7 SOLICITOR: Your Honor, the State would move to admit
8 item 19.

9 MR. SIMMONS: No objection.

10 THE COURT: Admitted without objection.

11 (Photo admitted without objection as State's Exhibit
12 19)

13 BY SOLICITOR:

14 Q. Point out what you were talking about. I want the
15 jury to see the bottle you mentioned.

16 A. This is actually a prescription bottle and it has a
17 clear piece wrapped around the top to prevent the contents
18 from coming out.

19 Based on the outside of the container I suspected it
20 to be some kind of a strong acid, and also because some of
21 the items in the envelope had been eaten away.

22 Q. Were the items inside the envelope damaged from this
23 acid?

24 A. No, none of the items were damaged because of the
25 way they were placed.

T. KINNEY ON DIRECT

1 Q. Why is that?

2 A. Many of them were placed in another container like a
3 plastic bag or ziplock bag that kept them from damage.

4 Q. Okay. I now show you what's been marked as State's
5 Exhibit 25. Do you recognize what that is?

6 A. Yes.

7 Q. Could you tell the jury what that is?

8 A. Sure. A photograph of a filter type item.

9 Q. And State's Exhibit 24?

10 A. Again, this shows a pill bottle and I opened the cap.
11 It shows the beginning of one of the tests I did on it.

12 SOLICITOR: Move to admit State's Exhibits 24 and 25
13 in evidence.

14 MR. SIMMONS: No objection.

15 THE COURT: Admitted.

16 (Photographs admitted in evidence without objection)

17 BY SOLICITOR

18 Q. Looking at 24, please describe the test that you did
19 on that object?

20 A. We suspected it to be some kind of strong acid so
21 we used what's called PH. This little piece of paper here
22 has (inaudible) on the bottom part of it. When the sub-
23 stance is introduced to that we get a color reaction and
24 that will determine if it is a strong acid compound or a
25 strong alkyline substance based on the color it turns.

T. KINNEY ON DIRECT

1 We could see based on that color that it was a strong
2 acid.

3 Q. And is that substance used in the process of making
4 amphetamines?

5 A. Yes.

6 Q. How is it used?

7 A. It is used in the final step of the process as far as
8 the physical form of methamphetamine, the powder that is
9 seen.

10 Q. So that one part is cooking and the process you would
11 use or sell they would use acid to bring it out. Correct?

12 A. Correct. The acid is used to create a gas that would
13 cause the substance to turn into the solid meth.

14 Q. And after testing that, what did you do then?

15 A. That item was listed as item 12 on the property re-
16 port and I went to another item.

17 Q. I show you what's marked State's Exhibit 36. Do you
18 recognize that?

19 A. Yes.

20 Q. What is this?

21 A. This is one of the items in the plastic bag and it is
22 labeled item 12.

23 Q. Item 12, which would be . . .

24 A. Item 12 would be a part of the process that we just
25 mentioned.

1 Q. So what we've just been talking about?

2 A. Yes.

3 SOLICITOR: Your Honor, at this time the State would
4 seek to introduce Exhibit 36.

5 MR. SIMMONS: No objection.

6 THE COURT: Admitted.

7 (State's Exhibit 36 admitted without objection)

8 BY SOLICITOR:

9 Q. Go on.

10 A. Because of the nature of the substance we went to the
11 gas chromatograph mass spectrometer for confirmation test-
12 ing. That merely gives us more confirmation of what the
13 substance is.

14 Q. Okay, and you started with which substance?

15 A. I started with item four.

16 Q. Let me show you what's been marked as State's Exhibit
17 Number 38. Do you recognize what that is?

18 A. Yes. This is item four.

19 Q. Please tell the jury what it is and what you found
20 it to be and how you found it out?

21 A. A glassine bag with a world logo on it, and my final
22 result was that the substance was heroin, a schedule one
23 substance, and it had a weight of zero one zero nine nine
24 grams.

25 Q. So each of the glassine bags contained heroin?

T. KINNEY ON DIRECT

1 A. Correct.

2 Q. What did you do next?

3 A. I took the items marked number five.

4 Q. And item number five was what?

5 A. Item number five was a small manilla envelope contain-
6 ing a plastic baggie with a white tube item in it.

7 Q. Showing you what's been marked State's Exhibit 44.

8 Do you recognize this?

9 A. Yes. Yes, I do recognize it.

10 Q. What is it?

11 A. . .

12 Q. What is the tube-like item used for in the manufacture
13 of methamphetamine?

14 A. The plastic tube is used in that salting out process.

15 Q. I'm sorry. Do you have your report there? I have . .

16 A. I do.

17 (Portion inaudible)

18 Q. Okay, what did you do next? Item number five is used
19 in the process. Go to item number six.

20 A. Item six . .

21 Q. What is that?

22 A. A small plastic bag containing white powder.

23 Q. Showing you what has been marked and entered in the
24 case as State's Exhibit 43. Do you recognize what it is?

25 A. Yes, this is item six.

T. KINNEY ON DIRECT

1 Q. Okay, and what did you determine when you analyzed
2 item number six?

3 A. Three bags containing white powder and it was tested.
4 The powder was found to contain methamphetamine, a schedule
5 two substance, and the weight of those bags -- the total
6 weight was zero point two nine two seven.

7 Q. So these plastic bags contained methamphetamine?

8 A. Correct.

9 Q. And what did you do next?

10 A. Item number six point one . .

11 Q. Okay.

12 A. It was a part of what was listed as item six, and this
13 is a separate item because it contained a rock-like sub-
14 stance.

15 Q. I show you what's marked State's 45 B. Do you recog-
16 nize what that is?

17 A. Yes, this is item six point one.

18 Q. Did you analyze it?

19 A. I did.

20 Q. And what did you determine that to be?

21 A. Item number six point one was determined to be a sub-
22 stance called ethylon, a schedule one substance, and it
23 weighed one point three nine eight grams.

24 Q. What is ethylon?

25 A. Ethylon is a little different substance that is

T. KINNEY ON DIRECT

1 technically a schedule one substance, and it is commonly
2 referred to as backbone.

3 Q. A recreational drug.

4 A. Yes, and a kind of designer drug also.

5 Q. And next is item eight?

6 A. Correct.

7 Q. What is item eight?

8 A. Item eight was a small manilla envelope containing
9 five round white tablets. All of the tablets were the same
10 in appearance, the same color, same markings on them.

11 Q. Are they commercial or available over the counter?

12 A. Correct.

13 Q. I show you what's been marked as State's Exhibit

14 41. Do you recognize that?

15 A. This is item eight.

16 Q. And did you analyze that?

17 A. I did.

18 Q. Were you able to determine what it was or what it
19 contained?

20 A. Yes. The substance contained oxycodone and (inaudible,
21 ible, a schedule two substance.

22 Q. And there were five of those, is that correct?

23 A. Correct.

24 Q. How did you analyze that?

25 A. (Inaudible)

T. KINNEY ON DIRECT

1 Q. You actually know what the substance was in item eight
2 but to be sure you went through the analyzing of them and
3 used the same process on each one?

4 A. Correct.

5 Q. Let's go on to item nine. What was that?

6 A. Item number nine was small manilla envelope contain-
7 ing 14 light green tablets and one containing a green
8 tablet.

9 Q. Showing you what's marked State's Exhibit 39 and 40.
10 Would you please describe to the jury what these are?

11 A. Exhibit Number 39 is item nine and the other bag is
12 Exhibit 40 is our item nine point one.

13 Q. And did you analyze all of those?

14 A. I did.

15 Q. And as well, did you analyze State's Exhibit 41?

16 A. I did.

17 Q. Are these all commercial pills?

18 A. Correct.

19 Q. Okay, and tell the jury what is contained in item
20 nine?

21 A. Item number nine is one tablet that . .

22 Q. How many tablets were in item nine?

23 A. Item nine was fifteen tablets.

24 Q. And what were they?

25 A. Azerpam.

T. KINNEY ON DIRECT

1 Q. You did analyze and verify those?

2 A. Correct. They contained different markings.

3 Q. And is that a schedule one?

4 A. Correct.

5 Q. Then what did you do? Does that mean they were dif-
6 ferent brand names?

7 A. Different manufacturers, yes, but the same substance.

8 Q. Did you check item nine point two?

9 A. I did.

10 Q. And what did you find?

11 A. That the item nine point two was from the same chem-
12 ical family.

13 Q. The same as State's Exhibit 40?

14 A. Yes.

15 Q. I would guess as you are testing them a portion is
16 crushed up?

17 A. Yes, in the process of testing.

18 Q. Would you describe item ten?

19 A. Our item ten?

20 Q. Right.

21 A. A small manilla envelope containing two blue pills
22 or tablets.

23 Q. Let me show you what's marked as State's Exhibit 42.
24 Do you recognize that?

25 A. Yes, I do recognize it.

T. KINNEY ON DIRECT

1 Q. And explain to the jury what that is? That's the two
2 blue tablets, right?

3 A. Correct.

4 Q. And is that the original bag they were in?

5 A. No, that was the bag used by the person who collected
6 the items. They were put all in one baggie with tags on
7 them. I added that baggie in my repackaging to help to
8 protect the items.

9 Q. And you checked State's Exhibit 42 and found them to
10 be what?

11 A. Yes... The tablets contained oxycodone, a schedule
12 two substance.

13 Q. Okay, and let me show you what's been marked as State's
14 Exhibit 31. Would that substance be identified in there?

15 A. Let me look.

16 Q. Okay.

17 A. It has a description of that tablet, yes.

18 Q. How strong would that substance be, the oxycodone?

19 A. Thirty milligram oxycodon tableta.

20 Q. Okay, thank you. Tell the jury what item 11 was?

21 A. Item 11 was a plastic bottle containing a glass vial
22 containing a liquid with something floating on top and a
23 white substance on the bottom.

24 Q. Okay, was this a small bottle?

25 A. Yes, like a sample bottle of some kind.

T. KINNEY ON DIRECT

1 Q. I show you what's been marked State's Exhibit Number
2 21 and 23. Can you describe what these are?

3 A. Yes, these are pictures of the vial with the copper
4 substance on the top. What I was just mentioning.

5 Q. And did that item contain meth?

6 A. Yes.

7 SOLICITOR: At this time, Your Honor, the State would
8 introduce State's 23 and 21.

9 MR. SIMMONS: No objection, Your Honor.

10 THE COURT: Admitted.

11 (Photos admitted without objection in evidence)

12 BY SOLICITOR:

13 Q. Those are pictures of the vial?

14 A. Yes.

15 Q. And the contents?

16 A. Correct.

17 Q. The white substance and the substance outside of the
18 bottle -- the white residue and the black substance on
19 the outside of the bottle, is that the way it was when you
20 opened it?

21 A. No, some of the substance was pushing out of the bot-
22 tle when I opened it.

23 Q. Describe for the jury what these items are?

24 A. Essentially the substance in the bottom is residue in
25 the process. It also contains the water and the gas along

T. KINNEY ON DIRECT

1 with the copper colored items.

2 Q. And is that a picture of it?

3 A. Correct.

4 Q. And the substance they are floating in is what?

5 A. A type of flammable liquid that is typically seen in
6 the process.

7 Q. What date did you open this vial?

8 A. I believe that was April 19th.

9 Q. Or 2015?

10 A. Of 2015, yes.

11 Q. And these were entered in evidence on November third,
12 2014?

13 A. I believe so, yes.

14 Q. And the vial appeared like that?

15 A. Yes, and I believe the pressure from the gases was
16 what was causing the pushing out of the substance.

17 Q. And with water added or moisture that could happen?

18 A. Yes, and it could have ignited and caused a fire.

19 Q. And with solvent added -- do you know what I'm talking
20 about?

21 A. It's possible. It could have acted to cause a burning.

22 There are different reactions in different systems.

23 Q. Would that be enough space to cause an explosion?

24 A. From contact with the water in the plastic bottle, the
25 items would be susceptible to melting and from the force

T. KINNEY ON DIRECT

1 could create a fire, some kind of reaction. There may not
2 be enough oxygen to cause an explosion but when the bottle
3 failed typically you could get a fire.

4 Q. And were you able to test any of that material?

5 A. I tested a small sample, yes. A drop or a tiny por-
6 tion of the liquid layer.

7 Q. So you were able to test that sample?

8 A. Yes.

9 Q. You ran the sample through your testing process?

10 A. I did.

11 Q. And did you determine what that was?

12 A. Item 11 tested to be methamphetamine or the layers
13 contained methamphetamine.

14 Q. And what happened to the items then?

15 A. Because of concern from the items, from just that
16 small sample of the liquid layer, that item was destroyed.
17 The small sample was retained but the rest of that item
18 was destroyed.

19 Q. And if you would go to item 12?

20 A. Item 12 is the vial containing white powder substance.

21 Q. Showing you State's Exhibit 37, can you tell me what
22 that is?

23 A. This is my item 13.

24 Q. Okay. Did you test item 13?

25 A. I did.

T. KINNEY ON DIRECT

1 Q. Tell us what you did?

2 A. I did a chemical test on it, a presumptive test, and
3 then also a confirmatory test as well.

4 And it came back as methamphetamine.

5 Q. You don't do any DNA testing or tests such as that in
6 your chemical lab, do you?

7 A. I do not.

8 Q. I show you what's been marked as State's Exhibit 46.
9 Do you recognize what that is?

10 A. That appears to be the small sample that I tested as
11 was mentioned earlier.

12 Q. And the little bit of sample was repacked?

13 A. Correct.

14 Q. Okay.

15 SOLICITOR: The State would move to admit State's
16 Exhibit 46.

17 MR. SIMMONS: No objection.

18 THE COURT: Admitted without objection.

19 (State's Exhibit 46 admitted without objection)

20 SOLICITOR: If I could have a moment?

21 (Brief pause)

22 BY SOLICITOR:

23 Q. Please answer any questions Defense Counsel might have.

24 A. Sure.

25 THE COURT: Ladies and gentlemen, we're going to take

T. KINNEY ON DIRECT

1 a brief break. Remember that you are not to discuss the
2 matter among yourselves. After the break, we will continue
3 for a short time.

4 You may go to your jury room.

5 (Jury excused from Courtroom)

6 THE COURT: Ms. Kinney, you may step down but do not
7 discuss your testimony with anyone since it has not been
8 concluded. Do not discuss it with counsel. Thank you.

9 (Witness excused from stand)

10 SOLICITOR: Your Honor, the State would request a
11 bench warrant for Soleiman Hattar.

12 THE COURT: Before we take a break, let me say that
13 I noticed the Defendant was present for voir dire. By
14 nine thirty this morning he was not present and at that
15 time the attorneys approached the bench.

16 Before I issue a bench warrant I like to be sure of
17 the situation and to have his name called.

18 MR. SIMMONS: We sent a text message to our office to
19 contact him and I don't know if they've been able to con-
20 tact him as yet.

21 THE COURT: We'll continue with the testimony at this
22 time after we take our break.

23 (Whereupon, the Court took a brief recess and the
24 matter was continued)

25 THE COURT: When I came into the Courtroom there was

WITNESSES

(S) A. Ricard

ARREST WARRANT NUMBER

DP16208

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

OCT 12 2016

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016GS4005685

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2016

72

THE STATE
vs.

Soleiman H Hattar

Indictment for
DRUGS/MANUFACTURE METH, 3RD OR
SUB OFFENSE

SC Code: 44-53-0375(B)
CDR Code: 3778

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 12, 2016, the
Grand Jurors of Richland County present upon their oath:

MANUFACTURING METHAMPHETAMINE,
3RD AND/OR SUBSEQUENT OFFENSE

That Soleiman H Hattar did in Richland County, on or about November 3, 2014, manufacture, or did aid, abet, attempt or conspire to manufacture, a quantity of Methamphetamine, a controlled substance under provisions of Section 44-53-110, et. seq., S. C. Code of Laws, 1976, as amended, such manufacturing not having been authorized by law, to wit: he was in possession of materials, chemicals, and ingredients used in the manufacturing of Methamphetamines at or near Lake Murray Blvd and Columbiana Drive, and such not being a first offense, in violation of Section 44-53-375(B), S. C. Code of Laws, 1976, as amended.

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


DAN JOHNSON, SOLICITOR

WITNESSES

(S) A. Ricard

ARREST WARRANT NUMBER

DP16209

**ACTION OF GRAND JURY
TRUE BILL**

Foreperson of Grand Jury

Date:

Ayesha Idson
OCT 12 2016

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016GS4005686

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2016

72

THE STATE

vs.

Soleiman H Hattar

**Indictment for
DRUGS / PWID HEROIN - 3RD OR SUB.
OFFENSE**

SC Code: 44-53-0370

CDR Code: 0185

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

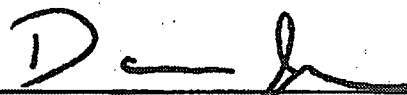
INDICTMENT

At a Court of General Sessions, convened on October 12, 2016, the
Grand Jurors of Richland County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE HEROIN
3RD AND/OR SUBSEQUENT OFFENSE

That Soleiman H Hattar did in Richland County on or about November 3, 2014, possess with Intent to distribute, dispense or deliver, or did aid, abet, attempt or conspire to distribute, dispense, or deliver a quantity of Heroin, a Schedule I controlled substance under the provisions of Section 44-53-110, et. seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized by law and such offense not being the defendant's first offense, in violation of Section 44-53-370, S. C. Code of Laws, 1976, as amended.

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


DAN JOHNSON, SOLICITOR

WITNESSES

(S) A. Ricard

ARREST WARRANT NUMBER

DP16210

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

OCT 12 2016

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016GS4005689

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2016

72

THE STATE
vs.

Soleiman H Hattar

Indictment for
DRUGS / POSSESSION OF LESS THAN
ONE GRAM OF METH. OR COCAINE
BASE, 2ND OFFENSE

SC Code: 44-53-0375(A)
CDR Code: 3017

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

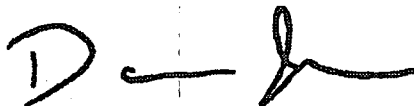
INDICTMENT

At a Court of General Sessions, convened on October 12, 2016, the
Grand Jurors of Richland County present upon their oath:

POSSESS/ATTEMPT TO POSSESS METHAMPHETAMINE
2ND OFFENSE

That Soleiman H Hattar did in Richland County on or about November 3, 2014, knowingly, willfully and intentionally, possess or attempt to possess a quantity of Methamphetamine, a controlled substance under provisions of Section 44-53-110, et. seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized by law, and such being the defendant's second or subsequent offense, in violation of Section 44-53-375(A), S. C. Code of Laws, 1976, as amended.

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



DAN JOHNSON, SOLICITOR

WITNESSES

(S) A. Ricard

ARREST WARRANT NUMBER

DP16211

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

OCT 12 2016

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016GS4005692

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2016

72

THE STATE
vs.

Soleiman H Hattar

Indictment for
DRUGS / POSS. OF NARC. IN SCHEDULE
I(B),(C), LSD & SCHEDULE II - 2ND
OFFENSE

SC Code: 44-53-0370

CDR Code: 0177

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

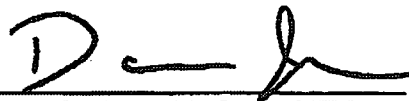
INDICTMENT

At a Court of General Sessions, convened on October 12, 2016, the
Grand Jurors of Richland County present upon their oath:

POSSESSION OF OXYCODONE
2nd OFFENSE

That Soleiman H Hattar did in Richland County on or about November 3,
2014, knowingly and intentionally possess Oxycodone, a Schedule II
controlled substance under provisions of Section 44-53-110, et. seq., S. C.
Code of Laws, 1976, as amended, such possession not having been
authorized by law, and such possession not being a first offense, in
violation of Section 44-53-0370, S. C. Code of Laws, 1976, as amended.

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


DAN JOHNSON, SOLICITOR

WITNESSES

(S) A. Ricard

ARREST WARRANT NUMBER

DP16212

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

OCT 12 2016

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016GS4005695

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2016

72

THE STATE

vs.

Soleiman H Hattar

**Indictment for
DRUGS / POSS. OF OTHER CONTROLLED
SUB. IN SCHED. I TO V - 2ND OR SUB.
OFFENSE**

SC Code: 44-53-0370

CDR Code: 0180

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 12, 2016, the
Grand Jurors of Richland County present upon their oath:

POSSESSION OF SCHEDULE I - V DRUG
2ND OFFENSE

That Soleiman H Hattar did in Richland County on or about November 3, 2014, knowingly and intentionally possess a quantity of Clonazepam, a Schedule IV controlled substance under provisions of Section 44-53-110, et. seq., S.C. Code of Laws, 1976, as amended, such possession not having been authorized by law, and such possession not being a first offense, in violation of Section 44-53-0370, S.C. Code of Laws, 1976, as amended.

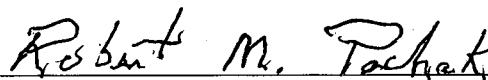
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DAN JOHNSON, SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 21st day of May, 2018.

RECEIVED

MAY 21 2018

SC Court of Appeals