

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Cherokee County

Honorable Grace Gilchrist Knie, Circuit Court Judge

CHARLES P. BLACKWELL,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-000179

APPENDIX

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1 STATE OF SOUTH CAROLINA } COURT OF GENERAL SESSIONS
2 COUNTY OF SPARTANBURG }

3
4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
5 PLAINTIFF,) OF
6 VS.) RECORD
7 CHARLES P. BLACKWELL,)
8 DEFENDANT.) 2014-GS-11-638
9

10 March 4th and 5th, 2015
11 Spartanburg, South Carolina
12

13 B E F O R E:

14 THE HONORABLE ROGER L. COUCH, Judge; and a jury.
15

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

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23 PAMELA E. GREEN
24 Circuit Court Reporter
Seventh Judicial Circuit
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P R O C E E D I N G S

1
2
3 (WHEREUPON, State's Exhibit Nos. 1 through 19 were
4 marked for identification purposes only at this time.)

5 THE COURT: All right. The Court is on the record in
6 the case of The State of South Carolina versus Charles
7 Preston Blackwell. I have been presented with an
8 indictment. Case Number 2014-GS-11-638. The indictment is
9 for the offense of trafficking in methamphetamine.

10 Mr. Morin, your -- has your client been arraigned on
11 that charge?

12 MR. MORIN: I believe he has, Your Honor.

13 THE COURT: All right. And is he pleading not guilty
14 to the charge at this time?

15 MR. MORIN: That is correct, Your Honor.

16 THE COURT: And is he requesting or demanding a trial
17 by jury?

18 MR. MORIN: Yes, sir, he is.

19 THE COURT: Mr. Blackwell, please stand and be sworn.

20 (WHEREUPON, the defendant was placed under oath at this
21 time.)

22 THE COURT: All right. Mr. Blackwell, you can be
23 seated.

24 (Defendant complies.)

25 THE COURT: Just answer a couple of questions for the

1 Court.

2 I've indicated there is an indictment for trafficking
3 in methamphetamine that's been presented to me.

4 Have you received a copy of that indictment?

5 THE DEFENDANT: (Nods negatively.)

6 THE COURT: You've not seen the indictment in your
7 case?

8 MR. MORIN: Yes, you have. I've given you a copy of
9 all of the discovery.

10 THE DEFENDANT: Okay. Yes, sir. Yes, sir.

11 THE COURT: You have received a copy of it?

12 THE DEFENDANT: Yes, I have.

13 THE COURT: All right. Now, your attorney has
14 indicated you're pleading not guilty to that indictment.

15 Are you, in fact, pleading not guilty to the charge?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And are you requesting a trial by jury?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. Thank you, sir.

20 Now, I had a brief in my -- in chambers conference with
21 the attorneys. At that time there was a discussion
22 concerning two witnesses who'd been identified to the
23 defense this morning.

24 The names of those witnesses were, Ms. Leskanic?

25 SOLICITOR LESKANIC: Lynn Sizemore and Connie Peterson.

1 THE COURT: All right. And my understanding is the
2 state indicated they became aware of those -- the full
3 identity of those individuals recently.

4 Is that correct?

5 SOLICITOR LESKANIC: That's correct. We met with them
6 last week, Your Honor.

7 THE COURT: All right. And so have you had an
8 opportunity, Mr. Morin -- I've delayed the start of the
9 trial this morning to give you an opportunity to talk with
10 those witnesses.

11 MR. MORIN: Yes, Your Honor. I, I had an opportunity
12 to speak with them individually and I also discussed my
13 talks with them with my client.

14 THE COURT: And do you see any need to talk with them
15 any further before we proceed?

16 MR. MORIN: No, Your Honor.

17 THE COURT: And is there any need for you to develop
18 your discussions with them any further by any further
19 action, action outside of the courtroom?

20 MR. MORIN: No, sir.

21 THE COURT: All right. So you're ready to proceed?

22 MR. MORIN: Yes, sir.

23 THE COURT: All right. Now, my understanding is that
24 there are some matters that the parties would like the Court
25 to take up pretrial.

1 MR. MORIN: That's correct.

2 THE COURT: I -- does the State have any motions?

3 SOLICITOR LESKANIC: No, Your Honor. At least I don't
4 know if this is gonna be an issue with the defense. I
5 discussed back in chambers that one of the witnesses, her
6 testimony is gonna be that she felt threatened by the
7 defendant.

8 THE COURT: Uh-huh. (Affirmative).

9 SOLICITOR LESKANIC: And there is an incident that she
10 will testify to about having a gun pulled on her. I've made
11 the Court aware of that, Mr. Morin aware of that. I just
12 want to be forthcoming that that testimony will be coming
13 out.

14 THE COURT: I see.

15 Okay. Which witness is that?

16 SOLICITOR LESKANIC: Kalyne Carroll.

17 THE COURT: Thank you.

18 All right. Now, Mr. Morin, the matters that the
19 defense would like for the Court to take up pretrial.

20 MR. MORIN: Yes, Your Honor.

21 There are two issues.

22 One is there was a little, a small notebook, I believe
23 it's on the bar up here, that the State, from my
24 understanding, intends to introduce as a log of drug
25 transactions.

1 THE COURT: All right.

2 MR. MORIN: We would object to that---

3 THE COURT: Has that been premarked?

4 MR. MORIN: I believe it has. If I may come over here
5 and---

6 THE COURT: Yeah, please do and identify what we're
7 talking about.

8 MR. MORIN: It's been premarked as State's Exhibits 15
9 and 16.

10 THE COURT: All right.

11 MR. MORIN: Our position on that, Your Honor, is, is we
12 would object to those coming in and being described as drug
13 logs. There are -- they're just some names and some numbers
14 written down in there. If, if, if the State's gonna -- and,
15 and without doing that, they wouldn't have any relevance
16 unless they're gonna say that's what they are.

17 THE COURT: All right.

18 MR. MORIN: So, for that reason, we would object to
19 that.

20 The other thing is, is the State had a search warrant
21 for the residence. However, while they were there, they did
22 a consent to search where they presented us with consent to
23 search, which my client said he didn't consent to, and it's
24 purported to be signed by him, but he says that's not
25 correct. So we would ask that the consent to search, not

Nick Federico - Direct examination
by Solicitor Leskanic

1 the search of the house, but the consent to search be
2 suppressed.

3 THE COURT: All right. Then I'll ask the State to lay
4 some foundation for the introduction of the notebooks.
5 We'll do a proffer on that so we make some determination as
6 to its admissibility.

7 SOLICITOR LESKANIC: State call Sergeant Nick Federico.

8 THE COURT: Sir, if you'll come forward and be sworn
9 please.

10 NICK FEDERICO, being first duly
11 sworn, testified as follows:

12 THE COURT: Have a seat, sir. Once you're seated,
13 state your name for the Court.

14 THE WITNESS: I'm Sergeant Nick Federico or Nicholas
15 Federico.

16 THE COURT: All right. Thank you.

17 Ms. Leskanic, your witness.

18 SOLICITOR LESKANIC: Thank you, Your Honor.

19 And I believe the State will probably -- I'm gonna
20 focus on State's Exhibit No. 15.

21 DIRECT EXAMINATION

22 BY SOLICITOR LESKANIC:

23 Q If you would, first, please give your name to the
24 Court.

25 A Sergeant Nicholas Federico.

Nick Federico - Direct examination
by Solicitor Leskanic

- 1 Q And you are employed --?
- 2 A Cherokee County Sheriff's Office.
- 3 Q How long have you been with the Sheriff's Department?
- 4 A Probably seven and a half years, going on eight.
- 5 Q Okay. And what positions have you held in your seven
- 6 and a half years?
- 7 A Started out as a road deputy, and then, for the last
- 8 probably a little over three and a half years, I've been in
- 9 narcotics investigation.
- 10 Q Okay. And during your three and a half years in
- 11 narcotics investigations, approximately how many narcotic
- 12 cases have you handled if you can even estimate?
- 13 A I mean I'd say hundreds.
- 14 Q Okay. And have you, during the course of your, your
- 15 time in investigations, executed search warrants at homes?
- 16 A Yes, ma'am.
- 17 Q All right. Is this case based on a search warrant that
- 18 was executed at the defendant's residence?
- 19 A Yes, ma'am.
- 20 Q All right. During executions of search warrants or
- 21 during your time in narcotics, have you come across any sort
- 22 of drug ledgers or drug journals that individuals will keep
- 23 in order to keep track of who owes them money for drugs?
- 24 A Yes, ma'am.
- 25 Q All right. And how is it that you are able to

Nick Federico - Direct examination
by Solicitor Leskanic

1 recognize those things?

2 What do you look for?

3 A Of course, it will have names generally, and then
4 you'll have -- sometimes they'll be weights or code names
5 for weights and then prices out beside it.

6 Q Okay. This case has to do with methamphetamine.

7 Have you had a lot of experience in dealing with
8 methamphetamine?

9 A Yes, ma'am.

10 Q All right. Could you give the Court some foundation as
11 to your training and experience to work in narcotics and
12 training and experience specifically with methamphetamine?

13 A I guess my training started probably before I got in
14 narcotics. You know, small agencies, we help each other.
15 So, even on the road I went and helped doing search warrants
16 with the other narc guys before my time.

17 But now, it's, you know, of course, meth is very
18 prevalent nowadays. So I mean that's probably the biggest
19 majority of what we deal with.

20 Q Okay. Do you know the street value of meth or the
21 language that is used with methamphetamine?

22 A Yes, ma'am.

23 Q Could you explain that to the Court?

24 A Well, they're several different kinds of language. I
25 guess basically methamphetamine is classified here as

Nick Federico - Direct examination
by Solicitor Leskanic

5

1 either, as either ice or clear, which is the -- a long hot
2 cooked process of the dope or the meth. The other is called
3 dirty, which is I think some of the Court might be familiar
4 with, the shake and bake or cooking it in a bottle and not
5 having to actually hot cook it.

6 The -- as far as weights, you, you know, it kind of
7 goes by the grams, and then you got ounces, and then pounds,
8 of course. Like they call a eight ball. An eight ball is
9 a -- 3.5 grams, and then you might have a sixteenth, which
10 would be half of that. A quarter is a quarter of an ounce,
11 and then you have a half, which would be a half an ounce, or
12 you have a whole, which normally is referred to as a whole
13 ounce.

14 So they'll call it a whole one or a half one, a
15 quarter, or eight ball.

16 You want me to go on with the prices?

17 Q If you would please, the prices that you would expect
18 to --.

19 A Generally an eight ball will run from anywhere from 225
20 to 275 around here unless they're really -- I mean meth goes
21 by basically a hundred dollars a gram. But if you buy --
22 it's just like anything else. If you buy one T-shirt, it's
23 \$5, or regular \$10, but if you buy 50, they gonna give it to
24 you at a cheaper rate.

25 Meth's the same way. If you buy, I guess an eight

Nick Federico - Direct examination
by Solicitor Leskanic

1 ball, they give you a little better discount. It would be
2 350 normally. But if you buy it, since you're buying that
3 weight instead of buying 20s or 40s, which is \$20 worth or
4 \$40 worth of meth, then they, they give it to you at a, at a
5 rate of like 225 or 275.

6 Q All right. Have you had an opportunity also, I know
7 you've made arrests, have you had an opportunity to speak
8 with individuals that have been arrested to learn more about
9 the meth trade?

10 A Yes, I mean there's a high percentage of people that
11 we, that we -- I mean I would just be reaching out to say
12 like 95 percent of the people we arrest we get to interview.
13 So a lot of them are, are cooperative in, in giving us the
14 information on how much things cost, and, and how much
15 things weigh and how they cook it, you know, when they're,
16 when they're doing the shake and bake, and, you know, that
17 kind of thing.

18 So, yeah, I mean probably -- I mean just a guess would
19 be 95 percent, but it's pretty high that we interview
20 people. Sometimes we can't get to them till they get out
21 before we can get around to interviewing them.

22 Q Okay. In this particular case did you see something in
23 plain view when y'all were executing -- I know you were
24 there executing a search warrant for stolen property.

25 You were---

1 A Yes, ma'am.

2 Q ---there assisting the detectives, and then, when you
3 were getting all the individuals from the house, you saw
4 something in plain view?

5 A Yes, ma'am.

6 Q And what did that end up being?

7 A It was a glassen baggy, like a Ziploc type bag, that
8 had a, I guess, a small amount of meth in it. A dusting is
9 what I call it of, of meth inside the bag.

10 Q Okay. And then -- and I know we'll get to the consent
11 to search in a minute.

12 There was a consent to search that was executed, and
13 you found some more methamphetamine in the house?

14 A Yes, ma'am.

15 Q All right. At what point in time did you find these
16 memo journals?

17 A Actually right before we was leaving the residence.

18 Q All right. Could you tell the Court how you came
19 across -- I'm gonna show you State's Exhibit 15, and tell
20 the Court how that came into your possession.

21 A Yes, he was actually looking for his wallet in---

22 Q He being who?

23 A Preston Blackwell. Excuse me.

24 Q Okay.

25 A He was looking for his wallet. I went in to escort him

Nick Federico - Direct examination
by Solicitor Leskanic

1 to look for his wallet. He found his wallet and I told him
2 I needed to check it to make sure nothing was in it cause he
3 was taking it with him to jail and it had these two ledgers
4 inside the wallet.

5 Q Okay. And can you read what is on the outside cover of
6 that State's Exhibit 15?

7 A Yes, it says owe list. O-W-E list.

8 Q Okay. And then did you look at that list?

9 A Yes, ma'am.

10 Q All right. And can you describe to the Court what you
11 saw and what you thought that it meant?

12 A Yes, there's peoples' names with numerical values, I
13 guess, numbers on some of it, and it says like, for an
14 example, it'll have like 360, and then under it say \$100 and
15 then it will be paid, and then it's like a remainder would
16 be 260, and then, when they paid again, they paid \$100, it's
17 marked paid and that brings it down to 160 and so on. And
18 then -- well, actually, just to add, just since I'm doing
19 this one, you know, then got 130 and then it went back up to
20 290.

21 Another example is you got some names and then you have
22 a 8B, which is an eight ball, and you have names with
23 quarter wrote beside it, 2 gs, which is 2-grams. A quarter,
24 like I said, would be a quarter of an ounce, and then you
25 have a half, which will be a half, half an ounce.

Nick Federico - Direct examination
by Solicitor Leskanic

19

1 Q All right. And while you're looking at that, you said
2 there was 8B, which, in your opinion right now, and I know
3 you haven't been qualified as an expert yet, but you think
4 that would be an eight ball?

5 A Yes, ma'am.

6 Q Is there an amount written beside that?

7 A Not on the eight ball. On the, the quarter it says 475
8 and then the 2-grams has a hundred beside it.

9 Q All right. And are those amounts that you would expect
10 to be paid for methamphetamine based on your experience?

11 A The quarter number seems a little high, but the 2-grams
12 will be right on. It's probably -- I mean, in my, my
13 experience, would be some people's gonna get it cheaper than
14 other. Some people's gonna get it higher pay for, for what
15 they do.

16 I mean a lot of times they're just like anybody else.
17 If they deliver it, they gonna charge, you know, more
18 because of -- for wasting their gas and nine times out of
19 ten they're trying to find a way to get there. So they're
20 having to pay somebody to take them -- to drop dope off.

21 Q Does it also depend, I know you talked about whether
22 it's clear, which is the hot cook method, or whether it's
23 dirty, the shake and back method, is there a different price
24 in the community for the type of methamphetamine?

25 A Not really. Just the quality of dope is the way we

Nick Federico - Direct examination
by Solicitor Leskanic

1 understand it is -- so better quality dope, with the long
2 cook, the clear, or the, or the ice, the dirty.

3 Q Are there any other entries in that journal that led
4 you to believe that this was a drug ledger?

5 A I mean there's, there's name after name of money values
6 in here, and then people have -- like we have lists where
7 people have bought and paid referencing a half a ball or
8 half a B is what it says. So, yeah, I mean it -- my, my law
9 enforcement experience and training, that's, that's what I
10 consider that to be.

11 SOLICITOR LESKANIC: Okay. And, Your Honor, we would
12 offer Sergeant Nick Federico as an expert in the field of
13 narcotics. Specifically, in this case, methamphetamine.
14 Having experience, knowing methamphetamine when he sees it,
15 drug logs when he sees them, and allow him to testify as to
16 State's Exhibit 15, which he found in the defendant's wallet
17 at the time of his arrest.

18 THE COURT: Objection to qualifications?

19 MR. MORIN: Yes, Your Honor.

20 THE COURT: All right. You may examine him as to his
21 qualification.

22 CROSS-EXAMINATION

23 BY MR. MORIN:

24 Q Officer, I assume you went to the South Carolina
25 Criminal Justice Academy?

Nick Federico - Cross-examination
by Mr. Morin

21

- 1 A Yes, sir, I did.
- 2 Q You received law enforcement training down there?
- 3 A Yes, sir.
- 4 Q And what other education regarding law enforcement have
- 5 you received in your seven and a half years as a law
- 6 enforcement officer?
- 7 A As far as classes?
- 8 Q Uh-huh. (Affirmative).
- 9 A Is that what you're asking me?
- 10 Q Yeah.
- 11 A I went to -- I've been through undercover narcotic
- 12 class.
- 13 Q Where was that?
- 14 A At, at the academy.
- 15 Q Was that a part of your academy training---
- 16 A No, sir.
- 17 Q ---or separate?
- 18 A No, sir.
- 19 Q It's separate?
- 20 A Right.
- 21 Q Okay.
- 22 A I've been to classes, not through them, cultivating
- 23 informants for, for narcotic uses. I've been to -- I mean
- 24 you're wanting to just know for narcotics or all my law
- 25 enforcement training?

Nick Federico - Cross-examination
by Mr. Morin

1 Q Well, you're -- there -- Ms. Leskanic wants you to be
2 an expert in drug recognition --

3 A Right.

4 Q -- and I'm interested in what -- because you've
5 testified that you've done narcotics for three years, three
6 and a half.

7 A Right.

8 Q And I know you went to the Criminal Justice Academy --

9 A Right.

10 Q -- cause you're a law enforcement officer.

11 A Yes, sir.

12 Q What I'm interested in is your other education and
13 training regarding narcotics.

14 A The -- with them two classes---

15 Q And how long were those classes?

16 A Cultivating informants might of been two to three days.
17 Undercover class is a, is a week.

18 Q Okay.

19 A It was five days and I don't remember right off if
20 there's any more, any more actual classes.

21 Q Okay. And an undercover operative, have you personally
22 worked as an undercover operative?

23 A Yes, sir.

24 Q Where?

25 A Here in Cherokee County.

Nick Federico - Cross-examination
by Mr. Morin

23

1 Q Okay. So you, you, yourself, went out and made buys
2 and that kind of thing?

3 A Yes, sir.

4 Q Okay. And you told Ms. Leskanic that you've done
5 hundreds and I have no doubt about that.

6 A Yes, sir.

7 Q But out of those hundreds, what percentage of those
8 would involve notebooks?

9 A I mean it would strictly be a guess, but, you know, 30,
10 40 percent.

11 Q Thirty or forty percent of the arrests you make there's
12 notebooks involved?

13 A Yes, sir.

14 Q And you're saying that these two items were, were in
15 a -- this State's Exhibit -- excuse me.

16 State's Exhibit 16 and State's Exhibit 15, these were
17 in a wallet?

18 A Yes, sir.

19 Q Do you have the wallet?

20 A No, sir.

21 Q Do you have a picture of the wallet?

22 A I do not believe.

23 Q Okay. Now, if I understand your testimony correctly,
24 while there seems to be some general understanding of what
25 the costs of the narcotics are, it can, can range widely

Nick Federico - Cross-examination
by Mr. Morin

1 based on the number, the amount, transportation costs, what
2 kind it was made with?

3 All those things come into play, is that correct?

4 A Yes, sir.

5 Q And when you went out there, did you go out there with
6 officer Fowler to execute the search warrant?

7 A Yes, sir.

8 Q Okay. There was stolen property that y'all were going
9 out there to get?

10 A That's correct.

11 Q And it had been bought and sold there, correct?

12 A Correct. I mean---

13 Q I mean that affidavit---

14 A Right.

15 Q You don't have to -- we won't get into that, but so, so
16 there was some buying and selling of stolen property that
17 was going on out there?

18 A Yes, sir.

19 Q Is that in this notebook?

20 A Not that I'm aware of.

21 Q So even though different things were being bought and
22 sold, your testimony is the notebook only applies to drugs?

23 A Yes, sir, in my opinion, in my law enforcement
24 experience, yeah.

25 Q And that's based on letter B occurring on some pages?

Nick Federico - Cross-examination
by Mr. Morin

25

1 A Well, B, quarter, G. I think there was three different
2 things. Well, yeah, B, quarter, and then we have G.

3 Q Okay. And, of course, one of the things that's listed
4 on the search, the search warrant is a leaf blower, correct?

5 A Yes, sir.

6 Q Okay. So you're saying, based on a quarter, a B, and a
7 G, from your experience, that makes that a drug log?

8 A Yes, sir.

9 MR. MORIN: Your Honor, that would be my questions for
10 this witness that I had.

11 THE COURT: All right. The State have any follow-up
12 questions?

13 SOLICITOR LESKANIC: Just one.

14 REDIRECT EXAMINATION

15 BY SOLICITOR LESKANIC:

16 Q Looking at the journal, could you go to the entry that
17 has the name Lynn at the top and read to the Court what is
18 on that page?

19 A I have two I believe with Lynn's name on it. There's
20 one with Lynn and her name is on the top.

21 Q Yes, sir, that's the one I'm referring to.

22 A Okay. It -- this says Lynn with a line under it, and
23 then it says owes for quarter when she was -- looks like
24 drug. I can't -- looks like drug.

25 Q If you'll just spell it.

Nick Federico - Redirect examination
by Solicitor Leskanic

1 What do you see?

2 A It looks like D-R-U-G-E-D (sic).

3 Q Okay. All right. And you've been doing strictly
4 narcotics work for three and a half years?

5 A Yes, ma'am.

6 Q All right. And approximately how many methamphetamine
7 cases have you worked?

8 A I mean I'm gonna probably venture out to say 75 percent
9 of them.

10 Q And, in other cases, you stated to Mr. Morin, 30 to
11 40 percent of the drug cases that you've worked have had
12 notebooks associated with them.

13 Would they have similar language with the 8B or half a
14 B, quarter G?

15 A Yes, ma'am.

16 Q That would be in that case as well?

17 A Right.

18 Q All right. And, in those cases, did anyone ever admit
19 to you that that was their drug journal or where they kept
20 track of who owed them for drugs?

21 A Yes, ma'am, but I can't tell you specifically.

22 Q That's okay.

23 But you have had people having journals similar to this
24 and they have told you that that is their drug journal?

25 A Yes, ma'am.

Nick Federico - Redirect examination
by Solicitor Leskanic

27

1 Q Okay. Thank you.

2 THE COURT: Mr. Morin, anything further from the
3 witness?

4 MR. MORIN: Nothing for the witness, Your Honor.

5 THE COURT: All right. You may step down, sir.

6 SOLICITOR LESKANIC: I will have to call him again on
7 the consent to search, but---

8 THE COURT: I understand.

9 SOLICITOR LESKANIC: Okay. Thank you.

10 THE COURT: All right. Mr. Morin, I'll hear you
11 concerning your motions.

12 MR. MORIN: Your Honor, I would argue that they're
13 overbroad. They're trying to make him an expert on all
14 things drugs. He basically has three and a half years of
15 experience and a few extra training days down at the law
16 enforcement center.

17 He's testified that he knows, based off of three
18 letters and the thing that makes him -- he's an expert. He
19 can tell you in his opinion, his expert opinion. However, I
20 don't believe that they've submitted the training and the
21 education and experience that would be required to give an
22 expert opinion so that he can give an opinion to the jury
23 regarding these documents based off of three letters.

24 THE COURT: Ms. Leskanic.

25 SOLICITOR LESKANIC: Your Honor, as the Court knows, an

1 expert doesn't have to have specific training or a degree.
2 They just have to have knowledge that will assist the jury
3 with an issue in Court, and certainly Sergeant Federico has
4 that with his three and a half years experience. He
5 testified 74 percent of the cases that he handles are
6 methamphetamine cases. He sees journals of this type in 30
7 to 40 percent of those cases. Those defendants that he has
8 spoken with, some of them, have admitted yes, that's my drug
9 ledger.

10 So, to be an expert, he just has to be able to offer
11 information to the jury that will help them, as the trier of
12 fact, in getting to the truth of this case. But he's had
13 the training in the academy. He's had the undercover
14 narcotics training, the cultivating informants training.
15 But, most importantly, he's had three and a half years in
16 Cherokee County with 75 percent of those cases being
17 methamphetamine cases.

18 So, I believe being able -- allowing him to offer his
19 opinion as an expert would assist the trier of fact in
20 coming to their conclusion in this case.

21 THE COURT: Yes, Mr. Morin.

22 MR. MORIN: Oh, I have no doubt that the State feels
23 that his opinion will help them make the decision. The
24 question is whether or not he's submitted and they -- he's
25 given the testimony that make his knowledge and experience

1 to the point of an expert. A good bit of his testimony has
2 to do with math, which he's not being questioned about.

3 My position is, three and a half years, he's done some
4 drug work, and he received a little bit of training. But
5 for him to take that and jump to the position where he can
6 give an opinion that these books are drug ledgers is not --
7 he's not qualified to do that based on what he's seeing
8 here.

9 That's my position.

10 THE COURT: Can I see the ledger?

11 SOLICITOR LESKANIC: Yes, sir.

12 THE COURT: Pass it up please.

13 (Pause.)

14 THE COURT: All right. It's gonna be my finding that
15 the witness in question certainly has been employed with and
16 worked in the investigation of drug cases in Cherokee County
17 exclusively for the last three and a half years with the --
18 apparently also has seven and a half years total experience
19 in law enforcement. He certainly has knowledge in his
20 possession that would not be possessed by the average person
21 or layman concerning the distribution of illegal drugs in
22 that he has testified concerning the split of the drug, the,
23 the amounts that it's sold in, the language that's used for
24 the sale of that drug such as the reference to an eight ball
25 and what that means, and as well as the methods of the,

1 excuse me, the approximate price of those transactions in
2 Cherokee County at the present time.

3 He was able to relate those amounts to certain
4 transactions that are contained in the logs. Specifically
5 there are several transactions in which there is the, the
6 letter -- the number eight in conjunction with the letter B
7 and an amount stated for those. There are names on those
8 transactions.

9 It does appear to be clearly a ledger where things are
10 being paid for. There's money being received and accounted
11 for and a balance being run on those amounts in that ledger.
12 There is reference in, in that ledger to grams or GRs.

13 So, there's -- there is reference in there on certain
14 transactions and one that said something about an individual
15 being drugged when the transaction took place it appears.

16 So there is sufficient -- there is significant evidence
17 in the ledger that -- from which a person might be able to
18 reach a conclusion such as the witness has. The question's
19 not the content of its conclusion, but whether or not he has
20 sufficient information with which to provide an opinion.

21 Certainly the defense would have the right to challenge
22 that opinion as to the amount of training received, and the,
23 the information upon which it was based, but it would be my
24 finding that this witness does possess information that
25 would be helpful to a jury in deciding the questions that

1 are presented to him, and so I will qualify him as an expert
2 concerning drugs sales in -- and in the Cherokee County
3 community, and I will allow him to offer his opinions.

4 Certainly it does not mean that the Court has endorsed
5 the opinions in any way. I will state to the jury that they
6 wouldn't be given any more weight simply because this
7 witness is an expert. In fact, I will instruct the jury
8 that they have the right to disregard it all together if
9 they find it's not based on sufficient education and/or
10 experience.

11 So I'm gonna allow him to give his opinion on the, on
12 the, the evidence that's been presented, and, of course,
13 I'll give the defense a right to challenge that opinion, but
14 I'm gonna let it in.

15 Now, you wanted to challenge the consent?

16 MR. MORIN: Yes, Your Honor.

17 THE COURT: All right. Do you wish to place him up for
18 that?

19 SOLICITOR LESKANIC: Yes, Your Honor.

20 THE COURT: All right.

21 SOLICITOR LESKANIC: We call Sergeant Federico again.

22 THE COURT: Sir, come back to the stand. I will remind
23 you you've been placed under oath.

24 Do you acknowledge that fact?

25 THE WITNESS: Yes, sir.

Nick Federico - Direct examination
by Solicitor Leskanic

1 THE COURT: And so you're under oath at this time.

2 THE WITNESS: Yes, sir.

3 THE COURT: Have a seat please.

4 (witness complies.)

5 THE COURT: Ms. Leskanic, your witness.

6 NICK FEDERICO, having been previously
7 sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY SOLICITOR LESKANIC:

10 Q Sergeant Federico, you've testified just a moment ago
11 regarding the drug ledger and you were out assisting
12 detectives to execute a search warrant at ■ Garvin Lake
13 Road, which is the address of the defendant, Charles Preston
14 Blackwell.

15 Is that correct?

16 A Yes, ma'am.

17 Q All right. During that time, when you made entry into
18 the home, will you please walk the Court through what you do
19 when you first go in to execute a search warrant and what
20 you did in this case?

21 A I was at the back-door knocking and I think someone was
22 at the front door. Anyway, Preston, Preston Blackwell came
23 to the back-door, opened the back-door. We told him we had
24 a search warrant. The detective that -- with the search
25 warrant, they came around, went inside to talk to

Nick Federico - Direct examination
by Solicitor Leskanic

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1 Mr. Blackwell.

2 while they're doing that, I asked if anybody else is in
3 the house so we can, for our protection, bring everybody to
4 where we can put eyes on them. He says yes. One girl, Ms.
5 Lawson, was standing in the kitchen area, and then Kalyne
6 Carroll was in the -- a bedroom right -- what I considered
7 the master bedroom cause it has a bathroom on suite. She
8 was in the bed there.

9 We walked in. Me -- myself and Sergeant Gardner walked
10 in, seen her in the bed, and right beside the, I guess a
11 nightstand is what I would call it, beside the bed was that
12 clear glassen bag with a dusting of meth or some meth in it.

13 So when we come out, they're talking to him about the
14 search warrant. I talked to him about that. I present
15 him -- I go out, get the paper, present him with a consent
16 to search form, and asked him would be willing to, to sign
17 consent for us to search, read him what's on there, and he
18 did acknowledge and signed his signature.

19 Q Okay. I'm gonna show you what's been marked State's
20 Exhibit 12. If you would, just take a look at that.

21 A (Witness complies.)

22 Q I know it's a copy, but do you recognize that?

23 A Yes, ma'am.

24 Q And what is that?

25 A That is a consent to search form.

Nick Federico - Direct examination
by Solicitor Leskanic

1 Q Okay. Is this the consent to search form or a copy of
2 it that you handed to the defendant --

3 A Yes, ma'am.

4 Q -- on May 23rd?

5 A Yes, ma'am.

6 Q Okay. And could you read the consent to search please
7 or, or read it or explain how you read it to the defendant?

8 If you would just walk through the steps going through
9 the consent to search with Mr. Blackwell.

10 A Yes, ma'am. I basically read the paragraph and it, and
11 it says, it says I, Charles Preston Blackwell. Of course---

12 Q Who---

13 A ---I would put his name on there.

14 Q You wrote his name down --

15 A Yes.

16 Q -- at that point?

17 A Yes.

18 Q Okay.

19 A But at this point I probably didn't write his name in
20 cause I'm explaining it to him first, and it says having
21 been informed of my Constitutional right to not have to --
22 not to have a search made of my premises, vehicle, or
23 vehicles, or my person, hereafter described without a search
24 warrant, and my right to refuse to consent to such a search,
25 hereby authorize officers from the Cherokee County Sheriff's

Nick Federico - Direct examination
by Solicitor Leskanic

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1 office to conduct a search of my premises, vehicle, or
2 vehicles, or on my person under my control described as, and
3 then -- and I told him that I -- what I was, you know, the
4 curtilage, the, that actual residence, and any outbuildings
5 associated with the residence, which is already, which is
6 wrote on there, but I was explaining to him.

7 Then it says this written permission is given to me
8 voluntarily and without being -- without threats or promises
9 of any being made to me, and it's the date, the time, and
10 where we was at, the location, and then the signature of
11 person giving consent, which he signed---

12 Q Okay. And what is the---

13 A ---and witnessed.

14 Q ---date on that?

15 A It's May the 23rd, 2014.

16 Q And the time?

17 A 9:16AM.

18 Q Okay. The location?

19 A It's [REDACTED] Garvin Lake Road.

20 Q That's the defendant's residence where he was on that
21 day?

22 A Yes, ma'am.

23 Q Okay. Was anyone else with you when you went through
24 the consent to search form with the defendant?

25 A Yes, Sergeant Gardner.

Nick Federico - Direct examination
by Solicitor Leskanic

- 1 Q Okay. And did the defendant then sign --
- 2 A Yes.
- 3 Q -- this form?
- 4 A Yes, ma'am.
- 5 Q And he did that in your presence?
- 6 A Yes, ma'am.
- 7 Q And the presence of Sergeant Gardner?
- 8 A Yes, ma'am.
- 9 Q All right. Did the defendant appear to be under the
- 10 influence of anything when he gave his consent to search?
- 11 A No, ma'am.
- 12 Q All right. Were the answers that he gave you to the
- 13 questions that you asked, were they appropriate answers?
- 14 Did he understand what you were saying?
- 15 A Yes, ma'am.
- 16 Q All right. Did you make him any threats if he didn't
- 17 sign the consent to search?
- 18 A No, ma'am.
- 19 Q All right. Based on you having found the, the bag of
- 20 methamphetamine, what would you have done if he didn't sign
- 21 the consent?
- 22 A I would of got a search warrant.
- 23 Q Okay.
- 24 A I would of pursued the search warrant.
- 25 Q And did y'all tell him that -- or what did you tell him

Nick Federico - Direct examination
by Solicitor Leskanic

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- 1 regarding the consent to search?
- 2 Did you tell him that he had to sign it?
- 3 A No, ma'am, I read that exactly how it's written.
- 4 Q Okay. And, and he signed it?
- 5 A Yes, ma'am.
- 6 Q Were there any threats made to him about if he didn't
- 7 sign it, something was going to happen?
- 8 A No, ma'am.
- 9 Q Did you or Sergeant Gardner make any promises regarding
- 10 leniency or help if he agreed to do a consent instead of
- 11 having you get a search warrant?
- 12 A No, ma'am.
- 13 Q All right. And then, after he signed it, what happened
- 14 at that point?
- 15 A Then we basically split up and I guess you could say
- 16 two teams. The criminal investigation division searched for
- 17 stolen property, and myself and Sergeant Gardner searched
- 18 for any kind of dope or dope paraphernalia, drug
- 19 paraphernalia.
- 20 Q Okay. To your knowledge, does Mr. Blackwell have a
- 21 experience in the criminal justice system to understand
- 22 consents to search?
- 23 A Yes, ma'am.
- 24 Q Okay. All right. When y'all went through the consent
- 25 to search, had he already been Mirandized --

Nick Federico - Direct examination
by Solicitor Leskanic

1 A No, I can't---

2 Q -- based on the search warrant?

3 A I can't remember that.

4 Q Okay. Okay. Thank you. That's all the questions I
5 have. If you'll answer any questions Mr. Morin has.

6 THE COURT: Mr. Morin.

7 CROSS-EXAMINATION

8 BY MR. MORIN:

9 Q There's two sets of law enforcement out there at the
10 same time?

11 You just said---

12 A There's two divisions, yeah.

13 Q Two divisions went out there?

14 A They're the same law enforcement.

15 Q Right.

16 But two divisions?

17 A Right.

18 Q And when you got there, who read the search warrant?

19 A I think that would of been Detective Walker.

20 Q Did that come before or after the consent?

21 A I can not recall that.

22 Q Would you have entered into the house and been in the
23 bedroom if you hadn't told them about the search warrant?

24 A Right.

25 Q So you would of had to tell him about that before you

Nick Federico - Cross-examination
by Mr. Morin

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- 1 were in there---
- 2 A I was---
- 3 Q ---and see the thing that---
- 4 A That's when I walked through the door and then he---
- 5 Q Right.
- 6 So he already knew it was a search warrant?
- 7 A Right.
- 8 Q And the search warrant already said that y'all had the
- 9 right to search the residence, any persons, any vehicles,
- 10 the curtilage, and all that?
- 11 You'd already told him that that's what y'all were
- 12 gonna do, correct?
- 13 A Right, just two different things.
- 14 Q Well, but I mean you come to the door. We're gonna
- 15 search this. We're gonna search anybody here. This is why
- 16 we're here.
- 17 A Okay.
- 18 Q Right?
- 19 A Yep.
- 20 Q And then you went in, and, during the search, you
- 21 decided to do a consent to search?
- 22 A Yes, sir.
- 23 Q And I think you said to Ms. Leskanic if he didn't sign
- 24 the consent then you would have gone and got a second search
- 25 warrant?

Nick Federico - Cross-examination
by Mr. Morin

- 1 A I felt like I had probable cause to do that, yes, sir.
- 2 Q Okay. Well, did you tell him if you don't sign this,
- 3 we'll -- we're gonna have to get another search warrant?
- 4 A I don't recall saying that, no, sir.
- 5 Q But you're already in the house searching?
- 6 A I wasn't searching at the time, no, sir. If you're, if
- 7 you're---
- 8 Q Law enforcement was already in the house conducting a
- 9 search?
- 10 A Right, advising him of what's going on and reading the
- 11 search warrant I'm sure.
- 12 Q Right.
- 13 A Yes, sir.
- 14 Q And he certainly -- that would of happened?
- 15 I mean you wouldn't of been in the master bedroom
- 16 without telling him there was a---
- 17 A Right.
- 18 Q ---search warrant?
- 19 A Right.
- 20 Q Why was your division there on a stolen property case?
- 21 A We was assisting the criminal investigation because,
- 22 for one thing, they needed help. The second thing is it's
- 23 a, it's -- I mean it's known to, in the past, is -- we've
- 24 had drug activity there.
- 25 Q Of course, Mr. Blackwell's never been arrested for a

Nick Federico - Cross-examination
by Mr. Morin

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- 1 drug charge, is that correct?
- 2 A I'm pretty sure that's right.
- 3 Q okay. One moment.
- 4 (Pause.)
- 5 Q Tracy Fowler, he in drugs or narcotics or --?
- 6 A Criminal investigations.
- 7 Q Criminal investigation?
- 8 A Uh-huh. (Affirmative).
- 9 Q And Richard Burgess, narcotics or criminal?
- 10 A Criminal.
- 11 Q Brandon Gardner?
- 12 A Narcotics.
- 13 Q You.
- 14 And Nathan Walker?
- 15 A Criminal.
- 16 Q So Tracy, Richard, and Nathan were with criminal, and
- 17 they were out there to, to see about the stolen property,
- 18 but you and Brandon went with them to assist?
- 19 A Yes, sir.
- 20 Q Now, when you said I want you to search -- I wanted you
- 21 to consent to this search, what did Mr. Blackwell say?
- 22 A He said okay and signed it.
- 23 Q Just like that?
- 24 A Yes, sir.
- 25 MR. MORIN: That's all the questions I have, Your

Nick Federico - Cross-examination
by Mr. Morin

1 Honor.

2 THE COURT: Anything further from the State?

3 SOLICITOR LESKANIC: Just very briefly.

4 THE COURT: Yes, ma'am.

5 REDIRECT EXAMINATION

6 BY SOLICITOR LESKANIC:

7 Q The original search warrant was for stolen property, is
8 that correct?

9 A Yes, ma'am.

10 Q You don't have a copy of that in front of you, but I
11 believe we were -- law enforcement was looking for a leaf
12 blower, a lawn mower, and a circular saw.

13 Does that sound---

14 A Yes, ma'am.

15 Q ---correct?

16 So there was nothing on the search warrant about
17 looking for drugs?

18 A No, ma'am.

19 Q Is, is that why you then did the consent to search or
20 would have gotten a separate search warrant to actually look
21 for narcotics based upon the bag of methamphetamine you
22 found in the master bedroom?

23 A Yes, ma'am.

24 Q All right. And, again, Mr. Blackwell seemed to pay
25 attention when you were reading the consent to search.

Nick Federico - Redirect examination
by Solicitor Leskanic

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1 He agreed to sign it?

2 A Yes, ma'am.

3 Q Agreed to let you search his residence?

4 A Yes, ma'am.

5 Q And that is his signature on the consent to search?

6 A Yes, ma'am.

7 Q All right. Thank you.

8 THE COURT: Anything further, Mr. Morin?

9 MR. MORIN: No, Your Honor.

10 THE COURT: You may step down, sir.

11 State may call its next witness.

12 SOLICITOR LESKANIC: State calls Sergeant Brandon.

13 THE COURT: Come be sworn, sir.

14 BRANDON GARDNER, being first duly
15 sworn, testified as follows:

16 THE COURT: State your name once you're seated, sir.

17 THE WITNESS: Brandon Gardner.

18 THE COURT: All right. Your witness, Ms. Leskanic.

19 SOLICITOR LESKANIC: Thank you.

20 DIRECT EXAMINATION

21 BY SOLICITOR LESKANIC:

22 Q Where are you employed, Sergeant Gardner?

23 A Cherokee County Sheriff's Office.

24 Q And how long have you been employed with the Sheriff's
25 Office?

Brandon Gardner - Direct examination
by Solicitor Leskanic

1 A Since January of 2009.

2 Q All right. And can you tell us a little bit about what
3 positions you've held since you've been with the Sheriff's
4 office?

5 A I was a road deputy until 2012 where I went into
6 narcotics.

7 Q All right. So you have been doing strictly narcotics
8 since 2012?

9 A Yes, ma'am, for three years.

10 Q Okay. And did you work any narcotics cases when you
11 were a road deputy?

12 A Just assisting in search warrants.

13 Q Okay. And on this particular day, May 23rd, did you go
14 out to [REDACTED] Garvin Lake Road to assist on a search warrant?

15 A I did.

16 Q All right. And why did narcotics officers go out with
17 detectives on this search warrant?

18 A They asked if we would be -- if we could assist them
19 with a search warrant, and then, in reference to where it
20 was located, from the information we had received, narcotic
21 activity occurring there.

22 Q Okay. So you thought that there may be stolen property
23 out there, which the detectives were handling, and if any
24 narcotics were found, narcotic agents would be on scene.

25 Is that fair?

Brandon Gardner - Direct examination
by Solicitor Leskanic

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1 A That's fair.

2 Q Okay. Where did you enter the home, from the back-door
3 or front door?

4 A When -- I first approached the home from the front, but
5 I went around to the back where Sergeant Federico was and
6 entered with him.

7 Q Okay. And can you walk the Court through what you
8 recall happening once you made entry into the home?

9 A Yes, ma'am.

10 Entered behind Sergeant Federico. Spoke with
11 Mr. Blackwell, who was standing in the kitchen area. Like
12 there's a washroom right there on the right. Remember
13 seeing a, a female identified as Ms. Lawson. I think she
14 was cleaning. She was walking around the house. We advised
15 them why we were here. I'm not sure if Sergeant Federico or
16 myself went into the bedroom to the right first and saw Ms.
17 Carroll laying in the bed.

18 Q All right. Was she awake or asleep?

19 A I can't recall. I think she might of been asleep.

20 Q Okay.

21 A But I can't recall.

22 Q All right. And then did you and Sergeant Federico see
23 something in plain view in that room?

24 A Yes, ma'am.

25 Q What was that?

Brandon Gardner - Direct examination
by Solicitor Leskanic

- 1 A A, a little small glassen bag that's known to transport
- 2 drugs in that had what appeared to be dust, meth, or meth
- 3 residue on the bag, inside the bag.
- 4 Q Okay. And did y'all collect that bag?
- 5 A Yes, ma'am, we did.
- 6 Q All right. And you woke or got Ms. Carroll to get up
- 7 and come into the living room?
- 8 A Yes, ma'am.
- 9 Q All right. And what happens after that?
- 10 A I believe we -- all of them were brought into the
- 11 living area of the residence. Detective Walker executed the
- 12 search warrant or read off the search warrant to all three
- 13 of them.
- 14 Q Okay.
- 15 A I'm not sure if, if the timeframe of how long, you
- 16 know, or speaking of the search warrant and then me and
- 17 Sergeant Federico talking and approached Mr. Blackwell in
- 18 reference to the consent to search due to the meth --
- 19 Q Okay.
- 20 A -- that we found in there.
- 21 Q Okay. Would you have pulled Mr. Blackwell away and
- 22 talked to him while Sergeant Walker was reading the search
- 23 warrant or would you have waited until he completed that?
- 24 A Waited until he completed that.
- 25 Q Okay. And then you and Sergeant Federico pulled

Brandon Gardner - Direct examination
by Solicitor Leskanic

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1 Mr. Blackwell to the side?

2 A Yes. Yes, ma'am, that's just---

3 Q And what was the nature of that conversation?

4 A Sergeant Federico explained to him that they had been a
5 baggie found in the bedroom and explained the consent to
6 search form to him.

7 Q Okay. And, and you were in here when he testified.

8 Do you recall Sergeant Federico reading this form to
9 Mr. Blackwell?

10 A Yes, ma'am, he did.

11 Q And, in your opinion, being there, did Mr. Blackwell
12 seem to understand what was being read to him?

13 A Yes, ma'am.

14 Q All right. And what was his response when he was asked
15 whether or not he would consent to this?

16 A I just remember him saying okay and it wasn't much of a
17 discussion. Just him signing. I witnessed him signing the
18 paper.

19 Q Okay. So your signature is on this form as a witness?

20 A Yes, ma'am.

21 Q Okay.

22 A And then I, I guess you would call it executing the
23 consent to search. You know, I took custody of the property
24 and stuff that was found -- evidence that was found.

25 Q Okay. Did Mr. Blackwell sign it first or did you and

Brandon Gardner - Direct examination
by Solicitor Leskanic

1 Sergeant Federico sign it first?

2 A Mr. Blackwell signed it first.

3 Q Okay. So he signs it and then you and Sergeant

4 Federico sign the form?

5 A That's correct.

6 Q Did the defendant appear to be under the influence of
7 any alcohol or drugs?

8 A No, ma'am.

9 Q Were there any threats made to him if he failed to sign
10 the form?

11 A No, ma'am.

12 Q Was he promised anything if he consented rather than
13 having you go and get another search warrant?

14 A No, ma'am.

15 Q Okay. How long did the conversation take from the time
16 the form was read to him to the time that he signed it?

17 A Very short. Just -- as, as long as it would take to
18 read paper. Maybe a couple minutes.

19 Q Did he---

20 A So --.

21 Q Did he ask a lot of questions about the form before he
22 signed it?

23 A No, ma'am.

24 Q Okay. All right. Thank you. Please answer any
25 questions Mr. Morin has.

Brandon Gardner - Direct examination
by Solicitor Leskanic

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- 1 THE COURT: Mr. Morin, your witness.
2 MR. MORIN: One moment, Your Honor.
3 THE COURT: Yes, sir.
4 (Pause.)
5 MR. MORIN: I don't have any questions of this witness.
6 THE COURT: You may step down, sir.
7 THE WITNESS: Do I need to bring this?
8 THE COURT: That needs---
9 SOLICITOR LESKANIC: Yes, sir.
10 THE COURT: ---to be left with the court reporter --
11 THE WITNESS: Okay.
12 THE COURT: -- right there.
13 Thank you, sir.
14 All right. State wish to call any other witnesses
15 concerning the consent to search?
16 SOLICITOR LESKANIC: No, Your Honor.
17 THE COURT: Mr. Morin, defense may call witnesses.
18 MR. MORIN: Charles Blackwell please.
19 THE COURT: Sir, come forward to be sworn please.
20 CHARLES BLACKWELL, being first duly
21 sworn, testified as follows:
22 THE COURT: Have a seat, sir, in the witness stand.
23 Once seated, state your name.
24 THE WITNESS: Charles Blackwell.
25 THE COURT: Thank you.

Charles Blackwell - Direct examination
by Mr. Morin

1 Your witness, Mr. Morin.

2 MR. MORIN: I need to get the -- okay. Thank you.

3 DIRECT EXAMINATION

4 BY MR. MORIN:

5 Q Mr. Blackwell, on May 23rd, 2014, do you remember when
6 law enforcement came out to [REDACTED] Gardner -- Garvin Lake Road?

7 A Yes, sir.

8 Q Were you present when they come out there?

9 A Yes, sir.

10 Q I'm gonna show you what's been marked as State's
11 Exhibit No. 12 and ask if you've seen this document before.

12 A Not until after I got home -- got out of jail.

13 Q That's the first time you saw it?

14 A When I got out of jail.

15 Q Okay.

16 A My -- the woman I live with showed it to me.

17 Q Okay.

18 A It was left at the house.

19 Q All right. Do you remember Officer, Officer Federico
20 asking you to sign a consent to search that day?

21 A Yes, sir.

22 Q Can you tell the Court what you recall occurred?

23 A When he asked me to give him permission to search the
24 house?

25 Q Uh-huh. (Affirmative).

Charles Blackwell - Direct examination
by Mr. Morin

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1 A I told him to kiss my ass.

2 Q Well, past that, did you sign this document?

3 A No, I did not.

4 Q Is this your signature?

5 A No, it is not.

6 Q Well, after you said what you've already testified to,
7 did you say anything else to him?

8 A I told him to get the fuck out of my house.

9 MR. MORIN: I have no further questions, Your Honor.

10 THE COURT: Ms. Leskanic, your witness.

11 CROSS-EXAMINATION

12 BY SOLICITOR LESKANIC:

13 Q Mr. Blackwell, was Sergeant Federico at your home on
14 May 23rd?

15 A Yes, sir. Yes, ma'am.

16 Q Okay. And was Sergeant Gardner at your home on May
17 23rd?

18 A Yes, ma'am.

19 Q And you were there?

20 A Yes, ma'am.

21 Q Okay. Thank you.

22 That's all I have.

23 THE COURT: Any further questions from the defense?

24 MR. MORIN: No, sir.

25 THE COURT: All right, sir. You may step down.

1 MR. MORIN: I have no motion, Your Honor.
2 THE COURT: Anything further?
3 MR. MORIN: No, sir.
4 THE COURT: Okay. Thank you. Then it's -- it will be
5 allowed to come in.
6 SOLICITOR LESKANIC: Thank you, Your Honor.
7 THE COURT: Anything further from the defense before we
8 select a jury?
9 MR. MORIN: Your Honor, I have a, I have a copy of my
10 voir dire that I would---
11 THE COURT: All right. Pass that up to me.
12 MR. MORIN: I think I gave you a copy.
13 SOLICITOR LESKANIC: You did.
14 THE COURT: Pass that up to me please.
15 SOLICITOR LESKANIC: Did you give me that?
16 MR. MORIN: Well, I had it.
17 SOLICITOR LESKANIC: I've read it. I don't have any
18 objection to it. So --.
19 MR. MORIN: All right. I'm gonna pass this one -- this
20 copy up, Your Honor.
21 THE COURT: All right. Thank you.
22 State have any specific requests?
23 SOLICITOR LESKANIC: No, Your Honor, standard.
24 THE COURT: All right. I have a, a State's list of
25 potential witnesses.

1 Any additions to that list?

2 SOLICITOR LESKANIC: No, Your Honor. Oh, I'm sorry.

3 THE COURT: I was asking Mr. Morin if he had any
4 additions, but---

5 MR. MORIN: I have---

6 THE COURT: Any additions to that?

7 MR. MORIN: Other than the defendant, that would be the
8 only one, Your Honor.

9 THE COURT: All right. Very good.

10 All right. Anything further before we begin jury
11 selection, from the State?

12 SOLICITOR LESKANIC: No, Your Honor.

13 THE COURT: Anything further from the defense?

14 MR. MORIN: No, sir.

15 THE COURT: All right. Let's bring the jury panel in.
16 (Pause.)

17 SOLICITOR LESKANIC: May we approach just a moment?

18 THE COURT: Yes.

19 Mr. Morin, come on up.

20 (WHEREUPON, a bench conference was held at this time.)

21 (WHEREUPON, the following takes place within the
22 presence of the entire jury panel.)

23 THE COURT: All right. Good morning, ladies and
24 gentlemen.

25 We're about to begin the trial of the State of South

1 Carolina against the defendant, Charles Preston Blackwell.

2 The indictment that has been presented to me in this
3 case is in Case Number 14-GS-11-628. The indictment is for
4 the offense of trafficking in methamphetamine.

5 I'm going to go, again, go over the indictment with you
6 at this time. It does contain the allegations that have
7 been made in this case. It's the document that brings this,
8 as I've explained to you previously, the document that
9 brings the case into Court. It informs us of the charge
10 that's to be tried. It informs the defendant of the charge
11 that's been lodged against him.

12 Again, I will caution you, an indictment can not be
13 used by a jury in any manner whatsoever in determining the
14 guilt or the innocence of a defendant. Again, I'm going
15 over it with you so that, in a few minutes, when I ask you
16 some questions about this, you will know when the
17 allegations allegedly happened and what the -- allegedly
18 occurred so that you can more fully answer some questions
19 that I have about this case.

20 The indictment states, in part, that Charles Preston
21 Blackwell did, in Cherokee County, on or about May the
22 23rd of 2014, knowingly sell, manufacture, deliver,
23 purchase, or bring into the State or did provide financial
24 assistance or did otherwise aid, abet, attempt, or conspire
25 to sell, manufacture, deliver, purchase, or bring into the

1 state, or did knowingly, actually or constructively,
2 possess, or did knowingly attempt to actually or
3 constructively possess 10-grams or more, but less than
4 28-grams, of methamphetamine, a scheduled II controlled
5 substance, in violation of Code section 44-53-375 of the
6 Code of Laws of South Carolina, 1976 as amended, against the
7 peace and dignity of the State and contrary to the statute
8 in such case made and provided.

9 That is the indictment in this case, and the
10 allegations that we are going to proceed to trial on.

11 Now, before I begin to question you in this matter, I'm
12 going to ask that the attorneys involved in the case
13 introduce themselves to you. In the case of the defense,
14 I'll ask that the defense attorney introduce the defendant
15 to you.

16 First of all for the State.

17 SOLICITOR LESKANIC: May it please the Court?

18 THE COURT: Yes, ma'am.

19 SOLICITOR LESKANIC: Thank you, Your Honor.

20 Good morning. My name is Kim Leskanic and I'm
21 assistant solicitor here in Cherokee County.

22 THE COURT: And for the defense.

23 MR. MORIN: My name is Michael Morin. I have a law
24 office in Spartanburg. I practice over here in Cherokee as
25 well, and this is my client, Charles Blackwell.

1 THE COURT: Sir, if you'll stand up so the jury can put
2 a face with that name.

3 (Defendant complies.)

4 THE COURT: Thank you, sir. You can be seated.

5 (Defendant complies.)

6 THE COURT: Now, again, it's very important that the
7 information that you to reply to, reply to my questions with
8 is truthful and, and complete information. For that reason
9 it's necessary that you, again, be sworn in this case to
10 respond truthfully to my questions.

11 Madam Clerk, please swear the jury panel.

12 (WHEREUPON, the jury panel was placed under oath at
13 this time.)

14 THE COURT: Now, if there was any juror who either
15 failed or refused to take the oath just administered by the
16 clerk, I'd ask that you now stand.

17 (No response.)

18 THE COURT: The record will reflect that all potential
19 jurors have been sworn concerning their responses in this
20 case.

21 We'll follow the same procedure we followed in the
22 past. I'll ask questions. If you have a response, I'll ask
23 that you stand. I'll need your name and number on the
24 record before I discuss any response that you might have to
25 my questions.

1 The first question I have, is there any member of this
2 jury panel who has ever been related by marriage or are you
3 related by blood or have you ever had a close social or a
4 personal relationship with the defendant, Charles P.
5 Blackwell, if that's true, please stand.

6 (No response.)

7 THE COURT: Now, concerning the attorneys that are
8 involved in this case, has any member of the jury panel ever
9 been represented by either of the attorneys involved in the
10 case or have they ever appeared on the other side of a legal
11 matter from you, if that's occurred, please stand.

12 (No response.)

13 THE COURT: Has any member of the jury panel ever been
14 related by marriage or are you related by blood or have you
15 ever had a close social or a personal relationship with
16 either of the attorneys involved in the trial, if that's
17 true, please stand.

18 (No response.)

19 THE COURT: I'm going to read a list of people who have
20 been identified to the Court as possible witnesses in the
21 case. As I call these names, if the individuals are
22 present, I'll ask that they stand and face the jury panel so
23 that you'll be able to put a face with the name that I call.
24 Those who are not present, obviously, we can't identify in
25 that fashion. But I will go over those names. When I

1 finish going over the list I'll have some questions
2 concerning these individuals. So please listen carefully.

3 First of all, Detective Tracy Fowler with the Cherokee
4 County Sheriff's Department.

5 (Witness stands.)

6 THE COURT: Thank you, sir.

7 Sergeant Nick Federico with the Cherokee County
8 Sheriff's Department.

9 (Witness stands.)

10 THE COURT: Thank you, sir.

11 Sergeant Brandon Gardner with Cherokee County Sheriff's
12 Department.

13 (Witness stands.)

14 THE COURT: Thank you.

15 Rodney Bright with the Cherokee County Sheriff's
16 Department.

17 Stephen Anderson with the Cherokee County Detention
18 Center.

19 CSI Billy Anthony with the Cherokee County Sheriff's
20 Department.

21 (Witness stands.)

22 THE COURT: Jonathan Blackwell.

23 Julie Hardin Lawson.

24 Kalyne Carroll.

25 (Witness stands.)

1 THE COURT: Thank you.

2 Connie Peterson.

3 (Witness stands.)

4 THE COURT: Thank you, ma'am.

5 Lynn Sizemore.

6 (Witness stands.)

7 THE COURT: Thank you.

8 Douglas Robinson who is with the South Carolina Law
9 Enforcement Division.

10 As to the individuals that I have identified as
11 possible witnesses in this case, has any member of the jury
12 panel ever been related by marriage or are you related by
13 blood or have you ever had a close social or a personal
14 relationship with anyone that I've identified as a possible
15 witness in this trial, if that's true, please stand.

16 (Jurors respond.)

17 THE COURT: Sir, I'll need your name and number.

18 THE JUROR: 122. My name is Allen Benson.

19 THE COURT: Yes, sir.

20 THE JUROR: This is my sister. I know Lynn too.

21 THE COURT: All right. I'm gonna excuse you from the
22 trial of the case, sir. You no longer have to answer my
23 questions. I'll ask that you be seated.

24 Thank you, sir.

25 Name and number.

1 THE JUROR: Michael Hall, Juror Number 84.

2 THE COURT: Yes, sir.

3 THE JUROR: Rodney Bright, policeman. We coach
4 baseball and football together.

5 THE COURT: So in a, in a recreational setting you've
6 known this individual?

7 THE JUROR: Yeah.

8 THE COURT: Now, if that person were a witness in this
9 case, would that affect your ability to be fair and
10 impartial if you were seated on the jury?

11 THE JUROR: No.

12 THE COURT: Thank you, sir. You can be seated.
13 Ma'am, name and number.

14 THE JUROR: Mary Moore, 78.

15 THE COURT: Yes, ma'am.

16 THE JUROR: Rodney Bright. I have attended church with
17 him.

18 THE COURT: I see.

19 Now, the fact that you had attended church with him,
20 would -- if he were a witness in the case, would that affect
21 your ability to be fair and impartial to both---

22 THE JUROR: No.

23 THE COURT: ---the State and the defense?

24 THE JUROR: No.

25 THE COURT: All right. Thank you, ma'am.

1 Sir, name and number.

2 THE JUROR: Christopher Myles, 80.

3 THE COURT: Yes, sir.

4 THE JUROR: Lynn Sizemore, she use to work for me.

5 THE COURT: All right. So she no longer does work for
6 you?

7 THE JUROR: No, she does not.

8 THE COURT: Now, if she were to appear as a witness in
9 this trial and you were on the jury, would that affect your
10 ability to be fair and impartial to both sides?

11 THE JUROR: No, sir, it would not.

12 THE COURT: Thank you, sir. You can be seated.

13 Sir, name and number.

14 THE JUROR: David wilkie, Number 130.

15 THE COURT: Yes, sir.

16 THE JUROR: Acquainted with Brian socially. Just watch
17 Carolina football.

18 THE COURT: I see.

19 Now, would that fact that -- if he were a witness in
20 this case, would that affect your ability to be fair and
21 impartial if he appeared?

22 THE JUROR: No, sir, it would not.

23 THE COURT: Thank you.

24 You need to---

25 MR. MORIN: I'm sorry. I didn't get who he knew.

1 THE COURT: Help us out, sir. Stand up again.
 2 MR. MORIN: I got his number.
 3 THE COURT: You, you know who?
 4 THE JUROR: David. We call him Brian.
 5 THE COURT: Mr. Bryant.
 6 MR. MORIN: Okay.
 7 THE COURT: All right. Thank you.
 8 Ma'am, your name and number.
 9 THE JUROR: My name is Janice Booker, Number 1.
 10 THE COURT: Yes, ma'am.
 11 THE JUROR: I use to be friends with Mr. Federico's
 12 sister.
 13 THE COURT: I see.
 14 Now, if he were to be a witness in the trial, would
 15 that affect your ability to be fair and impartial in the
 16 case?
 17 THE JUROR: No.
 18 THE COURT: Thank you, ma'am. You can be seated.
 19 Anyone else?
 20 (No response.)
 21 THE COURT: Sir, the gentleman, the gentleman in the
 22 front I excused?
 23 (Juror stands.)
 24 THE COURT: The clerk needs your number.
 25 THE JUROR: 122.

1 THE COURT: 122. Thank you, sir.

2 Excuse me.

3 Is there any member of the jury panel who has a member
4 of your immediate family or a close personal friend of yours
5 or yourself who has ever been employed by any law
6 enforcement agency, if that's true, please stand.

7 (Juror responds.)

8 THE COURT: Ma'am, name and number.

9 THE JUROR: Kimberly Ramsey, Number 100.

10 THE COURT: Yes, ma'am.

11 THE JUROR: And I use to work here for about ten years
12 ago for the detention center. It would have no effect.

13 THE COURT: All right. Now, if you were selected to
14 serve on the jury, would that fact affect your impartiality?

15 THE JUROR: Not at all.

16 THE COURT: Thank you, ma'am.

17 Anyone else?

18 (No response.)

19 THE COURT: Is there any member of the jury panel who
20 has ever been employed by or has an immediate family member
21 or a close personal friend whose ever been employed by the
22 Seventh Circuit Solicitor's Office, if that's true, please
23 stand.

24 (No response.)

25 THE COURT: Has any member of the jury panel had any

1 experiences with drugs and/or drug addiction such that that
2 experience might affect your ability to be fair and
3 impartial to both sides in the trial of this case, if that's
4 true, please stand.

5 (Juror responds.)

6 THE COURT: Ma'am, I need your name and number.

7 THE JUROR: Laura Pelham, Juror Number 60.

8 THE COURT: Yes, ma'am.

9 THE JUROR: My nephew and niece are involved in a
10 current Court situation where they may go to jail for
11 trafficking.

12 THE COURT: All right. Now, ma'am, would that fact
13 affect your impartiality in this case?

14 THE JUROR: No, sir.

15 THE COURT: All right. Thank you, ma'am.

16 Anyone else?

17 (No response.)

18 THE COURT: Is there any member of the jury panel who
19 is a member of any organization which has as its primary
20 purpose the combating of illegal drug activity, if that's
21 true, please stand.

22 (No response.)

23 THE COURT: Is there any member of the jury panel who
24 is a member of the National Rifle Association, if that's
25 true, please stand.

1 (No response.)

2 THE COURT: Has any member of the jury panel gathered
3 any information from any source whatsoever that it would
4 have caused you to either form or express an opinion about
5 any of the issues that might be involved in the trial of
6 this case, if that's true, please stand.

7 (No response.)

8 THE COURT: Is there any member of the jury panel who's
9 aware of any bias or prejudice that you might have either
10 for or against the state or the defense in this case, if
11 that's true, please stand.

12 (No response.)

13 THE COURT: Is there any member of the jury panel who
14 is a member of any organization or a contributor to any
15 organization which has as its primary concern the promotion
16 of victim's rights and/or law enforcement?

17 These groups would include, but not be limited to such
18 groups as Mothers Against Drunk Driving, Students Against
19 Drunk Driving, Citizens Against Violent Crime, the South
20 Carolina Sheriffs Association, the South Carolina Troopers
21 Association, or other similarly oriented organizations, if
22 that's true, please stand.

23 (No response.)

24 THE COURT: Is there any member of this jury panel who
25 is aware of any reason whatsoever why he or she should not

1 serve as a juror in this case with particular emphasis being
2 placed upon your ability to be fair and impartial to both
3 the State and the defense, if you're aware of such a reason,
4 please stand.

5 (No response.)

6 THE COURT: Any further questions from the State?

7 SOLICITOR LESKANIC: No, Your Honor.

8 THE COURT: Any from the defense?

9 MR. MORIN: No, sir.

10 THE COURT: All right. I'll declare that the, declare
11 that the remaining members of the jury panel are qualified
12 to serve in this case.

13 I'll direct the clerk to prepare a list of potential
14 jurors in this matter.

15 I will caution you, again, as we call your name, you'll
16 be asked to come down front in front of the, the clerk,
17 stand and face the back-door of the courtroom. At that time
18 the parties will be exercising their strikes in this case.

19 In this case, the State will have five strike.

20 The defense will have five strikes.

21 We'll pick one alternate.

22 State having one strike.

23 Defense having two.

24 (Pause.)

25 THE COURT: All right. Again, bring any personal

1 belongings with you if your name is called.

2 Madam Clerk, you can begin the jury selection process.

3 (WHEREUPON, a jury panel was selected at this time.)

4 THE COURT: All right. We are now picking the
5 alternate.

6 (WHEREUPON, an alternate juror was selected at this
7 time.)

8 THE COURT: All right. Any objection from the State to
9 the jury selection process?

10 SOLICITOR LESKANIC: No, Your Honor.

11 THE COURT: Any from the defense?

12 MR. MORIN: No, sir.

13 (Pause.)

14 THE COURT: All right. Anything further from the State
15 before we begin the trial of the case?

16 SOLICITOR LESKANIC: No, Your Honor.

17 THE COURT: Anything further from the defense?

18 MR. MORIN: No, sir.

19 THE COURT: All right. Ladies and gentlemen of the
20 jury, you've been selected as jurors in this matter. At
21 this time I'm going to ask the clerk to administer another
22 oath.

23 Now, up to this point in time the oath, the oaths that
24 you have been taking have to do with your responses to the
25 Court's questions and you assuring the Court that you're

1 answering truthfully to my questions.

2 This oath is a little different. This has to do with
3 the duties and responsibilities that each of you have as
4 jurors in this case. So listen carefully to the oath and
5 I'll discuss it with you by -- in more detail in a few
6 minutes.

7 Madam Clerk, please swear the jury panel.

8 (WHEREUPON, the jury panel was placed under oath at
9 this time.)

10 THE COURT: Now, if there was any member of the jury
11 panel who either failed or refused to take the oath that was
12 just administered by the clerk, I'd ask that you now please
13 stand.

14 (No response.)

15 THE COURT: The record will reflect then that all
16 jurors have been sworn concerning your responsibilities in
17 this case, and, at this time, I want to go over some matters
18 with you.

19 First of all, I'll tell you that it's my belief that,
20 for most of you, this is the first time that you've ever
21 been selected on a jury and served in the trial of a
22 criminal case in our Court system. For those of you for
23 whom this is the first time you've been placed in this
24 position, there's some things that I want to go over with
25 you to explain the process and the procedures that we will

1 follow. Also to give you a, a better idea of the duties and
2 responsibilities that you have as jurors and that I have and
3 the other participants in this trial have concerning the way
4 and the manner in which the trial will be conducted.

5 If you've never been in this position before, you've
6 never been seated on a jury in a criminal case, I would
7 suspect that most of what you might know or believe about
8 what juries do and how they function you would of learned
9 from such sources as television shows you've watched, or
10 movies you've seen, maybe books that you've read. They
11 don't teach much about juries and how they operate in the,
12 in the school system anymore, but you might have learned
13 something from that source.

14 But in the case of television and movies and books,
15 while those sources of information are full of high drama
16 and intense action and rivetting circumstances, I hope you
17 realize that those sources of information were intended to
18 entertain you. I think that's clear from the fact that, if
19 you watch a television show, you can have an event occur,
20 you can have the case tried and ended in the space of one
21 hour, and they always have time to stop about five times
22 along the way to put in some commercials, and, of course, I
23 would hope that you realize that real courts don't operate
24 in that fashion.

25 So those sources of information were intended to

1 entertain you. They're intended to keep your attention so
2 that you'll watch those commercials as they get to sell
3 those products based on how many people watch them. So
4 that's what -- that source of information is somewhat
5 stilted.

6 I want you to understand that what you're engaged in
7 today is intended for anything but your entertainment. What
8 you're involved in, at this point in time, is a fundamental
9 part of our, our democratic system in this country. I hope
10 you realize that, if you were to go around the world today
11 and look at the justice systems of most of the countries
12 that exist in this world today, you would find that the
13 majority of them do not allow citizens to directly
14 participate in the decision making process that goes on in
15 the courtrooms of those countries. Our system is different,
16 and I pointed out to you earlier that our system is a jury
17 system that's been in existence and being, being developed
18 for over 800 years.

19 Now, I'm not gonna tell you that any justice system
20 operated by man is ever perfect. Man doesn't do perfect
21 things. But it is an honest and a sincere effort to see
22 that justice is done between the parties that are in this
23 courtroom today.

24 The parties that are in the courtroom are the State of
25 South Carolina. The State has brought a criminal charge

1 against one of its citizens, the defendant in this case.

2 So what we're involved in is a search for the truth.

3 It's, again, an effort to see that justice is done between
4 the parties that are in this courtroom today.

5 I hope you appreciate that this courtroom is a place of
6 honor. It's dedicated to the preservation of citizen's
7 rights through the Constitution of both this state and of
8 the United States and the right of all citizens to receive a
9 fair trial by a jury of their peers.

10 Now, the attorneys who are involved in this case are
11 here to represent their client's interest. They're here to
12 present their clients' cases before you during this trial.
13 But I want to point out to you that, first and foremost,
14 those lawyers are also officers of this Court. At some
15 point in time they appeared before a Court in this state,
16 they took an oath, an oath that's prescribed by law that
17 they take before they can be licensed to practice in this
18 Court system. Part of that oath is an oath that they will
19 assist you in your search for the truth in the trial of this
20 case. That means you can expect from them that they will
21 act in a reasonable and a professional and an ethical manner
22 in the discharge of their duties as advocates for their
23 clients during this trial.

24 I'm gonna remind you that you've come in front of this
25 Court now. You've taken an oath. That oath is to decide

1 this case based upon the law and the evidence presented
2 during this trial. You too are now expected to act in a
3 reasonable, a professional, and an ethical manner in the
4 discharge of your duties as jurors in the trial of this
5 case.

6 I want to thank you very much for your willingness to
7 accept the responsibilities that you have accepted by
8 serving as a juror in the trial of this matter. If it
9 weren't for good citizens who are willing to come forward
10 and serve on juries our system could not function as it was
11 designed by our forefathers to function in this country.

12 What I'm telling you now is not intended to be a charge
13 concerning the law to be applied in this case. You'll find,
14 at the close of the trial, once you've heard all the
15 arguments by the lawyers, and you've heard all the evidence
16 presented from the witnesses, at that in point in time I
17 will charge you concerning the law that you're to apply in
18 this, this matter. Again, I'm attempting to go over with
19 you the general duties that we all have in the trial of this
20 matter.

21 Now, I have gone over with you the indictment in this
22 case. The indictment, I told you, is the charge that brings
23 the case before the Court. I'm not going to go over it with
24 you again other than to tell you the charge is for
25 trafficking in methamphetamine. I will inform you that the

1 defendant has pled not guilty to that indictment, and that
2 plea, under the law and the Constitution of this state and
3 of the United States, places the burden of proof in this
4 trial solely upon the state.

5 It's the State's responsibility to prove the
6 allegations that are contained in the indictment to you by
7 proof beyond a reasonable doubt. At the close of the trial,
8 it's your responsibility, as jurors, to determine whether or
9 not the State has met its burden of proof in this case.

10 Now, I'll go over those concepts with you at the close
11 of the trial, that is the burden of proof and what those
12 concepts mean, in my charge concerning the law. But suffice
13 it to say it's the responsibilities, as jurors, to make that
14 determination, whether or not the State has met its burden
15 of proof in this case at the close of the trial.

16 I'm going to serve as the presiding officer of this
17 trial. It will be my responsibility to rule on certain
18 questions concerning the admissibility of evidence or the
19 appropriateness of questions that are being asked, and,
20 again, I will charge you concerning the law at the close of
21 the trial.

22 I'm going to caution you now, and I will at the close
23 of the trial, don't take from anything that I say or do in
24 the discharge of my duties as the presiding officer to
25 somehow indicate to you that I have an opinion as to how you

1 should do your job. That is as the finder of fact in this
2 case. The law doesn't allow me an opinion concerning the
3 facts in this trial, and I can assure you I have no opinion
4 as to how you determine the facts in this case because, you
5 see, the law makes you the sole and exclusive judge of the
6 facts in this case.

7 That means that you -- it will be your responsibility
8 to determine the facts in this case, and you will be given
9 that job solely in this and every case tried in this
10 courtroom before a jury. The jury is always the sole and
11 exclusive judge of the facts in this case. It will be your
12 responsibility, at the close of the trial, to evaluate, to
13 weigh, to analyze the evidence that you've heard during this
14 case and determine which evidence convinces you of its
15 truth.

16 Now, as the sole and exclusive judge of the facts in
17 this case, it's going to be necessary that you determine the
18 credibility and the believability of the evidence you hear
19 in the case, and I will tell you and explain to you the only
20 evidence in this case is the testimony of witnesses who will
21 testify from this witness stand and whatever evidence comes
22 into the record through that testimony or whatever evidence
23 comes into the record through the agreement of the lawyers
24 involved in this case.

25 So that's the evidence that will be presented to you.

1 But in -- but in evaluating that evidence, I'm telling you
2 it will be your responsibility to determine the credibility
3 of the testimony you hear or the believability of that
4 testimony.

5 Now, as the sole judge of the facts in this case, that
6 means you have the right to believe all of, part of, or none
7 of what a witness might tell you. You have the right to
8 believe one witness against all the others you hear. You
9 have the right to believe all the others against one.
10 You're the sole judges of the facts. So you're the sole
11 judges of the credibility and believability of the testimony
12 you hear.

13 I'm going to ask you to use your own good common sense
14 in making the determinations that you need to make
15 concerning the credibility or believability of what you
16 hear. You know, every single day you make common sensical
17 decisions as to what you choose to believe and what you
18 choose not to believe, and, these days, while you're on the
19 jury, are no different than any other day.

20 We don't ask you to leave your common sense at the door
21 when you come in. I'll say use your good common sense to
22 determine what witness, what witnesses and what evidence you
23 choose to believe in this case.

24 You have the right, using your common sense, to
25 consider such factors as whether or not a witness might have

1 a stake in the outcome of the trial, whether or not a
2 witness may have exhibited a bias or prejudice one way or
3 the other. You have the right to determine whether or not
4 the witness actually had the ability to know the facts about
5 which that witness is testifying, and I tell people, you
6 know, I've been coming to courtrooms now for almost 40
7 years, and every time I walk into a courtroom I notice that
8 the witness stand is always right in front of the jury box.
9 That's so you can watch and evaluate the witnesses as they
10 testify.

11 So, as the witnesses testify, try not to let your
12 thoughts wonder. Try to pay close attention to what's being
13 said from the witness stand. Be in a position, at the close
14 of the trial, to discuss with your fellow jurors the
15 testimony that you've heard and the credibility and the
16 believability that you determine concerning that testimony
17 as its being given.

18 Again, you are the sole judges of the facts. It will
19 be your responsibility to analyze, evaluate, and weigh the
20 testimony that you've heard during the trial of this case.

21 Now, in a few minutes I'm going to let the attorneys
22 start the trial by having what we call an opening statement
23 or an opening argument to you, and I will point out to you
24 that lawyers are allowed to talk to you directly only on two
25 occasions in a trial. One is at the beginning of the trial

1 when we start the trial. They'll make this opening
2 statement to you. Then, once all the evidence has been
3 presented, they will be allowed to come back and talk to you
4 again. And, at this time, they will discuss the evidence
5 that you've heard with you. They'll ask you to draw certain
6 inferences from that evidence.

7 But I will tell you now that the statements made by
8 lawyers during the trial of the case, those statements made
9 by the lawyers are not evidence. While they urge you to
10 make certain decisions or draw certain inferences from the
11 evidence, the statements themselves are not evidence. The
12 only evidence in a case, again, is the testimony of the
13 witnesses who testify from the witness stand who have been
14 sworn to tell the truth, and whatever evidence comes in
15 through that testimony or by the agreements of lawyers.
16 That's the evidence in the case that you're to evaluate.

17 You certainly have the right to consider the arguments
18 by lawyers, but those arguments, in and of themselves, are
19 not evidence in a case.

20 I will point out to you one other thing. During the
21 trial, I've told you already that I may have to rule on
22 certain questions that might come up. If it's my belief
23 that my discussion with the lawyers about those issues might
24 be -- lead to a discussion about some matter that's not
25 admissible into evidence under the rules that govern the

1 admission of evidence into a record, if I think the
2 discussion is going to go in that direction, I'll ask you to
3 step outside the courtroom while I discuss those matters
4 with the lawyers. I hope you realize that, when I do that,
5 it's me doing my job.

6 My job is to see that you only decide this case based
7 on evidence that's admitted into the record under the rules
8 that govern the admission of evidence in a trial. So, don't
9 think that, when I've asked you to step outside the
10 courtroom, that I'm trying to influence your decision on the
11 facts. Again, it's just me doing my job to see to it that
12 you only decide the case based on properly admitted evidence
13 under the rules.

14 Now, I do not appoint a foreperson of the jury until
15 the end of the trial. I know, on television, they appoint a
16 foreperson at the beginning of the trial. Don't think I've
17 forgotten about the foreperson. I have not.

18 I do that for a reason, because I like to stress to
19 juries that, when you reach a verdict at the close of the
20 trial, that verdict must be unanimous. All of you have to
21 agree upon the verdict before it becomes the verdict of the
22 jury.

23 So there's no one juror that's more important than any
24 other juror. You-all have to agree before you reach a
25 verdict. So I don't want a juror on the jury to say well,

1 you know, if I appointed that lady or that man as
2 foreperson, and that person must be the smartest person on
3 the jury, so I don't need to pay attention, I'll just do
4 whatever they tell me to do or whatever they decide.

5 I want you to think that, throughout this trial, that
6 you might be the person that I appoint as the foreperson.
7 You'd be the person required to then lead the discussions of
8 the jury. You'd also be the person that's required to, to
9 record the verdict once a verdict has been reached. So I
10 want everyone to think they might be the foreperson. I'll
11 appoint that person when I charge you on the law at the
12 close of the trial. So I'll make a decision at that time.
13 In the mean time, if some issue comes up that you think I
14 need to be aware of, let the bailiff know. They'll tell me
15 about it and I'll deal with it, I'll deal with it directly
16 about those matters.

17 Now, I want to be sure I haven't violated anyone's
18 rights in my opening comments to you.

19 Does the State have an objection to my opening
20 comments?

21 SOLICITOR LESKANIC: No, Your Honor.

22 THE COURT: Any from the defense?

23 MR. MORIN: No, sir.

24 THE COURT: All right. Now, ladies and gentlemen, I
25 have told you that the State has the burden of proof in this

1 case, and I -- again, I'll explain that to you in more
2 detail later on.

3 But because they have the burden of proof, we allow
4 them to go first when we do opening statements, followed by
5 the defense. When we present the evidence, again, we allow
6 the state to go first or require them to go first followed
7 by the defense, and then, at the close of the trial, when
8 all that evidence has been presented, we would then have
9 closing arguments by the attorneys. Once those arguments
10 have been completed I'll charge you on the law. Once I
11 finish that charge on the law the case will be turned over
12 totally to you for your deliberations and your verdict in
13 the case.

14 So that's the process or the procedure that we're going
15 to go through during the trial. So we'll start with the
16 opening statements.

17 The State may proceed, Ms. Leskanic.

18 SOLICITOR LESKANIC: May it please the Court?

19 THE COURT: Yes, ma'am.

20 SOLICITOR LESKANIC: Thank you, Your Honor.

21 Good morning.

22 Again, ladies and gentlemen, I'm Kim Leskanic and I'm a
23 prosecutor here in Cherokee County.

24 You're here today because the defendant, Charles
25 Preston Blackwell, has been charged with trafficking in

1 methamphetamine. Methamphetamine is an illegal drug. He's
2 charged with trafficking because of the amount of
3 methamphetamine that he had. If you have 10-grams or more,
4 it raises it from a possession with intent to distribute to
5 trafficking. So I just wanted you to kind of have an idea
6 of why it's called trafficking and what we're talking about
7 here.

8 In, in my opening I don't want to tell you too much
9 about what everybody's gonna say from the stand because I
10 want you to listen to their testimony. I'm gonna ask
11 questions, they're gonna answer them, and that's for you to
12 decide what to take from the testimony, but I do want to
13 give you kind of a brief outline of where the case is going
14 to go and what brought this case about.

15 On May 23rd of 2014, officers had a search warrant for
16 [REDACTED] Garvin Lake Road, which is the address of the defendant.
17 That's where he lived. There had been a burglary. He's not
18 charged with burglary and didn't have anything to do with
19 the burglary, but the man that broke into the building said
20 I took some of the stolen property and I sold it to
21 Mr. Blackwell.

22 So, based on that, officers got a search warrant for
23 his home to try to find the stolen property. There were
24 other officers that went out. Normally, on a search
25 warrant, they're numerous officers that go out to the home,

1 and, on this particular occasion, officers go out to the
2 home.

3 As they knock on the door they see someone grab a metal
4 container off an air conditioner that's in the house and run
5 to the right side of the residence and they hear that going
6 on. They can't tell who it is, but they definitely see a
7 metal container on the air conditioning unit and run to the
8 right side of the house. They're then told to come to the
9 back-door by the defendant and they enter the home through
10 the back-door.

11 At that time they read the search warrant, and they
12 have to get anybody that's in the house together to make
13 sure, for officer safety, that they know who's in the house.

14 So officers go through the home and they're three
15 people there. The defendant is there. There's a lady,
16 Julie Hardin Lawson, she's there in the kitchen area, and
17 there's another female, Kalyne Carroll, who is asleep or in
18 the bed in the master bedroom on the left side of the home.

19 When officers go to get Ms. Carroll up to bring
20 everybody into the living room to read the search warrant
21 and explain why they're there, when they walk into that
22 bedroom, they see a little clear glassen bag and it appears
23 to have methamphetamine in it. They're narcotics officers
24 that are assisting with the search warrant and they see this
25 a lot.

1 So they come back into the room. They ask who's in
2 charge of the residence. It's Mr. Blackwell's residence.
3 They ask him can we, you know, search the home for, for more
4 drugs. We're here looking for the stolen property, now we
5 found methamphetamine, can we search the house for meth. He
6 says yes, signs a consent to search.

7 So they proceed to search the home. They go into the
8 bedroom to the right where Detective Fowler will testify
9 that he heard someone run to that bedroom on the right, move
10 the mattress, and under the mattress they find a little
11 container, a metal container, has a Gamecock sticker on the
12 top of it. You'll be able to see that, present that to you,
13 and inside that is where they find several baggies of
14 methamphetamine, over 10-grams, which is what brings us to
15 the trafficking. It's also half a Viagra pill in that
16 container. So you got methamphetamine and half of a Viagra
17 in that container.

18 Sergeant Federico talks to the defendant a little bit
19 about that. I'm gonna let him tell you about that
20 conversation, and, at one point when everybody is in the
21 room, they're gonna arrest everybody that's in the home.
22 That's typically what happens when you find that amount of
23 methamphetamine in the home. They're three people in there.

24 Ms. Carroll, who was asleep or in the bed on the other
25 side of the home, tells the officers the meth is mine, and

1 she's here to testify and tell you why she said that. But
2 when she gets to the jail, before she's even booked in, she
3 tells the officer I need to talk to you cause what I said
4 wasn't true. She gives a statement to police. But I have
5 her here to tell you, so that you can hear from her, what
6 happened that day.

7 You're gonna hear from the officers to the other
8 evidence that they collected, a, a journal with names and
9 numbers and amounts found in the defendant's wallet. But
10 this metal container that the drugs were found in, you're
11 gonna hear from witnesses that were in the home and you're
12 gonna hear from witnesses that were there the day before and
13 even times before that seeing that defendant with this metal
14 container with the Gamecock sticker on it, and what he was
15 pulling out of that every single time.

16 That's what this case is about, but I wanted to tell
17 you from the beginning, Ms. Carroll, on scene, said it was
18 hers. I think she'll tell you, at the time, she was pretty
19 much homeless, she was a meth addict, and that's where she
20 was staying, and she'll tell you why she said what she said.
21 But as I stated, she quickly told police she needed to talk
22 to them.

23 Pay attention to the metal container, whose that is,
24 and who had possession of it because, at the close of this
25 case, in your search for the truth, which is what you're

1 here to do, is to find the truth, you will find that that
2 methamphetamine and that half a Viagra belonged to that
3 defendant right there, Charles Preston Blackwell, and if it
4 did, he's guilty of trafficking because it's based on the
5 amount, and it was over 10-grams.

6 We'll have a chemical analyst here from the South
7 Carolina Law Enforcement Division that will explain to you
8 the testing and the weight of it and all of that. So I
9 just -- I thank you for being here and I know you don't have
10 much of a choice, but we appreciate it because we can't do
11 our job without you, and I just ask that you pay attention
12 to what's on the witness stand, and we will try to help you
13 in your search for the truth.

14 Thank you.

15 THE COURT: Mr. Morin, you may proceed for the defense.

16 MR. MORIN: On May 23rd law enforcement goes out to a
17 house on Garvin Lake Road. There's a woman, she stays
18 there, who's in the master bedroom, who showers there, has
19 clothes there, changes there, eats there, in her room
20 there's drugs. They do a search. They find more drugs.
21 She says those drugs are mine and Mr. Blackwell's on trial.

22 You know, I have four children and I tell them, on a
23 regular basis, that the fair only comes once a year. Daddy,
24 that's not fair.

25 He's on trial. Ms. Carroll -- Kalyne's sitting out

1 there. I have not -- those are my drugs. I stay here.

2 During the course of the trial, see if you see where
3 that sort of drops out of their story and it comes back
4 because that's what the case is about. It's about what they
5 want the evidence to show, not what it shows, but what they
6 want it to show.

7 I trust that y'all will listen to the evidence pretty
8 clearly (sic), but, again, somebody out there, who's
9 charged, said the drugs are mine, who lived there, who was
10 staying there, they admit now, but he's on trial.

11 The question at the end of this trial, ladies and
12 gentlemen, is have they convinced you, beyond a reasonable
13 doubt, that those drugs are his and they're starting with
14 somebody else claiming them.

15 Thank you.

16 THE COURT: The State may call its first witness.

17 SOLICITOR LESKANIC: The State calls Detective Tracy
18 Fowler.

19 THE COURT: Come forward, sir, and be sworn to my left.

20 TRACY FOWLER, being first duly
21 sworn, testified as follows:

22 THE COURT: State your name please, sir.

23 THE WITNESS: I'm Tracy Fowler.

24 THE COURT: Thank you.

25 Ms. Leskanic, your witness.

Tracy Fowler - Direct examination
by Solicitor Leskanic

1 SOLICITOR LESKANIC: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY SOLICITOR LESKANIC:

4 Q where are you employed, Detective Fowler?

5 A Cherokee County Sheriff's Office.

6 Q And how long have you been with the Sheriff's Office?

7 A Almost 19 years.

8 Q And what is your current position with the Sheriff's
9 office?

10 A Investigations.

11 Q All right.

12 A Criminal investigations.

13 Q How long have you been in criminal investigations?

14 A Ten years.

15 Q What did you do before that?

16 A Road deputy.

17 Q Road deputy?

18 A Yes, ma'am.

19 Q Okay. I want to take you back to May 23rd of 2014.

20 Did you execute a search warrant at [REDACTED] Garvin Lake
21 Road here in Cherokee County on that day?

22 A Yes, ma'am.

23 Q All right. And that is in Cherokee County?

24 A Yes, ma'am.

25 Q All right. Would you please explain to the ladies and

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by Solicitor Leskanic

1 gentlemen of the jury why you were going out to that home
2 and what you were looking for?

3 A I worked a, a burglary case that happened a week or so
4 prior. The suspect was apprehended and gave information
5 that the stolen property that he had taken he had sold to
6 the defendant at [REDACTED] Garvin Lake Road.

7 Q All right. So based on that information, you got a
8 search warrant?

9 A Yes, ma'am.

10 Q And did you go by yourself?

11 A No, ma'am, I had other officers from criminal
12 investigations and narcotics to go with us.

13 Q Okay. All right. Do you know approximately what time
14 you went to execute the search warrant?

15 A That I can't recall.

16 Q Okay. I show you what's been marked State's Exhibit 1
17 and 2.

18 If you'll take a look at these and tell me if you
19 recognize that.

20 A Yes, ma'am, that's the residence where we executed the
21 search warrant.

22 Q Okay. Now, is this a photograph that was taken at the
23 time of the execution of the search warrant?

24 A No, ma'am, this would of been a later date.

25 Q Okay.

Tracy Fowler - Direct examination
by Solicitor Leskanic

1 A For---

2 Q In anticipation---

3 A That's correct.

4 Q ---of trial?

5 A Yes, ma'am.

6 Q Okay. But does this fairly and accurately show the
7 residence that you went to that day and searched?

8 A Yes, ma'am, except for the window beside the door
9 that -- there was an air conditioner in that window. It was
10 there during the time of the search warrant.

11 Q Okay. So these pictures being taken in anticipation of
12 trial was not in the summer?

13 A Yes, ma'am.

14 Q Okay. But when you went there it was in May?

15 A Yes, ma'am.

16 Q All right.

17 MR. MORIN: One moment, Your Honor.

18 THE COURT: Yes, sir.

19 (Pause.)

20 MR. MORIN: No objection, Your Honor.

21 THE COURT: All right. Without objection.

22 I assume you're offering it in evidence?

23 SOLICITOR LESKANIC: Yes, Your Honor.

24 THE COURT: They'll be admitted as they've been marked.

25 SOLICITOR LESKANIC: Thank you. That's State's

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1 Exhibits 1 and 2.

2 (WHEREUPON, State's Exhibit Nos. 1 and 2 were received
3 into evidence at this time.)

4 SOLICITOR LESKANIC: May I publish No. 1, Your Honor?

5 THE COURT: Yes, ma'am, you may.

6 SOLICITOR LESKANIC: Thank you.

7 Q Okay. Detective Fowler, I'm showing you what's been
8 marked State's Exhibit 2.

9 Do you recognize that?

10 A Yes, ma'am.

11 Q And what are we looking at?

12 A This is the front of the residence at ■ Garvin Lake
13 Road.

14 Q Okay. And when you first arrived with the search
15 warrant, where did you go?

16 A To the porch there at the font door.

17 Q Okay. I'm gonna hand you this pointer.

18 Your Honor, may I ask the witness to step down?

19 THE COURT: Yes, you may.

20 SOLICITOR LESKANIC: Thank you.

21 If you would, please step down so you can get a better
22 view.

23 A (Witness comes down from the stand.)

24 Q And if you will walk the jury through where you first
25 approached and what you saw.

Tracy Fowler - Direct examination
by Solicitor Leskanic

1 A Yeah, the driveway comes in on the left side of the
2 residence here. That's -- I exited the vehicle. I
3 approached the front of the residence and knocked on the
4 front door there. At that time there was an air conditioner
5 in that front window.

6 Q Okay. And what, if anything, did you see on here?

7 A When I knocked on the door, right inside the -- right
8 on top of that window, the blinds, the blinds or curtain one
9 came down to the -- almost to meet the air conditioner. I
10 could see a metal container sitting on top of the air
11 conditioner at that time. All I could see was someone's
12 hand remove the metal container and I could hear heavy
13 footsteps rushing towards the right side of the residence
14 into the room on this side.

15 Q Okay. Then what do you do at that point?

16 You can have a seat back.

17 Thank you, detective.

18 A (Witness returns to the stand.)

19 Okay. At that point, someone inside the residence
20 stated that we need to come to the back-door, which there
21 was other officers at the back-door at that point, and
22 they -- someone let them into the residence through the
23 back.

24 Q Okay. Did you ever enter the residence?

25 A Yes, ma'am.

Tracy Fowler - Direct examination
by Solicitor Leskanic

1 Q All right. And what did you do when you entered the
2 residence?

3 A I just -- I went around to the back. I entered the
4 residence while other officers were clearing the residence
5 checking for other occupants, and I, I stood in the kitchen
6 area watching the people that were already in the living
7 room.

8 Q Okay. And then what else did you do while you were out
9 on the search warrant?

10 A I searched the outside of the residence, along with the
11 inside of the residence, looking for the stolen property
12 which I was told that had been taken to him, which I located
13 several items outside, which matched the descriptions, which
14 later identified as stolen property.

15 Q Okay. So during your search on the search warrant,
16 were you focusing more on the interior of the home or the
17 outside?

18 A There was some items that would of been inside the
19 residence as far as tools, but the majority of the items I
20 was looking for was outside.

21 Q Okay. And did you find some of those stolen items on
22 the defendant's property?

23 A Yes, ma'am.

24 Q All right. And you collected those to return to the
25 victim of the burglary?

Tracy Fowler - Direct examination
by Solicitor Leskanic

1 A Yes, ma'am.

2 Q All right. Now say that you saw a metal container.

3 Can you describe that to the jury, approximately size,
4 shape, what you recall?

5 A It was metallic, metal container that's about the size
6 of a bar of soap and it was silver in color.

7 Q And all you saw was a hand grab it and then heavy
8 footsteps to the right side of the home if you're looking at
9 the home --

10 A Yes, ma'am.

11 Q -- correct?

12 Okay. All right. And what did you do with the stolen
13 property?

14 A I -- we seized it at that point and I returned it --
15 the property has been returned to the victims.

16 Q Okay. Were you inside the home during the search of
17 the residence for narcotics?

18 A I wasn't in the residence when narcotics were found,
19 no.

20 Q Okay. Did you participate in that?

21 A I did.

22 Q You participated in the search inside the residence as
23 well?

24 A Yes, ma'am, like I was searching for the stolen
25 property though.

Tracy Fowler - Direct examination
by Solicitor Leskanic

1 Q Okay. So you were out there on stolen property, but
2 there were narcotics officers that were there as well, and
3 did they undertake the search for the -- any contraband or
4 drugs?

5 A Yes, ma'am.

6 Q Okay. All right. Thank you very much. Please answer
7 any questions that Mr. Morin has.

8 THE COURT: Mr. Morin, your witness.

9 CROSS-EXAMINATION

10 BY MR. MORIN:

11 Q Detective Fowler, I think your testimony is, is this is
12 where Mr. Blackwell, this is his home, is that correct?

13 A Yes, sir.

14 Q Do you have any evidence of that, a deed, a lease, a
15 bill, driver's license, state identification, anything, to
16 document his ownership of this piece of property?

17 A I don't have any of that, but I -- he is known to live
18 there.

19 Q Do you know him personally?

20 A Yes, sir, not as a friend or anything, but he actually
21 lives within a mile of my residence.

22 Q You know everybody that lives within a mile of your
23 residence?

24 A I've lived there for 30 years.

25 Q So that's a yes?

Tracy Fowler - Cross-examination
by Mr. Morin

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1 A Pretty much.

2 Q Okay. So you found some stolen property, correct?

3 A Yes, sir.

4 Q Was Mr. Blackwell charged with that?

5 A No, sir.

6 Q Okay. Did you know this Kalyne Carroll was also
7 living in this residence?

8 A I wasn't aware of who else was living there. The, the
9 female that I knew was living there was actually under an
10 Order of Protection at the time that could not be on the
11 property.

12 Q Okay. So if I understand you correctly, you did know
13 that Mr. Blackwell was living there. You didn't know that
14 Kalyne Carroll was living there, and you did know that
15 somebody was living there illegally.

16 Is that right?

17 She had an Order of Protection. She wasn't suppose to
18 be there, but you knew she was living there anyway?

19 A No, she wasn't there.

20 Q She wasn't.

21 Okay. And then you found stolen property, but
22 Mr. Blackwell wasn't charged with that?

23 A Yes, sir.

24 Q Okay. Were you present when -- now was my client,
25 Kalyne Carroll, and Ms. Lewis, those were the three people

Tracy Fowler - Cross-examination
by Mr. Morin

1 that were there, correct?

2 A Yes, sir.

3 Q And were you present when Kalyne Carroll said the
4 drugs are mine?

5 A No, sir, I was outside the residence.

6 Q Okay. You conducted the search of this property, is
7 that correct?

8 A A portion of it, yes.

9 Q And you were looking for tools among other things,
10 right?

11 A Yes, sir.

12 Q And you mean hand tools?

13 A Some hand tools. Other lawn equipment.

14 Q Okay. I'm curious.

15 During the course of your search of this property, did
16 you find any weapons?

17 A I didn't personally, no.

18 Q Okay. No, no handguns or rifles or anything like that?

19 A I didn't.

20 Q If you had found one, what would of happened?

21 Detective Federico was searching for drugs.

22 So in your years of experience, what would of happened
23 if a firearm had been found on the property?

24 A I'm not sure what you're --.

25 Q Well, I mean would you just leave there or would that

Tracy Fowler - Cross-examination
by Mr. Morin

1 be one of the things that would be listed on the inventory?

2 A It should be listed on the inventory.

3 Q Okay. As you've stated, most of your interest in being
4 here had to do with the tools and other things that were
5 there, and you say that hand tools was one of the things you
6 were looking for?

7 A Yes, sir.

8 Q The people that were present, the officers, you,
9 Burgess, Black, Walker, Federico, who else am I missing?

10 A Gardner.

11 Q Gardner.

12 Was Jonathan, Jonathan Blackwell -- John Blackwell one
13 of the -- present at the time?

14 A I believe so.

15 Q Huh?

16 A I believe so.

17 Q You think he was?

18 A (Witness nods affirmatively.)

19 Q Would he have been with narcotics or would he have been
20 with y'all?

21 A He would of been with us. He would of been with me.

22 Q Okay. But if he was there, and there was a search
23 warrant, and -- did you put the search warrant -- I think---

24 A I don't---

25 Q Do you have that search warrant.

Tracy Fowler - Cross-examination
by Mr. Morin

1 I think Ms. Leskanic handed it to you to ask you about
2 the time.

3 SOLICITOR LESKANIC: No, I just handed him the photos.

4 MR. MORIN: Okay.

5 SOLICITOR LESKANIC: But I do have the search warrant.

6 MR. MORIN: That's all right.

7 But you -- on the return, you recall that return?

8 A Yes.

9 Q I think this -- now, when you do a search warrant, you
10 have the search warrant that says what you're looking for
11 and where then and you have the return that says this is---

12 A What was found.

13 Q ---what we found?

14 A Yeah.

15 Q Okay. And the State is giving me their copy of it, and
16 I'm just gonna ask, if it says down at the bottom this
17 inventory was made in the presence of, that would list
18 everybody who was present at the time --

19 A Yes.

20 Q -- that it was made?

21 And I'm just asking you if that refreshes your memory
22 as to whether or not Jonathan Blackwell, who was with your
23 department, your division, was present?

24 A He would of been present there at the time the return
25 was made. He was there for the first portion of it I

Tracy Fowler - Cross-examination
by Mr. Morin

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1 believe, but I'm not sure if he was there---

2 Q Okay.

3 A ---at the time.

4 Q So you think he left before the return was completed?

5 A As far as I can remember.

6 Q Okay.

7 Thank you, ma'am.

8 If I may have just a moment, judge?

9 THE COURT: Yes, sir.

10 (Pause.)

11 Q One other thing.

12 Did you go into that right bedroom where the mattress
13 was?

14 A No, sir.

15 MR. MORIN: Okay. That's all the questions I have.

16 THE COURT: Redirect.

17 SOLICITOR LESKANIC: No, Your Honor.

18 THE COURT: You may step down. Thank you very much.

19 Ask the attorneys to approach briefly.

20 (WHEREUPON, a bench conference was held out of the
21 hearing of the jury at this time.)

22 SOLICITOR LESKANIC: Thank you, Your Honor.

23 THE COURT: All right. Ladies and gentlemen, it's
24 almost noon. I think the next witness is gonna be rather
25 lengthy. So we're gonna stop right now for your lunch

Tracy Fowler - Cross-examination
by Mr. Morin

1 break.

2 As you leave the courthouse I'm going to give you some
3 instructions on your behavior.

4 First of all, you've been sworn to decide the case
5 based solely upon the evidence presented during the trial.
6 I've explained to you the only place you're going to hear
7 evidence is in this courtroom from this witness stand, and
8 the evidence that comes in through that testimony.

9 Now, for that reason, it would be a violation of your
10 oath for you to try to gather any information about this
11 case from any source outside of this courtroom. So it would
12 be improper for you to do an Internet search about the case
13 or to watch, listen to, or read any media reports about the
14 case. So I'm going to instruct you not to do that during
15 your absence from the courtroom.

16 Also, you've been selected as fair and impartial jurors
17 with an open mind towards the issues involved in this case.
18 For that reason, please don't discuss this case with anyone,
19 family, friends, or even fellow jurors. Those discussions
20 about the issues that might be involved or the people
21 involved, they may begin to color your decision about this
22 case, and you haven't heard all the testimony yet. You
23 haven't seen all the evidence, and so I'm going to urge you
24 not to discuss this case with anyone.

25 It's okay to tell family and friends I've been selected

Tracy Fowler - Cross-examination
by Mr. Morin

1 as a juror, I'm serving in a case, and that's the end of the
2 discussion. It's okay then to talk about the weather,
3 sports, whatever else you want to talk about, but don't talk
4 about this case.

5 Now, I will caution you, as I have earlier, it's a
6 crime in this State for anyone to try to influence the
7 decision of a jury. So if someone tries to contact you
8 about your service on the case during your absence from the
9 courtroom, please report that. I assure, I assure you I'll
10 take the appropriate action should someone try to do that.

11 So my instructions, in a nutshell, are don't attempt to
12 gather any information about the case. Don't listen to,
13 watch, or read any media reports about the case. Don't
14 discuss the case with anyone. Don't allow anyone to discuss
15 the case with you, and report anyone's efforts to try to
16 discuss this matter to the Court when you return.

17 I'll ask you to be back in the jury room at 1:15. That
18 will give you a little more than an hour in case you need to
19 run a personal errand of some kind. They will show you --
20 the bailiffs will show you where to report back to. Be
21 there by 1:15. We should be in shortly thereafter.
22 Probably start right on time on this one. So please be
23 there on time.

24 Hope you enjoy your lunch and please go at this time.

25 Thank you.

Tracy Fowler - Cross-examination
by Mr. Morin

1 I'll be checking about my instructions when you return.

2 So please follow them.

3 (WHEREUPON, the following takes place outside the
4 presence of the jury.)

5 THE COURT: Mr. Morin, is your client been on bond
6 throughout this process?

7 MR. MORIN: He's been on bond for several months.

8 THE COURT: Is he had any difficulty in his reporting
9 to the, to the Court?

10 SOLICITOR LESKANIC: No, Your Honor.

11 THE COURT: All right. Mr. Blackwell, let me caution
12 you then.

13 We're gonna resume the trial of your case at 1:15. If
14 you're not present at that time the case will proceed in
15 your absence.

16 THE DEFENDANT: I'll be here.

17 THE COURT: well, I'm not saying you won't be, but I
18 will caution you though because, again, should you fail to
19 appear at that time I would issue a bench warrant for your
20 arrest and, and have you brought in. But, at any rate, I
21 will caution you that the case would proceed without you
22 should you not appear at 1:15.

23 All right. Court's in recess until that time.

24 Thank you very much.

25 SOLICITOR LESKANIC: Thank you.

1 (WHEREUPON, Court was in recess for the lunch hour.)

2 THE COURT: State ready to proceed?

3 SOLICITOR LESKANIC: Yes, Your Honor.

4 THE COURT: Defense ready?

5 MR. MORIN: Yes, sir.

6 THE COURT: Bring the jury in.

7 (WHEREUPON, the following takes place within the
8 presence of the jury.)

9 THE COURT: The record will reflect the jury has
10 returned to the courtroom.

11 Hope everyone had a good lunch.

12 If there was anyone who had any difficulty in complying
13 with my instructions concerning your behavior while you were
14 away from the courthouse, please stand.

15 (No response.)

16 THE COURT: It appears that all jurors have been able
17 to comply with my instructions thus far.

18 When we broke earlier the State was calling its
19 witnesses.

20 You may call your next witness.

21 SOLICITOR LESKANIC: Thank you.

22 May it please the Court?

23 THE COURT: Yes, ma'am.

24 SOLICITOR LESKANIC: State calls Sergeant Nick
25 Federico.

Nick Federico - Direct examination
by Solicitor Leskanic

1 THE COURT: Sir, come forward and be sworn to my left
2 please.

3 NICK FEDERICO, being first duly sworn,
4 testified as follows:

5 THE COURT: Sir, state your name please.

6 THE WITNESS: Sergeant Nicholas Federico.

7 THE COURT: Thank you.

8 Counsel, your witness.

9 SOLICITOR LESKANIC: Thank you.

10 DIRECT EXAMINATION

11 BY SOLICITOR LESKANIC:

12 Q Will you please tell the ladies and gentlemen of the
13 jury where you are employed?

14 A Cherokee County Sheriff's Office.

15 Q How long have you been with the Sheriff's Office?

16 A Approximately seven and a half years. I think
17 July 20th, 2007.

18 Q Okay. And during those seven and a half years, what
19 positions have you held with the Sheriff's Department?

20 A Approximately I guess the -- I been in narcotics the
21 last three and a half years. Before that I, I was hired in
22 as a deputy on patrol.

23 Q All right. While you were a deputy on patrol, did you,
24 although you weren't a narcotics officer at that time, did
25 you have occasion to deal with narcotic cases?

Nick Federico - Direct examination
by Solicitor Leskanic

1 A Yes, ma'am.

2 Q All right. And in, in what capacity?

3 How would you become involved?

4 A Traffic stops, arresting people with warrants that
5 would have illegal stuff on them, narcotics, helping
6 narcotics at the time with search warrants and, and those
7 types of things.

8 Q Okay. Now, to become a deputy on patrol, do you have
9 to attend the academy?

10 A Yes, ma'am.

11 Q All right. Will you please tell the jury about the
12 training and experience that you first had just to become a
13 deputy on patrol?

14 A You have to go -- when I went through it it was a nine
15 week program. Basically shooting courses, driving, law
16 classes, learning statutes, defensive tactics, just, you
17 know, some of that stuff that pertained to, to law
18 enforcement as far as -- like we had to go through some, you
19 know, a small amount of fingerprinting and those types of
20 things.

21 Q Okay. And then after maybe about four years on patrol

22 --

23 A Yes. Yes, ma'am.

24 Q -- you, you moved to narcotics?

25 A Yes, ma'am.

Nick Federico - Direct examination
by Solicitor Leskanic

1 Q And have -- since you've been in narcotics, have you
2 had any additional training that deals specifically with
3 narcotics?

4 A Yes, ma'am, I have. I attended a, a undercover class
5 that was put on by the academy that was -- go back and do
6 that at a separate time and it lasted all week or five days.
7 Specifically undercover narcotic work. Did a two or three
8 day class with cultivating informants in pertaining to
9 narcotic work, and I did a -- two classes, a week a piece
10 of -- they're 30 hour classes in Mississippi for --
11 specifically for meth, meth labs, cleaning them up, what
12 goes into a meth lab, awareness, and, and all the
13 certificates that go with that.

14 Q All right. And approximately how many drug cases have
15 you handled just since you've been in narcotics, not even
16 counting when you were a deputy?

17 A Probably hundreds.

18 Q Hundreds?

19 A Yes, ma'am.

20 Q All right. And how many of those cases would of
21 involved methamphetamine?

22 A I could give a -- it's just a guesstimation. Probably
23 75 percent.

24 Q Okay. All right. And with the meth training and your
25 experience, what have you learned as far as the trade of

Nick Federico - Direct examination
by Solicitor Leskanic

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1 methamphetamine in Cherokee County such as how it's sold,
2 the cost of methamphetamine, how it's transported or stored,
3 things of that nature?

4 A Generally, everything on, on the street is, what we
5 call the street or in the, in the drug world, is they have
6 their own, I guess, terminology for things. Just to give
7 you some examples, they might use the word quarter or half
8 or whole. Them refer to quarter ounce, half ounce, whole
9 ounce. Eight balls, sixteenth, them are -- an eight ball is
10 3.5 grams and then a sixteenth would be half of that, and
11 then your pricing -- you want me to get into the specifics
12 of pricing or --?

13 Q Yes, please, just to give them some idea of what you
14 encountered during your experience.

15 A But basically an eight ball -- or let's back up. A, a
16 gram of methamphetamine usually, if, if you went to buy a
17 gram, would cost you a hundred dollars give or take. I mean
18 if, if you're regular, it's just like anywhere, if you're a
19 regular customer, you're gonna get a little cheaper ride if
20 you're not -- or a little cheaper price. If you're not,
21 you're gonna probably pay a little more.

22 Three and a half grams, so that would be, if you took
23 the math out, it would be \$350. It's rare that people pay
24 that. Some might. But the people who are buying that
25 amount, when you buy a bigger amount of stuff, you'll get a

Nick Federico - Direct examination
by Solicitor Leskanic

1 cheaper or a little cheaper ride or price. So it might go
2 to 225 to 275 depending on the person.

3 I talked about earlier the -- it's like if you bought
4 one T-shirt, it will cost you \$10 if you was printing them
5 up. If you bought 50 T-shirts, you're gonna get it a little
6 cheaper than \$10 because you're, you're buying a little more
7 bulk. It's the same thing in the, in the, the narcotics
8 world.

9 Q All right. And have you seen any specific way that the
10 methamphetamine is typically packaged or stored?

11 A Yes, generally, in, as far as meth, it's usually stored
12 in a, in a smaller Ziploc bag. Depending on the weight,
13 they're from an inch and a half by an inch, inch and a half
14 wide. You know, it could go up to, I mean depending on
15 weight, it could go to gallon sizes, but on the smaller end,
16 you know, you have smaller Ziploc bags that go up probably
17 3-inches long by an inch and a half or something like that.

18 Q Okay. Have you executed search warrants on, on houses,
19 not in this case, but in other cases, search warrants where
20 you have found methamphetamine?

21 A Yes, ma'am.

22 Q All right. And have you ever found any type of ledgers
23 or notebooks indicating payment information?

24 A Yes, ma'am.

25 Q And what would you expect that to look like?

Nick Federico - Direct examination
by Solicitor Leskanic

1 A It, it, it varies. It's any kind of notebook. It
2 might be paper, small, big. Basically it will have just
3 a -- if you, if you -- most of the time it will have a name.
4 It might say Nick, to use me for an example, Nick and it
5 might have a eight ball or it might have a price out there,
6 and then I might have a tablet going down that sheet where I
7 bought \$300 worth of dope, and I only -- next time I go back
8 to him I give him a hundred. So now I owe 200 and I might
9 have that tally working down until I pay it off or I might
10 add back before I get it paid off or I might buy a hundred
11 dollars worth and then put it back up to 300 on credit.

12 Q Okay. And approximately how many methamphetamine
13 cases, maybe on search warrants or in all, would you find
14 some sort of ledger like this?

15 A Like I say, I can't tell you specifically, but probably
16 30 to 40 percent.

17 SOLICITOR LESKANIC: All right. Your Honor, at this
18 time I would offer Sergeant Nick Federico as an expert in
19 drug sales in Cherokee County specifically, for this case,
20 in methamphetamines.

21 MR. MORIN: Renew my objection as previously stated,
22 Your Honor.

23 THE COURT: All right. The objection is noted. I
24 would make the same ruling. I will qualify him as an expert
25 for those purposes.

Nick Federico - Direct examination
by Solicitor Leskanic

1 I think you indicated concerning drug sales and --?

2 SOLICITOR LESKANIC: Drug sales in Cherokee County
3 communities since that's what he has knowledge of by working
4 here, but specifically towards methamphetamine---

5 THE COURT: Right.

6 SOLICITOR LESKANIC: ---due to his hours of training in
7 methamphetamine.

8 THE COURT: All right.

9 All right. Now, ladies and gentlemen of the jury, let
10 me explain to you what we're doing at this point in time
11 just so you'll understand.

12 Generally, under the rules of evidence in South
13 Carolina, witnesses are not allowed to state opinions about
14 matters. There's an exception made for witnesses who are
15 qualified as an expert within some field or profession or,
16 or calling. Those people, because of either their education
17 or their experience within that field, if they are declared
18 to be experts, would, would be allowed to state their
19 opinions within that field of expertise and state the
20 reasons why they have those opinions.

21 Now, later on, when I charge you concerning the law, I
22 will give you more information about how you can treat
23 testimony given by someone whose been qualified as an
24 expert, but I'll explain that to you during my charge on the
25 law.

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1 At this time I will qualify the witness as an expert
2 within those fields because of his experience within that
3 field of calling. Again, I'll have more information for you
4 on that later when we charge you on the law.

5 You may proceed at this time.

6 SOLICITOR LESKANIC: Thank you, Your Honor.

7 CONTINUED DIRECT EXAMINATION

8 BY SOLICITOR LESKANIC:

9 Q Sergeant Federico, did you help execute a search
10 warrant at [REDACTED] Garvin Lake Road back on May 23rd of 2014?

11 A Yes, ma'am.

12 Q All right. And who asked you to assist with that
13 search?

14 A Detective Tracy Fowler.

15 Q Okay. And what was the search warrant for?

16 A For stolen goods.

17 Q All right. I'm gonna show you what's already been
18 marked and admitted as State's Exhibit 2.

19 Can you see that from where you are?

20 A Yes, ma'am.

21 Q Okay. Is -- what are we looking at here?

22 A That's [REDACTED] Garvin Lake Road there.

23 Q All right. That's the address that you went to to
24 execute the search warrant?

25 A Yes, ma'am.

Nick Federico - Direct examination
by Solicitor Leskanic

1 Q All right. Can you tell the jury what you did upon
2 arrival -- and let me start -- what time did you go to the
3 home approximately?

4 A It was a little after 9:00 I think. I have -- I got
5 the search warrant---

6 Q 9:00AM or PM?

7 A AM.

8 Q All right. So, nine o'clock in the morning?

9 A Yes, ma'am.

10 Q Okay. If you will, just walk the jury through where
11 you went in getting inside the home.

12 A Can I step down?

13 Q Yes, please, step down and do you have the pointer?

14 A Yes, ma'am.

15 Q Okay.

16 A (Witness comes down from stand.)

17 I'm just gonna show you, he, he discussed it before,
18 but the driveway comes in off of, off of Garvin Lake Road.
19 here on this side. We pulled -- myself and Sergeant Gardner
20 I believe arrived and then we pulled down a little more, you
21 know, beside the trailer, walked to the -- around to the
22 back-door, which is approximately, if you was looking
23 straight through the, the mobile home, it would be right
24 around in this area, and we sat at the back-door.

25 I actually knocked on the back-door as Detective Fowler

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by Solicitor Leskanic

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1 was knocking on the front door, and I heard moving around in
2 the house. But I heard that -- somebody hollered that they
3 was gonna come to the or come to the back door, and I
4 believe that's when I knocked on the back-door to let them
5 know that I was already there, and that's when I was met by
6 Preston Blackwell at the back-door.

7 Q All right. Is that the defendant?

8 A Yes, ma'am.

9 (Witness returns to the stand.)

10 SOLICITOR LESKANIC: Okay. Now, let the record reflect
11 that Sergeant Federico has identified the defendant as
12 Preston Blackwell, the one that answered the door.

13 THE COURT: All right. The record shall so reflect.
14 You may proceed.

15 SOLICITOR LESKANIC: Thank you.

16 Once he opened the back door, what happened next?

17 A Basically we went in. I told -- well, I told him at
18 the door that, that the, the CID detectives had a search
19 warrant for his house for, for stolen items and they were
20 coming around and they would explain that to him.

21 As I was coming around, we stepped in the, in the house
22 and talked to them about that and everybody came in. We
23 asked if anybody else was there and he said yes. Ms. Julie
24 Lawson was standing in the kitchen area and Kalyne Carroll
25 he said was in the bed in the bedroom. So we walked to the

Nick Federico - Direct examination
by Solicitor Leskanic

1 bedroom, myself and Sergeant Gardner, and got her and
2 brought her into the living area where we had everybody
3 together.

4 Q All right. And do you recall if she was awake or
5 asleep when you went into the bedroom?

6 A I believe she was -- I mean I can't prove she was
7 asleep, but it appeared she was asleep.

8 Q All right. And looking, again, at State's Exhibit 2,
9 can you, using this photograph, tell me which area of the
10 house, which room she was in.

11 A It would be that -- where she was at was right here.

12 Q Okay. So if, looking at the house, on the left side of
13 the home---

14 A Left side of the home.

15 Q ---is where the master bedroom then appeared to be?

16 A Yeah, because it has an on suite there.

17 Q It had what?

18 A A bathroom.

19 Q Okay.

20 A A bathroom inside the bedroom.

21 Q All right. Did you see anything when you entered that
22 room?

23 A Yes, as, as we was explaining to Ms. Carroll that she
24 needed to get up and we come in the living room, on the left
25 side of the bed was a night, nightstand or night table.

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1 There was a clear glassen back there that had a residue of
2 meth, what appeared to be methamphetamine, and we just
3 basically kept that to ourselves at the time, left
4 everything alone, walked her in there, and let them discuss
5 the search warrant as far as Mirandizing people and reading
6 the affidavit on the search warrant.

7 Q All right. Did you later go back and photograph where
8 you saw this baggy?

9 A Yes, ma'am.

10 SOLICITOR LESKANIC: All right. May I approach the
11 witness, Your Honor?

12 THE COURT: You may.

13 Q Like to show you what's been marked State's Exhibit 3
14 and 4.

15 MR. MORIN: No objection.

16 THE COURT: You wish to introduce those?

17 SOLICITOR LESKANIC: I will.

18 THE COURT: All right.

19 SOLICITOR LESKANIC: I was gonna see---

20 THE COURT: Go ahead.

21 SOLICITOR LESKANIC: ---see if he could identify them.

22 THE COURT: Go ahead and have him identify them.

23 SOLICITOR LESKANIC: Thank you.

24 I'm showing you State's Exhibit 3 and 4.

25 would you take a look at those and tell the jury what

Nick Federico - Direct examination
by Solicitor Leskanic

1 they are?

2 A Yeah, the first picture is, Exhibit 3, is the -- it
3 appears to be the nightstand on the left side of the bed.
4 If you was standing at the foot of the bed looking towards
5 the headboard, it would be on the left side, and it shows a,
6 a, a little box, I guess, with a clear glassen bag with
7 residue in it.

8 Q All right. Is that where you saw the glassen bag and
9 the way that it was positioned when you saw it?

10 A Yes, ma'am.

11 Q Okay.

12 A And then Exhibit 4 is the actual close-up picture of
13 the bag showing that, that -- the crystal substances.

14 Q Okay. And do -- are these photograph a fair and
15 accurate representation of how you found the bag in the
16 master bedroom and a close-up photograph of the bag?

17 A Yes, ma'am.

18 SOLICITOR LESKANIC: All right. Your Honor, at this
19 time I would offer State's Exhibits 3 and 4 for admission.

20 THE COURT: You indicated without objection?

21 MR. MORIN: That's correct, Your Honor.

22 SOLICITOR LESKANIC: Thank you.

23 THE COURT: All right. They'll be admitted as marked.

24 (WHEREUPON, State's Exhibit No. 3 and 4 were received
25 into evidence at this time.)

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1 THE COURT: You may proceed.

2 SOLICITOR LESKANIC: Thank you.

3 I'm publishing State's Exhibit 3.

4 If you would, Sergeant Federico, and, again, if you
5 need to step down at any time to show the jury what we
6 discussed---

7 THE COURT: All right, sir. You can step down if you'd
8 like to testify.

9 THE WITNESS: Thank you.

10 As I was saying, the bottom of the, the bed, just
11 pretend that we're standing kind of towards the left side of
12 the bed. The bottom of the bed would be down here, and, of
13 course, the headboard would be up here. This will be on the
14 left-side, and, as you see, it's a table of some sort on
15 what I call the nightstand, and then the, the baggy is right
16 here.

17 Q Okay. And now I'm gonna show you State's Exhibit 4.

18 A That's just a close-up of the baggy so we could show
19 you the substance or show the substance in the, in the bag.

20 Q Okay. And did you or Sergeant Gardner collect this
21 evidence?

22 A Yes, ma'am, at a later time, yes.

23 Q Okay. All right.

24 A (Witness returns to the stand.)

25 Q All right. So---

Nick Federico - Direct examination
by Solicitor Leskanic

1 A Well, actually let me, let me correct myself cause --
2 so they'll understand it.

3 When the pictures were taken, we did collect it at that
4 time. The pictures were taken at a later time.

5 Q All right. I now like to show you what's marked
6 State's Exhibit 13.

7 Can you take a look at this and tell me if you
8 recognize it?

9 A Yes, ma'am.

10 Q And what are you looking at?

11 A Methamphetamine.

12 Q Okay. Tell me what's -- what the bag is, what the
13 purpose is, and what you're looking at inside.

14 A I believe this one bag that you can see up front is the
15 clear bag that, that actually was the bag it was found in
16 there, and then the, the other bags, with the exception of
17 one, one was identified as a half a Viagra pill and the
18 other bags are methamphetamine that were found in a
19 different location in the house.

20 Q Okay. But strictly talking about the bag that we
21 were---

22 A Okay.

23 Q ---we were just talking about, do you see that bag
24 contained---

25 A Yes, ma'am, it's---

Nick Federico - Direct examination
by Solicitor Leskanic

1 Q ---inside that B.E.S.T. Bag?

2 A ---right here.

3 Q So that was collected and sent later for testing?

4 A Yes, ma'am.

5 Q Is that correct?

6 A Yes, ma'am.

7 Q Okay. All right. After the search warrant for the
8 stolen goods, you get everyone into the house, and you've
9 seen the baggy of methamphetamine in the master bedroom.

10 what happens next?

11 A I think we might be up to the point where we was -- the
12 warrant was executed for the stolen property. Basically
13 they read the affidavit, Mirandize people, reading their
14 Miranda rights. And then I -- once that was, was done,
15 that's when I approached Mr., Mr. Blackwell, along with
16 Sergeant Gardner, and asked for consent to search the house
17 based on what we've seen in the bedroom.

18 I asked him did he have knowledge of it. He said no.
19 I told him what I had and I asked him for consent, and then
20 basically, when I asked for consent, it's a form that we --
21 I'm sure we're gonna show, that has a, it has a paragraph
22 and some language in, in that, that I---

23 Q All right. Let me just show you---

24 A I had---

25 Q Let me show you just State's Exhibit 12---

Nick Federico - Direct examination
by Solicitor Leskanic

1 A Okay.

2 Q ---and ask you first if you recognize that.

3 A Yes, ma'am.

4 Q Okay. And, and what is that?

5 Without going through the details, just, in general,
6 what is that?

7 A It's a voluntary consent to search.

8 Q Okay. And is this the consent to search that you
9 executed in this case?

10 A Yes, ma'am.

11 Q All right. Has anything been altered or changed on it?

12 A No, ma'am.

13 SOLICITOR LESKANIC: All right. Your Honor, at this
14 time we would offer State's Exhibit 12 for admission.

15 THE COURT: Any objection?

16 MR. MORIN: No, sir.

17 THE COURT: Without objection it will be admitted as
18 its been marked.

19 (WHEREUPON, State's Exhibit No. 12 was received into
20 evidence at this time.)

21 THE COURT: You may proceed.

22 SOLICITOR LESKANIC: Thank you.

23 If, if you don't mind, I'll put it up on the screen and
24 you can step down and go through it with the jury please.

25 A That's fine.

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1 (Witness comes down from the stand.)

2 Q I'm gonna publish State's Exhibit 12 if I can get it to
3 show up real quick.

4 A That looks good there.

5 Q Can you see that okay to read from that?

6 A Yes, ma'am.

7 Q Okay.

8 A Basically, when -- all that -- just imagine the stuff
9 is wrote in is not wrote in at the time. When I'm asking
10 for consent to search, I, I tell them that that would be
11 their name and then read this to them.

12 Having been informed of my Constitutional rights not to
13 have a search made of my premises, vehicle, or vehicles, or
14 my person hereafter described without a search warrant, then
15 my right to refuse to consent to such a search hereby
16 authorize officers from the Cherokee County Sheriff's Office
17 to conduct a complete search of the premises, vehicle, or
18 vehicles of my -- or my person under my control described as
19 and basically it would of been his address of [REDACTED] Garvin
20 Lake Road and to include the curtilage, which curtilage is
21 just an area in the close proximity of the house and the
22 outbuildings, and then it says this written permission is
23 given to me or by me voluntarily without threats or promises
24 of any being made to me.

25 He agreed. So I go back and I put this in, I put this

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by Solicitor Leskanic

1 in, plus the date and the time and the address or location,
2 and then hand the paper to him, and he signs and then I'm a
3 witness and Sergeant Gardner is a witness.

4 Q All right. And after you completed this consent to
5 search, what's, what's your next step?

6 A (Witness returns to the stand.)

7 The -- then it was kind of a twofold then. So the guys
8 that are from the criminal investigation side searched the
9 house for the stolen property that they were more familiar
10 with.

11 Q Okay.

12 A And then me and Sergeant Gardner searched the house for
13 narcotics.

14 Q Okay. Can you tell me about your search, where you
15 went, and what, if anything, you found?

16 A Well, talking to Detective Fowler, of course -- well,
17 the first thing we did is went back and collected that.
18 They -- the original piece of evidence we knew where it was
19 at.

20 Q Okay.

21 A So the, the little clear baggy, we take that. That's
22 the first thing.

23 Q The baggy that's State's Exhibit 4?

24 A Right.

25 Q Okay.

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1 A All right. And then we talked to Detective Fowler. He
2 talked about the -- a container maybe being on the air
3 conditioning and her footprints going back towards the right
4 side of that house, which is the bedroom on that side. So
5 the first place, of course, we were gonna go in there. So
6 we went there and started searching, pull up the mattress,
7 and a silver container is in-between the mattresses.

8 Q I show you State's Exhibit 5 and 6.

9 If you can just take a look at those and tell me if you
10 recognize them.

11 A Yes, ma'am.

12 Q Okay. And do those -- are those a fair and accurate
13 representation of what you found and where you found it?

14 A Yes, ma'am.

15 SOLICITOR LESKANIC: Okay. You need to see these, Mr.
16 Morin?

17 MR. MORIN: No objection, Your Honor.

18 THE COURT: You wish to introduce those?

19 SOLICITOR LESKANIC: Yes, Your Honor. The State moves
20 State's Exhibit 5 and 6 for admission.

21 THE COURT: Without objection they'll be admitted as
22 they've been marked.

23 (WHEREUPON, State's Exhibit Nos. 5 and 6 were received
24 into evidence at this time.)

25 THE COURT: You may proceed and publish if you wish to.

Nick Federico - Direct examination
by Solicitor Leskanic

- 1 SOLICITOR LESKANIC: Thank you, Your Honor.
- 2 Sergeant Federico, I'm gonna start with State's Exhibit
- 3 5.
- 4 Can you tell -- I may need to turn it.
- 5 Can you tell the jury what we're looking at here?
- 6 Again, if you need to step down, please do feel free to
- 7 do so.
- 8 A (Witness comes down from the stand.)
- 9 That's just a mattress. If you're standing at the foot
- 10 of this bed it would be towards the right side of the bed
- 11 probably three-fourths of the way up maybe, middle to
- 12 three-fourths. Bad photography, I'll take that. But this
- 13 is the, this is a image of the metal box with a Gamecock
- 14 sticker on the top. It's like a metal silver box.
- 15 Q Okay. And that's where you found that there?
- 16 A In the bedroom. If you came in the front door you
- 17 would hang a right and it was on that -- under the mattress
- 18 in-between the box spring and the mattress on that bed.
- 19 Q Okay. State's Exhibit 6.
- 20 A That's a better picture of what you've just seen in the
- 21 bed.
- 22 Q All right.
- 23 A That's, that's the silver metal box that I'm referring
- 24 to.
- 25 Q And now I'm gonna hand you State's Exhibit 14.

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by Solicitor Leskanic

1 Tell me if you recognize that.

2 A Yes, ma'am.

3 Q And what is that?

4 A That is the -- that is the metal box that was in this
5 picture that was found in that bed that contained
6 methamphetamine and half of a Viagra.

7 SOLICITOR LESKANIC: Okay. Your Honor, at this time I
8 offer for admission State's Exhibit 14.

9 THE COURT: Any objection?

10 MR. MORIN: No, sir.

11 THE COURT: Without objection it will be admitted.

12 (WHEREUPON, State's Exhibit No. 14 was received into
13 evidence at this time.)

14 THE COURT: You may proceed.

15 SOLICITOR LESKANIC: Thank you, Your Honor.

16 Q Okay. So inside -- if you would, just open this
17 container and show the jury what you did and tell them what
18 you found inside please.

19 A Inside this container, as you see, it opens up. There
20 were several small different colored bags that are in the
21 B.E.S.T. Bag that I had a minute ago. The -- were basically
22 in here and the bags contained, all except one, contained a
23 crystal substance and we call it crystal rock substance,
24 which is methamphetamine, and a half a Viagra pill that's
25 blue in color. Half a pill.

Nick Federico - Direct examination
by Solicitor Leskanic

1 Q All right. I'm gonna show you State's Exhibit 7.

2 Do you recognize that?

3 A Yes, ma'am.

4 Q And what is that or does it -- is that a photograph you
5 took?

6 A Yes, ma'am.

7 Q Okay. Of what?

8 A That's all the contents. They include, I didn't say,
9 but a dollar was in there as well. All the contents that
10 was in -- inside this metal box.

11 Q Okay.

12 MR. MORIN: No objection.

13 SOLICITOR LESKANIC: Offer State's Exhibit 7 for
14 admission, Your Honor.

15 THE COURT: All right. Without objection it will be
16 admitted into the record as marked.

17 (WHEREUPON, State's Exhibit No. 7 was received into
18 evidence at this time.)

19 THE COURT: You may publish.

20 SOLICITOR LESKANIC: Thank you, Your Honor.

21 Now showing you State's Exhibit 7. You can explain to
22 the ladies and gentlemen of the jury what we're looking at
23 here, sergeant.

24 A I'll step down.

25 Q Yes, sir.

Nick Federico - Direct examination
by Solicitor Leskanic

1 A (Witness comes down from the stand.)

2 Basically, and, and I think this is the bag would be
3 the pill in it, it appears to be. There's a half a pill in
4 that corner right there, but all of these other bags have
5 methamphetamine in them. I think this might of been an
6 empty two bags. It looks like -- you can see this bag here
7 by itself and these bags come connected in the end. We --
8 and, you know, I think that's what this is.

9 The dollar bill, in my experience, is that -- they use
10 this dollar bill to set on the scales maybe -- as you see,
11 this stuff is, is, you know, it's got some granular, smaller
12 granulars and things in it. So they, they weigh this dollar
13 bill, know what it weighs when they put it on the scale, and
14 then they pour the methamphetamine on that dollar, and then
15 they can terry out that dollar weight, and since, I guess,
16 combine so they don't lose any of the, of the meth when they
17 weigh it out, and this is the -- of course, the bottom side
18 of the metal box and the top side of the metal box.

19 Q Okay. And was all of this also collected --

20 A Yes, ma'am.

21 Q -- that I showed you earlier. I believe it was
22 Sergeant Gardner who actually collected these items, but you
23 were the one that found the container.

24 Is that correct?

25 A Yes, ma'am.

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1 Q All right. State's Exhibit 13, did you let Sergeant
2 Gardner know or transfer these items to him to be placed
3 into the B.E.S.T. Bag?

4 A Yes, ma'am.

5 Q Now, still looking, the lights are fine, but looking at
6 this photograph and how much methamphetamine, based on your
7 experience, in your opinion, what does a user -- well, how
8 much would a user need of this methamphetamine?

9 A Probably maybe the corner of the bag that I -- the
10 first original bag. I mean it depends on their tolerance
11 level.

12 Q State's Exhibit 4, correct me if I'm wrong?

13 A Yeah, maybe a little bit more than that. If they
14 were -- well, I guess either way, smoking or injecting, but
15 a little bit more than that, like I said, it depends on the
16 individual's tolerance level.

17 Q Okay. And if, if this methamphetamine was
18 approximately 11 grams, how much would that be worth on the
19 street in Cherokee County?

20 A \$1,100.

21 Q And someone that's just using would only need a small
22 amount of that at a time.

23 Approximately how much?

24 A Ten to twenty dollars.

25 Q Okay. So, ten to twenty dollars is what a, a user

Nick Federico - Direct examination
by Solicitor Leskanic

1 would typically purchase?

2 A Yes, ma'am.

3 Q Well, after you found the container and the contents in
4 the bedroom to the right, what did you do next?

5 A (Witness returns to the stand.)

6 Continued to search the house. Ended up finding some,
7 I guess, more bags, paraphernalia up under a chair in the
8 living room area, which would of been close to the front
9 door. If you would of came into the front door of the
10 residence, if you would of looked immediately to the left
11 and went up that wall, it would of been sitting right there
12 in the chair.

13 Q Okay. I'm gonna show you State's Exhibits 8, 9, and
14 10. If you'll take a look at those. Tell me if you
15 recognize them.

16 A Yes, ma'am.

17 Q Are these photographs that you took?

18 A Yes, ma'am.

19 Q And do they fairly and accurately show items that you
20 found during your search?

21 A Yes, ma'am.

22 Q Okay.

23 SOLICITOR LESKANIC: No objection?

24 MR. MORIN: No.

25 No objection, Your Honor.

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by Solicitor Leskanic

1 THE COURT: Okay. Do you wish to introduce those?

2 SOLICITOR LESKANIC: Yes, Your Honor. State's Exhibits
3 8, 9, and 10 for admission.

4 THE COURT: All right. Without objection they'll be
5 admitted.

6 (WHEREUPON, State's Exhibit Nos. 8 through 10 were
7 received into evidence at this time.)

8 THE COURT: You may publish.

9 SOLICITOR LESKANIC: Thank you.

10 Q Can you tell me -- tell the jury what we're looking at
11 here.

12 A (Witness comes down from the stand.)

13 That is a -- just a type of bag, if you will, of a
14 black bag. It's containing the small baggies I described a
15 while ago. The one with the apple on it is like the, I
16 guess, holds the bulk of the small bags. They're also used
17 sometimes cause that's, that's one of the three or four inch
18 long bags that are probably an inch and a half wide, but it
19 has smaller bags inside it, the yellow bags. It's got some
20 blue bags. They're all small Ziploc bags.

21 Q And what does this indicate to you based on your
22 experience?

23 A That drugs were being sold.

24 Q Okay. Let me show you, you can still stand there,
25 State's Exhibit 19.

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by Solicitor Leskanic

1 Could you take a look at that and tell me if you
2 recognize it?

3 A Yes, that's our bag there.

4 Q Okay. So that was---

5 A It's the contents.

6 Q That was collected at the time---

7 A Yes, ma'am.

8 Q ---of the consent to search?

9 A Yes, ma'am.

10 SOLICITOR LESKANIC: Okay. Your Honor, we'd offer
11 State's Exhibit 19 for admission.

12 MR. MORIN: No objection.

13 THE COURT: Without objection it will be admitted as
14 it's been marked.

15 (WHEREUPON, State's Exhibit No. 19 was received into
16 evidence at this time.)

17 Q I now show you State's Exhibit 9. If you can tell what
18 that is.

19 A Yeah, that's a smaller black bag containing pretty much
20 the same thing. It's a different colored or sized bags, but
21 they're basically the same.

22 Q Okay.

23 (WHEREUPON, two evidence bags were marked as State's
24 Exhibit Nos. 20 and 21 for identification purposes only at
25 this time.)

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1 Q Okay. And let me show you also State's Exhibit 10.

2 Tell the jury what we're looking at here.

3 A This is one of the black bags, smooth. This is a pipe
4 that they smoked the meth out of, and you see it's black
5 underneath here, and, of course, they, they put the meth in
6 this end and it's got a little hole. It creates basically a
7 chimney effect and then they'll light that bowl. The term
8 is rolling the bubble and the reason why is they heat that
9 meth and they roll it back and forth and get it liquified,
10 and they'll start baking it or the vapors will come out of
11 here and then they'll inhale that, that vapor.

12 This, I think, it's the digital scales, silver in color
13 digital scales, a bag that was containing the baggies, and a
14 spoon, and the spoon is used for the -- a lot of like baby
15 spoons. It's used for a multiple of things.

16 One is just simply to, to use as a, a shovel, if you
17 will, of scooping out the meth and putting it into the
18 smaller bags or, or even loading up the bowl or, in some
19 cases, it's used to put meth in, melt it down, and for, for
20 them to shoot through a, through a needle. They'll put fire
21 to the bottom of the spoon while the meth's in there
22 liquefying it and draw out the rest of the fumes.

23 Q I'll now show you State's Exhibit 11 and do you
24 recognize that?

25 A Yes, ma'am.

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by Solicitor Leskanic

1 Q And is that a photograph that you took on scene?

2 A Yes, ma'am.

3 Q And does it fairly and accurately show what you saw at
4 the time you took the photograph?

5 A Yes, ma'am.

6 MR. MORIN: No objection.

7 SOLICITOR LESKANIC: State offers State's Exhibit 11
8 for admission.

9 THE COURT: Any objection?

10 MR. MORIN: No, sir.

11 THE COURT: Without objection it will be admitted as
12 it's marked.

13 (WHEREUPON, State's Exhibit No. 11 was received into
14 evidence at this time.)

15 THE COURT: You may publish.

16 SOLICITOR LESKANIC: Thank you, Your Honor.

17 Showing you now State's Exhibit 11.

18 If you would tell the jury what we see there.

19 A Yeah, I believe this is from the bedroom area, which is
20 a -- this right here is a black set of digital scales. Just
21 like the silver set, they're used to, used on both sides of
22 the parameter I guess. Some, some users carry scales so
23 they don't get ripped off so they can weigh whatever they're
24 buying. Dealers definitely use the scales to weigh what
25 they're selling.

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1 Q All right. Now I'm gonna show you State's Exhibit 20
2 and 21 and tell me if you recognize those.

3 A Yes, ma'am.

4 Q Are those items that were collected during your search?

5 A Yes, ma'am.

6 SOLICITOR LESKANIC: Offer 20 and 21 for admission.

7 MR. MORIN: No objection.

8 THE COURT: Without objection they'll be admitted as
9 they've been marked.

10 (WHEREUPON, State's Exhibit No. 20 and 21 were received
11 into evidence at this time.)

12 Q Okay. Explain to the jury what you found here please,
13 sergeant.

14 A Basically the same deal. These two bags that I'll pull
15 out, the stuff, small bags, little bit bigger bags. What I
16 was explaining a while ago is you'll see they're attached in
17 that manner. The -- and then they're used to, to store meth
18 in them in my experience. Some of them, you know, you call
19 deal pouches. The other, the other's the same. Just a --
20 small bags.

21 Q Okay. And then State's Exhibit 17 and 18.

22 Look at those and tell me if you recognize them.

23 A Yes, this is---

24 Q Let me, let me offer -- no objection?

25 MR. MORIN: No objection.

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1 SOLICITOR LESKANIC: All right. We offer State's
2 Exhibits 17 and 18 for admission.

3 THE COURT: All right. They'll be admitted as marked
4 without objection.

5 SOLICITOR LESKANIC: Thank you.

6 (WHEREUPON, State's Exhibit Nos. 17 and 18 were
7 received into evidence at this time.)

8 THE COURT: You may proceed.

9 SOLICITOR LESKANIC: Thank you, Your Honor.

10 THE COURT: Yes, ma'am.

11 Q If you would, please continue.

12 A This is basically a silver set of digital scales, and
13 the black set, set that looks -- found at the location.
14 Like I say, basically they put their, their meth on there,
15 weigh it, and it's used on both sides of the perimeter. I
16 mean, you know, users, buyers, or sellers.

17 Q And I believe that is State's Exhibit 10 that I believe
18 that is the silver set of scales?

19 A Yes, ma'am.

20 Q And where did you find that?

21 A I think, without looking back at my note -- can I look
22 back --

23 Q Certainly.

24 A -- and make sure I don't say nothing wrong?

25 Q Please.

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by Solicitor Leskanic

1 A But I think it was in the bedroom. The -- this was
2 under the chair in the living, living room, this -- all this
3 stuff.

4 Q So it was at the bottom of a chair that we see on the
5 bottom portion of the---

6 A Yeah, right here.

7 Q ---photograph?

8 A This is part of the leg and where we just move it back
9 out of the way and took the picture.

10 Q Okay. And how -- if you want to have a seat, Sergeant
11 Federico.

12 A (Witness returns to the stand.)

13 Q How detailed were or in-depth did you go with the
14 search of the residence after you found the methamphetamine
15 in the bedroom on the right?

16 Did y'all stay much longer and continue a---

17 A Yes, ma'am.

18 Q Okay. And, and searched the entire residence?

19 A Yes, ma'am.

20 Q All right. At anytime did you ask the defendant or the
21 two other women in the house if methamphetamine belonged to
22 them?

23 A Yes, ma'am, that would of been the -- when, when we
24 originally found the bag, he was asked cause it's his
25 residence.

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1 Q He being who?

2 A Preston. Excuse me.

3 Q Okay.

4 A And then whenever we had everybody in the living room,
5 and we, we found the, the container, it's, it's practice
6 that we always do. We ask whose it is, and, at the time,
7 nobody took ownership of that container.

8 Q Okay. Now, when you first found the container, did you
9 talk with the defendant in the room where you found it?

10 A Yes, ma'am.

11 Q All right. Can you tell the jury about that please?

12 A Yes, we called him -- called Mr. Blackwell into the,
13 the bedroom. Hadn't told him that we found anything yet.
14 We pulled him back there and asked was there anything in,
15 in, in the, in -- was he positive that there was nothing
16 illegal in the house. Basically the bed would of been as
17 that table runs.

18 Can I get up and just demonstrate---

19 Q Yes.

20 A ---the room?

21 Q Yes, sir, please.

22 A (Witness comes down from the stand.)

23 Q Makes it a littler easier on me.

24 Basically, when you walk in the room, this would be the
25 door. The bed would be here. Myself and Sergeant Gardner

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1 would of been standing here, and we were talking to -- I'm
2 talking to Mr. Blackwell and asking him if he's positive
3 that there was anything else illegal -- nothing else illegal
4 in the house, and he kept -- we're here. He, he keeps
5 looking at the bed, which gave me a, a sign that he knew
6 that the dope was there. I mean it's a -- just a natural
7 instinct that you can't control.

8 (Witness returns to the stand.)

9 Q okay. And then after that, you asked everyone---

10 A Yes, ma'am.

11 Q ---about the methamphetamine?

12 A Yes, ma'am.

13 Q And everyone denied that it was theirs?

14 A Yes, ma'am.

15 Q Okay. What happened after that point?

16 what do you do -- I believe there was Ms. Lawson, Ms.
17 Carroll, and Mr. Blackwell in the home?

18 A Right.

19 Q And what do you do with those individuals and what do
20 you do as far as the search of the home?

21 A They were sitting in the, the living room, and I'm, I'm
22 pretty positive that the guy who was executing the search
23 warrant was in there with them, which would of been
24 Mr. Walker, Detective Walker, and, like I said, the CID guys
25 or the criminal investigation guys, they probably may or may

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1 not, about this time, went out of the residence and started
2 looking around the house for stuff. I think maybe lawn
3 mowers, weed blower. I mean there's -- so they's looking
4 around, and we're, we're searching inside the house. We
5 continue our search at that time.

6 Q Okay. Now, there was a mention, during Detective
7 Fowler's testimony, about when Detective Jot Blackwell
8 arrived on scene.

9 Do you know when that was?

10 Do you recall?

11 A The way I remember it was that Richard Burgess was
12 originally there. He had a, a prior appointment that he had
13 to leave and they basically swapped places. I, I don't, I
14 don't remember Jot ever coming in the house. He might of
15 even -- I think he might of even brought the pickup truck to
16 haul the stuff off, but Richard Burgess left and I guess Jot
17 basically replaced him.

18 Q Okay. So, as you remember it, Detective Blackwell
19 arrived later on in the search after---

20 A Yes, ma'am.

21 Q ---the items had already been found and primarily for
22 stolen property?

23 A Yes, ma'am.

24 Q Okay. Do you know where all three of the defendants, I
25 guess at that time, where they were inside the house or

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1 outside the house?

2 A Originally they were in the house. I think it might of
3 been removed to cover the living room area and just walked
4 them outside. That way -- and I'm thinking probably was
5 that like Nathan, I'm sorry, Detective Walker, could be
6 outside for things that he was having to write down for
7 them, and so he was kind of keeping an eye on them for us,
8 and we finished our search in there.

9 Q Okay. And did you---

10 A They were -- and they eventually were moved to the
11 outside while we were searching.

12 Q All right. And did you find anything else other than
13 the baggy in the master bedroom and the methamphetamine in
14 the container?

15 A No, ma'am, no, no, no drug related.

16 Q Okay. Now, at some point before y'all left the
17 residence, did someone claim the methamphetamine?

18 A Yes, ma'am.

19 Q All right. Can you tell the jury about that please?

20 A While they were outside, I'm thinking outside, I'm not
21 real sure of that cause, like I said, the last ten or
22 fifteen minutes of me being there was helping Mr. Blackwell
23 find his wallet or going in there with him, escorting him to
24 find his wallet, that Kalyne Carroll claimed that the
25 methamphetamine was found was hers.

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1 Q Did she have information about the -- I mean what,
2 what, in essence, was your conversation with her?

3 A Basically she just come out and said that everything
4 you found is mine.

5 Q Okay.

6 A We started questioning. I can't remember the specific
7 questions. But it led to -- that we just didn't believe
8 that it -- I mean, you know, she, she didn't tell it at
9 first and now she did. We got three people here. So we --
10 I felt like that she was not totally honest at that time.

11 Q And, to your knowledge, was she interviewed at a later
12 time?

13 A Yes, all three were interviewed after they were taken
14 to the, to the detention center.

15 Q Okay. Now, you talked about wanting to get the
16 defendant's wallet or Mr. Blackwell wanting to get his
17 wallet?

18 A Right.

19 Q All right. What's that about?

20 A I don't know if -- I can't remember specifically if he
21 asked me to get his wallet or if I asked him. A lot of
22 times we'll ask them if they got their ID. It just, a lot
23 of times, makes it easier when you take them to jail. So --
24 and I could of asked him, you know, do you have your ID and
25 he says it's in my wallet and then he realized he didn't

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1 have his wallet, and that's when we went on in the bedroom.

2 That's what I'm gonna, I'm gonna say probably happened.

3 I probably initiated by the card, wanting the ID and then he

4 wanted his wallet. So we went in. I walked with him to

5 find his wallet and it took a little bit and we find his

6 wallet.

7 Q Okay. So what did you do once you found his wallet?

8 A I collected the wallet, opened the wallet, and it had

9 two notebooks in it, two small notebooks. Checked the

10 wallet for a lot of reasons. I mean a lot -- I mean you see

11 how small them bags are. It could be meth in there. It

12 could be -- you know, I mean guns are made small now. I

13 mean there's a lot of things that are -- we just try to, you

14 know, for our safety and mine and, and the -- and for the

15 narcotics too.

16 Q All right. I'm gonna show you what's been marked

17 State's Exhibit 15.

18 Tell me if you recognize that.

19 A Yes, ma'am.

20 Q And what is that?

21 Is it something that you found in his wallet?

22 A Yes, ma'am.

23 Q Okay. Has it been altered or changed in any way---

24 A No, ma'am.

25 Q ---or was it logged into evidence?

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1 A It was logged into evidence.

2 Q Okay.

3 A We made copies of the pages.

4 SOLICITOR LESKANIC: At this time I would offer State's
5 Exhibit 15 for admission.

6 MR. MORIN: Your Honor, we object to this item.

7 THE COURT: Subject to your prior objection?

8 MR. MORIN: Subject to my prior objections.

9 THE COURT: All right. Objections are noted. I'd make
10 the same ruling. They'll be introduced.

11 SOLICITOR LESKANIC: Thank you.

12 (WHEREUPON, State's Exhibit No. 15 was received into
13 evidence at this time.)

14 SOLICITOR LESKANIC: Thank you, Your Honor.

15 Now looking at State's Exhibit 15, will you please tell
16 me what it says on the outside cover?

17 A It says owe list, O-W-E, and then list commonly
18 spelled.

19 Q And did you look through that?

20 A Yes, ma'am.

21 Q All right. And based on what you see inside that
22 notepad, based on your training and experience and years in
23 narcotics and dealing with methamphetamine here in Cherokee
24 County, what is that, in your opinion?

25 A A, a dope ledger.

Nick Federico - Direct examination
by Solicitor Leskanic

1 Q Okay. And why do you say that?

2 A Basically what, what it, what it is is it has a, a
3 bunch of names or several names and numbers.

4 Q Numbers as in telephone numbers or what kind of
5 numbers?

6 A As in like, to me, money, numerics like 360.

7 Can I just give an example of one page?

8 Q Yes, sir, and if you'd like I'll put it up on the
9 screen --

10 A That's fine.

11 Q -- so you can walk through it.

12 A Yeah, be glad to.

13 Q All right. I'm gonna start with the front cover.
14 You can see it again up here.

15 All right. And what do we see there?

16 A (Witness comes down from the stand.)

17 That is the -- one of the notebooks that come out and
18 it -- as you see, it says owe and then it looks that it says
19 L-I-S-T.

20 Q Okay.

21 A All right. To me, you have a, a name. This here is a
22 little different. I said money values. This right here, to
23 me, says that, that's grams and then added grams to it. You
24 keep totaling it out.

25 Q Turn the page.

Nick Federico - Direct examination
by Solicitor Leskanic

1 A And here it's more on the -- you have a name and then
2 you have wrote out beside it 150, and then this person paid
3 him a hundred cause P.D. stands for paid, and then he, he
4 owes a remaining balance of \$50.

5 Same thing. Had a name. To me, this says \$360. They
6 paid him a hundred. It brought that down to 260. Paid
7 another hundred. Brought it down to 160, and then got back
8 \$130 worth and brought it back up to 290. A hundred dollars
9 worth and what I'm talking about is, I believe, to be this
10 is payments for methamphetamine.

11 Q Turn the page.

12 A All right. You have a name, and then you have a 8B.
13 To me, that says eight ball. That is lingo for, for
14 narcotic world. Eight ball, remember, weighed 3.5 grams.
15 So this person, obviously he says this is what he done on
16 4/16 of 2014, it's gave to. So, to me, in my opinion, in my
17 profession, he had a significant amount of dope that day.
18 He give this guy an eight ball, this guy a half of an
19 eighth, he gave an eight ball, and two quarters and
20 two grams.

21 And then it looks, to me, that this guy probably owes
22 \$336. Owed \$50, and then right here we have a name, says
23 owes for quarter when she was drugged.

24 And we got this one that's \$75.

25 We got this one that got \$65 worth and then come back

Nick Federico - Direct examination
by Solicitor Leskanic

1 and then paid his bill and got \$130 more.

2 This one here, I mean it's 225.

3 Q And is, is that pretty much how it continues---

4 A Yes, ma'am.

5 Q ---throughout the, the journal?

6 A Yes, ma'am.

7 Q Okay.

8 A (Witness returns to the stand.)

9 Q And how often have you seen ledgers like that?

10 On what cases have you seen ledgers like that, Sergeant
11 Federico?

12 A Mostly on search warrants.

13 Q And this ledger was found where?

14 A In his wallet.

15 Q In the defendant's wallet?

16 A Yes, ma'am.

17 Q And that's the wallet that he wanted to get before he
18 left for jail?

19 A Yes, ma'am.

20 Q I think that's all the questions I have for you. If
21 you will, please answer any questions for Mr. Morin.

22 A Yes, ma'am.

23 THE COURT: Mr. Morin, your witness.

24 CROSS-EXAMINATION

25 BY MR. MORIN:

Nick Federico - Cross-examination
by Mr. Morin

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- 1 Q Officer Federico, can I see a picture of the back of
2 the house where you were?
- 3 A No, sir.
- 4 Q Why not?
- 5 A I, I don't have one.
- 6 Q Excuse me?
- 7 A I do not have one.
- 8 Q You were out there that day, right?
- 9 A Yes, sir.
- 10 Q Taking pictures?
- 11 A Yes, sir.
- 12 Q Are these digital pictures?
- 13 How were you taking them?
- 14 A Yes, sir, digital.
- 15 Q So it's not like you ran out of film?
- 16 A That's right.
- 17 Q You didn't take a picture of the back?
- 18 A No, sir.
- 19 Q So that's where you were?
- 20 A Yes, sir.
- 21 Q Can I see a picture of the air conditioning unit that
22 you say somebody took this off of?
- 23 A I don't have it.
- 24 Q Can I see a picture of the living room as it was when
25 you went in there?

Nick Federico - Cross-examination
by Mr. Morin

- 1 A I don't have that.
- 2 Q Can I see a picture of the bedroom where you say you
- 3 found the metal container?
- 4 A Don't have that.
- 5 Q All right. The dollar bill that's in the picture that
- 6 you say you used for weighing, can I see that?
- 7 A It's in evidence right there.
- 8 Q In here?
- 9 A Yes, sir.
- 10 Q Was that tested for methamphetamine?
- 11 A No, sir.
- 12 Q Your testimony is, is they put the methamphetamine on
- 13 the dollar?
- 14 A Yes, sir.
- 15 Q Correct?
- 16 A Normal practice, yes, sir.
- 17 Q Okay. But you didn't have the dollar checked?
- 18 A No, sir.
- 19 Q Okay. Can you tell me about the fingerprints you found
- 20 on the metal box?
- 21 A No, sir, there was not any recovered the way I
- 22 understand it.
- 23 Q Okay. When you filed your report, did you put anywhere
- 24 in there that Kalynne had claimed the drugs?
- 25 A No, sir.

Nick Federico - Cross-examination
by Mr. Morin

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1 Q Okay. When you were investigating the case, did you
2 interview a Connie Peterson or a Lynn Sizemore?

3 A Attempted to locate them a couple of weeks ago or a
4 week ago.

5 Q This happened when?

6 A May of last year.

7 Q And you looked these people up last week?

8 A Yes, sir.

9 Q All right. When you went in the house, there's a
10 master bedroom?

11 A Yes, sir.

12 Q In that master bedroom you found Kalyne?

13 A Yes, sir.

14 Q She was asleep?

15 A Yes, sir.

16 Q You also found scales in there?

17 A Yes, sir.

18 Q You also found meth in there?

19 A Yes, sir.

20 Q Now, in your training and experience, when a person
21 goes and buys some meth, because there's two scales you put
22 into evidence---

23 A Yes, sir.

24 Q ---and one of them was in Kalyne's bedroom with what's
25 been marked as State's Exhibit No. 4, which you say is

Nick Federico - Cross-examination
by Mr. Morin

1 methamphetamine.

2 A Yes, sir.

3 Q Okay. Now, if I was gonna buy this, I would want a
4 certain weight, correct?

5 A Yes, sir.

6 Q Do you know how much was in here?

7 A No, sir.

8 Q Well, you sent it to SLED though and they're gonna be
9 able to tell us what the weight is, correct?

10 A That's correct.

11 Q Now, if the weight was nothing, I wouldn't really pay
12 you for it, would I?

13 A No, sir.

14 Q Okay. Now, the owe book that you called it, do you
15 know for a fact that this isn't what he owes these people?

16 You're testifying that these are what people owe him.

17 But did he explain this book to you?

18 A No, sir.

19 Q Okay. So all we know is either he owes these people or
20 these people owe him?

21 A You can look at it that way.

22 Q Okay. Well, now the first one, the first page says
23 19.97 at 26.9. This, I noticed, was the only page that you
24 indicated to the jury you thought were weights.

25 A That's correct. Besides the -- I mean the eight ball

Nick Federico - Cross-examination
by Mr. Morin

1 and the quarter and all that---

2 Q Well, yeah, and then there was abbreviations.

3 A ---contains the weights, but it's not---

4 Q But I meant as far as numbers.

5 A That match, yes, sir.

6 Q Is it common for someone to be taking, making these
7 notes and switching them back and forth between the amounts
8 that are owed and the weights that are owed?

9 A I mean yeah. I mean why -- yes.

10 Q Okay. An eight ball, you testified, is 3.5 grams, is
11 that right?

12 A Yes, sir.

13 Q Why?

14 A Why is it 3.5 grams?

15 Q Yeah, I mean eight grams, I could understand why it
16 would be an eight ball if it was -- but why is 3.5 an eight
17 ball?

18 A Because it's an eighth of an ounce.

19 Q An eighth of an ounce?

20 A Yeah.

21 Q Okay. Now, when you say you found the -- you seen --
22 that, that book seems to be some significant evidence, and
23 you say you find those in 40 percent of the cases you do a
24 search warrant for?

25 A Thirty to forty roughly.

Nick Federico - Cross-examination
by Mr. Morin

1 Q You didn't find it, did you?

2 A I don't understand what you're saying.

3 Q While you were searching the house, you were going
4 under mattresses, you were going everywhere you thought
5 there might be drugs, you were underneath chairs, this is
6 the piece of evidence and you're telling the jury that the
7 only reason you found it is cause he went back and got his
8 wallet?

9 A That's correct.

10 Q Okay. And when you got his wallet, was there any ID in
11 there that indicated that he lived there?

12 A I can't remember.

13 Q Do you have any evidence, independent evidence, lease,
14 driver's -- registered cars, the mobile home, anything that
15 says that's his residence?

16 A Besides calls that's been answered out there, things
17 like that, no.

18 Q Okay. Well, this is a call that was answered out
19 there, but Kalyne was there and Julie was there I mean,
20 right?

21 A Yeah.

22 Q Okay. Now, you had a consent to search why?

23 A What do you mean why?

24 Q You were already there. You had a search warrant. You
25 were---

Nick Federico - Cross-examination
by Mr. Morin

1 A I was---

2 Q ---conducting a search of the building and Detective
3 Fowler has testified that hand tools were one of the things
4 you were looking for --

5 A Yeah.

6 Q -- which would allow you to go into the places where
7 you found all of this except for the, the ledger?

8 A Because the narcotics were included on the affidavits.
9 So they wouldn't have been in the scope of the search
10 warrant as far as until -- you find, you find things laying
11 out in plain sight.

12 Q Right.

13 A Okay.

14 Q Well, just because the search warrant doesn't say
15 methamphetamine, you have a right to be there based on the
16 search warrant, correct?

17 A Right.

18 Q And it would be one thing if you were looking for a
19 leaf blower or a circular saw. You wouldn't expect to find
20 that under a mattress, but you would -- but Detective
21 Fowler's testified you also are looking for hand tools,
22 which you could find under there, correct?

23 A Right.

24 Q So, in addition to that, you got everybody in the room,
25 everybody that was there, you gathered them all in one room

Nick Federico - Cross-examination
by Mr. Morin

1 for your safety, correct?

2 A Yes, sir.

3 Q And when you're conducting a search warrant, you
4 obviously want to make sure that there aren't any weapons.
5 You even indicated that there might of been a weapon in the
6 wallet.

7 Right?

8 A Could be.

9 Q During the course of this investigation, did you find
10 any weapons?

11 A No, sir, not that I remember.

12 Q Well, I understand you may not remember, but you
13 certainly would of seized it if it had and it would show up
14 on your consent to search, correct?

15 A Yes.

16 Q All right. And it doesn't, does it?

17 If you need a moment to check your notes, that's fine
18 with me.

19 A No, but it wouldn't of showed up on my consent to
20 search anyway. I would of typed up the separate search
21 warrant for it.

22 Q Well, that's true, but once you did the consent to
23 search, you wrote down where everything was found, and if
24 there was a gun, it would of said gun found in living room?

25 A Yeah, that's right.

Nick Federico - Cross-examination
by Mr. Morin

- 1 Q Okay. How much money total did you find in this
2 search?
- 3 A I don't remember. I mean the dollar is the only thing
4 that I collected.
- 5 Q So a dollar?
- 6 A Yeah.
- 7 Q No other money?
- 8 A That's right.
- 9 Q Now, when Ms. Leskanic handed you State's Exhibit No.
10 13 --
- 11 A Uh-huh. (Affirmative).
- 12 Q -- she said can you tell me what this is and you said
13 it's methamphetamine.
- 14 A Right.
- 15 Q Is it because it was in the bag?
16 Is it because you, you can tell from just looking at
17 it?
- 18 How did -- or is it just because you know that's what
19 you put in this bag?
- 20 I mean how did you do that?
- 21 You -- cause you went it's methamphetamine just like
22 that and I'm just curious---
- 23 A It's already been tested.
- 24 Q ---did you read it?
- 25 Okay. That's what I meant.

Nick Federico - Cross-examination
by Mr. Morin

1 A Yeah.

2 Q And -- but the report, you can't see the report from
3 here, but you're just saying that you know that?

4 A Right.

5 Q Okay. For a minute I -- okay. Now, you found other
6 things there consistent -- you found evidence there that was
7 consistent with drug use, isn't that correct?

8 A Yes, we found---

9 Q The bowl?

10 A Yeah.

11 Q The spoon, maybe, maybe not?

12 A Right. Right.

13 Q In your experience, is there a time that you would give
14 money for an amount of drugs that didn't register on the
15 scale?

16 In other words, if I -- you've done undercover work,
17 right?

18 A Yes.

19 Q And as you're going in undercover, if you're there to
20 purchase a certain amount of drugs and there's a scale, and
21 the scale says this weighs nothing --

22 A Right.

23 Q -- you're not giving them any money?

24 A No, I wouldn't.

25 Q Okay. So when you looked up Connie and -- Peterson and

Nick Federico - Cross-examination
by Mr. Morin

1 Lynn Sizemore, did you take written statements from them?

2 A No, I didn't.

3 Q Okay. You testified that you went to the jail after
4 they were booked in and you interviewed them, is that
5 correct?

6 A That's correct.

7 Q All right. Now, when you were out on the scene, when
8 you did the search warrant, you read all three of them their
9 rights?

10 A Yes, sir.

11 Q You told them all anything they said could be used
12 against them in a court of law?

13 A Sure I did.

14 Q And while you were out there Kalyne said the drugs
15 were hers?

16 A Yes, sir.

17 Q But you didn't believe her?

18 A No, sir.

19 Q Then you went to the jail after she was booked in --

20 A Uh-huh. (Affirmative).

21 Q -- and interviewed her again?

22 A Right.

23 Q And you read her her rights again and she filled out a
24 form and says you have---

25 A Just to clarify, I didn't interview her at the scene.

Nick Federico - Cross-examination
by Mr. Morin

1 Q Was that---

2 A I interviewed her at the jail.

3 Q Right.

4 You were at the jail?

5 A Correct.

6 Q And she gave a written statement?

7 A Yes, sir.

8 Q Who wrote it?

9 A Jot did.

10 Q Why did Jot Blackwell write Kalyne's statement?

11 A We, we always -- when, when I interview somebody, I

12 generally write their statement, one of them, some --

13 whoever's there. I mean sometimes I might write one for

14 Sergeant Gardner. He might write one for me.

15 Q Okay. Was Detective Blackwell present when -- at the

16 scene cause he kind of came in late and he is not---

17 A Yes.

18 Q ---with narcotics?

19 A Yes.

20 Q But was he present when Kalyne said the drugs were

21 hers?

22 A I can't remember that.

23 Q Okay. And then, of course, Julie Lawson gave a

24 statement. She was the other person there.

25 A Yes, sir.

Nick Federico - Cross-examination
by Mr. Morin

- 1 Q She was in the living room?
- 2 A During what time?
- 3 Q When you came in there to -- initially.
- 4 Why put---
- 5 A I'm pretty sure she was in the kitchen area.
- 6 Q Kitchen area.
- 7 Okay.
- 8 A Which is right beside each other.
- 9 Q Right beside there.
- 10 And, of course, that's where that blue purse was and
- 11 had the bowl and those things were in the living room,
- 12 correct?
- 13 A Let me look.
- 14 Q Okay. You can check.
- 15 A Can I check?
- 16 Q Yeah.
- 17 A Let me be sure. The silver scales were in the living
- 18 room. The black scales were in the bedroom.
- 19 Q And the bowl that they used to smoke?
- 20 A That was in the -- I'm not sure. I'm pretty sure---
- 21 MR. MORIN: May I approach the witness?
- 22 THE COURT: You may.
- 23 A I got it right here on the form. Glass pipe --
- 24 Q Uh-huh. (Affirmative).
- 25 A -- and spoon, living room.

Nick Federico - Cross-examination
by Mr. Morin

- 1 Q Yes.
- 2 A Sorry.
- 3 Q That's okay. I'm just gonna show you state's Exhibit
- 4 No. 10. I think it's got a living room type chair.
- 5 Okay. So did Ms. Lawson give a statement?
- 6 A Yes.
- 7 Q Ms. Lawson wrote her own statement, didn't she?
- 8 A Let me look.
- 9 Q Okay.
- 10 A No, sir.
- 11 Q Who wrote Ms. Lawson's statement?
- 12 A That would be Sergeant Gardner.
- 13 Q Sergeant Gardner wrote Ms. Lawson's statement?
- 14 A Yes, sir.
- 15 Q And Jot Blackwell wrote Ms. Collins statement?
- 16 A Yes.
- 17 Q Now, before you talked to anybody, you go and you read
- 18 them their rights and you fill out a little form, right?
- 19 A Yes.
- 20 Q Can I see the one that you read to Mr. Blackwell?
- 21 A I don't think there is one.
- 22 Q There's not?
- 23 Are you still looking or are you---
- 24 A You have one---
- 25 Q ---ready for my next question?

Nick Federico - Cross-examination
by Mr. Morin

1 A Did not see it in my file.

2 Q Okay. Now, I notice on the pre-interrogation waiver
3 form, and that's what I'm talking about, Kalyne Carroll, at
4 the top of hers, it says statement was given by Kalyne
5 Carroll written by Detective Jonathan Blackwell and she gave
6 her initials right there?

7 A Yes.

8 Q And the reason I asked is cause on Ms. Lawson's
9 pre-interrogation it doesn't say that, and you said that it
10 was written by -- I see the rights were read by Mr. Gardner,
11 but nothing on here indicates that it was written by
12 Mr. Gardner.

13 A Yes, sir.

14 Q Is that correct?

15 A Yeah, it's not written on there, but it was written by
16 Mr. Gardner, you're right.

17 Q All right. So you don't know if Gardner wrote it, you
18 do know from your own memory or---

19 A No.

20 Q I just want to make sure I'm straight on this.

21 A I'm -- without a doubt I know he wrote it. Without a
22 doubt I know he wrote it.

23 Q Without a doubt you know he wrote it, but you didn't
24 document that one like you did Kalyne's?

25 A Well, actually not documented that. I've never done

Nick Federico - Cross-examination
by Mr. Morin

1 that.

2 Q Okay.

3 A And I don't -- to my knowledge he's never done that.

4 Q Well, Jot wasn't -- this was a narcotics case at this
5 point, correct?

6 A Yes, sir.

7 Q Is there some reason why someone from CID was brought
8 over to help you?

9 Was Detective Gardner not available?

10 A Could of been busy out processing the evidence.

11 Q How many other people are in the narcotics unit besides
12 you and Detective Gardner?

13 A There's four total.

14 Q Okay. And, of course, after you spoke to Kalyne, she
15 told you she'd been showering there, she'd been changing
16 clothes there, you found her sleeping in the master bedroom,
17 and she claimed the drugs?

18 A Talking about when I interviewed her at the jail?

19 Q Uh-huh. (Affirmative).

20 A Yeah, first couple sentences said she went there to eat
21 and take a shower.

22 Q Okay. You don't have to -- I mean we'll talk about
23 that.

24 I was wondering if you knew that she had said I was
25 taking a shower there, I was eating there, those kind of

Nick Federico - Cross-examination
by Mr. Morin

1 things going on there?

2 A Okay.

3 MR. MORIN: One more moment, Your Honor.

4 THE COURT: Yes, sir.

5 (Pause.)

6 MR. MORIN: I don't have any other questions.

7 THE COURT: Redirect.

8 SOLICITOR LESKANIC: Thank you, Your Honor.

9 THE COURT: Yes, ma'am.

10 REDIRECT EXAMINATION

11 BY SOLICITOR LESKANIC:

12 Q Do you check fingerprints?

13 Is that part of your job?

14 A No, ma'am.

15 Q All right. Do you know, in this case, if certain items
16 of evidence were fingerprinted?

17 A Yes, they were.

18 Q They were.

19 Okay. We'll get to that later then.

20 Mr. Morin was asking you the fact you don't have in
21 your report that Kalyne Carroll claimed the
22 methamphetamine.

23 Would you explain why that's not in your report and
24 what you did with that information?

25 A Yes, like I said, when we -- it's, it's normal practice

Nick Federico - Redirect examination
by Solicitor Leskanic

1 for us, when we go to a house and we start finding things
2 there, that we, if there's multiple people, we go to them
3 people and ask whose it is. We give an opportunity for them
4 to explain, claim, cooperate, however you want to word it.

5 On this day, there was three people there and all three
6 said that it didn't belong to them. This search was
7 probably, just guessing, two or three hours long while we're
8 there searching, and then she allegedly claimed it then at
9 the end, which, like I said, it just -- I mean questions
10 that were asked and things at the time, it just -- it didn't
11 add up for us and then I interviewed her at the jail.

12 Q Was that before or after you typed your report?

13 Did you interview her before you typed your report or
14 after you---

15 A Yes, I did.

16 Q Okay.

17 A Before.

18 Interviewed at the jail. Get that information there
19 where it's basically they're not in a crowd. Nobody's there
20 besides -- be the two of us and her so we have a witness---

21 Q All right. So let me clarify.

22 A ---in a different atmosphere.

23 Q I'm sorry to interrupt you.

24 A Go ahead.

25 Q The first time that you asked, what's the situation?

Nick Federico - Redirect examination
by Solicitor Leskanic

- 1 where is everyone when you say who does this belong to?
- 2 A Right there together.
- 3 Q So everybody's together.
- 4 Okay. And what was the situation with Ms. Carroll when
- 5 it changed when she had told you and said it was hers?
- 6 A She was in a secured spot, I would say, at the jail.
- 7 Nobody around except for the two detectives.
- 8 Q I mean when she told you that it was hers on scene.
- 9 A Oh, what was what now?
- 10 Q What was the situation---
- 11 A Sorry.
- 12 Q ---when she told you that the drugs were hers?
- 13 A I mean there's a lot of stuff going on there, and
- 14 people are right there, you know.
- 15 Q Was the defendant there?
- 16 A Yes, right.
- 17 Q Was Preston Blackwell still there?
- 18 A Yes, ma'am.
- 19 Q Okay. And when you went to the jail and interviewed
- 20 her, was Preston Blackwell in the room?
- 21 A No. No, ma'am.
- 22 Q Okay. And, at that point, she gave a written
- 23 statement?
- 24 A Yes, ma'am.
- 25 Q All right. So when you did your report, did you put

Nick Federico - Redirect examination
by Solicitor Leskanic

1 that initial statement of her claiming the methamphetamine
2 in your report?

3 A No, I didn't.

4 Q All right. Well, what did you do with that
5 information?

6 A Passed it on to you.

7 Q Okay. Now -- so you made the State aware of that?

8 A Yes, ma'am.

9 Q You told me. Very good.
10 Connie Peterson and Lynn Sizemore, he asked you about
11 that, when you went to find them and you said sometime last
12 week I think?

13 A Yes, ma'am.

14 Q All right. Why did you do that?

15 A Cause me and you sat down and discussed the case that
16 was coming up.

17 Q All right. And who asked you to do that?

18 A You did.

19 Q Okay. So it wasn't -- did you initially try to find
20 them when you worked the case or were you involved with the
21 three people that you found inside the home?

22 A Just the three people in the home.

23 Q All right. So you were searching for them based upon
24 the State's request, is that correct?

25 A Yes, ma'am.

Nick Federico - Redirect examination
by Solicitor Leskanic

- 1 Q Okay. Have you ever been on a search warrant and
2 missed something, left some drugs there?
- 3 A Excuse me. Yeah.
- 4 Q Have you ever left money?
- 5 A Yes, ma'am.
- 6 Q You ever left guns?
- 7 A Probably.
- 8 Q And how do you know that you've missed things on search
9 warrants?
- 10 A You hear it on the street.
- 11 Q So you don't know all hiding places?
- 12 A No. I wished.
- 13 Q Okay. Now, Mr. Morin was asking you about State's
14 Exhibit 15, the owe list, and I, and I just want to bring
15 this to your attention and ask you again.
16 On April 16th, 2014, what's that top?
- 17 A That says gave to.
- 18 Q And, and -- so what was given to Jersey?
- 19 A Looks like an eight ball to me.
- 20 Q And what was given to Mike?
- 21 A A half an eight ball.
- 22 Q And to Bigum?
- 23 A Eight ball.
- 24 Q Did he pay anything on it?
- 25 A Yeah, he give him \$50 for it.

Nick Federico - Redirect examination
by Solicitor Leskanic

1 Q All right. And what was given to Butch?

2 A A quarter.

3 Q And given to Lynn?

4 A A quarter.

5 Q And given to Greg?

6 A Looks like 2-grams.

7 Q That's all I have. Thank you.

8 THE COURT: Recross.

9 MR. MORIN: No, sir.

10 THE COURT: You may step down, sir. Thank you very
11 much.

12 All right. Ladies and gentlemen of the jury, we're
13 gonna take a short break before we start the next witness.
14 As always, when you retire to the jury room, I'll ask that
15 you not discuss the case, even among yourselves, until I ask
16 you to begin your deliberations.

17 We'll take a short break. You can step back into the
18 jury room.

19 (WHEREUPON, the following takes place outside the
20 presence of the jury.)

21 THE COURT: Court will be in recess for about ten
22 minutes.

23 SOLICITOR LESKANIC: Thank you, Your Honor.

24 (WHEREUPON, a short recess was taken at this time.)

25 THE COURT: All right. State's ready to proceed?

1 SOLICITOR LESKANIC: Yes, Your Honor.

2 THE COURT: Defense ready?

3 MR. MORIN: Yes, Your Honor.

4 THE COURT: Bring the jury in.

5 MR. MORIN: You want to put that on the record, Your

6 Honor?

7 THE COURT: Yes, sir, go ahead.

8 Just one second, Wayne.

9 In chambers we had a discussion. I believe the State
10 indicated they wish to call the SLED analyst out of order.
11 My understanding is that Mr. Morin has agreed to that
12 procedure being followed so long as the drug evidence is not
13 finally introduced until the chain of custody has been
14 established.

15 Is that your understanding?

16 SOLICITOR LESKANIC: It is, Your Honor.

17 THE COURT: Is that your agreement?

18 MR. MORIN: That's correct.

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

20 (WHEREUPON, the following takes place within the
21 presence of the jury.)

22 THE COURT: All right. The record will reflect the
23 jury's returned to the courtroom.

24 At this time the State may call its next witness.

25 SOLICITOR LESKANIC: Thank you, Your Honor.

Doug Robinson - Direct examination
by Solicitor Leskanic

1 The State calls Doug Robinson.

2 THE COURT: Come forward, sir, over here to my left
3 here and be sworn please.

4 DOUG ROBINSON, being first duly
5 sworn, testified as follows:

6 THE COURT: Have a seat in the witness stand.
7 (Witness complies.)

8 THE COURT: Please state your name.

9 THE WITNESS: Douglas Robinson.

10 THE COURT: Thank you.

11 Ms. Leskanic, your witness.

12 SOLICITOR LESKANIC: Thank you very much.

13 DIRECT EXAMINATION

14 BY SOLICITOR LESKANIC:

15 Q where are you employed?

16 A The South Carolina Law Enforcement Division commonly
17 known as SLED.

18 Q All right. And what is SLED?

19 what do you do there?

20 what is your job?

21 A I am assigned to the forensic services division. I do
22 drug analysis.

23 Q Okay. And will you please tell the jury about your
24 education and training to do drug analysis for SLED?

25 A Sure. I earned my Bachelor of Science in Chemistry

Doug Robinson - Direct examination
by Solicitor Leskanic

1 from the University of South Carolina. After graduating, I
2 spent approximately three years performing chemical analysis
3 in the environmental chemistry field.

4 Upon coming to SLED I received my legal training at the
5 South Carolina Criminal Justice Academy as well as in-house
6 training through the SLED drug analysis department in the
7 identification and testing of control substances. I've also
8 attended the Drug Enforcement Administration forensic
9 chemist seminar.

10 Q All right. And have you ever testified as an expert in
11 the analysis of narcotics in a Court in South Carolina?

12 A I have.

13 Q All right. And approximately how many times?

14 A Fifteen.

15 SOLICITOR LESKANIC: All right. Your Honor, at this
16 time I'd like to offer Doug Robinson as an expert in the
17 field of chemistry and the analysis of narcotics.

18 THE COURT: Any objection?

19 MR. MORIN: No, sir.

20 THE COURT: All right. Without objection he'll be
21 qualified as an expert within the field.

22 I've explained to you what that means.

23 So you may proceed at this time, Ms. Leskanic.

24 SOLICITOR LESKANIC: Thank you very much.

25 May I approach the witness?

Doug Robinson - Direct examination
by Solicitor Leskanic

1 THE COURT: Yes, ma'am. Yes, you may.

2 Q Mr. Robinson, I want to show you what's previously been
3 marked State's Exhibit 13.

4 If you would, take a look at that and tell me if you
5 recognize it.

6 A I do.

7 Q And what is that?

8 A This is -- there's actually several items here. The
9 outside container, what we refer to as a K-packaging, heat
10 sealed bag that we can place evidence in after analysis.
11 Within this outside container we have several other
12 containers. The first being this bag, if you can see, with
13 the blue swirl marks.

14 This is a Best Evidence Sample Testing Kit, what we
15 refer to as the B.E.S.T. kit. This is designed to allow
16 officers to seal evidence on-scene and have it pass through
17 the chain of custody in a tamper evident container so when
18 it comes to us we can be assured that the evidence has not
19 been tampered with. They're also several ziploc bags
20 containing a crystal substance as well.

21 Q Okay. And if you need to refer to your notes, please
22 feel free to do so, but can you tell the jury how many
23 individual packages you received in this B.E.S.T. Bag?

24 A Yes, the total submission, total number of bags
25 submitted appears to be six total bags within the case.

Doug Robinson - Direct examination
by Solicitor Leskanic

1 Q Okay. And what type of packaging did you receive it
2 in?

3 A The evidence was received in the B.E.S.T. kit as I
4 spoke about. The evidence was sealed. That is noted both
5 on my analysis worksheet as well as actually on the B.E.S.T.
6 Bag here. It says the words seal in tact with my initials
7 and January 7th, 2015, which is the day I did the
8 analysis.

9 Q Okay. So law enforcement will seal it in a B.E.S.T.
10 Bag or a tamper evident bag, is that correct, and then it is
11 sent to you?

12 A That's correct. This bag is designed, as I stated
13 earlier, with, with tamper evident patterns across all four
14 sides of the bag. So if it was stretched, torn, cut in
15 anyway, it would be very obvious and apparent. Across the
16 top is a blue strip. This is where the officers remove the
17 blue strip and seal the top of the bag after the evidence
18 has been placed in it.

19 Q All right. When you received it, was the bag tampered
20 with in anyway?

21 A No, it was not. As I stated, it's written on the
22 B.E.S.T. bag and it's sealed in tact with my initials and
23 the date to confirm that.

24 Q And if it had been tampered with would you have tested
25 the substance?

Doug Robinson - Direct examination
by Solicitor Leskanic

1 A No, ma'am.

2 Q Okay. So what did you do once you looked at the bag,
3 realized that it had not been tampered, and there was a
4 substance inside?

5 What is your next procedure?

6 A During an analysis we will inventory the evidence,
7 separate out into individual items based on what is there.
8 After that happens, each item is removed from packaging and
9 an initial weight is taken. The substance is then put
10 through an initial test to give us an idea of what the
11 substance is. We call this an indicative test. Once that
12 happens, we take a sample for extraction and confirmation
13 through instrumental analysis.

14 Q Okay. Do you test substances from each of the bags
15 that you received?

16 A It depends on what the submission is and how it's
17 itemized, but, in this case, all items submitted were
18 tested.

19 Q Okay. And did you first weigh the substance or do you
20 test it first?

21 What is the procedure?

22 A Well, the initial weight is taken after all packaging
23 is removed, but before any testing. We also do a final
24 weight. All weight -- weights are always taken before,
25 before any testing is performed if it's applicable to take

Doug Robinson - Direct examination
by Solicitor Leskanic

1 that weight.

2 Q Okay. Can you walk the jury through what you did with
3 each of the packages submitted in this case, what the
4 substance was, and how much it weighed please?

5 A Sure. So after it was sub-itemed, Item 1.1 was a clear
6 ziploc bag containing residue. The result was
7 methamphetamine, CII found in the sample tested. One
8 tested. No weight obtained.

9 Item 1.2, two clear ziploc bags containing a crystal
10 substance. Methamphetamine CII found and the sample tested.
11 Two tested. Total net weight, 1.82 plus or minus
12 0.01 grams, 28.08, plus or minus, 0.15 grains.

13 For Item 1.3, two blue ziploc bags containing crystal
14 substance. Methamphetamine CII found in the sample tested.
15 Two tested. Total net weight, 11.36, plus or minus
16 0.01 grams, 175.30, plus or minus 0.15 grains.

17 For Item Number 1.4, blue ziploc bag containing one
18 partial blue tablet. The results, sildenafil RX indicated
19 in the sample tested. One tested.

20 Q Okay. Now, you said after each time you said meth,
21 methamphetamine CII.

22 What does CII mean?

23 A CII is a reference to the controlled status of the
24 substance. In this case, it is a CII substance.

25 Q So Scheduled II?

Doug Robinson - Direct examination
by Solicitor Leskanic

1 A It's Scheduled II, correct, in the South Carolina Law
2 Code.

3 Q Okay. And sildenafil?

4 A sildenafil, sildenafil is commonly referred to as
5 Viagra. Again, it's the indication there was RX. It's a
6 prescription only tablet, but it does not fall under the
7 controlled status I through V in the South Carolina Law
8 Book.

9 Q So, essentially half a tablet for a prescription
10 Viagra, is that --

11 A Approximately half a tablet, yes.

12 Q Okay. So the total weight -- now let me go back to
13 Item 1.1. That was a clear Ziploc bag containing residue.

14 Do you find that in the B.E.S.T. bag?

15 A Yes, ma'am.

16 Q And---

17 A It's on top.

18 Q Okay. It's -- all right. The bag on top, let me just
19 show you -- I'm gonna show you what's been marked State's
20 Exhibit 4, and, if you can, can you identify whether the bag
21 in this photograph is the bag that contained the
22 methamphetamine, but no weight obtained?

23 A It appears to be the same bag. Has the same markings,
24 same size and shape, and there does appear to be residue in
25 this bag.

Doug Robinson - Direct examination
by Solicitor Leskanic

1 Q Okay. And why was there no weight obtained?

2 A No weight obtained is -- in a residue case. We have
3 substance there. We can see substance. But every balance
4 that's used, every scale that's used to weigh on has a lower
5 limit, and when we have cases and submissions that it's
6 obvious that that visible residue is well below the balance
7 limitations, we will just mark it as residue without a
8 weight obtained.

9 Q Okay. But it did -- it was positive for
10 methamphetamine?

11 A That's correct. There was substance there. It did
12 test positive for methamphetamine.

13 Q All right. And then you analyzed two clear ziploc
14 bags?

15 A Yes, ma'am.

16 Q Correct?

17 A Yes, ma'am.

18 Q And they had a combined weight of 1.82, plus or minus
19 0.01 grams.

20 So about 1.82 grams in those two clear plastic bags?

21 A Yes, ma'am.

22 Q All right. And then Item 1.3, you analyzed the
23 substances found in two blue ziploc bags containing crystal.

24 It also was positive for methamphetamine?

25 A Yes, ma'am.

Doug Robinson - Direct examination
by Solicitor Leskanic

1 Q And the total weight was 11.36 grams, plus or minus
2 0.01?

3 A That's correct.

4 Q Okay. And then the other blue bag obtained the half of
5 Viagra?

6 A That's correct.

7 Q All right. And after you finish your testing, Mr.
8 Robinson, what do you do with the drugs at that point?

9 A All of the prep work, the actual bench work happens at
10 the same time. That would be, in this case, the data of
11 1/17/15. Once samples are taken for analysis, the evidence
12 is immediately resealed in, again, this outside container
13 called a K-pack. It's heat sealed with my initials and the
14 date of analysis to, to denote that I was the one that made
15 the seal. This would then be stored in a secured location
16 until it was returned to evidence control so that they may
17 return it to the submitting agency.

18 Q All right. And on what day did you do your testing?

19 A The analysis, the prep work, the bench work happened on
20 January 7th.

21 Q Okay. January 7th of 2015?

22 A Yes, ma'am.

23 Q Okay. Now, with this case happening back in May of
24 2014, would that time delay, from the time that the drugs
25 were collected to the time that they were tested, would that

Doug Robinson - Direct examination
by Solicitor Leskanic

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1 affect your testing in anyway as far as what the substance
2 is, what the weight of the substance is?

3 A No, ma'am.

4 Q Okay. And when you received the package it was sealed,
5 and when you finished your testing, you sealed it to return
6 it to the Cherokee County Sheriff's Department, is that
7 correct?

8 A That's correct.

9 Q That's all. If you will, please answer any questions
10 from Mr. Morin.

11 THE COURT: Mr. Morin, your witness.

12 CROSS-EXAMINATION

13 BY MR. MORIN:

14 Q I just want to make sure I'm clear on the no weight.
15 You look at it, you see that it's residue, and you
16 don't -- I can't remember the word you used, below the
17 threshold, was it?

18 A There's -- for every balance, for any balance, there's
19 a lower limit to that balance that's a reliable number. If
20 it's slightly, if it's in that ballpark, we will take it out
21 and take a weight. If it's not feasible to remove the
22 substance from the packaging and get a weight, that's when
23 the no weight obtained comes into place.

24 Q Okay. And how -- I don't see how I'm gonna ask you
25 this.

Doug Robinson - Cross-examination
by Mr. Morin

1 I assume that there's sometimes you take out and you
2 weigh stuff and it goes down to a certain number and you
3 kind of know at what the, the lowest weight you're gonna be
4 able to obtain.

5 A I---

6 Q Will it, will it -- let me ask you this.

7 Have you done a weight where it was .1 grams?

8 A Yes, sir.

9 Q How about .05?

10 A Again, we have -- I would take that weight, but it
11 would be reported as less than 0.10, yes, if I took a weight
12 for that sample.

13 Q Okay. That's what I need to know. Thank you.

14 That's all the questions I have, Your Honor.

15 THE COURT: Redirect?

16 SOLICITOR LESKANIC: Nothing further, Your Honor.

17 THE COURT: You may step down.

18 Do you wish to excuse the witness?

19 SOLICITOR LESKANIC: Yes, Your Honor.

20 THE COURT: Any objection?

21 MR. MORIN: No, sir.

22 THE COURT: Sir, you're free to leave if you'd like.

23 Thank you very much.

24 State may call its next witness.

25 SOLICITOR LESKANIC: The State calls Sergeant Brandon

Brandon Gardner - Direct examination
by Solicitor Leskanic

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1 Gardner.

2 THE COURT: Sir, if you'll come forward and be sworn
3 please, sir.

4 BRANDON GARDNER, being first duly
5 sworn, testified as follows:

6 THE COURT: Once seated, please state your name.

7 THE WITNESS: Brandon Gardner.

8 THE COURT: Thank you.

9 Your witness, counselor.

10 SOLICITOR LESKANIC: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY SOLICITOR LESKANIC:

13 Q Sergeant Gardner, where are you employed?

14 A Cherokee County Sheriff's Office.

15 Q All right. And how long have you been with the
16 Sheriff's Office?

17 A Since January of 2009.

18 Q Okay. And where -- did you start on patrol?

19 A I did.

20 Q And, from there, where did you go?

21 A I worked patrol until 2012 and then transferred to the
22 narcotics unit.

23 Q Okay. So, you've been with narcotics since 2012?

24 A That's correct.

25 Q Did you help execute the search warrant at [REDACTED] Garvin

Brandon Gardner - Direct examination
by Solicitor Leskanic

1 Lake Road back on May 23rd of 2014?

2 A I did.

3 Q All right. And what was your role in the search?

4 If you'll walk the jury through where you went and what
5 you did.

6 A I rode with Sergeant Federico that morning. When we
7 got there I, I went towards the front of the trailer with
8 Detective Fowler. I made it kind of half-way between the
9 end of the residence and the door. Kind of heard the
10 commotion. Went to the rear of the residence and entered it
11 with Sergeant Federico.

12 Entered into the residence. Was met -- Mr. Blackwell
13 opened the door. Walked in the residence. Sergeant
14 Federico spoke to him, explained to him about a search
15 warrant. Noticed Ms. Lawson in the kitchen/living room
16 area. Sergeant Federico was speaking with Mr. Blackwell.

17 Asked him if anyone else was there, and then I, I don't
18 recall if it was -- he entered first or I entered first into
19 the bedroom directly to the right, and noticed Ms. Carroll
20 laying in a bedroom and she appeared to be asleep.

21 Q Okay.

22 A And then everyone was brought into the living room area
23 where Detective Walker executed the search warrant, reading
24 him the rights, reading the search warrant, explained to
25 them why we were there. After a few minutes speaking with

Brandon Gardner - Direct examination
by Solicitor Leskanic

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1 Sergeant Federico, I'm not sure of the timeframe, how much
2 time elapsed, me and him spoke with Mr. Blackwell in the
3 kitchen area, and explained to him that we had located what
4 we believed to be meth in the residence, and then he
5 voluntarily signed a consent form or a consent to search
6 form, and then helped search the residence.

7 We call it executing. Like if I'm executing a consent
8 to search, I'm -- I document everything, where it was taken,
9 if we do seize it, it's in my custody and then I take it
10 back. I took it back that day and placed it into evidence
11 and signed the evidence forms and put it in the proper
12 place.

13 Q Okay. Sergeant Gardner, I'm gonna show you State's
14 Exhibit 12, the consent to search that's previously been put
15 into evidence.

16 Is that your signature witnessing Mr. Blackwell's
17 signature agreeing to the consent?

18 A It is.

19 Q Okay. And then it appears there initials B.G. on the
20 right side and numerous items?

21 A That's correct.

22 Q Okay. I'm gonna see if I can put this up on the screen
23 so you can read from it, but we may have to hold it.

24 Can you read from that or -- yes, if you'd like to step
25 down please?

Brandon Gardner - Direct examination
by Solicitor Leskanic

1 A (Witness comes down from the stand.)

2 Q And if you can't read it, then certainly hold it in
3 your hand and it will be in evidence.

4 A I can try to read it cause the first two appear to be
5 small.

6 It's -- Sergeant Federico explained earlier where
7 Mr. Blackwell signed it and him. Reading it all to him.
8 All that had being completed when I get it.

9 It says I, Brandon Gardner, Cherokee County Sheriff's
10 Office, on the date 5/23/14 at 9:45AM, under the authority
11 of the voluntary consent to search, do hereby seize the
12 following articles from [REDACTED] Garvin Lake Road which are
13 considered to be fruits of the crime. To wit, and what it
14 is, we fill it out and just list item numbers and then a
15 description of what I found and where it was found, and then
16 my initials that I was the one who took all that stuff into
17 custody.

18 Would you like for me to read it?

19 Q Yes, if you could, please explain to the jury what you
20 collected and where it was found.

21 A Item Number 1 was one silver container containing two
22 blue glassen bags containing a crystal rock like substance,
23 two clear, clear glassen bags with clear rock like
24 substance, four empty glassen bags, one blue glassen bag
25 containing a half blue pill, and one dollar bill, and all

Brandon Gardner - Direct examination
by Solicitor Leskanic

1 that was located in the bedroom on the right.

2 Q All right. And is that -- was that what was contained
3 inside the metal container with the Gamecock sticker on top?

4 A Yes, ma'am.

5 Q Okay.

6 A It was.

7 Q Item Number 2 was a spoon and glassen baggie, purse
8 like bag, and that was in the living room. I initialed that
9 I took it into my custody.

10 Item Number 3 is a black bag containing numerous
11 glassen bags. It was in the living room area, and I
12 initialed when I took it into custody, a glass pipe with a
13 spoon found in the living room. I took it into custody.

14 Five looks like set -- Item Number 5, a set of silver
15 digital scales located in the living room and I took it into
16 custody.

17 Number 6 was a set of black digital scales located in
18 the bedroom on the left and that's my initials.

19 Number 7, Item Number 7 was two black bags with several
20 glassen bags inside and that was on the bedroom left as
21 well. Both of those I initialed I took into my custody, and
22 this sheet here is just a run-off that there's not enough
23 room on the first one. We do it on search warrants as well
24 as consent to search when we run out of the room. We
25 just -- it's just a continuation.

Brandon Gardner - Direct examination
by Solicitor Leskanic

1 Number -- Item Number 8 was a glass pipe in the bedroom
2 on the left.

3 Number 9 was two small spiral notebooks from living
4 room.

5 Number 10, glassen bag in left bedroom containing --
6 I'm sure it says crystal rock like -- crystal rock like
7 substance.

8 Q Okay.

9 A Then that's a mistake that I made that I marked out and
10 initialed that I had made a mistake.

11 Q Okay. Very good. You can have a seat.

12 A (Witness returns to the stand.)

13 Q I'm gonna show you State's Exhibit 13. We already had
14 Mr. Robinson testify as to what's contained in here.

15 But did you actually -- it looked like, from the
16 consent to search form, that you were the one that actually
17 collected the methamphetamine and Viagra in this case?

18 A That's correct.

19 Q All right. Will you please explain to the jury what
20 you do with a narcotic or suspected narcotic at the time you
21 seize it?

22 A We have what we call a raid bag and like, for mine,
23 it's just a book bag that I keep in my patrol vehicle at all
24 times. Several things in it. One of the things in it is
25 envelopes. So when we do a search warrant or even if we

Brandon Gardner - Direct examination
by Solicitor Leskanic

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1 locate any type of narcotics, we'll put -- we'll document it
2 and whenever we're finding stuff we'll put it in the brown
3 envelope and it's in a bag that stays in my custody, doesn't
4 leave my custody. It stays with me and then, when we get to
5 the office, we're able to get out, we complete a B.E.S.T.
6 Bag for believed to be narcotics.

7 And so, so envelopes. It's got a chain of custody,
8 chain of custody form, you know, where I document what time
9 I got it, where I put it, who -- where I seized it from, who
10 I seized it from. It's got another sheet. It's like a
11 description of what was found and we list the suspect, if
12 we -- who we took it from, and then we put a copy of that
13 into the evidence bag, seal the evidence bag along with what
14 are believed to be narcotics found, and then we have to fill
15 out another evidence sheet, the Cherokee County Sheriff's
16 office evidence sheet of what time we got it, and then what
17 time we put the B.E.S.T. bag in the evidence vault at the
18 Sheriff's Office.

19 Q So you immediately, the same day, sealed these items in
20 the tamper evident bag and placed them into evidence at the
21 Sheriff's Department?

22 A Yes, ma'am, as soon as we got back to the Sheriff's
23 Office that day.

24 Q Okay. And then once you dropped them in, can anyone
25 else go in that room where the drugs are dropped or who can

Brandon Gardner - Direct examination
by Solicitor Leskanic

1 go in that room, if you have knowledge of that?

2 A I know that Lieutenant Anthony has a key to it and he
3 works in crime scene. Lieutenant Henson works in crime
4 scene. He has a key to it and Lieutenant Wright has a key.
5 That's all I know are those three in evidence.

6 Q And those three individuals actually process evidence
7 for the Cherokee County Sheriff's Department?

8 A Yes, ma'am.

9 Q All right. But no one else has a key to that room to,
10 to -- in where evidence is stored at the Sheriff's
11 Department?

12 A I would assume the sheriff does, but I'm not -- I, I
13 don't have knowledge.

14 Q Okay. All right. Very good. Thank you.

15 Did you -- you were there with Sergeant Federico during
16 the entire search?

17 A That's correct.

18 Q All right. And he's -- he's already testified to that,
19 but there was a question about I believe Ms. Lawson's
20 statement.

21 A Correct:

22 Q She gave a statement in this case.

23 Do you know if she wrote that statement or if you wrote
24 the statement for her?

25 A I wrote, I wrote the statement for her.

Brandon Gardner - Direct examination
by Solicitor Leskanic

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1 Q Okay. All right. And were you present when first
2 everyone denied that any drugs in the house belonged to
3 them?

4 A I was.

5 Q All right. And were you present and did you hear Ms.
6 Carroll later claim the methamphetamine?

7 A I was. I don't recall if I was there the first time
8 she told Sergeant Federico, if I heard her, but I did hear
9 her statement, at one point in time, the drugs found were
10 hers.

11 Q Okay. All right. But when y'all arrived in the home,
12 where was Ms. Carroll?

13 A I went to the back of the residence along with Sergeant
14 Federico, walking up some steps, and then kind of walk into
15 a kitchen area, and then go to the right, and that's where
16 she was located. But if you're looking at the residence
17 from the front, then it would be the bedroom on the far
18 left.

19 Q Okay. So showing you State's Exhibit 2, can you step
20 down and show me, this is from the front of the house, where
21 the room would be where Ms. Carroll was found and where the
22 room was that the silver Gamecock container was found?

23 A Yes, ma'am.

24 (Witness comes down from the stand.)

25 The room that Ms. Carroll was found is on this side of

Brandon Gardner - Direct examination
by Solicitor Leskanic

- 1 the residence, and the room where the silver container was
- 2 found is on this side, the far end.
- 3 Q Okay. And do you have any personal knowledge as to who
- 4 was staying at this house on a regular basis---
- 5 A Yes, ma'am.
- 6 Q ---during that time?
- 7 And who, who would that be?
- 8 A Preston Blackwell.
- 9 Q The defendant?
- 10 A Yes, sir. Yes, ma'am. I apologize.
- 11 Q That's, that's all right.
- 12 okay. Thank you.
- 13 A (Witness returns to the stand.)
- 14 Q All right. Please answer any questions Mr. Morin has.
- 15 THE COURT: Mr. Morin, your witness.
- 16 CROSS-EXAMINATION
- 17 BY MR. MORIN:
- 18 Q When you wrote the statement for Ms. Lawson, was it
- 19 recorded in anyway other than the writing, audio, video?
- 20 A No, sir, it's not.
- 21 Q How long have you been in narcotics?
- 22 A Since 2012. Three years.
- 23 Q Three years.
- 24 Do you -- I think what you were telling Ms. Leskanic is
- 25 is you're the one that documented where all that stuff came

Brandon Gardner - Cross-examination
by Mr. Morin

1 from and you initialed on all that?

2 A Yes, sir, that's correct.

3 Q And that, that was your job?

4 A That's correct.

5 MR. MORIN: That's all the questions I have.

6 THE COURT: Redirect.

7 SOLICITOR LESKANIC: Nothing further, Your Honor.

8 THE COURT: All right. You may step down. Thank you,
9 sir.

10 State may call its next witness.

11 SOLICITOR LESKANIC: State calls Rodney Bright.

12 THE COURT: Come forward, sir.

13 RODNEY BRIGHT, being first duly
14 sworn, testified as follows:

15 THE COURT: State your name please.

16 THE WITNESS: Rodney Bright.

17 THE COURT: Thank you.

18 Your witness, counselor.

19 SOLICITOR LESKANIC: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY SOLICITOR LESKANIC:

22 Q Like to show you what's been marked State's Exhibit 13.

23 Do you recognize that?

24 A Yes, ma'am, I do.

25 Q Okay. And you recognize that.

Rodney Bright - Direct examination
by Solicitor Leskanic

1 You're employed at the Cherokee County Sheriff's
2 Department, correct?

3 A Yes, ma'am, I am.

4 Q All right. And what are your duties there?

5 A My primary duty is training officer for the Sheriff's
6 Office.

7 Q Okay. Did you also work in evidence collection or
8 logging in evidence---

9 A Yes.

10 Q ---at the Sheriff's Department?

11 A Yes, ma'am, along with training. I, I try to do the --
12 help do the custody of evidence when it's coming in.

13 Q Okay. Is that what your role was in this case?

14 A Yes, ma'am, it was.

15 Q Okay. Can you explain to the jury what, what your job
16 was, the procedure of receiving evidence and what you do
17 with it after you receive it?

18 A Yes, ma'am, what, what they'll do is they'll bring in
19 what we call a B.E.S.T. Bag or B.E.S.T. kit, and it's in a
20 manila envelope. They'll bring it and they'll drop it into
21 a secure room that we have and there's a few of us who have
22 a key, myself, Billy, and -- Billy Anthony, the sheriff, and
23 Detective Jim Henson. They'll drop it in and we'll pull it
24 out and it's not a scheduled -- it's not a time thing. It's
25 just whenever we have time we go and pull evidence out and

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by Solicitor Leskanic

1 we'll log it in.

2 We'll -- as soon as I open up the envelope I pull the
3 paperwork out and make sure all the paperwork is correct,
4 and then I'll pull the bag out and make sure the inner bag
5 is sealed, completely sealed, and all the documents is
6 filled out properly.

7 Q Okay. And was all of that done correctly in this case?

8 A Yes, ma'am, it was.

9 Q And then what did you do with the B.E.S.T. bag that you
10 received after you verified that the information was correct
11 and the bag was properly sealed?

12 A After it's -- after I find out it's properly sealed,
13 I'll sign off on it, I'll enter it into our computer system,
14 and then we'll store it in our location until we can take it
15 to SLED.

16 Q Okay. And at anytime did it appear that the packaging
17 had been tampered with?

18 A No, ma'am, it's -- once, once these are sealed and I
19 know that the SLED officer talked about that earlier,
20 they're sealed from the top. It's a glue strip that's
21 across it. Once it's sealed, the only way to get into the
22 bag is physically cutting the bag or rip it open in which we
23 won't accept it at that point.

24 Q Okay. And once you received it, it's sealed, you, you
25 essentially pick up a sealed bag, make sure it's sealed

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by Solicitor Leskanic

1 correctly, enter that information in the computer and then
2 move it to the proper shelf to take to SLED?

3 Is that---

4 A Yes, ma'am, that's what we do.

5 Q Okay. And you didn't tamper with it in anyway and it
6 was in a tamper evident package?

7 A Right. If, if, if anybody had tampered with it after I
8 received it, then SLED wouldn't accept it.

9 Q Okay. And can you verify State's Exhibit 13 is, in
10 fact, what you received in this case?

11 A Yes, ma'am, at the very top it has a control number.
12 Every bag has a control number, the envelope has a control
13 number, all the paperwork has the control number, and some
14 of the paperwork is fillable for the officers and we match
15 the control number on top of the paperwork with the control
16 number on top of the B.E.S.T. bag.

17 Q Thank you. Please answer any questions of Mr. Morin.

18 THE COURT: Mr. Morin, your witness.

19 MR. MORIN: If I may approach the witness?

20 THE COURT: You may.

21 MR. MORIN: Okay. I have no questions, Your Honor.

22 THE COURT: You may step down, sir.

23 THE WITNESS: Yes, sir.

24 THE COURT: The State may call its next witness.

25 SOLICITOR LESKANIC: State calls Detective Billy

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1 Anthony.

2 THE COURT: Come forward, sir, and be sworn please.

3 BILLY ANTHONY, being first duly
4 sworn, testifies as follows:

5 THE COURT: Have a seat, sir, and once you're seated
6 state your name please.

7 THE WITNESS: Billy Anthony.

8 THE COURT: Thank you.

9 Counselor, your witness.

10 SOLICITOR LESKANIC: Thank you.

11 DIRECT EXAMINATION

12 BY SOLICITOR LESKANIC:

13 Q Where are you employed?

14 A The Cherokee County Sheriff's Office.

15 Q All right. And how long have you been employed there?

16 A I've been employed there full-time for 15 -- 13 years.

17 Q And what are your current duties?

18 A I'm currently assigned to the crime scene investigation
19 unit. We process crime scenes and also are in charge of the
20 evidence that is dropped by the officers in the Narcotic's
21 Division.

22 Q Okay. One of your duties, does that include taking
23 things out of evidence that have been placed there and
24 taking them to the State Law Enforcement Division for
25 testing such as narcotics cases?

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by Solicitor Leskanic

1 A Yes, ma'am, it is.

2 Q All right. Is that what you did in this case?

3 A Yes, ma'am, I did.

4 Q Okay. I'd like to show you what's been marked State's
5 Exhibit 13, see if you recognize this, and see if that is
6 what you delivered to the South Carolina Law Enforcement
7 Division for testing in this case.

8 A It is.

9 Q And how can you tell that?

10 A The, the B.E.S.T. envelope, when we received it in, it
11 is bar coded with our bar code along with the SLED's
12 original bar code, and it has our case number, agency name,
13 and the date that it was entered in.

14 Q And when you received that from the Cherokee County
15 Sheriff's Department, in what condition was it?

16 A It was pretty much the same condition it is here. It
17 hadn't been opened and it was inside a manila brown
18 envelope, and we check -- take it out before we transport it
19 to SLED. There was no -- it hadn't been altered or damaged
20 and it was in tact.

21 Q And then what do you do with it at that point?

22 A We transported it to the State Law Enforcement Division
23 to their forensic building. It's separate from, from their
24 main building where they have clerks that check evidence in.

25 when we arrive there, they check -- they scan all of

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1 our evidence in, they check the packaging to make sure that
2 there's no damage or anything has been altered, and at that
3 time they -- they'll submit it into their system.

4 Q Okay. And is that what you did with State's Exhibit
5 13?

6 A Yes, ma'am, it is.

7 SOLICITOR LESKANIC: Okay. Your Honor, at this time
8 I'd offer State's Exhibit 13 for admission.

9 MR. MORIN: No objection.

10 THE COURT: Without objection it will be admitted as
11 its been marked.

12 SOLICITOR LESKANIC: Thank you.

13 (WHEREUPON, State's Exhibit No. 13 was received into
14 evidence at this time.)

15 Q Now, Detective Anthony, you were also asked -- and well
16 let me back up.

17 Were you out on a search warrant in this case?

18 A No, ma'am.

19 Q Okay. Were you later asked to look at some items that
20 were collected to see if there were any identifiable
21 fingerprints on items?

22 A Yes, ma'am, I was.

23 Q All right. Can you tell me what you were asked to
24 examine?

25 A I want to refer back to my report.

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1 Q Yes, sir, please.

2 A I was contacted by Sergeant Federico to process some
3 items that's been submitted into evidence, and on January
4 the 30th, 2015, I went to our evidence vault and retrieved
5 an envelope that contained numerous items that were taken on
6 the search warrant. On February the 2nd, 2015, I processed
7 a metal container, a black container, and two sets of scales
8 for latent prints.

9 Q Okay. I'm gonna show you what's been admitted State's
10 Exhibit 14, State's Exhibit 19, State's Exhibit 18, and
11 State's Exhibit 17.

12 Can you tell whether these are the four items that you
13 were asked to fingerprint?

14 A Yes, ma'am, they are.

15 Q Okay. And before we get into that, what, what type of
16 training do you have in fingerprint examination?

17 A In March of 2002 I attended the South Carolina Criminal
18 Justice Academy. It was a -- my basic law enforcement
19 training. It was a nine week training that was -- included
20 all aspects of patrol. We had different scenarios that we
21 had to go into, firearms training, driver training, and a
22 small portion of that was also in fingerprinting.

23 In December the 3rd through the 14th, 2007, I
24 attended an 80-hour course from the North Carolina Justice
25 Academy in crime scene investigations, which covered from

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1 your basic working of a burglary or a larceny all the way
2 through homicide investigations at which time it also
3 included packaging evidence, however retained it for
4 fingerprinting and actually fingerprinting items.

5 July, excuse me, August 25th through the 29th I
6 attended a 40-hour South Carolina Criminal Justice Academy
7 fingerprint recognition and comparison course. During --
8 the class was taught by George Weeks. During that time we
9 had to classify and identify 100 sets of fingerprints from
10 different people, and during that, there's a proficiency
11 test at the end of the week that you must be a hundred
12 percent on your -- when you find, and locate, and identify a
13 print.

14 MR. MORIN: Your Honor, we are well aware of Mr.
15 Anthony's training in fingerprints. So we certainly will
16 stipulate to his expertise in that field.

17 THE COURT: You accept his stipulation?

18 SOLICITOR LESKANIC: We will accept the stipulation,
19 Your Honor.

20 THE COURT: All right. Then I'll have him -- I'll
21 qualify him as an expert on fingerprinting.

22 You may proceed.

23 SOLICITOR LESKANIC: Thank you, Your Honor.

24 So you received -- you didn't collect these items
25 though. I know you said one of your training was how to

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1 collect items to preserve fingerprints.

2 Is that correct?

3 A That's correct.

4 Q All right. But you were not out to collect these
5 items.

6 You were asked, at a later time, to take a look at them
7 and see if you could find something?

8 A That's correct.

9 Q All right. Will you walk the jury through the process
10 that you used on each of these items?

11 A Yes, ma'am, when you're looking for latent prints,
12 we'll -- the first thing we always do, we take the items
13 that we're looking for latent prints. We use -- the first
14 thing you always want to do is a visual inspection. Before
15 we do anything at all we do a visual inspection to see if
16 there's anything at all that is just obvious prints on the
17 items.

18 After you do just a visual inspection, we sometimes
19 use -- you can use regular lights. We use an alternate
20 light source, which changes the -- you're looking at the
21 items under different nanometers of light to show any prints
22 that may be on the items. Once we get through that, if
23 there's not any prints documented at that time, we go to a
24 process that's called sono acrolite processing, which you
25 probably saw it on TV. It's Superglue fumes. They -- all

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1 CSI shows, they'll put the item in a fuming chamber, and the
2 Superglue, when we heat it up, it will adhere to the items
3 that you -- it will adhere to fingerprints and oils. It can
4 adhere to many things, but commonly we see it with
5 fingerprints.

6 After I processed these items with that process, we
7 then use a black fingerprint powder and covered the items,
8 dusted the items for prints, and, at the conclusion, there
9 was no prints that had enough ridge detail for comparison
10 found on them.

11 Q Okay. So none of the items had a, a sufficient print
12 on them that you could find?

13 A That's correct.

14 Q But you did test both of the scales, the black bag, and
15 the metal container?

16 A Yes, ma'am.

17 Q Is that correct?

18 Okay. Does it surprise you not to find prints?

19 A No, ma'am.

20 Q All right. Why?

21 A Based on---

22 Q Cause they always find them on CSI.

23 A Oh, of course. I need -- 96, 97 percent of all
24 fingerprints are latent impressions are going to be based on
25 they contain water. Over time they're gonna evaporate. Our

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1 ridge detail, our friction ridges is in the palms of our
2 hands, palms of our feet and our fingers, they don't have
3 any oil pours in them.

4 So if you're touching something, unless you've touched
5 maybe your face or something that's oily or dirty, and you
6 transfer it to an item, those prints will tend to stay on
7 items longer as compared to those where it may be that they
8 were -- just if you've got clean hands, where they've been
9 washed, you're not gonna leave a print that's gonna stay a
10 length of time, and also if items are packaged together or
11 if this was under a mattress and it's been put down on it,
12 when you pull it, any of the oil or dirty prints, it will be
13 like taking a towel, you'll wipe those prints off. So it's
14 possible that they can be removed that way.

15 Q So it is easy or difficult, in your opinion, to get a
16 fingerprint?

17 A It's extremely difficult to get a readable print.

18 Q Okay. And you handled most of the crime scene cases
19 for the Cherokee County Sheriff's Department?

20 A Myself and Detective Henson, we both work them
21 together, yes, ma'am.

22 Q And, in the majority of cases, do you normally find
23 fingerprint evidence that you can use?

24 A No, ma'am.

25 Q Do you have a percentage of cases that you may find

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1 usable fingerprints?

2 A Probably ten to fifteen percent.

3 Q Out of all the cases that you've handled?

4 A Yes, ma'am.

5 Q Okay. Okay. Thank you. Please answer any questions
6 Mr. Morin has.

7 MR. MORIN: I have no questions.

8 THE COURT: You may step down, sir.

9 THE WITNESS: Thank you.

10 SOLICITOR LESKANIC: May we approach just a moment,
11 Your Honor?

12 THE COURT: Yes, you may.

13 (WHEREUPON, a bench conference was held out of the
14 hearing of the jury at this time.)

15 THE COURT: All right. Ladies and gentlemen, we're
16 gonna take another short break.

17 As always, when you leave the courtroom, I'm gonna ask
18 you not to discuss the case, even among yourselves, until I
19 ask you to do so and that will be once you've heard all the
20 evidence and all the arguments.

21 At this time you may step back to the jury room.

22 Thank you jury much.

23 (WHEREUPON, the following takes place outside the
24 presence of the jury.)

25 THE COURT: All right. Court will be in recess for

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1 about ten minutes.

2 I'll stay on the bench.

3 SOLICITOR LESKANIC: Thank you, Your Honor.

4 (WHEREUPON, a short recess was taken at this time.)

5 THE COURT: Let's bring the jury in.

6 (WHEREUPON, the following takes place within the
7 presence of the jury.)

8 THE COURT: All right. The record will reflect the
9 jury has returned to the courtroom.

10 We had some technical, technical difficulties with the
11 equipment, but I think we've worked that out.

12 State may proceed.

13 SOLICITOR LESKANIC: Thank you, Your Honor.

14 State calls Lynn Sizemore.

15 THE COURT: If you would, please come forward and be
16 sworn please, ma'am.

17 LYNN SIZEMORE, being first duly
18 sworn, testified as follows:

19 THE COURT: State your name please, ma'am.

20 THE WITNESS: Lynn Sizemore.

21 THE COURT: Thank you.

22 Your witness, Ms. Leskanic.

23 SOLICITOR LESKANIC: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY SOLICITOR LESKANIC:

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- 1 Q Ms. Sizemore, do you live here in Cherokee County?
- 2 A I do now.
- 3 Q All right. And how long have you lived in Cherokee
- 4 County?
- 5 A I've lived here -- I'm living with Connie's parents.
- 6 I've lived there several months at this address.
- 7 Q And, before that, did you live outside of Cherokee
- 8 County?
- 9 A I did. I lived in Sharon, you know, York County.
- 10 Q Okay. Do you know the defendant, Charles Preston
- 11 Blackwell?
- 12 A I do.
- 13 Q All right. And how long have you known him?
- 14 A I've known him several years -- seven or so years.
- 15 Q Seven---
- 16 A Yes, ma'am.
- 17 Q ---or so years?
- 18 And how, how do you know him?
- 19 what type of relationship do you have with him?
- 20 A I'm real good friends with his girlfriend, DeeDee. It
- 21 goes back 17 -- 18 years ago. We worked together and I've
- 22 known her. So that's how I know Preston.
- 23 Q Okay. How often have you seen Preston over those seven
- 24 years?
- 25 A Often. I go to visit DeeDee and I go to Preston's to

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1 purchase some methamphetamine.

2 Q Okay. Now, when you went to see DeeDee and also to see
3 the defendant, Preston, where did you go?

4 Was it --?

5 A Garvin Lake Road. [REDACTED] Garvin Lake Road.

6 Q Okay. Is that the home where you would go, [REDACTED] Garvin
7 Lake Road?

8 A Yes, ma'am.

9 Q All right. And you would go there to see DeeDee as
10 well as the defendant?

11 A Right. Yes, ma'am.

12 Q All right. And why did you go see Preston, the
13 defendant?

14 A Well, I would purchase meth from Preston, and I, I
15 would go and check on DeeDee periodically just through the
16 years, you know, cause she had had a -- she was involved in
17 an accident several years ago where I found her and I was
18 involved in it. So I'd go by and check on her to make sure
19 she was okay.

20 Q Okay. Approximately how many times have you purchased
21 methamphetamine from the defendant?

22 A Numerous times. Probably 15, 20.

23 Q All right. Were you at [REDACTED] Garvin Lake Road on May
24 22nd, 2014?

25 That's the day before the police came in with the

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1 search warrant.

2 Were you at his home on that day?

3 A Yes, I was.

4 Q All right. Who were you with?

5 A Connie and I. We went by and to -- I went by to check
6 on DeeDee because I had heard a lot of rumors and I wanted
7 to see if she was at the residence.

8 Q Okay. When you, when you got to the residence, what,
9 what did you do and why were you there other than to check
10 on DeeDee?

11 A I knocked on the door and asked if DeeDee was there and
12 Preston was there and Kalyne was there, and, of course, I
13 was in an unfamiliar vehicle cause I usually was in the car
14 that Connie and I had wrecked or my truck, and I think he
15 made mention of where did you get that vehicle and I told
16 him I just traded my truck for it. So that's what started
17 the conversation. We went in and talked with them.

18 Q Okay. What kind of vehicle did you pull up in?

19 A It's was a red Charger. I think 2010 or '11.

20 Q Okay. And the defendant was there and who else was
21 there?

22 A Yes, Kalyne.

23 Q Kalyne Carroll?

24 A Yes, ma'am.

25 Q Okay. And then it was you and Connie?

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1 A Uh-huh. (Affirmative).

2 Q So the four of you were at the house?

3 A Right.

4 Q Okay. And what happened when you went into the home?

5 A I made the comment you could buy it or whatever if you
6 want to, you know, and he, he was interested in it.
7 Kalyne, of course, was interested in it, and so he said --
8 we were in there talking and he asked what I wanted for it,
9 and I told him, you know, the price -- a range that I'd give
10 him for what I traded it for.

11 So we were talking and he pulls out the bowl or the
12 glass bowl and we smoked. He puts some dope in it and we
13 all four smoked dope and talked about it a little bit more.
14 At the time we had had a bad wreck. Connie and I had been
15 involved in a bad wreck and I was in need of a place to live
16 for one thing cause, when I was in the hospital, my house
17 was broken into and it was not livable at that time. I mean
18 they took everything, well pump, and all.

19 So we were in a bad shape and we spoke and talked about
20 it, and talked about what I would take for the car cause
21 they were interested in it. He test drove it.

22 Q Okay. Let me, let me back up a little bit.

23 Y'all smoke some dope.

24 A Uh-huh. (Affirmative).

25 Q Is that methamphetamine?

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- 1 A Yes, ma'am.
- 2 Q All right. And where did the meth come from?
- 3 A Preston got it out of the container and he put it in
- 4 his bowl.
- 5 Q Do you know what the container looks like?
- 6 A I do.
- 7 Q And what does it look like?
- 8 A It's the silver one with the Gamecock emblem on it---
- 9 Q All right.
- 10 A ---he kept it in.
- 11 Q All right. I'm gonna show you State's Exhibit 14.
- 12 Tell me if you recognize this.
- 13 A I do.
- 14 Q Okay.
- 15 A Yes, ma'am.
- 16 Q Okay. And how certain are you that this is the
- 17 container that the defendant had on May 22nd of 2014?
- 18 A A hundred percent.
- 19 Q A hundred percent.
- 20 And this is what he got methamphetamine out of that
- 21 y'all smoked that day?
- 22 A Yes, ma'am.
- 23 Q Is this the first time that you'd seen this container?
- 24 A No, ma'am, I'd bought from him before.
- 25 Q All right. So when you bought from him before, what --

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1 how, how had you seen this?

2 A Normally I would go in to purchase from him I'd go into
3 the bedroom, and he had that container that he got it out of
4 and he'd weigh it out or whatever I could afford or
5 sometimes he would front me some.

6 Q Okay. And if you didn't have the money to pay for it
7 and he fronted you some, what, what did he do?

8 How did he keep up with that or how did you keep up
9 with that?

10 A He would record it in the book that -- how much I
11 bought. He'd put my name down and how much I wanted, how
12 much money I had and how much I owed him.

13 Q So he would write your name down and then write down
14 how much you owed him?

15 A Quantity, yes, ma'am.

16 Q All right. Did you always -- so sometimes he would
17 give it to you and you would still owe him money?

18 A Oh, yes, ma'am.

19 Q Okay. Did that happen a lot?

20 A Several times it did, yes, ma'am.

21 Q Okay. All right. So what kind of deal, if any, did
22 y'all make on the car on May 22nd?

23 A Well, he had approached me and asked me if I wanted
24 dope for it and I did not want that much dope for it. Two
25 reasons. I would end up having to sell it cause I needed

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1 money. I needed a place to live at the time. I needed
2 essentials like food and a place to live. So I didn't want
3 the \$2,000 worth of dope.

4 So what we agreed on, I told him, at that time, that if
5 he would put me up in a hotel, and I think he gave -- well I
6 know he did. He gave us the -- a sixteenth, which is a
7 sixteenth of a eight ball that day. Just a little bit of
8 dope that day, and he took us in the car to the hotel at Red
9 Roof Inn and put us up and he said he had -- he didn't have
10 that much cash on him, that he would have to re-up, do
11 business, and he would deal with me the next day on it, but
12 that he would pay me what I wanted for it.

13 Q Okay. And what does that mean, re-up and do business
14 and then pay you?

15 A I know re-up means to re-up with meth, with dope. I do
16 not know exactly what he means by business, but the
17 re-upping was the meth that night.

18 Q Okay. To get another supply of methamphetamine?

19 A Yes, ma'am, cause that's -- yes, ma'am.

20 Q All right. And you, you purchased from him
21 approximately 15 to 20 times?

22 A Yes, ma'am.

23 Q Was it always from this residence on Garvin Lake Road
24 or were there other places?

25 A That residence.

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1 Q Did you, at anytime, see anyone else with that metal
2 container --

3 A No, ma'am.

4 Q -- State's Exhibit 14?

5 A No, ma'am.

6 Q And where, if you know, did the defendant normally keep
7 this?

8 A Beside his bed in the master bedroom with -- that's the
9 place I saw it was on the bedside table.

10 Q All right. How about the day that you came over there,
11 where was it?

12 A He had it on him that day and we were in the living
13 room and he just took it out of his coat, but he had it on
14 him, and he, you know, got the baggy out of there and loaded
15 the pipe up.

16 Q Okay. Were you ever there when other individuals came
17 to the home possibly to get methamphetamine?

18 A Yes, I was.

19 Q All right. And did you see this metal container during
20 those transactions as well?

21 A Just leaving the room, and the other people entering
22 the room while it was there on the bedside table where he'd
23 do business. Like I said, most of the time it was in his
24 bedroom.

25 Q Okay. And did you ever see him write in a -- write

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1 things down?

2 I mean you said he did that with---

3 A Oh, yes, ma'am.

4 Q Is that correct?

5 A Yes, ma'am.

6 Q And when other people came to the home, did you see him
7 do the same thing?

8 A I can't say for sure, but that his method of doing it
9 all---

10 Q Okay.

11 A ---and keeping up with the quantity, and what you owed
12 him, and what you got.

13 Q Did you have a, a meth addiction during this time?

14 A I did. I have -- since then I've gone through the drug
15 and alcohol for Cherokee County and completed it. I did
16 have an addiction at that time, yes, ma'am.

17 Q All right. Now, while the defendant was in the
18 Cherokee County Detention Center after -- well, let me ask
19 you this.

20 Were you there the next day when the police came?

21 A No, ma'am.

22 Q Okay. While the defendant was in jail, did you receive
23 phone calls from him?

24 A I did.

25 (WHEREUPON, a CD was marked as State's Exhibit No. 22

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1 for identification purposes only at this time.)

2 Q Okay. I want to show you what's been marked State's
3 Exhibit 22.

4 Do you recognize that disk?

5 A Uh-huh. (Affirmative).

6 Q Okay. And what is this?

7 A It's a recording of the phone calls from the jail to
8 me.

9 Q All right. Have you had an opportunity to listen to
10 the two calls on this disk?

11 A I have.

12 Q All right. And are they accurate recordings of the
13 conversations you had with the defendant?

14 A Yes, ma'am.

15 SOLICITOR LESKANIC: Okay. Your Honor, at this time
16 we'd offer State's Exhibit 22 for admission.

17 THE COURT: Any objection?

18 MR. MORIN: May we approach just for a moment, Your
19 Honor?

20 THE COURT: Yes, sir.

21 (WHEREUPON, a bench conference was held out of the
22 hearing of the jury at this time.)

23 THE COURT: Any objection?

24 MR. MORIN: No, Your Honor. I wanted to confirm that,
25 that was the same copy that I had.

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- 1 THE COURT: I understand.
2 It will be received into evidence as its been marked.
3 (WHEREUPON, State's Exhibit No. 22 was received into
4 evidence at this time.)
5 THE COURT: You may publish it, ma'am.
6 SOLICITOR LESKANIC: Thank you, Your Honor.
7 (WHEREUPON, State's Exhibit No. 22 was played for the
8 jury at this time.)
9 Q You and Preston were friends.
10 Is that a fair statement?
11 A Yes, sir.
12 Q All right. You were subpoenaed to come to court, is
13 that correct?
14 A Yes.
15 Q My office subpoenaed you to come in and testify?
16 A Yes.
17 Q He has sold methamphetamine to you in the past?
18 A Yes.
19 Q You have seen -- have you seen him get methamphetamine
20 out of this container?
21 A Yes.
22 Q On how many occasions?
23 A Every time I bought.
24 Q And have you ever seen anyone else with this container?
25 A No.

Lynn Sizemore - Direct examination
by Solicitor Leskanic

1 Q Do you know Kalyne Carroll?

2 A I met her the 22nd, the day prior to that. I met her
3 on the 22nd, the day prior to the---

4 Q Oh, okay.

5 And when you came to the home and smoked
6 methamphetamine, who brought out the methamphetamine?

7 A Preston did.

8 Q Not Kalyne Carroll?

9 A No.

10 Q She didn't open this container and get out
11 methamphetamine?

12 A No.

13 Q It was that man right there?

14 A Yes, ma'am.

15 Q And you have -- have you seen the defendant pull out
16 this container to sell to other people other than you?

17 A Yes.

18 Q And have you seen him write down people who owe him in
19 a book similar to this?

20 A Yes.

21 Q Including yourself?

22 A Including myself.

23 Q I think that's all the questions I have for you. If
24 you will, please answer any questions Mr. Morin has.

25 THE COURT: Mr. Morin, your witness.

Lynn Sizemore - Cross-examination
by Mr. Morin

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1 CROSS-EXAMINATION

2 BY MR. MORIN:

3 Q Ms. Sizemore, when you talked to Ms. Leskanic last
4 week, did you mention your furniture to her?

5 A I did.

6 Q And what's going on with your furniture and all your
7 other personal belongings right now?

8 A As I stated earlier, after I was involved in a bad car
9 accident, Connie and I were roommates.

10 Q Right.

11 A April 19th we was involved in a car accident and we
12 both were hospitalized for a period of time.

13 Q Right.

14 A And during that time---

15 Q You said 17 days you were in and Connie was in for a
16 month.

17 A Connie was in -- no, it was, it was something like that
18 roughly. We were in for a long period of time.

19 Q well, let's talk about your injuries then.

20 A Okay. My back was broken in two places. I had three
21 broken ribs.

22 Q Okay. Thirty-two---

23 A Thirty-two stitches in my head.

24 Q That's when you were up in Sharon?

25 A Yes, that's where I lived.

Lynn Sizemore - Cross-examination
by Mr. Morin

- 1 Q And which hospital were you in?
- 2 A I was brought to Gaffney and transferred to
- 3 Spartanburg.
- 4 Q Okay. And that was April 17th?
- 5 A Nineteenth.
- 6 Q Nineteenth?
- 7 A Yes.
- 8 Q And then -- so it was probably the first or second week
- 9 of May before you got out?
- 10 A Well, I had just gotten out of the hospital when I went
- 11 by there.
- 12 Q Just?
- 13 A Just gotten out.
- 14 Q You mean that day?
- 15 A I had gotten out a week or so earlier, but Connie got
- 16 out after I did.
- 17 Q All right.
- 18 A She spent more days than I did.
- 19 Q What kind of pain medication did they give you when you
- 20 were released?
- 21 A I was released with -- I think Norco.
- 22 Q Okay.
- 23 A Which I didn't have in my possession at that time. It
- 24 was at my sister's house. I did -- you have it---
- 25 Q Okay. So you had broke your back in two places?

Lynn Sizemore - Cross-examination
by Mr. Morin

- 1 A Uh-huh. (Affirmative).
- 2 Q And you were suppose to be taking Norco?
- 3 A Uh-huh. (Affirmative).
- 4 Yes, sir.
- 5 Q But you weren't, is that right?
- 6 A Exactly, cause I had left it at my sister's house.
- 7 Q And then you went to [REDACTED] Garvin Lake---
- 8 A Yes.
- 9 Q ---and smoked meth?
- 10 A I went there to check on DeeDee because I had heard a
- 11 rumor that DeeDee -- I had checked prior to that. She
- 12 wasn't -- prior to April 19th she wasn't at the residence.
- 13 So I was concerned about DeeDee is what brought me there. I
- 14 didn't go there to smoke meth, no. I did smoke meth while I
- 15 was there.
- 16 Q She wasn't there?
- 17 A No, sir, she wasn't.
- 18 Q You were in the car?
- 19 A I was, uh-huh. (Affirmative).
- 20 Q But now -- and, of course, I think you told me this
- 21 morning that while you-all were in the hospital somebody
- 22 broke into your house up in Sharon?
- 23 A Exactly.
- 24 Q And they took a bunch of stuff?
- 25 A Right.

Lynn Sizemore - Cross-examination
by Mr. Morin

- 1 Q Things that were valuable?
- 2 A (Witness nods affirmatively.)
- 3 Q But there were other things you had that they didn't
- 4 take?
- 5 A Right.
- 6 Q And those things got moved from Sharon to ■ Garvin
- 7 Lake?
- 8 A Uh-huh. (Affirmative).
- 9 Yes, sir.
- 10 Q And who helped you do that?
- 11 A DeeDee and Preston and two of their friends went down
- 12 to help me get personal belongings like sentimental stuff
- 13 like -- it wasn't, you know, matter, matter to anyone else,
- 14 pictures, stuff that I -- mattered.
- 15 Q Right.
- 16 Stuff that just mattered to you?
- 17 A To me.
- 18 Q Okay. And then -- so that stuff got moved down there,
- 19 but that was -- he got arrested the day after that you were
- 20 there?
- 21 A Yes, sir.
- 22 Q So that didn't happen until after he got out of bond?
- 23 A Exactly.
- 24 Q And then after you moved all that stuff down there to
- 25 Garvin Lake Road he helped you.

Lynn Sizemore - Cross-examination
by Mr. Morin

- 1 You stayed there with Connie for a while, right?
- 2 A I stayed there while he was -- I moved in with DeeDee
- 3 while he was in jail, yes, sir.
- 4 Q Right.
- 5 You moved in with DeeDee while he was in jail?
- 6 A Uh-huh. (Affirmative).
- 7 Q Then he got out of jail?
- 8 A Uh-huh. (Affirmative).
- 9 Q Then he helped you move the stuff down there?
- 10 A No, he didn't help me move my stuff there. He helped
- 11 us to get -- DeeDee wanted to help me get some personal
- 12 belongings and we made one truck over.
- 13 Q Right.
- 14 But he went with you?
- 15 A Yes, he did.
- 16 Q Okay. And then it came back to Garvin Lake Road?
- 17 A Garvin Lake Road, yes.
- 18 Q And then you were living there --
- 19 A Yes.
- 20 Q -- and he was living there?
- 21 A Yes.
- 22 Q And Connie was living there?
- 23 A Exactly.
- 24 Q And my question now is, is where is all of that stuff
- 25 that's personal to you?

Lynn Sizemore - Cross-examination
by Mr. Morin

- 1 Where is it now?
- 2 A It's still at their residence.
- 3 Q And you haven't been able to get it, have you?
- 4 A No, sir.
- 5 Q And they didn't -- he's been preventing you from
- 6 getting it, hasn't he?
- 7 A Exactly.
- 8 Q And while you and Connie were staying there, were you
- 9 getting a check?
- 10 A Was I getting a check?
- 11 Q Yeah.
- 12 A No, sir.
- 13 Q Was Connie getting a check?
- 14 A No, sir.
- 15 Q Well how were you eating?
- 16 A I was -- I had a car, I had a vehicle, and I was
- 17 carrying Preston around wherever he needed to go to get
- 18 whatever he needed to get. That was my payment.
- 19 Q All right. So you were doing him the favor of driving
- 20 him around?
- 21 A Yes, sir.
- 22 Q And he was getting you food and shelter?
- 23 A Uh-huh. (Affirmative).
- 24 Q That you didn't pay for?
- 25 A Right.

Lynn Sizemore - Cross-examination
by Mr. Morin

1 Q And now he's got your stuff?

2 A Exactly.

3 Q And you want, you want to get that back?

4 A Right.

5 Q And you've had a problem with meth for quite a while,
6 haven't you?

7 A Off and on, several years.

8 Q At least back to 2006?

9 A Uh-huh. (Affirmative).

10 Q Isn't that about fair?

11 A Yes, sir.

12 Q So that's eight years?

13 A I was convicted in 2006.

14 Q But your problem probably predates that arrest, that
15 conviction?

16 A I wouldn't say that. I off and on had a problem with
17 it.

18 Q Right.

19 But it's before 2006?

20 I mean you didn't use it one day and then get arrested
21 the next day?

22 A No, sir, it was around 2005.

23 Q All right. And rather than taking -- so let me ask you
24 this.

25 Then, after he took you to the Red Roof, and said he

Lynn Sizemore - Cross-examination
by Mr. Morin

1 was -- you made it clear to him about selling the car.

2 How much was the car gonna be -- gonna cost him if he
3 wanted it?

4 A \$2,000.

5 Q Money?

6 A Money.

7 Q And he said he was gonna do something and he'd get with
8 you in the morning and he'd had the money?

9 A What he said he was gonna re -- he needed to re-up. He
10 did not have that much money on him.

11 Q Right.

12 And this re-up, whatever it is, was gonna result in him
13 having money?

14 A Exactly.

15 Q Cause if he didn't have the money he didn't have a car?

16 A Exactly. I knew what re-up meant. So I -- he'd have
17 it the next day.

18 Q That's right.

19 So when you -- you expected, when you got up that
20 morning from the Red Roof and you and Connie went over
21 there, he was gonna have the money?

22 A I didn't go there. He was to call us that morning. We
23 had no way to go there.

24 Q Right.

25 But he was gonna come and pick you up.

Lynn Sizemore - Cross-examination
by Mr. Morin

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- 1 But money is what we were talking about---
- 2 A Exactly.
- 3 Q ---when we're talking about re-upping?
- 4 A Exactly.
- 5 Q Okay.
- 6 A No, not re-upping. Money -- re-upping means to get
- 7 more---
- 8 Q Well, I understand.
- 9 A Right.
- 10 Q But what time was it when he dropped you off at Red
- 11 Roof Inn?
- 12 A It was afternoon. Probably one or two o'clock, two
- 13 o'clock.
- 14 Q In the afternoon?
- 15 A Yes.
- 16 Q And your expectation was, sometime the next morning, he
- 17 was gonna call and he was gonna have the money?
- 18 A Right.
- 19 Q But he didn't call?
- 20 A No, he didn't call.
- 21 Q Obviously he got arrested?
- 22 A Obviously.
- 23 Q Your red Charger, where was it?
- 24 A It was at his residence where they had taken it. ■
- 25 Garvin Lake Road.

Lynn Sizemore - Cross-examination
by Mr. Morin

1 Q Okay. So it was out there at the trailer?

2 A Yes, sir.

3 Q All right. Then what happened to the Charger?

4 A The Charger was there -- well, actually after he didn't
5 call me or, or let me know anything, I got a friend to take
6 me down by there to see what was going on. I was gonna go
7 in and talk to him, and I saw the arrest actually taking
8 place at his residence.

9 Q So you drove by and saw them being arrested?

10 A Oh, yes, I did.

11 Q Did you stop?

12 A No.

13 Q Why not?

14 A I didn't have any business to stop there.

15 Q Well, your car was there.

16 A It was and I knew it would clear. I knew if it was
17 there after the fact I'd go get it, which it was. Cleared
18 any investigation they had on it and I went and picked it
19 up.

20 Q Okay. So it sat there and you drove on?

21 A Right.

22 Q How long was it before you went back and got the
23 Charger?

24 The next day?

25 A I checked on it that afternoon, but it was the next day

Lynn Sizemore - Cross-examination
by Mr. Morin

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1 before I obtained it, yes, sir.

2 Q Checked on it.

3 What does that mean?

4 A I called to the Sheriff's Office to see if it had
5 cleared. I told them what the deal was, what the deal --
6 the arrangements I had made with Preston and I was -- the
7 way -- something, something had taken place at his house.

8 Q You told you police, the day after he got arrested,
9 that he wanted to buy your Charger for drugs?

10 A No, I did not tell the police anything like that. I
11 called up to see if that red Charger had been involved in
12 the investigation---

13 Q Okay.

14 A ---they had down there.

15 Q And you said this is Lynn Sizemore?

16 A I did.

17 Q Is that---

18 A Yes, sir.

19 Q And was -- the, the car was in your name?

20 A At that time I had just traded for the car. Like we,
21 we hadn't even put it in my name. It was under---

22 Q It wasn't a title or anything in the car?

23 A Title, no, sir. I had not obtained a title and I had
24 not given my title up to my truck at that point for that
25 car.

Lynn Sizemore - Cross-examination
by Mr. Morin

1 Q Okay. So you had traded for the truck, but the title's
2 hadn't changed?

3 A Right.

4 Q But you were already in negotiations to sell the
5 charger---

6 A Right.

7 Q ---for money?

8 A And Preston knew this. I told him that.

9 Q Right.

10 And you called the police station, the sheriff's
11 office, and said this is Lynn Sizemore?

12 A Uh-huh. (Affirmative).

13 Q My red Charger is out at Garvin Lake Road and they said
14 you can go get it?

15 A I said if -- I expected if there was any problem with
16 it it would be impounded. If not, can I go and obtain
17 that -- my property from the residence.

18 Q And, of course, you don't know who at the sheriff, but
19 you called the sheriff's number?

20 A To ask a general question, yes.

21 Q And they said, sure, go get it?

22 A Right.

23 Q And you did?

24 A I did the next day, yes, sir.

25 MR. MORIN: That's all the questions I have.

Lynn Sizemore - Redirect examination
by Solicitor Leskanic

1 THE COURT: Redirect.

2 REDIRECT EXAMINATION

3 BY SOLICITOR LESKANIC:

4 Q Are, are you here testifying because you haven't gotten
5 personal belongings back from Preston?

6 A No, ma'am, I'm here testifying to the fact that's his
7 container and I was subpoenaed to be here, but that's part
8 of it. My personal belongings are still there, and we've
9 made several attempts to get it. For whatever reason, we
10 were turned down.

11 Q All right. But have you -- you've purchased
12 methamphetamine from Preston?

13 A Yes, ma'am.

14 Q Known him for years?

15 A Yes, ma'am.

16 Q And when you purchased methamphetamine, you've seen
17 that silver container?

18 A Yes, ma'am.

19 Q All right. What kind of belongings are at the house?

20 A There's two end tables that are personal that nobody --
21 Connie had painted on them all. She's got three kids and
22 all of their baby pictures were there at the house. My mom
23 and dad are both dead and there's stuff of theirs that was
24 mine that's at the house.

25 Q All right. And did you contact us and say you want to

Lynn Sizemore - Redirect examination
by Solicitor Leskanic

1 come testify against Mr. Blackwell?

2 A No, ma'am.

3 Q All right. Why are you here?

4 A I was subpoenaed.

5 Q All right. And is everything that you've told today
6 based on personal observations that you have made --

7 A Yes, ma'am.

8 Q -- with Mr. Blackwell?

9 A Yes, ma'am.

10 Q All right. Thank you.

11 THE COURT: You may recross.

12 MR. MORIN: No further questions.

13 THE COURT: You may step down, ma'am.

14 Wish to excuse the witness?

15 SOLICITOR LESKANIC: Yes, Your Honor.

16 THE COURT: Any objections?

17 MR. MORIN: No, sir.

18 THE COURT: Ma'am, you're free to go at this time if
19 you'd like. You can stay if you'd like. Your choice.

20 State may call its next witness.

21 SOLICITOR LESKANIC: State calls Connie Peterson.

22 THE COURT: Come forward please, ma'am, and be sworn.

23 CONNIE PETERSON, having been first
24 duly sworn, testified as follows:

25 THE COURT: Have a seat please, ma'am, on the witness

Connie Peterson - Direct examination
by Solicitor Leskanic

1 stand.

2 (Witness complies.)

3 THE COURT: State your name please.

4 THE WITNESS: Connie Peterson.

5 THE COURT: Ms. Peterson, you have a soft voice. If
6 you would, get as close to that microphone as you can so
7 everyone can hear you.

8 THE WITNESS: Yes, sir.

9 THE COURT: Thank you.

10 Your witness, counselor.

11 SOLICITOR LESKANIC: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY SOLICITOR LESKANIC:

14 Q Ms. Peterson, do you know the defendant, Preston
15 Blackwell?

16 A Yes, ma'am, I do.

17 Q All right. And how do you know him?

18 A I met him through red -- the day before we got
19 arrested.

20 Q Okay. So the first day that you met him was the day of
21 this red Charger---

22 A Uh-huh. (Affirmative).

23 Q ---the car was gonna be sold to him?

24 A Yes, ma'am.

25 Q Okay. Did y'all go into the house that day?

Connie Peterson - Direct examination
by Solicitor Leskanic

1 A Yes, ma'am.

2 Q All right. Do you recall who was there?

3 A Him and Kalyne.

4 Q Okay. And who is Kalyne?

5 A Ms. Carroll.

6 Q Okay. And what did y'all do when you went inside the
7 house?

8 A We went in and we sat and talked for a minute, and we
9 talked about the car, and he went and looked at the car a
10 little bit outside, and we smoked meth, and then we made
11 that deal, and he took us to the motel.

12 Q Okay. What was the deal on the car?

13 A We were wanting cash so we could have somewhere to stay
14 cause like she said that our house has got burglarized while
15 we were in the hospital, and there -- it wasn't livable
16 anymore, and so we were wanting to have a place, you know,
17 to live, and he said that, you know, he offered to trade us
18 like, you know, on the dope for it, but we didn't, we
19 didn't -- we can't live on dope, and so we -- he, he said he
20 was gonna give us cash, but he didn't have it on him right
21 then. He put us up that night in the hotel, and the next
22 day that, after, you know, he done some work and everything,
23 he'd have the cash to give us for it, and we, we agreed to
24 it.

25 Q Okay. So he and Ms. Carroll drove y'all to the Red

Connie Peterson - Direct examination
by Solicitor Leskanic

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- 1 Roof Inn?
- 2 A Uh-huh. (Affirmative).
- 3 Q And the next day he said he would have the cash---
- 4 A Yes, ma'am.
- 5 Q ---for the car?
- 6 All right. Now you said when y'all went into his home,
- 7 is that at Garvin Lake Road?
- 8 A Yes, ma'am.
- 9 Q All right. Y'all smoked methamphetamine?
- 10 A Yes, ma'am.
- 11 Q Where did you get the meth?
- 12 A Oh, it was Preston's. He got it.
- 13 Q All right. And where did he get it?
- 14 Did you see where it came from?
- 15 A Yeah, he had it in his little tin.
- 16 Q Okay. Is that -- show you State's Exhibit 14.
- 17 Do you recognize this?
- 18 A Yes, with the Gamecock sticker on it.
- 19 Q Okay. And is this what you saw---
- 20 A Yes, ma'am.
- 21 Q ---him get the methamphetamine out of?
- 22 A Yes, ma'am.
- 23 Q All right. Where was this?
- 24 A It was on his person.
- 25 Q What does that mean?

Connie Peterson - Direct examination
by Solicitor Leskanic

1 A He had it with him.

2 Q Okay. I mean in a pocket or, or do you know where?

3 A Oh, it was right there with him where he was sitting,
4 you know.

5 Q Okay.

6 A It was just right here where he was sitting and he
7 picked it up and opened it up. He packed the bowl and put
8 it back in there and that's it.

9 Q Okay. And then what did he do with it?
10 what did he do with it after he put the meth in the
11 bowl?

12 A I think he put it back in a black bag actually --

13 Q Okay.

14 A -- cause --.

15 Q Okay. Was Ms. Carroll there?

16 A Uh-huh. (Affirmative).

17 Q Did you see -- ever see her with this container?

18 A No. No, ma'am.

19 Q Never---

20 A No.

21 Q Never in her possession?

22 A No, ma'am.

23 Q Okay. All right. And then what happened the next day?

24 A The next day we were suppose to hear from him and we
25 didn't. So Lynn got a friend of hers to come and we just

Connie Peterson - Direct examination
by Solicitor Leskanic

1 rode by the house, and, like she said, the police and all
2 were there. So she didn't stop. And then he called later
3 and she called up to the Sheriff's Office and found out,
4 make sure everything was good for us to go get the car so
5 she wouldn't get in trouble, and -- but we didn't go till
6 the next day when we had a ride.

7 Q All right. And then I think you and Lynn, at some
8 point, and did move -- ended up moving back into the house
9 on Garvin Lake Road.

10 Did y'all move into that residence?

11 A Yes, ma'am, we did. It was right -- it seemed like we
12 stayed there a little while right when we first went to jail
13 and then right when he got out of jail for, for this when he
14 got arrested, we stayed there, we stayed there about two and
15 a half weeks.

16 Q Okay. Were y'all already there when he got out of
17 jail?

18 Were y'all staying with DeeDee---

19 A I think---

20 Q ---or---

21 A I think we all got there about the same time---

22 Q Okay.

23 A ---when he got out of jail, you know.

24 Q All right. And how long did you stay at his residence?

25 A About two and a half weeks.

Connie Peterson - Direct examination
by solicitor Leskanic

1 Q Did y'all smoke any more methamphetamine while you were
2 there those two and a half weeks?

3 A Uh-huh. (Affirmative).

4 Yes, ma'am.

5 Q And who provided that methamphetamine?

6 A It was Preston's.

7 Q Do you work?

8 A No, ma'am.

9 Q Do you get a check?

10 A No, I was, I was -- I was barely walking then. I just
11 got out of the hospital. I was still on my walker.

12 Q Okay. Does Lynn, Lynn work?

13 A No, she was just driving him around. I stayed at home
14 most of the time. I very seldom leave the house.

15 Q But the defendant, Mr. Blackwell, would provide y'all
16 with methamphetamine while you stayed there?

17 A Yeah, I mean he shared with us sometimes.

18 Q Did you ever see Ms. Carroll there again after that
19 first day?

20 A No.

21 Q Okay. I think that's all I have. If you will, please
22 answer Mr. Morin's questions.

23 THE COURT: Mr. Morin, your witness.

24 CROSS-EXAMINATION

25 BY MR. MORIN:

Connie Peterson - Cross-examination
by Mr. Morin

1 Q You've known Ms. Carroll since she was an infant, is
2 that right?

3 A Yeah, I knowed her when she had -- their mama had --
4 she had.

5 Q Yeah.

6 You're friends with her mom?

7 A Well, I knowed her through church, but a long time
8 ago---

9 Q Right.

10 A ---and we were pregnant with my daughter the same time,
11 her, her sister.

12 Q Oh, okay. Now, when you got out of the hospital you
13 were in worse shape than, than Lynn?

14 A Yeah.

15 Q And she had a broke back?

16 A Yeah.

17 Q What was your injuries?

18 A I had four vertebra -- I lost vertebra in my back that
19 exploded and they had to remove them and put back in all,
20 all metal. So that --.

21 Q And you'd only been out less than a week when you went
22 over there?

23 A Uh-huh. (Affirmative).

24 Q What kind of medication did the doctors, did the
25 doctors give you for your injuries?

Connie Peterson - Cross-examination
by Mr. Morin

1 A Oh, there was just -- I think they're called Lortabs.

2 Q Okay. Were you taking those Lortabs?

3 A Yeah, when I could afford to buy them. I mean I could
4 afford to pay and get my prescription.

5 Q Right.

6 Well I mean you had just got out.

7 So I assume the doctor gave you a prescription to---

8 A I had like -- I don't know if I still had them right
9 then because they didn't send me home with like 20, and then
10 a prescription, but I didn't have money to get like
11 refills---

12 Q Right.

13 A ---to go pay for them. So I did without a lot.

14 Q Okay. And then y'all have what, moved around some?

15 A Well, we stayed with my mom for, for the first few days
16 and that really wasn't working, and so I went -- yeah, we
17 started moving around.

18 Q And you're still -- are you still moving around?

19 A No, I, I, since then, me and my mom, we've worked
20 everything out and so it's been real -- she's been really
21 good helping us and---

22 Q Well, that's good.

23 A I'm trying to get my disability started.

24 Q I see.

25 Do you have stuff over there too?

Connie Peterson - Cross-examination
by Mr. Morin

- 1 I mean---
- 2 A Yeah.
- 3 Q I think he said -- I think Lynn said both of you did.
- 4 A Uh-huh. (Affirmative).
- 5 Q You both do.
- 6 Okay. That's all the questions I have, Your Honor.
- 7 THE COURT: Redirect.
- 8 SOLICITOR LESKANIC: Nothing, Your Honor.
- 9 THE COURT: You may step down.
- 10 State may call its next witness.
- 11 SOLICITOR LESKANIC: State calls Julie Lawson.
- 12 THE COURT: Come forward please.
- 13 JULIE LAWSON, being first duly
- 14 sworn, testified as follows:
- 15 THE COURT: Watch your step.
- 16 State your name please, ma'am.
- 17 THE WITNESS: Julie Lawson.
- 18 THE COURT: Thank you. And you too, if you would,
- 19 speak up close to the microphone.
- 20 THE WITNESS: Okay.
- 21 THE COURT: Your witness, counselor.
- 22 SOLICITOR LESKANIC: Thank you, Your Honor.
- 23 DIRECT EXAMINATION
- 24 BY SOLICITOR LESKANIC:
- 25 Q Ms. Lawson, do you know the defendant, Preston

Julie Lawson - Direct examination
by Solicitor Leskanic

1 Blackwell?

2 A Yes, ma'am.

3 Q All right. And how long have you known him?

4 A He was our neighbor when I lived on Fortenberry Road.

5 Q Neighbor on Fortenberry Road?

6 A Yes, ma'am.

7 Q Okay. If you could, I'm having a little bit of trouble
8 hearing you.

9 A Okay.

10 Q I want to make sure that everybody else can.

11 All right. And, I guess, when did you start -- when
12 did you meet him, start spending time with him?

13 A Probably two weeks prior to the arrest.

14 Q Okay. Two weeks prior to the arrest?

15 A Yes, ma'am.

16 Q All right. Can you tell me how that relationship
17 developed?

18 A I was actually needing to purchase something and
19 other -- another person took me to the residence and I said
20 well, I know him and I just -- I kind of took it from there.

21 Q Okay. You're gonna have to just say it cause I'm not
22 real sure I understand.

23 A I purchased, purchased some meth from him.

24 Q All right. You wanted to purchase methamphetamine from
25 who?

Julie Lawson - Direct examination
by Solicitor Leskanic

1 A Preston.

2 Q Okay. All right. So do you go to his house on Garvin
3 Lake Road?

4 A Yes, ma'am.

5 Q All right. Somebody else took you there?

6 A Well, I drove.

7 Q Okay.

8 A But he, he said I know where to get it and that's where
9 we went to.

10 Q All right. Let me make sure I understand you.

11 You went to somebody else that you already knew looking
12 for methamphetamine?

13 A Yes, ma'am.

14 Q And then you were told what?

15 A He could get it somewhere. We just -- he needed a
16 ride.

17 Q Okay.

18 A I didn't know at the time, you know, where I was taking
19 him. I just gave him the ride and then that's when I seen
20 Preston and I said I know him. You know, I started dealing
21 with him myself.

22 Q Okay. All right.

23 A You know, I cut the middle man out.

24 Q All right. So, the first thing, you had a friend take
25 you and then you said you recognized him and, and what was

Julie Lawson - Direct examination
by Solicitor Leskanic

1 the relationship from that point with you and the defendant?

2 A I dealt with him. Just when I needed, I'd go over
3 there and purchase it.

4 Q All right. When you needed what?

5 A Methamphetamine.

6 Q okay. I know this might be hard to talk about, okay,
7 but I need to be clear so that there's not a
8 misunderstanding of what you're talking about.

9 okay?

10 A okay.

11 Q So you would go to his house to purchase
12 methamphetamine?

13 A Yes, ma'am.

14 Q All right. How often?

15 Did you have a regular routine?

16 A Probably about every other day.

17 Q All right. Tell me what the -- tell me what you would
18 do.

19 A I would -- pretty much I'd take my husband to work and,
20 after that, I would go to Garvin Lake Road and the person
21 would go -- I'd give him a ride.

22 Q I'm sorry?

23 A If he needed to go anywhere I'd give him a ride to
24 wherever.

25 Q All right. So sometimes you would give Preston rides?

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by Solicitor Leskanic

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- 1 A Right.
- 2 Q Did, did you pay for the methamphetamine?
- 3 A Most of the time I did not.
- 4 Q Okay. And what would you do to get the
- 5 methamphetamine?
- 6 A I guess provide the vehicle.
- 7 Q Okay. And do you know what kind of places would you
- 8 have to take him?
- 9 A I never took him to pick up any. I -- like I'd take
- 10 him to the grocery store, take him to McDonald's, take
- 11 him -- we also went and picked up Ms. Carroll once.
- 12 Q Okay. So approximately how many times were you at his
- 13 house to either purchase or use meth?
- 14 A I'm gonna say six or seven.
- 15 Q Okay. And out of those six to seven times that you
- 16 were there, did you ever bring the meth?
- 17 A No, ma'am.
- 18 Q All right. Were you ever there when Kalyne Carroll
- 19 was there?
- 20 A Yes, ma'am.
- 21 Q All right. Did she ever bring the meth?
- 22 A No, ma'am.
- 23 Q All right. Who provided the methamphetamine every
- 24 single time?
- 25 A Preston.

Julie Lawson - Direct examination
by Solicitor Leskanic

- 1 Q All right. Did you see what he kept it in?
- 2 A Yeah, a little silver container.
- 3 Q Okay. And I know you've been in the courtroom, but I
- 4 want to ask you, State's Exhibit 14, do you recognize this?
- 5 A Yes, ma'am.
- 6 Q All right. And what is that?
- 7 A That's where he kept the meth.
- 8 Q All right. How often did you see this?
- 9 A Every time I was there.
- 10 Q All right. And how was it packaged or what was inside?
- 11 A Different colored bags and meth was in the bags.
- 12 Q And where did he keep it?
- 13 A I seen it mostly in his pocket.
- 14 Q Okay. While you were there did anyone else come to
- 15 make a purchase or trade for methamphetamine?
- 16 A Yes, ma'am.
- 17 Q And you personally witnessed that?
- 18 A Yes, ma'am.
- 19 Q Did you witness where he got the methamphetamine from
- 20 on those transactions?
- 21 A Out of the container.
- 22 Q Did everybody pay him or do you even know what happened
- 23 as far as the money?
- 24 A I do not.
- 25 Q Okay. Did you ever see him write anything in any sort

Julie Lawson - Direct examination
by Solicitor Leskanic

1 of notepad?

2 A Sometimes, yes, ma'am.

3 Q Was that during a transaction or---

4 A Or after they would leave.

5 Q ---or after they would leave?

6 Okay. Now, you were at the home the day that the
7 police came, is that correct?

8 A Yes, ma'am.

9 Q All right. What time did you get to his house on that
10 day?

11 A Around I'd say 7:30 that morning.

12 Q Was that after you took your husband to work?

13 A I actually had not been home that whole night.

14 Q Okay. Did you have a methamphetamine addiction?

15 A I did.

16 Q So you got to his house about 7:30.

17 Why did you go to his house?

18 A I was actually on my way home and he was -- had been
19 evicted by DeeDee and was moving to his mother's on
20 Fortenberry Road, and I told him that I would take -- help
21 him take some of his stuff there, but I stopped by to get
22 high.

23 Q Okay. So you stopped by to get meth?

24 A Yes, ma'am.

25 Q All right. What, what happened?

Julie Lawson - Direct examination
by Solicitor Leskanic

- 1 who -- did you see Ms. Carroll there that morning?
- 2 A No, ma'am.
- 3 Q You didn't even know she was at the house?
- 4 Did you ever go back into the master bedroom?
- 5 A I knew someone was in the bed asleep, but I did not
- 6 know who it was.
- 7 Q Okay. So what did you do?
- 8 You get there about 7:30. I think the police don't get
- 9 there until 9:00.
- 10 What do you recall that the morning was like at the
- 11 house?
- 12 What did you do?
- 13 A Me and him smoked a bowl a couple times and I sat there
- 14 in the rocking chair, and that's when he was like, you know,
- 15 the police are outside.
- 16 Q All right. What did he say?
- 17 A Oh, shit, the police are outside.
- 18 Q Okay. And then what happened?
- 19 What did he do at that point?
- 20 A He took off running to the bedroom, tripped over the
- 21 coffee table, bust everything on it trying to get to the
- 22 bedroom.
- 23 Q All right. Which bedroom, the master bedroom or---
- 24 A No, ma'am.
- 25 Q ---the other bedroom?

Julie Lawson - Direct examination
by Solicitor Leskanic

1 A The other bedroom. I thought he was gonna jump out the
2 window. I didn't know where he was going.

3 Q I'm sorry. I couldn't hear you.

4 A I said I wasn't sure that he was gonna jump out the
5 window and try to run from the police. I didn't ask him
6 where you going, what are you doing.

7 Q Okay. Looking at this picture, can you tell me if he
8 ran, from facing the house, looking at the house, did he run
9 to the right or to the left?

10 A To the right.

11 Q To the right.

12 A Yes, ma'am.

13 Q Okay. And where was Ms. Carroll sleeping?

14 A To the left.

15 Q All right. Did you ever see her?

16 A No, ma'am.

17 Q And if she went from that bedroom to the other bedroom
18 all the way across the house you would of seen her?

19 A Yes, ma'am.

20 Q All right. So he goes into the bedroom on the right?

21 A Yes.

22 Q And then what else do you see?

23 A I, I could hear the police and I could hear him making
24 a lot of noise, and he'd come back through the house, and
25 went back to the bedroom, and that's when the officer

Julie Lawson - Direct examination
by solicitor Leskanic

1 knocked on the door, and he was like you have to come
2 around. The front door's bolted shut.

3 Q Okay.

4 A And---

5 Q So did he then let the police in?

6 A Yes, ma'am.

7 Q Okay. And what do you recall next?

8 A I had a big pit bull with me. You know, they said for
9 me to take the dog outside. So I took the dog outside and
10 that's when they were talking to Preston about they were
11 there to search for stolen goods, anybody else in the house,
12 that's when they went in the bedroom and she was asleep,
13 and, at that time, I seen them. They pulled Ms. Carroll out
14 of the bedroom.

15 Q Okay. Did they read the search warrant or do you know?

16 A Yeah, they did.

17 Q Okay. Do you stay in the house while that house is
18 being searched?

19 A I was in the house at some point in time, but I went
20 outside.

21 Q All right. And did the officers ask you if the
22 methamphetamine that was found, did they ask you if it was
23 yours?

24 A They did.

25 Q And what was your response?

Julie Lawson - Direct examination
by Solicitor Leskanic

1 A I told them no, it's not mine.

2 Q And why did you tell them no?

3 A Because they was like you gonna -- is it yours and no,
4 it's not mine. It was not mine.

5 Q Okay. Did you ever bring methamphetamine to his house?

6 A No, ma'am.

7 Q But you were arrested that day?

8 A Yes, ma'am.

9 Q And, and you were charged with the, with the
10 methamphetamine?

11 A Yes, ma'am.

12 Q All right. And at anytime you were there did you ever
13 see, I may of already asked you, but did you ever see Ms.
14 Carroll with this?

15 A No, ma'am.

16 Q Did you ever see anyone else be able to have this in
17 their possession other than the defendant?

18 A No, ma'am.

19 Q Was the methamphetamine or the half a Viagra pill found
20 inside this metal container of yours?

21 A No, ma'am, I don't need Viagra.

22 Q Okay. And you always went to his house for the
23 methamphetamine, is that correct?

24 A Yes, ma'am.

25 Q About every other day?

Julie Lawson - Direct examination
by Solicitor Leskanic

1 A Yes, ma'am.

2 Q And you saw other people come in to get methamphetamine
3 as well?

4 A Yes, ma'am.

5 Q Have you been promised anything for your testimony
6 today?

7 A No, ma'am.

8 Q And the charge against you was dismissed, is that
9 correct?

10 A Yes, ma'am.

11 Q Were the drugs yours?

12 A No, ma'am.

13 Q Thank you. Please answer any questions Mr. Morin may
14 have.

15 THE COURT: Your witness, Mr. Morin.

16 MR. MORIN: Thank you.

17 CROSS-EXAMINATION

18 BY MR. MORIN:

19 Q Ma'am, do you recall talking to the police at the
20 Sheriff's Department after you were arrested?

21 A Yes, sir.

22 Q Did you give them a statement at that time?

23 A I did.

24 Q Do you recall if you told them anything about going
25 there once a -- once every other day and that you told them

Julie Lawson - Cross-examination
by Mr. Morin

1 anything about the, the metal container?

2 Did you tell them anything about any of that?

3 I have a copy of it if you need to refresh your memory.

4 A No. No. They didn't ask me about how often I was
5 there.

6 Q They didn't ask you any of that?

7 A No, sir.

8 Q Now, you did tell the police, after the police found
9 the meth, I told them the truth.

10 Do you remember saying that?

11 A Yes, sir.

12 Q What police and what truth?

13 A I believe it was Mr. Gardner come outside and asked
14 when I seen the meth.

15 Q And what did you tell him?

16 A It was not mine.

17 Q That's the truth you meant?

18 A And he's like whose is it. It was not mine. I do not
19 need Viagra.

20 Q That's all you kept saying?

21 A Yes, sir.

22 Q And now your charge was dismissed?

23 A Yes, sir.

24 Q And you're saying that, when Officer Gardner wrote your
25 statement at the police station, he didn't ask you about a

Julie Lawson - Cross-examination
by Mr. Morin

1 metal container. He didn't ask you if you'd ever bought any
2 meth. He didn't ask you about any of that.

3 A No, sir, I seen the metal container at the residence
4 that day.

5 Q But he didn't ask you about any of it?

6 A No, sir.

7 Q He didn't ask you how you knew Preston?

8 A No, sir.

9 Q And all this that you've said now, today, did you ever
10 tell Fred -- Officer Federico or Gardner about all this
11 selling and buying and everything?

12 A No, sir.

13 Q Never?

14 A No, sir.

15 MR. MORIN: That's all the questions I have.

16 THE COURT: Redirect.

17 SOLICITOR LESKANIC: Thank you.

18 REDIRECT EXAMINATION

19 BY SOLICITOR LESKANIC:

20 Q Did they ask?

21 A No, ma'am.

22 Q Was there a reason why you didn't want to tell the
23 police that day, in particular, the name of who it belonged
24 to and you just said I don't need Viagra?

25 A I mean Preston has known to be, you know, aggressive

Julie Lawson - Redirect examination
by Solicitor Leskanic

1 and very mean and I was under the influence that day, and I
2 hadn't been to bed all night and --.

3 Q Okay. Were you afraid of him?

4 A Pretty much, yes.

5 SOLICITOR LESKANIC: May we approach?

6 THE COURT: You may.

7 (WHEREUPON, a bench conference was held out of the
8 hearing of the jury at this time.)

9 THE COURT: Ladies and gentlemen, there's something I
10 need to take care of out of your presence with the
11 attorneys. It shouldn't take long, but I'm gonna ask you
12 for a few moments to step back to the jury room. Don't
13 discuss the case at all during your absence.

14 You may retire to the jury room.

15 (WHEREUPON, the following takes place outside the
16 presence of the jury.)

17 THE COURT: Now, during our bench conference, Ms.
18 Leskanic indicated she might want to explore the nature of
19 the witness' fear of the defendant. Because it may result
20 in information being placed before the jury that may not be
21 admissible, I'll allow her to make a proffer concerning the
22 evidence before she presented it in front of the jury.

23 You may proceed at this time.

24 SOLICITOR LESKANIC: Thank you.

25 CONTINUED REDIRECT EXAMINATION

Julie Lawson - Redirect examination
by Solicitor Leskanic

1 BY SOLICITOR LESKANIC:

2 Q Ms. Lawson, you stated that you were aware or you were
3 afraid of Mr. Blackwell?

4 A Yes, ma'am.

5 Q Can you explain why?

6 A He has, from everyone's understanding, two prior murder
7 charges.

8 Q Okay. Has he ever personally done anything to you,
9 threatened you, or have you ever seen him threaten someone
10 in your presence?

11 A No, ma'am, he hasn't me, but the guy that I was with,
12 he's shot at him before. I've heard of telling of a little
13 girl's father, they've also got into an argument and he's
14 like -- Preston's like---

15 MR. MORIN: Your Honor, I can barely---

16 THE COURT: Ma'am, you're gonna have to---

17 MR. MORIN: ---hear her.

18 THE COURT: ---speak up so we can all hear you. I
19 can't -- I'm right beside you and I can barely hear you.
20 Speak up please.

21 Q And especially for the judge cause the jury's not in
22 here now. I need him to hear---

23 A Okay.

24 Q ---and Mr. Morin to hear.

25 A He's a person that will hide under your -- you know,

Julie Lawson - Redirect examination
by Solicitor Leskanic

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1 hide at your residence for days and you won't know he's
2 there and if you do something to him he's gonna do
3 everything he can to get back at you.

4 Q All right. But you have -- he shot at your current
5 boyfriend?

6 A Yes, ma'am.

7 Q Was that while you were with him---

8 A No, sir.

9 Q ---or is this prior to?

10 A Prior. Years before we were together.

11 Q All right. So this is something based on what your
12 boyfriend has told you?

13 A Yes, ma'am.

14 Q Okay. All right. Have you ever seen him do anything,
15 on the occasions that you were there, be violent or
16 aggressive or see guns or anything of that nature?

17 A He always carries a gun.

18 Q He always carries a gun?

19 A Yes, ma'am.

20 Q Where does he carry a gun?

21 A In the back of his pants.

22 Q Okay. Have you ever seen him pull that on anyone?

23 A He told my husband once at Big Lots he'd shoot him.

24 Q And was that during this, this two week period---

25 A Yes, ma'am.

Julie Lawson - Redirect examination
by Solicitor Leskanic

1 Q ---you were going to his home?

2 A Yes, ma'am.

3 Q So he threatened your, your husband---

4 A Yes, ma'am.

5 Q ---at Big Lots?

6 A Yes, ma'am.

7 Q Okay. Is there anything else---

8 A No, ma'am.

9 Q Okay.

10 THE COURT: You wish to ask some questions?

11 RECROSS EXAMINATION

12 BY MR. MORIN:

13 Q He always carries a gun?

14 A That I know of, yes, sir.

15 MR. MORIN: Well, Your Honor, I think anything -- I'm
16 just gonna argue from here if that's all right.

17 THE COURT: Yes, sir.

18 MR. MORIN: I think anything she saw she can testify
19 to. Now, there's a bunch of stuff that was said in regard
20 to his record that's inadmissible and a lot of stuff about
21 what she's heard, which I think is inadmissible, but---

22 THE COURT: I would tend to agree with that assessment.
23 Anything that she saw herself she could testify to, but
24 any -- all this stuff about prior charges or what somebody
25 told her he may have done, I won't let you go there.

Julie Lawson - Recross examination
by Mr. Morin

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1 SOLICITOR LESKANIC: I agree, Your Honor. I just -- I
2 didn't know what the answer was going to be.

3 MR. MORIN: Well---

4 THE COURT: Well, this may be a---

5 SOLICITOR LESKANIC: So I didn't want to put that in
6 front of the jury.

7 THE COURT: This may be a tricky, tricky slope to
8 traverse, but I'll let you make your mind up as to how you
9 wish to proceed.

10 REDIRECT EXAMINATION

11 BY SOLICITOR LESKANIC:

12 Q Were you with your husband when the threat was made?

13 A No, ma'am, Preston and I were actually together. Not
14 together as a couple. He -- I gave him a ride to Big Lots.

15 Q Okay. So you were with Preston?

16 Did you hear him make the threat to your husband?

17 A Yes, ma'am.

18 SOLICITOR LESKANIC: Okay. Then I would, I would ask
19 that.

20 THE COURT: Anything she experienced herself I'll let
21 her testify to that would have caused her to have fear. But
22 I will caution you, she can not testify about what people
23 may have told her or what she may of heard about him having
24 other charges. We're not gonna go on hearsy.

25 SOLICITOR LESKANIC: The only thing that I will ask

Julie Lawson - Redirect examination
by Solicitor Leskanic

1 her, and so Ms. Lawson knows as well, is I asked -- I
2 believe my last question was something along the lines of
3 are you -- were you afraid of him and I'm going to ask why
4 and just refer to the incident at Big Lots.

5 THE COURT: Well, I prefer that you ask it -- a more
6 narrow question.

7 SOLICITOR LESKANIC: Okay.

8 THE COURT: Something to the effect of have you ever
9 experienced anything yourself that caused you to have fear.

10 SOLICITOR LESKANIC: Okay. And then we're just gonna
11 talk about the incident at Big Lots when you were with the
12 defendant and he threatened your husband and you heard that
13 threat and nothing else.

14 THE WITNESS: Okay.

15 THE COURT: All right. Let's bring the jury back.

16 (WHEREUPON, the following takes place within the
17 presence of the jury.)

18 THE COURT: All right. The jury's returned to the
19 courtroom.

20 You may proceed, counselor.

21 SOLICITOR LESKANIC: Thank you, Your Honor.

22 CONTINUED REDIRECT EXAMINATION

23 BY SOLICITOR LESKANIC:

24 Q Ms. Lawson, we were talking about that you said you
25 were afraid of the defendant.

Julie Lawson - Redirect examination
by Solicitor Leskanic

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1 Have you ever personally experienced something that
2 made you afraid of the defendant?

3 A One day we were at Big Lots. My husband -- I guess he
4 pulled up and he told my husband that he would shoot him.

5 Q Okay.

6 A They kind of got into a little argument and I tried to
7 tell my husband I wasn't with Preston, we were in two
8 separate vehicles, and then he told him he would shoot him.

9 Q So you heard him threaten -- you and Preston went --
10 you gave him a ride.

11 This is on the occasions where you give him a ride?

12 A Yes, ma'am.

13 Q And your husband showed up?

14 A Yes, ma'am.

15 Q And you heard the defendant threaten to shoot your
16 husband, is that correct?

17 A Yes, ma'am.

18 Q All right. If you will, please answer any questions
19 Mr. Morin may have.

20 THE COURT: Mr. Morin, you may cross-examine.

21 RECROSS EXAMINATION

22 BY MR. MORIN:

23 Q Ma'am, did you go there every other day?

24 A Not -- I'm not exactly sure it was every other day. I
25 was there---

Julie Lawson - Recross examination
by Mr. Morin

1 Q A lot.

2 A For just about two weeks.

3 Q Okay. And on the day that this happened, you brought a
4 pit bull with you?

5 A He -- the dog rode -- was living with me all the time
6 pretty much.

7 Q All the time.

8 Now, you said that he threatened to shoot him.

9 Did Mr. Blackwell usually have a gun with him?

10 A Yes, sir.

11 Q Did you ever know him not to have a gun?

12 A No, sir.

13 MR. MORIN: That's all the question I have.

14 THE COURT: Anything further from the witness?

15 REDIRECT EXAMINATION

16 BY SOLICITOR LESKANIC:

17 Q Did you see his gun on the day that the police came?

18 Did you see him with the gun that day?

19 A No, ma'am.

20 Q Okay. Thank you.

21 THE COURT: Mr. Morin, I'll give you the last chance.

22 MR. MORIN: No, sir.

23 THE COURT: All right.

24 MR. MORIN: I don't have anything else.

25 THE COURT: You may step down, ma'am.

1 You wish to excuse the witness?

2 SOLICITOR LESKANIC: Yes, Your Honor.

3 THE COURT: Any objection to her being excused?

4 MR. MORIN: No, sir.

5 THE COURT: Ma'am, you're free to go at this time.

6 Ladies and gentlemen of the jury, we're gonna break at
7 this time for the evening. I gave you some instructions
8 when you left for lunch. I will repeat those instructions
9 at this time.

10 You should not attempt to gather any information about
11 this case on your own. You should not discuss the case with
12 anyone or allow anyone to discuss it with you. You should
13 not listen to, watch, or read any media reports about the
14 case, and should anyone try to contact you about your
15 service on this jury, please report that as soon as
16 possible.

17 Got some other matters I have to take up that do not
18 have anything to do with this case. So I'm gonna start in
19 this case a little later in the morning, ten o'clock. Be
20 back in the jury room. We should be able to start shortly
21 thereafter.

22 Hope you have a good evening. Be in the jury room at
23 ten o'clock.

24 Thank you very much.

25 (WHEREUPON, the following takes place outside the

1 presence of the jury.)

2 THE COURT: All right. We need -- I'm gonna have to
3 explain to Mr. Blackwell that, at this point in time, your
4 bond conditions have been satisfied.

5 Does the State have any problem with me releasing him
6 overnight?

7 SOLICITOR LESKANIC: The State would prefer that he
8 stay in custody, Your Honor.

9 THE COURT: I think I am going to take him in custody
10 overnight. So I'll require that he remain in the jail for
11 the evening and we'll return and start at ten o'clock in the
12 morning.

13 Have a good evening.

14 SOLICITOR LESKANIC: Thank you, Your Honor.

15 THE COURT: Court's in recess until ten o'clock in the
16 morning.

17

18 (WHEREUPON, Court was in recess for the evening.)

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1 Thursday, March 5th, 2015

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3 SOLICITOR LESKANIC: Good morning.

4 THE COURT: Good morning.

5 SOLICITOR LESKANIC: It's my understanding

6 Mr. Blackwell just arrived from the jail, and Mr. Morin
7 wanted to go talk to him---

8 THE COURT: Okay.

9 SOLICITOR LESKANIC: ---for just a moment, Your Honor.

10 THE COURT: All right. That will be fine.

11 (Pause.)

12 MR. MORIN: Morning, Your Honor.

13 THE COURT: Good morning.

14 (WHEREUPON, the Defendant comes into the courtroom at
15 this time.)

16 THE COURT: All right. Let's come to order please.

17 State ready to proceed at this time?

18 SOLICITOR LESKANIC: Yes, Your Honor.

19 THE COURT: Defense ready?

20 MR. MORIN: Yes, Your Honor.

21 THE COURT: Let's bring the jury in.

22 (WHEREUPON, the following takes place within the
23 presence of the jury.)

24 THE COURT: The record will reflect the jury has
25 returned to the courtroom.

1 I hope everyone had a good evening.

2 If there was anyone who had any difficulty in complying
3 with my instructions of yesterday, I'd ask that you please
4 stand.

5 (No response.)

6 THE COURT: The record will reflect then that all
7 jurors have been able to comply with my instructions thus
8 far.

9 When we took our break yesterday afternoon the State
10 was in the process of presenting its case.

11 You may call your next witness.

12 SOLICITOR LESKANIC: Thank you.

13 May it please the Court?

14 THE COURT: Yes, ma'am.

15 SOLICITOR LESKANIC: The State calls Kalyne Carroll.

16 THE COURT: Come forward and be sworn to my left
17 please.

18 KALYNNE CARROLL, being first duly
19 sworn, testified as follows:

20 THE COURT: State your name please.

21 THE WITNESS: Kalyne Carroll.

22 THE COURT: Thank you.

23 Your witness, counselor.

24 SOLICITOR LESKANIC: Thank you, Your Honor.

25 DIRECT EXAMINATION

Kalynne Carroll - Direct examination
by Solicitor Leskanic

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1 BY SOLICITOR LESKANIC:

2 Q Ms. Carroll, how old are you?

3 A Twenty-four.

4 Q Okay. And were you arrested back in May of 2014 with
5 the defendant, Preston Blackwell?

6 A Yes, ma'am.

7 Q And how old were you at the time?

8 A Twenty-three.

9 Q Okay. Were you using methamphetamine at the time?

10 A Yes, ma'am.

11 Q All right. Will you please explain to the ladies and
12 gentlemen of the jury when you first started using meth and
13 about your meth addiction?

14 A The first time I used was in 2009. I used a few times
15 and then I quit. Then in January of -- the end of December
16 of 2012 to the beginning of January of 2013 I started using
17 everyday.

18 Q Okay. Were you working at the time?

19 A I was. I was working at a day care. I was there for
20 about a month after I started using everyday and then I
21 quit.

22 Q Okay. Could you maintain a job after you started using
23 everyday?

24 A No, ma'am.

25 Q All right. Explain to the jury please what your day

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1 would be like once, once you didn't have a job anymore and
2 you needed the meth.

3 A My day would be like pretty much trying to find my next
4 fix, trying to get my next high, wanting to know where I
5 could stay. I had a home, but my parents wouldn't let me
6 stay there because I couldn't leave the meth alone.

7 So it would just be pretty much to find somewhere that
8 would -- they use meth and I knew that I would be able to
9 get meth there and I would have a roof over my head and a
10 place to, to -- I knew that they would feed me and take care
11 of me.

12 Q All right. And did you have to pay for any of this --

13 A No, ma'am.

14 Q -- or was it just friends?

15 A Yes, ma'am.

16 Q Okay. How did you meet the defendant or do you know
17 the defendant, Preston Blackwell?

18 A Yes, ma'am.

19 Q All right. How did you meet him?

20 A The first time I met him I was staying there off and
21 on. I was dating his stepson, T.J. Gregory, and I met him
22 one time and then didn't see him again till about a month
23 later.

24 Q Okay. And tell me about the month later when you saw
25 him.

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1 A I was staying down at a friend's house, Tiny, down on
2 Garvin Lake Road at the trailer park, and Preston came down
3 there the first day that I was there. He came down there
4 that night.

5 Q Okay. So you're at somebody's house named Tiny, a
6 nickname?

7 A Yes, ma'am.

8 Q And that's on Garvin Lake Road also where Mr. Blackwell
9 lives --

10 A Yes, ma'am.

11 Q -- the defendant?

12 Okay. And so what happened that night when you saw
13 him?

14 A He came down there, I guess, to pick up Tiny. Tiny
15 didn't wind up leaving with him, but he came down there.
16 They sorted out, which was meth, into different baggies to
17 go and sell to people that was wanting it, and then he
18 pulled out a bowl and packed it and we smoked and then they
19 left.

20 Q All right. Where -- who brought the meth, Tiny or the
21 defendant?

22 A The defendant, Preston Blackwell.

23 Q Okay. And then what did they do with this meth?

24 A They bagged it up and he put it back in the container
25 and he stuck it in his pocket and they left.

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- 1 Q When you say the container, what does the container
- 2 look like?
- 3 A It was the silver container with the Gamecock sticker.
- 4 Q And who put the methamphetamine in that?
- 5 A Preston did.
- 6 Q I show you what's been previously marked and admitted
- 7 State's Exhibit 14.
- 8 Do you recognize that?
- 9 A Yes, ma'am.
- 10 Q All right. And what is that?
- 11 A This is the container he would always keep his dope in.
- 12 Q How certain are you that that container belongs to
- 13 Mr. Blackwell?
- 14 A One hundred percent.
- 15 Q How many times did you see him with that container?
- 16 A Every time I saw him.
- 17 Q Okay. Okay. So on that occasion, are you -- how, how
- 18 do you know Tiny or what are you doing in Tiny's house when
- 19 the defendant comes?
- 20 A I had met Tiny through some mutual friends, and I was
- 21 staying down there. He was letting me stay down there
- 22 because I really didn't have no where else to go.
- 23 Q Okay. Was it just you and Tiny?
- 24 A His girlfriend was there for the first few days, and
- 25 then they broke up and she left.

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1 Q All right. And why were you staying at Tiny's?

2 A I -- it was a roof over my head and a place where I
3 could use meth.

4 Q Okay. And where were you getting the meth?

5 A From Preston.

6 Q Okay. All right. So how -- where's it go from there?

7 A Tiny's power got cut off, and when it got cut off we
8 started staying more down at Preston's off and on, and then
9 about -- I mean that happened for about two weeks, but a
10 week prior to that I was gone. I was staying at a friend's
11 house at Deborah McClooney's trailer park at a trailer over
12 there, and then about -- the two days before we got
13 arrested, him and Julie Lawson came and picked me up.

14 Q Okay. So you're at Tiny's for a while, and Tiny's
15 power gets cut off?

16 A Yes, ma'am.

17 Q And you say y'all went to Preston's some during that
18 time, the defendant's house --

19 A Yes, ma'am.

20 Q -- or you're spending the night there?

21 A No, ma'am.

22 Q All right. Tell me what you're doing.

23 A We would go down there, shower, eat, just hang out,
24 smoke meth. Him and Tiny would do their business because
25 Tiny was like his right-hand man, and he would send Tiny on

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1 missions, and I would stay there in the house, do whatever
2 was asked to be done just so I could know that I would be
3 able to get high later.

4 Q Okay. And where would you stay at night?

5 A Down at Tiny's or---

6 Q Okay.

7 A I mean there was a lot -- when you're on meth you don't
8 sleep really unless you've been up for a while, and I
9 mean -- so I mean it really pretty much -- it was hardly any
10 sleeping and it was just mostly using meth and in and out.

11 Q Okay. And then -- so after Tiny lost his power you
12 went to the defendant's, kind of in and out of there, and
13 then you went for a week at a house or a trailer in---

14 A It was a few days. It was close to a week. It might
15 not even have been four or five days that I was there, and
16 she didn't have no water because her pipes were busted,
17 and--

18 Q This was the lady in Debbie McClooney's trailer park---

19 A Yes ma'am.

20 Q ---you were staying with?

21 Okay.

22 A And I was hungry. Julie and Preston stopped by,
23 dropped some McDonald's off for me and her, and then they
24 left, and then they came back and picked me up so I could go
25 and take a shower and eat and have another place over my

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- 1 head and know that I'd be able to get drugs.
- 2 Q Did you have any money?
- 3 A No, ma'am.
- 4 Q Okay. And you didn't have your own place to stay?
- 5 A No, ma'am.
- 6 Q Just moving from house to house where you could get
- 7 methamphetamine?
- 8 A Yes, ma'am.
- 9 Q All right. What day did Julie Lawson, who testified
- 10 yesterday, and the defendant pick you up?
- 11 A It was about two days prior to when we got arrested.
- 12 Q Okay. And what happened at that time?
- 13 A They picked me up. We went back to Preston's house.
- 14 Julie hung out for a couple -- a little while till she had
- 15 to go pick up her husband, and then I would go with all
- 16 those people in and out down there at all times.
- 17 Q What were the people doing that were coming in and out?
- 18 A Buying, trying to trade for dope.
- 19 Q Okay. Buying, buying what?
- 20 A Dope.
- 21 Q From?
- 22 A Preston.
- 23 Q All right. And did you see him actually sell
- 24 methamphetamine?
- 25 A Yes, ma'am.

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1 Q And where did the methamphetamine come from?

2 A That container.

3 Q Always?

4 A Yes, ma'am.

5 Q Did you ever see anybody else with that container?

6 A No, ma'am.

7 Q And when you say trade, what does that mean, trade
8 what?

9 A For laptops, anything. I mean anything that somebody
10 think that they could get a little bit of dope out of,
11 that's what they would do.

12 Q So money or property?

13 A Yes, ma'am.

14 Q Did you ever see him write anything down during the
15 transaction like what people might owe?

16 A Yes, ma'am.

17 Q Tell me about that.

18 A If someone would come in, let's say they had \$200, but
19 they wanted to get an eight ball, he would write down how
20 much they paid at that time and then how much they had left
21 to owe him, and they would always come back within a few
22 hours and have the rest of his money so they could get more.

23 Q Okay. So you knew what he was doing?

24 A Yes, ma'am.

25 Q You, you were present, you saw all this take place?

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1 A Yes, ma'am.

2 Q Okay. Okay. The day before you were arrested, what
3 happened that day?

4 A That day Connie and Lynn came over. They had a red
5 Dodge charger, which was -- I, I love the car and he liked
6 the car, and he -- we sat down and they came in. They
7 smoked -- we smoked a bowl. Preston packed it, got it out
8 of that container, and they hung out there for a few hours.
9 We drove the car around with Connie in it. Lynn stayed at
10 the house. We took the car back. The only thing that they
11 said was wrong with it was it needed calibrating (sic)
12 converter, but he still wanted to drive it.

13 He drove it at that time, and Connie was in the front
14 seat. I was in the back seat and we were -- rode around.
15 We stopped by Julie's house because she had one of his cell
16 phones that he wanted to get back, and he got it back, and
17 then we went back to his house, picked up Lynn, went to
18 several motels to find one that was able to take a dog cause
19 they had a dog.

20 Q Okay. So y'all were looking for a hotel for Lynn and
21 Connie?

22 A Yes, ma'am.

23 Q Okay.

24 A But before we left the house he gave them around a
25 gram, two grams of meth, gave them some Xanaxes, and made me

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1 write out a receipt of what he had gave them so far for the
2 car, and made Connie and Lynn both sign it, and it was just
3 like on a little piece of paper.

4 Q Okay. And was he gonna pay them anything else for the
5 car or do you know?

6 A From the way he talked, yes, ma'am.

7 Q All right. So after y'all dropped them off, you find
8 them a hotel and you dropped them, where do you go from
9 there?

10 A I was driving at this point. We leave from there. We
11 go by his son Greg's house. They look at the car for a
12 little while and check the oil. Stay out there for about 30
13 to 40 minutes. They go in the house because they wanted to
14 smoke. Preston---

15 Q They being who?

16 Who went in the house?

17 A Preston, Greg, and Greg's wife.

18 Q Okay.

19 A Greg's wife didn't want me in the house. So I stayed
20 out in the car. They was there for ten, fifteen minutes,
21 and then Preston came back out, we left. When we left there
22 we went by Terry Martin's house on Limestone Springs Road to
23 get a phone, and then there was a lady there, I can't
24 remember her name, I just know that everybody called her
25 mom, her and Preston was talking about possibly doing

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1 business together as in Preston supplying her with dope and
2 her selling it for him. I got a phone from her. We was
3 there five, ten minutes and left.

4 When we left there we stopped by another trailer that
5 was close to Garvin Lake Road for them to look at the car.
6 They look at the car. We stay there fifteen, twenty minutes
7 and we leave and we go back to his house. By this time it's
8 almost dusk and, at that time, it was just me and Preston
9 there. A few hours later Tiny shows up.

10 The lady at the house that we had stopped at, she had
11 come. There was a bowl that Preston had packed earlier that
12 day that still had meth in it. Me and her smoked and it was
13 just me and her at the time. Everybody else was outside,
14 and then---

15 Q Where were y'all when you smoked it?

16 A In the bedroom where they -- where I was asleep and
17 they found me asleep.

18 Q Okay. If you're looking at the house, there was a
19 bedroom on the left.

20 Is that correct?

21 A Yes, ma'am.

22 Q Okay. All right. Go ahead.

23 So y'all smoked that?

24 A Yes, ma'am, and then I took a shower, ate a little bit,
25 which was, you know, when you're on meth you don't eat that

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1 much. Ate a little bit and then Preston had came back in.
2 Connie was in the living room. He came back in and it was
3 me, Preston, and another lady who was there to get meth from
4 him. He brought out a big shard, which is what they call
5 it, and he divided it up into yellow and blue baggies and
6 put it back in his container and put it in his pocket.

7 Q All right. Were you present when he did that?

8 A Yes, ma'am.

9 Q All right. Where did you do that?

10 A He done it on the side of the bed. Like if you're
11 facing the bed, he done it on the left side of the bed.

12 Q And the bed where you fell asleep?

13 A Yes, ma'am.

14 Q All right. Do you know what the packaging looked like
15 that the big shard of meth came in?

16 A Yes, ma'am, it was white with a big baggy that the
17 residue was what they first saw.

18 Q I'm gonna show you State's Exhibit 3.

19 Tell me if you recognize this.

20 A Yes, ma'am, that was his side of the bed where he
21 always broke up the meth.

22 Q Okay. And I'm gonna show you State's Exhibit 7.

23 Do you recognize that?

24 A Yes, ma'am, that was after -- it was in this baggie
25 right here, and then -- the big shard was, and when he broke

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1 it up, that's what he divided it up into.

2 Q Okay. All right. For the, for the jury's benefit, and
3 if you need to step down to see---

4 THE COURT: Ma'am, you may step down so you'll be able
5 to see that.

6 A Right back here is this box---

7 Q I'm gonna -- I'm gonna give you this. There's a button
8 at the top and it puts out a green light.

9 Okay?

10 A The white baggie right there, which is in the box, that
11 is what the big shard was in before he broke it up.

12 Q All right. And now I'm gonna show you State's Exhibit
13 7 and please tell the jury what they're looking at here.

14 A Before he broke it up it was in that white baggy, and
15 then once he broke it up, he put it into these baggies.

16 Q Okay. And you were present in the room when he did
17 that?

18 A Yes, ma'am.

19 Q And then what did he do with those baggies?

20 A He stuck them back in the Gamecock container, which is
21 right there.

22 Q Okay. All right. Thank you. You can have a seat
23 back.

24 A (The witness returns to the stand.)

25 Q All right. What did you do at that point?

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by Solicitor Leskanic

- 1 A I stayed in there. I was waiting on a phone call from
2 a guy that I was talking to. His mom was at home. I was
3 suppose to meet her to go with her to go pick him up, and I
4 remember it being around three, four o'clock in the morning.
5 I had text Tiny and told him that I was waiting on a phone
6 call, that I wasn't gonna be leaving to go with her, and
7 that's all I remember and apparently I fell asleep.
- 8 Q Okay. Did you have any intention on spending the night
9 there that night?
- 10 A No, ma'am.
- 11 Q All right. Did you live there at [REDACTED] Garvin Lake Road?
- 12 A No, ma'am.
- 13 Q Where were the majority of your clothes and personal
14 belongings?
- 15 A I really only had basically a plastic bag full because
16 I'd either left it at places or other people had gotten it,
17 and it was just what people was letting me use, but my
18 clothes were at Deborah McClooney's trailer park at that
19 lady's house.
- 20 Q All right. So the minimal stuff that you had was at
21 the trailer park --
- 22 A Yes, ma'am.
- 23 Q -- your clothing?
- 24 Okay. So you didn't live with Preston Blackwell?
- 25 A No, ma'am.

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by Solicitor Leskanic

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- 1 Q And you didn't stay there on a regular basis?
- 2 A No, ma'am.
- 3 Q And you would go there to smoke meth, but that was not
- 4 your residence?
- 5 A No, ma'am.
- 6 Q Did you have a residence?
- 7 A No, ma'am.
- 8 Q Okay. All right. So you fall asleep and what's the
- 9 next thing you remember?
- 10 A I remember waking up to Mr. Brandon Gardner and Nick
- 11 Federico telling me that I needed to get up and go in the
- 12 living room.
- 13 Q Okay. And I assume you complied?
- 14 A Yes, ma'am.
- 15 Q All right. What happened next?
- 16 A I go and I sit down on the couch and I kind of know
- 17 what was going on, but I had been up for a while and only
- 18 been asleep for a few hours. I was real foggy headed.
- 19 Q How long had you been up do you think?
- 20 A Probably about a week.
- 21 Q Okay. With no sleep?
- 22 A No, ma'am.
- 23 Q Okay.
- 24 A And I remember -- I don't, I don't remember when he
- 25 came in, but John Blackwell was there, and he was sitting in

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by Solicitor Leskanic

1 one of the recliners and, at first, Preston was in the
2 rocker. Julie was in the kitchen, and I remember Preston
3 saying he had to go to the rest room, and he went up, went
4 to the restroom, and I guess, at that time, after he came
5 out, that's when they talked to him because he apparently
6 knew that they had found it. I was sitting on the couch,
7 and I was talking to Detective Blackwell, and he came back
8 and sat down beside of me and told me to take the charge.

9 Q Who came and sat down beside you?

10 A Preston Blackwell.

11 Q Okay.

12 A Told me to take the charge and that he would look out
13 for me, make sure that I got a lawyer and everything like
14 that, and, at that time, I hadn't said nothing to him. I
15 was trying to ignore him because I mean there were cops
16 everywhere, and he told me that, if I didn't, that he would
17 get me.

18 Q Okay. What did you take that statement to mean, he
19 would get me?

20 A I mean he pulled a gun on me before, and I didn't put
21 it past him to do it again. And even though I knew that
22 they was a bunch of police officers around, I -- that didn't
23 cross my mind that I was protected. I knew that if he said
24 what he said, then he was gonna get me. I mean I had seen
25 him pull a gun on other people before, and he had done it to

Kalynne Carroll - Direct examination
by Solicitor Leskanic

- 1 me, and I wouldn't put it past him to do it again.
- 2 Q All right. So did the police then take you out by
- 3 yourself and talk to you or when did you talk to the police?
- 4 A They pulled me in the back room, Brandon Gardner and
- 5 Federico did. They showed me the container, asked me who it
- 6 was. I shrugged my shoulder and told them I don't know.
- 7 Then I told them that it was mine.
- 8 Q Okay. Is that container yours?
- 9 A No, ma'am.
- 10 Q Was it yours back in May of 2014?
- 11 A No, ma'am.
- 12 Q Was it your methamphetamine and Viagra pill in that
- 13 container?
- 14 A No, ma'am.
- 15 Q Why did you tell police that it was?
- 16 A I was scared.
- 17 Q All right. So they place you under arrest?
- 18 A Yes, ma'am.
- 19 Q And today, sitting in Court, you're still charged with
- 20 trafficking in methamphetamine, is that correct?
- 21 A Yes, ma'am.
- 22 Q All right. Because you claimed it on that day?
- 23 A Yes, ma'am.
- 24 Q Now, you went to the jail and what happened when you
- 25 got to jail?

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by Solicitor Leskanic

1 A They hadn't even fully booked me in yet, and, at that
2 time, they had separated -- see me and Preston rode together
3 in the back of the cop car to the jail, and, at that time,
4 they had separated us. I was on one side of the end. He
5 was on the other side and John Blackwell was standing beside
6 me, and that's when I looked at him and told him I said you
7 know that's not mine, and he asked me whose it is, and I
8 told him I said you know. He said whose is it and I said
9 Preston's and he asked me was I willing to write a statement
10 and I told him yes, I was.

11 Q And did the detectives then come back and you give them
12 a statement --

13 A Yes, ma'am.

14 Q -- detailing what had happened the day before with
15 Connie and Lynn?

16 A Yes, ma'am.

17 Q And what happened on this day, what you saw?

18 A Yes, ma'am.

19 Q All right. Now I want to show you, first, it's already
20 been admitted, I just want to make sure you recognize it
21 first, State's Exhibit 11.

22 Tell me if you recognize that.

23 A Yes, ma'am, that's my purse.

24 Q Okay. All right. I'm gonna put this up and I'm gonna
25 ask you about it.

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by Solicitor Leskanic

1 THE COURT: Is that in evidence at this time?

2 SOLICITOR LESKANIC: It is, State's Exhibit 11.

3 THE COURT: Okay. Thank you.

4 MR. MORIN: Yes, sir.

5 Q And, again, if you need to step down, Ms. Carroll, feel
6 free to do so or if you can see if from where you are that's
7 fine.

8 What are we looking at here?

9 A That is my purse with the black scales laying on top.

10 Q All right. So you have digital scales on top of your
11 purse?

12 A Yes, ma'am.

13 Q Where is that purse?

14 A It was in the bedroom.

15 Q All right. Why do you have a set of black digital
16 scales on top of your purse in the defendant's bedroom?

17 A He told me to hold onto them cause he always liked to
18 keep two set of scales on him in case one quit working.

19 Q So did you go with him, during the time that you knew
20 him, to make drug sales?

21 A Sometimes.

22 Q Okay.

23 A Very few.

24 Q All right. But there were times that you were with him
25 and, and had a set of scales for him?

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by Solicitor Leskanic

1 A Yes, ma'am.

2 Q Did you know that he was selling methamphetamine?

3 A Yes, ma'am.

4 Q Do you know he had methamphetamine in the house when
5 you went to sleep?

6 A I knew he had a little bit. I didn't know how much.

7 Q Okay. But you had seen him with the shard?

8 I'm talking about the night that you went to -- when
9 you fell asleep and you were waiting for your ride.

10 Did you know there was methamphetamine in the house at
11 that time?

12 A Yes, ma'am.

13 Q All right. And you knew when people came over to the
14 house what they were coming for and what was going on?

15 A Yes, ma'am.

16 Q Was that your methamphetamine that was found inside the
17 home?

18 A No, ma'am.

19 Q Have you been promised or threatened in any way for
20 your testimony today?

21 A No, ma'am.

22 Q That's all the questions that I have. Please answer
23 any questions Mr. Morin has.

24 THE COURT: Mr. Morin, your witness.

25 CROSS-EXAMINATION

Kalynne Carroll - Cross-examination
by Mr. Morin

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1 BY MR. MORIN:

2 Q When Connie and Lynn came to the house, why did they
3 come there?

4 A I, I wasn't really sure. I just knew that they were
5 there.

6 Q Okay. Well, when they got there and y'all started
7 talking, what did you talk about?

8 A The car. Pretty much the car and---

9 Q Just---

10 A ---about the wreck cause Connie was pretty beat up and
11 I was asking her what had happened --

12 Q Uh-huh. (Affirmative).

13 A -- and everything and, like I said, they had a dog with
14 them and I love dogs.

15 Q Uh-huh. (Affirmative).

16 A I was asking them about their dog and just---

17 Q Okay.

18 A ---random stuff.

19 Q And Tiny -- did Tiny stay at the house sometimes?

20 A He was in and out.

21 Q I mean a lot of people---

22 A There was---

23 Q A lot of people---

24 A There was only one time that I saw him lay down in the
25 bed and he did not go to sleep, and he was only there for

Kalynne Carroll - Cross-examination
by Mr. Morin

1 about 30 minutes.

2 Q Right.

3 But when he -- the same bed that you were in or the
4 other bedroom?

5 A The other bedroom.

6 Q Okay. Because you were moving around a lot?

7 A Uh-huh. (Affirmative).

8 Q He was moving around a lot?

9 A Uh-huh. (Affirmative).

10 Q So -- but you had seen him stay in that bedroom?

11 A One time.

12 Q I mean you weren't there that night, were you?

13 A Well, I mean I was there every other day for a few
14 hours.

15 Q All right. So---

16 A Now the time that I was on -- at the trailer park --
17 there was -- that was the longest period of time I was not
18 there.

19 Q Now, I want to go back to when Julie came by and picked
20 you up.

21 A Uh-huh. (Affirmative).

22 Q Cause that was like two days before this?

23 A Uh-huh. (Affirmative).

24 Q And Julie drove you over there to [REDACTED] Garvin Lake Road?

25 A Uh-huh. (Affirmative).

Kalynne Carroll - Cross-examination
by Mr. Morin

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1 Q And she stayed there a while?

2 A No, just -- I mean every other day she was there I mean
3 within the two weeks that she had started coming.

4 Q Uh-huh. (Affirmative).

5 A Because most of the time she had to be at home with her
6 husband when she picked him up and took him to work.

7 Q Right.

8 So after she dropped you off, when was the next time
9 you saw her?

10 A The next time I saw Julie?

11 Q Uh-huh. (Affirmative.)

12 A Was when the police officers woke me up.

13 Q Okay.

14 A And I went into the kitchen and she was there.

15 Q Now, I think I understand your testimony.

16 You didn't have a job?

17 A No.

18 Q You didn't have a home?

19 A No.

20 Q You didn't have any money?

21 A No.

22 Q You were staying basically place to place?

23 A Yes.

24 Q And you're saying that Preston is just giving you
25 drugs?

Kalynne Carroll - Cross-examination
by Mr. Morin

1 A I was cleaning and there was -- they have pulled almost
2 everything out of the shed out in the backyard and they was
3 doing a lot of organizing and stuff and I mean --.

4 Q So you were doing some -- you were working it---

5 A Yes.

6 Q ---working that -- doing that work to get---

7 A Yes.

8 Q ---it?

9 Now, tell me about this receipt. I'm interested in
10 this.

11 You're saying that he gave Connie and Lynn money and
12 drugs and a receipt was written out and they signed it?

13 A Yes, I wrote the receipt out.

14 Q Right.

15 where did the receipt go?

16 A I don't know. There was one copy I know that went --
17 stayed with him, and then the other one Connie and Lynn had.

18 Q All right. Well, while, while you were helping him
19 sell drugs, is that something that would happen?

20 A I was not helping him sell drugs.

21 Q Okay. Well, let me back up then.

22 You drove him places and you've already testified you
23 knew he was going to sell drugs there, correct?

24 A I was not driving. I was riding.

25 Q You were riding.

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1 You had a scale that you would give him when he needed
2 it to sell drugs, is that correct?

3 A He never needed it. The other one always worked.

4 Q Okay. So you had all these things and you were with
5 him, but you really weren't with him.

6 Is that your testimony?

7 A I was present, yes, I was.

8 Q All right. Now, it's my understanding that when
9 this -- when law enforcement was there, Brandon Gardner,
10 Nick Federico, Tracy Fowler, Jot Blackwell, Nathan Walker,
11 all law enforcement, correct?

12 A Yes.

13 Q Wearing sheriff's -- what they call -- wearing
14 sheriff's -- I think it says Sheriff, Cherokee County
15 Sheriff, got all kinds of stuff on them. They're clearly --
16 none of them were plain clothes. They all are wearing
17 something that identified them at least by a jacket.

18 A Yes, I knew who they were.

19 Q All right. And they all had guns?

20 A Uh-huh. (Affirmative).

21 Q And your testimony is, is that Mr. Blackwell, with them
22 present, said you take them and that's what happened?

23 A Yes.

24 Q Okay. And you're saying that you did it because you
25 were afraid because that man over there, and there was only

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1 six law enforcement officers around you at the time, you
2 were afraid of him?

3 A Yes, I was.

4 Q And it's because he had a gun?

5 A Uh-huh. (Affirmative).

6 Q Did he have a gun that day?

7 A I didn't see it.

8 Q Did he keep the gun in the house?

9 A Yes, he always had it on him. It was a black gun.

10 Q He always had it on him?

11 A Yes.

12 Q I notice that you had a phone.

13 Can, can you tell me about that?

14 A It was a phone that only you could use on Wi-Fi that I
15 was actually -- he was letting me use. I had to leave it
16 there when I left.

17 Q So he always provided you a phone?

18 A That I could only use there on Wi-Fi. It didn't have
19 no service.

20 Q And after you got to the jail, then you changed your
21 story to it's really not mine?

22 A When we were separated, yes.

23 Q Right.

24 Because out there -- the, the officers just let you and
25 him walk around together---

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1 A No.

2 Q ---and mingle?

3 A No, I was sitting on the couch.

4 Q But that wasn't separated?

5 A He went to the restroom after they got done talking to
6 him. He came down and sat beside me on the couch.

7 Q And you still have a charge pending?

8 A Yes.

9 Q And you're hoping that your cooperation here today will
10 assist you with your charge?

11 A No, I will testify against myself just like I am now
12 because I'm not guilty. It is not mine.

13 MR. MORIN: One moment, Your Honor.

14 THE COURT: Yes, sir.

15 (Pause.)

16 MR. MORIN: That's all I have.

17 THE COURT: Redirect.

18 SOLICITOR LESKANIC: No, Your Honor.

19 THE COURT: You may step down.

20 Do you wish to excuse the witness?

21 MR. MORIN: Yes, Your Honor.

22 THE COURT: Any objections?

23 Any objections to excusing the witness?

24 MR. MORIN: No, sir.

25 THE COURT: You're free to go, ma'am, if you'd like.

1 You can stay if you'd like. Thank you.

2 SOLICITOR LESKANIC: Your Honor, at this time---

3 THE COURT: You may call your next witness.

4 SOLICITOR LESKANIC: The State rests, Your Honor.

5 THE COURT: All right. Ladies and gentlemen, that
6 completes the presentation of evidence by the State. At
7 this time there's some matters I have to take up with the
8 attorneys outside of your presence. I'm gonna ask you to
9 step back to the jury rooms -- the jury room.

10 As always, I'll ask you not to discuss anything about
11 the case until I've asked you to do so.

12 You may retire to the jury room.

13 (WHEREUPON, the following takes place outside the
14 presence of the jury.)

15 THE COURT: Any motions at this time?

16 MR. MORIN: Yes, Your Honor.

17 One, we have a motion for a directed verdict in that
18 the jury would have to speculate as to whether or not my
19 client's guilty, and the second one, I'm not -- I don't
20 recall them establishing jurisdiction in Cherokee County.
21 We've talked about the address a bunch, but I don't recall
22 that, and if that being the case, I would make a directed
23 verdict on the failure to do that.

24 THE COURT: Ms. Leskanic.

25 SOLICITOR LESKANIC: Thank you, Your Honor.

1 with regard, first, to the directed verdict motion, it
2 only has to be a slight amount of evidence for the State.
3 we have multiple people testify that they saw the defendant
4 with this methamphetamine, with that container, and Ms.
5 Carroll actually testified she saw him divide up the meth
6 that was in those baggies before she fell asleep the night
7 before.

8 We had the SLED analyst testify that there was over 13
9 grams of methamphetamine found, which brings us to the
10 trafficking amount. Through trafficking you can have
11 possession or constructive possession. I believe the
12 testimony shows that he had dominion and control over the
13 residence. He was the one that was there all of the time.
14 He certainly had dominion and control over that container.
15 So I believe that would get us past the directed verdict.

16 with regard to the jurisdiction, I recall, when
17 Detective Fowler testified, who was the State's first
18 witness, that I asked him if they went out to [REDACTED] Garvin
19 Lake Road in Cherokee County. He said yes and I said that
20 address is in Cherokee County and I believe his response was
21 yes.

22 MR. MORIN: I, I'll withdraw my motion on jurisdiction
23 then.

24 THE COURT: Do you---

25 MR. MORIN: I was trying to remember, but I recall

1 that.

2 THE COURT: You recall that?

3 MR. MORIN: Yes, Your Honor.

4 THE COURT: Okay. And I do find that there are, based
5 on the evidence that's been presented, that there is
6 sufficient evidence to justify the case moving forward to
7 the jury. So I will deny the motion for directed verdict at
8 this time.

9 I do want to inquire of your client concerning his
10 right to testify in this matter.

11 MR. MORIN: Yes, Your Honor.

12 THE COURT: So I'll ask that the clerk, at this time,
13 place Mr. Blackwell under oath.

14 If you'll stand, Mr. Blackwell, and you'll be placed
15 under oath please.

16 (WHEREUPON, the defendant was placed under oath at this
17 time.)

18 THE COURT: You can be seated, Mr. Blackwell. You can
19 sit down.

20 (Defendant complies.)

21 THE COURT: Mr. Blackwell, we have, we have reached the
22 stage of this trial where you have the right to present your
23 defense. I'm going to go over some matters that involve
24 your constitutional rights. When I finish, if you have any
25 questions about what I've explained to you, I'll give you an

1 opportunity to ask those questions. I want to be sure that
2 you fully understand what I'm going to go over with you at
3 this time.

4 Do you understand what I'm doing at this point in time?

5 THE DEFENDANT: (Nods affirmatively.)

6 THE COURT: You have to answer me verbally, sir.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Thank you.

9 We -- as I've said, we've reached the stage of the
10 trial where you can present your defense, and, as part of
11 that defense, you have the right to testify in this case.
12 You also have the right to take advantage of certain
13 protections that are given to you by the United States
14 Constitution. Specifically, I'm referring to the Fifth
15 Amendment to that Constitution. It reads, in part, that no
16 person can be compelled, in any criminal case, to be a
17 witness against himself.

18 What that means is that, while you have the right to
19 testify, you also have the right not to testify. That means
20 you can not be required to testify in this case.

21 The right to testify in this case or the right to
22 remain silent in this case is a personal right. It belongs
23 only to you. No one can waive or give up the right to
24 remain silent in this case except yourself.

25 Now, if you decide to testify, you will be subject to

1 the same rules that govern the testimony of any other
2 witness. That means you would be examined by your lawyer
3 and cross-examined by the State.

4 Now, I do not know if the State has any convictions
5 that it intends to use for impeachment purposes.

6 SOLICITOR LESKANIC: Yes, Your Honor.

7 THE COURT: Could you advise us of that at this time?

8 SOLICITOR LESKANIC: He has a burglary second degree
9 conviction it looks like in 2013 that would certainly fall
10 within something that carries more than one year, Your
11 Honor.

12 THE COURT: All right. Well, the State has indicated
13 that there would be convictions that they would try to use
14 against you if you decided to testify, and I will tell you
15 that, if there are convictions that involve dishonesty
16 and/or false statements or for crimes that are punishable by
17 imprisonment for more than one year, and this Court were to
18 make the determination that the probative value as to your
19 credibility of admitting that evidence outweighs its
20 prejudicial effect to you, if I made that ruling, the
21 solicitor then would be able to enter your -- that record to
22 attack your credibility.

23 Now, if you decide to testify, the decision must be
24 made freely and voluntarily by you with knowledge of the
25 protections given to you by the Fifth Amendment and the

1 consequences that could result from your decision to
2 testify. I will advise you that, if you decide not to
3 testify, I will instruct the jury that they are to give that
4 fact no consideration at all in reaching a verdict in this
5 case. In fact, I will advise them and instruct them that
6 they could not even discuss the fact that you did not
7 testify among themselves during their deliberations.

8 Now, do you understand the rights that I've gone over
9 with you?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you have any questions about them?

12 THE DEFENDANT: No, sir.

13 THE COURT: I will tell you that, in deciding whether
14 or not to testify in the case, you have the right to consult
15 with anyone that you choose to consult with, your lawyer,
16 family, friends, anybody else, but I told you in the
17 beginning, the decision on this point is your decision and
18 your decision alone.

19 So do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Have you had a chance to discuss this
22 decision with your lawyer?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Have you had a chance to discuss it with
25 anyone else that you'd like to discuss it with?

1 THE DEFENDANT: No, sir.

2 THE COURT: Is there anyone else that you would like to
3 discuss this with?

4 THE DEFENDANT: No, sir.

5 THE COURT: All right. Have you made a decision as to
6 whether or not you will testify in the case?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you intend to testify?

9 THE DEFENDANT: No, sir.

10 THE COURT: All right. Now, does the defense have
11 other witnesses that you wish to call?

12 MR. MORIN: No, sir.

13 THE COURT: All right. So what I'm gonna do then is
14 I'm gonna take a short break. Looks like we'll be going
15 directly into closing arguments.

16 I do not recall that the defense introduced any
17 evidence in the case.

18 Do you -- is there any?

19 MR. MORIN: No, sir, I did not.

20 SOLICITOR LESKANIC: Unfortunately not, Your Honor.

21 THE COURT: All right. Then I believe the State will
22 be going first followed by the defense in closing arguments.

23 So we'll take about a five to ten minute break before
24 we bring the jury back and go into closing arguments.

25 The Court will be in recess. I'll stay on the bench.

1 (WHEREUPON, a short recess was taken at this time.)

2 THE COURT: All right. Let's come to order please.

3 All right. Mr. Morin, I will call on you to ask if you
4 have any witnesses so you can rest on the record when the
5 jury comes back.

6 MR. MORIN: Okay. Your Honor, to charges---

7 THE COURT: Yes, you want to discuss---

8 MR. MORIN: I think if we're gonna go straight through
9 we might want to cover that real quick.

10 THE COURT: Any request -- specific request to charge
11 from the State?

12 SOLICITOR LESKANIC: I don't think so. I guess we'll
13 have possession and constructive---

14 THE COURT: From the defense?

15 MR. MORIN: I assume you're gonna do circumstantial.
16 Usually you do.

17 THE COURT: Yes.

18 MR. MORIN: Mere presence.

19 THE COURT: Yes.

20 MR. MORIN: We would request the lesser included
21 possession.

22 THE COURT: What?

23 MR. MORIN: Possession.

24 THE COURT: You want me to -- I'll hear from the State
25 on that one.

1 SOLICITOR LESKANIC: I think, if it's his, Your Honor,
2 we'd have a trafficking amount. I mean there's -- we don't
3 have to prove anything else other than the amount of the
4 methamphetamine to get to trafficking. It's not like
5 possession with intent to distribute where we may have to
6 prove some sort of intent. This is just based on the
7 amount. So I would say that it's trafficking or nothing.

8 MR. MORIN: Well, Your Honor, I don't know that the
9 statute works to automatically do that, but---

10 THE COURT: Is there any evidence that the drugs that
11 were located there were less than the amount there---

12 MR. MORIN: No, sir.

13 THE COURT: So the real question then becomes whether
14 or not -- whose drugs they were.

15 MR. MORIN: well, I understand that, but obviously, by
16 that logic about the weight, the jury would -- you'd have to
17 say well, then they have to accept these are drugs, but they
18 don't have to. They can look at it and decide based on what
19 was testified---

20 THE COURT: well, for me to charge or offer a lesser
21 included, there's got to be evidence which supports -- could
22 support that verdict, and I don't know that -- and since the
23 only element we're talking about that would be different
24 between possession and trafficking would be the amount of
25 the drug, and there's no evidence in the record other than

1 that the amount is over the statutory limit.

2 MR. MORIN: Okay.

3 THE COURT: Do you follow me?

4 MR. MORIN: Yes, sir.

5 THE COURT: So I'm trying to find -- see if there's any
6 evidence that would support anybody being guilty of simple
7 possession given the fact that they are in the record -- the
8 evidence that's in the record.

9 MR. MORIN: Yes, Your Honor. I, I understand.

10 THE COURT: You know, I'll, I'll -- you want me to stop
11 and see if I can find a case that says something---

12 MR. MORIN: No, sir.

13 THE COURT: ---like that?

14 MR. MORIN: No, sir, we'll -- that will be fine.

15 THE COURT: All right. I intend just to offer it to
16 the jury as, as a trafficking case. Not -- I just don't see
17 any evidence---

18 MR. MORIN: That's fine.

19 THE COURT: ---that would indicate there's less than
20 the statutory amount, which is between 28 and 100 grams.

21 MR. MORIN: Ten to 28.

22 THE COURT: Ten to 28. I'm sorry.

23 MR. MORIN: Yes, Your Honor.

24 THE COURT: All right. Anything else?

25 I am gonna charge mere presence. I will do that.

1 MR. MORIN: Okay.

2 THE COURT: And I will charge circumstantial evidence.

3 MR. MORIN: That's fine.

4 THE COURT: All right. Bring the jury in.

5 That's my intention at this time, Mr. Morin. I'm gonna
6 look into it further and see how that goes.

7 SOLICITOR LESKANIC: And if you do consider that, I'd,
8 of course, like to be heard on it again, Your Honor. Thank
9 you.

10 THE COURT: Sure.

11 (WHEREUPON, the following takes place within the
12 presence of the jury.)

13 THE COURT: All right. The record will reflect that
14 the jury has returned to the courtroom.

15 When we broke earlier the State had completed the
16 presentation of its evidence. At this time the defense has
17 the right to call witnesses.

18 Does the defense wish to call any witnesses?

19 SOLICITOR LESKANIC: No, sir, at this time defense
20 rests.

21 THE COURT: All right. So that completes, that
22 completes the presentation of evidence in the case. Once I
23 told you we reached this stage in the proceedings the
24 attorneys would be given their second opportunity to
25 directly address you through their closing arguments. In

1 this case the State will be going first.

2 Ms. Leskanic, you may proceed for the State.

3 SOLICITOR LESKANIC: May it please the Court?

4 THE COURT: Yes, ma'am.

5 SOLICITOR LESKANIC: Thank you, Your Honor.

6 Good morning again, ladies and gentlemen.

7 I appreciate your attention during the case, and I know
8 that y'all listened. So I'm only gonna kind of hit the
9 highlights of what I think is important in the trafficking
10 case.

11 Detective Fowler knocks on the front door. The
12 defendant says oh, shit, the police. He grabs the metal
13 container off the air conditioning unit right by the window
14 by the front door. He runs to the room on the right side of
15 the house. He shoves that container containing
16 methamphetamine, over 13 grams and half of his Viagra
17 prescription, shoves it under the mattress and then let's
18 the police in the back-door.

19 Kalyne Carroll never got out of bed. She was on the
20 opposite side of the house. Julie Lawson told you that.
21 Kalyne Carroll told you that.

22 The police search. The police find it. He sits down
23 next to Kalyne Carroll, a 20 something year old meth addict
24 who moves from home to home, pillar to post, and keeps all
25 her belongings in a plastic bag, what isn't stolen from her

1 or left at other places, and said you take it. I'll get you
2 a lawyer. I'll get you some help. If you don't, I'll get
3 you.

4 She knew that he would cause he pointed a gun at her in
5 the past. She'd known him just for a few months, and,
6 during that time he's already pointed a gun at her, and she
7 said I saw him point a gun at other people too. Julie
8 Lawson told you, when I was at the store with him, he went
9 up to my husband and threatened to kill him.

10 This is who we're dealing with, ladies and gentlemen.
11 This is Preston Blackwell.

12 It was his home. Now, for part of the trial yesterday
13 the defense was trying to ask well, do you have a deed, do
14 you have a mortgage. You don't have to. You can, you can
15 rent or you can just reside somewhere.

16 But for over seven years Lynn knew him and knew his
17 girlfriend, wife, DeeDee. She went to that home at [REDACTED]
18 Garvin Lake Road. Julie went there for two weeks. Always
19 him at the house. Kalyne was there dating the stepson and
20 seeing the defendant for about three months.

21 Guess who was always there?

22 Preston Blackwell.

23 It's cause it's his house. It's where he lives. It's
24 where he resides.

25 The defense wanted to make an issue of that. It's his

1 home, ladies and gentlemen. Even Detective Fowler testified
2 I lived oh, a mile away. I know that's his house. And the
3 other officers know that it's his house because they been
4 called out there before.

5 what do we know for sure in this case and what's the
6 issue for you?

7 we know this is trafficking. We know that because the
8 SLED analyst was here and he told you that the substance in
9 this package was methamphetamine. In these baggies was
10 methamphetamine. And he told you the weight of it. And
11 it's over 13 grams. And under the law, if it's between
12 10 grams and 28 grams, it's trafficking if you have
13 possession or constructive possession.

14 what's constructive possession?

15 Judge Couch is gonna instruct you on the law, but what
16 it means is I don't have to necessarily have to have this in
17 my pocket though the testimony was that's where he normally
18 kept it. But if it's mine, even if I set it down right
19 there, I have constructive possession. It's still mine.

20 So the fact that it's not in this his pants pocket,
21 that it's under the mattress when they find it, he still has
22 control of that because it's his. That's constructive
23 possession.

24 So did he possess it or have constructive possession
25 and was it over 10 grams?

1 Yes. He's guilty of trafficking.

2 Police go into the house and find baggies. Lots and
3 lots of baggies. Lots and lots of baggies. And Sergeant
4 Federico, qualified as an expert because he does this all
5 the time, you don't keep baggies if you're a user. The user
6 gets the baggy with the meth in it from the seller. The
7 only person that needs to put the meth in a little baggy is
8 the one selling it to the user, to the meth addict, to the
9 Julie Lawson, to the Kalyne Carroll of the world.

10 why are these young girls over at his house?

11 why are these two young ladies spending so much time
12 with Preston Blackwell?

13 Cause they're meth addicts and they told you that and
14 it's a sad thing when you just go anywhere that you can to
15 get your next high, when you don't have a place to call
16 home, when you don't have a penny in your pocket. But
17 that's what they were doing.

18 Julie Lawson would drop her husband off at work and
19 come right back and stay with Preston Blackwell to get high,
20 and Kalyne Carroll would just move from house to house to
21 get high.

22 Now, at the beginning in openings, Mr. Morin said
23 someone claimed it, but he's on trial. It's true. Somebody
24 did claim it. Ms. Carroll claimed it. But we can stop
25 right there, Ms. Prosecutor, and say yep, got our girl. But

1 the judge told you and I told you at the beginning what this
2 is, and it's not a search for a conviction. It's a search
3 for the truth.

4 So why did she claim it and why, before she was even
5 booked into jail, did she say I need to talk to you?

6 It's worth looking into. That's the search for the
7 truth. That's the search that we've asked you to do. She
8 gave officers a detailed statement once she got in jail,
9 once she got out of the presence of Preston Blackwell, and
10 she told them about Lynn and Connie coming over. The police
11 didn't know that cause Lynn and Connie were not there when
12 the police came the next day with the search warrant.

13 So we tracked down Lynn and Connie. Let's get to the
14 truth. That's what we want. So we bring Lynn and Connie
15 in.

16 Tell me about him. Lynn, I've known him for seven
17 years, bought meth from him, seen him write down what I owe
18 him in that notepad. He always keeps it in this Gamecock
19 container. I went there the day before to sell him a car.
20 We smoked some meth. He got it out of this container. He
21 loaded the bowl.

22 Connie said the same thing. We went by there. First
23 time she met him, but he got the meth out of the container
24 and they smoked meth together.

25 That's what Kalyne Carroll told the police, and then

1 they came in and said that's right.

2 There's, there's no evidence that the drugs belonged to
3 Julie Lawson. No evidence. Her case was dismissed. Yet,
4 Kalyne Carroll said very quickly it was hers and just as
5 quickly I need to talk to you. So then you have to figure
6 out who does it belong to. We know it's trafficking. Now
7 who's guilty of it.

8 whose house was it?

9 Do you think Kalyne Carroll could actually boss around
10 Preston Blackwell?

11 she's the big kingpin?

12 She's the one with over \$1,300 worth of methamphetamine
13 in that house?

14 Her clothes are in a plastic bag in somebody else's
15 house. She didn't have \$1,300 for anything. She didn't
16 have a dollar.

17 She's not the drug dealer, ladies and gentlemen. She's
18 a meth addict. She did what she thought she had to do
19 inside that home in a split second when she'd been up for a
20 week high on meth, finally crashed, slept for a couple hours
21 until she was awakened by narcotics agents.

22 Inside his wallet, it says on the outside owe list.
23 Now the defense was trying to say well maybe it's not people
24 that owe him. It's people that he owes.

25 okay. Then there's a jail phone call where he tells

1 Lynn Tiny owes me 620. Tiny owes me 475. I think this is
2 people who owe him.

3 And what do they owe him for?

4 Jersey, an 8B.

5 Mike, half an 8B.

6 Butch, quarter.

7 Lynn, a quarter.

8 Greg, 2 grams.

9 It's drug talk. It's meth talk. This is how he kept
10 up with who owed him for the methamphetamine that he kept
11 every single day in this container.

12 Judge Couch asked you to use your common sense and I'm
13 asking the same thing.

14 Who would have the means to put \$1,300 worth of meth
15 and half a Viagra inside this container?

16 Every single witness that came in here, Lynn, Connie,
17 Julie, Kalyne, all said he always had it in that container,
18 and Kalyne was asleep on the opposite side of the house
19 when Detective Fowler saw somebody grab the metal container
20 and run to the bedroom where it was found.

21 Now, I think, and I don't know, I only get to talk to
22 you one time. Mr. Morin gets to stand up and talk next and
23 I'd love to have another chance to get up and say things
24 about what he says or talk about it, but this is my one and
25 only chance to stand before you. So they're gonna be things

1 that he says that, like I say, I'd love to come back up and
2 explain or give you my thoughts on it. I don't get to. So
3 I have to try to anticipate some of the things that I think
4 he will say.

5 One of them struck me yesterday was that Nick Federico,
6 Sergeant Federico said that this drug ledger was found in
7 the wallet of the defendant, and when Brandon Gardner went
8 through the consent to search form with you, he's got living
9 room. Uh oh.

10 Okay. Here's the thing. I want you to look closely at
11 the consent to search form because everything on here just
12 has a room of the house that it's found in. The, the metal
13 container, it doesn't say it was found under the mattress.
14 It says right bedroom. Everything on here states the room
15 that it was found in, okay, where they got the wallet.

16 I just don't want little things like that to trip you
17 up, ladies and gentlemen. Everything on here states a room.
18 Not a particular location. The same thing with the wallet
19 and the memo pad.

20 On the jail call, he tells Lynn, I had more, if you
21 know what I mean. Y'all can listen to those again. If
22 there's any testimony from anyone that you want to hear
23 again, you can ask that it be played back for you. Listen
24 to the jail calls again. You'll have the evidence to take
25 back with you. But if there's something you're not sure of,

1 if I say something and you're not sure of it, you can ask to
2 have it, have it heard back.

3 But on one of those jail calls when he talks about get
4 money from Tiny, get money from Heidi, they're other people
5 that owe me, and I had more, if you know what I mean.

6 Tell B that girl claimed it. We're good. That girl
7 claimed it. That girl who has no place to live and is a 20
8 something meth addict and she did, but it wasn't hers, and
9 none of the evidence points to it being hers, and, and
10 that's what I mean by a search for the truth.

11 You could just look at that and say, okay, case closed,
12 got our girl, but that's not what we do, and that's not what
13 juries do. You look at the evidence and every piece of
14 evidence that's in his home, baggies in his home, dope in
15 his home, drug ledger in his home, meth addicts in his home,
16 and they said while they're there, people come in and out.
17 Ms. Carroll stated they, they bring money or they bring
18 stuff.

19 What were the police out there looking for?

20 Stolen goods, when they first came. You can trade meth
21 for money or for stuff.

22 None of the evidence points to Kalyne Carroll. You
23 won't find one thing except for that said it with hers, and
24 I know that's where the defense is going to go. But, ladies
25 and gentlemen, that's not searching for the truth. That's

1 taking an easy way out, and that's not what we do. That's
2 not why you're hear.

3 Lynn testified that she saw the defendant with this
4 container over the last seven years before he ever knew
5 Kalyne Carroll. This isn't hers. I mean Lynn saw it
6 before he knew Kalyne Carroll existed.

7 Kalyne Carroll would have to be the mastermind drug
8 dealer for you to say not guilty. It's not her house. It's
9 not her drugs. It's not her baggies. It's not her drug
10 ledger. He said oh shit, he grabbed his container, he hid
11 it under the mattress, the police found it, and he's guilty
12 of trafficking, and I ask you to find him guilty.

13 Thank you.

14 THE COURT: Mr. Morin, you may proceed for the defense.

15 MR. MORIN: The Judge is gonna tell you in a little bit
16 the State has the burden of proving, beyond a reasonable
17 doubt, that my client's guilt of trafficking. Beyond a
18 reasonable doubt. And I was thinking about that and I
19 thought, you know, a reasonable doubt is a doubt that causes
20 a reasonable person to hesitate to act, and recently my
21 daughter and I were looking for a used car, and I started
22 thinking about that.

23 If you've ever looked for a used car, you know you look
24 at something and you say well, that looks pretty good.

25 Then you open the hood and it's leaking everywhere or

1 you drive it and it turns out it's been in a wreck and what
2 do you do?

3 Do you buy it or do you hesitate to act?

4 You hesitate.

5 The evidence the State has brought is full of leaky
6 transmissions and other things, and that's what I was asking
7 about. All I was asking is to test the things that were
8 being said.

9 Okay. So the witnesses on this, this is Kim Leskanic's
10 little used car lot and she's trying to convince you she's
11 convincing, and it's been so bad in here that we've gotten
12 to this point and now she's telling you some of her cars
13 don't work. About living rooms is where notepads were found
14 and this is what they're gonna say. Now she's pointing out
15 problems in her case.

16 Nick Federico -- well, let me ask you this.

17 A search for the truth?

18 How many of you in here believe, from the evidence you
19 saw, they went out there to find stolen property?

20 Let's start with that. Tracy Fowler, CID, criminal
21 investigations. Jot Blackwell, criminal investigations.
22 Nathan Walker, criminal investigations.

23 They went out there, they say, to find stolen property
24 and get this. They say they found it, but they didn't
25 charge him. There's two other people there with them.

1 who are they?

2 Nick Federico and Brandon Gardner. I -- they got an
3 elderly gentlemen who they think has some stolen property.
4 So they don't have enough in CID. So they bring two other
5 narcotics agents.

6 Do you think they went out there for stolen property or
7 do you think they went out there looking for drugs?

8 Because the expert, Nick Federico, said well, yeah, she
9 claimed it, but we didn't believe her, and he never said
10 why. We just don't believe her.

11 Well, if you don't believe her and you're convinced
12 that you're gonna, you're -- that this is the gentleman
13 that's guilty, then why are you asking her if this is hers?

14 We don't believe her. We didn't believe her.

15 It's constructively possessed. He didn't have to have
16 this in his pocket, but that all applies only to
17 Mr. Blackwell. It doesn't apply to anybody else who was in
18 there who can exercise control over it.

19 He ran into the bedroom. Name a witness that said he
20 ran -- they saw him run into the bedroom. There's not one.
21 They heard someone running into the bedroom on the right.
22 Coincidentally enough, they never heard that person come out
23 of there, but they heard him go in there.

24 Kalyne and Ms. Lewis, he always, he always had a gun,
25 and I asked him. And, and Federico -- Mr. -- Detective

1 Federico said if they'd been a gun, they'd been another
2 warrant, and they were looking for things that were this big
3 or this big or what fits in here.

4 So, if there's a gun, and that's an important thing for
5 their job, they'd of found it. So even though he always had
6 a gun, according to Ms. Lewis, always had a gun, I was
7 scared of him because he always had a gun, not only did he
8 not have a gun on him, they couldn't find a gun in the whole
9 house. That transmission is bad.

10 Why did Connie, Lynn Sizemore and Connie go to their
11 house, go to that house?

12 Why did they go?

13 They said they went there to check on DeeDee, and Lynn
14 told you today we never talked about DeeDee. We talked
15 about a car and we used drugs. If these things are so
16 simple -- if you have children you know they will lie about
17 the things that don't matter.

18 Kalyne wants you to believe that all of these police
19 officers were there and that man over there said you take it
20 and I'll take care of you, but they didn't hear any of it.
21 She was afraid because there was a lot of police officers
22 around and she was afraid of him. They couldn't protect
23 her.

24 She told Ms. Leskanic I had weigh -- scale. I was
25 driving around and he was doing this, but then when I asked

1 her she backed right off of that. Woa, wait a minute, I'm
2 not involved in any of this. I'm not involved. Yeah, I had
3 a scale, but woa, woa, woa, I didn't mean to say that I was
4 actually doing anything. I wasn't doing anything. She
5 wants to say Kalyne's not the mastermind.

6 Nobody up here, Lynn, who gave us some drugs, and
7 Connie gave her some drugs. Lewis gave us some drugs.
8 Kalyne gave her some drugs. Nobody gave him anything.

9 They were all staying there. They always keep --
10 always, that's what I love about this case, he always does
11 these things except when he doesn't do them. He always
12 writes it in a book like this except when I write a receipt
13 and give it to him. Then he doesn't do it that way. They
14 played the audiotape.

15 what was he saying?

16 I'm in jail and I don't know why. You -- they didn't
17 even show me the drugs they got. See look, look at the
18 shiny car where it says some people owe him. Don't look
19 underneath that the whole bottom is rotted out. Don't look
20 underneath that he says I didn't know -- somebody else
21 claimed it. Even their witness, Ms. Lewis, is gonna lie to
22 you.

23 Seriously, why would they do that?

24 You think they went out there for stolen property?

25 If they did he'd be charged. If they did, two narcotic

1 agents wouldn't of went with them.

2 Officer Federico is the lead officer on this case and I
3 asked him a series of questions about things he collected
4 that you would use to convict a person. He's done this for
5 three and a half years. They qualified him as an expert.
6 But simple stuff, like a picture of the house when you are
7 out there of the, this air conditioner that you claim is on
8 there, don't have it. I don't even have a picture of the
9 bedroom that they claim he was looking at the -- looking at
10 the bed.

11 Well, I don't know if the bed looks like it in the
12 pictures they gave you with the mattress all torn up.

13 Did they put it back the way it was?

14 I don't know.

15 He's got a digital camera and all he's doing is he's
16 standing over it like this. Well, he knows he's gonna bring
17 that to Court. He doesn't need that picture. If they want
18 to tell the story, if they want to convict him, if they want
19 to find beyond a reasonable doubt, how about showing us. He
20 had to get down here and he had to explain how the bed was
21 laid out.

22 I asked him about this bag that he testified about, and
23 I asked him, I said what if this bag has no weight?

24 would anybody pay for that?

25 would anybody want that?

1 No, nobody would want that.

2 I asked the SLED agent, how much is this?

3 No weight.

4 Now, he went into some technical thing about well, you
5 know, if it's below a certain thing, but the bottom line is
6 if you put it down on the scale, and which gets me to the
7 money, the kingpin drug pin that they claim that he is, and
8 the entire house, not only did they not find a gun, the most
9 money they could find was a dollar. She's claiming he's a
10 drug kingpin and he had a dollar and a notebook.

11 And what was the dollar for?

12 To pour meth on, which I don't understand, and he
13 didn't really explain.

14 For some reason you put the dollar on the scale and
15 then you take the amount of the dollar off of the scale, but
16 we didn't keep the dollar to see if that's what it was being
17 used for. We just -- that just went away just like the, the
18 charger that may or may not have been there. You know, Ms.
19 -- I think it was Ms. Lynn, she wasn't doing anything wrong.
20 She wanted her car. But when she went by, the police woa,
21 woa, the police are there. We didn't stop. We just kept on
22 going.

23 Did you ever give a written statement?

24 No, I never gave any kind of statement.

25 Did you ever talk to anybody?

1 Just talked last week. You got anything out there,
2 he's got a -- valuable personal stuff of mine out there that
3 I want, and I did ask a lot of questions about whether or
4 not she stayed there. My point was, was all these people
5 are staying pillar to post. All of them are moving around.
6 Lynn's there. Then she's not. Tiny's there sometimes and
7 he's not. Then she's there. They're all moving around.

8 They're telling you he's a drug kingpin with a dollar,
9 and they're basing that on two people that were in a car
10 accident, just got out of the hospital, taking Norco and
11 Lortab, come over there and smoking meth within a week of
12 coming out if you believe them. See cause if you want to
13 believe part of it, you know that's what they say. I, I
14 didn't put any words in their mouth. They said it.

15 We interviewed -- he said, he said we talked to all
16 three of them when we got to the jail.

17 I said did you read them their rights?

18 Yeah.

19 Did you go over this form?

20 Yeah.

21 Did you -- you got one for Kalyne?

22 Yeah.

23 You got one for Ms. Lewis?

24 Yes.

25 You got one for Mr. Blackwell?

1 No.

2 He's calling trying to find out why he's in jail. He
3 didn't see any of the drugs. He's saying it on the tape.
4 But they're like well, we didn't believe Kalyne. We just
5 didn't. We went out there because we knew he was there. We
6 took some for narcotic agents with us. We found some drugs
7 and they must be his. We don't -- we're not looking at
8 those other people.

9 I'm not saying that just because Kalyne said they're
10 hers that makes him not guilty.

11 But what did Kalyne say that was believable other than
12 huh, I didn't do anything, I'm just a drug user, and I
13 didn't do anything?

14 He was giving them to me for free. I was driving him
15 around except when I was only riding with him. She even
16 said that she was doing all these things to use drugs and
17 claims that he went to his son's house and they went in and
18 smoked meth, but she didn't go. She didn't go, but all she
19 was trying to do is get meth, and she was riding with them
20 and what they claim is the drug kingpin.

21 They didn't record anything. They didn't -- Lewis
22 didn't have to write anything. Lynn didn't have to write
23 anything down. Connie didn't have to write anything down.
24 Ms. Lewis was adding in all kinds of stuff. They didn't ask
25 me about the silver thing.

1 Well, either she's not telling the truth or their
2 expert witness on drugs is gonna have to do some more work.
3 You don't think -- Kalyne said that Mr. Blackwell came and
4 said whose is this. Now, if you believe that, you have to
5 also believe that Ms. Lewis was never asked the same
6 question because they didn't ask that.

7 Julie Lawson didn't see Kalyne for -- she didn't know
8 who was sleeping in there and hadn't seen her for a while,
9 but two days later earlier, according to Lynn -- Kalyne,
10 she picked me up and drove me over there. I was afraid of
11 Mr. Lewis (sic) because he always had a gun, didn't find any
12 gun, but I also brought a pit bull with me wherever I went,
13 and he was so frightened that the police had asked me to
14 take him outside before they would do anything, but I was
15 afraid of the old man with no gun while all the police were
16 there. Yeah.

17 When she was out there she told the truth. When she
18 got to the jail and realized I could go to jail, she did it
19 right here in front of him. Woa, woa, woa. I know I said
20 just a minute ago I had a scale to help him and I know I
21 said I drove him to places where I knew he was selling
22 drugs, but I didn't do it. She skated right back from that
23 because she was trying to protect herself.

24 Don't kid yourself for a second. Her case is either
25 gone away or it's just like Ms. Lewis or she's gonna stand

1 up and say oh, I told the truth about Mr. Blackwell. Don't
2 put me in jail. I didn't really know anything. I didn't
3 really do anything.

4 Why are they spending time there?

5 Every one of their witnesses who said they spent time
6 there said we didn't have any place to stay. He gave us a
7 place there. Oh, yeah, he also gave us drugs. We didn't
8 have to pay for the place to stay. We didn't have to pay
9 for the drugs. We didn't have to do anything. We just, we
10 just did it all. But he's the boss. He's the kingpin.
11 He's not even driving us.

12 My point this whole trial and this whole closing is the
13 evidence they provided you gives you a reason to hesitate to
14 act because every time they roll out a shiny car and take a
15 closer look at it, it's not that shiny. It's not something
16 you would buy, and they figure, if they keep rolling them
17 out, if we keep finding witnesses right up until last week,
18 if we roll out enough of them, maybe that will do it. They
19 all have reasons that their stories all missed on weird
20 things.

21 Always had a gun, I think one of them said, but not
22 that day. Always wrote the receipt except when I wrote the
23 receipt.

24 I submit to you that the evidence here is evidence that
25 would cause a reasonable person to hesitate to act. That's

1 the burden that the State carries. They brought the
2 witnesses in. They picked the evidence they wanted, and
3 what they didn't want, and that's all I'm asking, that's all
4 Mr. Blackwell is asking, that's the burden that they carry
5 and they knew they carried it when they went out there that
6 day to not arrest him for stolen property that they found on
7 a search warrant that they claim they were out there only
8 for that where they bought narcotic agents with them.

9 I submit, because there's a reasonable doubt, he's not
10 guilty of this drug kingpin they claim he is.

11 Thank you.

12 THE COURT: All right. Ladies and gentlemen, that
13 completes the arguments by the attorneys in this case. It
14 is now my responsibility to charge you concerning the law.

15 There is one matter I do need to discuss with the
16 attorneys before I do that. So I am going to ask you to
17 step back to the jury room. It will be a very short break,
18 and then we'll return for my charge on the law after that.

19 As always, I'll advise you not to discuss anything
20 about the case until I ask you to begin your deliberations
21 and that will be after I've finished that charge on the law.

22 You may retire to the jury room.

23 (WHEREUPON, the following takes place outside the
24 presence of the jury.)

25 THE COURT: All right. I did want to get back with the

1 attorneys concerning the question of the lesser included.

2 I have -- my law clerk's been assistance to me and
3 found a couple of cases that I think might apply.

4 State versus Granby, which is a South Carolina Supreme
5 Court case from 1991, and that quotes a case named Matthews
6 versus State, which is another Supreme Court case from 1990.

7 The conclusion on those was where the undisputed
8 evidence is that the amount involved exceeds the minimum
9 trafficking amount, then only the trafficking charge should
10 be submitted to the jury, and I didn't -- again, I didn't
11 hear any evidence as to the amount, conflicting evidence as
12 to the amount in the case. So I don't intend to submit that
13 to the jury.

14 Just wanted to make you aware of that before I closed
15 your arguments.

16 MR. MORIN: That's fine.

17 THE COURT: All right.

18 SOLICITOR LESKANIC: Thank you, Your Honor.

19 THE COURT: Anything further before we bring the jury
20 back, from the State?

21 SOLICITOR LESKANIC: Not from the State.

22 THE COURT: Anything from the defense?

23 MR. MORIN: No, sir.

24 THE COURT: Bring the jury in.

25 (WHEREUPON, the following takes place within the

1 presence of the jury.)

2 THE COURT: The record will reflect that the jury has
3 returned to the courtroom.

4 Ladies and gentlemen, when we began this case I went
5 over the indictment with you in the case, and I explained
6 that the indictment is the document that brings the case
7 into the Court. It informs us of the charge that's been --
8 to be tried and it informs the defendant of the charge
9 lodged against him.

10 Now, the indictment in this case is for trafficking in
11 methamphetamine. It is in Case Number 14-GS-11-638, and I
12 will give you the indictment for you to take back into the
13 jury room so that you can review the charge that's been
14 submitted in the case.

15 I will tell you that the charge states that the
16 defendant did, in Cherokee County, on or about May the 23rd
17 of 2014, knowingly sell, manufacture, deliver, purchase, or
18 bring into the State, or did provide financial assistance,
19 or did otherwise aid, abet, attempt, or conspire to sell,
20 manufacture, deliver, purchase, or bring into the State, or
21 did knowingly, actually or constructively, possess, or did
22 knowingly attempt to actually or constructively possess
23 ten grams or more, but less than 28 grams, of
24 methamphetamine, a Scheduled II controlled substance, in
25 violation of Code Section 44-53-375 of the Code of Laws of

1 South Carolina, 1976 as amended, against the peace and
2 dignity of the State and contrary to the statute in such
3 case made and provided.

4 Now, again, the indictment is not evidence in the case.
5 It can't be considered by you as evidence of guilt nor does
6 the fact that an indictment has been issued create any
7 presumption of guilt. Again, the document is simply the
8 formal written instrument which contains the charges made
9 against the defendant. It's the formal document by which
10 the case has been brought into this Court.

11 I told you earlier the defendant has pled not guilty to
12 the indictment. That plea, under the laws and the
13 Constitution both of this State and of the United States,
14 places the burden upon the State to prove the defendant
15 guilty of the allegations contained in the indictment. You
16 see a person who's charged with the commission of a criminal
17 offense in this State is never required to prove himself
18 innocent.

19 You know, it's an important rule of law that a
20 defendant, in a criminal trial, no matter how serious the
21 charge might be, is always presumed to be innocent of the
22 crime for which the indictment has been issued until and
23 unless guilt has been proven to you, the jury, by evidence
24 that satisfies you of that guilt beyond a reasonable doubt.
25 The presumption, the presumption of innocence doesn't end

1 when you begin your deliberations. The presumption of
2 innocence accompanies the defendant throughout the trial and
3 into your deliberations until such time as you reach a
4 verdict based on evidence that satisfies you of the
5 defendant's guilt beyond the reasonable doubt.

6 Now, some people describe the presumption of innocence,
7 to give you a mental picture, somewhat like the robe that a
8 judge wears into the courtroom. At the beginning of the
9 trial that robe or that presumption of innocence is around
10 the defendant's shoulders. It remains about his shoulders
11 throughout the trial. It remains about his shoulders into
12 your deliberations and accompanies him into your
13 deliberations. It remains about his shoulders until it has
14 been stripped from him by evidence that satisfies you of the
15 defendant's guilt beyond a reasonable doubt.

16 The presumption of innocence, therefore, is not just a
17 legal phrase and it's not just a legal theory. It's a
18 substantial right that all defendants are entitled to and
19 each and every defendant is entitled to until and unless
20 you, the jury, are satisfied, from the evidence, of the
21 defendant's guilt beyond a reasonable doubt.

22 Now, you've heard me refer to that standard of proof,
23 that is proof beyond a reasonable doubt, a couple of times
24 and let me explain it to you in a little more detail. You
25 may ask yourself well, just what is a reasonable doubt, how

1 do you define what a reasonable doubt is, and I will tell
2 you that, under the cases and under the law, a reasonable
3 doubt is been defined as that kind of, kind of doubt that
4 would cause a reasonable person to hesitate to act, and the
5 State has the burden of proving the defendant guilty beyond
6 a reasonable doubt.

7 I don't want you to be confused about one thing, and
8 let me just digress for a minute so that you understand the
9 difference. I don't know if any of you have ever been
10 involved in a case where someone is seeking monetary
11 damages. I explained earlier that there's two sides to the
12 Court. One where someone can seek monetary damages for
13 various reasons. That's the civil side of the courtroom.
14 And then the criminal side of the Court, the one that we're
15 in, where people have been charged with the commission of a
16 crime.

17 Now, on the civil side of the Court, the standard of
18 proof is proof by the greater weight of the evidence. Some
19 people describe it as the preponderance of the evidence.
20 When, when we talk about greater weight of the evidence on a
21 civil case, that means the scales of justice have tilted
22 ever so slightly either in favor of a plaintiff or in favor
23 of a defendant, and whichever way those scales tilt, that
24 side is entitled to the verdict. That's a civil case,
25 again, where someone is seeking monetary damages and that

1 could be for such things as breach of contract or failure to
2 pay a debt, things of that nature.

3 That's not the Court that we're in. We're in criminal
4 court, and in criminal court, Court of General Sessions, the
5 standard of proof is more powerful than that. It's proof
6 beyond a reasonable doubt. What I will tell you is that
7 proof beyond a reasonable doubt is that kind of proof that
8 leaves you firmly convinced of the defendant's guilt.

9 Now I'm gonna tell you they're very few things that go
10 on in this world that can be proven beyond any doubt
11 whatsoever, and the State does not have that level of proof.
12 It doesn't have that burden of proving it beyond any doubt
13 whatsoever. So, you know, the law doesn't require proof
14 that over, overcomes every possible doubt.

15 What I will tell you is that if, after your
16 consideration of the evidence, if you are firmly convinced
17 of the defendant's guilt beyond a reasonable doubt, you must
18 find the defendant guilty of the crime charged. However, on
19 the other hand, if you think there's a real possibility that
20 the defendant is not guilty, you must give the defendant the
21 benefit of the doubt and find the defendant not guilty.

22 During the trial we've had different duties to perform,
23 and I've had the duty of presiding over the trial, and I now
24 have the duty of charging you concerning the law, and I told
25 you that you should only consider the evidence that's in

1 this case. That is the evidence that was admitted into the
2 record of the case.

3 So if there was anything that was not admitted or was
4 not a part of the record, you shouldn't consider those
5 matters at all in reaching a verdict in this case. You are
6 to decide the case, again, from the evidence that's been
7 presented and put into the record of the trial.

8 I also have the duty of charging you concerning the law
9 that's applicable in this case, and I told you, at the
10 beginning of the trial, I will reaffirm that now. I am the
11 sole judge of the law in this case. Under your oath as
12 jurors, it's your duty to accept the law as I now give it to
13 you and apply that law to the facts as you determine the
14 facts to be. The law doesn't allow me to disagree with you
15 concerning your determination of the facts since you're the
16 sole judges of the facts in this case. That same law
17 doesn't allow you to disagree with me concerning the law to
18 be applied in this case since I am the giver or the sole
19 judge of the law in this case. So, under your oath as
20 jurors, you're to accept the law exactly as I give it to
21 you, and then apply that law to the facts as you decide
22 those facts to be.

23 Please don't take from anything that I say or do in --
24 during this charge on the law or at anytime during the trial
25 to indicate that I have an opinion as to how you should

1 determine those facts. You're the sole judge of the facts.
2 I have no opinion as to how you should determine the facts
3 in this case. You are the sole and exclusive judges of the
4 facts. It's your duty to take the facts as they've been
5 given to you, to determine the effect, the value, the
6 weight, and the truth of the evidence that's been presented
7 in this matter. That's your responsibility as the sole
8 judges of the facts in this case.

9 Now, in doing so, you have the right to consider two
10 types of evidence, and let me explain to you what I mean by
11 two types of evidence.

12 The law refers to one type of evidence as direct
13 evidence. Direct evidence is evidence presented by a
14 witness who claims to actually have seen the events or
15 participated in the events about which that witness is
16 testifying. In other words, that witness provides evidence
17 directly on the fact that's sought to be proven such as an
18 eye witness, someone who saw something, heard something,
19 felt something. That's what we mean by direct evidence,
20 testimony directly on the fact that's sought to be proven.

21 The other type of evidence that a jury is allowed to
22 consider is what we call circumstantial evidence. Now,
23 circumstantial evidence is proof of a chain of facts or
24 circumstances that indicate the existence of another fact.
25 I like to use a very simple example of what I mean by proof

1 of a fact by circumstantial evidence.

2 Let's say last night, before you went to bed, you
3 walked to your bedroom window and you looked outside that
4 window. You noticed the stars were shining. It was a
5 beautiful night. So you climb in bed and you went to sleep
6 and you didn't wake up all night long.

7 The next morning you got up and you went to that same
8 window in your bedroom and you looked outside. Now the sun
9 might of been shining when you got up and you went to that
10 window, but when you looked a little closer, you noticed
11 there's water dripping out of all the trees. You noticed
12 that the grass in the front of your house is wet where it
13 wasn't wet the night before. You notice there's now puddles
14 in the driveway or the road in front of your house that
15 weren't there the night before.

16 Now, during the night, you slept all night. You didn't
17 see it rain. You didn't hear it rain. So you can't testify
18 directly on the facts as to whether or not it rained or not,
19 but from that chain of facts or circumstances that you know
20 to be true, water dripping from the trees, wet grass,
21 puddles in the driveway that weren't there the night before,
22 you could reasonably infer that at sometime during the night
23 it rained.

24 So that's what we mean by proof of a fact from
25 collateral facts from which a main fact can be referred or a

1 chain of facts or circumstances that indicate the existence
2 of another fact.

3 Now, you, as the jury, should weigh all of the evidence
4 in this case. Both direct and circumstantial evidence. And
5 as I indicated, there's two types of evidence that we allow
6 you to consider, direct and circumstantial evidence.

7 Now, crimes can be proven by circumstantial evidence,
8 and the law doesn't make a distinction between the weight or
9 value to be given either to direct or circumstantial
10 evidence. However, I will tell you that to the extent that
11 the state relies upon circumstantial evidence, all of the
12 circumstances must be consistent with each other, and when
13 taken together, point conclusively to the guilt of the
14 accused beyond a reasonable doubt. If there are
15 circumstance that merely portray the defendant's behavior as
16 suspicious, then the proof would of failed.

17 As I told you, the State has the burden of proving the
18 defendant guilty beyond a reasonable doubt. That burden
19 rests with the State, whether or not the state relies on
20 either direct or circumstantial evidence or some combination
21 of the two types of evidence.

22 Now, in doing your job as jurors and finding the facts,
23 it's gonna be important that you determine the credibility
24 or the believability of the testimony you heard. That's
25 what credibility means. It means believability.

1 I told you to use your good common sense in making that
2 determination. I'll remind you of that and ask you to do
3 that again. As the sole judges of the facts, you have the
4 right to believe all of, part of, or none of what a witness
5 may have testified to. You can believe one against the
6 others or all the others against one.

7 You're the sole judges of the facts. That makes you
8 the sole judges of the credibility of the testimony that
9 you've heard in this case. You can consider whether a
10 witness has a bias or a prejudice one way or the other, has
11 an interest in the outcome of the trial, or may have had
12 some other motive in testifying. You can consider the
13 appearance of the witness, the manner they testified while
14 they were on the witness stand. In other words, again, use
15 your own good common sense and make a determination as to
16 the credibility and believability of the testimony that
17 you've heard from the witnesses who testified.

18 Now, I told you, when we were in the trial, we had
19 testimony from expert witnesses. I told you that I'd talk
20 to you a little bit more about testimony from expert
21 witnesses when I charged you on the law, and I told you
22 then, when that first one testified, that the rules of
23 evidence that govern how evidence comes into a courtroom
24 generally don't allow witnesses to testify as to their
25 opinions or their conclusions. At -- lay witnesses are

1 required to testify only about facts within their knowledge.
2 Not their opinions about those facts.

3 Now, an exception to that general rule is made for
4 witnesses who we call expert witnesses. That's witnesses
5 who, because of their education or experience, have become
6 an expert in some art, science, or profession, or calling,
7 and as to those witnesses who are declared to be experts,
8 they can testify as to relevant material matters in, in the
9 areas in which the witness claims to be an expert and
10 they're allowed to give their opinions within the area of
11 their expertise, and the reasons for those opinions.

12 I'm going to tell you that you can consider the expert
13 opinions received in evidence in this case like any other
14 evidence. You're the sole judges of the facts. You give it
15 the weight you think it deserves. If you decide, in
16 considering an expert's opinion, that it's not based on
17 sufficient education or experience or if you decide or
18 conclude that the reasons given by the expert in supporting
19 his opinion or her opinion are not sound or if you think
20 that opinion is outweighed by other evidence, you can
21 disregard an expert's opinion in its entirety if you choose
22 to.

23 You're not required to give an expert's testimony any
24 greater weight simply because it was given by an expert, and
25 you're not required to accept an expert's opinion even

1 though it may not be contradicted. In other words, you're
2 the sole judges of the facts and the credibility of the
3 witnesses. You weigh all of the evidence, all the testimony
4 of the witnesses including the testimony given by experts in
5 the case.

6 Now, I'm going to instruct you and I'm going to
7 emphasize to you that the fact that the defendant did not
8 testify in this case is not a factor that you should
9 consider in reaching your verdict in this matter or consider
10 in anyway in your deliberations in this matter. It must not
11 be considered by you in any manner whatsoever cause, you
12 see, every defendant has a Constitutional right to remain
13 silent, and the assertion of that right must not be
14 considered by you in your deliberations. I'll repeat to you
15 that, under your oath, you are to draw no conclusions
16 whatsoever from the fact that the defendant did not testify.
17 The fact that the defendant did not testify in this case
18 should not even be discussed by you during your
19 deliberations in the jury room.

20 As I've told you, the burden of proof is solely upon
21 the state. The defendant is not required to prove himself
22 innocent. The burden of proof remains upon the State to
23 prove the defendant's guilt beyond a reasonable doubt
24 throughout the trial.

25 Now, there's another factor that I want to make you

1 aware of under the law. That is the mere presence at a
2 scene of a crime is not sufficient to prove someone guilty
3 of that crime. A defendant's presence where a crime is
4 being committed or association with a person who commits a
5 crime does not make the defendant an accomplice, and an
6 aider, and an abettor of the person committing the crime.
7 The burden of proof is on the State to prove the elements of
8 the crime charged beyond a reasonable doubt, and if,
9 after -- if you find, after reviewing all of the evidence,
10 that the State has merely proven that the defendant was
11 present at the scene of the crime, and that they've not
12 proved, beyond a reasonable doubt, any participation in the
13 crime, you must find the defendant not guilty. The law is
14 that the proof, proof of someone at the scene of a crime by
15 itself alone is not sufficient to find someone guilty of the
16 crime.

17 Now, the crime that's charged in this case is
18 trafficking in methamphetamine, and, in that particular
19 case, the State must prove, beyond a reasonable doubt, that
20 the defendant knowingly sold, manufactured, cultivated,
21 delivered, purchased, or brought into the State, or provided
22 financial assistance, or in other, in any other way aided,
23 abetted, attempted, or conspired to sell, manufacture,
24 cultivate, deliver, purchase, or bring into the State, or
25 was knowingly in actual or constructive possession, or

1 knowingly attempted to become in actual or constructive
2 possession of methamphetamine. For the charge to rise to
3 the level of trafficking, the State must also prove, beyond
4 a reasonable doubt, that the amount of methamphetamine
5 involved was ten grams or more, but less than 28 grams.

6 Now, possession is an element of the crime, and to
7 prove possession, the State must prove, beyond a reasonable
8 doubt, that the defendant had both the power and the intent
9 to control the disposition or the use of the
10 methamphetamine. Under the law, possession can be either
11 actual or constructive.

12 Now, let me explain to you the difference between
13 actual and constructive possession.

14 Actual possession means that someone had the drug,
15 methamphetamine, in their actual physical custody. In other
16 words, on their person or within their reach or grasp or
17 control. That's what we mean by actual possession.

18 The other type of possession that can be proven and to
19 establish a crime is what we call constructive possession.
20 Now, constructive possession means that the defendant had
21 dominion and control or the right to exercise dominion or
22 control over either the drug itself, methamphetamine that
23 was found in this case, or the property on which the drug
24 was found. Again, mere presence at the scene where drugs
25 are found is not enough to prove possession.

1 Now, the -- I will tell you that two or more persons
2 can have possession of a drug.

3 Now, under the law, I want to define some of the terms
4 that I used in this.

5 Deliver means to actually or constructively attempt to
6 transfer a drug.

7 Distribute means to deliver by means other than legally
8 administering or dispensing a drug.

9 Manufacture means to produce, prepare, convert,
10 process, plant, cultivate, grow, or harvest a drug or
11 naturally or chemically.

12 Manufacturing, manufacturing includes any packaging or
13 repackaging of the drug or labeling or relabeling of the
14 drugs container.

15 Now, ladies and gentlemen of the jury, I'm gonna ask
16 Tammy Hoilo to raise her hand.

17 (WHEREUPON, the juror raises her hand.)

18 THE COURT: You're gonna be the foreperson of the jury.
19 That means you'll be the person who's responsible to conduct
20 the discussions of the jury. In other words, to be sure
21 that they're presided over.

22 As the, as the deliberations go forward, if the jury
23 has a question that you would like to ask of me, I'm going
24 to ask you to get the jury to agree on the form of the
25 question, write on a piece of paper, hand it to the bailiff.

1 He'll submit it to me. I'll go over it with the attorneys
2 and determine what the appropriate answer might be.

3 I'll tell you there's some questions we can't answer
4 during your deliberations because we can't get involved in
5 your decisions concerning the facts. You're the sole judges
6 of the facts in this case.

7 We could answer questions about perhaps the procedure
8 that we follow, my charge on the law as it's been indicated,
9 certain questions about the evidence such as allowing you to
10 view evidence or go over evidence again, things of that
11 nature.

12 But I'm not gonna ask you, ma'am, to edit any question
13 the jury might have. Simply agree on the form of the
14 question, submit it through the bailiff, and I'll decide
15 what the appropriate response should be to the question
16 that's been asked.

17 Also, ma'am, I'm going to give you a verdict form in
18 just a few minutes and I'll go over that with you. And when
19 the jury has reached a unanimous conclusion as to the
20 question that's asked on that form, it's your job to record
21 that verdict on the verdict form, sign it, knock on the
22 door, inform the bailiff that a verdict's been reached, and
23 then the jury would be asked to come back to the courtroom
24 in order for the Court to receive a verdict from you.

25 Now, I told you earlier I don't appoint a foreperson

1 until the end of the trial because that person's no more
2 important than any other juror in reaching a verdict. All
3 12 of you must agree upon the verdict before it becomes the
4 verdict of the jury. So that person will preside over the,
5 the -- your discussions and will record the questions and
6 verdict, but that person has no greater say in the outcome.
7 All of you must agree upon the verdict before the jury has
8 reached a verdict in this case.

9 Now, I've gone over a great deal of information with
10 you. I'll go ask the attorneys to go over it with me to be
11 sure I haven't misspoken concerning the law. There's a good
12 bit of evidence here. We'll gather that evidence together
13 cause you're entitled to see that in the jury room with you
14 when you're going over the, the issues that are before you.
15 So I want to be sure that only the properly admitted
16 evidence gets to you in the jury room. So we'll go through
17 that and be sure we have that separated.

18 So there's a couple of housekeeping matters I need to
19 go over with you at this point in time. I'm going to ask
20 you, this may be the last time I ask you to do this, to go
21 back to the jury room. Don't begin any discussions until I
22 bring you back into the courtroom to hear final
23 instructions.

24 At this time you may retire to the jury room.
25 (WHEREUPON, the following takes place outside the

1 presence of the jury.)

2 THE COURT: Any exceptions to the charge from the
3 state?

4 SOLICITOR LESKANIC: No, Your Honor.

5 THE COURT: Any from the defense?

6 MR. MORIN: No, sir.

7 THE COURT: All right. I'll ask you to come forward
8 and segregate the exhibits and I have a verdict form I'd
9 like for you to review.

10 (Pause.)

11 THE COURT: Ms. Leskanic, is there any means by which
12 they can play that recording that's in evidence in the jury
13 room?

14 SOLICITOR LESKANIC: We don't have a clean computer.
15 Do y'all have anyway they can play the 9-1-1 call in
16 the jury room?

17 THE CLERK: On that CD?

18 SOLICITOR LESKANIC: Yes.

19 THE CLERK: Yeah, that's a clean computer.

20 THE COURT: Can, can -- but it's in the courtroom?

21 SOLICITOR LESKANIC: Yeah, and I mean can they take it
22 back?

23 THE CLERK: No.

24 THE COURT: There's nothing in the jury room?

25 THE CLERK: No, sir, that one can't go back.

1 THE COURT: Okay. I'll just inform them if they need
2 to listen to that we'll bring them back in here to listen to
3 that.

4 (Pause.)

5 THE COURT: Verdict form, did you look at it?

6 MR. MORIN: Yes, Your Honor.

7 THE COURT: Okay.

8 MR. MORIN: Fine by me.

9 SOLICITOR LESKANIC: Yes, sir, no objection.

10 THE COURT: No objection from the State as to the
11 verdict form.

12 Does the defense have any objections?

13 MR. MORIN: No, sir.

14 THE COURT: And the exhibits have been segregated on
15 the table in front of the jury box, is that right?

16 MR. MORIN: That's correct.

17 SOLICITOR LESKANIC: That is correct.

18 THE COURT: Bring the jury in.

19 (WHEREUPON, the following takes place within the
20 presence of the jury.)

21 THE COURT: All right. The record will reflect the
22 jury has returned to the courtroom.

23 Can you hand this over for me, Wayne?

24 (WHEREUPON, the bailiff complies.)

25 THE COURT: Ms. Holio, that's the -- first, first thing

1 there is the verdict form that we're going to be using. It
2 has on it, at the top of the page, the county and the state
3 that we're in, the parties that are involved, the State of
4 South Carolina versus the defendant, Mr. Blackwell.

5 Now below that there is one question on that form, and
6 that is, as to the charge of trafficking in methamphetamine,
7 it asks the jury to determine whether he not guilty or
8 guilty.

9 Let me caution the jury. Don't take from the fact that
10 I put the choices for the verdict in any order on that form
11 to somehow indicate I have a preference. I've been doing
12 this about 11 years now and every one I've ever done they've
13 been in the same order. So, I don't change that order. Not
14 guilty is always first, guilty is always second.

15 When the jury's reached a verdict on that question,
16 unanimously, it will be your job, ma'am, to check or put an
17 X on the blank line in front of the appropriate verdict and
18 then sign it on the line provided for your signature below.
19 Once that verdict has been completed, the form has been
20 completed, and the verdict's reached, you'll knock on the
21 door and tell the bailiff that that's occurred, you'll be
22 brought back into the courtroom for us to receive the
23 verdict.

24 Now, the evidence is going to go with you back into the
25 jury room. There is a recording, that disk in there, that's

1 in evidence. If you feel that you need to listen to that
2 piece of evidence again, you have every right to do that.
3 But the only place we can play it is inside the courtroom.

4 So, again, ma'am, you'd need to knock on the door, let
5 the bailiff know that you want to come back and listen to
6 that again and we'll make arrangements for you to hear that.
7 But you have a right to review it, but there's no means to
8 do that back in the jury room. So, if you'll let us know if
9 you need to do that. You're not required to do it. You
10 have the right to.

11 Now, we have ordered a box lunch for everyone since
12 we're in the afternoon already. That's going to be
13 delivered to you into the jury room. Let me caution you,
14 when that's delivered, they'll be people from the Clerk's
15 Office or the bailiffs coming in to take care of delivering
16 that to you. When they're in the jury room, stop your
17 discussions about the case, don't discuss the case at all
18 until they have left the room again. In other words,
19 deliberations of a jury should not take place in the
20 presence of anyone other than the jurors serving on the
21 case.

22 So stop your discussions while they're there and then
23 resume them once those people have left the jury room.

24 All right. Now I'm going to ask the jury to retire to
25 the jury room to begin your deliberations until such time as

1 you've reached a verdict.

2 Now, ma'am, you were the alternate in the case. I'm
3 going to ask that you remain seated in the courtroom while
4 they retire.

5 So at this time you may step back to the jury room and
6 being your deliberations.

7 (WHEREUPON, the following takes place outside the
8 presence of the jury.)

9 THE COURT: And, Wayne, caution them about not trying
10 to open the drug bag.

11 THE BAILIFF: Yes, sir.

12 THE COURT: Thank you, sir.

13 (WHEREUPON, the alternate juror was dismissed at this
14 time.)

15 THE COURT: Any objections to my final instructions
16 from the State?

17 SOLICITOR LESKANIC: No, Your Honor.

18 THE COURT: Any from the defense?

19 MR. MORIN: No, sir.

20 THE COURT: All right. We'll be in recess in this case
21 until a verdict is reached.

22 Thank you very much.

23 (WHEREUPON, the jury began deliberations at 12:09PM and
24 returned with a verdict at 12:30PM.)

25 THE COURT: All right. I have been informed by the

1 bailiff that a verdict has been reached.

2 Is the State ready to receive the verdict?

3 SOLICITOR LESKANIC: Yes, Your Honor.

4 THE COURT: Defense ready?

5 MR. MORIN: Yes, sir.

6 THE COURT: Bring the jury in.

7 (WHEREUPON, the following takes place within the
8 presence of the jury.)

9 THE COURT: All right. The jury has returned to the
10 courtroom.

11 Madam Forelady, has a verdict been reach you case.

12 THE FORELADY: Yes, sir.

13 THE COURT: Pass that to the bailiff please.

14 (Forelady complies.)

15 THE COURT: Thank you.

16 Madam Clerk, you may publish the verdict.

17 THE CLERK: 2014-GS-11-638, State of South Carolina
18 versus Charles Preston Blackwell, we, the jury, unanimously
19 find the defendant, Charles Preston Blackwell, concerning
20 the offense of trafficking in methamphetamine, guilty.
21 signed by foreperson, Tammy Holio.

22 Ladies and gentlemen of the jury, if this is the
23 verdict of you all, please indicate by raising your
24 right-hand.

25 (WHEREUPON, all the jurors raised their hand at this

1 time.)

2 THE CLERK: Thank you.

3 THE COURT: Anything further from the State before I
4 release the jury?

5 SOLICITOR LESKANIC: No, Your Honor.

6 THE COURT: Anything further from the defense?

7 MR. MORIN: No, sir.

8 THE COURT: All right.

9 (WHEREUPON, the jury was dismissed at this time.)

10 THE COURT: All right. Anything further from the State
11 at this time?

12 SOLICITOR LESKANIC: No, Your Honor.

13 THE COURT: From the defense?

14 MR. MORIN: No, sir.

15 THE COURT: All right.

16 SOLICITOR LESKANIC: May, may I approach, Your Honor?

17 THE COURT: Yes, ma'am.

18 Ms. Jolley, can I borrow a pen please, ma'am?

19 THE CLERK: Yes, sir.

20 THE COURT: Thank you.

21 Step back. The jurors are coming right now.

22 (Pause.)

23 THE COURT: All right. Mr. Blackwell, having been
24 found guilty by a jury of your peers, I will now consider
25 sentencing in your case. I'm gonna hear from your lawyer at

1 this time, and then I will give you an opportunity to speak
2 with the Court about that once he's had a chance to speak
3 with me.

4 So, Mr. Morin, I'll be happy to hear from you.

5 MR. MORIN: Your Honor, my client's on probation. This
6 conviction is a violation. I think it's the only violation,
7 but we'd like to take that up at the same time.

8 THE COURT: You'd like to handle that at the same time?

9 MR. MORIN: Yes, sir, I have talked to him about it.

10 THE COURT: Mr. Blackwell, would you like me to handle
11 this issue at the same time?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Okay. Can you tell me what status his
14 probation is in please, ma'am?

15 THE PROBATION AGENT: He's on probation for burglary
16 second nonviolent. He was sentenced here in Cherokee County
17 on August 15th, 2013. He received a sentence of ten years
18 provided upon two years, balance suspended, and three years
19 probation. There was a consent order issued at one point to
20 toll his probation, but, at this time, there's no other
21 violations.

22 THE COURT: All right. Has he served any time on that
23 already other than I guess---

24 THE PROBATION OFFICER: The initial two years.

25 THE COURT: The initial two years.

1 All right. Very good.

2 All right. Yes, sir, Mr. Morin.

3 MR. MORIN: Your Honor, he's 57 years old. Two years
4 ago he had a heart attack. It made him disabled. He's done
5 various jobs prior to that. He spent four months in jail
6 before he bonded out on this charge.

7 He had some family members that have been with him
8 throughout the trial, his mother, his girlfriend. I was
9 appointed to represent him I believe in August of this
10 year -- of 2014.

11 THE COURT: Are any of the family members outside?

12 THE BAILIFF: Yes, sir.

13 THE COURT: Why don't you ask them to step in please?
14 (Parties comply.)

15 MR. MORIN: There---

16 THE COURT: Do any of them wish to speak on his behalf?

17 MR. MORIN: I believe they do, Your Honor.

18 THE COURT: All right. If you want to step back and
19 find out which one--

20 MR. MORIN: Yes, sir.

21 THE COURT: Ask them to come forward one at a time.

22 MR. MORIN: Yes, sir.

23 THE COURT: Ma'am, if you'll stand over here to my
24 right please.

25 State your name please.

1 MS. GREGORY: I'm Denise Gregory.

2 THE COURT: Ma'am, I'm sorry?

3 MS. GREGORY: I'm Denise Gregory.

4 THE COURT: All right. Ms. Gregory, I'll be happy to
5 hear from you.

6 First of all, what's your relationship with the
7 defendant?

8 MS. GREGORY: I've been with Preston almost 20 years.

9 THE COURT: All right. I'll be happy to hear from you.

10 MS. GREGORY: He's a good man. He really is and we
11 love him so much. We're gonna be there for him.

12 I love you, baby.

13 THE COURT: All right. Thank you, ma'am.

14 MS. GREGORY: Thank you.

15 MR. MORIN: That, that would be all, Your Honor.

16 THE COURT: All right. Is there anything else you
17 wanted to say?

18 I interrupted you. You said the family had been here
19 throughout the trial---

20 MR. MORIN: Yes, and I---

21 THE COURT: ---stopped you---

22 MR. MORIN: ---covered his age---

23 THE COURT: ---and I'll hear anything else you have.

24 MR. MORIN: ---his disability and his prior time---

25 THE COURT: All right.

1 MR. MORIN: ---that he served.

2 THE COURT: All right.

3 MR. MORIN: That's what I needed to let you know.

4 THE COURT: All right. Now, Mr. Blackwell, this is
5 your opportunity to address the Court. I'll be happy to
6 hear from you.

7 THE DEFENDANT: Well, Your Honor, these polices been
8 trying to get me down the road for so long. This is the
9 most sorriest man I ever knew.

10 THE COURT: Sir, you need to talk to me.

11 THE DEFENDANT: Okay.

12 THE COURT: Don't turn around and address those folks.

13 THE DEFENDANT: I'm sorry.

14 THE COURT: I'm giving you a chance to---

15 THE DEFENDANT: I just wanted to point that out.

16 THE COURT: I'll give you a chance to talk to me.

17 THE DEFENDANT: But, Your Honor---

18 THE COURT: otherwise I'll stop you from talking.

19 THE DEFENDANT: Okay. Your Honor, I did not have --
20 them was not my not drugs. I know they have convicted me of
21 having done this, but them was not my drugs. I promise you
22 they was not. That's, that's all I got to say.

23 THE COURT: All right. Prior record.

24 SOLICITOR LESKANIC: Yes, Your Honor, and I'm gonna
25 start in 1977, failing to stop for blue light.

1 1980, bad check.
2 1981, fraudulent check times two.
3 1982, drunk and disorderly and assaulting an officer.
4 1983, driving under suspension.
5 1985, fraudulent check.
6 1986, involuntary manslaughter and discharging a
7 firearm into a dwelling.
8 Also, in 1986, driving under the influence.
9 1994, six counts of forgery, burglary second degree
10 nonviolent.
11 1999, escape or attempt and possession of tools.
12 1999, resisting arrest, simple assault and battery.
13 2002, two counts of simple assault and battery.
14 2004, simple assault and battery.
15 2006, simple assault and battery.
16 2009, violation of a Court Order of Protection.
17 2010, violation of a Court Order of Protection.
18 2011, criminal domestic violence.
19 2012, trespassing.
20 2013, burglary second degree which he is on probation
21 for at this time, Your Honor.

22 THE COURT: All right. Anything further that -- from
23 the state that you think I should consider in sentencing?

24 SOLICITOR LESKANIC: I believe you heard the testimony,
25 Your Honor. It's just the State's concern. There was a lot

1 of drug activity, a lot of drugs found on this day, and
2 based on the testimony of the witnesses, a lot of drug
3 transactions going on before and, and possibly even after
4 the arrest. But I know the Court heard all of that in
5 testimony.

6 THE COURT: All right. Thank you.

7 (Pause.)

8 THE COURT: All right. I'm gonna revoke the probation
9 in full.

10 THE PROBATION AGENT: Yes, sir.

11 THE COURT: Mr. Blackwell, as I indicated, you've been
12 found guilty of the crime of trafficking in methamphetamine
13 by a jury of your peers.

14 The Sentence that I have found for that to be
15 appropriate is that you be confined in the State Department
16 of Corrections for a period of seven years. I have -- and a
17 fine of \$25,000. I have run that consecutive to your
18 probation revocation, given you credit for four months of
19 previous service.

20 Good luck to you, sir.

21 SOLICITOR LESKANIC: Thank you, Your Honor.

22 THE COURT: Thank you, ma'am.

23 SOLICITOR LESKANIC: Yes, sir.

24

25

1 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *
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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 4th and 5th day of March, 2015.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

April 21st, 2015



PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF CherokeeCharles P. Blackwell - 218728
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

016CP-110256APPLICATION FOR
POST-CONVICTION RELIEFFILED THE OFFICE
CLERK OF COURT
APR 18 A 11:54
CHEROKEE
COUNTY, SC**INSTRUCTIONS - 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 Ridgeland Corr. Inst.
2. Name and location of Court which imposed sentence General Sessions / Cherokee Co.
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2014-GS-11-638 (Trafficking in Methamphetamine)
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) (3-5-15) 7yrs. Consecutive to a 8yrs. sentence
for a probation and a \$25,000 dollar fine

358

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty (Jury Trial)
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Supreme court (court of appeals)
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. N/A Dismissed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. N/A Dismissed
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A Dismissed
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: Ineffective Assistance of Counsel

Revised 3/2003

- (a) _____
- (b) _____
- (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out

in (10): he wouldn't bring up that I was arrested and
charge with trespassing and still on trespassing Notice
from the address in question.

- (a) Failed to call witnesses
- (c) Prosecutorial ~~misconduct~~ (misconduct)

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (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 "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(b) the name and location of the Court in which each was filed:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____

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CLERK OF COURT
2016 APR 18 A 1:55
FRANCY W. JUDGE
SOUTH CAROLINA

- iv. _____
- (d) the date of each such disposition:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. N/A
- 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? N/A
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. N/A
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. N/A
- 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) N/A
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:

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CLERK OF COURT
MAR 18 A 11:55
JOSEPH W. MOORE
CLERK OF COURT
COUNTY, SC

- (a) your arraignment and plea? Yes
- (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? No

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

- i. ATTY. Michael Morin - 894 W. St. John ST
Spartanburg, SC 29304
- ii. _____
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. Trial
- ii. Sentencing
- iii. ~~NEW TRIAL - Time Restructured to Run Concurrent~~

19. State clearly the relief you seek in filing this application:

New Trial - Time restructured to Run Concurrent

20. Are you now under sentence from any other court that you have not challenged?

No

FILED IN THE OFFICE
 CLERK OF COURT
 2015 APR 18 A 11:55
 JIMMY W. MOORE
 CLERK OF COURT
 SPARTANBURG, SC

STATE OF SOUTH CAROLINA)

County of Cherokee)
Charles Blackwell)

VERIFICATION

I, A, 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.

Charles Blackwell

SWORN to and subscribed before me this 14
day of April, 2016.

Dorothy Ferguson (L.S.)
Notary Public

My Commission Expires: 10-1-25

FILED IN THE OFFICE
CLERK OF COURT
2016 APR 18 A 11:55
FRANCY V. MCREE
CLERK OF COURT, SC

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN-SUPPORT THEREOF

I, Charles F. Blackwell, 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.

Charles Blackwell
Applicant

SWORN or affirmed to and subscribed before me this
14 day of April, 2016.

Deborah Ferguson
Notary Public

My Commission Expires: 10-1-25

FILED IN THE OFFICE
CLERK OF COURT
2016 APR 18 A 11:55
JOHN W. NOBEE
CLERK OF COURT, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF CHEROKEE	)	
	)	
Charles P. Blackwell, #218728,	)	Case No.: 2016-CP-11-0256
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed on April 18, 2016, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Cherokee County Clerk of Court. Applicant was indicted at the July 2014 term of the Cherokee County Grand Jury for Trafficking in Methamphetamine, (2014-GS-11-0638). Michael David Morin, Esquire, represented Applicant. On March 4-5, 2015, Applicant proceeded to trial before the Honorable Roger L. Couch and was convicted by a jury. Judge Couch sentenced Applicant to confinement for seven (7) years with a \$25,000 fine, to run consecutive to Applicant's current probation revocation.

A notice of appeal was filed on Applicant's behalf at the South Carolina Court of Appeals. Robert M. Pachak, Esquire, of the South Carolina Office of Appellate Defense perfected the appeal in the form of an Anders¹ brief. The South Carolina Court of Appeals dismissed the appeal. State v. Charles Preston Blackwell, Op. No. 2016-UP-087 (S.C. Ct. App. Filed February 24, 2016). The Remittitur was issued on March 21, 2016.

¹ Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 18 L. Ed. 2d 493(1967).

II.

In his PCR application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
 - a. "He wouldn't bring up that I was arrested and charge and still on trespassing notice from the address in question"
 - b. "failed to call witness"
2. "Prosecutorial misconduct"

Attached herewith and incorporated herein by reference are the records of the Cherokee County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, Applicant's appellate records, the trial transcript, and the records of this action. Respondent reserves the right to amend its return upon the receipt of other relevant records.

III.

Respondent asserts that Applicant's allegation of ineffective assistance of trial counsel is without merit. Respondent also asserts that Applicant's attorney rendered effective assistance well within the standard of reasonableness within professional norms for a criminal defense attorney.

A two-pronged test is used 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 v. State, 300 S.C. at 117, 386 S.E.2d at 625, (citing Strickland v. Washington). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional

judgment. Strickland v. Washington. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Second, counsel's deficient performance must have prejudiced 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. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). In other words, where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that 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. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

Respondent submits that Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

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) (2003). 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). The Applicant could have raised

this issue 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, 109 S. Ct. 2201 (1989). Respondent submits Applicant has not carried his burden of proving actual prosecutorial misconduct; therefore, this allegation should be summarily dismissed.

V.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments *will be opposed by the State at an evidentiary hearing* pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. *Pro se* filings will not be considered at the PCR hearing. Respondent will move to strike any amendments withheld until the last minute where such amendments result in prejudice to Respondent. See Rules 15(a)-(b), SCRCP.

VI.

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

[Remainder of page left intentionally blank]

VII.

WHEREFORE, having made its Return, Respondent requests that a hearing be held solely on the claims of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

CAITLIN B. HASTINGS
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

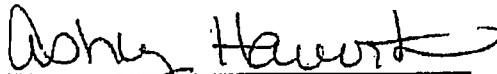
February 16th, 2017

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHEROKEE	)	
	)	
	)	2016-CP-11-0256
CHARLES P. BLACKWELL, #218728,	)	
	)	
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 on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Mr. Steven D. Epps, Esquire
 104-A Franklin Ave., #281
 Spartanburg, SC 29301

DATED this 6th day of February, 2017.


 Ashley Haworth, Paralegal
 For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT
) CASE NO.: 2016-CP-11-0256

Charles P. Blackwell #218728
Applicant / Petitioner,

v.

State of South Carolina,
Respondent.

) MOTION TO SUPPLEMENT ORIGINAL
) PETITION FOR POST-CONVICTION
) RELIEF
)
)
)

COMES NOW, Petitioner Charles P. Blackwell, SCDC # 18728, ("Petitioner") by and through his undersigned counsel who files this Motion to Supplement the Original Petition for Post-Conviction Relief in this matter pursuant to South Carolina Code Ann. §17-27-10 et seq., particularly §17-27-90 as shown in Exhibit A to this Motion. Petitioner, through his counsel, submits this "Supplement" is merely more detail to his original claims rather than a separate, distinct, and new Petition and requests the Court consider this Supplemental Petition and the Original Petition merged as one document.

Respectfully submitted,
EPPS LAW FIRM, LLC



STEVEN D. EPPS (SC Bar # 72722)
104-A Franklin Avenue, # 281
Spartanburg, SC 29301

(864) 590-4848 Telephone
steven@eppslawfirm.com
ATTORNEY FOR PETITIONER

Spartanburg, South Carolina
July 12, 2017

FILED IN THE OFFICE
CLERK OF COURT
2017 JUL 14 A 11:30
CHEROKEE COUNTY, SC

STATE OF SOUTH CAROLINA

COUNTY OF CHEROKEE

Charles P. Blackwell #218728

Plaintiff,

vs.

STATE OF SOUTH CAROLINA

Defendant.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

371

CASE NO.: 2016-CP-11-0256

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

Plaintiff's Attorney: Steven D. Epps, Bar No. 72722 Address: 104-A Franklin Ave, #281, Spartanburg, SC 29301 Phone: 864-590-4848 Fax 844-377-7329 E-mail: steven@eppslawfirm.com Other:		Defendant's Attorney: Valerie Giovanoli, Asst. Atty. Gen'l., Bar No. _____ Address: P.O. Box 11549 Columbia, SC 29211 Phone: 803-734-3737 Fax _____ E-mail: _____ Other:	
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information			
Nature of Motion: <u>Motion to Supplement Petition</u> Estimated Time Needed: 10 mins Court Reporter Needed: ☒ YES / ☐ NO			
SECTION II: Motion/Order Type			
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.			
Signature of Attorney for ☒ Plaintiff / ☐ Defendant		Date submitted <u>7/12/17</u>	
SECTION III: Motion Fee			
☐ PAID - AMOUNT: \$ _____ ☒ EXEMPT: (check reason)			
☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☒ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____			
JUDGE'S SECTION			
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:		JUDGE CODE _____ Date:	
CLERK'S VERIFICATION			
Collected by: _____ Date Filed: _____ ☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED - AMOUNT DUE: \$ _____		FILED IN THE OFFICE CLERK OF COURT 2017 JUL 14 A 11:30 SEVENTH JUDICIAL CIRCUIT CHEROKEE COUNTY, SC	

Exhibit A

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

County of CHEROKEE

#218728

CHARLES P. BLACKWELL

Full name and prison number (if any) of Applicant

v.

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

INSTRUCTIONS - 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 RIDGELAND - CORR - INST
2. Name and location of Court which imposed sentence CHEROKEE - COUNTY
COURT - 125 E. FLOYD BAKER BOULEVARD - GAFFNEY S.C. 29341
3. Name(s) of co-defendant(s) (if any) JULIE LAWSON AND
KALYNNE - CARROLL
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2014-GS-11-638 - TRAFFICKING

- (b) 3-5-2015 Probation Revocation - Run Consecutive
(c) is to run for a period of seven years and a fine of 25,000

5. The date upon which sentence was imposed and the terms of the sentence:

(a) _____

(b) N/A

(c) N/A

6. Check whether a finding of guilty was made:

(a)

after a plea of guilty I WAS found guilty

(b)

after a plea of not guilty N/A

(c)

after a plea of nolo contendere N/A

7. Did you appeal from the judgment of conviction or the imposition of sentence?

8. If you answered "yes" to (7), list:

(a)

the name of each Court to which you appealed:

i.

APPEAL from CHEROKEE COUNTY

ii.

iii.

(b)

the result in each such Court to which you appealed:

i.

APPEAL Dismissed

ii.

iii.

(c)

the date of each such result:

i.

2-24-2016

ii.

iii.

(d)

if known, citations of any written opinion or orders entered pursuant to such results:

i.

ii.

iii.

N/A

9. If you answered "no" to (7), state your reasons for not so appealing:

(a)

my Attorney did not want to do his Job

(b) See Attached Sheet Statement of Claim

(c) See Attached Sheet

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) See Attached Sheet

(b) See Attached Sheet

(c) See Attached Sheet Statement of Claim

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) Six of the jury should have been

(b) dismiss from the panel Take a look

(c) At the Transcript dated 3-4-8-2015

CASE: 2015-000568

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? NO

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? YES

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? IN THE COURT OF APPEALS

(d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. the Appeal Court of Cherokee County

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. Same

ii. _____

iii. _____

iv. N/A

(c) the disposition thereof:

i.

ii.

iv. N/A

(d) the date of each such disposition:

i.

ii.

iii.

iv. N/A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i.

ii.

iii.

iv. N/A

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?

N/A

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i.

ii.

iii. N/A

(b) the proceedings in which each ground was raised:

i.

ii.

iii. N/A

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) my Attorney fail to do his Job
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes
 (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? _____
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? 2015-000568

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:
 i. Attorney (Michael Morin 894 W. St. John St
Spartanburg S.C. 29304 AND (Appellate)
 ii. Attorney Robert M. PACHAK South Carolina Commission
on Indigent Defense - Division of Appellate Defense
 iii. P.O. Box 11389 Columbia S.C. 29211 -1389
803) 734-1343
 (b) the proceedings at which each such attorney represented you:
 i. Mr. Michael Morin represented me at trial.
Mr. Robert M. PACHAK represented me on the
 ii. Appeal.
 iii. _____

19. State clearly the relief you seek in filing this application:

Under Newly Discovery of Evidence and Seek A new Trial or dismiss

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 Cherokee)

VERIFICATION

I, Charles Blackwell, 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.

Charles Blackwell

SWORN to and subscribed before me this 21
day of July, 2016.

Dorothy Ferguson (L.S.)
Notary Public

My Commission Expires: 10-1-16

~~APPLICATION TO PROCEED WITHOUT PAYMENT~~
~~OF COSTS AND AFFIDAVIT~~
IN SUPPORT THEREOF

I, Charles Blackwell, 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.

Charles Blackwell
Applicant

SWORN or affirmed to and subscribed before me this
_____ day of _____, _____

Notary Public

My Commission Expires: _____

STATEMENT OF CLAIM

- 1) This lawsuit CONTENDS that the Cherokee County Sheriff's Department Officers did in fact Violated my Constitutional Rights ON 5-23-2014
- 2) OF Tampering with Evidence of the Crime Scene All items collected are not a part of the Warrant in Question.
- 3) The Warrant they came with was for Stolen property and Not for any-drugs-such as (methamphetamine.)
- 4) Sgt. Nick Federico testified that the defendant Karynne Cassell admit to Having the drugs.
- 5) I (Charles P. Blackwell stated to Sgt. Nick Federico that I WAS NOT to Be ON the property AND did NOT WANT to go to jail for Trespassing AND He stated you are going for Traffic
- 6) Jury Juror: Michael Hall, #84 Now the police man Rodney Bright They Coach baseball AND Football x Charles Blackwell
- 7) Juror: Mary Moore #78 ALSO in fact New policeman Rodney Bright They went to the same Church
- 8) Juror: Christopher Myles, #80 Knows the witness Lynn Sizemore,
- 9) Juror: Janice Booker, #1 She was friends with Sgt. Nick Federico's Sister
- 10) Juror: Kimberly Ramsay, #100 Stated that She use to work for the detention Center Cherokee County
- 11) NOTE: my Attorney Mr. Michael-Morin was in fact A part of Seventh Circuit Solicitor Office
- 12) Juror: Laura Pelham, #60 HAS A Nephew AND Niece ARE INVOLVED IN A Current Court CASE ON drugs
IN This action According to State Law All Juror A #78# 60# 84# 80# 100# AND my Attorney Should Had been dismiss

NOTARY PUBLIC
STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES May 20, 2011
JUL 13 DAY OF JULY 2011
Charles Blackwell

OR #122 ALLEN BENSON WAS DISMISS
 BECAUSE CONNIE PETERSON IS JURY 122
 SISTER AND HE ALSO KNOW LYNN SIZEMORE

THEY BOTH WHERE CALL AS WITNESS GO TO PAGE
 '59' IN THE COURT TRIAL TRANSCRIPT DATED 3-4-3-2015
 SO NOW AS YOU CAN SEE THE CHAIN OF CUSTODY WAS
 IN FACT BROKING AND ALL OF THE OFFICER'S
 CONSPIRE AGAINST ME.

(CSI) OFFICER BILLY ANTHONY TESTIFY THAT
 THAT HE HAD GOT THE EVIDENCE ON 2-2-2015
 BUT THEY TESTIFY THAT THIS SAME EVIDENCE
 WAS SEIZED ON 5-23-14 SEE PAGE (198)
 TRIAL TRANSCRIPT ALSO DATED 3-4-3-2015

ROGER L. COUCH, CIRCUIT COURT JUDGE
 APPELLATE CASE NO: 2015-000568

STATE

Charles Blackwell

CHARLES PRESTON BLACKWELL

SWORN TO AND SUBSCRIBED BEFORE ME
 THIS 13 DAY OF July 2014

Virgin Robison
 NOTARY PUBLIC
 STATE OF SOUTH CAROLINA

MY COMMISSION EXPIRES May 20 2017

THE EPPS LAW FIRM, LLC

└ LITIGATION ATTORNEY || LEGAL COUNSELOR ┘

Steven D. Epps, Esquire
864-590-4848 - Office
844EPPSFAX (377-7329) - Fax
steven@eppslawfirm.com

Mailing Address:
104-A Franklin Avenue
281
Spartanburg, SC 29301

July 11, 2017

The Hon. Brandy W. McBee
Clerk of Court, Cherokee County
Post Office Drawer 2289
Gaffney, SC 29342-2289

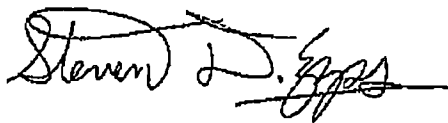
Re: Charles P. Blackwell vs. State
Case: 2016-CP-11-2056

Dear Mrs. McBee:

Enclosed for filing, please find (1) original and (1) copy of Petitioner's Motion to Supplement Petition. After file stamping both, please return the copy to me in the enclosed self-addressed, stamped envelope.

With best regards, I remain,

Very truly yours,



Steven D. Epps

SDE/jfm
Enclosures as stated

Cc: Valerie G. Giovanoli, Asst. Attorney General
Client

FILED IN THE OFFICE
CLERK OF COURT
2017 JUL 14 A 11:30
CHEROKEE COUNTY, SC

Epps Law Firm, LLC
104-A Franklin Ave., #281
Spartanburg, SC 29301

FILED IN THE OFFICE
CLERK OF COURT

2017 JUL 14 A 11:32

WALTER H. MCDEE
CHEROKEE COUNTY, SC



Epps Law Firm, LLC
104-A Franklin Ave., #281
Spartanburg, SC 29301



After 5 Days Return To:
Mrs. Brandy W. McBee
Clerk Of Court, Cherokee County
Post Office Drawer 2289
Gaffney, S.C. 29342

FILED IN THE OFFICE
CLERK OF COURT

2017 JUL 14 P 1:23

BRANDY W. MCBEE
CHEROKEE COUNTY, SC

neopost
07/14/2017
US:POSTAGE

FIRST-CLASS MAIL

\$00.67⁰



ZIP 29340
041L11245001

Office of Attorney General
P. O. Box 11549
Columbia, SC 29211-1549

Attention: Ashley Haworth

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF CHEROKEE)

COURT OF COMMON PLEAS NONJURY

3
4 CHARLES P. BLACKWELL,)

5 APPLICANT,)

6 VS.)

7 THE STATE OF SOUTH CAROLINA,)

8 RESPONDENT.)

TRANSCRIPT

OF

RECORD

2016-CP-11-0256

9
10 September 19th, 2017
11 Spartanburg, South Carolina
12

13 B E F O R E:

14 THE HONORABLE GRACE GILCHREST KNIE, Judge.
15

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

17 STEVEN D. EPPS
18 ESQ.
Attorney for the Applicant

19 VALERIE GIOVANOLI
20 ASSISTANT ATTORNEY GENERAL
Attorney for the State
21
22

23 PAMELA E. GREEN
24 Circuit Court Reporter
25 Seventh Judicial Circuit

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P R O C E E D I N G S

MS. GIOVANOLI: One moment, Your Honor.

THE COURT: Yes, ma'am, take your time, and y'all can be seated.

MR. EPPS: Thank you, Your Honor.

(Pause.)

THE COURT: Okay.

MS. GIOVANOLI: Okay. We're on the record with case Charles P. Blackwell versus The State of South Carolina. Docket Number 2016-CP-11-0256. We're before the Court on an application for post-conviction relief filed on April 18th, 2016.

Applicant was indicted in July, 2014 for trafficking in methamphetamine. Michael Morin represented the Applicant, and, on March 4th through the 5th, 2015, Applicant proceeded to a trial before the Honorable Roger L. Couch and a jury. The jury convicted Applicant and Judge Couch, Judge Couch sentenced Applicant to confinement for seven years with a \$25,000 fine, and that was to run consecutive to Applicant's current probation revocation or the probation revocation he was serving at the time.

A Notice of Appeal was filed on Applicant's behalf. Robert Pachak of the South Carolina Office of Appellate Defense perfected the appeal in the form of an Anders brief.

1 The South Carolina Court of Appeals dismissed that appeal,
2 and the remittitur was issued on March 21st, 2016.

3 The State is present and ready to proceed. Applicant
4 is also present and represented by Mr. Steven Epps.

5 In his, in his application, he has alleged ineffective
6 assistance of counsel in that he -- Mr. Morin did -- didn't
7 bring up the fact that the Applicant had been arrested and
8 was on trespass notice from the premises where the drugs
9 were found in the search, and also he failed to call a
10 witness.

11 So, I'll hand it -- and also prosecutorial misconduct.
12 I'll hand it over to counsel at this point.

13 THE COURT: Okay. Good afternoon, Mr. Epps.

14 MR. EPPS: Good afternoon, Your Honor.

15 THE COURT: Good afternoon, Mr. Blackwell.

16 THE APPLICANT: Good afternoon, ma'am.

17 MR. EPPS: Your Honor, just, just as a matter of
18 housekeeping, when I was first appointed to represent
19 Mr. Blackwell, I had received his initial application for
20 post-conviction relief. Subsequent to that, Mr. Blackwell
21 received a copy of the transcript that he believed provided
22 additional material. He attempted, on his own, to
23 supplement his original petition for post-conviction relief,
24 and, of course, the Court, I'm sure, is well aware of the
25 issues with hybrid representation.

1 So, essentially, what I did, to make sure that my
2 client had his full, fair opportunity to get all of his
3 materials involved and before the Court, I filed with the
4 Cherokee County Clerk of Court, on July 14th, 2017, a
5 motion to supplement original petition for post,
6 post-conviction relief. Though I called it a motion, I will
7 say that, really, Mr. Blackwell's secondary application,
8 which is filled out on a standard pro forma application
9 form, is mostly just a supplement to his original PCR.

10 There, there are not really any other issues that were
11 brought up. There's just more detail to the issues brought
12 up. Those are the issues that I believe, in a broad brush
13 form, the AG has already informed the Court about. However,
14 I did want to bring that to the Court's attention in the
15 event there's a question about which conviction or which
16 application or petition, et cetera.

17 It would be our position that, while there may be two
18 claims that are generally aligned, one just had -- the later
19 one has more detail than the other.

20 THE COURT: Well, and, Mr. Epps, I am looking, while
21 I'm speaking -- while you're talking and---

22 MR. EPPS: Certainly.

23 THE COURT: ---I see a post-conviction relief
24 application filed on April the 18th, it's hard for me to
25 read the year, but here---

1 MR. EPPS: I would imagine it's -- it might be 2015 or
2 2016, Your Honor.

3 THE COURT: It's 2016.

4 MR. EPPS: 2016. Okay.

5 THE COURT: Okay. And this is on the Form 5, and it is
6 handwritten.

7 MR. EPPS: Correct, Your Honor.

8 THE COURT: Okay. And, and so -- and I see a return to
9 the -- oh, I see a return from the Attorney General's Office
10 dated February the 6th of 2017. I see the Anders brief and
11 I have a transcript of record.

12 MS. GIOVANOLI: Can I go ahead and interject?

13 I don't believe that you have the amendment, and that
14 was a simple oversight by my office. Dealing with
15 voluminous amounts of paperwork, sometimes things get left
16 out.

17 THE COURT: I understand.

18 MS. GIOVANOLI: I do have two copies of the
19 supplemental application if you would like---

20 THE COURT: Yes, ma'am, it's my -- I'm assuming that
21 you're not objecting to the supplement?

22 MS. GIOVANOLI: No, absolutely not since it was made
23 well in advance of this hearing.

24 THE COURT: And, and so --.

25 MS. GIOVANOLI: I just didn't provide it to---

1 THE COURT: Mr. Epps, Mr. Blackwell, I'm going to
2 accept that into my file for review. As I understand, what
3 I'm handed in this packet are duplicates merely to assist me
4 in taking in this information as thoroughly as possible.

5 MR. EPPS: Certainly, Your Honor. Thank you.

6 THE COURT: All right.

7 (Pause.)

8 THE COURT: All right. Yes, sir.

9 MR. EPPS: Thank you, Your Honor.

10 At this point in time, the Petitioner would call
11 Charles Blackwell to the stand.

12 THE COURT: Okay. Mr. Blackwell, please come forward,
13 sir. Watch your step. Be careful.

14 (WHEREUPON, the Applicant complies.)

15 THE COURT: Okay. I'll ask you to pause right there
16 for me.

17 You are Charles P. Blackwell?

18 Is that correct?

19 THE APPLICANT: Yes, ma'am.

20 CHARLES P. BLACKWELL, being first
21 duly sworn, testified as follows:

22 THE COURT: Okay. Raise your right-hand I guess. Let
23 me ask you that again.

24 (WHEREUPON, the Applicant complies.)

25 THE COURT: There. Yes, sir. Just like that. Thank

Charles Blackwell - Direct examination
by Mr. Epps

1 you.

2 CHARLES P. BLACKWELL, being first duly
3 sworn, testified as follows:

4 THE COURT: Thank you, sir. Please be seated. Make
5 yourself comfortable.

6 (WHEREUPON, the Applicant complies.)

7 THE COURT: All right. If you need to adjust that
8 microphone --.

9 DIRECT EXAMINATION

10 BY MR. EPPS:

11 Q Mr. Blackwell, just as an initial matter, would you
12 give the court reporter your name first as -- just so we
13 have your name for the record, and, second, so she can hear
14 you speak and see if we need to adjust the microphone any
15 further.

16 Would you tell the court reporter your name?

17 A I'm Charles Preston Blackwell.

18 MR. EPPS: Madam Court Reporter, can you hear okay?

19 THE COURT REPORTER: Yes, sir.

20 Q All right. Mr. Blackwell, you're here today to ask the
21 Court to review your conviction of your drug charge where
22 Mr. Morin represented you in Gaffney.

23 Is that correct?

24 A Yes, sir.

25 Q And you've taken issue or a number of issues with his

1 representation of you?

2 A Yes, sir.

3 Q You previously provided some material both to me and
4 the Clerk of Court in your application, and you made a
5 secondary application.

6 Is that correct?

7 A Yes, sir.

8 Q I would like to -- may I approach, Your Honor?

9 THE COURT: Yes, sir.

10 MR. EPPS: Thank you, Your Honor.

11 I would like to hand you a copy of -- so, I'm gonna
12 hand you some material here.

13 Do, do you recognize the handwriting on the first page
14 of that document?

15 A Yes, sir.

16 Q Is that, in fact, your handwriting?

17 A Yes, sir.

18 Q And as we flip through the packet, and I'll flip for
19 you just to kind of help make it a little easier for you,
20 there's an application for post-conviction relief.

21 Does that have your handwriting on it as well?

22 A Yes, sir.

23 Q And then, towards the back of that document, is a
24 handwritten document entitled at the top statement of claim?

25 A Yes, sir.

1 Q Is that your handwriting?

2 A Yes, sir.

3 Q And then there are some other documents we'll get into
4 later. One is from -- looks like a letter from the Cherokee
5 County Sheriff's Office.

6 A Yes, sir.

7 Q Do you recognize that document?

8 A Yes, sir.

9 Q Is that a letter written to you by the Cherokee County
10 Sheriff's Office?

11 A Yes, sir.

12 Q All right. And then some other documentation about a
13 trespassing notice for you?

14 A When I was arrested, yes, sir.

15 Q All right, sir. And are these the documents that you
16 wanted to add in and to make part of the record for your
17 post-conviction relief case that we're here about today?

18 A Yes, sir.

19 Q All right. We're gonna talk about these, but I want to
20 make sure that the Court is aware of your claims as to why
21 you believe you were ineffectively assisted.

22 You had a jury trial, correct?

23 A Yes, sir.

24 Q Did you present any, and not you personally, but you,
25 through your attorney, did you present any witnesses on your

1 behalf to defend you?

2 A I don't understand what you're saying.

3 Q Did, did -- were there any witnesses called in your
4 defense---

5 A Oh, no, sir.

6 Q ---during your trial?

7 Sir, do you believe there were any witnesses that were
8 available to help you defend yourself?

9 A Yes, sir.

10 Q Well, let's talk to the Court about that.
11 What, what witnesses?

12 A Well, talking about Shannon Alley that was known as
13 Tiny. The, the ones that the, the two females testified
14 that he was staying in the bedroom where the drugs was
15 suppose to have been found.

16 Q And---

17 A I wanted him to come.

18 Q And let's maybe give the Court a brief background. We
19 don't need to tell them every single detail, but give the
20 Court a little bit of background as to what happened that
21 led to these charges against you.

22 I believe there was a warrant served on the home that
23 you happened to be in in the Gaffney or Cherokee County
24 area, correct?

25 A Yes, sir.

1 Q And what was that warrant -- the search -- it was a
2 search warrant, right?

3 A Yes, sir, it was---

4 Q What---

5 A ---from the SID team from Cherokee County Sheriff's
6 Office.

7 Q What was the search warrant for?

8 A Stolen property.

9 Q What type of property?

10 A They was looking for a leaf blower, a rock -- push lawn
11 mower, and a weed eater.

12 Q All right, sir. And were you in the home when that
13 search warrant was served on the residence?

14 A Yes, sir.

15 Q And did you answer a door where the search warrant --
16 when the police knocked on the door?

17 A Well, when they knocked on the door, the front door was
18 messed up. So, the -- I was told to tell, tell them they
19 would have to come to the back.

20 Q Okay.

21 A When they went to the back, they just automatically
22 came in. They didn't wait on nobody to come to the door to
23 open it.

24 Q And who all was in the house when this warrant was
25 served on you?

1 A They was me and another female that was in the living
2 room, and there was another female that was in the master
3 bedroom asleep. But outside of the three of us, that's all
4 that was in there. I was waiting on Tiny to come back, the
5 ones that the other bedroom belonged to on.

6 Q Okay. And so you found out from the warrant that they
7 were looking for some lawn equipment?

8 A Yes, sir, that's what they said when they came in.

9 Q And then what happened after that?

10 A Well, they went, they went to the back bedroom to where
11 the female was sleeping, and they found some drugs on the
12 nightstand where she was sleeping at.

13 Q Now, this home, was it where you lived?

14 A No, sir.

15 Q I believe you previously had, maybe not heavy criminal
16 issues, but at least a minor criminal issue with whether you
17 could stay at this house or be at this house.

18 Is that right?

19 A Yes, sir.

20 Q And were you on trespass notice at this house?

21 A Yes, sir, and still are.

22 Q Did you tell Mr. Morin that, prior to trial, that you
23 were on trespass notice from this particular residence?

24 A Yes, sir.

25 Q And did the, did the police officers know that you were

1 on trespass notice?

2 A Yes, sir, I stated to them, when they came in, that I
3 was -- that I was on trespassing notice and I done been
4 arrested one time, and that it -- this would be my second
5 offense and asked them if they's anyway that they could let
6 me go so I won't have to go to jail for trespassing. The
7 narcotic agent looked at me and told me, said, don't worry
8 about going to jail for trespassing. You going for
9 trafficking methamphetamines. This was before the house got
10 searched or anything.

11 Q Do you believe that the, the trespassing issue was a
12 key component of your defense of your case?

13 A Well, according to the, the last time I got arrested
14 down there, when I told this officer that I was on
15 trespassing notice, I feel that he should of called to see
16 if, if I was on trespassing notice. And, if I was, then I
17 should of been taken to jail for trespassing and anything
18 else that they found at that house had, had nothing to do
19 with me.

20 Q Okay. And you were saying it would have nothing to do
21 with you because you weren't suppose to be at the house
22 because you would be trespassing?

23 A Well, basically, yeah, but I mean anything that they
24 found at that house didn't have anything to do with me
25 because it's not my house.

1 Q I understand.

2 And you, you made sure that Mr. Morin knew about this
3 trespassing issue when y'all met with him as your attorney?

4 A Yes, he got the same -- I gave him the same three
5 sheets of paper that I gave you.

6 Q Okay. And those three sheets paper in front of you --
7 let me come help you, if you don't mind. The three sheets
8 of paper you're talking about are --- the first sheet here is
9 a letter from the Cherokee County Sheriff's Office dated
10 July 18th of 2016?

11 A Yes, sir.

12 Q And it, it says -- it's addressed to you and it says
13 that you were placed on trespass notice for [REDACTED] Garvin Lake
14 Road, Gaffney, SC?

15 A Yes, sir.

16 Q And that's the residence address where you were
17 arrested for the charges---

18 A Yes, sir.

19 Q ---we're here about today?

20 A Yes, sir.

21 Q All right. And then the sheets two and three after
22 that initial cover letter are the documentation from the
23 Sheriff's Office showing your actual charge for trespass
24 notice on this house?

25 A Yes, sir.

1 Q All right. So, you gave this documentation to Mr.
2 Morin?

3 A Yes, sir.

4 Q All right. Now, in addition to this trespass issue,
5 we, we had talked about, very early on, about witnesses.
6 There were no witnesses called in your defense.

7 Did you mention to Mr. Morin what -- you had witnesses
8 that could provide some sort of alibi or some sort of
9 defense testimony on your behalf to help potentially save
10 you from these charges?

11 A Well, I told him that Tiny and my daughter-in-law both
12 could testify that these two girls that testified was
13 lying -- that the stuff that they was saying wasn't true.

14 Q So, and let's help with identifying people so we have a
15 good clean record.

16 When you were arrested, when the search was done, the
17 drugs were found in the house, you were arrested and two
18 other ladies, Julie Lawson and Coline (phonetic) or Kalyne
19 Carroll, were also arrested, correct?

20 A Yes, sir.

21 Q And those -- both of those ladies testified against you
22 and for the prosecution in your trial?

23 A Yes, sir.

24 Q And so you were looking to try to defend yourself by
25 calling witnesses that would counteract the testimony of Ms.

1 Lawson and Ms. Carroll?

2 MS. GIOVANOLI: Your Honor, I object to leading at this
3 point.

4 THE COURT: Sustained.

5 MR. EPPS: Sorry, Your Honor.

6 THE COURT: Yes, sir.

7 Q Let, let me restate that.

8 Were you looking to call witnesses in your defense to
9 counteract any prosecution statements made against you?

10 A Yes, sir.

11 Q And who would you have called as witnesses to help you
12 in that way?

13 A Casey Blackwell.

14 Q Who is that?

15 A That's my daughter-in-law.

16 Q And what would Casey Blackwell be able to tell the
17 Court at your trial?

18 A Well, Kay, Kalyne, she, she testified about some stuff
19 that took place, and -- at my daughter-in-law -- at my son's
20 house where my daughter-in-law was sitting. My son or her
21 either one could of testifies (sic) that the -- that this
22 didn't take place.

23 Q So, are you, are you saying that your daughter-in-law
24 could show that Kalyne Carroll was a liar?

25 A Yes, sir.

1 Q Now, how about this fellow Tiny that you were
2 mentioning.

3 What would he be able to testify to in your defense?

4 A That that was his room and not -- that they was
5 trying -- they was trying to make it look like that that was
6 mine. It, it wasn't mine. It wasn't -- I didn't have
7 nothing to do with that room.

8 Q Let -- and let's give the Court a little more detail
9 because they don't -- the Court hasn't had this file as long
10 as you've been involved and I've been involved.

11 So, when you say this room, you're talking about the
12 search warrant of the house?

13 The, the room you're talking about just then?

14 A The bedroom where they said they found the container
15 that had the drugs in it.

16 Q So, when the search warrant came -- the crew came in,
17 let's talk briefly about the search.

18 What all was done after they came in and served the
19 search warrant?

20 A Well, they started -- well, when they, when they first
21 came in, they told them that -- they told them what, what
22 they were there for, for, the search warrant for stolen
23 property. Well, then they asked if they was anybody else in
24 the house, and, and Julie Lawson stated that they was
25 another female in the bedroom asleep.

1 So, Sergeant Nick Federico goes to the bathroom -- goes
2 to the bedroom to get her up, and that's when he found the
3 drugs. He came back in and asked for permission -- no, he
4 asked who was in control of the house, and the -- I just
5 looked at them cause I didn't know, and that's when I stated
6 to them that I was on trespassing notice.

7 Q So, the drugs that were found in the house were found
8 in a bedroom?

9 Is that what you're saying?

10 A Yeah. Yes, sir.

11 Q And who was in that bedroom?

12 A Kalyne Carroll.

13 Q And was that your bedroom?

14 A No, sir.

15 Q And so, again, help us out with the timing.

16 What was he going to, to testify to to help defend you?

17 A Well, that, that, that the bedroom was his. Not mine.

18 Q Okay. So, Tiny would be able to potentially separate
19 you from that bedroom?

20 A Yes, sir.

21 Q All right. Are there any other witnesses that you
22 would of called on your defense if given the opportunity?

23 A Mainly them two.

24 Q How about yourself?

25 Would you have testified?

1 A Oh, yes, sir.

2 Q Well, you didn't testify in your trial, did you?

3 A Yes, but I didn't -- not the way I wanted to. He,
4 he -- I let -- I was convinced, when he told me that I
5 needed to do the -- I mean he -- I, I actually got up there
6 and lied because -- and I didn't want to cause he told me --
7 he told me that---

8 Q Well, let me, let me -- I'm not trying to stop you
9 completely, but I -- you're saying he a lot, and I want the
10 Court to make sure we know who he is that you're talking
11 about.

12 A My attorney.

13 Q Mr. Morin?

14 A Yes, sir.

15 Q All right. Continue on.

16 He -- what did Mr. Morin -- did y'all discuss something
17 about your potential testimony?

18 A Well, when, when I was wanting to bring up the fact
19 that I was on trespassing notice and all, he, he said that
20 that would just weaken my case, may make, make me look
21 guilty then what -- then if I'd of, if I got up there and
22 denied it.

23 Q All right. Were, were there any other issues talked
24 about between you and him about your testimony or things you
25 could testify about where he counseled you a certain way

1 that you think was ineffective to you?

2 A They wasn't, wasn't -- I don't understand what you're
3 saying.

4 Q Probably poorly worded question.

5 Well, we're here today about -- you, you have alleged
6 that Mr. Morin was ineffective. What I'm trying to do is
7 make sure you have an opportunity to tell the Court about --
8 as to you testifying, is there anything else that Mr. Morin
9 counseled you on or about your testimony that you believe he
10 did ineffectively or that he defended you ineffectively
11 related to your testimony?

12 Again, could of been a poorly worded question.

13 A I mean I, I don't -- I ain't understanding what you,
14 what you asking.

15 Q Well, and you may of answered it already, but, again,
16 this is your, your time to present your facts as to why you
17 believe Mr. Morin was an ineffective attorney for you.

18 As it relates to your testifying or your testimony, is
19 there anything else that Mr. Morin did, said, that you
20 believed he didn't do or didn't say, or he didn't properly
21 act as your attorney?

22 A I mean I wanted to testify and he told me that would
23 be -- that, if I testified, I would definitely be found
24 guilty.

25 Q So, earlier I asked you, if you testified, I understood

1 you to say that you did testify.

2 Is it -- you didn't---

3 A That was at, that was at the beginning. That was on
4 the, the pretrial. That was before -- the jury wasn't even
5 in the courtroom at the time.

6 Q You, prior to the actual trial starting with the jury
7 in the jury box, you testified in a pretrial hearing,
8 correct?

9 A Yes, sir.

10 Q But, during the trial, when the jury was here, heard
11 all of the evidence of the case, you did not testify in your
12 defense?

13 A No, sir.

14 Q Did anyone testify on your -- as to your defense during
15 the jury trial?

16 A No, sir.

17 Q Sir, looking at that statement claimed, is that still
18 directly in front of you?

19 A Yes, sir.

20 Q Item Number 3, you've mentioned, in your supplemental
21 material that you sent to the Court and then to me and that
22 I supplemented the Court file with, about the fact that the
23 warrant presented was for stolen property. Not for drugs.

24 A Yes, sir.

25 Q Do you believe that Mr. Morin was ineffective for not

1 bringing that out during the trial?

2 A well, the stolen property?

3 Q The, the fact that the warrant that the police came to
4 the house for was for stolen property. Here's the thing.

5 I -- you're the one that wrote these things. I think I know
6 what you're saying, but you're the one that, that has the
7 claim. So, I'm trying to get this material out from you.

8 The warrant that the police came to the house about was
9 for stolen property goods; correct?

10 A Yes, sir.

11 Q Not for drugs?

12 A Yes, sir.

13 Q Do you believe Mr. Morin brought that issue out to the
14 Court during your trial?

15 A Well, he did. I think he did mention something about
16 it, but I feel that it was -- by, by them -- by the
17 evidence, by the evidence that was collected for stolen
18 property, that the chain of evidence was broken or --.

19 Q How do you believe the chain of evidence was broken?

20 A Because the evidence that they collected wasn't part of
21 the trial.

22 Q You mean the property evidence?

23 A Yes, sir.

24 Q Okay. And you were never charged with any property
25 crimes?

1 A No, sir.

2 Q And, during the trial, was there ever any mention of
3 you having stolen some property goods or that property items
4 were recovered from the house that appeared to be stolen?

5 A Yes, sir.

6 Q But no connection was made to you---

7 A No, sir.

8 Q ---on that?

9 As it related to the non police witnesses that
10 testified for the prosecution, these two ladies, Julie
11 Lawson and Kalyne or Kowlin (phonetic) Carroll, they
12 testified as well for the prosecution?

13 A Yes, sir.

14 Q Did one or both of them make statements to the Court
15 that the drugs that were found were your drugs?

16 A Repeat that again.

17 Q Did Kalyne Carroll say that the drugs that were found
18 during the search were yours?

19 A During the search?

20 Q During the -- yes.

21 During the trial of this case, did Kalyne Carroll tell
22 the Court that the drugs that were found were your drugs?

23 A Well, at the beginning she said they belonged to her,
24 and then she changed her statement, but -- and she testified
25 that they belonged to me.

1 Q Did anyone else testify that the drugs were yours?

2 A Yes, sir, the other female.

3 Q Julie Lawson?

4 A Yes, sir.

5 Q Besides these two ladies, was there any other witness
6 that could connect the drugs to you beside you -- in terms
7 of possession or ownership or anything like that?

8 A Um.

9 Q During the trial, were there any other independent
10 witnesses, not witnesses wearing a badge or involved with
11 police departments, that could say I was in the house with
12 Charles Blackwell and the drugs that you found---

13 A Oh.

14 Q ---were his drugs?

15 A No, sir.

16 Q So, do you believe that Julie Lawson and Kalyne
17 Carroll were key witnesses for the prosecution?

18 A Yes, sir.

19 Q Do you believe that the prosecution could of convicted
20 you without Kalyne Carroll or Julie Lawson's testimony?

21 A No, sir.

22 Q Because who would of connected, connected you to the
23 drugs?

24 A Do what now?

25 Q Who would of connected you to the drugs without those

1 two ladies?

2 Anybody?

3 A Nobody.

4 Q Do you believe that a primary defense of yours would of
5 been to show that both Julie Lawson and Kalyne Carroll were
6 lying?

7 MS. GIOVANOLI: Objection as to leading.

8 THE COURT: Sustained.

9 Q What defense did you have if you could not counteract
10 the testimony of Julie Lawson or Kalyne Carroll?

11 How could you defend yourself against them?

12 A I couldn't have.

13 Q So, were you -- the only way you could defend
14 yourself -- can, can you think of any other way to defend
15 yourself against their testimony except to attack their
16 testimony?

17 A Yeah, that would of been the only way.

18 Q Can you think of any other way to attack their
19 testimony besides putting up witnesses?

20 A Well, I wanted, I wanted it to be showed in Court that
21 both of these females already had prior drug charges, and I
22 hadn't never had none.

23 Q Are you -- in your statement of claim here, you've got
24 a number of separate issues regarding jurors.

25 A Yes, sir.

1 Q Now, on the second page, I'll come up here and show you
2 so you can follow along with me.

3 On Page 2 of your statement of claim, you've got Juror
4 Number 122, Mr. Benson, was dismissed, correct?

5 A Yes, sir.

6 Q All right. Beyond Mr. Benson, the other jurors you
7 have listed in your statement of claim, sir, do you believe
8 those jurors -- do you believe those jurors were on the jury
9 panel that convicted you?

10 A Yes, sir.

11 Q And you list, in your statement of claim, the various
12 issues and connections those people admitted to having with
13 various witnesses or, or folks involved with this case?

14 A Yes, sir.

15 Q Did Mr. Morin object to any of those jurors?

16 A No, sir.

17 Q Did he ask for a new trial after you were convicted by
18 those jurors with these types of issues?

19 After, after you were convicted, do you recall hearing
20 Mr. Morin ask the Court for a new trial or did you ever
21 receive any information from Mr. Morin stating he had
22 requested a new trial?

23 A Not a new trial. I think he asked for a direct (sic)
24 verdict or something like that, but I don't, I don't, I
25 don't remember nothing about no new trial.

1 Q Do you recall him making any objection or argument to
2 the Court based on these jurors at all?

3 A No, sir.

4 Q Below the item that says Juror Number, Number 122 on
5 the second page, you have two extra items in there. It's
6 talking about the chain of custody. Now, you and I have
7 spoken about that where we've talked about the various
8 dates, but I want to make sure because, again, this is your
9 day. I want to make sure that I understand what you are
10 saying in those two headings. You mentioned, in the first
11 paragraph, that the chain of custody was broken.

12 Tell the Court, for the record, what you mean by the
13 chain of custody being broken in this matter.

14 A Well, this evidence -- this -- these, these pieces was
15 collected from the house when they came with the search
16 warrant. By them -- Detective Tracy Fowler said that they
17 was given back to the homeowner.

18 Why was they given back to the homeowner when they
19 should of been with -- part of the, the evidence that was
20 collected from the house?

21 Q Well, let's talk about the, the -- these items that
22 were given back to the homeowner.

23 What items were they?

24 A Well, I don't think he -- I don't think he could say --
25 said what really what it was. So --.

1 Q Okay.

2 A I mean I could be wrong, but I, I think he just said
3 that the items that was collected was given back to the
4 homeowner.

5 Q Now, we're here on a, on a case that involves your drug
6 conviction.

7 You're not talking about drugs being given back to the
8 homeowner?

9 A Well, that's what I -- that's what I -- I didn't know.
10 I didn't know what he was talking about. All he said was
11 the, the property was given back to the homeowner.

12 Q All right.

13 A You can look under Tracy -- the testimony of Tracy
14 Fowler and, and see what it was -- I mean I would have to go
15 back and read it again to see, but I don't think he
16 mentioned what it was. So --.

17 Q Well, sir, at your trial, did they present the drugs---

18 A Yeah.

19 Q ---that they, they said they collected at the house?

20 A Well, they -- I don't remember seeing the drugs, but
21 they, they was just talking about it. They said they put
22 it, put it all in one bag or that they was -- they had them
23 in different bags and all of it was placed in -- into one
24 bag or --.

25 Q All right. When the search warrant was taking place,

1 did these officers take pictures of the scene?

2 A Yes, sir, they were some -- taking pictures and video.

3 Q All right. What were they taking pictures with, their
4 phones or was it---

5 A Oh, no, it -- it was a camera.

6 Q All right. What about the video?

7 Was it a phone that was used?

8 A No, it was, it was a home, home video thing. Track
9 camera like.

10 Q And, at your trial, were any video or pictures
11 introduced?

12 A Nothing but the ones that my lawyer advised them that
13 they need to come take pictures of the house.

14 Q Okay.

15 A That was the day before the trial started.

16 Q Just so -- cause I, I understand what you're saying.
17 Let's make sure we get the record correct.

18 So, the pictures of videos that was introduced during
19 the trial of your case were pictures and video of this scene
20 taken very soon to your trial date?

21 A The day before.

22 Q And you, you got to see those pictures?

23 A Yes, sir.

24 Q And you knew what the scene looked like because you
25 were arrested at that scene, correct?

1 A Yes, sir.

2 Q Did the pictures match, the pictures taken before your
3 trial, matched the scene of the, the alleged crime?

4 A No, sir.

5 Q And how were they different?

6 A Well, they testified that there was an air conditioner
7 in the window. On the pictures they were showing, there
8 wasn't no air conditioner in the window. That's what they
9 said they found -- they seen somebody -- someone grab a
10 container off the air conditioner (sic), but they, they never
11 said who it was. They just said they seen somebody grab it.

12 Q Did Mr. Morin object to those items?

13 A Not---

14 Q Did he object to those pictures?

15 A No, sir, I don't guess. He didn't because he called me
16 the day before and asked me, told me, told me if, if, if I
17 was at that address, to stay hid because they -- they was
18 coming to take pictures of the house to use for court.

19 Q Sir, I've gone through the items in your statement of
20 claim, and, and the notes that I have on this, but, again,
21 this is your time.

22 Are there other items that I have not discussed where
23 you believe Mr. Morin was ineffective as your attorney?

24 A If they are, I can't -- I don't -- they ain't wanting
25 to come to me right now. I mean all my paperwork is over

1 there. I could -- but my hands cuffed and I can't go
2 through the paperwork or --.

3 Q Nothing further at this time. Answer any questions Ms.
4 Giovanoli may have.

5 A Okay.

6 THE COURT: Okay.

7 MR. EPPS: I probably butchered it. I'm sorry.

8 MS. GIOVANOLI: That's okay.

9 THE COURT: Yes, ma'am.

10 MS. GIOVANOLI: That's all right.

11 THE COURT: Cross-examination.

12 MS. GIOVANOLI: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MS. GIOVANOLI:

15 Q All right. When they were executed (sic) the search
16 warrants on your house for lawn tools---

17 A It wasn't my house, ma'am.

18 Q Okay. Well, let me turn your attention to Page 50.
19 Do you recall testifying under oath at a pretrial
20 hearing?

21 A Yes, that's when -- that's what I was talking about
22 that he, he convinced me that I needed to lie and admit that
23 that's my house, but the paperwork plainly shows -- tells
24 you that it's not my house.

25 Q So, your testimony is that Mr. Morin told you to lie on

1 the stand?

2 A Yes, sir.

3 Q Okay. You were---

4 A Yes, ma'am.

5 Q You were put under oath and you swore to tell the
6 truth?

7 A Yes, ma'am.

8 Q So, your testimony today is that you'll lie if someone
9 tells you to lie?

10 A Yes, because he, he told me it would make me look bad
11 if they, later on, if I didn't admit to the house being
12 mine.

13 Q Okay. Let me call your attention on Page 50, and this
14 is whenever you're being examined directly by Mr. Morin in a
15 pretrial hearing. He asked you -- it's okay. I'll read it
16 so you know what it is.

17 Can you tell the Court what, what you recall occurred?

18 And your answer was, when he asked me to give him
19 permission to search the house, and we continue onto Page
20 51, I told him kiss my ass.

21 And then the question, well, pass that, did you sign
22 this document?

23 No, I did not.

24 Is this your signature?

25 No, it is not.

1 And, lastly, well, after you said what you've already
2 testified to, did you say anything else to him?

3 And your response, under oath, was I told him to get
4 the fuck out of my house. Excuse my language.

5 Do you remember that testimony?

6 A Yes, I do.

7 Q And so now your testimony today is that that was a lie?

8 A Yes, ma'am.

9 Q Okay. When they were searching your property for, you
10 said, a leaf blower, a push mower, and a weed eater, is that
11 correct?

12 A Yes.

13 Q That's what they were looking for?

14 They were also looking for tools.

15 Isn't that right?

16 A I don't know. I'm just going by what was on the paper
17 that they -- that I have over there. The papers I got got
18 it -- just had them three items.

19 Q Okay. No one testified on your behalf at trial, did
20 they?

21 A No, ma'am.

22 Q That's cause you didn't have any witnesses that could
23 testify in your behalf.

24 Isn't that right?

25 A Just the two that I mentioned a while ago.

1 Q And that was Tiny?

2 A Tiny, Shannon, Shannon Alley, and my daughter-in-law.

3 Q Well, wait. You testified before you had Tiny and
4 Casey.

5 Now who is Shannon and Alley?

6 A That's Tiny.

7 Q Okay. Okay. Tiny is Shannon?

8 A Yeah.

9 Q All right. All right. Is Tiny your friend?

10 A Yes, sir. Yes, ma'am, I mean.

11 Q And so your testimony today is that he would of come in
12 at trial and testified that was his bedroom and those were
13 his drugs?

14 He would of claimed those drugs for you?

15 A Well, no, I don't know about the drugs, but he would of
16 said that the bedroom was his because---

17 Q Well, why wasn't Tiny present whenever this search
18 warrant was being executed?

19 A Because he left that morning with -- his, his mom came
20 by and picked him up and he was gone with his mama. And I
21 was, I was waiting there to -- for, for him to get back.
22 That's who I was waiting at -- that's why I was at the
23 house, waiting on him to get back.

24 Q And, going back to that stolen property, you realize
25 that that evidence was not admitted in your trial, right?

1 A Yes, ma'am.

2 Q Okay. And your testimony today is that it should have
3 been admitted?

4 A Well, I thought -- I thought it should of been. I mean
5 I may be wrong, but I just feel that it should of been
6 presented so to why, to why the police was there to start
7 with.

8 Q But that was presented through testimony, was it not,
9 and it---

10 A Through testimony, but that's word of mouth.

11 Q Yeah, but the investigator testified that they were
12 there executing a search warrant looking for stolen
13 property, a crime you had nothing to do with?

14 A Yes, ma'am.

15 Q Isn't that right?

16 Okay. So, how would the actual stolen property be
17 relevant to your case?

18 Why would it need to be admitted to the jury?

19 A Well, just like you just said, they had -- the crime
20 that they was -- the stuff that they was looking for had
21 nothing to do with me, and anything else that they found at
22 the house had nothing to do with me.

23 Q All right. In going to one of the State's witnesses, I
24 believe it was Kalyne, you testified that, originally,
25 during the search, that she admitted that the drugs were

1 hers.

2 Isn't that correct?

3 A Yes, ma'am.

4 Q Okay. But didn't she testify that she testified -- she
5 said that because you told her to?

6 A No, ma'am, I did not tell her that.

7 Q And because she was scared of you?

8 A Well, she said she was afraid of me, but it's like
9 this. I was sitting there in the house. I had no gun and I
10 had no weapons. The -- they was eight, ten polices (sic)
11 walking around in and out.

12 why would she be afraid, afraid of me with all the
13 polices (sic) around with guns?

14 I mean why would she be afraid of me?

15 Q Well, didn't she know about prior acts where you had
16 told people you were gonna get them and you got them back---

17 A No.

18 Q ---for betraying you?

19 A No, ma'am.

20 Q Tiny and Casey is your daughter-in-law?

21 A Casey.

22 Q Yeah.

23 Those two witnesses, they weren't present during the
24 search of the house, were they?

25 A No, ma'am.

1 Q Okay. And, the photos that were taken of your house,
2 weren't they taken and -- prior to the trial on
3 March 4th and 5th?

4 A They was taken the day before.

5 Q Okay. And so the weather's kind of chilly at that
6 point -- at that time, isn't it?

7 Late February, early March?

8 A I want to say that it was pretty nice that -- when,
9 when they taken, when that took place.

10 Q But the AC unit in your house was removable, isn't it?
11 It's one of those window units?

12 A Well, ma'am, it's not -- it wasn't my window.

13 Q Okay. The AC unit in that house, isn't it one of those
14 removable units?

15 A Yes, ma'am.

16 Q Yeah.

17 And so it could of been removed during the cold months?

18 A Yes, ma'am.

19 Q Okay. I have no further questions. Thank you.

20 MR. EPPS: Nothing further, Your Honor.

21 THE COURT: Okay. Thank you very much, sir. If you
22 will, watch your step, okay, Mr. Blackwell, when you're
23 getting down there?

24 THE WITNESS: Okay.

25 MR. EPPS: Your Honor, we have no further witnesses at

1 this time. We would rest.

2 THE COURT: Okay. Thank you.

3 Yes, ma'am.

4 MS. GIOVANOLI: At this time, the State would call
5 Michael Morin to the stand.

6 THE COURT: Okay. Mr. Morin, please come forward.

7 (WHEREUPON, Mr. Morin complies.)

8 THE COURT: Raise your right-hand please, sir.

9 MICHAEL MORIN, being first duly
10 sworn, testified as follows:

11 THE COURT: Thank you, sir. Watch your step. Make
12 yourself comfortable there.

13 DIRECT EXAMINATION

14 BY MS. GIOVANOLI:

15 Q Mr. Morin, thank you for being here.

16 A Thank you. No problem.

17 Q How long have you been practicing law?

18 A Twenty-five years.

19 Q Okay. And of that -- those 25 years, how much of that
20 has been criminal law?

21 A Probably 80 to 90 percent.

22 Q Eighty to ninety percent of the time or your caseload?

23 A Both.

24 Q Both.

25 Okay. Okay. And you were retained in this case or

1 were you appointed?

2 A I'm -- I think I was appointed.

3 Q Okay.

4 A If you'll give a second, I'll be able to see that
5 order. I'm pretty sure though. Yeah, I was appointed.

6 Q Okay. Are you -- do you work with the Public
7 Defender's Office?

8 A I have a conflict -- I think, at that time, I don't
9 even have a contract. It may of predated or it was right
10 around that time, but I have a contract to do conflict cases
11 in Cherokee and Spartanburg.

12 Q Okay. How many times do you recall meeting with the
13 Applicant during the course of your representation?

14 A We met two or three times when he was in jail, and a
15 couple of times after he made bond.

16 Q And so he was released from jail out on bond?

17 A Uh-huh. (Affirmative).

18 Q Okay. Would he come to your office to discuss the
19 case?

20 A I don't -- it seemed like he came to Spartanburg at
21 least once. My office is here in Spartanburg.

22 Q Did you guys have any phone calls?

23 A We talked on the phone. Not for long periods of time
24 about the case. But what was going on, that it was coming
25 up, that kind of stuff.

1 Q Okay. And did you file a request for discovery in this
2 case?

3 A Yes.

4 Q Okay. And did, did you have an opportunity to review
5 all those materials?

6 A Yes.

7 Q Did you review them with the client?

8 A Yes.

9 Q And that's each and every piece of evidence that was in
10 discovery?

11 A That's correct.

12 Q Okay. If you could, can you please give us a brief
13 overview of the State's evidence against him. Not
14 necessarily his version of events, but the State's evidence
15 against him.

16 A Well, the State's position was it was his house. The
17 two ladies claim that they got drugs from him over some
18 time. There was a notebook or it was a notebook, which they
19 like to call a ledger, but they tried to allege that that
20 was some sort of drug transaction book, which we tried -- I
21 tried to suppress prior to trial. But their basic theme was
22 he was selling drugs out of that house, and that was the
23 evidence they used.

24 Q Do you recall how many witnesses the State called?

25 A I want to say seven. I mean, I mean I could look at

1 the transcript, but they, they had the officers that -- a
2 couple officers that were there. They put in the B.E.S.T.
3 Bag. They took it to SLED. The SLED agent testified it was
4 drugs. The two ladies that he's discussed that said that he
5 would come out there.

6 Q Okay. And would, would you disagree if I said there
7 were ten?

8 A No, and it could of been more in the chain that I was
9 thinking of.

10 Q And in addition to the two ladies that were actually
11 present during the time of this search, were there -- was
12 there testimony from two other women that had previous
13 experience with the Applicant?

14 A Yes, I think there was.

15 Q And that was Lynn Sizemore and Connie Peterson?

16 A Correct.

17 Q Okay. Do you recall what their testimony was?

18 A Not, not directly. I believe, I believe it was their
19 testimony that was revealed real close to the trial. In
20 fact, I was given an opportunity to meet with them
21 individually, and then speak to Mr. Blackwell prior to the
22 trial starting, and that -- I didn't really remember that
23 too well until after I read the transcript that that had
24 happened.

25 Q And I believe that's indicated in the transcript, and

1 you said you had the opportunity to talk with them, right?

2 A Yes.

3 Q And your, and your client?

4 A Yes.

5 Q Okay. So, you didn't feel that that was an issue---

6 A No.

7 Q ---to bring on a Brady violation?

8 A No.

9 Q All right. So, let's go to the Applicant's version of
10 events.

11 Now, what did he tell you about this case?

12 A I remember that he said he was doing some work out
13 there, and I remember him saying that he had some notices
14 that he had been on trespass, that these girls were out
15 there, and he didn't know what they were doing, and then the
16 police came and served a search warrant, and they claimed
17 that he signed a consent, which he, he always said he never
18 signed, and he said it during pretrial that he never signed
19 it.

20 Q Was that consent form admitted as part of the pretrial
21 hearing?

22 A I believe it was.

23 Q Okay.

24 A Cause I handed it to him to identify it.

25 Q Okay.

1 A But, nonetheless, that's what I remember him telling
2 me.

3 Q Okay. And did you tell him to get on the stand at the
4 pretrial hearing and lie?

5 A No.

6 Q Okay. Well, what was your discussion regarding this
7 trespassing notice?

8 A It was my understanding, from speaking to him
9 previously, that he had alleged what he alleged today about
10 the trespass. And, when I said, in direct, what else did
11 you say, I expected that he was gonna say what he had always
12 told me, which was I'm on trespass, this isn't my house, I'm
13 not suppose to be here.

14 Q Is that why, right after he said that, you had no
15 further questions?

16 A Yeah. You'll, you'll notice right after he said get
17 the F out of my house, you can't see it on the transcript,
18 but I was -- I had planned on having a trial where we were
19 gonna argue that that wasn't his house, that he was on
20 trespass, and that kind of thing. And, when he said that,
21 it basically ended that because now they had him on record
22 under oath saying that it was his house. So, that's why it
23 just goes I have no further questions. I didn't know what
24 else he was gonna say at that point, but that's, that's
25 where the trespass -- all that trespass he's been talking

1 about, it all went away when he said that, and I did not
2 ever -- not only did I never tell him to lie, I've never
3 told a client what to say when they get on the stand.

4 Q Okay. What is your advice to them, to tell the truth?

5 A It is, and a lot of times, when I've had more than one
6 question, one answer to a question like that, I will ask a
7 question, and I can't say it applies in this case, but I
8 would of said why don't you tell us what happened. So, they
9 can tell me what happened. I'm not gonna lead them down one
10 road when they may of told me something different. And this
11 is one of the first times that I can recall, it's happened
12 to me a few times, but where the defendant cut off his own
13 defense that he's been preaching about, and I just gave him
14 the opportunity to say the thing he's been dying to say.
15 And I was shocked by it. That's why I just said I have no
16 further questions.

17 Q Okay. And is that why you advised him not to testify
18 later in the trial?

19 A Well, my advice later in the trial would of been, if
20 you get up and say I'm under trespass, they're gonna say
21 well, you already gave testimony that you said it was your
22 house.

23 So, how do we rectify those things?

24 That would of been the conversation we would of had
25 then.

1 Q Did you explain to him that would be a credibility
2 issue for the jury?

3 A Well, yeah, I would of told him that would of been an
4 issue. In fact, I think I told him that while -- before the
5 jury -- while the jury was coming in. I said we just, we
6 just lost the trespass.

7 Q Without discussing the trespass on testified -- and
8 when he testified during his trial, was there anything else
9 beneficial that he could of provided by testifying?

10 A I don't know what. And, you know, I continued --
11 because he had given me different stories, I kind of had, in
12 the back of my mind, a second defense, which would of been
13 okay, the judge says that he's not gonna let the trespass in
14 or he's gonna allow them to do this, then what will I do?

15 Well, what I'll do is I will say these two -- one lie
16 she admits -- she's gonna admit she lied. One says she was
17 using drugs. So, I'd have that. They were, they were built
18 in credibility problems.

19 Law enforcement didn't, didn't take any pictures and
20 that's throughout my questioning of all of them. Like
21 where's the evidence of this?

22 And the other thing that was striking about it, and I
23 still am not convinced that they didn't go out there for
24 drugs, is because he called them SID, but the CID, the
25 criminal investigative division went out there, but they

1 brought two narcotics agents, and they never explained why
2 that was. And that's why I said that at trial. I was -- I
3 mean at closing. I was like why are these narcotics agents
4 there if they're just looking for a lawn mower.

5 That was the case. That's where I was going with the
6 defense at that point, and I had to drop the trespassing
7 based on that response that he gave at pretrial.

8 Q Were you concerned with calling him to testify at trial
9 because he may change his story?

10 A Well, he certainly could have. Obviously, Kalyne did
11 and didn't affect the State, but my position would of been,
12 at that point, I would of -- I mean I was telling him you
13 just testified the words my house.

14 Q I guess what I meant to say were you concerned that he
15 would testify to the trespassing stuff at trial?

16 A He may. And, if he did, then he would of had to
17 explain that, and then I would of been in a position where
18 he had already said that under oath. So, I would of just
19 been able to say tell me what happened that day, and then he
20 would of had to say whatever he said. And, given the fact
21 that he'd already done that when we were trying to do one
22 thing, I considered that to be somewhat questionable.

23 Q Did -- were there any plea offers in this case?

24 A Not that I recall.

25 Q Did he -- did the Applicant ever express any desire to

1 secure a plea deal?

2 A No.

3 Q Okay. Did you review his Constitutional rights with
4 him?

5 A Yes.

6 Q Okay. Did the Applicant ever give you a list of any
7 potential witnesses?

8 A No.

9 Q None?

10 A No.

11 Q So, the -- is today the first time you've heard about
12 Tiny?

13 A Yes.

14 Q Is today the first time you've heard about Casey?

15 A I think we might of discussed Casey, but the point of
16 that would of been to prove that those girls were lying,
17 which, again, they admitted that they were lying.

18 Q Okay.

19 A So, I wouldn't have done that from a trial strategy.

20 Q Okay. And---

21 A But I never heard about Tiny.

22 Q Did you -- so, you follow it up on that Casey lead?

23 A Well, I didn't -- I followed it up in the sense that,
24 once I got the discovery and we talked about it and he was
25 like they're gonna say that Kalyne's lying, I'm gonna say

1 well, if Kalyne gets on the stand and says I admitted they
2 were mine, and I say that's now a lie, I don't need anybody
3 else. The best proof of the witness is lying is the witness
4 going I'm lying.

5 Q So, you effectively impeached Kalyne?

6 A I thought so. And the other witness, I think, talked
7 about how she was driving around smoking meth out of a bowl.

8 Q And you brought those facts out to the jury that she
9 was---

10 A Yes.

11 Q ---high?

12 Beg the Court's indulgence.

13 THE COURT: Yes, ma'am. Take your time.

14 (Pause.)

15 Q Okay. And just briefly with regard to the jurors.
16 Applicant has specifically alleged Juror Number 60, 84, 80,
17 101, and 78.

18 Did any of those jurors serve on the jury panel?

19 A No.

20 Q Okay. And another allegation against Juror Number 122.
21 Did that juror serve on the jury panel?

22 A That juror was excused. The reason I can say that is
23 because, during jury qualification, I had down 84, knew --
24 we -- knew Rodney Bright, 78 knew Rodney Bright, 80 was
25 employed somehow, Ms. Sizemore, 130 knew Rodney Bright, and

1 Number 8 was friends with Federico's sister. So, in my
2 notes, I had written down one, two, three, four, five. So,
3 those are the people that we were going to excuse should
4 they be called. None of them were. We did strike Number
5 28. I've got a circle around Number 80, which probably
6 indicates the State may have let her go.

7 Q Okay.

8 A I'm not sure. But if any of those had -- that was who
9 we were waiting for. I was waiting for those numbers to be
10 called so that I could strike them.

11 Q Okay. And you're referring to your notes---

12 A Yes.

13 Q ---that you had in your file?

14 A Yes, this is how I pick a jury.

15 Q Okay. So, those are your notes?

16 A Yes.

17 Q You actually wrote those.

18 Okay. As far as the photographs that were taken a
19 little late in the phase, can you tell us a little bit about
20 that?

21 A As far as I recall, I called Ms. Leskanic, the State,
22 and I said my client's telling me that there's pictures.
23 Where are the pictures?

24 And I recall her saying that she was disappointed there
25 were no pictures, and then she had a picture taken like two

1 days or three days, a week before, and she showed it to me.
2 And I realized that it was different, and I'm fairly certain
3 that, in the transcript, I said well, this isn't when it
4 actually happened. You just took this the other day.

5 And I think she wanted to do it so that she could kind
6 of explain to the jury what the house looked like, which is
7 what I would of done, but it was clear that it wasn't done
8 at the time of the incident. And, as I stated throughout
9 the trial, they didn't -- they -- they're experienced
10 officers. They did all this training. They have all these
11 things, and they didn't do basic things. That was another
12 part of his defense that I was---

13 Q okay.

14 A ---pursuing.

15 Q So, not only -- let me ask you two questions.

16 You didn't find the photos objectionable?

17 A No, in fact, the fact that they had to go back was what
18 I was building on the fact that you went back yesterday and
19 took a picture, but you didn't think it was important when
20 you were trying to make the case.

21 Q Right.

22 So, you actually used that to your advantage?

23 A Yeah.

24 Q Okay. Okay. I believe that's all the questions that I
25 have for you. Thank you. Please answer any questions that

1 counsel may have.

2 A Thank you.

3 THE COURT: Yes, sir, Mr. Epps, cross.

4 MR. EPPS: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. EPPS:

7 Q Since you just finished up on the pictures, did you
8 file any type of motion or request any relief from the Court
9 because there were no pictures given to you that were taken
10 contemporaneous with this search warrant and arrest?

11 A You mean beyond Rule 5 and Brady motion?

12 Q Right?

13 A No.

14 Q Beyond that.

15 Tiny, was it the first -- was today the first time
16 you'd ever heard of Tiny or was it --?

17 A I don't ever remember having any discussion with
18 Mr. Blackwell about any man that lived there. Mr. Blackwell
19 was saying he didn't live there. He was saying that he was
20 there doing work and it wasn't his house.

21 So, if he would of then said there were other people
22 living there, I don't, I don't recall any of that, and I
23 don't have anything in my notes because my experience is, is
24 you're gonna hear about witnesses. So, anytime there's my
25 client saying anything about a witness, I would write it

1 down and I went through my file and I don't have one. And I
2 don't recall that because it wouldn't of been consistent
3 with I'm here, I'm trespassing.

4 Q who did he say lived at the house?

5 A I don't really remember. I remember him saying that he
6 was painting for someone.

7 Q Did he ever tell you how Julie Lawson and Kalyne
8 Carroll got to the house or why they were at the house?

9 A I don't, don't recall. It seem likes it was something
10 about a car going on there, and he was gonna buy a car or
11 fix a car or something.

12 Q well, Lynn Sizemore and Connie Peterson I think---

13 A Oh, that's them?

14 Q ---were the two other ladies.

15 A Okay. I'm sorry. I'm confused.

16 Q Do you recall or see or know of anything in your notes
17 that tells you anything that Mr. Blackwell told you about
18 why Kalyne Carroll and Julie Lawson were at the house?

19 A I don't feel that -- I had a couple of notes I noticed
20 from some of my jail visits. Let me just -- the first time
21 I went to see him, he told me that Kalyne had claimed the
22 drugs, and we talked about bond cause it was the first
23 meeting and we talk about bond. That's what you do, whether
24 you want to or -- again, at the next meeting, it was more
25 talk about Kalyne and Carroll (sic). He was still talking

1 about bond in July.

2 Then he got out. We met, like I say, once, maybe twice
3 in my office, but I don't have any recollection of that, and
4 I'm not really sure.

5 It seems to me, if I understand correctly, he's saying
6 that this person is gonna come and say that the drugs were
7 found in his possessions, area?

8 I mean I don't know who this guy is, and, even if I
9 did, he'd have to say that -- he'd basically be coming to
10 Court and saying those are his drugs.

11 Q You're talking about Tiny?

12 A Well, at least that's the way I understand it today.

13 Q Sure.

14 But as the facts were presented in the trial, the drugs
15 that were found in this house were found in a bedroom that
16 Kalyne Carroll was---

17 A Laying on the bed.

18 Q ---asleep, laying in bed, sleeping?

19 She was in the room?

20 A Correct.

21 Q No one else was in the room?

22 A No.

23 Q And she, at least, at first said the drugs were hers.
24 And then, at some point in the future, at least at trial,
25 said no, they're not mine. He told me to say that.

1 A well, as you, as you see in the -- and I remember parts
2 of this cause, you know, when you get a client -- when you
3 get a witness on the stand, and they start talking about
4 lying and stuff, it -- that kind of stands out, and, you
5 know, I looked at my closing argument first when I got it
6 cause that usually refreshes the whole thing. And you see
7 in there where I say she claimed it, but then she got to the
8 jail, and, all of a sudden, realized oh, I'm gonna go to
9 jail. It's not mine.

10 That, that came out during the trial. She was her
11 worst -- her own worst enemy on that. She was in the room
12 with the drugs. She said they were hers. She flipped and,
13 for whatever reason, the jury believed her.

14 Q Do you believe that Kalyne Carroll served as kind of a
15 lynchpin for this entire prosecution?

16 A well, her and the, and the other lady that was there.

17 Q Ms. Lawson.

18 A Lynchpin for us was -- is the fact -- yeah, the
19 lynchpin for us was she claimed them, and then she changed
20 her mind, and there's no reason for her to do that other
21 than the fact she thought, you know, nothing's gonna happen
22 to me. Of course, law enforcement, the whole time, through
23 the whole trial, was going we didn't believe her, we didn't
24 believe her, we didn't believe her.

25 well, why didn't you?

1 Because they went out there to find stolen property.

2 So, why did they bring two narcotics agents and why did
3 they automatically think that Mr. Blackwell did it?

4 I mean that was the defense. That's what I asked the
5 jury. That was the case.

6 I still don't know why Nick Federico was there. I
7 still don't know why they automatically assumed it was his.
8 If they're telling the truth about it, they had to have some
9 other suspicion, but, you know, and that's, that's where I
10 went. And, again, I don't know why the jury didn't go with
11 that, but there it is. That's jury trials.

12 Q And, Mr. Blackwell, you said, never asked for a plea
13 deal?

14 A No, he said it wasn't his. He kept saying I haven't
15 lived there, it wasn't my drugs, I'm not pleading to
16 anything.

17 Q So, he, he never once---

18 A Not that I recall, no. He never once said that they
19 were his. To this day he says they weren't his.

20 Q The, the two other ladies, just so we have it clear on
21 the record, Lynn Sizemore and Connie Peterson, and I'm
22 hopeful by saying their names it might give you some -- they
23 were the two ladies that talked about smoking a bowl of some
24 drugs or something about getting a car and then driving to a
25 hotel room or something?

1 A Yeah; it was something in there about that. That was
2 sort of -- I think that the State was trying to establish
3 that there were other drug transactions that occurred from
4 that area, and they were trying to distance Kalyne from her
5 statement that the drugs belonged to her.

6 Q But these two ladies, Lynn Sizemore and Connie
7 Peterson, were not witnesses at the scene during the---

8 A No.

9 Q ---time of the arrest?

10 A No. No.

11 Q All right. Just, just three people?

12 A Right.

13 Q Mr. Blackwell?

14 A And the two ladies.

15 Q Ms. Carroll and Ms. Lawson?

16 A Correct.

17 Q All right.

18 (Pause.)

19 MR. EPPS: Nothing further at this time, Your Honor.

20 THE COURT: Thank you.

21 MS. GIOVANOLI: Nothing further, Your Honor.

22 THE COURT: Okay. Thank you.

23 MS. GIOVANOLI: May the witness be excused?

24 THE COURT: Any objection, Mr. Epps?

25 MR. EPPS: No, Your Honor.

1 THE COURT: Okay. Mr. Morin, thank you. You may be
2 excused.

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: Watch your step, please.

5 MR. EPPS: Your Honor, can I retrieve that material?

6 Thank you.

7 THE COURT: Actually, Mr. Epps, can I look at that?

8 MR. EPPS: Sure.

9 THE COURT: Cause I don't think that those attachments
10 were attached to mine.

11 MS. GIOVANOLI: And they weren't attached to mine
12 either.

13 THE COURT: You can show those then to counsel.

14 (Pause.)

15 MS. GIOVANOLI: You have this, statement claim?

16 THE COURT: Yes, I have a statement of claim.

17 MR. EPPS: And the rest is just the trespass notice.
18 He testified about it.

19 MS. GIOVANOLI: Okay.

20 MR. EPPS: I don't think we need to make it a Court
21 Exhibit unless -- Your Honor, do you think we need to make
22 this -- so, apparently, do you mind if I explain, Your
23 Honor?

24 THE COURT: No, sir.

25 MR. EPPS: Okay. So---

1 THE COURT: We're on the record?

2 THE COURT REPORTER: Yes, ma'am.

3 THE COURT: Yes, sir.

4 MR. EPPS: So, what I believe Your Honor has is my
5 motion to supplement, which is a one page document. After
6 that, it's an Exhibit A, then a Form 5, which the
7 application for post-conviction relief signed by Mr.
8 Blackwell. It's got his in forma pauperis affidavit, and
9 then a two page document that's handwritten. The top page
10 says statement of claim at the top center. And both pages
11 of the handwritten statement of claim are notarized and
12 signed by Mr. Blackwell.

13 I did ask Mr. Blackwell about three other pages. One
14 was a Cherokee County Sheriff's Office cover letter about a
15 trespass notice regarding this residence, and then two
16 sheets of paper from the Cherokee County Sheriff's Office,
17 which I would call something akin to a rap sheet that
18 literally talked about his trespass notice for this
19 residence.

20 THE APPLICANT: It shows why it was---

21 THE COURT: Okay. Sir, if -- I'm not trying to cut you
22 off, but I really am because I need for you to speak through
23 your counsel, Mr. Epps.

24 Okay?

25 THE APPLICANT: Okay. I'm sorry, ma'am.

1 THE COURT: Yes, sir. That's okay.

2 MR. EPPS: So, it appears to me that Your Honor does
3 have my written motion up through Mr. Blackwell's two pages
4 statement of case document.

5 THE COURT: That, that is correct. I do not have the
6 documents from the Sheriff's Department, the trespass
7 notice, or the last---

8 MR. EPPS: The, the trespass notice is a two --
9 multipage document.

10 THE COURT: Okay. All right.

11 MR. EPPS: And then there's a couple pages. However,
12 he testified about it. I don't know that we need to make it
13 a Court Exhibit. Be glad to do it if the Court would like.

14 MS. GIOVANOLI: Well, I only object to it being
15 admitted into evidence and made part of the record. I
16 wasn't able to use it to cross-examine a witness or ask my
17 witness about it. I do believe that his testimony was
18 sufficient with the record.

19 THE COURT: Okay.

20 MS. GIOVANOLI: There is a trespass notice---

21 THE COURT: That's, that's fine. And there was --
22 there were references to it. I just misunderstood. I
23 thought that that -- that was attached to the supplemental
24 application.

25 MR. EPPS: And I thought it had been. My mistake if it

1 was not.

2 MS. GIOVANOLI: I have three copies of the supplemental
3 application and none of them include that.

4 THE COURT: I just wanted to make sure that what I'm
5 considering is what I'm suppose to -- what was suppose to be
6 submitted.

7 MS. GIOVANOLI: Yes, ma'am.

8 MR. EPPS: Certainly.

9 THE COURT: All right.

10 MR. EPPS: And, Your Honor?

11 MS. GIOVANOLI: We can look at the file and see what
12 they have filed.

13 MR. EPPS: I mean it's probably not on there. I'd
14 concede that, if nobody else has got it, it probably just
15 didn't make it over there, but he talks about the -- he
16 talks about the trespassing even on this statement of claim.

17 MS. GIOVANOLI: The State's not contesting that there
18 was a trespass notice.

19 THE COURT: Okay.

20 MS. GIOVANOLI: That's a---

21 THE COURT: I think that it's clear that Mr. Blackwell
22 was on trespass at that property.

23 MS. GIOVANOLI: Yes.

24 THE COURT: Correct.

25 MR. EPPS: I think -- okay.

1 THE COURT: Okay. All right.

2 MR. EPPS: Are you good, Your Honor?

3 THE COURT: I'm good.

4 MR. EPPS: All right. Thank you.

5 THE COURT: Thank you, Mr. Epps.

6 Okay. Anything else from the Attorney General?

7 MS. GIOVANOLI: No, Your Honor. We would rest at this
8 point.

9 THE COURT: Okay. Mr. Epps, I have been allowing
10 closing arguments and summary if that -- if you would like
11 to give one. You're not required to give one.

12 MR. EPPS: I'll be glad to, Your Honor, and it's -- it
13 will be, I think, fairly brief.

14 Your Honor, this case revolves around, essentially, I
15 guess you could say two witnesses. One of which is the
16 actual defendant, my client now. But the underlying case
17 revolved clearly around this female, Kalyne Carroll, who,
18 at first, admitted the drugs were hers and then changed her
19 story.

20 Mr. Blackwell, in a PCR, has to show two things. He
21 has to show ineffectiveness. He also has to show prejudice.

22 Your Honor, he, Mr. Blackwell, while on the stand,
23 mentioned a number of items which could be viewed by Your
24 Honor as ineffective assistance. The lack of calling
25 witnesses, the lack of calling Mr. Blackwell.

1 I mean what I would say to the Court, in ruling on
2 this, is we believe that the ineffectiveness that is shown
3 here is you're allowing this witness, Kalyne Carroll, to
4 provide testimony -- the only people that provided testimony
5 during the trial were the prosecution witnesses. There was
6 no rebuttal outside of cross-examination.

7 So, the ineffectiveness was not providing any defense
8 while having the ability to provide a defense, having
9 witnesses available to counteract the, the presentation
10 of -- by the prosecution and, in particular, Ms. Carroll
11 because, without Ms. Carroll, there's essentially little of
12 a case, if any.

13 The prejudice that is shown is, without providing any
14 sort of defense by calling these witnesses, then there's no
15 other side for the jury to pick from. It's all prosecution
16 loaded. And so, after that, Your Honor, there's nothing to
17 pick from.

18 There's no, no one for the jury to go well, we heard
19 all this stuff, but Mr. Blackwell didn't present any
20 evidence. He didn't get up himself. You know, this
21 daughter-in-law could of provided some testimony to further
22 discredit Ms. Carroll.

23 And so, based on that, Your Honor, I believe we have
24 both a showing of ineffectiveness and prejudice that
25 warrants a, a granting of the PCR, and which would, again,

1 put my client back in the situation where he was initially
2 just as he was preparing to face these charges at trial.

3 Thank you, Your Honor.

4 THE COURT: Thank you, Mr. Epps.

5 Yes, ma'am.

6 MS. GIOVANOLI: Your Honor, counsel made mention of
7 ineffective assistance for allowing a State's witness to
8 testify, but I don't quite understand that argument in the
9 sense that Kalyne -- she was allowed to testify. There's
10 nothing objectionable about her testimony.

11 To the extent that Mr. Morin didn't call any witnesses
12 in his defense, it's -- there were no witnesses for his
13 defense. Mr. Morin testified that he originally intended
14 for his client to testify, but that he shot himself in the
15 arm whenever he got up on the stand and told a different
16 story in a pretrial hearing, that he actually told the
17 officers to get out of my house, and that they could not,
18 they could not search his house with his consent despite
19 there being a consent form signed by him.

20 So, at that point, Mr. Morin was really left with no
21 other available, you know, any type of witness to testify in
22 his behalf. Mr. Morin told -- testified that the -- Tiny
23 was never discussed in his discussions with his client. So,
24 he would of never even have known to investigate him and
25 whether or not he could testify.

1 And, once again, when an Applicant alleges that counsel
2 is ineffective for failing to call a witness, the case law
3 is clear that, if you don't produce that witness in the
4 hearing, you can't meet your burden of proof. All we can do
5 here is speculate as to what Tiny would of testified to. As
6 far as -- and the same thing goes for Casey, the
7 daughter-in-law.

8 Therefore, we would, we would argue that counsel was
9 not ineffective for failing to call these people. You can't
10 be ineffective where he doesn't even know the existence of
11 one of them, and the other one he testified to a strategic
12 decision in not calling her to testify because he
13 effectively cross-examined the witnesses the State had
14 offered based on Kalyne telling two different stories.

15 She admitted, through cross-examination, that yeah, I
16 did claim the drugs at the time the house was searched, but
17 that was -- you know, now I'm testifying something
18 different. I'm admitting to lying. There's effective
19 cross-examination. You can't get much better than that at
20 impeachment, and the same goes for the other witness, and
21 I'm forgetting the name. I think it was Lynn -- Kalyne and
22 then there was the other one. The other witness for the
23 State that was present during the search. There was so many
24 names. There were ten witnesses in this case.

25 THE COURT: Was it Sizemore?

1 MS. GIOVANOLI: I believe if that is -- no, Lynn
2 Sizemore---

3 THE COURT: That was Lawson?

4 MS. GIOVANOLI: I have it written here in my notes.

5 THE APPLICANT: Julie Lawson.

6 MS. GIOVANOLI: It was -- not Lynn Sizemore.

7 MR. EPPS: Julie Lawson.

8 MS. GIOVANOLI: Julie Lawson. That's it. Thank you,
9 counsel.

10 So, yes, Julie---

11 THE COURT: Actually---

12 MS. GIOVANOLI: ---he effectively impeached her based
13 on that fact that she had testified she was doing a bunch of
14 drugs, that she had been doing methamphetamine for hours.

15 So, we would argue that counsel was very effective in
16 that regard in the cross-examination. Otherwise, the other
17 two lay witnesses, I don't believe there's been any
18 allegation that he was ineffective as far as with regard to
19 the police officer, officer that's executed the search
20 warrant, and that created the chain of custody for the
21 drugs.

22 But with regard to the other two witnesses, they also
23 testified their, their history with the defendant and buying
24 drugs from him and buying them. Specifically watching him
25 pull the drugs out of this compartment that they found, this

1 box that they had found the drugs in.

2 So, the evidence was pretty overwhelming against him,
3 and Mr. Morin had no other opportunity to defend him. There
4 were no other witnesses available at his disposal. Like I
5 said, Tiny was not even brought to his attention, and, as of
6 now, his testimony would -- is just speculative in what that
7 would have been.

8 With regard to the juror allegation, I'll just address
9 that briefly. None of those jurors even sat on the panel,
10 and, therefore, there's absolutely no prejudice there. And
11 Mr. Morin had notes that actually indicated that he intended
12 to strike them had they been called.

13 For -- with regard to not, I guess, advising
14 Mr. Blackwell not to testify, that was also based on Mr.
15 Morin's professional judgment, and a good one, in my
16 opinion. Had the defendant taken the stand and then started
17 talking about the trespass and him not being -- actually
18 living on the residence, the State could of definitely
19 impeached him using the prior testimony he had given under
20 oath, that he told the cops to get out of his house.

21 And also the record will reflect, I believe, on Page
22 299 or, no, 297. I think it starts on 296, goes through
23 297, and 298. That was the colloquy with the Court about
24 testifying in which the defendant actually told the Court,
25 under oath, that it was his decision not to testify, and

1 not -- that, that he had made that without being coerced or
2 threatened.

3 And then, yeah, I believe that that's -- that sums it
4 up as far as -- I don't believe I'm missing anything.
5 That's it.

6 I don't believe the Applicant has met his burden of
7 proof, and I -- we request that you deny and dismiss this
8 application.

9 THE COURT: Thank you.

10 Okay. Counsel, and, Mr. Blackwell, sir, I am taking
11 this matter under advisement, and what that means is I'm not
12 going to issue a ruling today right now. I'm going to
13 review your transcript. I've got it up here. It's, I
14 think, 300 pages, and -- over 300 pages. And there are
15 other documents that I want to consider. And so I want you
16 to understand that I'm going to read every word, and then I
17 will issue my decision.

18 Okay. And I will try to do that as quickly as possible
19 because I know this is extremely important to you.

20 THE APPLICANT: Okay.

21 THE COURT: Anything else, counsel?

22 MS. GIOVANOLI: None, Your Honor.

23 THE COURT: Thank you.

24 MR. EPPS: Thank you, Your Honor.

25 THE COURT: Thank you.

1 Mr. Epps, nice to see you again.

2 MR. EPPS: Good to see you as well, Your Honor.

3 THE APPLICANT: Thank you.

4 THE COURT: Good luck to you, sir.

5

6 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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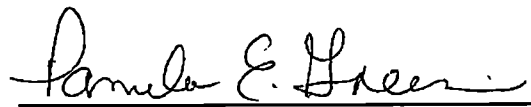
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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Cherokee County, South Carolina, on the 19th day of September, 2017.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

March 5th, 2018

A handwritten signature in cursive script, reading "Pamela E. Green", is written over a horizontal line.

PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

Charles P. Blackwell, #218728

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2016-CP-11-0256

**AMENDED
ORDER OF DISMISSAL
WITH PREJUDICE**

BRANDY W. MOORE

2018 JAN 29 AM 11:45

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

This matter comes before this Court by way of an application for post-conviction relief (PCR) filed by Charles P. Blackwell (Applicant) on April 18, 2016. The State (Respondent) made its return requesting an evidentiary hearing be held. An evidentiary hearing into the matter was convened on September 19, 2017 at the Spartanburg County Courthouse. Applicant was present and represented by Steven D. Epps, Esquire. Valerie Garcia Giovanoli, Esquire, of the Office of the Attorney General represented Respondent.

At the hearing, Applicant testified on his own behalf. Michael Morin, Esquire, (Counsel) also testified. This Court had before it a copy of the Cherokee County Clerk of Court records, Applicant's records from the South Carolina Department of Corrections, the trial transcript, the direct appeal records, the PCR application, Respondent's return, and Applicant's supplemental application.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Cherokee County Clerk of Court. Applicant was indicted at the July 2014 term of the Cherokee County Grand Jury for Trafficking in Methamphetamine, (2014-GS-11-0638). Michael David Morin, Esquire, represented Applicant. On March 4-5, 2015,

Applicant proceeded to trial before the Honorable Roger L. Couch and was convicted by a jury. Judge Couch sentenced Applicant to confinement for seven (7) years with a \$25,000 fine, to run consecutive to Applicant's current probation revocation.

A notice of appeal was filed on Applicant's behalf at the South Carolina Court of Appeals. Robert M. Pachak, Esquire, of the South Carolina Office of Appellate Defense perfected the appeal in the form of an Anders¹ brief. The South Carolina Court of Appeals dismissed the appeal. State v. Charles Preston Blackwell, Op. No. 2016-UP-087 (S.C. Ct. App. Filed February 24, 2016). The Remittitur was issued on March 21, 2016.

In his PCR application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
 - a. "He wouldn't bring up that I was arrested and charge and still on trespassing notice from the address in question"
 - b. "failed to call witness"
2. "Prosecutorial misconduct"

On or about July 12, 2017, Applicant, through counsel, filed a supplemental application setting forth a more specific "statement of claim." Specifically:

1. "The Cherokee County Sheriff's Department Officers ... tamper[ed] with evidence of the crime scene. All items collected are not a part of the warrant in question."
2. "The warrant they came with was for stolen property and not for any drugs such as methamphetamine."
3. "Sgt. Nick Federico testified that the defendant Kalynne Carroll admit to having the drugs."
4. "I... stated to Sgt. Nick Federico that I was not to be on the property and did not want to go to jail for trespassing and he stated you are going for trafficking."
5. "Juror: Michael Hall, #84 knew the police man Rodney Bright. They coach baseball and football."
6. "Juror: Mary Moore, #78 also in fact knew police man Rodney Bright. They went to same church."

¹ Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 18 L. Ed. 2d 493(1967).

7. "Juror: Christopher Myles, #80, knows the witness Lynn Sizemore."
8. "Juror: Janice Booker, #1, was friends with Sgt. Nick Federico's sister."
9. "Juror: Kimberly Ramsay, #100, stated that she used to work for the detention center Cherokee County."
10. "Note: My attorney was in fact a part of Seventh Circuit Solicitor Office."
11. "Juror: Laura Pelham, #60, has a nephew and niece that are involved in a current court case on drugs. In this action according to state law all Juror #1, #78, #60, #84, #80, #100 and my attorney should had been dismissed."
12. "Juror #122, Allen Benson, was dismissed because Connie Peterson is Juror 122 sister and he also know Lynn Sizemore."
13. "They both were called as witness go to page 59 in the court trial transcript. So now as you can see the chain of custody was in fact broken and all of the officers conspired against me."
14. "CSI officer Billy Anthony testified that he got the evidence on 2-2-2015. But, they testified that this same evidence was seized on 5-23-2014, see page 198 trial transcript."

FACTS ADDUCED AT TRIAL

Detective Tracy Fowler was employed by the Cherokee County Sheriff's Office for almost 19 years. She was in criminal investigations for the last 10 years. On May 23, 2014, she executed a search warrant at [REDACTED] Garvin Lake Road in Cherokee County. She explained that she was going out to the house because she worked a burglary case that happened about a week earlier. The suspect was apprehended and gave information that the stolen property that he had taken he sold to appellant at [REDACTED] Garvin Lake Road. She did not go to the residence by herself. There were other officers from criminal investigations and narcotics. (Tr. p. 87, 1. 4- p. 88, 1. 12) Detective Fowler said she located several items that matched the descriptions of the stolen property. The property was seized and returned to the victims of the burglary. (Tr. p. 92, 1. 8- p. 93, 1. 15) Appellant was never charged with having the stolen property. (Tr. p. 95, 1. 2-5)

Sgt. Federico testified that he also worked for the Cherokee County Sheriff's Office. He worked in narcotics for the last three and a half years. (Tr. p. 104, 1. 6-21) He helped in the search of appellant's house. (Tr. p. 111, 1. 9-11) During the search they found a clear baggy with a residue of what appeared to be methamphetamine. This led to a further search and seizure of the methamphetamine for which appellant was on trial. (Tr. p. 114, 1. 21- p. 123, 1. 24)

SUMMARY OF TESTIMONY AT PCR

I. Applicant testified to the following:

Applicant testified law enforcement arrived to a house he claims was not his to search for stolen property which included leaf blower, push mower, and a weed eater. When law enforcement went into a back bedroom, they found drugs in plain view. Applicant testified the house was not his and he did not live there. He further claimed that he was on trespass notice from the residence. Applicant testified he told law enforcement about the trespass notice during the search and informed them the house was not his nor were the drugs.

Applicant testified he believed Counsel was ineffective for failing to call two witnesses on his behalf. One witness Applicant insisted Counsel should have called was "Tiny." Applicant claimed Tiny lived in the house where the drugs were found, but was not there the morning of the search. Applicant testified Tiny would have admitted the drugs belonged to him. Applicant also wanted Counsel to call Applicant's daughter-in-law, "Tracey." Applicant claimed Tiny and Tracey could have testified that the State's witnesses were lying and that the drugs were not Applicant's.

Applicant also believes Counsel's advice not to testify before the jury was erroneous advice. Applicant claimed he did not testify at trial because of the advice from Counsel.

Applicant claimed he wanted to testify regarding his trespass notice and the fact the residence was not his. Applicant testified it was Counsel's idea not to testify to that effect.

Applicant also testified the chain of custody was broken for the stolen property evidence because it was given back to the victims. Applicant claimed this evidence of stolen property should have been admitted at trial. Applicant also claimed that during the search of the residence, law enforcement took photos. However, those photos were not admitted at trial and instead, just a few days before trial the State came back to the residence to take photos.² Applicant testified the photos contradicted the testimony from law enforcement that prior to executing the search warrant, someone was seen removing something that was sitting on top of an air conditioning (A/C) unit because the photos admitted at trial showed no A/C unit. Applicant testified Counsel did not object to the photos of the house admitted at trial. Applicant also complained about various jurors who were *not* selected to sit during his trial.

On cross examination, Applicant recalled testifying during a pre-trial hearing that when officers requested consent to search the house for drugs, he told them to "kiss my ass" and "to get the fuck out of my house." (Plea Tr. p. 51). (Emphasis added). Applicant alleged Counsel told him to say that, but he wanted to testify that he said the house was not his and he was on trespass notice. Applicant also admitted that neither Tiny nor Tracey was present at the house when the search warrant was executed and the drugs were found. Applicant insisted Tiny would have claimed the drugs and exculpated Applicant. However, Applicant also said Kaylynn claimed the drugs at the time of the search because they were hers. Applicant denied Kaylynn claimed the drugs because he told her to or because she was scared of him. Lastly, Applicant

² It is worth noting that Applicant implied he was also at the subject residence when photos were taken the day before trial, despite his repeated claim he was not living there and was on trespass notice.

admitted that the A/C unit was a removable one and that the State took photos of the residence late February – early March.

II. Counsel testified to the following:

Counsel has been practicing law for twenty-five years. Criminal law has made up 80-90% of his practice. He was appointed to represent Applicant due to a conflict of interest with the public defender's office. Counsel met with Applicant 2-3 times while he was in jail and a couple times outside of jail after Applicant was released on bond. Counsel also recalls some phone conversations as well. Counsel filed a motion for discovery, received the discovery, and reviewed all of it with Applicant.

Applicant told Counsel his version of events, in that Applicant was doing work over at the house for which he was on trespass notice and there were two other women there. Counsel explained to Applicant that they should present the evidence that he was on trespass notice from the residence to the court. Counsel never told Applicant to lie. However, much to Counsel's surprise, Applicant testified during the pre-trial hearing to something totally different than what they had discussed. After Applicant stated "my house," during the pre-trial hearing, Counsel simply had no further questions and was baffled at Applicant's testimony. Counsel believed the trespass notice was their best defense. Because of the surprise testimony during the pre-trial hearing, Counsel advised Applicant not to testify. Counsel's concern was that if Applicant testified to the trespass notice and not living at the house, he would be impeached with the prior testimony he had given under oath at the pre-trial hearing. Counsel testified Applicant essentially shot himself in the arm with the unexpected testimony he gave at the pre-trial hearing. There was not much left for Counsel to do to salvage his case.

Counsel testified there was never any mention of Tiny by Applicant prior to trial and certainly not that Tiny was living in the house and would claim the drugs. Counsel testified Applicant did not give him a list of any witnesses that would be helpful to his case. Counsel testified Applicant did not mention who lived in the house, just that he did not live there. Applicant told Counsel Kaylynn claimed the drugs at the time of the search so Counsel was sure to point that out and argue that she lied during the search and therefore lying at trial.

Counsel testified the photos admitted at trial were not objectionable and could be used to the defenses advantage because the A/C unit was not shown in the photos. Counsel also had notes from *voir dire* that indicated that every juror Applicant complained of, he had written down to strike. However, none were called to serve on the jury panel.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has had the opportunity to observe the witnesses presented at the hearing, and has weighed their testimony and credibility accordingly. Below are the findings of fact and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2017). Applicant has failed to prove by a preponderance of the evidence that Counsel was deficient or that he was prejudiced by any deficiency. A Post-Conviction Relief application is not a venue for questioning each and every decision of trial counsel. Rather, the Applicant must demonstrate by a preponderance of the evidence that trial counsel was deficient and that the deficiency prejudiced the outcome of his trial. Applicant has failed to do so.

I. Ineffective Assistance of Counsel

Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the Applicant to prove his allegations by a preponderance of the evidence."

Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRPC).

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "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." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). 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, 300 S.C. at 117 (citing Strickland). 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, 300 S.C. at 117-18.

Failure to raise trespass issue

This Court finds Applicant has failed to show that Counsel was ineffective for not presenting evidence Applicant was on trespass notice from the premise searched. This Court finds Applicant's testimony on this issue absolutely not credible. It strains credulity to believe, as Applicant testified, that Applicant wanted to present testimony that he did not live at the residence searched, but that Counsel instead told him to lie and tell the trial court he told law enforcement to get the f*** out of his house. This Court finds Counsel's testimony credible.

Counsel testified he discussed the issue at length with Applicant and they decided to present the testimony in defense to the drug charges. However, Counsel was astonished by Applicant's testimony during the pre-trial hearing on Applicant's motion to suppress and felt he could not allow him to testify to the trespass issue at trial because he would be impeached based on his previous, inconsistent testimony he gave under oath at the pre-trial hearing. Counsel testified Applicant ruined his entire defense with that testimony.

Applicant was certainly prejudiced on this issue, but it was Applicant's own spur of the moment testimony, against Counsel's advice, that prejudiced his case and not any alleged deficiency by Counsel. Therefore, having failed to meet his burden of proof, this allegation is denied and dismissed with prejudice.

Failure to call witness

This Court finds Applicant has failed to show that Counsel was ineffective for either not interviewing or calling two witnesses for his trial. First, this Court notes any claims surrounding the failure to present testimony from a witness assumes the testimony from the witness would have been favorable to the defense and therefore affected the outcome of the trial. However, this contention is based on pure conjecture and speculation. Prejudice from trial counsel's failure to interview or call witnesses cannot be shown where the witnesses do not testify at post-conviction relief. Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Bassette v. Thompson, 915 F.2d 932 (4th Cir. 1990), cert. denied, 499 U.S. 982 (1991). Applicant's mere speculation as to what a witnesses' testimony would have been cannot, by itself, satisfy his burden of showing prejudice. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995). An Applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in

order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998). Because Applicant failed to produce the testimony of the witnesses, any prejudice derived from any of Counsel's actions leading to her not testifying is purely speculative.

Secondly, this Court finds Counsel's testimony on the issue more credible than that of Applicant. Counsel testified Applicant did not provide him with the names of any potential witnesses and therefore he did not know about them. Counsel cannot be expected to interview a witness he does not know exists. Therefore, Applicant has failed to prove Counsel was deficient or that he was prejudiced by any alleged deficiency.

Juror Issue

This Court finds Applicant has failed to prove Counsel was ineffective regarding any juror issue. Applicant complained about numerous "jurors," but failed to connect his complaints to what affect they had on his trial or Counsel's performance. None of the *potential* jurors about whom Applicant complained were selected to be a part of Applicant's jury. Counsel testified credibly that each juror he complained of Counsel had written down in his notes to strike – however, none of the jurors were even called to be seated.

II. Prosecutorial Misconduct

This Court finds Applicant has failed to meet his burden of proving prosecutorial misconduct. Generally, prosecutorial misconduct is not an issue for post-conviction relief if the claim arises from facts known at the time of trial. Rather, this allegation is a direct appeal issues that is procedurally barred by S.C. Code Ann. § 17-27-20(b) (2003). 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). Where the claim of prosecutorial misconduct arises from facts not discovered until after the trial, it is applicant's burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201 (1989).

Applicant could have raised the "prosecutorial misconduct" issues about which he complains now on direct appeal because he was aware of those claims at trial. The failure to do so has waived this allegation as grounds for relief. Furthermore, Applicant's testimony and allegations law enforcement conspired against him are simply not credible. This Court finds no error in law enforcement's execution of the search warrants and investigation. Therefore, this Court finds Applicant has failed to meet his burden of proving prosecutorial misconduct.

CONCLUSION

Based on all the foregoing, this Court finds and concludes Applicant has not established any violations that would require this Court to grant his application. This Court finds Applicant has failed to prove any deficiencies on the part of Counsel and further, Applicant has failed to prove prejudice from any alleged deficiencies in Counsel's representation of him. Therefore, as Applicant has failed to meet his burden of proof in this post-conviction relief action, his application is denied and dismissed with prejudice.

This Court notifies Applicant he must file and serve a notice of appeal within thirty (30) days from receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. An applicant has a right to an appellate counsel's assistance when they are seeking review of the denial of PCR. Austin v. State, 305 S.C. 453 (1991). If an applicant wishes to seek appellate review, PCR counsel must serve and file a

Notice of Appeal on the Applicant's behalf. See Rule 71.1 (g), SCRCRCP. You must look at Rule 243 of the South Carolina Appellate Court Rules for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The application for Post-Conviction Relief is denied and dismissed with prejudice;
2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 16th day of January, 2018.



GRACE GILCHRIST KNIE
Presiding Judge
Seventh Judicial Circuit

Spartanburg, South Carolina

WITNESSES

Cherokee County Sheriff's Office

[Signature]

ARREST WARRANT NUMBER

2014A1110200104

ACTION OF GRAND JURY

TRUE BILL

Wayne Atkins

Foreperson of Grand Jury

Date: 7-10-14

VERDICT

Guilty

Jay Hutto

Foreperson of Petit Jury Tammy Hutto

Date: 3/5/15

14-GS-11-00638

DOCKET NO.

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

AD 16200

TERM

THE STATE

vs.

Charles Preston Blackwell

Indictment for

TRAFFICKING IN METHAMPHETAMINE

SC Code: 44-53-375

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2014 JUL 10 AM 9 27

BRANDY W. MCBEE

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHEROKEE)

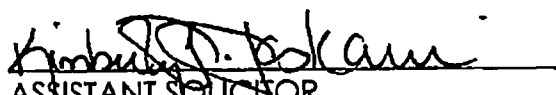
INDICTMENT

At a Court of General Sessions, convened on , the
 Grand Jurors of Cherokee County present upon their oath:

TRAFFICKING IN METHAMPHETAMINE

That Charles Preston Blackwell, did in Cherokee County on or about May 23, 2014, knowingly sell, manufacture, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or did knowingly actually or constructively possess, or did knowingly attempt to actually or constructively possess (10) ten grams or more, but less than (28) twenty-eight grams of Methamphetamine, a schedule II controlled substance, in violation of §44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976)*, as amended.

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


 ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Cherokee

VS.

Charles Preston Blackwell

AKA:

Race: WHITE Sex: M Age: 57

DOB:

Address:

City, State, Zip: Greenville, SC 29340

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Trafficking Methamphetamine, 10-28g, 1st offense [3-10 years and 25k]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS1100638

A/W#: 2014A1110200104

469

Date of Offense: 5/23/2014

S.C. Code § : 44-53-0375

CDR Code #: 0450

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 44-53-0375 of the S.C. Code of Laws, bearing CDR Code # 0450

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Kimberly L. Leskane, KIM

110837 SC Bar#

Charles Blackwell Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 7 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ 25,000.00 provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: Probation revocation☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 4 months☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$ 25,000.00
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 26,875.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ 100.00
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 150.00
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 1,564.65
TOTAL		\$ 53,719.65

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.Clerk of Court/ Deputy Clerk Brandon H. BeeCourt Reporter: Horn Green

SCCA/217 (03/2011)

Presiding Judge [Signature]Judge Code: 2135Sentence Date: 3/5/15

ARREST WARRANT

2014A1110200104

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Cherokee

THE STATE
against

Charles Preston Blackwell

Address:

Gaffney, SC 29340-6016

Phone: SSN: Sex: M Race: W Height: 5 8 Weight: 185DL State: SC DL #: DOB: Agency ORI #: SC0110000Prosecuting Agency: Cherokee County SheriffProsecuting Officer: Nick Federico - 0074Offense: Drugs / Trafficking in ice, crack or crack - 10 g or more, but less than 28 g - 1st offenseOffense Code: 0450Code/Ordinance Sec: 44-53-0375(C)(1)This warrant is CERTIFIED FOR SERVICE in the☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Charles Preston Blackwell

on

5-23-14

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
125 E. Floyd Baker Blvd
Gaffney, SC 29342

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Cherokee

Personally appeared before me the affiant Nick Federico whobeing duly sworn deposes and says that defendant Charles Preston Blackwelldid within this county and state on or about 5/23/2014

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Cherokee)

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in ice, crack or crack - 10 g or more, but less than 28 g - 1st offense

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on May 23, 2014 in the county of Cherokee, one Charles Preston Blackwell did knowingly sell, manufacture, deliver, bring into this state and/or possess 10 grams or more of ice/meth a schedule II controlled substance without authority to do so. Incident occurred at Garvin Lake Rd in Gaffney SC 29340. Warrant is based on investigation of the Cherokee County Sheriff's Office; incident # 2014-002318.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Cherokee

Affiant's Address 312 E. Frederick St.Gaffney, SC 29340-Affiant's Telephone (864)489-4722

ORIGINAL

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/23/2014defendant Charles Preston Blackwell

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Cherokee

) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in ice, crack or crack - 10 g or more, but less than 28 g - 1st offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 5/23/2014Signature of Issuing Judge
Julian Kirby Wright
Judge Code: 7295

(L.S.)

Judge's Address Cherokee Magistrate CourtGaffney, SC 29340Judge's Telephone (864)487-2533Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

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ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

470

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2014 MAY 29 PM 10 42
BRADY W. MOORE