

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Darlington County

Honorable Roger E. Henderson, Circuit Court Judge

MARCUS ADDISON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-002315

APPENDIX

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THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIO
	)	
COUNTY OF DARLINGTON	)	
	)	
THE STATE,	)	
	)	JANUARY 31, 2011
PLAINTIFF,	)	
	)	
VERSUS	)	
	)	
MARCUS ADDISON,	)	2008-GS-16-1500
	)	
DEFENDANT.	)	

BEFORE

THE HONORABLE HOWARD P. KING

APPEARANCES

John Holt, Esquire
Patti M. Parker, Esquire
ATTORNEYS FOR THE STATE

William Grove, Esquire
Richard Jones, Esquire
ATTORNEYS FOR THE DEFENDANT

Pamela Ozment-Cartee
Circuit Court Reporter

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VOIR DIRE

Case No.: 2008-GS-16-1500 Date: January 31, 2011
 Plaintiff: The State Attorney: John Holt
 Defendant: Marcus Addison Attorney: William Grove
 Presiding Judge: Howard P. King Reporter: Pamela Ozment-Cartee

*****		***** STRIKES *****				
Juror #	Juror Name	Race	Sex	Court	State	Def
148	VIOLA R. WHEELER	B	F	X	--	--
145	CHARLES P. TISDALE	W	M		✓	✓
147	SHALONDRICE M. WARD	B	F		✓	✓
008	ROBIN G. BARR	W	F		✓	x
029	SHEILA D. COOPER	B	F		✓	✓
039	JENNIFER L. DEWITT	W	F		✓	x
001	BETTY A. ADDISON	B	F		x	--
140	JANET S. TACK	W	F		✓	✓
035	FRANCES G. DANIELS	B	G		x	--
028	EARLINE COOPER	B	F		✓	✓
050	LUCAS R. FINE	W	M		✓	x
058	JAMES B. GRACE, II	W	M		✓	x
056	ROBERT GILBERT	B	M		✓	✓
019	RICHARD L. CADDELL III	W	M		✓	x
043	AMY D. DIXON	W	F		✓	x
059	MICHAEL D. GRAHAM	B	M		x	--
006	BARRON M. BAILEY	B	M		✓	✓
062	LASHONDA P., GREGG	B	F		x	--
106	MELISSA G. MURRAY	W	F		✓	✓
118	ANDY T. PUSSEY	W	M		✓	✓
155	LEROY PATTERSON	B	M		✓	✓
077	ELZENA B. JOHNSON	B	F		✓	✓
126	KATHERINE R. ROLLER	W	F		✓	x
113	BRENT E. PHILLIPS	B	M		✓	x
131	CAROL M. SMITH	W	F		✓	✓
005	BRONIE D. ATKINSON	W	F		✓	✓

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1 (Whereupon, Court comes to order at 11:37 a.m.
2 on Monday, January 31, 2011.)

3 **THE COURT:** All right. May I see the lawyers at the
4 bench in the first case, please?

5 (Whereupon, a bench conference was held.)

6 **THE COURT:** Would Juror Number 52, Mr. Forte, come
7 up to the bar, please?

8 **(PAUSE.)**

9 **THE COURT:** During the recess Mr. Forte, Mr.
10 Addison spoke to you, is that correct?

11 **MR. FORTE:** I mean, I know him. We are from the
12 same place.

13 **THE COURT:** What did he say to you?

14 **MR. FORTE:** He asked me if I was on the jury?

15 **THE COURT:** What else?

16 **MR. FORTE:** That's it.

17 **THE COURT:** He asked you if you were on the jury?

18 **MR. FORTE:** Yeah.

19 **THE COURT:** He didn't ask you to be on this jury?

20 **MR. FORTE:** No, he just asked me if I was going to
21 stay. He didn't ask me to be on his.

22 **THE COURT:** Did he ask you if you were going to be
23 on the jury panel?

24 **MR. FORTE:** No, we just came in --- coming in from
25 recess.

THE STATE V MARCUS ADDISON

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1 **THE COURT:** All right. Thank you. Wait just a
2 minute, Mr. Forte. I can get a witness.

3 **DEPUTY BEASLEY:** Yes, sir. I heard him tell him
4 that was his name, your neighbor, Mr. Addison wanted him
5 to be on the jury, his jury.

6 **THE COURT:** That is what he told you?

7 **MR. FORTE:** He asked me if I was going to stay on
8 the other jury. I don't know his exact words.

9 **DEPUTY BEASLEY:** That's not what you said though.

10 **THE COURT:** I understand. Have a seat.

11 (PAUSE.)

12 **THE COURT:** All right. Ms. Baugh, call your case.

13 **MS. BAUGH:** The state is about to call the case of
14 The State versus Marcus Addison.

15 **THE COURT:** Okay.

16 (PAUSE.)

17 **THE COURT:** All right. Voir Dire, and --- any voir
18 dire questions on behalf of the state or the defense?

19 **MR. HOLT:** This is my witness list, judge. There
20 is no voir dire from the state.

21 **THE COURT:** Okay.

22 **MR. GROVE:** This is my witness list, ad our voir
23 dire.

24 **THE COURT:** All right. Mr. Solicitor, what is your
25 first case.

THE STATE V MARCUS ADDISON

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1 **MR. HOLT:** Thank you, Your Honor. At this time the
2 state would like to call the case of The State versus
3 Marcus Addison, judge. Docket Number 2008-GS-16-1500 for
4 threatening the life of a public employee. 1501, judge,
5 threatening the life of a public official. 1502,
6 trafficking in crack cocaine, more than ten grams. 1503,
7 judge, possession with intent to distribute marijuana.
8 1505, contributing to the delinquency of a minor, and 1504
9 contributing to the delinquency of a minor.

10 **THE COURT:** All right. Thank you. All right,
11 ladies and gentlemen of the jury panel, if you would give
12 me your attention.

13 You have heard the Solicitor announce that they have
14 called a number of cases that are charged in the
15 Indictment Numbers 1500, 1501, 1502, 1503, 1504, and 1505.
16 These offenses are, threatening the life of a public
17 official in 1500. In 1501 also charged with threatening
18 the life of a public official. In 1502, trafficking in
19 ice, crank, or crack cocaine. 1503, possession with
20 intent to distribute marijuana. 1504, contributing to the
21 delinquency of a minor, and 1505, contributing to the
22 delinquency of a minor.

23 The defendant, Mr. Addison is represented by Mr.
24 Jones. And Mr. Jones, would you introduce yourself and
25 any lawyers with whom you will be working on in this case.

THE STATE V MARCUS ADDISON

11

1 **MR. JONES:** Yes, sir, Your Honor. Mr. Will Grove
2 and myself, Rick Jones will be representing Mr. Addison.

3 **THE COURT:** All right. And would you have Mr.
4 Addison stand and face the jury please?

5 **MR. JONES:** He is unable to, Your Honor, but he is
6 here.

7 **THE COURT:** All right. This is Mr. Addison right
8 here. He is the defendant in this case.

9 Now, before I select the jury, I need to ask you a
10 number of questions. Please give your attention to these
11 questions, and if any of them apply to you, then respond
12 accordingly.

13 Is any member of the jury panel related by blood or
14 connected to the defendant Marcus Addison, if so, please
15 stand?

16 The following individuals may appear as witnesses in
17 this case, and I would ask if the witnesses are present if
18 they would stand or otherwise indicate their presence here
19 in court. Cynthia Kissiah. Kim Dorsett. Kenny Bowen.
20 Minor #2 [REDACTED]. Minor [REDACTED]. Kukila Stanley.
21 Rodney Hopkins. Brad Lawson. Tony Baird. Russ Harrell.
22 Robin Bryant. Neal Flowers. Mike Hall. George Wilks.
23 David Young. Chad McInville. Charles Wright. And there
24 may be some duplications in this. I believe I have
25 already said, Brad Lawson. And I have already given you

THE STATE V MARCUS ADDISON

12

1 the name of Minor [REDACTED]. Michael Hall. Again, Corporal
2 Baird. And again the name of Mr. McInville, and Mr.
3 Flowers. And I think I gave you the name of Minor #2.
4 Minor #2. As I said, Michael Hall, and of course, Mr.
5 Marcus Addison.

6 Is any member of the jury panel related by blood,
7 connected by marriage to any of the proposed witnesses; if
8 so, please stand? Thank you.

9 Is there any member on the jury panel, close personal
10 friends to any of the parties; that is, the defendant in
11 this case, Mr. Addison, the lawyers, or any of the
12 witnesses whom I have read off to you. If so, please
13 stand.

14 Yes, sir.

15 (Whereupon, Mr. Forte, Juror Number 52 stands.)

16 **THE COURT:** All right, Mr. Forte, juror number 52.
17 All right, Mr. Forte, we already know your situation.
18 Thank you, very much. Anyone else?

19 All right. The Indictments in this case charge that
20 on or about May 21, 2008, the defendant did contribute to
21 the delinquency of a minor by wilfully encouraging,
22 aiding, or causing, or influencing a minor to violate the
23 law. Specifically the minor being Minor #2 [REDACTED], whose
24 date of birth was 1994, a child less than eighteen
25 years of age. That is in Indictment 1505.

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1 In Indictment 1504, the allegation is that Mr.
2 Addison did contribute to the delinquency of a minor by
3 knowing and wilfully encouraging, aiding, or causing, or
4 influencing the law, specifically [Minor] [REDACTED], a child
5 less than eighteen years of age.

6 Indictment Number 1503, charges that the defendant on
7 May 21st, possess with intent to distribute a quantity of
8 marijuana.

9 Indictment 1502, charges that on or about May 21,
10 2008, the defendant did wilfully, unlawfully, and
11 knowingly transport and/or deliver, and sell crack cocaine
12 in the amount of 13.7 grams or more. And the charge is
13 one for trafficking in crack cocaine.

14 Indictment Number 1501, charges that the defendant
15 did on or about May 21st, threaten a public official,
16 specifically Kim Dorsett, an EMS provider.

17 And Indictment Number 1500 charges that on that same
18 date, May 22nd --- between May 22nd and May 23rd, that the
19 defendant did threaten the life of a public official,
20 specifically Agent Brad Lawson, a law enforcement officer
21 with the Darlington County Sheriff's Office.

22 Those are the charges. To these charges the
23 defendant has plead not guilty, and what I am telling you
24 is just so you can determine if you know anything about
25 the case, or anything that would prevent you from being

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1 objective, or a cause that you would have to disqualify
2 yourself.

3 Does any member of the jury panel know anything about
4 the facts of this case as I have briefly recited them to
5 you; if so, please stand? Thank you.

6 Has any member of the jury panel formed or expressed
7 an opinion as to the guilt or the defendant, Marcus
8 Addison; if so, please stand? Thank you.

9 Is any member of the jury panel aware of any
10 interest, any bias, or any prejudice for or against the
11 defendant; if so, please stand?

12 Has any member of the jury panel or a member of your
13 immediate family, and I define immediate family as spouse,
14 parent, brother, sister, or child, ever been the victim of
15 a violent crime? That is a crime upon your person; if so,
16 please stand?

17 All right. Come up please.

18 (PAUSE.)

19 BAILIFF: Juror Number 105, Lesa Mulligan.

20 THE COURT: Yes, ma'am.

21 JUROR: My ex-husband broke in my house and tried to
22 kill me, twice. So, I am a little prejudice.

23 THE COURT: Would that experience prevent you from
24 giving the defendant, in this case a fair and impartial
25 trial? It does not involve breaking and entering, or

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15

1 threatening of life.

2 JUROR: My brother has been convicted of several
3 drug charges.

4 THE COURT: So your brother has been convicted of
5 several drug charges, and your ex-husband of breaking in
6 the house?

7 JUROR: He did break in and have a gun.

8 THE COURT: Would that prevent you from giving to
9 the defendant, a fair and impartial trial?

10 JUROR: I think so, I believe it would.

11 THE COURT: You can't put that aside?

12 JUROR: Uh'huh.

13 THE COURT: Thank you, ma'am. Yes, ma'am, your
14 name?

15 JUROR: Connie Stock.

16 THE COURT: Do you recall your number?

17 JUROR: Connie Stock.

18 CLERK OF COURT: 136.

19 THE COURT: What is your situation?

20 JUROR: My brother was shot in the head, and I was
21 held at gunpoint.

22 THE COURT: Would that fact prevent you from giving
23 to the defendant, and the state, a fair and impartial
24 trial based on the evidence in this case?

25 JUROR: No.

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1 **THE COURT:** Would you be able to put this aside,
2 and make your decision based on the facts presented in
3 this case?

4 **JUROR:** Yes.

5 **THE COURT:** Thank you, ma'am.

6 **BAILIFF:** Mr. Phillips.

7 **THE COURT:** Let's get your name first, and your
8 number.

9 **CLERK OF COURT:** Number 113.

10 **JUROR:** The question was if we had a violent act
11 against a family member? My brother was murdered in '93.

12 **THE COURT:** All right. Would that prevent you from
13 giving to both the state and the defense a fair trial in
14 this case?

15 **JUROR:** No, sir.

16 **THE COURT:** Would you be able to put those facts
17 aside and decide this case based upon the facts you hear
18 in this courtroom?

19 **JUROR:** Yes, sir.

20 **BAILIFF:** Number 39.

21 **THE COURT:** Yes, ma'am.

22 **JUROR:** My name is Jennifer DeWitt, and I was robbed
23 and had my car broken into. I filed a police report, and
24 I just wanted to tell you.

25 **THE COURT:** Would that prevent you from giving a

THE STATE V MARCUS ADDISON

17

1 fair and impartial trial in this case? Would you be able
2 to put that aside and decide this case based on what you
3 hear?

4 **JUROR:** Yes, I would.

5 **THE COURT:** Thank you, ma'am.

6 **BAILIFF:** 144.

7 **JUROR:** I didn't know if it was important, but my
8 son was stabbed a few years ago. But he was stabbed by
9 somebody.

10 **THE COURT:** Would that prevent you from giving to
11 the defendant, and the state, a fair trial in this case?

12 **JUROR:** I don't feel like it would.

13 **THE COURT:** Could you put that aside based upon
14 what you hear?

15 **JUROR:** Right. I just wanted to do the right thing.

16

17 **THE COURT:** But you can sit that aside?

18 **JUROR:** Yes.

19 **THE COURT:** Is any member of the jury panel
20 employed now --- well let me put it this way. Is there
21 any member of the jury panel or a member of your immediate
22 family, and I define immediate family as spouse, parent,
23 brother, sister, or child? Any member of the jury panel
24 or a member of your immediate family currently employed by
25 the Fourth Circuit or any Solicitor's Office, or

THE STATE V MARCUS ADDISON

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1 prosecutor's office within the last ten years; if so,
2 please stand?

3 Is there any member of the jury panel or a member of
4 your immediate family currently employed or been employed
5 within the past ten years by a law enforcement agency; if
6 so, please stand?

7 All right. Let's take the gentleman to my left.
8 Your name, please sir?

9 **JUROR:** Lucas Fine, number 50.

10 **THE COURT:** Number 50. All right. Tell me the
11 situation, Mr. Fine.

12 **JUROR:** My father is a police officer.

13 **THE COURT:** From where?

14 **JUROR:** Indiana.

15 **THE COURT:** But not around here?

16 **JUROR:** Not locally.

17 **THE COURT:** Okay. All right. Would that fact, Mr.
18 Fine, prevent you from giving to the state and to the
19 defense a fair and impartial trial, based on the evidence?

20 **JUROR:** No, sir.

21 **THE COURT:** Would you be able to put that aside,
22 and decide this case based on the evidence you hear in
23 this courtroom?

24 **JUROR:** Yes, sir.

25 **THE COURT:** And would you do that?

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19

1 JUROR: Yes, sir.

2 THE COURT: Thank you, sir. Yes, sir.

3 JUROR: My brother works for South Carolina Highway
4 Patrol.

5 THE COURT: All right. Let me get your name first
6 of all.

7 JUROR: William Rogers, number 124.

8 THE COURT: Number 124. All right. And your
9 brother is currently a trooper with the South Carolina
10 Highway Patrol?

11 JUROR: Yes, sir.

12 THE COURT: All right. Would that fact prevent you
13 from giving to the state and the defendant a fair and
14 impartial trial in this case?

15 JUROR: No.

16 THE COURT: And would you be able to put that aside
17 and decide this case based on what you hear in this
18 courtroom?

19 JUROR: Yes, sir.

20 THE COURT: And would you do that?

21 JUROR: Yes, sir.

22 THE COURT: Thank you, sir. Is there any member of
23 this jury panel, or a member of your immediate family a
24 member of a victim's rights group such as MADD, CAVE, THE
25 STATE AND THE DEFENDANT, any type of victims' rights

THE STATE V MARCUS ADDISON

20

1 group, whose primary purpose is in the advocacy of
2 strict law enforcement; if so, please stand?

3 As you have heard me say, the allegations of this
4 Complaint, or this Indictment allege a drug offense. Is
5 there any member of the jury panel who has had a personal
6 experience within your family with regard to illegal drugs
7 that would prevent you from giving to both the state and
8 the defendant a fair and impartial trial; if so, please
9 stand?

10 All right. Give me your name again.

11 **JUROR:** Lesa Mulligan.

12 **THE COURT:** All right. Ms. Mulligan, I will have
13 you come up in just a minute.

14 All right. I believe that I have asked this
15 question. All right. I'm sorry.

16 **JUROR:** Frances Daniels, Number 35.

17 **THE COURT:** 135?

18 **JUROR:** Number 35.

19 **CLERK OF COURT:** 35.

20 **THE COURT:** 35. Ms. Daniels. All right. Come up
21 Ms. Daniels.

22 **(PAUSE.)**

23 **THE COURT:** Yes, ma'am. Tell me what your
24 situation is?

25 **MADAME COURT REPORTER:** I can't hear her.

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21

1 **JUROR:** I had a brother that got in trouble years
2 ago for drugs, and it has been about a year. And then
3 I've got a son that went to court, and they put him on
4 probation.

5 **THE COURT:** Now, that was for drugs?

6 **JUROR:** (Affirmative response.)

7 **THE COURT:** Would those two experiences prevent you
8 from giving both the state and the defendant a fair and
9 impartial trial in this case?

10 **JUROR:** No.

11 **THE COURT:** Would you be able to put that aside,
12 and decide this case based on what is presented by both
13 the state and the defendant?

14 **JUROR:** Yes.

15 **THE COURT:** Good. You can do that?

16 **JUROR:** Yes, sir.

17 **(PAUSE.)**

18 **THE COURT:** All right. Ladies and gentlemen, as
19 you have heard me indicate from the summary of the
20 Indictments, two of the Indictments involve the
21 allegations of threats made to emergency medical service
22 employee, or actually one of them indicates an alleged
23 threat to a medical --- emergency medical employee. Is
24 there any member of the jury panel who has any kind of a
25 relationship with the medical field such as a nurse, an

JURY SELECTION

22

1 EMS worker, or other health care provider that would not
2 be able to view the testimony objectively without regard
3 to the fact that it involved an EMS provider? Is there
4 anybody --- the fact that one of the alleged threats were
5 made to an EMS provider, would that prevent you from
6 giving to both the state and the defendant a fair and
7 impartial trial; if so, please stand? All right, thank
8 you.

9 Now other than what has been disclosed to me, is
10 there any member of the jury panel that knows of any
11 reason why he or she should not serve as a juror in this
12 case, other than what has already been disclosed to me, if
13 so, please stand?

14 All right, thank you. Counsel come up.

15 (Whereupon, a bench conference was held.)

16 **THE COURT:** All right. Is there anything further
17 in way of voir dire from the state, Mr. Holt?

18 **MR. HOLT:** There is not, Your Honor.

19 **THE COURT:** Mr. Grove?

20 **MR. GROVE:** Not at this time, Your Honor.

21 **THE COURT:** All right. Counsel, I have already
22 advised you at the bench of the status of the jurors. Mr.
23 Suggs, do you understand? Okay.

24 Ladies and gentlemen, we are now going to go through
25 the selection process. And the way this is done on a

JURY SELECTION

23

1 petit jury is that the names of all the qualified jurors
2 are put into the drum here, rotated, and drawn out one by
3 one. When your name is called, come through the side over
4 here on this side, which would be the closest, because I
5 think they have moved all the jurors to this side of the
6 courtroom. Come up here with your back toward me and
7 face the back of the courtroom. If you are acceptable to
8 the state, the state will indicate, present the juror.
9 And if you are acceptable to the defendant, the defendant
10 will indicate, seat the juror, and you would then have a
11 seat in the jury box. If either side excuses you, you
12 would then have a seat back out with the remainder of the
13 jury panel. As I told you, the lawyers do have a number
14 of peremptory strikes that they can strike a juror without
15 giving a reason. And if you are excused, then you will
16 have a seat back out with the jury panel.

17 We will go through this process until we have
18 selected a jury of twelve. And then counsel, we will
19 select one alternate with the defense having two, and the
20 state having one strike on the alternates.

21 All right. Mr. Clerk, if you would give us a jury.

22 **CLERK OF COURT:** Juror Number 148, Viola Wheeler.
23 Viola Wheeler, is she outside?

24 **THE COURT:** Check outside and see if there are any
25 jurors outside --- she is not qualified if she has been

JURY SELECTION

24

1 outside.

2 All right. Skip that one and go to the next one. We
3 will check on Ms. Wheeler.

4 **CLERK OF COURT:** Juror Number 145, Charles
5 Tisdale.

6 **THE COURT:** You will have to come all the way
7 around sir, and turn and face the jury.

8 **CLERK OF COURT:** What saith the state?

9 **MR. HOLT:** Please present this juror.

10 **CLERK OF COURT:** What saith the defense?

11 **THE COURT:** Yes, sir.

12 **MR. GROVE:** Please seat the juror.

13 **CLERK OF COURT:** Please have a seat in the jury
14 box over here for us, Mr. Tisdale.

15 **THE COURT:** Counsel, you may remain seated as we go
16 through this process.

17 **MR. JONES:** Thank you, sir.

18 **CLERK OF COURT:** Juror Number 147, Shalondrice
19 Ward. What saith the state?

20 **MR. HOLT:** Please present this juror.

21 **CLERK OF COURT:** What saith the defense?

22 **MR. GROVE:** Please seat the juror.

23 **CLERK OF COURT:** Please have a seat in the jury
24 box for me, Ms. Ward.

25 Juror Number 8, Robin Barr. What saith The State?

JURY SELECTION

25

1 **MR. HOLT:** Please present this juror.

2 **CLERK OF COURT:** What saith the defense?

3 **MR. GROVE:** Please excuse this juror from the trial
4 of this case.

5 **CLERK OF COURT:** You have been excused in this
6 particular case, Ms. Barr. Just have a seat back in the
7 audience for me, please.

8 Juror Number 29, Sheila Cooper. What saith The
9 State?

10 **MR. HOLT:** Please present this juror.

11 **CLERK OF COURT:** What saith the defense?

12 **MR. GROVE:** Please seat the juror.

13 **CLERK OF COURT:** Please have a seat in the jury
14 box for me, Ms. Cooper.

15 Juror Number 39, Jennifer DeWitt. What saith The
16 State?

17 **MR. HOLT:** Please present this juror.

18 **CLERK OF COURT:** What saith the defense?

19 **MR. GROVE:** Please excuse the juror from the trial
20 of this case.

21 **CLERK OF COURT:** You have been excused from this
22 particular case, Ms. DeWitt. Thank you.

23 Juror Number 129, Ernest Scurry. What saith The
24 State? **MR. HOLT:** Please seat this juror.

25 **CLERK OF COURT:** What saith the defense?

JURY SELECTION

26

1 **MR. GROVE:** Please seat the juror.

2 **CLERK OF COURT:** Please have a seat in the jury
3 box for me, Mr. Scurry.

4 Juror Number 1, Betty Addison. What saith The State?

5 **MR. HOLT:** Please excuse the juror from the trial of
6 this case.

7 **CLERK OF COURT:** You have been excused in this
8 particular case, Ms. Addison. Thank you.

9 Juror Number 140, Janet Tack. What saith The State?

10 **MR. HOLT:** Please seat the juror.

11 **CLERK OF COURT:** What saith the defense?

12 **MR. GROVE:** Please seat the juror.

13 **CLERK OF COURT:** Have a seat for me in the jury
14 box please, Ms. Tack.

15 Juror Number 35, Frances Daniels. What saith The
16 State?

17 **MR. HOLT:** Please excuse the juror

18 **CLERK OF COURT:** You have been excused in this
19 particular case, Ms. Daniels. Thank you.

20 Juror Number 28, Earline Cooper. What saith The
21 State? **MR. HOLT:** Please seat the juror.

22 **CLERK OF COURT:** What saith the defense?

23 **MR. GROVE:** Please seat the juror.

24 **CLERK OF COURT:** Please have a seat in the jury
25 box for me please, Ms. Cooper.

JURY SELECTION

27

1 Juror Number 50, Lucas Fine. What saith The State?

2 MR. HOLT: Please seat this juror.

3 CLERK OF COURT: What saith the defense?

4 MR. GROVE: Please excuse the juror from the trial
5 of the case.

6 CLERK OF COURT: You have been excused from this
7 particular case, Mr. Fine.

8 Juror Number 58, James Grace. What saith The State?

9 MR. HOLT: Please excuse the juror.

10 CLERK OF COURT: You have been excused from the
11 trial of this case, Mr. Grace. Thank you.

12 Juror Number 56, Robert Gilbert. What saith The
13 State? MR. HOLT: Please seat the juror.

14 CLERK OF COURT: What saith the defense?

15 MR. GROVE: Please present the juror.

16 CLERK OF COURT: Please have a seat in the jury
17 box for me, Mr. Gilbert.

18 Juror Number 19, Richard Caddell. What saith The
19 State?

20 MR. HOLT: Please seat the juror.

21 CLERK OF COURT: What saith the defense?

22 MR. GROVE: Please excuse the juror.

23 CLERK OF COURT: You have been excused in this
24 particular case, Mr. Caddell. Thank you.

25 Juror Number 43, Amy Dixon. What saith The State?

JURY SELECTION

28

1 **MR. HOLT:** Please seat the juror.

2 **CLERK OF COURT:** What saith the defense?

3 **MR. GROVE:** Beg the Court's indulgence.

4 **(PAUSE.)**

5 **MR. GROVE:** Please excuse the juror from the trial
6 of this case.

7 **CLERK OF COURT:** You have been excused from this
8 particular case, Ms. Dixon. Thank you.

9 Juror Number 59, Michael Graham. What saith The
10 State? **MR. HOLT:** Please excuse this juror.

11 **CLERK OF COURT:** You have been excused in this
12 particular case, Mr. Graham. Thank you.

13 Juror Number 6, Barron Bailey. What saith The State?

14

15 **MR. HOLT:** Please seat the juror.

16 **CLERK OF COURT:** Any show for cause from the
17 defense?

18 **MR. GROVE:** None.

19 **CLERK OF COURT:** Please have a seat in the jury
20 box for me please, Mr. Bailey.

21 Juror Number 62, LaShonda Gregg. What saith The
22 State? **MR. HOLT:** Please excuse this juror.

23 **CLERK OF COURT:** You have been excused in this
24 particular case, Ms. Gregg. Thank you.

25 Juror Number 106, Melissa Murray. Is there any show

JURY SELECTION

29

1 for cause from the state?

2 MR. HOLT: There is none.

3 CLERK OF COURT: Is there any show for cause from
4 the defense?

5 MR. GROVE: None.

6 CLERK OF COURT: If you would, have a seat in the
7 jury box for me please, Ms. Murray.

8 Juror Number 118, Andy Pusser. Is there any show for
9 cause from the state?

10 MR. HOLT: There is none.

11 CLERK OF COURT: Is there any show for cause from
12 the defense?

13 MR. GROVE: There is none.

14 CLERK OF COURT: If you would, have a seat in the
15 jury box for me please, Mr. Pusser.

16 Juror Number 155, LeRoy Patterson, any show for cause
17 from the state?

18 MR. HOLT: Please present Mr. Patterson.

19 CLERK OF COURT: Any show for cause from the
20 defense?

21 MR. GROVE: None.

22 CLERK OF COURT: Please have a seat in the jury
23 box for me please, Mr. Patterson.

24 Juror Number 77, Elzenia Johnson, any show for cause
25 from the state?

JURY SELECTION

30

1 **MR. HOLT:** None.

2 **CLERK OF COURT:** Is there any show for cause from
3 the defense?

4 **MR. GROVE:** There is none.

5 **CLERK OF COURT:** Please have a seat for me please
6 in the jury box, Ms. Johnson.

7 **THE COURT:** Alternate please counsel, one and two.

8 **CLERK OF COURT:** Juror Number 126, Katherine
9 Roller. What saith The State?

10 **MR. HOLT:** Please present Ms. Roller.

11 **CLERK OF COURT:** What saith the defense?

12 **MR. GROVE:** Beg the Court's indulgence?

13 **THE COURT:** Yes, sir.

14 **MR. GROVE:** Please excuse the juror from the trial
15 of this case.

16 **CLERK OF COURT:** You have been excused from the
17 trial of this case, Ms. Roller. Thank you.

18 Juror Number 113, Brent Phillips. What saith The
19 State?

20 **MR. HOLT:** Please present Mr. Phillips.

21 **CLERK OF COURT:** What saith the defense?

22 **MR. GROVE:** One moment.

23 **(PAUSE.)**

24 **MR. GROVE:** Please excuse the juror from the trial
25 of this case.

THE STATE VERSUS MARCUS ADDISON

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1 **CLERK OF COURT:** You have been excused, Mr.
2 Phillips. Thank you.

3 Juror Number 131, Carol Smith. What saith The State?

4
5 **MR. HOLT:** Please present Ms. Smith.

6 **CLERK OF COURT:** Any show for cause from the
7 defense?

8 **MR. GROVE:** There is not.

9 **CLERK OF COURT:** If you would, have a seat in the
10 first chair outside of the jury box for me, please. Thank
11 you.

12 **THE COURT:** Anything in regard to the selection of
13 this jury on behalf of the state, Mr. Holt?

14 **MR. HOLT:** There is none, judge.

15 **THE COURT:** On behalf of the defense?

16 **MR. GROVE:** No, Your Honor.

17 **THE COURT:** All right. Counsel, come up a minute
18 and talk about scheduling.

19 (Whereupon, the jury was seated at 11:25 a.m.)

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

22 **THE COURT:** All right. Ladies and gentlemen
23 selected in the trial of this case, I was talking to the
24 lawyers about scheduling. We have a number of matters
25 that we need to take up before we start the trial of this

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1 case. Some of them involve this case, and some of them
2 involve some other things. So, we are actually going to
3 start the trial of this matter tomorrow morning at 9:30.

4 I am going to excuse you at this time, and allow you
5 to go to your homes and families, and ask you to be back
6 in your jury room tomorrow morning at 9:30. The bailiffs
7 will show you where the jury room is, and how to get back
8 in here tomorrow morning at 9:30. But there are several
9 things that I want to tell you before I excuse you.

10 First of all, do not talk with anyone about this
11 case. When you see your family or friends, do not discuss
12 the case with them. I know that you do not know anything
13 about the case except what I have told you the allegations
14 of the Indictments were. But it would be improper for you
15 to discuss it with anybody. The reasons for this are
16 pretty apparent. You have got to decide the case based
17 upon what you hear in this courtroom, and not on the basis
18 of what anyone else may say to you.

19 Also, do not allow anyone to talk with you about the
20 case. If anyone should approach you or try to talk with
21 you in any manner whatsoever, get their name, their
22 description, report it to the bailiffs, and I will deal
23 with that individual.

24 Also, do not read any news stories, or television
25 reports about the case. I don't know if there will be

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1 anything in the newspaper, or any news stories about this,
2 but you again have got to decide this case based upon what
3 you hear in this courtroom, and not what you may hear in
4 the news media. With all due respect to my friends in the
5 news media, what they report is not always accurate as to
6 what goes on in court. And you have actually got to
7 decide the case based on what goes on in court. So it
8 would be improper for you to read any news stories, or
9 listen to any television or radio reports about this case.
10 If there is anything on there, just simply turn it off, or
11 put that newspaper aside, and do not decide this case ---
12 I mean do not listen to those reports, because you have
13 got to decide the case based on what you hear in the
14 courtroom.

15 Now, when you return to the jury room, and this
16 admonition, all of these admonitions will apply throughout
17 the case. In the morning when you return to the jury
18 room, what I am going to ask you to do, if you will try to
19 be here a few minutes early, say 9:15 to give us a few
20 minutes so we can start promptly at 9:30. But what I want
21 you to do is select a foreperson from among the twelve
22 members of the jury --- one individual to serve as
23 foreperson of that jury. When I select --- When you
24 select a foreperson, that person should always sit on the
25 first seat on the front row here. The rest of the seats

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1 in the jury box are not reserved, and it does not matter
2 what order you come and go from the courtroom. I would
3 simply ask that you go all the way down, so it would not
4 be a situation of crawling over one another, reserving the
5 first seat on the front row for the foreperson, and the
6 alternate should always seat in the seat where she is
7 seated. But other than that, seats in the jury box are
8 not reserved, and it does not matter what order you come
9 and go from the courtroom.

10 So, do not allow anyone to discuss the case with you.
11 Do not discuss the case with anyone. And do not discuss
12 the case among yourselves. And again, this will apply
13 throughout the trial of this case. When you are there in
14 the jury room you can talk about anything you want to talk
15 about, weather, sports, children, grandchildren, anything
16 at all, but do not talk about this case until I tell you
17 that it is appropriate for you to do so, because it would
18 be improper for you to begin any deliberations or
19 discussions about this case until you have heard all of
20 the evidence and the arguments of counsel, and the
21 instructions on the law by the Court. So when you are
22 gathering there in the courtroom --- in the jury room,
23 except for selecting your foreman, do not discuss this
24 case among yourselves whatsoever. So, basically, if you
25 would just put this matter out of your mind until tomorrow

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1 morning, and report back to the courtroom tomorrow morning
2 at 9:15, select your foreperson, and we will try to be ---
3 we will try to have all of the pretrial matters out of the
4 way before we --- before that time, so that we can start
5 tomorrow morning promptly at 9:30. So if you will be back
6 at 9:15, and if you will go with the bailiff, he will show
7 you where to come.

8 Thank you, and we will see you tomorrow.

9 MR. HOLT: Your Honor, can me and defense counsel
10 take up a motion before we dismiss the jury. It won't
11 take but just a second.

12 THE COURT: All right. Hold on just a minute
13 counsel. Come up.

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

16 THE COURT: All right. Ladies and gentlemen, I am
17 going to allow you to go as I said just a minute ago about
18 your business for the rest of the day.

19 Mr. Patterson, I would like to ask that you stay with
20 me for just a minute, and the rest of you may go with the
21 bailiff. He will show you where the jury room is. Please
22 be back at 9:15 in the morning, and be prepared to select
23 a foreperson. I see you tomorrow. Mr. Patterson, if you
24 would stay with me for just a minute.

25 (Whereupon, the jury is excused at 11:37, a.m..)

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1 **THE COURT:** Mr. Patterson, it is not your fault,
2 nothing that you have done or anything. But it has been
3 brought to my attention that there is a possible conflict,
4 and rather than try to go into that in any depth, or try
5 to resolve anything, I am going to go ahead and excuse you
6 from any service on this jury, and ask that you have a
7 seat back out there with the rest of your jury panel, and
8 you may get selected on the next jury, but not on this
9 case because it is not anything that you have done, but
10 there is a possibility that there could be a conflict.
11 And we felt like it would just be better that you not have
12 to serve on this case.

13 Then with that, is there any objection to that
14 procedure, Mr. Holt?

15 **MR. HOLT:** There is none, Your Honor.

16 **THE COURT:** Mr. Grove?

17 **MR. GROVE:** No, Your Honor.

18 **THE COURT:** That being the case counsel, let's draw
19 one more juror in place --- Counsel I would propose that
20 we --- since we didn't know this, I would propose that we
21 just substitute Mr. Patterson with another juror, and
22 leave the alternate as is. Is there an objection to that?

23 **MR. HOLT:** There is none, judge.

24 **MR. GROVE:** None, Your Honor.

25 **THE COURT:** All right. Let's draw one additional

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1 juror.

2 **CLERK OF COURT:** Juror Number 5, Bronie Atkinson,
3 any show for cause from the state?

4 **MR. HOLT:** There is none.

5 **CLERK OF COURT:** Any show for cause from the
6 defense?

7 **MR. GROVE:** There is none.

8 **THE COURT:** All right. Ms. Atkinson, you will be a
9 full-fledged member of this jury. And I will ask you to
10 be back in the morning at 12:15 --- I mean at 9:15. Go
11 out and the bailiff will show you where to come. And
12 those same admonitions that I gave that jury a minute ago
13 about not discussing this case with anybody, or allowing
14 anyone to discuss it with you would apply as well. Not to
15 read any news reports, and you will be on the jury
16 tomorrow morning at 9:15. Thank you, ma'am.

17 All right. Any objection to the procedure in
18 handling the juror question on behalf of the state, Mr.
19 Holt?

20 **MR. HOLT:** There is none, Your Honor.

21 **THE COURT:** On behalf of defense?

22 **MR. GROVE:** No, Your Honor.

23 **THE COURT:** All right. Now, counsel, I understand
24 that there may be some motions that we need to take up in
25 this matter. And, also --- we can do that after lunch.

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1 But I also understand that the state is ready to select a
2 jury in another case. Is that correct --

3 **MS. PARKER:** -- That's correct, Your Honor.

4 **THE COURT:** I want to say McKenzie, but I don't
5 think it is McKenzie any more is it?

6 **MS. PARKER:** Parker, Your Honor.

7 **THE COURT:** Parker. And who is opposing counsel in
8 that case?

9 **MS. PARKER:** Mr. Matt Swilley.

10 **THE COURT:** All right. Then we will be at ease on
11 the Addison case, except that I would ask that Mr. Addison
12 and counsel remain. I want to talk with you before we
13 break for lunch. We will stand you aside for right now.
14 And Madame Solicitor, call your next case.

15 (Whereupon, this hearing was adjourned at 11:50
16 a.m. and reconvenes at 1:20 p.m..)

17 **THE COURT:** Is Mr. Addison here?

18 **MR. JONES:** Yes, sir, he is just outside the door.

19

20 **(PAUSE.)**

21 **THE COURT:** All right. Back on the record, please.
22 Let's come to order.

23 All right. One other thing that I want to take up
24 before we adjourn.

25 Mr. Addison, I would like for him to come up. Mr.

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1 Addison.

2 (PAUSE.)

3 MR. JONES: Just right up here to the rail, Your
4 Honor?

5 THE COURT: Yeah, just right up here at the rail.
6 Mr. Jones, can be excused until further notice.

7 Mr. Addison, it came to my attention that during the
8 break, before we selected the jury in your case that you
9 had some communication with one of the jurors; is that
10 correct?

11 MR. ADDISON: Yes, sir.

12 THE COURT: Why?

13 MR. ADDISON: I didn't know he was on the jury.

14 THE COURT: Well, you must have known, you asked
15 him.

16 MR. ADDISON: No, I was going down the hallway, and
17 he said what you doing up here, and I said I have a trial,
18 and I'm on a jury. And that was all.

19 THE COURT: Well, that is not his story.

20 MR. ADDISON: He lied.

21 THE COURT: Sir?

22 MR. ADDISON: He lied.

23 THE COURT: He's right here too. I can put him
24 under oath and have him testify. But he said that you
25 asked him to be on his jury.

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1 **MR. ADDISON:** That I asked him to be on my jury?
2 I ain't asked that boy that. I just asked him --- I said,
3 what are you doing here, and I said going to trial. And
4 was like they got me on jury duty, and I was getting ready
5 to go downstairs and smoke a cigarette.

6 **THE COURT:** Well, I don't take lightly to anybody
7 communicating with the jury. And I really think that is a
8 serious breach of court procedure.

9 In this particular situation, because he wasn't
10 selected on the jury, and he hasn't been selected on this
11 other jury, it is sort of a no harm no fowl situation.
12 So, I am not going to do anything about it at this time.
13 But, I want to caution you that if I hear any other kind
14 of attempted communications, or communications with any
15 member of the jury in any manner whatsoever, I'm going to
16 take a very dim view of that, and will take appropriate
17 action. Do you understand?

18 **MR. ADDISON:** Yes, sir.

19 **THE COURT:** All right. With that, Mr. Forte, you
20 are free to go.

21 We will be in recess I believe until 2:30. I believe
22 y'all got some motions in this case?

23 **MR. HOLT:** We do have.

24 **THE COURT:** We will be prepared to address the
25 motions in this case at 2:30.

THE STATE VERSUS MARCUS ADDISON

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1 Thank you we will break for lunch at this time.

2 (Whereupon, a recess was taken from 1:28 p.m.
3 until 3:36 p.m..)

MOTION HEARING

4
5 **THE COURT:** All right. We are on the record with
6 regard to the matter of The State versus Marcus Addison.
7 Mr. Addison is present in the courtroom with his counsel.

8 Earlier today a jury was drawn in this case, and I
9 believe the matters before the Court at this time involve
10 one or more motions on behalf of the defendant.

11 First of all let me ask you if there are any motions
12 on behalf of the state, Mr. Holt?

13 **MR. HOLT:** There are none, Your Honor.

14 **THE COURT:** All right. Motions on behalf of the
15 defendant, Mister.

16 **MR. GROVE:** Yes, Your Honor. We do have one, a
17 Motion to Suppress.

18 **THE COURT:** All right, sir. Just tell me what the
19 motion is.

20 **MR. GROVE:** Your Honor, the state's case rests on a
21 search warrant, and we would argue that the search warrant
22 should be suppressed. It was issued on insufficient
23 evidence. And I can delve into that further if Your Honor
24 would --

25 **THE COURT:** All right. We will get into that in

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1 just a minute. Mr. Holt, do you have a copy of the search
2 warrant?

3 MR. HOLT: I do in fact have a copy of the search
4 warrant, Your Honor. Would you like for me to go ahead
5 and make this a State's Exhibit?

6 THE COURT: Yes. Go ahead and make it a State's
7 Exhibit.

8 (Whereupon, State Exhibits 1 and 2 were marked
9 for identification.)

10 THE COURT: All right. Give me just a minute. I
11 am going to review the memorandums admitted by the
12 defendant.

13 (PAUSE.)

14 THE COURT: All right. The state having --- I mean
15 the defendant having made a motion for suppression of the
16 evidence seized under the search warrant. The burden then
17 falls upon the state to respond to the motion to suppress,
18 and to show that the search warrant was properly issued.

19 Mr. Holt, you may present whatever testimony you wish
20 to present.

21 MR. HOLT: Thank you, Your Honor. At this time
22 the state would like to call two officers.

23 First, we would like to call Charles Wright of the
24 Darlington County Sheriff's Office.

25 THE COURT: Come around, please.

CHARLES WRIGHT - DIRECT EXAMINATION

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WHEREUPON, CHARLES WRIGHT**AFTER FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS****MR. WRIGHT:** I do.**THE COURT:** Come around and have a seat, please,
sir.**DIRECT EXAMINATION BY MR. HOLT****Q.** Officer Wright, could you please state your name for
the jury?**A.** Charles Wright.**Q.** And who is your employer?**A.** Darlington County Sheriff's Office.**Q.** How long have you worked there?**A.** A little over thirteen years.**Q.** Officer Wright, I would specifically like to ask you,
looking at what has been marked as a Court's Exhibit
1, do you recognize what this is?**A.** Yes, sir. It is a copy of a DVD we did from Marcus
Addison's residence.**Q.** Officer Wright, have you ever seen that before?**A.** Yes, I have.**Q.** Can you explain to the jury --- first off, did you
watch it when you made it?**A.** Yes.**Q.** Can you explain to the jury what exactly is on it? I
said jury, I apologize, to the Court what exactly is

CHARLES WRIGHT - DIRECT EXAMINATION

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1 on there?

2 A. It is a distribution of crack cocaine on the
3 residence of Marcus Addison.

4 **MR. HOLT:** Your Honor, at this time the state would
5 like to move the DVD into evidence.

6 **THE COURT:** State's what?

7 **MR. HOLT:** State's 1, judge.

8 **THE COURT:** We marked the search warrant as State's
9 1, didn't we?

10 **MR. HOLT:** I apologize, State's 2, Your Honor.

11 **THE COURT:** Yeah. State's Number 2. Mr. Grove,
12 you don't object to the authenticity of the disc; is that
13 right?

14 **MR. GROVE:** Defense has no objection.

15 **THE COURT:** It will be entered into evidence as
16 State's Number 2, without objection.

17 **WHEREUPON, STATE'S EXHIBIT**

18 **NUMBER 2 IS MARKED AND**

19 **ADMITTED INTO EVIDENCE**

20 **WITHOUT OBJECTION.**

21 **MR. HOLT:** Your Honor, at this time the state would
22 like to play their actual video. We can make a laptop
23 available.

24 **THE COURT:** How long is it?

25 **MR. HOLT:** The video is thirty minutes, I believe.

CHARLES WRIGHT - CROSS EXAMINATION

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1 **THE COURT:** All right. Have you got the equipment
2 set up and ready to go?

3 **MR. HOLT:** Judge, I can attach my laptop. I've got
4 it set and ready to play, and you can watch it from right
5 there.

6 **THE COURT:** Well, how are you going to do it, if I
7 let all of this in, how are you going to do it to the
8 jury?

9 **MR. HOLT:** To the jury, my investigator who is in
10 charge of the performance itself, would then set that up.

11 **THE COURT:** All right. We will set it up and look
12 at it in a little bit. Right now I --- Do you have any
13 further questions of this witness?

14 **MR. HOLT:** No, sir, Your Honor, I don't.

15 **THE COURT:** All right. Cross examination?

16 **MR. GROVE:** Yes, Your Honor.

17 **CROSS EXAMINATION BY MR. GROVE**

18 Q. Officer Wright, how are you doing by the way?

19 A. Fine.

20 Q. Earlier you stated that this was a video of a
21 distribution from the residence of Marcus' house?

22 A. Yes, sir.

23 Q. How long has it been since you have seen the video in
24 this case?

25 A. I watched it --- Are you talking about how many times

CHARLES WRIGHT - CROSS EXAMINATION

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1 I've seen it?

2 Q. How recently have you reviewed this video?

3 A. I actually viewed it before I came in the courtroom.

4 Q. Okay.

5 **THE COURT:** I'm sorry. What was the answer?

6 **OFFICER WRIGHT:** I viewed it before I came in the
7 courtroom, a little while ago.

8 **THE COURT:** Okay.

9 Q. So you have seen the video as recently as today?

10 A. Yes, sir.

11 Q. At what point did the confidential informant enter
12 the residence?

13 A. He never entered the residence.

14 Q. Never. At what point did he go onto the property?

15 A. He did it from the vehicle.

16 Q. Okay. At what point did he speak with Marcus
17 Addison?

18 A. He never spoke with your client Marcus Addison
19 directly.

20 Q. At what point does Mr. Addison appear on the video?

21 A. Mr. Addison doesn't appear on the video.

22 Q. At what point in the video is his address,
23 specifically discussed?

24 A. You can see it in the video. You can see the
25 residence in the video.

CHARLES WRIGHT - CROSS EXAMINATION

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1 Q. You can see as the confidential informant drives by,
2 you can see where Marcus lives?

3 A. Yes.

4 Q. If Marcus isn't in this video, who then is in the
5 video?

6 A. The gentleman that came out of the residence of Mr.
7 Addison --- at that time we identified him as Mr.
8 Jackson.

9 Q. Mr. Dontavious Jackson?

10 A. Initially we identified him as [REDACTED] minor . The
11 investigation was ongoing, and we didn't work out the
12 names until later on in the investigation.

13 Q. Okay. Is it possible that it could have been a
14 Dontavious Jackson instead?

15 A. It is possible.

16 Q. And would it surprise you to learn that Mr.
17 Dontavious Jackson lives across the street and one
18 house over from Mr. Addison?

19 A. I'm sorry, say again.

20 Q. Were you aware that Dontavious Jackson lives across
21 the street and one house over from the residence?

22 A. No, not at that time, no.

23 Q. Of Mr. Addison?

24 MR. GROVE: One moment, Your Honor.

25 (PAUSE.)

CHARLES WRIGHT - CROSS EXAMINATION

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1 **MR. GROVE:** Just a couple more questions, Mr.
2 Wright.

3 **Q.** You said that I guess the individual, whomever he may
4 be, who made the sale, came out of the residence of
5 Marcus Addison?

6 **A.** Yes, you can see that in the video.

7 **Q.** You can actually see him exit the residence?

8 **A.** Yes.

9 **Q.** At what point did you see him exit the residence?

10 **A.** Coming out of the --- or off the porch area of the
11 residence, down the stairs.

12 **Q.** And you have visual evidence of him being inside the
13 home?

14 **A.** Coming from the porch area, coming from inside the
15 house. Yes, sir.

16 **Q.** So he is coming from --- Is he coming from the area
17 of the home, or is he coming from inside the home?

18 **A.** No, coming off the --- stepping off the porch.
19 Stepping off the porch of the house.

20 **Q.** Okay.

21 **MR. GROVE:** Nothing further at this time, Your
22 Honor.

23 **THE COURT:** Redirect, Mr. Holt?

24 **MR. HOLT:** There is none, Your Honor.

25 **THE COURT:** All right. The Court will review the

BRAD LAWSON - DIRECT EXAMINATION

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1 video in a little bit. I don't need to do that, it is in
2 evidence. The witness can step down.

3 **OFFICER WRIGHT:** Thank you, Your Honor.

4 **THE COURT:** Call your next witness.

5 **MR. HOLT:** Thank you, Your Honor. At this time I
6 would like to call Officer Brad Lawson.

7 **THE COURT:** All right. Officer Lawson.

8 **WHEREUPON, BRAD LAWSON**

9 **AFTER FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS**

10 **OFFICER LAWSON:** I do.

11 **DIRECT EXAMINATION BY MR. HOLT**

12 Q. Officer Lawson, were you involved in obtaining the
13 search warrant for the residence of Marcus Addison
14 located at [REDACTED] Street, in Hartsville?

15 A. Yes, I was.

16 Q. And I would like to show you this, this search
17 warrant, Officer Lawson. Here is a copy of the
18 search warrant. Do you recognize that?

19 A. Yes, I do.

20 Q. Can you tell the Court what that is?

21 A. It is a search warrant for the address of [REDACTED]
22 Street in the Hartsville area of Darlington County.

23 Q. And did you prepare that search warrant?

24 A. Yes, I did.

25 Q. And did you present it to the magistrate?

BRAD LAWSON - DIRECT EXAMINATION

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1 A. Yes, I did.

2 **MR. HOLT:** At this time, judge the state would move
3 the search warrant to be admitted into evidence.

4 **THE COURT:** Any objection?

5 **MR. GROVE:** None, Your Honor.

6 **THE COURT:** Admitted into evidence as State's
7 Number 1, without objection.

8 **WHEREUPON, STATE'S EXHIBIT**

9 **NUMBER 1 IS MARKED AND**

10 **ADMITTED INTO EVIDENCE**

11 **WITHOUT OBJECTION.**

12 Q. Officer Lawson, would you look at the probable cause
13 section of that search warrant. Did you provide the
14 magistrate with that information, and could you read
15 it to the Court please?

16 A. Probable Cause section states that within the past
17 seventy-two hours, a reliable confidential informant
18 for the Darlington County Drug Unit has purchased a
19 quantity of crack cocaine from the described
20 residence located on ■ Street, in the Hartsville
21 area of Darlington County. This event was monitored
22 by law enforcement agents. And when I say that the
23 residence located on ■ Street, described above that
24 in the Affidavit of this search warrant it fully
25 describes how to get to that residence, the

BRAD LAWSON - DIRECT EXAMINATION

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1 description of the residence, and the numeric of it.

2 Q. Now, did you provide any other sworn testimony to the
3 magistrate in support of a probable cause? And, if
4 you did, can you tell us what that was?

5 MR. GROVE: Objection, Your Honor. The defense
6 would object that none of the information that the
7 Solicitor is attempting to receive from Officer Lawson at
8 this time was included as a part of the search warrant.
9 It shouldn't be able to be used as a factual basis for
10 determining whether or not probable cause existed at the
11 time.

12 THE COURT: Isn't the case law that the magistrate
13 can consider other sworn testimony other than what is in
14 the Affidavit?

15 MR. GROVE: One moment, Your Honor. I apologize.

16 (PAUSE.)

17 MR. GROVE: I correct myself, I believe that there
18 is in fact.

19 THE COURT: All right. Thank you. The objection
20 is overruled.

21 Q. What did you tell the magistrate in support of this
22 Affidavit? Did you supply the magistrate who issued
23 the warrant any other evidence further?

24 A. Yes, I did. What I explained to the magistrate was
25 along with myself, Agent Charles Wright, and

BRAD LAWSON - DIRECT EXAMINATION

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1 Lieutenant George Wilks was with us at the time that
2 day. We had a confidential informant wired up with
3 audio and video equipment. Searched that informant
4 before we actually went and did this. That informant
5 was issued Darlington County monies to purchase the
6 crack cocaine. That informant then went --- who was
7 actually a reliable informant that we had used
8 before. Went to this location on ■ Street. At ■
9 ■ Street and in fact did purchase a quantity of
10 crack cocaine from that residence. It was seen in
11 the video of the person coming from the porch of ■
12 ■ Street, off of the porch at the front door, and
13 walked to the informant's vehicle, and sold that
14 crack cocaine to that confidential informant.

15 Q. Did you have any other reasons to suspect that crack
16 cocaine could be present at ■ Street? What did
17 you tell the magistrate?

18 A. Yes. We had received complaints from citizens about
19 drug activity at that area.

20 Q. The confidential informant that you used in the
21 making of this video, what reliable in the past ---
22 have you used him in the past?

23 A. Yes, along with Agent Charles Wright, he had --- that
24 informant had been used.

25 Q. Now, the defense alleged that you can't tell the

BRAD LAWSON - DIRECT EXAMINATION

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1 location in the video of exactly where you exactly
2 are. Now, can you tell where it is from the
3 landmarks on the video that you recognized --- that
4 you recognized exactly where the confidential
5 informant was when you made the purchase?

6 A. Oh, absolutely. Because in the video you can see
7 with the informant driving down the road, what road
8 they turn on. I am very familiar with that
9 particular area. I can tell which road the informant
10 turns on. You can tell exactly where the informant
11 turns into that particular piece of property which
12 was on the right side of ■■■ Street. And as that
13 informant is turning in, the camera go right directly
14 on the side of Mr. Addison's residence, ■■■
15 Street. During the time of waiting for the
16 transaction to occur, you see the subject that sold
17 the crack cocaine come from the door, and off of the
18 front porch of ■■■ Street, walk straight to the
19 CI's vehicle, which was fifteen yards away from the
20 house. Approximately fifteen yards away from the
21 house, very close.

22 **MR. HOLT:** Thank you, Officer Lawson, no further
23 question.

24 **THE COURT:** Cross examination, Mr. Grove?

25 **MR. GROVE:** Thank you, Your Honor.

BRAD LAWSON - CROSS EXAMINATION

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CROSS EXAMINATION BY MR. GROVE

1 Q. Officer Lawson, do I assume correctly that you have
2 had a chance to observe this video?
3

4 A. Yes, I have.

5 Q. How recently?

6 A. I've looked at it today. I have looked at it several
7 times. The day of the incident.

8 Q. Just to --- How many times did Marcus Addison
9 referenced in the video?

10 A. Marcus is not referenced in the video at all.

11 Q. How many times is his address referenced in the
12 video?

13 A. It is not.

14 Q. How many times does the confidential informant go
15 inside of Marcus' residence?

16 A. He didn't go in his residence.

17 Q. How many times does Mr. Addison, appear on the video
18 itself?

19 A. He doesn't.

20 Q. How many times --- How many confidential informant
21 buys did this particular informant go on before
22 returning to law enforcement?

23 A. One more after that buy. He did two.

24 Q. He did two?

25 A. Back to back. Uh'huh. Yes, sir.

BRAD LAWSON - CROSS EXAMINATION

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1 Q. In one trip?

2 A. Yes, sir.

3 Q. And again, you testified that you see them, the
4 subject actually performing the alleged distribution
5 coming from the house off the porch?

6 A. That's correct. He came from the door, off the
7 porch.

8 Q. Did you ever see the inside of the house?

9 A. No, not in the house, I didn't see him in the house,
10 no.

11 Q. You also testified that the confidential informant
12 was fifteen or so yards or so away from the house?

13 A. That's correct.

14 Q. Do you know the address the confidential informant
15 prior to the buy?

16 A. There are two properties there. I would have to see
17 a picture of the tail, but on the property of [REDACTED]
18 Street.

19 MR. GROVE: Just a moment, please.

20 THE COURT: Okay.

21 (PAUSE.)

22 MR. GROVE: My apologies, Your Honor. Just one
23 more moment.

24 THE COURT: No problem.

25 (PAUSE.)

BRAD LAWSON - CROSS EXAMINATION

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1 **MR. GROVE:** May I approach, Your Honor?

2 **THE COURT:** Yes, sir.

3 Q. Mr. Lawson, can you take a look at those pictures and
4 tell me if you recognize them?

5 A. I sure do.

6 Q. What do you see in those three photos I handed you?

7 A. That is the very front of ■■■ Street.

8 **THE COURT:** All right. They need to be in
9 evidence.

10 **MR. GROVE:** My apologies, Your Honor.

11 **THE COURT:** He has already recognized them. If you
12 want to put them in evidence for purposes of this hearing
13 only, you may do so, if you want me to consider them.

14 **MR. GROVE:** I would move at this time Your Honor as
15 Defense Exhibits 1, 2, and 3.

16 **THE COURT:** Exhibits for the Suppression Hearing
17 only, any objections, Mr. Holt?

18 **MR. HOLT:** There is none from the state, judge.

19 **THE COURT:** All right. Admitted into evidence for
20 that purpose. Let the Court reporter mark them, please.

21 **WHEREUPON, DEFENDANT**

22 **EXHIBITS NUMBERS 1, 2, AND 3**

23 **ARE MARKED AND ADMITTED INTO**

24 **EVIDENCE FOR THE SUPPRESSION**

25 **HEARING ONLY WITHOUT**

BRAD LAWSON - CROSS EXAMINATION

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OBJECTION.

1

2

Q. Officer Lawson, you have had a chance to look at those three photos?

3

4

A. Yes, sir.

5

Q. Could you describe for me what you see in those photos?

6

7

A. On Exhibit 1 of these photos, it is a view from across the street, looking directly at the front of [REDACTED] Street.

8

9

10

Now on Picture Number 2, it is again from the street looking at the front of [REDACTED] Street, but it shows more of the left side of the property if facing it.

11

12

13

14

And on picture 3, is from across the road, kind of diagonally, showing the complete right side of the residence. And if you look at this grass area right here, this is exactly where the CI was sitting, right here. And the camera was actually facing that way to see the suspect come from the porch to the car.

15

16

17

18

19

20

21

Q. Is there anything in number 3, right-hand side?

22

A. There is a mobile home and a building.

23

24

Q. As to Exhibit Number 2, Officer Lawson, if I may, the left-hand side of the house, what does that appear to be?

25

BRAD LAWSON - CROSS EXAMINATION

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1 A. It is a driveway.

2 Q. Do you believe that to be the driveway at ■■■ ■
3 Street?

4 A. That is part of it, yes.

5 Q. And can you look at Exhibit 3 again?

6 A. Yes, sir.

7 Q. And you identified a moment ago that the confidential
8 informant pulled into the grassy area there, Exhibit
9 3, is that right?

10 A. That's correct.

11 Q. And does that appear to be anywhere near the driveway
12 of ■■■ ■ Street?

13 A. It is not near the other driveway, but it is right at
14 the house. And that particular piece of grass is
15 used at that house a lot --- people parking there.

16 MR. GROVE: One moment, please.

17 (PAUSE.)

18 Q. One more thing Officer Lawson, if you could, point to
19 the area in Exhibit 3, where you believe --- where
20 you believe the CI parked?

21 A. The CI was parked here, right in the edge of this
22 grass, right here.

23 MR. GROVE: Can you see that judge?

24 THE COURT: I can see through it. I can see
25 exactly what he is --

BRAD LAWSON - REDIRECT EXAMINATION

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1 A. Right here, and this is the house right here. Right
2 there.

3 MR. GROVE: Nothing further, Officer Lawson. Thank
4 you.

5 THE COURT: Mr. Holt?

6 MR. HOLT: Thank you, Your Honor.

7 **REDIRECT EXAMINATION BY MR. HOLT**

8 Q. Officer Lawson just to be clear, your search warrant
9 wasn't for Marcus Addison, you are telling me that it
10 was for [REDACTED] Street; correct?

11 A. Exactly. It wasn't just for Marcus Addison though.
12 It was for that residence.

13 MR. HOLT: If I could approach judge, and get those
14 photos and look at them?

15 THE COURT: Yes, sir.

16 MR. HOLT: Thank you.

17 Q. Now, Officer Lawson, look at what defense has so
18 kindly exhibited for us here in Exhibit 2. That is
19 the driveway that looks like [REDACTED]?

20 A. It is.

21 Q. If they were to pull into there, would they have to
22 back up to get out?

23 A. Yes, they would have.

24 Q. But, looking at what they have given us as Defense
25 Exhibit 3, if they were to pull in there, drive in

BRAD LAWSON - RE-CROSS EXAMINATION

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1 front of that trailer and park right there, how would
2 they get out?

3 A. Very easily by just having to drive straight and get
4 out of there and pull out.

5 Q. So it is sort of like a drive through isn't it?

6 A. Exactly.

7 Q. And is that how that confidential informant purchased
8 that crack cocaine?

9 A. Yes, sir. It is.

10 MR. HOLT: Thank you, Your Honor. There are no
11 further questions.

12 THE COURT: Re-cross?

13 MR. GROVE: Very briefly, Your Honor. May I
14 approach?

15 THE COURT: Yes, sir.

16 **RE-CROSS EXAMINATION BY MR. GROVE**

17 Q. Officer Lawson, Exhibit 1, that is the straight on
18 view of the house?

19 A. That's correct.

20 Q. In addition to the already mentioned left-hand
21 driveway at [REDACTED] Street, is there any where else
22 that appears to be used by vehicles?

23 A. Yes, sir, there is right there, I mean in front of
24 the house it could be used.

25 Q. There is here on the front right and through the

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1 middle?

2 A. Yes.

3 Q. Does it appear to you as though people have already
4 used that once or twice?

5 A. It looks like someone has, yes.

6 Q. So, to say that there was only one occupant driving
7 into and then backing out of the driveway isn't a
8 100% accurate?

9 A. I guess there are numerous places. I mean, I pull in
10 my yard a lot of different ways every day. So I mean
11 that is every yard.

12 Q. Absolutely.

13 MR. GROVE: Thank you, Officer Lawson.

14 THE COURT: Thank you, you may step down. Be sure
15 to leave those exhibits --- Do you have the search
16 warrant? The search warrant, and the photographs. And
17 you should also have the video. Where is the video? The
18 Court reporter needs that.

19 THE COURT: All right. Mr. Holt, what else do you
20 wish to present on behalf of the state to testify for the
21 probable cause of the search warrant?

22 MR. HOLT: Just a brief argument in response to the
23 defenses' memo, Your Honor.

24 THE COURT: All right. We will hear from that in
25 just a minute. But that is all the testimony that you

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1 wanted to present at this time?

2 MR. HOLT: That is, judge.

3 THE COURT: All right. Mr. Grove, do you wish to
4 present any testimony with regard to this suppression?

5 MR. GROVE: No, Your Honor. But in kind with Mr.
6 Holt, just an opportunity to review the memo and the
7 overall testimony.

8 THE COURT: Well, I will be glad to do that, but I
9 think I am going to need to view the video, and I think
10 that the time will be more productively served if I hear
11 your arguments after I have had a chance to view the
12 video.

13 So, I will hear from you by way of argument a little
14 bit later.

15 What I would like to do at this time counsel would be
16 --- I will plan to be over here early in the morning, or
17 either late this afternoon. What I would like for
18 somebody to go, depend on how far we are going to run this
19 afternoon, but go ahead and set up a computer in the
20 judge's chambers, and be where I can view the video either
21 this afternoon or first thing in the morning, and then I
22 will be prepared to rule on the motion.

23 All right. That will conclude the motion for
24 suppression at this time, and we will do that.

25 But if you will, Mr. Holt, take care of having

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1 appropriate equipment for me to view the video.

2 **MR. HOLT:** All right. I will, Your Honor.

3 **THE COURT:** All right. Is this all we have to do
4 on this case today?

5 **MR. HOLT:** It is judge.

6 **THE COURT:** All right. Then we will be in recess
7 on this matter until 9:00 tomorrow morning, at which time
8 I will be prepared to rule on the motion to suppress.

9 So we are in recess in this matter.

10 (Whereupon, day one of trial is completed at
11 4:06 p.m. on Monday, January 31, 2011.)

12 -- END OF DAY ONE --

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1 (Whereupon, court comes to order at 9:10 a.m. on
2 Tuesday, February 1, 2011.)

-- DAY TWO OF TRIAL --

3
4 **THE COURT:** All right. We are back on the record
5 in the matter of Marcus Addison, and get Mr. Addison out
6 and let's deal with the Motion to Suppress.

7 **CLERK OF COURT:** He's right here, Judge.

8 (Whereupon, Mr. Addison enters the courtroom at
9 9:12 a.m..)

MOTION TO SUPPRESS

10
11 **THE COURT:** All right. We are back on the record
12 with regard to the matter of The State versus Marcus
13 Addison, Indictments Numbers 08-1500, 1501, 1502, 1503,
14 1504, and 1505. Mr. Addison is present with his counsel,
15 and the state is present and represented by Mr. Holt and
16 Ms. Parker.

17 The matter before the Court concerns the Motion to
18 Suppress that was made yesterday by defense counsel in
19 connection with this matter. And I am prepared to hear
20 arguments from counsel in connection to this. But, before
21 I do that, let me ask you Mr. Grove, if you think the
22 burden of proving the lack of probable cause is on you, or
23 if the burden of proving probable cause is on the state?

24 **MR. GROVE:** Your Honor, my understanding is that
25 once the Motion has been made the burden becomes the

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1 state's to prove the existence of probable cause rather
2 than the burden being on the defendant to prove the lack
3 there of.

4 **THE COURT:** What about the cases that you cited in
5 your Brief, of Nix versus Wilson and State versus Jones;
6 the defendant must show by a preponderance of the evidence
7 that the search and seizure were conducted under an
8 invalid search warrant? Doesn't that put the burden on
9 you?

10 **MR. GROVE:** Yes, Your Honor, I guess it would.

11 **THE COURT:** That is the correct law. You cited it.

12

13 **MR. GROVE:** It is. It is, in fact, Your Honor.

14 **THE COURT:** That being the case, then I will hear
15 from you first.

16 **MR. GROVE:** Just to reiterate Your Honor. First
17 off, Marcus Addison has an expectation of privacy as to
18 the place and things that were searched and seized. He
19 has lived in that residence for over four years now. He
20 is the only person that lives there. No one else could
21 have given authority to enter the home other than Mr.
22 Addison. That not being an issue, I will move onto the
23 reasons --

24 **THE COURT:** -- I don't believe that is an issue is
25 it Mr. Holt?

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1 **MR. HOLT:** No, sir, Your Honor.

2 **THE COURT:** No question about the expectation of
3 privacy. Go ahead, Mr. Grove.

4 **MR. GROVE:** Certainly, Your Honor. The Motion ---
5 The defendant feels that the Motion should be granted for
6 several reasons, Your Honor.

7 The case law that I have cited in the memo clearly
8 says that a control buy from a confidential informant is
9 enough evidence to justify a search warrant. However, in
10 a long line of questions the theme is constant throughout.

11

12 One --

13 **THE COURT:** None of which are South Carolina cases,
14 and none of which you have cited are U. S. Supreme Court
15 cases, so they are really just persuasive authority at
16 this point, and nothing that I am bound to; is that
17 correct?

18 **MR. GROVE:** A --

19 **THE COURT:** You haven't cited any South Carolina
20 cases that say that those two elements have got to be
21 present.

22 **MR. GROVE:** If I may, Your Honor. I have a couple
23 of more things.

24 **THE COURT:** All right.

25 **(PAUSE.)**

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1 **THE COURT:** In your brief, the ones that you cited
2 requiring those two elements of entry into the dwelling,
3 and the search before, and the search after are either
4 Court of Appeal cases from the U. S. Court of Appeals, or
5 other states like Arkansas, Hawaii, Kansas.

6 **MR. GROVE:** Certainly, Your Honor. And I believe
7 that I did have another case that I think I failed to cite
8 the name of the case escapes me at this time. I can
9 certainly look into that and get back to you in a matter
10 of minutes.

11 However, notwithstanding that long line of cases,
12 while not authoritative in the state of South Carolina, is
13 more that suggestive as far as the requirements concerned
14 for establishing probable cause to enter a residence and
15 search that residence.

16 The first being actual entry into the residence,
17 which gives the state enough evidence to assume that there
18 are drugs present in the residence. Without entry into
19 the residence it is too far of a stretch to assume that
20 drugs are going to be present, or any illegal activity
21 whatsoever.

22 And furthermore, Your Honor, the other constant in
23 all of those cases is that the confidential informant is
24 searched immediately prior to the controlled buy and
25 immediately afterwards.

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1 **THE COURT:** Isn't there evidence in the record in
2 this case that the officer did search him immediately
3 prior to going into the residence, based on the video?

4 **MR. GROVE:** I think --

5 **THE COURT:** -- Based on his testimony, I mean, from
6 the stand here?

7 **MR. GROVE:** I don't recall that testimony, Your
8 Honor. I am not going to fight that. That is, if that
9 was admitted under testimony, it is not something that I
10 recall.

11 However, the video evidence is clear that there is no
12 search immediately afterwards.

13 **THE COURT:** Correct, but the drugs are shown in the
14 video.

15 **MR. GROVE:** Yes, Your Honor. I think there is a
16 presence --

17 **THE COURT:** -- It is showing the exchange of the
18 drugs in the video even though he was not searched
19 immediately afterwards.

20 **MR. GROVE:** Correct. However, it is impossible to
21 identify what was received on ■ Street versus what was
22 received from the other control buy, which I believe
23 happened inside of his vehicle as he drove down the road.

24 **THE COURT:** At that point he had not been to the
25 other place. When it showed that he took --- the money

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1 was exchanged, and the drugs were taken, and it is shown
2 clearly in the video that there was a substance; I can't
3 say that it was drugs, but there was a substance taken
4 from the deliverer at that time.

5 MR. GROVE: Sure.

6 THE COURT: And that shows clearly in the video.
7 And then he went onto the next location.

8 MR. GROVE: Yes, Your Honor. And I believe we also
9 had testimony that the officers involved believed that
10 they had the identity of the person who was actually
11 making the delivery who lives directly across the street
12 and one house over from where the confidential informant
13 was parked. Maybe that would have been a more appropriate
14 search warrant. Certainly that person --

15 THE COURT: -- Isn't there a difference, Mr. Grove
16 --- isn't there a difference between the probable cause
17 necessary for an arrest warrant, which I would concede at
18 this point the state doesn't have, because they don't have
19 any way of tying Mr. Addison to this seizure. But, isn't
20 there a difference between the degree of proof that is
21 necessary for a probable cause to determine whether a
22 particular location contains contraband as opposed as to
23 whether a particular individual is in possession of
24 contraband?

25 MR. GROVE: Yes, Your Honor. We would certainly

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1 concede that particular element. However, my position is
2 still that doesn't change the fact that the video is
3 insufficient evidence. There is no indication from the
4 video that the deliverer got any of the substances which
5 were transferred from inside of the residence. As far as
6 --

7 THE COURT: -- The testimony is that he came from
8 the residence.

9 MR. GROVE: There is in fact testimony that he did
10 come from the residence, Your Honor. The visual evidence
11 shows that it comes from the direction of the house. It
12 doesn't show him leaving the residence. It doesn't show
13 him opening or closing a door. It shows him merely on the
14 property which shouldn't be unusual, because, again, he
15 lives two doors down.

16 THE COURT: And --

17 MR. GROVE: -- My --

18 THE COURT: Go ahead.

19 MR. GROVE: I'm sorry, Your Honor. My position is
20 again clearly if the identity of the deliverer is known,
21 perhaps that person's residence, which is also known,
22 would have been a more appropriate place to search. Ah,
23 the video doesn't provide any sort of evidence that Marcus
24 Addison was involved. There isn't any mention of his
25 address in the video. There isn't any mention from the

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1 deliverer or from the purchaser that the substances
2 acquired came from the residence. They came from the
3 deliverer. We have no more reason to believe that they
4 were all in the deliverer's pocket, than they were inside
5 the residence of Marcus Addison. I simply don't find
6 enough evidence to support a finding of probable cause for
7 a search warrant, where the sole resider of the residence
8 is not mentioned, not present, not discussed, not
9 identified, and another person is, who lives just as far
10 away as my client does. I think that there is plenty of
11 probable cause for search warrant at another residence,
12 simply not in this one.

13 **THE COURT:** All right. Mr. Holt.

14 **MR. HOLT:** Thank you, Judge. I think defense
15 counsel's argument rests on several assumptions.

16 One is where a CI buys enough probable cause for a
17 search warrant. This one fails on two reasons. The first
18 being that the CI received it in the second buy without
19 being searched. And the second being, that the CI never
20 actually entered the home.

21 I think the first argument that I submit is that when
22 the drug gang was younger, before what we have now, a drug
23 dealer was a little bit like a butcher. You would go to
24 his home, place an order, and leave with said product. I
25 think now as the video indicates, drug deals are

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1 increasingly more mobile, competition, pressure from
2 police. I think he witnessed this deal being set up over
3 the phone. Hey, I'll meet you at ■ Street. I'm on my
4 way. He drives to the location. The individual walks out
5 of the home. And he purchases crack from him. I think it
6 is certainly logical judge --- the defense would have you
7 believe that because the CI never entered the home, the
8 warrant lacks probable cause. But probable cause defined
9 by fair probability that contraband or evidence of a crime
10 would be found. And that is Illinois v Gates, judge.
11 That is a Supreme Court case, I have right here. 462 U.S.
12 213, 238 (1983.) And judge, it is certainly logical for
13 an individual to walk out of his house, complete a drug
14 transaction, and then re-enter the home, and for the
15 finder of fact in this case, the magistrate, to conclude
16 that drugs or evidence may still reside in this house.
17 Certainly a drug dealer just doesn't service one client
18 for one time. Certainly they have another supply of drugs
19 for which you continue other transactions.

20 And to expand on Gates, judge, a magistrate must make
21 a practical common sense decision of whether given the
22 totality of the circumstances set forth in the Affidavit,
23 including the veracity, and the basis of knowledge of
24 person supplying the information, that there is a fair
25 probability that the contraband or evidence of a crime

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1 will be found in a particular location.

2 Now, judge, deficiency of one of these elements,
3 veracity or reliability may be compensated for in the
4 determining of the overall reliability of a tip. Overall
5 reliability of information provided to a magistrate.

6 In here we had a strong showing. Our indication of
7 reliability is the video. And that is something that they
8 didn't have early on in the drug gang, where a defendant
9 would have to be searched before he entered the home.
10 They would place a wire on him. The defendant would be
11 searched when he exited the home. And the police would
12 keep their eyes on him as best they could. I think now
13 we live in a different gang. Now, we can just go to the
14 video. I think the video speaks for itself. An
15 individual walked out from around that house. He made a
16 drug transaction. You can see the crack in the hand. He
17 puts the crack in a cellophane rapper and puts it in his
18 truck. Now, at the end of the second buy, which we didn't
19 see on the video, the police officer searched him for two
20 sets of marked money. Found none. Searched him for two
21 orders of crack. Found them both.

22 Now, judge, if we hadn't seen the crack rock in the
23 video, perhaps defense counsel would have standing for his
24 argument. But we did.

25 Judge, I would like to remind you that in South

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1 Carolina, a magistrate must conclude that probable cause
2 exists before issuing a warrant. But probable cause does
3 not mean absolute certainty. The magistrate is concerned
4 with possibilities, probabilities, and not certainties.
5 And judge that is South Carolina versus DuPree, 354 S.C.
6 676; 583 S.E.2d 437, (2003.) And I want to continue to
7 quote another case judge. The evidence contained need not
8 be sufficient to support a conviction, or a verdict of
9 guilt, or establish guilt beyond a reasonable doubt, nor
10 that the proof be posited. It is enough if the evidence
11 is such to induce in the mind of the issuing officer an
12 honest belief that the facts set forth exist, or would
13 lead a man of prudence to believe that an offense has been
14 committed.

15 Judge --

16 **THE COURT:** -- Now, that is an arrest warrant
17 standard, isn't it?

18 **MR. HOLT:** I've got sufficiency of Affidavit, State
19 v Williams, I believe --

20 **THE COURT:** -- search warrant --

21 **MR. HOLT:** -- it is a search warrant for probable
22 cause, judge.

23 **THE COURT:** Well, there is probable cause. But my
24 position is that there, like in this case, as I indicated
25 to Mr. Grove, it is not probable case in this case for the

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1 arrest of the defendant, because he hadn't been
2 identified.

3 MR. HOLT: Judge, I could not agree with you more.

4 THE COURT: Right.

5 MR. HOLT: Would I prosecute a case against that
6 fellow in the video? Definitely not.

7 THE COURT: Right.

8 MR. HOLT: I mean, what evidence do I have?

9 THE COURT: You don't.

10 MR. HOLT: You can't see the person good. They
11 didn't search him afterwards. But is that evidence enough
12 to instill in the magistrate in honest belief that a crime
13 has been committed, and the evidence of that crime could
14 be found at that house?

15 THE COURT: Yes.

16 MR. HOLT: Definitely it is.

17 THE COURT: I understand.

18 MR. HOLT: Your Honor, just briefly. I feel that
19 you know the facts considering determining probable cause,
20 The State v DuPree, we could go back to that one. The
21 experience of a police officer. I think these police
22 officers are experienced with what the current drug gang
23 is. And that is mobile. They are like terrorist, judge.
24 You are not fighting Nations or States anymore, you are
25 fighting freelance, young men, that are on the go, that

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1 have cell phones, that are competing not only with the
2 police, but with other, younger drug dealers. And what
3 they want to do is be mobile, service the customer faster,
4 and be there quicker. And I think that the police
5 understand that. I think it should be shown the
6 difference. I think the fact that the magistrate himself
7 found probable cause, perhaps should be shown some
8 difference by the Court, judge.

9 And just to sum it up, I completely understand and
10 agree with everybody that this would not be enough to
11 prosecute this young man. This would not be anything
12 other than probable cause, and sealing the magistrate of
13 the belief that a probability that a crime or the evidence
14 thereof, could be found at the location that the deal was
15 made. I think everybody was sure that we were at [REDACTED]
16 Street. I think the photos that the defense has put up
17 clearly show all houses that were shown on the video.

18 Basically, Your Honor, this house was set up like a
19 drive through drug operation. If you are to follow
20 defense counsel's argument out to its logical conclusion,
21 if they don't go in the house --- a drug dealer, they
22 could have five hundred video buys with him dealing drugs.
23 And it wouldn't amount to enough to search his residence.
24 And I think that there would be no way to stop it then,
25 judge.

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1 **THE COURT:** All right. Thank you, sir. All right,
2 Mr. Grove.

3 **MR. GROVE:** Yes, Your Honor. Actually State v
4 DuPree was the one that I was trying to think of, and
5 again from that case at page 404, they described the
6 evidence that was presented to the magistrate, and that
7 goes to include that the purchase was observed by narcotic
8 agents while making the purchase entering and exiting the
9 location. Again, we have that same standard from a long
10 line of cases that can also be --

11 **THE COURT:** -- But that doesn't say the only
12 situation, it just happens to be the fact of that case.

13 **MR. GROVE:** It certainly does, Your Honor. And our
14 position would be that that should be the standard. To
15 establish that this residence is the targeted residence.
16 Entry into that residence, or identification of the
17 resident should be necessary. And again, Your Honor, with
18 a neutral view of that drug buy video. Unless that drug
19 buy video is presented to you saying, Mr. Magistrate,
20 Madame Magistrate, we are looking for a search warrant for
21 Marcus Addison, you would have no idea that my client is
22 involved in any way whatsoever.

23 **THE COURT:** What difference does it make whose
24 house it is as far as the search warrant is concerned. It
25 doesn't does it? If the --- it doesn't matter whose it

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1 is. If they observed an individual, let's just say off
2 the porch, we won't even say inside, but come off the
3 porch from your house, your house, and walks to a police
4 vehicle, and delivers drugs, and is identified as a
5 residence --- they don't know who owns the residence, but
6 it happens to be your house. Wouldn't they have enough
7 probable cause to search that house?

8 **MR. GROVE:** Perhaps, Your Honor. Maybe they would.
9 But if the identity of that person making the delivery
10 could be made, and that person lived across the street
11 from me, I would hope that the search warrant would be
12 directed at their residence rather than mine. And that is
13 exactly the situation that we have here. A known
14 deliverer was identified in the video. His residence is
15 also known.

16 **THE COURT:** It wasn't shown from that residence, it
17 was shown coming from a different residence.

18 **MR. GROVE:** Yes, Your Honor, which happens to be
19 across the street from my client's residence. He has no
20 more probable cause to search my client's house than he
21 does the whole of ■ Street. His location should be
22 irrelevant unless his location is within the residence.
23 His identity should be the controlling factor, and Marcus
24 Addison's identity is never established.

25 **THE COURT:** I disagree. I don't think that the

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1 controlling --- that the identity is the controlling
2 factor at all. I think the location is the controlling
3 factor.

4 Okay. The --- We are talking about here a search
5 warrant. The Court has reviewed all of the testimony, and
6 of course, has heard the arguments of counsel. And have
7 also reviewed the exhibits that were introduced into
8 evidence including the photographs, the search warrant,
9 and the video.

10 In my view it is important to remember that this is a
11 Motion to Suppress a search warrant for a location. The
12 enquiry here is not whether or not there is probable cause
13 to the issuance of an arrest warrant for this defendant,
14 Mr. Addison.

15 The search warrant describes very particularly the
16 description of the place to be searched, and is very
17 specific in detail in that description. Even telling how
18 to get there on a step by step basis, almost like a GPS.

19 The Affidavit of the Officer, Mr. Lawson, is to the
20 effect that a reliable confidential informant had ✓
21 purchased a quantity of crack cocaine from this residence,
22 and that the transaction was monitored.

23 The contents of the search warrant were supplemented
24 by the testimony of Mr. Lawson, and, of course, the test
25 as to whether or not there was probable cause for the

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1 issuance of the search warrant is what was presented to
2 the magistrate either in the form of the written Affidavit
3 or sworn testimony. The law is clear that the facts in an
4 Affidavit can be supplemented by sworn testimony to a
5 magistrate or to a judicial officer who is issuing the
6 search warrant, and he can rely upon those additional
7 facts as well as those that are actually in the search
8 warrant.

9 In this particular case, the officer testified as to
10 what was in the video to the magistrate, and told him what
11 the video showed. And, of course, the video does show an
12 individual, not the defendant, coming from this house and
13 selling crack to the confidential informant.

14 As I say, the Affidavit was supplemented by the
15 officer who testified to these facts, sworn testimony to
16 the issuing officer, the magistrate in this case. He
17 further testified that he told the magistrate under oath
18 additional facts not contained in the search warrant.
19 These include that the individual was coming from the
20 house. That in addition he also testified that he told
21 the magistrate that he was a confidential reliable
22 informant that they had relied upon before. Furthermore
23 that he was searched before he was sent into the house.
24 My recollection of the testimony is that he did not
25 testify that he told the magistrate that he was searched

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1 after the buy. But the video clearly shows as he
2 testified to, that he related to the magistrate that the
3 drug transaction took place, and those drugs and money are
4 shown in the video.

5 The defendant's contention, of course, is that the
6 state must establish two points to show probable cause.
7 That is, that the confidential informant must go into the
8 house. I am aware that DuPree is a South Carolina case
9 that does say in that particular case that he went into
10 the house and exited the house. But, the other cases that
11 are cited are similar type cases, but are not South
12 Carolina cases or controlling cases. But I don't think
13 that there is any requirement that they must enter the
14 house in order to establish probable cause, if he is shown
15 coming from the house as the officer testified to in this
16 court, and also as he indicated that he told or testified
17 to before the magistrate.

18 He also testified as to the other point the defendant
19 makes is that there was no --- nothing about searching the
20 confidential informant before and after. The officer
21 testified yesterday that he did tell those things to the
22 magistrate about searching him before, the confidential
23 informant. My recollection of his testimony is that he
24 did not say anything to the magistrate about searching him
25 afterwards. But, that the video clearly showed the drug

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1 transaction took place.

2 I disagree with the defense that those two elements
3 are a requirement for the showing of probable cause.

4 I think probable cause can be established by the
5 totality of the circumstances, and it is a practical
6 common sense analysis of the probability that contraband
7 will be found. That is the test. And if I had to
8 articulate a test, I would say you would have to look at
9 the totality of the circumstances, and conclude that a
10 magistrate hearing the testimony could conclude on a
11 practical common sense analysis that there was a
12 probability that contraband would be found at this
13 particular location.

14 Based upon, and we have to look at it from the facts
15 that were related to the magistrate, and that is what I am
16 looking at it from. He is the one who has got to make
17 that determination of fair probability that contraband
18 will be found based upon all of the circumstances, and a
19 common sense approach. He can base that on the Affidavit.
20 He can also base it upon the testimony of the officer who
21 appears before him.

22 So, as I have said, and has already been said in
23 here, the test is overall reliability. I have some
24 doubts, and I think the state concedes that there was not
25 probable cause for the issuance of an arrest warrant for

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1 Mr. Addison, but in my view, there is certainly probable
2 cause to the issuance of a search warrant for this
3 particular residence in view of the testimony that was
4 related to the magistrate of the individual coming from
5 this location, and brings drugs to the confidential
6 informant which are clearly shown in the video. I don't
7 think it matters who owns the house. It could have been
8 anybody's house, and if he came off of that porch, or out
9 of that house as the officer testified to, that furnishes
10 the basis for the probable cause for a search warrant
11 regardless of the owner of the house.

12 Again, I think you have got to take a common sense
13 approach to it. And look at it from the standpoint of
14 fair probability that contraband would be found, and that
15 is present in this case, and was present in its
16 presentation to the magistrate.

17 I would find that there was probable cause for the
18 issuance of a search warrant.

19 Motion to Suppress is denied.

20 How are we standing with jurors?

21 **CLERK OF COURT:** They are here, and Mr. Andy
22 Pusser, juror number 118 is the foreperson.

23 **THE COURT:** All right. Are you ready to go
24 forward, Mr. Holt?

25 **MR. HOLT:** The state is, Your Honor.

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1 **THE COURT:** Defense?

2 **MR. GROVE:** Yes, Your Honor.

3 **THE COURT:** All right. Let's bring the jury in.

4 **BAILIFF:** All right, sir.

5 (Whereupon, the jury enters the courtroom at
6 9:37 a.m.)

7 **THE COURT:** Counsel, do you want these exhibits
8 back? Do you need them, Mr. Holt?

9 **MR. HOLT:** Yes, sir, judge.

10 **THE COURT:** Give them to the Court reporter, they
11 have already been marked, so she ought to keep them.

12 Counsel, come up while the jury is coming in, just a
13 minute.

14 (Whereupon, a bench conference was held.)

15 **THE COURT:** All right. Good morning, ladies and
16 gentlemen. And thank you for your promptness in getting
17 back here. We are a few minutes late getting started, but
18 we have been dealing with some matters involving this
19 case, as well as some other matters. We started about
20 9:00, so it has not been just a situation of keeping you
21 waiting in the jury room unnecessarily. And I always try
22 to not keep jurors waiting unnecessarily, that is kind of
23 a pet-peeve of mine. So, it hasn't been a situation of
24 keeping you waiting in the jury room while we set around -
25 -- while we sat around and drank coffee. We have been

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1 working since 9:00-o'clock.

2 But, we are prepared to go forward at this time. And
3 I understand, Mr. Pusser, you have been selected as
4 foreman of this jury, and if you would sit where you are
5 seated throughout the trial of this case. The alternate
6 will sit where she is seated, and the rest of you can sit
7 in any seats in the jury box. But, we are ready to go
8 forward in connection with this matter, and Mr. Clerk you
9 may swear the jury.

10 **CLERK OF COURT:** Yes, sir, Your Honor. If
11 everyone would stand and raise their right hand.

12 (Whereupon, the jury was sworn at 9:46 a.m. on
13 Tuesday, February 1, 2011.)

14 **INTRODUCTION BY THE COURT**

15 **THE COURT:** All right. Ladies and gentlemen,
16 before we begin the actual trial of this case, I thought
17 it may be helpful if I explained to you basically how a
18 trial proceeds. I know all of you have seen trials on
19 television, but I think you will find that it is a great
20 deal different in real life.

21 First of all the state will make an opening
22 statement. An opening statement is not evidence. It is
23 simply an outline to help you understand what the state
24 expects the evidence will show. The defendant may, if he
25 wishes to, present an opening statement, but he doesn't

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1 have to for reasons that I will explain later.

2 Following the opening statements you will hear the
3 testimony and evidence in this case. This will consist of
4 testimony from the state's witnesses as well as any
5 physical exhibits which may be introduced into evidence.
6 Following the completion of the testimony, the attorneys
7 will again have an opportunity to make what is closed a
8 closing statement, or summation to you. This is an
9 opportunity for the attorneys to summarize the case from
10 their perspective points of view. Again, these arguments
11 are not evidence.

12 Following the closing statements by the attorneys, I
13 will instruct you on the law of South Carolina as it
14 pertains to the issues that have arisen in this case.
15 When I have completed my instructions to you, you will be
16 permitted to begin your deliberations in order to reach a
17 verdict.

18 Now, ladies and gentlemen, you are now the jury in
19 this case, and I want to take a few minutes to tell you
20 something about your duty as jurors, and give you some
21 instructions.

22 At the end of this trial I will give you more
23 detailed instructions, and those instructions will control
24 your deliberations. It will be your duty to decide from
25 the evidence what the facts are. You and you alone are the

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1 judges of the facts. You will hear the evidence, decide
2 what the facts are, and then apply those facts to the law
3 which I will give to you. That is how you reach a
4 verdict. In doing so you must follow the law, whether you
5 agree with it or not. The evidence will consist of
6 testimony of witnesses, documents, and other things
7 received into evidence as exhibits, and any facts on which
8 the lawyers agree, or which I may instruct you to accept.

9 Now, you should not take anything that I may say or
10 do during this trial as indicating what I think of the
11 evidence or what your verdict should be. That is a matter
12 that it totally up to you. The law does not permit me to
13 have an opinion about the facts.

14 The same law that makes you the judge of the facts
15 makes me the judge of the law. You must take the law as I
16 give you, regardless of what you think the law is or what
17 the law ought to be. If I am wrong on the law, there is
18 another time and place for that error to be corrected.
19 But for this case you must accept the law as I charge it
20 to you.

21 Now, this is a criminal case brought by the state of
22 South Carolina. The state charges the defendant Marcus
23 Addison with several offenses. There are two counts of
24 threatening the life of a public official. One of
25 trafficking in crack cocaine. Two of contributing to the

INTRODUCTION BY THE COURT

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1 delinquency of a minor, and a charge of possession with
2 intent to distribute marijuana. The charges against the
3 defendant are contained in these Indictments which I hold
4 in my hand. The Indictments are not evidence of anything.
5 They are simply the description of the charges made
6 against the defendant. The defendant has plead not guilty
7 to these charges, and is presumed innocent unless and
8 until proven guilty beyond a reasonable doubt. A
9 reasonable doubt is the kind of doubt that would cause a
10 reasonable person to hesitate to act. A defendant has a
11 right not to testify, and never has to prove innocence or
12 present any evidence. The burden of proof is always on
13 the state of South Carolina.

14 The following things are not evidence, and you must
15 not consider them as evidence in deciding the facts of
16 this case. Statements and arguments of the attorneys are
17 not evidence. Objections and questions of the attorneys
18 are not evidence. And testimony that I instruct you to
19 disregard is not evidence.

20 Evidence may be direct or circumstantial. Direct
21 evidence is testimony by a witness about what that witness
22 personally saw, or heard, or did.

23 Circumstantial evidence is indirect evidence. The
24 law permits you to give equal weight to both. But it is
25 for you to decide who much weight to give to any of the

INTRODUCTION BY THE COURT

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1 evidence.

2 There are rules of evidence which control what can be
3 received in the Court. When a lawyer asks a question or
4 offers an exhibit into evidence, and a lawyer on the other
5 side thinks that it is not permitted by the Rules of
6 Evidence, that lawyer may object. If I overrule the
7 objection, the question may be answered or the exhibit may
8 be received. If I sustain the objection, the question
9 cannot be answered or the exhibit cannot be received.
10 Whenever I sustain an objection to a question, or deny a
11 motion to admit an exhibit into evidence, you must ignore
12 the question or the existence of the exhibit, and you must
13 not guess what the answer would have been, or what the
14 exhibit would have shown.

15 Sometimes it may be necessary for me to request that
16 you leave the courtroom while I discuss with the attorneys
17 legal questions that comes up during the course of the
18 trial. If this occurs, you should not speculate about our
19 discussions, or the reasons you were asked to leave the
20 room. This is simply a procedure that the law requires
21 when certain legal issues arise.

22 There may also be occasions when I ask the attorneys
23 to approach the bench so I can discuss a legal issue with
24 them in private. I will do this as often as possible, so
25 that you will not be required to leave the courtroom more

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1 than is absolutely necessary.

2 Again, if I ask the attorneys to step up to the
3 bench, or if I ask you to leave the courtroom, please
4 don't think that anybody is trying to hide anything from
5 you or keep any evidence from you. This is simply a
6 procedure used by all lawyers, and by all courts to
7 determine and decide legal questions.

8 Now, in deciding the facts of this case, you may have
9 to decide which witnesses to believe and which witnesses
10 not to believe. This is called credibility. You may
11 believe everything a witness says, or only part of it, or
12 none of it. In deciding what to believe, you may consider
13 a number of factors including the witnesses ability to
14 see, or hear, or know the things a witness testified to.
15 The quality of the witness's memory. The witness's manner
16 or demeanor while testifying. Whether the witness has an
17 interest in the outcome of the case, or any motive, bias,
18 or prejudice. Whether the witness was contradicted by
19 anything the witness said or wrote before the trial, or by
20 any other evidence, and how reasonable was, the witnesses
21 testimony, when considered in the light of the other
22 evidence, which you believe.

23 Now, just a few words about your conduct as jurors,
24 some of which I have already mentioned to you, but they
25 are important enough that they bear repeating.

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1 Do not talk to each other about this case until the
2 end of the case when you go to your jury room to decide on
3 your verdict. So, if at any time during the progress of
4 this case it recesses, or any other time you are in the
5 jury room, or when you are reassembling after a lunch
6 break or an evening break, do not talk about the case to
7 each other. You can talk about anything you want to talk
8 about, but do not talk about the case to each other until
9 after the arguments of counsel, and the instructions on
10 the law by the Court, and I have told you to begin your
11 deliberations.

12 Do not talk with anyone else about the case until the
13 trial has ended, following your verdict, and you have been
14 discharged as jurors. This means, do not discuss the case
15 with members of your family, friends, or with anyone else.
16 You may tell them that you are a juror, but don't tell
17 them anything about the case until you have been
18 discharged by me. Again, you have got to decide this
19 case based upon what you hear in this courtroom, and not
20 on the basis of what anyone else might say. And as I said
21 yesterday, do not read any news stories, or articles, or
22 listen to any radio or television reports about the case.
23 Do not let anyone talk to you about the case. If anyone
24 should try to talk to you, get their name, or their
25 description, and report it to me immediately.

OPENING STATEMENT BY THE STATE

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1 You are not to consider as evidence anything that you
2 may see or hear when court is not in session.

3 Do not do any research such as consulting
4 dictionaries or other reference materials, or any computer
5 research on the internet or otherwise. And do not make
6 any investigation into the case on your own.

7 And finally, do not make up your mind about what your
8 verdict should be until you have heard all of the
9 testimony in this case, the arguments of counsel, and the
10 instructions on the law by the Court. You will be told
11 when to begin your deliberations by either me or the
12 bailiff.

13 Any objection to my initial remarks on behalf of the
14 state, Mr. Holt?

15 **MR. HOLT:** None from the state, Your Honor.

16 **THE COURT:** On behalf of the defense, Mr. Grove?

17 **MR. GROVE:** No, Your Honor.

18 **THE COURT:** All right. All right, ladies and
19 gentlemen, the first order of business is the matter of
20 opening statements, and for that purpose the Court will
21 recognize the Assistant Solicitor, Mr. Holt.

22 **OPENING STATEMENT BY THE STATE**

23 **MR. HOLT:** Thank you, Your Honor, may it please the
24 Court?

25 **THE COURT:** Yes, sir.

OPENING STATEMENT BY THE STATE

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1 **MR. HOLT:** Mr. Grove. Ladies and gentlemen of the
2 jury, throughout the course of this trial, what the state
3 is going to try to do is prove to you beyond a reasonable
4 doubt, that the defendant, Mr. Addison is guilty of
5 several things.

6 First. That he is guilty of trafficking crack
7 cocaine. Secondly. That he is guilty of possessing enough
8 marijuana, which you could imply that he was going to
9 distribute that marijuana. Thirdly, that when all of this
10 went down, when he was arrested, that he threatened the
11 live of the public officials there to help him, that he
12 threatened the life of a police officer who was there to
13 arrest him. And that not only did he threaten their
14 lives, but their father's life, and their children's life.
15 And what is most important, and what I always want you to
16 think about in this case is that we are going to be
17 talking about how he contributed to the delinquency of
18 minors, and how that plays into all the evidence you are
19 going to hear about today. Some of the evidence is going
20 to come from that stand. It is going to be testimonial.
21 You are going to hear this evidence. Some of this
22 evidence is going to be hard. You can touch it. You can
23 feel it, pictures you can look at, things that you can
24 pick up. And throughout all of this, the end goal that my
25 office is going to try to do is, prove to you beyond a

OPENING STATEMENT BY THE STATE

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1 reasonable doubt, that the defendant is guilty.

2 Now, how do we know he is guilty, and what evidence
3 are we going to put out. Opening statements aren't for
4 me to give you all the evidence, but I will talk about
5 some things that are going to come out during the course
6 of this trial.

7 There was a search warrant, May 21, 2008, at the
8 defendant's home, [REDACTED] Street. When the police
9 officers got there, and you will hear all of this, they
10 discovered a large amount of crack cocaine, a large amount
11 of marijuana. They discovered juveniles there. And you
12 are going to hear about what the juveniles' involvements
13 was, and what they were asked to do. You are going to
14 hear about who owned the house, and who was in control of
15 the house. You are going to hear about what happened when
16 they went to get the defendant, what he said to the
17 officers, and how he treated the officers.

18 Now, ladies and gentlemen, the judge has told you a
19 little bit about reasonable doubt, and everybody knows
20 that. Everybody has seen movies. Everybody has watched
21 tv. And, by the way, all the Court stuff you have seen on
22 the movies, all the CSI type things, regular court is not
23 half as sexy as that. You are going to hear some CSI
24 stuff, but it is nothing like the show. It really just
25 involves me putting somebody on the stand, I think, fifty-

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1 four questions. It is very slow, not a lot of fun, but
2 my burden is to prove to you beyond a reasonable doubt ---
3 it is not an easy thing to do. It is not something that
4 the state takes lightly. And I want y'all to remember
5 that during the course of the trial. That your continued
6 participation, that your continued listening to the facts,
7 and looking at them, and using your brain for what you
8 think the facts say. That is the most important thing
9 here. And just like the judge said, Winston Churchill,
10 one of his famous quotes is: Outside of military
11 service, the best thing you can do is serve on a jury.
12 And that is because Americans out there, our soldiers are
13 out there, our people are out there all over the world, we
14 can hold our heads high, because we come up from America.
15 Because, we don't have it like we have it like in those
16 other countries. Egypt is being torn down right now. We
17 don't have it like that, because we don't have some king,
18 or a president who has been here for thirty years, like
19 they had in Egypt, tell you who is guilty and who is not.
20 The most beautiful thing about America, and even in other
21 countries that have democracy like Ireland, you have a
22 jury system. Twelve people, who don't know about the
23 facts before they get up here, and who don't care about
24 the facts. Maybe, I shouldn't say, don't care about, but
25 all the questions yesterday we talked about were just to

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1 make sure that you were disinterested. And what that
2 means is that you don't have a dog in the fight. You are
3 not supporting anybody when you come here today. What we
4 are going to try to do is persuade you over to our side.

5 I hope that you pay attention to the facts. I hope
6 you pay attention to the exhibits, and how important it is
7 for you to be here today.

8 Now, I am going to sit down, and I am going to let
9 the fine attorneys for the defense counsel to stand up,
10 and they are going to talk to you a lot about what this is
11 about.

12 And I want y'all to try to remember that what we say
13 up here is not the law. But we will go over some of the
14 things at the end, and the judge will definitely charge
15 you on the law. But I hope that y'all continue to pay
16 attention like you paid attention when he was talking to
17 you. And I hope that at the end of this we can all be
18 happy.

19 Thank you, very much.

20 **THE COURT:** Mr. Grove, does the defendant care to
21 make an opening statement?

22 **MR. GROVE:** Briefly, yes, Your Honor.

23 **THE COURT:** Yes, you may.

24 **MR. GROVE:** May it please, the Court?

25 **THE COURT:** Yes, sir.

CLOSING ARGUMENTS BY THE DEFENSE

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CLOSING ARGUMENTS BY THE DEFENSE

1
2 **MR. GROVE:** Mr. Holt. Ladies and gentlemen of the
3 jury, my name is Will Grove, I represent Marcus Addison,
4 my client. I am not going to take up a lot of your time,
5 and we will go ahead and get started here in just a
6 minute.

7 I am not going to be the first person to say this,
8 and I certainly won't be the last. Thanks for being here.
9 It seems that everybody makes a big deal out of you guys
10 being here, and I know it seems like you just kind of sit
11 here and you listen to what people say. And you are
12 looking for things for people to talk about, but it is
13 very important. It is certainly important to the state.
14 It is certainly important to me. And it is most
15 definitely important to my client Marcus Addison.

16 Mr. Holt has gone through some of the evidence that
17 is going to be presented, kind of give you an idea of what
18 the case is about. He is right about one thing. A trial
19 is not as fun as it looks on tv. It is going to be long.
20 It is going to be kind of boring at times; I'm sure. And
21 that is why we encourage you to pay attention, focus,
22 because, again this is an incredibly important process
23 that you are taking part in. We would just simply ask
24 that you keep an open mind. That you really review the
25 evidence. And you really look at what the state has

CLOSING ARGUMENTS BY THE DEFENSE

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1 proven, or haven't. What they have proved and what they
2 haven't proved.

3 Beyond a reasonable doubt, and there will be plenty
4 of discussion about that later on. The judge will kind of
5 give you an idea as to the standard of reasonable doubt
6 before you guys reach a verdict. Your job here is the
7 facts of the case. You guys are the judge of the facts,
8 and His Honor King, is the judge of the law. So, we'll go
9 through the facts. The state will present their side. We
10 will present our side, and you guys can decide what
11 happens. That is why the jury system is so important,
12 because the law is already established. We already know
13 the laws, and you will be instructed on that. Your job is
14 to decide what you think happened.

15 So I am going to ask that you listen carefully, and
16 certainly listen to the state. They will present plenty
17 of evidence. Listen to the defense. Just pay close
18 attention to what is proven, and closer attention to what
19 isn't proven. The responsibility of a juror can't be
20 overstated.

21 We certainly appreciate the time and consideration
22 that you are putting into this trial. And I look forward
23 to working with you over the course of the next few days.

24 Thank you.

25 **THE COURT:** All right. Mr. Holt, you may call your

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1 first witness.

2 **MR. HOLT:** Thank you, Your Honor. At this time the
3 state would like to call Deputy Brad Lawson to the stand.

4 **DEPUTY CLERK:** If you would come forward and be
5 sworn.

6 **WHEREUPON, BRAD MICHAEL LAWSON**

7 **FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS**

8 **DEPUTY LAWSON:** I do.

9 **DIRECT EXAMINATION BY MR. HOLT**

10 Q. Deputy Lawson, can you please state your full name
11 for the jury?

12 A. Brad Michael Lawson.

13 Q. Officer Lawson, where are you currently employed?

14 A. With the Darlington County Sheriff's Office.

15 Q. And what is your possession within the Sheriff's
16 Office?

17 A. At this time I am part of our Special Enforcement
18 Unit. I mainly work traffic on the Interstate and
19 major highways.

20 Q. Deputy Lawson, how long have you been in law
21 enforcement?

22 A. Nine years.

23 Q. And did you work in law enforcement before the
24 Sheriff's Office?

25 A. No, I did not. That is where I started my law

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1 enforcement career.

2 Q. All right. How about on the day in question here,
3 May 21, 2008. What was your possession that you held
4 then?

5 A. I was a member of our narcotics or drug unit at the
6 Sheriff's Office.

7 Q. Now, can you explain to the jury what the purposes of
8 the Drug Unit was, and who it consisted of?

9 A. At that time it consisted of Lieutenant George Wilks,
10 Sergeant Mike Hall, Agent Charles Right, and myself
11 at that time. And our purpose was to gain
12 intelligence, information of course on narcotic drug
13 activity within the county. And make buys of that
14 nature regarding drug activity, and to then make an
15 arrest. Put faces on drug dealers.

16 Q. Now, you were on the drug team at the time, can you
17 tell the jury what was on the agenda for the day in
18 question, May 21, 2008, with the drug team, and can
19 you expand on your particular role in that?

20 A. Yes, on May 21, 2008, we had already obtained a
21 narcotics search warrant for the address of [REDACTED]
22 Street, in the Hartsville area of the county. With
23 that we put together a team to make entry on that
24 house, which consisted of Officer Neil Flowers,
25 Sergeant Tony Baird, Investigator Chad McInville, and

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1 myself. We had a lot of other officers involved that
2 went around surrounding the house, and were there
3 working the scene, but that was the actual unit that
4 actually hit the house; went into the house.

5 Q. Now, you say hit the house, went into the house. Was
6 the door locked, how did y'all get into the house?
7 Would you explain to the jury how the procedure
8 works?

9 A. Yes. With a narcotics search warrant, it is
10 considered high risk. So four of us were in a
11 vehicle, pulled up to the house. Before we came in
12 we announced that we were with the Sheriff's Office
13 and had a search warrant. We actually announced that
14 two times before we knocked in the door with the use
15 of a battering ram as far as knocking in the door.

16 Q. What was inside of the house, Deputy Lawson, what did
17 you observe?

18 A. I am the one that hit the door. Sergeant Baird went
19 in first, and then Investigator Chad McInville, and
20 then myself, and Neil Flowers followed. But as we
21 were entering, what was found was to be a juvenile, a
22 sixteen-year-old juvenile had come from Mr. Addison's
23 bedroom through a small little hallway into a
24 livingroom area and ran back to an older kitchen area
25 that is not used anymore. Of course, we commanded

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1 him to the ground to try and get the house secured.
2 Observed that being Mr. Minor [REDACTED], a sixteen-year-
3 old juvenile. Observed him appearing to throw
4 something under a cabinet in that kitchen area. We
5 commanded him back toward us into that livingroom.
6 Had him get on the floor of the livingroom. We then
7 secured him. Investigator McInville went to the left
8 into Mr. Addison's bedroom where he had located Mr.
9 Addison laying in a hospital type bed. And another
10 juvenile was found to be thirteen years old, a Minor #2
11 [REDACTED] was in that bedroom with Mr. Addison.

12 Q. What was the juvenile doing inside of the bedroom?
13 Do you remember?

14 A. I do not know exactly what he was doing. I was not
15 in that room at that time, but he was in the room
16 with Mr. Addison, and he was secured as everyone in
17 the house was secured.

18 Q. And when you say you got into the door, you saw the
19 sixteen-year-old juvenile running in the kitchen?

20 A. That's correct.

21 Q. What was he doing in the kitchen, and what did you
22 later find?

23 A. As I said, he ran toward the kitchen area, or into
24 that kitchen area. We seen him attempting to or
25 trying to hide something under one of the counters.

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1 Later on after the house was secured, and all
2 suspects were taken out of the house, we went back
3 and, of course, searched the house thoroughly. And
4 right where Mr. Minor was seen throwing something
5 under a cabinet was a fairly large amount of crack
6 cocaine that he later admitted that he threw under
7 that sink.

8 Q. Now, did you suspect that there would be --- And
9 obviously a lot of planning goes in this. Would you
10 suspect that there would be juveniles in the home
11 when you entered the home?

12 A. Oh, yeah. I didn't expect really maybe a thirteen-
13 year-old, someone that young. But I did expect
14 juveniles of course to be there. As information was
15 gained through investigations of juveniles involved
16 in that kind of activity at Mr. Addison's house,
17 hanging out there, yeah.

18 Q. Thank you. You found the defendant in his bed. What
19 kind of condition was he in?

20 A. Of course he is paralyzed, so he was laying in the
21 bed with --- And we observed immediately when we saw
22 him, we observed digital scales laying on the floor
23 beside of the bed. Sandwich bags, which are commonly
24 used for packaging drugs, a box of sandwich bags.
25 Things of that nature were beside of the bed.

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1 Q. Now, who helped you take him from the bed outside?
2 How was it since he is paralyzed, did you take
3 himself outside of the bed to outside?

4 A. Myself and Officer Baird, Officer Tony Baird, we
5 assisted him from the bed into his wheelchair, and
6 rolled him outside.

7 Q. And he has had time --- Right before you brought him
8 outside, did you search his person?

9 A. We did search his person as good as we could after we
10 got him secured and put in the wheelchair. That was
11 mainly searching him for weapons. We knew going in
12 that he possibly was going to need some medical
13 attention. And he also complained of having diaper
14 rashes on him.

15 Q. When you searched him for weapons, did you find any
16 currency?

17 A. Yeah. He did have \$436.00 of U.S. currency on his
18 person.

19 Q. Now, you took him outside, you had the admittance
20 ready form, did the defendant say anything while you
21 were taking him outside in between the time you got
22 him and EMS got him?

23 MR. GROVE: Objection, Your Honor, relevance.

24 THE COURT: Counsel, approach.

25 (Whereupon, a bench conference was held in the

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1 presence of the jury, but out of the hearing of the jury.)

2 **THE COURT:** The objection is overruled. It is
3 based on hearsay as I understand it. Be careful with your
4 questions, Mr. Holt.

5 **MR. HOLT:** Thank you, judge.

6 **THE COURT:** You may answer the question.

7 **DEPUTY LAWSON:** Excuse me?

8 Q. Did the defendant say anything to you when you took
9 him out of the house?

10 A. He did. I don't remember everything that he said. I
11 just remember once getting him outside that he kind
12 of became a little irate, very mouthy.

13 Q. Okay. Now after the house was cleared of the
14 defendants, who searched the home, and what was found
15 during that search?

16 A. In the home, myself --- I searched the house along
17 with Investigator Chad McInville, the Chief, he
18 helped search, but his main role was taking photos of
19 the evidence that was located. Russ Harrell who is
20 our evidence collector, he was in the house, and he
21 collected all of the evidence. And Sergeant Mike
22 Hall, who was my Sergeant in the Narcotics Unit,
23 assisted with the search of the residence.

24 **MR. HOLT:** Your Honor, at this time I would like to
25 approach the Court reporter, and have some things marked.

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1 **THE COURT:** Yes, sir.

2 **MR. HOLT:** Thank you, Your Honor. Permission to
3 approach the witness?

4 **THE COURT:** Yes, sir.

5 Q. Deputy Lawson, I am going to hand you what has been
6 marked as State's Exhibit 3. Now, without saying
7 what they are --- Can you tell the jury if you
8 recognize those items?

9 A. Yes, I do.

10 Q. And have you seen those items before?

11 A. I have.

12 Q. And have they changed in any way since the last time
13 you saw them?

14 A. No, they haven't.

15 **MR. HOLT:** Your Honor, at this time the state would
16 like to place State's Exhibit 3 into evidence.

17 **THE COURT:** All right. Any objection Mr. Holt ---
18 Mr. Grove?

19 **MR. GROVE:** If I may briefly --

20 **THE COURT:** Sure.

21 **MR. GROVE:** Thank you, Your Honor.

22 **(PAUSE.)**

23 **MR. GROVE:** No objection, Your Honor.

24 **THE COURT:** State's Exhibit 3, is admitted into
25 evidence without objection.

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1 **WHEREUPON, STATE'S EXHIBIT**
2 **NUMBER 3 IS MARKED AND**
3 **ADMITTED INTO EVIDENCE**
4 **WITHOUT OBJECTION.**

5 **THE COURT:** Ladies and gentlemen, let me mention to
6 you at this time now that we do have in addition to
7 testimony some physical exhibits.

8 The lawyers may ask during the testimony, while the
9 witness is on the stand to publish the exhibits. That is
10 basically to show the jury the exhibits, and pass them
11 around to you, while you are sitting there in the jury
12 box. More than likely, I will grant that motion, and
13 allow them to do so.

14 Do not be concerned if you do not have as long to
15 look at an exhibit as you would like to while it is being
16 passed around to you there in the jury box. Anything that
17 is admitted into evidence will go with you to the jury
18 room at the end of the case, when you go to deliberate
19 your verdict. And you will have as much time to study or
20 look at it as you would like to at that time.

21 All right, Mr. Holt.

22 **MR. HOLT:** Thank you, judge.

23 Q. Deputy Lawson, what is inside of that bag?

24 A. Two digital scales and a box of Ziploc sandwich bags.

25 Q. Now we all know what Ziploc sandwich bags are, but

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1 did you find those sandwich bags in the kitchen?

2 A. No. They were laying next to his bed.

3 Q. Were they in close proximity to the scales?

4 A. Because they were lying right next to one of the
5 scales.

6 Q. Can you explain to the jury what the significance of
7 that might be?

8 A. Sandwich bags are just very commonly used in the
9 packaging illegal narcotics.

10 Q. Now, the scales in question, the jury may not and
11 probably does not know exactly what those are. Can
12 you explain to them what those are?

13 A. Scales --- Digital scales are used to measure out the
14 weight of narcotics, before the sale of that
15 narcotic.

16 Q. Now you said that you found a bag and one scale on
17 the floor. Where did you find the other scale?

18 A. The other scale, there was a small closet area on the
19 right side of his bed, if you were facing his bed.
20 In that closet area was a little small attic space.
21 And the other digital scale was up on that attic
22 space.

23 Q. Now, knowing that the defendant is paralyzed from the
24 waist down, would he have been able to place those
25 scales up there?

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1 A. No.

2 Q. Deputy Lawson, were any other drugs found inside of
3 the residence?

4 A. Inside of the residence was some marijuana found in
5 an old oil heater, I guess it was a oil heater, some
6 kind of heater in the livingroom area.

7 Q. Just laying in the heater?

8 A. Yes. The heater was I mean, very accessible to
9 anyone. I mean, walking into the house it was right
10 there in the livingroom and had a door, a little
11 small door on the heater. And inside of that was
12 just a quantity of marijuana.

13 Q. Deputy Lawson, over the next couple of days, did you
14 have an occasion to come across the defendant again?

15 A. I sure did.

16 Q. And did the defendant tell you anything?

17 A. When at the jail, getting his warrant served that I
18 had obtained on him, the --- he made numerous remarks
19 of knowing where my father lives.

20 Q. And was he right about where your father lives?

21 A. Oh, he was exactly right. He was right on. I was
22 kind of surprised that he knew exactly where, and he
23 was right on. He knew exactly where he lived.

24 Q. And did --- How did you take those?

25 A. I didn't take them lightly. I took them as a threat.

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1 Not only the words that he said, but the way he said
2 it.

3 Q. How did he say it?

4 A. In a chuckling type of way. It is hard to explain,
5 but he seemed very serious of making threats, and
6 knowing where my father lives.

7 Q. Now, Deputy Lawson --

8 MR. HOLT: And permission to approach the Court
9 reporter again?

10 THE COURT: Yes, sir.

11 MR. HOLT: Permission to approach?

12 THE COURT: Yes, sir.

13 Q. Deputy Lawson, I am going to show you what has been
14 marked as State's Exhibit 4, and without talking
15 about what is in it; do you know what that is?

16 A. Yes, I do.

17 Q. There are several pages to that. Can you explain
18 what happens when you do one of the search warrants
19 at a defendant's home, how do you take control of the
20 drugs after it is over with? And how did that
21 particular piece, what has been marked as State's
22 Exhibit 4, plays into that?

23 A. Well, there is a chain of custody to any evidence
24 that is collected. Whoever collects that, finds that
25 evidence or takes possession of it first, of course,

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1 you have to keep a chain of custody, which is
2 basically --- What this is, is a Form B, Rule 6, of a
3 SLED Best Kit. It is what we put our narcotics
4 evidence in to submit to SLED for them to do drug
5 analysis on. And in that is a chain of custody. And
6 this particular one is where Officer Rodney Hopkins
7 had found some --- a large amount of crack cocaine on
8 Mr. Addison's person, after he was arrested from
9 home. And then that was passed on to evidence.

10 Q. And can you read through that first two or three
11 pages, to where you are in there?

12 A. Okay. It just shows where Officer Rodney Hopkins, as
13 I said, he located a large amount of crack cocaine
14 from Mr. Addison's person after being arrested, in
15 the back of the EMS vehicle. That was then passed on
16 to me. And then of course I passed it onto --- I
17 turn it over to Officer Russ Harrell for evidence.

18 Q. Now, Deputy Lawson, --

19 **MR. HOLT:** Your Honor, at this time the state would
20 move Exhibit 4 into evidence.

21 **THE COURT:** All right. Show it to Mr. Grove and
22 let him --

23 **MR. GROVE:** Thank you, Your Honor.

24 **(PAUSE.)**

25 **MR. GROVE:** No objection, Your Honor.

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1 **THE COURT:** All right. Exhibit 4, will be admitted
2 into evidence without objection.

3 **WHEREUPON, STATE EXHIBIT**

4 **NUMBER 4 IS MARKED AND**

5 **ADMITTED INTO EVIDENCE**

6 **WITHOUT OBJECTION.**

7 **THE COURT:** Mr. Lawson, let me just look at that
8 document.

9 **(PAUSE.)**

10 **THE COURT:** All right. You may proceed, Mr. Holt.

11 **MR. HOLT:** Thank you, judge.

12 Q. Deputy Lawson, it is your testimony that you in fact
13 completed the Best Kit that was sent to SLED?

14 A. That's correct.

15 Q. Now, before I sit down, I just want to ask you one
16 more thing. Going back to the threats against your
17 father, do you remember the exact verbiage the
18 defendant might have used?

19 A. If I can, I can read it directly from the report.

20 Q. Yes, sir, you may.

21 A. It was actually the day after the initial incident.
22 This happened on May 22, 2008. I was at the jail
23 serving these warrants that I had obtained on Mr.
24 Addison.

25 As I was in the jail, Mr. Addison called me

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1 over to the holding cell that he was in. I
2 approached that holding cell, and Addison at
3 that time asked me, Brad, how is your father
4 doing? This caught me by surprise. So I asked
5 him who are you talking about? Addison then
6 stated, and this is in quotes, "your father that
7 lives behind the Amspak Company," which that
8 Amspak Company is on North Fifth Street in
9 Hartsville. If you are not familiar with it, it
10 is in the North Hartsville area. I played that
11 off like I didn't know who he was talking about.
12 Addison then stated, "Brad, I know who you are,
13 and who your father is. Don't play these games.
14 I know who you are. Now, tell me, how is your
15 father doing?"

16 During this whole time, Addison was
17 grinning and chuckling as if this were some type
18 of scare tactic toward me and my family.

19 Q. Deputy Lawson, even though at that time the defendant
20 was in jail, did you presently fear for your family
21 that he might have some ability to hurt them, even
22 while in jail?

23 MR. GROVE: Objection, Your Honor. That calls for
24 speculation.

25 THE COURT: He was just asking how he felt.

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1 Overruled.

2 A. Oh, most definitely, I felt like the threats could be
3 taken out.

4 MR. HOLT: Thank you, very much, Deputy Lawson. At
5 this time I would like to publish Exhibits 3 and 4 to the
6 jury.

7 THE COURT: Permission granted. As I told you
8 ladies and gentlemen, the lawyers may ask to publish
9 something as an exhibit to you. That means show it to you
10 as you sit there in the jury box. And I have given
11 counsel permission to do that. But do not be concerned if
12 you do not have as long to look at it as you would like
13 to. You will be able to take it with you to the jury room
14 when you retire to deliberate your verdict.

15 (Whereupon, Exhibits 3 and 4 were published to
16 the jury.)

17 MR. HOLT: Your Honor, at this time the state has
18 no further questions.

19 THE COURT: All right. We will wait just a minute,
20 Mr. Grove, until the jury has looked at these exhibits.

21 MR. GROVE: Certainly, Your Honor.

22 (PAUSE.)

23 THE COURT: All right. Mr. Grove.

24 MR. GROVE: Thank you, Your Honor. Just one
25 moment.

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1 (PAUSE.)

2 THE COURT: I'm sorry. I thought it had already
3 gone around.

4 MR. GROVE: Not a problem.

5 (PAUSE.)

6 THE COURT: All right. Mr. Grove, you may cross
7 examine.

8 MR. GROVE: Thank you, Your Honor.

9 CROSS EXAMINATION BY MR. GROVE

10 Q. Good morning, Officer Lawson?

11 A. Good morning.

12 Q. You have kind of walked us through the whole
13 procedure, I guess, from the initiation of the search
14 warrant, and through the arrest, and then even a
15 couple of days after that arrest. I want to go back
16 and kind of review some of the things that you
17 testified to earlier. You said there were two kids
18 in the house, a thirteen-year-old and a sixteen-year-
19 old, right?

20 A. That's correct.

21 Q. The sixteen-year-old --- you come into the house and
22 the sixteen-year-old takes off running?

23 A. That's correct.

24 Q. The thirteen-year-old was in another room?

25 A. He was in the same room with Mr. Addison.

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1 Q. And what did he do when you guys came barging in?

2 A. I wasn't --- Another officer was responsible for that
3 room. So, I don't know exactly what he did.

4 Q. How many rooms are we talking about --- total house?

5 A. Basically three. There is a bedroom, a livingroom
6 area, and a kitchen area that is not used anymore.

7 Q. The kitchen area is not used? I mean, running water
8 not used, or --

9 A. Running water not used.

10 Q. So, basically another room with a sink that doesn't
11 get any sort of action?

12 A. Basically.

13 Q. Okay.

14 A. It had a lot of clutter in it.

15 Q. So the sandwich bags that you found in the bedroom,
16 they don't belong in the kitchen, because the kitchen
17 isn't the kitchen, right?

18 A. They weren't in the kitchen. They were next to his
19 bed.

20 Q. Right. But the kitchen is just another room. At
21 this point in time it is not actually a kitchen
22 anymore?

23 A. That's right. It wasn't used as a kitchen.

24 Q. Okay. Mr. Addison, you know that he has been
25 paralyzed for several years now?

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1 A. That's correct.

2 Q. And he takes medication. Are you aware that he does
3 or doesn't?

4 A. I have no idea what he takes. I do not.

5 Q. Would it surprise you to know that he does take
6 medication?

7 A. No, it wouldn't surprise me that he does.

8 Q. Okay. And perhaps the scales could be used for
9 medication purposes?

10 A. I have never seen scales used for medication
11 purposes. No, sir.

12 Q. Okay. So, one set of scales, were found in a closet?

13 A. That's correct.

14 Q. In the attic almost?

15 A. That's correct.

16 Q. How high off of the ground are we talking?

17 A. I'm imagining maybe a normal eight foot ceiling. I
18 don't know exactly how high. A normal high ceiling,
19 I guess.

20 Q. Sure. But well over eye level head high?

21 A. Oh, yeah. Yes, sir.

22 Q. And back to the search of Mr. Addison's person, that
23 kind of happened between the full search in the
24 house, but before --- after the --- after the injury,
25 but before the full search of the house, right?

BRAD M. LAWSON - CROSS EXAMINATION

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1 A. The search of Mr. Addison's person took place while
2 myself and other officers were searching the house.

3 Q. What is the extent of that search?

4 A. The search of his person or his house?

5 Q. His person.

6 A. His person was, as I said, we had EMS already
7 awaiting us, because of --

8 Q. -- Go ahead.

9 A. Just knowing that he had some medical issues being
10 that he is paralyzed. So we had him waiting. And
11 after we secured the house we had them come on scene.
12 He was already complaining of having diaper rash, so
13 we had medical personnel to take a look at that. He
14 was then, after we made sure he didn't have no
15 weapons on him immediately, we let EMS take care of
16 him. He was placed in the back of the EMS vehicle.
17 At that time they felt uncomfortable in the back,
18 because of some things that they saw, and wanted an
19 officer to further search him. That officer then ---
20 Officer Rodney Hopkins put on gloves and actually
21 searched down in his crotch area --- his diaper area,
22 and that is when the large amount of crack was
23 located.

24 Q. Okay. And Officer Lawson were you present at that
25 time?

BRAD M. LAWSON - CROSS EXAMINATION

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1 A. I was not present when it was found, but I was called
2 to the back of the ambulance, and went, and
3 acknowledged, and observed what was pulled from his
4 crotch area.

5 MR. GROVE: One moment, please.

6 (PAUSE.)

7 Q. That initial pat-down --- I'm sorry. How many times
8 was Mr. Addison patted down and or searched prior to
9 placing him in the EMS vehicle?

10 A. Really just once. I mean, if you count us getting
11 him off of the bed and putting in the wheelchair, of
12 course you could I guess say that is a little bit of
13 a pat-down, because we did have to touch him to do
14 that. We didn't find any weapons. But once getting
15 him in the wheelchair, out and getting him outside,
16 we did another pat-down of him, as good as we could
17 in a wheelchair just to check for weapons.

18 Q. So the pat-down was for checking for weapons?

19 A. Checking for weapons and I mean drugs too. And of
20 course we were looking for anything that he might
21 have had on his person, drugs or anything. We just
22 didn't go directly into his diaper at that time,
23 because of medical issues. And I didn't have any
24 gloves on at the time to be going into his diaper.

25 Q. But you had EMS there, right?

BRAD M. LAWSON - CROSS EXAMINATION

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- 1 A. Yeah, they were called to come to the house.
- 2 Q. So, you could have gotten some gloves, and given a
- 3 thorough search?
- 4 A. Yeah, I could have.
- 5 Q. Because we are talking about looking for weapons
- 6 here. I mean we are not talking about looking for
- 7 bazookas that would easily be found. We are talking
- 8 about looking for a handgun, I am assuming, that is
- 9 what you were --
- 10 A. Yes, sir. That would be the pat-down. Weapons can
- 11 be felt from doing that..
- 12 Q. Sure. But you didn't find anything?
- 13 A. No, we didn't find any weapons.
- 14 Q. Okay. So it is fair to say that you didn't find
- 15 anything at all the first time, right?
- 16 A. Other than money on him, in the pockets of whatever
- 17 he was wearing, that's it.
- 18 Q. You also testified that there was some marijuana
- 19 found in the house?
- 20 A. That's correct.
- 21 Q. Remind me where that marijuana was found?
- 22 A. In the livingroom, as you enter the house, in a
- 23 heater.
- 24 Q. And in relation to where Mr. Addison was when he
- 25 entered the home, where was the marijuana?

BRAD M. LAWSON - CROSS EXAMINATION

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1 A. Just in the next little room. I mean it was very
2 close to his room, but not in the same --

3 Q. -- Not in the same area?

4 A. No.

5 Q. Where somebody else is?

6 A. Uh --

7 Q. The sixteen-year-old, right?

8 A. He ran through that room. He wasn't in that room.
9 He ran through it.

10 Q. But he --- From your intake, the only person in that
11 home when they went through that home was a sixteen-
12 year-old?

13 A. That's correct.

14 MR. GROVE: I'm sorry, if you would give me just
15 one moment.

16 DEPUTY LAWSON: That's fine.

17 Q. Can you describe the condition of Mr. Addison's home
18 when you entered it?

19 A. It was fairly nasty. I mean there were dog feces
20 everywhere. It smelt like urine. There was some
21 clutter in some rooms, thing of that --- just --

22 Q. I guess not like it is at your house?

23 A. I'm sorry?

24 Q. Does it look like the inside of your house?

25 A. Oh, no.

BRAD M. LAWSON - CROSS EXAMINATION

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1 Q. Messy?

2 A. I would say it looked messy, yes.

3 Q. Dirty?

4 A. Dirty.

5 Q. Clutter you said?

6 A. In some areas yes.

7 Q. Easy to get around?

8 A. In certain areas you could get around fairly easy.

9 In the back of the house, no.

10 Q. A fair amount of tiptoeing around, I guess with all
11 the dogs?

12 A. At points, yes.

13 Q. How easy would it be to get around in a wheelchair?

14 A. Oh, he could get around his room, the little hallway,
15 in between the two front doors and the livingroom, he
16 could get around in a wheelchair. He has gotten
17 around in the neighborhood a good bit. He can get
18 around in the house.

19 Q. Not as easy as walking around on foot though, right?

20 A. Of course it is not as easy as on foot. No, sir.

21 Q. How long after his arrest did you say it was the next
22 day that you had a conversation with Mr. Addison at
23 the jail?

24 A. It was at the jail, yeah. The next day --- Actually
25 the next day on the 22nd and the 23rd, I'm sorry.

BRAD M. LAWSON - CROSS EXAMINATION

123

1 Q. Okay.

2 MR. GROVE: Just one moment.

3 (PAUSE.)

4 Q. Was Mr. Addison incarcerated at the time you had the
5 conversation?

6 A. Yes, he was.

7 Q. Behind bars?

8 A. That's correct.

9 Q. Restrained?

10 A. Yes, sir.

11 Q. And up until a review of the incident report, you
12 didn't even remember what he said, right?

13 A. I'm sorry?

14 Q. Up until you reviewed the incident report a few
15 minutes ago, you didn't remember what he said to you?

16 A. Oh, I remembered what he said. I was just trying to
17 give verbatim what he said, exactly what he said.

18 Q. Right. And what did he say? He asked you how your
19 dad was doing, right?

20 A. Well, that was the words that were used, yes, sir.

21 Q. Are you from Hartsville?

22 A. I sure am.

23 Q. Not a big town?

24 A. No, sir.

25 Q. How old are you?

BRAD M. LAWSON - CROSS EXAMINATION

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- 1 A. Thirty-two.
- 2 Q. Thirty-two. So, you are a year or two removed from
- 3 Marcus in school, right?
- 4 A. Yes, sir.
- 5 Q. Okay. And again, what were the threatening words
- 6 that Marcus used?
- 7 A. The words that day was --- it was more or less how he
- 8 said it, the words that he said.
- 9 Q. So they weren't in a threatening way. We are just
- 10 talking about a tone.
- 11 A. There was threatening words the following day during
- 12 Bond Hearings. But it was the way he said it that
- 13 made me feel uncomfortable and uneasy about my
- 14 father, that day, of knowing where he lived. Yes.
- 15 Q. And again, Hartsville, not a big place, right?
- 16 A. It is not a big place, no, sir.
- 17 Q. And just one more time, Officer Lawson, you patted
- 18 down Mr. Addison prior to putting him in the EMS
- 19 vehicle, and then someone else patted him down later
- 20 on?
- 21 A. That's correct. I patted him down. I didn't
- 22 thoroughly search him. That was done when he was in
- 23 EMS. He got thoroughly searched. There is a
- 24 difference between being patted down and thoroughly
- 25 searched. I did not search him, I patted him down to

BRAD M. LAWSON - CROSS EXAMINATION

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1 make sure he didn't have any weapons on him.

2 Q. Right. And at what point was he handcuffed, because
3 he is under arrest?

4 A. He was handcuffed at that point, when we secured the
5 home, and patted him outside, he was handcuffed.

6 Q. What kind of a restrain are we talking about?
7 Handcuffed in the front? Handcuffed to his chest?
8 Having his hands behind his back?

9 A. We handcuffed him in the front, because of his
10 condition.

11 Q. Sure. How much time elapsed between entry into the
12 home and EMS driving away, taking Mr. Addison to get
13 some medical treatment?

14 A. I am not exactly sure how much time there was before
15 EMS took him away to get to the hospital. I don't
16 know exactly how much time.

17 Q. I'm not looking for an exact --- An hour, four hours,
18 three hours?

19 A. Thirty minutes to an hour at the most. I mean, of
20 course we were there longer at the house. But for
21 him to be taken to the hospital, by the time we got
22 there I would say thirty minutes or so. That is not
23 exact, but somewhere around that time frame.

24 Q. And who was in the vehicle with Mr. Addison when he
25 left?

BRAD M. LAWSON - CROSS EXAMINATION

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- 1 A. In the back of the EMS?
- 2 Q. Yeah. Who was in the vehicle?
- 3 A. While he was in the back of EMS was EMS personnel,
4 and Officer Rodney Hopkins.
- 5 Q. Do you know how many EMS personnel?
- 6 A. I'm not --- The only thing I remember was just two of
7 them being in the back --- back there with him. I
8 don't know exactly. Again, I wasn't in the back of
9 the EMS.
- 10 MR. GROVE: Just a moment, Your Honor.
- 11 (PAUSE.)
- 12 Q. And just a couple more questions, Officer Lawson.
13 Did you see Mr. Addison get moved into the EMS
14 vehicle?
- 15 A. No, I didn't watch him get loaded up, no, sir.
- 16 Q. You may have seen this before, Officer Lawson, I'm
17 not sure. If you don't know that is perfectly fine.
18 Was he upright, reclined, I am assuming he was on one
19 of those stretchers where the legs go up and down?
- 20 A. I don't know. They loaded him in the EMS vehicle as
21 far as I know on a stretcher type in the EMS vehicle.
22 That is pretty common.
- 23 Q. Right.
- 24 A. To be put in that. But again, I wasn't there, so I
25 don't really recall.

BRAD M. LAWSON - REDIRECT EXAMINATION

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1 Q. That's perfectly all right.

2 MR. GROVE: No further questions at this time.

3 THE COURT: Redirect, Mr. Holt?

4 MR. HOLT: Thank you very much, judge.

5 **REDIRECT EXAMINATION BY MR. HOLT**

6 Q. Officer Lawson, there was some testimony about --- he
7 was asking you about what the defendant said to you
8 at certain times. At his Bond Hearing, he said
9 something else. Do you remember exactly what he said
10 to you at his Bond Hearing?

11 A. I do. This was on May 23rd, there was a Bond Hearing
12 at the Detention Center. He looked back at me
13 several times with a very angry look during the bond
14 hearing. And I know that the magistrate had warned
15 him several times during the Bond Hearing, and that
16 got noted in the report. His behavior and comments
17 in the Bond Hearing, and as he was going out he
18 turned and looked at me as they were finishing with
19 the Bond Hearing --- jail personnel was rolling him
20 out, and he turned around and looked at me, and under
21 his breath, I could very clearly read his lips
22 saying, I'm going to get you.

23 MR. HOLT: Thank you very much, Officer Lawson.

24 No further questions, judge.

25 THE COURT: Re-cross?

BRAD M. LAWSON - RE-CROSS EXAMINATION

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1 MR. GROVE: Thank you, Your Honor.

2 RE-CROSS EXAMINATION BY MR. GROVE

3 Q. The warnings that the judge at the Bond Hearing gave,
4 weren't about making threats were they?

5 A. It was him --- He turned around and told his family
6 that they are crazy. This is crazy. At that time
7 the judge warned him about you know saying something
8 else in the Bond Hearing.

9 Q. But he wasn't just wildly making threats at everybody
10 in the room?

11 A. No, sir.

12 Q. And you also said that he gave you a very ugly look.

13 A. Yes, sir.

14 Q. That is correct as well? How long have you been on
15 the force, Officer Lawson?

16 A. Nine years.

17 Q. How often do people that you arrest, or people
18 walking down the street give you an ugly look just
19 because you are an officer?

20 A. Well, you get that a good bit.

21 Q. I'm sure. I do too. Don't worry about it. Do
22 people --- I am sure people kind of get mouthy with
23 you fairly often with you, right?

24 A. Yes, sir.

25 Q. How often, 50% of the time?

WILLIAM "TONY" BAIRD - DIRECT EXAMINATION

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1 A. I don't percentage. I know there are very few that
2 make me feel the way that Mr. Addison made me feel
3 about it though.

4 **MR. GROVE:** Nothing further.

5 **THE COURT:** All right, sir. You may step down.
6 Thank you, sir.

7 **THE COURT:** All right. Mr. Holt, you may call your
8 next witness.

9 **MR. HOLT:** Thank you very much, judge. At this
10 time,

11 the state would like to call Tony Baird to the stand.

12 **THE COURT:** All right. Come around, please.

13 **DEPUTY CLERK:** If you would come forward and be
14 sworn.

15 **WHEREUPON, WILLIAM "TONY" BAIRD**

16 **FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS**

17 **OFFICER BAIRD:** I do.

18 **DIRECT EXAMINATION BY MR. HOLT**

19 Q. Deputy, could you please state your full name for the
20 jury?

21 A. William Anthony Baird. Everybody calls me Tony. I go
22 by Tony for short.

23 Q. And where are you currently employed?

24 A. With the Darlington County Sheriff's Office.

25 Q. And what is your official position?

WILLIAM "TONY" BAIRD - DIRECT EXAMINATION

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1 A. Right now I am First Sergeant of the Special
2 Enforcement Unit. We oversee the search warrant,
3 traffic units and stuff like that.

4 Q. And how long have you been in law enforcement?

5 A. Seventeen years.

6 Q. And was all of that with Darlington?

7 A. No, sir.

8 Q. All right. Going back to May 21, 2008, what position
9 did you hold with the Sheriff's Office then?

10 A. At that time I was a corporal with the patrol
11 division. The county is broken up. We have a
12 Sergeant with six deputies on the road. We had a
13 Sergeant that took care of the supervisory role on
14 the Darlington side, and a corporal that took care of
15 the supervisory role on the Hartsville side. I was a
16 corporal with the supervisory role on the Hartsville
17 side. We were approached by the narcotic unit to
18 come and assist them with a search warrant on
19 Alphabet Hill, as we call it.

20 Q. And how did you assist with the search warrant? What
21 was your job exactly?

22 A. Well, myself along with Neil Flowers, we have an
23 entry team with the Sheriff's Office. We were both
24 on that team. We received the special training in
25 those type areas. So myself and Neil Flowers were

WILLIAM "TONY" BAIRD - DIRECT EXAMINATION

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1 called to assist with the entry. I actually put the
2 team together with the members that we had there.

3 Q. So you were on the initial team that went into the
4 house?

5 A. Yes, sir, I was.

6 Q. And, when you entered the house, what did you
7 observe?

8 A. I was the very first person in the house. We do what
9 we call a staff report. We pull up in a vehicle out
10 front. We hold a meeting in one vehicle. As we
11 exited the vehicle, we had the stack approach, and
12 Deputy Lawson was the one who actually breaks the
13 door. I was the first one to step through. The
14 first thing I observed was when you first come in
15 there is a livingroom area, and there is a little
16 area that goes back --- it is not what you call a
17 hallway per se, it is only two three foot long in
18 length that leads to another room. In that area
19 right there is where the sixteen-year-old juvenile
20 Minor was coming from my left and crossed
21 over in front of me.

22 Q. Now, where were the other people found, the defendant
23 and the thirteen-year-old?

24 A. They were in that room that he was coming from.

25 Q. Okay. Now, Deputy Lawson testified, and I am sure

WILLIAM "TONY" BAIRD - DIRECT EXAMINATION

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1 you heard that you and he were the ones that got the
2 defendant out --- from outside the home?

3 A. Right.

4 Q. Now, when you were loading him out, did he tell you
5 anything? Did he complain about anything? What was
6 he talking about?

7 A. The whole time, as we were in the home, he kept
8 wanting to reach into his diaper. And that is one of
9 the things that kind of prompted him to get him out
10 of the house. Because, everybody --- everything on
11 the street was that he always carried a handgun. So,
12 we checked him --- his waist band area for a handgun
13 like we normally do. We loaded him into the
14 wheelchair, and brought him outside of the house.

15 A few minutes after we got outside of the
16 house, you know, folks in that area --- if you
17 go do a search warrant, everybody comes out to
18 look. Several people started driving up. One
19 of them I was told was his sister. I don't
20 personally know his sister, but they said that
21 she had come up. But at one point he asked if
22 she could change his diaper that he had on. And
23 he was told no. That is the point that he
24 became irate again about the sores that he had
25 because of diaper rash, and those types of

WILLIAM "TONY" BAIRD - CROSS EXAMINATION

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1 things.

2 Q. Deputy, after you get Marcus outside, did you
3 continue to search inside of the home, and what did
4 your duties consist of after that?

5 A. Once we removed him from --- I was there pretty much
6 for the security of the scene. The narcotic guys
7 went back in and actually did the searching
8 themselves for the narcotics and drugs.

9 Q. Now, when you say the defendant became irate, because
10 they wouldn't let his sister change his diaper. Do
11 you remember specifically anything that he said?

12 A. He just kept saying that because of his sores, he
13 wanted his diapers changed. And we wouldn't allow
14 her to come over and do that. And that continued
15 until they went to put him in the ambulance.

16 MR. HOLT: Thank you, deputy. No further
17 questions, judge.

18 THE COURT: Cross examination, Mr. Grove.

19 MR. GROVE: Thank you, Your Honor.

20 **CROSS EXAMINATION BY MR. GROVE**

21 Q. Sergeant Baird, you were the first man in the home?

22 A. Yes, sir, I was.

23 Q. How many people were there?

24 A. Inside of the home?

25 Q. How many people were there from the Darlington County

WILLIAM "TONY" BAIRD - CROSS EXAMINATION

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1 Sheriff's Office or the drug team?

2 A. The entry team consist of four people. There was a
3 number of officers outside.

4 Q. And you said that Mr. Lawson had the battering ram,
5 he knocked in the door, and then you came in, right?

6 A. Right.

7 **MR. GROVE:** Just one minute.

8 **(PAUSE.)**

9 **MR. GROVE:** May I approach, Your Honor?

10 **THE COURT:** Yes.

11 Q. Sergeant Baird, I want you to take a look at that
12 picture, and let me know if you can identify it?

13 A. Yes. That is the front of the residence there.
14 Marcus's residence.

15 **MR. GROVE:** Your Honor, at this time the defendant
16 would like to enter that as Defense Exhibit 4, I believe.

17 **THE COURT:** Any objection, Mr. Holt?

18 **MR. HOLT:** There is none from the state, judge.

19 **THE COURT:** All right. Defendant Exhibit 4,
20 entered into evidence without objection.

21 **WHEREUPON, DEFENDANT'S**

22 **EXHIBIT NUMBER 4 IS MARKED**

23 **AND ADMITTED INTO EVIDENCE**

24 **WITHOUT OBJECTION.**

25 Q. Sergeant Baird, as you look at that picture --- kind

WILLIAM "TONY" BAIRD - CROSS EXAMINATION

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1 of describe it to us?

2 A. Okay. What it is, is the front of the house. There
3 are two bushes on each corner. This is from the
4 street looking back. There is a red door on the left
5 side, and one on the right side. The door on the
6 right side is the one we made entry in.

7 Q. And, what was inside --- What was behind of door
8 number two, I guess.

9 A. On the --

10 Q. -- I'm sorry, door number --

11 A. That leads directly into the room that Mr. Addison
12 resides in.

13 Q. I'm sorry to talk over you. So the door on the left,
14 as you look at the photo is directly into Marcus'
15 bedroom, and the door on the right is the one you
16 went through, and that goes into the livingroom?

17 A. Right. Correct.

18 Q. And describe what is through the livingroom for us,
19 if you will?

20 A. Once you come through that door, there is a little
21 small livingroom area there that leads back into the
22 kitchen toward the backside of the house. It is one
23 of those kind of like the kitchen dining room thing
24 that is kind of going right there, and that is a
25 fairly small house.

WILLIAM "TONY" BAIRD - CROSS EXAMINATION

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1 Q. What condition was the house in?

2 A. It was pretty messy. Like Officer Lawson said, there
3 were dog feces on the floor. Old clothing. Stuff
4 piled up. Just messy.

5 Q. And you say that I guess a crowd began to gather
6 during the execution of the search warrant, and all
7 the festivities.

8 A. Not really during, it was after --- after --- after
9 everybody had seen what was going on, that is when
10 everybody started coming out to see.

11 Q. About how long after you entered the home do you
12 think it was; rough estimate?

13 A. I would say roughly within ten minutes or so.

14 Q. And you say someone identified as Marcus' sister,
15 began talking back and forth?

16 A. Right.

17 Q. Why didn't that make it into the incident report?

18 A. Pardon me?

19 Q. I said, why didn't that make it into the incident
20 report? I don't have any record of Marcus having any
21 kind of conversations.

22 A. I can't answer that.

23 Q. I've got --- Did you hear that actual conversation?

24 A. Yes. I heard the actual conversation.

25 Q. Okay. And did you participate in any of the pat-

WILLIAM "TONY" BAIRD - CROSS EXAMINATION

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1 downs or searches of Mr. Addison?

2 A. The only one I participated in is when we lifted him
3 off the bed, and I did check his waist band area for
4 a handgun.

5 Q. But other than that you weren't really involved in
6 the actual search?

7 A. No, I was not.

8 Q. Okay.

9 (PAUSE.)

10 Q. Why did you pick the right door?

11 A. Because when you are doing these entry type
12 situations --- because like I said, we were told
13 prior to the fact that Mr. Marcus Addison had a
14 handgun. The young guys with him, in particular Mr.
15 **Minor** **██████████** had made threats to the Darlington
16 County Sheriff's Office about entry to his residence.
17 From being in this home on previous accounts, on
18 other things, I knew that that was the door that he
19 was in. So, for an officer's safety issue, with my
20 team going in the door, we didn't want to breach
21 right on top of him, and him just laying in bed with
22 a handgun facing the door. So we came in the door to
23 the left side.

24 Q. How many handguns did you find?

25 A. None that day.

WILLIAM "TONY" BAIRD - CROSS EXAMINATION

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1 **MR. GROVE:** Nothing further. Thank you, Sergeant
2 Baird.

3 **THE COURT:** Redirect?

4 **MR. HOLT:** There is none, judge.

5 **THE COURT:** All right. Thank you, sir. You may
6 step down.

7 Ladies and gentlemen, you have been in the courtroom
8 for a little over an hour. We have been in the courtroom
9 for about an hour and forty-five minutes, and I think it
10 is appropriate to take our morning break at this time.
11 So, we are going to take about a ten or twelve minute
12 break, so that about 11:00-o'clock we will be ready to
13 start back.

14 Go to your jury room, relax for a few minutes. Do
15 not discuss the case among yourselves. It is still
16 premature for you to begin any discussion about this case.
17 We will send for you very shortly.

18 Thank you. Go with the bailiff.

19 **BAILIFF:** Come this way, please.

20 (Whereupon, the jury exits the courtroom at
21 10:48 a.m..)

22 **THE COURT:** All right. Counsel, we will be in
23 recess until 11:00-o'clock.

24 (Whereupon, a recess was taken from 10:49 a.m.
25 until 11:01 a.m..)

WILLIAM "TONY" BAIRD - CROSS EXAMINATION

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1 **THE COURT:** Thank you. Please be seated. All
2 right. We are back on the record with regard to the
3 matter of The State versus Addison. Mr. Addison is
4 present, missing his counsel, Mr. Grove and Mr. Jones.

5 **(PAUSE.)**

6 **THE COURT:** All right. Mr. Grove is now present.
7 And the state is represented by Mr. Holt and Ms. Parker.
8 Anything before we bring the jury in, Mr. Holt?

9 **MR. HOLT:** There is nothing from the state, judge.
10 I believe the defense has some.

11 **THE COURT:** All right. Yes, sir.

12 **MR. GROVE:** Yes, Your Honor. I just wanted to go
13 on the record in regard to the first three photos that
14 were submitted during suppression motion. I wanted to go
15 on the record submitted those into evidence for the trial
16 of the case?

17 **THE COURT:** Any objection?

18 **MR. HOLT:** None, judge.

19 **THE COURT:** All right. Defense Exhibits 1, 2, and
20 3 will also be admitted into evidence as Defense Numbers
21 1, 2, 3 in the case before the jury. It is without
22 objection.

23 **MR. GROVE:** Thank you, Your Honor.

24 **WHEREUPON, DEFENSE EXHIBITS**

25 **NUMBER 1, 2, AND 3 ARE**

CHAD MCINVILLE - DIRECT EXAMINATION

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MARKED AND ADMITTED INTO**EVIDENCE WITHOUT OBJECTION.****THE COURT:** All right. Anything else, Mr. Grove?**MR. GROVE:** Not at this time, Your Honor.**THE COURT:** All right. Bring in the jury please.**BAILIFF:** All right, sir.

(Whereupon, the jury enters the courtroom at
11:04 a.m.)

THE COURT: All right. Good morning, ladies and
gentlemen. Thank you. We are now ready to resume.

Mr. Holt, you may call your next witness.

MR. HOLT: Thank you, judge. At this time the
state would like to call Officer Chad McInville.

THE COURT: Come forward, please.

DEPUTY CLERK: Raise your right hand.

WHEREUPON, CHAD MCINVILLE

FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

OFFICER MCINVILLE: I do.

DIRECT EXAMINATION BY MR. HOLT

Q. Officer McInville, please state your full name for
the jury.

A. Chad McInville.

Q. And where are you currently employed?

A. Darlington County Sheriff's Office.

Q. And what is your official position?

CHAD MCINVILLE - DIRECT EXAMINATION

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1 A. Now, I am the First Sergeant in the Criminal
2 Investigation Unit.

3 Q. And how long have you been in law enforcement?

4 A. Twelve years.

5 Q. How about on the day in question here, May 21, 2008.
6 What position did you hold then?

7 A. I was an investigator with Darlington County.

8 Q. And were you part of the entrance team to the house
9 that day, [REDACTED] Street, Hartsville, South Carolina?

10 A. Yes, I was.

11 Q. And did y'all knock on that front door?

12 A. Yes, sir. I believe the first agent did.

13 Q. After you entered the home what did you observe, and
14 in which area did you move?

15 A. I was the second person in the door. Officer Baird
16 was the first person. I saw the juvenile [REDACTED] Minor
17 running to the right. Officer Baird went toward him.
18 I immediately made a left and went into the room
19 where the defendant was at. I saw the defendant
20 laying on the bed, and the other juvenile was to the
21 left of that.

22 Q. Could you tell what that other juvenile was doing?

23 A. I don't recall him actually doing anything. He was
24 just pretty much just there.

25 Q. After the minor was taken outside of the bedroom, did

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1 the defendant tell you anything, or make any remarks?

2 A. The defendant just kind of asked why we were there
3 and stuff like that. But that is all I recall.

4 MR. HOLT: Permission to approach, judge?

5 THE COURT: Yes, sir.

6 Q. Officer McInville, I want to show you some photos
7 that have been marked State's Exhibits 4, 5, 6, and
8 7. I apologize, 5, 6, 7, and 8. Without saying
9 what they are, can you tell me if you recognize those
10 photos?

11 A. Yes, I do.

12 Q. Do you know who took those photographs?

13 A. I did.

14 Q. And have those photos changed, or any additions or
15 subtractions been made?

16 A. No, sir.

17 MR. HOLT: Your Honor, at this time the state would
18 move four photos into evidence.

19 THE COURT: All right. Do you want to review them,
20 Mr. Grove?

21 MR. GROVE: Thank you, Your Honor.

22 MR. HOLT: I apologize, judge. I thought he looked
23 at them during the break.

24 (PAUSE.)

25 Q. Officer, can you take the photos and announce their

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1 identification number to the jury, and then explain
2 to myself as well as to the jury what exactly those
3 photographs are of?

4 A. Sure. This is photo number 5, it is of the --- I
5 guess it is an oil heater. It is an old heater that
6 is in the house, in the room to the right as you go
7 in.

8 Q. And why is that significant?

9 A. There was an amount --- a large amount of marijuana
10 found in the heater.

11 Q. Okay. And what about the next photo.

12 A. The next photo, photo number 7, appears to be the
13 drugs, the marijuana that was found.

14 Q. And the next photo.

15 A. Number 8, is the juvenile Minor that ran to the
16 right as we come into the door.

17 Q. All right. And is there one last photo, or did I
18 miscount?

19 A. Number 6. That is pretty up close, but that is the
20 inside of the heater, this little door on the front,
21 inside of the heater where the marijuana was found.

22 Q. Is the marijuana still in there? Can you see the
23 marijuana in that photo?

24 A. Yes, you can see the baggie, yes.

25 Q. Okay. Officer McInville, you testified that you were

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1 the second one in the home, right?

2 A. Yes.

3 Q. And after you saw the juvenile run, you went into the
4 home, you went into the room where the defendant was;
5 what happened then? What did your duties consist of
6 after that throughout the rest of the search?

7 A. Like I say, when I went in, I pretty much went to the
8 left. I saw the juvenile and Marcus in the room. I
9 gave the commands. Let me see their hands and stuff.
10 Basically my job at that time was security. I made
11 sure everything was secure. Once everything was
12 secure, and we were getting Marcus out and stuff, I
13 think I might have held --- hold the wheelchair while
14 the other officers removed him from the house. Once
15 the house was secure, I did go back and helped with
16 the secondary search a little.

17 Q. Hold it right there, officer. Can you explain to the
18 jury what a secondary search is and the procedures?

19 A. Once the residence is secure, the threat level is
20 gone, of course. Once everyone is removed or
21 whatever, any threats are removed from the residence,
22 you go back and you do a thorough search of the
23 residence.

24 Q. And when you say threats --- leading up to the search
25 warrant, the briefing, and preparing for the search

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1 warrant, as you were on the entrance team, were there
2 any particular threats that you were aware of or
3 scared of?

4 A. Yes. We were advised before we got there that the
5 subjects in the house were possibly armed.

6 Q. Okay. And the secondary search consisted of what?

7 A. The secondary search consisted of basically searching
8 the entire house.

9 Q. And what drugs were found during that search?

10 A. There was some crack cocaine found. I'm sorry.
11 There was the marijuana that was found in the heater.
12 And there was some baggies that were on the floor.
13 And some --- two different scales were found.

14 Q. And in the kitchen where the Juvenile **Minor** was,
15 were any drugs found in the kitchen as well?

16 A. Yes. That is where the crack was found. In the
17 kitchen.

18 **MR. HOLT:** Thank you, Officer McInville. Please
19 answer any questions that the defense may have.

20 **THE COURT:** Cross examination, Mr. Grove.

21 **MR. GROVE:** Thank you, Your Honor.

22 **CROSS EXAMINATION BY MR. GROVE**

23 Q. Sergeant you are in charge of security --- securing
24 the area, I guess?

25 A. When I went in, I was pretty much in charge of the

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1 room to the left. Of course, I was the first one in
2 as far as security, yes.

3 Q. Marcus' bedroom is the room to the left?

4 A. Yes.

5 Q. What did you do to further the efforts of security?

6 A. He --- When I first come in, I remember he had his
7 hands kind of down, and I remember I kind of made him
8 get his hands up a little bit where I could see them.
9 And the same way with the other guy. I made sure I
10 could pretty much see him. And one of the other
11 officer I think had actually come in, and you know
12 dealing with him. But I mainly stayed with Marcus.

13 Q. Were there any incidents?

14 A. I had no problems. No.

15 Q. Did you search him for weapons?

16 A. No, I did not.

17 Q. Did you find any weapons?

18 A. Weapons, no.

19 Q. That was the primary security concern?

20 A. Weapons, yes.

21 Q. Describe again for the jury where that heater, I
22 think it is in 5, and 6; is that right, I'm not sure
23 if I've got the numbers right?

24 A. Yes, 5 and 6.

25 Q. Where was that heater in the room?

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- 1 A. The heater when you come in the door --- We actually
2 come in the door on the right. When you come in the
3 door, the heater is literally within a few feet, and
4 it sits out from the wall in the room to the right.
5 Which, I guess you can call that the livingroom area.
6 The livingroom and the kitchen is pretty much an open
7 area.
- 8 Q. What was the condition of that livingroom?
- 9 A. The condition of the livingroom? It was nasty.
10 There were feces on the floor. A lot of clutter in
11 the room. But most of the clutter was kind of to the
12 side. There was like a pathway and you could get
13 through there right in front of the heater actually.
- 14 Q. Is there a divider between the livingroom and the
15 bedroom?
- 16 A. There is --- Yes. There is a door way, like a little
17 hall doorway type.
- 18 Q. Is there an actual door or just a frame?
- 19 A. I think it is just a frame. I don't recall an actual
20 door.
- 21 Q. What about the --- What about the door on the left?
22 The front door on the left, what is that one like?
- 23 A. It leads directly into the bedroom area.
- 24 Q. It is locked?
- 25 A. I don't know. I don't recall.

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1 Q. Didn't check it?

2 A. No.

3 Q. At what point did you see Marcus in the livingroom?

4 A. I didn't see Marcus in the livingroom. I saw him in
5 the bedroom area in his bed.

6 Q. So you secured him in the bedroom area, placed him
7 into the wheelchair, and then exited the house?

8 A. I didn't place him in the wheelchair, but he was
9 placed in the wheelchair, yes.

10 Q. Certainly. And again, you didn't --- you weren't
11 involved in any of the searching or the patting down
12 of Marcus; is that correct?

13 A. No.

14 Q. Did you see Marcus get loaded in the EMS vehicle?

15 A. No, not that I recall. I don't remember seeing him
16 loaded in, no.

17 Q. Did you observe Marcus at any point after he had been
18 escorted out of the home?

19 A. Yes. I observed him in the back of the vehicle, and
20 he was in the back of the ambulance, and he was
21 irate.

22 Q. Handcuffed?

23 A. I do not recall that.

24 Q. Sitting up?

25 A. I don't recall that.

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1 Q. Lying down?

2 A. I don't recall.

3 MR. GROVE: Just one moment.

4 (PAUSE.)

5 Q. So, I want to back you up one more time, Sergeant
6 McInville. You come in through the right door into
7 the livingroom, there is a heater there. Give us an
8 idea as far as entry into that room, and then seeing
9 Mr. Minor come through the room?

10 A. I was the second person in. When I went in, I saw
11 Minor pretty much moving toward the kitchen area, I
12 guess you can call it, of the residence, and Officer
13 Baird went that way, went to the right, so I went to
14 the left.

15 Q. Could you get an idea of where Mr. Minor was coming
16 from? Was he coming from the bedroom?

17 A. When I saw him, he was already in the livingroom
18 area.

19 Q. Headed into the direction of the kitchen?

20 A. Yes.

21 Q. Away from the bedroom?

22 A. Yes.

23 Q. How many seconds do you think between the battering
24 ram and you crossing the threshold?

25 A. Not many.

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1 Q. Less than ten?

2 A. I mean it is hard to say, but not many, no.

3 Q. Certainly. Do you know Mr. [Minor]?

4 A. Yes.

5 Q. Did you know him before?

6 A. Yes.

7 Q. In what capacity?

8 A. Just we've had several dealings with Mr. [Minor].

9 Q. Where? In other parts of this neighborhood?

10 A. Oh, yes.

11 Q. In other parts of town?

12 A. Pretty much just that neighborhood. I have had quite
13 a few dealings with him.

14 Q. Do you know if Mr. [Minor] lives in that neighborhood?

15 A. He does live in that neighborhood, yes, sir.

16 Q. About how far away from [] Street?

17 A. It is down the street. I would say several hundred
18 yards.

19 Q. But not --- I mean, not across town or anything like
20 that?

21 A. No, sir.

22 Q. How many run ins with Mr. [Minor] would you say you
23 have had say prior to May 21, 2008?

24 A. I've had several. I don't know if I can give you a
25 number, but I have had several over the years. If

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1 nothing else, I have gotten up with him several
2 times and just spoke with him on the street and
3 stuff.

4 **MR. GROVE:** Nothing further at this time. Thank
5 you.

6 **THE COURT:** Redirect?

7 **MR. HOLT:** None, judge.

8 **THE COURT:** All right. Thank you, sir. You can
9 step down.

10 All right. Mr. Holt, you may call your next witness.

11 **MR. HOLT:** Thank you, judge. At this time the
12 state would like to call Rodney Hopkins with the
13 Hartsville Police Department.

14 **DEPUTY CLERK:** Please come forward and raise your
15 right hand, please.

16 **WHEREUPON, RODNEY HOPKINS**

17 **FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS**

18 **OFFICER HOPKINS:** Yes, ma'am.

19 **DIRECT EXAMINATION BY MR. HOLT**

20 Q. Officer, will you please give the jury your full
21 name?

22 A. It is Rodney Brock Hopkins.

23 Q. Where are you currently employed?

24 A. Hartsville Police Department.

25 Q. What is your official position with the Hartsville

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1 Police Department?

2 A. I am a PO-2.

3 Q. And what is that?

4 A. It is a Police Officer Second Class.

5 Q. And how long have you been in law enforcement?

6 A. Almost nine years.

7 Q. Okay. Now, what position did you hold in, in which
8 office on May 21, 2008?

9 A. I was with the Darlington County Sheriff's
10 Department, and I was a lance corporal in a Patrol
11 Division.

12 Q. Now, being a lance corporal in a Patrol Division,
13 what were your duties exactly May 21, 2008, in
14 relation to the search warrant?

15 A. We were patrolling the city, or the streets of the
16 county. We had a phone call stating that there was
17 search warrant going down on Alphabet Hill on ■
18 Street. Our duties were to go out and assist them in
19 whatever they needed. Our primary duties were to
20 prevent anyone from running. A lot of times when you
21 do a search warrant, they may evade the officers on
22 the scene, and we were going to handle the outer
23 parameter.

24 Q. Now, specifically that day, what were you tasked
25 with?

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1 A. I was standing by with the ambulance. We had an
2 ambulance on standby in case anyone got hurt.

3 Q. Okay. Now, at any point was the defendant placed in
4 the ambulance?

5 A. Yes, sir.

6 Q. Okay. And can you describe to us if there was a
7 problem?

8 A. Lieutenant called me on the radio and told me that
9 Mr. Addison was placed in the rear of the ambulance.
10 He wanted me there for security purposes. He wanted
11 me there for security purposes, since I was on the
12 outer parameter, just in case they had any problems.

13 As I was approaching the ambulance, a EMS
14 worker, Kim Dorsett come up to me and she was
15 visibly shaken. She advised me that Mr. Marcus
16 Addison was in the rear of the ambulance. He
17 was handcuffed in the front, but he was
18 fidgeting. He was covered up with a blanket,
19 and was making a lot of movements in the groan
20 area. And she wanted to be sure that he was
21 searched properly for any kinds of weapons. She
22 was fearful for her safety?

23 Q. What did you do then?

24 A. I contacted Tony Baird, who was on the entry team. I
25 discussed it with him. I asked him if he was

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1 searched. He advised me that they did a quick but
2 not a thorough search on him. They just did a pat-
3 down search for any kind of weapons. He said that it
4 was not a good thorough search. It was a quick
5 search as they were putting him in the wheelchair and
6 then onto the stretcher.

7 Q. So what did you do?

8 A. I got in the back of the ambulance. I advised
9 ambulance personnel --- there were three EMS workers
10 in the back of the ambulance. I advised them of what
11 I was doing. I did notice that he was covered up
12 with a sheet. I asked them for some gloves. They
13 pointed to where the gloves were. They were in a
14 clear container. The gloves were located inside of
15 the ambulance, in a rack, with a clear door. I
16 opened up that clear door and I grabbed a pair of
17 large blue latex gloves out of the box. As I was
18 putting them on I advised Marcus --- I asked if he
19 had any contraband, drugs, knives, guns, or anything
20 like that. And he said, no, I do not. And I advised
21 him I was about to search him.

22 Q. And what happened next?

23 A. I pulled the covers down. I noticed he was fidgeting
24 a lot, moving around. I took his --- I unhandcuffed
25 him. I handcuffed him to each one of the --- it's

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1 got rails on there. For my safety and the others I
2 went ahead and handcuffed him to the rails so he
3 couldn't make any kind of movements. As I became
4 down the covers, he became real agitated and was
5 trying to get to something. I'm not sure what he was
6 trying to get to.

7 Q. What happened next?

8 A. As I pulled down the covers, I noticed that his pants
9 that he had on were partially pulled down, exposing
10 an adult diaper. As I was grabbing the pants, I was
11 shaking the pants out to make sure there was no
12 contraband in them. I pulled the pants down just a
13 little bit. I could see right inside on top of that
14 stretcher. There was a small clear baggie containing
15 yellowish rocks.

16 Q. In your experience, what do those rocks look like?

17 A. They are just little small rocks. They crush them
18 up, and it appears through my law enforcement
19 training experience to be crack cocaine.

20 Q. What happened next? I'm sorry.

21 A. I pulled down his pants some more, and was shaking
22 some more, there was a second bag right underneath
23 where the pants were. Both of them were in close
24 proximity to each other, probably eight to twelve
25 inches away from each other. So, I grabbed the bags

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1 and called for a second officer, who was standing
2 outside of the ambulance door. And I was showing him
3 what I found. I continued to do a pat-down search,
4 excuse me a thorough search on him for any other
5 contraband or weapons.

6 Q. Now, when you found the crack on the defendant, what
7 type of mood did he give you?

8 A. Very agitated. He immediately started making comments
9 that I planted those drugs on him. Those were not
10 his. He did not know whose they were. And he kept
11 repeated that I planted the drugs on him.

12 Q. How many people were there to bear witness to the
13 fact that you discovered them?

14 A. I had three EMS officers --- or three EMS workers
15 there.

16 Q. Okay. And let me ask you this. Once you had found
17 the drugs. Once you discovered that the defendant
18 was irate, what did he tell you specifically?

19 A. If you don't mind I'll read it verbatim.

20 Q. Yes, sir. That will be fine.

21 A. After he made the comment several times that I had
22 planted the drugs there. Marcus Addison was very
23 irate, running his mouth about the drugs. Marcus
24 looked at me and said verbatim, in quotation "You
25 have a lot of co-workers on the force don't you." To

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1 which I replied. Yes. Marcus then asked if I had
2 any family around here, to which I pointed to each of
3 the EMS personnel, and the other deputies outside of
4 the ambulance, and I said, yes, I do, and all of
5 these people are my families. I then asked Marcus if
6 he was threatening me, my family, or co-workers, to
7 which he said "No, I would never do that." And
8 Marcus just kept running off at the mouth about the
9 drugs and stating that I had planted them there.

10 Q. Now, did you take what he was saying as a threat?

11 A. I get threatened a lot. I try not to take them
12 personally, but when he was threatening my family, I
13 do take that as a threat, and my fellow employees.

14 Q. So, you found the drugs in the ambulance on the
15 defendant. What happened then? Where did the
16 defendant go?

17 A. He was transported to Carolina Pines Emergency
18 Department.

19 Q. And did you escort him there?

20 A. Officer Sharon Blakely actually --- she rode in the
21 back of the ambulance with him, but I followed right
22 behind on the way to the hospital.

23 Q. So when you got there, and they took Marcus out, were
24 you involved in taking him inside of the hospital,
25 and if so, what did he tell you?

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1 A. That is correct. I walked him all the way inside of
2 the hospital. I stayed inside of the room with him
3 the entire time he was at the hospital. Excuse me,
4 let me find this here. If I may read it verbatim?

5 Q. Yes, sir.

6 A. This deputy followed the ambulance to Caroline Pines
7 Hospital without further incidence. Once at the
8 Emergency Room, and Deputy Sharon Blakley walked with
9 the stretcher into the Emergency Room. While the EMS
10 personnel were pushing Marcus into the Emergency
11 Room, Marcus looked at this deputy and said,
12 quotation marks "I guess I need to release the boys
13 tonight, and let them have some fun. Let them do
14 what is needed." This deputy looked at Marcus and
15 told him to do whatever he needed to do, that I was
16 working until 6:00 a.m. in the morning, and I needed
17 some excitement tonight. Marcus then said "I
18 wouldn't do that. I wouldn't do that. I wouldn't
19 tell my boys to do that."

20 Q. Okay. How did you take those threats?

21 A. There have been a lot of threats being made on the
22 Hill prior to this incident. There were some rumors
23 about some automatic weapons being passed around up
24 there, and they said that the next officers,
25 deputies, whoever came up there in that area, they

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1 were going to shoot them.

2 Q. Now, later on in the evening, that same evening while
3 you were at the hospital with Marcus, you were in the
4 ER and he was waiting on his paperwork to get through
5 before y'all could transport him to the County
6 Detention Center, did he tell you anything else?

7 A. Yes, sir, he did. While I was in the Emergency Room,
8 awaiting his paperwork for his release to be
9 completed, he turned to me and made the statement in
10 quotations "You know there is a lot of white people
11 that live on the hill." I replied, yes there is, and
12 a lot of other nice law abiding people live on the
13 hill. I then asked what he meant by his comment to
14 which he said in quotations, "Oh, nothing, I was just
15 talking."

16 Q. And how did you feel when he made this remark?

17 A. I felt that he was threatening the fellow public
18 around the Hill. There is a mixed race in that area.

19
20 MR. HOLT: Beg the Court's indulgence just briefly,
21 judge. I want to make sure I don't miss anything.

22 (PAUSE.)

23 MR. HOLT: Your Honor, permission to approach the
24 witness?

25 Q. Officer, I am going to hand you what has been

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previously testified to as a chain of custody. Can

you tell the jury where you were at in that chain?

A. I was the number one officer. I was the one who

actually recovered the evidence, which was crack

cocaine. So, I am number one on the list of chain of

custody.

Q. And who did you hand the drugs off to?

A. I handed them off to Agent Brad Lawson.

MR. HOLT: Thank you very much, officer. Please

answer any questions the defense may have.

OFFICER HOPKINS: Yes, sir.

THE COURT: Cross examination by the defense, Mr.

Grove.

MR. GROVE: Thank you, Your Honor.

CROSS EXAMINATION BY MR. GROVE

Q. Officer Hopkins, how many weapons did you find on

Marcus Addison that day?

A. None, sir.

Q. How many did you find in the home?

A. I did not go inside the home, sir.

Q. How many incidents have occurred since that day in

relation to Mr. Addison, as far as violence is

concerned?

A. I'm not sure, sir. Right after that incident I went

to the City, I changed careers into the City.

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1 Q. But you haven't heard anything?

2 A. I have heard of several arrest warrants on him. But
3 as far as me personally, no, sir, I have not had any
4 dealings with him.

5 Q. Marcus Addison went out of his way to explain to you
6 that he wasn't threatening you, didn't he?

7 A. Yes, sir.

8 Q. Twice.

9 A. Yes, sir. That's correct.

10 Q. Every time that you asked him are you threatening me,
11 he had an opportunity to say yes, that is a threat.
12 He didn't do that did he?

13 A. I guess he had time to think about what he said.

14 MR. GROVE: Beg the Court's indulgence, just one
15 moment.

16 THE COURT: Yes, sir.

17 Q. Can you remind me Officer Hopkins, where you found
18 the drugs on Mr. Addison's person?

19 A. They were in between his diaper and where his pants
20 were pulled down. And they were laying on the
21 stretcher in between his legs.

22 Q. So you pulled back the sheet and there they are?

23 A. The time I pulled back the sheet, you could see ---
24 you saw his pants pulled down. You could see a
25 little bit of his leg. You could see all of his

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1 adult diaper. When I pulled his pants down, probably
2 less than an inch, I saw a clear bag there with
3 yellow rock. I grabbed it, I secured it, and I
4 pulled his pants down a little bit more, maybe six to
5 eight inches and found the second bag. But I shook
6 his clothes as I was pulling them out. So, I am not
7 sure if they were in the diaper or actually in the
8 pants.

9 **MR. GROVE:** Nothing further, Your Honor.

10 **THE COURT:** Redirect?

11 **MR. HOLT:** No redirect, judge.

12 **THE COURT:** All right. Thank you Mr. Hopkins. You
13 may step down.

14 **OFFICER HOPKINS:** Thank you, Your Honor.

15 **THE COURT:** All right, Mr. Holt, you may call your
16 next witness.

17 **MR. HOLT:** Thank you, judge. At this time the
18 state would like to call Deputy David Young to the stand.

19 **DEPUTY CLERK:** Raise your right hand.

20 **WHEREUPON, DAVID YOUNG**

21 **FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS**

22 **DEPUTY YOUNG:** I do.

23 **DEPUTY CLERK:** Please have a seat.

24 **DIRECT EXAMINATION BY MR. HOLT**

25 **Q.** Deputy Young, can you please give your full name for

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1 the jury?

2 A. David Brian Young.

3 Q. And, where are you currently employed?

4 A. I am employed with the Darlington County Sheriff's
5 Office.

6 Q. And what is your official position?

7 A. I am an investigative Sergeant. I am assigned to The
8 Criminal Investigation Division.

9 Q. Does that mean you are an investigator?

10 A. Yes, I am a criminal investigator.

11 Q. And how many years of experience do you have in law
12 enforcement?

13 A. I've been employed with the Darlington County
14 Sheriff's Office full time for approximately seven
15 years. And prior to that I was a reserve officer
16 with the Sheriff's Office for fourteen years.

17 Q. And do you know the defendant?

18 A. I do.

19 Q. Let me ask you this. On May 21, 2008, what was your
20 role in the search warrant, at his residence, ■■■ ■
21 Street, in Hartsville, County of Darlington?

22 A. Myself and several other criminal investigators were
23 assisting the narcotics investigators with the
24 execution of a search warrant, at ■■■ ■ Street,
25 which is the home of Mr. Marcus Addison. And my

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1 primary role was to establish security outside the
2 parameter.

3 Q. Now, you have seen where there was an entrance team,
4 a parameter team, there were investigators, there
5 were patrolmen, there were all manner of law
6 enforcement there. Is that typical for a search
7 warrant, or was this one a little bit different?

8 A. That is correct. This one was a little different
9 from the information that we had gained, and the
10 incidents that we have had in the Hill on the past.

11 Q. Now, there has been some testimony about two
12 juveniles found in his home. Is that atypical or did
13 that surprise you?

14 A. That did not surprise us at all.

15 Q. Now, you were there that day for security, but you
16 did secure other warrants, specifically I am talking
17 about the warrants of threatening the life of a
18 public employee, those being the EMS workers. Can
19 you tell us how you investigated that crime?

20 A. I did obtain warrants for the contributing to the
21 delinquency of a minor, for the two juveniles that
22 were there at the residence. It was brought to my
23 attention about the juveniles there, and upon the
24 information gained, and the factual information
25 gained at the scene, I did charge the defendant Mr.

DAVID YOUNG - DIRECT EXAMINATION

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1 Marcus Addison with two counts of contributing to the
2 delinquency of a minor, for having these two
3 juveniles, a thirteen-year-old and a sixteen-year-old
4 at this residence. Exposed to the crack cocaine, and
5 the amount of drugs there were there, as well as for
6 influencing their participation in the distribution
7 of crack cocaine.

8 Q. And you did do those contributing to the delinquency
9 of a minor warrants, and I had forgotten about that,
10 but onto the other warrants.

11 A. Yes.

12 Q. What crime was committed, and how did your
13 investigation proceed?

14 A. On the following day, the next day after the search
15 warrant, I was contacted at that time my supervisor,
16 Sergeant Tim Roberson. He had gotten a report from
17 the EMS worker that they were possibly threatened by
18 Mr. Addison on the scene in the ambulance. I did
19 contact these individuals. There were three
20 individuals --- three EMS workers that were present
21 that day. I did interview all three of these
22 individuals. Which two of the EMS workers were
23 willing to give me a statement. And based on the
24 information they gave me, I did sign warrants for
25 threatening the life of a public official on their

DAVID YOUNG - CROSS EXAMINATION

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1 behalf. And on the third one, out of fear of some
2 kind of repercussion he chose not to pursue charges.

3

4 **MR. HOLT:** Thank you very much, officer. If the
5 defense has any questions for you, please answer them.

6 **THE COURT:** Cross examination, Mr. Grove?

7 **MR. GROVE:** Thank you, Your Honor.

8 **CROSS EXAMINATION BY MR. GROVE**

9 Q. Investigator Young, the sixteen-year-old that we have
10 been talking about, who is that?

11 A. Minor [REDACTED].

12 Q. Do you know him pretty well?

13 A. I do, yes, sir.

14 Q. Have you had dealings with him before May 21st?

15 A. I had had some dealings with him, yes.

16 Q. Other places on the Hill?

17 A. From what I recall, yeah. We've had several
18 incidences with him on the Hill, yes.

19 Q. Other places around town?

20 A. I could say that. Yes.

21 Q. Sure. And you say that your duty assigned that day
22 was to secure outside the parameter?

23 A. It was.

24 Q. Did you ever go in the home?

25 A. I think I may have stepped into the residence.

DAVID YOUNG - REDIRECT EXAMINATION

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1 Speaking with officers about the incident, and the
2 juveniles. But I was not involved in the search of
3 the residence, no.

4 Q. And your entry to the home, was that during I think
5 it has been called the secondary search?

6 A. I would say it was after the second --- after the
7 secondary search, probably, at the end of the search.

8 Q. So well on into the process?

9 A. Yes, well into the process.

10 Q. But, didn't really see, hear, observe?

11 A. No, sir.

12 MR. GROVE: Beg the Court's indulgence.

13 THE COURT: All right.

14 (PAUSE.)

15 MR. GROVE: Nothing further at this time. Thank
16 you, Investigator Young.

17 THE COURT: Redirect.

18 MR. HOLT: Certainly, judge.

19 REDIRECT EXAMINATION BY MR. HOLT

20 Q. Officer Young, defense counsel asked you about
21 Minor [REDACTED] and having dealings with him outside,
22 in the community, and in various other places.
23 Outside of this incident, May 21, 2008, have you ever
24 had dealings with him at this location, [REDACTED] Street
25 again?

KIMBERLY M. DORSETT - DIRECT EXAMINATION

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1 A. From what I recall, yes.

2 Q. And outside in and around the community, have you
3 ever had dealings with the juvenile --

4 **MR. HOLT:** No further questions, judge.

5 **THE COURT:** Okay. Re-cross?

6 **MR. GROVE:** No thank you, Your Honor.

7 **THE COURT:** All right. Thank you, Officer Young,
8 you may step down.

9 All right. Mr. Holt, you may call your next witness.

10 **MR. HOLT:** Judge, if counsel could approach
11 briefly?

12 **THE COURT:** Yes, sir.

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

15 **THE COURT:** All right. You may call your next
16 witness.

17 **MR. HOLT:** Thank you very much, judge. The state
18 would like to call Kim Dorsett, Darlington County EMS.

19 **DEPUTY CLERK:** Place your right hand on the Bible.

20 **WHEREUPON, KIMBERLY M. DORSETT**

21 **FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS**

22 **MS. DORSETT:** I do.

23 **DEPUTY CLERK:** Have a seat in the witness chair.

24 **DIRECT EXAMINATION BY MR. HOLT**

25 Q. Ms. Dorsett, would you please state your whole name

KIMBERLY M. DORSETT - DIRECT EXAMINATION

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1 and occupation for the jury, please?

2 A. My name is Kimberly Morris Dorsett, and I am a part-
3 time paramedic for Darlington County, full time for
4 Florence.

5 Q. Now, how many years have you been a paramedic?

6 A. I have been a paramedic for four years. And I have
7 been with EMS for over eleven.

8 Q. Okay. Now, let me ask you this. Where were you
9 employed on May 21, 2008?

10 A. Darlington County EMS.

11 Q. All right. And specifically, what were you doing
12 that day? What was your job? What role were you
13 carrying out in the course of that job?

14 A. I was a paramedic for the county. Our director
15 called and told me that the Sheriff's Department had
16 requested that we stand by while they executed a
17 search warrant. So they asked us to be away from the
18 Hill, up at the store, just to make sure everything
19 went smoothly. That if they needed any medical
20 assistance, we were right there available.

21 Q. And did they have the occurrence to call and tell you
22 that they needed medical assistance?

23 A. They did. They asked us to come up and to evaluate
24 Mr. Addison for his bedsores complaint.

25 Q. And, did you do that?

KIMBERLY M. DORSETT - DIRECT EXAMINATION

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- 1 A. Well, I am not a physician. I can't treat bedsores
2 in the back of my ambulance. So, we did --- I did
3 gain consent from Mr. Addison to transport him to the
4 ER for the physician to evaluate him.
- 5 Q. And while you were arranging that transport --- while
6 you were awaiting that transport, did Mr. Addison
7 give you any cause for concern?
- 8 A. When we placed Mr. Addison on the wheelchair onto the
9 stretcher, it is customary for us to place a sheet
10 over the patient for their privacy, especially with
11 ladies wearing dresses and that sort of thing. So
12 out of habit, we placed the sheet over him. We
13 noticed as we were buckling the seatbelts that Mr.
14 Addison had his hands in his waistband. When I
15 looked at him a little bit strange, he stated to me
16 that he was itching.
- 17 Q. Now, did you find that suspicious?
- 18 A. I did.
- 19 Q. Why is that?
- 20 A. Mr. Addison is a paraplegic, so he doesn't have
21 feelings from the waist down.
- 22 Q. So it would be impossible for him to be itching down
23 there?
- 24 A. In my experience it is.
- 25 Q. It is fair to say it is highly unlikely?

KIMBERLY M. DORSETT - DIRECT EXAMINATION

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1 A. Highly unlikely, yes, sir.

2 Q. So, with that information what did you do next?

3 A. We continued to --- I pulled the sheet back just a
4 little bit to expose his hands to make sure that me
5 or my other crew was not in danger. We then
6 continued to load the patient onto the stretcher. We
7 placed him in the back of the ambulance. I left him
8 with another paramedic, and also my partner Mr.
9 Bowen, and I went --- stepped out of the back of the
10 ambulance to find the nearest officer to let them
11 know that I would like the patient searched again.

12 Q. And did you find an officer?

13 A. I did. As soon as I opened the back door, Deputy
14 Hopkins was coming around the back, getting ready to
15 follow us to the hospital. And I told him that I
16 felt like the patient was hiding a weapon; in my
17 opinion is what I thought.

18 Q. And did he search the defendant for you?

19 A. He did.

20 Q. And what was the result of that search?

21 A. As he was searching the patient, he pulled out a
22 clear bag full of yellow rocks.

23 Q. And did he pull out another one after that?

24 A. Yes, he did.

25 Q. Ma'am, let me ask you this. When those bags were

KIMBERLY M. DORSETT - DIRECT EXAMINATION

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1 pulled out, how did the defendant start acting then?

2 A. He was very irate. He immediately stated that the
3 deputy had planted them there. He was immediately
4 trying to get us to agree with him, that the deputy
5 had planted them there. And when we would not agree
6 with him, he became --- he started threatening us as
7 well.

8 Q. And what did these threats consist of specifically,
9 who did he threaten? How did he threaten you? How
10 did it make you feel?

11 A. He threatened each one of us. And he specifically
12 stated that when we would not give him our names, he
13 told us that he could get our run report, which by
14 law being the patient he has the right to. And that
15 on that run report our names would be there, and
16 there he would have access to us then. And that he
17 would get us. He was very adamant. He wanted to
18 make sure that we knew he was being serious.

19 Q. And I would like to at this point refer you to your
20 in house report that you gave your boss. And
21 specifically, could you read off the threats he made
22 to you, the specific threats that night.

23 A. While in route patient began to threaten EMS
24 personnel, stating that we had started something that
25 we were going to be sorry for that. For all he had

KIMBERLY M. DORSETT - DIRECT EXAMINATION

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1 to do is call his boys, because he was the Big Dog.
2 He made vicious statements to EMS, name calling, and
3 threatening EMS crew, and our family members. And he
4 was going to find out which one of the snitches
5 turned him in for selling drugs.

6 Q. All right.

7 A. He also specifically --- I'm sorry.

8 Q. No, go ahead.

9 A. He also specifically stated that he would get us
10 whether it would be through our families or through
11 our person personally.

12 Q. Now, in your job I imagine you see people from all
13 walks of life?

14 A. We do.

15 Q. Do you get threatened a good bit?

16 A. Actually, we do.

17 Q. Was this threat any different, and did you feel like
18 it could be carried out?

19 A. I have never had a patient, when I refused to give my
20 name, specifically have the knowledge of how exactly
21 they were going to get it, and how they could find
22 exactly where I lived. So, yes, I was. I was very
23 afraid. I actually purchased a bulletproof vest
24 after that.

25 Q. Ms. Dorsett, just to be clear, did you see the drugs

KIMBERLY M. DORSETT - CROSS EXAMINATION

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1 in question come out from the defendant?

2 A. I did.

3 Q. Who else was in the ambulance with you at that time?

4 A. Cindy Kissiah, Kenny Bowen, and of course, Deputy
5 Hopkins, Mr. Addison, myself, and I am not sure if
6 Officer Blankley was there at that point or not.

7 Q. That is perfectly fine.

8 **MR. HOLT:** Ms. Dorsett, please answer any questions
9 the defense might have. Thank you very much.

10 **MS. DORSETT:** Thank you.

11 **THE COURT:** Cross examination, Mr. Holt?

12 **MR. GROVE:** Thank you, Your Honor.

13 **CROSS EXAMINATION BY MR. GROVE**

14 Q. Ms. Dorsett, you asked that Mr. Addison be searched
15 again?

16 A. I did.

17 Q. Because you suspected that he had weapons?

18 A. Yes, I did.

19 Q. Did they find a weapon?

20 A. No, they did not.

21 Q. What was --- What was his condition when you arrived
22 on the scene, medically speaking?

23 A. He appeared conscious, alert, and oriented. He was
24 sitting up right in his wheelchair in the front yard.
25 He appeared to be in no significant distress.

KIMBERLY M. DORSETT - CROSS EXAMINATION

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- 1 Q. And the purposes of his medical transport?
- 2 A. Was to have the bedsores checked on his sacral area
- 3 on his bottom.
- 4 Q. I guess he was in such a condition where there was a
- 5 question of whether or not he was medically fit to be
- 6 transported directly to the Detention Center; is that
- 7 correct?
- 8 A. That is my understanding, yes.
- 9 Q. And what was his condition once he was placed in a
- 10 stretcher --- Well, first was he placed in a
- 11 stretcher?
- 12 A. He was placed onto a stretcher.
- 13 Q. The one we traditionally see going in and out of a
- 14 EMS vehicle?
- 15 A. Yes.
- 16 Q. Horizontal, sitting upright?
- 17 A. His legs were straight out and his torso was elevated
- 18 at about a forty-five-degree angle.
- 19 Q. So pretty standard, if anybody has ever seen it on
- 20 tv, that's kind of what it looked like, right?
- 21 A. Yes.
- 22 Q. Handcuffed at the time?
- 23 A. He was handcuffed in front of himself.
- 24 Q. Was he at any point re-handcuffed?
- 25 A. Whenever they searched him, they did handcuff him to

KIMBERLY M. DORSETT - CROSS EXAMINATION

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1 the rails of the stretcher. We don't like for
2 patients to be transported with handcuffs in front of
3 them, because should something happen, it hinders our
4 patient care. Should a patient go into cardiac
5 arrest, we can't treat them appropriately with their
6 hands handcuffed in front of them, so we ask that
7 they handcuff them to the rail.

8 Q. Certainly. Strapped down at any point?

9 A. Oh, he did have three seatbelt straps that are with
10 each patient.

11 Q. Could you identify, for us, on yourself, where are
12 those straps?

13 A. One is chest high, one is waist high, and one is
14 around the knees.

15 Q. So he --- I mean, he is pretty --- as the stretcher
16 goes he goes?

17 A. Yes.

18 Q. There is not a whole lot of available movement?

19 A. Well, the seatbelts are quite lenient when it comes
20 to that. We don't strap you in tight. It is to keep
21 you from falling off of the stretcher should the
22 stretcher roll.

23 Q. Certainly.

24 **MR. GROVE:** Beg the Court's indulgence.

25 **THE COURT:** Yes, sir.

KIMBERLY M. DORSETT - CROSS EXAMINATION

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1 (PAUSE.)

2 Q. Ms. Dorsett, how many officers were present during
3 the course of events at the home? You don't have to
4 be exact, just --

5 A. I have no idea.

6 Q. More than five?

7 A. I would guess so.

8 Q. More than ten?

9 A. When we came in --- Well, I am not certain of that.
10 My job was to pay attention to the patient, and get
11 him the medical treatment that he needed. So, I was
12 specifically focused on Mr. Addison's health.

13 Q. Certainly. And there was at least one or maybe two
14 officers present inside of the vehicle, correct?

15 A. Yes.

16 Q. Any standing around right out back?

17 A. Not until I called them over. The deputy was coming
18 to the ambulance after we loaded --- it was mere
19 seconds from the time we loaded Mr. Addison into the
20 ambulance, until I opened the back door to get an
21 officer to come in to check him. So after --- I'm
22 not sure after he was checked, when the patient was
23 being irate, and yes there was some milling about
24 behind the ambulance. But, I don't know who was out
25 there.

KIMBERLY M. DORSETT - CROSS EXAMINATION

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1 Q. More officers than --- more than when you normally go
2 and pick up a patient?

3 A. Yeah. Normally, we don't have officers at the scene
4 to pick up patients.

5 Q. You say Mr. Addison made some statements. Anything
6 ever become of those statements?

7 A. No, they did not.

8 Q. And to reiterate, any weapons found at the time?

9 A. No, not that I saw.

10 MR. GROVE: Nothing further at this time, Your
11 Honor. Thank you.

12 THE COURT: Redirect?

13 MR. HOLT: There is none, judge.

14 THE COURT: All right. Thank you, ma'am. You may
15 step down.

16 All right. Mr. Holt, call your next witness.

17 MR. HOLT: Thank you, judge. At this time I would
18 like to call Mr. Bowen from EMS.

19 THE COURT: All right. Come around please.

20 DEPUTY CLERK: Raise your right hand, place the left
21 on the Bible, please.

22 WHEREUPON, KENNETH S. BOWEN

23 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

24 MR. BOWEN: I do.

25 DEPUTY CLERK: Have a seat please.

KENNETH S. BOWEN - DIRECT EXAMINATION

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DIRECT EXAMINATION BY MR. HOLT

1

2

Q. Could you state your name, please?

3

A. Kenneth Stanley Bowen.

4

Q. Mr. Bowen, where are you currently employed?

5

A. Darlington County EMS.

6

Q. And how long have you worked there?

7

A. Four years.

8

Q. And were you working there on May 21, 2008?

9

A. I was.

10

Q. And did you have the same job that you have now?

11

A. I was a EMT, intermediate at the time. I am now a paramedic.

12

13

Q. So, let me ask you this, Mr. Bowen. Were you in the van --- I am sure you heard Ms. Dorsett's testimony. Were you in the van when Deputy Hopkins searched the defendant?

16

17

A. I was.

18

Q. And what did you witness?

19

A. I witnessed Officer Hopkins put on a pair of gloves, blue latex gloves that he got out of the ambulance. And searched the patient's waistband, where he found two bags that had like a beige substance in them.

22

23

Q. Yes, sir. And after that happened, can you tell me how the defendant started acting?

24

25

A. He became very irate, very agitated, and as Ms.

KENNETH S. BOWEN - DIRECT EXAMINATION

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1 Dorsett said, he started trying to make us or
2 persuade us to agree with him that the Deputy had
3 planted the substance in his waste band.

4 Q. Was that true, that the deputy had planted it?

5 A. No, sir.

6 Q. And, when y'all wouldn't agree to go along with his
7 fictitious story, what happened then?

8 A. He began making threats to us --- saying, making
9 comments, making us believe that he would try to harm
10 us or our family.

11 Q. And specifically, was it he that was going to harm
12 you, or how was he going to inflict this harm on you?

13 A. He made comments that he would make a phone call, and
14 have his boys take care of us.

15 Q. And he used that phrase, his boys?

16 A. Yes, sir.

17 Q. And let me ask you this. Did you hear the remark
18 where he said he would have the snitch taken care of?

19 A. Yes, I did.

20 Q. Okay. And how did these threats against you --- how
21 did they make you feel?

22 A. Well, I had never had anything like that happen to me
23 before, so I was pretty fearful that he may follow
24 through with that.

25 Q. And have you been threatened a lot since you have had

KENNETH S. BOWEN - CROSS EXAMINATION

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1 more years in your job now.

2 A. We get threats from time to time, but never have I
3 gotten one that I got the feeling, the impression
4 that anybody would follow through with it.

5 Q. And you had that here?

6 A. Absolutely.

7 Q. Now, did you file a report out against the defendant,
8 because of that?

9 A. I didn't.

10 Q. And why did you not?

11 A. My co-workers' Cindy Kissiah and Kim Dorsett both
12 did. I felt like it was documented at the time, and
13 was not exactly sure that it was going to be three
14 separate counts against him.

15 **MR. HOLT:** Thank you so much, Mr. Bowen. I
16 appreciate you testifying today.

17 **THE COURT:** Cross examination, Mr. Holt --- I mean,
18 Mr. Grove?

19 **MR. GROVE:** Thank you, Your Honor.

20 **CROSS EXAMINATION BY MR. GROVE**

21 Q. Mr. Bowen, how long were you at the scene?

22 A. According to our documents, I believe were on the
23 scene approximately twenty-two minutes.

24 Q. How many officers --- and again, you don't have to be
25 exact with me, just give me a ball park. How many

KENNETH S. BOWEN - CROSS EXAMINATION

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1 officers present?

2 A. More than --- at least more than five.

3 Q. More than normal?

4 A. Yes.

5 Q. Any inside the ambulance?

6 A. When we asked them to, Officer Hopkins stepped in the
7 ambulance with us. Officer Blackney was also in the
8 ambulance.

9 Q. He was in the ambulance?

10 A. Correct.

11 Q. As far as statements are concerned, did anything ever
12 happen? The statements that were allegedly happened
13 inside of the EMS vehicle. Did anything ever come of
14 that?

15 A. No, sir.

16 MR. GROVE: Nothing further at this time, Your
17 Honor.

18 THE COURT: Redirect?

19 MR. HOLT: No redirect at this time, judge.

20 THE COURT: Thank you, sir. You may step down.
21 Counsel approach.

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

24 THE COURT: You may call your next witness.

25 MR. HOLT: Thank you very much, judge. At this

GEORGE WILKES - DIRECT EXAMINATION

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1 time the state would like to call Deputy George Wilks to
2 the stand.

3 **THE COURT:** All right. Mr. Wilks, come on us
4 please.

5 **DEPUTY CLERK:** Place your left hand on the Bible,
6 and raise your right hand.

7 **WHEREUPON, GEORGE WILKES**

8 **FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS**

9 **OFFICER WILKES:** I do.

10 **DEPUTY CLERK:** Have a seat.

11 **DIRECT EXAMINATION BY MR. HOLT**

12 Q. Deputy, could you please give your full name for the
13 jury.

14 A. George Wilkes.

15 Q. Deputy Wilkes, where are you currently employed?

16 A. Darlington County Sheriff's Office.

17 Q. And let me ask you this. How long have you been
18 employed there?

19 A. Twenty-four years.

20 Q. And, what is your current position there?

21 A. I am the SRO at Lamar High School.

22 Q. I'm going to try to get you out before school gets
23 out.

24 A. Okay.

25 Q. But you haven't always been the SRO. What position

GEORGE WILKES - DIRECT EXAMINATION

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1 did you hold May 21, 2008?

2 A. On May 21, 2008, I was the lieutenant over the
3 Narcotics Division of the Darlington County Sheriff's
4 Office.

5 Q. So when you say you were the lieutenant, does that
6 mean you were the head guy for narcotics?

7 A. Yes, sir. The day to day operations.

8 Q. And how long had you been doing that?

9 A. Twenty-years.

10 Q. So you were on top of the drug team for twenty-years?

11 A. Yes, sir.

12 Q. Now, let me ask you this. The day in question, we
13 know that there was an entrance team. What
14 particular job or duty did you have?

15 A. My basic job at that time was to round up an entry
16 team to go into this area, and to go into this house,
17 and make sure everybody was there and ready to go.
18 And have a little briefly on entering the house.

19 Q. So you were kind of in charge out there too?

20 A. Yes, sir.

21 Q. You have an entrance team, and you have what sounds
22 like extra security; why was that?

23 A. That area is a high crime area. There had been some
24 gang activity over in that area in the past. And we
25 really wanted to be safe when we hit this residence.

GEORGE WILKES - DIRECT EXAMINATION

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- 1 So we had a little more than normal there.
- 2 Q. After they entered the house, what did your duties
- 3 consist of then?
- 4 A. I stayed outside of the house. I never entered the
- 5 house at that time.
- 6 Q. Yes, sir.
- 7 A. Basically, the entry team went in and cleared the
- 8 house and got everybody under control at that time.
- 9 Q. Now, when they brought out the first juvenile, do you
- 10 remember what you did with him? What his name was?
- 11 A. If I can look at the report. That's been a while.
- 12 Q. I've got the Incident Report right here, Deputy
- 13 Wilkes. Here it is right here. Your involvement
- 14 will be on these first couple of pages.
- 15 A. The resident [Minor] was the juvenile that was brought
- 16 out first.
- 17 Q. Now, deputy, when you brought --- when they brought
- 18 [Minor] [redacted] outside, do you remember what you did
- 19 with him?
- 20 A. I pretty much sat him down over there beside of a
- 21 tree and talked to him a little bit about what was
- 22 going on and that kind of stuff. And there was
- 23 another juvenile also in there, [Minor #2] [redacted].
- 24 Q. Now, did you search the juveniles?
- 25 A. No, sir.

GEORGE WILKES - CROSS EXAMINATION

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1 Q. You didn't. When the defendant here today was
2 outside of the home, were you ever watching over him?

3 A. Yes.

4 MR. HOLT: Thank you very much, Deputy Wilkes.
5 Please answer any questions the defense counsel may have.

6 THE COURT: Cross examination.

7 MR. GROVE: Thank you, judge.

8 CROSS EXAMINATION BY MR. GROVE

9 Q. Deputy Wilkes, you were the head of the Narcotics
10 Division at the time?

11 A. Yes, sir.

12 Q. So you were in charge of sort of corralling this
13 whole search?

14 A. Yes, sir.

15 Q. What were y'all searching for?

16 A. We were looking for [Minor] [REDACTED].

17 Q. Why were you looking for Mr. [Minor]?

18 A. He had warrants on him.

19 Q. Do you remember which ones in particular?

20 A. No, sir. I don't.

21 Q. But he had pre-existing warrants before May 21, 2008?

22 A. I don't remember.

23 Q. Well, if you were looking for him, and he had
24 warrants on him, then they had to predate the day of
25 the search, right?

THE STATE VERSUS MARCUS ADDISON

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1 A. I haven't looked at this case since 2008, and I got
2 called this morning, and I came up here. If you will
3 give me time to read over it, I'll tell you.

4 Q. That's quite all right, deputy. I certainly
5 understand. Mr. [Minor] did in particular did. Did
6 you know him in the past?

7 A. Yes, sir.

8 Q. Have you ever had dealings with him before?

9 A. Yes, sir.

10 Q. Outside of [redacted] Street?

11 A. Yes, sir. And at [redacted] Street.

12 Q. All over town?

13 A. Yes, sir. But he hung out at [redacted] Street, in that
14 area.

15 Q. And he lived right there down the street, correct?

16 A. Yes, sir.

17 Q. You say that you didn't search the juveniles at the
18 home, but you did observe my client, Mr. Addison
19 outside the home, during this process?

20 A. Yes, I did talk to him outside of the home.

21 Q. Okay.

22 MR. GROVE: Beg the Court's indulgence.

23 THE COURT: Yes, sir.

24 (PAUSE.)

25 MR. GROVE: Nothing further, Your Honor. Thank

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1 you.

2 **MR. HOLT:** There is no redirect for this witness,
3 judge.

4 **THE COURT:** All right. Thank you, sir. You may
5 step down.

6 Mr. Holt, would this be an appropriate time to take a
7 lunch recess?

8 **MR. HOLT:** I believe it would, Your Honor. We have
9 several witnesses lined up for after lunch, and it should
10 rap it up.

11 **THE COURT:** When will your first witness be here,
12 Mr. Holt?

13 **MR. HOLT:** I think my first witness will be here at
14 2:00-o'clock. But I imagine we can get started around
15 1:30 that I can call and get her up here.

16 **THE COURT:** All right. I will excuse the jury
17 until 1:30.

18 Ladies and gentlemen, I am going to let you go and
19 get your lunch at this time. Please be back in your jury
20 room at 1:30.

21 Over the lunch recess, do not discuss the case with
22 anyone. Do not allow anyone to discuss it with you. And
23 do not discuss it among yourselves. It is still premature
24 for you to begin any discussions on this matter among
25 yourself.

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1 With those admonitions, I am going to excuse you and
2 ask you to be back in your jury room at 1:30.

3 Jury only is excused.

4 (Whereupon, the jury is released for lunch at
5 12:02 p.m..)

6 **THE COURT:** While we are waiting on the jury to
7 clear the courtroom, Mr. Holt and Mr. Grove would you come
8 up, please.

9 (Whereupon, a bench conference was held.)

FIFTH AMENDMENT RIGHTS

10
11 **THE COURT:** All right. Mr. Addison, if you could
12 stay in place right there for a minute. I do want to talk
13 with you for just a moment. Mr. Addison, you may be
14 called as a witness to testify on your own behalf.

15 I know advise you that you have a right to invoke the
16 rights given to you by the Fifth Amendment of the
17 Constitution of the United States, and a similar
18 counterpart provision of the Constitution of the State of
19 South Carolina.

20 The Fifth Amendment of the United States constitution
21 provides in part that no person shall be compelled on any
22 criminal case to be a witness against himself. This
23 provision of constitutional law means that you cannot be
24 compelled or required to testify in this case. This is a
25 right and a privilege which the law extends to you. This

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1 is a personal privilege, and no one can waive this right
2 except you.

3 You have a right not to testify, but you also have
4 the right to testify. The Court will give you the right
5 to consult with your lawyer before you make a decision.
6 If you elect not to testify, your failure to testify
7 cannot be used by the state as an inference of your guilt.

8 And your failure to testify cannot be considered by the
9 jury in its deliberations.

10 If you elect to testify, and waive the privileges
11 that are handed to you by the Fifth Amendment to the
12 United States and South Carolina Constitutions.

13 I advise you that you would then assume the role of a
14 witness in this case, and you would waive, or give up the
15 constitutional privilege against self-incrimination.

16 This means that if you voluntarily testify that you
17 will subject yourself to the same rules that govern other
18 witnesses, and you may be examined and cross examined on
19 any relevant issues in this case. And you may be
20 impeached to the same extent as any other witness. All of
21 which are stated in the rules of law, and rules of
22 evidence.

23 I would further advise you once you take the witness
24 stand and decide to testify, that this decision on your
25 part must be made freely and voluntarily, intelligent, and

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1 with knowledge of the protections given to you by the
2 constitution, and with knowledge of the consequences of
3 your election to testify.

4 I am not going to require that you give me an answer
5 now as whether you do or do not wish to testify in this
6 case. But I would ask you now, do you understand what I
7 have advised you about as far as your Fifth Amendment
8 Rights, as I have described them to you?

9 MR. ADDISON: Yes, sir.

10 THE COURT: That is a yes?

11 MR. ADDISON: Yes.

12 THE COURT: Okay. And I will give you an
13 opportunity to talk with your lawyer, and make a decision
14 later on as to whether you do or do not wish to testify.

15 Ms, McKenzie you may not have this information. But
16 one of the things that impacts upon the defendant's
17 decision to testify or not testify are the --- which you
18 consider to be impeccable offenses. Do you have those?
19 Does Mr. Holt have those?

20 MS. PARKER: Your Honor, I don't have that
21 information, but I will get it shortly after we break, and
22 see if it qualifies under 609, and let Mr. Grove deal with
23 it then.

24 THE COURT: If you disagree, let me know. And I
25 will take that up when we come back after lunch. But, I

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1 would like to resolve the 609 issues before you talk with
2 him, as to how it impacts his decision as to whether or
3 not to testify or not. Mr. Holt, if you would get that
4 information to him.

5 MS. PARKER: Yes, sir.

6 THE COURT: All right. Anything else before we
7 recess for lunch, Ms. McKenzie --- Ms. Parker?

8 MS. PARKER: No, Your Honor.

9 THE COURT: Mr. Grove?

10 MR. GROVE: None, Your Honor.

11 THE COURT: All right. Then we will be in recess
12 until 1:30.

13 (Whereupon, the Court takes a lunch recess from
14 12:09 p.m. until 1:30 p.m..)

15 THE COURT: Thank you, please be seated. All
16 right. We are back on the record in regard to the matter
17 of The State versus Marcus Addison. Mr. Addison is
18 present with his counsel, and the state is present with
19 Mr. Holt and Ms. Parker.

20 Before we broke for lunch, I inquired as to the
21 Defendant Addison, and wanted to make sure that the
22 matters which the state considered impeccable offenses
23 were gotten to Mr. Holt.

24 MR. HOLT: Judge, under my impression the only
25 impeccable offense will be receiving stolen goods in

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1 Magistrate Court, that was a result of this. It is only
2 impeccable because it is a matter of moral turpitude, show
3 dishonest.

4 **THE COURT:** Dishonesty.

5 **MR. HOLT:** Dishonesty. Yes, sir. That was the
6 word I was looking for.

7 **THE COURT:** Okay. That is 608, and let me look at
8 that right quick.

9 (PAUSE.)

10 **THE COURT:** Rule 609. The crime is what Mr. Holt?

11 **MR. HOLT:** Receiving stolen goods, judge.

12 **THE COURT:** How long ago was it?

13 **MR. HOLT:** It happened at the same time the search
14 warrant happened, 2008 May 21st, he had a four-wheeler in
15 the yard. That was handled in Magistrate's Court. He
16 plead guilty to receiving stolen goods.

17 **THE COURT:** All right. Mr. Holt, what is your
18 position?

19 **MR. GROVE:** We are in agreement that that is the
20 only charge on his record that would be admissible under
21 those terms.

22 **THE COURT:** All right. Good. We will get to the
23 decision with regard to the --- to his right to testify.

24 All right. Anything before we bring the jury in, Mr.
25 Holt?

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1 **MR. HOLT:** There is nothing from the state, Your
2 Honor.

3 **THE COURT:** Mr. Grove?

4 **MR. GROVE:** Not at this time, Your Honor.

5 **THE COURT:** All right. Bring the jury in.

6 **BAILIFF:** All right, sir.

7 (Whereupon, the jury enters the courtroom at
8 1:32 p.m..)

9 **THE COURT:** Welcome back, ladies and gentlemen.
10 Thank you for your promptness in being back here. And we
11 are ready to go forward. I do need to ask you, has anyone
12 tried to talk with you regarding this case in any matter
13 whatsoever over the lunch recess, I would need to know
14 about it now. No response, and that is good.

15 All right. We are ready to go forward. You may call
16 your next witness.

17 **MR. HOLT:** Thank you very much, Your Honor. At
18 this time the state would like to call Cynthia Kissiah to
19 the stand.

20 **THE COURT:** All right. Come around please.

21 **WHEREUPON, CYNTHIA KISSIAH**

22 **FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS**

23 **MS. KISSIAH:** I do.

24 **CLERK OF COURT:** Take a seat in the witness chair
25 for me please.

CYNTHIA KISSIAH - DIRECT EXAMINATION

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DIRECT EXAMINATION BY MR. HOLT1
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Q. Thank you. Can you please state your whole name for the jury?

A. I am Cynthia Kissiah.

Q. And Ms. Kissiah, where are you currently employed?

A. Carolina Med. Care in Florence.

Q. Now, on May 21, 2008, where were you employed then?

A. Darlington County EMS.

Q. And in what capacity were you employed?

A. I'm paramedic.

Q. Now there has been some testimony that there was a search warrant executed at [REDACTED] Street. And that an ambulance and several other people that worked with the ambulance were there that day. Were you a part of that group?

A. I was.

Q. And who else was in that group with you?

A. Kim Dorsett and Kenny Bowen.

Q. Okay. Now, let me ask you this. When you got to the scene of the search warrant, do you remember when they brought the defendant into your ambulance?

A. I do.

Q. And were you in the ambulance with Rodney Hopkins, Officer Rodney Hopkins, who was a deputy then, but is with HPD now. Officer Hopkins searched the

CYNTHIA KISSIAH - DIRECT EXAMINATION

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1 defendant?

2 A. I was.

3 Q. Can you explain to the jury what you saw happen?

4 Then we will get into what happed a little bit about
5 what happened directly after that.

6 A. Rodney searched him, and when he removed his diaper
7 there was like a baggie with some colored substance
8 in it, like a beige color substance between his legs.

9 Q. And after Rodney discovered the bag full of beige
10 colored substance, how did the defendant begin to
11 act?

12 A. He got really angry.

13 Q. And what did he do?

14 A. Started making threats and accusations that Rodney
15 had you know, put it there, and that we would pay for
16 it, and stuff like that.

17 Q. Did Rodney put it there?

18 A. No, sir.

19 Q. Did Rodney find it there?

20 A. He found it there.

21 Q. And specifically, could you expound on what the
22 threats were made to you?

23 A. That he --- that we would be sorry for ever coming up
24 to his house. And that --- let me see here --- that
25 our families would pay. That all he would have to do

CYNTHIA KISSIAH - DIRECT EXAMINATION

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1 is make a phone call to his boys, and they would take
2 care of it.

3 Q. And again, you said his boys?

4 A. Yes.

5 Q. And how did these threats make you feel?

6 A. It upset me pretty bad.

7 Q. Now, aside from the threats, how did he speak as far
8 as --- how did he talk to you and the other people in
9 the van? Did he call you any names? Was he overly
10 rude? How did the rest of the trip go?

11 A. He did a lot of swearing. And called us a lot of
12 different names. And just he was just really, really
13 irate.

14 Q. And you don't have to say the uncomfortable words, or
15 the --- what people may call the ugly words, the
16 curse words. But do you remember specifically
17 anything that he said, or any words?

18 A. Let's see here. He called us fat, punk-ass-cock-
19 sucking-fagots, and cock sucking cracker bitches, and
20 let's see here, what else did he say. Just I mean
21 on, and on, and on, and on like that.

22 Q. And I don't want you to feel uncomfortable reading
23 your own report, and can you think of anything else
24 he said to you?

25 A. Let's see here. Gosh, he said so much. He just told

CYNTHIA KISSIAH - DIRECT EXAMINATION

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1 us that we would just really be sorry for ever being
2 there.

3 Q. And were the threats just specifically against you,
4 or did he threaten other people you know as well?

5 MR. GROVE: Objection, Your Honor. Leading.

6 THE COURT: All right. Objection sustained.

7 Rephrase the question.

8 Q. Were the threats just against you?

9 A. No, sir. They were against my co-workers and law
10 enforcement.

11 MR. HOLT: Thank you very much. Please answer any
12 questions that defense counsel might have.

13 THE COURT: Cross examination.

14 MR. GROVE: Just one moment, Your Honor.

15 (PAUSE.)

16 MR. GROVE: We don't have any questions at this
17 time, Your Honor. Thank you.

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

19 MR. HOLT: Your Honor, at this time the state would
20 request that Ms. Kissiah, Ms. Dorsett, and Mr. Bowen be
21 allowed to leave. They all have other engagements.

22 THE COURT: Any objection, Mr. Holt?

23 MR. GROVE: None, Your Honor.

24 THE COURT: All right. The witnesses are released.
25

RUSS HARRELL - DIRECT EXAMINATION

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1. All right. Please call your next witness.

2. **MR. HOLT:** Thank you, judge. At this time the
3. state would like to call Deputy Russ Harrell to the stand.

4. **WHEREUPON, RUSS HARRELL**

5. **FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS**

6. **OFFICER HARRELL:** I do.

7. **CLERK OF COURT:** Have a seat up there for me.

8. **DIRECT EXAMINATION BY MR. HOLT**

9. Q. Deputy Harrell, would you please state your full name
10. and occupation for the jury?

11. A. Russ Harrell, and I am a Forensic Investigator with
12. Darlington County Sheriff's Office.

13. Q. Now, Deputy Harrell, you had several duties outside
14. of the forensics, do you have another duty that you
15. do?

16. A. I have a few. I am supervisor over evidence for the
17. Sheriff's Office. And I am also a marijuana analyst.

18. Q. Deputy Harrell, how long have you been in law
19. enforcement?

20. A. Over ten years. This will be my eleventh year.

21. Q. And has it all been with Darlington County Sheriff's
22. Office?

23. A. It has been.

24. Q. Now, Deputy Harrell, going back to the day in
25. question, May 21, 2008, and the search warrant, can

RUSS HARRELL - DIRECT EXAMINATION

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1 you specifically tell us how you were involved in
2 that?

3 A. After we received our operation plan from Lieutenant
4 Wilkes, we all went to an areas that is know as
5 Alphabet Hill, which are the alphabet letters. And,
6 I went to the street behind Mr. Addison's residence,
7 and maintained security of that back road, because
8 there could be an exit point for somebody who decided
9 to run through the trees and try to escape out the
10 backside initially.

11 Q. Deputy Harrell, outside of security on the back end
12 of the house, what did you do after the scene was
13 secured?

14 A. Once the house was made safe, I was radioed to
15 respond to the house, to assist with the collection
16 of evidence that was obtained from inside the house
17 and about the area.

18 Q. And this was in your duties as evidence custodian?

19 A. That is correct.

20 Q. Now, let me ask you this. Once you got around to the
21 front of the house, what did you do them? Did
22 anybody bring you anything? Did anybody bring you
23 anything? Did you spend any time in the house? Were
24 you back and forth? Can you explain to the jury why
25 the search warrant was going on? What exactly your

RUSS HARRELL - DIRECT EXAMINATION

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1 duties were?

2 A. Sure. I parked in front of the house so I could
3 maintain view of my vehicle, because I knew that
4 while the search --- the officers that were searching
5 inside would be bringing items, and calling me in and
6 out. So I needed to maintain visibility of my
7 vehicle for anything that was placed in it. And
8 throughout the search inside, I would go and retrieve
9 whichever items were found from them, and bring them
10 back out, and secure them.

11 Q. Now, Deputy Harrell, so when we say --- when Deputy
12 Lawson testified that there were scales found, there
13 were sandwich bags found, those are now in custody.
14 Were those turned over to you at the scene?

15 A. Yes.

16 Q. Okay. How about your part in the marijuana on the
17 scene?

18 A. Where the heater was, and I guess it has been
19 referred to as the right room. At the time Sergeant
20 Mike Hall was searching that area. And I had gone
21 back in after making a trip to my truck, which
22 arrived and was given to me. And I would say
23 basically together I was standing there and the
24 marijuana was located in the furnace. At that time
25 it was collected, and I retrieved it, and took it

RUSS HARRELL - DIRECT EXAMINATION

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1 back to the truck.

2 Q. Thank you, Deputy Harrell. Now, when you were back
3 at the truck, waiting on the evidence to come out to
4 you, did you ever leave your truck for long?

5 A. I could always see it. And I always had it locked.

6 Q. Okay. And at any time did you hear or become aware
7 of for, lack of a better word, a commotion outside
8 the ambulance?

9 A. I did. I was --- I believe I was dropping off an
10 item, or staying within earshot of the house, I did
11 hear what seemed to be some yelling --- I wouldn't
12 say yelling, but I would say fussing, and something
13 sound right. So, with everybody about
14 different areas, I seemed to be the closest, so I
15 watched over my shoulder for my vehicle, and I
16 got turned around and I found Lance Corporal Hopkins
17 in the back with the EMS workers, and the defendant
18 Marcus Addison.

19 Q. And at that time, did you see Lance Corporal Hopkins
20 produce anything? Did he hand you anything?

21 A. He did. He handed me some bags of brownish white
22 substance that at the time I believed to be crack.
23 And I took possession of that, and called for Agent
24 Lawson to come and retrieve it from me. Correction.
25 I stored that, and later gave it to Agent Lawson.

RUSS HARRELL - DIRECT EXAMINATION

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1 Q. And deputy, what condition were the drugs in when
2 they were handed to you, after they were found on the
3 defendant.

4 A. They were very warm to the touch, and kind of ----
5 kind of --- I use the word squishie.

6 Q. As though heat had been applied to them?

7 A. Correct.

8 MR. HOLT: Permission to approach, judge?

9 THE COURT: Yes, sir.

10 Q. I would like to hand you what has been previously
11 marked as State's Exhibit Number 4, and I would like
12 to ask if you can tell the jury what that is?

13 A. This is a Form B Rule 6 that goes with them, and it
14 is a package that is called the Best Kit, which is
15 commonly sent to South Carolina Law Enforcement
16 Division. Most people know it as SLED. It describes
17 in the chain of custody, which is basically, if I
18 give it to somebody, then their name goes down. And
19 it basically gives a story of who has handled each
20 particular item. In this case, State's Exhibit
21 Number 4 says that Rodney Hopkins obtained it, and
22 then gave it to myself, which I gave it to Agent
23 Lawson to complete the kit. And once the kit was
24 completed it was given back to me, or dropped into
25 evidence, which is one in the same pretty much.

RUSS HARRELL - DIRECT EXAMINATION

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1 Q. All right. Now, deputy, what did you do with the
2 rest of the evidence collected?

3 A. After Agent Lawson got through getting his inventory
4 for his search warrant return, which, whenever
5 evidence is taken from a house under a search
6 warrant, the items have to be listed to be taken back
7 to the judge. So once he was completed with the
8 paperwork, the items were stored into evidence until
9 court.

10 MR. HOLT: Thank you, deputy. At this time judge,
11 the state would like to have two exhibits marked by the
12 court reporter; if that is possible. For identification
13 purposes only.

14 (PAUSE.)

15 THE COURT: That is 9 and 10?

16 MR. HOLT: Yes, sir.

17 THE COURT: State's 9 and 10.

18 WHEREUPON, STATE'S EXHIBIT'S
19 NUMBERS 9 AND 10 ARE MARKED
20 FOR IDENTIFICATION PURPOSES.

21 Q. Now, Deputy Harrell, I would like to present you with
22 State's Exhibit Number 9, and with State's Exhibit
23 Number 10. And without telling us what they are,
24 have you ever seen those before?

25 A. Yes, I have.

RUSS HARRELL - DIRECT EXAMINATION

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1 Q. And are they in substantially the same condition as
2 the last time you have seen them?

3 A. Yes, they are.

4 Q. Deputy, can you tell us what they are?

5 A. State's Exhibit Number 9 is a bag of marijuana
6 collected on 5/21/08.

7 THE COURT: He can't testify to what it is until it
8 is in evidence.

9 MR. HOLT: I apologize, judge. I misread the
10 question I was supposed to read.

11 At this time the state would move that Exhibits 9 and
12 10 be placed into evidence.

13 THE COURT: All right. Are there any objections,
14 Mr. Grove.

15 MR. GROVE: Just a quick review, if I may, Your
16 Honor.

17 THE COURT: Yes, sir.

18 (PAUSE.)

19 MR. GROVE: No objection, Your Honor.

20 THE COURT: All right. State's 9 and 10 admitted
21 into evidence without objection.

22 WHEREUPON, STATE'S EXHIBIT'S
23 NUMBERS 9 AND 10 ARE
24 ADMITTED INTO EVIDENCE
25 WITHOUT OBJECTION.

RUSS HARRELL - DIRECT EXAMINATION

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1 **THE COURT:** All right. You may proceed, Mr. Holt.

2 **MR. HOLT:** Thank you very much, judge.

3 Q. Now, Officer Harrell, could you explain to the jury
4 what I believe number 9 is, State's Exhibit.

5 A. Number 9 is a bag of marijuana that was collected as
6 part of the search warrant from the residence of
7 Marcus Addison.

8 Q. And was that the way it was found? The item we see
9 now, is that the way it was found, or was it placed
10 in that bag --

11 A. -- It is placed --

12 Q. -- And what is that marking on it?

13 A. It was placed in this sandwich bag originally, and
14 some of the markings have been since testing, and the
15 bag has become --- it is not in the best shape, so to
16 keep it from leaking everywhere. But it is the
17 original bag that it was found in.

18 Q. And Deputy Harrell, do you have a knife on you?
19 Could you open that outer bag?

20 A. Today, I do not.

21 **THE COURT:** Counsel, come up.

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

24 **MR. HOLT:** Deputy Harrell, I retract that last
25 question. Please do not open the bag of marijuana.

RUSS HARRELL - DIRECT EXAMINATION

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1 Q. Now, if you could look at the next piece of evidence
2 that I gave you, I believe it is State's Exhibit
3 Number 10. Can you explain to the jury what that is
4 exactly?

5 A. It is Darlington County Sheriff's Office Marijuana
6 Test Result Report.

7 Q. And whose signature is at the back of that report?

8 A. It is my signature.

9 Q. So who tested the marijuana, Deputy Harrell?

10 A. I did.

11 Q. And can you explain to the jury how you went about
12 testing that substance to make sure it was marijuana?

13 A. Sure. Initially once marijuana is brought into
14 evidence, come court time you will need to verify
15 that it is marijuana. Sure it has certain smells,
16 looks a certain way. But there are two tests you
17 perform to determine if it is or not. There are a
18 few household items such as sage, thyme, maybe
19 oregano, that kind of can look like marijuana. But
20 they are definitely not.

21 The first step is to get a scale, and make
22 sure that it is calibrated at five grams, which
23 you one of the scientific weights that you used
24 back in school, like in your science class,
25 biology, or whatnot, chemistry. And once the

RUSS HARRELL - DIRECT EXAMINATION

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1 scale is calibrated, you take your marijuana out
2 of the container, and gather your weight. That
3 is your weight test. That is the first thing.

4 In this case, the marijuana was weighed in
5 at 64 grams, which is 2.25 ounces. By
6 standards, I would say in evidence, is a pretty
7 fair amount.

8 Okay. The next step is to go to the
9 microscope. Marijuana leaves have three
10 characteristics. You have what you call a
11 simple cystolith-trichomes which is the
12 unicellular. Most plants have those. Of
13 course, I am not a batonist, but through my
14 training most plants have unicellular and
15 cystoliths or bear claws. They kind of look
16 like little bear claws, or like --- They are
17 white in color, and look kind of like a cat
18 perhaps.

19 The determining factor is the glandular
20 hairs, which has a resemblance to brown sugar.
21 There is no other plant that has that on its
22 leaf. And in this case it has glandular hairs.
23 Which is where the THC is held, or
24 Tetrahydrocannabinol which everybody hears about
25 THC, and that is exactly the active ingredient

RUSS HARRELL - DIRECT EXAMINATION

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1 in marijuana, or cannabinoids, as it is known as
2 in the scientific world.

3 Q. Deputy Harrell, have you attended any specialized
4 schools, or had any specialized training on how to
5 test substances for positive for marijuana?

6 A. Yes. I attended the SLED Marijuana Analyst School.
7 The first time in 2005. In that case you test a
8 hundred samples, and you must be a hundred percent
9 accurate. And you recertify every three years. I
10 went back in 2008 and did another twenty-five
11 samples. And since then, I have done multiple --- I
12 would estimate way over two hundred for the Sheriff's
13 Office, and various courts.

14 Q. Deputy Harrell, have you ever identified a substance
15 as being marijuana, and had the forensic chemical
16 analysis result finding that the substance was not
17 marijuana?

18 A. You do have false positives. Substances like I said
19 from your household will give a false positive in
20 your colors. There is one --- The last test is your
21 chloroform. Is basically the icing on the cake, if
22 you will. Whenever you drop that one in there, it
23 makes what you call --- it looks like a cat eye. It
24 kind of --- Have you ever dropped oil on top of
25 water, and it kind of separates. That is exactly

RUSS HARRELL - CROSS EXAMINATION

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1 what that chemical does. It separates it. The rest
2 of them won't do that. Any other kind of plant life
3 won't do that. They might turn pink, then purple,
4 and whatnot, but they will not leave a cat's eye.

5 Q. Did you have those positive results in this test?

6 A. Yes.

7 Q. Is there any doubt in your mind that the substance
8 inside that bag is marijuana or is not?

9 A. I am a 100% positive.

10 **MR. HOLT:** Thank you, Officer Harrell. Would you
11 please answer any questions that defense counsel may have?

12 **THE COURT:** Cross examination, Mr. Holt --- excuse
13 me, Mr. Grove.

14 **THE COURT:** Thank you, Your Honor.

15 **CROSS EXAMINATION BY MR. GROVE**

16 Q. Just a couple of questions, Deputy Harrell. You said
17 that the chain of custody, Officer Hopkins, you,
18 Officer Lawson, and back to you. Was it just --- I
19 guess several officers there, and everybody was
20 collecting different things?

21 A. Well, there is a --- the procedure for that is, I was
22 in charge of the evidence at the time. Once he
23 collected it, he still had to maintain whatever is
24 going back in the back of the ambulance. At that
25 point I took it. When I got back to the office, all

RUSS HARRELL - REDIRECT EXAMINATION

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1 of the evidence that had been collected was given to
2 Agent Lawson, where he could do his paperwork, and
3 return it back to evidence to me, so I can hold it
4 until court.

5 Q. I believe it is Exhibit 10, is the report; is that
6 correct?

7 A. Yeah, that is correct.

8 Q. About two thirds of the way down, on the front page,
9 it has a lists that has correct, if that is correct,
10 of individuals?

11 A. That's correct.

12 Q. Could you give us the names on that list?

13 A. Marcus Addison and [REDACTED] Minor [REDACTED].

14 Q. [REDACTED] Minor [REDACTED] being the sixteen-year-old that was
15 found at the scene?

16 A. That's correct.

17 MR. GROVE: Nothing further, Officer Harrell.

18 THE COURT: Redirect?

19 MR. HOLT: Just briefly, judge.

20 **REDIRECT EXAMINATION BY MR. HOLT**

21 Q. Can you explain to the jury the Best Kit was --- the
22 kit that got sent to SLED? Who is in charge of
23 putting the Best Kit together, the evidence custodian
24 or the officer in charge of this particular case?

25 A. The officer usually in charge of the case that takes

MICHAEL HALL - DIRECT EXAMINATION

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1 care of that. They get the first page signed by the
2 person that originally collected it, that it was
3 them. They do their own Best Kit and then submit it
4 to evidence.

5 **MR. HOLT:** Thank you, Deputy Harrell. No further
6 questions, Your Honor.

7 **THE COURT:** Re-cross, Mr. Grove?

8 **MR. GROVE:** No, Your Honor.

9 **THE COURT:** Thank you. You may step down. All
10 right. Mr. Holt, call your next witness.

11 **MS. PARKER:** Thank you, Your Honor, I will be
12 calling our next witness, Your Honor. At this time the
13 state calls Officer Mike Hall.

14 **THE COURT:** All right. Mr. Hall.

15 **DEPUTY CLERK:** Place your left hand on the Bible,
16 and raise your right please.

17 **WHEREUPON, MICHAEL HALL**

18 **FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS**

19 **OFFICER HALL:** I do.

20 **DIRECT EXAMINATION BY MS. PARKER**

21 Q. Good afternoon. Would you please state your full
22 name for the record.

23 A. Michael Hall.

24 Q. And where are you currently employed?

25 A. Darlington County Sheriff's Office.

MICHAEL HALL - DIRECT EXAMINATION

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1 Q. What is your position at the Sheriff's Office?

2 A. Lieutenant on patrol at this time.

3 Q. And what was your position in May of 2008?

4 A. Sergeant in Narcotics.

5 Q. Okay. And how many years have you been working in
6 law enforcement?

7 A. Since 1991.

8 Q. Now, do you recall the day of May 21, 2008?

9 A. Yes, ma'am.

10 Q. Did you have the occasions to participate in the
11 search warrant being executed on ■ Street, in
12 Hartsville?

13 A. Yes, ma'am.

14 Q. And specifically on that day, what were your duties
15 as a part of the team with the search warrant on .
16 Street?

17 A. To help go through and follow through the procedures,
18 which we do on a search warrant. Just once they
19 enter the home, we search the area of the home, and
20 the residence for drugs.

21 Q. Now, were you on the initial entry team, as far as
22 the first ones to walk in the home?

23 A. I was one of the first. I was probably about the
24 fifth or sixth person to go through the door.

25 Q. Now, as part of your job there, did you have an

MICHAEL HALL - DIRECT EXAMINATION

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1 opportunity to actually search the home?

2 A. Yes, ma'am.

3 Q. And did you find any narcotics in the home?

4 A. Yes, ma'am. I did. I found in the heater area,
5 right after you enter the door in the livingroom,
6 there is a old oil heater. Inside the oil heater I
7 located a bag of marijuana.

8 Q. Okay. And after you located marijuana, who did you
9 turn that marijuana over to?

10 A. To the evidence officer that was collecting all the
11 evidence, which is Officer Russ Harrell.

12 Q. Okay. Now, were there any juveniles in the residence
13 at that time?

14 A. Yes, ma'am. We located Minor [REDACTED].

15 Q. Now, did you have an opportunity to encounter Minor [REDACTED]
16 that day?

17 A. Yes, ma'am. When they located him in the residence,
18 myself and Lieutenant Wilkes escorted him outside.
19 We realized who he was. We had a pickup order on him
20 at the time. And we checked him, and Lieutenant
21 Wilkes found a small rock of crack cocaine in one of
22 his pants pockets.

23 Q. Okay.

24 MS. PARKER: I beg the Court's indulgence for just
25 a moment.

MICHAEL HALL - CROSS EXAMINATION

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1 **THE COURT:** Yes, ma'am.

2 **(PAUSE.)**

3 Q. Officer Hall, just for purposes of here, and this
4 jury may not understand. When you refer to a pickup
5 order, what exactly is that?

6 A. Department of Juvenile Justice had issued an order to
7 have him picked up, return him to their custody,
8 which at time they would probably send him back to
9 Columbia.

10 Q. Okay. That works through the Department of Juvenile
11 Justice?

12 A. Yes, ma'am.

13 Q. Meaning he was a juvenile?

14 A. Uh'huh.

15 **MS. PARKER:** Thank you, please answer any questions
16 Mr. Grove may have.

17 **OFFICER HALL:** Yes, ma'am.

18 **THE COURT:** Cross examination, Mr. Grove?

19 **MR. GROVE:** Thank you, Your Honor.

20 **CROSS EXAMINATION BY MR. GROVE**

21 Q. Lieutenant Hall, you participated in executing the
22 search warrant?

23 A. Yes, sir.

24 Q. Why were you searching the house?

25 A. Drugs.

MICHAEL HALL - CROSS EXAMINATION

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1 Q. Why?

2 A. It was a drug related search warrant.

3 Q. How did you get the search warrant?

4 A. We had made a buy from the residence through a
5 confidential informant on a previous date.

6 Q. You say you found [Minor] [REDACTED] there?

7 A. Yes, sir.

8 Q. You knew him?

9 A. Yes, sir.

10 Q. You had enough occasions with Mr. [Minor] that you
11 didn't even have to ask him his name did you?

12 A. No, sir.

13 Q. How much time are we talking between entry into the
14 home, and your entry into the home?

15 A. Ten seconds. It was quick.

16 Q. Did you see Mr. [Minor] in the home immediately
17 afterwards, not until you were back outside when?

18 A. Someone had located him once I got in the door. When
19 I looked up somebody else had him in there, and we
20 all knew who he was.

21 Q. So, by the time you were in the house, somebody else
22 had already gotten a hold of Mr. [Minor].

23 A. Yes, sir.

24 MR. GROVE: Beg the Court's indulgence.

25 THE COURT: Yes, sir.

MICHAEL HALL - CROSS EXAMINATION

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1 (PAUSE.)

2 MR. GROVE: I'm sorry, Your Honor. Just one
3 moment.

4 THE COURT: Yes, sir.

5 (PAUSE.)

6 MR. GROVE: May I approach, Your Honor?

7 THE COURT: Yes, sir. Did you mean to the bench?

8 MR. GROVE: I'm sorry, Your Honor. The witness.

9 THE COURT: Go ahead.

10 Q. Lieutenant, I am going to hand you a photo that has
11 already been entered as State's 5, and ask you if you
12 recognize that?

13 A. Yes, sir, I do.

14 Q. Does it look like it did the day of May 21, 2008?

15 A. Pretty much, from what I can remember, yes, sir.

16 Q. What is that?

17 A. An oil heater.

18 Q. What is the significance of that heater?

19 A. Inside of it is where I found the marijuana.

20 Q. Upon entering the residence, is that where that
21 heater was located?

22 A. If I remember correctly, when you go in the door it
23 is to your right. It sits in what was supposed to
24 be, I would guess, a livingroom.

25 Q. Up against the wall, in the corner?

MICHAEL HALL - CROSS EXAMINATION

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- 1 A. Well, shortly off the wall.
- 2 Q. Who was in that room as you entered that room other
- 3 than officers?
- 4 A. I mean other than the officers right now, I couldn't
- 5 --- I don't think anybody was in that room?
- 6 Q. Was Marcus Addison in that room?
- 7 A. If I remember correctly, Marcus Addison was in the
- 8 room to the left when you go in the door.
- 9 Q. Is there a divider between the livingroom and Marcus'
- 10 room?
- 11 A. There is a wall. There are two doors on front of the
- 12 residence. One goes into the livingroom, and one
- 13 goes straight into his bedroom.
- 14 Q. That's it?
- 15 A. Uh'huh.
- 16 Q. You have to go outside in the livingroom to get into
- 17 Marcus' room?
- 18 A. No, sir.
- 19 Q. So you said there was a wall dividing the two rooms.
- 20 Is there a door?
- 21 A. It is two separate rooms. There are two separate
- 22 rooms, but there is a door going into each room from
- 23 outside, off the front porch.
- 24 Q. Yes. I'm sorry. I am being confusing in my
- 25 questions. I apologize. Is there a door connecting

MICHAEL HALL - CROSS EXAMINATION

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1 the rooms within the home?

2 A. There is like an open way. There is a petition
3 between this livingroom, and his bedroom. There is a
4 wall. But, between the two out front, it is just an
5 open walkway, then the doors, and then the front
6 porch.

7 **MR. GROVE:** Nothing further at this time, Your
8 Honor. Thank you.

9 **THE COURT:** Redirect?

10 **MS. PARKER:** None for this witness, Your Honor.

11 **THE COURT:** All right. Thank you. You may step
12 down.

13 **OFFICER HALL:** Thank you, sir.

14 **THE COURT:** All right. Ms. Parker or Mr. Holt.

15 **MR. HOLT:** Your Honor, at this time we would ask
16 that Deputy Hall be excused. He has got to get back to
17 work.

18 **THE COURT:** Any objections?

19 **MR. GROVE:** No objection, Your Honor.

20 **THE COURT:** All right. He is excused, and
21 released. Thank you for coming.

22 **MR. HOLT:** Judge, if Mr. Grove and I could
23 approach.

24 **THE COURT:** All right. Come up.

25 (Whereupon, a bench conference was held in the

MICHAEL HALL - CROSS EXAMINATION

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1 presence of the jury, but out of the hearing of the jury.)

2 **THE COURT:** All right. Ladies and gentlemen, the
3 Solicitor has advised me that there is a witness on the
4 way from out of town, and she is running a little bit
5 late. She is supposed to be here about two, but she is
6 running a little bit late. She is coming from out of
7 town. But we will be expecting her in a little bit. So,
8 I am going to ask you to go to your jury room, relax for a
9 little while until this witness arrives, and we will be
10 ready to go forward.

11 Again, do not discuss this case. It is premature for
12 you to discuss the matter among yourselves. And we will
13 send for you just as soon as the witness arrives.

14 Thank you. You may go with the bailiff.

15 **BAILIFF:** Come this way, please.

16 (Whereupon, the jury exits the courtroom at 2:09
17 p.m.. and a recess was taken.)

18 (Whereupon, court comes back to order at 2:39
19 p.m..)

20 **THE COURT:** Thank you. Please be seated. All
21 right. We are back on the record in regards to the matter
22 of The State versus Marcus Addison. The defendant is
23 present in the courtroom with counsel. The state is
24 also present and represented by Mr. Holt and Ms.
25 Parker. We are ready to go forward with the jury. Mr.

MICHAEL HALL - CROSS EXAMINATION

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1 Holt is that correct?

2 MR. HOLT: Yes, sir, it is, Your Honor.

3 THE COURT: All right.

4 MR. HOLT: There is one brief matter, judge.

5 THE COURT: All right. There were photos that were
6 introduced through Chad McInville, I think defense counsel
7 will agree that he had them, and I believe when that was
8 going on I just did not move them into evidence. And, I
9 am not sure --- if not, I would like to move them into
10 evidence now, judge.

11 THE COURT: All right. That is 5, 6, 7 and 8, I
12 believe.

13 MR. HOLT: It is.

14 THE COURT: I had indicated that they were
15 identified, but not moved them into evidence. Is there
16 any objection, Mr. Holt?

17 MR. GROVE: Just one moment, Your Honor. I am
18 trying to recall what those photos are.

19 THE COURT: Those are the ones that Chad McInville
20 was on the stand.

21 MR. GROVE: No objection, Your Honor.

22 THE COURT: Admitted into evidence as Defendant's
23 Number 5, 6, 7, and 8 without objection.

24 WHEREUPON, STATE'S EXHIBIT

25 NUMBERS 5, 6, 7, AND 8 ARE

MICHAEL HALL - CROSS EXAMINATION

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ADMITTED INTO EVIDENCE**WITHOUT OBJECTION.**

THE COURT: Anything else, Mr. Holt, or we can bring the jury in.

MR. HOLT: Not from the state, judge.

THE COURT: All right. Mr. Grove.

MR. GROVE: No, Your Honor.

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

BAILIFF: All right, sir.

(Whereupon, the jury enters the courtroom at 2:31 p.m..)

THE COURT: All right. Thank you very much, ladies and gentlemen. The witness is here now. We are ready to go forward.

Mr. Holt, you may call your next witness.

MR. HOLT: Thank you very much, Your Honor. At this time the state would like to call Agent Kukila Stanley to the stand.

THE COURT: All right. Come around, please ma'am.

DEPUTY CLERK: Place your hand on the Bible, raising your right hand, please ma'am.

WHEREUPON, KUKILA N. STANLEY

FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

MS. STANLEY: I do.

DEPUTY CLERK: If you would have a seat.

KUKILA N. STANLEY - VOIR DIRE EXAMINATION

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1 MR. HOLT: Thank you very much, judge.

2 VOIR DIRE EXAMINATION BY MR. HOLT

3 Q. Ms. Stanley, could you please state your full name
4 and occupation?

5 A. Kukila Nicole Stanley. And my occupation is a drug
6 chemist.

7 Q. Who is your employer?

8 A. South Carolina Law Enforcement Division, also known
9 as SLED.

10 Q. And Ms. Stanley, how long have you been employed with
11 SLED?

12 A. Five years, six months.

13 Q. And if you could just tell the jury and myself for
14 our edification, what your position is SLED, the
15 technical term, and what you really do there?

16 A. I have been employed with SLED to analyze evidence
17 for controlled substances, and that is pretty much
18 the technically and exactly what I do as well.

19 Q. Controlled substances being drugs?

20 A. Yes.

21 Q. And how long -- How many years experience do you
22 have in that particular field?

23 A. Five years.

24 Q. What type of training must you go through to qualify
25 for your position at SLED?

KUKILA N. STANLEY - VOIR DIRE EXAMINATION

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1 A. I have a bachelor's degree from the University of
2 South Carolina in Chemistry. I have also received
3 extensive training through SLED to become competent
4 in analyzing controlled substances, drugs. And I
5 have also went through the legal portions of the
6 Criminal Justice Academy.

7 Q. And have you ever had an occasion to chemically
8 analyze substances to determine whether that
9 substance is, or contains a narcotic or narcotic type
10 drug?

11 A. Yes.

12 Q. Probably about how many times do you think you have
13 done that?

14 A. At least a hundred.

15 Q. Okay. And have you ever had the occasion to
16 chemically analyze the substance --- I apologize. I
17 just answered that question. I get nervous.
18 Probably about how many narcotic analysis do you make
19 in a given week?

20 A. I really can't say. It just depends, at least five.

21 Q. And are analyses a regular part of your duty?

22 A. Yes.

23 Q. And have you ever had the occasion to be qualified as
24 an expert in this area in this court before?

25 A. In this court, yes.

KUKILA N. STANLEY - VOIR DIRE EXAMINATION

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1 Q. And about how many times have you done that?

2 A. In this particular court, once.

3 Q. And about how many times have you been qualified as
4 an expert in other courts?

5 A. Nineteen.

6 Q. And do you actually testify when you were qualified?

7 A. Yes.

8 **MR. HOLT:** Your Honor, at this time the state would
9 move that Ms. Stanley be declared an expert in the field
10 of chemistry analysis of narcotics.

11 **THE COURT:** Voir Dire in regard to qualifications,
12 Mr. Grove?

13 **MR. GROVE:** No, Your Honor. We have no objection
14 to her qualifications.

15 **THE COURT:** All right. The Court will qualify the
16 witness as a qualified expert in the field of drug
17 analysis as a chemist.

18 Ladies and gentlemen of the jury, let me tell you
19 what that means. Ordinarily if a witness is not
20 testifying as an expert, the witness' testimony is limited
21 to those things which are within the witness' perception,
22 being one of the five senses, and are a clear
23 understanding of the witness' testimony, and do not
24 require sufficient knowledge, skill, expert, or
25 experience, or training. However, if the scientific,

KUKILA N. STANLEY - DIRECT EXAMINATION

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1 technical, or other specialized knowledge will assist the
2 trier of fact, and that is you in this case, to understand
3 the evidence in order to determine the fact at issue, a
4 witness qualified as an expert by knowledge, skill,
5 experience, training, or education may testify to their
6 opinion. So, basically the difference between an expert
7 and a non expert witness is that an expert witness is
8 allowed to give an opinion.

9 All right. Mr. Holt, you may proceed.

10 **MR. HOLT:** Thank you very much, Your Honor.
11 Permission to approach, judge?

12 **THE COURT:** Yes.

13 **DIRECT EXAMINATION BY MR. HOLT**

14 Q. I want to show you what has been previously marked as
15 State's Exhibit 12 and State's Exhibit 11. Can you
16 tell --- don't say what it is --- Can you tell me do
17 you know what those are?

18 A. Yes.

19 Q. Now, the one clear bag that contains a substance,
20 based upon your experience and training, do you have
21 an opinion as to what that substance is?

22 A. Yes.

23 Q. Can you explain to me, based upon the markings, the
24 structure of the bags, the way the exhibits are put
25 together, and I am talking about that one. How can

KUKILA N. STANLEY - DIRECT EXAMINATION

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1 you identify that exhibit?

2 A. I identified the exhibit by the lab number which is
3 here, my initials, and the date, and the sealed
4 portion of it. And also on the inside of the bag is
5 the same lab number that is on the outside, here on
6 this yellow tag. Initials and dates. And I put the
7 lab number, and the initial and dates on all of the
8 packaging on the inside of the bag as well.

9 Q. Now, who sealed that bag shut?

10 A. I did.

11 Q. Okay. Let me ask you this. The bag within that bag,
12 who sent that to you?

13 A. Darlington County Sheriff's Office.

14 Q. And when did you receive that exhibit?

15 A. I am not exactly sure when I received it, but I can
16 tell you when I did the analysis on it.

17 Q. And when did you do that analysis?

18 A. August 26, 2008.

19 Q. And what result did that analysis yield?

20 A. May I refer to my report?

21 Q. Yes, ma'am.

22 A. There were two items submitted in this packaging.
23 The first item, the result is cocaine based crack
24 found, 10.42 grams, 160.80 grains, and this is
25 Schedule II drug. Second item, cocaine based crack

KUKILA N. STANLEY - DIRECT EXAMINATION

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1 found, 1.80 grams, 27.77 grains, and it is a Schedule
2 II drug.

3 **MR. HOLT:** Your Honor, at this time the state would
4 like to move the drugs and the report into evidence.

5 Any objection, Mr. Grove?

6 **MR. GROVE:** A brief review, Your Honor.

7 **THE COURT:** Sure.

8 **(PAUSE.)**

9 **MR. GROVE:** No objection, Your Honor.

10 **THE COURT:** Admitted into evidence as State's
11 Number 11 and 12, without objection.

12 **WHEREUPON, STATE'S EXHIBIT**

13 **NUMBERS 11 AND 12 AND**

14 **ADMITTED INTO EVIDENCE**

15 **WITHOUT OBJECTION.**

16 Q. Now, Ms. Stanley, what tests were made by you on the
17 narcotics?

18 A. I did a color test, which is a presumptive test. And
19 that gives me an idea as to what the substance may
20 be. And then I did a confirmatory test on the
21 Gcbyspec, and that tells me exactly what the
22 substance is.

23 Q. And what result did those tests yield?

24 A. Cocaine base crack.

25 Q. And let me ask you this. Ms. Stanley, would you

KUKILA N. STANLEY - CROSS EXAMINATION

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1 please look at your report, and refer back to it.

2 Can you tell us who exactly brought the evidence to
3 SLED? Is there a chain on the back of your report?
4 And, if not, I can show you my chain which has
5 already been marked as evidence.

6 A. Well, in the submissions area of the report it says
7 that Corporal Russ Harrell from Darlington County
8 Sheriff's Office was the one who submitted it to
9 SLED.

10 **MR. HOLT:** Thank you very much, Ms. Stanley. Beg
11 the Court's indulgence.

12 **THE COURT:** Yes, sir.

13 **(PAUSE.)**

14 Q. Ms. Stanley, just to clarify. You are positive that
15 the substance within that bag is crack cocaine base,
16 commonly referred to as crack?

17 A. Yes.

18 **MR. HOLT:** Thank you very much, Ms. Stanley.
19 Please answer any questions defense counsel may have.

20 **THE COURT:** Cross examination, Mr. Grove.

21 **MR. GROVE:** Thank you, Your Honor.

22 **CROSS EXAMINATION BY MR. GROVE**

23 Q. Ms. Stanley, thank you. You say you have got in this
24 report two different substances, or two different
25 samples, I guess is the better way of putting it.

KUKILA N. STANLEY - CROSS EXAMINATION

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1 A. Two different items, yes.

2 Q. What is the total weight of those two samples?

3 A. I would need a calculator quickly to calculate that.

4 Q. 10.4 and 1.8, less than fifteen?

5 A. Yes.

6 Q. Can you explain to me why there might be a
7 discrepancy as to the weight submitted to SLED, and
8 the estimated weight earlier maybe when it was
9 received?

10 A. Received from?

11 Q. By the officer.

12 A. Well, when the evidence was received it was wet.
13 Once the substance has been exposed to the air and it
14 dries, it alters the weight.

15 Q. And where did this --- from whom did you receive the
16 evidence?

17 A. Evidence log-in at SLED.

18 Q. And who is in charge of evidence log-in at SLED?

19 A. The ladies that work down there, the four ladies that
20 takes evidence in from officers as they bring it into
21 SLED. And they keep in the custody of evidence log-
22 in until myself picks it up.

23 Q. Do you know who it originated from in the beginning?

24 A. No, I do not.

25 Q. I guess you were not there when they did the search?

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1 A. No, I wasn't.

2 MR. GROVE: Nothing further, Your Honor. Thank
3 you.

4 THE COURT: Redirect?

5 MR. HOLT: There is none, Your Honor.

6 THE COURT: All right. Thank you. You may step
7 down.

8 MR. HOLT: Judge, if there is nothing else required
9 from Ms. Stanley, the state would kindly ask that she be
10 allowed to leave.

11 THE COURT: Any objection to the witness being
12 excused?

13 MR. GROVE: None, Your Honor.

14 THE COURT: All right. You are excused. Thank you
15 for coming.

16 All right. Mr. Holt.

17 MR. HOLT: Your Honor, at this time, right before I
18 rest, I would like to make sure that everything is moved
19 into evidence.

20 THE COURT: All right. Check it.

21 (PAUSE.)

22 MR. HOLT: Thank you for that, judge. At this time
23 the state rests.

24 THE COURT: All right. Ladies and gentlemen, you
25 have heard the Assistant Solicitor announce that the state

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1 has rested their case. That means that you have heard all
2 of the evidence you will hear from the state at this time.

3
4 There are matters of law that which I now need to
5 take up with the attorneys. I am going to do that. It
6 will take us about fifteen minutes to handle this matter.
7 But, I have to do it on the record, and outside of your
8 presence. So, I am going to ask you to go to your jury
9 room, and when I take up these matters of law, but do not
10 make any mention among yourself. You still have not heard
11 everything in this case. Do not begin deliberations until
12 I have instructed you to do so.

13 Thank you. You may go to your jury room.

14 (Whereupon, the jury exits the courtroom at 2:45
15 p.m..)

16 **MOTION FOR DIRECTED VERDICT**

17 **THE COURT:** All right. Mr. Grove, Motions on
18 behalf of the defendant.

19 **MR. GROVE:** Yes, Your Honor. At this time the
20 defense will make a motion for a directed verdict as to
21 all of the charges; finding there is no competent evidence
22 to which the jury could find my client guilty. And I
23 would be more than happy to take those one by one, if it
24 is easier for Your Honor.

25 **THE COURT:** Well, first of all let me make this

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1 statement. Rule 119 of the South Carolina Rules of
2 Criminal Procedure does provide that at the end of the
3 State's case, a Defendant may move for a directed verdict
4 if there is a failure of competent evidence tending to
5 prove the charge in the Indictments. In this case there
6 are six Indictments. The use of the word competent is an
7 unfortunate choice of words in that rule, because it
8 infers a weighing of the evidence, and really the word
9 competence means evidence in the record.

10 In fact Rule 19 goes on to say that in ruling on
11 the motion the trial judge must consider only the
12 evidence, or non evidence in the record, and not its
13 weight. The test is, that I have and recommend the
14 amendment to the rules of criminal procedure, which are
15 presently in the hands of the Supreme Court has changed
16 that language and they have left out the word competent,
17 because it does infer that in ruling on the evidence when
18 the test of really, whether there was evidence in the
19 record that would prove any evidence, So that is the test
20 that I have to follow, but I do think that you need to
21 address them separately. So, you may proceed, Mr. Grove.

22 **MR. GROVE:** Thank you, Your Honor, as to the
23 possession with intent to distribute marijuana, I don't
24 think there has been enough competent evidence that has
25 been proffered that would isolate my client as opposed to

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1 another suspect [Minor] [REDACTED]. I think even so much as
2 to say that one of the testing reports --- the
3 anglicization reports list [Minor] [REDACTED] as a suspect,
4 and that was testified to by Officer Russ Harrell.

5 **THE COURT:** Well, wasn't it found in the premises
6 of your client?

7 **MR. GROVE:** It was, Your Honor. It was found in
8 the premises of my client in a room that my client didn't
9 currently have access to, and admittedly by almost all of
10 the officers that testified that another person was in
11 fact in that room, and not my client at the time.

12 **THE COURT:** You made the statement that he doesn't
13 have access to it. Now he had access to it he just wasn't
14 in there at the time; is that right?

15 **MR. GROVE:** That is correct, Your Honor.

16 **THE COURT:** So, your position is that there were
17 other individuals in the house that could have been in
18 possession of that marijuana?

19 **MR. GROVE:** Yes, Your Honor.

20 **THE COURT:** All right. Go ahead.

21 **MR. GROVE:** As to the trafficking charge, the
22 statute calls for evidence that my client distributed,
23 brought into the country, aided and abetted, things of
24 that nature to qualify under the trafficking statute, and
25 I don't believe that that level --- that burden of proof

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1 has been met either, Your Honor.

2 There has also been question as to the weight.

3 **THE COURT:** Let's take those separately, the
4 weight. There is inference in trafficking that there is a
5 checkpoint of ten or more grams. Is there any evidence in
6 the record that there is any less than ten?

7 **MR. GROVE:** No, Your Honor.

8 **THE COURT:** So, the weight is not the issue here.
9 And also, doesn't the statute provide the possession of
10 ten or more grams, that may constitute trafficking?

11 **MR. GROVE:** It does, indeed.

12 **THE COURT:** Go ahead.

13 **MR. GROVE:** As far as the contributing to the
14 delinquency of a minor charges, Your Honor, I can handle
15 separately as well.

16 As far as **Minor** **Minor**, it appears that Mr. **Minor**
17 already had run ins with the law in the past, and --

18 **THE COURT:** If he is already a delinquent, he can't
19 be contributing to his further delinquency?

20 **MR. GROVE:** Not in so many words, but yes, Your
21 Honor.

22 And furthermore for the thirteen-year-old, there has
23 been admittedly zero evidence that any visual --- any
24 drugs were visible or out in the open in the room where
25 the thirteen-year-old was with my client Marcus Addison.

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1 In fact, the only evidence identifying any drugs happened
2 much later after a search, after the thirteen-year-old was
3 release?

4 THE COURT: What is his name?

5 MR. GROVE: Minor #2 [REDACTED].

6 THE COURT: Right.

7 MR. GROVE: But, again I think the limited
8 testimony was that Mr. Minor #2 was in the room with
9 Marcus Addison, but there was no visual evidence of drugs
10 or any narcotics, or criminal activity going on in that
11 room at the time.

12 THE COURT: Okay.

13 MR. GROVE: And one final one --- two final ones,
14 Your Honor, I guess. Threatening the life of a public
15 official. As far as Officer Lawson is concerned, the
16 testimony given --- those words don't seem to rise to the
17 level of a threat. There was certainly no present ability
18 to act on those words. We would argue that that burden
19 has not been met as far as engaging in a threatening
20 manner to Officer Lawson.

21 And finally, Your Honor, the threatening the life of
22 a person or family member of a public employee,
23 specifically this is GS-16-1500, the Indictment alleges --
24 - my mistake, Your Honor. It is 1501, this specific
25 Indictment is to Kim Dorsett, an Emergency Service Medical

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1 Service employee. That statute, or the offense code CDR
2 Code 0541, is person or family member of a public
3 official. My reading of the statute indicates that a
4 public official is an elected employee, or someone
5 appointed to a position. The defense would argue that Ms.
6 Dorsett does not qualify for that particular statute, and
7 therefore the state has failed to meet their burden in
8 asserting that Ms. Dorsett was in fact a public official.

9 THE COURT: Well, the Indictment on the outside
10 cover says Indictment 0541, threatening the life or family
11 of a public official; this is Indictment 1501, and is for
12 Kim Dorsett, what is 1541 as far as the statute is
13 concerned, Mr. Holt? The CDR code and corresponding
14 statute because the Indictment simply alleges the entire
15 Statute 16-03-1040 and 16-03-1040 has A and B section.

16 MR. HOLT: Judge, just to be correct, we are
17 talking about CDR Code 0541, correct?

18 THE COURT: That is the one --- 150 --- the
19 Indictment under 1501, which alleges that Ms. Dorsett ---
20 that is the one with the alleged threat against her.

21 The face of the Indictment --- the Indictment itself
22 doesn't have the CDR Code, this is just the cover of the
23 Indictment. It has a CDR Code of 0541.

24 (PAUSE.)

25 MR. HOLT: Your Honor, I am looking at S16-3-1040

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1 right now.

2 THE COURT: Yes. I have it in front of me.

3 MR. HOLT: A and B, A seems to --- the statute
4 infers in A would be a teacher, or a principal, or some
5 type of school official, judge.

6 THE COURT: Not necessarily. It is a public
7 official or a teacher, a principal, or an elementary
8 secondary school teacher. That is the A section.

9 MR. HOLT: Yes, sir.

10 THE COURT: The B section is a public employee, a
11 letter or paper, and my question is with regard to
12 Indictment Number 1501, what is the state's position in
13 regard to --

14 MR. HOLT: It should be A, judge. B, would be a
15 letter, I believe.

16 THE COURT: No, not necessarily.

17 MR. HOLT: A document, electronic communication.

18 THE COURT: The difference is not in the type of
19 the threat. It is the person to whom it is directed.
20 That is the difference between A and B. The statutes are
21 worded pretty much the same, except A is to a public
22 official, and B is to a public employee.

23 MR. HOLT: You are exactly right, judge. The
24 Indictment is worded wrong. It is a public official. It
25 should be so that she would be a public employee.

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1 **THE COURT:** Okay. Once again I go back and what
2 Mr. Grove is saying is that he was on notice of the entire
3 statute, because that was what was alleged in the
4 Indictment, 16-03-1040. But he is saying that when he
5 went further and looked at it, and looked at the CDR Code,
6 that is why I am asking which CDR Code 541 applies to what
7 statute. That is my question. Do you have a CDR Code
8 book there?

9 **MR. HOLT:** And the true CDR Code should be 2605,
10 threatening the life of a public employee.

11 **THE COURT:** 2605 is what, threatening the life of a
12 public employee?

13 **MR. HOLT:** Yes, sir.

14 **THE COURT:** Okay. What say ye, Mr. Grove.

15 **MR. GROVE:** Your Honor, on the Indictment as
16 charged, Mr. Addison, the CDR Code is 0541, which directs
17 us to 16-3-1040(a) and ©. A being the offense code, and C
18 being the penalty statute, both requiring that the
19 individual be a public employee, and that is defined in
20 the same section as an elected or appointed official of
21 the United States, or the State County Municipality
22 etcetera and so forth. None of which Ms. Dorsett is. We
23 would allege that the state has not met their burden on
24 that particular Indictment.

25 **THE COURT:** That is in regard to 1501?

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1 **MR. GROVE:** Yes, Your Honor.

2 **THE COURT:** What about 1500?

3 **MR. GROVE:** On 1500, Your Honor, the defense would
4 argue that the words do not rise to the level of a threat.
5 There was no present ability to act.

6 **THE COURT:** There is no problem with the fact that
7 1500 does allege that you are on notice that it alleges
8 the offense under 16-3-1040(b).

9 **MR. GROVE:** Yes, Your Honor.

10 **MR. HOLT:** Your Honor.

11 **THE COURT:** All right. I'll come back to you in
12 just a minute. I'm just trying to see where we are.

13 All right. Mr. Grove is there anything else? Are
14 those your position on all six warrents --- on all six
15 Indictments?

16 **MR. GROVE:** We have nothing further at this time,
17 Your Honor.

18 **THE COURT:** All right. Let me --- I am going to
19 call on you in just a minute. But I think I can shortcut
20 some of this Mr. Holt, and you won't have to respond to
21 it.

22 With regard to Indictment Number 08-GS-16-1502, which
23 is the trafficking of ice, crack, or crack cocaine, ten
24 grams or more but less than twenty-eight grams. It is my
25 view that I believe the statute only requires among other

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1 things, but it requires possession. I will need to look
2 at that statute, and look at 44-53- --

3 **CLERK OF COURT:** Which Title is it, Judge?

4 **THE COURT:** Title 44.

5 (PAUSE.)

6 **THE COURT:** I don't know why y'all keep these books
7 up here if they are not up to date and I don't have the
8 books to use.

9 **CLERK OF COURT:** Which number is it?

10 **THE COURT:** 44. Title 44.

11 (PAUSE.)

12 **THE COURT:** All right. This is what I was talking
13 about, Mr. Grove. The statute in regard to trafficking
14 crack cocaine, Section 44-53-375© does provide that if a
15 person who knowingly sells, manufactures, delivers,
16 purchases, or brings into this State, or who provides
17 financial assistance to anyone, or otherwise aids, abets,
18 attempt, or conspires to sell, manufacture, deliver,
19 purchase, or bring into this State, or who is knowingly in
20 actual or constructive possession or who knowingly
21 attempts to become in actual or constructive possession of
22 ten grams or more. So the possession of ten grams or more
23 creates permissive inference of trafficking. So, there is
24 evidence in the record that the defendant in this case was
25 in actual or constructive possession of ten or more grams

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1 of crack cocaine.

2 So, I think there is evidence in the record that
3 would require me to deny the motion for a directed verdict
4 in regard to the trafficking in crack cocaine.

5 The same is true with possession to distribute pot.
6 That code section is §44-53-370 (a)(1) provides except as
7 authorized by this article it shall be unlawful for any person
8 to accept with intent to distribute a controlled
9 substance. And then it goes on to describe a controlled
10 substance.

11 And then 44-53-370(d)(4) creates a permissive
12 inference of possession of more than twenty-eight grams,
13 or one ounce of marijuana constitutes possession of
14 marijuana with intent to distribute.

15 And the only evidence in the record in this case is
16 that it was more than twenty-eight grams. So, I think
17 there is a permissive inference there that he was in
18 possession of a sufficient amount of marijuana for the
19 matter to go to the jury on the question of possession
20 with intent to distribute pot.

21 With regard to contributing to the delinquency of a
22 minor, I think there is evidence in the record with regard
23 to the --- matters regarding Mr. [Minor], that he came out
24 of the room, threw some drugs under the heater, and there
25 is no question that he was under the age of sixteen. So,

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1 he is a minor.

2 Mr. Holt, I would like to hear from you in regard to
3 the evidence of contributing to the contributing to the
4 delinquency of a minor. What is the evidence in the
5 record in reference to that?

6 MR. HOLT: The evidence judge is that he was alone
7 with Mr. Addison in that room. Mr. Addison at that time
8 did have drugs on his person. There was a scale on the
9 ground. There was baggies on the ground.

10 Also judge, there was a scale in the attic, which Mr.
11 Addison could not have made it to. I think there was
12 testimony that when you opened the closet door, and right
13 there at the entry of the attic was another scale. I
14 think there is also testimony that there was residue on
15 those scales. So I don't think --

16 THE COURT: -- all of that is true. But what ties
17 Mr. [Minor #2] to that. You have got to directly tie with
18 the minor [Minor]. Was the drugs in his hands or under the
19 heater, running out of the room? What is the time that
20 [Minor #2] even knew the drugs were there, or touched them,
21 or had anything to do with them?

22 MR. HOLT: Judge, I think what we are talking about
23 here is, is there enough evidence to go to the jury. And
24 I think a reasonable person could infer that a drug deal
25 was going on. Mr. Addison had four hundred and some

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1 dollars on his person, and big bags of drugs. [Minor]
2 came running out of that direction when the police went
3 in, with a little bag of drugs and no money. I don't
4 think it is unreasonable --

5 THE COURT: [Minor] is who?

6 MR. HOLT: Ghost, [Minor] [REDACTED].

7 THE COURT: I am going to turn your motion down.
8 He had his hands on the drugs. So, I will deny the motion
9 of Mr. Grove with regard to contributing to the
10 delinquency of a minor [Minor].

11 My question is, what evidence is in the record that
12 he contributing to the delinquency of a minor [Minor #2].

13 MR. HOLT: The point that I was trying to make
14 judge, was then he goes running by from the direction of
15 the room. He has just left the room. When the police
16 first knocked and announced, he was probably in the room.
17 By the time they break the door --

18 THE COURT: That is guilt by associating. What did
19 he do?

20 MR. HOLT: The drug deal had just happened. It was
21 in the middle of happening, and the other juvenile was
22 sitting there in the room watching?

23 THE COURT: How do you know that? Where is the
24 evidence of that that he was sitting in the room watching
25 it?

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1 **MR. HOLT:** Where is the evidence that he was
2 anywhere else, Your Honor? And I realize that the absence
3 of evidence is not --

4 **THE COURT:** The burden is on you to prove --

5 **MR. HOLT:** Yes, the burden is on me, and I fully
6 understand. But my point is that the drugs, the money,
7 the exchange was being made. I think all of the evidence
8 is pointing to it was happening right then when they went,
9 and he was there in the room.

10 **THE COURT:** What was the participation of [Minor #2]?
11 That is my question.

12 **MR. HOLT:** What I believe judge, was that [Minor #2]
13 was getting schooled. [Minor] is sixteen. He knows what
14 to do. [Minor #2] is thirteen, and they are showing him the
15 ropes.

16 **THE COURT:** Where is the proof of that?

17 **MR. HOLT:** Direct proof?

18 **THE COURT:** Yeah.

19 **MR. HOLT:** There is none.

20 **THE COURT:** It is just the fact that [Minor #2] was
21 there, the drugs were present. Now this is your theory
22 that [Minor #2]'s present in the house where these drugs
23 were found in the actual or constructive possession of Mr.
24 Addison. As a result of being there, then Mr. Addison was
25 guilty of contributing to his delinquency, because he had

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1 drugs in the same area where a minor was?

2 MR. HOLT: No, sir. When you word it like that it
3 sounds like the minor would be watching tv in another
4 room. I don't think there is no --- there is no tv, there
5 is no game boy, there is nothing like that going on in
6 that house. There is one reason to be there. The drug
7 deal was going on in that room --

8 THE COURT: All of this goes to Mr. Addison. What
9 I am trying to do is focus Addison's contribution to the
10 delinquency of Minor #2.

11 MR. HOLT: I just don't see what else he could have
12 possibly been doing there. What other plausible theory
13 are you doing in a room where there are scales and
14 sandwich bags on the floor, and you are in the room with
15 these people. And when the police bust in, people go
16 fleeing out of that room. I think it just shows
17 inevitably they walked in on a drug deal. And he was in
18 that room while it was happening. Everybody else had
19 drugs except him. I don't think it is enough to charge
20 the juvenile. I think it is enough to charge the drug
21 dealers with contributing and take it to the jury.

22 THE COURT: All right. I understand that. Now,
23 let's talk about the two Indictments for threatening the
24 life of a public official, and public employee. Those are
25 Indictment Number 1500 and 1501.

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1 Indictment Number 1500 charges specifically in the
2 Indictment that he did threaten --- Now, I am not talking
3 about weight now, I am talking about language in the
4 Indictment, and the charges against him.

5 All right. He threatened the life of a public
6 employee, specifically to Brad Lawson, under 16-3-1040(b).
7 Now, aside from weight Mr. Grove, you don't question the
8 validity of that Indictment; is that right?

9 MR. GROVE: In regard to 1500, Your Honor?

10 THE COURT: Yes.

11 MR. GROVE: Correct.

12 THE COURT: Okay. So, the argument there is that
13 the level of proof does not rise to show that he did in
14 fact threaten the life of Mr. Lawson or his family.

15 MR. GROVE: Correct, Your Honor.

16 THE COURT: Okay. So that is not a problem as far
17 as the language in the Indictments.

18 All right. Now, in regard to 1501, the language in
19 the Indictment is not as specific, and charges only 16-3-
20 1040, and charges that he did threaten the life of Kim
21 Dorsett, or a member of her family, and is it is not
22 specific in the body of the Indictment as to whether it is
23 under the A section or the B section.

24 However, on the face of the Indictment refers to the
25 CDR Code of 541, which Mr. Grove takes the position that

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1 that refers to 16-3-1040(a), and he was not on notice ---
2 the defendant would not have been on notice that he was
3 being charged under 16-3-1040(b). Did I say that
4 correctly, Mr. Grove?

5 MR. GROVE: Yes, Your Honor. In fact it was our
6 understanding that 1501 was directly pointing us to 16-3-
7 1040(a).

8 THE COURT: And that was based on the fact that the
9 outside of the Indictment contains the CDR Code?

10 MR. GROVE: Yes, sir. Which isolates a particular
11 subsection of that statute.

12 THE COURT: Okay. Now, that is the question Mr.
13 Holt, that I need to hear from you on. They are saying
14 that --- with the CDR Code on the Indictment, which you
15 didn't have to do. By putting the CDR Code on the
16 Indictment is that you tied yourself to the 16-3-1040(a)
17 and not (b).

18 MR. HOLT: And I have to whole heartedly disagree,
19 Your Honor. I don't believe that we did. I know that the
20 state is not required to put a CDR Code on there, but for
21 some reason we do. And, because I imagine it is the same
22 reason we do everything in Darlington, because that is the
23 way they have always done it. And I would say that simply
24 our office, whether we don't get rid of as many
25 Indictments, is not like we mark thousands at a time. It

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1 is nothing more than a good faith scrivener's error,
2 judge. I believe the fact that the correct law code is on
3 there judge, pinpoints him to the entire statute. I don't
4 think that simply putting the wrong CDR Code on there
5 would be tantamount to throwing away the charge that
6 happened.

7 **THE COURT:** All right. Okay. Counsel I understand
8 completely.

9 **MR. HOLT:** Judge, did you want me to speak to the
10 weight as far as 1500, the weight and the threat against
11 Deputy Lawson?

12 **THE COURT:** Yeah. I do need to hear from you about
13 the weight on both of them.

14 **MR. HOLT:** Judge, I think it is a fair assessment.
15 I think adults realize what is going on. When you are
16 arresting someone, and this person is a known criminal who
17 --- and I think there was a lot of testimony that came out
18 at trial --- all of the police officers knew Mr. Addison.
19 I don't think there is any question about that. But when
20 a known criminal who you have been tracking for some time,
21 and looks at you and ask you how your father is doing,
22 someone who you would not see on a day to day basis, who
23 would not know to ask how your father was doing. Someone
24 who just comes up to you and ask that and so oh, yeah, you
25 know your father that lives in such and such location. I

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1 think that was more than enough evidence to go to the
2 jury, and more than enough evidence to show that Deputy
3 Lawson felt threatened, Your Honor.

4 **THE COURT:** Okay. I understand. I understand all
5 of your positions. Okay counsel let me go ahead and give
6 you my rulings.

7 All right. I have already indicated my rulings on
8 16-1302 which is trafficking in ice, crack, or crack
9 cocaine. I think that there was evidence in the record
10 that the amount of crack was that it was crack. That
11 there was more than ten grams. And that he was in
12 possession of it. And, I believe the those are the
13 matters that are necessary under the statute. And if the
14 testimony is believed, which is not my job to weigh the
15 testimony, but to determine whether the testimony in the
16 record --- and there is testimony in the record in this
17 case of the offense of trafficking in crack under 44-53-
18 375.

19 So the motion for a directed verdict in regard to
20 Indictment number 1502 is denied.

21 With regard to Indictment Number 1503, possession
22 with intent to distribute marijuana, again there is
23 evidence in the record that he was in possession of more
24 than one ounce of marijuana, and there is a presumptive
25 inference that if it is more than one ounce with intent to

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1 distribute. So, again my ruling would be that there is
2 evidence in the record for that charge.

3 So my ruling on motion for a directed verdict on 1503
4 is respectfully denied.

5 With regard to Indictment Number 08-GS-16-1504, which
6 is the charge for the contributing to the delinquency of a
7 minor, specifically [Minor] [REDACTED]. I think that there is
8 evidence in the record by which the elements of that
9 offense could be or have been met. There is no question
10 that the only evidence in the record is that [Minor]
11 [Minor] was a child less than eighteen years of age. That
12 he came out and threw something under the heater. And he
13 was in this house. And that he threw something which
14 proved to be marijuana. And I think the jury could very
15 easily conclude that he did contributing to the
16 delinquency of a minor, Mr. [Minor].

17 So the motion for a directed verdict on 08-GS-16-1504
18 is denied.

19 The issue with regard to the minor, Mr. [Minor #2], in
20 08-GS-16-1505 is more problematic. His is more than a
21 situation where there is no evidence that he participated
22 in any drug activity, but simply that he was there. My
23 recollection is that --- There is no question about his
24 age. He is currently a minor. And there is evidence in
25 the record that he is a minor. There is also evidence

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1 that he was in the room where the drugs --- was there was
2 an exposed scale, and that there could be only one ---
3 that there is circumstantial evidence that he was --- that
4 the jury could conclude that the defendant in this case
5 was --- had him involved in the drug trade. It is
6 circumstantial evidence, but circumstantial evidence is
7 enough.

8 So the motion for a directed verdict on that is
9 denied as well. It is a matter of weight for the jury to
10 determine, and no my purpose to determine the type of
11 evidence, but simply the existence of evidence. And there
12 is evidence to that effect.

13 With regard to the Indictment 1500, which is the
14 threatening the life of a public official, that being
15 Agent Brad Lawson. Again, I think the evidence is close
16 as to whether there was a threat as such. But I think
17 there was circumstantial evidence, and at least a veil
18 threat -- I don't know that it has to be an expressed
19 threat. And I think that there is enough evidence there
20 for a jury to determine.

21 So the motion for the directed verdict on 1500 is
22 denied as well.

23 On the standpoint of the weight of the evidence in
24 1501, the same ruling would normally apply or would apply
25 --- the problem that I have is a problem with the

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1 Indictment itself.

2 However, my understanding of the law with regard to
3 controlling document or the controlling part of the
4 Indictment is the body of the Indictment, and the body of
5 the Indictment provides a violation of 16-3-1040, without
6 specifying A or B section. And that the purpose of CDR
7 Code is nothing as far as taking from or adding to an
8 Indictment, but simply an administrative procedure for
9 keeping up with the sentence, and I believe that the body
10 of the Indictment controls. There is no motion made to
11 make the body of the Indictment more specific with regard
12 to 16-03-1040(a) or (b). So, I think A and B were both
13 covered by the body of the Indictment.

14 So, that motion would be respectfully denied as well.

15 All right.

16 **MR. GROVE:** All right. For clarification purposes,
17 moving forward Indictment 1501, how will that be
18 classified?

19 **THE COURT:** 1501?

20 **MR. GROVE:** Yes. As to Ms. Dorsett, the EMS
21 employee.

22 **THE COURT:** Say that again, now?

23 **MR. GROVE:** My original motion for a directed
24 verdict to this particular Indictment was that subsection
25 A, the CDR Code, which directs us to subsection A,

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1 requires an additional element of proof that the
2 individual was in fact a public official. That element of
3 proof was never met by the state. That was the purpose of
4 my dismissal there. If the Indictment is to remain and
5 that motion is to be denied, am I safe to assume that now
6 1501 shall direct us to subsection b, public employee?

7 MR. GROVE: That is a good point, and while we take
8 out the CDR Code, and the actual body of the Indictment
9 does control Mr. Holt. Your actual language of the
10 Indictment identifies Ms. Dorsett as a public official,
11 which is the language used in 16-3-1040(a).

12 MR. HOLT: And that in itself judge, is the
13 problem. I agree with the public defender. I think that
14 it should be B, I think she should be a public employee is
15 how she should be correctly classified.

16 THE COURT: Well, if that is the case, and that
17 would be the charge under 16-3-1040(a), what he is saying
18 is that while the Indictment says that she is a public
19 official, and you haven't proved that she is a public
20 official. So, that Indictment can't stand.

21 MR. HOLT: Yes, sir.

22 THE COURT: Do you understand, Mr. Holt?

23 MR. GROVE: Yes, Your Honor.

24 THE COURT: That is what you were saying
25 originally, and I did not read the Indictment closely

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1 enough. You allege 16-03-1040, but you go on to say Mr.
2 Holt, that the threat is to an public official, Kim
3 Dorsett, and that --- just that language in the body of
4 the Indictment says to a public official brings it under
5 16-3-1040(a) and not (b), and she is not a public
6 official.

7 MR. HOLT: And I would say that my response to that
8 judge, would be that that one word in the body of the
9 Indictment is wrong, as that should be official.

10 THE COURT: You mean employee.

11 MR. HOLT: Now I am saying it wrong.

12 THE COURT: But it doesn't. All right. I am
13 changing my ruling in regard to 1501. That Indictment ---
14 the motion for a directed verdict is granted with regard
15 to 08-GS-16-1501. It alleges threatens the life of a
16 public official, specifically Kim Dorsett, and that
17 language is used in connection with the statute which is
18 clear that 16-3-1040(a) applies to a public official, and
19 that here an employee does not qualify as a public
20 official.

21 The motion for a directed verdict is granted in
22 regard to 08-GS-16-1501.

23 All right. Now, Mr. Holt, let me talk with your
24 client. Have you had an opportunity to talk with your
25 client in regard to his Fifth Amendment Rights?

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1 **MR. GROVE:** Yes, Your Honor, we have.

2 **THE COURT:** I need to talk with him again. Mr.
3 Addison, I previously advised you of your rights under the
4 Fifth Amendment to the Constitution of South Carolina Law,
5 and the United States, and the counterpart to the
6 constitution to the state of South Carolina. Have you
7 understood what I told you with regard to your Fifth
8 Amendment Right?

9 **MR. ADDISON:** Yes.

10 **THE COURT:** Have you had a chance to talk with your
11 lawyer about your Fifth Amendment Rights?

12 **MR. ADDISON:** Yes.

13 **THE COURT:** Have you understood your discussions
14 with him?

15 **MR. ADDISON:** Yes.

16 **THE COURT:** Do you have any questions that you wish
17 to ask him or me regarding your Fifth Amendment Rights?

18 **MR. ADDISON:** No.

19 **THE COURT:** Have you made the decision as to
20 whether you do or do not wish to testify in this matter?

21 **MR. ADDISON:** I do.

22 **THE COURT:** First of all, my question is have you
23 made a decision as to whether you do or do not wish to
24 testify?

25 **MR. ADDISON:** Yes.

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1 **THE COURT:** And what is that decision?

2 **MR. ADDISON:** I do.

3 **THE COURT:** You do wish to testify?

4 **MR. ADDISON:** Yes.

5 **THE COURT:** All right. Is that decision on your
6 part freely and voluntarily made?

7 **MR. ADDISON:** Yes.

8 **THE COURT:** Do you have any questions that you want
9 to ask either me or your lawyer regarding your Fifth
10 Amendment Rights?

11 **MR. ADDISON:** No, sir.

12 **THE COURT:** All right. The Court will find that
13 the defendant has made a knowing, intelligent, free and
14 voluntary decision to waive his rights under the Fifth
15 Amendment of the Constitution of the United States, and a
16 similar counterpart provision of the Constitution of the
17 State of South Carolina. And the Court will honor that
18 decision and allow him to testify.

19 All right. Mr. Holt or Mr. Jones, how many other
20 witnesses do you wish to call?

21 **MR. GROVE:** Mr. Addison will be the only witness.

22 **THE COURT:** All right. We will take five minutes
23 and we will be ready to go into the defendant's case.

24 (Whereupon, a recess was taken from 3:26 p.m.
25 until 3:42 p.m..)

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1 **THE COURT:** Let's go back on the record with regard
2 to the State versus Addison. We are prepared to go
3 forward at this time. We have concluded --- We will allow
4 Mr. Addison to testify right here in front. There is a
5 microphone there.

6 **MR. GROVE:** Thank you, Your Honor.

7 **THE COURT:** All right. Bring the jury in.

8 **BAILIFF:** All right, sir.

9 (Whereupon, the jury enters the courtroom at
10 3:42 p.m..)

11 **PRESENTATION OF THE DEFENSE**

12 **THE COURT:** All right. Ladies and gentlemen, thank
13 you for your patience. I am sorry that we kept you a
14 little longer than I anticipated. There were legal
15 matters that we did have to address, and we have resolved
16 those. And we are now ready to go forward.

17 You heard before you went into your jury room, the
18 state has rested their case. And now the defense has a
19 right to present any testimony and evidence to you that
20 they wish to present. Mr. Grove.

21 **MR. GROVE:** Thank you, Your Honor. At this time we
22 call Marcus Addison to the stand.

23 **WHEREUPON, MARCUS ADDISON**

24 **FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS**

25 **MR. ADDISON:** Yes.

MARCUS ADDISON - DIRECT EXAMINATION

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1 **THE COURT:** All right. Mr. Addison, you are going
2 to have to speak up enough that everyone can hear you, and
3 so that this lady here can hear you, because she has to
4 take the testimony down.

5 Mr. Holt, Mr. Grove, you may proceed.

6 **MR. GROVE:** Thank you, Your Honor.

7 **DIRECT EXAMINATION BY MR. GROVE**

8 Q. State your name for the record?

9 A. Marcus Addison.

10 Q. Marcus, where do you live?

11 A. ■ Street in Hartsville.

12 Q. How long have you been there?

13 A. A little bit over four years.

14 Q. You are talking about the residence that we have been
15 discussing today?

16 A. Yes, sir.

17 Q. And what --- There has been discussion, and you have
18 heard that there are two red doors at the front, a
19 left door and a right door. What is on the other
20 side of the left door?

21 A. The right door?

22 Q. The left door.

23 A. That were I live at.

24 Q. And what is inside of that room?

25 A. My bed, my tv, my play station. That about it.

MARCUS ADDISON - DIRECT EXAMINATION

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1 Q. And the right door, what was behind that room May 21,
2 2008?

3 A. I had my dogs in there at first, and I had took my
4 dogs out. Then it started to get a little hot.

5 Q. Kind of a mess.

6 A. All kind of dog mess in there, because I ain't never
7 had a chance clean it out.

8 **MADAME COURT REPORTER:** Judge King, I am having
9 trouble hearing him.

10 **THE COURT:** First of all, keep your hands away from
11 your face, because that muffles your voice. Speak up to
12 the jury and to this lady over here. Mr. Grove, it may be
13 better if you come back around this way, and he will look
14 more at the jury when you asking a question. All right.

15 **MR. ADDISON:** Yeah.

16 **MR. GROVE:** If I catch you start doing it again,
17 I'm going to remind you. But, again it is certainly
18 important that the jury hears everything, and that the
19 Court reporter is able to take it down.

20 Q. So, there were dogs in the room before?

21 A. Yes.

22 Q. There weren't no dogs that day; were there?

23 A. At that day there wasn't. The dogs are tied up in
24 the back yard.

25 Q. But that is where they usually stay?

MARCUS ADDISON - DIRECT EXAMINATION

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1 A. Yeah, because, you know, there ain't nobody there but
2 me.

3 Q. Right. And you live alone?

4 A. Yes, sir.

5 Q. What is the --- What is the front left door like?
6 How do you keep people in and out?

7 A. Well, I don't have no lock on my door.

8 Q. What do you mean? Do you mean you aren't able to
9 latch the door, or you aren't able to shut the door?

10 A. No, I can't lock it. They can close it, but I don't
11 have no lock on it. But I can't get up to open it.

12 Q. Is there a handle?

13 A. I ain't even had a doorknob on it.

14 Q. Just a hole?

15 A. Yeah. You can just push your hand through.

16 Q. So, what is keeping anybody else from coming into the
17 house?

18 A. Nothing.

19 Q. You there all the time?

20 A. No, I be out in the street.

21 Q. But there has been testimony that a thirteen-year-old
22 and a sixteen-year-old were there. What were they
23 there doing?

24 A. They be there playing the game, and I be getting
25 ready to go outside. They had about two minutes left

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1 on the game, because I ain't never had got my t-shirt
2 on. Then I heard my dog barking in the back yard.
3 And I was like, hey man, go check that dog. It don't
4 sound like she barking at no dog. And before he
5 could get in the back good, get on the floor. Check
6 the stove. Get on the floor. Check the stove. And
7 the next think I know they had the little boy on the
8 ground, and then the police came with a shotgun, and
9 he pointed it at little **Minor #2**, and I told him, I
10 said, man that's a child. Don't point that gun at
11 that little child. He was like, I just doing my job,
12 Marcus.

13 Q. Okay.

14 A. And I was like okay. He just started looking at me,
15 so I think they came to pick up **Minor**, and I was
16 like, they chilling. And they like, how do you get
17 up out of this bed. And I was like, what they doing
18 here? And like I said, I didn't know what was going
19 on.

20 Q. Why did you think they were there to pick up **Minor**?

21 A. Cause he um --- they had some mess about him not
22 going to school.

23 Q. He was in --

24 A. -- Yeah, for not going to school. But we didn't know
25 exactly what it was at first, because they always you

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1 know, they always looking for people. So, when they
2 came to the house, they say they had a court order
3 for bring him in for I think, truancy.

4 Q. Okay. The thirteen-year-old Minor #2 [REDACTED], where
5 does he live?

6 A. About two streets over on [REDACTED] Street.

7 Q. Do you know his family?

8 A. Uh'huh. I know 'um. I know his mother. Like we ---
9 we was real close. She in jail now, though.

10 Q. What is she in jail for?

11 A. Guns and all kinds of stuff.

12 Q. And how old --- he was thirteen years old?

13 A. At the time.

14 Q. At this time. Do you have any kids of your own?

15 A. Uh'huh. I got a little eleven-year-old son.

16 Q. Does he and Minor #2 ever hang out together?

17 A. All the little kids come to my house to play game.

18 Q. Okay. Do you receive a disability check?

19 A. Yes, sir.

20 Q. Do you know about how much it is?

21 A. Like \$674.00 a month.

22 MR. GROVE: Hold on just one second. Beg the
23 Court's indulgence.

24 THE COURT: All right.

25 (PAUSE.)

MARCUS ADDISON - DIRECT EXAMINATION

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1 MR. GROVE: Just a few more questions Marcus. I'm
2 sorry.

3 Q. There was a --- there was another charge that day, I
4 think it was a magistrate's charge that they issued
5 on you on May 21, 2008, correct?

6 A. Which charge?

7 Q. I believe the charge was for receiving stolen goods?

8 A. They say they were finding four-wheelers in my back
9 yard.

10 Q. A four-wheeler?

11 A. Uh'huh.

12 Q. When was the last time you rode a four-wheeler?

13 A. Honest, I ain't never rode no four-wheeler.

14 Q. When was the time you would have been able to ride a
15 four-wheeler?

16 A. Like I got shot June 16, 2003.

17 Q. 2003 is when you --

18 A. -- I got shot --

19 Q. -- you were injured and got shot. So, as far as you
20 being able to move anything about that four-wheeler?

21 A. Well, nobody could have moved it, like driving it,
22 because they said it was broke. And the handlebars
23 or something was messed up on the thing. That's why
24 I was like dog, why put it back there. But that
25 ain't know who it was. And then when the police

MARCUS ADDISON - CROSS EXAMINATION

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1 came, and I was at the Magistrate Office, they
2 charged me \$300.00 fine, or do thirty days in jail.
3 And I had to call somebody you know, to come and
4 bring me \$300.00 for something. And then I honestly
5 didn't even know the da-gon four-wheeler was in the
6 backyard.

7 Q. I'm sorry. You are getting a little fast again. Try
8 to slow down for me. Essentially what you just told
9 the jury is that you paid the fine, and then that
10 charge was taken care of?

11 A. Yes.

12 **MR. GROVE:** Just one more second. I apologize.

13 **THE COURT:** All right.

14 **(PAUSE.)**

15 Q. Marcus, just one more thing. As far as May 21, 2008
16 is concerned, do you remember anything else that
17 hasn't been addressed up to this point in the trial?

18 A. No, sir.

19 **MR. GROVE:** Nothing further at this time.

20 **THE COURT:** Cross examination, Mr. Holt.

21 **MR. HOLT:** Thank you very much, judge.

22 **CROSS EXAMINATION BY MR. HOLT**

23 Q. Mr. Addison, how old did you say you were?

24 A. Thirty-four.

25 Q. Thirty-four. And you said that you got in the chair,

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1 because you were shot?

2 A. Uh'huh.

3 Q. And why were you shot, do you know?

4 A. They ain't told me yet.

5 Q. They haven't told you?

6 A. No. The person that shot me, he told me that
7 somebody told him that I was going to do something to
8 him, but he said it was his cousin. And then they
9 said it was behind a girl. But ain't nobody ever
10 really told me no exact reason. I just know, you
11 know, I got shot. I ain't gonna stress it though,
12 you know. Like I say, I can't control it.

13 Q. Now, you said nobody else lived with you, correct?

14 A. Right.

15 Q. The two juveniles that were found that day, May 21,
16 2008, how old were they, do you know?

17 A. Minor #2, well his birthday come in [REDACTED], so at the
18 time he was like, thirteen. Minor, like I say, I
19 ain't knew at the time whether he was sixteen or
20 seventeen. But they say he was sixteen.

21 Q. Now, y'all three were in the house. Can you explain
22 to the jury why those scales, and why that sandwich
23 bag would be on the ground in your bedroom?

24 A. On the ground? Well, the sandwich bags, they just --
25 - I just always put stuff in my dag-on sandwich bag.

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1 Like if I have to spit or something, and I can't
2 throw it in the dag-on trash, I can put it in a
3 tissue and wrap it all up, and put it all in a bag.
4 Now, I don't know nothing about no dag-on scales.
5 Because they say they found one in the attic. But I
6 didn't know nothing about no scale on the floor.

7 Q. Okay. Now, let me ask you this. When they wheeled
8 you out and the police officer helped you get to the
9 ambulance, how do you explain the drugs that were
10 found in your diaper?

11 A. First of all, I was in my bed. And I ain't had on
12 nothing but a pair of pants. Because, like I said, I
13 was getting ready to go outside. Police put
14 handcuffs on me and put me in the chair. I was
15 monitored the whole time from part A to part B. Then
16 when I got in the hospital, but they done lifted me
17 up and carried me from the chair to the hospital bed.
18 Stretched me out on the hospital bed. Had me lay
19 down with my arms up above me and a little strap
20 across my arm. Police, he come back and say oh, I'm
21 gonna search you. The next thing I know he reached
22 on the side of my pants, talking about oh, look what
23 I found here. But then they said they found it out
24 of my pamper. It can't be two places at one time.

25 Q. Now, you talked about them putting you on the

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1 stretcher bed. You talked about being in the
2 ambulance. But what I want to talk about is the time
3 in between you were in the house and the ambulance.
4 Okay?

5 A. I was in my front yard.

6 Q. That's right. But let me finish. And during that
7 time your sister came up, is that correct?

8 A. Uh'huh.

9 Q. And isn't it correct that you were kind of aggravated
10 and agitated, and wanted one of your sisters to
11 change your diaper?

12 A. No. My mamma --- my sister was arguing with the
13 police. My mamma wanted to say something to me. So,
14 I asked the police if I could talk to my mamma. And
15 then they all of them start all of acting like they
16 were crowding around my mamma. So, I say don't y'all
17 go anywhere near my mamma. Leave my mamma alone.
18 They had you know pissed me off. Because the only
19 thing she wanted to do was talk to me. And they just
20 wheeled me out, you know, they just put me in the
21 dag-on ambulance. And the next thing I know, they
22 just start finding stuff, and like I say, if I had
23 had some drugs on me, it would have fell. And then
24 they say they found some on the side of the dag-on
25 little stretcher in the dag-on wheelchair, I mean on

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1 the hospital bed.

2 Q. Let me interrupt you. Aren't diapers tight? If you
3 had had the drugs in your diaper that wouldn't have
4 fell out?

5 A. But if I got handcuffs on, and I am strapped down,
6 how could I move. It is impossible.

7 Q. But you would have had the drugs on you in the house?

8 A. If I had had drugs in the house, they searched me in
9 the house, they would have found drugs.

10 Q. Did you hear the testimony where they searched you
11 for weapons?

12 A. They searched --- I mean, if I ain't got no shirt on,
13 the only place they can search is my lower body.

14 Q. Didn't they have surgical gloves on when they came in
15 your house?

16 A. Man I wasn't thinking about no gloves. The only
17 thing I can say is about those guns in my face.

18 Q. Has anyone ever gone through your diaper that didn't
19 have gloves on?

20 A. My little sister, my mamma, them change me. My
21 uncle. Everybody try to help me out.

22 Q. Anybody who is not in your close personal family?

23 A. No, because they don't be around me.

24 Q. All right. Let's talk a little bit about the threats
25 on the ambulance. Are you denying and is it your

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1 testimony that --

2 MR. GROVE: Objection, Your Honor.

3 THE COURT: Yes, sir.

4 MR. GROVE: May we approach?

5 THE COURT: Yes, sir.

6 {Whereupon, a bench conference was held in the
7 presence of the jury, but out of the hearing of the jury.}

8 Q. Now, let's talk about the threats you made toward
9 Deputy Lawson. When you saw Deputy Lawson later on
10 at the bond hearing, what did you tell him.

11 A. I ain't tell him nothing. I say, Brad, how your
12 daddy doing? He say, my daddy? I say, yeah, Mr.
13 Lawson. And he say, what do you know about my daddy?
14 I don't know nothing about your daddy. I just asked
15 you how you are doing. And he said, don't you
16 threaten my daddy. You listen here, if you go
17 anywhere near my daddy, it's going to be me and your
18 black ass. And I was like man, I ain't even
19 threatened your daddy. And then the next thing I
20 know, oh, I'm going to make sure you don't get no
21 bond. So they had postponed my bond. I had to sit
22 in there another day, until the next day. But he is
23 just jumping to conclusions. Like I say, that was my
24 first time meeting him. And I don't know who his
25 daddy is. I was just playing with him, you know,

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1 playing a little mind game with him. And he sitting
2 there jumping down my throat saying, if I catch you
3 near my daddy, and all of this right here, and all of
4 that. And like I say, I don't even know his daddy.

5 Q. Was this your first time meeting him, and you don't
6 know his daddy, and you are just playing mind games
7 with him, how did you know that his daddy lived
8 behind the Amspak Company in Hartsville?

9 A. I don't know where his daddy live at.

10 Q. It is your testimony that you didn't even ask him how
11 his daddy was doing?

12 A. No, I told you that I asked him how his daddy was
13 doing. Because, like see, all my --- like my little
14 brother before he died, and my home boys, I don't
15 even know him. I guess they went to school together
16 and stuff like that. But I am the older here. His
17 little daddy use to be at a little gang and stuff
18 with him. Because I don't never play those little
19 children games and stuff like that. But I don't know
20 him personally.

21 **MADAME COURT REPORTER:** Judge King, I couldn't hear
22 everything he said.

23 **THE COURT:** Go ahead and re-ask your question. She
24 is having trouble understanding you, Mr. Addison. You
25 must speak slowly and loudly enough for the Court reporter

1 to take it down.

2 Q. And I guess my question to you was why did you
3 threaten his father?

4 A. I didn't threaten his father.

5 Q. And my other question to you was, if you didn't
6 threaten his father, why would you know where his
7 father lived?

8 A. See that is what you failed to realize. I don't know
9 where his father live at. You got to realize man, I
10 ain't been out in the street like, going from point a
11 to point b in probably since I got shot. I don't
12 know where nobody live at.

13 Q. It is your testimony that you don't know why you got
14 shot?

15 A. Yeah. I tell you they got so many reasons, I don't
16 know what to believe. I just let God take care of it
17 man.

18 Q. There is no doubt in your mind that [REDACTED] Street is
19 your house?

20 A. Come on, that be where I live at.

21 Q. And you are for the lack of a better term, the master
22 of that house?

23 A. There ain't nobody there but me.

24 **MR. HOLT:** No further questions, Your Honor.

25 **THE COURT:** Redirect.

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1 **MR. GROVE:** Nothing further, Your Honor.

2 **THE COURT:** All right. You may return to counsel
3 table.

4 All right. Mr. Grove, anything else on behalf of the
5 defendant?

6 **MR. GROVE:** Nothing further, Your Honor.

7 **THE COURT:** Defense rests?

8 **MR. GROVE:** Yes, indeed.

9 **THE COURT:** Anything in reply?

10 **MR. HOLT:** There will be no reply testimony today,
11 judge.

12 **THE COURT:** Sir?

13 **MR. HOLT:** None.

14 **THE COURT:** Nothing in reply. All right.

15 All right, Ladies and gentlemen of the jury, you have
16 heard the defense rest and the state has no reply
17 testimony to present to you, so you have now heard all of
18 the evidence that you will hear in connection to this
19 matter. There are only two things that remain to be done.
20 Those are the arguments of counsel and the instructions on
21 the law by the Court. However, together those will take
22 about an hour, and that would mean that you would not be
23 able to begin consideration of this matter until 5:00-
24 o'clock or close thereto. And I do not want to put you in
25 a position of beginning deliberations on this case in that

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1 late hour.

2 So what we are going to do in this case is recess for
3 the rest of the afternoon, and allow you to go to your
4 homes and families, and come back in the morning
5 refreshed, and we will go into arguments of counsel and
6 closing at 9:30, after which you will be allowed to begin
7 your deliberations.

8 So, I am going to excuse you now with the same
9 admonitions that I have given to you all throughout the
10 trial of this case.

11 That is, do not discuss the case with anyone. Do not
12 allow anyone to discuss it with you. And do not discuss
13 the case among yourselves when you are reassembling in the
14 jury room tomorrow morning. Also, do not read any news
15 stories, or listen to any broadcast media with regard to
16 this case, if there are any, because again, you have got
17 to decide this case based upon what you hear in this
18 courtroom.

19 So, with those admonitions I am going to excuse you
20 now and ask you to be back in the jury room tomorrow
21 morning at 9:30, and we will be ready to go promptly at
22 that time.

23 Have a pleasant evening, and I will see you tomorrow.

24 (Whereupon, the jury is excused for the day at
25 4:04 p.m. on Tuesday, February 1, 2011.)

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MOTIONS

1
2 **THE COURT:** All right. Motions on behalf of the
3 defendant, Mr. Grove.

4 **MR. GROVE:** Yes, Your Honor. I would renew all
5 previous directed verdict motions. I do have a couple of
6 thoughts to add as to 1505, I believe, that is the
7 contributing to the delinquency of a minor of **Minor #2**
8 **Minor #2**.

9 **THE COURT:** All right. Go ahead.

10 **MR. GROVE:** 16-17-490 is the contributing to the
11 delinquency of a minor Code.

12 **THE COURT:** Give me that number again.

13 **MR. GROVE:** 16-17-490.

14 **THE COURT:** All right. Go ahead.

15 **MR. GROVE:** That code establishes --- to qualify
16 for the contributing to the delinquency of a minor you
17 need to knowingly, encourage, wilfully or knowingly
18 encourage, or cause someone to do a list of acts. Be
19 habitually truant, to run away from home, things of that
20 nature. The defense position is that the state hasn't met
21 their burden as to exactly what it was that was delinquent
22 about Mr. **Minor #2**. Mere presence, Your Honor --- I guess
23 my position would be, mere presence is not enough to
24 satisfy the statute. The statute requires that the state
25 prove that Mr. Addison was encouraging Mr. **Minor #2** to do

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1 something in particular, and that is not evidence that was
2 presented during this case.

3 THE COURT: All right. Give me a moment to review
4 the statute.

5 (PAUSE.)

6 THE COURT: All right. Mr. Holt.

7 MR. HOLT: Yes, sir. My response to the defense
8 argument?

9 THE COURT: Yes.

10 MR. HOLT: Your Honor, I think mere presence is
11 defiantly not enough. I think that is also a jury charge,
12 and when you are talking about adults that should very
13 much be taken into context.

14 But any time you are dealing with somebody's child,
15 who is thirteen, and you are doing something wrong or
16 negative in front of them, that child is learning your
17 behavior. I think that is why the statute is written the
18 way it is, judge. And if you will look at 16-17-490,
19 number 10, to willingly injure, endanger his or her
20 morals.

21 THE COURT: I understand that. I am more concerned
22 with the part there at the very beginning before it has
23 that laundry list of things said and are considered in
24 contributing to the delinquency. I am more interested in
25 the language that says it shall be unlawful for any person

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1 over eighteen years of age to knowingly and wilfully
2 encourage, aid, or cause, or due to any act to show cause
3 or influence in my ---- and I guess my question in this
4 case is what is the knowing or willful encouragement, or
5 the causing the minor --- or doing any act to cause the
6 minor to do one of those things. What is the active ---
7 doesn't it require active participation, or active actions
8 on behalf of the person contributing to the delinquency of
9 a minor. First of all, doesn't it require them to do
10 something active. And, if so, what did the defendant in
11 this case do that accurately encouraged him.

12 MR. HOLT: He actively had drugs on his person. He
13 actively had the money from a drug sell on his person. He
14 actually had --

15 THE COURT: -- Well, that is true as far as Mr.
16 Addison is concerned, but I am talking about as to the
17 minor?

18 MR. HOLT: He was doing it in front of the minor.
19 Oh, are you asking me what did the minor do?

20 THE COURT: No, no. What did Mr. Addison do to
21 knowing and wilfully encourage, aid, or cause, or do any
22 act which shall cause or influence the minor. What did
23 Mr. Addison do other than have drugs in his house?

24 MR. HOLT: Judge, by having drugs in his house in
25 front of the child, there is no way a child didn't know.

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1 There is no way he didn't comport himself around the house
2 as an individual who uses drugs and made an admission to
3 the child that it is okay to do so.

4 **THE COURT:** So, carrying your argument to its
5 possible extreme, the parent who has drugs in their house
6 is contributing to the delinquency of a minor?

7 **MR. HOLT:** Judge, if a parent had drugs in their
8 house, and the child knows about it, and their parent does
9 drugs in front of the child; deals drugs in front of the
10 child, and the child is aware of this. Then how can the
11 morals of the child not be affected?

12 **THE COURT:** That is not my question. Carrying your
13 argument to its logical conclusion, I'm not talking about
14 what the child knows, because there is no evidence
15 whatsoever what the child did or didn't know. But having
16 drugs in the presence of a minor is a violation of the
17 statute.

18 **MR. HOLT:** Yes, sir. And the drug lifestyle that
19 goes with it, the paraphernalia, the bags, the scales,
20 that scale got into that attic somehow.

21 **THE COURT:** But that is all speculation.

22 **MR. HOLT:** That is all speculation, judge.

23 **THE COURT:** I am trying to find out --- What you
24 are doing is, you are assuming that the minor in this case
25 was participating in the weighing of the drugs, and the

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1 minor was participating in the bagging of the drugs. And
2 the scales were put up where he could reach, and had to be
3 done by the minor. What I am saying is, what is the
4 evidence in the record other than the fact that he had
5 minors in the house where drugs were present, what is the
6 evidence in the record that he contributing to the
7 delinquency of a minor, other than the fact that they were
8 present when the drugs were found?

9 MR. HOLT: The presence of the drugs caused the
10 search warrant. I mean, if you are exposing a thirteen-
11 year-old child to the police storming into your home --

12 THE COURT: I am being the devil's advocate, Mr.
13 Holt, and I agree with you. He doesn't have to actually
14 do anything if he has got minor children in his home that
15 are not related to him, and they are present where he's
16 got drug paraphernalia and drugs, he is contributing to
17 the delinquency of a minor, or at least that is evidence
18 of contributing to the delinquency of a minor. And it is
19 up to the jury to determine whether or not he is. And I
20 am going to charge the statute, and they can interpret the
21 statute just like it is read. But I think there is
22 evidence of that, and I can't weigh that evidence. Not
23 under a motion for a directed verdict. One of the
24 strongest points is the fact that they weren't his
25 children, or he wasn't related to them, they had no

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1 business being there. That there was some ulterior motive
2 for them actually being there.

3 So, I am going to deny the motion.

4 MR. GROVE: Thank you, Your Honor.

5 THE COURT: All right. Counsel, Mr. Holt are you
6 going to waive opening arguments?

7 MR. HOLT: Yes, sir, Your Honor.

8 THE COURT: How much time do you need Mr. Grove?

9 MR. GROVE: Thirty minutes maximum, Your Honor.

10 THE COURT: What do you need?

11 MR. HOLT: The same.

12 THE COURT: All right. Thirty ought to be ample
13 for both sides.

14 How about the specific request to charge. Counsel, I
15 will charge, and I have already looked at the charges. I
16 will charge my general criminal charge which will include
17 burden of proof, reasonable doubt, presumption of
18 innocence, credibility of the witnesses, direct and
19 circumstantial evidence, expert testimony, and then of
20 course, the offenses themselves. Trafficking in crack
21 cocaine. Judge Anderson's section 4.2 or 4-2, possession
22 with intent to distribute marijuana. Judge Anderson's
23 section 4-14. Then the contributing to the delinquency of
24 a minor which is Code Section 16-17-460. And threatening
25 the life of a public official, which is also the Code

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1 section that we were referring to earlier that I don't
2 have in front of me right now. Of course, I will charge
3 in regard to the defendant testifying is not applicable in
4 this case. Anything, Mr. Holt?

5 **MR. HOLT:** Judge, your reasonable doubt charge,
6 would that be Judge Baxley's charge?

7 **THE COURT:** It is. The same charge that Judge
8 Baxley uses.

9 **MR. GROVE:** The defense has nothing further, Your
10 Honor.

11 **THE COURT:** Okay. All right. Counsel, we will be
12 in recess until 9:30 in the morning. Let's be here a few
13 minutes early, so there will be no problem in going into
14 the arguments and charge, and let's try to have this
15 matter to the jury by 11:00-o'clock.

16 (Whereupon, day two of trial is completed at
17 4:15 p.m. on Tuesday, February 1, 2011.)

18 -- END OF DAY TWO --

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1 (Whereupon, court comes to order at 9:30 a.m. on
2 Wednesday, February 2, 2011.)

-- DAY THREE OF TRIAL --

3
4 **THE COURT:** All right. Let's get Mr. Addison back
5 in the courtroom and his counsel, please.

6 **MR. GROVE:** Yes, Your Honor. My understanding is
7 that he is downstairs, and Mr. Jones is headed down there
8 to bring him up.

9 **THE COURT:** All right.

10 **MR. GROVE:** I apologize.

11 **THE COURT:** While we are doing that, and while we
12 are waiting on him, do you want to come and look at the
13 verdict form?

14 **MR. GROVE:** Yes, sir.

15 (PAUSE.)

16 **THE COURT:** What is his status, does anyone know?

17 **MR. JONES:** Judge, we are calling him right now.

18 **THE COURT:** All right. I am going to send a deputy
19 out, but we are not going to stop the trial.

20 **MR. JONES:** Yes, sir.

21 **MR. HOLT:** Judge, I don't know if Mr. Jones is
22 ready.

23 **THE COURT:** No, as soon as we find out where he is,
24 I am not going to wait on him. I am not going to keep the
25 jury waiting. As soon as they find out, we are going to

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1 go forward whether he is here or not.

2 MR. GROVE: Judge, your preference. I have none,
3 obviously. But your preference is argue and then charge,
4 or vice versa?

5 THE COURT: Yeah, I'll hear from y'all first.
6 First from you Mr. Grove, and then from Mr. Holt. We will
7 do the arguments, and then charge. But I am not going to
8 wait on him to get here.

9 MR. GROVE: Certainly not.

10 (PAUSE.)

11 MR. JONES: Judge, he is getting on the elevator
12 right now. He has just gone through security.

13 THE COURT: Okay.

14 (PAUSE.)

15 THE COURT: All right. We are back on the record
16 with regard to the matter of The State versus Marcus
17 Addison. Mr. Addison is present with his counsel. Mr.
18 Holt and Mr. Jones, the state is present and represented
19 by Mr. Holt.

20 Mr. Addison, when court starts at 9:30, that means
21 9:30, not 9:32, not 9:35, not 9:40. I could hold you in
22 contempt for being late this morning. Why weren't you
23 here on time?

24 MR. ADDISON: My little sister had just got off of
25 work, and she thought my mamma was going, so she went to

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1 pick her up. But she wasn't going, so she had to come all
2 the way on the other side of town to get me.

3 **THE COURT:** Well, that is an excuse. This is the
4 most important thing in your life. And I don't tolerate
5 those kinds of excuses. And, if it happens again, I will
6 take some action on the matter.

7 All right. We have reached the stage in the trial
8 where the only two things that remain to be done are the
9 arguments of counsel and the instruction on the law. And
10 we are prepared to go forward at this time. The closing
11 arguments, the state is waiving opening. Mr. Grove, are
12 you ready to go forward?

13 **MR. GROVE:** I am, Your Honor.

14 **THE COURT:** Mr. Holt?

15 **MR. HOLT:** The state is as well, Your Honor.

16 **THE COURT:** All right. Bring the jury in.

17 **BAILIFF:** All right, sir.

18 (Whereupon, the jury enters the courtroom at
19 9:42 a.m..)

20 **THE COURT:** Good morning, ladies and gentlemen, and
21 thank you for your promptness in being back here. I do
22 apologize to you for keeping you waiting in your jury
23 room. I am sorry that that happened. But we are now
24 ready to go forward.

25 I will ask you now, as I have asked you throughout

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1 the trial of this case if anyone has talked to you or
2 attempted to talk with you about this matter over the
3 evening recess, I would need to know about it now.
4 Negative response, and that is good.

5 If anyone has seen any news stories, or any printed
6 news, or broadcast media stories with regard to this case,
7 I would also need to know about that now. Again, negative
8 response, and that is good.

9 All right. Now, ladies and gentlemen, I want to tell
10 you at this time that based on a matter of law, I have
11 dismissed the charges contained in Indictment Number 1501,
12 for threatening the life of a public official. This was
13 the charge involving the alleged threat against the EMS
14 lady, Kim Dorsett. This dismissal by the Court was
15 because of a legal error in the Indictment. And was not
16 based upon any factual finding by the Court. I instruct
17 you that you are not to infer from this dismissal that I
18 have made any factual finding regarding the Indictment,
19 because I have not. This dismissal is based solely on a
20 matter of law.

21 So, there are five charges that you will be
22 considering, and we have --- you have heard all of the
23 testimony in connection to with those charges. And the
24 only two things that remain to be done are the arguments
25 of counsel, and the instructions on the law by the Court.

CLOSING ARGUMENT BY MR. GROVE

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1 I will tell you now, as I did at the first of this
2 trial, that the arguments of counsel are not evidence in
3 this matter. You will decide this case based on the
4 evidence that you have heard from the witness stand, and
5 from any exhibits that have been introduced into evidence.
6 But the lawyers do have the right, and not only the right,
7 but the duty on behalf of their client to address you now,
8 and to give you their view of what they think the evidence
9 shows. When they have concluded their closing summations
10 or arguments to you, I will then instruct you on the law
11 of South Carolina as it pertains to the facts of this
12 case, as you may find those facts to be, and then you will
13 be allowed to go to your jury room to deliberate your
14 verdict.

15 You will hear first from Mr. Grove on behalf of the
16 defendant. And then from Mr. Holt on behalf of the state.

17
18 Mr. Grove.

19 **MR. GROVE:** Thank you, Your Honor.

CLOSING STATEMENT BY MR. GROVE

20
21 **MR. GROVE:** Good morning, ladies and gentlemen. We
22 are almost done. I told you it would not be all that
23 exciting. I am sure at least in part you agree with me.
24 But, I do appreciate the time and attention you have
25 already spent working on this case, and I appreciate your

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1 continued time and attention as we reach the conclusion.

2 I am going to kind of give you a review of the case,
3 and Mr. Holt will do the same, and then the judge will
4 instruct you as to what the law is. Like we talked about
5 before, you guys get to decide what the facts of the case
6 are. You decide what happened. The judge tells you
7 whether or not that is against the law, and then you
8 decide guilty or not guilty.

9 So I just want to take a little bit of time and
10 review what happened and talk about it, and then you will
11 hear from Mr. Holt, and you will from the Honorable Judge
12 King, and then you will have time to talk about it amongst
13 yourselves.

14 When we started this case we heard from Brad Lawson.
15 He was an officer. He was there when the executed the
16 search warrant. He was one of the first guys in the
17 house. He said it was just a matter of seconds between
18 breaching the door and running into the house. In fact, I
19 think he was the one holding that battering ram. He was
20 the one that knocked the door in. A couple of guys
21 running in front of him, and he is quick to follow. He
22 says --- he testified that he saw [Minor] [REDACTED], sixteen-
23 year-old running through the livingroom. Now, remember
24 we've got those two doors --- if you will give me just a
25 second. We have got these two doors, and behind this

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1 door, this is where they run in. This is a livingroom
2 back here. Behind this door is where Marcus Addison's
3 bedroom is. So they run in through this door, and they
4 see [Minor] [REDACTED] hightailing it through the livingroom
5 back toward the kitchen. Tossing something under the
6 sink, running around, and the cops I am sure are screaming
7 and telling him to get down, put his hands up, that sort
8 of thing. They finally detain him. They see that he has
9 dumped some stuff under the sink. They also found some
10 marijuana in the heater in that livingroom. Now, the
11 state's position is that is Marcus Addison's. Couldn't it
12 have been [Minor]? He was already throwing crack cocaine
13 under a sink, running right through the livingroom, right
14 where that heater is. It is not up in the corner up
15 against the wall, you know, it is pushed out from the
16 wall, out kind of in the room. I am sure it is easy to
17 reach. Isn't there a chance? They also --- Brad Lawson,
18 he talks about patting down Marcus Addison, looking for
19 weapons. I think that was a big discussion. Everybody
20 that testified it seems like everybody, I'm not sure
21 exactly what everybody did. But everyone was concerned,
22 oh, what about weapons. What about weapons. I don't
23 think anybody testified that they ever actually found any
24 weapons. Not only did they not find any weapons on Marcus
25 Addison's person, after they got him out of the house,

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1 they cleared the house. They searched it from top to
2 bottom. Not a weapon in the whole place. Now that seems
3 to be their big concern, and they are real worried about
4 it, and they are searching him really good for weapons.
5 You would think if he had any drugs on him at the time
6 that would be uncovered too. But it wasn't. At least not
7 yet. We will get to that later.

8 Mr. Lawson also talked about threats that Marcus
9 Addison made to him, and to his father, and that sort of
10 thing. First of all, the threats that he says were made,
11 Marcus Addison was standing on the other side of cars at
12 the time. He doesn't have any ability to act on those
13 threats. And furthermore the quotes, if I remember
14 correctly were, Brad, how is your dad doing? How is your
15 father? It doesn't sound like a threat to me. Not aware
16 of whether or not Mr. Lawson is an expert in judging
17 people's tone, and interpreting meaning, reading between
18 the lines. But on the face of those words, I don't see a
19 threat there. Not to mention the fact that he is an
20 officer. I am confident that he has to tolerate a lot of
21 back talk from people all the time, whether or not they
22 are a suspect in the case, or they are just walking down
23 the street, and maybe they have had a bad experience in
24 the past. You know, officer jokes are almost as common as
25 lawyer jokes. And lawyers and officers, they kind of

CLOSING ARGUMENT BY MR. GROVE

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1 develop a thick skin as to snide comments and remarks.
2 Even if he did interpret it as a threat, shouldn't he have
3 had a little thicker skin, maybe tolerate that a little
4 more? Because again, that doesn't sound like fighting
5 words to me. They sound like, how is your dad doing?

6 We also had testimony from Sergeant McInville, he was
7 that secondary search team. You know, there was a primary
8 search team, they entered the home first. Secondary
9 search team, they are the ones who go in and they go top
10 to bottom from the house. They look through everything.
11 They are the ones who are really looking for the evidence.
12 Sergeant McInville, while he wasn't running into the house
13 right off the bat, he was there while the whole thing was
14 going on. [Minor] [REDACTED], he didn't even have to ask him
15 for ID. He knew exactly who he was. He had dealt with
16 him many times before, all over the town of Hartsville,
17 all over Alphabet Hill, where [Minor] [REDACTED] lives, lives
18 on the Hill, as they call it. Said he knew him right
19 away. Looked at him. Said I have had trouble with this
20 kid before in the past.

21 Again, Sergeant McInville in that secondary search
22 team, going top to bottom all through the house, no
23 weapons again. That was their big worry, weapons. They
24 didn't find any.

25 Corporal Hopkins, he also testified, he said, I think

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1 he is the one who located the crack cocaine in Marcus
2 Addison's pants. I think he said they were laying on top
3 of the pants, maybe they were in the pants. He took the
4 pants off and shook them, and out falls all kinds of
5 drugs. They had padded him down at least once or twice
6 before. Picked him up, moved him from a bed to a chair.
7 From a chair to a stretcher, and handcuffed him a couple
8 of different times. Strapped him down three different
9 ways. And now after all of that, we are uncovering other
10 things.

11 Do you think if it was just sitting there loose in
12 his pants, it would have been in that furious pat-down
13 looking for weapons that they are so concerned about. You
14 would have thought they would have run across anything
15 else.

16 We also had a lot of testimony from the three
17 officers I have already talked about, and almost everybody
18 else, that Marcus Addison was irate, and agitated, and
19 admittedly, if the things that he said are things that he
20 actually said, those are ugly things to say. And I am
21 sure that if he could do it again, he probably wouldn't
22 say them. But I think we have all been there. We have
23 all said things that we didn't mean to say. We have all
24 thought things that we wished we hadn't thought. You are
25 driving in traffic, somebody cuts you off, and oh, if they

CLOSING ARGUMENT BY MR. GROVE

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1 were sitting in front of me right now, I would really let
2 them have it. But you don't mean it. It is just words.
3 You are angry for a split second, you kind of fly off at
4 the handle. You yell at your wife. You yell at your kid.
5 You yell at your friend. You yell at your co-worker, and
6 then you realize later, I didn't really mean that. I
7 shouldn't have said that. But it doesn't mean that you
8 meant it hurtfully. It doesn't mean that you were
9 following through with it. It doesn't mean that you are
10 going to stand by it. You just --- it's a lapse of
11 judgment, in a flash.

12 We also heard from Kin Dorsett, she is the one that
13 let us know that he was strapped down three different
14 ways. He was handcuffed in front. Then he was handcuffed
15 to the rails. He was laying down. I think she even said
16 that he was on that stretcher strapped down, so however
17 the stretcher, went he was going to move with it. He
18 didn't have a whole lot of range of motion as far as that
19 is concerned. She was also concerned about those weapons.
20 Got a secondary search for those weapons. This is the
21 second, third time maybe that they searched him, and still
22 didn't find any weapons.

23 Deputy Wilkes was there. I think he was the head of
24 the Narcotics Division at the time. Again, he walks in,
25 see Minor , knows him. Don't have to ask for ID,

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1 don't have to wonder who he is, or whether or not he is in
2 trouble. He has had plenty of trouble with [Minor] in the
3 past, away from [] Street, away from [] that's for sure.
4 All over the town of Hartsville.

5 I think they also testified that based on his memory,
6 they were there to serve a warrant on [Minor] [],
7 because he was already in trouble with DJJ for something
8 entirely different. Something unrelated to what they were
9 there for that day. It sounds like [Minor] gets into
10 enough trouble on his own.

11 He goes so far --- Back to the marijuana briefly. I
12 am kind of jumping around a little bit. This test for the
13 evaluating whether or not this is actually marijuana.
14 This list two suspects, Marcus Addison and [Minor] [],
15 as people who may have been in possession of that.
16 Suspects involved, Marcus Addison, number two [Minor]
17 [Minor]. Again, [Minor] was the one that was running
18 through that room, right by the heater where they found
19 the marijuana.

20 There is also testimony from Russ Harrell who talked
21 about false positives when you test for marijuana. He
22 admitted yeah, sometimes you run a test and it says it is
23 accurate, and it turns out later it is not. He said there
24 up on the stand that he was confident that this time it
25 was right. Not a false positive this time? How can we be

CLOSING ARGUMENT BY MR. GROVE

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1 sure?

2 Officer Hall, he's another officer ---we had plenty
3 of officers testify yesterday. Officer Hall shows up,
4 he's another one. I think we are up to three, maybe four
5 officers now who saw [Minor] [REDACTED]. There's [Minor]
6 again. Knows him. Don't have to ask him if he's got ID.
7 He's probably got some outstanding warrants, which he did.
8 He seems to be a more popular fellow than my client Marcus
9 Addison.

10 We have several different charges here today, we've
11 got five. We've got a trafficking crack cocaine. We have
12 possession with intent to distribute marijuana. We have
13 threatening the life of a public employee, as it pertains
14 to Officer Lawson. And then we have contributing to the
15 delinquency of a minor twice. I want to go back and talk
16 a little more about the contributing to the delinquency of
17 a minor. There were two of those charges. One, was for
18 [Minor] [REDACTED]. We have already talked about him. There
19 is no --- there is no saving some kids. Some kids are
20 going to get in trouble regardless of what you do. And
21 I'm not sure if there is any evidence that shows that
22 [Minor] [REDACTED]'s presence at [REDACTED] Street was contributing to
23 his delinquency. It sounds like he was already delinquent
24 long before he came across [REDACTED] Street. It sounds like he
25 had a big reputation with law enforcement as a kid who is

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1 just always in trouble. Maybe it is a little bit of
2 trouble. Maybe it is a lot. But it is often enough that
3 he is noticed by almost everybody who shows up at the
4 house.

5 We also had a thirteen-year-old, and a charge of
6 contributing to the delinquency of a minor of a thirteen-
7 year-old **Minor #2** [REDACTED], I believe was his name.

8 Now testimony and the evidence presented say that
9 when they entered the house **Minor #2** is just sitting there on
10 the floor in Marcus' bedroom. There is no drugs laying
11 out. There is no guns laying out. There is no crimes
12 going on. There is no exposure to any sort of delinquent
13 activity. Maybe if they bust in through the left door
14 maybe --- maybe then, but they didn't. The evidence says
15 we came in and Marcus is laying there on his bed. He is
16 not wearing a shirt. He is just kind of hanging out.
17 **Minor #2** is there. **Minor #2** is thirteen. And it seems kind of
18 unusual for a thirteen-year-old to be hanging out, I guess
19 at the time, at thirty-two-year-old single guy's house.
20 Marcus has a kid that is about **Minor #2** age. They hang out
21 all the time. He testified to that yesterday. They are
22 close in age. Same neighborhood. Not a problem. And
23 another thing, don't forget, Marcus testified that **Minor #2**
24 mother was already in prison for guns and drugs, and that
25 sort of thing. Maybe we have another situation a lot like

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1 Minor . Maybe, Minor #2 contributing to the delinquency
2 comes from another person and not Marcus. The evidence
3 presented shows that Minor #2 is sitting there. He is not in
4 possession of anything. He is not involved in anything.
5 He is just sitting on the floor hanging out.

6 We didn't have any testimony as to any sort of
7 criminal record that Minor #2 has developed since this time.
8 There is no evidence that he has become delinquent after
9 this event. Food for thought.

10 And again, just to remind you, Minor , it sounds
11 like everybody knows his name. It sounds like we have two
12 opposite situations. We've got one kid who is just
13 sitting there, no charges filed against him. No
14 involvement based on the evidence. Nothing more than just
15 hanging out, being in the bedroom.

16 And then we have another kid who is on the exact
17 opposite end of the spectrum. Can't seem to stay out of
18 trouble no matter where he goes. It doesn't seem to
19 matter where he is located at any given time. He is just
20 always getting into a little bit of trouble. At least
21 enough that everybody that comes into that house wearing a
22 badge knows him, before they recognize anybody else.

23 I want to talk to you a minute about reasonable
24 doubt. And I do want to be clear about this. Anything
25 that I say that conflicts with what he says, he is the law

CLOSING ARGUMENT BY MR. GROVE

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1 as far as this case is concerned. If you hear something
2 from me that you hear different from me, he is right and I
3 am wrong. So, don't take my word for it, takes his, is my
4 point.

5 But reasonable doubt, you just have to consider to
6 yourself is there a chance that something else happened.
7 You have got to look at the evidence, not what you assume
8 happened. Not what you think, well maybe it could have
9 gone this way. Or maybe if this was going on. Take the
10 evidence as it is, and is there is a chance that it
11 happened a different way. And it doesn't have to be a
12 great chance. It doesn't have to be a good chance. It's
13 got to be a reasonable chance. Is there a reasonable
14 turnout that is different than what the state is trying to
15 alleged happen. That is all we are talking about when we
16 ask about reasonable doubt.

17 Mr. Holt is going to come up, and he is going to tell
18 you that reasonable doubt is an enormous doubt. That you
19 have got to be all kinds of crazy to think that anything
20 else could have happened. Reasonable doubt is just like
21 it sounds. It is reasonable. It doesn't mean that it is
22 more likely that it happened one way than the other. It
23 just means you know, maybe. Maybe it did. There is at
24 least a chance. There is at least one other reasonable
25 explanation. It doesn't have to be one you want. It

CLOSING ARGUMENT BY MR. GROVE

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1 doesn't have to be one you like. It just has to be
2 reasonable.

3 The judge is going to charge you on all of the
4 elements. He is going to let you know what it is that the
5 state has to prove happened for you to find my client
6 guilty of each individual charge. And be clear on one
7 very important thing. Guilty on one charge does not mean
8 guilty on another. Not guilty on one charge doesn't mean
9 not guilty on another. Each charge is independent of
10 itself. Because, we have a lot of different charges here.
11 We have five separate and distinct charges. They are all
12 related, because they happened around about the same time.
13 But they are all unique in what it is necessary to prove,
14 and they are all unique as to the evidence that was
15 offered by the state in order to try and prove that. So
16 you have got to look at the trafficking charge on its own.

17 And then the possession charge. Possession with intent
18 to distribute charge, on its own. Threatening the life of
19 a public employee on its own. And then two contributing
20 to the delinquency of a minor charges on their own, but
21 don't forget they are to two different minors. It is not
22 two charges based on contributing to the same minor twice.
23 It is two charges based on two different minors. One, who
24 is just sitting there in the room, and the other who can't
25 seem to keep himself out of trouble.

CLOSING ARGUMENTS BY MR. HOLT

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1 Ladies and gentlemen, I thank you for your time and
2 attention. Again, I told it wouldn't be the last time you
3 heard it yesterday morning, and I am sure you will hear it
4 several more times before we are done today.

5 I thank you for keeping an open mind. I thank you
6 for reviewing the evidence, and considering the evidence
7 and the evidence alone. No assumptions, no guesses, no
8 maybes. Look at the proof as it was established and
9 decide for yourself, is there reasonable doubt.

10 Thank you.

11 **THE COURT:** Mr. Holt.

12 **MR. HOLT:** Thank you very much, judge. May it
13 please the Court?

14 **THE COURT:** Yes, sir.

15 **CLOSING ARGUMENTS BY MR. HOLT**

16 **MR. HOLT:** Mr. Jones, Mr. Grove. Ladies and
17 gentlemen, my name is John Holt. I handed almost all of
18 the witnesses in this case, and I am a very new attorney
19 here with the Solicitor's Office. And Ms. Parker, who was
20 sitting there most of the time is kind of like my boss.
21 She is more like my mentor, but she is definitely my boss.
22 She can tell me what to do. She allowed me to take lead
23 counsel on this. She is not with me now. Today she is
24 downstairs getting ready for another one. And I was very
25 excited to do that.

CLOSING ARGUMENTS BY MR. HOLT

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1 I am going to talk for a little bit. I've got a lot
2 of information in my head. Hundreds of pages, lots of
3 photos, lots of evidence. Undoubtedly I am going to
4 forget something. Undoubtedly, I might ramble on for a
5 minute about some things that I say several times. I
6 might do to a lot of things wrong here today, but what I
7 never want y'all to forget about the entire time I am
8 talking, is that deputy Hopkins found crack cocaine in the
9 defendant's diaper when he was in the ambulance. He found
10 that crack enough weight to be trafficking in front of
11 three witnesses. And every single witness got up there
12 and said what they saw. Okay? And Mr. Grove did a real
13 good job in his closing. But if you think about it, he
14 never once brought that up. He talked about a lot of
15 other things. He said a lot about **Minor** **██████**. And in
16 contributing to the delinquency of a minor, it is very
17 important, and we will talk about that later, but you
18 cannot get around the fact that the crack cocaine was
19 found, and that four people witnessed it. Okay? Never
20 forget that. Never forget that also at the scene that
21 day were two different scales used to weigh drugs, were
22 marijuana, and were bags used to package drugs laying
23 right beside the scales. Don't forget about any of that,
24 and try to concentrate on what else I am going to have to
25 say.

CLOSING ARGUMENTS BY MR. HOLT

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1 Like I say, I have only been a lawyer here a little
2 bit of time, and I have learned a lot. But I think over
3 the last couple of days, y'all have learned a lot about
4 how things really work in the real world too. You have
5 seen the Court reporter and what her job is. My job.
6 Defense counsel's job. The judge presides over the trial
7 to make sure everything is fair. You have seen a lot of
8 that. Okay? Now, all of these people, the Clerk's
9 Office, the sheriff's Office to keep us safe, they spend a
10 lot of time over here. Just like I have. But the beauty
11 of our system is that they do not make the decision.
12 Twelve strangers from the community make it. And if you
13 think about it, all these people have training. All of
14 these people have experience. What do you bring to the
15 table? And I will tell you what you bring. You bring
16 what people outside call common sense. You bring what you
17 have learned over the years. People lie to you. Children
18 lie to you. You see the truth. You hear a story. You
19 know what to believe and what not to believe. You bring
20 that to the table. And when the twelve of y'all go back
21 there and talk about it, you are going to talk about it
22 together, and then you are going to use your common sense
23 together. And I call that collective common sense. Y'all
24 are going to use your collective common sense to go over
25 this evidence. To think about what you heard on that

CLOSING ARGUMENTS BY MR. HOLT

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1 stand, and come to the right conclusion, and I am not
2 worried about that.

3 Now, the defense didn't bring up the drugs. Okay?
4 They brought up the search for this and [Minor] that, and
5 contributing this, and they brought up a lot of things.
6 Okay? They didn't bring that up. All right? But just
7 the little bit of time that I've been here, I have learned
8 a few of their tricks. And the number one thing that they
9 like to do is muddy the waters. And I'll tell you, I
10 wrote down examples of just how he did that. He gave you
11 other possible suspects. [Minor]. He didn't tell you he
12 was a suspect, but he brought up a lot of stuff that is
13 not important. I am going to answer that later in my
14 closing. I just want you to realize that.

15 He talked about Russ Harrell giving false positives
16 on the marijuana test. I think if you remember
17 specifically what Russ Harrell said is, on some of the
18 test it is possible to get a false positive. But when you
19 get down to the last thing, where those little cinnamon
20 sugar powders in it, in the leaves. The only plant that
21 has that is marijuana. And I think you might remember him
22 saying that. Some of y'all may have had a difficult
23 aggravating childhood. I know I did. When I say your
24 collective common sense, some of you might be able to look
25 at this and tell what it is. I know you can definitely

CLOSING ARGUMENTS BY MR. HOLT

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1 smell it through the bag. He talked about things that are
2 less important. Okay? And when I say less important, I
3 don't mean the less important as far as the charge is
4 concerned. What we are really here today about is the
5 trafficking. Nobody doubt that. And I will talk about
6 that later. But he made things that are important sound
7 less important. Like the threats to Officer Lawson.
8 Through your common sense you will know that if a
9 defendant is sitting behind bars, and they are looking at
10 a police officer, and they go, how is your daddy doing?
11 And the police officer says, what are you talking about?
12 And he goes, your daddy that lives at address such and
13 such, and he knew the address. Okay? I don't think there
14 is any other way that can be taken. I don't think a
15 reasonable person is gonna hear that and assume that Mr.
16 Addison was inquiring as to his father's good health and
17 will. I don't think that is really what was going on
18 there. And I think you heard Deputy Lawson say how he
19 took it. I think y'all have enough common sense to see
20 down to that what it really means.

21 Now, Mr. Grove got up here and he also blamed a lot
22 of other people. How can Mr. Addison being contributing
23 to the delinquency of a minor and the minor is already in
24 trouble some? What difference does that make? Okay?
25 What difference does it make in this world if the minor is

CLOSING ARGUMENTS BY MR. HOLT

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1 already a troublemaker, if a twelve or thirteen-year-old,
2 and a sixteen-year-old are in the home of a thirty-two-
3 year-old man, drug paraphernalia is in and around the
4 room. Drugs are in and around the rooms. Drugs are on
5 the juvenile, okay? And the only money in the room is on
6 the defendant. What kind of relationship do you think
7 they all share? What does common sense tell you? Okay?
8 I have never been in a house that is a man's house. I am
9 younger than him, and I am telling him what to do, or we
10 are on equal footing. When you are in a thirty-two-year-
11 old man's house, and you are a thirteen-year-old child, I
12 will tell you who is submissive. Okay? And it ain't the
13 thirty-two-year-old man. That doesn't make common sense.
14 He talked a lot about reasonable doubt, and he said
15 exactly what was true. If the judge tells you anything
16 that is different that is the law.

17 We were here when me and Mr. Grove talked to the
18 judge about what he was going to charge, and he gave me
19 the charge, and allowed me to put it up here.

20 Mr. Perry, if you would put it up here real quick.

21 Mr. Grove is absolutely wrong on the charge. He is
22 not what would be reasonable. You can always think of
23 some crazy excuse. Well, maybe those drugs weren't there?
24 Maybe a gang from Mexico ran up here and put them in there
25 real quick. You know, you can think up crazy stuff. But

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1 let me read this with you real quick, and let me stand out
2 of the way.

3 A reasonable doubt is not an imaginary or a fanciful
4 doubt, or a weak doubt. It is a substantial doubt. It is
5 a doubt with which the words imply. A doubt for which you
6 can give or assign a reason, based on the testimony and
7 the evidence in this case. A reasonable doubt is not any
8 sort of doubt. A reasonable doubt --- you and I know from
9 everyday life experiences that you may have a doubt about
10 any matter that arises, no matter how trivial or serious
11 it may be, and it is not a trivial doubt. It is a
12 reasonable doubt. A substantial doubt.

13 Now, ladies and gentlemen, up until a few minutes ago
14 it was pretty depressing outside. And the weather was not
15 pleasant. And it kind of symbolizes a lot about what this
16 trial has been. You were here all day yesterday. We
17 picked you one day. We went into the grunt of it
18 yesterday. All of those witnesses, all that testimony,
19 and it is kind of usual. The judge wants to insure that
20 your time is not wasted, because the state realizes how
21 important it is. Okay? But still, none of us wanted to
22 be here in this dreary government type building listening
23 to all of this testimony. And it is not the only reason
24 this case was depressing.

25 All right. We saw and heard testimony about what

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1 horrible living conditions were in Mr. Addison's home. We
2 saw and heard how he was shot. We know that he is
3 paralyzed from the waist down. All of these things are
4 very depressing. Okay? But what is most depressing in
5 all of this is the victims that we are never going to hear
6 from, and the ramification of these various crimes later
7 on in life. Those are the drug addicts who are enslaved
8 to the dealers. And the children who weren't heard from
9 at all in this. I tell you, and I hope I am not right,
10 okay, but when we do hear from those juveniles. When
11 those juveniles do have a chance to come into this
12 courtroom and talk, it will be when they are sitting at
13 this table. It will be the consequences and the crimes
14 that occurred to them when they were young, okay? What
15 they know now is the drug gang. Where they are going to
16 be in the future is here. And they are going to be there,
17 because of what you heard Mr. Addison did. Drug
18 parafanalia on the ground. A thirteen-year-old boy in the
19 room. A sixteen-year-old boy already well schooled in the
20 drug gang. Crack in his pocket. Crack he is hiding in
21 the sink. What do you think the thirteen-year-old was
22 witnessing before the police got there. And I am going to
23 bring this up later, but I want you to think about this.
24 You heard Mr. Addison talk about the four-wheeler that was
25 found and he was found guilty of. And the charge in

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1 Magistrate Court that also arose from this. You have a
2 thirty-two-year-old man, you have got marijuana, you have
3 a four-wheeler that he can't ride. You have a play
4 station. Who do you think enjoys those three activities?
5 Young men. Who do you think Mr. Addison is trying to
6 school? Young men.

7 Now, I have lost my place, and I apologize. But I
8 want to --- Mr. Perry if you could get the next screen
9 please.

10 Now, I talked to y'all about what I thought was most
11 important in this case. And at the top I have trafficking
12 in crack cocaine. Okay? That is Mr. Addison's main goal.
13 All right. That is his job. That is what he makes his
14 money at. How is Mr. Addison accomplishing this? Well, I
15 don't need to tell you any more than the other charges
16 tell you. Look at this. Contributing to the delinquency
17 of a minor. All right. How do you think Mr. Addison
18 moves those drugs? Do you think he can take them out in
19 the community? They do. Who do you think does that? Mr.
20 Addison is in a wheelchair, and he really can't leave
21 home. Who does it? The juveniles. How do we know this?
22 Well, you are going to get a copy of this search warrant,
23 and I want you to remember that you heard testimony in
24 here that was elicited on cross from Mike Hall about why
25 they were there that day. Okay? The search warrant will

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1 tell you why they were there. Somebody sold crack out of
2 that house. It is in evidence. That is a fact. Okay?

3 Now, contributing to the delinquency of a minor,
4 thinking about that, I want y'all to understand how the
5 other facts align to this. Possession with intent to
6 distribute marijuana. All right. A thirteen, sixteen-
7 years old. You are at a house where your mom ain't at.
8 You are with a thirty-two-year-old man. You can cuss,
9 smoke, you can drink, you can be a part of the drug gang.
10 You can do everything you want to do, all right. You can
11 even smoke a little bit of weed. There is enough there
12 for everybody to smoke. All right. That is not one
13 person's stash of weed. Nobody has that much weed for
14 personal use. Maybe they were going to sell it. You can
15 certainly imply that. But the common sense of the matter
16 is that weed is the entertainment of young men.

17 Now, receiving stolen goods, we brought that up
18 earlier. Where is the four-wheeler in this? Certainly
19 Mr. Addison can't ride a four-wheeler. The four-wheeler
20 is in the yard, and do you know why? These thirteen-year-
21 old boys think four-wheelers are cool. Mamma never bought
22 me one. But do you know who has a four-wheeler, Mr.
23 Addison. Do you know what Mr. Addison does? He sells
24 drugs. He says if I sell drugs for him one day, I can
25 have that too. He lets me ride it. Can't you just see

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1 the thought process in a child? Your common sense should
2 tell you that.

3 Now, let me get to the other one. What happened when
4 Mr. Addison was caught. Up until most of the day he was
5 calm during the search warrant. All right. He wanted to
6 talk with his sister. You heard testimony about that. He
7 begged them to let his sister change his diaper before he
8 got into that ambulance. I am sure his sister would have
9 changed his diaper and gotten rid of anything that was in
10 there. But when they wouldn't let him do that, he was in
11 the ambulance fighting. They testified. Three EMS
12 workers who are disinterested like yourselves. They have
13 got no dog in this fight. They testified that he was
14 fishing down there. They know that it is a dangerous
15 area. They know that it is a dangerous thing from all the
16 police. They called the police, and the police come
17 search for weapons. All right? You don't have --- you
18 may have a shank in your diaper. You don't know. But if
19 the police patted you down without gloves on in the home,
20 do you think they went digging through his diaper? What
21 is the first thing Rodney Hopkins said he did? I put some
22 gloves on and I looked through the diaper. All right?
23 And that is the most important part of this case. That is
24 the trafficking. All right. What happened when they
25 found that crack cocaine that four people witnessed? And

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1 all four people came up here, disinterested people, and
2 talked about it. But what happened then? Threatening
3 person or family of public employee. That is when it
4 broke loose. That is when his attitude went crazy. That
5 is when he became on the offensive. Now, when you are
6 going to traffic in crack cocaine you have got to supply -
7 -- that is the left side of the triangle, and you have got
8 to handle your business. You have got to keep people in
9 line. You have got to know that you mean business. That
10 is the right side. But I want you to think about where
11 they come together. He has got the minors on the left
12 side, and he is threatening you on the right side. And
13 once again, we are talking about why he is in that
14 wheelchair. All right? Who did he say was going to come
15 and get him? He told Officer Hopkins, and I've got this.
16 If you would go to the next screen, Mr. Perry. After
17 finding crack in front of three witnesses, he asked
18 officer --- the defendant asked Rodney Hopkins, you have a
19 lot of co-workers on the force don't you? Now, he has
20 already been ugly to everybody. You heard about that.
21 All right? But then later he asks, I guess I need to
22 release the boys tonight and let them have some fun. Let
23 them do what is needed. All right. He wasn't going to
24 get out there himself. He wasn't going to get out there
25 in a wheelchair and drive by and shoot somebody. But do

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1 you know who was going to do it? One of those kids that
2 he supplies with drugs. One of those kids that he let
3 ride that four-wheeler. One of those kids hanging out in
4 his house playing play station, because that child's
5 parents aren't there. They are already in trouble. So
6 who is schooling them? He is taking advantage of the fact
7 that those children don't have anybody. And he is giving
8 them something to do. All right? Never forget that. But
9 it comes at a price. Okay? You are going to do his
10 business. He is sending the boys out tonight. He didn't
11 say my friends, my men, he is sending the boys out
12 tonight. And Mr. Perry, if you would go to the next
13 screen please. All right.

14 And before I go to that, I remember what else was
15 testified to. When he was in the back of that ambulance
16 what did he say? Okay? He said, I'm going to get the
17 snitch who did this. I'm going to get the snitch. Don't
18 forget about that. There were more than just drugs found.
19 If you just find drugs on Mr. Addison, it is still the
20 most persuasive information in this case. But it is not
21 the only information. What else was found in that house?
22 Drugs on his person. Drugs found in his house, some
23 marijuana. Scales found on the floor. Bags found on the
24 floor. Another scale found in his closet. And what is
25 most important here is that it is in the entrance to the

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1 attic. All right. Can he get up there? No. Do you know
2 who could get up there? A thirteen-year-old child, in the
3 middle of a drug deal. Send a sixteen-year-old running
4 out with the crack. Send the thirteen-year-old up into
5 the attic. But before you know it the police are there.

6 Mr. Perry, if you can go to the next one please.

7 Why were the police there to begin with? I think you
8 will see that again. They tried to trip officer Hall up
9 on cross. It backfired on them. He told you why he was
10 there. Okay? This was a CI buy. So you know drugs were
11 moving in and out of their house. They are not there
12 picking on Mr. Addison. Okay?

13 Brad Lawson told you that the purpose of the drug
14 team was to learn and gather information on the drug gang
15 in Darlington County. All right. They go where the
16 evidence takes them. Mr. Addison is a sad figure in this
17 chair. But they can no more pick the people that they go
18 after that deals drugs, than I can pick my cases, or you
19 pick to be on this jury. This is just things that we live
20 with, because that is the way they are. And as adults
21 with common sense, you know that. All right. They went
22 there because the drugs were there, and no other reason.
23 The drugs are there on all of these other places. The
24 defense counsel wants you to forget about all of that.
25 The defense counsel wants you to concentrate on a sixteen-

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1 year-old mastermind, and his thirteen-year-old accomplice,
2 who were the juveniles in the home of a thirty-two-year-
3 old man, who undoubtedly were the masterminds behind it.
4 Mr. Perry, if you can go to the next screen. I believe
5 that might well be the last screen.

6 All right. I am not going to take up too much more
7 of your time. But one of the things defense counsel
8 normally does is talk about all the evidence that is
9 lacking, and I think we need to talk about that. And I
10 think they tried to trip you up with some of their photos
11 on the house, the front door, the left door. I think
12 Officer Baird even testified to, well we knew the about
13 door, because we had been in the house, and they got stuck
14 with that. There were pictures of the marijuana found
15 inside the heater. Pictures of crack found underneath the
16 sink.

17 Ladies and gentlemen, there is also some pretty
18 boring evidence in this case. And most jurors don't like
19 this, because of some legal reasons we have to get in.
20 Chemical testing of marijuana. Deputy Harrell testified
21 that you --- that false positives do exist, but they are
22 correct. You don't send a report up if it is a false
23 positive, because of the brown sugar cinnamon stuff in the
24 leaves. It is the last failsafe. You have the drug test
25 from Ms. Stanley. Ms. Stanley is from SLED. She is a

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1 great --- she was a great witness. She talked much about
2 how the crack came to her. How the crack was possessed.
3 And you saw this crack. Okay? You saw how it was
4 possessed. It was found in a bag. The police put it in a
5 bag. And the police sent it to SLED. And they seal it up
6 so that it can't be messed with. She can look at this and
7 know what it is. And she can look at this and know what
8 it is. You can look here and see what the crack history
9 with SLED, as well as the test that proved what it is.

10 You have the chain of custody, which starts with
11 Rodney Hopkins. He gives it to Russ Harrell. Russ
12 Harrell walked up right behind him, and what did Russ
13 Harrell say? On top of the three witnesses and Rodney who
14 found the crack, Russ Harrell goes, I walked up behind
15 him, because I heard the commotion, which is exactly what
16 they described. And he said Rodney turned around and
17 handed me hot sweaty bags with crack in it. Okay? Do you
18 know what would make it hot and sweaty? Being stuffed
19 inside of your diaper. All right. Russ gives it to Brad.
20 Brad goes and does the Best Kit, which is this blue thing
21 here that the Sheriff's Office does their self. Brad
22 gives it back to Russ in the evidence room, and Russ
23 drives it up to SLED. SLED tests it. Sends it back in a
24 heat sealed envelope, with the case number on it. Russ
25 brings it up here to me. I show it to y'all. That is the

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1 people that have touched these drugs. And that is only
2 because testing drugs is such an expensive thing that the
3 state bears the burden and sends it up to SLED. Here is a
4 copy of that. Okay? There is the evidence, ladies and
5 gentlemen. The most persuasive evidence outside the drugs
6 being found on his person. The fact that he has two
7 digital scales. One hidden in the attic, not by himself.
8 And the other on the floor with the sandwich bags in a
9 room with a thirteen-year-old child. What are you doing,
10 if you are not contributing to the delinquency of a
11 juvenile. The judge is going to charge you on that law,
12 and you decide for yourselves. I just want you to use
13 common sense. The marijuana found in the water heater.
14 This ain't one man's marijuana. He can't even get to it
15 from where he's at. Hey, kid why don't you run and go get
16 the weed and we'll all go get high. Why is a thirteen-
17 year-old, sixteen-year-old there, outside of mom's house
18 with a grown man who is cool, until they are out on the
19 street selling drugs.

20 Let's talk about what [Minor] did. Let's do the
21 math. Okay? Asked Mike Hall, do you have a lot of
22 dealings with [Minor] in Darlington County? Yeah. What
23 did Mike Hall say? I do. I had a lot of dealings with
24 him at age sixteen to.

25 Now, I am saying that on May 21, 2008, Marcus Addison

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1 contributed to his delinquency. But I ain't saying he
2 didn't do it earlier. They grew up right around each
3 other. Y'all think about stuff like that. Don't let them
4 confuse you with what is not there.

5 Now, I have just two or three more points that I
6 don't want to forget, and I've got them written down, and
7 I'll be out of y'all's way. Don't ever forget that Marcus
8 had the money on him. When walked in the house, Minor
9 had some drugs on him. He ain't had no money. Don't you
10 think that a drug dealer walking on the street, all over
11 Hartsville like they say he was, would have drugs in his
12 pocket, and money from selling these drugs in his pocket,
13 or just drugs, what kind of business would that be in just
14 to have a supply? I tell you what, he wouldn't have more
15 money on him, and that is when he is buying some. That is
16 when he is giving the money to his boss. That is when he
17 is doing what they call re-upping. Getting more drugs.
18 Turning the money in. But do you know who did have money
19 on him? Marcus Addison had over four hundred dollars in
20 cash on him. Four hundred dollars in cash in his pocket,
21 close to a little bit over ten grams of crack in his
22 diaper. All right? Y'all can think about all of that.
23 And don't get bogged down.

24 Defense counsel brought up a lot about the searching,
25 and let me tell you why they did that. Okay? Because

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1 they want to plant this little seed in your head that
2 people searched a whole bunch, and maybe those drugs got
3 there from somewhere else. All right. He never came out
4 and said it. Do you know why? Because, when those words
5 come out of your mouth, you sound dumb for a second. All
6 right. The police rolled up in the house. They padded
7 him down on top of his pants, on top of his diaper to make
8 sure there wasn't a gun. They felt a bulge. It was a
9 pile of money. They took it out. Money from drug sales,
10 come to find to it later, probably what it was. Then they
11 lifted him up on the wheelchair. Do you know why they
12 didn't go through his diaper then? Because they didn't
13 have no gloves on. Do you think it is any mistake in the
14 world why the first part of Rodney Hopkins' search
15 statement is, I got to get some gloves. Okay? Because,
16 you don't go digging through another man's diaper without
17 gloves on. Don't forget who had the money, the thirty-
18 two-year-old. Don't forget who had the drugs. The
19 sixteen-year-old. Don't forget who was in the room with
20 the drug paraphernalia, a thirteen-year-old.

21 Now, I think that's it folks. I hope y'all will make
22 the right decision. I hope you have listened to all of
23 the evidence. I hope I haven't aggravated you in the way
24 that I have brought it up here. I certainly didn't mean
25 to. I do get a little passionate about these cases when

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1 you deal with them for a few months on in, and they have
2 looked at everything.

3 Undoubtedly, when I sit down I will remember three
4 things that I wanted to tell you. But, it is kind of like
5 my time. I need to sit down. And the judge is going to
6 charge you the law now. When you go back there I hope you
7 discuss it reasonably. And I hope you use your good
8 common sense. Don't forget about the boys in this.

9 Thank you very much.

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10
11 **THE COURT:** All right. Mr. Foreman and ladies and
12 gentlemen of the jury, if you would give me your
13 attention.

14 You have followed very patiently and listened very
15 attentively to the presentation of the evidence in this
16 case. And also to the able arguments made by the
17 Solicitor, Mr. Holt on behalf of the state, and Mr. Grove,
18 on behalf of the defendant, and I thank you for that.

19 It now becomes the duty of the trial judge under the
20 constitution of this state to charge and instruct you in
21 the law applicable to this case. And it is your duty as
22 jurors to accept and apply the law as the Court will now
23 state it to you.

24 And as Jurors, it is your exclusive duty to decide
25 all of the issues of fact in this case. And for that

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1 purpose, to determine the effect, the value, the weight,
2 and the truth of the evidence. Both the State and the
3 Defendant have the right to expect that you will
4 consciously consider and evaluate the evidence, and apply
5 the law of the case thereto, to the end that both the
6 State of South Carolina and the Defendant will receive and
7 obtain, a fair and impartial trial.

8 Now, when I use the word Defendant, I refer of
9 course, to Mr. Marcus Addison. The State of South
10 Carolina, by the various Bills of Indictment in this case,
11 charge the Mr. Addison with five separate offenses.

12 One, in Indictment Number 1502, is the offense of
13 trafficking in ice, crack or crack cocaine --- crank or
14 crack cocaine.

15 Indictment Number 1503 charges that the defendant
16 with possession with intent to distribute marijuana.

17 Indictment Number 1500 charges Mr. Addison with
18 threatening the life of a public employee.

19 And Indictment Number 1504 and 1505 charge Mr.
20 Addison with the contributing to the delinquency of a
21 minor.

22 All of these offenses are alleged to have occurred in
23 Darlington County on May 21, 2008.

24 Now to these charges and to these the Indictments the
25 Defendant has entered a plea of not guilty. This plea of

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1 not guilty by the defendant places the burden of proof on
2 the State, to prove by evidence which satisfies you the
3 guilt of the Defendant, beyond a reasonable doubt, before
4 you can convict the Defendant and find him guilty. The
5 Defendant, Mr. Addison is presumed in the law, innocent of
6 the charges contained in these Indictments.

7 It is a cardinal and fundamental rule of the law of
8 evidence that a Defendant, irrespective of the enormity of
9 the charges against him, will always be presumed innocent
10 of the crime or crimes for which he is indicted, unless
11 and until the guilt of the Defendant has been proven by
12 evidence which satisfies you the Jury, of his guilt beyond
13 a reasonable doubt.

14 The presumption of innocence is not a mere legal
15 theory. It is not just a legal phrase. The presumption
16 of innocence is a substantial right to which every accused
17 is entitled.

18 Our Supreme Court has declared that the presumption
19 of innocence is like a robe of righteousness placed about
20 the shoulders of a Defendant, and it remains with him and
21 assigns to him that class, the innocent, until that
22 presumptive robe of righteousness has been stripped from
23 his person by evidence, satisfying you the Jury, of the
24 guilt of the Defendant beyond a reasonable doubt.

25 The presumption of innocence accompanies the

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1 Defendant from the time of his arraignment and appearance
2 in this Court, and continues with the Defendant after you
3 retire to your jury room to deliberate your verdict.

4 The presumption of innocence continues in existence
5 to the benefit of the Defendant, until you the Jury, reach
6 the conclusion that the State has proved the guilt of the
7 Defendant beyond a reasonable doubt.

8 Now, what is a reasonable doubt? It is not an
9 imaginary or fanciful doubt, or a weak doubt. It is a
10 substantial doubt. It is a doubt which the words imply, a
11 doubt for which you can give or assign a reason based on
12 the testimony and evidence in this case.

13 A reasonable doubt is not any sort of a doubt. You
14 and I know from everyday life experiences that you may
15 have a sort of doubt about any matter that arises, no
16 matter how trivial it may be, or how serious it may be. A
17 reasonable doubt is a doubt which makes an honest,
18 sincere, conscious Juror in search of the truth, hesitate
19 to act.

20 Proof beyond a reasonable doubt is proof which leaves
21 you firmly convinced of the Defendant's guilt. If you
22 have a doubt for which you can give or assign a reason as
23 to the guilt of the Defendant, then he is entitled of a
24 verdict of not guilty.

25 Reasonable doubt may arise from evidence that is in

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1 the case, or from the lack of evidence in the case. You
2 the Jury, must make the determination of whether or not a
3 reasonable doubt exist as to the guilt of the Defendant.

4 The very fact however that the Jury engages in a full
5 and free discussion on the issue guilty or non guilty in
6 the case, with the normal conversational ebb and flow on
7 these issues, does not automatically mean that reasonable
8 doubt exist in this case, or in any other case.

9 The state is not required to prove the guilt of the
10 defendant beyond all doubt, or beyond every doubt, but
11 beyond a reasonable doubt.

12 I charge you that the Defendant is entitled to every
13 reasonable doubt arising in the whole case, or arising in
14 any defenses asserted by the Defendant. If, upon any
15 issue of fact, essential to conviction and a verdict of
16 guilty, you have a reasonable doubt as to how that doubt
17 would be resolved, it would your duty to resolve that
18 doubt in favor of the Defendant. On the other hand, if
19 you do not have any doubt, or do not have a reasonable
20 doubt as to the guilt of the defendant, it would equally
21 be your duty to return a verdict of guilty.

22 A Defendant, ladies and gentlemen, is not required to
23 prove his innocence. But the State is required by law to
24 prove every essential element of the offenses charged
25 against the Defendant by evidence which satisfies you the

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1 Jury, of the guilt of the Defendant beyond a reasonable
2 doubt, before you can convict him and find him guilty.

3 If then upon the whole case you have a reasonable
4 doubt as to guilt or innocence of the Defendant on any
5 charge, he is entitled to that reasonable doubt, and would
6 be entitled to an acquittal and a verdict of not guilty.

7 But on the other hand, if upon the whole case you
8 find that the State has proven by the evidence which
9 satisfies you the jury, of the guilt of the Defendant on
10 each and every charge or on any charge then --- and has
11 proven his guilt beyond a reasonable doubt, then in such
12 circumstances it would equally be your duty to convict the
13 Defendant and find him guilty.

14 Now, I instruct you that the Indictments in this case
15 which I hold in my hand are not evidence. They are simply
16 the written charges --- the formal written instruments,
17 which bring the case to trial.

18 During this trial, ladies and gentlemen, each of you,
19 you and I have certain duties to perform. As the trial
20 judge, it is my responsibility to preside over the trial
21 of this case. And I also have the duty to rule upon or
22 pass upon the admissibility of the evidence offered during
23 the progress of this trial.

24 You are to consider only the competent evidence
25 before you, and you are to disregard and disabuse from

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1 your mind any testimony ordered stricken from the record
2 of this case, if there be any, and you are to consider
3 only the testimony which has been presented from the
4 witness stand, as well as any exhibits admitted into the
5 record of this case, and any stipulations of counsel made
6 into the record; if there be any.

7 I have the additional duty to charge you the
8 applicable law in this case. As the presiding Judge, I am
9 the sole judge of the law. And it is your duty to accept
10 and apply the law as I now state it to you.

11 If you have a preconceived idea as to what the law
12 is, or what the law ought to be, and it does not agree
13 with what I tell you the law is, you are obligated under
14 your oath to abandoned this preconception on your part,
15 because you are sworn to accept the law precisely as I
16 state it to you.

17 In every case tried in this Court before a Jury, the
18 Jury becomes the sole and exclusive judge of the facts.
19 You the jury, are the judge of the facts in this case.
20 The Court is the judge of the law.

21 The Constitution of this State has declared that the
22 trial Judge should not intimate, state, comment upon, or
23 make any statement to a trial Jury about the facts in the
24 case.

25 Since you are the sole judges of the facts, you are

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1 not to infer from anything that I have said during the
2 progress of this trial, in ruling upon the admissibility
3 of evidence or otherwise, or anything that I say to you
4 now during the course of instructions to you, that I have
5 any opinion about the facts of this case. I do not. The
6 law does not permit me to have an opinion about the facts
7 in the case. This is a matter solely for you the Jury, to
8 determine.

9 As Jurors then, it is your duty to determine, as I
10 have stated to you, the effect, the value, the weight, and
11 the truth of the evidence presented during the course of
12 this trial. Necessarily then, you must assess the
13 credibility of the witnesses who have testified in this
14 case.

15 Credibility is simply a legalistic term which means,
16 believability. It becomes your duty to analyze and
17 evaluate the evidence, and to determine that evidence
18 which convinces you of its truth.

19 I charge you that in determining the questions of
20 credibility or believability of the witnesses, you may
21 believe one witness as against several witnesses, or
22 several witnesses as against one witness. You may believe
23 a part of the testimony of a witness, and reject the
24 remaining part of the testimony of that same witness. You
25 may believe the testimony of a witness in its entirety, or

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1 reject the testimony of a witness in its entirety. You
2 may consider whether any witness has exhibited any
3 interest, any bias, or any prejudice in the case.

4 And you may consider the demeanor of a witness that
5 is the appearance of the witness on the witness stand.
6 And finally, you may consider the opportunity for
7 knowledge concerning those things about which a witness
8 testified. These considerations, you do not exercise
9 arbitrarily, but if in your good judgment there is sound
10 reason in the record for so doing. Because your objective
11 ladies and gentlemen, is to find the truth, whether it
12 comes from a witness or witnesses from the State of South
13 Carolina, or a witness or witnesses for the Defendant.
14 And in doing so, in exercising your mental processes, and
15 in determining what you consider to be true, the law
16 simply requires that you exercise your good judgment, your
17 common sense, your sense of logic and reason, and your
18 experiences in life. You then apply these attributes of
19 ability to the evidence, and determine what you consider
20 to be the truthful evidence. And to these true state of
21 facts as determined by you the Jury, you take and apply
22 the law as I will now state it to you, and thus arrive at
23 a verdict in this case.

24 Now as I say, the Defendant is charged in a number of
25 Indictments, and I am going to charged you on the law on

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1 each one of those, and first I will charge you with regard
2 to the charge in Indictment Number 08-1502, which is the
3 charge of trafficking in ice, crank, or crack, ten grams
4 or more, but less than twenty-eight grams.

5 Section 44-53-375(c) of the South Carolina Code of
6 Law reads: A person who knowingly sells, manufactures,
7 delivers, purchases, or brings into this State, or who
8 provides financial assistance or otherwise aids, abets,
9 attempts, or conspires to sell, manufacture, deliver,
10 purchase, or bring into this State, or who is knowingly in
11 actual or constructive possession, or who knowingly
12 attempts to become in actual or constructive possession of
13 ten grams or more of cocaine base, commonly referred to as
14 crack, is guilty of a crime which is known as trafficking
15 in cocaine base.

16 There are three elements of the offense of
17 trafficking in crack cocaine that the state must prove
18 beyond a reasonable doubt.

19 First. That the substance involved was in fact crack
20 cocaine.

21 Second. That the defendant has possession of the
22 crack cocaine either actual possession, or constructive
23 possession. And we will talk about those in just a few
24 minutes.

25 And third, that there were in fact ten grams or more

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1 of crack cocaine involved.

2 Section 44-53-210(b) (4) of the Code of Laws provides
3 that cocaine in any form is a controlled substance under
4 the law of South Carolina.

5 Section 44-53-110 states: Cocaine base means, an
6 alkaloidal cocaine or freebase form of cocaine, which in
7 the end product of a chemical alteration, whereby the
8 cocaine in soft form is converted in a form suitable for
9 smoking. Cocaine base is commonly referred to as rock or
10 crack cocaine. The substance must be crack cocaine. The
11 defendant must have actual or constructive possession of
12 the crack cocaine. And the amount involved must be ten
13 grams or more of crack.

14 First of all the state must prove the substance
15 involved is crack cocaine. The state must further prove
16 the defendant has actual or constructive possession of the
17 crack cocaine.

18 What does possession of crack, or possession of any
19 drug mean under the law? And I am going to phrase these
20 instructions as to what possession means, but the same
21 definitions will apply when I get to talking about the
22 marijuana, and I am not going to repeat what is meant with
23 regard to actual and constructive possession of marijuana.
24 The same principles apply.

25 But as I said, what does possession of a drug mean

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1 under the law. The law says, cocaine or marijuana in any
2 form is a controlled substance. Possession means more
3 than simply having a controlled substance in ones
4 possession. There must be knowing possession. The state
5 must prove possession of the drug by the defendant, and
6 the further fact that the defendant knew that he had
7 either crack or marijuana in his possession.

8 The state must demonstrate beyond a reasonable doubt,
9 that the defendant was in possession of the crack or the
10 marijuana, and that he knew that he had it in his
11 possession, and that he knew that the item was a
12 controlled substance under the law of South Carolina.

13 The state is not required to show the purpose for
14 which the defendant may have had possession of the drug.
15 This is not a part of the state's required degree of
16 proof. The state must show beyond a reasonable doubt that
17 there was possession of either crack or marijuana, and
18 that the defendant knew that he had the crack or marijuana
19 in his possession.

20 Now, there are two kinds of possession recognized in
21 the law of this state, actual possession and constructive
22 possession.

23 Actual possession occurs when the controlled
24 substance is found to be in the actual physical custody of
25 the person charged with the possession.

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1 Constructive possession is when a person has dominion
2 or control, or the right to exercise dominion and control
3 over either the object or the premises upon which the
4 object is located.

5 Possession may be inferred from the circumstances,
6 and may be imputed to anyone who has the power and intent
7 to control the disposition and use of the object. In
8 other words, possession of an object, or premises gives
9 rise to an inference that the person charged has both the
10 power and intent to control the use and disposition of the
11 object.

12 Actual knowledge of the presence of the controlled
13 substance is strong evidence of intent to control the
14 disposition or use.

15 Now, mere presence of a person in an area where an
16 object is found is not enough in and of itself to give
17 rise to the necessary inference. Truthful possession
18 requires more than proof of mere presence at the place
19 where the controlled substance is found. The state must
20 prove that the defendant had both the power, that is the
21 actual or constructive control, and the intent to control
22 its disposition or use.

23 Now, constructive control may be established by
24 circumstantial evidence, as well as by direct evidence.
25 And constructive control may be jointly shared by two or

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1 more individuals. Because actual knowledge of the
2 presence of the controlled substance is strong evidence of
3 intent to control its disposition or use. That knowledge
4 may be equated or substituted for the intent element. But
5 as I said, the mere presence of a defendant where the
6 controlled substance is found, or the mere association of
7 a defendant with people who possess the controlled
8 substance is insufficient proof that the defendant himself
9 possessed the control substance. Possession requires
10 more than mere presence.

11 So in summary, before you can find the defendant
12 guilty of, and we will talk right now of crack cocaine,
13 the state must prove the following elements beyond a
14 reasonable doubt.

15 First. That the substance was in fact, crack
16 cocaine, a controlled substance under the law of South
17 Carolina.

18 Second. That the defendant had possession of the
19 controlled substance, actual or constructive possession.

20 And third. The amount of the controlled substance
21 was ten grams or more of crack cocaine.

22 Now, the defendant in this case is also charged with
23 possession with intent to distribute marijuana. Section
24 44-53-370(a)(1) of the South Carolina Law provides that
25 except as authorized by this article, it shall be unlawful

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1 for any person to possess with intent to distribute a
2 controlled substance. There are three elements of the
3 offense of the possession of marijuana with intent to
4 distribute that the state must prove beyond a reasonable
5 doubt.

6 First. That the substance involved was in fact
7 marijuana.

8 Second. That the defendant had possession of the
9 marijuana, either actual possession or constructive
10 possession.

11 And third. That the defendant possessed the
12 marijuana with the intent to distribute.

13 Section 44-53-190(d) of the South Carolina Code
14 provides that marijuana is a controlled substance under
15 the law of this state.

16 And Section 44-53-110 of the Code defines marijuana
17 as all species of variety of marijuana plant, and all
18 parts thereof whether growing or not.

19 So the substance must be marijuana. The defendant
20 must have actual or constructive possession of the
21 marijuana. And the defendant must possess the marijuana
22 with intent to distribute.

23 So the first element that the state has to prove is
24 that it is in fact marijuana.

25 The second element that it must prove is that the

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1 defendant had actual or constructive possession of the
2 marijuana, and I have already defined for you in
3 connection with the crack what the two types of possession
4 are that are recognized in the law. That is actual
5 possession and constructive possession.

6 And finally, the state must prove that the defendant
7 possessed the marijuana with the intent to distribute.
8 Under this charge the state is not required to prove
9 distribution or sales. The state is only required to show
10 an intent to distribute.

11 What then is an intent in the law? Criminal intent
12 is a state of mind which operates jointly with the act or
13 omission in the commission of a crime. Criminal intent is
14 a mental state of conscious wrongdoing. Criminal
15 intent includes those consequences which first represent
16 the very purpose for which the act is done, or second are
17 known to substantially certain to result regardless of
18 one's desire. Intent may be shown by acts and conduct of
19 the Defendant, and circumstances from which you may
20 naturally and reasonably infer intent.

21
22 Now, Section 44-53-110 of the Code defines distribute
23 as meaning to deliver a controlled substance. It means
24 actual or constructive transfer of the controlled
25 substance with or without payment.

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1 Deliver or delivery means, the actual constructive or
2 attempted transfer of the controlled drug.

3 Now in summary, before you can find the defendant
4 guilty of possession of marijuana with intent to
5 distribute, the state must prove that the substance was
6 marijuana. That the defendant had possession of the
7 marijuana, either actual or constructive. And the
8 defendant possessed the marijuana with intent to
9 distribute.

10 I would tell you that there is further provision in
11 the law regarding the possession with intent to distribute
12 marijuana. Another Section of the Code, Section 44-53-
13 370(d)(4), creates a permissive inference that possession
14 of more than twenty-eight grams, or one ounce of marijuana
15 constitutes possession of marijuana, with intent to
16 distribute. Thus, this Code Section provides that
17 possession of more than twenty-eight grams, or one ounce
18 of marijuana, gives rise to a permissive inference that
19 the defendant possessed the marijuana with the intent to
20 distribute. The inference of a violation of the law by
21 possession of more than twenty-eight grams, or one ounce
22 of marijuana may be drawn from the proof of the quantity
23 of the drug. The resulting implication only permits you,
24 rather than requires the jury to infer a violation of the
25 law. This is another piece of evidence for you to

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1 consider and evaluate. This permissive inference does not
2 relieve the state from actually proving beyond a
3 reasonable doubt the element of intent to distribute. The
4 permissive inference is of an evidentiary nature for you
5 to consider with the other evidence in this case.

6 Now ladies and gentlemen, that takes care of the two
7 charges against this defendant for drugs. Now I want to
8 talk with you for a few minutes about the charges of
9 contributing to the delinquency of a minor, which are
10 contained in Indictments Number 1504, and 1505.

11 Section 16-17-490 of the Code of Laws of South
12 Carolina provides that it shall be unlawful for any person
13 over eighteen years of age to knowing and willfully
14 encourage, aide, or cause to do any act, which shall cause
15 or influence a minor --

16 One. To violate any law or municipal ordinance.

17 Next. To engage in any occupation which is a
18 violation of the law.

19 Next. To associate with the immoral or vicious
20 persons.

21 Next. To frequent any place the existence of which
22 is a violation of the law.

23 And next. To so deport himself or herself as to
24 wilfully injure or endanger his morals or health, or the
25 morals or health of others. Any person violating the

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1 provisions of this section shall be guilty of a crime in
2 South Carolina. And that charge would apply with regard
3 to Indictments Number 1504, where the state alleges that
4 there was a contributing to the delinquency of the minor
5 Minor [REDACTED], and with regard to Indictment 1505, where
6 the state alleges that on this date, again May 21, 2008,
7 the defendant was contributing to the delinquency of a
8 minor Minor #2 [REDACTED].

9 And then finally, as far as the crimes that are
10 involved here, is Indictment Number 1500, and that is the
11 Indictment for threatening the life of a public employee.
12 In section 16-3-1040(b) of the South Carolina Code
13 provides that it is unlawful for a person to knowingly and
14 wilfully to deliver or to convey to a public employee, a
15 letter or paper, writing, print, missive document, or
16 electronic communication, or verbal, or electronic
17 communication which contains the threat to take the life
18 of, or inflict bodily harm upon the public employee or
19 members of the immediate family, if the threat is directly
20 related to the public employees official responsibilities.
21 And that is the code section governing threatening the
22 life of a public employee, and makes it a crime in this
23 state.

24 Now, ladies and gentlemen, there are generally two
25 types of evidence that are considered in a case. Those

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1 are direct and circumstantial evidence.

2 Direct evidence, and let me just define what direct
3 evidence for you is. Direct evidence is the testimony of
4 a witness or a person who asserts or claims to have actual
5 knowledge of a fact, such as an eye witness.

6 Circumstantial evidence is proof of a chain of facts
7 and circumstances indicating the existence of a fact. The
8 law makes absolutely no distinction between the weight or
9 value to be given to either direct or circumstantial
10 evidence, nor is a greater degree of certainty required of
11 circumstantial evidence than of direct evidence. You
12 should weigh all of the evidence in this case. After
13 weighing all of the evidence, if you are not convinced of
14 the guilt of the defendant beyond a reasonable doubt, you
15 will find him not guilty. On the other hand, if you are
16 convinced of the guilt of the defendant beyond a
17 reasonable doubt, you would find him guilty.

18 Let me just give you a very simple example of what
19 circumstantial evidence is. Let's suppose that I go to
20 bed one night and it is not snowing. I sleep all night
21 long, and I don't wake up, and I get up the next morning
22 and there is snow on the ground. That would be
23 circumstantial evidence that it snowed last night.

24 On the other hand, if during the course of the night
25 I got up and looked out the window and saw it showing,

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1 that would be direct evidence that it had snowed during
2 the night. So that is a very simple example of the
3 difference between circumstantial and direct evidence.

4 Now one other thing, is that there has been some
5 expert testimony in this case, and I would tell you that
6 all the lay witnesses are limiting to testifying about
7 facts within their knowledge, and are not allowed to give
8 opinions. Certain witnesses who by their training,
9 education, or experience are considered experts in a
10 particular field, may give their opinions in that field,
11 based upon the facts of the matter, and their conclusions.
12 These opinions constitute evidence to be considered by you
13 in connection with all of the other testimony and evidence
14 in the case. And you may consider the expert's opinion
15 just as you do all other evidence in this case. The
16 testimony of experts are to aid and assist you as jurors,
17 not to dominate or control you in your decision on the
18 questions of fact. Their opinions an deductions from the
19 evidence before you, and their judgment or opinion is not
20 precluded by yours. You are required to decide disputed
21 questions after comparison and consideration of all the
22 evidence in this case. You should consider expert
23 opinions in evidence in this case, and give it such weight
24 as you feel that it deserves.

25 Now ladies and gentlemen, I have just about finished

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1 my instructions to you, and I want to tell you that it has
2 been said that when you serve on a jury, you are not
3 patricians or advocates for the state of South Carolina,
4 or for this defendant. You have no friends to reward, and
5 no enemies to punish. Obviously, such a perverted system
6 of justice would be intolerable. You have been selected
7 by both the State and this Defendant as fair and impartial
8 jurors. It is your duty then by your joint deliberations,
9 to determine the truth in this case. Giving to the
10 Defendant the benefit of every reasonable doubt on each
11 and every issue, and then to the facts which you determine
12 to be true, you then take and apply the law which has been
13 given to you by this Court, and thus arrive at a verdict
14 that speaks the truth. Because the word verdict ladies
15 and gentlemen, has a Latin derivative, it comes from the
16 Latin veredictum, and it means to speak the truth. And
17 when you have done that, you will have accomplished your
18 responsibilities, you will have satisfied your oath as
19 Jurors, and you will have discharged your duty to this
20 Court.

21 Now, Mr. Foreman, I want to instruct you on the forms
22 of verdict in this case, and ladies and gentlemen, if the
23 state has failed to prove the guilt of the defendant
24 beyond a reasonable doubt on any charge, your verdict
25 would be two words, not guilty. If the state has proven

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1 the guilt of the defendant beyond a reasonable doubt on
2 any charge, your verdict would be one word, guilty.

3 Now the verdict that you render in this case must be
4 the verdict of each and every juror. It must be your
5 unanimous verdict. All twelve jurors must agree on the
6 verdict which you authorize the foreman to write.

7 Now, Mr. Foreman, I have prepared five verdict forms
8 for your use. One for each Indictment. And written on
9 this form is a --- the word verdict form. The sequence
10 which I have stated, the possible verdicts on this form
11 have absolutely no significance whatsoever. You should
12 not assume from the order in which I have put the possible
13 verdicts on here, that I have any opinion as to what your
14 verdict should be. I do not. The law does not allow me
15 to have an opinion. But, obviously when putting something
16 down on paper I had to put something first, and put
17 something second. But on this case, and the one I
18 happened to have in my hand, is the --- The first one I
19 have here is, and you can consider them in whatever order
20 you want, but each one should be considered separately.

21 In Indictment Number 1502, across the top, and all of
22 them are the same except for the offenses charged. Across
23 the top, the state of South Carolina, County of
24 Darlington, State of South Carolina, the defendant's name,
25 and then of course the Court, and the Indictment number,

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1 and then the verdict form.

2 We the jury, by unanimous agreement, find the
3 defendant Marcus Addison, either guilty of trafficking in
4 ice, crack, crack cocaine, ten grams or more, but less
5 than twenty-five grams, guilty or not guilty. And you
6 would simply put a check or a "X" mark by the one that is
7 your decision. Sign it, date it, and do that on each one
8 of the verdict forms, or each Indictment. So there is a
9 separate verdict form for the trafficking and trafficking
10 charge of crack cocaine. For the possession with intent
11 for marijuana. For the contributing to the delinquency of
12 a minor, [Minor] [REDACTED]. For contributing to the
13 delinquency of a minor [Minor #2]. And for guilty or not
14 guilty of threatening a public official, with Agent Brad
15 Lawson. Those would be the five verdict forms that you
16 have.

17 Now, I am going to send you to your jury room, and I
18 am going to ask that you not begin your deliberations just
19 yet. The law does require that I take up certain matters
20 with the attorneys in this case. And if it is not
21 necessary for me to bring you back into the courtroom for
22 additional instructions, the bailiffs will bring you the
23 verdict forms, we will bring you the exhibits, and we will
24 instruct you when to begin your deliberations. And when
25 you have reached a verdict, if you will simply knock on

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1 the door, and we will return you to the courtroom as
2 quickly as possible. So, I am with the exception of the
3 alternate, I am going to ask you to sit there. But, with
4 regard to the twelve principal members of the jury, I am
5 going to ask you to go to your jury room, but please don't
6 begin your discussions just yet.

7 Thank you.

8 (Whereupon, the jury exits the courtroom at
9 11:05a.m..)

10 **THE COURT:** Any additions or exceptions on behalf
11 of the state, Mr. Holt?

12 **MR. HOLT:** There are none from the state, Your
13 Honor.

14 **THE COURT:** On behalf of the defense?

15 **MR. GROVE:** There are none, Your Honor. Just
16 perhaps just a very brief review again of the evidence in
17 this case.

18 **THE COURT:** All right. Y'all look at the evidence.
19 Make sure the right things that are going to the jury are
20 all in evidence. And, in the mean time I want to address
21 the alternate in this case.

22 The law does not allow me to have but twelve jurors.
23 And the purpose of having an alternate is in the event
24 that someone gets sick or is unable to serve. But
25 everybody has remained health, and so you have heard all

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1 the testimony in this case, but you are not going to
2 participate in the decision. So, I am going to be able to
3 excuse you from any further service in this case.

4 I would tell you that once you have been excused as a
5 juror, there is nothing illegal about your talking with
6 anyone about your service on this case. It is nothing
7 illegal about anybody talking to you about your services.
8 It is a practice of which I strongly disapprove, and I
9 strongly discourage, but it is not illegal. You have the
10 right to talk with anyone. But you also have the right
11 not to talk with anyone. And if anyone should want to
12 harass you or bother you about your service on the case,
13 and you tell them you don't want to talk about it, and
14 they continue to bother you, you let the Court personnel
15 know, and we will do something about that.

16 Next week sometime you will get a small check from
17 Mr. Suggs for your service this week. It won't compensate
18 you for the time that you have been up here this week.
19 But it is a small token of appreciation from the county.

20 I would also ask that you don't talk with anybody
21 about your service in this case until after this jury has
22 returned a verdict, and you won't know when that is, but
23 it will be sometime later today. But anytime after that
24 then, it will be up to you if you would like to discuss it
25 with anybody or not discuss it with anybody.

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1 Now, that is part of the good news. The other part
2 of the good news is that we have drawn another jury in
3 another case, and they are coming in this afternoon to
4 start that case. But you won't be on that, because that
5 jury has already been drawn, and the remainder of the jury
6 panel has been excused. So you will not have to come
7 back. You are finished. And I certainly do appreciate
8 your service this week. I know that it is never
9 convenient to serve on a jury, but we do appreciate your
10 being here, and being willing to serve when called to do
11 so. By serving on the jury this week, you have met your
12 citizenship responsibilities for jury service in the
13 Circuit Court, either up here in this courtroom, in the
14 Court of Common Pleas, or the Court of General Sessions
15 for the next three years. You cannot be required to serve
16 on a jury more than once every three years.

17 So with that, I am going to excuse you. I hope you
18 have a pleasant rest of the day, and pleasant rest of the
19 week. And Mr. Suggs, are you going to send her a check,
20 you will mail her a check?

21 **CLERK OF COURT:** If she will wait a few minutes, I
22 will have it ready for her, or I can mail it to her.

23 **THE COURT:** Go ahead, and take the exhibits. Tell
24 them to begin their deliberations, and tell them -- What
25 is your position?

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1 **MR. HOLT:** The DVD video is what is in question
2 here judge.

3 **THE COURT:** Yeah.

4 **MR. HOLT:** It was my understanding that it was
5 admitted just for the purposes of pretrial hearing. I
6 don't really want to send it back. If Mr. Grove and them
7 want to, I can --

8 **THE COURT:** What is your position? My admission of
9 1 and 2, which was the search warrant and the DVD were
10 originally only for the purposes of the motion for
11 suppression. Mr. Holt, then did move to have the search
12 warrant allowed, but he never did move to have the DVD
13 done. So the Court's position would be, unless you
14 strongly disagree, that 2 is not in evidence.

15 **MR. GROVE:** No, Your Honor. We never brought that
16 up. The search warrant was brought up, and the photos
17 that I presented at the same time were addressed.

18 **THE COURT:** Two is not in evidence for purposes of
19 the jury.

20 Go ahead and tell the jury to take the evidence, and
21 tell them to begin their deliberations. Tell them we will
22 send them the verdict forms in just a few minutes. We
23 have got to make a couple of typographical changes in the
24 verdict forms, and they will have them in about five or
25 ten minutes.

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1 Thank you. We will be at ease, and are going to take
2 about ten minutes for court personnel.

3 And Mr. Holt, if you will get Ms. Parker and tell her
4 if she will get her folks ready on the Ross case, along
5 with Mr. Swilley, we will be prepared in about ten minutes
6 to start considering the motions.

7 (Whereupon, court stands down awaiting a verdict
8 from the jury at 11:12 a.m. and announces a verdict at
9 12:35 p.m..)

10 (Whereupon, Court returns in session at 12:35
11 p.m..)

12 **THE COURT:** All right. We are back on the record
13 with regard to The State verus Marcus Addison. Mr.
14 Addison is present in court with his counsel Mr. Grove and
15 Mr. Jones. The state is present and represented by Mr.
16 Holt.

17 I have been advised that the jury has reached a
18 verdict in this case. And before I bring the jury in, I
19 want to say to everyone who is present in court, of course
20 I do not know what the verdict is, and neither does anyone
21 else at this point. But, that I am going to require that
22 order and decorum be maintained in the courtroom. That
23 there be no outburst or shows of emotion or anything, when
24 the jury returns a verdict.

25 I will consider any such outburst, or any clapping,

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1 or exclamations, or verbal, or body language, or anything
2 else as contempt of court. If there is anyone who thinks
3 that they cannot sit quietly when the jury verdict is
4 published, I would ask that you leave now.

5 All right. Bring the jury in, please.

6 **BAILIFF:** All right, sir.

7 (Whereupon, the jury enters the courtroom at
8 12:37 p.m..)

9 **THE COURT:** All right. Mr. Foreman, I have been
10 advised that the jury has reached a verdict; is that
11 correct?

12 **MR. FOREMAN:** Yes, sir.

13 **THE COURT:** Would you hand it up to the clerk,
14 please?

15 All right. From the standpoint of form, the verdicts
16 appear to be correct.

17 Mr. Clerk, you may publish the verdicts?

18 **CLERK OF COURT:** Yes, sir, Your Honor. This is
19 case number 2008-GS-16-1502. The State of South Carolina
20 versus Marcus Addison. We the jury, by unanimous verdict,
21 find the defendant Marcus Addison, guilty of trafficking
22 ice, crank, or crack cocaine. Signed Foreperson Andy
23 Pusser. February 2, 2011.

24 If this is your verdict would you so signify by
25 raising your right hand, please? All twelve jurors have

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1 raised their right hand.

2 **THE COURT:** I'm sorry. Did you raise your hand?
3 Okay. I didn't see it. Okay. I am looking at the light,
4 and I can't really see. Go ahead.

5 **CLERK OF COURT:** 2008-GS-16-1503, The State of
6 South Carolina versus Marcus Addison. We the jury by
7 unanimous agreement find the defendant Marcus Addison, not
8 guilty. Signed Foreperson Andy Pusser.

9 **THE COURT:** What charge is that?

10 **CLERK OF COURT:** Charge of not guilty of
11 possession of attempting to distribute marijuana. If this
12 is your verdict, would you so signify by raising your
13 right hand, please. All twelve jurors have raised their
14 right hand.

15 Case number 2008-GS-16-1505. The State of South
16 Carolina versus Marcus Addison. We the jury by unanimous
17 agreement find the defendant, Marcus Addison guilty of
18 contributing to the delinquency of a minor, that being
19 **Minor #2** [REDACTED]. Signed Foreperson Andy Pusser. February
20 2, 2011. If this is your verdict, would you so signify by
21 raising your right hand. All twelve jurors have raised
22 their right hand.

23 Case number 2008-GS-16-1504. The State of South
24 Carolina versus Marcus Addison. We the jury by unanimous
25 agreement find the defendant, Marcus Addison guilty of

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1 contributing to the delinquency of a minor, that being
2 **Minor** **██████████**. Signed Foreperson Andy Pusser. February
3 2, 2011. If this is your verdict, would you so signify by
4 raising your right hand. All twelve jurors have raised
5 their right hand.

6 Case number 2008-GS-16-1500. The State of South
7 Carolina versus Marcus Addison. We the jury by unanimous
8 agreement find the defendant Marcus Addison not guilty of
9 threatening the life, or a person, or family of a public
10 employee, Brad Lawson. Not guilty. Signed Foreperson
11 Andy Pusser. February 2, 2011. If this is your verdict,
12 would you so signify by raising your right hand, please.
13 All twelve jurors have raised their right hand.

14 **THE COURT:** Thank you. Anything before the jury is
15 discharged on behalf of the state, Mr. Holt?

16 **MR. HOLT:** There is nothing from the state, Your
17 Honor.

18 **THE COURT:** On behalf of defense?

19 **MR. GROVE:** None, Your Honor.

20 **THE COURT:** All right. Ladies and gentlemen of the
21 jury, I am going to discharge you from any further service
22 on this case. And there are a few things that I want to
23 say.

24 First of all, I will tell you that I make it a
25 practice never to comment on the verdict of a jury. In my

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1 experience, and in my opinion, the role of the jury and
2 the fact finding process is so important that the trial
3 judge should not comment on the verdict of a jury, even
4 after the jury returns a verdict in the case. And I make
5 it a practice never to comment on the verdict of a jury.

6 I will tell you that there is evidence in this case
7 by which you could have reached the decision that you did.
8 But this will conclude your service on this case. And in
9 just a few minutes I am going to excuse you and allow you
10 to go about your business. But there are several things
11 that I want to tell you.

12 Once you have been discharged by me as jurors, there
13 is nothing illegal about your talking with anybody about
14 your service on this case. There is nothing illegal about
15 anybody talking to you about your service on this case.
16 It is a practice of which I strongly disapprove, and I
17 strongly discourage, but it is not illegal. You have a
18 right to talk to anyone. But you also have a right not to
19 talk with anyone, and if you don't want to talk to anybody
20 about your service on this case, and they continue to
21 bother you or harass you, you let the Court personnel
22 know, and we will deal with them.

23 I will also tell you that we are going to go into the
24 sentencing phase of this case. And we are going to do
25 that in just a few minutes. And I know that jurors

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1 sometimes like to know what happened in connection with a
2 case. So, after I discharge you, if you would like to
3 stay while we go through the sentencing phase, if you will
4 go around and simply come in at the back of the courtroom.
5 And I will tell you that I will release you before, and
6 allow you to clear the building before I will allow anyone
7 else to leave. So, when I do discharge you, you are
8 welcomed to go ahead and leave at that time. Or, if you
9 would like to come in for the sentencing phase, and have a
10 seat at the back of the courtroom, please feel free to do
11 so. And I will make sure that you are excused and have an
12 opportunity to clear the building before anyone else is
13 released.

14 We have already drawn a jury in another case, and in
15 fact that jury will be back in to try that case, and we
16 have discharged the remainder of your jurors for the week.
17 So this is going to conclude your service not only on this
18 case, but it is going to conclude your services for this
19 week, and you will not have to report back, nor will you
20 have to call back.

21 I want to thank you on behalf of the county for your
22 services. I know that it is never convenient to serve on
23 a jury. But it is important that we have good citizens
24 willing to come forward and serve when they are subpoenaed
25 to do so, or called to do so. Even though I know you

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1 didn't have much choice about being here.

2 But I hope that you have a better appreciation of our
3 criminal justice system as a result of having served on
4 the jury this week.

5 Next week sometime you will get a small check from
6 Mr. Suggs. It will not compensate you for the time you
7 have spent this week, but it will be a small token of
8 appreciation on behalf of the county for your services
9 this week. And, if any of you need a certificate to take
10 to your employer to show that you were on the jury this
11 week, Mr. Suggs and the Clerk's Office will be either at
12 the back, back here, or will show you how to get that in
13 the Clerk's Office before you leave. But we will furnish
14 you with something to show that you were serving on this
15 jury this week.

16 Again, I want to thank you for your services on
17 behalf of the state and the county, and you are free to
18 go.

19 Thank you very much. You are discharged.

20 (Whereupon, the jury was discharged at 12:45
21 p.m..)

22 (PAUSE.)

23 **THE COURT:** All right. Mr. Grove, motions on
24 behalf of the defendant?

25 **MR. GROVE:** Your Honor, at this time we would move

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1 for a new trial based on the three Indictments that were
2 returned a guilty verdict trafficking, and the two
3 contributing to the delinquency of a minor charges.

4 Insufficient evidence to find him guilty on those
5 charges. We would renew our motion on those grounds.

6 **THE COURT:** All right. I will respectfully deny
7 those motions.

8 The test that this court must apply is whether or not
9 there was any evidence in the record by which the jury
10 could have reached the verdict that they did, and not the
11 weight to be given to that evidence.

12 I feel that if I were to direct a verdict or grant a
13 new trial, that I would imposing my view of the facts for
14 that of the jury, and I do not believe that I can do that.
15 So, I would respectfully deny those motions.

16 Mr. Holt, do you have the sentencing sheets?

17 **MR. HOLT:** Judge, at this time Ms. McKenzie is
18 gone. They should be printing up downstairs. She has
19 gone to get them.

SENTENCING HEARING

21 **THE COURT:** All right. Let's talk about them for a
22 minute. Tell me about prior record, so that I will have
23 that information, Mr. Holt. What is the defendant's prior
24 record?

25 **MR. HOLT:** Judge, I ran it current NCIC. The first

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1 conviction that I see here is from 1993 for receiving
2 stolen goods. It looks like he got a YOA, Your Honor.

3 THE COURT: What is that date?

4 MR. HOLT: 5/26/1993.

5 THE COURT: 5/25/93, receiving?

6 MR. HOLT: Receiving stolen goods, judge.

7 THE COURT: All right.

8 PRESENTATION OF PRIOR RECORD

9 MR. HOLT: And 5/27/1993, it looks like there was a
10 receiving stolen goods to be run concurrent with that one.

11
12 10/24/1994, resisting arrest on a police officer, one
13 year.

14 Unlawful carrying of a pistol judge, one year.

15 12/17/1997, sell or possession of a pistol. Five
16 years, suspended upon time served, and two years
17 probation.

18 4/21/1999, assault and battery of a high and
19 aggravated nature, two years.

20 While he was serving time on that, he has a throwing
21 bodily fluids. Both of those took place at R&E in
22 Columbia, judge.

23 And it looks like in 2008, he collected these
24 charges.

25 In 2010 there is another search warrant like this.

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1 He collected some charges for possession of cocaine base.
2 I dismissed those myself.

3 **THE COURT:** But that is not a conviction.

4 **MR. HOLT:** That is not a conviction.

5 **THE COURT:** All right. Mr. Grove, do you agree
6 with that recitation of the criminal record?

7 **MR. GROVE:** Your Honor, that sounds correct.

8 **THE COURT:** All right. Counsel, let's talk about
9 the punishment. Is this a first offense drug offense, or
10 where does it stand in the higharchy, Mr. Grove. What is
11 your position on that?

12 **MR. GROVE:** Your Honor, our position would be that
13 this is a first offense as far as cocaine charges are
14 concerned. That trafficking for crack cocaine carries
15 three to ten years. Our position is that that is the
16 appropriate sentencing guideline for that particular
17 charge.

18 The other two charges --

19 **THE COURT:** What say ye, Mr. Holt to the traffic --

20 -
21 Yeah, Mr. Holt.

22 **MR. HOLT:** The trafficking three to ten judge?

23 **THE COURT:** Yes, sir.

24 **MR. HOLT:** Well, the state is in agreement that
25 that is what it is.

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1 **THE COURT:** You agree with that. Okay. Three to
2 ten on the trafficking.

3 All right. What else, Mr. Holt. What about the
4 delinquency charges?

5 **MR. GROVE:** Your Honor, the delinquency charges up
6 to three years each. My understanding is there are no
7 enhancement issues for those two particular charges.

8 **THE COURT:** All right. So do you agree with that?

9 **MR. HOLT:** I do, judge.

10 **THE COURT:** So there is no enhancement on the drug,
11 it is three to ten. Minimum of three, maximum ten. And
12 three years each on each of the delinquency charges; is
13 that correct?

14 **MR. HOLT:** I do, judge.

15 **THE COURT:** All right. As soon as I get the
16 sentencing sheets, we will be ready to go forward.

17 **MR. HOLT:** Thank you, Your Honor. I am going to
18 stick my head out and make sure they are correct.

19 **THE COURT:** All right.

20 **MR. HOLT:** I should be back in just a minute.

21 **(PAUSE.)**

22 **THE COURT:** All right. While we are waiting on ---
23 Well, I guess we need Mr. Holt before --

24 **(PAUSE.)**

25 **THE COURT:** All right. While we are waiting on

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1 them. They have the sentencing sheets or --- But in any
2 event, Mr. Holt is there, anything on behalf of the state
3 that you would like to present, and then I will hear from
4 the defense in mitigation, Mr. Jones, Mr. Groves. Do
5 y'all want to come around.

6 **MR. HOLT:** Judge, I've seen and heard a lot. I
7 have seen a lot of files with this house on it. I thought
8 it may be more appropriate if law enforcement could speak
9 now instead of the Solicitor's Office.

10 **THE COURT:** All right. I will be glad to hear from
11 you. Give your name and I will be glad to hear from you.

12 **CAPTAIN MCLEOD:** I am Captain John McLeod,
13 Darlington County Sheriff's Office.

14 **THE COURT:** Yes, sir.

15 **CAPTAIN MCLEOD:** Your Honor, the Sheriff of our
16 County, Sheriff Byrd, came into office and wanted to clean
17 up the county. Mr. Addison, where he lives is known as
18 Alphabet Hill area in Hartsville. At one time it was a
19 very nice community. It was riddled with drugs, guns,
20 violence, prostitutes, people couldn't even walk at night.

21 Since then we have made several arrest over in that
22 area, and in fact Mr. Addison's cohorts are either in
23 prison under Federal Indictments or State Indictments as a
24 result of investigations going on in that community. We
25 know now that Mr. Addison was leading part of this group

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1 over there, and we believe it to be gang related, and I
2 believe it is the Bloods, if I'm not mistaken.

3 We are making an effort in that area to clean up as
4 best as we can, either convictions federal or state
5 convictions.

6 I have actually talked to some of the residents in
7 that area recently, and they are actually now starting to
8 come out at night, and having more freedom and not afraid
9 of the violence that was there before.

10 **THE COURT:** Thank you, sir. Yes, sir.

11 **DEPUTY YOUNG:** David Young, Darlington County
12 Sheriff's Office. I am a criminal investigator with the
13 Sheriff's Office. Over the last few years we have had
14 several cases that we have been working involving the
15 Alphabet Hill area, cases ranging from regular burglaries
16 to robberies, to home invasions, actual assaults and
17 shootings. And the majority of these crimes have been
18 committed by individuals associated with Mr. Addison, and
19 are products of Mr. Addison, as this man we talked about
20 during the case, **Minor** **[REDACTED]**, known as Ghost. He is a
21 product of Mr. Addison. We had a young man who just
22 became before him in court Mr. Dontavious Jackson, that
23 was sentenced to twenty-five years.

24 **THE COURT:** I am familiar with Mr. Jackson's case.
25 I heard the case the first time when the jury did not

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1 reach a verdict. And I am familiar with the fact that it
2 was tried before Judge Baxley.

3 **DEPUTY YOUNG:** And he is also a product of Mr.
4 Addison. Mr. Addison is in the condition that he is in
5 from his behavior in the community, and it seems that he
6 is getting these young men to carry out, or directs these
7 young men into this type of behavior.

8 **THE COURT:** Thank you, sir. Mr. Holt, anything
9 else?

10 **MR. HOLT:** Judge, just like Mr. Young said, Minor
11 and Dontavious was a product of this man. Dontavious has
12 twenty-five years right now.

13 The state would certainly ask and want you to know
14 that there are no ifs and or buts that we are asking for
15 consecutive time on all accounts, and the maximum on all
16 accounts, judge.

17 **THE COURT:** Okay.

18 **MR. HOLT:** This case, we have been --- we have been
19 begging to plead this case for a long time now judge. It
20 has been a long time coming.

21 **THE COURT:** All right. Mr. Grove, Mr. Holt, I'll
22 be glad to hear from you.

23 **STATEMENT BY MR. GROVE**

24 **MR. GROVE:** Thank you, Your Honor. Marcus, as you
25 heard from Assistant Solicitor Holt, he has a limited

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1 record. A hand full of charges, most of which predate the
2 year 2000.

3 **THE COURT:** When did he get hurt? How long has he
4 been in a wheelchair?

5 **MR. GROVE:** 2003, I believe, Your Honor. We would
6 cite that as a reason for a concurrent time, and a limited
7 sentence. He has also serious health issues, which may
8 cause complications. He has a strong family support. He
9 has family that has been here with him all week.

10 In regards to Alphabet Hill and activity, there is a
11 small neighborhood, Your Honor. Any crimes that goes on
12 in Alphabet Hill, are going to be close to Marcus
13 Addison's residence whether or not he is involved. That
14 certainly can be suggestive to law enforcement. Our
15 position is that most if not all are unrelated.

16 My understanding is that none of these charges have
17 ever been against Marcus Addison. The Sheriff's Office or
18 Hartsville City has never been able to substantiate any
19 claims in relation to other charges. They pinpointed some
20 activity in this investigation, and brought charges
21 against him here. But as far as other individuals
22 involved in other crimes, Marcus is --- our position is
23 those are unrelated and should not be considered as part
24 of the sentence.

25 **THE COURT:** All right. Thank you, sir. Mr. Jones,

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1 is there anything you would like to add?

2 **MR. JONES:** Just to note that his mother, his aunt,
3 and his sister are all present, and have been throughout
4 the trial, Your Honor. And Mr. Addison would ask that you
5 consider a minimum sentence. And whatever sentence on all
6 three charges that you run concurrent.

7 **THE COURT:** All right. Thank you. Mr. Grove and
8 Mr. Jones, I will be glad to hear from Mr. Addison. You
9 may want to talk with him though, because of course,
10 anything that he tells me can effect any matters on
11 appeal. So, you may want --- And I won't hold it against
12 him if he doesn't have anything he wants to say.

13 (Whereupon, Mr. Jones and Mr. Grove have an off
14 the record conversation with Mr. Addison.)

15 **THE COURT:** Is there anything that you would like
16 to tell me?

17 **STATEMENT BY MR. ADDISON**

18 **MR. ADDISON:** Yes, sir. I can only speak for
19 myself, and I am not responsible for the actions of
20 somebody else. And I don't have time for it, and I don't
21 have time -- I don't encourage no child to go that role.
22 They can honestly tell you that I ain't never told them to
23 do nothing wrong. I never encouraged them to do nothing
24 wrong. And anytime they mess up, even if their own mamma
25 don't do nothing about it, I punish them, and let them

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1 come to my house if they do something wrong.

2 But like I said, I can't control the actions of
3 somebody else. What they do in the street, I can't
4 control that. But when they come to my house, if they
5 come to my house, they deal with that.

6 **THE COURT:** All right. Thank you, sir. Did he
7 serve any time in jail in connection with these things? I
8 can just check the box and let the department take care of
9 credit for time served.

10 **MR. JONES:** Thank you.

11 **SENTENCE OF THE COURT**

12 **THE COURT:** All right. Mr. Addison, I think that
13 is a pipe dream that you are not contributing to the
14 delinquency of these children. That if they are around
15 your house and there are drugs and everything there, you
16 can keep them away from that. And you know I very frankly
17 don't believe the fact that you are their guardian angel,
18 which is what you would like for the Court to believe.

19 I commend the jury for their work on this case. I
20 find that the jury of course obviously was very
21 consciousness in their work, because they found him guilty
22 of three charges, and not guilty of two charges. So it
23 was not a situation of just finding him guilty of
24 everything, because he was before the Court. But, I
25 believe that they carefully considered the evidence. And,

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1 I do believe that a substantial sentence is appropriate.

2 It is going to be a burden to you Mr. Addison, but it
3 is also going to be a burden to the State of South
4 Carolina, because of your condition. But, we can't let
5 that deter the justice that needs to be handed out.

6 The sentence on the trafficking on cocaine base is,
7 the defendant is committed to the State The Department of
8 Corrections for a term of ten years. Given credit for the
9 time he has served, if he has served any.

10 The sentence on 1504, for the contributing to the
11 delinquency of one minor is three years consecutive to 08-
12 GS-16-1502.

13 And the sentence on the contributing to the
14 delinquency of the other minor is three years also
15 consecutive.

16 A total of ten plus three plus three. Good luck to
17 you, sir.

18 All right. No one leave please. I would like for
19 the members of the jury who did come in, may leave at this
20 time. If the bailiffs will notify me when they have
21 cleared the building.

22 (Whereupon, this trial was concluded at 1:05
23 p.m. on Wednesday, February 2, 2011.)

24 -- END OF TRANSCRIPT --

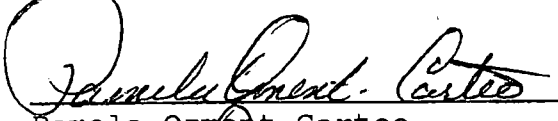
CERTIFICATE OF REPORTER

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I, the undersigned, Pamela Ozment-Cartee, official court reporter for the Fourth Judicial Circuit of South Carolina, do hereby certify, that the foregoing is a true, accurate and complete Transcript of Record in the trial of the above captioned case, relative to appeal, in The Court of General Sessions in Darlington County, South Carolina, on the 31st day of January, 1st and 2nd days of February 2011.

I do further certify that am neither, of kin, counsel, nor interest of any party hereto.

March 4, 2011


Pamela Ozment-Cartee
Circuit Court Reporter

STATE OF SOUTH CAROLINA

County of Darlington

IN THE COURT OF COMMON PLEAS

Marcus Addison #257690

Full name and prison number (if any) of Applicant

v.

State of South Carolina

15CP160273

APPLICATION FOR

POST-CONVICTION RELIEF

2 17-27-45 @**INSTRUCTIONS BE READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Evans Correctional Institution
2. Name and location of Court which imposed sentence Darlington County Courthouse
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 08-GS-16-1505

TRUE CERTIFIED COPY,

[Signature]
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

2015 APR -9 PM 3:37
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

FILED

(b)

~~08~~ 08-GS-16-1504

(c)

08-GS-16-1502

5.

The date upon which sentence was imposed and the terms of the sentence:

(a)

On February 2, 2011 I was found guilty of

(b)

Trafficking crack cocaine and received 10 years

(c)

Contributing to the delinquency of minor 2 counts 3 yrs each

6.

Check whether a finding of guilty was made:

(a)

after a plea of guilty

(b)

after a plea of not guilty

(c)

after a plea of nolo contendere

7.

Did you appeal from the judgment of conviction or the imposition of sentence?

judgement of conviction

8.

If you answered Ayes@ to (7), list:

(a)

the name of each Court to which you appealed:

i.

Court of Appeals

ii.

Supreme Court

iii.

(b)

the result in each such Court to which you appealed:

i.

denied

ii.

denied

iii.

(c)

the date of each such result:

i.

Dec - 7, 2012

ii.

Jan - 23 - 2015

iii.

(d)

if known, citations of any written opinion or orders entered pursuant to such

results:

i.

On October 24, 2012 Court of appeals/unpublished/per curiam.

ii.

opinion

iii.

9.

If you answered Ano@ to (7), state your reasons for not so appealing:

(a)

- (b) _____
- (c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective assistance of counsel
- (b) Failure to properly investigate alleged crime
- (c) prosecution misconduct

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) not allowing me the opportunity to view video of drug buy
- (b) law enforcement knew I wasn't on video nor did buy happen in my presence
- (c) Withholding the dvd of drug buy from me and jurors

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? _____
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
- (d) any other petitions, motions or applications in this or any other Court? _____

13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(b) the name and location of the Court in which each was filed:

- i. _____
- ii. _____
- iii. _____

iv. _____

(c) the disposition thereof: _____

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition: _____

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition: _____

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) _____
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? _____
 (b) your trial, if any? yes
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? yes

18. If you answered Ayes@ to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:

- i. Will Grove, Darlington County Public
Defender Office Darlington SC 29535
 ii. Dayne Phillips, Linda Baer Columbia SC 29211
Appellate defense attorney P.O. Box 15449
 iii. _____

- (b) the proceedings at which each such attorney represented you:

- i. During Trial
 ii. During Appeal specifically writ of certiorari
 iii. I've had 4 different attorney during my
appeals process in the last 4 years

19. State clearly the relief you seek in filing this application:

my cases be overturned and charges be
dismissed from my record

20. Are you now under sentence from any other court that you have not challenged?

no

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Darlington)

VERIFICATION

I, Marcus Addison, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Marcus Addison 4-7-15

SWORN to and subscribed before me this _____
day of _____, _____.

(L.S.)
Notary Public

My Commission Expires: _____

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Marcus Addison, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Marcus Addison
Applicant

SWORN or affirmed to and subscribed before me this
_____ day of _____, _____.

Notary Public

My Commission Expires: _____

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF DARLINGTON	)	FOR THE FOURTH JUDICIAL CIRCUIT
	)	
Marcus Addison, #257690,	)	Case No. 2015-CP-16-0273
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

Respondent, making its Return to the Application for Post-Conviction Relief filed April 9, 2015, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Darlington County Clerk of Court. In November 2008, the Darlington County Grand Jury indicted Applicant for trafficking crack cocaine, 10-28 grams (2008-GS-16-1502), and two counts of contributing to delinquency of a minor (2008-GS-16-1504, -1505). William E. Grove, Esquire, and J. Richard Jones, Esquire, represented Applicant. On January 31, 2011, Applicant proceeded to trial before the Honorable Howard P. King and a jury. On February 2, 2011, the jury found Applicant guilty as indicted. Judge King sentenced Applicant to ten years imprisonment for trafficking crack cocaine, and consecutive terms of three years imprisonment for each count of contributing to delinquency of a minor.

Applicant filed a timely notice of appeal, and Dayne C. Phillips, Esquire, of the Office of Appellate Defense, perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on October 24, 2012. State v. Addison, Op. No. 2012-UP-577 (S.C. Ct. App. filed

October 24, 2012). The South Carolina Supreme Court denied Applicant's petition for writ of certiorari on January 15, 2015.

II.

In his application, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. "Ineffective assistance of counsel"
 - a. "not allowing me the opportunity to view video of drug buy"
2. "Failure to properly investigate alleged crime"
 - a. "law enforcement knew I wasn't on video nor did buy happen in my presence"
3. "Prosecution misconduct"
 - a. "withholding the dvd of drug buy from me and jurors"

Respondent denies Applicant is entitled to relief on any of these claims, and demands strict proof thereof. Any claims not specifically enumerated in the Application or amendments thereto will be opposed by Respondent at the evidentiary hearing. All amendments should be made well in advance of hearing and should be filed in compliance with Rule 11, SCRCP.

Attached to this Return and incorporated herein are the records of the Darlington County Clerk of Court regarding the subject conviction(s), Applicant's records from the South Carolina Department of Corrections, the trial transcript, and Applicant's appellate records. Any records not attached will be forwarded upon receipt. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent submits Applicant's allegation of ineffective assistance of trial counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in the application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance

of trial counsel as a ground for relief, the applicant must prove trial counsel's "conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes trial counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove trial counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, trial counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Respondent submits Applicant's allegation regarding police investigation should be

dismissed. Post-conviction relief “is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction.” S.C. Code Ann. § 17-27-20(b); see also Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1975) (“It is uniformly held that an application for post-conviction relief is not a substitute for an appeal.”). Applicant’s allegations regarding the police investigation is an inappropriate challenge to the sufficiency of the evidence, and is not properly raised in a collateral action. See Ashley v. State, 260 S.C. 436, 438, 196 S.E.2d 501, 502 (1973); S. C. Code Ann. § 17-27-20(A)(6) (“[T]his section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.”). Therefore, Respondent requests these allegations be dismissed pursuant to Rule 12(b)(6), SCRPC.

V.

Applicant also alleges prosecutorial misconduct. Prosecutorial misconduct is not an issue for post-conviction relief. Rather, this allegation is a direct appeal issues that is procedurally barred by S.C. Code Ann. § 17-27-20(b). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Applicant could have raised the issue of prosecutorial misconduct on appeal. The failure to do so has waived this allegation as grounds for relief. Regardless, it is applicant’s burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794 (1989).

VI.

Respondent denies each and every allegation not hereinbefore expressly admitted, qualified,

or explained.

VII.

WHEREFORE, having made its return, Respondent requests an evidentiary hearing be held on those issues so requiring one.

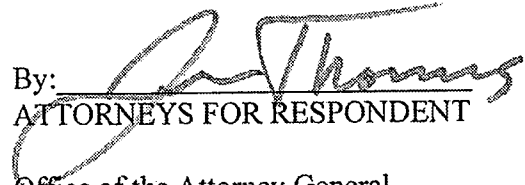
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

JOSHUA L. THOMAS
Assistant Attorney General
S.C. Bar No. 100777

By: 

ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

Sept. 10, 2015

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF DARLINGTON	)	
	)	
	)	2015-CP-16-0273
	)	
MARCUS ADDISON, 257690	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
_____	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** of the Respondent in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Lance S. Boozer, Esquire
The Boozer Law Firm, LLC
807 Gervais Street; Suite 203
Columbia SC 29201

DATED this 10th day of September, 2015.


 Judy A. Carey, Legal Assistant
 For Respondent

In Circuit Court of the
Fourth Judicial Circuit
2015-CP-16-0273

x

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)

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;

Dillon, South Carolina
July 18, 2017

1

The Honorable Roger E. Henderson

Mr. Lance S. Boozer, Esquire
Attorney for Plaintiff

Mr. Johnny E. James, Jr., Esquire
Attorney for Defendant

Lisa Carter
Circuit Court Reporter

I N D E X

WITNESSESPAGE

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EXHIBITS

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3

NO.DESCRIPTIONEV.

4

A-1

Video- DVD

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1 THE COURT: Mr. James, whenever you are ready, sir.

2 MR. JAMES: This is the matter of Marcus Addison
3 versus the State of South Carolina. It's docket number
4 2015-CP-16-00273. Mr. Addison is present here today and he
5 is represented by Lance boozar. He is challenging his 2008
6 convictions for trafficking crack cocaine between 10 and 28
7 grams as well as two counts of contributing to the
8 delinquency of a minor. He received on February 2, 2011 a
9 sentence of ten (10) years for trafficking the crack
10 cocaine and three (3) years each for the contributing to
11 the delinquency of a minor and those contributions were set
12 to run consecutive. Your Honor, that was before the
13 Honorable Howard P. King and at that time Mr. Addison was
14 represented by Mr. William Grove.

15 Your Honor, that trial outcome was appealed and on
16 appeal the issue before the Court of Appeals was whether or
17 not the trial court erred by refusing to suppress the drug
18 evidence found in the appellant's home during the execution
19 of a search warrant where the magistrate did not have a
20 substantial basis to conclude that probable cause existed
21 to issue the search warrant when there was insufficient
22 exits between the events surrounding the drug transaction
23 in which it did not involve appellate or occur inside
24 appellant's home and probable cause to search appellant's
25 resident. The Court of Appeals affirmed the conviction.

1 This application for post-conviction relief was filed
2 April 9, 2016 and the State made its return on or about
3 September 10, 2016. Your Honor, there has been one
4 amendment filed since then in October 15, 2016 and there
5 was a motion hearing on January 9th of this year in order
6 for the, Mr. Addison's counsel to acquire a copy of a video
7 of a confidential drug buy.

8 Your Honor, my understanding of the allegations here
9 today are that Mr. Addison alleges his trial counsel was
10 ineffective for not allowing him the opportunity to view
11 the video of the drug buy and by amendment October 15, 2016
12 counsel failed to object to prejudicial testimony from
13 Deputy Baird and to otherwise request a limiting
14 instruction. And, furthermore, counsel failed to challenge
15 the search warrant affidavit pursuant to Franks v. Delaware
16 and the site for that case is 438 U.S. 154 and it is a 1978
17 case out of the United States Supreme Court.

18 Additionally, he alleges as counsel failed to properly
19 investigate the alleged crime and that law enforcement knew
20 that I wasn't on the video nor did the buy happen in my
21 presence.

22 And finally he alleges prosecutorial misconduct for
23 withholding the DVD of the drug buy from Addison, Mr.
24 Addison personally and from the jurors at trial.

25 And with that stated, I will seek the floor to Mr.

Marcus Addison- Direct Examination by Mr. Boozer

6

1 Boozer.

2 THE COURT: Mr. Boozer?

3 MR. BOOZER: Thank you, Your Honor. If it please,
4 The Court? Judge, we'd go ahead and call Mr. Addison to
5 the stand.

6 THE COURT: All right, sir. Mr. Addison, you're
7 going to have to speak loud enough now for me to be able to
8 hear you since your back is to me, do you understand?

9 MR. ADDISON: Yes.

10 THE CLERK: Would you raise your right hand. Do
11 you solemnly swear or affirm the testimony you're about to
12 give the Court is the truth, the whole truth, and nothing
13 but the truth so help you God?

14 MR. ADDISON: I do.

15 MARCUS ADDISON, first being
16 duly sworn, testified as follows:

17 **Direct Examination by Mr. Boozer:**

18 Q. Mr. Addison, how are you doing?

19 A. I'm doing all right.

20 Q. If you would for me just, because we don't have a
21 microphone ---

22 A. I'm doing all right.

23 Q. There we go. That's perfect. Keep it like that the
24 whole time. Do you know what you're doing here today?

25 A. Yes.

1 THE COURT: Speak up.

2 Q. Okay.

3 A. Yes.

4 Q. An you understand you filed what's called an
5 application for post-conviction relief?

6 A. Yes.

7 Q. And what are you currently incarcerated for?

8 A. You said what for?

9 Q. Yes, sir. What was your ---

10 A. Trafficking and two counts of distributing to
11 delinquency of a minor.

12 Q. What type of sentence did you receive?

13 A. Ten (10) years and two (2) three's to run consecutive.

14 Q. So sixteen (16) total?

15 A. Yes.

16 Q. All right. What's your max out date?

17 A. October 21, 2019.

18 Q. Okay. And you understand that you and I certainly
19 discussed this, but the only thing this Court can do for
20 you, is give you a new trial, do you understand that?

21 A. Yes.

22 Q. And we talked about there can be some risk associated
23 with that such as going back and you could go to trial and
24 there's always the possibility, but certainly you could be
25 acquitted but there's also the possibility you can be found

1 guilty and get either more time than what you got, the
2 original time, get less time, get more time than what you
3 got left to serve on your sentence, do you understand all
4 that?

5 A. Yes.

6 Q. And knowing that there is some risk associated with
7 it, you still wish to go forward with your PCR here?

8 A. Yes.

9 Q. All right. Now, who represented you at trial?

10 A. Will Grove.

11 Q. How did Mr. Grove come about representing you?

12 A. At first, I had another attorney but then he popped up
13 at my house -- but he popped up at my house and he took
14 some pictures around my house, him and a couple of people
15 out of their office. And I had went to the office one day
16 to talk with him about my case. And then I went to trial.

17 Q. Okay. Who was the first one, do you remember?

18 A. I forgot -- I forgot the little dude -- the little
19 dude name. The little short blonde headed dude. I forgot.

20 Q. Okay. Do you know how many times you may have met
21 with Mr. Grove prior to your trial?

22 A. One time at his office.

23 Q. One time at his office?

24 A. Huh, huh.

25 Q. Were you out on bond?

1 A. Yeah, I've been out on bond since 2008.

2 Q. Okay. How much time passed between the time that you
3 were arrested and the time you had your trial, do you
4 remember?

5 A. Right at two and a half years.

6 Q. All right. When you met with Mr. Grove, what would
7 y'all talk about?

8 A. Who -- he told me that an informant girlfriend had
9 called and set up a drug buy with the person that was on
10 the video but they couldn't come conclusive with who was on
11 the video because they can't identify who it was and that
12 her boyfriend came to buy the drugs, but like I say they
13 couldn't identify who it was that sold the drugs and they
14 said they had walked -- they had walked from the direction
15 of my house, or walked around my house but they don't know
16 exactly where they came from. And he told me that they
17 couldn't make out who it was so, you know, they really
18 wasn't nothing for me to worry about.

19 Q. So was your lawyer of the opinion that you should try
20 this case?

21 A. Well, he did know what to do because he told me that
22 if they didn't show the DVD -- if they didn't throw it out
23 for the DVD, he didn't know what other measure that he had
24 to fight the case and he said he never showed that, it
25 wouldn't be on the DVD.

1 Q. Okay.

2 A. And I told him I know it couldn't have been me because
3 I ain't walking.

4 Q. All right. Were you ever offered a plea before your
5 trial?

6 A. Yeah, they offered me nine (9) years. But they said
7 they had offered me six (6) years but the attorney that I
8 had beforehand, me and him ain't never communicated about
9 no time and then the time was off the table. But I got the
10 paper in my thing where they had offered me six (6) years.
11 But by the time I had talked to him and went to court, it
12 had done went to nine (9).

13 Q. Okay. Now, you've alleged that your lawyer didn't
14 show you a DVD and, ultimately, at trial that DVD was not
15 shown to the jury, do you remember that?

16 A. No, I ain't never seen it.

17 Q. Okay. You understand that the DVD has, I'll describe
18 it as there is a confidential informant who makes a
19 purchase that you're nowhere on that DVD, would you agree
20 with that?

21 A. But I ain't never seen it.

22 Q. Okay.

23 A. But I go on what you say and for what he tell me, I'm
24 not on there.

25 Q. All right. Now, you're pretty familiar with your

1 trial transcript?

2 A. That right here?

3 Q. You've read it and reviewed it many times?

4 A. Yeah.

5 Q. It looks pretty dogged there so it looks like you've
6 read it a few times, is that right?

7 A. Yeah, I've been through it.

8 Q. Okay. Do you recall there being a hearing prior to
9 your trial, a pretrial hearing and, Your Honor, I'm looking
10 specifically at page 44 of the transcript ---

11 THE COURT: All right.

12 Q. --- and it says, and this is Mr. Holt, "Your Honor, at
13 this time the State would like to move the DVD into
14 evidence." The Court says, "States what?" "State's 1,
15 judge." "We marked the search warrant as State's 1, didn't
16 we?" "I apologize, State's Number 2, Your Honor. "Yeah,
17 State's Number 2, Mr. Grove you don't object to the
18 authenticity of the disc, is that right?" Defendant says,
19 "No objection." Is that the DVD that you're talking about?

20 A. Yes.

21 Q. All right. Now, if we flip over to page 345, further
22 on to the end of your trial, beginning on line 1 on 345,
23 the solicitor says, "the DVD video is what is in question
24 here, judge." "Yeah, it was my understanding it was
25 admitted just for purposes of the pretrial hearing." "I

Marcus Addison- Direct Examination by Mr. Boozer

12

1 don't really want to send it back." "If Mr. Grove and them
2 want to I can." The Court says, "what is your position?"
3 "By admissions of 1 and 2 which was the search warrant and
4 DVD, were only for purposes of the motion for suppression."
5 "Mr. Holt, then did move to have the search warrant allowed
6 but he never did move to have the DVD done so the Court's
7 position would be, unless you strongly disagree, that 2 is
8 not in evidence." And your lawyer says, "No, Your Honor,
9 we never brought that up." "The search warrant was brought
10 up and the photos that I presented at the time were
11 address." "Two is not in evidence for purposes for the
12 jury." Is that the same DVD that we're talking about?
13 A. Yes.

14 MR. BOOZER: Your Honor, at this time I would like
15 to play for you, a copy of the DVD that has been provided
16 to me by the solicitor's office, if it pleases, the Court?

17 THE COURT: Yes, sir. I'll come around. It would
18 be easier.

19 MR. BOOZER: Thank you, Your Honor. And, Your
20 Honor, I represent to you that this is a DVD that was
21 provided to me and this would be Exhibit Number 2 from the
22 suppression hearing, it was not admitted for the jury to
23 consider and I'll go ahead and start that now.

24 THE COURT: All right, sir.

25 (Whereupon, the dvd was played for the judge to view)

1 MR. BOOZER: And, Your Honor, that's the relative
2 portion of the DVD that I wanted to show. There is
3 additional recording on there, but I believe he does
4 another buy but in a separate location and I don't believe
5 that had anything to do with this defendant, with Mr.
6 Addison, so that's the only relevant portion I wanted to
7 play for, Your Honor.

8 THE COURT: Okay. Thank you.

9 MR. BOOZER: And, Your Honor, at this time I would
10 ask if I could have this DVD admitted as Applicant's
11 Exhibit 1?

12 MR. JAMES: Now, is that DVD the entire video or --

13 -

14 MR. BOOZER: It is. It will be the entire video.

15 MR. JAMES: Okay. Without objection.

16 THE COURT: Receive without objection as
17 Applicant's 1.

18 (Whereupon, the DVD has been marked and entered into
19 evidence as Applicant's Exhibit No. 1)

20 Q. Mr. Addison, we just watched a DVD that we marked as
21 Applicant's Exhibit 1 in this case, is that the DVD that
22 you were talking about?

23 A. Yes.

24 Q. Okay. And why is that DVD so important to you?

25 A. Because they said that was the purpose of them getting

1 the search warrant from the magistrate to search my house.

2 Q. And nowhere on that video are you seen in it, are you?

3 A. No. I ain't see nobody.

4 Q. Now, let's move on to another subject, you've alleged
5 your lawyer failed to object to certain testimony of Deputy
6 Baird or requested a limiting instruction, Your Honor, I'm
7 looking at page 137 of the transcript, and Mr. Addison some
8 of this is going to be a legal argument, of course, that
9 we'll discuss with your former lawyer.

10 A. Mmm, hmm.

11 Q. But just for the record, do you recall an officer by
12 the name of Mr. Baird testifying?

13 A. Yeah, I remember.

14 Q. Okay. And during, this is actually during his cross-
15 examination, your lawyers cross-examination of him, it
16 says, "Why did you pick the right door?" And the officer
17 goes on to say, "because when you're doing entry type
18 situations -- because like I said, we were told prior to
19 the fact that Mr. Marcus Addison had a gun. The young guys
20 with him in particular Mr. Minor (sic) had made threats to
21 the Darlington County Sheriff's office about entry to his
22 residence. "From being in this home on previous accounts,
23 on other things, I knew that, that was the door that he was
24 in. So, for an officer's safety issue, with my team going
25 in the door, we didn't want to breach right on top of him,

1 and him just laying in bed with a handgun facing the door.
2 So we came in the door on the left side." "How many
3 handguns did you find?" "None that day." So at this
4 point, we've got an officer testifying to what he's saying
5 things that he believes about you that otherwise would be
6 admissible, is that right?

7 A. Yes.

8 Q. Okay. Did your lawyer make any sort of motion in
9 limine or request for a, excuse me, not a motion in limine,
10 any request for a limiting instruction or anything at that
11 point?

12 A. He ain't say nothin.

13 Q. Okay. Now, you've also alleged that your lawyer was
14 ineffective for failing to challenge the search warrant
15 affidavit pursuant to a case that's called Franks vs.
16 Delaware?

17 A. Yeah.

18 Q. Okay. What do you think your lawyer should've done?

19 A. Well, they said they was basically, harassing -- of
20 knowledge of, like how they obtain the search warrant and
21 if I, me personally I stay there, if I'm not on it then the
22 search is not direct towards me and the girl that set up
23 the drug buy, she initiated -- she initiated the drug buy
24 but she didn't take no part in them then I don't know where
25 the dude come in to do her part if he ain't in cahoots with

1 law enforcement.

2 Q. Well, and let me ask you this, I understand that.

3 Your lawyer attempted to suppress some of the evidence that
4 was received as a result of the search, is that right?

5 A. During the suppression hearing, yeah.

6 Q. Correct. But you believe he should have taken an
7 additional step and requested a hearing pursuant to Franks?

8 A. Yeah.

9 Q. Mr. Addison, that's all the questions I have for you,
10 is there anything else that you want -- we have not
11 addressed?

12 A. I still don't know why they came to my house.

13 Q. Okay.

14 A. You know, that's the only thing -- because like I say,
15 that don't make no sense. And then they say, further after
16 they got the warrants, they did some further investigation
17 and find out that it could've been, he say that's on page
18 47, he say, "initially, we are identifying him as Lorenzo
19 Jackson. Investigation is ongoing but we didn't worry
20 about names until later on in the investigation. And then
21 my attorney says, "it possibly could have been Dontavious
22 Jackson instead?" He said, "it is possible." "And would
23 it surprise you to learn that Mr. Dontavious Jackson lives
24 across the street in one house over from Mr. Addison." But
25 you done got the warrant for my house and you done

1 implemented me but you ain't even know who you lookin for
2 and you say from prior, you know, in the past you done been
3 to my house and you know that I'm the only person that
4 lives there and after you found out that you say it
5 could've been one or two people, you still came to my house
6 instead of going to the one or two people's house that you
7 felt like it probably would've been maybe them two guys.

8 Q. Okay. And, Mr. Addison, a number of your allegations
9 I'm going to be discussing further because they contain
10 legal arguments that need to be made on your behalf. I'll
11 be discussing those with the Court and with your lawyer.

12 MR. BOOZER: I don't have any more questions for you
13 please answer any that the State may have.

14 THE COURT: Mr. James?

15 **Cross Examination by Mr. James:**

16 Q. Good morning, Mr. Addison. About how many times did
17 you meet with your attorney for preparation for your case?

18 A. I tell you he came out of my house one time. And then
19 I went to his office another time. So, basically --
20 basically, twice.

21 Q. In that video that we just watched up on the bench
22 just now, was that your house in the video?

23 A. My house?

24 Q. Yes, sir.

25 A. Which one?

1 Q. When the confidential informant, in his truck is
2 parked and he looks to his right and there is a house and a
3 large number of bushes somewhat obscuring the porch, was
4 that your residence at that time?

5 A. The white house? Yeah, the white house is mine. But
6 he wasn't in my yard.

7 Q. So it was your house -- that was a porch on the front
8 of that house, correct?

9 A. Mmm, hmm.

10 Q. And did you see the individual in the video come from
11 that porch?

12 A. I ain't -- I ain't see that part.

13 MR. JAMES: A moment of indulgence, Your Honor. No
14 further questions.

15 MR. BOOZER: No redirect, Your Honor.

16 THE COURT: All right. Push him back to the table
17 please, sir.

18 MR. BOOZER: Your Honor, we'd call Mr. Will Grove at
19 this time.

20 THE COURT: All right. Mr. Grove?

21 THE CLERK: Do you solemnly swear or affirm the
22 testimony you about to give the Court is the truth, the
23 whole truth, and nothing but the truth so help you God?

24 MR. GROVE: I do.

25 THE COURT: Have a seat in the box. State your

1 full name for the Court please, sir.

2 MR. GROVE: William Grove, G-r-o-v-e.

3 WILLIAM GROVE, first being
4 duly sworn, testified as follows:

5 **Direct Examination by Mr. Boozer:**

6 Q. Mr. Grove, how are you doing?

7 A. I'm well.

8 Q. Good. Did you represent Mr. Addison for this trial?

9 A. I did.

10 Q. Do you know about how many times you met with him
11 prior to?

12 A. Probably twice. That seems fair. I started in the
13 public defender's office in the Fourth Circuit, my first
14 day was August 16, 2010 and this trial was in January, I
15 think, of 2011. So I have been in the public defender's
16 office for five months and we had probably met twice. I
17 remember going to his house and I remember him coming to
18 the office so....

19 Q. Okay. Do you know how long those two meetings may
20 have lasted?

21 A. I don't. They wouldn't have been terribly lengthy.
22 The case wasn't terribly lengthy. The biggest, I suppose
23 is very obviously at this point, was suppression of the
24 drugs, the entire case, in my opinion, hinged on that.

25 Q. Were you aware of any plea offers that had been made

1 prior to the trial?

2 A. I don't have the file with me but that sounds familiar
3 and he would've, obviously, had and retained lawyer or
4 appointed lawyer prior to me being assigned to his case. I
5 do not doubt what he, what Mr. Addison testified to earlier
6 about a six (6) year offer and a nine (9) year offer.

7 Q. Okay. Did you have any dealings with the nine (9)
8 year offer or was that another lawyer?

9 A. Probably. That probably was me and that sounds
10 familiar and it also doesn't surprise me that, that offer
11 was rejected. Nine (9) years is almost the maximum on the
12 important charge that we were going to trial on, the
13 trafficking charge only carried up to ten (10).

14 Q. Did he -- was he wanting a trial on this case?

15 A. Yes.

16 Q. Were you encouraging him for a trial or what sort of
17 was your position?

18 A. No. I try to do my best not to have a client feel
19 like I'm pushing them in one direction or another. In my
20 opinion, it's my job to lay out the evidence, talk about
21 options, and, ultimately, let the client decide what it is
22 they want to do.

23 Q. Did you give him any sort of opinion about the
24 potential success, successes he may have at trial or

25 A. Probably not. And that depends on, I guess, what you

1 mean if, I don't play the here's a percentage chance we
2 have of winning game with clients even though they often
3 want that. Our conversation would've hinged around very
4 specifics on, there is a potential suppression issue for
5 the search warrant and that sort of, will try this case in
6 one direction or another.

7 Q. So let's talk about that. What was the main strategy
8 behind this case?

9 A. In my opinion, it was virtually all or nothing on
10 suppression. That was the best issue that we had and that
11 was where a lot of effort was expended.

12 Q. Okay. And you're talking about, I guess, suppressing
13 the search warrant itself or anything that was recovered as
14 a result of it?

15 A. That's right.

16 Q. All right. Were you in the courtroom when we played
17 Applicant's Exhibit 1, the DVD?

18 A. I was.

19 Q. And were you able to view it?

20 A. I was.

21 Q. Is that something that you've seen before?

22 A. It is.

23 Q. Did you ever show that to Mr. Addison?

24 A. I don't think so. The solicitor's office in
25 Darlington and in the entire Fourth Circuit at the time, I

1 don't know what their policy is now, they had a policy
2 about not disclosing confidential informant drug buy video
3 specifically to protect the identity of the confidential
4 informant was always the remark. That was something that
5 would've been available at trial for the defendant to view
6 and prior to trial for the defendant's lawyer to view.

7 Q. So what did they do after this video, they went and
8 got a search warrant for Mr. Addison's house, specifically?

9 A. That's correct.

10 Q. And then what was your understanding of what they then
11 did next?

12 A. They executed that search warrant and arrested of Mr.
13 Addison and found a couple of juveniles in his home and
14 charged Mr. Addison with a handful of different charges.

15 Q. Now, going back to the trial and, specifically, the
16 suppression hearing, was -- you would agree with me in the
17 trial transcript and you've heard testimony already today,
18 that for purposes of the suppression hearing Applicant's
19 Exhibit 1 which was then State's 2 for purposes of the
20 suppression, it was in evidence for purposes of the
21 suppression hearing?

22 A. Yes.

23 Q. And then on page 345 of the trial transcript, there's
24 some discussion about the admission of that same DVD being
25 into evidence for purposes of the trial and for the jury to

1 see and, ultimately, it was determined that it had not been
2 offered for purposes of the trial, is that right?

3 A. That is correct.

4 Q. And actually the solicitor makes the statement, "I
5 don't really want to send it back", during that colloquy,
6 do you recall that?

7 A. I did read that, yes, sir.

8 Q. Okay. Was there any reason that you didn't try and
9 have that video played for the jury or admitted into
10 evidence?

11 A. Not particularly. I didn't think that it was going to
12 be helpful. The most important charge, they're certainly
13 all important, but the principle charge was trafficking
14 crack cocaine. And the allegations were that, that was
15 found on Mr. Addison's person and I did not see any fruit
16 coming from re-litigating the search warrant issue in front
17 of the jury.

18 Q. Okay. You know, obviously, that Mr. Addison is in a
19 wheelchair?

20 A. Yes, sir.

21 Q. Was he in that same condition, then?

22 A. He was and had been for quite some time as I
23 understand.

24 Q. Okay. You would agree with me that on that DVD
25 there's nothing that really ties Mr. Addison into that

1 particular video, right?

2 A. Correct.

3 Q. Now, jumping back to page 137, this is actually during
4 your examination of one of the officers -- where,
5 basically, the officer testifies -- did you hear me earlier
6 when I discussed that testimony?

7 A. Yes, sir.

8 Q. Okay. Would you agree with me that, that officer is,
9 basically, testifying to Mr. Addison's kinda known to carry
10 a gun, that, that there has been prior incidences at this
11 house that he specifically been involved in, would you
12 agree that, that's what his testimony is?

13 A. More or less, yes, sir.

14 Q. Do you think that, that testimony is damaging to Mr.
15 Addison?

16 A. I think that it certainly can be under certain
17 circumstances, but given the nature of the charges against
18 him, I don't think it was that harmful. This case didn't
19 involve a gun. That testimony had come out on direct
20 already. I was -- that was made in an effort to sort of
21 rehab that situation, I suppose.

22 Q. Was, sort of the State's theory of this case, is that
23 although he's wheelchair-bound, he sort of a leader of
24 people and, kind of, is able to manipulate or influence
25 younger folks in the community?

1 A. I don't know if that -- if their theory of the
2 individual case was that complex but that was their opinion
3 of him, absolutely.

4 Q. Right. And so they're already trying to paint him,
5 sort of, as this bad guy, but this kind of piles on top of
6 that, but, otherwise, it wouldn't be admissible, right?

7 A. Perhaps, yes.

8 Q. Okay. Do you think reviewing the transcript and
9 looking back at it in that context, and that context that
10 there may have been either a reason for a mistrial or some
11 sort of curative instructions given to the jury at that
12 point?

13 A. Maybe.

14 Q. All right. Now, obviously, you recall that y'all did
15 have a motion to suppress prior to trial, right?

16 A. Yes, sir.

17 Q. What was, sort of, the basis and your argument for the
18 suppression hearing?

19 A. It was fairly straight forward, I suppose. The video
20 that has been shown here was the basis for the search
21 warrant according to the affidavit and that occurred near
22 Marcus Addison's residence, but did not involvement
23 communication directly with Marcus Addison. It did not
24 involve a transaction with Marcus Addison. It did not
25 involve the CI going into the residence of Marcus Addison

1 or, and it did not show whomever it is that did participate
2 in the transaction coming from within his home. There's
3 plenty of case law to suggest that's enough if a CI enters
4 a home and participates in a transaction with someone
5 that's not the homeowner. The presence of drugs in that
6 home can be enough for a search warrant or an individual
7 coming from within a home to sell drugs outside a home,
8 there's certainly evidence of that, but this seems to be a
9 unique situation where it happened, basically, next-door.

10 Q. Okay. Are you familiar, and I wasn't familiar with
11 it, but you may be familiar, are you familiar with a
12 procedure or a request for a hearing pursuant to Franks vs.
13 Delaware?

14 A. Very thinly. I was not at the time.

15 Q. Okay. Do you have an understanding of what that is,
16 now, at this time? And if not, I can give you sort of just
17 a brief overview of my understanding and see if that
18 captures yours.

19 A. Go ahead.

20 Q. Okay. So my understanding is that this request can be
21 made when you're trying to show that the police procured a
22 warrant to search property with deliberate or reckless
23 misrepresentation in the warrant. And those representations
24 were necessary for finding probable cause.

25 A. Right.

1 Q. And you make that request and I believe a hearing can,
2 eventually, be conducted into determine if those statements
3 were false or recklessly made, is that your understanding
4 of it?

5 A. Yes, sir.

6 Q. All right.

7 MR. BOOZER: Your Honor, may I approach the witness?

8 THE COURT: Yes, sir.

9 MR. BOOZER: And, judge, just for the Court's
10 information, presumably in the direct appeal part -- in the
11 record that's been provided to, Your Honor, in the direct
12 appeal package, there are copies of search warrants and
13 affidavits in support of those warrants, I'm going to be
14 referring to those at this time.

15 Q. Mr. Grove, I'm going to hand you a few documents as
16 I've just indicated to the Court that are already included
17 as part of Mr. Addison's record in this case. If you
18 would, just take a moment and review those. You may see
19 some of my highlighting but there's no notations on it.

20 A. Yes, sir.

21 Q. Have you had a moment to take a look at that?

22 A. I have.

23 Q. Okay. And if you would, I think I've got a copy up
24 there, if you'd turn to what's in that package of the third
25 page, can you identify that document?

William Grove- Direct Examination by Mr. Boozer

28

1 A. Yes, sir. It looks to be the search warrant
2 affidavit.

3 Q. Okay. And ---

4 MR. BOOZER: I beg the Court's indulgence.

5 Q. In this search warrant affidavit, and this is by
6 Detective Lawson or Officer Lawson, it indicates the
7 description of the premises to be searched which is the
8 residence on the right Street, a white in color
9 dwelling with two red doors. This is to include all
10 vehicles and outbuildings associated with the residence.
11 That within the past 72 hours a reliable confidential
12 informant for the Darlington County Drug Unit has purchased
13 a quantity of crack cocaine from this described residence
14 located on Street in the Hartsville area of Darlington
15 County. This extent was monitored by law enforcement
16 agents. So an affidavit, does it appear to be saying that
17 the officer is saying that it was purchased from
18 Street, that residence?

19 A. Yes, sir.

20 Q. Okay. Is that accurate?

21 A. No, it's misleading, I suppose.

22 Q. Okay. Did you bring that up at all at the motion to
23 suppress?

24 A. I'm not sure if I did. I may have. I'm not sure if I
25 confronted Investigator Lawson with the discrepancy, but I

1 certainly would have brought to their attention that it was
2 not Marcus that conducted the sale and that they did not
3 have any direct evidence that whomever it is that did
4 conduct the sale had come from within his residence.

5 Q. Okay. In order for an officer to obtain the search
6 warrant of Mr. Addison's residence, the Street, do
7 you think it would've been enough for the officer to have
8 testified that it was around in that area, next to that
9 area?

10 A. I suppose it was -- maybe not. They can also
11 certainly supplement information contained in the
12 affidavit. I believe that occurred during the suppression
13 hearing. So we ran into a little bit of an issue that
14 Investigator Lawson isn't confined necessarily to just
15 these words. That there was additional information that he
16 testified to including to the magistrate when he sought the
17 warrant.

18 Q. And, in fact, as you bring that up, on page 51, where
19 there's a question where the solicitor ask or the State
20 asked, did you provide a sworn testimony to the magistrate
21 to support a probable cause, you object to that, there's
22 some colloquy and eventually everyone settles on, well, you
23 can support a search warrant or the affidavit with sworn
24 testimony, do you recall that?

25 A. That's correct.

1 Q. But looking at that statement that you said is -- did
2 you call it misrepresentation that's in the affidavit?

3 A. Yes.

4 Q. Okay. After, now, knowing a little bit more about the
5 Franks procedure, which you said you really didn't know
6 about then, which is still, sort of, kind of ennobles area
7 anyway, could you see how you can make that request for a
8 Frank, a hearing pursuant to Franks to see if that is a
9 misrepresentation or deliberately and recklessly made
10 statements so that officer could get that warrant?

11 A. I can see that.

12 Q. Okay. And certainly since your whole goal in this
13 case was to suppress that search warrant and all that
14 evidence, that certainly was another tool in the toolbox so
15 to say?

16 A. Sure.

17 Q. Okay. And looking at it now, do you think that's
18 something that you would go back and make that motion or
19 request?

20 A. Maybe so. Again, I was five months in. I mean, I can
21 look back in and do a lot of things differently in a lot of
22 cases, but that's certainly one.

23 Q. Sure. And it certainly couldn't hurt him, he can only
24 help, right?

25 A. Given the situation that Mr. Addison is in, I suppose

1 it is, would only be an improvement from here.

2 MR. BOOZER: I beg the Court's indulgence, Your
3 Honor.

4 THE COURT: Yes, sir.

5 MR. BOOZER: Thank you, Mr. Grove. That's all the
6 questions I have.

7 THE COURT: Mr. James?

8 **Cross Examination by Mr. James:**

9 Q. Good morning, Mr. Grove.

10 A. Morning.

11 Q. Afternoon, Mr. Grove. You argued against the search
12 warrant in trial, correct?

13 A. Yes, sir.

14 Q. And you did so extensively, correct?

15 A. Yes, sir.

16 Q. And the Court ruled against you?

17 A. That's correct.

18 Q. All right. Did you file a notice of appeal?

19 A. Yes, sir.

20 Q. All right. Are you familiar at all with how that
21 appeal turned out?

22 A. I presumed it was unsuccessful. I haven't read the
23 opinion.

24 Q. Okay. You said you had been with the public
25 defender's office for five months, how long have you been

1 practicing law, generally?

2 A. I was sworn in November of 2009 and I've been -- I'm
3 still practicing as a public defender's now, almost seven
4 years as a public defender.

5 Q. Has your entire experience been as public defender?

6 A. No. I did civil work from November of 2009 until
7 August of 2010 when I started in the Fourth Circuit public
8 defender's office.

9 Q. You indicated that you only had the opportunity to
10 meet with Mr. Addison on a couple of occasions prior to
11 proceeding to trial. In those two occasions, did you have
12 time to discuss the indictments against him and the
13 offenses against him?

14 A. Yes, sir.

15 Q. And all of the elements of those offenses?

16 A. Yes, sir.

17 Q. And the possible sentences?

18 A. Yes, sir. Marcus is a very smart guy and he was well
19 aware of all that stuff and we certainly talked about them.

20 Q. Okay. What, if anything, did Mr. Addison tell you
21 about what occurred about the -- well, let me revise that
22 question. What is your understanding of what occurred when
23 law enforcement executed the search warrant?

24 A. How do you mean?

25 Q. Did they -- how did they find Mr. Addison, did they

1 find anything on Mr. Addison's person?

2 A. Sure. They -- law enforcement executed a search
3 warrant. I believe there were two juveniles in the home
4 one of whom they, if I remember correctly, apprehended
5 running out the back door. They found marijuana in one
6 room, a couple of ounces maybe three, I don't remember.
7 And Mr. Addison, obviously, is paralyzed from the waist
8 down, I think they were taking him to the hospital to be
9 examined before they took him to the detention center. He
10 had been placed under arrest for possession of marijuana
11 and maybe they were, they, eventually, charged him
12 contributing to the delinquency of a minor. I don't know
13 if he was under arrest for that at the time. But he was
14 complaining of bedsores, if I remember right, and then when
15 they were placing him into the EMS, the ambulance, he was
16 fidgeting and he kept reaching around into his diaper area
17 and, eventually, an officer decided to pat him down and
18 search him and they found crack cocaine. I think it was 13
19 grams in his diaper.

20 Q. All of this you learn pursuant to the usual discovery
21 motion, you applied for Brady?

22 A. Yes, sir.

23 Q. You reviewed this drug buy video prior to trial,
24 correct?

25 A. Yes, sir.

1 Q. Where did you review it?

2 A. In my office. It may have been -- it may have been in
3 the solicitor's office, come to think of it, but I reviewed
4 it either in our office or in theirs.

5 Q. And you took the contents of that video into
6 consideration in developing your argument to suppress the
7 search warrant and the results therefrom?

8 A. I worked the entire argument around it.

9 Q. Did you review everything with Mr. Addison aside from
10 showing him this video?

11 A. Yes. There was, like I said before, there wasn't much
12 to the rest of the case. There was this search issue and
13 then the rest of the case was law enforcement showing up at
14 his house and fifteen minutes later, he was under arrest
15 for trafficking crack cocaine.

16 Q. Did you explain to him, in your best words, the
17 contents of this video?

18 A. Yes. I reviewed it. All I needed to see was a person
19 walking in the video to know that it, obviously, wasn't him
20 and we had talked about that. We were very clear about
21 what our intentions were in trying to suppress it, the
22 search warrant.

23 Q. Are you familiar with the concept of curtilage?

24 A. Yes, sir.

25 Q. And is curtilage entitled to any sort of protection

1 under the United States Constitution?

2 A. It's included in search areas. It is included in a
3 lot of things. It's routine language when dealing with
4 property.

5 Q. Okay. Would you say that the porch was part of the
6 curtilage of Mr. Addison's house?

7 A. Yes, sir.

8 MR. JAMES: Moments of indulgence, Your Honor.

9 THE COURT: Yes, sir.

10 Q. There was some testimony at trial on page 137 that law
11 enforcement suspected that Mr. Addison may have possessed a
12 gun, is that correct?

13 A. Yes, sir.

14 Q. You don't -- do you think that was particularly
15 prejudicial to your client?

16 A. It's hard to say. I don't think it was relevant to
17 the charges. If there had been a charge involving an
18 handgun or anything of that nature, I think I would've been
19 made a bigger deal out of it. But they didn't find a
20 handgun, they didn't charge him with a handgun, I didn't
21 see much fruit in exploring that further.

22 Q. In your experience as a defense attorney, does the
23 mention of a gun or the indication of possession of a gun
24 outside of the violent crime context, create any impression
25 on jurors? Do they have a reaction to it in either

1 favorable or not favorable?

2 A. It's -- that's hard to say. It would depend on the
3 context. It would depend on the case, obviously. I don't
4 know. I'm sure sometimes it does.

5 Q. Okay.

6 A. I'm not sure if it did in this case.

7 Q. Okay. Isn't it true that no guns were found on Mr.
8 Addison?

9 A. That is correct.

10 Q. Or in any part of that search?

11 A. That is correct.

12 Q. Wasn't that the last thing that you elicited on cross-
13 examination from Officer Baird?

14 A. May I have a moment?

15 Q. Go right on ahead.

16 A. Yes, sir. That looks like it was the last question I
17 ask him was about how many handguns were found and the
18 answer was, none.

19 Q. Going back to the search warrant, do you believe that
20 the search warrant was misleading?

21 MR. BOOZER: Asked and answered, Your Honor,
22 objection.

23 THE COURT: I'll let him answer it one more time.

24 A. The search warrant, I hope you understand there's not
25 a short answer to that. The search warrant says, purchased

1 from the describe residence. And I suppose that can
2 interpret a lot of different ways. The initial -- the
3 direct meaning appears to be that happened with inside a
4 home. If I got something from a house, I would, the
5 picture created in my mind is within the home. I suppose
6 that could have a lot of different meanings. But that's
7 the meaning that I took from it, was that it indicated a
8 thing happened inside.

9 Q. But it's a little bit gray?

10 A. It is gray.

11 Q. You know if this affidavit was supplemented by any
12 sworn testimony?

13 A. I believe there was, yes.

14 Q. Do you recall the nature that was?

15 A. Without looking I certainly can't---

16 MR. BOOZER: Objection, Your Honor, to hearsay.

17 MR. JAMES: Goes to his entire understanding of the
18 validity of the search warrant.

19 THE COURT: I'll let him answer the question.

20 A. During -- I was not aware of any prior to the
21 suppression hearing. But during the suppression hearing,
22 as I remember, there was talk about frequent traffic in and
23 out of the house or complaints from the neighborhood,
24 something of that nature. I'd have to look into the
25 transcript to be more specific.

1 MR. JAMES: I have no further questions, Your
2 Honor.

3 THE COURT: Mr. Boozer?

4 MR. BOOZER: I beg the Court's indulgence, Your
5 Honor. Thank you, Your Honor. No further questions.

6 THE COURT: All right. You can step down, Mr.
7 Grove. Thank you, sir.

8 MR. JAMES: Your Honor, may this witness be
9 excused?

10 THE COURT: Any object?

11 MR. BOOZER: No objection.

12 THE COURT: You may be excuse, Mr. Grove.

13 MR. GROVE: Thank you, judge.

14 MR. BOOZER: Nothing further, Your Honor.

15 THE COURT: Okay. Mr. James, anything from you?

16 MR. JAMES: No witnesses from the State, Your
17 Honor.

18 THE COURT: Okay. All right. Gentlemen, I'm going
19 to think about this overnight so I'll let you hear from me
20 in the next couple of days.

21 MR. JAMES: Thank you, Your Honor. If it would
22 please, the Court, I do have a copy of Franks vs. Delaware
23 if it would be convenient to you.

24 THE COURT: You can hand it up. I'm familiar with
25 it but you can hand it up.

1 MR. JAMES: Okay. I'll leave it be, then.

2 (CONCLUSION OF THE HEARING ON JANUARY 18, 2016)

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CERTIFICATE

I, the undersigned Lisa S. Carter, Official Court Reporter for the Fourth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete excerpt of transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fourth Circuit Court for Dillon County, South Carolina, on the 18th day of July, 2017.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.

s/ Lisa S. Carter

Lisa S. Carter

Circuit Court Reporter

February 19, 2018

AVS
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STATE OF SOUTH CAROLINA
COUNTY OF DARLINGTON

) IN THE COURT OF COMMON PLEAS
) FOR THE FOURTH JUDICIAL CIRCUIT
)

Marcus Addison,
S.C.D.C. No. 257690,

) Case No.: 2015-CP-16-00273
)

Applicant,

) **ORDER OF DISMISSAL**
)

v.

State of South Carolina,

Respondent.

2017 OCT 26 AM 9:52
SCOTT B. SUGGS
CLERK OF COURT/R.D.
DARLINGTON COUNTY, S.C.

FILED

This matter comes before the Court by way of an application for post-conviction relief filed by Marcus Addison ("Applicant") on April 9, 2015. Respondent made its return on or about September 10, 2015. The Court convened an evidentiary hearing into the matter on July 16, 2017, at the Dillon County Judicial Center in Dillon, South Carolina. Applicant was present at the hearing and represented by Lance S. Boozer, Esquire. Johnny Ellis James Jr., of the South Carolina Attorney General's Office, represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Applicant's trial counsel, William E. Grove, Esquire ("Counsel") also testified. The Court had before it Applicant's records from the South Carolina Department of Corrections, a copy of the original trial transcript, the records of the Darlington County Clerk of Court regarding the subject convictions, Applicant's direct appeal records, and the pleadings. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Darlington County Clerk of Court. Applicant was indicted at the November 2008 term of the Darlington County Grand Jury for trafficking crack cocaine, 10-28

ML

grams (2008-GS-16-01502), and two counts of contributing to the delinquency of a minor (2008-GS-16-01504, -01505). William E. Grove, Esquire, represented Applicant. Patti M. Parker and John Holt, of the Fourth Circuit Solicitor's Office, prosecuted the case. Applicant proceeded to trial before the Honorable Howard P. King and a jury on January 31, 2011. The jury found Applicant guilty as indicted on February 2, 2011. Judge King sentenced Applicant to imprisonment for consecutive terms of ten years for trafficking, and three years for each count of contributing to the delinquency of a minor.

Applicant filed a timely notice of appeal and a direct appeal was perfected by Dayne C. Phillips, Esq. By opinion decided October 24, 2012, the South Carolina Court of Appeals affirmed Applicant's convictions. State v. Addison, Op. No. 2012-UP-577 (S.C. Ct. App. filed October 24, 2012). Applicant petitioned the Supreme Court of South Carolina for a writ of certiorari, which was denied by order dated January 15, 2015. The Remittitur was issued on February 9, 2015.

Present Application

In his post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons:

1. "Ineffective assistance of counsel"
 - a. "not allowing me the opportunity to view video of drug buy"
2. "Failure to properly investigate alleged crime"
 - a. "law enforcement knew I wasn't on video nor did buy happen in my presence"
3. "Prosecution misconduct"
 - a. "withholding the dvd of drug buy from me and jurors"

By amendment filed October 19, 2015, Applicant further alleged:

4. Ineffective assistance of counsel, in that:
 - a. "Counsel failed to object to prejudicial testimony from Deputy Baird and to otherwise request a limiting instruction."

- b. "Counsel failed to challenge the search warrant affidavit pursuant to Franks v. Delaware, 438 U.S. 154 (1978)."

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the records submitted to it by the parties and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented.

A. Prosecutorial Misconduct

Applicant alleges that the State committed an act of prosecutorial misconduct by withholding the DVD video of the drug buy from both defendant and the jury. "The Brady disclosure rule requires the prosecution to provide to the defendant any evidence in the prosecution's possession that may be favorable to the accused and material to guilt or punishment." Hyman v. State, 397 S.C. 35, 45, 723 S.E.2d 375, 380 (2012) (citation omitted). "Brady evidence is either favorable exculpatory evidence or favorable impeachment evidence." Id. "Materiality of evidence is determined based on the reasonable probability that the result of the proceeding would have been different had the evidence been disclosed to the defense." Id. Brady does not impose upon the State an obligation to disclose Brady evidence to a criminal defendant personally; service upon counsel is adequate. Id., 397 S.C. at 47, 723 S.E.2d at 381.

The uncontested testimony at the evidentiary hearing is that Applicant did not personally view the drug buy video because of a State policy to only disclose such videos to defense counsel, and that defense counsel himself did review the video. Hyman is dispositive in that this form of disclosure is appropriate and adequate to the satisfaction of the State's disclosure obligations. As to the State's decision to not publish the video the jury, the State is subject to no

obligation to itself introduce particular evidence at trial, only disclose. Accordingly, Applicant's request for relief based on the State's disclosure to only Counsel of the drug buy video is **DENIED**.

B. Ineffective Assistance of Counsel

In a post-conviction relief action, an applicant has the burden of proving the allegations in his or her application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant alleges ineffective assistance of counsel as a ground for relief, he or she must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Butler at 442, 334 S.E.2d 441 (quoting Strickland v. Washington, 466 U.S. 668, 686 (1984)). The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Id.

"[C]ounsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Butler at 442, 334 S.E.2d 441 (quoting Strickland at 690). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989). "Judicial scrutiny of counsel's performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel's assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable." Strickland, 466 U.S. at 689; Edwards v. State, 392 S.C. 449, 456-57, 710 S.E.2d 60, 64 (2011). "[W]hen counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed

ineffective assistance of counsel.” Smith v. State, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010) (citing Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under professional norms.” Cherry at 117, 386 S.E.2d at 625 (citing Strickland at 688). Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry at 117-18, 386 S.E.2d at 625 (citing Strickland at 694). The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. Strickland at 696. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. at 696-97. “[N]o prejudice occurs, despite trial counsel’s deficient performance, where there is otherwise overwhelming evidence of the defendant’s guilt.” Gibbs v. State, 416 S.C. 209, 218, 785 S.E.2d 455, 459-60 (2016).

LAC Allegation #1 – Failure to Review Drug Buy Video with Applicant, Play at Trial

Applicant alleges that Counsel was deficient for failing to review with him the video of the controlled drug buy before trial and have it submitted to the jury during trial. At the hearing, Applicant testified that Counsel told him about the video and that Applicant should not be worried, but never showed the video to him. Applicant claimed he never saw the DVD video in question but that he was aware he not was pictured in it. Applicant pointed out that he couldn’t

walk and that therefore he could not be the person described as in the video.¹ Applicant reported Applicant testified that the video was introduced for the suppression hearing prior to trial, but was not itself admitted to the jury and was never played to the jury. Applicant's PCR counsel introduced, without objection, the DVD video without objection and the portion capturing the controlled buy in question was played in open court. After the video was played, Applicant testified the video was important to his case because he never appeared in it. On cross-examination, Applicant conceded the house pictured in the video was his own, but argued the seller involved in the controlled buy was never pictured emerging from the house.

Counsel testified that the entire case hinged on the suppression of the drug buy video and resultant search of Applicant's residence. Counsel testified he did not believe he ever showed the video to Applicant prior to trial due to a policy in the Fourth Circuit Solicitor's Office—namely, that while defense counsel could review the video, drug buy videos were not provided to defendants themselves prior to trial. Counsel explained that the video was only introduced as part of the suppression hearing² as it provided the probable cause for the search of Applicant's residence and was not introduced at trial—the video was not necessary at trial because the crack cocaine in question was found on Applicant's person during the execution of the search warrant. On cross-examination, Counsel confirmed that he reviewed the video prior to trial but could not recall precisely where it was he reviewed it. Counsel argued against the search warrant extensively in a pre-trial suppression hearing and the ruling of the Court that the search warrant was valid was affirmed on appeal. Counsel testified that he reviewed all evidence disclosed with Applicant and explained the video to him, though Applicant did not watch it.

¹ Applicant is confined to a wheelchair and was so situated at the hearing.

² The trial judge reviewed the video on a computer in chambers. Tr. 62, ll. 15-22.

Applicant has failed to meet his burden as to either prong of Strickland by way of this allegation. The Court is satisfied that Counsel adequately reviewed the video and explained the contents of the video to Applicant; that he did not by some means subvert the legitimate policy of the Solicitor's Office does not constitute deficient performance. Nor does Applicant show how any prejudice resulted from his not personally viewing the drug buy. Applicant's observations that he does not personally appear in the video and that the seller is seen approaching the confidential informant from the porch of his residence was already apparent to defense counsel and argued at trial. There is no evidence to show anybody has ever claimed that Applicant personally appeared on the video and it does not capture the crime for which Applicant was convicted—it merely provided the probable cause to search his residence and, ultimately, Applicant's person.

Additionally, this Court finds no ineffectiveness on the part of Counsel for failing to require the State introduce the video as evidence or move to have the video played before the jury. As the video only pertained to the legal justification for the course of the investigation, and did not capture any part of the events for which Applicant was convicted, the Court cannot find any means by which displaying the video to the jury would have helped Applicant's defense. Accordingly, the Court finds no deficiency on the part of Counsel, no prejudice from the deficiency alleged, and Applicant's request for relief based upon this allegation is **DENIED**.

IAC Allegation #2 – Failure to Investigate

Applicant alleges Counsel was deficient for failing to adequately investigate his case by failing to discover that he never appears in the drug buy video. Substantially for the same reasons set forth in Section II.B.1, above, the Court finds no deficiency or prejudice on the part

of Counsel and, accordingly, Applicant's request for relief based upon this allegation is **DENIED.**

IAC Allegation #3 – Failure to Object to Deputy Baird's Testimony

Applicant alleges Counsel was deficient for failing to object to certain testimony by Deputy William "Tony" Baird. During cross-examination, Deputy Baird testified to concerns during the search that Applicant may have possessed a handgun:

Q. Why did you pick the right door?

A. Because when you are doing these entry type situations -- because like I said, we were told prior to the fact that [Applicant] had a handgun. The young guys with him, in particular Mr. [Minor] had made threats to the Darlington County Sheriff's Office about entry to his residence. From being in this home on previous accounts, on other things, I knew that that was the door that he was in. So, for an officer's safety issue, with my team going in the door, we didn't want to breach right on top of him, and him just laying in bed with a handgun facing the door. So we came in the door to the left side.

Q. How many handguns did you find?

A. None that day.

Tr. 137, ll. 10-25. Counsel concluded his cross-examination immediately thereafter.

At the evidentiary hearing, Applicant testified that Baird's testified belief Applicant might be armed with a gun was inadmissible and prejudicial to his case, and that Counsel should have objected. Counsel testified that though the testimony could have been damaging in certain circumstances, it wasn't in Applicant's case, as no gun was found. Furthermore, Counsel noted, the possibility that Applicant was armed had already validly come out on direct examination. See Tr. 132, ll. 7-14. Counsel conceded he could have requested a curative instruction. However, as noted above, Counsel testified that the entire case hinged on the validity of the

search warrant and the admissibility of its fruits—in particular, the large quantity of crack cocaine found in Applicant's diaper.

The Court finds no deficiency on the part of counsel. Counsel's judgment as to the testimony and whether or not it was damaging was reasonable in light of the fact that no gun was found, and that the issue was secondary to the charges to begin with. More than that, the Court agrees with Counsel's trial judgment, and finds the testimony did not prejudice Applicant's defense, especially as the evidence against him was overwhelming. See Gibbs v. State, 416 S.C. at 218, 785 S.E.2d at 459-60. Accordingly, Applicant's request for relief here, too, is **DENIED**.

IAC Allegation #4 – Failure to Challenge Search Warrant Pursuant to Franks v. Delaware

Finally, Applicant alleges that Counsel was deficient in failing to challenge the validity of the search warrant pursuant to Franks v. Delaware, 438 U.S. 154 (1978). Where a criminal defendant makes a substantial preliminary showing that a false statement knowingly and intentionally, or with reckless disregard for the truth, was included by affiant in search warrant affidavit, and if the allegedly false statement is necessary to the finding of probable cause, the Fourth Amendment requires that a hearing be held at the defendant's request. Id. However, the affidavit supporting a search warrant is presumptively true, and allegations of negligence or innocent mistake are insufficient to justify a hearing. Id. at 171. Franks does not provide for impeachment of any nongovernmental informant. Id.

The affidavit in support of the search warrant reads as follows:

That within the past 72 hours, a reliable confidential informant for the Darlington County Drug Unit has purchased a quantity of crack-cocaine *from the described residence located on "F" St.* in the Hartsville area of Darlington County. This event was monitored by law enforcement agents.

R. 92, State v. Addison (emphasis added).

Applicant testified at the evidentiary hearing that he believed Counsel should have argued pursuant to Franks on the basis that Applicant does not appear on the drug buy video and that he was uncertain of the veracity of the girl who set up the drug buy. Counsel, on direct examination, expressed that he was not familiar with Franks at the time, and could not recall if he challenged the affidavit on the basis that the sale occurred around, but not within, the house described. Counsel testified to his belief that the phrasing of the affidavit was misleading and the might could have made the argument in retrospect. Counsel testified to his belief that the warrant was supplemented by oral testimony to the magistrate.

The Court finds that Applicant has not met his burden of proving either prong of Strickland as to this allegation. To support a Franks allegation requires more than an allegation of mere negligence or, as is the case at present, a mere linguistic ambiguity in the search warrant—there must be a showing that a false statement was knowingly or intentionally, or with reckless disregard, was provided as part of the search warrant. Applicant's argument that the warrant is misleading in its vagueness does not rise to the level of falsehood or intent necessary to justify a Franks hearing. The Court sees no basis upon which Counsel would have been justified in demanding the hearing, and as a consequence, can see no fault in his failure to do so. The Court finds no deficiency on the part of Counsel or prejudice therefrom and, accordingly, Applicant's request for relief based upon this allegation is **DENIED**.

III. CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 17th day of October, 2017.


 ROGER E. HENDERSON
 Presiding Judge
 Fourth Judicial Circuit

Chesterfield South Carolina

FILED
 2017 OCT 26 AM 9:52
 SCOTT B. SUESS
 CLERK OF COURT/R.O.D.
 DARLINGTON COUNTY, S.C.

STATE OF SOUTH CAROLINA)
)
County of Darlington) INDICTMENT #08GS16-1502

At a Court of General Sessions, convened on November 10, 2008
the Grand Jurors of Darlington County present upon their oath:

COUNT: TRAFFICKING IN ICE, CRANK OR CRACK 10G OR
MORE BUT < THAN 28 G 44-53-0375

That Marcus Addison in the County of Darlington on or about May 21, 2008, wilfully, unlawfully and/or knowingly transport, and/or deliver and sell and/or was knowingly in possession of 13.7 grams or more of crack cocaine, this constituting the crime of Trafficking in Crack Cocaine under provisions, 44-53-375, et. seq., Code of Laws of South Carolina 1976, as amended.

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

SOLICITOR:

Johnston

WITNESSES

Lawson
DCCDU

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:

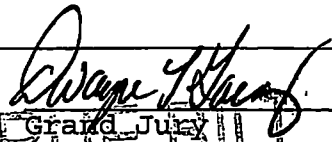
C.C.C. PLS. AND G.S.

ARREST WARRANT #:

J651956

Arrested on May 22, 2008

ACTION OF GRAND JURY

Foreman: 

Grand Jury

TRUE BILL

VERDICT

Foreman: _____

Petit Jury

Date: NOV 6 2008

DOCKET #: 08GS16-1502

THE STATE OF SOUTH CAROLINA

County of Darlington

COURT OF GENERAL SESSIONS

Term: November, 2008

THE STATE

vs.

Marcus Addison

INDICTMENT FOR

0451

TRAFFICKING IN ICE, CRANK OR CRACK 10G OR

MORE BUT < THAN 28 G 44-53-0375

STATE OF SOUTH CAROLINA)
)
County of Darlington)

INDICTMENT #08GS16-1504

At a Court of General Sessions, convened on November 10, 2008
the Grand Jurors of Darlington County present upon their oath:

COUNT: CONTRIBUTING TO DELINQUENCY OF A MINOR
(16-17-490)

That Marcus Addison, a person over the age of eighteen years, did in Darlington County on or about May 21, 2008, knowingly and willfully encourage, aid, or cause, or influence a minor to violate the law or to do deport himself as to willfully injure or endanger his morals or health, to wit: D [REDACTED] G [REDACTED] date of birth [REDACTED] 1991, a child less than eighteen years of age, all in violation of S. C. Code Section 16-17-490.

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

SOLICITOR:

WITNESSES

Lawson
DCCDU



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.

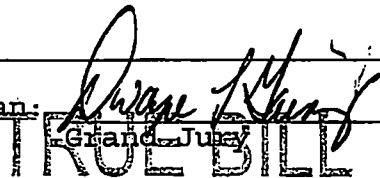
ARREST WARRANT #:

J651971

Arrested on May 22, 2008

ACTION OF GRAND JURY

Foreman:



Grand Jury

TRUE BILL

VERDICT

Foreman:

Petit Jury

Date:

NOV 6 2008

DOCKET #: 08GS16-1504

THE STATE OF SOUTH CAROLINA

County of Darlington

COURT OF GENERAL SESSIONS

Term: November, 2008

THE STATE

vs.

Marcus Addison

I N D I C T M E N T F O R

0048

CONTRIBUTING TO DELINQUENCY OF A MINOR

(16-17-490)

STATE OF SOUTH CAROLINA)
) INDICTMENT #08GS16-1505
County of Darlington)

At a Court of General Sessions, convened on November 10, 2008
the Grand Jurors of Darlington County present upon their oath:

COUNT: CONTRIBUTING TO DELINQUENCY OF A MINOR
(16-17-490)

That Marcus Addison, a person over the age of eighteen years, did in Darlington County on or about May 21, 2008, knowingly and willfully encourage, aid, or cause, or influence a minor to violate the law or to do deport himself as to willfully injure or endanger his morals or health, to wit: D [REDACTED] R [REDACTED], date of birth [REDACTED]/1994, a child less than eighteen years of age, all in violation of S. C. Code Section 16-17-490.

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

SOLICITOR:

[Handwritten signature]

WITNESSES

Lawson
DCCDU

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

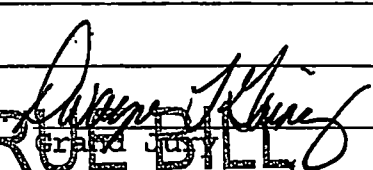
WITNESS:

C.C.C. PLS. AND G.S.

ARREST WARRANT #:
J651972

Arrested on May 22, 2008

ACTION OF GRAND JURY

Foreman: 

TRUE BILL

VERDICT

Foreman:

Petit Jury

Date: NOV 6 2008

DOCKET #: 08GS16-1505

THE STATE OF SOUTH CAROLINA

County of Darlington

COURT OF GENERAL SESSIONS

Term: November, 2008

THE STATE

vs.

Marcus Addison

INDICTMENT FOR

0048

CONTRIBUTING TO DELINQUENCY OF A MINOR

(16-17-490)